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CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

May 6, 2024

TO: Dan Lewis, President, City Council

FROM: Alan Varela, Planning Director

(AV)

SUBJECT: AC-24-14, PR-2024-009946, RZ-2024-00014: University Heights Neighborhood Association appeals the Environmental Planning Commission (EPC) decision to Approve a Zoning Map Amendment from R-ML to MX-L for all or a portion of Lots 23 and 24, Block 2, University Heights Addition, located at 201 & 203 Harvard Drive SE, between Silver Avenue SE and Lead Avenue SE, approximately 0.34 acres (the "Subject Site") (K-16-Z).

REQUEST

This is an appeal of the EPC's decision to approve a zone map amendment (i.e., zone change) from R-ML to MX-L on the 0.5-acre subject site located between Silver Ave. SE and Lead Ave. SE. The site is currently a single-family house. The applicant requested a zone change to facilitate future development of a coffee shop and community gathering space.

The EPC heard and approved the request at its March 21, 2024 hearing. The decision was based on testimony at the hearing and 14 findings of fact in the Official Notification of Decision (NOD) dated March 21, 2024.

ZONING

The subject site is zoned R-ML (Residential – Multi-Family Low Density Zone) [IDO §14-16-2-3(E)], which was converted on adoption of the IDO from the former SU-2/DR zoning designation (Special Use Diverse Residential).

The request changed the subject site's zoning to MX-L (Mixed-use – Low Intensity Zone District), [IDO §14-16-2-4(B)]. The MX-L zone district is intended to allow neighborhood-scale convenience shopping needs, primarily at intersections of collector streets. Permissive uses are listed in Table 4-2-1 of the IDO. The IDO's use-specific standards would mitigate potentially harmful impacts associated with newly permissive uses.

APPEAL

Pursuant to IDO §14-16-6-4(V)(4), the criteria for review of an appeal shall be whether the decision-making body made 1 of the following mistakes:

- a. The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.
- b. The decision being appealed is not supported by substantial evidence.
- c. The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

In a letter dated April 5th, 2024, the appellants allege that EPC erred in approving the zone change when the IDO requirements for the zone change were not met and that the EPC's decision is not supported by substantial evidence because the EPC made an error in applying the requirements of the IDO. The appellant argues this by responding to Findings in the Notice of Decision dated March 21, 2024.

1. The appellant notes that the rezoning would create the first two lots south of Silver that allow non-residential uses since the 1978 University Neighborhood Sector Development Plan. Although some commercial uses would become permissive, the mixed-use zoning would still allow townhouse, live-work, and multi-family uses. The appellant also notes that the University Metropolitan Redevelopment Area (MRA) Plan adopted in December, 2022 was not considered by the applicant or EPC.

EPC case planners include applicable Comprehensive Plan Goals and Policies and other adopted City Plans when they are applicable to the request. The subject site is not within the University MRA; therefore, the University MRA Plan is not applicable. The March 21, 2024 EPC Staff Report noted that the subject site is near but not within the University MRA:

- Page 9: “The subject site is in an Area of Consistency as designated by the Comprehensive Plan. It is adjacent to but not within any Comp Plan-designated Center or Corridor, or Metropolitan Redevelopment Area (MRA).”
2. The appellant alleges that Finding 10.A is in error because the application is not consistent with the City's health, safety, and welfare. The decision criterion for a Zoning Map Amendment in IDO §14-136-6-7(G)(3) is whether “the proposed zone change is consistent with the health, safety, and general welfare of the City *as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan*” [emphasis added]. The EPC found that the request clearly facilitates a preponderance of applicable Comp Plan Goals and Policies regarding Complete Communities, Efficient Development Patterns, and City Development Areas as analyzed in the Staff Report.
 3. The appellant alleges that Finding 10.B is in error because neither the applicant nor the EPC gave sufficient reason why the rezoning would be “more advantageous to the community.” The decision criteria in IDO §14-16-6-7(G)(3)(b) requires that “the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character” and that the existing zoning is inappropriate for at least one of the listed criteria, which includes that a “different zone district is *more advantageous to the community as articulated by the ABC Comp Plan*” [emphasis added].

The applicant's response to Criterion B in the justification letter demonstrates that the MX-L zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency

and would not allow development that is significantly different from that character due to recent development patterns that are consistent with the uses that would be made permissive in the proposed zone district.

The appellant states that the applicant did not meet “its burden of showing that there is any public or community need or advantage in having the proposed commercial use (a coffee shop/breakfast restaurant) on its properties.” In analyzing a zone change request, Staff considers all uses that would be made permissive under the proposed zone district. Finding 10.D summarizes potential harmful uses that would become permissive; a proposed future commercial use or restaurant was not considered to be harmful in Staff’s analysis.

Finding 10.B summarizes how the proposed zone district is more advantageous to the community as articulated by the ABC Comp Plan, specifically Goals and Policies related to Complete Communities, Efficient Development Patterns, and City Development Areas as analyzed in the Staff Report.

4. The appellants allege that Finding 10.D is in error because the applicant and Staff did not refer to IDO Development Standards (Part 5) for Landscaping, Buffering, and Screening. These standards are not relevant to a zone change request, because there is no associated Site Plan to review.

Pursuant to IDO §14-16-5-6(E)(2) a landscaped edge buffer would be required for any non-residential development, other than industrial, next to a low-density residential development (including R-ML), and these standards would be reviewed for compliance when a Site Plan is submitted for future development. These development standards minimize impacts from development on the subject site’s southern lot line and would buffer any residential uses to the south from non-residential uses on the subject site.

5. The appellants allege that Finding 5 regarding Goal 4.1 Character is in error because the rezoning would change rather than preserve the residential character south of Silver. Staff’s analysis of the Goal on page 11 discussed that “Distinguishing features of the area include the Bricklight District that features various neighborhood-oriented restaurants, shops, commercial services, and apartments. The rezoning request to MX-L would allow additional uses that would complement the distinct character of the area, while ensuring that harmful uses would be reduced through Use-specific Standards.” The EPC found that the requested zone would support Goal 4.1 Character by allowing low-intensity uses that enhance the character and protect the area from more intense development that is north and west of the subject site.
6. The appellant alleges that previous zone change requests at 305 Girard SE and 406 Dartmouth SE are relevant to the case, but EPC did not consider them relevant at the hearing. Standard practice is to analyze each zone change request on a case-by-case basis; therefore, these prior EPC decisions are not relevant.

CONCLUSION

As indicated in the March 21, 2024 Official Notification of Decision, the EPC found that the applicant adequately justified the zone change request based on 14 findings of fact. The EPC acted within its authority and voted to approve the zoning map amendment. The EPC carefully considered all relevant factors in arriving at its decision based on substantial evidence in the record. The appellant believes that the EPC decision was made in error and that the zoning should remain R-ML; however, the record contains substantial evidence that the EPC’s decision was neither arbitrary nor capricious and that the IDO regulations were applied correctly to the request. The decision is supported by the record.

APPROVED:



Megan Jones, MCRP- Principal Planner
Urban Design & Development Division
Planning Department



Please check the appropriate box and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

Administrative Decisions	Decisions Requiring a Public Meeting or Hearing	Policy Decisions
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)
<input type="checkbox"/> Historic Certificate of Appropriateness – Minor (Form L)	<input type="checkbox"/> Master Development Plan (Form P1)	<input type="checkbox"/> Adoption or Amendment of Historic Designation (Form L)
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Amendment of IDO Text (Form Z)
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Annexation of Land (Form Z)
<input type="checkbox"/> WTF Approval (Form W1)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	<input type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)
	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)
		Appeals
		<input type="checkbox"/> Decision by EPC, LC, ZHE, or City Staff (Form A)

APPLICATION INFORMATION

Applicant:		Phone:
Address:		Email:
City:	State:	Zip:
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:	List <u>all</u> owners:	

BRIEF DESCRIPTION OF REQUEST

This is an appeal of the zone change request approved by the EPC at its March 21, 2024 meeting.

SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.:	Block:	Unit:
Subdivision/Addition:	MRGCD Map No.:	UPC Code:
Zone Atlas Page(s):	Existing Zoning:	Proposed Zoning:
# of Existing Lots:	# of Proposed Lots:	Total Area of Site (acres):

LOCATION OF PROPERTY BY STREETS

Site Address/Street:	Between:	and:
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CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

Signature: <u>Don R. Hernandez</u>	Date:
Printed Name:	<input type="checkbox"/> Applicant or <input type="checkbox"/> Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees

Meeting/Hearing Date:	Fee Total:
Staff Signature:	Date: Project #

FORM A: Appeals

Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.

- APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)**
- APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)**

APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)

Interpreter Needed for Hearing? if yes, indicate language: _____

A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF *shall be organized* with the Development Review Application and this Form A at the front followed by the remaining documents *in the order provided on this form*.

Project number of the case being appealed, if applicable: Project # PR-2024-009946

Application number of the case being appealed, if applicable: RZ-2024-00014t


Type of decision being appealed: Zoning Map Amendment (Zone Change)

Letter of authorization from the appellant if appeal is submitted by an agent

Appellant’s basis of standing in accordance with IDO Section 14-16-6-4(V)(2)

Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(V)(4)

Copy of the Official Notice of Decision regarding the matter being appealed

<p><i>I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.</i></p>	
Signature:	Date:
Printed Name:	<input type="checkbox"/> Applicant or <input type="checkbox"/> Agent
FOR OFFICIAL USE ONLY	
Case Numbers:	Project Number:
Staff Signature:	
Date:	

UNIVERSITY HEIGHTS ASSOCIATION

105 Stanford, SE
Albuquerque, NM 87106



April 5, 2024

Appeal to City Council through Land Use Hearing Officer (LUHO)

Project Number being appealed: PR-2024-009946

Case Number being appealed: RZ-2024-00014 – Zone Map Amendment (Zone Change)

Action appealed: Environmental Planning Commission Decision of March 21, 2024

Appellant: University Heights Association (“UHA”) by its authorized Secretary/Treasurer Don Hancock, approved by UHA Board of Directors at its April 4, 2024 meeting.

Appellant’s standing: The University Heights Association (“UHA”) has standing because it is the recognized neighborhood association where the subject property at 201-203 Harvard SE is located. Section 14-16-6-4(U)(2)(a)5 of the Integrated Development Ordinance (“IDO”). UHA is specified as an affected neighborhood association in EPC Finding #12. UHA submitted a letter of opposition to the zone change on March 11, 2024 and the Secretary/Treasurer testified against zone change at the March 21, 2024 Environmental Planning Commission (“EPC”) hearing.

Reasons for the Appeal:

1. As a result of the rezoning, the applicant’s two lots would be the first parcels that are re-zoned for non-residential use on the south side of Silver Avenue to Garfield from Harvard to Girard since prior to the 1978 University Neighborhoods Sector Development Plan. That fact is because of city policies in place for more than 45 years to maintain the residential nature of the area south of Silver, including the applicant’s two lots. That policy was restated as recently as December 2022 with the City Council passing R-22-74 by an 8-0 vote, which was signed by the Mayor, approving the University Metropolitan Redevelopment Area (UMRA) Plan. The Resolution specifically states: “The University Metropolitan Redevelopment Area Plan conforms to the Albuquerque/Bernalillo County Comprehensive Plan.” Section 1.C. The Plan reiterates three times: “The lower-density residential character of neighborhoods to the south of Silver should be preserved.” (emphasis added). Pages 2, 32, and 45.

The application never discussed that history and the Plan’s specific requirement to preserve the residential character of the neighborhoods south of Silver. Even though the UHA letter of March 11, 2024 included details of that history and the specific provision of the Plan, the Staff Report also does not discuss the history or the specific provision.

At the hearing on March 21, the UHA representative reiterated that Plan requirement. He also reminded the Commission of its decision in 2023 on another zone change request in the

neighborhood at 305 Girard SE, Project # PR-2022-007919. In that case the Commission denied a zone change request, including findings that it did not meet the same applicable Criterion A: Consistency with the City's health, safety, morals and general welfare finding: "Furthermore, there is a conflict with the University Metropolitan Redevelopment Area Plan, which states that 'The lower-density residential character of neighborhoods to the south of Silver should be preserved' (R-74 p.45). Therefore, the request is not consistent overall with the City's health, safety, morals and general welfare."

There was some discussion by the commissioners, the applicant's representative, and staff about whether that requirement applied to this application, since the two lots are adjacent to, but not within, the UMRA boundaries. The applicant's representative stated that he didn't believe that the policy applied, but was part of the context. Nonetheless, the EPC approved the zone change by a 4-1 vote, without making any findings regarding the zoning history or the UMRA Plan requirement or how the zone change was consistent with the long-standing and current policies to protect the residential character of the neighborhood south of Silver.

Finding 10.A. that the request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them, is clearly erroneous. The rezoning is directly contrary to the zoning history and city policies related to preserving the residential character of the area south of Silver. The application is not consistent overall with the City's health, safety, morals and general welfare, and the appeal should be approved.

2. Finding 10.B is that the applicant has demonstrated that the existing zoning is inappropriate because of criteria 2 and 3: there has been a significant change in neighborhood or community conditions affecting the site, and a different zone district is more advantageous to the community as articulated by the ABC Comp Plan, respectively. That finding also is erroneous. As already discussed, the different zone district is clearly not more advantageous to the community. Neither the applicant nor the EPC gives any reason or reasoning as to how the proposed rezoning would be "more advantageous to the community," either in terms of the Comprehensive Plan or other applicable City plans, or otherwise. Other than conclusory statements, the applicant has offered nothing that meets its burden of showing that there is any public or community need or advantage in having the proposed commercial use (a coffee shop/breakfast restaurant) on its properties. Of particular concern for the present application, the City's policy is "to protect and enhance the character of existing single-family neighborhoods" (Policy 5.6.3 Areas of Consistency). Replacing two single-family homes with commercial uses, nibbling away at and compromising the edges of the residential character of the neighborhood, and setting a precedent for future rezoning applications south of Silver, is all directly at odds with the goals for residential Areas of Consistency in Albuquerque.

Further, there is no changed condition related to mixed use or commercial zoning. Quite the contrary, as stated in the March 11 UHA letter of opposition, the study done of the UMRA Area found that around 25 percent of the commercial properties are vacant. Thus, the UMRA Plan emphasizes the need to add additional housing in the UMRA area, as well as preserving the residential character south of Silver.

The application made no mention of the commercial vacancy fact. Despite the discussion in the UHA opposition letter, the Staff Report made no mention of the fact. There is no finding related to that fact or how more commercial zoning addresses the existing condition of significant commercial vacancies in the area.

The application has not demonstrated that the existing zoning is inappropriate. Finding 10.B. is clearly erroneous. The appeal should be approved.

3. Finding 10.D is: “Since the surrounding land to the north and west is zoned MX-L, the commercial uses that would become permissive would generally not be considered harmful in this setting.” That finding ignores the surrounding land to the east and south is not commercially zoned. It also ignores the testimony at the hearing from Mr. Humbach, the property owner immediately adjacent to the south at 205 Harvard SE that the zone change was directly injurious to his property and the neighborhood. He pointed out that the different setback requirements for MX-L versus R-ML. There is no side setback in MX-L, which is right by his property bedroom windows, while the R-ML is 5 feet side setback, which provides further distance from his residential property. The front setback of MX-L is 5 feet, while other properties comply with the 15 feet front setback requirement. Again, the findings make no mention of those facts and that injury

The application has not demonstrated that the permissive uses and the reduced side and front setbacks are not considered harmful. Finding 10.D. is clearly erroneous. The appeal should be approved.

4. Finding 5 that the zone change furthers Goal 4.1 Character: Enhance, protect, and preserve distinct communities is clearly erroneous as the zone change would change, not preserve, the residential character of the area south of Silver Avenue.

5. At the hearing the UHA representative also mentioned the 305 Girard SE, Project # PR-2022-007919 was relevant and twelve pages of the Staff Report related to 406 Dartmouth SE that were included as relevant are not relevant. There was no finding related to whether the 305 Girard SE decision was applicable or not. Thus, the history included in the application and Staff Report are incomplete and inaccurate and do not provide the adequate basis for the zone change.

In summary, IDO Section 14-16-6-7(G)(3) requires that an “application for a Zoning Map Amendment shall be approved if it meets all of the following criteria.” (emphasis added). However, the zone change clearly does not meet all of the criteria. In fact, the zone change is directly contrary to city policies of preserving the residential character of the neighborhood south of Silver and does not demonstrate that the existing R-ML zoning is inappropriate. The zone change allows side and front setbacks that are considered harmful. Therefore, EPC findings are erroneous. The appeal should be upheld and the zone change denied.

At its regular monthly board meeting, with applicant Augustine Grace present and stating his opposition to the appeal, the UHA board voted 4-3 to approve submitting the appeal and authorized its Secretary/Treasurer Don Hancock to file the appeal.

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



OFFICIAL NOTIFICATION OF DECISION

March 21, 2024

ACG Engineering and
Construction
Management, LLC
1625 Gold Avenue SE
Albuquerque NM 87106

Project # PR-2024-009946
RZ-2024-00014– Zoning Map Amendment
(Zone Change)

LEGAL DESCRIPTION:

Consensus Planning, Inc., agent for ACG Engineering and Construction Management, LLC, request a zoning map amendment from RM-L to MX-L, for all or a portion of Lots 23 and 24, Block 2, University Heights Addition, located at 201 & 203 Harvard Drive SE, between Silver Avenue SE and Lead Avenue SE, approximately 0.5 acres (K-16-Z)
Staff Planner: Robert Messenger

On March 21, 2024, the Environmental Planning Commission (EPC) APPROVED Project # PR-2024-009946, RZ-2024-00014 – Zoning Map Amendment (Zone Change) based on the following Findings:

1. The request is for a zoning map amendment (zone change) for an approximately 0.34-acre site legally described as Lots 23, 24, Block 2, University Heights Addition, located at 201 and 203 Harvard Ave. SE, between Silver Ave. SE and Lead Ave. SE, (the “subject site”).
2. The subject site is zoned R-ML (Residential – Multi-Family Low Density Zone District). The applicant is requesting a zone change from R-ML to MX-L (Mixed-use – Low Intensity Zone District) to facilitate future development.
3. The subject site is in an area that the Comprehensive Plan designated an Area of Consistency and is not within a Comp Plan-designated Center or Corridor.
4. The City of Albuquerque Integrated Development Ordinance (IDO) and the Comprehensive Plan are incorporated herein by reference and made part of the record for all purposes.
5. The request furthers the following Goal in Chapter 4 Community Identity with respect to community identity.

A. Goal 4.1 Character: Enhance, protect, and preserve distinct communities.

The request would enhance, protect, and preserve the distinct community of the University Heights neighborhood. It would allow the development of low-intensity commercial (coffee shop) and civic (gathering space) uses that enhance the existing character and protect it from more intense development that would be appropriate north and west of the subject site.

6. The request furthers the following Goal, and policy in Chapter 5 Land use, with respect to complete communities.

A. Goal 5.2 Complete Communities: Foster communities where residents can live, work, learn, shop, and play together.

The request would foster a community where residents can live, work, learn, shop, and play together. Within a mile of the subject site are numerous uses such as parks and community centers, schools, and retail uses that create a complete community, as well as employment opportunities at the UNM and CNM.

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

The request for MX-L zoning would help create a healthy, sustainable, and distinct community with a mix of uses that are conveniently accessible from surrounding neighborhoods. The proposed uses on the subject site would complement nearby uses and is easily accessible by walking, biking, transit and automobiles.

7. The request furthers the following Goal regarding efficient development patterns in Chapter 5 Land use:

Goal 5.3 Efficient Development Patterns: Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

The request would promote development patterns that maximize the utility of existing infrastructure by using existing infrastructure and public facilities, rather than having to develop infrastructure and facilities where they do not exist.

8. The request furthers the following Goal and policy regarding city development areas, and areas of consistency in Chapter 5 Land use:

A. Goal 5.6 City Development Areas: Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development in and near Areas of Consistency reinforces the character and intensity of the surrounding area.

The subject site is located in an Area of Consistency, and changing it to mixed-use low density would reinforce the character of the surrounding commercial uses to the north as well as residential uses to the south and east.

B. Policy 5.6.3 Areas of Consistency: Protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space.

The request would protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space. The subject site is not located in a Center or along a Corridor, but is near single-family neighborhoods, and parks.

10. The applicant has adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 14-16-6-7(G)(3)-Review and Decision Criteria for Zoning Map Amendments, as follows:

- A. Criterion A: Consistency with the City’s health, safety, morals and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them. The applicant’s policy-based response demonstrates that the request clearly facilitates a preponderance of applicable Goals and policies regarding Complete Communities, Efficient Development Patterns, and City Development Areas. Therefore, the request is consistent with the City’s health, safety, and general welfare.
- B. Criterion B: The subject site is located wholly in an Area of Consistency. The applicant’s policy-based analysis (see response to Criterion A) demonstrates that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant has also demonstrated that the existing zoning is inappropriate because of criteria 2 and 3: there has been a significant change in neighborhood or community conditions affecting the site, and a different zone district is more advantageous to the community as articulated by the ABC Comp Plan, respectively.
- C. Criterion C: This criterion does not apply because the subject site is not located in an Area of Change, either wholly or in part.
- D. Criterion D: The applicant compared the existing R-ML zoning and the proposed MX-L zoning and discussed each use that would become permissive. Since the surrounding land to the north and west is zoned MX-L, the commercial uses that would become permissive would generally not be considered harmful in this setting.

The IDO has Use-Specific standards to mitigate the impacts of uses that could be considered harmful. Furthermore, permissive uses such as a methadone clinic and syringe exchange facility would not be allowed because of the proximity to a religious institution and residential uses.

- E. Criterion E: The subject site is adequately served by existing infrastructure, and rezoning it to MX-L would have only negligible impacts on the existing infrastructure and public facilities.
- F. Criterion F: The subject site’s location on a local street does not factor into the policy analysis. Rather, the request to rezone the property from R-ML to MX-L is to facilitate future development.
- G. Criterion G: The applicant’s justification is not based completely or predominantly on the cost of land or economic considerations. Rather, the applicant has justified the zone change request to allow future development for a coffee shop and community space.

H. Criterion H: The request would not result in a spot zone because properties to the north and west of the subject site are also designated MX-L zoning.

11. The applicant's policy-based response adequately demonstrates that the request furthers a preponderance of applicable Goals and policies regarding Complete Communities, Efficient Development Patterns, and City Development Areas, and does not present any significant conflicts with the Comprehensive Plan. Therefore, the request is consistent with the City's health, safety, morals, and general welfare.
12. The affected neighborhood organizations are the University Heights and District 6 Coalition of Neighborhood Associations, which were notified as required. Property owners within 100 feet of the subject site were also notified as required.
13. A pre-application meeting was requested and it was held January 23, 2024. Concerns expressed during the facilitated pre-application neighborhood meeting included commercial development south of Silver, vehicular traffic on Silver (a bike boulevard), the scale of the new building, and impacts if ownership changes, none of which impact the zone change.
14. As of this writing, Staff has received two letters of opposition, one from a member of the University Heights NA and another by an area resident, but and is unaware of any other opposition.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **April 5, 2024**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(V) of the Integrated Development Ordinance (IDO), Administration and Enforcement. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal an EPC Recommendation to the City Council since this is not a final decision.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Successful applicants are reminded that other regulations of the IDO must be complied with, even after approval of the referenced application(s).

Sincerely,



for Alan M. Varela,
Planning Director

AV/RM/MJ

cc: ACG Engineering and Construction Management, LLC 1625 Gold Avenue SE Albuquerque NM 87106
acgeengineering@gmail.com
Consensus Planning cp@consensusplanning.com
Cesar Marquez, cesar@acgecm.com
John Humbach, jhumbach@law.pace.edu
Don Hancock, sricdon@earthlink.net
District 6 Coalition of Neighborhood Associations Patricia Willson info@willsonstudio.com
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University Heights NA info@uhanm.org Don Hancock sricdon@earthlink.net
University Heights NA info@uhanm.org Mandy Warr mandy@theremedyspa.com
Legal, dking@cabq.gov
EPC File

PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
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P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3860 Fax (505) 924-3339



OFFICIAL NOTIFICATION OF DECISION

March 21, 2024

ACG Engineering and
Construction
Management, LLC
1625 Gold Avenue SE
Albuquerque NM 87106

Project # PR-2024-009946
RZ-2024-00014– Zoning Map Amendment
(Zone Change)

LEGAL DESCRIPTION:

Consensus Planning, Inc., agent for ACG Engineering and Construction Management, LLC, request a zoning map amendment from RM-L to MX-L, for all or a portion of Lots 23 and 24, Block 2, University Heights Addition, located at 201 & 203 Harvard Drive SE, between Silver Avenue SE and Lead Avenue SE, approximately 0.5 acres (K-16-Z)
Staff Planner: Robert Messenger

On March 21, 2024, the Environmental Planning Commission (EPC) APPROVED Project # PR-2024-009946, RZ-2024-00014 – Zoning Map Amendment (Zone Change) based on the following Findings:

1. The request is for a zoning map amendment (zone change) for an approximately 0.34-acre site legally described as Lots 23, 24, Block 2, University Heights Addition, located at 201 and 203 Harvard Ave. SE, between Silver Ave. SE and Lead Ave. SE, (the “subject site”).
2. The subject site is zoned R-ML (Residential – Multi-Family Low Density Zone District). The applicant is requesting a zone change from R-ML to MX-L (Mixed-use – Low Intensity Zone District) to facilitate future development.
3. The subject site is in an area that the Comprehensive Plan designated an Area of Consistency and is not within a Comp Plan-designated Center or Corridor.
4. The City of Albuquerque Integrated Development Ordinance (IDO) and the Comprehensive Plan are incorporated herein by reference and made part of the record for all purposes.
5. The request furthers the following Goal in Chapter 4 Community Identity with respect to community identity.

A. Goal 4.1 Character: Enhance, protect, and preserve distinct communities.

The request would enhance, protect, and preserve the distinct community of the University Heights neighborhood. It would allow the development of low-intensity commercial (coffee shop) and civic (gathering space) uses that enhance the existing character and protect it from more intense development that would be appropriate north and west of the subject site.

6. The request furthers the following Goal, and policy in Chapter 5 Land use, with respect to complete communities.

A. Goal 5.2 Complete Communities: Foster communities where residents can live, work, learn, shop, and play together.

The request would foster a community where residents can live, work, learn, shop, and play together. Within a mile of the subject site are numerous uses such as parks and community centers, schools, and retail uses that create a complete community, as well as employment opportunities at the UNM and CNM.

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

The request for MX-L zoning would help create a healthy, sustainable, and distinct community with a mix of uses that are conveniently accessible from surrounding neighborhoods. The proposed uses on the subject site would complement nearby uses and is easily accessible by walking, biking, transit and automobiles.

7. The request furthers the following Goal regarding efficient development patterns in Chapter 5 Land use:

Goal 5.3 Efficient Development Patterns: Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

The request would promote development patterns that maximize the utility of existing infrastructure by using existing infrastructure and public facilities, rather than having to develop infrastructure and facilities where they do not exist.

8. The request furthers the following Goal and policy regarding city development areas, and areas of consistency in Chapter 5 Land use:

A. Goal 5.6 City Development Areas: Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development in and near Areas of Consistency reinforces the character and intensity of the surrounding area.

The subject site is located in an Area of Consistency, and changing it to mixed-use low density would reinforce the character of the surrounding commercial uses to the north as well as residential uses to the south and east.

B. Policy 5.6.3 Areas of Consistency: Protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space.

The request would protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space. The subject site is not located in a Center or along a Corridor, but is near single-family neighborhoods, and parks.

10. The applicant has adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 14-16-6-7(G)(3)-Review and Decision Criteria for Zoning Map Amendments, as follows:

- A. Criterion A: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them. The applicant's policy-based response demonstrates that the request clearly facilitates a preponderance of applicable Goals and policies regarding Complete Communities, Efficient Development Patterns, and City Development Areas. Therefore, the request is consistent with the City's health, safety, and general welfare.
- B. Criterion B: The subject site is located wholly in an Area of Consistency. The applicant's policy-based analysis (see response to Criterion A) demonstrates that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant has also demonstrated that the existing zoning is inappropriate because of criteria 2 and 3: there has been a significant change in neighborhood or community conditions affecting the site, and a different zone district is more advantageous to the community as articulated by the ABC Comp Plan, respectively.
- C. Criterion C: This criterion does not apply because the subject site is not located in an Area of Change, either wholly or in part.
- D. Criterion D: The applicant compared the existing R-ML zoning and the proposed MX-L zoning and discussed each use that would become permissive. Since the surrounding land to the north and west is zoned MX-L, the commercial uses that would become permissive would generally not be considered harmful in this setting.

The IDO has Use-Specific standards to mitigate the impacts of uses that could be considered harmful. Furthermore, permissive uses such as a methadone clinic and syringe exchange facility would not be allowed because of the proximity to a religious institution and residential uses.

- E. Criterion E: The subject site is adequately served by existing infrastructure, and rezoning it to MX-L would have only negligible impacts on the existing infrastructure and public facilities.
- F. Criterion F: The subject site's location on a local street does not factor into the policy analysis. Rather, the request to rezone the property from R-ML to MX-L is to facilitate future development.
- G. Criterion G: The applicant's justification is not based completely or predominantly on the cost of land or economic considerations. Rather, the applicant has justified the zone change request to allow future development for a coffee shop and community space.

H. Criterion H: The request would not result in a spot zone because properties to the north and west of the subject site are also designated MX-L zoning.

11. The applicant's policy-based response adequately demonstrates that the request furthers a preponderance of applicable Goals and policies regarding Complete Communities, Efficient Development Patterns, and City Development Areas, and does not present any significant conflicts with the Comprehensive Plan. Therefore, the request is consistent with the City's health, safety, morals, and general welfare.
12. The affected neighborhood organizations are the University Heights and District 6 Coalition of Neighborhood Associations, which were notified as required. Property owners within 100 feet of the subject site were also notified as required.
13. A pre-application meeting was requested and it was held January 23, 2024. Concerns expressed during the facilitated pre-application neighborhood meeting included commercial development south of Silver, vehicular traffic on Silver (a bike boulevard), the scale of the new building, and impacts if ownership changes, none of which impact the zone change.
14. As of this writing, Staff has received two letters of opposition, one from a member of the University Heights NA and another by an area resident, but and is unaware of any other opposition.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **April 5, 2024**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(V) of the Integrated Development Ordinance (IDO), Administration and Enforcement. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal an EPC Recommendation to the City Council since this is not a final decision.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Successful applicants are reminded that other regulations of the IDO must be complied with, even after approval of the referenced application(s).

Sincerely,



for Alan M. Varela,
Planning Director

AV/RM/MJ

cc: ACG Engineering and Construction Management, LLC 1625 Gold Avenue SE Albuquerque NM 87106
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EPC File



Environmental Planning Commission

Agenda Number: X
Project #: PR-2024-009946
Case #: RZ-2024-00014
Hearing Date: March 21, 2024

Staff Report

Agent	Consensus Planning
Applicant	ACG Engineering and Construction Management, LLC
Request	Zoning Map Amendment
Legal Description	Lots 23,24, Block 2, University Heights Addition
Location	201 and 203 Harvard Dr. SE, between Silver St. SE and Lead Ave. SE
Size	Approximately 0.34 acre
Existing Zoning	R-ML
Proposed Zoning	MX-L

Staff Recommendation

APPROVAL of PR-2024-009946 RZ-2024-00014, based on the Findings beginning on Page 20.

**Staff Planner
Robert Messenger, Senior Planner**

Summary of Analysis

The request is for a zoning map amendment for an approximately 0.34-acre site located at 201 and 203 Harvard Dr. SE. The applicant requests a zone change from R-ML to MX-L to facilitate redevelopment. The subject site is in an Area of Consistency and not within a Corridor or Center.

The applicant has adequately justified the request pursuant to the IDO zone change criteria in 14-16-6-7(G)(3). The proposed zoning would be more advantageous to the community overall because it furthers a preponderance of Comprehensive Plan Goals and policies.

The affected neighborhood organizations are University Heights and District 6 Coalition of Neighborhood Associations, which were notified as required. A pre-submittal meeting was held on January 23, 2024. Property owners within 100 feet of the subject site were notified as required. As of this writing, Staff is unaware of any opposition.

Staff recommends approval.

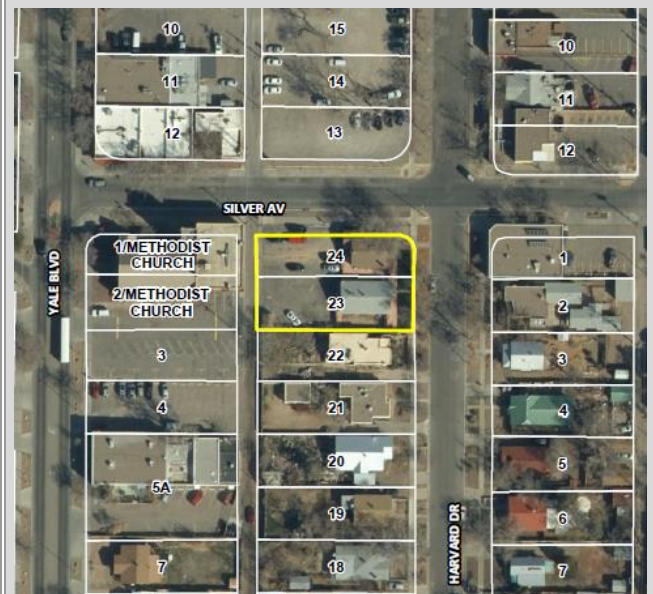


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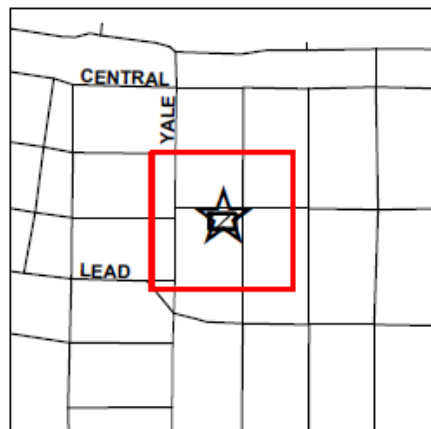
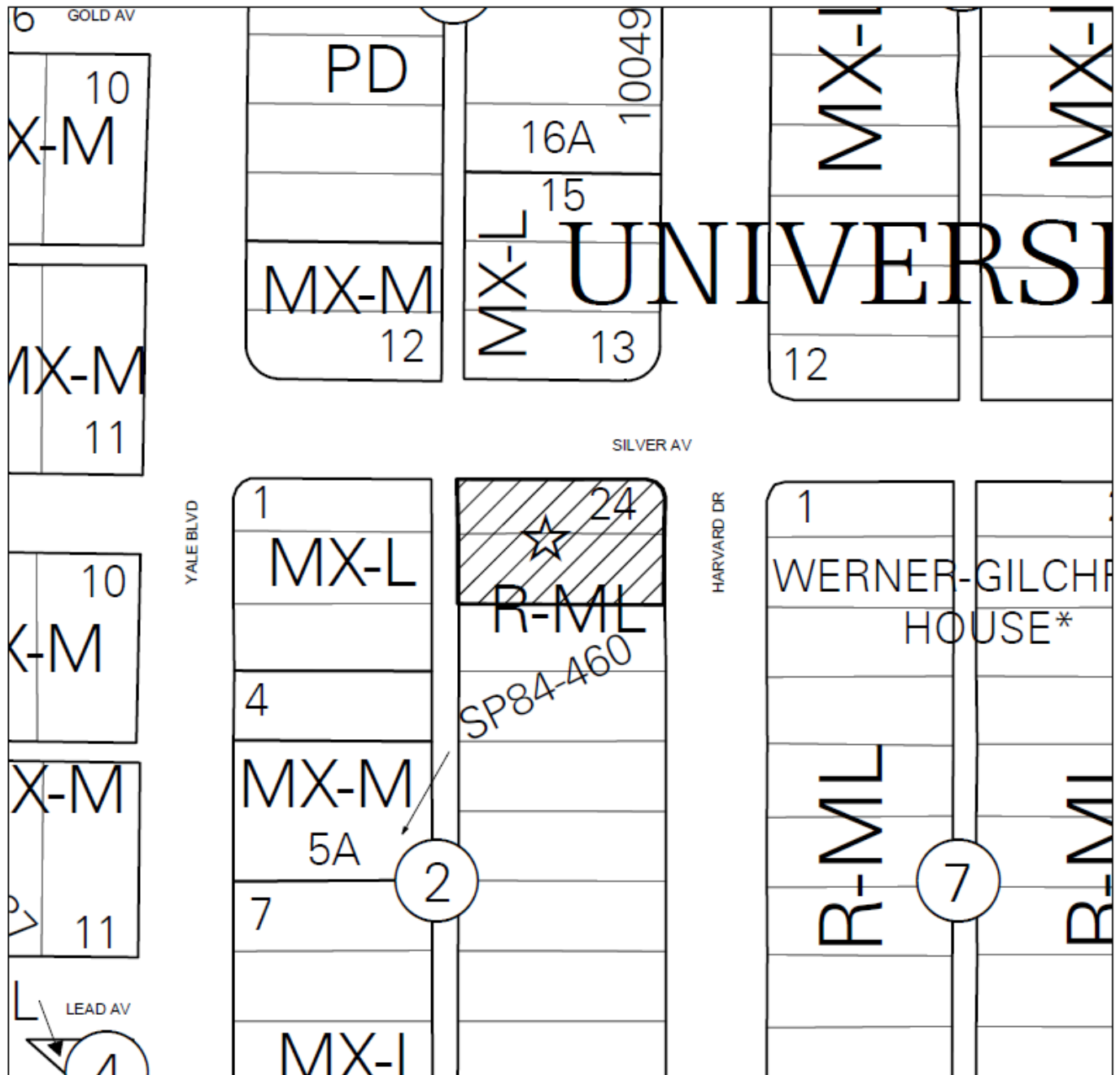
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Attachments

- 2-Photographs – Existing Conditions
- 3-Zoning
- 4-Case History
- 5-Applicant Information
- 6-Staff Information
- 7-Notification
- 8-Facilitated Meeting Report
- 9-Letters
- 10-Sign Posting





IDO ZONING MAP

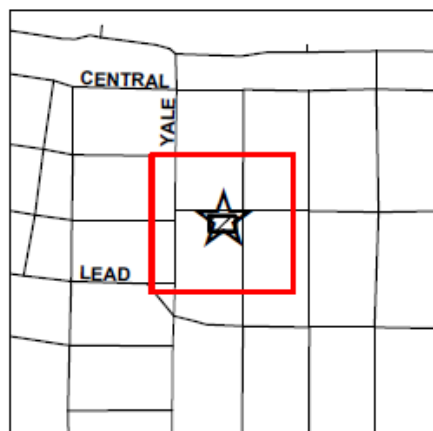
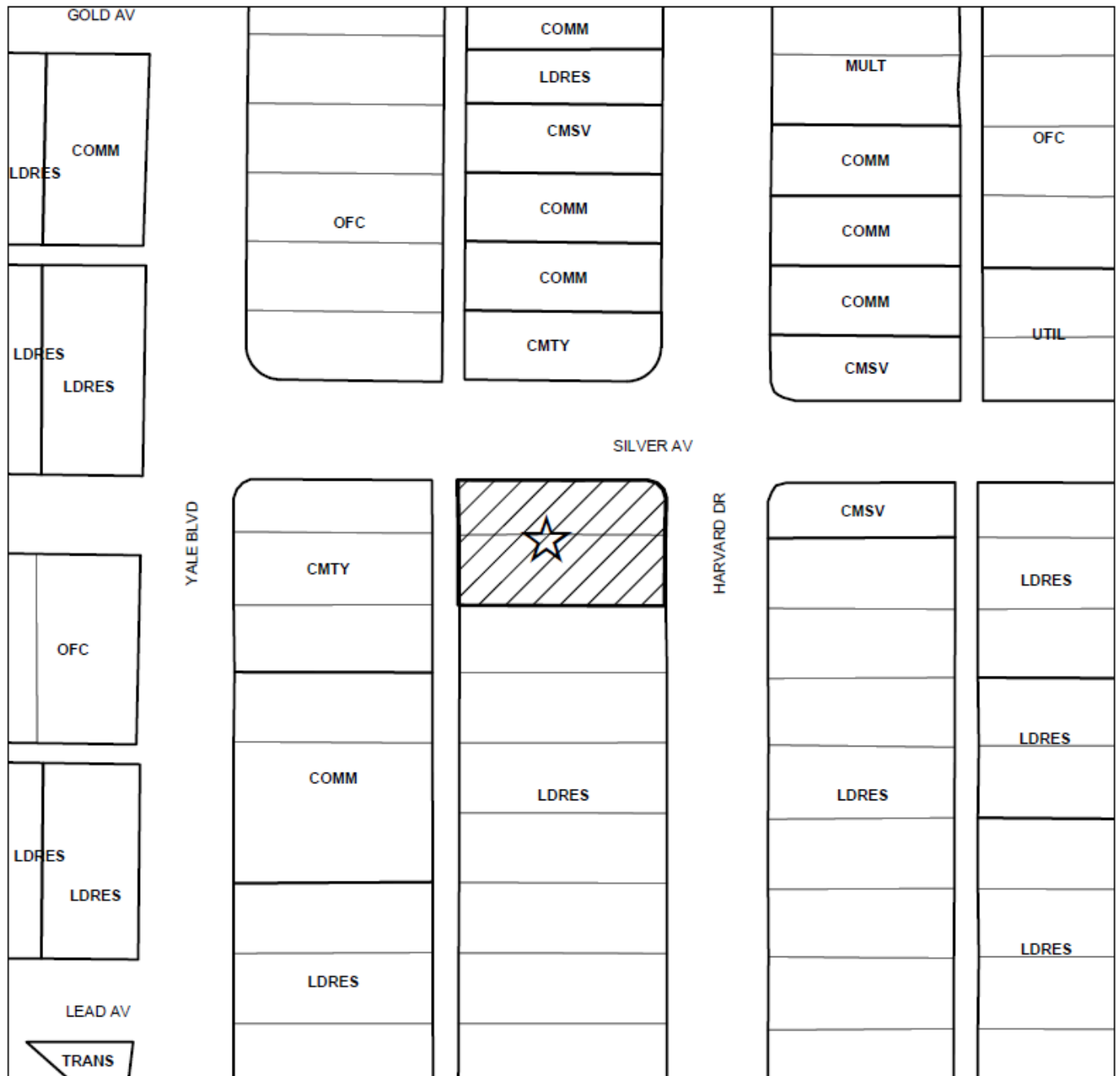
Note: Gray shading indicates County.



1 inch = 100 feet

Hearing Date:
 3/21/2024
 Project Number:
 PR-2024-009946
 Case Numbers:
 RZ-2024-00014

Zone Atlas Page:
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LAND USE MAP

Note: Gray shading indicates County.

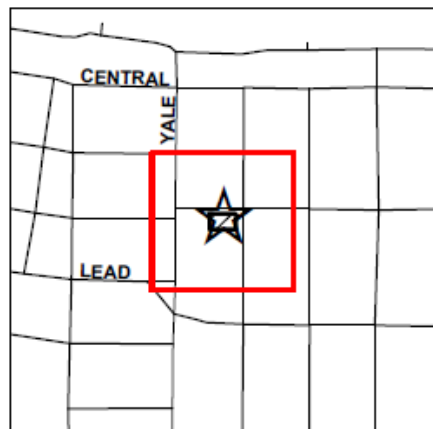
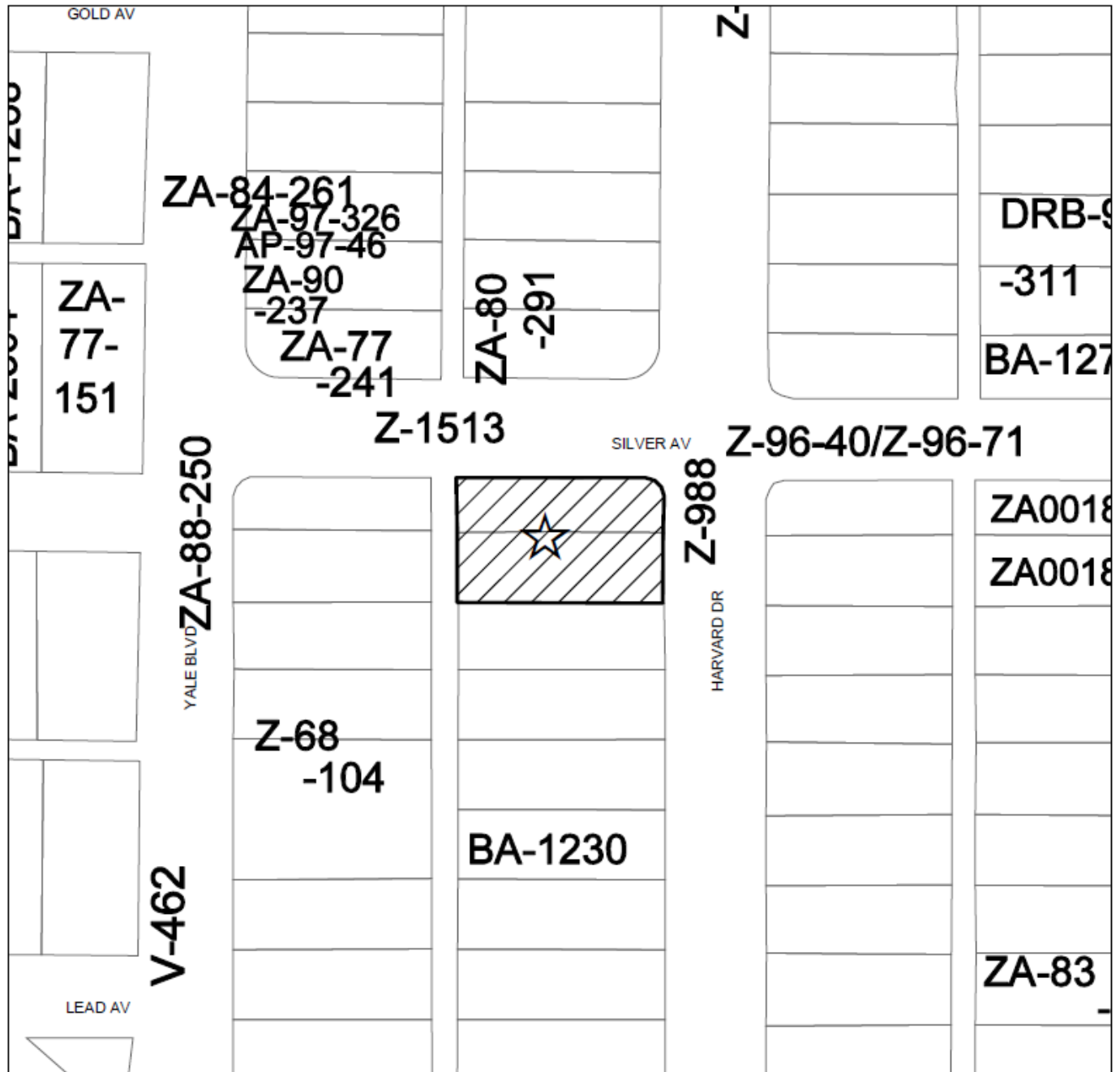
- Key to Land Use Abbreviations**
- LDRES | Low-density Residential
 - MULT | Multi-family
 - COMM | Commercial Retail
 - CMSV | Commercial Services
 - OFC | Office
 - IND | Industrial
 - INSMED | Institutional / Medical
 - ED | Educational
 - APRT | Airport
 - TRANS | Transportation
 - AGRI | Agriculture
 - PARK | Parks and Open Space
 - DRNG | Drainage
 - VAC | Vacant
 - UTIL | Utilities
 - CMTY | Community
 - KAFB | Kirtland Air Force Base



1 inch = 100 feet

Hearing Date:
3/21/2024
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PR-2024-009946
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HISTORY MAP

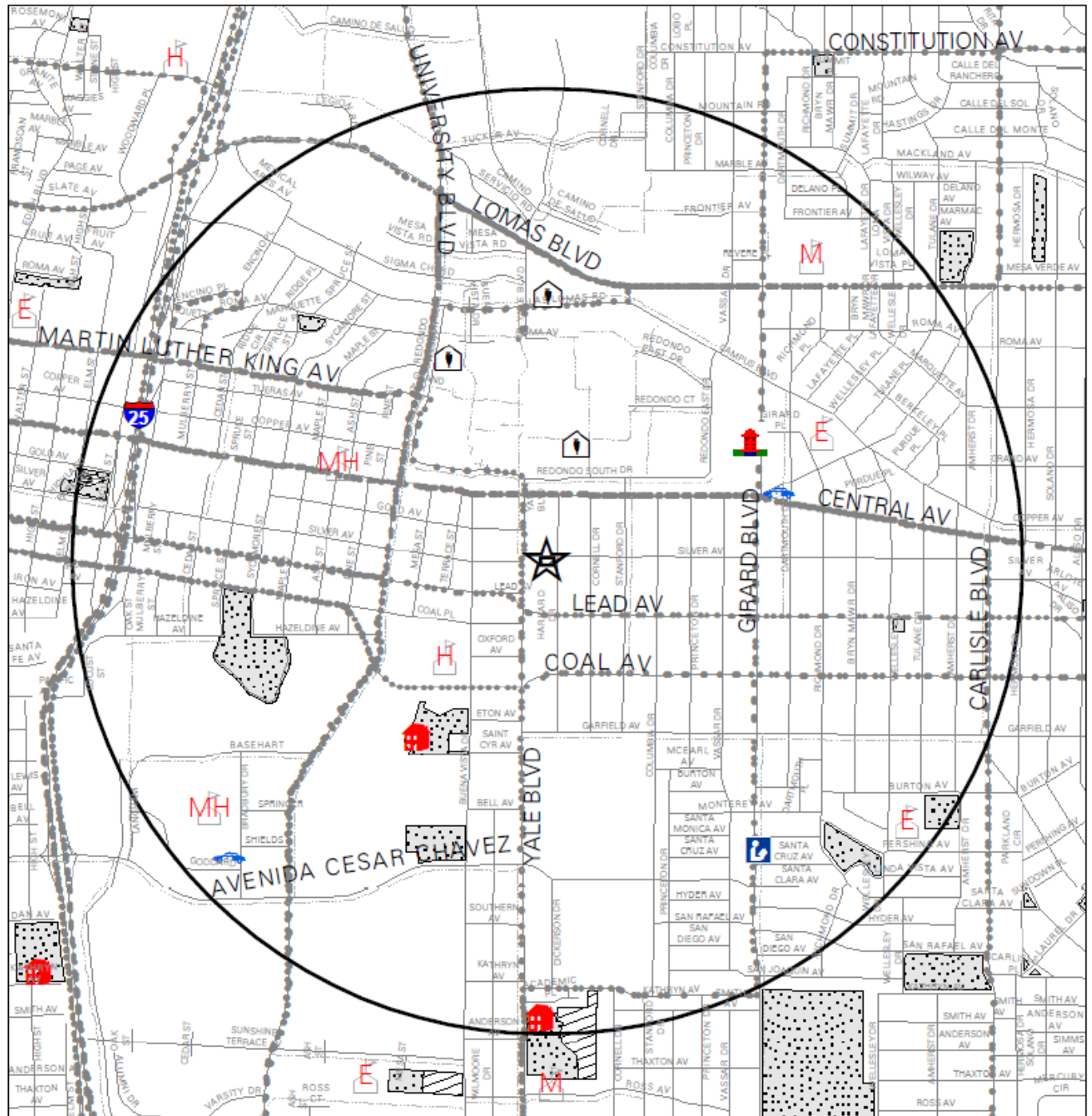
Note: Gray shading indicates County.



