

Planning Department
David Campbell, Director

Development Review Division

600 2nd Street NW – 3rd Floor

Albuquerque, NM 87102

NOTICE OF APPEAL

January 22, 2018

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on January 17, 2019. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer**. If you have any questions regarding the appeal please contact Alfredo Salas, Planning Administrative Assistant at (505) 924-3370.

Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-19-1

PLANNING DEPARTMENT CASE FILE NUMBER: 2018-001763

VA-2018-00188

**APPELLANT: William Sabatini
2904 Arno St. NE
Albuquerque NM, 87102**

cc: Crystal Ortega, City Council, City County Bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
ZHE File

SBS Construction & Engineering, 10209 Snowflake Ct NW, ABQ, NM 87114

Gretchen Carr, 3014 Franciscan NE, ABQ, NM 87107

Dixie Colvin, 3012 Franciscan NE, ABQ, NM 87107

William Sabatini, 2904 Arno NE, ABQ, NM 87107

Mark Lines, 3010 Arno St. NE, ABQ, NM 87107

Deanna Dyke, 3010 Franciscan NE, ABQ, NM 87107

Richard Saylor, 5565 Eakes Rd NW, ABQ, NM 87107



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

Administrative Decisions	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	Policy Decisions
<input type="checkbox"/> Historic Certificate of Appropriateness – Minor (Form L)	<input type="checkbox"/> Master Development Plan (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Historic Designation (Form L)
<input type="checkbox"/> WVF Approval (Form W1)	<input type="checkbox"/> Site Plan – DRB (Form P2)	<input type="checkbox"/> Amendment of IDO Text (Form Z)
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Subdivision of Land – Minor (Form S2)	<input type="checkbox"/> Annexation of Land (Form Z)
Decisions Requiring a Public Meeting or Hearing	<input type="checkbox"/> Subdivision of Land – Major (Form S1)	<input type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)
<input type="checkbox"/> Conditional Use Approval (Form ZHE)	<input type="checkbox"/> Vacation of Easement or Right-of-way (Form V)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)
<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Variance – DRB (Form V)	Appeals
<input type="checkbox"/> Expansion of Nonconforming Use or Structure (Form ZHE)	<input type="checkbox"/> Variance – ZHE (Form ZHE)	<input checked="" type="checkbox"/> Decision by EPC, LC, DRB, ZHE, or City Staff (Form A)

APPLICATION INFORMATION

Applicant: WILLIAM SABATINI		Phone: 505.250.0497
Address: 2904 ARNO ST NE		Email: bills@dpdesign.org
City: ALBUQUERQUE	State: NM	Zip: 87107
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:		List all owners:

BRIEF DESCRIPTION OF REQUEST

APPEAL OF CONDITIONAL USE APPROVAL

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

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

LOCATION OF PROPERTY BY STREETS

Site Address/Street: **SW CORNER OF** Between: **EDITH AND CANDELARIA NE**

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

Proj # 2018-001763

Signature:	Date: 1.17.19
Printed Name: WILLIAM G. SABATINI	<input checked="" type="checkbox"/> Applicant or <input type="checkbox"/> Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees
VA-2019-00030	Appeal	\$265.00
Meeting/Hearing Date:	Fee Total: \$265.00	
Staff Signature:	Date: 1-17-19	Project # PR-2018-001763

FORM A: Appeals

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

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

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

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


- ___ Interpreter Needed for Hearing? ___ if yes, indicate language: _____
- ☒ Project number of the case being appealed, if applicable: PR-2018-001763
- ☒ Application number of the case being appealed, if applicable: VA-2018-00188
- ☒ Type of decision being appealed: Conditional Use Approval
- ☒ Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(U)(4)
- ☒ Appellant's basis of standing in accordance with IDO Section 14-16-6-4(U)(2)
- ☒ Letter of authorization from the appellant if appeal is submitted by an agent
- ☒ Copy of the Official Notice of Decision regarding the matter being appealed

I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.

Signature: William Sabatini Date: 1.17.19

Printed Name: WILLIAM SABATINI ☒ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Project Number:	Case Numbers
<u>PR-2018-001763</u>	<u>VA-2019-00030</u>
Staff Signature: <u>[Signature]</u>	
Date: <u>1-17-19</u>	

Effective 5/17/18



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

Saylor Family Trust requests a conditional use to allow auto sales in an MX-L zone for Lot 20, Block 7, Stronghurst Addition, located at 99999 Edith Blvd NE, zoned MX-L [Section 14-16-4-2-1]

Special Exception No:..... **VA-2018-00188**
Project No: **Project#2018-001763**
Hearing Date: 12-18-18
Closing of Public Record: 12-18-18
Date of Decision: 01-02-19

