



Environmental Planning Commission

Agenda Number: **3**
Project Number: 1009714
Case #: 13EPC-40117
July 11, 2013

Staff Report

Agent	Doug Crandall, DAC LLC
Applicant	Carmen and Damon Martinez
Request(s)	Zone Map Amendment RA-2 to O-1
Legal Description	Lot 21, Block 4, Caldwell's Subdivision New Year Addition
Location	Monroe St. NE, between Lomas Ave. and Marble Ave.
Size	Approximately 0.13 acre
Existing Zoning	R-2
Proposed Zoning	O-1

Staff Recommendation

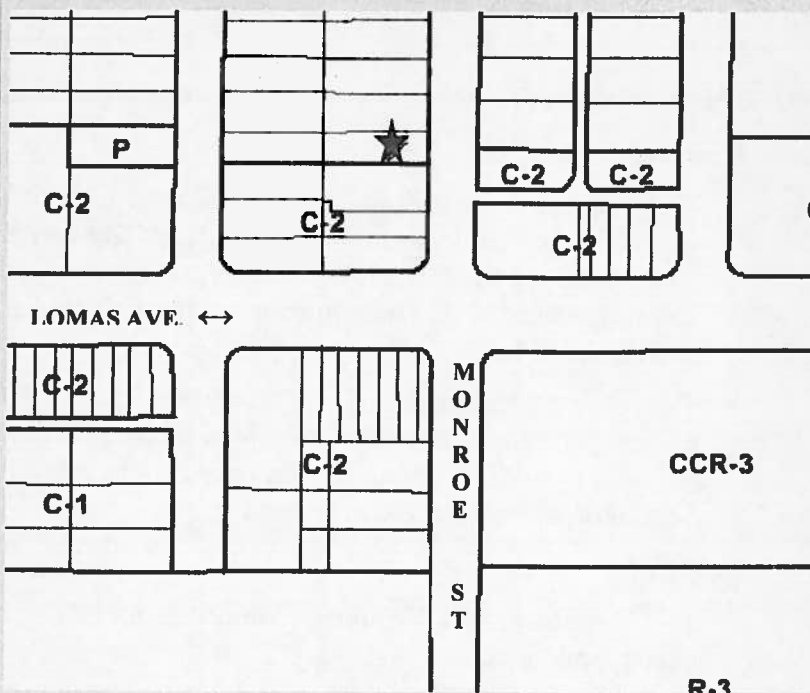
APPROVAL of Case 13EPC-40117 based on the Findings beginning on Page 12.

Staff Planner
Chris Glore, Planner

Summary of Analysis

This request is for a site located along the west side of Monroe St. NE between Lomas Ave. and Marble Ave. The applicant proposes to retain the existing surface parking lot, as a permissive use under the requested O-1 zone. The property also contains the trash dumpster enclosure for the restaurant located two lots away on Lomas Ave.

The proposal is generally consistent with the applicable policies of the Comprehensive Plan. The applicant has adequately justified the zone change request as being more advantageous to the community pursuant to R-270-1980. Adjacent residents, the Pueblo Alto Neighborhood Association and the District 7 Coalition of Neighborhood Associations, were notified. There is no known opposition to the requested O-1 zone. Staff recommends approval of the Zone Map Amendment.



Subject Site on Monroe St. NE between Lomas Ave. and Marble Ave.

City Departments and other interested agencies reviewed this application from 6/3/2013 to 6/14/2013.
Agency comments used in the preparation of this report begin on Page 13.

I. SURROUNDING ZONING, PLAN DESIGNATIONS, AND LAND USES

The surrounding zoning, plan designations, and land uses are as listed below:

	<i>Zoning</i>	<i>Comprehensive Plan Area; Applicable Rank II & III Plans</i>	<i>Land Use</i>
<i>Site</i>	R-2	Established Urban Area	Vacant
<i>North</i>	R-2	Established Urban Area	Multi-Family Residential
<i>South</i>	C-2	Established Urban Area	Office
<i>East</i>	R-2 C-2	Established Urban Area	Multi-Family Residential Parking
<i>West</i>	R-2	Established Urban Area	Multi-Family Residential

II. INTRODUCTION

Proposal

This request is for a Zone map amendment for Lot 21, Block 4, Caldwell's Subdivision New Year Addition (the "subject site"). The subject site contains approximately 0.13 acre of land and is located on the west side of Monroe St. NE between Lomas Ave. and Marble Ave. The site is currently zoned R-2. The applicant requests O-1 zoning. The site is not within the boundaries of any Rank II Plan.

The subject site consists of one lot, approximately 42 ft. wide and 134 ft. deep. The lot is vacant of any permanent structure, except a trash bin enclosure for the Los Cuates restaurant, and is paved for parking. The applicant proposes to retain the surface parking use and trash enclosure on the lot, at least for the near term.

EPC Role

The Environmental Planning Commission (EPC) has decision-making authority for the zone change, pursuant to §14-16-4-1(C) of the Zoning Code.

Context & History

The subject site is located in the Near Heights, where residential and commercial development has been on-going incrementally since WW II, including some newer multi-family residential projects developed in the past two decades. The predominant existing land use in the subject site vicinity is multi-family residential. Commercial uses are along Lomas Ave., including retail, restaurants and service businesses.

The established development pattern in the area includes older homes and commercial structures, many of which were built prior to the adoption of the City Zoning Code in 1959. Most of the multi-family tri-plex buildings pre-date 1959. The date when the subject site began to be used for parking is not documented in any City files, but is evident in an aerial photograph taken in the early 1980s.

Transportation System

The Long Range Roadway System (LRRS) map, produced by the Mid-Region Council of Governments (MRCOG), identifies the functional classifications of roadways. The Long Range Roadway System map designates Lomas Ave. as a Principal Urban Arterial. Between 2008 and 2011, the MRCOG traffic counts recorded a decrease in average daily trips (ADT) of approximately 5%, from 15,800 to 15,000 ADT along Lomas Ave. between Washington St. and San Mateo Ave.

Comprehensive Plan Corridor Designation. Lomas Ave. is currently designated as an Enhanced Transit Corridor, which is “designed or redesigned to improve transit and pedestrian opportunities for residents, businesses and other users nearby.”

Trails/Bikeways. Lomas Blvd. in the subject site vicinity has no bicycle lanes and is not a designated bicycle route.

Transit. ABQ Ride Route 11 passes by Monroe St. along Lomas Blvd., operating between the far Northeast Heights and Downtown.

Public Facilities/Community Services

The area is well served with public facilities and services. There are two elementary schools and ten parks within approximately one mile of the site. For more specific information, see the Public Facilities Map.

III. ANALYSIS

Applicable Ordinances, Plans and Policies

This is a request for a Zone map amendment to O-1. The Environmental Planning Commission (EPC) has decision-making authority for the zone change because the site is less than one block, pursuant to §14-16-4-1(C)(10) of the Zoning Code.

Albuquerque/Bernalillo County Comprehensive Plan

The Comprehensive Plan, the Rank I planning document for the City, contains goals and policies that provide a framework for development and service provision. The Plan’s goals and policies serve as a means to evaluate development proposals and requests for zone change such as this.

The subject site is located in the area designated Established Urban by the Comprehensive Plan. The Established Urban Area includes most of the developed City, places well established with urban development. The Established Urban Area is subject to policies of Comprehensive Plan Section II.B.5.

Analysis of Applicant's Statements of Policy Consistency

Note: Comprehensive Plan Policy text is in regular font; *Applicant's statements are in italics; staff's analysis is in bold italics.*

The Section II.B.5 Goal is to "create a quality urban environment which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles, while creating a visually pleasing built environment."

Staff finds that the request in association with the existing parking lot neither furthers nor hinders Goal II.B.5. Future redevelopment of the property with permissible O-1 uses such as professional offices may further Goal II.B.5.

Policy II.B.5.a: The Developing Urban and Established Urban Areas as shown by the Plan map shall allow a full range of urban land uses, resulting in an overall gross density up to 5 dwelling units per acre.

The current zoning in the area is predominantly C-2 and R-2. Approval of this request would expand the allowed uses in the area while providing a buffer between the R-2 and C-2 uses.

Staff finds that the zone change from R-2 to O-1 would change the status of the property from a non-conforming use of land to a conforming use of land. While the request does not involve residential land uses, except the allowance for residential use as part of a mixed-use development in the O-1 zone, the request furthers Policy II.B.5.a.

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

This is an existing parking lot with no change in use being considered at this time. In the 30+ years the parking lot has been used there have been no registered complaints with the zoning enforcement office. Allowed uses in the O-1 zone are designed to act as a buffer between residential uses and higher impact commercial uses.

The Zone map amendment is not anticipated to have any adverse impact on environmental conditions and carrying capacities. The proposed O-1 zone allows the current surface parking as a permissive use. The range of permissive uses allowable under an O-1 zone includes activities of generally lower intensity, such as professional offices, than allowable in the C-2 zone abutting the subject site and on most properties along this portion of Lomas Ave. There is no known neighborhood opposition to the proposed Zone map amendment. Staff finds the request furthers Policy II.B.5.d.

