Environmental Planning Commission

Agenda Number: 12
Project Number: 1011247
Case Number: 17EPC- 40014
Hearing Date: September 14, 2017

Staff Report

Agent	Garcia / Kraemer & Associates
Applicant	Community Dental Services, Inc.
Request	**Sector Development Plan Map Amendment (Zone Change)**
Legal Description	All or a portion of Lots 307B, 308A, 308B, and 310
Location	2116 Hinkle Street SE
Size	1.4 Acres
Existing Zoning	SU-2 MR Mixed Residential
Proposed Zoning	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 not requested, however, the agent attended the San Jose NA meeting, and the NA is not in support of the zone change. Staff received verbal concern from three neighboring property owners.

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

Map

ANDERSON AV
HINKLE ST
THAXTON AV
WILLIAM ST
BARELAS DITCH
BARELAS DITCH
ENGLEWOOD DR
307
307A
307B
308A
308B
309
310
311
312
313
314
315A
315B1A
315B1B
315B1C
315B2
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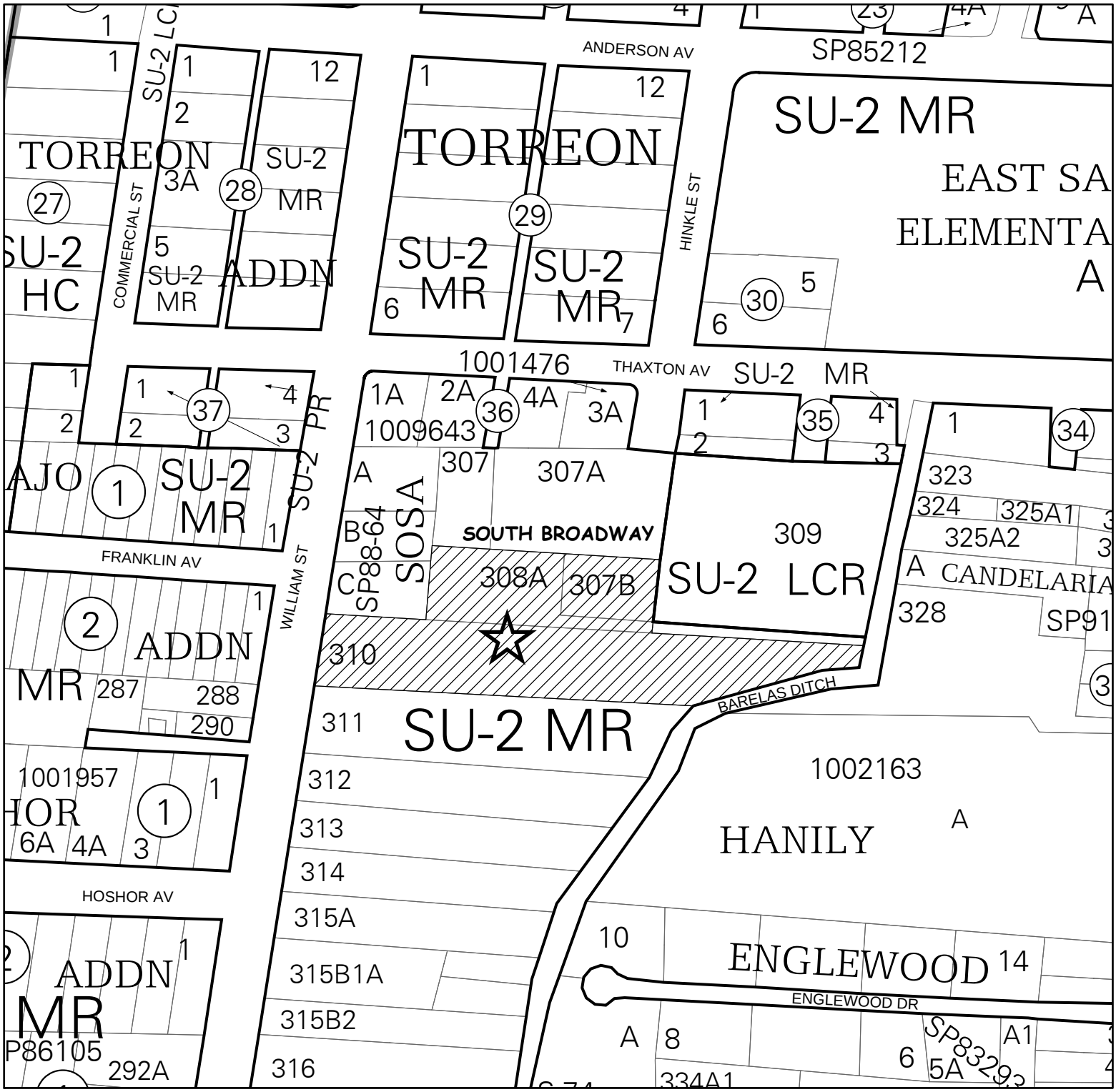
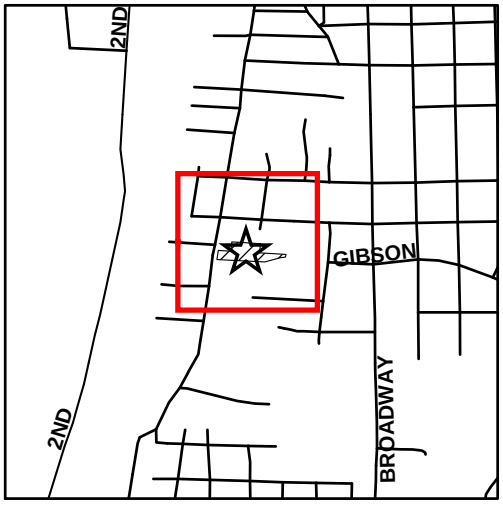
328
288
290



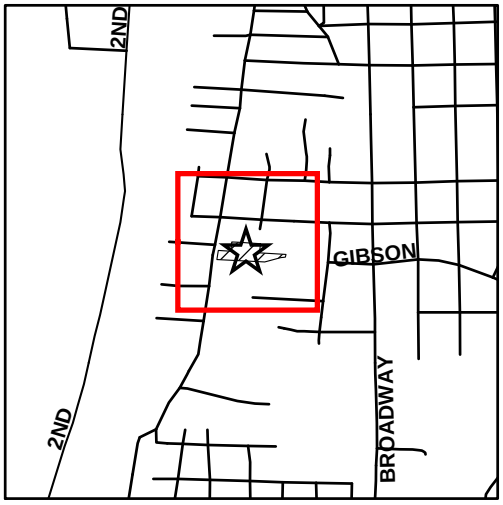


ZONING MAP

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



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

Project Number: 1011247
Hearing Date: 07/13/2017
Zone Map Page: L-14
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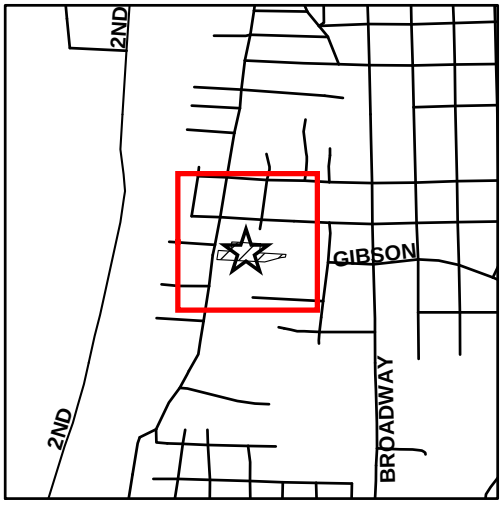

HISTORY MAP

Note: Grey shading indicates County.

