APPLICATION FOR SPECIAL EXCEPTION
CITY OF ALBUQUERQUE, PLANNING DEPARTMENT

Office of the Zoning Hearing Examiner
600 2nd Street, NW, Suite 300, 87102
505.924.3918

APPLICATION INFORMATION–PLEASE PRINT

GARCIA | KRAEMER + ASSOC
PROFESSIONAL / AGENT NAME (FIRST, LAST)
200 LOMAS NW #1111
MAILING ADDRESS
ALBUQ NM 87102
CITY STATE ZIP CODE

TELEPHONE (INCLUDE AREA CODE)
(H) ___-___-____
(W) 505-242-5566
(C) ___-___-____

DELBERT ARNELL
OWNER NAME (FIRST, LAST–IF ANY)
4105 PITT NE
MAILING ADDRESS
ALB NM 87111
CITY STATE ZIP CODE

(H) ___-___-____
(W) ___-___-____
(C) ___-___-____

LEGAL DESCRIPTION OF PROPOSED SPECIAL EXCEPTION–PLEASE PRINT

2513 4th St NW
STREET ADDRESS OF SPECIAL EXCEPTION
ZIP CODE 87107

3 through 16
LOT(S)
TRACTS 36B1A | 36B2
TRACT(S)
BLOCK(s)

TOWNER ADDN
SUBDIVISION / ADDITION / MRGCD MAP NO
MRGCD Map 36

101405929530922241
UNIFORM PROPERTY CODE

CRITERIA FOR DECISION– I have been given the Criteria for Decision requirements. Initial Here WZK

EXPLANATION OF REQUEST– On additional sheet(s) of paper, please state why you want this Special Exception, based on the Criteria for Decision Requirements.

DRAWINGS OF REQUEST– **ATTACH THREE (3) COPIES.** Please follow instructions on the back of this form and attach the appropriate drawings.

ACKNOWLEDGEMENT– I hereby acknowledge that, to the best of my knowledge, this application is correct and complete and that I have received one or more signs that I have agreed to post and maintain as provided and where instructed. I understand that failure to properly post sign(s) is grounds for deferral of my case

William Kraemer
SIGNATURE

3/15/10
DATE

----------ZONING ENFORCEMENT OFFICE INTERNAL USE ONLY----------

PROJECT #: 1008240 APPLICATION #: 10 ZHE 80089

APPLICATION FOR: (CHECK AS APPROPRIATE)
- ☒ **(ZHE01)** Conditional Use
- ☐ **(ZHE02)** Expansion of a NonConforming Use
- ☐ **(ZHE03)** NonConforming Use / Status Established Building
- ☐ **(ZHE04)** Variance: ☐ Distance ☐ Setback ☐ Height ☐ Parking ☐ Size ☐ Other

SECTION NO. 14-16-2-17(B)(15) REFERENCE SECTION NO:

(LEGAL AD) ACTION DESCRIPTION A CONDITIONAL USE TO ALLOW THE SALE OF ALCOHOLIC DRINK FOR CONSUMPTION OFF PREMISE WITHIN 500 FT OF RESIDENTIAL ZONE

SECTOR DEVELOPMENT AREA:

ZONED: C-2 ZONE MAP PAGE: H - 14 NO. OF SIGNS ISSUED: 2

2513 4th ST NW
POST SIGN(S) / STREET ADDRESS OF PROPOSED SPECIAL EXCEPTION

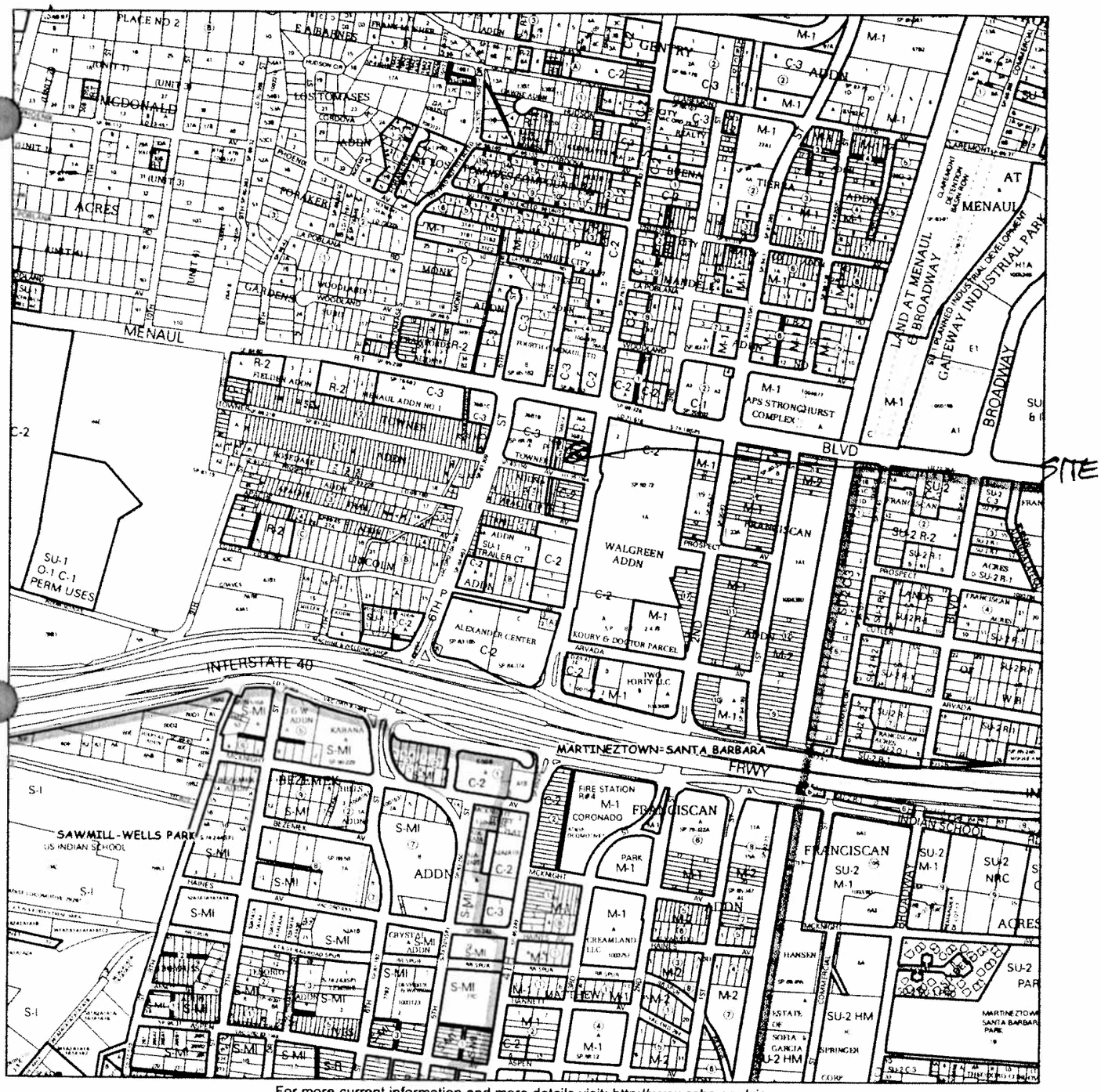
FEE: $ 145.00

LEVI CRISWELL 3/15/10
APPLICATION RECEIVED BY Z.E.O. (PRINT FULL NAME) DATE

04-20-10
DATE OF PUBLIC HEARING

City of Albuquerque
Cashier Division
3/15/2010 Office ABRA
WS# 007 Trans Date
RECEIPT# Trans Amt $145.00
FORMITM 20100800B9
Trans Amt $145.00
APN Fee $35.00
Conflict Manag. Fee $10.00
ZHE Actions 100.00
$145.00

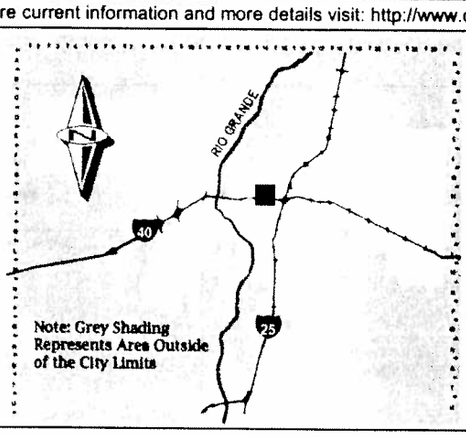
(APN) 441018 / 4971000 $ 35.00
(CMP) 441032 / 3424000 $ 10.00
(ZHE) 441006 / 3451000 $ 100.00