Policy II.B.5.e: New growth shall be accommodated through development in areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of existing neighborhoods can be ensured.

This is vacant lot, being used as surface parking lot. There are no un-programmed urban facilities or services affecting this site, nor would this be an issue for any future O-1 use.

Staff agrees that the site of the proposed Zone map amendment is within a developed urban area, where a full complement of urban services and utilities are already available. The continuation of the surface parking lot will not require public utility use. Future development of the lot, with uses permissive in an O-1 zone, would occur on a site contiguous to existing urban facilities and services. Staff finds the request furthers Policy II.B.5.e.

Policy II.B.5.i: "Employment and service uses shall be located to complement residential areas and shall be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments."

While new development is not proposed for the subject site at this time, future development of land uses permissible in an O-1 zone would likely create an appropriate transition of intensity between the residential land uses to the north, and commercial uses in the C-2 zone to the south. Staff finds the request furthers Policy II.B.5.i.

Policy II.B.5.l: "Quality and innovation in design shall be encouraged in all new development; design shall be encouraged which is appropriate to the Plan area."

This is a request to allow the continuation of a parking lot. Landscaping and buffering standards will apply. As a standard zone category there are no specific design regulations for subsequent uses.

Staff finds this policy is not applicable to the requested Zone map amendment as it refers to development design and not to land use or zoning.

Policy II.B.5.o: Redevelopment and rehabilitation of older neighborhoods in the Established Urban Area shall be continued and strengthened.

There are ample multi-family developments in this neighborhood. The current use of the property for employee parking has never caused a problem. Eventual re-development of this site as an O-1 use would be more beneficial than another multi-family development abutting a C-2 zone. Additionally, the Zoning Code regulations regarding landscaping, upgraded paving and buffering will enhance the appearance of this lot.

Changing the zone designation from R-2 to O-1 facilitates the eventual re-development of an under-utilized infill lot within an older, established neighborhood. The O-1 zone allows permissive uses that are of an intensity intermediate between R-2 and C-2 uses. Staff finds the request furthers Policy II.B.5.o.

Rank II Plans

The subject site for the requested Zone map amendment from R-2 to O-1 is not within the boundaries of any adopted Rank II Plan.

Albuquerque Comprehensive Zoning Code

The subject site is currently zoned R-2, and the request is for O-1. In the Zoning Code the R-2 zone is described as a zone that "provides suitable sites for houses, townhouses, and medium density apartments, and uses incidental thereto in the Established and Central Urban areas." The

O-1 zone is described as a zone that “provides sites suitable for office, service, institutional, and dwelling uses.” Per §14-16-2-15(12) a parking lot is a permissive land use in the O-1 zone.

Resolution 270-1980 (Policies for Zone Map Change Applications)

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

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: 1) there was an error when the existing zone map pattern was created; or 2) changed neighborhood or community conditions justify the change; or 3) a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan.

The zone change justification letter analyzed here, dated May 22, 2013 is the result of Staff's request for a revised justification.

Analysis of Applicant's Justification (Response to Section 1 A-J)

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

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

This is a request for O-1, office and institutional zoning. Section 14-16-1-3 of the Zoning Code identifies the intent of zoning regulations to “create orderly, harmonious and economically sound development” to secure the health, safety, morals and general welfare of the City. The environment will be unaffected by this application as the use of the property as a parking lot will not change in the near future. If, and when, an O-1 use is established on the property, it will act as a buffer between the C-2 zoning to the south and the R-2 to the north. O-1 zoning is identified in the Zoning Code as suitable for “office, service institutional and dwelling uses. Dwellings are already allowed by the current R-2 zone, and the O-1 zone limits their density to no more than 25% of the gross floor area as a permissive use. Most permissive uses allowed in the O-1 zone have limited or no evening or weekend hours and there are no permissive commercial uses allowed.

No public facilities or services will be impacted as this is an existing use and there is mature infrastructure serving the site. Roadways will not be impacted. This is not a use with peak travel times and the allowed O-1 uses are minimally invasive to residential development and local streets. Parks and schools will not be impacted as there will not be the possibility of a residential use on the property unless approved as a conditional use at a separate hearing. Police and fire services are virtually unnecessary for the current use and would be minimally impacted by any potential O-1 development. Water and drainage uses will be similarly benign under both the current use of the property for parking and any future allowed O-1 use.

Staff agrees with the applicant's statements that the requested O-1 zone will allow the continued use of the site as a parking lot, thereby not affecting the environment, and that future development with an O-1 use will act as a buffer between the C-2 zoning to the south and the R-2 to the north. The applicant utilizes a policy-based justification for the request (see Section below), so the response to Section 1.A is sufficient.

B. Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should not be made.

The property has been used as a parking lot for over thirty years and that will not change if this request is granted. Therefore, there would be no impact on the stability of the land use, only in the zone category. In addition, the current R-2 zoning abuts C-2 on the south and R-2 on the north. Any R-2 development would not be buffered from the existing C-2 zoning. Providing an O-1 transition zone would allow the current use to serve as a buffer between the C-2 and R-2 zoning, and any subsequent use of the property for an O-1 use would provide a similar buffer.

As noted, the limited impact permissive uses as well as the development standards make the O-1 zone a desirable buffer between a community commercial (C-2) and a low density multi-family (R-2) zone. The Zoning Code requires buffering, which may include solid fencing, landscaping and enhanced setbacks when a non-residential zone abuts a residential zone. The current use of the property may be required by the Zoning Enforcement Office to provide such buffering if this zone change is approved. If the zone category remains as R-2 and the parking lot is abandoned, any future R-2 use would not be buffered by the existing C-2 zoning on the south boundary, nor would any specific buffering be required between the abutting R-2 zone on the north.

Staff agrees that the requested zone map amendment maintains the stability of use in the area, as it is providing an avenue for an existing non-conforming land use to become a legal conforming land use. With any zone change request, it is also important to consider permissive land uses allowable within the zone being requested that could potentially be developed on the subject site and whether these uses may have an adverse impact on the surrounding area. The O-1 zone allows land uses that are typically lower intensity than the permissive uses under a Commercial (C) zone, and would provide an appropriate transition between the adjacent R-2 and C-2 zones, if appropriate development standards are adhered to.

C. A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City.

Staff agrees with the applicant's citations of Comprehensive Plan Goals and Policies applicable to the request. The Zone map amendment does not involve residential land uses, except residential use permissive as part of a mixed-use development in the O-1 zone. The request is not anticipated to have any adverse impact on environmental conditions and carrying capacities. There is no known neighborhood opposition to the proposal. The site is within an area where a full complement of urban services and utilities are available. Future development of land uses permissible in an O-1 zone would create an appropriate transition

between the adjacent residential land uses and commercial uses. Changing the zone designation from R-2 to O-1 facilitates the eventual re-development of an under-utilized infill lot within an older, established neighborhood.

D. The applicant must demonstrate that the existing zoning is inappropriate because:

1. There was an error when the existing zone map pattern was created; or
2. Changed neighborhood or community conditions justify the change; or
3. A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other city master plan, even though (D)(1) or (D)(2) above do not apply.

As stated in the background section of this letter, the property has been used as a parking lot for over three decades. Applicant believes that a different use category would be more advantageous to the community. In addition, for whatever reason the parking lot was originally established, applicant believes that the use of the property for over thirty years as a parking lot also consists of changed conditions. However, as changed conditions generally refer to other zone changes in the vicinity or Zoning Code text changes, this argument will not be used as a justification.

The parking lot is used for employee and overflow customer parking for the popular restaurant, Los Quates. The restaurant site was developed before parking regulations were established. Seating capacity inside the restaurant is based entirely on occupancy requirements of the Fire Department and may not have any relationship to the current parking requirements for restaurants. Moreover, the building could be converted into another use with an even greater parking requirement, and therefore a greater parking deficit over current standards. When the parking lot was established, the property owners realized that inadequate parking for the restaurant could negatively impact the neighborhood and created additional off street parking for staff, as well as overflow parking for patrons. This has worked out quite well over the years. Further, as explained previously, the uses allowed in the O-1 zone would add potential neighborhood oriented services (e.g., barber shop, dentist, insurance office) to the area.

The policies of the Comprehensive Plan noted in Section C. are also applicable here. As stated, applicant believes that each of those policies are furthered by this request.

As discussed above, Staff agrees with the applicant's assertion that the requested O-1 zone is appropriate as a buffer between the C-2 zone and R-2 zone, because it typically provides for development that is of an intermediate intensity between the commercial uses permissive in the C-2 zone and the residential uses in an R-2 zone. Thus staff finds the request meets the burden of demonstrating that the existing zoning (R-2) is inappropriate because a different use category is more advantageous to the community as articulated in the Comprehensive Plan.

