

**CITY OF ALBUQUERQUE
PLANNING DEPARTMENT**

**IN THE MATTER OF THE APPLICATION OF
DAWN LEGACY POINT APPLICATION FOR
SAFE OUTDOOR SPACES FOR 1250 MENUAL NE,
ALBUQUERQUE, NEW MEXICO**

**SANTA BARBARA MARATINEZTOWN NEIGHBORHOOD ASSOCIATION APPEAL
OF PLANNING DEPRTMENr GRANTING DAWN LEGACY POINTE APPLICATION
FOR “SAFE OUTDOOR SPACE” AT 1250 MENUAL NE, ALBUQUERQUE, NM**

The Santa Barbara Martinez Town Neighborhood Association (**SBMTNA**), by and through its elected and duly authorized President Loretta Naranjo Lopez and appeals the approval of the City of Albuquerque Planning Department’s approval of the Dawn Legacy Pointe application for a “Safe Outdoor Space” homeless encampment to be located at 1250 Menaul NE.

IDO APPEAL PROVISIONS, STANDING AND TIMELINESS

1. This appeal is being brought and filed by SBMTNA pursuant to the Integrated Development Ordinance (IDO), Sections 6-4(V) entitled “APPEALS”, Section 6-4(V)(2) entitled “Who May APPEAL”, 6-4(V)(3) entitled Procedure and 6-4(V)(3)(a) entitled “FILING AN APPEAL”, and 6-4(V)(3)(d), Land Use Hearing Officer (LUHO), pages 422 to 429 and any and all other related provisions of the IDO. The link to the IDO is here:

https://documents.cabq.gov/planning/IDO/2021_IDO_AnnualUpdate/IDO-2021AnnualUpdate-2022-07-28-JulyEffective.pdf

2. This appeal is timely filed in that it is being brought within 15 days of the Planning Department approval of the Dawn Legacy Pointe application for a “Safe Outdoor Space” to be located at 1250 Menaul NE.

3. The Santa Barbara Martinez Town Neighborhood Association (SBMTNA) has standing to bring this appeal because it is a Neighborhood Association where residential property owners reside and that is being affected on the basis of proximity for of the decision made by the planning department to grant the application for a Safe Outdoor Space. (See Section 6-4(V)(2)(a) (5) of the IDO.)

PROPERTY SUBJECT OF APPEAL IS CITY OWNED LAND

4. The real property the Planning Department has approved for a Safe Outdoor Space is located 1250 Menaul NE. The property consists of more than 15 acres in two plots. One plot is 11.73 acres plot and a second plot is 3.89 acres. Both plots are owned by the city of Albuquerque and have a combined assessed value of **\$4,333,500**.

5. According to Bernalillo County Assessor's Office records reviewed, the City of Albuquerque owns the land and following are the plot numbers and assessed value of the property:

Parcel ID Property 1 located at 1205 Menaul, NE:

Plot Number 101505924018931414CA

City of Albuquerque

11.7263 acres including a warehouse

\$3,061,100.00

Parcel ID Property 2 located 1205 Menaul, NE:

Plot Number 101505927224131420CA

City of Albuquerque

TR1 PLAT OF TR1 LANDS OF M-T INVESTMENT

3.8890 acres

\$1,272,400

5,717 sq. ft. warehouse is on the property, assessed value unknown.

6. The property is zoned NR-LM. NR-LM stands for “NON-RESIDENTIAL – LIGHT MANUFACTURING ZONE DISTRICT (NR-LM)”. Section 2-5(C)(1) of the Integrated Development Ordinance (IDO) provides that *“the purpose of the NR-LM zone district is to accommodate moderate-intensity commercial, light assembly, fabrication, and light manufacturing uses, while buffering adjacent lower-intensity, Residential and Mixed-use zone districts from the traffic, noise, and other impacts of those uses.”*

Page 49 of the Integrated Development Ordinance found here:

https://documents.cabq.gov/planning/IDO/2021_IDO_AnnualUpdate/IDO-2021AnnualUpdate-2022-07-28-JulyEffective.pdf

7. Allowable uses for the property zoned NR-LM are provided in table 4-2-1 of the Integrated Development Ordinance. Table 4-2-1 lists “**Safe Outdoor Spaces**” as a **CT** (Conditional Primary, Temporary use) for property zoned for mix use and **T** (Temporary) use on property zoned “**non-residential**”.