1 inch = 100 feet

Hearing Date:
 3/21/2024
 Project Number:
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Public Facilities Map with One-Mile Buffer

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



I. INTRODUCTION

Surrounding zoning, plan designations, and land uses:

	<i>Zoning</i>	<i>Comprehensive Plan Area</i>	<i>Land Use</i>
<i>Site</i>	R-ML	Area of Consistency	Single-family residential
<i>North</i>	MX-L	Area of Change	Paid parking lot
<i>South</i>	R-ML	Area of Consistency	Single-family residential
<i>East</i>	R-ML	Area of Consistency	Non-profit organization
<i>West</i>	MX-L	Area of Consistency	Religious institution

Request

The request is for a zoning map amendment (zone change) for an approximately 0.34-acre site legally described as Lots 23 and 24, Block 2, University Heights Addition, located at 201 and 203 Harvard Dr. SE, between Silver St. SE and Lead Ave. SE (the “subject site”). The subject site is currently developed with single-family residential uses and a paid parking lot.

The applicant is requesting a zone change from R-ML (Multi-family Low Density) to MX-L (Mixed-Use Low Intensity) to facilitate redevelopment of the subject site for a potential future coffee shop and community gathering space. There is not a site plan associated with this request and staff is analyzing the zone change request for all uses that would become permissive.

EPC Role

The EPC is hearing this case because the EPC is required to hear all zone change cases, regardless of site size, in the city. The EPC is the final decision-making body unless the EPC decision is appealed. If so, the Land Use Hearing Officer (LUHO) would hear the appeal and make a recommendation to the City Council. The City Council would then make the final decision. The request is a quasi-judicial matter.

Context

The subject site is bounded by Silver St. SE on the north, Harvard Dr. SE on the east, Yale Blvd. SE on the west, and Lead Ave. SE on the south. Land uses surrounding the site include a paid commercial parking lot to the north, a non-profit agency to the east, church property to the west, and single-family residential to the south.

Near the site on Harvard Ave. SE are various restaurants, retail shops, and apartments – many of which are in the “Brick Light District” immediately north of the subject site. This area and surrounding commercial uses on Central Ave. SE serve the needs of UNM students, faculty, and staff as well as everyday needs of neighborhood residents.

A church that is being used for non-profit activities is west of the site, and south of that is the Outpost Performance Space on Yale, a nonprofit musical entertainment venue. The Outpost website notes that this location offers an “intimate, informally-respectful, alcohol and smoke free” home for a variety of musical performances as well as youth and adult music classes.

History

City Ordinance 208 on June 19, 1925 annexed properties east of what is now I-25, south of Mountain, north of Gibson, and west of San Pedro into the City Limits of Albuquerque. This eastward expansion furthered the development of the University of New Mexico main campus and commercial areas and subdivisions such as Nob Hill, featuring iconic neon signs along Central Ave. “Route 66”.

This area was originally designated as “The Coming Aristocratic Residence Section of Albuquerque” and then changed rapidly with the expansion of the City and UNM in the 1960s and 1970s (page 8, University Neighborhoods Sector Development Plan). Parking issues, traffic congestion, crime, and increased multi-family apartment development were cited as concerns that led to initiatives such as the University Neighborhoods Sector Development and subsequent Metropolitan Redevelopment Area plans.

The subject site was within the “University Neighborhoods Sector Development Plan” adopted in 1986 and repealed in 2017 by the Integrated Development Ordinance (IDO). The property was originally zoned “DR” for Diverse Residential. Upon the adoption of the 1986 University Neighborhoods SDP, the property was zoned “SU-2/DR”.

In 2007, EPC Case # 1006652 was a variance request for several items that were mostly related to parking spaces and design. It was denied, appealed, and the appeal was also denied in November 27, 2007.

The current owners purchased the property in 2008. The property included parking lots to the rear of both 201 and 203 Harvard Dr. SE, which were used for the Methodist Church parking needs. The owner requested a zone map amendment (ZMA) in 2010 as EPC Case # 1008365. The ZMA was approved and it changed the rear parking lots from SU-2 to “P” for Parking and Transportation. It became R-ML upon the adoption of the IDO in 2017.

Transportation System

The Long-Range Roadway System (LRRS) map, produced by the Mid-Region Metropolitan Region Planning Organization (MRMPO), identifies the functional classifications of roadways. Harvard Dr. SE and Silver Ave. SE are classified as local streets, Yale Blvd. SE as a Minor Arterial, and Lead Ave. SE as a Principal Arterial.

Comprehensive Plan Designations

The subject site is in an Area of Consistency as designated by the Comprehensive Plan. It is adjacent to but not within any Comp Plan-designated Center or Corridor, or Metropolitan Redevelopment Area (MRA). The subject site is within the Near Heights Community Planning

Area (CPA), which completed its Community Planning Area Assessment and was accepted by City Council in 2023.

This area is characterized by large institutional developments such as the University of New Mexico and Central New Mexico campuses, Albuquerque International Sunport, and Veterans Affairs complex. Much of Route 66 (Central Avenue) runs through the area, featuring historic tourist attractions and neon signs. Public transit, a gridded street network, sidewalks and biking facilities provide multimodal access to shopping, educational, and cultural destinations. One of the most desirable characteristics is the diversity of ethnicities, races, ages, and cultural viewpoints and the sense of inclusiveness this diversity creates.

Trails/Bikeways

Silver Avenue is designated a bike boulevard, beginning at Monroe St. NE and ending at Broadway Blvd. SE. Yale Blvd. SE is designated a bike route, and proposed to have bike lanes. Redondo Drive, north of Central and within the University of New Mexico Campus, is designated a bike route. Lead Avenue has existing bike lanes and is proposed to have buffered bike lanes.

Transit

The subject site is close to three transit services along Central Ave. SE as follows:

- Albuquerque Rapid Transit (ART) Red Line (#766) runs daily with a frequency of 24 minutes. It runs between Central & Unser Transit Center to the Uptown Transit Center.
- ART Green Line (#777) runs daily with a frequency of 24 minutes between the Central & Unser Transit Center to Tramway/Central.
- Central Avenue (#66) provides local service daily with a peak frequency of 20 minutes.

In addition to these transit routes on Central:

- Zuni transit route (#97) runs south of the subject site on Lead Ave. SE Monday through Friday with a frequency of one hour; and,
- Airport / Yale / Downtown transit route (#50) runs west of the subject site on Yale Blvd. SE daily with a peak frequency of 30 minutes.

Public Facilities/Community Services

Please refer to the Public Facilities Map (see attachment), which shows public facilities and community services located within one mile of the subject site.

II. ANALYSIS of APPLICABLE ORDINANCES, PLANS, AND POLICIES

Integrated Development Ordinance (IDO)

Definitions

Multi-family Residential Development: Residential development of multi-family dwellings or uses from the Group Living category (except small community residential facilities) in zone districts as allowed per Table 4-2-1. Properties that include both multi-family dwellings and low-density residential development are considered multi-family residential development for the purposes of this IDO. Properties with other uses accessory to residential primary uses

allowed per Table 4-2-1 are still considered multi-family residential development for the purposes of this IDO. See also Other Uses Accessory to Residential Primary Uses.

Mixed-use Development: Properties with residential development and non-residential development on a single lot or premises. For the purposes of this IDO, mixed-use development can take place in the same building (i.e., vertical mixed-use) or separate buildings on the same lot or premises (i.e., horizontal mixed-use).

Zoning

The subject site is zoned R-ML (Multi-Family Low Density Zone District). The applicant wants to rezone it to MX-L (Mixed-Use Low Intensity Zone District) to facilitate future development of a coffee shop, breakfast restaurant, and community gathering space.

The purpose of the R-ML zone district is to provide for a variety of low- to medium-density housing options. The primary land uses are townhouses and small-scale multi-family development, as well as civic and institutional uses to serve the surrounding residential area. Allowable uses are shown in Table 4-2-1.

The purpose of the MX-L zone district is to provide for neighborhood-scale convenience shopping needs, primarily at intersections of collector streets. Primary land uses include non-destination retail and commercial uses, as well as townhouses, low-density multi-family, and civic and institutional uses to serve the surrounding area, with taller, multi-story buildings encouraged in Centers and Corridors. Other allowable uses are shown in Table 4-2-1.

For a discussion of specific uses that would become permissive if the request is approved, please refer to the discussion of zone change criterion 14-16-6-7(G)(3)(d) in this report.

ALBUQUERQUE / BERNALILLO COUNTY COMPREHENSIVE PLAN

The subject site is located in an area that the 2017 Albuquerque/Bernalillo County Comprehensive Plan has designated an Area of Consistency. Revitalization and development that occur in these areas should be at a scale and density (or intensity) similar to immediately surrounding development in order to reinforce the existing character of established neighborhoods. Applicable Goals and policies are listed below. Staff analysis follows in ***bold italics***.

Chapter 4: Community Identity

Goal 4.1 Character: Enhance, protect, and preserve distinct communities.

The request would enhance, protect, and preserve the distinct community of the University Heights neighborhood, south of the University of New Mexico. Distinguishing features of the area include the Bricklight District that features various neighborhood-oriented restaurants, shops, commercial services, and apartments. The rezoning request to MX-L would allow additional uses that would complement the

distinct character of the area, while ensuring that harmful uses would be reduced through Use-specific Standards. The request furthers 4.1 Character.

Chapter 5: Land Use

Goal 5.2 Complete Communities: Foster communities where residents can live, work, learn, shop, and play together.

The request would foster a community where residents can live, work, learn, shop, and play together. It would provide the opportunity for additional community-supportive uses that serve existing residents as well as UNM staff and students. Within a mile of the subject site are numerous uses such as parks and community centers, schools, and retail uses that create a complete community. The request could support a complete community with potential future development made possible through this request, and therefore furthers Goal 5.2 Complete Communities.

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

The request would help create a healthy, sustainable, and distinct community with a mix of uses that are conveniently accessible from surrounding neighborhoods. The area is well-served by five transit routes, the Silver Avenue Bicycle Boulevard, and a gridded development pattern that support transit, biking, and walking, respectively. The request would allow additional uses for area residents to utilize in a healthy and sustainable manner because it would be accessible by multi-modal transportation. The request generally furthers Policy 5.2.1 Land Uses.

Sub-Policy 5.2.1(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.

Goal 5.3 Efficient Development Patterns: Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

The request would promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good because future development would utilize existing infrastructure and public facilities on site, rather than having to develop infrastructure and facilities where they do not exist. The request furthers Goal 5.3 Efficient Development Patterns.

Goal 5.6 City Development Areas: Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development in and near Areas of Consistency reinforces the character and intensity of the surrounding area.

The request to MX-L Zoning would reinforce the character of the surrounding area of Consistency that is mostly low-density multi-family, non-profit agencies, and low-intensity commercial uses because the MX-L zone district includes permissive uses that are consistent with the surrounding area. The request furthers Goal 5.6 City Development Areas.

Policy 5.6.3 Areas of Consistency: Protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space.

The request would protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space. The subject site is not located in a Center or along a Corridor, but is within a mixed residential area of low density multi-family and single-family housing. Although the subject site is within an Area of Consistency, the University Area is distinct because it is characterized by low-intensity commercial and non-profit uses rather than a homogenous single-family only pattern of development. The request furthers Policy 5.6.3 Areas of Consistency.

Integrated Development Ordinance (IDO) 14-16-6-7(G)(3)-Review and Decision Criteria for Zone Map Amendments

Requirements

The review and decision criteria outline policies and requirements for deciding zone change applications. The applicant must provide sound justification for the proposed change and demonstrate that several tests have been met. The burden is on the applicant to show why a change should be made.

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings:

- 1) there was an error when the existing zone district was applied to the property; or
- 2) there has been a significant change in neighborhood or community conditions affecting the site; or
- 3) a different zone district is more advantageous to the community as articulated by the Comprehensive Plan or other, applicable City plans.

Justification & Analysis

The zone change justification letter analyzed here, received on February 12, 2024 is a response to Staff's request for a revised justification (see attachment). The subject site is currently zoned R-ML (Residential Multi-family low density). The requested zone change from R-ML to MX-L would allow the owners to develop the lot for a coffee shop and community gathering space.

The applicant believes that the proposed zoning map amendment (zone change) meets the zone change decision criteria in IDO §14-16-6-7(G)(3) as elaborated in the justification letter. The citation is from the IDO. The applicant's arguments are in *italics*. Staff analysis follows in plain text.

- A. A proposed zone change must be found to be consistent with the health, safety, and general welfare of the City as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City.

Applicant: The subject property is completely located in an Area of Consistency. The proposed zone change is consistent with the health, safety, and general welfare of the City and would clearly reinforce and strengthen the established character of the surrounding Area of Consistency as shown by furthering and not being in conflict with the City's goals and policies as listed below.

Staff: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them.

Applicable citations: Goal 4.1 Character; Goal 5.2 Complete Communities; Policy 5.2.1 Land Uses; Goal 5.3 Efficient Development Patterns; Goal 5.6 City Development Areas; and Policy 5.6.3 Areas of Consistency.

Non-applicable citations: Goal 8.1 Placemaking; Policy 8.1.1 Diverse Places; Goal 8.2 Entrepreneurship; and Policy 8.2.1 Local Business.

The applicant's policy-based response adequately demonstrates that the request furthers a preponderance of applicable Goals and Policies in the ABC Comp Plan regarding Complete Communities, Efficient Development Patterns, and City Development Areas, and does not present any significant conflicts with the Comprehensive Plan. Therefore, the request is consistent with the City's health, safety, morals and general welfare. The response to Criterion A is sufficient.

- B. If the subject property is located partially or completely in an Area of Consistency (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant must also demonstrate that the existing zoning is inappropriate because it meets any of the following criteria:

1. There was typographical or clerical error when the existing zone district was applied to the property.
2. There has been a significant change in neighborhood or community conditions affecting the site.

3. A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

Applicant: While the subject site is located entirely in an Area of Consistency, the zone change will reinforce and strengthen the established character of the area and will not permit development that is significantly different from the character of the University Heights area. The existing zoning is inappropriate because it meets both criteria 2 and 3. There have been significant changes in the neighborhood with the Bricklight district, the Reimagine Harvard Drive project, the University Area MRA, and the recent mixed-use developments in the surrounding areas seeking to encourage development, employment, and a variety of housing options in the University Heights and surrounding neighborhoods. The MX-L zone will be more advantageous to the community as this will expand the permissive uses to encourage development while remaining consistent with the patterns of land use, development density and intensity, and connectivity as articulated by the Comprehensive Plan and the character of the University Heights area.

Staff: The subject site is located wholly in an Area of Consistency and the applicant has demonstrated that the new zone would clearly reinforce the character of the surrounding Area of Consistency and would not permit development that is significantly different from that character.

- C. If the proposed amendment is located wholly in an Area of Change (as shown in the ABC Comp Plan, as amended) and the applicant has demonstrated that the existing zoning is inappropriate because it meets at least one of the following criteria:
 1. There was typographical or clerical error when the existing zone district was applied to the property.
 2. There has been a significant change in neighborhood or community conditions affecting the site that justifies this request.
 3. A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

Applicant: The subject site is located entirely in an Area of Consistency.

Staff: The subject site is located wholly in an Area of Consistency, so this criterion does not apply. The response to Criterion C is sufficient.

- D. The zone change does not include permissive uses that would be harmful to adjacent property, the neighborhood, or the community, unless the Use-specific Standards in Section 16-16-4-3 associated with that use will adequately mitigate those harmful impacts.

Applicant: The requested MX-L zoning does include permissive uses that would be potentially harmful to adjacent properties, neighborhoods, or communities. However, any potential impact MX-L uses may have will be subject to Use-Specific standards (including those related to the adjacent religious institution) that will adequately mitigate those harmful impacts.

TABLE 2: Permissive Use Comparison: R-ML vs. MX-L		
Use	R-ML	MX-L
Dwelling, live-work	C	P
Dormitory	-	P
Group home, small and medium	C	P
Adult or child day care facility	C	P
High School	C	P
Museum	CV	P
Vocational school	-	P
General agriculture	-	P
Veterinary hospital and other pet services	-	P
Other indoor entertainment	-	P
Health club or gym	A	P
Mobile food truck court	-	P
Restaurant	-	P
Hotel or motel	-	P
Car wash	-	P
Light vehicle repair	-	P
Paid parking lot; parking structure	A	P
Bank	-	P
Club or event facility	-	P
Commercial services	-	P
Medical or dental clinic	-	P
Office; Personal and business services, small	-	P
Research or testing facility	-	P
Bakery goods or confectionery shop	-	P
Cannabis retail	-	P
Farmer's market	T	P
General retail, small; Grocery store	-	P
Artisan manufacturing	-	P
Cannabis cultivation; Cannabis-derived products manufacturing	-	P
Wireless Telecommunications Facility: Freestanding	-	P
Recycling drop-off bin facility	-	P

Table 2 provides a comparison of the permissive uses in the R-ML and MX-L zones. The uses that would be made permissive through the zone change to MX-L that could potentially be harmful include cannabis retail, cannabis cultivation, and cannabis-derived products

manufacturing. All three uses are subject to Use Specific Standards, which require the uses to be in a fully enclosed building. Cannabis retail requires a Conditional Use Approval if located within 600 feet of any other cannabis retail establishment, cannabis cultivation and cannabis-derive products manufacturing require a Conditional Use Approval if within 300 feet of a school or child day care facility. Conditional Use approvals require a public hearing process. Hotel, motel, and car wash are clearly not feasible at this location.

The subject property is adjacent to a religious institution. Adult Entertainment or Adult Retail, Methadone Centers, and Syringe Exchange Facilities are prohibited within 500 feet, 330 feet, and 500 feet respectively in any direction of a religious institution.

Staff: The applicant noted some of the newly-permissive uses allowed in MX-L Zoning that would potentially be harmful to adjacent properties and the neighborhood. They noted that potentially harmful impacts would be reduced by use-specific standards or would be prohibited because of proximity to residential uses or religious uses.

The applicant was incorrect in noting that General Agriculture would be permissive in MX-L Zoning; this use is prohibited in MX-L Zoning. Adult Retail is prohibited in MX-L Zoning. Liquor Retail is prohibited because the subject site is not located in any of the small areas where it is allowed as an accessory use to a grocery store [IDO 4-3(D)(39(e))].

The response to Criterion D is sufficient.

- E. The City's existing infrastructure and public improvements, including but not limited to its street, trail, and sidewalk systems, meet any of the following criteria:
1. Have adequate capacity to serve the development made possible by the change of zone.
 2. Will have adequate capacity based on improvements for which the City has already approved and budgeted capital funds during the next calendar year.
 3. Will have adequate capacity when the applicant fulfills its obligations under the IDO, the DPM, and/or an Infrastructure Improvements Agreement (IIA).
 4. Will have adequate capacity when the City and the applicant have fulfilled their respective obligations under a City-approved Development Agreement between the City and the applicant.

Applicant: Given its previous residential use and existing infrastructure, this zone change request meets Criteria #1. The City's existing infrastructure and public improvements have adequate capacity to serve the proposed development that would be made possible by the zone change. Central Avenue, Yale Boulevard, and Lead Avenue have transit services, Silver Avenue and Yale Boulevard have bike facilities, and the University Heights area has excellent road network connectivity. The sidewalks on Harvard Drive are adequately buffered from the street. The subject property has access to public utilities including water, sewer, and electric services.

Staff: The subject site is an infill site that is adequately served by existing infrastructure and public improvements. The response to Criterion E is sufficient.

- F. The applicant's justification for the requested zone change is not completely based on the property's location on a major street.

Applicant: This justification is not completely based on the property's location on a major street because Silver Avenue and Harvard Drive are not major streets. Rather, the justification for the proposed zone change is based on the advantages it will bring to the community by expanding the uses permissible on those properties to accommodate the type of developments desired by residents of the community.

Staff: The subject site is located at the southwest corner of Silver St. SE and Harvard Dr. SE, both of which are designated local streets. The applicant is not completely basing their justification upon the subject site's location on a major street because the location is only along local streets. Rather, the request to rezone the property from R-ML to MX-L is to facilitate future development of the property. The response to Criterion F is sufficient.

- G. The applicant's justification is not based completely or predominantly on the cost of land or economic considerations.

Applicant: The zone change request is not based completely or predominantly on the cost of land or other economic considerations but rather on the benefit offered by mixed-use developments in an area within walking distance to a MainStreet Corridor, on a bike boulevard, in walking distance to the Popejoy ART Station, multiple services and amenities, and in close proximity to CNM and UNM.

Staff: The applicant's justification is not based completely or predominantly on the cost of land or economic considerations. Rather, the applicant has adequately demonstrated that the request furthers a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City. The response to Criterion G is sufficient.

- H. The zone change does not apply a zone district different from surrounding zone districts to one small area or one premises (i.e., create a "spot zone") or to a strip of land along a street (i.e., create a "strip zone") unless the change will clearly facilitate implementation of the ABC Comp Plan, as amended, and at least one of the following applies:

1. The area of the zone change is different from surrounding land because it can function as a transition between adjacent zone districts.
2. The site is not suitable for the uses allowed in any adjacent zone district due to topography, traffic, or special adverse land uses nearby.
3. The nature of structures already on the premises makes it unsuitable for the uses allowed in any adjacent zone district.

Applicant: This request for a zone change from R-ML to MX-L does not create a spot zone on the subject property because the adjacent properties to the north and west of the subject property are also zoned MX-L.

Staff: The response to Criterion H is sufficient.

III. AGENCY & NEIGHBORHOOD CONCERNS

Reviewing Agencies

City departments and other agencies reviewed this application. Few agency comments were received. None of the responding agencies had any adverse comments. See page 26 for a list of comments.

Neighborhood/Public

The affected neighborhood organizations are the University Heights Neighborhood Association (NA) and the District 6 Coalition of Neighborhood Associations, which were notified as required. Property owners within 100 feet of the subject site were also notified as required (see attachments). An offer to hold a neighborhood meeting was emailed to the impacted neighborhoods and they held it on January 23, 2024.

Concerns expressed during the facilitated pre-application neighborhood meeting included commercial development south of Silver, vehicular traffic on Silver (a bike boulevard), the scale of the new building, and impacts if ownership changes. See facilitated meeting notes attached.

Staff is aware of two letters opposed to this request at the time of this report. Concerns expressed in these letters included: intrusion of commercial uses south of Silver into an area of low-density residential, increased auto traffic on Silver, and potential increases in vehicle-pedestrian-bicyclist conflicts.

IV. CONCLUSION

The request is for a zoning map amendment (zone change) for an approximately 0.34-acre site legally described as Lots 23,24, Block 2, University Heights Addition, located at 201 and 203 Harvard Ave. SE, between Silver St. SE, and Lead Ave. SE, (the “subject site”).

The applicant is requesting a zone change to MX-L (Non-residential Commercial Zone District) to facilitate future development of the property.

The applicant has adequately justified the request based upon the proposed zoning being more advantageous to the community than the current zoning because it would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character.

The affected neighborhood organizations are the University Heights Neighborhood Association and the District 6 Coalition of Neighborhood Associations, which were notified as required. Property owners within 100 feet of the subject site were also notified as required.

A pre-application neighborhood meeting was offered to the neighborhood associations and it was held January 23, 2024.

Staff recommends approval.

FINDINGS - RZ-2024-00014, May 18, 2023- Zoning Map Amendment (Zone Change)

1. The request is for a zoning map amendment (zone change) for an approximately 0.12-acre site legally described as Lots 23, 24, Block 2, University Heights Addition, located at 201 and 203 Harvard Ave. SE, between Silver St. SE and Lead Ave. SE, (the “subject site”).
2. The subject site is zoned R-ML (Residential- Single-family Zone District) and MX-L (Non-residential Commercial Zone District). The applicant is requesting a zone change from R-ML to MX-L to facilitate future development.
3. The subject site is in an area that the Comprehensive Plan designated an Area of Consistency and is not within a Comp Plan-designated Center or Corridor.
4. The City of Albuquerque Integrated Development Ordinance (IDO) and the Comprehensive Plan are incorporated herein by reference and made part of the record for all purposes.
5. The request furthers the following Goal in Chapter 4 Community Identity with respect to community identity.

A. Goal 4.1 Character: Enhance, protect, and preserve distinct communities.

The request would enhance, protect, and preserve the distinct community of the University Heights neighborhood. It would allow the development of low-intensity commercial (coffee shop) and civic (gathering space) uses that enhance the existing character and protect it from more intense development that would be appropriate north and west of the subject site.

6. The request furthers the following Goal, and policy in Chapter 5 Land use, with respect to complete communities.

A. Goal 5.2 Complete Communities: Foster communities where residents can live, work, learn, shop, and play together.

The request would foster a community where residents can live, work, learn, shop, and play together. Within a mile of the subject site are numerous uses such as parks and community centers, schools, and retail uses that create a complete community, as well as employment opportunities at the UNM and CNM.

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

The request for MX-L zoning would help create a healthy, sustainable, and distinct community with a mix of uses that are conveniently accessible from surrounding

neighborhoods. The proposed uses on the subject site would complement nearby uses and is easily accessible by walking, biking, transit and automobiles.

7. The request furthers the following Goal regarding efficient development patterns in Chapter 5 Land use:

Goal 5.3 Efficient Development Patterns: Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

The request would promote development patterns that maximize the utility of existing infrastructure by using existing infrastructure and public facilities, rather than having to develop infrastructure and facilities where they do not exist.

8. The request furthers the following Goal and policy regarding city development areas, and areas of consistency in Chapter 5 Land use:

- A. Goal 5.6 City Development Areas: Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development in and near Areas of Consistency reinforces the character and intensity of the surrounding area.

The subject site is located in an Area of Consistency, and changing it to mixed-use low density would reinforce the character of the surrounding commercial uses to the north as well as residential uses to the south and east.

- B. Policy 5.6.3 Areas of Consistency: Protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space.

The request would protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space. The subject site is not located in a Center or along a Corridor, but is near single-family neighborhoods, and parks.

10. The applicant has adequately justified the request pursuant to the Integrated Development Ordinance (IDO) Section 14-16-6-7(G)(3)-Review and Decision Criteria for Zoning Map Amendments, as follows:

- A. Criterion A: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them. The applicant's policy-based response demonstrates that the request clearly facilitates a preponderance of applicable Goals and policies regarding Complete Communities, Efficient Development Patterns, and City Development Areas. Therefore, the request is consistent with the City's health, safety, and general welfare.

- B. Criterion B: The subject site is located wholly in an Area of Consistency. The applicant's policy-based analysis (see response to Criterion A) demonstrates that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant has also demonstrated that the existing zoning is inappropriate because of criteria 2 and 3: there has been a significant change in neighborhood or community conditions affecting the site, and a different zone district is more advantageous to the community as articulated by the ABC Comp Plan, respectively.
- C. Criterion C: This criterion does not apply because the subject site is not located in an Area of Change, either wholly or in part.
- D. Criterion D: The applicant compared the existing R-ML zoning and the proposed MX-L zoning and discussed each use that would become permissive. Since the surrounding land to the north and west is zoned MX-L, the commercial uses that would become permissive would generally not be considered harmful in this setting.

The IDO has Use-Specific standards to mitigate the impacts of uses that could be considered harmful. Furthermore, permissive uses such as a methadone clinic and syringe exchange facility would not be allowed because of the proximity to a religious institution and residential uses.

- E. Criterion E: The subject site is adequately served by existing infrastructure, and rezoning it to MX-L would have only negligible impacts on the existing infrastructure and public facilities.
 - F. Criterion F: The subject site's location on a local street does not factor into the policy analysis. Rather, the request to rezone the property from R-ML to MX-L is to facilitate future development.
 - G. Criterion G: The applicant's justification is not based completely or predominantly on the cost of land or economic considerations. Rather, the applicant has justified the zone change request to allow future development for a coffee shop and community space.
 - H. Criterion H: The request would not result in a spot zone because properties to the north and west of the subject site are also designated MX-L zoning.
11. The applicant's policy-based response adequately demonstrates that the request furthers a preponderance of applicable Goals and policies regarding Complete Communities, Efficient Development Patterns, and City Development Areas, and does not present any significant conflicts with the Comprehensive Plan. Therefore, the request is consistent with the City's health, safety, morals, and general welfare.

12. The affected neighborhood organizations are the University Heights and District 6 Coalition of Neighborhood Associations, which were notified as required. Property owners within 100 feet of the subject site were also notified as required.
13. A pre-application meeting was requested and it was held January 23, 2024. Concerns expressed during the facilitated pre-application neighborhood meeting included commercial development south of Silver, vehicular traffic on Silver (a bike boulevard), the scale of the new building, and impacts if ownership changes, none of which impact the zone change.
14. As of this writing, Staff has received two letters of opposition, one from a member of the University Heights NA and another by an area resident, but and is unaware of any other opposition.

RECOMMENDATION - RZ-2024-00014, March 21, 2024

APPROVAL of Project #: 2024-009946, Case#: RZ-2024-00014, a zone change from R-ML to MX-L, for Lots 23, 24, Block 2, University Heights Addition, between Silver St. SE and Lead Ave. SE, an approximately 0.34-acre site, based on the preceding Findings.

Robert Messenger
Senior Planner

Notice of Decision cc list:

ACG Engineering and Construction Management, LLC, acgengineering@gmail.com
Consensus Planning, cp@consensusplanning.com
University Heights NA, Mandy Warr, mandy@theremedyspa.com
University Heights NA, Don Hancock, sricdon@earthlink.net
District 6 Coalition of NAs, Mandy Warr, mandy@theremedyspa.com
District 6 Coalition of NAs, Patricia Willson, info@willsonstudio.com
Legal, dking@cabq.gov
EPC file

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Enforcement

Long Range Planning

CITY ENGINEER

Transportation Development

PR- 2024-009946, RZ-2024-00014 Zoning Map Amendment

- Transportation has no objection to the Zoning Map Amendment for this item.

Hydrology Development

New Mexico Department of Transportation (NMDOT)

DEPARTMENT of MUNICIPAL DEVELOPMENT

Transportation Planning

Traffic Engineering Operations (Department of Municipal Development)

Street Maintenance (Department of Municipal Development)

RECOMMENDED CONDITIONS FROM THE CITY ENGINEER:

WATER UTILITY AUTHORITY

Project # PR-2024-009946 RZ-2024-00014
Zoning Map Amendment (Zone Change)

- 1. No objections to Zoning Map Amendment.**
- 2. For informational purposes only:**
 - 2a. Please make a Request for Availability to obtain conditions for service. For reference see the following link: <https://www.abcwua.org/info-for-builders-availability-statements/>**

Utility Services

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Open Space Division

City Forester

POLICE DEPARTMENT/Planning

SOLID WASTE MANAGEMENT DEPARTMENT

Project # PR-2024-009946 RZ-2024-00014– Zoning Map Amendment (Zone Change)---

Should the Zone Map Amendment be approved, a site plan to scale will have to be approved for access by the Solid Waste Department. The site plan can be sent to hgallegos@cabq.gov for review. The City of Albuquerque minimum requirements for a trash enclosure can be found using the following link:

<https://www.cabq.gov/solidwaste/documents/enclosurespecificationswordfont14.pdf>. A sanitary drain will also be required in the trash enclosure.

FIRE DEPARTMENT/Planning

TRANSIT DEPARTMENT

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

**ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY
(AMAFCA)**

Project # PR-2024-009946

**Tract 23 & 24, University Heights
Addition, located at 201 & 203 Harvard
Drive SE, between Silver Avenue SE,
and Lead Avenue SE**

K-16

RZ-2024-00014– Zoning Map Amendment (Zone Change)

- No adverse comments to the zone map change.

ALBUQUERQUE PUBLIC SCHOOLS

MID-REGION METROPOLITAN PLANNING ORGANIZATION (MRMPO)

PR-2024-009946

MRMPO has no adverse comments

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

PNM Comments

PR-2024-009946

There are PNM facilities and/or easements in the alley to the west of the site and along the Silver Avenue and Harvard Drive frontages.

It is the applicant's obligation to determine if existing utility easements or rights-of-way are located on or adjacent to the property and to abide by any conditions or terms of those easements.

Any existing easements may have to be revisited and/or new easements may need to be created for any electric facilities as determined by PNM. If existing electric lines or facilities need to be moved, then that is at the applicant's expense.

Any existing and/or new PNM easements and facilities need to be reflected on a future Site Plan and any future Plat.

Structures, especially those made of metal like storage buildings and canopies should not be within or near PNM easements without close coordination with and agreement from PNM.

Perimeter and interior landscape design should abide by any easement restrictions and not impact PNM facilities. Please adhere to the landscape standards contained in IDO Section 14-16-5-6(C)(10) as applicable.

The applicant should contact PNM's New Service Delivery Department as soon as possible to coordinate electric service regarding any proposed project. Submit a service application at <https://pnmnsd.powerclerk.com/MvcAccount/Login> for PNM to review.

If existing electric lines or facilities need to be moved, then that is at the applicant's expense. Please contact PNM as soon as possible at <https://pnmnsd.powerclerk.com/MvcAccount/Login> for PNM to review.

PHOTOGRAPHS - Existing Conditions



Figure 1: Looking S at subject site, 201 & 203 Harvard Dr. SE



Figure 2: Looking SW to subject site.



Figure 3: Looking north from subject site to Bricklight District.



Figure 4: Looking east from subject site to Peace & Justice Center.



Figure 5: Looking south from subject site to single-family residential.



Figure 6: Looking west to rear parking lot of 201 & 203 Harvard Dr. SE and church on Yale SE.

ZONING

Please refer to IDO Sections 14-16-2-3(E) for the R-ML Zone District
and 14-16-2-4(B) for the MX-L Zone District

CASE HISTORY



BOARD OF APPEALS AGENDA

Tuesday, November 27, 2007
9:00 A.M.

Plaza del Sol Hearing Room
Plaza del Sol Building – Lower Level
600 Second Street, NW

MEMBERS:

Mick McMahan, Chair
Judy Chreist, Vice-Chair
Steve R. Chavez
Kim Seidler

PLANNING STAFF:

Jon Messier, Senior Planner
Advance Planning Division
Phone: (505) 924-3888
Fax: (505) 924-3339

Nolean Smith, Administrative Assistant
Development Review Division
Phone: (505) 924-3662
Fax: (505) 924-3339

INDIVIDUALS WITH DISABILITIES who need special assistance to participate at this meeting should contact Nolean Smith, Planning Department, at (505) 924-3662.

1. **Call to Order.**

2. **Additions and/or changes to the agenda.**

- 07BOA-20014 – 07ZHE-80013, 07ZHE-80014, 07ZHE-80015 (Project #1006652) Don Hancock, agent for University Heights United Methodist Church, appeals the Zoning Hearing Examiner's denial of a special exception to University Neighborhood Sector Development Plan, page 70, DR. 4. a.: a **VARIANCE** of: a) 1,950 sq ft to the 5,000 sf lot size requirement for one existing structure; b) 10' to the 15' rear yard setback area requirement for an existing structure; c) 2 parking spaces to the 2 required parking space requirement, on all or a portion of Lot(s) 24, Block(s) 2, University Heights ADDN, zoned SU-2 DR and located at 201 HARVARD SE (K-16)

- 07BOA-20015 – 07ZHE-80016, 07ZHE-80017 & 07ZHE-80018 (Project #1006654) Don Hancock agent for University Heights Methodist Church, appeals the Zoning Hearing Examiner's denial of a special exception to University Neighborhood Sector Development Plan, page 70, DR. 4. a.: a **VARIANCE** of: a) 1,500 sq ft to the 5,000 sq ft lot size requirement for one existing structure; b) 10' to the 15' rear yard setback area requirement for an existing structure; and c) 2 parking spaces to the 2 required parking space requirement, on all or a portion Lot(s) 23, Block(s) 2, University Heights ADDN, zoned SU-2 DR and located at 203 HARVARD SE (K-16)

- 07BOA-20016/07ZHE-00480 (Project # 1005509)** Chris Smith, agent for Nob Hill Neighborhood Association appeals the Zoning Hearing Examiner's approval of a special exception to Section 14.16.2.6. (B). (14): a **VARIANCE** of a 2.5' to the 3' wall height allowance for a proposed 5' 10" wall in the front yard setback area on all or a portion of Lot(s) 3, Block(s) 36, University Heights ADDN, zoned R-1 and located at 406 DARTMOUTH DR SE (K-16).

- 07BOA-20017/07ZHE-00480 (Project # 1005509)** Richard Willson appeals the Zoning Hearing Examiner's approval of a special exception to Section 14.16.2.6. (B). (14): a **VARIANCE** of a 2.5' to the 3' wall height allowance for a proposed 5' 10" wall in the front yard setback area on all or a portion of Lot(s) 3, Block(s) 36, University Heights ADDN, zoned R-1 and located at 406 DARTMOUTH DR SE (K-16).

7. **Other Matters.**

- a. Approval of of October 23, 2007 Minutes.
- b. Discussion of 2008 Hearing Calendar dates

8. **Adjourn.**

**Don Hancock
324-B Harvard, SE
Albuquerque, NM 87106
(505) 262-1862**

August 28, 2007

Roberto Albertorio, Esq.
Zoning Hearing Examiner
P.O. Box 1293
Albuquerque, NM 87103

**Re: Application Nos. 07ZHE-80013, 07ZHE-80014, 07ZHE-80015, 07ZHE-80016,
07ZHE-800137 and 07ZHE-80018 (Project # 1006652 and # 1006654) –
201 and 203 Harvard, SE**

Dear Mr. Albertorio:

As you directed at the hearing on these variance requests on August 21, as agent for University Heights United Methodist Church, I am providing this written response to the letter of Mr. John Humbach, dated August 14, 2007.

The variances are fully justified under the City Zoning Ordinance and University Neighborhoods Sector Development Plan. The variances would also maintain the existing uses of a house on each lot and church parking, while the options proposed by Mr. Humbach are not workable, as will be discussed.

As stated in the first paragraph of his letter, Mr. Humbach's "interest in this matter is to preserve both the character of the neighborhood and the value and enjoyment of our own property. Both could be adversely affected if neighboring lots were re-configured so they are out of harmony with the other residential properties in the vicinity and less attractive to buyers, and hence less valuable."

However, there is no "reconfiguring" proposed by the request for variances. Approval of the variances would leave the physical conditions on the lots as they have been for more than 40 years. That "configuration" has been in place long before Mr. Humbach bought his property from the Church in 1991, and he has not shown any hardship from the existing situation. Thus, Mr. Humbach's major concern has been addressed by the variance requests.

Another apparent misconception is that the two subject properties are "Residential Lots," as Mr. Humbach states. As detailed in the Church applications, Block 2, Lots 23 and 24, are zoned and used as SU-1 for Church parking for the majority of the lot area and zoned and used for a single-family house on the easternmost 3,050 square feet of Lot 24 (201 Harvard) and for a single-family house on the easternmost 3,500 square feet of Lot 23 (203 Harvard). As part of the Church's parking lot, it has provided parking spaces for the two houses.

As stated in the applications, the two lots are exceptional – and unique – in that they are the only two lots in the University Neighborhoods Sector Plan Area with that zoning and use configuration. No place in Mr. Humbach's letter does he provide any evidence to the contrary.

It is agreed that each of the two lots is 50 feet wide and 142 feet deep, as are most lots in the University Heights neighborhood. But Mr. Humbach's statement that the only exceptionality is "that the applicant has paved over portions of them" (page 2) ignores the fact that the paving was required and approved by the City in 1966 when the paving was done so that the SU-1 portions of the lots meet parking lot requirements. The two houses have had no backyards for more than 40 years, so that the properties are not "essentially just like the rear yards of other residences on the block." (Page 2). The other residences on the block do have rear yards, and they do not have paved parking lots for church parking.

Mr. Humbach states that "the amount of requested variances is great." (Page 4). The lot size variances are exactly what is required to provide the minimum lot size for a house under the University Neighborhoods Sector Development Plan. Page 70, paragraph 4.a. The Sector Plan provides that 1,500 square feet is required for a dwelling unit. Page 71, paragraph 6.a.(2). So no lot size variances would be required for two dwelling units, it is the house on each lot that necessitates the lot size variances. The rear setback variances also conform to the zoning. The parking variances will provide the two parking spaces per house to meet the Sector Plan's requirements, but the parking spaces are adjacent to, but not on, the replatted house lots.

Mr. Humbach also states that the applicant has no "unnecessary hardship." (Page 5). The Church's applications state that not providing the lot size variances produces an unnecessary hardship by making it difficult to sell the houses because of the substandard house lot size and the need for the rear setback and parking variances.

Mr. Humbach's proposed alternatives further show how the requested variances do prevent the unnecessary hardship, because Mr. Humbach's options would create even greater hardships.

Mr. Humbach suggests that the "logical way" to address the problem is to "adjust the zoning boundary westwards." (Page 3). Mr. Humbach does not discuss the justification for such a zone change from SU-1 to DR. The zoning was not adopted in error, and it has since been approved twice by the City Council in 1978 and 1986 in adopting the University Neighborhoods Sector Development Plan.

Moreover, a zone change could create additional hardship. The Church did consider the zone change option, and discussed it with Mr. Russell Brito of the City Planning Department before filing the applications for variances. Mr. Brito suggested that the variances were the best way to proceed. As requested by Mr. Albertorio at the August 21 hearing, I had a more extensive conversation with Mr. Brito on August 23, and he reconfirms his belief that a zone change would create a "domino effect" of other problems and that the properties are exceptional and that the variances are the best way to proceed. A zone change would apparently leave the Church with a parking deficit, which could require a parking variance for the Church or for the Church to acquire some other parking.

In addition, the zone change could create a hardship for the Harvard Mall, because since 1980 its parking variance has required a contract with the Church to provide off-site parking, including on Lots 23 and 24. (That ZHE decision, ZA-80-291, and the City Council decision upholding that decision, AC-81-2, were provided at the August 21 hearing. The property manager for the properties having the parking contract supports the variance requests, and a letter to that effect was also provided at the August 21 hearing.)

Mr. Humbach also suggests another "workable" option, and he devotes more than three pages of his letter to those ideas. The Church has considered those options, but apparently I did not adequately explain the difficulties, which have been described above, in my discussions with Mr. Humbach. Mr. Humbach's "limited variance option" would have "a limited variance for lot size, provided that the parking and setback variances are denied or withdrawn." (Page 6). That option would almost certainly create an additional problem in which the house at 203 Harvard would have two parking spaces but no access to the spaces, since access would be only through the church parking lot or through 201 Harvard's "rear yard." Thus, the Church, or 201 Harvard, or both, would have to provide some guaranteed access to the parking spaces at 203 Harvard. The "fee-simple" solution would not provide such a guarantee. The house at 203 Harvard currently has and uses access to the parking spaces either through the curb cut on Silver, or through the Church parking lot. The Silver curb cut would provide access only to 201 Harvard's "rear yard" under Mr. Humbach's option. Thus, Mr. Humbach's option would apparently require not only house lot size variances, but a zone change from SU-1 to DR, likely a parking variance for the Church, perhaps a parking variance for Harvard Mall, and some legal access agreements to run with 201 Harvard and 203 Harvard after the lots were replatted to the "reconfiguration" that Mr. Humbach suggests.

The Church fully recognizes that two parking spaces per house and access to those parking spaces must be provided to 201 Harvard and 203 Harvard. The Church will do so, in a legally satisfactory manner. As stated at the hearing on August 21, the Church agrees that such guaranteed parking would be provided in at least two ways. First, the parking variance would be conditioned on such a legal guarantee, as requested by the University Heights Association, in its letter submitted at the August 21 hearing. Second, after the lots are replatted, and as part of any sale of the house lots, there would be an easement, deed covenant, or other legal instrument provided for each replatted house lot.

To try to clarify another apparent point of confusion, attached is the City's aerial view of the two properties showing the existing zoning lines, as provided by City Planning. Mr. Humbach states that "there is the question of where the actual boundary lies" between the DR and SU-1 zones. (Page 8). The zoning physically conforms to the house properties - at 201 Harvard, a sidewalk on the property runs north from near the back door to the sidewalk along Silver and at 203 Harvard, the cement landing outside the rear door extends five feet from the house. Those physical characteristics also are consistent with the 1966 parking lot paving which extended 72 feet from the alley at 203 Harvard and 81 feet from the alley at 201 Harvard.

The Church appreciates the concerns of Mr. Humbach (and Mr. Craig Olson, who appeared at the hearing on August 21). We hope that the explanations provided in the application, at the hearing, and in this letter address the concerns.

The Church continues to request approval of the variances because the properties are exceptional, the variances address the unnecessary hardship and appropriately prevent the unnecessary hardship. Based on conversations with realtors and potential buyers for the houses, if the variances are approved, and the lots are replatted, the house lots are attractive to buyers and would sell at values that would not make adjoining properties less valuable.

Thank you very much for your consideration of these variance requests.

Sincerely,

/s/

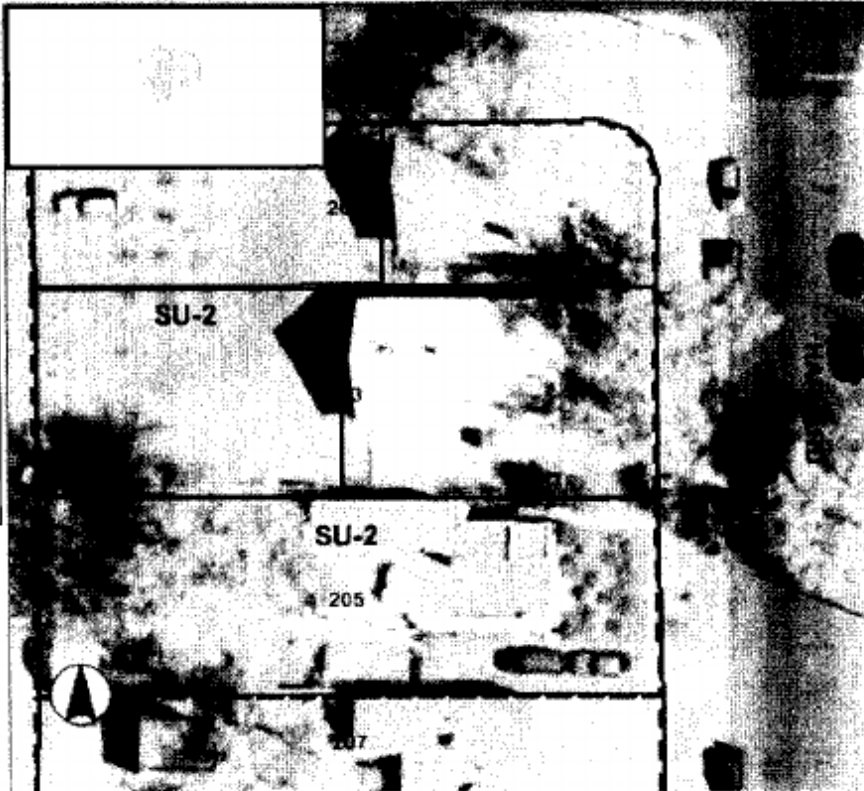
Don Hancock

cc: John Humbach
Craig Olson



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Planning and Zoning GIS Data



- LAYERS**
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 - 1999 AIR PHOTO

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ZONE GRID
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CONTACT

REFRESH

HELP

INDEX PAGE

**Board of Appeals
SIGN-IN SHEET**

AGENDA ITEM NO: 3

DATE: November 27, 2007

APPLICANT/AGENT: University Heights United Methodist Church – Don Hancock

CASE #: 07BOA-200014

PLEASE PRINT CLEARLY

1. Name: <u>Don Hancock</u> Address: <u>324-B Manual, SE</u> <u>87106</u>	8. Name: _____ Address: _____
2. Name: _____ Address: _____	9. Name: _____ Address: _____
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6. Name: _____ Address: _____	13. Name: _____ Address: _____
7. Name: _____ Address: _____	14. Name: _____ Address: _____

File

**Don Hancock
324-B Harvard, SE
Albuquerque, NM 87106
(505) 262-1862**

August 28, 2007

Roberto Albertorio, Esq.
Zoning Hearing Examiner
P.O. Box 1293
Albuquerque, NM 87103

**Re: Application Nos. 07ZHE-80013, 07ZHE-80014, 07ZHE-80015, 07ZHE-80016,
07ZHE-800137 and 07ZHE-80018 (Project # 1006652 and # 1006654) –
201 and 203 Harvard, SE**

Dear Mr. Albertorio:

As you directed at the hearing on these variance requests on August 21, as agent for University Heights United Methodist Church, I am providing this written response to the letter of Mr. John Humbach, dated August 14, 2007.

The variances are fully justified under the City Zoning Ordinance and University Neighborhoods Sector Development Plan. The variances would also maintain the existing uses of a house on each lot and church parking, while the options proposed by Mr. Humbach are not workable, as will be discussed.

As stated in the first paragraph of his letter, Mr. Humbach's "interest in this matter is to preserve both the character of the neighborhood and the value and enjoyment of our own property. Both could be adversely affected if neighboring lots were re-configured so they are out of harmony with the other residential properties in the vicinity and less attractive to buyers, and hence less valuable."

However, there is no "reconfiguring" proposed by the request for variances. Approval of the variances would leave the physical conditions on the lots as they have been for more than 40 years. That "configuration" has been in place long before Mr. Humbach bought his property from the Church in 1991, and he has not shown any hardship from the existing situation. Thus, Mr. Humbach's major concern has been addressed by the variance requests.

Another apparent misconception is that the two subject properties are "Residential Lots," as Mr. Humbach states. As detailed in the Church applications, Block 2, Lots 23 and 24, are zoned and used as SU-1 for Church parking for the majority of the lot area and zoned and used for a single-family house on the easternmost 3,050 square feet of Lot 24 (201 Harvard) and for a single-family house on the easternmost 3,500 square feet of Lot 23 (203 Harvard). As part of the Church's parking lot, it has provided parking spaces for the two houses.

As stated in the applications, the two lots are exceptional – and unique – in that they are the only two lots in the University Neighborhoods Sector Plan Area with that zoning and use configuration. No place in Mr. Humbach's letter does he provide any evidence to the contrary.

It is agreed that each of the two lots is 50 feet wide and 142 feet deep, as are most lots in the University Heights neighborhood. But Mr. Humbach's statement that the only exceptionality is "that the applicant has paved over portions of them" (page 2) ignores the fact that the paving was required and approved by the City in 1966 when the paving was done so that the SU-1 portions of the lots meet parking lot requirements. The two houses have had no backyards for more than 40 years, so that the properties are not "essentially just like the rear yards of other residences on the block." (Page 2). The other residences on the block do have rear yards, and they do not have paved parking lots for church parking.

Mr. Humbach states that "the amount of requested variances is great." (Page 4). The lot size variances are exactly what is required to provide the minimum lot size for a house under the University Neighborhoods Sector Development Plan. Page 70, paragraph 4.a. The Sector Plan provides that 1,500 square feet is required for a dwelling unit. Page 71, paragraph 6.a.(2). So no lot size variances would be required for two dwelling units, it is the house on each lot that necessitates the lot size variances. The rear setback variances also conform to the zoning. The parking variances will provide the two parking spaces per house to meet the Sector Plan's requirements, but the parking spaces are adjacent to, but not on, the replatted house lots.

Mr. Humbach also states that the applicant has no "unnecessary hardship." (Page 5). The Church's applications state that not providing the lot size variances produces an unnecessary hardship by making it difficult to sell the houses because of the substandard house lot size and the need for the rear setback and parking variances.

Mr. Humbach's proposed alternatives further show how the requested variances do prevent the unnecessary hardship, because Mr. Humbach's options would create even greater hardships.

Mr. Humbach suggests that the "logical way" to address the problem is to "adjust the zoning boundary westwards." (Page 3). Mr. Humbach does not discuss the justification for such a zone change from SU-1 to DR. The zoning was not adopted in error, and it has since been approved twice by the City Council in 1978 and 1986 in adopting the University Neighborhoods Sector Development Plan.