On the 18th day of December, 2018, Shawn Biazar, SBS Construction & Engineering, agent for property owner Saylor Family Trust ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a conditional use to allow auto sales in an MX-L zone ("Application") upon the real property located at 3015 Edith Blvd NE ("Subject Property"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow auto sales in an MX-L zone.
2. The City of Albuquerque Code of Ordinances Section 14-16-6-6(A)(3) (Review and Decision Criteria- Conditional Use) reads: *"An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
 - (a) *It is consistent with the ABC Comp. Plan, as amended;*
 - (b) *It complies with all applicable provisions of the IDO, including, but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property;*
 - (c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
 - (d) *It will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts;*
 - (e) *It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4-(F)(2).
4. Shawn Biazar, agent for owner appeared and gave evidence in support of the application.
5. Richard Saylor, managing partner of owner Saylor Family Trust appeared and gave evidence in support of the application.
6. All property owners within 100 feet and affected neighborhood association(s) were notified of the application.
7. Stronghurst Improvement Association and North Edith Commercial Corridor Association are the affected NAs.
8. The subject property is currently zoned MX-L.

9. The purpose of the MX-L zone district is to provide for neighborhood scale convenience shopping needs, primarily at the corners of collector intersections.
10. The application complies with applicable Use-Specific Standards of the IDO, the DPM and other City regulations.
11. There are no other conditions applied on the property by a prior permit or approval.
12. The subject property is designated an Area of Consistency by the ABC Comp. Plan.
13. The proposed site is bounded to the west and south by residential zone districts.
14. There are a number of commercial businesses in the surrounding area.
15. The subject property for the proposed use is the southwest corner of the intersection of Candelaria and Edith NW.
16. There is a large retail mini-mall gasoline station located diagonally on the northeast corner of the intersection.
17. The proposed use is a small professional business office, and a modest light auto retail business.
18. The automobiles offered for sale would be higher quality.
19. The applicant estimated daily sales to average 2 per day.
20. The proposed business hours would be 9:00 am to 5:00 pm, and open Saturdays for half day.
21. There is no proposed change to in existing access to the subject property.
22. A letter signed by William Sabatini, president of the Stronghurst NA, dated November 30, 2018, was submitted in opposition to the proposed use.
23. The letter stated strong opposition to the proposed use.
24. The proposed use within the boundaries of a residential zone, make the proposed use incompatible with the existing residential use.
25. The NA sees no benefit for the area, and feel the proposed use will be a detriment to the area.
26. The NA feels additional light for the proposed use will disturb the residents of adjacent properties.
27. The NA feels the limited access to the property from Eastbound Candelaria and Southbound Edith, will create traffic hazards and encourage drivers to take short cuts through the residential neighborhood.
28. William Sabatini, 2904 Arno NE, appeared and gave evidence in opposition to the application.
29. He restated the items contained in this letter in opposition.
30. He also stated he felt that the NA could trust Mr. Biazar, however, expressed concerns that if applicant's business was not successfully, the NA was concerned about future possible persons who might not be as trustworthy.
31. Gretchen Carr, 3014 Franciscan NE, appeared and gave evidence in opposition to the application.
32. She is the neighbor behind the subject property.
33. She expressed concerns that the commercial lighting for the proposed use would disturb her peace.
34. Biazar appeared and responded to the concerns and potential injury to the neighborhood expressed by those in opposition to the application.
35. Owner Saylor also appeared and gave responses to the concerns and complaints expressed in opposition.
36. Both stated their agreement to assure the design and site plan will comply with all required design and use standards.

37. They agreed they would comply with lighting standards that would not impact any adjacent properties.
38. They agreed to comply with any landscape and buffer requirements to mitigate any adverse visual impacts on the surrounding neighborhood.
39. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by, Section 14-16-6-6(A)(3)(a).
40. The proposed use complies with all applicable provisions of the IDO, including, but not limited to any Use-Specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; any conditions specifically applied to the development of the property in a prior permit or approval affecting the property, as required by Section 14-16-6-6(A)(3)(b).
41. The proposed use will not create significant adverse impacts on the adjacent properties, the surrounding neighborhood or the larger community, as required by, Section 14-16-6-6(A)(3)(c).
42. Any potential adverse impacts shall be mitigated by applicant's compliance to all Use-Specific Standards, and all design standards as stated in Conditions for Approval below.
43. The proposed use will not create material adverse impacts on other land in the surrounding area through increased traffic congestion, parking congestion, noise or vibration as required by Section 14-16-6-6(A)(3)(d).
44. The proposed use will not increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 8:00PM and 6:00AM as required by Section 14-16-6-6(A)(3)(e).
45. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
46. The ZHE finds that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
47. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow auto sales in an MX-L zone.

CONDITIONS:

Applicant shall comply with all applicable Use Regulations and Development Standards listed in Sections 14-16-4-3(D)(19) and 14-16-5-9.

If you wish to appeal this decision, you must do so by January 17, 2019 in the manner described below. A non-refundable filing fee will be calculated at the Planning Department's Land Development Coordination counter and is required at the time the Appeal is filed.

