



**Environmental  
Planning  
Commission**

**Agenda Number: 09  
Project Number: 1011247  
Case Number: 17EPC- 40014  
Hearing Date: October 12, 2017**

**Staff Report**

<b>Agent</b>	Garcia / Kraemer & Associates
<b>Applicant</b>	Community Dental Services, Inc.
<b>Request</b>	<b>Sector Development Plan Map Amendment (Zone Change)</b>
<b>Legal Description</b>	All or a portion of Lots 307B, 308A, 308B, and 310
<b>Location</b>	2116 Hinkle Street SE
<b>Size</b>	1.4 Acres
<b>Existing Zoning</b>	SU-2 MR Mixed Residential
<b>Proposed Zoning</b>	SU-2 LCR Limited Commercial Residential

**Staff Recommendation**

APPROVAL of Project # 1011247  
Case # 17EPC-40014  
based on the Findings  
included within this report

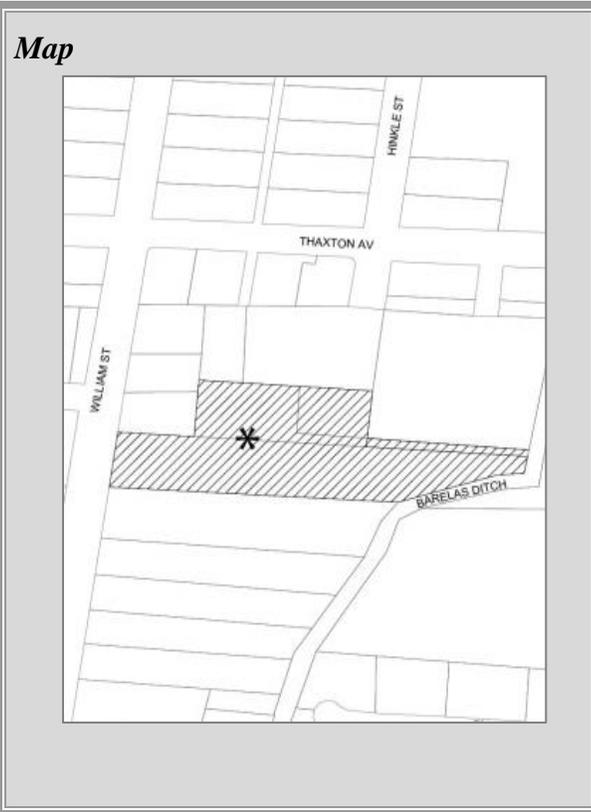
**Staff Planner  
Cheryl Somerfeldt**

**Summary of Analysis**

This request is for a Sector Development Plan Map Amendment (Zone Change) for properties addressed 2116 Hinkle Street SE, and located near the intersection of Broadway Boulevard SE and Gibson Boulevard SE. The request is for a zone change from SU-2 MR (Mixed Residential) to SU-2 LCR (Limited Commercial Residential) for the subject lots which are within the boundaries of the South Broadway Neighborhoods Sector Development Plan and designated an Area of Consistency within the 2017 Albuquerque & Bernalillo County Comprehensive Plan.

The San Jose Neighborhood Association (NA) was notified of this request. A facilitated meeting was requested and occurred on September 25, 2017. Staff also received verbal concern from neighboring property owners about potential issues with multi-family housing and existing issues with loitering, waste management, street parking, and traffic.

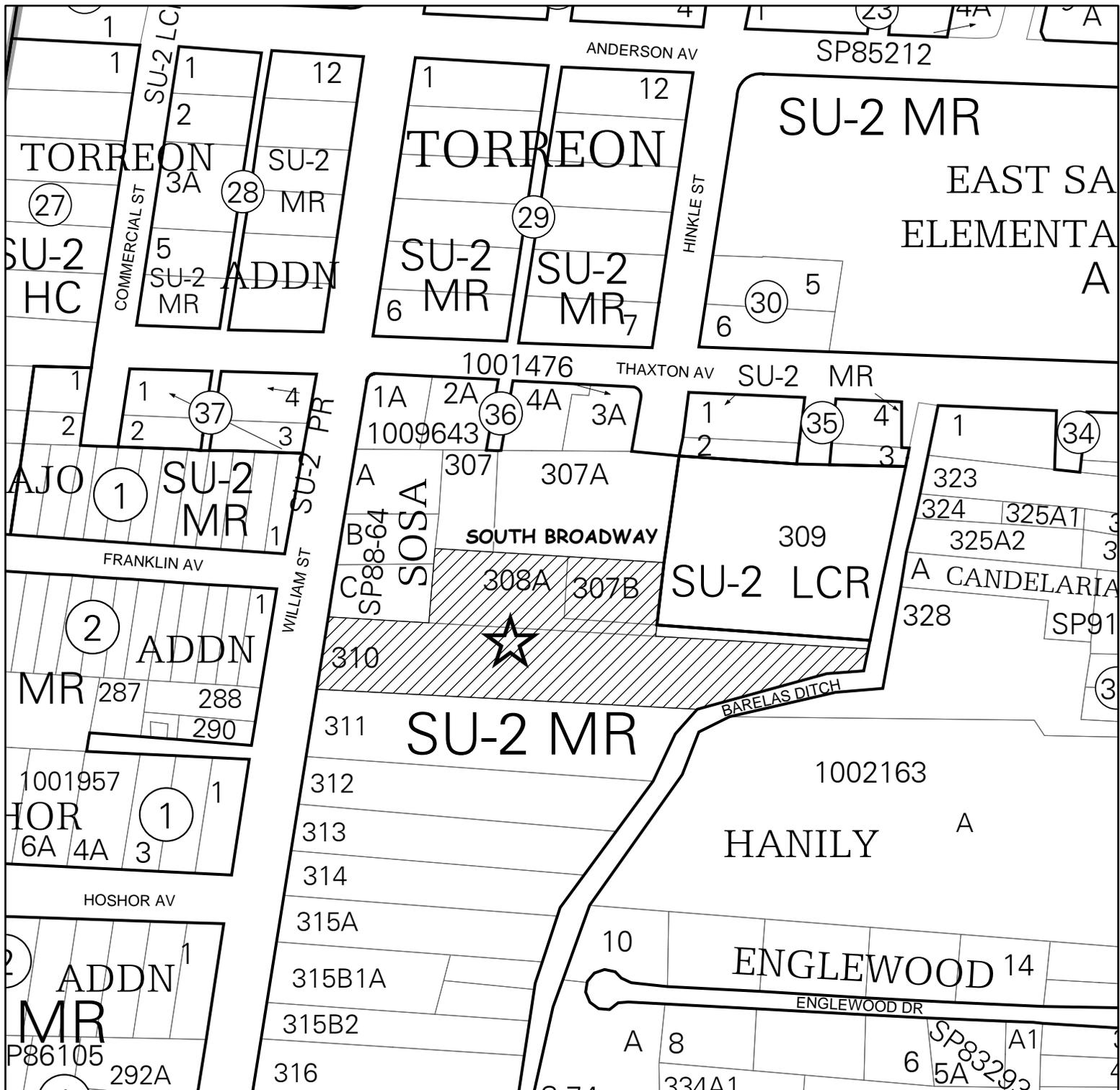
Three 30-day deferrals have been requested since the July 13, 2017 EPC public hearing to allow more time to further justify the request and to discuss the project with the surrounding neighbors. Staff recommends approval based on the findings outlined in this staff report.





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### ZONING MAP

Note: Grey shading indicates County.



1 inch = 150 feet

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07/13/2017  
Zone Map Page: L-14  
Additional Case Numbers:  
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## LAND USE MAP

Note: Grey 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 = 150 feet

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## HISTORY MAP

Note: Grey shading indicates County.



1 inch = 150 feet

Project Number:

1011247

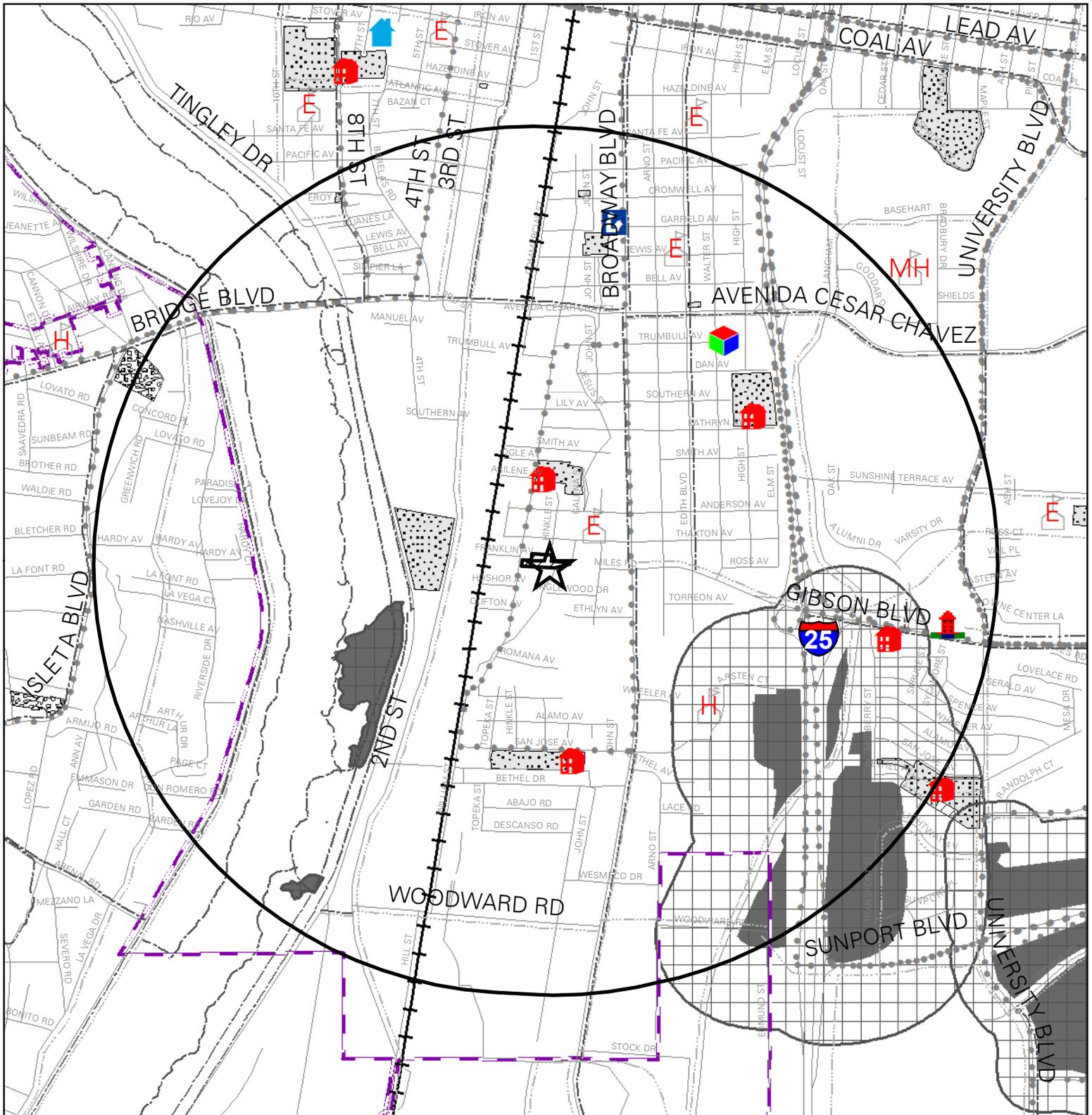
Hearing Date:

07/13/2017

Zone Map Page: L-14

Additional Case Numbers:

17EPC-40014

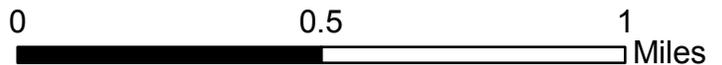


Public Facilities Map with One-Mile Buffer

- |                      |                         |                          |                             |
|----------------------|-------------------------|--------------------------|-----------------------------|
| COMMUNITY CENTER     | FIRE                    | Public Schools           | Landfill Buffer (1000 feet) |
| MULTI-SERVICE CENTER | POLICE                  | Proposed Bike Facilities | Landfills designated by EHD |
| SENIOR CENTER        | SHERIFF                 | ABQ Bike Facilities      | Undeveloped County Park     |
| LIBRARY              | SOLID WASTE             | ABQ Ride Routes          | Developed City Park         |
| MUSEUM               | Albuquerque City Limits |                          | Undeveloped City Park       |



Project Number: 1011247



**I. INTRODUCTION**

***Surrounding Zoning, Plan Designations, and Land Uses:***

	<b><i>Zoning</i></b>	<b><i>Comprehensive Plan Area; Applicable Rank II &amp; III Plans</i></b>	<b><i>Land Use</i></b>
<b><i>Site</i></b>	SU-2 MR (Mixed Residential)	Area of Consistency; South Broadway SD & MR Plan	Vacant / Other
<b><i>North</i></b>	SU-2 LCR (Limited Commercial Residential)	Area of Change; South Broadway SD & MR Plan	Public / Institutional
<b><i>South</i></b>	SU-2 MR (Mixed Residential)	Area of Consistency; South Broadway SD & MR Plan	Single Family
<b><i>East</i></b>	SU-2 MR (Mixed Residential)	Area of Consistency; South Broadway SD & MR Plan	Single Family
<b><i>West</i></b>	SU-2 MR (Mixed Residential)	Area of Consistency; South Broadway SD & MR Plan	Single Family

***Proposal***

This request is for a Sector Development Plan Map Amendment (Zone Change) to the South Broadway Neighborhoods Sector Development Plan (SDP) for Lots 307B, 308A, 308B, and 310, an approximately 1.4 acre area (subject lots). The request is for a zone change from SU-2 MR Mixed Residential to SU-2 LCR Limited Commercial Residential. The subject lots are currently accessed off of Hinkle Street SE and are interior to the block that is bordered by Thaxton Avenue SE to the north, John Street SE to the east, and William Street SE to the west, near the major intersection of Gibson Boulevard SE and Broadway Boulevard SE.

The subject lots are within an Area of Consistency of the Comprehensive Plan and within the boundaries of the South Broadway Neighborhoods SDP and Metropolitan Redevelopment Plan and were zoned SU-2 MR Mixed Residential its adoption in 1986. The adjacent property to the northeast is owned and operated by the same owner, Community Dental Services (the applicant). The applicant wishes to expand parking and move the access driveway to William Street SE from Hinkle Street SE, where access is pursuant to a disputed easement with the adjacent residential property owner.

The San Jose Neighborhood Association was notified of this request. A City sponsored facilitated meeting was requested by the San Jose Neighborhood Association and occurred on September 25, 2017; however an agreement was not reached. In addition, the agent was present at the San Jose Neighborhood Association meeting on August 24, 2017. Staff has received verbal and written comments from several adjacent property owners, including the adjacent property owner regarding concern over the applicant’s business practices and the access easement. Staff has received verbal comments from the

Neighborhood Association stating that they are in opposition to the zone change primarily over multi-family apartments being permissive in the requested zone category, but also due to traffic.

### ***EPC Role***

The Environmental Planning Commission (EPC) is hearing this case because the EPC has the authority to hear all Sector Development Plan Map Amendment (Zone Change) cases and make decisions on those cases that are for sites less than one block or 10 acres in size. The EPC is the final decision making body for this application, unless the decision is appealed, pursuant to Zoning Code Sections 14-16-4-1 Amendment Procedure and 14-16-4-3 Sector Development Plan Procedures. If appealed, the Land Use Hearing Officer (LUHO) would hear the appeal and make a recommendation to the City Council, which would make the final administrative decision pursuant to Zoning Code Section 14-16-4-4(A)(2) Appeal. This is a quasi-judicial matter.

### ***History/Background***

The applicant has indicated that the Community Dental Clinic was originally created in 1973 and past City directories have confirmed this. The current zoning for the subject lots originated with the creation of the South Broadway Neighborhoods SDP in 1986. The subject lots were zoned SU-2 MR (Mixed Residential), consistent with surrounding residential properties. The property on which the Community Dental Clinic buildings are located was zoned SU-2 LCR, (Limited Commercial Residential), which permits office uses, to reflect that the Community Dental Clinic is a conforming use. City records show two Conditional Use Permits acquired in 1986 for the construction of additional buildings on the lot zoned SU-2 LCR. However, the Community Dental Clinic did not include parking on that lot and instead acquired other surrounding residentially zoned lots for parking, which are the subject of this request. Aerial photos show that the subject properties have been vacant since prior to 1996 and that the parking lots were paved without a permit between 2010 and 2012.

In 2016, the Zoning Hearing Examiner (ZHE) heard a Conditional Use Permit case applied for by the Greater Albuquerque Housing Partnership to construct low income apartments on properties adjacent to the east and southeast of the subject lots. The ZHE found that these apartments would not be injurious to the community because substantial evidence was not presented that more crime would be created as stated by the neighbors. The neighborhood appealed the decision due to “significant concern and objection within the community and its elected representatives” over potential crime and traffic, and although the appeal was not granted, the applicant ultimately withdrew the request, and the apartments were not constructed.

On May 17, 2016, the applicant attended a Pre-application Review Team (PRT) meeting due to receiving a code enforcement citation. The existing parking lots are in violation of zoning code because the subject lots are zoned SU-2 MR (Mixed Residential) which does not permit office uses. The citation was initiated over the lack of buffering with the adjacent neighbor because the applicant is not currently meeting the City regulations for

zoning, buffering, landscaping, etc. It was noted in the PRT that a zone change for the subject lots would be required to continue to operate the parking lots. The applicant submitted the zone change application for the EPC hearing of July 13, 2017. The request had been deferred to the September 14, 2017 EPC hearing so the applicant would have more time to complete the justification and to meet with the neighboring property owner regarding the request. The case was then deferred to the October 12, 2017 EPC hearing because the San Jose Neighborhood Association requested a facilitated meeting with the applicant (see attached).

### ***Context***

The current access to the subject lots is through a private access easement with the adjacent residential property owner at the end of Hinkle Street SE. The Community Dental Clinic offices are located behind residences and a chain link fence separates the uses. Most of the subject lots are vacant, however lots 307B and 310 have existing parking lots which serve as parking for the Community Dental Clinic offices and are therefore not legal since the subject properties are currently zoned residential.

An existing drainage ditch borders the east side of the subject lots and across the ditch are single family properties and a large vacant property owned by the City of Albuquerque. This property acquired a Conditional Use Permit for apartments, but the neighborhood appealed the decision and the apartments were not constructed. To the north of the subject lots, is the existing Community Dental Clinic and single family properties on Thaxton Avenue SE. To the west of the subject lots are single family properties and William Street SE. East San Jose Elementary is located farther north across Thaxton Avenue.

The neighborhood is characterized primarily by residentially zoned lots with a non-gridded pattern characteristic of older neighborhoods near the river with long narrow lots directed toward the river for historic irrigation water access.

### ***Transportation System***

The Long Range Roadway System (LRRS) map, produced by the Mid-Region Council of Governments (MRCOG), identifies the functional classifications of roadways. The LRRS designates both Broadway Boulevard SE and Gibson Boulevard SE as Regional Principal Arterials. Thaxton Avenue SE, William Street SE, and Hinkle Street SE are not identified on the LRRS map.

### ***Comprehensive Plan Corridor Designation***

The Comprehensive Plan designates Broadway Boulevard SE (to the east of the subject lots) both a Multi-Modal Corridor and a Main Street. Multi-Modal Corridors (Enhanced Transit Corridor in the 2013 Comp Plan) encourage balancing priorities between transit and vehicle traffic within a shared roadway with improved pedestrian environment and protected or parallel bike facilities. Main Streets (new designation) are streets with neighborhood-scale retail and pedestrian-oriented building design, orientation, and scale.

***Trails/Bikeways***

Bicycle lanes are located along Broadway Boulevard SE north of Gibson Avenue SE approximately 0.2 miles east of the subject properties. The Riverside Trail, a multi-use trail separate from automobile traffic within the Rio Grande Bosque, is located close to the west of the subject properties; however, the railroad tracks are a significant barrier and can only be crossed at Avenida Cesar Chavez to the north and Woodward Road to the south.

***Transit***

Fixed Route #16/18 bus service travels in a loop around both sides of the subject lots making it fairly easy to access by transit riders even though there is no bus stop directly in front of the subject lots. The Broadway Boulevard SE bus stop is approximately 0.2 miles east and the William Street SE bus stop is approximately 0.1 miles west from the current access to the subject properties off of Hinkle Street.

If the zone change was approved and access to the Community Dental Clinic was moved to William Street SE, the bus stop would be approximately 0.1 miles from the William Street SE bus stop in the opposite direction.

***Public Facilities/Community Services***

Please refer to the Public Facilities Map in the packet for a complete listing of public facilities and community services located within one mile of the subject lots.

***II. ANALYSIS of APPLICABLE ORDINANCES, PLANS AND POLICIES***

***Zoning***

Zoning for the property was established in 1986 through the adoption of the South Broadway Neighborhoods SDP which established SU-2 zoning for the area within the plan boundaries. The SU-2 designation is described by the Albuquerque Comprehensive Zoning Code as being controlled by a Sector Development Plan allowing for a mixture of uses with new development and redevelopment appropriate to a given neighborhood.

**Existing Zoning**

The existing SU-2 MR (Mixed Residential) zone was established by the South Broadway Neighborhoods SDP and is described as corresponding to the R-1 Residential zone with the same permissive uses. Conditional uses include those that are permissive in the R-2 zone such as townhouses and apartments up to 20 units per acre except Group Training Homes are not permitted.

**Proposed Zoning**

The proposed SU-2 LCR (Limited Commercial Residential) zone is described by the South Broadway Neighborhoods SDP as corresponding to the RC (Residential Commercial) zone which permits a mixture of residential and commercial uses. Most of the area in the SDP was zoned SU-2 MR (Mixed Residential) and limited areas of SU-2 LCR (Limited Commercial Residential) zoning were created to accommodate existing

businesses among the residential properties without making the businesses non-conforming (see attached South Broadway Proposed Zoning map).

The following are some of the permissive uses in the proposed SU-2 LCR zone:

- Apartments, not to exceed 20 dwellings per acre
- Offices such as a dental office
- Townhouses
- More than one house per lot
- Institution such as a church or library
- Retail such as books
- Services such as a barber

#### Difference

The major difference between the existing zone and the proposed zone is the LCR zone will permit a higher density of housing than single family, such as townhouses and apartments permissively without a conditional use permit. In addition, the LCR zone permits offices such as the Community Dental Clinic as well as low impact retail and services such as the sale of books and jewelry or barber and day care. The request for the straight SU-2 LCR zone does not require a Site Plan; therefore, the design of the site cannot be evaluated for this request.

