Environmental Planning Commission

Agenda Number: 05
Project Number: 1007648
Case Numbers: 18EPC-40019 & 40021
Hearing Date: August 09, 2018

Supplemental Staff Report II

(to be read with the original Staff report and the first supplemental Staff report)

Agent	Self
Applicant	Eric Kilmer
Requests	**Sector Development Plan Map Amendment (zone change) and Site Development Plan for Building Permit**
Legal Description	Lots 22, 23 and 24, Block 20, Albright-Moore Addition
Location	SE corner of 6th St. & Constitution Ave. (1416 6th. St. NW)
Size	Approximately 0.5 acres
Existing Zoning	SU-2 for S-R (Sawmill Residential)
Proposed Zoning	SU-2/SU-1 for Flower Shop/Plant Nursery, Office

Staff Recommendation

DENIAL of 18EPC-40019, based on the Findings beginning on Page 21.

DENIAL of 18EPC-40021, based on the Findings beginning on Page 25.

Staff Planner
Catalina Lehner-AICP, Senior Planner

Summary of Analysis

This request for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) and an associated, as- built site development plan for building permit was deferred for 60 days at the EPC's May 10, 2018 hearing to allow additional time for the applicant to strengthen the justification. In July, the applicant requested a 30 day deferral to the August 9, 2018 hearing.

The requested zoning has been changed to SU-2/SU-1 for Flower Shop/Plant Nursery, Office. Staff finds that the applicant has not adequately justified the request pursuant to R270-1980, primarily due to the lack of a sufficient policy-based response. Also, it is the burden of the applicant to demonstrate that the request does not conflict with fundamental principles of the SWPSDP. The City's reading of the SWPSDP, particularly with respect the Regulation A.5 of the SU-2/S-R zone, was upheld in a 2010 District Court decision regarding the subject site.

Staff recommends denial of the zone change and the associated site development plan.

Project #1007648

0.0 0 0.01 0.0 Miles

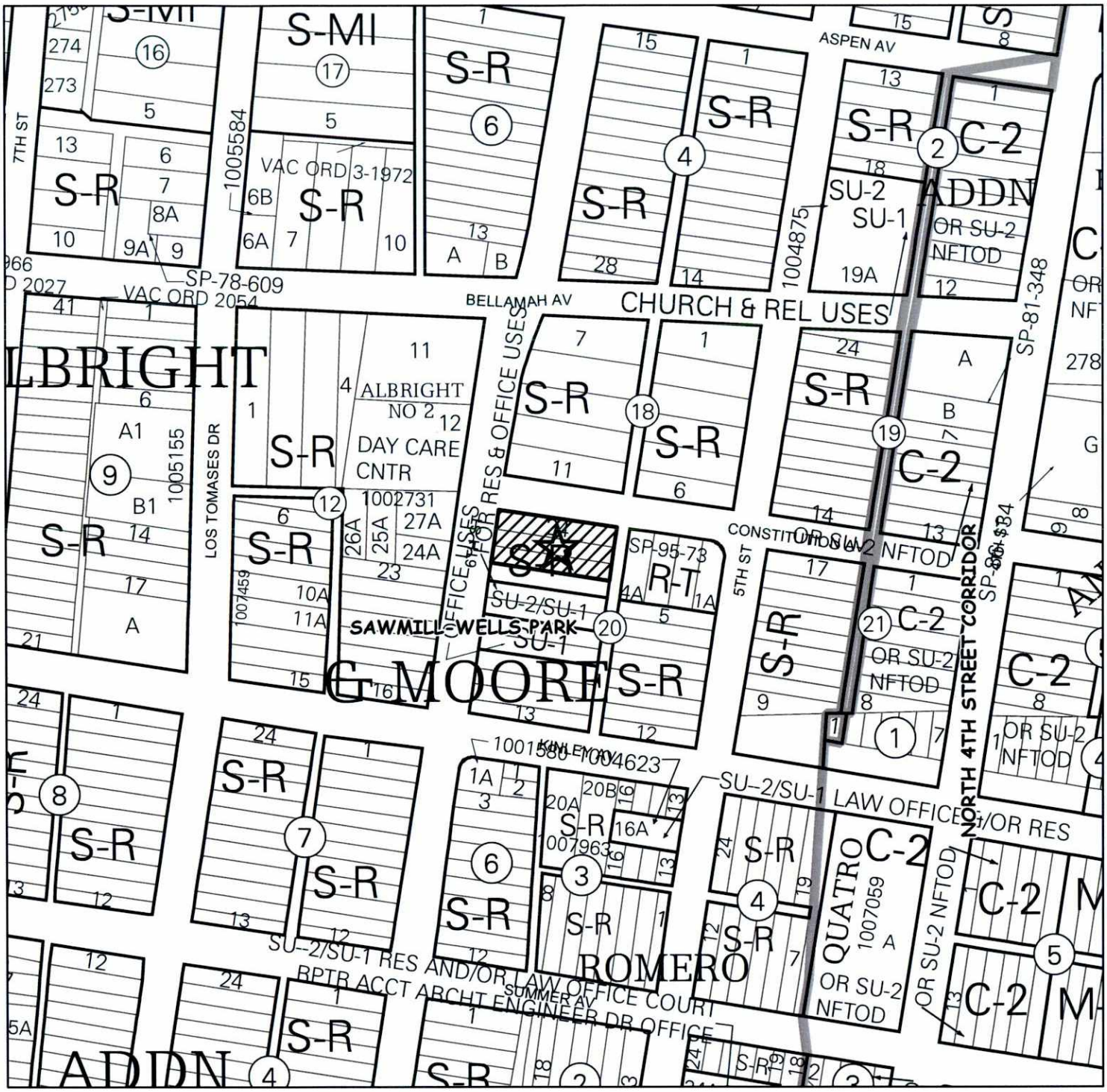
WGS_1984_Web_Mercator_Auxiliary_Sphere
5/2/2018 © City of Albuquerque

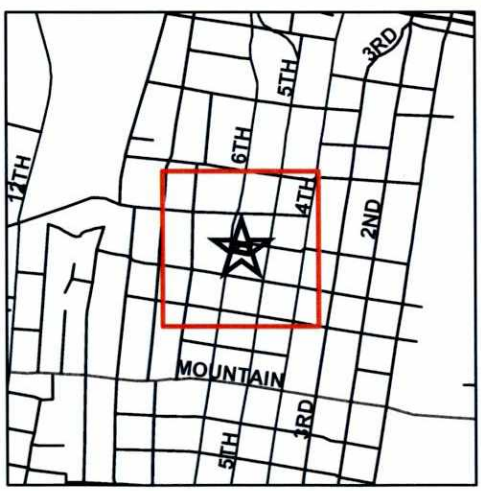
This map is a user generated static output from www.cabq.gov/gis and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR LEGAL PURPOSES

Legend

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

Notes



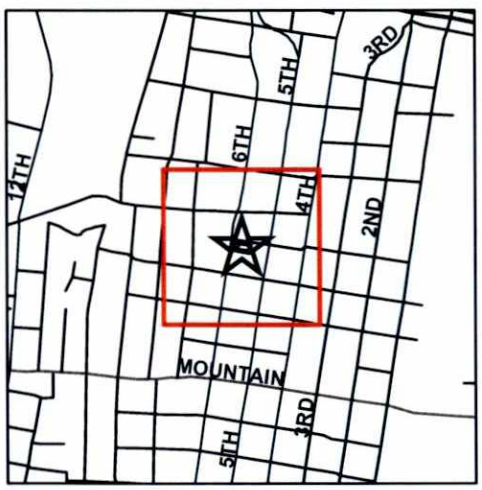


ZONING MAP

Note: Gray shading indicates County.

1 inch = 200 feet

Project Number: 1007648
Hearing Date: 5/10/2018
Zone Map Page: J-14
Application Case Numbers: 18EPC-40019 18EPC-20021



LAND USE MAP

Note: Gray shading indicates County.

KEY to Land Use Abbreviations

AGRI Agriculture
COMM Commercial - Retail
CMSV Commercial - Service
DRNG Drainage
MFG Manufacturing
MULT Multi-Family or Group Home
PARK Park, Recreation, or Open Space
PRKG Parking
PUBF Public Facility
SF Single Family
TRAN Transportation Facility
VAC Vacant Land or Abandoned Buildings
WH Warehousing & Storage

AGIS

1 inch = 200 feet

Project Number: 1007648
Hearing Date: 5/10/2018
Zone Map Page: J-14
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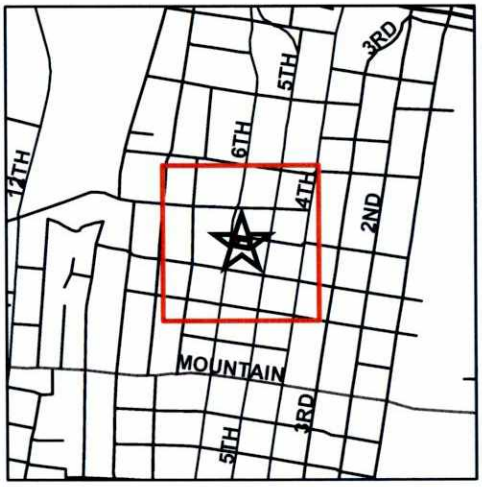
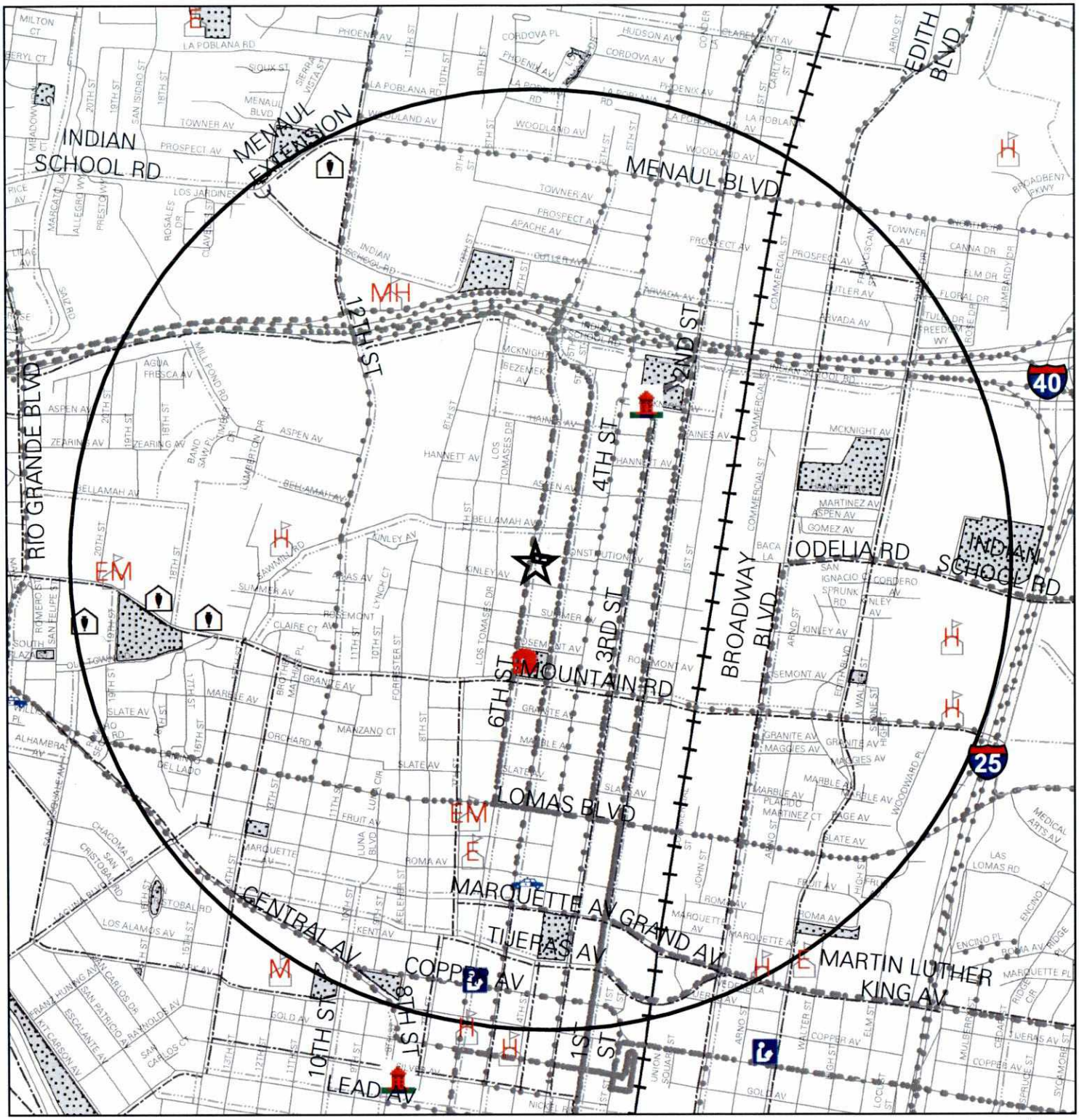


HISTORY MAP

Note: Gray shading indicates County.

1 inch = 200 feet

Project Number:
1007648
Hearing Date:
5/10/2018
Zone Map Page: J-14
Application Case Numbers:
18EPC-40019 18EPC-20021



Public Facilities Map with One-Mile Buffer

- Community Center
- Multi-Service Center
- Senior Center
- Library
- Museum
- Fire
- Police
- Sheriff
- Solid Waste
- Public Schools
- Proposed Bike Facilities
- ABQ Bike Facilities
- ABQ Ride Routes
- Albuquerque City Limits
- Landfill Buffer (1000-feet)
- Landfill designated by EHD
- Developed County Park
- Undeveloped County Park
- Developed City Park
- Undeveloped City Park

0 0.5 1 Miles

Project Number: 1007648

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I. INTRODUCTION

The application was submitted prior to the effective date of the Integrated Development Ordinance (IDO), which is May 17, 2018.

The Environmental Planning Commission (EPC) heard this case at the May 10, 2018 public hearing. The EPC voted to defer the request for 60 days to the July 12, 2018 hearing to allow the applicant additional time to justify the zone change request pursuant to R270-1980 and, as was suggested by three EPC members, to seek the assistance of a professional agent.

Prior to the July 12, 2018 EPC hearing, and after the First Supplemental Staff report was issued, the applicant requested a 30 day deferral to the August 9, 2018 EPC hearing. As of publication of this Staff report (August 2, 2018), the applicant has not paid the fee required when a deferral is requested.

Request
The request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) for Lots 22, 23 and 24 of Block 20, Albright-Moore Addition, approximately 0.5 acre (the "subject site"). An associated site development plan for building permit is required when requesting an SU-1 zone. The application was submitted on April 4, 2018, prior to enactment of the Integrated Development Ordinance (IDO).

The subject site is zoned SU-2 for S-R (Sawmill Residential). For the May hearing, the applicant proposed the following zoning: SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses. For the July hearing, the proposed zoning was changed to: SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking. For the August hearing, the proposed zoning was changed to: SU-2/SU-1 for Flower Shop/Plant Nursery, Office.

Deferral Period
The applicant submitted a revised justification letter on July 30, 2018 (see attachment), which is reviewed in Section III of this second supplemental Staff report.

The applicant's July 30, 2018 justification letter is similar to the July 3, 2018 and relies upon the same arguments as before, mainly that: i) the requested uses and SU-1 zoning exist in the neighborhood on other properties and therefore should be allowed on the subject site, ii) the subject site's current use and history support justification of the requested zoning today, and iii) the request has been affirmed by the most important component of the request, the neighbors. The arguments are neither sufficient nor adequately responded to pursuant to the criteria of R270-1980.

Two additional arguments were added during the deferral period: One is incorrect and contradicts the District Court decision in *Kilmer vs. City of Albuquerque (CV-2009-07499)* and the other is not applicable to the criteria of R270-1980 (see Section III of this report).

Background
Leading up to the initial May 10, 2018 hearing, the applicant was provided with the first deficiency memo (dated April 4, 2018) and the second deficiency memo (dated April 23, 2018). Both explained in detail what was needed to strengthen the justification. In addition, the original Staff report (for the May 10, 2018 hearing) contains a discussion of the applicant's justification and an analysis of the arguments raised in the applicant's April 26, 2018 justification letter.

Previously, as outlined in the first Supplemental Staff report, the applicant's July 3, 2018 letter was in response to the fourth deficiency memo issued by Staff dated June 27, 2018 (see attachments). A full review of the applicant's July 3, 2018 letter is included in the first Supplemental Staff report and was available to inform the writing of any subsequent justification letters (see attachment).

After the May EPC hearing, Staff met with the applicant on May 17, 2018 to discuss next steps and provided the third deficiency memo, which explained in detail what was needed to strengthen the zone change justification.

Area Characteristics, Request, EPC Role, Context, History & Background, Transportation System, and Public Facilities/Community Services:

» Please refer to p. 1-3 of the original Staff report (see attachment).

II. ZONING

For a discussion of applicable definitions (Zoning Code §14-16-1-5), non-conformance as it applies to the subject site (Zoning Code §14-16-3-4), and existing zoning (the SU-2/S-R zone) please refer to p. 5 – 6 of the original Staff report (see attachment).

Note: This discussion includes an explanation of the intent of the SWPSDP with respect to the SU-2/S-R zone and new uses that is consistent with the Council's decision in AC-09-9 and the District Court Decision (Kilmer v. City of Albuquerque, CV-2009-07499) in which the Court upheld the City's reading of the SWPSDP (see attachments).

Current Zoning
The subject site is currently zoned SU-2/S-R (Sawmill Residential) pursuant to the SWPSDP, which was adopted by the City Council in 1996.

Proposed Zoning
The applicant has changed the requested zoning from "SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking" to "SU-2/SU-1 for Flower shop/Plant Nursery, Office". The applicant did not consult with Planning Staff regarding the new, proposed zoning descriptor.

The SU-1 zone (Zoning Code §14-16-2-22) provides suitable sites for uses that are special, and for which the appropriateness of the use to a specific location depends upon the character of the site design. The SU-1 designation requires an associated site development plan.

Note: Each SU-1 zoning descriptor, for each SU-1 zoned site, is unique by definition because it is tied to an associated site development plan. Since no site is exactly like another, each SU-1 zoned site is unique and cannot be directly compared to other SU-1 zoned sites.

Office is a permissive use in the O-1 Office and Institution Zone (Zoning Code §14-16-2-15) and is defined as follows: "A place where consulting, record keeping, the work of a professional person such as a physician or lawyer is done, or a headquarters of an enterprise or organization; the sale of on-premises goods is not included."

The SWPSDP purposefully zoned the subject site SU-2/S-R (Sawmill Residential) in 1996. The nursery use had ceased decades prior and the flower shop closed in approximately 2002. The applicant's desire to re-establish these commercial uses (whose non-conforming status has expired) directly contravenes the intent of the SWPSDP, but could be possible provided that Regulation A.5 is complied with.

→ Please refer to the original May 10, 2018 Staff report, p. 5-7 for a detailed explanation.

Another issue is that the proposed zoning would allow commercial uses of different intensities. For example, plant nursery differs from flower shop and is considered a medium-intensity commercial use. Flower shop is first permissive in the C-1 zone and is considered a low-intensity commercial use, consistent with the purpose of the C-1 Neighborhood Commercial Zone (Zoning Code §14-16-2-16). Also, the proposed zoning is exactly the type of overly-specific SU-1 zoning that the City is moving away from with the adoption of the IDO, a more modern zoning system.

The Integrated Development Ordinance (IDO) & Zoning

The IDO became effective on May 17, 2018, which is after this application was filed. Therefore, the request is being evaluated under the regulations and criteria in place at the time of application submittal—R270-1980, the Zoning Code, and the SWPSDP.

As of May 17, 2018, the subject site's zoning of SU-2/S-R converted to R-1A. The purpose of the Residential- Single-Family Zone District (R-1) (IDO 2-3(B), p. 13) is to provide for neighborhoods of single-family homes on individual lots with a variety of lot sizes and dimensions.

The R-1 zone allows single-family detached homes, cluster development, cottage development, and two-family detached homes (duplexes). Also allowed permissively as a primary use are a community residential facility (small), community garden, religious institution, solar energy generation, and a utility (see Table 4-2-1). Various accessory uses are also allowed.

The uses in the proposed zoning correspond to the following IDO zones:

- Nursery is a defined use first permissive in the NR-C (Non-Residential Commercial) zone, which approximates the C-2 zone.
- Flower shop falls under General Retail, Small, which is first permissive in the MX-L (Mixed-Use Low Intensity) zone, which approximates the C-1 zone.

- Office is first allowed permissively in the MX-T (Mixed-Use Transition) zone, which approximates the O-1 zone.

The conversion would be made based on the most intense use proposed. If the proposed zoning is approved, the result would be NR-C zoning for the subject site.

III. ANALYSIS -ADOPTED ORDINANCES, PLANS, AND POLICIES

A) ALBUQUERQUE/BERNALILLO COUNTY COMPREHENSIVE PLAN (RANK I)

The Goals and policies listed below are those cited by the applicant in the zone change justification letter dated July 30, 2018 (see attachment). The applicant cites policies from the previous, superseded version of the Comprehensive Plan. Staff does not provide analysis or additional citations other than what the applicant provided because, pursuant to Section B of R270-1980, the burden is on the applicant to show why the proposed zone change should be made.

Chapter 5- Land Use
Policy II.B.5- Established Urban Area
Policy II.B.5a- Range of Urban Land Uses
Policy II.B.5e – New Growth
Policy II.B.5i- Employment and Service Uses Siting/Residential Environments
Policy II.B.5o - Redevelopment and Rehabilitation of Older Neighborhoods
Policy II.B.5p – Cost-effective Redevelopment Techniques

Chapter 6- Economic Development
Policy II.D.6a – New Employment/Range of Skills and Salaries
Policy II.D.6g- Employment in Activity Centers

West Side Strategic Plan
Policy 4.10- Land Uses that Support Bike and Pedestrian Travel

Sawmill/Wells Park Sector Development Plan (SWPSDP)
Economic Development Action Plan
General SU-2 Regulations 4.a- Non Residential Building Design, Front Doors
Appendix C, Sawmill Revitalization Strategy

B) SAWMILL/WELLS PARK SECTOR DEVELOPMENT PLAN (RANK III)

The Sawmill/Wells Park Sector Development Plan (SWPSDP) was first adopted in 1978 (the 1978 Plan) and then was revised and adopted in 1996 (Enactment No.128-2002).

Action Plans
» Please refer to p. 9 of the original Staff report (see attachment).

General SU-2 Regulations
» Please refer to p. 9-10 of the original Staff report (see attachment).

The S-R (Sawmill Residential) Zone

A. Permissive Uses: The following uses are permitted provided applicable General SU-2 Regulations for the Sector Plan area are met.

The S-R zone allows uses listed as permissive in the R-1 zone and the following R-1 conditional uses: accessory living quarters (min. lot size 7000sf), second kitchen (min. lot size 7000sf) and carport (p. 97). Future residential uses allowed on the subject site are townhomes and detached single-family homes, provided they comply with the General SU-2 Regulations.

A.5. Non-residential uses that 1) were non-conforming in the R-1 zone, 2) were zoned SU-1 for specific uses, or 3) were permissive uses in the R-C, C-1, or C-2 zone <u>and</u> that exist when the S-R zone is established with the adoption of the Sector Plan, shall be considered permissive uses and may remain at the locations where they exist provided they comply with the following conditions. [numbering and emphasis by Staff]

New non-residential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, <u>and</u> they comply with the following conditions" (p. 99):

A.5.a- Outdoor storage shall consist only of parked operative vehicles and screened trash receptacles.

A.5.b- No underground storage tanks shall be present or installed on the property.

A.5.c- Business activities other than home occupations shall be prohibited between 10 pm and 7 am.

A.5.d- No more than five employees shall be present at any given time.

A.5.e- Signs shall be as regulated in the S-MRN Zone.

When the SWPSDP was adopted in 1996, a flower shop operated on the subject site. The flower shop was allowed to remain as a permissive use because:

- ***it was a non-residential use that was zoned SU-1 for a specific use <u>and</u>***
- ***it existed when the S-R zone was established, <u>and</u>***
- ***it complied with conditions A.5.a through A.5.e above.***

C) SAWMILL/WELLS PARK COMMUNITY METROPOLITAN REDEVELOPMENT AREA (MRA) PLAN

» Please refer to p. 11 of the original Staff report (see attachment).

RESOLUTION 270-1980 (POLICIES FOR ZONE MAP AMENDMENTS)

Requirements
Resolution 270-1980 outlines policies and criteria for deciding zone map change applications. The applicant must provide sound justification for the proposed change and demonstrate that several tests have been met. The burden is on the applicant to show why a change should be made.

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

Justification & Analysis
The zone change justification letter analyzed here, received July 30, 2018, was submitted by the applicant during the 30-day deferral period (see attachment). The subject site is currently zoned SU-2 for S-R (Sawmill Residential), not SU-2 for S-R for Flower Shop/Plant Nursery as claimed by the applicant.

A change of zone would constitute an amendment to the Sawmill/Wells Park Sector Development Plan (SWPSDP). The requested zoning is SU-2/SU-1 for Flower Shop/Plant Nursery, Office. The reason for the zone change request is to accommodate potential commercial and office uses.

The applicant believes that the proposed sector development plan map amendment (zone change) conforms to R270-1980 as elaborated below. The justification consists mostly of four primary arguments, repeated several times throughout the letter:

1) The proposed uses exist elsewhere in the neighborhood, so they should be allowed on the subject site for consistency's sake (repeated at least 8 times).
2) The zone change will allow a current, conforming, historical, non-residential use to continue on the same premises (repeated at least 29 times).
3) The S-R zone of the SWPSDP allows new non-residential uses that are equally or more restrictive. The notes in A.5 are NOT governing language. The conflict lies with the SWSDP and the Planning Department, not with the applicant's request (repeated at least 3 times).
4) The request has been affirmed by the most important component of this request, the neighbors and the community (repeated at least 5 times).
5) NEW. The request is for a small text amendment to the existing zoning of SU-2/S-R Flower Shop/Plant Nursery to SU-2/SU-1 Flower Shop/Plant Nursery, Office (repeated at least twice).
6) NEW. The SWPSDP created instability and was in error when it assigned SU-2/S-R zoning to the subject site (repeated at least 3 times).

First, the analysis will discuss specifics regarding the applicant's responses to Sections A through J. Second, because the same primary arguments are repeated throughout the justification in

numerous locations, and because most of them do not fit within a criterion of R270-1980, Staff analysis will discuss them individually and explain why they are erroneous and cannot be used to support the applicant's justification.

The citation in quotes is from R270-1980. The applicant's statements follow. Staff analysis is last and is in ***bold italic*** text.

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

Applicant: A proposed Change Must is found to be consistent with the health, Safety, Morals, and General Welfare of the city by demonstrating that it furthers Applicable goals and policies of the City of Albuquerque's Comprehensive Plan and Other Applicable Plans such as the Sawmill Wells Park Sector Development Plan (SWPSDP) and the Sawmill Wells Park Metropolitan Redevelopment Plan (MRA). Also the Sawmill Wells Park Revitalization Strategy, As outlined in Section C of this Request.

Staff: The standard way to demonstrate consistency with the City's health, safety, morals, and general welfare is to show that that a request furthers applicable Goals and policies in applicable Plans. The response to Section A is sufficient and contains the standard verbiage, but the applicant has not demonstrated that the request clearly facilitates realization of applicable Goals and policies in the response to Section C, and the request conflicts with the overarching intent of the SWPSDP.

B. "Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should not be made."

Applicant: The Zone Designation Amendment will Re-Stabilize the land use and Zone Designation Stability by, Re-Establishing an SU-1 Designation of Subject Site. The Applicant Believes, In-Stability Occurred, Within the Creation of the 1978 SWPSDP and Revised 1996 SWPSDP. The Existing Use on the Subject Site Is: SU-2 S-R For Flowershop/Plant Nursery. The Land Uses and Zone Designation Are Existing, Continuing, Premissive (sic) and Conforming Land and Zone Designations Uses.

The Site's History as Established by the City of Albuquerque and EPC action of 1969 is a Special SU-1 Use For FlowerShop/Plant Nursery, Parking (EPC Z-69-81) Demonstrates Stability in Zone Designation and Land Use. The Special SU-1 Use Premises and the Special SU-1 Non-Residential Use/Uses Stability have been Established and Proven to be Non-Injurious, by and through The City of Albuquerque EPC actions of (EPC-Z-69-81) and the implemented Emergency Ordiance (sic) 2726 into law.

Staff: The task in the response to Section B is for the applicant to discuss how the proposed zone change would affect stability of land use and zoning. The burden is on the applicant to justify the zone change using a policy-based analysis.

A building has existed on the subject site for many years. The majority of the subject site is vacant. The use prior to the existing zoning, a flower shop, closed in approximately 2002. The nursery use ceased to operate in the 1970s. The 1996 SWPSDP allowed the flower shop to continue as a non-conforming use, but once it ceased to operate, the use went away. The applicant purchased the property in 2008, several years after the flower shop closed and decades after the nursery had closed, so therefore cannot rightfully claim that that these uses are continuing.

The proposed zone change would establish entitlements for a new flower shop and nursery on the subject site, and add the office use. The request would affect stability of land use and zoning, especially since the intent of the SWPSDP is to emphasize residential uses that promote stability of the area. If the proposed zoning is approved, it would convert to IDO zone district NR-C (Non-Residential Commercial), which would not be compatible with the context surrounding the subject site.

The applicant purchased the property in 2008, after the flower shop and nursery ceased to operate, and it was zoned SU-2/S-R at the time of purchase (he originally bought it to establish a bail bonds business).

The SWPSDP purposefully established the subject site's zoning, SU-2/S-R, to not allow new commercial uses once the former commercial uses ceased operation, unless they can be demonstrated to conform to SWPSDP Regulation A.5. Allowing new non-residential uses contrary to the intent of the SWPSDP could de-stabilize the area. The response to Section B is insufficient.

C. "A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City."

Applicant's Citations:
Comprehensive Plan citations: Policy II.B.5- Established Urban Area, Policy II.B.5a- Range of Urban Land Uses, Policy II.B.5e – New Growth, Policy II.B.5i- Employment and Service Uses Siting/Residential Environments, Policy II.B.5o - Redevelopment and Rehabilitation of Older Neighborhoods, Policy II.B.5p – Cost-effective Redevelopment Techniques, Policy II.D.6a – New Employment/Range of Skills and Salaries, Policy II.D.6g- Employment in Activity Centers.

Citation from the West Side Strategic Plan (which does not apply to the subject site)
Policy 4.10- Land Uses that Support Bike and Pedestrian Travel

Mentioning of portions of the Sawmill/Wells Park Sector Development Plan (SWPSDP)
Economic Development Action Plan
General SU-2 Regulations 4.a- Non Residential Building Design, Front Doors
Appendix C, Sawmill Revitalization Strategy

Staff's Response: None of the applicant's Comprehensive Plan citations is relevant because they are all from the superseded Comprehensive Plan. The updated Comprehensive Plan was adopted in 2017. Furthermore, Land use policies II. B.5e and II.B.5i, regarding new growth and siting of employment and service uses, are not applicable to this request. The subject request is not for growth or siting, since the site development plan is an as-built. The Westside Strategic Plan does not apply to the subject site.

The applicant's discussion of the SWPSDP refers to housing and economic development goals regarding a new land use and housing options (p. 11 of un-numbered letter). The subject request doesn't have to do with housing. Nor would it contribute to creating a stable economic base (wouldn't create economic base jobs).

Applicant: THE PROPOSED ZONE MAP AMENDMENT IS NOT in Significant Conflict with Adopted Elements of the Comprehensive Plan or other City Master Plans and Amendments. The Subject Site Complies with all of the following requirements of the S-R Zone A.5, the City's Comprehensive Plan, SWPSDP, SWP Redevelopment/Revitalization Plans and MRA. Conforming to the requirements of EPC Z-69-81 and Emergency Ordinance 2726. Established an SU-1 Sie that is Now trying to Conform to Subjective, Vaugue (sic) and Ambiguous language of S-R A.5. The Subject Site is seeking a Clear Zone Category for Future Non residential Uses Premissive (sic) Into the Future development and implementation of Applicable Policies. The Notes and Illustrations outlined in S-R Zone Premissive (sic) Uses A.5 is NOT Governing Language, but Guidance.

This Request Furthers all the aforementioned policies of the Comprehensive Plan and the SWPSDP at the Subject Site has throughout the Decades of Land Use and Activities Surrounding the Uses upon Subject Site is Asking for Amendment to the text of the Zoning Designation to: Su-2/SU-1 for Flower Shop/Plant Nursery and Office is The basis of this Request. The request has been Affirmed by the Most important component of this request, the Neighbors and the swpsdp Community.

Staff: The applicant's Comprehensive Plan citations do not apply, since they are from a previous, superseded version of the Comprehensive Plan. Furthermore, policies pertaining to new growth and siting of commercial services would not apply to a request that has an as-built site development plan. The West Side Strategic Plan does not apply to the subject site.

Because the request is for an SU-1 zone, the standard in Section C is not the "no significant conflict" test, but rather is the higher standard of "clearly facilitates" found in Section I. This was determined by the Land Use Hearing Officer (LUHO) and affirmed by the City Council in 2014, and was mentioned to the applicant in four deficiency memos and in the original Staff report (see attachments). The applicant has not adequately demonstrated that the request clearly facilitates all applicable Goals and policies, and therefore the request is not justified.

As was the case in 2009, Staff finds a significant conflict with the applicable sector development plan (the SWPSDP, adopted in 1996). Therefore the request cannot clearly

facilitate realization of applicable Plans. The conflict lies with the overarching intent of the SWPSDP and the regulations that the SWPSDP established for the SU-2/S-R (Sawmill Residential) zone, particularly Regulation A.5 (see also Section IV of this report).

When the SWPSDP was adopted in 1996, the flower shop was in operation. The flower shop was allowed to remain as a permissive use because: it was a non-residential use that was zoned SU-1 for a specific use <u>and</u> it existed when the S-R zone was established, <u>and</u> it complied with conditions A.5.a through A.5.e.

The flower shop closed around 2002. The applicant purchased the subject site in 2008, after the flower shop had closed. Therefore, the discussion is about establishment of new flower shop and nursery uses. Any new flower shop and/or nursery use would have to conform with the SU-2/S-R zone to fulfill the intent of the SWPSDP as elaborated in A.5, which reads as follows:

> ***"New non-residential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, <u>and</u> they comply with the following conditions."***

A.5. states that new non-residential uses can be any use allowed by the previous zoning, but that they have to be equally or more restrictive than the preceding use (the "equally or more restrictive" test). In this case, the previous zoning was SU-2/SU-1 for Flower Shop and Nursery. Any new uses must be equally or more restrictive than a flower shop, which was the most recent, immediately preceding use. The burden is on the applicant to make this demonstration and create a nexus between the regulations and the request.

The proposed zone change creates a significant conflict with the overarching intent of the SWPSDP to establish residential uses when non-residential uses cease to operate. This is why the subject site was given the SU-2/S-R (Sawmill Residential) zoning upon the Plan's adoption in 1996, and why new zones and zoning regulations are a critical component of the SWSDP to implement the Plan's intent of reinforcing community stability, vitality, and character.

The SU-2/S-R zone replaced C-1 Neighborhood Commercial zoning, some SU-1 Special Use zoning, and most R-1, R-T, and R-C zoning. The intent of the SU-2/S-R zone is "to conserve the existing residential neighborhoods while allowing a variety of small scale housing and <u>existing</u> businesses" (SWSDP, p. 77).

The SWPSDP does not intend new non-residential uses that were not allowed by the previous zoning unless they conform to Regulation A.5, and the "equally or more restrictive" test is part of Regulation A.5. Conditions A.5.a through A.5.e are also a part of Regulation A.5. The language is not subjective, vague, or ambiguous, and has been interpreted consistently by the City.

The City's reading of the SWPSDP was affirmed by the District Court in a 2010 decision (Kilmer vs. City of Albuquerque, CV-2009-07499). Therefore, in order to not conflict with the SWPSDP and to clearly facilitate realization of applicable Plans as required pursuant to R270-1980, the proposed new, non-residential uses must be consistent with the intent of the SWPSDP to reinforce community stability, vitality, and character (SWSDP, p. 1). The burden is on the applicant to demonstrate that the proposed zone change is justified because it clearly facilitates realization of applicable Plans.

Furthermore, in the July 2 and July 30, 2018 justification letters, the applicant contends that the notes and illustrations that accompany Regulation A.5 (p. 99 of the SWPSDP) are not governing language. The Court found otherwise, stating that the notes and illustrations inform Regulation A.5 (see attachment, p. 3 and 4 of the Court's Decision).

Finally, the applicant's relies on a 1969 zoning decision pertaining to the subject site (Z-69-81). This decision is irrelevant because the 1996 SWPSDP superseded it and placed SU-2/S-R zoning on the subject site. The response to Section C is insufficient.

D. "The applicant must demonstrate that the existing zoning is in appropriate because:

1) there was an error when the existing zone map pattern was created, or

2) changed neighborhood or community conditions justify the change, or

3) a different use category is more advantageous to the community, as articulated in the comprehensive Plan or other City master plan, even though (1) and (2) above do not apply."

Applicant: The Existing Zoning is Inappropriate; A Different Use Category/Designation is more Avantageous (sic) to the Community, as Articulated in The City Comprehensive Master Plan and the Sawmill-Wells Park Sector Development Plan. Because: a different Equal or More Restrictive use Category/Designation is more advantageous to the Community. Several policies were outlined and enumerated in this letter, Policies used to further the request.

The applicant believes that changed conditions within the neighborhood also support this request. the climate within the neighborhood calls for updated uses on the subject Site. As the Subject property is an SU-1 Property as noted in the Historical record of (EPC 69-81, a Use Designation created for the Subject Site by the City of Albuquerque. An error may or may not have occurred during The creation of the SWPSDP. The request has been Affirmed by the Most important component of this request, the Neighbors and the swpsdp Community.

The Proposed Land Uses Already Exist Within Neighborhood/Sector Development Plan and The Uses Have passed the test of being NON-INJURIOUS and Consistent with the Health, Safety, Morals, and General Welfare of the City of Albuquerque.

Staff: The applicant does not choose one of the reasons (1, 2, <u>or</u> 3) and elaborate a response, but instead refers to all of them in various places of the response. An entire response to

R270-1980, a through J, is included in the body of the response to Section D, which is confusing.

The applicant has not convinced Staff that a different zoning category would be more advantageous to the community than the current zoning (SU-2/S-R) because the applicant has not demonstrated that the request clearly facilitates realization of the Comprehensive Plan and the SWPSDP.

Without a zone change, the permissive uses on the subject site are: 1) S-R uses (R-1, two dwelling units on one lot, townhouses, and single-family detached as permitted in R-LT, all as specified in the SWPSDP), and 2) flower shop and/or nursery provided that they comply with Regulation A.5. These uses are available without a zone change.

The 1996 adoption of the SWPSDP established zoning particular to the plan area in order to realize the Plan's overarching intent to reinforce community stability, vitality, and character (SWSDP, p. 1), which was advantageous to the community.

The applicant has not adequately demonstrated that the proposed zoning of "SU-2/SU-1 for Flower Shop/Plant Nursery, Office" would be more advantageous to the community. Although some of these land uses exist within the SWPSDP area, the zone change request is particular to the subject site. Existence (or not) of these land uses in the area nearby does not mean that the proposed zoning on the subject site is more advantageous to the community.

The applicant refers to the requested zoning and land uses as having passed the "non-injurious" test but does not explain why or how, although the argument is irrelevant because the non-injurious test pertains to a conditional use request, not a zone change request. Also, the 1969 zoning decision pertaining to the subject site (Z-69-81) is irrelevant because the SWPSDP established SU-2/S-R zoning on the subject site in 1996. The response to Section D is insufficient.

E. "A change of zone shall not be approved where some of the permissive uses in the zone would be harmful to adjacent property, the neighborhood or the community."

Applicant: This Request include an Existing Approved Zone Designation For SU-1 For Flowershop/Plant Nursery and addressed the Parking lot issue (EPC Z-69-81), along with Under Laying R-1 Residential Uses. Granted by EPC ACTION (EPC Z-69-81) and Emergency Ordiance (sic) 2726 1969. Moving Forward into 1978 SWPSDP SU-1 For Flowershop/Plant Nursery, with Under Laying R-1 Ues. Then Again Moving Forward into The Revised 1996 SWPSDP to SU-2, S-R premissive (sic) Use. The Requested Zoning Amendment will not be harmful because the uses already Exists (sic) on the Subject Site.

Staff: The test in Section E is whether or not any of the uses in the proposed zone would be harmful to adjacent property, the neighborhood, or the community. The test applies to zoning on the subject site, not to other sites in the Plan area, and is not comparative to other properties.

The questions raised in Section E are: what uses would the proposed zone allow, and would these be harmful? The most effective way to respond is to list the uses that the zone change would allow if granted, and discuss whether or not each would be harmful and why. Each allowed use has the potential to develop on the subject site, and each may or may not be harmful to adjacent property, the neighborhood, or the community.

If the proposed uses of flower shop and nursery currently exist on the subject site, they must conform to SWPSDP Regulation A.5. Regardless of an EPC action in 1969 and the former Plan in 1978, the applicable Plan is the 1996 SWPSDP and it established the zoning as SU-2/S-R.

Most importantly, the applicant did not discuss each proposed use and whether or not it would be harmful to adjacent property, the neighborhood, or the community, and why, as required. Therefore, the response to Section E is insufficient.

F. "A proposed zone change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the City may be:

1) denied due to lack of capital funds, or
2) granted with the implicit understanding that the City is not bound to provide the capital improvements on any special schedule."

Applicant: The Proposed Zone Change WILL NOT Require Major and Unprogrammed Capital by the City. This is an infill Property with Adequate infrastructure, including Public Transit, Roadways, Water, Sewer, Already Exist.

Staff agrees that the proposed zone change will not result in any major or unprogrammed capital expenditures by the City. The response to Section F is sufficient.

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

Applicant: The Cost of the land and other Economic Considerations Pertaining to the applicant ***are not*** *a Determining factor for a change of Zone BECAUSE: Other Than Consistency with the Neighborhood. The cost of the Land, other Economic Considerations of Applicant are NOT Relevant or Deciding factors for a zone map amendment request.*

The Subject Property is an Existing Special SU-1 use, as Demonstrated in (EPC Z-69-81) a Non-Residential Land Use, Premissive (sic) Within the Neighborhood, Requesting Consistency to Adjacent and Neighboring Land Use/Uses. with already Premissive (sic) Special SU-1, land uses Within SWPSDP, to be granted to the Special SU-1, Subject Property. The Subject Special SU-1 Land Use, Property will continue to Provide Stimulus and Economic Growth to the Community upon EPC approval.

Staff: Economic considerations are always a factor, but the test in Section G is whether or not they are the determining factor for the proposed zone change. The applicant refers to consistency with the neighborhood as the reason for the zone change, but does not explain how this idea intersects with the requirements of R270-1980.

The subject site is not being used currently and is for sale or lease. The flower shop and nursery uses that once operated on the subject site are not currently operating. The applicant wants to add new non-residential uses and an office use to the property in order to sell it to commercial businesses, office users, or market it to tenants. The subject site could be sold with the existing entitlements, which would allow development of single-family homes, townhouses, duplexes, flower shop, and a plant nursery under the SU-2/S-R zone.

Staff finds that economic considerations are the determining factor for the change of zone, especially since the applicant has not discussed how the subject site could (or could not) be redeveloped under the current zoning.

H. "Location on a collector or major street is not in itself sufficient justification of apartment, office or commercial zoning."

Applicant: The Location of the Site is Important to the Request, The Applicant has Justified the Request in Section C by Showing that the Proposed Zone Map Amendment Furthers Policies and Applicable Goals ***because,*** *The Subject Properties Location is on a Collector Street, This Request Does not Reply Upon that as a Deciding Factor. There are multiple Transportation Options Available to Serve this Site.*

Staff finds that the applicant is not using the subject site's location on 6th St. NW, in itself, as justification for the proposed zone change. The response to Section H is sufficient.

I. "A zone change request which would give a zone different from surrounding zoning to one small area, especially when only premise is involved, is generally called a 'spot zone'. Such a change of zone may be approved only when:

i) the change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan, or

ii) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic or special adverse land uses nearby, or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone."

Applicant: The SU-1 Zone is Considered a Spot Zone, But a Justified Spot Zone, Because the subject Site is adjacent to a SU-1 parcel that already contained a SU-1 Zoning Designation being sought by this request.

The Requested Zone Map Amendment is from: SU-2/S-R For Flower Shoop/Plant Nursery to SU-2/SU-1 for Flower Shop/Plant Nursery, Office. A Zone Deignation (sic), Which is not Proven to be in Significant Conflict with Adopted Elements of the Comprehensive Plan or The SWPSDP, MRA. The Current Request Conforms Within this approved SU-1 Zone Classification Request and EPC Z-69-81 Granting the SU-1 Zone Designation To the Subject Site, Framework for Overall Development. This Request Does not Constitute a Spot Zone because the Subject Site is Adjacent/Abutting to a Parcel of Land Which Already Containes (sic), a Similar SU-1 Zoning Designation being Sought by this Request.

The Requested SU-1 Land Use Already Exist Within Neighborhood and has Passed the NON-INJURIOUS Test. Therefore, The Requested Zone Map will Clearly facilitate Realization of The Comprehensive Plan and the SWPSDP or Any future Comprehensive Plan or Overlay area. The Neighborhood/Community is AGREEABLE. Therefore, the Requested Zone Map Amendment will Clearly facilitate Realization of The Comprehensive Plan and the SWPSDP. The Requested Uses have Passed the NON-Injurious Test.

Staff: The SU-1 zone is considered a "spot zone" by definition, because it pertains to a single, unique property and a site development plan is required. SU-1 zoning is a justifiable spot zone provided that it: i) clearly facilitates realization of the Comprehensive Plan and sector development plan or area plan, or ii) functions as a transition between adjacent zones as elaborated above.

In this case, the applicant has not demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate realization of the Comprehensive Plan and the SWPSDP. Also, the test for a justifiable spot zone does not have to do with the subject site's history, whether or not the proposed uses exist in the neighborhood, or if there is neighborhood support or not. The response to Section I is insufficient.

J. "A zone change request which would give a zone different from surrounding zoning to a strip of land along a street is generally called 'strip zoning'. Strip commercial zoning will be approved only where:

i) the change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan, and

ii) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic or special adverse land uses nearby."

Applicant: The Change will clearly facilitate Realization of the Comprehensive Plan and the SWPSDP Because The Subject Property is on a Corner and Comprises only 0.3 Acres. The Proposed Land Uses Already Exist Within Neighborhood/Sector Development Plan and The Uses Have passed the test of being NON-INJURIOUS. The Subject Property is on a Corner and Comprises only 0.3 Acres. Therefore, The Requested Zone Map Amendment , will clearly facilitate Realization of the Comprehensive Plan and The Sawmill/Wells Park Sector

Development Plan. The Zone Map amendment Request would NOT be considered a "strip Zone".

Staff: Staff agrees that the zone change request would not result in a "strip zone". The subject site is a single, small property that does not comprise a strip of land. The response to Section J is sufficient.

Staff Discussion of Applicant's Main Arguments

1) The proposed uses exist elsewhere in the neighborhood, so they should be allowed on the subject site for consistency's sake (repeated 33 times).

   The fact that other SU-1 uses exist in the Sawmill-Wells Park Sector Development Plan area is irrelevant because a zone change justification is specific to a given site, which is unique because it is tied to a site development plan for a particular site pursuant to Zoning Code §14-16-2-22(A)(1).

2) The zone change will allow a current, conforming, historical, non-residential use to continue on the same premises (repeated 15 times).

   R270-1980 does not contain a criterion that would allow this argument to be used to justify a zone change request. Furthermore, the flower shop closed in approximately 2002—prior to the applicant's purchase of the property in 2008. The nursery use ceased to operate a couple of decades ago. Whether or not the applicant is operating the flower shop for which he has obtained a business license is irrelevant to the zone change request.

3) The S-R zone of the SWPSDP allows new non-residential uses that are equally or more restrictive. The notes in A.5 are NOT governing language. The conflict lies with the SWSDP, not with the applicant's request (repeated 9 times).

   Staff finds that the request conflicts with the overarching intent of the SWPSDP to not re-establish non-residential uses once a non-conforming use ceases to operate.

   Please refer to the discussion in Section C of this report and to the discussion of non-conformance on p. 5 of the original Staff report (see attachment).

4) The request has been affirmed by the most important component of this request, the neighbors and the community (repeated 15 times).

   Though neighborhood and community input are an important part of the EPC process, R270-1980 does not include a criterion that allows neighborhood support or opposition to be used as justification for a zone change request.

5) NEW. The request is for a small text amendment to the existing zoning of SU-2/S-R Flower Shop/Plant Nursery to SU-2/SU-1 Flower Shop/Plant Nursery, Office (repeated at least twice).

   The SWPSDP, adopted by the City Council in 1996, established the subject site's zoning as SU-2/S-R (Sawmill Residential). The applicant acknowledges the SU-2/S-R zoning on p. 2

of the July 3, 2018 letter (see attachment). However, in the July 30, 2018 letter, the applicant incorrectly asserts that the subject site's zoning is SU-2/S-R Flower Shop/Plant Nursery. On p. 18 of the un-numbered letter, the applicant states that "Per 1996 Revised SWPSDP Language May be Deciphered into text as SU-2/SU-1 For Flowershop/Plant Nursery". This is erroneous because the zoning established by the City Council is SU-2/S-R, and the language may not be morphed into another zone category.

6) NEW. The SWPSDP created instability and was in error when it assigned SU-2/S-R zoning to the subject site (repeated at least 3 times).

The primary purpose of the 1996 SWPSDP was to restore an emphasis on residential uses, as desired by the community, and therefore promote stability. Limiting the re-establishment of commercial uses when they have ceased to operate re-enforced this emphasis. The SWSDP purposefully established the subject site's zoning and was not in error in doing so.

Staff Conclusion

Staff finds that the applicant has not adequately justified the proposed sector development plan map amendment (zone change) pursuant to the policies and criteria of R270-1980. The burden is on the application to justify the zone change pursuant to Section B.

The applicant does not adequately demonstrate, in the response to Section C, that the proposed zone change would clearly facilitate applicable Goals and policies in the 2017 Comprehensive Plan and the SWPSDP. The policies cited are from a superseded version of the Comprehensive Plan. In places, the explanation of the connection between the citation and the request seems to pertain to a site other than the subject site. In some instances, the policies cited do not apply to the request.

Therefore, the responses to Section D regarding more advantageous to the community as articulated in the 2017 Comprehensive Plan and the SWSDP, and the response to Section A regarding consistency with health, safety, and welfare, are insufficient. In particular, the response to Section I is insufficient because the applicant has not demonstrated that the request clearly facilitates realization of the 2017 Comprehensive Plan and the SWPSDP.

The applicant does not agree with the City's interpretation of Regulation A.5 of the SWPSDP. However, this interpretation was upheld by the District Court in a 2010 decision regarding the subject site (Kilmer vs. City of Albuquerque, CV-2009-07499). The applicant asserts that the SWPSDP was in error when it established the subject site's zoning as SU-2/S-R, even though the Plan contains very specific language regarding the intention to emphasize residential uses and not allow the re-establishment of commercial uses once they have ceased to operate and have lost their non-conforming status, unless they conform to Regulation A.5.

For these reasons, Staff recommends denial of the request.

IV. ANALYSIS-SITE DEVELOPMENT PLAN FOR BUILDING PERMIT

No changes were made to the proposed, as-built site development plan for building permit during the deferral period.

» Please refer to p. 18-21 of the original Staff report (see attachment).

V. AGENCY & NEIGHBORHOOD CONCERNS

No additional comments were received during the deferral period.

» Please refer to p. 21 of the original Staff report (see attachment).

VI. CONCLUSION

This request is for a sector development plan map amendment (zone change) and an associated site development plan for building permit for an approximately 0.5 acre site located at the SE corner of 6th St. NW and Constitution Ave. The applicant proposes to change the subject site's zoning from SU-2/S-R to "SU-2/SU-1 for Flower Shop/Plant Nursery Office" in order to allow these commercial and office uses on the subject site.

Staff concludes that the applicant has not adequately justified the zone change pursuant to R270-1980. The applicant does not adequately demonstrate, in the response to Section C, that the proposed zone change would clearly facilitate realization of applicable Goals and policies in the 2017 Comprehensive Plan and the SWSDP. The policies cited are from a superseded version of the Comprehensive Plan. In places, the explanation of the connection between the citation and the request seems to pertain to a site other than the subject site. In some instances, the policies cited do not apply to the request. Therefore, the responses to Section D regarding more advantageous to the community, the response to Section A regarding consistency with health, safety, and welfare, and the response to Section I regarding a spot zone, are also insufficient.

The applicant does not agree with the City's interpretation of Regulation A.5 of the SWPSDP. However, this interpretation was upheld by the District Court in a 2010 decision regarding the subject site (Kilmer vs. City of Albuquerque, CV-2009-07499). The SWPSDP was not in error when it established the subject site's zoning as SU-2/S-R, because it specifically intended to emphasize residential uses and not allow the re-establishment of commercial uses once they have ceased to operate and have lost their non-conforming status, unless they conform to Regulation A.5.

The effected neighborhood organizations are the Wells Park Neighborhood Association (NA) and the Sawmill Community Land Trust. A facilitated meeting was held on April 23, 2018. Staff received two letters. The WPNA representative indicated that they would support a zone change to MX-T under the new IDO but not to MX-L. The SCLT representative indicated that they do not have a problem with the project from what they can see.

Staff recommends denial of the proposed zone change and the associated site development plan for building permit.

FINDINGS - 18EPC-40019, August 09, 2018- Sector Development Plan Map Amendment (zone change)

1. The request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, an approximately 0.5 acre site located at the southeast corner of Sixth St. NW and Constitution Ave. (the "subject site").

2. The request was deferred by the Environmental Planning Commission (EPC) at its May 10, 2018 hearing in order to allow additional time for the applicant to adequately justify the zone change request. The applicant requested a 30 day deferral prior to the July 12, 2018 hearing.

3. The applicant owns the subject site and proposes to change the subject site's zoning from SU-2/S-R (Sawmill Residential) to "SU-2/SU-1 for Flower Shop/Plant Nursery, Office" to allow these commercial uses and an office use on the subject site. The subject site is available for sale or lease, and it appears that the building is not currently being utilized.

4. The request is accompanied by an associated site development plan for building permit (18EPC-40021) as required pursuant to the SU-1 Zone, §14-16-2-22(A)(1).

5. At one time, the applicant was using the existing building for a bail bonding business, but the zone change that would have allowed the bail bonding business to operate legally was denied in 2009; the denial and the City's reading of the SWPSDP were affirmed by a District Court decision in 2010 (Kilmer vs. City of Albuquerque, CV-2009-07499). The applicant moved the bail bonding business, which has since ceased operation.

6. The Albuquerque/Bernalillo County Comprehensive Plan, the Sawmill/Wells Park Sector Development Plan (SWPSDP), and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.

7. The applicant has not adequately justified the zone map amendment (zone change) request pursuant to Resolution 270-1980 as follows:

   A. <u>Section A:</u> Generally, consistency with the City's health, safety, morals, and general welfare is shown by demonstrating that that a request furthers applicable Goals and policies in relevant Plans, in this case the 2017 Comprehensive Plan and the SWPSDP. Though the response to Section A contains standard verbiage, the applicant is requesting SU-1 zoning and has not demonstrated in the response to Section C that the request clearly facilitates realization of applicable Goals and policies.

B. Section B: The test is for the applicant to discuss how the proposed zone change would affect stability of land use and zoning. The burden is on the applicant to justify the zone change by providing a sound, policy-based analysis.

The proposed zone change would establish a new flower shop and nursery on the subject site, and add the office use. The request would affect stability of land use and zoning, especially since the intent of the SWPSDP is to emphasize residential uses that promote stability of the area. The SWPSDP purposefully established the subject site's SU-2/S-R zoning to not allow new non-residential uses once the former commercial uses ceased operation, unless they can be demonstrated to conform to SWPSDP Regulation A.5. Allowing new uses contrary to the intent of the SWPSDP could de-stabilize the area.

C. Section C: Because the request is for an SU-1 zone, the test in Section C is whether or not the request "clearly facilitates" applicable Goals and policies. The applicant has not adequately demonstrated that the request clearly facilitates realization of applicable Goals and policies in the 2017 Comprehensive Plan and the SWPSDP.

The applicant's Comprehensive Plan citations do not apply, since they are from a superseded version of the Comprehensive Plan. Furthermore, policies pertaining to new growth and siting of commercial services do not apply to a request associated with an as-built site development plan. The West Side Strategic Plan does not apply to the subject site.

Furthermore, there is a significant conflict with the SWPSDP; therefore, the request cannot clearly facilitate realization of applicable Plans. The overarching intent of the SWPSDP is to establish residential uses in residential areas when non-residential uses cease to operate. This is why the SWPSDP gave the subject site SU-2/S-R (Sawmill Residential) zoning upon its adoption in 1996, and why new zones and zoning regulations are a critical component of the SWSDP to implement the Plan's intent of reinforcing community stability, vitality, and character.

D. Section D: The applicant does not choose one of the reasons (1, 2, or 3), but instead refers to all of them in various places of the response. The applicant has not proven that a different zoning category would be more appropriate than the current zoning (SU-2/S-R) because he has not adequately demonstrated that the request clearly facilitates realization of the 2017 Comprehensive Plan and the SWPSDP as required, and therefore has not made a convincing argument that a different zoning category would be more appropriate.

Existence of some of the proposed land uses in the nearby area does not mean that the proposed zoning on the subject site would be more advantageous to the community. The 1996 adoption of the SWPSDP established zoning particular to the Plan area in order to realize the Plan's overarching intent to reinforce community stability, vitality, and character, which is advantageous to the community.

E. Section E: This test pertains to zoning proposed for the subject site and raises the following question: what uses would the proposed zoning allow, and would these uses be harmful to adjacent property, the neighborhood, or the community? The most effective way to respond is to list the uses that the zone change would allow if granted, and discuss whether or not

each would be harmful and why or why not. Each allowed use has the potential to develop. However, the applicant did not discuss each proposed use and whether or not it would be harmful to adjacent property, the neighborhood, or the community, and why, as required.

F. Section F: The proposed zone change would not result in any major or unprogrammed capital expenditures by the City.

G. Section G: The determining factor for the proposed zone change is the applicant's desire to add additional non-residential (commercial and office) uses to the subject site in order to sell it to commercial businesses, office users, or market it to tenants.

H. Section H: The applicant is not using the subject site's location on 6th St. NW, in itself, as justification for the proposed zone change.

I. Section I: The SU-1 zone is a spot zone by definition, because it pertains to a single, unique property and a site development plan is required. SU-1 zoning is a justifiable spot zone provided that it: i) clearly facilitates realization of the Comprehensive Plan and sector development plan or area plan, or ii) functions as a transition between adjacent zones as elaborated above.

   The applicant has not demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate realization of the 2017 Comprehensive Plan and the SWPSDP. Also, the test for a justifiable spot zone does not have to do with whether the proposed uses exist in the neighborhood or not, or if there is neighborhood approval or disapproval.

J. Section J: The zone change request would not result in a "strip zone". The subject site is a single, small property that does not comprise a strip of land.

8. The fact that other SU-1 uses exist in the area of the SWPSDP is irrelevant to justifying a zone change on the subject site because a zone change justification is specific to a given site. A request for site-specific SU-1 zoning, tied to a site development plan for a particular site as required, cannot justify the existence of another SU-1 zone because each SU-1 zone is unique by definition.

9. The applicant's reliance upon a 1969 zoning decision pertaining to the subject site (Z-69-81) cannot be used to justify the proposed zone change. This EPC's 1969 decision, which established zoning on the subject site as SU-1 for Flower Shop and Nursery, is irrelevant because the 1996 SWPSDP established SU-2/S-R zoning for the subject site. SU-2/S-R is the subject site's current zoning and superseded the former SU-1 zoning.

10. The applicant states that the requested zoning and land uses have passed the "non-injurious" test but does not explain why or how this relates to the tests of R270-1980. Regardless, the

argument is irrelevant because the test of non-injury pertains to conditional use requests, not to zone change requests.

11. The applicant has not adequately justified the sector development plan map amendment (zone change) pursuant to the policies and criteria of R270-1980 because he has not adequately demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate applicable Goals and policies in the 2017 Comprehensive Plan and the SWPSDP. The citations are from a superseded version of the Comprehensive Plan and therefore do not apply. In some cases, the cited policy (ex. Policies II.B.5a and 5e) does not apply to the request. Therefore, the responses to Section D regarding more advantageous to the community, the response to Section A regarding consistency with health, safety, and welfare, and the response to Section I regarding justification of a spot zone, are also insufficient.

12. The allowed uses under the current zoning are S-R uses (single-family homes, townhouses, duplexes). When the SWSDP was adopted in 1996, the flower shop became a legally non-conforming, non-residential use in a residential zone (SU-2/S-R) because it existed at that time. The flower shop ceased to operate in approximately 2002 and its non-conforming use status was lost. The nursery use ceased to operate a few decades ago and also had lost its non-conforming use status. If these uses are re-established, they will be new non-residential uses and will have to comply with Regulation A.5 of the SWPSDP.

13. The proposed zone change creates a significant conflict with the overarching intent of the SWSDP to establish residential uses when legally, non-conforming, non-residential uses cease to operate. The SWSDP does not intend new non-residential uses that were not allowed by the zoning in place prior to adoption of the Plan (1996). The City's reading of SWPSDP Regulation A.5 was upheld by the District Court in its 2010 decision (Kilmer vs. Albuquerque, CV-2009-07499).

14. The affected neighborhood organizations are the Wells Park Neighborhood Association (NA) and the Sawmill Community Land Trust (SCLT). Both were notified as required. Property owners within 100 feet of the subject site were also notified, as required.

15. A facilitated meeting was held on April 23, 2018. Neighbors wanted assurance that the applicant would not put a bail bond business or a pawnshop on the subject site. The applicant agreed. There were questions about what uses are currently allowed on the subject site, and what uses could be developed with the proposed zone change.

15. Staff received correspondence from the WPNA and the SCLT. The WPNA representative indicated that it would support a zone change to MX-T under the new IDO, but not to MX-L. The MX-T zone is the replacement for the RC zone and the MX-L zone is the replacement for the C-1 zone. The SCLT representative indicated that they do not have a problem with the

project from what they can see. Staff did not receive any additional correspondence during the deferral periods.

RECOMMENDATION - 18EPC-40019, August 09, 2018

DENIAL of 18EPC-40019, a request for a sector development plan map amendment from SU-2/S-R (Sawmill Residential) to SU-2/SU-1 for Flower Shop/Plant Nursery, Office for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, located at the southeast corner of 6th St. NW and Constitution Ave., based on the preceding Findings.

FINDINGS -18EPC-40021, August 09, 2018-Site Development Plan for Building Permit

1. The request is for an as-built site development plan for building permit for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, an approximately 0.5 acre site located at the southeast corner of Sixth St. NW and Constitution Ave. (the "subject site").

2. The request was deferred by the Environmental Planning Commission (EPC) at its May 10, 2018 hearing in order to allow additional time for the applicant to adequately justify the zone change request. The applicant requested a 30 day deferral prior to the July 12, 2018 hearing.

3. The applicant owns the subject site and proposes to change the subject site's zoning from SU-2/S-R (Sawmill Residential) to "SU-2/SU-1 for Flower Shop/Plant Nursery, Office" in order to allow these commercial uses and an office use. The subject site is available for sale or lease, and it appears that the building is not currently being utilized.

4. The request is accompanied by a request for a sector development plan map amendment (zone change) (18EPC-40019). When requesting an SU-1 zone, a site development plan is required pursuant to §14-16-2-22(A)(1).

5. At one time, the applicant was using the existing building for a bail bonding business, but the zone change that would have allowed the bail bonding business to operate legally was denied in 2009. The denial and the City's reading of the SWPSDP were affirmed by a District Court decision in 2010 (Kilmer vs. City of Albuquerque, CV-2009-07499). The applicant moved the bail bonding business, which has since ceased operation.

6. The Albuquerque/Bernalillo County Comprehensive Plan, the Sawmill/Wells Park Sector Development Plan (SWPSDP), and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.

7. The applicant has not adequately justified the sector development plan map amendment (zone change) pursuant to the policies and criteria of R270-1980 because he has not adequately demonstrated, in the response to Section C, that the proposed zone change would clearly

facilitate applicable Goals and policies in the 2017 Comprehensive Plan and the SWPSDP. The citations are from a superseded version of the Comprehensive Plan and therefore do not apply. In some cases, the cited policy (ex. Policies II.B.5a and 5e) does not apply to the request. Therefore, the responses to Section D regarding more advantageous to the community, the response to Section A regarding consistency with health, safety, and welfare, and the response to Section I regarding justification of a spot zone, are also insufficient.

8. The Sawmill/Wells Park General SU-2 Regulations apply to all new construction and building permit applications for additions, renovations, or site rehabilitation work in the SWPSDP area.

9. The affected neighborhood organizations are the Wells Park Neighborhood Association (NA) and the Sawmill Community Land Trust (SCLT). Both were notified as required. Property owners within 100 feet of the subject site were also notified, as required.

10. A facilitated meeting was held on April 23, 2018. Neighbors wanted assurance that the applicant would not put a bail bond business or a pawnshop on the subject site. The applicant agreed. There were questions about what uses are currently allowed on the subject site, and what uses could be developed with the proposed zone change.

11. Staff received correspondence from the WPNA and the SCLT. The WPNA representative indicated that it would support a zone change to MX-T under the new IDO, but not to MX-L. The MX-T zone is the replacement for the RC zone and the MX-L zone is the replacement for the C-1 zone. The SCLT representative indicated that they do not have a problem with the project from what they can see. Staff did not receive any additional correspondence during the deferral periods.

RECOMMENDATION - 18EPC-40021, August 09, 2018

DENIAL of 18EPC-40021, a Site Development Plan for Building Permit for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, zoned SU-2/S-R (Sawmill Residential), located at the southeast corner of 6th St. NW and Constitution Ave., based on the preceding Findings.

Catalina Lehner

Catalina Lehner, AICP
Senior Planner

cc: Eric Kilmer, 1416 6th St. NW, ABQ, NM 87102
Sawmill Community Land Trust, Mona Angel, 990 18th St. NW, ABQ, NM 87104
Sawmill Community Land Trust, Annette Montoya, 990 18th St. NW, ABQ, NM 87104
Wells Park NA, Mike Prando, 611 Bellamah NW, ABQ, NM 87102
Wells Park NA, Doreen McKnight, 1426 7th St. NW, ABQ, NM 87102

CITY OF ALBUQUERQUE

PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
600 2nd Street NW, 3rd Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3860 Fax (505) 924-3339

OFFICIAL NOTIFICATION OF DECISION

July 12, 2018

Eric Kilmer
1416 6th St. NW
Albuquerque, NM 87102

Project# 1007648
18EPC-40019 Sector Development Plan Map Amendment (Zone Change)
18EPC-40021 Site Development Plan for Building Permit

LEGAL DESCRIPTION:
The above action for all or a potion of Lots 22, 23 and 24, Block 20, Albright-Moore Addition, zoned SU-2/SR to SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses, located at the NE corner of 6th St. NW and Constitution Ave. NW (1416 6th Street NW), containing approximately 0.5 acre. (J-14)
Staff Planner: Catalina Lehner

PO Box 1293

On July 12, 2018 the Environmental Planning Commission (EPC) voted to DEFER Project 1007648/18EPC-40019, a Sector Development Plan Map Amendment (zone change), and 18EPC-40021, a Site Development Plan for Building Permit, for 30 days based on the following Findings:

Albuquerque

FINDINGS- 18EPC-40019 and 18EPC-40021:

1. This request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) and an associated, as- built site development plan for building permit for an approximately 0.5 acre site at the SE corner of 6th St. NW and Constitution Ave. NW.

NM 87103

www.cabq.gov

2. The zone change request has been altered to SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/ Barber Shop, Restaurant/Cafe, Parking.

3. The EPC deferred the request for 60 days at its May 10, 2018 hearing to allow additional time for the applicant to strengthen the zone change justification. The applicant is now requesting a 30 day deferral to allow additional time to strengthen the justification.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **JULY 27, 2017.** The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-4-4 of the Zoning Code.

A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal EPC Recommendations to City Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's recommendation.

You will receive notification if any 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 Zoning Code must be complied with, even after approval of the referenced application(s).

ZONE MAP AMENDMENTS: Pursuant to Zoning Code Section 14-16-4-1(C)(16), a change to the zone map does not become official until the Certification of Zoning (CZ) is sent to the applicant and any other person who requests it. Such certification shall be signed by the Planning Director after appeal possibilities have been concluded and after all requirements prerequisite to this certification are met. If such requirements are not met within six months after the date of final City approval, the approval is void. The Planning Director may extend this time limit up to an additional six months.

SITE DEVELOPMENT PLANS: Pursuant to Zoning Code Section 14-16-3-11(C)(1), if less than one-half of the approved square footage of a site development plan has been built or less than one-half of the site has been developed, the plan for the undeveloped areas shall terminate automatically seven years after adoption or major amendment of the plan: within six months prior to the seven-year deadline, the property owners shall request in writing through the Planning Director that the Planning Commission extend the plan's life an additional five years. Additional design details will be required as a project proceeds through the Development Review Board and through the plan check of Building Permit submittals for construction. Planning staff may consider minor, reasonable changes that are consistent with an approved Site Development Plan so long as they can be shown to be in conformance with the original, approved intent.

Sincerely,

For David S. Campbell
Planning Director

DSC/CL

cc: Eric Kilmer, 1416 6th St. NW, ABQ, NM 87102
Sawmill Community Land Trust, Mona Angel, 990 18th St. NW, ABQ, NM 87104
Sawmill Community Land Trust, Annette Montoya, 990 18th St. NW, ABQ, NM 87104
Wells Park NA, Mike Prando, 611 Bellamah NW, ABQ, NM 87102
Wells Park NA, Doreen McKnight, 1426 7th St. NW, ABQ, NM 87102
Peter Armijo, 515 Constitution NW, ABQ, NM 87102
Victoria Wood, 7555 Prairie NE, ABQ, NM 87109
Kevin Morrow kmorrow@cabq.gov
Kathy Berglund kberglund@cabq.gov

Lehner, Catalina L.

From: Eric Kilmer <ekilmer67@me.com>
Sent: Tuesday, July 10, 2018 4:37 PM
To: Lehner, Catalina L.
Subject: Re: Staff report for July hearing

Hello Catalina
We would like to request a 30 day deferral to further the justification of recent changes to the request of 270-1980.

Sent from my iPhone

On Jul 6, 2018, at 3:37 PM, Lehner, Catalina L. <CLehner@cabq.gov> wrote:

> Hello Eric,
> I'm writing to let you know that the Staff report for Project #1007648 is available online at: https://ddei3-0-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=http%3a%2f%2fdocuments.cabq.gov%2fplanning%2fenvironmental%2dplanning%2dcommission%2fjuly2018%2fAgenda%5f03%5f1007648%5fSWP%2520ZC.PDF&umid=D3EB2F1F-70AC-C505-B102-A9C9856D8546&auth=f0ebcd052f61e7a39dc93191e8a01d02608499af-9de69e7a0b8d608f7a4c3b8ee267211eb01e7981
>
> This item is #3 on the agenda for the hearing on Thursday, July 12th, starting at 8:30 am. Thank you.
>
> *Catalina Lehner- MCRP, AICP*
> *Senior Planner*
> *City of Albuquerque, NM*
> *(505) 924-3935*

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

Eric Kilmer

1416 6th Street NW

Albuquerque, New Mexico 87102

RECEIVED
JUL 31 2018
BY: G Delgado

RECEIVED
JUL 30 2018
BY: G Delgado
9:55 am

July 30,2018
Catalina Lehner
City Of Albuquerque Senior Planner

Re: EPC Project #1007648 (**Amendment To EPC 1007648 Subnmittal**)

Ms. Lehner :

This letter is wriiten on Behalf of the Property Owner/s at 1416 6th Street NW. Albuquerque, New Mexico 87102 . We Humbly Request to Amend our Submitted EPC Application # 1007648.

The Property Owner(s) Submitted a Request for a Zone Map Amendment to the Environmental Planning Commission (EPC). This Request is Consistent with the Comprehensive Plan and Sawmill/Wells Park Sector Development Plan.

The Site is Located at 1416 6th Street NW, on the South east Corner of 6th Street and Constitution.

Lot 22,23,24 of Block 20 of Albright-Moore Addition

The Following is a Detailed Description of this Request:

Zone Map Amendment : EPC # 1007648

Existing Zoning : **SU-2/ S-R for FlowerShop and Nursery (Premissive uses).**

Proposed Amended Change : ***SU-2/SU-1 For FlowerShop/Plant Nursery,Office.***

This Amendment will allow the Existing Structure/Premises at the Subject Site,Historically a flowershop/Plant Nursery a Premissive Use ,to Continue to Be an Economic And Revitalization ,Contributor to the Sawmill/Wells Park Community.

Please Do Not Hesitate to Contact me if you have any questions,or would like to meet,or desire any additional information. The (EPC) Hearing for this application will be held at the Plaza Del Sol Building, Located at 600 2nd Street NW.Albuquerque,New Mexico 87102.

Sincerely,

Eric Kilmer

Eric Kilmer
Princple
1-(505) 261-8409

RECEIVED
JUL 31 2018
BY:

Eric Kilmer

1416 6th Street NW

Albuquerque, New Mexico 87102

July 30, 2018

RECEIVED
JUL 30 2018
BY: G Delgado
9:55am

Mr. Derek Bohannan,Chair
Environmental Planning Commission
City of Albuquerque
600 Second Street NW
Albuquerque New Mexico 87102

Mr. Bohannan,

The Property Owner Eric Kilmer is Requesting a Zone Map Amendment and Submitting a Site Plan,for the Property located at 1416 6th Street NW. Albuquerque,New Mexico 87102. The Submittal to the Environmental Planning Commission (EPC) is consistent with Enactment 270-1980 and the Comprehensive Plan of the City of Albuquerque, Sawmill/Wells Park Sector Development Plan.The Subject Property Conforms With the Above and is a Premissive Use:

The Request is to Request the Approval of a Sector Development Plan and Zone Map Amendment to Amend The Zone Designation of SU-2 / S-R for Flower Shop/Plant Nursery to Lots 22,23,24 of Block 20 of the Albright-Moore Addition,of this Subdivision Plan Boundary Back to SU-1 Zoning Designation for This Parcel.

