Environmental Planning Commission

Agenda Number: 04
Project Number: 1007648
Case Numbers: 18EPC-40019 & 40021
Hearing Date: November 08, 2018

Supplemental Staff Report IV

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

Agent	Stephanie Landry, Landry & Ludewig, L.L.P.
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 a combined permissive use of Office with Beauty Salon and/or Barber Shop

Staff Recommendation

DENIAL of 18EPC-40019, based on the Findings beginning on Page 22.

DENIAL of 18EPC-40021, based on the Findings beginning on Page 27.

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 has been deferred four times: at the May hearing, the July hearing, the August hearing, and the September hearing to allow additional time for the applicant to strengthen the justification pursuant to R270-1980.

The applicant has changed the requested zoning (see above). 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, but also because other sections are inadequately addressed. It is the burden of the applicant to demonstrate that the request clearly facilitates applicable Goals and policies in applicable Plans (the Comprehensive Plan and the SWPSDP).

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

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I. INTRODUCTION

The application was submitted prior to the effective date of the Integrated Development Ordinance (IDO) (May 17, 2018), and therefore is being heard under the former planning and zoning system.

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 [§14-16-2-22(A)(1)]. The application was submitted on April 4, 2018, prior to enactment of the Integrated Development Ordinance (IDO).

The subject site is zoned SU-2/S-R (Sawmill Residential) under the former zoning system and pursuant to the SWPSDP. 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: 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: SU-2/SU-1 for Flower Shop/Plant Nursery, Office. For the November hearing, the requested zoning is now SU-2/SU-1 a combined permissive use of Office with Beauty Salon and/or Barber Shop (see attachment- p. 1 of applicant's justification). It appears that this superseded the applicant's October 12, 2018 letter to the Code Enforcement Division indicating that the proposed zoning is SU-2/SU-1 a combined permissive use of Office with Beauty Salon and/or Barber Shop and then Off-Street Parking as a permissive accessory use.

Background and Deferrals

The Environmental Planning Commission (EPC) first 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 request pursuant to R270-1980 and to seek the assistance of a professional planning 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. At the August 9, 2018 hearing, the EPC heard from the applicant regarding the deferral. The EPC voted to accept a request for another 30-day deferral to the September 13, 2018 hearing.

Prior to the September 13, 2018 hearing, the applicant hired an agent and requested another 30-day deferral to the October 11, 2018 hearing. Staff recommended a 60-day deferral to the November 8, 2018 hearing to allow sufficient time for two things to happen: 1) determine what zoning to request, and 2) provide a strengthened justification letter pursuant to the policies and criteria of R270-1980. The EPC granted the 60-day deferral.

Current Deferral Period
The applicant submitted a revised justification letter on October 25, 2018 (see attachment), which is reviewed mostly in Section III of this fifth supplemental Staff report.

The applicant's October 25, 2018 justification letter is similar to previous justification letters (ex. the July 30, 2018 letter). It uses many of the same arguments that have been presented since May, mainly that:

1) the requested uses and SU-1 zoning exist nearby on other properties and therefore should be given to the subject site (see attachment- p. 2-3, 11-12 of applicant's letter);
2) the subject site's history supports justification of the requested zoning today (see attachment- p. 1, 8 and 12; and
3) the request is consistent with what neighbors have indicated they support (see attachment- p. 1, 2, 6 and 15).

Two additional arguments were added during the deferral period:

4) the Comprehensive Plan elevates the MRA Plan above the Sector Plan (see attachment- p. 3, 4, 9-10; and
5) the change from one commercial use to another commercial use is not major and would only require a modest change to justify the zoning (see attachment- p.7).

These arguments are not directly relevant to the criteria and requirements of R270-1980, which the applicant has failed to adequately address.

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 (Zoning Code §14-16-3-4), and existing zoning (the SU-2/S-R zone) please refer to p. 5 – 6 of the original, May 2018 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. The District Court (Kilmer v. City of Albuquerque, CV-2009-07499) upheld the City's conclusions with respect to R270-1980 (see attachments).

Current Zoning
The subject site is zoned SU-2/S-R (Sawmill Residential) pursuant to the SWPSDP, which was adopted by the City Council in 1996, under the former zoning system. This is indicated on the City's official zone map, which is shown on the GIS system and is publically available at: http://coagisintra.coa.cabq.lcl/Html5ViewerGeo491/index.html?viewer=Zoning_Viewer.Zoning_Advanced_Map_Viewer_v20

The applicant repeatedly convolutes zoning and land use throughout the October 25, 2018 justification letter (ex. "zoning of flower shop/nursery", p. 1 and SU-2/SU-1 use, p. 10). Zoning and land use are related concepts, but they are not the same thing and should not be used interchangeably or imprecisely.

Requested Zoning
The applicant has changed the requested zoning several times. For example, in the July timeframe the request was for the following 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" " (July 3, 2018 letter). The applicant changed the requested zoning to "SU-2/SU-1 for Flower shop/Plant Nursery, Office" (July 30, 2018 letter).

The currently requested zoning is "SU-2/SU-1 for a combined permissive use of Office with Beauty Salon and/or Barber Shop and then Off-Street Parking as a permissive acessory use" (see p. 4 of the applicant's justification letter and letter to Code Enforcement. The requested zoning of SU-2/SU-1 combined use of the Property for Office and Beauty Salon/Barber Shop, mentioned on p. 6 of applicant's justification, appears to be inconsistent. The applicant did not consult with Planning Staff regarding the current zoning request.

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 zone requires an associated site development plan [§14-16-2-22(A)(6)].

> 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."

A beauty shop and a barber shop are permissive use in the O-1 zone (see §14-16-2-15(A)(2), so there is no need to specify it in the requested zoning descriptor. The applicant did not consult with Planning Staff regarding the current zoning request.

Zoning & the SWPSDP
In 1996, the SWPSDP purposefully re-zoned many properties in the Plan area, including the subject site (see the Sawmill/Wells Park Zoning Map). The subject site was zoned SU-2/S-R (Sawmill Residential). In 1996, when the Plan was adopted, Gray's Flower shop operated on the subject site, which was previously zoned SU-1 for Flower Shop and Nursery. The nursery use had ceased decades prior and the flower shop closed in approximately October 2002. These previous

land uses are not in dispute. The SU-1 zoning remained in place until the City Council adopted the SWPSDP in 1996, when the SU-1 zoning was superseded by SU-2/SR zoning.

Regulation A.5 of the SWPSDP (p. 99) states that new non-residential uses must 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" in the Plan:

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 use that immediately preceded any current use of the subject site was Gray's Flower Shop. A new non-residential use would have to be equally or more restrictive than a flower shop use and comply with the conditions in A.5.a-A.5.e, to be permissive in the SU-2/SR zone (p. 6, Kilmer vs. City of Albuquerque and City Council, CV-2009-07499).

The Code Enforcement Division, which is responsible for interpreting the Zoning Code, has determined that the requested non-residential uses are not equally or more restrictive than a flower shop use. Therefore, a zone change is needed to allow them.

Section A.5 is part of the SU-2/S-R zone, which is the subject site's current zoning. The intent is to limit new non-residential uses in the SWPSDP area on properties that the Plan zoned SU-2/S-R. What is allowed permissively is defined by the "equally or more restrictive" test, which purposefully results in few uses and uses that clearly match (and therefore are compatible) with uses that had existed in the past. Furthermore, the last provision of Section A.5 states that if a non-residential use turns into a residential use, non-residential uses may not be re-established. The SWPSDP gives clear direction, via the zoning it established, that the intent and preference is that properties zoned SU-2/S-R return to residential use (p. 7, Kilmer vs. City of Albuquerque and City Council, CV-2009-07499).

→ Please also refer to the original May 10, 2018 Staff report, p. 5-7 for a detailed explanation of Regulation A.5, keeping in mind that the requested zoning at that time differed from the requested zoning now.

The Integrated Development Ordinance (IDO)

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 the IDO's effective date, two significant things happened that relate to the request: 1) the subject site's zoning of SU-2/S-R converted to R-1A; and 2) the SWPSDP was rescinded (see Council Bill No. R-17-213).

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 in the IDO 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 requested zoning correspond to the following IDO zones:

- Office is defined use first permissive in the MX-T (Mixed-Use Transition) zone, which approximates the O-1 zone.
- Beauty Shop and Barber Shop fall under the category Personal and Business Services, Small (less than 10,000 sf). Personal and Business Services are a defined use, separate from office uses, and are first permissive in the MX-T (Mixed-Use Transition) zone.

  Personal Business Services include bail bond providers, beauty and barber shops, shoe repair, tailor/alterations shops, tattoo parlors, taxidermy services, electronic data processing, and employment service; mailing, addressing, stenographic services; and specialty business service such as travel bureau, news service, exporter, importer, interpreter, appraiser, and film library.

III. ANALYSIS -ADOPTED ORDINANCES, PLANS, AND POLICIES

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

The references listed below are those provided by the applicant in the zone change justification letter dated October 25, 2018 (see attachment). Staff does not provide analysis or additional citations other than what the applicant provides because, pursuant to Section B of R270-1980, the burden is on the applicant to show why the requested zone change should be made.

The applicant did not include complete or sufficient citations of applicable Goals and policies in the justification letter, followed by an explanation of how the request furthers each. Rather, the applicant refers to policies and text citations by referencing the page number and quoting select portions. The applicant also included a discussion of enabling legislation focusing on the City's plan ranking system, and the Sawmill/Wells Park Metropolitan Redevelopment Area (MRA) Plan, which is non-regulatory.

Comprehensive Plan
p. 3-8 text reference from the narrative
p. 4-4 text reference from the narrative
p. 4-5 text reference from the narrative
Community Identity Goal 4.1.2.1
p. 4-12 text reference from the narrative
Policy 4.1.2
Policy 4.2.2
Land Use Goals- p. 5-16

Appendix J

2005 MRA Plan- p. 6, 19, 21
Legislation adopting the 2017 Comprehensive Plan

Sawmill/Wells Park Sector Development Plan (SWPSDP)
p. 76- text reference from the narrative of the SWPSDP
p. 78- text reference from the narrative of the SWPSDP
p. 15 and 33- text reference from the narrative of the SWPSDP
p. 78- text reference from the narrative of the SWPSDP
p. 75- text reference from the narrative of the SWPSDP

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). A new version of the SWPSDP was adopted in 1996 (Enactment No.128-2002- the 1996 Plan) and superseded the 1978 Plan. The 1996 Plan re-zoned several properties in the SWP area, including the subject site.

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

» Please refer to Section II of this fifth supplemental Staff report and to p. 10-11 of the original Staff report (see attachment).

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

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

In the October 25, 2018 justification letter, the applicant refers to the Sawmill/Wells Park Community Metropolitan Redevelopment Area (SWPMRA) Plan multiple times, and for two purposes: to contend that the MRA Plan over-rides the sector plan (the SWPSDP), and to use portions of the SWPMRA Plan as part of the policy discussion required pursuant to R270-1980.

The Metropolitan Redevelopment Code (the "MR Code"), which provides the authority to create and adopt Metropolitan Redevelopment Plans, is a State of New Mexico statute (3-60A-1 NMSA 1978- Metropolitan Redevelopment). The MR Code requires that public monies spent for metropolitan redevelopment projects must have a public purpose and benefit. Metropolitan redevelopment projects are undertaken as part of a public-private partnership for the improvement of an area and can include items such as sidewalk repair, fire hydrants, etc.—not for the benefit of an individual property owner (3-60A-2-C).

The MR Plan does not apply to the request because the subject site is not a metropolitan redevelopment site and there is no public-private partnership with the City. Furthermore, the City's Metropolitan Redevelopment Agency cannot enter into a public-private partnership until there is a development agreement signed by the CAO of the City.

Even if it did apply, the MR Plan does not over-ride the SWPSDP. The role of MR Plans is not regulatory and they do not establish zoning. Sector plans that establish zoning, such as the SWPSDP, are regulatory. Also, the Comprehensive Plan is a Rank I Plan. Upon its adoption in 2016, the sector plan policies were integrated into it. The MR Plans and facility plans were not. Upon adoption of the IDO (after this application was filed), the sector plans were rescinded but their policy language is reflected as part of the Rank I Comprehensive Plan. MR Plans are Rank III plans. They can inform the discussion, but they do not over-ride sector plans.

Information regarding the City's Metropolitan Redevelopment Agency is available here: http://www.cabq.gov/planning/metropolitan-redevelopment-agency

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 policies and criteria 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.

Introduction

The subject site is currently zoned SU-2/S-R (Sawmill Residential) pursuant to the SWPSDP. It is not zoned: SU-2/SU-1, in the S-R Area, for the use of Flower Shop/Nursery; (p. 4 of the October 25, 2018 letter) or Flower Shop/Nursery (p. 5) as the applicant claims.

A change of zone would constitute an amendment to the Sawmill/Wells Park Sector Development Plan (SWPSDP). The requested zoning is either "SU-2/SU-1 for a combined permissive use of Office with Beauty Salon and/or Barber Shop" (see attachment- p. 1 of the October 25, 2018 letter) or "SU-2/SU-1 combined use of the Property for Office and Beauty Salon/Barber Shop and then Off-Street Parking as a permissive acessory use" (see attachment- the October 12, 2018 letter to the Code Enforcement Division).

Background

Prior 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 justification. In addition, the original Staff report (for the

May 10, 2018 hearing) contains a discussion of the applicant's justification and a full analysis of the applicant's April 26, 2018 justification letter.

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 still needed to strengthen the zone change justification.

Staff issued the fourth deficiency memo, dated June 27, 2018, in response to the applicant's June 25, 2018 justification letter. The applicant responded by providing the July 3, 2018 letter. A full analysis of the July 3, 2018 letter is included in the first Supplemental Staff report. The second supplemental Staff report contains a full analysis of the applicant's July 30, 2018 letter. Staff reports are publically available to inform the writing of any subsequent justification letters.

The applicant hired an agent, who submitted a revised justification letter dated October 10, 2018. Staff issued the fifth deficiency memo, dated October 12, 2018 (see attachment). In response, the applicant provided a revised justification letter, dated October 25, 2018.

Justification & Analysis

The zone change justification letter analyzed here, received October 25, 2018, was submitted by the applicant during the 60-day deferral period (see attachment). The applicant believes that the proposed sector development plan map amendment (zone change) conforms to R270-1980 as elaborated below.

The following analysis discusses specifics regarding the applicant's responses to Sections A through J of R270-1980. Since the same arguments are repeated several times in the justification, and because many do not fit within a criterion of R270-1980, Staff will discuss them individually and explain why they are not applicable and do not 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 Rezoning Meets Section A of Resolution 270-1980: It is Consistent with Health, Safety, Morals, and General Welfare of the City.

There is nothing about the requested use of office and personal grooming services that is unhealthy, unsafe, immoral, or contrary to the general welfare of the City. To the contrary, the use of personal grooming services, that is a beauty shop and/or barber shop support both individual and community well-being, directed towards human interaction and community interaction as such services are inherently local and have historically been communal in nature. The proposed uses will provide local services and employment conveniently located in a mixed-use part of the neighborhood. As well, as discussed in Section 3 of this Part B

incorporated by reference herein, the rezoning will clearly facilitate realization of the 2017 Comprehensive Plan, the 2005 MRA Plan, and the 1996 Sector Plan.

Staff: The standard, established 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 Comprehensive Plan and the SWPSDP), and to reference this discussion in the response to Section A. The applicant has done this and has used the language applicable for a change to an SU-1 zone, but has not demonstrated that the request clearly facilitates realization of applicable Goals and policies in the response to Section C. Therefore, the applicant has not demonstrated that the request is consistent with the City's health, safety, morals, and general welfare. 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 (in sum):
The Rezoning Meets Section B of Resolution 270-1980: The Rezoning, which Allows the Property to Remain Commercial but at a Lower Intensity, Supports Stability of Land Use and Zoning.

The Property has been commercial since 1969 and maintaining a commercial use will maintain the stability of the zoning on the Property. There is already commercial use to the south and the northwest of the Property. As set forth in Sections I and III, the MRA Plan was adopted by the City after the 1996 Sector Plan and the City has mandated adherence to the MRA Plan, which identified the need for businesses in the area that would service the neighborhood as well as offer office space, and specifically targeted 5th St., 6th St. and Mountain Rds. to allow broader development to include neighborhood-serving retail, office and residential, showing that the 2005 MRA Plan considers neighborhood-serving business compatible with Wells Park.

The Property is already zoned for commercial use as a permissive use under the Sector Plan. As such, the change from one commercial use to another commercial use is not major, especially in this case when the requested uses are less intense and would only require a modest change to justify the rezoning.

The change from flower shop/nursery is more advantageous to the community because Office and Beauty Shop/Barber Shop is less intense and because the requested uses involve a service component that is strictly local in nature.

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

The building on the subject site has existed for many years, but the majority of the subject site is vacant. The use immediately preceding the existing SU-2/SR zoning, a flower shop,

closed in approximately 2002. The nursery use ceased in the 1970s. The 1996 SWPSDP allowed the flower shop to continue. The applicant purchased the property in 2008, several years after the flower shop closed and decades after the nursery had closed, so therefore cannot claim that these uses are continuing. It appears that the applicant re-started the flower shop operations in 2009.

Even if the uses were continuing, the argument is not that important because the focus of a zone change justification is on the zoning requested on the subject site—not on nearby commercial uses (note: the use to the south is an office use), and not on the perceived size of the zone change ("not major", "modest").

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 References:
Comprehensive Plan
p. 3-8 text reference from the narrative
p. 4-4 text reference from the narrative
p. 4-5 text reference from the narrative
Community Identity Goal 4.1.2.1
p. 4-12 text reference from the narrative
Policy 4.1.2
Policy 4.2.2
Land Use Goals- p. 5-26
Appendix J

2005 MRA Plan- p. 6, 19, 21
Legislation adopting the 2017 Comprehensive Plan

Sawmill/Wells Park Sector Development Plan (SWPSDP)
p. 76- text reference from the narrative of the SWPSDP
p. 78- text reference from the narrative of the SWPSDP
p. 15 and 33- text reference from the narrative of the SWPSDP
p. 78- text reference from the narrative of the SWPSDP
p. 75- text reference from the narrative of the SWPSDP

Staff's Response: One of the applicant's Comprehensive Plan citations is relevant- Policy 4.1.2-Identity and Design. The references to text excerpts from the Comprehensive Plan narrative are not applicable for a policy analysis; the relevant text of policy documents is

embodied in the Goals and policies. The same is true of references to text excerpts from the SWPSDP and the MRA Plan.

Applicant (in sum):
The Rezoning Meets Sections C of Resolution 270-1980: There is No Significant Conflict with the Comprehensive Plan or Other City Master Plans and Amendments Thereto.

The changes in use will clearly facilitate the goals set forth in the applicable plans. The 2017 Comprehensive Plan designates the 2005 MRA Plan as the controlling plan. The 2005 MRA Plan identifies the need for businesses in the area. The 1996 Sector Plan allows new uses and states that success depends on a healthy integration of businesses and housing. The goal of the 2017 Comprehensive Plan, the 1996 Sector Plan, and the 2005 MRA Plan regarding Wells Parks is, in part, to revitalize Wells Park into a vibrant and walkable community with neighborhood services. The rezoning meets the guiding principles of the 2017 Comprehensive Plan, supporting the local economy of Wells Park, and provides health-related services in the form of personal grooming services. See 2017 Comprehensive Plan at 3-8. Granting the Application would enhance the neighborhood, not detract from it. Obtaining neighborhood input in the process, which was done in connection with a neighborhood facilitation meeting also meets the goal of the 2017 Comprehensive Plan regarding Community Identity.

The 2005 MRA Plan specifically addresses the need for local businesses in the area where the Property is located and the 2017 Comprehensive Plan directs developers to the 2005 MRA Plan when contemplating redevelopment in the Wells Park area. The 2017 Comprehensive Plan elevates the 2005 MRA Plan above the 1996 Sector Plan by requiring that development "must" follow the 2005 MRA. Not only does the 2005 MRA Plan support the granting of the Application, so does the legislation adopting the 2017 Comprehensive Plan.

The concern of the 1996 Sector Plan was not the few businesses interspersed in the residential area; instead, the community sought to restrict the impact of pollution from intense uses.

In fact, the Application in this case is more consistent with the 1996 Sector Plan than the application for Lots 19 and 20 of the "sister" property at 1412 6th Street SW, just south of the Property, that met with EPC approval in 2006. This Application is in sharp contrast to the application that was filed for the "sister" property.

The Planning Department's initial reasons for its recommendation to modify the original zone request in 1969 from C-1 to SU-1 do not bar today's approval of the Application. While the Planning Department's initial reasons are not in themselves an applicable City plan, ordinance, or policy, we nonetheless address such initial reasons. If the Application complies with R-270-1980, which we make the case here today that it does, then the Planning Department's reasons for the original approval, mainly compatibility with the area, are satisfied. As stated herein, the Applicant is not requesting a more intense use, but a less intense use of the Property that compellingly meets the requirements of all of the applicable ordinances, plans and policies.

Staff:
Because the request is for an SU-1 zone, the higher standard of "clearly facilitates" found in Section I applies rather than the "no significant conflict" test. 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 2017 Comprehensive Plan does not designate the 2005 MRA Plan as the controlling plan; even if it did, the applicant did not include a discussion of applicable Goals and policies. Standard, established practice is to not include MR Plans in planning policy analysis (unless there are applicable policies that go beyond projects that are public-private partnerships subject to an executed development agreement). Legislation adopting the Comprehensive Plan contains Goals and policies relevant to the adoption of the 2017 Comprehensive Plan when that case went through the EPC process, but this does not transfer to other, site-specific cases. The adopted Goals and policies of the 2017 Comprehensive Plan apply to site-specific requests.

The overarching Goal of the SWPSDP (1996) was to return the area that the Plan had zoned SU-2/S-R to residential use as shown on the Sawmill/Wells Park Sector Plan Zoning Map (p. 81-82). The applicant's statement regarding pollution and industrial uses applies to the S-I Sawmill Industrial zone and the Actions to attract more non-polluting businesses to the area (p. 3), not to the subject site or the adjacent properties.

As was the case in 2009, Staff finds a significant conflict with the SWPSDP. The justification does not demonstrate that the request clearly facilitates 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 Section II of this report).

Also, the requested zone change also 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 zoned SU-2/S-R (Sawmill Residential) upon the Plan's adoption in 1996, and supported by a regulatory framework to facilitate this. Zoning regulations are a critical component of the SWSDP to implement the Plan's intent of reinforcing community stability, vitality, and character. 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 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 zone change case for the property to the south is irrelevant to the request to re-zone the subject site. R270-1980 is applied to the property for which the change is requested. Also irrelevant are the reasons for the 1969 approval of a zone change on the subject site. The SU-1 for Flower Shop and Nursery zoning was replaced in 1996 by SU-2/S-R zoning. Trying to create a connection between a 50 year old zoning approval and the current request, and any of the other tangential arguments, does not substitute for the required policy justification and analysis.

Therefore, the applicant has not adequately demonstrated that the request clearly facilitates applicable Goals and policies in the Comprehensive Plan and the SWPSDP. The response to Section C is insufficient to meet this criterion.

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 Rezoning Meets Section D of Resolution 270-1980: Changed Neighborhood or Community Conditions and Advantage to the Community Justify the Rezoning.

First, the applicable City plans have changed since the initial zoning. As discussed above in Section 3, the 2017 Comprehensive Plan and the 2005 MRA Plan, which both address the blighted community and the need for local services, were not in place at the time of the initial zoning.

Second, there have been significant changes in the surrounding land uses and surrounding zoning. As set forth in ***Part A,*** *incorporated by reference herein, the use to the south has changed to commercial, the use to the east is now zoned for work/live, and the use to the northwest is commercial.*

Third, the proposed uses are advantageous to the community as they are specific to the efforts of the community to establish community resources in terms of office space. While the office component meets the need for community-scale business activity, the inclusion of a beauty salon/barber shop fosters a communal spirit in what has been historically a meeting place for the community as well as the type of business that fosters the well-being of the individual members of the community. The new uses are more advantageous than the current use of Flower Shop/Nursery because they meet the community's stated need for a less intense use and fulfill the need for local services. Typically, the Nursery use is seasonal and can be satisfied by larger commercial establishments providing more in terms of variety and price, whereas the need for grooming services and office space is constant.

Staff: The applicant does not choose just one of the reasons (1, 2, <u>or</u> 3) and elaborate a response, but instead refers to all of them. It appears that the "first" response corresponds to an alleged error in the zone map pattern. The argument that applicable Plans have changed since the "initial zoning" is not relevant because any such plans have been superseded by City Council actions and no longer apply. This does not constitute an error.

The "second" response: the existence of similar land uses in the area does not mean that the requested zoning on the subject site is more advantageous to the community. The zoning of the property to the south allows office uses, not commercial uses. The zoning cited with this

request needs to reflect the zoning prior to adoption of the IDO, since the application was submitted before the effective date of the IDO.

The "third" response: 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 is advantageous to the community. 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 of the SWPSDP.

The applicant has not adequately demonstrated 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. 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 Rezoning Meets Section E of Resolution 270-1980: The Permissive Uses in the Zone Would Not Be Harmful to Adjacent Property, the Neighborhood, or the Community.

Under Section E of R-270-1980, 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. None of the permissive uses requested for the Property, that is office use and a beauty shop/barber shop, would be harmful to the adjacent properties, the neighborhood, or the community. As stated above, office space was already approved for the "sister" property to the south and such property is now zoned MX-T, which allows for office, beauty shop, and barber shop. The neighborhood has endorsed the change from the more intense nursery zoning to the lesser intense use. Although this Application predates the IDO, if the rezoning converts to MX-T, the City has already made the determination that the MX-T uses are not harmful to adjacent property, the neighborhood, or the community. Further, the rezoning in this case is consistent with the applicable plans as set forth in Section 3 above.

Staff: The test in Section E is whether or not any of the uses in the requested zone would be harmful to adjacent property, the neighborhood, or the community. The questions raised are: what uses would the requested 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 contends that none of the permissive uses (office, beauty salon, barber shop) would be harmful to adjacent property, the neighborhood, or the community, but does not

explain why other than to refer to other properties and that the neighbors have "endorsed" it. The test applies to zoning on the subject site, not to other sites in the Plan area, and is not transferable to other properties, such as the property to the south.

Though generally the MX-T zone in the IDO is not considered harmful, the applicant does not specifically address each proposed use (office, beauty salon, barber shop) and how each use would convert under the IDO. These uses are all allowed in the MX-T zone. The beauty salon and barber shop fall under the definition of Personal Business Services, Small—which includes a variety of uses and some might be considered harmful in the subject site's setting. However, discussion of the MX-T zone is not applicable because this request is not being considered pursuant to the regulations and processes of the IDO. 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 Rezoning Meets Section F of Resolution 270-1980: The Rezoning Does Not Require any City Expenditures.

Under Section F of R-270-1980, 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: Section F is not applicable as nothing regarding the proposed uses in the Application require the use of capital funds or capital improvements by the City.

Staff agrees that the requested 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 Rezoning Meets Section G of Resolution 270-1980: The Cost of Land or Other Economic Considerations pertaining to the Applicant Are Not the Determining Factor for a change of Zone.

The determining factor is not the cost of the land or other economic considerations, but is grounded in the changing needs of the community, the change in the zoning of the surrounding area, the need for revitalization of the blighted area, and the fact that the requested uses are more advantageous to the community than the current uses. Meeting the needs of the

community will, however, enhance the Property and its viability as an income producing property.

Staff: Economic considerations are always a factor, but the test in Section G is whether or not they are the determining factor for the requested zone change. The applicant refers to changing community needs, other zone changes in the area, and revitalization, and states that the proposed uses would be more advantageous to the community (though the response to Section D is insufficient).

The subject site is not being used currently and is for sale or lease, as evidenced by the large sign on the corner when Staff visited the site. The blade sign, visible to pedestrians walking north on 6th St., did not have lettering at the time of the site visit (see attachment). 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 under the SU-2/S-R zone (which converted to R-1A). Permissive uses include single-family homes, cluster development, cottage development, duplexes, community center, religious institution, and small community residential program. A school is a conditional use.

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. The response to Section G is insufficient.

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

Applicant:
The Rezoning Meets Section H of Resolution 270-1980: The Applicant is Not Justifying Location on a Collector or Major Street in Itself as Sufficient Justification for the Rezoning.

The fact that the Property is on 6th Street NW is not in itself a justification for approval of the Application. However, it is located on 6th Street NW, a minor arterial street, which is certainly relevant to the discussion of the uses requested in the Application. This is especially true given the 2005 MRA Plan, which targeted 5th St., 6th St. and Mountain Rds. to allow broader development to include neighborhood-serving retail, office and residential, showing that the 2005 MRA Plan considers neighborhood-serving business compatible with Wells Park.

Staff finds that the applicant is not using the subject site's location on 6th St. NW, in itself, as justification for the requested 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 Rezoning Meets Section I of Resolution 270-1980: The Rezoning Will Clearly Facilitate Realization of the Comprehensive Plan and any Applicable Adopted Sector Development Plan or Area Development Plan and Could Function as a Transition Between Adjacent Zones.

We are of the legal opinion that the request in the Application does not constitute a spot zoned if approved. As shown in Part A herein, the Property is already a commercial property and the property to the south is also a commercial property and has been zoned SU-2/SU-1 since 2006 and is currently zoned MX-T. The property to the northwest, a daycare center is being used for commercial purposes as well. Further, under New Mexico law, an SU-1 permit does not constitute spot zoning (and in fact is not considered a "rezoning" under New Mexico law.) See Embudo Canyon Neighborhood Association v. City of Albuquerque, 1998-NMCA-171, 868 P.2d 1190.7.

Similar rezonings have been previously approved by the City in this area for similar uses and held not to constitute a spot zone. However, if it is a "spot zone," then it is a justified "spot zone" as it clearly facilitates the goals and policies in the 2017 Comprehensive Plan, the 1996 Sector Plan, and the 2005 MRA Plan, as discussed in Section 3 herein. As well, it could serve as a transition between adjacent residential properties and nearby commercial properties.

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. Note that SU-1 permits, which the applicant refers to, are issued by the County, not the City. 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 requested 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, if other zone changes have been approved or not, 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 property is not a strip of land along a street and, therefore, there is no strip zoning.

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 requested uses and SU-1 zoning exist nearby on other properties and therefore should be given to the subject site (see attachment- p. 2-3, 11-12 of applicant's letter).

The existence of other SU-1 zoned properties in the SWPSDP area is irrelevant to justifying a zone change on the subject site. First, a zone change justification is specific to a given site. Second, each SU-1 zoned site is unique by definition 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 subject site's history supports justification of the requested zoning today (see attachment- p. 1, 8 and 12.

R270-1980 does not contain a criterion that would allow a historical argument based on a prior approval to be used to justify a zone change request. Therefore, the 1969 zoning decision (Z-69-81), which established zoning on the subject site as SU-1 for Flower Shop and Nursery, is irrelevant. The adoption of the SWPSDP in 1996 superseded this action and established the subject site's current zoning of SU-2/S-R.

Also, the flower shop closed in approximately 2002 and the use ceased—prior to the applicant's purchase of the property in 2008. It appears that maybe the applicant re-started the flower shop operations in 2009 or thereafter. 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 insignificant to the requested zone change, which is for other uses. Even if the uses were continuing, the argument is not that important because the focus of a zone change justification is on the zoning requested on the subject site—not on nearby commercial uses, and not on the perceived size of the zone change.

3) The request is consistent with what neighbors have indicated they support (see attachment- p. 1, 2, 6 and 15).

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. Any neighborhood support should be discussed within the context of applicable policies. There has been no additional neighborhood support or opposition expressed since April.

4) NEW. The Comprehensive Plan elevates the MRA Plan above the Sector Plan (see attachment- p. 3, 4, 9-10).

   The Sawmill/Wells Park Metropolitan Redevelopment Area (MRA) plan does not apply because the subject site is not a metropolitan redevelopment site, there is no public purpose to the request, and a development agreement with the City has not been executed.

   Even if it did apply, the MR Plan does not over-ride the SWPSDP. Though both are Rank III plans, MR Plans are not regulatory and do not establish zoning. Sector plans that establish zoning, such as the SWPSDP, are regulatory. MR Plans can inform the discussion, but they do not over-ride sector plans.

5) NEW. The change from one commercial use to another commercial use is not major and would only require a modest change to justify the zoning (see attachment- p.7).

   R270-1980 does not include a criterion that allows the perceived size or scope of a requested zone change (i.e.- "it's just a little zone change") to be used as justification. All proposed zone changes, no matter how similar or different they are from existing zoning, are required to be justified pursuant to R270-1980.

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 applicant has not provided citations of applicable Goals and policies (each copied verbatim) and has not completed a policy analysis (each Goal and policy's connection with the request explained). Text citations are insufficient. The MR Plan does not over-ride the SWSDP and does not apply to the request; the request does not pertain to a MR project specified under a development agreement for a public purpose.

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. The response to Section I is also insufficient because the applicant has not demonstrated that the request clearly facilitates realization of the 2017 Comprehensive Plan and the SWPSDP. 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 any of the deferral periods.

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

V. AGENCY & NEIGHBORHOOD CONCERNS

No additional comments were received during any of the deferral periods.

» 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 a combined permissive use of Office with Beauty Salon and/or Barber Shop" (maybe with "and then Off-Street Parking as a permissive accessory use").

Staff concludes that the applicant has not adequately justified the requested zone change pursuant to R270-1980. The burden is on the applicant 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 applicant has not provided citations of applicable Goals and policies and has not completed a policy analysis. 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. The response to Section I is also insufficient because the applicant has not demonstrated that the request clearly facilitates realization of the 2017 Comprehensive Plan and the SWPSDP.

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, unless they conform to Regulation A.5 of the SWPSDP.

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 is not aware of any additional neighborhood information during the deferral periods.

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

FINDINGS - 18EPC-40019, November 08, 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 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).

3. The request was deferred from the September 13, 2018 hearing to allow additional time for the applicant determine what zoning to request and to provide a strengthened justification letter pursuant to R270-1980. At the August 9, 2018 hearing, the EPC heard from the applicant regarding the deferral and voted to accept a request for another 30-day deferral. Prior to the August hearing, the request was deferred for 30 days at the July 12, 2018 hearing and for 60 days at the May 10, 2018 hearing.

4. 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 a combined permissive use of Office with Beauty Salon and/or Barber Shop" to allow an office use, a beauty salon, and a barber shop on the subject site.

5. The subject site is available for sale or lease, as indicated by a large sign at the SE corner of 6th St. and Constitution Ave. shown in photos from Staff's site visit of April 26, 2016. It appears that the building is not currently being utilized; the small blade sign that faces pedestrians walking north on 6th St. had no lettering at the time of Staff's site visit.

6. 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.

7. 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.

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

A. Section A: The standard, established 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 Comprehensive Plan and the SWPSDP), and to reference this discussion in the response to Section A. The applicant has done this and has used the language applicable for a change to an SU-1 zone, but has not demonstrated that the request clearly facilitates realization of applicable Goals and policies in the response to Section C. Therefore, the applicant has not demonstrated that the request is consistent with the City's health, safety, morals, and general welfare.

B. Section B: 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 proposed zone change using a policy-based analysis.

The building on the subject site has existed for many years, but the majority of the subject site is vacant. The use immediately preceding the existing SU-2/SR zoning, a flower shop, closed in approximately 2002. The nursery use ceased in the 1970s. The 1996 SWPSDP allowed the flower shop to continue. The applicant purchased the property in 2008, several years after the flower shop closed and decades after the nursery had closed, so therefore cannot claim that that these uses are continuing. It appears that the applicant re-started the flower shop operations in 2009.

Even if the uses were continuing, the argument is not that important because the focus of a zone change justification is on the zoning requested on the subject site—not on nearby commercial uses (note: the use to the south is an office use), and not on the perceived size of the zone change ("not major", "modest").

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.

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 Comprehensive Plan does not designate the 2005 MRA Plan as the controlling plan. MR Plans are not included in planning policy analysis because they apply to projects that are public-private partnerships subject to an executed development agreement.

There is a significant conflict with the SWPSDP. Therefore, the justification does not demonstrate that the request clearly facilitates realization of applicable Plans. The overarching intent of the SWPSDP (1996) is to establish residential uses when non-residential uses cease to operate. This is why the subject site was zoned SU-2/S-R (Sawmill Residential) upon the Plan's adoption in 1996, and supported by a regulatory framework to facilitate this. Zoning regulations are a critical component of the SWSDP to implement the Plan's intent of reinforcing community stability, vitality, and character.

The request conflicts with the regulations the SWPSDP established for the SU-2/S-R (Sawmill Residential) zone, particularly Regulation A.5. The SWPSDP intends to establish residential uses when non-residential uses cease to operate.

The zone change case for the property to the south is irrelevant to the request to re-zone the subject site. R270-1980 is applied to the property for which the change is proposed. Also irrelevant are the reasons for the 1969 approval of a zone change on the subject site. The SU-1 for Flower Shop and Nursery zoning was replaced in 1996 by SU-2/S-R zoning. These arguments do not substitute for the required justification and policy analysis. References to text excerpts from the Comprehensive Plan narrative are not applicable for a policy analysis; the relevant text of the policy documents is embodied in the Goals and policies. The applicant has not adequately demonstrated that the request clearly facilitates applicable Goals and policies in the Comprehensive Plan and the SWPSDP.

D. Section D: The applicant does not choose just one reason (1, 2, or 3), but instead responds to all of them. It appears that the "first" response corresponds to an alleged error in the zone map pattern. The argument that applicable Plans have changed since the "initial zoning" is irrelevant because any such plans have been superseded by City Council actions and no longer apply. This does not constitute an error. The "second" response: the existence of similar land uses in the area does not mean that the requested zoning on the subject site is more advantageous to the community.

The "third" response: 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 is advantageous to the community. 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 of the SWPSDP.

The applicant has not adequately demonstrated 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.

E. Section E: The most effective way to respond Section E 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.

The applicant contends that none of the permissive uses (office, beauty salon, barber shop) would be harmful to adjacent property, the neighborhood, or the community, but does not explain why other than to refer to other properties and that the neighbors have "endorsed" the request. Like the other tests in R270-1980, the test in Section E applies to the subject site, not to other sites in the Plan area, and is not transferable to other properties, such as the property to the south.

Though generally the MX-T zone in the IDO is not considered harmful, the applicant does not specifically address each proposed use (office, beauty salon, barber shop) and how each

use would convert under the IDO. These uses are all allowed in the MX-T zone. The beauty salon and barber shop fall under the definition of Personal Business Services, Small—which includes some uses that might be considered harmful in the subject site's setting. However, discussion of the MX-T zone is not applicable because this request is not being considered pursuant to the regulations and processes of the IDO.

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 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.

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 the subject site's history, whether or not the proposed uses exist in the neighborhood, if other zone changes have been approved or not, or if there is neighborhood support or not.

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.

9. The existence of other SU-1 zoned properties in the SWPSDP area is irrelevant to justifying a zone change on the subject site. First, a zone change justification is specific to a given site. Second, each SU-1 zoned site is unique by definition because it is tied to a site development plan for a particular site pursuant to Zoning Code §14-16-2-22(A)(1).

10. R270-1980 does not contain a criterion that would allow a historical argument based on a prior approval to be used to justify a zone change request. Therefore, the 1969 zoning decision (Z-69-81), which established zoning on the subject site as SU-1 for Flower Shop and Nursery, is irrelevant. The adoption of the SWPSDP in 1996 superseded this action and established the subject site's current zoning of SU-2/S-R.

11. The flower shop closed in approximately 2002 and the use ceased—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 currently operating a flower shop, for which he has obtained a

business license, is insignificant to the proposed zone change to SU-2/SU-1 a combined permissive use of Office with Beauty Salon and/or Barber Shop.

12. 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. Any neighborhood support should be discussed within the context of applicable policies. There has been no additional neighborhood support or opposition expressed since April.

13. The Sawmill/Wells Park Metropolitan Redevelopment Area (MRA) plan does not apply because the subject site is not a metropolitan redevelopment site, there is no public purpose to the request, and a development agreement with the City has not been executed.

    Even if it did apply, the MR Plan does not over-ride the SWPSDP. Though both are Rank III plans, MR Plans are not regulatory and do not establish zoning. Sector plans that establish zoning, such as the SWPSDP, are regulatory. MR Plans can inform the discussion, but they do not over-ride sector plans.

14. R270-1980 does not include a criterion that allows the perceived size or scope of a proposed zone change (i.e.- "it's just a little zone change") to be used as justification. All proposed zone changes, no matter how similar or different they are from existing zoning, are required to be justified pursuant to R270-1980.

15. 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 burden is on the application to justify the zone change pursuant to Section B.

    The applicant has not provided citations of applicable Goals and policies and has not completed a policy analysis. Text citations are insufficient. The MR Plan does not over-ride the SWSDP and does 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.

16. The proposed zone change creates a significant conflict with the overarching intent of the SWSDP to establish residential uses when 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).

17. The affected neighborhood organizations are the Wells Park Neighborhood Association (WPNA) 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.

18. 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.

19. 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, November 08, 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, November 08, 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 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).

3. The request was deferred from the September 13, 2018 hearing to allow additional time for the applicant determine what zoning to request and to provide a strengthened justification letter pursuant to R270-1980. At the August 9, 2018 hearing, the EPC heard from the applicant regarding the deferral and voted to accept a request for another 30-day deferral. Prior to the August hearing, the request was deferred for 30 days at the July 12, 2018 hearing and for 60 days at the May 10, 2018 hearing.

4. The subject site is available for sale or lease, as indicated by a large sign at the SE corner of 6th St. and Constitution Ave. shown in photos from Staff's site visit of April 26, 2016. It appears

that the building is not currently being utilized; the small blade sign that faces pedestrians walking north on 6th St. had no lettering at the time of Staff's site visit.

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. 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, November 08, 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

Notice of Decision 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
Catherine Mexal, cmexal@gmail.com

HISTORY

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

September 13, 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 September 13, 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 60 days based on the following Findings:

FINDINGS:

1. The request is for a sector development plan map amendment (zone change) to the 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. & Constitution Ave.

2. At the August 9, 2018 hearing, the EPC heard from the applicant and decided to accept a request for another 30-day deferral.

3. The applicant has hired an agent.

4. A 60-day deferral to the November 8, 2018 hearing is needed to allow sufficient time to determine what zoning to request and to provide a strengthened justification letter pursuant to R270-1980.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **SEPTEMBER 28, 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
Stephanie Landry, Landry & Ludewig, LLP, 300 10th St. SW, 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

STAFF INFORMATION

October 12, 2018

TO:	Stephanie Landry, Landry & Ludewig, L.L.P.
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 received a re-written zone change justification on October 10, 2018. I reviewed it and have the following comments as Deficiency Memo #5.

Please provide the following:

⇒ A revised zone change justification letter pursuant to R270-1980 (one copy, black and white) by October 19, 2018 at 12 pm.

Note: If you have difficulty with this deadline, please let me know.

Note: Please refer to Deficiency Memos #1 through #4. Many of the items discussed and requested have been mentioned previously.

1) Staff Reports:

A. The Second Supplemental Staff report (and prior Staff reports), prepared for the August 9, 2018 hearing, contain a full analysis of the zone change request, including a discussion of relevant topics and a step-by-step guide to R270-1980.

B. Please review the above-mentioned reports to inform the re-written justification letter. Pursuant to Section B of R270-1980, the burden is on the applicant to provide a sound justification for the change.

2) Zoning:

A. The subject site's current zoning is listed incorrectly in the justification letter. Zoning can be queried using the City's publically-available GIS system: http://www.cabq.gov/gis/advanced-map-viewer .

B. It appears that the zoning requested is SU-2/SU-1 for Office and Beauty Salon/Barber Shop (see p. 1 and p. 6 of the October 20, 2018 draft). Off-street parking does not need to be included in a zoning descriptor.

3) Established Practice regarding Justification Letters:

A. Zone change justification letters typically consist of two parts: an introduction and a response to the requirements of R270-1980, either together or separately.

B. Many examples of successful zone change justification letters are available online at: www.cabq.gov/planning, Boards and Commissions, EPC, Staff reports (which also contain attachments).

C. The October 10, 2018 draft justification letter largely repeats what is already in the record. The following sections are not needed: II. Area Characteristics and IV. Neighborhood Support

D. Regarding the attachments: if it is not new information, it does not need to be included again. For instance, the attachments listed under "Ordinances, Plans, and Policies" are unnecessary because that information is incorporated by reference and made part of the record.

   Furthermore, "Documents Regarding Surrounding Properties" is not needed. The R270-1980 justification pertains only to the subject site and the request at hand.

E. Regarding the attachments for 1416 6th St., please check the record that has already been established and not provide information that is already in the record. This will make the record cleaner and more manageable.

4) Zone Map Amendment (zone change)- Section by Section:

Please address and incorporate the following to provide a strengthened response to R270-1980.

Note: Most comments are the same as comments made in response to prior draft justification letters.

A. Section A (strengthen): 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. This has not been adequately done 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 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 reorganize):
   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 applicable Goals and policies is needed.

   It appears that Section III regarding applicable ordinances, plans, and policies is intended to be the policy analysis. Please put Section III of the letter under Section C of R270-1980.

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. The applicant is required to demonstrate that a different zoning category would be more advantageous to the community than the current zoning, because the request clearly facilitates realization of applicable plans.

   Justification of a zone change is site specific and is not dependent upon other land uses in the larger community. The "they can have that use so why can't I" argument 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 the permissive uses in the proposed zone and discuss whether or not each would be harmful to

adjacent property, the neighborhood, or the community. Each permissive use would have the potential to develop on the subject site.

F. Section F: OK

G. Section G: The applicant wants to add additional commercial uses to the property in order to market it to commercial businesses or tenants, which is the determining factor for the change of zone, especially since the property could be utilized under the current zoning and/or redeveloped. The response to Section G is sufficient, but 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 refer to prior Staff reports for information regarding what is considered a "spot zone".

J. Section J: OK

Note: These pictures are already included in the record (see the original May 10, 2018 Staff report). They are repeated here for clarity.

Figure 2: Looking south, from the intersection of Constitution Ave. and 6th St. NW. The sign on the corner says For Sale or Lease.

Figure 5: Looking south, from the sidewalk on 6th St. NW, at the building's southern elevation. The small blade sign on the front of the building does not have any lettering.

CORRESPONDENCE

Lehner, Catalina L.

From: Melissa Parra Wilcox <mpwilcox@lanlud.com>
Sent: Thursday, October 25, 2018 7:10 PM
To: Lehner, Catalina L.
Subject: RE: Kilmer at 1416 6th Street NW - Project #1007648 - Final Submittal

Dear Catalina,

Ms. Landry respectfully disagrees that you have responded to the question of whether you are currently taking the position that there is no flower shop/nursery zoning for the subject property at the time of Mr. Kilmer's application and, if so, the basis therefore.

In any event, Mr. Kilmer hand-delivered the final of the submission with attachments to your office this afternoon. Please note that there are some changes from the draft we provided to you yesterday. Additionally, please let us know if you want a pdf version of the submission and the attachments thereto.

Melissa Parra Wilcox
Paralegal to Stephanie Landry, Margaret Ludewig
and Glenn R. Smith
Landry & Ludewig, L.L.P.
300 10th Street SW
Albuquerque, New Mexico 87102
505/243-6100
mpwilcox@lanlud.com

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From: Melissa Parra Wilcox [mailto:mpwilcox@lanlud.com]
Sent: Wednesday, October 24, 2018 4:48 PM
To: clehner@cabq.gov
Subject: Kilmer at 1416 6th Street NW - Project #1007648 - Question Re Submittal and Further Revised Draft Submittal

Dear Catalina,

In order to finalize our submission on Mr. Kilmer's behalf, we are still waiting for a response to our emails of October 16th and 17th and Ms. Landry's letter of October 19, 2018. Therein, because you had indicated in your memo dated October 12th that our current zoning reference in the draft submittal was incorrect, we asked you whether you were still taking the position that currently for the subject property (meaning as of the date of Mr. Kilmer's pre-IDO application) there is no flower shop/nursery zoning or flower shop zoning for the property.

We needed to know because, as Ms. Landry stated in her October 19th letter, this is a very important issue that must be addressed in the submittal. If there is no issue regarding the matter, that is, if you agree

that the property is zoned as of the date of the application SU-2/SU-1 as a permissive use in the S-R zone for Flower Shop/Nursery, then we need to know so we can dispense with that issue in the submittal.

Without the answer from you to the question posed by Ms. Landry, we are not able to finalize the submittal. In order to assist you with your review, we attach the latest draft which is in near final form as we can get without knowing the answer to the question regarding the current zoning as of the date of Mr. Kilmer's pre-IDO application.

We are ready to finalize the submittal for delivery tomorrow (which is the date you originally requested its submission) when you have provided to us the answer to the question regarding the current zoning. If we cannot obtain the answer to our question, then a deferral may be in order because it appears counterproductive to expound at length about the current zoning in the submittal if there is no need to do so and is a diversion from the issues before the EPC.

In the attached draft, Ms. Landry sought to address all of your comments. If, however, we misinterpreted your comments or did not fully address them, please let us know so we can address your concerns in the final product.

Thank you for your continued assistance in this matter.

Melissa Parra Wilcox

Paralegal to Stephanie Landry, Margaret Ludewig
and Glenn R. Smith
Landry & Ludewig, L.L.P.
300 10th Street SW
Albuquerque, New Mexico 87102
505/243-6100
mpwilcox@lanlud.com

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

Lehner, Catalina L.

From: Lehner, Catalina L.
Sent: Wednesday, October 24, 2018 5:46 PM
To: 'Melissa Parra Wilcox'
Subject: RE: Kilmer at 1416 6th Street NW - Project #1007648 - Question Re Submittal and Further Revised Draft Submittal

Hi Melissa,

I responded to the October 17th email, as quoted by Ms. Landry's in her October 19th letter. My response remains the same.
I can review the October 24th justification letter for the Staff report. Thank you.

-Catalina

From: Melissa Parra Wilcox [mailto:mpwilcox@lanlud.com]
Sent: Wednesday, October 24, 2018 4:48 PM
To: Lehner, Catalina L.
Subject: Kilmer at 1416 6th Street NW - Project #1007648 - Question Re Submittal and Further Revised Draft Submittal

Dear Catalina,

In order to finalize our submission on Mr. Kilmer's behalf, we are still waiting for a response to our emails of October 16th and 17th and Ms. Landry's letter of October 19, 2018. Therein, because you had indicated in your memo dated October 12th that our current zoning reference in the draft submittal was incorrect, we asked you whether you were still taking the position that currently for the subject property (meaning as of the date of Mr. Kilmer's pre-IDO application) there is no flower shop/nursery zoning or flower shop zoning for the property.

We needed to know because, as Ms. Landry stated in her October 19th letter, this is a very important issue that must be addressed in the submittal. If there is no issue regarding the matter, that is, if you agree that the property is zoned as of the date of the application SU-2/SU-1 as a permissive use in the S-R zone for Flower Shop/Nursery, then we need to know so we can dispense with that issue in the submittal.

Without the answer from you to the question posed by Ms. Landry, we are not able to finalize the submittal. In order to assist you with your review, we attach the latest draft which is in near final form as we can get without knowing the answer to the question regarding the current zoning as of the date of Mr. Kilmer's pre-IDO application.

We are ready to finalize the submittal for delivery tomorrow (which is the date you originally requested its submission) when you have provided to us the answer to the question regarding the current zoning. If we cannot obtain the answer to our question, then a deferral may be in order because it appears counterproductive to expound at length about the current zoning in the submittal if there is no need to do so and is a diversion from the issues before the EPC.

In the attached draft, Ms. Landry sought to address all of your comments. If, however, we misinterpreted your comments or did not fully address them, please let us know so we can address your concerns in the final product.

Thank you for your continued assistance in this matter.

Melissa Parra Wilcox
Paralegal to Stephanie Landry, Margaret Ludewig
and Glenn R. Smith
Landry & Ludewig, L.L.P.
300 10th Street SW
Albuquerque, New Mexico 87102
505/243-6100
mpwilcox@lanlud.com

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

Lehner, Catalina L.

From: Small, Carina E.
Sent: Wednesday, October 24, 2018 11:19 AM
To: Melissa Parra Wilcox; Planning Code Enforcement
Cc: Lehner, Catalina L.
Subject: RE: Letter of Today's Date Regarding 18EPC-40019 and 18EPC-40021

Thank you for contacting our department, but unfortunately this is the wrong department for this issue. All zone changes need to go through the EPC Board which I have been told that you have already contacted them about this matter.

For all inquiries about the situation please reach out to them for more information and further assistance.

Thank you,
Code Enforcement

From: Melissa Parra Wilcox [mailto:mpwilcox@lanlud.com]
Sent: Wednesday, October 24, 2018 11:03 AM
To: Planning Code Enforcement <codeenforcement@cabq.gov>
Cc: Lehner, Catalina L. <CLehner@cabq.gov>
Subject: Letter of Today's Date Regarding 18EPC-40019 and 18EPC-40021

To Whom It May Concern:

It has come to our attention that in the Re line of the attached letter it has the address as being SW when in fact it is NW. Our apologies for any confusion.

Melissa Parra Wilcox
Paralegal to Stephanie Landry, Margaret Ludewig
and Glenn R. Smith
Landry & Ludewig, L.L.P.
300 10th Street SW
Albuquerque, New Mexico 87102
505/243-6100
mpwilcox@lanlud.com

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From: Melissa Parra Wilcox [mailto:mpwilcox@lanlud.com]
Sent: Friday, October 12, 2018 11:24 AM
To: 'codeenforcement@cabq.gov'

Cc: clehner@cabq.gov
Subject: Letter of Today's Date Regarding 18EPC-40019 and 18EPC-40021

To Whom It May Concern:

Please see the attached letter of today's date, from Ms. Landry, on behalf of our client Mr. Kilmer.

Melissa Parra Wilcox

Paralegal to Stephanie Landry, Margaret Ludewig
and Glenn R. Smith
Landry & Ludewig, L.L.P.
300 10th Street SW
Albuquerque, New Mexico 87102
505/243-6100
mpwilcox@lanlud.com

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

LANDRY & LUDEWIG, L.L.P.
ATTORNEYS AT LAW
300 10TH STREET SW
ALBUQUERQUE, NEW MEXICO 87102
TEL (505) 243-6100 FAX (505) 243-8255

October 19, 2018

Via Email: CLehner@cabq.gov

Catalina Lehner, Senior Planner
City of Albuquerque Planning Department
600 Second Street NW
Albuquerque, NM 87102

Re: ***1416 6th St. NW, Albuquerque, New Mexico 87102***
Lots 22, 23 and 24, Block 20, Albright-Moore Addition
SE, Corner of 6th St. and Constitution Ave

18EPC-40019
18EPC-40021

Dear Catalina:

As you know, we are the agents of Eric Kilmer in reference to his property at 1416 6th St. NW. We first met with you regarding Mr. Kilmer's property on August 21, 2018. In that meeting, we discussed with you the current zoning of the property (meaning the zoning at the time of Mr. Kilmer's application, the subject of 18EPC-40019 and 18EPC-40021) as it is necessary to understand your position as the planner handling this matter. When we started the meeting, you were of the position that Mr. Kilmer's property was zoned for single-family residential and that it lost its zoning for flower shop/nursery.

During the August 21, 2018 meeting, we discussed with you the fact that the flower shop/nursery zoning under the S-R zone for the Sawmill Wells Park Sector Development Plan ("Sector Plan") was a permissive use, not a nonconfoming use, and therefore could not be lost based on any nonuse. (We note that we have evidence that Mr. Kilmer has been using his property for flower shop/nursery, but it does not matter for the purpose of this discussion.)

On October 16 and 17, 2018, we followed up with you regarding the issue of the current zoning as you indicated in a review of our draft submission to the EPC that our current zoning listed in our draft submission is "incorrect." Again, in trying to understand your statement, we asked by email you if you were still taking the position (discussed in our August 21, 2018 meeting) that there is no current flower shop/nursery zoning or flower shop zoning (without nursery zoning) and, if so, could you please let us know the basis for your position, as it is contrary to some of the statements that have been made in the past to our client.

Instead of answering the question, you stated on October 19, 2018, "When applicants list zoning incorrectly, it's often because they aren't familiar with the publically available GIS system where zoning can be queried: http://coagisintra.coa.cabq.lcl/Html5ViewerGeo491/index.html?viewer=Zoning_Viewer.Zoning_Advanced_Map_Viewer_v20. Zoning can be found in the Old Zoning layer and the IDO zoning layer."

Are you still taking the position that currently for the subject property (meaning as of the date of Mr. Kilmer's pre-IDO application) there is no flower shop/nursery zoning or flower shop zoning for the property? If so, then let us know and the basis therefore as obviously this is a very important issue that must be addressed in the submittal.

Thank you for your assistance in this matter.

Sincerely,

LANDRY & LUDEWIG, L.L.P.

By: Stephanie Landry
Stephanie Landry

LANDRY & LUDEWIG, L.L.P.
ATTORNEYS AT LAW
300 10TH STREET SW
ALBUQUERQUE, NEW MEXICO 87102
TEL (505) 243-6100 FAX (505) 243-8255

October 12, 2018

Via Email: codeenforcement@cabq.gov

Code Enforcement
City of Albuquerque
600 Second Street NW
Albuquerque, NM 87102

Re: ***1416 6th St. SW, Albuquerque, New Mexico 87102***
Lots 22, 23 and 24, Block 20, Albright-Moore Addition
SE, Corner of 6th St. and Constitution Ave

18EPC-40019
18EPC-40021

To Whom It May Concern:

We are writing to you in connection with the Development/Plan Review Application submitted by our client Mr. Kilmer (Applicant) on March 29, 2018 for the above-referenced property. We are the agents for the Applicant. The March 29, 2018 Application requested a zone change to SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses and an approval of an associated site development plan. The Applicant is now narrowing the request from the original request; the Applicant now seeks under SU-2/SU-1 a combined permissive use of Office with Beauty Salon and/or Barber Shop and then Off-Street Parking as a permissive accessory use. If you have any questions, please contact me through my paralegal Melissa Parra Wilcox at her email address of mpwilcox@lanlud.com.

Sincerely,

LANDRY & LUDEWIG, L.L.P.

By: Stephanie Landry
Stephanie Landry

cc: Catalina Lehner

APPLICANT INFORMATION

LANDRY & LUDEWIG, L.L.P.
ATTORNEYS AT LAW
300 10TH STREET SW
ALBUQUERQUE, NEW MEXICO 87102
TEL (505) 243-6100 FAX (505) 243-8255

October 12, 2018

Via Email: codeenforcement@cabq.gov

Code Enforcement
City of Albuquerque
600 Second Street NW
Albuquerque, NM 87102

Re: ***1416 6th St. SW, Albuquerque, New Mexico 87102***
Lots 22, 23 and 24, Block 20, Albright-Moore Addition
SE, Corner of 6th St. and Constitution Ave

18EPC-40019
18EPC-40021

To Whom It May Concern:

We are writing to you in connection with the Development/Plan Review Application submitted by our client Mr. Kilmer (Applicant) on March 29, 2018 for the above-referenced property. We are the agents for the Applicant. The March 29, 2018 Application requested a zone change to SU-2/SU-1 for Flower Shop and Nursery and Permissive C-1 Uses and an approval of an associated site development plan. The Applicant is now narrowing the request from the original request; the Applicant now seeks under SU-2/SU-1 a combined permissive use of Office with Beauty Salon and/or Barber Shop and then Off-Street Parking as a permissive accessory use. If you have any questions, please contact me through my paralegal Melissa Parra Wilcox at her email address of mpwilcox@lanlud.com.

Sincerely,

LANDRY & LUDEWIG, L.L.P.

By: Stephanie Landry
Stephanie Landry

cc: Catalina Lehner

To: Environmental Planning Commission
City of Albuquerque
600 Second Street NW
Albuquerque, New Mexico 87102

Re: Project Number 1007648
18EPC-40019
18EPC-40021

Proposed Rezoning: 1416 6th Street NW, Albuquerque, New Mexico 87102
Lots 22, 23 and 24, Block 20, Albright-Moore Addition
SE Corner of 6th St. and Constitution Ave, Property Owner Eric Kilmer

October 25, 2018

Respectfully submitted,

LANDRY & LUDEWIG, L.L.P.

By: Stephanie Landry
Stephanie Landry as agent
for Eric Kilmer

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A. INTRODUCTION AND FACTUAL CONTEXT

The law firm of Landry & Ludewig, LLP is making this submittal on behalf of its client Mr. Kilmer pursuant to a letter of agency dated August 16, 2018. Mr. Kilmer ("Applicant"), the owner of a .2967 acre parcel of property located at 1416 6th Street NW ("Property"), seeks under SU-2/SU-1 a combined permissive use of Office with Beauty Salon and/or Barber Shop ("Application"). The Applicant submitted the Application on March 29, 2018 along with a site development plan showing off-street parking. The Application was for a broader number of uses at that time but the Application has been narrowed to the uses stated herein.

The Property is located in the Wells Park area on the southeast corner of Constitution NW and 6th Street NW. 6th Street NW is designated as a minor arterial street under the Long Range Roadway System in the Long Range Transportation System Guide ("LRTS Guide"). *See* **Attachment 8**, Long Range Roadway System.

To discuss whether rezoning is appropriate and justified, we first need to discuss the current zoning as the context for this modest request for rezoning. The current zoning is pivotal to the discussion of how granting the Application would not affect the surrounding area. The Property is currently zoned SU-2/SU-1 as a permissive use under the S-R zone of the 1996 Sawmill Wells Park Sector Development Plan ("1996 Sector Plan") for use of Flower Shop/Nursery with off-street parking. The SU-1 zoning for Flower Shop/Nursery with off-street parking has been in place since September 1969 when the owners of Gray's Flower Shop first obtained the zoning. *See* **Attachment 10**, Ordinance No. 148-1969, R-1 to SU-1 for 1416 6th Street NW.

The Application, as it predates the Integrated Development Ordinance ("IDO"), is governed by the 2016 Comprehensive City Zoning Code ("2016 Zoning Code"). However, the conversion to the IDO is discussed herein as City planning staff has indicated that if the Property is rezoned, it would be rezoned as of the date of the Application (March 29, 2018) and the IDO conversion chart would automatically apply to such zoning as of the date of the Application. The prior comments by City planning staff indicate that the conversion would be automatic, but the Applicant will continue to confer with City planning staff regarding the issue to further confirm that there is not a separate process for conversion to the IDO.

We note that the Application to change the zoning to the combined use of Office and Beauty Salon/Barber shop is a downzoning from the Property's current zoning of Flower Shop/Nursery. The least intense zone for a primary permissive use of Flower Shop in the IDO is the MX-L Mixed-Use Low Intensity Zone, which approximates the C-1 Zone under the 2016 Zoning Code. *See* **Attachments 2** and **3**, pertinent portions of the 2016 Zoning Code and IDO. (Flower Shop, that is, Small Retail, is also allowed as an accessory permissive use in the MX-T Zone. *See* **Attachment 3**, pertinent portions of the IDO.) The least intense zone for Nursery in the IDO is the NR-C Non-Residential Commercial Zone (which approximates the C-2 Zone under the 2016 Zoning Code). *See* **Attachments 2** and **3,** pertinent portions of the 2016 Zoning Code and IDO.

The neighborhood supports the fact that the Property would convert to MX-T zone under the IDO and such zone allows for combining primary uses including an office and beauty salon/barber shop. *See* IDO Section 14-16-7-1 (Definition of Uses and Primary Use), **Attachment 3**. A facilitated meeting with the neighborhood was held on April 23, 2018. As indicated in the City of Albuquerque Land Use Facilitation Meeting Report, **Attachment 18** at p. 6, the community is supportive of a barber shop/salon. Doreen McKnight, President of the Wells Park Neighborhood

Association ("WPNA") confirmed in an April 26, 2018 email, "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." **Attachment 19,** April 26, 2018 email from Doreen McKnight. Catherine Mexal of the neighborhood indicated in an April 26, 2018 email that "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." **Attachment 20,** April 28, 2018 email from Catherine Mexal.

The continued use of the Property as a commercial use is consistent with its historic use and is consistent with the changes in use of property directly surrounding the Property and will reinforce the pattern, intensity, and character of the existing built environment:

- **Property to the South, 1412 6th Street NW (the "sister" property of the Property at issue):** The zoning for 1412 6th Street NW, which is directly to the south of the Property, is MX-T under the IDO. *See* **Attachment 21**, Conversion Maps and Address Reports. Under MX-T, a portion of the property is used for a law office for Jason M. Alarid, attorney at law. Before the IDO effective date, 1412 6th Street NW was zoned from SU-2/S-R (Sawmill Residential) to SU-2/SU-1 for Residential and Office Uses and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Doctor Office.

  The proprietors of Gray's Flower Shop owned 1412 6th Street NW (Lots 19, 20, and 21 of Block 20) not just the Property at issue here (Lots 22, 23, and 24 of Block 20) as well as Lots 1-6 of Block 20, Albright-Moore Addition. The Property was zoned SU-1 in 1969 for Flower Shop/Nursery along with Lots 19, 20, and 21. *See* **Attachment 10**, Ordinance No. 148-1969, R-1 to SU-1 for 1416 6th Street NW. However, the use of Lots 19, 20, and 21 remained residential and, therefore, were zoned SU-2/S-R with the advent of the 1996 Sector Plan. *See* **Attachment 22**, Justification Letters for 1412 6th Street NW (July 5, 2006 letter) (acknowledging that the building on the property at 1412 6th Street NW was a single-family home and had a history of residential use and that the property to the north, the subject Property, is commercial).

  In 2006, the EPC approved a change of Lots 19 and 20 (a portion of the "sister" property) from SU-2/S-R to SU2/SU-1 for Residential and Office Uses and/or Law Office, Court Reporter, Architect, Engineer, or Doctor Office. *See* **Attachment 23**, August 17, 2006 EPC Decision Regarding 1412 6th Street NW (Lots 19 and 20).

  Another portion of the property at 1412 6th Street NW (Lot 21), which is a 25-foot wide strip, is used for the entry road to the law office and parking. *See* **Attachment 22**, Justification Letters for 1412 6th Street NW (June 19, 2010 Letter) and Aerial Maps. Apparently, there is a pending case before the EPC regarding the portion of 1412 6th Street (Lot 21) that contains the entry road based on what the property owner asserts was improperly zoned SU2/SR "in contradiction to the zoning approved on the original site plan." *See id.*[1]

[1]The property owner of 1412 6th Street asserts in his June 19, 2010 justification letter for the rezoning of Lot 21 which is a portion of 1412 6th Street NW that the City wanted an opaque fence and landscape buffer on Lot 21 because, purportedly, a court might hold that the Applicant's Property was residential. As discussed below in this submittal, there has been no court holding that the Applicant's Property is residential.

- **Property to the East, 512 Constitution (and 500, 504, 508 Constitution farther east):** The zoning for the property directly to the east of the Property is R-T (Residential-Townhouse) under the IDO, which allows for townhouse live-work dwelling, allowing for use for both a residence and a business that does not qualify as a home occupation being conducted by a resident of the building. *See* **Attachment 21**, Conversion Maps and Address Reports.

  Before the IDO effective date, the zoning for the eastern property was R-LT (Residential Limited Townhouse Zone), which did not allow for live-work dwelling. *See* **Attachment 6**, 1996 Sector Plan; **Attachment 2**, 2016 Zoning Code.

- **Property to the North, 417 Constitution:** The zoning for the property 417 Constitution is R-1A under the IDO. *See* **Attachment 21**, IDO Conversion Maps. Before the IDO effective date, the northern property was zoned S-R (single-family residential under the 1996 Sector Plan).

- **Property to the Northwest, 1503 6th Street NW:** The zoning for this property, 1503 6th Street NW, which is to the northwest of the Property, is R-1A under the IDO according to the Conversion Map. The current use is for a Day Care Center.