Moreover, a zone change could create additional hardship. The Church did consider the zone change option, and discussed it with Mr. Russell Brito of the City Planning Department before filing the applications for variances. Mr. Brito suggested that the variances were the best way to proceed. As requested by Mr. Albertorio at the August 21 hearing, I had a more extensive conversation with Mr. Brito on August 23, and he reconfirms his belief that a zone change would create a "domino effect" of other problems and that the properties are exceptional and that the variances are the best way to proceed. A zone change would apparently leave the Church with a parking deficit, which could require a parking variance for the Church or for the Church to acquire some other parking.

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The Church appreciates the concerns of Mr. Humbach (and Mr. Craig Olson, who appeared at the hearing on August 21). We hope that the explanations provided in the application, at the hearing, and in this letter address the concerns.

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Thank you very much for your consideration of these variance requests.

Sincerely,

/s/

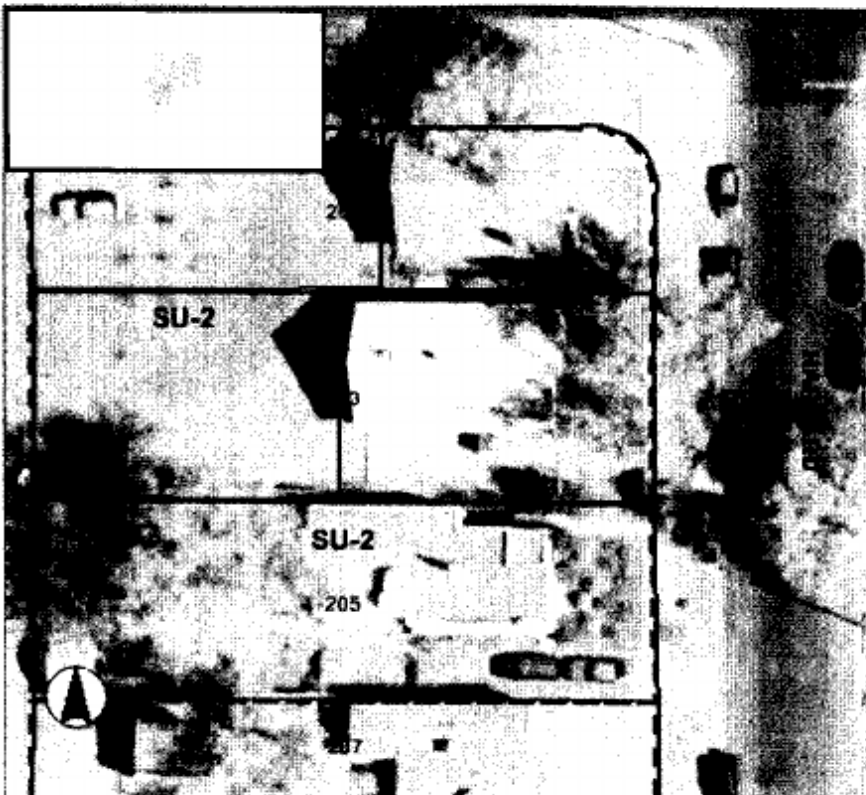
Don Hancock

cc: John Humbach
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 CONTACT

Findings (for Item 3):

§ 4

1. A variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all *reasonable* beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for variances of 1,950 square feet to the 5,000 square-foot lot size requirement, and two parking spaces to the two-space parking requirement. These variances will allow the division of one lot into two separate lots: (1) a lot with an existing residence, which, with a total of 3,050 square feet, will consist of less than the 5,000 square-foot minimum required by the zoning district, and will have no on-site parking; and (2) a second lot which will provide continued parking, both for the applicant and for the residential lot.
4. The first test which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the current split-zoning of the existing lot, which is a unique circumstance in that there are no other split-zoned properties within the larger neighborhood, and on the existence of both a single-family house and a church parking lot on the parcel.
6. Variances are permitted only when it has been determined that the property is exceptional based on the physical characteristics of the land, conditions or use of the parcel, or irregularity in shape.
7. Multiple zoning of a parcel is not included in any of the listed bases for a determination of exceptionality.
8. Use of a portion of property for parking is a common occurrence, and the use of a portion of this property for parking does not support a determination of exceptionality. Whether this parking is used for residential, church, or some other use is not significant in determining such exceptionality.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. If it can be determined that there is exceptionality, the second test which must be met is to find that as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship ^{that} creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of his property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.

Add Ms.
Christina Langston
to this list

12. The applicant states that the exceptionality of the parcel results in an unnecessary hardship, in that without the requested variance, the properties apparently cannot be sold because of the substandard lot size and the need for rear and parking variances.
13. Other than the applicant's statement to this effect, the record includes no evidence of the impossibility of such a sale.
14. Whether the properties are conveyed to a new owner or not, they may continue to be used as they are today. The record includes no evidence that a failure to approve the requested variance would create an exceptional, substantial, and unjustified limitation on the reasonable use of this property.
15. The record includes no evidence that the owner is being deprived of a reasonable return on the property under the existing use.
16. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.
17. The decision of the Zoning Hearing Examiner is supported by the record and by the controlling provisions of the Zoning Code.
18. The Zoning Hearing Examiner correctly applied City ordinances in arriving at his decision.

Findings for Item 4: Same as above with substitute Finding #3:

3. The request is for variances of 1,500 square feet to the 5,000 square-foot lot size requirement, 10 feet to the required 15-foot rear yard setback, and two parking spaces to the two-space parking requirement. These variances will allow the division of one lot into two separate lots: (1) a lot with an existing residence, which, with a total of 3,500 square feet, will consist of less than the 5,000 square-foot minimum required by the zoning district, will have a reduced rear-yard setback, and will have no on-site parking; and (2) a second lot which will provide continued parking, both for the applicant and for the residential lot.

Items 3 and 4 (University Heights United Methodist Church)

VR Decision - no course

explain attachment + a/c

Applicant:

- ~~1~~
~~2~~ Explain how the split-zoning of these lots warrants a finding of exceptionality. Did church own property at time lots were split-zoned? How did lots come to be split-zoned?
- ~~3~~ p. 4 and p. 78 – “the physical characteristics existed at the time of the creation of that DR zoning, and the City paid no compensation to the church.” What do you mean by that? (Referring to exceptionality code provision?) Wasn't the split-zoning intended to accommodate the church's need for parking?
- ~~4~~
~~5~~ p. 4 – how is a 3,500 sf lot a permissive use?
- ~~6~~ p. 79 – why cannot be sold? How do you know? Has a sale been attempted?
- ~~7~~ How does not being able to sell houses constitute a hardship as defined in code?
- ~~8~~ Will replatted lots correspond to existing zoning demarcation?
- ~~9~~ pp. 5 & 6 – Hardship because lot couldn't be sold, as it would not comply with some zoning requirements. Couldn't lots be offered for sale right now as is? (require easement for church parking?) No change to existing physical circumstances, and no VR necessary.
- ~~10~~ Wouldn't it be just as hard to sell the reconfigured lots? They still won't meet standards.
- ~~11~~ P.79 – you refer to uncontested evidence regarding unnecessary hardship that limits ability to sell the houses. Where in record is this uncontested evidence?
- ~~12~~ Why is split-zoning of lots a problem? How would a zone change help your situation, if it could be accomplished? What sort of zone change? Why change zone at all?
- ~~13~~ pp. 38 & 49 – mention that Mr. Brito advised you to apply for VR, and not for a zone change. P. 56 – ZHE quote. Did Mr. Brito and/or Sharan Matson indicate the potential difficulties in gaining approval of a variance?
- ~~14~~ p. 39 – reference to missing attachment. *explain attachment*
- ~~15~~ p. 78 – “which clearly establishes exceptionality...” Why physical circumstances? Why use?

Staff:

1. Where in code is DR? How does it relate to this issue?
2. If VR is approved and lots are split allowing owner to sell residential portion, what is principal use of remaining lot? Is parking an authorized principal use in SD-1 or SD-2?

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Items 3 and 4 (University Heights United Methodist Church)

Applicant:

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2. Did church own property at time lots were split-zoned? How did lots come to be split-zoned?
3. p. 4 and p. 78 – “the physical characteristics existed at the time of the creation of that DR zoning, and the City paid no compensation to the church.” What do you mean by that? (Referring to exceptionality code provision?) Wasn't the split-zoning intended to accommodate the church's need for parking?
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1. Where in code is DR? How does it relate to this issue?
2. If VR is approved and lots are split allowing owner to sell residential portion, what is principal use of remaining lot? Is parking an authorized principal use in SD-1 or SD-2?

Findings (for Item 3):

1. A variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for variances of 1,950 square feet to the 5,000 square-foot lot size requirement, and two parking spaces to the two-space parking requirement. These variances will allow the division of one lot into two separate lots: (1) a lot with an existing residence, which, with a total of 3,050 square feet, will consist of less than the 5,000 square-foot minimum required by the zoning district, and will have no on-site parking; and (2) a second lot which will provide continued parking, both for the applicant and for the residential lot.
4. The first test which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the current split-zoning of the existing lot, which is a unique circumstance in that there are no other split-zoned properties within the larger neighborhood, and on the existence of both a single-family house and a church parking lot on the parcel.
6. Variances are permitted only when it has been determined that the property is exceptional based on the physical characteristics of the land, conditions or use of the parcel, or irregularity in shape.
7. Multiple zoning of a parcel is not included in any of the listed bases for a determination of exceptionality.
8. Use of a portion of property for parking is a common occurrence, and the use of a portion of this property for parking does not support a determination of exceptionality. Whether this parking is used for residential, church, or some other use is not significant in determining such exceptionality.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. If it can be determined that there is exceptionality, the second test which must be met is to find that as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship the creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of his property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.

Planning Department
Richard Dineen, Director
Development Review Division
600 2nd Street NW - 3rd Floor
Albuquerque, NM 87102



CITY OF ALBUQUERQUE BOARD OF APPEALS (AMENDED) NOTIFICATION OF DECISION

Chris Smith, agent for Nob Hill Neighborhood Association appeals the Zoning Hearing Examiner's approval of a special exception to Section 14.16.2.6. (B). (14): a VARIANCE of a 2.5' to the 3' wall height allowance for a proposed 5' 10" wall in the front yard setback area on all or a portion of Lot(s) 3, Block(s) 36, University Heights ADDN, zoned R-1 and located at 408 DARTMOUTH DR SE (K-16).

Appeal No:.....07BOA-20016
Special Exception No:.....07ZHE-00480
Project No:.....1005509
Hearing Date:.....11/27/07
Decision Date:.....11/27/07

In the matter of 07BOA-20016, the Board of Appeals voted to **AFFIRM** the Appeal thereby overturning the Zoning Hearing Examiner's decision based upon the following Findings:

FINDINGS:

1. A variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for a variance of 2.5 feet to the 3-foot wall height allowance for an existing 5' 10" wall in the front setback area.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the slope of the lot, and has testified that in contrast to all of the other properties in the neighborhood, which except for the next-door property are flat, this property slopes down about 12 inches toward the front.
6. The Zoning Hearing Examiner has stated that photos taken during a site inspection indicate that the property is fairly level.
7. The slope of the property is the only circumstance mentioned by the applicant in support of the variance.
8. Other than the applicant's testimony, the record includes no evidence that the appellant's property is sloped differently than other properties in the neighborhood.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. Before a variance can be approved, it must further be found that an unnecessary hardship is produced as a result of the exceptional aspect of the property. This hardship must result in either the creation of an exceptional, substantial, and unjustified limitation on the property owner's reasonable use of his property or deprive the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The Zoning Hearing Examiner has found that as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The Notification of Decision, however, includes no information on the substantial evidence in the record to support that finding.
13. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.

P.O. Box 1293

Albuquerque

New Mexico 87103

www.ciabq.gov

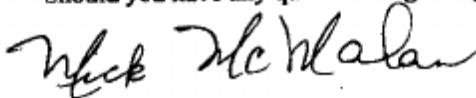
14. The decision of the Zoning Hearing Examiner is not supported by the record or by the controlling provisions of the Zoning Code.
15. The Zoning Hearing Examiner incorrectly applied City ordinances in arriving at his decision.
16. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of exceptionality.
17. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of unnecessary hardship.
18. Because the record includes no evidence of exceptionality or hardship, and absent such explanation in his Notification of Decision, the Board can only conclude that the Zoning Hearing Examiner acted arbitrarily in approving this application.

If you wish to appeal this decision, you must do so by **December 12, 2007**, in the manner described below. A non-refundable filing fee will be calculated at the Land Development Coordination counter and is required at the time the appeal is filed.

APPEAL TO THE CITY COUNCIL: Any person aggrieved with any determination of the Board of Appeals acting under this ordinance may file an appeal to the City Council by submitting written application on the Planning Department form to the Planning Department within 15 days of the Board of Appeals decision. The date the determination in question is issued is not included in the 15-day period for filing an appeal, and if the fifteenth day falls on Saturday, Sunday or holiday as listed in the Merit System Ordinance, the next working day is considered as the deadline for the filing of the appeal.

The City Council may decline to hear the appeal if it finds that all City plans, policies and ordinances have been properly followed. If it decides that all City plans, policies, and ordinances have not been properly followed, it shall hear the appeal. Such an appeal, if heard, shall be opened within 60 days of the expiration of the appeal period.

Should you have any questions regarding this action, please call me at 924-3860.



Mick McMahan, Chair
Board of Appeals

cc: Grover Mann, 7724 Vista Del Arroyo NE, 87109
Richard and Patricia Wilson, 505 Dartmouth DR SE, 87106
J. Stace McGee, stace@edi-arch.com
Board of Appeals Members (5)
Jon Messier, COA/Planning Department
Mark Shoensmith, COA/Legal Department
Roberto Albertorio, ZHE, Office of Administrative Hearings, 7th Floor First Plaza Galeria, Ste #735
Zoning Enforcement Division
ZHE File



CITY OF ALBUQUERQUE BOARD OF APPEALS (AMENDED) NOTIFICATION OF DECISION

Chris Smith, agent for Nob Hill Neighborhood Association appeals the Zoning Hearing Examiner's approval of a special exception to Section 14.16.2.6. (B). (14): a VARIANCE of a 2.5' to the 3' wall height allowance for a proposed 5' 10" wall in the front yard setback area on all or a portion of Lot(s) 3, Block(s) 36, University Heights ADDN, zoned R-1 and located at 406 DARTMOUTH DR SE (K-16).

Appeal No:..... 07BOA-20016
Special Exception No:..... 07ZHE-00480
Project No:..... 1005509
Hearing Date:..... 11/27/07
Decision Date:..... 11/27/07

In the matter of 07BOA-20016, the Board of Appeals voted to **AFFIRM** the Appeal thereby overturning the Zoning Hearing Examiner's decision based upon the following Findings:

FINDINGS:

1. A variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for a variance of 2.5 feet to the 3-foot wall height allowance for an existing 5' 10" wall in the front setback area.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the slope of the lot, and has testified that in contrast to all of the other properties in the neighborhood, which except for the next-door property are flat, this property slopes down about 12 inches toward the front.
6. The Zoning Hearing Examiner has stated that photos taken during a site inspection indicate that the property is fairly level.
7. The slope of the property is the only circumstance mentioned by the applicant in support of the variance.
8. Other than the applicant's testimony, the record includes no evidence that the appellant's property is sloped differently than other properties in the neighborhood.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. Before a variance can be approved, it must further be found that an unnecessary hardship is produced as a result of the exceptional aspect of the property. This hardship must result in either the creation of an exceptional, substantial, and unjustified limitation on the property owner's reasonable use of his property or deprive the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The Zoning Hearing Examiner has found that as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The Notification of Decision, however, includes no information on the substantial evidence in the record to support that finding.
13. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.

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14. The decision of the Zoning Hearing Examiner is not supported by the record or by the controlling provisions of the Zoning Code.
15. The Zoning Hearing Examiner incorrectly applied City ordinances in arriving at his decision.
16. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of exceptionality.
17. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of unnecessary hardship.
18. Because the record includes no evidence of exceptionality or hardship, and absent such explanation in his Notification of Decision, the Board can only conclude that the Zoning Hearing Examiner acted arbitrarily in approving this application.

If you wish to appeal this decision, you must do so by **December 12, 2007**, in the manner described below. A non-refundable filing fee will be calculated at the Land Development Coordination counter and is required at the time the appeal is filed.

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The City Council may decline to hear the appeal if it finds that all City plans, policies and ordinances have been properly followed. If it decides that all City plans, policies, and ordinances have not been properly followed, it shall hear the appeal. Such an appeal, if heard, shall be opened within 60 days of the expiration of the appeal period.

Should you have any questions regarding this action, please call me at 924-3860.



Mick McMahan, Chair
Board of Appeals

cc: Grover Mann, 7724 Vista Del Arroyo NE, 87109
Richard and Patricia Wilson, 505 Dartmouth DR SE, 87106
J. Stace McGee, stace@edi-arch.com
Board of Appeals Members (5)
Jon Messier, COA/Planning Department
Mark Shoemith, COA/Legal Department
Roberto Albertorio, ZHE, Office of Administrative Hearings, 7th Floor First Plaza Galeria, Ste #735
Zoning Enforcement Division
ZHE File

**CITY OF ALBUQUERQUE
BOARD OF APPEALS
(AMENDED) NOTIFICATION OF DECISION**

Chris Smith, agent for Nob Hill Neighborhood Association appeals the Zoning Hearing Examiner's approval of a special exception to Section 14.16.2.6. (B). (14): a **VARIANCE** of a 2.5' to the 3' wall height allowance for a proposed 5' 10" wall in the front yard setback area on all or a portion of Lot(s) 3, Block(s) 36, University Heights ADDN, zoned R-1 and located at 406 DARTMOUTH DR SE (K-16).

Appeal No:..... 07BOA-20016
Special Exception No:..... 07ZHE-00480
Project No:..... 1005509
Hearing Date:..... 11/27/07
Decision Date:..... 11/27/07

In the matter of 07BOA-20016, the Board of Appeals voted to **AFFIRM** the Appeal thereby overturning the Zoning Hearing Examiner's decision based upon the following Findings:

FINDINGS:

1. A variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for a variance of 2.5 feet to the 3-foot wall height allowance for an existing 5' 10" wall in the front setback area.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the slope of the lot, and has testified that in contrast to all of the other properties in the neighborhood, which except for the next-door property are flat, this property slopes down about 12 inches toward the front.
6. The Zoning Hearing Examiner has stated that photos taken during a site inspection indicate that the property is fairly level.
7. The slope of the property is the only circumstance mentioned by the applicant in support of the variance.
8. Other than the applicant's testimony, the record includes no evidence that the appellant's property is sloped differently than other properties in the neighborhood.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. Before a variance can be approved, it must further be found that an unnecessary hardship is produced as a result of the exceptional aspect of the property. This hardship must result in either the creation of an exceptional, substantial, and unjustified limitation on the property owner's reasonable use of his property or deprive the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The Zoning Hearing Examiner has found that as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The Notification of Decision, however, includes no information on the substantial evidence in the record to support that finding.
13. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.

14. The decision of the Zoning Hearing Examiner is not supported by the record or by the controlling provisions of the Zoning Code.
15. The Zoning Hearing Examiner incorrectly applied City ordinances in arriving at his decision.
16. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of exceptionality.
17. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of unnecessary hardship.
18. Because the record includes no evidence of exceptionality or hardship, and absent such explanation in his Notification of Decision, the Board can only conclude that the Zoning Hearing Examiner acted arbitrarily in approving this application.

If you wish to appeal this decision, you must do so by **December 12, 2007**, in the manner described below. A non-refundable filing fee will be calculated at the Land Development Coordination counter and is required at the time the appeal is filed.

APPEAL TO THE CITY COUNCIL: Any person aggrieved with any determination of the Board of Appeals acting under this ordinance may file an appeal to the City Council by submitting written application on the Planning Department form to the Planning Department within 15 days of the Board of Appeals decision. The date the determination in question is issued is not included in the 15-day period for filing an appeal, and if the fifteenth day falls on Saturday, Sunday or holiday as listed in the Merit System Ordinance, the next working day is considered as the deadline for the filing of the appeal.

The City Council may decline to hear the appeal if it finds that all City plans, policies and ordinances have been properly followed. If it decides that all City plans, policies, and ordinances have not been properly followed, it shall hear the appeal. Such an appeal, if heard, shall be opened within 60 days of the expiration of the appeal period.

Should you have any questions regarding this action, please call me at 924-3860.



Mick McMahan, Chair
Board of Appeals

cc: Grover Mann, 7724 Vista Del Arroyo NE, 87109
Richard and Patricia Wilson, 505 Danmouth DR SE, 87106
J. Stace McGee, stace@edi-arch.com
Board of Appeals Members (5)
Jon Messier, COA/Planning Department
Mark Shoemith, COA/Legal Department
Roberto Albertorio, ZHE, Office of Administrative Hearings, 7th Floor First Plaza Galeria, Ste #735
Zoning Enforcement Division
ZHE File



CITY OF ALBUQUERQUE BOARD OF APPEALS (AMENDED) NOTIFICATION OF DECISION

Richard Willson appeals the Zoning Hearing Examiner's approval of a special exception to Section 14.16.2.6. (B). (14).: a **VARIANCE** of a 2.5' to the 3' wall height allowance for a proposed 5' 10" wall in the front yard setback area on all or a portion of Lot(s) 3, Block(s) 36, University Heights ADDN, zoned R-1 and located at 406 DARTMOUTH DR SE (K-16).

Appeal No:..... 07BOA-20017
Special Exception No:..... 07ZHE-00480
Project No:..... 1005509
Hearing Date:..... 11/27/07
Decision Date:..... 11/27/07

In the matter of 07BOA-20017, the Board of Appeals voted to **AFFIRM** the Appeal thereby overturning the Zoning Hearing Examiner's decision based upon the following Findings:

FINDINGS:

1. A variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for a variance of 2.5 feet to the 3-foot wall height allowance for an existing 5' 10" wall in the front setback area.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the slope of the lot, and has testified that in contrast to all of the other properties in the neighborhood, which except for the next-door property are flat, this property slopes down about 12 inches toward the front.
6. The Zoning Hearing Examiner has stated that photos taken during a site inspection indicate that the property is fairly level.
7. The slope of the property is the only circumstance mentioned by the applicant in support of the variance.
8. Other than the applicant's testimony, the record includes no evidence that the appellant's property is sloped differently than other properties in the neighborhood.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. Before a variance can be approved, it must further be found that an unnecessary hardship is produced as a result of the exceptional aspect of the property. This hardship must result in either the creation of an exceptional, substantial, and unjustified limitation on the property owner's reasonable use of his property or deprive the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The Zoning Hearing Examiner has found that as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The Notification of Decision, however, includes no information on the substantial evidence in the record to support that finding.
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14. The decision of the Zoning Hearing Examiner is not supported by the record or by the controlling provisions of the Zoning Code.
15. The Zoning Hearing Examiner incorrectly applied City ordinances in arriving at his decision.
16. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of exceptionality.
17. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of unnecessary hardship.
18. Because the record includes no evidence of exceptionality or hardship, and absent such explanation in his Notification of Decision, the Board can only conclude that the Zoning Hearing Examiner acted arbitrarily in approving this application.

If you wish to appeal this decision, you must do so by **December 12, 2007**, in the manner described below. A non-refundable filing fee will be calculated at the Land Development Coordination counter and is required at the time the appeal is filed.

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Should you have any questions regarding this action, please call me at 924-3860.



Mick McMahan, Chair
Board of Appeals

cc: Grover Mann, 7724 Vista Del Arroyo NE, 87109
Richard and Patricia Wilson, 505 Dartmouth DR SE, 87106
J. Stace McGee, stace@odi-arch.com
Board of Appeals Members (5)
Jon Messier, COA/Planning Department
Mark Shoemith, COA/Legal Department
Roberto Albertorio, ZHE, Office of Administrative Hearings, 7th Floor First Plaza Galeria, Ste #735
Zoning Enforcement Division
ZHE File



CITY OF ALBUQUERQUE BOARD OF APPEALS (AMENDED) NOTIFICATION OF DECISION

Richard Willson appeals the Zoning Hearing Examiner's approval of a special exception to Section 14.16.2.6. (B). (14): a VARIANCE of a 2.5' to the 3' wall height allowance for a proposed 5' 10" wall in the front yard setback area on all or a portion of Lot(s) 3, Block(s) 36, University Heights ADDN, zoned R-1 and located at 406 DARTMOUTH DR SE (K-16).

Appeal No:..... 07BOA-20017
Special Exception No:..... 07ZHE-00480
Project No:..... 1005509
Hearing Date:..... 11/27/07
Decision Date:..... 11/27/07

In the matter of 07BOA-20017, the Board of Appeals voted to **AFFIRM** the Appeal thereby overturning the Zoning Hearing Examiner's decision based upon the following Findings:

FINDINGS:

1. A variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for a variance of 2.5 feet to the 3-foot wall height allowance for an existing 5' 10" wall in the front setback area.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the slope of the lot, and has testified that in contrast to all of the other properties in the neighborhood, which except for the next-door property are flat, this property slopes down about 12 inches toward the front.
6. The Zoning Hearing Examiner has stated that photos taken during a site inspection indicate that the property is fairly level.
7. The slope of the property is the only circumstance mentioned by the applicant in support of the variance.
8. Other than the applicant's testimony, the record includes no evidence that the appellant's property is sloped differently than other properties in the neighborhood.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. Before a variance can be approved, it must further be found that an unnecessary hardship is produced as a result of the exceptional aspect of the property. This hardship must result in either the creation of an exceptional, substantial, and unjustified limitation on the property owner's reasonable use of his property or deprive the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The Zoning Hearing Examiner has found that as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The Notification of Decision, however, includes no information on the substantial evidence in the record to support that finding.
13. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.

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14. The decision of the Zoning Hearing Examiner is not supported by the record or by the controlling provisions of the Zoning Code.
15. The Zoning Hearing Examiner incorrectly applied City ordinances in arriving at his decision.
16. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of exceptionality.
17. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of unnecessary hardship.
18. Because the record includes no evidence of exceptionality or hardship, and absent such explanation in his Notification of Decision, the Board can only conclude that the Zoning Hearing Examiner acted arbitrarily in approving this application.

If you wish to appeal this decision, you must do so by **December 12, 2007**, in the manner described below. A non-refundable filing fee will be calculated at the Land Development Coordination counter and is required at the time the appeal is filed.

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Mick McMahan, Chair
Board of Appeals

cc: Grover Mann, 7724 Vista Del Arroyo NE, 87109
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J. Stace McClee, stace@jedi-arch.com
Board of Appeals Members (5)
Jon Messier, COA/Planning Department
Mark Shoesmith, COA/Legal Department
Roberto Albertorio, ZHE, Office of Administrative Hearings, 7th Floor First Plaza Galeria, Ste #735
Zoning Enforcement Division
ZHE File

**CITY OF ALBUQUERQUE
BOARD OF APPEALS
(AMENDED) NOTIFICATION OF DECISION**

Richard Willson appeals the Zoning Hearing Examiner's approval of a special exception to Section 14.16.2.6. (B). (14): a **VARIANCE** of a 2.5' to the 3' wall height allowance for a proposed 5' 10" wall in the front yard setback area on all or a portion of Lot(s) 3, Block(s) 36, University Heights ADDN, zoned R-1 and located at 406 DARTMOUTH DR SE (K-16).

Appeal No:..... 07BOA-20017
Special Exception No:..... 07ZHE-00480
Project No:..... 1005509
Hearing Date:..... 11/27/07
Decision Date:..... 11/27/07

In the matter of 07BOA-20017, the Board of Appeals voted to **AFFIRM** the Appeal thereby overturning the Zoning Hearing Examiner's decision based upon the following Findings:

FINDINGS:

1. A variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for a variance of 2.5 feet to the 3-foot wall height allowance for an existing 5' 10" wall in the front setback area.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the slope of the lot, and has testified that in contrast to all of the other properties in the neighborhood, which except for the next-door property are flat, this property slopes down about 12 inches toward the front.
6. The Zoning Hearing Examiner has stated that photos taken during a site inspection indicate that the property is fairly level.
7. The slope of the property is the only circumstance mentioned by the applicant in support of the variance.
8. Other than the applicant's testimony, the record includes no evidence that the appellant's property is sloped differently than other properties in the neighborhood.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. Before a variance can be approved, it must further be found that an unnecessary hardship is produced as a result of the exceptional aspect of the property. This hardship must result in either the creation of an exceptional, substantial, and unjustified limitation on the property owner's reasonable use of his property or deprive the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The Zoning Hearing Examiner has found that as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The Notification of Decision, however, includes no information on the substantial evidence in the record to support that finding.
13. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.

14. The decision of the Zoning Hearing Examiner is not supported by the record or by the controlling provisions of the Zoning Code.
15. The Zoning Hearing Examiner incorrectly applied City ordinances in arriving at his decision.
16. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of exceptionality.
17. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of unnecessary hardship.
18. Because the record includes no evidence of exceptionality or hardship, and absent such explanation in his Notification of Decision, the Board can only conclude that the Zoning Hearing Examiner acted arbitrarily in approving this application.

If you wish to appeal this decision, you must do so by **December 12, 2007**, in the manner described below. A non-refundable filing fee will be calculated at the Land Development Coordination counter and is required at the time the appeal is filed.

APPEAL TO THE CITY COUNCIL: Any person aggrieved with any determination of the Board of Appeals acting under this ordinance may file an appeal to the City Council by submitting written application on the Planning Department form to the Planning Department within 15 days of the Board of Appeals decision. The date the determination in question is issued is not included in the 15-day period for filing an appeal, and if the fifteenth day falls on Saturday, Sunday or holiday as listed in the Merit System Ordinance, the next working day is considered as the deadline for the filing of the appeal.

The City Council may decline to hear the appeal if it finds that all City plans, policies and ordinances have been properly followed. If it decides that all City plans, policies, and ordinances have not been properly followed, it shall hear the appeal. Such an appeal, if heard, shall be opened within 60 days of the expiration of the appeal period.

Should you have any questions regarding this action, please call me at 924-3860.



Mick McMahan, Chair
Board of Appeals

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Roberto Albertorio, ZHE, Office of Administrative Hearings, 7th Floor First Plaza Galeria, Ste #735
Zoning Enforcement Division
ZHE File

CITY OF ALBUQUERQUE



Planning Department

Richard Dineen, Director

Development Review Division

600 2nd Street NW - 3rd Floor

Albuquerque, NM 87102

CITY OF ALBUQUERQUE BOARD OF APPEALS NOTIFICATION OF DECISION

Don Hancock, agent for University Heights United Methodist Church, appeals the Zoning Hearing Examiner's denial of a special exception to University Neighborhood Sector Development Plan, page 70, DR. 4. a.: a VARIANCE of: a) 1,950 sq ft to the 5,000 sf lot size requirement for one existing structure; b) 10' to the 15' rear yard setback area requirement for an existing structure; c) 2 parking spaces to the 2 required parking space requirement, on all or a portion of Lot(s) 24, Block(s) 2, University Heights ADDN, zoned SU-2 DR and located at 201 HARVARD SE (K-16)

Appeal No:..... 07BOA-20014
Special Exception No: 07ZHE-80013,
80014 & 80015
Project No:..... 1006652
Hearing Date:..... 11/27/07
Decision Date: 11/27/07

P.O. Box 1293

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In the matter of 07BOA-20014, the Board of Appeals voted to **DENY** the Appeal thereby upholding the Zoning Hearing Examiner's decision based upon the following Findings:

FINDINGS:

1. The variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all reasonable beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for variances of 1,950 square feet to the 5,000 square-foot lot size requirement, and two parking spaces to the two-space parking requirement. These variances will allow the division of one lot into two separate lots: (1) a lot with an existing residence, which, with a total of 3,050 square feet, will consist of less than the 5,000 square-foot minimum required by the zoning district, and will have no on-site parking; and (2) a second lot which will provide continued parking, both for the applicant and for the residential lot.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the current split-zoning of the existing lot, which is a unique circumstance in that there are no other split-zoned properties within the larger neighborhood, and on the existence of both a single-family house and a church parking lot on the parcel.
6. Variances are permitted only when it has been determined that the property is exceptional based on the physical characteristics of the land, conditions or use of the parcel, or irregularity in shape.
7. Multiple zoning of a parcel is not included in any of the listed bases for a determination of exceptionality.

CITY OF ALBUQUERQUE

November 27, 2007
07BOA-20014
Page 2 of 2



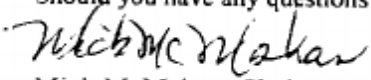
8. Use of a portion of property for parking is a common occurrence, and the use of a portion of this property for parking does not support a determination of exceptionality. Whether this parking is used for residential, church, or some other use is not significant in determining such exceptionality.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. If it can be determined that there is exceptionality, the second test which must be met is to find that as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of his property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The applicant states that the exceptionality of the parcel results in an unnecessary hardship, in that without the requested variance, the properties apparently cannot be sold because of the substandard lot size and the need for rear and parking variances.
13. Other than the applicant's statement to this effect, the record includes no evidence of the impossibility of such a sale.
14. Whether the properties are conveyed to a new owner or not, they may continue to be used as they are today. The record includes no evidence that a failure to approve the requested variance would create an exceptional, substantial, and unjustified limitation on the reasonable use of this property.
15. The record includes no evidence that the owner is being deprived of a reasonable return on the property under the existing use.
16. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.
17. The decision of the Zoning Hearing Examiner is supported by the record and by the controlling provisions of the Zoning Code.
18. The Zoning Hearing Examiner correctly applied City ordinances in arriving at his decision.

If you wish to appeal this decision, you must do so by **December 12, 2007** in the manner described below. A non-refundable filing fee will be calculated at the Land Development Coordination counter and is required at the time the appeal is filed.

APPEAL TO THE CITY COUNCIL: Any person aggrieved with any determination of the Board of Appeals acting under this ordinance may file an appeal to the City Council by submitting written application on the Planning Department form to the Planning Department within 15 days of the Board of Appeals decision. The date the determination in question is issued is not included in the 15-day period for filing an appeal, and if the fifteenth day falls on Saturday, Sunday or holiday as listed in the Merit System Ordinance, the next working day is considered as the deadline for the filing of the appeal.

The City Council may decline to hear the appeal if it finds that all City plans, policies and ordinances have been properly followed. If it decides that all City plans, policies, and ordinances have not been properly followed, it shall hear the appeal. Such an appeal, if heard, shall be opened within 60 days of the expiration of the appeal period.

Should you have any questions regarding this action, please call me at 924-3860.


Mick McMahan, Chair
Board of Appeals

cc: University Heights United Methodist Church, 2210 Silver SE, 87106
John Hambach, 205 Harvard Drive SE, 87106
John Menaceucci, Berger-Briggs, P O Drawer K, 87103
Danny Hernandez, UHA, P O Box 4297, 87196
Board of Appeals Members (4)
Jon Messier, COA/Planning Department
Mark Shoemith, COA/Legal Department
Roberto Albertorio, ZHE, Office of Administrative Hearings, 7th Floor First Plaza Galleria, Ste #735
Zoning Enforcement Division

JUNE 1986

UNIVERSITY NEIGHBORHOODS

SU-2 ZONING



Land Use Categories:

- C-1 Neighborhood Commercial
- C-2 Community Commercial
- CMU Central Mixed Use
- DR Diverse Residential
- M-1 Manufacturing
- MC Mixed Commercial
- MD-1 Mixed Density Residential-1
- MD-2 Mixed Density Residential-2
- O-1 Office and Institution

- PR Parking Reserve
- R-3 Residential
- R3C Residential Commercial
- RTD Residential Townhouse Duplex
- SF Single Family Residential
- SU-1 Special Use
- UC University Commercial

Central Ave. Design Enhancement Area
 Silver Ave. Design Enhancement Area
 Property Owners within this Area; also see
 Sycamore Metropolitan Redevelopment Plan,
 Appendix 5



NORTH

Map 7

APPENDIX 4

The University 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 University Neighborhoods Area are governed by the land use plan shown above.

ANYONE UNDERTAKING A BUILDING PROJECT IS STRONGLY ENCOURAGED TO DISCUSS HIS/HER PLANS WITH THE LOCAL NEIGHBORHOOD ASSOCIATION BEFORE APPLYING FOR A BUILDING PERMIT. In the past, such discussions have helped avoid unnecessary variance requests and lead to development agreements which have saved time and money for all involved, and contributed to improving the quality of the projects. The City's Office of Neighborhood Coordination can provide the names of the appropriate Neighborhood contacts.

PARKING REGULATIONS shall be the same as Section 40 of the Zoning Code with one exception:

In addition to the requirements of the Zoning Code, Section 40.A.5.c., the following requirement shall apply to all land use categories which include non-residential use in the University Neighborhoods Sector Development Plan area: "An opaque barrier such as a wall, fence or extensive landscaping at least four feet in height is required on those sides of a parking area which abut a public right-of-way (except alleys) on the opposite side of which is a residential zone. Landscaping used for buffering shall be capable of achieving a buffering height within four growing seasons and shall be planted on a strip at least four feet wide. Planting shall be closely spaced so that it will block the view of the parking area within three growing seasons. Landscaping shall be maintained by a permanent automatic irrigation system."

The SF SINGLE FAMILY land use area shown on the land use plan corresponds to the R-1 Residential Zone in the Comprehensive City Zoning Code and is subject to the same regulations as that zone, with two exceptions:

1. Conditional Use:
 - a. School
2. The Silver Avenue Design Enhancement Area Regulations found on page 22 of this Plan shall apply.

The RTD RESIDENTIAL/TOWNHOUSE/DUPLEX land use area corresponds to the R-T Residential Zone in the Comprehensive City Zoning code and is subject to the same regulations as that zone with four exceptions:

1. Permissive Uses:
 - a. Single-family dwelling units.
 - b. Two dwelling units in one building (townhouse or duplex).
 - c. In single-family dwelling units, the rooming and boarding for profit of not more than two people per dwelling unit, provided one off-street parking space is available for each boarder or roomer, in addition to parking spaces required for the dwelling unit itself.
2. Conditional Uses:
 - a. Uses conditional in the R-1 zone.
 - b. A garage conversion with zero rear and side setbacks.
 - c. School

The CORR Procedure

2 Variables: evsum odsum

Simple Statistics						
Variable	N	Mean	Std Dev	Sum	Minimum	Maximum
evsum	56	22.28571	4.61111	1248	12.00000	33.00000
odsum	56	22.73214	4.60628	1273	15.00000	32.00000

Pearson Correlation Coefficients, N = 56 Prob > r under H0: Rho=0			
	evsum	odsum	
evsum	1.00000	0.60031	<.0001
odsum	0.60031	1.00000	<.0001

3. Height:

As provided in the R-2 Zone and also to preserve solar access, as provided for in the General Regulations concerning heights (40.c.1.G), except:

 - a. The Solar Access provision applies to all lots including those platted before February 1, 1981.
 - b. The Zoning Enforcement Office shall not have the power to waive this Section. However, a variance from these requirements may be requested from the Zoning Hearing Examiner.
4. Front, rear, and side yard setbacks in the RTD (residential/Townhouse/Duplex Zone):
 - a. There shall be a front yard setback of not less than 15 feet, except setback for a garage or carport shall be not less than 20 feet.
 - b. There shall be a side yard setback of not less than 5 feet except there shall be 10 feet on the street side of corner lots and there is no required side yard setback from internal lot lines for townhouses.
 - c. There shall be a rear setback of not less than 15 feet.
 - d. There shall be a distance of not less than 10 feet between residential buildings.

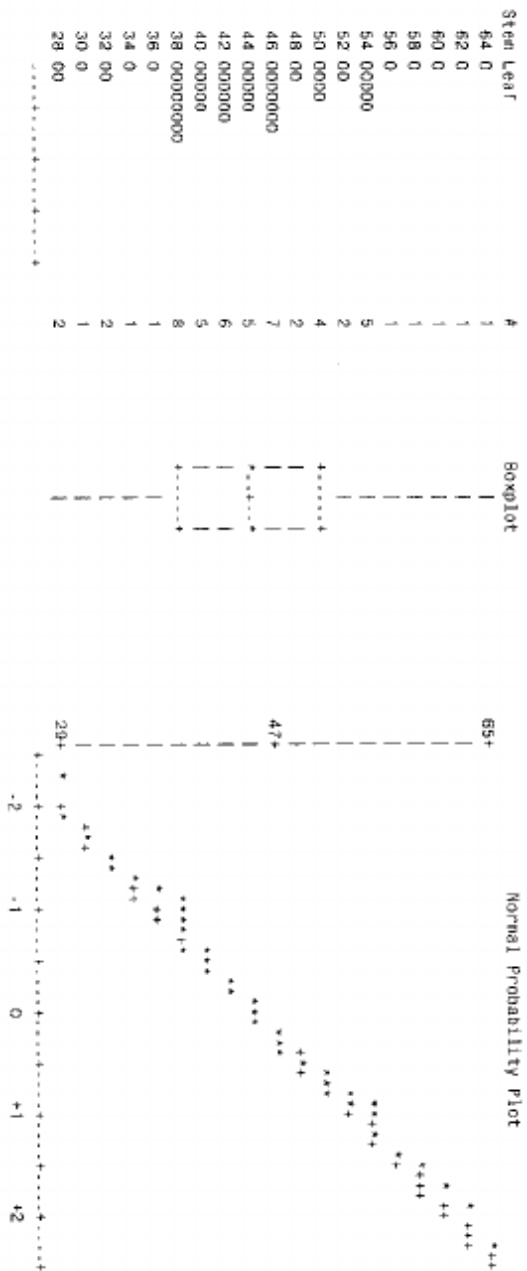
The DR DIVERSE RESIDENTIAL land use provides suitable sites for houses, townhouses, low density apartments and uses incidental thereto (somewhat like the R-2 zone).

1. Permissive Uses:
 - a. Uses permissive in the RTD land use area.
 - b. Accessory living quarters.
 - c. Apartment.
 - d. Family day care home, with any sign limited as for home occupations.
 - e. Sign, as provided in Section 40.E of the Zoning Code.
2. Conditional Uses:
 - a. Uses conditional in the RTD land use area.
 - b. Day care center.
 - c. School.
3. Height:

As provided in the RTD land use area.
4. Lot Size:
 - a. Minimum lot area shall be 6,000 square feet, except house lots shall be 5,000 square feet per house: a house lot shall not have a width of less than 50 feet, except the width is not to be less than 40 feet if the setback requirements of Section 10.E.3.a. of the Comprehensive City Zoning Code, October 1, 1978, edition are met.
 - b. A townhouse lot shall have 3,000 square feet per townhouse; a townhouse shall have a width of not less than 24 feet per dwelling unit.

Instructor=Seidler Department=Geog Course No.=102 Section=002
 Batch=lobo2899 Points per question=1 5 Responses 70 Questions

The UNIVARIATE Procedure
 Variable: Score



5. Setback:
 - a. The minimum front yard setback is 20 feet.
 - b. There shall be a side yard setback of not less than five feet except there shall be ten feet on the street side of corner lots and there is no required side yard setback from internal lot lines for townhouse.
 - c. There shall be a rear setback of not less than 15 feet.
6. Floor Area Ratio:
 - a. For lots with a minimum lot dimension of less than 142 feet:
 - 1) A floor area ratio of 0.5 is the maximum permitted.
 - 2) For every 1,500 square feet of lot size, one dwelling unit is permitted.
 - b. For lots with a minimum lot dimension of 142 feet or greater:
 - 1) A floor area ratio of 0.5 is the maximum permitted.
 - 2) Density may not exceed 30 dwelling units per acre.
7. Off-street parking:
 - a. Parking requirement is one space per 600 square feet of net leasable area and not less than one and one-half spaces per unit. In calculating the total number of required off-street parking spaces, the calculation shall be made for the entire structure and fractional amounts shall be rounded up to the next whole number.
 - b. Where an off-street parking area contains more than two parking spaces and the area is within ten feet of a public sidewalk, the area shall be buffered by a landscaping strip at least five feet wide adjacent to the public sidewalk on the building side and extending along the length of the sidewalk, except at approved driveways.
 - c. When the off-street parking will require backing in an alley, then it shall be at a 90-degree angle and shall have 44 feet of length, including access drive and alley width.
 - d. Parking is not permitted on the off-street public right-of-way.
 - e. Parking under buildings shall be enclosed by solid walls.
 - f. Where parking will exit onto a residential street (not onto an arterial or collector street), up to two parking spaces per 50 feet of frontage may be located in the front yard setback and no on-site turn-around space for this parking is required.
8. Usable open spaces shall be as provided in the R-2 zone, and at least 50 percent of open space shall be at ground level with a five foot minimum dimension.
9. Additional restrictions are those in Section 40 of the Comprehensive City Zoning Code and also as follows: Stairwells, second story ramps, and open corridors or walkways that provide primary access do not count as public open space areas.

Test Scoring Fall 2007
Instructor=Seidler Department=Geog Course No.=102 Section=002
Batch=lobo2899 Points per question=1 5 Responses 70 Questions

The UNIVARIATE Procedure
Variable: Score

Quantiles (Definition 5)	
Quantile	Estimate
100% Max	64
99%	64
95%	61
90%	55
75% Q3	50
50% Median	45
25% Q1	39
10%	34
5%	30
1%	28
0% Min	28

Extreme Observations			
Lowest		Highest	
Value	name	Obs	Value
28	MARTINEZ REYNA	4	56
29	PLUTINO NATALIE	19	58
30	PARKS RACHEL	42	61
33	GONZALES STEVEN J	51	63
33	MOSS ARAYNA	37	64

The R-3 RESIDENTIAL land use area corresponds to the R-3 Residential Zone in the Comprehensive City Zoning Code and is subject to the same regulations as that zone with the following five exceptions:

1. Conditional uses:
 - a. Group Training Home provided the maximum number of persons resident or normally present is ten, and provided the residents being helped are:
 1. Mildly or moderately retarded, or
 2. Under 19 years old.
2. Height:

Shall be as in the DR land use.
3. Floor Area Ratio:
 - a. For lots with a minimum lot dimension of less than 142 feet, a floor area ration of 0.5 is the maximum permitted.
 - b. For lots with a minimum lot dimension of 142 feet or greater, a floor area ration of 1.0 is the maximum permitted.
4. Off-street parking:
 - a. When the off-street parking will require backing in an alley, then it shall be at 90-degree angle and shall have 44 feet of length, including access drive and alley width.
 - b. parking under buildings shall be enclosed by a solid wall.
 - c. Parking is not permitted on the off-street public right-of-way.
5. For areas within the Siver Avenue Design Enhancement Area, the design regulations found on page 22 of this Plan shall apply.

The UC UNIVERSITY COMMERCIAL land use shown on the land use plan corresponds to C-2 Commercial Zone in the Comprehensive City Zoning Code and is subject to the same regulations as that zone with five exceptions:

1. Uses Not Permitted:
 - a. Drive-through windows.
 - b. Automobile, truck, trailer and boat sales, rentals, service, repair, storage, including outdoor sales.
 - c. Full Service liquor license east of University Avenue only.
 - d. Adult amusement establishments, adult book stores, adult photo studio, and adult theater.
2. Conditional Uses:
 - a. Gasoline, oil and liquified petroleum gas retailers, including outdoor sales.
 - b. Rescue Mission.
3. Off-street Parking:
 - a. Parking requirements for non-residential uses shall be one space per 300 square feet or net leasable area.

- b. Parking for Day Care shall be two spaces and one additional space for each 800 square feet of net leasable area.
 - c. parking should be provided to the side or rear of buildings and when the parking area is within ten feet of public sidewalk the area shall be buffered by a landscaping strip at least five feet wide adjacent to the public sidewalk on the building side and extending along the length of the sidewalk except at approved driveways.
 - d. No existing parking can be removed.
4. Setback:
- a. No front setback
 - b. No side setback except that corners must have clear sight triangle (area to be clear between three feet high and eight feet high measured from gutter line).
5. For areas within the Central Avenue Design Enhancement Area, the design regulations found on page 21 of this Plan shall apply.

The R3C RESIDENTIAL COMMERCIAL land use shown on the land use plan corresponds to C-1 for commercial property and R-3 for residential property with four exceptions:

1. Conditional uses:
- a. Group Training Home--provided the maximum number of persons resident or normally present is ten, and provided the residents being helped are:
 - 1. Mildly or moderately retarded, or
 - 2. Under 19 years old.
2. Off-street parking for residential uses:
- a. Parking requirement is one space per 600 square feet of net leasable area and not less than one and one-half spaces per unit. In calculating the total number of required off-street parking spaces, the calculation shall be made for the entire structure and fractional amounts shall be rounded up to the next whole number.
 - b. Where an off-street parking area contains more than two parking spaces and the area is within 10 feet of a public sidewalk, the area shall be buffered by a landscaping strip at least five feet wide adjacent to the public sidewalk on the building side and extending along the length of the sidewalk, except at approved driveways.
 - c. When the off-street parking will require backing in an alley, then it shall be at a 90-degree angle and shall have 44 feet of length including access drive and alley width.
3. Height:
Shall be as in the DR land use.

4. Additional restrictions are those in Section 40 of the Comprehensive City Zoning Code, and stairwells, second story ramps and open corridors or walkways that provide primary access do not count as public open space areas and at least 50% of open space shall be at ground level with a five foot minimum dimension.
5. For areas within the Central Avenue Design Enhancement Area, the design regulations found on page 21 of this Plan shall apply.

The M-1 LIGHT MANUFACTURING land use corresponds to the M-1 Light Manufacturing Zone in the Comprehensive City Zoning Code and is subject to the same regulations as that zone with the following exceptions:

1. The following uses are not allowed:
 - Automobile dismantling
 - Concrete or cement products manufacturing, batching plant, processing of stone
 - Gravel, sand or dirt removal, stockpiling, processing or distribution
 - Truck terminal, tractor, trailer, or truck storage, including maintenance facilities.

The O-1 OFFICE land use corresponds to the O-1 Office and Institution Zone in the Comprehensive City Zoning code and is subject to the same regulations as that zone.

The C-1 NEIGHBORHOOD COMMERCIAL land use corresponds to the C-1 Neighborhood Commercial Zone in the comprehensive City Zoning Code and is subject to the same regulations as that zone.

The C-2 COMMUNITY COMMERCIAL land use corresponds to the C-2 Community Commercial Zone in the Comprehensive City Zoning code and is subject to the same regulations as that zone.

The SU-1 SPECIAL USE land use corresponds to the SU1 Special Use Zone in the Comprehensive City Zoning Code and is subject to the same regulations as that zone.

The PR PARKING RESERVE land use corresponds to the P-R Reserve Parking Zone in the Comprehensive City Zoning Code and is subject to the same regulations as that zone.

The MD-1 MIXED DENSITY land use category corresponds to the R-T Residential Zone in the Comprehensive City Zoning Code, including any subsequent amendments, and is subject to the same regulations as that zone with the following exception:

1. For premises of 20,000 square feet or more, or any premises that are a complete block new development which does not meet the requirements of the R-T zone but does meet the requirements of the R-3 zone (not including the lot size requirement) in the Comprehensive City Zoning Code may be allowed if:

CITY OF ALBUQUERQUE

Planning Department

Richard Dineen, Director

Development Review Division

600 2nd Street NW – 3rd Floor

Albuquerque, NM 87102



BOARD OF APPEALS NOTICE OF APPEAL

October 25, 2007

Mr. Don Hancock
324-B Harvard Drive SE
Albuquerque, NM 87106

07BOA-20014 – 07ZHE-80013, 07ZHE-80014, 07ZHE-80015 (Project #1006652)
Don Hancock, agent for University Heights United Methodist Church, appeals the Zoning Hearing Examiner's denial of a special exception to University Neighborhood Sector Development Plan, page 70, DR. 4. a.: a **VARIANCE** of: a) 1,950 sq ft to the 5,000 sf lot size requirement for one existing structure; b) 10' to the 15' rear yard setback area requirement for an existing structure; c) 2 parking spaces to the 2 required parking space requirement, on all or a portion of Lot(s) 24, Block(s) 2, University Heights ADDN, zoned SU-2 DR and located at 201 HARVARD SE (K-16)

Your application for appeal of the referenced case has been received by the Planning Department and is scheduled to be heard before the **Board of Appeals** on **TUESDAY, November 27, 2007 @ 9:00 A.M.** in the **PLAZA DEL SOL HEARING ROOM** located on the basement level of the Plaza del Sol Building – 600 2nd Street NW.