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

The permissive uses in the O-1 zone are designed to be suitable to be used for buffer zoning between residential and non-residential uses. The property is small and would not allow room

for development of any high impact permissive uses. Further this request should be judged against a future residential development abutting a C-2 zone. Approval of this zone map amendment would allow for the continuing buffer for the property to the north and assure no possible R-2/C-2 conflict in the future. The R-2/C-2 conflict would arise if a residential development was constructed on the property that would not be buffered by the existing C-2 use to the south. The permissive uses, as well as the buffering regulations would alleviate this potential conflict.

Staff agrees and finds that the requested O-1 zone will not be harmful to adjacent property, the neighborhood or the community.

F. A proposed zone change which, to be utilized through land development, requires major and un-programmed capital expenditures by the city may be:

1. Denied due to lack of capital funds; or
2. Granted with the implicit understanding that the city is not bound to provide the capital improvements on any special schedule.

This proposed zone change requires no capital expenditures of any type on the part of the City in order to be developed, therefore there this section is not applicable and the zone change request cannot be denied on these grounds.

Staff agrees that the request will not result in any major or un-programmed capital expenditures by the City.

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

Applicant makes no argument regarding economic factors as they may apply specifically to this request. As such, neither the cost of land, nor any other economic consideration is being used to justify this request.

Staff agrees and finds the cost of land is not a determining factor for the requested zone change.

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

This property is not located on a collector or major street, therefore this zone change request does not use this section as justification. Further, the O-1 zone allows only 25% of the property to be permissively developed for residential purposes and allows no permissive commercial uses. Applicant requests that this zone change request be judged primarily by Sections C. & D. of this resolution.

Staff confirms. The property is not located on a collector or major street. The O-1 zone does not permit commercial uses and significantly restricts residential uses.

I. A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "spot zone." Such a change of zone may be approved only when:

1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

This is a spot zone in that the O-1 zone would be different than either the C-2 zone to the south or the R-2 zone to the north. Applicant believes that approval of this request will function as a transition between the abutting C-2 and R-2 zones as identified in part (2) of this section. The permissive uses in the O-1 zone, as well as the development regulations of that zone provide a more meaningful transition than the current C-2/R-2 configuration does.

Staff agrees and finds the request is a spot zone in that there is no abutting land with the O-1 designation; however, the proposed zone change site is different from surrounding land because it could function as a transition between adjacent zones (R-2 and C-2) and thus meets the burden necessary to support a spot zone request.

J. A zone change request, which would give a zone different from surrounding zoning to a strip of land along a street is generally called "strip zoning." Strip commercial zoning will be approved only where:

1. The change will clearly facilitate realization of the Comprehensive Plan and any adopted sector development plan or area development plan; and
2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic or special adverse land uses nearby.

This request does not meet the definition of a strip zone because it is only one lot and is more appropriate to be considered as a "spot zone" as identified above.

Staff agrees. The request will not result in a strip commercial zone.

V. AGENCY & NEIGHBORHOOD CONCERNS

Reviewing Agencies/Pre-Hearing Discussion

Zoning Enforcement provided comments that the Zone map amendment from R-2 to O-1 would change the current and historic status of the property from a non-conforming use of land to a legally conforming use of land. The Police Department recommended measures to improve user safety in the parking lot.

Neighborhood/Public

Representatives from the Pueblo Alto Neighborhood Association and the District 7 Coalition of Neighborhood Association's, and property owners within 100 feet of the subject site were notified. A facilitated meeting was neither offered nor requested. No comments were received from notified property owners.

VI. CONCLUSION

This request is for a Zone map amendment for the "subject site", Lot 21, Block 4, Caldwell's Subdivision New Year Addition, which contains approximately 0.13 acres of land located on Monroe St. NE, between Lomas Ave. and Marble Ave. The site is currently used as a parking lot and is zoned R-2.

The zone change request is consistent with a preponderance of applicable Comprehensive Plan goals and policies and meets the criteria for a Zone Map amendment under R-270-1980.

FINDINGS – 13EPC-40117 – July 11, 2013 –Zone Map Amendment

1. This is a request for a Zone Map Amendment for 0.13 acre of land and is located on the west side of Monroe St. NE between Lomas Ave. and Marble Ave., and containing approximately 0.13 acre.
2. The applicant proposes to change the zone from R-2 to O-1 for a property containing an existing parking lot.
3. The subject site is in the Established Urban Area of the Comprehensive Plan.
4. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
5. The applicant has justified the Zone change request pursuant to *Resolution 270-1980* as follows:
 - A. Section 1A: The requested O-1 zone will allow the continued use of the site as a parking lot, thereby not affecting the environment, and future development with an O-1 use will act as a buffer between the C-2 zoning to the south and the R-2 zoning to the north.
 - B. Section 1B: The requested zone maintains the stability of use in the area, as it is providing an avenue for an existing non-conforming land use to become a legal conforming land use. The permissive O-1 zone land uses would provide an appropriate transition between the adjacent R-2 and C-2 zones.
 - C. Section 1C: The applicant has adequately justified how the requested zone change is not in conflict with the Goals and Policies in the Comprehensive Plan.

Policy II.B.5.a – full range of urban land uses. The zone change from R-2 to O-1 will change the status of the parking lot from a non-conforming use of land to a conforming use of land.

Policy II.B.5.d: - location, intensity, and design of new development. The proposed O-1 zone allows the current surface parking as a permissive land use. The range of

permissive uses allowable under an O-1 zone includes activities of generally lower intensity than allowable in the abutting C-2 zone, thus respecting neighborhood values.

Policy II.B.5.e. – new growth in areas where vacant land is contiguous to urban facilities and services. The continuation of the surface parking lot will not require any public utility use. Future development of the lot, with uses permissive in an O-1 zone, would be contiguous to urban facilities and services.

Policy II.B.5.i: - employment and service uses sited to minimize adverse effects on residential environments. Future development of land uses permissible in an O-1 zone would likely create an appropriate transition of intensity between the adjacent residential land uses to the north, and commercial uses adjacent to the south.

Policy II.B.5.o - redevelopment and rehabilitation of older neighborhoods. Changing the zone designation facilitates the eventual development of an under-utilized infill lot within an older, established neighborhood. The O-1 zone allows permissive uses of an intensity intermediate between R-2 and C-2 zone permissive uses.

- D. Section 1D: The requested O-1 zone provides for development that is of an intermediate intensity between the more intense commercial uses permissive in the C-2 zone and the purely residential uses in an R-2 zone.
 - E. Section 1E: The requested O-1 zone will not be harmful to adjacent property, the neighborhood or the community.
 - F. Section 1F: The proposed zone change requires no major or programmed capital expenditures by the City.
 - G. Section 1G: The cost of land is not a determining factor for the requested zone change.
 - H. Section 1H: Location on a collector or major street is not used as justification for the proposed zone change.
 - I. Section 1I: The request is a spot zone in that there is no abutting land with the O-1 designation. However, the site could function as a transition between adjacent zones (R-2 and C-2) and thus meets the burden necessary to support a spot zone request.
 - J. Section 1J: The request does not create a “strip zone.”
7. Property-owners within 100 feet of the subject site were notified. A facilitated meeting was not requested. There is no known opposition to the request.

RECOMMENDATION – 13EPC-40117 – July 11, 2013 – Zone Map Amendment

APPROVAL of 13EPC-40117, a request for Zone Map Amendment, from R-2 to O-1 for Lot 21, Block 4, Caldwell’s Subdivision New Year Addition, based on the preceding Findings.

***Chris Glore
Planner***

Notice of Decision cc list:

Jeffrey Brooks, 808 Monzano NE, Albuquerque NM 87110

Sally Berger, 833 Monzano NE, Albuquerque NM 87110

Attachments

1. Additional staff info:
 - a. Photographs
 - b. R-270-1980
2. O-1 Zone
3. Application:
 - a. Cover Page
 - b. TIS form
 - c. Justification letter
4. Neighborhood info/input:
 - a. ONC letter
 - b. Applicant letter & certified mail receipts
5. Site Plan reductions

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Enforcement

- Reviewed - If approved, a zone change from R-2 to O-1 would change the current and historic status of the property from a non-conforming use of land to a legally conforming use of land. The existing parking lot does not meet the standards for a "parking lot" as regulated in the O-1 zone of the Comprehensive City Zoning Code section 14-16-2-15(A)(12). This non-conformance to development standards for parking lots is common throughout the City in established urban areas since the new standards for paving, landscaping, parking barriers, and screening were not adopted until the late 1970's, thus many existing parking lots such as this do not conform to these standards.

Office of Neighborhood Coordination

- Pueblo Alto NA (R)
- District 7 Coalition of NA's

Long Range Planning

Metropolitan Redevelopment

- No comments received.

CITY ENGINEER

Transportation Development Services

- No comment received.

Hydrology

- Hydrology has no adverse comments.

DEPARTMENT of MUNICIPAL DEVELOPMENT

Transportation Development

- No comments received.

Transportation Planning

- No comments received.