  Before the IDO effective date, 1503 6th Street NW was zoned as SU-2/S-R (Sawmill Residential), SU-2/SU-1 for Day Care Center and used for a day care center. However, the IDO Conversion Map does not note the special use permit for the Day Care Center. *See* **Attachment 21**, Conversion Maps and Address Reports.

- **Property to the West, 1417 6th Street NW and 1419 6th Street NW:** The zoning for the two properties to the west, 1417 and 1419 6th Street NW is R-1A under the IDO according to the IDO Conversion Map. *See* **Attachment 21**, Conversion Maps and Address Reports. Before the IDO effective date, the western property was zoned S-R (single-family residential under the 1996 Sector Plan).

- **Property South of the "sister" property, 1410 6th Street NW:** The zoning for 1410 6th Street NW, the property directly south of the "sister" property, is zoned MX-T according to the IDO Conversion Map. *See* **Attachment 21**, Conversion Maps and Address Reports. Before the IDO effective date, 1410 6th Street NW was zoned SU-2/SU-1 for office as a permissive use in the S-R zone. *See id.* (conversion maps and address report for 1410 6th Street NW). However, the land use is multi-family. *Id.*

As discussed further in **Part B** herein, the 2017 Albuquerque Bernalillo Comprehensive Plan ("2017 Comprehensive Plan") directs adherence to the Sawmill/Wells Park Community Metropolitan Redevelopment Area Plan (2005) ("2005 MRA Plan") in connection with issues pertaining to Wells Park. *See* **Attachment 4**, pertinent portions of the 2017 Comprehensive Plan, Appendix J (p. A-72); **Attachment 7** hereto, pertinent portions of the 2005 MRA Plan.

One of the 2005 MRA Plan's stated goals is to "Create community-scale work, business, and wealth-building activities." **Attachment 7** hereto, 2005 MRA Plan at p. 6. The 2005 MRA Plan, and the residents who participated, identified the need for "[m]ore Neighborhood services," "[g]ood jobs and higher incomes for local and new residents," and "[m]ore community services –Businesses within the neighborhood..." and a "demand for high quality small-scale office space targeted at

specific users. *Id.* at pp. 19, 21. In implementing the goal of "[s]trengthen and redefine zoning and design guidelines in support of Sector Development Plan and MRA Plan objectives," the 2005 MRA Plan tasked the Implementation Committee to "revise zoning on 5th St., 6th St. and Mountain Rds. to allow broader development to include neighborhood-serving retail, office and residential," showing that the 2005 MRA Plan considers neighborhood-serving business on 6th Street compatible with Wells Park. *Id.* at p. 38.

While the office component meets the need for community-scale business activity, the inclusion of a beauty salon/barber shop not only meet the goals of the 2005 MRA Plan, it fosters a communal spirit in what is often a central meeting place for the young and the old. In fact, beauty salons and barber shops are included in the few types of business that remain strictly local. While one can now get clothing and even food from the internet, one cannot get their hair cut on the internet, much less partake in the live, spirited community discourse in the neighborhood. Allowing a local beauty salon and barber shop to operate on the Property would promote the stated goals of the 2005 MRA Plan.

Certain members of the EPC have raised questions regarding why the Applicant is proceeding for a rezoning under pre-IDO standards. The submission of the Application before the effective date of the IDO was happenstance, not an attempt to avoid IDO procedural requirements to confer with the neighborhood regarding the rezoning.

In fact, the Applicant has conferred with the neighborhood regarding the rezoning. Based on such discussions and further conference with staff regarding the neighborhood needs, the Application has been narrowed from the original request for SU-2/SU-1 Flower Shop/Nursery and permissive uses under the C-1 zone to SU-2/SU-1 combined use of the Property for Office and Beauty Salon/Barber Shop, as the neighborhood has requested a use that complies with MX-T.

To start the process all over again under the IDO is not required and will delay the Application.

If the Application is denied, then there will be continued use of the property for Flower Shop/Nursery. However, a change in the use of the Property corresponds with the changing needs of the community, the change in the zoning of the surrounding area, and the need for revitalization of the blighted area as mandated by the metropolitan redevelopment plan governing Wells Park.

With respect to the issue of the current zoning, we note that the SU-1 zoning (and then later the SU-2/SU-1 zoning) is reflected in (1) the 1978 Sawmill Sector Development Plan ("1978 Sector Plan"), (2) the 1979 and 1980 Albuquerque Zoning Maps, (3) the 1996 Sector Plan, and (4) the district court opinion in *Kilmer v. City of Albuquerque and City Council of the City of Albuquerque*, CV-2009-07499 (Slip. Op. October 3, 2010) ("2010 District Court/Kilmer/City Opinion").[2]

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[2] *See* **Attachment 5**, 1978 Sector Plan at Maps 2 and 3; **Attachments 12A** and **12B**, 1979 and 1980 Albuquerque Zoning Maps; **Attachment 6**, 1996 Sector Plan (1996 and amended in 2000 and 2002) at pp. 80, 99 and Appendix A (reflecting Gray's Flower Shop on 6th Street and the SU-1 zoning of the Property); and **Attachment 9**, 2010 District Court/Kilmer/City Opinion. The commercial use of the Property is also reflected in the History Map used by City planning staff in the prior reports for the current Application before it was narrowed in this submittal and on the City's current address report for the Property. *See, e.g.,* History Map for Hearing Date 5/10/18, **Attachment 12C**; City Address Report for the Property, **Attachment 12G**.

The 1996 Sector Plan makes clear that the Flower Shop/Nursery use is a permissive, not a non-conforming, use. The 1996 Sector Plan provides that the following is a permissive use in the S-R zone:

> A.5 Nonresidential uses that ... were zoned SU-1 for specific uses ... 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 [which conditions are not relevant to this discussion] ... If a nonresidential use changes to a residential use, a nonresidential use at that location may not be resumed or re-established.

Attachment 6, 1996 Sector Plan at p. 99.[3]

As such, the SU-2/SU-1 use of Flower Shop/Nursery is not a non-conforming use under the 1996 Sector Plan. A non-conforming use is a "use of a structure of land which does not conform to uses allowed under the regulations of this Article [the 2016 Zoning Code] or to uses allowed under an applicable sector development plan and which was an allowed use at the time the use was first undertaken." **Attachment 2**, 2016 Zoning Code Section 14-16-1-5(B) (definition of "Non-Conforming Use").[4]

There has been no residential use of the Property since it was zoned SU-1 and, therefore, there is still a permissive use of Flower Shop/Nursery. Nonetheless, the latest iteration of the

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Such History Map reflects the original zoning application number before the City Commission in 1989, which application Z-69-81 was granted in the form of a SU-1 permit. As well, the commercial use of the Property is shown on the current Land Use Map for Hearing Date 5/10/18 used in the City Planning Staff Report, which Land Use Map indicates use of commercial and parking use for such commercial use. Use of the City's interactive maps also show the current land use as "Commercial Retail" and "Parking Lot/Structures." *See* Current Land Use CABQ Map, **Attachment 12E** and Affidavit of Eric Kilmer ("Kilmer Affidavit"), **Attachment 1.**

[3]The 2017 Zoning Code does not define the term "permissive use." However, the information distributed by the City "A Zoning Code Overview for the General Public" provides: "Permissive Use – Each zone category identifies those uses that are allowed as a right in that zone. Such uses are specifically identified in each zone. An example of a permissive use would be a single-family house in the R-1 zone." **Attachment 25**, A Zoning Code Overview for the General Public, City of Albuquerque Planning Department, Code Enforcement Division, at p. 4. New Mexico case law is in accord. "A permissive use ordinarily is allowed in the zone as a matter of right." *High Ridge Hinkle Joint Venture v. City of Albuquerque*, 1994-NMCA-139, 2, 888 P.2d 475, 477. *See also* **Attachment 3**, IDO at p. 498 (definition of "permissive use").

[4]If the rezoning is not granted for the Property as requested, then the Property's use for Flower Shop/Nursery would be considered a non-conforming use under the IDO as the IDO's zoning for the Property is R-1A. The IDO, however, allows two years from the effective date of the IDO of nonuse before the City can determine that a non-conforming use has expired. *See* **Attachment 3**, IDO at pp. 432-433, Sections 6-8(C)(2)(a) (establishing two-year nonuse for expiration of a nonconforming non-residential use) and Section 6-8(B)(2)(b) (Timeframes for Compliance, stating " Where the IDO establishes timeframes for compliance, the effective date of this IDO shall mark the beginning of the timeframe, unless specified otherwise in this IDO or another adopted City Ordinance in ROA 1994.")

Albuquerque Zoning Map right before the IDO does not indicate the SU-1 zoning of the Property. *See* **Attachment 12F**, Current CABQ Zoning Map; Kilmer Affidavit, **Attachment 1**. Such map indicates that the Property was zoned S-R right before the IDO, without any indication that the Property also had (and still has at this time as the Application predates the IDO) the SU-2/SU-1 zoning under the S-R zone. It is not clear why the latest iteration of the Albuquerque Zoning Map fails to indicate the SU-2/SU-1 zoning of the Property as there was no rezoning of the Property from the use of Flower Shop/Nursery.[5]

Because the only way that the Property could lose its permissive use of Flower Shop/Nursery is by residential use of the Property (which has not happened), whether the commercial use of the Property has been consistent is not relevant. Nonetheless, we note that the commercial use of the Property has been consistent.

The last known activity of Gray's Flower Shop is 2007. *See* **Attachment 13**, Facility List from City of Albuquerque regarding Business Permitting; **Attachment 1**, Kilmer Affidavit. The Applicant purchased the Property in April 2008 for commercial use pursuant to a commercial real estate listing and based on a zoning letter from the City indicating the Property may be used for nonresidential purposes, and Bernalillo County property records show the property assessed for "retail single occupancy." *See* **Attachment 1**, Kilmer Affidavit; **Attachment 14**, December 21, 2006 City Zoning Letter; **Attachment 15**, Bernalillo County Property Assessor's Record for 1416 6th Street NW.

The Applicant has maintained a business license from 2009 to the present for the use of the Property as a flower shop/nursery, has used the Property as a flower shop/nursery, and is presently using the Property as a flower shop. *See* **Attachment 1,** Kilmer Affidavit; **Attachment 16**, sample of business licenses for the Property; **Attachment 13**, Facility List from the City of Albuquerque regarding Business Permitting; **Attachment 17**, a sample of wholesale purchasing for the flower shop/nursery.

However, it is the Applicant's desire, which is in line with the desire of the community, for a less intense zone that would convert to MX-T. The Application should be granted as the requested downzoning of the Property to Office and Beauty Salon/Barber Shop will draw the community together and is consistent with the current community and the goals of the 2017 Comprehensive Plan, the 1996 Sector Plan, and the 2005 MRA Plan.

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[5] It is unknown by Applicant who made the decision to change the Albuquerque Zoning Map to delete the SU-2/SU-1 zoning under the S-R zone for the Property but there was no official action or proceeding of which Applicant is aware pertaining to the change on the Albuquerque Zoning Map. There has been no due process afforded this matter and it is contrary to the prior zoning maps. *Cf. High Ridge Hinkle Joint Venture v. City of Albuquerque*, 1994-NMCA-139, 45, 888 P.2d 475, 488 (finding that "Courts generally show little deference to an agency's interpretation of its own statute when the interpretation is an unexplained reversal of a previous interpretation or consistent practice").

B. COMPLIANCE WITH RESOLUTION 270-1980

The Application meets the requirements of Resolution 270-1980:

1. The Rezoning Meets Section A of Resolution 270-1980: It is Consistent with Health, Safety, Morals, and General Welfare of the City.

Under Section A of R-270-1980, a proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the City: There is nothing about the requested use of office and personal grooming services that is unhealthy, unsafe, immoral, or contrary to the general welfare of the City. To the contrary, the use of personal grooming services, that is a beauty shop and/or barber shop support both individual and community well-being, directed towards human interaction and community interaction as such services are inherently local and have historically been communal in nature. The proposed uses will provide local services and employment conveniently located in a mixed-use part of the neighborhood. As well, as discussed in Section 3 of this Part B incorporated by reference herein, the rezoning will clearly facilitate realization of the 2017 Comprehensive Plan, the 2005 MRA Plan, and the 1996 Sector Plan.

2. The Rezoning Meets Section B of Resolution 270-1980: The Rezoning, which Allows the Property to Remain Commercial but at a Lower Intensity, Supports Stability of Land Use and Zoning

Under Section B of R-270-1980, 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.

The Property has been commercial since 1969 and maintaining a commercial use will maintain the stability of the zoning on the Property. There is already commercial use to the south and the northwest of the Property. Maintaining commercial use on the Property will support the stability of land use and zoning. However, a less intense use will meet the changing needs of the community and the goal of remedying a blighted community. As set forth in Section 3 below, the 2005 MRA Plan was adopted by the City after the 1996 Sector Plan and the City has mandated adherence to the 2005 MRA Plan, which identified the need for businesses in the area that would service the neighborhood as well as offer office space, and specifically targeted 5th St., 6th St. and Mountain Rds. to allow broader development to include neighborhood-serving retail, office and residential, showing that the 2005 MRA Plan considers neighborhood-serving business compatible with Wells Park. The goals under the MRA Plan were intended to address the blighted community and provide stability and encourage local services to the residents of Wells Park, which local services of the type proposed will encourage stability of the land uses in the area, including the residential uses, with adjacent low intensity businesses allowing for jobs and services in the area.

The Property is already zoned for commercial use as a permissive use under the Sector Plan. As such, the change from one commercial use to another commercial use is not major, especially in this case when the requested uses are less intense and would only require a modest change to justify the rezoning. The change from flower shop/nursery to the requested uses is more advantageous to the community because Office and Beauty Shop/Barber Shop is less intense and because the requested uses involve a service component that is strictly local in nature and could appeal to almost every resident in the community. The Application responds to the changing needs

of the community, the change in the zoning of the surrounding area, and the need for revitalization of the blighted area as mandated by the metropolitan redevelopment plan governing Wells Park.

Although this Application predates the IDO, if the rezoning converts to MX-T, the City has already made the determination that the MX-T uses are not detrimental to adjacent property, the neighborhood, or the community.

3. The Rezoning Meets Sections C of Resolution 270-1980: There is No Significant Conflict with the Comprehensive Plan or Other City Master Plans and Amendments Thereto

Under Section C of R-270-1980, a proposed change shall not be in significant conflict with the 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.

The changes in use will clearly facilitate the goals set forth in the applicable plans. The 2017 Comprehensive Plan designates the 2005 MRA Plan as the controlling plan. The 2005 MRA Plan identifies the need for businesses in the area that would service the neighborhood as well as offer office space, and specifically targeted 5th Street, 6th Street. and Mountain Road to allow broader development to include neighborhood-serving retail, office and residential, and specifically indicates that the 2005 MRA Plan considers neighborhood-serving business on 6th Street compatible with Wells Park. In turn, the 1996 Sector Plan allows new uses and states that success depends on a healthy integration of businesses and housing and identified the need for businesses that cater to or provide services to residents. The uses proposed by the Application will meet all of these goals.

The goal of the 2017 Comprehensive Plan, the 1996 Sector Plan, and the 2005 MRA Plan regarding Wells Parks is, in part, to revitalize Wells Park into a vibrant and walkable community with neighborhood services. The Property has been a commercial property since 1969 and therefore such continued use is consistent with the area, but the requested change in use is even more compatible as it includes services specifically directed at the area, that is, for persons who want to office in the area and for personal grooming services in a walkable location to Wells Parks' residences and for local persons who want to work at such businesses.

The rezoning meets the guiding principles of the 2017 Comprehensive Plan, supporting the local economy of Wells Park, and provides health-related services in the form of personal grooming services. *See* 2017 Comprehensive Plan at 3-8. Granting the Application would enhance the neighborhood, not detract from it. It is important to have small economic enterprises in the neighborhood to allow for neighborhood employment and interaction at a local level, "creating desirable places to live" and encouraging diverse housing and amenities." *Id.*

The current building, which will remain, is of the "development scale and intensity of commercial" use that fits in with the neighborhood, meeting the Community Identity Goal of 4.1.2.1 of the Comprehensive Plan. *Id.* at 4-4. In fact, the current building has been a fixture in the Wells Park area and the redevelopment use of the existing building preserves the nature of the community by providing new services requested by the community. *Id.*

The new uses also move away from the "higher density and intensity development" by changing the intensity of the development from the higher intensity of a nursery to a use of lower intensity. *See id.* at 4-5. As well, the 2017 Comprehensive Plan also acknowledges the advent and

value of more compact development styles that "put many daily needs within walking distance of residences," and the City has encouraged mixes of residential and other uses, which would be fulfilled by the granting of the Application. *Id.* at 4-12.

Obtaining neighborhood input in the process, which was done in connection with a neighborhood facilitation meeting also meets the goal of the 2017 Comprehensive Plan regarding Community Identity by "ensuring the appropriate scale and location of development, mix of uses, and character of building design" as the planned uses are compatible in scale and character with the surrounding area and by facilitating "meaningful engagement and respectful interactions" to identify the needs of the residents. *See Id.* at 4-30, Policy 4.1.2 and Policy 4.2.2 at 4-33; **Attachment 19,** April 26, 2018 email from Doreen McKnight; **Attachment 20,** April 28, 2018 email from Catherine Mexal. As well, the proposed uses "[f]oster communities where residents can live, learn, shop, and play together" as set forth in the 2017 Comprehensive Plan for Land Use goals. *See id.* at 5-26.

While the Applicant appreciates that the concentration of economic enterprises is more likely in the core of downtown, the 2005 MRA Plan specifically addresses the need for local businesses in the area where the Property is located and the 2017 Comprehensive Plan directs developers to the 2005 MRA Plan when contemplating redevelopment in the Wells Park area. The 2017 Comprehensive Plan, the Rank 1 plan, is the "master plan" for the City's orderly planning and development of Albuquerque. *See* **Attachment 2**, 2016 Zoning Code, Section 14-16-1-3. In addressing areas within redevelopment areas, the 2017 Comprehensive Plan requires adherence to the 2005 MRA Plan for development in Wells Park:

> Metropolitan Development Areas are distressed or blighted areas that have been designated as appropriate for a metropolitan redevelopment project by the local planning commission and governing body. Development within a Metropolitan Redevelopment Area is overseen by the Metropolitan Redevelopment Agency and **must follow an established Metropolitan Redevelopment Plan** (emphasis supplied).

Attachment 4, 2017 Comprehensive Plan, Appendix J (p. A-72). The 2017 Comprehensive Plan elevates the 2005 MRA Plan above the 1996 Sector Plan by requiring that development "must" follow the 2005 MRA.[6] *See* also **Attachment 2A,** 2016 Zoning Code Section 14-16-1-5(B) (definition of "Sector Development Plan") (requiring all sector plans to be consistent with the general elements of the Comprehensive Plan) and City Code Section 14-8-4 (Metropolitan Redevelopment Ordinance).

In turn, the 2005 MRA Plan directs the broadening of Wells Park to exactly the types of uses proposed by the Application and in the exact location proposed by the Application. As stated in **Part A** herein, the 2005 MRA Plan directs the creation of "community-scale" businesses such as those proposed by Mr. Kilmer that would provide "good jobs" and "community services – Businesses within the neighborhood" as well as office space. **Attachment 7**, 2005 MRA Plan at p. 6, 19, 21. Furthermore, this mandate is specific to the area where the Property is located as the goal of the

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[6] We note that, although the IDO has replaced the 1996 Sector Plan, the IDO (as with all of the City's planning documents) has reconfirmed the supremacy of the Comprehensive Plan, in this case the 2017 Comprehensive Plan, and has acknowledged the continued validity of Metropolitan Redevelopment Area plans. *See* **Attachment 3,** IDO Sections 14-16-6-3 and 14-16-7-1 (definition of "Metropolitan Redevelopment Area").

2005 MRA Plan is to "**revise zoning on 5th St., 6th St. and Mountain Rds. to allow broader development to include neighborhood-serving retail, office and residential**." *Id.* at p. 38 (emphasis added).

Not only does the 2005 MRA Plan support the granting of the Application, so does the legislation adopting the 2017 Comprehensive Plan. The adopting legislation, R-2017-026, recites as a basis for the adoption of the 2017 Comprehensive Plan the goal of encouraging the type of mixed use areas both mentioned in the 2005 MRA Plan and facilitated by the Application, reciting that:

> ...the largest demographic segments of the population – Baby Boomers and Millennials – are increasingly seeking urban lifestyles in mixed use areas that provide for employment, entertainment, and services without requiring driving or automobile ownership; and ...
> the demand for these types of development are not sufficiently met in Albuquerque, because, in large part, existing land-use policies and regulations strongly encourage suburban, single-family detached development over compact mixed use....

Attachment 4, 2017 Comprehensive Plan, R-2017-026 (initial document).

In adopting the 2017 Comprehensive Plan, the City Council also sought to resolve the conflicting policies created by prior documents. In R-2017-026, which adopted the 2017 Comprehensive Plan, the City Council stated:

> ... the existing hierarchy of overlapping Rank 1, Rank II, and Rank III Plans were all created at various points in time with little or no strategic coordination and contain overlapping and sometimes conflicting policies and regulations that have not been evaluated in a comprehensive manner; and ... these uncoordinated policies often present unnecessary and counter-productive obstacles to both neighborhood protections and the development process;
>
> ***
>
> The 2016 Comp Plan update incorporates changes in the narrative descriptions as well as the goals, policies, and actions of each existing chapter. Approximately 90% of existing Goals and policies from the City's various Sector Plans (Rank III) and Area Plans (Rank II), except for facility plans and Metropolitan Redevelopment Area (MRA) plans, have been integrated into the updated Comp Plan....

In other words, the City Council in the 2017 Comprehensive Plan sought to resolve any conflict between the 1996 Sector Plan and the 2005 MRA Plan in favor of the 2005 MRA Plan.

Even in the absence of the 2005 MRA Plan, the 1996 Sector Plan would not bar the granting of the Application, that is, a change in the SU-2/SU-1 use to Office with Beauty Salon and/or Barber Shop and then Off-Street Parking as a permissive accessory use.

It is true that the 1996 Sector Plan does not allow an automatic change in the use of the Property. However, the 1996 Sector Plan does not prohibit a change in the use of the Property with the proper approval from the EPC. The 1996 Sector Plan indicates that it seeks to "Allow new uses that will contribute to community cohesiveness." *Id.* at p. 76. The 1996 Sector Plan further states, "Only the few properties with existing SU-1 zoning require hearings by the Environmental Planning Commission when new development or changes are requested." *Id.* at p. 78.

Regarding commercial use of the Property, the1996 Sector Plan reflects that 6th Street along with 5th Street to the west are made up of a mix of commercial and office uses, and states that "Success depends on community commitment to creating and sustaining a health integration of businesses, housing and regional attractions." **Attachment 6**, 1996 Sector Plan at p. 2. Further, the 1996 Sector Plan identified as a community issue, "Insufficient neighborhood commercial services" and states that "Overall area residential income is low, and few businesses cater to or provide services to residents." *Id.* at pp. 15, 33.

The concern of the 1996 Sector Plan was not the few businesses interspersed in the residential area; instead, the community sought to restrict the impact of pollution from intense uses such as the industrial sector in the area. *See id.* at pp. 3, 75. The 1996 Sector Plan sought to "Control negative impacts from industries and other businesses and ensure health co-existence between closely located businesses and homes." *Id* at p. 76.

In fact, the Application in this case is more consistent with the 1996 Sector Plan than the application for Lots 19 and 20 of the "sister" property at 1412 6th Street SW, just south of the Property, that met with EPC approval in 2006. With respect to the "sister" property, the July 5, 2006 letter providing justification for a change from residential to SU-2/SU-1 for Residential, and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Doctor Office, acknowledged that the building on the property at 1412 6th Street NW was a single-family home, had a history of residential use, the only office use being a "home office." **Attachment 22**, July 5, 2006 Justification Letter for 1412 6th Street NW (Lots 19 and 20).

The application for 1412 6th Street NW was met with approval and the EPC rezoned the property from single-family residential to SU-2/SU-1. **Attachment 23**, August 17, 2006 EPC Decision regarding 1412 6th Street NW (Lots 19 and 20). In so holding, the EPC found that it was a request "for approval of a Sector Development Plan Zone Map Amendment from SU2 SR to SU-2 for SU-1," that the request:

- "does not conflict within any goals or policies in the Comprehensive Plan or the Sawmill Wells Park SDP";
- "supports the policies of the "Comprehensive Plan because it would allow for a wider range of land uses in the area and it would be compatible with the residential properties in the area as it would not be an intense use";
- would "increase the job opportunities in the area and the mixture of uses that have historically been located in the Sawmill and Wells Park neighborhoods while maintaining the existing small-scale residential character of the area";
- was "justified per *Resolution 270 1980* because there are changed neighborhood conditions in the form of a similar zone change in April 2006 (Project # 1004731, Case # 06EPC 00289) and it would be more advantageous to the community as articulated in the Comprehensive Plan and Sawmill Wells Park SDP."
- would create a "spot zone" however, it is a justified "spot zone" as it furthers goals and policies in Comprehensive Plan and the Sawmill Wells Park SDP."

This Application is in sharp contrast to the application that was filed for the "sister" property at 1412 6th Street NW, just south of the Property that obtained approval in 2006. The Property has been used as a commercial use since 1969. The 1996 Sector Plan could have made it a non-conforming use, but did not. Instead, the 1996 Sector Plan made the commercial use permissive, showing the neighborhood's desire to maintain the commercial use of that Property. The Application merely seeks a commercial use less intense than the currently allowed commercial use. To have granted the request for 1412 6th Street NW, a single-family residential dwelling, for professional office use but not the current Application would be inconsistent at best and wholly contrary to the stated goals of the 2017 Comprehensive Plan, 2005 MRA Plan, and 1996 Sector Plan.

Originally, the Property was approved for Flower Shop/Nursery and then a subsequent request was for off-street parking, both of which were approved. In connection with the original SU-1 approval for the Property, there were no findings made by the City Planning Commission that approved the SU-1 application. *See* **Attachment 10**, Ordinance No. 148-1969, R-1 to SU-1 for 1416 6th Street NW.

The Planning Department did have reasons, which it articulated, in recommending the modification of the zone change to SU-1, rather than the original request of 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 predominately 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.

See **Attachment 11,** September 15, 1969 Planning Department Comments for 1416 6th Street NW.

The Planning Department's initial reasons for its recommendation to modify the original zone request in 1969 from C-1 to SU-1 do not bar today's approval of the Application. While the Planning Department's initial reasons are not in themselves an applicable City plan, ordinance, or policy, we nonetheless address such initial reasons. If the Application complies with R-270-1980, which we make the case here today that it does, then the Planning Department's reasons for the original approval, mainly compatibility with the area, are satisfied. As stated herein, the Applicant is not requesting a more intense use, but a less intense use of the Property that compellingly meets the requirements of all of the applicable ordinances, plans and policies.

4. The Rezoning Meets Section D of Resolution 270-1980: Changed Neighborhood or Community Conditions and Advantage to the Community Justify the Rezoning

Under Section D of R-270-1980, the applicant must demonstrate that the existing zoning is inappropriate because: ...changed neighborhood or community conditions justify the change, or a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City Master Plan. There are three grounds for this justification.

First, the applicable City plans have changed since the initial zoning. As discussed above in Section 3, the 2017 Comprehensive Plan and the 2005 MRA Plan, which both address the blighted community and the need for local services, were not in place at the time of the initial zoning.

Second, there have been significant changes in the surrounding land uses and surrounding zoning. As set forth in **Part A**, incorporated by reference herein, the use to the south has changed to commercial, the use to the east is now zoned for work/live, and the use to the northwest is commercial.

Third, the proposed uses are advantageous to the community as they are specific to the efforts of the community to establish community resources in terms of office space. While the office component meets the need for community-scale business activity, the inclusion of a beauty salon/barber shop fosters a communal spirit in what has been historically a meeting place for the community as well as the type of business that fosters the well-being of the individual members of the community. The new uses are more advantageous than the current use of Flower Shop/Nursery because they meet the community's stated need for a less intense use and fulfill the need for local services. Typically, the Nursery use is seasonal and can be satisfied by larger commercial establishments providing more in terms of variety and price, whereas the need for grooming services and office space is constant.

5. The Rezoning Meets Section E of Resolution 270-1980: The Permissive Uses in the Zone Would Not Be Harmful to Adjacent Property, the Neighborhood, or the Community.

Under Section E of R-270-1980, 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. None of the permissive uses requested for the Property, that is office use and a beauty shop/barber shop, would be harmful to the adjacent properties, the neighborhood, or the community. As stated above, office space was already approved for the "sister" property to the south and such property is now zoned MX-T, which allows for office, beauty shop, and barber shop. The neighborhood has endorsed the change from the more intense nursery zoning to the lesser intense use. Although this Application predates the IDO, if the rezoning converts to MX-T, the City has already made the determination that the MX-T uses are not harmful to adjacent property, the neighborhood, or the community. Further, the rezoning in this case is consistent with the applicable plans as set forth in Section 3 above.

6. The Rezoning Meets Section F of Resolution 270-1980: The Rezoning Does Not Require any City Expenditures.

Under Section F of R-270-1980, 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: Section F is not applicable as nothing regarding the proposed uses in the Application require the use of capital funds or capital improvements by the City.

7. **The Rezoning Meets Section G of Resolution 270-1980: The Cost of Land or Other Economic Considerations pertaining to the Applicant Are Not the Determining Factor for a change of Zone.**

Under Section G of R-270-1980, the cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone. The determining factor is not the cost of the land or other economic considerations, but is grounded in the changing needs of the community, the change in the zoning of the surrounding area, the need for revitalization of the blighted area, and the fact that the requested uses are more advantageous to the community than the current uses. Meeting the needs of the community will, however, enhance the Property and its viability as an income producing property.

8. **The Rezoning Meets Section H of Resolution 270-1980: The Applicant is Not Justifying Location on a Collector or Major Street in Itself as Sufficient Justification for the Rezoning.**

Under Section H of R-270-1980, location on a collector or major street is not in itself sufficient justification for apartment, office, or commercial zoning. The fact that the Property is on 6th Street NW is not in itself a justification for approval of the Application. However, it is located on 6th Street NW, a minor arterial street, which is certainly relevant to the discussion of the uses requested in the Application. This is especially true given the 2005 MRA Plan, which targeted 5th St., 6th St. and Mountain Rds. to allow broader development to include neighborhood-serving retail, office and residential, showing that the 2005 MRA Plan considers neighborhood-serving business compatible with Wells Park.

9. **The Rezoning Meets Section J of Resolution 270-1980: The Rezoning is not a Strip Zoning.**

Under Section J of R-270-1980, 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 property is not a strip of land along a street and, therefore, there is no strip zoning.

10. **The Rezoning Meets Section I of Resolution 270-1980: The Rezoning Will Clearly Facilitate Realization of the Comprehensive Plan and any Applicable Adopted Sector Development Plan or Area Development Plan and Could Function as a Transition Between Adjacent Zones**

Section I of R-270-1980 provides that 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." According to Section I of R-270-1980, 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 the surrounding 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 are unsuitable for the uses allowed in any adjacent zone.

We are of the legal opinion that the request in the Application does not constitute a spot zoned if approved. As shown in **Part A** herein, the Property is already a commercial property and the property to the south is also a commercial property and has been zoned SU-2/SU-1 since 2006 and is currently zoned MX-T. The property to the northwest, a daycare center is being used for commercial purposes as well. Further, under New Mexico law, an SU-1 permit does not constitute spot zoning (and in fact is not considered a "rezoning" under New Mexico law.) *See Embudo Canyon Neighborhood Association v. City of Albuquerque*, 1998-NMCA-171, 868 P.2d 1190.[7] Similar rezonings have been previously approved by the City in this area for similar uses and held not to constitute a spot zone. However, if it is a "spot zone," then it is a justified "spot zone" as it clearly facilitates the goals and policies in the 2017 Comprehensive Plan, the 1996 Sector Plan, and the 2005 MRA Plan, as discussed in Section 3 herein. As well, it could serve as a transition between adjacent residential properties and nearby commercial properties.

C. CONCLUSION

The Applicant is asking for a respectful change in the use, one that is less intense then the present use and has community support for such change. The Application meets all of the requirements of the applicable ordinances, plans, and policies, including the requirements of R-270-1980. Wherefore, the Applicant requests approval by the EPC of the Application.

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[7] Despite the *Embudo* case, the Applicant does recognize that the 1996 Sector Plan requires the Applicant to submit an application to the EPC for a use change as Applicant requests "new" uses. The Applicant has fulfilled the requirements of R-270-1980 as requested by City planning staff, although given the *Embudo* case, we are of the opinion that the requirements of the 2016 Zoning Code, Section 14-16-2-22 regarding the Special Use Zone apply instead of rezoning requirements. As such, the Applicant has complied with providing a Site Development Plan, has fulfilled the SU-1 requirements and, as well, has fulfilled R-270-1980.

LIST OF ATTACHMENTS

AFFIDAVIT

Attachment 1: Affidavit of Eric Kilmer and Attachment A – Signage Photos

ORDINANCES, PLANS AND POLICIES

Attachment 2: Portions of City Code

-2A: Pertinent Portions of 2016 Comprehensive City Zoning Code
-2B: Metropolitan Redevelopment Ordinance

Attachment 3: Pertinent Portions of the May 17, 2018 Integrated Development Ordinance (IDO)

Attachment 4: Pertinent Portions of the 2017 Albuquerque/Bernalillo Comprehensive Plan

Attachment 5: Pertinent Portions of 1978 Sawmill Sector Development Plan

Attachment 6: Pertinent Portions of 1996 Sawmill Wells Park Sector Development Plan (Amended in 2000 and 2002)

Attachment 7: 2005 Sawmill/Wells Park Community Metropolitan Redevelopment Area Plan

Attachment 8: Long Range Road System Map

DOCUMENTS FOR 1416 6th STREET NW

Attachment 9: *Kilmer v. City of Albuquerque and City Council of the City of Albuquerque*, CV-2009-07499 (Slip. Op. October 3, 2010)

Attachment 10: Ordinance No. 148-1969, R-1 to SU-1 for 1416 6th Street NW

Attachment 11: September 15, 1969 Planning Department Comments for 1416 6th Street NW

Attachment 12: Zoning Maps

-12A 1979 Albuquerque Zoning Map
-12B 1980 Albuquerque Zoning Map
-12C History Map for Hearing Date 5/10/18 Used in City Planning Staff Report
-12D Current Land Use Map for Hearing Date 5/10/18 Used in City Planning Staff Report
-12E Current Land Use CABQ Map
-12F Current CABQ Zoning Map
-12G Address Report

Attachment 13: Facility List from City of Albuquerque regarding Business Permitting

Attachment 14: December 21, 2006 City Zoning Letter

Attachment 15: Bernalillo County Assessor's Records for 1416 6th Street NW

Attachment 16: Sample of Business Licenses for 1416 6th Street NW

Attachment 17: Sample of Wholesale Purchasing for the Flower Shop/Nursery for 1416 6th Street NW

Attachment 18: City of Albuquerque Land Use Facilitation Meeting Report

Attachment 19: April 26, 2018 email from Doreen McKnight

Attachment 20: April 26, 2018 email from Catherine Mexal

DOCUMENTS REGARDING SURROUNDING PROPERTIES

Attachment 21: Conversion Maps and Address Reports Reflecting Zoning of Surrounding Properties

Attachment 22: Rezoning Justification Letters for 1412 6th Street NW and Aerial Views

Attachment 23: August 17, 2006 EPC Decision Regarding 1412 6th Street NW (Lots 19 and 20)

COMMUNICATIONS WITH THE CITY

Attachment 24: April 13, 2018 Email from C. Lehner

SECONDARY MATERIALS

Attachment 25: Pertinent Portions of a Zoning Code Overview for the General Public, City of Albuquerque Planning Department, Code Enforcement Division

OCTOBER 24, 2018 AFFIDAVIT OF ERIC KILMER

Eric Kilmer, being duly sworn on his oath, states:

1. I have personal knowledge of the facts that I am setting forth in this affidavit.

2. This affidavit is in support of a submittal on my behalf dated October 24, 2018 by Landry & Ludewig, LLP ("Submittal") in case nos. 18EPC-40019 and 18EPC-40021.

3. I am the owner of the property (the "Property") at 1416 6th Street NW, Albuquerque, New Mexico 87102, Lots 22, 23 and 24, Block 20, Albright-Moore Addition, SE Corner of 6th St. and Constitution Ave.

4. I purchased the Property in April 2008 for commercial use pursuant to a commercial real estate listing.

5. In purchasing the Property, I relied on a zoning letter from the City indicating the Property may be used for nonresidential purposes, which zoning letter is attached as **Attachment 14** to the Submittal.

6. I would not have purchased the Property if it had not been zoned for commercial use, and the Bernalillo County property records show the property assessed for "retail single occupancy," as reflected in **Attachment 15** to the Submittal, the Bernalillo County Property Assessor's Record for my Property.

7. In connection with the Property, I have conducted research into the use of the Property and obtained documents from the City regarding the historic use of the Property. The documents that the City provided to me, including **Attachments 10** and **11** (the 1969 zoning ordinance for the Property and the comments from the City Planning Department regarding the rezoning of the Property) show that in 1969 the Property was zoned for SU-1 zoning for Flower Shop/Nursery with off-street parking for the retail business.

8. During my investigation of the Property, the City section that handles business permits (which to my understanding is the Business Registration Section of the Planning Department) provided me a list of businesses that have conducted business on the Property under business permits issued by the City. Such printout is **Attachment 13** to the Submittal, which is entitled "Facility List." The Facility List, **Attachment 13**, indicates 2007 as the last time Gray's Flower Shop was conducting commercial activity on the Property under a business license with the City.

9. Under the name Goodfellas Florist and Nursery, I have maintained a business license from 2009 to the present for the use of the Property as a flower shop/nursery. Under such licenses, I have used the Property as a flower shop/nursery; and I am presently using the Property as a flower shop. My licenses for 2017 through 2019 are **Attachment 16** to the Submittal and a sampling of documents from one of my wholesale business accounts for the purchase of plants, which account I have had since 2009, are included in **Attachment 17** to the Submittal. Photographs of my signs on the Property for Goodfellas Florist and Nursery are **Attachment A** to the Submittal.

10. In my investigation of the history of the Property, I have also reviewed zoning maps from the City regarding the use of the Property. The only maps provided by the City regarding the use of the Property since 1969 to the present always show the commercial use of the Property. Such maps from the City showing that the Property is commercial are **Attachments 12A**, **12B**, **12C**, **12D**, and the current land use map from the City obtainable from the City's website today, **Attachment 12E**.

11. I have never used the Property for residential uses and I have never seen any evidence of residential use of the Property from the time the Property was zoned commercial to the present.

12. At all times, until this year, the City has taken the position that the Property is zoned for the uses of Flower Shop/Nursery and off-street parking for the retail business.

Further affiant sayeth naught.

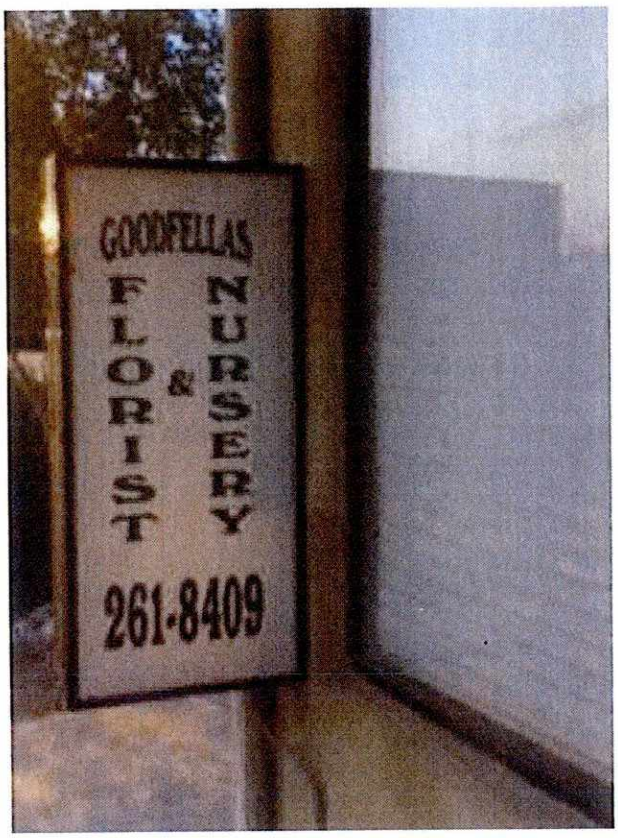
Eric Kilmer

SUBSCRIBED AND SWORN TO before me this 24th day of October, 2018 by Eric Kilmer.

Notary Public

My Commission expires: June 27, 2020

OFFICIAL SEAL
Melissa Parra Wilcox
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 06-27-2020



Attachment A to Kilmer Affidavit

COMPREHENSIVE CITY ZONING CODE

City of Albuquerque, Code of Ordinances, Chapter 14 – Zoning, Planning and Building

Article 16: Zoning Code

OFFICE OF THE MAYOR/CAO

Richard J. Berry, Mayor

Robert Perry, Chief Administrative Officer
Michael Riordan, P.E., Chief Operating Officer

CITY COUNCIL

Ken Sanchez, District 1
Isaac Benton, District 2
Klarissa Peña, District 3
Brad Winter, District 4, Vice President
Dan Lewis, District 5, President
Pat Davis, District 6
Diane Gibson, District 7
Trudy Jones, District 8
Don Harris, District 9
Jon Zaman, Director of Council Services

PLANNING DEPARTMENT

Suzanne Lubar, Director
Brennon Williams, Code Compliance Official

Planning Department, Plaza del Sol Building, 600 Second Street NW 87102
Main Reception Desk (3rd floor) • **Telephone: 505-924-3860 • Fax: 505-924-3339**
Zoning (5th floor) • **Telephone: 505-924-3850 • Fax: 505-924-3847**

WEB SITE: WWW.CABQ.GOV/PLANNING

TTY users may call either phone number listed above via Relay New Mexico at 1-800-659-8331.

Comprehensive City Zoning Code portion
(Chapter 14, Article 16)
REVISED & UPDATED THROUGH
April 2016

Kilmer - Attachment 2A

§ 14-16-1-3 INTENT.

(A) This article is intended to help achieve Article IX of the Charter of the City of Albuquerque and the city's master plan; in particular the master plan documents which comprise the Albuquerque/Bernalillo County Comprehensive Plan. This article is intended to create orderly, harmonious, and economically sound development in order to promote the health, safety, convenience, and general welfare of the citizens of the city. These regulations are necessary to provide adequate open spaces for light and air including solar access; to avoid undue concentration of population, to secure safety from fire, panic, and other dangers; to help control congestion in the streets and public ways; to control and abate unsightly use of buildings or land; to facilitate adequate provisions for community utilities and facilities such as transportation, water, sewer, schools, and parks; to encourage the most appropriate use of land; to properly channel flood water runoff; to conserve and stabilize the value of property; and to enhance the appearance of the landscape.

(B) Any use not designated a permissive or conditional use in a zone is specifically prohibited from that zone, except as otherwise provided herein.

(C) Approval of a zone or a plan which is required pursuant to a zone does not commit the city to provide water or sewer service more rapidly than is programmed by the city.

('74 Code, § 7-14-2) (Ord. 80-1975; Am. Ord. 62-1980)

§ 14-16-1-4 INTERPRETATION.

(A) ***General.*** The provisions of this article shall be held to be minimum requirements to meet the intent expressed in § 14-16-1-3. Where the provisions of this article impose greater restrictions than those of any other ordinance or resolution the provisions of this article shall prevail. Where the provisions of any other ordinance, resolution, or covenant impose greater restrictions than those of this article, the provisions of such other ordinance, resolution, or covenant shall prevail.

(B) ***Uses within Structures***. Unless a different intent is indicated herein or in an adopted city plan, uses allowed under the terms of this article shall be understood to be allowed within structures only if they are constructed according to the city Building Code and other technical codes adopted in § 14-1-3, as of the date of the structure's construction.

(C) Public utility structures, as herein defined, are regulated by this Zoning Code. Other public utility installations located in public rights of way or utility easements, including but not limited to lines and poles, are not regulated by the Zoning Code; however, such installations are controlled by the city if it is the utility or if it has governing adopted plans.

('74 Code, § 7-14-4) (Ord. 80-1975; Am. Ord. 80-1986; Am. Ord. 47-1990)

§ 14-16-1-5 DEFINITIONS.

(A) Word Forms. Unless a contrary intention clearly appears, the following words have, for the purpose of this article, meanings interpreted as follows:

(1) Words used in the present tense include the future tense. Words used in the future tense include the present tense.

(2) The singular includes the plural. The plural includes the singular.

(3) The word MAY is permissive; the words SHALL and WILL are mandatory, subject to specific exceptions allowed by this article.

(4) Words not defined herein but which are defined in the Building Code of the city (adopted in § 14-1-3) are to be construed as defined therein.

(B) Definitions. The following definitions apply:

ACCESSORY BUILDING. See BUILDING, ACCESSORY.

ACCESSORY LIVING QUARTERS. See LIVING QUARTERS, ACCESSORY.

ADULT AMUSEMENT ESTABLISHMENT. An establishment such as an auditorium, bar, cabaret, concert hall, nightclub, restaurant, theater, or other commercial establishment that provides amusement or entertainment featuring one or more of the following:

(1) A live performance, act or escort service distinguished or characterized by an emphasis on the depiction, description, exposure, or representation of specified anatomical areas or the conduct or simulation of specified sexual activities; or

(2) Audio or video displays, computer displays, films, motion pictures, slides or other visual representations or recordings characterized or distinguished by an emphasis on the depiction, description, exposure or representation of specified anatomical areas or the conduct or simulation of specified sexual activities.

ADULT MATERIAL. Items consisting of one or more of the following:

(1) Digital or printed books, magazines, periodicals, audio or video displays, computer displays, films, motion pictures, slides, or other visual representations or recordings characterized or distinguished by an emphasis on the depiction, description, exposure or representation of specified anatomical areas or the conduct or simulation of specified sexual activities; or

(2) Devices, instruments, novelties or paraphernalia designed for use in connection with specified sexual activities or that depict or describe specified anatomical areas.

ADULT STORE. An establishment having 25% or more of its shelf space or square footage devoted to the display, rental, sale or viewing of adult material for any form of consideration.

APARTMENT. Structures containing two or more dwelling units each, including dwelling units which do not have a separate entrance leading directly to the outdoors at ground level.

ARCHITECTURALLY INTEGRATED WIRELESS TELECOMMUNICATIONS FACILITY. A wireless telecommunications facility which is camouflaged into the structure on which it is located by means of color, texturing, architectural treatment, massing, size, design, and/or shape. An architecturally integrated wireless telecommunications facility is a concealed facility.

AREAS OF CHANGE. An area designated "Areas of Change" by the Albuquerque/Bernalillo County Comprehensive Plan; generally, development, redevelopment, or rehabilitation is appropriate.

AREAS OF CONSISTENCY. The areas designated "Areas of Consistency" by the Albuquerque/Bernalillo County Comprehensive Plan; are generally stable and developed, and new development, redevelopment, or rehabilitation is to reinforce the pattern, intensity, and character of the existing built environment.

AUTOMOBILE DISMANTLING YARD. A premises on which is conducted the dismantling of automobiles; there may be the selling of automobile parts and the storage of inoperative automobiles awaiting dismantling or removal. There is no hammering, mechanical cutting, grinding, or blasting.

BACK TO BACK STRUCTURE. A structure that includes two rows of retail outlets placed rear of outlet to rear of outlet.

BATH. A space or suite of adjacent spaces containing a wash basin, toilet, and a bathtub and/or shower.

BED AND BREAKFAST ESTABLISHMENT. A house with a permanent resident and a subordinate use of up to eight guest rooms which may be rented for short-term overnight lodging with breakfast served to overnight guests only; some or all guest rooms may be in accessory living quarters.

BEDROOM. Any room in a dwelling which is partitioned by walls and doors, other than one kitchen, one room which may be designated as a living room, one room which may be designated as a dining room or family room, and any number of baths, foyers, corridors, and closets; however, no room greater than 100 square feet can be considered a closet for the purposes of this definition.

BLOCK. An area no larger than ten acres which is bounded by but not crossed by public streets.

BOARD OF APPEALS. A Board consisting of five members which hears appeals from the Zoning Hearing Examiner.

BOARDING OR LODGING HOUSE. A dwelling unit containing at least one but not more than five guest rooms where lodging is provided, with or without meals, for compensation; it does not include community residential program or emergency shelter.

BOAT. A vehicle for traveling in or on water, not exceeding 30 feet in body length, 8 feet in width, or 11 feet in overall height. Height includes the trailer, if the boat is mounted on a trailer.

BUILDING, ACCESSORY. A building detached from and smaller than the main building on the same lot; the use of an accessory building shall be appropriate, subordinate, and customarily incidental to the main use of the lot.

BUSINESS. A legal entity operating an enterprise in a space separate from any other enterprise.

CAMPGROUND. A lot developed or used for occupancy by tents and/or recreational vehicles for transient dwelling purposes.

CANOPY SIGN. See SIGN, CANOPY.

which are 20 feet or less in length. In the case of a lot which comes to a point at the rear, the rear lot line is the imaginary line parallel to the front lot line, not less than ten feet long, lying wholly within the lot, and farthest from the front lot line.

LOT WIDTH. The length of a straight line between the points on each of the side lot lines which points are 50 feet from the front lot line; except for the purposes of determining the required side yard setbacks, these points are located either at the required minimum front or rear setback distance, whichever produces the least lot width.

LUMINANCE. The brightness of an object, expressed in terms of footlamberts, determined from a point five feet above grade on another premises or the public right-of-way, but no closer than 20 horizontal feet from the object measured.

MAIN STRUCTURE. A building used for the purpose of retailing that is at least 75,000 square feet in size and dedicated to a single tenant, or a building that has one or more tenants with at least one tenant occupying at least 75,000 square feet for retail uses. A collection of smaller buildings, each less than 75,000 square feet and linked by common walls is not considered a MAIN STRUCTURE. Refer to § 14-16-3-2 for Main Structure Regulations.

MAJOR FACADE(S). Any exterior facade that contains a primary entrance(s) or that fronts a public street.

MASSING. The overall composition of the exterior of the major volumes of a building and their relationship to each other in a sequence in the overall design of the building or structure.

MASTER DEVELOPMENT PLAN. A plan meeting the requirements for a site development plan for subdivision; showing general building and parking locations; and specifying design requirements for buildings, landscaping, lighting, and signage.

MASTER PLAN. A duly adopted plan or any of its parts, for the development of the area within the planning and platting jurisdiction of the city for the general purpose of guiding and accomplishing coordinated, adjusted, and harmonious development. It includes the Albuquerque/Bernalillo County Comprehensive Plan.

MEASUREMENT. In all instances where the Zoning Code requires a separation of uses, use districts, lots, or buildings, such distance shall be measured in a geometrically straight line using a scaled map, or a survey if necessary, unless otherwise specifically provided for in the Zoning Code. This line shall be measured to run from the nearest point on the nearest lot line or the lot or lots upon which the regulated use is located to either the nearest point on the nearest lot line of the lot or lots upon which a use is located from which the regulated use is required to be separated or the nearest point on the nearest boundary of the zoning district from which the regulated use is required to be separated, whichever terminal point is applicable. Such measurement shall be made without regard to any intervening structures, objects, uses, the street grid, landforms, waterways, or any other topographical features.

MEDICAL HELIPAD. A helipad that is located on the same premises as a hospital, or in close proximity to a hospital, and is used exclusively for emergency medical transport.

MOBILE FOOD UNIT. Any wagon, truck, push cart, or vehicle self-propelled or otherwise movable from place to place from which any person sells, offers for sale, or gives away, beverages, food, or any food product for human consumption.

MOBILE HOME. A movable or portable housing structure larger than 40 feet in body length, 8 feet in width, or 11 feet in overall height, designed for and occupied by no more than one family for

living and sleeping purposes; it does not include structures built to the standards of the Building Code and other technical codes adopted in § 14-1-3, as of the date of the unit's construction.

MOBILE HOME DEVELOPMENT. An area developed or intended to be developed for occupancy by two or more mobile homes which are used for dwelling purposes. It includes areas known as mobile home parks, where lots or spaces are rented individually to residents; mobile home subdivisions, where lots are sold individually, usually to residents of the lots; or other forms of ownership.

NEIGHBORHOOD AREA TRAFFIC STUDY. A study that is intended to respond to cut-through traffic, speeding, and problem intersections on more than one local street in a neighborhood. Neighborhood area traffic studies are more complex than single street traffic studies. The study area is larger and problems are inter-related and they require research and analysis and substantial involvement by neighborhood residents. Cut through studies that are part of a neighborhood traffic study shall be performed by the City Traffic Engineer or a qualified professional engineer using the methodologies of the City of Albuquerque Neighborhood Traffic Management Program (NTMP) to perform a cut through study.

NET LEASABLE AREA. The total floor area designed for owner or tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet measured from the centerline of encompassing walls.

NONCOMMERCIAL VEHICLE. A motor vehicle used in the conduct of normal daily activities which has a gross vehicle weight rating of not more than 10,000 pounds and can be lawfully parked in a standard 8.5 feet by 20 feet parking space. The term includes motor vehicles commonly called motorcycles, automobiles, vans, sport utility vehicles, light trucks or pick-ups.

NONCONFORMING. A structure or use of structure or land which does not conform to applicable zoning and which was in conformity with applicable zoning in effect at the time it was created.

NONCONFORMING STRUCTURE. A structure which does not conform to this Article or to the regulations of an applicable sector development plan for reasons other than the use of the structure and which structure did not violate this Article or any applicable sector development plan at the time the structure was constructed. By way of example: a nonconforming structure could be one that violates height, setback, aesthetic or form requirements.

NONCONFORMING 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.

NORTHERN BOUNDARY. The lot line lying generally to the north side of a lot which is the most nearly perpendicular to cardinal north.

NURSERY. The commercial growing of plants, if the plants are sometimes covered with a structure which extends more than two feet above ground level.

OCCUPANCY. The purpose for which a building is used or intended to be used, or the building or portion thereof housing such use.

OFFICE. 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.

OFF-PREMISE SIGN. See ***SIGN, OFF-PREMISE.***

PUBLIC UTILITY STRUCTURE. A structure, owned by a unit of government or by a public utility company, which is an electric switching station; electric substation operating at voltages greater than 50 kilovolts (kV); gas transfer station or border station; city-owned lift station, odor control (or chlorine) station, water well or pump station, or water reservoir; or any other public utility structure controlled by a rank two facility plan.

READILY VISIBLE WIRELESS TELECOMMUNICATIONS FACILITY. An object which stands out of the landscape as a wireless telecommunications facility when viewed with the naked eye.

REAR YARD. See ***YARD, REAR***.

RECREATIONAL VEHICLE. A vehicular unit not exceeding 40 feet in body length, eight feet in width, or 11 feet in overall height, primarily designed as a temporary living quarters for recreational, camping, or travel use; it either has its own motive power or is designed to be mounted on or drawn by an automotive vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, and camping trailer.

RECYCLING BIN. A container located outside and used for storing and sorting metal, glass, and paper products, the materials of which will be recycled for further economic uses.

RESIDENTIAL ZONE. See ***ZONE, RESIDENTIAL***.

RESTAURANT. An establishment that serves food and beverages which are consumed on its premises by customers seated at tables and/or counters either inside or outside the building thereon, and which may be engaged in providing customers with take-out service of food and/or non-alcoholic beverages for off-site consumption. Sale of alcoholic drink is controlled by other provisions in this code and the New Mexico State statutes regarding alcoholic drink sales.

RETAIL SUITE LINER. A retail suite connected to and extending from the front or side of a main structure for the purpose of screening.

RIGHT-OF-WAY. See ***PUBLIC RIGHT-OF-WAY***.

ROOF-MOUNTED WIRELESS TELECOMMUNICATIONS FACILITY. A wireless telecommunications facility placed on a rooftop through gravity mounts or other surface attachments and integrated into the natural rooftop profile of the building so as to resemble a permissible rooftop structure, such as a ventilator, cooling equipment, solar equipment, water tank, chimney, or parapet.

ROOMING HOUSE. See ***BOARDING*** or ***LODGING HOUSE***.

SECONDARY DRIVEWAY. A vehicular entrance used to supplement a primary driveway access from a public right of way into or out of a premises. Provides vehicular access to the premises in addition to a primary driveway access.

SECTOR DEVELOPMENT PLAN. A plan that covers a large area satisfactory to the City body with the authority to approve the plan, and specifies standards for the area's and sub-area's character, allowed uses, structure height, and dwellings per acre; the plan may specify lot coverage, floor area ratio, major landscaping features, building massing, flood water management, parking, signs, provisions for maximum feasible solar access, provisions for transportation, and other such features. Such plan constitutes a detailed part of the master plan and must be essentially consistent with the more general elements of the master plan, the Albuquerque/Bernalillo County Comprehensive Plan.

§ 14-16-2-8 R-LT RESIDENTIAL ZONE.

This zone provides suitable sites for houses, limited townhouses, and uses incidental thereto in the Established and Central Urban areas.

(A) Permissive Uses.

(1) Uses permissive in the R-1 zone, except:

(a) Agricultural animal keeping (§ 14-16-2-6(A)(2)(b)) is not permitted: and

(b) Front yard parking of recreational vehicles (§ 14-16-2-6(A)(2)(h)3.) 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.

(B) Conditional Uses.

(1) Uses conditional in the R-1 zone.

(2) Townhouses with three dwelling units per building and one dwelling unit per lot. Such townhouses existing in the R-LT zone prior to the effective date of this Zoning Code shall be considered approved conditional uses.

(C) Height. Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code.

(D) Lot Size.

(1) For a townhouse, except as provided in division (2) below, minimum lot area shall be 3,200 square feet; minimum lot width shall be 24 feet.

(2) For a townhouse in a Family Housing Development or for a townhouse on a lot with vehicle access only to the rear yard from an alley, minimum lot area shall be 2,560 square feet; minimum lot width shall be 20 feet.

(3) For a house, except as provided in division (4) below, minimum lot area shall be 4,000 square feet; minimum lot width shall be 40 feet.

(4) For a house in a Family Housing Development or for a house on a lot with vehicle access only to the rear yard from an alley or for a lot with a detached garage located in the rear yard and accessed by a driveway with a maximum width of 12 feet in the front yard and in the side yard abutting the side of the dwelling, minimum lot area shall be 3,200 square feet; minimum lot width shall be 32 feet.

(E) Setback.

(1) There shall be a front yard setback of not less than 15 feet, except driveways shall not be less than 20 feet long.

(2) For lots created after January 1, 2005 and for lots granted conditional use approval, if one of the following conditions is met, then there shall be a front yard setback of not less than 10 feet:

(a) There is no front yard driveway and vehicle access is only to the rear yard from an alley, or

(b) The garage is set back not less than 25 feet and comprises no more than 50% of the width of the street-facing building facade and driveways and off-street parking areas cover no more than 60% of the area of the front yard.

(3) There shall be no required side-yard setback, except:

(a) There shall be ten feet on the street side of corner lots; and

(b) There shall be five feet from a side lot line that separates the R-LT zone from another zone.

(4) There shall be a rear-yard setback of:

(a) Not less than 15 feet; or

(b) For houses with offset rear lot lines, not less than five feet, provided that the average rear yard setback is not less than 15 feet. Such reduced setbacks are allowed only when approved by the Planning Director and specified on a subdivision plat for not less than two back-to-back lots.

(c) For lots created after January 1, 2005, if alleys are provided, either a second story heated space or the rear yard wall or fence shall provide a view of the alley.

(5) There shall be a distance of not less than ten feet between residential buildings.

(F) Off-Street Parking.

(1) Off-street parking spaces shall be as provided in § 14-16-3-1 of this Zoning Code.

(2) Maximum front yard setback area that can be an improved parking and maneuvering area: 75%, but no more than 27 feet in width or the width of the front of the garage, whichever is wider, perpendicular to the curb.

(3) Parking on any portion of a front yard setback area, other than the improved parking and maneuvering areas, is prohibited.

(G) Usable Open Space. Usable open space shall be provided on-site at 800 square feet per townhouse dwelling unit or 600 square feet per townhouse dwelling unit with vehicle access only to the rear yard from an alley.

(H) Materials. Barbed tape, razor wire, barbed wire or similar materials are prohibited except at public utility structures and Albuquerque Police Department or Transit Department facilities.

('74 Code, § 7-14-12) (Ord. 80-1975; Am. Ord. 85-1978; Am. Ord. 54-1980; Am. Ord. 3-1986; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 69-1990; Am. Ord. 15-1999; Am. Ord. 44-2005; Am. Ord. 17-2007; Am. Ord. 19-2010; **2013**)

§ 14-16-2-15 O-1 OFFICE AND INSTITUTION ZONE.

This zone provides sites suitable for office, service, institutional, and dwelling uses.

(A) Permissive Uses.

(1) Antenna, up to 65 feet in height.

(2) Beauty shop, barber shop.

(3) 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.

(4) Club, provided there is no liquor license.

(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) Dwelling unit (house, townhouse, or apartment) constituting up to 25% of the gross floor area on the premises, provided 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 dwelling 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 requirement of the R-D or RA-1 zone, respectively, shall also be met.

(7) Incidental uses within a building, most of which is occupied by offices and/or dwelling units, such as news, cigar or candy stand, restaurant, personal-service shop, and the like, provided the incidental uses comply with the following:

(a) The use is intended primarily for the use of the occupants of the structure.

(b) At least 10,000 square feet of floor area are contained in the structure.

(c) The use is limited to a maximum of 10% of the total floor area.

(d) The use is so situated within the structure that it is not directly accessible from a public right-of-way.

(e) A sign or window display relating to the use is not discernible from a public right-of-way, except that a portable sign shall be allowed per small business pursuant to the General Signage Regulations.

(8) Institution, including library, museum, nursing or rest home, school, day care center, except not hospital for human beings, sanatorium, or disciplinary or mental institutions.

(9) Medical supplies and services, such as drug prescription and supply shop, physical therapy office, or shop for fabricating and fitting prosthetic or correcting devices, or medical or dental laboratory.

(10) Office.

(11) Park-and-ride temporary facilities.

(12) Parking lot, providing it complies with the following:

(a) Paving, all of which shall be maintained level and serviceable with individual spaces clearly identified.

1. The lot must be graded and surfaced with one of the following:

a. Two inches of asphalt concrete, permeable pavement, or permeable paving system, as described in the General Parking Regulations Surface Standards, §14-16-3-1(F)(1).

b. For parking lots of 20 or fewer spaces, permeable surfacing or 3/8" to 1" crushed gravel: A layer at least two inches thick, at least ½ inch depth of which shall be maintained on the surface; gravel shall be kept off the right-of-way.

2. If street curbs and gutters exist adjacent to the parking lot property on a side where lot egress is allowed, the surfacing shall be blacktop for the width of the egress drive(s) and shall extend inward from the property line a minimum of 25 feet along all normal lines of egress traffic flow from the lot.

3. Designated disabled parking spaces and pedestrian pathways must be paved with 2" asphaltic pavement or equivalent per City of Albuquerque standards to ensure compliance with Federal Guidelines.

(b) The lot shall have barriers which prevent vehicles from extending over the sidewalk or abutting lots, or beyond the sides of a parking structure.

(c) A solid wall or fence at least six feet high shall be erected on sides which abut land, other than public right-of-way land, in a residential zone. (See also § 14-16-3-10 of this Zoning Code.) However:

1. Such wall or fence shall be three feet high in the area within 11 feet of a public sidewalk or planned public sidewalk location.

2. 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.

(d) In a parking structure there shall be a six-foot solid wall on every parking level where the structure is within 19 feet of privately owned land in a residential zone.

(e) Ingress or egress shall be designed to discourage parking lot traffic from using local residential streets for more than 150 feet, unless no reasonable alternative is available.

(f) A parking lot hereafter developed shall include landscaping planted and maintained according to a Landscaping Plan approved by the Planning Director; however, the Planning Commission may waive this requirement where it is found not useful to achieving the intent of this Zoning Code.

(13) Photocopy, photography studio, except adult photo studio.

(14) 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.

(15) Radio or television studio.

(16) Sign, on-premise, as provided in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location.

1. Only wall signs, canopy signs, and free-standing or projecting signs are permitted.

2. A sign may not overhang into the public right-of-way, except a wall sign may protrude up to one foot into the public right-of-way. (See also § 14-16-3-5(B)(2) of this Zoning Code.)

3. Projecting signs shall not project horizontally more than four feet.

(b) Number.

1. No limit on number of wall signs.

2. One canopy sign per entrance or exit shall be permitted.

3. In the Established or Redeveloping Areas, one free-standing or projecting sign structure shall be permitted for each premises, or joint sign premises, providing the premises or joint sign premises is at least 100 feet wide.

4. In the Developing or Semi- Urban Areas:

a. Free-standing or projecting sign not permitted on premises of under five acres.

b. One free-standing or projecting sign on premises of five acres or more, provided the street frontage is at least 100 feet wide.

(c) Size.

1. Size of Free-Standing or Projecting Signs. Sign area of a free-standing or projecting sign shall not exceed 75 square feet.

2. Size of Building-Mounted Signs, Except Projecting Signs. Sign area of a building-mounted sign shall not exceed 15% of the area of the facade to which it is applied if there is no free-standing or projecting on-premise sign on the premises or joint sign premises, or 7.5% of the area of the facade if there is such a free-standing or projecting sign on the premises or joint sign premises.

(d) Height. Sign height shall not exceed 26 feet or the height of the walls of the tallest building on the premises, whichever is lower.

(e) Motion. Signs or sign parts shall not move; there shall be no wind devices. No sign shall automatically change its message unless it is a time or temperature sign.

(f) Lettering. No lettering on a free-standing sign shall have any character exceeding nine inches in height.

(17) 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.

(18) 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) Community residential corrections program: up 15 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(3) Community residential program for substance abusers with up to 15 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(4) Dwelling units constituting more than 25% of the gross floor area on a premises, provided:

(a) No more than 60% of the gross floor area of the structures on the site shall be developed as dwelling units, and

(b) Open space is provided as specified for permissive dwelling units in this zone.

(c) A dwelling unit constructed as a conditional use in an O-1 Zone shall permanently retain its status as an approved conditional use even if the use of the property as a dwelling unit ceases for a continuous period of more than one year. The provisions of § 14-16-4-2(D)(3) shall not apply to a conditional use approved for a dwelling unit in an O-1 Zone.

(d) A dwelling unit constructed as a conditional use or a permissive use in an O-1 Zone under any former ordinance shall not become a non- conforming use based on a failure to conform with (B)(4)(a).

(e) The request for approval of a conditional use under § 14-16-2-15(B)(4) shall be accompanied by at least one copy of an accurate site development plan for building including a proposed schedule for development. The failure to demonstrate that the

non-residential uses will be developed concurrently with the residential uses is evidence that the proposal will be injurious to the neighborhood and the community.

(5) Instruction in music, dance, fine arts, or crafts.

(6) Public utility structure which is not permissive.

(7) Office machines and equipment sales and repair.

(8) Printing, copying, blueprinting incidental to office uses.

(9) Retailing of food and drink, for consumption on premises or off, but not drive-in facility and provided that alcoholic drink is not dispensed for off-premise consumption in broken packages or the following packages within 500 feet of a pre-elementary, elementary or secondary school, a religious institution, a residential zone, a designated Metropolitan Redevelopment Area (as defined in the State Metropolitan Redevelopment Code), a city owned park or city owned major public open space:

(a) distilled spirits, as defined in the New Mexico Liquor Control Act, in any package that contains less than 750 milliliters;

(b) beer, as defined in the New Mexico Liquor Control Act, in any single container labeled as containing 16 or fewer ounces; and

(c) fortified wines with a volume of alcohol of more than 13.5 percent, provided that retailing alcoholic drink, for on or off premise consumption, within 500 feet of a community residential program or hospital for treatment of substance abusers is prohibited pursuant to § 14-16-3-12(A)(11) ROA 1994.