The South Broadway Neighborhoods SDP Map shows a pattern of zoning where except for the Broadway Boulevard SE corridor which is zoned SU-2 NCR (Neighborhood Commercial Residential), much of the area is zoned MR (Mixed Residential) with interspersed spot zones of LCR (Limited Commercial Residential) in order to allow for businesses which existed prior to adoption of the SDP.

#### Comprehensive City Zoning Code Applicable Regulations

In accordance with Zoning Code Section 14-16-3-10 Landscaping Regulations (E)(8)(a)&(b), the subject non-residentially zoned lots would be required to provide a buffer landscape strip with trees at least ten feet wide along the residential/ nonresidential boundary. In addition, Section 14-16-3-10(E)(8)(c) of the Zoning Code would require the subject non-residentially zoned lots to have an opaque wall or fence a minimum six foot high to visually screen the parking and circulation areas from the abutting residential zone. If this zone change is approved, this regulation would address some of the issues related to having the SU-2 LCR zone adjacent to residentially zoned properties.

#### ***Albuquerque / Bernalillo County Comprehensive Plan***

Policy Citations are in regular text; Applicant Response in *italics*; Staff Analysis is in ***bold italics***

The subject lots are located in the area designated Area of Consistency by the Comprehensive Plan with a Goal to reinforce the character and intensity of the surrounding area. Within an Area of Consistency, the Comprehensive Plan policies are intended to protect and enhance the character of existing single-family neighborhoods

outside of Centers and Corridors. Applicable policies identified by the applicant include:

Plan Element 5: Land Use

Policy 5.2.1: Land Uses- Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.

- a) Encourage development and redevelopment that brings goods, services, and amenities within walking and biking distance of neighborhoods and promotes good access for all residents.

*This application is to allow an existing dental service to expand in the future while continuing to provide much needed care for the surrounding low income residents and community. The requested zone change furthers this policy because it would support a mixed use land use environment which is conveniently accessible from surrounding neighborhoods. The zone change would also promote redevelopment that brings a needed service to all residents and the community. Furthermore, the subject property and existing clinic are very accessible by walking or biking from the neighborhood or city transit on Broadway Blvd.*

***The request furthers Policy 5.2.1.a, because the zone change would facilitate the development of vacant properties and is conveniently accessible by car, transit, and bicycle on Broadway Boulevard. The proposed development for the subject properties is a dental clinic and should not be confused with a “mixed-use” development which combines residential and commercial uses on the same site and/or in the same building.***

- e) Create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.

*This zone change request furthers this policy because of the property's convenient location within the existing South Broadway neighborhood. It is also very accessible from other surrounding neighborhoods such as San Jose and Barelás. Providing a needed healthcare service to the neighborhood promotes a healthy, sustainable community.*

***The request furthers Policy 5.2.1.e, because the Community Dental Clinic is accessible from surrounding neighborhoods.***

- n) Encourage more productive use of vacant lots and under-utilized lots, including surface parking.

*This zone change request furthers this policy because it would support a future development of four vacant and under-utilized lots within an older neighborhood in the City. The change of zone would also allow the use of the existing surface parking which is not being utilized.*

***The request partially furthers Policy 5.2.1.n, because although the request will facilitate development of vacant lots, the applicant is proposing to continue the use of the surface parking lots, which is not the intention of this policy; although the lots could be developed in the future. The surface parking lots were not legally constructed, and therefore cannot be considered under-utilized in the justification. In addition, the***

***Community Dental Clinic has not yet provided a buffer between their current parking lots and the adjacent residential properties.***

Policy 5.3.1 Infill Development: Support additional growth in areas with existing infrastructure and public facilities.

*This zone change request furthers this policy because the property is located adjacent to existing infrastructure and public facilities; such as water service, sewer, roadways, electricity, gas, communications, and schools. Additionally, if approved, the change of zoning would benefit the adjacent neighbors because the dental clinic could finally have one hundred percent dedicated ingress and egress from their property to the adjacent roadway and not have to use the shared easement from Hinkle St. This would certainly benefit the neighbors because it would reduce the effects of traffic flow, parking, and possible traffic congestion on their properties.*

***The request furthers Policy 5.3.1 because rezoning the currently vacant subject lots would support infill growth in an older established neighborhood with existing infrastructure and public utilities.***

(f) Minimize the potential negative impacts of development on existing residential uses with respect to noise, storm water runoff, contaminants, lighting, air quality, and traffic.

*This zone change partially furthers this policy because future development will foster landscape buffers, visual relief, proper drainage, dust mitigation, better vehicular access, and compliance with City and state lighting regulations.*

***The request partially furthers Policy 5.3.1.f, because the use is currently causing negative impacts to the existing residential community with the noise and traffic caused by clients waiting and parking on the adjacent residential streets; however, there is a potential that these issues could be alleviated with the proposed zone change which would permit access off of William Street SE instead of Hinkle Street SE.***

(g) Encourage development where adequate infrastructure and community services exist.

*This zone change furthers this policy because, as stated above, there is existing infrastructure and public facilities; such as water service., sewer, roadways, electricity, gas, communications, and schools adjacent to the property.*

***The request furthers Policy 5.3.1.g, because adequate infrastructure exists and community services exist for infill development.***

### ***South Broadway Neighborhoods Sector Development Plan***

The South Broadway Neighborhoods SDP was first adopted in July of 1986. The South Broadway Neighborhoods SDP is intended to promote an arrangement of land use, circulation and services which will contribute to the economic, social and physical health and safety, welfare and convenience of the people who live in the area within the larger framework of the city and abutting County area.

The South Broadway Neighborhoods Sector Plan Area is bounded by Coal Avenue on the north, Woodward Road on the south, the rail road tracks on the west and Interstate 25 on the east. The area south of Woodward Road to the City Limits is an extension by the latest adopted plan. With the extension the total acreage included in the plan area is approximately 1,008 acres.

Relevant goals/policies include the following:

Goal 1: Elimination of conditions which are detrimental to the public health, safety and welfare.

*This goal is furthered by this request since the map amendment from SU-2 MR to SU-2 LCR will allow for an expansion to the existing dental clinic site where ensuring adequate screening and buffering to the neighborhood, building setbacks, and restricting access to Williams St. only. For these reasons the applicant believes that the request is consistent with the health, safety, and general welfare of the residents of the adjacent neighborhood.*

***Goal 1 of the South Broadway Neighborhoods SDP is generally furthered by the request. The requested SU-2 LCR (Limited Commercial Residential) zone would permit more options in the development of long vacant properties. In addition, if the zone change is approved, the existing parking lots will be considered new, and the location of the intended improvements will be required per Zoning Code regulations, including requirements for a buffer between the residential and non-residential properties.***

Goal 2: Elimination of blight and prevention of blighting influences.

*The existing property is vacant. Vacant land can be a blighting influence. By changing the zoning on this property and incorporating the vacant land into the existing business would eliminate the current condition and further this goal of the Plan.*

***Goal 2 of the South Broadway Neighborhoods SDP is furthered by the request. The requested zone change would assist with the development of vacant lots, which can be a blighting influence.***

### ***Resolution 270-1980***

#### ***Policies for Zone Map Change Applications***

This Resolution outlines policies and requirements for deciding Sector Development Map change applications pursuant to the Comprehensive City Zoning Code. There are several tests that must be met and the applicant must provide sound justification for the change. The burden is on the applicant to show why a change should be made, not on the City to show why the change should not be made.

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: there was an error when the existing zone map pattern was created; or 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.

***Analysis of Applicant's Justification***

**Note:** Policy is in regular text; Applicant's justification is in *italics*; staff's analysis is in ***bold italics***

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

*The proposed zoning of SU-2 LCR will not adversely affect the health, safety, morals and general welfare of the City or area residents. In fact, the applicant believes that if approved, the zone change would allow the continued use of a quality project in a blighted area. The zoning and uses proposed are no different from what uses already exist on the dental clinics property today; and as explained above, have not been found to be inconsistent with the health, safety, morals, and general welfare of the City, but rather quite the opposite. Specifically, the applicant feels that the proposed development will help to continue to stabilize and increase property values in the area by being able to reasonably expand, where preventing further blight in the neighborhood and providing an obviously needed and desired service to the community and surrounding neighborhood.*

***Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers a preponderance of applicable Goals and policies from the Comprehensive Plan and other applicable plans.***

***This zone change request:***

- ***furthers Comprehensive Policy 5.2.1.a, 5.2.1.e, 5.3.1, 5.3.1.g, and South Broadway Neighborhoods SDP Goal 2.***
- ***partially furthers Comprehensive Plan Policies 5.3.1.f, 5.2.1.n, and South Broadway Neighborhoods SDP Goal 1.***

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.

*Zoning from SU-2 MR to SU-2 LCR will provide for stability of land use and zoning. The proposed zone change would allow for an expansion of the current use of the property which will ultimately result in more job opportunities and increased revenue for the public and local community as is encouraged in the State of New Mexico Metropolitan Redevelopment Code. Moreover, development of the property, which is currently vacant land, will help to eliminate blight and in turn increase property values which would contribute to stabilizing land use.*

***Stability of land use is supported by the zone change because the Community Dental Clinic property was zoned SU-2 LCR by the South Broadway Neighborhoods SDP when it was adopted in 1986, and the subject lots are adjacent to this property. These lots have remained vacant since that time. It is expected that the subject lots will be utilized as an extension of the applicant's properties. The San Jose Neighborhood Association has expressed concerned over higher density multi-family use, however, multi-family is not typically a conflicting use in residential neighborhoods.***

***Furthermore, the Zoning Hearing Examiner found that apartments would not be injurious to the neighborhood, in a Conditional Use Permit case for adjacent properties.***

- 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.

***The request is consistent with and furthers adopted plans and policies, including the Comprehensive Plan and the South Broadway Neighborhoods SDP.***

- 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.

*The applicant feels that the existing zoning is inappropriate because a different use category would be more advantageous to the community. As stated above, the applicant can demonstrate that the current use of the dental clinic's property zoned SU-2 LCR has proven to be successful over many decades in offering a quality and much needed affordable service to the surrounding community and to the South Broadway neighborhoods. By incorporating the clinic's vacant land into the existing premise, the applicant feels that the resulting use category allowing for expansion would be more advantageous to the community as articulated in the Comprehensive Plan, the South Broadway Neighborhoods Sector Development Plan, and the State Metropolitan Redevelopment Code as further explained above in Section C.*

***The existing zoning is inappropriate because the subject lots have been vacant for a long period of time and are currently not being utilized. The proposed zone change would allow for the expansion of the existing Community Dental Clinic which is a more advantageous use because it will further applicable polices and goals and develop vacant lots at an infill location.***

- 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.

*The proposed zoning designation and use currently exists on the applicant's premises and has since the early 1970's. The proposed use of a dental clinic would not be harmful, especially since this use has not proven to cause noise, dust, odors, or other potentially harmful effects. In fact, the existing use has only offered convenient, affordable, and needed services to adjacent properties, the neighborhood and the community. Additionally, the vast majority of clients appreciate the location of the e:existing clinic within the neighborhood because it is very accessible by the Broadway bus route and/or walking. It is also undeniable that when the City Council adopted the South Broadway Sector Development Plan in 1986, it was determined that the Limited Commercial*

*Residential zone was compatible, appropriate, and not injurious to the surrounding residentially zoned properties. At the time that the dental Clinic's property was rezoned from R-2 to SU-2 LCR it was clearly considered that the permissive uses of the SU-2 LCR zone were taken into consideration and it was determined that uses such as townhomes, office, limited retailing, barbershop, day care, shoe repair, music and art lessons, or a library would only enhance and compliment the surrounding residential properties. The permissive uses allowed are low impact residential and light commercial types of uses which were created to give protection to the community as a whole from more intense uses such as a bar, carwash, grocery store, or high density residential development.*

*It is also important to note that the existing SU-2 R zone already conditionally allows apartments, churches and educational facilities, libraries, and fire stations. But most importantly, the City Zoning Hearing Examiner recently approved a multifamily development on the abutting lot to the East on August 31, 2016-Project #1010770/16ZHE-80069. In this case the Hearing Examiner found that the SU-2 zone allows a mixture of uses controlled by Sector Development Plan which specifies ne development and redevelopment which is appropriate to a given neighborhood, when other zones are inadequate to address special needs." The ZHE also found that a 72 unit apartment development, leasing office, and community building would "not be injurious to the adjacent property, the neighborhood, or the community and would not be significantly damaged by surrounding structures or activities." Additionally, in his decision the ZHE found that (similar to this zone change request) the development of vacant land helps to further the goals of the South Broadway Sector Development Plan. Specifically, "Elimination of conditions which are detrimental to the public health, safety and welfare, Elimination of blight and prevention of blighting influences, and improvement of economic conditions through coordinated City and private actions". For these reasons, and for the reasons previously stated above, the applicant feels that the requested zone change would not be harmful to the adjacent property, the neighborhood, or the community.*

***Permissive uses in the SU-2 LCR (Limited Commercial Residential) zone would not be harmful to adjacent property, the neighborhood, or the community because in a previous Conditional Use Case on the adjacent properties, the Zoning Hearing Examiner found that multi-family would not be injurious to the surrounding neighborhood. Since the neighborhood appealed the recent Conditional Use Permit for an apartment complex on the adjacent property, potential projects with multi-family housing could be controversial; but are not typically considered harmful.***

- 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.

No major or un-programmed capital expenditures by the City are required, as roadways and utility infrastructure is already in place.

***Approval of the requested amendment will not require any capital improvements because the site is located in an area that already has infrastructure, and the planned access driveway would be the applicant's responsibility.***

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

*The cost of land or other economic considerations are not the primary determining factors for a change of zone in this case. First, the land has already been purchased, is retained in full ownership, and is not for sale. The primary determining factors of this request are to allow a successful business to grow and operate efficiently within the neighborhood where complying with the general regulations of the Comprehensive City Zoning Code. And second, infill and expansion of a not for profit business in a designated City Metropolitan Redevelopment Area and the Established Urban Area is to further and continue to realize the policies and goals of the Comprehensive Plan, the South Broadway Neighborhoods Sector Development Plan, and the Metropolitan Redevelopment Code.*

***Although economic considerations for the Community Dental Clinic's parking and access is a factor, other factors include utilizing long vacant lots in an infill location to benefit the surrounding community.***

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

*The subject property is located on a local street, not a collector or major street.*

***The subject lots do not front directly onto any major street.***

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. The proposed zone change will not give a zone different from surrounding zoning. The proposed zoning of SU-2 LCR abuts the SU-2 LCR zone of the South Broadway Neighborhoods Sector Development Plan area.*

***The request is not for a spot zone; because although the properties are owned by one owner and all of the lots may become one premise, the subject request is for only four of the five lots and these four lots are adjacent to the existing SU-2 LCR zoned lots, making the request a continuation of the existing zone rather than a spot zone.***

- 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 proposed development does not constitute "strip zoning". This request would not result in a strip zone because the requested zone of property would not give a "zone different from surrounding zoning". The area of the proposed zone change clearly facilitates the realization of the Comprehensive Plan and other Plans as stated above. If approved, this request would result in an approved commercial zoning designation which does not significantly differ from allowed uses adjacent or surrounding the site.*

***The request is not for a commercial strip of land along a street, so it does not constitute a strip zone.***

### **III.AGENCY & NEIGHBORHOOD CONCERNS**

#### ***Reviewing Agencies***

Commenting agencies reviewed this request from June 5, 2017 to June 19, 2016. Agency comments can be found at the end of this report.

#### ***Neighborhood/Public***

The San Jose Neighborhood Association was notified of this request as well as property owners within 100 feet of the subject lots. A facilitated meeting was requested by the neighborhood association and occurred on September 25, 2017. A facilitated meeting did not result in a resolution; however it allowed for the articulation of concerns as shown in the attached project meeting report.

Staff received communication from the adjacent property owner holding the access easement. This property owner has an ongoing dispute with the dental clinic which is the reason this zone change has been requested. The zone change may be a benefit to this property owner when the dental clinic follows through with the zoning code requirements and creates an adequate buffer between the properties. The neighboring property owner, Mr. Anthony Garcia, has shown through the attached letter originally sent to Mayor Richard Berry on October 6, 2015 that it has been difficult to achieve remedies.

Staff received an email of concern from another resident and verbal concern from three other residents. The concerns focus on loitering, illegal activity, waste management, street parking, traffic, and potential multi-family or business projects if the property is sold. Staff also received a phone call from a representative from the San Jose Neighborhood Association who expressed that they are opposed to the zone change because they are opposed to multi-family development in that area, which would be permitted with the proposed zone.

#### ***IV. CONCLUSION***

The subject lots are currently zoned SU-2 MR (Mixed Residential). The request is for a change to SU-2 LCR (Limited Commercial Residential) in order to continue to continue the use of the existing parking lots and to move the access driveway away from the existing easement off of Hinkle Street SE to Williams Street SE.

The San Jose Neighborhood Association was notified of this request, as well as property owners within 100 feet of the subject lots. A facilitated meeting occurred on September 25, 2017, and the meeting report outlines relevant neighborhood concerns. Staff is recommending approval of the request based on the findings found in this staff report.

***FINDINGS, Sector Development Plan Map Amendment (Zone Change)***

***Project # 1011247, Case # 17EPC- 40014***

1. This is a request for a Sector Development Plan Map Amendment (Zone Change) from SU-2 MR (Mixed Residential) to SU-2 LCR (Limited Commercial Residential) for all or a portion of Lots 307B, 308A, 308B, and 310 located at 2116 Hinkle Street SE just south of Thaxton Avenue SE between John Street SE to the east and William Street SE to the west and containing approximately 1.4 acres. The subject lots are vacant.
2. The request was originally scheduled for the July 13, 2017 EPC hearing and was deferred to allow more time to further justify the request, to discuss the project with surrounding neighbors, and to hold a facilitated meeting with the neighborhood association.
3. The applicant is the property owner for the subject lots zoned SU-2 MR (Mixed Residential), and for the adjacent lot, which was zoned SU-2 LCR (Limited Commercial Residential) upon the adoption of the South Broadway Neighborhoods Sector Development Plan in 1986. As such, the request would constitute an amendment to the South Broadway Neighborhoods Sector Development Plan.
4. The request is for a zone change to SU-2 LCR (Limited Commercial Residential) which would permissively allow office, some retail, and multi-family housing up to 20 dwelling units per acre.
5. Office is not a permitted or conditional use in the existing SU-2 MR (Mixed Residential) zone, therefore, the applicant is requesting the zone change to operate existing parking lots, and to move access from Hinkle Street SE to William Street SE. The applicant currently has a shared access agreement (the subject of a legal dispute) with the adjacent residential property in order to access the subject lots.
6. The Comprehensive Plan , South Broadway Neighborhoods Sector Development Plan and Metropolitan Redevelopment Plan are incorporated herein and made a part of the record.
7. The subject lots are located in an Area of Consistency as designated by the Comprehensive. Plan. Areas of Consistency are intended to protect and enhance the character of existing single-family neighborhoods. Applicable policies include:
  - a. The request furthers Policy 5.2.1.a, because the zone change would facilitate the development of vacant properties and is conveniently accessible by car, transit, and bicycle on Broadway Boulevard. The proposed development for the subject properties is a dental clinic and should not be confused with a “mixed-use” development which combines residential and commercial uses on the same site and/or in the same building.
  - b. The request furthers Policy 5.2.1.e, because the Community Dental Clinic is accessible from surrounding neighborhoods. The property is in a convenient location within the existing South Broadway neighborhood. It is also accessible from other surrounding neighborhoods such as San Jose and Barelás, providing a needed healthcare service which promotes a healthy community.

- c. The request partially furthers Policy 5.2.1.n, because although the request will facilitate development of vacant lots, the applicant is proposing to continue the use of the surface parking lots, which is not the intention of this policy; although the lots could be developed in the future. The surface parking lots were not legally constructed, and therefore cannot be considered under-utilized in the justification. In addition, the Community Dental Clinic has not yet provided a buffer between their current parking lots and the adjacent residential properties.
  - d. The request furthers Policy 5.3.1 because rezoning the currently vacant subject lots would support infill growth in an older established neighborhood with existing infrastructure and public utilities.
  - e. The request partially furthers Policy 5.3.1.f, because the use is currently causing negative impacts to the existing residential community with the noise and traffic caused by clients waiting and parking on the adjacent residential streets; however, there is a potential that these issues could be alleviated with the proposed zone change which would permit access off of William Street SE instead of Hinkle Street SE.
  - f. The request furthers Policy 5.3.1.g, because adequate infrastructure exists and community services exist for infill development.
8. The subject site is located within the South Broadway Neighborhoods Sector Development Plan boundaries. Applicable goals include:
- a. Goal 1 of the South Broadway Neighborhoods SDP is generally furthered by the request. The requested SU-2 LCR (Limited Commercial Residential) zone will permit more options in the development of long vacant properties. In addition, the existing parking lots will be considered new, and the location of the intended improvements will be required per Zoning Code regulations, including requirements for a buffer between the residential and non-residential properties.
  - b. Goal 2 of the South Broadway Neighborhoods SDP is furthered by the request, because it would assist with the development of vacant lots, which can be a blighting influence.
9. The zone change request has been justified pursuant to *R-270-1980* as follows:
- A. Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers a preponderance of applicable Goals and policies from the Comprehensive Plan and other applicable plans. This zone change request:
    - Furthers Comprehensive Policy 5.2.1.a, 5.2.1.e, 5.3.1, 5.3.1.g, and South Broadway Neighborhoods SDP Goal 2.
    - Partially furthers Comprehensive Plan Policies 5.3.1.f, 5.2.1.n and South Broadway Neighborhoods SDP Goal 1.

- C. Stability of land use is supported by the zone change because the Community Dental Clinic property was zoned SU-2 LCR by the South Broadway Neighborhoods SDP when it was adopted in 1986, and the subject lots are adjacent to this property. These lots have remained vacant since that time. It is expected that the subject lots will be utilized as an extension of the applicant's properties. The San Jose Neighborhood Association has expressed concern over higher density multi-family use, however, multi-family is not typically a conflicting use in residential neighborhoods. Furthermore, the Zoning Hearing Examiner found that apartments would not be injurious to the neighborhood, in a Conditional Use Permit case for adjacent properties.
- D. The request is consistent with and furthers adopted plans and policies, including the Comprehensive Plan and the South Broadway Neighborhoods Sector Development Plan as summarized in Findings 7 through 10.
- E. The existing zoning is inappropriate because the subject lots have been vacant for a long period of time and are currently not being utilized. The proposed zone change would allow for the expansion of the existing Community Dental Clinic which is a more advantageous use because it will further applicable policies and goals and develop vacant lots at an infill location.
- F. Permissive uses in the SU-2 LCR (Limited Commercial Residential) zone would not be harmful to adjacent property, the neighborhood, or the community because in a previous Conditional Use Case on the adjacent properties, the Zoning Hearing Examiner found that multi-family would not be injurious to the surrounding neighborhood. Since the neighborhood appealed the recent Conditional Use Permit for an apartment complex on the adjacent property, potential projects with multi-family housing could be controversial; but are not typically considered harmful.
- G. Approval of the requested amendment will not require any capital improvements because the site is located in an area that already has infrastructure, and the planned access driveway would be the applicant's responsibility.
- H. Although economic considerations for the Community Dental Clinic's parking and access is a factor, other factors include utilizing long vacant lots in an infill location to benefit the surrounding community.
- I. The subject lots does not front directly onto any major street.
- J. The request is not for a spot zone; because although the properties are owned by one owner and all of the lots may become one premise if the zone change is approved, the subject request is for only four of the five lots and these four lots are adjacent to the existing SU-2 LCR zone, making it a continuation of the existing zone rather than a spot zone.
- K. The request is not for a commercial strip of land along a street, so it does not constitute strip zoning.