Traffic Engineering Operations

- No comments received

Street Maintenance

- No comments received

NEW MEXICO DEPARTMENT OF TRANSPORTATION

- No comments received

**RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT
and NMDOT:**

WATER UTILITY AUTHORITY

Utility Services – No comments received.

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division – No comments received.

Environmental Services Division – No comments received.

PARKS AND RECREATION

Planning and Design – No comments received.

Open Space Division – No comments received.

City Forester – No comments received.

POLICE DEPARTMENT/Planning

This project is in the Southeast Area Command.

- If the request is approved and the property deemed an "official" parking lot, recommend property owners re-evaluate user safety. Recommend the placement of adequate property lighting and a video surveillance system.
- Cameras should be positioned to cover all vehicle access points, pedestrian walk-up & exit and all parking stalls. Each camera should be monitored and recorded for real-time and historical use.
- Each one of the areas mentioned above should be illuminated enough to detect suspicious activity/behavior as well as crimes in progress.

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division

- Approved as long as it complies with SWMD Ordinance.

FIRE DEPARTMENT/Planning

- No comments received.

TRANSIT DEPARTMENT

Project # 1009714 13EPC-40117 AMNDT TO ZONE MAP (ESTB ZONING/ZONE CHG) LOT 21, BLOCK 4, CALDWELL'S SUBDIVISION NEW YEAR ADDITION MONROE ST. NE, BETWEEN LOMAS AVE. AND MARBLE AVE.	Adjacent and nearby routes	None
	Adjacent bus stops	None
	Site plan requirements	None
	Large site TDM suggestions	None
	Other information	None

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY – No comments received.

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY – No comments received.

ALBUQUERQUE PUBLIC SCHOOLS – No comments received.

MID-REGION COUNCIL OF GOVERNMENTS – No comments received.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT – No comments received.

PUBLIC SERVICE COMPANY OF NEW MEXICO

- PNM has no comments based on information provided to date.

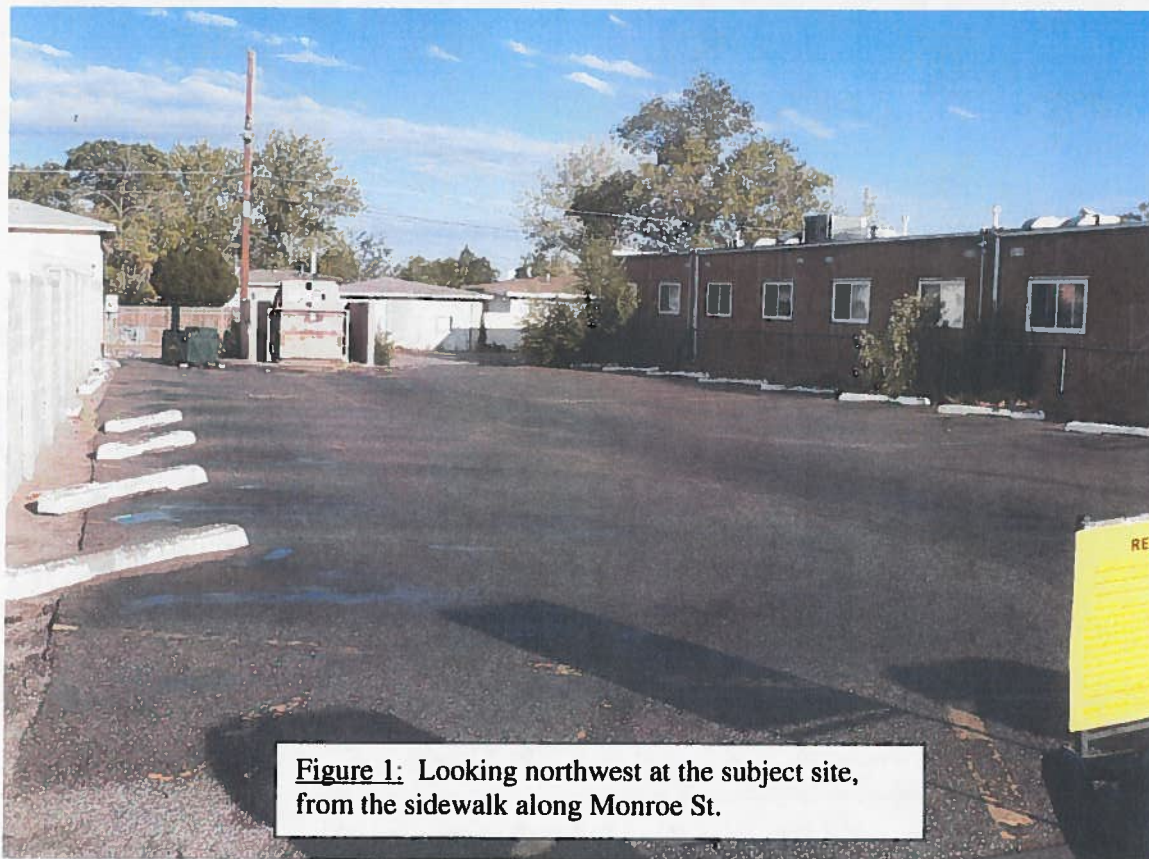


Figure 1: Looking northwest at the subject site,
from the sidewalk along Monroe St.

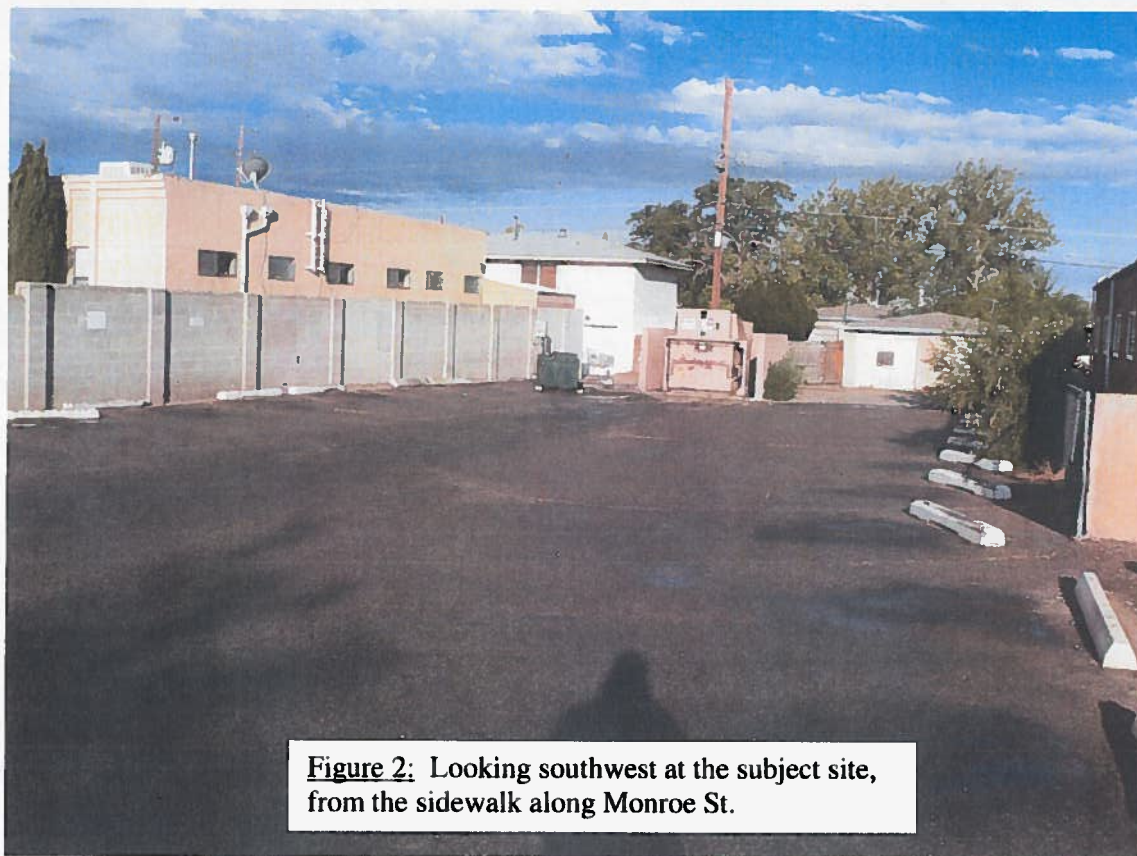


Figure 2: Looking southwest at the subject site,
from the sidewalk along Monroe St.

APPENDIX B

ENACTMENT 270-1980

ADOPTING POLICIES FOR ZONE MAP CHANGE APPLICATIONS AND APPEALS OF ENVIRONMENTAL PLANNING COMMISSION DECISIONS; SUPERSEDING CITY COUNCIL RESOLUTIONS 217-1975 AND 182-1978 RELATING TO ZONE CHANGE APPLICATIONS AND APPEALS.