(10) Wireless Telecommunications Facility, Roof-Mounted, up to 20 feet above the parapet of the building on which it is placed, provided that the requirements of § 14-16-3-17 of this Zoning Code are met.

(C) Height.

(1) Structure height up to 26 feet is permitted at any legal location. The height and width of the structure over 26 feet shall fall within 45° angle planes drawn from the horizontal at the mean grade along each internal boundary of the premises and each adjacent public right-of-way centerline. To protect solar access, a structure over 26 feet may not exceed the northern boundary of these 45° planes, but may be sited in any other direction within planes drawn at a 60° angle from the same boundaries or centerline. Exceptions to the above are provided in § 14-16-3-3 of this Zoning Code, and for sign and antenna height, in division (A) of this section. Notwithstanding any of the above regulations, structures shall not exceed 26 feet in height within 85 feet of a lot zoned specifically for houses.

(2) Exceptions to division (1) above are 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. The following regulations apply to structures other than signs except as provided in §§ 14-16-3-1 and 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 or alley and a public sidewalk or planned public sidewalk location.

(2) Near residential zones, the following greater setback requirements shall apply:

(a) There shall be a front or corner side setback of not less than ten feet where the lot is across the street from the front lot line of a facing lot in a residential zone. This setback applies to on- and off-premise signs.

(b) There shall be a side or rear setback of not less than five feet where the site abuts the side of a lot in a residential zone.

(c) There shall be a side or rear setback of not less than 15 feet where the site abuts the rear of a lot in a residential zone.

(3) The clear sight triangle shall not be infringed upon.

(F) Off-Street Parking. Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code.

('74 Code, § 7-14-20) (Ord. 80-1975; Am. Ord. 40-1976; Am. Ord. 26-1977; Am. Ord. 38-1978; Am. Ord. 48-1980; Am. Ord. 61-1980; Am. Ord. 39-1983; Am. Ord. 40-1983; Am. Ord. 54-1983; Am. Ord. 11-1986; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 47-1990; Am. Ord. 58-1995; Am. Ord. 9-1999; Am. Ord. 11-2002; Am. Ord. 36-2002; Am. Ord. 4-2005; Am. Ord. 16-2005; Am. Ord. 5-2008; Am. Ord. 40-2008; Am. Ord. 6-2009; Am. Ord. 19-2010; O-13-62)

§ 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)

§ 14-16-2-17 C-2 COMMUNITY COMMERCIAL ZONE.

This zone provides suitable sites for offices, for most service and commercial activities, and for certain specified institutional uses.

(A) ***Permissive Uses.*** Permissive uses, provided there is no outdoor storage except parking and as specifically allowed below:

(1) Antenna, up to 65 feet in height.

(2) Clinic.

(3) Copying, blueprinting.

(4) Institution:

(a) Club.

(b) Day Care Center.

(c) Library.

(d) Museum.

(e) School, including caretaker's mobile home.

(5) Office.

(6) Park-and-ride temporary facilities.

(7) 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.

(8) 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-2 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-2 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.

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 75 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.

(9) Sign, off-premise, as provided 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 except that free-standing signs designated to be read from the Interstate Highway and with at least one edge within 150 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, are also permitted.

3. Separation.

   a. No sign shall be nearer than 300 feet to any other off-premise sign.

   b. No sign within 660 feet of the nearest edge of the public right-of-way of an Interstate Highway shall be nearer than 1,000 feet to any other off-premise sign.

   c. But divisions a. and b. above shall not apply as to the distance between two signs separated by a building or other obstruction where the face of only one sign is visible from any point on the public right-of-way.

   d. But divisions a. and b. above shall not apply to signs which are at some point within five feet of each other and only one of the sign faces is designed to be read from any given lane of traffic.

4. No free-standing sign erected after January 1, 1976, shall be nearer than 100 feet to any preexisting on-premise sign.

5. Setback

   a. No sign shall be nearer than seven feet to any public street right-of-way, except a public right-of-way containing an Interstate Highway without a frontage road between the sign and the Interstate Highway.

   b. No sign shall overhang a public right-of-way containing an Interstate Highway without a frontage road between the sign and the Interstate Highway.

6. No free-standing sign shall be nearer than 150 feet to any conforming residential property.

(b) Size.

1. Free-standing sign area of any one sign shall not exceed 300 square feet plus an additional add-on sign area of 18 square feet, except that within 150 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, the area of any one sign designed to be read from the Interstate Highway may be up to but shall not exceed 672 square feet plus an additional add-on sign area of 34 square feet. Free-standing sign length shall not exceed 60 feet.

2. Wall sign area shall be controlled by the provisions of division (9)(c)2. of this division (A).

(c) Height.

1. Sign height shall not exceed 26 feet, except:

   a. As provided in division 2. below; and

   b. the height of an add-on sign may be up to but shall not exceed 31 feet.

2. Within 150 feet of a moving through lane of an Interstate Highway, excluding interchange ramps, the height of the highest point of the sign shall not exceed 29 feet, measured either from grade or from the elevation of the Interstate Highway at its closest point, except the height of an add-on sign may be up to but shall not exceed 34 feet, measured in the same way.

(d) Illumination, Motion: No regulations, apart from the general sign regulations.

(10) Sign, on-premise, as provided in § 14-16-3-5 of this Zoning Code, and further provided:

(a) Location.

1. Building-mounted signs extending above the height of the building shall be permitted only if they are:

   a. A continuation of the plane of a projecting sign or of the nearest facade; or

   b. Counted and controlled by all number, size, and height regulations for free-standing signs, including division (c)2.b. below.

2. A sign shall not overhang into the public right-of-way more than five feet.

3. Projecting signs shall not project horizontally more than five feet, except marquee signs are permitted to project ten feet.

(b) Number.

1. In the Established or Redeveloped Areas. One free-standing or projecting sign shall be permitted for each street frontage of each premises or joint sign premises which has at least 100 feet of street frontage, or one per 300 feet of total street frontage (e.g., up to two signs allowed if 630 feet of frontage), whichever is more permissive. A portable sign may also be permitted pursuant to the General Signage Regulations.

2. In the Developing, Semi- Urban, or Rural and Open Areas.

   a. No free-standing signs on sites of under five acres except a portable sign may also be permitted pursuant to the General Signage Regulations.

   b. One free-standing sign per street frontage shall be permitted on premises of five acres or more, provided the street frontage is at least 100 feet wide.

   c. One free-standing sign shall be permitted on a premises with 250 feet or more of street frontage but an area under five acres, provided the maximum sign area for each of one or two faces shall not exceed 35 square feet per face.

3. One canopy sign per entrance or exit shall be permitted.

4. No limit on number of wall signs.

(c) Size.

1. Size of Free-Standing and Projecting Signs. Sign area for a free-standing or projecting sign shall not exceed the following area:

a. Seventy-five square feet if the most important street abutting the lot is a local street.

b. One hundred square feet if the most important street abutting the lot is a collector street.

c. Two hundred and fifty square feet if the most important street abutting the lot is an arterial street or freeway (if division d. below does not apply).

d. Three hundred square feet if the sign is within 200 feet of a moving lane of a freeway and is visible from the freeway; in addition to the regular limits on numbers of signs, there shall be no more than one sign this large per business.

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 area is not wholly visible from an abutting collector street, arterial street, or freeway;

ii. Twenty-five percent of the area to which it is applied, if the sign area is wholly visible from an abutting collector street; or

iii. Thirty percent of the area of the facade to which it is applied, if the sign area is wholly visible from an abutting arterial street or freeway.

b. A building-mounted sign on premises or joint sign premises where there is a free-standing or projecting on- or off-premise sign shall not exceed one-half the percentage of facade area listed in division a. above.

c. An off-premise wall sign may be substituted for the area which otherwise would be permitted for an on-premise sign; such sign shall be regulated by height regulations for off-premise signs.

(d) Height.

1. Height of a free-standing sign shall not exceed 26 feet, except a sign which 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.

3. However, height of either a non-illuminated wall sign or an illuminated wall sign for a hotel or motel may be over 30 feet.

(e) Illumination, Motion, Lettering. No regulations, apart from 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 in § 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.

(11) Radio or television studio or station.

(12) Recycling bin as an accessory use on the site, as provided in § 14-16-3-15 of this Zoning Code.

(13) Retailing of any consumer product and provision of any customer, personal, or business service, except adult amusement establishments and adult stores, hospitals for human beings and transit facilities, provided it is not listed as a conditional use in this zone, or as a permissive or conditional use listed for the first time in the C-3 zone, and with the following limitation:

(a) Alcoholic drink sales for consumption off premises; except the sale of alcoholic drink within 500 feet of a community residential program or hospital for treatment of substance abusers is prohibited pursuant to § 14-16-3-12(A)(11) ROA 1994:

1. are limited to building area which is not within 500 feet of a residential zone; and

2. shall not include the sale of broken packages or the following packages within 500 feet of a pre-elementary, elementary or secondary school, a religious institution, a residential zone, a designated Metropolitan Redevelopment Area (as defined in the State Metropolitan Redevelopment Code), a city owned park or city owned major public open space:

A. distilled spirits, as defined in the New Mexico Liquor Control Act, in any package that contains less than 750 milliliters;

B. beer, as defined in the New Mexico Liquor Control Act, in any single container labeled as containing 16 or fewer ounces; and

C. fortified wines with a volume of alcohol of more than 13.5 percent.

(b) Vehicle sales, rental, service, repair, and storage, both indoor and outdoor, provided:

1. Outdoor activity areas (display and storage of stock in trade) meet all the specifications for a parking lot, as regulated in the O-1 zone.

2. Outdoor storage of inoperative vehicles is limited to two vehicles at any time, and a given inoperative vehicle shall not be parked outdoors over two weeks in any 12-month period.

3. Painting and major automotive repair is conducted within a completely enclosed building at least 20 feet from any residential zone.

4. A truck terminal is not permitted.

5. Outdoor vehicle storage as a principal business, where vehicles are typically not moved for one week or more, is not a permissive use.

(c) Banking, loaning money, including pawn. Drive-in facilities included on the condition the vehicle movement plan is approved by the Traffic Engineer.

(d) Building materials, provided they are in a completely enclosed building or within an area enclosed on all sides by a wall or fence at least six feet high which must be solid when it faces or is contiguous to land not zoned C-2, C-3, M-1 or M-2.

(e) Circus or Carnival operation outdoor or in a tent provided:

1. The use is located at least 300 feet from a dwelling in a residential zone;

2. The use is permitted at one location for a period not to exceed seven days in any calendar year;

3. Hours of operation, including erection and dismantling of equipment are:

a. If the use is located between 300 feet and 500 feet from a dwelling, between 7:30 a.m. and 10:30 p.m.;

b. If the use is located 500 feet or more from a dwelling, between 6:00 a.m. and 11:30 p.m.;

4. There is sufficient off-street parking available on the premises to meet parking requirements for all the uses on the premises. The Zoning Enforcement Officer shall approve a site plan which shall demonstrate adequate parking and vehicle circulations;

5. There are toilet facilities on the premises; and

6. The City Fire Marshal or his authorized representative gives prior approval of any tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(f) Drive-in restaurant, provided a solid wall or fence at least six feet high shall be erected on sides which abut land, other than public right-of-way land, in a residential zone. 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.

(g) Dry cleaning, laundry, clothes pressing, provided:

1. Only cleaning fluid which is not flammable at temperatures below 138.5° Fahrenheit may be used;

2. The number of persons engaged in operating a laundry or dry cleaning establishment is limited to five, 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.

(h) Flowers and plants, including out-door sales.

(i) Gasoline, oil, and liquified petroleum gas retailing, including outdoor sales, but not truck plazas.

(j) Golf driving range, miniature golf course, baseball batting range, located in a building or outdoors, provided fencing or other suitable device is employed to insure that balls are not hit out of premises.

(k) Hospital for animals, provided it has no outside pens. 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.

(l) One mobile home for a watchman or caretaker on the same lot with commercial uses, permissive or conditional in this zone, which do not have or normally require a permanent structure, including but not limited to used car sales lot; mobile home or recreational vehicles sales or rental lot; and circus, carnival, or similar enterprise. However, the mobile home shall not be within 100 feet of a lot in a residential zone or a dwelling unit in any zone.

(m) Parking lot, as regulated in the O-1 zone.

(n) Pets, as regulated in the C-1 zone.

(o) Restaurant with outdoor seating.

(p) Sample dwelling unit used to sell such units, including incidental sales office activity.

(q) Secondhand store, including outside storage in the side or rear yard and if enclosed by a solid wall or fence at least six feet high.

(r) Stand or vehicle selling fruit, vegetables, or nursery stock, provided it is limited to a period of 90 days in any calendar year. However, one renewal for an additional 90 days may be permitted by the Planning Director.

(s) Not permissive as retailing or services are uses listed as conditional use in this section and uses that are in substantial part industrial or manufacturing activities, e.g., automobile dismantling, sheet metal working, or tire recapping and retreading.

(14) 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.

(15) Wholesaling of jewelry.

(16) 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;

(b) 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. 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 Marshall or his authorized representative gives prior approval of the tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(17) 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)(8) above, if there are more than 30 dwelling units per acre but not more than 75 dwelling units per acre. Conditional use applications shall be considered on the basis of a site plan.

(3) 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.

(4) Cold storage plant.

(5) Community residential program, provided that the standards of § 14-16-3-12 of this Zoning Code are met.

(6) Drive-in theater.

(7) Dwelling unit (house, townhouse, apartment), for properties that do not meet the criteria of divisions (A)(8)(b) and (A)(8)(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 no less than specified in the R-3 zone; no more shall be required than specified in the R-2 zone except 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)(8)(e)8 above.

(8) Emergency shelter, provided the standards of § 14-16-3-13 of this Zoning Code are met.

(9) Fire wood sales and related storage, provided the wood is not visible from land not zoned C-2, C-3, M-1, or M-2.

(10) Kennel.

(11) Mobile home development, provided the development contains at least three acres. Approval of a site development plan and landscaping plan is required prior to development.

(12) One mobile home for a watchman or caretaker on the same premises with a commercial use other than one of those uses enumerated in division (A)(12)(l) of this section. However, the mobile home shall not be within 100 feet of a lot in a residential zone or a dwelling unit in any zone.

(13) Outdoor storage or activity, except as specifically listed as a permissive or conditional use in this section, and as further provided below:

(a) No outdoor storage or activity specified as a principal special use in § 14-16-2-22(B) of the Zoning Code, the SU-1 zone, may be a conditional use considered under this division (B).

(b) Combinations of uses, some or all of which are outdoor uses, which interact to create a more intense use, operating as one coordinated enterprise or attraction are not normally appropriate for approval as conditional uses under this division (B), being more properly controlled as SU-1 zone special uses.

(c) 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.

(d) Outdoor conditional uses often justify special requirements to keep the appearance or other aspects of the outdoor storage or activity from negatively impacting adjacent land.

(e) Outdoor vehicle storage as a principal business, where vehicles are typically not moved for one week or more, is not appropriate if it will be significantly visible from adjacent streets or nearby residential, office, or commercial uses: if approved. this type of storage requires special buffering.

(14) Parking of more than two truck tractors and two semitrailers for over two hours.

(15) 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.

(16) Pony riding without stables, provided it is located at least 300 feet from a dwelling which is a conforming use.

(17) Public utility structure which is not permissive.

(18) Retail sale of alcoholic drink for consumption off premises, where the portion of the building used for such business is within 500 feet of a residential zone, provided such sales shall not include the sale of broken packages or the following packages within 500 feet of a pre-elementary, elementary or secondary school, a religious institution, a residential zone, a city owned park or city owned major public open space except the retailing of alcoholic drink, for on or off premise consumption, within 500 feet of a community residential program or hospital for treatment of substance abusers, is prohibited pursuant to § 14-16-3-12(A)(11) ROA 1994 and further provided that such sales shall not include:

(a) distilled spirits, as defined in the New Mexico Liquor Control Act, in any package that contains less than 750 milliliters;

(b) beer, as defined in the New Mexico Liquor Control Act, in any single container; and

(c) fortified wines with a volume of alcohol of more than 13.5 percent.

(19) Retail business in which products may be manufactured, compounded, processed, assembled, or treated, as an accessory use, including carpentry, plumbing, sheet-metal working, upholstering, sign painting, making of metal stamps, catering, baking, confectionery making, or jewelry or curio making, provided:

(a) All activities are conducted within a completely enclosed building.

(b) The number of persons engaged in the manufacturing, processing, assembling, or treating of products is limited to ten, excluding office, clerical or delivery personnel.

(c) Activities or products are not objectionable due to odor, dust, smoke, noise, vibration, or other cause.

(20) 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 Fire Marshal [i.e., the Chief of the Fire Prevention Bureau] or his designated representative gives prior approval of the tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

(21) Tire recapping or retreading, provided:

(a) The activity is incidental to the major use and is conducted within a completely enclosed building.

(b) Outdoor storage of tires is enclosed by a solid wall or fence at least six feet high.

(c) Tires stored outdoors may not be stacked above the plane established by the top of the required surrounding wall.

(22) Transfer or storage of household goods, provided:

(a) Parking and maneuvering of trucks is permitted only off the street in an off-street parking area as regulated by this article.

(b) Servicing of trucks is permitted only within a building or an area completely enclosed by a solid wall or fence at least eight feet high.

(23) Wireless Telecommunications Facility, Roof-Mounted, up to 20 feet above the parapet of the building on which it is placed, provided that the requirements of § 14-16-3-17 of this Zoning Code are met.

(C) ***Height.*** Height shall be as provided in the O-1 zone, except sign and antenna height shall be as provided 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, § 7-14-22) (Ord..80-1975; Am. Ord. 40-1976; Am. Ord. 57-1976; Am. Ord. 13-1977; Am. Ord. 26-1977; Am. Ord. 74-1977; Am. Ord.38-1978; Am. Ord. 55-1978; Am. Ord. 74-1980; Am. Ord. 42-1981; Am. Ord. 40-1983; Am. Ord. 54-1983; Am. Ord. 74-1985; Am. Ord. 11-1986; Am. Ord. 80-1986; Am. Ord. 41-1987; Am. Ord. 62-1988; Am. Ord. 3-1990; Am. Ord. 12-1990; Am. Ord. 30-1990; Am. Ord. 47-1990; Am. Ord. 63-1990; Am. Ord. 69-1990; Am. Ord. 43-1991; Am. Ord. 39-1992; Am. Ord. 50-1992; Am. Ord. 13-1993; Am. Ord. 2-1994; Am. Ord. 58-1995; Am. Ord. 9-1999; Am. Ord. 11-2002; Am. Ord. 10-2004; Am. Ord. 42-2004; Am. Ord. 4-2005; Am. Ord. 16-2005; 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. 2012-004)

§ 14-16-2-22 SU-1 SPECIAL USE ZONE.

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.

(A) Procedure.

(1) Development within the SU-1 zone may only occur in conformance with an approved Site Development Plan. An application for a change to SU-1 zoning shall state the proposed use and must be accompanied by a plan including, at a minimum, all the elements of a Site Development Plan for Subdivision Purposes. As part of the zone amendment action, a Site Development Plan may be approved; alternatively a plan may be approved later. If an approved Site Development Plan is a specified condition of zone change approval, such plan must be approved within the time period specified in § 14-16-4-1(C)(11) of this Zoning Code. No building permit shall be approved unless it is consistent with a complete site development plan for building permit and landscaping plan for the lot in question, approved by the Planning Commission or its designee; at the Planning Commission's discretion, approval of detailed plans may be required for the entire SU-1 zone area prior to issuing a building permit.

(2) A decision implementing a change to the zone map to SU-1 zoning shall designate the specific use permitted, and a building permit shall be issued only for the specific use and in accordance with an approved Site Development Plan. The specific use shall be recorded on the zone map.

(3) In approving an application, the Planning Commission may impose requirements as may be necessary to implement the purpose of this Zoning Code. However, for an adult amusement establishment or adult store on an SU-1 zoned site, no conditions may be imposed on the adult uses that would prevent them from existing on the site if the uses are allowed under the applicable Zoning Code distance requirements.

(4) A certified copy of the Site Development Plan shall be kept in the Planning Department records so that it may be reviewed against an application for a building permit for any part or all of a special use.

(5) The Planning Commission may review the application, plan, and progress of development at least every four years until it is fully implemented to determine if it should be amended.

(6) The Planning Director may approve minor changes to an approved Site Development Plan or Landscaping Plan if it is consistent with the use and other written requirements approved by the Planning Commission, if the buildings are of the same general configuration, if the total building square footage is not greater than 10% than the approved plan, the vehicular circulation is similar in its effect on adjacent property and streets, and the approving official finds that neither the city nor any person will be substantially aggrieved by the altered plan. If the Planning Director believes there might be a person substantially aggrieved by the altered plan or if the total building square footage would be increased more than 2%, he shall give mailed notice of the proposed change to owners of adjacent property and to neighborhood associations entitled to notice of zone change proposals there.

(7) The Planning Director or a designee may approve site plans for temporary park-and-ride facilities.

(B) Special Uses.

(1) Accessory use customarily associated with a use permitted in this zone, provided it is incidental to the major use. Signs as permitted and regulated by the Planning Commission.

(2) Adult amusement establishment or adult store provided:

(a) The use is located at least 1,000 feet from any adult amusement establishment or adult store; and

(b) The use is located at least 500 feet from the nearest residential zone, or from any church or pre-elementary, elementary or secondary school. Signs as regulated in the C-2 zone.

(3) Airport. Signs as permitted and regulated by the Planning Commission.

(4) Antenna (commercial).

(5) Amusement facility of a permanent character, including but not limited to kiddieland, baseball batting range, or golf driving range.

(6) Automobile dismantling yard or similar use. Signs as regulated in the C-1 zone.

(7) Bed and Breakfast Establishment. A Bed and Breakfast establishment with five to eight guest rooms shall abut a collector street, minor arterial street, or major arterial street, except a site of one acre or greater may abut a local street.

(8) Campground, provided it meets the requirements of § 14-16-3-7 of this Zoning Code. Signs as regulated in the C-2 zone.

(9) Cemetery, including columbarium, mausoleum, or crematory, provided the site contains at least 30 acres. Signs as regulated in the O-1 zone.

(10) Church or other place of worship, including incidental recreational and educational uses; such an incidental use must be operated by the church rather than a business entity and must continue to be operated by the church, unless the resolution governing the SU-1 zone specifically allows operation of a specified incidental use by an entity other than the church itself. 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. Signs as permitted and regulated by the Planning Commission.

(11) Park-and-Ride temporary facilities.

(12) Drilling, production, or refining of petroleum gas or hydrocarbons. Signs as regulated in the O-1 zone.

(13) Drive-in theater, provided:

(a) Reservoir off-street standing space or side service road space is provided at any entrance sufficient to accommodate at least 30% of the vehicular capacity of the theater.

(b) A screen less than 500 feet from an arterial street is so located or shielded that the picture surface cannot be seen from the arterial street.

(c) The theater is enclosed with a solid wall or fence at least six feet high.

(14) Fire station. Signs as regulated in the O-1 zone.

(15) Golf course. Signs as regulated in the O-1 zone.

(16) Gravel, sand, or dirt removal activity, stockpiling, processing, or distribution and batching plant. Signs as regulated in the O-1 zone.

(17) Helipad, other than a medical helipad or a law enforcement helipad, provided it complies with Federal, State and Local regulations including City noise regulations; and further provided that:

(a) Helipads are a minimum of 650 feet from the nearest residential zone as measured from the edge of the helipad unless it is demonstrated the helipad will not be injurious to adjacent property, the neighborhood, or the community, but in no case shall a helipad be located less than 350 feet from the nearest residential zone, as measured from the edge of the helipad.

(b) The total number of helicopter operations (a landing and a takeoff is one operation) shall not exceed 3 on any day. The operations per day do not accumulate if not used.

(c) Helicopter landing and takeoff operations are prohibited between 10 P.M. and 7 A.M.

(d) Written documentation of helipad operations, including, but not limited to, flight path usage and the date and time of all landings and takeoffs, shall be maintained by the helipad owner and made available upon request for public inspection.

(e) Helipad operations that assist in medical emergencies, police emergencies, or search and rescue emergencies, when solicited by agencies which respond to such emergencies, shall not be limited to three operations per day nor to time of day limitations.

(18) Hospital for human beings, including medical helipad, provided that the traffic generated, ambulance noise, nor medical helipad will have serious adverse effects on the neighborhood. Medical helipads shall be sited and buffered to minimize impacts on surrounding properties. Written documentation of medical helipad operations, including date and time of all landings and takeoffs, shall be maintained and made available upon request for public inspection. Signs as regulated in the C-1 zone.

(19) Institution, correctional or mental. Signs as regulated in the O-1 zone.

(20) Law Enforcement Helipad, provided that such helipads are sited and buffered to minimize impacts on surrounding properties. Written documentation of law enforcement helipad operations, including date and time of all landings and takeoffs, shall be maintained and made available upon request for public inspection.

(21) Major public open space as defined and administered pursuant to Chapter 5, Article 8, ROA 1994 of this code of ordinances.

(22) Open market. Signs as regulated in the C-1 zone.

(23) Ore reduction, smelting. Signs as regulated in the O-1 zone.

(24) Planned development area, including residential development and mobile home development, in which special use, height, area, setback, or other regulations should be imposed, provided the site contains at least three acres. Signs as permitted and regulated by the Planning Commission.

(25) Planned Residential Development (PRD), provided:

(a) Allowed uses include single-family houses, townhouses, apartments, associated accessory structures and home occupations as regulated by the R-1 zone. Residence/work spaces are allowed as approved by the Planning Commission. O-1 permissive and C-1 permissive uses may be allowed, up to 25% of the total gross floor area of the development, as approved by the Planning Commission.

(b) A Site Development Plan for Subdivision (§ 14-16-1-5(B)) is required for approval by the Planning Commission in conjunction with a zone map amendment and prior to building permit approval, with specific design requirements that include, but are not limited to: maximum and minimum number of dwelling units and/or density; maximum and minimum lot size(s); maximum building height; minimum building setbacks; architectural design standards, including but not limited to exterior wall materials and colors, roof materials and colors; placement of mechanical units; preliminary grading and drainage plan; landscape design standards; parking; site lighting; design of walls and fences visible from public rights-of-way; and pedestrian amenities.

(c) The PRD uses and development are compatible with adjacent properties, including public open spaces, public trails and existing neighborhoods and communities. The standards for compatibility shall include the design requirements in subsection (b).

(d) Upon approval of a Site Development Plan for Subdivision with design requirements by the Planning Commission, individual site plans for building permit may be submitted for building permit approved unless the Planning Commission specifies additional review.

(e) Signs as permitted and regulated by the Planning Commission.

(26) Public utility structure. Signs as regulated by the Planning Commission.

(27) Police Station. Signs as regulated in the O-1 zone.

(28) Race track. Signs as regulated in the C-2 zone.

(29) Stadium. Signs as regulated in the C-2 zone.

(30) Swimming pool. Signs as regulated in the O-1 zone.

(31) Transit facilities.

(32) Truck plaza.

(33) A concealed wireless tele-communications facility may be allowed in conjunction with an approved use, provided the requirements of § 14-16-3-17 are met.

(34) 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.

(35) Use combinations not adequately allowed and controlled in other zones, relative to a specific site. Signs as permitted and regulated by the Planning Commission.

(36) Hospital for treatment of substance abusers.

(37) Form based zones (TOD-MAC, TOD-COM, MX, ID and PND), provided:

(a) The form based zones shall comply with the standards of § 14-16-3-22 Form Based Zones. The provisions of § 14-16-3-22 shall control where inconsistent with § 14-16-2-22.

(b) A site development plan for a form based zone is required for approval by the Planning Commission in conjunction with a zone map amendment and prior to building permit approval, with specific submittal requirements that include, but are not limited to:

1. An accurate site plan at a scale of at least 1 inch to 100 feet showing: building placement, parking location, street layout, lot layout, placement of mechanical equipment, lighting and signage, public amenities, walls, and required usable open space;

2. A preliminary grading plan;

3. A preliminary utility plan;

4. A landscape plan showing landscape areas, plant material, water harvesting areas; and

5. Building elevations demonstrating building types, frontage types, heights, fenestration, shading elements, articulation, ground story clear height.

(c) The form based zones shall meet the eligibility requirements set forth in § 14-16-3-22(B).

(d) Modifications to any of the standards of the (§ 14-16-3-22) Form Based Zones may be granted by the Environmental Planning Commission or other City Council designated approval body, as set forth in § 14-16-3-22(A)(6).

(C) Off-Street Parking. Off-street parking shall be provided as required by the Planning Commission.

(D) Height. The same regulations apply as in the R-2 zone unless modified by the Planning Commission.

(E) ***Open Space.*** If the SU-1 zone is mapped in an area designated by the master plan as Area of Consistency, 2,400 or more square feet of open space per dwelling shall be preserved. Of the total 2,400 square feet, the following minimum amounts shall be usable open space on the lot with the dwelling: 200 square feet for each efficiency or one-bedroom dwelling, 250 square feet for each two-bedroom dwelling, and 300 square feet for each dwelling containing three or more bedrooms. The remaining requirement may be met by the alternatives listed in § 14-16-3-8(A) of this Zoning Code.

(F) ***Variances.*** If the resolution approving SU-1 references the regulations of another zone or if the adopted site development plan specifically incorporates such regulations, the referenced zone regulations shall apply unless a variance is approved.

(G) Any special use that would allow the sale or dispensing of alcoholic drink for consumption off premises shall be subject to the restrictions set forth in the C-2 zone (§ 14-16-2-17 of this Zoning Code) for sales of alcoholic drink for consumption off premises except any retailing of alcoholic drink, for on or off premise consumption, within 500 feet of a community residential program or hospital for treatment of substance abusers, is prohibited pursuant to § 14-16-3-12(A)(11) ROA 1994.

(H) ***Large Retail Facility Regulations.*** Any site containing a large retail facility, as defined in § 14-16-1-5 of the Zoning Code, is subject to special development regulations. The large retail facility regulations are provided in § 14-16-3-2 of the Zoning Code.

('74 Code, § 7-14-30) (Ord. 80-1975; Am. Ord. 48-1976; Am. Ord. 6-1977; Am. Ord. 26-1977; Am. Ord. 38-1978; Am. Ord. 68-1979; Am. Ord. 40-1980; Am. Ord. 49-1980; Am. Ord. 42-1981; Am. Ord. 14-1984; Am. Ord. 77-1984; Am. Ord. 11-1986; Am. Ord. 41-1987; Am. Ord. 12-1990; Am. Ord. 30-1990; Am. Ord. 47-1990; Am. Ord. 69-1990; Am. Ord. 45-1992; Am. Ord. 43-1994; Am. Ord. 8-1995; Am. Ord. 58-1995; Am. Ord. 17-1997; Am. Ord. 33-1997; Am. Ord. 9-1999; Am. Ord. 8-2000; Am. Ord. 35-2000; Am. Ord. 11-2002; Am. Ord. 50-2002; Am. Ord. 48-2003; Am. Ord. 16-2004; Am. Ord. 42-2004; Am. Ord. 4-2005; Am. Ord. 30-2005; Am. Ord. 23-2007; Am. Ord. 5-2008; Am. Ord. 7-2008; Am. Ord. 9-2009; Am. Ord. 19-2010; 2017 O-16-27)

§ 14-16-2-23 SU-2 SPECIAL NEIGHBORHOOD ZONE.

This zone allows a mixture of uses controlled by a Sector Development Plan which specifies new development and redevelopment which is appropriate to a given neighborhood, when other zones are inadequate to address special needs.

(A) ***Permissive Uses and Control.*** Any use specified by a duly adopted Sector Development Plan for a given location is permitted. Specifications contained in the Sector Development Plan shall control. However, if a matter controlled in the RC zone is not mentioned in the plan, then the provisions of the RC zone shall be applicable.

(B) ***Procedure.*** Procedure, in addition to that specified in § 14-16-4-3 of this Zoning Code, shall be as follows:

(1) An application for SU-2 shall include a proposed Sector Development Plan.

(2) If the application or decision would impose or eliminate SU-2 zoning or amend an SU-2 Sector Development Plan for an area over one block or for any City-owned property that has primarily been used for a municipal purpose, including parks or properties that contains a structure such as a fire station, police substation, community center, or other facility out of which a City service has been provided, and been deemed non-essential for municipal purposes, the City Council shall have the authority to amend the plan and zoning map. City Council approval is not required when establishing or changing the zoning of excess rights-of-way that have been vacated. The City Council shall follow the procedures of § 14-16-4-1(C). The Council shall hear the zone change and the Sector Development Plan or plan amendments simultaneously. The zone shall not be approved without approving a Sector Development Plan.

(3) If the application or decision would amend an SU-2 Sector Development Plan for an area of one block or less, the Planning Commission shall have the authority to amend the plan and zoning map, except as provided in §14-16-2-23(B)(2) above. The Planning Commission shall follow the procedures of § 14-16-4-1(C).

(C) ***Appropriateness.*** The SU-2 zone is appropriate to map where it is applied to an entire neighborhood or a major segment of a neighborhood, which area meets at least one of the following criteria:

(1) The area is developed such that the requirements of other available zones do not promote the conservation of special neighborhood characteristics which the city desires to preserve;

(2) The area has developed or should develop with a pattern of mixed land uses, which will need careful control and coordination of development at a sub-area scale in order to insure a desirable inter-mixture of uses;

(3) There are factors which substantially impair or arrest the sound growth and economic health and well-being of the area, or the area constitutes an economic or social burden and is a menace to the public health, safety, or welfare in its present condition and use, and as regulated by zoning; or

(4) The area is particularly appropriate for development, on a pilot basis or otherwise, for residential construction under special regulations designed to make housing more affordable; the City Council shall make a specific finding if the SU-2 zoning is based upon this criterion. Such a Sector Development Plan may authorize variances to the requirements of the

Subdivision Regulations and § 6-5-7-1 et seq., Sidewalks, as they relate to the Sector Plan area. This division (4) shall terminate and be repealed effective January 1, 1993; variances granted under the terms of this division (4) shall remain in force for the duration provided in the specific variance.

(D) ***Large Retail Facility Regulations.*** Any site containing a large retail facility, as defined in § 14-16-1-5 of the Zoning Code, is subject to the special development regulations for large retail facilities as provided in § 14-16-3-2 of the Zoning Code unless the site is governed by a Rank III Plan that contains design regulations or other similar standards applicable to retail development, as determined by the Planning Director, then the regulations of the Rank III Plan shall apply.

('74 Code, § 7-14-31) (Ord. 80-1975; Am. Ord. 45-1977; Am. Ord. 7-1981; Am. Ord. 78-1986; Am. Ord. 14-1989; Am. Ord. 23-2007; Am. Ord. 7-2008; Am. Ord. 2012-036)

PART 4: ADMINISTRATION AND ENFORCEMENT

§ 14-16-4-1 AMENDMENT PROCEDURE.

(A) Application.

(1) Prospective applicants should discuss their situation with the Planning Director before making application for an amendment to the map or text of this Zoning Code so as to familiarize themselves with city plans and policies.

(2) Amendments to the map or text of this Zoning Code are initiated by application to the city on prescribed forms. Each application for an amendment to a zone map shall be accompanied by sufficient copies of an accurate site plan, building development plan, sketch, evidence of interest in property, or other related information as may be required by the city. Where a zone map amendment is proposed to be accomplished by the adoption or amendment of a sector development plan the procedures of § 14-16-4-3 shall be followed for making such application. Submission of inaccurate information with an application is grounds for denial. An application relating to unplatted land shall be accompanied by a plat delineating the boundaries of the area requested to be amended.

(3) Applications for amendment of the official zone map may be made only by the Mayor or his designated representative, a City Councilor or a designee of the City Council or by a person with direct financial, contractual, or proprietary interest in the affected property. The Planning Commission may not be an applicant for an amendment of the official zone map.

(4) Applications for amendment of the text of this Zoning Code may be made by the city or by any person. A City Councilor shall make such application by introduction to the City Council of an ordinance amending this Zoning Code.

(5) An application to amend zoning for the same property or to make the same text change may not be filed within 12 months from the date of final action by the city on a prior application. However, this limitation shall not apply to applications by a representative of the city.

(6) Application for zoning of an area to be annexed to the city is an application for a map amendment and must be filed and processed concurrently with the annexation action.

(B) Fee. An application fee shall be charged as follows except to representatives of the city:

(1) Map amendment, as follows:

(a) No fee for the establishment of city zoning for parcels being annexed.

(b) Less than one acre, $240.

(c) One to ten acres, $240 plus $55 per acre or portion thereof.

(d) More than ten acres, $685 plus $10 per acre or portion thereof.

(e) For an overlay zone, one-fourth of the above rates.

(f) Deferral requested by the applicant, $110.

(2) Text Amendment, $565.

(3) Site Development Plan:

(a) Original Plan approval at either the related zone map amendment public hearing or at a separate public hearing, $385.

(b) Amendment approved by Planning Director without interdepartmental review, $45.

(c) Amendment requiring a public hearing and interdepartmental review, $255.

(d) Deferral at the request of the applicant, $110.

(4) When an application is withdrawn after it has been advertised for public hearing by the city, the application fee shall not be refunded. When the application is withdrawn before such advertisement, all but $40 of the fee shall be refunded.

(C) Hearing and Decision on Proposed Zone Map Amendments.

(1) Prior to hearing, the Planning Director shall request interested city departments and other agencies to comment on the application. Comments received shall be submitted to the Planning Commission.

(2) In cases where the City Council is authorized to approve the zone map amendment the Planning Commission shall make a recommendation to the City Council as provided for at § 14-13-2-5(C)(2). Such consideration shall be at a public meeting at a time and place contained in a public notice in a daily newspaper of general circulation in the city at least 15 days before the date of the meeting. The notice shall give the location of the property, the present zoning, the requested zoning, and the place where copies of the application may be examined.

(3) In all cases the Planning Director shall cause a staff report to be prepared that recommends approval or denial of the proposed zone map amendment and the justification for the recommendation.

(4) The Planning Commission in cases where it is authorized to approve the zone map amendment or the City Council in cases where it is authorized to approve the zone map amendment shall consider the proposal at a public hearing at a time and place contained in a public notice published in a daily newspaper of general circulation in the city at least 15 days before the date of the hearing. The notice shall give the location of the property, the present zoning, the requested zoning, and the place where copies of the application may be examined. When the area of the zone map amendment is for 40 acres or more or where the amendment is through the adoption or amendment of a Sector Development Plan, the published notice shall include an additional display advertisement of no less than nine square inches, including a map of the area of the application.

(5) The Planning Director shall notify the applicant by certified mail of the date, time, and place of hearing.

(6) Applications for change to the zone map for an area of one block or less:

(a) The applicant must post and maintain one or more signs, as provided and where instructed by the Planning Director, at least 15 days before the date of the hearing. The applicant is responsible for removing such signs within five days after the hearing is

completed. Failure to properly post signs is grounds for deferral or denial of the application. No one, except the applicant or an agent of the applicant or the city, shall remove or tamper with any such required sign during the period it is required to be maintained under this division (a).

(b) At the expense of the applicant, the Planning Director shall mail written notice by certified mail, return receipt requested not less than 15 days prior to the date of the hearing to all owners of property within the area proposed to be changed and to all owners of property within 100 feet of the exterior boundaries of the area proposed to be changed, excluding public right-of-way, using for this purpose the last known name and address of the owners shown in the records of the County Assessor. Notice shall include the date, time, and place of the hearing.

(7) For applications for change to the zone map for an area of over one block but less than 40 acres where the area is not covered by a concurrently proposed Sector Development Plan, signs shall be posted as provided in division (6)(a) above.

(8) Whenever a change in zoning is proposed for an area of more than one block, the Planning Director, at the applicant's expense, shall mail notice of the public hearing by first class mail to the owners, as shown by the records of the County Assessor, of lots or of land within the area proposed to be changed by a zoning regulation and within one hundred feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation. If the notice by first class mail to the owner is returned undelivered, the Planning Director shall attempt to discover the owner's most recent address and shall, at the applicant's expense, remit the notice by certified mail, return receipt requested, to that address.

(9) In addition to the above notification requirements, all applicants requesting a zone map amendment for an area of any size that includes a mobile home development shall post and maintain a minimum of one sign at each entrance to the mobile home development, to include both vehicular and pedestrian entrances. These signs shall be in addition to signs required in division 6(a) above and shall be maintained throughout the time period specified in that division. Such an applicant shall also provide, at the time of application, a list of all current mobile home development residents and their addresses within the subject area proposed to be changed. Failure by an applicant to provide this list shall be grounds for rejection, deferral, or denial of the application. The Planning Director shall mail written notice of the date, time and place of the zone map amendment hearing not less than 15 days prior to the date of the hearing to all mobile home development residents within the subject area to be changed, using for this purpose the list of current residents provided by the applicant. The applicant shall reimburse the Planning Department for costs related to notification of the residents. For cases in which the mobile home development owner is not party to the zone map amendment request (e.g. the city is the applicant) and the applicant is unable to obtain a current list of residents and their addresses either from the mobile home development owner or from the County Assessor records, the sign posting requirements of this division and of division 6(a) above shall be considered adequate notice.

(10) An advertised hearing may be continued to a time and place announced at the hearing without advertising or reposting of signs.

(11) The Planning Commission may prescribe regulations pertaining to the submission of documentary evidence into the record of any application prior to the advertised hearing date for said application.

(12) City ordinances, rules and regulations with respect to the standards for a zone map amendment establish the standards that must be met before an amendment may be approved.

Compliance with ordinances, rules and regulations regarding standards for a zone map amendment do not create any right to an amendment. The approval of a zone map amendment is discretionary.

(13) The zoning map and any related Sector Development Plan may be amended at the conclusion of a public hearing on the basis of plans, ordinances and policies adopted by the City Council. In making a decision, the key findings of fact shall be stated. Additional, satisfactory submissions may be made a condition of approval. Approval of a zone more intensive than the advertised or a change of zoning outside the area advertised for hearing is possible only after appropriately readvertising and reposting signs.

(14) When a zone map amendment which is inconsistent with an adopted Rank 2 or Rank 3 city plan is requested, the Planning Director shall not process it unless an appropriate plan amendment is also requested; the Planning Commission shall then consider the applications and make a decision on the application if it has authority to make the plan amendment, or make recommendations if the City Council has the plan-change authority.

(15) The Planning Commission has the authority to amend the zone map except in the following situations. The City Council has the sole authority, in its discretion, to:

(a) Amend the zoning map imposing or eliminating SU-2 or SU-3 zoning;

(b) Amend the zoning map imposing or eliminating HO, UCO, or DO overlay zoning;

(c) Amend an SU-2 or SU-3 Sector Development Plan for an area over one block, or for any City-owned property within a Sector Development Plan that has primarily been used for a municipal purpose, including parks or properties that contains a structure such as a fire station, police substation, community center, or other facility out of which a City service has been provided, and been deemed non-essential for municipal purposes. City Council approval is not required when establishing or changing the zoning of excess rights-of-way that have been vacated;

(d) Amend the general preservation guidelines or design regulations for an area where HO, UCO, or DO overlay zoning has been imposed;

(e) Amend the zoning map as to land being concurrently annexed;

(f) Amend the zoning map pursuant to deciding an appeal of a zone change decision; or

(g) Amend zoning regulations when all the equitable owners of land which comprises at least 20% of the area proposed for change or 20% of the area within 100 feet, excluding public right-of-way, of the area proposed to be changed in zoning regulation, protest in writing the proposed change in the zoning regulation. For purposes of this division (g) the definition of a "change in zoning regulation" at § 14-16-4-4(E)(5)(d) shall apply. When there is a protest duly based on this division g, the proposed change in zoning regulation shall require approval by a majority of all Councilors. When such protest is filed after action of the Planning Commission, it shall be processed as an appeal. It is the burden of the persons asserting the applicability of this division g to show that it applies through clear and convincing evidence.

(16) (a) An approval of a change to the zone map does not become official until the Planning Director signs Certification of Zoning and sends it to the applicant and any other person who requests such notification on the specific case. Such certification shall be signed immediately after appeal possibilities have been concluded and after all requirements

prerequisite to this certification are met. A Certification of Zoning is not required for zone map amendments for which the City is the applicant.

(b) If such requirements are not met within six months after the date final city approval is voted, the approval is void; however, the Planning Director may extend this time limit up to an additional six months.

(17) When only a site development plan is requested to be amended, the zoning classification is not open to amendment, whether in the original decision or on appeal.

(D) Hearing and Decision on Proposed Ordinance Text Changes.

(1) Prior to City Council hearing on a text change, including those initiated by the City Council or an official of the city, an application for a text change shall generally be evaluated by the Planning Director and the Planning Commission.

(2) The Planning Director shall notify the applicant of the date, time, and place of hearing.

(3) The City Council may consider any application for text amendment and shall consider any such application which receives a positive recommendation from the Planning Commission. Such consideration shall be at a public hearing.

(E) Hearing and Decision on Approval of Development Plans. Hearings by the Planning Commission in initial approval or amendment to a Sector Development Plan or Site Development Plan specified under a zone in this Zoning Code shall abide by the provisions of division (C) of this section.

(F) Comprehensive Review of Zone Map. Within the one-year period immediately preceding December 1, 1980, and within each one-year period immediately preceding July 1 of every fourth year thereafter, the Planning Director, after completely reviewing the zone map then in effect, shall recommend to the Planning Commission a version to the official zone map, revised to the extent appropriate to advance the accomplishment of the master plan.

('74 Code, § 7-14-41) (Ord. 80-1975; Am. Ord. 6-1977; Am. Ord. 31-1977; Am. Ord. 45-1977; Am. Ord. 21-1978; Am. Ord. 38-1978; Am. Ord. 21-1979; Am. Ord. 53-1980; Am. Ord. 100-1980; Am. Ord. 72-1981; Am. Ord. 62-1982; Am. Ord. 23-1984; Am. Ord. 60-1986; Am. Ord. 49-1987; Am. Ord. 58-1987; Am. Ord. 73-1989; Am. Ord. 12-1990; Am. Ord. 16-1992; Am. Ord. 32-1995; Am. Ord. 23-2001; Am. Ord. 30-2002; Am. Ord. 7-2008; Am. Ord. 19-2010; Am. Ord. 2012-036)

§ 14-16-4-3 SECTOR DEVELOPMENT PLAN PROCEDURES.

(A) Application for New or Amended Sector Development Plans.

(1) Application for the adoption or amendment of a sector development plan may be initiated by filing with the Planning Director or by the introduction of a bill by a City Councilor. The application shall be accompanied by the proposed sector development plan or sector development plan amendment.

(2) Prospective applicants should discuss their ideas with the Planning Director before making application so as to familiarize themselves with city plans and policies.

(3) An application seeking a new sector development plan or an amendment to a sector development plan shall be filed on prescribed forms. Each application shall be accompanied by sufficient copies of the proposed plan, evidence of interest in property, and other related information as required by the city. Submission of inaccurate information with an application is grounds for denial.

(4) Applications may be made only by the Mayor or his designated representative, a City Councilor or a designee of a City Councilor or by a person with direct financial, contractual, or proprietary interest in the affected property. The Planning Commission may not be an applicant.

(5) Where the official zone map has been set by a Sector Development Plan, application for amendment of the official zone map is through amendment of the plan. The application shall be subject to the same fee and notice as changes to the zone map in areas not governed by a Sector Development Plan.

(6) Applications for amendment of the text of a previously adopted Sector Development Plan shall be subject to the same fee, and notification and other procedures as changes to the text of this Zoning Code.

(B) Fee. An application fee shall be charged as follows except to representatives of the city:

(1) Plan approval, $70 if approval is requested at the same time rezoning of the plan's area is requested.

(2) Plan approval, $230 if approval is requested at a time other than when rezoning of the plan's area is requested.

(3) The application fee is nonrefundable.

(C) Adoption of Sector Development Plan

(1) The Planning Commission is authorized to approve Sector Development Plans for R-D and PC zoned areas, subject to appeal as in a zone change.

(2) Only the City Council shall approve Sector Development Plans for areas which are not entirely zoned R-D or PC. If the City Council has jurisdiction to adopt the governing Sector Development Plan, only the City Council may approve Sector Development Plan amendments, except that applications for amendments to the zoning in Sector Development Plans for less than one block shall be decided by the Planning Commission.

(3) The Planning Director shall request interested city departments and other agencies to comment on all applications. Comments received shall be submitted to the Planning Commission together with the Planning Department staff report.

(4) The Planning Director shall cause a staff report to be prepared that provides an analysis of the proposed Sector Development Plan adoption or amendment.

(5) For Sector Development Plan adoption or amendment where the Planning Commission is required to provide a recommendation prior to Council action the Planning Commission shall adopt its recommendation at a public meeting.

(6) The Planning Commission may prescribe regulations pertaining to the submission of testamentary or documentary evidence into the record of any application prior to the advertised hearing date for the application.

(7) The Planning Commission shall make a decision on a Sector Development Plan proposed for the R-D zone within 90 days after filing of a complete application for approval of such plan. If the Planning Commission action is appealed, no plan shall be considered in effect until the appeal is decided, and the provisions of § 14-16-2-14(G)(2) of this Zoning Code shall control during the interim.

(D) Review and Administration.

(1) In addition to the review of a Sector Development Plan pursuant to § 14-13-2-5 ROA 1994 the Planning Commission shall review a Sector Development Plan whenever the Commission or the Planning Director determines that conditions in the general area of the plan have substantially changed or that review is appropriate for other reasons, but in any event review shall take place at least every ten years until the plan is fully implemented in order to determine if the plan should be amended.

(2) The Planning Director may approve minor changes to an approved Sector Development Plan or Landscaping Plan if it is consistent with the use and other written requirements approved by the Planning Commission or City Council, if the buildings are of the same general size, the vehicular circulation is similar in its effect on adjacent property and streets, and the approving official finds that neither the city nor any person will be substantially aggrieved by the altered plan.

('74 Code, § 7-14-44) (Ord. 80-1975; Am. Ord. 45-1977; Am. Ord. 21-1978; Am. Ord. 38-1978; Am. Ord. 53-1980; Am. Ord. 12-1990; Am. Ord. 36-1990; Am. Ord. 49-1990; Am. Ord. 58-1993; Am. Ord. 36-1994; Am. Ord. 23-2001; Am. Ord. 30-2002; Am. Ord. 19-2010; Am. Ord. 2012-036)

PART 4: METROPOLITAN REDEVELOPMENT AGENCY

§ 14-8-4-1 SHORT TITLE.

Sections 14-8-4-1 et seq. may be cited as the "Metropolitan Redevelopment Agency Ordinance."

('74 Code, § 7-22-1) (Ord. 54-1979; Am. Ord. 2015-008)

Cross-reference:

Development Commission, see §§ 14-8-6-1 et seq.

§ 14-8-4-2 LEGISLATIVE FINDINGS AND PURPOSE.

(A) The Council finds and declares that the New Mexico State Legislature has enacted the Metropolitan Redevelopment Code, Sections 3-60A-1 et seq. NMSA 1978, (hereinafter referred to as the "Metropolitan Redevelopment Code") conferring certain powers upon the City Council.

(B) The Council further finds and declares that the Metropolitan Redevelopment Code authorizes the creation by the Council of a Metropolitan Redevelopment Agency and the delegation to the Agency of the exercise of the metropolitan redevelopment project powers set forth in the Code.

(C) The Council further finds and declares that it is in the public interest to delegate said powers to a Metropolitan Redevelopment Agency.

(D) The Council further finds and declares that it is in the public interest to provide the staff for the Metropolitan Redevelopment Agency.

('74 Code, § 7-22-2) (Ord. 54- 1979; Am. Ord. 2015-008)

§ 14-8-4-3 REDEVELOPMENT PROJECT POWERS.

As used in §§ 14-8-4-1 et seq., the term ***REDEVELOPMENT PROJECT POWERS*** includes any rights, powers, functions and duties of a municipality authorized by Sections 3-60A-5 through 3-60A-18 NMSA 1978, except the following powers which are reserved to the City Council:

(A) Declaration of an area to be a slum or a blighted area or combination thereof and designation of the area as appropriate for a redevelopment project;

(B) Approval or amendment of redevelopment plans;

(C) Approval of city plans for urban development and conservation, unless approval is specifically delegated by Council ordinance or resolution;

(D) Making findings of necessity prior to preparation of a plan as provided in Sections 3-60A-5 through 3-60A-18 NMSA 1978 and the findings and determinations required prior to approval of a redevelopment plan or project as provided in Sections 3-60A-5 through 3-60A-18 NMSA 1978;

(E) Issuance of general obligation bonds and revenue bonds authorized in the Code;

(F) Approval of loans or grants;

(G) Approval of leases of more than one year's duration;

(H) Issuance of municipal redevelopment bonds;

(I) Appropriation of funds, levying of taxes and assessments; and

(J) Deciding appeals of the Metropolitan Redevelopment Agency's action as to acceptance of a proposal for the sale and/or redevelopment of land.

('74 Code, § 7-22-3) (Ord. 54-1979; Am. Ord. 76-1983; Am. Ord. 2015-008)

§ 14-8-4-4 POWERS OF METROPOLITAN REDEVELOPMENT AGENCY.

The Metropolitan Redevelopment Agency is hereby vested with all of the aforementioned metropolitan redevelopment project powers in the same manner as though all of said powers were conferred on the Agency by the Metropolitan Redevelopment Code.

('74 Code, § 7-22-4) (Ord. 54-1979; Am. Ord. 2015-008)

§ 14-8-4-5 STAFF OF AGENCIES PROVIDED BY CITY.

The city shall provide the Metropolitan Redevelopment Agency with the appropriate staff support to carry out the powers granted to it under the Metropolitan Redevelopment Code.

('74 Code, § 7-22-6) (Ord. 54-1979; Am. Ord. 2015-008)

§ 14-8-4-6 ANNUAL REPORT.

The Metropolitan Redevelopment Agency shall file annually with the City Council a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expenses as of the end of such fiscal year.

('74 Code, § 7-22-7) (Ord. 54-1979; Am. Ord. 2015-008)

§ 14-8-4-7 ACTIVITIES TO BE UNDERTAKEN PURSUANT TO STATUTORY AUTHORITY.

(A) With respect to public purchases other than real property processed by the Metropolitan Redevelopment Agency, the provisions of Chapter 5, Article 5 of this code of ordinances, Public Purchases, shall apply.

(B) With respect to the disposition or lease of real property carried out by the Metropolitan Redevelopment Agency, the provisions of Section 3-60A-12 NMSA 1978 shall apply.

(C) With respect to acceptance of a proposal for the sale and/or redevelopment of land by the Metropolitan Redevelopment Agency, the decision shall be made consistent with Section 3-60A-12 NMSA 1978 and other provisions of the Metropolitan Redevelopment Code as applicable, and Section 13-1-116 NMSA 1978 and other provisions of the New Mexico Procurement Code as applicable.

('74 Code, § 7-22-8) (Ord. 54-1979; Am. Ord. 76-1983; Am. Ord. 2015-008)

§ 14-8-4-8 APPEAL.

(A) *Application.*

(1) Decisions of the Metropolitan Redevelopment Agency as to acceptance of a proposal for sale and/or redevelopment of land may be appealed to the City Council on forms prescribed by the Metropolitan Redevelopment Agency. A filing fee of $500 shall accompany each appeal application. When an application is withdrawn the application fee shall not be refunded.

(B) *Limitations Period.* Decisions of the Metropolitan Redevelopment Agency are final unless appeal is initiated by application to the city on prescribed forms within 15 days of the Metropolitan Redevelopment Agency's notice of decision. The date of the notice of 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 as listed in Ch. 3, Article 1, Merit System; Personnel Policy, the next working day is considered as the deadline for filing the appeal. Selection of a proposal for the sale and/or redevelopment of land shall not become a legally binding acceptance by the city until an appeal of the selection is decided or the time for filing the appeal has expired without an appeal being filed.

(C) *Standing for Appeals.* Any person who submitted a redevelopment proposal but who was not selected for award of the redevelopment project at issue may appeal.

(D) *Notice of Hearing.* The Mayor shall give written notice of an appeal, together with a notice of the date, time, and place of hearing to all those who made submittals for the project, and to all those who testified at the Albuquerque Development Commission's hearing concerning the project.

(E) *Hearing and Decision.*

(1) An appeal shall be heard within 60 days of its filing. The City Council's decision on the appeal shall be made following a public hearing. At the hearing the City Council shall review carefully the previous decision on the matter, and based only on the record before it, determine only whether:

(a) The Metropolitan Redevelopment Agency's decision was arbitrary or capricious;

(b) Whether the Agency's decision is supported by substantial evidence in the record; or

(c) Whether the Agency erred as a matter of law.

(2) The concurring vote of two-thirds of the members of the City Council is required to reverse a determination by the Metropolitan Redevelopment Agency.

(3) If the City Council reverses the decision of the Metropolitan Redevelopment Agency, the City Council shall conduct a separate hearing, and after reviewing all qualifying proposals considered by the Metropolitan Redevelopment Agency and hearing any presentations and considering any new evidence it finds appropriate:

(a) Select whichever of the original proposals it finds to be best based on the criteria and standards of the Metropolitan Redevelopment Plan and the request for proposals;

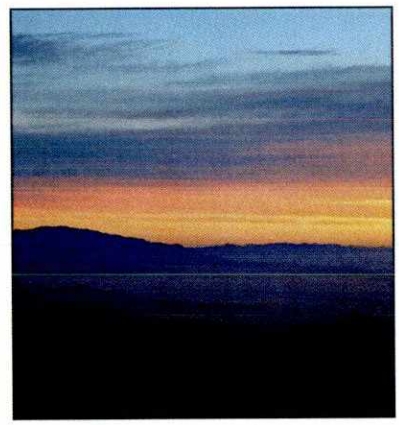
(b) Remand all or part of the proposals to the Metropolitan Redevelopment Agency; or

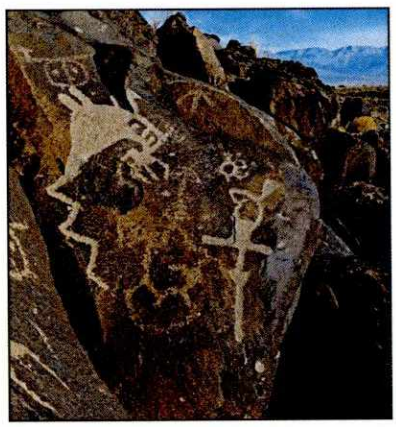
(c) If the City Council determines that none of the proposals received are in accordance with the call for proposals or do not meet the objectives of the Metropolitan Redevelopment Code, the City Council may reject all proposals and direct the Metropolitan Redevelopment Agency to award the project through reasonable negotiating procedures as provided under Section 3-60A-12(C).

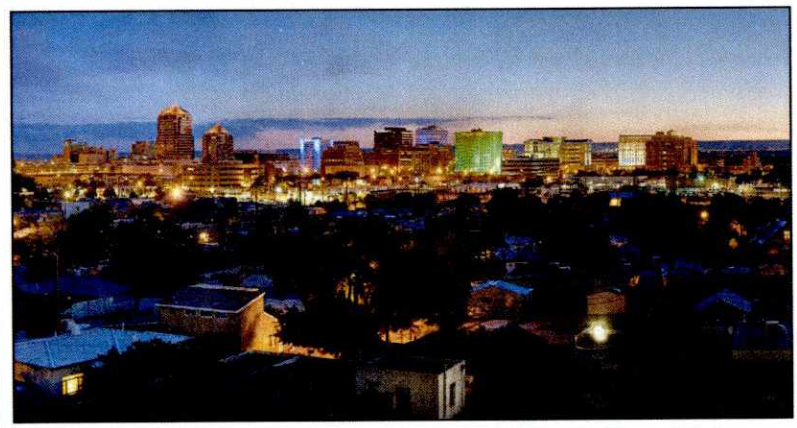
(4) In addition to appearing before the City Council at any hearing called for under §§ 14-8-4-1 et seq., any party to an appeal may provide written argument to the City Council by submitting it through the City Council staff. The written argument shall not include new evidence and shall be submitted at least five days before the next hearing on the appeal with copies provided to all parties.

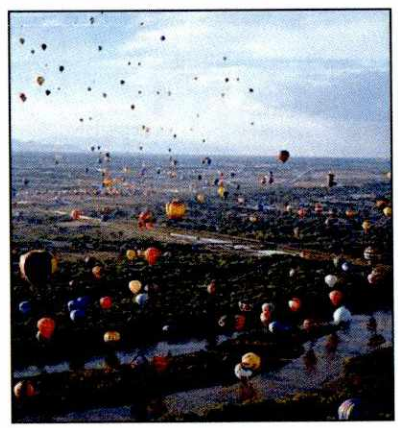
(F) *Notice of Decision.* The City Council shall state its key findings of fact in a notice of decision issued after its hearing(s).

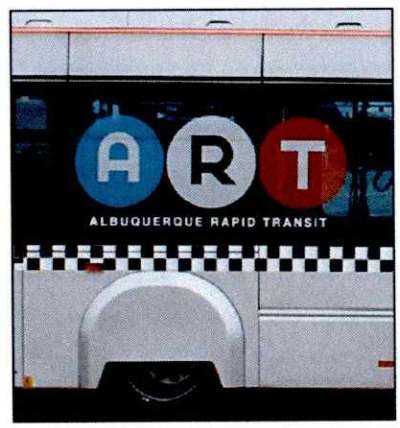
('74 Code, § 7-22-9) (Ord. 76-1983; Am. Ord. 2015-008)

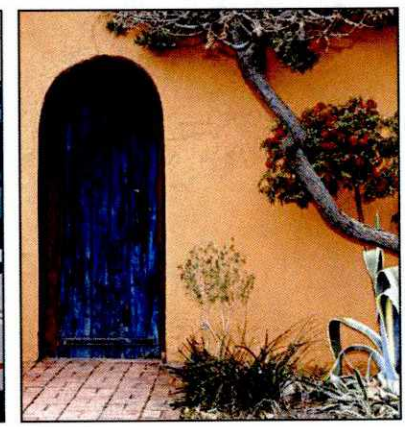












ALBUQUERQUE, NEW MEXICO

INTEGRATED DEVELOPMENT ORDINANCE

Amended as of May 2018

Kilmer - Attachment 3

IMPROVING PLACE FROM PLANNING TO ZONING

Note to Users – 5/17/2018

The City of Albuquerque's **Integrated Development Ordinance (IDO)** is effective as of May 17, 2018 and available on the City Planning webpage:
https://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance

A reference copy is available in ABC Libraries as of June 2018.

IDO Zoning Interactive Map

The **Official Zoning Map** is available on the City's website via several interactive tools:

Advanced Map Viewer:
- http://www.cabq.gov/gis/advanced-map-viewer

IDO Zoning Interactive Map:
- http://www.cabq.gov/planning/agis-maps/agis-interactive-map-gallery

A **Zoning Conversion Map** that compares previous zoning and IDO zoning is available on the ABC-Z webpage:
- https://abc-zone.com/ido-zoning-conversion-map.

The IDO has replaced the City's Zoning Code, Subdivision Ordinance, and Sector Development plans, among others.

All uses legal at the time of the IDO effective date remain legal and can continue, and all prior approvals remain valid. (See Subsection 1-10 Transitions from Previous Regulations for more details.)

If an existing land use on a property is nonconforming under the IDO, the property owner can request a zone map amendment or opt in to a year-long City effort for follow-up zone conversions.

Voluntary, Follow-up Zone Conversion Process
The Planning Department will submit at least 2 sets of zone conversions over the next year (through April 2019) to fix nonconforming uses or floating zone lines, downzone properties at the owner's request, or to address other criteria identified by the City Council in Resolution 29-2018.

To opt in, place a pin on the property and fill out the required information using the online form available here: https://abc-zone.com/post-ido-voluntary-zone-conversion-process

Annual Update
The Planning Department will submit text changes to the IDO every year in July for the City's review and decision process. Email comments or concerns to abctoz@cabq.gov or via the Zoning Conversion Map.

More Information
- Planning Department Forms, Procedures, and Information: http://www.cabq.gov/planning
- Presentation PDFs and video of IDO Trainings: https://abc-zone.com/ido-trainings
- Answers to Frequently Asked Questions on a range of IDO topics: abc-zone.com/integrated-development-ordinance-frequently-asked-questions

INTEGRATED DEVELOPMENT ORDINANCE

City of Albuquerque Code of Ordinances
Chapter 14 – Zoning, Planning, and Building
Article 16

REVISED & UPDATED THROUGH
May 2018

OFFICE OF THE MAYOR/CAO

Timothy M. Keller, Mayor
Sarita Nair, Chief Administrative Officer
Sunalei Stewart, Chief Operating Officer

CITY COUNCIL

(23rd Council)

Ken Sanchez, District 1
Isaac Benton, District 2
Klarissa Peña, District 3
Brad Winter, District 4
Cynthia Borrego, District 5
Pat Davis, District 6
Diane Gibson, District 7
Trudy Jones, District 8
Don Harris, District 9
Jon Zaman, Director of Council Services

PLANNING DEPARTMENT

David S. Campbell, Director
Brennon Williams, Deputy Director
Jacobo Martinez, Zoning Enforcement Officer

Planning Department, Plaza del Sol Building, 600 Second Street NW 87102
Main Reception Desk (3rd Floor) **Telephone**: 505-924-3860 **Fax**: 505-924-3339
Zoning (5th floor) **Telephone**: 505-924-3850 **Fax**: 505-924-3847
TTY users may call either phone number listed above via 771
WEBSITE: www.cabq.gov/planning

Part 14-16-1 General Provisions

1-1 SHORT TITLE

This Article, the "Integrated Development Ordinance," may be cited as the "IDO" and is referred to as either this "Article" or this "Ordinance."

1-2 AUTHORITY

This Article is created pursuant to authority granted in Article I of the Charter of the City of Albuquerque, which was originally adopted at a special election on June 29, 1971 pursuant to Article X, Section 6 of the Constitution of the State of New Mexico. In enacting this IDO, the City intends to comply with the provisions of existing state law on the same subject, and the provisions of this IDO should be interpreted to achieve that goal.

1-3 PURPOSE

The purpose of this IDO is to:

1-3(A) Implement the adopted Albuquerque/Bernalillo County Comprehensive Plan (ABC Comp Plan), as amended.

1-3(B) Ensure that all development in the City is consistent with the spirit and intent of any other plans and policies adopted by City Council.

1-3(C) Ensure the provision of adequate public facilities and services for new development.

1-3(D) Protect the quality and character of residential neighborhoods.

1-3(E) Promote the economic development and fiscal sustainability of the City.

1-3(F) Provide for the efficient administration of City land use and development regulations.

1-3(G) Protect the health, safety, and general welfare of the public.

1-3(H) Provide for orderly and coordinated development patterns.

1-3(I) Encourage the conservation and efficient use of water and other natural resources.

1-3(J) Implement a connected system of parks, trails, and open spaces to promote improved outdoor activity and public health.

1-3(K) Provide reasonable protection from possible nuisances and hazards and to otherwise protect and improve public health.

1-3(L) Encourage efficient and connected transportation and circulation systems for motor vehicles, bicycles, and pedestrians.

1-4 APPLICABILITY

1-4(A) This IDO applies to all private land in the City, and the owners and occupants of all land in the City are required to comply with the regulations of this IDO applicable to the zone district in which the property is located, except as noted in Subsection 14-16-1-4.

1-4(A)(1) Development after the Effective Date of this IDO
All development after the effective date of this IDO is subject to IDO standards.