Submissions to the Board of Appeals should be mailed to: City of Albuquerque, Board of Appeals, Attn: Miss Nolean Smith, 600 2nd Street NW – 3rd Floor, Albuquerque, NM 87102. Please refer to the enclosed Rules of Conduct of Business to answer questions you may have regarding procedures of the Board of Appeals.

Copies of the record submitted to the Board of Appeals will be available **after November 16, 2007**, in the Planning Department – Plaza del Sol Building, 3rd Floor. If you have any questions, I can be reached at 924-3889. Sincerely,

Nolean Smith, Administrative Assistant
Board of Appeals

Encl: BOA Rules of Conduct

- cc. University Heights United Methodist Church, 2210 Silver SE, 87106
John Humbach, 205 Harvard Drive SE, 87106
John Menicucci, Berger-Briggs, P.O. Drawer K, 87103
Danny Hernandez, UHA, P.O. Box 4297, 87196
Board of Appeals Members (5)
Jon Messier, COA/Planning Department
Robert Kidd, Jr., COA/Legal Department
Matthew Conrad, Zoning Enforcement Division
Russell Brito, COA Development Review Division Manager
Roberto Albertorio, ZHE, Office of Admin. Hearings, 1st Plaza Galera – 7th Floor, #735
ZHE File

Memorandum

Date: November 1, 2007

Regarding: 07BOA-20014 & 07BOA-20015

There is a page missing in the attachments sent to you for the above two cases. The version that I am sending you with this letter supersedes the previous version. I apologize for any inconvenience this may have caused. Please contact me if you have any questions or concerns regarding this matter.

Miss Nolean Smith, Administrative Assistant and Board Secretary, Board of Appeals
City of Albuquerque Planning Department
Office: (505) 924-3662
Fax: (505) 924-3339
Email: noleansmith@cabq.gov

2007/11/01 10:20

City of Albuquerque



DEVELOPMENT/ PLAN REVIEW APPLICATION

Supplemental form

SUBDIVISION

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

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation
- County Submittal
- EPC Submittal
- Zone Map Amendment (Establish or Change Zoning)
- Sector Plan (Phase I, II, III)
- Amendment to Sector, Area, Facility or Comprehensive Plan
- Text Amendment (Zoning Code/Sub Regs)
- Street Name Change (Local & Collector)
- D A **APPEAL / PROTEST of...**
- Decision by: DRB, EPC, LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

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

APPLICATION INFORMATION:

Professional/Agent (if any): Don Hancock PHONE: 262-1862
 ADDRESS: 324-B Harvard, SE FAX: 262-1864
 CITY: Albuquerque STATE NM ZIP 87106 E-MAIL: Sriedon@earthlink.net

APPLICANT: University Heights UM Church PHONE: 266-2525
 ADDRESS: 2210 Silver, SE FAX: _____
 CITY: Albuquerque STATE NM ZIP 87106 E-MAIL: _____

Proprietary interest in site: Property owner List all owners: Utah

DESCRIPTION OF REQUEST: Appeal of LTR decision on 07246-80013, -80014, -80015, -80016, -80017, -80018

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes No N/A

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

Lot or Tract No. Lots 23, 24 Block: 2 Unit: _____
 Subdiv/Addr/TBKA: University Heights Addition
 Existing Zoning: SU-2/DR+SU-2/SU-1 Proposed zoning: No change MRGCD Map No _____
 Zone Atlas page(s): K16 UPC Code: 106605702622431912/101605702622971913

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB, AX, Z, V, S, etc.): 07246-80013, 07246-80014, -80015, -80016, -80017, -80018

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? _____
 No. of existing lots: 2 No. of proposed lots: _____ Total area of site (acres): 14,200 sq. ft.
 LOCATION OF PROPERTY BY STREETS: On or Near: 201 Harvard, SE & 203 Harvard, SE
 Between: Silver, SE and Harvard, SE

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

SIGNATURE Don Hancock DATE 10/25/2007
 (Print) Don Hancock Applicant: Agent:

FOR OFFICIAL USE ONLY

<input type="checkbox"/> INTERNAL ROUTING	Application case numbers	Action	S.F.	Fees	
<input type="checkbox"/> All checklists are complete	<u>DRBA 20015</u>	<u>AP</u>		<u>\$ 0</u>	
<input type="checkbox"/> All fees have been collected				\$	
<input type="checkbox"/> All case #s are assigned				\$	
<input type="checkbox"/> AGIS copy has been sent				\$	
<input type="checkbox"/> Case history #s are listed				\$	
<input type="checkbox"/> Site is within 1000ft of a landfill				\$	
<input type="checkbox"/> F.H.D.P. density bonus				Total	
<input type="checkbox"/> F.H.D.P. fee rebate				<u>\$ 0</u>	

Hearing date: N/A Project # 1006654
 Planner signature / date: [Signature] 10/25/07

2007-10-25

FORM A: APPEAL

Appeal to the Zoning Board of Appeals regarding:

DECISION OF THE ZONING HEARING EXAMINER (BOA01)

- Project number of case being appealed: 1006652 + 1006654
- Application number of case being appealed: 0724E-10013, -10014, -10015, -10016, -10017, -10018
- Reason for the appeal * As Attached
- Appellant's basis of standing as an appellant * As Attached
- Letter of authorization from the appellant if this application for appeal is submitted by an agent
- Copy of the Official Notification of Decision regarding the matter being appealed
- Fee (see schedule)

Appeal to the Landmarks and Urban Conservation Commission regarding:

CERTIFICATE OF APPROPRIATENESS
DECISION OF THE PLANNING DIRECTOR OR STAFF (LUCCAPP)

- Project number of case being appealed: _____
- Application number of case being appealed: _____
- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent
- Copy of the Official Notification of Decision regarding the matter being appealed
- Fee (see schedule)

Appeal to the Environmental Planning Commission regarding:

DECLARATORY RULING OF THE ZONING ENFORCEMENT OFFICER (EPC09)
 DETERMINATION OF THE IMPACT FEE ADMINISTRATOR (EPC10)

- Project number of case being appealed: _____
- Application number of case being appealed: _____
- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent
- Copy of the Official Notification of Decision regarding the matter being appealed
- Fee (see schedule)

Appeal to the City Council through the Land Use Hearing Officer regarding:

ADMINISTRATIVE AMENDMENT/DECISION OF PLANNING DIRECTOR/STAFF (CCSTAFF)
 DETERMINATION OR ACTION OF THE EPC (CCEPC)
 DETERMINATION OR ACTION OF THE DRB RE: SUBDIVISION ORD (CCDRB)
 ACTION OF THE ZONING BOARD OF APPEALS REGARDING AN APPEAL (CCBOA)
 DECISION OF THE LANDMARKS URBAN CONSERVATION COMMISSION (CCLUCC)

- Project number of case being appealed: _____
- Application number of case being appealed: _____
- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent
- Copy of the Official Notification of Decision regarding the matter being appealed
- Fee (see schedule)

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

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

Don Hancock
Applicant name (print)
Don Hancock
Applicant signature / date
12/25/07



Form revised 04/2007

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

Application case numbers
27BOA-20015

[Signature] 10/25/07
Planner signature / date
Project # 1006654

UNIVERSITY HEIGHTS UNITED METHODIST CHURCH

Summary of the appeal and its basis: This is an appeal of the October 11, 2007, decision by the Zoning Hearing Examiner (ZHE) regarding 07ZHE-80013, 07ZHE-80014, 07ZHE-80015, 07ZHE-80016, 07ZHE-80017, and 07ZHE-80018 at 201 and 203 Harvard, SE. The ZHE did not correctly apply the Zoning Ordinance requirements for variances in his decision because the record shows that the properties are exceptional, the regulations produce unnecessary hardship, and the variances prevent the unnecessary hardship. The appellant requests that the ZHE decision be overturned and that the requested variances be granted.

Standing: University Heights United Methodist Church is the owner of the two lots subject to the variances and was the applicant for the variances.

Detailed reasons for the appeal: The record shows that the two lots at 201 and 203 Harvard, SE are exceptional -- in fact unique -- in their physical characteristics in that each lot has a single-family house and the parking lot for the church on the remaining (and majority) portion of the lot. The lot at 201 Harvard, SE has a single-family house on approximately 3,050 square feet of the lot which is zoned SU-2/DR and approximately 4,050 square feet of the lot is paved parking for the church and is zoned SU-2/SU-1 for Church and Related Facilities. The lot at 203 Harvard, SE has a single-family house on approximately 3,500 square feet of the lot, which is zoned SU-2/DR and approximately 3,600 square feet of the lot is paved parking for the church and is zoned SU-2/SU-1 for Church and Related Facilities. The record shows, without any contradiction, that those characteristics are unique to those two lots in the entire University Neighborhoods Sector Plan area, which clearly establishes their exceptionality as to their physical characteristics, use, and zoning. Nonetheless, the ZHE decision ignores that unique exceptionality by stating that the lots are "not exceptional as compared to other parcels in the vicinity," but it provides not even one example of any other parcel in the vicinity that has the same, similar, or even remotely similar characteristics. Given the evidence, the parcels clearly are exceptional.

The SU-2/DR zoning for a portion of the lots with the single-family houses was established in 1978 when the University Neighborhoods Area Sector Plan was adopted, which was 12 years after the parking lot was created, with City approval and SU-1 zoning. Thus, the physical characteristics existed at the time of the creation of that DR zoning, and the City paid no compensation to the church. That DR zoning requires that the minimum lot size for a house is 5,000 square feet, which is why the lot size variances are required for each house.

The rear setback variances for each lot also are to comply with DR zoning requirements. The variances for two parking spaces on each lot also are to comply with DR zoning. Thus, the Church has only requested the minimum variances to meet the DR zoning requirements.

In his decision, rather than discussing those specific characteristics that are clearly established in the record, as required by the Zoning Ordinance, the ZHE bases his decision, at least in part, on "the conclusion of this office that this request might better be placed for a change of zone." The requirements for a variance do not include consideration of whether a zone change could be granted. The evidence in the record does show that twice -- in 1978 and 1986 with the approval

of the University Area Neighborhoods Sector Development Plan – that the City Council has established and affirmed the current zoning.

The record shows, contrary to the ZHE decision, that any zone change to enlarge that portion of the lots for the houses to eliminate the need for the variances would also require additional variances be issued for the Church and for the Harvard Mall, both of which are using the parking lot for required parking. Thus, the zone change option would create additional hardship, as the record shows. The letter of support for the variances from the Harvard Mall (Berger Briggs) is totally ignored in the ZHE decision, as is the evidence from the previous ZHE decision (ZA-80-291) providing that the Church parking lot be used for off-site parking as part of the Harvard Mall variances.

As shown by the record, the hardship that the church has is that, without the variances and replatting that could then be done, the properties apparently cannot be sold because of the substandard lot size and the need for rear and parking variances. The ZHE decision does not discuss that uncontested evidence regarding unnecessary hardship that limits the ability to sell the houses. That uncontested evidence directly contradicts the ZHE finding that the owner would not be deprived of a reasonable return on the property.

The variances prevent the unnecessary hardship as they will maintain the unique physical characteristics and continue the existing allowable use of each lot for a single-family house in the DR zoned portion and the church parking lot, required by the SU-2/SU-1 zoning for that portion of the lots. The variances will not interfere with the enjoyment of other land in the vicinity, and there is no evidence in the record that such interference would occur, since the existing physical characteristics and uses will continue, and no physical changes will be made that would interfere with other properties. The variances are consistent with the spirit of the Zoning Code, substantial justice, and the general public interest.

Therefore, the requirements for the variances are met, and the variances should be granted.



University Heights
United Methodist Church

2210 SILVER AVENUE, SE
266-2525

ALBUQUERQUE, NEW MEXICO
87106

Rev. Wayne A. Salguero
Pastor

October 25, 2007

To Whom It May Concern:

Don Hancock, a member of University Heights United Methodist Church, is authorized to serve as agent to represent the Church, which owns the properties at 201 Harvard, SE and 203 Harvard, SE, in the appeal of the Zoning Hearing Examiner decision to deny requested variances for those properties.

Yours truly,

Wayne A. Salguero

Wayne A. Salguero
Pastor



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

UNIVERSITY HEIGHTS UNITED
METHODIST CHURCH request(s) a special
exception to University Neighborhood Sector
Development Plan, page 70. DR. 4. a.: a
VARIANCE of:

- a. 1,950 sq ft to the 5,000 sf lot size requirement for one existing structure;
- b. 10' to the 15' rear yard setback area requirement for an existing structure;
- c. 2 parking spaces to the 2 required parking space requirement;
- d. 1,500 sq ft to the 5,000 sq ft lot size requirement for one existing structure;
- e. 10' to the 15' rear yard setback area requirement for an existing structure; and
- f. 2 parking spaces to the 2 required parking space requirement

on all or a portion of Lot(s) 23, 24, Block(s) 2,
University Heights ADDN, zoned SU-2 DR and
located at 201 & 203 HARVARD SE (K-16)

Special Exception No:..... 07ZHE-80013
07ZHE-80014
07ZHE-80015
07ZHE-80016
07ZHE-80017
07ZHE-80018
Project No: Project# 1006652
Project #1006654
Hearing Date: 09-26-07
Closing of Public Record: 09-26-07
Date of Decision: 10-11-07

STATEMENT OF FACTS: The applicant, University Heights United Methodist Church, is requesting the above referenced special exceptions. The applicant was represented by Don Hancock. Mr. Hancock submitted extensive written data in support of this request. A summary of that data, as well as the testimony before the Hearing Officer, is as follows: the applicant states that the above requested variances are justified because of the unique zoning category of this property and the use of that property. He further states that the zoning categories on these lots are unique as compared to other lots in the immediate vicinity and adjacent lots. It is the understanding of this office that this will be a matter of review also for re-platting which does not come within the jurisdiction of this office.

There is opposition to this request submitted to the file by John A. Humbach. Mr. Humbach argues that this request should be denied because the applicant has failed to meet the test for the granting of a special exception for variances, to wit: the applicant has not been able to demonstrate that the parcels are exceptional in their physical characteristics sufficient to warrant approval, and further argues that the applicants are not experiencing unnecessary hardship nor are they being denied reasonable use of this property.

The file also contains a letter from the University Heights Association signed by their president, Danny Hernandez. Mr. Hernandez argues that the above referenced properties are split zoning and therefore he concludes that the zoning causes the exceptionality. He further states that the Board has reviewed this matter and therefore believes that the above referenced variances should be granted.

Based on all of the evidence, and a review of all the written data, it is the conclusion of this office that this request might better be placed for a change of zone. This matter was discussed with the applicant at the hearing, and his response was that he was advised that he should pursue a special exception rather than a zone change. I do not agree with that recommendation. I find that this request does not fall within the required standard for granting of variances. On-site inspection does not evince physical exceptionality sufficient to warrant the above referenced request. While this might be remedied by an approval of a zone change, this is a matter to be determined by the Environmental Planning Commission.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this parcel is not exceptional as compared to other parcels in the vicinity and, therefore, it does not meet the test for the granting of a variance as provided for by Section 14.16.4.2. I further find that the regulations do not produce an unnecessary hardship in that it will not limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Finally, the variance will significantly interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Denied

If you wish to appeal this decision, you may do so by 5:00 p.m., October 26, 2007 in the manner described below:

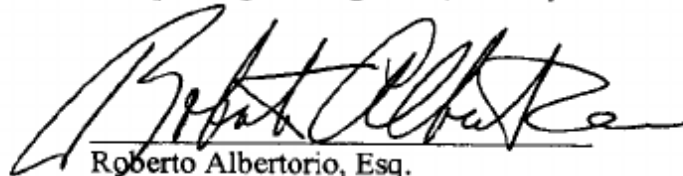
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$55.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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.



Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File (2)
University Heights United Methodist Church, 2210 Silver SE, 87106
Don Hancock, 324-B Harvard SE, 87106
John Humbach, 205 Harvard Drive SE, 87106
John Menucucci, Berger Briggs, P O Drawer K, 87103
Danny Hernandez, UHA, P O Box 4297, 87196
Russell Brito, COA, Development Review Division Manager



**BOARD OF APPEALS
MINUTES
Tuesday November 27, 2007
9:00 A.M.
Plaza del Sol Hearing Room
Plaza del Sol Building – Lower Level
600 Second Street, NW**

MEMBERS PRESENT: Mick McMahan, Chair
Judy Chreist, Vice-Chair
Kim Seidler
Steve Chavez

STAFF PRESENT: Jon Messier, Senior Planner
Robert Kidd, Jr., Legal Department
Nolean Smith, Recording Secretary

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1. Called to Order at 9:10 a.m.
 2. There were no additions and/or changes to the agenda.
 3. **07BOA-20014 – 07ZHE-80013, 07ZHE-80014, 07ZHE-80015 (Project #1006652)** Don Hancock, agent for University Heights United Methodist Church, appeals the Zoning Hearing Examiner's denial of a special exception to University Neighborhood Sector Development Plan, page 70, DR. 4. a.: a **VARIANCE** of: a) 1,950 sq ft to the 5,000 sf lot size requirement for one existing structure; b) 10' to the 15' rear yard setback area requirement for an existing structure; c) 2 parking spaces to the 2 required parking space requirement, on all or a portion of Lot(s) 24, Block(s) 2, University Heights ADDN, zoned SU-2 DR and located at 201 HARVARD SE (K-16)

PERSON WHO SPOKE IN FAVOR OF THE APPEAL:

Don Hancock

NO ONE SPOKE IN OPPOSITION TO THE APPEAL

THE FOLLOWING ACTION WAS TAKEN:

On, **November 27, 2007**, the Board of Appeals voted to **affirm** the of the Appeal, therefore upholding the Zoning Hearing Examiner's decision, based on the following Findings:

FINDINGS:

1. The variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all reasonable beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for variances of 1,950 square feet to the 5,000 square-foot lot size requirement, and two parking spaces to the two-space parking requirement. These variances will allow the division of one lot into two separate lots: (1) a lot with an existing residence, which, with a total of 3,050 square feet, will consist of less than the 5,000 square-foot minimum required by the zoning district, and will have no on-site parking, and (2) a second lot which will provide continued parking, both for the applicant and for the residential lot.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the current split-zoning of the existing lot, which is a unique circumstance in that there are no other split-zoned properties within the larger neighborhood, and on the existence of both a single-family house and a church parking lot on the parcel.
6. Variances are permitted only when it has been determined that the property is exceptional based on the physical characteristics of the land, conditions or use of the parcel, or irregularity in shape.
7. Multiple zoning of a parcel is not included in any of the listed bases for a determination of exceptionality.
8. Use of a portion of property for parking is a common occurrence, and the use of a portion of this property for parking does not support a determination of exceptionality. Whether this parking is used for residential, church, or some other use is not significant in determining such exceptionality.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. If it can be determined that there is exceptionality, the second test which must be met is to find that as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of his property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The applicant states that the exceptionality of the parcel results in an unnecessary hardship, in that without the requested variance, the properties apparently cannot be sold because of the substandard lot size and the need for rear and parking variances.
13. Other than the applicant's statement to this effect, the record includes no evidence of the impossibility of such a sale.
14. Whether the properties are conveyed to a new owner or not, they may continue to be used as they are today. The record includes no evidence that a failure to approve the requested variance would create an exceptional, substantial, and unjustified limitation on the reasonable use of this property.
15. The record includes no evidence that the owner is being deprived of a reasonable return on the property under the existing use.
16. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.
17. The decision of the Zoning Hearing Examiner is supported by the record and by the controlling provisions of the Zoning Code.
18. The Zoning Hearing Examiner correctly applied City ordinances in arriving at his decision.

MOVED BY MR. SEIDLER
SECONDED BY MS. CHREIST

MOTION CARRIED

For: 4 Board Member(s): Seidler,
Chreist, Chavez, McMahan
Against: 0 Board Member(s):

-
4. **07BOA-20015 – 07ZHE-80016, 07ZHE-80017 & 07ZHE-80018 (Project #1006654).** Don Hancock agent for University Heights Methodist Church, appeals the Zoning Hearing Examiner's denial of a special exception to University Neighborhood Sector Development Plan, page 70, DR. 4. a.: a **VARIANCE** of: a) 1, 500 sq ft to the 5,000 sq ft lot size requirement for one existing structure; b) 10' to the 15' rear yard setback area requirement for an existing structure; and c) 2 parking spaces to the 2 required parking space requirement, on all or a portion Lot(s) 23, Block(s) 2, University Heights ADDN, zoned SU-2 DR and located at 203 HARVARD SE (K-16)

PERSONS WHO SPOKE IN FAVOR OF THE APPEAL:

Don Hancock

NO ONE SPOKE IN OPPOSITION TO THE APPEAL

THE FOLLOWING ACTION WAS TAKEN:

On **November 27, 2007**, the Board of Appeals voted to **affirm** the Appeal thereby upholding the Zoning Hearing Examiner's decision, based on the following Findings:

FINDINGS:

1. The variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all reasonable beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for variances of 1,500 square feet to the 5,000 square-foot lot size requirement, 10 feet to the required 15-foot rear yard setback, and two parking spaces to the two-space parking requirement. These variances will allow the division of one lot into two separate lots: (1) a lot with an existing residence, which, with a total of 3,500 square feet, will consist of less than the 5,000 square-foot minimum required by the zoning district, will have a reduced rear-yard setback, and will have no on-site parking; and (2) a second lot which will provide continued parking, both for the applicant and for the residential lot.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the current split-zoning of the existing lot, which is a unique circumstance in that there are no other split-zoned properties within the larger neighborhood, and on the existence of both a single-family house and a church parking lot on the parcel.
6. Variances are permitted only when it has been determined that the property is exceptional based on the physical characteristics of the land, conditions or use of the parcel, or irregularity in shape.
7. Multiple zoning of a parcel is not included in any of the listed bases for a determination of exceptionality.

8. Use of a portion of property for parking is a common occurrence, and the use of a portion of this property for parking does not support a determination of exceptionality. Whether this parking is used for residential, church, or some other use is not significant in determining such exceptionality.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. If it can be determined that there is exceptionality, the second test which must be met is to find that as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of his property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The applicant states that the exceptionality of the parcel results in an unnecessary hardship, in that without the requested variance, the properties apparently cannot be sold because of the substandard lot size and the need for rear and parking variances.
13. Other than the applicant's statement to this effect, the record includes no evidence of the impossibility of such a sale.
14. Whether the properties are conveyed to a new owner or not, they may continue to be used as they are today. The record includes no evidence that a failure to approve the requested variance would create an exceptional, substantial, and unjustified limitation on the reasonable use of this property.
15. The record includes no evidence that the owner is being deprived of a reasonable return on the property under the existing use.
16. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.
17. The decision of the Zoning Hearing Examiner is supported by the record and by the controlling provisions of the Zoning Code.
18. The Zoning Hearing Examiner correctly applied City ordinances in arriving at his decision.

MOVED BY MR. SEIDLER
SECONDED BY MS. CHREIST

MOTION CARRIED

For: 4 Board Member(s): Chreist,
Seidler, McMahan, Chavez
Against: 0 Board Member(s):

5. **07BOA-20016/07ZHE-00480 (Project # 1005509)** Chris Smith, agent for Nob Hill Neighborhood Association appeals the Zoning Hearing Examiner's approval of a special exception to Section 14.16.2.6. (B). (14).: a **VARIANCE** of a 2.5' to the 3' wall height allowance for a proposed 5' 10" wall in the front yard setback area on all or a portion of Lot(s) 3, Block(s) 36, University Heights ADDN, zoned R-1 and located at 406 DARTMOUTH DR SE (K-16).

PERSON(S) WHO SPOKE IN FAVOR OF THE APPEAL:

Chris Smith

NO ONE SPOKE IN OPPOSITION TO THE APPEAL

THE FOLLOWING ACTION WAS TAKEN:

On **November 27, 2007**, the Board of Appeals voted to **affirm** the Appeal thereby overturning the Zoning Hearing Examiner's decision, based on the following Findings:

FINDINGS:

1. A variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for a variance of 2.5 feet to the 3-foot wall height allowance for an existing 5' 10" wall in the front setback area.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the slope of the lot, and has testified that in contrast to all of the other properties in the neighborhood, which except for the next-door property are flat, this property slopes down about 12 inches toward the front.
6. The Zoning Hearing Examiner has stated that photos taken during a site inspection indicate that the property is fairly level.
7. The slope of the property is the only circumstance mentioned by the applicant in support of the variance.
8. Other than the applicant's testimony, the record includes no evidence that the appellant's property is sloped differently than other properties in the neighborhood.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. Before a variance can be approved, it must further be found that an unnecessary hardship is produced as a result of the exceptional aspect of the property. This hardship must result in either the creation of an exceptional, substantial, and unjustified limitation on the property owner's reasonable use of his property or deprive the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The Zoning Hearing Examiner has found that as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The Notification of Decision, however, includes no information on the substantial evidence in the record to support that finding.
13. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or under any use permitted by its existing zone.
14. The decision of the Zoning Hearing Examiner is not supported by the record or by the controlling provisions of the Zoning Code.
15. The Zoning Hearing Examiner incorrectly applied City ordinances in arriving at his decision.
16. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of exceptionality.
17. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of unnecessary hardship.
18. Because the record includes no evidence of exceptionality or hardship, and absent such explanation in his Notification of Decision, the Board can only conclude that the Zoning Hearing Examiner acted arbitrarily in approving this application.

MOVED BY MS CHREIST
SECONDED BY MR. SEIDLER

MOTION CARRIED

For: 4

Board Member(s): Chreist,
Seidler, McMahan, Chavez

Against: 0

Board Member(s):

6. **07BOA-20017/07ZHE-00480 (Project # 1005509)** Richard Willson appeals the Zoning Hearing Examiner's approval of a special exception to Section 14.16.2.6. (B). (14).: a **VARIANCE** of a 2.5' to the 3' wall height allowance for a proposed 5' 10" wall in the front yard setback area on all or a portion of Lot(s) 3, Block(s) 36, University Heights ADDN, zoned R-1 and located at 406 DARTMOUTH DR SE (K-16).

PERSONS WHO SPOKE IN FAVOR OF THE APPEAL:

Richard Willson

PERSON(S) WHO SPOKE IN OPPOSITION TO THE APPEAL

Grover Mann

THE FOLLOWING ACTION WAS TAKEN:

On **November 27, 2007**, the Board of Appeals voted to **affirm** the Appeal thereby overturning the Zoning Hearing Examiner's decision, based on the following Findings:

FINDINGS:

1. A variance is an extraordinary exception to the zoning regulations intended to prevent the regulations from operating to deprive a property owner of all beneficial use of the property and should be granted sparingly only under peculiar and exceptional circumstances.
2. It is the burden of the applicant to ensure that there is evidence in the record showing that all of the criteria for approving a variance have been met.
3. The request is for a variance of 2.5 feet to the 3-foot wall height allowance for an existing 5' 10" wall in the front setback area.
4. The first test, which must be met before the other criteria for the granting of a variance can be applied is to find the property exceptional.
5. The applicant has stated that exceptionality is based on the slope of the lot, and has testified that in contrast to all of the other properties in the neighborhood, which except for the next-door property are flat, this property slopes down about 12 inches toward the front.
6. The Zoning Hearing Examiner has stated that photos taken during a site inspection indicate that the property is fairly level.
7. The slope of the property is the only circumstance mentioned by the applicant in support of the variance.
8. Other than the applicant's testimony, the record includes no evidence that the appellant's property is sloped differently than other properties in the neighborhood.
9. The record includes no evidence that the appellant's parcel is irregular or unusually narrow or shallow in shape.
10. There is no evidence in the record to support a finding of exceptionality.
11. Before a variance can be approved, it must further be found that an unnecessary hardship is produced as a result of the exceptional aspect of the property. This hardship must result in either the creation of an exceptional, substantial, and unjustified limitation on the property owner's reasonable use of his property or deprive the owner of a reasonable return on the property under any use permitted by its existing zone.
12. The Zoning Hearing Examiner has found that as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The Notification of Decision, however, includes no information on the substantial evidence in the record to support that finding.

13. The record includes no evidence or testimony that an unnecessary hardship has been produced by any exceptional characteristics of the appellant's property that creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of the property, or deprives the owner of a reasonable return on the property under any use permitted by its existing zone.
14. The decision of the Zoning Hearing Examiner is not supported by the record or by the controlling provisions of the Zoning Code.
15. The Zoning Hearing Examiner incorrectly applied City ordinances in arriving at his decision.
16. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of exceptionality.
17. The Zoning Hearing Examiner erred in his decision by failing to explain his finding of unnecessary hardship.
18. Because the record includes no evidence of exceptionality or hardship, and absent such explanation in his Notification of Decision, the Board can only conclude that the Zoning Hearing Examiner acted arbitrarily in approving this application.

MOVED BY MS CHREIST
SECONDED BY MR. SEIDLER

MOTION CARRIED

For: 4 Board Member(s): Chreist,
Seidler, McMahan, Chavez
Against: 0 Board Member(s):

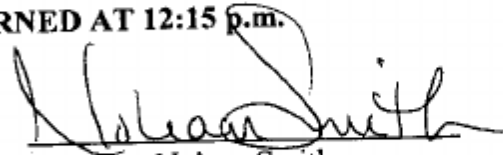
7. Other Matters:

- a. **The October 23, 2007 Minutes**-it was decided they are to be amended and sent to Board members via e-mail to be reviewed and decided upon at the **December 18th** Board of Appeals hearing.
- b. **2008 Board of Appeals Hearing Calendar** -approved as written.
- c. **LUHO Decision**-discussion
- d. **Letter to City Legal**-discussion on what the letter should contain.
- e. **Form Based Code**-discussion

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD OF APPEALS, THE HEARING WAS ADJOURNED AT 12:15 p.m.



Mick McMahan, Chair
Board of Appeals



Nolean Smith
Recording Secretary

City of Albuquerque Planning Department
One Stop Shop – Development and Building Services

03/09/2011 Issued By: E08375 102622

Permit Number: 2011 010 028

Category Code 940

Application Number: 11AA-10028, Amndt Site Development Plan - Subdn

Address:

Location Description: 2210 SILVER ST SE

Project Number: 1008365

Applicant
AUGUSTINE C GRACE

Agent / Contact
Augustine C Grace

PO BOX 93906
ALBUQUERQUE NM 87199
379-3671

Po Box 93906
Albuquerque NM 87199
379-3671

Application Fees

441018/4943000	APN Fee	
441032/3416000	Conflict Mgmt Fee	
441006/4958000	AA Actions	\$45.00
TOTAL:		\$45.00

City Of Albuquerque
Treasury Division

3/9/2011 12:27PM LOC: ANN
 SH 008 TRANS# 0007
 RECEIPT# 00128791-00128791
 PERMIT# 2011010028 TRSL#P
 Trans Amt \$45.00
 AA Actions \$45.00
 VIA \$45.00
 CHANGE \$0.00
 0 Thank You

AA

CITY OF ALBUQUERQUE
ADMINISTRATIVE APPROVAL (AA)- SITE DEV PLAN AMENDMENT
REVIEW SHEET

APPLICATION #: 11AA 10028	PROJECT #: 1008365
PROJECT NAME: 2210 Silver St SE	
APPLICANT or AGENT: Augustine Grace	
PHONE # and E-MAIL: 379-3671	
ZONE ATLAS PAGE: K-16	
ADMINISTRATIVE APPROVAL (AA) for:	EPC CASE DRB CASE

HYDROLOGY (505) 924-3986

PLANS DISAPPROVED:	DATE:	DATE:
PLANS APPROVED:	DATE: 3-14-11 <i>Cont. in plan</i>	DATE:
COMMENTS:		

UTILITIES (505) 924-3989

PLANS DISAPPROVED:	DATE:	DATE:
PLANS APPROVED: AP	DATE: 03/11/11	DATE:
COMMENTS:		

TRANSPORTATION (505) 924-3630 NSF

PLANS DISAPPROVED:	DATE: 03/11/11	DATE: 07/01/11
PLANS APPROVED:	DATE:	DATE:
COMMENTS: SITE PLAN: NEED ALL YOUR STALLS LABELED, DIMENSIONED (WxL) - include drive aisle widths, SHOW WHERE YOU EXISTING ADA PARKING IS LOCATED (ANY EXISTING BUMPERS - SHOW), PROVIDE ALL INFORMATION FOR THE EXISTING CIRCULATION OF LOTS 1, 2 & 3.		
• WHERE IS THE SCALE, NEED TO BE SCALED, ADD SIGNAGE FOR LEGS ORIENTATION, NEED TO FOLLOW DPM, CHAPTER 23 FOR DESIGN CRITERIA - ADA STALLS NEED TO BE ACCESSIBLE W/ RAMPS (see site plan for more comments)		

PLANNING (505) 924-3814 (EPC) or (505) 924-3880 (DRB)

PLANS DISAPPROVED:	DATE:	DATE:
PLANS APPROVED: MM	DATE: 10/21/11	DATE:
COMMENTS:		
delete lots 23 + 24 from site plan per EPC condition		

Called



Supplemental form

SUBDIVISION

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

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- Storm Drainage Cost Allocation Plan

ZONING & PLANNING

- Annexation
- County Submittal
- EPC Submittal
- Zone Map Amendment (Establish or Change Zoning)
- Sector Plan (Phase I, II, III)
- Amendment to Sector, Area, Facility or Comprehensive Plan
- Text Amendment (Zoning Code/Sub Regs)
- Street Name Change (Local & Collector)
- APPEAL / PROTEST of...**
 - Decision by: DRB, EPC, LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

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

APPLICATION INFORMATION:

Professional/Agent (if any): _____ PHONE: _____
 ADDRESS: _____ FAX: _____
 CITY: _____ STATE _____ ZIP _____ E-MAIL: _____

APPLICANT: AUGUSTINE C. GRACE PHONE: 505-379-3671
 ADDRESS: PO. BOX 93906 FAX: _____
 CITY: ALBUQUERQUE STATE NM ZIP 87199 E-MAIL: ACGEN6@AOL.COM

Proprietary interest in site: _____ List all owners: _____

DESCRIPTION OF REQUEST: EPC NOTICE OF DECISION, PROJECT # 1008365
SATISFY CONDITION FOR SITE PLAN AMENDMENT, ADMINISTRATIVE 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. LOTS 1, 2, 3 Block: 2 Unit: _____
 Subdiv/Addn/TBKA: UNIVERSITY HEIGHTS ADDITION
 Existing Zoning: SU-1/SU-2 Church Proposed zoning: NO CHANGE MRGCD Map No _____
 Zone Atlas page(s): K-16 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.) _____
Z-1513, Proj. # 1008365

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? NO
 No. of existing lots: 3 No. of proposed lots: 3 Total area of site (acres): 0.78 ACRES
 LOCATION OF PROPERTY BY STREETS: On or Near: SILVER & YALE 2210 SILVER ST SE
 Between: _____ and _____

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

SIGNATURE [Signature] DATE 7/9/11
 (Print) AUGUSTINE GRACE Applicant Agent

FOR OFFICIAL USE ONLY

Form revised 4/07

INTERNAL ROUTING	Application case numbers	Action	S.F.	Fees
<input checked="" type="checkbox"/> All checklists are complete	<u>VAA</u> - <u>10028</u>	<u>AA</u>		\$ <u>45.00</u>
<input checked="" type="checkbox"/> All fees have been collected				\$ _____
<input checked="" type="checkbox"/> All case #s are assigned				\$ _____
<input checked="" type="checkbox"/> AGIS copy has been sent				\$ _____
<input checked="" type="checkbox"/> Case history #s are listed				\$ _____
<input type="checkbox"/> Site is within 1000ft of a landfill				\$ _____
<input type="checkbox"/> F.H.D.P. density bonus				\$ _____
<input type="checkbox"/> F.H.D.P. fee rebate				\$ _____
	Hearing date _____			Total \$ <u>45.00</u>

[Signature] 3-9-11
 Planner signature / date

Project # 1008365

FORM P(4): SITE DEVELOPMENT PLAN REVIEW – ADMINISTRATIVE APPROVAL (AA)

AMENDMENT TO SITE DEVELOPMENT PLAN FOR BUILDING PERMIT (AA02)

AMENDMENT TO SITE DEVELOPMENT PLAN FOR SUBDIVISION (AA03)

- Letter briefly describing and justifying the request
- One (1) copy of all applicable sheets of the approved Site Development Plan being amended, folded to fit into an 8.5" x 14" pocket. Approved site development plans should contain signatures of the Development Review Board (DRB).
- Copy of EPC or DRB Official Notice of Decision associated with the approved site development plan
- Five (5) copies of the proposed Site Development Plan, with changes circled and noted, folded to fit into an 8.5" x 14" pocket
- Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
- Letter of authorization from the property owner, if the application is submitted by an agent
- Fee (see fee schedule)
- Any original and/or related file numbers must be listed on the cover application

NOTE: The next two items are also required if the square footage change is 2% or more of any building's gross floor area:

- Notification letter addressed to owners of adjacent properties and certified mail receipts
- Office of Neighborhood Coordination (ONC) inquiry response, notification letter to affected Neighborhood Associations and certified mail receipts


WIRELESS TELECOM FACILITY (WTF)- FREE-STANDING, COLLOCATION or OTHER TYPE (AA04)

(EXCEPT FOR COLLOCATION OF A NON-CONCEALED WTF ON A STRAIGHT-ZONED SITE, WHICH GOES TO THE ZONING FRONT COUNTER AT THE BUILDING SERVICES CENTER/ EAST SIDE)

- Letter describing the request and discussion of its how it relates to the WTF Ordinance (O-06-40)
- Letter of authorization from the property owner if application is submitted by an agent
- Fee (see fee schedule)
- Any relevant file numbers (case history of previous development applications) must be listed on cover application
- Copy of EPC Official Notice of Decision, if the subject site went through the EPC process
- Proposed Site Development Plan set: title sheet, notes/photo sheet, site plan sheets, elevation sheets, landscape plan (if free-standing), and survey sheet(s) (3 copies- 11" x 17"). No electrical sheets needed.
- For collocation on a public utility pole: the PNM approved site dev. plan set for the proposed WTF (1 copy)
- Photo simulation- before and after the proposed WTF
- Site Development Plan sheets must be stamped by a registered engineer or architect.
- Copy of approved Site Development Plan being amended by adding the proposed WTF, if applicable (1 copy)
- Zone Atlas map page, with location of the subject site clearly indicated
- 1 map showing Zoning of the subject site and adjacent properties
- 1 map showing Land Use (ex. residential, commercial, etc.) of the subject site and adjacent properties
- For free-standing WTFs: Evidence demonstrating that collocation possibilities were considered, consisting of a written response to §14-16-3-17(A)(6)(a through e) and any supporting materials such as engineering maps
- For collocation on a public utility pole: written discussion of items a through e in §14-16-3-17(A)(14)
- Notarized statement re: WTF capacity, number and types of proposed antennas and if another user can be accommodated on the proposed WTF [see §14-16-3-17(A)(13)(d)(2)]
- Affidavit (notarized statement) re: explanation of factual basis for the proposed WTF's engineering requirements [see §14-16-3-17(A)(13)(d)(3)] **Note: Notarized statement and affidavit must be on separate pages.**
- Letter of intent re: shared use of proposed WTF if reasonable conditions are met [§14-16-3-17(A)(13)(e)]
- For free-standing WTFs: Distance to the nearest existing free-standing WTF and the WTF owner's name [§14-16-3-17(A)(13)(d)(5) and (A)(17)]
- Office of Neighborhood Coordination (ONC) inquiry forms, response based on ¼ mile radius from subject site [§14-16-3-17(A)(13)(f)]
- Copy of letters to both contacts for each neighborhood association(s), with certified return receipts
- List of property owners within 100 feet of the subject site and copy of letter sent to each property owner [§14-16-3-17(A)(13)(f)]
- Supplemental Application Form for Wireless Projects- filled out completely, with the required attachments attached and labeled.

NOTE: There are additional requirements for WTFs proposed to be located on City of Albuquerque property. Please contact Catalina Lehner at (505) 924-3935 for details.

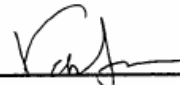
I, the applicant, acknowledge that any information required but not submitted with this application will likely result in rejection of this application and/or deferral of actions.

AUGUSTINE C. GRACE
 Applicant's Name (please print!)

 Applicant's Signature
 5/9/11
 Date



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

Application case numbers:
 1198 - 10228


 Planner's Signature / Date
 3-9-11
 Project #: 1008365

**AUGUSTINE C. GRACE
SUSAN G. GRACE
10021 Corona Avenue NE
ALBUQUERQUE, NM 87122
(505) 379-3671
EMAIL: ACGENG@AOL.COM**

SEPTEMBER 30, 2011

MR. RANDALL FALKNER, PLANNER
CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
600 2ND ST. NEW
ALBUQUERQUE, NM 87103

**RE: ADMINISTRATIVE AMENDMENT TO SITE PLAN
UNIVERSITY HEIGHTS METHODIST CHURCH
2210 SILVER ST. SE. ALBUQUERQUE, NM 87108**

PROJECT NUMBER 1008365

DEAR MR. FAULKNER

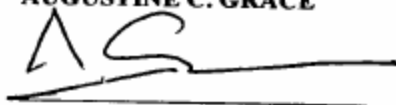
I am trying to wrap up my obligations in the referenced zoning case, but am having some difficulty with the City's review of the transportation aspects of the submittal. I am needing your assistance to clarify my responsibilities and the limits of the City's review.

It was my understanding, based on the Official Notice of Decision, that I was to produce an "As-Built" of the Church's parking lot, which I did (Attachment No. 1). The As-Built demonstrates that 31 parking spaces are available to accommodate the Church's uses. Mr. Nilo Salgado reviewed the drawing (notes attached) and asked that I label the spaces and dimensions, which I also did (Attachment No. 2). Herein lies my problem: Mr. Salgado's new round of comments and requirements seem to indicate that the Church's parking lot does not meet all the CURRENT requirements of a parking lot and is asking me to essentially re-design the parking lot. In particular, parking spaces 25-31 and the driving lane directly north of these spaces don't meet minimum widths or lengths.

My understanding is that I needed to produce an as-built demonstrating that 31 spaces are available to meet the Church's requirements and that's it. Can you please help before I embark on another revision to the drawings. I am anxious to finalize the zoning issues at 201 and 203 Harvard. I believe my latest submittal meets all your requirements and the requirements of the Official Notice of Decision.

If you have any questions, feel free to call me. I would be glad to meet with you at your earliest convenience. You can reach me at 505-379-3671.

Best Regards,
AUGUSTINE C. GRACE



Marrone, Carmen M.

From: Falkner, Randall S.
Sent: Monday, October 10, 2011 2:39 PM
To: Marrone, Carmen M.
Subject: FW: Parking lot

Carmen,

Forwarding this email from Mr. Grace.

Thanks,
Randall

From: Augustine Grace [mailto:acgeng@aol.com]
Sent: Friday, October 07, 2011 2:39 PM
To: Falkner, Randall S.
Subject: Re: Parking lot

Hey Randall:

Did you receive my package with the letter asking for your assistance and/or clarification on my responsibilities?

Augustine Grace
505-379-3671 —

On Jul 16, 2010, at 8:44 AM, Falkner, Randall S. wrote:

Mr. Grace,

Can you please call me about the parking lot project as soon as you get this message. Thank you

Randall Falkner
Planner, Current Planning Division
600 Second Street NW
Albuquerque, NM 87102
(505) 924-3933 (Phone)
(505) 924-3339 (Fax)
rfalkner@cabq.gov

AUGUSTINE AND SUSAN GRACE

PO Box 93906
Albuquerque, NM 87199-3906

Phone: 505-379-3671
Email: acgeng@aol.com

March 4, 2011

City of Albuquerque
Planning Department
Development Review Services
PO Box 1293
Albuquerque, NM 87103

Attention: Carmen Marrone

Project # 1008365, Notice of Decision Dated September 9, 2010

Subject: University Heights Methodist Church, 2210 Silver Street SE, 87108
201 and 203 Harvard SE, 87108

Dear Mrs. Marrone:

Attached for your approval is the Administrative Amendment to Site Plan for the University Heights Methodist Church located 2210 Silver SE, on the SE Corner of Silver and Yale Blvd. (Lots 1, 2, 3, Block 2, University Heights Addition). The new site plan clearly calculates and identifies the parking requirements for the church on Lots 1, 2 and 3, Block 2, University Heights Addition.

As you may recall, the package supports the Notice of Decision of the EPC, dated 09/09/10. The conditions of the decision basically requires that the University Heights Methodist Church must develop a new Site Plan to support their need for 31 parking spaces to be contained on their own property (Lots 1, 2, and 3 of Block 2).

This Site Plan Amendment supports Project # 1008365, which is the "P" Zoning for a portion of 201 and 203 Harvard SE (portion of Lots 23 and 24, Block 2, University Heights Addition).

Please call me if you have any questions. You can reach me at 505-379-3671.

Best Regards,
Augustine Grace





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

Note: Grey Shading Represents Area Outside of the City Limits

Zone Atlas Page:
K-16-Z

Selected Symbols

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

PLANNING DEPARTMENT
CITY OF ALBUQUERQUE

CITY COMMISSION
October 24, 1966
Z-1513 (Amended)

Z-1513
(Amended)

City Planning Commission recommends changes of zones from C-2 & R-3 to SU-1 (Special Use for a Church & Its Incidental Facilities) for Lots 1, 2, 3 and portions of Lots 23 & 24, Block 2, University Heights Addition, located on Silver Avenue SE between Yale Boulevard & Harvard Drive. Request submitted by Rev. L. Unger, agent for University Heights Evangelical United Brethren Church.

APPLICANT'S REASON FOR THIS REQUEST: "To comply with the City Planning Commission's recommendation of October 18, 1965."

PL Map No.: K-16

Census Tract: 17

Acres: 0.78

Material: Report, Sketch, Development Plan
Aerial Photo Available at the Meeting

COMMENTS FROM OTHER DEPARTMENTS:

Bldg. & Insp. Dept.: "Not affected." 8-31-66

Land Agent: "No objections as no right-of-way is involved."

City Engineer: "No problem involving sewer service or drainage. The streets are existing and are paved."

Traffic Engineer: "The maximum curb cut allowed for parking lots is 30 ft. The plan as submitted is for 48 ft. on Yale." 8-31-66

HISTORY: In August, 1965, the City Planning Commission considered a request for a change of zone from R-3 to C-1 for Lots 23 & 24, Block 2, University Heights Addition. This request was denied, and P-2 zoning was recommended.

At the City Commission hearing on October 12, 1965, the applicant requested modification of the zone change to P-1. The City Commission referred this case back to the City Planning Commission for further consideration. Subsequently, on October 18, 1965, the City Planning Commission made the following recommendation:

BE IT RESOLVED THAT Z-1513 be deferred pending re-advertising of Lots 1 thru 3 and 23 & 24, Block 2, University Heights Addition, for a change of zone from R-3 to SU-1, with the applicant to present a development plan indicating the present and desired uses for the property.

Moved by Mr. Stephenson
Seconded by Mr. Craig

Motion Carried Unanimously

PLANNING DEPARTMENT COMMENTS TO CITY PLANNING COMMISSION, 9-19-66:

As stated above, the present request is the result of the Planning Commission's action.

The Planning Department wishes to call the Planning Commission's attention to the reason given for the original request in 1965: "The church needs off-street parking very desperately. The church owns Lot 23 and has an agreement to purchase Lot 24 if proper zoning can be obtained. Plans are to turn these two lots into a parking area."

Because of the above reason, the Planning Department recommended approval of the request, since the church does not have adequate off-street parking on Lots 1 thru 3. It was and still is the department's opinion that any additional off-street parking that could be provided for the church would lessen congestion in the street and thus be in the best interest of the community.

CITY COMMISSION
October 24, 1966
Z-1513 (Amended)

Planning Department Comments as presented to City Planning Commission 9-19-66 (Cont)

At the October 18 Planning Commission hearing however, the Commission was informed that the church intends to use only the rear portion of Lots 23 & 24 for parking and to retain the dwellings on these two lots as rentals.

The Planning Department believes that the proposed use of the two dwellings is not in keeping with the zoning regulations regarding SU-1 zoning, since residential rental units are not incidental uses for a church. If the dwellings are to be used for church purposes, the development plan should so indicate. If not, the Planning Department does not support the requested zone change as presented. The front portions of Lots 23 & 24 where the houses are located should be deleted from the zone change if they are not to be used for church activities.

PLANNING COMMISSION ACTION, 9-19-66: (Members Present: Messrs. Hertford, McCanna, Hyder & Lujan)

The Chairman explained this request and the Planning Department's recommendation. Inasmuch as the front portion of Lots 23 & 24 contain houses that are to be used as rental property, they cannot be considered as being used for church purposes and should be deleted from the request.

There were no objectors present. The following motion was made:

BE IT RESOLVED THAT Z-1513 (Amended) as changed, i.e., a change of zone from C-2 & R-3 to SU-1 (Special Use for a Church & Its Incidental Facilities) for Lots 1, 2 & 3 and the rear 85 ft. approximately of Lots 23 & 24, Block 2, University Heights Addition, be recommended to the City Commission for approval.

Moved by Mr. McCanna
Seconded by Mr. Lujan

Motion Carried Unanimously

ADDITIONAL PLANNING DEPARTMENT COMMENTS:

The development plans submitted with this request have been amended to conform with the City Planning Commission's recommendation. The attached ordinance describes the change of zones recommended by this Commission.


Jan Van Erven, Planner III


George L. Carruthers, Assistant Director

cc: Rev. A. L. Unger, 2210 Silver SE
M. S. Reynolds, 204 Harvard SE

JVE:GLC/ep

(2)

CITY COMMISSION
October 24, 1966
Z-1513 (Amended)

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONE MAP OF THE CITY OF ALBUQUERQUE AS SHOWN IN ORDINANCE NO. 2726, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE, NEW MEXICO:

SECTION 1. The Zone Map referred to in Ordinance No. 2726 is hereby amended as follows:

C-2 and R-3 to SU-1 (Special Use for a Church and Its Incidental Facilities) for Lots 1, 2 and 3, the westerly 78 ft. of Lot 23, and the westerly 87 ft. of Lot 24, Block 2, University Heights Addition, filed in the office of the County Clerk of Bernalillo County, New Mexico, on February 7, 1916.

SECTION 2. This ordinance is an emergency measure due to urgent public need and will be effective five days after publication in full in accordance with law.

ADOPTED _____

Chairman, City Commission, Albuquerque, N. M.

ATTEST: _____, City Clerk

APPROVED AS TO FORM

Date: 10-20-1966

Frank Horan

FRANK HORAN, CITY ATTORNEY

APPROVED AS TO DESCRIPTION

Date: 10-20-1966

W. T. Stevens

WILLIAM T. STEVENS, CITY ENGINEER

CITY OF ALBUQUERQUE
STATE OF NEW MEXICO

October 27, 1966

Reverend A. L. Unger
2210 Silver S.E.
Albuquerque, New Mexico

Dear Reverend Unger:

The City Commission on October 24, took the following action:

Z-1513 Passed Commission Ordinance No. 109-1966,
(Amended) changing zones from C-2 and R-3 to SU-1
 (Special Use for a Church and Its Incidental
Facilities) for land on Silver Ave. SE between Yale
Blvd. and Harvard Dr. Request submitted by Reverend
L. Unger, agent for University Heights Evangelical
United Brethren Church.