The Previous Stable Zone Designation and Site Plan Amendment was Approved with the EPC Actions of (EPC Z-69-81) and Enactment of Emergency Ordiance 2726 into Law ,The Requested Uses Based on Changed Neighborhood Conditions and to provide a mix of Use that is More Advantageous to the Community, to SU-1 for flowershop/Plant Nursery,Parking ,office FROM R-1 Residental Designation.

Requested Amendment is to SU-2 / SU-1 Flower Shop/Plant Nursery,office.

From SU-2 / S-R Flower Shop/Plant Nursery .

to Lots 22,23,24 of Block 20 of the Albright-Moore Addition The Requested Uses are the Existing Zone Use Designations of the Subject Site.

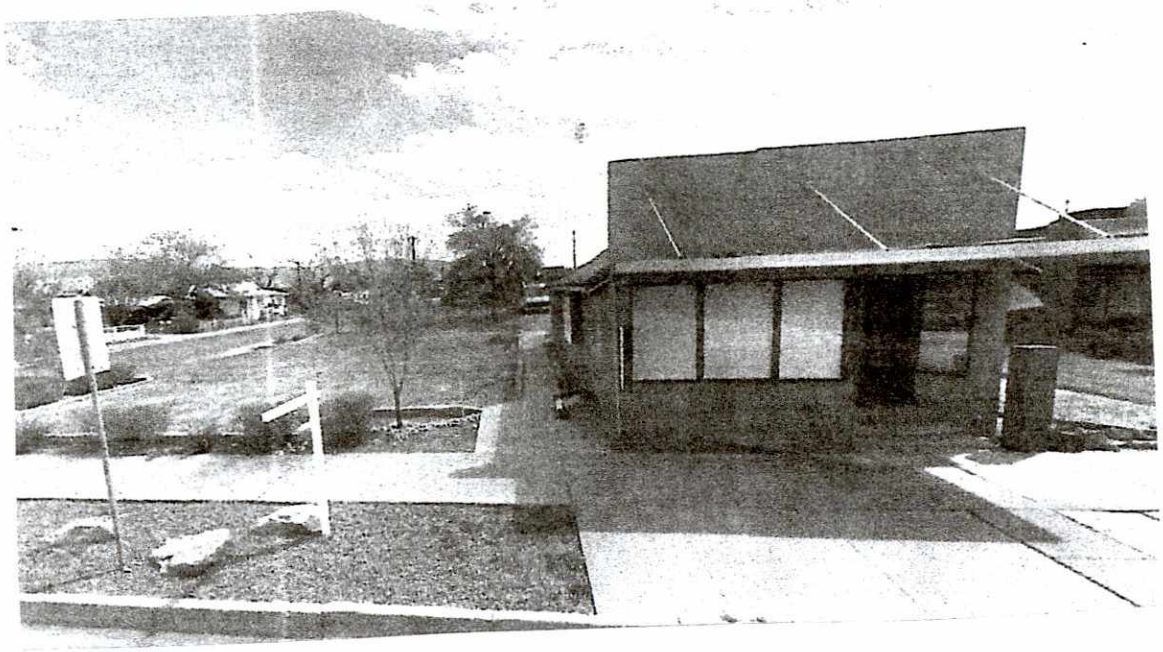
The Requested Amended text of the Zoning Designation to : SU-2 / SU-1 for Flower Shop/Plant Nursery,office Is The basis of this Request.

The Existing Use Designation Is : SU-2 / S-R for Flower Shop/Plant Nursery. The Applicant Believes the creation of the 1978 and the Revised 1996 SWPSDP, is The

Point Where the Zone Designation In-Stability and Discrepancy Occured, The land Use Zone Designation language interpetation ,should have reflected The SU-2 Designation only.

TO: The 1996 SU-2 Revised Zone Map Designation for SWPSDP, in text to ***SU-2 / SU-1 For Flowershop/Plant Nursery.*** NOT : *SU-2 /S-R For Flowershop/Plant Nursery.*

The S-R Zone Does not Fully Recognize the SU-1 Use of Subject Site and Future Uses, as intended in the Implementation of EPC action (EPC Z-69-81) and Emergency Ordiance 2726 Passed into law by the City of Albuquerque. Requested Uses Based on Changed Neighborhood Conditions and to provide a mix of Use that is More Advantageous to the Community, Granting the SU-1 Zone Designation and land Use To the Subject Site. **The Actions Taken by The City Of Albuquerque.**



PROJECT INTRODUCTION

The Subject Site is Located at 1416 6th Street NW, Albuquerque, New Mexico 87102.

Containing Lots 22,23,24 of Block 20 of the Albright-Moore Addition, an 0.3 acre site located at the southeast corner of Sixth St. NW and Constitution Ave. (The Subject Site).

The Subject Site is located on 6th Street, a Busy One Way through, the SawMill/Wells Park Community (SWPSDP), One of the Gateways into Downtown.The Sawmill/Wells Park Sector Development Plan (SWPSDP) Recognizes that 6th Street is a one way, which is made up of a Mix of Mixed Commercial and Office Uses.The use(s) were Permitted to Remain if they were in Existance at the time of the Adoption of The Sawmill/Wells Park Sector Development Plan in 1978 and the Revised Adopted 1996 (SWPSDP) .The Subject Site is one of such Sites.

There are multiple Transportation Options avaiable to serve this Site, one on 6th street

Just South of Kinley Avenue and one on the corner of 5th Street and Constitution Avenue , Bus Routes 8, 92, 93, and 94 run along 6th street and 5th Street.There are also Existing bike lanes on 6th street and 5th street,and there is an existing bike route on Bellamah Avenue which is one Block North of the Subject Property.

This Proposal Promotes Utilizing/Providing Access to Public Transportation , Bike Routes, Available to The Subject Special SU-1 Property.As well as Performing Infill Requirements of the SWPSDP, to an Economicially Depressed Area .

The Subject Site Parcel is Historically a FlowerShop/Plant Nursery Use , the Use Established Approximately 1938. Passage and Implementation of the first legally Adopted Zoning Code in 1959 (Ordinance 1493) Established a R-1, Residental Zone to Subject Site .

The City of Albuquerque Planning Department Re-Zoned The Parcel to ***SU-1 For Flowershop/Plant Nursery and Parking*** ,**Based on Changed Neighborhood Conditions and to provide a mix of Use that is More Advantageous to the Community, in 1969.**

The Best Zone Designation to Accommodate the Flowershop/Plant Nursery and Parking Request is ***SU-1 For Flowershop/Plant Nursery*** as the Public Record Reflect ,in actions of (EPC Z-69-81) and The Enacted Emergency Ordiance 2726, into law.

The City of Albuquerque Planning Department ,Requested the Zone Designation and Land Use Dsesignation be Created and Placed to the Subject Site, Thus, the Actions,Contained in the Public Record of (EPC Z-69-81) and The Enacted and Passed The Emergency Ordiance 2726, into Law. "Creating the SU-1 Use Subject Site " .The Development of the SU-1 Designation of the Subject Site.

This Requested Zone Map Amendment is for **A Current and Updated Zone Designation** to the Existing ***SU-2, S-R For Flowershop/Plant Nursery***. To Previously Granted and Stable SU-1 Designation.An Amendment ***To : SU-2 / SU-1 for Flowershop/Plant,Office.***

The City of Albuquerque Planning Department Re-Zoned the Subject site in the SWPSDP of 1996 to Accommindate The SU-2 Claffication .The Parcel *SU-1 Designation Existed During the 1978 and 1996 SWPSDP and* Sawmill/Wells Park Re-Development plan area and Creation of 1993 (MRA) Metropoloitian Re-Development Area .

The Applicant Believes In-Stability in the Zone Designation Occured, Within the Creation of the SWPSDP,1978 . For the SU-1 Designation for Flowershop/Plant Nursery and Parking Granted by EPC action (EPC Z-69-81) and an Emergency Ordinance 2726, into law . An Action Taken by The City Of Albuquerque, to Request Uses Based on Changed Neighborhood Conditions and to provide a mix of Use that is More Advantageous to the Community, to be Carried Forward With the Proper Future Designation of SU-1 for Flowershop/Plant Nursery,Office.

SITE CHARACTERISTICS

The Subject Site is Historically a FlowerShop/Plant Nursery, the Use Established Approximately 1938.

Passage and implementation of the first legally Adopted Zone Code in The City of

Albuquerque Occurred in 1959 (Ordinance 1493)

This Established the Subject Site as a R-1 a Residental Zone .

The City of Albuquerque Planning Department Re- Zoned The Subject Site in 1969, TO: ***SU-1 For Flowershop/Plant Nursery*** , by an EPC action (EPC Z-69-81) and an Emergency Ordinance 2726 into law . **An Action Taken by The City Of Albuquerque, to Request Uses Based on Changed Neighborhood Conditions and to provide a mix of Use that is More Advantageous to the Community,**

The Best Zone Designation to Accomidate the Flowershop/Plant Nursery,"Creating an SU-1 Use Site." as the Public Record Reflect, is ***SU-1 For Flowershop/Plant Nursery*** .The City of Albuquerque Planning Dept Requested the Zone Designation in 1969. Thus, it was Enacted by the EPC action (EPC Z-69-81) and the Emergency Ordiance 2726 into law .The Subject Site Zone Designation, Continued through the 1978 (SWPSDP) then the revised and adopted 1996 SWPSDP to SU-2 ,S-R for Premissive Use.

The Site is located Within The Sawmill/Wells Park Sector Development Plan Neighborhood a Pocket of Poverty, As Defined by *The New Mexico Metropolitan Redevelopment Code (3-60A-48 NMSA 1978),and* Is Recognized as A Metropolitan Redevelopment Area (MRA), by the United States Department of Housing and Urban Development (HUD)." A Geographic Area within the City of Albuquerque, that meets Federal Standards for Minimum Physical and Economic Distress Area.

The Property is Designated as part of the Established Urban Area of the *Comprehensive Plan.* The Goal of this area is to create a " Quality urban Enviroment : which offers Variety and Maxium choices in housing,transportation,work areas and lifestyles while creating a visually Pleasing Built Enviroment."

The Subject Site is Adjacent and Abutting to SU-1 Zone Designations and Land Uses Properties ,such as Pre School & Staff Residence and Day Care Center to the North East, To the South **Residental, and/or Law office ,Court Reporter ,Account, Architect,Engineer,or Doctors Office,abbutting Subject Site**. All Uses are Neighboring and/or Abutting Uses to the Subject Site, Which are Consistent with the Health ,Saftey,Morals and General Welfare of the City.

The Subject Site's Special SU-1, Use Is listed on page 80 in the *(SWPSDP)* adopted in 1996.and The Appendix A of the SWPSDP Questionair # 55 Property Location 1416 6th Street NW . Albuquerque NM 87102.

All the Neighboring and Abutting SU-1 Land Use(s) Surrounding the Subject Site's in (SWPSDP) Neighborhood,Existed Prior to the SU-2 1996 Adoption of the (SWPSDP) : *Note the Uses May Not Appear in the City of Albuquerque Zoning Code As Labled.*

1. Pre School & Staff Residence
2. Flower Shop/Plant Nursery
3. Day Care Center
4.Office Uses
5. C-2 Uses W/Exceptions
6.Bed and BreakFast
7.Museum

All SU-1, Uses which Are Premissive Use(s) Within The (SWPSDP) Neighborhood.

The Previous land Zone Use Designation of subject Site Is : *SU-1 For Flowershop/Plant Nursery*.

The Use Designation Has been Granted to the Subject Site,by the Actions, Taken by The City Of Albuquerque, as Public Records Reflect ,due to Urgent Public Need for an off street parking Lot ,to be placed on North Side of Subject Site, A Request Stimulated by Actions of The City Of Albuquerque,within the SWPSDP Neighborhood Contributing to " A Change ,Requiring Other Community Changes " The Subject Sites Owners at the time, concerned about Public safety Approached , The City of Albuquerque With The Safety Concerns . The City of Albuquerque Responded, by Engaging The Subject Sites Owner's in an EPC action . **An Action Taken by The City Of Albuquerque, to Request Uses Based on Changed Neighborhood Conditions and to provide a mix of Use that is More Advantageous to the Community.**

The EPC took action ,(EPC Z-69-81) and The City of Albuquerque's Emergency Ordinance 2726, THEREFORE ***GRANTING AN SU-1 USE DESIGNATION SUBJECT SITE, ESTABLISHING A SU-1 SITE CONFORMING TO ALL POLICIES AND PLANS ENCOMPASSING THE SWPSDP and THE COMPREHENSIVE PLAN OF THE CITY OF ALBUQUERQUE, FULLFILLING The REQUIRED TESTS, OUTLINED FOR AN SU-1 SITE TO BE ESTABLIHED.***

The Requeted Zone Map Amendment would **Amend** the Subject Site Designated Use , from a S-R Designation To a SU-1 Designation intended by *The action of (EPC Z-69-81) and The City of Albuquerque's Emergency Ordinance 2726 into Law.*

The FlowerShop / Plant Nursery, still is a legally Premissive SU-1 Use availble to Subject Site .

The EPC action taken (EPC Z-69-81) and The City of Albuquerque's Emergency Ordinance 2726, JUSTIFIES , the Requested Amendment To a SU-1 DEsignation is Neighborhood and Community Friendly while being a Positive Non-Injurious and Appropiate Use request for the Community.

This Amendment will Allow the Existing Land Use and Premises, Historically a FlowerShop/Plant Nursery, a SU-1 Special Use ,Established in 1969 (EPC Z-69-81) is a Proven, Premissive and NON-INJURIOUS Use and Zone Designation ,To Continue,with Proven Non-injurous uses within the Neighborhood ,to help Stimulate Revitalization,While Promoting Economic Development Strategies,Outlined in The Sawmill/Wells Park Sector Development Plan pages 33 and 34. Outlined in this Justification Letter .

This Request Furthers the intent of the actions taken by The City of Albuquerque Planning Department, of 1969 and the EPC action (EPC-69-81) and Emergency Ordinance 2726.Granting into law The SU-1 Uses to the Subject Site***,(Reinforcing this Justification letter and requested Zone Amendment ,and the Legal Pronges of law Required for a Zone map Amendment to be granted. have been Meet in Actions Procured By the City of Albuquerque,in EPC Z-69-81,and Emergency Ordiance 2726 Creating A SU-1 Subject Site and Uses***).

Preseidence is set with **Similar Actions**,such as (EPC 2008 1005001 and project # 1004731,and Case # 06EPC 00289) Suggesting Change is needed, Within the

(SWPSDP).As Outlined in Policies of Section C of This Justification Letter.

Zone Map Amendments Requested within th SWPSDP, Carry Significance, in Evaluating the Overall Request, for this Down Zone Map Amendment.

Properties with a SU-1 use or Uses, Signal Change because Some Uses ,no longer Realize or Produce Economic Stimulus to Community from Historically Non-Residental SU-1 land Use Locations ,as intented by the SWPSDP.

*The Sister Abutting Property Located to the South of Subject site and Sharing Same Property line Known as 1412 6th Street NW Albuquerque NM 87102. had a Granted Zone Map Amendment (EPC 2008 1005001)

From:**SU-2 /S-R for flowershop/Plant Nursery** (It Should be noted, this Property Carried the same Uses As the Subject Property currently carries)

To : **SU-2 /SU-1 for Residental, and/or Law office ,Court Reporter ,Account, Architect,Engineer,or Doctors Office.***

This Request Will Address the SWPSDP Premissive S-R A. 5. Section as to a Future Non-Residental Use(s) may Occupy these Same Premises as Permissive and Conforming Use(s)", *Furthering the Policy for Re-Use of a Historically Non-Residental SU-1 Use Properties in the (SWPSDP) Neighborhood.* ***The Related Policy is Articulated in This Justification Letter Section C.***

This Request Will make the Subject Special SU-1 Site Use , Consistant with the Adjacent/Neighboring,Abutting SU-1 Site's Use Designation, while Implementing the Policies Goals, and the Revitalization Plan Vision of the (SWPSDP)

Planners of the City Of Albuquerque Planning Dept have Stated : "Since the Applicantion was made Prior to the IDO's Effective Date of May 17,2018 . The IDO can not be Used in ANY Part of This analysis "

This Determination should Apply to All Parties Concerned.

It has Become Unclear and Confusing , To Applicant ,as to the Continuing use of IDO Reference's by the Planners ,When the Planner States "Since the Applicantion was made Prior to the IDO's Effective Date of May 17,2018 . The IDO can not be Used in Any analysis . The Planner Continues to Comingle the Policies and Justifications, Referencing the IDO to the Applicant In the Revised Justification Letter Reponses via E-mail's, to Strengthen and Clarify, Section A. through J of Resolution 270-1980. thus, Communicating unclear Guidence to the Applicant.

This Request is a NON-INJURIOUS , Appropriate Request ,Affirmed by **An Action Taken by The City Of Albuquerque, to Request Uses Based on Changed Neighborhood Conditions and to provide a mix of Use that is More Advantageous to the Community.**

The EPC took action in (EPC Z-69-81) and The City of Albuquerque's Enacted Emergency Ordinance 2726 into Law. To Stabilize the Land Use ,Economic Base and MIx of Business to Housing Ratio.

Also Approved by the Most important Element of This Request The Neighbors and Community in The Fascilitated Neighborhood/Community Meetings, The Community Has Acknowledged,The Zone Designation and Land Uses and The

Neighborhood/Community is AGREEABLE to a Zone Map Amendment Per Submitted Report.

RESPONSE TO THE CITY OF ALBUQUERQUE RESOLUTION 270-1980 This Zone Change Request is in Compliance with Resolution 270-1980 as Follows:

(A). A Proposed zone change must be consistant with the health ,saftey,morals and general welfare of the City.

RESPONSE: A proposed Change Must is found to be consisent with the health , Saftey, Morals and General welfare of the city by demonstrating that it futhers Applicable goals and policies of the City of Albuquerque's Comphrensive Plan and Other Applicable Plans such as the Sawmill Wells Park Sector Development Plan (SWPSDP) and The Sawmill /Wells park Metropolitian Redevelopment Plan(MRA) . Also the Sawmill Wells Park Revitalization Strategy , As outlined in Section C of This Request.

(B). Stability of land use and zoning is desirable;therefore the applicant must provide a sound justification for the change. The Burden is on the applicant to show why the change should be made,not on the City to show why the should not be made.

RESPONSE:. The Zone Designation Amendment will Re-Stablize the land use and Zone Designation Stability by, Re-Establishing an SU-1 Designation of Subject Site to an Appropriate and updated **Flower Shop/Plant Nursery** Zone Designation with an Existing **Flower Shop/Plant Nursery land Use** on Subject Site. .

The Requested Zone Map Amendment will Preserve and Enhance, the Relevant Policies of the City Comphrehensive Plan, SWPSDPand Sawmill Revitalization Plan and the Metropolitian Revitalization Area Plan (MRA), that are Outlined in Section C of This Request Further Stabilizing the Land use.

The Applicant Believes, In-Stability Occured, Within the Creation of the 1978 SWPSDP and Revised 1996 SWPSDP. Noting Page 77. of the SWPSDP in Section C of This Request.

The Sawmill/wells Park Sector Development Plan (SWPSDP) (Rank III) was First Adopted in 1978 (The 1978 Plan) and then was Revised and Adopted in 1996 (Enactment No.128-2002) .

The Flowershop/Plant Nursery Operated During The First Adoption of the SWPSDP and as well as Past the Revised Adoption of SWPSDP, as Public Records of The City of Albuquerque Reflect.

The Existing Use on Subject Site Is : SU-2 S-R *For Flowershop/Plant Nursery*.

The Land Uses and Zone Designation Are Existing ,Continuing ,Premissive and Conforming Land and Zone Designations Uses, Available to the Subject Site ,now and into the Future, Within SWPSDP Neighborhood).

The SU-1 Land Use Designation ,Established at the Direction of The City Of

*Albuquerque and Enacted through the EPC actions of (*EPC Z-69-81*) and Implementation of Emergency Ordiance 2726, making it Law .Created An SU-1 Site, for (SU-1 For the issues realted to the Flowershop/Plant Nursery and Parking Lot placement to North Side of Subject Site, as well as providing for future Housing Development Requirements on the Subject Site).***An Action Taken by The City Of Albuquerque, to Request Uses Based on Changed Neighborhood Conditions and to provide a mix of Use that is More Advantageous to the Community, Creating Stability As require through the EPC process and Emergency Ordince 2726 Implementation into law Aforementioned.** *1. The Appliciant Asserts and Believes a Text Error or Amendment/Zone Designation,Error may or may not have occured,Carrying the Created SU-1 Land Use Designation Forward in First in the 1978 (SWPSDP) and the Revised 1996 Adoption of the (SWPSDP) to SU-2 .*

A Zone Designation Error may or may not have occured which Created Instability of Zone Designation , Noting Page 77. SWPSDP.

The First Referenced Appearence of the subject Site is in The 1978 SWPSDP and again in Adopted 1996 Sawmill/WellsPark Sector Development Plan Index Dating the Subject Site back as far as 1959. Demonstrating Land Use and Zone Designation Stability.

The Sites History as Established by the City of Albuquerque and EPC action of 1969 is a Special SU-1 Use For FlowerShop/Plant Nursery,parking (EPC Z-69-81) Demonstrates Stability in Zone Designation and Land Use.

The land Use and Zone Designation Operated through the Creation of the 1978 and the 1996 Revised Adoption of The Sawmill/WellsPark Sector Development Plan, further Demonstrating Land Use Stability.

The Subject Sites Land Use has not been Proven or Documented as Injurious To Neighboring Parcels, Neighborhood or Community through review of Public Records.

The Land Use on the Subject site and has Not Been Proven or Documented as a Residental use at any time,Throughout it's Historical Land Use and Zone Designation.

There is Underlaying Residental uses is available to the Subject Site.

The Flowershop and Plant Nursery, is a Premissive C-1 Use with a *C-2 use as an accessory Use. The SU-1 zone Designation has occupied the Site for Approximately 50 years .*

This Opinion as to the Current Zone Designation of Subject Site may or may not have been confirmed by a Senior Planner in an Email dated 06/27/2018 to Applicant."

The Special SU-1 Land Use Subject Site, is one of the only Few Special SU-1 land Use(s) Continuing for a Documented approximately 50 (fifty) years into Present day Zone Use Designation.

The Subject Site Parcel in the SWPSDP, has Proven Stability of Land Use and Previous Zone Designation at its best. from 1969 to Present day SU-2/S-R Designation.

There is a Current Business Registration For the Land Use of Flowershop/Plant

Nursery, indicating the land use(s) are Considered Stable, Premissive and Conformming,showing Longevity as a Non-Injurious member of the City's Comprehensive Plan community and the (SWPSDP) neighborhood.

The Subject Site seeking to further the Policies and related Plans of the MRA and Sawmill Wells Park Revitalization Plan as a Re-Stablized member of the SWPSDP Neighborhood by this Request and Furthered Outlined in Section C of this Request.

The **Special SU-1 Use Premises** and the **Special SU-1 Non-Residental Use/Uses** Stability have been Established and Proven to be Non-Injurious, by and through The City of Albuquerque EPC actions of (EPC Z-69-81) and the implemented Emergency Ordiance 2726 into law.

The Special SU-1 Use Subject Site is one such Special SU-1 Use Site identified for Stability and Longevity , During The Creation of the SWPSDP of 1978 and again in 1996, ***SWPSDP adoption Page 80 and The Sawmill/Wells Park Sector Development Plan, APPENDIX A) Property Identification #55.***

(Attached ,APPENDIX A of The Sawmill/Wells Park Sector Development Plan, Participation Questionnaire for Business Owners Dated November 18, 1991.Noting Property Number # 55)

THEREFORE : The Zone Designation Amendment will Re-Stablize the land use and Zone Designation Stability by, Re-Establishing an SU-1 Designation of the Subject Site to an Appropriate and updated **Flower Shop/Plant Nursery, zone** Designation with an Existing **Flower Shop/Plant Nursery land Use** on Subject Site.

This Request is for Re-Stabilizing the Zone Designation and Land Use,of Subject Site to : **SU-2 / *SU-1 For Flowershop/Plant Nursery*,Office.**

(C). A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City Master plans and amendments thereto including privately developed area plans which have been adopted by the City.

RESPONSE:. *THE PROPOSED ZONE MAP AMENDMENT IS NOT* in Significant conflict with Adopted Elements of the City's Comprehensive Plan or other City Master Plans and Amendments, Including Privately Developed area plans which have been Adopted by the

THE *City Of Albuquerque Comprehensive Plan or,*
Sawmill/Wells Park Sector Development Plan or,
Metropolitian Redevelopment Area (MRA) PLAN or,
Sawmill/Wells Park Revitalization Plan.

The Property is in an Area of Consistency.

The City Of Albuquerque Comprehensive Plan Policies :

II.B.5. Establish Urban Area :

Policy II.B5a: *The Developing Urban and Established Urban areas as shown by the plan map shall allow a full range of Urban land Uses, Resulting in an Overall gross density up to 5 dwelling units per Acre.*

The Request Furthers ***Policy II.B5a:*** Because it would allow for a wider range of land uses in the area and it would be compatible with the residental properties in the area as it would not be a more intense use,.as the underlaying Residental use would allow Residental options and will be controlled by the SWPSDPand Site Plans for conformity and compliance.

Policy II.B5e: *New growth shall be accommodated through development in areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of existing neighborhoods and can be ensured.*

The Request Furthers ***Policy II.B5e:*** The site has access to a full range of urban services including water, electric,road network,transit and public safety. The SU-1 zone design guidelines of SWPSDP ensure that the future development on the Site is consistent with the historical character of the Site and Compatible with the Adjacent residental areas.

Policy II.B5i: *Employment and Services shall be Located to complement residental areas and shall be sited to minimize adverse effects of noise,lighting,pollution,and traffic on residental environments.*

The Request Furthers ***Policy II.B5i:*** *because the requested zoning would be for low intensity office and like uses that are community friendly ,the SWPSDP and Submitted Site Plans will govern any Future Non-Residental Use ie Resturant / Cafe a meeting place for neighborhood occupants to break bread (eat) and ie. Barber/ Beauty shop a conversation place for cummunity and residents, while having grooming needs provided (hair cut n beauty needs) at an existing SU-1 location in the SWP neighborhood.The Subject Site has access to bike ,walking paths,city transit, available to residents to reduce noise,lighting,pollution and traffic.*

Policy II.B5o: *Redevelopment and Rehabilitation of Older neighborhoods in the Established Urban Area shall be continued and strengthened.*

The Request Furthers ***Policy II.B5o:*** Because it would encourage rehabilitation and redevelopment in the neighborhood. Well- maintained properties can encourage rehabilitation in a neighborhood As an SU-1 zoned site , the Site must be maintained in accordance with the Accompanying Site Development plan and SWPSDP. The property has had Cosmetic exterior repairs made to the Site,(Permitted, as a Commerical use Site) By Private funds, which has improved the Visual esthetics of neighborhood encouraging other properties to follow suit , we have had a positive impact to our neighboring properties.

Policy II.B5p: Cost-effective redevelopment techniques shall be developed and utilized.

The Request Furthers ***Policy II.B5p:*** Because The reuse of this Building as an office or like uses *that are community friendly ,such meeting places for neighborhood occupants to (eat) Cafe/Resturant and conversation places, while having grooming needs provided (hair cut n beauty needs)such as Barbra/Beauty Shop at an existing SU-1 location in the SWP neighborhood,would be a low cost technique,and preserve economic producing stock in the neighborhood, As stated in the request no Changes*

are need to Structure, as to have no Impact to the community as a whole, while Fulfilling the intent of SWPSDP as well.

Economic

***Policy II.D.6a** : New Employment opportunities which will accommodate a wide range of occupational skills and salary levels shall be encourage and new jobs located convenient to areas of need.*

The Request Furthers ***Policy II.D.6a :*** because the proposed use will add to the employment opportunities in the SWPSDP where the jobs to housing imbalance is significant (This is an area of Blight and Poverty in need of .... Business economic stimulus)

***Policy II.D.6g :** Concentrations of Employment in Activity Centers should be Promoted in an effort to balance jobs with hosing and population and reduce the need to travel.*

The Request Furthers ***Policy II.D.6g :*** because the proposed development will add additional jobs, in proximity to existing residental development. Residents of the community will be older persons who may choose to Walk , Ride Bike or use transit, rather than the use of a single occupant vehicle.

***Policy 4.10 :** It is important to promote and establish land uses and Urban patterns who's design support bicycle and pedestrian travel, and public transportation, encourage ridership, enhance public mobility and promote alternatives to single occupant vehicle use.*

The Request Furthers ***Policy4.10 :*** because the Site development will be on an enhanced transit corridor, with access to bike lanes and bus routes , near commercial services and residental community. Employee's of the request could use the bike paths or transit too get to work. Residents of the community will be older persons who may choose to Walk, Ride Bike or use transit, rather than the use of a single occupant vehicle.

The Sawmill/Wells Park Sector Development Plans (Rank III) and The *Sawmill/Wells Park Revitalization Plan*:

The Sawmill/wells Park Sector Development Plan (SWPSDP) was first adopted in 1978 (The 1978 Plan) and then was revised and adopted in 1996 (Enactment No.128-2002) The SWPSDP generally ecompasses properties between Interstate 40 to the North and Mountain Road to the South, Rio Grande Blvd to the west and Properties east of 5th Street on the East.Boundaries are shown on page 2. of SWPSDP. the Property is west of 5th Street where Constitution and 6th Street come together, the Subject Site is on S.E .Corner comprising of 3 Lots, Lots 22,23,24 of Block 20 of Albright-Moore Addition.

The Applicant feels the request furthers the SWPSDP housing and Economic development community goals and community issues by promoting plan goals for new land use,expanding the housing options within the plan area and supprting neighborhood-scale commercial Services .Ultilizing a current SU-1 land Use Site within the SWPSDP neighborhood with under laying housing options available to the Subject Site. While using a current Retail store Front conforming to Economic Redevelopment

needes the Visual landscaping and Site care.

The Applicant feels the request furthers the Economic development plan community issues by providing reinvestment in the plan area and ensuring that imcompatible land uses (ie. industrial uses) do not encroach onto residental ares and that residental uses can be connected with needed Commercial Services economic Balance.

The Special SU-1 Use Subject Property's Request Futher Promotes and Complies with The Sawmill/Wells Park Sector Development Plans By:

The Request Promotes :The Implementation of the Economic Development Action Plan on pages 33 and 34.of the SWPSDP

The Requests Promotes :General SU-2 Regulations 4.a. Non Residental Building Design Page 88. of the SWPSDP.
The Subject Site Adheres to the General Design Requirement , Direction of Facing Entry, landscaping and Parking.page 88. of SWPSDP

The Request Promotes : and Futhers Policys of the Economic Development of the Sawmill/Wells Park Neighborhood by Encouraging and Creating a stable Economic Base Complying with The Sawmill/Wells Park Sector Development Plans, by Using the Historically,Non-Residental SU-1 Sites within SWPSDP.page 1,33,34 and Appendix C of the SWPSDP (Sawmill Revitalization Strategy).

S-R Zone Premissive Uses A.5

The S-R zone replaces R-1 and some of the other land use zones in existing residential neighborhoods (Wells Park, West Sawmill and John Baron Burg). *the Subject Site is NOT a R-1 Zone Parcel Converting To a R-1 Zone Use.It Is an SU-1 Zone carrying a more intensive use Zone Category,therefore the basis of this request to amend the Zone Category to an Equal Updated and Approppriate Category of SU-1 ,That has Been Proven by EPC enforcement (EPC Z-69-81),Law Creation of Emergency Ordiance 2726. and Published in Goverment Materials as an SU-1 Site.*

S-R Zone is Established to : Allow Small Businesses that existed in residental areas before adoption of this plan to remain , Along with other SWPSDP policies which the Subject Site Complies with.

The Subject Site Complies with all of the following requirements of the S-R Zone A.5. Along with A.5.a through A.5.e the Citys Comprehensive Plan , SWPSDP, SWP Redevelopment / Revitalization Plans and MRA . Conforming to the requirements of (EPC Z-69-81) and Emergency Ordiance 2726 .Established an SU-1 Site that is Now trying to Conform to *Subjective, Vaugue and Ambiguous* language of S-R A.5 Premissive Future Nonresidental Uses. The Subject Site is seeking a Clear Zone Category for Future Non residental Uses Premissive into the Future Development and implementation of Applicable Policies.

*(**This is Rank III Legally Binding Governing Language**)*

AS outlined in (SWPSDP) S-R Zone Premissive Uses A.5

A.5. Non-Residental Uses that were nonconforming in the R-1 Zone,were Zoned SU-1 for Specific Uses,or were premissive uses in the R-C, C-1,or C-2 zone and that exist when the S-R zone is established with the adoption of the Sector Plan, shall be considered premissive use and may remain at the locations where they exist provided they comply with the following conditions .

New nonresidental uses may occupy these Premises provided they are equally or more Restrictive than the immediately preceding use, they do not require more off-street parking and comply with the following conditions:

A.5.a. Outdoor Storage shall consist only of parked operative vehicles and screened trash recetacles.

A.5.b. No underground storage tanks shall be presentor installedon the property

A.5.c. Business activities other than home occupations shall be prohibited between 10p.m.and 7a.m.

A.5.d. No more than five employees shall be present at any given time.

A.5.e. Signs shall be as regulated in S-MRN zone.

If nonresidental use changes to a residental use, a nonresidental use at that location may not be re-established.

NOTES AND ILLUSTRATIONS

A.5. <u>The conditions placed on nonresidental uses in the S-R zone are intended to help nonresidental uses co-exist harmoniously to prevent the decline of the neighborhood.</u>

An inventory conducted just after the adoption of the sector plan will create a map of nonresidental Uses and a list of attributes.

For nonresidental premises previously zoned SU-1 for Specific Uses , R-C, C-1, or C-2, a future nonresidental use listed in the Zoning category that applied to that property prior to the establishedment of the S-R zone provided it complies with the Conditions listed in A.5.

*The Notes and Illustrations outlined in (SWPSDP) S-R Zone Premissive Uses A.5 Adjacent to A.5., is NOT Governing Language , But Guidence to find the List of Future Uses For each Category encopassed in the Adopted S-R Premissive Uses for SU-1 ,R-C,C-1 or C-2 Categories.**(This Language is Not intented to be used as Governing Language , But Guidence, Therfore is Subjective, Vaugue and Ambiguous).***

The S-R Language is not Conveying a clear list of future nonresidental uses of the SU-1 Subject Site, in aymans terms For nonresidental premises previously zoned <u>SU-1</u> for Specific Uses , R-C, C-1, or C-2, <u>a future nonresidental use listed</u> in the <u>Zoning category</u> that applied to that property prior to the establishedment of the S-R zone ????Category Meaning? More than one Use?

a future nonresidental use <u>listed in the Zoning category</u> ...The SU-1 Zoning Category Listed page 80. SWPSDP,is a list of SU-1 Uses formed after the adoption of the sector plan will create a map of nonresidental uses Ie (Locations) and a <u>List of Attributes</u> ie (a tag in a data base) a tag to a list of Premissive Uses in SU-1 Zoning category ? ,

created by Maping.

The Notes and Illustrations outlined in (SWPSDP) S-R Zone Premissive Uses A.5 Adjacent to A.5., State ,a future nonresidental use can be any one of the premissive ***Uses listed in the zoning Category*** *that applied to that property* ***Prior to the Establishment of the S-R Zone*** *provided it complies with the conditions* ***listed in A.5.***

The SU-1 Subject Site to Be Subjected to Non Productive and Vague, Governing Language of *The Sawmill/Wellpark Sector Development Plan, S-R Zone For Premissive Use(s) Section A.5., page 99. of the (SWPSDP).*

**It should be noted a Senior Planner of the City of Albuquerque in Emails dated 06/27/2018 to Applicant).States "the* Staff finds Significient conflict with the Applicable Sector Plan "(SWPSDP),which was adopted in 1996". The Primary conflict lies with the Regulations that the (SWPSDP) established for the S-R "Sawmill Residental" Zone , Particularly A.5."* This Statement Shows the Conflict is not with the request of the Applicant ,but with the Language in the Adopted 1996 SWPSDP S-R A.5. page 99 . If the Planning Dept has Conflict with the Language in the SWPSDP S-R A.5. page 99." This Statement Furthers The Request of the Applicant For SU-1 Stablization of the Subject Site to SU-1 . The In-Stabilization issue has been Created During the 1978 SWPSDP creation and the revised Verion Of The 1996 SWPSDP.

A Legal question may apply here ...How Encumbent upon the Applicant is the task of interpertation, of the Premisive S-R "Sawmill Residental" Zone , Particularly Premissive S-R Zone A.5 Page 99. Placed upon the applicant. By a this Governing Body?

The Health ,Saftey,Morals and General Welfare of the City of Albuquerque are Sector Plan Driven And are Preserved by ***The Rank III Governing Language*** *in The Sawmill/Wellspark Sector Plan, S-R Zone Premissive Uses A.5*

Metropolitian Redevelopment Area (MRA) Plan

The Special SU-1 Use Subject Site is in a Metropolitian ReDevelopment Area (MRA) Within the City of Albuquerque.

The Special SU-1 Use Subject Site is in a Metropolitian ReDevelopment Area (MRA) plan was adopted by The City Council in June of 2006 (R-06-100) . The Goal of the (MRA) plan is to "Create a community that preserves the Historic nature of the Neighborhood while retaining a livable ,walkable, mix-use , mixed income and Vibrant economic and Residental part of Albuquerque.

The New Mexico Metropolitan Redevelopment Code (3-60A-48 NMSA 1978) provides cities with the authority to correct conditions in areas or neighborhoods in order to reverse the Decline and stagnation. However , such authority can only be applied in Designed Metropolitan Redevelopment Ares (MRA's) . In 1993 , The Sawmill /Wells Park Community MRA boundary was created .As a Designated Blighted area, Sawmill/Wells Park qualified as appropriate for redevelopment project under the City's Metropolitan Redevelopment Code.

The Subject Site absolutely , comforms to the Guidelines, intent and future outlook of the MRA ,SWPSDP and the City's MasterPlan, for the communities Success

for housing and Economic needs for Sites in need of A Change or Zone Map Amendment ,as out lined in this Section.

The Requested action will serve to allow the Sawmill Wells Park Development to continue to address the SWPSDP,MRA plan Priorty Projects of :

1. Maintain a scale of new retail/office or other Commercial that preserves the charater of the area, and Supports living wage jobs for local residents.
2. Develop Commercial and Industrial space that benefits the Communitywith job creation and needed Services.

The Request Promotes : Economic Retention and Expansion.of Existing Special SU-1 Use Sites within Neighborhood, as intended in SWPSDP,The Subject Site, is an Existing Non-Residental Use Within The Sawmill/Wells Park Neighborhood. page 34 of SWPSDP. Utilizing an existing business Store Front location and Complying Structure. To grow the Community,and Appendix C of the SWPSDP (Sawmill Revitalization Strategy)

The Request Promotes: the Revitalization and Strengthening the Areas Land-Use Mix,and Futhers the Economic Stimulus requirement of the Neighborhood,While being a Good Neighbor. By Making repairs to a Structure in need of repairs ,within the community, stimulating revitalization within the neighorhood and community. Outlined in Secton C

This Request Furthers all the aforementioned policies of the Comprehensive Plan and the SWPSDP at the Subject Site has throughtout the Decades of Land Use and Activities Surrounding the Uses upon Subject Site is Asking for **Amendment to the text of the Zoning Designation to : SU-2 / SU-1 for Flower Shop/Plant Nursery and Office Is The basis of this Request.**

The Existing Use on Subject Site Is : SU-2 S-R *For Flowershop/Plant Nursery* (An Existing ,Continuing ,Premissive And Conforming Use and activities allowable now and into the Future, Within SWPSDP Neighborhood)

The Orignal **SU-1 Zone Designation *For Flowershop/Plant Nursery***. *Established through EPC action (EPC Z-69-81) and Implementation of Emergency Ordiance 2726 cited by The City Of Albuquerque and Implemented through the EPC actions of (*EPC *Z-69-81) and Emergency Ordiance 2726, making it Law .The Created SU-1 Subject Site, for (SU-1 For Flowershop/Plant Nursery and placement of a Parking Lot to North Side of Subject Site, as well as providing for future Housing Development , Fulfilling the under laying R-1 Use(s) requirements on the Subject Site, for The City Comprehensive Plan, SWPSDP and EPC Action ,MRA and The SWP Revitalization Plan).***The Action's Taken by The City Of Albuquerque, to Request The Zone Designation for the Land Uses, Based on Changed Neighborhood Conditions and to provide a mix of Use that is More Advantageous to the Community, Creating Stability in Zone Designation and Land Use, As required through the EPC process and Implementation of Emergency Ordince 2726. Aforementioned** *A Text or zone designation Error , may or may not have occured, carrying the Land Use and Zone Designation Forward in the 1978 and 1996 Revised adoption of the SWPSDP.*

Therefore , The *Proposed Zone Map Amendment is not* in Significant conflict with Adopted Elements of the Comprehensive Plan or other City Master Plans and Amendments, Including Privately Developed area plans which have been Adopted

by the City, because the applicant believes that all relevant elements of the Comphrensive plan and related Plans have been addressed in this letter and that there is Virtually no conflict with any element of that plan or any other master plan or amendment. (*The Subject Property ,and Request is a* Conforming/ Premissive Use, *a* Non- Injurious to the community, Nor, In Conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque).

The Request Promotes Multiple Policies of the Comphrensive Plan ,Plus the SWPSDP,SWP Revitalization Plan , MRA Plan. as outlined in this section .The Uses Requested, Have Passed The non-Injurious to Community Test , the Re-Implementation of the SU-1 Zone Designation will Further Stableiize the Land Use ,and Zone Designation of the Subject Site of this Request. The Land Use Premissive and Already Exist Within The SawMill/WellsPark Neighborhood.

The Prior and Continuing Land Use and SU-1 Zone Designation ,Has Proven Stability over, The In-Stability of Zone Designationof S-R that has Occurred here. The Applicant is requesting RE-STABILIZATION of Zone Designation back To the SU-1 Designation.

* The Granted and Implemented (EPC Z-69-81) and Emergency Ordiance 2726 into law Created A SU-1 Zoning Designation for Subject Site :

*** SU-1 for Flowershop/Plant Nursery . (while addressing the Parking issue of the ubject Site)***The Under laying R-1 Uses are a Premissive Use.*

A. *The Un-Stabilizing Zoning Designation of Subject Site:*

SU-2/S-R Flowershop/Plant Nursery.

The Revised 1996 SWPSDP to SU-2 Zone ,The Under laying R-1 Uses are a Premissive Use.

B. *The Requested ReStabilizing Zoning Designation of Subject Site: To*

SU-2/SU-1 for Flowershop/Plant Nursery, Office.

The Revised 1996 SWPSDP to SU-2 Zone ,The Under laying R-1 Uses are a Premissive Use.

The Actions of the City Planning Department Granting the Zone Cerification ,and Site Plan Approval under, (EPC Z-69-81) and Emergency Ordiance 2726 into law.Solidified the SU-1 Zone Designation For Flowershop/Plant Nursery. also allowing for Premissive R-1, Residental Uses.

The Request will grant a Current and Updated Zone Designation to : SU-2/SU-1 Flowershop/Plant Nursery,Office.

A Current Business Registration Exists in the Public Records, No Other Records EXIST to the Contrary.

The request has been Affirmed by the Most important component of this request, the Neighbors and the swpsdp Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The land Uses and Activities and The Neighborhood/Community is AGREEABLE. Per Submitted Report.

The Request is Consistent with the Comprehensive Plan and related Governing Plans, Reguarding the SU-1 Land Use Because it Already Exists and is abutting a Special SU-1 Land Use Parcel to the South of Subject Site.

The Request is Consistent with the Comprehensive Plan Reguarding Air Quality Because it will Reduce Auto Emmissions by Providing Existing Access to Bus , Bike, and Walking Routes Available to Subject Site.

The Request is Consistent with the Comprehensive Plan Reguarding Developed Landscape Because the Site will Contain Landscaping that will Improve the Visual Quality of the Streetscape and Conform with Adjoining Properties.

This Request Would Promote Consistancy with Neighboring and Adjacent Properties Land Uses .Allowing the Special SU-1 Land Use of Subject Site to Conform

The Request is Consistent with the Comprehensive Plan Reguarding CIty Capital Funds NO Major and Unprogrammed Capital by the City is Required .This is an infill Property with Adequate infrastructure ,including,Public Transit,Roadways,Water,Sewer,Already Exist.and Available to the Subject Site

(D). The applicant must Demonstrate that the existing zoning is inappropriate because;

1. there was an error when existing zone map pattern was created,or

2. Changed neighborhood or community conditions justify the Change,or

3. A different use category is more advantageous to the Community, as articulated in the Comprehensive Plan or other City Master Plan,even though (1) or (2) above may or may not apply.

RESPONSE: ThIs Sector Development Plan Map Amendment Request to Add the Zone Designation to Lot 22,23,24 of Block 20 of the Albright-Moore Addition, an 0.3 acre site is in Compliance with Resolution 270-1980 of the City of Albuquerque Code of Resolutions as follows:

A. *"A Proposed zone change must be found to be consistent with the health, safety, moral and general welfare of the City Of Albuquerque."*

A Proposed Zone Map Amendment is found to be consistent with the health, safety, moral and general welfare of the City Of Albuquerque, by demonstrating that it furthers applicable goal and policies of the Comprehensive Plan and other Applicable plans such as the Sawmill / Wells Park Sector Development Plan and the Sawmill / Wells Park Metropolitan Redevelopment Plan. **See Responses to Section C, Below.**

B. "*Stability of land Use and Zoning is Desirable, Therfore the Applicant must provide a Sound Justification for Zone Map Amendment (Change). The Burden is on the applicant to show why the Change should be made, not on the City to Show why the Change should not be made".*

The Zoning Designation / Correction will achieve land Use Stability by Establishing an Appropriate Flowershop/Plant Nursery Designation with an Existing Floershop/Plant Nursery on Subject Site.

C.*"A Proposed change shall not be in Significant conflict with Adopted Elements*

of the Comprehensive Plan or Other City Master Plans and Amendments Thereto,Including Privately developed area plans which have been adopted by the City."

Specific Responses are Below in Section E. *Reguarding the Comprehensive Plan.* Along With Section F.*Sawmill / Wells Park Sector Development Plan. And* Section G. *Sawmill / Wells Park Community Metropolitan Redevelopment Area Plan.*

D. "*The Applicant must Demonstrate that the existing zoning is inappropriate Because:* 1. *There was an error when the existing zoning zone map pattern was created; or*

2. *Changed neighborhood or Community conditions justify the change;or*

3. *A Different Use Categorgy is more Advantageous to the Community, as articulated in the Comprehensive Plan or Other City Master Plan,even Though (D.1.) or (D.2.) above do not Apply."*

The Existing Granted and Approved Zone Designation For Lot 22,23,24 of Block 20 of the Albright-Moore Addition, an 0.3 acre site is For : SU-1 For Flowershop/Plant Nursery. Granted by EPC ACTION (EPC-69-81) and Emergency Ordiance 2726 . in 1969.

Moving Forward into 1978 Sawmill/Wells Park Development Plan SU-1 For Flowershop/Plant Nursery.

Then Again Moving Forward into The Revised1996 Sawmill/Wells Park Development Plan to SU-2,S-R For Flowershop/Plant Nursery a Premissive S-R Use. ***The Applicant Believes this is The Point Where the Zone Designation Error, Occured, The Use. Per 1996 Revised SWPSDP Language May be Deciphered into text as SU-2 / SU-1 For Flowershop/Plant Nursery***.

This request is to correct the Existing Error Condition , It is <u>an Equal and More Restrictive Designation</u> for ***Flowershop/Plant Nursery,office***. it is a request to Correct and Establish the Appropiate Zoning Designation for ***Flowershop/Plant Nursery .*** land use on a parcel That already contains this Existing Use.

No Other Parameters such as off Street Parking Access will be impacted due to this Request. All the Rationales that allowed for the Approval of This Zone Designation SU-1 For ***Flowershop/Plant Nursery*** along with the Parking issue in EPC Action (EPC-69-81) and Emergency Ordiance 2726 ,are still Valid and Applicable.

Reguarding (D.2.) and (D.3.), The Zoning Designation Error created a changed condition that this request will correct. Correcting this Discrepancy is more Advantageous to the Community because it will encourge appropiate future Growth in the area for the Existing Retail space located in the Building on lot 22, which will fulfill important recreational, economic development and Community-focused activities in the Area.

E. *" A Change of Zone shall not be Approved where some of the Premissive uses in the zone will be harmful to adjacent property,neighborhood or the Community"*

This Request includes an Existing Approved Zone Designation for Lot 22,23,24 of Block 20 of the Albright-Moore Addition, an 0.3 acre site is For : SU-1 For Flowershop/Plant

Nursery.

Granted by EPC ACTION (EPC Z-69-81) and Emergency Ordiance 2726 1969.
Moving Forward into 1978 Sawmill/Wells Park Development Plan SU-1 For Flowershop/Plant Nursery.

Then Again Moving Forward into The Revised1996 Sawmill/Wells Park Development Plan to SU-2,S-R Premissive Use.

The Requested Amendment of Zoning will not be harmful because the use already Exists at the Subject Site.

F. " *A proposed zone Change which, to be Utilized through land Development, requires major and unprogrammed capital expenditures by the City may be*

1. Denied due to lack of capital funds; or

2. granted with the implicit understanding that the City is not bound to provide the capital improvementson any special schedule."

The Requested Zone Map Amendment will not require any unprogrammed capital expeniture by the City.

G. *" The Cost of the land or other economic considerations pertaining to the Applicant shall be the determining factor for a change of zone."*

The cost of land or other considerations are not the determining factor for the zone change. The zone change is justified under D.2. and D.3. of the Resolution 270-1980 aforementioned above.

H. *" Location on a collector or Major Street is not in itself Sufficient Justification of Apartment,office or Commercial Zoning."*

The Subject Properties Location is on a Collector Street, This Request Does not Rely Upon that as a Deciding Factor.The Special SU-1 Site Promotes Use Of Public Transportation and Community Travel by Bus ,Bike and Walking .

There are multiple Transportation Options Avaiable to Serve this Site, one on 6th street Just South of Kinley Avenue and one on the corner of 5th Street and Constitution Avenue;Bus routes 8,93,and 94 run along 6th Street and 5th Street.There are also Existing Bike lanes on 6th street and 5th street,and there is an existing Bike Route on Bellamah Avenue which is one Block North of the Subject Property.

Transportation Department commmented : **"No Objection To the Request".**

"Not on a Corridor. Fixed Route 8 runs the Length of Menaul from Tramway to 6th Street, then South to Downtown on 6th Street.North-Bound Trips are on 5th Street.Commuter Route 93 runs the length of Academy from Tramway to I-25, Thence South into Downtown.North-Bound trips are on 5th Street Commuter Route 94 Connects The Northwest Transit Center to Downtown by way of Unser and I-40. Nearest stop "pair" for route 8 and Route 93 is split into two stops.The South-bound stop is one block south of the site at Kinley Avenue. The North-bound stop is immediately east of the site at 5th and Constitution. The nearest "pair" for Route 94 are on Aspen,Similarly split between 5th Street and 5th Street and 6th Street. No Comment "

This Proposal Futhers and Promotes the Using of ,Making Access To, Public Transportation (Bus ,Bike, Walking Routes Within one Block of Site) at an Existing Non-Residental Location Within The Sawmill/Wells Park Neighborhood, while Complying with The Adopted Sawmill/Wells Park Sector Development Plan .

Therefore: The Location on a Collector or Major Street is not in itself Sufficient Justification because, The Subject Property is on a Collector Street , This Request Does not Rely Upon that as a Deciding Factor.The Property Promotes Use Of Public Transportation and Community Travel by Bus ,Bike and Walking .*The Subject Property* ***is*** *a Conforming/Premissive Use(s) ,not in conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.*The Proposed Zone Map Amendment **will not** Require Major and Unprogrammed Capital by the City .This is an infill Property with Adequate infrastructure , including, Public Transit, Roadways, Water, Sewer, Already Exist.

I. *"A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only on premise is involved, is generally called a " Spot Zone " . Such a Change of Zone may be approved only When :*

1. The change will clearly facilitate realization of the comprehensive Plan and any adopted sector development plan or area development plan,or 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography ,traffic, or special adverse land uses nearby;or because the nature of structures already on the premises make the site suitable for the uses allowed in any adjacent zone." N/A

The Existing Approved Zone Designation For the Overall Lot 22,23,24 of Block 20 of the Albright-Moore Addition, an 0.3 acre site Site Furthers the Goals and Policies in The Comprehensive Plan And Addresses the Goals, Issues and Priorities Outlined in the Sawmill / Wells park Sector Development Plan and the Metropolitan Redevelopment Plan.

The Current Request Conforms Within this Approved SU-1 Zone Classification (EPC-69-81) and Emergency Ordiance 2726 Granting the SU-1 Zone Designation To the Subject Site ,Framework for Overall Development. This Request Does not Constitute a Spot Zone because the Subject Site Is Adjacent / Abutting to a Parcel of Land Which Already Contained, the Under laying Zoning Designation being Sought by this Request.

J. *"A zone change request which would give a zone different from surrounding zoning to a strip of land along a street is generally called "Strip Zoning" Strip Commercial Zoning will be approved only where;*

1. The change will clearly facilitate realization of the comprehensive Plan and any adopted sector development plan or area development plan ,and

2.The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic, or special adverse land uses nearby.

The Change will clearly facilitate Realization of the Comprehensive Plan and The Sawmill/Wells Park Sector Development Plan and the Metropolitan Redevelopment Plan.

The Existing, Approved Zone Designation **SU-1 for Flower Shop/Plant. The Request Will Also Allow for Housing Needs with Under Laying R-1 Uses.** for the Overall Lot 22,23,24 of Block 20 of the Albright-Moore Addition, an 0.3 acre site , Granted By EPC action (EPC-69-81) And Emergency Ordiance. Site Furthers the Goals and Policies in The Comprehensive Plan And Addresses the Goals, Issues and Priorities Outlined in the Sawmill / Wells park Sector Development Plan and the Metropolitan Redevelopment Plan.

The Zoning and Planning Dept Requires a Site Development Plan,which Ensures that Development on the Site will be Consistent with the Surrounding Neighborhood,

Therefore The Requested Zone Map Amendement , will clearly facilitate Realization of the Comprehensive Plan and The Sawmill/Wells Park Sector Development Plan.The Land Use Categories more Advantageous to Promoting the Health ,Saftey,Morals and General Welfare of the City of Albuquerque and the Community are :

SU-2/SU-1 for Flower Shop/Plant Nursery,office .

The Proposed Land Uses Already Exist Within Neighborhood/ Sector Development Plan and The Uses Have passed the test of being NON-INJURIOUS and Consistent with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

The Granted and Approved Zone Designation For Lot 22,23,24 of Block 20 of the Albright-Moore Addition, an 0.3 acre site is For : SU-1 For Flowershop/Plant Nursery . Granted by EPC ACTION (EPC Z-69-81) and Emergency Ordiance 2726. into law in 1969 . Exist and are Available to Subject Site.

Forward into 1978 Sawmill/Wells Park Development Plan SU-1 For Flowershop/Plant Nursery and Parking.

Then Again Moving Forward into The Revised 1996 Sawmill/Wells Park Development Plan to SU-2,S-R Premissive Use. Currently Exist.

This Zone Map Amendment Request would NOT be considered a "Strip Zone".

THEREFORE : The Existing Zoning is Inappropriate; A Different Use Category / Designation is more Avantageous to the Community, as articulated in The City Comprehensive Master Plan and the SawMill/WellsPark Sector Development Plan. Because : *a different Equal or More Restrictive use Category / Designation is more advantageous to the Community, as Articulated in The City Comprehensive Master Plan and the SawMill/WellsPark Sector Development Plan. Several policies were outlined and enumerated in this letter, Policies used to further the request,.The applicant believes, though it maybe a component of the justification, that changed conditions within the neighborhood also supprt this request. the climate within the neighborhood calls for updated uses , on the subject Site, to fullfill the infill and use of Existing non-residendental sites within the community to balance housing and the economic base in the Community as intended in the SWPSDP and Sawmill/ Wells Park Revitalization Strategy Plan, As the Subject property is a SU-1 Property as noted in Historicial record of (EPC-69-81), A Use Designation created for the Subject Site by the City of Albuquerque ,per an Emergency (Ordinance 2726 attached) and EPC action (EPC-69-81),carried into present day use(s).An error may or may not have occurred during The creation of the SWPSDP 1978 and the adopted 1996 SWPSDP .the SU-1,*

designated use(s) where active and Operational at the time of the Implementation of SWSDP 1978 and adopted in 1996 ,SWSDP. The SU-1 granted Use did not carry forward.

The request Zone Map Amendehas been Affirmed by the Most important compoent of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Land Uses and Activites The Neighborhood/Community is AGREEABLE. per report.

(E). A change of Zone shall not be approved where some premissive uses in the Zone would be harmful to adjacent Property, the neighborhood or community.

RESPONSE: This Request includes an Existing Approved Zone Designation for Lot 22,23,24 of Block 20 of the Albright-Moore Addition, an 0.3 acre site is For : SU-1 For Flowershop/Plant Nursery and addressed the Parking lot issue (EPC Z-69-81) , along with Under Laying R-1 Residential Uses.

Granted by EPC ACTION (EPC Z-69-81) and Emergency Ordiance 2726 1969.
Moving Forward into 1978 Sawmill/Wells Park Development Plan SU-1 For Flowershop/Plant Nursery , with Under Laying R-1 Uses.
Then Again Moving Forward into The Revised1996 Sawmill/Wells Park Development Plan to SU-2,S-R Premissive Use.

The Requested Zoning Amendment will not be harmful because the uses already Exists on the Subject Site.

(F). A Proposed zone change which, to be utilized through land development,requires major and unprogrammed capital expenditures by the City may be ;

1. Denied due to lack of capital funds,or

RESPONSE: N/A The Proposed Zone Change **WILL NOT** Require Major and Unprogrammed Capital by the City .This is an infill Property with Adequate infrastructure ,including,Public Transit,Roadways,Water,Sewer,Already Exist. And Will Futher and Promote the Adopted Sawmill/Wells Park Sector Development Plan

(NO CITY FUNDS REQUIRED OR APPLIED FOR)

2. Granted with the implicit understanding that the City is not bound to provide the capital improvements on any special schedule:

RESPONSE: N/A (NO CITY FUNDS REQUIRED OR APPLIED FOR)

(G). The Cost of the land and other economic considerations pertaining to the applicant shall not be the determining factor for a change of Zone.

RESPONSE: The Cost of the land and other Economic Considerations Pertaining to the Applicant **are not** a Determining factor for a change of Zone.**BECAUSE :** Other Than Consistencey with the Neighborhood .The Cost of the Land, other Economic Considerations of Appliciant are **NOT** Relevant or Deciding factors for a Zone Map Amendment Request.

The cost of land or other considerations are not the determining factor for the zone change. The zone change is justified under Section D.2. and D.3. of the Resolution 270-1980 aforementioned above.

The Subject Property is an Existing Special SU-1 use ,as Demonstrated in (EPC Z-69-81) a Non-Residental Land Use, Premissive Within the Neighborhood, Requesting Consistency to Adjacent and Neighboring SU-1 Land Use/Uses, by Creating a list of ,Special SU-1 Land Uses. with already Premissive Special SU-1, land uses Within SawMill/WellsPark Sector Development Plan,to be granted to the Special SU-1,Subject Property.

The Property is in a Designated Metropolitian Re-Development Area (MRA) Within the City of Albuquerque Requring Revitalization,and Economic Stimulus,The Existing Subject SU-1 Premises and Structure are within the Sawmill/Wells Park Sector Development Plan in need of Economic Stimulus. The Subject Special SU-1 Land Use,Property will continue to Provide Stimulus and Economic Growth to the Community upon EPC Approval. as Outlined in Section C of this Request.

Therefore The Cost of the land and other Economic Considerations Pertaining to the Applicant **are not** a Determining factor for a change of Zone.**BECAUSE :** Other Than Consistencey with the Neighborhood .The Cost of the Land, other Economic Considerations of Appliciant are **NOT** Relevant or Deciding factors for a Zone Map Amendment Request.

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

RESPONSE: The Location of the Site is Important to the Request, The Applicant has Justified the Request in Section C by Showing that the Proposed Zone Map Amendment Furthers Policies and Applicable Goals of The Comprehensive Plan and the Sawmill/Wells Park Sector Development Plan **because,** The Subject Properties Location is on a Collector Street, This Request Does not Rely Upon that as a Deciding Factor.The Special SU-1 Site Promotes Use Of Public Transportation and Community Travel by Bus ,Bike and Walking .

There are multiple Transportation Options Avaiable to Serve this Site, one on 6th street Just South of Kinley Avenue and one on the corner of 5th Street and Constitution Avenue;Bus routes 8,93,and 94 run along 6th Street and 5th Street.There are also Existing Bike lanes on 6th street and 5th street,and there is an existing Bike Route on Bellamah Avenue which is one Block North of the Subject Property.

Transportation Department commmented : **"No Objection To the Request".**

"Not on a Corridor. Fixed Route 8 runs the Length of Menaul from Tramway to 6th Street, then South to Downtown on 6th Street.North-Bound Trips are on 5th Street.Commuter Route 93 runs the length of Academy from Tramway to I-25, Thence South into Downtown.North-Bound trips are on 5th Street Commuter Route 94 Connects The Northwest Transit Center to Downtown by way of Unser and I-40. Nearest stop "pair" for route 8 and Route 93 is split into two stops.The South-bound stop is one block south of the site at Kinley Avenue. The North-bound stop is immediately east of the site at 5th and Constitution. The nearest "pair" for Route 94 are on Aspen,Similarly split between 5th Street and 5th Street and 6th Street. No Comment "

This Proposal Futhers and Promotes the Using of ,Making Access To, Public Transportation (Bus ,Bike, Walking Routes Within one Block of Site) at an Existing Non-Residental Location Within The Sawmill/Wells Park Neighborhood, while Complying with The Adopted Sawmill/Wells Park Sector Development Plan .

Therefore The Location on a Collector or Major Street is not in itself Sufficient Justification **because,** The Subject Property is on a Collector Street , This Request Does not Rely Upon that as a Deciding Factor.The Property Promotes Use Of Public Transportation and Community Travel by Bus ,Bike and Walking .*The Subject Property **is** a Conforming/Premissive Use(s) ,not in conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.*The Proposed Zone Map Amendment **will not** Require Major and Unprogrammed Capital by the City .This is an infill Property with Adequate infrastructure , including, Public Transit, Roadways, Water, Sewer, Already Exist.

(I). A Zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "Spot Zone". Such a change of zone may be approved only when ;

1. The change will clearly facilitate realization of the comprehensive Plan and any adopted sector development plan or area development plan,or

2.The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography ,traffic, or special adverse land uses nearby;or because the nature of structures already on the premises make the site suitable for the uses allowed in any adjacent zone. N/A

RESPONSE:

(1) The SU-1 Zone is Considered a Spot Zone , But a Justified Spot Zone,Because the subject Site is adjacent to a SU-1 parcel of land that already contained a SU-1 Zoning Designation being sought by this request . Policies of Outlined in Section C of this request, Clearly Facilitates the Realization of the Comprehensive Plan And The SawMill/WellsPark Sector Development Plan, MRA, and the SawMill/WellsPark Revitalization Plan

The Requested Zone Map Amendment is from: **SU-2 / S-R For FlowerShop/Plant Nursery.**

TO: **SU-2/SU-1 For Flower Shop/Plant Nursery,Office.**

A Zone Deignation ,Which is not Proven to be in Significant Conflict with the Adopted Elements of the Comprehensive Plan or The SawMill/WellsPark Sector

Development Plan,MRA, Sawmill Wells Park Revitalizatio Plann

The Requested Zone Map Amendment if Approved and Current Zone Map Designation For the Overall Lot 22,23,24 of Block 20 of the Albright-Moore Addition, an 0.3 acre Site Both Further the Goals and Policies in The Comprehensive Plan And Addresses the Goals, Issues and Priorities Outlined in the Sawmill / Wells park Sector Development Plan and the Metropolitan Redevelopment Plan.

The Current Request Conforms Within this Approved SU-1 Zone Classification Request and (EPC Z-69-81) and Emergency Ordiance 2726 Granting the SU-1 Zone Designation To the Subject Site ,Framework for Overall Development. This Request Does not Constitute a Spot Zone because the Subject Site Is Adjacent / Abutting to a Parcel of Land Which Already Containes, a Similar SU-1 Zoning Designation being Sought by this Request.

The Requested SU-1 Land Use Already Exist Within Neighborhood. The Land Use Designation Requested Below ,Already Exist in The Community and **has Passed the NON - INJURIOUS Test**, and is not In Conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

SU-2/SU-1 For Flower Shop/Plant Nursery,office. is Requested.

The Fascilitated Neighborhood/Community Meetings Have Acknowledged The Zone Map Amendment Request and Future Conversion to MX-T in (IDO) Upon EPC Approval, is AGREEABLE to Neighborhood/Community Per Report.

Therefore,The Requested Zone Map Amendment will Clearly facilitate Realization of The Comprehensive Plan and The SawMill/WellsPark Sector Development Plan or Any future Comprehensive Plan or Overlay area, Because

The Request is to request the approval of a sector Development Plan and Zone Map Amendment to Amend The Zone Designation of SU-2 / S-R for Flower Shop/Plant Nursery and Parking. to Lots 22,23,24 of Block 20 of the Albright-Moore Addition,of this Subdivision Plan Boundary Back to an SU-1 Zoning Designation for This Parcel for SU-2 / SU-1 for Flower Shop/Plant Nursery,office.

The Original Zone Designation and Site Plan Amendment was Approved with the EPC Actions of (EPC Z-69-81) Requested Uses Based on Changed Neighborhood Conditions and to provide a mix of Use that is More Advantageous to the Community,and **have Passed the NON- Injurious Test**, and are not In Conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

Please See Section C of this Proposal for Specific Policies , Outlining the Compatibility with the Comprehensive and Sawmill/WellsPark Sector Development Plans and the Surrounding Special SU-1 Land Use Zoning.

(J). A zone change request which would give a zone different from surrounding zoning to a strip of land along a street is generally called "Strip Zoning" Strip Commercial Zoning will be approved only where;

1. The change will clearly facilitate realization of the comprehensive Plan and any adopted sector development plan or area development plan ,and

2.The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic, or special adverse land uses nearby. N/A

RESPONSE: (1) The Change will clearly facilitate Realization of the Comprehensive Plan and The Sawmill/Wells Park Sector Development Plan Because

The Subject Property is on a Corner and Comprises of only .3 Acres.

The Zoning and Planning Dept Require a Site Development Plan,which Ensures that Development on the Site will be Consistent with the Surrounding Neighborhood,

*The Proposed Land Uses Already Exist Within Neighborhood/ Sector Development Plan and The Uses Have passed the test of being NON-INJURIOUS and Consistent with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.) And Are Equal or More Restrictive Use(s).*as Required in the Sawmill/Wells Park Sector Development Plan.

Therefore The Requested Zone Map Amendement , will clearly facilitate Realization of the Comprehensive Plan and The Sawmill/Wells Park Sector Development Plan.The Land Use Categories more Advantageous to Promoting the Health ,Saftey,Morals and General Welfare of the City of Albuquerque and the Community are:

SU-2/SU-1 for Flower Shop/Plant Nursery,Office.

This Zone Map Amendment Request would NOT be considered a "Strip Zone".

Conclusion :

In Conclusion , The Request for a Zone Map Amendment For The Special SU-1 Land Use Property Located at 1416 6th Street NW, on the South east Corner of 6th Street and Constitution.

Lot 22,23,24 of Block 20 of Albright-Moore Addition

The Proposal furthers/Promotes Multiples Policies of the Comprehensive Plan and Sawmill/Wells Park Development Sector Plan by

- Promoting Economic Development in the Poverty Pocket (MRA)
- Encouraging ,Use of Alternative Modes of Transportation
- Promoting job Opportunites and a mixture of land uses
- Encouraging Revitalizing the Neighborhood
- Encouraging Rehabilitation

- Promoting The City Comprehensive Plan
- Promoting The Sawmill/Wells Park Sector Development Plan
- Conforming To Existing/Premissive Uses in the Neighborhood

Only A Select Few Special SU-1 Land Use Properties Exist in the Sawmill/Wells Park Sector Development Plan.

These Unique Non-Residental Land Uses, Promote All the Necessary Traits Needed to Realize The Implementation of Both The Comprehensive and The Sawmill/Wells Park Sector Development Plan.

The Special Subject SU-1 Land Use Property and Requested Land Use/Uses Promote In-fill ,Revitalization, Economic Stimulus and Development.

(The Subject Site is Historically a Special SU-1 Land Use Property, and is one of the Few Properties Able To Realize the Future Vision Of The City of Albuquerque Comprehensive Plan and The SawMill/WellsPark Neighborhood Revitalization Plan , MRA ,and the SWPSDP)

The Proposed Zone Change **WILL NOT** Require Major and Unprogrammed Capital by the City .

This is an infill Property with Adequate infrastructure ,including,Public Transit,Roadways,Water,Sewer,Already Exist.

The Cost of the land and other Economic Considerations Pertaining to the Applicant are not a Determining factor for a Change of Zone.Other Than Consistencey with the Neighborhood .The Cost of the Land, other Economic Considerations of Appliciant are not Relevant or Deciding factors for a Zone Map Amendment Request.

The Proposal Promotes Revitalizing and Stimulating the Small Community feeling back to a Declining Area without any Negative Impact to the community (The Special SU-1 Non-Residental Land Use Space and Structure Already Exist Since EPC Establishment (EPC Z-69-81) in 1969 No Changes are Required).

This Proposal Promotes Economic Stimulus to the Neighborhood and The City Of Albuquerque by Utilizing and Providing Access to Public Transportation , Bike Routes, Bus Routes.Walking Paths.

The request has been Affirmed by the Most important component of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Land Uses and The Neighborhood/Community is AGREEABLE. per report.

We Pray for this Commission to Approve a Zone Map Amendment,

TO: SU-2/SU-1 For Flower Shop/Plant Nursery,Office

Together We Can Make Albuquerque , A Great Place to Live, Work and Play.

Sincerely,

Eric Kilmer

Eric Kilmer
Princple / Property Owner

Environmental Planning Commission

Agenda Number: 03
Project Number: 1007648
Case Numbers: 18EPC-40019 & 40021
Hearing Date: July 12, 2018

Supplemental Staff Report

(to be read in conjunction with the original Staff report)

Agent	Self
Applicant	Eric Kilmer
Requests	**Sector Development Plan Map Amendment (zone change) and Site Development Plan for Building Permit**
Legal Description	Lots 22, 23 and 24, Block 20, Albright-Moore Addition
Location	SE corner of 6th St. & Constitution Ave. (1416 6th. St. NW)
Size	Approximately 0.5 acres
Existing Zoning	SU-2 for S-R (Sawmill Residential)
Proposed Zoning	SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast,Beauty/Barber Shop, Restaurant/Cafe, Parking.

Staff Recommendation

DENIAL of 18EPC-40019, based on the Findings beginning on Page 19.

DENIAL of 18EPC-40021, based on the Findings beginning on Page 22.

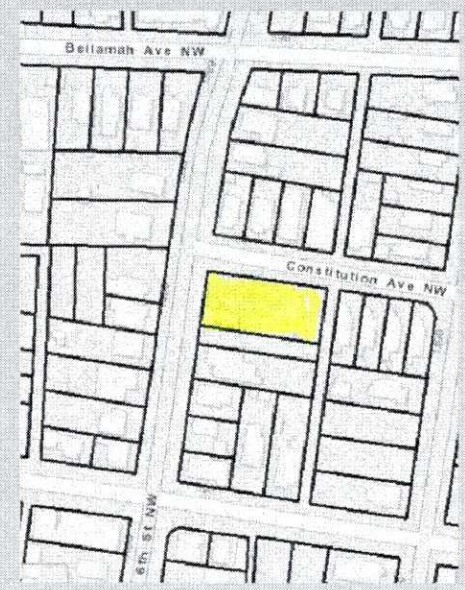
Staff Planner
Catalina Lehner-AICP, Senior Planner

Summary of Analysis

This request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) and an associated, as- built site development plan for building permit. The EPC deferred the request for 60 days at its May 10, 2018 hearing to allow additional time for the applicant to strengthen the justification.

The zone change request has been altered to SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/ Barber Shop, Restaurant/Care, Parking. Staff finds that the request is not justified pursuant to R270-1980, and that it conflicts with a fundamental principle of the SWPSDP. The City's reading of the SWPSDP was upheld in a 2010 District Court decision regarding the subject site.

Staff recommends denial of the zone change and the associated site development plan.



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I. INTRODUCTION

The Environmental Planning Commission (EPC) heard this case at the May 10, 2018 public hearing. The EPC voted to defer the request for 60 days to the July 12, 2018 hearing to allow the applicant additional time to justify the zone change request pursuant to R270-1980 and, as was suggested by three EPC members, to seek the assistance of a professional agent.

Request
The request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) for Lots 22, 23 and 24 of Block 20, Albright-Moore Addition, approximately 0.5 acre (the "subject site").

The applicant owns the subject site, which consists of the existing building and the vacant area behind it to the east. An associated site development plan for building permit is required when requesting an SU-1 zone. The application was submitted on April 4, 2018, prior to enactment of the Integrated Development Ordinance (IDO) and therefore is being considered under the system in place at that time.

The subject site is zoned SU-2 for S-R (Sawmill Residential). For the May hearing, the applicant proposed the following zoning: SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses. The request has been altered to: SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking.

Re-notification of affected neighborhood organizations and property owners is not necessary because the request is for a zoning descriptor that does not include any uses that are more intense than those previously requested.

Deferral Period
The applicant submitted a revised justification letter on July 3, 2018 (see attachment), which is reviewed in this supplemental Staff report. The applicant's July 3, 2018 letter is in response to the fourth deficiency memo issued by Staff dated June 27, 2018 (see attachment). Prior to this, Staff met with the applicant on May 17, 2018 to discuss next steps after the May EPC hearing. Staff provided the applicant with the third deficiency memo, dated May 17, 2018, which explained in detail what was needed to strengthen the zone change justification.

Note: Leading up to the May 10, 2018 hearing, the applicant was provided with the first deficiency memo (dated April 4, 2018) and the second deficiency memo (dated April 23, 2018). Both explained in detail what was needed to strengthen the zone change request. In addition, the original Staff report (for the May 10, 2018 hearing) contains a discussion of the applicant's justification and an analysis of the arguments raised in the applicant's April 26, 2018 justification letter.

The applicant's July 3, 2018 justification letter is substantially similar and relies upon the same arguments as before, mainly that: i) the requested uses and SU-1 zoning exist in the neighborhood on other properties and therefore should be allowed on the subject site, and ii) the subject site's

current use and history support justification of the requested zoning today. The arguments are neither sufficient nor responded to pursuant to the criteria of R270-1980.