10. Per Zoning Code section 14-16-3-10 (E) (8), a 10-foot wide landscape buffer and a 6-foot high opaque wall or fence along a property boundary separating commercial from residential zoning will be required.
11. The San Jose Neighborhood Association was notified as required and a facilitated meeting was requested, which occurred on September 25, 2017. The San Jose Neighborhood Association expressed opposition to the request due to concerns over access, parking, and future plans.
12. Property owners within 100 feet of the subject lots were also notified as required. Staff received verbal comments of concern from three residents. Staff received written comments from two neighboring property owners.

**RECOMMENDATION**

*Project 1011247 – October 12, 2017*

**APPROVAL of 17EPC-40014, a request for Sector Development Plan Map Amendment (Zone Change) from SU-2 MR to SU-2 LCR for all or a portion of Lots 307B, 308A, 308B, and 310, based on the preceding Findings.**



**Cheryl Somerfeldt**  
**Planner**

**Notice of Decision cc list:**

Community Dental Services INC, 2216 Hinkle St SE, ABQ, NM 87102  
Garcia/Kramer & Associates, 600 1<sup>st</sup> St NW, Suite 211, ABQ, NM 87102  
San Jose NA, Olivia M. Greathouse, 408 Bethel Dr SE, ABQ, NM 87102  
San Jose NA, Bobby Brown, 2200 William SE, ABQ, NM 87102  
Anthony J. Garcia, 2111 Hinkle SE, ABQ, NM 87102

**AGENCY COMMENTS**

**PLANNING DEPARTMENT**

Zoning Enforcement

Reviewed, No adverse comments

Office of Neighborhood Coordination

The San Jose Neighborhood Association was notified via certified mail as well as property owners within 160 feet of the subject properties – 28 property owners

Long Range Planning

Reviewed, No Comments

Metropolitan Redevelopment Agency

No Comments

**CITY ENGINEER**

Transportation Development

Reviewed, No objection to the request

Hydrology Development

No comments

**DEPARTMENT of MUNICIPAL DEVELOPMENT**

Transportation Planning

Reviewed, No comments at this time

**WATER UTILITY AUTHORITY**

No comments.

**ENVIRONMENTAL HEALTH DEPARTMENT**

No comments

**PARKS AND RECREATION**

No comments

**POLICE DEPARTMENT/Planning**

No comments

**SOLID WASTE MANAGEMENT DEPARTMENT**

Refuse Division

Reviewed, No comment

***FIRE DEPARTMENT/Planning***

No comments

***TRANSIT DEPARTMENT***

<b>Case Number</b>	<b>Brief Description of Request</b>	<b>Transit Corridor?</b>	<b>Transit Route?</b>	<b>Current Service/Stops</b>	<b>Comments/Support/Requests</b>
1011247 17EPC-40014	Zone map amendment from SU-2-MR to SU-2-LCR for 1.3 acres in the South Broadway Sector Plan Area; no change in land use	Proximate to Broadway Multi-Modal Corridor*	Fixed Route 1618: The site is equidistant between two stop pairs on Williams and Broadway	There is no current service directly to this site and none is planned	No Comment

***BERNALILLO COUNTY***

No comment

***ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY***

Reviewed, No comment

***ALBUQUERQUE PUBLIC SCHOOLS***

Reviewed, This will have no adverse impacts to the APS district.

***MID-REGION COUNCIL OF GOVERNMENTS***

Reviewed, No adverse comments

***MIDDLE RIO GRANDE CONSERVANCY DISTRICT***

No comments

***PUBLIC SERVICE COMPANY OF NEW MEXICO***

No comments



View of the subject lots looking south.



View of the subject lots looking southeast.



View of the subject lots looking southwest.



View of the subject lots looking east from William Street SE.

HISTORY

# South Broadway Neighborhoods Sector Development Plan



City of Albuquerque  
Planning Department/Redevelopment Division

CITY of ALBUQUERQUE

SEVENTH COUNCIL

COUNCIL BILL NO. R-85 ENACTMENT NO. 106-1986

SPONSORED BY: Steve D. Sallegas

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RESOLUTION

1 ADOPTING THE SOUTH BROADWAY NEIGHBORHOODS SECTOR DEVELOPMENT PLAN AND  
2 METROPOLITAN REDEVELOPMENT PLAN

3 WHEREAS, under the terms of Section 3-19-1 et seq. of the New Mexico  
4 Statutes (MNSA) 1978 and Albuquerque's City Charter as allowed under Home  
5 Rule provisions of the Constitution of New Mexico, the Council has the  
6 authority to adopt component parts of a master plan for physical  
7 development of areas within the platting and planning jurisdiction of the  
8 City; and

9 WHEREAS, such plans comprise a comprehensive plan which guides zoning  
10 actions of the City, as called for by Section 3-21-5 NMSA 1978; and

11 WHEREAS, the Council has received the advice of the Environmental  
12 Planning Commission on the South Broadway Neighborhoods Sector  
13 Development Plan, as provided by the Environmental Planning Commission  
14 Ordinance, Section 7-15-2 R.O. 1974; and

15 WHEREAS, the Council has reserved to itself the right to adopt and  
16 approve a plan for SU-2 areas, after advice from the Planning Commission,  
17 as allowed under Section 3-19-1 NMSA 1978; and

18 WHEREAS, the plan is consistent with the Albuquerque/Bernalillo  
19 County Comprehensive Plan; and

20 WHEREAS, the City of Albuquerque has the power to zone as authorized  
21 by Section 3-21-1 et seq. NMSA 1978, and as allowed by its Home Rule  
22 powers; and

23 WHEREAS, the Council recognizes the need for sector development plans  
24 to guide the City of Albuquerque and other agencies and individuals to  
25 insure orderly redevelopment and effective utilization of funds; and  
26

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1 WHEREAS, the South Broadway Neighborhoods Sector Development Plan was  
2 developed with the assistance of area property owners expressed through  
3 public meetings; and

4 WHEREAS, the New Mexico legislation has passed the "Metropolitan  
5 Redevelopment Code" (herein "Code"), Sections 3-60A-1 to #-60A-4B  
6 inclusive, NMSA 1978 Comp., which authorizes the City of Albuquerque, New  
7 Mexico (the "City") to prepare Metropolitan Redevelopment Plans; and

8 WHEREAS, the City Council, the Governing Body of the City of  
9 Albuquerque, New Mexico (The "City Council") has adopted City of  
10 Albuquerque, Seventh Council, Bill No. R-86, finding, among other things,  
11 that the South Broadway Neighborhoods Metropolitan Redevelopment Area is a  
12 blighted area within the Metropolitan Area, and that the rehabilitation,  
13 conservation, development and redevelopment of and in the South Broadway  
14 Neighborhoods Metropolitan Redevelopment Area is necessary in the interest  
15 of the public health, safety, morals and welfare of the residents of the  
16 City; and designating the South Broadway Neighborhoods Metropolitan  
17 Redevelopment Area; and

18 WHEREAS, the City Council by R-86, has made certain additional  
19 findings which determine the South Broadway Neighborhoods Metropolitan  
20 Redevelopment Area to be blighted, has designated the Area as appropriate  
21 for a Metropolitan Redevelopment Project, and has called for the  
22 preparation of a Metropolitan Redevelopment Plan identifying the  
23 activities to be carried out to eliminate the present conditions; and

24 WHEREAS, the City desires to promote redevelopment and industry and  
25 develop trade or other economic activity by inducing profit or non-profit  
26 corporations and commercial or business enterprises, among others, to  
27 locate, expand or remain in such area, to mitigate unemployment and to  
28 secure and maintain a balanced and stable economy in such area and to  
29 promote public health, welfare, safety, convenience prosperity; and

30 WHEREAS, the Albuquerque Development Commission has held a public  
31 hearing on the Plan, as required by Section 3-60A-9A NMSA 1978.

32 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY  
33 ALBUQUERQUE THAT:

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1 Section 1. The South Broadway Neighborhoods Sector Development Plan  
2 attached hereto and incorporated herein by reference is hereby adopted in  
3 all respects.

4 Section 2. The South Broadway Neighborhoods Sector Development Plan  
5 is a Rank III plan, as specified in Ordinance 43-1982.

6 Section 3. The South Broadway Neighborhoods Sector Development Plan  
7 shall serve as the Metropolitan Redevelopment Plan for the South Broadway  
8 Neighborhood Area.

9 Section 4. The City Council, after having conducted a public  
10 hearing, finds that:

11 A. The Plan, and the proposed activities under the Plan, will  
12 aid in the elimination and prevention of blight; and

13 B. The Plan conforms to the general plans of the City as a  
14 whole, and to the South Broadway Neighborhoods Sector Development Plan;  
15 and

16 C. The Plan affords maximum opportunity, consistent with the  
17 needs of the community for the rehabilitation and redevelopment of the  
18 South Broadway Neighborhoods Metropolitan Redevelopment Area by private  
19 enterprise; and the objectives of the Plan justify the proposed  
20 activities as public purposes and needs.

21 Section 5. No individuals, families or business will be displaced by  
22 the activities outlined in the proposed Metropolitan Redevelopment Plan.

23 Section 6. The South Broadway Neighborhoods Metropolitan  
24 Redevelopment Plan, which is the same as the Sector Plan for the South  
25 Broadway Neighborhoods Metropolitan Redevelopment Area, attached and made  
26 a part hereof, is hereby approved in all respects.

27 Section 7. If any section, paragraph, clause or provision of this  
28 resolution shall for any reason be held to be invalid or unenforceable,  
29 the invalidity or unenforceability of such section, paragraph, clause or  
30 provision shall not affect any of the remaining provisions of the  
31 resolution.

32 Section 8. All orders and resolutions, or parts thereof, in  
33 conflict with this resolution are hereby repealed; this repealer shall

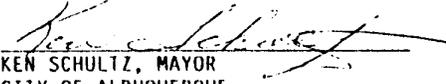
1 not be construed to revive any order, resolution or part thereof,  
2 heretofore repealed.

3 PASSED AND ADOPTED THIS 7th DAY OF JULY, 1986.

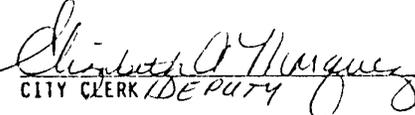
4 BY A VOTE OF 7 FOR AND 0 AGAINST.

5 Yes: 7  
6 Excused: Hill, Baca

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8   
9 VINCENT E. GRIEGO, PRESIDENT  
CITY COUNCIL

10  
11   
12 KEN SCHULTZ, MAYOR  
CITY OF ALBUQUERQUE

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14 ATTEST:

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17 CITY CLERK DEPUTY

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CITY of ALBUQUERQUE  
SEVENTH COUNCIL

COUNCIL BILL NO. R-86 ENACTMENT NO. 107-1986

SPONSORED BY: Steve D. Gallegos

RESOLUTION

DESIGNATING THE SOUTH BROADWAY NEIGHBORHOODS METROPOLITAN REDEVELOPMENT AREA, MAKING CERTAIN FINDINGS AND DETERMINATIONS PURSUANT TO THE METROPOLITAN REDEVELOPMENT CODE, AND AUTHORIZING AND DIRECTING THE METROPOLITAN REDEVELOPMENT AGENCY TO PREPARE A METROPOLITAN REDEVELOPMENT PLAN FOR THE SOUTH BROADWAY NEIGHBORHOODS METROPOLITAN REDEVELOPMENT AREA.

WHEREAS, Section 3-60A-8 of the Metropolitan Redevelopment Code of the State of New Mexico Section 3-60A-1 through 3-60A-48 N.M.S.A. (1978 Comp.) states: "A municipality shall not prepare a Metropolitan Redevelopment Plan for an area unless the Governing Body has by resolution determined the area to be a slum area, or a blighted area, or a combination thereof and designated the area as appropriate for a Metropolitan Redevelopment Project(s)..."; and

WHEREAS, the City of Albuquerque (the "City") and the Metropolitan Redevelopment Agency of the City (the "Agency") and their employees and agents, have for some time engaged in a study of slum and blighted areas within the City, and have submitted their findings and recommendations concerning the designation of South Broadway Neighborhoods as a Metropolitan Redevelopment Area, hereinafter identified, to the City Council of Albuquerque (the "Council"), which findings and recommendations are set forth in Exhibit A attached hereto and incorporated by reference; and

WHEREAS, pursuant to Section 8 of the Metropolitan Redevelopment Code, the Council has caused to be published on May 25 and 26, 1986 in the Albuquerque Journal, a newspaper of general circulation in

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1 the metropolitan area, a notice containing a general description of  
2 the area and the date, time and place where the Council will hold a  
3 public hearing to consider the adoption of this resolution, and  
4 announcing that any interested party may appear and speak to the  
5 issue of the adoption of this resolution; and

6 WHEREAS, the Albuquerque Development Commission held an  
7 advertised public hearing on February 24, 1986, took testimony from  
8 the public, and recommended to the Council the designation of the  
9 South Broadway Neighborhoods as a Metropolitan Redevelopment Area as  
10 described herein; and

11 WHEREAS, the Council met on this 7th day of July, 1986, at the  
12 time and place designated in the notice, to hear and consider all  
13 comments of all interested parties on the issue of the adoption of  
14 this resolution; and

15 WHEREAS, the Council has considered the findings and  
16 determinations set forth in Exhibit A, attached hereto, and all  
17 comments made at the public hearing concerning the conditions which  
18 exist in the proposed South Broadway Neighborhoods Metropolitan  
19 Redevelopment Area, including the conditions identified in Exhibit  
20 A, attached hereto.

21 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
22 ALBUQUERQUE:

23 Section 1. The Council hereby finds and determines that the  
24 proposed South Broadway Neighborhoods Metropolitan Redevelopment  
25 Area is an area which, by reason of presence of a substantial number  
26 of deteriorated or deteriorating buildings; predominance of  
27 defective or inadequate street layout; faulty lot layout in relation  
28 to size, adequacy, accessibility, or usefulness; unsanitary or  
29 unsafe conditions; deterioration of site or other improvements;  
30 diversity of ownership, tax or special assessment delinquency  
31 exceeding the fair value of the land, defective or unusual  
32 conditions of title, improper subdivisions or lack of adequate  
33 housing facilities in the area or obsolete or impractical planning

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1 and platting, or an area where a significant number of commercial or  
2 mercantile businesses have closed or significantly reduced their  
3 operations due to the economic losses or loss of profit due to  
4 operating in the area; low levels of commercial or industrial  
5 activities or redevelopment; or any combination of the above  
6 factors, substantially impairs and arrests the sound growth and  
7 economic health and well-being of the City and the proposed South  
8 Broadway Neighborhoods Metropolitan Redevelopment Area; constitutes  
9 and economic and social burden; is a menace to the public health,  
10 safety, morals and welfare in its present condition and use; is a  
11 blighted area and is appropriate for a Metropolitan Redevelopment  
12 Project(s);

13 Section 2. The Council hereby finds that the rehabilitation,  
14 conservation, development and redevelopment of and in the proposed  
15 South Broadway Neighborhoods Metropolitan Redevelopment Area is  
16 necessary in the interest of the public health, safety, morals and  
17 welfare of the residents of the City;

18 Section 3. The Council hereby declares the area identified in  
19 Exhibit A, attached hereto, to be the South Broadway Neighborhoods  
20 Metropolitan Redevelopment Area;

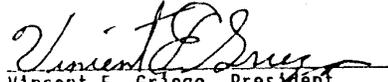
21 Section 4. The Agency is hereby authorized and directed to  
22 prepare or to cause to be prepared a Metropolitan Redevelopment Plan  
23 for the South Broadway Neighborhoods Metropolitan Redevelopment Area.

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1 PASSED AND ADOPTED THIS 7th DAY OF July, 1986.

2 BY A VOTE OF 7 FOR AND 0 AGAINST.

3 Yes: 7  
4 Excused: Baca, Hill

5   
6 Vincent E. Griego, President  
7 City Council

8  
9  
10 APPROVED THIS 29TH DAY OF JULY, 1986.

11   
12 Ken Schultz, Mayor  
13 City of Albuquerque

14  
15  
16 ATTEST:

17   
18 Elizabeth P. Marquez  
19 City Clerk/DEPUTY

20  
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32  
33  
Underscored Material - New  
Bracketed Material - Deletion

JUNE 1986

# SOUTH BROADWAY

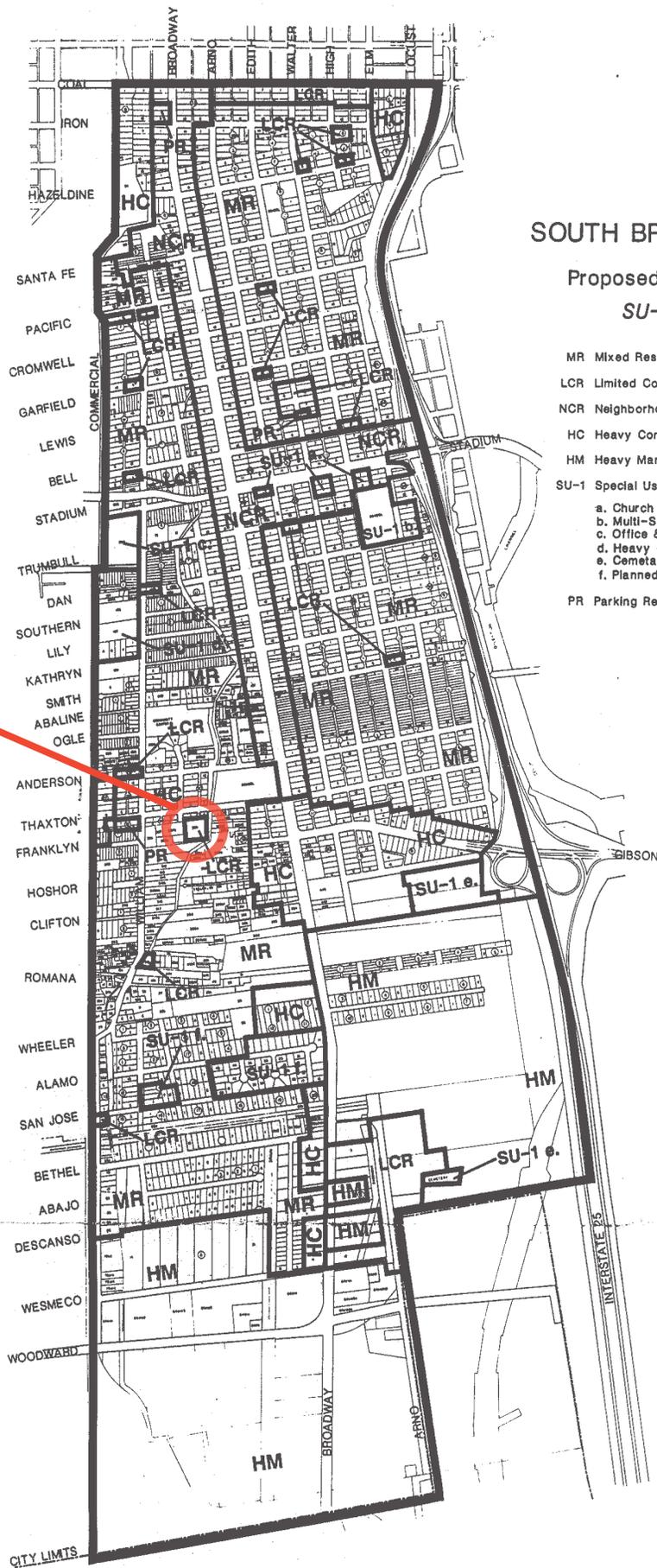
## Proposed Zoning

### SU-2

- MR Mixed Residential
- LCR Limited Commercial Residential
- NCR Neighborhood Commercial Residential
- HC Heavy Commercial
- HM Heavy Manufacturing
- SU-1 Special Use
  - a. Church & Facilities
  - b. Multi-Service Center
  - c. Office & Warehouse
  - d. Heavy Commercial
  - e. Cemetery
  - f. Planned Residential Development
- PR Parking Reserved



Subject Site



APPENDIX A

ZONING  
South Broadway  
(SU-2)

The South Broadway Neighborhoods Area is zoned SU-2 Special Neighborhood Zone, Redeveloping Area, as provided in the Comprehensive City Zoning Code, Article XIV, Chapter 7 of the Revised Ordinances of Albuquerque, New Mexico, 1974. The land uses in the South Broadway Area are governed by the land uses shown on the attached map.

Existing  
Zone

I. The Mixed Residential /MR land use corresponds to the R-1 Residential Zone in the Comprehensive City Zoning Code with the following exceptions:

A. Conditional Uses:

1. Conditional uses shall include uses listed as conditional in the R-1 zone, and in addition:
  - a. Uses listed as permissive and as regulated in the R-2 Zone and as regulated except Group Training Homes.
  - b. Churches and other places of worship, including incidental recreational and educational facilities.
  - c. Nursing or rest home with a maximum of six people (provided that there is a resident caretaker, and it is licensed by the State).
  - d. Libraries.
  - e. Fire Stations.
2. Group Training Homes as defined for conditional use by the City Zoning Code are not allowed.
3. Existing churches and other places of worship and incidental facilities shall be considered an approved conditional use.

B. Lot Size:

Minimum lot area shall be 6,000 square feet except for lots developed with houses shall be 5,000 square feet per house; a house lot shall have a width of not less than 50 feet.

Proposed  
Zone

II. The Limited Commercial Residential/LCR Zone corresponds to the RC /Residential Commercial Zone in the City Zoning Code with the following exceptions.

Permissive Uses:

Non-Residential uses listed as permissive are not limited by floor area.

Conditional Uses:

1. Existing legal non-conforming uses or uses which become non-conforming upon adoption of this plan are approved conditional uses (see text, page 41, "EXISTING USES").