1-4(A)(2) Development prior to the Effective Date of this IDO
Development that existed prior to the IDO is subject to timeframes established for compliance with IDO standards, including but not limited to standards for nonconformance in Section 14-16-6-8 (Nonconformities), to be calculated from the effective date of this IDO.

1-4(A)(3) Approvals Granted prior to the IDO
See Section 14-16-1-10 (Transitions from Previous Regulations).

1-4(B) This IDO is not applicable to federal activities or development on federally-owned lands where either the federal government has retained from the time of statehood or subsequently obtained the right to legislate in relation to such lands or the State of New Mexico has ceded jurisdiction to legislate back to the United States in relation to such lands. Private activities or development for private purposes on such lands shall be subject to this IDO.

1-4(C) This IDO is applicable to City activities or development on properties owned or leased by the City.

1-4(D) This IDO may not be applicable to state or governmental activities or development on lands owned by a state or governmental or quasi-governmental entity, to the extent the state of New Mexico has explicitly exempted them from the operation of local land use regulations.

1-5 EFFECTIVE DATE

The effective date of this IDO shall be May 17, 2018.

1-6 OFFICIAL ZONING MAP

1-6(A) The standards and regulations in this IDO applicable to specific zone districts or Overlay zones apply to the areas of the city shown with those zone districts or Overlay zones on the Official Zoning Map.

1-6(B) The Official Zoning Map is the latest version of the zoning map as approved or amended by City Council and maintained in electronic form by the City Planning Department.

1-7 COMPLIANCE REQUIRED

1-7(A) GENERAL

1-7(A)(1) No person shall develop or use any land, building, or structure within the City in violation of this IDO, regulations authorized under this IDO, including but not limited to those regulations in the Development Process Manual (DPM), or the terms and conditions of permits or approvals issued under this IDO.

1-7(A)(2) Indoor uses allowed under this IDO must be located within buildings that meet the standards in Articles 14-1 and 14-3 of ROA 1994 (Uniform Administrative Code and Uniform Housing Code) and other applicable technical codes adopted by the City. Allowable uses conducted in buildings that are not in compliance with this requirement are a violation of this IDO.

1-7(A)(3) The Mayor is responsible for the promulgation of rules and technical standards necessary to fulfill the intent of this IDO. Additional rules and technical standards shall be published in the DPM. The terms and provisions of the DPM,

as amended, shall be enforceable to the same extent as if incorporated into the text of this IDO.

1-7(B) DEVELOPMENT ON APPROVED LOT OR PARCEL REQUIRED

A building permit shall not be issued by the City unless the applicant presents the following:

1-7(B)(1) Evidence of a proper lot, constituted by 1 of the following:

1-7(B)(1)(a) A print of the final subdivision plat as recorded with the County Clerk and approved as provided for in this IDO, or any predecessor ordinance that applied at the time the parcel was created, showing the parcel for which application for building permit is being made.

1-7(B)(1)(b) Satisfactory evidence that this IDO is not applicable to the parcel upon which the building is to take place, either because the parcel is a lot which existed prior to the enactment of this IDO or any predecessor ordinances or because the parcel is outside the jurisdiction of this IDO. If such evidence is provided, exemption from the IDO regulations shall only apply to the establishment of the lot and not any development on the lot.

1-7(B)(2) Approval by the City Engineer that:

1-7(B)(2)(a) The alteration of the natural topography, drainage pattern, and perviousness of any lot resulting from the intended construction and prior or planned site preparation complies with a previously submitted and approved drainage report and/or plan, or that no drainage report or plan is required.

1-7(B)(2)(b) The traffic flow and parking layout complies with a previously submitted and approved Site Plan or Traffic Circulation Layout or that no Site Plan or Traffic Circulation Layout is required.

1-7(B)(2)(c) Adequate provision has been made for connection of the lot to water and sanitary sewer lines if these are necessary for reasonable use of the structure.

1-7(B)(2)(d) Adequate right-of-way is in place for infrastructure improvements required by the City Engineer.

1-7(B)(2)(e) All infrastructure improvements, including but not limited to sidewalks, curb and gutter, pavement, storm drain system, water and sewer, and any other improvements required by the City Engineer have been constructed within the public right-of-way along the property lines of the lot.

1-7(B)(3) After approval and recording of a final subdivision plat with the County Clerk and required improvements have been completed and accepted by the City (where the construction of improvements was required), building permits for structures within the subdivision may be issued. The Building Safety Division of the City Planning Department may issue building permits prior to completion of all improvements where sanitary sewer, water, and storm drainage facilities have been completed and other improvements are to be commenced within 6 months, but the City may require financial assurance for the completion of

those improvements pursuant to Subsection 14-16-6-4(Q) (Required Improvements and Financial Assurance).

1-8 RELATIONSHIP TO OTHER REGULATIONS

1-8(A) If two or more of the regulations in this IDO conflict with each other, the more restrictive provision shall prevail, unless specified otherwise, except that when the provisions of an Overlay zone conflict with any other regulation in this IDO, the provisions of the Overlay zone shall prevail regardless of whether the Overlay zone provisions are less or more restrictive than the other regulations.

1-8(B) If any regulation in this IDO conflicts with other applicable laws or regulations of the City, or conflicts with applicable state or federal law, the more restrictive provision shall prevail, unless the provisions of state or federal law, as interpreted by the courts, prevent that result.

1-9 RELATIONSHIP TO PRIVATE AGREEMENTS AND COVENANTS

1-9(A) This IDO applies to all land uses and development, regardless of whether it imposes a greater or lesser restriction on the development or use of structures or land than a private agreement or restriction, but shall have no impact on the applicability or enforceability of any private agreement or restriction between the parties to that agreement or restriction, except as set forth in Subsection (C) below.

1-9(B) The City shall have no obligation to conform the terms or applicability of this IDO to any private agreement or restriction. The City shall have no obligation to enforce any private covenant or agreement unless it is a party to the covenant or agreement; if the City is a party to the covenant or agreement, enforcement shall be at the discretion of the City.

1-9(C) The City may not approve any subdivision application for property on which there are any deed restrictions, covenants, or binding agreements prohibiting solar collectors from being installed on buildings or erected on the lots or parcels within the application.

1-10 TRANSITIONS FROM PREVIOUS REGULATIONS

1-10(A) PRIOR APPROVALS

1-10(A)(1) Any approvals granted prior to the effective date of this IDO shall remain valid, subject to expiration per Subsection 14-16-6-4(W). Uses and development standards specified in those approvals shall prevail over provisions in the IDO. Where those approvals are silent, provisions in the IDO shall apply, including the following:

1-10(A)(1)(a) Subsection 14-16-4-1(E) (Previously Allowed Uses) for the continuity of conditional uses.

1-10(A)(1)(b) Subsection 14-16-6-4(Y) (Amendments of Prior Approvals) for amending prior approvals.

1-10(A)(1)(c) Section 14-16-6-8 (Nonconformities) for information about expansions when the use or structure is nonconforming under this IDO.

1-10(A)(2) For former Special Use zones that were converted to the Planned Development (PD) or Planned Community (PC) zone districts through adoption of this IDO, any

approval associated with the Special Use zone is considered the required Site Plan – EPC or Framework Plan, respectively. Any use standards or development standards associated with prior approvals or prior zoning designations establish the rights and limitations for the PD and PC zone districts and are exclusive of and prevail over any other provision of this IDO.

1-10(B) COMPLETE APPLICATIONS

Any application that has been accepted by the City Planning Department as complete prior to the effective date of this IDO, or any amendment to this IDO, shall be reviewed and a decision made based on the standards and criteria in effect when the application was accepted as complete.

1-10(C) INCOMPLETE AND LATE APPLICATIONS

Any application that has not been accepted by the City Planning Department as complete prior to the effective date of this IDO, or any amendment to this IDO, or that is submitted after that effective date, shall be processed in compliance with the requirements of this IDO.

1-10(D) REFERENCES IN PREVIOUS REGULATIONS AND APPROVALS

Any City regulations or development approvals that refer to zone district designations that existed prior to the effective date of this IDO will be deemed to refer to the IDO zone district associated with the previous zone district as shown in Table 2-2-1.

1-10(E) PREVIOUS VIOLATIONS

Any violation of the City zoning, subdivision, or land development regulations in effect prior to the effective date of this IDO will continue to be a violation under this IDO, unless the development or other activity that was a violation of the previous regulations is consistent with the requirements and regulations of this IDO.

1-11 FIGURES AND ILLUSTRATIONS

Figures and illustrations in this IDO are for illustrative purposes only and may not be to scale. In the event of a conflict between an illustration and the text of this IDO, the text shall prevail.

1-12 DESIGNEES

When this IDO authorizes or requires an official or an appointed or elected body of the City government to perform a task in the administration of this IDO, the named official or appointed or elected body may designate another individual or entity of the City, or an individual employed by the City and under its control, to perform the task, unless the delegation of that task is specifically prohibited by New Mexico law or the City Charter.

1-13 SEVERABILITY

If any section, division, sentence, clause, phrase, or part of this IDO is for any reason declared unconstitutional or invalid, the validity of the remaining portions of this IDO shall not be affected, since it is the express intent of the City Council to pass each section, division, sentence, clause, phrase, and every part of this Ordinance separately and independently of every other part.

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Part 14-16-2 Zone Districts

2-1 ZONE DISTRICTS ESTABLISHED

2-1(A) The zone districts listed in Sections 14-16-2-3 through 14-16-2-6 (Zone Districts) are hereby created. These zone districts shall have the boundaries shown on the Official Zoning Map maintained in electronic form by the City Planning Department and available on the City of Albuquerque website. The base zone districts are grouped into 4 types: Residential zone districts, Mixed-use zone districts, Non-residential zone districts, and Planned Development zone districts. In addition, Overlay zones are established and defined in Part 14-16-3.

2-1(B) See Subsection 14-16-1-10(D) for treatment of references to previous zone districts in other documents.

2-2 ZONE DISTRICT SUMMARY TABLE

Table 2-2-1 shows the City of Albuquerque's previous zone districts in relation to IDO base zone districts.

Table 2-2-1: Summary Table of Base Zone Districts

Previous Zone District		IDO Zone District	
Residential Zones		**Residential Zone Districts**	
RO-1	Rural Open	*Private land is converted to R-A. City-owned Major Public Open Space is converted to NR-PO-B.*	
RO-20	Rural Open Agriculture		
RA-1	Residential and Agricultural, semi-urban	R-A	Residential – Rural and Agricultural
RA-2	Residential and Agricultural		
R-1	Residential	R-1	Residential – Single-family *Dimensions vary to protect character* *R-LT converted to R-1A.*
R-LT	Residential Limited Townhouses		
MH	Mobile Home Developments	R-MC	Manufactured Home Community
R-T	Residential Townhouses	R-T	Residential – Townhouse
R-2	Residential Medium Density	R-ML	Residential – Multi-family Low Density
R-G	Residential Garden Apartment		
R-3	Residential High Density	R-MH	Residential – Multi-family High Density
Office and Commercial Zones		**Mixed-use Zone Districts**	
R-C	Residential/Commercial	MX-T	Mixed-use – Transition
O-1	Office and Institutional		
C-1	Neighborhood Commercial	MX-L	Mixed-use – Low Intensity
C-2	Community Commercial	MX-M	Mixed-use – Moderate Intensity ***East Side**: all C-2* ***West Side:** Premium Transit areas, lots <5 acres, and C-2 (SC) designated shopping center sites*
		NR-C	Non-residential – Commercial *All West Side properties outside of Premium Transit areas for properties 5+ acres and those without a C-2 (SC) shopping center designation*

Table 2-2-1: Summary Table of Base Zone Districts

Previous Zone District		IDO Zone District	
C-3	Heavy Commercial *This zone also converts to Non-residential zones. See also C-3 below.*	MX-H	Mixed-use – High Intensity ***East Side:*** *Premium Transit, Main Street, Major Transit areas and Urban and Activity Centers* ***West Side:*** *Premium Transit areas*
		NR-C	Non-residential – Commercial *All C-3 areas not listed above (which convert to MX-H)*
Form-based Zones			
SU-3	Downtown 2025 SDP Housing District	MX-FB-ID	Mixed-use – Form-based Infill Development Sub-zone *Within Downtown Center in ABC Comp Plan, as amended*
		R-MH	Residential – Multi-family High Density *Outside the Downtown Center*
	Downtown 2025 SDP Mixed-use Corridor	MX-FB-FX	Mixed-use – Form-based Flexible Development Sub-zone *Within Downtown Center in ABC Comp Plan, as amended*
		MX-M	Mixed-use – Moderate Intensity *Outside the Downtown Center*
	Downtown 2025 SDP Arts & Entertainment	MX-FB-UD	Mixed-use – Form-based Urban Development Sub-zone
	Downtown 2025 SDP Government/Financial/Hospitality District	MX-FB-UD	Mixed-use – Form-based Urban Development Sub-zone *Within Downtown Center in ABC Comp Plan, as amended*
		MX-H	Mixed-use – High Intensity *Outside the Downtown Center*
	Downtown 2025 SDP Warehouse District	MX-FB-UD	Mixed-use – Form-based Urban Development Sub-zone
SU-1	Form-based Zones	MX-FB	Mixed-use – Form-based Zone District *Replaces SU-1 Form-based Zones in the Zoning Code*
	Planned Neighborhood Development (PND)	MX-FB-ID	Mixed-use – Form-based Infill Development Sub-zone
	Mixed-use (MX)	MX-FB-FX	Mixed-use – Form-based Flexible Development Sub-zone
	Transit-oriented Development – Community Activity Center (TOD-COM)	MX-FB-AC	Mixed-use – Form-based Activity Center Sub-zone
	Transit-oriented Development – Major Activity Center (TOD-MAC)	MX-FB-UD	Mixed-use – Form-based Urban Development Sub-zone
Industrial Zones		**Non-residential Zone Districts**	
C-3	Heavy Commercial *This zone also converts to Mixed-use zones. See also C-3 above.*	MX-H	Mixed-use – High Intensity ***East Side:*** *Premium Transit, Main Street, Major Transit areas and Urban and Activity Centers* ***West Side:*** *Premium Transit areas*

Table 2-2-1: Summary Table of Base Zone Districts			
Previous Zone District		**IDO Zone District**	
		NR-C	Non-residential – Commercial *All C-3 areas not listed above (which convert to MX-H)*
IP	Industrial Park	NR-BP	Non-residential – Business Park
M-1	Light Manufacturing	NR-LM	Non-residential – Light Manufacturing
M-2	General Manufacturing	NR-GM	Non-residential – General Manufacturing
Special Use Zones		**Sensitive Use Zone Districts**	
SU-1	Special Use	NR-SU	Non-residential – Sensitive Use *Zones were converted to the closest match according to the highest referenced zone or use in the zone description or PD*
SU-2	Special Neighborhood	*SU-2 and SU-3 zones integrated into IDO zone districts, development standards, and procedures or as mapped areas in Overlay zones, Use-specific Standards, or Development Standards. Zones were converted to the closest match identified where Sector Development Plan references other base zones.*	
SU-3	Special Center (other than Downtown)		
P	Parking	*Converted to MX-L for paid parking lots or to match the zone of the primary use the parking lot serves*	
P-R	Parking Reserve		
Various		NR-PO	Non-residential – Parks & Open Space - NR-PO-A City-owned or Managed Parks - NR-PO-B Major Public Open Space - NR-PO-C Non-City Parks and Open Space - NR-PO-D City BioPark
Planned Development Zones		**Planned Development Zone Districts**	
SU-1 PRD	Planned Residential Development	PD	Planned Development *PD unless the land use is clearly identifiable as R-1 or R-T land uses and development patterns.*
R-D	Residential & Related Uses – Developing Area		
PC	Planned Community	PC	Planned Community

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2-3 RESIDENTIAL ZONE DISTRICTS

2-3(A) RESIDENTIAL – RURAL AND AGRICULTURAL ZONE DISTRICT (R-A)

2-3(A)(1) Purpose

The purpose of the R-A zone district is to provide for low-density, single-family residences and limited agricultural uses, generally on lots of ¼ acre or larger, as well as limited civic and institutional uses to serve the surrounding residential area. Allowable uses are shown in Table 4-2-1.

2-3(A)(2) Use and Development Standards

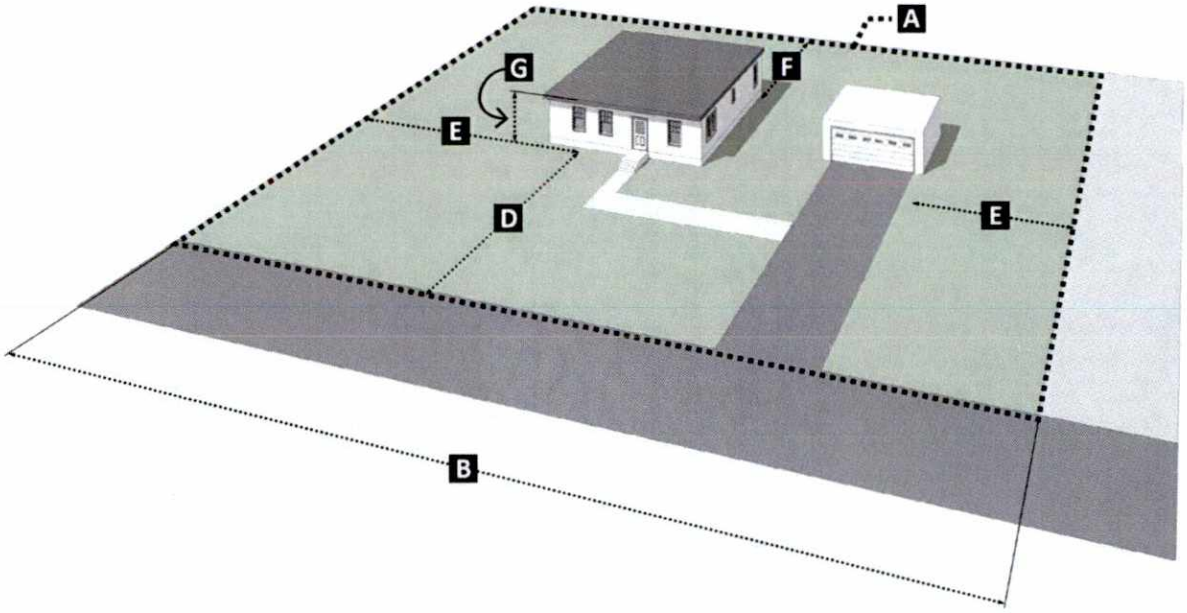
Table 2-3-1: R-A Zone District Dimensional Standards Summary[1]

See Table 5-1-1 for complete Dimensional Standards.

Site Standards		
A	Lot size, minimum	10,890 sq. ft.
B	Lot width, minimum	75 ft.
C	Usable open space, minimum	N/A
Setback Standards		
D	Front, minimum	20 ft.
E	Side, minimum	10 ft.
F	Rear, minimum	25 ft.
Building Height		
G	Building height, maximum	26 ft.

Table 2-3-2: Other Applicable IDO Sections

Overlay Zones	Part 14-16-3
Allowable Uses	14-16-4-2
Use-specific Standards	14-16-4-3
Dimensional Standards	14-16-5-1
Site Design and Sensitive Lands	14-16-5-2
Access and Connectivity	14-16-5-3
Parking and Loading	14-16-5-5
Landscaping, Buffering, and Screening	14-16-5-6
Walls and Fences	14-16-5-7
Outdoor Lighting	14-16-5-8
Neighborhood Edges	14-16-5-9
Solar Access	14-16-5-10
Building Design	14-16-5-11
Signs	14-16-5-12
Operation and Maintenance	14-16-5-13



2-3(A)(3) District Standards

None.

2-3(B) RESIDENTIAL – SINGLE-FAMILY ZONE DISTRICT (R-1)

2-3(B)(1) Purpose

The purpose of the R-1 zone district is to provide for neighborhoods of single-family homes on individual lots with a variety of lot sizes and dimensions. When applied in developed areas, an additional purpose is to require that redevelopment reinforce the established character of the existing neighborhood. Primary land uses include single-family detached homes on individual lots, with limited civic and institutional uses to serve the surrounding residential area. Allowable uses are shown in Table 4-2-1.

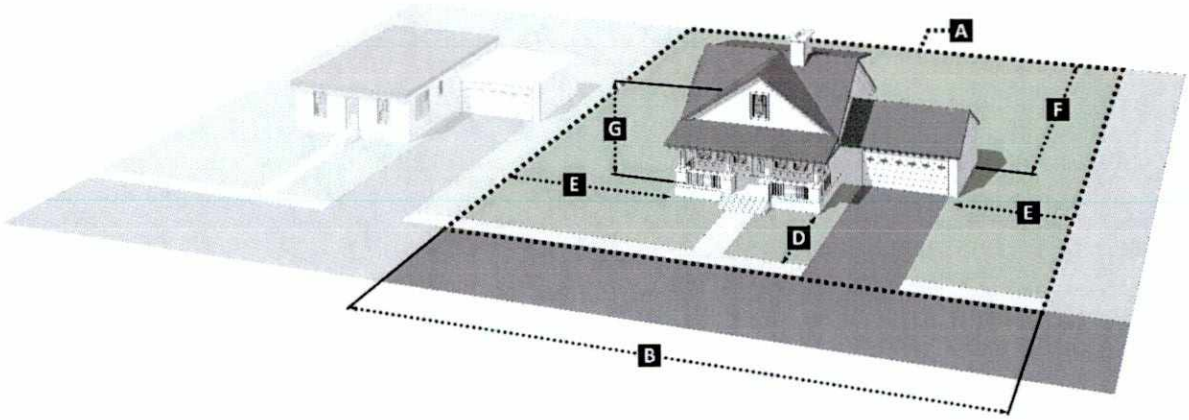
2-3(B)(2) Use and Development Standards

Table 2-3-3: R-1 Zone District Dimensional Standards Summary
See Table 5-1-1 for complete Dimensional Standards.

	R-1 Lot Type	A	B	C	D
Site Standards					
A	Lot size, minimum	3,500 sq. ft.	5,000 sq. ft.	7,000 sq. ft.	10,000 sq. ft.
B	Lot width, minimum	25 ft.	37.5 ft.	50 ft.	70 ft.
C	Usable open space, minimum	N/A	N/A	N/A	N/A
Setback Standards					
D	Front, minimum	10 ft.	15 ft.		20 ft.
E	Side, minimum	Interior: 5 ft. Street side: 10 ft.			10 ft.
F	Rear, minimum	10 ft.	15 ft.		
Building Height					
G	Building height, maximum	26 ft.			

Table 2-3-4: Other Applicable IDO Sections

Overlay Zones	Part 14-16-3
Allowable Uses	14-16-4-2
Use-specific Standards	14-16-4-3
Dimensional Standards	14-16-5-1
Site Design and Sensitive Lands	14-16-5-2
Access and Connectivity	14-16-5-3
Parking and Loading	14-16-5-5
Landscaping, Buffering, and Screening	14-16-5-6
Walls and Fences	14-16-5-7
Outdoor Lighting	14-16-5-8
Neighborhood Edges	14-16-5-9
Solar Access	14-16-5-10
Building Design	14-16-5-11
Signs	14-16-5-12
Operation and Maintenance	14-16-5-13



2-3(B)(3) District Standards

None.

2-3(C) RESIDENTIAL – MANUFACTURED HOME COMMUNITY ZONE DISTRICT (R-MC)

2-3(C)(1) Purpose

The purpose of the R-MC zone district is to accommodate manufactured home communities and to require those communities to incorporate high-quality planning and design. Allowable uses in the R-MC zone district are shown in Table 4-2-1.

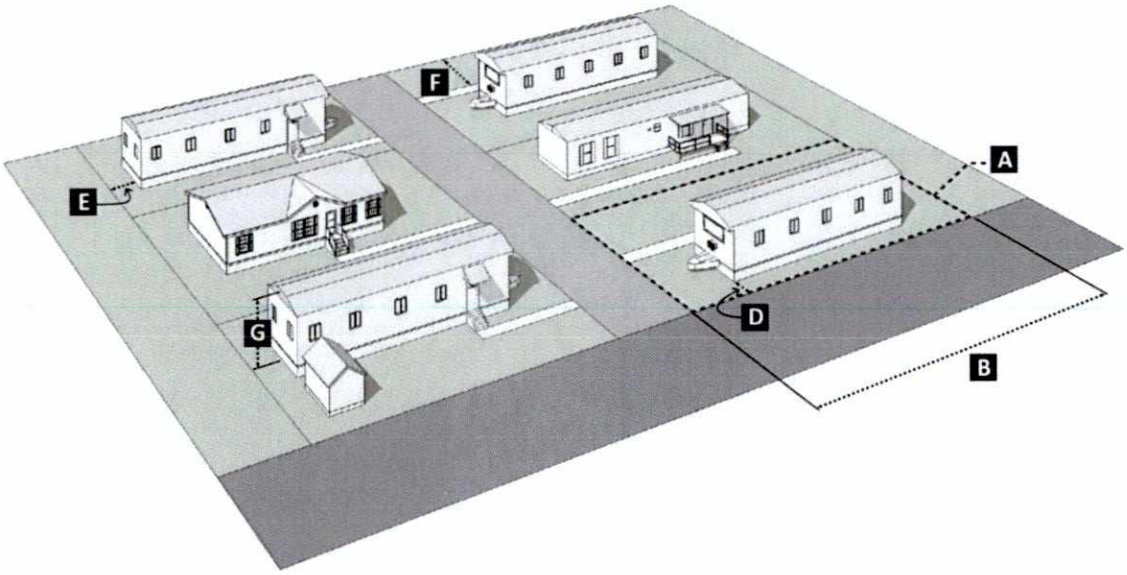
2-3(C)(2) Use and Development Standards

Table 2-3-5: R-MC Zone District Dimensional Standards Summary
See Table 5-1-1 for complete Dimensional Standards.

Site Standards		
A	Lot size, minimum	2,500 sq. ft. / space
B	Lot width, minimum	40 ft. / space
C	Usable open space, minimum	400 sq. ft. / space
Setback Standards		
D	Front, minimum	15 ft.
E	Side, minimum	Interior: 5 ft. Street side: 10 ft.
F	Rear, minimum	10 ft.
Building Height		
G	Building height, maximum	26 ft.

Table 2-3-6: Other Applicable IDO Sections

Overlay Zones	Part 14-16-3
Allowable Uses	14-16-4-2
Use-specific Standards	14-16-4-3
Dimensional Standards	14-16-5-1
Site Design and Sensitive Lands	14-16-5-2
Access and Connectivity	14-16-5-3
Parking and Loading	14-16-5-5
Landscaping, Buffering, and Screening	14-16-5-6
Walls and Fences	14-16-5-7
Outdoor Lighting	14-16-5-8
Neighborhood Edges	14-16-5-9
Solar Access	14-16-5-10
Building Design	14-16-5-11
Signs	14-16-5-12
Operation and Maintenance	14-16-5-13



2-3(C)(3) District Standards

2-3(C)(3)(a) Manufactured and mobile homes that are not installed on a permanent foundation shall be skirted with materials similar in color, texture, and appearance to the siding of the manufactured or mobile home.

2-3(C)(3)(b) Anchorages and tie-downs constructed to comply with Articles 14-1 and 14-3 of ROA 1994 (Uniform Administrative Code and Uniform Housing Code) shall be provided on each manufactured home space or lot to prevent overturning or uplift of the manufactured home.

2-3(C)(3)(c) Motor vehicles that are not parked inside a building must be operative and not wholly or partially dismantled.

2-3(C)(3)(d) Carports, patios, decks, and accessory buildings may be located in side and rear setback areas of individual manufactured or mobile home sites. Such development such accessory buildings may not be located in any setbacks, usable open space, or landscape buffers required for the manufactured home community.

2-3(C)(3)(e) Storage sheds, accessory buildings, and carports shall be constructed of suitable weather-resistant materials.

2-3(C)(3)(f) All yard areas and other open spaces not otherwise paved or occupied by structures shall be landscaped and maintained.

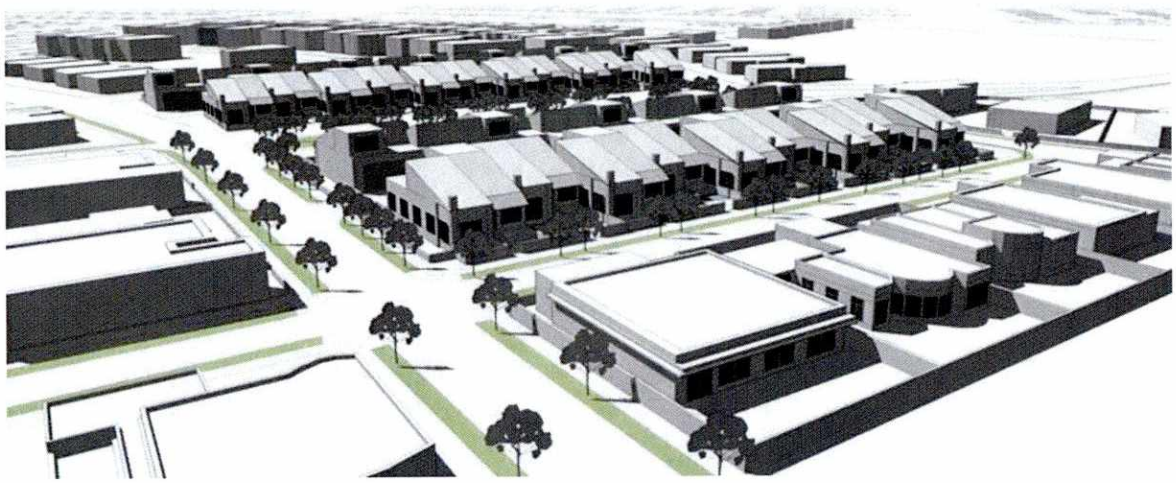
2-3(C)(3)(g) In cases where the owner of a manufactured home community intends to change the use or rezone the property to a zone district other than R-MC, which will result in expiration or termination of resident occupancy, the owner shall mail each resident written notice of his intent less than 18 months prior to the rezoning of the property.

2-3(C)(3)(h) See Subsection 14-16-6-8(C)(6) for nonconformity provisions for mobile home dwellings and developments.

2-3(D) RESIDENTIAL – TOWNHOUSE ZONE DISTRICT (R-T)

2-3(D)(1) Purpose

The purpose of the R-T zone district is to accommodate a mix of single-family, two-family, and townhouse residential developments, as well as limited civic and institutional uses to serve the surrounding residential area. Other allowable uses are shown in Table 4-2-1.



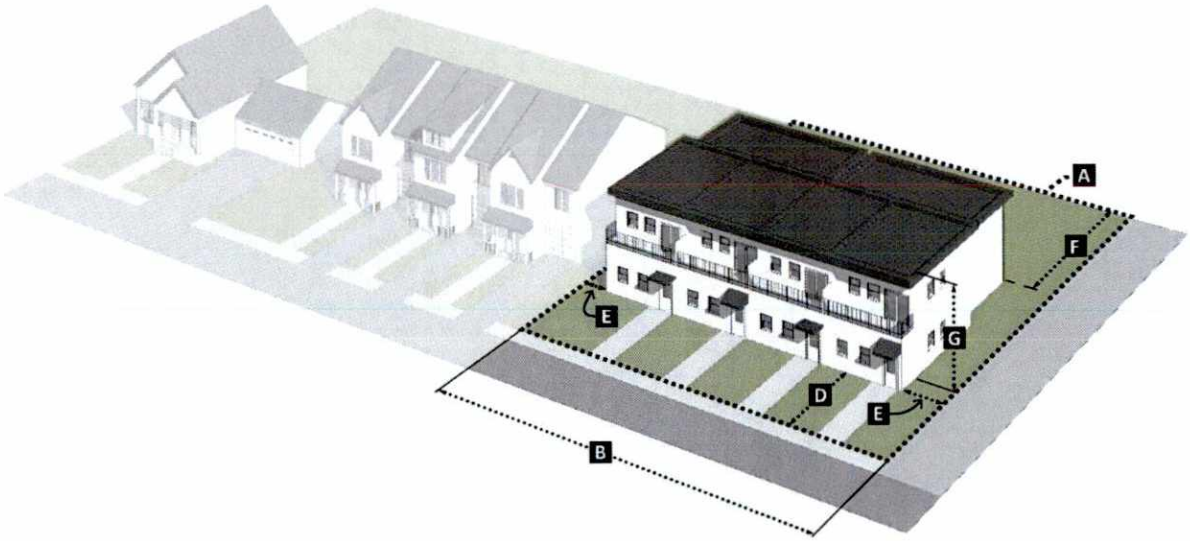
2-3(D)(2) Use and Development Standards

Table 2-3-7: R-T Zone District Dimensional Standards Summary
See Table 5-1-1 for complete Dimensional Standards.

	Development Type	Single- or Two-Family Detached	Townhouse or Other Allowable Use
Site Standards			
A	Lot size, minimum	3,500 sq. ft.	2,200 sq. ft.
B	Lot width, minimum	35 ft.	22 ft.
C	Usable open space, minimum	N/A	
Setback Standards			
D	Front, minimum	10 ft.	
E	Side, minimum	Interior: 5 ft. / Street side: 10 ft. UC-MS-PT: 0 ft.	
F	Rear, minimum	15 ft.	
Building Height			
G	Building height, maximum	26 ft.	

Table 2-3-8: Other Applicable IDO Sections

Overlay Zones	Part 14-16-3
Allowable Uses	14-16-4-2
Use-specific Standards	14-16-4-3
Dimensional Standards	14-16-5-1
Site Design and Sensitive Lands	14-16-5-2
Access and Connectivity	14-16-5-3
Parking and Loading	14-16-5-5
Landscaping, Buffering, and Screening	14-16-5-6
Walls and Fences	14-16-5-7
Outdoor Lighting	14-16-5-8
Neighborhood Edges	14-16-5-9
Solar Access	14-16-5-10
Building Design	14-16-5-11
Signs	14-16-5-12
Operation and Maintenance	14-16-5-13



2-3(D)(3) District Standards

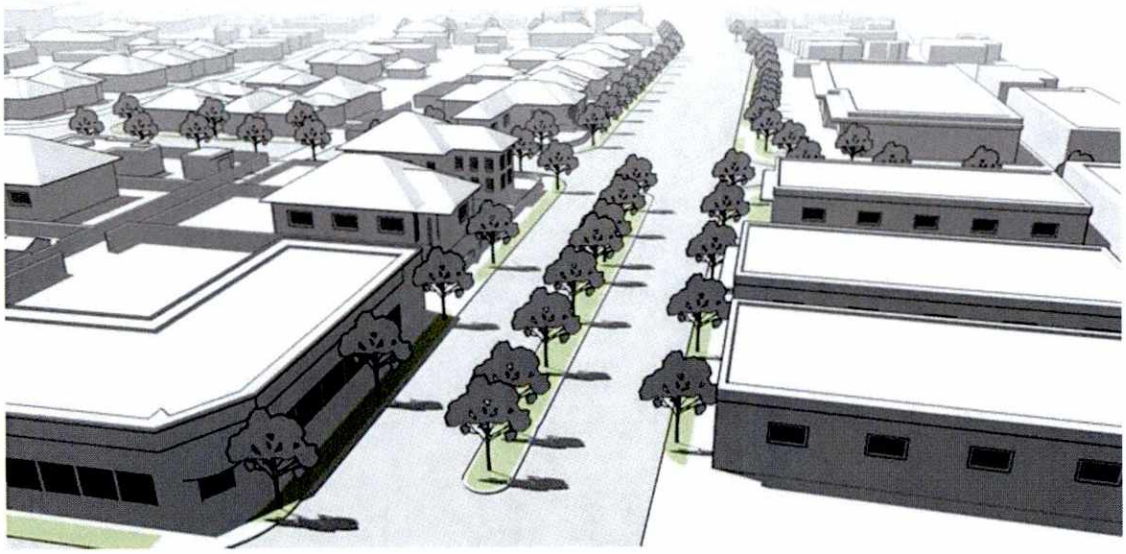
None.

2-4 MIXED-USE ZONE DISTRICTS

2-4(A) MIXED-USE – TRANSITION ZONE DISTRICT (MX-T)

2-4(A)(1) Purpose

The purpose of the MX-T zone district is to provide a transition between residential neighborhoods and more intense commercial areas. Primary land uses include a range of low-density multi-family residential and small-scale office, institutional, and pedestrian-oriented commercial uses. Allowable uses are shown in Table 4-2-1.



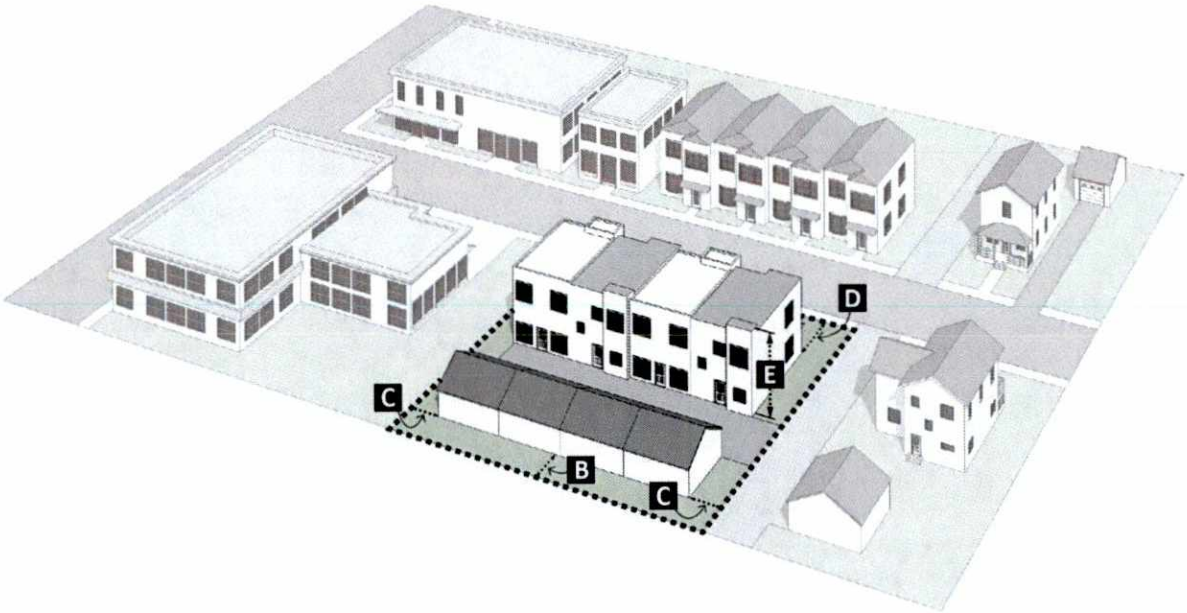
2-4(A)(2) Use and Development Standards

Table 2-4-1: MX-T Zone District Dimensional Standards Summary
See Table 5-1-2 for complete Dimensional Standards.

	Development Location	General	UC-MS-PT
Site Standards			
A	Usable open space, minimum	≤1 BR: 200 sq. ft. / unit 2 BR: 250 sq. ft. / unit ≥3 BR: 300 sq. ft. / unit	50% reduction
Setback Standards			
B	Front, minimum / maximum	5 ft. / N/A	0 ft. / 15 ft.
C	Side, minimum / maximum	Interior: 0 ft.; Street side: 5 ft. / N/A	0 ft. / Street side: 15 ft.
D	Rear, minimum	15 ft.	
Building Height			
E	Building height, maximum	30 ft.	

Table 2-4-2: Other Applicable IDO Sections

Overlay Zones	Part 14-16-3
Allowable Uses	14-16-4-2
Use-specific Standards	14-16-4-3
Dimensional Standards	14-16-5-1
Site Design and Sensitive Lands	14-16-5-2
Access and Connectivity	14-16-5-3
Parking and Loading	14-16-5-5
Landscaping, Buffering, and Screening	14-16-5-6
Walls and Fences	14-16-5-7
Outdoor Lighting	14-16-5-8
Neighborhood Edges	14-16-5-9
Solar Access	14-16-5-10
Building Design	14-16-5-11
Signs	14-16-5-12
Operation and Maintenance	14-16-5-13



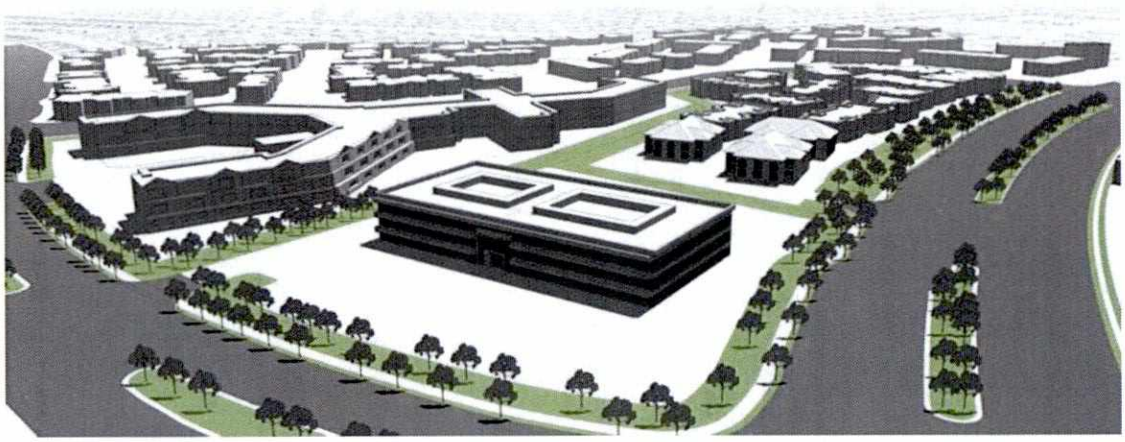
2-4(A)(3) District Standards

None.

2-4(B) MIXED-USE – LOW INTENSITY ZONE DISTRICT (MX-L)

2-4(B)(1) Purpose

The purpose of the MX-L zone district is to provide for neighborhood-scale convenience shopping needs, primarily at the corners of collector intersections. Primary land uses include non-destination retail and commercial uses, as well as townhouses, low-density multi-family residential dwellings, and civic and institutional uses to serve the surrounding area, with taller, multi-story buildings encouraged in Centers and Corridors. Other allowable uses are shown in Table 4-2-1.



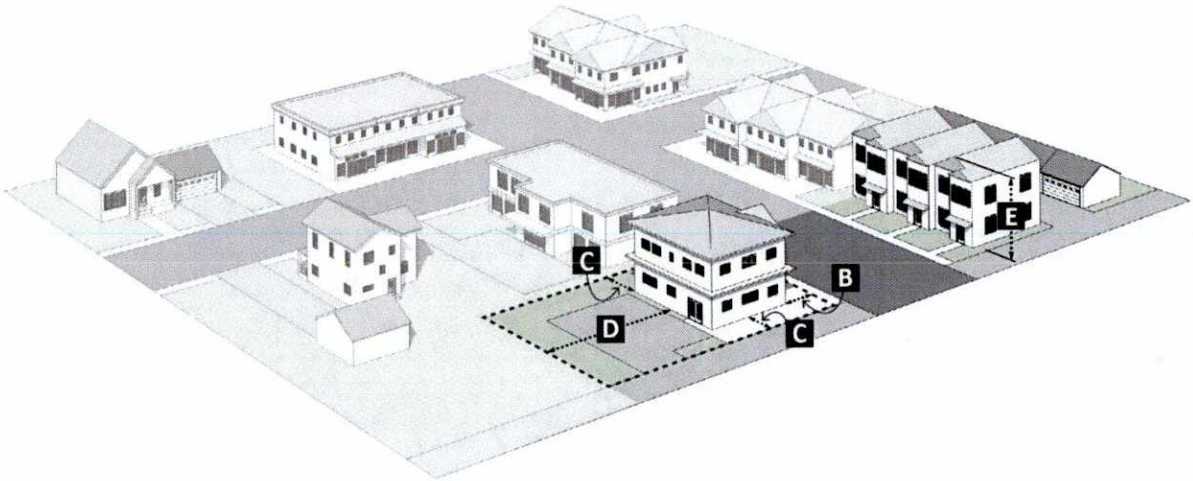
2-4(B)(2) Use and Development Standards

Table 2-4-3: MX-L Zone District Dimensional Standards Summary
See Table 5-1-2 for complete Dimensional Standards.

	Development Location	General	UC-MS-PT
Site Standards			
A	Usable open space, minimum	≤1 BR: 200 sq. ft. / unit 2 BR: 250 sq. ft. / unit ≥3 BR: 300 sq. ft. / unit	50% reduction
Setback Standards			
B	Front, minimum / maximum	5 ft. / N/A	0 ft. / 15 ft.
C	Side, minimum / maximum	Interior: 0 ft.; Street side: 5 ft. / N/A	0 ft. / Street side: 15 ft.
D	Rear, minimum	15 ft.	
Building Height			
E	Building height, maximum	35 ft.	55 ft.

Table 2-4-4: Other Applicable IDO Sections

Overlay Zones	Part 14-16-3
Allowable Uses	14-16-4-2
Use-specific Standards	14-16-4-3
Dimensional Standards	14-16-5-1
Site Design and Sensitive Lands	14-16-5-2
Access and Connectivity	14-16-5-3
Parking and Loading	14-16-5-5
Landscaping, Buffering, and Screening	14-16-5-6
Walls and Fences	14-16-5-7
Outdoor Lighting	14-16-5-8
Neighborhood Edges	14-16-5-9
Solar Access	14-16-5-10
Building Design	14-16-5-11
Signs	14-16-5-12
Operation and Maintenance	14-16-5-13



2-4(B)(1) District Standards

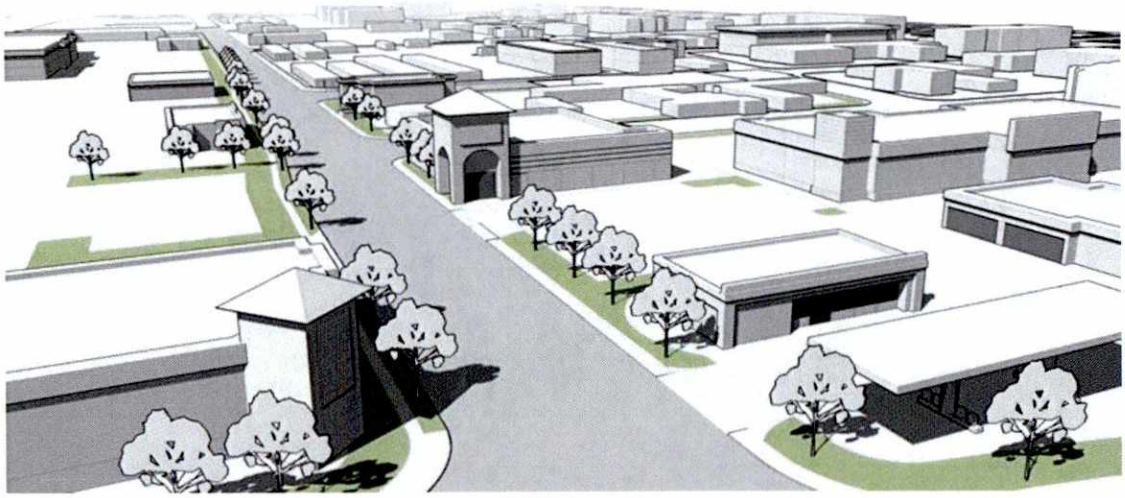
None.

2-5 NON-RESIDENTIAL ZONE DISTRICTS

2-5(A) NON-RESIDENTIAL – COMMERCIAL ZONE DISTRICT (NR-C)

2-5(A)(1) Purpose

The purpose of the NR-C zone district is to accommodate medium-scale retail, office, commercial, and institutional uses, particularly where additional residential development is not appropriate or not desired because of a deficit of jobs or services in relation to housing units in the area. Primary land uses include a wide spectrum of retail and commercial uses intended to serve both neighborhood and area-wide needs, as well as some light industrial uses. Allowable uses are shown in Table 4-2-1.



2-5(A)(2) Use and Development Standards

Table 2-5-1: NR-C Zone District Dimensional Standards Summary
See Table 5-1-3 for complete Dimensional Standards.

	Development Location	General	UC-MS-PT
Site Standards			
A	Lot width, minimum	N/A	
B	Building coverage, maximum	N/A	
Setback Standards			
C	Front, minimum / maximum	5 ft. / N/A	0 ft. / 15 ft.
D	Side, minimum / maximum	O ft. / N/A	0 ft. / N/A interior; 15 ft. corner
E	Rear, minimum	0 ft.	15 ft.
Building Height			
F	Building height, maximum	35 ft. >100 ft. from all lot lines: N/A	55 ft.

Table 2-5-2: Other Applicable IDO Sections

Overlay Zones	Part 14-16-3
Allowable Uses	14-16-4-2
Use-specific Standards	14-16-4-3
Dimensional Standards	14-16-5-1
Site Design and Sensitive Lands	14-16-5-2
Access and Connectivity	14-16-5-3
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Signs	14-16-5-12
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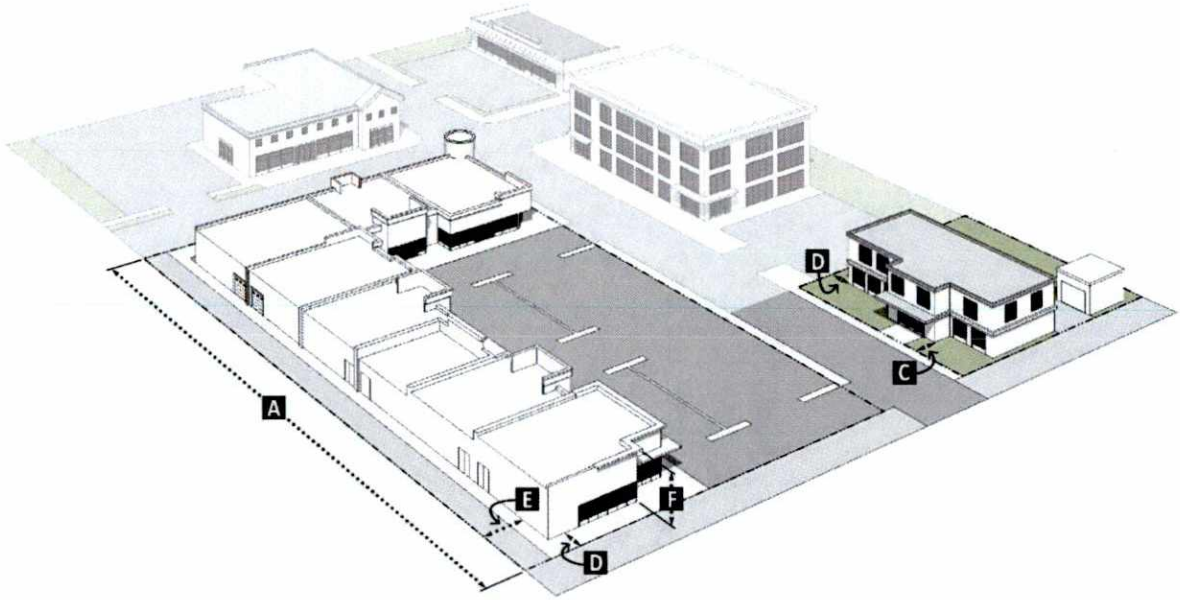

2-5(A)(3) District Standards

None.

Part 14-16-3 Overlay Zones

3-1 OVERLAY ZONES ESTABLISHED

3-1(A) The Overlay zones listed in Sections 14-16-3-3 through 14-16-3-6 (Overlay Zones) are hereby created. These Overlay zones shall have the boundaries shown on the Official Zoning Map maintained in electronic form by the City Planning Department and available on the City of Albuquerque website.

3-1(B) These Overlay zones supplement, but do not replace, the underlying base zone districts listed in Sections 14-16-2-3 through 14-16-2-6 and applicable to the property. In the case of a conflict between the provisions of a base zone district and the provisions of an Overlay zone, the provisions of the Overlay zone shall prevail. Where multiple Overlay zones apply to a property, development must comply with all relevant provisions. Where an Overlay zone is silent, IDO requirements apply.

3-2 OVERLAY ZONE SUMMARY TABLE

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

Table 3-2-1: Summary Table of Overlay Zones

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

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3-4 CHARACTER PROTECTION OVERLAY ZONES

3-4(A) PURPOSE

The purpose of the Character Protection Overlay (CPO) zone is to preserve areas with distinctive characteristics that are worthy of conservation but are not historical or may lack sufficient significance to qualify as Historic Protection Overlay (HPO) zones. These areas meet 1 or more of the following characteristics:

3-4(A)(1) Have recognized neighborhood identity and character.

3-4(A)(2) Have high architectural value.

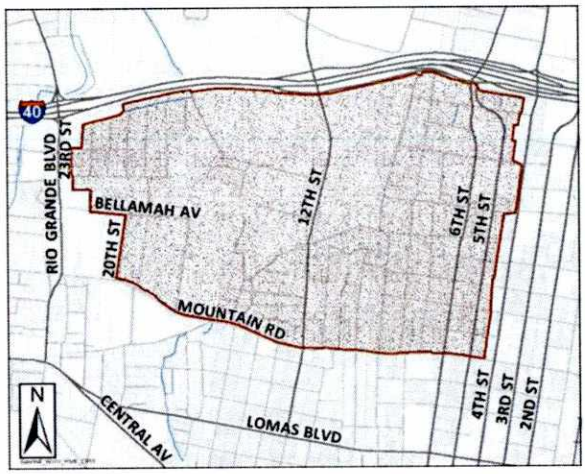
3-4(A)(3) Have a relationship to HPO zones that make the area's conservation critical.

3-4(A)(4) Have a relationship with cultural landscapes identified in the Albuquerque/ Bernalillo County Comprehensive Plan (ABC Comp Plan), as amended.

3-4(L) SAWMILL/WELLS PARK – CPO-11

3-4(L)(1) Applicability

The CPO-11 standards apply in the following mapped area. Where the CPO-11 boundary crosses a lot line, the entire lot is subject to these standards.



3-4(L)(2) Site Standards

3-4(L)(2)(a) Lot Size

1. R-T, MX-T, and MX-L zone districts
   a. Two-family detached dwelling on a lot, minimum 7,000 square feet.
   b. Townhouse dwellings, minimum: 3,200 square feet per dwelling.
   c. Lot size, maximum: 10,000 square feet.
2. R-ML zone district
   a. Two-family detached dwelling on a lot, minimum: 2,700 square feet.
   b. Townhouse dwellings, minimum: 2,400 square feet per dwelling.
   c. Multi-family, minimum: 7,000 square feet.

3-4(L)(2)(b) Lot Width, Minimum

1. R-T zone district
   Townhouse dwellings: 32 feet per dwelling unit.
2. R-ML zone district
   a. Two-family detached dwelling on a lot: 24 feet.
   b. Townhouse dwellings: 32 feet per dwelling.
   c. Multi-family: 70 feet.

3-4(L)(2)(c) Usable Open Space, Minimum

In the R-ML, MX-T, and MX-L zone districts, usable open space for multi-family development is required as follows:

1. Efficiency or 1 bedroom: 400 square feet per unit.

2. Two (2) bedroom: 500 square feet per unit.
3. Three (3) or more bedrooms: 600 square feet per unit.

3-4(L)(3) Setback Standards

3-4(L)(3)(a) Low-density Residential Development in Any Zone District

1. Front, minimum
   a. 15 feet.
   b. Garage: 25 feet from the property line abutting a street.
2. Side, minimum
   a. Interior: 0 feet.
   b. Street side of corner lots: 10 feet.
   c. Between a single-family detached dwelling and any other residential building: 10 feet.
3. Rear, minimum: 15 feet.

3-4(L)(3)(b) MX-L Zone District

Except as noted in Subsection (a) above for low-density residential development, front setbacks are required as follows:

1. Minimum: 15 feet.
2. On lots abutting Mountain Road: 0 feet minimum; 15 feet maximum.

3-4(L)(3)(c) NR-LM and NR-BP Zone Districts:

Front, side, and rear, minimum: 10 feet, except 25 feet minimum adjacent to any Residential zone district, a lot containing a Residential use in a Mixed-use zone district, or a designated trail.

3-4(L)(4) Building Height, Maximum

3-4(L)(4)(a) R-ML and MX-L zone districts: 26 feet.

3-4(L)(4)(b) NR-BP zone district: 35 feet.

3-4(L)(4)(c) NR-LM zone district: 55 feet.

3-4(L)(5) Other Development Standards

3-4(L)(5)(a) Enclosures and Screening

1. Non-residential uses within or adjacent to any Residential zone district shall be conducted within a building.
2. All non-residential outdoor storage and parking and vehicular circulation areas adjacent to a lot in any Residential zone district, a lot containing a Residential use in any Mixed-use zone district, or a lot containing a Civic and Institutional use in any zone district shall be visually screened with an opaque wall or fence at least 6 feet high and a landscaped buffer at least 10 feet wide with evergreen trees and/or shrubs.

3-4(L)(5)(b) Residential Building Design

For all residential development, the following building design regulations apply:

1. No portion of any building within 25 feet of the front property line or within 10 feet of any interior side lot line shall exceed 15 feet in height.
2. Building exterior materials, colors, window and door styles, and roof slope and materials must be the same or similar on all parts of the building and any detached dwellings on the lot.
3. Front doors must face the nearest street, except that in townhouse and multi-family development, only the dwelling unit(s) abutting the street must have front doors facing the street.
4. Each façade facing a public street shall contain 12.5 percent or more of its surface in clear, transparent windows and/or doors.
5. New windows must be recessed not less than 2 inches and/or shall be surrounded by a window casing not less than 2 inches wide.
6. Exposed CMU block is not allowed as a finished material for buildings.
7. Reflective or mirrored glass is prohibited.
8. Residential buildings with over 35 linear feet of street-facing façade must be designed to appear as a collection of smaller buildings.
9. Half gables or shed roofs may only be used on lean-to portions of buildings, on the first story only.
10. The slope of new roofs may not exceed a 45 degree angle.
11. The slope of roofs on new buildings over 15 feet high must be 30 to 45 degrees.

3-4(L)(5)(c) Non-residential Building Design

In the MX-T, MX-L, and NR-LM zone districts, the following building design regulations apply:

1. No portion of any building within 25 feet of the front property line shall exceed 15 feet in height.
2. Front doors must face the nearest street.
3. Exposed CMU block is not allowed as a finished material for buildings.
4. Reflective or mirrored glass is prohibited.
5. Non-residential buildings with over 35 linear feet street-facing façade must be designed to appear as a collection of smaller buildings.

3-4(L)(5)(d) Mixed-use and Non Residential Zone Districts

For all development except residential and industrial development, each façade facing a public street shall contain 25 percent or more of its surface in clear, transparent windows and/or doors.

3-4(L)(6) Cross-references

3-4(L)(6)(a) Subsection 14-16-5-11(C) (Second Story Addition Stepback).

3-4(L)(6)(b) Subsection 14-16-5-12(H)(2)(f) (Electronic Signs Prohibited).

3-4(L)(6)(c) Subsection 14-16-6-4(O)(2)(e) (Deviations to Overlay Standards Not Allowed).

Part 14-16-4 Use Regulations

4-1 GENERAL

4-1(A) LISTED USES

Table 4-2-1 indicates allowable land uses in individual zone districts, with abbreviations as described in Subsection 14-16-4-1(C). Use-specific Standards in Section 14-16-4-3 provide additional uses, restrictions, or review procedures.

4-1(A)(1) A blank cell in TABLE 4-2-1 indicates that the use is not allowed in that zone district.

4-1(A)(2) Definitions of each land use may allow another land use listed in the table as incidental to the defined use. Otherwise, multiple uses are allowed on a property pursuant to Subsection 14-16-4-1(D).

4-1(A)(3) Additional uses of property or restrictions on the use of property in a particular zone district may be contained in Sections 14-16-2-3 through 14-16-2-6 (Zone Districts) or in an Overlay zone applicable to the property in Part 14-16-3.

4-1(A)(3)(a) Allowable uses in the MX-FB Zone District are pursuant to Subsection 14-16-2-4(E)(3)(c) (Use Regulations).

4-1(A)(3)(b) The NR-SU zone district allows primary uses not allowed in any other zone district as indicated in Subsection 14-16-2-5(E)(2) (Use and Development Standards). Accessory uses listed as allowable in the NR-SU zone district in Table 4-2-1 may be approved in conjunction with a primary NR-SU use if they are found to be compatible with or complementary to the proposed primary use and shall be subject to any use-specific or other standards deemed appropriate and necessary by the relevant decision-making body. Uses approved for each property and any related standards are documented in the approved Site Plan for that property on file with the City Planning Department.

4-1(A)(3)(c) Uses are regulated in the NR-PO sub-zones as follows:

1. NR-PO-A: Uses may be specified in Master Plans or Site Plans beyond those listed by Table 4-2-1, as approved by the City Parks and Recreation Department pursuant to Subsection 14-16-2-5(F)(3)(a) (Sub-zone A: City-owned or Managed Parks).
2. NR-PO-B: Uses may be specified in Master Plans, Resource Management Plans, or Site Plans beyond those listed by Table 4-2-1, as approved by the Open Space Division of the City Parks and Recreation Department pursuant to Subsection 14-16-2-5(F)(3)(b) (Sub-zone B: Major Public Open Space).
3. NR-PO-C: Allowable uses are listed in Table 4-2-1.
4. NR-PO-D: The BioPark is regulated by a Master Plan, which specifies allowable uses associated with the ABQ BioPark Zoo, Aquarium, Botanic Gardens, and Tingley Beach facilities, as approved by the City Cultural Services Department.

4-1(A)(3)(d) Allowable uses in the PD zone district are pursuant to Subsection 14-16-2-6(A)(4) (Allowable Uses). Uses approved for each property and any related standards are documented in the approved Site Plan for that property on file with the City Planning Department.

4-1(A)(3)(e) Allowable uses in the PC zone district are pursuant to Subsection 14-16-2-6(B)(4) (Allowable Uses). Allowable uses and any related standards are documented in the approved Framework Plan for the PC zone district on file with the City Planning Department.

4-1(B) UNLISTED USES

When a proposed land use is not explicitly listed in Table 4-2-1, the Zoning Enforcement Officer (ZEO) shall determine whether or not it is included in the definition of a listed use or is so consistent with the size, scale, operating characteristics, and external impacts of a listed use that it should be treated as the same use. In making this determination, the ZEO shall consider the scale, character, traffic impacts, storm drainage impacts, utility demands, and potential impacts of the proposed use on surrounding properties. The ZEO's interpretation shall be made available to the public on the City Planning Department website and shall be binding on future decisions of the City until the ZEO makes a different interpretation or this IDO is amended to treat the use differently.

4-1(C) ABBREVIATIONS

4-1(C)(1) A "P" in a cell of Table 4-2-1 indicates that the use is Permissive Primary (i.e. a primary use allowed by right in that zone district), subject to compliance with any Use-specific Standards referenced in the right-hand column of that line of the table.

4-1(C)(2) A "C" in a cell of Table 4-2-1 indicates that the use is Conditional Primary (i.e. a primary use allowed only after the applicant obtains a Conditional Use Approval pursuant to Subsection 14-16-6-6(A)) and subject to any Use-specific Standards referenced in the right-hand column of that line of the table.

4-1(C)(3) An "A" in a cell of Table 4-2-1 indicates that the use is Permissive Accessory (i.e. allowed as an accessory use compatible with a Permissive Primary or Conditional Primary use on the lot), and is subject to any Use-specific Standards referenced in the right-hand column of that line of the table.

4-1(C)(4) A "CA" in a cell of Table 4-2-1 indicates that the use is Conditional Accessory (i.e. an accessory use allowed only after the applicant obtains a Conditional Use Approval pursuant to Subsection 14-16-6-6(A)) and subject to any Use-specific Standards referenced in the right-hand column of that line the table.

4-1(C)(5) A "CV" in a cell of Table 4-2-1 indicates that the use is allowed in a structure that has been vacant for a period of 5 or more years, only after the applicant obtains a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) and subject to any Use-specific Standards referenced in the right-hand column of that line of the table.

4-1(C)(6) A "T" in a cell of Table 4-2-1 indicates that the use is allowed as a temporary use, subject to any Use-specific Standards referenced in the right-hand column of the table and as permitted pursuant to Section 14-16-6-5(I) (Temporary Use Permit).

4-1(D) MULTIPLE USES

4-1(D)(1) A development may include multiple primary uses, including a combination of residential and non-residential uses, provided that each use is listed as an allowable Permissive Primary use or a Conditional Primary use in that zone district, that a Conditional Use Approval pursuant to Subsection 14-16-6-6(A)) is obtained for any Conditional Primary use, all Use-specific Standards applicable to each use are met, and the development complies with all applicable density, dimensional, impervious surface, development, and performance standards in Part 14-16-5 (Development Standards).

4-1(D)(2) In Mixed-use and Non-residential zone districts, accessory uses may be on a lot abutting the primary use.

4-1(E) PREVIOUSLY ALLOWED USES

4-1(E)(1) Each use that exists on the effective date of this IDO that is required by this IDO to obtain a Conditional Use Approval, but that was a permissive use or an approved conditional use prior to the effective date of this IDO is deemed to have a Conditional Use Approval to continue operation in structures and on land areas where the operation was conducted prior to the effective date of this IDO and to expand operations without the need to obtain a Conditional Use Approval, provided that the expansion complies with all Use-specific Standards and other requirements of this IDO (other than the requirement for a Conditional Use Approval).

4-1(E)(2) Each use that exists on the effective date of this IDO that was a permissive use or an approved conditional use prior to the effective date of this IDO and that is not allowed in the IDO zone district where it is located is a nonconforming use. See Section 14-16-6-8 (Nonconformities).

4-1(F) REQUIRED STATE LICENSES OR PERMITS

All uses required by the State of New Mexico or by another public or quasi-public or regulatory agency to have an approval, license, or permit to operate are required by the City of Albuquerque to have that State approval, license, or permit in effect at all times, and failure to do so constitutes a violation of this IDO.

4-1(G) SEPARATION OF USES

Where a specific use is required to be separated from a protected use by a minimum distance, and the specific use complies with those standards, the later arrival of a protected use located within the minimum spacing distance does not make the specific use subject to the spacing requirement nonconforming, subject to the discontinuance provisions of Subsection 14-16-6-8(C)(2) (Discontinuance of Nonconforming Use), and does not limit the ability of the specific use to expand if such expansion would have been allowed before the arrival of the protected use.