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

AGIS
Albuquerque Geographic Information System

Map amended through: 2/4/2010



Zone Atlas Page:

H-14-Z

Selected Symbols

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

0 750 1,500 Feet

GARCIA/KRAEMER & ASSOCIATES

Norwest Bank Building
200 Lomas N.W., Suite 1111
Albuquerque, NM 87102
(505) 242-5566
Fax #(505) 242-9028

March 10, 2010

REASON FOR REQUEST
HiLo Market, 2513 4th NW

This is a request for approval of a Conditional Use to allow retail sales of alcohol for off-premise consumption as a part of a grocery store in a C-2 zone located within 500 feet of a residential zone. The property owners are Delbert & Rosaura Arnell, and the grocery store is operated under lease by Shamash Jaffer. The HiLo Market has been in continuous operation as a grocery store for decades. There is a small residential area bounded by Towner, 6th street and Prospect, currently zoned R-1 which is closer than 500 feet from the premises where the applicants propose to sell liquor for off- premise consumption.

The subject property as well as the nearby currently residential zoned area is included North Fourth Transit Oriented Development District in the Rank 3 Corridor Plan which is scheduled for adoption by the City Council on March 15, 2010. If that plan is adopted , it may well obviate the need for this Conditional Use request. The zone code includes a specific list of zone designations that are defined as "residential zones." Although the Corridor Plan is technically an overlay zone it is clear that "NFTOD" is intended to provide "community-serving retail and services and high density housing" and is not a zone "where the predominant use allowed is residential."

The grocery store contains approximately 6000 square feet of floor area. The applicants would use less than 25% of that area for liquor sales. The operator has a multi-year lease remaining on the store and will also be leasing an appropriate liquor license for the premises if zoning can be certified for the use of the property. There will also be a public hearing on the transfer of the license.

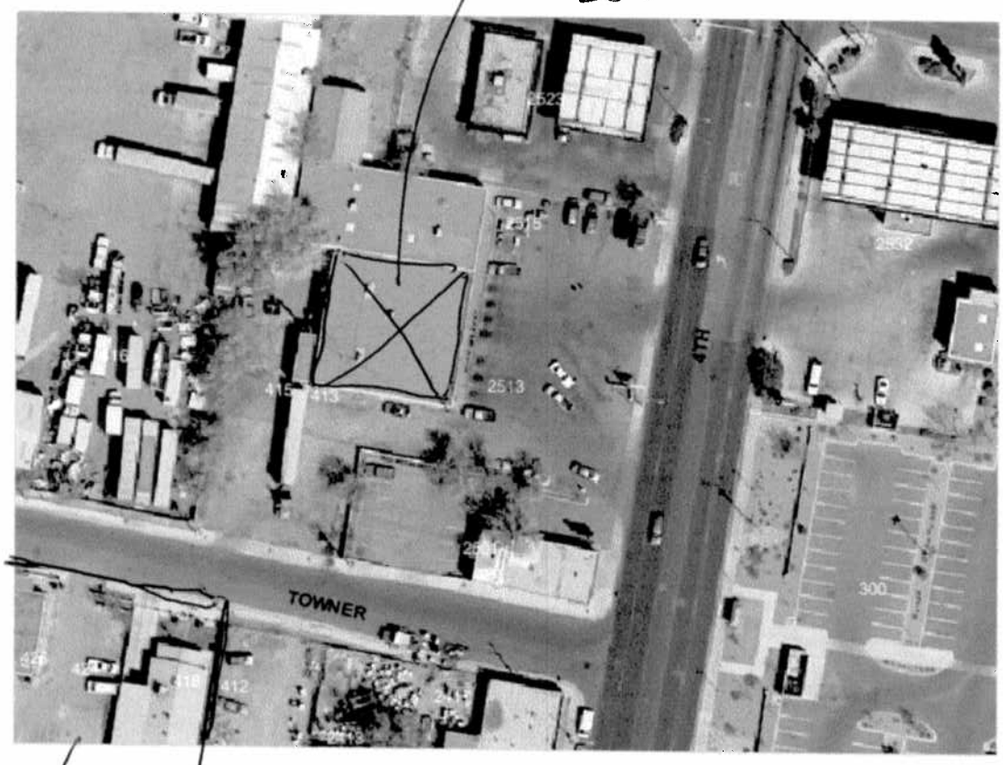
The request that will enable the applicant to sell package liquor must meet the Criteria for Decision contained in Section 14-16-4-2(C)(1) of the Comprehensive Zone Code. The applicant has the burden of proof to establish that the proposed alcohol sales for off-premise consumption will not be injurious to the adjacent property, the neighborhood, or the community and will not be significantly damaged by surrounding structures or activities. The proposed Conditional Use will provide a needed neighborhood service for nearby residential areas. The inclusion of package liquor sales in conjunction within a grocery store as an unrestricted use in the Corridor Plan, while other package liquor sales are prohibited is a strong indication that this use is not injurious to adjacent property, neighborhood or the community.