CHRONOLOGY AND BACKGROUND

8. On June 6, the City Council enacted a series of amendments updating the Integrated Development Ordinance (IDO). One of the amendments was the “Safe Outdoor Spaces” amendment. “**Safe outdoor spaces**” are organized, managed homeless encampments with 40 designated spaces for tents that allows for upwards of 50 people, require hand washing stations, toilets and showers, require a management plan, 6-foot fencing and social services offered. The Integrated Development Ordinance (IDO) sets a limit of two in each of the city’s 9 council districts. The cap does not apply to religious institutions.

9. The legislation passed on a 5 to 4 vote. Voting YES to allow Safe Outdoor Spaces were Democrats Isaac Benton, Pat Davis and Tammy Feibelcorn and Republicans Brook Basan and Trudy Jones. Voting NO were Republicans Dan Lewis, Renee Grout and Democrats Louis Sanchez and Klarissa Pena. Mayor Tim Keller signed off on the legislation making it law.

10. Under the enacted amendment Safe Outdoor spaces are allowed in some non-residential and mixed-use zones and must be at least 330 feet from zones with low-density residential development. Under the IDO amendment, Safe Outdoor Spaces are allowed for up to two years with a possible two-year extension.

11. On June 22, after tremendous public outcry and objections to Safe Outdoor Spaces by her constituents, Republican City Councilor Brook Bassan, who had voted “YES” and previously voiced support for safe outdoor spaces, did an about face and changed her mind and introduced legislation to repeal the IDO amendment. Bassan introduced two bills.

12. One bill introduced would stop the city from accepting or approving safe outdoor space applications and the other will eliminate “**safe outdoor spaces**” from the zoning code altogether. Bassan wants to bar the city from accepting or approving Safe Outdoor Space applications for a full year unless it officially removes them from the zoning code sooner than that.

13. During the June 22 meeting the council did not act on the 2 bills and failed to enact the legislation that was to provide for rules and regulations promulgated by the Keller Administration for “**Safe Outdoor Spaces**”. June 22 was the last meeting of the City Council before it went on “summer break” until August 1.

14. The city council’s failure on June 22 to take any action on either the bills stopping the application process or repealing the land use resolution resulted in “Safe Outdoor Spaces” becoming a permissible land use on July 28. This allowed a very short time period of 3 weeks to allow individuals and organizations to apply for Safe Outdoor Spaces.

15 . On June 6, the City Council placed Item J for R-22-36 on the Agenda: Directing the City to Develop Operating Procedures for Safe Outdoor Spaces (Fiebelkorn, Benton, Davis). Attached was a pdf document R-36 with the following instructions:

SECTION 1. The Family and Community Services Department, the Environmental Health Department and the Albuquerque Community Safety Department, and/or any other relevant department as determined by the City Administration, are directed to develop operating procedures for Safe Outdoor Spaces that promote the health, safety, and welfare of the served population, while helping to mitigate potential impacts on the surrounding communities. The operating procedures for safe outdoor spaces should, at a minimum, address the following:

1. Management plans or security agreements to ensure the safety of 1 individuals occupying the designated spaces.

16 .The June 6, 2022 Minutes indicate that a motion was made by Councilor Fiebelkorn that this matter be postponed to June 22, 2022. The motion carried by the following vote: For – Bassan, Benton, Fiebelkorn, Grout, Jones, Lewis, Pena, and Sanchez. Excused - Davis

17. On June 22, the City Council placed Item G for R-22-36 on the Agenda, directing the City to Develop Operating Procedures for Safe Outdoor Spaces (Fiebelkorn, Benton, Davis). Attached was a pdf document R-36 with the following instructions:

SECTION 1. The Family and Community Services Department, the Environmental Health Department and the Albuquerque Community Safety Department, and/or any other relevant department as determined by the City Administration, are directed to develop operating procedures for Safe Outdoor Spaces that promote the health, safety, and welfare of the served population, while helping to mitigate potential impacts on the surrounding communities. The operating procedures for safe outdoor spaces should, at a minimum, address the following:

1. Management plans or security agreements to ensure the safety of 1 individuals occupying the designated spaces.

18. The June 22 Minutes state “a motion was made by Councilor Fiebelkorn that this matter be postponed to **June 22, 2022**. The motion carried by the following vote: For – Bassan, Benton, Fiebelkorn, Grout, Jones, Lewis, Pena, and Sanchez. Excused – Davis

Note: The motion was made to postpone to June 22, 2022 on June 22, 2022.

19. On August 1, 2022, the City Council met; however Agenda Item for R-22-36: Directing the City to Develop Operating Procedures for Safe Outdoor Spaces that had been postponed on June 6, 2022 to June 22, 2022; and postponed on June 22, 2022 to the same date, was not on the Agenda.

20. On August 15, 2022, the City Council will meet to establish a Moratorium for Safe Outdoor Spaces, listed on the Agenda as item R-22-56. The August 15, 2022 Agenda does not include an item for R-22-36 Directing the City to Develop Operating Procedures for Safe Outdoor Spaces. So the item that was introduced on June 6 that required ‘the Family and Community Services Department, the Environmental Health Department and the Albuquerque Community Safety Department, and/or any other relevant department as determined by the City Administration, to develop operating procedures for Safe Outdoor Spaces that promote the health, safety, and welfare of the served population, while helping to mitigate potential impacts on the surrounding communities’ that would address procedures for management plans or security agreements to ensure the safety of individuals occupying the designated spaces to be submitted with Safe Outdoor Spaces applications was not continued as an action item for the City Council to vote on. Therefore, the City has not developed any operating procedures for management plans or security agreements.

21. On August 8, according to the city’s website that provides the listing and locations for the applications for “Safe Outdoor Spaces”, the City of Albuquerque Planning Department approved the Dawn Legacy Pointe’s application for a new Safe Outdoor Space Homeless

campsite to be located at 1250 Menaul, NE. The announced intent of the homeless encampment made by applicants is to provide accommodations for victims of “sex-trafficking victims and exploitation ” and other vulnerable populations.

The link to the city web site is here:

<https://cabq.maps.arcgis.com/apps/dashboards/768cc1b5e4404fa1a28db56c2019ee71>

The City Planning Department approved the **Safe Outdoor Space** on city owned property valued at \$4,333,500 to be operated by a third party and . subsidized by the City to house women in tents.

GROUNDS FOR APPEAL

22 . This appeal is based on the City of Albuquerque Planning Department failure to follow their own policies, procedures and requirements.

23.What occurred with the Dawn Legacy Pointe application for a “Safe Outdoor Space” is that it was “fast tracked” by the City Planning Department to approve the application just 8 days before the City Council could repeal the Safe Outdoor Space amendment on August 16.

24. The City of Albuquerque Planning Department unilaterally decided that it would review the Dawn Legacy Point application behind closed doors without any public input, without notice to adjacent and surrounding property owners and without any public hearings . The Planning Department decided it had the authority under the IDO to simply grant the application before the City Council votes to repeal Safe Outdoor Spaces on August 15.

NORMAL APPLICATION PROCESS IGNORED

25. Under normal procedures and City Planning precedent, when an application for a “special use” or “conditional use”, which includes Safe Outdoor Spaces, is made by a private entity the City Planning Department assigns the application to a zoning hearing examiner to determine if it will be approved. Public notice is then given to surrounding property owners and the general public.

26. A notice of zone change must be posted on the property and adjoining landowners and neighborhood must be given the opportunity to attend and be heard by the zoning hearing officer. The hearing officer decision can be accepted or rejected by a private entity or appeal the decision to the Land Use Planning and Zoning Committee and ultimately the City Council. The city council has the final and ultimate authority. Normally it is a six month to a year process to secure a zone change and it can take even longer.