1 inch = 150 feet

Project Number: 1011247
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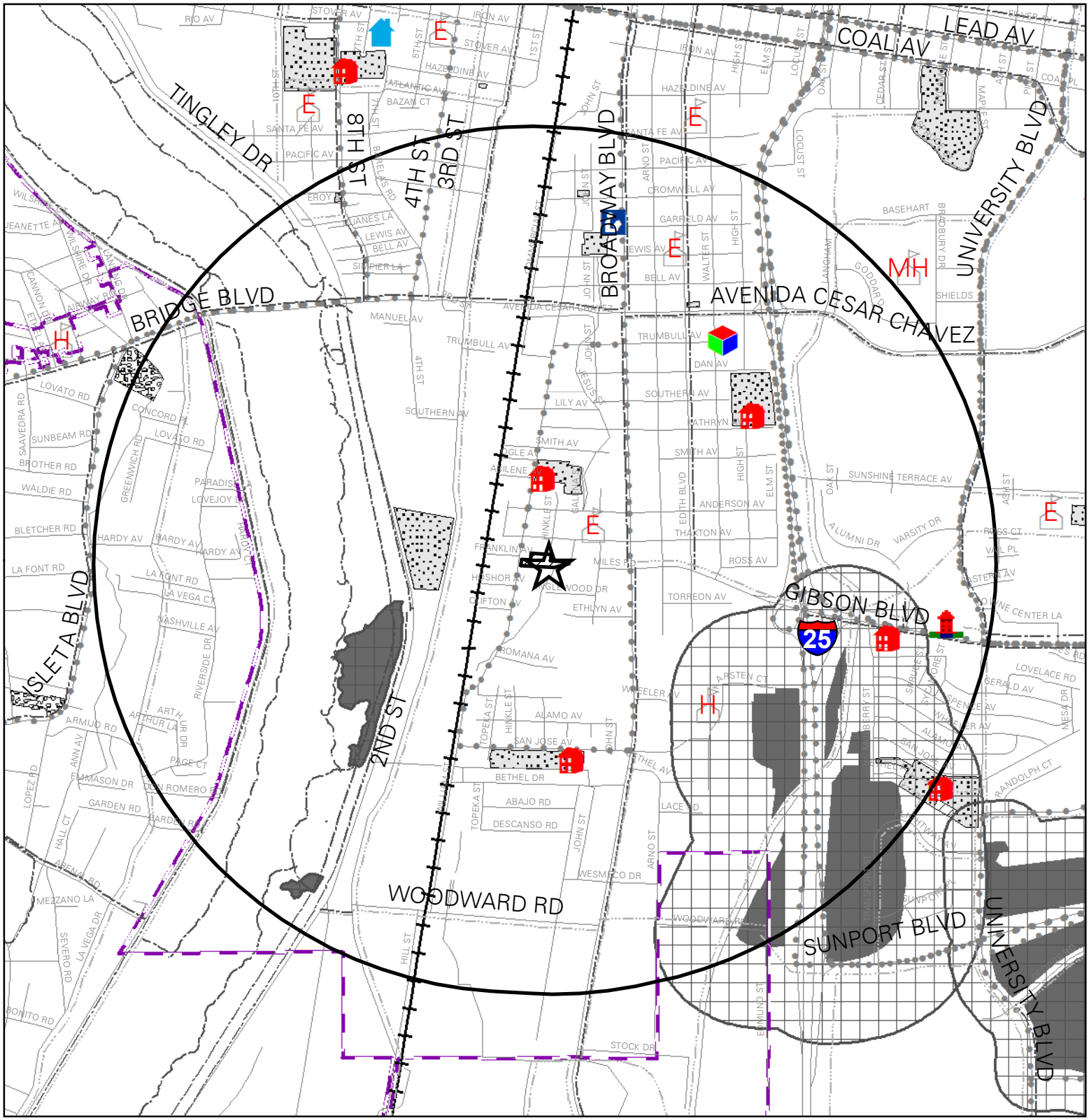

Public Facilities Map with One-Mile Buffer

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

Project Number: 1011247

0 0.5 1 Miles

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I. INTRODUCTION

Surrounding Zoning, Plan Designations, and Land Uses:

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

The subject lots have been zoned SU-2 MR Mixed Residential since the adoption of the South Broadway Neighborhoods SDP 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 an easement with the adjacent residential property owner with whom there is a current dispute over the easement.

The San Jose Neighborhood Association was notified of this request. As of the writing of this report, a City organized facilitated meeting has not been requested by the San Jose Neighborhood Association, the neighbor, nor the applicant. The agent was present at the San Jose Neighborhood Association meeting on Thursday August 24, 2017 (see attached notes at the end of this report). Staff has received verbal and written comments from several adjacent property owners especially from 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, 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, in order for the Community Dental Clinic to remain 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 between 2010 and 2012 without a permit.

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. (see attached) 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, ultimately the applicant withdrew the request, so the apartments will not be 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 has been deferred to the September 14, 2017 so that the applicant would have more time to complete the justification and to meet with the neighboring property owner regarding the request.

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 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 water access.

The subject lots are within an Area of Consistency of the Comprehensive Plan, as well as within the boundaries of the South Broadway Neighborhoods SDP. The subject lots are currently vacant, however lots 307B and 310 have existing parking lots which serve as parking for the Community Dental Clinic office and are therefore not legal since the subject properties are currently zoned residential.

The east side of the property is bordered by an existing drainage ditch 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.

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 is described by the South Broadway Neighborhoods SDP 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 spot zones of

SU-2 LCR (Limited Commercial Residential) 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 be expected to alleviate some of the negative effects of 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 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 Barelas. 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 as this would be 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 partially furthered by the request. The requested SU-2 LCR (Limited Commercial Residential) zone would permit more options in the development of long vacant properties; however, there is no site plan associated with the request to clarify the location of the intended improvements.

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:

- ***<u>furthers</u> Comprehensive Policy 5.2.1.a. 5.2.1.e, 5.3.1, 5.3.1.g, and South Broadway Neighborhoods SDP Goal 2.***
- ***<u>partially furthers</u> 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 tum 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, apartments are not typically in conflict with a residential neighborhood; and in a

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

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:xisting 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, carwasb, 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 higher density 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 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 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.

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 not requested by the neighborhood association.

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 if the Community 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 this buffer.

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 higher density multi-family development in that area, which would be permitted with the proposed zone. The agent for this case attended the San Jose Neighborhood Association meeting on Thursday, August 25, 2017 to discuss these neighborhood concerns (see attached notes). Although staff recommended a facilitated meeting, one was not requested by any of the parties to date.

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 to use 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 was not requested by the Neighborhood Association nor held. 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 discuss the project with surrounding neighbors, and to further justify the request.

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 higher density housing such as apartments 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 subject lots are within an Area of Consistency of the Comprehensive Plan and within the boundaries of the South Broadway Neighborhoods Sector Development Plan and Metropolitan Redevelopment Plan which are incorporated herein and made a part of the record.

7. The request <u>furthers</u> the following applicable Comprehensive Plan policies:

   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.

   The zone change request <u>furthers</u> 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 in the same building.

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

The zone change request furthers Policy 5.2.1.e, because the Community Dental Clinic is accessible from surrounding neighborhoods. 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 Barelas. Providing a needed healthcare service to the neighborhood promotes a healthy, sustainable community.

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

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.

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

The request furthers Policy 5.3.1.g, because adequate infrastructure exists and community services exist as this would be infill development.