2. Expansion of uses existing as of adoption date of this plan are conditional uses.
  3. For a period of two years from the adoption of this plan, the owner of a vacant or unimproved parcel may apply for a conditional use permit for uses which were permissive in that parcel's zoning designation prior to the adoption date of this plan. The Zoning Hearing Examiner's decisions on such requests shall be guided by the City's criteria as set forth in Section 42.C.1. of the Comprehensive City Zoning Code.
- III. The NCR/Neighborhood Commercial Residential land use corresponds to the C-1 Neighborhood Commercial and R-2 Residential Zones in the City Zoning Code with the following exceptions:
- A. Permissive Uses:  
Retail sale of alcoholic drink for consumption off-premise is not a permitted use.
  - B. Conditional Uses:
    1. Uses permissive in the C-2 Zone except:
      - a. Retail sale of alcoholic drink for consumption off-premise is not a conditional use.
      - b. Outside storage is not conditional use.
    2. Existing legal non-conforming uses or uses which become non-conforming upon adoption of this plan are approved conditional uses (See text page 39 "EXISTING USES").
    3. Expansion of uses existing as of adoption date of this plan are conditional uses.
    4. For a period of two years from the adoption of this plan, the owner of a vacant or unimproved parcel may apply for a conditional use permit for uses which were permissive in that parcel's zoning designation prior to the adoption date of this plan. The Zoning Hearing Examiner's decisions on such requests shall be guided by the City's criteria as set forth in Section 42.C.1 of the Comprehensive City Zoning Code.
- IV. The Heavy Commercial/HC land use corresponds to the C-3 Heavy Commercial Zone in the Comprehensive City Zoning Code with the following exceptions:
- Conditional Uses:
1. Uses conditional in the C-3 Zone.
  2. Uses permissive in the M-1 zone are allowed as conditional.
  3. Existing legal non-conforming uses or uses which become non-conforming upon adoption of this plan are approved conditional uses (See text page 39 "EXISTING USES").
  4. Expansion of uses existing as of adoption date of this plan are conditional uses.
  5. For a period of two years from the adoption of this plan, the owner of a vacant or unimproved parcel may apply for a conditional use permit for uses which were permissive in that parcel's zoning designation prior to the adoption date of this plan. The Zoning Hearing Examiner's decisions on such requests shall be guided by the City's criteria as set forth in Section 42.C.1 of the Comprehensive City Zoning Code.

# PRE-APPLICATION REVIEW TEAM (PRT) DISCUSSION

**NOTE:** Pre-Application Discussion meetings are available to help applicants obtain information about procedures and requirements pertaining to their request. The interpretation of specific uses allowed in various zones is the responsibility of the Zoning Enforcement Officer, as provided for by the Zoning Code. Any Statements regarding zoning at the Pre-Application Discussion are not Certificates of Zoning. Also the discussions are for informational purposes only and they are non-binding and do not constitute any type of approval.

PA#: 16-094 Received By: kej Official Use only Date: 5-10-16

Applicant Name: MARY ALTENBERG, EXECUTIVE DIRECTOR  
COMMUNITY DENTAL SERVICES, INC Phone#: 843-7493 Email: maltenberg@edsabq.com  
APPOINTMENT DATE & TIME: 5/17/16 at 2:30pm

PLEASE CONTACT THE PLANNING DEPARTMENT AT 924-3860 TO SCHEDULE AN APPOINTMENT.  
Applications received by Friday at noon will be scheduled for Tuesday the following week, if times are available.

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

Parking lots were established back in 2007 or 8, but zoning is SU-2-MR. Need to change zone to allow patients to park.

### PLEASE RESPOND TO THE FOLLOWING QUESTIONS:

Size of Site: \_\_\_\_\_ Existing Zoning: SU-2-MR Proposed Zoning: \_\_\_\_\_

Previous zone change or site plan approval case number(s) for this site: \_\_\_\_\_

Applicable Area or Sector Plans: SOUTH BROADWAY SDP

Residential: Type and No. of Units Proposed: \_\_\_\_\_

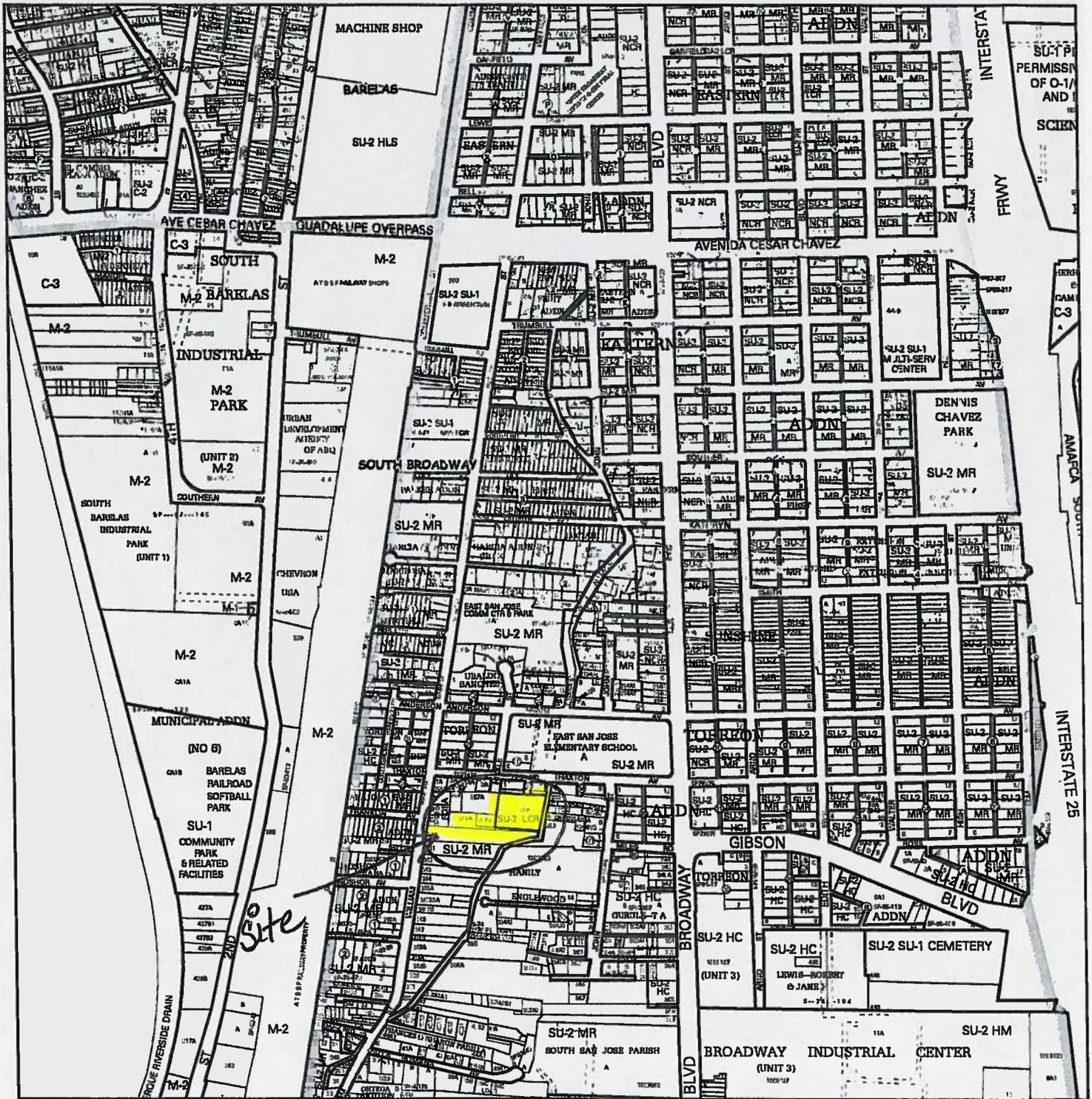
Commercial: Estimated building square footage: \_\_\_\_\_ No. of Employees: \_\_\_\_\_

### LOCATION OF REQUEST:

Physical Address: 2116 Hinkle SE Zone Atlas Page (Please identify the subject site on the map and attach) 144  
87102

### LIST ANY QUESTIONS OR CONCERNS YOU HAVE REGARDING THIS REQUEST: (Please be specific so our staff can do the appropriate research.)

We are non-profit dental clinic established by in 1975 and receive city funding to provide services to indigent city residents. A previous administration put in the parking lot almost ten years ago, w/out obtaining a zone change. To continue providing services, we need to request a zone change.



For more current information and details visit: <http://www.cabq.gov/gis>

Map amended through: 1/28/2016

Note: Grey Shading Represents Area Outside of the City Limits

Zone Atlas Page:  
**L-14-Z**

Selected Symbols

SECTOR PLANS	Escarpment
Design Overlay Zones	2 Mile Airport Zone
City Historic Zones	Airport Noise Contours
H-1 Buffer Zone	Wall Overlay Zone
Petroglyph Mon.	

0 750 1,500 Feet

## **R-270-1980: POLICIES FOR ZONE MAP CHANGE APPLICATIONS**

The following policies for deciding zone map change applications pursuant to the Comprehensive City Zoning Code are hereby adopted:

(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 there, to, 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 (D)1. or (D)2. above do not apply.

(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.

(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.

(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 collector or 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 the site unsuitable for the uses allowed in any adjacent zone.

(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.

(Res. 270-1980, approved 12-30-80)



**Legend**

- Bernalillo County Parcels
- Primary Streets**
- Urban Principal Arterial
- BN and SF Railroad
- Freeway
- Urban Minor Arterial
- Other Streets**
- Municipal Limits**
- Cornales
- Edgewood
- Los Ranchos
- Rio Rancho
- Tijeras
- UNINCORPORATED
- World Street Map



A 1:1,450

0.0 0 0.02 0.0 Miles



WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
 51772016  
 © City of Albuquerque

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

**Notes**

**PRE-APPLICATION REVIEW TEAM (PRT) MEETING**

PA# 10.094 Date: 5.17.2010 Time: 2:30 PM

Address: 2116 HINKLE SE

**1. AGENCY REPRESENTATIVES PRESENT AT MEETING**

Planning:  Kym Dicome  Other: MICHAEL VOS  
Transportation:  Gary Sandoval  Other: \_\_\_\_\_  
Code Enforcement:  Ben McIntosh  Other: \_\_\_\_\_  
Fire Marshall:  Antonio Chinchilla  Other: \_\_\_\_\_

**2. TYPE OF APPLICATION ANTICIPATED / APPROVAL AUTHORITY**

- Zone Map Amendment  EPC Approval  City Council Approval
- Sector Dev. Plan Amendment  EPC Approval  City Council Approval
- Site Dev. Plan for Subdivision  EPC Approval  DRB Approval  Admin Approval
- Site Dev. Plan for Bldg. Permit  EPC Approval  DRB Approval  Admin Approval
- Other \_\_\_\_\_

**3. SUMMARY OF PRT DISCUSSION:**

Current Zoning: SU.2 LCP/MP  
Proposed Use/Zone: \_\_\_\_\_  
Applicable Plans: \_\_\_\_\_  
Applicable Design Regulations: \_\_\_\_\_  
Previously approved site plans/project #: \_\_\_\_\_  
Requirements for application: (R-270-1980, Notification, as-built drawings, TIS, Check Lists, Other) \_\_\_\_\_

**Handouts Given:**

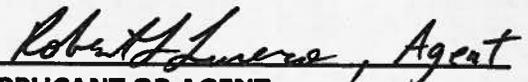
- Zone Map Amendment Process  R-270-1980  AA Process  EPC Schedule

**Additional Notes:**

SU.2  
FACILITY IS ZONED LCP + PARKING AREA IS ON A  
SEPARATE TRACT ZONED SU.2/MP.  
COMMUNITY DENTAL SERVICES + CHILD CARE IUC OWN  
BOTH 2112 + 2120 WILLIAMS ST. WHICH SHOW CON AERIAL  
PARKING FOR THE FACILITY.  
SHOULD REPEAT PARKING AREAS INTO THE SAME TRACT  
AS THE FACILITY @ 2116 HINKLE SE

**4. SIGN & DATE TO VERIFY ATTENDANCE & RECEIPT OF THIS SUMMARY.**

  
\_\_\_\_\_  
PRT CHAIR

  
\_\_\_\_\_  
APPLICANT OR AGENT

**\*\*\*Please Note: PRT DISCUSSIONS ARE FOR INFORMATIONAL PURPOSES ONLY: THEY ARE NON-BINDING AND DO NOT CONSTITUTE ANY KIND OF APPROVAL. Statements regarding Zoning are not Certificates of Zoning. Additional research may be necessary to determine the exact type of application and/or process needed. It is possible that factors unknown at this time and/or thought of as minor could become significant as the case progresses.**

SU-2/LCP = LIMITED COMMERCIAL RESIDENTIAL - PC

SU-2/MP = MIXED RESIDENTIAL

MTG.

\* REPLAT + REZONE SU-2/LCP.

IF GOING TO EXPAND + REZONE ALL LOTS OWNED  
BY DENTAL SERVICES.

GET > SUPPORT.

CONSTRUCTED PRIOR 1972, PARKING IS WHAT WAS REQ'D  
ADDITIONAL PARKING WAS DONE BY OWNER, NOT REQ'D.

NOTICE OF VIOLATION LTR. AS LONG AS INVOLVED  
IN ZONE CHANGE, WILL NOT PROCEED W/ NOV.

RECONFIGURE EXISTING PARKING AREA.

CAN BLOCK OFF AND REMOVE STRIPING. - NOT A  
PARKING AREA.

CONSIDER A REPLAT TO CREATE ACCESS OFF  
WILLIAMS. NEW ACCESS MUST SUPPORT WEIGHT  
OF FIVE TRUCK.

ZONING

Please refer to the Comprehensive Zoning Code for specific zone descriptions.

APPLICATION INFORMATION



**SUBDIVISION**

- Major subdivision action
- Minor subdivision action
- Vacation
- Variance (Non-Zoning)

**SITE DEVELOPMENT PLAN**

- for Subdivision for Building Permit
- Administrative Amendment (AA)
- Administrative Approval (DRT, URT, etc.)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

**STORM DRAINAGE (Form D)**

- Storm Drainage Cost Allocation Plan

Supplemental Form (SF)

**S Z ZONING & PLANNING**

- Annexation
- V  Zone Map Amendment (Establish or Change Zoning, Includes Zoning within Sector Development Plans)
- P  Adoption of Rank 2 or 3 Plan or similar
- Text Amendment to Adopted Rank 1, 2 or 3 Plan(s), Zoning Code, or Subd. Regulations
- D  Street Name Change (Local & Collector)
- L A **APPEAL / PROTEST of...**
  - Decision by: DRB, EPC, LUCC, Planning Director, ZEO, ZHE, Board of Appeals, other

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

**APPLICATION INFORMATION:**

Professional/Agent (if any): GARCIA/KRAEMER & ASSOCIATES PHONE: 505-440-1524  
 ADDRESS: 600 1<sup>ST</sup> ST NW, SUITE 211 FAX: \_\_\_\_\_  
 CITY: ALBUQUERQUE STATE NM ZIP 87102 E-MAIL: jturner@garciakraemer.com  
 APPLICANT: COMMUNITY DENTAL SERVICES INC PHONE: 505-843-7493  
 ADDRESS: 2116 HINKLE ST SE FAX: \_\_\_\_\_  
 CITY: ALBUQUERQUE STATE NM ZIP 87102 E-MAIL: maltenberg@cdsabq.com  
 Proprietary interest in site: OWNER List all owners: \_\_\_\_\_

**DESCRIPTION OF REQUEST:**

ZONE MAP AMENDMENT

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

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

Lot or Tract No. 307 B, 308 A1, 310 Block: \_\_\_\_\_ Unit: \_\_\_\_\_  
 Subdiv/Addr/TBKA: \_\_\_\_\_  
 Existing Zoning: SU-2 MR Proposed zoning: SU-2 LCR MRGCD Map No. 41  
 Zone Atlas page(s): L-14 UPC Code: \_\_\_\_\_

**CASE HISTORY:**

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX\_Z, V, S, etc.): \_\_\_\_\_

**CASE INFORMATION:**

Within city limits?  Yes Within 1000FT of a landfill? \_\_\_\_\_  
 No. of existing lots: 3 No. of proposed lots: 3 Total site area (acres): 1.3  
 LOCATION OF PROPERTY BY STREETS: On or Near: William St.  
 Between: Hoshor Ave and Thaxton Ave  
 Check if project was previously reviewed by: Sketch Plat/Plan  or Pre-application Review Team(PRT)  Review Date: 5-17-16

**SIGNATURE**

Jonathan Turner

DATE 4/28/17

(Print Name) JONATHAN TURNER

Applicant:  Agent:

**FOR OFFICIAL USE ONLY**

Revised: 11/2014

<input type="checkbox"/> INTERNAL ROUTING	Application case numbers	Action	S.F.	Fees
<input type="checkbox"/> All checklists are complete	<u>17EPC - 4004</u>	<u>AZM</u>	_____	<u>\$ 295.00</u>
<input type="checkbox"/> All fees have been collected	_____	<u>ADV</u>	_____	<u>\$ 75.00</u>
<input type="checkbox"/> All case #s are assigned	_____	<u>CMF</u>	_____	<u>\$ 50.00</u>
<input type="checkbox"/> AGIS copy has been sent	_____	_____	_____	_____
<input type="checkbox"/> Case history #s are listed	_____	_____	_____	_____
<input type="checkbox"/> Site is within 1000ft of a landfill	_____	_____	_____	_____
<input type="checkbox"/> F.H.D.P. density bonus	_____	_____	_____	_____
<input type="checkbox"/> F.H.D.P. fee rebate	_____	_____	_____	_____
	Hearing date <u>July 13, 2017</u>			Total <u>\$ 420.00</u>

Ym

5-4-17

**FORM Z: ZONE CODE TEXT & MAP AMENDMENTS, PLAN APPROVALS & AMENDMENTS**

**ANNEXATION (EPC08)**

- Application for zone map amendment including those submittal requirements (see below).  
*Annexation and establishment of zoning must be applied for simultaneously.*
  - Petition for Annexation Form and necessary attachments
  - Zone Atlas map with the entire property(ies) clearly outlined and indicated  
NOTE: The Zone Atlas must show that the site is in County jurisdiction, but is contiguous to City limits.
  - Letter describing, explaining, and justifying the request  
NOTE: Justifications must adhere to the policies contained in "Resolution 54-1990"
  - Letter of authorization from the property owner if application is submitted by an agent
  - Board of County Commissioners (BCC) Notice of Decision
  - Office of Neighborhood Coordination (ONC) Inquiry response form, notification letter(s), certified mail receipts
  - Sign Posting Agreement form
  - Traffic Impact Study (TIS) form
  - List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.* Your attendance is required.

- SDP PHASE I - DRB CONCEPTUAL PLAN REVIEW (DRBPH1)** (Unadvertised)
  - SDP PHASE II - EPC FINAL REVIEW & APPROVAL (EPC14)** (Public Hearing)
  - SDP PHASE II - DRB FINAL SIGN-OFF (DRBPH2)** (Unadvertised)
  - Copy of findings from required pre-application meeting (needed for the DRB conceptual plan review only)
  - Proposed Sector Plan (30 copies for EPC, 6 copies for DRB)
  - Zone Atlas map with the entire plan area clearly outlined and indicated
  - Letter describing, explaining, and justifying the request
  - Office of Neighborhood Coordination (ONC) Inquiry response form, notification letter(s), certified mail receipts (for EPC public hearing only)
  - Traffic Impact Study (TIS) form (for EPC public hearing only)
  - Fee for EPC final approval only (see schedule)
  - List any original and/or related file numbers on the cover application
- Refer to the schedules for the dates, times and places of DRB and EPC hearings.* Your attendance is required.

- AMENDMENT TO ZONE MAP - ESTABLISHMENT OF ZONING OR ZONE CHANGE (EPC05)**
  - Zone Atlas map with the entire property clearly outlined and indicated
  - Letter describing, explaining, and justifying the request pursuant to Resolution 270-1980.
  - Letter of authorization from the property owner if application is submitted by an agent
  - Office of Neighborhood Coordination (ONC) Inquiry response form, notification letter(s), certified mail receipts
  - Sign Posting Agreement form
  - Traffic Impact Study (TIS) form
  - Fee (see schedule)
  - List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.* Your attendance is required.

- AMENDED TO SECTOR DEVELOPMENT MAP (EPC03)**
  - AMENDMENT SECTOR DEVELOPMENT, AREA, FACILITY, OR COMPREHENSIVE PLAN (EPC04)**
  - Proposed Amendment referenced to the materials in the Plan being amended (text and/or map)
  - Plan to be amended with materials to be changed noted and marked
  - Zone Atlas map with the entire plan/amendment area clearly outlined
  - Letter of authorization from the property owner if application is submitted by an agent (map change only)
  - Letter describing, explaining, and justifying the request pursuant to Resolution 270-1980 (Sector Plan map change only)
  - Letter briefly describing, explaining, and justifying the request
  - Office of Neighborhood Coordination (ONC) inquiry response form, notification letter(s), certified mail receipts (for sector plans only)
  - Traffic Impact Study (TIS) form
  - Sign Posting Agreement
  - Fee (see schedule)
  - List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.* Your attendance is required.

- AMENDMENT TO ZONING CODE OR SUBDIVISION REGULATORY TEXT (EPC07)**
  - Amendment referenced to the sections of the Zone Code/Subdivision Regulations being amended
  - Sections of the Zone Code/Subdivision Regulations to be amended with text to be changed noted and marked
  - Letter describing, explaining, and justifying the request
  - Fee (see schedule)
  - List any original and/or related file numbers on the cover application
- EPC hearings are approximately 7 weeks after the filing deadline.* Your attendance is required.

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

JONATHAN TUANER  
Applicant name (print)  
Jonathan I 5/3/17  
Applicant signature & Date



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

Revised: June 2011  
Ver 5-4-17  
Staff signature & Date  
Project # 101247

January 17, 2017

City of Albuquerque  
Environmental Planning Commission  
PO Box 1239  
Albuquerque, NM 87103

RE: 2120 William St SE, & Tracts 308A1, 307B, 308A 2X308B Map 41

To Whom It May Concern:

As the Owner/Developer, I authorize Garcia/Kraemer & Associates to act as agent on behalf of Community Dental Services Inc, on matters pertaining to any and all submittals to the City of Albuquerque regarding the above referenced property.