Very truly yours,

Arthur E. Jones
Assistant City Manager

AEJ/jer

cc: City Planning Department

100 123456



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

Augustine or Susan Grace
201 & 203 Harvard SE
Albuquerque, NM 87106

Date: September 9, 2010

OFFICIAL NOTIFICATION OF DECISION

FILE: **Project # 1008365**
10EPC-40037 - AMNDT TO
SECTOR DEVELOPMENT PLAN ZONE MAP
(ZONE CHG)

LEGAL DESCRIPTION: AUGUSTINE OR SUSAN GRACE request the above action for all or a portion of lots 23 & 24, block 2, UNIVERSITY HEIGHTS zoned SU-2/SU-1 FOR CHURCH & REL FAC to P (PARKING) located on HARVARD SE BETWEEN SILVER SE AND LEAD SE containing approximately 0.2 acre. (K-16) Randall Falkner, Staff Planner

On September 9, 2010 the Environmental Planning Commission voted to **Approve** Project 1008365/10EPC-40337, an Amendment to Sector Development Plan Zone Map (Zone Change) based on the following findings:

FINDINGS:

1. This is a request for an amendment to the University Neighborhoods Sector Development Plan Zone Map from SU-2/SU-1 for Church & Related Facilities to P (Parking). The request comprises the westerly portion of Lots 23 and 24, Block 2, University Heights Addition. The site is located on Harvard Drive, between Silver Avenue and Lead Avenue.
2. The subject site was originally approved in 1966 (Z-1513) to serve as off-street parking for the University Heights United Methodist Church. The University Heights United Methodist Church has stated that it no longer owns or needs the parking spaces on the subject site and has sold the site to the applicant. The applicant intends to keep using the site as a parking lot.
3. The parking requirement for the church is 33 spaces (including the 10 percent transit reduction) and the church parking lot has 31 existing parking spaces. The applicant has an agreement with the church that they can use the parking lot for overflow parking if necessary.

4. The Albuquerque/Bernalillo County Comprehensive Plan, the University Neighborhoods Sector Development Plan, and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
5. The subject site is within the area designated Central Urban by the Comprehensive Plan. The Central Urban plan is a portion of the Established Urban Area and is also subject to those policies. The subject site is also in the University Neighborhoods Sector Development Plan.
6. The applicant provided an adequate justification for the zone change request pursuant to Resolution 270-1980:
 - a. The request is consistent with the health, safety, morals, and general welfare of the City. The request for a zone change from SU-2/SU-1 for Church & Related Facilities to P (Parking) would not change the current use of the site as a parking lot. The parking lot is properly maintained and provides a safe place for people to park and then walk to nearby destinations.
 - b. The stability of land use and zoning would be maintained with the request. The request will not change the land use, since it will still be used as a parking lot. The site has been a parking lot since 1966 when the site plan and zoning were approved. The actual use of the land (parking lot) would match the proposed zoning (P).
 - c. The request is not in significant conflict with adopted elements of the Comprehensive Plan, including the following:
 - i. Established Urban Area Policy II.B.5i – The request will complement residential areas and has been sited to minimize adverse effects of noise, lighting, pollution, and traffic. The request for a P zone complements residential areas by allowing a place to park for those going to school, restaurants, or other local establishments in the neighborhood. The parking lot provides a known location for parking and keeps cars from parking on local residential streets in an area where there is a parking deficit.
 - ii. Economic Development Goal – The request would help to achieve steady and diversified economic development balanced with other important social, cultural and environmental goals. The request continues to allow parking at an established location, which serves to support local businesses and higher education institutions.
 - iii. Economic Development Policy II.D.6b – The request provides convenient parking for local businesses, which helps to develop local businesses and could serve as a recruiting tool for outside firms. The request helps to provide parking in an area where there is a parking deficit.

- d. Community conditions have changed over the years, as the church no longer needs as much parking as it once did, and can comfortably park on its own parking lot. The applicant has also shown that a different use category is more advantageous to the community as articulated in the Comprehensive Plan.
 - e. There are no permissive uses that would be harmful to the adjacent property, the neighborhood or the community. The site is already being used as a parking lot.
 - f. The request requires no capital expenditures on the part of the City.
 - g. The cost of land and other economic considerations are not the determining factor for the requested zone map amendment.
 - h. The site is not located on an arterial or collector street.
 - i. The request creates a spot zone; however, the proposed zone map amendment facilitates the realization of a preponderance of Comprehensive Plan goals and policies.
 - j. The request does not constitute a strip zone.
7. A letter of support has been received from the University Heights United Methodist Church.
8. There is no known neighborhood opposition to the request.

CONDITIONS OF APPROVAL - 10EPC 40037, 9/9/2010, Amend Sector Development Plan Zone Map

- 1. Prior to issuance of the zoning certificate, the applicant shall meet with the staff planner to ensure that all conditions of approval are met.
- 2. Amend the 1966 approved site development plan (Z-1513) to delete the subject site from the plan.

IF YOU WISH TO APPEAL/PROTEST THIS DECISION, YOU MUST DO SO BY **September 24, 2010** IN THE MANNER DESCRIBED BELOW. A NON-REFUNDABLE FILING FEE WILL BE CALCULATED AT THE LAND DEVELOPMENT COORDINATION COUNTER AND IS REQUIRED AT THE TIME THE APPEAL IS FILED. IT IS NOT POSSIBLE TO APPEAL EPC RECOMMENDATIONS TO CITY COUNCIL; RATHER, A FORMAL PROTEST OF THE EPC'S RECOMMENDATION CAN BE FILED WITHIN THE 15 DAY PERIOD FOLLOWING THE EPC'S DECISION.

OFFICIAL NOTICE OF DECISION
SEPTEMBER 9, 2010
PROJECT 1008365/10EPC-40037
PAGE 4 OF 4

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

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

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

Sincerely,

Debbie Stover
Planning Director

DS/rf/ns

cc:
Augustine/Susan Grace, 201 & 203 Harvard SE, Albuquerque, NM 87106
Sherry Smith, University Heights N.A., 405 Stanford SE, Albuquerque, NM 87106
Lanny Heinlen, 2315 ½ Lead St. SE, Albuquerque, NM 87106

2

3

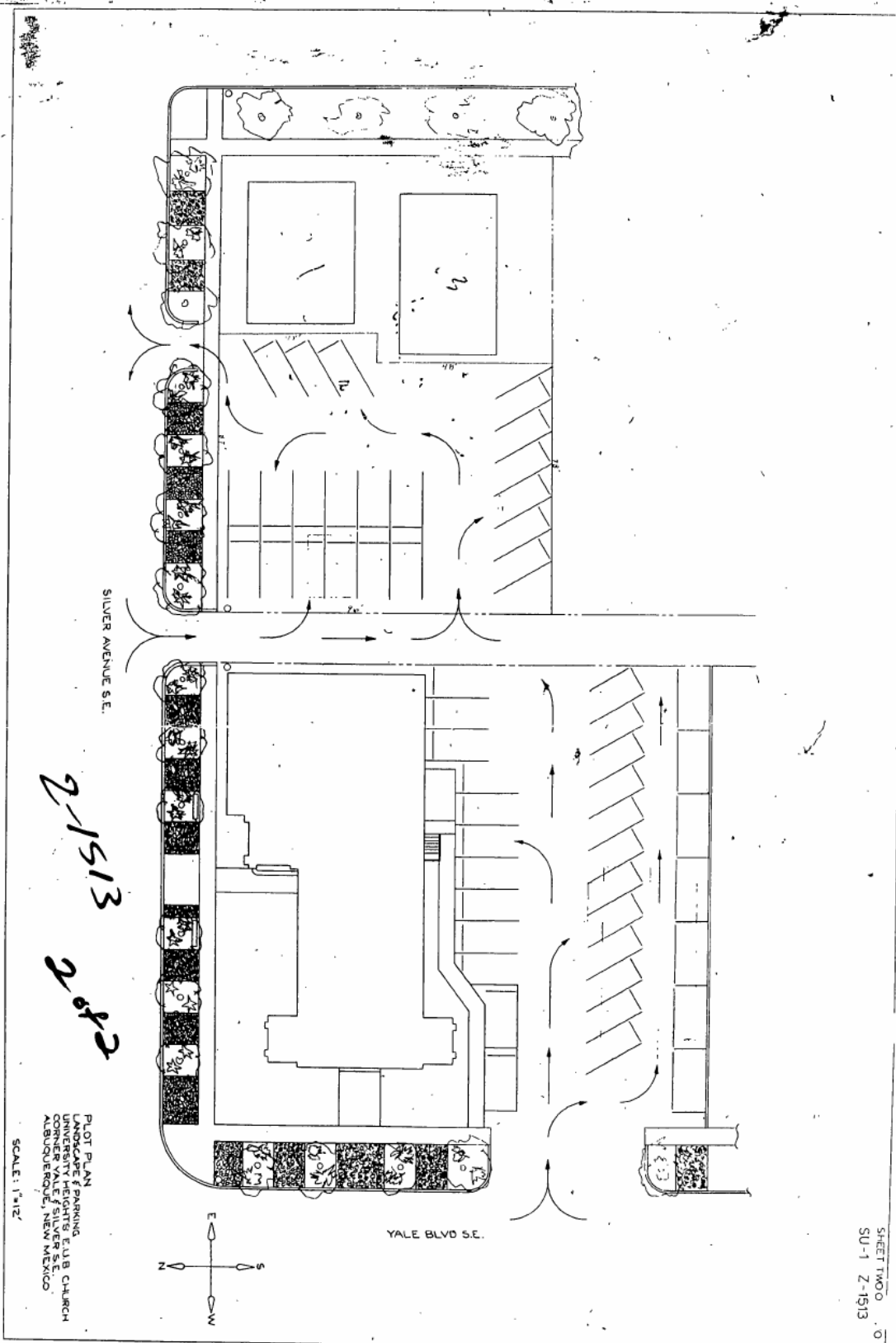
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2

CITY OF ALBUQUERQUE

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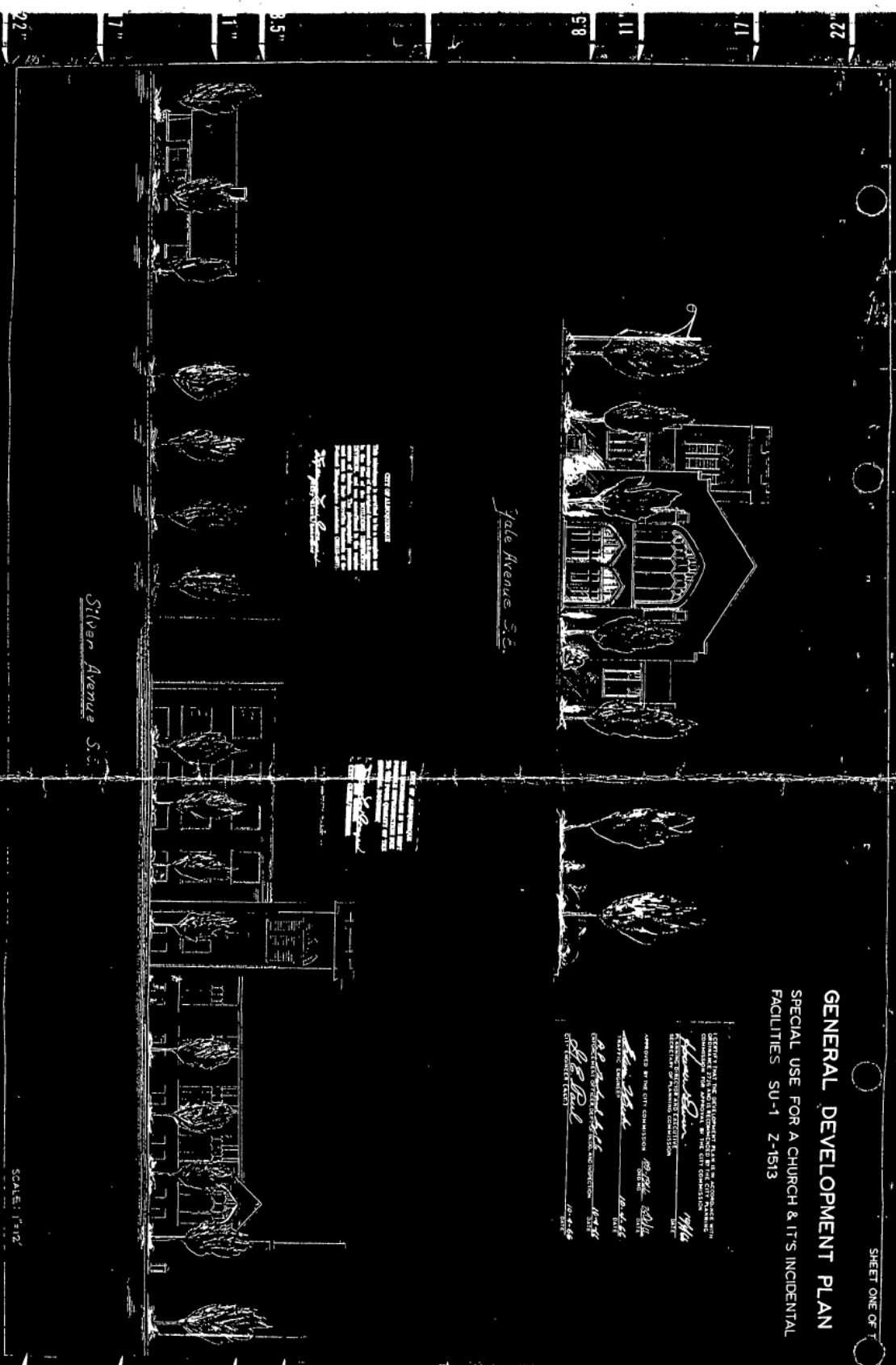


PLAT PLAN
 UNIVERSITY PARKING
 UNIVERSITY HEIGHTS E.L.B. CHURCH
 CORNER YALE & SILVER S.E.
 ALBUQUERQUE, NEW MEXICO
 SCALE: 1"=12'

SHEET TWO
 SU-1 Z-1513

NO. 1417 and 8-1513-82
 CITY OF ALBUQUERQUE
 THE ATTORNEY IS CERTIFYING
 THAT THE PLAT IS CORRECT
 AND THAT THE PLAT IS IN
 ACCORDANCE WITH THE
 PROVISIONS OF THE
 PLAT ACT, CHAPTER 10,
 SECTION 1-10-1, N.M.S.A.
 1953 (1955)
 THE PLAT IS SUBJECT TO
 THE REVISIONS AND
 AMENDMENTS OF THE
 CITY OF ALBUQUERQUE
 ENGINEER
Paul Bauer
 REGISTERED PROFESSIONAL ENGINEER
 NO. 1417 AND 8-1513-82

CITY OF ALBUQUERQUE



GENERAL DEVELOPMENT PLAN
 SPECIAL USE FOR A CHURCH & ITS INCIDENTAL
 FACILITIES SU-1 Z-1513

SHEET ONE OF TWO

DESIGNED BY THE CITY COMMISSIONER
 APPROVED BY THE CITY COMMISSIONER
 PREPARED BY THE CITY COMMISSIONER
 DRAWN BY THE CITY COMMISSIONER
 CHECKED BY THE CITY COMMISSIONER
 DATE 10-1-58
 CITY OF ALBUQUERQUE

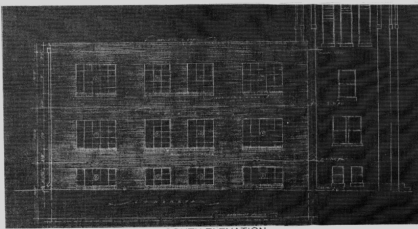
CITY OF ALBUQUERQUE
 DEPARTMENT OF PLANNING
 200 WEST WASHINGTON AVENUE
 ALBUQUERQUE, NEW MEXICO

CITY OF ALBUQUERQUE
 DEPARTMENT OF PLANNING
 200 WEST WASHINGTON AVENUE
 ALBUQUERQUE, NEW MEXICO

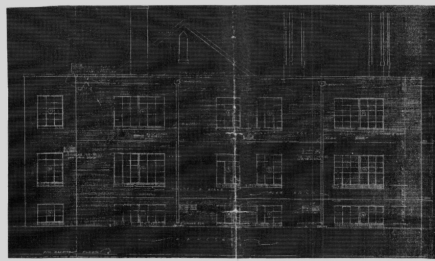
SCALE: 1/4" = 1'-0"

22" 17" 11" 8.5" 11" 17" 22"

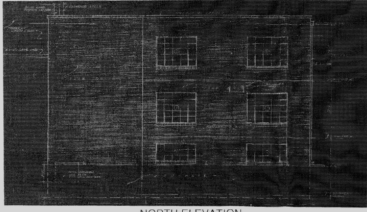
22" 17" 11" 8.5" 11" 17" 22"



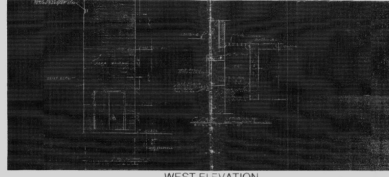
SOUTH ELEVATION



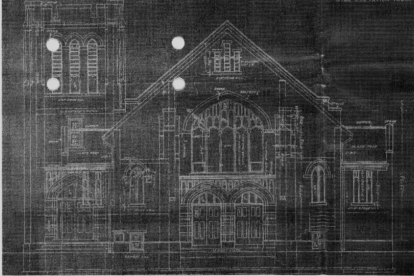
EAST ELEVATION



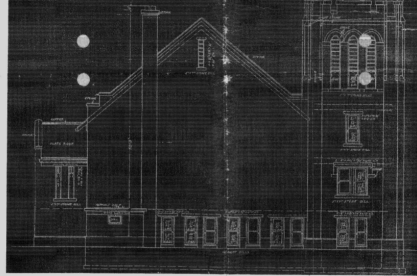
NORTH ELEVATION



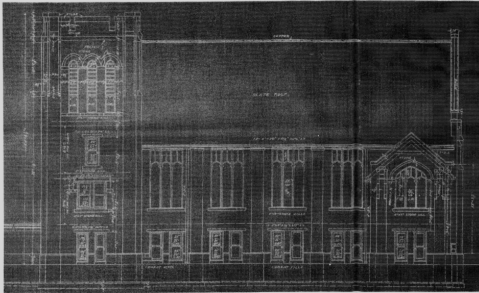
WEST ELEVATION



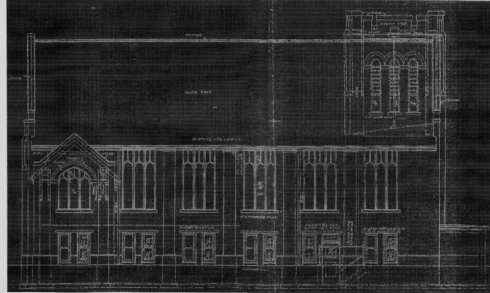
FRONT ELEVATION



REAR ELEVATION



SIDE ELEVATION LEFT



SIDE ELEVATION RIGHT

VICINITY MAP (K-16-Z)



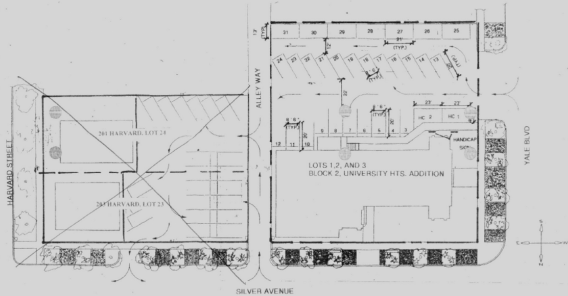
UNIFORMS	
LOT AREA	1,054.12 SQ. FT.
ADDRESS	2210 SILVER STREET SE, ALBUQUERQUE, NM 87108
DATE	8/16/2011
CALCULATION OF PARKING REQUIREMENTS	
TOTAL LENGTH OF DRIVE	263.12' (SEE PLAN)
NUMBER OF BAYS	4 (SEE PLAN)
NUMBER OF PARKING SPACES	10 (SEE PLAN)
SPACES FOR TRANSIT REDUCTION	0
PARKING SPACES REQUIRED	10
PARKING SPACES AVAILABLE	10

APPROVALS

CARM'S WARDEN, PLANNING
CITY OF ALBUQUERQUE

[Signature]
UNIVERSITY HEIGHTS METHODIST CHURCH
FOR LOT 1, 2, 3

ADMINISTRATIVE AMENDMENT
NO. 100806



NEW SITE PLAN
LOTS 1, 2, 3 BLOCK 2
UNIVERSITY HEIGHTS ADDITION

EXPOSURE: THE SUBJECT OF THE ADMINISTRATIVE AMENDMENT (SITE PLAN FOR LOTS 1, 2 AND 3, BLOCK 2, UNIVERSITY HEIGHTS ADDITION, CONSISTING OF 2.8 ACRES, THE PORTION OF THE ADMINISTRATIVE AMENDMENT NO. 100806, THE CITY OF ALBUQUERQUE, NEW MEXICO, IS SHOWN ON THE ATTACHED PARCEL MAP AND THE CITY OF ALBUQUERQUE ZONING ORDINANCE, CHAPTER 21, ARTICLE 1, SECTION 21-1-10. THE SUBJECT OF THIS ADMINISTRATIVE AMENDMENT IS SHOWN ON THE ATTACHED PARCEL MAP AND THE CITY OF ALBUQUERQUE ZONING ORDINANCE, CHAPTER 21, ARTICLE 1, SECTION 21-1-10.

BACKGROUND: UNIVERSITY HEIGHTS METHODIST CHURCH USED TO OWN THE ADDITIONAL LOTS 1, 2 AND 3 AND USED A PORTION OF LOT 2, NO. 2 FOR ADDITIONAL PARKING TO SUPPORT CHURCH USES. THE PARKING SPACES LOCATED ON A PORTION OF LOT 2, AND ARE NO LONGER NEEDED TO SUPPORT CHURCH USES ON LOTS 1, 2 AND 3. ON SEPTEMBER 1, 2011, THE HARVARD SE AND SE HARVARD SE, CONSISTING OF LOTS 2 AND 3, BLOCK 2, UNIVERSITY HEIGHTS ADDITION WERE ACQUIRED BY THE CITY OF ALBUQUERQUE FOR THE USE OF THE LOTS. THIS ADMINISTRATIVE SITE PLAN AMENDMENT CALCULATES PARKING REQUIREMENTS ON THE PROPERTY LOTS 1, 2 AND 3 AND SHOWS THAT PARKING REQUIREMENTS ON LOTS 1 AND 2 ARE NO LONGER NEEDED.

*will revise
10/21/11*

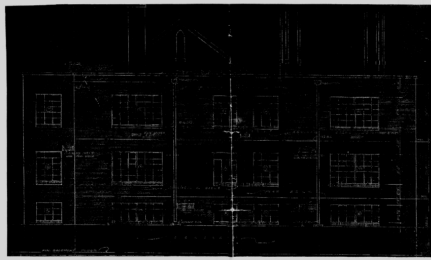
PROJECT NUMBER
100806

ADMINISTRATIVE AMENDMENT
SITE PLAN
UNIVERSITY HEIGHT METHODIST CHURCH
2210 SILVER STREET SE
ALBUQUERQUE, NM 87108

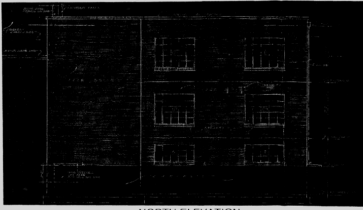




SOUTH ELEVATION



EAST ELEVATION



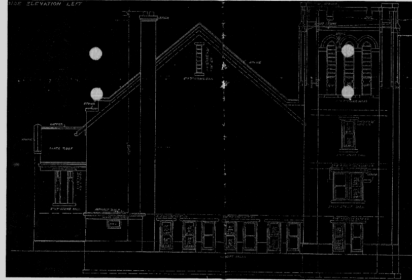
NORTH ELEVATION



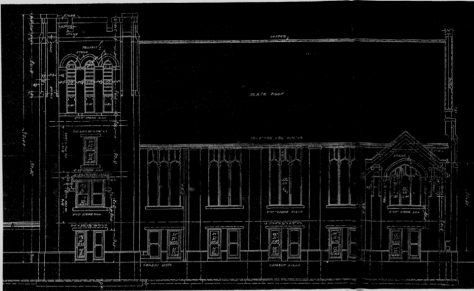
WEST ELEVATION



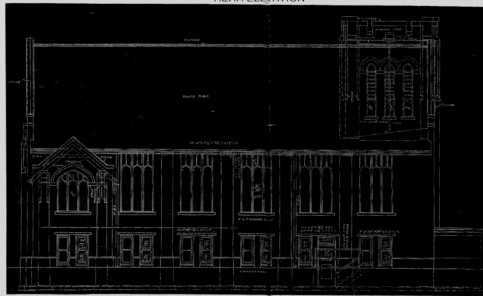
FRONT ELEVATION



REAR ELEVATION

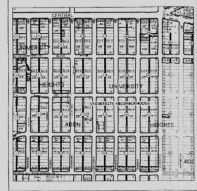


SIDE ELEVATION LEFT



SIDE ELEVATION RIGHT

VICINITY MAP (K-16-Z)



DESCRIPTION	
LOCATION	LOTS 1, 2, 3, BLOCK 2, UNIVERSITY HEIGHTS ADDITION
ADDRESS	2210 SILVER STREET SE, ALBUQUERQUE, NM 87109
DATE	07/26/11
CALCULATION OF PARKING REQUIREMENTS	
TOTAL LENGTH OF FRONT	421.2' (60' x 7)
NUMBER OF SEATS	1,372 (23 seats per row x 59 rows)
NUMBER OF PARKING SPACES	185 (2.5 spaces per row x 74 rows)
OFF-CEREBE FOR TRANSIT BUS/CLUBS	1
PARKING SPACES REQUIRED	186
PARKING SPACES AVAILABLE	185

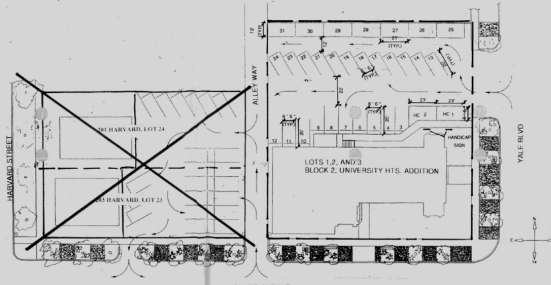
MEMORANDUM

CARMEN WARRIOR PLANNING
1110 S. ALBUQUERQUE

FOR THE CITY OF ALBUQUERQUE

UNIVERSITY HEIGHTS METHODIST CHURCH
FOR LOTS 1, 2, 3

ALTERNATIVE GRANT
OWNER, LOTS 23, AND 24



NEW SITE PLAN
LOTS 1, 2, 3 BLOCK 2
UNIVERSITY HEIGHTS ADDITION

ADMINISTRATIVE AMENDMENT	
FILE #	1002345
PROJECT #	1002345
DATE	12/21/11
APPROVED BY	
DATE	

LEGEND

THE PURPOSE OF THIS ADMINISTRATIVE AMENDMENT IS TO DELETE LOTS 23 AND 24, BLOCK 2, UNIVERSITY HEIGHTS ADDITION, FROM THE SITE PLAN.

BACKGROUND

UNIVERSITY HEIGHTS METHODIST CHURCH USED LOTS 23 AND 24 AND USED A PORTION OF LOT 22, BLOCK 2, FOR ADDITIONAL PARKING TO USE FOR CHURCH SERVICES. THE PARKING SPACES ON LOTS 23 AND 24 ARE NO LONGER NEEDED TO SUPPORT CHURCH SERVICES AND AS A RESULT, THE CHURCH HAS DETERMINED TO DISCONTINUE USING LOTS 23 AND 24 AND AS A RESULT, THE CHURCH HAS DETERMINED TO DISCONTINUE USING LOTS 23 AND 24. THIS ADMINISTRATIVE AMENDMENT IS NECESSARY TO CORRECT THE SITE PLAN TO REFLECT THE CHURCH'S INTENT TO DISCONTINUE USING LOTS 23 AND 24 AND TO CORRECT THE PARKING REQUIREMENTS TO REFLECT THE CHURCH'S INTENT TO DISCONTINUE USING LOTS 23 AND 24.

Project No. 1002345

ADMINISTRATIVE AMENDMENT
SITE PLAN
UNIVERSITY HEIGHT METHODIST CHURCH
2210 SILVER STREET SE
ALBUQUERQUE, NM 87108

APPLICANT INFORMATION



Please check the appropriate box and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

Administrative Decisions	Decisions Requiring a Public Meeting or Hearing	Policy Decisions
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)
<input type="checkbox"/> Historic Certificate of Appropriateness – Minor (Form L)	<input type="checkbox"/> Master Development Plan (Form P1)	<input type="checkbox"/> Adoption or Amendment of Historic Designation (Form L)
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Amendment of IDO Text (Form Z)
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Annexation of Land (Form Z)
<input type="checkbox"/> WTF Approval (Form W1)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	<input type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)
<input type="checkbox"/> Alternative Landscaping Plan (Form P3)	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)
		Appeals
		<input type="checkbox"/> Decision by EPC, DHO, LC, ZHE, or City Staff (Form A)

APPLICATION INFORMATION

Applicant:		Phone:
Address:		Email:
City:	State:	Zip:
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:	List <u>all</u> owners:	

BRIEF DESCRIPTION OF REQUEST

Zoning Map Amendment from R-ML to MX-L to allow for a coffee shop, breakfast restaurant, and community gathering space.

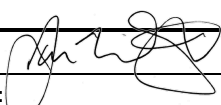
SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.:	Block:	Unit:
Subdivision/Addition:	MRGCD Map No.:	UPC Code:
Zone Atlas Page(s):	Existing Zoning:	Proposed Zoning:
# of Existing Lots:	# of Proposed Lots:	Total Area of Site (acres):

LOCATION OF PROPERTY BY STREETS

Site Address/Street:	Between:	and:
----------------------	----------	------

CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

Signature: 	Date:
Printed Name:	<input type="checkbox"/> Applicant or <input type="checkbox"/> Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees

Meeting/Hearing Date:	Fee Total:
Staff Signature:	Date: Project #

Form Z: Policy Decisions

Please refer to the EPC hearing schedule for public hearing dates and deadlines. Your attendance is required.

A single PDF file of the complete application including all plans and documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD.

INFORMATION REQUIRED FOR ALL POLICY DECISIONS (Except where noted)

N/A Interpreter Needed for Hearing? _____ if yes, indicate language: _____

N/A Proof of Pre-Application Meeting with City staff per IDO Section 14-16-6-4(B)

Letter of authorization from the property owner if application is submitted by an agent

Traffic Impact Study (TIS) form (not required for Amendment to IDO Text)

Zone Atlas map with the entire site/plan amendment area clearly outlined and labeled (not required for Amendment to IDO Text) NOTE: For Annexation of Land, the Zone Atlas must show that the site is contiguous to City limits.

ADOPTION OR AMENDMENT OF COMPREHENSIVE PLAN

ADOPTION OR AMENDMENT OF FACILITY PLAN

___ Plan, or part of plan, to be amended with changes noted and marked

___ Letter describing, explaining, and justifying the request per the criteria in IDO Sections 14-16-6-7(A)(3) or 14-16-6-7(B)(3), as applicable

___ Required notices with content per IDO Section 14-16-6-4(K)(6)

___ Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing

___ Proof of emailed notice to affected Neighborhood Association representatives

___ Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing

AMENDMENT TO IDO TEXT

___ Section(s) of the Integrated Development Ordinance to be amended with changes noted and marked

___ Justification letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-7(D)(3)

___ Required notices with content per IDO Section 14-16-6-4(K)(6)

___ Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing

___ Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing

ZONING MAP AMENDMENT – EPC

ZONING MAP AMENDMENT – COUNCIL

Proof of Neighborhood Meeting per IDO Section 14-16-6-4(C)

Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-7(F)(3) or Section 14-16-6-7(G)(3), as applicable

Required notices with content per IDO Section 14-16-6-4(K)(6)

Office of Neighborhood Coordination notice inquiry response, notifying letter, and proof of first class mailing

Proof of emailed notice to affected Neighborhood Association representatives

Buffer map and list of property owners within 100 feet (excluding public rights-of-way), notifying letter, and proof of first class mailing

Sign Posting Agreement

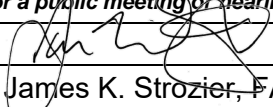

ANNEXATION OF LAND

___ Application for Zoning Map Amendment *Establishment of zoning must be applied for simultaneously with Annexation of Land.*

___ Petition for Annexation Form and necessary attachments

___ Letter describing, explaining, and justifying the request per the criteria in IDO Section 14-16-6-7(E)(3)

___ Board of County Commissioners (BCC) Notice of Decision

<p><i>I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.</i></p>	
<p>Signature: </p>	<p>Date:</p>
<p>Printed Name: James K. Strozier, FAICP</p>	<p><input type="checkbox"/> Applicant or <input checked="" type="checkbox"/> Agent</p>
<p>FOR OFFICIAL USE ONLY</p>	
<p>Project Number:</p>	<p>Case Numbers</p>
<p> </p>	<p>-</p>
<p> </p>	<p>-</p>
<p> </p>	<p>-</p>
<p>Staff Signature:</p>	
<p>Date:</p>	

February 21, 2024

Jonathan R. Hollinger, Chair
Environmental Planning Commission
600 2nd Street NW
Albuquerque, NM 87102

Re: 201 and 203 Harvard Drive SE

Dear Mr. Chair,

Augustine and Susan Grace, owners of the subject property, hereby authorize Consensus Planning to act as our agent for all matters related to the request for a Zone Map Amendment, Site Plan – Administrative, and platting. This authorization includes meetings and coordination with City staff, neighborhood associations, Environmental Planning Commission, Development Hearing Officer, etc. for the properties located at the southwest corner of Harvard Drive SE, and Silver Ave SE.

The properties are legally described as the following:

- * 024 002 University Heights Addition
- * 023 002 University Heights Addition

Sincerely,

Signature:



Printed Name: AUGUSTINE C. GRACE



City of Albuquerque

Planning Department
Development Review Services Division

Traffic Scoping Form (REV 12/2020)

Zoning Map Amendment Request,
201 & 203 Harvard Drive SE

Project Title: _____ Building Permit #: N/A Hydrology File #: N/A

Zone Atlas Page: K-16-Z DRB#: N/A EPC#: N/A Work Order#: N/A

Legal Description: _____

City Address: 201 & 203 Harvard Drive SE

Applicant: ACG Engineering and Construction Management Contact: James K. Strozier

Address: 302 Eighth Street NW

Phone#: 505-764-9801 Fax#: _____ E-mail: cp@consensusplanning.com

Development Information

Build out/Implementation Year: N/A Current/Proposed Zoning: R-ML/MX-L

Project Type: New: () Change of Use: () Same Use/Unchanged: () Same Use/Increased Activity: ()

Proposed Use (mark all that apply): Residential: () Office: () Retail: () Mixed-Use: () Change of Zoning

Describe development and Uses:
Zoning Map Amendment from R-ML to MX-L

Days and Hours of Operation (if known): N/A

Facility

Building Size (sq. ft.): N/A

Number of Residential Units: N/A

Number of Commercial Units: N/A

Traffic Considerations

Expected Number of Daily Visitors/Patrons (if known):* N/A

Expected Number of Employees (if known):* N/A

Expected Number of Delivery Trucks/Buses per Day (if known):* N/A

Trip Generations during PM/AM Peak Hour (if known):* N/A

Driveway(s) Located on: Street Name N/A

Adjacent Roadway(s) Posted Speed: Street Name Harvard Drive Posted Speed Not posted

Street Name Silver Avenue Posted Speed 18

* If these values are not known, assumptions will be made by City staff. ¹³⁶ Depending on the assumptions, a full TIS may be required

Roadway Information (adjacent to site)

Comprehensive Plan Corridor Designation/Functional Classification: Local urban streets
(arterial, collector, local, main street)

Comprehensive Plan Center Designation: None
(urban center, employment center, activity center)

Jurisdiction of roadway (NMDOT, City, County): City

Adjacent Roadway(s) Traffic Volume: N/A Volume-to-Capacity Ratio: N/A
(if applicable)

Adjacent Transit Service(s): Buses 50, 97, 777, 766, and 66 Nearest Transit Stop(s): Central, Yale and Lead

Is site within 660 feet of Premium Transit?: No

Current/Proposed Bicycle Infrastructure: Silver Avenue Bike Boulevard
(bike lanes, trails)

Current/Proposed Sidewalk Infrastructure: N/A

Relevant Web-sites for Filling out Roadway Information:

City GIS Information: <http://www.cabq.gov/gis/advanced-map-viewer>

Comprehensive Plan Corridor/Designation: <https://abc-zone.com/document/abc-comp-plan-chapter-5-land-use> (map after Page 5-5)

Road Corridor Classification: <https://www.mrcog-nm.gov/DocumentCenter/View/1920/Long-Range-Roadway-System-LRRS-PDF?bidId=>

Traffic Volume and V/C Ratio: <https://www.mrcog-nm.gov/285/Traffic-Counts> and <https://public.mrcog-nm.gov/taqa/>

Bikeways: http://documents.cabq.gov/planning/adopted-longrange-plans/BTFP/Final/BTFP%20FINAL_Jun25.pdf (Map Pages 75 to 81)

TIS Determination

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

Traffic Impact Study (TIS) Required: Yes [] No Borderline []

Thresholds Met? Yes [] No

Mitigating Reasons for Not Requiring TIS: Previously Studied: []

Notes: The Zone Map Amendment does not require a TIS. When the property is developed the traffic requirements will need reevaluation.

M.P. P.E.

1/30/2024

TRAFFIC ENGINEER

DATE

Submittal

The Scoping Form must be submitted as part of any building permit application, DRB application, or EPC application. See the Development Process Manual Chapter 7.4 for additional information.

Submit by email to the City Traffic Engineer mgrush@cabq.gov . Call 924-3362 for information.

Site Plan/Traffic Scoping Checklist

Site plan, building size in sq. ft. (show new, existing, remodel), to include the following items as applicable:

1. Access -- location and width of driveways
2. Sidewalks (Check DPM and IDO for sidewalk requirements. Also, Centers have wider sidewalk requirements.)
3. Bike Lanes (check for designated bike routes, long range bikeway system) ([check MRCOG Bikeways and Trails in the 2040 MTP map](#))
4. Location of nearby multi-use trails, if applicable ([check MRCOG Bikeways and Trails in the 2040 MTP map](#))
5. Location of nearby transit stops, transit stop amenities (eg. bench, shelter). Note if site is within 660 feet of premium transit.
6. Adjacent roadway(s) configuration (number of lanes, lane widths, turn bays, medians, etc.)
7. Distance from access point(s) to nearest adjacent driveways/intersections.
8. Note if site is within a Center and more specifically if it is within an Urban Center.
9. Note if site is adjacent to a Main Street.
10. Identify traffic volumes on adjacent roadway per MRCOG information. If site generates more than 100 vehicles per hour, identify v/c ratio on this form.



February 8, 2024

Jonathan R. Hollinger
Environmental Planning Commission
City of Albuquerque
600 2nd Street NW
Albuquerque, NM 87102

RE: Zoning Map Amendment, 201 & 203 Harvard Drive SE

Landscape Architecture
Urban Design
Planning Services

302 Eighth St. NW
Albuquerque, NM 87102

(505) 764-9801
Fax 842-5495
cp@consensusplanning.com
www.consensusplanning.com

Dear Mr. Chair,

The purpose of this letter is to justify a Zoning Map Amendment by responding to criteria in the Integrated Development Ordinance (IDO) Section 14-16-6-7(G), on behalf of ACG Engineering and Construction Management LLC. The subject property is legally described as *24 002 University Heights Addition and * 023 002 University Heights Addition and contains a total of approximately 0.33 acres.

The subject property is located on the corner of Silver Avenue and Harvard Drive. The existing zoning is R-ML (Multi-family Low Density). The Applicant is requesting a Zoning Map Amendment to MX-L (Mixed-use Low Intensity) to allow for a coffee shop, breakfast restaurant, and a community gathering space. The Applicant is ACG Engineering and Construction Management LLC, whose Principal is Augustine Grace. Augustine and his wife, Susan, own both 201 & 203 Harvard Drive.



Subject property.

PRINCIPALS

James K. Strozier, FAICP
Jacqueline Fishman, AICP

ASSOCIATES

Ken Romig, PLA, ASLA

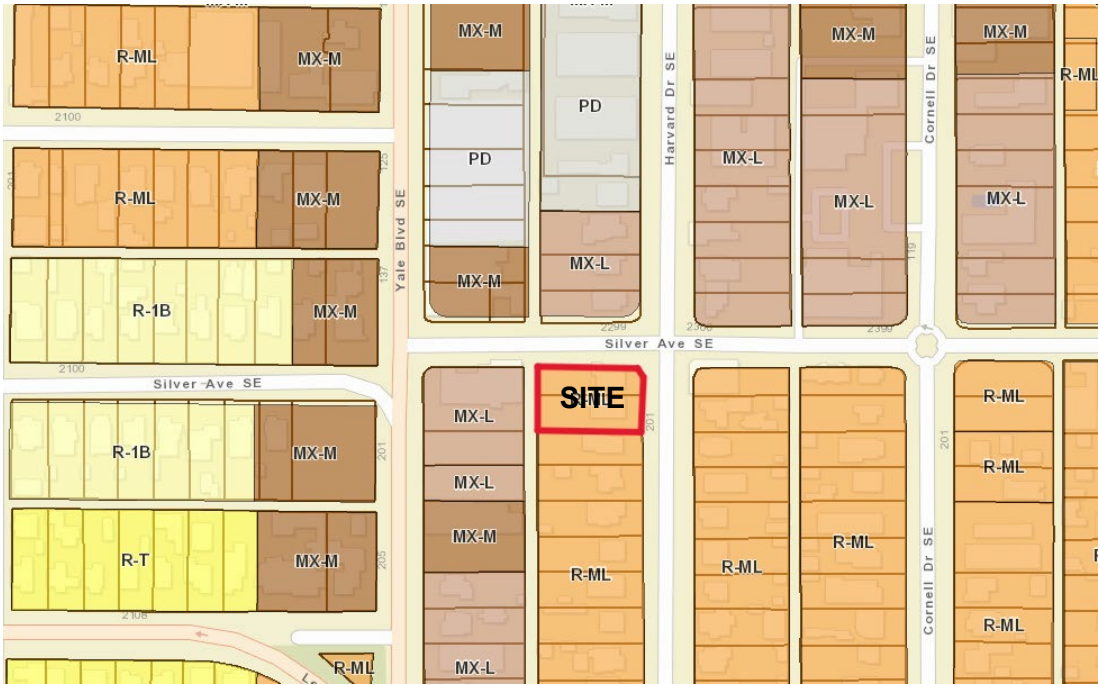
EXISTING CONDITIONS

The subject property is approximately 0.33 acres and zoned R-ML. The western portion of the property is being used as paid parking while the residential homes east of the property are vacant. The subject property is located within the Near Heights Planning Area. Character considerations for the Near Heights Planning Area



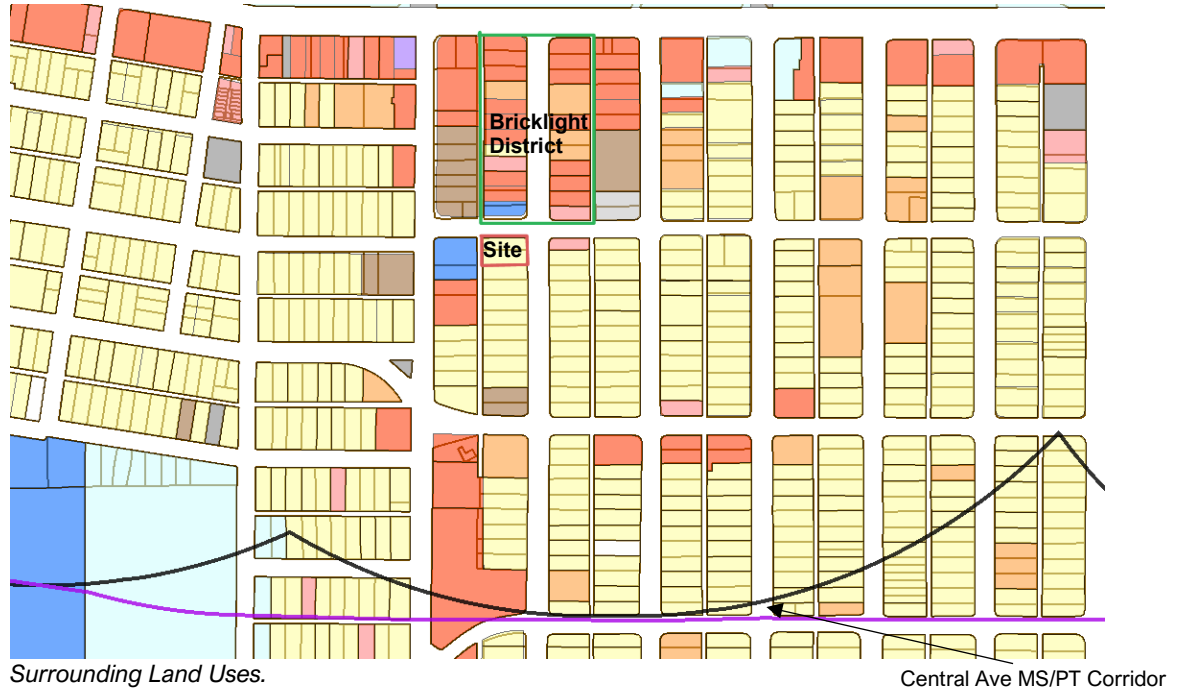
include varying architectural styles and building scales, ethnic and cultural diversity of residents, and transit-supportive development patterns.

Adjacent zoning and land use include R-ML zoned properties to the east, which contain a community organization and mixed density residential; MX-L to the north, which contains parking; MX-L to the west, which contains a church; and R-ML to the south, containing mixed density residential development. The subject property is directly south of the Bricklight District on Harvard Drive, adjacent to the UNM Activity Center as designated by the Comprehensive Plan and adjacent to the plan area for the University Metropolitan Redevelopment Area. Land uses in the larger surrounding area include restaurants, laundromat, small businesses, multi-family apartments, coffee shops, community organizations, parking, schools, and institutions.



Existing Zoning.

TABLE 1: ADJACENT ZONING and LAND USE		
Direction	Zoning	Land Use
North	MX-L	Parking
South	R-ML	Mixed density residential
East	R-ML	Community organization and mixed density residential
West	MX-L	Church



The subject property is located along Silver Avenue, which is a designated Bike Boulevard. Transit services are provided along Yale Avenue via Bus Route 50 Airport-Downtown, along Lead Avenue via Bus 97 Zuni, and along Central Avenue via Bus 66 Central, Rapid Ride Buses 777, 766, and 790. The subject property is approximately 0.13 miles from Central Avenue which is a Main Street Corridor, a Premium Transit, and a Major Transit Corridor as designated by the Comprehensive Plan.



View looking west to the subject property



View looking south to the subject property.



View from the intesection of Harvard Dr and Silver Ave facing the Bricklight District, with the subject properties on the left. Sidewalks protected by buffer and street trees, on-street (permit) and paid parking lots available in the vicinity.

THE REQUEST

The Applicant is requesting a zone change from R-ML to MX-L to redevelop the property for a coffee shop, breakfast restaurant, and a community gathering space. Per the IDO, “The purpose of the MX-L zone district is to provide for neighborhood-scale convenience shopping needs, primarily at intersections of collector streets. Primary land uses include non-destination retail and commercial uses, as well as townhouses, low density multi-family, and civic and institutional uses to serve the surrounding area, with taller, multi-story buildings encouraged in Centers and Corridors.”

The permissive uses in the R-ML zone district are similar to those in the MX-L zone district, with a few differences that will be explained later in this letter. The MX-L zone district will accommodate neighborhood-scale retail and commercial services, low-density multifamily, and civic and institutional purposes that are consistent with the existing uses in the area. The MX-L zone on this property, which is adjacent to the UNM Activity Center, the Harvard Bricklight District, the University Area MRA and located at an intersection, will provide a suitable location for neighborhood-scale commercial services.



This request is supported by Comprehensive Plan goals and policies and meets the requirements for a Zoning Map Amendment – EPC per *IDO Section 14-16-6-7(G)* as described below.

ZONING MAP AMENDMENT JUSTIFICATION

This request for a Zoning Map Amendment complies with the criteria outlined in Integrated Development Ordinance Section 14-16-6-7(G) as follows:

6-7(G)(3): An application for a Zoning Map Amendment shall be approved if it meets all of the following criteria:

6-7(G)(3)(a): The proposed zone change is consistent with the health, safety, and general welfare of the City as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comprehensive Plan, as amended, and other applicable plans adopted by the City.

Applicant Response: *The proposed zone change is consistent with the health, safety, and general welfare of the City as shown by furthering the City's goals and policies as listed below:*

Goal 4.1 Character: Enhance, protect, and preserve distinct communities.

Applicant Response: *The zone change to MX-L will further this goal because it will complement the existing MX-L zones in the surrounding areas. Permissive uses in the MX-L zone district are consistent with the existing uses in the University Heights area. With the subject property being adjacent to the UNM Activity Center, the Harvard Bricklight District, the University Area MRA, a zone change will enable a variety of land uses that will enhance, protect, and preserve the character of the University Heights community. The property will also act as an expansion of the successful redevelopment of the Bricklight District, which has added vibrancy and activity to the area.*

Policy 4.1.1 Distinct Communities: Encourage quality development that is consistent with the distinct character of the communities.

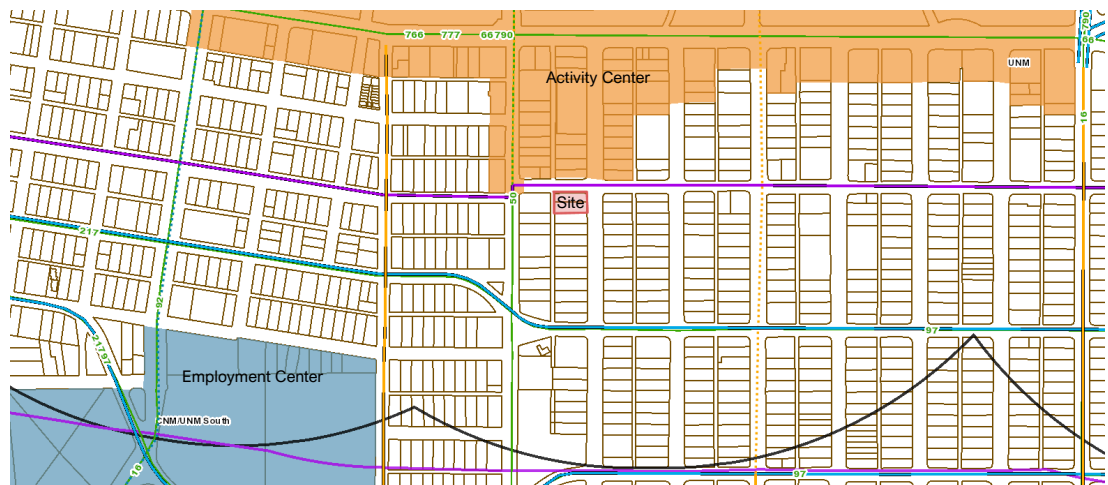
Applicant Response: *The zone change will further this policy by encouraging quality development that is consistent with the distinct character of the University Heights community and the Bricklight District because the surrounding land uses are pedestrian-scale commercial, residential, institutional, community organizations, and parking. With an expansion of permissive uses in the MX-L zone district, future development of the subject property will be required to meet IDO development standards, including Use Specific Standards.*

Goal 5.1 Centers & Corridors: Grow as a community of strong Centers connected by a multi-modal network of Corridors.