8. The request partially furthers the following applicable Comprehensive Plan policies:

5.3.1 (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.

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.

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

The zone change 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.

9. The request furthers the following applicable South Broadway Neighborhoods Sector Development Plan Goals:

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

This zone change request furthers Goal 2 of the South Broadway Neighborhoods SDP because it would assist with the development of vacant lots, which can be a blighting influence.

10. The request partially furthers the following applicable South Broadway Neighborhoods Sector Development Plan Goals:

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

    This zone change request partially furthers Goal 1 of the South Broadway Neighborhoods SDP because the requested SU-2 LCR (Limited Commercial Residential) zone would permit more options in the development of long vacant properties; however, there is no site plan associated with the request to clarify the location of the intended improvements.

11. 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.

    B. 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, apartments are not typically in conflict with a residential neighborhood; and in a Conditional Use Permit case for adjacent properties, the Zoning Hearing Examiner found that apartments would not be injurious to the neighborhood.

    C. 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.

    D. 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. 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 higher density housing could be controversial; but are not typically considered harmful.

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

G. 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. The subject lots does not front directly onto any major street.

I. 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.

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

12. The affected neighborhood organization is the San Jose Neighborhood Associations, which was notified as required but did not request a facilitated meeting. The San Jose Neighborhood Association has expressed opposition to the request. Property owners within 100 feet of the subject lots were also notified as required. Staff received written comments from two adjacent property owners.

RECOMMENDATION

Project 1011247 - September 14, 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

Cheryl Somerfeldt
Planner

Notice of Decision cc list:

Community Dental Services INC, 2216 Hinkle St SE, ABQ, NM 87102
Garcia/Kramer & Associates, 600 1st 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

Case Number	Brief Description of Request	Transit Corridor?	Transit Route?	Current Service/Stops	Comments/ Support/ Requests
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. Gallegos

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RESOLUTION

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

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

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

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

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

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

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

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

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

WHEREAS, the New Mexico legislation has passed the "Metropolitan Redevelopment Code" (herein "Code"), Sections 3-60A-1 to #-60A-48 inclusive, NMSA 1978 Comp., which authorizes the City of Albuquerque, New Mexico (the "City") to prepare Metropolitan Redevelopment Plans; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BY A VOTE OF 7 FOR AND 0 AGAINST.

Yes: 7
Excused: Hill, Baca

VINCENT E. GRIEGO, PRESIDENT
CITY COUNCIL

KEN SCHULTZ, MAYOR
CITY OF ALBUQUERQUE

ATTEST:

CITY CLERK/DEPUTY

CITY of ALBUQUERQUE
SEVENTH COUNCIL

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

SPONSORED BY: Steve D. Gallegos

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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

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

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

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

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

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

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

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

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

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

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

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

BY A VOTE OF 7 FOR AND 0 AGAINST.

Yes: 7
Excused: Baca, Hill

Vincent E. Griego, President
City Council

APPROVED THIS 29TH DAY OF JULY, 1986.

Ken Schultz, Mayor
City of Albuquerque

ATTEST:

Elizabeth A. Marquez
City Clerk/DEPUTY

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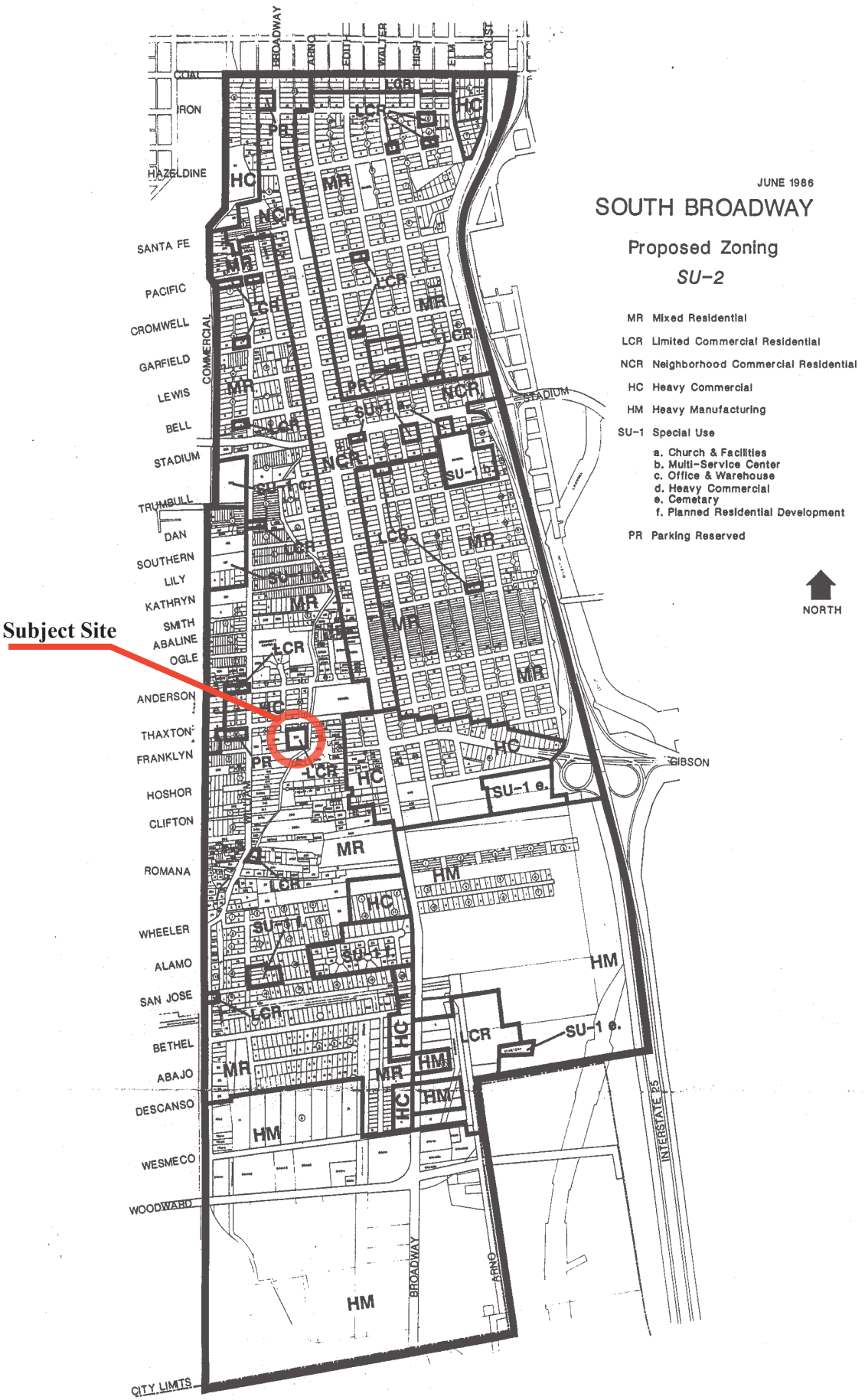

JUNE 1986
SOUTH BROADWAY
Proposed Zoning
SU-2
MR Mixed Residential
LCR Limited Commercial Residential
NCR Neighborhood Commercial Residential
HC Heavy Commercial
HM Heavy Manufacturing
SU-1 Special Use
a. Church & Facilities
b. Multi-Service Center
c. Office & Warehouse
d. Heavy Commercial
e. Cemetary
f. Planned Residential Development
PR Parking Reserved
NORTH
Subject Site
BROADWAY
ARNO
EDITH
WALTER
HIGH
ELM
LOCUST
COAL
IRON
HAZELDINE
SANTA FE
PACIFIC
CROMWELL
GARFIELD
LEWIS
BELL
STADIUM
TRUMBULL
DAN
SOUTHERN
LILY
KATHRYN
SMITH
ABALINE
OGLE
ANDERSON
THAXTON
FRANKLYN
HOSHOR
CLIFTON
ROMANA
WHEELER
ALAMO
SAN JOSE
BETHEL
ABAJO
DESCANSO
WESMECO
WOODWARD
CITY LIMITS
COMMERCIAL
GIBSON
INTERSTATE 25
MR
LCR
NCR
HC
HM
PR
SU-1
SU-1 e.