MARY M. ALTENBERG

Print Name



Signature

EXECUTIVE DIRECTOR

Title

January 17, 2017

Date

# CITY OF ALBUQUERQUE

## TRAFFIC IMPACT STUDY (TIS) FORM

APPLICANT: COMMUNITY DENTAL SERVICES DATE OF REQUEST: 5/3/17 ZONE ATLAS PAGE(S): L-14

CURRENT: AGENT - JONATHAN TURNER LEGAL DESCRIPTION: TRACTS 308A1, 307B, 308A2X 308B

ZONING SU-2/MR LOT OR TRACT # \_\_\_\_\_ BLOCK # -

PARCEL SIZE (AC/SQ. FT.) 1.3 AC SUBDIVISION NAME MAR41

### REQUESTED CITY ACTION(S):

ANNEXATION [ ]

### SITE DEVELOPMENT PLAN:

ZONE CHANGE  From SU-2 MR To SU-2 LCR

SUBDIVISION\* [ ] AMENDMENT [ ]

SECTOR, AREA, FAC, COMP PLAN [ ]

BUILDING PERMIT [ ] ACCESS PERMIT [ ]

AMENDMENT (Map/Text) [ ]

BUILDING PURPOSES [ ] OTHER [ ]

\*Includes platting actions

### PROPOSED DEVELOPMENT:

NO CONSTRUCTION/DEVELOPMENT

### GENERAL DESCRIPTION OF ACTION:

NEW CONSTRUCTION [ ]

# OF UNITS: N/A

EXPANSION OF EXISTING DEVELOPMENT [ ]

BUILDING SIZE: N/A (sq. ft.)

Note: changes made to development proposals / assumptions, from the information provided above, will result in a new TIS determination.

APPLICANT OR REPRESENTATIVE [Signature]

DATE 5/3/17

(To be signed upon completion of processing by the Traffic Engineer)

Planning Department, Development & Building Services Division, Transportation Development Section -  
2<sup>ND</sup> Floor West, 600 2<sup>ND</sup> St. NW, Plaza del Sol Building, City, 87102, phone 924-3994

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

THRESHOLDS MET? YES [ ] NO  MITIGATING REASONS FOR NOT REQUIRING TIS: PREVIOUSLY STUDIED: [ ]

Notes:

If a TIS is required: a scoping meeting (as outlined in the development process manual) must be held to define the level of analysis needed and the parameters of the study. Any subsequent changes to the development proposal identified above may require an update or new TIS.

[Signature]  
TRAFFIC ENGINEER

05-03-17  
DATE

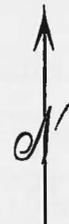
Required TIS must be completed prior to applying to the EPC and/or the DRB. Arrangements must be made prior to submittal if a variance to this procedure is requested and noted on this form, otherwise the application may not be accepted or deferred if the arrangements are not complied with.

TIS -SUBMITTED   /  /    
-FINALIZED   /  /  

TRAFFIC ENGINEER \_\_\_\_\_

DATE \_\_\_\_\_





# **GARCIA/KRAEMER & ASSOCIATES** 600 1ST St NW Suite 211

Albuquerque, NM 87102

(505) 440-1524 mobile

(505) 242-9028 office

August 21, 2017

Ms. Karen Hudson, Chair  
Environmental Planning Commission  
City of Albuquerque  
600 Second Street NW  
Albuquerque, New Mexico 87102

RE: Zone Map Amendment- Tracts 310, 307B, 308A and 308B, Map 41

Dear Madam Chair Hudson:

The purpose of this correspondence is to request approval through the Environmental Planning Commission for a zone map amendment from SU-2 MR (Mixed Residential) to SU-2 LCR (Limited Commercial Residential) for the above referenced site. The property is approximately 1.3 acres in size and is located within the city limits.

## **Adjacent Land Uses and Zoning**

The site is located on William St. SE in between Thaxton SE and Gerald SE. The property is located on zone atlas map page L-14 as shown on the accompanying zone map. The zoning of the adjacent properties is SU-2 MR (Mixed Residential) and SU-2 LCR (Limited Commercial Residential). Those properties have been developed primarily with single-family dwellings and a non-profit community dental clinic.

## **Reason for Request**

The applicant wishes to request approval of a zone map amendment from SU-2 MR to SU-2 LCR to allow the use of an existing parking area for the dental clinic which currently cannot be used since it is zoned MR mixed residential. In addition, the applicant would also be able to provide access to the dental clinic off of Williams St. instead of Hinkle as currently exists. The clinic's access off of Hinkle is a legally platted shared access easement with the neighbor to the west, and there has been an ongoing disagreement with the adjacent neighbor regarding the size of the access off of Hinkle to the clinic's parking area. And although the clinic has been using that access for well over 10 years, the neighbor has placed barricades between the clinic's parking area and their property, making it very difficult for the clinic's employees and clients to maneuver their vehicles. In the future, by gaining full access off of Williams St, the clinic would not only abandon their access off of

Hinkle but also would install a 10 foot wide special landscape buffer and 6 foot high solid wall along the boundaries between neighboring residential properties to provide some visual relief.

**Resolution- 270-1980**

The proposed Zone Map Amendment for this site is consistent with Resolution 270-1980 as follows:

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

**The proposed zoning of SU-2 LCR will not adversely affect the health, safety, morals and general welfare of the City or area residents. In fact, the applicant believes that if approved, the zone change would allow the continued use of a quality project in a blighted area. Specifically, the applicant feels that the proposed development will help to continue to stabilize and increase property values in the area by being able to reasonably expand, while preventing further blight in the neighborhood and providing an obviously needed and desired service to the community and surrounding neighborhood.**

- 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 be not made.

**Re- zoning from SU-2 MR to SU-2 LCR will provide for stability of land use and zoning because the proposed zone change would allow for an expansion of the current use of the property which will ultimately result in more job opportunities and increased revenue for the public and local community as is encouraged in the State of New Mexico Metropolitan Redevelopment Code. Moreover, development of the property, which is currently vacant land, will help to eliminate blight and in turn increase property values which would contribute to stabilizing land use.**

- C. A proposed zone change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City master plans and amendments.

**The site is located in the Established Urban Area as designated by the Albuquerque / Bernalillo Comprehensive Plan. The proposed zone change furthers the intent of Comprehensive Plan policies by providing a variety of urban land uses in an area where such uses are appropriate. Policies applicable from the Plan include:**

**Policy 5.2.1- Land Uses- Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.**

**(a) Encourage development and redevelopment that brings goods, services, and amenities within walking and biking distance of neighborhoods and promotes good access for all residents.**

**This application is to allow an existing dental service to expand in the future while continuing to provide much needed care for the surrounding low income residents and community. The requested zone change furthers this policy because it would support a mixed use land use environment which is conveniently accessible from surrounding neighborhoods. The zone change would also promote redevelopment that brings a needed service to all residents and the community. Furthermore, the subject property and existing clinic are very accessible by walking or biking from the neighborhood or city transit on Broadway Blvd.**

**(e) Create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.**

**This zone change request furthers this policy because of the property's convenient location within the existing South Broadway neighborhood. It is also very accessible from other surrounding neighborhoods such as San Jose and Barelás. Providing a needed healthcare service to the neighborhood promotes a healthy, sustainable community.**

**(n) Encourage more productive use of vacant lots and under-utilized lots, including surface parking.**

**This zone change request furthers this policy because it would support a future development of four vacant and under-utilized lots within an older neighborhood in the city. The change of zone would also allow the use of the existing surface parking which is not being utilized.**

**Policy 5.3.1- Infill Development- Support additional growth in areas with existing infrastructure and public facilities.**

**This zone change request furthers this policy because the property is located adjacent to existing infrastructure and public facilities; such as water service, sewer, roadways, electricity, gas, communications, and schools. Additionally, if approved, the change of zoning would benefit the adjacent neighbors because the dental clinic could finally have one hundred percent dedicated ingress and egress from their property to the adjacent roadway and not have to use the shared easement from Hinkle St. This would certainly benefit the neighbors because it would reduce the effects of traffic flow, parking, and possible traffic congestion on their properties.**

**(f) Minimize the potential negative impacts of development on existing residential uses with respect to noise, storm water runoff, contaminants, lighting, air quality, and traffic.**

**This zone change partially furthers this policy because future development will foster landscape buffers, visual relief, proper drainage, dust mitigation, better vehicular access, and compliance with city and state lighting regulations.**

**(g) Encourage development where adequate infrastructure and community services exist.**

**This zone change furthers this policy because, as stated above, there is existing infrastructure and public facilities; such as water service, sewer, roadways, electricity, gas, communications, and schools adjacent to the property.**

**South Broadway Neighborhoods Sector Development Plan Goals, Objectives, and Recommendations:**

**Goal 1:**

**Elimination of conditions which are detrimental to the public health, safety and welfare.**

**This goal is furthered by this request since the map amendment from SU-2 MR to SU-2 LCR will allow for an expansion to the existing dental clinic site while ensuring adequate screening and buffering to the neighborhood, building setbacks, and restricting access to Williams St only. For these reasons the applicant believes that the request is consistent with the health, safety, and general welfare of the residents of the adjacent neighborhood.**

**Goals 2:**

**Elimination of blight and prevention of blighting influences.**

**The existing property is vacant. Vacant land can be a blighting influence. By changing the zoning on this property and incorporating the vacant land into the existing business would eliminate the current condition and further this goal of the Plan.**

**Social Issues pg. 20-21**

**In the Human Services Plan- Long range Goals 1981, the Department of Human Services staff made a series of recommendations related to social service provision in the South Broadway Area. The study identified the health needs of the following populations:**

- 1. Low income children in need of dental care and dental education;**
- 4. Those at risk of exposure to conditions conducive to disease and illness or life threatening situations.**

**By changing the current zoning designation of the dental clinic's vacant premises, the Department of Human Services Long Range Goals study in identifying special populations in need of health care will be addressed and expanded to those populations most in need.**

- 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.

**The applicant feels that the existing zoning is inappropriate because a different use category would be more advantageous to the community. As stated above, the applicant can demonstrate that the current use of the dental clinic's property zoned SU-2 LCR has proven to be successful over many decades in offering a quality and much needed affordable service to the surrounding community and to the South Broadway neighborhoods. By incorporating the clinic's vacant land into the existing premise, the applicant feels that the resulting use category allowing for expansion would be more advantageous to the community as articulated in the Comprehensive Plan, the South Broadway Neighborhoods Sector Development Plan, and the State Metropolitan Redevelopment Code as further explained above in Section C.**

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

**The proposed zoning designation and use currently exists on the applicant's premises and has since the early 1970's. The proposed use of a dental clinic would not be harmful, especially since this use has not proven to cause noise, dust, odors, or other potentially harmful effects. In fact, the existing use has only offered convenient, affordable, and needed services to adjacent properties, the neighborhood and the community. Additionally, the vast majority of clients appreciate the location of the existing clinic within the neighborhood because it is very accessible by the Broadway bus route and/or walking. It is also undeniable that when the City Council adopted the South Broadway Sector Development Plan in 1986, it was determined that the Limited Commercial Residential zone was compatible, appropriate, and not injurious to the surrounding residentially zoned properties. At the time that the dental clinic's property was rezoned from R-2 to SU-2 LCR it was clearly considered that the *permissive uses* of the SU-2 LCR zone were taken into consideration and it was determined that uses such as townhomes, office, limited retailing, barbershop, day care, shoe repair, music and art lessons, or a library would only enhance and compliment the surrounding residential properties. The *permissive uses* allowed are low impact residential and light**

commercial types of uses which were created to give protection to the community as a whole from more intense uses such as a bar, carwash, grocery store, or high density residential development. It is also important to note that the existing SU-2 MR zone already conditionally allows apartments, churches and educational facilities, libraries, and fire stations. But most importantly, the City Zoning Hearing Examiner recently approved a multi-family development on the abutting lot to the East on August 31, 2016-Project #1010770/16ZHE-80069. In this case the Hearing Examiner found that the SU-2 zone "allows a mixture of uses controlled by Sector Development Plan which specifies ne development and redevelopment which is appropriate to a given neighborhood, when other zones are inadequate to address special needs." The ZHE also found that a 72 unit apartment development, leasing office, and community building would "not be injurious to the adjacent property, the neighborhood, or the community" and would "not be significantly damaged by surrounding structures or activities". Additionally, in his decision the ZHE found that (similar to this zone change request) the development of vacant land helps to further the goals of the South Broadway Sector Development Plan. Specifically, "Elimination of conditions which are detrimental to the public health, safety and welfare, Elimination of blight and prevention of blighting influences, and Improvement of economic conditions through coordinated City and private actions". For these reasons, and for the reasons previously stated above, the applicant feels that the requested zone change would not be harmful to the adjacent property, the neighborhood, or the community.

- F. A proposed zone change which, to be utilized through land development, requires major and unplanned capital expenditure 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. No major or un-programmed capital expenditures by the City are required, as roadways and utility infrastructure is already in place.
- G. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone. The cost of land or other economic considerations are not the primary determining factors for a change of zone in this case. First, the land has already been purchased, is retained in full ownership, and is not for sale. The primary determining factors of this request are to allow a successful business to grow and operate efficiently within the neighborhood while complying with the general regulations of the Comprehensive City Zoning Code. And second, infill and expansion of a not for profit business in a designated City Metropolitan Redevelopment Area and the Established Urban Area is to further and continue to realize the policies and goals of the Comprehensive Plan, the South Broadway Neighborhoods Sector Development Plan, and the Metropolitan Redevelopment Code.

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

**The subject property is located on a local street, not a collector or major street.**

- 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 where (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 make it unsuitable for the uses allowed in any adjacent zone.

**This request does not constitute a spot zone if approved. The proposed zone change will not give a zone different from surrounding zoning. The proposed zoning of SU-2 LCR abuts the SU-2 LCR zone of the South Broadway Neighborhood Sector Development Plan area.**

- 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 only be approved where; (1) the change will clearly facilitate realization of the Comprehensive Plan and any adopted sector development plan or plan area, 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 uses allowed in any adjacent zone due to traffic or special adverse land uses nearby.

**The proposed development does not constitute "strip zoning". This request would not result in a strip zone because the requested zone of property would not give a "zone different from surrounding zoning". The area of the proposed zone change clearly facilitates the realization of the Comprehensive Plan and other Plans as stated above. If approved, this request would result in an approved commercial zoning designation which does not significantly differ from allowed uses adjacent or surrounding the site.**

### Summary

For the above stated reasons, we respectfully request that the Planning Commission approve this request for a map amendment from SU-2 MR to SU-2 LCR and to change the Official Map as defined and regulated by the City of Albuquerque Comprehensive City Zoning Code. Approval of this request will allow the property owner to continue operating an existing and successful business which has made an immense contribution to the local

community with their needed health care services, and above all will help improve a currently blighted area within a designated Metropolitan Redevelopment Area of the City. We believe this request furthers the goals and policies of the Comprehensive Plan, the Metropolitan Redevelopment Code, and the South Broadway Neighborhoods Sector Development Plan.

Please do not hesitate to contact me if you have any questions or require any additional information.

Sincerely,



Jonathan Turner  
Garcia/Kraemer & Associates

**NOTIFICATION & NEIGHBORHOOD INFORMATION**

# SIGN POSTING AGREEMENT

## REQUIREMENTS

### POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the City Zoning Code or Subdivision Ordinance are responsible for the posting and maintaining of one or more signs on the property which the application describes. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign.

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to public hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter at a charge of \$3.75 each.

#### 1. LOCATION

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

#### 2. NUMBER

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

#### 3. PHYSICAL POSTING

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

#### 4. TIME

Signs must be posted from 6/28/17 To 7/13/17

#### 5. REMOVAL

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

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

[Signature]  
(Applicant or Agent)

5/4/17  
(Date)

I issued 1 signs for this application, 5/4/17  
(Date)

[Signature]  
(Staff Member)

Along William Street frontage

PROJECT NUMBER: 1011247



## City of Albuquerque

P.O. Box 1293, Albuquerque, NM 87103

**\*PLEASE NOTE:** The NA/HOA information listed in this letter is valid for one (1) month. If you haven't filed your application within one (1) month of the date of this letter - you will need to get an updated letter from our office.

April 28, 2017

Jonathan Turner  
Garcia/Kraemer & Associates  
600 1<sup>st</sup> St. NW, Suite 211/87102  
440-1524 (c)  
jturner@garciakraemer.com

Dear Jonathan:

Thank you for your inquiry requesting the names of ALL Neighborhood and/or Homeowner Associations who would be affected under the provisions of §14-8-2-7 of the *Neighborhood Association Recognition Ordinance* by your proposed **[EPC Submittal]** project recorded as **[2120 William St. SE and Tracts 308A1, 307B, 308A 2X308B, Map 41]** located on **[William St. SE between Thaxton SE and Gerald SE]** zone map **[L-14]**.

This correspondence serves as your "Developer Notification Letter" from the Office of Neighborhood Coordination, and must be included as part of your application. Please see "ATTACHMENT A" for a list of NA's / HOA's that must be contacted regarding this submittal.

Please note that according to Section §14-8-2-7 of the *Neighborhood Association Recognition Ordinance* you are required to notify **both** of these contact persons by **certified mail, return receipt requested**, before the Planning Department will accept your application. Please see Page 2 of this letter for additional requirements. If you have any questions about the information provided please contact our office at (505) 768-3334 or [ONC@cabq.gov](mailto:ONC@cabq.gov)

Sincerely,

Office of Neighborhood Coordination  
Council Services Department

## Neighborhood Notification Letters Must Include the Following:

Prior to filing an application with the Planning Department, all applicants requesting approvals through the Environmental Planning Commission (EPC), Development Review Board (DRB), Landmarks & Urban Conservation Commission (LUCC), or approval of a Wireless Telecommunication Facility (WTF) are required to notify any affected neighborhood and/or homeowner associations via certified mail.

1. The street address for the subject property;
2. The currently recorded legal description of the property, including lot or tract number (if any), block number (if any), and name of the subdivision;
3. A physical description of the location, referenced to streets and existing land uses;
4. A complete and detailed description of the action(s) being requested;
5. **\*\*\* NEW\*\*\* Facilitated Meeting Information** – All notification letters must include the following text:  
Affected Neighborhood Associations and Homeowner Associations may request a Facilitated Meeting regarding this project by contacting the Office of Neighborhood Coordination (ONC) by email at [ONC@cabq.gov](mailto:ONC@cabq.gov) or by phone at (505) 768-3334.

A facilitated meeting request must be received by ONC by: **Monday June 12, 2017.**

## Neighborhood Notification Checklist

The following information must be included for each application packet submitted to the City of Albuquerque Planning Department.

1. ONC's "Developer Notification Letter" outlining any affected Neighborhood and/or Homeowner Associations.

*\*Note: If your ONC letter is more than 30 days old, you must contact ONC to ensure that the contact information is still current.*

2. Copies of Letters sent to any affected Neighborhood and/or Homeowner Associations.
3. Copies of certified receipts mailed to any affected Neighborhood and/or Homeowner Associations.

Any questions, please feel free to contact our office at (505) 768-3334 or [ONC@cabq.gov](mailto:ONC@cabq.gov).

Thank you for your cooperation on this matter.

\*\*\*\*\*  
(ONC use only)

Date Processed: 04/28/17      ONC Staff Initials: VMQ

# **ATTACHMENT A**

**SAN JOSE N.A. (SJS) "R"**

**Olivia M. Greathouse**

**408 Bethel Dr. SE/87102 315-8224 (c)**

**Bobby Brown**

**2200 William SE/87102 589-5843 (c)**

**NA E-mail: [sjnase@gmail.com](mailto:sjnase@gmail.com)**

**GARCIA/KRAEMER & ASSOCIATES** 600 1ST St NW Suite 211

Albuquerque, NM 87102

(505) 440-1524 mobile

(505) 242-9028 office

April 15, 2017

Ms. Karen Hudson, Chair  
Environmental Planning Commission  
City of Albuquerque  
600 Second Street NW  
Albuquerque, New Mexico 87102

RE: Zone Map Amendment- 2120 William St. SE and Tracts 308A1, 307B,  
308A 2X308B, Map 41

Dear Madam Chair Hudson:

The purpose of this correspondence is to request approval through the Environmental Planning Commission for a zone map amendment from SU-2 MR to SU-2 LCR for the above referenced site. The property is approximately 1.3 acres in size and is located within the city limits.

**Adjacent Land Uses and Zoning**

The site is located on William St. SE in between Thaxton SE and Gerald SE. The property is located on zone atlas map page L-14 as shown on the accompanying zone map. The zoning of the adjacent properties is SU-2 MR and SU-2 LCR. Those properties have been developed primarily with single-family dwellings and a non-profit community dental clinic.

**Reason for Request**

The applicant wishes to request approval of a zone map amendment from SU-2 MR to SU-2 LCR to allow the use of an existing parking area for the dental clinic which currently cannot be used since it is zoned MR mixed residential. In addition, the applicant would also be able to provide access to the dental clinic off of Williams St. instead of Hinkle as currently exists. The clinic's access off of Hinkle is a legally platted shared access easement with the neighbor to the west, and there has been an ongoing disagreement with the adjacent neighbor regarding the size of the access off of Hinkle to the clinic's parking area. And although the clinic has been using that access for well over 10 years, the neighbor has placed barricades between the clinic's parking area and their property, making it very difficult for the clinic's employees and clients to maneuver their vehicles. By gaining full access off of Williams St, the clinic would not only abandon their access off of Hinkle but

also would install a 10 foot wide special landscape buffer and 6 foot high solid wall along the boundaries between neighboring residential properties to provide some visual relief.

**Resolution- 270-1980**

The proposed Zone Map Amendment for this site is consistent with Resolution 270-1980 as follows:

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

**The proposed zoning of SU-2 LCR will not adversely affect the health, safety, morals and general welfare of the City or area residents. In fact, the applicant believes that if approved, the zone change would allow the continued use of a quality project in a blighted area. The zoning and uses proposed are no different from what uses already exist on the dental clinics property today; and as explained above, have not been found to be inconsistent with the health, safety, morals, and general welfare of the City, but rather quite the opposite. Specifically, the applicant feels that the proposed development will help to continue to stabilize and increase property values in the area by being able to reasonably expand, while preventing further blight in the neighborhood and providing an obviously needed and desired service to the community and surrounding neighborhood.**

- 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 be not made.

**Re- zoning from SU-2 MR to SU-2 LCR will provide for stability of land use and zoning. The proposed zone change would allow for an expansion of the current use of the property which will ultimately result in more job opportunities and increased revenue for the public and local community as is encouraged in the State of New Mexico Metropolitan Redevelopment Code. Moreover, development of the property, which is currently vacant land, will help to eliminate blight and in turn increase property values which would contribute to stabilizing land use.**

- C. A proposed zone change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City master plans and amendments.