Applicant Response: *The zone change to MX-L furthers this goal by allowing neighborhood-scale retail, commercial, and low-intensity residential development within the designated Central Avenue Main Street Corridor, Major Transit, and Premium Transit Station Areas. Access to I-25, a Commuter Corridor, is convenient from the subject site. The subject property is well-located in an area where growth is encouraged and connected to a multi-modal network of corridors, including the Silver Avenue Bike Boulevard.*

Policy 5.1.1 Desired Growth: Capture regional growth in Centers and Corridors to help shape the built environment into a sustainable development pattern.

Applicant Response: *The zone change to MX-L furthers this goal because of the subject property’s proximity (within a ¼ mile) to Activity and Employment Centers, and Major Transit and Premium Transit Corridors. Allowing retail, commercial, and mixed uses will capture regional growth to the UNM/CNM Activity and Employment Centers and the Central Avenue Corridor which will help shape the built environment. The location and the permissible uses in the MX-L will build upon the success of the Bricklight District and expand walkable spaces that provide opportunities to live, work, learn, shop, and play. It will also encourage employment density, redevelopment, and mixed-use residential buildings to grow the University Heights area and meet the needs of nearby residents.*



Centers and Corridors

Policy 5.1.5 Employment Centers: Create Centers that prioritize employment opportunities and foster synergy among businesses.

- a) Prioritize office and commercial employment in areas with good access via automobile and transit.
- b) Prioritize industrial employment in areas with good connectivity for freight routes.

Applicant Response: *The zone change to MX-L furthers this policy because the subject property has excellent access and connectivity to the major street network via Central Avenue (a Premium Transit Corridor), to I-25 (a Commuter Corridor), the Bike Boulevard on Silver Avenue, as well as access to Bus Route 66 (Central with a peak frequency of 15 minutes), Bus 766 and 777 (Rapid Ride with a peak frequency of 15 minutes), Bus 790 (Rapid Ride with a peak frequency of 17 minutes) along Central Avenue, Bus 50 (Airport-Downtown with a peak frequency of 30 minutes) and Bus Route 97 (Zuni with a peak frequency of 60 minutes) along Lead Avenue. The subject property is also directly south of the Harvard Bricklight District and can contribute to creating employment opportunities and fostering synergy among the businesses in that area. These factors provide greater access to a wider range of future employment opportunities made possible with this zone change.*



Policy 5.1.8 Premium Transit Corridors: Foster corridors that prioritize high capacity, high-frequency transit service, with mixed-use, transit-oriented development within walking distance of transit stations.

Applicant Response: *The zone change to MX-L furthers this goal because the subject property is within the Central Avenue Premium Transit Corridor. This will allow mixed uses within walking distance of the Popejoy ART Station.*

Policy 5.1.9 Main Streets: Promote Main Streets that are lively, highly walkable streets lined with neighborhood-oriented businesses.

Applicant Response: *The zone change to MX-L furthers this policy because the subject property is located within the Central Avenue Main Street Corridor and is within a highly walkable neighborhood. The zone change will facilitate the liveliness of Harvard Drive (Bricklight District) and Silver Avenue and accommodate neighborhood-oriented businesses. The MX-L will provide a good transition between the developments north of Silver Avenue and the abutting single-family residential lots.*

Goal 5.2 Complete Communities: Foster communities where residents can live, work, learn, shop, and play together.

Applicant Response: *The zone change to MX-L furthers this goal by allowing retail, commercial, residential, and mixed-use developments. With the subject property's proximity to both UNM and CNM, the zone change will foster a community within the University Heights area where residents can live, work, learn, shop, and play together.*

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

Applicant Response: *The zone change to MX-L furthers this policy by expanding the permissive land uses to include a mix of uses that are conveniently accessible from the surrounding neighborhoods. This subject property is located along a bike boulevard, has excellent transit access via Buses 50, 97, 66, 766, 777, and 790, and excellent connectivity to the major street network via Central Avenue and I-25. This zone change will encourage development or redevelopment that brings goods, services, and amenities within walking and biking distance of neighborhoods and promotes good access for all residents. Having goods and services within walking or biking distance will contribute to a healthy, sustainable, and distinct University Heights community.*



Transportation network and neighborhoods surrounding the subject properties.

Goal 5.3 Efficient Development Patterns: Promote development that maximizes the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

Applicant Response: *The zone change furthers this goal because it will help promote development with retail, commercial, institutional, and residential uses that will maximize the use of existing infrastructure and public facilities. Central Avenue, an Urban Principal Arterial; Silver Avenue, a Bike Boulevard; and transit services available in the area provide connectivity to the site. The subject property has access to public utilities including water, sewer, and electric services. The location of the subject property and its proximity to other public facilities provide the opportunity to efficiently use the land to support the public good through the proposed development.*

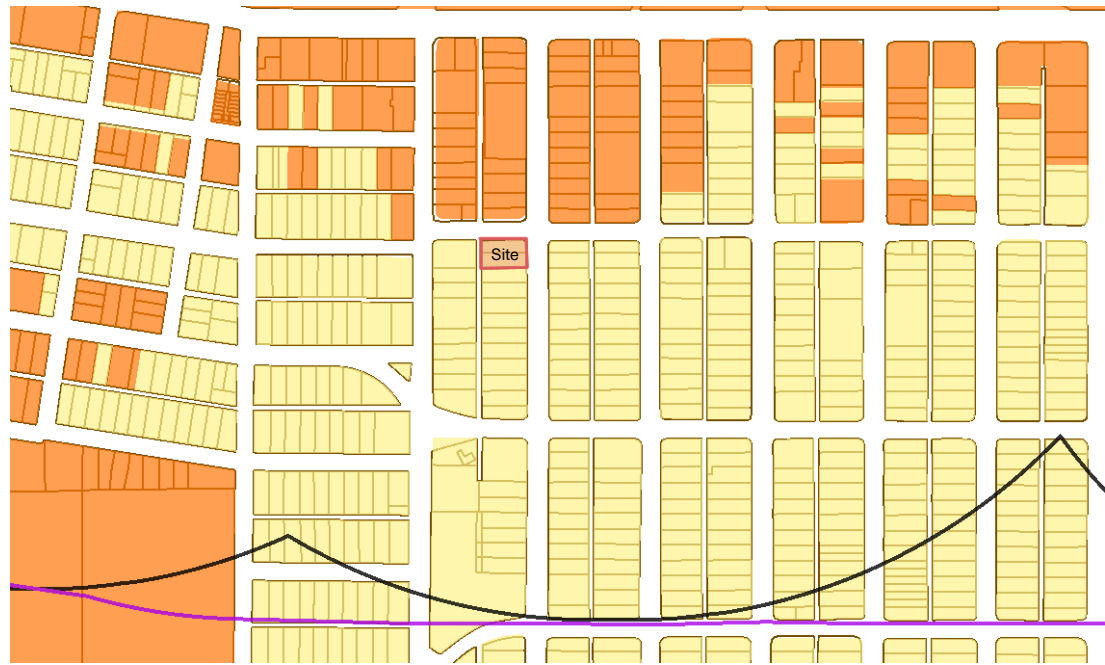
Goal 5.6 City Development Areas: Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development in and near Areas of Consistency reinforces the character and intensity of the surrounding area.

Applicant Response: *While the subject property is completely in an Area of Consistency, the zone change furthers this goal because the uses allowed in the MX-L zone are consistent with existing uses in the surrounding area. Uses in the area include restaurants, offices, single-family residences, apartments, live-work-play spaces, coffee shops, and schools. Approval of the zone change on the subject property will encourage development that will reinforce the character and intensity of the surrounding areas.*

Policy 5.6.3 Areas of Consistency: Protect and enhance the character of single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space.

Applicant Response: *The subject property is completely in an Area of Consistency. However, the subject property is located within a Main Street Corridor and a Premium Transit Corridor where mixed-use developments are encouraged. Several parcels to the west and southwest on Yale, to the north on Harvard, and to the northeast on Cornell are zoned MX-L. The Applicant has considered the surrounding context, and the zone change aligns with the existing*

land uses. The zone change will enhance the character of the University Heights area.



Areas of Consistency and Change

Policy 6.1.3 Auto Demand: Reduce the need for automobile travel by increasing mixed-use development, infill development within Centers, and travel demand management (TDM) programs.

Applicant Response: *This request furthers this policy by increasing mixed-use development within a well-connected area. This area is served by a bike boulevard, transit access via Buses 50, 97, 66, 766, 777, and 790, and grid street network that lends itself to walkability. This zone change will allow additional uses that will reduce the need for automobile travel in an area with excellent options for transit, walking, and/or biking.*

Goal 8.1 Placemaking: Create places where business and talent will stay and thrive.

Applicant Response: *The zone change to MX-L furthers this goal by expanding the permissive land uses that will assist in attracting new development to this area. The uses permissive in the MX-L zone district will complement the uses in the Bricklight District, on Harvard Drive; and the uses along Silver Avenue, bicycle boulevard; thereby contributing to places where businesses and talent stay and thrive.*

Policy 8.1.2 Diverse Places: Foster a range of interesting places and contexts with different development intensities, densities, uses, and building scale to encourage economic development opportunities.

Applicant Response: *The zone change furthers this policy by allowing for a wider range of retail, commercial, and mixed uses to encourage economic development opportunities. The subject property's proximity to the University MRA, the Harvard Bricklight District, and surrounding public facilities will foster a range of interesting*



places and contexts at different development intensities, densities, uses, and building scales desirable to residents.

Policy 8.1.3 Economic Base: Strengthen and diversify the economic base to help reduce reliance on government spending.

Applicant Response: *The zone change furthers this policy by allowing for a wider range of retail, commercial, and mixed uses on the subject property that will strengthen and diversify the economic base and support job creation in the area. The larger surrounding area has an abundance of single-family residential development and multi-family apartments and the zone change to MX-L will allow for potential employees to work close to home.*

Policy 8.2.1 Local Business: Emphasize local business development.

Applicant Response: *The zone change furthers this policy by providing the opportunity for local employers to expand and diversify the employment base through retail, commercial, mixed uses and other permissive uses in the MX-L zone. The Applicant is a local employer looking to develop and create a new local business.*

UNIVERSITY METROPOLITAN REDEVELOPMENT AREA PLAN

The subject property is adjacent to the University Metropolitan Redevelopment Area Plan Area on the north and west. The plan supports redevelopment projects, strategic public investment, and expanding the capacity of community and business-led implementation groups through catalytic strategies including increasing housing options and strengthening the commercial environment. Bricklight District was identified by neighbors as an example of appreciated, neighborhood-appropriate development. The MX-L zone will create a space similar in function to the Bricklight District, accommodating desired development for residents.

6-7(G)(3)(b) If the subject property is located partially or completely in an Area of Consistency (as shown in the ABC Comprehensive Plan, as amended), the applicant has demonstrated that the new zone would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not permit development that is significantly different from that character. The applicant must also demonstrate that the existing zoning is inappropriate because it meets any of the following criteria.

1. There was typographical or clerical error when the existing zone district was applied to the property.
2. There has been a significant change in neighborhood or community conditions affecting the site.
3. A different zone district is more advantageous to the community as articulated by the ABC Comprehensive Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

Applicant Response: *While the subject site is located entirely in an Area of Consistency, the zone change will reinforce and strengthen the established character of the area and will not permit development that is significantly different*



from the character of the University Heights area. The existing zoning is inappropriate because it meets both criteria 2 and 3. There have been significant changes in the neighborhood with the Bricklight district, the Reimagine Harvard Drive project, the University Area MRA, and the recent mixed-use developments in the surrounding areas seeking to encourage development, employment, and a variety of housing options in the University Heights and surrounding neighborhoods. The MX-L zone will be more advantageous to the community as this will expand the permissive uses to encourage development while remaining consistent with the patterns of land use, development density and intensity, and connectivity as articulated by the Comprehensive Plan and the character of the University Heights area.

6-7(G)(3)(c) If the subject property is located wholly in an Area of Change (as shown in the ABC Comp Plan, as amended) and the applicant has demonstrated that the existing zoning is inappropriate because it meets any of the following criteria:

1. There was a typographical or clerical error when the existing zone district was applied to the property.
2. There has been a significant change in neighborhood or community conditions affecting the site that justifies this request.
3. A different zone district is more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

Applicant Response: *The subject site is located entirely in an Area of Consistency.*

6-7(G)(3)(d) The requested zoning does not include permissive uses that would be harmful to the neighborhood or the community unless the Use-specific Standards in Section 14-16-4-3 associated with that use will adequately mitigate those harmful impacts.

Applicant Response: *The requested NR-LM zoning does not include permissive uses that would be potentially harmful to adjacent properties, neighborhoods, or communities. Further, because the subject property is adjacent to a church, any potential impact MX-L uses may have will be subject to Use-Specific standards.*

TABLE 2: Permissive Use Comparison: R-ML vs. MX-L

Use	R-ML	MX-L
Dwelling, live-work	C	P
Dormitory	-	P
Group home, small and medium	C	P
Adult or child day care facility	C	P
High School	C	P
Museum	CV	P
Vocational school	-	P
General agriculture	-	P
Veterinary hospital and other pet services	-	P



Other indoor entertainment	-	P
Health club or gym	A	P
Mobile food truck court	-	P
Restaurant	-	P
Hotel or motel	-	P
Car wash	-	P
Light vehicle repair	-	P
Paid parking lot; parking structure	A	P
Bank	-	P
Club or event facility	-	P
Commercial services	-	P
Medical or dental clinic	-	P
Office; Personal and business services, small	-	P
Research or testing facility	-	P
Bakery goods or confectionery shop	-	P
Cannabis retail	-	P
Farmer's market	T	P
General retail, small; Grocery store	-	P
Artisan manufacturing	-	P
Cannabis cultivation; Cannabis-derived products manufacturing	-	P
Wireless Telecommunications Facility: Freestanding	-	P
Recycling drop-off bin facility	-	P

Table 2 provides a comparison of the permissive uses in the R-ML and MX-L zones. The uses that would be made permissive through the zone change to MX-L that could potentially be harmful include cannabis retail, cannabis cultivation, and cannabis-derived products manufacturing. All three uses are subject to Use Specific Standards, which require the uses to be in a fully enclosed building. Cannabis retail requires a Conditional Use Approval if located within 600 feet of any other cannabis retail establishment, cannabis cultivation and cannabis-derived products manufacturing require a Conditional Use Approval if within 300 feet of a school or child day care facility. Conditional Use approvals require a public hearing process. Hotel, motel, and car wash are clearly not feasible at this location.

6-7(G)(3)(e) The City's existing infrastructure and public improvements, including but not limited to its street, trail, and sidewalk systems, meet any of the following criteria:

1. Have adequate capacity to serve the development made possible by the change of zone.
2. Will have adequate capacity based on improvements for which the City has already approved and budgeted capital funds during the next calendar year.
3. Will have adequate capacity when the applicant fulfills its obligations under the IDO, the DPM, and/or an Infrastructure Improvements Agreement (IIA).

4. Will have adequate capacity when the City and the applicant have fulfilled their respective obligations under a City approved Development Agreement between the City and the applicant.

Applicant Response: *Given its previous residential use and existing infrastructure, this zone change request meets Criteria #1. The City's existing infrastructure and public improvements have adequate capacity to serve the proposed development that would be made possible by the zone change. Central Avenue, Silver Avenue, and Harvard Drive contain transit services and bike facilities, and convenient road network connectivity. The sidewalks on Harvard Drive are adequately buffered from the street. The subject property has access to public utilities including water, sewer, and electric services.*

6-7(G)(3)(f) The applicant's justification for the Zoning Map Amendment is not completely based on the property's location on a major street.

Applicant's Response: *This justification is not completely based on the property's location on a major street because Silver Avenue and Harvard Drive are not major streets. Rather, the justification for the proposed zone change is based on the advantages it will bring to the community by expanding the uses permissible of those properties to accommodate the type of developments desired by residents of the community.*

6-7(G)(3)(g) The applicant's justification is not based completely or predominantly on the cost of land or economic considerations.

Applicant's Response: *The zone change request is not based completely or predominantly on the cost of land or other economic considerations but rather on the benefit offered by mixed-use developments in an area within a MainStreet Corridor, on a bike boulevard, in walking distance to the Popejoy ART Station, multiple services and amenities, and in close proximity to CNM and UNM.*

6-7(G)(3)(h) The Zoning Map Amendment does not apply a zone district different from surrounding zone districts to one small area or one premise (i.e. create a "spot zone") or to a strip of land along a street (i.e. create a "strip zone") unless the requested zoning will clearly facilitate implementation of the ABC Comprehensive Plan, as amended, and at least one of the following applies:

1. The subject property is different from the surrounding land because it can function as a transition between adjacent zone districts.
2. The subject property is not suitable for the uses allowed in any adjacent zone district due to topography, traffic, or special adverse land uses nearby.
3. The nature of structures already on the subject property makes it unsuitable for the uses allowed in any adjacent zone district.

Applicant's Response: *This request for a zone change from R-ML to MX-L does not create a spot zone on the subject property because the adjacent properties to the north and west of the subject property are also zoned MX-L.*

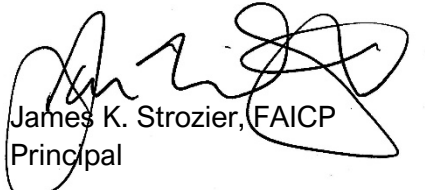


Conclusion

The request is for a Zoning Map Amendment from R-ML to MX-L on 201 & 203 Harvard Drive SE. The MX-L zone district will allow for desired neighborhood-scale retail, commercial, and mixed uses within the University Heights Neighborhood. The MX-L zone district will facilitate new development in an area served by existing infrastructure and access to a multi-modal network of corridors. Designated mixed-use space that is in a walkable and bicycle-friendly area, within close proximity to premium transit and other public facilities will further several goals and policies in the Comprehensive Plan.

Based on the information provided in this letter, we request your approval to change the subject site’s zoning district from R-ML to MX-L on behalf of ACG Engineering and Construction Management.

Sincerely,



James K. Strozier, FAICP
Principal

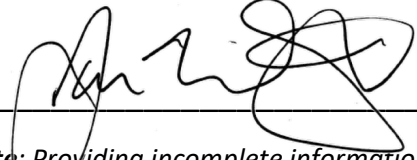
NOTIFICATION

**OFFICIAL PUBLIC NOTIFICATION FORM
FOR MAILED OR ELECTRONIC MAIL NOTICE
CITY OF ALBUQUERQUE PLANNING DEPARTMENT**



PART I - PROCESS	
Use Table 6-1-1 in the Integrated Development Ordinance (IDO) to answer the following:	
Application Type:	
Decision-making Body:	
Pre-Application meeting required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Neighborhood meeting required:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Mailed Notice required:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Electronic Mail required:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is this a Site Plan Application:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Note: if yes, see second page
PART II – DETAILS OF REQUEST	
Address of property listed in application: 201 & 203 Harvard Drive SE	
Name of property owner: Augustine and Susan Grace	
Name of applicant: ACG Engineering and Construction Management LLC	
Date, time, and place of public meeting or hearing, if applicable:	
March 21, 2024 8:40am Via Zoom https://cabq.zoom.us/j/2269592859	
Address, phone number, or website for additional information:	
Ayoni Oyenuga at oyenuga@consensusplanning.com , Jim Strozier at cp@consensusplanning.com or 505-764-9801	
PART III - ATTACHMENTS REQUIRED WITH THIS NOTICE	
<input checked="" type="checkbox"/> Zone Atlas page indicating subject property.	
N/A Drawings, elevations, or other illustrations of this request.	
<input checked="" type="checkbox"/> Summary of pre-submittal neighborhood meeting, if applicable.	
<input checked="" type="checkbox"/> Summary of request, including explanations of deviations, variances, or waivers.	
IMPORTANT: PUBLIC NOTICE MUST BE MADE IN A TIMELY MANNER PURSUANT TO SUBSECTION 14-16-6-4(K) OF THE INTEGRATED DEVELOPMENT ORDINANCE (IDO). PROOF OF NOTICE WITH ALL REQUIRED ATTACHMENTS MUST BE PRESENTED UPON APPLICATION.	

I certify that the information I have included here and sent in the required notice was complete, true, and accurate to the extent of my knowledge.

 _____ (Applicant signature) 2/8/2024 _____ (Date)

Note: Providing incomplete information may require re-sending public notice. Providing false or misleading information is a violation of the IDO pursuant to IDO Subsection 14-16-6-9(B)(3) and may lead to a denial of your application.

**OFFICIAL PUBLIC NOTIFICATION FORM
FOR MAILED OR ELECTRONIC MAIL NOTICE
CITY OF ALBUQUERQUE PLANNING DEPARTMENT**



PART IV – ATTACHMENTS REQUIRED FOR SITE PLAN APPLICATIONS ONLY

Provide a site plan that shows, at a minimum, the following:

N/A. Location of proposed buildings and landscape areas.

N/A. Access and circulation for vehicles and pedestrians.

N/A. Maximum height of any proposed structures, with building elevations.

N/A. For residential development: Maximum number of proposed dwelling units.

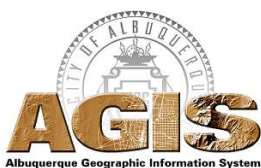
N/A. For non-residential development:

- Total gross floor area of proposed project.
- Gross floor area for each proposed use.

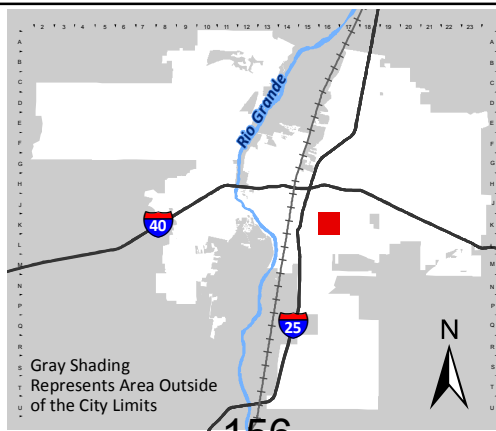


For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

IDO Zone Atlas May 2018

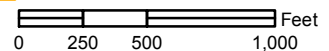


IDO Zoning information as of May 17, 2018
The Zone Districts and Overlay Zones
are established by the
Integrated Development Ordinance (IDO).



Zone Atlas Page:
K-16-Z

- Easement
- Escarpment
- Petroglyph National Monument
- Areas Outside of City Limits
- Airport Protection Overlay (APO) Zone
- Character Protection Overlay (CPO) Zone
- Historic Protection Overlay (HPO) Zone
- View Protection Overlay (VPO) Zone



From: Office of Neighborhood Coordination
To: Ayoni Oyenuga
Subject: 201 and 203 HARVARD DR SE - Public Notice Inquiry Sheet Submission
Date: Tuesday, January 30, 2024 10:59:00 AM
Attachments: Image001.png
 IDOZoneAtlasPage_K-16-Z.pdf

PLEASE NOTE:

The neighborhood association contact information listed below is valid for 30 calendar days after today's date.

Dear Applicant:

Please find the neighborhood contact information listed below. Please make certain to read the information further down in this e-mail as it will help answer other questions you may have.

Association Name	Association Email	First Name	Last Name	Email	Address Line 1	City	State	Zip	Mobile Phone
District 6 Coalition of Neighborhood Associations		Patricia	Willson	info@willsonstudio.com	505 Dartmouth Drive SE	Albuquerque	NM	87106	5059808007
District 6 Coalition of Neighborhood Associations		Mandy	Warr	mandy@theremedyspa.com	113 Vassar Drive SE	Albuquerque	NM	87106	5054014367
University Heights NA	info@uhanm.org	Don	Hancock	sricdon@earthlink.net	105 Stanford SE	Albuquerque	NM	87106	5052622053
University Heights NA	info@uhanm.org	Mandy	Warr	mandy@theremedyspa.com	113 Vassar Drive SE	Albuquerque	NM	87106	5054014367

The ONC does not have any jurisdiction over any other aspect of your application beyond this neighborhood contact information. We can't answer questions about sign postings, pre-construction meetings, permit status, site plans, buffers, or project plans, so we encourage you to contact the Planning Department at: 505-924-3857 Option #1, e-mail: devhelp@cabq.gov, or visit: <https://www.cabq.gov/planning/online-planning-permitting-applications> with those types of questions.

Please note the following:

- You will need to e-mail each of the listed contacts and let them know that you are applying for an approval from the Planning Department for your project.
- Please use this online link to find the required forms you will need to submit your permit application. <https://www.cabq.gov/planning/urban-design-development/public-notice>.
- The Checklist form you need for notifying neighborhood associations can be found here: https://documents.cabq.gov/planning/online-forms/PublicNotice/CABQ-Official_public_notice_form-2019.pdf.
- The Administrative Decision form you need for notifying neighborhood associations can be found here: <https://documents.cabq.gov/planning/online-forms/PublicNotice/Emailed-Notice-Administrative-Print&Fill.pdf>.
- Once you have e-mailed the listed contacts in each neighborhood, you will need to attach a copy of those e-mails AND a copy of this e-mail from the ONC to your application and submit it to the Planning Department for approval.

If your application requires you to offer a neighborhood meeting, you can click on this link to find required forms to use in your e-mail to the neighborhood association(s): <http://www.cabq.gov/planning/urban-design-development/neighborhood-meeting-requirement-in-the-integrated-development-ordinance>

If your application requires a pre-application or pre-construction meeting, please plan on utilizing virtual platforms to the greatest extent possible and adhere to all current Public Health Orders and recommendations. The health and safety of the community is paramount.

If you have questions about what type of notification is required for your particular project or meetings that might be required, please click on the link below to see a table of different types of projects and what notification is required for each: <https://ido.abc-zone.com/integrated-development-ordinance-ido?document=1&outline-name=6-1%20Procedures%20Summary%20Table>

Thank you,

Suzie



Suzie Flores

Senior Administrative Assistant

Office of Neighborhood Coordination (ONC) | City Council Department | City of Albuquerque

(505) 768-3334 Office

E-mail: suzannaflores@cabq.gov

Website: www.cabq.gov/neighborhoods

From: webmaster@cabq.gov <webmaster@cabq.gov>
Sent: Tuesday, January 30, 2024 10:32 AM
To: Office of Neighborhood Coordination <oyenuga@consensusplanning.com>
Cc: Office of Neighborhood Coordination <onc@cabq.gov>
Subject: Public Notice Inquiry Sheet Submission

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Public Notice Inquiry For:

Environmental Planning Commission

If you selected "Other" in the question above, please describe what you are seeking a Public Notice Inquiry for below:

Contact Name

Ayoni Oyenuga

Telephone Number

505-764-9801

Email Address

oyenuga@consensusplanning.com

Company Name

Consensus Planning, Inc

Company Address

302 8th Street NW

City

Albuquerque
State NM
ZIP 87102
Legal description of the subject site for this project:
* 023 002UNIVERSITY HTS ADD
* 024 002UNIVERSITY HTS ADD
Physical address of subject site:
201 HARVARD DR SE ALBUQUERQUE NM 87106 and 203 HARVARD DR SE ALBUQUERQUE NM 87106
Subject site cross streets:
Silver Avenue and Harvard Drive SE
Other subject site identifiers:
This site is located on the following zone atlas page:
K-16-Z
Captcha
x

[Note: Items with an asterisk (*) are required.]

Neighborhood Meeting Request for a Proposed Project in the City of Albuquerque

Date of Request*: January 3, 2024

This request for a Neighborhood Meeting for a proposed project is provided as required by Integrated Development Ordinance (IDO) [Subsection 14-16-6-4\(K\) Public Notice](#) to:

Neighborhood Association (NA)*: See attached public notice inquiry

Name of NA Representative*: See attached public notice inquiry

Email Address* or Mailing Address* of NA Representative¹: See attached public notice inquiry

The application is not yet submitted. If you would like to have a Neighborhood Meeting about this proposed project, please respond to this request within 15 days.²

Email address to respond yes or no: cp@consensusplanning.com

The applicant may specify a Neighborhood Meeting date that must be at least 15 days from the Date of Request above, unless you agree to an earlier date.

Meeting Date / Time / Location:
TBD

Project Information Required by [IDO Subsection 14-16-6-4\(K\)\(1\)\(a\)](#)

1. Subject Property Address* 201 and 203 Harvard Drive SE
Location Description Located at the Corner of Harvard Drive SE and Silver Ave SE
2. Property Owner* Augustine and Susan Grace
3. Agent/Applicant* [if applicable] Agent: Consensus Planning Inc/
Applicant: ACG Engineering and Construction Management
4. Application(s) Type* per IDO [Table 6-1-1](#) [mark all that apply]
 Site Plan

¹ Pursuant to [IDO Subsection 14-16-6-4\(K\)\(5\)\(a\)](#), email is sufficient if on file with the Office of Neighborhood Coordination. If no email address is on file for a particular NA representative, notice must be mailed to the mailing address on file for that representative.

² If no one replies to this request, the applicant may be submitted to the City to begin the review/decision process.

[Note: Items with an asterisk (*) are required.]

Other: Zone Map Amendment

Summary of project/request^{3*}:

Request to change the zoning from R-ML to MX-L to allow for the redevelopment of existing homes and construction of a coffee shop/breakfast establishment

5. This application will be decided administratively by the Development Facilitation Team (DFT)

Application materials: <https://www.cabq.gov/planning/development-review-services/site-plan-admin-dft>

To contact staff, email PLNDRS@cabq.gov or call the Planning Department at 505-924-3946.

6. Where more information about the project can be found^{4*}:

N/A

Project Information Required for Mail/Email Notice by [IDO Subsection 6-4\(K\)\(1\)\(b\)](#):

1. Zone Atlas Page(s)^{5*} K-16-Z

2. Architectural drawings, elevations of the proposed building(s) or other illustrations of the proposed application, as relevant^{*}: Attached to notice or provided via website noted above

3. The following exceptions to IDO standards will be requested for this project^{*}:

- Deviation(s)
- Variance(s)
- Waiver(s)

Explanation:

N/A

4. An offer of a Pre-submittal Neighborhood Meeting is required by [Table 6-1-1*](#): Yes No

³ Attach additional information, as needed to explain the project/request. Note that information provided in this meeting request is conceptual and constitutes a draft intended to provide sufficient information for discussion of concerns and opportunities.

⁴ Address (mailing or email), phone number, or website to be provided by the applicant

⁵ Available online here: <http://data.cabq.gov/business/zoneatlas/>

[Note: Items with an asterisk (*) are required.]

- 5. **For Site Plan Applications only***, attach site plan showing, at a minimum: N/A
 - a. Location of proposed buildings and landscape areas.*
 - b. Access and circulation for vehicles and pedestrians.*
 - c. Maximum height of any proposed structures, with building elevations.*
 - d. **For residential development***: Maximum number of proposed dwelling units.
 - e. **For non-residential development***:
 - Total gross floor area of proposed project.
 - Gross floor area for each proposed use.

Additional Information:

- 1. From the IDO Zoning Map⁶:
 - a. Area of Property [typically in acres] 0.326 in total
 - b. IDO Zone District R-ML
 - c. Overlay Zone(s) [if applicable] N/A
 - d. Center or Corridor Area [if applicable] N/A
 - 2. Current Land Use(s) [vacant, if none] Low-density residential development.
-

Useful Links

Integrated Development Ordinance (IDO):

<https://ido.abc-zone.com/>

IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

Cc: _____ [Other Neighborhood Associations, if any]

⁶ Available here: <https://tinurl.com/idozoningmap>

From: [Ayoni Oyenuga](#)
To: "mandy@theremedyspa.com"; "srcidon@earthlink.net"; "info@willsonstudio.com"
Cc: [Jim Strozier](#); [Zachary Trischitta](#)
Subject: Application Notice
Date: Thursday, February 8, 2024 9:02:00 AM
Attachments: [NA Notification Packet.pdf](#)

Dear Neighbors,

This email is notification that Consensus Planning is submitting an application for a Zoning Map Amendment to the City of Albuquerque Environmental Planning Commission (EPC) on behalf of ACG Engineering and Management LLC. The property is located at 201 & 203 Harvard Drive SE.

The subject property is legally described as **24 002 University Heights Addition and * 023 002 University Heights Addition*. The Applicant is requesting to change the zoning of the property from R-ML TO MX-L to allow for a coffee shop, breakfast restaurant, and community gathering space.

This item will be heard on March 21, 2024, starting at 8:40 a.m. The hearing will be via zoom. You can access the zoom link and agendas on the EPC website: <https://www.cabq.gov/planning/boards-commissions/environmental-planning-commission/epc-agendas-reports-minutes>.

If you have questions regarding this item, please do not hesitate to contact me or Jim Strozier at cp@consensusplanning.com or by phone at (505) 764-9801.

Attachments: Neighborhood Association Notification Packet.

Ayoni Oyenuga

Consensus Planning, Inc.
302 Eighth Street NW
Albuquerque, NM 87102
(505) 764-9801

From: [Mail Delivery System](#)
To: info@willsonstudio.com
Subject: Delivered: Application Notice
Date: Thursday, February 8, 2024 9:02:55 AM
Attachments: [Application Notice.msg](#)

Your message has been delivered to the following recipients:
info@willsonstudio.com <mailto:info@willsonstudio.com>
Subject: Application Notice

From: [Microsoft Outlook](#)
To: srcdon@earthlink.net
Subject: Relayed: Application Notice
Date: Thursday, February 8, 2024 9:02:16 AM
Attachments: [Application Notice.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
srcdon@earthlink.net (srcdon@earthlink.net) <<mailto:srcdon@earthlink.net>>
Subject: Application Notice

From: [Microsoft Outlook](#)
To: mandy@theremedyspa.com
Subject: Relayed: Application Notice
Date: Thursday, February 8, 2024 9:02:20 AM
Attachments: [Application Notice.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
mandy@theremedyspa.com (mandy@theremedyspa.com) <mailto:mandy@theremedyspa.com>
Subject: Application Notice

From: [Office of Neighborhood Coordination](#)
To: [Zachary Trischitta](#)
Subject: 203 Harvard Dr SE_Public Notice Inquiry Sheet Submission_EPC
Date: Wednesday, December 20, 2023 1:04:13 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

PLEASE NOTE:
 The neighborhood association contact information listed below is valid for 30 calendar days after today's date.

Dear Applicant:

Please find the neighborhood contact information listed below. Please make certain to read the information further down in this e-mail as it will help answer other questions you may have.

Association Name	Association Email	Association Website	First Name	Last Name	Email	Address Line 1	City	State	Zip	Mobile Phone	Phone
University Heights NA	info@uhanm.org	www.uhanm.org	Mandy	Warr	mandy@theremedyspa.com	113 Vassar Drive SE	Albuquerque	NM	87106	5054014367	5052659219
University Heights NA	info@uhanm.org	www.uhanm.org	Don	Hancock	sricdon@earthlink.net	105 Stanford SE	Albuquerque	NM	87106	5052622053	5052621862
District 6 Coalition of Neighborhood Associations		www.district6coalition.com	Mandy	Warr	mandy@theremedyspa.com	113 Vassar Drive SE	Albuquerque	NM	87106	5054014367	5052659219
District 6 Coalition of Neighborhood Associations		www.district6coalition.com	Patricia	Willson	info@willsonstudio.com	505 Dartmouth Drive SE	Albuquerque	NM	87106	5059808007	

The ONC does not have any jurisdiction over any other aspect of your application beyond this neighborhood contact information. We can't answer questions about sign postings, pre-construction meetings, permit status, site plans, buffers, or project plans, so we encourage you to contact the Planning Department at: 505-924-3857 Option #1, e-mail: devhelp@cabq.gov, or visit: <https://www.cabq.gov/planning/online-planning-permitting-applications> with those types of questions.

Please note the following:

- You will need to e-mail each of the listed contacts and let them know that you are applying for an approval from the Planning Department for your project.
- Please use this online link to find the required forms you will need to submit your permit application: <https://www.cabq.gov/planning/urban-design-development/public-notice>.
- The Checklist form you need for notifying neighborhood associations can be found here: https://documents.cabq.gov/planning/online-forms/PublicNotice/CABQ-Official_public_notice_form-2019.pdf.
- The Administrative Decision form you need for notifying neighborhood associations can be found here: <https://documents.cabq.gov/planning/online-forms/PublicNotice/Emailed-Notice-Administrative-Print&Fill.pdf>.
- Once you have e-mailed the listed contacts in each neighborhood, you will need to attach a copy of those e-mails AND a copy of this e-mail from the ONC to your application and submit it to the Planning Department for approval.

If your application requires you to offer a neighborhood meeting, you can click on this link to find required forms to use in your e-mail to the neighborhood association(s): <http://www.cabq.gov/planning/urban-design-development/neighborhood-meeting-requirement-in-the-integrated-development-ordinance>

If your application requires a pre-application or pre-construction meeting, please plan on utilizing virtual platforms to the greatest extent possible and adhere to all current Public Health Orders and recommendations. The health and safety of the community is paramount.

If you have questions about what type of notification is required for your particular project or meetings that might be required, please click on the link below to see a table of different types of projects and what notification is required for each: <https://ido.abc-zone.com/integrated-development-ordinance-ido?document=1&outline-name=6-19&20Procedures%20Summary%20Table>

Thank you.



Vanessa Baca
 Manager

Office of Neighborhood Coordination (ONC) | City Council Department | City of Albuquerque
 (505) 768-3331 Office
 E-mail: vanessabaca@cabq.gov
 Website: www.cabq.gov/neighborhoods



From: webmaster@cabq.gov <webmaster@cabq.gov>
Sent: Wednesday, December 20, 2023 9:28 AM
To: Office of Neighborhood Coordination <trischitta@consensusplanning.com>
Cc: Office of Neighborhood Coordination <onc@cabq.gov>
Subject: Public Notice Inquiry Sheet Submission

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Public Notice Inquiry For:
 Environmental Planning Commission
 If you selected "Other" in the question above, please describe what you are seeking a Public Notice Inquiry for below:
 Contact Name
 Zachary Trischitta
 Telephone Number
 5057649801
 Email Address
trischitta@consensusplanning.com
 Company Name
 Consensus Planning
 Company Address
 302 8th Street NW
 City
 Albuquerque
 State
 NM
 ZIP
 87102
 Legal description of the subject site for this project:
 * 024 002UNIVERSITY HTS ADD
 and
 * 023 002UNIVERSITY HTS ADD
 Physical address of subject site:
 201 HARVARD DR SE ALBUQUERQUE NM 87106 and 203 HARVARD DR SE ALBUQUERQUE NM 87106
 Subject site cross streets:
 Harvard Drive SE and Silver Ave SE
 Other subject site identifiers:
 This site is located on the following zone atlas page:
 K-16-Z
 Captcha
 x

[Note: Items with an asterisk (*) are required.]

Public Notice of a Proposed Project in the City of Albuquerque for Policy Decisions Mailed/Emailed to a Neighborhood Association

Date of Notice*: February 8, 2024

This notice of an application for a proposed project is provided as required by Integrated Development Ordinance (IDO) [Subsection 14-16-6-4\(K\) Public Notice](#) to:

Neighborhood Association (NA)*: See attached neighborhood contacts from Office of Neighborhood Coordination

Name of NA Representative*: See attached neighborhood contacts from Office of Neighborhood Coordination

Email Address* or Mailing Address* of NA Representative¹: See attached neighborhood contacts from Office of Neighborhood Coordination

Information Required by [IDO Subsection 14-16-6-4\(K\)\(1\)\(a\)](#)

1. Subject Property Address* 201 & 203 Harvard Drive SE
Location Description Harvard Drive SE and Silver Avenue SE
2. Property Owner* Augustine and Susan Grace
3. Agent/Applicant* [if applicable] Agent: Consensus Planning, Inc. /
Applicant: ACG Engineering and Construction Management LLC
4. Application(s) Type* per IDO [Table 6-1-1](#) [mark all that apply]

Zoning Map Amendment

Other: _____

Summary of project/request²:

Zone Map Amendment from R-ML to MX-L to allow for coffee shop, breakfast restaurant,
and community gathering space.

5. This application will be decided at a public hearing by*:

Environmental Planning Commission (EPC)

City Council

This application will be first reviewed and recommended by:

Environmental Planning Commission (EPC)

Landmarks Commission (LC)

Not applicable (Zoning Map Amendment – EPC only)

¹ Pursuant to [IDO Subsection 14-16-6-4\(K\)\(5\)\(a\)](#), email is sufficient if on file with the Office of Neighborhood Coordination. If no email address is on file for a particular NA representative, notice must be mailed to the mailing address on file for that representative.

² Attach additional information, as needed to explain the project/request.

[Note: Items with an asterisk (*) are required.]

Date/Time*: Thursday March 21, 2024. Begins at 8:40 a.m.

Location*³: Via Zoom <https://cabq.zoom.us/j/2269592859>

Agenda/meeting materials: <http://www.cabq.gov/planning/boards-commissions>

To contact staff, email devhelp@cabq.gov or call the Planning Department at 505-924-3860.

6. Where more information about the project can be found*⁴:

Please contact Ayoni Oyenuga at oyenuga@consensusplanning.com,
Jim Strozier at cp@consensusplanning.com or 505-764-9801

Information Required for Mail/Email Notice by [IDO Subsection 6-4\(K\)\(1\)\(b\)](#):

1. Zone Atlas Page(s)*⁵ K-16

2. Architectural drawings, elevations of the proposed building(s) or other illustrations of the proposed application, as relevant*: Attached to notice or provided via website noted above

3. The following exceptions to IDO standards have been requested for this project*:

Deviation(s) Variance(s) Waiver(s)

Explanation*:

No deviations, variances, or waivers are anticipated with the Zoning Map Amendment.

4. A Pre-submittal Neighborhood Meeting was required by [Table 6-1-1](#): Yes No

Summary of the Pre-submittal Neighborhood Meeting, if one occurred:

A presubmittal meeting was held on January 23, 2024 and was attended by some members of the University Heights NA and the District 6 Coalition of NAs.

See attached Facilitated Meeting Report.

³ Physical address or Zoom link

⁴ Address (mailing or email), phone number, or website to be provided by the applicant

⁵ Available online here: <http://data.cabq.gov/business/zoneatlas/>

[Note: Items with an asterisk (*) are required.]

Additional Information [Optional]:

From the IDO Zoning Map⁶:

- 1. Area of Property [typically in acres] 0.326
 - 2. IDO Zone District R-ML
 - 3. Overlay Zone(s) [if applicable] None
 - 4. Center or Corridor Area [if applicable] Central Avenue Main Street Corridor Area and Premium Transit Station Area
- Current Land Use(s) [vacant, if none] Parking lot and single family homes

NOTE: For Zoning Map Amendment – EPC only, pursuant to [IDO Subsection 14-16-6-4\(L\)](#), property owners within 330 feet and Neighborhood Associations within 660 feet may request a post-submittal facilitated meeting. If requested at least 15 calendar days before the public hearing date noted above, the facilitated meeting will be required. To request a facilitated meeting regarding this project, contact the Planning Department at devhelp@cabq.gov or 505-924-3955.

Useful Links

Integrated Development Ordinance (IDO):

<https://ido.abc-zone.com/>

IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

Cc: _____ [Other Neighborhood Associations, if any]

⁶ Available here: <https://tinurl.com/idozoningmap>

From: [Jim Strozier](#)
To: "Mandy Warr"; [P. Davis Willson](#); srcdon@earthlink.net
Cc: [Ayoni Oyenuga](#); [Zachary Trischitta](#)
Subject: IDO Neighborhood Meeting Notification for a Zoning Map Amendment at 201 and 203 Harvard Drive SE
Date: Wednesday, January 3, 2024 9:55:00 AM
Attachments: [Harvard ONC Materials.pdf](#)

University Heights and District 6 Coalition,

On behalf of ACG Engineering and Construction Management LLC, Consensus Planning is preparing an application for a Zone Map Amendment to the City of Albuquerque Environmental Planning Commission (EPC). ACG is the owner of the properties located at 201 and 203 Harvard Drive SE. The applicant requests the zoning of the property be changed from R-ML to MX-L to allow for the redevelopment of the existing homes and construction of a coffee shop/breakfast establishment.

As part of the IDO requirements, we are providing you with an opportunity to discuss this request prior to making an application. Should you desire to request a meeting regarding this project, please do not hesitate to email Ayoni Oyenuga at oyenuga@consensusplanning.com, Jim Strozier at cp@consensusplanning.com or by phone at (505) 764-9801 by January 18, 2024.

Please reach out to us if you have any questions. Thank you.

Jim Strozier, FAICP
Consensus Planning, Inc.
302 8th Street NW
(505) 764-9801

From: [Microsoft Outlook](#)
To: ["Mandy Warr"](#)
Subject: Relayed: IDO Neighborhood Meeting Notification for a Zoning Map Amendment at 201 and 203 Harvard Drive SE
Date: Wednesday, January 3, 2024 9:55:53 AM
Attachments: [IDO Neighborhood Meeting Notification for a Zoning Map Amendment at 201 and 203 Harvard Drive SE.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
'Mandy Warr' (mandy@theremedyspa.com) <mailto:mandy@theremedyspa.com>
Subject: IDO Neighborhood Meeting Notification for a Zoning Map Amendment at 201 and 203 Harvard Drive SE

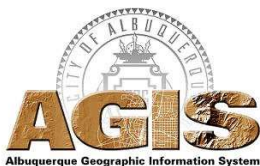
From: [Microsoft Outlook](#)
To: sricdon@earthlink.net
Subject: Relayed: IDO Neighborhood Meeting Notification for a Zoning Map Amendment at 201 and 203 Harvard Drive SE
Date: Wednesday, January 3, 2024 9:55:51 AM
Attachments: [IDO Neighborhood Meeting Notification for a Zoning Map Amendment at 201 and 203 Harvard Drive SE.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
sricdon@earthlink.net (sricdon@earthlink.net) <mailto:sricdon@earthlink.net>
Subject: IDO Neighborhood Meeting Notification for a Zoning Map Amendment at 201 and 203 Harvard Drive SE

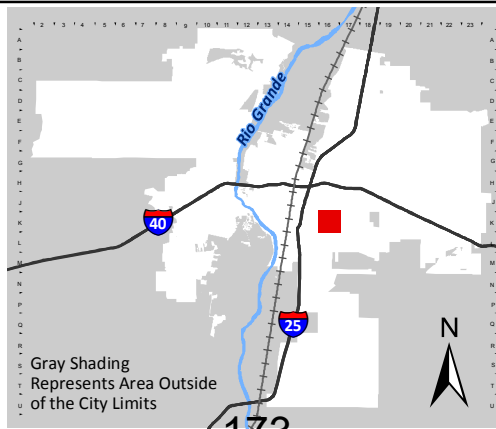


For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

IDO Zone Atlas May 2018

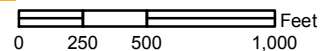


IDO Zoning information as of May 17, 2018
The Zone Districts and Overlay Zones
are established by the
Integrated Development Ordinance (IDO).



Zone Atlas Page:
K-16-Z

- Easement
- Escarpment
- Petroglyph National Monument
- Areas Outside of City Limits
- Airport Protection Overlay (APO) Zone
- Character Protection Overlay (CPO) Zone
- Historic Protection Overlay (HPO) Zone
- View Protection Overlay (VPO) Zone



CITY OF ALBUQUERQUE
LAND USE FACILITATION PROGRAM PROJECT MEETING REPORT
201-03 Harvard SE Zone Map Amendment EPC

Project #:

Property Description/Address: 201 and 203 Harvard SE

Date Submitted: 24 January 2024

Submitted By: Philip Crump

Meeting Date/Time: Tuesday 23 January 2024 5:30-6:15 pm

Meeting Location: Via Google Meet

Facilitator: Philip Crump

Applicant/Agent: ACG Engineering and Construction Management/Consensus Planning

Neighborhood Associations/Interested Parties: University Heights NA, District 6 Coalition of NAs

Background/Meeting Summary:

This meeting was held to review the upcoming application to the EPC for a Zone Map Amendment regarding a property on the SW corner of Harvard and Silver SE. The application will request a change in the zoning from R-ML (Multifamily low density residential) to MX-L (Low intensity mixed use). The purpose is to allow development of a coffee, breakfast, and social gathering facility incorporating the current residences and an additional two-story building between them.

The .32 acre property, purchased in 2008 from University Heights Methodist Church, includes the two houses facing Harvard and a parking lot to the rear (west). The houses would remain essentially the same while the intermediate building would be a modern glass/steel/concrete structure. The owners anticipate a request to join the Bricklight district which occupies the 100 block of Harvard SE. In a presentation of the historical and current zoning, the agent noted that the properties to the east and south are R-ML, while those on the north and west at MX-L.

While citizens attending the meeting were generally in favor of the project, there were concerns expressed. Concerns included the first-time impact of a commercial development of the residential street south of Silver, potential vehicular traffic impacts on a Bike Boulevard, the scale of the proposed new building, and future impacts if the ownership of the property were to change.

Outcome:

There was no direct opposition to the project voiced, though questions and issues were raised and the agent was asked to address those questions in the application.

Meeting Specifics:

1) Characteristics and history of the property

- a) The property consists of two single-story residences and a parking area to the rear.
 - i) The property was purchased in 2008 by the applicants from University Heights Methodist Church.
 - (1) At that time, it was zoned Special Use for church and related activities and was part of the sector plan.
 - (a) The sector plan allowed single-family townhouse and duplex residential uses as well as conditional uses that included a daycare center or school.
 - (2) The zoning then changed to P (Parking) for the parking area to the rear and SU-2/DR (Diverse Residential) for the front.
 - (3) The IDO brought a change to R-ML for the property.
 - ii) The agent showed a chart indicating that new MX-L zoning would allow a lengthy variety of commercial uses not allowed under the residential R-ML zoning.
 - (1) The maximum building height (38 feet) would not change.
 - iii) The property is immediately south of the University Metropolitan Redevelopment Area [MRA], which promotes commercial development.
 - (1) The owners anticipate requesting to become a part of the Bricklight commercial district which exists on the 100 block of Harvard.