CITY FAILED TO GIVE NOTICE AND GIVE OPPORTUNITY TO BE HEARD

27. The City of Albuquerque failed to notify the SBMTNA of the Safe Outdoor Space application filed by Dawn Legacy Pointe for 1250 Menaul NE .

28. The General Procedures for Public Notice were ignored (See IDO, Section 14-6-6-4(K)) The City of Albuquerque failed to follow the IDO and have a public hearing to address the concerns of the neighborhood.

29. The City never refers to the Albuquerque Comprehensive Plan where neighborhoods are protected from Safe Outdoor Spaces.

30. According to the Comprehensive Plan, Neighborhoods provide quality of life and remain distinct, vibrant places to live. Development in established neighborhoods matches existing character and promotes revitalization where desired.

31. Established neighborhoods are protected, preserved, and enhanced. The City fails to protect, protect and enhance the neighborhood. (See Albuquerque Comprehensive Plan 4.1 Community Identity)

32, The Planning Department did not provide a letter of approval of the permit for a Safe Outdoor Places and deadline for appeal. The SBMTNA was informed by Brad Day that the permit was approved on Tuesday, August 9, 2022.

33. Since June of 2022 and possibly earlier, City Councilor Brook Basan was informed and has been aware that 1250 Menaul NE was available for Safe Outdoor Spaces. The neighborhoods were never informed of the proposal.

PREFERENTIAL TREATMENT GIVEN

34. The City failed to provide opportunity for the institutions in the neighborhood to apply for neighborhood use of the property. (See City of Albuquerque regulations regarding these procedures.)

35. According to private citizen Brad Day and city employee Elizabeth Holguin, Mr. Day was given insider information and consulted with Department of Family and Community Services on what properties were available for Safe Outdoor Spaces.

36.Brad Day, a private business owner, was assisted and given preferential treatment by the city Planning Department, the City Council and the Family Community Services Department with the Dawn Legacy Pointe application for 1250 Menaul NE for a Safe Outdoor Space.

37, All applicants should have been given time to submit their application and provide an opportunity to be selected. The City of Albuquerque process indicates there were conflicts of interest and should be investigated.

38. According to the City of Albuquerque's Integrated Development Ordinance (IDO), the City Planning Department failed to follow its IDO regulations purpose of the IDO Section 1-3(A) 1-3(A-K). This request does not follow the Albuquerque Comprehensive Plan, Code of Ordinance, or the IDO.

39. The City of Albuquerque failed to provide the protection to all communities, especially those that have been historically underserved.

40. Martinez Town Santa Barbara neighborhood has been historically underserved. Martinez Town Santa Barbara Neighborhood has no protection for the quality and character of its residential neighborhood. This area has been blighted by the City's own hand by not dealing correctly with the homeless.

41. There is no promotion for the economic development and fiscal sustainability of Menaul NE. A Metropolitan Redevelopment Plan has recently been approved for the area and the City continues to ignore the problems of the homeless who are drug addicts and bring criminal elements into the neighborhood. The City does not follow the IDO requirements to Promote small-scale, neighborhood-serving economic development opportunities for the neighborhood

42. The City Planning Department does not address the efficient administration of City land use and development regulations. A city sanctioned tent encampment for the homeless on city owned property in proximity to T-Mobile call center, a cemetery, Menaul High School, and apartments is not in conformity to what is the highest and best use for the city owned property having a high property value.

44. The neighborhood has dealt with crime and filth from the homeless population. The City imposed the Safe Outdoor Space on the neighborhood and fails to protect the health, safety, and general welfare of the Martineztown Santa Barbara residents.

45. The Safe Outdoor Space fails to provide for orderly and coordinated development patterns in this area.

CITY'S FAILURE TO DEVELOP OPERATING PROCEDURES

46. When the City Council amended the Integrated Development Ordinance (IDO) to include 'Safe Outdoor Spaces' on June 6, 2022, failed to follow-through on directing the City to develop operating procedures or instructions for potential operators of Safe Outdoor Spaces tent encampments that would include management plans or security agreements, it opened the door for creating a 'No Man's Land' with nonstandardized self-created rules.