WHEREAS, the usefulness of the Comprehensive City Zoning Code in implementing the City's Comprehensive Plan and promoting health, safety, morals, and general welfare is enhanced by a reasonable flexibility in order to deal reasonably with changes in the physical, economic, and sociological aspects of the city; and

WHEREAS, certain general policies for consideration of zone map changes and other zoning regulation changes should be recognized as determinative.

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

Section 1. The following policies for deciding zone map change applications pursuant to the Comprehensive City Zoning Code are hereby adopted:

- A. A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the City.
- B. Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should not be made.
- C. A proposed change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City.
- D. The applicant must demonstrate that the existing zoning is inappropriate because;
 - (1) there was an error when the existing zone map pattern was created, or
 - (2) changed neighborhood or community conditions justify the change, or
 - (3) a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan, even though (1) or (2) above do not apply.
- E. A change of zone shall not be approved where some of the permissive uses in the zone would be harmful to adjacent property, the neighborhood or the community.
- F. A proposed zone change which, to be utilized through land development, requires major and un-programmed capital expenditures by the City may be;
 - (1) denied due to lack of capital funds, or

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

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

(A) Permissive Uses.

- (1) Antenna, up to 65 feet in height.
- (2) Beauty shop, barber shop.
- (3) Church, or other place of worship, including the usual incidental facilities. Incidental uses allowed include but are not limited to an emergency shelter operated by the church on the church's principal premises which is used regularly for public worship, notwithstanding special limitations elsewhere in this Zoning Code.
- (4) Club, provided there is no liquor license.
- (5) Community residential program except not either Community residential corrections program or Community residential program for substance abusers: up to 18 client residents, provided that the standards of § 14-16-3-12 of this Zoning Code are met.
- (6) Dwelling unit (house, townhouse, or apartment) constituting up to 25% of the gross floor area on the premises, provided usable open space is provided on-site in an amount equal to 400 square feet for each efficiency or one-bedroom dwelling unit, 500 square feet for each two-bedroom dwelling unit, and 600 square feet for each dwelling unit containing three or more bedrooms. If located in an area designated by the master plan as "Developing" or "Semi-Urban," the total open space requirement of the R-D or RA-1 zone, respectively, shall also be met.
- (7) Incidental uses within a building, most of which is occupied by offices and/or dwelling units, such as news, cigar or candy stand, restaurant, personal-service shop, and the like, provided the incidental uses comply with the following:
 - (a) The use is intended primarily for the use of the occupants of the structure.
 - (b) At least 10,000 square feet of floor area are contained in the structure.
 - (c) The use is limited to a maximum of 10% of the total floor area.
 - (d) The use is so situated within the structure that it is not directly accessible from a public right-of-way.
 - (e) A sign or window display relating to the use is not discernible from a public right-of-way, except that a portable sign shall be allowed per small business pursuant to the General Signage Regulations.
- (8) Institution, including library, museum, nursing or rest home, school, day care center, except not hospital for human beings, sanatorium, or disciplinary or mental institutions.
- (9) Medical supplies and services, such as drug prescription and supply shop, physical therapy office, or shop for fabricating and fitting prosthetic or correcting devices, or medical or dental laboratory.
- (10) Office.

(15) Radio or television studio.

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

(a) Location.

1. Only wall signs, canopy signs, and free-standing or projecting signs are permitted.
2. A sign may not overhang into the public right-of-way, except a wall sign may protrude up to one foot into the public right-of-way. (See also § 14-16-3-5(B)(2) of this Zoning Code.)
3. Projecting signs shall not project horizontally more than four feet.

(b) Number.

1. No limit on number of wall signs.
2. One canopy sign per entrance or exit shall be permitted.
3. In the Established or Redeveloping Areas, one free-standing or projecting sign structure shall be permitted for each premises, or joint sign premises, providing the premises or joint sign premises is at least 100 feet wide.
4. In the Developing or Semi- Urban Areas:
 - a. Free-standing or projecting sign not permitted on premises of under five acres.
 - b. One free-standing or projecting sign on premises of five acres or more, provided the street frontage is at least 100 feet wide.

(c) Size.

1. Size of Free-Standing or Projecting Signs. Sign area of a free-standing or projecting sign shall not exceed 75 square feet.
2. Size of Building-Mounted Signs, Except Projecting Signs. Sign area of a building-mounted sign shall not exceed 15% of the area of the facade to which it is applied if there is no free-standing or projecting on-premise sign on the premises or joint sign premises, or 7.5% of the area of the facade if there is such a free-standing or projecting sign on the premises or joint sign premises.

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

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

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

- (5) Instruction in music, dance, fine arts, or crafts.
- (6) Public utility structure which is not permissive.
- (7) Office machines and equipment sales and repair.
- (8) Printing, copying, blueprinting incidental to office uses.
- (9) Retailing of food and drink, for consumption on premises or off, but not drive-in facility and provided that alcoholic drink is not dispensed for off-premise consumption in broken packages or the following packages within 500 feet of a pre-elementary, elementary or secondary school, a religious institution, a residential zone, a designated Metropolitan Redevelopment Area (as defined in the State Metropolitan Redevelopment Code), a city owned park or city owned major public open space:
 - (a) distilled spirits, as defined in the New Mexico Liquor Control Act, in any package that contains less than 750 milliliters;
 - (b) beer, as defined in the New Mexico Liquor Control Act, in any single container labeled as containing 16 or fewer ounces; and
 - (c) fortified wines with a volume of alcohol of more than 13.5 percent, provided that retailing alcoholic drink, for on or off premise consumption, within 500 feet of a community residential program or hospital for treatment of substance abusers is prohibited pursuant to § 14-16-3-12(A)(11) ROA 1994.
- (10) Wireless Telecommunications Facility, Roof-Mounted, up to 20 feet above the parapet of the building on which it is placed, provided that the requirements of § 14-16-3-17 of this Zoning Code are met.

(C) Height.

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

(D) Lot Size. No requirements.

(E) Setback. The following regulations apply to structures other than signs except as provided in §§ 14-16-3-1 and 14-16-3-3 of this Zoning Code:

- (1) There shall be a front and a corner side yard setback of not less than five feet and a setback of 11 feet from the junction of a driveway or alley and a public sidewalk or planned public sidewalk location.

CITY OF ALBUQUERQUE

TRAFFIC IMPACT STUDY (TIS) FORM

APPLICANT: DAC ENTERPRISES, INC. DATE OF REQUEST: 5/14/13 ZONE ATLAS PAGE(S): J-17

CURRENT:

ZONING R-2
PARCEL SIZE (AC/SQ. FT.) .13

LEGAL DESCRIPTION:

LOT OR TRACT # Lot 21 BLOCK # 4 CALDWELL
SUBDIVISION NAME NEW YEAR 04 TADDN 54BD.

REQUESTED CITY ACTION(S):

ANNEXATION []
ZONE CHANGE [☒]: From R-2 To O-1
SECTOR, AREA, FAC, COMP PLAN []
AMENDMENT (Map/Text) []

SITE DEVELOPMENT PLAN:

SUBDIVISION* [] AMENDMENT []
BUILDING PERMIT [] ACCESS PERMIT []
BUILDING PURPOSES [] OTHER []

*includes platting actions

PROPOSED DEVELOPMENT:

NO CONSTRUCTION/DEVELOPMENT ☒
NEW CONSTRUCTION []
EXPANSION OF EXISTING DEVELOPMENT []

GENERAL DESCRIPTION OF ACTION:

OF UNITS: NA
BUILDING SIZE: NA (sq. ft.)

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

APPLICANT OR REPRESENTATIVE Robert A. Sweeney

DATE 5/14/13

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

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

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

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

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

[Signature]
TRAFFIC ENGINEER

5-14-13
DATE

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

TIS
-SUBMITTED / /
-FINALIZED / /

TRAFFIC ENGINEER

DATE

Revised January 20, 2011

City of Albuquerque



DEVELOPMENT/ PLAN REVIEW APPLICATION

Supplemental Form (SF)

SUBDIVISION

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

SITE DEVELOPMENT PLAN

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

STORM DRAINAGE (Form D)

- ☐ Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

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

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 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) DAC ZONING & LAND USE SERVICES / DAC ENTERPRISES, INC. PHONE 294-5243
 ADDRESS: 9520 MACALLAN ROAD NE FAX: 297-4530
 CITY: ALBUQUERQUE STATE NM ZIP 87109 E-MAIL: DAC INC 2001@AOL.COM

APPLICANT: CARMEN M. & DAMON MARTINEZ PHONE: 256-3639
 ADDRESS: 4740 SPANISH SUN NE FAX: _____
 CITY: ALBUQUERQUE STATE NM ZIP 87110 E-MAIL: _____
 Proprietary interest in site: OWNERS List all owners: _____

DESCRIPTION OF REQUEST: ZONE MAP AMENDMENT - R-2 TO O-1

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. LOT 21 Block: 4 Unit: _____
 Subdiv/Addn/TBKA: CALDWELL'S SUBDIVISION, NEW YEAR ADDITION
 Existing Zoning: R-2 Proposed zoning: O-1 MRGCD Map No. _____
 Zone Atlas page(s): J-17 UPC Code: _____