Map 9

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 incidential 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 alcholic 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 alcholic 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.***

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

Applicant Name: MARY ALTENBERG, EXECUTIVE DIRECTOR COMMUNITY DENTAL SERVICES, INC Phone#: 843-7493 Email: maltenberg@cdsabq.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 SU2-MR. Need to change zone to allow patients to park.

PLESE 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: _____

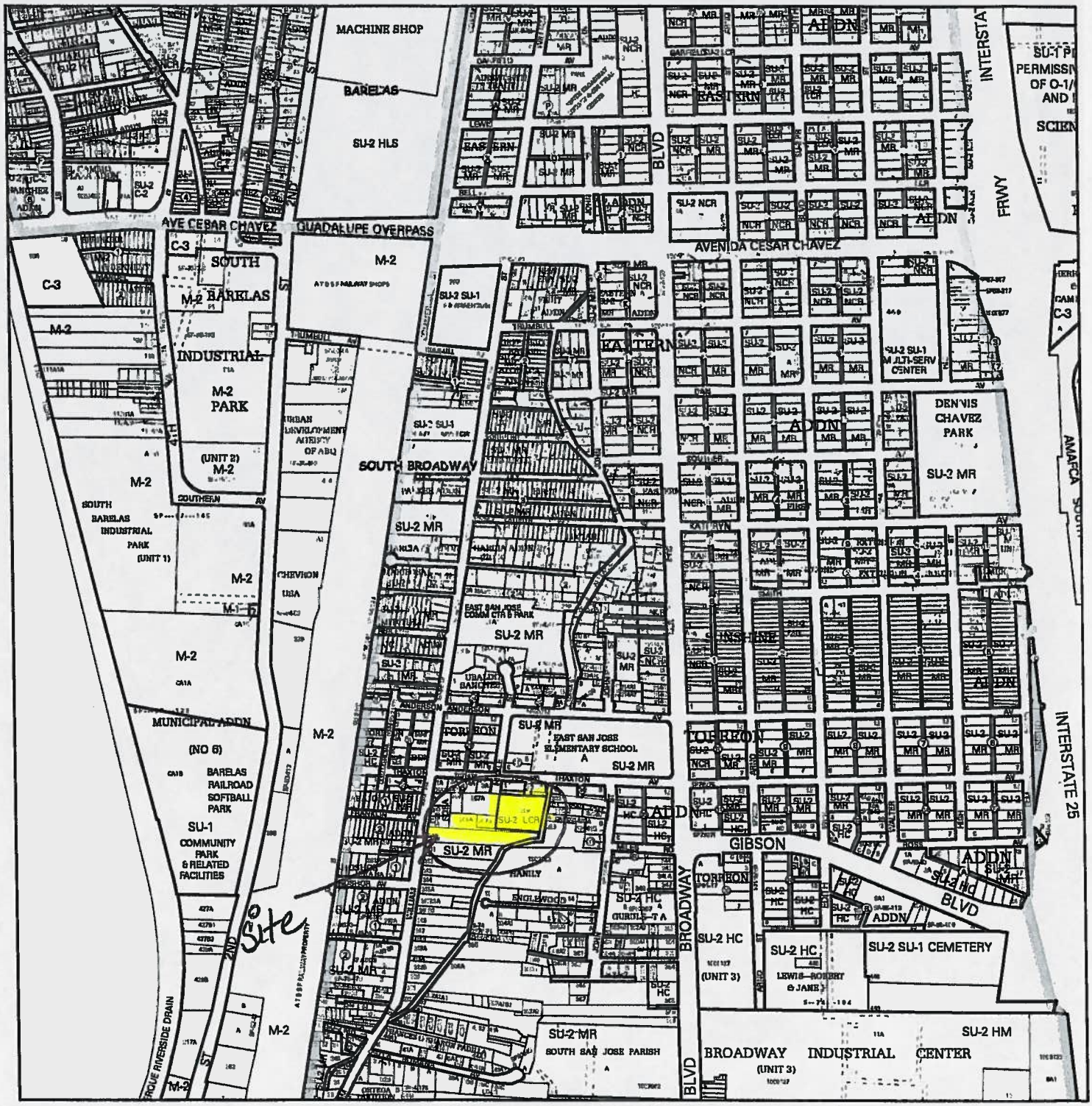
Commercial: Estimated building square footage: _____ No. of Employees: _____

LOCATION OF REQUEST:

Physical Address: 2116 Hinkle SE 87102 Zone Atlas Page (Please identify the subject site on the map and attach) L14

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

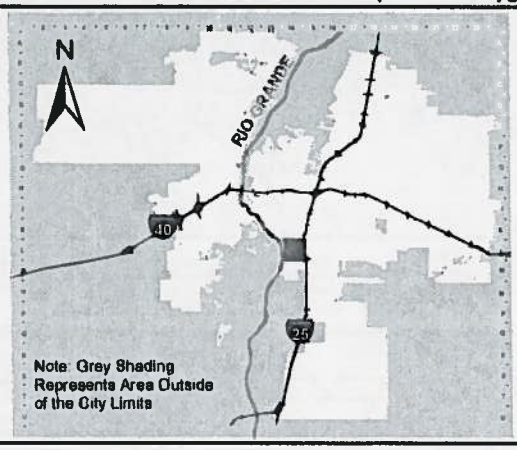
We are non-profit dental clinic established ~~by~~ in 1975 and receive city funding to provide services to indigent city residents. A previous administration put in the parking lot almost ten years ago, w/out obtaining a zone change. To continue providing services, we need to request a zone change.



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

Albuquerque Geographic Information System

Map amended through: 1/28/2016



Zone Atlas Page:

L-14-Z

Selected Symbols

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

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
  - Corrales
  - Edgewood
  - Los Ranchos
  - Rio Rancho
  - Tijeras
  - UNINCORPORATED
- World Street Map

Notes

0.0 0 0.02 0.0 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
5/17/2016 © City of Albuquerque

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

PRE-APPLICATION REVIEW TEAM (PRT) MEETING

PA# 16-094 Date: 5-17-2016 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 LCR/MR

Proposed Use/Zone:

Applicable Plans:

Applicable Design Regulations:

Previously approved site plans/project #s:

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:

FACILITY IS ZONED SU-2 LCR + PARKING AREA IS ON A SEPARATE TRACT ZONED SU-2/MR.
COMMUNITY DENTAL SERVICES + CHILD CARE INC OWN BOTH 2112 + 2120 WILLIAMS ST. WHICH SHOW ON AERIAL PARKING FOR THE FACILITY.
SHOULD REPLAT PARKING AREAS INTO THE SAME TRACT AS THE FACILITY @ 2116 HINKLE SE

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

PRT CHAIR

Robert Lucero, Agent
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 b 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/LCR = LIMITED COMMERCIAL RESIDENTIAL = PC
SU·2/MR = MIXED RESIDENTIAL
MTG.
* REPLAT + REZONE SU·2/LCR.
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 FIRE TRUCK.