Two additional arguments were added during the deferral period. One is incorrect and contradicts the District Court decision in *Kilmer vs. City of Albuquerque (CV-2009-07499)* and the other is not applicable to the criteria of R270-1980 (see Section III of this report).

Area Characteristics, Request, EPC Role, Context, History & Background, Transportation System, and Public Facilities/Community Services:

» Please refer to p. 1-3 of the original Staff report (see attachment).

II. ZONING

For a discussion of applicable definitions (Zoning Code §14-16-1-5), non-conformance as it applies to the subject site (Zoning Code §14-16-3-4), and existing zoning (the SU-2/S-R zone) please refer to p. 5 – 6 of the original Staff report (see attachment).

Note: This discussion includes an explanation of the intent of the SWPSDP with respect to the SU-2/S-R zone and new uses that is consistent with the Council's decision in AC-09-9 and the District Court Decision (Kilmer v. City of Albuquerque, CV-2009-07499) in which the Court upheld the City's reading of the SWPSDP (see attachments).

Proposed Zoning

The applicant has altered the requested zoning from "SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses" to "SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking". The applicant did not consult with Planning Staff regarding the proposed zoning descriptor.

The SU-1 zone (Zoning Code §14-16-2-22) provides suitable sites for uses that are special, and for which the appropriateness of the use to a specific location depends upon the character of the site design. The SU-1 designation requires an associated site development plan.

> Note: Each SU-1 zoning descriptor, for each SU-1 zoned site, is unique by definition because it is tied to an associated site development plan. Since no site is exactly like another, each SU-1 zoned site is unique and cannot be directly compared to other SU-1 zoned sites.

In this case, the proposed zoning is problematic for several reasons. First, it contains uses that first appear as permissive uses in different zones. For example, plant nursery is different than flower shop and is considered a medium-intensity commercial use. Staff did not state that the subject site is a C-2 site as claimed by the applicant in the July 2, 2018 justification letter.

Restaurant/Café is first allowed in the C-1 zone and could include sales of beer and wine if a license is obtained. Staff residence is an undefined term and it's unclear what the use would be, other than just dwelling unit.

Second, the proposed zoning contains a very specific mixture of uses that could be difficult to administer from an enforcement perspective. Third, the proposed zoning is exactly the type of overly-specific SU-1 zoning that the City is phasing out with the IDO.

The Integrated Development Ordinance (IDO) & Zoning

The IDO became effective on May 17, 2018, which is after this application was filed. Therefore, the request is being evaluated under the regulations in place at the time of application submittal—the Zoning Code and the SWPSDP.

As of May 17, 2018, the subject site's zoning of SU-2/S-R converted to R-1A. The purpose of the Residential- Single-Family Zone District (R-1) (IDO 2-3(B), p. 13) is to provide for neighborhoods of single-family homes on individual lots with a variety of lot sizes and dimensions. The R-1 zone allows single-family detached homes, cluster development, cottage development, and two-family detached homes (duplexes). Also allowed permissively as a primary use are a community residential facility (small), community garden, religious institution, solar energy generation, and a utility (see Table 4-2-1). Various accessory uses are also allowed.

The proposed zoning of "SU-2/SU-1 for Flower Shop/PlantNursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking" contains a mixture of uses that first appear as a permissive primary use in different zones.

The nursery use that once operated on the subject site ceased to operate a few decades ago, so there is no entitlement for a non-conforming use to continue. The categories "Staff Residence" and "Professional Office" are undefined. "Personal and business services, small" is the defined term in the IDO.

The altered request, if approved, may convert to PD (Planned Development) under the IDO because of the wide range of uses. However, the restaurant use is first found permissively in the MX-L (Mixed-Use Low Intensity) zone (approximates the C-1 zone). The nursery use is first found permissively in NR-C zone (approximates the C-2 zone), which is more intense than MX-L. Both NR-C and MX-L are more intense than the MX-T zone, which would cover most of the proposed uses.

III. ANALYSIS -ADOPTED ORDINANCES, PLANS, AND POLICIES

A) ALBUQUERQUE/BERNALILLO COUNTY COMPREHENSIVE PLAN (RANK I)

The Goals and policies listed below are those cited by the applicant in the zone change justification letter dated June 26, 2018 (see attachment). The applicant added the <u>underlined</u> citations during the deferral period, without adequate verbiage to show how and/or why the request complies with or furthers specific policies. Staff does not provide analysis or additional citations other than what the applicant provided because, pursuant to Section B of R270-1980, the burden is on the applicant to show why the zone change should be made.

Policy 2.3.3- Employment (merely a text citation)
Policy 2.3.5- Changing Preferences (merely a text citation)
Policy 2.4- Accommodating Future Growth (merely a text citation)
Policy 2.4.1-Constraints to Future Growth (merely a text citation)
Policy 2.4.2- Growing Inward (merely a text citation)
Policy 2.4.6- Focusing Growth (merely a text citation)
Policy 3.1- A Shared Place (merely a text citation)
Policy 3.3- Centers and Corridors (merely a text citation)
Policy 3.3.1- Centers (merely a text citation)

Note: Text citations are not used in policy analysis. The ideas in the text are embodied in Goals and policies, which are used.

Policy 4.1.2.2- Guiding Future Growth (this is an Action)
Policy 4.2.1- Community Planning Areas
Policy 5.1 (should be listed as Policy 5.1.1, c and h)
Policy 5.1.4-Urban Centers
Policy 5.1.1.9- (this is an Action)
Policy 5.1.9- Main Streets
Policy 5.1.2.5 (this is an Action)
Policy 5.2.1-Land Uses
Policy 5.4.1.2 (this is an Action)
Policy 6.1.3- Auto Demand

SWPSDP General SU-2 Regulations 4.1- Non Residential Building Design
Economic Development Action Plan

B) SAWMILL/WELLS PARK SECTOR DEVELOPMENT PLAN (RANK III)

The Sawmill/Wells Park Sector Development Plan (SWPSDP) was first adopted in 1978 (the 1978 Plan) and then was revised and adopted in 1996 (Enactment No.128-2002). The SWPSDP generally encompasses properties between Interstate 40 to the north and Mountain Rd. to the south, Rio Grande Blvd. to the west, and properties east of 5th St. on the east. Specific boundaries are shown on p. 2. The subject site is located two blocks west of the Plan's eastern boundary (4th St.).

Action Plans

» Please refer to p. 9 of the original Staff report (see attachment).

General SU-2 Regulations

» Please refer to p. 9-10 of the original Staff report (see attachment).

The S-R (Sawmill Residential) Zone

A. Permissive Uses: The following uses are permitted provided applicable General SU-2 Regulations for the Sector Plan area are met.

The S-R zone allows uses listed as permissive in the R-1 zone and the following R-1 conditional uses: accessory living quarters (min. lot size 7000sf), second kitchen (min. lot size 7000sf) and carport (p. 97). Future residential uses allowed on the subject site are townhomes and detached single-family homes, provided they comply with the General SU-2 Regulations.

A.5. Non-residential uses that 1) were non-conforming in the R-1 zone, 2) were zoned SU-1 for specific uses, or 3) were permissive uses in the R-C, C-1, or C-2 zone <u>and</u> that exist when the S-R zone is established with the adoption of the Sector Plan, shall be considered permissive uses and may remain at the locations where they exist provided they comply with the following conditions. [numbering and emphasis by Staff]

New non-residential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, <u>and</u> they comply with the following conditions" (p. 99):

A.5.a- Outdoor storage shall consist only of parked operative vehicles and screened trash receptacles.

A.5.b- No underground storage tanks shall be present or installed on the property.

A.5.c- Business activities other than home occupations shall be prohibited between 10 pm and 7 am.

A.5.d- No more than five employees shall be present at any given time.

A.5.e- Signs shall be as regulated in the S-MRN Zone.

When the SWPSDP was adopted in 1996, a flower shop operated on the subject site. The flower shop was allowed to remain as a permissive use because:

- ***it was a non-residential use that was zoned SU-1 for a specific use <u>and</u>***
- ***it existed when the S-R zone was established, <u>and</u>***
- ***it complied with conditions A.5.a through A.5.e above.***

C) SAWMILL/WELLS PARK COMMUNITY METROPOLITAN REDEVELOPMENT AREA (MRA) PLAN

» Please refer to p. 11 of the original Staff report (see attachment).

RESOLUTION 270-1980 (POLICIES FOR ZONE MAP AMENDMENTS)

<u>Requirements</u>
Resolution 270-1980 outlines policies and criteria for deciding zone map change applications. The applicant must provide sound justification for the proposed change and demonstrate that several tests have been met. The burden is on the applicant to show why a change should be made.

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

Justification & Analysis

The zone change justification letter analyzed here, received July 2, 2018, was prepared by the applicant during the 60-day deferral period and is a response to deficiency memo 4, dated June 27, 2018 (see attachment). The applicant submitted a prior version of the justification letter dated June 25, 2018 in response to deficiency memo 3 issued on May 17, 2018 (see attachment). Planning Staff requested a revised justification letter by June 6, 2018.

The subject site is currently zoned SU-2 for S-R (Sawmill Residential). A change of zone would constitute an amendment to the Sawmill/Wells Park Sector Development Plan (SWPSDP). The requested zoning is SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking. The reason for the zone change request is to accommodate potential commercial and office uses.

The applicant believes that the proposed sector development plan map amendment (zone change) conforms to R270-1980 as elaborated below. The justification consists of four primary arguments, repeated several times throughout his letter:

1) The proposed uses exist elsewhere in the neighborhood, so they should be allowed on the subject site for consistency's sake (repeated 33 times).
2) The zone change will allow a current, conforming, historical, non-residential use to continue on the same premises (repeated 15 times).
3) The S-R zone of the SWPSDP allows new non-residential uses that are equally or more restrictive. The notes in A.5 are NOT governing language. The conflict lies with the SWSDP, not with the applicant's request (repeated 9 times).
4) The request has been affirmed by the most important component of this request, the neighbors and the community (repeated 15 times).

First, the analysis will discuss the specifics regarding the applicant's responses to Sections A through J. Second, because the same primary arguments are repeated throughout the justification in numerous locations, Staff analysis will discuss them individually and explain why they are erroneous and cannot be used to support the applicant's justification.

The citation in quotes is from R270-1980. The applicant's statements follow. Staff analysis is last and is in ***bold italic*** text.

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

Applicant: The Proposed Zone Map Amendment is consistent with the Health, Safety, Morals, and General Welfare of the City Because, the Requested uses have not been Proven to ***be*** *injurious to the (SWSDP), and Community, Thus is an Appropriate Request, Affirmed by the Most Important component of this request, the Neighbors and the Community, The Fascilitated Neighborhood/Community Meetings, Have Acknowledged, Affirmed The Land Uses and The Neighborhood Community is AGREEABLE. Per Submitted Report.*

The Proposed Special SU-1 Use(s) Currently Exist In the Sawmill/Wellspark Sector Development Plan Neighborhood. The Proposed Special SU-1 Use(s) allow a Current Conforming/Permissive Historically a Non-Residential Special SU-1 Use Site, to Continue and Future like SU-1 Use(s) to Continue at the Same Existing Historical Non-Residential Special SU-1 Use, Premises within the Neighborhood.

Staff: The standard way to demonstrate consistency with the City's health, safety, morals, and general welfare is to show that that a request furthers applicable Goals and policies in applicable Plans. The applicant has not adequately justified the request as required in the response to Section C and the request conflicts with the overarching intent of the SWPSDP.

The fact that other SU-1 uses exist in the area of the Sawmill-Wells Park Sector Development Plan is irrelevant to justifying a zone change on the subject site, which is unique. Neighborhood support or opposition needs to be couched in the furtherance of specific policy language to show how a proposed zone change is justified. The response to Section A is insufficient.

B. "Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should not be made."

Applicant: The stability of land use and zoning will be preserved and enhanced with the zone map amendment....Because: Affirmed by the Most Important component of this request, the Neighbors and the Community, The Fascilitated Neighborhood/Community Meetings, Have Acknowledged, Affirmed The Land Uses and The Neighborhood Community is AGREEABLE. Per Submitted Report.

The SU-1 Special Use Subject Property, is requesting, Some of the Same SU-1 Special Use(s) Of The Adjacent Special SU-1 Use Properties. Through this Quasi-Legislative Action, Preseidence is set with of Similar Actions. The Requested Zoning Use(s) Have passed the test of being Consistent and Non-Injurious to with the Health, Saftey, Morals and General Welfare of the City. Demonstrating Stability and Longevity in the Special SU-1 Land Use Community within the Neighborhood and the Variety of Stable Available Attachments for Special SU-1 Use(s).

Granting a Business Registration for Many Consecutive Years Has Allowed The Governing Language of the SWPSDP, S-R Zone For Permissive Use(s) Section A.5 to Further Realize the Policies of The SWPSDP and Utilize the Historically NON Residential Use Premises. The Subject Site's Stability is Shown in the Longevity, of Subject Site as a FlowerShop And Plant Nursery Conforming with the Health, Safety, Morals and General Welfare of the City.

Staff: The task in the response to Section B is for the applicant to discuss how the proposed zone change would affect stability of land use and zoning. The test is not whether or not the proposed zone change is consistent with health, safety, morals, and general welfare, or if the proposed zone change is non-injurious or agreeable to neighbors. The burden is on the applicant to justify the zone change using a policy-based analysis.

A building has existed on the subject site for many years. The immediately preceding use, a flower shop, closed in approximately 2002. The applicant purchased the property in 2008. The majority of the subject site is vacant. The proposed zone change would allow any combination of the new uses listed, and therefore would affect stability of land use and zoning. The response to Section B is insufficient.

C. "A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City."

Applicant's Citations:
Comprehensive Plan citations include the following: Policy 4.2.1b- Community Planning Areas, Policy 5.1.1 (listed as 5.1), Policy 5.1.4-Urban Centers, Policy 5.1.9- Main Streets, Policy 5.2.1-Land Uses, Policy 6.1.3- Auto Demand; the following Actions: 4.1.2.2, 5.1.9.9, 5.1.2.5, 5.4.1.2, and 6.4.1.1; and several text citations (2.3.3, 2.3.5, 2.4, 2.4.1, 2.4.2, 2.4.6, 3.1, 3.3, 3.3.1).

Staff Response:
Policy 4.2.1b, regarding County area or sector plans, applies to projects in the County outside of City limits.

Policy 5.1.4, regarding urban centers, does not apply because the request is not in an Urban Center.

Note: Actions are not used in policy analysis, Goals and policies are. Since the applicant cited Actions in the justification letter, however, they are discussed here.

Action 5.1.1.9, regarding updating zoning codes to allow the highest density development in Downtown and Uptown, does not apply because updating zoning codes is something the City does and the request is not in the designated Downtown Center nor in an urban center.

Action 5.4.1.2, regarding developing adjustments to land use policies, regulations, and incentives, is something the City does and does not pertain to a private project. Also, this action

is intended to help implement the intent of Goal 5.4 and Policy 5.4.1 to balance jobs and housing west of the Rio Grande.

Sawmill Wells Park Sector Development Plan (SWPSDP): No citations, but the General SU-2 Regulations 4.a- Non Residential Building Design and the Economic Development Action Plan are mentioned. However, there is no explanation of how the SWPSDP SU-2 Regulations are policies that can be furthered.

Applicant: THE PROPOSED ZONE MAP AMENDMENT IS NOT in Significant Conflict with Adopted Elements of the Comprehensive Plan or other City Master Plans and Amendments because: This Request Completely Furthers all the Comprehensive Plan and the SWPSDP as it has throughout the Decades of Land Use As A C-2 Location Asking for Equally or More Restrictive Uses By This Request. Applicant is Requesting For Less Intense List of Uses. The Requested Uses Currently Exist in the Community Therefore THE PROPOSED ZONE MAP AMENDMENT IS NOT in Significant conflict. The Requested Special SU-1 Uses Are Equal or More Restrictive To the Existing Uses. The request has been Affirmed by the Most important component of this request, the Neighbors and the Community.

Staff: Regarding the Comprehensive Plan citations, the applicant focused more on Actions and text rather than on Goals and policies. The concepts in the text are embodied in the Goals and policies; that is why Goals and policies are used for analysis rather than the plain document text.

Because the request is for an SU-1 zone, the standard in Section C is not the "no significant conflict" test, but rather is the higher standard of "clearly facilitates" found in Section I. This was determined by the Land Use Hearing Officer (LUHO) and affirmed by the City Council in 2014, and was mentioned to the applicant in four deficiency memos and in the original Staff report (see attachments).

The applicant lists what he believes are applicable Comprehensive Plan citations (some apply and some do not), but does not provide an explanation of <u>how</u> the request relates to the citation. Rather, the applicant provides a single phrase response, such as REVITALIZATION/ECONOMIC DEVELOPMENT (see attachment). This does not demonstrate that the specific request on the subject site furthers applicable Goals and policies.

As was the case in 2009, Staff finds a significant conflict with the applicable sector development plan (the SWPSDP, adopted in 1996). Therefore the request cannot clearly facilitate realization of applicable Plans. The conflict lies with the overarching intent of the SWPSDP and the regulations that the SWPSDP established for the S-R (Sawmill Residential) zone, particularly Regulation A.5 (see also Section IV of this report).

When the SWPSDP was adopted in 1996, the flower shop was in operation. The flower shop was allowed to remain as a permissive use because: it was a non-residential use that was

zoned SU-1 for a specific use <u>and</u> it existed when the S-R zone was established, <u>and</u> it complied with conditions A.5.a through A.5.e.

The flower shop closed around 2002. The applicant purchased the subject site in 2008, after the flower shop had been closed. Therefore, the discussion is about establishment of new uses. Any new flower shop and/or nursery use would have to conform with the S-R zone to fulfill the intent of the SWPSDP as elaborated in A.5, which reads as follows:

> ***"New non-residential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, <u>and</u> they comply with the following conditions."***

A.5. states that new non-residential uses can be any use allowed by the previous zoning, but that they have to be equally or more restrictive than the preceding use (the "equally or more restrictive" test). In this case, the previous zoning was SU-2/SU-1 for Flower Shop and Nursery. Any new uses must be equally or more restrictive than a flower shop, which was the most recent, immediately preceding use.

The proposed zone change creates a significant conflict with the overarching intent of the SWPSDP to establish residential uses when non-residential uses cease to operate. This is why the subject site was given the SU-2/S-R (Sawmill Residential) zoning upon SWPSDP adoption in 1996, and why new zones and zoning regulations were a critical component of the SWSDP to implement the Plan's intent of reinforcing community stability, vitality, and character.

The SU-2/S-R zone replaced C-1 Neighborhood Commercial zoning, some SU-1 Special Use zoning, and most R-1, R-T, and R-C zoning. The intent of the SU-2/S-R zone is "to conserve the existing residential neighborhoods while allowing a variety of small scale housing and existing businesses" (SWSDP, p. 77).

The SWPSDP does not intend new non-residential uses that were not allowed by the previous zoning unless they conform to Regulation A.5, and the "equally or more restrictive" test is part of Regulation A.5. Conditions A.5.a through A.5.e are also a part of Regulation A.5.

This reading of the SWPSDP by the City was affirmed by the District Court in a 2010 decision (Kilmer vs. City of Albuquerque, CV-2009-07499). Therefore, in order to not conflict with the SWPSDP and to clearly facilitate realization of applicable Plans as required pursuant to R270-1980, the proposed new, non-residential uses must be consistent with the intent of the SWPSDP to reinforce community stability, vitality, and character (SWSDP, p. 1). The burden is on the applicant to demonstrate that the proposed zone change is justified.

Furthermore, in the July 2, 2018 justification letter, the applicant contends that the notes and illustrations that accompany Regulation A.5 (p. 99 of the SWPSDP) are not governing language and are subjective, vague, and ambiguous. The Court found otherwise, stating that

the notes and illustrations inform Regulation A.5 (see attachment, p. 3 and 4 of the Court's Decision). The response to Section C is insufficient.

D. "The applicant must demonstrate that the existing zoning is in appropriate because:

1) there was an error when the existing zone map pattern was created, or

2) changed neighborhood or community conditions justify the change, or

3) a different use category is more advantageous to the community, as articulated in the comprehensive Plan or other City master plan, even though (1) and (2) above do not apply."

Applicant: The Existing Zoning is Inappropriate; A different Use Category is more Advantageous to the Community, as Articulated in The City Comprehensive Master Plan and the Sawmill-Wells Park Sector Development Plan. The Requested Special SU-1 Use/Uses Exist in the Community Already. The Requested Zoning Uses and Attachments Exist and Have passed the test of being NON-INJURIOUS and Consistent with the Health, Safety, Morals, and General Welfare of the City of Albuquerque. The Proposed Zone Map Amendment Furthers and Promotes Consistency, within the Neighborhood and Community by Conforming with Neighboring Properties Land Use Categories. The Subject Site is "a C-2 Use As Noted By Senior Planner in Email 06/27/2018 to Applicant".

Staff: The applicant refers to reason 3) above, that the existing zoning is inappropriate because a different use category is more advantageous to the community. However, Staff is not convinced that a different zoning category would be more advantageous to the community than the current zoning (SU-2/S-R) because the applicant has not demonstrated that the request clearly facilitates realization of the Comprehensive Plan and the SWPSDP.

Without a zone change, the permissive uses on the subject site are: 1) S-R uses (R-1, two dwelling units on one lot, townhouses, and single-family detached as permitted in R-LT, all as specified in the SWPSDP), and 2) flower shop and/or nursery provided that they comply with Regulation A.5. These uses are available without a zone change.

The 1996 adoption of the SWPSDP established zoning particular to the plan area in order to realize the Plan's overarching intent to reinforce community stability, vitality, and character (SWSDP, p. 1), which was advantageous to the community.

The applicant has not adequately demonstrated that the proposed zoning of "SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking" would be more advantageous to the community. Although some of these land uses exist within the SWPSDP area, the zone change request is particular to the subject site. Existence (or not) of these land uses in the area nearby does not mean that the proposed zoning on the subject site is more advantageous to the community.

The applicant refers to the requested zoning and land uses as having passed the "non-injurious" test but does not explain why or how, although the argument is irrelevant because the non-injurious test is pertinent to a conditional use request, not a zone change request. The response to Section D is insufficient.

E. "A change of zone shall not be approved where some of the permissive uses in the zone would be harmful to adjacent property, the neighborhood or the community."

Applicant: The proposed Zone Amendment would not be INJURIOUS to Adjacent properties, the Neighborhood, or the Community because: The Requested Uses Already Exist Within Neighborhood. The Use Attachments Requested Already Exist in The Community and have Passed the Harmful Test. The request has been Affirmed by the Most important component of this request, the Neighbors and the Community. The Requested Zone Map Amendment Conforms to Adjacent and Neighboring Uses. The Requested uses are Equal or More Restrictive Use(s). The subject site is "a C-2 Use as Noted by Senior Planner in Email 6/28/2018 to Applicant."

Staff: The test in Section E is whether or not any of the uses in the proposed zone would be harmful to adjacent property, the neighborhood, or the community. The test applies to zoning on the subject site, and not to other sites in the Plan area. The analysis is based on the subject site and is not comparative to other properties. Each property has a unique set of circumstances regarding its land use and zoning.

The questions raised in Section E are: what uses would the proposed zone allow, and would these be harmful? The most effective way to respond is to list the uses that the zone change would allow if granted, and discuss whether or not each would be harmful and why. Each allowed use has the potential to develop on the subject site, and each may or may not be harmful to adjacent property, the neighborhood, or the community.

The applicant listed the proposed uses and stated that each exists and that the request has been affirmed by the most important component of this request, the neighbors and the community. A discussion of each use, whether or not it would be harmful to adjacent property, the neighborhood, or the community, and why, is not included as required. Therefore, the response to Section E is insufficient.

Note: Staff did not state that the subject site is a C-2 use. Rather, Staff explained that the nursery use, which had ceased operation decades ago, is first found in the C-2 zone.

F. "A proposed zone change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the City may be:

1) denied due to lack of capital funds, or
2) granted with the implicit understanding that the City is not bound to provide the capital improvements on any special schedule."

Applicant: The Proposed Zone Change WILL NOT Require Major and Unprogrammed Capital by the City. This is an infill Property with Adequate infrastructure, including Public Transit, Roadways, Water, Sewer, Already Exist.

Staff agrees that the proposed zone change will not result in any major or unprogrammed capital expenditures by the City. The response to Section F is sufficient.

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

Applicant: The Cost of the land and other Economic Considerations Pertaining to the applicant ***are not*** *a Determining factor for a change of Zone BECAUSE: Other Than Consistency with the Neighborhood. The cost of the Land, other Economic Considerations of Applicant are NOT Relevant or Deciding factors for a zone map amendment request. The Subject Property is an Existing Special SU-1 (EPC-69-81) Non-Residential Land Use, Premissive Within the Neighborhood, Requesting Consistency to Adjacent and Neighboring Land Use/Uses. The Subject Special SU-1 Land Use, Property will continue to Provide Stimulus and Economic Growth to the Community upon EPC approval.*

Staff: Economic considerations are always a factor, but the test in Section G is whether or not they are the determining factor for the proposed zone change. The applicant refers to consistency with the neighborhood as the reason for the zone change, but does not explain in the justification how this idea intersects with the requirements of R270-1980.

The subject site is not being used currently and is for sale or lease. The flower shop and nursery uses that once operated on the subject site are not operating currently. The applicant wants to add additional non-residential (commercial and office) uses to the property in order to sell it to commercial businesses, office users, or market it to tenants. The subject site could be sold with the existing entitlements, which would allow development of single-family homes, townhouses, duplexes, flower shop, and a plant nursery under the SU-2/S-R zone.

Staff finds that economic considerations are the determining factor for the change of zone, especially since the applicant has not discussed how the subject site could (or could not) be redeveloped under the current zoning.

H. "Location on a collector or major street is not in itself sufficient justification of apartment, office or commercial zoning."

Applicant: The *Location of the Site is Important to the Request, The Applicant has Justified the Request in Section C by Showing that the Proposed Zone Map Amendment Furthers Policies and Applicable Goals BECAUSE The Subject Properties Location is on a Collector Street, This Request Does not Reply Upon that as a Deciding Factor. There are multiple Transportation Options Available to Serve this Site.*

Staff finds that the applicant is not using the subject site's location on 6th St. NW, in itself, as justification for the proposed zone change. The response to Section H is sufficient.

I. "A zone change request which would give a zone different from surrounding zoning to one small area, especially when only premise is involved, is generally called a 'spot zone'. Such a change of zone may be approved only when:

i) the change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan, or

ii) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic or special adverse land uses nearby, or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone."

Applicant: The SU-1 Zone is Considered a Spot Zone, But a Justified Spot Zone, Because it Clearly Facilitates the Realization of the Comprehensive Plan and The SWPSDP as Follows: The Request is Consistent with the Comprehensive Plan Reguarding Land Use Because it will fit the Surrounding Special SU-1 Land Uses in the Area. The Request is Consistent with the Comprehensive Plan Reguarding Air Quality, Developed Landscape, and City Capital Funds. The Zone Map Amendment Request is not in Significant Conflict with the Adopted Elements of the Comprehensive Plan or the SWPSDP. The Requested Uses Are Equal or More Restrictive Use(s). The Requested SU-1 Land Uses Already Exist Within Neighborhood. The Neighborhood/Community is AGREEABLE. Therefore, the Requested Zone Map Amendment will Clearly facilitate Realization of The Comprehensive Plan and the SWPSDP. The Land Use Attachments Requested, have Passed the NON-Injurious Test.

Staff: The SU-1 zone is considered a "spot zone" by definition, because it pertains to a single, unique property and a site development plan is required. SU-1 zoning is a justifiable spot zone provided that it: i) clearly facilitates realization of the Comprehensive Plan and sector development plan or area plan, or ii) functions as a transition between adjacent zones as elaborated above.

In this case, the applicant has not demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate realization of the Comprehensive Plan and the SWPSDP. The applicant lists citations (some apply and some do not), but the explanation of how the request relates to the citations consists of a single phrase and lacks elaboration. Also, the test for a justifiable spot zone does not have to do with whether the proposed uses exist in the neighborhood or not, or if there is neighborhood approval or disapproval. The response to Section I is insufficient.

J. "A zone change request which would give a zone different from surrounding zoning to a strip of land along a street is generally called 'strip zoning'. Strip commercial zoning will be approved only where:

i) the change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan, and

ii) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic or special adverse land uses nearby."

Applicant: The Change will clearly facilitate Realization of the Comprehensive Plan and the SWPSDP Because The Zoning and Planning Dept Require a Site Development Plan, which Ensures that Development on the Site will be Consistent with the Surrounding Neighborhood. The Proposed Land Uses Already Exist Within Neighborhood/Sector Development Plan and The Uses Have passed the test of being NON-INJURIOUS. The Subject Property is on a Corner and Comprises only 0.3 Acres. Therefore, The Requested Zone Map Amendment , will clearly facilitate Realization of the Comprehensive Plan and The Sawmill/Wells Park Sector Development Plan. The Zone Map amendment Request would NOT be considered a "strip Zone".

Staff: Staff agrees that the zone change request would not result in a "strip zone", though the applicant should have explained why based on what a strip zone is. The subject site is a single, small property that does not comprise a strip of land. The response to Section J is sufficient, though Staff points out that the applicant has not demonstrated in the response to Section C that the proposed zone change would clearly facilitate realization of the Comprehensive Plan and the SWPSDP.

<u>Staff Discussion of Applicant's Main Arguments</u>

1) The proposed uses exist elsewhere in the neighborhood, so they should be allowed on the subject site for consistency's sake (repeated 33 times).

   The fact that other SU-1 uses exist in the Sawmill-Wells Park Sector Development Plan area is irrelevant because a zone change justification is specific to a given site, which is unique. Furthermore, even if zoning on nearby properties was included in the criteria of R270-1980 (it is not), it would be illogical to claim that a request for site-specific SU-1 zoning, tied to a site development plan for a particular site as required, could justify the existence of another SU-1 zone because each SU-1 zone is unique, which renders a comparison invalid.

2) The zone change will allow a current, conforming, historical, non-residential use to continue on the same premises (repeated 15 times).

   R270-1980 does not contain a criterion that would allow this argument to be used to justify a zone change request. Furthermore, the flower shop closed in approximately 2002—prior

to the applicant's purchase of the property in 2008. The nursery use ceased to operate a couple of decades ago. Both uses lost their non-conforming use status. Whether or not the applicant is operating the flower shop for which he has obtained a business license is irrelevant to the zone change request.

3) The S-R zone of the SWPSDP allows new non-residential uses that are equally or more restrictive. The notes in A.5 are NOT governing language. The conflict lies with the SWSDP, not with the applicant's request (repeated 9 times).

   Staff finds that the request conflicts with the overarching intent of the SWPSDP to not re-establish non-residential uses once a non-conforming use ceases to operate.

   Please refer to the discussion in Section C of this report and to the discussion of non-conformance on p. 5 of the original Staff report (see attachment).

4) The request has been affirmed by the most important component of this request, the neighbors and the community (repeated 15 times).

   Though neighborhood and community input are an important part of the EPC process, R270-1980 does not include a criterion that allows neighborhood support or opposition to be used as justification for a zone change request.

Staff Conclusion

Staff finds that the applicant has not adequately justified the sector development plan map amendment (zone change) pursuant to the policies and criteria of R270-1980. The burden is on the application to justify the zone change pursuant to Section B.

The applicant does not adequately demonstrate, in the response to Section C, that the proposed zone change would clearly facilitate applicable Goals and policies in the Comprehensive Plan and the SWPSDP. The connection between the request and each citation is insufficiently developed and consists, in many cases, of a single phrase. Many of the citations are of text and actions from the Comprehensive Plan, rather than Goals and policies. In other instances, the policies cited do not apply to the request.

Therefore, the responses to Section D regarding more advantageous to the community as articulated in the Comprehensive Plan and the SWSDP, and the response to Section A regarding consistency with health, safety, and welfare, are also insufficient.

The applicant does not agree with the City's interpretation of Regulation A.5 of the SWPSDP. However, this interpretation was upheld by the District Court in a 2010 decision regarding the subject site (Kilmer vs. City of Albuquerque, CV-2009-07499). For these reasons, Staff recommends denial of the request.

IV. ANALYSIS-SITE DEVELOPMENT PLAN FOR BUILDING PERMIT

No changes were made to the proposed, as-built site development plan for building permit during the deferral period.

» Please refer to p. 18-21 of the original Staff report (see attachment).

V. AGENCY & NEIGHBORHOOD CONCERNS

No additional comments were received during the deferral period.

» Please refer to p. 21 of the original Staff report (see attachment).

VI. CONCLUSION

This request is for a sector development plan map amendment (zone change) and an associated site development plan for building permit for an approximately 0.5 acre site located at the SE corner of 6th St. NW and Constitution Ave. The applicant proposes to change the subject site's zoning from SU-2/S-R to "SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking" in order to allow commercial and office uses on the subject site.

Staff concludes that the applicant has not adequately justified the zone change pursuant to R270-1980. The applicant does not adequately demonstrate, in the response to Section C, that the proposed zone change would clearly facilitate realization of applicable Goals and policies in the Comprehensive Plan and the SWSDP. The connection between the request and each Cited policy is insufficiently developed and, in most cases, consists of a single phrase. Therefore, the responses to Section D regarding more advantageous to the community, and the response to Section A regarding consistency with health, safety, and welfare, are also insufficient. The response to Section E would benefit from elaboration.

The requested zoning is contrary to the overarching intent of the SWPSDP to not allow any new non-residential uses for which the subject site was not zoned prior to Plan adoption.

The effected neighborhood organizations are the Wells Park Neighborhood Association (NA) and the Sawmill Community Land Trust. A facilitated meeting was held on April 23, 2018. Staff received two letters. The WPNA representative indicated that they would support a zone change to MX-T under the new IDO but not to MX-L. The SCLT representative indicated that they do not have a problem with the project from what they can see.

Staff recommends denial of the proposed zone change and the associated site development plan for building permit.

FINDINGS - 18EPC-40019, July 12, 2018- Sector Development Plan Map Amendment (zone change)

1. The request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, an approximately 0.5 acre site located at the southeast corner of Sixth St. NW and Constitution Ave. (the "subject site").

2. The request was deferred by the Environmental Planning Commission (EPC) at its May 10, 2018 hearing in order to allow additional time for the applicant to adequately justify the zone change request.

3. The applicant owns the subject site and proposes to change the subject site's zoning from SU-2/S-R (Sawmill Residential) to "SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking" to allow commercial and office uses on the subject site. The subject site is available for sale or lease, and it appears that the building is not currently being utilized.

4. The request is accompanied by an associated site development plan for building permit (18EPC-40021) as required pursuant to the SU-1 Zone, §14-16-2-22(A)(1).

5. At one time, the applicant was using the existing building for a bail bonding business, but the zone change that would have allowed the bail bonding business to operate legally was denied in 2009; the denial and the City's reading of the SWPSDP were affirmed by a District Court decision in 2010 (Kilmer vs. City of Albuquerque, CV-2009-07499). The applicant moved the bail bonding business, which has since ceased operation.

6. The Albuquerque/Bernalillo County Comprehensive Plan, the Sawmill/Wells Park Sector Development Plan (SWPSDP), and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.

7. The applicant has not adequately justified the zone map amendment (zone change) request pursuant to Resolution 270-1980 as follows:

   A. <u>Section A:</u> Consistency with the City's health, safety, morals, and general welfare is shown by demonstrating that that a request furthers applicable Goals and policies in relevant Plans, in this case the Comprehensive Plan and the SWPSDP, which the applicant has not adequately done in the response to Section C. Also, the request conflicts with the overarching intent of the SWPSDP to not allow new non-residential uses to be re-established after they have ceased to operate, which could impact the health, safety, morals, and general welfare.

B. Section B: The test is for the applicant to discuss how the proposed zone change would affect stability of land use and zoning—not whether or not the proposed zone change is consistent with health, safety, morals, and general welfare, or is non-injurious or agreeable to neighbors. The proposed zone change would allow any combination of the new uses listed, and therefore would affect stability land use and zoning. The burden is on the applicant to justify the zone change by providing a sound, policy-based analysis.

C. Section C: Because the request is for an SU-1 zone, the test in Section C is whether or not the request "clearly facilitates" applicable Goals and policies. The applicant has not adequately demonstrated that the request clearly facilitates realization of applicable Goals and policies in the Comprehensive Plan and the SWPSDP. The applicant lists what he believes are applicable citations (some apply and some do not), but does not provide an explanation of how the request relates to the citation.

   Furthermore, there is a significant conflict with the SWPSDP; therefore, the request cannot clearly facilitate realization of applicable Plans. The overarching intent of the SWPSDP is to establish residential uses when non-residential uses cease to operate. This is why the subject site was given the SU-2/S-R (Sawmill Residential) zoning upon SWPSDP adoption in 1996, and why new zones and zoning regulations were a critical component of the SWSDP to implement the Plan's intent of reinforcing community stability, vitality, and character.

D. Section D: The applicant cites reason 3, that the existing zoning is inappropriate because a different use category is more advantageous to the community. However, the applicant has not proven that a different zoning category would be more advantageous to the community than the current zoning (SU-2/S-R) because he has not adequately demonstrated that the request clearly facilitates realization of the Comprehensive Plan and the SWPSDP as required, and therefore has not made a convincing argument that a different zoning category would be more advantageous to the community than the current zoning.

   Existence of some of the proposed land uses in the nearby area does not mean that the proposed zoning on the subject site would be more advantageous to the community. The 1996 adoption of the SWPSDP established zoning particular to the Plan area in order to realize the Plan's overarching intent to reinforce community stability, vitality, and character, which was advantageous to the community.

E. Section E: The applicant listed the proposed uses, stated that each use exists and that the request has been affirmed by neighbors and the community. However, a discussion of each proposed use, and whether or not it would be harmful to adjacent property, the neighborhood, or the community and why, is not included as required.

F. Section F: The proposed zone change would not result in any major or unprogrammed capital expenditures by the City.

G. Section G: The determining factor for the proposed zone change is the applicant's desire to add additional non-residential (commercial and office) uses to the subject site in order to sell it to commercial businesses, office users, or market it to tenants.

H. Section H: The applicant is not using the subject site's location on 6th St. NW, in itself, as justification for the proposed zone change.

I. Section I: The SU-1 zone is a spot zone by definition, because it pertains to a single, unique property and a site development plan is required. SU-1 zoning is a justifiable spot zone provided that it: i) clearly facilitates realization of the Comprehensive Plan and sector development plan or area plan, or ii) functions as a transition between adjacent zones as elaborated above.

   The applicant has not demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate realization of the Comprehensive Plan and the SWPSDP. The applicant lists citations (some apply and some do not), but the explanation of how the request relates to the citations consists of a single phrase and lacks elaboration. Also, the test for a justifiable spot zone does not have to do with whether the proposed uses exist in the neighborhood or not, or if there is neighborhood approval or disapproval.

J. Section J: The zone change request would not result in a "strip zone". The subject site is a single, small property that does not comprise a strip of land.

8. The fact that other SU-1 uses exist in the area of the SWPSDP is irrelevant to justifying a zone change on the subject site because a zone change justification is specific to a given site. Therefore, it is illogical to claim that a request for site-specific SU-1 zoning, tied to a site development plan for a particular site as required, could justify the existence of another SU-1 zone because each SU-1 zone is unique.

9. The applicant has not adequately justified the sector development plan map amendment (zone change) pursuant to the policies and criteria of R270-1980 because he has not adequately demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate applicable Goals and policies in the Comprehensive Plan and the SWPSDP. The connection between the request and each Cited policy is insufficiently developed and consists, in many cases, of a single phrase. Therefore, the responses to Section D regarding more advantageous to the community, the response to Section A regarding consistency with health, safety, and welfare, and the response to Section I regarding justification of a spot zone, are also insufficient. The response to Section E would benefit from elaboration.

10. The allowed uses under the current zoning are S-R uses (single-family homes, townhouses, duplexes), flower shop, and nursery. When the SWSDP was adopted in 1996, the flower shop became a permissive, non-conforming, non-residential use in a residential zone (SU-2/S-R) because it existed at that time. The flower shop ceased to operate in approximately 2002 and its

non-conforming use status was lost. The nursery use ceased to operate a few decades ago and also had lost its non-conforming use status.

11. The proposed zone change creates a significant conflict with the overarching intent of the SWSDP to establish residential uses when legally, non-conforming, non-residential uses cease to operate. The SWSDP does not intend new non-residential uses that were not allowed by the zoning in place prior to adoption of the Plan (1996). The City's reading of Regulation A.5 was upheld by the District Court in its 2010 decision (Kilmer vs. Albuquerque, CV-2009-07499).

12. The affected neighborhood organizations are the Wells Park Neighborhood Association (NA) and the Sawmill Community Land Trust (SCLT). Both were notified as required. Property owners within 100 feet of the subject site were also notified, as required.

13. A facilitated meeting was held on April 23, 2018. Neighbors wanted assurance that the applicant would not put a bail bond business or a pawnshop on the subject site. The applicant agreed. There were questions about what uses are currently allowed on the subject site, and what uses could be developed with the proposed zone change.

14. Staff received correspondence from the WPNA and the SCLT. The WPNA representative indicated that it would support a zone change to MX-T under the new IDO, but not to MX-L. The MX-T zone is the replacement for the RC zone and the MX-L zone is the replacement for the C-1 zone. The SCLT representative indicated that they do not have a problem with the project from what they can see. Staff did not receive additional correspondence during the deferral period.

RECOMMENDATION - 18EPC-40019, July 12, 2018

DENIAL of 18EPC-40019, a request for a sector development plan map amendment from SU-2/S-R (Sawmill Residential) to SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, located at the southeast corner of 6th St. NW and Constitution Ave., based on the preceding Findings.

FINDINGS -18EPC-40021, July 12, 2018-Site Development Plan for Building Permit

1. The request is for an as-built site development plan for building permit for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, an approximately 0.5 acre site located at the southeast corner of Sixth St. NW and Constitution Ave. (the "subject site").

2. The request was deferred by the Environmental Planning Commission (EPC) at its May 10, 2018 hearing in order to allow additional time for the applicant to adequately justify the zone change request.

3. The applicant owns the subject site and proposes to change the subject site's zoning from SU-2/S-R (Sawmill Residential) to "SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking" in order to allow commercial and office uses on the subject site. The subject site is available for sale or lease, and it appears that the building is not currently being utilized.

4. The request is accompanied by a request for a sector development plan map amendment (zone change) (18EPC-40019). When requesting an SU-1 zone, a site development plan is required pursuant to §14-16-2-22(A)(1).

5. At one time, the applicant was using the existing building for a bail bonding business, but the zone change that would have allowed the bail bonding business to operate legally was denied in 2009. The denial and the City's reading of the SWPSDP were affirmed by a District Court decision in 2010 (Kilmer vs. City of Albuquerque, CV-2009-07499). The applicant moved the bail bonding business, which has since ceased operation.

6. The Albuquerque/Bernalillo County Comprehensive Plan, the Sawmill/Wells Park Sector Development Plan (SWPSDP), and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.

7. The applicant has not adequately justified the sector development plan map amendment (zone change) pursuant to R270-1980 because he has not adequately demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate applicable Goals and policies in the Comprehensive Plan and the SWPSDP. Therefore, the responses to Section D regarding more advantageous to the community, and the response to Section A regarding consistency with health, safety, and welfare, are also insufficient.

8. The Sawmill/Wells Park General SU-2 Regulations apply to all new construction and building permit applications for additions, renovations, or site rehabilitation work in the SWPSDP area.

9. The affected neighborhood organizations are the Wells Park Neighborhood Association (NA) and the Sawmill Community Land Trust (SCLT). Both were notified as required. Property owners within 100 feet of the subject site were also notified, as required.

10. A facilitated meeting was held on April 23, 2018. Neighbors wanted assurance that the applicant would not put a bail bond business or a pawnshop on the subject site. The applicant

agreed. There were questions about what uses are currently allowed on the subject site, and what uses could be developed with the proposed zone change.

11. Staff received correspondence from the WPNA and the SCLT. The WPNA representative indicated that it would support a zone change to MX-T under the new IDO, but not to MX-L. The MX-T zone is the replacement for the RC zone and the MX-L zone is the replacement for the C-1 zone. The SCLT representative indicated that they do not have a problem with the project from what they can see. Staff did not receive additional correspondence during the deferral period.

RECOMMENDATION - 18EPC-40021, July 12, 2018

DENIAL of 18EPC-40021, a Site Development Plan for Building Permit for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, zoned SU-2/S-R (Sawmill Residential), located at the southeast corner of 6th St. NW and Constitution Ave., based on the preceding Findings.

Catalina Lehner

Catalina Lehner, AICP
Senior Planner

cc: Eric Kilmer, 1416 6th St. NW, ABQ, NM 87102
Sawmill Community Land Trust, Mona Angel, 990 18th St. NW, ABQ, NM 87104
Sawmill Community Land Trust, Annette Montoya, 990 18th St. NW, ABQ, NM 87104
Wells Park NA, Mike Prando, 611 Bellamah NW, ABQ, NM 87102
Wells Park NA, Doreen McKnight, 1426 7th St. NW, ABQ, NM 87102

CITY OF ALBUQUERQUE

PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
600 2nd Street NW, 3rd Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3860 Fax (505) 924-3339

OFFICIAL NOTIFICATION OF DECISION

May 10, 2018

Eric Kilmer
1416 6th St. NW
Albuquerque, NM 87102

Project# 1007648
18EPC-40019 Sector Development Plan Map Amendment (Zone Change)
18EPC-40021 Site Development Plan for Building Permit

LEGAL DESCRIPTION:
The above action for all or a potion of Lots 22, 23 and 24, Block 20, Albright-Moore Addition, zoned SU-2/SR to SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses, located at the NE corner of 6th St. NW and Constitution Ave. NW (1416 6th Street NW), containing approximately 0.5 acre. (J-14)
Staff Planner: Catalina Lehner

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

On May 10, 2018 the Environmental Planning Commission (EPC) voted to DEFER Project 1007648/18EPC-40019, a Sector Development Plan Map Amendment, and 18EPC-40021, a Site Development Plan for Building Permit, for 60 days based on the following Findings:

FINDINGS- 18EPC-40019:

1. The request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, an approximately 0.5 acre site located at the southeast corner of Sixth St. NW and Constitution Ave. (the "subject site").

2. This request is subject to the rules, regulations, processes, and criteria in effect at the time of application, March 29, 2018.

3. The EPC wishes to provide the applicant additional time to determine the appropriate zoning to request based on the proposed activity for the subject site.

4. The deferral period will allow the applicant additional time to revise the justification for the change pursuant the zone change policies and criteria of R-270-1980.

5. The applicant is not opposed to a deferral of 60 days.

FINDINGS- 18EPC-40021:

1. The request is for a site development plan for building permit for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, an approximately 0.5 acre site located at the southeast corner of Sixth St. NW and Constitution Ave. (the "subject site").

2. This request is subject to the rules, regulations, processes, and criteria in effect at the time of application, March 29, 2018.

3. The EPC wishes to provide the applicant additional time to determine the appropriate zoning to request in the associated zone change request.

4. The applicant is not opposed to a deferral of 60 days.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **MAY 25, 2018.** The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-4-4 of the Zoning Code. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal EPC Recommendations to City Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's recommendation.

You will receive notification if any 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 Zoning Code must be complied with, even after approval of the referenced application(s).

Sincerely,

for David S. Campbell
Planning Director

DSC/CL

cc: Eric Kilmer, 1416 6th St. NW, ABQ, NM 87102
Sawmill Community Land Trust, Mona Angel, 990 18th St. NW, ABQ, NM 87104
Sawmill Community Land Trust, Annette Montoya, 990 18th St. NW, ABQ, NM 87104
Wells Park NA, Mike Prando, 611 Bellamah NW, ABQ, NM 87102
Wells Park NA, Doreen McKnight, 1426 7th St. NW, ABQ, NM 87102
Peter Armijo, 515 Constitution NW, ABQ, NM 87102
Victoria Wood, 7555 Prairie NE, ABQ, NM 87109

RECEIVED
JUL 0 2 2018
BY: J Delgado
9:35am

Eric Kilmer

1416 6th Street NW

Albuquerque, New Mexico 87102

July 02, 2018

Mr. Derek Bohannan,Chair
Environmental Planning Commission
City of Albuquerque
600 Second Street NW
Albuquerque New Mexico 87102

Mr. Bohannan,

The Property Owner Eric Kilmer is Requesting a Zone Map Amendment and Submitting a Site Plan,for the Property located at 1416 6th Street NW. Albuquerque,New Mexico 87102. The Submittal to the Environmental Planning Commission (EPC) is consistent with Enactment 270-1980 and the Comprehensive Plan of the City of Albuquerque,Sawmill/Wells Park Sector Development Plan.The Subject Property Conforms With the Above and is a Premissive Use.

The Request is **For SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking**.*an Appropriate Request ,Affirmed by the Most important component of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Land Uses and The Neighborhood/Community is AGREEABLE*. Per Submitted Report.

PROJECT INTRODUCTION

The Site is Located at 1416 6th Street NW, on the South East Corner of 6th Street and Constitution.

Lot 22,23,24 of Block 20 of Albright-Moore Addition

The Subject Site is located on 6th Street, a Busy One Way through the SawMill/Wells Park Community and one of the Gateways into Downtown.The Sawmill/Wells Park Sector Development Plan Recognizes that 6th Street is a one way going South ,along with 5th Street to the East ,a One Way Going North which are made up of a Mix of Commercial and Office Uses.The use(s) were Permitted to Remain if they were in Existance at the time of the Adoption of The Sawmill/Wells Park Sector Development Plan .The Subject Property is one of the Properties with an Existing and Premissive Non-Residental Use.

The Property is Historically a FlowerShop/Nursery ,the Use Established Approximately 1938.The Zoning Department had Placed The SU-1 Use, to the Property in 1969.

The Best Zoning Attachment for the Subject Property is SU-1 for Flower Shop & Nursery. Citing.The City of Albuquerque Planning Dept (EPC Z-69-81)

This Proposed Zone Map Amendment is Consistant with The Sawmill/Wells Park Sector Development Plan. and the Policys of The City of Albuquerque.

SITE CHARACTERISTICS

The Site is located Within a Pocket of Poverty, Defined as a Metropolitan Redevelopment Area (MRA) .

The Sawmill/Wells Park Neighborhood Is Recognized as A Metropolitan Redevelopment Area (MRA) , by the United States Department of Housing and Urban Development (HUD)."

A Geographic Area within the City of Albuquerque, that meets Federal Standards for Minimum Physical and Economic Distress Area.

The Subject Property is Adjacent to Properties with Uses Consistent with the Health ,Saftey,Morals and General Welfare of the City. The Subject Property's Use Is also Listed.

Land Use(s) in (SWPSDP) Prior to SU-2/S-R Adoption :

A) Office Uses

B) Day Care

C) Pre School

D) Staff Residence

E) Flower Shop/Plant Nursery

F) Bed and Break Fast

All of which Are Premissive and Conforming Use(s) Within The Sawmill/Wells Park Sector Development Plan of the Neighborhood.

The Subject's Property History and Current Use Support Justification For The Zone Map Amendment Requested for lots 22,23,and 24 Block 20 of the Albright & Moore Addition.For A List of Uses That Are Equal or More Restrictive As Outlined in the Permissive S-R Zone A.5. of The SawMill/WellsPark Sector Development Plan.

The Proposed Zone Map Amendment is To :

SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking.

The Current Use of the Subject Property,Allows the **Current Special SU-1 use of (EPC-69-81) .(see attached), to SU-2 / S-R For Flowershop and Plant Nursery** to Continue.Now and into the Future.

AS outlined in (SWPSDP) S-R Zone Premissive Uses A.5 (New nonresidental uses may occupy these Premises provided they are equally or more Restrictive than the immediately preceding use, they do not rquire more off-street parking and comply with the following conditions:

The Notes and Illustrations outlined in (SWPSDP) S-R Zone Premissive Uses A.5 Adjacent to A.5., is NOT governing Language (This Language is Not intented to be used as Governing Language , Therfore is Subjective, Vaugue and Ambiguous).

This fact is relevant to the Proposed Zone Map amendment.

This Amendment will Allow the Existing Use and Premises, Historically a Flower Shop And Plant Nursery a SU-1 Special Use ,Established in 1969 (EPC-69-81) a Premissive NON-INJURIOUS Use,To Continue,

This Proposal Promotes Revitalization,While Promoting Economic Development Strategies,Outlined in The Sawmill/Wells Park Sector Development Plan pages 33 and 34.

This Proposal Promotes Utilizing/Providing Access to Public Transportation , Bike Routes, Available to The Subject Property.As well as Performing Infill , to an Economicially Depressed Area .

There are multiple Transportation Options avaiable to serve this Site, one on 6th street Just South of Kinley Avenue and one on the corner of 5th Street and Constitution Avenue;Bus Routes 8,92,93,and 94 run along 6th street and 5th Street.There are also Existing bike lanes on 6th street and 5th street,and there is an existing bike route on Bellamah Avenue which is one Block North of the Subject Property.

This Proposal will Allow a Current Non-Residental Special Use(s) of the Subject

Property to Continue and Future Non-Residental Use(s) to Occupy the Same Premises as Permissive and Conforming Use(s) in the Neighborhood as intended in Sawmill/Wellspark Sector Development Plan under *S-R Zone Premissive Uses A.5 for Re- Use of Historically nonresidental Use Properties in the (SWPSDP)*

The Request Promotes Sawmill/Wellspark Sector Development Plan *S-R Zone Premissive Uses A.5.* States Future Non-Residental Use(s) may Exist And Be Permissive.at a Historically SU-1 Site within in the (SWPSDP) Stimulating and Revitalizating the Economics within the Neighborhood at Historically NonResidental Use Premises.

This is a Quasi-Legislatve Action: ie. (The Zone Map Amendment Request process)

By Definition:

The capacity in which a public administrative agency or body acts when it makes rules and regulations. When an administrative agency excercises its rule making authority it is said to act in a quasi legislative manner.

Therefore ,Preseidence is set with Similar Actions,such as (EPC 2008 1005001) Within the (SWPSDP) For Zone Map Amendments, Carry Significance, in Evaluating the Overall Request, for this Zone Map Amendment.For Properties with a use or Uses, That no longer Realize or Produce Economic Stimulus to Community from Historically Non Residental land Use Locations Within the (SWPSDP)

(Request to be Consistent with Neighboring Property)

The Sister Property Located to the South of Subject site and Sharing Same Property line Known as 1412 6th Street NW Albuquerque NM 87102. has been Granted a Zone Map Amendment (EPC 2008 1005001) From:**SU-2 /S-R for flowershop/Nursery** (it Should be noted this Property Carried the same Use As Subject Property) To : **SU-2 /SU-1 for Residental, and/or Law office ,Court Reporter ,Account, Architect,Engineer,or Doctors Office**.

(Request to be Consistent with Neighboring Property)

This Request Will make the Subject Property Use , Consistant with the Adjacent/Neighboring Property's Use or Use Category.and Fulfill the Full Vision of the (SWPSDP) Policies.

The Request for **SU-2/SU-1 For Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking.** *Is a NON-INJURIOUS and Appropriate Request ,Affirmed by the Neighbors and Community in The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,The Land Uses and The Neighborhood/Community is AGREEABLE.* Per Submitted Report.

A Senior Planner of the City Of Albuquerque Planning Dept Stated : "Since the Applicantion was made Prior to the IDO's Effective Date of May 17,2018 . The IDO can not be Used in This analysis "

and This Determination should Apply to All Parties Concerned

It has Become Unclear and Confusing , To Applicant ,as to the Continuing use of IDO

Reference's by the Planner ,When the Planner States "Since the Applicantion was made prior to the IDO's Effective Date of May 17,2018 . The IDO can not be Used in This analysis . The Planner Continues to Comingle the Policies and Justifications, Referencing the IDO to the Applicant In the Revised Justification Letter Reponses via E-mail's, to Strengthen and Clarify, Section A. through J of Resolution 270-1980. thus, communicating unclear Guidence to the applicant.

The Only Reference to the IDO, in this process has been made by the Community in The Fascilitated Neighborhood/Community Meetings,which Have Acknowledged,The Zone Map Amendment Request and Future Land Use Conversion to MX-T in (IDO) Upon EPC Approval. The Neighborhood/Community is AGREEABLE,to MX-T Land Use Conversion Per Submitted Report.

RESPONSE TO THE CITY OF ALBUQUERQUE RESOLUTION 270-1980 This Zone Change Request is in Compliance with Resolution 270-1980 as Follows:

(A). A Proposed zone change must be consistant with the health ,saftey,morals and general welfare of the City.

RESPONSE: The Proposed Zone Map Amendment is consistent with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque Because,the Requested uses have not been Proven to **be** *INJURIOUS to the (SWPSDP),and Community, Thus is an Appropriate Request ,Affirmed by the Most Important component of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Land Uses and The Neighborhood/Community is AGREEABLE*. Per Submitted Report.

The Propsed Request is For : **SU-2/SU-1 For Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking.** *Is a NON-INJURIOUS and Appropriate Request ,Affirmed by the Most important Compoent of this request , the Neighbors and (SWPSDP) Community , Per Submitted Report.*

The Proposed Special SU-1 Use(s) Currently Exist In The Sawmill/Wellspark Sector Development Plan Neighborhood

The Proposed Special SU-1 Use(s) requested for the Subject Property ,Have Proven to be Non- Injurious.

The Proposed Special SU-1 Use(s) Allow a Current Conforming/Premissive Historically a Non-Residental Special SU-1 Use Site, to Continue and Future like SU-1 Use(s) to Continue As Permissive and Conforming SU-1 Use(s) at the Same Existing Historical Non-Residental Special SU-1 Use, Premises within the (SWPSDP) Neighborhood.

The SU-1 Special Use,Subject Property is Requesting, **only a limited amount** of SU-1 Special Use(s).

The Requested Uses Come From Adjacent SU-1 Special Use Properties.

The Proposed Special SU-1 Use(s) Of this Request are *Appropriate (Noting : The Requsested Zoning Use(s) Have Proven to be Non Injurious and Have Passed the test*

of being Consistent with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.),and Affirmed by the Most important Component of this request , the Neighbors and (SWPSDP) Community , Per Submitted Report.

The Sawmill/Wellpark Sector Development Plan, S-R Zone For Premissive Use(s) Section A.5., page 99. of the (SWPSDP) Currently , Has Governing Language, Protecting the Property's Bundle of rights and legal Uses ***For Future Non-Residental Use(s) ,may Occupy these same Premises.*****The SawMill/WellsPark Sector Development Plan, Language Presrves the Health ,Saftey,Morals and General Welfare of the City of Albuquerque. by Sector Development plans**

AS outlined in (SWPSDP) S-R Zone Premissive Uses A.5 (New nonresidental uses may occupy these Premises provided they are equally or more Restrictive than the immediately preceding use, they do not rquire more off-street parking and comply with the following conditions: (***This is Rank 3 Legally Binding Governing Language)***

The Notes and Illustrations outlined in (SWPSDP) S-R Zone Premissive Uses A.5 Adjacent to A.5., is NOT Governing Language , But Guidence to find the List of Future Uses For each Category encopassed in the Adopted S-R Premissive Uses for SU-1 ,R-C,C-1 or C-2 Categories.(This Language is Not intented to be used as Governing Language , Therfore is Subjective, Vaugue and Ambiguous).

The Notes and Illustrations outlined in (SWPSDP) S-R Zone Premissive Uses A.5 Adjacent to A.5., State ,a future nonresidental use can be any one of the premissive ***Uses listed in the zoning Category*** *that applied to that property* ***Prior to the Establishment of the S-R Zone*** *provided it complies with the conditions* ***listed in A.5.***

The Health ,Saftey,Morals and General Welfare of the City of Albuquerque are Sector Plan Driven And are Preserved by ***The Rank 3 Governing Language*** *in The Sawmill/Wellspark Sector Plan, S-R Zone Premissive Uses A.5*

The Special SU-1 Use , Established by (EPC-69-81) to the Subject Property's list of uses, Have Not Been Carried Forward to Current Application of Use or Uses In the SWPSDP This Property Conforms With the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

Land Use(s) in (SWPSDP) Prior to SU-2/S-R Adoption :

A) Office Uses

B) Day Care

C) Pre School

D) Staff Residence

E) Flower Shop/Plant Nursery

F) Bed and Break Fast

All of which Are Special SU-1 Use(s),Premissive and Conforming Use(s) Within The Sawmill/Wells Park Sector Development Plan Neighborhood,

The Uses are **NOT** Injurious or in Conflict with the Health ,Saftey,Morals and General

Welfare of the City of Albuquerque.

The Special SU-1 Use of the Subject Property and *The Adjacent Special SU-1 Use Properties and Locations are Refered to on Page 80.*

The Sawmill/Wells Park Sector Development Plan is Creating a List of Uses Premissive in that Zoning Category Prior to the (SWPSDP) as called out in A.5. *The Notes and Illustrations outlined in (SWPSDP) S-R Zone Premissive Uses A.5 Adjacent to A.5..*

The Special SU-1 Use Subject Premises Continues to be a Special SU-1 Use , a Historically Non-Residental Use Location , now an SU-2 ,S-R Member of the Sawmill/Wellspark Neighborhood/Community ,

The Special SU-1 Use Subject site is Allowing the Historical use and activities of such a Use , A C-2 Use as Defined by a Senior Planner of the City of Albuquerque.The Use(s) Requested are Equally or More Restrictive Than the Previous Use.

The Special SU-1 Subject Premises is Known in the Sawmill/Wellspark Neighborhood as Gray's Flower Shop.a C-2 Use as Noted by a Senior Planner of the City of Albuquerque.in Emails to Applicant.

Therefore The Proposed Zone Map Amendment is Non- Injurious and consistent with the Health ,Saftey,Morals and General Welfare of the City Because, **The Special SU-1 Subject Premise and Special SU-1 Use(s), Requested Have Passed The Afforementioned Test ,of not being in Conflict with the Health , Saftey, Morals and General Welfare of the City of Albuquerque Becaquse** *The request has been Affirmed by the Most important component of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Land Uses and The Neighborhood/Community is AGREEABLE.* Per Submitted Report. Also Preseidence, is set with the (EPC 2008 1005001) Quasi-Legislatve Action requests for Similar Actions, Within the (SWPSDP) and Do Carry Significance,in Evaluating the Overall Request of this Zone Map Amendment (it Should be noted this Property Carried the same Use or Uses, Ownership and boundaries As Subject Property and granted Additional Uses)

(B).Stability of land use and zoning is desirable;therefore the applicant must provide a sound justification for the change. The Burden is on the applicant to show why the change should be made,not on the City to show why the should not be made.

RESPONSE:. The Stability of the land Use(s) and Zoning will be Preserved and Enhanced with the Zone Map Amendment to :

SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking. Because: *,Affirmed by the Most important component of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Land Uses and The Neighborhood/Community is AGREEABLE.* Per Submitted Report.

The SU-1 Special Use Subject Property, is Requesting,***Some of the Same SU-1***

Special Use(s) Of The Adjacent Special SU-1 Use Properties

The Special SU-1,Subject Site Requests a List of Use(s) through this Zone Map Amendment Request.

The SU-1 Special Use Subject Property Through this Quasi-Legislatve Action, Preseidence is set with of Similar Actions, Within the (SWPSDP) (EPC 2008 1005001)

This Quasi-Legislatve Action Request for Similar Actions, Within the (SWPSDP) ,Do Carry Significance,in Evaluating the Overall Request of this Zone Map Amendment while Showing Stability of the land Use(s) and Consistency.

*(Noting : The Requsested Zoning Use(s) Have passed the test of being Consistent and Non -Injurious to with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.)*Demostrating Stability and Longevity in the Special SU-1 Land Use Community within The Sawmill/Wellspark Neighborhood and the Varity of Stable Available Attachments for Special SU-1 Use(s) in the Sawmill/WellsPark Neighborhood.

The Special SU-1 Use Premise and the Special SU-1 Non-Residental Use/Uses Established Approximately 1969. (EPC-69-81)

The First Referenced Appearence of the subject Site is in The Adopted 1996 Sawmill/WellsPark Sector Development Plan 1959 Index. The Property's History is a Special SU-1 Use For FlowerShop/Plant Nursery,Established 1969 by (EPC-69-81) .The Use and Establishment Operated through the Adoption of The Sawmill/WellsPark Sector Development Plan.The Use has not been Poven or Documented by Public Records to have Discontinued its Use on Subject site and has Not Been Proven or Documented as A Residental use at Subject Site at any time Through its Historical Record. Only a Flowershop and Plant Nursery, a *C-2 Use as Noted by Senior Planner in Email 06/27/2018 to Applicant.There is a Current Business Registration For the Flowershop/Nursery and is reiterated as* a *C-2 Use, by Senior Planner in Email 06/27/2018 to Applicant . Confirming this uses stability ,Conformity and Longevity and Non-Injurious to community or the (SWPSDP).*

A Cerification letter From The City of Albuquerque Dated 2006, Confirmes the Allowable Use of Fowershop / Plant Nursery,(a *C-2 Use as Noted by Senior Planner in Email dated 06/27/2018 to Applicant).The* Cerification letter Granting a Like use, To Occuppy the Space and Future Non-Residental Use or Uses Equal to or More Restrictive may Occupy the Same Premises. Justifing and Demostrating Stability in Land Use By a Governing Body to allow the use and activites that surround the Use Exist and Continue.

This Action By the Planning Department (The Governing Body) Granting a Business Registration for Many Consecutive Years Has Allowed The Governing Language of **The Sawmill/Wellpark Sector Development Plan, S-R Zone For Premissive Use(s) Section A.5., page 99. of the (SWPSDP)** to Further Realize the Policies of The Sawmill/WellsPark Sector Development Plan and Ulitilize the Historicaly NON Residental Use Premises,Justifing and Demostrating Stability in Land Use. a Current Business Registration Exists in the Public Records, No Other Records EXIST to the Contrary.

**It should be noted a Senior Planner of the City of Albuquerque in Emails dated*

06/27/2018 to Applicant).States "the Staff finds Significient conflict with the Applicable Sector Plan "(SWPSDP),which was adopted in 1996". The Primary conflict lies with the regulations that the (SWPSDP) established for the S-R "Sawmill Residental" Zone , Particularly A.5."* This Statement Shows the Conflict is not with the request of the Applicant ,but with the Language in the Adopted 1996 SWPSDP S-R A.5. page 99 . If the Planning Dept has Conflict with the Language in the SWPSDP S-R A.5. page 99. **How Encumbent upon the Applicant is the task of interpertation placed. By a this Governing Body**

This EPC Application #1007648 Requests, The Addition of Some of the Special SU-1 Land Use/Uses , That Have Demostrated and Proven Stability in land Use by Longevity and have not Been Proven to be Injurious To The Community Within in the SawMill/WellsPark Neighborhood.

The List of Uses Have been reviewed by*The Most important component of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Uses and The Neighborhood/Community is AGREEABLE.* to Uses And Stability within (SWPSDP) Per Submitted Report.

The Request is for **Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking**.Be Added To The Special SU-1 Subject Sites list of Uses. Futher Promoting Consistency, Conformity, Along with Stability in the Community, at the Existing Historically a Special SU-1 Non Residental Use Subject Site Within the Community.

The request has been Affirmed by the Most important component of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Uses and The Neighborhood/Community is AGREEABLE. Per Submitted Report.

The Special SU-1 Use was Established by (EPC-69-81), the Use and Activites (a *C-2 Use,as Noted by a Senior Planner of the City of Albuquerque in Email 06/27/2018 to Applicant)*

The Subject Site's Stability is Shown in the Longevity,of Subject Site as a FlowerShop And Plant Nursery Conforming with the Health, Saftey, Morals and General Welfare of the City of Albuquerque, and it's Policy(s) Governing Public Saftey,and The Sawmill/Wells Park Community / Neighborhood Since Approximately 1938.

The Special SU-1 Use Subject Site Promotes the Policies of Business Retention and Expansion in The Sawmill/Wells Park Sector Development plan Encouraging and Creating a Stable Business Base From a Historically NonResidental Site Within the SWPSDP .

The Special SU-1 Use Subject Site is one such Special SU-1 Use Site / Location Called out for Stability and Longevity Page 80 and *The Sawmill/Wells Park Sector Development Plan, APPENDIX A)*

The Special SU-1 Use Subject Site is one of the only Few Special SU-1 Use/Uses Continuing into Present day Occupancy in the SWPSDP.

(Attached ,APPENDIX A of The Sawmill/Wells Park Sector Development Plan, Participation Questionnaire for Business Owners Dated November 18, 1991.Noting Property Number # 55)

THEREFORE :*The Request has been Affirmed by the Most important component of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Land Uses and Stability of Uses The Neighborhood/Community is AGREEABLE.* Per Submitted Report. **The Special SU-1 Use Subject Property Established Approximately 1938 Shows Stabilityof the land Use/Uses , The Zoning will be Preserved and Enhanced with the Zone Map Amendment and Provides a Solid Economic base to the Community, Promoting Economic Support .and Strength for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking. To the Lots 22,23,24 of Block 20 of Albright-Moore Addition.** The Action By the Planning Department (The Governing Body) Has Allowed The Governing Language of **The Sawmill/Wellpark Sector Development Plan, S-R Zone For Premissive Use(s) Section A.5., page 99. of the (SWPSDP)** to Further Realize the Policies of The Sawmill/WellsPark Sector Development Plan and Ulitilize the Historicaly NON Residental Use Premises,Justifing and Demostrating Stability in Land Use By a Governing Body

(C). A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City Master plans and amendments thereto including privately developed area plans which have been adopted by the City.

It should be noted a Senior Planner of the City of Albuquerque in Emails dated 06/27/2018 to Applicant).States "*Staff finds Significient conflict with the Applicable Sector Plan "(SWPSDP),which was adopted in 1996". The Primary conflict lies with the regulations that the (SWPSDP) established for the S-R "Sawmill Residental" Zone , Particularly A.5."* This Statement Shows the Conflict is not with the request of the Applicant ,but with the Language in the Adopted 1996 SWPSDP S-R A.5. page 99 . If the planning Dept has Conflict with the Language in the SWPSDP S-R A.5. page 99. **How Encumbent upon the Applicant is the task of interpertation placed.

RESPONSE:. *THE PROPOSED ZONE MAP AMENDMENT IS NOT* in Significant conflict with Adopted Elements of the Comprehensive Plan or other City Master Plans and Amendments, Including Privately Developed area plans which have been Adopted by the City.Because :

This Request Completely Furthers all the Comprehensive Plan and the SWPSDP as it has throughtout the Decades of Land Use As A C-2 Location Asking for Equally or More Restrictive Uses By This Request .

The Applicant is Requesting For Less Intense List of Uses.

The Property is in an Area of Consistency.

The Requested Uses Currently Exist in the Community Therefore THE *PROPOSED ZONE MAP AMENDMENT IS* NOT in Significant conflict with Adopted Elements of the Comprehensive Plan or other City Master Plans and Amendments, Including Privately Developed area plans which have been Adopted by the City.

The Requested Special SU-1 Uses Are Equal or More Restrictive To the Existing Uses(a *C-2 Use,as Noted by Senior Planner in Email 06/27/2018 to Applicant)* **To The Subject Site are: Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking.**

The Proposed Special SU-1 Zoning Use(s), Currently Exist WithIn The Sawmill/Wellspark Sector Development Plan Neighborhood ,The Proposed Special SU-1 Zoning Use(s) to be be Attached to the Subject Property ,will Allow a Current Conforming/Premissive, Non-Residental Special SU-1 Use Premises, to Continue and Future like SU-1 Use(s) to Continue As Permissive and Conforming SU-1 Use(s) ,at the Existing Non-Residental Special SU-1 Use Premise of the Request Within the Neighborhood.Promoting Consistency Within the Neighborhood.

The SU-1 Special Use,Subject Property is Requesting,Some of the Same SU-1 Special Use Attachmement(s) Of The Adjacent SU-1 Special Use Properties,Be Added To The Special SU-1 Use List of Attachments ,for The Special SU-1 Use Property Of this Request. *(Noting : The Requsested Zoning Use(s) Attachments* ***Have passed the test*** *of being Consistent and Non -Injurious with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.)*

The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Requested Uses And Activities and The Neighborhood/Community is AGREEABLE. per report.

The Special SU-1 Use Subject Property Futher Promotes and Complies with The Sawmill/Wells Park Sector Development Plan By:

Promotes :General SU-2 Regulations 4.a. Non Residental Building Design Page 88..

Promotes :The Implementation of the Economic Development Action Plan on pages 33 and 34.

Promotes: the Revitalization and Strengthening the Areas Land-Use Mix.

Promotes and Futhers the Economic Stimulus requirement of the Neighborhood,While being a Good Neighbor.

Promotes : Economic Retention and Expansion.of Existing Special SU-1 Use Sites within Neighborhood.

Promotes : and Futhers Policys of the Sawmill/Wells Park Neighborhood by

Encouraging and Creating a stable Economic Base Complying with The Sawmill/Wells Park Sector Development Plan.

This Special SU-1 Use Subject Site, is an Existing Non-Residental Use Within The Sawmill/Wells Park Neighborhood.

The Special SU-1 Use Subject Site is in a Metropolitian ReDevelopment Area (MRA) Within the City of Albuquerque,

The Requested Uses Currently Exist in Community Therefore THE PROPOSAL IS NOT in Significant conflict with Adopted Elements of the Comprehensive Plan or other City Master Plans and Amendments, Including Privately Developed area plans which have been Adopted by the City.

THE *PROPOSED ZONE MAP AMENDMENT* IS NOT in Significant conflict with Adopted Elements of the Comprehensive Plan or other City Master Plans and Amendments, Including Privately Developed area plans which have been Adopted by the City.

THE REQUESTED ZONE MAP AMENDMENT PROMOTES AND FUTHERS MULTIPLE POLICIES AND ACTIONS OF THE CITY OF ALBUQUERQUE

The Proposal Further **Promotes** POLICY 2.3.3 EMPLOYMENT Recent Economic Development efforts have emphasized entrepreneurship and technology transfer to diversify and strengthen our local economy .

REVITALIZATION/ECONOMIC DEVELOPMENT

The Proposal Further **Promotes** POLICY 2.3.5 CHANGING PREFERENCES Changing demographics pose both a challenge and opportunity for our region as preferences shift about the kinds of places we live and the transportation options we choose. In general, preferences are shifting toward places that give people options to walk, bike, or take public transportation.

IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT

The Proposal Further **Promotes** 2.4 Accommodating Future Growth
POLICY 2.4.1 CONSTRAINTS TO FUTURE GROWTH
Where growth will occur in the county and the city will be determined by a number of factors. Significant changes will be needed to direct growth within the developed metropolitan footprint, preserve undeveloped areas and rural character, and ensure sustainable growth over time.

IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT

The Proposal Further **Promotes** POLICY 2.4.2 GROWING INWARD
policy that encourage infill development in appropriate places and sustainable growth patterns over time.

IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT

The Proposal Further **Promotes** POLICY 2.4.6 FOCUSING GROWTH IN CENTERS & CORRIDORS Existing and designated Centers and Corridors are intended to accommodate much of the anticipated future growth in the city and county. Instead of low-density, singleuse growth at our edges, new development and redevelopment will be encouraged in existing Centers connected by a strong transportation network that accommodates cars and trucks, transit, cyclists, and pedestrians. Any potential for growth at the edges of the existing metro area should be master-planned as mixed-use, walkable Centers and Employment Centers, connected by Corridors that provide transportation options, mobility, and access for pedestrians, cyclists, transit users, and drivers.

IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT/ TRANSIT

The Proposal Further **Promotes** 3.1 A Shared Place The Albuquerque area is growing; the area population is projected to grow by almost 50 percent by 2040. Growth presents many choices that can lead down different paths to different futures. Having a common vision helps guide and inform City and County decision-making over time so that we move in the right direction to reach the future we want.

Our community will have the highest quality of life and the greatest range of diverse, vibrant places if we grow as a community of strong Centers connected by Corridors that provide excellent mobility for pedestrians, cyclists, and transit users, balanced with efficient access throughout our community by automobile

IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT/ TRANSIT

The Proposal Further **Promotes** 3.3 Centers & Corridors 3.3.1 CENTERS : Centers are areas of relatively intense development with a variety of land uses that allow for many different activities. There are five Center types in the Comp Plan, each describing a varying level of intensity and market area. Most Centers have, or will strive for, a high degree of walkability, and are intended to be well served by transit and connected by trails and bike lanes. Other Centers focus on providing job centers where they are needed throughout the region.

Downtown Albuquerque's Downtown serves as a regional hub for high-intensity, concentrated employment and commercial activity supported by high-density housing. Downtown serves as the focal point and unifying identity of the Albuquerque area.

IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT/ TRANSIT

The Proposal Further **Promotes** POLICY 4.1.2.2 GUIDING FUTURE GROWTH
Metropolitan Redevelopment Areas where new development and redevelopment are desired. They include vacant land and commercial or industrial areas that would benefit from infill or revitalization. Area & Sector Development Plans

In the City, Sector Development Plans (SDPs) have been an important way to address planning issues within individual neighborhoods and corridors for the past 40 years.

REVITALIZATION//ECONOMIC DEVELOPMENT

The Proposal Further **Promotes** POLICY 4.2.1

b) Use County Area or Sector Development Plans to further and guide development. [BC] **PROMOTES SECTOR PLAN**

The Proposal Further **Promotes** POLICY 5.1.
c) Encourage employment density, compact development, redevelopment, and infill in Centers and Corridors as the most appropriate areas to accommodate growth over time and discourage the need for development at the urban edge.
h) Encourage all new development, especially in designated Centers and Corridors, to address transit connections, linkages, and opportunities within the proposed development.

ECONOMIC DEVELOPMENT IN-Fill / REVITALIZATION

The Proposal Further **Promotes** POLICY 5.1.4 Urban Centers:
a) Encourage mixed-use development.

REVITALIZATION /ECONOMIC DEVELOPMENT

The Proposal Further **Promotes** POLICY 5.1.1.9
Update zoning codes to allow the highest-density development in Downtown and Urban Centers. [A] **REVITALIZATION/ECONOMIC DEVELOPMENT**

The Proposal Further **Promotes** POLICY 5.1.9 Main Streets: Promote Main Streets that are lively, highly walkable streets lined with neighborhood oriented businesses. [ABC].
a) Prioritize street and walkway improvements, such as street trees, landscaping, lighting, wayfinding, and wide sidewalks, to create safe and comfortable pedestrian environments
TRANSIT

The Proposal Further **Promotes** POLICY 5.1.2.5 CITY OF ALBUQUERQUE DEVELOPMENT AREAS Directing growth to Areas of Change is intended to help preserve and protect established neighborhoods in Areas of Consistency. Areas of Change and Consistency are designed to be complementary to protect the scale and character of distinctive neighborhoods while accommodating new residents and jobs in areas already well served by infrastructure and transit. **PROMOTES SECTOR PLANS / IN-FILL /REVITALIZATION /ECONOMIC DEVELOPMENT**

Designated Centers and Corridors, along with Metropolitan Redevelopment Areas and Master Planned Areas, have been mapped as Areas of Change. Areas of Change policies allow for a mix of uses and development of higher density and intensity in areas where growth is desired and can be supported by multi-modal transportation.**By Restoring Economic Job Opportunities and Balance and further Promote the Sawmill/Wells Park Sector Development Plan**. **PROMOTES SECTOR DEVELOPMENT PLAN**

The Proposal Further Promotes POLICY 5.2.1 Land Uses: Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods. [ABC] **PROMOTES SECTOR PLAN / REVITALIZATION /ECONOMIC DEVELOPMENT, CONFORMING/PREMISSIVE *and* NOT IN CONFLICT with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.**

e) Create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods. [ABC] **REVITALIZATION /ECONOMIC DEVELOPMENT / PROMOTES SECTOR PLAN** CONFORMING/PREMISSIVE *and* NOT IN CONFLICT with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

The Proposal **Promotes** Policy 5.4.1.2 Develop adjustments to land use policies, regulations, and incentives to improve the jobs-housing balance. [ABC] Because Restoring Economic Job Opportunities and Balance will futher promote the Sector And the Comprehensive Plans
IN-FILL /REVITALIZATION /ECONOMIC DEVELOPMENT

The Proposal **Promotes** POLICY 6.1.3 Auto Demand: Reduce the need for automobile travel by increasing mixed-use development, infill development within Centers, and travel demand management (TDM) programs [ABC]

PROMOTES CITY TRANSIT

The Subject Property **Furthers and Promotes** and Complies with The Sawmill/Wells Park Sector Development Plan General SU-2 Regulations 4.a. Non Residental Building Design Page 88.

PROMOTES SECTOR PLAN

Therefore THE *PROPOSED ZONE MAP AMENDMENT* IS NOT in Significant conflict with Adopted Elements of the Comprehensive Plan or other City Master Plans and Amendments, Including Privately Developed area plans which have been Adopted by the City. (*The Subject Property ,and Request is a* CONFORMING/PREMISSIVE USE *and* NOT INJURIOUS Or In CONFLICT with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque). The Requested Uses Have Passed The Injurious to Community Test , The Special SU-1 Uses Requested, Already Exist Within The SawMill/WellsPark Neighborhood.

The request has been Affirmed by the Most important compoent of this request, the Neighbors and the swpsdp Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The land Uses and Activities and The Neighborhood/Community is AGREEABLE. per report.

(D). The applicant must Demonstrate that the existing zoning is inappropriate because;

1. there was an error when existing zone map pattern was created,or

2. Changed neighborhood or community conditions justify the Change,or

3. A different use category is more advantageous to the Community, as articulated in the Comprehensive Plan or other City Master Plan,even though (1) or (2) above may or may not apply.

**It should be noted The Senior Planner in Email dated 06/27/2018 to Applicant).States* "Staff finds Significient conflict with the Applicable Sector Plan "(SWPSDP),which was adopted in 1996". The Primary conflict lies with the regulations that the (SWPSDP) established for the S-R "Sawmill Residental" Zone , Particularly A.5."* This Statement Shows the Conflict is not with the request of the Applicant ,but with the Language in the Adopted 1996 SWPSDP S-R A.5. page 99 . If the planning Dept has Conflict with the Language in the SWPSDP S-R A.5. page 99 How encumbent upon the applicant is the task of interpertation placed.

RESPONSE: The Existing Zoning is Inappropriate; A different Use Category is more

Avantageous to the Community, as Articulated in The City Comprehensive Master Plan and the SawMill/WellsPark Sector Development Plan. Because :

The Requested Special SU-1 Use /Uses Exist In the Community Already, as Listed in Category (A) Above.

The Requested Special SU-1 Uses Are : Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking. the Request is Equally or More Restrictive to the Existing use. The Subject Site is "a *C-2 Use as Noted by Senior Planner in Email 06/27/2018 to Applicant."*

The Proposed Special SU-1 Zoning Use/Uses, Currently Exist In The Sawmill/Wellspark Sector Development Plan Neighborhood ,The Proposed Special SU-1 Zoning Use/Uses to be Attached to the Subject Property ,will Allow a Current Conforming/Premissive Non-Residental Special SU-1 Use Site, to Continue and Future like SU-1 Use(s) to Continue As Permissive and Conforming SU-1 Uses, While Occupying a Permissive , Existing Non-Residental Special SU-1 Use Premise in the Neighborhood.

The Special SU-1 Use Subject Property, is Requesting,The Same SU-1 Special Use(s) Attachmements Available to The Adjacent SU-1 Special Use Properties,Be Added to The Special SU-1 Use List of Attachments ,for the Special SU-1 Use Subject Property Of this Request.

(Noting : The Requsested Zoning Uses and Attachments Exist and Have passed the test of being NON-INJURIOUS and Consistent with the Health, Saftey, Morals and General Welfare of the City of Albuquerque.)

Consistency While Conforming to the Changes Within the Neighborhood,a Request for Zone Map Amendment, Allows the Special SU-1 Use Site to be Consistent to Adjacent Neighboring Property Zoning and Use(s). The Requested Use/Uses Allows the Existing SU-1 Use Subject Property To Continue as a Permissive and Conforming SU-1 Use and Future Non-Residental Use/Uses can occupy This Same Premise.

Listed are the Existing Non-Injurious Special SU-1 Uses, in The Community . *(Some of the Requested Non--Injurious SU-1 Special Uses , For the Subject Site).*

A) Office Uses

B) Day Care

C) Law Office

D) Court Reporter

E) Accountant

F) Professional Offices

G) Engineer

H) Doctors Office

I) Pre School

J) Staff Residence

K) Flower Shop/Plant Nursery

L) Bed and BreakFast

Changes in Community Conditions,Such as Consistancy and Conformity of Zoning , Facilitated This Request for a Zone Map Amendment , Along with the History and Current Use/Uses, Attachments to The Special SU-1 Subject Property.

The Current,and Future Land Use/Uses of the Existing Special SU-1 Subject Property , a Non-Residental Site, WithIn The Sawmill/Wells Park. Promotes IN-Fill Requirement , to Use Existing Non- Residental Properties within The Sawmill/Wells Park Sector Development Plan For the Future Economic Base(s) and Stability within the Community.

The Proposed Zone Map Amendment Futhers and Promotes Consistency, within the Neighborhood and Community by Conforming with Neighboring Properties Land Use Categories.

The Land Use Categories Proposed are : **SU-2/SU-1 For Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking.. the Request is Equally or More Restrictive to the Existing use.**The Subject Site is "a *C-2 Use as Noted by Senior Planner in Email 06/27/2018 to Applicant."*

The SU-1 Special Use,Subject Property is Requesting,Some of the Same SU-1 Special Use/Uses, of The Adjacent SU-1 Special Use Properties,Be Added To It's Special SU-1 Use List of Uses.

(Noting : The Requsested Zoning Land Use/Uses, Have passed the test of being NON-INJURIOUS and Consistent with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque and The Sawmill/Wells Park Sector Development Plan.)

The Proposal Promotes Economic Stimulus and Development Furthering and Fostering Revitalization and Rehabilitation in a Metropolitan Redevelopment Area (MRA) .

The Proposal Promotes Multiple Policies of Both The Sawmill/Wells Park Sector Development Plan while conforming to the Comprehensive Plan City of Albuquerque

THEREFORE : The Existing Zoning is Inappropriate;A different Use Category is more Avantageous to the Community, as articulated in The City Comprehensive Master Plan and the SawMill/WellsPark Sector Development Plan. Because :

The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Land Uses and Activites The Neighborhood/Community is AGREEABLE. per report.

The Proposed Special SU-1 Land Use/Uses, Currently Exist In The Sawmill/Wellspark Sector Development Plan Neighborhood ,The Proposed Special SU-1 Land Use/Uses to be Attached to the Special SU-1 Use Subject Property ,will Allow a Current Conforming and Premissive Non-Residental Special SU-1 Land Use Site, to Continue and Future

like SU-1 Land Use/Uses to Exist As Permissive and Conforming , Occupying a Permissive Non-Residental Special SU-1 Land Use Premises, Existing Within the Neighborhood.

The Special SU-1 Land Use Subject Property, is Requesting,The Same SU-1 Special SU-1 Land Use/Uses, Attachmements. Of The Adjacent SU-1 Special Land Use Properties,Be Added to The Special SU-1 Land Use/Uses List of Attachments ,for the Property Of this Request .

The Land Use Categories Proposed are : **SU-2/SU-1 For Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking.The Request is Equally or More Restrictive to the Existing use.**The Subject Site is "a *C-2 Use as Noted by Senior Planner in Email 06/27/2018 to Applicant."*

(Noting : The Requsested Zoning Use(s)/Exist and Have passed the test of being NON-INJURIOUS and Consistent with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.)

(E). A change of Zone shall not be approved where some premissive uses in the Zone would be harmful to adjacent Property, the neighborhood or community.

The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Uses and The Neighborhood/Community is AGREEABLE. per report.

RESPONSE: The Proposed Zone Amendment would not be INJURIOUS to Adjacent Properties, the Neighborhood , or the Comminuty **Because :**

The Requested Uses Already Exist Within Neighborhood. The Use Attachments Requested Below ,Already Exist in The Community and have **Passed the Harmful Test**, and are not INJURIOUS or in Conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

The Request for ,**SU-2/SU-1 For Flower Shop/Plant Nursery and Professional Office Uses,Day Care,Law Office,Court Reporter,Accountant,Pre School,Staff Residence,Bed and BreakFast,Beauty/Barber Shop,Resturant,Cafe,Parking**. Encompass Use(s) that Already Exist in the Community and are Consistant and Conforming Zoning Use Attachments Given to Neighboring and Adjacent Properties.

*(Noting : The Requsested Zoning Use(s) Have passed the test of being Consistent and Non -Injurious to with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.)*Demostrating Stability and Longevity in the Special SU-1 Land Use Community within The Sawmill/Wellspark Neighborhood and the Varity of Stable Available Attachments for Special SU-1 Use(s) in the Sawmill/WellsPark Neighborhood.

The Use Attachments Requested Below ,Already Exist in The Community and are not In

Conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

1) **Flower Shop/Plant Nursery**
(Existing Premissive/Conforming Use Within Neighborhood)*The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

2) **Professional Office Uses**
(Existing Premissive/Conforming Use Within Neighborhood **)** *The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

3) **Day Care**
(Existing Premissive/Conforming Use Within Neighborhood)*The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

4) **Law Office**
(Existing Premissive/Conforming Use Within Neighborhood)*The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

5) **Court Reporter**
(Existing Premissive/Conforming Use Within Neighborhood)*The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

6) **Accountant**
(Existing Premissive/Conforming Use Within Neighborhood)*The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

7) **Pre School**
(Existing Premissive/Conforming Use Within Neighborhood)*The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

8) **Staff Residence**
(Existing Premissive/Conforming Use Within Neighborhood)*The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

9) **Bed and BreakFast**
(Existing Premissive/Conforming Use Within Neighborhood)*The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

10) **Beauty/Barber Shop**
(Low Intense Use Within Neighborhood , Brings Community Together)*The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

11) **Resturant,Cafe**
(Low Intense Use Within Neighborhood , Brings Community Together)*The*

request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community

12) **Parking**

(Low Intense Use Within Neighborhood , to Accommodate Uses 1 to 11 of this Request). *The request has been Affirmed by the Most important compoent of this request, the Neighbors and the Community*

The Subject Property/Premises is Adjacent to Properties With Similar Uses ,We are Requesting to be a Conforming and Consistent Use.

The Requested Zone Map Amendment Conforms to Adjacent and Neighboring Uses.

All Uses Are Premissive and Conforming Use(s) Within The Sawmill/Wells Park Sector Development Plan .Currently under The Special Use SU-1 Category of page 80. The Same Category as the Subject Property.

The Requested : **SU-2 SU-1 For Flower Shop/Plant Nursery and Professional Office Uses,Day Care,Law Office,Court Reporter,Accountant,Pre School,Staff Residence,Bed and BreakFast,Beauty/Barber Shop,Resturant,Cafe,Parking,** are

Equal or More Restrictive Use(s).

Equal or More Restrictive Use(s) Than the current Use of SU-1 For (FlowerShop and Plant Nursery a Premissive Use of C-2 currently to the subject Site**.).. the Request is Equally or More Restrictive to the Existing use.**The Subject Site is "a *C-2 Use as Noted by Senior Planner in Email 06/27/2018 to Applicant."*

A Current Business Registration Is in Place For the Flowershop/Nursery "a *C-2 Use as Noted by Senior Planner in Email 06/27/2018 to Applicant."*

The Subject Property Is not in Conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque ,or the Sawmill/Wellspark Neighborhood.

**** The new non-residentail uses must meet the requirements of the Sawmill/Wells Park Sector Development Plan. S-R Zone A.5. The requirements Exist to assure that a new Non-Residential Use(s) will not be injurious, or in conflict with the Neighborhood.The Sawmill/Wells Park Sector Development Plan Page 99 S-R Section A.5. Have Governing Language Ensuring a Permissive Use, Not Harm or injure any of the Surrounding Community or Neighborhood.***

The Subject Property Is Currently a Premissive and Conforming Use.

The Sawmill/Wells Park Sector Plan Currently Allows The Following Special SU-1 Use(s) Within the Neighborhood.and We have Choosen Uses Friendly,non-injurious , and known within in the SWPSDP

A) Office Uses

B) Non-Residential use(s)

C) Day Care

D) Law Office

E) Court Reporter

F) Accountant

G) Professional Offices

H) Engineer

I) Doctors Office

J) Pre School

K) Staff Residence

L) Flower Shop/Plant Nursery

M) Bed and BreakFast

The Allowed Premissive Uses are called out in The Sawmill/Wells Park Sector Development Plan,all Uses Comply and Adhere to the Governing Language of Page 99. of Sawmill/Wells Park Sector Development Plan and are NOT IN CONFLICT with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

The Proposal Promotes Revitailization,and an Economic Stimulus Base, in A Designated Metropolitan Redevelopment Area. (MRA)

THERFORE : The Proposed Zone Amendment would not be Harmful to Adjacent Properties, the Neighborhood , or the Comminuty **Because :**

The Requested Uses Already Exist Within Neighborhood. The Use Attachments Requested Below ,Already Exist in The Community and have Passed the Harmful Test, and are not In Conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

The Request for ,**SU-2/SU-1 For Flower Shop/Plant Nursery and Professional Office Uses,Day Care,Law Office,Court Reporter,Accountant,Pre School,Staff Residence,Bed and BreakFast,Beauty/Barber Shop,Resturant,Cafe,Parking**. Encompass Use(s) that Already Exist in the Community and are Consistant and Conforming Zoning Use Attachments Given to Neighboring and Adjacent Properties

The Uses are Equal or More Restrictive Use(s) Than the current Use of SU-1 (EPC-69-81) For (FlowerShop and Plant Nursery a Premissive Use and Activities of C-2 currently at the subject Site.)**.. the Requested Uses are Equally or More Restrictive to the Existing use.**The Subject Site is "a *C-2 Use as Noted by Senior Planner in Email 06/27/2018 to Applicant."*

The request has been Affirmed by the Most important component of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings, Have Acknowledged,Affirmed The Uses and The Neighborhood/Community is AGREEABLE. per report.

(F). A Proposed zone change which, to be utilized through land development,requires major and unprogrammed capital expenditures by the City may be ;

1. Denied due to lack of capital funds,or

RESPONSE: N/A The Proposed Zone Change **WILL NOT** Require Major and Unprogrammed Capital by the City .This is an infill Property with Adequate infrastructure ,including,Public Transit,Roadways,Water,Sewer,Already Exist. And Will Futher and Promote the Adopted Sawmill/Wells Park Sector Development Plan

(NO CITY FUNDS REQUIRED OR APPLIED FOR)

2. Granted with the implicit understanding that the City is not bound to provide the capital improvements on any special schedule:

RESPONSE: N/A (NO CITY FUNDS REQUIRED OR APPLIED FOR)

(G). The Cost of the land and other economic considerations pertaining to the applicant shall not be the determining factor for a change of Zone.

RESPONSE: The Cost of the land and other Economic Considerations Pertaining to the Applicant **are not** a Determining factor for a change of Zone.**BECAUSE :** Other Than Consistencey with the Neighborhood .The Cost of the Land, other Economic Considerations of Appliciant are **NOT** Relevant or Deciding factors for a Zone Map Amendment Request.

The Subject Property is an Existing Special SU-1 ,(EPC-69-81) Non-Residental Land Use, Premissive Within the Neighborhood, Requesting Consistency to Adjacent and Neighboring Land Use/Uses, by Applying , Existing Special SU-1 Land Uses Within SawMill/WellsPark Sector Development Plan,to the Subject Properties Special SU-1 Land Use/Uses List of Land Uses

The Property is in a Designated Metropolitian Re-Development Area (MRA) Within the City of Albuquerque Requring Revitalization,and Economic Stimulus,The Existing Subject SU-1 Premises and Structure are within the Sawmill/Wells Park Sector Development Plan in need of Economic Stimulus. The Subject Special SU-1 Land Use,Property will continue to Provide Stimulus and Economic Growth to the Community upon EPC Approval.

Therefore The Cost of the land and other Economic Considerations Pertaining to the Applicant **are not** a Determining factor for a change of Zone.**BECAUSE :** Other Than Consistencey with the Neighborhood .The Cost of the Land, other Economic Considerations of Appliciant are **NOT** Relevant or Deciding factors for a Zone Map Amendment Request.

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

RESPONSE: The Location of the Site is Important to the Request, The Applicant has Justified the Request in Section C by Showing that the Proposed Zone Map Amendment

Furthers Policies and Applicable Goals of The Comprehensive Plan and the Sawmill/Wells Park Sector Development Plan **BECAUSE** The Subject Properties Location is on a Collector Street, This Request Does not Rely Upon that as a Deciding Factor.The Special SU-1 Site Promotes Use Of Public Transportation and Community Travel by Bus ,Bike and Walking .

There are multiple Transportation Options Avaiable to Serve this Site, one on 6th street Just South of Kinley Avenue and one on the corner of 5th Street and Constitution Avenue;Bus routes 8,93,and 94 run along 6th Street and 5th Street.There are also Existing Bike lanes on 6th street and 5th street,and there is an existing Bike Route on Bellamah Avenue which is one Block North of the Subject Property.

Transportation Department commmented : **"No Objection To the Request".**

"Not on a Corridor. Fixed Route 8 runs the Length of Menaul from Tramway to 6th Street, then South to Downtown on 6th Street.North-Bound Trips are on 5th Street.Commuter Route 93 runs the length of Academy from Tramway to I-25, Thence South into Downtown.North-Bound trips are on 5th Street Commuter Route 94 Connects The Northwest Transit Center to Downtown by way of Unser and I-40. Nearest stop "pair" for route 8 and Route 93 is split into two stops.The South-bound stop is one block south of the site at Kinley Avenue. The North-bound stop is immediately east of the site at 5th and Constitution. The nearest "pair" for Route 94 are on Aspen,Similarly split between 5th Street and 5th Street and 6th Street. No Comment "

This Proposal Futhers and Promotes the Using of ,Making Access To, Public Transportation (Bus ,Bike, Walking Routes Within one Block of Site) at an Existing Non-Residental Location Within The Sawmill/Wells Park Neighborhood, while Complying with The Adopted Sawmill/Wells Park Sector Development Plan .

Therefore The Location on a Collector or Major Street is not in itself Sufficient Justification **BECAUSE** The Subject Property is on a Collector Street , This Request Does not Rely Upon that as a Deciding Factor.The Property Promotes Use Of Public Transportation and Community Travel by Bus ,Bike and Walking .*The Subject Property* ***is*** *a Conforming/Premissive Use(s) ,not in conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.*The Proposed Zone Map Amendment **WILL NOT** Require Major and Unprogrammed Capital by the City .This is an infill Property with Adequate infrastructure , including, Public Transit, Roadways, Water, Sewer, Already Exist.

(I) A Zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "Spot Zone". Such a change of zone may be approved only when ;

1. The change will clearly facilitate realization of the comprehensive Plan and any adopted sector development plan or area development plan,or

2.The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography ,traffic, or special adverse land uses nearby;or because the nature of structures already on the premises make the site suitable for the uses allowed in any adjacent zone. N/A

RESPONSE:(1) The SU-1 Zone is Considered a Spot Zone , But a Justified Spot Zone,Because It Clearly Facilitates the Realization of the Comprehensive Plan And The SawMill/WellsPark Sector Development Plan as Follows :

The Request is Consistent with the Comprehensive Plan Reguarding Land Use Because it will fit the Surrounding Special SU-1 Land Uses in the Area.

The Request is Consistent with the Comprehensive Plan Reguarding Air Quality Because it will Reduce Auto Emmissions by Providing Existing Access to Bus , Bike, and Walking Routes Available to Subject Site.

The Request is Consistent with the Comprehensive Plan Reguarding Developed Landscape Because the Site will Contain Landscaping that will Improve the Visual Quality of the Streetscape and Conform with Adjoining Properties.

This Request Would Promote Consistancy with Neighboring and Adjacent Properties Land Uses .Allowing the Special SU-1 Land Use of Subject Site to Conform

The Request is Consistent with the Comprehensive Plan Reguarding CIty Capital Funds NO Major and Unprogrammed Capital by the City is Required .This is an infill Property with Adequate infrastructure ,including,Public Transit,Roadways,Water,Sewer,Already Exist.

The Zone Map Amendment Request from **SU-2 S-R For FlowerShop/Plant Nursery** TO: **SU-2/SU-1 For Flower Shop/Plant Nursery and Professional Office Uses,Day Care,Law Office,Court Reporter,Accountant,Pre School,Staff Residence,Bed and BreakFast,Beauty/Barber Shop,Resturant/Cafe,Parking. is not in Significant Conflict with the Adopted Elements of the Comprehensive Plan or The SawMill/WellsPark Sector Development Plan**

The Requested Uses Are Equal or More Restrictive Use(s) Than the current Use of SU-1 For (FlowerShop and Plant Nursery a Premissive Use of C-2 currently to the subject Site.)**.. the Requested Uses are Equally or More Restrictive to the Existing use.**The Subject Site is "a *C-2 Use as Noted by Senior Planner in Email 06/27/2018 to Applicant."*

The Requested SU-1 Land Uses Already Exist Within Neighborhood. The Land Use Attachments Requested Below ,Already Exist in The Community and **have Passed the NON - INJURIOUS Test**, and are not In Conflict with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

The Fascilitated Neighborhood/Community Meetings Have Acknowledged The Zone Map Amendment Request and Future Conversion to MX-T in (IDO) Upon EPC Approval, is AGREEABLE to Neighborhood/Community Per Report.

Therefore,The Requested Zone Map Amendment will Clearly facilitate Realization of The Comprehensive Plan and The SawMill/WellsPark Sector Development Plan or Any future Comprehensive Plan or Overlay area, Because The Zone Map Amendment Request for **SU-2/SU-1 For Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking. AND The Requested SU-1 Land Uses Already Exist Within Neighborhood.**The Land Use Attachments Requested,**have Passed the NON-Injurious Test**, and are not In Conflict with the Health ,Saftey,Morals and General

Welfare of the City of Albuquerque.

Please See Section C of this Proposal for Specific Policies , Outlining the Compatibility with the Comprehensive and Sawmill/WellsPark Sector Development Plans and the Surrounding Special SU-1 Land Use Zoning

(J) A zone change request which would give a zone different from surrounding zoning to a strip of land along a street is generally called "Strip Zoning" Strip Commercial Zoning will be approved only where;

1. The change will clearly facilitate realization of the comprehensive Plan and any adopted sector development plan or area development plan ,and

2.The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic, or special adverse land uses nearby. N/A

RESPONSE: (1) The Change will clearly facilitate Realization of the Comprehensive Plan and The Sawmill/Wells Park Sector Development Plan Because

The Zoning and Planning Dept Require a Site Development Plan,which Ensures that Development on the Site will be Consistent with the Surrounding Neighborhood,

The Proposed Land Uses Already Exist Within Neighborhood/ Sector Development Plan and The Uses Have passed the test of being NON-INJURIOUS and Consistent with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.) **And Are Equal or More Restrictive Use(s)**.as Required in the Sawmill/Wells Park Sector Development Plan

The Subject Property is on a Corner and Comprises of only .3 Acres.

Therefore The Requested Zone Map Amendement , will clearly facilitate Realization of the Comprehensive Plan and The Sawmill/Wells Park Sector Development Plan.The Land Use Categories more Advantageous to Promoting the Health ,Saftey,Morals and General Welfare of the City of Albuquerque and the Community are:

SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses,Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast/, Beauty/Barber Shop, Resturant/Cafe, Parking.

This Zone Map Amendment Request would NOT be considered a "Strip Zone".

Conclusion :

In Conclusion , The Request for a Zone Map Amendment For The Special SU-1 Land Use Property Located at 1416 6th Street NW, on the South east Corner of 6th Street and Constitution.

Lot 22,23,24 of Block 20 of Albright-Moore Addition

The Proposal furthers/Promotes Multiples Policies of the Comprehensive Plan and Sawmill/Wells Park Development Sector Plan by

- Promoting Economic Development in the Poverty Pocket (MRA)
- Encouraging ,Use of Alternative Modes of Transportation
- Promoting job Opportunites and a mixture of land uses
- Encouraging Revitalizing the Neighborhood
- Encouraging Rehabilitation
- Promoting The Full Body of the Comprehensive Plan
- Promoting The Full Body of The Sawmill/Wells Park Sector Development Plan
- Conforming with Existing/Premissive Uses in the Neighborhood
- Promoting the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

Only A Select Few Special SU-1 Land Use Properties Exist in the Sawmill/Wells Park Sector Development Plan, These Unique Non-Residental Land Uses, Promote All the Necessary Traits Needed to Realize The Implementation of Both The Comprehensive and The Sawmill/Wells Park Sector Development Plan. The Special Subject SU-1 Land Use Property and Requested Land Use/Uses Promote In-fill ,Revitalization, Economic Stimulus and Development.(The Subject Historically a Special SU-1 Land Use Property is one of the Few Properties Able To Realize the Future Vision Of The City of Albuquerque and The SawMill/WellsPark Neighborhood)

The Proposed Zone Change **WILL NOT** Require Major and Unprogrammed Capital by the City .This is an infill Property with Adequate infrastructure ,including,Public Transit,Roadways,Water,Sewer,Already Exist.

The Cost of the land and other Economic Considerations Pertaining to the Applicant are not a Determining factor for a Change of Zone.Other Than Consistencey with the Neighborhood .The Cost of the Land, other Economic Considerations of Appliciant are not Relevant or Deciding factors for a Zone Map Amendment Request.

The Proposal Promotes Revitalizing and Stimulating the Small Community feeling back to a Declining Area without any Negative Impact to the community (The Special SU-1 Non-Residental Land Use Space and Structure Already Exist Since 1969 No Changes are Required)

This Proposal Promotes Economic Stimulus to the Neighborhood and The City Of Albuquerque by Utilizing and Providing Access to Public Transportation , Bike Routes, Bus Routes.Walking Paths.

The request has been Affirmed by the Most important component of this request, the Neighbors and the Community,The Fascilitated Neighborhood/Community Meetings,

Have Acknowledged,Affirmed The Land Uses and The Neighborhood/Community is AGREEABLE. per report.

We Pray for this Commission to Approve a Zone Map Amendment,to **SU-2/SU-1 For Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre School, Staff Residence, Bed and BreakFast, Beauty/Barber Shop, Resturant/Cafe, Parking**

Equal or More Restrictive Use(s) Than the current Use of SU-1 For (FlowerShop and Plant Nursery a Premissive Use of C-2 currently to the subject Site.**).. the Requested Uses are Equally or More Restrictive to the Existing use.**The Subject Site is "a *C-2 Use as Noted by Senior Planner in Email 06/27/2018 to Applicant."* **.**

Together We Can Make Albuquerque , A Great Place to Live, Work and Play.

Sincerely,

Eric Kilmer

Eric Kilmer
Princple / Property Owner

June 27, 2018

TO: Eric Kilmer

FROM: Catalina Lehner, Senior Planner
City of Albuquerque Planning Department

TEL: (505) 924-3935, clehner@cabq.gov

RE: Project #1007648, Sawmill/Kilmer Zone Change

At the May 10, 2018 EPC hearing, the EPC voted to defer this case for 60 days to the July 12, 2018 hearing.

At the post-hearing meeting with you, me, and Russell on May 17, 2018, I provided a memo to re-establish time frames and to provide suggestions to help strengthen the zone change justification. These suggestions are also found in detail in the Staff report. Both documents are based on the revised justification letter received April 26, 2018.

Please provide the following:

⇒ A revised zone change justification letter pursuant to R270-1980 (one copy, black and white) by July 2, 2018 at 9 am. This is the final deadline available for the July 2018 EPC hearing and is listed on the EPC calendar.

Note: If you have difficulty with this deadline, please let me know.

1) Timeframes:

In the May 17, 2018 memo, a revised justification letter was requested by June 6, 2018 in order to have sufficient time to re-evaluate and re-draft as needed during the deferral period. I received the revised justification letter on June 26, 2018.

2) EPC Guidance:

A. At the May 10, 2018 hearing, three commissioners suggested hiring an agent to produce a revised justification. Several agents, who have written approvable justifications, could assist you.

B. If they needed time to come on board, some flexibility with the June 6, 2018 deadline would have been possible.

C. One alternative is to hire an agent to do the writing, and continue to represent yourself before the Commission, though I recommend an agent for both. Staff can assist you with finding names of agents (they are publically available on EPC agendas).

D. The commissioners have a clear understanding that the role of Staff is to manage the cases assigned to them, not to act as an advocate and agent on behalf of a private party. Staff cannot represent you or do the thinking involved in the zone change justification.

3) Requested Zoning:

A. The requested zoning has been changed to "SU-2/SU-1 for Flower Shop/Plant Nursery and Professional Office Uses, Day Care, Law Office, Court Reporter, Accountant, Pre-School, Staff Residence, Bed and Breakfast, Beauty/Barber Shop, Restaurant/Cafe, Parking."

B. Notes to consider: Plant nursery first appears as a primary permissive use in the MX-M zone and was a C-2 use before.

   Professional Office Uses and Staff Residence are not defined terms in the IDO.

C. Have you consulted with Code Enforcement Staff regarding the new zoning designation requested?

4) Zoning Conversion:

A. As of May 17, 2018, the subject site's zoning of SU-2/S-R converted to R-1A. The purpose of the Residential- Single-Family Zone District (R-1) is to provide for neighborhoods of single-family homes on individual lots with a variety of lot sizes and dimensions.

B. Are you aware of what can be developed without a zone change? The R-1 zone allows single-family detached homes, cluster development, cottage development, and two-family detached homes (duplexes). Also allowed permissively as a primary use are a community residential facility (small), community garden, religious institution, solar energy generation, and a utility (see Table 4-2-1).

C. The term "zoning attachment" is not used in planning practice and was confusing to the Commission at the hearing and in the written justification. Familiarity with terms and planning practice are additional reasons why an agent would be helpful.

5) Zone Map Amendment (zone change)- Concepts & Research (*carried over from previous memos)*

When requesting a spot zone, the test in Section I is more rigorous than the test in Section C. Therefore, the higher standard (and the wording it entails) applies and must be carried over into the response to Section C. This was determined by the City Council when it passed the Land Use Hearing Officer (LUHO) recommendation in 2014, in an EPC case that was appealed and remanded to the EPC to provide a stronger analysis (Project #1001580). Please incorporate this into your justification.

6) Zone Map Amendment (zone change)- Section by Section:

Please address and incorporate the following to provide a strengthened, approvable response to R270-1980:

A. Section A (strengthen): Since the application was made prior to the IDO's effective date of May 17, 2018, the IDO cannot be used in this analysis. The standard way to demonstrate consistency with the City's health, safety, morals, and general welfare is to show that that a request furthers applicable Goals and policies in relevant Plans. The request conflicts with a fundamental principle of the SWPSDP, and the request has not been adequately justified in the response to Section C.

B. Section B (strengthen and clarify): The task in the response to Section B is to discuss how the proposed zone change would affect stability of land use and zoning. Though a building has

existed on the subject site for many years, the SU-1 zone could not have been established in 1938. The Zoning Code did not exist until 1959.

Also, the former uses, a flower shop and a plant nursery, have ceased to operate in the past and therefore have lost their non-conforming status. A zone change would allow new uses, including the vacant portion of the subject site, to develop and therefore would affect stability land use and zoning. The burden is on the applicant to justify the zone change.

C. Section C (strengthen and apply comments from response to Section I):

The task in Section C is to demonstrate that the proposed zone change would "clearly facilitate" applicable Goals and policies in the 2017 Comp Plan and the SWPSDP. Please see examples of how this question is properly answered when proposing a change to an SU-1 zone. An explanation of how the request furthers the Goals and policy is needed.

As was the case in 2009, Staff finds a significant conflict with the applicable sector development plan (the SWPSDP, which was adopted in 1996). The primary conflict lies with the regulations that the SWPSDP established for the S-R (Sawmill Residential) zone, particularly A.5 (see also Section IV of this report).

When the SWPSDP was adopted in 1996, the flower shop was in operation. The flower shop was allowed to remain as a permissive use because: it was a non-residential use that was zoned SU-1 for a specific use and it existed when the S-R zone was established, and it complied with conditions A.5.a through A.5.e.

The flower shop closed. Any new flower shop and/or nursery use would have to conform with what the S-R zone allows to fulfill the intent of the SWPSDP as elaborated in A.5, which reads as follows:

> "New non-residential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, and they comply with the following conditions."

A.5. states that new non-residential uses can be any use allowed by the previous zoning, but that they have to be equally or more restrictive than the preceding use. In this case, the previous zoning was SU-2/SU-1 for Flower Shop and Nursery. Any new uses are intended to be equally or more restrictive than a flower shop. The proposed zone change creates a significant conflict with the intent of the SWPSDP to establish residential uses when non-residential uses cease to operate (hence the subject site's S-R zoning).

The Plan does not intend new non-residential uses that were not allowed by the previous zoning unless they conform to Regulation A.5. This reading of the SWPSDP by the City was affirmed in the 2010 decision from the District Court.

D. Section D (strengthen and focus): The applicant cites reason 3, that the existing zoning is inappropriate because a different use category is more advantageous to the community.

Staff is not entirely convinced that a different zoning category would be more advantageous to the community than the current zoning (R-1A) because the applicant has not demonstrated that the request clearly facilitates realization of the Comprehensive Plan and the SWSDP.

Justification of a zone change is site specific and does not depend upon the other land uses that exist in the larger community. The "they can have that use so why can't I" argument contains too many variables (such as zoning, perhaps when the uses were established, whether a zone change was sought) and is not included in the criteria of R270-1980.

E. Section E (strengthen): The test in Section E is whether or not any of the uses in the proposed zone would be harmful to adjacent property, the neighborhood, or the community. Please list and discuss the permissive uses in the requested zone and focus on whether or not they would be harmful to adjacent property, the neighborhood, or the community. The analysis needs to be based on the subject site and the requested zoning, not on other sites nearby /or in the larger Plan area.

   The questions raised in Section E are: what uses would the proposed zone allow, and would these be harmful? The most effective way to respond is to list the uses that the zone change would allow if granted, and discuss whether or not each would be harmful. Each allowed use has the potential to develop on the subject site, and each may or may not be harmful to adjacent property, the neighborhood, or the community.

F. Section F: OK

G. Section G (clarify): Economic considerations are always a factor, but the test in G is whether or not they are the determining factor behind the proposed zone change. The applicant refers to consistency with the Comprehensive Plan and the SWPSDP (the IDO does not apply), but does not demonstrate in the response to Section C that the request clearly facilitates applicable Goals and policies.

   The subject site is not being used currently and is for sale or lease. The applicant wants to add additional commercial uses to the property in order to market it to small-scale commercial businesses or tenants. Staff finds that this is the determining factor for the change of zone, especially since the applicant has not expressed an interest in redeveloping the property under the current zoning. The response to Section G is sufficient, but Staff finds that it conflicts with the requirement.

H. Section H: OK

I. Section I (clarify): Based on a ruling from the City Council, there's a particular way that Section I has to be responded to when the requested zone is a SU-1 zone.

   - Please choose either i or ii under Section I and make your case.
   - Please ensure that the response to Section C uses the same wording.

   Staff points out that an SU-1 zone is considered a "spot zone" by definition, because it pertains to a single, unique property and a site development plan is required. SU-1 zoning is a justifiable spot zone provided that it: i) clearly facilitates realization of the Comprehensive Plan and sector development plan or area plan, or ii) functions as a transition between adjacent zones as elaborated above. The applicant has not demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate realization of the Comprehensive Plan and the SWPSDP.

J. Section J: OK

May 17, 2018

TO: Eric Kilmer

FROM: Catalina Lehner, Senior Planner
City of Albuquerque Planning Department

TEL: (505) 924-3935, clehner@cabq.gov

RE: Project #1007648, Sawmill/Kilmer Zone Change

At the May 10, 2018 EPC hearing, the EPC voted to defer this case for 60 days to the July 12, 2018 hearing.

I have some suggestions to help strengthen the zone change justification. These suggestions are found in detail in the Staff report, which is based on the revised justification letter received April 26, 2018.

Please provide the following:

⇒ A revised zone change justification letter pursuant to R270-1980 (one copy, black and white) by June 6, 2018.

Note: If you have trouble with this deadline, please let me know.

1) EPC Guidance:

A. Three commissioners suggested hiring an agent to produce a revised justification. Several agents, and have produced approvable justifications, could assist you.

B. One alternative is to hire an agent to do the writing, and continue to represent yourself before the Commission, though I recommend an agent for both.

C. We can assist you with finding names of agents (they are publically available on EPC agendas).

D. The commissioners have a clear understanding that the role of Staff is to manage the cases assigned to them, not to act as an advocate and agent on behalf of a private party. Staff cannot represent you.

2) Clarification:

A. I cannot find anything on record regarding any 2002 amendments to the SWPSDP. Please clarify.

B. The term "zoning attachment" is not used in planning practice and seems to have confused the Commission. This is another reason an agent could be helpful.

3) Zoning:

A. Are you aware of what can be developed without a zone change, under the current zoning? Flower shop, nursery, and uses allowed in the S-R zone (uses permissive in the R-1 zone, townhomes, and detached single-family dwellings permissive in the R-T zone)? This is stated in the sector plan and affirmed by the District Court decision.

B. The zoning requested is "SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses". Have you reviewed the permissive uses in the C-1 zone? A restaurant and a pawn shop, which neighbors opposed, would be allowed with the request.

C. Would you like to request a different zone? If so, what do you think would work and why?

4) Zone Map Amendment (zone change)- Concepts & Research (*carried over from previous memos)*

When requesting a spot zone, the test in Section I is more rigorous than the test in Section C. Therefore, the higher standard (and the wording it entails) applies and must be carried over into the response to Section C. This was determined by the City Council when it passed the Land Use Hearing Officer (LUHO) recommendation in 2014, in an EPC case that was appealed and remanded to the EPC to provide a stronger analysis (Project #1001580). Please incorporate this into your justification.

5) Zone Map Amendment (zone change)- Section by Section:

Please address and incorporate the following to provide a strengthened, approvable response to R270-1980:

A. Section A (strengthen): Since the application was made prior to the IDO's effective date of May 17, 2018, the IDO cannot be used in this analysis. Staff is not sure what the applicant means by referring to the Future Outlook and the Newly Updated Sawmill Wells Park Sector Development Plan (SWPSDP), which was adopted in 1996. The standard way to demonstrate consistency with the City's health, safety, morals, and general welfare is to show that that a request furthers applicable Goals and policies in relevant Plans. The request conflicts with a fundamental principle of the SWPSDP and the applicant has not adequately justified the request in the response to Section C.

B. Section B (strengthen and clarify): The task in the response to Section B is to discuss how the proposed zone change would affect stability of land use and zoning. A building, which has housed low-impact commercial uses, has existed on the subject site for many years. The former use, a flower shop, no longer operates and much of the subject site is vacant. A zone change would allow new uses and therefore would affect stability land use and zoning. The burden is on the applicant to justify the zone change.

C. Section C (re-do, and apply comments from response to Section I):

The task in Section C is to demonstrate that the proposed zone change would "clearly facilitate" applicable Goals and policies in the 2017 Comp Plan and the SWPSDP. Please see examples of how this question is properly answered when proposing a change to an SU-1 zone.

- Additional Goals and policies from the 2017 Comprehensive Plan are needed in your analysis. So far I see policy 5.2.1, action 5.4.1.2, policy 6.1.3, action 6.4.1.1.
- Is the subject site in an Area of Consistency or an Area of Change? See the map in the Comp Plan (also available online).
- Include Goals and policies from the SWPSDP.
- Be sure to include a conclusory statement regarding the entirety of Section C.

As was the case in 2009, Staff finds a significant conflict with the applicable sector development plan (the SWPSDP, which was adopted in 1996). The primary conflict lies with the regulations

that the SWPSDP established for the S-R (Sawmill Residential) zone, particularly A.5 (see also Section IV of this report).

When the SWPSDP was adopted in 1996, the flower shop was in operation. The flower shop was allowed to remain as a permissive use because: it was a non-residential use that was zoned SU-1 for a specific use and it existed when the S-R zone was established, and it complied with conditions A.5.a through A.5.e.

The flower shop closed. Any new flower shop and/or nursery use would have to conform with what the S-R zone allows to fulfill the intent of the SWPSDP as elaborated in A.5, which reads as follows:

"New non-residential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, and they comply with the following conditions."

A.5. states that new non-residential uses can be any use allowed by the previous zoning, but that they have to be equally or more restrictive than the preceding use. In this case, the previous zoning was SU-2/SU-1 for Flower Shop and Nursery. Any new uses are intended to be equally or more restrictive than a flower shop. The proposed zone change creates a significant conflict with the intent of the SWPSDP to establish residential uses when non-residential uses cease to operate (hence the subject site's S-R zoning). The Plan does not intend new non-residential uses that were not allowed by the previous zoning unless they conform to Regulation A.5. This reading of the SWPSDP by the City was affirmed in the 2010 decision from the District Court.

D. Section D (strengthen and focus): The applicant cites reason 3) above, that the existing zoning is inappropriate because a different use category is more advantageous to the community. It's unclear what the applicant means by the Newly Adopted SWPSDP. The SWSDP was adopted in 1996. Also, the IDO is not a part of this analysis because the application was submitted prior to the effective date of the IDO.

Staff is not entirely convinced that a different zoning category would be more advantageous to the community than the current zoning (SU-2/S-R) because the applicant has not demonstrated that the request clearly facilitates realization of the Comprehensive Plan and the SWSDP.

The proposed C-1 permissive uses would allow a variety of neighborhood commercial uses and higher-density residential uses. Without a zone change, the permissive uses on the subject site are S-R uses, flower shop, and nursery. There is no "list of uses" in A.5. A.5 requires that new commercial uses be equally or more restrictive than the preceding use; zoning and preceding uses differ by site.

E. Section E (strengthen): Please list and discuss the permissive uses in the requested zone. What are they and why do you think they would not be harmful to the adjacent property, the neighborhood, or the community?

The test in Section E is whether or not any of the uses in the proposed zone would be harmful to adjacent property, the neighborhood, or the community. The test applies to the subject site, and not to other sites nearby and/or in the larger Plan area. The analysis is not comparative and is based on the subject site.

The questions raised in Section E are: what uses would the proposed zone allow, and would these be harmful? The most effective way to respond is to list the uses that the zone change would allow if granted, and discuss whether or not each would be harmful. Each allowed use has the potential to develop on the subject site, and each may or may not be harmful to adjacent property, the neighborhood, or the community.

The applicant did not discuss permissive uses in the S-R zone or the C-1 zone and whether or not they would be harmful to adjacent property, the neighborhood, or the community, as required. Therefore, the response to Section E is insufficient.

F. Section F: OK

G. Section G (clarify): Economic considerations are always a factor, but the test in G is whether or not they are the determining factor behind the proposed zone change. The applicant refers to consistency with the Comprehensive Plan and the SWPSDP (the IDO does not apply), but does not demonstrate in the response to Section C that the request clearly facilitates applicable Goals and policies.

The subject site is not being used currently and is for sale or lease. The applicant wants to add additional commercial uses to the property in order to market it to small-scale commercial businesses or tenants. Staff finds that this is the determining factor for the change of zone, especially since the applicant has not expressed an interest in redeveloping the property under the current zoning. The response to Section G is sufficient, but Staff finds that it conflicts with the requirement.

H. Section H: OK

I. Section I (clarify): Based on a ruling from the City Council, there's a particular way that Section I has to be responded to when the requested zone is a SU-1 zone.

- Please choose either i or ii under Section I and make your case.
- Please ensure that the response to Section C uses the same wording.

Staff points out that an SU-1 zone is considered a "spot zone" by definition, because it pertains to a single, unique property and a site development plan is required. SU-1 zoning is a justifiable spot zone provided that it: i) clearly facilitates realization of the Comprehensive Plan and sector development plan or area plan, or ii) functions as a transition between adjacent zones as elaborated above. The applicant has not demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate realization of the Comprehensive Plan and the SWPSDP.

J. Section J: OK

Lehner, Catalina L.

From: Lehner, Catalina L.
Sent: Wednesday, May 16, 2018 11:44 AM
To: 'Eric Kilmer'
Cc: Russell Brito (RBrito@cabq.gov)
Subject: RE: 1416 6th Street NW
Attachments: 1007648 Alternates.pdf

Russell and I will attend the meeting tomorrow morning. Attached are the alternate findings you had requested.
-Catalina

From: Eric Kilmer [mailto:ekilmer67@me.com]
Sent: Friday, May 11, 2018 3:26 PM
To: Lehner, Catalina L.
Subject: Re: 1416 6th Street NW

Good afternoon Catalina
next Thursday at 10:30 am, third floor Plaza del Sol will be acceptable. Who will be in attendance at that time

Sent from my iPhone

On May 11, 2018, at 2:13 PM, Lehner, Catalina L. <CLehner@cabq.gov> wrote:

> How about next Thursday at 10:30 am, third floor Plaza del Sol?
> -Catalina

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

Lehner, Catalina L.

From: Eric Kilmer <ekilmer67@me.com>
Sent: Friday, May 11, 2018 1:17 PM
To: Lehner, Catalina L.
Subject: 1416 6th Street NW

2nd Sending

Good afternoon Catalina
Thank you for the dialogue at the hearing this morning.
I would like to schedule a meeting with your office approximately an hour of your time.
We look forward to receiving the alternative approval findings you have prepared .As you noted you had back in your office computer.
We look forward to positive dialogue with your office to resolve the areas of conflict within the justification letter To satisfy your office and the EPC Commissioners .
Time is of the essence, my calendar is dedicated to this project and wide open Cordially Eric Kilmer

Sent from my iPhone =
==========
This message has been analyzed by Deep Discovery Email Inspector.

Lehner, Catalina L.

From: Eric Kilmer <ekilmer67@icloud.com>
Sent: Friday, April 13, 2018 12:45 PM
To: Lehner, Catalina L.
Subject: Re: EPC Project #1007648- land uses

Good Morning Catalina,

I received your response to the question I had ask of you , thank you.
As you stated previously each Zone map Amendment is to be treated as a new individual application .
We will be continuing with the submittal .

We will address
(the Property)and the Zone change granted to the sister property sharing the same property line and with prior existing SU2/SR Zoning EPC#1005001 (a Residential Home granted a list of non residential uses to continue in that existing location by Zone map Amendment)and we encourage dialog from your agency to accomplish a change as to mirror/conform with the sister property Zone change to satisfy "the future non residential uses may exist at these locations"clause of the sector Plan. The granting Zone Map Amendments of other less conforming properties in the sector plan.

In our opinion the previous Zone Map Amendment was polluted with a discriminatory attachment of a single use mentioned through out the last submittal.

To confirm, to continue our submittal to the May 10 2018 hearing you are requesting a revised justification letter be submitted by April 19 2018.
We will be relying on The City staff and your Agency to "Explain information needed to complete the building permit application and technical assistance appointments needed if necessary".As stated in the Sawmill/WellsPark Sector Development Plan
Please advise
(the Applicant) if any changes or updates are needed to our submittal prior to the posting and hearing dates.
We encourage dialogue with your Agency to come to a meeting of the minds for a positive outcome for this Zone Map Amendment as submitted or other suggestive changes to the submittal by your Agency to forward a positive recommendation to EPC Planning Commission
Thank you
Eric Kilmer
1416 th Street NW
Albuquerque New Mexico 87102
505-261-8409
Ekilmer67@icloud.com

Sent from my iPhone

On Apr 13, 2018, at 10:48 AM, Lehner, Catalina L. <CLehner@cabq.gov> wrote:

Mr. Kilmer,

When we met last week, you had a question regarding what uses are allowed on the property at 1416 6th St. NW. I consulted with Code Enforcement Staff and offer the following response:

The Sawmill-Wells Park Sector Development Plan (SWPSDP) applies. The property is currently zoned SU-2 SR, Sawmill Residential.

This is the same property that is the subject of the District Court Decision (CV-2009-07499, please see attached). On p. 4, lines 21-22 state that "the only new nonresidential permissive uses allowed as a 'future nonresidential use' for this property would be for a flower shop and nursery."

If you want to do a nonresidential (i.e. commercial) use other than a flower shop and nursery, a zone change is needed. Certain residential uses are also allowed without a zone change. Please refer to p. 97-100 of the SWPSDP for an explanation of the SR zone.

To continue with the zone change process, via the application you submitted to the EPC, please address the items in the April 4, 2018 memo and provide a revised justification letter by noon on April 19, 2018. Thank you.

Catalina Lehner- MCRP, AICP
Senior Planner
City of Albuquerque, NM
(505) 924-3935

<CV-2009-07499 Kilmer.PDF>

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This message has been analyzed by Deep Discovery Email Inspector.

Environmental Planning Commission

Agenda Number: 6
Project Number: 1007648
Case Numbers: 18EPC-40019 & 40021
Hearing Date: May 10, 2018

Staff Report

Agent	Self
Applicant	Eric Kilmer
Requests	**Sector Development Plan Map Amendment (zone change)** **Site Development Plan for Building Permit**
Legal Description	Lots 22, 23 and 24, Block 20, Albright-Moore Addition
Location	SE corner of 6th St. & Constitution Ave. (1416 6th. St. NW)
Size	Approximately 0.5 acres
Existing Zoning	SU-2 for S-R (Sawmill Residential)
Proposed Zoning	SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses

Staff Recommendation

DENIAL of 18EPC-40019, based on the Findings beginning on Page 23.

DENIAL of 18EPC-40021, based on the Findings beginning on Page 25.

Staff Planner
Catalina Lehner-AICP, Senior Planner

Summary of Analysis

This request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) and an associated as- built site development plan for building permit, for an approx. 0.5 acre site at the SE corner of 6th St. and Constitution Ave. A flower shop operated in the existing building, but closed. A nursery operated there many years ago.

The applicant requests a zone change to SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses. Staff finds that the applicant has not adequately justified the request pursuant to R270-1980, and that the request conflicts with a fundamental principle of the SWPSDP. The City's reading of the SWPSDP was upheld in a 2010 District Court decision regarding the subject site.

A facilitated meeting was held. The Wells Park NA prefers a less intense zone. The Sawmill Community Land Trust is not opposed. Most questions were about what the applicant intends for the subject site.

Staff recommends denial of the zone change and the associated site development plan.

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I. AREA CHARACTERISTICS

Surrounding zoning, plan designations, and land uses:

	Zoning	*Comprehensive Plan Area; Applicable Rank II & III Plans*	*Land Use*
Site	SU-2 for S-R (Sawmill Residential)	Area of Consistency Sawmill/Wells Park Sector Development Plan	Building (not currently used) and vacant land behind it
North	SU-2 for S-R (Sawmill Residential)	Area of Consistency Sawmill/Wells Park Sector Development Plan	Single-family homes
South	SU-2 for S-R (Sawmill Residential), SU-2/ SU-1 for Residential and Office Uses and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Doctor Office	Area of Consistency Sawmill/Wells Park Sector Development Plan	Vacant, Law office
East	SU-2 for R-T SU-2 for S-R (Sawmill Residential)	Area of Consistency Sawmill/Wells Park Sector Development Plan	Alley, Single-family homes
West	SU-2 for S-R (Sawmill Residential)	Area of Consistency Sawmill/Wells Park Sector Development Plan	Single-family home, Daycare center

II. INTRODUCTION

Request

This request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) for Lots 22, 23 and 24 of Block 20, Albright-Moore Addition, approximately 0.5 acre (the "subject site"). The applicant proposes to change the subject site's zoning from SU-2 for S-R (Sawmill Residential) to SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses and amend the SWPSDP to reflect this change.

The applicant owns the subject site, which consists of the existing building that fronts 6th St. NW and a large, vacant area behind it to the east. A site development plan for building permit is associated with the zone change request as required by the SU-1 zone.

At one time, the applicant was using the existing building for a bail bonding business, but the zone change that would have allowed the bail bonding business to operate legally was denied in 2009; the denial was affirmed by a District Court decision in 2010 (see History section of this report). The applicant moved the bail bonding business, which has since ceased operation. Now the

applicant is seeking to change the subject site's zoning to allow permissive C-1 uses in order to attract small commercial businesses to the neighborhood. The subject site is also available for sale or lease, and it appears that the building is not being utilized right now.

Environmental Planning Commission (EPC) Role

The EPC is hearing this case because the EPC is required to hear all zone map amendment (zone change) cases, regardless of site size, in the City. The EPC is the final decision-making body unless the EPC decision is appealed [Ref: §14-16-2-22(A)(1)]. If so, an appeal would be heard by the Land Use Hearing Officer (LUHO). The request is a quasi-judicial matter.

Context

The subject site consists of three, long platted lots on the northeast (SE) corner of 6th St. and Constitution Ave. NW (address of 1416 6th. St. NW). This is the site of a former flower shop and nursery (see History section of this report), both of which have ceased operation some years ago.

North of the subject site, across Constitution Ave. NW, are single-family homes. To the east are four, more recently built single-family homes (townhome style) and more single-family homes. To the west, across 6th St. are a newer or remodeled single-family home and a day care center. To the south is Lot 21, which is presently used for parking for Lots 20 and 19. Lots 20 and 19 contain a law office (Project #1005001, see explanation below).

History & Background

The subject site is located in the historic Sawmill/Wells Park Neighborhood, which is part of an area that expanded after WWI and was developed mostly with 1920s residential subdivisions.

Records reveal that the subject site was originally part of a larger site that contained Lots 1-6 and 19-24 of Block 20, Albright-Moore Addition, and was owned by the proprietors of Gray's Flower Shop. The lots were zoned R-1. In September 1969, the owners requested a zone change to C-1, but were granted SU-1 for Flower Shop and Nursery because: 1) the C-1 zone would not fix the non-conformance of the nursery use; 2) the existing, surrounding development is primarily residential; and 3) the SU-1 zone would allow the use to continue to function, as it has for many years, without introducing other allowable C-1 uses that might have been incompatible with the surrounding residential uses. It is unknown precisely when the building on the subject site was constructed.

Sector Development Plan

The Sawmill/Wells Park Sector Development Plan (SWPSDP) applies and contains a history of the Plan area (see p. 8). The SWPSDP was adopted in January 1996 (Enactment No. 20-1996, see attachment). The 1996 Plan supersedes the previous neighborhood plan (the 1978 Plan) and any prior actions on the subject site, including the 1969 zone change (see above).

The SWPSDP established zoning for the area. Prior to adoption of the 1996 Plan, the subject site was zoned SU-2/SU-1 for Flower Shop and Nursery. Upon SWPSDP adoption, this zoning was replaced with SU-2/S-R (Sawmill Residential) zoning. Though the nursery business had ceased

prior to Plan adoption, the flower shop remained. It operated as a permissive use, and was allowed pursuant to the Plan, until it closed in approximately 1999.

Neighboring Lot
In 2009, the EPC approved a zone change from SU-2/S-R to SU-2/SU-1 for Residential and Office Uses and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Doctor Office (Project #1005001) for Lots 19 and 20, which are adjacent south of the subject site.

The 2009 Case
In 2009, the applicant applied for a zone change from SU-2/S-R to SU-2/SU-1 for S-R and C-1 Permissive Uses with Exclusions in order to continue operation of a bail bonding business that existed at that time (Project #1007648/09EPC-40004 and 40005). The zone change was requested to allow the bail bonding use on the subject site. The applicant also wanted to provide unspecified residential, and possibly commercial, uses in the future. An associated site development plan was also provided, as required.

At its April 2009 hearing, the EPC denied the zone change request because the applicant had not adequately demonstrated that the request was justified pursuant to R270-1980 (see attachment). Specifically, the EPC found that the proposed zone change created a significant conflict with the SWPSDP (see Section IV of this report for details). Note: Prior to 2014, the no significant conflict test applies to changes to SU-1 zones; now the test is "clearly facilitates" as determined by the City Council.

The applicant appealed the EPC's decision (AC-09-9). The City Council heard the appeal on June 15, 2009 and denied it, upholding the EPC's decision. The applicant appealed the City Council's decision to the District Court, claiming that the decision was arbitrary and capricious. The District Court upheld the City's decision in its October 2010 ruling (CV-2009-07499, see attachment). The District Court found that the City's decision was supported by substantial evidence in the record, and agreed with the City's reading of Regulation A.5 of the SWSDP regarding what uses are allowed under the subject site's current zoning (see Section III of this report for details).

Transportation System
The Long Range Roadway System (LRRS) map, produced by the Mid-Region Council of Governments (MRCOG), identifies the functional classifications of roadways. Sixth St. is a Minor Arterial. Constitution Ave. NW, in this location, is a local street.

Transit & Bikeways
The subject site is served by Transit, though not directly. Albuquerque Ride Route #8-Menaul, is the only local route that turns north onto 5th St. leaving Downtown. The #8 turns south onto 6th St. approaching Downtown. Routes #91, 93 and 94 are Express busses and will not stop in the area. However, Route #10-North Fourth St., which stops a couple of blocks east of the subject site, runs along 4th St. and has day, evening and weekend service.

Public Facilities/Community Services

Please refer to the Public Facilities Map (see attachment).

III. ZONING

Definitions: (Zoning Code §14-16-1-5)

Non-Conforming Use: A use of a structure or land which does not conform to uses allowed under the regulations of this Article or to uses allowed under an applicable sector development plan and which was an allowed use at the time the use was first undertaken.

Special Use Zone (Zoning Code §14-16-2-22): This zone provides suitable sites for uses which are special because of infrequent occurrence, effect on surrounding property, safety, hazard, or other reasons, and in which the appropriateness of the use to a specific location is partly or entirely dependent on the character of the site design.

Non-Conformance

Zoning Code §14-16-3-4, Non-Conformance Regulations, contains regulations applicable to non-conforming structures and uses. Subsection (B)(5) states that:

> "A structure or portion thereof which has been nonconforming as to use, including a status established building, and which hereafter becomes vacant and remains vacant or is not used for a continuous period of one year or more is not to be occupied thereafter except by a conforming use as specified in the regulations of the zone in which such structure is located. Neither the intention of the owner nor that of anybody else to use such a structure or part thereof for any nonconforming use, nor the fact that said structure or part thereof may have been used by a makeshift or pretended nonconforming use shall be taken into consideration in interpreting and construing the word "vacant" as used in this division (9).

The flower shop that formerly existed on the subject site ceased operation in 1999; the nursery ceased operation prior to that. The SWPSDP was adopted in 1996, when the flower shop was still in operation.

Though the SWPSDP placed S-R zoning on the subject site, the flower shop use was allowed to continue because the Plan made non-conforming uses, operating at the time of Plan adoption, permissive uses. Regulation A.5 of the S-R zone stats that non-residential uses that were non-conforming in the R-1 zone, or zoned SU-1 for specific uses, shall be considered permissive uses and may remain where they're located provided they comply with conditions A.5a-A.5e (see attachment).

Existing Zoning

The subject site is currently zoned SU-2/S-R (Sawmill Residential) (SWPSDP p. 97). SU-2 zoning is available to sector plans and is used in the SWPSDP when it established zoning for the Plan area. The zone change request can also be referred to as a "sector development plan map amendment". The SU-2 Special Neighborhood Zone "allows a mixture of uses controlled by a sector

development plan" (see Zoning Code §14-16-2-23). SWPSDP p. 97-99 lists the uses allowed in the SU-2/S-R zone, as follows:

A.1- Permissive uses in the R-1 zone (with a few conditional uses)

A.2- Multiple dwelling units that predate establishment of the S-R zone

A.3- Two attached or detached dwelling units on one lot

A.4- Townhouses and detached single-family dwellings

A.5- Non-residential uses that were non-conforming in the R-1 zone, were zoned SU-1 for specific uses, or were permissive uses in the R-C, C-1, or C-2 zone and that exist when the S-R zone is established with the adoption of the sector plan, shall be considered permissive uses and may remain at the location where they exist provided they comply with the following conditions (a-e, see below).

The intent of the S-R zone is to "conserve the existing residential neighborhoods while allowing a variety of small-scale housing and existing businesses" (p. 77). The S-R zone was established to:

- Maintain the existing small scale residential character of Sawmill/Wells Park's existing neighborhoods.
- Conserve the existing housing stock and range of living options by allowing apartment buildings, duplexes, and two detached homes on a lot that existed before adoption of this plan.
- Increase affordable housing by encouraging development of larger lots with limited townhouse development.
- Allow second dwellings on lots 7,000 sf or larger.
- Allow small businesses that existed in residential areas before adoption of this plan to remain.
- Eliminate R-C zoning in residential neighborhoods.

Existing Uses
Upon adoption of the SWPSDP in 1996, the S-R zone replaced C-1 zoning along Fifth St. and Sawmill Rd., some SU-1 zoning (like the subject site's) and most R-1, R-T and R-C zoning. The businesses that were operating at that time of Plan adoption in 1996 were allowed to remain.

Such businesses became legal nonconforming uses in the S-R zone and "shall be considered permissive uses and may remain at the locations where they exist provided they comply with the following conditions" (SWSDP, p. 99, see attachment). Therefore, the flower shop was allowed to continue to operate on the subject site under the S-R zoning because it already existed in 1996 when the Plan was adopted. The flower shop closed approximately 18 years ago, however, and the nursery had closed prior to that.

New Uses
The SWPSDP states that new non-residential uses may occupy these same premises provided they are "equally or more restrictive than the immediately preceding use, do not require more off-street parking, and they comply with the following conditions", which are (SWPSDP, p. 99):

A.5.a- Outdoor storage shall consist only of parked operative vehicles and screened trash receptacles.

A.5.b- No underground storage tanks shall be present or installed on the property.

A.5.c- Business activities other than home occupations shall be prohibited between 10 pm and 7 am.

A.5.d- No more than five employees shall be present at any given time.

A.5.e- Signs shall be as regulated in the S-MRN Zone.

The SWPSDP provides an explanation in the second paragraph on p. 99, right-hand column:

"For non-residential premises previously zoned SU-1 for specific uses, R-C, C-1, or C-2, a future nonresidential use can be any one of the permissive uses listed in the zoning category that applied to that property prior to the establishment of the S-R zone provided it complies with the conditions listed in A.5". New non-residential uses are required to be equally or more restrictive than the immediately preceding use, not require more off-street parking, and comply with the conditions A.5.a-A.5.e. (emphasis mine).

The subject site is a non-residential premise previously zoned SU-1 for flower shop and nursery, which are both specific uses. Therefore, future non-residential uses can only be a flower shop and/or a nursery since these are the permissive uses allowed by the subject site's zoning (SU-1) prior to establishment of the S-R zone in 1996. Any new uses would have to be

These uses would have to comply with all of the conditions in A.5. Since no other commercial uses were specified in the former SU-1 zoning, none would be allowed on the subject site without a sector development plan map amendment to the SWPSDP (a zone change). Note also that, once a non-residential use changes to a residential use, the non-residential use cannot be re-established pursuant to the SWPSDP (p. 99).

Proposed Zoning
The applicant proposes the following zoning: SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses. The uses allowed on the subject site would be a flower shop, a nursery, and any of the permissive uses in the C-1 zone. Conditional uses in the C-1 zone would not be allowed. Residential uses permissive in the R-3 zone, subject to certain requirements and exceptions, would also be allowed [Subsection (A)(7)] because they are a permissive use in the C-1 zone.

The C-1 (Neighborhood Commercial) zone, found in Zoning Code §14-16-2-16, provides "suitable sites for office, service, institutional, and limited commercial uses to satisfy the day-to-day needs of residential areas." Subsection (A)(8) allows retail sales of goods specified therein, including

(A)(8)(h)-Flowers and plants, including minor and incidental outdoor sales. Therefore, a flower shop is a permissive use in the C-1 zone. The nursery use is not listed in the C-1 zone and therefore is not allowed, but it would be with the proposed zoning because the use would be specified in the zoning descriptor.
The SU-1 zone (Zoning Code §14-16-2-22) provides suitable sites for uses that are special, and for which the appropriateness of the use to a specific location depends upon the character of the site design. The SU-1 designation requires an associated site development plan and allows both the permissive and conditional uses of the associated zone, unless specified otherwise as is the case here.

The Integrated Development Ordinance (IDO) & Zoning
The IDO will go into effect on May 17, 2018, which is after this application was filed. Therefore, the application is being evaluated under the current regulations and not the new IDO. However, zoning will convert to IDO zoning as of May 17, 2018.

The subject site's SU-2/S-R zoning would convert to R-1B under the IDO. The proposed zoning of SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses would convert to MX-L under the IDO.

IV. ANALYSIS -ADOPTED ORDINANCES, PLANS, AND POLICIES

A) ALBUQUERQUE/BERNALILLO COUNTY COMPREHENSIVE PLAN (RANK I)

The Goals and policies listed below are those cited by the applicant in the zone change justification letter (see attachment). Staff does not provide analysis or additional citations other than what the applicant provided because, pursuant to Section B of R270-1980, the burden is on the applicant to show why the zone change should be made.

Policy 2.3.3- Employment (this is a text citation)
Policy 2.3.5- Changing Preferences (this is a text citation)
Policy 2.4- Accommodating Future Growth (this is a text citation)
Policy 2.4.1-Constraints to Future Growth (this is a text citation)
Policy 2.4.2- Growing Inward (this is a text citation)
Policy 2.4.6- Focusing Growth (this is a text citation)
Policy 3.1- A Shared Place (this is a text citation)
Policy 3.3- Centers and Corridors (this is a text citation)
Policy 3.3.1- Centers (this is a text citation)

Note: Text citations are not used in policy analysis. The ideas in the text are embodied in Goals and policies, which are used.

Policy 4.1.2.2 (this is an Action)
Policy 4.2.1- Community Planning Areas
Policy 5.1.4-Urban Centers
Policy 5.1.9.9- (this is an Action)
Policy 5.1.9- Main Streets

Policy 5.1.2.5 (this is an action)
Policy 5.2.1-Land Uses
Policy 5.4.1.2 (this is an Action)
Policy 6.1.3- Auto Demand
Policy 6.4.1.1 (this is an Action)

SWPSDP General SU-2 Regulations 4.1- Non Residential Building Design

B) SAWMILL/WELLS PARK SECTOR DEVELOPMENT PLAN (RANK III)

The Sawmill/Wells Park Sector Development Plan (SWPSDP) was first adopted in 1978 (the 1978 Plan) and then was revised and adopted in 1996 (Enactment No.128-2002). The SWPSDP generally encompasses properties between Interstate 40 to the north and Mountain Rd. to the south, Rio Grande Blvd. to the west, and properties east of 5th St. on the east. Specific boundaries are shown on p. 2. The subject site is located two blocks west of the Plan's eastern boundary (4th St.).

Action Plans
The intent of the SWPSDP is to address the area's most critical issues, foster positive change and reinforce community stability, vitality and character (p. 1). The Plan, which sets forth public project design policies, land use goals and zoning, contains the following five Action Plan sections:

- Area Character and History Conservation Action Plan
- Housing Development and Improvement Action Plan
- Environmental Protection Action Plan
- Economic Development Action Plan (re: industrial/commercial strategies) contained in the "Sawmill Revitalization Strategy (SRS)" (Appendix C of the Plan)
- Public Project Action Plan (re: infrastructure)

Each Action Plan contains specific projects and implementation strategies to address the issues identified therein and fulfill the intent of the SWPSDP. The applicant did not provide policy citations from the SWPSDP.

General SU-2 Regulations
The general SU-2 regulations (starting on p. 83) are established to conserve and build on the area's distinctive historic and physical characteristics, increase compatibility among housing, institutions, commercial and industrial land and improve the environment adjacent to the public right-of-way. Staff analysis includes the following:

1. Regulation compliance, compliance periods and process requirements

1.c. Building permit applications for building additions, building renovation, and/or site rehabilitation shall comply with the Sawmill/Wells Park General SU-2 Regulations for those parts of the site undergoing construction.

The SWPSDP clearly intends that all additions, renovations and/or rehabilitation efforts comply with the General SU-2 Regulations. Staff analysis of the proposed site development plan's compliance with specific General SU-2 regulations is found in Section V of this report.

1.g. The Environmental Planning Commission (EPC) shall consider all General SU-2 Regulations when reviewing SU-1 zoning applications.

The General SU-2 Regulations, most of which read like design standards, are discussed in Section V of this report.

The S-R (Sawmill Residential) Zone
A. Permissive Uses: The following uses are permitted provided applicable General SU-2 Regulations for the Sector Plan area are met.

The S-R zone allows uses listed as permissive in the R-1 zone and the following R-1 conditional uses: accessory living quarters (min. lot size 7000sf), second kitchen (min. lot size 7000sf) and carport (p. 97). Future residential uses allowed on the subject site are townhomes and detached single-family homes, provided they comply with the General SU-2 Regulations.

A.5. Non-residential uses that 1) were non-conforming in the R-1 zone, 2) were zoned SU-1 for specific uses, or 3) were permissive uses in the R-C, C-1, or C-2 zone <u>and</u> that exist when the S-R zone is established with the adoption of the Sector Plan, shall be considered permissive uses and may remain at the locations where they exist provided they comply with the following conditions. [numbering and emphasis by Staff]

New non-residential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, <u>and</u> they comply with the following conditions" (p. 99):

A.5.a- Outdoor storage shall consist only of parked operative vehicles and screened trash receptacles.

A.5.b- No underground storage tanks shall be present or installed on the property.

A.5.c- Business activities other than home occupations shall be prohibited between 10 pm and 7 am.

A.5.d- No more than five employees shall be present at any given time.

A.5.e- Signs shall be as regulated in the S-MRN Zone.