Appeal must be filed with the Planning Department within 15 days after the decision. The appeal shall specifically state the section of the Integrated Development Ordinance, City regulation, or condition attached to a decision that has not been interpreted correctly, as required by Section 14-16-6-4(U)(3)(a)(3) of the Integrated Development Ordinance. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west

side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

Once an appeal is accepted by the Planning Department, it shall prepare and transmit a record of the appeal together with all appeal material received from the appellant to impacted parties and to the Land Use Hearing Officer (LUHO) through the Clerk of the City Council.

The LUHO shall then schedule a hearing on the matter within 30 consecutive days of receipt and notify the parties, pursuant to Section 14-16-6-4(U)(3)(d).

The Planning Department shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

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

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



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
SBS Construction & Engineering, 10209 Snowflake CT NW, 87114
Gretchen Carr, 3014 Franciscan NE, 87107
Dixie Colvin, 3012 Franciscan NE, 87107
William Sabatini, 2904 Arno NE, 87107

Mark Lines, 3010 Arno ST NE, 87107
Deanna Dyke, 3010 Franciscan NE, 87107
Richard Saylor, 5565 Eakes Rd NW, 87107

January 17, 2019

Planning Department
City of Albuquerque
600 Second Street NW
Albuquerque, NM 87102

RE: **Request for conditional use to allow an auto sales lot at 3017 Edith Blvd. NE**
Special Exception No: VA-2018-00188
Project No: 2018-001763
Hearing Date: 12-18-18
Closing of Public Record: 12-18-18
Date of Decision: 01-02-19

The Stronghurst Improvement Association is a recognized neighborhood association with the City of Albuquerque, Office of Neighborhood Coordination and as such has legal standing in zoning matters that fall within the boundaries of the neighborhood association. Founded in 1926, Stronghurst is the oldest neighborhood in Albuquerque. As President of the Stronghurst Improvement Association Board of Directors, I file this APPEAL on behalf of my neighborhood to rescind the decision to approve this request. In reaching the findings on this case, we submit there were errors and omissions in the findings and strongly believe this decision will have a far-reaching negative impact on the neighborhood based on the following reasons:

Finding #9: "the purpose of the MX-L zone district is to provide for neighborhood scale convenience shopping ..."

We fail to understand how an auto sales lot qualifies as "neighborhood scale convenience shopping" in any context. We do not find a car sales lot in the description of "neighborhood convenience shopping" in either the Comp Plan or the IDO. It is therefore an overreaching stretch to designate a retail automobile location with garage as "Neighborhood Convenience Shopping Needs."

When the IDO refers to Light Vehicle Sales, Incidental Maintenance and servicing, or Outdoor Vehicle Storage in Sections 4-3-19, 4-3 -20, or 14-6-4 for instance, in MX-H zones and the Downtown Neighborhood, this use is strictly prohibited. If we were to rightly consider the Stronghurst Neighborhood as similar to the Downtown Neighborhood, we believe these same standards in principle should be imposed. If so, it is logical to conclude the Conditional Use request for auto sales should be denied.

In addition, in MX zones where it is allowed, the sales and display areas are prohibited within 50 feet of any Residential Zone and within any front setback area. In the case of this specific site in question, where two full sides are surrounded by residential zones, imposing those restrictions would severely compromise the effective layout and number of cars on the lot, rendering this site a poor choice for a car lot.

Finding 39: "the request for conditional use at this property is consistent with the ABC Comp Plan, as amended, as required by Section 14-16-6 (A)(3)(a)." **Finding 10:** states "the application complies with applicable Use-Specific Standards of the IDO, the DPM, and other City Regulations."

To address both findings, it requires you to step back and consider the **clearly stated purpose of the IDO based on the Number 1 Guiding Principle of the ABC Comp Plan:**

Enhance, protect, and preserve distinct communities.

"STRONG NEIGHBORHOODS: New development creates desirable places to live and encourages diverse housing and amenities, while respecting the unique history and character of each neighborhood.

Guiding Principles are a major outcome of public engagement efforts. They represent the most prominent themes voiced by community members in 2015 and provide a community and value-based framework for the Vision. The six principles capture our values and aspirations as a community and underlie the goals, policies, and actions in each element of the Comp Plan."

The purpose of the IDO is clear:

- 1) Implement the adopted ABC Comprehensive Plan as amended.*
- 2) Ensure that all development in the City is consistent with the spirit and intent of any other plans and policies adopted by City Council.*
- 3) **Protect the quality and character of residential neighborhoods.** (the emphasis is ours)*

It is clear, a car sales lot in the location proposed at the gateway to the Stronghurst Neighborhood is at cross purposes to the ABC Comp Plan and the IDO. A low-level land use, it is visually and functionally inconsistent with the neighborhood, and works against, not for the goal to protect or uphold the quality and character of the Stronghurst Neighborhood. Property values will drop, sales of Stronghurst properties will become more difficult, and the viability of the neighborhood will be jeopardized. The words of a longtime resident and real estate agent in the neighborhood states this convincingly:

"Location: the prominent corner of Edith and Candelaria is the East to West introduction to the Stronghurst neighborhood. While this is an area of mixed use, the jewel is our wonderful tree-lined residential streets. A used car lot of cheap cars is a very poor first impression.