4-2 ALLOWABLE USES

Table 4-2-1: Allowable Uses

P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory
CV = Conditional if Structure Vacant for 5 years or more T = Temporary Blank Cell = Not Allowed

Zone District >>	Residential						Mixed-use				Non-Residential								
Land Uses	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO A	NR-PO B	NR-PO C	Use-specific Standards
PRIMARY USES THAT MAY BE ACCESSORY IN SOME ZONE DISTRICTS																			
RESIDENTIAL USES																			
Household Living																			
Dwelling, single-family detached	P	P	P	P	P		P												4-3(B)(1)
Dwelling, mobile home			P																
Dwelling, cluster development	P	P		P	P		P												4-3(B)(2)
Dwelling, cottage development	P	P	P	P	P		P												4-3(B)(3)
Dwelling, two-family detached (duplex)		P		P	P		P												4-3(B)(4)
Dwelling, townhouse				P	P	P	P	P	P	P									4-3(B)(5)
Dwelling, live-work				C	C	P	P	P	P	P	CA	CA							4-3(B)(6)
Dwelling, multi-family					P	P	P	P	P	P									4-3(B)(7)
Group Living																			
Assisted living facility or nursing home				C	P	P	P	P	P	P									
Community residential facility, small	P	P		P	P	P	P	P	P	P									4-3(B)(8)
Community residential facility, medium					P	P	P	P	P	P									4-3(B)(8)
Community residential facility, large						P	P	P	P	P									4-3(B)(8)
Group home, small					C	P	P	P	P										4-3(B)(9)
Group home, medium					C	C	C	P	P	P									4-3(B)(9)
Group home, large						C			C	C									4-3(B)(9)
Sorority or fraternity						P	C	P	P	P									
CIVIC AND INSTITUTIONAL USES																			
Adult or child day care facility			C	C	C	P	P	P	P	P	P	P	A	A					
BioPark																P (in D)			4-3(C)(8)
Cemetery															P				
Community center or library	C	P		P	P	P	P	P	P	P	C	C	C	C		P		C	4-3(C)(1)
Correctional facility															P				
Daytime gathering facility										C	C	C	C	C					4-3(C)(2)
Elementary or middle school	C	C		C	P	P	P	P	P	P	P	P	CV			P		C	4-3(C)(3)
Fire or police station															P				
High school	C	C		C	C	P	P	P	P	P	P	P	C			P			4-3(C)(4)
Hospital									P	P	P	P							4-3(C)(5)
Museum or art gallery				CV	CV	C	P	P	P	P	P	P	P	P		P	A		4-3(C)(6)
Overnight shelter										C	C	C	C	C					4-3(C)(7)
Parks and open space	P	P		P	P	P	P	P	P	P	P	P	C	C	A	P	P	P	4-3(C)(8)

Table 4-2-1: Allowable Uses

P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory
CV = Conditional if Structure Vacant for 5 years or more T = Temporary Blank Cell = Not Allowed

Zone District >>	Residential						Mixed-use				Non-Residential								
Land Uses	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO A	NR-PO B	NR-PO C	Use-specific Standards
Religious institution	P	P		P	P	P	P	P	P	P	P	P	CV	CV					4-3(C)(9)
Sports field							CV	C	P	P	P	P	P	C		P		C	
University or college						CV	CV	C	P	P	P	P	CV	CV					
Vocational school						CV	P	P	P	P	P	P	P	P					
COMMERCIAL USES																			
Agriculture and Animal-related																			
Community garden	P	P	P	P	P	P	P	P	P	P	P	P	C	C		A	A	A	4-3(D)(1)
Equestrian facility	P																P	C	4-3(D)(2)
General agriculture	P											C	P	P			P	A	4-3(D)(3)
Kennel	C							C	C		P	P	P	P					4-3(D)(4)
Nursery	P								A		P	P	P	P		A	A		
Veterinary hospital	C						C	P	P	P	P	P	P	P					4-3(D)(5)
Other pet services	C						C	P	P	P	P	P							
Food, Beverage, and Indoor Entertainment																			
Adult entertainment												P	P	P					4-3(D)(6)
Auditorium or theater						A	A	A	P	P	P	P	P	P					4-3(D)(7)
Bar							C	C	P	P	P	P	P	P					4-3(D)(8)
Catering service									P	P	P	P	P	P					
Health club or gym			A		A	A	P	P	P	P	P	P	P	A					4-3(D)(9)
Nightclub									P	P	P	P	P						4-3(D)(8)
Residential community amenity	P	P	P	P	P	P	P	P	P	P								C	4-3(D)(10)
Restaurant							C	P	P	P	P	P	P	P					4-3(D)(8)
Tap room or tasting room							C	C	P	P	P	P	P	P					4-3(D)(8)
Other indoor entertainment							C	P	P	P	P	P	P	P		P		C	4-3(D)(11)
Lodging																			
Bed and breakfast	A	CA		A	A	P	P												4-3(D)(12)
Campground or recreational vehicle park															P		A	C	4-3(D)(13)
Hotel or motel							P	P	P	P	P	P	P	P					4-3(D)(14)
Motor Vehicle-related																			
Car wash								P	P	P	P	P	P	P					4-3(D)(15)
Heavy vehicle and equipment sales, rental, fueling, and repair											P	C	P	P					4-3(D)(16)
Light vehicle fueling station								C	P	P	P	P	P	P					4-3(D)(17)
Light vehicle repair								P	P	P	P	P	P	P					4-3(D)(18)
Light vehicle sales and rental								C	P	P	P	P	P	P					4-3(D)(19)
Outdoor vehicle storage											C	C	P	P			A		4-3(D)(20)
Paid parking lot			A		A	A	C	P	P	A	P	P	P	P	A	A	A		4-3(D)(21)
Parking structure			A		A	A	CA	P	P	P	P	P	P	P	A				4-3(D)(21)
Offices and Services																			
Bank							P	P	P	P	P	P	P	CV					4-3(D)(22)
Blood services facility									C	C	C	P	P	P					

Table 4-2-1: Allowable Uses

P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory
CV = Conditional if Structure Vacant for 5 years or more T = Temporary Blank Cell = Not Allowed

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

Table 4-2-1: Allowable Uses
P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory
CV = Conditional if Structure Vacant for 5 years or more T = Temporary Blank Cell = Not Allowed

Zone District >>	Residential						Mixed-use				Non-Residential								Use-specific Standards
Land Uses	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO A	NR-PO B	NR-PO C	
Railroad yard												C	P	P					4-3(D)(41)
Transit facility						C	C	C	P	P	P	P	P	P					
INDUSTRIAL USES																			
Manufacturing, Fabrication, and Assembly																			
Artisan manufacturing							C	P	P	P	P	P	P	P					4-3(E)(1)
Light manufacturing										A	P	P	P	P					4-3(E)(2)
Heavy manufacturing														P					4-3(E)(3)
Natural resource extraction															P				4-3(E)(4)
Special manufacturing														C					4-3(E)(5)
Telecommunications, Towers, and Utilities																			
Geothermal energy generation	A	A	A	A	A	A	A	A	A	A	A	P	P	P		A	A		4-3(E)(6)
Solar energy generation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	P	P	P	4-3(E)(7)
Utility, electric	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A	4-3(E)(8)
Utility, other major	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A	
Wind energy generation							A	A	A	A	A	A	A	C	A	A	A		4-3(E)(9)
Wireless Telecommunications Facility																			4-3(E)(10)
Architecturally integrated	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Co-location	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Freestanding							P	P	P	P	P	P	P	P	A				
Roof-mounted			A		A	A	A	A	A	A	A	A	A	A	A				
Public utility co-location	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Waste and Recycling																			
Recycling drop-off bin facility						A	A	A	A	A	P	P	P	P					4-3(E)(11)
Solid waste convenience center															P				4-3(E)(12)
Salvage yard												C	C	P					4-3(E)(13)
Waste and/or recycling transfer station															P				4-3(E)(14)
Wholesaling and Storage																			
Above-ground storage of fuels or feed													C	P					
Outdoor storage								CA	C	C	C	A	P	P					4-3(E)(15)
Warehousing									C	C	P	P	P	P					4-3(E)(16)
Wholesaling and distribution center									C	C	P	P	P	P					4-3(E)(17)
ACCESSORY AND TEMPORARY USES																			
ACCESSORY USES																			**4-3(F)(1)**
Agriculture sales stand	A	A	A	A	A	A	A	A	A	A	A	A	CA	CA			A		4-3(F)(2)
Animal keeping	A	A	A	A	A	A	A	A	A	A	A	A	A	A				CA	4-3(F)(3)
Automated Teller Machine (ATM)			A		A	A	A	A	A	A	A	A	A	A		T	T		
Drive-through or drive-up facility								CA	A	CA	A	A	A						4-3(F)(4)
Dwelling unit, accessory		A		A	A	A	A	A	A		A	A	A	A	A		A		4-3(F)(5)

Table 4-2-1: Allowable Uses

P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory
CV = Conditional if Structure Vacant for 5 years or more T = Temporary Blank Cell = Not Allowed

Zone District >>	Residential						Mixed-use				Non-Residential								Use-specific Standards
Land Uses	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO A	NR-PO B	NR-PO C	
Dwelling unit, accessory without kitchen	CA	CA		CA	A	A	A	A	A		A	A	A	A	A		A		4-3(F)(5)
Family care facility	A	A	A	A	A	A	A	A	A	A									4-3(F)(6)
Family home daycare	CA	CA	A	CA	A	A	A												4-3(F)(7)
Garden	A	A	A	A	A	A	A	A	A	A	A	A	A				A		
Hobby breeder	A	A	A	A															4-3(F)(8)
Home occupation	A	A	A	A	A	A	A	A	A	A									4-3(F)(9)
Independent living facility				A	A	A	A	A	A	A									4-3(F)(10)
Mobile food truck	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				4-3(F)(11)
Mobile vending cart							A	A	A	A	A	A	A	A				A	4-3(F)(12)
Outdoor animal run	A							CA	CA		CA		A	A					4-3(F)(13)
Outdoor dining area							CA	A	A	A	A	A	A	A	A				4-3(F)(14)
Parking of more than 2 truck tractors and 2 semitrailers for more than 2 hours									A	A	A	A	A	A					
Parking of non-commercial vehicle	A	A	A	A	A	A	A												4-3(F)(15)
Parking of recreational vehicle, boat, and/or recreational trailer	A	A	A	A	A	A	A												4-3(F)(16)
Second kitchen in a dwelling	A	A	A	A	A	A	A												4-3(F)(17)
Other use accessory to non-residential primary use							A	A	A	A	A	A	A	A	A			A	4-3(F)(18)
Other use accessory to residential primary use	A	A	A	A	A	A	A	A	A	A									4-3(F)(19)
TEMPORARY USES																			
Circus									T		T	T	T						4-3(G)(1)
Construction staging area, trailer, or office	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		4-3(G)(2)
Dwelling unit, temporary	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		4-3(G)(3)
Fair, festival, or theatrical performance	T	T	T	T	T	T	T	T	T	T	T	T			T	T	T		4-3(G)(4)
Garage or yard sale	T	T	T	T	T	T	T												4-3(G)(5)
Hot air balloon takeoff/landing	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	4-3(G)(6)
Open air market							T	T	T	T	T						T		4-3(G)(7)
Park-and-ride facility, temporary						T	T	T	T	T	T	T	T	T	T		T		4-3(G)(8)
Real estate office or model home	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T				4-3(G)(9)
Seasonal outdoor sales							T	T	T	T	T	T	T	T					4-3(G)(10)
Temporary use not listed			T			T	T	T	T	T	T	T	T	T	T		T		4-3(G)(11)

shall comply with the standards in Section 14-16-5-7 (Walls and Fences) and Section 14-16-5-8 (Outdoor Lighting).

6. Dog parks shall be subject to regulations in Article 14-5 of ROA 1994 (Flood Hazard and Drainage Control).
7. Trails built in the NR-PO-C sub-zone may be paved or unpaved, except that multi-use trails must be paved. All trails shall be built to City standards as required by the Development Process Manual (DPM). The trails shall be maintained by the property owner or homeowners association. Signs shall be posted every ½ mile or at every intersection, whichever is closer, that indicate ownership and/or management and current contact information.
8. Parks, but not open space, are prohibited in certain areas within the Airport Protection Overlay Zone, pursuant to Section 14-16-3-3.

4-3(C)(8)(d) Subzone D (BioPark)

Uses specified in the BioPark Master Plan as approved by the City Cultural Services Department are allowed.

4-3(C)(9) Religious Institution

4-3(C)(9)(a) Incidental uses, including but not limited to recreational, educational, and overnight shelter facilities, are allowed, provided that the following conditions are met:

1. All incidental facilities must be operated by the religious institution.
2. Overnight shelters must comply with all applicable state and local regulations for overnight shelters.

4-3(C)(9)(b) In the R-A, R-1, and R-T zone districts, this use is limited to facilities with a total of 40,000 square feet of gross floor area or less.

4-3(C)(9)(c) In the MX-T zone district, this use is limited to facilities with a total of 60,000 square feet of gross floor area or less.

4-3(D) COMMERCIAL USES

4-3(D)(1) Community Garden

4-3(D)(1)(a) The maximum size of this use is 3 contiguous acres.

4-3(D)(1)(b) This use shall be limited to the propagation and cultivation of plants.

4-3(D)(1)(c) Accessory structures such as hoop houses, shade structures, and storage sheds are allowed, but no such structure shall be more than 8 feet in height or located closer than 10 feet to a property line, and the total area covered by structures shall not exceed 25 percent of the site area.

4-3(D)(1)(d) Operation of power equipment or generators shall not occur between the hours of 10:00 P.M. and 7:00 A.M.

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

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

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

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

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

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

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

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

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

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

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

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

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

6-3 THE PLANNING SYSTEM

The City of Albuquerque prepares and adopts Ranked City Plans to guide the development and management of public facilities, as well as private development within municipal boundaries. The City also analyzes development patterns and makes recommendations through Community Planning Area Assessments to align future private and public investments, policies, and regulations.

6-3(A) RANK 1 COMPREHENSIVE PLAN

The Albuquerque/Bernalillo County Comprehensive Plan (ABC Comp Plan) establishes a community vision for future development in the City of Albuquerque and unincorporated areas of Bernalillo County to take place primarily in Centers and Corridors and identifies long-range goals and policies for community identity, land use, transportation, urban design, economic development, housing, parks and open space, heritage conservation, infrastructure, community facilities, services, and resilience and sustainability, to realize that vision.

6-3(B) RANK 2 FACILITY PLANS

Facility Plans provide policy guidance on a particular topic citywide to relevant implementing departments. They normally cover only one type of natural resource (such as Major Public Open Space) or one type of public facility or utility (such as electricity transmission). These plans are required to be consistent with the ABC Comp Plan, as amended, and to identify how they relate to its vision, goals, and policies. In case of conflict, policies in the ABC Comp Plan, as amended, shall apply.

6-3(C) RANK 3 PLANS

Rank 3 Plans provide policy guidance for a particular geographic area to relevant implementing departments. Rank 3 Plans include Metropolitan Redevelopment Plans, Master Plans, and Resource Management Plans. Rank 3 Metropolitan Redevelopment Area plans, adopted per Subsection 14-8-4-3(B) of ROA 1994 (Metropolitan Redevelopment Ordinance), contain strategies for catalytic public investment and economic development. Rank 3 Master Plans or Resource Management Plans developed and adopted by relevant implementing departments may specify development standards, management policies, or multi-year programs of capital improvements for particular public facilities or City-owned or managed resources. Rank 3 Plans are not subject to the review and decision processes in the IDO, but relevant implementing City departments may choose to have Rank 3 Plans reviewed by the EPC and/or accepted by the City Council when additional input is desired.

6-3(D) ANNUAL UPDATES TO THE IDO

The Planning Department shall prepare amendments to the text of this IDO to be submitted once every calendar year for an EPC hearing in September. These amendments shall be reviewed and decided pursuant to Subsection 14-16-6-7(D) (Amendment to IDO Text).

6-3(D)(1) Anyone may submit recommended changes to the Planning Department throughout the year, particularly during the CPA assessment process, as set out in Subsection 14-16-6-3(E) (Community Planning Area Assessments).

6-3(D)(2) The Planning Department shall compile these recommendations, perform analyses, revise recommendations as necessary, and submit proposed amendments that further applicable goals and policies of the ABC Comp Plan, as amended, as well as other City plans, and that protect the public health, safety, and welfare.

6-8 NONCONFORMITIES

6-8(A) PURPOSE

The purpose of this Section 14-16-6-8 is to regulate land uses, buildings, lots, signs, and site features that were legally established, but that do not conform to the requirements of this IDO due to some action of the government (collectively "nonconformities"). These regulations are intended to reduce or eliminate over time any nonconformity that does not meet the regulatory standards of the IDO and/or the goals of the ABC Comp Plan, as amended, and that creates adverse impacts on the surrounding area or the city.

6-8(B) APPLICABILITY

6-8(B)(1) General Applicability

The regulations in this Section 14-16-6-8 apply to land uses, buildings, lots, signs, and site features, including:

6-8(B)(1)(a) Those that were legally established prior to the effective date of this IDO but that become nonconforming due to the adoption of this IDO.

6-8(B)(1)(b) Those that were legally established after the effective date of this IDO but that become nonconforming due to the adoption of a future amendment to this IDO.

6-8(B)(2) Authority to Continue

6-8(B)(2)(a) General Nonconformities

Nonconformities that in general do no harm to the surrounding area may be allowed to continue or expand based on the regulations and criteria of this Section 14-16-6-8 in order to preserve the integrity of a neighborhood and prevent adverse impacts resulting from unused buildings or vacant lots.

6-8(B)(2)(b) Timeframes for Compliance

Where the IDO establishes timeframes for compliance, the effective date of this IDO shall mark the beginning of the timeframe, unless specified otherwise in this IDO or another adopted City Ordinance in ROA 1994.

6-8(B)(2)(c) Nonconforming Use of Land or a Structure in the APO Zone

Notwithstanding Subsections (a) and (b) above, the City shall not grant any permit or approval under this IDO that would allow a nonconforming use of a parcel of land or a structure to become a greater hazard or obstruction to air navigation than it was on the effective date of this IDO or any relevant amendments to this IDO.

6-8(C) NONCONFORMING USES

6-8(C)(1) Authority to Continue

Unless specified otherwise in this Section 14-16-6-8 or elsewhere in this IDO, the nonconforming use of land or a structure shall be allowed to continue regardless of any change in ownership or occupancy of the use, until that use is discontinued or another provision of this Section 14-16-6-8 requires the termination of the use.

6-8(C)(2) Discontinuance of Nonconforming Use

6-8(C)(2)(a) Except as noted in Subsection (b) below, when a nonconforming use of land or a structure is discontinued for a period of 24 consecutive months, any later use shall only be an allowable use as indicated in Table 4-2-1 for the zone district in which the property is located.

6-8(C)(2)(b) When a nonconforming residential use of a single-family detached dwelling located in any Non-residential zone district is discontinued for a period of 5 consecutive years, any later use shall only be an allowable use as indicated in Table 4-2-1 for the zone district in which the property is located.

6-8(C)(2)(c) Neither the intention of the owner nor that of anybody else to use a lot or part of a lot for any nonconforming use, nor the fact that the lot or part of a lot may have been used by a makeshift nonconforming use shall prevent the ZEO from determining that the use has been discontinued for purposes of this Subsection 14-16-6-8(C)(2).

6-8(C)(3) Expansion of Nonconforming Use

A nonconforming use of land or a structure shall not be expanded, except that the portion of a structure or land containing a nonconforming use may be expanded in size if approved by the ZHE pursuant to Subsection 14-16-6-6(C).

6-8(C)(4) Change in Nonconforming Use

A nonconforming use of land or a structure may be changed to another use equally or more restrictive than the immediately preceding nonconforming use, as determined by the ZEO.

6-8(C)(5) Helipads

A helipad shown on a Site Plan approved by the EPC prior to March 5, 2000, shall be deemed conforming.

6-8(C)(6) Mobile Home Dwellings

6-8(C)(6)(a) A single mobile home dwelling on an individual lot outside of the R-MC zone district is a nonconforming use and shall be removed within 5 years.

6-8(C)(6)(b) A nonconforming use of land and incidental structures consisting of a mobile home development may remain for the life of the structures, which shall never be more than 30 years, but only if all of the following provisions apply:

1. This use does not cease operation for a period of 12 consecutive months.
2. Any private street system servicing the mobile home dwellings is paved at least to a standard approved by the City Engineer according to the applicable standards of this IDO and related DPM standards and criteria, even though there may be no new subdivision.

3. Mobile home dwellings are skirted with materials similar in appearance and durability to the siding of the mobile home, or the unit is situated at ground level, within 2 years of the use becoming nonconforming.

6-8(C)(6)(c) Any additional development on a lot that includes 1 or more mobile home dwellings shall conform to the regulations in this IDO.

6-8(C)(6)(d) For changes of use or rezoning of developments that include mobile homes associated with bringing those developments into conformity that will result in expiration or termination of resident occupancy, see Subsection 14-16-2-3(C)(3) (R-MC Zone District Standards).

6-8(D) NONCONFORMING STRUCTURES

6-8(D)(1) Authority to Continue

Unless specified otherwise in this Section 14-16-6-8, a nonconforming structure shall be allowed to continue to be used, regardless of any change in ownership or occupancy of the structure, until the structure is vacant for 24 consecutive months, or until another provision of this Section 14-16-6-8 requires the termination of the use. Mobile home dwellings are subject to provisions in Subsection 14-16-6-8(C)(6) (Mobile Home Dwellings). Signs are subject to provisions in Subsection 14-16-6-8(F) (Nonconforming Signs).

6-8(D)(2) Repair and Maintenance

A nonconforming structure may be maintained, repaired, or altered, but no maintenance, repair, or alteration may increase the extent of nonconformance.

6-8(D)(3) Height Nonconformance

A structure nonconforming as to height regulations cannot be added to or enlarged unless the addition or enlargement conforms to all the regulations of the zone district in which it is located.

6-8(D)(4) Setback Nonconformance

A structure nonconforming as to setback regulations cannot be added to or enlarged unless the addition conforms to all the regulations of the zone district in which the structure is located.

6-8(D)(5) Expansion of Nonconforming Structure

A nonconforming structure may be expanded in size, provided that the expansion will not increase an existing nonconformity or create a new nonconformity, if approved by the ZHE pursuant to Subsection 14-16-6-6(C).

6-8(D)(6) Relocation of Nonconforming Structure

A nonconforming structure may be moved in whole or in part to another location on the lot, provided that the moving will make it nonconforming to a lesser extent.

6-8(D)(7) Damage

A nonconforming structure that is damaged through natural or other causes may be restored, provided the restoration is started within 6 months of the

Part 14-16-7 Definitions and Acronyms

7-1 DEFINITIONS

A

Abut
To touch or share a property boundary.

Access
A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

Accessory Building
A building detached from and, except in the case of agricultural support buildings like barns in the R-A zone district, smaller than the primary building on the same lot. The use of an accessory building shall be subordinate and customarily incidental to the primary use of the lot. See also *Building*.

Accessory Dwelling Unit
See *Dwelling Definitions* and *Measurement Definitions*.

Accessory Use
See *Use Definitions*.

Accessory Structure
A structure detached from a primary building, customarily used with and clearly incidental and subordinate to the primary building or use, and located on the same lot as such primary building. Including but not limited to swimming pools and shade structures such as covered patios, gazeboes, pergolas, ramadas, or similar roofed structures. See also *Building* and *Structure*.

Acequia
An irrigation ditch operated and maintained by the MRGCD or a community acequia association. See also *Irrigation Facility*.

Activity Center
See *Center and Corridor Definitions*.

Adjacent
Those properties that are abutting or separated only by a street, alley, trail, or utility easement, whether public or private. See also *Alley*, *Multi-use Trail*, *Private Way*, *Public Right-of-Way,* and *Street*.

Adult or Child Day Care Facility
A facility other than an occupied residence that provides care for more than 12 individual adults or children during the day. This use does not include overnight care. See also *Family Home Daycare*, *Family Care Facility*, *Community Residential Facility*, and *Group Home*.

Adult Entertainment
An establishment such as an auditorium, bar, cabaret, concert hall, nightclub, restaurant, theater, or other commercial establishment, other than an adult retail establishment, that provides amusement or entertainment featuring 1 or more of the following:

Art Gallery
A building, room, or series of rooms where works of art are exhibited for display or sale. See also *Museum*.

Artisan Manufacturing
See *Manufacturing Definitions*.

Assisted Living Facility
An establishment containing a combination of housing, supportive services, personalized assistance, and health care services designed to respond to the individual needs of those who need help with activities of daily living or memory care services, but not including skilled nursing care. Such facilities may include separate bedrooms or living quarters, a central or private kitchen, dining, recreational, and other residential accessory uses. See also *Nursing Home*, *Independent Living Facility*, and *Other Use Accessory to a Residential Primary Use*.

Auditorium
A hall or seating area, generally enclosed, where an audience views a musical or theatrical performance, concert, sporting, or other entertainment event, including but not limited to a conference center. See also *Adult Entertainment*.

Automated Teller Machine (ATM)
An electronically operated device used to conduct financial transactions on-site by means of direct computerized access.

B

Bail Bond Business
Any business requiring licensure under Part 13.20.2 NMAC, including any person, agency, or corporation that acts as a surety and pledges money or property as bail for the appearance of persons accused in court. For the purposes of this IDO, bail bond businesses are treated as a personal and business services use. See also *Personal and Business Services*.

Bakery or Confectionary Shop
A facility for the production and sale of baked goods and confectioneries, primarily for retail sales to customers of the facility. Accessory sales to off-site customers is allowed. For uses with primary off-site sales, see *Manufacturing Definitions* for *Light Manufacturing*. See also *Catering Service* and *General Retail*.

Bank
An establishment that provides retail banking, mortgage lending, and financial services to individuals and businesses, including check-cashing facilities. See also *Small Loan Business*, which is considered a bank for the purposes of this IDO.

Bar
An establishment having as its primary or predominant uses the serving of beer, wine, or liquor for consumption on the premises, but that does not meet the definition for *Tap Room/Tasting Room*.

Bed and Breakfast
A single-family dwelling with no more than 8 guest rooms that are rented for short-term overnight lodging with breakfast served; some or all guest rooms may be in accessory buildings. Provision of alcoholic beverages is controlled by the New Mexico State statutes for "Bed and breakfast" as governed by Section 60-6A-34 NMSA 1978. See also *Hotel or Motel*.

Wall Height
For a perimeter wall along the front lot line, wall height shall be measured from the grade on the public side of the wall. For other perimeter walls along other lot lines or for walls between the front lot line and the front façade of the primary building, wall height shall be measured from the grade on the side of the wall that provides the taller wall height. Wall height does not include decorative or incidental features, such as pilasters or fence posts, that are allowed or required by this IDO. See also *Wall Definitions*.

Medical or Dental Clinic
An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of licensed health care practitioners, dentists, or licensed health care practitioners and dentists in practice together.

Metropolitan Redevelopment Area
An area that has been designated for targeted initiatives, incentives, or public and/or private investment in order to promote the repurposing or expansion of existing structures to accommodate new economic uses, or to promote the demolition, remediation, and/or redevelopment of sites to accommodate new economic uses.

Minor Arterial
See *Street Definitions*.

Minor Subdivision
See *Subdivision Definitions*.

Mixed-use Development
See *Development Definitions*.

Mobile Food Truck
Any wagon, truck, trailer, or vehicle self-propelled or otherwise movable from place to place from which any person sells, offers for sale, or gives away, beverages, food, or any food product for human consumption.

Mobile Home
See *Dwelling Definitions*.

Mobile Vending Cart
A mobile structure that has functional wheels and at least one axle, used for the sale of goods, including but not limited to food, raw produce, flowers, arts, and crafts.

Model Home
A dwelling or dwelling unit representative of other dwellings or units offered for sale or lease or to be built in an area of residential development. A model home may be used as a residential real estate sales office for the development in which it is located before occupancy by a household.

Monument
See definition in the DPM relating to the surveying of property. The Petroglyph National Monument includes lands owned and managed by the National Park Service and Open Space Division of the City Parks and Recreation Department. See also *Escarpment* and *Open Space Definitions* for *Major Public Open Space*.

Monument Sign
See *Sign Definitions*.

Non-commercial Vehicle
A motor vehicle used in the conduct of normal daily activities that has a gross vehicle weight rating of not more than 10,000 pounds and can be lawfully parked in a parking space that meets the requirements of the DPM. The term includes motor vehicles commonly called motorcycles, automobiles, vans, sport utility vehicles, light trucks, or pickups. See also *Vehicle*.

Nonconformity Definitions

Nonconforming Lot
A lot that was lawfully created but does not conform to the lot size, lot dimension, or other requirements of this IDO related to the lot.

Nonconforming Structure
A structure that does not conform to the IDO requirements for structures in the zone district where it is located, for reasons other than the use of the structure, but that did not violate those requirements at the time the structure was constructed. By way of example: a nonconforming structure could be one that violates height, setback, aesthetic, or form requirements.

Nonconforming Use
A use of a structure or land that does not conform to the IDO requirements for land uses in the zone district where it is located, but that was an approved use at the time the use began.

Nonconformity
A structure, use, lot, sign, or site feature that does not conform to applicable zoning but that did conform to applicable zoning in effect at the time it was built or developed.

Non-residential Development
See *Development Definitions.*

Non-recognized Neighborhood
See *Neighborhood Association.*

Nursery
A primary use of land in which the predominant activity is the growing of plants for wholesale or retail sales, which may take place outside or in greenhouses. Outdoor sales of plants are allowed.

Nursing Home
Facilities primarily engaged in providing shelter, food and intermediate or long-term medical and health related care for individuals. This definition includes facilities providing in-patient care for individuals suffering from a terminal illness. Support services typically include commercial level kitchens with shared dining facilities for residents; medical services with personnel that provide assistance with medication, administration, dressing, bathing, and social activities; activity rooms; indoor recreational amenities; gift shops; hair salons; administrative offices; laundry services; worship space; overnight guest units for short term visitors; and other uses accessory to residential primary uses. See also *Assisted Living Facility, Independent Living Facility*, and *Other Use Accessory to Residential Primary Use*.

O

Off-premises Sign
See *Sign Definitions.*

Office
Establishments providing executive, management, administrative, professional services, consulting, record keeping, or a headquarters of an enterprise or organization, but not including the on-premises sale of retail goods, or any use included in the definition of personal or business services. See also *Business* and *Establishment*.

On-premises Sign
See *Sign Definitions*.

Opaque Wall or Fence
A continuous non-transparent vertical surface. A fence with inserts or non-rigid or cloth-like materials attached to the fence does not constitute an opaque wall or fence.

Open Air Market
Open air sales of new retail goods, produce, and/or handcrafts; incidental sales of food and beverages is allowed. See also *Farmers Market* and *Seasonal Outdoor Sales*.

Open Space Definitions

Common Open Space
The area of undeveloped land within a cluster development that is set aside for the use and enjoyment by the owners and occupants of the dwellings in the development and includes agriculture, landscaping, on-site ponding, or outdoor recreation uses. The common open space is a separate lot or easement on the subdivision plat of the cluster development. See also *Dwelling, Cluster Development*.

Extraordinary Facility
Facilities within Major Public Open Space other than trails, fencing, signs, incidental parking lots, access roads, and infrastructure not visible on the surface that are primarily for facilitating recreation, relaxation, and enjoyment of the outdoors and that require additional review by the Open Space Advisory Board and EPC per the Facility Plan for Major Public Open Space. Extraordinary Facilities may include utility structures, Wireless Telecommunications Facilities, or buildings. See also *Open Space Definitions* for *Major Public Open Space*.

Major Public Open Space
Publicly-owned spaces managed by the Open Space Division of the City Parks and Recreation Department, including the Rio Grande State Park (i.e. the Bosque), Petroglyph National Monument, and Sandia foothills. These are typically greater than 5 acres and may include natural and cultural resources, preserves, low-impact recreational facilities, dedicated lands, arroyos, or trail corridors. The adopted Facility Plan for Major Public Open Space guides the management of these areas. For the purposes of this IDO, Major Public Open Space located outside the city municipal boundary still triggers Major Public Open Space Edge requirements for properties within the city adjacent to or within the specified distance of Major Public Open Space.

Open Space
In lowercase letters, a generic term for any outdoor space or amenity intended to retain access to open air and sunlight, regardless of location, ownership, or management responsibility. Open space is required through various means in order to provide a psychological and physical respite from development densities. Healthy places balance density vs. openness, urban vs. natural environments. For City-owned open space, see *Open Space Definitions* for *Major Public Open Space*.

Private Open Space
Open space for passive or active recreation that is owned, managed, and maintained privately in its natural state and accessible either to the public or to the residents of a subdivision and zoned NR-PO-C. In the case of cluster or cottage development, private open space that is created by clustering dwelling units may count as usable open space.

Usable Open Space
Outdoor space to be preserved on-site and managed privately to help ensure livable conditions on each site by providing light and air and meeting visual, psychological, and recreational needs. These areas can be used for a variety of purposes and are not required to be at ground level. Usable open space may include, but is not limited to, lawns; community gardens; decorative and native plantings; open balconies; rooftop decks; plazas; courtyards; covered patios open on at least 2 sides; walkways; landscaped medians, buffers, or setbacks; active and passive recreational areas; fountains; swimming pools; wooded areas; and water courses. Such space shall be available for entry and use by users of the development. Required drainage facilities or land within an easement for overhead utilities that are not landscaped shall not count toward required usable open space. Usable open space does not include public right-of-way, parking lots, off-street parking, driveways, other private vehicular surfaces, or buildings other than swimming pool rooms.

Other Indoor Entertainment
A facility providing entertainment or recreation activities where all activities take place within enclosed structures, but not including a theater, auditorium, or any other use listed separately in Table 4-2-1. Examples include, but are not limited to, baseball batting cages, bowling alleys, climbing walls, game arcades, laser tag centers, miniature golf courses, paintball, skating rinks, shooting ranges, swimming pools, tennis clubs, trampoline centers, and velodromes.

Other Major Utility
A facility sized or designed to serve the entire city, or a wide area of the city, and regulated as a public utility or common carrier by the state or other relevant jurisdiction or agency, including but not limited to major telephone facilities, natural gas facilities, water treatment plants, water pump stations, sewage treatment plants, stormwater drainage facilities, irrigation facilities, or similar public services, but shall not include mass transit or railroad depots or terminals or any similar traffic generating activity, any facility that provides wireless telecommunications services to the public, or any use listed separately in Table 4-2-1. See also *Electric Utility* and *Major Public Infrastructure*.

Other Outdoor Entertainment
An outdoor facility whose main purpose is to provide entertainment or recreation, with or without charge, but not including auto or horse race tracks, drive-in theaters, or any similar outdoor use not listed separately in Table 4-2-1. Examples include, but are not limited to, amusement parks, batting cages, go-cart tracks, golf driving ranges, miniature golf, skateboard parks, skating rinks, sports courts, swimming pools, target sport ranges, and water parks.

Other Pet Services
A facility providing care and services for household pets, such as animal grooming, training, or day care but which is not listed separately in Table 4-2-1.

Other Use Accessory to a Non-residential Primary Use
A land use that is subordinate in use, area, or purpose to a primary non-residential land use on the same lot, serving a purpose naturally and normally incidental to such primary land use, and that is not listed separately in Table 4-2-1. Examples include, but are not limited to, an employee exercise room,

employee café/cafeteria, outdoor exercise area/track, employee nursery/child care, small display/sales room for goods produced on the premises, and storage of maintenance equipment used on the premises (e.g. lawn mowers).

Other Use Accessory to a Residential Primary Use

A land use that is subordinate in use, area, or purpose to a primary residential land use on the same lot and serving a purpose naturally and normally incidental to such primary land use and that is not listed separately in Table 4-2-1. For residential uses other than multi-family dwellings, this use includes, but is not limited to, tennis courts, game rooms, patios, outdoor kitchens, swimming pools, and accessory buildings for storage, recreation, hobbies, and gardening for the use of the residents living in the dwellings on the same lot as this use. For multi-family development, this use includes, but is not limited to, sales of convenience items, personal service shop, rental/management office, concierge/doorman services, and similar uses for the use and convenience of the residents of the multi-family or group living development. See also *Residential Community Amenity*.

Outdoor Animal Run

An area for the temporary outdoor containment of animals associated with a kennel, veterinary clinic, animal breeding facility, or other commercial activity. For the purposes of this IDO, this use does not include an outdoor animal run for personal pets.

Outdoor Storage

The keeping, in an unroofed area of any goods, material, or merchandise in the same place for more than 24 hours, but not including any storage activity or use of land listed separately in Table 4-2-1. See also *Building and Home Improvement Materials Store, Contractors Facility and Yard,* and *Salvage Yard.*

Outdoor Vehicle Storage

The keeping, in an unroofed area, of motor vehicles or equipment not used for transportation purposes on an active, regular, or continuing basis, generally for a period of 7 consecutive days or more, whether or not the motor vehicle is titled, licensed, or operable, either as a primary use or accessory use, but not including a salvage yard. See also *Light Vehicle Repair*; *Light Vehicle Sales and Rental; Heavy Vehicle and Equipment Sales, Rental, Fueling, and Repair;* and *Salvage Yard.*

Overlay Zone

See *Zone Definitions.*

Overnight Shelter

A facility that provides sleeping accommodations for 6 or more persons with no charge or a charge substantially less than market value; it may provide meals and social services.

P

Park

Publicly or privately owned land that is maintained for active or passive recreational use and for the use and enjoyment of the general public or the residents or occupants of a development. This use includes areas consisting of vegetative landscaping and/or areas improved for outdoor sports and recreation. Structural improvements are generally limited to those that facilitate the use of the land as a park. Incidental uses include, but are not limited to, playgrounds, maintenance facilities, swimming pools, restrooms and dressing rooms, concessions, caretaker's quarters, and parking.

Parking Definitions

Convertible Parking Structure
A structure or part of a structure designed to accommodate vehicle parking spaces that has a fully enclosed ground level with no ramping on any ground floor street-facing façade so that the ground floor can be adapted to commercial, residential, or office uses.

Garage
A structure or part of a structure designed to accommodate vehicle parking spaces that are fully or partially enclosed, but not including a parking structure. Garages are typically associated with residential development. For the purposes of this IDO, the terms two- or three-car garages refer to the garage width, assuming side-by-side parking, not tandem parking. See also *Parking Structure* and *Development Definitions* for *Residential Development*.

On-street Parking Space
An on-street storage area for the parking of one motor vehicle. For the purposes of this IDO, an on-street parking space abutting a lot may be counted as 1 on-street parking space for that lot if over ½ the length of the space is located between the imaginary extensions of the lot lines that are perpendicular to the street into the street right-of-way. See DPM for dimensional standards. See also *Parking Space*.

Paid Parking Lot
An area used to provide parking, as a commercial enterprise, for 4 or more motor vehicles for a fee. The term does not include a commercial parking structure that is a building primarily used for the provision of parking for a fee. See also *Parking Lot* and *Measurement Definitions* for *Parking Lot Area*.

Park-and-Ride Lot
An area or structure intended to accommodate parked vehicles where commuters park and continue travel to another destination via public transit, carpool, vanpool, walking, or bicycle. This use may be operated in a parking area owned or operated by a third party with the consent of that party, but spaces dedicated to this use may not be counted toward required off-street parking spaces for any primary or accessory use operated by the third party.

Park-and-Ride Temporary Facilities
The temporary provisions of parking for transit customers using service provided by the municipal transit agency in conjunction with a temporary civic use, including but not limited to the New Mexico State Fair and the International Balloon Fiesta. The use may include a ticket booth, portable restrooms, lighting, concession stand, and barriers contributing to traffic management.

Parking Lot
Any off-street outdoor area for the parking of motor vehicles, including any spaces, aisles, and driveways necessary for the function of the parking lot or for the convenience of patrons. See also *Paid Parking Lot* and *Measurement Definitions* for *Parking Lot Area*.

Parking Lot – Multiple Drive Aisles
A parking lot that may have more than 1 drive aisle.

Parking Lot – Single Drive Aisle
A parking lot with only 1 drive aisle, which may be one-way or two-way. The drive aisle may serve 1 or 2 rows of parking spaces.

Parking Space
An on- or off-street storage area for the parking of one motor vehicle. See DPM for dimensional standards.

Parking Structure
A structure or part of a structure designed to accommodate vehicle parking spaces that are fully or partially enclosed, but not including a parking structure that is located underground or within the outer building envelope of another building. Parking structures are typically associated with Mixed-use and Non-residential development. See also *Garage* and *Development Definitions for* Mixed-*use Development* and *Non-residential Development*.

Parking Structure with Ground Floor Uses
A structure or part of a structure designed to accommodate vehicle parking spaces that incorporates retail, office, or residential uses along at least 50 percent of the ground floor street-facing façade.

Stacking Space
See *Stacking Space*.

Tandem Parking
Off-street parking area where 2 or more parking spaces arranged one behind or above the other.

Wrapped Parking
A structure, part of a structure, or a parking lot designed to accommodate vehicle parking spaces that is wrapped on all sides that abut a street by buildings with residential, commercial, or office uses.

Pavement Width
See definition in DPM.

Pawn Shop
Any establishment engaged in the business of lending money on the deposit or pledge of personal property; the purchase of personal property with the expressed or implied agreement or understanding to sell it back at a stipulated price; or engaged in the business of purchasing items of gold, silver, platinum or other precious metals or gems and reselling the product. See also *General Retail*.

Pedestrian-oriented Areas
Areas that are intended primarily to provide access, amenities, or space for services that benefit people on foot. They include, but are not limited to, sidewalks, walkways, multi-use trails, transit stops, spaces for outdoor seating or vending, plazas, parks, and public facilities associated with City Major Public Open Space.

Pedestrian-scale Lighting
Lighting in pedestrian areas not to exceed 16 feet in height that allows people to see and be seen from a distance of 40 to 60 feet.

Perimeter Wall
See *Wall Definitions*.

Permissive Use
See *Use Definitions*.

Person
An individual, corporation, governmental agency, business trust, estate, trust, partnership, association, 2 or more persons having a joint or common interest, or any other legal entity.

Personal and Business Services
Establishments providing services to individuals or businesses for profit, including but not limited to bail bond providers, beauty and barber shops, shoe repair, tailor/alterations shops, tattoo parlors, taxidermy services, electronic data processing, and employment service; mailing, addressing, stenographic services; and specialty business service such as travel bureau, news service, exporter, importer, interpreter, appraiser, and film library. This use is divided into 2 categories based on the size of the establishment (not the size of the structure):

1. Personal and Business Services, Small: An establishment with 10,000 square feet or less of gross floor area.
2. Personal and Business Services, Large: An establishment with more than 10,000 square feet of gross floor area.

See also *Bail Bond Business*.

Planning Director
The chief administrative officer of the City Planning Department or his/her authorized representative or designee.

Planting Strip
Areas intended for the placement of required vegetation.

Plat
A graphic and written description of a lot or lots with survey reference ties to permanent survey monuments related to the subdivision, resubdivision, or consolidation of land.

Final Plat
The completed subdivision plat in a form for approval and recordation.

Preliminary Plat
A tentative plat of a proposed subdivision prepared in accordance with the specifications of this IDO for presentation to the DRB for action.

Sketch Plat
A conceptual plat of a proposed subdivision used for discussion by the applicant and DRB to determine suitability for subdivision. A sketch plat typically shows general building and parking locations and specifies design requirements for buildings, landscaping, lighting, and signage.

Pole Sign
See *Sign Definitions*.

Porch
A roofed structure that is not more than 50 percent enclosed (except for removable screens, screen doors, storm sashes, or awnings) on at least 2 sides, that projects from the exterior wall of a building, and that is used as an outdoor living area. If a porch extends from the front of a building or from any side of the building that faces a street, that side of the porch must be open, and the side(s) that faces the street must not be more than 50 percent enclosed (except for removable screens, screen doors, storm sashes, or awnings). See also *Building Frontage Types*.

Portable Sign
See *Sign Definitions*.

Premises
Any lot or combination of abutting or adjacent lots held in single ownership, together with the development on that lot or lots; there may be multiple occupancy.

Premium Transit
See *Centers and Corridors Definitions* and *Measurement Definitions* for *Premium Transit Area*.

Primary Building
A building within which a primary use of the property takes place. See also *Building* and *Large Retail Facility*.

Primary Pedestrian Entrance
A public entrance to a primary building. If there is more than one, for the purposes of this IDO, the entrance demarcated by more façade articulation, signage, landscaping, site amenities, or other design treatments shall be considered the primary pedestrian entrance. If all entrances are thus demarcated, the applicant may choose which entrance shall be considered the primary pedestrian entrance to satisfy any relevant requirements in this IDO.

Primary Use
See *Use Definitions*.

Principal Arterial
See *Street Definitions*.

Private Way
A lot or easement that is not public right-of-way and that contains a street or alley providing access between public right-of-way and one or more lots. The term may include easements for public and private infrastructure when such are established through a suitable legal document, along with the access rights.

Project Site
A lot or collection of lots shown on a Subdivision – Minor or Major or on a Site Plan. This term refers to the largest geography specified in the earliest request for decision on the first application related to a particular development. For example, if a large parcel is subdivided and submitted for development in phases, any regulation referring to the project site would apply to the entirety of the land in the original parcel included in the Subdivision application.

Projecting Sign
See *Sign Definitions*.

Public Area
An area of land owned by or intended to be owned by a governmental entity or over which a governmental entity enjoys an easement, whether deeded, dedicated, or otherwise acquired, and that is generally, but not required, to be used to serve the public with some service or benefit, including public infrastructure.

Public Hearing
A formal meeting open to the public in which the decision-making body makes a discretionary decision based on policy in addition to regulations.

Stadium
An outdoor, open-air area or structure suitable for sporting events or performances with tiers of seats or benches and with seating capacity for 1,000 or more people.

Stoop
See *Building Frontage Types*.

Storefront
See *Building Frontage Types*.

Street Definitions

Collector
A street so designated in the Long Range Transportation System (LRTS) Guide, or a logical geographic extension of that street, as determined by the City Engineer. A collector street carries traffic from local streets to the principal and minor arterial streets. Traffic volumes are substantial but smaller than normally served by minor arterial streets.

Interstate Highway
An access-controlled street that is part of the National Highway System. For the purposes of this IDO, this term includes all right-of-way owned or controlled by NMDOT along Interstate Highway 25 and Interstate Highway 40 associated with the interstate highway, including but not limited to through lanes, frontage roads, on- and off-ramps, and interchanges. See also *Through Lane*.

Local Street
A street that is primarily for access to abutting properties. It carries low traffic volumes. It may further be defined as a Normal Street or Access Street, and may be designated for Infrequent Parking or Intermittent Parking, subject to the standards and requirements of the DPM.

Main Street
See *Center and Corridor Definitions* and *Measurement Definitions* for *Corridor Area*.

Minor Arterial
A street that is designated in the LRTS Guide, used primarily for serving large volumes of traffic, but smaller volumes than are normally served by principal arterial streets; speed is comparatively high.

Principal Arterial
A street that is designated in the LRTS Guide, used primarily for serving large volumes of comparatively high speed traffic and to which access is controlled.

Street
That portion of a public right-of-way or private way or thoroughfare, from curb to curb (or from edge or paving to edge of paving if there is no curb, or from edge of visible travelway to edge of visible travelway, if there is no paving) that is primarily devoted to vehicular use. For the purposes of this IDO, this term does not include alleys.

Street Frontage
The boundary between a premises and a public right-of-way, whether or not direct access is allowed from the public right-of-way segment to the premises.

Side Street
On a corner lot, the street abutting the side lot line of the lot. See also *Lot Definitions* for *Side Lot Line.*

Stub Street
A non-permanent dead-end street intended to be extended in conjunction with development on adjacent lots or sites. See also *Adjacent.*

Through Lane
A continuous travel lane, excluding any turn lanes or ramps that provide access to or exit from travel lanes. See also *Measurement Definitions* for *Distance to a Through Lane*.

Street Tree
A tree that meets the provisions of Part 6-6-2 of ROA 1994 (Street Trees).

Street-facing Façade
Any façade that faces or is within 30 feet of a public right-of-way. A building may have more than one street-facing façade. See also *Front Façade*.

Structure
Anything constructed or erected above ground level that requires location on the ground or attached to something having a location on the ground but not including a tent, vehicle, vegetation, or public utility pole or line. See also *Building*, *Wall Definitions*, *Wireless Telecommunications Facility Definitions*, and *Sign Definitions*.

Structure Height
See *Measurement Definitions*.

Structured Parking
See *Building Height Bonus Definitions* and *Parking Definitions* for *Structured Parking with Ground Floor Uses*.

Stub Street
See *Street Definitions*.

Subdivision Definitions

Bulk Land Subdivision
Any subdivision of property that is primarily intended to facilitate transfer to intermediate land holders, not to create parcels available for development without further subdivision approvals, and that conforms to DRB interpretive rules.

Infrastructure Improvements Agreement
An agreement entered into between the City and a subdivider by which the subdivider agrees to assure construction of required infrastructure improvements.

Minor Subdivision
Any subdivision that meets the eligibility requirements for a Subdivision of Land – Minor pursuant to Subsection 14-16-6-6(I).

Major Subdivision
Any subdivision not classified as minor.

U

Unconcealed Wireless Telecommunications Facility
See *Wireless Telecommunications Facility Definitions*.

University or College
An institution, other than a vocational school, that provides full-time or part-time education beyond high school. See also *Fraternity or Sorority*, *School,* and *Vocational School*.

Upgrade
Where used associated with a Wireless Telecommunications Facility approval, see *Wireless Telecommunications Facility Definitions*.

Urban Residential
See *Building Frontage Types*.

Usable Open Space
See *Open Space Definitions*.

Use Definitions

Accessory Use
A land use that is subordinate in use, area, or purpose to a primary land use on the same lot or, in any Mixed-use or Non-residential zone district, the same premises. An accessory use may or may not be located in an accessory structure. For the purposes of this IDO, accessory uses are listed in Table 4-2-1, may have separate Use-specific Standards, or may be defined as incidental to another primary use. See also *Use Definitions* for *Primary Use*.

Allowable Use
A land use allowed in a particular zone district by Table 4-2-1 as a primary or accessory use, whether allowed permissively or conditionally. See also *Use Definitions* for *Permissive Use, Conditional use,* and *Accessory Use*.

Conditional Use
A land use that is allowable in a particular zone district subject to conditional approval by the ZHE based on a review of the potential adverse impacts of the use and any appropriate mitigations to minimize those impacts on nearby properties. Table 4-2-1 indicates whether a particular conditional use is primary (listed as C) or accessory (listed as CA) or allowed conditionally in a primary building that has been vacant for a specified amount of time (listed as CV).

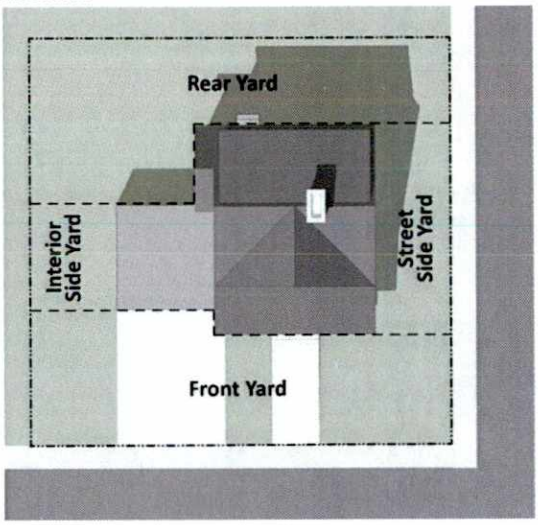
Permissive Use
A land use that is allowed by-right in a particular zone district, either as a primary or accessory use. Permissive Primary uses are listed as P in Table 4-2-1. Permissive Accessory uses are listed as A in Table 4-2-1.

Primary Use
A land use that is a primary use of a property and allowable within a particular zone district either permissively or conditionally. A primary use may be combined with other primary or accessory uses allowable within that zone district, subject to IDO standards.

Utility
See *Electric Utility, Other Major Utility,* and *Major Public Infrastructure*.

Y

Yard Definitions



Front Yard
The part of a lot from the front lot line to any front façade of the primary building, extended to both side lot lines. See also *Lot Definitions*.

Interior Side Yard
The part of a lot from a side lot line that does not abut a street to the side façade of the primary building. See also *Lot Definitions*.

Rear Yard
The part of a lot from the rear lot line to any rear façade of the primary building, extended to both side lot lines. See also *Lot Definitions*.

Street Side Yard
The part of a lot from a side lot line that abuts a street to the side façade of the primary building. See also *Lot Definitions*.

Yard, Railroad
See *Railroad Yard*.

Yard Sign
See *Sign Definitions*.

Z

Zone Definitions

Overlay Zone
Regulations that prevail over other IDO regulations to ensure protection for designated areas. Overlay zones include Airport Protection Overlay (APO), Character Protection Overlay (CPO), Historic Protection Overlay (HPO), and View Protection Overlay (VPO).

Zone Boundary
The boundary of a zone is a lot line unless clearly otherwise shown on the Official Zoning Map, in which case, the boundary of a zone is determined by use of the scale of measurement shown on the Official Zoning Map.

Zone District
One of the base zone districts established by this IDO and the boundaries of such zone districts shown on the Official Zoning Map. Zoning regulations include the use regulations, development standards, and administration and enforcement provisions of this IDO.

Mixed-use Zone District
Those zone districts categorized as Mixed-use in Part 14-16-2 of this IDO.

Non-residential Zone District
Those zone districts categorized as Non-residential in Part 14-16-2 of this IDO.

Residential Zone District
Those zone districts categorized as Residential in Part 14-16-2 of this IDO.

Zoning Enforcement Officer (ZEO)
A City Planning Department employee or his/her authorized representative who interprets the provisions of this IDO, reviews applications for decisions related to this IDO, and may make administrative decisions.

Zoning Hearing Examiner (ZHE)
A City employee, or a person or firm on contract with the City, who reviews and decides applications for Conditional Use Approvals, Expansions of Nonconforming Use or Structure, and Variances.

Zoo
A facility, indoor or outdoor, where animals are kept for viewing by the public, and that may be accredited by the American Zoological Association. Office, retail, and other commercial uses commonly established in such facilities and related parking structures shall be allowed as accessory appurtenances. This use does not include the ABQ BioPark, which is listed as a separate use in this IDO and regulated per the BioPark Master Plan.

7-2 ACRONYMS

Table 7-2-1: Acronyms

ABC Comp Plan	Albuquerque/Bernalillo County Comprehensive Plan
ABCWUA	Albuquerque Bernalillo County Water Utility Authority
ABQ	Albuquerque
ABQ RIDE	City of Albuquerque Transit Department
AC	Activity Center (ABC Comp Plan Center)
ADA	Americans with Disabilities Act
AMAFCA	Albuquerque Metropolitan Arroyo Flood Control Authority
APO	Airport Protection Overlay (zone)
BR	Bedroom
CMU	Concrete Masonry Unit
CPA	Community Planning Area
CPO	Character Protection Overlay (zone)
CPTED	Crime Prevention Through Environmental Design
DNL	Day-night Noise Level
DPM	Development Process Manual
DRC	Design Review Committee
DRB	Development Review Board
DT	Downtown (ABC Comp Plan Center)
EC	Employment Center (ABC Comp Plan Center)
EPA	United States Environmental Protection Agency
EPC	Environmental Planning Commission
FAA	Federal Aviation Administration
FEMA	Federal Emergency Management Agency
GFA	Gross Floor Area
HID	High-intensity Discharge
HPO	Historic Preservation Overlay (zone)
IDO	Integrated Development Ordinance
IIA	Infrastructure Improvements Agreement
LC	Landmarks Commission
LED	Light-emitting Diode
LRTS Guide	Long Range Transportation System Guide (of the Metropolitan Transportation Plan)
LRV	Light Reflective Value
LUHO	Land Use Hearing Officer
MRGCD	Middle Rio Grande Conservancy District
MS	Main Street (ABC Comp Plan Corridor)
MX	Mixed-use (zone district)
MX-FB	Mixed-use – Form-based (zone district)
MX-H	Mixed-use – High Intensity (zone district)
MX-L	Mixed-use – Low Intensity (zone district)
MX-M	Mixed-use – Medium Intensity (zone district)
MX-T	Mixed-use – Transition (zone district)
NMAC	New Mexico Administrative Code
NMSA	New Mexico Statutes Annotated
NR-BP	Non-residential – Business Park (zone district)
NR-C	Non-residential – Commercial (zone district)
NR-GM	Non-residential – General Manufacturing (zone district)
NR-LM	Non-residential – Light Manufacturing (zone district)

Table 7-2-1: Acronyms	
NR-PO	Non-residential – Park and Open Space (zone district)
NR-SU	Non-residential – Sensitive Use (zone district)
ONC	Office of Neighborhood Coordination
PC	Planned Community (zone district)
PD	Planned Development (zone district)
PNM	Public Service Company of New Mexico (electric utility service)
PROWAG	Public Right-of-Way Accessibility Guidelines
PT	Premium Transit (ABC Comp Plan Corridor - 660 feet from transit stations)
R-1	Residential – Single-family (zone district)
R-A	Rural and Agricultural (zone district)
R-MC	Residential – Manufactured Home Community (zone district)
R-MH	Residential – Multi-family High Density (zone district)
R-ML	Residential – Multi-family Low Density (zone district)
R-T	Residential – Townhouse (zone district)
ROA 1994	Revised Ordinances of Albuquerque 1994 (City of Albuquerque Code of Ordinances)
ROW	Right-of-Way
TIS	Traffic Impact Study
UC	Urban Center (ABC Comp Plan Center)
VPO	View Protection Overlay (zone)
WTF	Wireless Telecommunications Facility
ZEO	Zoning Enforcement Officer
ZHE	Zoning Hearing Examiner

ALBUQUERQUE & BERNALILLO COUNTY

COMPREHENSIVE PLAN

As Adopted By City Council in MARCH 2017

IMPROVING PLACE FROM PLANNING TO ZONING

Kilmer - Attachment 4

CITY of ALBUQUERQUE
TWENTY SECOND COUNCIL

COUNCIL BILL NO. R-16-108 ENACTMENT NO. R-2017-026

SPONSORED BY: Trudy E. Jones and Isaac Benton

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

RESOLUTION

ADOPTING AN UPDATED ALBUQUERQUE/BERNALILLO COUNTY COMPREHENSIVE PLAN.

WHEREAS, the Council, the Governing Body of the City of Albuquerque, has the authority to amend the Comprehensive Plan as authorized by statute, Section 3-19-9, NMSA 1970, and by its home rule powers; and

WHEREAS, the Comprehensive Plan is the Rank I plan for the physical development and conservation of areas within the City of Albuquerque and unincorporated Bernalillo County, which sets out the context, goals and policies, monitoring and implementation, and supporting information to further its vision and purpose; and

WHEREAS, the Comprehensive Plan has not been significantly updated since its original adoption in 1989 and its subsequent amendment in 2001 to establish "Centers and Corridors" boundaries and policy language to focus development in appropriate areas connected by multi-modal transportation corridors; and

WHEREAS, the City Council, the City's Planning and Zoning Authority, in April 2014, via R-14-46 (Enactment No. R-2014-022), directed the City to update the Albuquerque/Bernalillo County Comprehensive Plan in coordination with Bernalillo County, MRCOG, and other agencies; and

WHEREAS, an increased range of housing options are needed closer to employment centers, and employment centers are needed closer to existing housing, especially west of the Rio Grande; and

WHEREAS, preserving agricultural lands is increasingly important in order to protect rural character and cultural traditions, provide for regional food

demands locally, and to improve stormwater retention and groundwater infiltration; and

WHEREAS, the largest demographic segments of the population – Baby Boomers and Millennials – are increasingly seeking urban lifestyles in mixed-use areas that provide for employment, entertainment, and services without requiring driving or automobile ownership; and

WHEREAS, the demand for these types of developments are not sufficiently met in Albuquerque, because, in large part, existing land-use policies and regulations strongly encourage suburban, single-family detached development over compact mixed-use; and

WHEREAS, jurisdictional and geographic boundaries limit the opportunity to accommodate growth in the City via annexation and expansion, prompting the need to accommodate infill and densification in appropriate locations, such as Centers and Corridors; and

WHEREAS, an update of the Comprehensive Plan would be an opportunity to employ contemporary best practices for land use, transportation, and preservation planning techniques and strategies for regional, interagency transportation and land-use planning activities; and

WHEREAS, the existing hierarchy of overlapping Rank I, Rank II, and Rank III Plans were all created at various points in time with little or no strategic coordination and contain overlapping and sometimes conflicting policies and regulations that have not been evaluated in a comprehensive manner; and

WHEREAS, these uncoordinated policies often present unnecessary and counter-productive obstacles to both neighborhood protections and the development process; and

WHEREAS, these lower-ranking plans need to be analyzed and revised to ensure they support and are consistent with an updated Rank I Comprehensive Plan and provide a simpler, clearer, and more effective means of implementing the growth and development vision; and

WHEREAS, an update to the Comprehensive Plan provides an opportunity to foster increased collaboration and coordination between the City of Albuquerque and Bernalillo County by serving as a regional plan for healthy growth, efficient transportation, infrastructure needs, and land use policies to

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better reflect new market demands, diversify and bolster the economy, better serve all demographics, support alternative transportation modes to the automobile, and improve efforts to grow and develop in ways that are sustainable, respect and preserve natural and cultural resources, and improve the quality of life for all citizens; and

WHEREAS, staff of the City of Albuquerque and Bernalillo County have worked together to update the narratives, policies, and maps; and

WHEREAS, on September 1, 2016, the Environmental Planning Commission (EPC), in its advisory role on land use and planning matters, recommended approval to the City Council of the amendment to the Albuquerque/Bernalillo County Comprehensive Plan.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. The Albuquerque/Bernalillo County Comprehensive Plan is hereby replaced in its entirety by the 2016 Draft Updated Comprehensive Plan, attached hereto as Exhibit A.

SECTION 2. FINDINGS ACCEPTED. The City Council adopts the following findings as recommended by the Environmental Planning Commission (EPC):

1. The request is for an update to the Albuquerque/Bernalillo County Comprehensive Plan (1989, as subsequently amended, the "Comp Plan"). The update, which will reflect new demographic trends and anticipated growth in the region, is designed to more effectively coordinate land use and transportation and to leverage and enhance a sense of place.

2. The Comp Plan applies to land within the City of Albuquerque municipal boundaries and to the unincorporated area of Bernalillo County (the "County"). Incorporated portions of the County that are separate municipalities are not included.

3. Council Bill No. R-14-46 (Enactment R-2014-022) became effective on May 7, 2014, which directed the City to update the Comp Plan.

4. The EPC's task is to make a recommendation to the City Council regarding the Comp Plan update. As the City's Planning and Zoning Authority, the City Council will make the final decision. The EPC is the Council's recommending

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body with important review authority. Adoption of an updated City Master Plan (Comp Plan) is a legislative matter.

5. The existing, key concept of Centers and Corridors will remain the same, as will the boundaries of existing Centers. In the City, the existing development areas (Central Urban, Developing & Established Urban, Semi-Urban, and Rural) will be replaced with Areas of Change and Areas of Consistency. In the County, the development areas will remain the same.

6. The 2016 Comp Plan update incorporates changes in the narrative descriptions as well as the goals, policies, and actions of each existing chapter. Approximately 90% of existing Goals and policies from the City's various Sector Plans (Rank III) and Area Plans (Rank II), except for facility plans and Metropolitan Redevelopment Area (MRA) plans, have been integrated into the updated Comp Plan. Many of these Goals and policies address similar topics and/or can be expanded to apply City-wide.

7. The State Constitution and Statutes, the ROA 1994 (which includes the City of Albuquerque Charter and the Planning Ordinance), the Albuquerque/Bernalillo County Comprehensive Plan, and the City of Albuquerque Comprehensive Zoning Code are incorporated herein by reference and made part of the record for all purposes.

8. State Constitution and Statutes: The Constitution of the State of New Mexico allows municipalities to adopt a charter, the purpose of which is to provide for maximum local self-government (see Article X, Section 6-Municipal Home Rule). The City of Albuquerque is a home rule municipality and has the authority to adopt a comprehensive plan as granted under Chapter 3, Article 19, Section 9 NMSA 1978 (3-19-9 NMSA 1978) and by the City Charter.

9. The request is consistent with the intent of City Charter Article XVII, Planning, as follows:

A. Section 1 - The review and adoption of an updated Comp Plan is an instance of the Council exercising its role as the City's ultimate planning and zoning authority. The updated Comp Plan is written and formatted to help inform the Mayor and the Council about community priorities for the formulation and review of Capital Improvement Plans.

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B. Section 2 - The updated Comp Plan will help guide the implementation, enforcement, and administration of land use plans and regulations that reflect current trends and priorities as well as the future vision for growth and development. The Plan's implementation strategies are to: build public awareness and engagement; improve inter-governmental coordination; promote growth, development and conservation; and create an ongoing process for monitoring progress toward the vision, which will give the Council and the Mayor a common and effective framework to build upon.

10. Intent of the City Charter - Related Sections:

A. Article I, Incorporation and Powers- Updating the Comprehensive Plan is an act of maximum local self -government and is consistent with the purpose of the City Charter. The updated policy language of the Comp Plan will help guide legislation and provide support for necessary changes to ordinances and standards.

B. Article IX, Environmental Protection- The updated Comprehensive Plan reflects recent best practices for policy to guide the proper use and development of land coordinated with transportation. The update will help protect and enhance quality of life for Albuquerque's citizens by promoting and maintaining an aesthetic and humane urban environment. Committees will have up-to-date guidance to better administer City policy.

11. Intent of the Zoning Code (Section 14-16-1-3): The update to the Comp Plan will provide up-to-date guidance for amendments and changes to land use regulations in the Zoning Code. This will allow the Zoning Code to better implement the city's master plan -in particular the master plan documents that comprise the Comp Plan. This updated Comp Plan will facilitate a comprehensive review of land use regulations and regulatory processes to ensure that they reflect the most recent best practices and the vision for future growth and development in the city to promote the health, safety and general welfare of Albuquerque's citizens.

12. Intent of the Planning Ordinance (Section 14-13-2-2): Updating the Comp Plan will ensure that it will reflect recent best practices for land use and transportation planning, the priority needs and desires of residents and businesses, and a vision of sustainable growth and development for the next

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twenty years. This will also help ensure that lower ranking plans reflect current ideas, technologies, and up-to-date demographic and market trends. The Comp Plan update process identified several conflicting provisions in lower ranking Plans that require an updated long-range planning process. The proposed Community Planning Area (CPA) assessments will address planning issues City-wide as well as within each CPA on an on-going, proactive basis.

13. The Comp Plan update addresses the main topics in Section 14-13-1, the Planned Growth Strategy (PGS), such as natural resources conservation, traffic congestion, and infrastructure provision, as follows:

A. Sustainable development is a key to the region's long-term viability. The 2016 Comp Plan promotes sustainable development best practices related to water resources, storm water management, multi-modal transportation, and urban design. A new chapter on Resilience and Sustainability (Chapter 13) has been added and includes sections on water quality and air quality, and discusses the importance of becoming more resource-efficient.

B. The update addresses transportation and traffic on a regional basis. A priority is to improve mobility and transportation options (p. 1-11). The Transportation chapter (Chapter 6) discusses the importance of balancing different travel modes and providing complete and well-connected streets to provide a variety of travel options.

C. The Land Use chapter (Chapter 5) includes policies to encourage a development pattern that will foster complete communities, where residents can live, work, learn, shop, and play, and that will maximize public investment in denser areas. One primary goal is to improve the balance of jobs and housing on each side of the river to help reduce traffic congestion and bring jobs to where people already live.

D. The Infrastructure, Community Facilities & Services chapter (Chapter 12) covers a wide range of infrastructure systems, community facilities and public services that support the existing community and the Comp Plan's vision for future growth. The chapter emphasizes increased inter-agency planning and coordination, and ways for pooling resources to maximize efficiencies, bridge service gaps, and provide added value. The guiding

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principle of equity helps identify gaps in service provision and how they might be addressed.

14. City language that refers to the Comp Plan is found in various locations of ROA 1994. This language will need to be correspondingly revised with the adoption of the 2016 Comp Plan in order to maintain the intent of the policies and to maintain internal consistency in ROA 1994.

15. The 2016 Comp Plan update improves coordination with the Mid-Region Metropolitan Planning Organization (MRMPO) and the Metropolitan Transportation Plan (MTP), which includes a new growth forecast to 2040 and a preferred growth scenario. The Comp Plan update responds to the MTP by updating Comp Plan Corridors to be consistent with MTP corridors, coordinating Center designations with MTP center designations used to develop a preferred future growth scenario, and developing an analysis tool to analyze performance metrics based on different growth scenarios.

16. A number of elements of the existing Comp Plan will remain the same with the 2016 Comp Plan update, including:

A. The Comp Plan's geographic scope, which includes the area in Albuquerque's municipal limits and the unincorporated areas in Bernalillo County.

B. The Centers and Corridors framework as a means to encourage future growth and density in appropriate areas while protecting existing neighborhoods, natural resources, and open space lands.