When the SWPSDP was adopted in 1996, a flower shop operated on the subject site. The flower shop was allowed to remain as a permissive use because:

- ***it was a non-residential use that was zoned SU-1 for a specific use <u>and</u>***

- ***it existed when the S-R zone was established, and***
- ***it complied with conditions A.5.a through A.5.e above.***

C) SAWMILL/WELLS PARK COMMUNITY METROPOLITAN REDEVELOPMENT AREA (MRA) PLAN

Adopted by the City Council in June 2006 (R-06-100), the Sawmill/Wells Park Community Metropolitan Redevelopment Area (MRA) Plan is worth mentioning. The goal of this MRA Plan is "to create a community that preserves the historic nature of the neighborhood while retaining a livable, walkable, mixed-use, mixed-income and vibrant economic and residential part of Albuquerque."

The New Mexico Metropolitan Redevelopment Code (3-60A-1 to 3-60A-48 NMSA 1978) provides cities with the authority to correct conditions in areas or neighborhoods in order to reverse the decline and stagnation. However, such authority can only be applied in designed Metropolitan Redevelopment Areas (MRAs). In 1993, the Sawmill/Wells Park Community MRA boundary was created. As a designated blighted area, Sawmill/Wells Park qualified as appropriate for redevelopment projects under the City's Metropolitan Redevelopment Code.

RESOLUTION 270-1980 (POLICIES FOR ZONE MAP AMENDMENTS)

Requirements

Resolution 270-1980 outlines policies and requirements for deciding zone map change applications. The applicant must provide sound justification for the proposed change and demonstrate that several tests have been met. The burden is on the applicant to show why a change should be made.

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

Justification & Analysis

The zone change justification letter analyzed here, received April 26, 2018, is a response to Staff's request for a revised justification (see attachment). The subject site is currently zoned SU-2 for S-R (Sawmill Residential). A change of zone would constitute an amendment to the Sawmill/Wells Park Sector Development Plan (SWPSDP). The requested zoning is SU-2/SU-1 for Flower Shop and Nursery and C-1 Permissive Uses. The reason for the zone change request is to attract small commercial uses to the neighborhood.

The applicant believes that the proposed sector development plan map amendment (zone change) conforms to R270-1980 as elaborated below. Staff analysis follows in **bold text**. The citation in quotes is from R270-1980.

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

Applicant: The proposed zone map amendment is consistent with the health, safety, morals, and general welfare of the City because the request is consistent with The Future City Integrated Development Ordinances and Policys (IDO), the Future Outlook and the Newly Updated Sawmill/Wells Park Sector Plan, as outlined in Section C of response.

Staff: Since the application was made prior to the IDO's effective date of May 17, 2018, the IDO cannot be used in this analysis. Staff is not sure what the applicant means by referring to the Future Outlook and the Newly Updated Sawmill Wells Park Sector Development Plan (SWPSDP), which was adopted in 1996. The standard way to demonstrate consistency with the City's health, safety, morals, and general welfare is to show that that a request furthers applicable Goals and policies in relevant Plans. The request conflicts with a fundamental principle of the SWPSDP and the applicant has not adequately justified the request in the response to Section C. The response to Section A is insufficient.

B. "Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should not be made."

Applicant: The applicant states that stability of land use and zoning will be preserved and enhanced because this property has been a member of the community neighborhood for over 80 years, showing stability and longevity. This property and its use have been at this location prior to the earliest implementation of the Zoning Codes in the City. This property has a history of commercial use and is a recognized use. The SWSDP by design is to allow current businesses and future businesses to continue in these locations, furthering business platforms and stability in land use in the neighborhood, so residents are familiar with where to find Goods and Services. Only a few select properties have this unique business attachment, which promotes stability in land use.

Staff: The task in the response to Section B is to discuss how the proposed zone change would affect stability of land use and zoning. A building, which has housed low-impact commercial uses, has existed on the subject site for many years. The former use, a flower shop, no longer operates and much of the subject site is vacant. A zone change would allow new uses and therefore would affect stability land use and zoning. The burden is on the applicant to justify the zone change. The response to Section B is insufficient.

C. "A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City."

Applicant's citations: Comprehensive Plan citations include the following Policies: Policy 4.2.1- Community Planning Areas, Policy 5.1.4-Urban Centers, Policy 5.1.9- Main Streets,

Policy 5.2.1-Land Uses, Policy 6.1.3- Auto Demand; the following Actions: 4.1.2.2, 5.1.9.9, 5.1.2.5, 5.4.1.2, and 6.4.1.1; and several text citations (2.3.3, 2.3.5, 2.4, 2.4.1, 2.4.2, 2.4.6, 3.1, 3.3, 3.3.1).

Sawmill Wells Park Sector Development Plan (SWPSDP): No citations but a mention of General SU-2 Regulations 4.1- Non Residential Building Design.

Applicant's discussion (summarized): The proposal is not in significant conflict with adopted elements of the Comprehensive Plan or other City Master Plans and amendments because the longevity of the subject property shows stability and provides a solid base of support for this zone map amendment. It also helps the implementation of the newly adopted SWSDP and the Economic Development action Plan on p. 33 and 34. We are encouraging and creating a stable business base as the SWSDP encourages.

Staff: Regarding the Comprehensive Plan citations, the applicant focused more on Actions and text rather than on Goals and policies. No goals were chosen. The concepts in the text are embodied in the Goals and policies, which are used for analysis rather than the text. Because the request is for an SU-1 zone, the standard in Section C is not the "no significant conflict" test, but rather is the higher standard of "clearly facilitates" found in Section I. This was mentioned to the applicant in memos from Staff (see attachments).

As was the case in 2009, Staff finds a significant conflict with the applicable sector development plan (the SWPSDP, which was adopted in 1996). The primary conflict lies with the regulations that the SWPSDP established for the S-R (Sawmill Residential) zone, particularly A.5 (see also Section IV of this report).

When the SWPSDP was adopted in 1996, the flower shop was in operation. The flower shop was allowed to remain as a permissive use because: it was a non-residential use that was zoned SU-1 for a specific use <u>and</u> it existed when the S-R zone was established, <u>and</u> it complied with conditions A.5.a through A.5.e.

The flower shop closed. Any new flower shop and/or nursery use would have to conform with what the S-R zone allows to fulfill the intent of the SWPSDP as elaborated in A.5, which reads as follows:

> ***"New non-residential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, <u>and</u> they comply with the following conditions."***

A.5. states that new non-residential uses can be any use allowed by the previous zoning, but that they have to be equally or more restrictive than the preceding use. In this case, the previous zoning was SU-2/SU-1 for Flower Shop and Nursery. Any new uses are intended to be equally or more restrictive than a flower shop.

The proposed zone change creates a significant conflict with the intent of the SWPSDP to establish residential uses when non-residential uses cease to operate (hence the subject site's S-R zoning). The Plan does not intend new non-residential uses that were not allowed by the previous zoning unless they conform to Regulation A.5.

This reading of the SWPSDP by the City was affirmed in the 2010 decision from the District Court.

D. "The applicant must demonstrate that the existing zoning is in appropriate because:

1) there was an error when the existing zone map pattern was created, or

2) changed neighborhood or community conditions justify the change, or

3) a different use category is more advantageous to the community, as articulated in the comprehensive Plan or other City master plan, even though (1) and (2) above do not apply."

Applicant: The existing zoning is inappropriate because a different use category is more advantageous to the community as articulated in the New City IDO, Comprehensive Plan, and the Newly Adopted SWPSDP. The proposed zone map amendment furthers and promotes multiple policies of both the New City IDO, Comprehensive Plan, and the Newly Adopted SWPSDP. A list of permissive uses may already exist in Section A.5. The C-1 zone best fits our current use (this is the basis of our zone map amendment request). The new non-residential uses must meet the requirements of the SWPSDP.

Staff: The applicant cites reason 3) above, that the existing zoning is inappropriate because a different use category is more advantageous to the community. It's unclear what the applicant means by the *Newly Adopted SWPSDP.* ***The SWSDP was adopted in 1996. Also, the IDO is not a part of this analysis because the application was submitted prior to the effective date of the IDO.***

Staff is not entirely convinced that a different zoning category would be more advantageous to the community than the current zoning (SU-2/S-R) because the applicant has not demonstrated that the request clearly facilitates realization of the Comprehensive Plan and the SWSDP.

The proposed C-1 permissive uses would allow a variety of neighborhood commercial uses and higher-density residential uses. Without a zone change, the permissive uses on the subject site are S-R uses, flower shop, and nursery. There is no "list of uses" in A.5. A.5 requires that new commercial uses be equally or more restrictive than the preceding use; zoning and preceding uses differ by site.

E. "A change of zone shall not be approved where some of the permissive uses in the zone would be harmful to adjacent property, the neighborhood or the community."

Applicant: The proposed zone amendment change would not be harmful to adjacent properties, the neighborhood, or the community because day care, law office, office uses, court reporter, accountant, professional offices, engineer, doctors office, pre-school, and Staff res, and flower shop/nursery, bed and breakfast, museum C-2 uses with exceptions, are current uses under the special use category. The same category on the site property is listed. These properties are conforming/permissive and not in conflict with the health, safety, morals, and general welfare of the City presently. The requested zoning is less intensive.

We are requesting SU-2/SU-1 for flower shop/nursery and permissive C-1 uses because we wish to preserve our current attachment while adding a list of uses that best fits our current attachment. C-1 best fits our current use. We are acceptable to using a more restrictive attachment of RC. The new non-residential uses must meet the requirements of the SWPSDP.

Staff: The test in Section E is whether or not any of the uses in the proposed zone would be harmful to adjacent property, the neighborhood, or the community. The test applies to the subject site, and not to other sites nearby and/or in the larger Plan area. The analysis is not comparative and is based on the subject site.

The questions raised in Section E are: what uses would the proposed zone allow, and would these be harmful? The most effective way to respond is to list the uses that the zone change would allow if granted, and discuss whether or not each would be harmful. Each allowed use has the potential to develop on the subject site, and each may or may not be harmful to adjacent property, the neighborhood, or the community.

The applicant did not discuss permissive uses in the S-R zone or the C-1 zone and whether or not they would be harmful to adjacent property, the neighborhood, or the community, as required. Therefore, the response to Section E is insufficient.

F. "A proposed zone change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the City may be:

1) denied due to lack of capital funds, or

2) granted with the implicit understanding that the City is not bound to provide the capital improvements on any special schedule."

Applicant: The proposed zone change will not require major and unprogrammed capital by the City. This is an infill property adequate infrastructure, including roadways, water, sewer, already exist.

Staff: Staff finds that the proposed zone change will not result in any major or unprogrammed capital expenditures by the City. The response to Section F is sufficient.

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

Applicant: The cost of the land and other economic considerations pertaining to the applicant are not a determining factor for a change of zone, other than consistency with the New City IDO, the Newly adopted SWSDP. The cost of the land, other economic considerations of the applicant are not relevant or deciding factors for a zone map amendment request. The zone map amendment provides economic development in an area in need of economic stimulus and makes good use of an existing business location.

Staff: Economic considerations are always a factor, but the test in G is whether or not they are the determining factor behind the proposed zone change. The applicant refers to consistency with the Comprehensive Plan and the SWPSDP (the IDO does not apply), but does not demonstrate in the response to Section C that the request clearly facilitates applicable Goals and policies.

The subject site is not being used currently and is for sale or lease. The applicant wants to add additional commercial uses to the property in order to market it to small-scale commercial businesses or tenants. Staff finds that this is the determining factor for the change of zone, especially since the applicant has not expressed an interest in redeveloping the property under the current zoning. The response to Section G is sufficient, but Staff finds that it conflicts with the requirement.

H. "Location on a collector or major street is not in itself sufficient justification of apartment, office or commercial zoning."

Applicant: Location on a collector or major street is not in itself sufficient justification of apartment, office or commercial zoning and is not a determining factor for this zone map amendment, other than consistency with the New City IDO and The Newly Adopted SWSDP. The subject property is on a collector street. There are multiple transportation options available to serve this site, but this is not in itself the reason for the zone map amendment. The traffic conditions were addressed in the EPC Z-69-81 at the request of the concerned previous property owner at the time.

Staff: Staff finds that the applicant is not using the subject site's location on 6th St. NW, in itself, as justification for the proposed zone change.

I. "A zone change request which would give a zone different from surrounding zoning to one small area, especially when only premise is involved, is generally called a 'spot zone'. Such a change of zone may be approved only when:

i) the change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan, or

ii) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic or special adverse land uses nearby, or

because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone."

Applicant: The change will clearly facilitate realization of the Comprehensive Plan and any adopted sector development plan or area development plan, and this zone amendment request would not be a spot zone. The proposal is not in significant conflict with adopted elements of the Comprehensive Plan or other City Master Plans and Amendments because the longevity of the subject property shows stability and provides a solid base to support the proposal. The requested SU-2/SU-1 for Flower Shop/Nursery with Permissive C-1 Uses does not constitute a spot zone if approved.

Staff: Staff points out that an SU-1 zone is considered a "spot zone" by definition, because it pertains to a single, unique property and a site development plan is required. SU-1 zoning is a justifiable spot zone provided that it: i) clearly facilitates realization of the Comprehensive Plan and sector development plan or area plan, or ii) functions as a transition between adjacent zones as elaborated above. The applicant has not demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate realization of the Comprehensive Plan and the SWPSDP. The response to Section I is insufficient.

J. "A zone change request which would give a zone different from surrounding zoning to a strip of land along a street is generally called 'strip zoning'. Strip commercial zoning will be approved only where:

i) the change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan, and

ii) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic or special adverse land uses nearby."

Applicant: This zone change request would not be considered a strip zone. The subject property is on a corner and comprises only 0.3 acres. The change would clearly facilitate realization of the New City IDO and the Newly Adopted SWSDP. The proposal is not in significant conflict with the New City IDO or other City Master Plans and would not be considered a strip zone.

Staff: Staff agrees that the zone change request would not result in a "strip zone". The subject site is a single, small property that does not comprise a strip of land. The response to Section J is sufficient, though Staff points out that the applicant has not demonstrated that the proposed zone change would clearly facilitate realization of the Comprehensive Plan and the SWPSDP.

Staff Conclusion and Discussion

Staff finds that the applicant has not adequately justified the sector development plan map amendment (zone change) pursuant to R270-1980. The applicant does not adequately

demonstrate, in the response to Section C, that the proposed zone change would clearly facilitate applicable Goals and policies in the Comprehensive Plan and the SWPSDP. The connection between the request and each Cited policy is insufficiently developed. Therefore, the responses to Section D regarding more advantageous to the community, and the response to Section A regarding consistency with health, safety, and welfare, are also insufficient. The response to Section E would benefit from elaboration.

The applicant's justification states that he wants a "list of uses" of what is allowed on the subject site; this list was given to the applicant (see attachment). The permissive uses under the current zoning are S-R uses, flower shop, and nursery.

It appears that the applicant does not agree with the City's interpretation of Regulation A.5 of the SWPSDP. However, this interpretation was upheld by the District Court in a 2010 decision regarding the subject site.

The justification contains statements about mix of uses and economic development, which must be placed in the framework of the SWPSDP to be properly understood. For instance, the concept of a mixture of uses is mentioned in the Plan, but the primary idea is that the mixture be compatible with residential uses, particularly in the S-R zone. The SWPSDP clearly intends for non-residential and residential uses to co-exist, but they must do so harmoniously (p. 33, p. 99) in accordance with the Plan. The requested zoning would conflict with this basic tenet of the SWPSDP and is contrary to the intent of the Plan to not allow any new non-residential uses for which the subject site was not zoned prior to Plan adoption (see p. 99).

The process to change a sector development plan (i.e.-change Regulation A.5) is by a text amendment, which would be reviewed by the EPC as a recommending body. The City Council would make the final decision. The request is not for a text amendment, however; it is for a zone change and that is what was reviewed here. For these reasons, Staff recommends denial of the request.

V. ANALYSIS-SITE DEVELOPMENT PLAN FOR BUILDING PERMIT

Note: The Sawmill/Wells Park General SU-2 Regulations apply to building permit applications for additions, renovations, or site rehabilitation work.

Site Plan Layout / Configuration

The existing building, which is long and narrow, fronts 6th St. and is located in the southwestern corner of the subject site. There is a paved, unimproved parking area. The eastern, approx. half of the subject site is a future development area with a couple of trees and an old RV parked on it.

Refuse Enclosure: A new refuse enclosure is shown near the middle of the site. A refuse enclosure detail is needed. The Solid Waste Management Division (SWMD) would need to approve the location and type. SWPSDP General SU-2 Regulation 5e requires that trash collection areas be screened according to the Solid Waste Ordinance.

Walls/Fences
A chain link fence surrounds the back portion of the subject site, which is a future development area. The proposed site plan indicates that the fence in the parking area would be removed, but it is unclear if the entire fence would be removed. Height is unspecified.

A 6 ft. steel tubular fence is proposed just south of the patio area. It will need to be sited to comply with SWSDP General SU-2 Regulation 5j. Color is unspecified. No perimeter wall is proposed.

Vehicular Access, Circulation & Parking
Access & Circulation: The subject site is accessed from Constitution Ave. Though access is currently possible from 6th St. by driving across Lot 21, a plaza area is proposed on the eastern side of the existing building to prevent vehicular access.

Parking: Because the requested zoning is SU-1, off-street parking is as decided by the EPC pursuant to Zoning Code §14-16-2-22, Special Use Zone. Zoning Code §14-16-3-1, Off Street Parking Regulations, was used to calculate parking. The existing building is 1,078 sf. 1,078 sf/200 (1 space for every 200 sf of retail space)= 5.39, or 5, spaces required using §14-16-3-1.

One handicap space is required according to §14-16-3-1 and one is provided. One motorcycle parking space is required, but is not provided. One bicycle space is required; two are provided by the proposed bike rack located at the back of the building near the proposed plaza area.

TIS: A Traffic Impact Study (TIS) was not required.

Pedestrian and Bicycle Access and Circulation, Transit Access
Pedestrian & Bicycle Access & Circulation: Pedestrian and bicycle access is from Constitution Ave. by walking across the parking lot. Access from 6th St. NW wouldn't be possible unless there is a cross-access agreement with the adjacent property owner. There is a pedestrian pathway around the building. The site complies with SWSDP General SU-2 Regulation 7, since the part of the site to be used by customers is connected to the sidewalk.

Transit Access: Albuquerque Ride Route #8-Menaul, is the only local route that turns north onto 5th St. leaving Downtown, and turns south onto 6th St. approaching Downtown. Routes #91, 93 and 94 are Express busses that go through the area but don't stop. Route #10-North Fourth St., runs along the 4th St. Major Transit Corridor with day, evening and weekend service.

Lighting & Security
There are no existing light poles on the subject site and none are proposed. It appears that the building does not have any wall-pack lighting or security lighting.

Landscaping Plan
The subject site has landscape beds along 6th St. NW that are planted with shrubs, short trees, and red yucca. There are two mature, unmaintained trees on the future development area. One of them is shown on the site plan and would remain, though both could since they're close together. The

existing landscape beds on the building's southern side are on Lot 21 and are not a part of this request.

It's unclear what landscaping would remain and what is proposed. Trees include 3 Modesto Ash and 3 Amur Maple. Staff suggests another tree in lieu of the Ash, which is prohibited pursuant to the City's Pollen Ordinance. Shrubs include Scotch broom, Cranberry cotoneaster, Russian sage, Yarrow and Rosemary. Native seed is proposed, though it is unclear where.

The number and flow rate of the emitters needs to be increased, based on prior guidance provided by the City Forester. Any new landscaping beds should be below grade to facilitate water harvesting. Curb cuts could also be used. The tree and shrub planting details need to be updated.

Architecture & Design
No renovations are proposed to the existing building, which is finished in light tan stucco. The building has a pitched roof made of dull green metal, which is new since 2009 when the roof had grey shingles. There are also white framed windows, a large awning on the main (western) elevation, and small, tan canopies over two windows on the southern elevation.

Though it's acceptable to use photos in lieu of drawn elevations when no changes are proposed, building elements need to be dimensioned and the materials and colors need to be indicated.

Signage
Currently there is no signage on the building, except for the address numbers on the main (western) elevation. Building mounted signage is desired, as indicated by the site plan note specifying "not more than 7.5% of façade area", but details are not provided. It is unknown what the building mounted signage would look like.

Pursuant to Zoning Code §14-16-2-22, signage on an SU-1 zoned site is "as permitted and regulated by the EPC." There is little information for review at this time other than the 7.5% of façade area. The 7.5% figure comes from the R-C zone (see discussion below).

The SWPSDP (p. 99) contains a condition regarding signage for new non-residential uses. Condition A.5.e of the S-R zone states that signs shall be as regulated in the S-MRN zone. The S-MRN zone (p. 110) requires that signs comply with the General Sign Regulations in the Zoning Code, comply with the R-C zone, and do not turn on and off or change brightness. The R-C zone (§14-16-2-13) in Subsection (A)(5) specifies that "signs shall be wall signs or canopy signs."

Therefore, a monument sign would not be allowed according to the SWPSDP. General Note 5 indicates that a monument sign is desired at the NW corner of the subject site.

Grading & Drainage Plan
The subject site is generally flat and has been developed for some time. There is no significant slope. Behind the refuse enclosure and near the trees, there is a small, slightly lowered area where some ponding could occur.

Utility Plan
There are existing water lines and existing sewer lines along 6th St. and Constitution Ave., to which the existing building is already connected.

Public Outdoor Space
Public outdoor space is not required for this request because the building is not greater than 60,000 sf. A plaza area is proposed behind the building's eastern side. One table with an umbrella would be provided. The location of the plaza area would serve to keep vehicles from accessing Lot 21 (to the south) by crossing the subject site.

VI. AGENCY & NEIGHBORHOOD CONCERNS

Reviewing Agencies
City departments and other interested agencies reviewed this application from 4/3/18 to 4/20/18. Long Range Planning Staff notes that the design standards in the SWPSDP will be carried over into the IDO as a Character Protection Overlay (CPO) and that the conversion for C-1 is MX-L. The Transit Department commented regarding bus routes and stops in the area. Transportation Development (Planning Department) has no objections. Agency comments begin on p.28.

Neighborhood/Public
The affected neighborhood organizations are the Wells Park Neighborhood Association (NA) and the Sawmill Community Land Trust (SCLT), as indicated by the by the Office of Neighborhood Coordination (ONC). Both were notified as required. Property owners within 100 feet of the subject site were also notified, as required.

A facilitated meeting was held on April 23, 2018 (see attachment). Neighbors wanted assurance from the applicant that he would not put a bail bond business or a pawnshop on the subject site. The applicant agreed. There were questions about what uses are currently allowed on the subject site, and what uses could be developed with the proposed zone change. Concern was expressed about the C-1 zone; neighbors favor a lesser zone and mentioned the MX-T zone under the IDO (which is akin to the RC zone). Clarifications to the facilitated meeting report were made via one amendment (see attachment) and by an email from Staff (see attachment).

Staff received correspondence from the WPNA and the SCLT (see attachments). The WPNA representative indicated that it would support a zone change to MX-T under the new IDO but not to MX-L (see attachment). The MX-T zone is the replacement for the RC zone and the MX-L zone is the replacement for the C-1 zone. The SCLT representative indicated that they do not have a problem with the project from what they can see.

VII. CONCLUSION

This request is for a sector development plan map amendment (zone change) and an associated site development plan for building permit for an approximately 0.5 acre site located at the SE corner of 6th St. NW and Constitution Ave. The applicant proposes to change the subject site's zoning from

SU-2/S-R to SU-2/SU-1 for Flower Shop and Nursery and C-1 Permissive Uses in order to allow small commercial uses on the subject site.

Staff concludes that the applicant has not adequately justified the sector development plan map amendment (zone change) pursuant to R270-1980. The applicant does not adequately demonstrate, in the response to Section C, that the proposed zone change would clearly facilitate realization of applicable Goals and policies in the Comprehensive Plan and the SWSDP. The connection between the request and each Cited policy is insufficiently developed. Therefore, the responses to Section D regarding more advantageous to the community, and the response to Section A regarding consistency with health, safety, and welfare, are also insufficient. The response to Section E would benefit from elaboration.

The requested zoning is contrary to the intent of the SWPSDP to not allow any new non-residential uses for which the subject site was not zoned prior to Plan adoption.

The effected neighborhood organizations are the Wells Park Neighborhood Association (NA) and the Sawmill Community Land Trust. A facilitated meeting was held on April 23, 2018. Staff received two letters. The WPNA representative indicated that they would support a zone change to MX-T under the new IDO but not to MX-L (see attachment). The MX-T zone is the replacement for the RC zone and the MX-L zone is the replacement for the C-1 zone. The SCLT representative indicated that they do not have a problem with the project from what they can see.

Staff recommends denial of the proposed sector development plan map amendment and the associated site development plan for building permit.

FINDINGS - 18EPC-40019, May 10, 2018- Sector Development Plan Map Amendment (zone change)

1. The request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, an approximately 0.5 acre site located at the southeast corner of Sixth St. NW and Constitution Ave. (the "subject site").

2. The applicant owns the subject site and proposes to change the subject site's zoning from SU-2/S-R (Sawmill Residential) to SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses to allow small commercial uses to occupy the subject site. The subject site is available for sale or lease, and it appears that the building is not being utilized right now.

3. The subject request is accompanied by a site development plan for building permit (18EPC-40021) as required pursuant to the SU-1 Zone, §14-16-2-22.

4. At one time, the applicant was using the existing building for a bail bonding business, but the zone change that would have allowed the bail bonding business to operate legally was denied in 2009; the denial was affirmed by a District Court decision in 2010. The applicant moved the bail bonding business, which has since ceased operation.

5. The Albuquerque/Bernalillo County Comprehensive Plan, the Sawmill/Wells Park Sector Development Plan (SWPSDP), and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.

6. The applicant has not adequately justified the zone map amendment (zone change) request pursuant to Resolution 270-1980 as follows:

   A. Section A: Consistency with the City's health, safety, morals, and general welfare is shown by demonstrating that that a request furthers applicable Goals and policies in relevant Plans, which the applicant has not adequately done in the response to Section C. Also, the request conflicts with the fundamental principle of the SWPSDP that does not allow new non-residential uses to be re-established after they have ceased to operate, therefore could impact health, safety, morals, and general welfare.

   B. Section B: The applicant does not explain specifically how the request would affect stability of land use and zoning. The proposed zone change would allow new non-residential uses and therefore would affect stability land use and zoning. The burden is on the applicant to justify the zone change.

   C. Section C: Because the request is for an SU-1 zone, the test in Section C is whether or not the request "clearly facilitates" applicable Goals and policies, which the applicant has not

demonstrated. Also, the request presents a notable conflict with Regulation A.5 of the SWPSDP (adopted in 1996). When a non-residential use ceases to operate, the SWPSDP does not intend to replace it with new non-residential uses that were not allowed by the zoning in place prior to Plan adoption unless they conform to Regulation A.5.

The subject site was zoned S-R upon Plan adoption for this reason. New non-residential uses could occupy the same premises, but they are required to be equally or more restrictive than the immediately preceding use, not require more off-street parking, and comply with the following conditions a-e in the Plan.

D. Section D: The applicant cites reason 3) above, that the existing zoning is inappropriate because a different use category is more advantageous to the community. However, the applicant has not adequately demonstrated that the request clearly facilitates realization of the Comprehensive Plan and the SWPSDP, and therefore has not made a convincing argument that a different zoning category would be more advantageous to the community than the current zoning.

E. Section E: The applicant did not discuss permissive uses in the S-R zone or the C-1 zone and whether or not they would be harmful to adjacent property, the neighborhood, or the community if the zone change were to be granted.

F. Section F: The proposed zone change would not result in any major or unprogrammed City capital expenditures.

G. Section G: The determining factor for the proposed zone change is the applicant's desire to add additional commercial uses to the property in order to market it to small-scale commercial businesses or tenants, or to sell it.

H. Section H: The applicant is not using the subject site's location on 6th St. NW, in itself, as justification for the proposed zone change.

I. Section I: The SU-1 zone is a "spot zone" by definition, because it pertains to a single, unique property and a site development plan is required. SU-1 zoning is a justifiable spot zone provided that it: i) clearly facilitates realization of the Comprehensive Plan and sector development plan or area plan, or ii) functions as a transition between adjacent zones as elaborated above. The applicant has not demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate realization of the Comprehensive Plan and the SWPSDP.

J. Section J: The zone change request would not result in a "strip zone". The subject site is a single, small property that does not comprise a strip of land.

7. The applicant has not adequately justified the sector development plan map amendment (zone change) pursuant to R270-1980 because he has not adequately demonstrated, in the response to

Section C, that the proposed zone change would clearly facilitate applicable Goals and policies in the Comprehensive Plan and the SWPSDP. The connection between the request and each Cited policy is insufficiently developed. Therefore, the responses to Section D regarding more advantageous to the community, and the response to Section A regarding consistency with health, safety, and welfare, are also insufficient. The response to Section E would benefit from elaboration.

8. The allowed uses under the current zoning are S-R uses, flower shop, and nursery. When the SWSDP was adopted in 1996, the flower shop became a permissive, non-residential use in a residential zone (SU-2/S-R). The flower shop ceased to operate in 1999.

9. The proposed zone change creates a significant conflict with the intent of the Sawmill/Wells Park Sector Development Plan (SWSDP), especially Regulation A.5. of the S-R zone. Regulation A.5. intends to establish residential uses when legally, non-conforming, non-residential uses cease to operate. The SWSDP does not intend new non-residential uses that were not allowed by the zoning that was in place prior to adoption of the Plan (1996). The City's reading of Regulation A.5 was upheld by the District Court in its 2010 decision.

10. The affected neighborhood organizations are the Wells Park Neighborhood Association (NA) and the Sawmill Community Land Trust (SCLT). Both were notified as required. Property owners within 100 feet of the subject site were also notified, as required. A facilitated meeting was held on April 23, 2018. Neighbors wanted assurance that the applicant would not put a bail bond business or a pawnshop on the subject site. The applicant agreed. There were questions about what uses are currently allowed on the subject site, and what uses could be developed with the proposed zone change.

11. Staff received correspondence from the WPNA and the SCLT. The WPNA representative indicated that it would support a zone change to MX-T under the new IDO but not to MX-L. The MX-T zone is the replacement for the RC zone and the MX-L zone is the replacement for the C-1 zone. The SCLT representative indicated that they do not have a problem with the project from what they can see.

RECOMMENDATION - 18EPC-40019, May 10, 2018

DENIAL of 18EPC-40019, a request for a sector development plan map amendment from SU-2/S-R (Sawmill Residential) to SU-2/SU-1 for Flower Shop and Nursery and C-1 Permissive Uses for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, located at the southeast corner of 6th St. NW and Constitution Ave., based on the preceding Findings.

FINDINGS -18EPC-40021, May 10, 2018-Site Development Plan for Building Permit

1. The request is for a sector development plan map amendment (zone change) to the Sawmill/Wells Park Sector Development Plan (SWPSDP) for Lots 22, 23 and 24, Block 20,

Albright-Moore Addition, an approximately 0.5 acre site located at the southeast corner of Sixth St. NW and Constitution Ave. (the "subject site").

2. The applicant owns the subject site and proposes to change the subject site's zoning from SU-2/S-R (Sawmill Residential) to SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses to allow small commercial uses to occupy the subject site. The subject site is available for sale or lease, and it appears that the building is not being utilized right now.

3. The subject request is accompanied by a request for a sector development plan map amendment (zone change) (18EPC-40019). When requesting an SU-1 zone, a site development plan is required pursuant to §14-16-2-22(A)(1).

4. At one time, the applicant was using the existing building for a bail bonding business, but the zone change that would have allowed the bail bonding business to operate legally was denied in 2009; the denial was affirmed by a District Court decision in 2010. The applicant moved the bail bonding business, which has since ceased operation.

5. The Albuquerque/Bernalillo County Comprehensive Plan, the Sawmill/Wells Park Sector Development Plan (SWPSDP), and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.

6. The applicant has not adequately justified the sector development plan map amendment (zone change) pursuant to R270-1980 because he has not adequately demonstrated, in the response to Section C, that the proposed zone change would clearly facilitate applicable Goals and policies in the Comprehensive Plan and the SWPSDP.

7. The Sawmill/Wells Park General SU-2 Regulations apply to building permit applications for additions, renovations, or site rehabilitation work.

8. The affected neighborhood organizations are the Wells Park Neighborhood Association (NA) and the Sawmill Community Land Trust (SCLT). Both were notified as required. Property owners within 100 feet of the subject site were also notified, as required. A facilitated meeting was held on April 23, 2018. Neighbors wanted assurance that the applicant would not put a bail bond business or a pawnshop on the subject site. The applicant agreed. There were questions about what uses are currently allowed on the subject site, and what uses could be developed with the proposed zone change.

9. Staff received correspondence from the WPNA and the SCLT. The WPNA representative indicated that it would support a zone change to MX-T under the new IDO but not to MX-L. The MX-T zone is the replacement for the RC zone and the MX-L zone is the replacement for

the C-1 zone. The SCLT representative indicated that they do not have a problem with the project from what they can see.

RECOMMENDATION - 18EPC-40021, May 10, 2018

DENIAL of 18EPC-40021, a Site Development Plan for Building Permit for Lots 22, 23 and 24, Block 20, Albright-Moore Addition, zoned SU-2/S-R (Sawmill Residential), located at the southeast corner of 6th St. NW and Constitution Ave., based on the preceding Findings.

Catalina Lehner

Catalina Lehner, AICP
Senior Planner

cc: Eric Kilmer, 1416 6th St. NW, ABQ, NM 87102
Sawmill Community Land Trust, Mona Angel, 990 18th St. NW, ABQ, NM 87104
Sawmill Community Land Trust, Annette Montoya, 990 18th St. NW, ABQ, NM 87104
Wells Park NA, Mike Prando, 611 Bellamah NW, ABQ, NM 87102
Wells Park NA, Doreen McKnight, 1426 7th St. NW, ABQ, NM 87102

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Enforcement

Office of Neighborhood Coordination

Long Range Planning

The property is within the boundary of the Sawmill/Wells Park Sector Development Plan, which has design standards for development. These standards will be carried over in the Integrated Development Ordinance (IDO) as a Character Protection Overlay (CPO). Properties within SDP areas are typically designated as SU-2 to make clear that they are subject to the provisions of the SDP. This request should be *SU-2* for C-1, as it will be included in the boundary of the CPO in the IDO and therefore subject to its design standards.

While the SDP did allow existing commercial uses to remain, it is unclear whether the flower shop and plant nursery have been active in the last 12 months. If not, those uses would have expired as nonconforming uses in the interim. The property to the south is zoned SU-2 SU-1 for Residential & Office Uses &/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Doctor Office, which will convert to MX-T under the IDO.

The request to C-1 (or SU-2 for C-1) would result in a zone conversion to MX-L under the IDO, which is more intense than the MX-T zone that would be abutting to the south and allow much more intense land uses than the R-1A properties north of Constitution and east across 6th Street. The MX-T zone would allow the flower shop and plant store that this property had historically and would be more compatible with the surrounding zoning and land uses. The applicant has not justified the request for a more intense C-1 zone.

The applicant's justification analysis is based on the prior, outdated version of the Comprehensive Plan, not the updated ABC Comp Plan as of 2017. This justification should be amended to address the more relevant Goals and policies of the current version of the Comp Plan.

CITY ENGINEER

Transportation Development

No objection to the request (comment made before site plan delivered*).

Hydrology Development

New Mexico Department of Transportation (NMDOT)

NMDOT has no comments.

DEPARTMENT of MUNICIPAL DEVELOPMENT

Transportation Planning

No comment.

Traffic Engineering Operations (Department of Municipal Development)

Street Maintenance (Department of Municipal Development)

RECOMMENDED CONDITIONS FROM THE CITY ENGINEER:

WATER UTILITY AUTHORITY

Utility Services

1. 18EPC-40019 Zone Map Amendment (Zone Change)
   Identification: Address – 1416 6th St. NW
   a. No adverse comment to the proposed zone change.
   b. If new development is desired request an availability statement at the link below:
      i. http://www.abcwua.org/Availability_Statements.aspx
      ii. Request shall include a City Fire Marshal approved Fire 1 Plan and a zone map showing the site location.

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Open Space Division- No adverse comments.

City Forester

POLICE DEPARTMENT/Planning

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division- No comment (made before site plan was delivered)*.

FIRE DEPARTMENT/Planning

TRANSIT DEPARTMENT

Not on a Corridor. Fixed Route 8 runs the length of Menaul from Tramway to 6th Street, then south to Downtown on 6th Street. North-bound trips are on 5th Street. Commuter Route 93 runs the length of Academy from Tramway to I-25, thence south into Downtown. North-bound trips are

on 5th Street. Commuter Route 94 connects the Northwest Transit Center to Downtown by way of Unser and I-40.

Nearest stop "pair" for the Route 8 and Route 93 is split into two stops. The southbound stop is one block south of the site at Kinley Avenue. The north-bound stop is immediately east of the site at 5th and Constitution. The nearest "pair" for the Route 94 are on Aspen, similarly split between 5th Street and 6th Street. No comment.

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY

No objections.

ALBUQUERQUE PUBLIC SCHOOLS

This will have no adverse impact to the APS district.

MID-REGION COUNCIL OF GOVERNMENTS

MRMPO has no adverse comments.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

PNM has no comments based on information provided to date.

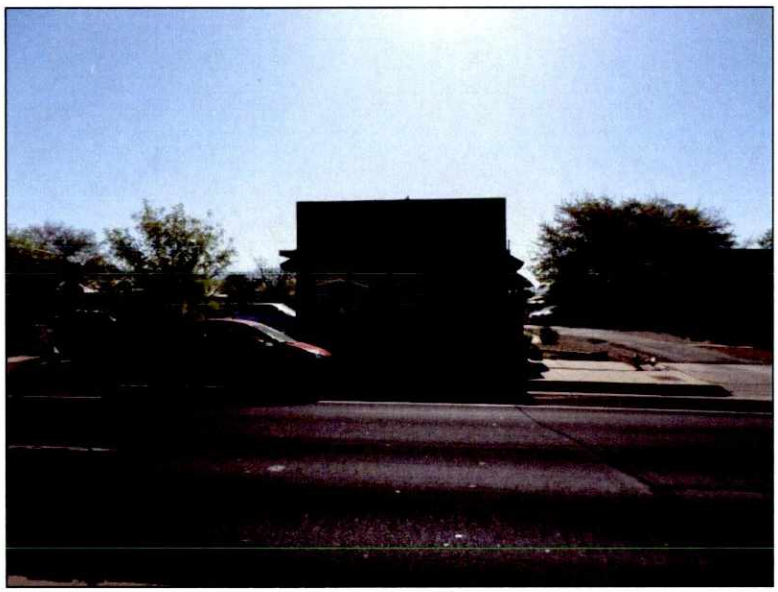

Figure 1: Looking east, at the building, from Sixth St. NW.

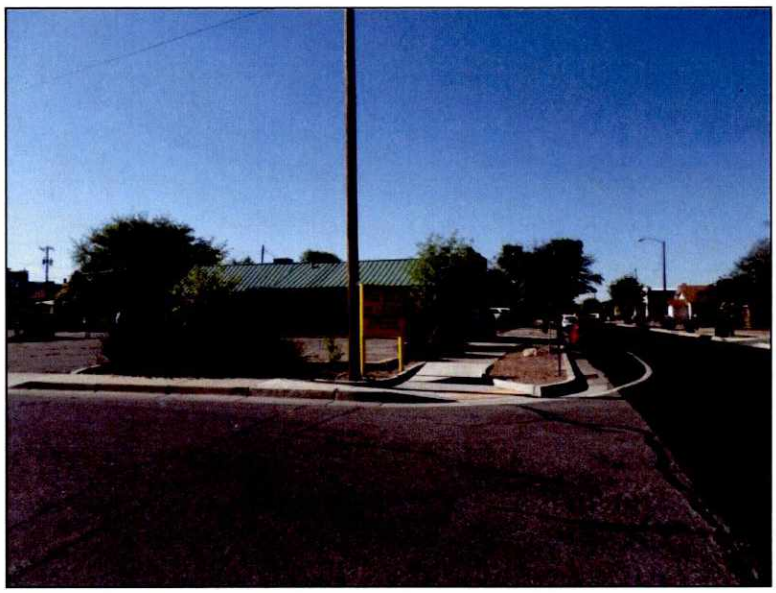

Figure 2: Looking south, from the intersection of Constitution Ave. and 6th St. NW.

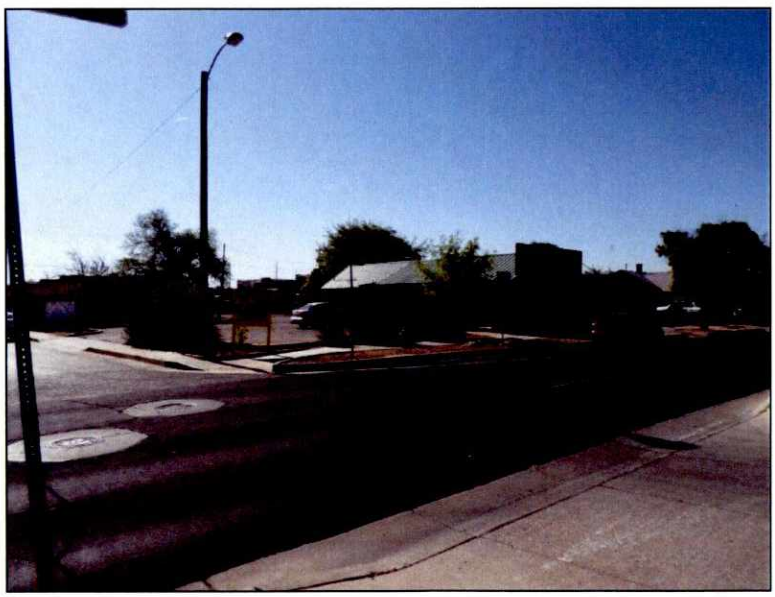

Figure 3: Looking southeast, at the subject site, from the western side of 6th St. NW.

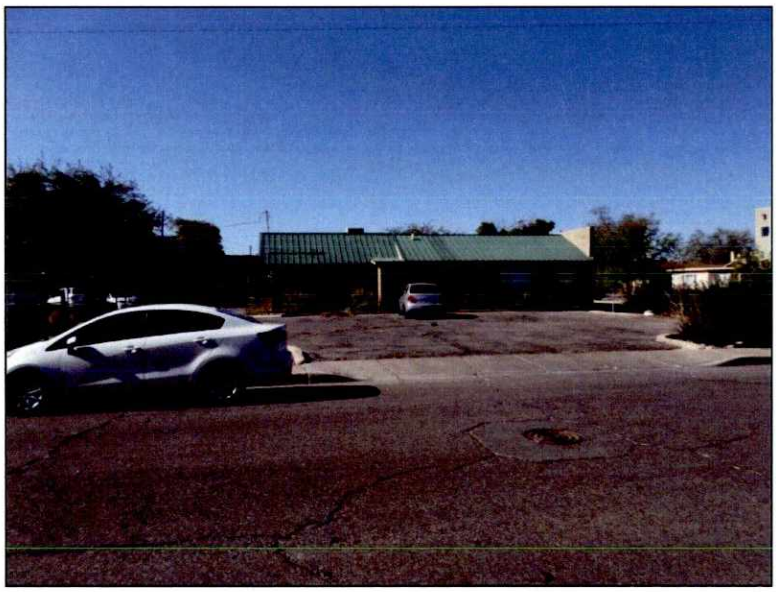

Figure 4: Looking south, at the building's northern elevation, from Constitution Ave..

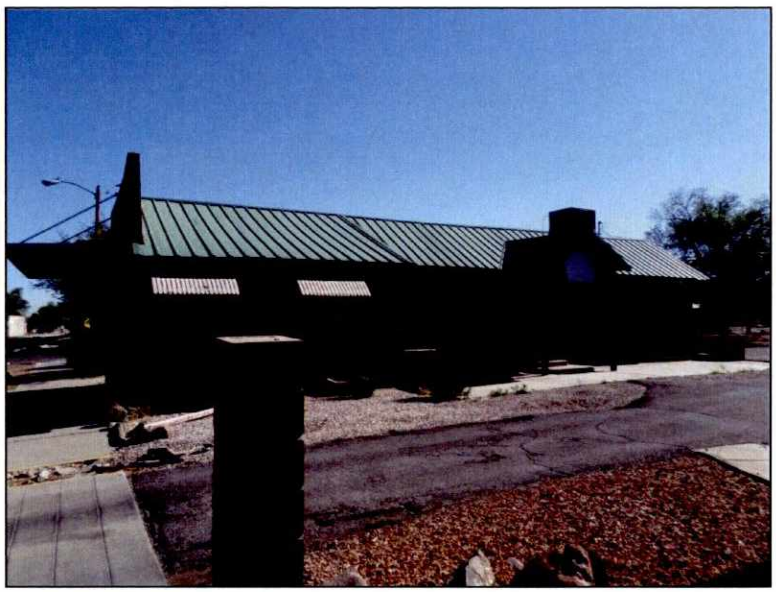

Figure 5: Looking south, from the sidewalk on 6th St. NW, at the building's southern elevation.

Figure 6: Looking south, the subject site, from Constitution Ave.

Figure 7: Looking southeast, at the dwelling units that are south of the subject site.

Figure 8: Looking south, down the alley that runs along the back of the subject site.

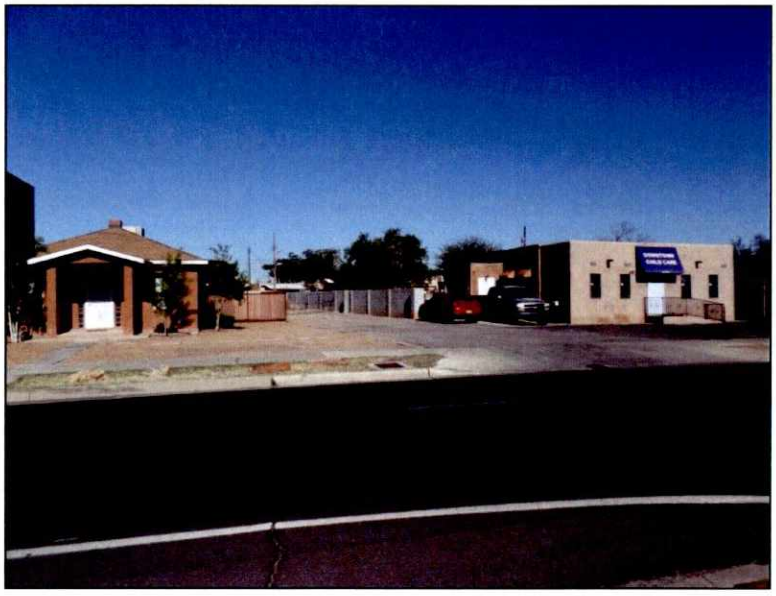

Figure 9: Looking west, across 6th St. NW, from the sidewalk in front of the subject site.

HISTORY

ENDORSED
FILED IN MY OFFICE THIS

OCT 13 2010

Juanita M. Duran
CLERK DISTRICT COURT

LORENZO D. RENTERIA

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

ERIC KILMER,

Appellant,

v. **CV-2009-07499**

CITY OF ALBUQUERQUE and
CITY COUNCIL of the CITY OF
ALBUQUERQUE,

Appellees.

MEMORANDUM OPINION AND ORDER

{1} Appellant Eric Kilmer appeals from the adverse decision of Appellee City of Albuquerque regarding Kilmer's property located at 1416 6th Street, NW. The Court affirms the City and vacates the hearing scheduled for October 14, 2010, at 2:00 p.m.[1]

I. Facts and Background

{2} The property at issue consists of an approximately one-half acre site on the corner of 6th Street and Constitution Avenue in the Sawmill/Wells Park area. RP at 107. The existing building on the site was originally a single-family home, dating back to about 1924. RP at 109. In 1946, the building was converted to a flower shop and nursery. Id. Prior to 1996, the zoning on the site as "'SU-2 for SU-1 for flower shop and nursery.'" RP at 20. In 1996, the Sawmill Wells Park Sector

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[1] Kilmer chose to rest on his "Motion to Stay the Final Decision of the City of Albuquerque" rather than submit a Statement of Appellate Issues pursuant to the requirements of Rule 1-074(K) NMRA. He also chose not to file a reply to the City's Response, even though a reply is permitted under Rule 1-074(J)(3). Finally, his request for oral argument was not timely because it was made July 7, 2010, more than fifteen days after the Response was filed. See Rule 1-074(O) ("Upon the filing of a request for hearing of either party or on the court's own motion, the court may allow oral argument. A party requesting oral argument shall file the request for hearing on or before the expiration of all response times under Paragraph J of this rule[, which provides that a reply must be filed fifteen days after service of the response]. If neither party requests oral argument within the time provided in this paragraph, the appellant shall promptly file a notice of completion of briefing to notify the court that the case is ready for decision by the court."). Kilmer had the opportunity to thoroughly explain his position in a Statement of Appellate Issues and respond to the City's position in a reply. Compare Rule 1-074(N) (allowing a SAI to be up to twenty-five pages and a reply to be up to ten pages) with Kilmer's SAI (eleven pages). Kilmer did frequently ask for a hearing during the course of this appeal, but, as he decided not to take advantage of the opportunities for briefing, the Court concludes that oral argument is unnecessary.

Development Plan (SWPSDP) was adopted and the site was zoned SU-2 S-R (Sawmill Residential). Id. The flower shop, a non-residential use, existed at the site at the time the SWPSDP was adopted, and was allowed to continue operating as a permissive use under the SU-2 for S-R zoning. Id.

{3} Kilmer purchased the property in 2008, wishing to operate his bail bonds business on the site. SAI at 1. In February 2009, Kilmer applied for a Zone Map Amendment and Site Plan for Building Permit, asking that the SU-2 for S-R zoning be changed to SU-2/SU-1 for SR and C-1 Permissive Uses with Exclusions, so that he could open his business. RP at 18.

{4} Following a hearing, the Environmental Planning Commission (EPC) denied the application. RP at 35. The EPC found that Kilmer did not adequately justify the zone change request as required by Resolution 270-1980, and that the proposed zone change conflicted with and did not fulfill the intent of SWPSDP. RP at 37- 39. Kilmer appealed this decision to the City Counsel. RP at 25-33. After a hearing on the matter, the City Counsel voted to deny the appeal and upheld the decision of the EPC. RP at 2.

II. Discussion

{5} "The district court may reverse an administrative decision only if it determines that the administrative entity, here the City, acted fraudulently, arbitrarily, or capriciously; if the decision was not supported by substantial evidence in the whole record; or if the City did not act in accordance with the law." Gallup Westside Dev., LLC, v. City of Gallup, 2004-NMCA-010, ¶ 10, 135 N.M. 30, 84 P.3d 78. As the party seeking to overturn the decision, Kilmer bears the burden of demonstrating that there is no substantial evidence in the record supporting the City's decision to deny his zone change request. See Hart v. City of Albuquerque, 1999-NMCA-043, ¶ 19, 126 N.M. 753, 975 P.2d 366. "The district court does not determine if the opposite result is supported by substantial evidence because it may not substitute its judgment for that of the administrative body." Id. ¶ 9.

{6} In order to be granted a zone change, Kilmer was required to demonstrate that the zone change is justified under Resolution 270-1980. Although Kilmer argues that his request provided all necessary justifications under Resolution 270-1980 and lists three such requirements, he does not refer to evidence in the record supporting this assertion, aside from his reliance on specific provisions of the SWPSDP. SAI at 3 (citing the requirements of showing that the zone change

would be consistent with the health, safety, and welfare of the city, that it would contribute to the stability and preservation of the land use, and that it is consistent with comprehensive plan policies); see Rule 1-074(K) (2)("A contention that a decision or finding of fact is not supported by substantial evidence shall be deemed waived unless the summary of proceedings includes the substance of the evidence bearing upon the proposition . . ."). Rather than address the determinations with regard to Resolution 270-1980, Kilmer focuses mainly on one argument. He argues that the plain language of the SWPSDP states that he can have a nonresidential business on the property as long as it is as restrictive or more restrictive than the prior use. Regulation A.5 of the SWPSDP does not mandate an outcome different from that found by the City, contrary to Kilmer's argument.

{7} S-R Zone Permissive Uses, Regulation A.5 of the SWPSDP, provides:

> Non-residential uses that 1) were non-conforming in the R-1 zone, 2) were zoned SU-1 for specific uses, or 3) were permissive uses in the R-C, C-1, or C-2 zone and that exist when the S-R zone is established with the adoption of the Sector Plan, shall be considered permissive uses and may remain at the locations where they exist provided they comply with the following conditions:
> A.5.a. Outdoor storage shall consist only of parked operative vehicles and screen trash receptacles.
> A.5.b. No underground storage tanks shall be present or installed on the property.
> A.5.c. Business activities other than home occupations shall be prohibited between 10 p.m. and 7 a.m.
> A.5.d. No more than five employees shall be present at any given time.
> A.5.e. Signs shall be regulated in the S-MRN Zone.

RP at 236. This provision allowed the flower shop to continue operation as a non-residential use zoned SU for a specific use that existed at the time the S-R zone was established in 1996 as a permissive use, assuming compliance with the listed conditions. RP at 20 (explanation of the Planning Department Director to the City Council).

{8} Kilmer relies almost exclusively on the next provision in A.5: "New nonresidential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, and they comply with the following conditions [set out in A.5.a through A.5.e]." Id. Because Kilmer alleges that his bail bonding business would be equally or more restrictive than the flower shop use, and because he contends that he would comply with the conditions set out in the Regulation, he argues that he was entitled to a zone change. Kilmer argues that this "'more restrictive' test" should have been determinative, but

that the EPC erred by relying on the "Notes and Illustrations" adopted with the regulation.

{9} The Notes and Illustrations to A.5 provide:

> A.5. The conditions placed on nonresidential uses in the S-R Zone are intended to help nonresidential and residential uses co-exist harmoniously to prevent the decline of the neighborhood.
>
> An inventory conducted just after the adoption of the Sector Plan will create a map of nonresidential uses and a list of attributes.
>
> For nonresidential premises previously zoned SU-1 for specific uses, R-C, C-1 or C-2, a future nonresidential use can be any one of the permissive uses listed in the zoning category that applied to that property prior to the establishment of the S-R Zone provided it complies with the conditions listed in A.5.

RP at 236.

{10} The Notes and Illustrations, particularly the third sentence, inform the provision of A.5 which allows new nonresidential uses. The property at issue is zoned SU for specific uses, and a future nonresidential use could be "any one of the permissive uses listed in the zoning category that applied to the property prior to the establishment of the S-R Zone provided it complies with the conditions listed in A.5." Notes and Illustrations to A.5. For this property, prior to 1996, the zoning on the site was "'SU-2 for SU-1 for flower shop and nursery.'" RP at 20. Thus, as the City explained, RP 21-22, the only new nonresidential permissive uses allowed as a "future nonresidential use" for this property would be for a flower shop and nursery, because those were the only permissive uses listed in the zoning category that applied to the property prior to the SU-2 S-R zoning in 1996. The current zoning on the property allowed the established flower shop to continue in business in the S-R (Sawmill Residential) area consistent with the first paragraph of A.5 set out above. The second paragraph of A.5, new nonresidential uses, as further illuminated by the Notes and Illustrations, would allow any new use listed in the zoning category effective prior to 1996, which, in this case, was SU-2 for SU-1 for flower shop and nursery. Otherwise, as the City stated, a zone change must be sought, as was done in this case.[2] RP at 22. At the hearing before the City, Kilmer's

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[2] There was some disagreement at the EPC hearing with regard to whether requesting a zone change was the proper procedure or whether a text amendment would be necessary. RP at 136-152. While some City staff expressed their view that A.5 would not allow a change in zoning and a text amendment would be required for Kilmer to operate his business on the subject property, at least one

representative agreed that Notes and Illustrations paragraph meant that they were required to apply for a zone change, because they could not proceed with the S-R zone; otherwise, Kilmer would be left with only the use of a flower shop for the property. 06/16/09 Appeal Hearing before the City Council, at 1:31-:32.

{11} **Kilmer reads the provisions of Section A.5 in isolation,** arguing that, because he believes his proposed use would be as or more restrictive than the flower shop and his request thus conforms with this paragraph of A.5, his request for a zone change should have been granted. In other words, as the City contends in its response, Kilmer's argument focuses only on whether the SWPSDP allows for the non-residential use of his bail bonds company if that use is as restrictive as the flower shop use. **However, Kilmer was required to demonstrate below that his request for a zone change met the criteria in Regulation 270-1980, not simply that the request met the "equal to or more restrictive" test in Section A.5 of the SWPSDP.**

{12} The City argues, and the Court agrees, that the current zoning allowed only for the flower shop/nursery, which is why Kilmer applied for a zone change from SU-2 for S-R to SU-2 for S-R and C-1 uses. The City relies on page 127 of the Record Proper, an excerpt from the EPC hearing.

Residen + C-1 permis uses

other stated that a text amendment was not necessary and a zone change was permissible, if the applicant met the criteria contained in Regulation 270-1980. Compare id. at 142 (asserting that A.5 was binding and that the zone could not be changed to any other non-residential use except for a flower shop), with id. at 151 (contending that only a flower shop or nursery was permissible under the existing SR zoning, but that a zone change or sector plan amendment was possible, assuming compliance with R. 270-1980). In the end, however, the commissioners focused on the evidence regarding whether Regulation 270-1980 criteria was met, id. at 154 (Commissioner Siegel stating that the staff's interpretation as to a conflict with Section A.5 "may or may not still be questionable," but that the zone change cannot be approved if it will be harmful to the neighborhood, and the testimony supported that it would be harmful); id. at 153-54 (Commissioner Shine stating that he did not think that "the dispute about how the sector plan should be interpreted on this issue should be the controlling basis for the decision," but that the emphasis should be on the potential impact of the bail bonding use on the child care center), and the EPC decision did not state that Section A.5 disallowed any zone change. See RP at 35-40; RP at 20-21 (letter by the Planning Department Director to the City Council, addressing the issues raised by Kilmer's appeal of the EPC decision) (stating that a zone change is necessary because A.5 does not allow a bail bonding business and unspecified commercial uses, but that the requirements of R. 270-1980 must be met for a zone change). There was no declaration before the City Council that Section A.5 disallows a property owner from seeking a zone change without a text amendment. 06/16/09 Appeal Hearing before the City Council, at 1:17-2:23.

RP at 127. Kilmer's representative recognized that "the only use that is permissive on this property today is the flower shop and nursery." Id. Kilmer's representative, later in the hearing, stated again that he "agree[s] that there has to be a zone change," id. at 128, and further clarified that, unless Kilmer wished to operate a nursery or flower shop, a zone change was necessary. Id. at 129.

{13} Kilmer, on appeal, relies on a letter written by a city employee, which stated, "[the former owners] are correct in [the] conclusion that the property may continue to be occupied with nonresidential uses as provided in the S-R zone, Section A.5," and "For a determination as to allowance for a specific proposed use, please provide a comprehensive description of the proposed activity for review." He contends that this means that any owner could continue with any business so long as it complied with Section A.5, and if it did not comply, then the owner would need to request permission under the second portion of the letter. SAI at 3. During the EPC hearing, however, Kilmer's representative stated that he was not relying on the letter as the basis of the zone change, but that the letter "is merely informational" and explained what Kilmer believed when he purchased the property. RP at 127.

{14} The question on appeal is whether Kilmer has demonstrated that he was entitled to change the zoning of the property, and the letter is not relevant to that determination. Even if the letter has any relevancy, the letter is not inconsistent with the City's interpretation of A.5. The letter indicated that the property could continue to be occupied with nonresidential uses under A.5, but instructs that a determination for a specific proposed use would need to be reviewed. The Court does not agree with Kilmer that this means that any equally or more restrictive use, no matter the zoning category, could operate on the site. The property is zoned SU-2 S-R for a flower shop. Kilmer requested a change in the zoning to C-1. As discussed above, the only new nonresidential uses allowed without a zone change would be a flower shop because that was the use allowed under the property's previous zoning, SU-2 for SU-1 for flower shop and nursery. In order to request a change in zoning, Kilmer was required to demonstrate that the zone change is justified pursuant to Resolution 270-1980, which includes compliance with the Comprehensive plan and the SWPSDP.

{15} Kilmer argues that the zoning category created at the time of the S-R zone adoption was not implemented to mandate a finite list of allowable businesses in perpetuity and that such an

interpretation is unreasonable. The plain language of Section A.5 evinces an intent to limit nonresidential uses in the S-R zone, and the property at issue is zoned SU-2 S-R (Sawmill Residential). Section A.5 addresses permissive uses and limits nonresidential uses of property in the S-R Residential zone, restricting such uses to those that preexisted when the S-R zone was established, and even then, only when such preexisting uses comply with the five conditions listed in A.5.a through A.5.e . Section A.5 only allows new nonresidential uses to occupy those particular premises if the new nonresidential uses are equally or more restrictive than the preexisting nonresidential uses, if they also meet the conditions, and if they were a permissive use listed in the zoning category that applied to the property prior to the establishment of the S-R zone. Although not directly applicable to the present matter, the final provision of A.5 demonstrates an intent and preference for returning to residential use: "If a nonresidential use changes to a residential use, a nonresidential use at that location may not be resumed or re-established."

{16} Simply proposing an equally or more restrictive use under A.5 is insufficient to warrant a change in zoning. Kilmer had the burden to demonstrate to the City why the zone change should be made. Resolution 270-1980(B).

{17} Resolution 270-1980 provides, relevant to this matter:

> A. A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the City.
>
> B. Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should not be made.
>
> C. A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto, including privately developed area plans which have been adopted by the City.
>
> D. The applicant must demonstrate that the existing zoning is inappropriate because:
> (1) there was an error when the existing zone map pattern was created, or
> (2) changed neighborhood or community conditions justify the change, or
> (3) a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City Master Plan, even though (1) or (2) above do not apply.
>
> E. A change of zone will not be approved where some of the permissive uses in the zone would be harmful to adjacent property, the neighborhood, or the community.
>
> . . .
>
> G. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone.

> H. Location on a major street is not in itself sufficient justification for apartment, office, or commercial zoning.
>
> I. A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
> (1) the change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan, or
> (2) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes it unsuitable for the uses allowed in any adjacent zone.
>
> . . .

RP at 229.

{18} As noted above, the City decided that Kilmer did not adequately justify his amendment and zone change under Resolution 270-1980. RP at 38. The City observed that Subsection (C) and (D) are "key elements of a zone change justification," but that Kilmer's arguments as to these sections were "unconvincing." Id. The City found that Kilmer's responses to Sections (E), (G), and (H) were insufficient. Id.

{19} With regard to subsection (C) of Resolution 270-1980, the EPC found that Kilmer's zone change conflicted with fundamental principles of Regulation A.5 of the SWPSDP. As discussed above, Kilmer's request was not consistent with the intent of Regulation A.5 of the SWPSDP.

{20} Kilmer was required by Resolution 270-1980(D) to demonstrate that the existing SU-2 S-R zoning is inappropriate because a different use category is more advantageous to the neighborhood. He appears to argue that SU-2/SU-1 for SR and C-1 Permissive Uses with Exclusions would be more advantageous to the community because a bail bonds office would be equally or more restrictive than the preceding flower shop use, again relying only on Section A.5. Kilmer has not shown that there is no substantial evidence in the record supporting the City's decision.

{21} As the City decided, the change in zoning to "C-1 permissive uses with exclusions would allow a variety of commercial uses," and [i]t is unknown if these hypothetical uses would meet the SWPSDP intent of compatibility between residential and non-residential uses." RP at 37. Further, the City determined that a bail bonds business would not be a more advantageous use of the property to the community. Id.

{22} Kilmer asserts that he "addressed" the neighbors' concerns regarding the bail bonding

business, arguing that the building would be renovated and more aesthetically pleasing, there would be no additional noise generated by it, or change to lighting and traffic. SAI at 5. He observes that he entered records below indicating that police service calls from nearby areas with bail bonds businesses did not generate higher numbers of calls than in areas without such operations. Id.

{23} However, testimony and evidence presented at the hearing showed strong opposition to the proposed zone change.[3] RP at 113- 18 (testimony opposing the zone change); RP at 294-309 (official letter of opposition by the Wells Park Neighborhood Association, neighbors' letters, petitions in opposition). Opponents stated that C-1 zoning was too broad and objected to the type of business proposed. RP at 294-301. Of particular significance to some EPC Commissioners was a letter written by the owner of the child care center located across the street from the subject property. RP at 154. The owner noted that center, the only private child care business in the Wells Park Community, had been in business for twenty-two years and that she had operated it for fifteen years. RP at 302. She included signatures of parents who use the school that also opposed the zone change, and she stated that she would lose clients or the business if the zone change was granted. Id. The testimony and evidence provided by the owner of the child care center and neighbors is directly relevant to subsection (D) of Resolution 270-1980, as well as subsection (E) ("A change in zoning will not be approved where some of the permissive uses in the zone would be harmful to adjacent property, the neighborhood, or the community."). The City's determination that the bail bonds business would not be more advantageous to the community and that it may be harmful to the community was supported by substantial evidence.[4]

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[3] Apparently in response to neighborhood residents voicing their opinion, he also alleges that some of these residents have criminal records. SAI at 5. These allegations, whether or not true, are not relevant as to whether the City properly denied Kilmer's request for a zone change.

[4] In addition to the letters and testimony of the neighborhood association and residents, the record includes Kilmer's advertisement for his business. RP at 298. The advertisement states that it is for "Goodfella's Bonding of Albuquerque," and the two letter "l"s in "Goodfella's" are replaced with pictures of handguns. Id. The Court agrees with the EPC Commissioners that both the name "Goodfella's" and the use of handguns in the advertisement helped create the alarm expressed by Kilmer's neighbors. RP at 134 (observing the lack of sensitivity in consideration of the day care center located across the street from the subject property and the type of perception created when the

{24} The City also found that Kilmer's requested zone change did not further particular polices set out in the Albuquerque/Bernalillo County Comprehensive Plan and Comprehensive City Zoning Code. RP at 39. It decided that the request, which would allow a range of new commercial uses, would not reinforce community stability, vitality, and character, and would allow commercial development on the S-R zoned site, which is not in an existing commercially zoned area, small neighborhood-oriented center, area-wide shopping center, or contiguous storefront. Id. Kilmer does not refer to this finding and does not argue that substantial evidence in the record does not support it.

{25} Kilmer does not dispute the City's finding that his request conflicts with Comprehensive Plan policies regarding how other future C-1 uses may adversely affect nearby residences in terms of light or traffic. Id. The City determined that the request, regarding the eastern portion of the site that was not proposed for improvement by Kilmer, was inconsistent with the policy regarding redevelopment of older neighborhoods. Id. Kilmer does not challenge this finding.

{26} The City found that the Economic Development Action Plan of the SWPSDP, which states an intention to encourage commercial revitalization and job creation through, for example, employment for residents, was not furthered by the bail bonding business because the business is already established and would generate few, if any, jobs for residents. RP at 39-40. Kilmer does not challenge this finding on appeal.

{27} Kilmer raises a few additional points, although with no authority and little discussion. See State v. Clifford, 117 N.M. 508, 513, 873 P.2d 254, 259 (1994) (concluding that an appellate court will not do a party's research or review issues raised in appellate briefs that are unsupported by cited authority, holding that "[m]ere reference in a conclusory statement" is insufficient). He argues that the EPC approved a neighboring zone map amendment request, allowing for other commercial uses, contrary to its finding against him that the sector plan is meant to reestablish residential uses. The example he cites is apparently office use for a criminal defense law practice. Kilmer neither provides

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name of the bail bonds business references fictional organized crime and includes a graphic for the advertisement which uses guns in that name).

sufficient evidence regarding this other case to make any useful comparison, nor provides authority supporting his contention that this allegation would warrant reversal of the City's decision.[5]

{28} Also without authority, Kilmer argues that the City's actions deprived him of due process of law. Apparently in support of this claim, he notes, without citation to the record, "numerous procedural errors," and alleges that the EPC did not properly apply Regulation A.5. See Clifford, 117 N.M. at 513, 873 P.2d at 259. As discussed above, the Court disagrees that the EPC misapplied Regulation A.5, and concludes that Kilmer has not demonstrated that the City violated his right to due process.

III. Conclusion

{29} Kilmer has failed to show that the City's decision in denying his request for a zone change was not supported by substantial evidence, was arbitrary and capricious, or was not in accordance with the law. The decision of the City is **AFFIRMED**. The hearing scheduled for October 14, 2010, at 2:00 p.m. is **VACATED**.

{30} **IT IS SO ORDERED.**

TED BACA

TED BACA
DISTRICT COURT JUDGE

This is to certify that a true and correct copy was mailed/delivered/or otherwise provided to Rudolph B. Chavez and J. Matt Myers on the 8th day of October, 2010.
Sue Gonzales

CV 2009-07499

[5] From the little evidence that was in the record, it does not appear that this property was comparable to the subject property. For example, there was testimony at the hearing before the City Council that the zoning on the comparison property was changed from S-R to SU-2/SU-1 for Residential and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Doctor Office, not C-1 with Restrictions, as was proposed for the subject property. 06/16/09 Appeal Hearing before the City Council, at 1:54. There was also testimony in the record that Kilmer was unwilling to consider a more restrictive zoning category, id. at 1:56, and Kilmer notes in his brief, at 5, that he was unwilling to consider O-1 zoning.

Official Notice of Decision
City of Albuquerque
City Council

June 16, 2009

AC-09-9 Consensus Planning, Agent for Eric Kilmer, Appeals the Environmental Planning Commission's Denial of a request for a Sector Development Plan Map Amendment for all or a Portion of Lots 22, 23 and 24, Block 20, Albright-Moore Addition, From SU-2 for S-R, to SU-2 for SU-1 for S-R and C-1 Permissive Uses with Exclusions, and an Associated Site Development Plan for Building Permit, Located on 6th St. NW, Between Kinley Ave. NW and Constitution Ave. NW

Decision

On June 15, 2009, by a vote of 9 FOR and 0 AGAINST, the City Council voted to deny the appeal and uphold the decisions of the Impact Fee Administrator and the Environmental Planning Commission.

IT IS THEREFORE ORDERED THAT THE APPEAL IS DENIED.

The City Council adopted the findings of the Environmental Planning Commission set forth at pages 11 through 14 of the record.

Attachments

1. Action Summary from the June 15, 2009 City Council meeting

Appeal of Final Decision

A person aggrieved by a final decision of the City Council may appeal that decision to the Second Judicial District Court by filing in the Court a notice of appeal within thirty (30) days from the date that decision is filed with the City Clerk.

Isaac Benton, President
City Council

Date: 6/17/09

Received by:
City Clerk's Office

Date: 6/17/09

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

Date: April 17, 2009

OFFICIAL NOTIFICATION OF DECISION

FILE: **Project # 1007648**
09EPC-40004 AMEND SECTOR DEVELOPMENT PLAN
09EPC-40005 SITE DEVELOPMENT - BUILDG PRMT

Eric Kilmer
8600 Modesto Blvd. NE
Albuquerque, NM 87122

LEGAL DESCRIPTION: CONSENSUS PLANNING, agent for ERIC KILMER request the above actions for all or a portion of lots 21-24, block 24, ALBRIGHT-MOORE ADDITION, from SU-2 S-R, to SU-2/SU-1 for Residential and C-1 permissive uses, located on 6th ST NW, BETWEEN KINLEY AVE NW AND CONSTITUTION AVE NW, containing approximately 0.5 acre(s). (J-14) Catalina Lehner, Staff Planner

On April 16, 2009 the Environmental Planning Commission voted to **DENY** Project 1007648 / 09EPC-40004, a request for a sector development plan map amendment for Lots 22, 23 and 24, Block 20, of the Albright-Moore Addition, based on the following Findings:

FINDINGS:

1. The subject request is for a sector development plan map amendment for Lots 22, 23 and 24, Block 20, of the Albright-Moore Addition, an approximately 0.5 acre site located at the northeast corner of Sixth Street NW and Constitution Avenue. The subject site lies within the boundaries of the Central Urban Area of the Comprehensive Plan and the Sawmill/Wells Park Sector Development Plan (SWPSDP).

2. The sector development plan map amendment request is for a change from SU-2 for S-R (Sawmill Residential) to "SU-2 for SU-1 for S-R and C-1 Permissive Uses with Exclusions" to allow a bail bonding business, other commercial uses and possible future residential uses. The proposed exclusions are: park and ride temporary facilities, residential uses permissive in the R-3 zone, auto parts and supply, gasoline/oil/liquefied petroleum gas including outside sales, radio and television station, automobile/ bicycle and motorized bicycle (moped) repair, pawn (banking and loaning money will remain), car washing, games-electronic and pinball, uses or activities in a tent, wireless telecommunications facility.

3. The subject request is accompanied by a site development plan for building permit (09EPC-40005) as required pursuant to the SU-1 Zone, §14-16-2-22.

4. Because the subject site is not greater than 10 acres, the Environmental Planning Commission (EPC) is the approval authority. The subject request is not required to be transmitted to the City Council.

5. The Sawmill/Wells Park Sector Development Plan (SWPSDP), the Albuquerque/Bernalillo County Comprehensive Plan and Comprehensive City Zoning Code are incorporated herein by reference and made part of the record for all purposes.

6. The subject request does not further the following relevant Comprehensive Plan policies:

   A. Policy II.B.5d-neighborhood values/environmental conditions/ resources. The request would allow a range of new commercial uses, which would be distinct from the legally non-conforming flower shop and nursery uses allowed pursuant to the SWPSDP. The neighborhood values the SWPSDP and its overarching intent to "reinforce community stability, vitality and character" and opposes the request.

   B. Policy II.B.5j-location of new commercial development. The request would allow commercial development on the S-R zoned subject site, which is not in an existing commercially zoned area. The subject site is not located in a small neighborhood-oriented center or a larger area-wide shopping center, and does not comprise a contiguous storefront in this older neighborhood.

7. The subject request partially conflicts with the following relevant Comprehensive Plan policies:

   A. Policy II.B.5i-employment/service use location. The existing building is sited so that generally it does not adversely affect the nearby residences. However, any future C-1 uses could generate light and/or traffic that would affect the residential uses across the street and nearby. Though small-offices are generally considered low impact, some of the C-1 uses may not be low impact in that location.

   B. Policy II.B.5m-quality of the visual environment. Bringing the subject site into compliance with Zoning Code requirements would generally improve the quality of the visual environment, though the proposed improvements are minor and only apply to about half of the subject site.

   C. Policy II.B.5o-redevelopment of older neighborhoods. The western portion of the subject site would be improved and would contribute to rehabilitation of a small part of the neighborhood. However, the eastern portion of the subject site is not proposed for improvement. It is unknown when, or if, it would be redeveloped.