Lack of Permanence. Opening a low dollar, low end used car lot has little financial barrier with minimal investor risk. These businesses are often seen and perceived as transitory, dishonest and shady. Dovetailing such a temporary type enterprise with multigenerational homes in a quiet residential neighborhood is counter-intuitive. I have yet to see a residential neighborhood benefit from a low budget used car lot.

Preserving and increasing property values should be the goal of zoning.

Comps and appraisals. To get a second mortgage, loan modification or to sell a property, an appraisal is done. Because Stronghurst is a very stable neighborhood and not a homogenous, cookie cutter subdivision with 100's of homes and frequent sales to work with, appraisers expand their search parameters to other residential areas to search for like properties. Upon finding suitable properties, comparing apples to apples, consideration is also given to the immediate surroundings. Imagine comparing two similar homes, one next to a park, the other the low end used car lot. Which do you think will have a higher value? Allowing this project saddles our neighborhood with a negative feature that we cannot overcome. It handicaps our ability to compete for higher values with similar properties in other areas. This is a definite adverse effect."

The newly renovated property at 3018 Franciscan NE, immediately south of the subject site and owned by Mr. Ed Tafoya, has been listed for sale since September of 2018. That is now five months ago. Mr. Tafoya will testify that he has received no offers despite many visits to the property. This is in contrast to another property just across the street on Franciscan listed later and priced higher that was sold last week. He and his realtor attribute that to the impending car sales lot in question.

Finding 12: "the subject property is designated an Area of Consistency by the ABC Comp. Plan."

This neighborhood was established originally in 1926, well before comprehensive zoning was established in the 1950's. This well-defined area as shown in the aerial photo remains a vibrant area and very livable neighborhood. It is not listed as an area of change, or transition in the Comp Plan but **is properly designated as an area of consistency**, and as such any non-residential activity is inconsistent with the spirit of the Comp Plan's definition of area of consistency. The Comp Plan states:

*"An area designated as an Area of Consistency in the ABC Comprehensive Plan, as amended,... development must reinforce the character and intensity of existing development . . . Areas of Consistency (mostly single-family neighborhoods and green spaces outside of Centers and Corridors), will experience limited new development. Change that does occur will reinforce or enhance the existing character of those neighborhoods. . . **any development that happens should be designed carefully to reinforce the character, scale, and intensity of surrounding neighborhoods or nonresidential development** . . . a guidance tool, Areas of Change and Consistency direct more dense development to areas where growth is desired (Areas of Change). In parallel, it is used to apply policies limiting new development to an intensity and scale consistent with places that are highly valued for their existing character (Areas of Consistency).*

This is Stronghurst. Furthermore, the ONLY non-residential property in the SW quadrant of Edith and Candelaria NE is the property in question. Current residents who have lived in the neighborhood for well over 50 years know the property in question was once zoned residential, before zoning notifications were established. They were never notified of a zone change. Ideally this property should never have been granted a C-1 designation without neighborhood input. We are now dealing with a proposed development as a result of the commercial zoning that will demonstrably have a negative affect on the visual character of the area resulting in subsequent decreases in property values.

Finding 17, 18, 19: States "the proposed use is a small professional business office, and a modest light auto retail business . . . the automobiles offered for sale would be higher quality . . . the applicant estimated daily sales to average 2 per day."

Daily sales projections demonstrate a lack of a real understanding of an independent retail auto business. Will Mr. Biazar sell 10 cars, roughly 50% of his on-site inventory, every week?

The City of Albuquerque has very stringent design rules for auto lots. Is Mr. Biazar aware of these requirements and the financial commitments necessary to meet them? We are worried about whether his car sales business is sustainable. If his business fails or falters we will be left with another abandoned site? Still worse, we will have a site that now has, by this precedent, the ability to remain a car sales lot. Not a future that enhances the value of the neighborhood or benefits the area.

Findings 34-38: States the applicants, "Mr. Biazar and Mr. Saylor, agreed to comply with required design and use standards, lighting standards, and any landscape and buffer requirements to mitigate any adverse visual impacts on the surrounding neighborhood."

The imposition and enforcement of design standards will not alleviate the adverse effects on the adjacent property owners, the surrounding neighborhood, and the general area. The use, the fact this will be a **car sales lot** is the issue here, not how pretty one can make it or how disguised it may become. Mr. Saylor stated they want to develop a high-class development. That could not be accomplished even if they were to sell Cadillacs or Rolls Royces. In reality, Mr. Biazar stated he would be selling vehicles in the range of \$5,000 to \$10,000. Another longtime neighborhood resident, a sales consultant for CARMAX with years of experience, states vehicles in that range of value are truly on the low end of used vehicles, typically with high mileage, potential frame or structural damage, or title issues. A car lot is a car lot. A low-end car lot will not make the overall area better and will diminish the quality of our neighborhood.