47. The City's application process posted on its website requires that an operations plan, management plan and security agreement be reviewed and signed by the City of Albuquerque

Family & Community Services Department and included with the application for Safe Outdoor Spaces.

48. But the Albuquerque City Council, while initially planning for operating procedures on June 6 and then removing the motion to provide operating procedures from that evening's City Council Agenda, and failing to properly vote on any subsequent motion to require procedures be written, but approving an Amendment to the IDO that establishes encampments, has created a deficient process.

49. The City Council has thus failed to provide direction to the City departments charged with approving or disapproving Safe Outdoor Spaces applications and has allowed approvals to be made without any kind of objective, standards-based decision-making process. Thus, the City Council has created a pathway for a sloppy and potentially biased approval process with loopholes that would allow approval of applications based on favoritism and disapproval of applications based on possible personal grudges or management-based bias.

50. It is unconscionable that the City Council would put its citizens in a position that is ripe for cronyism or discrimination. By failing to provide standardized rules and regulations for city sanctioned encampments, the required regulations submitted can be approved or disapproved subjectively.

51. With no standard in the content and requirements for management and site security, there will be no oversight or guarantee of safety for residents of the encampments. By not providing direction to the City to develop operating procedures for the Safe Outdoor Spaces applicant Dawn Legacy Pointe for the proposed encampment at 1250 Menaul Boulevard, the City Council has removed the City from having to provide a standard of fairness in approval or disapproval of applications.

52. In effect, what this has done, has put into place a policy by omission: no standardized rules and regulations for running the encampments were established because the City Council failed to instruct the City to write the procedures for the Safe Outdoor Spaces operating agreement with an appropriate management plan that includes a security plan. The result is a potential for disaster on every level.

53. It is impossible for the City of Albuquerque Family & Community Services Department to make an objective determination on whether a Safe Outdoor Spaces encampment will provide security and safety for individuals occupying the designated spaces without having operating procedures with guidelines for operation of the sites.

54. Without City provided directives, there is no accountability from anyone on the City's Administrative Staff. Dawn Legacy Pointe did not receive City written or City developed operating procedures because these procedures did not exist when Dawn Legacy Pointe made application.

PLAGERIZED OPERATING PROCEDURES

55. In lieu of having City developed operating procedures, Dawn Legacy Pointe copied the operating procedures of a nonprofit unsanctioned encampment in another city and the City accepted these operating procedures. And since these rules were not developed by the City of Albuquerque administrative staff in the Family and Community Services Department, the Environmental Health Department and the Albuquerque Community Safety Department and/or any other relevant department, it is impossible to assign accountability for lapses in fiscal and/or physical safety for the project. This is a slip shod way of doing business at best. At worst, it opens the door to allowing dangerous management practices without proper security in place.

56. The City is completely irresponsible in accepting the first Safe Open Spaces application with documents prepared for use by residents of an encampment in another city. Dawn Legacy Pointe submitted a Camp Hope Participant Assumption of Risk and Waiver of Liability Relating to Coronavirus/COVID 19 for an encampment located in Mesilla Valley. Albuquerque is not located in Mesilla Valley. The City of Albuquerque accepted this document, even though it is not enforceable in Albuquerque, NM.

57. The City accepted a list of agreements document submitted by Dawn Legacy Pointe for its residents' compliance. The document allows sex offenders to reside at the Safe Outdoor Spaces at 1250 Menaul Boulevard. Having a potential clientele of sex trafficked women and a stated mission of providing protection after the rescue of these women, Dawn Legacy Pointe has submitted and received approval for a document that allows sex offenders "provided they are registered with the LCPD Sheriff's Department." Note: this provides absolutely zero protection for encampment residents of Dawn Legacy Pointe in Albuquerque.

58. It simply means that sex offenders can be in the encampment and in close proximity to the sex trafficked women as well as unsuspecting neighbors. This population includes students at Menaul Middle School, which is within walking distance of the encampment. The document also states schools within one mile must be notified when a sex offender is in residence.