ZONING

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

APPLICATION INFORMATION

City of Albuquerque

DEVELOPMENT/ PLAN REVIEW APPLICATION

Supplemental Form (SF)

	S	Z	
SUBDIVISION			**ZONING & PLANNING**
___ Major subdivision action			___ Annexation
___ Minor subdivision action			
___ Vacation	V		X Zone Map Amendment (Establish or Change Zoning, includes Zoning within Sector Development Plans)
___ Variance (Non-Zoning)			
SITE DEVELOPMENT PLAN	P		___ Adoption of Rank 2 or 3 Plan or similar
___ for Subdivision			___ Text Amendment to Adopted Rank 1, 2 or 3 Plan(s), Zoning Code, or Subd. Regulations
___ for Building Permit			
___ Administrative Amendment (AA)			
___ Administrative Approval (DRT, URT, etc.)			
___ IP Master Development Plan	D		___ Street Name Change (Local & Collector)
___ Cert. of Appropriateness (LUCC)			
	L	A	**APPEAL / PROTEST of...**
STORM DRAINAGE (Form D)			___ Decision by: DRB, EPC, LUCC, Planning Director, ZEO, ZHE, Board of Appeals, other
___ Storm Drainage Cost Allocation Plan			

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

APPLICATION INFORMATION:

Professional/Agent (if any): GARCIA / KRAEMER & ASSOCIATES PHONE: 505-440-1524
ADDRESS: 600 1ST ST NW, SUITE 211 FAX:
CITY: ALBUQUERQUE STATE NM ZIP 87102 E-MAIL: jturner@garciakraemer.c
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.c
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, 308A1, 310 Block: Unit:
Subdiv/Addn/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? X 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

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

Application case numbers	Action	S.F.	Fees
17EPC - 40014	AZM		$ 895.00
	ADV		$ 75.00
	CMF		$ 50.00
			$
			$
			Total $ 420.00

Hearing date July 13, 2017

5-4-17 Project # 1011017

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 REGULATORTY TEXT (EPC07)**

__ Amendment referenced to the sections of the Zone Code/Subdivision Regulations being amended
__ Sections of the Zone Code/Subdivision Regulations to be amended with text to be changed noted and marked
__ Letter describing, explaining, and justifying the request
__ Fee (see schedule)
__ List any original and/or related file numbers on the cover application

EPC hearings are approximately 7 weeks after the filing deadline. Your attendance is required.

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

JONATHAN TURNER
Applicant name (print)

5/3/17
Applicant signature & Date

Revised: June 2011

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

Application case numbers
17EPC - 40014
____ - ____
____ - ____

5-4-17
Staff signature & Date

Project # 1011247

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

CURRENT: AGENT - JONATHAN TURNER

ZONING SU-2/MR

PARCEL SIZE (AC/SQ. FT.) 1.3 AC

LEGAL DESCRIPTION: TRACTS 308A1, 307B, 308A2 X 308B

LOT OR TRACT # _____ BLOCK # –

SUBDIVISION NAME MAP 41

REQUESTED CITY ACTION(S):

ANNEXATION [ ]

ZONE CHANGE [X]: From SU-2 MR To SU-2 LCR

SECTOR, AREA, FAC, COMP PLAN [ ]

AMENDMENT (Map/Text) [ ]

SITE DEVELOPMENT PLAN:

SUBDIVISION* [ ] AMENDMENT [ ]

BUILDING PERMIT [ ] ACCESS PERMIT [ ]

BUILDING PURPOSES [ ] OTHER [ ]

*includes platting actions

PROPOSED DEVELOPMENT:

NO CONSTRUCTION/DEVELOPMENT [X]

NEW CONSTRUCTION [ ]

EXPANSION OF EXISTING DEVELOPMENT [ ]

GENERAL DESCRIPTION OF ACTION:

OF UNITS: N/A

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 _____ DATE 5/3/17

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

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

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

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

Notes:

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

Logan Pate
TRAFFIC ENGINEER

05-03-17
DATE

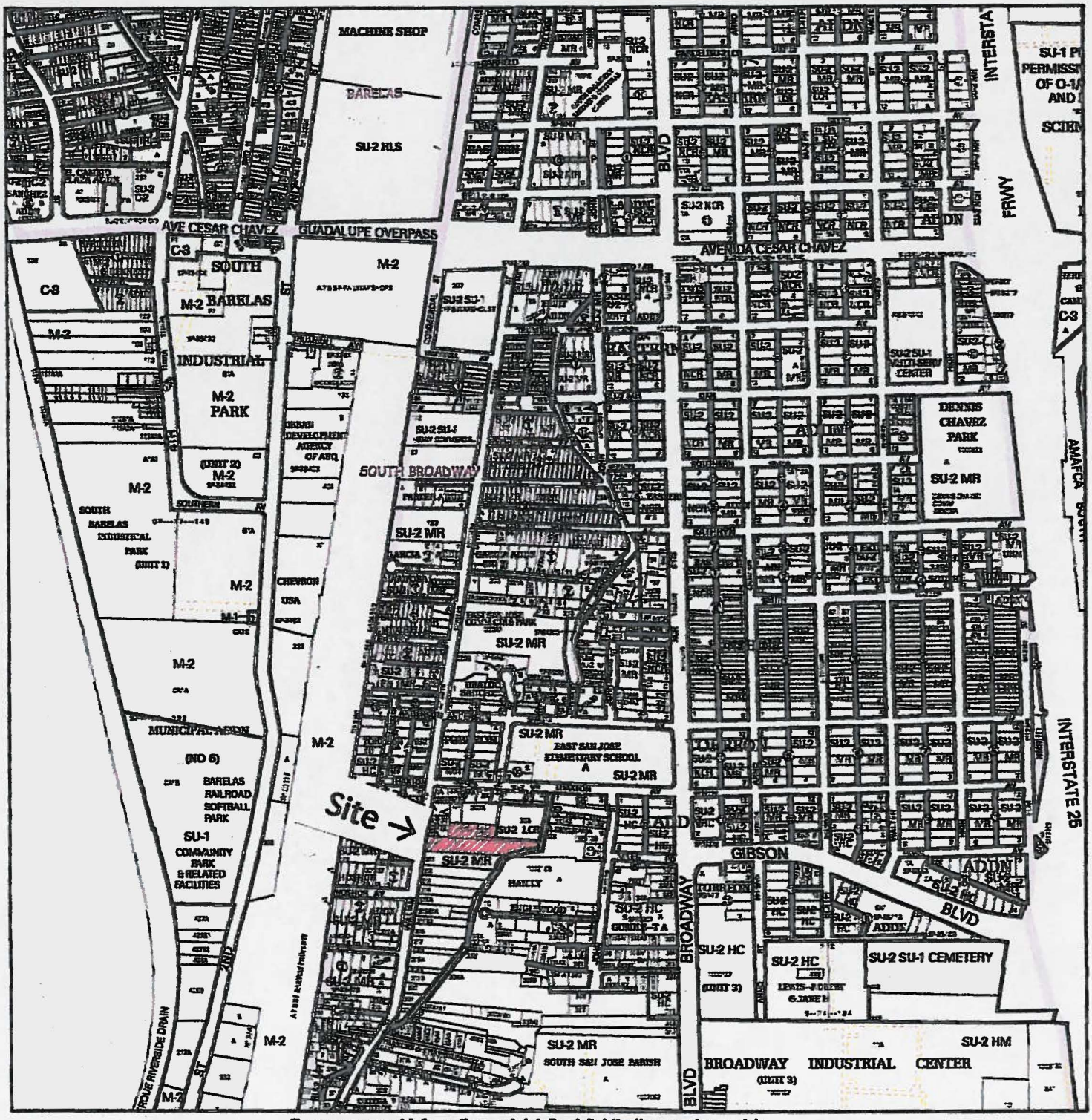
Required **TIS** **must be completed prior to applying to the EPC and/or the DRB.** Arrangements must be made prior to submittal if a variance to this procedure is requested and noted on this form, otherwise the application may not be accepted or deferred if the arrangements are not complied with.