Finding 40: "the request for conditional use at this property complies with all applicable provisions of the IDO, including but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3, the DPM, other City adopted City regulations . . ."

Since the IDO is mostly an implementation device to affect the policies of the legally adopted Comp Plan, we do not understand how an application can comply with provisions of the IDO and its Use Specific

Standards when no design is prepared, reviewed or approved or physical improvements are in place?
This finding appears to be pre-mature. Intentions don't constitute compliance.

Finding 41: "the proposed use will not create significant adverse impacts on the adjacent properties, the surrounding neighborhood or the larger community as required by Section 14-16-6 (A)(3)(c)."

Finding 43: "the proposed use will not create material adverse impacts on the other land in the surrounding area through increased traffic congestion, parking congestion, noise or vibration as required by Section 14-16-6 (A)(3)(d)."

We have raised concerns in previous correspondence and statements at the initial hearing about **public safety**. We currently experience traffic through the neighborhood by those seeking a shortcut to avoid the traffic light at Candelaria and Edith, most frequently on Franciscan. This site's access is limited requiring those traveling north on Edith or West on Candelaria to negotiate U-turns to enter the site. Northbound drivers will use Franciscan as a shortcut thus increasing potentially dangerous traffic on a street occupied by children and elderly adults, typical residents of Stronghurst. A U-turn on Candelaria by westbound drivers, due to the high volume of traffic, is quite hazardous. We understand any use of the site in question could have the same affect. A residential use would certainly have less.

No one has considered the potential for **disturbing noise** from this business, specifically by an alarm during off hours triggered by intruders or just the wind. Operating this car lot without an alarm would not be prudent. We therefore expect this will be a reality for the adjacent neighbors and most undesirable.

We are concerned about the visual quality of this site which is located at a highly visible, prominent location. Many accurately perceive it as a gateway to the Stronghurst neighborhood. A low-end car lot will not visually communicate anything positive about the area and the neighborhood. It does not respect the character of the neighborhood, a key goal of the Comp Plan and the IDO. No amount of landscaping will achieve an acceptable image. The reality is that street trees will not be a part of the landscaping, a very positive feature of Stronghurst, since they will obstruct the view to the goods for sale, the cars. This development will never be in character with the neighborhood.

Since this area is not a designated area of change, this proposed development is more suited to Areas of Change where it is expected and desired, while ensuring that development near Areas of Consistency reinforce the character and intensity of the surrounding area. This proposed use does none of the above.

Since the Stronghurst neighborhood is adjacent to County property, some elements of the North Valley Area plan are applicable where the key goal is to "preserve and enhance the environmental quality of the North Valley . . ."

The Notice Of Decision makes conclusory statements concerning existing neighborhoods without any evidence. A key question is, "does the conclusory statements in the Notice Of Decision ensure the integrity of the Stronghurst neighborhood. Stability of land use and zoning is desired. This project sets a dangerous precedent in that developers may purchase a residential parcel of land, request a zone change to commercial, in this case MX-L, and greatly increase the value of the land while diminishing the surrounding neighborhood character and values. A project should not move forward when it is found to be in significant conflicts with the comprehensive plan and IDO.

We have attached with this appeal a series of letters from residents of the neighborhood and leaders from surrounding neighborhood associations in support of our cause. Their statements, feelings, and concerns reinforce all the points we make here and more. We also know we will be supported by the neighboring businesses, who are concerned about the any issues that threaten the value and character of the area.

Finally, these findings are at the heart of our protest and appeal. To conclude that this development will not create adverse impacts on the adjacent properties, the surrounding neighborhood or the larger community is simply not true. The approval of this conditional use ignores the policies, purpose and intentions of the Comp Plan and the IDO, both legal documents whose policies and ordinances must be

adhered to. The aspirations of the Comp Plan are not just pie in the sky dreams as maybe the general public perceives. They are based on policies established through hours of open public meetings, official votes by elected officials, and binding signatures by those of authority. They are the law. The findings and approval of this request inexplicably disregard this fact. The findings indicate an outlook so focused on the trees it does not see the forest. If we accept this, we will not progress as a City and our efforts to regulate development are a waste of time and money.

Sincerely,

A handwritten signature in black ink, appearing to read 'WS', with a long horizontal flourish extending to the right.

William Q. Sabatini, FAIA, ACHA
Board President
Stronghurst Improvement Association Inc.

Cc: Board of Stronghurst Improvement Association Inc.
Attachments (6)

January 13, 2019

Dear Bill,

As a Stronghurst resident for 30+ years and active real estate broker for 15, I want to weigh in on the proposed use and allowance for car sales at the corner lot on Edith and Candelaria.