59. This document has been submitted, accepted and approved by the City of Albuquerque and as it stands, it presents a huge risk to residents in the immediate and surrounding neighborhood (as well as encampment residents).

60. The City apparently can and will accept any document as an acceptable part of an application and will do so without question, because they signed off on this attachment to Dawn Legacy Pointe's application without picking up on a single red flag.

61. There is only one way to describe this dereliction by the City Council and City of Albuquerque: the City Council has created a potentially dangerous condition by not providing needed direction with the Amendment to the IDO. Both the City Council and City Administration have jointly created a condition that is beyond 'unsafe' and the agencies that are charged with ensuring safety to Martinez Town Santa Barbara have abdicated their duties. There is no security operation on earth that can protect residents of a tent encampment from a sex offender: there is no housing with a door to lock and bar.

ON SITE SECURITY PLAN DEFICIENT

62. The security plan for Dawn Legacy Pointe does not provide an example of how the encampment will be protected with on-site security. The City's website that provides instructions for SOS encampment applications states that applicants must provide a 'Safe Outdoor Spaces Operational Security Plan.'

63. The criteria for the 'plan' include that the SOS will have an On-Site Manager and Assistant. The public was told by Brooke Bassan, when she initially campaigned for Safe Outdoor Spaces, that the SOS encampments would have 24 hour management - but the application wording does not nail this down as a requirement.

64. The wording is ambiguous: it states the SOS Manager is offsite after hours. Thus, a site manager is not present for 24 hours as promised. And without an on-site manager for the entire 24 hours, there is no guarantee that rules and regulations will be followed. The security agreement for Dawn Legacy Pointe that was accepted by the City states that the manager will have a cell phone in the case the police need to reach him or her.

65. Response time from the Albuquerque Police Department is notoriously slow. Rules may or may not be broken while the 'manager' is absent but security will not be provided. The City has accepted a management plan without the required security agreement and it is a plan for instability.

66. The residents of Dawn Legacy Pointe will not be safe without managers present for 24 hours. Nor will the neighborhood be safe. Worse still, the City of Albuquerque is off the hook for enforcement of rules that they did not create. All the encampments will be 'self-regulated' as we head into a virtual 'no man's land.' The neighborhood can expect to be less safe having a Safe Outdoor Spaces encampment as its newest resident.

CITY CREATING PUBLIC NUISANCE

67. The proposed Safe Outdoor Space use is considered by the SBMTNA as a nuisance, it will bring negative impacts to the neighborhood, reduce property values and interfere with the neighborhood peaceful use and enjoyment of their properties. The City is not providing protection from possible nuisances and hazards and to otherwise protect and not improving the public health. According to Albuquerque Code Ordinance, Chapter 11, Morals and Conduct, Section 11-1-1-10 PUBLIC NUISANCES are PROHIBITED.

69. New Mexico statute defines a "public nuisance" as consisting "of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority which is either:

- A. Injurious to public health, safety and welfare; or
- B. Interferes with the exercise and enjoyment of public rights, including the right to use public property.

Whoever commits a public nuisance for which the act or penalty is not otherwise prescribed by law is guilty of a petty misdemeanor."

(30-8-1, NMSA 1978, Public Nuisance defined).

70. The City's nuisance abatement ordinance defines nuisance as:

"Any parcel of real property, commercial or residential, ... on which ... illegal activities occur, or which is used to commit conduct, promote, facilitate, or aide the commission of ... any [delineated crimes, including illicit drugs and prostitution]"

71. The city's nuisance abatement ordinance prohibits "public nuisances" as follows:

"It shall be unlawful for any owner, manager, tenant, lessee, occupant, or other person having any legal or equitable interest or right of possession in real property ...or other personal property to intentionally, knowingly, recklessly, or negligently commit, conduct , promote, facilitate, permit, fail to prevent, or otherwise let happen, any public nuisance in, on or using any property in which they hold any legal or equitable interest or right of possession."