C. Most of the goals, policies, and actions in the current Comp Plan, supplemented by those in Sector Development Plans and Area Plans adopted by the City. Approximately 90% of the City's existing 1,200 policies in these plans are represented in the 800 policies and sub-policies of the Comp Plan update.

D. The County's Development Areas (Rural, Reserve, Semi-Urban, Developing Urban, and Established Urban) from the existing Comp Plan will continue to be used in the unincorporated area, and their associated policies will remain unchanged.

17. The 2016 Comp Plan update has reorganized and reworded the existing Comp Plan to reflect new data and trends, be more user-friendly and provide

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clearer guidance to decision-makers. The most significant changes in the 2016 Comp Plan update are:

A. The inclusion of a Vision chapter (Chapter 3), which serves as a "People's Summary" of the plan and provides an overview.

B. Modifications to the Center and Corridor descriptions and the introduction of new Center and Corridor types.

i. Three Major Activity Centers have been re-designated as Downtown or as Urban Centers (Uptown and Volcano Heights).

ii. The remaining Major and Community Activity Centers have been re-designated as Activity Centers or Employment Centers.

iii. The new Employment Center type reflects the need for concentrated job centers.

iv. Certain corridors have been designated as Premium Transit corridors to be consistent with MRCOG's MTP; Enhanced Transit Corridors have been re-named and designated as Multi-Modal Corridors, and Express Corridors are renamed and designated as Commuter Corridors. Main Street Corridors have been introduced as a new Corridor type.

C. Reorganization of the Comp Plan into ten Elements (Chapters) that reflect more recent best practices in planning as well as the needs of area residents:

i. Community Identity and Heritage Conservation (Chapters 4 and 11, respectively) in response to public comments about the importance of neighborhood character, preserving traditional communities, and cultural landscapes.

ii. A new chapter, Urban Design (Chapter 7) describes design elements that support and/or constitute good design for our community, in distinct rural, suburban, and urban contexts.

iii. A new chapter, Resilience and Sustainability (Chapter 13), reflects community concerns about conserving natural resources, preparing for climate change and natural hazards, and creating healthy environments for people.

D. The introduction of six guiding principles that indicate what is particularly important to residents.

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E. A new focus on coordinating land use and transportation to strengthen Centers and Corridors and to address traffic congestion on river crossings by improving the jobs-housing balance west of the Rio Grande.

F. Two Development Areas in the City, Areas of Change and Areas of Consistency, will replace the six current Development Areas.

G. Updated City and County Community Planning Areas (CPAs) and policies that guide the City Planning Department regularly to engage with residents and other stakeholders in 12 City CPAs on a five-year cycle of assessments.

H. An Implementation chapter (Chapter 14) with strategic actions, performance metrics, and policy actions to be updated on a five-year cycle.

18. In 2017, City Planning Staff intend to initiate an ongoing, proactive engagement and assessment process (Community Planning Area Assessments) to work with communities throughout the City to address planning issues and develop solutions. Performance measures will be used to track progress toward Comp Plan Goals over time.

19. The public engagement process, which offered a range of opportunities for input, discussion, and consensus-building, featured a series of workshops and public meetings that included daytime focus groups organized by topic and evening meetings with a more traditional presentation and a question and answer session. The project team was invited to speak at over 100 meetings and local conferences. To reach more people and a broader cross-section of the community, the project team staffed booths and passed out promotional material at community events and farmers markets.

20. Articles about the ABC-Z project appeared regularly in the City's Neighborhood News and ads specifically for the Comp Plan update were placed in print and social media. There is also a social media page for the ABC-Z project on Facebook.

21. Staff received official written comments from agencies and interested parties. Agencies that commented include the ABCWUA, the AMAFCA, Bernalillo County, the City Parks and Recreation Department, and PNM. Their comments suggest specific revisions to clarify topics related to their agency's charge. Staff is considering all comments carefully and addressing them.

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22. The comments submitted by interested parties cover a variety of topics, including but not limited to time for public review and comment, annexation, effect on vulnerable populations, and the focus on centers and corridors. Some comments express significant concerns that policies crafted to address localized issues are applied broadly and that sector plans are being replaced. Staff is considering all comments carefully and addressing them.

23. The EPC held two advertised and noticed public hearings, on August 4 and August 25, 2016, to elicit public comments and participation for the record.

24. Planning Department Staff and City Council Staff will continue to collaborate regarding themes raised in the August 2016 Staff Report, and in public, departmental, and agency comments, to consider any additional information that should be included in the Comp Plan update.

SECTION 3. EFFECTIVE DATE AND PUBLICATION. This legislation shall take effect five days after publication by title and general summary.

SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provisions being declared unconstitutional or otherwise invalid.

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PASSED AND ADOPTED THIS 20th DAY OF March, 2017
BY A VOTE OF: 6 FOR 2 AGAINST.

Against: Peña, Sanchez
Excused: Winter

Isaac Benton, President
City Council

APPROVED THIS 7th DAY OF April, 2017

Bill No. R-16-108

Richard J. Berry, Mayor
City of Albuquerque

ATTEST:

Natalie Y. Howard, City Clerk

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APPENDIX C

Planning needs to take place with stakeholders on a regular basis. The City has spent the last forty years creating over 50 plans, and it would take a larger staff than is currently in place and another 40 years to update them all, not to mention to do a similar level of planning for the half of Albuquerque that has had no such special planning effort. Instead, Long Range staff in the City Planning department has developed a different idea to provide regular planning services for all communities in Albuquerque. It would be a proactive planning program, to help implement the updated Vision of the Comprehensive Plan and to honor, update, and confirm the hard work and planning that has come before.

Table A-1: City Area & Sector Development Plans with Goals and Policies Incorporated into the Comp Plan (see Figure A-1 for map)

PLAN	ADOPTED	LAST AMENDED
Barelas SDP	2008	2014
Coors Corridor Plan	1984	2003
Downtown 2025 SDP*	2000	2014
Downtown Neighborhood Area SDP	2012	
East Gateway SDP	2010	2013
High Desert SDP	1993	2001
Huning Castle & Raynolds Addition SDP	1981	2002
Huning Highland SDP	1988	2005
La Cueva SDP	2000	2007
La Mesa SDP	1976	1978
Los Candelarias Village Center*	2001	
Los Duranes SDP**	2012	
Los Griegos Neighborhood Development Plan	1987	1992
Martineztown / Santa Barbara SDP	1990	2002
Nob Hill Highland SDP	2007	2014
North Fourth Street Corridor Plan	2010	
North I-25 SDP	2010	2012
North Valley Area Plan**	1993	
Northwest Mesa Escarpment Plan**	1987	1989
Old Town SDP	1977	1997
Rio Grande Blvd. Corridor Plan**	1989	

Table continues

PLAN	ADOPTED	LAST AMENDED
Sandia Foothills Area Plan	1983	
Sawmill/Wells Park SDP*	1983	2015
South Broadway Neighborhoods SDP*	1986	2002
South Martineztown SDP	1995	2002
South Yale SDP	2009	
Southwest Area Plan**	2001/2002	
University Neighborhoods SDP	1980	1991
Uptown SDP	2009	2013
Volcano Cliffs SDP	2011	2015
Volcano Heights SDP	2013	2014
Volcano Trails SDP	2011	2014
West Mesa SDP	1976	1978
West Route 66 SDP	1987	2009
Westside Strategic Plan **	1997	2014

* Also a Metropolitan Redevelopment Area Plan or associated with one.
**Also a Bernalillo County plan.

J. Metropolitan Redevelopment Areas

Metropolitan Development Areas are distressed or blighted areas that have been designated as appropriate for a metropolitan redevelopment project by the local planning commission and governing body. Development within a Metropolitan Redevelopment Area is overseen by the Metropolitan Redevelopment Agency and must follow an established Metropolitan Redevelopment Plan.

Metropolitan Redevelopment Plans are not established through the Comp Plan and are not considered policy documents. Information about current Metropolitan Redevelopment Areas and Plans is provided here for informational purposes only.

Current Metropolitan Redevelopment Areas (See Figure A-35 for map of MRAs)

ABQ HIGH SCHOOL
BARELAS
BRIDGE/ISLETA
CLAYTON HTS/LOMAS DEL CIELO
CORONADO
DEL REY*
DOWNTOWN
EAST GATEWAY
HIGHLAND/CENTRAL
HISTORIC CENTRAL
LOS CANDELARIAS VILLAGE CENTER
MARTINEZTOWN/SANTA BARBARA*
MCCLELLAN PARK
NEAR HEIGHTS
NORTH CORRIDOR*
PHOENIX AVE
RAILROAD
SAWMILL/WELLS PARK
SOLDIERS & SAILORS PARK
SOUTH BARELAS INDUSTRIAL PARK
SOUTH BROADWAY
ST JOSEPH HOSPITAL
SYCAMORE
TINGLEY BEACH
WEST CENTRAL

*Metropolitan Redevelopment Areas without an MR Plan

Guiding Principles

Guiding the Vision

The **Guiding Principles** are a major outcome of public engagement efforts. They represent the most prominent themes voiced by community members in 2015 and provide a community- and value-based framework for the Vision.

These six principles capture our values and aspirations as a community and underlie the goals, policies, and actions in each element of the Comp Plan.

STRONG NEIGHBORHOODS

New development creates desirable places to live and encourages diverse housing and amenities, while respecting the unique history and character of each neighborhood.

MOBILITY

Residents have improved options to move throughout Albuquerque for work, school, recreation, and services.

ECONOMIC VITALITY

The local economy supports a mix of market activities and promotes financial security for all residents.

EQUITY

All residents have access to good public services, a range of housing options, and healthy places to live, work, learn, and play.

SUSTAINABILITY

Natural and cultural resources are protected and conserved to build a future that is physically, environmentally, and socially sustainable.

COMMUNITY HEALTH

All residents are protected from harm where they live, work, learn, and play. Everyone has convenient access to healthy food, parks and open space, and a wide range of amenities and services.

In the future...

Neighborhoods will remain an important feature of Albuquerque and Bernalillo County. Over the next twenty years, they will continue to flourish as places that provide a high quality of life for all residents and contribute to the good of the greater Albuquerque and Bernalillo County community, with increasing opportunities for improvement.

Public investments will be made equitably in all neighborhoods across the city and county to address needs in areas with fewer resources and to ensure that planning and engagement happen in all communities. Neighborhood-level engagement, in both the city and county, will empower residents and result in recommendations that are practical to implement.

Image credit: City of Albuquerque

4.1.2 Context & Analysis

4.1.2.1 PROTECTING & ENHANCING NEIGHBORHOOD CHARACTER

The desire to protect and enhance the character of one's neighborhood is universal. The most valued neighborhood assets we strive to protect and enhance make Albuquerque unique and valuable, including historically and culturally significant resources, such Old Town Plaza and landscape features, such as acequias. As redevelopment and infill occur, policies help ensure that development is consistent with the community's vision and compatible with the surrounding area.

Character and the Built Environment

This chapter includes goals and policies related to the distinct character of our neighborhoods and incorporates policies and actions for individual areas from the City's former Rank 3 Sector Development Plans.

Comp Plan policies and zoning standards in separate ordinances can address the following elements of the built environment that contribute to the character of an area:

- Mix of land uses
- Development scale and intensity of commercial and office uses
- Building size and massing
- Building placement (i.e., on a site and in relationship to public rights-of-way)
- Site layout
- Landscaping
- Platting patterns
- Block size and pattern
- Street width, alignment, and configuration
- Circulation patterns for all transportation modes
- Streetscape elements and amenities
- Parking for vehicles and bicycles
- Relationship to natural features and cultural landscapes
- Park and civic space location, size, and configuration

Other elements that contribute to an area's character – such as safety, architectural styles, and residents' demographics – are important, but are not planned and

coordinated best through the Comp Plan since it is primarily a land use document.

Neighborhood Associations

There are over 300 volunteer-led neighborhood associations within the city and county. Sometimes boundaries overlap where neighborhoods are covered by multiple associations, while some areas have no association. Some neighborhoods draw their boundaries to include residential areas only; others include residential areas and nearby businesses and commercial corridors. The City and County defer to how residents and local stakeholders draw these boundaries to organize themselves.

The Comp Plan as a policy document does not establish neighborhoods or their boundaries. The City and County have separate ordinances that establish how neighborhood associations are recognized for the purpose of notification of private or public development projects. For illustration purposes, a map of neighborhood associations recognized as of October 2016 is included in **Appendix F**.

To achieve our vision the City and County need to address key **challenges** and **strategies.**

CHALLENGES

- Respecting historic neighborhood and land use patterns.
- Protecting and enhancing neighborhood character.
- Ensuring inclusive decision-making.
- Ensuring equitable public investment.

STRATEGIES

- Creating complete communities and neighborhoods.
- Highlighting the variety of housing types that match the distinct character of different neighborhoods
- Demonstrating the feasibility of diverse housing types in various neighborhoods to the community and developers.
- Integrating the City's Rank 2 Area Plans, Corridor Plans, and Sector Development Plans into the Comp Plan.
- Directing higher density and intensity development in the City to Areas of Change.
- Ensuring that new development is compatible with established character in Areas of Consistency in the city.
- Identifying the character and needs of neighborhoods in the city through a Community Planning Area assessment process.
- Developing or amending Area and Sector Development Plans in the county as needed in the future to provide further guidance for development.

MIXED-USE NEIGHBORHOODS: 2000 – PRESENT

The introduction of zoning separated and spread out land uses in the decades after World War II. In time, many western cities began to recognize an increase in consumer demand for more compact development styles that put many daily needs within walking distance of residences. Mixed-use neighborhoods – ranging from a single structure to entire districts that mix residential, commercial, cultural, and industrial uses in an integrated, pedestrian-friendly manner – can provide greater housing density and variety, reduce vehicle trips, increase property values, and foster vibrancy and interest in an area.

Since at least the 1990s, city planning in Albuquerque has sought to encourage such developments and there are multiple examples near UNM, in Uptown, and in Downtown. Single developments that mix residential and other uses can be found all over the city. Mesa del Sol and Volcano Mesa are examples of recent plans for major mixed-use districts.

Street and Block Patterns

- **Modified grid block pattern**
- **Smaller block sizes with rear alleys**

Characteristic Elements

- **A blend of residential uses with convenient neighborhood-scale services**
- **Mixed-density development patterns**
- **Efforts to develop complete communities through development of jobs with new housing**
- **Retrofit and redevelopment of older, declining neighborhoods in developed urban areas**

Image credit: City of Albuquerque

Newer neighborhoods like the Sawmill district offer more dense housing mixed with commercial uses.

4.1.2.2 GUIDING FUTURE GROWTH

The City and County face crucial decisions about where to focus future redevelopment and expansion. For both the City and the County, determining where to grow is a careful balance between the need to preserve our rural and agricultural lands and pressures on these areas to convert to housing and other uses as the community expands outward. In order for rural and agricultural areas to remain viable and sustainable, urban areas must receive more density and intensity over time, drawing the concentration of development away from the outlying areas.

For the County, areas of anticipated change are designated within Centers and Corridors on the Vision map that are detailed in County area and sector plans. Master plans adopted within the County's Reserve and/or Rural Development Areas designate mixed-use, higher density areas that are expected to develop and change over time.

For the City, Areas of Change and Areas of Consistency (described further in **Section 5.1.2.5 of the Land Use chapter**) are important policy tools to guide new development. At the neighborhood level, Areas of Consistency are primarily

A consistent CPA assessment process provides four primary benefits:

1. Capacity-building: Staff and stakeholders can learn and share lessons across Community Planning Area assessments and over time.

2. Efficiency: A defined process encourages timely completion and lowers barriers to stakeholder participation.

3. Implementation: Properly considered stakeholder input, thorough technical analysis, and clearly articulated recommendations will lead to more consistent implementation.

4: Coordination: Assessments with a standardized organization and format, addressing similar issues at the same level of analysis, using a similar set of tools, and recommending policies, regulations, and actions that acknowledge a citywide context, will be effective tools to update the Comp Plan and zoning standards.

Central Albuquerque

Central Albuquerque is the location of the original Old Town settlement with surrounding agricultural lands, the New Town development during the railroad era (now known as Downtown), and the original residential subdivisions, many of which have been designated as historic neighborhoods.

Design/Character Considerations

- Concentration of urban development Downtown
- Street level retail/commercial activity Downtown
- Building fronts at sidewalk along Central Avenue
- Glass storefronts and major pedestrian entrances onto the street
- Public transit connections between downtown and Old Town, the Albuquerque Botanical Gardens and Zoo, the South Broadway Cultural Center, and other ABQ Centers
- Varying architectural styles and building scale, depending on the historical era of each neighborhood
- Historic adobe architecture in Old Town
- Victorian architecture of the railroad era neighborhoods
- Rural landscapes to the west of Rio Grande Boulevard
- Mature trees and grass predominant in landscaping
- Small residential lots
- Proximity to the Rio Grande
- Mix of land uses and proximity of residential and non-residential uses

4.2 Goals, Policies & Actions

for Community Identity

Goal 4.1 Character

Enhance, protect, and preserve distinct communities.

Goal 4.2 Process

Engage communities to identify and plan for their distinct character and needs.

Goal 4.3 City Community Planning Areas

Protect and enhance the natural and cultural characteristics and features that contribute to distinct identity and prioritize projects and programs to meet the needs of communities, neighborhoods, and sub-areas.

Policies are organized to support each Goal. Many Policies have supporting Sub-polices, cross-references to other relevant policies, and implementing Actions to more clearly guide decision-making.

[ABC] indicates a policy or action for both the City and County
[BC] indicates a policy or action for Bernalillo County
[A] indicates a policy or action for the City of Albuquerque

Goal 4.1 Character

Enhance, protect, and preserve distinct communities.

POLICY 4.1.1

Distinct Communities: Encourage quality development that is consistent with the distinct character of communities. [ABC]

a) See **Goal 4.3** below for descriptions of character-defining elements for each City CPA.

b) See **Land Use Policy 5.2.1** for desired land uses.

c) See **Urban Design Policies 7.3.2 and 7.3.3** for policies on community character and placemaking.

d) See **Housing Goal 9.1** for policies related to housing options and affordability.

POLICY 4.1.2

Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mix of uses, and character of building design. [ABC]

a) Maintain and preserve the unique qualities of historic areas. [ABC]

b) See County Area and Sector Development Plans for guidance in the County. [BC]

c) See **Goal 4.2** below for the process to identify community character.

d) See **Goal 4.3** below for City CPA character considerations for development.

e) See **Land Use Goal 5.2** for policies about Complete Communities.

f) See **Land Use Goals 5.5 and 5.6** for Development Area policies.

g) See the **Heritage Conservation chapter** for historic and cultural protections.

h) See **Heritage Conservation Policy 11.2.1** for minimizing the negative impacts of gentrification on communities.

ACTIONS

4.1.2.1 Continue use of Area and Sector Development Plans as a planning tool within unincorporated Bernalillo County. [BC]

4.1.2.2 Define existing and desired character of areas within each CPA and recommend policy and regulatory changes, capital projects, or partnerships to protect or enhance character as part of the ongoing cycle of assessments. [A]

POLICY 4.1.3

Placemaking: Protect and enhance special places in the built environment that contribute to distinct identity and sense of place. [ABC]

a) See **Urban Design Policies 7.3.2 and 7.3.3** for policies on community character and placemaking.

b) See **Heritage Conservation chapter** for historic and cultural considerations.

ACTIONS

4.1.3.1 Provide opportunities for residents, businesses, and other stakeholders to come together to identify special places, catalytic actions, and creative solutions to area issues and prioritize capital projects and beautification opportunities. [ABC]

4.1.3.2 Partner with non-profits, neighborhood associations, merchants associations, businesses, and other stakeholders to plan and program special events. [ABC]

4.1.3.3 Support neighborhood cleanup initiatives and ensure that weed, litter, and building safety codes are enforced to maintain property appearance, occupant safety, and property values. [ABC]

4.1.3.4 Work with communities and key stakeholders to establish recommended plant lists for landscaping in each CPA. [A]

POLICY 4.1.4

Neighborhoods: Enhance, protect, and preserve neighborhoods and traditional communities as key to our long-term health and vitality. [ABC]

a) Respect existing neighborhood values and social, cultural, recreational resources.

b) Leverage community resources to identify issues, opportunities, and special places and promote strong community identity.

c) Support improvements that protect stable, thriving residential neighborhoods and enhance their attractiveness.

d) Encourage transformative change in neighborhoods expressing the desire for revitalization.

e) See **Land Use Policy 5.2.1** for guidance about where certain land uses are appropriate.

f) See **Land Use Policies 5.6.3 and 5.6.4** for policies about Areas of Consistency and how to transition between Areas of Change and Consistency.

g) See **Land Use Goal 5.7** for policies to promote public-private partnerships for catalytic development in Centers and Corridors.

h) See **Housing Policy 9.7.2** for Metropolitan Redevelopment.

i) See **Heritage Conservation Policy 11.2.1** for minimizing the negative impacts of gentrification on communities.

j) See **Implementation Strategic Action 3.3** for catalytic projects.

ACTIONS

4.1.4.1 Provide programs and partner with non-profits to help residents in distressed neighborhoods improve and stabilize their neighborhood. [ABC]

4.1.4.2 Work with residents to identify sub-standard houses or nuisances that should trigger assistance. [ABC]

4.1.4.3 Identify infrastructure needs, such as sidewalk, curb, and gutter improvements, and coordinate implementation with relevant departments and stakeholders. [ABC]

POLICY 4.1.5

Natural Resources: Encourage high-quality development and redevelopment that responds appropriately to the natural setting and ecosystem functions. [ABC]

a) Respect natural environmental conditions and carrying capacities and cultural landscapes when locating new development and regulating its intensity and design.

b) See **Urban Design Goal 7.5** for context-sensitive site design.

c) See **Heritage Conservation Goal 11.1** for policies to protect rural and agricultural heritage.

d) See **Heritage Conservation Goal 11.3** for policies to protect cultural landscapes.

e) See **Resilience & Sustainability Goal 13.4** for policies to protect natural resources.

Goal 4.2 Process

Engage communities to identify and plan for their distinct character and needs.

POLICY 4.2.1

Community Planning Areas: Use Community Planning Areas to track conditions and progress toward implementation of the community vision over time and organize planning efforts to identify distinct community character. [ABC]

a) Guide development through Comp Plan Development Area policies in **Land Use Goals 5.5 and 5.6**. [ABC]

b) Use County Area or Sector Development Plans to further guide development. [BC]

c) Use policies in **Community Identity Goal 4.3** to further guide development in City CPAs. [A]

d) See **Land Use Policy 5.3.7** to address objectionable land uses.

e) See **Resilience & Sustainability Policy 13.5.4** to address potential adverse impacts of development.

ACTIONS

4.2.1.1 Adjust CPA boundaries to the extent possible to be congruent with New Mexico Department of Health Small Area boundaries to best coordinate health data and reporting. [ABC]

4.2.1.2 Provide a demographic analysis of race/ethnicity and income for each Community Planning Area as part of the five-year Comp Plan update. [A]

4.2.1.3 Reflect the CPA process and geographies in a revised Planning Ordinance as part of the City's Integrated Development Ordinance. [A]

POLICY 4.2.2

Community Engagement: Facilitate meaningful engagement opportunities and respectful interactions in order to identify and address the needs of all residents. [ABC]

a) Engage communities to help identify, build, and strengthen distinct identity and sense of community. [A]

b) Increase awareness about and understanding of cultural differences, shared identity, and differing needs across communities. [A]

c) Build capacity for more culturally significant interactions between City and County staff and the public. [A]

d) Work with community leaders to identify and remove barriers to meaningful community engagement. [A]

e) Create robust and meaningful public involvement processes to help build long-term consensus about growth and development in the Albuquerque area. [A]

f) See **Land Use Policy 5.7.5** for additional policies on public engagement.

g) See **Transportation Goal 6.5** for policies about equity in transportation systems.

h) See **Infrastructure, Community Facilities & Services Policy 12.4.1** for collaborative strategies to prioritize public investment.

i) See **Infrastructure, Community Facilities & Services Policy 12.4.2** for policies about ADA accessibility in public facilities.

j) See **Infrastructure, Community Facilities & Services Policies 12.5.5 and 12.5.6** for policies about staff capacity and public input in public resource allocation.

ACTIONS

4.2.2.1 Engage neighborhoods and area stakeholders in the county through planning efforts to create Area Plans and/or Sector Development Plans to identify appropriate protections for character, guide future development, and plan needed capital projects. [BC]

4.2.2.2 Engage neighborhoods and area stakeholders in the city through a CPA assessment process to identify contributing elements to distinctive character and identity and recommend needed changes to Comp Plan policies or City zoning standards. [A]

4.2.2.3 Educate residents, businesses, and community-based organizations about the land use and zoning framework, as well as the planning and development process, through a Citizens Academy training program. [A]

4.2.2.4 Coordinate between the Planning Department and Council Services staff throughout the CPA assessment process to plan and host the Citizens Academy and to track implementation efforts by various departments over time. [A]

4.2.2.5 Create an advisory board to develop best practices, training components, and recommendations for administrative procedures for more meaningful and accessible community engagement. [A]

Goal 4.3 City Community Planning Areas

Protect and enhance the natural and cultural characteristics and features that contribute to distinct identity and prioritize projects and programs to meet the needs of communities, neighborhoods, and sub-areas. [A]

POLICY 4.3.1

CPA Assessments: Identify the character-defining elements, priorities for capital investment, and potential programs and partnerships for each CPA through the ongoing, long-range planning assessment process. [A]

a) See **Policy 4.2.1** above for policies and actions related to the CPA assessment process.

b) See **Policies 4.3.2 through 4.3.13** below for policies specific to each CPA.

c) See **Heritage Conservation chapter** for historic and cultural considerations.

ACTIONS

4.3.1.1 Update the Comp Plan to include policies that protect and enhance the character of each CPA and of the neighborhoods within each CPA. [A]

4.3.1.2 Evaluate adopted SDPs to update and incorporate narratives, implementation actions, and recommendations into each CPA assessment report. [A]

4.3.1.3 Develop a list of priority capital projects with the community and key stakeholders as part of each CPA assessment report. [A]

4.3.1.4 Develop a list of priority programs and events with the community and key stakeholders as part of each CPA assessment report. [A]

POLICY 4.3.2

Central Albuquerque CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.3

East Gateway CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.4

Foothills CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.5

Mesa del Sol CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.6

Mid Heights CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.7

Near Heights CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.8

Near North Valley CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.9

North Albuquerque CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.10

North I-25 CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.11

Northwest Mesa CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.12

Southwest Mesa CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

POLICY 4.3.13

West Mesa CPA

[TO BE COMPLETED THROUGH THE CPA ASSESSMENT PROCESS.]

Applying the Guiding Principles

Each element of the Comp Plan uses guiding principles as the basis for its goals, policies, and actions. The six guiding principles and their definitions were developed from input received during the public involvement process, detailed in the Vision chapter.

Here, we apply the guiding principles to **land use** goals, policies, and actions.

STRONG NEIGHBORHOODS

- An appropriate mix of land uses protects and enhances neighborhood character and vitality.
- Adequate infrastructure and community facilities support growth at the desired intensity of each neighborhood.

ECONOMIC VITALITY

- Mixing land uses in Centers creates desirable places to live and work, attracting a skilled workforce and major employers.
- A healthy mix of uses in the right locations protects regional capacity for new jobs and industrial activity.

SUSTAINABILITY

- Focusing more intense uses in Centers preserves open space, agricultural land, and sensitive natural areas.
- Infill and redevelopment require fewer natural resources for new infrastructure than greenfield development.

MOBILITY

- Coordinated land use and transportation support desired development and character while increasing transportation options.
- Higher-density and intensity uses focused around transportation networks with safe pedestrian and bicycle facilities maximize the success of transit investments.

EQUITY

- Allowing a variety of housing types better meets the needs of a range of households.
- Locating jobs and community facilities near housing lowers household transportation costs.

COMMUNITY HEALTH

- **Buffering** incompatible land uses protects people from health hazards.
- A greater mix and intensity of uses in Centers makes active transportation options more viable.
- Planning the Community Green Space network increases opportunities for outdoor recreation.

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.

Areas of Change (City only)

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.

The intent is to make Areas of Change the focus of new urban-scale development that benefit job creation and expanded housing options. By focusing growth in Areas of Change, additional residents, services, and jobs can be accommodated in locations ready for new development. Development in Areas of Change will still need to consider the ability of utilities to adequately serve infill and redevelopment.

To better understand the benefits and potential outcomes of focusing growth in Areas of Change, the planning team modeled the capacity for household and employment growth within urbanized land. The analysis demonstrated that 89 percent of projected new housing and 97 percent of projected new employment that is anticipated in the city between 2016 and 2040 could be accommodated in Areas of Change.

Areas of Consistency (City only)

Neighborhoods designated as Areas of Consistency will be protected by policies to limit densities, new uses, and negative impacts from nearby development. While these areas may see some infill development and new uses, new development or redevelopment will need to be compatible in scale and character with the surrounding area.

Some Areas of Consistency are experiencing a different set of pressures than those posed by incompatible infill development. These areas may have a high home-occupancy rate,

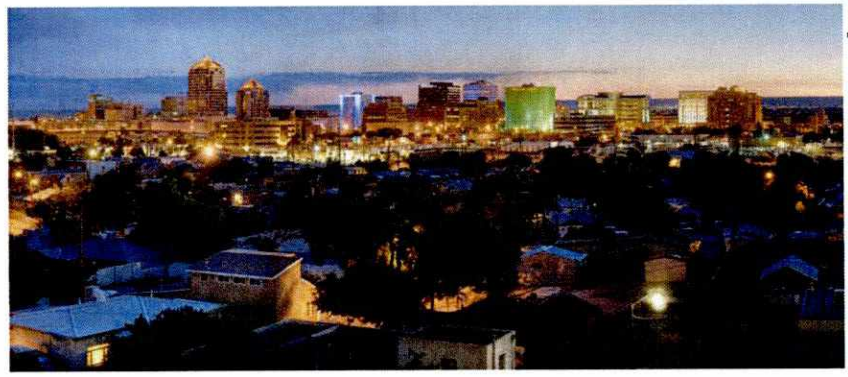

Image credit: Bill Tondreau

Focusing growth and development in Areas of Change will accommodate many of the additional residents and jobs expected in the city through mixed-use development and multi-modal transportation options, while protecting established residential neighborhoods and Open Space in Areas of Consistency.

yet face deteriorating infrastructure, land use conflicts, such as those between industrial and residential uses, or a lack of basic services such as grocery stores or parks. These areas will benefit tremendously from targeted reinvestment in nearby Areas of Change.

Implementing Areas of Change & Areas of Consistency

The Areas of Change and Consistency strategy is designed to identify places designated for higher intensity uses and denser housing, and that can accommodate new residents and jobs, while enhancing the unique qualities of established neighborhoods that are looking for new ways to preserve their character and quality of life.

As a guidance tool, Areas of Change and Consistency direct more dense development to areas where growth is desired (Areas of Change). In parallel, it is used to apply policies limiting new development to an intensity and scale consistent with places that are highly valued for their existing character (Areas of Consistency).

Development in Areas of Change and Consistency will be tracked over time. Similar to County Development Areas, this map may be updated periodically as part of future Comp Plan updates to reflect platting and/or zone changes that affect the status of property as part of an Area of Change or Consistency.

Regulatory changes will be needed to require building and lighting heights to step down where Areas of Change abut Areas of Consistency, along with other protections for neighborhood edges.

MAPPING AREAS OF CHANGE & AREAS OF CONSISTENCY

Areas of Change and Consistency are mapped according to criteria listed below, based on platted parcels (for more details on the methodology, see **Appendix I**).

After adoption of the Comp Plan, this map will be updated periodically as part of future Comp Plan updates and as needed to reflect platting and/or zone changes that affect the status of property as an Area of Change or Consistency.

AREAS OF CHANGE INCLUDE:

- Comp Plan Centers
- Parcels along Premium Transit, Major Transit, Multi-Modal and Main Street Corridors
- Park and Ride facilities and parcels around Transit Centers
- Parcels within Metropolitan Redevelopment Areas (MRAs) with adopted MRA plans, according to the priorities established by those plans
- Properties within approved Master Development Plans (site development plans with detailed design standards), such as business and industrial parks and master planned communities

AREAS OF CONSISTENCY INCLUDE:

- Single-family residential zones and parcels with single-family residential uses
- Parks, Open Space, and golf courses
- Cemeteries
- Airport runways and fly-in zones
- Other parcels outside Change areas, regardless of zoning or current use

Endnotes

1. As of the 2016 update of this Comp Plan, the Central Urban Area (largely in the City of Albuquerque) has been eliminated. The limited Central Urban area in the County has been changed to Established Urban.

5.2 Goals, Policies & Actions

for Land Use

Goal 5.1 Centers & Corridors

Grow as a community of strong Centers connected by a multi-modal network of Corridors.

Goal 5.2 Complete Communities

Foster communities where residents can live, work, learn, shop, and play together.

Goal 5.3 Efficient Development Patterns

Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

Goal 5.4 Jobs-Housing Balance

Balance jobs and housing by encouraging residential growth near employment across the region and prioritizing job growth west of the Rio Grande.

Goal 5.5 County Development Areas

Use Development Areas to foster the distinctness of communities in the unincorporated County by guiding their form, character, and density.

Goal 5.6 City Development Areas

Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development in and near Areas of Consistency reinforces the character and intensity of the surrounding area.

Goal 5.7 Implementation Processes

Employ procedures and processes to effectively and equitably implement the Comp Plan.

Policies are organized to support each Goal. Many Policies have supporting Sub-polices, cross-references to other relevant policies, and implementing Actions to more clearly guide decision-making.

8.2 Goals, Policies & Actions

for Economic Development

Goal 8.1 Placemaking

Create places where business and talent will stay and thrive.

Goal 8.2 Entrepreneurship

Foster a culture of creativity and entrepreneurship and to encourage private businesses to grow.

Policies are organized to support each Goal. Many Policies have supporting Sub-polices, cross-references to other relevant policies, and implementing Actions to more clearly guide decision-making.

SAWMILL

Sector Development Plan

October 1978

Kilmer - Attachment 5

RESOLUTION

ADOPTING THE SAWMILL SECTOR DEVELOPMENT PLAN AND COMMUNITY DEVELOPMENT PLAN.

WHEREAS, the Council, the Governing Body of the City of Albuquerque, has the authority to adopt master plans for physical development of areas within the planning and platting jurisdiction of the City as authorized by New Mexico Statutes, Section 14-18-5, and by the City Charter as allowed under home rule provisions of the Constitution of New Mexico; and

WHEREAS, the Council recognizes the need for sector development plans to guide the City of Albuquerque and other agencies and individuals to ensure orderly redevelopment and effective utilization of funds; and

WHEREAS, the Sawmill Area, as shown on the attached maps and described in the attached text, has been designated a blighted area as defined by the Community Development Law of the State of New Mexico; and

WHEREAS, the Sawmill Sector Development Plan has been developed with the assistance of area residents as expressed through public meetings; and

WHEREAS, the Environmental Planning Commission, in its advisory role on all matters related to planning, zoning and environmental protection, has approved and recommended the adoption of the Sawmill Sector Development Plan.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. The Sawmill Sector Development Plan and the community development plan contained within it, dated October 2, 1978, and attached hereto, are hereby adopted as a guide to partial implementation of the Albuquerque/Bernalillo County Comprehensive Plan, the administration of U.S. Housing and Community Development Act of 1974 funds, and the investment of other public and private funds.

Section 2. All redevelopment activities within the area, including housing rehabilitation, land acquisition, and public improvements, shall be guided by the Sawmill Sector Development Plan.

Section 3. The Sawmill Community Development Plan, with respect to future land use, building requirements and rehabilitation requirements, shall be controlling over all other City ordinances, rules or regulations, unless specifically amended by said ordinances, rules or regulations.

PASSED AND ADOPTED this 2nd day of October, 1978.

Patrick J. Baca

Patrick J. Baca, President
City Council

APPROVED this 23rd day of October, 1978.

David Rusk

David Rusk, Mayor
City of Albuquerque

ATTEST:

Mary Lou Campbell

City Clerk / Recorder

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AREA DESCRIPTION

A. Boundary

The following area, as shown on Map 1, has been designated by the City Council as the Sawmill Community Development Area, and is the area within which this plan is to be implemented;

Beginning at the intersection of the east right-of-way line of Rio Grande Boulevard NW and the south right-of-way line of Interstate Highway 40;

Thence, easterly along the south right-of-way line of Interstate Highway 40 to the east right-of-way line of 5th Street NW;

Thence, southerly along the east right-of-way line of 5th Street NW to the north right-of-way line of Mountain Road NW;

Thence, westerly along the north right-of-way line of Mountain Road NW to the southwest corner of Tract 370a on Middle Rio Grande Conservancy District Map 38;

Thence, northerly along the west property lines of Tracts 370a, 238cla2b, 239blb and 237b on Middle Rio Grande Conservancy District Map 38 to the northwest corner of Tract 237b on Middle Rio Grande Conservancy District Map 38;

Thence, northerly along the northerly projection of the west property line of Tract 237b on Middle Rio Grande Conservancy District Map 38 to the southeast corner of Tract 340a2al on Middle Rio Grande Conservancy District Map 38;

Thence, northerly along the west right-of-way line of 19th Street NW to the south right-of-way line of the AT&SF Railroad Spur Parcel "I";

Thence, westerly along the south right-of-way line of the AT&SF Railroad Spur Parcel "I" to the east right-of-way line of Rio Grande Boulevard NW;

Thence, northerly along the east right-of-way line of Rio Grande Boulevard NW to the point and place of beginning.

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Scale: 0' 450' 900'

SAWMILL PLAN

MAP 1

BOUNDARY

SECTOR DEVELOPMENT PLAN BOUNDARY

Albuquerque/Bernalillo County Planning Department

B. Characteristics

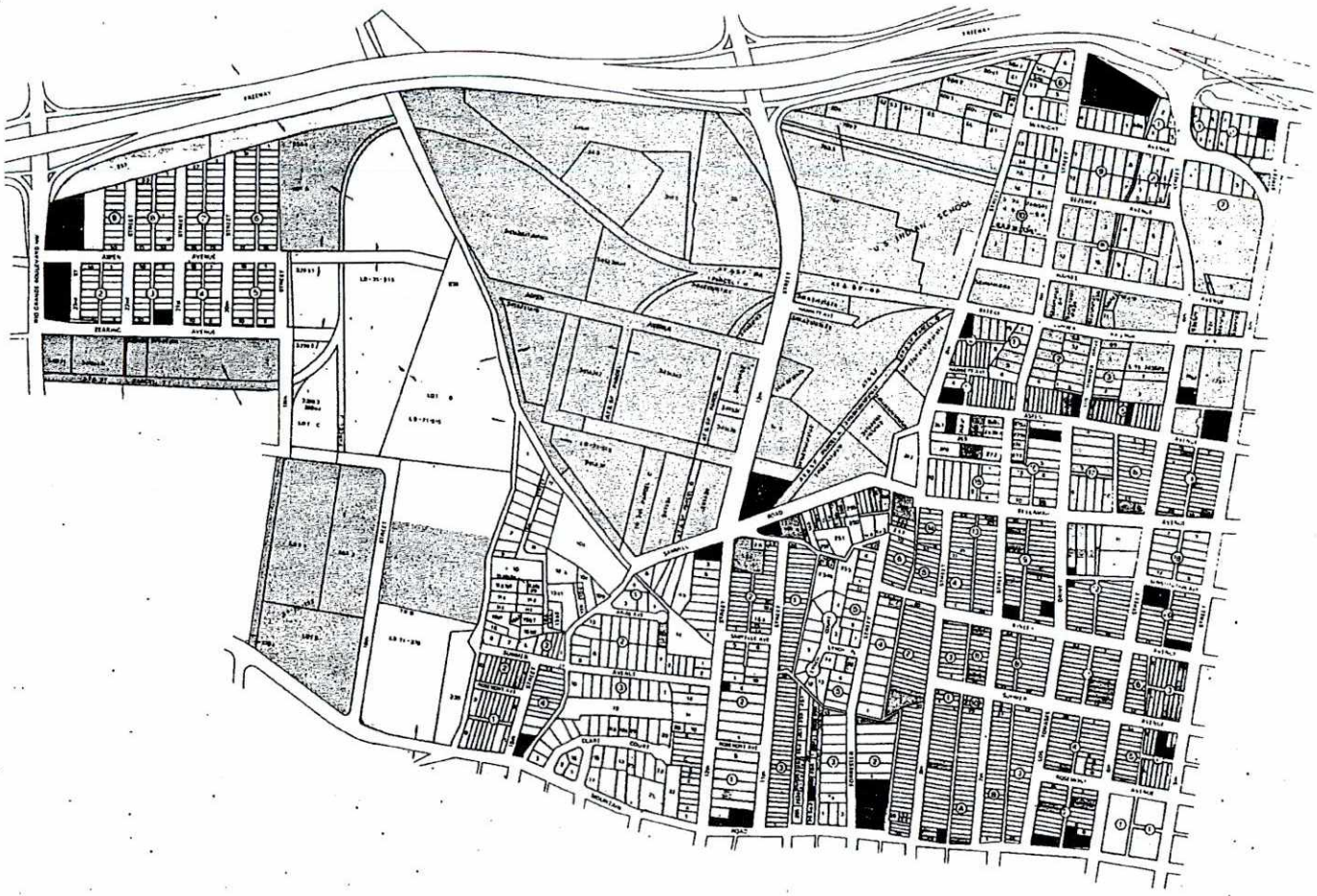
The Sawmill area is named for the sawmill that was established in the 1900's. It is the largest employer in that area. This area is one of Albuquerque's oldest neighborhoods. According to the 1970 census, the population of this area is predominantly Spanish-American, as shown on Table 1. The area has a large percentage of elderly, 13 percent, as compared to a City average of 6.4 percent. The area is a low-income neighborhood with 42.2 percent of the families earning under $5,000 as compared to the City average of 19.0 percent. The median family income is $2,660 per year compared to the City median of $9,641. Additionally, 15.1 percent are receiving public assistance as compared to the 4.6 percent City average. Only 5.5 percent earn over $15,000 annually.

The existing land use in the area, shown on Map 2, is both residential and heavy commercial. With the establishment of the sawmill in the 1900's, homes were built along Bellamah Avenue and Sawmill Road. During this same period, homes were built along Mountain Road, leaving no buffer zone between the heavy manufacturing and residential areas. Most residents in this area are not aware of zoning procedures or what zoning can do to a neighborhood. In comparing the existing land use on map 2 and the existing zoning on map 3, it is obvious that there are many non-conforming uses. Area residents have expressed a strong desire to keep the area single family residential and discourage apartment dwellings. They also fear encroachment of industries into the residential part of the neighborhood. The area has a large number of older homes: 60.9 percent of the homes were built prior to 1940, and 21.2 between 1940 and 1949, as shown on Table 2. A large number of residential structures in the area show signs of slight to moderate deterioration. Slight deterioration was found in 63 percent of the housing; 22.4 percent showed moderate deterioration, 5.9 percent showed extreme deterioration, and 0.7 percent has maximum deterioration, according to a complete windshield survey of the area by City housing inspectors, as shown on Map 4. Although 82.1 percent of the homes were built before 1949, people have continued to live in this neighborhood. Most of the residents have lived there all or most of their lives, and want the quiet residential character of the neighborhood maintained. Due to this stability, Sawmill is a very tightly-knit community in which neighbors help each other and share long friendships.

Public facilities are needed in the area. Street lights have never been installed in some places where they are needed to meet City standards. Estimated locations are shown on Map 5. More lighting would help cut down on the crime rate in the area, about which residents expressed concern. Sidewalks have never been installed in some places where they are needed. These are needed to provide better facilities for the school children and the 14.5 percent of the working people that walk to work. The sidewalk map is shown on Map 6. Utilities are provided in the area; however, some old water lines, shown on Map 7, are substandard. Additional fire hydrants, shown on Map 8, are needed in order to provide protection for life and property. Some sewer lines need replacement also. Many of the curbs and gutters in the area are in poor condition. Unsightly weeds and litter detract from the appearance of the area and create a fire hazard. Loose animals scatter garbage, aggravating the litter problem, and are a threat to the residents' safety. Sawdust and other air pollutants are emitted by some of the businesses in the area. Several irrigation ditch rights-of-way remain dedicated, although are used very little, if any. Irrigation and storm drainage is shown on Map 9. Standing water collects in several locations in the area after a rain. The areas are part of an overall drainage study being done by the City.

The area has some traffic problems. Mountain Road is in very poor condition. The City has been planning to widen Mountain Road to three or four lanes as a collector street and has done no road maintenance. Mountain Road is listed as a City short-range project. The widening of Fifth and Sixth Streets to three lanes is also in the planning stages, but no funding is presently available. Sawmill Road-Bellamah Avenue is listed on the City's Long-Range Street Plan as a four-lane divided minor arterial. This should be designed as a buffer to separate the residential area from the industrial area to improve both. Intensive landscaping along both sides and in the median of this street would beautify the neighborhood and help screen the industrial area from the residents. Several street intersections in the Sawmill area appear to be unsafe, according to some area residents. Several streets have never been paved. Needed street paving is shown on Map 10. Several alleys dedicated to the City have never been used or are no longer in use and have become maintenance problems. Traffic problems exist at the end of Claire Court and Forrester because of an abrupt dead end. The neighborhood suffers unnecessary problems due to a lack of street signs. Nearly three times as many area residents have no car available to them as compared to residents of the City as a whole. There is one bus route through the neighborhood with no shelter and very few bus stops, as shown on Map 11.

The Sawmill area is served by Wells Park Community Center. Many people who work in the Downtown area, as well as their children, make use of the center. Additional facilities are needed to accomodate additional programs for area residents. Map 12 shows that nearly all the population of the area is within the service radius of one of the two parks within the boundaries of the area.



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Scale: 0' 450' 900'

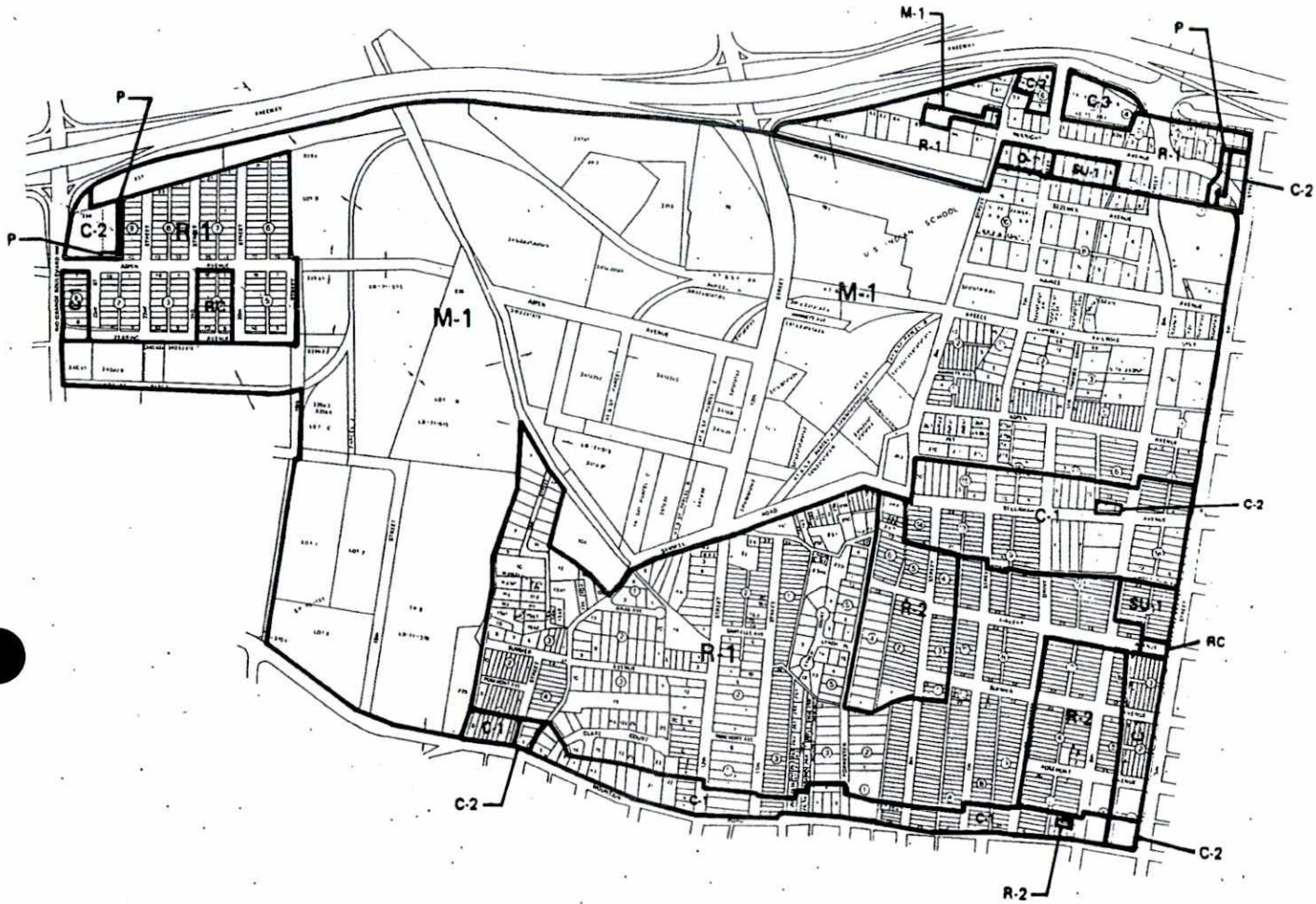
MAP 2

SAWMILL PLAN

EXISTING LAND USE

- SINGLE FAMILY RESIDENTIAL
- MULTI-FAMILY RESIDENTIAL
- OFFICE / RETAIL / COMMERCIAL
- HEAVY COMMERCIAL / LIGHT INDUSTRIAL
- PUBLIC / SEMI-PUBLIC
- VACANT

Albuquerque/Bernalillo County Planning Department



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MAP 3

SAWMILL PLAN

EXISTING ZONING

- R-1 SINGLE FAMILY RESIDENTIAL
- R-2 LOW DENSITY APARTMENTS
- RC RESIDENTIAL / COMMERCIAL
- C-1 NEIGHBORHOOD COMMERCIAL
- C-2 COMMUNITY COMMERCIAL
- C-3 HEAVY COMMERCIAL
- O-1 OFFICE / INSTITUTIONAL
- M-1 LIGHT MANUFACTURING
- SU-1 SPECIAL USE
- P PARKING

Albuquerque/Bernalillo County Planning Department

PLAN PURPOSES

A. General

The function of this plan is to provide an official guide to the future development of the Sawmill area for use by Albuquerque elected and appointed officials, City staff, other concerned governmental agencies, residents, property owners and citizen organizations.

The New Mexico Community Development Law and this plan have as their principal goals the conservation and renewal of neighborhoods and the improvement of living conditions of low- and moderate-income families. In addition, the Policies Plan of the Albuquerque/Bernalillo County Comprehensive Plan has as its goal for urban area "a quality urban environment which perpetuates the tradition of identifiable, individualistic communities within the metropolitan area and offers variety and maximum choice in housing, work areas and life styles, while creating visually pleasing architecture, landscaping and vistas to enhance the appearance of the community."[1] The first policy adopted to attain this goal states, "Redevelopment and rehabilitation of older neighborhoods should be continued and expanded."[2]

The general purpose of this plan is to reach these objectives in the Sawmill area. The goal of City action in this neighborhood should be to better separate the part of the area which is suitable for residential use from the part which is suitable for manufacturing and heavy commercial activities. While it is not ideal to have a residential neighborhood so close to an industrial area, the presence of a sawmill and related industries in this area has become part of the area history. Nearby residents also feel strongly that they prefer to remain in the neighborhood in spite of the noise, pollution and traffic coming from the industrial area rather than move from the area. That part of the area which is suitable for residential use should be improved through provisions of public facilities and upgrading the housing stock. That part of the area which is suitable for industrial use should be encouraged to develop with industries.

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[1] Albuquerque/Bernalillo County Planning Department, Albuquerque/Bernalillo County Comprehensive Plan Policies Plan (Albuquerque: Albuquerque/Bernalillo County Planning Department, 1975), p. 4.

[2] Ibid.

B. Specific

To achieve these goals, the following long-term objectives should be achieved in the Sawmill area:

1. Elimination of conditions which are detrimental to the public health, safety and welfare;

2. Elimination of blight and prevention of blighting influences;

3. Conservation, improvement and expansion of the housing available to low- and moderate-income families until all housing in the area meets City Housing Code standards;

4. Provision of needed public facilities, such as improved traffic facilities and utilities;

5. Expansion and improvements of the Community Center;

6. Stabilization of the land use pattern to separate the residential and industrial parts of the neighborhood with buffering between them.

In the more immediate future, refinements of these long-term objectives should be accomplished to begin the redevelopment of the area in accordance with the general purposes of this plan. These short-term objectives which should be achieved in the Sawmill area are:

1. Upgrading the housing in the area in a concentrated neighborhood-wide improvement program;

2. Provision of improved public facilities, such as curbs and gutters, street signs, street paving, street lights, water lines, sewer lines, fire hydrants, storm sewer, and benches at bus stops. The Sidewalk Ordinance should be enforced in a concentrated effort;

3. Improvement of Mountain Road as soon as possible to ease traffic congestion and encourage property owners to upgrade property along the road;

4. Scheduling of Sawmill-Bellamah street widening to a four-lane divided minor arterial on the short-range Transportation Improvement Program;

5. Continuance of monitoring of pollution standards;

6. Vacation of unused alleys with easements to public utilities where needed to decrease weeds and litter in the area.

AREA PLAN

A. Land Use

As explained in the Plan Purposes section, it is not usually desirable for a residential neighborhood to be located near an industrial area. In Sawmill, the presence of industry is part of the history of the area and residents desire to remain in the neighborhood in spite of the problems caused by being so near the industries. Thus, the goal of City action is to improve the quality of both parts of the area by separating and buffering them better. Due to the mixture of industrial and residential zoning in some locations, several zone changes are needed to achieve the purposes of this plan.

Sawmill also has much more commercial zoning than has ever been used. Most of the C-1 zoning along Fifth Street and Bellamah has not been developed, and very few of the commerical zoned lots along Mountain Road have been used for commercial purposes. The effect of this inappropriate zoning has been to discourage new families from moving into the area and to discourage residents from expanding and improving their existing homes. In the commercial zones, housing is a conditional use, discouraging applications for building permits and signaling to the banking and mortgage industry that loans for home improvements or mortgages may be more risky than in residential zones. The result may be higher interest rates and shorter terms for such loans, increasing the monthly payments and discouraging people from borrowing money to maintain or improve existing homes. Many area residents also believe that property taxes are higher on commercially zoned property than on residentially zoned property, regardless of condition and current use. Several blocks are also zoned R-2 for apartment use but are developed with single family homes. This low-density apartment zoning appears to provide an incentive for property owners to convert houses or garages into apartments. A look at other neighborhoods has shown that garage and other backyard apartments are not as well maintained as either higher density apartments or the original single family homes. Many neighborhood residents oppose extensive apartment development in the area, fearing the loss of the quiet, single family character of the neighborhood and poorly maintained backyard apartments detracting from the quality of the area.

Substantial zone changes are, therefore, needed. The most basic decision to be made is to define the boundary between the residential and industrial areas. The Sawmill Road-Bellamah Avenue connection is the only through street in the neighborhood and now forms the dividing line between residential and industrial along Sawmill. This street is also shown on the City's Long-Range Major Street Plan as a four-lane divided minor arterial extending to Mountain Road near Tiguex Park. This future major street offers the best possibility for serving as the divider and could provide some buffering for the residential area through intensive landscaping. Completion of this connection as shown on the Long-Range Major Street Plan may require many years. The first phase, widening of the existing sections of Sawmill and Bellamah, and extension to Mountain Road near the park, should be scheduled on the short-range Transportation Improvement Program and implemented as soon as possible. Two possible extreme alignments and a sketch of a suggested street and landscaping design are shown on Map 14 and Sketch 1. This first phase would form a buffer between the two parts of the neighborhood, and would provide better traffic access for the industries and Old Town traffic from Rio Grande Boulevard to Twelfth, Fourth, Fifth and Sixth Streets. The second phase of the Sawmill-Bellamah

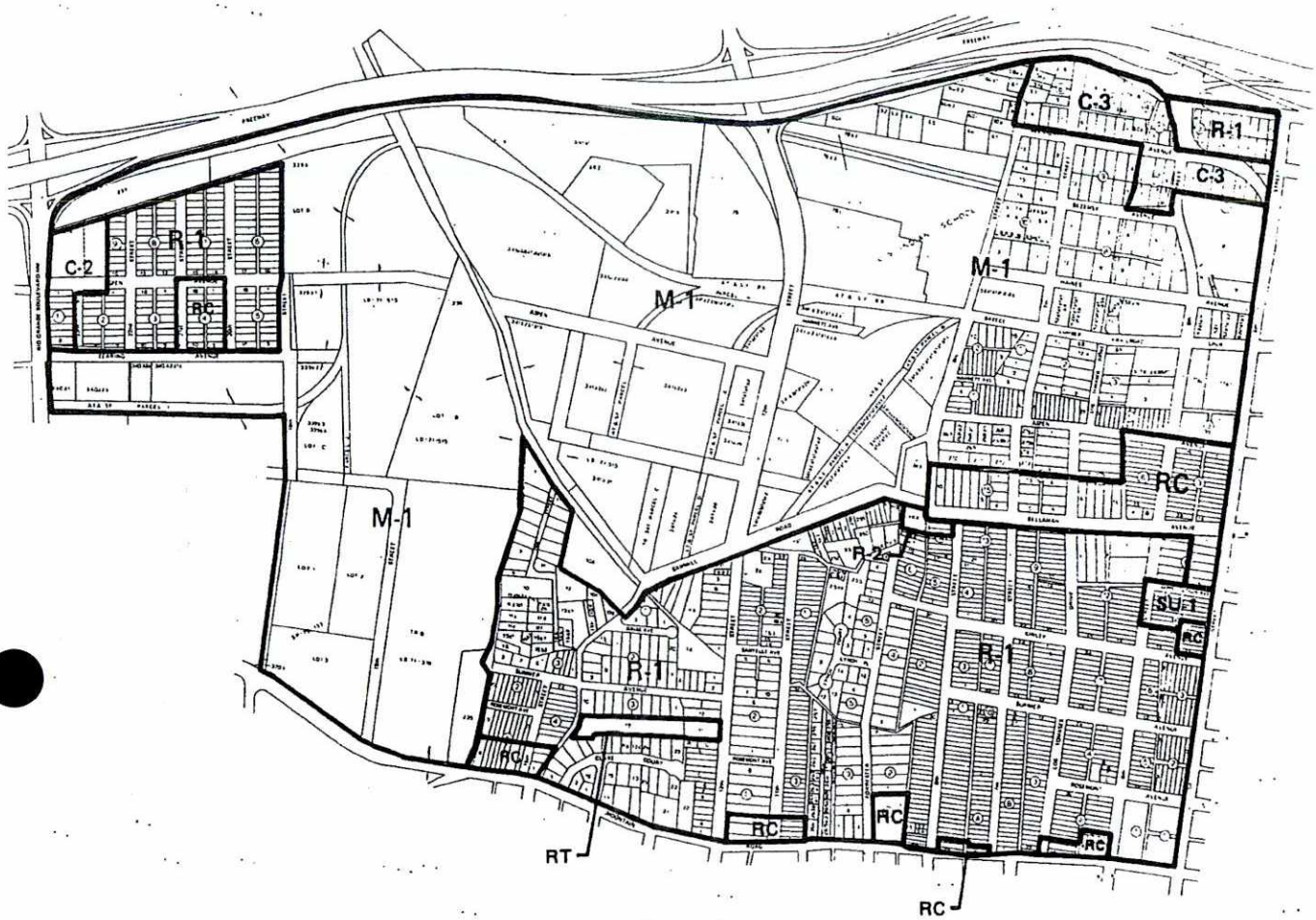
improvement would be an extension from Fourth Street to Broadway, including a bridge over the railroad tracks to connect Odelia and Indian School Roads. Because of the expense of the bridge, this phase may take much longer than the first phase.

With this proposed new street designated as a buffer for Sawmill, no industrial zoning should be allowed south of it, and once the alignment is decided, no residential zoning should remain north of it. The City should initiate the necessary zone changes to accomplish this when the alignment is determined. The new zoning, shown on Map 13, is recommended to conform with this pattern. The northern end of Fifteenth Street is surrounded on three sides by industry. In the future, this residential area may become further isolated from contiguous residential neighborhoods due to the possible Sawmill Road extension. It is, therefore, recommended that the future land use might best be M-1. However, at present, R-1 use is stable and zone change requests to M-1 should be considered on individual application. Several blocks between Eighth and Sixth Streets, on both sides of McKnight, are proposed for change to C-3. The blocks of R-C zoning north of Bellamah are suggested because the homes there are in good condition, and R-C zoning would provide a more gradual change. The unused C-1 and C-2 commercial zoning south of Bellamah and along Fifth is proposed for change to R-1, with a few lots of R-2 where a new apartment building now exists, and R-C to stabilize the existing residential uses. The commercial strip zoning of Mountain Road is replaced by R-1 and nodes of R-C. The nodes are currently in commercial use or vacant and adjacent to commercial uses. These businesses are expected to remain after Mountain Road is realigned. The R-2 zoning has been changed to R-1 for blocks already developed with single family homes. The R-T zoning is proposed for the tracts west of Twelfth Street because of the unusual configuration of the land. It is vacant and virtually undevelopable because lots back up to it on both north and south. R-T zoning will provide more incentive to develop it and rid the neighborhood of the problems it causes by remaining vacant.

The area in the Baron Burg Addition will remain R-1, but zone change requests to R-C will be considered on an individual basis.

With the approval of this sector development plan, the zoning shown on the Land Use Plan, Map 13, is adopted. While circumstances in the future may make additional zone changes desirable, the character of the area should not be changed.

Several alleys in the area, shown on map 10, have not been used in recent years and are poorly maintained, causing problems for area residents. These should be vacated since they are not used for vehicular access. All existing public utility easements should be retained where needed.



N

Scale: 0' 450' 900'

MAP 13

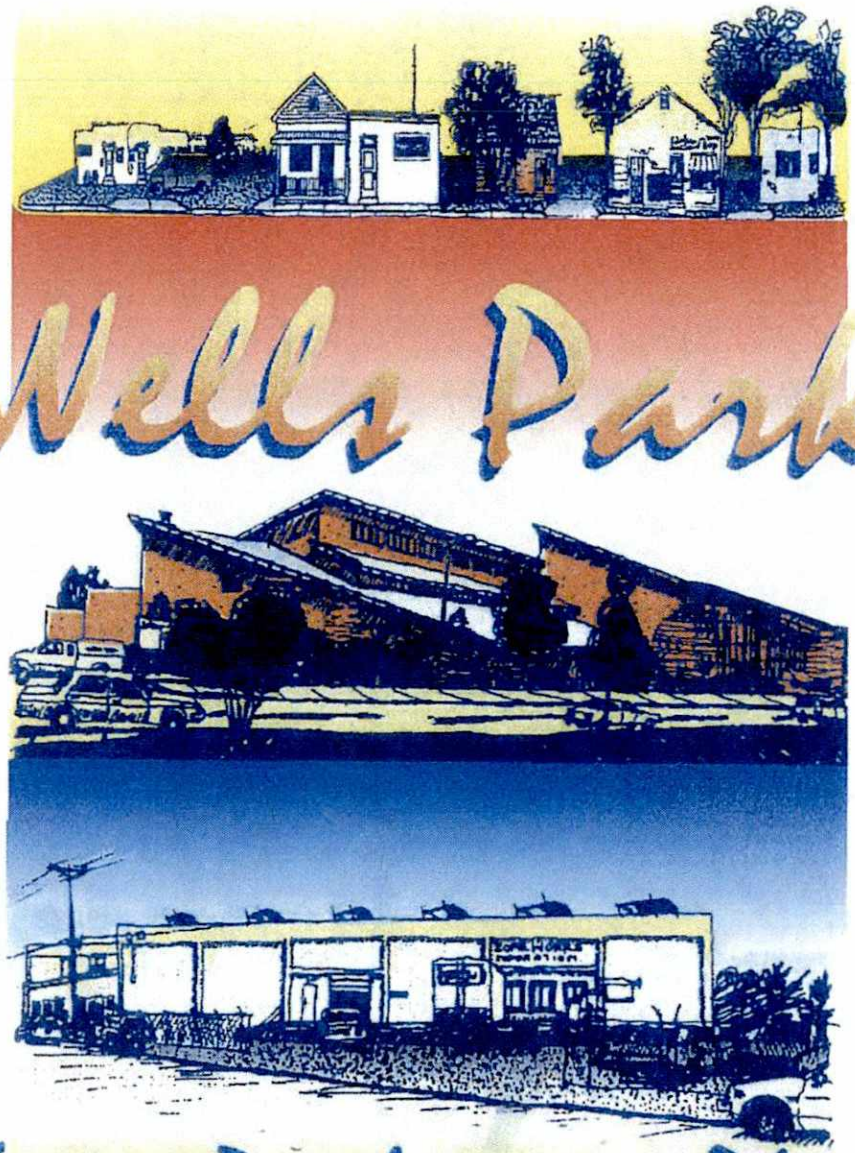
SAWMILL PLAN

LAND USE PLAN

R-1 SINGLE FAMILY RESIDENTIAL
RT RESIDENTIAL TOWNHOUSE
R-2 LOW DENSITY APARTMENTS
RC RESIDENTIAL / COMMERCIAL
C-2 COMMUNITY COMMERCIAL
C-3 HEAVY COMMERCIAL
M-1 LIGHT MANUFACTURING
SU-1 SPECIAL USE

Albuquerque/Bernalillo County Planning Department

Sawmill Wells Park



Sector Development Plan

Adopted by the City Council January 17, 1996
and amended January 2000 & November 2002
by the City Council

Kilmer - Attachment 6

ADMINISTRATION

Mayor Martin Chavez
Lawrence Rael, CAO
Jay Czar, Deputy CAO

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Joe Lujan, Charts, Area Map and Trails and Parks Map
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IMPORTANT NOTE

This Plan includes maps showing property zoning and platting which is dated as of the Plan's adoption. Refer to the Albuquerque Geographic Information System or current Zone Atlas for up-to-date zoning and platting information.

PLEASE NOTE

Amendments to the original plan are underlined.

The Sawmill Revitalization Strategy is a companion document to this Sector Plan. It provides the conceptual framework for revitalizing over 60 acres of vacant property. The Strategy, which will be incorporated into a Metropolitan Redevelopment Plan, also promotes environmentally sound industrial development, new housing, and buffers and linkages between housing and other uses. It provides the basis for specific revitalization projects.

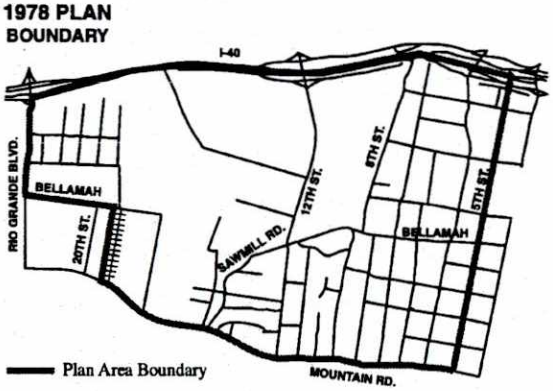
Success depends on community commitment to creating and sustaining a healthy integration of businesses, housing and regional attractions. It particularly depends on continued strong involvement from individuals and community and nonprofit organizations such as the Sawmill Advisory Council, the Wells Park Neighborhood Association, Neighborhood Housing Services, and local businesses and institutions.