CASE HISTORY:

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

CASE INFORMATION:

Within city limits? ☒ Yes Within 1000FT of a landfill? _____
 No. of existing lots: 1 No. of proposed lots: 1 Total site area (acres): .13
 LOCATION OF PROPERTY BY STREETS: On or Near: MANZANO ST NE
 Between: LCMAS BLVD NE and MARBLE AVE NE

Check if project was previously reviewed by: Sketch Plat/Plan ☐ or Pre-application Review Team (PRT) ☒ Review Date: 5/14/13

SIGNATURE Doug Crandall DATE MAY 21, 2013
 (Print Name) DOUG CRANDALL, DAC ZONING & LAND USE SERVICES Applicant: ☐ Agent ☒

FOR OFFICIAL USE ONLY

Revised: 4/2012

	Application case numbers	Action	S.F.	Fees
<input checked="" type="checkbox"/> INTERNAL ROUTING	<u>13EPC-40117</u>	<u>AZM</u>		<u>\$240.00</u>
<input checked="" type="checkbox"/> All checklists are complete		<u>CMF</u>		<u>\$250.00</u>
<input checked="" type="checkbox"/> All fees have been collected		<u>ADU</u>		<u>\$75.00</u>
<input checked="" type="checkbox"/> All case #s are assigned				
<input checked="" type="checkbox"/> AGIS copy has been sent				
<input type="checkbox"/> Case history #s are listed				
<input type="checkbox"/> Site is within 1000ft of a landfill				
<input type="checkbox"/> F.H.D.P. density bonus				
<input type="checkbox"/> F.H.D.P. fee rebate				
				Total
				<u>\$365.00</u>

Hearing date July 11, 2013

Project # 1009714

5-21-13

Staff signature & Date

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

☐ ANNEXATION (EPC08)

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

- ☐ SDP PHASE I - DRB CONCEPTUAL PLAN REVIEW (DRBPH1) (Unadvertised)
- ☐ SDP PHASE II - EPC FINAL REVIEW & APPROVAL (EPC14) (Public Hearing)
- ☐ SDP PHASE II - DRB FINAL SIGN-OFF (DRBPH2) (Unadvertised)

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

☒ AMENDMENT TO ZONE MAP - ESTABLISHMENT OF ZONING OR ZONE CHANGE (EPC05)

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

☐ AMENDED TO SECTOR DEVELOPMENT MAP (EPC03)

☐ AMENDMENT SECTOR DEVELOPMENT, AREA, FACILITY, OR COMPREHENSIVE PLAN (EPC04)

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

☐ AMENDMENT TO ZONING CODE OR SUBDIVISION REGULATORY TEXT (EPC07)

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

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

DOUG CRANDALL, DMC ZONING & LAND USE SERVICES

Applicant name (print)

Doug Crandall MAY 21, 2013

Applicant signature & Date

Revised: June 2011

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

Application case numbers

13EPC - 40117

5-21-13
Staff signature & Date

Project # 1009714



May 22, 2013

Mr. Hugh Floyd, Chair
Environmental Planning Commission
City of Albuquerque
Albuquerque, New Mexico

Re: Zone Change – Lot 21, Caldwell's Subdivision, Block 4, New Year Addition

Dear Chair and Commissioners:

DAC Enterprises Inc., d/b/a DAC Zoning & Land Use Services has been retained to act as agent for the applicants, Mr. Damon Martinez and Mrs. Carmen M. Martinez. This is a request for a zone map amendment from R-2 to O-1 for a lot located on Monroe NE, north of Lomas Boulevard. The property is not located within the boundaries of any sector plan.

Justification for this approval is primarily based upon Section D (3) of Resolution 270-1980 in that the *Albuquerque/Bernalillo County Comprehensive Plan (Comprehensive Plan)* is better served by this zone map amendment.

Background

In the mid 1980's, the property owner at that time was parking vehicles on this parcel. It was discovered that the lot was zoned R-2, which does not, and did not allow parking as a principal use. The discovery did not come from a complaint, but from a routine inspection in the area. The lot was paved and had been used for employee parking for the restaurant (now Los Quates) on Monroe and Lomas for at least a few years.

After some discussion, the Zoning Enforcement Officer (ZEO) agreed to allow the use to remain without seeking a zone change. The ZEO determined that the use was essentially non-conforming and that a zone change would not be necessary. An ariel photo showing this parcel being used for parking in the early 1980's is available in the Zoning Office.

Although the ZEO documented his actions, that documentation cannot be produced by the current property owner, and the City of Albuquerque historical zoning files were drastically purged several years ago.

In March of this year, as a result of an unrelated inspection, a zoning inspector discovered the disconnect between the R-2 zoning and the use of the property as a parking lot. Although the current Code Compliance Manager (née ZEO) agreed that there would be nothing gained by prosecuting the case in the courts, it was decided by the applicant that the best course of action would be to seek a zone map amendment to align the historical use with the proper zone category.

Applicant is seeking an O-1 zone designation on the site. The O-1 zone allows the continuation of the parking lot, acts as transition between the C-2 zoning to the south and the R-2 to the north, and allows low impact uses, if and when the parking lot is ever abandoned.

At the Planning Review Team (PRT) meeting, there was discussion of seeking P or PR zoning. However, because the parking is not required parking for another use, PR is not appropriate. Further, limiting the site to nothing but parking did not seem to be a reasonable use of land in this area. Hence, this request for O-1 zoning.

Resolution 270-1980

A. A proposed zone change must be found to be consistent with the health, safety, morals and general welfare of the City. This is a request for O-1, office and institutional zoning. Section 14-16-1-3 of the *Zoning Code* identifies the intent of zoning regulations to "create orderly, harmonious and economically sound development" to secure the health, safety, morals and general welfare of the City. The environment will be unaffected by this application as the use of the property as a parking lot will not change in the near future. If, and when, an O-1 use is established on the property, it will act as a buffer between the C-2 zoning to the south and the R-2 to the north. O-1 zoning is identified in the *Zoning Code* as suitable for "office, service institutional and dwelling uses. Dwellings are already allowed by the current R-2 zone, and the O-1 zone limits their density to no more than 25% of the gross floor area as a permissive use. Most permissive uses allowed in the O-1 zone have limited or no evening or weekend hours and there are no permissive commercial uses allowed.

No public facilities or services will be impacted as this is an existing use and there is mature infrastructure serving the site. Roadways will not be impacted. This is not a use with peak travel times and the allowed O-1 uses are minimally invasive to residential development and local streets. Parks and schools will not be impacted as there will not be the possibility of a residential use on the property unless approved as a conditional use at a separate hearing. Police and fire services are virtually unnecessary for the current use and would be minimally impacted by any potential O-1 development. Water and drainage uses will be similarly benign under both the current use of the property for parking and any future allowed O-1 use.

B. Stability of land use and zoning is desirable; therefore the applicant must provide a sound justification for change. The property has been used as a parking lot for over thirty years and that will not change if this request is granted. Therefore, there would be no impact on the stability of the land use, only in the zone category. In addition, the current R-2 zoning abuts C-2 on the south and R-2 on the north. Any R-2 development would not be buffered from the existing C-2 zoning.

Providing an O-1 transition zone would allow the current use to serve as a buffer between the C-2 and R-2 zoning, and any subsequent use of the property for an O-1 use would provide a similar buffer.

As noted, the limited impact permissive uses as well as the development standards make the O-1 zone a desirable buffer between a community commercial (C-2) and a low density multi-family (R-2) zone. The *Zoning Code* requires buffering, which may include solid fencing, landscaping and enhanced setbacks when a non-residential zone abuts a residential zone. The current use of the property may be required by the Zoning Enforcement Office to provide such buffering if this zone change is approved. If the zone category remains as R-2 and the parking lot is abandoned, any future R-2 use would not be buffered by the existing C-2 zoning on the south boundary, nor would any specific buffering be required between the abutting R-2 zone on the north.

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

Albuquerque/Bernalillo County Comprehensive Plan

The site is located in the Established Urban Area of the *Comprehensive Plan*. The Goal of this area is "to create a quality urban development which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles while creating a visually pleasing built environment."

Applicant believes that this request is supported by several policies of the *Comprehensive Plan* and does not significantly conflict with any adopted elements of that *Plan*. Specifically, applicant cites the following policies as justification for this request:

Policy II.B.5.a of the Developing and Established Urban Area of the *Comprehensive Plan* states: "The Developing Urban and Established areas shall allow a full range of urban land uses, resulting in a gross density of up to five dwelling units per acre." The current zoning in the area is predominantly C-2 and R-2. Approval of this request would expand the allowed uses in the area while providing a buffer between the R-2 and C-2 uses.