(11-1-1-10 PUBLIC NUISANCES PROHIBITED, City of Albuquerque.)

72. The City of Albuquerque's Uniform Housing Code also defines "nuisance" as:

- "(1) Any nuisance known at common law ...
- (2) Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or upon an unoccupied lot. ...
- (3) Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.
- ...
- (6) Inadequate or unsanitary sewage or plumbing facilities
- (7) Any violation of the housing standards set forth in this code."

(14-3-1-4 ROA 1994 of Housing Code, Definitions)

73. The City of Albuquerque Planning Department and Solid Waste Department is knowingly allowing the creation of a public nuisance such as the Safe Outdoor Space in the Martinez Town Santa Barbara Neighborhood and should be held accountable. The Planning Departments actions is tantamount to the City alloqing Coronado Park to become the city's defacto city sanctioned homeless encampment in violation of the city's own public nuisance law and city ordinances.

DEVELOPMENT PROSCESSES IGNORED

74. The City of Albuquerque Planning Department did nothing to provide processes for development decision of 1250 Menaul NE to ensure a balance of the interests of the City, property owners, residents, and developers and ensure opportunities for input by affected parties.

75. According to the IDO, 1250 Menaul NE the Safe Outdoor Spaces requires Administate and Enforcement, Part 14-16-6, requires a Public Hearing6-6(C)(1): applicability an expansion of a nonconforming use or structure is regulated under the IDO 6-6(C), page 465.

76. The property owner failed to deal with the nonconformance portion of property that is zoned MX-M zone and request a conditional use in front of the Zoning Hearing Examiner. The permit and the recommended Safe Outdoor Space are moot. (*See IDO, Nonconforming site features may not be expanded. No nonconforming use or structure may be expanded unless an approval under this Subsection 14-16-6-6(C) is obtained by the property owner or applicant.*).)

77. The City's explanation that they didn't need to deal with the nonconformance is that they would not use the portion of the property zoned MX-M. The City of Albuquerque cannot deny the patrons of this proposed use will need to enter on the MX-M portion of the land and on the site plan the lease is using the MX-M for the dumpster and parking. This expansion of nonconformance confirms the use of the land. The City illustrates in the plan the expansion is necessary and intentional bypasses the nonconformance requirements.(See Attached Site Plan)

78. The users on this site will need to walk to Second Street to obtain their meals. The expansion of pedestrian and transit will negatively impact the neighborhood. Menaul Boulevard is already a congested area. The transit buses cause problems to the foundation of the homes. There have been studies by the City of Albuquerque regarding the impacts of the buses on the residential area.

DETERMENTAL IMPACT ON MARTINEZ TOWN SANTA BARBARA

79. The Martinez Town Santa Barbara historic residential area is bounded on the north by Menaul Blvd NE, on the east by I-25, the south the railroad tracks and the west the railroad tracks. Experience of these types of tents has shown the neighborhood residents and businesses that Safe Outdoor Spaces will be a nuisance.

80. All over the neighborhood including the streets and sidewalks tents are setup. The homeless throw trash all over the neighborhood. The parks are destroyed with feces where the children play, the picnic tables are burned or destroyed, garbage cans are graffiti on or burnt, and graffiti is written all over the neighborhood, etc.

81. Neighbors have moved out of the neighborhood due to fear from homeless entering their yards. One neighbor was assaulted while purchasing gas and others have had homeless enter their home, or cars stolen in broad daylight. Dwellings have been burnt, the trash can owned by the church was burnt to the ground and windows have been broken at the church. At the La Amistad, there was a break in and items stolen.

82. Martinez Town Santa Barbara continues to be neglected by the City. In order to protect the Martinez Town Santa Barbara Neighborhood, the City is required by law to zone the historical residential land uses R-1 to provide equal protection that all residents receive under this zone. The City also needs to provide a multi-purpose community center, programs and services that are already allocated to all residential areas of the City.

83. The City of Albuquerque needs to stop the racist discrimination against Martinez Town Santa Barbara. The City Council and the Mayor need to stop the concentration of homeless services and programs and Safe Outdoor Spaces in the Martinez Town Santa Barbara Neighborhood and surrounding area.