The zoning regulations which restrict the sale of certain types of package liquor are designed to help insure that package sales do not cause injury to adjacent property, the neighborhood or the community. Restricted items include those which are primarily sought by problem drinkers; small bottles of distilled spirits, single container beer and fortified wine. The applicant is concerned about preventing negative consequences for the neighborhood and his own business.

We have contacted the Near North Valley Neighborhood Association concerning this request. They are very familiar with this establishment and location. In fact, when the property was rezoned from C-1 to C-2 just a few years ago with the express intent of making package sales possible the neighborhood responded with a detailed letter stating the restrictions they would like to have imposed if the C-2 zoning was granted. We assert that the current request complies with applicable zoning restrictions as well as the NA conditional support.

We urge the ZHE's approval of a Conditional Use under Section 14-16-2-17 B 15 that will allow the applicants to sell alcohol for off premise consumption with restrictions.

SUBJECT
HILO MARKET
251B



» New Address Search

PROPERTY
CURRENTLY ZONED
R-1

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Official website for the City of Albuquerque www.cabq.gov

special buffering.

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

(13) Park-and-ride joint-use facilities, if it is determined that under the conditions imposed there will not be a shortage of on-site parking for the activities on the site; in such situations, no parking variance is required.

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

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

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

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

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

(16) Public utility structure which is not permissive.

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

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

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

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

(18) Tire recapping or retreading, provided:

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

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

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

ZONING HEARING EXAMINER'S SPECIAL EXCEPTION APPLICATION CHECKLIST

TO APPLY FOR A SPECIAL EXCEPTION, THE FOLLOWING DOCUMENTS MUST BE SUBMITTED (PLEASE CHECK BOX):

[✓] Three (3) copies of the site plan.

[✓] Drawing showing the following:

a. All dimension of property and buildings and all structures on adjoining lots that are within 25 feet of the proposed Special Exception.
b. If the Special Exception request is a variance, please show clearly the point of variance and the height, width, and any appropriate dimensions of structures and/or parking spaces.

[✓] Letter stating why applicant is requesting this Special Exception, based on the Criteria for Decision Requirements.

[✓] Zone Atlas page with parcel **clearly marked**.

[✓] Copy of Ordinance, referencing Section Number that pertains to request.

[✓] Traffic Engineering Review – Any request for constructing a structure (carport, wall/fence, shade structure, etc.) in the front and street side yard must contact the Traffic Engineer.

[ ] Applicant is strongly encouraged to go to Office of Neighborhood Coordination (Plaza del Sol, Basement) to obtain names of Neighborhood Associations that may be affected by this request.

[✓] Yellow Signs – Sign must be posted in a conspicuous location fifteen (15) days prior to the hearing. Failure to do so may result in a deferral (delay of hearing).

[✓] If applicant requires an **INTERPRETER**, check box in KIVA.

[✓] Applicant received Special Exception Booklet.

Enforcement Officer: LEVI CRISWELL
(PLEASE PRINT NAME)

Date: 3/15/10

PLEASE ATTACH THIS FORM TO THE ORIGINAL APPLICATION FOR ZHE OFFICE