8. The request partially furthers and partially conflicts with the Economic Development Goal. Generally, the request would create some economic development in the area. However, the economic development would not really be diversified and would not be balanced with the neighbors' social, cultural and environmental goals. There is neighborhood opposition to the subject request.

9. The subject request does not fulfill the intent of the Economic Development Action Plan (EDAP) of the Sawmill/Wells Park Sector Development Plan (SWPSDP). The EDAP, which focuses on industrial and commercial revitalization and job creation, promotes: A) healthy growth of business to provide employment for residents, and B) enlarged, strengthened and protected residential neighborhoods to provide a stable environment. The bail bonding business is already established and will result in few, if any, jobs for residents. Also, the request would not contribute to enlarged, strengthened and protected residential neighborhoods.

10. The applicant has not adequately justified the zone change request pursuant to Resolution 270-1980:

A. Section 1A: The proposed zone change is inconsistent with fundamental principles of the Sawmill Wells Park Sector Development Plan (SWPSDP) and therefore could jeopardize the health, safety or welfare of this area of the City.

B. Section 1B: The applicant states that stability of land use and zoning will be preserved and enhanced, but does not explain specifically how the requested zone change will achieve this.

C. Section 1C: The proposed zone change conflicts with applicable Comprehensive Plan policies and would create significant conflict with regulation A.5 in the Sawmill/Wells Park Sector Development Plan. When a legally non-conforming, non-residential use ceases to operate, the SWPSDP does not intend to replace it with new non-residential uses that were not allowed by the zoning in place prior to Plan adoption. The subject site was zoned S-R upon Plan adoption for this reason. Many citations are partial and taken out of context of the Plan.

D. Section 1D: The argument that a different zoning category would be more advantageous to the community than the current zoning (S-R) is unconvincing. The proposed zone change conflicts with applicable Comprehensive Plan and SWPSDP policies and there is neighborhood opposition. The proposed C-1 permissive uses with exclusions would allow a variety of commercial uses. It is unknown if these hypothetical uses would meet the SWPSDP intent of compatibility between residential and non-residential uses, and whether or not they would comply with the intent in A.5. if the proposed zone change is granted. A bail bonding use on this site, which would not be currently permitted, would not be advantageous to the community.

E. Section 1E: Though acknowledging that a new nonresidential use on the subject site must meet SWPSDP requirements, the applicant does not explain how the bail bonding use (or other future commercial uses) would achieve this. This statement warrants additional explanation in the context of the SWPSDP. The desired use may be detrimental to the community and nearby businesses, as articulated by testimony in the record.

F. Section 1F: The proposed zone change would not result in any major or unprogrammed City capital expenditures.

G. Section 1G: The primary reason for the proposed zone change is economic, though it is encased in a framework of compliance. The applicant owns the property and wants his business to operate on the subject site. However, the requested zoning designation is much broader than what would be

needed to operate the bail bonding business. There may be additional economic considerations which have not been addressed.

H. Section 1H: The applicant did not address whether or not location on a collector or major street is being used as justification for the proposed zone change.

I. Section 1I: SU-1 zoning is generally considered a "spot zone" and is justifiable provided that it: 1) clearly facilitates realization of the Comprehensive Plan and sector development plan or area plan, or 2) functions as a transition between adjacent zones. However, the proposed zone change would not "clearly facilitate realization" of the Comprehensive Plan and the SWPSDP. Nor would it serve as a transition.

J. Section 1J: The zone change request would not be considered a "strip zone". The subject site is one, small property that does not comprise a strip of land.

11. The applicant has not adequately justified the sector development plan map amendment (zone change) pursuant to R270-1980. The main arguments in Sections 1C and 1D, which are key elements of a zone change justification, are unconvincing. The applicant's responses to Sections 1E, 1G and 1H are insufficient.

12. The proposed zone change creates a significant conflict with the intent of the Sawmill/Wells Park Sector Development Plan (SWSDP), especially Regulation A.5. of the S-R zone. Regulation A.5. intends to establish residential uses when legally, non-conforming, non-residential uses cease to operate. The SWSDP does not intend new non-residential uses that were not allowed by the zoning that was in place prior to adoption of the Plan.

13. The affected neighborhood associations (NAs) are the Sawmill/Wells Park Neighborhood Association (SWPNA), the Sawmill Community Land Trust and the North Valley Coalition. A facilitated meeting was held. There is neighborhood opposition. The SWPNA is opposed to the bail bonding use and believes that the proposed zoning is too broad and permissive, and that it would allow many businesses which are not appropriate for attracting residents to the area.

On April 16, 2009 the Environmental Planning Commission voted to **DENY** Project 1007648 / 09EPC-40005, a request for a site development plan for building permit for Lots 22, 23 and 24, Block 20, of the Albright-Moore Addition, based on the following Findings:

FINDINGS:

1. The subject request is for a site development plan for building permit for Lots 22, 23 and 24, Block 20, of the Albright-Moore Addition, an approximately 0.5 acre site located at the northeast corner of Sixth Street NW and Constitution Avenue. The subject site lies within the boundaries of the Central Urban Area of the Comprehensive Plan and the Sawmill/Wells Park Sector Development Plan (SWPSDP).

2. The subject request is accompanied by a sector development plan map amendment request (09EPC-40004). The sector development plan map amendment request is not justified pursuant to R270-1980.

3. The Sawmill/Wells Park Sector Development Plan (SWPSDP), the Albuquerque/Bernalillo County Comprehensive Plan and Comprehensive City Zoning Code are incorporated herein by reference and made part of the record for all purposes.

4. The subject request does not further the following relevant Comprehensive Plan policies:

   A. Policy II.B.5d-neighborhood values/environmental conditions/ resources. The request would allow a range of new commercial uses, which would be distinct from the legally non-conforming flower shop and nursery uses allowed pursuant to the SWPSDP. The neighborhood values the SWPSDP and its overarching intent to "reinforce community stability, vitality and character" and opposes the request.

   B. Policy II.B.5j-location of new commercial development. The request would allow commercial development on the S-R zoned subject site, which is not in an existing commercially zoned area. The subject site is not located in a small neighborhood-oriented center or a larger area-wide shopping center, and does not comprise a contiguous storefront in this older neighborhood.

5. The subject request partially conflicts with the following relevant Comprehensive Plan policies:

   A. Policy II.B.5i-employment/service use location. The existing building is sited so that generally it does not adversely affect the nearby residences. However, any future C-1 uses could generate light and/or traffic that would affect the residential uses across the street and nearby. Though small-offices are generally considered low impact, some of the C-1 uses may not be low impact in that location.

   B. Policy II.B.5m-quality of the visual environment. Bringing the subject site into compliance with Zoning Code requirements would generally improve the quality of the visual environment, though the proposed improvements are minor and only apply to about half of the subject site.

   C. Policy II.B.5o-redevelopment of older neighborhoods. The western portion of the subject site would be improved and would contribute to rehabilitation of a small part of the neighborhood. However, the eastern portion of the subject site is not proposed for improvement. It is unknown when, or if, it would be redeveloped.

6. The request partially furthers and partially conflicts with the Economic Development Goal. Generally, the request would create some economic development in the area. However, the economic development would not really be diversified and would not be balanced with the neighbors' social, cultural and environmental goals. There is neighborhood opposition to the subject request.

7. The subject request does not fulfill the intent of the Economic Development Action Plan (EDAP) of the Sawmill/Wells Park Sector Development Plan (SWPSDP). The EDAP, which focuses on industrial and commercial revitalization and job creation, promotes: A) healthy growth of business to provide

employment for residents, and B) enlarged, strengthened and protected residential neighborhoods to provide a stable environment. The bail bonding business is already established and will result in few, if any, jobs for residents. Also, the request would not contribute to enlarged, strengthened and protected residential neighborhoods.

8. The existing building complies with some of the relevant regulations found in the General SU-2 Regulations in the Sawmill/Wells Park Sector Development Plan (SWPSDP), but does not comply with at least four other relevant regulations (5e, 5j, 5k and 5n).

9. A Traffic Impact Study (TIS) was not required.

10. The affected neighborhood associations (NAs) are the Sawmill/Wells Park Neighborhood Association (SWPNA), the Sawmill Community Land Trust and the North Valley Coalition. A facilitated meeting was held. There is neighborhood opposition. The SWPNA is opposed to the bail bonding use and believes that the proposed zoning is too broad and permissive, and that it would allow many businesses which are not appropriate for attracting residents to the area.

PROTEST: IT I S NOT POSSIBLE TO APPEAL EPC RECOMMENDATIONS TO CITY COUNCIL; RATHER, A FORMAL PROTEST OF THE EPC's RECOMMENDATION CAN BE FILED WITHIN THE 15 DAY PERIOD FOLLOWING THE EPC's DECISION, WHICH IS BY **MAY 1, 2009**.

APPEAL: IF YOU WISH TO APPEAL A FINAL DECISION, YOU MUST DO SO BY **MAY 1, 2009** IN THE MANNER DESCRIBED BELOW. A NON-REFUNDABLE FILING FEE WILL BE CALCULATED AT THE LAND DEVELOPMENT COORDINATION COUNTER AND 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 they decide that all City plans, policies and ordinances have not been properly followed, they shall hear the appeal. Such appeal, if heard, shall be heard within 45 days of its filing.

YOU WILL RECEIVE NOTIFICATION IF ANY 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 Russell Brito
Richard Dineen
Planning Director

RD/CL/ma

cc: Eric Kilmer, 8600 Modesto Blvd. NE, Albuquerque, NM 87122
Consensus Planning, Inc., 302 Eighth Street NW, Albuquerque, NM 87102
Fred Sais, Wells Park NA, 1508 Los Tomases NW, Albuquerque, NM 87102
Mark Clayburgh, Wells Park NA, 1310 5th St. NW, Albuquerque, NM 87102
Connie Chavez, Sawmill Community Land Trust, 904 19th St. NW, Albuquerque, NM 87104
Vicente Quevedo, Sawmill Community Land Trust, 904 19th St. NW, Albuquerque, NM 87104
Chris Catechis, North Valley Coalition, 5733 Guadalupe Tr. NW, Albuquerque, NM 87107
Claude Morelli, North Valley Coalition, 7 Garden Park Cir. NW, Albuquerque, NM 87107
Sandra Pederson, 1314 5th Street NW, Albuquerque, NM 87102
Susan Sullivan, 721 Bellamah Ave., Albuquerque, NM 87102
Misty Davis, 1419 6th St. Albuquerque, NM 87102
Roy Exum, 1411 6th St. NW, Albuquerque, NM 87102
Peter Armijo, 515 Constitution Ave. NW, Albuquerque, NM 87102

PLANNING DEPARTMENT
CITY OF ALBUQUERQUE

CITY COMMISSION
November 10, 1969
Z-69-81

Z-69-81 City Planning Commission recommends a change of zone from R-1 to SU-1 (Special Use for a Flower Shop & Nursery) for Lots 1 thru 6 & 19 thru 24, Block 20, Albright-Moore Addition, located on the southeast corner of Sixth Street & Constitution Avenue NW. The original request, submitted by Mrs. O. B. Gilmer, agent for Gray's Flower Shop, was for a change of zone to C-1 for this property.

APPLICANT'S REASON FOR THIS REQUEST: "We desire to have off-street parking for Gray's Flower Shop, which is located on Lots 21 & 22, immediately to the south.

"Since Sixth Street is now carrying southbound traffic from Interstate 40, and there is only parking on the east side of the street, it has become a traffic hazard to our customers. It is proposed that a parking lot be constructed immediately north of the flower shop on the west portion of Lots 23 & 24."

PL Map No.: J-14 Census Tract: 28 Acres: 1.01

Material: Report, Sketch, Development Plan, Ordinance

COMMENTS FROM OTHER DEPARTMENTS:

Traffic Engineer: "No objection."
Bldg. & Insp. Div.: " " comment."
AMTPD: "Not affected."

PLANNING DEPARTMENT COMMENTS TO CITY PLANNING COMMISSION, 9-15-69:

The applicant requested P-1R zoning for off-street parking for the reasons listed above, however the Planning Department amended the request to C-1 zoning for all of the applicant's lots because the existing flower shop and nursery on the property, while not objectionable in the location, is a non-conforming use under the present R-1 zoning. The surrounding land to the north and east is zoned C-1.

After further review, however, the Planning Department recommends modification of the zone change to SU-1, rather than C-1, for the following reasons: 1) although C-1 zoning would make the flower shop a permissive use, the nursery portion of the operation would still be non-conforming; 2) the existing development in the surrounding area, regardless of the zoning, is predominantly residential; 3) SU-1 zoning for the flower shop and nursery would allow continuance and improvement of a use that has existed satisfactorily in the area for many years without presenting the possibility of numerous alternate commercial uses possible under C-1 zoning which might be quite incompatible with the existing residential development.

Recommendation: Therefore, the Planning Department recommends modification of the zone change to SU-1 for the applicant's property subject to submission of satisfactory development plans. (The site plans submitted with the application would be acceptable with a few minor changes.)

CITY PLANNING COMMISSION ACTION, 9-15-69: (All Members Present)

Mrs. Gilmer, agent, said that the actual reason for this request is to establish a parking area for their customers on the Sixth & Constitution corner of this property.

CITY COMMISSION
November 10, 1969
Z-69-81

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONE MAP OF THE CITY OF ALBUQUERQUE AS SHOWN IN ORDINANCE NO. 2726, AS AMENDED, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE, NEW MEXICO:

SECTION 1. The zone map referred to in Ordinance No. 2726, as amended, is hereby amended as follows:

R-1 to SU-1 (Special Use for a Flower Shop & Nursery) for Lots 1 thru 6 and 19 thru 24, Block 20, Albright-Moore Addition, filed in the office of the County Clerk of Bernalillo County, New Mexico on February 26, 1921.

SECTION 2. This ordinance is an emergency measure due to urgent public need and will be effective five days after publication in full in accordance with law.

ADOPTED: _____

Chairman, City Commission, Albuquerque, N.M.

ATTEST: , City Clerk

APPROVED AS TO FORM
Date: 6 Nov 1969
Harley A. Zanning
for FRANK DORAN, CITY ATTORNEY

APPROVED AS TO DESCRIPTION
Date: 11-6-1969
William T. Stevens
WILLIAM T. STEVENS, CITY ENGINEER

20

ZONING

Please refer Zoning Code §14-16-2-22 for the SU-1 zone

LAND USE ZONES

S-R SAWMILL - RESIDENTIAL ZONE

The S-R Zone replaces R-1 and some of the other land use zones in existing residential neighborhoods (Wells Park, West Sawmill and John Baron Burg).

The S-R Zone is established to:

- Maintain the existing small scale residential character of Sawmill/Wells Park's existing neighborhoods.
- Conserve the existing housing stock and range of living options by allowing apartment buildings, duplexes, and two detached homes on a lot that existed before adoption of this plan.
- Increase affordable housing by encouraging development of larger lots with limited townhouse development.
- Allow second dwellings on lots 7,000 square feet and larger. These second units will allow elderly family members and young adult family members starting out to live near each other. The second units may also become sources of rental income for property owners.
- Allow small businesses that existed in residential areas before adoption of this plan to remain.
- Eliminate R-C Residential-Commercial zoning in residential neighborhoods.

A. PERMISSIVE USES:

The following uses are permitted provided applicable General SU-2 Regulations for the Sector Plan area are met.

A.1. Uses listed as permissive in the R-1 Zone in the Comprehensive Zoning Code and the following uses listed as conditional in the R-1 Zone:

•Accessory living quarters provided the lot is a minimum of 7,000 square feet.
•Carport provided it meets Comprehensive Zoning Code set-back and construction requirements
•Second kitchen within a house provided the lot is a minimum of 7,000 square feet.

NOTE: Accessory living quarters, carports, and second kitchens are listed as permissive uses because they are less intense uses than those already listed in A.2. and A.3. of this zone.

NOTES AND ILLUSTRATIONS

A. Permissive Uses in the R-1 Zone are generally as follows:

1. One house per lot
2. Accessory Uses:
   Accessory structure
   Agricultural animal keeping
   Garage and yard sale
   Antenna
   Family care facility
   Family day care home
   Home occupation and sign
   Parking
   Recreational vehicle, boat, etc.
   Sign
   Trailer parking
   Hobby breeder
3. Some community residential programs
4. Growing plants
5. Public park
6. Public school
7. Public utility structure

This list is not complete. See R-1 Residential Zone in the Zoning Code for details and restrictions on these uses.

A.2. Multiple dwelling units (on individual lots) that predate the establishment of the S-R Zone.

A.3. New construction or additions that result in two attached or detached dwelling units on one lot provided the following conditions are met in addition to all the general requirements of the S-R Zone.

A.3.a. Minimum lot area is 7,000 square feet.

A.3.b. A minimum distance of 10 feet is provided between residential buildings.

A.4. Townhouses and detached single family dwellings listed as permissive in the R-LT Residential-Limited Townhouse Zone in the Comprehensive Zoning Code provided the following conditions are met in addition to all the general requirements of the S-R Zone.

A.4.a. No more than four detached single family dwellings on 3,500 square feet lots or four townhouse dwelling units are constructed on contiguous lots. Four townhouse units shall be considered a townhouse development.

A.4.b. No more than two dwelling units are adjacent to the property line of another residential lot.

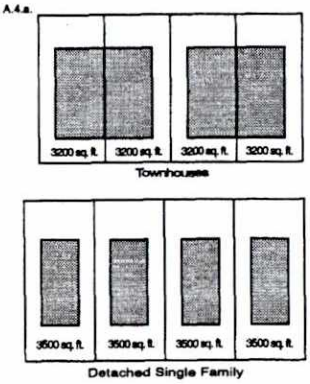
A.4.c. Townhouse developments are separated by a minimum of 600 feet measured from the closest property lines.

A.4. Permissive Uses in the R-LT Zone are generally as follows:

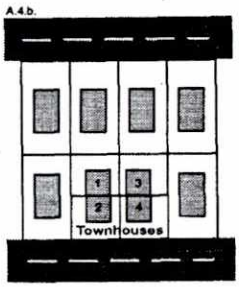
1. Uses permissive in the R-1 Zone, except
   a. Agricultural animal keeping is not permitted
   b. Front yard parking of recreational vehicles is not permitted.

2. Townhouses, provided
   a. There shall be only one dwelling unit per lot, and
   b. No more than two dwelling units shall be in a building.

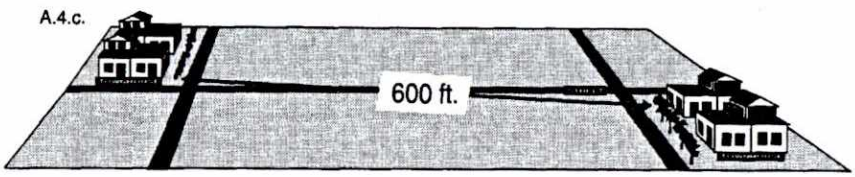
A.4.a.



A.4.b.



A.4.c.



PERMISSIVE USES (continued)

A.5. Nonresidential uses that were nonconforming in the R-1 Zone, were zoned SU-1 for specific uses, or were permissive uses in the R-C, C-1, or C-2 Zone and that exist when the S-R Zone is established with the adoption of the Sector Plan, shall be considered permissive uses and may remain at the locations where they exist provided they comply with the following conditions.

New nonresidential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, and they comply with the following conditions:

A.5.a. Outdoor storage shall consist only of parked operative vehicles and screened trash receptacles.

A.5.b. No underground storage tanks shall be present or installed on the property.

A.5.c. Business activities other than home occupations shall be prohibited between 10 p.m. and 7 a.m.

A.5.d. No more than five employees shall be present at any given time.

A.5.e. Signs shall be as regulated in the S-MRN Zone.

If a nonresidential use changes to a residential use, a nonresidential use at that location may not be resumed or re-established.

NOTES AND ILLUSTRATIONS

A.5. The conditions placed on nonresidential uses in the S-R Zone are intended to help nonresidential and residential uses co-exist harmoniously to prevent the decline of the neighborhood.

An inventory conducted just after the adoption of the Sector Plan will create a map of nonresidential uses and a list of attributes.

For nonresidential premises previously zoned SU-1 for specific uses, R-C, C-1, or C-2, a future nonresidential use can be any one of the permissive uses listed in the zoning category that applied to that property prior to the establishment of the S-R Zone provided it complies with the conditions listed in A.5.

A.5.c. The Comprehensive Zoning Code regulates home occupations as follows:

1. The activity is clearly incidental and secondary to use of the premises for a dwelling.
2. Only members of the residing family are employed.
3. No stock in trade is manufactured, displayed, or sold on the premises, except a small stock of art objects and custom sewing created by a resident of the dwelling is allowed.
4. All business activities conducted entirely indoors.
5. No more than 25% of the floor area of the dwelling is devoted to the home occupation. No more than 5% of the dwelling is devoted to storing stock in trade.
6. There is no external evidence of the activity, such as commercial vehicle, inordinate vehicular traffic, outside storage, noise, dust, odors, noxious fumes, or other nuisances emitted from the premises.
7. Health care shall not be considered a permissive home occupation.
8. One related on-premise sign is permitted, provided it does not exceed one square foot in area and is a nonilluminated wall sign.

B. CONDITIONAL USES:

Uses listed as conditional in the R-1 Zone in the Comprehensive Zoning Code except for those listed under A.1. of the S-R Zone provided that all the general requirements of the S-R Zone and applicable General SU-2 Regulations for the Sector Plan area are met.

NOTES AND ILLUSTRATIONS

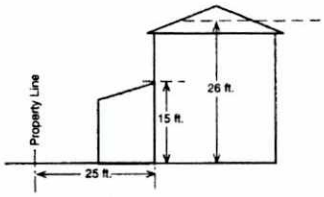
B. Conditional uses in the R-1 Zone minus the three exceptions listed to the left are generally as follows:

1. Animal keeping, noncommercial
2. Construction office in connection with a specific construction project
3. Family day care home
4. Health care as physically limited under home occupations
5. Public library
6. Public utility structure which is not permissive
7. Real estate office in connection with a specific development
8. Recreational facility (nonprofit)
9. Temporary storage structure or yard for a specific construction project

This list is not complete. See R-1 Zone in the Zoning Code for details.

C. HEIGHT:

Structures shall not exceed 26 feet in height provided new construction and building additions exceeding 15 feet in height comply with the set back and roof requirements in the Sector Plan's General SU-2 Regulations.



D. LOT SIZE:

D.1. **Minimum lot size for houses** shall be 5,000 square feet with a minimum lot width of 50 feet.

D.1. 5,000 square foot lots are the standard lot size in the Wells Park neighborhood.

D.2. **Minimum lot size for two dwelling units** on a lot shall be 7,000 square feet.

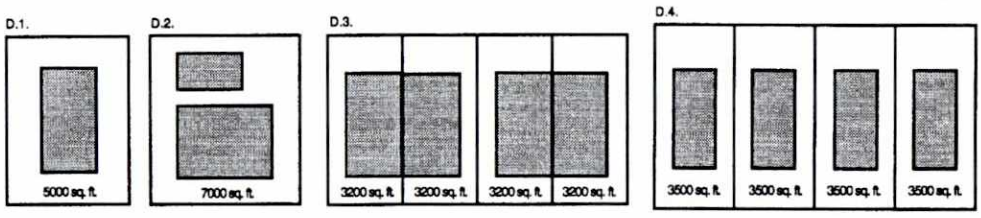
D.2. Several lots in Sawmill and Wells Park neighborhoods already have duplexes or two detached houses.

D.3. **Minimum lot size for each townhouse unit** shall be 3,200 square feet with a minimum lot width of 32 feet.

Using 7,000 square foot lots for similar development would promote new housing construction without interrupting the existing development pattern and scale of the neighborhoods.

D.4. **Minimum lot size for houses allowed and as regulated in A.4.** shall be 3,500 square feet with a minimum lot width of 35 feet.

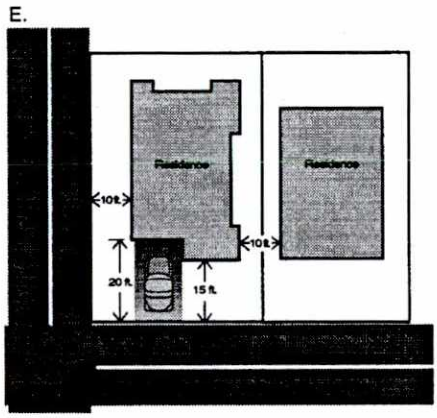
D.4. 3,500 square foot lots are the standard lot size in the John Baron Burg neighborhood.



E. SETBACK:

Setbacks are the same as those listed in the R-LT Zone in the Zoning Code except as provided in the Supplementary Height, Area, and Use Regulations of the Comprehensive Zoning Code and with the additional requirement that a distance of 10 feet is required between residential and nonresidential buildings.

E.



NOTES AND ILLUSTRATIONS

E. The R-LT setback regulations are generally as follows:

•Front yard setback of not less than 15 feet except driveways are not less than 20 feet long

•No required side-yard setback except:
- •10 feet is required on the street side of corner lots
- •Distance between residential buildings is not less than 10 feet.

•Rear-yard setbacks shall be not less than 15 feet.

See R-LT in the Zoning Code for details and exceptions.

See sections 7, 8, 9, and 10 of the Design Regulations for Development.

F. OFF-STREET PARKING:

Off-street Parking Regulations of the Zoning Code apply provided applicable General SU-2 Regulations for the Sector Plan area are met.

G. USABLE OPEN SPACE:

The minimum usable open space provided for houses and townhouses shall be 1,200 square feet per dwelling unit.

G. The Comprehensive Zoning Code defines "Usable Open Space" as being located on the same lot as a dwelling. It may include, but is not limited to lawns, areas of native or cultivated plants, open balconies, covered patios open on at least two sides, walkways, recreational areas, fountains, swimming pools, wooded areas and water courses. It does **not** include public right-of-way, parking lots, off-street parking, driveways, or buildings other than swimming pool rooms.

APPLICANT INFORMATION

City of Albuquerque

DEVELOPMENT/ PLAN REVIEW APPLICATION

Updated 1/12/18

Supplemental Form (SF)

SUBDIVISION	S	Z	**ZONING & PLANNING**
___ Major subdivision action			___ Annexation
___ Minor subdivision action			
___ Vacation	V		___ Zone Map Amendment (Establish or Change Zoning, includes Zoning within Sector Development Plans)
___ Variance (Non-Zoning)			
SITE DEVELOPMENT PLAN	P		___ Adoption of Rank 2 or 3 Plan or similar
___ for Subdivision			___ Text Amendment to Adopted Rank 1, 2 or 3 Plan(s), Zoning Code, or Subd. Regulations
___ for Building Permit			
___ Administrative Amendment (AA)			
___ Administrative Approval (DRT, URT, etc.)			
___ IP Master Development Plan	D		___ Street Name Change (Local & Collector)
___ Cert. of Appropriateness (LUCC)			
	L	A	**APPEAL / PROTEST of...**
STORM DRAINAGE (Form D)			___ Decision by: DRB, EPC, LUCC, Planning Director, ZEO, ZHE, Board of Appeals, other
___ Storm Drainage Cost Allocation Plan			

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.

PDF copy of the completed application along with all the plans and documents being submitted must be emailed to (PLNDRS@cabq.gov) prior to processing this application. ***(Zipped files and files over 9 Megabytes will not get delivered via email, Therefore, PDF files must be provided on a CD)***

APPLICATION INFORMATION:

Professional/Agent (if any): _____ PHONE: _____

ADDRESS: _____ FAX: _____

CITY: _____ STATE ___ ZIP _____ E-MAIL: _____

APPLICANT: ERIC KILMER PHONE: 505-261-8439

ADDRESS: 1416 6th ST NW. FAX: _____

CITY: ALBUQUERQUE STATE NM ZIP 87102 E-MAIL: EKILMER67@icloud.com

Proprietary interest in site: _____ **List all owners:** _____

DESCRIPTION OF REQUEST: Amendment to Original site plan RE LOTS 22, 23 and 24. Residental and C1 Premissive uses as allowed under current Historical Rec cond. updated

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

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

Lot or Tract No. LOTS 22, 23, 24. Block: 20 Unit: _____

Subdiv/Addn/TBKA: ALBright-MOORE ADDition

Existing Zoning: SU2-SR Proposed zoning: SU2-SU for residental and C1 Premissive uses. MRGCD Map No _____

Zone Atlas page(s): J-14-2 UPC Code: 101405818742822809 and 101405818742822810.

CASE HISTORY:

List **any** current or prior case number that may be relevant to your application (Proj., App., DRB-, AX_,Z_, V_, S_, etc.): 1007648

CASE INFORMATION:

Within city limits? ✓Yes Within 1000FT of a landfill? NO.

No. of **existing** lots: 3 No. of **proposed** lots: 3 Total site area (acres): .3 acres

LOCATION OF PROPERTY BY STREETS: On or Near: 6th STREET NW

Between: Kinley Avenue NW and CONSTITION AVE NW.

Check if project was previously reviewed by: Sketch Plat/Plan ☐ or Pre-application Review Team(PRT) ☐. Review Date: _____

SIGNATURE _____ DATE _____

(Print Name) ERIC KILMER Applicant: ☑ Agent: ☐

FOR OFFICIAL USE ONLY

☐ **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
18EPC - 40019	ASM		$ 240.00
	ADV		$ 75.00
	CMF		$ 50.00
18EPC - 40021			$
			$
			Total $ 365.00

Hearing date May 10, 2018

3-29-18
Staff signature & Date

Project # 1007648

FORM Z: ZONE CODE TEXT & MAP AMENDMENTS, PLAN APPROVALS & AMENDMENTS

☐ ANNEXATION (EPC08)

__ Application for zone map amendment including those submittal requirements (see below).
Annexation and establishment of zoning must be applied for simultaneously.
__ Petition for Annexation Form and necessary attachments
__ Zone Atlas map with the entire property(ies) clearly outlined and indicated
NOTE: The Zone Atlas must show that the site is in County jurisdiction, but is contiguous to City limits.
__ Letter describing, explaining, and justifying the request
NOTE: Justifications must adhere to the policies contained in "Resolution 54-1990"
__ Letter of authorization from the property owner if application is submitted by an agent
__ Board of County Commissioners (BCC) Notice of Decision
__ Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts
__ Sign Posting Agreement form
__ Traffic Impact Study (TIS) form
__ List any original and/or related file numbers on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Your attendance is required.

☐ SDP PHASE I – DRB CONCEPTUAL PLAN REVIEW (DRBPH1) (Unadvertised)
☐ SDP PHASE II - EPC FINAL REVIEW & APPROVAL (EPC14) (Public Hearing)
☐ SDP PHASE II - DRB FINAL SIGN-OFF (DRBPH2) (Unadvertised)

__ Copy of findings from required pre-application meeting (needed 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 clearly outlined and indicated
__ Letter describing, explaining, and justifying the request
__ Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts (for EPC public hearing only)
__ Traffic Impact Study (TIS) form (for EPC public hearing only)
__ Fee for EPC final approval only (see schedule)
__ List any original and/or related file numbers on the cover application

Refer to the schedules for the dates, times and places of DRB and EPC hearings. Your attendance is required.

☐ AMENDMENT TO ZONE MAP - ESTABLISHMENT OF ZONING OR ZONE CHANGE (EPC05)

✓ Zone Atlas map with the entire property clearly outlined and indicated
✓ Letter describing, explaining, and justifying the request pursuant to Resolution 270-1980.
N/A Letter of authorization from the property owner if application is submitted by an agent
✓ Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts
✓ Sign Posting Agreement form
✓ Traffic Impact Study (TIS) form
✓ Fee (see schedule)
✓ List any original and/or related file numbers on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Your attendance is required.

✓ Buffer map + notice to neighbors

☒ AMENDED TO SECTOR DEVELOPMENT MAP (EPC03)
☐ AMENDMENT SECTOR DEVELOPMENT, AREA, FACILITY, OR COMPREHENSIVE PLAN (EPC04)

__ Proposed Amendment referenced to the materials in the Plan being amended (text and/or map)
__ Plan to be amended with materials to be changed noted and marked
__ Zone Atlas map with the entire plan/amendment area clearly outlined
__ Letter of authorization from the property owner if application is submitted by an agent (map change only)
__ Letter describing, explaining, and justifying the request pursuant to Resolution 270-1980 (Sector Plan map change only)
__ Letter briefly describing, explaining, and justifying the request
__ Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts (for sector plans only)
__ Traffic Impact Study (TIS) form
__ Sign Posting Agreement
__ Fee (see schedule)
__ List any original and/or related file numbers on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Your attendance is required.

☐ AMENDMENT TO ZONING CODE OR SUBDIVISION REGULATORTY TEXT (EPC07)

__ Amendment referenced to the sections of the Zone Code/Subdivision Regulations being amended
__ Sections of the Zone Code/Subdivision Regulations to be amended with text to be changed noted and marked
__ Letter describing, explaining, and justifying the request
__ Fee (see schedule)
__ List any original and/or related file numbers on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. 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.

Eric Kilmer
Applicant name (print)

Applicant signature & Date

Revised: June 2011

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

Application case numbers
18EPC - 40019
_____ - _____
_____ - _____

3-29-18
Staff signature & Date

Project # 1007648

FORM P(1): SITE DEVELOPMENT PLAN REVIEW – EPC PUBLIC HEARING

☐ **SITE DEVELOPMENT PLAN FOR SUBDIVISION (EPC16) Maximum Size: 24" x 36"**
☐ **IP MASTER DEVELOPMENT PLAN (EPC11)**

- __ 5 acres or more and zoned SU-1, IP, SU-2, PC, or Shopping Center: Certificate of No Effect or Approval
- __ Scaled Site Development Plan and related drawings (folded to fit into an 8.5" by 14" pocket) 15 copies. For IP master development plans, include general building and parking locations, and design requirements for buildings, landscaping, lighting, and signage.
- __ Site Development Plans and related drawings reduced to 8.5" x 11" (1 copy)
- __ Zone Atlas map with the entire property(ies) clearly outlined
- __ Letter briefly describing, explaining, and justifying the request
- __ Letter of authorization from the property owner if application is submitted by an agent
- __ Office of Neighborhood Coordination inquiry response, notification letter, certified mail receipts
- __ Completed Site Development Plan for Subdivision and/or Building Permit Checklist
- __ Sign Posting Agreement
- __ Traffic Impact Study (TIS) form with required signature
- __ Fee (see schedule)
- __ List any original and/or related file numbers on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Your attendance is required.

☒ **SITE DEVELOPMENT PLAN FOR BUILDING PERMIT (EPC15) Maximum Size: 24" x 36"**
☐ **SITE DEVELOPMENT PLAN and/or WAIVER OF STANDARDS FOR WIRELESS TELECOM FACILITY (WTF) (EPC17) Maximum Size: 11" x 17"**

- N/A 5 acres or more and zoned SU-1, IP, SU-2, PC, or Shopping Center: Certificate of No Effect or Approval
- X Scaled Site Development Plan and related drawings (folded to fit into an 8.5" by 14" pocket) 15 copies.
- N/A Site Development Plan for Subdivision, if applicable, previously approved or simultaneously submitted. (Folded to fit into an 8.5" by 14" pocket.) 15 copies
- X Site Development Plans and related drawings reduced to 8.5" x 11" (1 copy)
- X Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
- X Letter briefly describing, explaining, and justifying the request
- X Letter of authorization from the property owner if application is submitted by an agent
- X Office of Neighborhood Coordination inquiry response, notification letter, certified mail receipts
- X Sign Posting Agreement
- X Completed Site Plan for Subdivision and/or Building Permit Checklist
- X Traffic Impact Study (TIS) form with required signature
- X Fee (see schedule)
- X List any original and/or related file numbers on the cover application

NOTE: For waiver requests of a wireless regulation requirement, the following materials are required in addition to those listed above:

- __ Collocation evidence as described in Zoning Code §14-16-3-17(C)(2)
- __ Notarized statement declaring number of antennas accommodated. Refer to §14-16-3-17(D)(1)(d)(ii)
- __ Letter of intent regarding shared use. Refer to §14-16-3-17(A)(13)(e)
- __ Affidavit explaining factual basis of engineering requirements. Refer to §14-16-3-17(D)(1)(d)(iii)
- __ Distance to nearest existing free standing tower and its owner's name if the proposed facility is also a free standing tower §14-16-3-17(D)(1)(d)(v).
- __ Registered engineer or architect's stamp on the Site Development Plans. Refer to §14-16-3-17(D)(1)(d)(iv)
- __ Office of Neighborhood Coordination inquiry response based on ¼ mile radius, notification letter, certified mail receipts
- __ Map showing 100 foot buffer (excluding ROW) around the site, list of property owners, certified mail receipts

EPC hearings are approximately 7 weeks after the filing deadline. Your attendance is required.

☐ **AMENDED SITE DEVELOPMENT PLAN FOR BUILDING PERMIT (EPC01) Maximum Size: 24" x 36"**
☐ **AMENDED SITE DEVELOPMENT PLAN FOR SUBDIVISION (EPC02)**

- __ Proposed amended Site Development Plan (folded to fit into an 8.5" by 14" pocket) 15 copies
- __ DRB signed Site Development Plan being amended (folded to fit into an 8.5" by 14" pocket) 15 copies
- __ DRB signed Site Development Plan for Subdivision, if applicable (required when amending SDP for Building Permit) 15 copies
- __ Site plans and related drawings reduced to 8.5" x 11" (1 copy)
- __ Zone Atlas map with the entire property(ies) clearly outlined
- __ Letter briefly describing, explaining, and justifying the request
- __ Letter of authorization from the property owner if application is submitted by an agent
- __ Office of Neighborhood Coordination inquiry response, notification letter, certified mail receipts
- __ Sign Posting Agreement
- __ Completed Site Development Plan for Building Permit Checklist (not required for SPS amendment)
- __ Traffic Impact Study (TIS) form with required signature
- __ Fee (see schedule)
- __ List any original and/or related file numbers on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. 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.

_____ Applicant name (print)

_____ Applicant signature / date

Form revised August 2017

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

Application case numbers
18EPC - _____ - 40021
_____ - _____ - _____
_____ - _____ - _____

4-4-18
Planner signature / date

Project #: 1007648

CITY OF ALBUQUERQUE

TRAFFIC IMPACT STUDY (TIS) FORM

APPLICANT: Eric Kilmer **DATE OF REQUEST:** __/__/__ **ZONE ATLAS PAGE(S):** J-14

CURRENT:

ZONING SU-2 SR

PARCEL SIZE (AC/SQ. FT.) .3 ACRES

LEGAL DESCRIPTION: LOTS

LOT OR TRACT # 22, 23 + 24 BLOCK # 20

SUBDIVISION NAME Albright Moore Addition

REQUESTED CITY ACTION(S):

ANNEXATION [ ]

ZONE CHANGE [✓]: From SU2-SR To SU2/SU1 Resulated And Premissive C-1 USES

SECTOR, AREA, FAC, COMP PLAN [ ]

AMENDMENT (Map/Text) [ ]

SITE DEVELOPMENT PLAN:

SUBDIVISION* [ ] AMENDMENT [ ]

BUILDING PERMIT [X] ACCESS PERMIT [ ]

BUILDING PURPOSES [ ] OTHER [ ]

*includes platting actions

PROPOSED DEVELOPMENT:

NO CONSTRUCTION/DEVELOPMENT [X]

NEW CONSTRUCTION [ ]

EXPANSION OF EXISTING DEVELOPMENT [ ]

GENERAL DESCRIPTION OF ACTION:

OF UNITS:

BUILDING SIZE: ± 1078 (sq. ft.)

Note: changes made to development proposals / assumptions, from the information provided above, will result in a new TIS determination.

APPLICANT OR REPRESENTATIVE [signature] DATE 3/28/18

(To be signed upon completion of processing by the Traffic Engineer)

Planning Department, Development & Building Services Division, Transportation Development Section -
2ND Floor West, 600 2nd St. NW, Plaza del Sol Building, City, 87102, phone 924-3994

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

THRESHOLDS MET? YES [ ] NO [X] 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.***

[signature] 03-28-18

TRAFFIC ENGINEER DATE

Required **TIS must be completed prior to applying to the EPC and/or the DRB.** 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** __/__/__ _____ _____

-FINALIZED __/__/__ TRAFFIC ENGINEER DATE

Revised January 20, 2011

Eric Kilmer

1416 6th Street NW

Albuquerque, New Mexico 87102

APRIL 26,2018

Mr. Derek Bohannan,Chair
Environmental Planning Commission
City of Albuquerque
600 Second Street NW
Albuquerque New Mexico 87102

Dear Mr. Bohannan,

The Purpose of This Letter is to Provide Additional Policy Support ,Clarification,Background and Justification for a Zone Map Amendment and Site Plan. The Property is located at 1416 6th Street NW. Albuquerque,New Mexico 87102. The Submittal to the Environmental Planning Commission (EPC) is consistent with Enactment 270-1980 and the Updated Comprehensive Plan of the City of Albuquerque, Enactment Number R-2017-026 Adopted by City Council March 2017,and The Newly Adopted Sawmill/Wells Park Sector Development Plan,The Subject Property Conforms With the Above and is a Premissive Use.

PROJECT INTRODUCTION

The Site is Located at 1416 6th Street NW, on the South east Corner of 6th Street and Constitution.

Lot 22,23,24 of Block 20 of Albright-Moore Addition

The subject site is located on 6th street, a Busy one Way for the SawMill/Wells Park Community and one of the Gateways into Downtown.The Sawmill/Wells Park Sector Development plan recognizes that 6th street is a one way going South ,along with 5th street to the east ,a one way going North which are made up of a mix of commercial and office uses.These uses were permitted to remain if they were in existance at the time of The Sawmill/Wells Park Sector Development Plan's Conception and Most Recent adoption. The Subject property is one of the properties with an Existing and Premissive Business Use.The property is Historically a Flower shop/Nursery Established Approximately (1938).The Zoning Department has Agreed in the past That the Best Zoning attachment for the Subject Property to be C-1. (EPC Z-69-81)This Proposed Zone Map Amendment is consistant with the New Comprehensive Plan and The Sawmill/Wells Park Sector Development Plan. We seek for this Commission to Clarify the Uses Available to Subject Property.Or ,Approve a Zone Map Amendment,Creating a list of Uses Premissive in the Sector Plan,Section under A.5. The Subject Property is consistant with the Comprehensive Plan For in-fill ,Creating Job Opportunity,while using Existing infrastructure,promoting Public Transportation/bike/Walking routes currently available to the Existing Subject Property.

SITE CHARACTERISTICS

The site is located Within a Metropolitan Redevelopment Area (MRA) A geographic area within the City of albuquerque, which meets federal standards for Minimum physical and Economic Distress and has been approved as such by the United States Department of Housing and Urban Development (HUD)."

The Subject property is adjacent to commercial,office,and Residential uses ie. Day care, Law office,Office Uses,Court Reporter,Accountant,Professional offices,Engineer,Doctors Office,Pre School and Staff Res,and Flower Shop/Nursery,Bed and BreakFast , Musuem, C-2 Uses W/Exceptions Premissive in The Sawmill/Wells Park Sector Development Plan.

There are multiple transportation options avaiable to serve this site, one on 6th street just south of kinley Avenue and one on the corner of 5th Street and Constitution Avenue;Bus routes 8,92,93,and 94 run along 6th street and 5th street.There are also existing bike lanes on 6th street and 5th street,and there is an existing bike route on Bellamah Avenue which is one block north of the Subject Property.

The Following Information/History Support Justification For The Zone Map Amendment Requested for lots 22,23,and 24 Block 20 of the Albright& Moore Addition.

The Existing Zoning is SU-2 /S-R for Flower Shop/Nursery and Premissive Uses.As Stated in the Sawmill/Wells Park Sector Plan S-R Zone.Premissive Uses in

Section A.5. Comprising of Approximately .3 acres.

The Proposed Zone Map Amendment is to SU-2/SU-1 for Flower Shop/Nursery and Premissive C-1 Uses. This is The Most Current Zoning Classification that Best Describes and Reflects The Current City's Zoning Code to Allows this Business to Continue it's Business Operations Now and into the Future , Prior to The New City's Intergrated Development Ordinance (IDO) taking effect May 15, 2018. Possibly Stripping The Property Of It's Grandfathered Status and Uses. "Clarificiations and Resolve" Is The GOAL OF THIS ZONE MAP AMENDMENT.This Amendment will allow the Existing Building on this Property,which was Historically ,C-1 Property, a Premissive Use.(EPC Z-69-81). To Continue and Revitalize and Promote Economic Development Strategies as Outlined in The Sawmill/Wells Park Sector Development Plan pages 33 and 34.

This will Allow Current the Use to Continue and Future like Uses to Continue As Permissive and Conforming Uses on the same Subject Property in the Neighborhood as intended in Sawmill/Wellspark Sector Development Plan,S-R Premissive Uses Section A.5. which Refers To Future Non Residental Uses may Exist And Be Permissive, While Continuing to Bring Jobs to the neighborhood ,also utilizing/Providing Access to Public Transportation , Bike Routes, Available to The Subject .As well as Performing Infill ,to the Much Needed Economicially Depressed Area .

Clarification of Premissive uses/allowances Pertaining to the wording as stated in the Existing Sawmill/Wellspark Sector Development Plan S-R Premissive Uses Section A.5. ,May resolve this matter in its Entirety. Due to City officials being unable to Agree and Interpret language of the Sector Plan. The Property Owner (Applicant) must seek Clarification and Proper Classificiation ,Of the *Granfathered* Uses to carry forward in the future Adoption of The New City Intergrated Development Ordinance (IDO) legislation.

(Note for the Record)

The Property Located to the South of subject site and sharing Same property line Known as 1412 6th Street NW Albuquerque NM 87102. has been granted a Zone Map Amendment (EPC 2008 1005001)From SU-2 SR for flowershop/nursery to Su-2 Su1 for Residental & office Uses &/or Law office ,Court Reporter ,Account, Architect,Engineer,or Doctors Office .Which will carry a MX-T use attachment forward with the Adpotion of The New City Intergrated Development Ordinance (IDO) legislation.

This Property has a Historical Record as the Family Residence with the Previous Property Owner Jerry Haag and Zoning of SU-2 SR for flowershop/nursery,then Divided the Property for Sale,Haag Sold (Jason Alarid attorney at law) one half ,the South Portion ,the Residence and Sold the other Half, North Portion of Property (Historically The Business side) to (Eric Kilmer, Applicant),with Documents from City of Albuquerque Acknowledging Continuance of non-Residental uses can Exist .

APPROVED Primarily a Residental Use the Sister Property, Has Gone Through The EPC Planning Commission Process, With Approvals (EPC 2008 1005001) Granting Zoning From SU-2 SR for flowershop/nursery to Su-2 Su1 for Residental & office Uses &/or Law office ,Court Reporter ,Account, Architect,Engineer,or Doctors Office .Which will carry a MX-T use attachment forward with the Adpotion of The New City Intergrated Development Ordinance (IDO) legislation "**APPROVED**".

.Policy language is italicized;applicant's comments are in normal text.

RESPONSE TO THE CITY OF ALBUQUERQUE RESOLUTION 270-1980 This Zone Change Request is in Compliance with Resolution 270-1980 as Follows:

A. A Proposed zone change must be consistant with the health ,saftey,morals and general welfare of the City.

RESPONSE: The Proposed Zone Map Amendment is consistent with the Health ,Saftey,Morals and General Welfare of the City Because, The Request is consistent with The Future City Intergrated Development Ordinances and Policys (IDO), The Future Outlook And the Newly Updated Sawmill/Wells Park Sector Plan,as Outlined in Section C Of Response to R270-1980.The Proposal is Consistant with The Economic Development Strategies,Outlined in the Sawmill/Wells Park Sector Development Plan , Which focuses on Revitalization, In fill, and Recommends Strengthening the Areas Land Use Mix, Creation of Jobs and Projects that are Good Neighbors.

The Property is an Existing Business Location Within the Neighborhood.

The Property is in an area of Change as outlined in the (IDO). Figure 5-6

The Property is in A Metropolitian ReDevelopment Area (MRA) Within the City of Albuquerque,

This Proposal will Allow a Current Conforming/Premissive Business Use to Continue and Future like Uses to Continue As Permissive and Conforming Uses on the Same Subject Property in the Neighborhood, as intended. by the Sawmill/Wellspark Sector Development Plan S-R Premissive Use Section A.5. This Section Refers To Future Non-Residental Uses may Occupy these Locations And Be Permissive, While being consistant with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque, By Continuing to Bring Jobs to the neighborhood While utilizing/Providing Access to Public Transportation , Bike Routes, Available to The Site. As well as Performing Infill ,to the Much Needed Economicially Depressed Area .An Area of Change(the Property is in an Area of Change) as Outlined inThe New City Intergrated Development Ordinance (IDO).Figure 5-6 City Development Area-Areas of Change and Areas of Consistency.(ATTACHED).

The Subject property is Adjacent /Neighbor to commercial,office,and Residential uses ie. Day care, Law office,Office Uses,Court Reporter,Accountant,Professional offices,Engineer,Doctors Office,Pre School and Staff Res,and Flower Shop/Nursery,Bed and BreakFast,Musuem,**C-2 Uses W/Exceptions Premissive,**all of which are in The Sawmill/Wells Park Neighborhood and Sector Development Plan. These Properties **Are Conforming/Premissive and NOT in Conflict** with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque. Presently.same as Subject Site.

This Property/Site has Been a Member of the Community And a Monarch, Well Known in the Neighborhood.This Property and it's Use have been in this Location Prior to the Implantation of the Zoning Codes in The City Of Albuquerque (Property and Business was Established Approximately 1938 at this Site). Zoning Establishment in City Of Albuquerque, As Referenced in the Newly Adopted Sawmill/Wells Park Sector Development Plan index, noted it be Approximately 1959.

PROPERTY ESTABLISHED : Referencing APPENDIX A ,Plan Participation And Development. (Un numbered Pages Past Pages122.) of the Updated Version of the Sawmill/Wells Park Sector Development Plan , Newly Adopted Version,after the Letter From The City of Albuquerque To Business Owners for Participation,Dated November 18, 1991.Noting Property Number 55 of the Questionnaire (The Subject Property of This Proposal by Address) ,For Proof of Years at present Location and Business Establishment Time . The Business has Eighty (80) Years, at This Site Location, to Date;Establishing A *Grandfather* Status. Also Demostrating A Stable Business Base.

ZONING ESTABLISHMENT: ReferencingThe Sawmill/Wells Park Sector Development Plan, Newly adopted Version , Page Number (7) Seven. Stating, 1959 ,as the year Zoning was established City Wide

This Property is **CONFORMING/PREMISSIVE and IS NOT IN CONFLICT** with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

B.Stability of land use and zoning is desirable;therefore the applicant must provide a sound justification for the change. The Burden is on the applicant to show why the change should be made,not on the City to show why the should not be made.

RESPONSE:. The Stability of the land use and zoning will be Preserved and Enhanced with this change. Because:This Property has Been a Member of the Community,Neighborhood for Over Eighty (80) Years , Showing Stability and Longevity as well as being a Pilar/Monarch,in the Neighborhood.This Property and it's Use have been in this Location Prior to the Earliest Implantation of the Zoning Codes in The City Of Albuquerque (Property and Business was Established Approximately 1938 at this Site). Zoning Establishment in City Of Albuquerque, As Referenced in the Sawmill/Wells Park Sector Development Plan index, noted it be Approximately 1959. Stability in Land Use And Land Uses are what we Show by Action and History over the life span of this Property and Use.

This Property has a History of Commercial Use and is a Recognized Use.

The Sawmill/Wells Park Sector Development Plan by Design, is to Allow current Businesses and Future Non-Residental Businesses to Continue in these locations in the neighborhood , Futhering Business Platforms and Stability in land Use in the Neighborhood, so Residents are familiar with where to find Goods and Services.

Only A Few Select Properties in the Sawmill/Wells Park Sector Development Plan have this Unique Business Attachment , Which Promotes Stability in land Use.

Referencing APPENDIX A ,Plan Participation And Development. (Un numbered Pages Past Pages122.) of the Newly Adopted Sawmill/Wells Park Sector Development Plan,after the Letter From The City of Albuquerque To Business Owners for Participation,Dated November 18, 1991.(Noting Property Number 55) of the Questionnaire (The Subject Property of This Proposal by Address) ,For Proof of Years at present Location and Business Establishment Time. Establishing A Business *Grandfather* Status. And Stability Shown in Longevity,conforming with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque, Neighboorhood and Adoption of and Multiple legislative actions Governing Public Saftey and the Use of Private Real Property,upto The Newly Adopted Sawmill/Wellspark Sector Development Plan.

This Proposal will Bring Job Opportunities back into the area and Revitalize and

Stimulate the small community feeling back to a currently Depressed area without any Negative impact to the community (The Business/Building Exist . No Changes to the Building are needed).

This location can Promote so many Positive in-fill uses as intented, at the Existing Neighborhood business location, Uses Could be; ie. Cafe,Bodega Shoe Shop, Barber, Dentist, Garden Center, Attorney, Office Uses,Management Company,Court Reporter,Florist/Nursery,Sandwich Shop, Ice Cream Parlor,Hair Dresser/Barber.News Stand,Dry Cleaner,Commissary etc.could be some of the future Uses.

The Subject Property Shows Stability and provides a solid Business base to Support The Proposal For This Zone Map Amendment of Lots 22,23,24 of Block 20 of Albright-Moore Addition.

The Proposal Futher Promotes The Newly Adopted Sawmill/Wellspark Sector Development Plan Economic Development Action Plan on pages 33 and 34. Which, focuses on In-Fill, Revitalization and Recommends Strengthening the Areas Land-Use Mix, Creation of Jobs and Projects that are Good Neighbors.

Business Retention and Expansion is also noted; Encouraging and Creating a stable Business Base in The Newly adopted Sawmill/Wells Park Sector Development Plan.

I Personally believe in the Neighborhood and Decided to Invest Private Funds into the Community by Purchasing and Revitalizing a Deteriorating Business and Property Which The Sawmill/Wells Park Sector Development Plan Encourages.Clearly this is intented and Stated in Both the Newly Adopted Sawmill/Wells Park Sector Development Plan **and** The New City Intergrated Development Ordinance (IDO) For Future In-Fill And Private Business Stimulis In-Fill.

C. A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City Master plans and amendments thereto including privately developed area plans which have been adopted by the City.

RESPONSE:. THE PROPOSAL **IS NOT** in significant conflict with adopted elements of the Comprehensive Plan or other City Master Plans and Amendments there to including Privately Developed area plans which have been Adopted by the City.Because the Longevity of The Subject Property Shows Stability and provides a solid base of Support for The Proposal of This Zone Map Amendment of Lots 22,23,24 of Block 20 of Albright-Moore Addition, It also Helps the Implementation of the Newly adopted Sawmill/Wells Park Sector Development Plan The Economic Development Action Plan on pages 33 and 34 , which Promotes and Focuses on Revitalization and Recommends Strengthening the Areas Land-Use Mix, Futhering the Creation of Jobs and Projects that are Good Neighbors.Business Retention and Expansion is also noted.We Are Encouraging and Creating a stable Business Base. As The Sawmill/Wells Park Sector Development Plan. Encourages.

The Property is an Existing Business Location Within the Neighborhood.

The Property is in an area of Change as outlined in the (IDO). Figure 5-6

The Property is in A Metropolitian ReDevelopment Area (MRA) Within the City of Albuquerque,

The Proposal Futher Promotes POLICY 2.3.3 EMPLOYMENT Recent economic development efforts have emphasized entrepreneurship and technology transfer to diversify and strengthen our local economy **REVITALIZATION/ECONOMIC DEVELOPMENT**

The Proposal Futher Promotes POLICY 2.3.5 CHANGING PREFERENCES Changing demographics pose both a challenge and opportunity for our region as preferences shift about the kinds of places we live and the transportation options we choose. In general, preferences are shifting toward places that give people options to walk, bike, or take public transportation **IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT**

The Proposal Futher Promotes 2.4 Accommodating Future Growth
POLICY 2.4.1 CONSTRAINTS TO FUTURE GROWTH
Where growth will occur in the county and the city will be determined by a number of factors. Significant changes will be needed to direct growth within the developed metropolitan footprint, preserve undeveloped areas and rural character, and ensure sustainable growth over time **IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT**

The Proposal Futher Promotes POLICY 2.4.2 GROWING INWARD
We need policies that encourage infill development in appropriate places and sustainable growth patterns over time. **IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT**

The Proposal Futher Promotes POLICY 2.4.6 FOCUSING GROWTH IN CENTERS & CORRIDORS Existing and designated Centers and Corridors are intended to accommodate much of the anticipated future growth in the city and county. Instead of low-density, singleuse growth at our edges, new development and redevelopment will be encouraged in existing Centers connected by a strong transportation network that accommodates cars and trucks, transit, cyclists, and pedestrians. Any potential for growth at the edges of the existing metro area should be master-planned as mixed-use, walkable Centers and Employment Centers, connected by Corridors that provide transportation options, mobility, and access for pedestrians, cyclists, transit users, and drivers. **IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT/ TRANSIT**

The Proposal Futher Promotes 3.1 A Shared Place The Albuquerque area is growing; the area population is projected to grow by almost 50 percent by 2040. Growth presents many choices that can lead down different paths to different futures. Having a common vision helps guide and inform City and County decision-making over time so that we move in the right direction to reach the future we want.

Our community will have the highest quality of life and the greatest range of diverse, vibrant places if we grow as a community of strong Centers connected by Corridors that provide excellent mobility for pedestrians, cyclists, and transit users, balanced with efficient access throughout our community by automobile **IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT/ TRANSIT**

The Proposal Futher Promotes 3.3 Centers & Corridors 3.3.1 CENTERS : Centers are areas of

relatively intense development with a variety of land uses that allow for many different activities. There are five Center types in the Comp Plan, each describing a varying level of intensity and market area. Most Centers have, or will strive for, a high degree of walkability, and are intended to be well served by transit and connected by trails and bike lanes. Other Centers focus on providing job centers where they are needed throughout the region. **IN-Fill / REVITALIZATION/ECONOMIC DEVELOPMENT/ TRANSIT**

Downtown Albuquerque's Downtown serves as a regional hub for high-intensity, concentrated employment and commercial activity supported by high-density housing. Downtown serves as the focal point and unifying identity of the Albuquerque area.

The Proposal Futher Promotes POLICY 4.1.2.2 GUIDING FUTURE GROWTH
Metropolitan Redevelopment Areas where new development and redevelopment are desired. They include vacant land and commercial or industrial areas that would benefit from infill or revitalization. **REVITALIZATION//ECONOMIC DEVELOPMENT**

Area & Sector Development Plans
In the City, Sector Development Plans (SDPs) have been an important way to address planning issues within individual neighborhoods and corridors for the past 40 years

The Proposal Futher Promotes POLICY 4.2.1
b) Use County Area or Sector Development Plans to further guide development. [BC]
PROMOTES SECTOR PLAN

The Proposal Futher Promotes POLICY 5.1.
c) Encourage employment density, compact development, redevelopment, and infill in Centers and Corridors as the most appropriate areas to accommodate growth over time and discourage the need for development at the urban edge.**ECONOMIC DEVELOPMENT IN-Fill / REVITALIZATION**

h) Encourage all new development, especially in designated Centers and Corridors, to address transit connections, linkages, and opportunities within the proposed development

The Proposal Futher Promotes POLICY 5.1.4 Urban Centers:
a) Encourage mixed-use development **REVITALIZATION /ECONOMIC DEVELOPMENT**

The Proposal Futher Promotes POLICY 5.1.1.9
Update zoning codes to allow the highest-density development in Downtown and Urban Centers. [A] **REVITALIZATION/ECONOMIC DEVELOPMENT**

The Proposal Futher Promotes POLICY 5.1.9 Main Streets: Promote Main Streets that are lively, highly walkable streets lined with neighborhood oriented businesses. [ABC] **TRANSIT**

a) Prioritize street and walkway improvements, such as street trees, landscaping, lighting, wayfinding, and wide sidewalks, to create safe and comfortable pedestrian environments

TRANSIT

Section 5.1.2.5 of the Land Use chapter)

The Proposal Futher Promotes POLICY 5.1.2.5 CITY OF ALBUQUERQUE DEVELOPMENT AREAS Directing growth to Areas of Change is intended to help preserve and protect established neighborhoods in Areas of Consistency. Areas of Change and Consistency are designed to be complementary to protect the scale and character of distinctive neighborhoods while accommodating new residents and jobs in areas already well served by infrastructure and transit.**PROMOTES SECTOR PLAN**

Areas of Change (City only) **IN-FILL /REVITALIZATION /ECONOMIC DEVELOPMENT**

Designated Centers and Corridors, along with Metropolitan Redevelopment Areas and Master Planned Areas, have been mapped as Areas of Change. Areas of Change policies allow for a mix of uses and development of higher density and intensity in areas where growth is desired and can be supported by multi-modal transportation.By Restoring Economic Job Opportunities and Balance will futher Promote the Sawmill/Wells Park Sector Development Plan And The New City Intergrated Development Ordinance (IDO). **PROMOTES SECTOR PLAN**

The Proposal Futher Promotes POLICY 5.2.1 Land Uses: Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods. [ABC] **PROMOTES SECTOR PLAN / REVITALIZATION /ECONOMIC DEVELOPMENT**

e) Create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods. [ABC] **REVITALIZATION /ECONOMIC DEVELOPMENT / PROMOTES SECTOR PLAN**

The Proposal Promotes Policy 5.4.1.2 Develop adjustments to land use policies, regulations, and incentives to improve the jobs-housing balance. [ABC] Because Restoring Economic Job Opportunities and Balance will futher promote the Sector And the Comprehensive Plans **IN-FILL /REVITALIZATION /ECONOMIC DEVELOPMENT**

The Proposal Promotes POLICY 6.1.3 Auto Demand: Reduce the need for automobile travel by increasing mixed-use development, infill development within Centers, and travel demand management (TDM) programs [ABC] **TRANSIT**

The Subject Property Futher Promotes and Complies with The Sawmill/Wells Park Sector Development Plan General SU-2 Regulations 4.a. Non Residental Building Design Page 88.

I Personally Believe in the Neighborhood and Decided to Invest Private Funds into the Community by Purchasing and Revitalizing a Deteriorating Business and Property Which The Sawmill/Wells Park Sector Development Plan Encourages.

D. The applicant must Demonstrate that the existing zoning is inappropriate because;

1. there was an error when existing zone map pattern was created,or

2. Changed neighborhood or community conditions justify the Change,or

3. A different use category is more advantageous to the Community, as articulated in the Comprehensive Plan or other City Master Plan,even though (1) or (2) above may or may not apply.

RESPONSE: (3) The Existing zoning is inappropriate Beacause a Different Use Category is more Advantageous to the Community as Articulated in the New City Intergrated Development Ordinance (IDO)Comprehensive Plan and The Newly Adopted Sawmill/Wells Park Sector Development Plan.The Proposed Zone Map Amendment Futhers and Promotes Multiple Policies of Both The New City Intergrated Development Ordinance (IDO)Comprehensive Plan and The Newly Adopted Sawmill/Wells Park Sector Development Plan.

a.We are requesting the Zone Map Amendment SU-2/SU1 for Flowershop/Nursery and Permissive C-1 Uses **Because** we wish to preserve our current attachment Su-2 S-R For FlowerShop and Nursery ,while adding a list of Uses to best fit our Current Attachment.

A List of Uses Refered to in The Sawmill/Wells Park Sector Development Plan on Page 99 S-R Premissive Uses Section A.5. is Missing or Vague in the language .(Sawmill/Wells Park Sector Development Plan Page 99 S-R Premissive Uses Section A.5.)

A list of Premissive Uses May Already Exist in the Language of the Sawmill/Wells Park Sector Development Plan S-R Premissive Zone Section A.5.It Has become Incumbent of The Applicant to have this Commission interpret the Language of the Ordinance as to Where the List of Premissive Uses Can Be Found Or Incorporate a Zone Map Amendment to add a list of Premissive Uses.This Action Will Fulfill the Language of Sawmill/Wells Park Sector Development Plan Stating, Future Non-Residental Uses may Occupy these same Premises.

The C-1 Neighborhood Commercial Zone (C-1) best fits our Current Use .(This is the basis of our Zone Map Amendment Request).From SU-2 S-R Flowershop/ Nursery to SU-2 SU-1 For Flowershop/Nursery and Premissive C-1 Uses. (C-1 Code Attached).

The new non-residentail uses must meet the requirements of the Sawmill/Wells Park Sector Development Plan. These requirements Exist to assure that a new Non-Residential Use will not be in conflict with or Harm the neighborhood.The Sawmill/Wells Park Sector Development Plan Page 99 S-R Premissive Uses Section A.5. Have Governing Language Ensuring a Permissive Use,Not Harm any of the Surrounding Community or Neighborhood.

Economic Development is Needed in This Area of Change, a Metropolitan Redevelopment Area (MRA) .

The Proposal would Futher and Foster Revitalization and Rehabilitation in a much needed Area.

The Proposal Will Ulitize an Existing Business Location In The Sawmill/Wells Park Sector Development Plan. Fulfilling the IN-Fill Intent of the Policy.

The Subject property is Adjacent /Neighbor Commercial,Office,and Residential uses:

Day care, Law office,Office Uses,Court Reporter,Accountant,Professional offices,Engineer,Doctors Office,Pre School and Staff Res,and Flower Shop/Nursery,Bed and BreakFast,Musuem,**C-2 Uses W/Exceptions Premissive,**all of which are in The Sawmill/Wells Park Neighborhood and Sector Development Plan. These Properties **Are Conforming/Premissive and NOT in Conflict** with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque. Presently.same as Subject Site. This List Of Uses Could Be the Missing or Vague List./

The Applicant of this Proposal Believed and Placed Trust In a Letter ,From The City Of Albuquerque Zoning Department Mangement written by (Mr.Jack Basye, Zoning Enforcement Supervisor ,Letter Dated December 14,2006) As To Subject of New Future Non-Residental Uses May Occupy These Same Premises.S-R Premissive Uses Section A.5.

We Decided to Make a Financial Investment in The Sawmill/Wells Neighborhood,an Economically Depressed Neighborhood in a Metropolitan Redevelopment Area (MRA) and to promote Infill ,and much needed Economic Revitalization to the Area We had the Same Visions as the Sector And Comprehensive plans to Revitalize And Redevelop the area.

E. A change of Zone shall not be approved where some premissive uses in the Zone would be harmful to adjacent Property, the neighborhood or community.

RESPONSE: The Proposed zone Amendment change would not be harmful to Adjacent Properties, the Neighborhood , or the Comminuty **Because**

Day care, Law office,Office Uses,Court Reporter,Accountant,Professional offices,Engineer,Doctors Office,Pre School and Staff Res,and Flower Shop/Nursery,Bed and BreakFast,Musuem,**C-2 Uses W/Exceptions**,Are Current uses Allowed in The Newly Adopted Sawmill/Wellspark Sector Development Plan Currently under The Special Use Category. The Same Category the Site Property is listed.. These Properties **Are Conforming /Premissive and NOT IN CONFLICT** with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque. Presently.

Therefore The Requested SU-2 SU-1 for Flowershop/Nursery And Premissive C-1 Uses Zone Map Amendment is less intensive than :

A current Premissive **C-2 Uses W/Exceptions,** a Special Use Property Within the Sawmill/Wellspark Neighborhood.This Property Is **a Conforming/Premissive** Property **NOT IN CONFLICT** with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque aalso Within the Sawmill/Wellspark Neighborhood.

We are requesting the Zone Map Amendment SU-2/SU1 for Flowershop/Nursery and Permissive C-1 Uses **Because** we wish to preserve our current attachment while adding a list of Uses that best fit our Current Attachment.The C-1 Neighborhood Commercial Zone (C-1) best fits our Current Use .(This is the basis of our Zone Map Amendment Request).a C-1 Code Attached.

We Are acceptable to using a More Restrictive Attachment of Residental /Commercial Zone (RC) .The Request Would therefore Be Amended to SU-2 for RC,This would allow us to Transition to be a more Consistant Use of MX-T, as our Neighboring Sister Property into The New City Intergrated Development Ordinance (IDO) and the Newly Adopted Sawmill/Wells Park Sector Development Plan.Code For Residental Commercial Zone (RC) Attached.

The new non-residentail uses must meet the requirements of the Sawmill/Wells Park Sector Development Plan. These requirements Exist to assure that a new Non-Residential Use will not be in conflict with or Harm the neighborhood.The Sawmill/Wells Park Sector Development Plan Page 99 S-R Premissive Uses Section A.5. Have Governing Language Ensuring a Permissive Use,Not Harm any of the Surrounding Community or Neighborhood.

Several Properties, Including The Subject Property With Premissive uses Exist Within the Neighborhood and the Sawmill/Wells Park Sector Plan ie. Day care, Law office,Office Uses,Court Reporter,Accountant,Professional offices,Engineer,Doctors Office,Pre School and Staff Res,and Flower Shop/Nursery,Bed and BreakFast,Musuem,C-2 Uses W/Exceptions that Comply and Adhere to the Same Governing Language of ,S-R Premissive Uses Section A.5. Page 99. of Sawmill/Wells Park Sector Development Plan and are **NOT IN CONFLICT** with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

The Proposed Zone Change **WILL NOT** require major and unprogrammed capital by the City **This is an infill Property with Adequate infrastructure ,including,Public Transit,Roadways,Water,Sewer,Already Exist.** And Will Futher and Promote The Policies of The New City Intergrated Development Ordinance (IDO) and the Newly Adopted Sawmill/Wells Park Sector Development Plan

We Are Proposing In Our Zone Map Amendment ,To Add a List of Future Uses To The Current Language of The Sawmill /Wells Park Sector Development Plan S-R Premissive Uses Section A.5. To Best Fit New Non-Residental Uses May Occupy These Same Premises.And FulFill The Intent Of The Newly Adopted Sawmill /Wells Park Sector Development Plan Page 1. and Promote and Futher The New City Intergrated Development Ordinance (IDO) by In-fill,Revitailization,and Economic Stimulus, of An Area In Change.And A Metropolitan Redevelopment Area (MRA).

F. A Proposed zone change which, to be utilized through land development,requires major and unprogrammed capital expenditures by the City may be ;

1. Denied due to lack of capital funds,or

RESPONSE: N/A The Proposed zone change will not requires major and unprogrammed capital by the City This is infill Property Adequate infrastructure ,including roadways,water,sewer,already exist.

(NO CITY FUNDS REQUIRED OR APPLIED FOR)

2. Granted with the implicit understanding that the City is not bound to provide the capital improvements on any special schedule:

RESPONSE: N/A (NO CITY FUNDS REQUIRED OR APPLIED FOR)

G. The Cost of the land and other economic considerations pertaining to the applicant shall not be the determining factor for a change of Zone.

RESPONSE: The Cost of the land and other Economic considerations Pertaining to the Applicant are not a Determining factor for a change of Zone.Other Than Consistencey with The New City Intergrated Development Ordinance (IDO) and The Newly Adopted Sawmill/Wells Park Sector Development Plan. The Cost of the Land, other Economic Considerations of Appliciant are not Relevant or Deciding factors for a Zone Map

Amendment Request.

This Zone Map Amendment Provides Economic Development in a area in need of Economic Stimulus ,In-Fill and The Proposal Makes Good use Of An Existing Business Location within the neighborhood to Fulfill the Vision Of The New City Intergrated Development Ordinance (IDO) And The Sawmill/Wells Park Sector Development Plans intent to Create a mixed Use Zone, Neighborhood commercial,Services to Anticpate and foster Area Change.General zoning Regulations Provide For Harmonious Mixed Development.Page 1. of Sawmill/Wells Park Sector Development Plan.

The Property is an Existing Business Location Within the Neighborhood.

The Property is in an area of Change as outlined in the (IDO). Figure 5-6

The Property is in A Metropolitian ReDevelopment Area (MRA) Within the City of Albuquerque,

H. Location on a collector or major street is not in itself sufficient justification of apartment,office,or commercial zoning.

RESPONSE: Location on a collector or major street is not in itself sufficient justification of apartment,office,or commercial zoning and is not a Determining factor for this Zone.Map Amendment Other Than Consistencey with The New City Intergrated Development Ordinance (IDO) and The Newly Adopted Sawmill/Wells Park Sector Development Plan The subject property is on a collector Street.

There are multiple Transportation Options Avaiable to Serve this Site, one on 6th street just south of kinley Avenue and one on the corner of 5th Street and Constitution Avenue;Bus routes 8,93,and 94 run along 6th street and 5th street.There are also existing bike The Proposal lanes on 6th street and 5th street,and there is an existing bike route on Bellamah Avenue which is one block north of the Subject Property.

This In its Self is not the reason for the Zone Map Amendment. The Traffic Conditions Where addressed in the (EPC Z-69-81) At The request of the Concerned Previous Property owner , At the Time. The Action was to place a parking lot on the North side of the Property to Allow the Business to Continue with the Saftey of the Neighborhood in Mind.This is FutherJustification that,this is a business location on a busy collector Street which DOES NOT HARM or Inpact the Neighborhood in any Negative way. With The Ability of Customers and Neighbors To Ulitize Public transportation,Bike and walking Routes in the Neigborhood, to futher and Promote the Newly Adopted Sawmill/Wells Park Sector Development Plan and The New City Intergrated Development Ordinance (IDO).

Transportation Department commmented : "No Objection To the Request".

"Not on a Corridor. Fixed Route 8 runs the Length of Menaul from Tramway to 6th Street, then South to Downtown on 6th Street.North-Bound Trips are on 5th Street.Commuter Route 93 runs the length of Academy from Tramway to I-25, Thence South into Downtown.North-Bound trips are on 5th Street Commuter Route 94 Connects The Northwest Transit Center to Downtown by way of Unser and I-40. Nearest stop "pair" for route 8 and Route 93 is split into two stops.The South-bound stop is one block south of the site at Kinley Avenue. The North-bound stop is immediately east of the site at 5th and Constitution. The nearest "pair" for Route 94 are on Aspen,Similarly split between 5th Street and 5th Street and 6th Street. No Comment "

This Proposal Futhers and Promotes the Using of , Making Access To, Public Transportation (Bus ,Bike, Walking Routes Within one Block of Site) at an Existing Business Location Within The Sawmill/Wells Park Neighborhood, while Complying with

theThe New City Intergrated Development Ordinance (IDO) and The Newly Adopted Sawmill/Wells Park Sector Development Plan .

This Property **is** a Conforming/Premissive Use and is NOT IN CONFLICT with the Health ,Saftey,Morals and General Welfare of the City of Albuquerque.

I. A Zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "Spot Zone". Such a change of zone may be approved only when ;

1. The change will clearly facilitate realization of the comprehensive Plan and any adopted sector development plan or area development plan,or

2.The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography ,traffic, or special adverse land uses nearby;or because the nature of structures already on the premises make the site suitable for the uses allowed in any adjacent zone.