PLAN BOUNDARIES

The original plan area boundaries were selected in the 1970s to ensure area eligibility for Community Development Block Grant funding. The proposed plan boundaries encompass 504+ acres (less than 1 square mile, including streets, ditches and easements). To encourage well-planned public projects and zoning consistent with the goals of this Sector Plan, the City recommends that the 1978 Sawmill Sector Development Plan boundaries be expanded to include two additional areas: 1) the area between Mountain Road, Rio Grande Boulevard, Eighteenth Street and Bellamah, and 2) the properties on the east side of Fifth Street between Mountain Road and Interstate Highway 40.

Other areas to the south and west that share issues with Sawmill/Wells Park have not been included within the new boundaries because they are included in other existing sector development plans. The plan does recommend that the Downtown Neighborhood Sector Development Plan be amended to include the Sawmill/Wells Park General SU-2 Regulations for the south side of Mountain Road. Public projects and public street design recommended for Mountain Road are intended to make it a better place for people in the neighborhoods to the north and south.

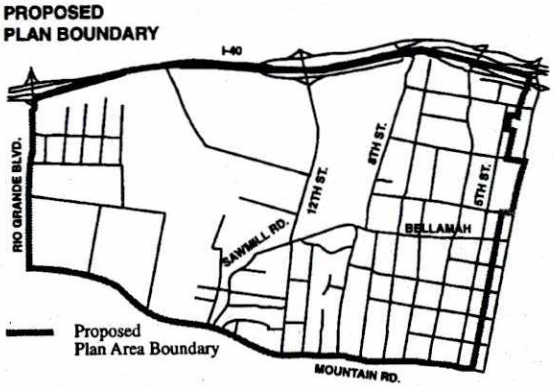
1978 PLAN BOUNDARY



SOURCE: 1978 Sawmill Sector Development Plan

North: I-40
East: West side of 5th St.
South: Mountain Rd. to 19th St., north along the AT & SF rail spur, west along Bellamah Rd.to Rio Grande Blvd.
West: Rio Grande Blvd.

PROPOSED PLAN BOUNDARY



North: I-40
East: Includes properties on the east side of 5th St.
South: Mountain Rd.
West: Rio Grande Blvd.

THE PLANNING PROCESS

The Sawmill/Wells Park Sector Development Plan reflects the ideas, reactions and interaction of the many people who participated throughout this planning effort. The 1990 census counted 2,460 people living within plan boundaries. The 1991 Department of Labor Statistics counted approximately 2,235 employees and 132 businesses. The plan attempts to strike a balance amongst the many points of view expressed while promoting the health, safety and welfare of the area.

Several community meetings were held to discuss concerns and ideas. Neighborhood associations, local nonprofit organizations, residents, business owners and property owners called, wrote letters, met with City staff individually or in small groups, and met without City staff to draft recommendations. (See Appendix A.)

During the first year of planning, participants identified the most pressing community issues and helped formulate plan objectives. The remainder of the process involved identifying useful strategies for attaining these objectives. Funding and other resources were sought for projects that could be initiated before a plan was adopted.

The first Sawmill Sector Development Plan (adopted in 1978) emphasized the need to improve drainage, streets and lighting. Most of the projects called for in that plan have been implemented. Sawmill/Wells Park area residents initiated this plan update through their City Councillor in 1991. The following list of actions were proposed during the planning process:

- Introduce new uses for vacant industrially zoned lands near neighborhoods.
- Initiate new policies and actions to eliminate area environmental pollution.
- Recommend new zoning where appropriate.
- Ensure that the design of new developments contribute to the existing historic character of the area.
- Provide job training, well-paying jobs, and help existing businesses to succeed.
- Move nonpolluting businesses to the plan area.
- Help polluting industries leave the plan area or change operations to become good neighbors.
- Ensure that businesses and museums expanding from the Old Town area are physically accessible to nearby residential neighborhoods, but do not encroach on them.

OTHER ISSUES

Although the following important issues were raised during community meetings, this Sector Plan does not propose specific methods for addressing them. In most cases, city-wide policies and programs are more appropriate or local programs have been initiated.

COMMUNITY STRENGTHS AND COMMUNITY ISSUES

"...A neighborhood becomes a community if the people in it talk together, work together, respect one another....When neighborhood people become community...a neighbor...is someone with whom one owns the neighborhood."

"If the neighborhood does not define its own problems, someone else may define them inappropriately."

---Partners: Neighborhood Revitalization Through Partnership and A Minneapolis Case Study, Dayton Hudson Foundation, 1981.

COMMUNITY ISSUES

The following issues either have already had a negative effect on the community or could threaten the community if appropriate steps are not taken.

1. Deterioration of the community's physical appearance and character

2. Environmental degradation

3. Unemployment, under-employment and insufficient household incomes to maintain properties, to pay escalating property taxes, and to buy or improve homes

4. Insufficient visible public investment

5. Insufficient public recreational opportunities for adults and children

6. Incompatible land uses
   Encroachment of intense land uses on residential areas
   Isolated neighborhoods surrounded by regional services or manufacturing

7. Insufficient neighborhood commercial services

The Sector Plan's action plans, public project design policies, and zoning regulations address these concerns. The following proposals are consistent with policies in all other plans and ordinances affecting the plan area: The Albuquerque/ Bernalillo County Comprehensive Plan, the Rio Grande Boulevard Corridor Plan as it relates to properties abutting Rio Grande Boulevard, and Historic H-1 Zone regulations as they relate to properties within the Historic Old Town Buffer Zone.

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.

ZONING

ISSUES AND ANALYSIS

American cities have been developing comprehensive zoning codes since 1916. Traditional zoning divides cities into districts which allow only similar types of land uses. This form of zoning does not work well in places such as Sawmill/Wells Park where several types of land uses are already intermixed or where mixing new uses can be desirable.

Albuquerque's first legal zoning code and official zone map (late 1950s) were meant to create order, but may actually have contributed to decay in Sawmill/Wells Park and other old parts of the city. When standard zoning designations were assigned to these developed parts of the city, it was assumed that many existing homes and businesses would eventually be replaced with land uses that would conform to the new zones. Uncertainty about the future led to center city disinvestment and instability.

In 1978, Sawmill's first sector plan continued to assign standard zoning designations to the area's many mixed uses. The area is still zoned much as it was in 1978, but the actual land uses do not conform to the zoning. Standard zoning designations do not support the following community goals:

1. To conserve the special physical characteristics of the area
2. To ensure compatibility between housing and businesses
3. To improve area appearance
4. To improve and expand housing
5. To reuse vacant land in ways that will promote plan goals

The M-1 Light Industrial Zone that was designated for over two-thirds of Sawmill/Wells Park has allowed industrial businesses to grow where there had been a mixture of businesses, homes and farms. M-1 zoning fails to adequately protect nearby homes from the nuisances, hazards, and visual unattractiveness that often accompany heavy commercial and light industrial uses the zone allows.

In 1978, **the R-1 Single-Family Residential Zone** was assigned to areas that still have a mixture of houses, duplexes, and two houses on a lot. Conformance with the R-1 zone would eventually remove much existing housing stock in the neighborhoods because the zone does not allow duplexes and two detached houses on a lot.

The R-C Residential/Commercial Zone was assigned to areas where solid residential patterns are established. In some areas, R-C zoning was meant to create a buffer between housing and industrial zones. However, a mixture of housing and businesses on small lots does not have the site development capability to buffer housing from industry. Most of the lots zoned RC have either remained housing or become 100% commercial uses. Neither R-1 nor R-C zoning will conserve the existing variety of small scale residential development nor encourage commercial services for the neighborhoods.

In March 1993, five public meetings were held to discuss the first draft zoning proposals for this Sector Plan. The draft introduced new zones that allowed a continued mixture of uses in Sawmill and Wells Park. Some preliminary performance standards that would control land use operations were discussed. In general, people who attended the meetings or sent in comments made the following recommendations:

- Residents wanted strict environmental controls for businesses and the eventual removal of some uses.
- Business owners wanted clearly written regulations that were not too restrictive.
- Large property owners wanted to be able to market their land with few restrictions.
- Developers wanted clear regulations and administrative review of site plans rather than lengthy public hearings.

The proposed zoning regulations factor in these recommendations while supporting community goals.

SUMMARY OF ZONING PROPOSALS

This plan designates the entire Sector Plan area **SU-2 Special Neighborhood Zone**. Unlike SU-1 Special Use Zone, SU-2 does **not** require Environmental Planning Commission public hearings for development review.

The SU-2 zoning designation allows the City to establish general regulations and land use regulations that are tailored specifically to the Sawmill/Wells Park community. The new regulations are intended to promote community stability and investment that respect existing community character. The regulations will:

- Guide the design of new development to preserve the historic scale of development in the neighborhoods, improve area appearance, and create buffers between industries and housing;
- Control negative impacts from industries and other businesses and ensure healthy co-existence between closely located businesses and homes;
- Maintain existing residential development patterns that do not fit standard zones in the Comprehensive Zoning Code;
- Allow existing small businesses and other land uses that do not harm the community to remain in residential areas;
- Enable vacant and under-used land redevelopment that addresses plan goals; and
- Allow new uses that will contribute to community cohesiveness.

SAWMILL/WELLS PARK GENERAL SU-2 REGULATIONS

The Sawmill/Wells Park General SU-2 Regulations apply to all properties in the Sector Plan area. They are established to conserve the area's distinctive historic physical characteristics, increase compatibility between housing and nonresidential uses through site design and other requirements, and make the area more attractive and safer for people using streets and sidewalks.

ZONE CHANGES

For detailed information, see the Sawmill/Wells Park Sector Development Plan Zone Map and the regulations in each zone category.

The S-R Sawmill Residential Zone replaces C-1 Neighborhood Commercial zoning along 5th Street and Sawmill Road, some SU-1 Special Use zoning, and most R-1 Residential, R-T Residential Townhouse, and R-C Residential Commercial zoning. Its intent is to conserve the existing residential neighborhoods while allowing a variety of small scale housing and existing businesses. The new zone will accommodate existing nonresidential uses that have developed between housing provided they comply with limitations specified in the S-R Zone and the Sawmill/Wells Park General SU-2 Regulations.

The S-DR Sawmill Developing Residential Zone replaces M-1 Light Manufacturing zoning on about 12 acres of vacant land to allow expansion of the John Baron Burg neighborhood to the east.

The S-MRN Sawmill Mountain Road Neighborhood Zone replaces the mixture of R-1 and R-C zoning on the north side of Mountain Road. Its intent is to encourage reuse of vacant buildings and development of vacant land while more effectively conserving the historic mixture of housing and small commercial businesses.

The S-MI Sawmill Mixed Industrial Zone replaces some M-1 and all of the Sector Plan area's C-3 Heavy Commercial and M-2 Heavy Manufacturing zoning. Its intent is to continue to allow manufacturing, showrooms, warehouses, wholesaling, and some retail businesses, but to ensure that the scale of development and uses are compatible with nearby housing, hotels, retail shops, and museums. This zone also introduces a new mixed use, the residence/work space.

The S-I Sawmill Industrial Zone replaces the M-1 zoning clustered in the center of the plan area near 12th Street. Its intent is to encourage the development of manufacturing businesses. Commercial businesses generally allowed in the M-1 Zone are confined to properties on 12th Street.

Some M-1 properties along Rio Grande Boulevard are rezoned C-2 Community Commercial to encourage commercial services for tourists and nearby residents.

Some existing SU-1 zones are retained while others are absorbed into new zoning categories that accommodate their uses.

C-2 Community Commercial zones that predate the adoption of this Sector Plan update are retained along Rio Grande Boulevard.

The Explora Museum property is rezoned SU-1 for Museum to allow site plan review by the Environmental Planning Commission.

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.

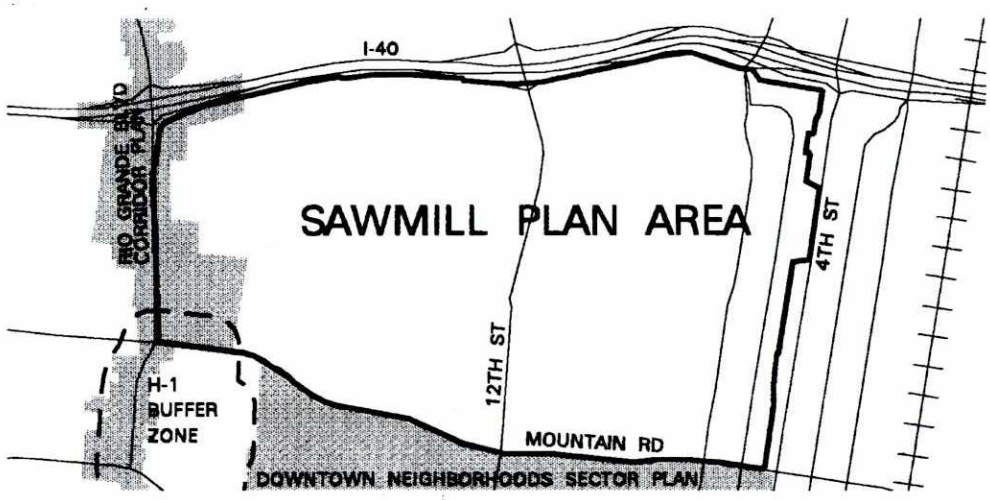
NONCONFORMING USES

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.

OVERLAPPING REGULATIONS

Zoning regulations from two other plan areas overlap the Sawmill/Wells Park Sector Development Plan area: Old Town's H-1 Buffer Zone and The Rio Grande Boulevard Corridor Plan Design Overlay Zone. Properties within the H-1 Buffer Zone are required to submit designs to the LUCC (Landmarks and Urban Conservation Commission). In all cases, the strictest regulation applies.

The City shall request that the Downtown Neighborhood Sector Development Plan be amended to add Sawmill/Wells Park Sector Development Plan General SU-2 Regulations for properties on the south side of Mountain Road.



USING THE ZONING REGULATIONS

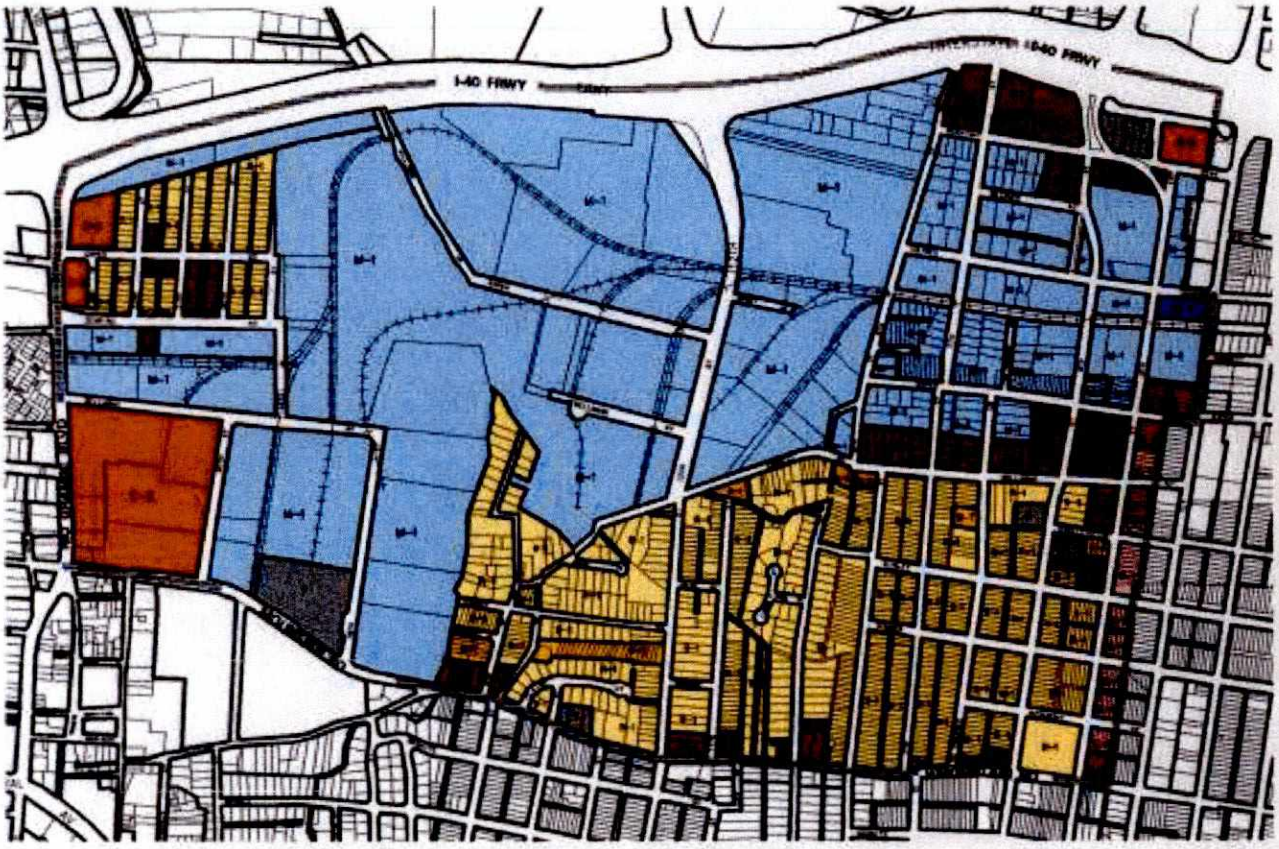
1. Locate your property on the fold-out color zone map on page 81.

2. Look up the specific regulations for the zoning category that applies to your property: S-R, S-DR, S-MRN, S-MI, S-I, C-2. C-2 regulations are found in the City of Albuquerque Comprehensive Zoning Code. SU-1 zoning can be researched through official files in the Planning Department.

3. Read the first pages of the General SU-2 Regulations to determine whether these regulations apply to your property.

4. If they do apply, then read all the regulations under this zoning section.

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

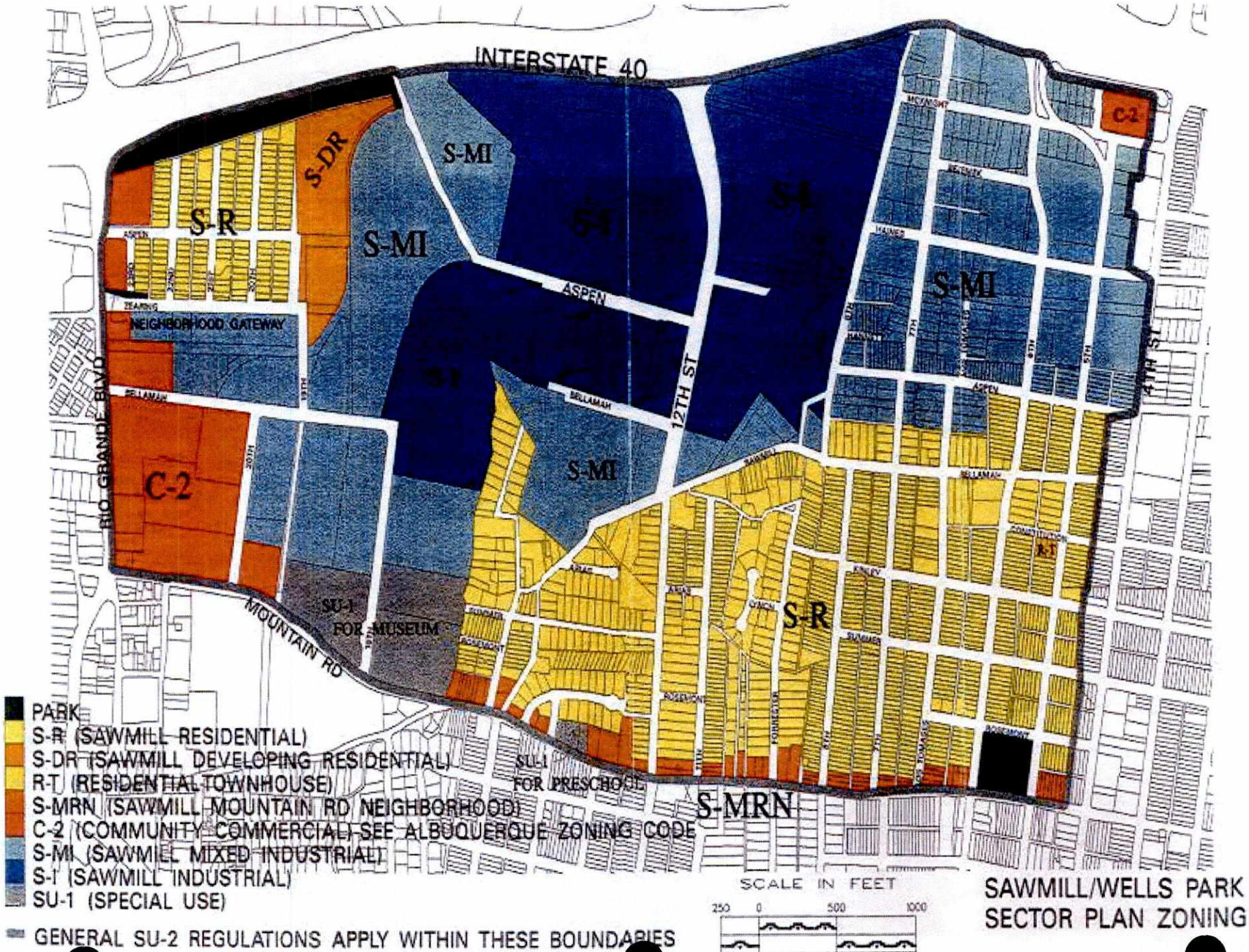
SU-1 SPECIAL USE FOR

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



SAWMILL/WELLS PARK
SECTOR PLAN ZONING

SAWMILL/WELLS PARK GENERAL SU-2 REGULATIONS

The General SU-2 Regulations apply to all properties in the Sector Plan area unless specified otherwise. The regulations are established to:

- Conserve and build on the area's distinctive historic physical characteristics by guiding new construction and additions to respect predominant building sizes, shapes, setbacks and architectural elements. See p. 5 for a description of area physical character.

- Increase compatibility among housing, institutions, commercial, and industrial land uses through site design and other requirements.

- Improve the environment adjacent to the public right-of-way through specifications for site parking, walls, fences, landscaping, and pedestrian connections.

1. REGULATION COMPLIANCE, COMPLIANCE PERIODS AND PROCESS REQUIREMENTS:

All provisions of the Albuquerque Comprehensive Zoning Code apply unless specified otherwise in this Sector Plan.

1.a. Within four (4) years of plan adoption, all nonresidential properties within the Sawmill/Wells Park Sector Development Plan area except for Electric Facilities and other uses specifically exempted in particular regulations, shall comply with applicable regulations for enclosure, screening and buffer separation, or shall apply for special exceptions as provided for by Section 14-16-4-2 of the City of Albuquerque Comprehensive Zoning Code. Electric facilities shall comply with the applicable Rank II Electric Facility Plan.

1.b. All building permit applications for new construction shall comply with all of the Sawmill/Wells Park General SU-2 regulations.

1.c. Building permit applications for building additions, building renovation, and/or site rehabilitation shall comply with Sawmill/Wells Park General SU-2 regulations for those parts of the site undergoing construction.

1.d. Site development plans, building elevations and other items required to obtain building permits shall be checked for compliance with Sawmill/Wells Park General SU-2 regulations during the normal submittal processes for the City.

* 1.e. Business registration applications and building permit applications for businesses that will use or store hazardous materials or wastes on site in excess of the amounts set forth in Uniform Fire Code Article 4.108 shall include a Hazardous Materials Emergency Response Plan as directed by the Fire Marshall's Office. See Appendix B for Hazardous Materials Emergency Response Plan forms.

1. REGULATION COMPLIANCE, COMPLIANCE PERIODS AND PROCESS REQUIREMENTS (continued):

1.f. Building permit applications shall continue to include sign-off approval from the Fire Marshall's Office indicating that the property is in compliance with the Albuquerque Fire Code and the applicant's signature agreeing to comply with all laws governing the construction and later activities on the site covered by the building permit. The applicant's signature implies agreement to comply with the Ambient Air Quality Standards and Air Quality Control Regulations for Albuquerque /Bernalillo County when applicable. See page 29.

1.g. The Environmental Planning Commission shall consider all General SU-2 Regulations when reviewing SU-1 zoning applications.

1.h. Sawmill/Wells Park Sector Development Plan area properties within the Rio Grande Boulevard Corridor Plan Design Overlay Zone and the H-1 Buffer Zone shall continue to comply with those regulations in addition to the Sawmill/Wells Park Sector Development Plan regulations. The Landmarks and Urban Conservation Commission (LUCC) shall continue to review site development in the H-1 Buffer Zone. In all cases, the stricter regulation shall apply.

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* Additional questions should be placed on the Building Permit Application to ensure compliance with the Albuquerque Fire Code hazardous materials regulations. Compliance shall be checked before the Certificate of Occupancy is granted. To facilitate compliance, a pre-application meeting will be offered to the applicant. At this meeting, City staff will explain the information needed to complete the building permit application and technical assistance appointments will be made if necessary.

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.

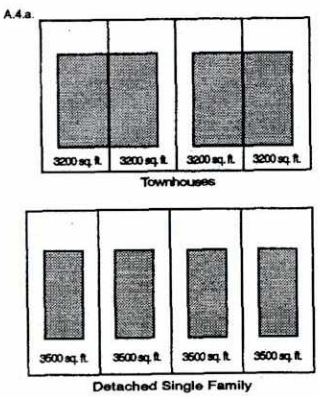
A.4.c. Townhouse developments are separated by a minimum of 600 feet measured from the closest property lines.

A.4. Permissive Uses in the R-LT Zone are generally as follows:

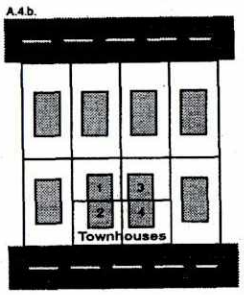
1. Uses permissive in the R-1 Zone, except
   a. Agricultural animal keeping is not permitted
   b. Front yard parking of recreational vehicles is not permitted.

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.

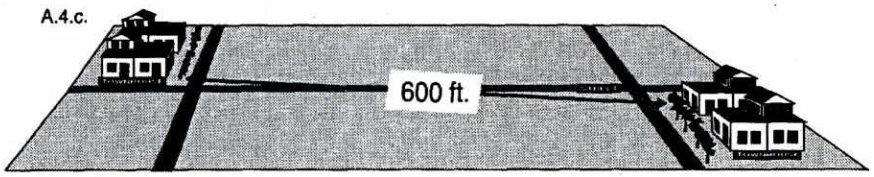
A.4.a.



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

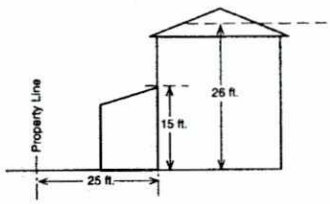
B. Conditional uses in the R-1 Zone minus the three exceptions listed to the left are generally as follows:

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.

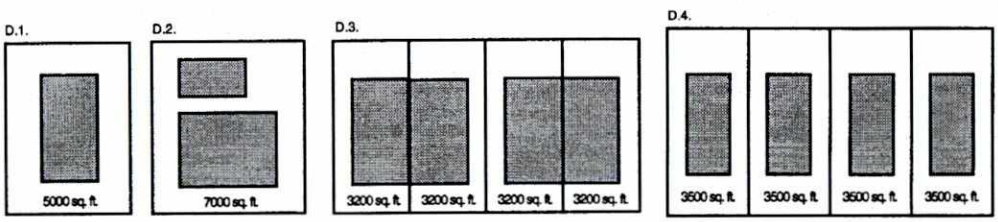
D.2. Several lots in Sawmill and Wells Park neighborhoods already have duplexes or two detached houses.

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.

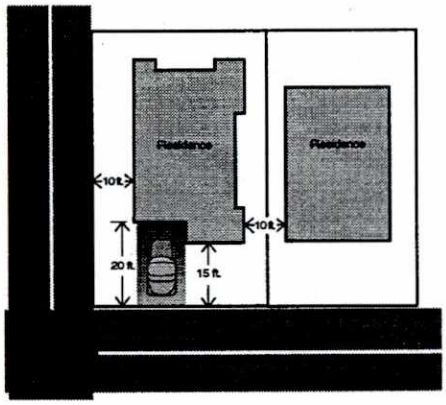
D.4. 3,500 square foot lots are the standard lot size in the John Baron Burg neighborhood.



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.

APPENDIX A

PLAN PARTICIPATION AND DEVELOPMENT

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)

PUBLIC PARTICIPATION

The following list of planning participants includes neighborhood association representatives; people who attended meetings; people who worked on Sawmill/Wells Park Plan Subcommittees; and others who called, wrote, filled out questionnaires or came to the City Planning Department Office to offer their recommendations. The listed businesses received copies of a business questionnaire. Several businesses participated in the survey and others participated in planning meetings and working sessions.

Complete meeting attendance lists may be examined in the Sawmill/Wells Park files stored in the Planning Department.

NEIGHBORHOOD ASSOCIATIONS

SAWMILL ADVISORY COUNCIL
Max Ramirez, President
Debra O'Malley, Vice-President

WELLS PARK NEIGHBORHOOD ASSN
Jessie Sais, President
Lorraine Sena

SAWMILL TOWNHOMES OWNERS ASSOCIATION
Margaret Armijo

HISTORIC OLD TOWN PROPERTY OWNERS ASSOCIATION
Richard L. Sanchez
Jim Hoffsis

NEAR NORTH VALLEY/ OLD ALBUQUERQUE INDIAN SCHOOL NEIGHBORHOOD ASSOCIATION
Marit Tully
David Thompkins

PLAZA VIEJA NEIGHBORHOOD ASSOCIATION
Millie Santillanes

DOWNTOWN NEIGHBORHOOD ASSOCIATION
Leah Weiss
Ford Davis
Perry Wilkes

BUSINESSES AND INSTITUTIONS 6/92

12th St.
A A D F Warehouse Corp
After the Stork Mail Order Div.
Cardinal Paper Company
Cleaning Specialists of Alb
Flip's Specialty Food & Paper
Gorman Appliance Co.
Gorman Industries Inc.
InTel Productions Warehouse
Laun-Dry Supply Company Inc
O'Malley Glass & Millwork
Sandia Vending
Sunland Sanitary Supply Inc
Sunshine Food Market
Albuquerque Truck Wash
Universal Printing
Margie Weinstein Pottery

BUSINESSES AND INSTITUTIONS 6/92 (continued)

20th St.
Stewart-Walker Company
Western Allied Systems Company

21st St.
Triple A Solar

Zearing
Brokerage House Const. Supply
C B N Corporation
McClain Company
Quality Products
The Hardware House
The Realty House
IMP-Institutional Meat Packers Ltd.
Remod Inc.

Fourth St.
Albuquerque Nissan Used Cars
Dubois, Caffery, Cooksey and Bishoff

5th St.
Catholic Charismatic Center
Mark Clayburgh Construction
Electrical Products Co. of NM
Friends Meeting House
Lembke Construction Co. Inc.
Patrick McClernon PA
McLeod Printing Company
Mid-Continent Office
Anne Davis-Walker Realtor

6th St.
C-R Custom Wood Cabinets Doors
Childers Manufacturing Co. Inc.
Davidson Upholstery Supply Company
Downtown Daycare & Preschool
Gray's Flower Shop

7th St.
Albuquerque Chemical Co. Inc.
Albuquerque Cleaning
Aluminum Sales Corp
Bubba's Convenience Center #4
Carretas-The Cart Company
City Glass Company
Chuck Gallagher Photography
Gary's Heating & Air Conditioning

BUSINESSES AND INSTITUTIONS
6/92 (continued)

7th St. (continued)
ICEE-USA Corp.
Norman Johnson Photography
Metal Fab
Optech Manufacturing
Pilsner Fleet Maintenance
The Popcorn Cannery
Rio Grande Machine Shop
Rio Grande Oil Co.

8th St.
Adobe Roofing Company
Duke City Transfer & Storage
Gossett Brothers Inc.
Lanikai Rio Grande
Reliance Steel Corporation

9th Street
Central Supply Center

Aspen (east of 12th Street)
Metric Motors
Max's Auto Repair
Southwest Metal Supply
Two Brothers Steel Industries
Ramirez Sign Company
T-Shirt Specialists
Independent Fire Co.
J & T Roofing Company
Kelly Electric Company
Thomas Electric

Indian School
Kabana Inc.

McKnight
Chaparral Electric Co.
Churchill Trucklines

Hannett
Fred's Spits & Sputters Garage

Los Tomases
Albuq. Vet. Housecall Practice
Suncraft Machine Sales

Haines
Action Safety Supply Inc.
Cunningham Distributing Inc.
Delphi Research Inc
Five Foreign Auto Salvage
Instrument Service Laboratories
Library of Paints N M Inc.
Mountain Top Tees
National Research Labs Inc
Trim Shop Building Materials

Bellamah (east of 12th Street)
Consolidated Agency
Pete's Equipment Repair

Sawmill
Design Materials
Elliston Development Inc.
Zomeworks

Summer
Albuquerque Driveshaft Exchange Inc.

Rosemont
Hoover School Supplies

Aspen (west of 12th Street)
New Mexico Cold Storage Co.
Crystal Spring Bottled Water
Landlock Seafood Co.
Gourmet Quality Steak
Mountain States Meat & Poultry
Sun Land International Inc. & Idealease

Bellamah (west of 12th Street)
Duke City Lumber Company
Brown Molding Company
Georgia-Pacific Corporation
Mountain States Insul Co. Ind.
Paxton Lumber Co.
Ponderosa Products
Selle Insulation Co.
Woods Group Inc.

Mountain Rd. (east of 15th)
Del Rio Designs
Southwest Housewares Co.
MORCO Battery Co.
Robert Reck Photography
Golden Crown Panaderia
Perea Brothers
American Legion

Mountain Rd. (west of 15th)
Harvest Moon Restaurant
Montessori Escuela del Sol
NM Museum of Natural History
REI
Little Anita's Mexican Food

Rio Grande
Albuquerque Museum Foundation
Anella & Co. Real Estate
Customs House
Francisco D'Noto Inc.
The Joseph's Salon
Kachina Kitchens Inc.
Le Manicure
Lucia's Art Gallery
Maria Teresa
Qualtron
Texaco Food Mart

November 18, 1991

SAWMILL SECTOR PLAN BUSINESS OWNER QUESTIONNAIRE

1. Location of business/address._____

2. What type of business?_____

3. How long has the business been at its present address?_____

4. How many people does the business employ?_____
   If you know where the employees live, how many live in the Sawmill area? _____

5. Is the building owned?_____ leased?_____

6. Why did the business locate in this area?_____

7. What do you like about the area?
   _____

8. What do you dislike?
   _____

9. Is the street system (lay-out, width, street lights, street network, etc. adequate for your needs?_____

   If not, why not? _____

10. What types of trucks service your business?
    18 wheelers_____ in-town delivery vehicles_____ other_____

11. How are they used?
    Pick-ups?_____ Deliveries?_____ What time of day?_____
    Frequencies?_____
    What problems (if any) do they encounter?_____
    What is their route in and out of area)_____

12. Do you own_____ use _____ a railroad spur?

13. Have you had any problems with the following:
    garbage pick-up _____
    weed and litter _____
    police protection _____

    Please explain:_____

14. Are you considering moving the business? _____ If yes, why?_____

15. Please explain how you would like the area around your business to develop: _____
    _____

16. What actions/changes would improve conditions for business in the area?
    _____
    _____

Please use the reverse to make additional comments. Thank you.

WILL BE PICKED UP November 26th or 27th.

DUMP OF RESULTS - USE FOR FINDING TYPING ERRORS

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	11	13

REPORT BY: PLANNING DEPARTMENT, CITY OF ALBUQUERQUE

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.

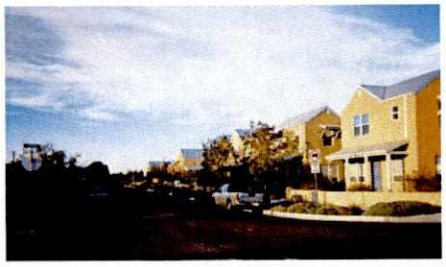
2. If you would like to submit written comments to be attached to the Staff report, they are due by the end of the day on May 1st. clehner@cabq.gov

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).

Kilmer - Attachment 19

Sawmill/Wells Park Community Metropolitan Redevelopment Area Plan



Prepared for:
Sawmill Community Land Trust
and
City of Albuquerque Planning Department

Prepared by:
Community
ByDesign
230 S. St. Francis Dr.
Santa Fe, NM 87501
505-983-8328

In association with:
Calott + Gifford, Architects
Southwest Planning and Marketing
Terry Brown, PE, Transportation

August, 2005

Kilmer - Attachment 7

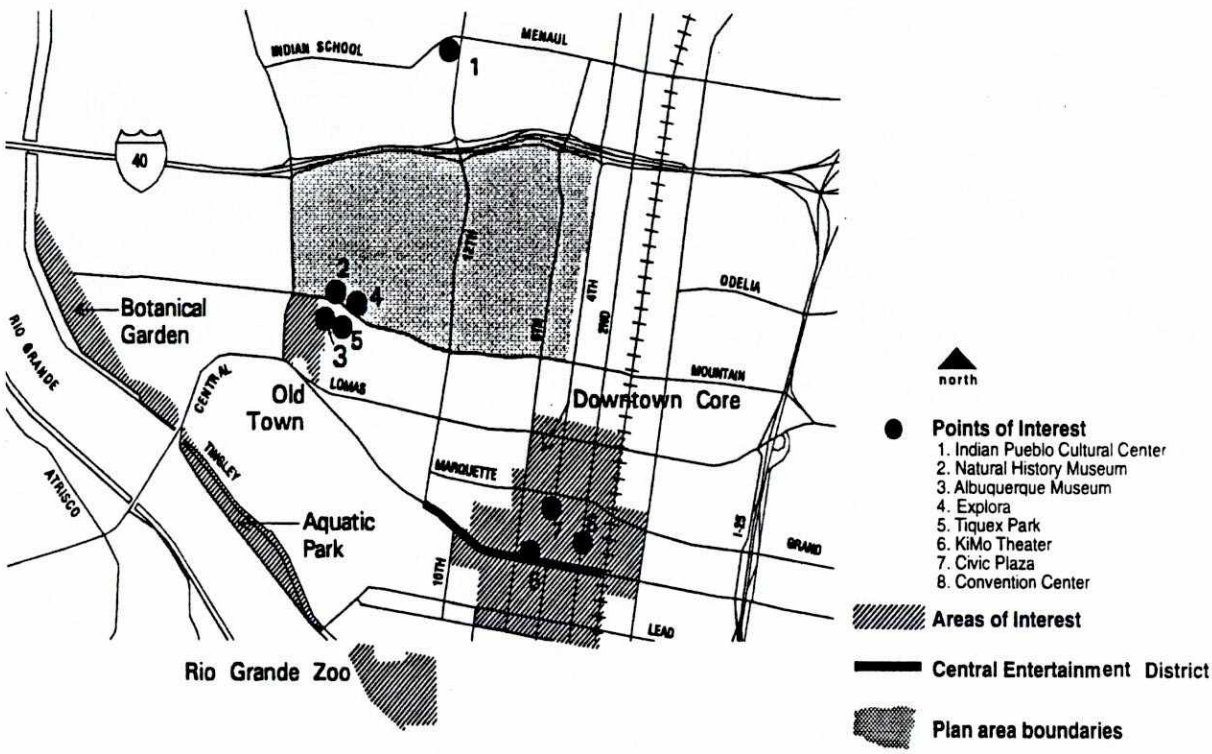
I. INTRODUCTION

A. Plan Purpose

The New Mexico Metropolitan Redevelopment Code (3-60A-1 to 3-60A-48 NMSA 1978) provides cities in New Mexico with the powers to correct conditions in areas or neighborhoods within municipalities which "substantially inflict or arrest the sound and orderly development" within the city. These powers can help reverse and area's decline and stagnation; however, the City may only use these powers within designated Metropolitan Redevelopment Areas (MRA). Designation of an MRA is based on findings of "slum or blight" conditions, as defined in the Metropolitan Redevelopment Code (3-60S-8). The criteria set by the Code for a "blighted" area include physical and economic conditions.

The Sawmill/Wells Park Community Metropolitan Redevelopment Area (MRA) boundary was created in 1993, which as a designated blighted area, qualified it as appropriate for redevelopment projects under the City's Metropolitan Redevelopment Code. Metropolitan Redevelopment projects are activities designed to eliminate slums or blighted areas that conform to an approved plan for rehabilitation and conservation.

The Sawmill/Wells Park Community Metropolitan Redevelopment Area (MRA) Plan seeks to eliminate the problems created by blight and indicates the proposed activities to be carried out in the area including land acquisition, demolition, zoning and land uses, traffic controls, recreational and



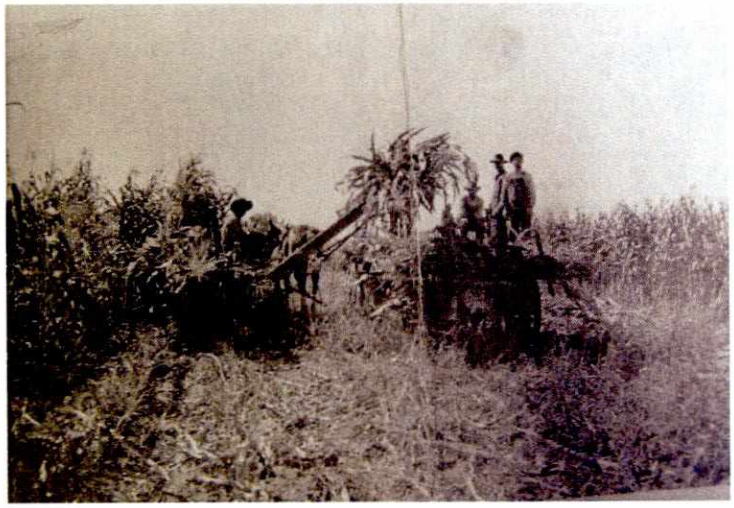
community facilities, housing, commercial and industrial facilities and public transportation. The MRA Plan provides tax incentives that include a wide variety of mechanisms to encourage redevelopment through the use of public taxation tools. These often take the form of tax credits or tax deferrals. By crediting or deferring taxes to be paid on property, income, or sales, governments create incentives for businesses to act on redevelopment opportunities. Conversely, special tax programs can be used specifically to fund improvements in the area benefited by the tax. The City can take advantage of either option, but would choose the approach that would provide the best benefit. The powers afforded a city under the Metropolitan Redevelopment Code are numerous, but mainly consist of the power to acquire property (which is tax-exempt as long as the city owns it) by purchase or eminent domain, refurbish or replace it, and then lease or sell the new or remodeled property to a qualified developer in response to a request for proposals issued by the city. The city may issue tax-exempt revenue bonds or may employ tax increment financing to finance the redevelopment project.

B. Planning Process and Intent

The preparation of the Sawmill/Wells Park MRA Plan was through a collaborative effort with the Sawmill Advisory Council, the Sawmill Community Land Trust, The Wells Park Neighborhood Association, Sawmill Area Neighborhood Association, Harwood Art Center, Albuquerque Public Schools, Arbolera de Vida Homeowners Association, the Downtown Neighborhood Association and the City of Albuquerque. The plan was developed through an extensive community-based process that was supported through quantitative data collection and analysis from a consulting team led by CommunityByDesign. The intent of the organizations involved in developing the MRA Plan is to revitalize the neighborhood, to create jobs, and maintain and enhance the affordable housing stock. It is about enhancing the life for the multi-generational working residents who can be easily priced out of the real estate and high skilled job market of the future. It also is about attracting investment and new and different people into the neighborhood. The dynamic interplay of these elements will determine the future of the neighborhoods and is a core focus of this plan.

C. Area History

The Sawmill/Wells Park area has been shaped by over 600 years of rich multi-cultural history. The earliest permanent settlements were in the Old Town area by the Tiwa speaking people around 1350 AD. From 1706 to 1879, the Spaniards called this area the Province of Tiguex and farmed the area. Five historic periods comprise the area, starting with the Old Town settlement in 1706.



In the 1800's, houses were built along the irrigation ditches and major roads that are now called Mountain Road, Sawmill Road and Rio Grande Boulevard.

In 1903, the original Sawmill, the American Lumber Company and its railroad spur were surrounded by farmland. Mountain Road was the connection to the village of Carnuel in the Sandia Mountains, from where the trees were brought for milling. Most of the area's major housing subdivisions were built in the

1920's after World War I. Both housing and industrial areas replaced the area's farmland through the 1940s.

In the 1950's, Old Town began to commercialize and in the 1970s and 1980s brought restaurants, Old Town Sheraton, the Albuquerque Museum and the New Mexico Natural History Museum. More recently the Explora Science Center continues this trend of commercial and cultural development.

An excellent detailed overview of the history and architecture of the Sawmill/Wells Park area is described in the *Sawmill/Wells Park Sector Development Plan* (City of Albuquerque, 1996).

D. Sawmill/Wells Park Community MRA Plan Priority Projects

The following is a summary of the priority redevelopment goals and associated projects that resulted from the Sawmill/Wells Park Community MRA planning process. These priority projects are intended to serve as catalysts toward achieving the goals identified in the MRA Plan, and to reverse the blighted physical and economic conditions defined in the 1993 MRA Designation Report. The full list of prioritized redevelopment projects and tasks to achieve them are identified in Chapter V, Section B. Implementation Matrix.

Housing Goal: "Enhance the Sawmill/Wells Park area as a mixed-income community by providing a permanent mix of affordable and market-rate homes."

- Create a land bank to buy rundown, vacant or rental property for rehabilitation/new construction of permanent affordable housing. Any city-supported housing should use a mixed-income model with at least 20% of the units as permanently affordable for families under 80% Area Median Income.

Education Goal: "Foster a commitment to lifelong learning and provide opportunities for the celebration of cultural diversity for all community members."

- Promote and support community-based education and cultural venues such as Documentation Learning Center, Farmers Market, and "Carnuel Road Parade", i.e., close the road for a day as an opportunity for neighborhood to take back the street.

Infrastructure Goal: "Create a walkable and livable community."

- Implement traffic improvements to 5th and 6th Streets such as converting them back to two way streets with on-street parking, bicycle lanes, and pedestrian/streetscape enhancements.

Community Economic Development Goal: "Create community-scale work, business, and wealth-building activities."

- Provide financial support and incentives, such as low interest loans, for businesses that are small, locally owned, and community controlled, such as a local plant nursery/greenhouse, or a community-supported agriculture (CSA) organization.
- Develop an Artisan Village on the abandoned Ponderosa Products mill building

- Make Mountain Road an "Arts Byway" – public sculpture, mural on the old building at 11th & Mountain.
- Sustained community involvement (proactive)

B. ECONOMICS

- More Neighborhood services - grocery stores, etc. Good jobs and higher incomes for local and new residents.
- More community services – Businesses within the neighborhood, things for people (especially children) to do.
- Strong and viable community & business district. Bring back Ma & Pa businesses to the area.

C. COMMUNITY FORM/LAND USE

- Connections between Old Town/downtown – creative, transportations attractions for tourists and locals.
- Vitality, vibrancy, mix of households, local businesses.
- Good balance of new housing with old – a mixed income community without displacing current residents with artist shops, small business, art galleries, beautiful, clean neighborhoods.
- Visualize an attractive, safe neighborhood for families with children.

B. The Community Workshop

A significant effort in the planning process was to provide for a high level of community involvement in developing the MRA Plan. A significant step in achieving this involvement was a three day Community Workshop on March 25, 26, and 27 at the Sheraton Old Town Hotel. Each day of the workshop offered information and insights by those involved in the community as developers, non-profits, city agencies and departments or designers.

The first day was a series of interactive presentations by knowledgeable individuals on several topics that are relevant to creating the plan. Community participants were encouraged to ask questions and provide their insights on these topics.

The second day was additional interactive presentations on specific topics related to the Sawmill/Wells Park area. This will be followed by developing a Community Vision and Plan Goals that are agreed upon by everyone present. That evening the Design team presented land use programming and design elements.

The third day, Saturday morning, began with breaking community participants into groups of Community Planning Teams to begin the process of identifying land uses and design elements within the planning area. Each of the three Community Planning Teams presented their ideas to the rest of the participants to identify the redevelopment ideas and projects from each Team's plan.

The Design team worked through the afternoon in preparing a Preferred MRA Plan that incorporated the community's ideas and aspirations, which was presented and discussed by the community in the evening.

The Sawmill/Wells Park Community Vision

This vision was developed by the Stakeholder Group and then reaffirmed at the Community workshop by the public. It is intended to serve as a foundation for the Metropolitan Redevelopment Area plan.

"The Sawmill/Wells Park area is a diverse and traditional community with a rich heritage that seeks to be sustainable through preserving our history, creating a vibrant sense of neighborhood, supporting viable economic development and regenerating our environmental quality. Our neighborhood is a place where multi-generations of families can live, work and participate in the greater Albuquerque community."

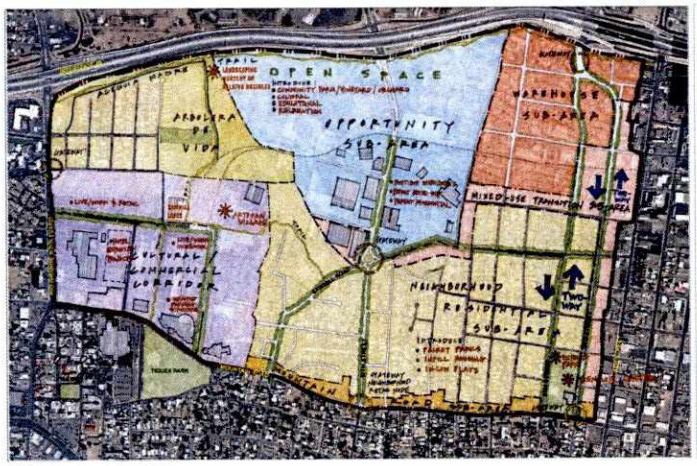
IV. METROPOLITAN REDEVELOPMENT AREA PLAN

The Sawmill/Wells Park Community Metropolitan Redevelopment Area Plan is an implementation plan to upgrade and rehabilitate the area through a number of tools available under the State and City Redevelopment Code authority. This MRA Plan is organized based on the results of the community participation process that identified overall planning vision, goals and redevelopment projects for the entire area. The MRA was then examined in more detail through six redevelopment sub-areas that are based on existing neighborhoods and distinct land use characteristics.

The overall MRA Plan identifies a number of community consensus redevelopment projects that were common projects identified by community workshop participants in each of the three alternative MRA plans. These consensus projects generally traverse or influence the entire MRA Plan area. Within each of the six redevelopment subareas, a vision for redevelopment is identified, the impediments to redevelopment defined and redevelopment projects and tools for that sub-area are recommended.

Market research on the feasibility of various land uses was conducted in developing the Sawmill/Wells Park MRA Plan. A number of possible land uses were examined that would meet community needs, be compatible with the existing uses in the Sawmill-Wells Park community, and move the community in the right direction for the future. This market analysis took into account community input, analysis of considerable background data and plans, and expert opinion. The major findings from this research indicate the following:

- The Sawmill/Wells Park community is characterized by a historically declining population, an aging population, an aging housing stock, small household size, and relatively low incomes.
- Because of its proximity to Downtown, Old Town, and the museum row, the neighborhood offers significant opportunities for redevelopment.
- The area faces significant challenges related to small lots sizes, multiple ownerships, inappropriate juxtaposition of land uses, and blighted conditions.
- Redevelopment must be accomplished in an appropriate way to avoid either gentrification, on the one hand, or the concentration of undesirable uses, on the other.
- There is a high potential for an artisan village that could provide local workforce training, opportunities, locally-based entrepreneurial activities, increased tourism and economic development, and affordable live/work residences.
- There is a need for a mix of housing in the community, including affordable townhouses, courtyard housing, live/work housing, and apartments, that would be distributed on scattered sites throughout the community, rather than concentrated in any one area.
- It would be desirable to initiate some new projects in the northeast portion of Wells Park to provide a catalyst for redevelopment; this could include local-serving commercial on Fourth Street and "green" businesses within the interior.
- It is not recommended that a major office project be developed at this time; however, there is demand for high quality small-scale office space targeted at specific users.
- The construction of a new childcare facility should be pursued in the next two to three years as Phase II of Arbolera de Vida is developed and additional employers are recruited to the area as part of the implementation of the MRA plan.
- Although in the short term there is adequate community meeting space available, it is appropriate to develop a community facility with meeting space to accommodate the needs of Arbolera de Vida and associated non-profit organizations as Phase II is built out.



Sawmill/Wells Park Community Metropolitan Redevelopment Area Plan

Community Vision:

"The Sawmill/Wells Park area is a diverse and traditional community with a rich heritage that seeks to be sustainable through preserving our history, creating a vibrant sense of neighborhood, supporting viable economic development and regenerating our environmental quality. Our neighborhood is a place where multi-generations of families can live, work and participate in the greater Albuquerque community."

Redevelopment Plan Goals:

Goals reaffirmed from the 1996 Sawmill Revitalization Study and the Sawmill/Wells Park Sector Plan include:

A. Preserve a balance between housing which serves low income families and higher priced market rate units.
B. Maintain a scale of new retail/office or other commercial that preserves the character of area, supports living wage jobs for local residents, promotes New Mexican-owned businesses and protects workers and residents from negative environmental impacts.
C. Provide a permanent reserve of affordable housing for families at or below 80% of the median income of the area;
D. Create a built environment that retains its physical integrity for future generations and preserves the natural attributes of the land and the cultural history of the community.
E. Develop commercial and industrial space that benefits the community with job creation and needed services.
F. Blend "old" and "new" into one unified neighborhood.
G. Avoid negative impacts from new development on the existing residents.
H. Empower residents to make decisions about their future.
I. Ensure ecological sensitivity and energy efficiency.
J. Conserve and build on community identity and historic character.
K. Protect and improve existing residential neighborhoods.
L. Prevent new environmental hazards, correct existing environmental problems and promote resource conservation.
M. Increase and improve housing without displacing current residents.
N. Improve circulation for people walking, bicycling, using public transportation and/or driving.
O. Develop local recreational services for people living and working in and near the Sawmill Area.
P. Promote programs to prevent crime.
Q. Guide the future development of vacant land. Promote uses compatible with adjacent neighborhoods, the museums and historic Old Town.
R. Support commercial and industrial revitalization, jobs and job training for local residents that do not conflict with other plan goals.
S. Continue to improve city owned properties, public right of way and public infrastructure.

Community Consensus on Overall Redevelopment Projects/Tools:
At the Community Workshop in March, three Community planning teams comprised of workshop participants each developed their own Redevelopment Plan that they presented to the entire group. There were common ideas and projects that were included in each of the three plans by the different teams. These common elements were identified at the workshop as consensus projects and are listed here as being of high value to the community:

- Construct the Acequia Madre Trail/Green way along south edge of I-40 corridor
- Utilize existing rail line to connect between east and west areas
- Create Gateway features at Zearing/Rio Grande Blvd., 12th/Mountain, 12th/Sawmill, and 5th/Mountain Rd.
- Rehabilitate the existing housing stock for mixed income residences
- Develop an Artisan Village on abandoned Ponderosa Products mill building
- Convert 5th St and 6th St back to 2-way traffic flow with on-street parking on one side, bicycle lanes, and pedestrian/streetscape improvements. Do not have 5th Street merge into 6th as it does now.
- Install a Roundabout at 12th and Sawmill
- Promote mixed income residential infill
- Provide for a safe Sawmill/Bellamah pedestrian connection
- Pursue the Wells Park park expansion or develop mixed income housing on block north of the Community Center
- Provide permanent affordable housing - any city-supported housing should use mixed-income model with at least 20% of the units as permanently affordable for families under 80% Area Median Income (AMI).
- Strengthen the north- south pedestrian connection to Tiguex Park
- Promote agricultural uses (community gardens, nursery, orchards) as a connection to historical roots of area
- Provide funding for Sawmill Rd/Bellamah/12th St streetscape improvements

Metropolitan Redevelopment Sub-Areas Recommendations

The following six MRA subareas represent distinct areas within the overall MRA that possess unique land use characteristics and existing neighborhoods. Consequently, the redevelopment of these areas will also involve unique approaches appropriate to the particular issues of that area.

The six subareas are defined as the Cultural/Commercial Corridor, the Mixed Use Transition, the Warehouse subarea, Neighborhood Residential, the Opportunity subarea and the Mountain Road subarea.

A Redevelopment Vision, Impediments to redevelopment and Redevelopment Projects/Tools are identified for each subarea.

Neighborhood Residential Sub-area

(Wells Park, Sawmill CLT, and John Baron Burg)

Redevelopment Vision:

This subarea is to promote a safe environment for mixed-income families, owner-occupied housing and reinvestment in the area. It will include walkable streets for daytime and nighttime activities and family-oriented activities and education opportunities.

Impediments to Redevelopment:

- Absentee landlords/property-owners
- Cluster of social service agencies attracting high numbers of transients
- Drug dealers and gang-activity
- Vacant properties and abandoned buildings

Redevelopment Projects/Tools:

- Limit municipal and federal subsidies to projects that provide permanently affordable housing, and community-controlled and community-supported businesses.
- Create program within SCLT to buy rundown, vacant or rental property for rehabilitation/new construction of permanent affordable housing
- Work with market rate infill developers to acquire vacant parcels for redevelopment while requiring 20% of units to be permanently affordable (Community Land Trust model)
- Develop Phase III of Arbolera de Vida to include:
  - Artisan Village
  - Office Space/Community meeting rooms
  - Senior Apartments
  - Child Care Center
  - Nursery/Greenhouse business

Redevelopment Project Priorities

At a Stakeholder Group meeting in September, 2004 the participants reviewed the Redevelopment projects/tools that were identified above for each sub-area. After reviewing and revising the recommended projects, they were asked to prioritize the redevelopment projects most important, or are a critical need, to them for improving the economic and neighborhood conditions in the plan area. The prioritization was accomplished by each participant placing their total of eight adhesive dots on large sheets that listed the consensus projects and the Subarea projects. They had to make choices between the sixty-five redevelopment projects/tools listed and identify the eight redevelopment projects most important to them. The following redevelopment projects/tools are listed in the order of highest number of dot votes and then are combined with the remaining consensus projects list that was developed at the community workshop:

1. Implement traffic improvements to 5th and 6th Streets such as converting them back to two-way streets with on-street parking, bicycle lanes, and pedestrian/streetscape enhancements.

2. Create incentives to promote agricultural uses (community gardens, nursery, orchards, etc.) as a connection to historical roots of area.

3. Create a land bank to buy rundown, vacant or rental property for rehabilitation/new construction of permanent affordable housing. Any city-supported housing should use mixed-income model with at least 20% of the units as permanently affordable for families under 80% Area Median Income (AMI).

4. Provide financial support and incentives, such as low interest loans, for businesses that are small, locally owned, and community controlled (coops, worker owned, non-profits, etc).

5. Extend 5th Street water line.

6. Promote and support community-based venues such as Flea Market, Farmers Market, and "Carnuel Road Parade", i.e., close the road for a day as an opportunity for neighborhood to take back the street.

7. Develop an Artisan Village at the abandoned Ponderosa Products mill building .

8. Utilize existing rail line to connect between east and west areas

9. Develop Gateway features at Zearing/Rio Grande Blvd., 12th/Mountain, 12th/Sawmill, and 5th/Mountain Rd.

10. Install a Roundabout at 12th and Sawmill.

11. Install pedestrian safety improvements at the Sawmill/Bellamah pedestrian connection.

12. Pursue the Wells Park park expansion or develop mixed income housing on block north of the Community Center.

13. Strengthen the north-south pedestrian connection to Tiguex Park.

14. Secure funding for Sawmill Rd/Bellamah/12th St streetscape improvements.

V. FUNDING SOURCES/IMPLEMENTATION TOOLS

GOALS	TASKS	RESPONSIBLE ORGANIZATION	COST TO IMPLEMENT	FUNDING SOURCE	TIMEFRAME
Zoning: Strengthen and redefine zoning and design guidelines in support of Sector Development Plan and MRA Plan objectives	1. Consider revising the Sawmill/Wells Park Sector Plan to strengthen neighborhood design guidelines	Housing Committee			Oct/05-Mar/06
	2. Consider revising the Sawmill/Wells Park Sector Plan to: (a) eliminate 250' setbacks between S-MI and S-I, (b) permit larger lot sizes than 50,000 sq.ft., (c) reduce 3rd floor setback requirements, (d) reduce work area requirements in live/work units to 25%, and (e) allow live/work at the former Ponderosa Products site	Housing Committee			Oct/05-Mar/06
	3. Review zoning on 5th St, 6th St. and Mountain Rds. to allow broader development to include neighborhood-serving retail, office and residential	Implementation Committee			Jul/06-Dec/06
Community Education: Foster a commitment to lifelong learning and provide opportunities for the celebration of cultural diversity for all community members					
	*Form Community Education Committee	Implementation Committee	$30,000 (annual)	TIF	Oct/05-ongoing
	1. Review all Community Education options, i.e. museums, schools, Documentation Learning Center, Sawmill Studios, Carnuel Parade and Fiesta, local flea market, farmers market, etc.	Community Education Committee			Oct/05-Apr/06

ArcGIS Long Range Roadway System 2040

Modify Map

Details | Basemap | Share Print | Measure Find address or place

Legend

Future Interchanges and Grade Separated Crossings

- Included in 2040 MTP Project List
- Beyond 2040 Time Frame

Regional Role

- Interstate
- Regional Principal Arterial
- Proposed Regional Principal Arterial
- Community Principal Arterial
- Proposed Community Principal Arterial
- Minor Arterial
- Proposed Minor Arterial
- Major Collector
- Proposed Major Collector

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Kilmer - Attachment 8

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.

Kilmer - Attachment 9

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.

Residential permitted

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.

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CITY COMMISSION
November 10, 1969
Z-69-81

ORDINANCE NO. 148-1969

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: November 10, 1969

Chairman, City Commission, Albuquerque, N.M.

ATTEST: Lucile Gallegos, City Clerk

APPROVED AS TO FORM
Date: 6 Nov 1969
Harley A. Lanning
for FRANK JORAN, CITY ATTORNEY

APPROVED AS TO DESCRIPTION
Date: 11-6-1969
William T. Stevens
WILLIAM T. STEVENS, CITY ENGINEER

Kilmer - Attachment 10

PLANNING DEPARTMENT
CITY OF ALBUQUERQUE

CITY PLANNING COMMISSION
September 15, 1969
Z-69-81

Z-69-81 Mrs. O. B. Gilmer, agent for Gray's Flower Shop, requests a change of zone from R-1 to C-1 for Lots 1 thru 6 & 19 thru 24, Block 20, Albright-Moore Addition, located on the southeast corner of Sixth Street & Constitution Avenue NW.

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 traffice 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

COMMENTS FROM OTHER DEPARTMENTS:

Traffic Engineer: "No objection."
Bldg. & insp. Div.: " " comment."
AMTPD: "Not affected."

PLANNING DEPARTMENT COMMENTS:

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.)

S. Robert Bronfen
S. Robert Bronfen
Urban Planner

George L. Carruthers
George L. Carruthers, Chief
Current Planning Division

GLC:SRB:new

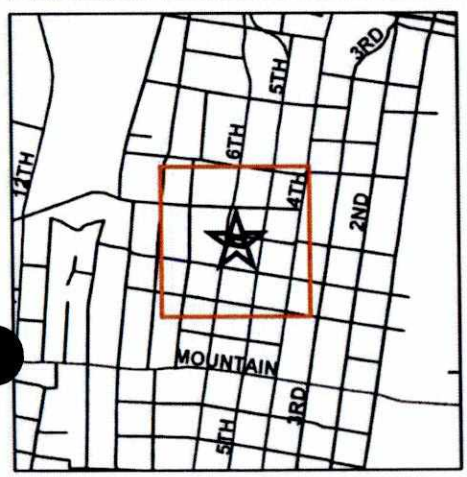
cc: Mrs. O. B. Gilmer, c/o Gray's Flower Shop, 1416 Sixth NW, 87107

Kilmer - Attachment 11

Kilmer - Attachment 12A

K

Kilmer - Attachment 12B



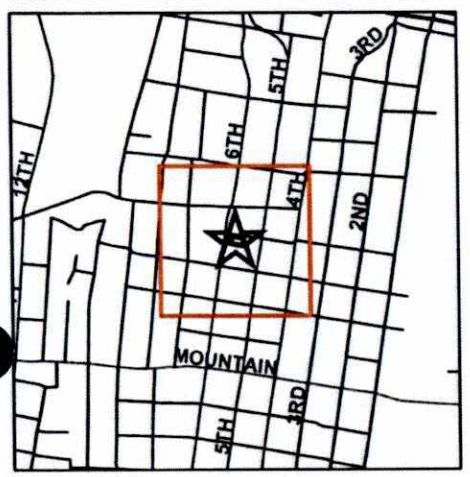
HISTORY MAP

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

Kilmer - Attachment 12C



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

1 inch = 200 feet

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

Kilmer - Attachment 12D

CABQMaps - Advanced Map Viewer 2.0

Search... Sign in

Getting Around | Maps & Data Sources | Tasks | Tool Labels

Pan | Zoom In | Zoom Out | Initial View | Previous Extent | Next Extent | Bookmarks | Print | Export | Share | Identify

Navigation Tools | Print and Share

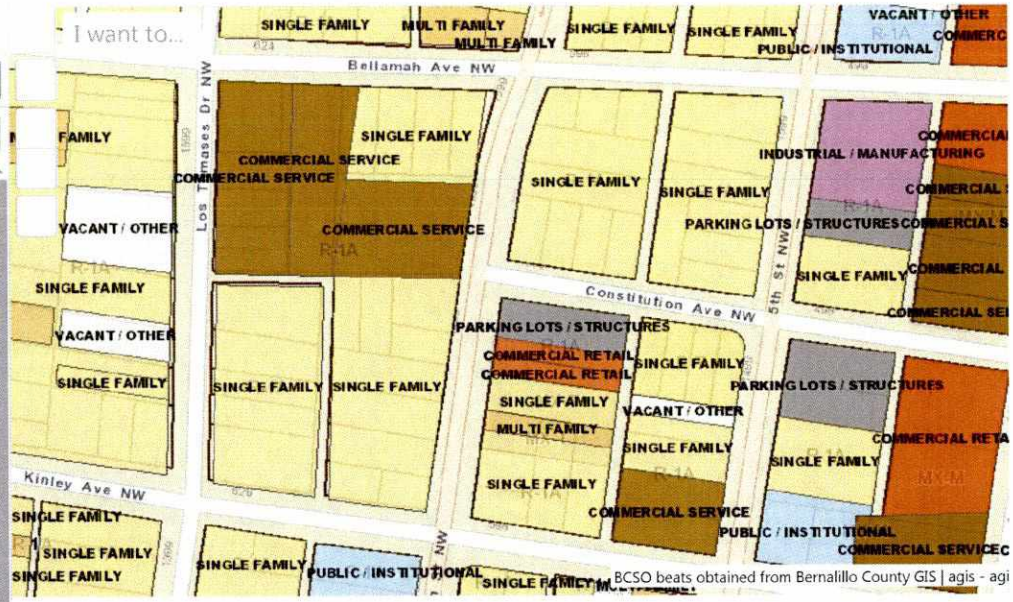
Layers

I want to...