**The site is located in the Established Urban Area as designated by the Comprehensive Plan. The proposed zone change furthers the intent of Comprehensive Plan policies by providing a variety of urban land uses in an area where such uses are appropriate. Policies applicable from the Plan include:**

**Policy II.B.5a-** A full range of urban land uses...- **This application is to allow an existing dental service to expand while continuing to provide much needed care for the surrounding low income residents and community.**

**Policy II.B.5i-** 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.

**The applicant believes that the proposed map amendment is appropriately located since the type of use proposed is currently occurring legally on the adjacent property, and stated above, this will create the opportunity to provide needed buffering and direct vehicle access which will help to minimize adverse effects of noise, lighting, pollution, and traffic on the adjacent residential environments. Therefore, the applicant affirms that the proposed map amendment is not in conflict with this policy but rather will significantly further it for the reasons previously stated.**

**Policy II.B.5d-** The location, intensity, and design of new development shall respect existing neighborhood values, natural environment conditions and carrying capacities, scenic resources, and resources of other social, cultural, recreational concern.

**This request for a sector plan map amendment is to allow for an existing non-profit community dental clinic to expand with improvements and new development to the overall premises. The applicant feels that this policy is furthered by the proposed development, and the overall layout of the site will provide variety while respecting the natural environment and socio-cultural concerns. The proposed development will not compromise carrying capacities, scenic resources, or neighborhood values. Relocation of vehicular access to the site and installation of appropriate landscape buffers will help to partially further this policy.**

**Policy II.B.5e-**

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

**The portion of the site to the west of the existing dental clinic is vacant and contiguous to urban facilities. There are no permanent structures on the vacant portion of land. This request is not in significant conflict with the above policy since the parcel of land abuts existing urban facilities and the overall development would ensure and enhance the integrity of the existing neighborhood with a development that respects and will produce a quality developed environment within the existing neighborhood and Sector Plan area. As mentioned, the subject property is currently vacant and underutilized. Incorporating this property into the existing business will be**

**beneficial to dental clinic's ability to operate and continue to provide services to the community in the future.**

Policy II.B.5o-

Redevelopment and rehabilitation of older neighborhoods in the Established Urban Area shall be continued and strengthened.

**The proposed zone change will allow further redevelopment includes the redevelopment of an older neighborhood in the Established Urban Area of the Plan. This application is to continue and strengthen this policy by redeveloping vacant land which also will promote continued rehabilitation within the neighborhood. Redevelopment of land helps to further this policy by eliminating blight and promoting infill development. The applicant feels that development of the vacant land to the west and the expansion of the existing dental clinic will further this policy. Additionally, possible technique #8 would be utilized since it is to "Initiate and provide assistance to neighborhood based non-profit organizations as a means of implementing redevelopment objectives".**

Policy II.D.6.b- Economic Development

Development of local business enterprises as well as the recruitment of outside firms shall be emphasized.

**The applicant believes that the successful development of the existing dental clinic has proven to further this policy, and if approved, the zone change request will only allow continued growth and development of this non-profit local business to offer services to the South Broadway community.**

South Broadway Neighborhoods Sector Development Plan Goals, Objectives, and Recommendations:

Goal 1:

Elimination of conditions which are detrimental to the public health, safety and welfare.

**This goal is furthered by this request since the map amendment from SU-2 MR to SU-2 LCR will allow for an expansion to the existing dental clinic site while ensuring adequate screening and buffering to the neighborhood, building setbacks, and restricting access to Williams St only. For these reasons the applicant believes that the request is consistent with the health, safety, and general welfare of the residents of the adjacent neighborhood.**

Goals 2:

Elimination of blight and prevention of blighting influences.

**The existing property is vacant. Vacant land can be a blighting influence. By changing the zoning on this property and incorporating the vacant land into the existing business would eliminate the current condition and further this goal of the Plan.**

Social Issues pg. 20-21

In the Human Services Plan- Long range Goals 1981, the Department of Human Services staff made a series of recommendations related to social service provision in the South Broadway Area. The study identified the health needs of the following populations:

1. Low income children in need of dental care and dental education;
4. Those at risk of exposure to conditions conducive to disease and illness or life threatening situations.

**By changing the current zoning designation of the dental clinic's vacant premises, the Department of Human Services Long Range Goals study in identifying special populations in need of health care will be addressed and expanded to those populations most in need.**

- 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.

**The applicant feels that the existing zoning is inappropriate because a different use category would be more advantageous to the community. As stated above, the applicant can demonstrate that the current use of the dental clinic's property zoned SU-2 LCR has proven to be successful over many decades in offering a quality and much needed affordable service to the surrounding community and to the South Broadway neighborhoods. By incorporating the clinic's vacant land into the existing premise, the applicant feels that the resulting use category allowing for expansion would be more advantageous to the community as articulated in the Comprehensive Plan, the South Broadway Neighborhoods Sector Development Plan, and the State Metropolitan Redevelopment Code as further explained above in Section C.**

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

**The proposed zoning designation and use currently exists on the applicant's premises and has since the early 1970's. The proposed use of a dental clinic**

would not be harmful, especially since this use has not proven to cause noise, dust, odors, or other potentially harmful effects. In fact, the existing use has only offered convenient, affordable, and needed services to adjacent properties, the neighborhood and the community. Additionally, the vast majority of clients appreciate the location of the existing clinic within the neighborhood because it is very accessible by the Broadway bus route and/or walking.

- F. A proposed zone change which, to be utilized through land development, requires major and unplanned capital expenditure 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.

**No major or un-programmed capital expenditures by the City are required, as roadways and utility infrastructure is already in place.**

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

**The cost of land or other economic considerations are not the primary determining factors for a change of zone in this case. First, the land has already been purchased, is retained in full ownership, and is not for sale. The primary determining factors of this request are to allow a successful business to grow and operate efficiently within the neighborhood while complying with the general regulations of the Comprehensive City Zoning Code. And second, infill and expansion of a not for profit business in a designated City Metropolitan Redevelopment Area and the Established Urban Area is to further and continue to realize the policies and goals of the Comprehensive Plan, the South Broadway Neighborhoods Sector Development Plan, and the Metropolitan Redevelopment Code.**

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

**The subject property is located on a local street, not a collector or major street.**

- 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 where (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 make it unsuitable for the uses allowed in any adjacent zone.

**This request does not constitute a spot zone if approved. The proposed zone change will not give a zone different from surrounding zoning. The proposed zoning of SU-2 LCR abuts the SU-2 LCR zone of the South Broadway Neighborhood Sector Development Plan area.**

- 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 only be approved where; (1) the change will clearly facilitate realization of the Comprehensive Plan and any adopted sector development plan or plan area, 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 uses allowed in any adjacent zone due to traffic or special adverse land uses nearby.

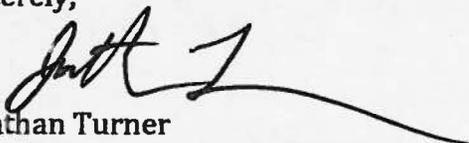
**The proposed development does not constitute "strip zoning". This request would not result in a strip zone because the requested zone of property would not give a "zone different from surrounding zoning". The area of the proposed zone change clearly facilitates the realization of the Comprehensive Plan and other Plans as stated above. If approved, this request would result in an approved commercial zoning designation which does not significantly differ from allowed uses adjacent or surrounding the site.**

### Summary

For the above stated reasons, we respectfully request that the Planning Commission approve this request for a map amendment from SU-2 MR to SU-2 LCR and to change the Official Map as defined and regulated by the City of Albuquerque Comprehensive City Zoning Code. Approval of this request will allow the property owner to continue operating an existing and successful business which has made an immense contribution to the local community with their needed health care services, and above all will help improve a currently blighted area within a designated Metropolitan Redevelopment Area of the City. We believe this request furthers the goals and policies of the Comprehensive Plan, the Metropolitan Redevelopment Code, and the South Broadway Neighborhoods Sector Development Plan.

Please do not hesitate to contact me if you have any questions or require any additional information.

Sincerely,



Jonathan Turner  
Garcia/Kraemer & Associates

**Enclosure/s**

**Cc: Olivia M. Greathouse- San Jose N.A.  
Bobby Brown- San Jose N.A.**

**Note: Affected Neighborhood Associations and Homeowner Associations may request a Facilitated Meeting regarding this project by contacting the Office of Neighborhood Coordination (ONC) by email at [ONC@cabq.gov](mailto:ONC@cabq.gov) or by phone at (505)768-3334.**

**A facilitated meeting request must be received by ONC by: Monday June 12, 2017**

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0101 22  
 ALBUQUERQUE, NEW MEXICO 87102  
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 MAY -3 2017  
 05/03/2017

Sent To: *Olivia M. Greathouse*  
 Street, Apt. No., or PO Box No.: *408 Bethel Dr. SE*  
 City, State, ZIP+4: *ABQ, NM 87102*

PS Form 3800, August 2006 See Reverse for Instructions

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Total Postage & Fees	\$6.50

0101 22  
 ALBUQUERQUE, NEW MEXICO 87102  
 Postmark Here  
 MAY 2017  
 05/03/2017

Sent To: *Bobby Brown*  
 Street, Apt. No., or PO Box No.: *2200 William SE*  
 City, State, ZIP+4: *ABQ, NM 87102*

PS Form 3800, August 2006 See Reverse for Instructions

October 6, 2015

To: Mayor Richard J Berry

I am writing to you today because of a problem that began 30 years back, but finally became unbearable at the end of 2014. Our Neighbor (Community Dental Services) has been using my mother's property as access for their customers for 30 years.

In December the problem of drug dealing and other crime gave us the need to approach Community Dental Services to inform them of our need to discontinue access for our mother's safety.

A meeting was set up with Mary Altenberg on May 4, 2015. During this meeting, we pointed out to her that they owned the lot that led to Williams, a semi commercial road, so they no longer needed our land for entrance. During this meeting she produced a document that stated that they had a right to an access easement. We pointed out that the area in question was for access only not for parking or any other clinic use.

We also discovered at this time that the access easement took up 50ft of our mother's property and literally went through her kitchen. We questioned the legality of a document that would take up the entire front yard and part of the house. We were then told by Mary that she would speak to the board about the problems we were having and get back with us.

A few days later, I confronted a contractor parked on the easement, and asked why they had not informed him that no parking was allowed. I was approached by Rob Dorabi who I later found out he was in charge of the clinics finances who told me to keep my nose out of their business. When I asked him how the dental center was going to help keep my mother safe from the drug dealing on the easement his answer was shocking. He stated "We don't care about the drug dealing or any of your problems they don't affect us." He then told me if I was going to go after them I better come big and I could go ahead and call the city and see if anything happens, insinuating that they had special exemption from having to do anything.

Due to this response I called in a 311 complaint case #13905306 on 5/17/2015 to complain about three issues

1. Drug dealing on the easement.
2. The weed and litter in their parking lot and vacant areas of their property
3. A light that flashed on and off every 60 seconds all night long

This case was closed without anyone speaking with me about the problems and nothing was done.

I then followed up with a second call on 6/4/2015 reopening the previous case with case #13835168 and 13806125. This time there was some movement on the weed issues. They mowed the weeds, but did not pick up the litter scattered litter throughout the lot causing litter to be blown into my yard daily. I have photos of the same litter in the same place after every mowing from June to present day.

On August 27<sup>th</sup> I opened case #14147183 for the remaining issues, the flashing light and the weed and litter issue. I asked why this has not been addressed. This has been a problem reported since May and it has not been addressed by the city.

I spoke to the head of zoning Brandon Williams in June on questions as to why the dental offices does not have landscaping and shade trees in their parking lot like other business are required to, and why the weed and litter complaints had not been addressed, he told me he would do research and get back to me, still no call back.

Today case #14147183 still open. The light is no longer a problem; they turned it off leaving the people they have lining up at 6:00am standing in the dark. The trash is still against my fence, weeds still all over their lot blowing seeds and pollen into the neighborhood.

Now a little about myself; I am a retired City of Albuquerque Employee, I was the Field Operation's Supervisor for the Solid Waste Department, Weed and Litter division until October 2007. I worked with the weed and litter ordinance daily and know that this property is in violation. I need to ask why is this property not required to Follow the weed and litter ordinance. If you would like to contact me feel free to call 505-908-7991

In the meantime, here is some history and documentation of the issues we have witnessed over the last 5 years while caring for my mother.

Sincerely

Anthony Garcia  
2111 Hinkle SE  
Albuquerque, NM 87102  
505-908-7991

## History of Bad Neighbors

Community Dental Services moved in directly in front our parents' house about 30 years ago. With no regard to our parent's way of life they just put up a fence along their property line forcing traffic to flow directly in front of our parent home and through their property line. Property that they have paid taxes on for over 50 years.

Their fence was so close to my parent's fence our visitors could not turn into our yard. The traffic was so bad that during rainy days there were deep trenches in the street that the cars created. Their changes forced flood waters into my parents and the neighbor's yard.

After many months and complaints by my Father, the dental office finally agreed to pave the area but first asked my father to sign a document saying it was OK for them to put in the pavement. What my father did not realize was what they had him sign was an access easement with him giving up 50ft of his property. They never explained the easement and they only said it was to put in the pavement so that the flooding would stop.

Once signed, my father had given up 50ft of his property as an access and drainage easement that literally goes through my parent's kitchen. It was not until years later when my father decided to see an attorney about the issues with these neighbors that he found out what he actually signed. By then it was too late, or so he was told.

The place has continued to be a nuisance. For 30 years, our father tried to work out a good neighbor policy with this group. They made him many promises but nothing was ever done.

When their clients were crashing into my father's fence they put up barriers but never fixed the fence. When my father moved his fence to allow more room and stop people from hitting it, the dental office moved their fence further out towards my father's property removing the buffer.

When people started climbing our fence to cross our property to avoid their 6' gate they promised a 6' fence and it never happened and they never fixed the fence. My father resorted to planting cactus to help the issue.

They placed a commercial trash can right in front of my father's yard under the tree on our property line. They moved it but never covered it up. It still sits to this day open in their parking lot with no fence or any type of buffer between their business and my parents' home.

To this day the issues continue and are getting worse and the value of our parents' home has been depleted. They could never sell it with the issues that are going on next door.

Our father passed away November 19, 2010. Since then we have taken turns taking care of my mom and have witnessed what they had to put up with over the years. It gets worse every year and we fear for her safety because of the way their customers spill into her life.

Having that open area between our properties has only provided a place for more issues. I have listed those issues in the next pages.

Twice we met with the Director Mary Altenberg and her Finance Officer Rob Dorabi asking them to please provide a buffer between their customer and us and to please help us keep out the drug traffic after hours. Their response was. "It doesn't affect us so we don't care" and "If it costs us any money we won't do it" Both direct quotes from their finance officer.

We have even proposed some no cost solutions that they would not even consider. We even offered to do some of the work ourselves for free. Anything to help my mom and us feel safer.

Here is a list of issues we have brought up to the staff at the Clinic with no resolution.

### **Traffic and Parking issues**

- Traffic is nuts. We have counted an average of 100 cars per day or more. Most days they have 100 cars by noon. It starts at 6:00 and go until 5:30. When we told them this, their response was. "Wow we have allot of customers." The property is continually used as a bus stop to pick up and drop off patients. People waiting sit under the tree on our property line, smoking and leaving their butts behind. It is supposed to be an access easement not for parking or a bus stop.
- Because it is perceived as public property, the entire neighborhood uses the property as a parking for parties or whatever and leave their trash behind.
- The area is used as a place for cars to turn around or kids to spin tires. One kid even put a dent in the asphalt spinning tires in the lot.
- People from the neighborhood walk their dogs and stop to do their business under the tree on my parent's lot and don't clean it up.
- Their customers park under the tree and clean out their cars leaving their trash behind. When we ask them to not park there, they spew profanity and tell us it is none of our business and it is public property or property belonging to the clinic. Just recently on 9-15 two different cars dumped a dirty baby diaper, a soda bottle and a half eaten burrito. As of 10-6 it is still there when the Dental office is supposed to maintain the area.
- Their customers park where ever they want blocking our trash cans so they don't get pick up, blocking the mail box and our driveway.
- Annoying car alarms are going off all the time.
- Their parking lots look directly into our yard so everyone sees our business. We have no privacy.
- They have no trees so their customer's park under the tree on our property even with no parking signs posted. When we ask them to please move they are rude and argumentative.
- Their employees are constantly speeding in and out of their lot. Twice they have caused an accident.
- Twice their parking lot was so full that when we had to call an ambulance for my mom, the paramedics had to literally wheel her in a gurney through their parked cars, down to the corner of the street because they could not get emergency vehicles in. Someone was also parked under the tree blocking what could have been parking for the ambulance. My mother was humiliated.

They can easily have their traffic come in through Williams – A public street instead of through a residential street and my mother's property. They own the property that opens to Williams, but refuse to do that because it might cost them money to pave a short driveway.

We have asked them to change their parking strategy which is no cost to them and they refused. We asked to simply have their employee's park in the lot next to our fence and have their customers use

the lot next to their building . This way we don't have people loitering in the parking lot looking into our lives. They have not done anything with our suggestion.

### **Nuisance issues**

- Their customers congregate in their parking area and wander into our yard whenever they like. There is no respect for our property or person by their customers. It is easy for them because there is no buffer between my mother's home and their parking lot.
- We have witnessed kids having sex under the tree on our lot.
- We even had a couple of women parked under the tree to spy on their boyfriends across the lot. We know this because when Anthony asked them what they were doing there and they told him the whole story.
  - Bottom line they view it as a public parking and think they can do anything they want.
- We have been missing newspapers several times a month and when you call the Journal office they say it was delivered.
- Packages that were showing delivered by UPS come up missing.
- We have caught their customers going through our Trash Cans and our mailbox. Once again it is easy because there is no buffer between their parking lot and our property except for our fence and the mailbox is on the other side.
- Their customers come into our yard asking for food, work, wanting to pick flowers, cactus or fruit from our trees. – If you tell them no they get upset at us. When the women are alone this puts them at risk for anyone that comes to the door.
- Their customers come into the yard asking us to help fix their cars. Jump a battery or help unlock doors. They will ask us before they ask anyone at the clinic.
  - Again no buffer so they just walk right in past our gate. We are forced to invest in a new more secure gate because the Dental Office will not create a buffer.
- We used to have a cherry tree that was on the edge of the yard that people would climb and raid because they thought it was a public street and they had the right to pick anything that hung over the fence. If we asked them to stop they would just tell us to mind our business because it is public property or ignore us. They wound up destroying the tree.

We asked them if they would consider not allowing parking in front of our house and make it a loading area only. This way people would not be hanging around there and be tempted to just walk into our yard. Again no cost to them, but they once again refused.

### **Maintenance Issues**

- They don't maintain the weeds and litter as promised in the easement. We constantly complain. They work on it for a while then slack off. Right now they won't even touch the fence line. We have pictures of litter that has been in the same spot for weeks. We finally broke down and had to cut the weeds ourselves. Trash remains until we clean it ourselves. The agreement between the Dental Office and our family is that they maintain the weeds and litter but we wind up doing it.
- Their weeds are out of control. They mow them but it doesn't last and won't stop rodents.

**We have contacted 311 for weed and litter control but no response from them either.**

## Safety issues

- We have had people jump over our fence to get past their gates and just walk across the yard. My father planted cactus along the fence line to help stop it. The fence remains broken and now their customers help themselves to cactus leaves.
- Once, when our sister was putting out the trash a man walked into the yard from their parking lot and started talking about the cactus, he suddenly started to spew bible verses about the end of times. She was so scared and didn't know what to do. He didn't make sense and he looked like a madman yelling at her.
- We have had strange men urinating under the tree in front of the house on our property line. When we confront them we get challenged and threatened.
  - One Easter Sunday when we had kids in the yard playing. Two men stopped to urinate under the tree and my father confronted them. A fight broke out between the two men and my Father and Brother in-law. One of the men appeared to pull a gun out of the back of his pants. The only thing that stopped it was our cousin from next door brought out a shot gun and chased them off.
- There are constant Drug trades in the parking lot and are getting worse. Sometimes all weekend. Very sporadic, hard to pinpoint and often there is more than one car waiting for the dealer. We put in cameras hoping to deter them but all that did was move the trading in front of the neighbor's house.
- This area is starting to be a safe haven for criminals to do their thing.
  - We have had Cops chasing criminals into the area and coming to us to ask if we saw anything. We no longer feel safe with this type of traffic.

We talked to the directors of the dental office about their allowing us to put up a fence in front of our property line to stop the after hour's traffic. Their response was. "Well how will you get in?" Insinuating that they would control the gate and access on our property line because of the easement.

What they offered is to put in a 6' gate in front of their second parking lot. We told them we don't need a gate where you already have one on their property; we need something on our property to keep people out after hours and keep my mom safe. Their response was, "If it costs us money we won't do it".

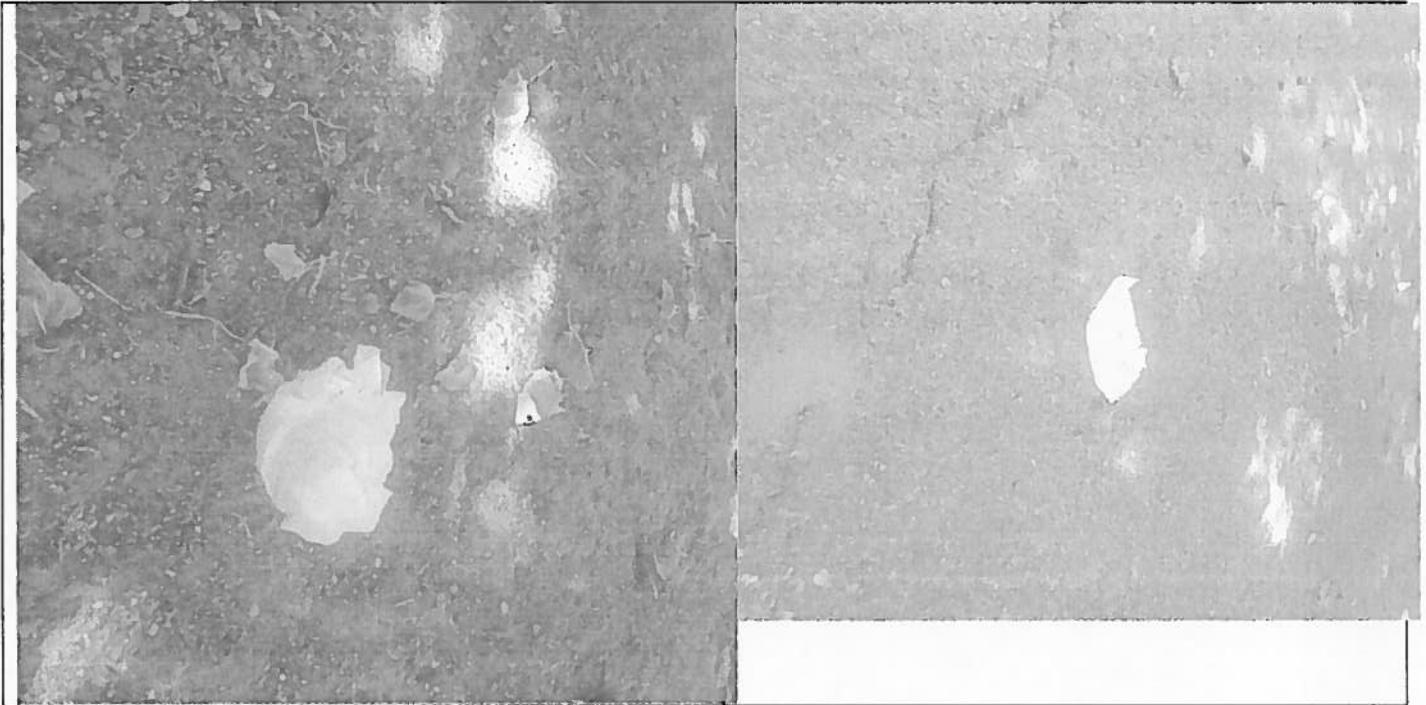
The bottom line is their business and customers are spilling over into our lives. There is no buffer between us and them and we no longer feel safe in our own home. There is no respect for our property or person by their staff or their customers.