TIS **-SUBMITTED** ___/___/___

-FINALIZED ___/___/___

TRAFFIC ENGINEER _____ DATE _____

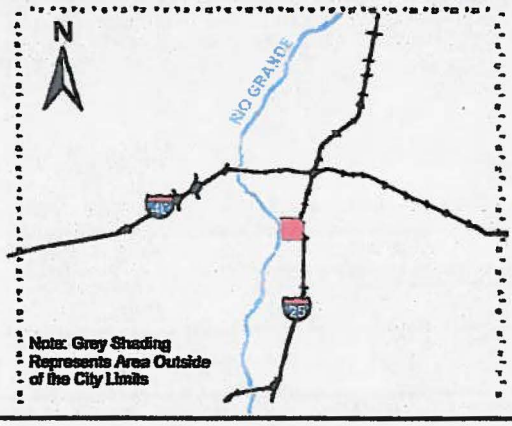
Revised January 20, 2011



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

AGIS
Albuquerque Geographic Information System

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

0 750 1,500 Feet

ORREON
ADDN
ELEM
WLY PT OF
TR
7.086 ac
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HINKLE ST
THAXTON AV
WILLIAM ST
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307A
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C
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307B
309
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CA
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313
314
HANILY
TR "A"
1.0400 ac ben
1.8334 ac un ben
2.8734 ac tot
0
85
170
340
Feet

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 Barelas. 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.

<u>Summary</u>

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] 5/4/17
(Applicant or Agent) (Date)

I issued 1 signs for this application, 5/4/17 [signature]
(Date) (Staff Member)

Along William Street frontage

PROJECT NUMBER: 1011247

Rev. 1/11/05

***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.**

City of Albuquerque

P.O. Box 1293, Albuquerque, NM 87103

April 28, 2017

Jonathan Turner
Garcia/Kraemer & Associates
600 1st 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

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 **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.

   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

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 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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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 finely 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 27th 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 nighborhood.

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 form 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 liter 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".

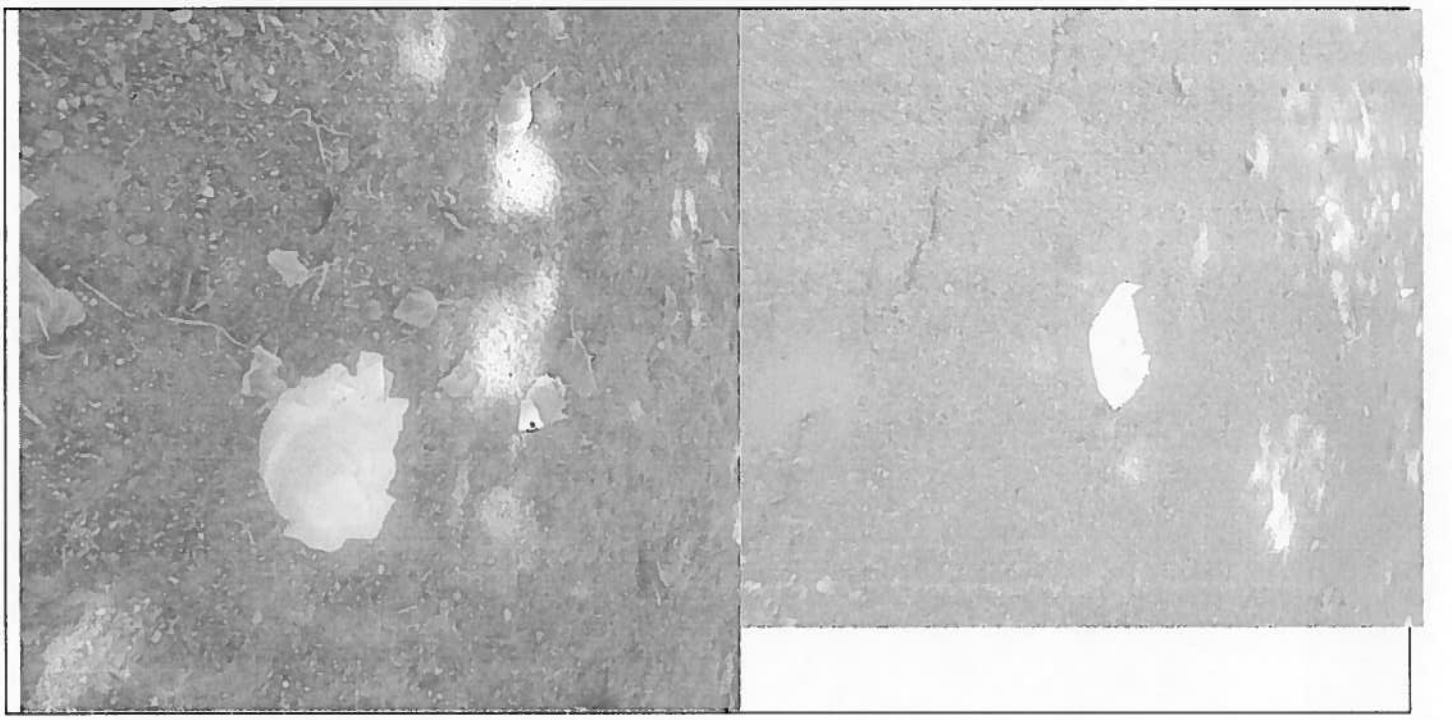
The bottom line is their business and customers are spilling over into our lives. There is no buffer between us and them and we no longer feel safe in our own home. There is no respect for our property or person by their staff or their customers.

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.

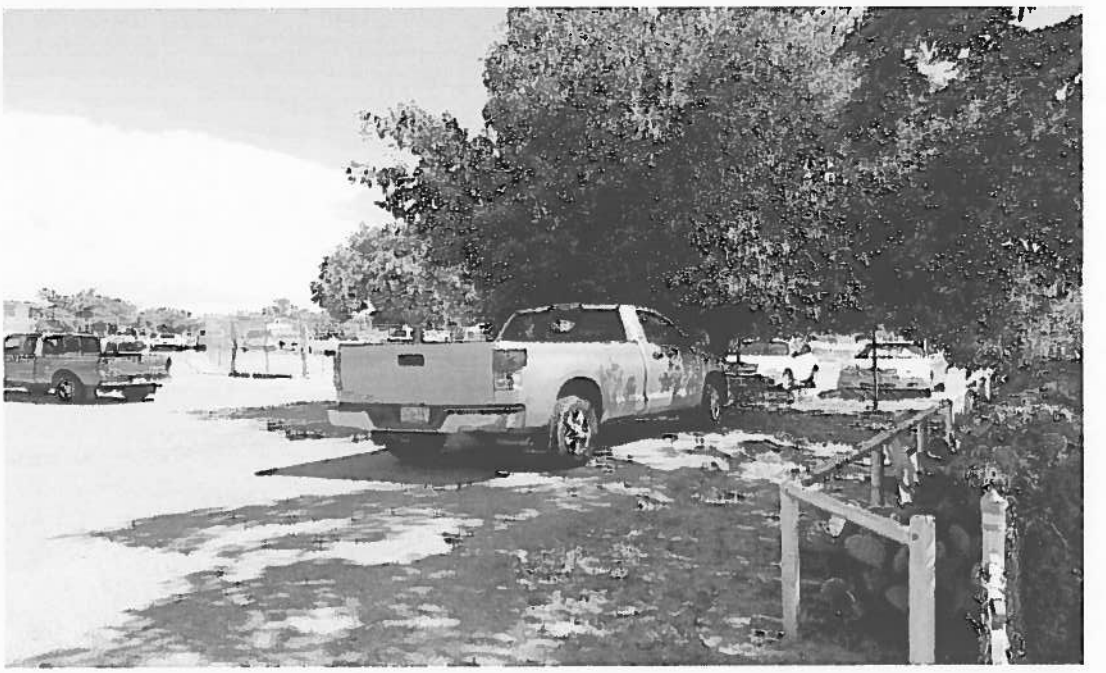
These are pictures of evidence where their customers dumped a dirty diaper and baby wipes after parking under the tree on 9-16.