The examiner has stated there would be no adverse impact on the neighborhood. I disagree as follows:

First: Location: the prominent corner of Edith and Candelaria is the East to West introduction to the Stronghurst neighborhood. While this is an area of mixed use, the jewel is our wonderful tree-lined residential streets. A used car lot of cheap cars is a very poor first impression.

Second: Lack of Permanence. Opening a low dollar, low end used car lot has little financial barrier with minimal investor risk. These businesses are often seen as transitory, dishonest and shady. Dovetailing such a temporary type enterprise with multigenerational homes in a quiet residential neighborhood is counter-intuitive. I have yet to see a residential neighborhood benefit from a low budget used car lot.

Preserving and increasing property values should be the goal of zoning.

Third: Comps and appraisals. To get a second mortgage, loan modification or to sell a property, an appraisal is done. Because Stronghurst is not a homogenous, cookie cutter neighborhood with 100's of homes and frequent sales to work with, appraisers expand their search parameters to other residential areas to search for like properties. Upon finding suitable properties, comparing apples to apples, consideration is also given to the immediate surroundings. Imagine comparing two similar homes, one next to a park, the other the low end used car lot. Which do you think will have a higher value? Allowing this project saddles our neighborhood with a negative feature *that we cannot remedy* and it handicaps our ability to compete for higher values with similar properties in other areas. This is a definite adverse effect.

Why bother with zoning at all if it can be modified and diluted from its original purpose? Allowing one project sets precedence and creates a nasty slippery slope for future projects.

Infill per se is not the objection, it's this project. We have infill projects that employed best and highest use of the land and the results are both advantageous and welcomed. Allowing a low dollar car lot on a prominent corner in our neighborhood is not. As a professional Realtor, I strongly disapprove and encourage this request be denied.

Thank you.



Alyce Martin, Broker

Alyce Martin Realty

cell: 505-331-8285

email: alycemartinabq@gmail.com

2900 Arno Street, N.E.

Albuquerque, NM 87107

January 12, 2019

Dear Bill,

I am writing you this letter to support the Stronghurst Neighborhood Appeal of the findings of the Zoning Hearing Examiner regarding the Conditional Use to allow auto sales at 3015 Edith Blvd NE. The Examiner found that there would not be adverse impact on adjacent properties by this Conditional Use. I am a retired residential Realtor (30 years and specializing in the North Valley). I sold 11 houses in the Stronghurst Neighborhood and have lived in Stronghurst since 1985. I was also President of the neighborhood association for 10 years. Therefore, I know this area quite well.

In real estate, there are some issues that are difficult to measure that can contribute or diminish value. We all just know that a good view or great landscaping will add to a value but it is hard to put an exact measure on how much. We also know that other things diminish value like poor conditions or bad surroundings. Again, it is hard to put an exact measure. We know historically that the residential neighborhoods next to the car lots on Lomas have been devalued. It simply makes sense that a property right next to a car lot will suffer in value. I never had a buyer who asked me to find a property next to a car lot! It isn't desirable!

Therefore, I simply don't understand The Examiner's findings on this lot. The idea that putting a car lot next to an existing residential neighborhood will not impact value is ludicrous! This low-end car lot will diminish the value of surrounding lots. Because it is located at the entrance to our neighborhood, it's presence will diminish the value of the entire neighborhood.

We are not naive in choosing to live here. We are the oldest neighborhood in the city and we know commercial development moved in around us. We have tried to protect our rural feel and yet have been supportive of high quality developments coming in near us. We supported all of the Warehouse development to the immediate south of us because of the high quality. We supported the townhome project near Menaul School.

We've been active in fighting inferior infill projects that we feel will be detrimental to our improvement and general welfare. We are in a very edgy environment. A few bad decisions can greatly impact our values and our way of life. We aren't a low-end used car lot kind of neighborhood. Allowing this use will diminish our neighborhood. Mr. Saylor wants to sell his lots but seems to be desperate all of a sudden. They have been sitting empty for years. He has put horrible fencing with barbed wire around the lots. We are all for a development that adds to our value. Something with a building.... not a shop! A real investment. I'm disappointed the Mr. Saylor isn't concerned with putting in a quality infill. He seems to be out for a quick buck. Why do we need to take the brunt of his blight? Please reconsider this decision.

Thanks,


Beth Brownell



NNVNA
PO Box 6953
ALBUQUERQUE, NM
87197

MARIT TULLY
PRESIDENT, 385-7863

JOE SABATINI
SECRETARY, 344-9212

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Copy:
City Council President
Klarissa Pena
District Two City Councilor
Isaac Benton
David Wood
Peggy Norton

NEAR NORTH VALLEY NEIGHBORHOOD ASSOCIATION

**VOLUNTEERS WORKING INCLUSIVELY TO PROTECT,
PRESERVE, AND ENHANCE THE COMMUNITY**

January 17, 2019

Bill Sabatini
President, Stronghurst Improvement Association, Inc.
bills@dpsdesign.org

Re: Case #VA-2018-00188, Project #PR-2018- 001763; conditional use to
allow auto sales at 3015 Edith Blvd NE

Dear Mr. Sabatini:

At its monthly meeting last week, Near North Valley Neighborhood Association's board unanimously agreed to support your association's appeal of the Zoning Hearing Examiner's decision approving a conditional use allowing auto sales at 3015 Edith Blvd NE.