All Available Layers

Filter Layers... Filter

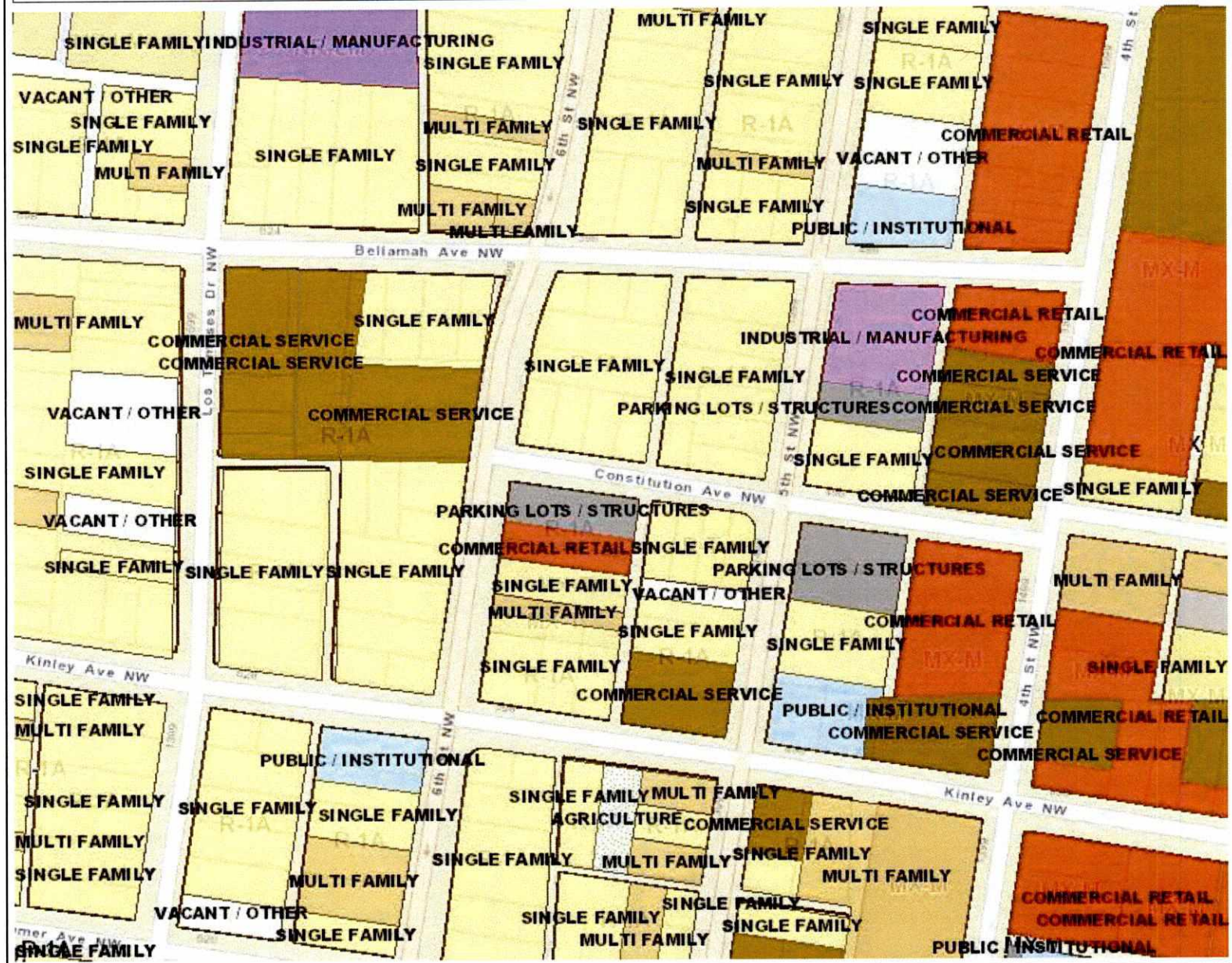
- Operational Layers
  - Parcels and Easements
    - Bernalillo County Parcels
    - City Parcels
    - Easements
  - Addresses
  - Streets
  - Building Footprints 2012
  - Albuquerque Layers
    - Planning Layers
      - Overlay Zones
      - Use Specific Standards
      - Development Standards
      - Administration and Enforcement
      - Comp Plan Corridors MS-PT-MT Areas
      - Planning Research
      - Comprehensive Plan
      - IDO Zoning
      - Land Use
    - Infrastructure
    - Transportation
    - Boundaries
    - Sites
    - Environment
  - Public Schools
  - Traffic Barricades
  - Traffic Engineering
  - 2ft Contours
  - Municipal Limits
- Base Maps



Kilmer - Attachment 12E

Layers | World St... | 0 100 200ft

City of Albuquerque



389 0 194 389 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
10/22/2018 © City of Albuquerque

1: 2,333

The City of Albuquerque ("City") provides the data on this website as a service to the public. The City makes no warranty, representation, or guaranty as to the content, accuracy, timeliness, or completeness of any of the data provided at this website. Please visit http://www.cabq.gov/abq-data/abq-data-disclaimer-1 for more information.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Legend

Land Use

- <all other values>
- SINGLE FAMILY
- MULTI FAMILY
- COMMERCIAL RETAIL
- COMMERCIAL SERVICE
- WHOLESALE / WAREHOUSING
- INDUSTRIAL / MANUFACTURING
- DRAINAGE / FLOOD CONTROL
- PARKS / RECREATION
- PUBLIC / INSTITUTIONAL
- TRANSPORTATION / UTILITIES
- PARKING LOTS / STRUCTURES
- AGRICULTURE
- VACANT / OTHER

IDO Zoning

- R-A
- R-1A
- R-1B
- R-1C
- R-1D
- R-T
- R-MC
- R-ML
- R-MH
- MX-T
- MX-L
- MX-M
- MX-H
- MX-FB-ID
- MX-FB-FX

Notes

CABQMaps - Advanced Map Viewer 2.0

Search... Sign in

Getting Around | Maps & Data Sources | Tasks | Tool Labels

Pan | Zoom In | Zoom Out | Initial View | Previous Extent | Next Extent | Bookmarks | Print | Export | Share | Identify

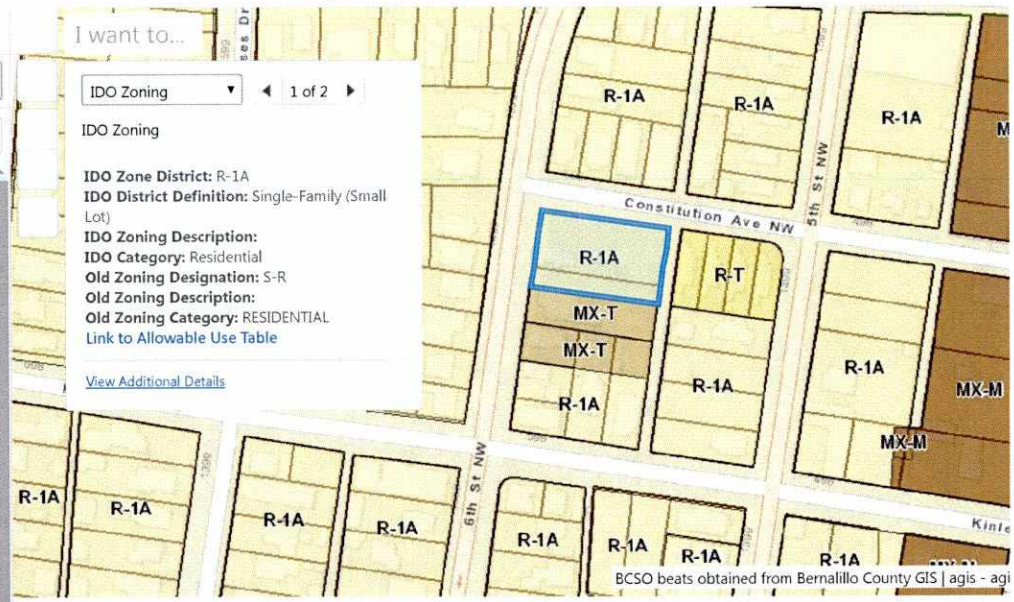
Navigation Tools | Print and Share

Layers

All Available Layers

Filter Layers... Filter

- Operational Layers
  - Parcels and Easements
    - Bernalillo County Parcels
    - City Parcels
    - Easements
  - Addresses
  - Streets
  - Building Footprints 2012
  - Albuquerque Layers
    - Planning Layers
      - Overlay Zones
      - Use Specific Standards
      - Development Standards
      - Administration and Enforcement
      - Comp Plan Corridors MS-PT-MT Areas
      - Planning Research
      - Comprehensive Plan
      - IDO Zoning
      - Land Use
    - Infrastructure
    - Transportation
    - Boundaries
    - Sites
    - Environment
  - Public Schools
  - Traffic Barricades
  - Traffic Engineering
  - 2ft Contours
  - Municipal Limits
- Base Maps



Kilmer - Attachment 12F

Layers | World St... | 0 100 200ft

CABQMaps - Advanced Map Viewer 2.0

Search... Sign in

Getting Around | Maps & Data Sources | Tasks | Tool Labels ×

Pan | Zoom In | Zoom Out | Initial View | Previous Extent | Next Extent | Bookmarks | Print | Export | Share | Identify

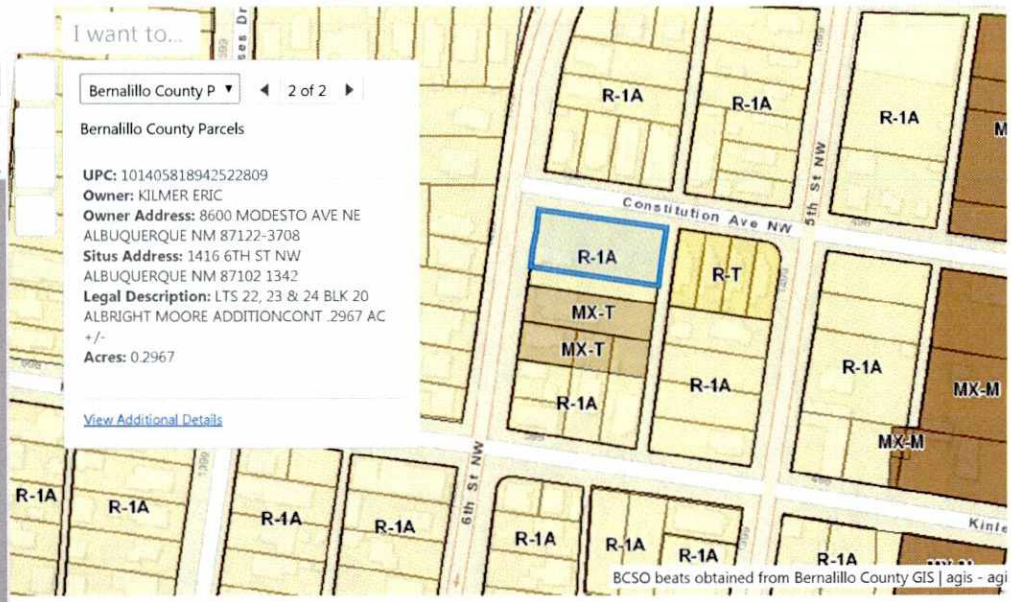
Navigation Tools | Print and Share

Layers

All Available Layers

Filter Layers... Filter

- Operational Layers
  - Parcels and Easements
    - Bernalillo County Parcels
    - City Parcels
    - Easements
  - Addresses
  - Streets
  - Building Footprints 2012
  - Albuquerque Layers
    - Planning Layers
      - Overlay Zones
      - Use Specific Standards
      - Development Standards
      - Administration and Enforcement
      - Comp Plan Corridors MS-PT-MT Areas
      - Planning Research
      - Comprehensive Plan
      - IDO Zoning
      - Land Use
    - Infrastructure
    - Transportation
    - Boundaries
    - Sites
    - Environment
  - Public Schools
  - Traffic Barricades
  - Traffic Engineering
  - 2ft Contours
  - Municipal Limits
- Base Maps



Layers | World St... | 0 100 200ft

Print

City Address: 1416 6TH ST NW
County Address: 1416 6TH ST NW
10/25/2018
www.cabq.gov/gis
City of Albuquerque Property Report

Ownership Data from Bernalillo County Assessor
(County Assessor's data for tax year 2017)
Owner Name: KILMER ERIC
Owner Address: 8600 MODESTO AVE NE, ALBUQUERQUE NM 87122-3708
UPC: 101405818942522809
Tax Year: 2017 **Tax District:** A1AM
Legal Description: LTS 22, 23 & 24 BLK 20 ALBRIGHT MOORE ADDITIONCONT .2967 AC +/-
Property Class: C **Document Number:** 2014091642 102113 WD - EN
Acres: 0.3

City Zoning and Services
IDO Zone District: R-1A
IDO District Definition: Single-Family (Small Lot)
Old Zoning Designation: S-R
Old Zoning Description:
Land Use: COMMERCIAL RETAIL
Lot: 22 **Block:** 20 **Subdivision:** ALBRIGHT & MOORE ADDN
Police Beat: 233 **Area Command:** VALLEY
Jurisdiction: ALBUQUERQUE
Zone Atlas Page: J14 (opens in new window)
City Neighborhood Association: Wells Park NA
Residential Trash Pickup: Wednesday

Political Districts
City Council District: 2 - Isaac Benton
County Commission District: 1 - Debbie O'Malley
NM House of Representatives: Javier I. Martinez
NM Senate: Gerald P. Ortiz y Pino

School Districts
Elementary: REGINALD CHAVEZ
Middle: WASHINGTON
High School: ALBUQUERQUE

FEMA Flood Zone: X
For questions about floodplain information, please contact the COA Floodplain Manager at 924-3986 or email ccherne@cabq.gov

Run another Search here
This report was created by the GIS group of DTI. Please send comments to GIS@cabq.gov.
Please wait while the map loads below...

Kilmer - Attachment 12G

Facility List

Tax ID	Owner ID	Name	Name	Site Address	City	Status	Anniversary Date	Last Paym...	Last Bil...
03164316	OW0079699	ANDREA KILMER	GOODFELLAS FLORIST AND NURSERY	1416 6TH ST NW	ALBU...	Active	5/1/2009	3/29/2012	5/1/2014
02476145	OW0035635	OOB09/17/07GRAY'S FLO...	OOB09/17/07GRAY'S FLOWER_SHOP	1416 6TH ST NW	ALBU...	Inac...		9/17/2007	10/1/20...
01177569006	OW0097742	OOBSHANNON ROBINSON	OOBSHANNON ROBINSON ATTONERY A...	1416 6TH ST NW	ALBU...	Inac...	5/1/2013	5/22/2013	5/1/2016

Kilmer - Attachment 13

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

Copy via fax: 842-5495

Eric Kilmer
[redacted]

62

Albuquerque Making History 1706-2006

21

Kilmer - Attachment 14

HOME PROPERTY RECORDS E-FILE ASSESSOR'S FORMS COUNTY WEBSITE

Profile
Values
Map
Satellite View
Tax Calculator

PARID: 101405818942522809
KILMER ERIC,

1416 6TH ST

1 of 1
Return to Search Results
Tax Year 2018

Actions
Printable Summary
Printable Version

Reports
Property Attributes
Go

Class

Class	Non Residential
Tax District	A1AM

Current Owner

Tax Year	2018
Owner	KILMER ERIC
Owner Mailing Address	1416 6TH ST NW
Unit	
City	ALBUQUERQUE
State	NM
Zip Code	87102 1342
Foreign Mailling Address	

Ownership for Tax Year Selected

Tax Year	2018
Owner Name	KILMER ERIC
Owner Mailing Address	1416 6TH ST NW
Unit	
City	ALBUQUERQUE
State	NM
Zip Code	87102 1342
Foreign Mailling Address	

Description

Location Address	1416 6TH ST NW
City	ALBUQUERQUE
State	NM
Zip Code	87102 1342
Property Description	LTS 22, 23 & 24 BLK 20 ALBRIGHT MOORE ADDITION CONT .2967 AC +/-
Public Improvement District	
Tax Increment Development Districts	

Document #

Document #:	2014091642 102113 WD - ENTRY BY LR 121114 CODED BY LV 111814

Real Property Attributes

Primary Building SQ FT	1785
Year Built	1946
Lot Size (Acres)	.2967
Land Use Code	RETAIL SINGLE OCCUPANCY
Style	

Manufactured Home Attributes

Make :
License :
VIN :
Year :
Size :

Data Copyright Bernalillo County
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Kilmer - Attachment 15

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

Kilmer - Attachment 16

POST IN A CONSPICUOUS PLACE

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: 06/01/2018 THROUGH: 05/31/2019

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

Customer Maintenance - Store: W PLANT WO[redacted]HOLESALE INC, Terminal: 106 Signed On User: 4091

FILE HOME [redacted] TOOLS

oad Save View Grid | Print Screen, Print Desktop, Print | Options, Macros, Fix Focus, Setup

Customer 207548 Job Sort Name GOODFELLAS Bill To

Name GOODFELLAS FLORIST AND NURSERY

Main | Credit | Dept | Sales | Payment | Misc | Contacts | Notes

BALANCE HISTORY

Finance Charges YTD	
Credit Limit	0
Highest Account Balance	
Credit Available	0.00
Running Balance	0.00
Statement Balance	0.00
Statement Discount	0.00
Returns ($) YTD	0.00
Number of Transactions YTD	0

CHARGE OPTIONS

Check Allowed	Y
Credit A/R Only	N
Taxable	Y
Keep Department History	Y
Declining Credit Limit	N
Global Credit Check	
Order Balance In Credit Available	
Date of Last Sale	2/26/15
Account Opened	11/04/09

CHARGE CONTROLS

Balance Method	O
Charge Allowed	N
Store Account Opened	W
Finance Charges	Y
Monthly Payment	
Finance Charges LYR	
Date of Last Payment	
Amount of Last Payment	
Special Charges	

AGING

Future	Current	1-30	31-60	61-90	Over 90
0.00	0.00	0.00	0.00	0.00	0.00

Kilmer - Attachment 17

EPICOR

LANT WORLD, INC.

PLANT WORLD, INC.
250 EL PUEBLO NE
ALBUQUERQUE, NM 87113
www.plantworldinc.com
PHONE: (505) 898-9627
FAX: (505) 898-0805

Chris
Caccountant 854-1133)

UST NO:	JOB NO:	PURCHASE ORDER:	REFERENCE:	TERMS:	CLERK:	DATE / TIME:
207548	000	610 SOLANO	PO # 610 SOLANO	CASH/CHECK/BANKCARD	5436	2/11/16 1:43

TERMINAL: 803
ORDER: 562678

SOLD TO:
GOODFELLAS FLORIST AND NURSERY
1416 6TH ST NW

ALBUQUERQUE NM 87102
505-261-8409

SHIP TO:

DEL. DATE: 2/11/16

TAX: W SALES TAX - PW WHOLES

INVOICE:F62681/W

NE	SHIPPED	ORDERED	UM	SKU	DESCRIPTION	SUGG	UNITS	PRICE/ PER	EXTENSION
1	5	5	EA	BLUENOLI05	BLUE NOLINA NELSONI #3 / #5		5	16.25 /EA	81.25
2					NOLINA NELSONI				
3	1	1	EA	OCOT05	OCOTILLO #5		1	25.04 /EA	25.04
4					FOUQUIERIA SPLENDENS				
5	1	1	EA	ROSEMARYCR05	ROSEMARY CREEPING #5		1	17.90 /EA	17.90
6					ROSEMARINUS 'PROSTRATUS'				
7	3	3	EA	COYOBACH05	COYOTE BRUSH BACCHARIS STARN #5		3	10.87 /EA	32.61
8					BACCHARIS X 'STARN				
9					THOMPSON'				
0	2	2	EA	GRASSEDLEA01	GRASS SEDGE LEATHERLEAF #1		2	7.74 /EA	15.48
1					CAREX BUCHANANII				
2					AKA FOX CURLY SEDGE				
3	1	1	EA	CEDBLATL1545	CEDAR BLUE ATLAS #15		1	159.00 /EA	159.00
					CEDRUS ATLANTICA 'GLAUCA'				
	2	2	EA	BROOSCHOL05	BROOM SCOTCH HOLLANDIA PINK #5		2	32.11 /EA	64.22
6					CYTISUS PRAECOX 'HOLLANDIA'				

TAXABLE 395.50
NON-TAXABLE 0.00

SUBTOTAL 395.50

** PAID IN FULL ** 420.22

SUBTOTAL 395.50

CASH PAYMENT 420.22

TAX AMOUNT 24.72

TOTAL 420.22

T WT: 0.00

X _____
Received By

NO GUARANTEES ON PLANT LIFE. • PLEASE CHECK WITH SALESPERSON FOR PLANTING AND CARE GUIDELINES.

LANT WORLD, INC.

PLANT WORLD, INC.
250 EL PUEBLO NE
ALBUQUERQUE, NM 87113
www.plantworldinc.com
PHONE: (505) 898-9627
FAX: (505) 898-0805

JST NO:	JOB NO:	PURCHASE ORDER:	REFERENCE:	TERMS: CASH/CHECK/BANKCARD	CLERK:	DATE / TIME:
207548	000		ORDR # 562765		5452	2/12/16 1:20

TERMINAL: 803
ORDER: 562765

SOLD TO:
GOODFELLAS FLORIST AND NURSERY
1416 6TH ST NW

ALBUQUERQUE NM 87102

505-261-8409

SHIP TO:

DEL. DATE: 2/12/16

TAX: W SALES TAX - PW WHOLES

INVOICE:F62768/W

NE	SHIPPED	ORDERED	UM	SKU	DESCRIPTION	SUGG	UNITS	PRICE/ PER	EXTENSION
1	1	1	EA	ROSEMARYCR05	ROSEMARY CREEPING #5 ROSEMARINUS 'PROSTRATUS'		1	17.90 /EA	17.90
2 3	2	2	EA	BROOSCALL01	BROOM SCOTCH ALLGOLD #1 CYTISUS X PRAECOX 'ALLGOLD'		2	10.36 /EA	20.72
4 5	1	1	EA	CEDBLATL05	CEDAR BLUE ATLAS #5 CEDRUS ATLANTICA 'GLAUCA'		1	59.00 /EA	59.00
6 7	2	2	EA	GRASSEDLEA01	GRASS SEDGE LEATHERLEAF #1 CAREX BUCHANANII AKA FOX CURLY SEDGE		2	7.74 /EA	15.48
8 9 0	1	1	EA	COYOBACH05	COYOTE BRUSH BACCHARIS STARN #5 BACCHARIS X 'STARN THOMPSON'		1	10.87 /EA	10.87
1 2 3	1	1	EA	BIRCJAC10SI	BIRCH JACQUEMONTII SINGLE #10 BETULA JACQUEMONTII		1	99.00 /EA	99.00

TAXABLE 222.97
NON-TAXABLE 0.00

SUBTOTAL 222.97

** PAYMENT RECEIVED ** 300.00
** CHANGE GIVEN ** 63.09

SUBTOTAL 222.97

CASH PAYMENT 300.00

TAX AMOUNT 13.94

TOTAL 236.91

TOT WT: 0.00

X _____
Received By

NO GUARANTEES ON PLANT LIFE. • PLEASE CHECK WITH SALESPERSON FOR PLANTING AND CARE GUIDELINES.

LANT WORLD, INC.

PLANT WORLD, INC.
250 EL PUEBLO NE
ALBUQUERQUE, NM 87113
www.plantworldinc.com
PHONE: (505) 898-9627
FAX: (505) 898-0805

UST NO:	JOB NO:	PURCHASE ORDER:	REFERENCE:	TERMS:	CLERK:	DATE / TIME:
207548	000		ORDR # 563971	CASH/CHECK/BANKCARD	5378	2/26/16 3:09

TERMINAL: 813
ORDER: 563971

SOLD TO:
GOODFELLAS FLORIST AND NURSERY
1416 6TH ST NW

ALBUQUERQUE NM 87102

505-261-8409

SHIP TO:

DEL. DATE: 2/26/16

TAX: W SALES TAX - PW WHOLES

INVOICE:F63973/W

NE	SHIPPED	ORDERED	UM	SKU	DESCRIPTION	SUGG	UNITS	PRICE/ PER	EXTENSION
1	2	2	FL	PANSYZ184FL	PANSY 18/4 PACK FLAT		2	24.00 /FL	48.00
2	1	1	EA	FL10645	ROOT STIMULATOR QT		1	5.12 /EA	5.12
3	1	1	EA	DAFF065	DAFFODIL SZ 6.5"		1	8.50 /EA	8.50

TAXABLE 61.62
NON-TAXABLE 0.00

SUBTOTAL 61.62

** PAYMENT RECEIVED ** 65.50
** CHANGE GIVEN ** 0.03

SUBTOTAL 61.62

CASH PAYMENT 65.50

TAX AMOUNT 3.85

TOTAL 65.47

WT: 2.58

X
Received By

NO GUARANTEES ON PLANT LIFE. • PLEASE CHECK WITH SALESPERSON FOR PLANTING AND CARE GUIDELINES.

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*

Kilmer - Attachment 18

CITY OF ALBUQUERQUE
LAND USE FACILITATION PROGRAM
PROJECT MEETING REPORT

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

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).

Kilmer - Attachment 19

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.

Kilmer - Attachment 20

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.

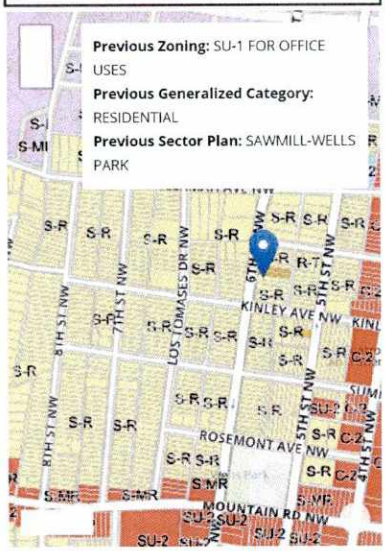
Sincerely,
Kathleen

Kathleen Oweegon
Facilitator, Mediator, Trainer
Bridges of Peace
(505) 501-7000 Santa Fe
(505) 242-6141 Albuquerque
P.O. Box 21966
Albuquerque, NM 87154
oweegon@bridgesofpeace.com
https://ddei3-0-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=www.bridgesofpeace.com&umid=2A253F

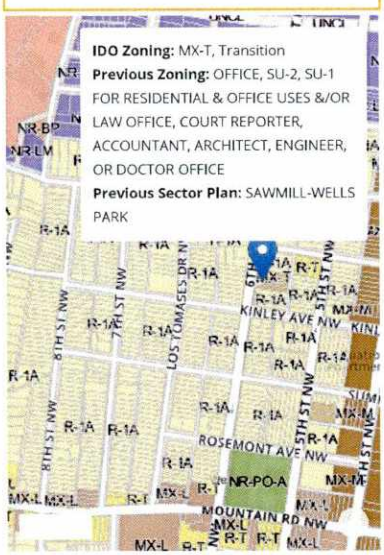
Date modified: 5/17/2018

1410 6th St NW, Albuquerque, NM 87102, USA

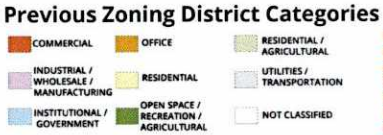
Previous Zoning



IDO Zoning



Previous Zoning District Categories



IDO Zoning Districts

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To learn more about uses allowed under the PREVIOUS zoning:

- **Straight zones** *(e.g. R-1, C-2, M-1, etc.)*: Consult the Comprehensive Zoning Code
- **SU-1** *(i.e. site-plan controlled parcels)*: Visit the file room in the Planning Department on the 3rd floor, Plaza del Sol, 600 2nd Street, M-F 8:30 am – 12 pm and 1-4:30 pm.
- **SU-2** *(i.e. sector development plan zones)*: Consult the relevant sector plan available online here.

To learn about uses allowed under the IDO:

- Unified Development Ordinance: See Allowable Use Table 4-2-1 anc Subsection 4-8
- **Frequently Asked Questions about the IDO:**
  - How can I figure out what uses are allowed in my zone?
- Zoning Conversion Rules & Information
  - **Base zone** (e.g. R-1, C-2, M-1, etc.) conversion table
  - **SU-1** (i.e. site plan controlled parcels) and **R-D** zones conversion tab
    - Note: Approved site plans keep their uses and zoning standards site, please consult the adopted site plan. If a new site plan is ne review/approval processes apply
  - **SU-2** and **SU-3** (i.e. Sector Development Plan zones) conversion tab
    - IDO Zoning Interactive Map of Overlay Zones and small area reg

Kilmer - Attachment 21

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    - IDO Zoning
    - Land Use
  - Infrastructure
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  - Boundaries
  - Sites
  - Environment
- Public Schools
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- Traffic Engineering
- 2ft Contours
- Municipal Limits
- **Base Maps**
- 2012 Aerial
- 2014 Aerial
- 2016 Aerial
- World Topo Map
- World Street Map

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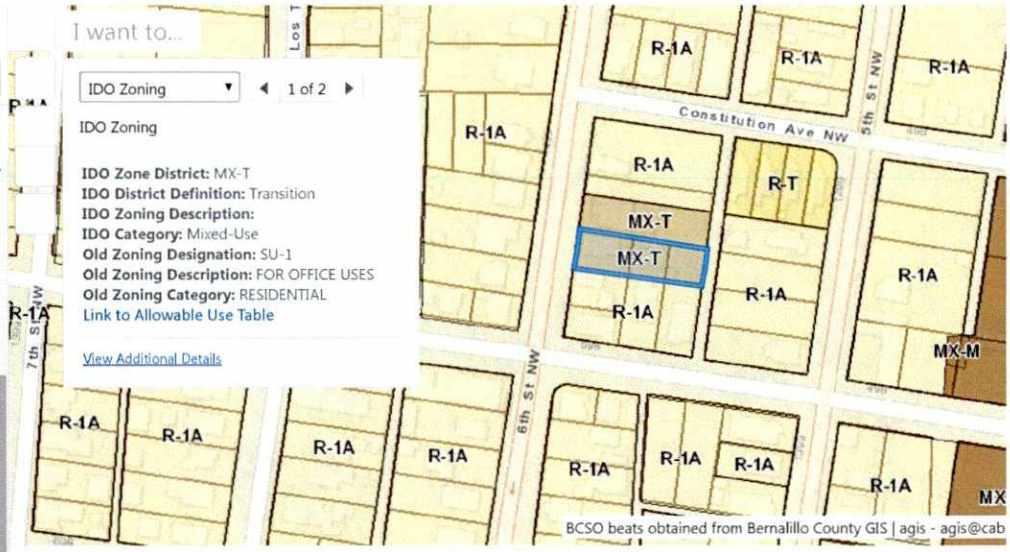
IDO Zoning ◀ 1 of 2 ▶

IDO Zoning

IDO Zone District: MX-T
IDO District Definition: Transition
IDO Zoning Description:
IDO Category: Mixed-Use
Old Zoning Designation: SU-1
Old Zoning Description: FOR OFFICE USES
Old Zoning Category: RESIDENTIAL
Link to Allowable Use Table

View Additional Details



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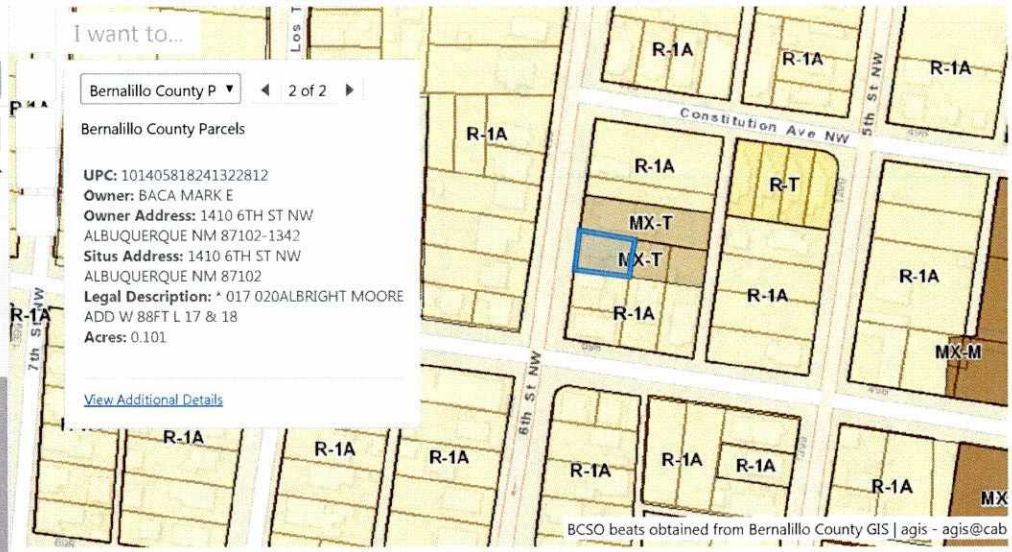
  - World Street Map



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Address Report

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City Address: 1410 6TH ST NW
County Address: 517 KINLEY AV NW
10/25/2018
www.cabq.gov/gis
City of Albuquerque Property Report

Ownership Data from Bernalillo County Assessor
(County Assessor's data for tax year 2017)
Owner Name: GONZALES LUIS M & JUNE
Owner Address: PO BOX 123, DOWNEY CA 90241
UPC: 101405818440822802
Tax Year: 2017 **Tax District:** A1AM
Legal Description: * 013 020ALBRIGHT MOORE ADD W44.02FT E88.04FTL13TO18
Property Class: R **Document Number:** D574 34 092057
Acres: 0.15

City Zoning and Services
IDO Zone District: MX-T
IDO District Definition: Transition
Old Zoning Designation: SU-1
Old Zoning Description: FOR OFFICE USES
Land Use: MULTI FAMILY
Lot: 18 **Block:** 20 **Subdivision:** ALBRIGHT & MOORE ADDN
Police Beat: 233 **Area Command:** VALLEY
Jurisdiction: ALBUQUERQUE
Zone Atlas Page: J14 (opens in new window)
City Neighborhood Association: Wells Park NA
Residential Trash Pickup: Wednesday

Political Districts
City Council District: 2 - Isaac Benton
County Commission District: 1 - Debbie O'Malley
NM House of Representatives: Javier I. Martinez
NM Senate: Gerald P. Ortiz y Pino

School Districts
Elementary: REGINALD CHAVEZ
Middle: WASHINGTON
High School: ALBUQUERQUE

FEMA Flood Zone: X
For questions about floodplain information, please contact the COA Floodplain Manager at 924-3986 or email ccherne@cabq.gov

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Previous Zoning District Categories

IDO Zoning Districts

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- Subsection 4-8
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  - **SU-2** and **SU-3** (i.e. Sector Development Plan zones) conversion table
    - IDO Zoning Interactive Map of Overlay Zones and small area regul

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- **SU-2** *(i.e. sector development plan zones)*: Consult the relevant sector plan available online here.

To learn about uses allowed under the IDO:

- Integrated Development Ordinance: See Allowable Use Table 4-2-1 and U
- Subsection 4-5
- **Frequently Asked Questions about the IDO:**
  - How can I figure out what uses are allowed in my zone?
- Zoning Conversion Rules & Information
  - **Base zone** (e.g. R-1, C-2, M-1, etc.) conversion table
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  - **SU-2** and **SU-3** (i.e. Sector Development Plan zones) conversion table
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- To opt in to the follow-up voluntary zoning conversion process, visit this online form.

Date modified: 5/17/2018

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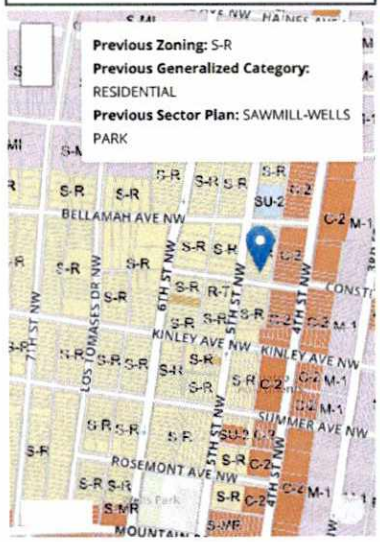

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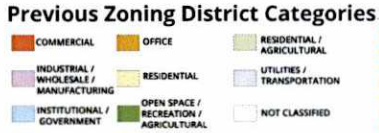

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- **SU-1** *(i.e. site-plan controlled parcels)*: Visit the file room in the Planning Department on the 3rd floor, Plaza del Sol, 600 2nd Street, M-F 8:30 am – 12 pm and 1-4:30 pm.
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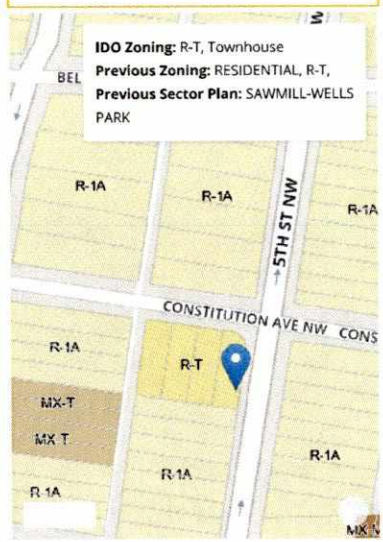

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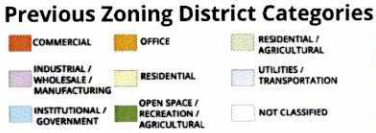

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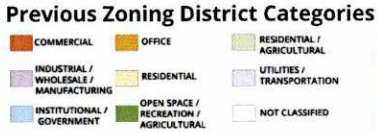

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July 5, 2006

Mr. Jeffrey Jesionowski, Chair
Environmental Planning Commission
600 North 2nd Street
Albuquerque, New Mexico 87102

Dear Chair Jesionowski:

The purpose of this letter is to provide the background, policy support, and justification for the proposed zone map amendment, sector plan amendment, and site plan to accommodate the redevelopment of an existing single family home located at 1412 6th Street NW in the Sawmill Neighborhood. This request is made on behalf of the property owner, Mr. Jerry Haag.

The property is within the Sawmill/Wells Park Sector Development Plan and is zoned SU-2 for S-R. The proposed zoning is SU-2/SU-1 for Residential, and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Doctor Office. The SU-2/SU-1 zone exists within the Sector Plan and is available for use. The proposed zone map and sector plan amendment is an appropriate use for this property, is justified under resolution 270-1980, and is consistent with the redeveloping character of the neighborhood.

Subject Property

Kilmer - Attachment 22

PRINCIPALS
Karen R. Marcotte, AICP
James K. Strozier, AICP
Christopher J. Green, ASLA

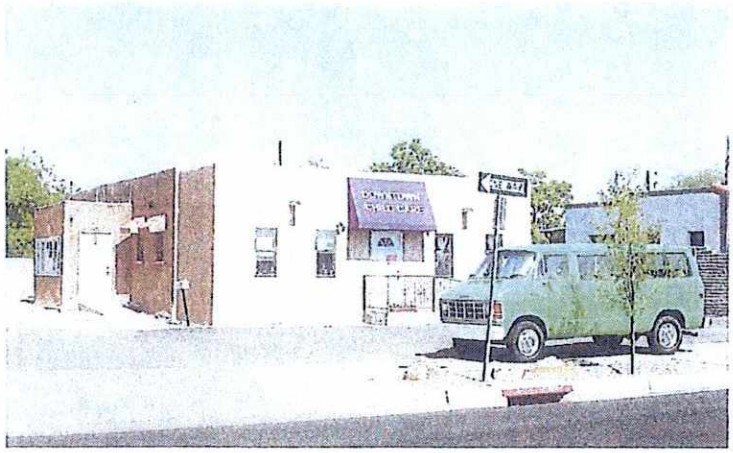
ASSOCIATES
Jacqueline Fishman, AICP

Appropriateness:

The property is located on 6th Street, a busy artery for the Sawmill Community and one of the gateways into Downtown. The Sector Plan recognized that 6th Street, along with 5th Street to the west, were made up of a mix of commercial and office uses. These uses were permitted to remain if they were in existence at the time of the Plan's adoption. The property adjacent and to the north, 1416 6th Street NW, was one of those existing businesses and is also owned by Mr. Haag. This building has a history of home office use, but was primarily used as a residence.

There is already a mix of land uses in the immediate area with Commercial/SR to the north; RT to the east; SU-1 for Office to the south; and a Day Care Center to the west.

Existing Commercial North of the Subject Property (former Flower Shop)



Child Care Center to the northwest of the Subject Property

Justification (Resolution 270-1980):

A. The proposed zone change is consistent with the health, safety, morals, and general welfare of the City. The zoning would provide an additional use for this important existing structure. The use would be consistent with the surrounding neighborhood, and no changes to the structure would be required (the owner recently purchased the property and has remodeled the interior) and most of the parking will be screened from view and done in cooperation with the existing commercial use to the north.

B. This request would help to promote stability of land use by maintaining the character of the existing building on the property, office is a low impact use with parking and access to the rear from the alley, and the site plan will regulate any construction on the site. There is already a mix of land uses in the immediate area with Commercial/SR to the north; RT to the east; SU-1 for Office to the south; and a Day Care Center to the west.

C. The proposed change does not conflict with adopted elements of the *Comprehensive Plan* or the Sawmill/Wells Park Sector Development Plan. The proposed change helps to implement the Economic Development Action Plan, pages 33 & 34, which focuses on revitalization and recommends strengthening the area's land use mix, creation of jobs, and projects that are good neighbors.

D. (2). One basis for the zone map amendment is changed neighborhood conditions, which have been identified. A summary of these changes include:

- The City's Resolution R-70 encouraging infill development was also not adopted prior to the Sector Plan.
- Zone Change at 1216 and 1220 5th Street NW from SU-2 S-R to SU-2/SU-1 for Residential and/or Law Office, Court Reporter, Accountant, Architect, Engineer Doctor Office.

City policy changes recently adopted to implement the Planned Growth Strategy (PGS) provide for a new policy framework that supports this project. Recent zone changes in the immediate areas demonstrate the Environmental Planning Commission's commitment to these policies and an agreement that projects of a similar nature, with neighborhood support, are appropriate in the Sawmill/Wells Park Sector Development Plan.

(3). The uses proposed through this zone map amendment would be more advantageous to the community for the following reasons:

- The proposal is consistent with and helps to implement the Sawmill/Wells Park Sector Development Plan policies concerning Economic Development (see Section C above).
- Implements overall City Comprehensive Plan policies concerning infill, redevelopment and job creation.
  - ✓ *Policy II.B.5i states "Employment and service uses shall be located to complement residential areas and shall be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments."*
  - ✓ *Policy II.B.5o states "Redevelopment and rehabilitation of older neighborhoods in the Established Urban Area shall be continued and strengthened."*
  - ✓ *Policy II.B.5p states "Cost-effective redevelopment techniques shall be developed and utilized."*

  The subject property and this request implements and furthers these policies since it is located so as to complement the surrounding residential neighborhood, represents redevelopment on an existing structure in the neighborhood, and is being completed with private funds.
- The neighbors are supportive of the request (see attached petition prepared by the owner).

E. The permissive uses in the zone are not harmful to the adjacent properties, the neighborhood, or community. *Comprehensive Land Use Policy II.B.5a states "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."*

F. The proposed zone change and permissive uses does not require unprogrammed capital expenditures by the City. The required infrastructure is already in place and the project will take advantage of significant public investment in 6th Street improvements.

G. The cost of land or other economic considerations are not the determining factor for this zone map amendment.

H. Location on a collector or major street is not the basis for this zone map amendment. However, the property is located on 6th Street, an existing mixed use, one way street that provides a major connection from Downtown to the north.

I. This request does not constitute a spot zone if approved.

J. The proposed zoning requires a site development plan, which will ensure that development on the site will be consistent with the surrounding neighborhood.

We respectfully request that the Planning Commission approve this request for SU-2/SU-1 for Residential, and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Doctor Office.

Sincerely,

James K. Strozier, AICP
Principal

JASON M. ALARID, ATTORNEY AT LAW, LLC
1412 SIXTH STREET NW
ALBUQUERQUE, NEW MEXICO 87102
(505) 247-9500
FAX (505) 247-9509

June 29, 2010

Mr. Doug Peterson, Chair
Environmental Planning Commission
City of Albuquerque
600 North 2nd Street
Albuquerque New Mexico, 87102

Re: Follow through of Supplemental, Proposed Sight Plan Amendment 1412 Sixth Street NW/Zone Map Amendment of Lot 21 Albright-Moore subdivision from SU-2/SR to SU-2/SU-1 in conformity with Lots 19 and 20. **EPC Project #1005001**

Dear: Chair Peterson

First I would like to thank the Commission for accommodating many deferrals as I attempt to facilitate a final approval of the site plan and proposed zoning map amendment, as allowed under these tough economic times. The relevant property known as 1412 Sixth Street NW, Albuquerque, New Mexico consists of Lots 19, 20 **and 21**, within Albright Moore Addition of the Sawmill/Wells Park Sector Development Plan with in the Wells Park neighborhood. Lot 21 is the primary focus of this amendment request as it needs to be brought in conformity with Lots 19 and 20, already approved SU-2/SU-1. Lot 21 remains improperly zoned as SU2/SR in contradiction to the zoning approved on the original site plan.

At the last planning meeting attended, I was asked to work with the City to work on a site and parking plan that addressed the unique and exceptional circumstances of the property in order to make the property useful and to come into conformity with the City Zoning standards.. Simply, Lot 21 is only 25 feet wide and borders to the north what is currently zoned residential. Although, the lot with the flower shop/nursery to the immediate north was believed to be commercial, because Lot 21 abuts what is disputed and in currently in litigation as residential property, we must stand ready to comply with zoning should the land be held by the District Court as residential, instead of commercial.

As such, with SU1/SU2 abutting SR, zoning requires construction of an opaque fence between the properties with a landscape buffer, incorporating trees. As demonstrated in the attached amended site plan, we propose reducing the landscape buffer to a minimum (3-5 feet), incorporating it with the parking in a manner to account for the exceptional and unusual layout of the property. In order make the lot both useful and valuable in relation to the long term use of the entire commercial property, we utilize a 30 degree

parking design along the north fence (constructed of either cedar picket or block), leaving a standard minimum eleven feet drive aisle. Further more the trees along the north fence can be tucked in and incorporated with in the wasted space provided by the parking barriers, also attractively accentuating the parking aisles. For security purposed a gate and fencing would remain at the alley, preventing after hours access to the side of the building. This plan allows for more parking than needed by the office, with additional traffic using on street parking.

The proposed zone map sector plan amendment in relation to the original site plan is justified and appropriate and is consistent with all previous considerations by city zoning and the environmental planning commission, and should be allowed under the principle of exceptional circumstances. With the original site plan having already been approved, we would submit that the current application for Lot 21 is consistent with all previous justifications and arguments for the **original** site plan. All original arguments and justifications are reaffirmed and are incorporated by reference herein. The proposed zoning for Lot 21 is SU-2/SU-1 for Residential, and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Dr. Office. The SU-1/SU-2 zone exists within the Sector Plan and is available for use. The proposed zoning map and sector plan amendment is an appropriate use for this property, and is justified under resolution 270-1980 and is consistent with the redeveloping character for the neighborhood.

Wherefore I respectfully request that the Planning Commission approved this request for SU-2/SU-1 zoning designation for Lot 21 in conformity with the current SU-2/SU-1 designation for Lots 19 and 20, otherwise know as 1412 6th St. NW. as residential, and/or law office, court reporter, accountant, engineer, or doctor's office. As there is no immediate need to construct a fence and the matter in litigation, any formal action should be stayed until a final determination by the court.

Yours very truly,

Jason M. Alarid

Justification pursuant to Resolution 270-1980

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 (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.

Overall, the requested zone map amendment complies in spirit and application with the SWPSDP as well as the requirements of Resolution 270-1980 as explained below addressing each requirement individually.

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

The proposal to amend the zoning designation of Lot 21 to conform with the original site plan of Lot 19 and Lot 20 of the Wells park neighborhood is consistent and further helps to implement the sawmill/Wells park sector development plan. Also, the proposed amendment is consistent with the city of Albuquerque plan concerning infill, redevelopment, and job creation. The consistent current use of the property has minimized any adverse effects including noise, lighting, pollution, and traffic on the overall residential environment of the neighborhood. The Law Offices have remained unobtrusive and discrete. However failure to properly zone Lot 21 to accommodate law office parking could potentially harm the property as well as encourage spillover onto the street, much less adversely affecting the overall use and marketability of the entire property.

(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.

Specifically, incorporating all arguments herein combined with prior justifications for Lots 19 and 20 there exists a sound justification for the change. As to parking, and in addition to the original six parking spaces, the amended site plan which now includes Lot 21, adds an additional five parking spaces for a total of 11 parking spaces available for use by the subject property. The current staffing at a law office is minimal, with two

attorneys and three staff, requiring only four or five spaces being occupied at any one time with occasional client or visitors requiring the additional space or two. At no time have existing parking needs of the property exceeded the proposed parking plan.

In addition to the existing law office, there is already a mix of land uses in the immediate area, with a day care center operating West across the street, commercial/SR to the immediate north, RT to the East, and SU-1 for office to the south.

(C) A proposed change shall not be 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.

As stated in the original proposal for lot 19 and 20, the proposed change helps to implement the economic development action plan, 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. Noteworthy, my office manager/paralegal moved to the Wells park neighborhood and lives only one block away, illustrating a direct correlation to the creation of jobs for residents in the neighborhood. Additionally, the office receptionist originally also rented a home/apartment within walking distance of the listed property, but has since relocated. Otherwise the staff is minimal with 3 to 5 persons present on average at any one time and hours of operation of the law offices to be between 8AM and 5PM, Monday through Friday.

(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 (D)(1) or (D)(2) above do not apply.

Clearly, as stated above, is proffered that it was an error by the previous landowner **NOT** to include Lot 21 and any proposed zone map amendment change. As existing, Lot 21 is an island of sawmill residential sandwiched between C-2 and SU-2/SU-1. The current designation and adjoining and nearby zoning, highlights the inconsistency within the current designation for Lot 21 as opposed to lots 19 and 20. Also, changes in ownership of the property to the north, as well as other community conditions, such as continuity of zoning and use, as well as neighbor relations, further justify change. Also, a use category of SU-2/SU-1 for Lot 21 is more advantageous to the community, as stated above in Section C, further encouraging development and revitalization under the current master plan.

As such, the proposed zone map amendment satisfies all three prongs of section D.

Other considerations:

1. The city's resolution R-70, encouraging infill development was not adopted prior to the existing sector plan.
2. In addition to the previous zone map amendment related to lots 19 and 20, identical zone changes requests have occurred at 1216 and 1220 5th Street, NW, changing SU-2/SR to SU-2/SU-1 for Residential, and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Dr. Office.
3. The proposed zone map amendment implement the overall **City Comprehensive Plan** policies concerning info, redevelopment and job creation, and effectively implements Policy II.B.5i, complementing the residential area, and also minimizes the adverse effects of noise, lighting, pollution, and traffic on the residential environment. Designation further bolsters Policy II.B.5o, promoting rehabilitation and strengthening of older neighborhoods in the established urban area. Furthermore, the proposed zone map amendment conforms with Policy II.B.5p as this is a cost effective redevelopment technique.
4. The subject property complements the surrounding residential neighborhood, represents redevelopment on an existing structure in the neighborhood, and is being completed with private funds.
5. Although current neighborhood support is undetermined, the original request by the previous landowner for lots 19 and 20 was supported by a neighborhood petition prepared and presented by Mr. Jerry Haag.

(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.

Clearly, under the proposed uses and conditions, none of the permissive uses of Lot 21 as consistent with lots 19 and 20 would be harmful to the adjacent properties to the north or south or across the street, neighborhood, or the community, and the residential/mixed use qualities within the area, incorporating by reference all previous justifications herein. Policy II.B.5a of the comprehensive land use policy has been adhered to, with the proposed zone map amendment allowing for a full range of urban land uses, resulting in an overall gross density of up to (less than) five dwelling units per acre.

(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.

Section F. is not applicable as nothing regarding the proposed zone change requires the use of capital funds and the city is not required to provide any capital improvements. The required infrastructure is already in place and the project bolsters the significant public investment in the 6th St. improvements.

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

In instant request, other than consistency of zoning to promote overall marketability of property within the neighborhood, the cost of the land were other economic considerations are not relevant for a change of zone.

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

Regardless, the subject property is located on the 6th St. thorough fare into downtown Albuquerque, currently a mixed-use environment.

(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 the site unsuitable for the uses allowed in any adjacent zone.

This request 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.

The propose zoning, requiring a site development plan, ensures that development on the site will be consistent with the surrounding neighborhood

Conclusion

Wherefore I respectfully request that the Planning Commission approved this request for SU-2/SU-1 zoning designation for Lot 21 in conformity with the current SU-2/SU-1 designation for Lots 19 and 20, otherwise know as 1412 6th St. NW. as residential, and/or law office, court reporter, accountant, engineer, or doctor's office.

Yours very truly,

Jason M. Alarid

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Navigation Tools | Print and Share

Layers

All Available Layers

Filter Layers... Filter

- Addresses
- Streets
- Building Footprints 2012
- Albuquerque Layers
  - Planning Layers
    - Overlay Zones
    - Use Specific Standards
    - Development Standards
    - Administration and Enforcement
    - Comp Plan Corridors MS-PT-MT Areas
    - Planning Research
    - Comprehensive Plan
    - IDO Zoning
    - Land Use
  - Infrastructure
  - Transportation
  - Boundaries
  - Sites
  - Environment
- Public Schools
- Traffic Barricades
- Traffic Engineering
- 2ft Contours
- Municipal Limits
- Base Maps
  - 2012 Aerial
  - 2014 Aerial
  - 2016 Aerial
  - World Topo Map
  - World Street Map

I want to...

Bernalillo County P ▾ ◀ 1 of 2 ▶

Bernalillo County Parcels

UPC: 101405818742122810
Owner: ALARID JASON & CHEVONNE L
Owner Address: 1016 SOLAR RD NW ALBUQUERQUE NM 87107-5752
Situs Address: ALBUQUERQUE 87102
Legal Description: LT 21 BLK 20 ALBRIGHT MOORE ADDITION CONT .1014 AC +/-
Acres: 0.1014

View Additional Details

Layers | World St... | 0

Still working. Loading Community Planning Areas map data...

CABQMaps - Advanced Map Viewer 2.0

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Getting Around | Maps & Data Sources | Tasks

Tool Labels ×

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Layers

All Available Layers

Filter Layers... Filter

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  - Planning Layers
    - Overlay Zones
    - Use Specific Standards
    - Development Standards
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    - Comp Plan Corridors MS-PT-MT Areas
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    - IDO Zoning
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- Public Schools
- Traffic Barricades
- Traffic Engineering
- 2ft Contours
- Municipal Limits
- Base Maps
  - 2012 Aerial
  - 2014 Aerial
  - 2016 Aerial
  - World Topo Map
  - World Street Map

I want to...

IDO Zoning ◀ 2 of 2 ▶

IDO Zoning

IDO Zone District: R-1A
IDO District Definition: Single-Family (Small Lot)
IDO Zoning Description:
IDO Category: Residential
Old Zoning Designation: S-R
Old Zoning Description:
Old Zoning Category: RESIDENTIAL
Link to Allowable Use Table

View Additional Details

Layers | World St... | 0 20 40ft

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Getting Around | Maps & Data Sources | Tasks | Tool Labels

Pan | Zoom In | Zoom Out | Initial View | Previous Extent | Next Extent | Bookmarks | Print | Export | Share | Identify

Navigation Tools | Print and Share

Layers

All Available Layers

Filter Layers... Filter

- Addresses
- Streets
- Building Footprints 2012
- Albuquerque Layers
  - Planning Layers
    - Overlay Zones
    - Use Specific Standards
    - Development Standards
    - Administration and Enforcement
    - Comp Plan Corridors MS-PT-MT Areas
    - Planning Research
    - Comprehensive Plan
    - IDO Zoning
    - Land Use
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- Traffic Engineering
- 2ft Contours
- Municipal Limits
- Base Maps
  - 2012 Aerial
  - 2014 Aerial
  - 2016 Aerial
  - World Topo Map
  - World Street Map

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CABQMaps - Advanced Map Viewer 2.0

Search... Sign in

Getting Around | Maps & Data Sources | Tasks | Tool Labels

Pan | Zoom In | Zoom Out | Initial View | Previous Extent | Next Extent | Bookmarks | Print | Export | Share | Identify

Navigation Tools | Print and Share

Layers

All Available Layers

Filter Layers... Filter

- Operational Layers
  - Parcels and Easements
    - Bernalillo County Parcels
    - City Parcels
    - Easements
  - Addresses
  - Streets
  - Building Footprints 2012
  - Albuquerque Layers
    - Planning Layers
      - Overlay Zones
      - Use Specific Standards
      - Development Standards
      - Administration and Enforcement
      - Comp Plan Corridors MS-PT-MT Areas
      - Planning Research
      - Comprehensive Plan
      - IDO Zoning
      - Land Use
    - Infrastructure
    - Transportation
    - Boundaries
    - Sites
    - Environment
  - Public Schools
  - Traffic Barricades
  - Traffic Engineering
  - 2ft Contours
  - Municipal Limits
- Base Maps

Layers | World St... | 0 20 40ft

City of Albuquerque
Planning Department
Development Review Division
P.O. Box 1293,
Albuquerque, NM 87103

Date: August 17, 2006

OFFICIAL NOTIFICATION OF DECISION

FILE: **Project #1005001**
06EPC-00969 EPC Site Development Plan – Building Permit
06EPC-00970 EPC Sector Development Plan/Zone Map Amendment

Jerry Haag
1909 4th Street NW
Albuquerque, NM 87102

LEGAL DESCRIPTION:
for all or a portion of Lots 19 & 20, Albright-Moore Addition, located on 6th Street between Constitution and Kinley, containing approximately 1 acre.
Petra Morris, Staff Planner

On August 17, 2006, the Environmental Planning Commission voted to APPROVE Project 1005001, 06EPC-00970, a request for a Sector Development Plan Zone Map Amendment from SU2/SR to SU2/SU1 for Residentail and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Doctor Office, based on the following Findings:

FINDINGS:

1. This is a request for approval of a Sector Development Plan Zone Map Amendment from SU2 SR to SU-2 for SU-1 for Residential and/or Law Office, Court Reporter, Accountant, Architect, Engineer, or Doctor Office for Lots 19 and 20, Block 20, Albright-Moore Addition for approximately 0.2 acres.

2. The subject site is located on 6th Street NW between Kinley Avenue NW and Constitution Avenue NW. The subject site contains one single story house. The house will remain as it is and will not be modified.

3. The current SU2 SR zoning dates back to the establishment of the Sawmill Wells Park SDP in 1996.

4. The subject site is located within the Central Urban Area of the Albuquerque/ Bernalillo Comprehensive Plan. It is also located within the Sawmill Wells Park Sector Development Plan. The request does not conflict with any goals or policies in the Comprehensive Plan or the Sawmill Wells Park SDP.

5. The request supports Policy II.B.5a of the Comprehensive Plan because it would allow for a wider range of land uses in the area and it would be compatible with the residential properties in the area as it would not be an intense use.

6. The request supports Policy II.B.5i of the Comprehensive Plan because the requested zoning would be for low intensity office uses and would also retain the residential use. This request is located in a residential area, with residential properties on three sides. The site plan that accompanies the request shows that the building would remain as it is, with parking at the rear from the alley or on-street. The subject site is located along 6th Street, and is close to downtown. The location of the property means that the use of transit is viable and encouraged. Use of transit options will decrease the traffic impacts on the residential area.

7. The request supports Policy II.B.5o of the Comprehensive Plan because it would encourage rehabilitation and redevelopment in the neighborhood. Well-maintained properties can encourage rehabilitation in a neighborhood. As an SU1 zoned site, the property must be maintained in accordance with the accompanying site development plan.

8. The request supports Policy II.B.5p of the Comprehensive Plan because the reuse of this building as an office or residence would be a low cost technique, and would help preserve housing stock in the neighborhood. The applicant states that no changes to the structure would be required.

9. The request supports Policy II.B.5d of the Comprehensive Plan because the intensity of the proposed use is low and the request would allow residential uses to continue. The request also helps ensure the preservation and maintenance of the building.

10. The request supports the Economic Development Action Plan in the Sawmill Wells Park SDP because this request would increase the job opportunities in the area and the mixture of uses that have historically been located in the Sawmill and Wells Park neighborhoods while maintaining the existing small-scale residential character of the area.

11. The request is justified per *Resolution 270 1980* because there are changed neighborhood conditions in the form of a similar zone change in April 2006 (Project # 1004731, Case # 06EPC 00289) and it would be more advantageous to the community as articulated in the Comprehensive Plan and Sawmill Wells Park SDP.

12. The request would create a "spot zone" however it is a justified "spot zone" as it furthers goals and policies in Comprehensive Plan and the Sawmill Wells Park SDP.

13. The Wells Park Neighborhood Association was notified of the request and a facilitated meeting was recommended. However, the Wells Park Neighborhood Association declined to have a facilitated meeting. Staff has received no comments from the neighborhood and adjacent property owners.

On August 17, 2006, the Environmental Planning Commission voted to APPROVE Project 1005001, 06EPC-00969, a Site Development Plan for Building Permit, based on the following Findings:

FINDINGS:

1. This is a request for approval of a Site Development Plan for Building Permit for Lots 19 and 20, Block 20, Albright-Moore Addition for approximately 0.2 acres.

2. The subject site is located on 6th Street NW between Kinley Avenue NW and Constitution Avenue NW. The subject site contains one single story house.

3. The existing building is 2,800sf. The building was built sometime between 1920 and 1944. It is an example of a single story Southwest Vernacular house. The building is in good condition and the owner states in his letter that no changes to the structure will be required.

4. The subject site was zoned SU2 SR in 1996 with the adoption of the Sawmill Wells Park Sector Development Plan.

5. The request does not conflict with any goals or policies in the Albuquerque/ Bernalillo Comprehensive Plan or in the Sawmill Wells Park SDP.

6. The Site Development Plan for Building Permit accompanies the zone change from SU2 SR to SU1. This site is already developed; therefore the site plan reflects what is already built.

7. The site plan includes 6 parking spaces. 14 spaces are required under the O1 zoning, however the SU1 designation allows the EPC to decide the required number of spaces. The applicant has justified the request for less parking in a letter provided.

8. There is no known opposition to the request.

CONDITIONS:

1. The EPC delegates final sign-off authority of this site development plan to the Development Review Board (DRB). The DRB is responsible for ensuring that all EPC Conditions have been satisfied and that other applicable City requirements have been met. A letter shall accompany the submittal, specifying all modifications that have been made to the site plan since the EPC hearing, including how the site plan has been modified to meet each of the EPC conditions. Unauthorized changes to this site plan, including before or after DRB final sign-off, may result in forfeiture of approvals.

2. Prior to application submittal to the DRB, the applicant shall meet with the staff planner to ensure that all conditions of approval are met.

3. Any future landscaping shall use low water, drought tolerant plants. If the lawn is removed in the future, the rest of the landscaping shall be increased to meet city standards of a 15% of the net lot area landscaped, and all landscaped areas shall have at least 75% live ground cover, not including any tree canopies, per Zone Code Section 14-16-3-10.

4. At the DRB level the applicant shall replat the two lots into one.

5. Conditions from the City Engineer:
   - The Developer is responsible for permanent improvements to the transportation facilities adjacent to the proposed site development plan for subdivision. Those improvements will include any additional right-of-way requirements, paving, curb and gutter, sidewalk and ADA accessible ramps that have not already been provided for. All public infrastructure constructed within public right-of-way or public easements shall be to City Standards. Those Standards will include but are not limited to sidewalks (std. dwg. 2430), driveways (std. dwg. 2425), private entrances (std. dwg. 2426) and wheel chair ramps (std. dwg. 2441).
   - The City Standard for width of an Alley is 20'. Developer will need to provide 2' of right-of-way adjacent to site.
   - Site plan shall comply and be designed per DPM Standards.
   - Are site drives on Sixth Street existing? If so label them and parking space 1 as existing.

IF YOU WISH TO APPEAL/PROTEST THIS DECISION, YOU MUST DO SO BY **SEPTEMBER 1, 2006** 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. 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 DECISION.

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 include 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 decided that all City plans policies 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 ZONING CODE MUST BE COMPLIED WITH, EVEN AFTER APPROVAL OF THE REFERENCED APPLICATION.

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 Richard Dineen
Planning Director

RD/PM/mc

cc: Consensus Planning, Inc., 924 Park Ave SW, Albuquerque, NM 87102
Fred Sais, Wells Park, 1508 Los Tomases NW, Albuquerque, NM 87102
Mark Clayburgh, Wells Park, 1310 5th St NW, Albuquerque, NM 87102

From: "Lehner, Catalina L." <CLehner@cabq.gov>
Date: April 13, 2018 at 10:48:12 AM MDT
To: "ekilmer67@icloud.com" <ekilmer67@icloud.com>
Cc: "Conrad, Matthew A." <MattConrad@cabq.gov>, "McIntosh, Benjamin A." <bmcintosh@cabq.gov>, "Brito, Russell D." <RBrito@cabq.gov>
Subject: EPC Project #1007648- land uses

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>

Kilmer - Attachment 24

A ZONING CODE OVERVIEW FOR THE GENERAL PUBLIC

THE INFORMATION IN THIS PUBLICATION IS EXCERPTED FROM THE COMPREHENSIVE CITY ZONING CODE, AS AMENDED, ARTICLE 14, CHAPTER 16 OF THE REVISED ORDINANCES OF ALBUQUERQUE, 1994.

THIS INFORMATION IS UNOFFICIAL. CONSULT THE TEXT OF THE ZONING CODE AND THE ZONING ENFORCEMENT OFFICE FOR DEFINITIVE INFORMATION.

City of Albuquerque
Planning Department
Code Enforcement Division

Distributed by:
Matthew Conrad
Code Enforcement Manager
2009

IMPORTANT TERMS TO UNDERSTAND

The following terms are important to understanding the Zoning Code and how it is enforced:

1.) Permissive Use - Each zone category identifies those uses that are allowed as a right in that zone. Such uses are specifically identified in each zone. An example of a permissive use would be a single-family house in the R-1 zone.

2.) Conditional Use - A type of special exception, the uses that may be approved on an individual basis after a public hearing are identified in each zone category. In certain cases these uses have conditions that must be met for approval of the conditional use.

3.) Non-conformance - As the text of the Zoning Code is amended, or the zoning map is amended as a result of re-zoning or annexation, certain uses existing and legal before the amendment may not be allowed under the new regulations. Those uses which legally pre-existed the amendment then become nonconforming, but not illegal. Such uses may expand, a type of special exception, with approval at a public hearing, but never beyond 25% of the size of the original building. Most non-conforming uses may only remain for a finite period of time, usually 43-60 years. After the time period has expired, the building may then only be used in conformance with the current regulations. Buildings non-conforming to regulations for setback, height, parking, and other quantitative regulations may remain for the life of the structure, and may be repaired if damaged.

4.) Variance - A type of special exception, a variance with approval at a public hearing allows a variation from the strict application of the regulations found in the Zoning Code. An example of a variance would be an approval to allow a building 30 feet high where the regulations restrict height to 26 feet. The allowable use of a property may never be changed by a variance; e.g., a gas station is a use that is not allowed in the R-1 single-family zone, therefore a gas station may not be approved as a variance in the R-1 zone.

5.) Status Established Building – A building nonconforming as to use that has been approved to maintain its nonconforming use status through a hearing process with the Zoning Hearing Examiner. Approval of a status established building can only occur if the property owner has requested on or before the expiration date of the nonconforming status. Those properties that became nonconforming as to use due to a text amendment do not qualify for this process.

6.) Declaratory Ruling - A declaratory ruling is an interpretation of the regulations of the Zoning Code by the Zoning Enforcement Officer. A citizen may request a declaratory ruling at any time as it applies to a proposed use or activity. If there is an objection to the ZEO's ruling, it may be appealed to the Environmental Planning Commission, which may either uphold the ruling or overturn it and direct the ZEO to change the ruling. Declaratory rulings are applicable only to proposed uses and activities and may not be issued for uses or activities already taking place.