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.

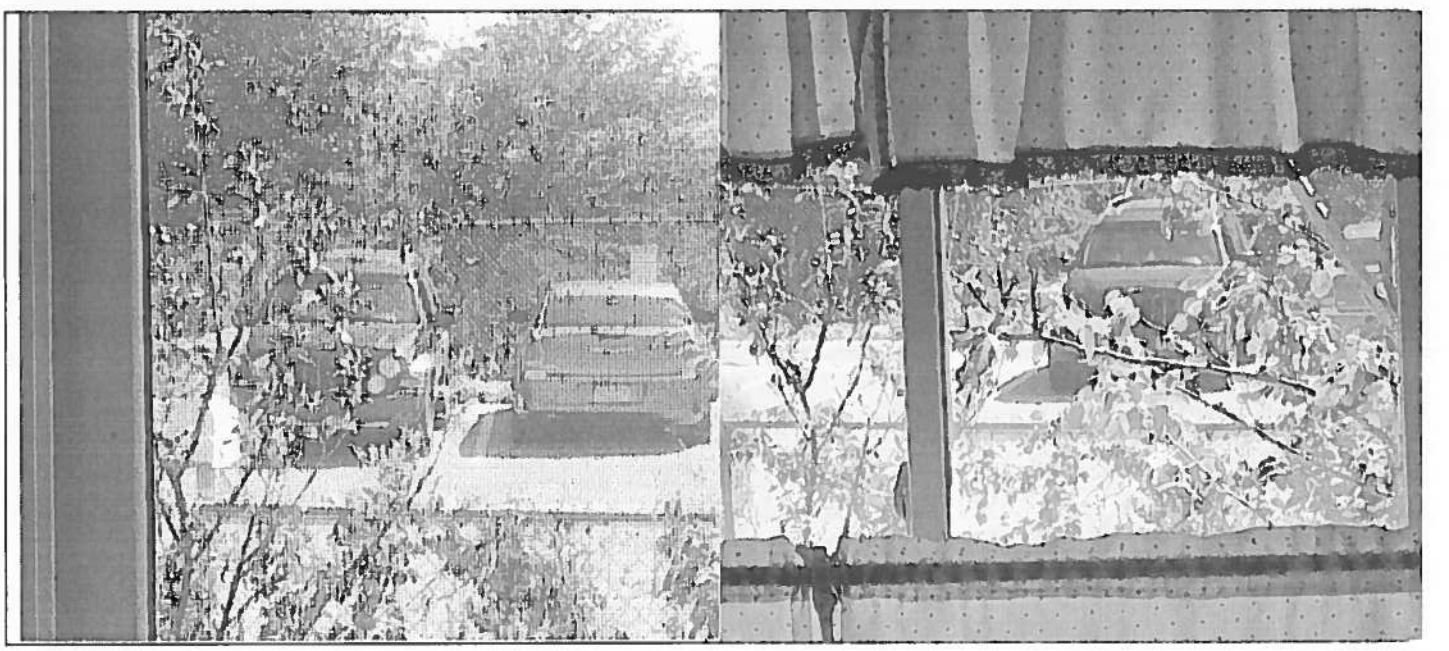


The Dental office is supposed to maintain the easement but fails to do so. Here are pictures where we had to do it ourselves.

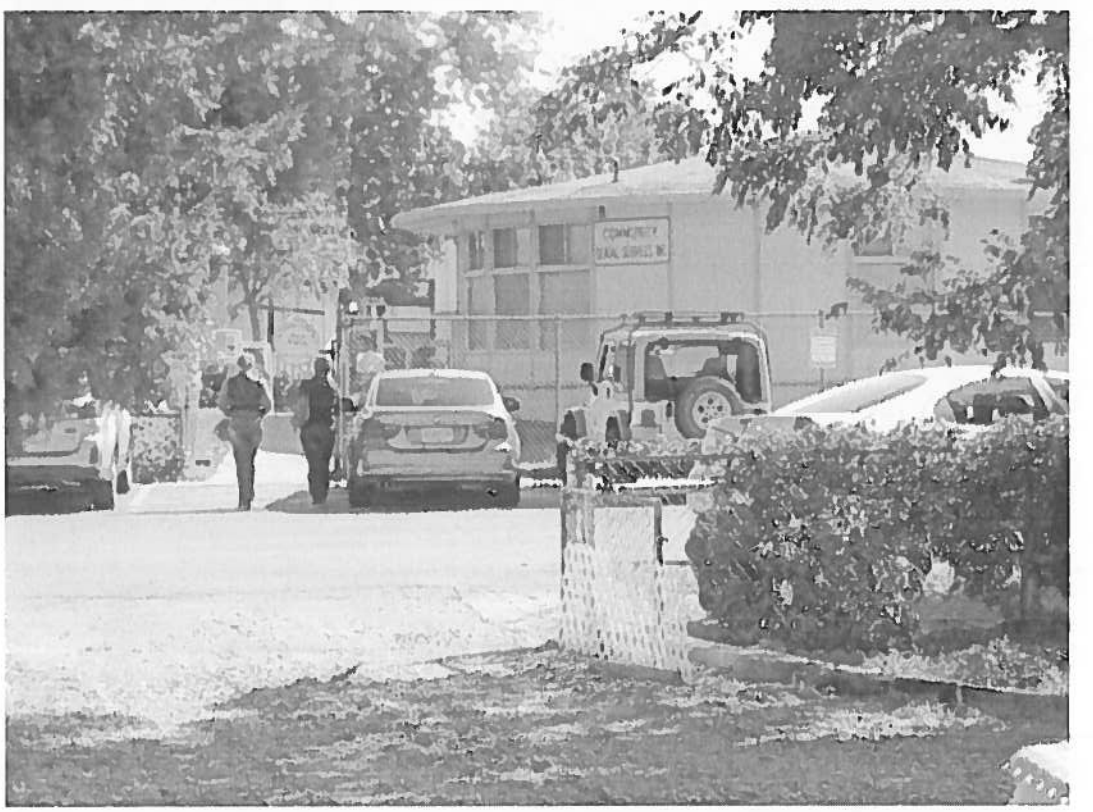
The Dental office provides no buffer between their customers and all their neighbors on every side.

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 acess no buffer between Community Dental and Garcia household. Only landscape on acess area was planted and maintained by the Garcias.

Picture showing acess 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.