CITY OF ALBUQUERQUE
LAND USE FACILITATION PROGRAM PROJECT MEETING REPORT
201-03 Harvard SE Zone Map Amendment EPC

- (a) The property is a short walk to Central Avenue, UNM, Rapid Ride and the ART station, and the commercial activity along Central and in the Bricklight district.
- b) The exteriors of the two houses will remain essentially unchanged.
 - i) Between the two houses will be a two-story common area, enclosed gathering space, and a rooftop deck.
 - (1) The new building will be a modern structure of glass, steel and concrete.
 - ii) There will be a landscaped interior courtyard for year round enjoyment.
 - iii) The parking area behind the houses will be improved, while the number of available spaces will be reduced somewhat.
 - (1) Landscaping and greater use of the alley will be improvements
 - iv) On-street parking for this block of Harvard likely will remain by permit only.
 - (1) There is no on-street parking allowed on Silver.
- 2) Vision and purpose of the project**
 - a) The owners intend to create a neighborhood destination where someone could get coffee or breakfast and have a place for social, collaborative gatherings.
 - i) One collaborative discussion format is Alpha, a Christian-based spiritual renewal program for the university,, the neighborhood, and Albuquerque.
 - (1) Its purpose is to create an open space for honest and open conversations about life's biggest questions.
- 3) Questions and concerns**
 - a) Zoning—One neighborhood representative was concerned that the zoning stays with the property not the owner.
 - i) If the ownership were to change, other uses could come in that are not so compatible with the area.
 - (1) “The dominoes start to fall on residential zoned property, then that has an effect on the people who do live on that block.”
 - ii) She asked why, in light of the vacant or underutilized properties identified in the Redevelopment Plan, the owners could not have found a suitably zoned property elsewhere in the area.
 - iii) Additionally, this represents a reduction in available housing in the area.
 - (1) The agent suggested that the trade-off is housing versus that kind of community gathering space.
 - (a) He said that this (and other issues) will be addressed in the application.
 - b) Excessive commercial uses?—Another representative said there probably needs to be more discussion in the application about providing additional commercial space in an area that already has perhaps too much.
 - i) The purpose of the MRA is to provide improvements in the larger University area, but this is outside the MRA.
 - c) Silver Avenue uses—The representative said there has long been the idea that south of Silver is residential and areas north of Silver can be commercial or mixed use.
 - d) Silver Avenue traffic—The representative, noting that Silver is a Bike Boulevard, asked whether this would put more vehicular traffic on Silver.
 - i) Already, the parking lot draws traffic.
 - ii) The neighborhood association has been talking about some further activities to improve the pedestrian and bicycle nature of Silver and discourage vehicles on the street.
 - (1) The agent reported that they want to make this a bicycle friendly location where people can get into the property, park their bikes and use the facility.
 - (a) They want to encourage that level of activity as much as possible.
 - e) Scale of the new building—A NA representative said that while the proposed new building might be in scale with the church which faces the commercial Yale Avenue, it is out of scale with the residential Harvard Avenue.

CITY OF ALBUQUERQUE
LAND USE FACILITATION PROGRAM PROJECT MEETING REPORT
201-03 Harvard SE Zone Map Amendment EPC

- i) Based on his conversations with a few people, this issue will come up.
 - (1) The agent said that they will review this issue, in light of the Near Heights Community Plan and other documents.
- f) Energy considerations for the new building—The architect/representative noted that the conceptual drawing shows a building that may be a very elegant glass box with patio space up above.
 - i) She encouraged the designer to pay attention to the City’s energy code and ensure a building that is practical to construct.
- g) Support—A neighborhood owner said that he knows the owner and believes that turning the property into a coffee shop or something else is something that he supports.

Next Steps: When the applicants and agent finalize the application, it will be submitted to the EPC. They hope to be able to appear for hearing in March.

EPC Application Hearing Details:

EPC Hearing scheduled for (3rd Thursday date, potentially 21 March 2024)

- 1. Hearing Time:
 - a. All meetings are currently held via Zoom: <https://cabq.zoom.us/j/2269592859>
 - b. The Commission will begin hearing applications at 8:30 a.m.
 - c. The actual time this application will be heard by the Commission will depend on the applicant’s position on the Commission’s schedule
- 2. Hearing Process:
 - a. Comments from facilitated meetings will go into a report which goes to the City Planner.
 - b. City Planner includes facilitator report in recommendations.
 - c. The Commission will make a decision and parties have 15 days to appeal the decision.
- 3. Resident Participation at Hearing:
 - a. Written comments must be received 10 days prior to the hearing and may be sent to: (insert Name, phone, & email of Staff Planner), 600 2nd St., 3rd floor, Albuquerque, NM, 87102 OR, EPC Chair, c/o Planning Department, 600 2nd St., 3rd floor, Albuquerque, NM, 87102

Names & Affiliations of Attendees and additional Interested Parties:

*Augustine & Susan Grace	ACG Engineering & Construction Mgmt
*Cesar Marquez Garcia	ACG Engineering & Construction Mgmt
*Tyler Tiger	Partner
*Alexis Portillo	Partner
*Jim Strozier	Consensus Planning
Ayon Oyenuga	Consensus Planning
*Zachary Trischitta	Consensus Planning
*Patricia Willson	District 6 Coalition, Victory Hills NA
Mandy Warr	District 6 Coalition, University Heights NA
*Don Hancock	University Heights NA
Brian Stinar	University Heights NA
Margie Trosterud	
Eugene Trosterud	
Peggy Neff	
Tyson Hummell	CABQ ADR Coordinator
Krista Baca	ADR Paralegal
*Philip Crump	Facilitator

*Attendee

CITY OF ALBUQUERQUE
AMENDMENT to Land Use Facilitated Meeting Report
201-203 Harvard Dr SE

Project: 201-203 Harvard Dr SE

Meeting Date and Time: 23 January 2024, 5:30-6:15 pm

Date Submitted: 25 January 2024

Original Submission: 24 January 2024

Submitted By: Philip Crump

Facilitator: Philip Crump

*Corrections/changes/additions are shown in **BOLD**.*

Background/Meeting Summary:

This meeting was held to review the upcoming application to the EPC for a Zone Map Amendment

....

The .32 acre property, purchased in 2008 from University Heights **United** Methodist Church,...

Outcome:

There was no direct opposition to the project voiced, though questions and issues were raised....

2. Vision and purpose of the project

a. The owners intend to ...

i) One collaborative discussion format ...

(1) Its purpose is to create an open space for honest and open conversations about life's biggest questions. **There would not be a bar, only non-alcoholic drinks served.**

3. Questions and concerns

a. Zoning—One neighborhood representative was concerned that ...

e. Scale of the new building—A NA representative said that while the proposed new building might be in scale with the church which faces the commercial Yale Avenue, it is out of scale with the residential Harvard ~~Avenue~~ **Drive**.

Names & Affiliations of Attendees and additional Interested Parties:

...

*Don Hancock

University Heights NA

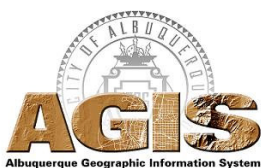
*Brian Stinar

University Heights NA

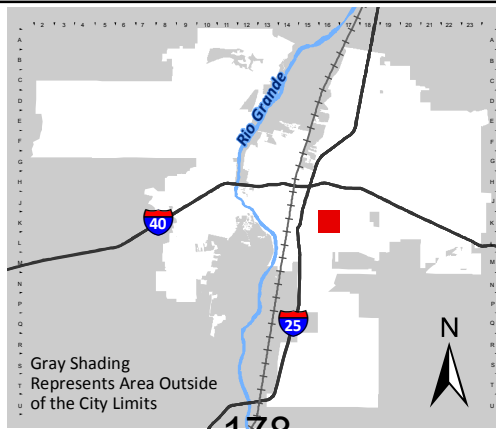


For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

IDO Zone Atlas May 2018

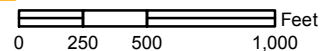


IDO Zoning information as of May 17, 2018
The Zone Districts and Overlay Zones
are established by the
Integrated Development Ordinance (IDO).



Zone Atlas Page:
K-16-Z

- Easement
- Escarpment
- Petroglyph National Monument
- Areas Outside of City Limits
- Airport Protection Overlay (APO) Zone
- Character Protection Overlay (CPO) Zone
- Historic Protection Overlay (HPO) Zone
- View Protection Overlay (VPO) Zone





February 8, 2024

Landscape Architecture
Urban Design
Planning Services

302 Eighth St. NW
Albuquerque, NM 87102

(505) 764-9801
Fax 842-5495
cp@consensusplanning.com
www.consensusplanning.com

Re: IDO Notice – Property owners within 100 feet of subject property

Dear property owner,

On behalf of ACG Engineering and Construction Management LLC, Consensus Planning, Inc. is providing you with notice that we are submitting a Zoning Map Amendment application for EPC approval which will be heard at a public hearing on **March 21, 2024, at 8:40 am via Zoom <https://cabq.zoom.us/j/2269592859>**. The request is to change the zoning of the property from R-ML to MX-L to allow for a coffee shop, breakfast place, and community gathering space.

You can access the agenda on the EPC website: <https://www.cabq.gov/planning/boards-commissions/environmental-planning-commission/epc-agendas-reports-minutes>. The required notice forms and information regarding the public hearing are included in this mailed notice.

Per the IDO section, 6-4(K)(3)(a) mailed public notice to all property owners within 100 feet of the subject site is required. Please reach out to oyenuga@consensusplanning.com or call 505.764.9801 with any questions or concerns regarding this mail. We look forward to hearing from you soon.

Sincerely,

Ayoni Oyenuga
Planner

PRINCIPALS

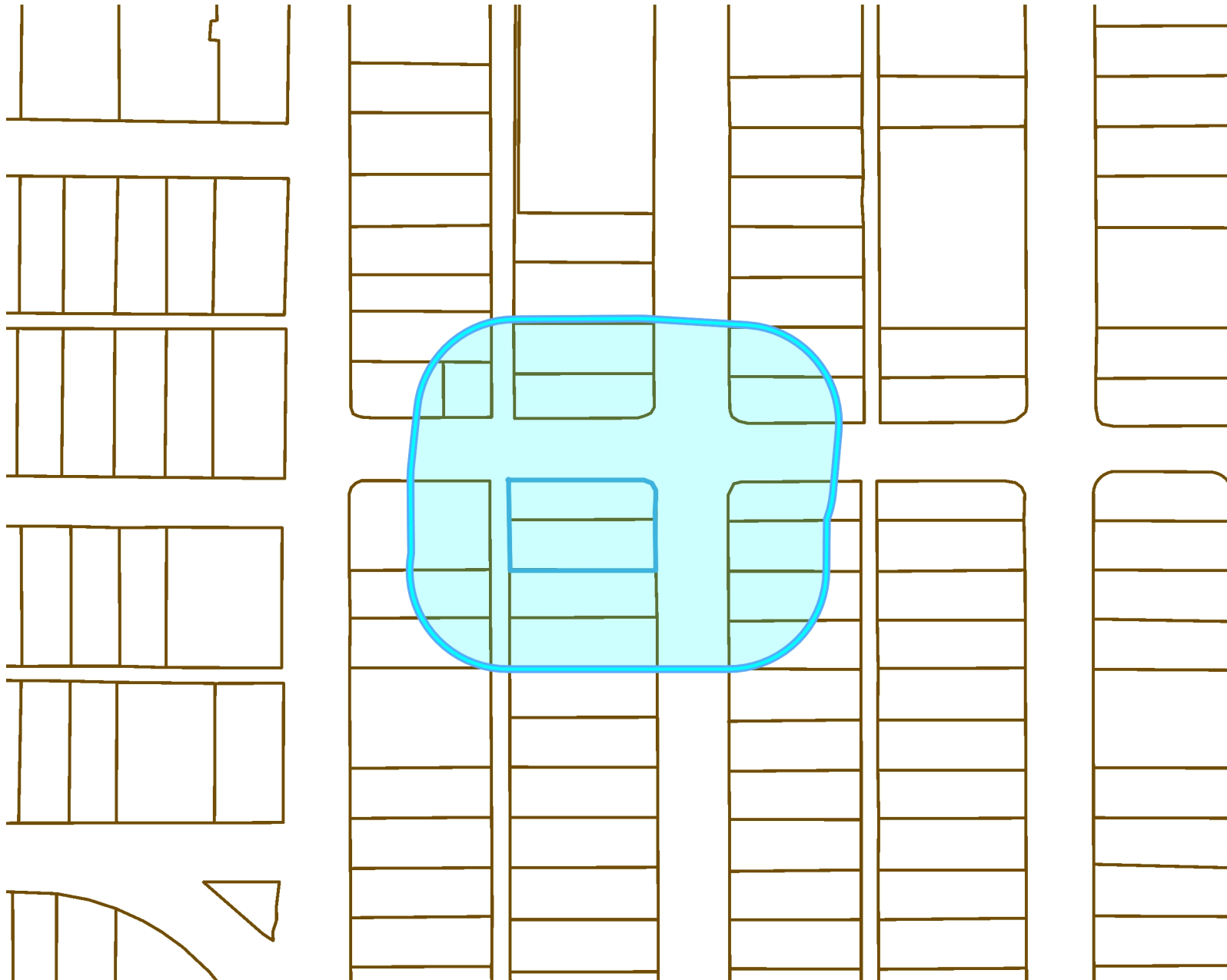
James K. Strozier, FAICP
Jacqueline Fishman, AICP

ASSOCIATES



Ken Romig, PLA, ASLA,
SITES AP



100 feet buffer 201 & 203 Harvard Drive SE

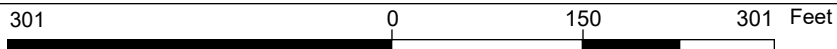


Legend

-  Bernalillo County Parcels
- Municipal Limits**
-  Corrales
-  Edgewood
-  Los Ranchos
-  Rio Rancho
-  Tijeras
-  UNINCORPORATED

Notes

1/30/2024



WGS_1984_Web_Mercator_Auxiliary_Sphere
1/30/2024 © City of Albuquerque

1: 1,803

The City of Albuquerque ("City") provides the data on this website as a service to the public. The City makes no warranty, representation, or guaranty as to the content, accuracy, timeliness, or completeness of any of the data provided at this website. Please visit <http://www.cabq.gov/abq-data/abq-data-disclaimer-1> for more information.

180

THIS MAP IS NOT TO BE USED FOR NAVIGATION

HARVARD MALL PARTNERS C/O BRICKLIGHT
MAESTAS & WARD PROP MGMT
PO BOX 92560
ALBUQUERQUE NM 87199

ARCHIBEQUE BENNY TRUSTEE ARCHIBEQUE
LVT
PO BOX 50205
ALBUQUERQUE NM 87181-0205

SANDOVAL DAVID P & GLORIA J
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ALBUQUERQUE NM 87107

STAFFORD DAVID
207 HARVARD DR SE
ALBUQUERQUE NM 87106-3522

HUMBACH JOHN A & EVA
9 BENEDICT RD
COLD SPRING NY 10516-2916

GRACE AUGUSTINE C & SUSAN G
10021 CORONA AVE NE
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UNIV HGTS UNITED METHODIST CHURCH
2210 SILVER SE
ALBUQUERQUE NM 87106

ANDAZOLA SAMUEL AVIV & REBECCA
DANIELLE
PO BOX 1271
CEDAR CREST NM 87008-1271

NORDIN LAURA
72 CHIMAJA RD
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SILVER STREET RETAIL LLC
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ALBUQUERQUE NM 87107-6833

PEACE & JUSTICE EDUCATION PROJECT INC
202 HARVARD DR SE
ALBUQUERQUE NM 87106-5505

OUTPOST PRODUCTIONS INC
PO BOX 4543
ALBUQUERQUE NM 87196-4543

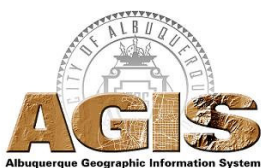
RICE SHERRY KATHLEEN
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ALBUQUERQUE NM 87106-3034

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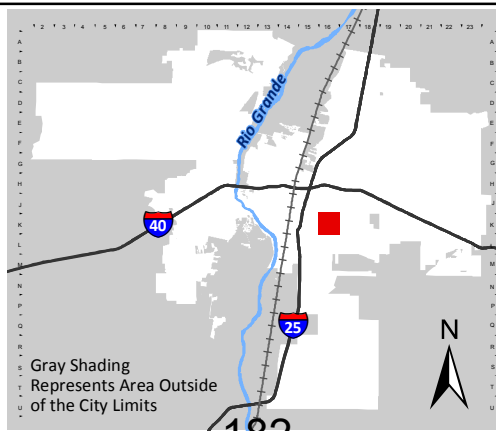


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IDO Zone Atlas May 2018

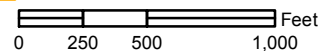


IDO Zoning information as of May 17, 2018
The Zone Districts and Overlay Zones
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Integrated Development Ordinance (IDO).



Zone Atlas Page:
K-16-Z

- Easement
- Escarpment
- Petroglyph National Monument
- Areas Outside of City Limits
- Airport Protection Overlay (APO) Zone
- Character Protection Overlay (CPO) Zone
- Historic Protection Overlay (HPO) Zone
- View Protection Overlay (VPO) Zone



[Note: Items with an asterisk (*) are required.]

Public Notice of a Proposed Project in the City of Albuquerque for Policy Decisions Mailed to a Property Owner

Date of Notice*: February 8, 2024

This notice of an application for a proposed project is provided as required by Integrated Development Ordinance (IDO) [Subsection 14-16-6-4\(K\) Public Notice](#) to:

Property Owner within 100 feet*: See application documentation.

Mailing Address*: See application documentation.

Project Information Required by [IDO Subsection 14-16-6-4\(K\)\(1\)\(a\)](#)

1. Subject Property Address* 201 & 203 Harvard Drive SE
Location Description Harvard Drive SE and Silver Avenue SE
2. Property Owner* Augustine and Susan Grace
3. Agent/Applicant* [if applicable] Agent: Consensus Planning, Inc. /
Applicant: ACG Engineering and Construction Management LLC
4. Application(s) Type* per IDO [Table 6-1-1](#) [mark all that apply]

Zoning Map Amendment

Other: _____

Summary of project/request^{1*}:

Zone Map Amendment from R-ML to MX-L to allow for coffee shop, breakfast restaurant and community gathering space.

5. This application will be decided at a public hearing by*:

Environmental Planning Commission (EPC) City Council

This application will be first reviewed and recommended by:

Environmental Planning Commission (EPC) Landmarks Commission (LC)

Not applicable (Zoning Map Amendment – EPC only)

Date/Time*: Thursday March 21, 2024. Begins at 8:40 a.m.

Location*²: Via Zoom <https://cabq.zoom.us/j/2269592859>

¹ Attach additional information, as needed to explain the project/request.

² Physical address or Zoom link

[Note: Items with an asterisk (*) are required.]

Agenda/meeting materials: <http://www.cabq.gov/planning/boards-commissions>

To contact staff, email devhelp@cabq.gov or call the Planning Department at 505-924-3860.

6. Where more information about the project can be found*³:

Please contact Ayoni Oyenuga at oyenuga@consensusplanning.com,
Jim Strozier at cp@consensusplanning.com or 505-764-9801

Project Information Required for Mail/Email Notice by [IDO Subsection 6-4\(K\)\(1\)\(b\)](#):

1. Zone Atlas Page(s)*⁴ K-16-Z
2. Architectural drawings, elevations of the proposed building(s) or other illustrations of the proposed application, as relevant*: Attached to notice or provided via website noted above
3. The following exceptions to IDO standards have been requested for this project*:
 - Deviation(s)
 - Variance(s)
 - Waiver(s)

Explanation*:

No deviations, variances, or waivers are anticipated with the Zoning Map Amendment.

4. A Pre-submittal Neighborhood Meeting was required by [Table 6-1-1](#): Yes No

Summary of the Pre-submittal Neighborhood Meeting, if one occurred:

A presubmittal meeting was held on January 23, 2024 and was attended by some members of the University Heights NA and the District 6 Coalition of NAs.

Meeting discussed issues related to parking, traffic, scale, and the need to adequately justify the change. Generally supportive of the request.

³ Address (mailing or email), phone number, or website to be provided by the applicant

⁴ Available online here: <http://data.cabq.gov/business/zoneatlas/>

[Note: Items with an asterisk (*) are required.]

Additional Information:

From the IDO Zoning Map⁵:

1. Area of Property [typically in acres] 0.326
 2. IDO Zone District R-ML
 3. Overlay Zone(s) [if applicable] None
 4. Center or Corridor Area [if applicable] Central Avenue Main Street Corridor Area and Premium Transit Station Area
- Current Land Use(s) [vacant, if none] Parking lot and single family homes
-

NOTE: For Zoning Map Amendment – EPC only, pursuant to [IDO Subsection 14-16-6-4\(L\)](#), property owners within 330 feet and Neighborhood Associations within 660 feet may request a post-submittal facilitated meeting. If requested at least 15 calendar days before the public hearing date noted above, the facilitated meeting will be required. To request a facilitated meeting regarding this project, contact the Planning Department at devhelp@cabq.gov or 505-924-3955.

Useful Links

Integrated Development Ordinance (IDO):

<https://ido.abc-zone.com/>

IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

⁵ Available here: <https://tinurl.com/idozoningmap>

Consensus Planning
302 8th Street NW
Albuquerque, NM 87102

FIRST-CLASS
US POSTAGESM PITNEY BOWES
ZIP 87102 \$ 000.64⁰
02 7H
0006057985 FEB 08 2024

SANDOVAL DAVID P & GLORIA J
4107 ARBORDALE LN NW
ALBUQUERQUE NM 87107

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Albuquerque, NM 87102

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HUMBACH JOHN A & EVA
9 BENEDICT RD
COLD SPRING NY 10516-2916

Consensus Planning
302 8th Street NW
Albuquerque, NM 87102

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US POSTAGESM PITNEY BOWES
ZIP 87102 \$ 000.64⁰
02 7H
0006057985 FEB 08 2024

GRACE AUGUSTINE C & SUSAN G
10021 CORONA AVE NE
ALBUQUERQUE NM 87122

STAFF INFORMATION

February 20, 2024

TO: Consensus Planning
FROM: Robert Messenger, AICP, Planner
City of Albuquerque Planning Department
TEL: (505) 924-3837
RE: PR-2024-009946 RZ-2024-00014 ZMA – EPC, 201 & 203 Harvard Dr. SE

I've completed a first review of the proposed zone change request. I have a few questions and several suggestions that will help strengthen the justification. I am available to answer questions about the process and requirements. Please provide the following:

⇒ A revised zone change justification letter by **12 pm on Wednesday, February 28th, 2024.**

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

1) Introduction/General:

- A. Additional items may arise as the case progresses. If so, I will inform you immediately.
- B. Please address the Agent Authorization letter, which is page 3 of the application, to Jonathon Hollinger, who is the new EPC Chair.
- C. This is what I have for the legal description: Lots 24 and 23 of Block 2, University Heights Addition
- C. This is what I have for the total area (201 and 203 Harvard Dr. SE): 0.34 acres
- D. Page 22 of application, or page 3 of 14 of Project Letter: Note that Rapid Ride service 790 has been discontinued. Please remove all references to Route 790.

2) Key Issues/Project Request:

- A. The request is for a zone map amendment from R-ML to MX-L for both 201 and 203 Harvard Dr. SE to facilitate future development.
- B. A vacant or occupied house is the current use for the property zoned R-ML

3) Process:

- A. Information regarding the EPC process, including the calendar and current Staff reports, can be found at:
<http://www.cabq.gov/planning/boards-and-commissions/environmental-planning-commission/>
- B. Timelines and EPC calendar: the EPC public hearing is March 21st. Final staff reports will be available one week prior, on March 14th.

- C. Please visit the link above to find copies of Staff reports that will serve as examples of zone changes.
- D. Note that, if a zone change request is denied, you cannot reapply again for one year.
- E. Agency comments will be distributed as they come in. I will email you a copy of all the comments compiled and will forward any late comments to you.

4) Notification & Neighborhood Issues:

- A. Were the concerns raised at the facilitated meeting resolved or addressed? These included:
 - the impact of a commercial development south of Silver,
 - potential vehicular traffic impacts on a Bike Boulevard,
 - the scale of the proposed new building, and
 - future impacts if the ownership of the property were to change
- B. Have any property owners within 100 feet of the subject property or members of the public contacted you? Are you aware of any concerns?

5) Zone Map Amendment (zone change)- General:

- A. A zone change justification is all about the requirements of IDO 14-16-6-7(G)(3) and how the request meets the criteria.

The exercise is to choose applicable Goals and policies from the Comprehensive Plan that show how your request furthers (makes a reality) the chosen Goals and policies.

- B. For Criterion A, the word used in the policy analysis is usually “furthers” unless a higher test applies. When a request is demonstrated to further a preponderance of applicable Goals and policies, then it is deemed consistent with the City’s general health, safety, and welfare.

6) Zone Map Amendment (zone change)- Concepts & Research:

- A. Refer to the link provided below for examples of Zone Map Amendments staff reports:

<https://www.cabq.gov/planning/boards-commissions/environmental-planning-commission/epc-agendas-reports-minutes>

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

Please incorporate the following to provide a strengthened, improved response to 14-16-6-7 (G)(3):

- A. 6-7(G)(3)(a): Because the test for Criterion A “is consistent with” is a weaker test than what’s required by Criterion B, the Response to Criterion A needs to be redone. Criterion A needs to be rewritten to demonstrate that “the new zone would **clearly reinforce or strengthen** the established character of the surrounding Area of Consistency...”

- i. Policy 4.1.1 does not apply because a zone change alone cannot guarantee quality development.
 - ii. Goal 5.1 and Policies 5.1.1, 5.1.5, 5.1.8, and 5.1.9 are not applicable because the subject site is not within any Comp Plan-designated Center or within any Comp Plan Corridors.
 - iii. Goal 5.6 response only addresses “Areas of Consistency” but does not explain how the request directs growth to “Areas of Change”. Only half of the Goal is addressed.
 - iv. Policy 5.6.3 is applicable. However, the response needs to be redone to note that the subject site is outside of Centers and Corridors.
 - v. Policy 6.1.3 is not applicable because a zone change itself cannot guarantee development that will reduce auto demand or provide a TDM program.
 - vi. Policy 8.2.1 Local Business – Paragraph describing University Metropolitan Redevelopment Area Plan information should be removed since the subject site is not within the University MRA.
- B. 6-7(G)(3)(b): Sufficient.
- C. 6-7(G)(3)(c): Please expand by noting that subject site is located in an Area of Consistency.
- D. 6-7(G)(3)(d): Potential uses were a concern at the facilitated neighborhood meeting. Consider replacing “church” with “religious institution” to make a stronger connection to the IDO, which prohibits some uses based on proximity to a *religious institution*. These uses include adult entertainment or adult retail [IDO 4-3(D)(6)], methadone clinic, and syringe exchange facility.
- E. 6-7(G)(3)(e): Please rewrite the statement “Central Avenue, Silver Avenue, and Harvard Drive contain transit services and bike facilities, and convenient road network connectivity” because it could imply that all three streets have both transit and bike facilities. Only Central Avenue and Yale Blvd have transit services. Only Silver and Yale have bike facilities or bike designations; Bike Boulevard and Bike Route, respectively. Harvard does not have transit or bike services/facilities.
- F. 6-7(G)(3)(f): Sufficient.
- G. 6-7(G)(3)(g): Sufficient.
- H. 6-7(G)(3)(h): Sufficient.

FACILITATED MEETING REPORT

CITY OF ALBUQUERQUE
LAND USE FACILITATION PROGRAM PROJECT MEETING REPORT
201-03 Harvard SE Zone Map Amendment EPC

Project #:

Property Description/Address: 201 and 203 Harvard SE

Date Submitted: 24 January 2024

Submitted By: Philip Crump

Meeting Date/Time: Tuesday 23 January 2024 5:30-6:15 pm

Meeting Location: Via Google Meet

Facilitator: Philip Crump

Applicant/Agent: ACG Engineering and Construction Management/Consensus Planning

Neighborhood Associations/Interested Parties: University Heights NA, District 6 Coalition of NAs

Background/Meeting Summary:

This meeting was held to review the upcoming application to the EPC for a Zone Map Amendment regarding a property on the SW corner of Harvard and Silver SE. The application will request a change in the zoning from R-ML (Multifamily low density residential) to MX-L (Low intensity mixed use). The purpose is to allow development of a coffee, breakfast, and social gathering facility incorporating the current residences and an additional two-story building between them.

The .32 acre property, purchased in 2008 from University Heights Methodist Church, includes the two houses facing Harvard and a parking lot to the rear (west). The houses would remain essentially the same while the intermediate building would be a modern glass/steel/concrete structure. The owners anticipate a request to join the Bricklight district which occupies the 100 block of Harvard SE. In a presentation of the historical and current zoning, the agent noted that the properties to the east and south are R-ML, while those on the north and west at MX-L.

While citizens attending the meeting were generally in favor of the project, there were concerns expressed. Concerns included the first-time impact of a commercial development of the residential street south of Silver, potential vehicular traffic impacts on a Bike Boulevard, the scale of the proposed new building, and future impacts if the ownership of the property were to change.

Outcome:

There was no direct opposition to the project voiced, though questions and issues were raised and the agent was asked to address those questions in the application.

Meeting Specifics:

1) Characteristics and history of the property

- a) The property consists of two single-story residences and a parking area to the rear.
 - i) The property was purchased in 2008 by the applicants from University Heights Methodist Church.
 - (1) At that time, it was zoned Special Use for church and related activities and was part of the sector plan.
 - (a) The sector plan allowed single-family townhouse and duplex residential uses as well as conditional uses that included a daycare center or school.
 - (2) The zoning then changed to P (Parking) for the parking area to the rear and SU-2/DR (Diverse Residential) for the front.
 - (3) The IDO brought a change to R-ML for the property.
 - ii) The agent showed a chart indicating that new MX-L zoning would allow a lengthy variety of commercial uses not allowed under the residential R-ML zoning.
 - (1) The maximum building height (38 feet) would not change.
 - iii) The property is immediately south of the University Metropolitan Redevelopment Area [MRA], which promotes commercial development.
 - (1) The owners anticipate requesting to become a part of the Bricklight commercial district which exists on the 100 block of Harvard.

CITY OF ALBUQUERQUE
LAND USE FACILITATION PROGRAM PROJECT MEETING REPORT
201-03 Harvard SE Zone Map Amendment EPC

- (a) The property is a short walk to Central Avenue, UNM, Rapid Ride and the ART station, and the commercial activity along Central and in the Bricklight district.
 - b) The exteriors of the two houses will remain essentially unchanged.
 - i) Between the two houses will be a two-story common area, enclosed gathering space, and a rooftop deck.
 - (1) The new building will be a modern structure of glass, steel and concrete.
 - ii) There will be a landscaped interior courtyard for year round enjoyment.
 - iii) The parking area behind the houses will be improved, while the number of available spaces will be reduced somewhat.
 - (1) Landscaping and greater use of the alley will be improvements
 - iv) On-street parking for this block of Harvard likely will remain by permit only.
 - (1) There is no on-street parking allowed on Silver.
- 2) Vision and purpose of the project**
- a) The owners intend to create a neighborhood destination where someone could get coffee or breakfast and have a place for social, collaborative gatherings.
 - i) One collaborative discussion format is Alpha, a Christian-based spiritual renewal program for the university,, the neighborhood, and Albuquerque.
 - (1) Its purpose is to create an open space for honest and open conversations about life's biggest questions.
- 3) Questions and concerns**
- a) Zoning—One neighborhood representative was concerned that the zoning stays with the property not the owner.
 - i) If the ownership were to change, other uses could come in that are not so compatible with the area.
 - (1) “The dominoes start to fall on residential zoned property, then that has an effect on the people who do live on that block.”
 - ii) She asked why, in light of the vacant or underutilized properties identified in the Redevelopment Plan, the owners could not have found a suitably zoned property elsewhere in the area.
 - iii) Additionally, this represents a reduction in available housing in the area.
 - (1) The agent suggested that the trade-off is housing versus that kind of community gathering space.
 - (a) He said that this (and other issues) will be addressed in the application.
 - b) Excessive commercial uses?—Another representative said there probably needs to be more discussion in the application about providing additional commercial space in an area that already has perhaps too much.
 - i) The purpose of the MRA is to provide improvements in the larger University area, but this is outside the MRA.
 - c) Silver Avenue uses—The representative said there has long been the idea that south of Silver is residential and areas north of Silver can be commercial or mixed use.
 - d) Silver Avenue traffic—The representative, noting that Silver is a Bike Boulevard, asked whether this would put more vehicular traffic on Silver.
 - i) Already, the parking lot draws traffic.
 - ii) The neighborhood association has been talking about some further activities to improve the pedestrian and bicycle nature of Silver and discourage vehicles on the street.
 - (1) The agent reported that they want to make this a bicycle friendly location where people can get into the property, park their bikes and use the facility.
 - (a) They want to encourage that level of activity as much as possible.
 - e) Scale of the new building—A NA representative said that while the proposed new building might be in scale with the church which faces the commercial Yale Avenue, it is out of scale with the residential Harvard Avenue.

CITY OF ALBUQUERQUE
LAND USE FACILITATION PROGRAM PROJECT MEETING REPORT
201-03 Harvard SE Zone Map Amendment EPC

- i) Based on his conversations with a few people, this issue will come up.
 - (1) The agent said that they will review this issue, in light of the Near Heights Community Plan and other documents.
- f) Energy considerations for the new building—The architect/representative noted that the conceptual drawing shows a building that may be a very elegant glass box with patio space up above.
 - i) She encouraged the designer to pay attention to the City’s energy code and ensure a building that is practical to construct.
- g) Support—A neighborhood owner said that he knows the owner and believes that turning the property into a coffee shop or something else is something that he supports.

Next Steps: When the applicants and agent finalize the application, it will be submitted to the EPC. They hope to be able to appear for hearing in March.

EPC Application Hearing Details:

EPC Hearing scheduled for (3rd Thursday date, potentially 21 March 2024)

1. Hearing Time:
 - a. All meetings are currently held via Zoom: <https://cabq.zoom.us/j/2269592859>
 - b. The Commission will begin hearing applications at 8:30 a.m.
 - c. The actual time this application will be heard by the Commission will depend on the applicant’s position on the Commission’s schedule
2. Hearing Process:
 - a. Comments from facilitated meetings will go into a report which goes to the City Planner.
 - b. City Planner includes facilitator report in recommendations.
 - c. The Commission will make a decision and parties have 15 days to appeal the decision.
3. Resident Participation at Hearing:
 - a. Written comments must be received 10 days prior to the hearing and may be sent to: (insert Name, phone, & email of Staff Planner), 600 2nd St., 3rd floor, Albuquerque, NM, 87102 OR, EPC Chair, c/o Planning Department, 600 2nd St., 3rd floor, Albuquerque, NM, 87102

Names & Affiliations of Attendees and additional Interested Parties:

*Augustine & Susan Grace	ACG Engineering & Construction Mgmt
*Cesar Marquez Garcia	ACG Engineering & Construction Mgmt
*Tyler Tiger	Partner
*Alexis Portillo	Partner
*Jim Strozier	Consensus Planning
Ayon Oyenuga	Consensus Planning
*Zachary Trischitta	Consensus Planning
*Patricia Willson	District 6 Coalition, Victory Hills NA
Mandy Warr	District 6 Coalition, University Heights NA
*Don Hancock	University Heights NA
Brian Stinar	University Heights NA
Margie Trosterud	
Eugene Trosterud	
Peggy Neff	
Tyson Hummell	CABQ ADR Coordinator
Krista Baca	ADR Paralegal
*Philip Crump	Facilitator

*Attendee

CITY OF ALBUQUERQUE
AMENDMENT to Land Use Facilitated Meeting Report
201-203 Harvard Dr SE

Project: 201-203 Harvard Dr SE

Meeting Date and Time: 23 January 2024, 5:30-6:15 pm

Date Submitted: 25 January 2024

Original Submission: 24 January 2024

Submitted By: Philip Crump

Facilitator: Philip Crump

*Corrections/changes/additions are shown in **BOLD**.*

Background/Meeting Summary:

This meeting was held to review the upcoming application to the EPC for a Zone Map Amendment

....

The .32 acre property, purchased in 2008 from University Heights **United** Methodist Church,...

Outcome:

There was no direct opposition to the project voiced, though questions and issues were raised....

2. Vision and purpose of the project

a. The owners intend to ...

i) One collaborative discussion format ...

(1) Its purpose is to create an open space for honest and open conversations about life's biggest questions. **There would not be a bar, only non-alcoholic drinks served.**

3. Questions and concerns

a. Zoning—One neighborhood representative was concerned that ...

e. Scale of the new building—A NA representative said that while the proposed new building might be in scale with the church which faces the commercial Yale Avenue, it is out of scale with the residential Harvard ~~Avenue~~ **Drive**.

Names & Affiliations of Attendees and additional Interested Parties:

...

*Don Hancock

University Heights NA

*Brian Stinar

University Heights NA

LETTERS

UNIVERSITY HEIGHTS ASSOCIATION

105 Stanford, SE
Albuquerque, NM 87106
505/262-1862
info@uhanm.org
www.uhanm.org



March 11, 2024

Mr. Jonathan R. Hollinger, Chair
Environmental Planning Commission (EPC)
City of Albuquerque

via email: rmessenger@cabq.gov

Dear Chair Hollinger:

Re: Zoning Map Amendment, 201 & 203 Harvard Drive SE

The University Heights Association (UHA) is the Recognized Neighborhood Association where the subject property is located. Two members of the UHA Board of Directors attended the facilitated meeting on January 23, 2024. All members of the Board received the February 8, 2024 Application Letter for the Amendment, as well as the February 26 resubmittal letter. At its regular monthly meeting on March 7, 2024, the UHA Board of Directors voted 5-1 to oppose the zone change because it does not meet the requirements of Integrated Development Ordinance (IDO) Section 14-16-6-7(G)(3) and would be injurious to the neighborhood.

The UHA Board appreciates that the applicant has owned and cared for the subject property for more than 15 years. However, the Amendment runs with the property. Further, the application does not provide adequate justification for the requested Amendment under the IDO requirements and is incomplete in describing the history of the zoning of the area and the applicable current city policies. Therefore, the UHA Board requests that the EPC deny the request.

IDO Section 14-16-6-7(G)(3) states that a Zoning Map Amendment must meet all of the applicable criteria (a) through (h). (14-16-6-7(G)(3)(c) does not apply because the property is in an Area of Consistency.) As will be described in more detail, the application does not meet the requirements of Section 14-16-6-7(G)(3)(a) because it is not consistent with the health, safety, and general welfare of the City, because it is in conflict with a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City.

The application does not meet any of the requirements of Section 14-16-6-7(G)(3)(b) because it does not reinforce or strengthen the established character of the surrounding Area of Consistency. Further, the existing zoning is appropriate. There is no typographical error, there is not a significant change in neighborhood or community conditions affecting the site, and a different zone district is not more advantageous to the community as articulated by the ABC Comp Plan.

Brief history of UHA area zoning

Zoning of the UHA area prior to the 1978 University Neighborhoods Sector Development Plan was for most of the area to be high density R-3 residential zoning, with commercially zoned areas along Central Avenue and Yale Boulevard, in the 100 blocks of Harvard, Cornell and Vassar and a few lots along Lead Avenue for three blocks east of Yale. Attached Map 1. The 1978 Sector Plan downzoned all of the R-3 zoning south of Silver, increased allowed commercial zoning along Central, and slightly decreased the number of commercially zoned lots along Lead. Map 2.

The 1986 Sector Development Plan maintained the zoning in the UHA area from the 1978 Sector Plan. Map 3. Basic Goals of the Sector Plan included: “Encourage infill residential construction in appropriate places” and “Improve conditions in business areas.” Page 1.

Current IDO Zoning and University Metropolitan Development Area (UMRA)

The current Comprehensive Plan designates the area south of Silver, including the subject properties, as an Area of Consistency. When the IDO was approved, area zoning designations changed, but the commercial (including Mixed Use) and residential zoning areas were not changed. The Zone Atlas Map Page K-16-Z is included four times in the Application Packet.

Thus, there has been no increase in commercial or mixed use zoning in the residential area south of Silver since prior to the 1978 Sector Development Plan. The Application does not mention that fact, nor discuss what specific changes in that residential area justifies such a major change in 45 years of history and policy.

In fact, the significant recent study of area characteristics reinforces the appropriateness of the existing zoning. On December 5, 2022, the City Council approved R-22-74, the University Metropolitan Development Area (UMRA) Plan, which was also approved by the Mayor. The first two action areas of the Plan are to increase housing options and strengthen the commercial environment within the UMRA boundaries, which do not include the subject properties. The Council ordinance and the UMRA Plan state: “The lower-density residential character of neighborhoods to the south of Silver should be preserved.” (emphasis added). The subject properties are in the area south of Silver Avenue. Map 4. Providing for increased commercial use through the proposed MX-L zoning is contrary to the policy of maintaining the lower-density residential character of the neighborhood. That residential character of the area south of Silver Avenue has not changed.

The UMRA Plan also determined that around 25 percent of the commercial properties within the UMRA boundaries are vacant. Page 25. Consequently, the UMRA Plan, which UHA supported, proposes various measures to improve the commercial and mixed use properties within the UMRA boundaries, but not with the subject properties that are outside of those boundaries. Adding more commercial zoning in an area with greatly excess commercial properties, as shown by vacancies, including within a block of the subject properties, is contrary

to the data and to city policies. The Application mentions that the subject property is adjacent to the UMRA on pages 3 and 5, but does not discuss those details of the ordinance and the UMRA Plan. Thus, the proposed zoning is not consistent with the preponderance of applicable goals and plans adopted by the City, as required by IDO Section 14-16-6-7(G)(3)(a).

The proposed MX-L zoning meets none of the three criteria in Section 14-16-6-7(G)(3)(b) because there is no typographical error, there is not a significant change in neighborhood or community conditions affecting the site, and a different zone district is not more advantageous to the community as articulated by the ABC Comp Plan.

Regarding IDO Section 14-16-6-7(G)(3)(d), the resubmitted Application concedes that some of the permissive uses “would be potentially harmful,” but maintains that either the intensity of the uses or the proximity of the University Heights United Methodist Church provide adequate mitigation. The UHA Board does not agree that the proximity mitigates all of the harmful permissive uses. Additionally, some of those permissive uses would increase traffic on the Silver Bicycle Boulevard, which would also be injurious to the neighborhood by creating more vehicle-bicycle-pedestrian conflicts.

Thus, the context, history, and preponderance of city goals and policies is to maintain the existing R-ML zoning of the subject properties. Therefore, the UHA Board of Directors requests that the EPC deny the Zoning Map Amendment request.

Thank you very much for your consideration.

Sincerely,



Don Hancock
Secretary-Treasurer
sricdon@earthlink.net
505-262-1862

cc: Augustine Grace
Jim Strozier
Ayoni Oyenuga
Patricia Willson

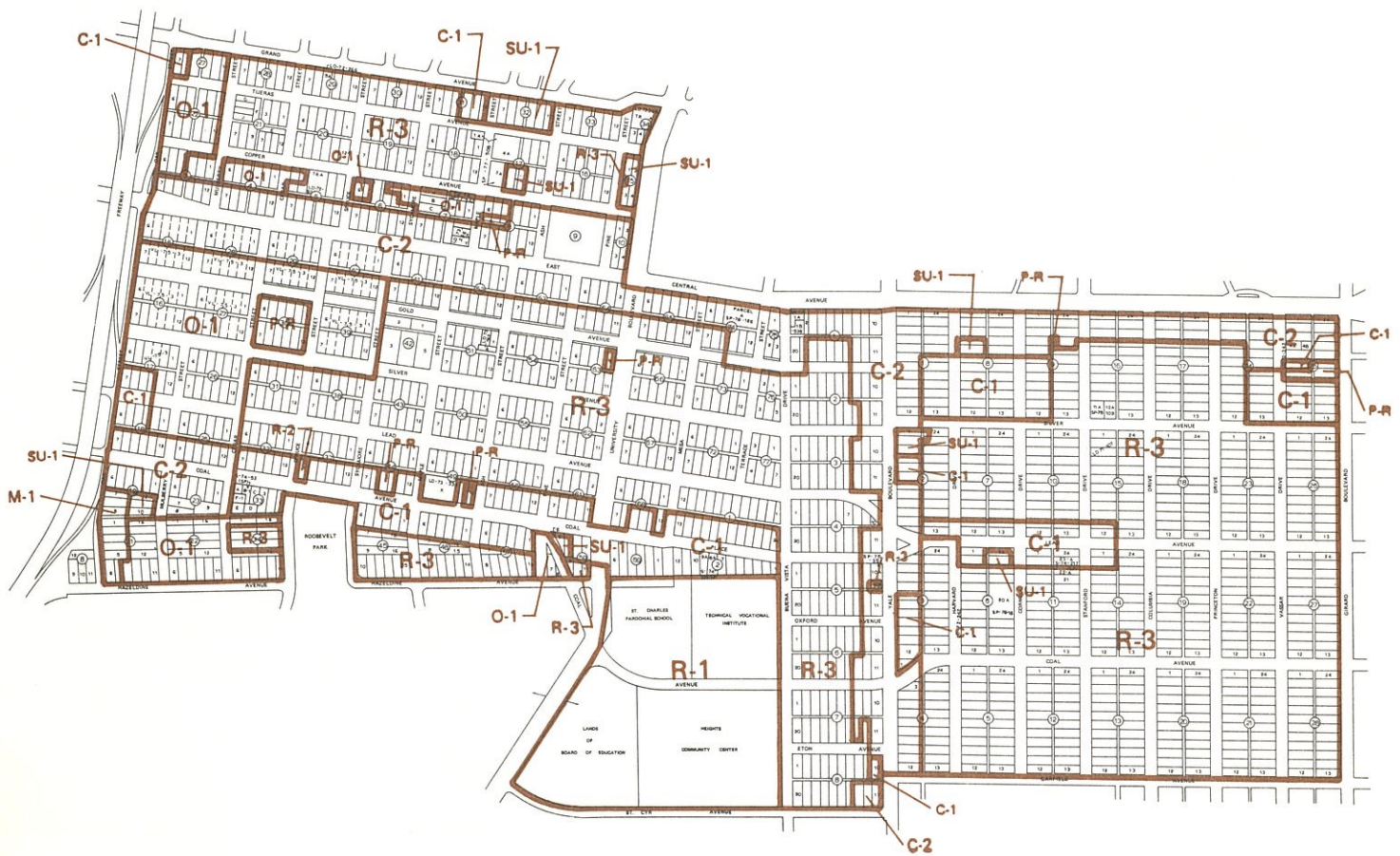


MUNICIPAL DEVELOPMENT DEPARTMENT
PLANNING DIVISION



UNIVERSITY NEIGHBORHOODS AREA

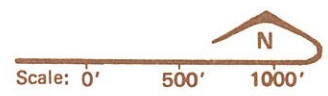
Sector Development Plan



MAP 4

EXISTING ZONING

- | | |
|-------------------------------|--------------------------|
| R-1 SINGLE FAMILY RESIDENTIAL | C-2 COMMUNITY COMMERCIAL |
| R-2 LOW DENSITY APARTMENTS | M-1 LIGHT MANUFACTURING |
| R-3 MEDIUM DENSITY APARTMENTS | SU-1 SPECIAL USE |
| O-1 OFFICE | P-R PARKING RESERVE |
| C-1 NEIGHBORHOOD COMMERCIAL | |



UNIVERSITY NEIGHBORHOODS AREA

UNIVERSITY NEIGHBORHOODS

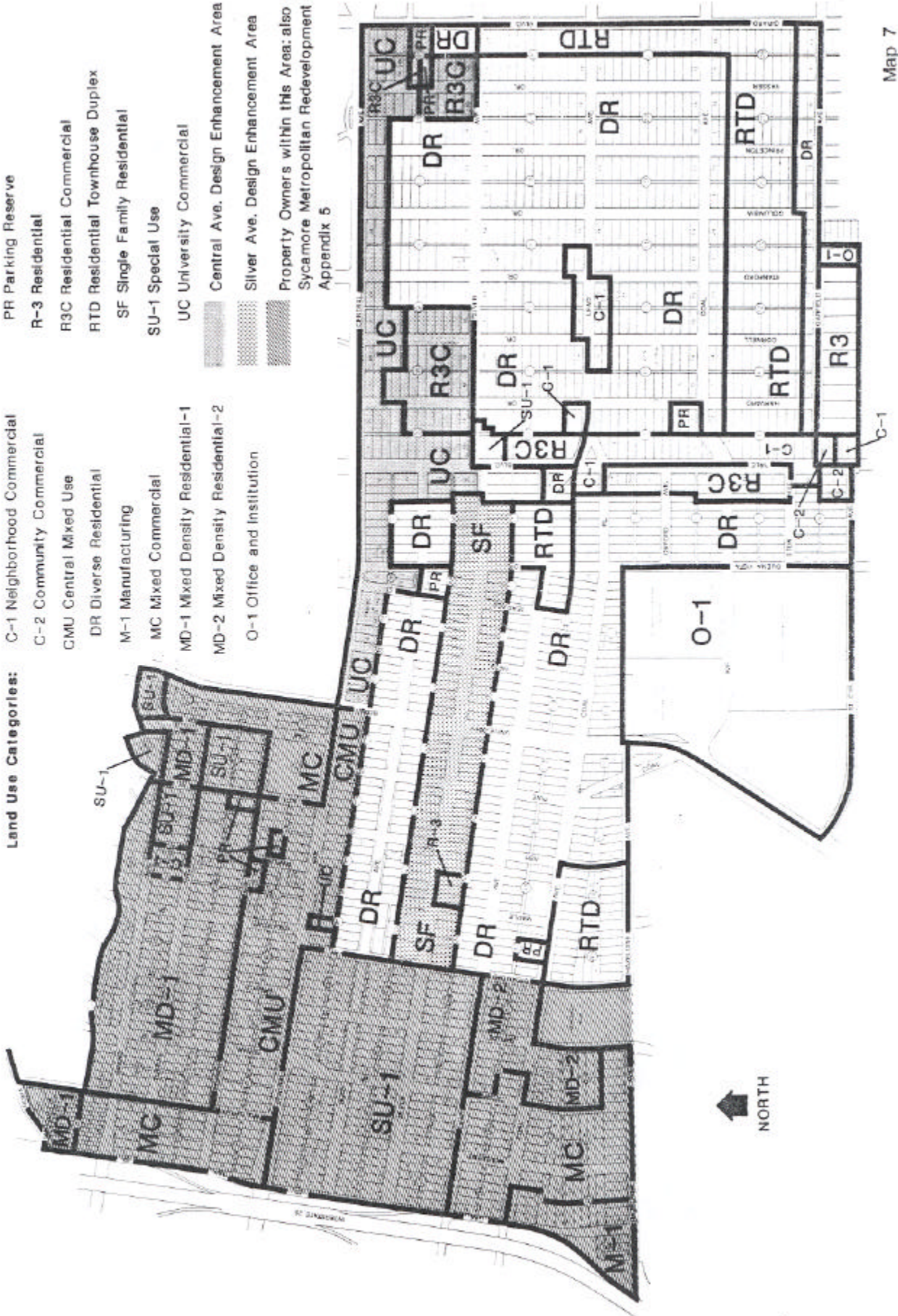
SU-2 ZONING

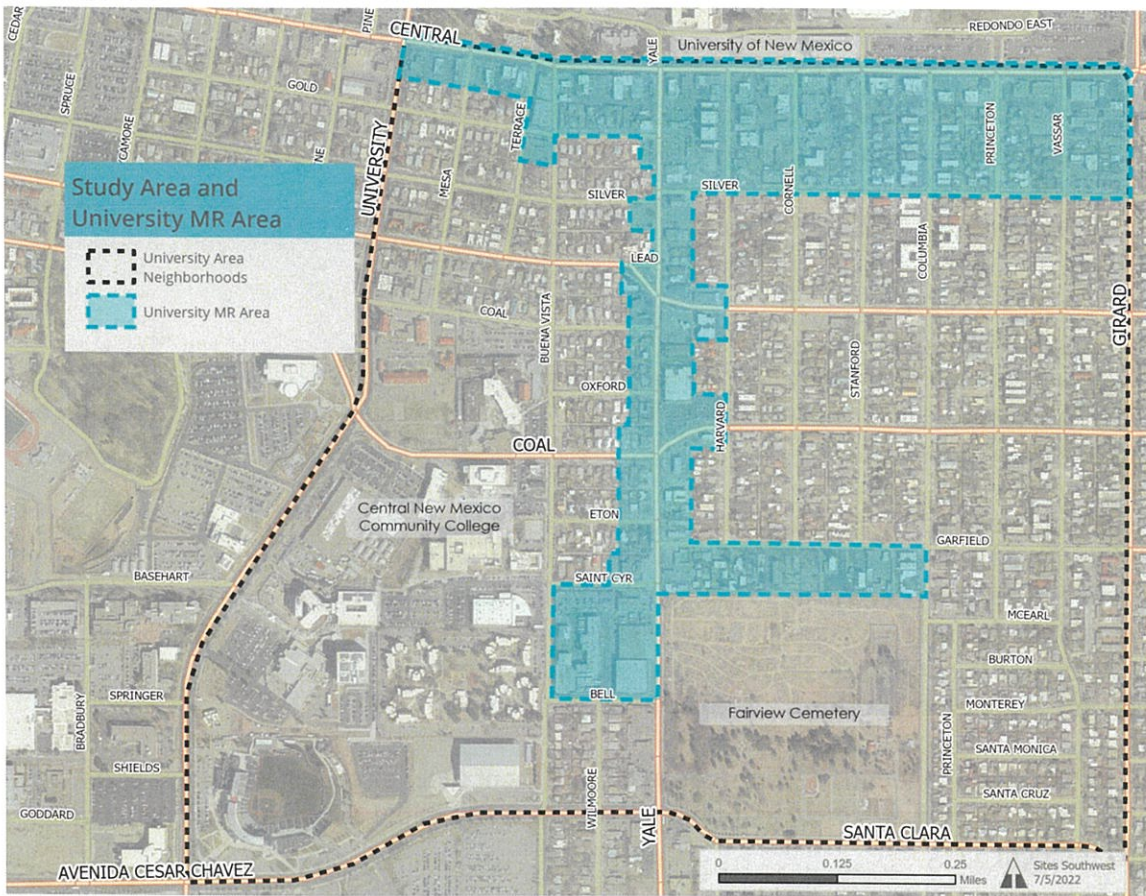
Land Use Categories:

- C-1 Neighborhood Commercial
- C-2 Community Commercial
- CMU Central Mixed Use
- DR Diverse Residential
- M-1 Manufacturing
- MC Mixed Commercial
- MD-1 Mixed Density Residential-1
- MD-2 Mixed Density Residential-2
- O-1 Office and Institution
- PR Parking Reserve
- R-3 Residential
- R3C Residential Commercial
- RTD Residential Townhouse Duplex
- SF Single Family Residential
- SU-1 Special Use
- UC University Commercial

- Central Ave. Design Enhancement Area
- Silver Ave. Design Enhancement Area

Property Owners within this Area: also see
Sycamore Metropolitan Redevelopment Plan,
Appendix 5





MAP 4

Date: March 10, 2024

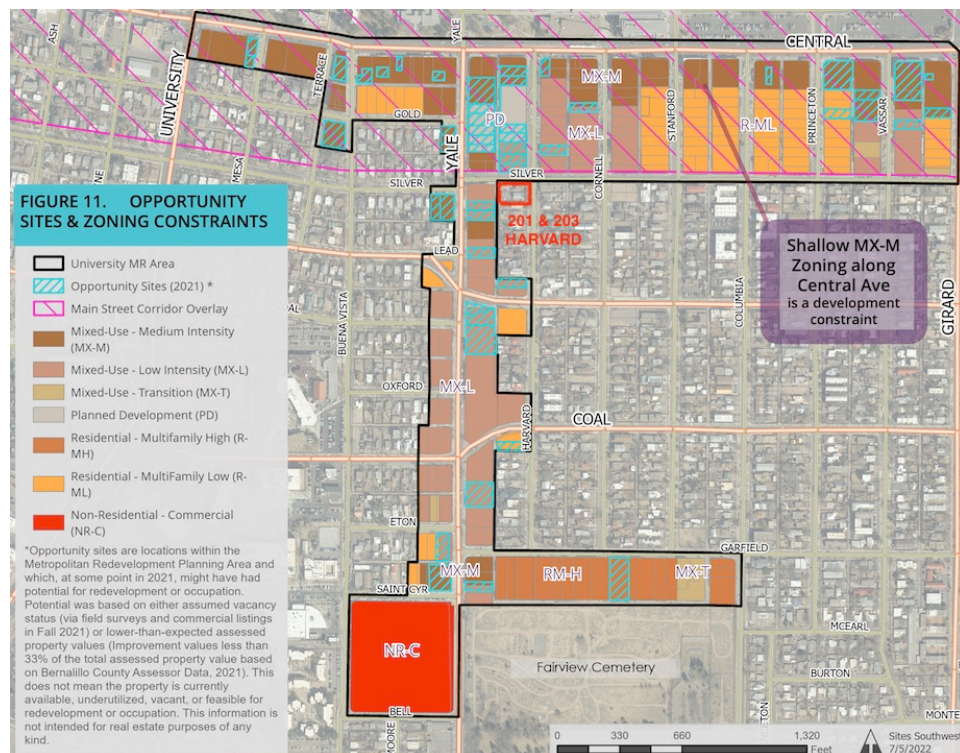
To: EPC Chair Jonathan Hollinger
From: Patricia Willson, Albuquerque resident
Re: Zone Map Amendment, 201 & 203 Harvard Drive SE

Chair Hollinger,

I am opposed to the Zone Map Amendment for 201 & 203 Harvard SE. While this would not constitute a spot zone, it pushes the MX-L zone into a solid block of RM-L, creating a domino effect eating away at the residential zone south of Silver Avenue. A ZMA stays with the property; the current owners could choose to sell the property and a new owner would have many permissive uses available to them in the MX-L zone.