As you know, our association is contiguous to Stronghurst to the west and we share an interest in land use along Candelaria Road NW. Like Stronghurst, Near North Valley is a recognized neighborhood association.

We agree that a car lot, especially one that expects to sell "higher quality" automobiles (Finding 18) and only an average of two cars per day (Finding 19), does not provide "neighborhood scale convenience shopping." We share your concern that this use will destabilize the adjacent long-established residential neighborhood, decrease property values, and serve as an unfortunate precedent elsewhere in the North Valley. Those homes that share a boundary with the site will be especially impacted. Yes, there's a gas station to the north and east across Edith and across Candelaria, but that distant use across a major roadway doesn't justify incursion into a residential area of a business providing little value to the neighborhood.

Car lots in the MX-L zone are conditional for a reason; they obviously have the potential to create significant adverse impacts to neighboring

properties and surrounding neighborhood as well as the larger community. This is the case in this instance.

We also agree the Comprehensive Plan's requirement that development in an "Area of Consistency" reinforce or enhance the existing character is not satisfied. Other MX-L uses may meet the requirement in this instance, but a car lot does not.

Please share this support letter as you deem appropriate.

Thank you for your efforts on behalf of our community.

Cordially,

Marit Tully
President

January 17, 2019

Planning Department
City of Albuquerque
Plaza Del Sol Building
600 Second Street NW
Albuquerque, NM 87102

RE: Special Exception No: VA-2018-00188

To Whom It May Concern:

I was at the initial hearing and didn't speak for the sake of time. I regret my choice in the light of the zoning decision. My life and personal happiness are being greatly impacted by your decision. I will spell out my reasons in the rest of this letter and asked that the interest of this old neighborhood be considered.

I bought my property a few years back because of the large tree-lined streets, its diverse and unique houses, and its convenience to major interstates and downtown. I am greatly concerned now that my property has been devalued by this decision to allow a Car Lot in an adjacent lot to me. You state that your decision does not create significant adverse impacts on our property. I am in total disagreement – this is a low class Car Lot next to my property. There would be, as there has been over the years, increased traffic on our street when people use Franciscan to take short cuts. We had to install speed bumps. Their potential customers miss the turn offs or take a shortcut through the neighborhood to get to the business. My street has many young families with young children...these children ride their bikes in the street, play ball with each other and climb trees. The neighbors watch out for them and drive slowly. Will a customer racing to the car lot do the same?

My driveway is a perfect turnaround. How many people who either missed the entrance into the property or couldn't turn off Candalaria or Edith will use Franciscan to turn around? Will it be in my driveway they use?

Another concern is that someone of a shady character comes by to buy a cheap car (cars that cost 5 to 10 thousand are such) and then returns at night and decides he needs to come into my property, adjacent to this car lot. There are many single women and older couples that live near this property. Are we going to be safe? causes me great concern.

I bought this property so that I could garden, live in the shade of big old trees, and spend my time in my backyard. Now my backyard will be abutting a used car lot. This makes me sad that my plans for retirement have just been greatly altered by this decision. My bedroom window faces the east and light comes in that window especially in the summer. My sleep will be disturbed by the lights they have to put up to protect their cars. Car alarms go off, perhaps when someone is trying to steal them, but also because of things like wind. These alarms continue to sound their distressing noise until the battery runs down or someone is summons to stop it... All the time my peace and quiet are disturbed.

In my job as a Director of Human Resources, I do research on applicants. I did research on Mr. Biazar on the New Mexico Court website and was appalled to see so many lawsuits--many lawsuit brought against him for financial problems like bankruptcies. Will this continue? What will happen to that property then? I also saw traffic violations for parking of vehicle on sidewalks. I wonder if he has such disrespect for

such simple laws as where to park, how he's going to handle the requirements the building and property will require as stipulated in your ruling. I view it as a potential problem for the neighborhood. He violates this decision by parking his cars too close to our property, he puts up things that shouldn't be, a garage is build that is very noisy. Who has the job then of policing his violations? The neighborhood!! And then we spend our time and energy trying to get those problems solved, getting his violations sited, etc. Policing my neighbors wasn't how I expected to spend my time when I bought this property.

Why was this property changed to commercial anyway? My neighbors who have lived here for 25+ years have no recollection of this property having been zoned to commercial. When they bought their homes many years ago, there were other residential homes on that site. They do not have any memory of being notified of zoning changes. Highly sneaky way to degrade the neighborhood and now this ruling wants to degrade it one more step down.