We can't even sit on our patio for fear that someone is going to see us and decide to walk over and who knows what. We are in a fish bowl with their customers looking into our yard and lives. Because of the setup of their parking lots the after-hours traffic is even more dangerous. We can no longer enjoy our yard and no longer feel safe.

When we bring up the problems they tell us they are nonprofit and have no money, yet their 990 reports 3,213,385 in revenue of which 78% is spent on Salaries. Is there no room for doing what they can to improve the neighborhood and comply with city weed and litter ordinances? They are depleting the value of the neighborhood just by existing in that neighborhood. They are currently up for a city grant of aprox 197K. Some of that should be spent to improve the neighborhood around them.

Attached are photos showing the issues we have been dealing with over the last 30 years.

These are pictures of evidence where their customers dumped a dirty diaper and baby wipes after parking under the tree on 9-16.

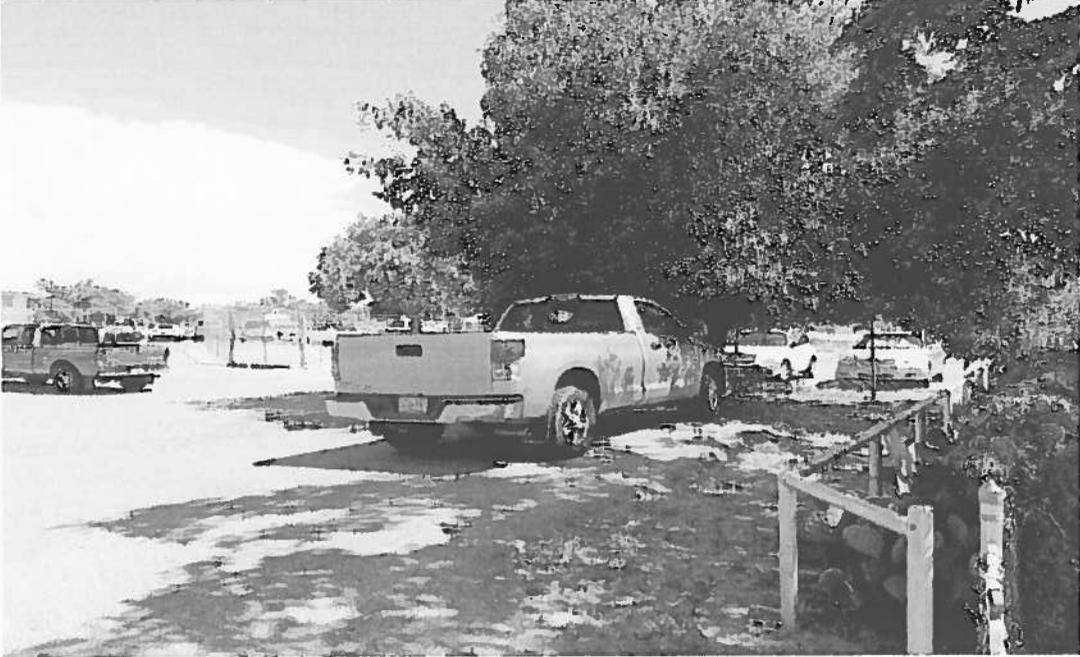


A few minutes later another customer dumped an empty bottle and half eaten burrito in the same area. You can see the diaper in the area at the top of the picture. The trash remains there not picked up as promised as of 10-4.



Trash still on property as of 10-6

Their customers continue to park under the tree regardless of No Parking signs. We have had to put in Cameras and larger, uglier signs to try to help.



The Dental office is supposed to maintain the easement but fails to do so. Here are pictures where we had to do it ourselves.

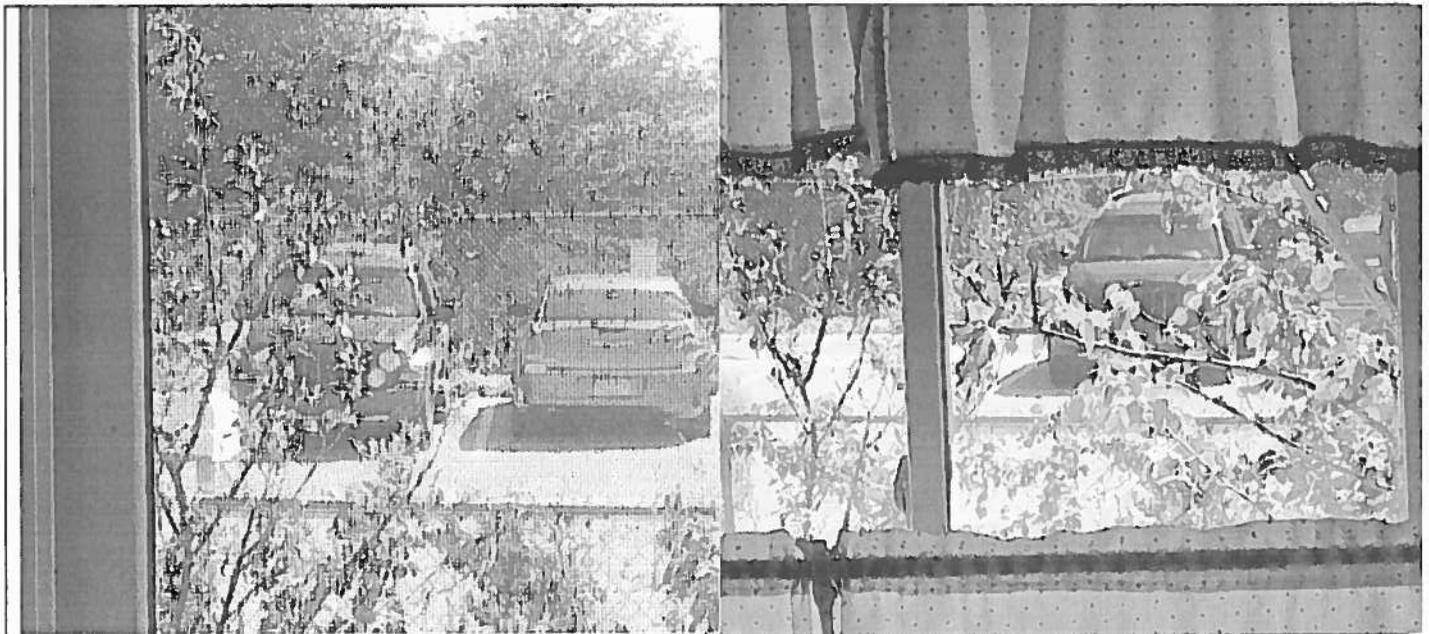


The Dental office provides no buffer between their customers and all their neighbors on every side.

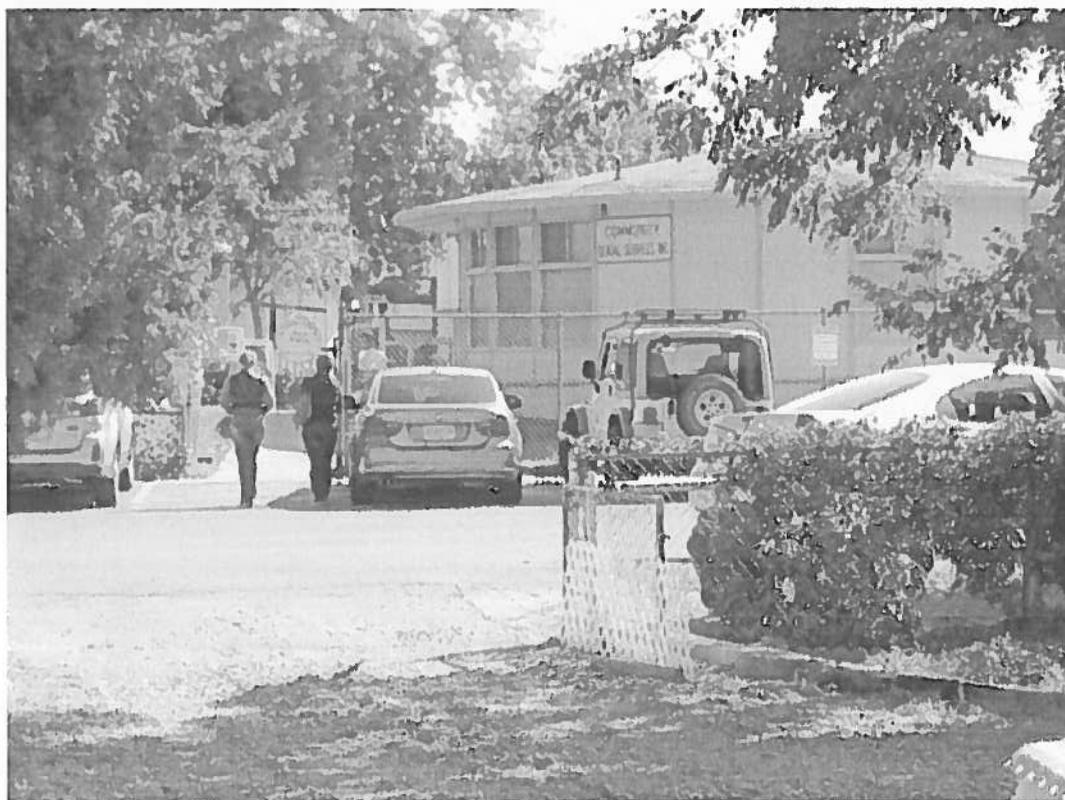
This picture is from the patio over our front door.



These two are pictures from our Kitchen Window



These are additional photos from our front door. You can clearly see into our property. We have no privacy so we don't go outside.



Here are snapshots of the Easment area.

Pictures below showing the area used as access no buffer between Community Dental and Garcia household. Only landscape on access area was planted and maintained by the Garcias.



Picture showing access area from east property line 2111 Hinkle SE. Everything from tree to center of photo is Private property belonging to Florinda Garcia. No buffer or screening between patient intake area and Garcia Household. Less than 50ft between Garcia front gate and patient intake area where people start lining up at 6:00am.



Photo taken from Dental office center parking space north side of lot with no screen or buffer between properties. 4 foot fence was the original fence provided by the Garcias before the lot was purchased by the Dental Office.



Photo of parking lot showing no trees no landscape and weeds over two feet tall.

Area at top of photo is the Garcia property. 4 foot fence is the original fence provided by the Garcias before the Dental office purchased the additional property



Photo showing main parking lot with no landscape no trees and weeds over 1 foot tall.



Photo showing only shaded area in Dental Clinic parking lot is Employee smoking area.







## Somerfeldt, Cheryl

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**From:** aubert robert <reaubert1@yahoo.com>  
**Sent:** Friday, July 28, 2017 7:05 PM  
**To:** Somerfeldt, Cheryl  
**Cc:** Gloria Aubert  
**Subject:** 2120 William SE

Dear Ms. Somerfeldt,

I am writing with some concerns regarding the zoning change being requested by the community dental clinic for the property located at 2120 William SE:

1. How is the access to the property going to be secured during non business hours to ensure that there will be no loitering or illegal activity happening?
2. How is dust going to be mitigated from vehicles driving onto the property?
3. Will the property be used as an access for waste management?
4. What will ensure that there will not be parked traffic, waiting for the clinic to open, in front of residences in the early morning hours?
5. What will ensure that if the property is sold it will not be able to be used for multi family or some other type of business, ie.apartments? Need some way of ensuring that the zoning change is only for a parking lot while the clinic is in existence and will revert back to the original zoning upon sale or closing of the clinic.

We would appreciate a meeting to address these and any other concerns there might be regarding the request for the zoning change. I appreciate your time.

Sincerely,  
Gloria Aubert

[Sent from Yahoo Mail on Android](#)

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

San Jose  
City Assoc.

8-24-11

Notification if requested

open conversation

can be done bilingually

explain the dental clinic change of zone

Addition of vacant property in zone change

Williams St as a major thoroughfare.

The plan by the city would seem to allow direct access on William St.

Children play on William St and entrance would be by post office boxes.

Concern about traffic by persons that can be problematic about proposed entrance.

Clinic traffic has been a problem.

What is the Special Landscape Buffer proposed?

Will the entrance be locked after hours?

over

A traffic study should be made.

People will be waiting to enter as  
patience as early as 4 AM

How will the zone change affect the  
residents in the neighborhood?

No response from the Dental Clinic to  
the neighborhood Association.

There seems to be no respect for the  
neighborhood safety or concerns.

# CITY OF ALBUQUERQUE

## LAND USE FACILITATION PROGRAM

### PROJECT MEETING REPORT

**Project #:** 1011247 / 17EPC-40014  
**Property Description/Address:** All or a portion of Lots 307B, 308A, 308B, and 310  
**Date Submitted:** September 27, 2017  
**Submitted By:** David Gold

**Meeting Date/Time:** September 25, 2017, 5:00-7:00 PM  
**Meeting Location:** Herman Sanchez Community Center  
**Facilitator:** David Gold  
**Co-facilitator:** Philip Crump

#### Parties:

- Applicant**
  - Community Dental Services, Inc
- Agent**
  - Garcia/Kraemer & Associates
- Neighborhood Associations/Interested Parties:**
  - San Jose N.A.

The Applicant operates a dental clinic on a SU-2 LCR zoned property (lot 309). It is adjacent to an SU-2 MR property they also own (lots 307A, 308A&B, 310). This would allow them to change the access to the clinic from Thaxton Ave. to Williams St. They ultimately would also like to improve the clinic building.

The meeting was cordial but neighbors attending expressed a number of concerns. Principal ones included:

- How the clinic handles emergency patients who congregate near neighbor's property starting at 6AM.
- What would happen to the property in the future, if the clinic leaves.
- Drainage, dumpster location, landscaping, and location of privacy walls.

No agreement was reached regarding the proposal itself.

#### Outcome:

- Areas of Agreement
  - Drainage, garbage location, privacy walls could be handled with meetings between the clinic and neighbors.
  - The early morning arrival issue should be addressed in meetings between the clinic and neighbors.
- Unresolved Issues & Concerns
  - Morning emergency patients.
  - Possible future uses.
  - Drainage, dumpster location, landscaping, and location of privacy walls.

# CITY OF ALBUQUERQUE

## LAND USE FACILITATION PROGRAM

### PROJECT MEETING REPORT

- Is the overall project good for the area?
- Are the clinic management trustworthy?
- Suggested Alternatives
  - Use Gibson Ave. as an entrance.
  - A special use zoning could be used to accommodate the entrance and parking.

#### Meeting Specifics – Presentation By Applicant

##### 1) General

1. The Applicant runs a dental clinic for low income patients.
2. It has been in place for over 30 years on a SU-2 LCR lot.
3. They own the lot adjacent to the clinic and have for 40 years. It is zoned SU-2 MR.
4. They wish to change the zoning on the adjacent lot to SU-2 LCR and combine the two lots.

##### 2) Access and Parking

1. The goal of the rezoning is to allow the clinic to move their access from the current location off Thaxton St. to William St.
2. There are issues with the adjacent neighbor over the precise property boundary. The neighbor has put up barricades that partially block the access.
3. They wish to change the entrance to William St. on the property adjacent to the clinic, which would allow them to have their own access.
4. Since a dental clinic is not a conditional MR use, staff recommended they change the zoning to LCR to accommodate the access.
5. They built a parking lot on the property 10 years ago, but were recently informed by the city that they were in violation of the zoning code, since the clinic is not a permitted use.
6. They feel this is not spot zoning as the clinic property is zoned LCR; one whole LCR parcel would be created.

##### 3) Future Plans

1. The applicant stated their only future plan is to use the site as a dental clinic.
2. They would like to put up a more modern building with possible expansion.
3. They feel the landscaping would improve what is currently a vacant lot.

#### Meeting Specifics – Concerns of Neighbors

##### 4) Concern About Congregation of Patients

1. The strongest concern expressed was that patients congregate at the clinic close to neighbor's property at 6AM. At certain times of year it is dark.
  1. This is because the patients are emergency patients, and are seen on a first-come/first-served basis starting at 7AM. They cannot make appointments.

# CITY OF ALBUQUERQUE

## LAND USE FACILITATION PROGRAM

### PROJECT MEETING REPORT

2. Although employees arrive at 6:30AM, they cannot enter the building until 7AM.
2. Neighbors expressed several concerns:
  1. Since they congregate outside the gate it impacts adjacent neighbors.
  2. If the entrance changes, it will shift the problem to Williams St., but not alleviate it.
  3. Neighbors stated there were safety and privacy issues, and occasional fights.
  4. Neighbors were concerned that this attracted homeless people.
  5. There was a drug-dealing problem but it appears to be alleviated.
    1. An adjacent neighbor installed security cameras. He also confronted individuals.
    2. The clinic also installed security cameras.
  6. Concern was expressed for the patients, who are forced to wait outside.
  7. Concern was express that there was a lack of lighting and patients had to wait in the darkness.
3. Neighbors had ideas for to alleviate the situation.
  1. Have some type of reservation system for emergency patients.
  2. Have an employee come early to let the emergency patients inside.
  3. Have a parking area for morning. One neighbor was concerned that patients would look in her windows.
  4. The Applicant suggested getting 50% of neighbors to request permit parking on William St. Neighbors were concerned that city enforcement was weak.
  5. The Applicants agreed to meet with neighbors to discuss this issue and attempt to find other solutions.
  6. The Applicant stated they were trying to fix the outdoor light for some time but were having difficulties.

#### **5) Concerns About Possible Future Use**

1. Neighbors were very concerned about possible future uses under the new zoning.
2. The new zoning permissive uses include a number of commercial uses and 20 dwelling units per acre housing.
3. Neighbors strongly felt these uses were incompatible with the existing neighborhood.
4. Neighbors were concerned about the possibility of a sale once the zoning was in place.
5. The Applicants assured the neighbors that they had no plans to move the clinic or change the use.
  1. They reiterated that they had been there 40 years, and wished to continue there.
  2. They noted that they serve a board of directors, but the board was committed to this path.
  3. They stated that residential construction could not be higher than 26' due to adjacent residential.
6. Neighbors still expressed concerns.

# CITY OF ALBUQUERQUE

## LAND USE FACILITATION PROGRAM

### PROJECT MEETING REPORT

#### 6) **Concerns About Rezoning**

1. Several neighbors asked why the rezoning was necessary and if there were alternatives.
2. The applicant stated under the current zoning, they cannot use the subject property for access.
3. They stated staff recommended that they change the zoning.
4. A Special Use was discussed, but the applicant doesn't have a site plan yet or know exactly what the site will look like, so they could not use this option. Also City Planning staff stated they are getting away from Special Use in zoning.

#### 7) **Concerns About Trust**

1. A neighbor expressed concern that the clinic had met with the neighbors 2 and 10 years ago and had not kept their promises.
2. The applicant stated that the leadership was different 10 years ago and they were not part of it.
3. A neighbor stated "We just don't want something crammed down our throats like that other project [70 unit apartment]. I have no problem with being good neighbors. WE want good neighbors."

#### 8) **Concerns About Drainage**

1. Several adjacent neighbors stated that they had problems with runoff from the site.
2. One neighbor stated that when the parking lot was paved in 1986 it caused runoff onto her property.
3. One stated that prior to the clinic there was a ditch that ran across the property. This has been removed, which she felt caused the runoff.
4. The Applicants stated that the new code has stringent hydrology requirements for handling runoff if any improvements, like the new driveway, were made.
  1. Runoff could not leave the property.
  2. They might have to install ponds or other catchment mechanisms.
5. The Applicant stated that they plan to create one lot out of all of these. Therefore any work done on any part of the property would require stringent handling of drainage on the entire property, to bring the entire property into compliance with current Code.

#### 9) **Concerns About Landscaping**

1. The Applicants stated they would be required to put in landscaping when they added the driveway.
  1. Their plan was to add trees and have a 10' landscape buffer.
2. A neighbor expressed concern that the landscaping could interfere with views of the mountains.
3. The Applicants stated they wanted to meet with neighbors prior to any changes to make sure people were in agreement.

#### 10) **Concerns About Walls**

# **CITY OF ALBUQUERQUE**

## **LAND USE FACILITATION PROGRAM**

### **PROJECT MEETING REPORT**

1. The Applicants stated they wanted to put up 6' walls for the privacy of the neighbors to the north and south sides of the rezoned area, around their boundary.
2. Two neighbors stated that such walls would be problematic because their houses have small setbacks (2' in one case).
3. The Applicants stated again they wanted to meet with neighbors prior to any changes to make sure people were in agreement.

#### **11) Concerns About Location of Dumpster**

1. Many attendees were concerned about the future location of the dumpster. They did not want it near their houses. They did not want it near the entrance.
2. The Applicants stated they would be required to put a fence around the dumpster to hide it. This still concerned neighbors.
3. The Applicants stated they would like to keep the dumpster where it is which is out of everyone's way, and nearer the clinic.

#### **12) Request to Locate Entrance Off Gibson**

1. One attendee felt the applicants should bring in traffic from Gibson directly to the property.
2. The Applicants stated that this would be difficult as they do not own the easement across the necessary land.

#### **13) Comments About The Value of The Clinic To The Neighborhood**

1. Some attendees questioned the value of the clinic to the neighborhood.
  1. The clinic used to do a capping program for children.
  2. Some neighbors complained about having to fill in a lot of forms.
2. Some felt the clinic should give discounts to neighborhood residents.
3. The Applicants pointed out that their rates are set by federal, state and county programs. They need the forms to determine patients' eligibility. They are a non-profit.
4. The Applicants stated that they no longer do the capping program on a large scale, because other entities were awarded the contract. They still do individual children's teeth.