ANNOUNCE USE FOR SAFE OUTDOOR SPACE

84. Dawn Legacy Pointe has made it clear that it intends to provide accommodations for “sex-trafficking victims” and other vulnerable populations at the location. Kylea Good, the Board Chair of Dawn Legacy Point, said it would likely be easy to find people and most likely women, though it will not exclude men, willing to stay at the camp. She said she hoped to have the encampment up and running by October and she told the Journal:

“I wouldn’t be surprised if we maxed out. The truth of the matter is it’s not like we’re looking at just one area. There’s a lot of [human] trafficking and exploitation that goes on around that area of Menaul, but you have a whole city that is dealing with it.”

85. Brad Day, a local businessman and advocate for safe outdoor spaces, is advising Dawn Legacy Pointe. He told the Journal:

“We did all the documents, and now what we’re going to do is basically work on the logistics of getting all the stuff we need, the tents, the sleeping bags, the air mattresses, get the fence built.”

The link to the full unedited Journal news article is here:

<https://www.abqjournal.com/2521238/city-sees-1st-application-for-safe-outdoor-space.html>

86. When the words “**trafficking and exploitation**” are used, what is meant are woman who are victims of crime such as kidnapping or forced prostitution. What Dawn Legacy wants to provide are tents in city sanctioned encampments to women who have already been victimized believing somehow that it is compassionate when such women need actual and permanent housing that is safe and secured and not living in a tent.

ENCAMPMENT WILL HAVE DETERMENTAL EFFECT ON NEIGHBORHOOD

87. Less than a half mile from the vacant land located at **1250 Menaul Blvd, NE** and within walking distance from the property is Menaul School, a private boarding school for 6th to 12th graders. Directly across the street from the property is the T-Mobile Call Center and a Quality Inn & Suites. Going West on Menaul and one block from the property is Carrington College and two apartment complexes.

88. At Sunset Memorial Park, workers daily patrol the grounds, monitoring the activity of homeless people who have taken to lounging in the various meditative shelters provided for grieving families. The homeless are known to use the various fountains throughout the park to wash themselves or use the fountains as a toilet, despite there being easy-to-find portable toilets located at the northeast end of the park.

<https://www.abqjournal.com/2523606/cemeteries-lament-bathing-camps-on-grounds.htm>

89. Directly West and bordering the property is Sunset Memorial Park and Cemetery. Immediately East of the Freeway is the massive TA Travel Truck Stop on University that can accommodate parking of upwards of 150 semitrucks. Within law enforcement circles, the truck stop is known for prostitution and illicit drug activity. Immediate south of the truck stop on University Blvd is the Crown Plaza Hotel. It's ironic that a few years ago it was proposed that the city buy the Crown Plaza Hotel for about \$8 million and dedicate it as a homeless shelter.

90. It's the actual location of **1205 Menaul, NE** that is the most troubling. The encampment will become a magnet for crime and prostitution or illicit drug trade given that it is in close proximity to a truck stop known for prostitution and illicit drug activity amongst law enforcement. The location is directly across the street from a major call center and a Quality Inn & Suites and within walking distance of Menaul Boarding School and apartments. Occupants of the Safe Outdoor spaces are not confined and are free to go and come as they please and could easily wind up uninvited wherever they want to go, including the truck stop, and disrupt the peaceful use and enjoyment at any one of those locations or engage in illicit activity themselves.

REQUEST FOR RELIEF

Because of all the forgoing, the Santa Barbara Martineztown Neighborhood Association respectfully requests denial of the Safe Outdoor Space at 1250 Menaul due to failure to follow City policies, procedures, and regulations-outlined above and further asks that the approval of

the Safe Outdoor Spaces be set aside and rescinded and that no Safe Outdoor Space be allowed at 1205 Menaul, NE.

Respectfully submitted,

Loretta Naranjo Lopez, President
Santa Barbara Martineztown Neighborhood Association
1420 Edith NE
Albuquerque, NM 87102
(505)270-7716