RESPONSE:A Zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "Spot Zone". Such a change of zone may be approved only when,The change will clearly facilitate realization of The 2017comprehensive Plan and The Newly Adopted Sector Development Plan or area development plan,orThe change will clearly facilitate realization of the comprehensive Plan and any adopted sector development plan or area development plan ,andThis Zone Amendment request would not be A spot Zone.

THE PROPOSAL **IS NOT** in significant conflict with adopted elements of the Comprehensive Plan or other City Master Plans and Amendments there to including Privately Developed area plans which have been Adopted by the City.Because the Longevity of The Subject Property Shows Stability and provides a solid base to Support The Proposal For This Zone Map Amendment of Lots 22,23,24 of Block 20 of Albright-Moore Addition Help Implement The Economic Development Action Plan on pages 33 and 34 , which focuses on revitalization and recommends Strengthening the Areas Land-Use Mix, Creation of Jobs and Projects that are Good Neighbors.Business Retention and Expansion is also noted Encouraging and Creating a stable Business Base. .As The Sawmill/Wells Park Sector Development Plan. Encourages.

The Sawmill/Wells Park Sector Development Zone Map Amendment Requested SU-2/SU-1 For Flower Shop/Nursery with Permissive C-1 Uses Does Not Constitute a Spot Zone if Approved.

J. A zone change request which would give a zone different from surrounding zoning to a strip of land along a street is generally called "Strip Zoning" Strip Commercial Zoning will be approved only where;

1. The change will clearly facilitate realization of the comprehensive Plan and any adopted sector development plan or area development plan ,and

2.The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic, or special adverse land uses nearby. N/A

RESPONSE: This Zone Map Amendment Request would not be Considered A "Strip Zoning "The Property is on a Corner And Comprises of only .3 Acres.

(1) The change will clearly facilitate realization of The New City Intergrated Development Ordinance (IDO) and The Newly Adopted Sawmill/Wells Park Sector

Development Plan .

This Zone Amendment request would not be Concidered A Strip Zone.

THE PROPOSAL **IS NOT** in significant conflict with adopted elements of The New City Intergrated Development Ordinance (IDO) or other City Master Plans and Amendments there to including Privately Developed area plans which have been Adopted by the City.

Conclusion :

In Conclusion , this request for a Zone Map Amendment For the property located at 1416 6th Street NW furthers the multiple policies of the Comprehensive Plan and Sawmill/Wells Park Development Sector Plan by:

- Promoting Economic Development in a Metropolitian ReDevelopment Area (MRA)
- Promoting Stimulus in an Area Of Change
- Encouraging the use of Alternative Modes of Transportation
- Increasing job Opportunites and a Mixture of land uses
- Revitalizing the Neighborhood
- Encouraging Rehabilitation
- Promoting The Full Body of the Comprehensive Plan

Only A Select Few Properties in the Sawmill/Wells Park Sector Development Plan have this Unique Business Attachment , And Promotes All the Necessary Traits needed to Realize The Implementation of Both The New City Intergrated Development Ordinance (IDO)and The Sawmill/Wells Park Sector Development Plan, land Use intent For In-fill ,Revitalization,and promote Economic Development.

This location can Promote so many Positive in-fill uses as intented in The Sawmill/Wells Park Sector Development Plan, Utilizing the Existing Neighborhood business location, Uses Could be; ie. Cafe,Bodega Shoe Shop, Barber, Dentist, Garden Center, Attorney, Office Uses,Management Company,Court Reporter,Florist/Nursery,Sandwich Shop, Ice Cream Parlor,Hair Dresser/Barber.News Stand,Dry Cleaner,Commissary etc.

I Personally believe in the Neighborhood and Decided to Invest Private funds into the Community by Purchasing and Revitalizing a Deteriorating Business and Property Which The New City Intergrated Development Ordinance (IDO) and The Sawmill/Wells Park Sector Development Plans Encourages.

We Pray for this Commission to Clarify the list of S-R Premissive Uses in Section A.5. Or Approve a Zone Map Amendment,for SU-2 SU-1 For Flowershop/Nursery And Premissive C-1 Uses. Creating a list of Premissive Uses in Section A.5.for the Subject Property

We respectfully request that the Environmental Plannining Commission Approve the request for this Zone Map Amendment, If you have any Questions, Do not Hesitate to Call Me at (505) 261-8409. Thank You For Your Consideration.

Sincerely,

Eric Kilmer

Eric Kilmer
Princple

SUPPORTING

DOCUMENTS

18 EPC 40019

1. Page 99 of SawMill/Wells Park Sector Development Plan
2. 1969 EPC (2) Pages (Z-69-81) Planning Report
3. Letter from Planning Department Dated December 21, 2006
   Jack Basye Zoning Enforcement Supervisor
4. Current Business license for Subject Property
5. Un-numbered page from SawMill/Wells Park Sector Development Plan
   Questionnaire of Business Owners Property /Business Location # 55 ,Years at location At time of Sector Plan Adoption.
7. Un-numbered list of officials involved with New SawMill/Wells Park Sector Development Plan. (Mr JACK Basye)
8. Pages 7,33,34,78,80 From SawMill/Wells Park Sector Development Plan
9. C-1 Neighborhood Commercial Zone
10. RC Residential/Commercial Zone
11 Figure 5-6 ,Figure A-35
12. Aerial 2003 ,RCRA Map
13. City letter Morris To Kilmer August 22,2017
14. _____
15. _____

PERMISSIVE USES (continued)

A.5. Nonresidential uses that were nonconforming in the R-1 Zone, were zoned SU-1 for specific uses, or were permissive uses in the R-C, C-1, or C-2 Zone and that exist when the S-R Zone is established with the adoption of the Sector Plan, shall be considered permissive uses and may remain at the locations where they exist provided they comply with the following conditions.

New nonresidential uses may occupy these same premises provided they are equally or more restrictive than the immediately preceding use, they do not require more off-street parking, and they comply with the following conditions:

A.5.a. Outdoor storage shall consist only of parked operative vehicles and screened trash receptacles.

A.5.b. No underground storage tanks shall be present or installed on the property.

A.5.c. Business activities other than home occupations shall be prohibited between 10 p.m. and 7 a.m.

A.5.d. No more than five employees shall be present at any given time.

A.5.e. Signs shall be as regulated in the S-MRN Zone.

If a nonresidential use changes to a residential use, a nonresidential use at that location may not be resumed or re-established.

NOTES AND ILLUSTRATIONS

A.5. The conditions placed on nonresidential uses in the S-R Zone are intended to help nonresidential and residential uses co-exist harmoniously to prevent the decline of the neighborhood.

An inventory conducted just after the adoption of the Sector Plan will create a map of nonresidential uses and a list of attributes.

For nonresidential premises previously zoned SU-1 for specific uses, R-C, C-1, or C-2, a future nonresidential use can be any one of the permissive uses listed in the zoning category that applied to that property prior to the establishment of the S-R Zone provided it complies with the conditions listed in A.5.

A.5.c. The Comprehensive Zoning Code regulates home occupations as follows:

1. The activity is clearly incidental and secondary to use of the premises for a dwelling.
2. Only members of the residing family are employed.
3. No stock in trade is manufactured, displayed, or sold on the premises, except a small stock of art objects and custom sewing created by a resident of the dwelling is allowed.
4. All business activities conducted entirely indoors.
5. No more than 25% of the floor area of the dwelling is devoted to the home occupation. No more than 5% of the dwelling is devoted to storing stock in trade.
6. There is no external evidence of the activity, such as commercial vehicle, inordinate vehicular traffic, outside storage, noise, dust, odors, noxious fumes, or other nuisances emitted from the premises.
7. Health care shall not be considered a permissive home occupation.
8. One related on-premise sign is permitted, provided it does not exceed one square foot in area and is a nonilluminated wall sign.

PLANNING DEPARTMENT
CITY OF ALBUQUERQUE

CITY COMMISSION
November 10, 1969
Z-69-81

Z-69-81 City Planning Commission recommends a change of zone from R-1 to SU-1 (Special Use for a Flower Shop & Nursery) for Lots 1 thru 6 & 19 thru 24, Block 20, Albright-Moore Addition, located on the southeast corner of Sixth Street & Constitution Avenue NW. The original request, submitted by Mrs. O. B. Gilmer, agent for Gray's Flower Shop, was for a change of zone to C-1 for this property.

APPLICANT'S REASON FOR THIS REQUEST: "We desire to have off-street parking for Gray's Flower Shop, which is located on Lots 21 & 22, immediately to the south.

"Since Sixth Street is now carrying southbound traffic from Interstate 40, and there is only parking on the east side of the street, it has become a traffic hazard to our customers. It is proposed that a parking lot be constructed immediately north of the flower shop on the west portion of Lots 23 & 24."

PL Map No.: J-14 Census Tract: 28 Acres: 1.01

Material: Report, Sketch, Development Plan, Ordinance

COMMENTS FROM OTHER DEPARTMENTS:

Traffic Engineer: "No objection."
Bldg. & Insp. Div.: " " comment."
AMTPD: "Not affected."

PLANNING DEPARTMENT COMMENTS TO CITY PLANNING COMMISSION, 9-15-69:

The applicant requested P-1R zoning for off-street parking for the reasons listed above, however the Planning Department amended the request to C-1 zoning for all of the applicant's lots because the existing flower shop and nursery on the property, while not objectionable in the location, is a non-conforming use under the present R-1 zoning. The surrounding land to the north and east is zoned C-1.

After further review, however, the Planning Department recommends modification of the zone change to SU-1, rather than C-1, for the following reasons: 1) although C-1 zoning would make the flower shop a permissive use, the nursery portion of the operation would still be non-conforming; 2) the existing development in the surrounding area, regardless of the zoning, is predominantly residential; 3) SU-1 zoning for the flower shop and nursery would allow continuance and improvement of a use that has existed satisfactorily in the area for many years without presenting the possibility of numerous alternate commercial uses possible under C-1 zoning which might be quite incompatible with the existing residential development.

Recommendation: Therefore, the Planning Department recommends modification of the zone change to SU-1 for the applicant's property subject to submission of satisfactory development plans. (The site plans submitted with the application would be acceptable with a few minor changes.)

CITY PLANNING COMMISSION ACTION, 9-15-69: (All Members Present)

Mrs. Gilmer, agent, said that the actual reason for this request is to establish a parking area for their customers on the Sixth & Constitution corner of this property.

CITY COMMISSION
November 10, 1969
Z-69-81

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONE MAP OF THE CITY OF ALBUQUERQUE AS SHOWN IN ORDINANCE NO. 2726, AS AMENDED, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE, NEW MEXICO:

SECTION 1. The zone map referred to in Ordinance No. 2726, as amended, is hereby amended as follows:

R-1 to SU-1 (Special Use for a Flower Shop & Nursery) for Lots 1 thru 6 and 19 thru 24, Block 20, Albright-Moore Addition, filed in the office of the County Clerk of Bernalillo County, New Mexico on February 26, 1921.

SECTION 2. This ordinance is an emergency measure due to urgent public need and will be effective five days after publication in full in accordance with law.

ADOPTED: _____

Chairman, City Commission, Albuquerque, N.M.

ATTEST: , City Clerk

APPROVED AS TO FORM
Date: 6 Nov 1969
Harley A. Lanning
for FRANK ORAN, CITY ATTORNEY

APPROVED AS TO DESCRIPTION
Date: 11-6-1969
William T. Stevens
WILLIAM T. STEVENS, CITY ENGINEER

en ette

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CITY OF ALBUQUERQUE

Zoning Enforcement Division
600 2nd Street NW, Suite 500
Albuquerque, New Mexico 87102
(505) 924-3850 fax (505) 924-3460

Martin J. Chavez, Mayor

December 21, 2006

James K. Strozier, AICP
Consensus Planning
302 8th Street NW
Albuquerque, New Mexico 87102

[redacted] Street NW

P.O. Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

Dear Mr. Strozier:

This letter will certify that according to the map on file in this office on this date the referenced property is zoned SU-2 S-R Sawmill-Residential, Sawmill/Wells Park Sector Development Plan.

In response to your inquiry regarding the use of the property (see attached), you are correct in your conclusion that the property may continue to be occupied with nonresidential uses as provided in the S-R zone, Section A.5. For a determination as to allowance for a specific proposed use, please provide a comprehensive description of the proposed activity for review.

If you have questions, please contact me at (505) 924-3823, or by e-mail jbasye@cabq.gov.

Sincerely,

Jack Basye
Zoning Enforcement Supervisor

Erica Kilmer
[redacted]

Copy via fax: 842-5495

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Albuquerque Making History 1706-2006

21

CITY OF ALBUQUERQUE
BUSINESS REGISTRATION

CITY OF ALBUQUERQUE
P.O. BOX 1293
ALBUQUERQUE, NM 87102

GOODFELLAS FLORIST AND NURSERY
1416 6TH ST NW
ALBUQUERQUE NM 87112

CITY OF ALBUQUERQUE

GOODFELLAS FLORIST AND NURSERY (GOODFELLAS FLORIST AND NURSERY)
1416 6TH ST NW

PERMIT NO: BRC-2009-315530

PROGRAM: BUSINESS REGISTRATION

EFFECTIVE FROM: 06/01/2017 THROUGH: 05/31/2018

HAVING COMPLIED WITH THE FEE REQUIREMENTS OF CHAPTER 13 ARTICLE 1 OF THE REVISED ORDINANCES.

REGISTRATION OR LICENSING WITH THE CITY OF ALBUQUERQUE AND PAYMENT OF FEES DOES NOT CONSTITUTE A WAIVER OF ANY REQUIREMENTS OR PROVISIONS CONTAINED AT ANY LAW.

THE ACTIVITY/BUSINESS PROPOSED TO BE CONDUCTED AT ANY LOCATION WITHIN THE CITY SHALL BE APPROVED BY THE CITY'S ZONING ENFORCEMENT OFFICER PRIOR TO COMMENCING THE ACTIVITY/BUSINESS.

PLANNING DEPARTMENT - CODE ENFORCEMENT DIVISION

WWW.BIZREG.CABQ.GOV

(505) 924-3890

POST IN A CONSPICUOUS PLACE

22

SAWMILL QUESTIONNAIRE
DUMP OF RESULTS - USE FOR FINDING TYPING ERRORS

09:36 Wednesday, January 2[illegible] 1[illegible]

QUESTIONNAIRE NUMBER	BUSINESS LOCATION	BUSINESS TYPE	BUSINESS AT PRESENT ADDRESS (YEARS)	BUSINESS EMPLOYS (PEOPLE)
1	1414 12TH ST NW	PUBLIC DISTRIBUTION CENTER	11	7
2	1501 12TH ST NW	CATALOG	4	145
4	1414 12TH ST NW	JANITORIAL BUSINESS	5	12
6	1326 12TH ST NW	WHOLESALE	41	8
8	1330 12TH ST NW	WHOLESALE	41	8
10	1503 12TH ST NW	DISTRIBUTION	40	10
16	1320 12TH ST NW	PRINTING	5.5	20
17	2031 12TH ST NW	RETAIL DRUG STORE	15	28
18	1313 12TH ST NW	POTTERY STUDIO	12	0
21	800 20TH ST NW	LIGHT MANUFACTURING - PLASTIC CONTAINERS	13	20
40	1412 5TH ST NW	CHURCH RELATED	15	4
42	2024 5TH ST NW	SIGN MANUFACTURING	50	36
44	1719 5TH ST NW	CONSTRUCTION	50	3
46	1401 5TH ST NW	ARCHITECTURAL	14	4
47	1516 5TH ST NW	COMMERCIAL PRINTING	8	14
48	2015 5TH ST NW	OFFICE FURN DISTRIBUTION	2.5	4
51	1701 6TH ST NW	CABINET SHOP	12	1
53	1803 6TH ST NW	WHOLESALE UPHOLSTERY	6	.
55	1416 6TH ST NW	FLORIST	58	7
61	2012 7TH ST NW	GASOLINE DISTRIBUTOR	21	30
62	1900 7TH ST NW	MANUFACTURING	3	45
81	711 ASPEN AVE NW	LIGHT MANIFACTURING/DISTRIBUTION	10	6
83	822 ASPEN AVE NW	ELECTRICAL CONTRACTING	35	25
84	609 ASPEN AVE NW	AUTO REPAIR	6	1
91	1623 ASPEN AVE NW	TRUCK PARTS, SALES & SERVICE DEALER	2	40
93	701 ASPEN AVE NW	ART-SIGNS	25	
94	821 ASPEN AVE NW	ELECTRIC MOTOR REPAIR	6	2.5
95	630 ASPEN AVE NW	SMALL METAL MANUFACTURING	20	2
100	1901 BELLAMAH NW	LUMBER DISTRIBUTION	33	28
101	815 BELLAMAH NW	HEAVY EQUIPMENT REPAIR	6	3
112	680 HAINES AVE NW	ELECTRONIC SERVICE	10	10
118	650 HAINES AVE NW	MANUFACTURING	7	48
126	1107 LOS TOMASES NW	VETERINARY (BUSINESS OFFICE ONLY)	5	1
129	702 MCKNIGHT NW	TRANSPORTATION	2.58	9
134	821 MOUNTAIN RD NW	COMMERCIAL PHOTOGRAPHY	3	3
136	419 MOUNTAIN RD NW	CABINET MAKING	12	4.5
137	1103 MOUNTAIN RD NW	BAKERY	4	2
139	1315 MOUNTAIN RD NW	SCHOOL/DAYCARE	11	7
140	615 MOUNTAIN RD NW	BATTERY SALES - RETAIL WHOLESALE	38	.
141	1801 MOUNTAIN RD NW	MUSEUM, STATE AGENCY	5	61
143	1905 MOUNTAIN RD NW	SPECIALITY OUTDOOR RETAIL STORE	3	65
146	800 RIO GRANDE BLVD NW	NON-PROFIT	1.5	2.5
153	1000 RIO GRANDE BLVD NW	CHEVRON FOOD MART	25	9
161	619 RIO GRANDE BLVD NW	RESTAURANT & LOUNGE	14	35
163	800 RIO GRANDE BLVD NW	MANUFACTURERS REP	3	1
176	417 SUMMER NW	DRIVESHAFT & AXLE REBUILDING	2	3
180	2000 ZEARING NW	CONSTRUCTION SUPPLY - FRAME & DOOR ASSEMBLY	4	6
183	2000 ZEARING NW	CONTRACT DOOR HARDWARE	2.5	3
184	2000 ZEARING AVE NW	WHOLESALE MEATS TO FOOD INDUSTRY	11	11
185	2000 ZEARING AVE NW	LUMBER WHOLESALE	8	21
189	901 21ST ST NW	SOLAR	12	12

REPORT BY: PLANNING DEPARTMENT, CITY OF ALBUQUERQUE

TECHNICAL ASSISTANCE AND PLAN REVIEW

CITY DEPARTMENTS

ALBUQUERQUE MUSEUM
James Moore
John Grassham

COUNCIL SERVICES
Lou Columbo
Laura Mason

CULTURAL/RECREATIONAL SERVICES
Janet Saiers
Charmaine Gutierrez (Wells Park Community Center)
Janine Boire (Explora! Science Center)

ENVIRONMENTAL HEALTH
Sarah Kotchian, Department Director
Jim Barr (Air Pollution)
Darryl Bone (Consumer Protection)
Glen Dennis (Air Pollution)
Alana Eager (Air Pollution)
Doug Earp (Environmental Services)
Debbie Grabowski (Epidemiologist)
Louis Jaramillo (Consumer Protection)
John Libertore (Air Pollution)
Therese Martinez-Loner (Environmental Services)
Brian McGill (Air Pollution)
Richard Mitzelfelt (Consumer Protection)
Curt Montman (Environmental Services)
Mike Smith (Air Pollution)
Steve Walker (Air Pollution)
Dan Warren (Air Pollution)

OFFICE OF ECONOMIC DEVELOPMENT
Erik Pfieffer
Victoria Prinz

OFFICE OF MANAGEMENT & BUDGET
Fabrizio Bertoletti (CIP)
Gordon Church (1% for the Arts)
John Gregory (CIP)

FAMILY & COMMUNITY SERVICES
Michael Passi (Deputy Director)
Kate Hildebrand (Research/Planning)
Ron Maestas (Housing Code Enforcement)
Rick Giron (Community Centers)
Mary Lou Haywood-Spells (Neighborhood Services)
Ken Balizer (Albuquerque Development Services)
Gerald Hartman (Albuquerque Development Services)
Armando Ornelas (Albuquerque Development Services)
Greg Polk (Albuquerque Development Services)

FINANCE & MANAGEMENT
David Knight
Bill Shrenk (Licensing and Taxation)

FIRE
Chief Jay Staeden (Office of Emergency Preparedness)
Chief Morris Huling (Fire Marshall)
Lt. Joseph Crespin (Fire Marshall's Office)
Steve Villescas (Fire Marshall's Office)
Lt. Joseph Zamora (Plan Review)

CITY DEPARTMENTS (continued)

LEGAL
Adelia Kearny
David Suffling

OFFICE ECONOMIC DEVELOPMENT
Erik Pfeiffer
Signe Rich

PARKS & GENERAL SERVICES
Tom Ellis (Urban Forester)
Colleen Frenz (Park Development)
Ed Ordonez (Building Maintenance)
Diane Scena (Trails Developemtn)

PLANNING
Roberto Albertorio (Zoning Hearing Examiner)
Jack Basye (Zoning Enforcement)
Ed Boles (Historic Preservation Planner)
Carmen Chavez (AGIS)
Ellen Concini (Zoning Enforcement)
Susan Conners (Development Services)
Doug Crandall (Zoning Enforcement)
Mary Davis (Historic Preservation Planner)
Colleen Griever (AGIS)
Tony Reynolds (Building Safety)
Tom Rojas (Zoning Exceptions)
Robert Romero, Division Head (Zoning Enforcement)
David Steele, Division Head (Building and Safety)
Neal Weinberg (AGIS)

POLICE
Karen Fischer (Planning & Research)
Dick Leonard (Community Awareness)
Capt. Weidner, (Valley Area Command)

PUBLIC WORKS
Ray Chavez (Street Maint. & Traffic Eng.)
Bill Coleman (Traffic Engineering)
Billy Goolsby (Design Review DRC)
Dave Harmon (Transp. Development)
Joe Luehring (Utilities)
Lee Lunsford (Special Assessments)
Jack McDonough (Utilities)
Joe David Montano (Transp. Dev.)
John Murray (Hydrology)
Dean Wall (Street Maintenance)
Jerry Widdison (Transp. Planning)

SOLID WASTE
Lawrence Baca
Leonard Griego

TRANSIT & PARKING
Sheryl Germack (Transit)
Jim Hamel (Transit)
Tony Martinez (Parking)
Bruce Rizzieri (Transit)

1706 Villa de Alburquerque (Old Town) founded

El Camino Real continues through the Villa de Alburquerque as the established route to Old Mexico

1819 Town of Camuel established in Tijeras Canyon Mountain Road becomes the route from Old Town to Camuel

Nineteenth century People living in Old Town, farm land in what will become the Sawmill/Wells Park area and eventually build homes near their fields

1880 The railroad arrives approximately one and one half miles east of what is now Historic Old Town

Farmland is expanded by newcomers from Europe and the eastern United States

New Town develops around Railroad Avenue (Central) west of the tracks

The Villa de Alburquerque (Old Town) loses businesses to New Town

1882 Land donated to build the Indian School

Road from Old Town to the Indian School is established

1898 Area is primarily used for farming and buildings are mainly along Mountain Road and irrigation ditches

Residential subdivisions spread out from New Town

1884 and 1905 Two subdivisions established just north of Mountain Road

Small scale commercial establishments are built among the homes and farms along Mountain Road

1903 110 acres are donated to develop the American Lumber Company (1903-1917) Becomes McKinley Land and Lumber Company (1917-1924)

Santa Fe Railway Company builds a rail spur from the main line to serve the lumber company

People flock to the area for jobs

Streetcar extended from New Town to serve Sawmill workers and stores open to serve sawmill workers:

> Tomas Duran house and store built on SE corner of Twelfth Street and Sawmill Road (the end of the streetcar line at the sawmill's main gate)
>
> Cesario Gonzales home, saloon and dance hall built on Sawmill Road east of Twelfth Street (Saloon becomes grocery during prohibition)

1904 Prager Electric Power Station built - uses wood scrap for fuel

Old Town remains a mixture of homes and neighborhood stores

1923-45 Land subdivided and developed for housing near Rio Grande Boulevard and in the area between the road to the Indian School and Fifth Street

Residential subdivisions also expand east and west along Central Avenue

1924 Lumber Company renamed George E. Breece Lumber Company

1927 Streetcar discontinued

1937 Central Avenue becomes part of Route 66

1942 Lumber company ownership changes

Remnants of farmland east of Twelfth Street subdivided for housing

Twelfth Street expanded north through the Lumber Company property

Lumber Company sizes down (all operations move west of Twelfth Street)

Industrial businesses replace farmland east of Twelfth Street and land vacated by the lumber company

As farmland sells, neighborhoods and industries develop close together

More railroad spurs are built to serve businesses

Old Town begins to commercialize:

> **1951** Predominantly residential, 30 shops, 4 restaurants
> **1958** Historic Zone established
> **1964** 65 shops and 6 restaurants mainly around the plaza

1959 Zoning established city-wide

mid-1960's I-40 built
Downtown declines as Uptown grows

1969 Acequia Madre (Albuquerque Ditch) vacated south of Zearing

The city continues to expand east and north

Old Town continues to commercialize:

> **1972** 85 shops and 8 restaurants
> **1980** 104 shops and 10 restaurants

1975 Tiguex Park built

late-1970s Sheraton Hotel built

1979 Albuquerque Museum opens on former truck terminal site

mid-1980s New Mexico State Natural History Museum built

late-1980s REI, a National Outdoor sporting goods outlet, replaces Keebler Cookie Company on Mountain Road

late-1980s Duke City Lumber Company vacates 35 acres of land; PNM Prager Station site and other industrial properties found to be polluted

early-1990s Childrens' Museum opens in Sheraton Mercado

1993 PNM-owned land on Mountain Road sold and transferred to the City to build the Exploral Science Center

1994 Shops built on north side of Mountain Road west of

ECONOMIC DEVELOPMENT

The economic development strategy for the Sawmill/Wells Park area focuses on industrial and commercial revitalization that protects public and private area investments while increasing income for currently low and moderate income residents. The strategy also encourages strengthening tourist-related businesses if care is taken to protect residential areas and other types of stable businesses.

The basis of the economic development strategy for the entire area is reflected in the approach and contents of the Sawmill Revitalization Strategy. (See Executive Summary in Appendix C). Although this document specifically addresses the future of vacant and under-used industrially zoned properties, its findings are relevant to the entire area: healthy growth of industrial and commercial businesses will provide employment opportunities for residents, while enlarged, strengthened and protected residential neighborhoods will benefit commercial activities by providing a stable environment.

ISSUES AND ANALYSIS

Sawmill and Wells Park support a mixture of businesses. Long standing businesses share industrial and commercial areas with many innovative start-up businesses. Middle size manufacturing plants and warehouses exist next to small, eclectic commercial enterprises. During economic market shifts, however, the area's namesake "the Sawmill," declined and eventually left behind only a small molding business, a particle board manufacturing business, and a large tract of vacant land. Other businesses also declined, leaving blighted, under-used, and sometimes environmentally polluted properties.

Overall area residential income is low, and few businesses cater to or provide services to residents. Businesses along Rio Grande Boulevard provide services primarily for cars and tourists. Twelfth Street businesses are primarily heavy commercial businesses that can rely on access to I-40. Mountain Road has some neighborhood businesses near Twelfth Street (a grocery store, laundromat and bakery) and Old Town-related businesses between Fifteenth Street and Rio Grande Boulevard (a gallery, a cafe, and a developing commercial complex just north of Old Town.)

Although the sawmill is gone, more than 100 other plan area businesses provide a variety of jobs. The sawmill's departure provides an opportunity to redevelop the land with a mixture of uses that will benefit the area: housing, recreational trails, a park, and environmentally safe businesses that will provide additional jobs.

THE SAWMILL REVITALIZATION STRATEGY

The Strategy recommends that the area's mixture of uses be affirmed and strengthened. It proposes to link job creation strategies and the Sector Plan's new zoning with land purchase and redevelopment to stabilize and enhance existing residential, commercial and industrial uses. It encourages practical, market-driven infill development projects and sensitive site design to increase compatibility between uses.

Specific recommendations of the Strategy are as follows.

- City purchase and rezoning of vacant land east of the John Baron Burg Addition for affordable and senior housing and a recreational trail and park.
- City purchase and rezoning of land for business incubators and residential work spaces. These uses provide a transition between the residential neighborhood and a solidly industrial area near Twelfth Street.
- A new street system between Eighteenth and Twelfth Streets that will direct industrial and heavy commercial business traffic to Twelfth Street and I-40.

EMPLOYMENT OPPORTUNITIES AND JOB CREATION

The Sawmill Revitalization Strategy promotes the concept of linking future redevelopment with job creation. To accomplish this, programs will be developed linking employment needs of residents with job creation and business expansion. The Community-Based Organization Training Program currently being developed by the City Office of Economic Development in conjunction with a core group of neighborhood organizations and nonprofit groups will provide tools and resources for interested organizations.

Possible strategies for increased employment include first-source hiring programs, linking residents and businesses together by "good neighbor" agreements that allow neighborhood input into business operation and expansion plans, and educating residents and business owners about revitalization resources available through the Small Business Administration, Albuquerque Development Capital, two micro-loan programs, WESSTCORP and ACCION, as well as TV-I and other educational programs.

Funds can be obtained to develop a comprehensive job survey of area residents' existing skills and training needs. Subsequently, a "Customized Manpower Development Program" to design and implement recruitment and training programs can link workers with available opportunities.

BUSINESS RETENTION AND EXPANSION

Area businesses should be encouraged to form a Business Association. Existing business retention and expansion programs such as those of the Greater Albuquerque and Hispano Chambers of Commerce should be encouraged to contact area businesses and work to create a stable business base in the plan area.

A partnership of New Mexico Inc., The City of Albuquerque, AED (Albuquerque Economic Development), and the State Economic Development Office will be initiating an Industry Cluster Survey. The survey will provide economic data on all levels of income-generating business activities in the Greater Albuquerque area. This survey can be used to provide useful data for business retention and recruitment in the Sawmill/Wells Park area.

DEVELOPMENT REVIEW PROCESS

PERMISSIVE USES

All of the zoning regulations are enforced by the Zoning Enforcement Division of the Planning Department with assistance from other City departments when necessary. Compliance with all zoning regulations is checked during the building permit application process and again before a Certificate of Occupancy is granted. To facilitate compliance, City staff will explain the information needed to complete the building permit application and technical assistance appointments will be made if necessary.

Only the few properties with existing SU-1 zoning require hearings by the Environmental Planning Commission when new development or changes are requested. Design proposals for properties in the H-1 Buffer Zone require hearings by the Landmarks and Urban Conservation Commission when new development or changes are requested.

CONDITIONAL USES

Uses listed as conditional in zoning categories require approval on a case by case basis by the Zoning Hearing Examiner. According to the City of Albuquerque's Comprehensive City Zoning Code, the City shall approve a conditional use if the evidence presented to the Zoning Hearing Examiner shows that the use proposed 1) will not be injurious to the adjacent property, the neighborhood, or the community; and 2) will not be significantly damaged by surrounding structures or activities. Although others may submit evidence, it is the burden of the applicant to ensure that there is such evidence in the record.

According to the Zoning Code, conditional uses become void if:

1) the rights and privileges granted with conditional use approval have not been used within one year,

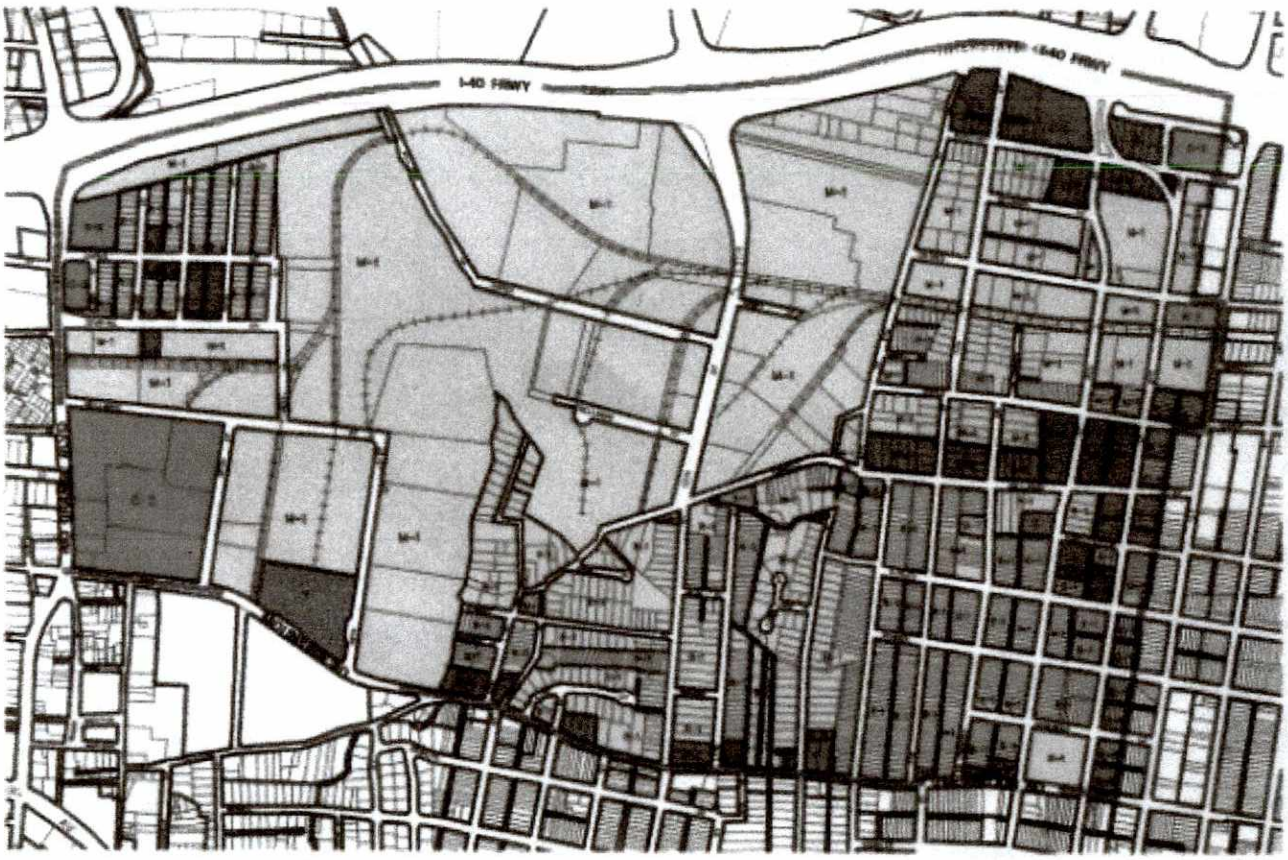
2) the property is used in a way materially in violation of the terms of conditional use approval for a continuous period of one year or more, or

3) after the approved use has begun, it ceases for a continuous period of one year or more.

NONCONFORMING USES

When the plan is adopted and its zone changes are adopted as law, some existing business operations become legally nonconforming. When the time period for complying with the various new General SU-2 Regulations expires, properties must comply or request a special exception or an extended phase-in period from the Zoning Hearing Examiner. Businesses are required to demonstrate special circumstances to qualify for a special exception or time extensions. Only enclosure, screening and buffering requirements require a shorter compliance period than the periods established in the City of Albuquerque Comprehensive Zoning Code.

1995 ZONING PREDATING PLAN ADOPTION



- R-1 SINGLE FAMILY RESIDENTIAL
- R-T TOWN HOUSE RESIDENTIAL
- R-2 LOW DENSITY APT. RESIDENTIAL
- R-C RESIDENTIAL/COMMERCIAL
- C-1 NEIGHBORHOOD COMMERCIAL
- C-2 COMMUNITY COMMERCIAL
- C-3 HEAVY COMMERCIAL
- M-1 LIGHT MANUFACTURING
- M-2 HEAVY MANUFACTURING

SU-1 SPECIAL USE FOR

1. PRE SCHOOL & STAFF RES.
2. FLOWER SHOP & NURSERY
3. DAY CARE CENTER
4. OFFICE USES
5. C-2 USES W/EXCEPTIONS
6. BED & BREAKFAST
7. MUSEUM

PROPOSED PLAN BOUNDARY

North

SCALE IN FEET
0 1000

§ 14-16-2-16 C-1 NEIGHBORHOOD COMMERCIAL ZONE.

This zone provides suitable sites for office, service, institutional, and limited commercial uses to satisfy the day-to-day needs of residential areas.

(A) ***Permissive Uses.*** Permissive uses, provided there is no outdoor storage or activity except parking and as specifically allowed below:

(1) Antenna, up to 65 feet in height.

(2) Institution:

(a) Church or other place of worship, including incidental recreational and educational facilities. Incidental uses allowed include but are not limited to an emergency shelter operated by the church on the church's principal premises which is used regularly for public worship, notwithstanding special limitations elsewhere in this Zoning Code.

(b) Club, provided there is no liquor license.

(c) Library.

(d) Museum.

(e) Schools, including a private school which serves to provide basic education to children as is provided in public schools in grades K through 12, and excluding all other private schools.

(3) Office.

(4) Office machines and equipment sales and repair.

(5) Park-and-ride temporary facilities.

(6) Public utility structure, provided its location is in accord with an adopted facility plan and a site development plan for building permit purposes has been approved by the Planning Commission.

(7) Residential uses permissive in the R-3 Zone with the following requirements and exceptions:

(a) Relationship to Sector Development Plans.

1. Where SU-2 zones refer to the C-1 zone and specify regulations for residential uses that impose different restrictions and/or development standards than those contained in this section, the provisions of the SU-2 zones shall prevail.

2. Where SU-2 zones refer to the C-1 zone but do not specify provisions for the regulation of residential uses, residential development shall be regulated by section (B)(6) below.

(b) Site, or any portion thereof, shall be located within 660 feet from the right-of-way line of a Major or Enhanced Transit Corridor or within a Community or Major Activity Center as designated by the Comprehensive Plan, or be located within a designated Metropolitan Redevelopment Area (MRA).

(c) Houses are not allowed.

(d) Residential uses may be part of a vertical mix of uses (e.g., residential over commercial or residential over office).

(e) Where residential uses are proposed, the following regulations shall apply:

1. Area: minimum of 0.5 acres.

2. Height: Pursuant to the R-3 Zone, including mixed use buildings with a residential component, may use the R-3 height limits and are not capped by § 14-16-2-16(C).

3. Number of dwelling units: Maximum 30 dwelling units per acre; however, residential structures constructed in applicable sites located within 660 feet of the centerline of San Mateo Blvd., Central Ave. and Montgomery Blvd. may have up to 50 dwelling units per acre.

4. Density: The total square footage of all buildings shall achieve a minimum floor area ratio of 0.3.

5. Usable open space: Pursuant to the R-3 Zone. At least 50% of the required open space shall be provided in the form of shared or aggregate open space.

6. Parking requirements and allowances:

   a. One space/unit;

   b. Shared Parking: As provided in § 14-16-3-1(E)(6)(b) except that parking for residential uses is eligible for a shared parking exception.

   c. On-street parking credit: one space per available, adjacent on-street parking space.

7. Approval process: Site Development Plan for Building Permit approval by the Environmental Planning Commission for sites five acres in size and larger. Site development plan approval by the Planning Director or his/her designee for sites under five acres in size.

8. For new residential development, in addition to the applicable General Regulations in the City Zoning Code, the following regulations must also be met:

   a. Building Frontage and Articulation. The following regulations shall apply to all facades fronting a street:

      i. The design standards of § 14-16-3-18(C)(2)(a), (b), (c), (d) and (e) shall apply.

      ii. The design standards of § 14-16-3-18 (D)(2), except section (h), shall apply.

      iii. A minimum of 30% of the ground floor shall have windows. For facades with doors, the percentage of windows may be reduced to 20%.

iv. Upper floors shall have a minimum of 20% glazing.

v. The primary entry to the building shall be oriented toward the street or within 50 feet of a central courtyard.

b. Alleys: Existing alleys should remain in place to provide access to a site.

c. Building Placement:

i. Buildings shall be set back 0 to 15 feet from property lines adjacent to a street.

ii. Side and rear setbacks shall be pursuant to the underlying zone.

d. Pedestrian Access: Residential uses shall provide direct pedestrian connections from the residential building(s) to all street sidewalks and to other building(s) on the premise or project site. See § 14-16-3-1(H).

e. Landscaping:

i. Building setbacks not used for pedestrian activity shall have a minimum landscape area of 50%. Asphalt is not a permitted material within the setback area.

ii. Landscaping on roof decks may be counted toward the required area landscaping as regulated by § 14-16-3-10.

f. Parking Placement: Parking shall be located to the rear or to the side of a building, in a common parking area located interior to the block, or in a combination of the above. Parking is not permitted between a building and the street on which it fronts. Parking areas between a building and a side street are limited to 64 feet in width and shall have landscaped buffers facing the streets with a minimum depth of four feet and a screen wall with a minimum height of 36 inches. Wall material shall be as regulated by § 14-16-3-19(C).

g. Signage: Signage shall be as regulated by the O-1 zone, with the following exceptions:

i. Building-mounted signs shall be limited to 25 square feet.

ii. No more than one wall-mounted sign per building façade.

iii. Freestanding signs are not permitted on premises of under five acres.

iv. The maximum height of freestanding signs is eight feet.

9. Redevelopment of existing structures that results in a net 25% increase in square footage shall comply with the preceding regulations as determined by the Planning Director or his or her designee.

(8) Retail sales of the following goods, plus incidental retailing of related goods and incidental service or repair:

(a) Arts and crafts objects, supplies, plus their incidental creation provided there is little or no reproduction of substantially identical objects.

(b) Auto parts and supply.

(c) Books, magazines, newspapers, stationery, provided that no such material is advertised to be forbidden to be sold to minors.

(d) Christmas trees, including outside sales, provided the use is limited to 45 days in one calendar year.

(e) Clothing, shoes, dry goods.

(f) Cosmetics, notions, hobby supplies.

(g) Drugs, medical supplies.

(h) Flowers and plants, including minor and incidental outdoor sales.

(i) Food and drink for consumption on premises, provided:

1. There shall be no drive-in restaurant, and

2. Alcoholic drink may be sold only under a restaurant license for sale of beer and wine, as provided by Section 60-6A-4 NMSA 1978. The sale of beer and wine under a restaurant license, however, is prohibited within 500 feet of a community residential program or hospital for treatment of substance abusers pursuant to § 14-16-3-12(A)(11) ROA 1994.

(j) Furniture, household furnishings, and appliances.

(k) Gasoline, oil, liquefied petroleum gas, including outside sales, provided:

1. Location: the site shall be located on a collector or higher-ranking street.

2. Site design.

a. Number of fueling positions. The permissive number of above-ground fuel dispenser units shall be limited to four, with up to eight vehicle fueling positions (one per side), provided the on-site vehicle stacking requirements of § 14-16-2-16 (A)(8)(k)(2)(d) are met.

b. Vehicle access points. Vehicle access points shall accommodate all vehicle types expected to enter the site. Each street that provides access to the site shall have either (a) two travel lanes in each direction, or (b) a center turn lane with access to the site. To maintain pedestrian and traffic circulation, no more than one vehicle access point shall be located along any one street for sites at the intersection of any two streets. Sites located mid-block and accessed by a single street shall have no more than two access points. Access points shall be located as far from public street intersections as possible, but no closer than 20 feet from adjacent properties unless shared with an adjacent property owner.

c. Public alleys. Site access points may open to a public alley, provided that the alley subsequently intersects with a street as described in § 14-16-2-16(A)(8)(k)(2)(a) above, and site adjacency requirements for alley access as described in § 14-16-2-16(A)(8)(k)(2)(f) below are met. Access points from the site to the alley shall be a minimum of 25 feet from the intersection of the alley and the street, and shall be a maximum of 25 feet wide. Unimproved alleys shall be paved to meet city standards if used to access site.

d. Vehicle stacking. Sites shall be designed so that for every fueling position there is an on-site vehicle stacking space for one vehicle in addition to the vehicle parked at the fueling position. Vehicle stacking spaces shall be a minimum of 10 feet in width by 20 feet in length and shall be distinct from on-site vehicle drive aisles and parking spaces. Multiple required vehicle stacking spaces may be located behind the first fueling position in a row of fueling positions.

e. Fuel delivery. Sites shall be designed so that wholesale fuel delivery occurs away from on-site vehicle drive aisles and site access points.

f. Adjacency. Where a site is contiguous to a residential zone, the additional buffer landscape and opaque wall regulations in § 14-16-3-10(E)(4) of the Zoning Code shall apply. Where a site is separated from a residential zone by an alley which is to be used to service a vehicle access point as described in § 14-16-2-16(A)(8)(k)(2)(b), additional buffer landscaping regulations outlined in § 14-16-3-10(E)(4), subsections (a), (b) and (d) shall apply on the site side of the alley. Additionally, bollards or a wall a minimum of three feet in height shall be erected along the side of the landscape buffer which abuts the alley to protect the landscaping from vehicles turning into the site from the alley.

3. Redevelopment of existing sites. Redevelopment of existing sites is exempt from § 14-16-2-16(A)(8)(k)(1) and (2) of this section, provided that the site was used for sale of gasoline, oil or liquefied petroleum gas within the 12 months preceding the application for building permit.

(l) Hardware, building materials, provided it is in a completely enclosed building.

(m) Jewelry.

(n) Musical instruments and supplies.

(o) Pets, provided there is no outside pen. One outside exercise run is permitted, provided it is enclosed with a solid wall or fence at least six feet high, and no more than one animal is permitted in the run at any one time.

(p) Photograph equipment.

(q) Sporting goods.

(9) Radio and television station.

(10) Services:

(a) Automobile, bicycle and motorized bicycle (moped) repairing, but no body work. Repairing shall be done within a completely enclosed building at least 20 feet from any residential zone.

(b) Banking, loaning money, including pawn. Drive-in facilities permitted on the condition the vehicle movement plan is approved by the Traffic Engineer.

(c) Barber, beauty.

(d) Car washing.

(e) Day care center.

(f) Dry cleaning, laundry, clothes pressing, provided:

1. Only nonflammable or noncombustible materials are used in the cleaning process.

2. The number of persons employed in the establishment is limited to three, excluding pressers, office, clerical, or delivery personnel.

3. That portion of the structure in which any cleaning process is done is at least 50 feet from any residential zone.

(g) Games, electronic and pinball, provided:

1. They are within a completely enclosed building; and

2. If the games are within 100 feet of a residential zone there shall be no more than four game machines per business.

(h) Health Gymnasiums.

(i) Instruction in music, dance, fine arts, crafts, modeling; training of dogs which are not boarded on the premises.

(j) Interior decorating.

(k) Medical or dental laboratory.

(l) Parking lot, as regulated in the O-1 zone.

(m) Pet grooming.

(n) Photography, photocopy, except adult photo studio.

(o) Repair of shoes, household equipment.

(p) Small animal clinic.

(q) Tailoring, dressmaking.

(r) Taxidermy.

(11) Sign, off-premise, as in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location.

1. Only wall signs and free-standing signs are permitted in the Established or Redeveloping Areas.

2. Only wall signs are permitted in the Developing or Semi-Urban Areas.

3. No sign shall be nearer than 300 feet to any other off-premise sign.

4. No free-standing sign erected after January 1, 1976, shall be nearer than 100 feet to any preexisting on-premise sign.

5. No sign shall be nearer than 12 feet to any public street right-of-way.

6. No sign shall be nearer than 150 feet to any conforming residential property.

(b) Size. Sign area of any sign shall not exceed 72 square feet. An additional add-on sign area of six square feet is permitted.

(c) Height. Sign height shall not exceed 15 feet, except the height of an add-on sign may be up to but shall not exceed 18 feet.

(d) Illumination. No sign shall be illuminated.

(e) Motion. Signs or sign parts shall not move.

(12) Sign, on-premise, as provided in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location.

1. A sign shall not overhang into the public right-of-way, except wall signs may protrude up to one foot into the public right-of-way.

2. Building-mounted signs extending above the roof shall be permitted only if they are a continuation of the plane of a facade or of a projecting sign.

3. Projecting signs shall not project horizontally more than four feet.

(b) Number.

1. No limit on number of wall signs.

2. In the Established or Redeveloped Areas, one free-standing sign or projecting sign shall be permitted for each street frontage of each premises, or joint sign premises, provided the street frontage is at least 100 feet wide. A portable sign may also be permitted pursuant to the General Signage Regulations.

3. In the Developing Semi-Urban, or Rural and Open Areas:

a. Projecting signs as in division 2. above.

b. No free-standing signs on premises of under five acres, except a portable sign may also be permitted pursuant to the General Signage Regulations.

c. One free-standing sign shall be permitted on premises of five acres or more, provided the street frontage is at least 100 feet wide.

4. One canopy sign per entrance or exit shall be permitted.

(c) Size.

1. Size of Free-Standing or Projecting Signs. Sign area for a free-standing or projecting sign shall not exceed the following area:

a. 75 square feet if the most important street abutting the lot is a local street.

b. 100 square feet if the most important street abutting the lot is a collector street, arterial street, or freeway.

2. Size, Building-Mounted Signs, Except Projecting Signs:

a. A building-mounted sign on premises or joint sign premises where there is no free-standing on- or off-premise sign shall not exceed the following:

i. Twenty percent of the area of the facade to which it is applied, if the sign is not wholly visible from an abutting arterial or collector street or freeway; or

ii. Twenty-five percent of the area of the facade to which it is applied, if the sign is wholly visible from an abutting arterial or collector street or freeway.

b. A building-mounted sign, on a premises or joint sign premises where there is a free-standing or projecting on-premise sign or any off-premise sign, shall not exceed one-half the percentage of facade area listed in division a. above.

(d) Height.

1. Height of a free-standing sign shall not exceed 26 feet, except a sign that is within 200 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, may be up to but shall not exceed 26 feet above the freeway at its closest point.

2. Height of a building-mounted sign shall not exceed five feet above the height of the building, or it shall not exceed 30 feet, whichever is lower.

(e) Illumination, Motion, Lettering. No regulations, apart from the general sign regulations.

(f) Exceptions.

1. Permitted building-mounted sign area from the front and sides of the principal building of the business may be transferred from the building to a customer service area of the same business on the same premises, provided the height of

such signs shall not exceed 15 feet and setback shall be at least ten feet; such signing shall not be considered free-standing.

2. Any exceptions allowed for shopping centers, in order to provide adequate signing in special situations, shall be as provided under § 14-16-3-2 of this Zoning Code. Such a sign exception must be specifically defined in the Planning Commission resolution. Shopping centers approved prior to the effective date of this Zoning Code shall comply with sign regulations in this article, unless an exception is specifically defined in a Planning Commission resolution.

(13) Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed, or work on the project has been dormant for a period of six or more months, and further provided that it is limited to a period of one year unless the time is extended by the Planning Director.

(14) Uses or activities in a tent, if the uses or activities are listed elsewhere in this subsection, provided:

(a) The tent may not be erected for more than seven days at a time and may not be erected more than two times a year on a given premises; and

(b) There is sufficient paved off-street parking available on the premises to meet the parking requirements for all uses on the premises, including the activity in the tent. The Zoning Enforcement Officer shall approve the site plan for the tent, which shall demonstrate adequate parking and vehicle circulation, prior to erection of the tent; and

(c) There are toilet facilities on the premises available to the users of the tent; and

(d) The City Fire Marshal or his authorized representative gives prior approval of the tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(15) Wireless Telecommunications Facility, provided that the requirements of § 14-16-3-17 of this Zoning Code are met, and as specifically allowed below:

(a) A concealed wireless telecommunications facility, up to 65 feet in height.

(b) A collocated free-standing wireless telecommunications facility, up to 75 feet in height.

(c) A face-mounted wireless telecommunications facility.

(d) A roof-mounted free-standing wireless telecommunications facility, up to 20 feet above the parapet of the building on which it is placed.

(e) A wireless telecommunications facility, the antennas of which are all mounted on an existing vertical structure.

(B) Conditional Uses.

(1) Antenna, over 65 feet in height.

(2) Apartment, as permitted in division (A)(7) above, if there are more than 30 dwelling units per acre but not more than 50 dwelling units per acre. Conditional use applications shall be considered on the basis of a site plan.

(3) Auto, trailer, and truck rental, service, storage, provided at least the following is complied with:

(a) The lot is graded and surfaced as follows:

1. Blacktop or equal. Two inches of asphaltic concrete on a prime coat and a four inch compacted subgrade, or a surface of equal or superior performance characteristics.

2. Such paving shall be maintained level and serviceable.

(b) 1. A fence or wall which prevents vehicles from extending beyond the property line shall be erected. However, if the wall or fence plus retaining wall would have an effective height of over eight feet on the residential side, the Zoning Hearing Examiner shall decide the required height; such decision shall be made by the same process and criteria required for a conditional use.

2. In a parking structure there shall be a six foot high solid wall on every parking level, where the structure is within 19 feet of privately owned land in a residential zone.

(c) Trucks and trailers parked outdoors for rental or storage, provided:

1. Such vehicles shall not exceed 35 feet in length, 12 feet in height, or a registered gross vehicle weight capacity of 26,000 lbs. The body of trailers shall not be over 14 feet long unless it is a recreational vehicle.

2. No such vehicles shall be truck tractors or road tractors.

3. Parked or stored vehicles shall not cover more than 25% of the premises.

4. Special restrictions on types and number of such vehicles as well as screening and location of parking shall be imposed if appropriate and necessary to protect the neighborhood.

(d) Vehicle repairing, done within a completely enclosed building and at least 20 feet from any residential zone.

(4) Bicycle and motorized bicycle (moped) sales and rental, provided that outdoor display is permitted only 50 feet or more from any residential zone.

(5) Community Residential Program except not either Community Residential corrections program or Community residential program for substance abusers: up to 18 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(6) Drive-up service window, except where listed as permissive in this zone, provided that the vehicle movement plan is approved by the Traffic Engineer, and further provided that the service window and any associated order board are located at least 75 feet from any residential zone. Drive-up service windows in existence upon the effective date of this Zoning Code shall be considered as approved conditional uses.

(7) Dwelling unit (house, townhouse, apartment), for properties that do not meet the criteria of divisions (A)(7)(b) and (A)(7)(e)1 above or with SU-2 zoning that refers to the C-1 zone but does not specify provisions for the regulation of residential uses, provided:

(a) There are not over 30 dwelling units per net acre.

(b) Usable open space is provided on site in an amount equal to 400 square feet for each efficiency or one-bedroom dwelling unit, 500 square feet for each two-bedroom unit, and 600 square feet for each dwelling unit containing three or more bedrooms. If located in an area designated by the master plan as "Developing" or "Semi-Urban," the total open space requirements of the R-D or RA-1 zone, respectively, shall be met.

(c) Development shall comply with the regulations specified in division (A)(7)(e)8 above.

(8) Fireworks sales, provided the use is limited to 45 days in one calendar year.

(9) Games within a completely enclosed building, operated for profit, and not permissive in this zone.

(10) Kennel, provided:

(a) It is in a completely enclosed building.

(b) It is no closer than 30 feet from any residential zone.

(c) The noise from the kennel does not exceed the ambient noise level as defined in § 9-9-2, Noise Control, when measured 30 feet from any exterior wall of the kennel.

(11) One mobile home for a watchman or caretaker on the same premises developed with a commercial building or use provided that the mobile home shall not be within 100 feet of a lot in a residential zone or a dwelling unit in any zone.

(12) Mortuary.

(13) Outdoor storage or activity except as specifically listed as a permissive or conditional use in this section and as further provided below:

(a) The outdoor storage or activity is part of a use on the same premises, which use is a permissive only within a building in this zone.

(b) Outdoor uses which would impact their environs with appearance, light, noise, odor, or similar environmental problems likely to be unpleasant to neighboring premises and uses shall not be approved.

(c) Outdoor conditional uses may justify special buffering to prevent the activity from negatively impacting adjacent land.

(d) Outdoor restaurant seating located within 75 feet of a residential zone.

(14) Park-and-ride joint-use facilities, if it is determined that under the conditions imposed there will not be a shortage of on-site parking for the activities on the site; in such situations, no parking variance is required.

(15) Photo direct off-set printing, perforating, scoring, cutting, and other light duty printing services provided:

(a) The number of persons engaged in the business is limited to five excluding secretarial, clerical, and delivery personnel; and

(b) Activities or products are not objectionable due to noise, vibration or other cause.

(16) Public utility structure which is not permissive.

(17) Recycling bin as an accessory use on the site, as provided in § 14-16-3-15 of this Zoning Code.

(18) Restaurant serving liquor, provided that the restaurant is located within a shopping center site for which a site development plan has been approved.

(19) Retail sales of gasoline, oil, liquefied petroleum gas, including outside sales, where there are more than eight vehicle fueling positions or four two-sided fuel dispenser units.

(20) Schools, other than public.

(21) Storage of household goods, office records, equipment or material reasonable to neighborhood function provided:

(a) All activities are conducted within a completely enclosed building, the scale and style of which fits its location;

(b) Individual storage cubicles, units, or facilities are not each directly accessible from outside the enclosed building; and

(c) Direct access to the premises from an arterial or collector street is available.

(22) Uses or activities in a tent. If the uses or activities are listed elsewhere in this section, provided there is sufficient paved off-street parking available on the premises to meet parking requirements for all uses on the premises, including the activity in the tent, and provided that the City Fire Marshal [i.e., the Chief of the Fire Prevention Bureau] or his authorized representative gives prior approval of the tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(23) Wireless Telecommunications Facility, Roof-Mounted, up to 20 feet above the parapet of the building on which it is located, provided that the requirements of § 14-16-3-17 of this Zoning Code are met.

(C) ***Height.*** Structures shall not exceed 26 feet except as provided in § 14-16-3-3 of this Zoning Code, and for sign and antenna height, in division (A) of this section.

(D) ***Lot Size.*** No requirements.

(E) ***Setback.*** Setback shall be as provided in the O-1 zone.

(F) ***Off-Street Parking.*** Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

(G) ***Shopping Center Regulations.*** Any site in this zone classified as a Shopping Center site, as defined in § 14-16-1-5 of this Zoning Code, is subject to special site development regulations. The Shopping Center Regulations are provided in § 14-16-3-2 of this Zoning Code.

('74 Code, § 7-14-21) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 87-1976; Am. Ord. 88-1976; Am. Ord. 1-1977; Am. Ord. 13-1977; Am. Ord. 26-1977; Am. Ord. 74-1977; Am. Ord. 30-1978; Am. Ord. 31-

1978; Am. Ord. 38-1978; Am. Ord. 61-1980; Am. Ord. 74-1980; Am. Ord. 66-1981; Am. Ord. 94-1981; Am. Ord. 39-1983; Am. Ord. 40-1983; Am. Ord. 54-1983; Am. Ord. 101-1983; Am. Ord. 102-1983; Am. Ord. 74-1985; Am. Ord. 63-1986; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 30-1990; Am. Ord. 47-1990; Am. Ord. 63-1990; Am. Ord. 69-1990; Am. Ord. 26-1991; Am. Ord. 43-1991; Am. Ord. 2-1994; Am. Ord. 58-1995; Am. Ord. 9-1999; Am. Ord. 10-2004; Am. Ord. 4-2005; Am. Ord. 43-2005; Am. Ord. 7-2006; Am. Ord. 23-2007; Am. Ord. 5-2008; Am. Ord. 6-2009; Am. Ord. 19-2010; Am. Ord. 27-2011; Am. Ord. 2012-004; Am. Ord. 2012-021)

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§ 14-16-2-13 RC RESIDENTIAL/COMMERCIAL ZONE.

This zone permits a mixture of residential and small commercial activities.

(A) Permissive Uses.

(1) Uses permissive in the R-T zone.

(2) Apartment, provided the density does not exceed 20 dwelling units per acre.

(3) Institution.

(a) Church or other place of worship, including the usual incidental facilities. Incidental uses allowed include but are not limited to an emergency shelter operated by the church on the church's principal premises which is used regularly for public worship, notwithstanding special limitations elsewhere in this Zoning Code.

(b) Library.

(4) The following uses are permissive if the total nonresidential floor area does not exceed one-half of the gross floor area on the lot, and if all business activity except parking is inside a building:

(a) Office.

(b) Retail sales of the following goods, plus incidental retailing of related goods and incidental service or repair, provided there is no outdoor storage or activity except parking:

1. Arts and crafts objects, supplies, plus their incidental creation.

2. Books, magazines, newspapers, stationery, except adult book store.

3. Cosmetics, notions, hobby supplies.

4. Drugs, medical supplies.

5. Flowers and plants.

6. Food and non-alcoholic drink for consumption on-premises or off but not drive-in restaurant or restaurant with drive-up facility for take-out orders.

7. Jewelry.

(c) Services, provided there is no outdoor storage or activity except parking:

1. Barber, beauty.

2. Day care center.

3. Dry cleaning station (no processing), self-service laundry.

4. Instruction in music, dance, fine arts, or crafts.

5. Interior decorating.

6. Photography, except adult photo studio.

7. Tailoring, dressmaking, shoe repairing.

(5) Sign, on-premise, as in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location. Signs shall be limited to wall signs or canopy signs, except that a portable sign shall be allowed per small business pursuant to the General Signage Regulations.

(b) Number. No limit on number of wall signs. One canopy sign per entrance or exit shall be permitted.

(c) Size. Sign area shall not exceed 7.5% of the area of the facade to which it is related.

(d) Height, Illumination, Motion. No regulations, apart from the general sign regulations.

(B) Conditional Uses.

(1) Uses conditional in the R-1 zone and not permissive in this zone.

(2) Uses permissive in the C-1 zone and not permissive in this zone.

(3) Community residential program except not either community residential corrections program or community residential program for substance abusers: up to 18 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(4) Community residential corrections program with up to ten client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(5) Community residential program for substance abusers with up to ten client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(6) Retail sales and services permissive in this zone where nonresidential floor area exceeds one-half the gross floor area on the lot.

(7) Retail business in which products may be manufactured, processed, assembled, treated, or repaired, as an accessory use, provided:

(a) All activities are conducted within a completely enclosed building.

(b) The number of persons physically engaged in manufacturing, processing, assembling, treating, or repairing products is limited to five at any one time.

(c) Activities or products are not objectionable due to odor, noxious fumes, dust, smoke, noise, vibration, or similar cause.

(C) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code.

(D) Usable Open Space.

(1) Usable open space shall be provided on-site at 750 square feet per townhouse dwelling unit.

(2) For apartments other than townhouses, usable open space shall be provided on-site in an amount equal to 200 square feet for each efficiency or one-bedroom apartment, and 300 square feet for each dwelling unit containing two or more bedrooms. Where apartments other than townhouses occupy the same structure as the permissive nonresidential uses, and no apartments are located on the ground level, the required usable open space may be reduced by 50%.

(E) ***Lot Size.*** No requirements.

(F) ***Setback.*** The following regulations apply, except as provided in § 14-16-3-3 of this Zoning Code:

(1) There shall be a front and a corner side-yard setback of not less than five feet and a setback of 11 feet from the junction of a driveway and a public sidewalk or planned public sidewalk location.

(2) Where the site faces or is contiguous to a different residential zone the setback requirements of that zone apply.

(3) The clear sight triangle shall not be infringed upon.

(G) ***Off-Street Parking.*** Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

('74 Code, § 7-14-17) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 86-1976; Am. Ord. 26-1977; Am. Ord. 38-1978; Am. Ord. 22-1979; Am. Ord. 92-1980; Am. Ord. 74-1985; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 6-2009; Am. Ord. 19-2010)

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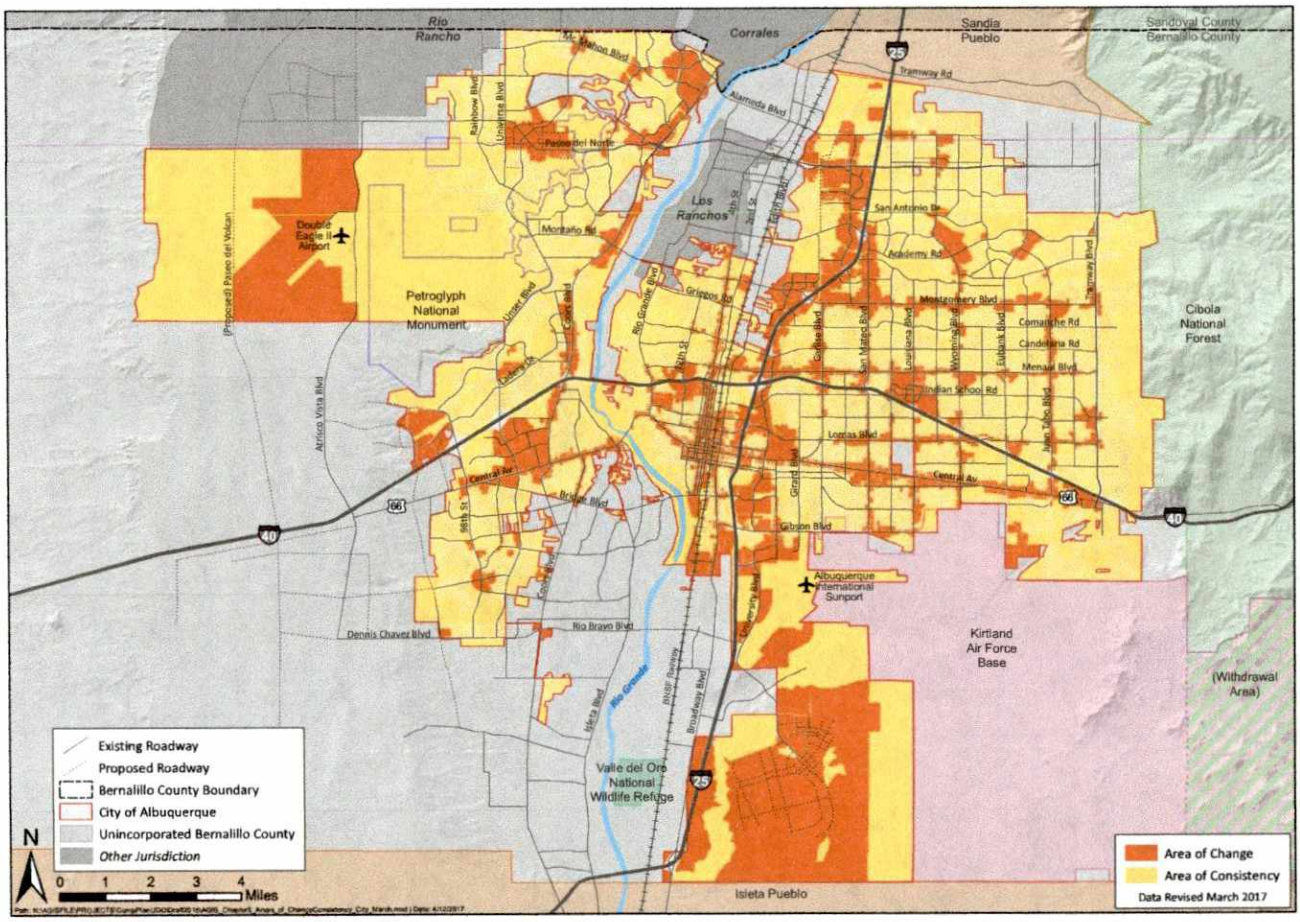


Figure 5-6: City Development Areas – Areas of Change and Areas of Consistency

48

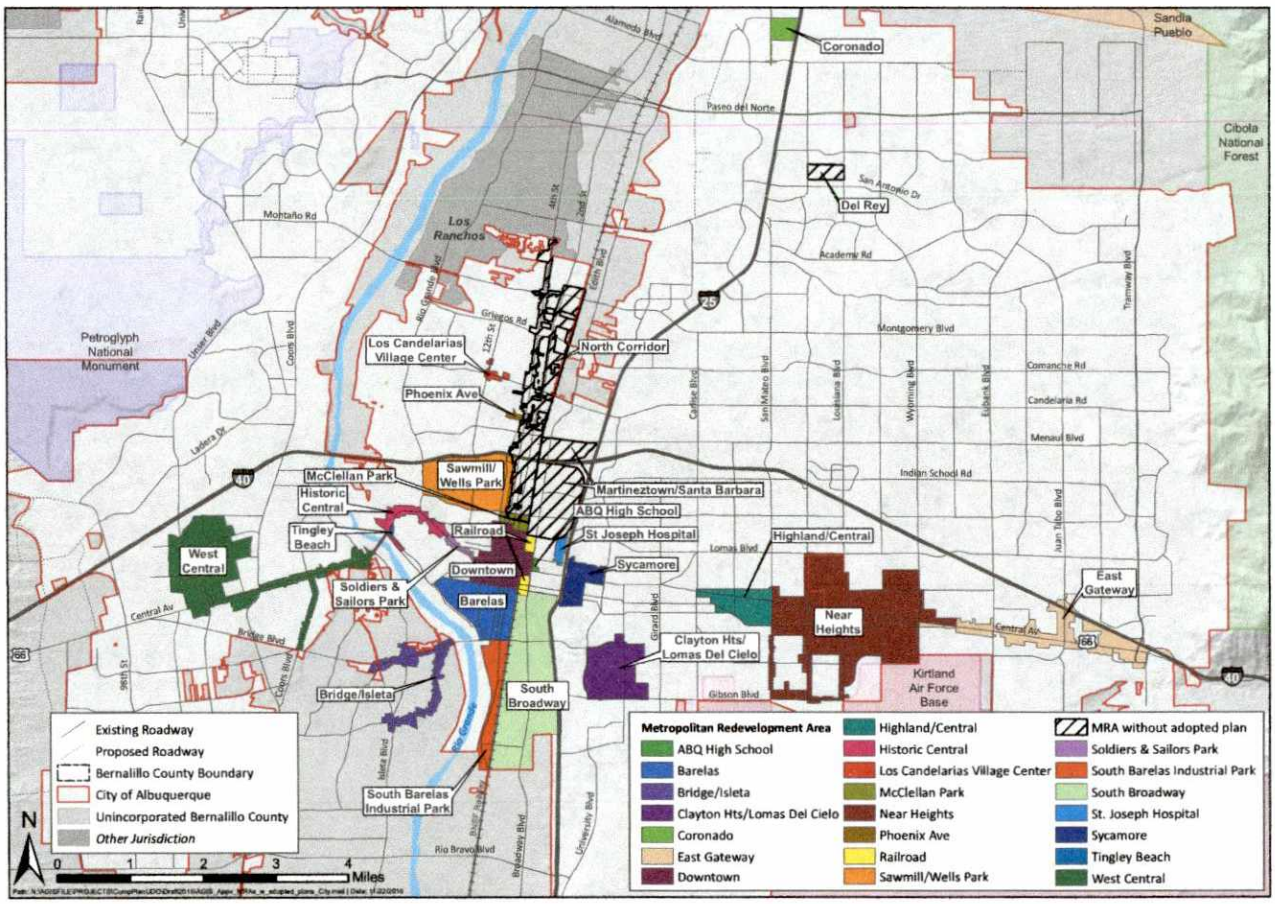
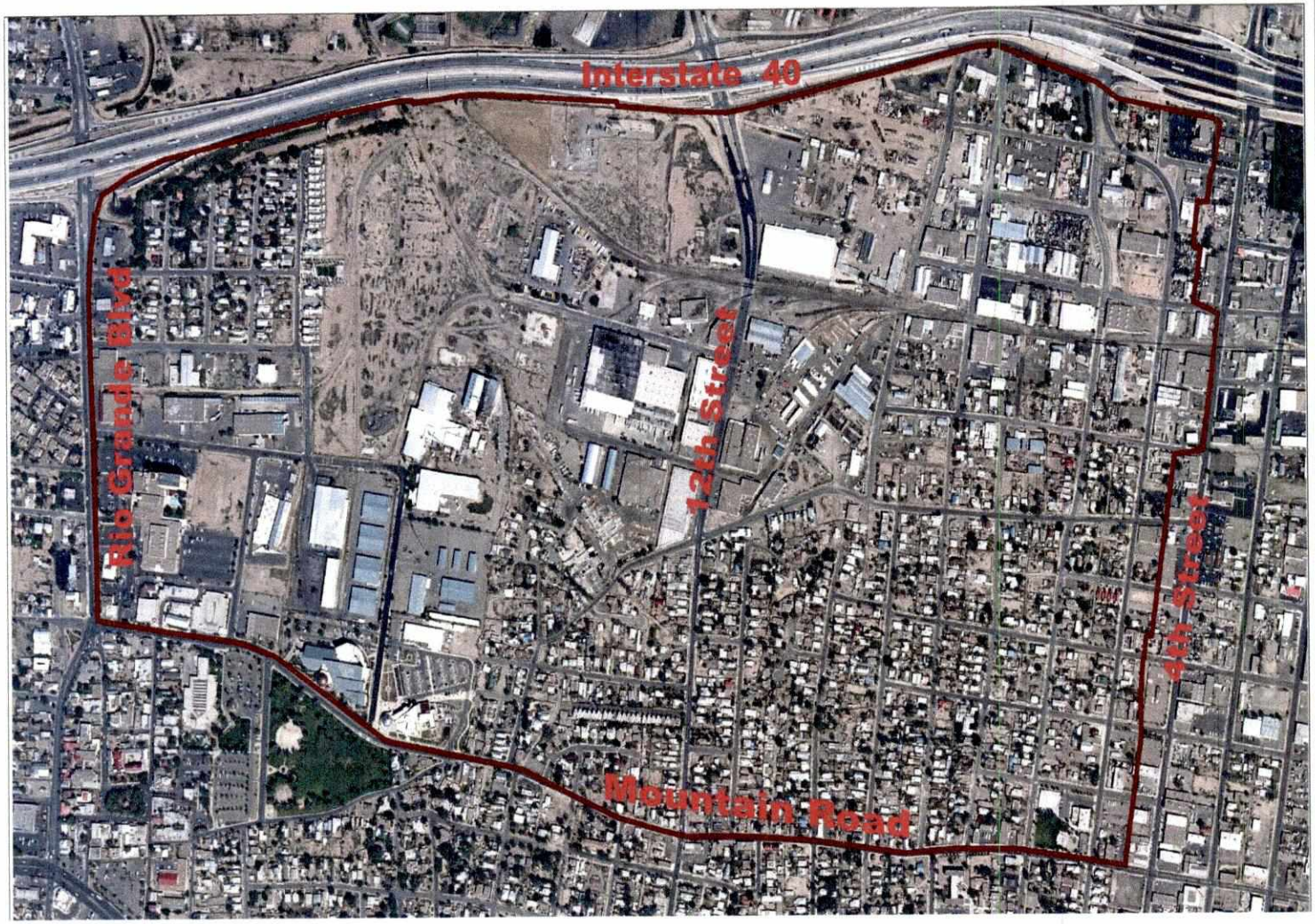


Figure A-35: Metropolitan Redevelopment Areas

49



SAWMILL / WELLS PARK COMMUNITY

METROPOLITAN REDEVELOPMENT AREA (MRA) PLAN

Aerial 2003

LEGEND

Redevelopment Boundary

Community ByDesign
250 S. St. Francis Dr.
Santa Fe, NM 87501
505-982-4328

N

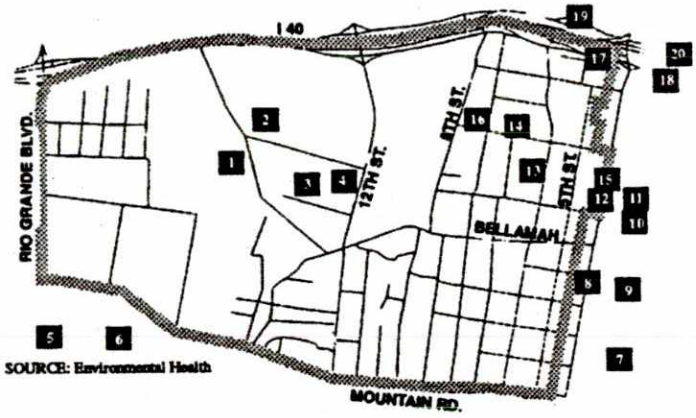
0 200 400 600 800 1,000 Feet

50

RCRA (1992 Status)

(Resource Conservation and Recovery Act)

Listed sites are regulated and permitted by the EPA to generate, transport, treat, store and/or dispose of hazardous waste. Types and quantities of hazardous waste are documented and cradle to grave hazardous waste management requirements are specified. This law allows the public to know the type and quantity of hazardous waste involved and whether there has been a pollution event.