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

This is an existing parking lot with no change in use being considered at this time. In the 30+ years the parking lot has been used there have been no registered complaints with the zoning enforcement office. Permissive uses in the O-1 zone are generally low impact office and service uses and are designed to act as a buffer between residential uses and higher impact commercial uses.

Policy II.B.5.e says that "[n]ew growth shall be accommodated through development in areas where vacant land is contiguous to existing or programmed urban facilities and services where the integrity of existing neighborhoods can be ensured." This is vacant lot, being used as surface parking lot. There are no unprogrammed urban facilities or services affecting this site, nor would this be an issue for any future O-1 use.

Policy II.B.5.i: "Quality and innovation in design shall be encouraged in all new development; design shall be encouraged which is appropriate to the Plan area." This is a request to allow the continuation of a parking lot. Landscaping and buffering standards will apply. As a standard zone category there are no specific design regulations for subsequent uses.

Policy II.B.5.o states: "Redevelopment and rehabilitation of older neighborhoods in the Established Urban Area shall be continued and strengthened." There are ample multi-family developments in this neighborhood. The current use of the property for employee parking has never caused a problem. Eventual re-development of this site as an O-1 use would be more beneficial than another multi-family development abutting a C-2 zone. Additionally, the *Zoning Code* regulations regarding landscaping, upgraded paving and buffering will enhance the appearance of this lot.

- D. The applicant must demonstrate that the existing zoning is inappropriate because: 1) there was an error when the existing zone map pattern was created, or 2) Changed neighborhood or community conditions justify the change or, 3) a different use category is more advantageous to the community, as articulated in the Comprehensive Plan and other City master plans, even though 1 and 2 above do not apply.** As stated in the background section of this letter, the property has been used as a parking lot for over three decades. Applicant believes that a different use category would be more advantageous to the community. In addition, for whatever reason the parking lot was originally established, applicant believes that the use of the property for over thirty years as a parking lot also consists of changed conditions. However, as changed conditions generally refer to other zone changes in the vicinity or *Zoning Code* text changes, this argument will not be used as a justification.

The parking lot is used for employee and overflow customer parking for the popular restaurant, Los Quates. The restaurant site was developed before parking regulations were established. Seating capacity inside the restaurant is based entirely on occupancy requirements of the Fire Department and may not have any relationship to the current parking requirements for restaurants. Moreover, the building could be converted into another use with an even greater parking requirement, and therefore a greater parking deficit over current standards. When the parking lot was established, the property owners realized that inadequate parking for the restaurant could negatively impact the neighborhood and created additional off street parking for staff, as well as overflow parking for patrons. This has worked out quite well over the years.

Further, as explained previously, the uses allowed in the O-1 zone would add potential neighborhood oriented services (e.g., barber shop, dentist, insurance office) to the area.

The policies of the *Comprehensive Plan* noted in Section C. are also applicable here. As stated, applicant believes that each of those policies are furthered by this request. Specifically, applicant would reiterate and expand on the following policies:

Policy II.B.5.a of the Developing and Established Urban Area of the *Comprehensive Plan* states: "The Developing Urban and Established areas shall allow a full range of urban land uses, resulting in a gross density of up to five dwelling units per acre." The O-1 zone, as previously explains, will act as a buffer between the C-2 and R-2 zone while allowing the possibility for neighborhood oriented uses that are not as invasive as many of the commercial uses allowed in the C-2 zone.

Policy II.B.5.d: "The location, intensity and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources, and resources of other social, cultural and recreational concern." O-1 zoning will allow the continuation of the current use while subjecting that use to landscaping and buffer regulations that did not exist when the lot was first approved. Future use of the lot for permissive O-1 uses would be more beneficial than another duplex or four plex because needed services could be established on the lot. Further, regulations regarding landscaping, buffering and other design elements would enhance the adjoining neighborhood.

Policy II.B.5.e says that "[n]ew growth shall be accommodated through development in areas where vacant land is contiguous to existing or programmed urban facilities and services where the integrity of existing neighborhoods can be ensured." This is vacant lot, being used as surface parking lot.

There are no unprogrammed urban facilities or services affecting this site. Future O-1 uses will take advantage of existing infrastructure and provide adjoining neighborhood with potentially beneficial office and service uses, thus furthering this policy.

Policy II.B.5.i: "Quality and innovation in design shall be encouraged in all new development; design shall be encouraged which is appropriate to the Plan area." As perviously stated, this is a request to allow the continuation of a parking lot. Landscaping and buffering standards will apply. As a standard zone category there are no specific design regulations for subsequent uses. Applicant has stated that this policy does not conflict with this request, and the addition of the landscaping and buffering will further this policy.

Policy II.B.5.o states: "Redevelopment and rehabilitation of older neighborhoods in the Established Urban Area shall be continued and strengthened." Any upgrade to this property, either as a parking lot, or as a new O-1 use will strengthen the neighborhood because current development regulations will apply. The neighborhood would be strengthened by more service uses rather than by another residential use abutting a C-2 zone.

- E. A change of zone shall not be approved where some of the permissive uses in the zone would be harmful to the adjacent property, the neighborhood or the community.** The permissive uses in the O-1 zone are designed to be suitable to be used for buffer zoning between residential and non-residential uses. The property is small and would not allow room for development of any high impact permissive uses. Further this request should be judged against a future residential development abutting a C-2 zone. Approval of this zone map amendment would allow for the continuing buffer for the property to the north and assure no possible R-2/C-2 conflict in the future. The R-2/C-2 conflict would arise if a residential development was constructed on the property that would not be buffered by the existing C-2 use to the south. The permissive uses, as well as the buffering regulations would alleviate this potential conflict.
- F. A proposed zone change which, to be utilized though land development requires major and unplanned capital expenditures...may be denied.** This proposed zone change requires no capital expenditures of any type on the part of the City in order to be developed, therefore there this section is not applicable and the zone change request cannot be denied on these grounds.
- G. The cost of land and other economic considerations pertaining to the applicant shall not be a determining factor for a change of zone.** Applicant makes no argument regarding economic factors as they may apply specifically to this request. As such, neither the cost of land, nor any other economic consideration is being used to justify this request.

- H. Location on a collector or major street is not in itself sufficient justification of apartment, office or commercial zoning.** This property is not located on a collector or major street, therefore this zone change request does not use this section as justification. Further, the O-1 zone allows only 25% of the property to be permissively developed for residential purposes and allows no permissive commercial uses. Applicant requests that this zone change request be judged primarily by Sections C. & D. of this resolution.
- I. A zone change request which would give a zone different from surrounding zones to one small area, especially when only one premise is involved, is generally called a "spot zone."** Such a change of zone may be approved only when; (1) the change will clearly facilitate realization of the *Comprehensive Plan* and any adopted sector development plan or area plan, or (2) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for uses allowed in any adjacent zone due to topography, traffic for special adverse land uses nearby; or because the nature of structures already on the premises make the site unsuitable for the uses allowed in any adjacent zone." This is a spot zone in that the O-1 zone would be different than either the C-2 zone to the south or the R-2 zone to the north. Applicant believes that approval of this request will function as a transition between the abutting C-2 and R-2 zones as identified in part (2) of this section. The permissive uses in the O-1 zone, as well as the development regulations of that zone provide a more meaningful transition than the current C-2/R-2 configuration does.
- J. A zone change request which would give a zone different from surrounding zoning to a strip of land along a street is generally called "strip zoning."** Strip commercial zoning will only be approved where; (1) the change will clearly facilitate realization of the *Comprehensive Plan* and any adopted sector development plan or area plan, and (2) the area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for uses allowed in any adjacent zone due to traffic or special adverse land uses nearby. This request does not meet the definition of a strip zone because it is only one lot and is more appropriate to be considered as a "spot zone" as identified above.

Conclusions

This request is well supported by several policies and techniques of the *Comprehensive Plan*. Further, this property has been used as a parking lot for over thirty years. Approval of this request will allow the continuation of this use and provide for the opportunity to expand to other beneficial O-1 uses without negatively impacting the residential development in the area.

A positive consideration of this request is appreciated. I look forward to addressing the commission to answer any other questions that may arise.

Regards,

Doug Crandall
Principal, DAC Zoning & Land Use Services



City of Albuquerque

P.O. Box 1293, Albuquerque, NM 87103

PLEASE NOTE: The Neighborhood and/or Homeowner Association information listed in this letter is valid for one (1) month. If you haven't filed your application within one (1) month of the date of this letter – you will need to get an updated letter from our office.

May 14, 2013

Robert E. Romero
DAC Enterprises, Inc.
P.O. Box 16658/87191
Phone: 505-242-3232/Fax: 505-247-4530

Dear Robert:

Thank you for your inquiry of May 14, 2013 requesting the names of **ALL Neighborhood and/or Homeowner Associations and Coalitions** who would be affected under the provisions of O-92 by your proposed project at **(EPC SUBMITTAL) – LOT 21, BLOCK 4, CALDWELLS SUBDIVISION, LOCATED ON MONROE STREET NE BETWEEN LOMAS BOULEVARD NE AND MARBLE AVENUE NE** zone map: **J-17**.