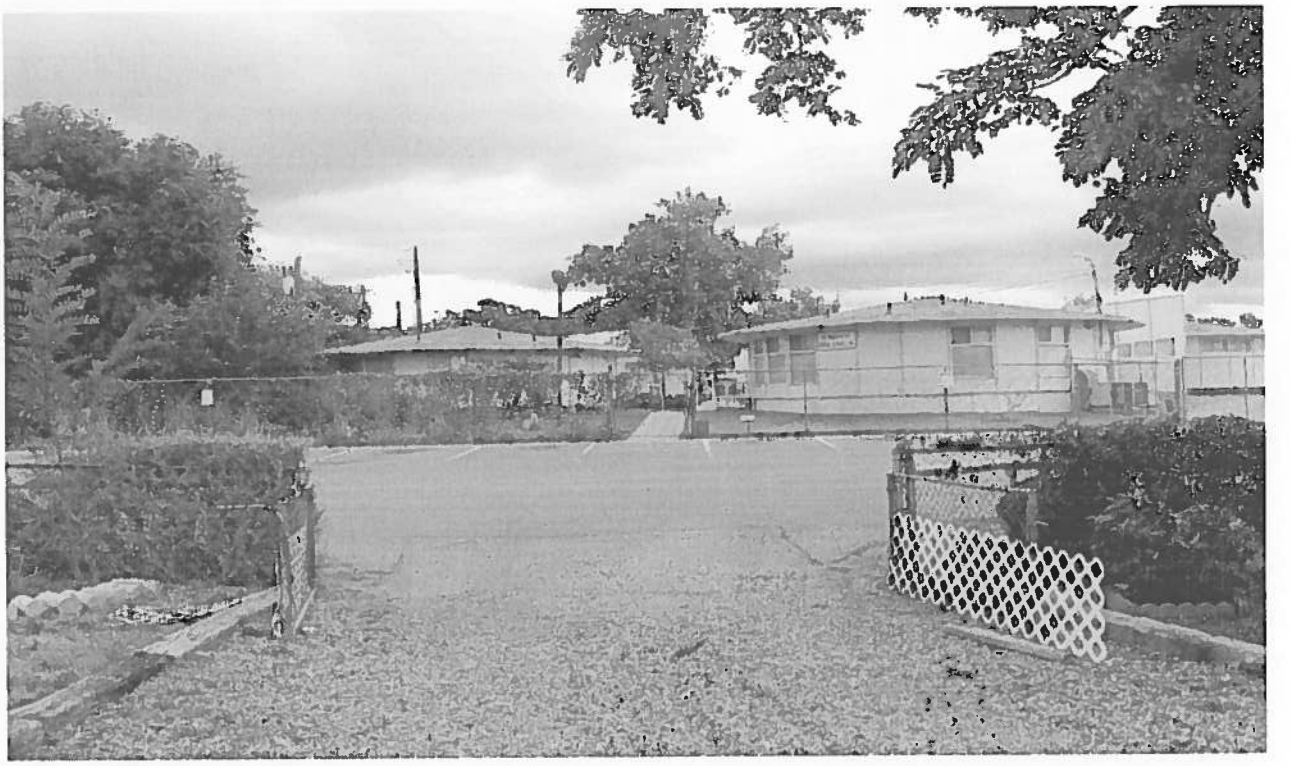


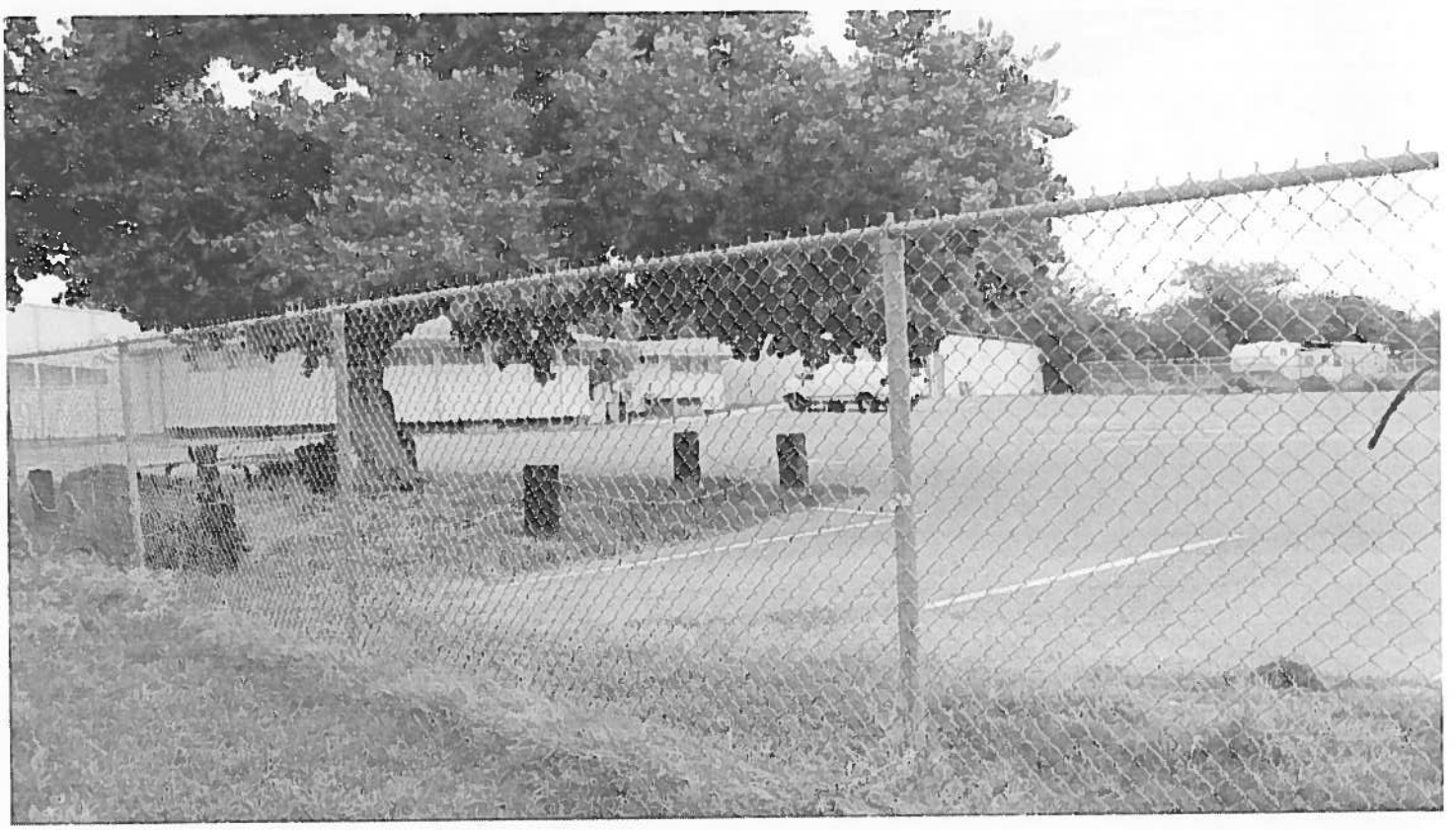
Photo taken from Dental office center parking space north side of lot with no screen or buffer between properties. 4 foot fence was the original fence provided by the Garcias before the lot was purchased by the Dental Office.

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.



COMMUNITY
FOOD SERVICES INC

Somerfeldt, Cheryl

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 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
Cmnty Assoc.
8-24-77

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 b by post office boxes.

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

Clinic traffic has been a problem.

What is the Special Lanscape 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 A.M

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.

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
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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.

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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.

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Christopher L. Graeser, Esq.
Zoning Hearing Examiner

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