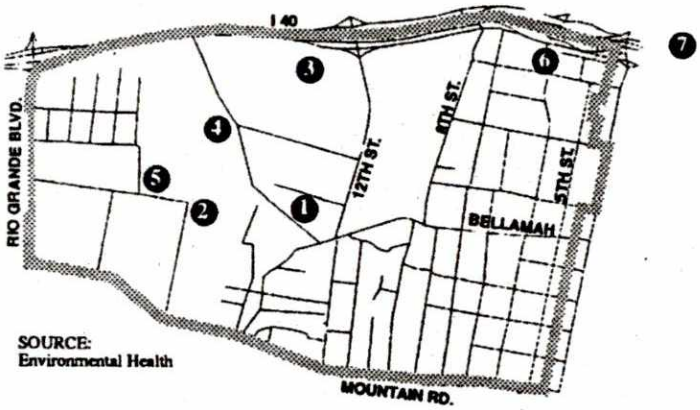


RCRA SITES

1. Duke City Lumber
2. Super Value (Aspen site)
3. Super Value (Bellamah site)
4. Modern Press
5. Jorhees Candles and Gifts
6. Albuquerque Museum
7. Foreign Auto Body
8. Albuquerque Datsun
9. Yellow Freight Systems
10. The Mcleod Co.
11. Creamland Dairies
12. Bordon Dairy
13. City of Albuquerque
14. National Research Labs
15. Albuquerque Police Department
16. Missouri Research Labs
17. Electrical Products
18. Sunland International Trucks
19. Childers Machine and Welding
20. One Day Paint and Body Center

Proposed Plan Boundary

SITES MONITORED FOR AIR POLLUTION (1992 Status)



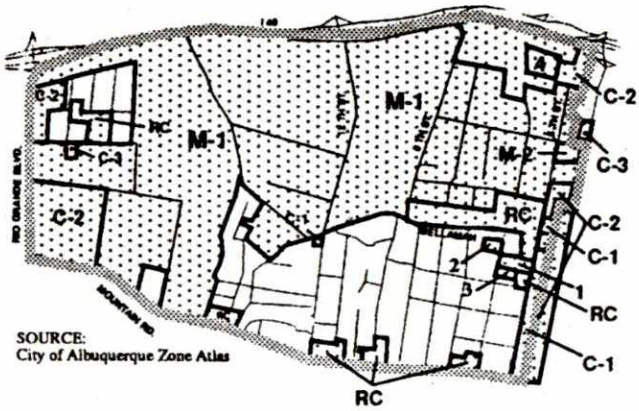
1. Duke City Moulding (particulates)
2. Ponderosa Products (particulates)
3. PNM Prager Station (particulates and asbestos)
4. Duke City Lumber (asbestos site)
5. Paxton Lumber (particulates remediated)
6. Aluminum Sales Corporation (particulates from spray paint)
7. Freeway Liquors (airstripper for groundwater cleanup)

LAND ZONED FOR INDUSTRIAL AND COMMERCIAL USES

(Before the adoption of the Sawmill/Wells Park Sector Plan)

Land Zoned for Commercial and Industrial Uses

- RC Residential/Commercial
- C-2 Comunity Commercial
- C-3 Heavy Commercial
- M-1 Light Manufacturing
- SU-1 Special Use:
  - 1 Flower Shop & Nursery
  - 2 Day Care Center
  - 3 Office Uses
  - 4 C2 Uses



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

August 22, 2017

Mr. Eric Kilmer
1416 6th Street NW
Albuquerque, NM 87102

Dear Mr. Kilmer,

Thank you for your call on Friday, August 18th, 2017 inquiring about your property located at 1416 6th Street NW. Per our conversation:

- **Existing Zoning:** S-R, Sawmill Residential per the Sawmill/ Wells Park Sector Development Plan, 1996.
- **Integrated Development Ordinance (IDO) Conversion Map:** R1-B.

During our phone conversation, you expressed concern that the proposed IDO conversion zoning does not reflect the previous commercial uses on the property. The adoption of the IDO and the accompanying Zoning Conversion Map is a legislative action. This means that the process needs to be a zone-to-zone conversion, and it cannot look at the specific differences and issues related to individual properties. With any legal, existing use if the IDO conversion makes a property nonconforming, then such use would be "grandfathered" and you can continue to use the property that way for the life of the use.

Given your concerns and the constraints of legislative action, there are two potential options available:

- Apply for a zone change today, at your own expense, or;
- Wait for the IDO to be adopted and apply to the City of Albuquerque for your property to be considered as part of the larger bundle of voluntary, discretionary zone changes. This request would be submitted to Environmental Planning Commission for their review and recommendation to the City Council at no expense to you. However, there is no guarantee that a property's zoning will meet the criteria for this process.

Please feel free to contact me with any further questions.
Kind regards,

P.M.

Petra Morris
Council Planning Manager,
Albuquerque City Council Services

Cc:
Chris Melendrez, Esq. Senior Policy Analyst – Legal & Land Use, Albuquerque City Council Services
Diane Dolan, Policy Analyst – City Councilor Isaac Benton, District 2
Isaac Benton, City Councilor, District 2

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

CITY OF ALBUQUERQUE
BUSINESS REGISTRATION

CITY OF ALBUQUERQUE
P.O. BOX 1293
ALBUQUERQUE, NM 87102

GOODFELLAS FLORIST AND NURSERY
1416 6TH ST NW
ALBUQUERQUE NM 87112

CITY OF ALBUQUERQUE

GOODFELLAS FLORIST AND NURSERY (GOODFELLAS FLORIST AND NURSERY)
1416 6TH ST NW

PERMIT NO: BRC-2009-315530

PROGRAM: BUSINESS REGISTRATION

EFFECTIVE FROM: 06/01/2017 THROUGH: 05/31/2018

HAVING COMPLIED WITH THE FEE REQUIREMENTS OF CHAPTER 13 ARTICLE 1 OF THE REVISED ORDINANCES.

REGISTRATION OR LICENSING WITH THE CITY OF ALBUQUERQUE AND PAYMENT OF FEES DOES NOT CONSTITUTE A WAIVER OF ANY REQUIREMENTS OR PROVISIONS CONTAINED AT ANY LAW.

THE ACTIVITY/BUSINESS PROPOSED TO BE CONDUCTED AT ANY LOCATION WITHIN THE CITY SHALL BE APPROVED BY THE CITY'S ZONING ENFORCEMENT OFFICER PRIOR TO COMMENCING THE ACTIVITY/BUSINESS.

PLANNING DEPARTMENT - CODE ENFORCEMENT DIVISION

WWW.BIZREG.CABQ.GOV

(505) 924-3890

POST IN A CONSPICUOUS PLACE

Lehner, Catalina L.

From: Eric Kilmer <ekilmer67@me.com>
Sent: Monday, April 16, 2018 5:56 PM
To: Lehner, Catalina L.
Subject: 1416 6th Street 1007648

Hello Catalina,

Hope your having a great day

This is response to the questions you had raised in the following Questions for project 18EPC40019

4) Zoning:

A. The subject site is zoned SU-2/S-R (Sawmill Residential). Is this your understanding?

You I understand it to be SU-2/S-R SU-1 for Flower Shop/Nursery and permissive uses ,carried forward through several adopted changes of the Sawmill Wells Park Development Plan (Grandfathered)as outlined in the Sawmill Wells Park Sector Development Plan A.5. Under permissive for S-R non residential uses may occupy these same premises

B. What is the current use of the building at 1416 6th St. NW?

Current use at 1416 6th Street NW is Flower Shop/Nursery

C. What zoning are you requesting?

SU-2 / SU-1 For Flower Shop/Nursery and Permissive C-1 Uses

Please note as we discussed this is the Zone Map Amendment requested.

This reflects Certified letters sent to the neighbors / neighborhood Associations and remaining Submittals of this Application.

Any legal advertising by your Agency should reflect this as there was a penmanship error on written application.

D. Have you spoken to anyone in the Code Enforcement Division regarding what zoning is the most appropriate to request to accommodate your idea?

I Have Not you spoken to anyone in the Code Enforcement Division regarding what zoning is the most appropriate Recently, to accommodate request it's my understanding your office negotiates and accommodates requests and make suggestions that would be most appropriate to satisfy Compliance with Resolution 270-1980.

E. The requested zoning is listed as "SU-2/SU-1 for residential and permissive C-1 uses" on the application and as "SU-2/SU-1 for flower shop/nursery and permissive C-1 uses" in the letter to neighborhood representatives.

The requested Zone Map Amendment should reflect

SU-2 / SU-1 For Flower Shop/Nursery and Permissive C-1 Uses

Please note as we discussed this is the Zone Map Amendment requested.

This reflects Certified letters sent to the neighbors / neighborhood Associations and remaining Submittals of this Application.

Any legal advertising by your Agency should reflect this as there was a penmanship error on written application.

F. Note: the correct existing zoning and the correct requested zoning are critical- otherwise, the legal ad will be incorrect. *Incorrect legal advertising is cause for a deferral* to the next EPC hearing.

SU-2 / SU-1 For Flower Shop/Nursery and Permissive C-1 Uses

Please note as we discussed this is the Zone Map Amendment requested.

This reflects Certified letters sent to the neighbors / neighborhood Associations and remaining Submittals of this Application.

Any legal advertising by your Agency should reflect this as there was a penmanship error on written application.

5) Notification & Neighborhood Issues:

A. Have any neighborhood representatives or members of the public contacted you so far? Are you aware of any concerns?

One member of the public contacted myself I will forward that persons information and also Bridges of Peace has made contact to arrange a neighborhood meeting

B. As of this writing, no one has contacted me and a facilitated meeting has not been requested.

Okay thank you.

6) Project Letter/Overview:

A. I am having a hard time following the written material submitted. It appears to be a compilation of different portions of the record from the 2009 case.

A revised letter of intent will be submitted to you by 04/19/2018 as you requested .

B. Based on what's written under Section 1, why are you seeking a zone change?

I'm seeking a Zone Map Amendment primarily to clarify language of SR Zone language under permissive Uses A.5. In the Sawmill Wells Park Sector Development Plan

C. What do you mean by "clarification of permissive uses/allowances pertaining to wording as stated in the existing Sector Plan may resolve this matter in its entirety". What matter?

I'm seeking a Zone Map Amendment primarily to clarify language of SR Zone language under permissive Uses A.5. In the Sawmill Wells Park Sector Development Plan

D. What do you mean by "seek clarification and proper classification to carry forward in the future adoption of the new IDO legislation".

I'm seeking a Zone Map Amendment primarily to clarify language of SR Zone language under permissive Uses A.5. In the Sawmill Wells Park Sector Development Plan to carry a permissive Grandfathered property forward with a correct attachment to be reflected in the future IDO.

Note that the IDO was adopted by the Council on April 2 and will become effective May 17, 2018.

Okay

Thank you for that information

E. Have you spoken to anyone on the IDO project team regarding zoning conversion of the subject site?

Petra Morris City Council planning Manager

F. Please help me to understand what you mean by the last three sentences, starting with "Unfortunately" and ending with "unviable".

We don't agree with the interpretation of the Sawmill /Wells Park Sector Development Plan by City Officials in regards to Section A.5. Of SR Zone Permissive Uses Section.

Cordially,

Eric Kilmer

505-261-8409. Ekilmer67@icloud.com

1416 6th Street NW Albuquerque,New Mexico 87102

Sent from my iPhone

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

STAFF INFORMATION

April 23, 2018

TO: Eric Kilmer

FROM: Catalina Lehner, Senior Planner
City of Albuquerque Planning Department

TEL: (505) 924-3935, clehner@cabq.gov

RE: Project #1007648, Sawmill/Kilmer Zone Change

I reviewed the revised sector development plan map amendment (zone change) request received on April 19. I have some suggestions to help strengthen the justification; some items from the April 4. This second memo tracks the April 4 memo and repeats the most important items. The last item, #9 below, offers feedback on each of the responses to R270-1980.

Please provide the following:

⇒ A revised zone change justification letter pursuant to R270-1980 (one copy, black and white) by noon on April 26, 2018.

Note: If you have trouble with this deadline, please let me know. It is possible to defer a case to another hearing if you need more time.

4) Zoning:

C. What zoning are you requesting?

E. The requested zoning is listed as "SU-2/SU-1 for residential and permissive C-1 uses" on the application and as "SU-2/SU-1 for flower shop/nursery and permissive C-1 uses" in the letter to neighborhood representatives.

Update: The legal ad was re-done at your request. The requested zoning is now listed as: from SU-2/SR to SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses. This falls within the 15 day requirement for legal advertising.

8) Zone Map Amendment (zone change)- Concepts & Research:

C. When requesting a spot zone, the test in Section I is more rigorous than the test in Section C. Therefore, the higher standard (and the wording it entails) applies and must be carried over into the response to Section C (with the same wording). This was determined by the City Council when it passed the Land Use Hearing Officer (LUHO) recommendation in 2014, in an EPC case that was appealed and remanded to the EPC to provide a stronger analysis (Project #1001580). Please incorporate this into your justification.

9) Zone Map Amendment (zone change)- Section by Section:

Please address and incorporate the following to provide a strengthened, approvable response to R270-1980 (comments updated based on the April 19, 2018 zone change justification):

A. Section A (strengthen): Please move the policy discussion into the response to Section C. Please reference both applicable plans in the response to Section A.

B. Section B (strengthen and clarify): Please move the policy discussion into the response to Section C.

C. Section C (re-do, and apply comments from response to Section I):

The task in Section C is to demonstrate that the proposed zone change would "clearly facilitate" applicable Goals and policies in the 2017 Comp Plan and the SWPSDP.

- Additional Goals and policies from the 2017 Comprehensive Plan are needed in your analysis. So far I see policy 5.2.1, action 5.4.1.2, policy 6.1.3, action 6.4.1.1.
- Is the subject site in an Area of Consistency or an Area of Change? See the map in the Comp Plan (also available online).
- Include Goals and policies from the SWPSDP.
- Be sure to include a conclusory statement regarding the entirety of Section C.

Please see examples of how this question is properly answered when proposing a change to an SU-1 zone.

D. Section D (strengthen and focus): The response to D is supposed to start out with: "The existing zoning is inappropriate because _____", followed by an explanation based on 1, 2, or 3.

Please choose one of the reasons and focus on that, and explain why the existing zoning is inappropriate. Note that the "error" referred to in D.1 means a mapping error or a typographical error. The City Council adopted the SWPSDP in 1996 and it's not considered an error.

My suggestion is to focus on D.2 or D.3.

Please see examples of how this question is properly answered.

E. Section E (strengthen): Please list and discuss the permissive uses in the requested zone. What are they and why do you think they would not be harmful to the adjacent property, the neighborhood, or the community?

F. Section F: OK

G. Section G (strengthen): Please re-phrase the question in your response.

H. Section H (strengthen and focus): Please place the policy analysis in the response to Section C. Is the subject site is located on a collector or major street, and are you using this to justify the zone change? Why or why not?

I. Section I (re-do): Based on a ruling from the City Council, there's a particular way that Section I has to be responded to when the requested zone is a SU-1 zone.

- Please choose either i or ii under Section I and make your case.
- Please ensure that the response to Section C uses the same wording.
- Please move any policy analysis to the response to Section C.

J. Section J (respond): Please explain why you think the proposed zone change would not create a "strip zone". Is the definition met? Why or why not? Please move any policy analysis to the response to Section C.

11) Site Development Plan- Specifics:

Q: Was the building renovated? If so, when?

The following is a preliminary list of conditions for the site development plan:

- Provide a detail of the refuse enclosure detail.
- Dimension elevations.
- Indicate colors and materials of building.
- Provide a detail of the monument sign.

April 4, 2018

TO: Eric Kilmer

FROM: Catalina Lehner, Senior Planner
City of Albuquerque Planning Department

TEL: (505) 924-3935, clehner@cabq.gov

RE: Project #1007648, Sawmill/Kilmer Zone Change

I've completed a first review of the proposed sector development plan map amendment (zone change) request. I have a few questions and some suggestions to help strengthen the zone change justification. I am available to answer questions about the process and requirements. Please provide the following:

⇒ A revised zone change justification letter pursuant to R270-1980 (one copy, black and white), and

⇒ An as-built site development plan for building permit (11 full-sized copies and 1 reduced copy 8.5 by 11) by **12 pm on Thursday, April 19, 2018**.

⇒ Note: If you have trouble with this deadline, please let me know. It is possible to defer a case to another hearing if you need more time.

1) Introduction:

A. Though I've done my best for this review, additional items may arise as the case progresses. If so, I will inform you immediately.

B. Please tell me about what you would like to do.

C. Because you are requesting an SU-1 zone, a site development plan is required pursuant to Zoning Code 14-16-2-22(A)(1), the SU-1 Zone (see also Section 8 of this letter).

→ There is a fee for the site development plan and an additional case number needed for this project. Without these, the case cannot proceed.

2) History:

A. Why are you seeking a zone change now?

B. What makes this request different from the 2009 zone change case for the same property?

C. Are you aware of the District Court decision regarding the 2009 zone change request (CV-2009-07499) and do you expect a different outcome?

D. Has something regarding the property, or another factor, changed since then?

3) Process:

A. Information regarding the EPC process, including the calendar and current Staff reports, can be found at:

http://www.cabq.gov/planning/boards-and-commissions/environmental-planning-commission/

B. Timelines and EPC calendar: the EPC public hearing for May is the 10th. Final staff reports will be available one week prior, on May 3rd.

C. Please visit the link above to find copies of Staff reports that will serve as examples of zone changes to SU-1 (please see item 6 of this memo).

D. Did you attend a pre-application review team (PRT) meeting? If so, please provide a copy of the notes for the file.

E. Note that, if a zone change request is denied, you cannot reapply again for one year. (ex. car wash case, NW Abq.- 1000936)

F. Agency comments will be distributed on Wednesday, April 25th. I will email you a copy of the comments and will forward any late comments to you.

4) Zoning:

A. The subject site is zoned SU-2/S-R (Sawmill Residential). Is this your understanding?

B. What is the current use of the building at 1416 6th St. NW?

C. What zoning are you requesting?

D. Have you spoken to anyone in the Code Enforcement Division regarding what zoning is the most appropriate to request to accommodate your idea?

E. The requested zoning is listed as "SU-2/SU-1 for residential and permissive C-1 uses" on the application and as "SU-2/SU-1 for flower shop/nursery and permissive C-1 uses" in the letter to neighborhood representatives.

F. Note: the correct existing zoning and the correct requested zoning are critical- otherwise, the legal ad will be incorrect. *Incorrect legal advertising is cause for a deferral* to the next EPC hearing.

5) Notification & Neighborhood Issues:

A. Have any neighborhood representatives or members of the public contacted you so far? Are you aware of any concerns?

B. As of this writing, no one has contacted me and a facilitated meeting has not been requested.

6) Project Letter/Overview:

A. I am having a hard time following the written material submitted. It appears to be a compilation of different portions of the record from the 2009 case.

B. Based on what's written under Section 1, why are you seeking a zone change?

C. What do you mean by "clarification of permissive uses/allowances pertaining to wording as stated in the existing Sector Plan may resolve this matter in its entirety". What matter?

D. What do you mean by "seek clarification and proper classification to carry forward in the future adoption of the new IDO legislation". Note that the IDO was adopted by the Council on April 2 and will become effective May 17, 2018.

E. Have you spoken to anyone on the IDO project team regarding zoning conversion of the subject site?

F. Please help me to understand what you mean by the last three sentences, starting with "Unfortunately" and ending with "unviable".

7) Zone Map Amendment (zone change)- General:

A. Please note: I'm happy to assist you as much as I can, although I cannot write the justification or do the thinking part on behalf of a private party.

B. Planning agents are available for hire to write zone change justifications. Have you talked to any agents? They are listed on the EPC agendas, available on the website provided in section 2 of this letter.

C. Because the zone change would amend a sector development plan, it is officially called a "sector development plan map amendment", though the term zone change is used.

D. A zone change justification is all about the requirements of R270-1980 and how a proposed project can be demonstrated to fulfill them. The merits of the project, no matter how compelling, are not included in R270-1980. Neither is neighborhood support.

The exercise is to choose applicable Goals and policies from the Comprehensive Plan and the sector development plan, and show how your request furthers (makes a reality) the chosen Goals and policies. Citations of text from the body of the documents are not used because the Goals and policies embody the thoughts in the text.

8) Zone Map Amendment (zone change)- Concepts & Research:

A. Responding the Sections A-J of R270-1980 is more of a legal exercise than anything else. It is critical to "hit the nail on the head" both conceptually and in terms of form. This can be done by:

i. answering the questions in the customary way (see examples)

ii. using conclusory statements such as "because_____"

iii. re-phrasing the requirement itself in the response (ex. Sections F, G, and H), and

iv. choosing an option when needed to respond to a requirement (ex. Sections D, I, and J).

B. Version 1 (v.1) of the zone change justification consists of various excerpts from the 2009 case (Project #1007648/09EPC-40004 & 40005) and even refers to the "historical record" on p. 3. Though some themes may be similar, each zone change justification is unique and needs to be treated and analyzed as a new request.

C. When requesting a spot zone, the test in Section I is more rigorous than the test in Section C. Therefore, the higher standard (and the wording it entails) applies and must be carried over into the response to Section C (with the same wording). This was determined by the Land Use

Hearing Office (LUHO) in 2014, in an EPC case that was appealed and remanded to the EPC to provide a stronger analysis (Project #1001580). Please incorporate this into your justification.

D. Here are a couple of zone change cases that can serve as examples, *particularly with respect to requesting a spot zone* (note: an SU-1 zone is a spot zone by definition): Project #1010152 from December 2016 (approved) and Project #1000963 from (denied) from December 2016.

   Please review these cases to see how Sections A-J are responded to. The Staff report explains in detail why the responses are sufficient or insufficient, so please read the analyses and incorporate them into your own justification.

9) Zone Map Amendment (zone change)- Section by Section:

Please address and incorporate the following to provide a strengthened, approvable response to R270-1980:

A. Section A (re-do): Restate the question in the answer, then add a "because" at the end of the first sentence. Please see examples of how this question is properly answered. Please make your case here rather than reference another case.

B. Section B (strengthen and clarify): The SWPSDP Sawmill-Wells Park Sector Development Plan (SWPSDP) zoned the subject site SU-2/SR in order to create stability of residential uses. Please state why you think the requested zoning would not be a destabilizing factor in the neighborhood.

C. Section C (re-do, and apply comments from response to Section I):

   The task in Section C is to demonstrate that the proposed zone change would "clearly facilitate" applicable Goals and policies in the 2017 Comp Plan and the SWPSDP.

   - The 2017 Comprehensive Plan was adopted in February 2018. Please use Goals and policies from this Plan in your analysis. The Goals and policies provided from the 2009 record are no longer in effect.
   - Is the subject site in an Area of Consistency or an Area of Change? See the map in the Comp Plan (also available online).
   - Please choose applicable Goals and policies to make your case. Copy the text of each applicable Goal and policies and then respond to each directly underneath the citation.
   - Be sure to include a conclusory statement regarding the entirety of Section C.

   Please see examples of how this question is properly answered when proposing a change to an SU-1 zone.

D. Section D (re-do): The response to D is supposed to start out with: "The existing zoning is inappropriate because _____", followed by an explanation based on 1, 2, or 3.

   Please choose one of the reasons and focus on that, and explain why the existing zoning is inappropriate.

   Please see examples of how this question is properly answered.

E. Section E (strengthen): Please list and discuss the permissive uses in the requested zone. What are they and why do you think they would not be harmful to the adjacent property, the neighborhood, or the community?

F. Section F: OK

G. Section G (strengthen): Please re-phrase the question in your response and see examples of how this question is properly answered.

H. Section H (re-do): Please respond. Re-phrase the question in your response and see examples of how this question is properly answered. You'll need to find out if the subject site is located on a collector or major street.

I. Section I (re-do): Based on a decision by the LUHO, there's a particular way that Section I has to be responded to, based on the outcome of an appeal, when the requested zone is a SU-1 zone.

- Please choose either i or ii under Section I.
- Use the required wording.
- Make sure that the answer to Section C uses the same wording.

J. Section J (respond): Please explain why you think the proposed zone change would not create a "strip zone". Is the definition met? Why or why not?

10) Site Development Plan- General:

A. Pursuant to Zoning Code 14-16-2-22(A)(1), the SU-1 Zone, site development plan is required when requesting a change to an SU-1 zone. Without the site development plan, your application is incomplete and the case cannot proceed.

B. Since you have an existing building, please do an "as-built" site development plan for building permit. Similar cases, in Sawmill (for ex.) and elsewhere, are handled this way.

C. Here are a couple of examples of acceptable as-built site development plans:

Project #1004623 (Sawmill) and Project #1005143 (on Gold Ave.). I can go through these with you. This is what your site development plan will need to look like.

D. You will need to hire someone (typically an architect) to prepare the drawings. Please provide them with the guidance in this memo.

11) Site Development Plan- Specifics:

A. A site development plan is a set of architectural drawings that must include the items specified on the site development plan for building permit checklist. The checklist lists what needs to be shown on the drawings and can be found at:

https://www.cabq.gov/planning/documents/SiteDevelopmentPlanChecklistForBuildingPermitFINAL021814.pdf I'll give you a printout, too.

B. In the case of an "as-built" site development plan, a grading and drainage plan and a utility plan are not needed. I will need the main site layout sheet, a landscaping plan, and an elevations sheet

(at least three sheets total). The elevations can be photos of what exists, but still must be dimensioned with materials and colors indicated.

C. The standard signature block and a vicinity map are required (see examples).

D. The site development plan must be scaled.

E. Label and dimension all elements on the site (see site plan for building permit checklist).

F. Add keyed notes (a system of numbers with notes- I have examples) to describe what things are.

G. Provide details for the dumpster/refuse enclosure, and existing lighting, and signage. Details include dimensions, materials, and colors called out.

H. Include a "change date" on the first sheet.

NEIGHBORHOOD INFORMATION

Lehner, Catalina L.

From:	Bridges of Peace <oweegon@bridgesofpeace.com>
Sent:	Saturday, April 28, 2018 1:30 PM
To:	Doreen Jameson; michael prando; amontoya@sawmillclt.org; Mona Angel; Catherine Mexal; Eric Kilmer; thor848@hotmail.com; wood-v@cps.edu; mateoism@gmail.com; edwina.kiro@yahoo.com
Cc:	Hummell, Tyson; Triplett, Shannon; Quevedo, Vicente M.; Jessie Eaton Lawrence; Lehner, Catalina L.
Subject:	Project #1007648 AMENDMENT to Facilitated Meeting Report
Attachments:	Proj.#1007648FacilitatedMeetingReport.pdf; Proj. # 1007648AMENDMENTSToFacilitatedMeetingReport.pdf; Addendum-Project# 1007648Facilitated Meeting Report.pdf
Importance:	High

Hi All,

Attached, please find an amendment to the meeting summary report from the April 23rd facilitated meeting regarding Project #1007648. I have also attached the report and the addendum I sent with it, just so you have them all together in the same place. No changes were made to the report itself since it was first sent out. All corrections must in the form of an amendment document.

Thank you, again, for your participation in this process.

Sincerely,
Kathleen

Kathleen Oweegon
Facilitator, Mediator, Trainer
Bridges of Peace
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(505) 242-6141 Albuquerque
P.O. Box 21966
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This message has been analyzed by Deep Discovery Email Inspector.

FACILITATED MEETING REPORT
AMENDMENTS

Date Submitted: **April 28, 2018**
Original Submission: **April 24, 2018**
Submitted By: **Kathleen Oweegon**
Facilitator: **Kathleen Oweegon**
Co-facilitator: **Jessie Lawrence**
Project Number: **1007648**
Meeting Date and Time: **April 23, 2018**

Meeting Specifics:
Page 4 - 2)v)
Change "topped-out zones" to "spot zones"

From: **Mona Angel** mangel@sawmillclt.org
Subject: RE: Facilitated Meeting Scheduled - Project 1007648
Date: April 18, 2018 at 2:45 PM
To: Bridges of Peace oweegon@bridgesofpeace.com

MA

Thank you very much for sending me this information. From what I can see we do not have a problem with this project.

Mona Angel
Executive Director
Sawmill Community Land Trust
990 18th NW 2nd Floor
Albuquerque, NM 87104
505-764-0359
www.sawmillclt.org

From: Bridges of Peace [mailto:oweegon@bridgesofpeace.com]
Sent: Tuesday, April 17, 2018 6:20 PM
To: djameson5966@gmail.com; mprando@msn.com; Annette Montoya <amontoya@sawmillclt.org>; Mona Angel <mangel@sawmillclt.org>; Catherine Mexal <cmexal@gmail.com>; Eric Kilmer <ekilmer67@icloud.com>
Cc: Tyson Hummell <thummell@cabq.gov>; Shannon Triplett <striplett@cabq.gov>; Vicente M. Quevedo <vquevedo@cabq.gov>; Jessie Eaton Lawrence <jessie@lawrencemeetingresources.com>; Catalina Lehner <CLehner@cabq.gov>
Subject: Facilitated Meeting Scheduled - Project 1007648
Importance: High

Please reply by Friday, April 20th with your rsvp, the number of attendees from your group and any known questions or concerns about this application.

To: All Interested Parties (Neighborhood Associations, Applicants)

Please join us for a facilitated public meeting scheduled regarding Project 1007648 (see attached application)

When: **Monday April 23rd, 2018**
Time: **6:00 pm to 7:45 pm**

Place:

Wells Park Community Center – 500 Mountain Rd NW, Albuquerque, NM 87102

Application Details: Project# 1007648:

EPC-40019 Zone Map Amendment (Zone Change), Eric Kilmer request the above action for all or a potion of Lots 22, 23 and 24, Block 20, Albright-Moore Addition, zoned SU-2-SR for SU2/SU1 For residential and permissive C-1 Uses, located at 1416 6th Street NW, between Kinley Avenue NW and Constitution Ave NW, containing approximately .3 acre. (J-14)

Staff Planner: Catalina Lehner.

Purpose of the Facilitated Meeting:

- Review the project information
- Have a facilitated conversation with the applicant for Project #1007648
- Document known existing concerns
- Discuss/negotiate potential resolution of any concerns
- Submit a summary report of this meeting to City of Albuquerque and all meeting participants by a neutral professional facilitator.

Agenda:

- Facilitator opens the meeting
- Applicant presents information pertinent to application to be decided by the EPC
- Facilitator will elicit feedback from the meeting attendees and create a list of related concerns (if any).
- Participants will have the opportunity to clarify and elaborate on each listed concern, with applicant having the opportunity to respond.
- Negotiations, if viable at this time, will be facilitated.

If you have concerns and/or ideas regarding how those concerns might be resolved--please send them to me at least two days in advance of the meeting. I will add them to the agenda, and I will share them with the applicant prior to the meeting so that he has the opportunity to prepare to discuss those concerns. This can often help the meeting go more smoothly and efficiently.

Follow-up:

- Facilitator will produce an impartial summary report to be submitted to the City and to all meeting participants via e-mail within 48 hours of the meeting's close.
- The EPC will hear this case on **Thursday May 10, 2018.**

My contact information is below. Please contact me if you have questions.

Thank you,
Kathleen Oweegon

Please reply by Friday, April 20th with your rsvp, the number of attendees from your group and any known questions or concerns about this application.

Kathleen Oweegon
Facilitator, Mediator, Trainer
Bridges of Peace
(505) 501-7000 Santa Fe
(505) 242-6141 Albuquerque
P.O. Box 21966
Albuquerque, NM
87154
oweegon@bridgesofpeace.com
www.bridgesofpeace.com

Lehner, Catalina L.

From:	Bridges of Peace <oweegon@bridgesofpeace.com>
Sent:	Thursday, April 26, 2018 4:05 PM
To:	Catherine Mexal
Cc:	Doreen Jameson; Mike Prando; Eric Kilmer; Peter Armijo; Matthew Maez; Edwina Kiro; Jessie Eaton Lawrence
Subject:	Re: Project #1007648 Facilitated Meeting Report
Importance:	High

Hi Catherine,

Thank you for your comments.

Regarding your Page 4 correction - I will send out an amendments form over the weekend, waiting a day or two to see if any other amendments come in so I can do them together. I see that you copied Mr. Kilmer on your email, so he will see the remaining comments, which are not the corrections to the report.

I copied the Planner, Catalina Lehner, on this reply so that she can see your comments. You may also want to sent her such comments directly, so they become a part of her files.

Respectfully,
Kathleen

Kathleen Oweegon
Facilitator, Mediator, Trainer
Bridges of Peace
(505) 501-7000 Santa Fe
(505) 242-6141 Albuquerque
P.O. Box 21966
Albuquerque, NM 87154
oweegon@bridgesofpeace.com

On Apr 26, 2018, at 3:46 PM, Catherine Mexal <cmexal@gmail.com> wrote:

Kathleen, I only have 3 comments, along with a compliment for Jessie: That's a remarkable transcription job you did!

On page 4: "...planners would not be in favor of all of those topped-out zones." I think that's my comment and I was saying that Mr. Kilmer's C-1 zoning would become MX-L and his southern neighbors are becoming MX-T so the differences of zones would create "spot zones", not "topped-out zones".

On page 3 Mr. Kilmer mentions that his is a "pillar property". That confused me at the meeting but I forgot to ask about it. What is a "pillar property"? I have neighbors whose homes are from the early 1900's so the neighborhood is filled with "pillar properties".

He also mentions Sawmill Wells Park "book" being used to justify a C-1 zoning in 1969. That pre-dates any sector plan I've found.

Again, if Mr. Kilmer advocates to eventually be zoned MX-T, many of us will be pleased. Permissive uses for MX-T in the IDO are appropriate for that mostly-residential area.

Thank you, Kathleen and Jessie.

Catherine
PS: I'm only copying people who were present at the meeting.

On Apr 24, 2018, at 7:12 PM, Bridges of Peace <oweegon@bridgesofpeace.com> wrote:

Hi All,

Attached, please find the meeting summary report from yesterday's facilitated meeting regarding Project #1007648. I have also attached an addendum which contains information from Sawmill Community Land Trust provided to me before the meeting. Since it was not stated at the meeting, I cannot include it in my report, but I promised their Executive Director that I would share the information, so I am doing so via the addendum.

Should you read something in the report that you feel is an inaccurate representation of what was said in the meeting, please refer to the amendment parameters at the bottom of this message.

I'm including links to the applicant survey for Eric Kilmer, and the participant survey for everyone else who attended the meeting:

Applicant survey: http://www.cabq.gov/legal/adr/luf/land-use-facilitation-program-applicant-survey

Participant survey: http://www.cabq.gov/legal/adr/luf/land-use-facilitation-program-participant-survey

Thank you for providing feedback. Please be sure to include project number #1007648 and include my name, Kathleen Oweegon, at the top of the form.

Thank you all for your participation.

Sincerely,
Kathleen

Kathleen Oweegon
Facilitator, Mediator, Trainer
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A1-6AC7-9605-900E-43C0FFC02BA2&auth=f0ebcd052f61e7a39dc93191e8a01d02608499af-d8097cd714b03a729ae587fb34bbdbbef56b834b

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Clarification of Amendment Parameters

Reports are distributed to meeting participants and city staff at the same time. In this program, I have limits on how I can utilize people's input in my reports. These limits are in place to preserve the integrity of my role and of my reports. My parameters are:

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This message has been analyzed by Deep Discovery Email Inspector.

Lehner, Catalina L.

From: Doreen Jameson <djameson5966@gmail.com>
Sent: Thursday, April 26, 2018 11:39 AM
To: Lehner, Catalina L.
Cc: Mike Prando
Subject: Re: Project #1007648 Facilitated Meeting Report

Catalina,

Thank you for the clarifications. As discussed at the facilitated meeting, the Wells Park Neighborhood's position is that we would support a zone change to MX-T under the new IDO, but not MX-L.

thank you
Doreen McKnight
WPNA President

On Wed, Apr 25, 2018 at 12:25 PM, Lehner, Catalina L. <CLehner@cabq.gov> wrote:

Hi Kathleen,
Thank you for sending the facilitated meeting report. I'd like to clarify some items:

1. Planner's Role: The City planner assigned to a given EPC case does not attend the facilitated meeting. The planner's role is to manage the case and provide analysis, which will be made publically available online in the Staff report. The planner is also available to answer questions people may have. The planner cannot act as agent for the applicant. Applicants can hire private sector planners to act as agents on their behalf, if they choose to.

2. If you would like to submit written comments to be attached to the Staff report, they are due by the end of the day on May 1st. clehner@cabq.gov

3. A zone map amendment and a zone change are the same thing (p. 4). In this case, because there's an applicable sector plan, the action is called a sector development plan map amendment. Zone changes are required to be justified pursuant to R270-1980.

4. The application, as advertised, is for a sector development plan map amendment from SU-2/SR (Sawmill Residential) to SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses and an associated as-built site development plan (required when requesting SU-1 zoning).

5. The property, currently zoned SU-2/SR, would convert to R-1A under the Integrated Development Ordinance (IDO). The C-1 zone would convert to MX-L under the IDO.

Thank you.

-Catalina

From: Bridges of Peace [mailto:oweegon@bridgesofpeace.com]
Sent: Tuesday, April 24, 2018 7:13 PM
To: Doreen Jameson; michael prando; amontoya@sawmillclt.org; Mona Angel; Catherine Mexal; Eric Kilmer; thor848@hotmail.com; wood-v@cps.edu; mateoism@gmail.com; edwina.kiro@yahoo.com
Cc: Hummell, Tyson; Triplett, Shannon; Quevedo, Vicente M.; Jessie Eaton Lawrence; Lehner, Catalina L.
Subject: Project #1007648 Facilitated Meeting Report
Importance: High

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Thank you for providing feedback. Please be sure to include project number #1007648 and include my name, Kathleen Oweegon, at the top of the form.

Thank you all for your participation.

Sincerely,

Kathleen

Kathleen Oweegon

Facilitator, Mediator, Trainer

Bridges of Peace

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P.O. Box 21966

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Cc:	Hummell, Tyson; Triplett, Shannon; Quevedo, Vicente M.; Jessie Eaton Lawrence; Lehner, Catalina L.
Subject:	Project #1007648 Facilitated Meeting Report
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Importance:	High

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Kathleen

Kathleen Oweegon
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CITY OF ALBUQUERQUE
LAND USE FACILITATION PROGRAM
PROJECT MEETING REPORT

Project #: 1007648
Property Description/Address: 1416 6th Street NW, between Kinley Avenue NW and Constitution Ave NW, containing approximately .3 acre. (J-14)

Date Submitted: April 24, 2018
Submitted By: Kathleen Oweegon

Meeting Date/Time: April 23, 2018 6:00 p.m.
Meeting Location: Wells Park CC
Facilitator: Kathleen Oweegon
Co-facilitator: Jessie Lawrence

- Applicant – Eric Kilmer
- Wells Park N.A.
- Neighborhood Residents (no other affiliation noted)

Background/Meeting Summary:

This meeting was regarding Project# 1007648 18EPC-40019 - Application for Zone Map Amendment (Zone Change), Eric Kilmer requests the above action for all or a portion of Lots 22, 23 and 24, Block 20, Albright-Moore Addition, zoned SU-2-SR for SU2/SU1 For residential and permissive C-1 Uses, located at 1416 6th Street NW, between Kinley Avenue NW and Constitution Ave NW, containing approximately .3 acre. (J-14)

Neighbors in attendance expressed concern about:

1. what specific zoning was being requested by the applicant
2. what type of business the Applicant intends to put at that location

See the "Meeting Specifics" section below for details.

Outcome:

After the applicant's presentation and additional questions and comments, the meeting participants stated that their concerns about zoning had been resolved by the Applicant's answers to their questions. *See the "Meeting Specifics" section below for details.*

[Facilitator's note: Please see attached Addendum to this report: A copy of an email from Mona Angel, Executive Director of Sawmill Community Land Trust, stating their perspective on this project, since they couldn't send a representative to this meeting. Because their perspective was not stated during the meeting, I cannot include it in the body of the report, so I have included it as an addendum.]

Unresolved Concerns:

Neighbors want written assurance from the Applicant that he will not put a bail bod business or pawnshop at this location. The Applicant has agreed to provide this assurance. *See the "Meeting*

Specifics" and "Action Items" sections below for details.

CITY OF ALBUQUERQUE
LAND USE FACILITATION PROGRAM
PROJECT MEETING REPORT

Meeting Specifics:

1) Applicant Presentation
   a) Property is on the corner of 6th and Constitution. Lots 22, 23 and 24, Block 20, Albright-Moore Addition
   b) Trying to establish that the property has a history of being a business property since before zoning code.
      i) The property has been a business location since 1938, known as Gray's flower shop. Continuous up to this point.
      ii) We operate business activities out of the property.
   c) Property has been through EPC hearing before, when applied to open a bail bonds business.
      i) Neighbors expressed concern about that type of business, so purchased another property down the street and moved the business there so we wouldn't have issues with the neighborhood.
   d) Brought the property in question up from a bad state and have been maintaining it for 10 years.
      i) Have been maintaining the property, keeping the neighborhood clean, trying to be good a neighbor.
         (1) If we wanted to be bad neighbor, we could have called it a residence and opened a home bail bonds office, but we didn't want to be a bad neighbor.
   e) Have been going to City and asking for different uses, putting other businesses in that location.
      i) According to sector plan, allows for non-residential uses if they're established.
      ii) Since first time we applied, there have been other projects in the community that haven't historically been commercial properties that have become more intensive uses.
   f) Over time, realized the location is a pillar property in the neighborhood since it's been in business mode since 1938, 8-10 years longer than any other property in area.
      i) We wanted to go through the process to see what uses would be acceptable to the neighborhood and clear the list of uses for future use. That would carry over into the IDO.
      ii) City could instruct us for less intense use, and we would entertain that, but right now we're going through the process of getting the application through.
   g) Decided that with our interpretation of zoning code, we should compare to the current zoning that would best fit the property. We picked the zoning code that we thought would fit.
   h) In 1969, the City recommended C-1 use.
      i) At that time, owner of property approached the planning board at the time, and wanted to put a parking lot on property.
      ii) The planning board at that time recognized the C-1 use property and wanted to make it more appealing to the neighborhood at that time, and the planning commission created the SU-1 use – a spot zoning use following the Sawmill Wells Park book. The sector plan does not spell out what other uses there are, and spot-zoned everyone.
      iii) Over time we've been trying to clarify that zoning. As this goes on, we're watching other neighbors.
         (1) A previous owner split the property into a business side (1416) and a residential side, (1412) and 1412 was granted intensified use.

i) We want to do what this property is intended to do for the neighborhood – bring jobs and help the neighborhood.
   i) Maybe a shoe shop, dress shop, offices, daycare, nothing crazy. Even a C-2 use was permitted there at one time, and we're not pursuing that.

j) Facilitator: So the application is really about getting clarity on the zoning for the property and the permitted uses?
   i) Yes, because it's unclear what else could be done on the property. That's what the big problem is here.

2) Neighbors' Response
   a) Zoning:
      i) Q: Are you asking for clarification of what is permitted under the current zoning or change to C-1 zoning? Those are different things.
         (1) A: Have to ask for something.
      ii) Q: But are you asking for the zoning to be changed?
         (1) A: No, asking for a zone map amendment; that's different from a zone change.
      iii) Q: What will the zoning be under the IDO?
         (1) A: MX-T.
      iv) P: Not according to current zone map conversion. It's unfortunate that the planner didn't show up because she could clarify.
         (1) The current zoning is SR, Sawmill Residential or Special Residential.
         (2) Under the IDO, that would be Residential 1A – residential small lot.
         (3) We love the idea that you want to do something that will enhance the neighborhood. But the neighbor south of you is SU2, and they will be MX-T. You're not scheduled for that.
         (4) A: I thought the question was about future. IDO as stands right now, the conversion is R-1A.
      v) P: The neighbor south of that is SU-1, and that property will also become MX-T. If you're hoping to become C-1, that is mixed-use low intensity, MX-L. I would think that planners would not be in favor of all of those topped-out zones.
         (1) A: I said MX-L, and to be more consistent with the neighbors, I would reduce to MX-T.
         (2) P2: Think that's a great idea.
         (3) A: We're just trying to make property move forward.
      vi) P: The application documents say you want to go to C-1, which would become MX-L. MX-T is a bit more restrictive, but gives you loads of options.
         (1) A: That's why we asked for what we asked for is because of the history of the property. Looking at C-1 zoning, it allows for plants, flowers, outside sales.
      vii) P: The O-1 and RC zones will become MX-T. It positions you for the future, which is two weeks away; better if you ask for RC or O-1.
         (1) A: We've had conversations with City Council about this. They proposed free [EPC application] process after the IDO goes into effect, as part of showing that there are properties that have issues. It was suggested that this property could be a candidate for that.

(a) Rather than waiting for that, we wanted to start the process, but we may ask for that.

viii) P: Right now the zoning is SU-2 SR. For 7 years, we've been looking at that lot and hearing the same thing; better for the neighborhood.

(1) What I see right now are weeds and mobile homes just parked there, a storage lot. 7 years ago there was a list of what you can do, but you just wanted a bail bond company.

ix) Request: I want something in writing from you that says that there won't be a bail bond or pawnshop at this location.

(1) A: The Supreme Court has handed down a decision about the bail bond industry: elimination of bail bonds. Bail bond companies all around town have closed down; the industry is no longer viable. Bail bonds are no longer an issue in NM.

(a) May also be ordinance that bail bonds need to be within 1000 feet of a courthouse.

(b) Don't have a problem your request, but would want to work with planner about how she would want to have that worded.

(c) Facilitator: If there is additional communication about this, or when the letter is ready to be distributed, I'd be happy to forward the information to the neighbors.

x) Q: We're here to listen to you, but everyone wasn't invited to this meeting.

(1) Facilitator: Anyone is welcome to attend; it's a public meeting.

(a) In terms of this invitations to this meeting, I work through the leaders of the NAs., who can then contact the members.

(i) It's not the responsibility of the applicant to invite neighbors; it was mine.

xi) Q: The zone is going to change in 2 weeks. Is this application based on the old zoning book or a new zoning book?

(1) A: At present, we're working with the old zoning, and applying under the existing. We can't apply for something that doesn't exist yet.

xii) P: You wanted a bail bond company.

(1) A: At that time, I thought we were entitled to that. I wanted to be a good neighbor, so I moved the location of that business because the neighbors didn't want it.

b) Uses:

i) Q: On the permissive uses in your application, it said the business would be open 10 PM – 7 AM?

(1) A: Think it should be 10 AM – 7 PM. That's another reason why we moved the bail bonds down the street, because that business would be 24-hours. This won't.

ii) P: The concern with the hours of operation [10 PM – 7 AM] is that there are only certain businesses open those hours, like an adult bookstore.

iii) Q: I read the possibility of a newsstand?

(1) A: I intended it to be something that sold soda, candy, daily news, etc., perhaps a small café.

iv) P: I'm with everyone else, just happy you want to do something good there. Think what you say you want to do would benefit the neighborhood.

v) List of what neighbors are opposed to:
   (1) bail bond office,
   (2) pawnshop
   (3) liquor store
      (a) Q: Related to the liquor store concern, there's a day care center across street.
         (i) A: In my opinion, a liquor store would be bad. I wouldn't want to do that.
   (4) adult bookstore or entertainment
   (5) most of the uses that are conditional under MX-L
   (6) anything industrial. I live really close to the property and don't want anything extremely loud, like welding or auto shop
      (a) P: Artisan manufacturing would be allowed.
      (b) A: The hours on the hours of 10 AM to 7 PM would also handle that.
   (7) industrial waste processing – there are some businesses on 2nd street where you can take industrial waste.
      (a) P: That wouldn't be an MX-T use.

vi) List of what neighbors would prefer to see:
   (1) dry cleaner
   (2) ice cream store (preferably Baskin Robbins)
   (3) little coffee shop or bakery or something.
      (a) A: Several people have approached me for that, but they've backed off because they can't interpret the sector development plan language for lot. People didn't know where to get a clear list of uses. [Applicant reads about the limitations on lot uses from the sector development plan, p. 99 A-5.]
   (4) barber shop, salon.
      (a) A: I had people requesting that. High possibility.
   (5) bodega / grocery store.

vii) Q: What is the list for MX-T?
   (1) P: For MX-L, a pawnshop is conditional. That's what made us lean toward MX-T.
   (2) P: There's a long list of what's permitted under MX-L.

viii) Q: Are you planning to modify or expand the building at all?
   (1) A: As of right now, no. The plan is for the existing structure as-is right now.
      (a) We may put in an outdoor patio, depending on the type of business.

ix) Q: Do you anticipate the sidewalk being repaired?
   (1) A: There was an issue with a broken sidewalk, but it's actually at the law office, not our property.

x) A: Want to make this more about the property than about us personally. It's about the good of the property. And the property is for sale, so could be developed by someone else.

xi) A: I'm making a request for a zone to convert to MX-L. I'm hearing MX-T would be more beneficial. I request that neighbors write a letter saying they're opposed to MX-L but not MX-T. [several participants nodded]

xii) Q: You requested C-1?
   (1) A: SU-2 S-1 for flower shop and permissive C-1 uses. But that can be amended during the process, and we can change during the process.
      (a) If you send a letter saying you object to MX-L and prefer MX-T, the city could give that to me, and we could see if we can agree to that.

3) Facilitator: Have the concerns about zoning been addressed and resolved, or do they remain unresolved?
   a) Multiple: Resolved.

Action Items:

1. Applicant will work with Planner to compose a letter stating that he will not put a bail bonds business or a pawnshop at this location.
   a. Applicant will then send a signed copy of the letter to the meeting attendees via the facilitator.

Concerns related to CABQ representatives not being in attendance at this meeting:

1. Q: Does anyone from the city come to these meetings? It's unfortunate that they don't because they could provide much-needed guidance about the new zoning [IDO].
   a. Facilitator: Often, when ONC knows in advance that there is a need for someone form the City to attend, they can assist with arranging for certain City staff to be in attendance, if appropriate. The ONC also provides training and guidance to neighborhood associations on different aspects of the City's processes and how N.A.s can best work with the City. Vicente Quevedo of the ONC will get the report.
2. P: It would have been nice to have Catalina, the planner, here.

Application Hearing Details:

1. The hearing is scheduled for May 10, 2018.
2. The Environmental Planning Commission (EPC) is an appointed, 9-member, volunteer citizen board with authority on many land use and planning issues. The EPC was formed in 1972 per City of Albuquerque Ordinance #294-1972.

   Members:
   - Derek Bohannan, Chair, Council District 5
   - Bill McCoy III, Vice Chair, Council District 9
   - Dan Serrano, Council District 1
   - Vacant, Council District 3
   - Peter Nicholls, Council District 4
   - Maia Mullen, Council District 6
   - David Shaffer, Council District 7
   - Karen Hudson, Council District 8
3. Hearing Time:
   i. The Commission will begin hearing applications at 8:30 a.m.
   ii. The actual time this application will be heard by the Commission will depend on the applicant's position on the Commission's schedule.
   iii. The agenda is posted on http://www.cabq.gov/planning/boards-and-commissions/environmental-planning-commission on the Friday immediately prior to the EPC Hearing.

4. Hearing Process:
   i. Comments from facilitated meetings will go into a report, which goes to the City Planner.
   ii. City Planner includes the facilitator report in recommendations.
   iii. The Commission will make a decision and parties have 15 days to appeal the decision.
5. Comment Submission:
   i. Comments may be sent to:

   Catalina Lehner, Staff Planner
   600 2nd Street NW, Third Floor
   Albuquerque, NM 87102
   clehner@bcabq.gov
   (505) 924-3935

   OR

   Derek Bohannan, Chair, EPC, or
   Bill McCoy III, Vice Chair
   c/o Planning Department
   600 2nd St, NW, Third Floor
   Albuquerque, NM 87102

Names & Addresses of Attendees:

- Applicant: Eric Kilmer
- Wells Park N.A. Doreen McKnight
  Catherine Mexal
  Matthew Maez
  Edwina Kiro
  Mike Prando
- Resident Peter Armijo
  Lugie
  Victoria Wood

Carmona, Dalaina L.

From: Carmona, Dalaina L.
Sent: Wednesday, March 28, 2018 1:26 PM
To: 'Ekilmer67@icloud.com'
Subject: Notification Inquiry_6th Street between Constitution and Kinley_EPC
Attachments: Notification Inquiry_6th Street between Constitution and Kinley_EPC.xls; INSTRUCTION SHEET FOR APPLICANTS.PDF

Hi Eric,

Attached and listed below you will find the NA's to contact per your EPC Submittal. Please also review the attached instruction sheet.

Association Name	First Name	Last Name	Email	Address Line 1	City	State	Zip	Mobile Phone	Phone
Sawmill Community Land Trust	Mona	Angel	mangel@sawmillclt.org	990 18th Street NW	Albuquerque	NM	87104	5058500707	505764035
Sawmill Community Land Trust	Annette	Montoya	amontoya@sawmillclt.org	990 18th Street NW	Albuquerque	NM	87104		505764035
Wells Park NA	Mike	Prando	mprando@msn.com	611 Bellamah NW	Albuquerque	NM	87102	5054536103	
Wells Park NA	Doreen	McKnight	djameson5966@gmail.com	1426 7th Street NW	Albuquerque	NM	87102	5056152937	

Have a good day!

Dalaina L. Carmona
Senior Administrative Assistant
Office of Neighborhood Coordination
Council Services Department
1 Civic Plaza NW, Suite 9087, 9th Floor
Albuquerque, NM 87102
505-768-3334
dlcarmona@cabq.gov or ONC@cabq.gov
www.cabq.gov/neighborhoods

From: webmaster=cabq.gov@mailgun.org [mailto:webmaster=cabq.gov@mailgun.org] **On Behalf Of** webmaster@cabq.gov
Sent: Wednesday, March 28, 2018 12:06 PM
To: Office of Neighborhood Coordination <onc@cabq.gov>
Subject: Notification Inquiry Sheet Submission

Notification Inquiry For:
Environmental Planning Commission Submittal

Eric Kilmer

1416 6th Street NW

Albuquerque, New Mexico 87102

March 28,2018

Dear Sir / Madam:

This letter is notification that the property owner/s at 1416 6th Street NW. Albuquerque,New Mexico 87102 submitted a request for a Zone Map Amendment to the Environmental Planning Commission (EPC). This request is consistent with the Comprehensive Plan and Sawmill/Wells Park Sector Development Plan. The Site is Located at 1416 6th Street NW, on the South east Corner of 6th Street and Constitution.

Lot 22,23,24 of Block 20 of Albright-Moore Addition

The following is a detailed description of this request:

(1) Zone Map Amendment- The Existing Zoning is SU-2 SR for Flower Shop/Nursery and Premissive uses and the proposed change is to SU-2/SU1 for Flower Shop/Nursery and Premissive C-1 Uses.This amendment will allow the existing building on this property,which was historically a flower shop and Nursery, to become viable again by allowing neighborhood commercial and office uses.

Affected Neighbood Associations and HomeOwner Associations may request a Facilitated Meeting reguarding this Project by Contacting The Alternative Dispute Resolution (ADR) Program by Email at striplett@cabq.gov by Phone at (505) 768-4712 or (505) 768-4660. A Facilitated meeting Request must be received by: April 9, 2018.

Please do not hesitate to contact me if you have any questions,would like to meet,or desire any additional information. The (EPC) hearing for this application will be held on 05/10/2018 at 8:30 am at the Plaza Del Sol Building, Located at 600 2nd Street NW.Albuquerque,New Mexico 87102.

Sincerely,

Eric Kilmer

Eric Kilmer
Princple
1-(505) 261-8409

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1416 6th St. NW

Legend

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

Notes

Buffer: 163ft.
ROW: 6th St. 63ft.

0.0 0 0.02 0.0 Miles

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519 CONSTITUTION AVE NW
ALBUQUERQUE NM 87102-1319

SANCHEZ ROSS C
1406 SIGMA CHI RD NE
ALBUQUERQUE NM 87106-4546

GRUBER LINDA CAROL
1505 5TH ST NW
ALBUQUERQUE NM 87102-1335

GONZALES LUIS M & JUNE
PO BOX 123
DOWNEY CA 90241

NEUMAN MARK & JUDITH J
504 CONSTITUTION AVE NW
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KING ALEXANDER
512 CONSTITUTION AVE NW
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8600 MODESTO AVE NE
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BACA MARK E
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3807 RIVERVIEW CT NW
ALBUQUERQUE NM 87105

SCOTT CARMEN HAMPSTEN
1411 6TH ST NW
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TJPC LLC
P O BOX 7146
ALBUQUERQUE NM 87194

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GRAMMER JASON C
500 CONSTITUTION AVE NW
ALBUQUERQUE NM 87102-1360

ROTHMAN BRIAN & MARY
PO BOX 2981
CORRALES NM 87048

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MESQUITE NV 89027-3120

MAEZ MATTHEW
1501 5TH ST NW
ALBUQUERQUE NM 87102

Sandoval Mark Trustee.
Sandoval Rvt.
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Postage
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Total Postage and Fees
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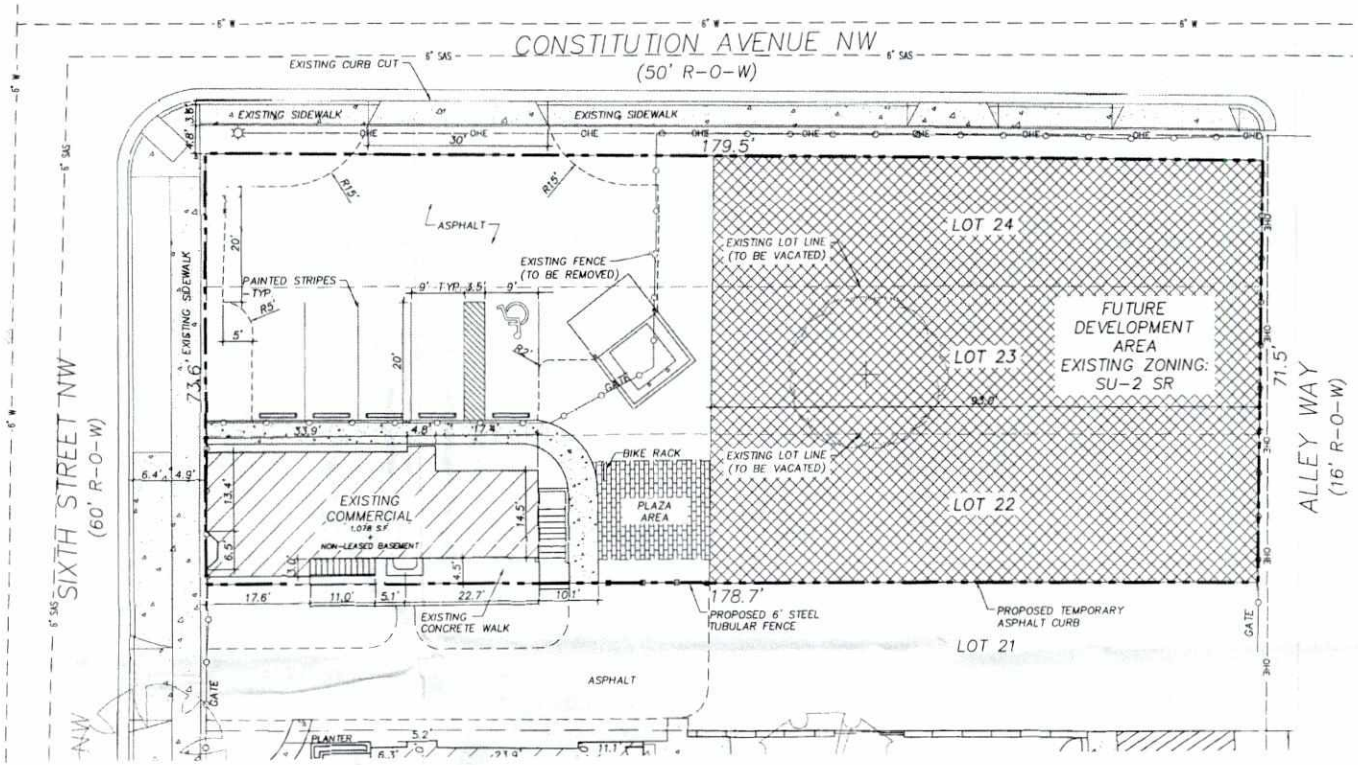
REDUCTION



SCALE 1" = 10'

5 0 10 20

north

NOTE: DIMENSIONS SHOWN ARE BASED ON BEST AVAILABLE DATA.

SITE DATA:

Address: 1416 6th Street NW

Legal Description: Lots 22 23, and 24, Block 20, Albright-Moore Addition

Existing Zoning: SU-2S-R, Sawmill Sector Development Plan

Proposed Zoning: SU2/SU-1 for Flower shop/ Nursery and Permissive C-I Uses

Existing Building Area: ±1,078 square feet

Proposed Building : No Change

Site Area: Approximately .3 acres

GENERAL NC

1. No modifications uildings exterior façade are proposed with this submittal.
2. Parking: Required: 5 @ 1 per 200 s.f.
   Provided: 5
   Handicapped Required: 1
   Handicapped Provided: 1
   Bicycle Required: 2
   Bicycle Provided: 4
3. All utilities are existing to the site and will not require any modification.
4. No modifications are proposed related to grading and drainage with this submittal.
5. One monument sign is proposed at the northwest corner of the property that is limited to 24 s.f per face. Building mounted signage shall comply with the requirements shown in the Sawmill/Wells Park Sector Development Plan: no off-premise signs signs are to be wall signs or canopy signs; size of sign is not to exceed 7.5% of "the area of the facade to which it is related." No off-premise signs are permitted.
6. Plaza area shall be paving stones with a minimum of one table with an umbrella.
7. New nonresidential uses are permissive provided that they are equally or more restrictive than the preceding use (retail flower shop and nursery), do not require more off-street parking, and comply with the following conditions:
   A. Outdoor storage shall consist only of parked operative vehicles and screened trash receptacles.
   B. No underground storage tanks shall be present or installed on the property.
   C. Business activities shall be prohibited between 10 p.m. and 7 a.m.
   D. No more than 5 employees shall be present at any given time.
   E. Signs shall be as regulated by this Site Development Plan

PROJECT NUMBER _____
Application Number _____

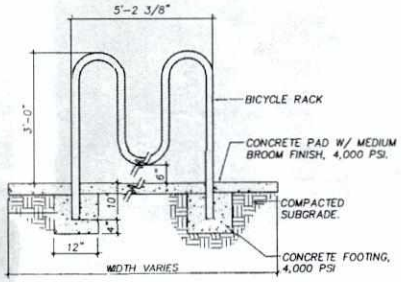
This Plan is consistent with the specific Site Development Plan approved by the Environmental Planning Commission (EPC), dated _____ and the Findings and Conditions in the Official Notification of Decision are satisfied.

Is an Infrastructure List required? ( ) Yes ( ) No If yes, then a set of approved DRC plans with a work order is required for any construction within Public Right-of-Way or for construction of public improvements.

DRB SITE DEVELOPMENT PLAN SIGNOFF APPROVAL

Traffic Engineering, Transportation Division	Date
ABCWUA	Date
Parks and Recreation Department	Date
City Engineer	Date
* Environmental Health Department (conditional)	Date
Solid Waste Management	Date
DRB Chairperson, Planning Department	Date

SITE VICINITY ZONE ATLAS PAGE J-14 NO SCALE



BIKE RAIL DETAIL Not to Scale

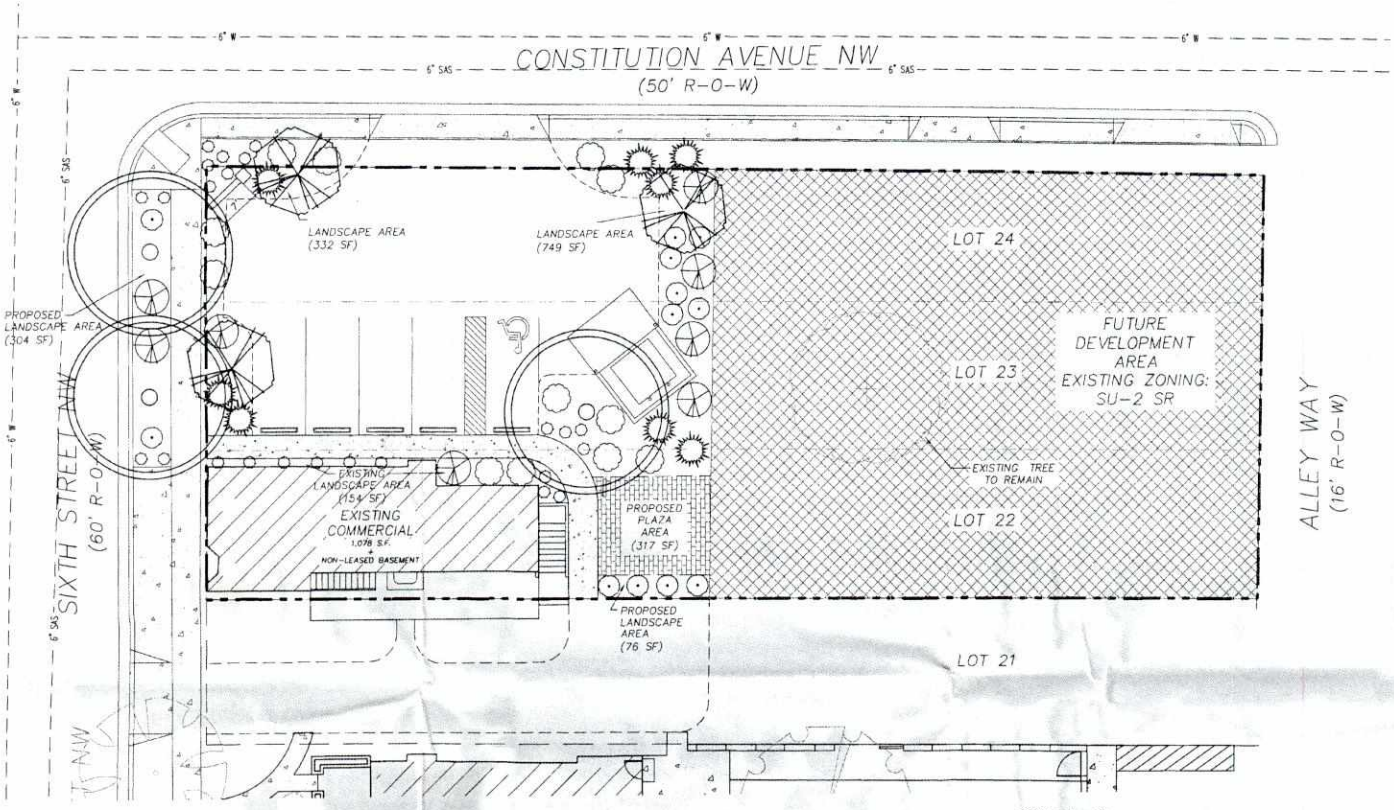
REVISIONS	
Date	Description

Project Name: 1416 Sixth Street NW
Eric Kilmer

Landscape Architect's Seal

Designed By:	JS
Drawn By:	CSM
Checked By:	JS
Date:	3/28/2018
Project No:	
Sheet Title:	SITE PLAN

1 of 3



SCALE: 1" = 10'

NOTE: DIMENSIONS SHOWN ARE BASED ON BEST AVAILABLE DATA.

5 0 10 20

north

PLANT LEGEND

QTY.	COMMON NAME/SCIENTIFIC NAME	WATER USE
	TREES:	
	EXISTING TREE TO REMAIN	
3	AMUR MAPLE/*Acer ginnala*	Med.
3	MODESTO ASH/*Fraxinus velutina*	Med.+
	SHRUBS:	
12	SCOTCH BROOM/*Cytisus scoparius*	Med.
8	CRANBERRY COTONEASTER/*Cotoneaster apiculatus*	Med.
12	RUSSIAN SAGE/*Perovskia atriplicifolia*	Med.
24	YARROW/*Achillea millefolium*	Med.
8	ROSEMARY/*Rosmarinus officinalis*	Low+

GENERAL LANDSCAPE NOTES

LANDSCAPE DESIGN

All planting areas shall be top dressed with a combination of Santa Fe Brown crusher fines and 2"-4" Buildscape Brown cobble.

IRRIGATION SYSTEM

Irrigation system standards outlined in the Water Conservation Landscaping and Water Waste Ordinance shall be strictly adhered to. A fully automated irrigation system will be used to irrigate tree, shrub and groundcover planting areas. The irrigation system will be designed to isolate plant material according to solar exposure and will be set up by plant zones according to water requirements. A spray system will be used to establish the native seed areas. Pressure compensating bubblers will be used as follows: (1) .25 gpm bubbler per shrub, and (3) .25 gpm bubblers per tree. The irrigation system will predominantly use an existing non-potable water line that is available for all park landscaping. In our efforts to maximize the use of rain water runoff, a cistern will be used to capture runoff and utilize it for irrigation purposes. The system will be designed per COA Park Design Guidelines.

MAINTENANCE RESPONSIBILITY

Maintenance of the landscaping and irrigation system, including those areas within the public R.O.W., shall be the responsibility of the City of Albuquerque.

UTILITIES

Due to the scale of this Landscape Plan, proposed utilities and easements have not been identified.

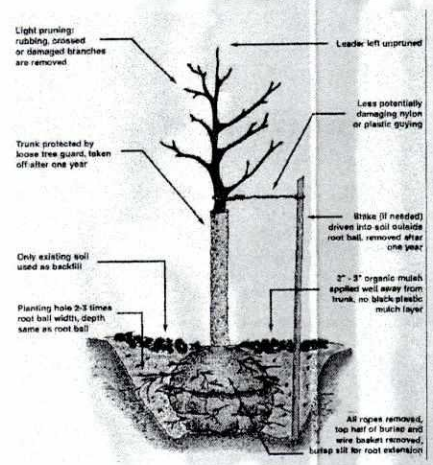
METHOD FOR COMPLYING WITH WATER CONSERVATION ORDINANCE

The Landscape Plan for this site shall limit the provision of high water use turf to a maximum of 20 percent of the required landscape area. The plant palette is predominantly comprised of plants with low to medium water use requirements, thereby minimizing irrigation needs while ensuring viability of the plants. An evapotranspiration management controller will be included in the design of the irrigation system to monitor weather conditions so that optimum moisture balance is achieved and the possibility of over-watering is reduced.

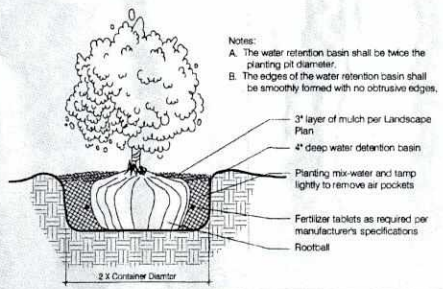
LANDSCAPE CALCULATIONS

Site Area: (0.3 AC)	12,994 S.F.	
Building Area:	-1,078 S.F.	
Total Net	11,916 S.F.	
	-2,023 S.F.	
*Impervious Area	9,893 S.F.	
Required Landscape: (15%)	1,787 S.F.	
Existing Landscape:	154 S.F. (1%)	
Provided Landscape:	1,817 S.F. (15%)	
Total	1,971 S.F. (16%)	

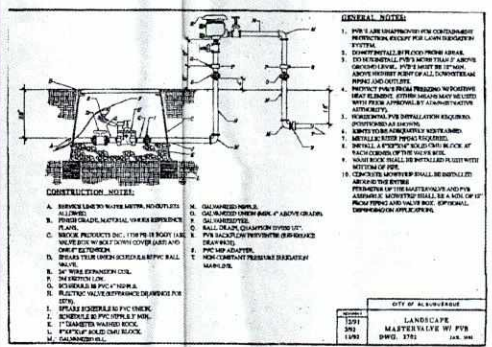
*includes future development area.



TREE PLANTING ON GRADE Not to Scale



SHRUB PLANTING ON GRADE Not to Scale



REVISIONS		
#	Date	Description

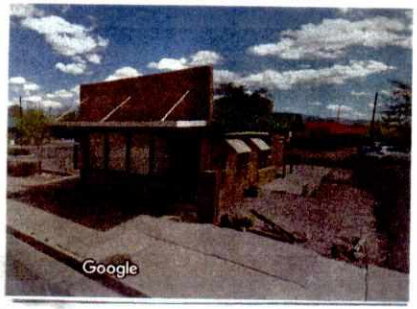
Project Name: 1416 Sixth Street NW

Eric Kilmer

Landscape Architect's Seal:

Designed By:	JS
Drawn By:	MA
Checked By:	JS
Date:	3/28/2018
Project No:	
Sheet Title:	LANDSCAPE PLAN

NORTH ELEVATION



SOUTH ELEVATION

EAST ELEVATION

WEST ELEVATION

Note: Existing building is proposed to remain as is.

J-14 ZONE ATLAS ARIAL VIEW

REVISIONS		
#	Date	Description

Project Name

1416 Sixth Street NW

Eric Kilmer

Landscape Architect's Seal

Designed By	JS
Drawn By	MA
Checked By	JS
Date	3/28/2018
Project No.	

Sheet Title

BUILDING ELEVATIONS

3 of 3