We are constantly told that we are in a housing crisis—why remove two rentals (4, if you replaced the parking with two ADUs)—when housing in the University area is in such short supply? One block west, 20 units of well-designed, desperately needed housing is currently under construction. Wouldn't the highest and best use of this property be to provide the maximum number of housing units possible?

The University Metropolitan Redevelopment Area Plan shows dozens of "Opportunity Sites" (shown with blue crosshatch; these may be vacant, underutilized, or otherwise available sites near or adjacent to the subject site.) The MRA provides incentives for development to improve the commercial areas along Central and down Yale; why not invest in the already struggling commercial Bricklight District and maintain existing housing in the residential zone?



The applicant did a thorough job of responding to the criteria outlined in the Integrated Development Ordinance for a zoning map amendment justification. The EPC will likely grant this ZMA—but what is the point of the Comprehensive Plan and the Community Planning Area assessment if Zoning and Areas of Change/Areas of Consistency can be changed easily and often?

Thank you for your time and attention,

Patricia Willson, Albuquerque resident

SIGN POSTING

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the Integrated Development Ordinance are responsible for the posting and maintaining of one or more signs on the property which is subject to the application, as shown in Table 6-1-1. 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 for a \$10 fee per sign. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign(s).

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to any public meeting or 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.

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.

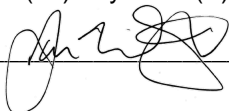
4. TIME

Signs must be posted from 3/6/2024 To 4/5/2024

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.

 (Applicant or Agent) 2/8/2024 (Date)

I issued _____ signs for this application, _____ (Date), _____ (Staff Member)

PROJECT NUMBER: _____

Mar 3, 2024 at 5:55:49 PM
N 8883022 E 352189
2253-2273 Silver Ave SE
Albuquerque NM 87106
United States

REQUEST

City of Albuquerque
Planning Department
300 S. 1st Street
Albuquerque, NM 87102

Zoning Map Amendment from
R-ML (Multi-family Low Density) to
MX-L (Mixed-use Low Intensity)

The City of Albuquerque Environmental Planning Commission will hold a public hearing in the ~~City of Albuquerque~~ on March 21, 2024 at 8:30 AM. All persons have a right to appear at such a hearing. For information on this case or other instructions on filing written comments, call the Planning Department at (505) 924-3888 or contact the applicant.

Required to be posted from 03/06/2024 to 07/05/2024
by Consensus Planning, Inc 505-769-9801

REFER TO FILE# PR-2024-001996/AZ-2024-00014

Mar 3, 2024 at 5:57:48 PM
N 3882997 E 352223
201 Harvard Dr SE
Albuquerque NM 87106
United States

REQUEST

City of Albuquerque
Planning Department
400 S 10th Street
Albuquerque, NM 87102

Zoning Map Amendment from
R-ML (Multi-family Low Density) to
MIX-L (Mixed-use Low Intensity)

The City of Albuquerque Environmental Planning Commission will hold a public hearing ~~on March 21, 2024~~

on March 21, 2024 at 8:30 AM. All persons have a right to appear at such a hearing. For information on this case or other instructions on filing written comments, call the Planning Department at (505) 924-3860 or contact the applicant.

Required to be posted from 03/04/2024 to 03/05/2024

by Condensed Planning, Inc 505-764-9801
public hearing

REFER TO FILE # PR-2024-009946/RE-2024-00014 phone

EPC Hearing
3/21/24
Item #8

VICE CHAIR EYSTER: I see all the commissioners present. I will reconvene our hearing with Agenda Item number 8. This is a request for a zoning map amendment from RM-L to MX-L at 201 and 203 Harvard Dr SE. Staff Planner is Mr. Messenger, Mr. Messenger, are you ready for your presentation?

ROBERT MESSENGER: Yes, good afternoon, Mr. Chair and Commissioners. My name is Robert Messenger, I'm a senior planner at the City of Albuquerque planning department, and do I have permission to share my screen?.

VICE CHAIR EYSTER: I see it.

ROBERT MESSENGER:: Okay, can everybody see the screen?

VICE CHAIR EYSTER: We'll say they can.

ROBERT MESSENGER:: Okay. thank you. This is agenda, item number 8. It is Project Number PR-2024-009946 Case Number RZ. 2024-00014. The request is for a zoning map amendment for an approximately 0.34 acre site, located at 201 and 203 Harvard Dr SE in an area of consistency. The applicant intends to change the subject site zoning from RM-L to MX-L to facilitate future development. Although the owner proposes a coffee shop and gathering space as the future use. This request is only for the zone change, therefore, the EPC should consider all potential uses allowed in the proposed MX-L Zone district and potential harmful impacts. If those uses were allowed. the purpose of the MX-L zone district is to provide for neighborhood scale convenience. Shopping needs primarily at intersections of collectors, streets. primary land uses include non-destination, retail and commercial uses as well as townhouses. low density, multifamily, and civic institutional uses to serve the surrounding area with taller, multi-storied buildings encouraged in centers and corridors. Changing to MX-L Zoning would add several permissive uses in categories, such as civic and institutional. commercial and retail, that are not allowed by the current RM-L zoning, residential uses, such as single family, residential and duplex would not be allowed in MX-L Zoning, but it still allows townhouse live, work, and multifamily uses. Since the surrounding area to the North and West is a mixture of commercial, residential, and civic institutional uses. The permitted uses would not be considered harmful. Furthermore, IDO specific standards help mitigate the impacts of uses that could be considered harmful. Staff finds that the request is adequately justified pursuant to the IDO zone change criteria. The applicant's policy analysis demonstrates the request clearly reinforces, reinforces, or strengthens, strengthens the area of consistency and that a different zone district is more advantageous. The community is articulated by the ABC Comp plan, and therefore is consistent with the city's health, safety, and general welfare. The University Heights and District 6 coalition of neighborhood associations and property owners within a hundred feet of the subject site were notified as required. A Pre-application Neighborhood meeting was held on January 23rd 2024 concerns and concerns included intrusion of commercial uses south of silver increase auto traffic on silver, which is a bike, boulevard size and scale of the proposed development and impacts if ownership changes. Staff received 2 letters of opposition which the Commission has received, outlining the same concerns that were heard in the facilitated meeting regarding PR-2024- RZ-2024-0014, let me restart my

EPC Hearing
3/21/24
Item #8

apologies, let me restate that. Regarding PR-2024-00946 RZ-2024-00014 Staff recommends approval, subject to findings in the staff report, as well as the revised findings 1 and 2. We had some typos. and I will bring those up now for the benefit of the Commission.Can the can the Commission see these revised findings?

VICE CHAIR EYSTER: Yes, yes, we can.

ROBERT MESSENGER:: Okay, we had the wrong area and dates and a couple of other typos. So my apologies for that and with that I stand for any questions the Commission may have.

VICE CHAIR EYSTER: Does any commissioner have a question for Mr. Messenger? Hearing none, we'll go to the applicant's presentation. The applicant is consensus planning.

JIM STROZIER- CONSENSUS PLANNING: Good afternoon, Mr. Chairman. Jim Strozier with consensus planning.

VICE CHAIR EYSTER:Hi, Mr. Strozier, you were sworn in and gave your name and address for the record. So will 10 min do for your presentation?

JIM STROZIER- CONSENSUS PLANNING: Yes, sir.

VICE CHAIR EYSTER: Thank you. Go ahead.

JIM STROZIER- CONSENSUS PLANNING: Alright, thank you and I just wanna mention, before I get started that the owner of the property, Augustine Grace is is on the call and the young lady sitting next to me is Ioni, and she's one of the planners working on this with me, but I will be doing the presentation. So I just wanted to make sure that I introduced her and let you know that the owner of the property is also on today. We do have a presentation. I'm gonna share my screen.

VICE CHAIR EYSTER: Thank you, its coming up and there it is.

JIM STROZIER- CONSENSUS PLANNING: Alright. Okay. thank you. I will. I will try and be brief. And I and and also would be remiss if I did not thank Mr. Messenger for his work on this and and coordination in getting to this point with this project, so appreciate all of his efforts. Alright, quick, quick history! Doesn't go back to the beginning of time, but goes back to the point in time where the property was purchased by Augustine and Susan Grace, which was 2008. They purchased the property from the University Heights Methodist Church, and it was zoned SU-2 which was the old sector plan prefix, and DR which stood stands for diverse residential. There was a special use Site Plan on this. It was for church related activities at that time and then in 2010, the zoning was changed to parking and maintained the SU-2 DR For the 2 existing homes on the property there was a Site plan approved for the parking lot. Re reworking that parking lot, and since then it's been used for rentals and paid parking. Post IDO both lots were

changed to residential, multifamily low. So it's a relatively small property .326 acre, Augustine and Susan Grace are the owners of the property. Scoot by you, there we go. Move that out of the way, so I can see my slides. This is a request to change the zoning from residential, multifamily low density to mix use low intensity. The proposed use for the for the project is a coffee shop, breakfast, restaurant, and community gathering space. Some context for this property, this is this property is not very far, as you can see from the map from Central Avenue, which is the the line kind of running right through that separates the private property and and the south side of Central Avenue from the University of New Mexico. It's also adjacent to this block of Harvard which is known as Brooklight District is also adjacent to the recently adopted University metropolitan redevelopment area plan. It is proximate to the UNM and CNM employment centers. As well as it's just one block south of Central Avenue I-25, the connection to the to the West. As you can see from the number of bus bus routes. Here we've got Route 57, 50, 97, 66, the ART. 766 and 777 buses, and it's also along the Silver Avenue Bike Boulevard. So I say that in in order to demonstrate that of a lot of our city is not that well served by multimodal traffic transportation opportunities, but this particular site is, and it's also very proximate to obviously UNM and CNM, not only do they have a lot of employee employees. They have a lot of students and just general activity and population that's associated with those with those areas. So surrounding land use, we have MX-L to the North of us, we have RM-L, which is the residential multi family, low density and single family. But I'll just note that in these blocks south of Silver there is a real mix of residential units that duplexes, triplexes it's a real mix of residential densities and not solely single family detached homes in this area.as well. They're at the south end of the block, let's see, to the East we've got the community organization.along there. We also have to our West is the is the existing church. That this used to be a parking lot for which is located at the corner of Silver and Yale. Let's see allowable uses, Robert went into this, but we just as as part of our analysis, we always do this type of of table, and you can see that this zone change request does add a significant number of uses that are allowed within the MX-L zone. But, as Robert pointed out, there, when you look at it related to the size of this property and the specific use standards. A lot of those uses are restricted from this property in terms of the development standards, we we also included this table. Just so you can see that from a general development standards perspective. There really isn't very much difference, in in terms of those standards for between the RM-L and the MX-L zones. The height is the same at 38 feet. The rear yard is 15 feet we don't fall within the UC or MS or PT corridors. So those don't apply. You basically have a slightly smaller front set back. and if you were to do a residential project, the open space requirements are the same. The community, we did have a very productive facilitated meeting and we did take to heart those concerns and that's one of the reasons that we delve in much more deeply into that the issue of those uses and the specific use standards, and which of those uses might be considered as harmful and which of those uses would have restrictions that would keep them from from coming online. And that's primarily because of the adjacency to the church and then this the small size of the property. There was a concern about traffic on Silver Boulevard one of the things is silver is the designated a bicycle boulevard, so the speed limit on silver in this location is 18 miles an hour.Once again, if you're out there, if you spend any time on this segment of Silver Avenue. it, there is a lot of pedestrian and bicycle traffic that comes through here. On a regular basis. This is, not just multimodal in theory, but it's multimodal in practice.

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Heights area is categorized by low density, multi-family, a mix of, as I mentioned earlier, mix of single family and other duplex and triplex kind of products throughout and community organizations are in this area as well as neighborhood scale commercial services that includes a lot of restaurants and those types of activities mixed use. Zoning does exist south of Silver Avenue and along Yale. So I've just kind of highlighted some of those areas their areas, along Yale Boulevard, which is a mix of MX-Land MX-M and then along With regard to this request. Once again, we're asking to change it from RM-L to MX-L. The University Lead Avenue there's a mix of MX-L and the RM-L along that along that street as well as Robert mentioned. It does further, a number of comprehensive plan policies that really, I think, look to areas like this and the opportunities that they provide to expand on that idea of living, working, learning, playing in the same area. and thank you for that for the opportunity to present this request. We are in agreement with the staff report the recommended findings and the recommendation of approval, and that concludes my presentation, and if you have any questions, we'd be happy to entertain those now or after you hear from the public.

VICE CHAIR EYSTER: Thank you. Does any Commissioner have a question? I would like to ask Mr. Strozier, the allowable height under MLL, RM-L is 38 feet?

JIM STROZIER- CONSENSUS PLANNING: Yes.

VICE CHAIR EYSTER :And then the height allowable on MX-L would be 38 plus 12 foot workforce housing? Or 50?

JIM STROZIER- CONSENSUS PLANNING: I I don't believe that you get workforce housing bonus in in this area, because but I could be wrong. I I defer to Mr. Messenger on that.

VICE CHAIR EYSTER: Why don't? Why don't? Why don't we? Just you all check it out and we'll get it on your close. I so I'd like to to verify what those are. The front yard set back in RM-L?

JIM STROZIER- CONSENSUS PLANNING: Just 15 feet.

VICE CHAIR EYSTER: 15, and the front yard set back in MX-L?.

JIM STROZIER- CONSENSUS PLANNING: Would be 5.

VICE CHAIR EYSTER: Thank you. Regarding permissive uses, uses that become permissive. If this is approved.one of those that would become permissive would be a car wash. Are you saying that these lots are too small to build a car wash?

JIM STROZIER- CONSENSUS PLANNING: Yes, sir, I I think a car wash takes about an acreyou could probably do it on slightly less than an acre but this is this is .38 acres.

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VICE CHAIR EYSTER: Thank you. Thank you.

JIM STROZIER- CONSENSUS PLANNING: And probably the shape of, in addition to the size, the shape, and orientation of the property would also not lend itself to that use.

VICE CHAIR EYSTER: Thank you thank you, I understand. A use that becomes permissive that is not allowed in the current zoning is light vehicle repair. Are you saying the lots too small for light vehicle, light vehicle, repair?

JIM STROZIER- CONSENSUS PLANNING: I think that's a use that you could you could probably, if you were to demolish the existing structures and start with a clean slate. You could probably provide a small garage kind of service center on this location, but this use specific standards would require that to be within an enclosed building. And also I believe that that I and this is something else we can check. Is that I believe that that requires a buffer adjacent to existing residential. So it would, because of the size it would make it difficult to do that, but probably not impossible.

VICE CHAIR EYSTER: Thank you. Thank you maybe you could confirm that. when you close. The buffer the buffer requirement. Any other question from a Commissioner? I don't see any. So, Mr. Salas let us go to testimony by public speakers.

ERNESTO SALAS:Yes, chair and Commissioners. The first speaker is going to be Don Hancock.

DON HANCOCK:Can. Can we take down the share screen? Thank you.

JIM STROZIER- CONSENSUS PLANNING: Sorry.

DON HANCOCK:It's easier for me to see. It's easier for me to see that way. I think I need to be sworn by somebody.

ERNESTO SALAS:Chair, you're muted.

VICE CHAIR EYSTER: Why, thank you. Sorry, everybody. Mr. Hancock, do you swear to tell the truth, under penalty of perjury?

DON HANCOCK: I do.

VICE CHAIR EYSTER: And would you please state your name and address for the record.

DON HANCOCK:Yes, thank you, Mr. Chair. Don Hancock. 2315, and 1/2 Lead Southeast. I am appearing this afternoon on behalf of the University Heights Association and, as Mr. Messenger mentioned, our letter of opposition is in the packet on pages 117 to 125. You know.

VICE CHAIR EYSTER: Thank you, I'd be happy to give you 5 min, sir.

DON HANCOCK: Thank you hopefully. I can do it in slightly less than that, but thank you. Mr. Chair. The University Heights Association opposes the zone change request because it is contrary to the IDOI requirements, the comprehensive plan, and other applicable city policies.

It is an area of consistency, as you've heard it would introduce mixed use, allowing for commercial uses in an area that has long been and continues to be residential. Our letter includes the historic zoning from for the sector plan. The sector plan that shows that this area has been residential and that's been the historic fact, the IDO continued, that, as you've heard changing it to our RM-L. Importantly, most recently, in 2022, the City Council approved. R2274, the University Metropolitan Redevelopment Area Plan, which specifically states quote the lower density residential character of neighborhoods to the south of silver should be preserved. The zone change is directly contrary to that policy. the MRA plan and the designation by the City Council was based on an area survey that found what is needed in the area is additional housing and that there is about a 25% vacancy rate of commercial properties. So I I don't understand, and neither the applicant nor the staff report have explained why that ordinance and MRA doesn't apply. In fact, I would remind the Commission of its decision in a 2023 case on another zone change request in the neighborhood at 305 Girard SE project PR-2022-007919, in which the Commission denied a zone change request, including findings that it did not meet the same applicable criteria A consistency with the city's health, safety, morals, and general welfare with the finding that said and I'm quoting from that decision. Furthermore, there is a conflict with the University metropolitan redevelopment area plan which states that further quote the lower density, residential character of neighborhoods to the South of Silver should be preserved. Citation is R-74, page 45. Therefore the request is not consistent overall with the city's health, safety, morals, and general welfare end quote from that decision. We believe Neighborhood Association believes that a similar finding is necessary and required and is it appropriate in this case as well. Furthermore, the proposed MX-L zoning meets none of the 3 criteria of 14-16-6-7 (G-3B) because there is no typographical error, there is not a significant change in neighborhood or community conditions affecting the site, and a different zone district is not more advantageous to the community. As said, the the areas surrounding to the east and south is residential. The area, virtually all of the areas south of Silver between Harvard and Vassar is: RM-L or other residential zones. Finally, I I wanna mention that pages 36 to 47 of the staff report Pdf. Are totally erroneous and inapplicable, as they relate to 406 Dartmouth southeast, which is not a property that's involved in this particular case. Thank you very much for your attention. I'm glad to answer questions, if there are some.

VICE CHAIR EYSTER: Thank you. Thank you, Mr. Hancock, any questions from commissioners? Mr. Hancock, you provoked one or two questions from me. You talked about the University Metropolitan Development area, when was that approved? And would you repeat what it said about this area?

DON HANCOCK: It was passed by City Council in December of 2022.

The specific portion of the plan that I referenced, which I also mentioned was referenced in your decision, about 305 Girard states, the lower density residential character of neighborhoods to the south of Silver

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should be preserved. That's the quote from the ordinance and the plan. And then, as I also mentioned in your decision, in case PR-2022- 0007919. You the Commission and its findings specifically quoted that : as it's findings under criteria A related to consistent with the city cell, safety, morals, and general welfare.

VICE CHAIR EYSTER: Hmm. good. That answers my question. Thank you. Thank you for appearing today. Mr. Salas.

ERNESTO SALAS:Yes, Chair and Commissioners. The next Speaker is going to be John Humbach

VICE CHAIR EYSTER: Thank you. Do you swear to tell the truth, under penalty of perjury Mr. Humbach?

JOHN HUMBACH:I do.

VICE CHAIR EYSTER: And would you state your name and address for the record.

JOHN HUMBACH:Yeah, my name is John Humbach, and my permanent residence is 9 Benedict Road, Cold Spring, New York.

VICE CHAIR EYSTER: Thank you. Are you speaking on your own behalf?

JOHN HUMBACH:Speaking on my own behalf.

VICE CHAIR EYSTER:'kay.

JOHN HUMBACH:And although I would, I would certainly endorse and underline everything that Don Hancock has has just said very illuminating to me

VICE CHAIR EYSTER: Thank you, happy happy to give you 2 min or a little more if you need it.

JOHN HUMBACH:Okay. Well, for 70 years or more Silver Avenue has been a prominent line of demarcation that provides a sharp differentiation between 2 different areas of our part of the city. And my interest in this is that I'm the owner and have been for the past 30 years or more, actually more, of 205 Harbor, which is immediately to the south of the property that is, being considered for rezoning. And the project that the applicants have in mind is literally 5 feet from 4 bedrooms in my house and I have enjoyed the benefits of a sort of a buffer, and having this distinct line of demarcation of silver to separate me so, Harvard, excuse excuse me, the brooklight district, for example, is a pleasant place to walk to. But it's not a part of my everyday life.or every night life by any means. We've had that benefit that that that buffer, that transition zone would be moved up to my lot line and all that I would have protecting my bedrooms. Is the lot line 5 feet from the bedroom windows, and I have these nightmares of of a breakfast and coffee place there starting at 7- 8 o'clock in the morning, whenever they start blasting out this odors and smells of frying meat and other other breakfast foods, eggs miscellaneous random sounds, people

coming and going, car doors slamming something totally incompatible and inconsistent with the use of my property as it was when I bought it, and as it still remains. I yet the staff has recommended this rezoning for approval. and I think it has done so because it the staff seems to misconceive the character, the actual character of our neighborhood. What we actually have is not one single large sort of amorphous mixed use zone, but 2 distinctive components in the neighborhood. The staff, as says, for example, the university area is distinct because this, characterized by low intensity, commercial and nonprofit, uses. Well, that's true. North of Silver, but utterly untrue, South of Silver. That line that Silver has provided for the past 70 years has been, as far as I can tell (INAUDIBLE) . There has never been a commercial or non-residential intrusion across Silver on Harvard or any of the streets moving down. I've I've checked towards Girard at least it's a boundary between kinds of use. kinds of use which are, will be incompatible if they were literally adjacent, but a a boundary between kinds of use that has been respected for years, and if you look at the map again that Mr. Messenger showed. You will see that there is a huge block of orange covered lots there that are uniformly zoned for residential used for residential, and although there is a diversity of kinds of residential, there's the sprinkling of 2 families a sprinkling of casitas, multifamily housing on when you get to Lead or Coal but except for Lead and Coal, that area south of Silver has remained for the past, as I say, 70 years at least, in solid residential use exclusive residential use, except on corridors like Lead, and well, except the corridors of Lead and Coal at least going down to Garfield. So, we have 2 distinct components to the area and so that raises the question of what do you mean when you're thinking about consistency consistency of use in an area of consistency? Is the does that mean that the use has to be consistent with the uses immediately adjacent? or that the use has to it suffices that the uses consistent with any use that you can find somewhere in that whole area of consistency? I think that's a question but I disagree with the staff that the distinguishing feature of our area of our neighborhood is the Brooklight District. The Brooklight District is a different neighborhood on the other side of Silver that's always been regarded as distinct and so in addition, of course, there are specific requirements that have to be met in order to justify a rezoning, and the burden is on the applicant to show that those requirements are met. The burden is not on me, and and and and Don Hancock to show that the requirements have not been met. The burden is on the applicant to show that they have been met, and at least from the staff report, all I can tell is that basically the conclusion seem justified that. Oh, these wouldn't hurt that much.and well, I mean, I see that in terms of the devastating negative effect that is likely to have on the use and value of my house.

VICE CHAIR EYSTER: Mr. Humbach, can you close in about 30 seconds?

JOHN HUMBACH:I can close in 60 seconds, will you give me 60?

VICE CHAIR EYSTER: Yes.

JOHN HUMBACH:Okay, thank you. Thank you so much, Commissioner. Anyway, the specific requirements have not been met one is that there was an error in the existing district there was not. There was a significant change in the neighborhood. There's been no significant change South of Silver, certainly, and North of Silver really, there's been no significant change, either. The Brooklight district was

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built, but it's not that was not a change of use. It was just a change of Buildings, but essentially it's the same uses North and South of silver, so that that does not apply, and finally, that a different zone is more advantageous. The applicant has made no effort no effort, really, even to show that that I can see. Certainly, there's a coffee shop, you know it's a block to the South. There's another coffee shop a block to the North. There's a frontier a block and a half away. I mean, there is so many places to get coffee and and and breakfast in that area we may be the most densely coffee shop area in the world.and and and finally, it is a criteria, and I haven't mentioned the zone change may not include permissive uses that would be harmful to adjacent property. I see my name written there. There the permissive uses some of them, at least, would be harmful to adjacent property and there is no analysis the all the steps is this criteria, the the applicants response. The criterion D is sufficient. No analysis of the harms that will be sustained by me, and perhaps other owners nearby. No analysis of how those arms harms will be mitigated or avoided, so the applicant has not made its case as required by the ordinance. I'm sorry, I think I went over my minute, but thank you for (INAUDIBLE)

VICE CHAIR EYSTER: Well, you you did fine, and your your points are are heard and and well taken. Thank you. Thank you for appearing today, .Mr. Salas, next speaker please.

ERNESTO SALAS:Yes, chair and commissioners. The next speaker is going to be Caesar Marquez.

VICE CHAIR EYSTER: Mr. Marcus, do you swear to tell the truth, under penalty of perjury?

CESAR MARQUEZ: I do.

VICE CHAIR EYSTER: Thank you, and please state your name and address for the record.

CESAR MARQUEZ: My name is Cesar Marquez, address 3301 Rio Linda Dr SW Albuquerque.

VICE CHAIR EYSTER: Thank you. You're speaking on your personal behalf?

CESAR MARQUEZ: Yes, sir. So I I actually work for the property owner at his design build firm and I'm also part of the team that would help launch this coffee shop/ brunch and co-operative space.

VICE CHAIR EYSTER: Thank you. Thank you. I could. I can give you 2 min and a little more if you need it.

CESAR MARQUEZ: Sounds good. Thank you. So, sorry I've never done one of these, so I'll I'll learn the etiquette as I go.

VICE CHAIR EYSTER: You're doing fine.

CESAR MARQUEZ: Thank you. Thank you. With respect to Mr. Hancock's comment earlier, the space is already, is only one third of it is residential right now. The other 2 thirds are the parking lot, which would make it somewhat of a de facto commercial space. Just wanted to address that. And also, I'm sorry to hear that Mr. Mr. Humbach is currently just not on board with this. I I would like to state that Mr. Humbach has had his property on the market for at least 6 months now 4 to 6 months. So it's so I I really don't understand the the immediate concern, but I I do respect the concern.: I just kind of wanted to cast a vision for what I I want this place to look like since I'll I'll be a part of it for a long time. I was a student at the University of New Mexico, and I'm currently going to school for a civil engineering. And in the area there are a couple of coffee shops already present, but they do fill up pretty quickly and there there are other areas that students can walk up to to go get their studying done and collaborate. But really I'd I'd love for the space to be in the direct vicinity of the university, since a lot of students aren't able to drive I was being I was one of them. We could just walk over to this coffee shop, collaborate with friends and overall I think the foot traffic to the area would be awesome just to see more students getting together, collaborating and just and just you know, just I, I really feel like the environment would be awesome for the for the area, more more spaces to collaborate and to study are are always good in my eyes Anyways, those are my thoughts.

VICE CHAIR EYSTER: We appreciate you appearing, does any Commissioner have a question? and I apologize I don't believe I invited your questions after Mr. Humbach spoke. Are there any questions for either the speakers? I don't see any questions. Mr. Salas, more public testimony?

ERNESTO SALAS:Chair and Commissioners, nobody else has signed up to speak. If anybody else wishes to speak, please say so now. I believe that's it. Chair.

VICE CHAIR EYSTER:Thank you, Mr. Salas. Then we will go to Mr. Messenger,are you prepared to provide your close?

ROBERT MESSENGER:: Yes, Chair Eyster and Commissioners, thank you very much. I I had some follow up answers for you. First of all, regarding the the height bonus that is covered in, let me see. Well, first of all, let me just go to the use specific standards for car wash and light vehicle repair. So if I could share my screen, can the commissions see?

VICE CHAIR EYSTER: There it is!

ROBERT MESSENGER:: and I'll I'll zoom in a little bit.

VICE CHAIR EYSTER: There it is. That's good.

ROBERT MESSENGER:: Okay, so IDO 4-3-D-16-B states that a car wash and building and any out associated outdoor activities are prohibited within 50 feet in any direction of any residential zone district, or any lot containing a residential use in any mixed use zone district. So those that applies to the car

wash, and then for the light vehicle repair 4-3-D-19-D states that any building that contains painting or vehicle repair is prohibited within 25 feet in any direction of any residential zone, district or lot containing a residential use and any mixed use zone district. So, and that is not just to the building, but to the edge of the property is where that is measured. And then, if I could go to our IDO definitions my apologies for people that have issues with seizures, I'm trying to scroll through this relatively quickly. It's in, It's in the section of workforce housing bonuses we just here we go. So there are 3 cases where they could do a building hype bonus ground floor commercial bonus requires 50% of ground floor street facing front facade must be commercial uses, structured parking bonus, and then a workforce housing bonus. While all of these are possibilities at at the site as the applicant stated. The size of the property may preclude the feasibility of some of these, and I'll let the applicant speak to those issues, and with that I have no nothing further to say. Thank you very much.

VICE CHAIR EYSTER: Thank you, Mr. Messenger. Any questions.commissioners? Hearing none. Mr. Strozier, would you care to close?

JIM STROZIER- CONSENSUS PLANNING: Thank you, Mr. Chair, and and thank you, Mr. Messenger, for finding all those citations. We have been madly looking up all those as well in the in the IDO and so, and and came up with similar answers on all of them, except for I just have one question for Robert. If he could clarify it appears to us from table 512, which deals with the mixed use zone, and the height and the and the bonuses that the that the workforce housing bonus is restricted to UC, MSPT and MT properties which this would not qualify for, and that also that and then the same same holds true for the structured parking bonus. Both of those, but there's only 2 bonuses that appear to be allowable in the MX-L and both of those in our read of that of the restrictions are not applicable here, because they're not in one of those districts. So with that, and I'll I'll I can let Mr. Messenger we may be reading it wrong, and if so, I apologize, but that was our read of that of that table. I guess the only thing I would would add, and I appreciate Caesar's comments. He has been part of the part of the project team along with Augustine, the owner, in imagining what this property could be and and coming up with a vision for it. And that really is, I think, primarily and you, I think some of it came across in his comments is a gathering place. For students, to be able to gather in a safe environment that is created using these 2 existing houses in the area in between them, and I think it was also an important point that Caesar raised that 2/3 of the property is currently a a paid parking lot. Which would not be a residential use per se I would also just point out and this, if you notice Mr. Chairman and commissioners, the way we structure and we've worked closely with Staff on the approach to this, when we are in an area that is proximate to and we use that term purposefully. Things like the Main Street premium transit, the activity centers, the main street corridor, but not in it. We have relegated that conversation to a section of our justification letter that we refer to as context and we do think that it's important to note the context when a property is near or adjacent to these things, and I would. That is where we have discussed the Metropolitan Redevelopment Area Plan for the university and because then that's that the new plan, Mr. Hancock, referenced. This property is not in that plan. but adjacent to it. And so the policies, the strict policies we can't use them to justify a a zone change. And I don't think it's also appropriate to use those policies to go against a zone change. But once again, in reference to how we look at it, and we've worked closely with Staff on on this

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approach is to bring those items up because they do provide context and context is important. But context is not necessarily related to the specific criteria that are provided for in the IDO to determine a zone map amendments, appropriateness. So I just raise that. It's a subtle distinction, but we think it's an important one. And then we agree with Mr. Messengers interpretation of the use standards related to the light auto repair. I would also add that we have the the in being located inside a building was also part of that regulation that Mr. Messenger read. In addition to the 25 foot setback. These are 2 small residential lots. So a 25 foot setback is a significant setback within this small property, and then even more so. The car wash separation of 50 feet is even more impactful. That's basically the width of one of the residential lots in this area. So from a use standpoint, I don't think that light vehicle, repair or car wash would be doable if you will, on this property because of those standards. And with that I urge your support, I think this is, an important important project for the owner of the property, and I think it's also an important project for the the neighborhood and the community and the university, and and this district. I consider the Bricklight district as one of the few.but but really an important success story in this area, and the level of activity and vibrancy that it is created is is really important to our community. And I think, important to that relationship with the university, the employees, and the students. So with that, thank you very much. Appreciate your time.

VICE CHAIR EYSTER: Thank you, Mr. Strozier. Any questions, Commissioners? I don't see any questions from the commission. Mr. Strozier, I would ask a question or two the the letter from University Heights Association Discusses Council, Resolution 22-74 University Metropolitan Development Area plan. And that plan says, the lower density residential character of neighborhoods south of Silver should be preserved. How How does your clearly the the request runs counter to that. Why is the request okay?

JIM STROZIER- CONSENSUS PLANNING: Thank you, Mr. Chairman, and and I I think that once again, that that University Metropolitan Redevelopment area does provide some context to to this, but purposefully did not include this property or a number of other properties that that fall within this area and really focuses on the area adjacent to Central Avenue and down the Yale corridor, of which this is adjacent to, but not a part of. The I think that is when you put that goal, if you will, or policy in in the context of the other goals and policies of the comprehensive plan which are appropriate and referenced in the IDO criteria for zone changes, I think that is, that's really the distinction that I would like to draw, and I think that the comprehensive plan, and, as has been reflected in the staff's analysis, this project does further and reinforce number of goals and policies within the comprehensive plan. And that this is a a factor to be taken into consideration, and I think it has to be looked at in total.

VICE CHAIR EYSTER: That that answers my question. Thank you. Do you have the the zone map available where you can share that?

JIM STROZIER- CONSENSUS PLANNING: I can.

VICE CHAIR EYSTER: I recall it was in your original presentation. Thank you. I think that's a little small, but it'll work.

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JIM STROZIER- CONSENSUS PLANNING: Okay, see if I can North of Silver. There we see a lot of brown

VICE CHAIR EYSTER: North of Silver there we see a lot of brown MX-L and MX-M and we see a lot of brown, along Yale. and then south of Silver for the first 12 lots or so we see. all RM-L so there's these There's these solid blocks, except for down on the South End and on the South End that that's on Lead. So I think I think that's quite a different thing. I I don't really have a question on that. I wanted to show that. And then I do want to make a statement to the Commission when we move to that phase.

VICE CHAIR EYSTER: I'd like to ask Mr. Messenger a question, you've you've closed right, Mr. Strozier?

JIM STROZIER- CONSENSUS PLANNING: I have. Thank you.

VICE CHAIR EYSTER: Yeah, okay, I appreciate that.

JIM STROZIER- CONSENSUS PLANNING: (INAUDIBLE)

VICE CHAIR EYSTER: (INAUDIBLE)

Matt Myers: Chair Eyster, Chair Eyster, Matt Myers. I I apologize to interrupt there, could I could I just get a confirmation? Did Mr. Strozier, so is the subject property outside the boundaries of the Metropolitan redevelopment plan?

JIM STROZIER- CONSENSUS PLANNING: Yes, it is.

MATT MYERS: Okay, so it's outside the boundaries of the plan. Okay, I I I couldn't tell from that map whether that map was showing the boundaries of the plan or not.

JIM STROZIER- CONSENSUS PLANNING: If the if, if the Commission would like, I can share a different screen that shows the boundaries of that plan. If you give me 1 second.

VICE CHAIR EYSTER: Yes, I think we could do that.

JIM STROZIER- CONSENSUS PLANNING: And and and so, and can you see thatS

VICE CHAIR EYSTER: Yes, we can.

JIM STROZIER- CONSENSUS PLANNING: So you can see that the silver Avenue is the boundary, and the 2 lots in question are right here.

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MATT MYERS: I see, I see.

JIM STROZIER- CONSENSUS PLANNING: In the elbow of the plan. Just outside of it.

MATT MYERS: Thank you very much. Thank you.

VICE CHAIR EYSTER: Interesting.

MATT MYERS: Thank you. Chair.

VICE CHAIR EYSTER: Interesting question, Mr. Myers. I wonder why the council in the ordinance stated the lower density residential character of neighborhood south of Silver should be preserved. That's weird, because it's not in the UMRA, but they're still saying something that that they want to have happen.

MATT MYERS: Yep.

VICE CHAIR EYSTER: I don't get it.

MATT MYERS: Nor do I think that's kinda strange.

VICE CHAIR EYSTER: Okay.

MATT MYERS: So.

VICE CHAIR EYSTER: Okay, thank you, and thank you very much for your question. That was very useful. So we are in the phase where Commissioners may pose questions to up staff to applicant. I have one that I'd like to ask to Mr. Messenger, and that is; It's been pointed out that this is an area of consistency is that right? And if that is right, can you help us delve into an area of consistency? And what that means that people like us should do.

ROBERT MESSENGER: Yes, thank you. Chair, Eyster. An area of consistency is an area that's outside of centers and corridors. And then it's and it's an area where you want to maintain what is what is already there in essence.

VICE CHAIR EYSTER: Yeah.

ROBERT MESSENGER: But I would like to point out that the original zoning was diverse, residential. It wasn't single family homogeneous types of zoning and I would also like to add that very few, if any, of these properties have been built out to their highest and best use, as was indicated in one of the letters of opposition. All of these properties would allow low density, multifamily, but at at their present state they are all single family, residential.

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VICE CHAIR EYSTER: Thank you, thank you. Any discussion by the Commission?

COMMISSIONER COPPOLA: Commissioner Coppola, I have a question.

VICE CHAIR EYSTER: Please go ahead.

COMMISSIONER COPPOLA: Chair, do you remember the the gentleman that brought up the case that was not approved or denied?

VICE CHAIR EYSTER: Yes

COMMISSIONER COPPOLA: It's slipping my memory and so maybe I was there maybe I wasn't. I'm not sure do.

What, in your opinion, are the sort of similarities? Are there a lot of similarities between the 2, or why did we decide that one? Do you remember shed some light on that for me?

VICE CHAIR EYSTER: I I hesitate to rely on my memory for that I about the only thing, the only one thing I remember was that the and Mr. Myers, is this discussion okay?

MATT MYERS: It it. It makes me a little nervous if we don't have that information right in front of us, you know.

VICE CHAIR EYSTER: Yeah.

MATT MYERS: And I don't want to..

COMMISSIONER COPPOLA: We we can leave it. We can leave it alone. That's fine.

VICE CHAIR EYSTER: I I really respect. I really respect the question, and and I'd love to try and address it. But, like.

COMMISSIONER COPPOLA: Yeah.

VICE CHAIR EYSTER: Mr. Meyer said, if I'm halfway remembering what we did, and if we forgetting what we did, and and I could only make suppositional statements which isn't probably useful to the commission anyway.

COMMISSIONER COPPOLA: No (INAUDIBLE)

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VICE CHAIR EYSTER: Now, Mr. Myers, we could get a staff to go dig that out. It wouldn't be that hard. But are we, do we want to look at old decisions or not?

MATT MYERS: I think it gets tricky cause cause in a quasi judicial case, right? Which is this is a quasi judicial case, right? It's so. Fact, specific, right? It's so fact specific, so that property may have had different facts applicable to it. Right? You know, if it was right across the street. Maybe it would have a little more relevancy right? But without knowing the specific facts and being able to compare it, I think it would be tricky. I mean. Now, if someone had come in and said, this property, directly adjacent was denied for these reasons, and then gave you the reasons right. They said it did not further the goals found in the Comp plan. And here were those goals that it did not further, as found in this other decision. Well, certainly, then you could base your decision on that right. Not just the fact that you denied a rezoning application on the adjacent property. You'd still have to look at the justification for the decision made.

COMMISSIONER COPPOLA: Take it, case by case, really.

MATT MYERS: Yeah.

COMMISSIONER COPPOLA: Okay, that helps. Thank you.

VICE CHAIR EYSTER: I appreciate that question, Commissioner. That that that's instructive for all of us.

COMMISSIONER MACEACHEN: Chair.

VICE CHAIR EYSTER: Yes. Mr. Commissioner MacEachen.

COMMISSIONER MACEACHEN: I told you I'd be silent, but I'm having a hard time. So here's my heartburn, and I'm trying to figure this out, and I could certainly be wrong. But we're sitting here talking about okay last month's meeting. It was argued that a property with similar zoning was adjacent, although it was across an 8 lane freeway and a 4 lane frontage road, but it was adjacent. And now we're talking about a street called Silver, that's narrow, very lightly used. And oh, by the way, has an 18 mile speed limit, but somehow it can't be considered adjacent or couldn't be considered appropriate for the zone change. I I I think that's inconsistent. I think we should support this.

VICE CHAIR EYSTER: Hmm. thank you. I tell you, one thing that comes to my mind, Commissioners. Is that immediately north, adjacent if you will. I think we're I'm going to look at my zone map first. Okay, immediately north it is MX-L. The request here is for MX-L but it's it's ignoring a very important concept of our IDO, which is the idea of a transitional zone district and my my inclination is to say no, because this block is a lovely historic block of residential use. At the same time I can see that there are pressures and and there are good uses that can come with mixed use zoning. But I I don't like to go directly from MX-L 0 feet from RM-LI. that's what the MX- T was invented for and I wish that this were request to go from RM-L. to MX-T so that we would have this transitional zone.

COMMISSIONER HALSTEAD: Commissioner Halstead.

VICE CHAIR EYSTER: Yes, please. Commissioner.

COMMISSIONER HALSTEAD: I was just gonna add that this is directly adjacent to the Albuquerque Center for Peace and Justice that's been there forever. So there already is a bit of a. This corner has a bit of a different feel. It's it's already not really a residential corner, so I would, I would probably argue in favor of accepting this change.

VICE CHAIR EYSTER: Hmm.

COMMISSIONER HALSTEAD: But I I am interested by your proposal for an MX-T. Would would the the owner still be able to accomplish the same goals in an MX-T?

VICE CHAIR EYSTER: Very good question. I I would like to pose that to the agent.

JIM STROZIER- CONSENSUS PLANNING: Mr. Chairman. We we did look at that and the the issue is that MX-T allows restaurant coffee shop gathering space as a conditional use. And not and not permissive and that's why we went for the MX-L and as you noted MX-L exists to the North, but MX-L also exists to the West and then, as Commissioner Halsted pointed out, even though the zoning is RM-L. For the property immediately to the East. It's a nonprofit office in its current use, and that's probably a transition that occurred at the conversion with the IDO.

VICE CHAIR EYSTER: That's that's not what my zone map says.

JIM STROZIER- CONSENSUS PLANNING: Oh! Is that?

VICE CHAIR EYSTER: My zone map says that it's RM-L across the street. I would imagine it's a nonconforming use.

JIM STROZIER- CONSENSUS PLANNING: Yeah, yeah.

VICE CHAIR EYSTER: That's RM-L

JIM STROZIER- CONSENSUS PLANNING: Yes, you and I are th. That was that was my, that was my point as well. Yes.

VICE CHAIR EYSTER: Okay.

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JIM STROZIER- CONSENSUS PLANNING: RM-L, but has a nonconforming use with the Peace and Justice Center.

VICE CHAIR EYSTER: Correct, and and I appreciated Commissioner Halsteads statement that the block is already a little bit not like it, was historically. Mr. Messenger, you have a comment?

ROBERT MESSENGER:: Yes, thank you. Chair, Eyster, I have 2 comments. I just noticed this, actually, although the MX-T is truly a transitional zone going to MX-T would actually be a spot zone. And then the other thing to follow up on what the applicant said. The uses that they are proposing would both be conditional in MX-T zoning. So, though you have both the issue that it would become a spot zone, and then the justification for a spot zone. The requirement is actually a higher bar and it would also require conditional use permits.

VICE CHAIR EYSTER: Thank you. The the conditional use permit doesn't bother me a bit. I don't. I don't think that the applicant necessarily has to have all all sorts of permissive uses. I think that they can still seek conditional approval and when you guys seek conditional approval, the community can get conditions. So actually, I I kind of like that part about the MX-T although the applicant may not be crazy about it. I kinda like it far as a spot zone. I I wouldn't doubt. There are so many times that we approve the reasons for a spot zone. I wouldn't doubt we could find one. I'd say it has a lot to do with the the Commission and with the applicant.

MATT MYERS: Chair, Chair.

VICE CHAIR EYSTER: Yes Mr.Myers.

Matt Myers: I I might just chime in there real quick. so earlier, you know, you were talking about a transition zone, and maybe you were saying, you'd like to see the MX-T and and I and I understand certainly what you're saying. I understand what you're saying. I was just gonna say that a lot of times we look for a transition. We say we want to transition when there might be a spot zone, right? But in this case there are adjacent MX-L zoned properties right? So so it seems like that would make more sense, then a an outlier than what could be a spot zone, and justifying that. That would just kind of be my analysis of it, you know. But but I certainly understand what you were saying about wanting a transition.

VICE CHAIR EYSTER: Thank you. Thank you. Your opinions are always very much appreciated and expertise, it's not just opinions. Commissioners, any further discussion? I would I would need to tell you that I will have a hard time supporting a motion for approval. If anyone else has an idea they'd like to express, or if they'd like to express a motion, then please do anybody asking for the floor?

COMMISSIONER COPPOLA: I'm prepared to make a motion, if it's everyone's ready for it.

VICE CHAIR EYSTER: Yes, thank you, Commissioner Coppola go ahead.

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COMMISSIONER COPPOLA: Okay, I move to let me get to back to the top here. I move to recommend recommend approval in the matter of project PR-2024-009946 case number RZ- 2024-00014, based on findings 1 through 14.

VICE CHAIR EYSTER: Thank you, Commissioner, I think. Would you also include the that findings 1 and 2 are revised.

COMMISSIONER COPPOLA: And findings, revised findings 1 and 2 as well. That's correct.

VICE CHAIR EYSTER: And and would you move approval rather than recommendation of approval?

COMMISSIONER COPPOLA: Move approval. Yes, sir.

VICE CHAIR EYSTER: Thank you, a second?

COMMISSIONER MACEACHEN: Second.

VICE CHAIR EYSTER: Commissioner MacEachen seconds. Discussion by the Commission? Then I will call a roll call for the vote, Commissioner Cruz?

JOSEPH M CRUZ: Commissioner Cruz I

VICE CHAIR EYSTER: Commissioner Halsted?

COMMISSIONER HALSTEAD: Commissioner Halstead, I.

VICE CHAIR EYSTER: Commissioner MacEachen?

COMMISSIONER MACEACHEN: Commissioner MacEachen, I.

VICE CHAIR EYSTER: Commissioner Coppola?

COMMISSIONER COPPOLA: Commissioner Coppola, I.

VICE CHAIR EYSTER: Chair votes, No.

VICE CHAIR EYSTER: Motion passes 4 to 1 thank you to everybody who's been involved in this today. It was very useful hearing and discussion.



NOTICE OF APPEAL

April 15, 2024

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on April 5, 2024. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer**. If you have any questions regarding the appeal please contact, Christina Chavez-Gonzales, Administrative Assistant, 505-924-3370 or christinachavez@cabq.gov.

Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have about this procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Michelle Montoya, Clerk to the City Council, (505) 768-3100 or mmmontoya@cabq.gov.

CITY COUNCIL APPEAL NUMBER: AC-24-14
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2024-009946, RZ-2024-00014

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