#### **14) Other Concerns**

1. Some concerns were mentioned briefly these included:
2. Additional noise and traffic if the clinic expands.
3. Do the chemicals the clinic uses escape the facility and cause pollution.
4. The area has nearby heavy polluters in the M-1 areas that are incompatible with the neighborhood.

**Next Steps:** (see below)

**Action Plan:**

# CITY OF ALBUQUERQUE

## LAND USE FACILITATION PROGRAM

### PROJECT MEETING REPORT

- Applicant plans to meet with neighborhood members to discuss ideas on handling their early morning emergency patients. No date or time was discussed.
- If the zone change is approved, the Applicant then plans to meet with neighborhood members to discuss landscaping, drainage and dumpster location, when their plan formulates. No date or time was discussed.

**Action Items:** (no additional).

#### **Application Hearing Details:**

1. Hearing scheduled for October 12, 2017
2. Hearing Time:
  - a. The Commission will begin hearing applications at 8:30 a.m.
  - b. The actual time this application will be heard by the Commission will depend on the Applicant's position on the Commission's schedule
3. Hearing Process:
  - a. Comments from facilitated meetings will go into a report, which goes to the City Planner.
  - b. City Planner includes facilitator report in recommendations.
  - c. The Commission will make a decision and parties have 15 days to appeal the decision.
4. Resident Participation at Hearing:

Written comments must be received by January 7 to be included in the planner's report, and may be sent to: Cheryl Somerfeldt [csomerfeldt@cabq.gov](mailto:csomerfeldt@cabq.gov),  
600 2<sup>nd</sup> St., 3<sup>rd</sup> floor, Albuquerque, NM, 87102

OR

Karen Hudson, Chair, EPC, c/o Planning Department, 600 2<sup>nd</sup> St., 3<sup>rd</sup> floor,  
Albuquerque, NM, 87102

#### **Names & Affiliations of Attendees:**

##### Neighbors

Anthony J Garcia  
Emily Martinez  
Geri Jaramillo  
Olivia M Price  
Maria Espinosa  
Mary Lou Baca  
Robert Brown  
Ruth Aubert

##### Clinic Representatives

Mary Altenberg  
Rob Corabi  
Jonathan Tuner

ADDITIONAL STAFF INFORMATION



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

COA DEPARTMENT FAMILY COMMUNITY SERVICES (GREATER ALBUQUERQUE HOUSING PARTNERSHIP, AGENT) requests a special exception to Section 14-16-2-23(A) and Pg 45 South Broadway SDP (I)(A)(1)(a) : a CONDITIONAL USE to allow R-2 uses in a SU-2 MR zone for all or a portion of Lot 328, Hanily Subdivision, and MRDGD MAP 41 zoned SU-2 MR, located on 2205 JOHN ST SE (L-14)

Special Exception No:..... **16ZHE-80069**  
Project No:..... **Project# 1010770**  
Hearing Date:..... 04-19-16  
Closing of Public Record:..... 04-19-16  
Date of Decision: ..... 05-04-16

On the 19th day of April, 2016, GREATER ALBUQUERQUE HOUSING PARTNERSHIP (“Agent”) acting as agent on behalf of the property owner COA DEPARTMENT FAMILY COMMUNITY SERVICES (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow R-2 uses in a SU-2 MR zone (“Application”) upon the real property located at 2205 JOHN ST SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow R-2 uses in a SU-2 MR zone.
2. The City of Albuquerque Code of Ordinances Section 14-16-4-2(C)(1) (Special Exceptions – Conditional Use) reads: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed:*  
(a) *Will not be injurious to the adjacent property, the neighborhood, or the community;*  
(b) *Will not be significantly damaged by surrounding structures or activities.*”
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-4-2(C).
4. I find that the proposed use will not be injurious to the adjacent property, the neighborhood, or the community, as required by Section 14-16-4-2(C)(1)(a).
5. This Application caused significant concern and objection within the community and its elected representatives, and a more careful look at the concerns expressed is appropriate.
6. The project will serve the needs of low and extra-low income individuals, which is the biggest housing need in the community. The project is located pursuant to City-identified priorities and target areas and includes a model that has been shown to reduce, rather than exacerbate, public nuisances. From that perspective, it is intended to remedy injuries already being experienced rather than cause injury itself.
7. Many of those speaking to the application focused on the prospective residents of the project as opposed to the use or the project itself.

8. Some speakers suggested that the prospective residents will cause crime and substance abuse in the community, and even sexual assaults, increase traffic and present a risk to children in the nearby school.
9. There was disagreement as to whether the project would introduce crime and substance abuse problems into a community that does not already experience them, or exacerbate existing problems.
10. In the aspect that is essential to my analysis, the speakers were unable to offer substantial evidence of those risks, and my decisions must be based on substantial evidence in the record.
11. The purpose of the project is to quickly move at-risk community members into housing in conjunction with providing on-site services to support their being productive members of the community.
12. The Applicant explained that all residents will be required to undergo screening a well.
13. Some opposition centered on concerns that past government housing initiatives had failed and that the project would be sold off in a dilapidated state when maintenance becomes unsustainable. The Applicant explained that durable construction methods and materials will be used and that adequate maintenance reserves will be required.
14. While this project is innovative in design, it does follow the very successful national housing first model.
15. Many speakers preferred other uses, or even no uses, of the subject property in order to preserve peace and tranquility, although there were concerns expressed as to past nuisances associated with the vacant parcel.
16. Certainly a use of the property as proposed, or any other use, would be expected to result in attendant noise and traffic. As to whether those impacts are injurious, however, they must be seen in the context of otherwise allowable uses.
17. Here, it is particularly relevant that the population to be served by and large does not drive (11% can be expected to use vehicles), and services will be provided on site, reducing the need to travel off site and through the neighborhood. Moreover, the site has good access to public transportation.
18. Projected traffic does not rise to the level of warranting a detailed traffic study, and the evidence is that any traffic congestion that does exist and can be expected to exist in the future is associated with the nearby school, for which the peak hour traffic does not coincide with the expected traffic from the development.
19. In the context of other allowable uses in the SU-2 MR zone, which includes mixed commercial and residential, the noise and traffic impacts of this project are not undue or disproportionate and cannot be considered injurious.
20. As to security concerns, site security will be provided both by access-controlled fencing and more importantly by site planning encouraging community watchfulness and awareness (which the Applicant refers to as “eyes on the street”).
21. The inquiry as to whether the project is injurious encompasses a review of the relevant planning documents.
22. Here, the Applicant details compliance with the relevant sector development plan and the comprehensive plan and makes a compelling case that the project is supported by those documents. I have not been provided with any sort of analysis indicating that the project disregards or violates the plan goals.
23. Many of the concerns addressed the wisdom of the project overall, the decision to locate the project in this neighborhood or whether other locations would be better, the decision to allocate funds to this project as opposed to other projects within the community and the desirability of the proposed housing types. These are inquiries

- well outside my jurisdiction and substantially removed from the required inquiry as to whether this particular use will be injurious to the area or community.
24. That is not to say that community priorities, gentrification, relocation of residents or the appropriate amount of community involvement in development projects such as this are not important topics of community discussion. They are, however, not within the narrow land use inquiry with which I am charged.
  25. The Applicant has fairly met its burden of offering substantial evidence that the proposed use will not be injurious. Although there were many policy concerns expressed by other community members, they offered very little in the way of substantial evidence.
  26. Thus, the Applicant has met its burden and I find that the proposed use will not be injurious.
  27. It is important to recognized that this is a used conditionally permitted in the zone. There is no request for a use variance.
  28. I find that the proposed use will not be significantly damaged by surrounding structures or activities as required by Section 14-16-4-2(C)(1)(b), as those structures and activities (primarily residential) are of a harmonious character and not of the sort that would be injurious to the proposed development.
  29. The ZHE finds that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
  30. The ZHE finds that the Applicant has authority to pursue this Application.

#### DECISION:

APPROVAL of a conditional use to allow R-2 uses in a SU-2 MR zone.

If you wish to appeal this decision, you must do so by May 19, 2016, in the manner described below. A non-refundable filing fee will be calculated at the Planning Department's Land Development Coordination counter and is required at the time the Appeal is filed.

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

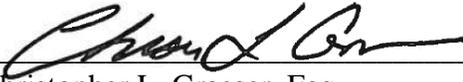
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B), of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all

conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.

  
Christopher L. Graeser, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
vbarqas@cabq.gov  
charles@abqgahp.com  
daube@designgroupnm.com  
sjna1@live.com  
emimar1960@gmail.com  
aaapadilla@comcast.net  
sscndlr@aol.com  
plmloco@gmail.com  
ebrwenell@designgroupnm.com  
charles@abqgahp.org  
gloriaaubert@hotmail.com  
camiere1966@  
jeannie98@hotmail.com  
rickgiron@cabq.gov  
michael.padilla@nmlegis.gov  
jacob@jacobcandelaria.com  
msegovia-elcentro@yahoo.com  
Olivia Price – 408 Bethel Dr. SE 87102  
Hilda Ewing – 121 Hoshier Ave SE 87102  
Gloria Bayardo – 2200 William SE 87102  
R. Brown – 2200 William SE 87102  
Mario Marquez – 8024 Waterbury Ave SE 87120  
Adriana Wood – 2202 William SE 87102  
Christina Atayde – 1515 Columbia Dr. SE #188 87106



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

COA DEPARTMENT FAMILY COMMUNITY SERVICES (GREATER ALBUQUERQUE HOUSING PARTNERSHIP, AGENT) requests a special exception to Section 14-16-2-23(A) and Pg. 45 South Broadway SDP (I)(A)(1)(a): a Conditional Use to allow R-2 uses in a SU-2 MR zone for all or a portion of MRGCD Map 41, Lot 328, zoned SU-2 MR, located on John St. SE, between Thaxton Ave. SE and Englewood Dr. SE (L-14).

Special Exception No:..... **16ZHE-80069**  
Project No:..... **Project# 1010770**  
Hearing Date:..... 08-16-16  
Closing of Public Record:..... 08-16-16  
Date of Decision: ..... 08-31-16

On the 16th day of August, 2016, GREATER ALBUQUERQUE HOUSING PARTNERSHIP (“Agent”) acting as agent on behalf of the property owner COA DEPARTMENT FAMILY COMMUNITY SERVICES (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow R-2 uses in a SU-2 MR zone (“Application”) upon the real property located at John St. SE, between Thaxton Ave. SE and Englewood Dr. SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. On May 4, 2016 I issued a Notification of Decision approving the conditional use permit. That decision was appealed to the Board of Appeals.
2. On June 28, 2016 the Board of Appeals found that notification of the application and the legal description used in the notification were incorrect, and remanded the case to the ZHE to:
  - A. Allow for proper notification and re-advertisement to occur;
  - B. Ensure the ZHE decision make specific references to the all (*sic*) law considered in the rendering of the ZHE opinion including, without limitation, all applicable codes, regulations and Sector Development Plans (“applicable law”);
  - C. Ensure the ZHE decision clearly articulates how facts presented at the ZHE hearing support or fail to support the applicable law;
  - D. Ensure the ZHE decision clearly articulates the facts supporting the ZHE final decision;
    - i. in the event of a denial, all facts, evidence or testimony that support a denial,
    - ii. in the event of an approval, if such approval is made with conditions, what those conditions are and, if such approval is made without conditions, the legal, factual basis for not imposing conditions.

3. A hearing on remand in front of the ZHE was scheduled for August 16, 2016.
4. The record shows that the hearing was properly noticed under the requirements of §14-16-4-2(B)(2)(c), requiring individual written notice to the owners of lots within 100 feet, excluding public right of way, of the application site.
5. A hearing on remand was held on August 16, 2016 where the ZHE took additional evidence and testimony, and stated that the evidence and testimony received at the April 19, 2016 hearing would also remain part of the record and be used in making the decision.
6. After a full review of the record from the April 19, 2016 hearing and the record from the August 16, 2016 hearing I make the following findings and conclusions.
7. Applicant is requesting a conditional use to allow R-2 uses in an SU-2 MR zone.
8. The City of Albuquerque Code of Ordinances Section 14-16-4-2(C)(1) (Special Exceptions – Conditional Use) reads: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed:*
  - (a) *Will not be injurious to the adjacent property, the neighborhood, or the community;*
  - (b) *Will not be significantly damaged by surrounding structures or activities.*
9. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-4-2(C). §14-16-4-2(C).
10. The Subject Property is zoned SU-2/MR, Special Neighborhood Zone/Mixed Residential.
11. The SU-2 zone “allows a mixture of uses controlled by 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.” §14-16-2-23.
12. Any use specified by a duly adopted Sector Development Plan for a given location is permitted. §14-16-2-23(A).
13. Development of the Subject Property is governed by the South Broadway Neighborhoods Sector Development Plan, Enactment No. 106-1986 (SBNSDP).
14. The goals of the SBNSDP are as follows:
  - a. Elimination of conditions which are detrimental to the public health, safety and welfare;
  - b. Elimination of blight and prevention of blighting influences;
  - c. 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;

- d. Improvement of economic conditions through coordinated City and private actions. SBNSDP II.D.
15. The Subject Property is also subject to the Albuquerque/Bernalillo County Comprehensive Plan's (ABCCP) goals and policies.
  16. The Mixed Residential/MR land use for the Subject Property corresponds to the R-1 Residential Zone, with uses listed as conditional in the R-1 zone and uses listed as permissive and as regulated in the R-2 zone except group training homes. SBSNDP 45.
  17. The project is a studio apartment project with a leasing office and a community building located on a 2.7-acre lot.
  18. The Applicant proposes 72 total units, with 42 in the first phase.
  19. The intended occupants are singles, young couples and residents with special needs.
  20. The project is part of the Housing First Model, with on-site supportive and job training services, intended to break the cycle of homelessness.
  21. The property is currently a vacant lot.
  22. As an affordable housing project, the project consists of City of Albuquerque land, with substantial funding from the City of Albuquerque. The applicant is the City of Albuquerque Department of Family and Community Services.
  23. I find that the proposed use will not be injurious to the adjacent property, the neighborhood, or the community, as required by Section 14-16-4-2(C)(1)(a) and will not be significantly damaged by surrounding structures or activities, as required by Section 14-16-4-2(C)(1)(b).
  24. The project will serve the needs of low and extra-low income individuals, which is the biggest housing need in the community. The project is located pursuant to City-identified priorities and target areas and includes a model that has been shown to reduce, rather than exacerbate, public nuisances. From that perspective, it is intended to remedy injuries already being experienced rather than cause injury itself.
  25. Many of those speaking to the application focused on the prospective residents of the project as opposed to the use or the project itself.
  26. Some speakers suggested that the prospective residents will cause crime and substance abuse in the community, and even sexual assaults, increase traffic and present a risk to children in the nearby school.
  27. There was disagreement as to whether the project would introduce crime and substance abuse problems into a community that does not already experience them, or exacerbate existing problems.
  28. In the aspect that is essential to my analysis, the speakers were unable to offer substantial evidence of those risks, and my decisions must be based on substantial evidence in the record.

29. The purpose of the project is to quickly move at-risk community members into housing in conjunction with providing on-site services to support their being productive members of the community.
30. The Applicant explained that all residents will be required to undergo screening as well.
31. Some opposition centered on concerns that past government housing initiatives had failed and that the project would be sold off in a dilapidated state when maintenance becomes unsustainable. The Applicant explained that durable construction methods and materials will be used and that adequate maintenance reserves will be required.
32. While this project is innovative in design, it does follow the very successful national Housing First model.
33. Many speakers preferred other uses, or even no uses, of the subject property in order to preserve peace and tranquility, although there were concerns expressed as to past nuisances associated with the vacant parcel.
34. Certainly a use of the property as proposed, or any other use, would be expected to result in attendant noise and traffic. As to whether those impacts are injurious, however, they must be seen in the context of otherwise allowable uses.
35. More to the point, the focus for my analysis is on whether this proposed use is injurious, not on whether or not other uses would be injurious.
36. Here, it is particularly relevant that the population to be served by and large does not drive (11% can be expected to use vehicles), and services will be provided on site, reducing the need to travel off site and through the neighborhood. Moreover, the site has good access to public transportation.
37. Projected traffic does not rise to the level of warranting a detailed traffic study (300 units), and the evidence is that any traffic congestion that does exist and can be expected to exist in the future is associated with the nearby school, for which the peak hour traffic does not coincide with the expected traffic from the development.
38. In the context of other allowable uses in the SU-2 MR zone, which includes mixed commercial and residential, the noise and traffic impacts of this project are not undue or disproportionate and cannot be considered injurious.
39. As to security concerns, site security will be provided both by access-controlled fencing and more importantly by site planning encouraging community watchfulness and awareness (which the Applicant refers to as an “urban village” of clustered homes with street-facing “eyes on the street”).
40. The inquiry as to whether the project is injurious encompasses a review of the relevant planning documents.

41. Here, the Applicant details compliance with the relevant sector development plan and the comprehensive plan and makes a compelling case that the project is supported by those documents.
42. The goals of the SBNSDP are as follows:
  - a. Elimination of conditions which are detrimental to the public health, safety and welfare;
  - b. Elimination of blight and prevention of blighting influences;
  - c. 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;
  - d. Improvement of economic conditions through coordinated City and private actions. SBNSDP II.D.
43. The Applicant addresses the SBNSDP goals by stating, “This development is an infill project that will eliminate the blight, while creating housing that is affordable to low income individuals and couples. Furthermore, the project is being designed and would be constructed by Albuquerque and Bernalillo County based employees and companies.”
44. Analyzing the record, it appears clear that the project will eliminate the current illegal dumping and vagrancy concerns associated with the vacant Subject Property. Eliminating blight follows from this finding as well.
45. The property is currently a vacant lot, with both the Applicant and community members noting that it has historically attracted trespassers and illegal dumping.
46. The project will unquestionably expand availability of low income housing that meets housing codes.
47. Economic conditions for residents will improve in accordance with the Housing First model, and this is through a coordinated city and private action as encouraged by the plan.
48. The Applicant states that the project will serve as a transitional zone between adjacent residential and commercial on the other side of the project, as encouraged by the SBNSDP.
49. As to social issues, the SBNSDP states, “Day care, elderly, and homeless issues were of particular concern to the South Broadway Neighborhoods.” SBNSDP 20.
50. The SBNSDP contains substantial discussion of homeless issues, facilities to serve the homeless and their location in the SBNSDP area. SBNSDP 23.
51. The proposal here is not a shelter or a group home of the type addressed by the SBNSDP and of a type about which many of the opponents expressed concern.
52. The SBNSDP, under “Appropriate Higher Density Residential Development,” recommended to “Allow higher density residential development that meets the R-2 requirements as conditional.” SBNSDP 38.

53. Thus, it appears that the project readily meets the goals of the SBNSDP.
54. The Applicant addresses the Albuquerque Bernalillo County Comprehensive Plan in detail, beginning on Page 5 of the application letter.
55. The Applicant focusses on and provides narrative support for compliance with ABCCP goals and policies in support of maximizing choice in housing (B, Land Use Goal 5), respect for existing conditions (Policy D), development contiguous to facilities and services and respecting integrity of existing neighborhoods (Policy E), Clustering and orienting homes (Policy F), location of higher density development (Policy H), quality innovative and appropriate design (Policy L), redevelopment and rehabilitation (Policy O), cost-effective redevelopment (Policy P), balanced circulation system (D, Community Resource Management Goal 4), affordable, quality, nondiscriminatory housing (D, Community Resource Management Goal 5), affordable housing (Policy A). Application letter at 5.
56. I have not been provided with any sort of analysis indicating that the project disregards or violates the goals or policies of either the SBNSDP or the ABCCP.
57. Reviewing the design process and the projects design elements, as described by the Applicant (see "Casa San Juan Community Design Elements" pg. 4 of Applicant's letter), it is clearly well thought out and should result in a safe, attractive, dynamic living space for its residents.
58. Opponents of the project, or those expressing concern, led by the San Jose Neighborhood Association (SJNA), focus on the the location of the project in the community and the proximity of the project to the community elementary school
59. The SJNA submitted a letter and petition signed by numerous area residents in opposition to the special exception request, although without specific objections described.
60. The themes of the objections presented throughout include concerns about compatibility of the project with the neighborhood, the clientele to be served, safety of children in the neighborhood and parking and traffic issues.
61. Objections also included the position that project's use of land and tax resources does not address neighborhood needs as identified by the parties.
62. Other concerns included property values, long-term viability and attractiveness of the project and sustainability of funding sources for support services.
63. The land use facilitation program project meeting report provides a concise and accurate summary of the concerns expressed during the hearing process.
64. Concerns expressed about mentally ill individuals, drug users, crime, fighting, sick people, killings, discrimination, child endangerment, a dangerous transient/rotating population and other fears about aspects of the project are simply unsupported by any substantial evidence in the record, on which I am bound to make my decision.

65. Objections were expressed that the project “does not meet the code” but no analysis of code deficiencies was provided.
66. Many of the concerns addressed the wisdom of the project overall, the decision to locate the project in this neighborhood or whether other locations would be better, the decision to allocate funds to this project as opposed to other projects within the community and the desirability of the proposed housing types. These are inquiries well outside my jurisdiction and substantially removed from the required inquiry as to whether this particular use will be injurious to the area or community.
67. That is not to say that community priorities, gentrification, relocation of residents or the appropriate amount of community involvement in development projects such as this are not important topics of community discussion. They are, however, not within the narrow land use inquiry with which I am charged.
68. The Applicant has fairly met its burden of offering substantial evidence that the proposed use will not be injurious. Although there were many policy concerns expressed by other community members, they offered very little in the way of substantial evidence.
69. Thus, the Applicant has met its burden and the I find that the proposed use will not be injurious.
70. It is important to recognized that this is a used conditionally permitted in the zone. There is no request for a use variance.
71. I find that the proposed use will not be significantly damaged by surrounding structures or activities as required by Section 14-16-4-2(C)(1)(b), as those structures and activities (primarily residential) are of a harmonious character and not of the sort that would be injurious to the proposed development.
72. I find that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
73. I find that the Applicant has authority to pursue this Application.
74. Appropriate conditions are imposed to limit the development to that presented by Applicant, where the underlying zoning would permit more units than planned, at a taller height.

DECISION:

APPROVAL WITH CONDITIONS of a conditional use to allow R-2 uses in a SU-2 MR zone.

CONDITIONS OF APPROVAL:

1. Project height shall be limited to 26’ overall height.
2. There shall be a maximum of 72 units.

If you wish to appeal this decision, you must do so by September 15, 2016, in the manner described below. A non-refundable filing fee will be calculated at the Planning Department's Land Development Coordination counter and is required at the time the Appeal is filed.

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B), of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.

  
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Christopher L. Graeser, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
vbargas@cabq.gov  
charles@abqahp.com