My question to you, the planning/zoning commission, is why do commercial interests always take precedence over residential interests, especially in such established neighborhoods such as Stronghurst? If we really want to revitalize our neighborhoods, are a low-end car lots the way to revitalization? I think not. Many, many of the homes, mine included, in this neighborhood are being remodeled and revitalized. This feels like an insult to the work we have done on our homes and yards.

I urge you to reconsider your decision and look at the adverse impact it has on the Stronghurst neighborhood. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Dixie Colvin". The signature is fluid and cursive, with the first name "Dixie" and last name "Colvin" clearly distinguishable.

Dixie Colvin
3012 Franciscan Northeast

Bill,

I'm writing this letter in support of the Stronghurst appeal of the findings by the Zoning Hearing Examiner concerning the conditional use at 3015 Edith Blvd NE allowing auto sales.

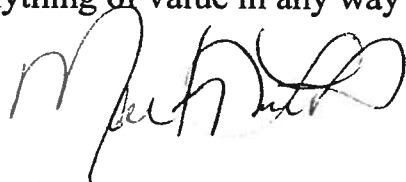
According to Mr. Baizar conversation at our neighborhood meeting with him concerning the zone request, Mr Biazar stated that he will be selling vehicles that are between \$5000 and \$10,000 dollars. Also during the zoning hearing Mr. Saylor stated that Mr. Biazar would be selling midrange vehicles.

I have been a sales consultant at CarMax in Albuquerque since 2015 and in my opinion this will be vehicles in the low range of used vehicles. Most likely these vehicles will have lots of mileage, the potential of frame or structural damage, or other title issues. Again in my opinion these will not a midrange vehicle as stated by Mr. Saylor during the Zoning Hearing. This type of a vehicle, while there is a need for them, is a low end vehicle.

By allowing a shop on the premise "who" will be monitoring that there will be no mechanical work completed there as they stated. Then if this business venture does not work what will be next for the property? Vehicles leak oil and other fluids that will be going into the ground and the neighborhood, not to mention the noise factor of a car lot, the shop work and traffic noise, test drives. Adding all of these issues and the loss of neighborhood value, lighting issues and a greater congestion on an already busy intersection with property access located right on the SW corner next to the traffic light pole, which I believe will drive more people to use our neighborhood as a go around for the intersection, I feel the City of Albuquerque and the Zoning department should reconsider the ramifications of the decision to allow this business zoning.

Another concern is the empty lot that the Saylor Family Trust owns that backs up to the property in question and fronts Franciscan..what is the possibility that at one point they will sell this property to the business and then the business will have direct access right off Franciscan onto the car lot? From a residential street? Will the city allow this also? What options will the neighborhood have at that point?

I ask the Zoning Hearing Examiner to reconsider this current finding and while the neighborhood is open for the right business to acquire the corner a low end car lot is not adding anything of value in any way to the Stronghurst neighborhood.

 3010 ARNO ST. NE

"We abuse land because we regard it as a commodity that belongs to us. When we see land as a community to which we belong, we may begin to use it with love and respect."

Aldo Leopold, 1949

A Sand County Almanac

City of Albuquerque
Office of Administrative Hearings

To whom it may concern:

My name is Deanna Dyke and I reside at 3010 Franciscan Street NE. I purchased my house in 1994, and I have never considered moving.

The Stronghurst Division itself was established in the 1920s and remains a jewel in the heart of the city. I was once told that my own house has historical value as a site where bootleg liquor was sold from the basement during the days of Prohibition. Most of the houses in Stronghurst

are old but sturdy — built to last — but have suffered somewhat in recent years from increased traffic, and particularly from excavation and reconstruction of Candelaria Road for the San Juan - Chama Water Authority Project.

Our neighborhood is comprised of children and senior citizens; students; hard-working wage-earners and professionals; disabled individuals and artists. Some are veterans with PTSD. A single woman who works long hours and lots of overtime lives in the house adjacent to the property in question; she, more than anyone, would be grievously affected by the proposed automobile sales enterprise. I myself am a retired registered nurse, and I oppose this proposal out of concern for the health and safety of my neighbors, and concern for the community at large.

My neighbors do not deserve to be exposed to more ~~air pollution~~^{error} — light — noise — pollution. Increased rumbling and road damage from heavy trucks and heavy equipment involved in the transport of automobiles is not welcome and is not acceptable in a residential area.

More significantly, perhaps, and I declare this unequivocally, a car lot is a hideous eyesore.

Personally, I feel that a car lot, by its very existence, symbolizes much that is corrupt and short-sighted in American society: greed, gridlock, planned obsolescence, congestion, disregard for the environment. Ugliness.

As for "adverse impacts": to say that Mr. Biazar's vehicular sales operation would not affect our quality of life, our health, our property values, and the integrity of our neighborhood, is blatantly wrong.

I am asking, respectfully, that the Saylor Family Trust auto-sales request be denied, and that our humble neighborhood not be subjected to further aesthetic and economic degradation.

Thank you for consideration of our appeal.

d. dylke

Please honor our home.