Our records indicate that the **Neighborhood and/or Homeowner Associations and Coalitions** affected by this proposal and the contact names are as follows:

SEE "ATTACHMENT A" FOR THE NAMES OF THE NEIGHBORHOOD AND/OR HOMEOWNER ASSOCIATIONS AND COALITIONS THAT NEED TO BE CONTACTED IN REGARDS TO THIS EPC SUBMITTAL – please attach this letter and Attachment A to your application packet – siw.

Please note that according to O-92 you are required to notify each of these contact persons by **certified mail, return receipt requested, before** the Planning Department will accept your application filing. **IMPORTANT! Failure of adequate notification may result in your Application Hearing being deferred for 30 days.** If you have any questions about the information provided, please contact me at (505) 924-3902 or via an e-mail message at swinklepleck@cabq.gov or by fax at (505) 924-3913.

Sincerely,

Stephani Winklepleck

Stephani Winklepleck
Neighborhood Liaison
OFFICE OF NEIGHBORHOOD COORDINATION
Planning Department

**LETTERS MUST BE SENT TO BOTH
CONTACTS OF EACH
NEIGHBORHOOD AND/OR
HOMEOWNER ASSOCIATION.**

Oncinquiry@trwna/hoa (05/14/13)

ATTACHMENT A

Robert E. Romero
DAC Enterprises, Inc.
P.O. Box 16658/87191
Phone: 505-242-3232/Fax: 505-247-4530
Zone Map: J-17

PUEBLO ALTO N.A. "R"

***Sally Berger**

833 Manzano NE/87110 260-1964 (h)

Jeffrey Brooks

808 Manzano St. NE/87110 450-8285 (c)

DISTRICT 7 COALITION OF N.A.'S

***Bill Hoch**, 813 Calle Del Corte NE/87110 265-0606 (h) 841-7114 (w)

Lynne Martin, 1531 Espejo NE/87112 294-0435 (h)

*** President of association/coalition**

!!!Notice to Applicants!!!

SUGGESTED INFORMATION FOR NEIGHBORHOOD NOTIFICATION LETTERS

Applicants for Zone Change, Site Plan, Sector Development Plan approval or an amendment to a Sector Development Plan by the EPC, DRB, etc. are required under Council Bill O-92 to notify all affected neighborhood and/or homeowner associations **PRIOR TO FILING THE APPLICATION TO THE PLANNING DEPARTMENT**. Because the purpose of the notification is to ensure communication as a means of identifying and resolving problems early, it is essential that the notification be fully informative.

WE RECOMMEND THAT THE NOTIFICATION LETTER INCLUDE THE FOLLOWING INFORMATION:

1. The street address of the subject property.
2. The legal description of the property, including lot or tract number (if any), block number (if any), and name of the subdivision.
3. A physical description of the location, referenced to streets and existing land uses.
4. A complete description of the actions requested of the EPC:
 - a) If a **ZONE CHANGE OR ANNEXATION**, the name of the existing zone category and primary uses and the name of the proposed category and primary uses (i.e., "from the R-T Townhouse zone, to the C-2 Community Commercial zone").
 - b) If a **SITE DEVELOPMENT OR MASTER DEVELOPMENT PLAN** approval or amendment describes the physical nature of the proposal (i.e., "an amendment to the approved plan to allow a drive-through restaurant to be located just east of the main shopping center entrance off Montgomery Blvd.").
 - c) If a **SECTOR DEVELOPMENT PLAN OR PLAN AMENDMENT** a general description of the plan area, plan concept, the mix of zoning and land use categories proposed and description of major features such as location of significant shopping centers, employment centers, parks and other public facilities.
 - d) The name, address and telephone number of the applicant and of the agent (if any). In particular the name of an individual contact person will be helpful so that neighborhood associations may contact someone with questions or comments.

Information from the Office of Neighborhood Coordination

The following information should always be in each application packet that you submit for an EPC or DRB application. Listed below is a "Checklist" of the items needed.

- ☒ **ONC's "Official" Letter to the applicant (if there are associations). A copy must be submitted with application packet -OR-**
- ☐ **The ONC "Official" Letter (if there are no associations). A copy must be submitted with application packet.**
- ☒ **Copies of Letters to Neighborhood and/or Homeowners Associations (if there are associations). A copy must be submitted with application packet.**
- ☒ **Copies of the certified receipts to Neighborhood and/or Homeowners Associations (if there are associations). A copy must be submitted with application packet.**

Just a reminder - Our ONC "Official" Letter is only valid for a one (1) month period and if you haven't submitted your application by this date, you will need to get an updated letter from our office.

Any questions, please feel free to contact Stephani at 924-3902 or via an e-mail message at swinklepleck@cabq.gov.

Thank you for your cooperation on this matter.

(below this line for ONC use only)

Date of Inquiry: 05/14/13 Time Entered: 4:40 p.m. ONC Rep. Initials: siw

May 20, 2013

CERTIFIED MAIL
PUEBLO ALTO NEIGHBORHOOD ASSOCIATION
 Sally Berger
 833 Manzano NE
 Albuquerque, NM 87110

**Re: Request for a Zone Map Amendment – Lot 21, Block 4, Caldwell's Subdivision
 New Year Addition**

Dear Ms. Berger:

DAC Enterprises, Inc. has been authorized to represent Mr. Damon and Mrs. Carmen M. Martinez in requesting approval for a Zone Map Amendment from R-2 to O-1 for a lot located in the 600 block of Manzano Street NE, north of Lomas Boulevard. The lot in question has been used as an off-street parking lot for employees of Los Quates Restaurant for over 30 years. This request will allow the continuation of the off-street parking use and provide for the opportunity to expand to other future beneficial O-1 uses without negatively impacting the residential development in the area.

Enclosed for your review is a copy of Zone Map J-17 to help you with the location of the property. We will file the application with the City of Albuquerque Planning Department by the May 30, 2013 deadline for a public hearing before the Environmental Planning Commission on July 11, 2013.

We will be more than happy to discuss our request with you and your association and answer any questions you may have.

Sincerely,

Doug Crandall
 Doug Crandall
 Principal

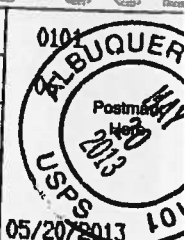
Cc: Jeffrey Brooks, 808 Manzano NE, Albuquerque, NM

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Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$6.31



Sent To **SALLY BERGER**
 Street, Apt. No.,
 or PO Box No. **833 MANZANO NE**
 City, State, ZIP+4 **ALBUQ, NM 87110**

PS Form 3800, August 2006

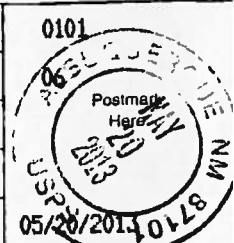
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Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$6.11



Sent To **JEFFREY BROOKS**
 Street, Apt. No.,
 or PO Box No. **808 MANZANO NE**
 City, State, ZIP+4 **ALBUQ, NM 87110**

May 20, 2013

CERTIFIED MAIL
DISTRICT 7 COALITION OF NEIGHBORHOOD ASS
Bill Hoch
813 Calle Del Corte NE
Albuquerque, NM 87110

**Re: Request for a Zone Map Amendment – Lot 21, Block 4, Caldwell's Subdivision
New Year Addition**

Dear Mr. Hoch:

DAC Enterprises, Inc. has been authorized to represent Mr. Damon and Mrs. Carmen M. Martinez in requesting approval for a Zone Map Amendment from R-2 to O-1 for a lot located in the 600 block of Manzano Street NE, north of Lomas Boulevard. The lot in question has been used as an off-street parking lot for employees of Los Quates Restaurant for over 30 years. This request will allow the continuation of the off-street parking use and provide for the opportunity to expand to other future beneficial O-1 uses without negatively impacting the residential development in the area.

Enclosed for your review is a copy of Zone Map J-17 to help you with the location of the property. We will file the application with the City of Albuquerque Planning Department by the May 30, 2013 deadline for a public hearing before the Environmental Planning Commission on July 11, 2013.

We will be more than happy to discuss our request with you and your association and answer any questions you may have.

Sincerely,

Doug Crandall
Doug Crandall
Principal

Cc: Lynne Martin, 1531 Espejo NE, Albuquerque, NM 871

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Total Postage & Fees	\$	\$6.31

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05/20/2013

Sent To

BILL HOCH

Street, Apt. No.,
or PO Box No.

813 CALLE DEL CORTE NE

City, State, ZIP+4

ALBUQ, NM 87110

PS Form 3800, August 2006

See Reverse for Instructions

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Return Receipt Fee (Endorsement Required)		\$2.55
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$6.11

05/20/2013

Sent To

LYNNE MARTIN

Street, Apt. No.,
or PO Box No.

1531 ESPEJO NE

City, State, ZIP+4

ALBUQ, NM 87112

PS Form 3800, August 2006