



**Environmental
Planning
Commission**

*Agenda Number: 6
Project Number: 1001620
Case #: 11EPC-40014
April 14, 2011*

Staff Report

Agent	City of Albuquerque Planning Dept.
Applicant	City of Albuquerque City Council
Request(s)	Text Amendment, Section 14-16-2-16 (A)(8)(i) of the Zoning Code, to clarify that package liquor sales are not allowed in the C-1 Zone.
Location	City-wide
Existing Zoning	N/A
Proposed Zoning	N/A

Staff Recommendation

APPROVAL of 11EPC 40014, based on the Findings beginning on Page 5.

Staff Planner
Randall Falkner, Planner

Summary of Analysis

This is a request by City Council to amend the text in Section 14-16-2-16 (A)(8)(i) of the Zoning Code, to clarify that the only alcohol that can be sold permissively in a C-1 zone is beer and wine in accordance with the State of New Mexico requirements (Section 60-6A-4 NMSA 1978) for a restaurant liquor license. The amendment is intended to clarify that package liquor sales are not allowed in the C-1 zone.

There is no neighborhood opposition to the request. The request furthers a preponderance of policies in the Comprehensive Plan and Zoning Code Section 14-16-1-3. Planning Staff recommends approval of this request.

Location Map (3" x 3")

City Departments and other interested agencies reviewed this application from 2/28/2011 to 3/11/2011. Agency comments used in the preparation of this report begin on Page 7.

I. INTRODUCTION

Proposal

This is a request by City Council to amend the text in Section 14-16-2-16 (A)(8)(i) of the Zoning Code, to clarify that the only alcohol that can be sold permissively in a C-1 zone is beer and wine in accordance with the State of New Mexico requirements (Section 60-6A-4 NMSA 1978) for a restaurant liquor license. The amendment is intended to clarify that package liquor sales are not allowed in the C-1 zone. The request was submitted by the City Council on February 9, 2011 as Bill No. O-11-45 and affects Section 14-16-2-16 (A)(8)(i) of the Zoning Code which currently states:

2. Alcoholic drink may be sold only under a restaurant license for sale of beer and wine, as provided by Section 60-6A-4 NMSA 1978 except the retailing of alcoholic drink, for on or off premise consumption, within 500 feet of a Community Residential Program or Hospital for Treatment of Substance Abusers, is prohibited pursuant to Section 14-16-3-12 (A)(11) ROA 1994.

City Council suggests that the request be amended as follows:

2. Alcoholic drink may be sold only under a restaurant license for sale of beer and wine, as provided by Section 60-6A-4 NMSA 1978 [+,+]. [~~except the retailing of alcoholic drink, for on or off premise consumption,~~] [The sale of beer and wine under a restaurant license, however, is prohibited] within 500 feet of a community residential program or hospital for treatment of substance abusers [~~is prohibited~~] pursuant to Section 14-16-3-12 (A)(11) ROA 1994.”

History

The Zoning Code was amended in 2005 to prohibit the sale of alcoholic beverages within 500 feet of a Community Residential Program (CRP). The significant change of the 2005 amendment was to the CRP regulations, but all of the zones that allowed alcohol service or sales were amended to incorporate that change. However, the change caused unintended confusion with regard to the C-1 zone, which had previously allowed alcohol to be sold only for on-premise consumption in conjunction with a “restaurant” (beer and wine) liquor license. The 2005 amendment (which referred to “alcoholic drink for on or off premise consumption”) was interpreted as allowing off-premise package liquor sales in the C-1 zone.

II. ANALYSIS OF APPLICABLE ORDINANCES, PLANS AND POLICIES

Policy Citations are in Regular Text; *Staff Analysis is in Bold Italics*

Albuquerque Comprehensive Zoning Code

Zoning Code Section 14-16-1-3, Intent states:

(A) This article is intended to help achieve Article IX of the Charter of the City of Albuquerque and the city's master plan; in particular the master plan documents which comprise the Albuquerque/Bernalillo County Comprehensive Plan. This article is intended to create orderly, harmonious, and economically sound development in order to promote the health, safety, convenience, and general welfare of the citizens of the city. These regulations are necessary to provide adequate open spaces for light and air including solar access; to avoid undue concentration of population, to secure safety from fire, panic, and other dangers; to help control congestion in the streets and public ways; to control and abate unsightly use of buildings or land; to facilitate adequate provisions for community utilities and facilities such as transportation, water, sewer, schools, and parks; to encourage the most appropriate use of land; to properly channel flood water runoff; to conserve and stabilize the value of property; and to enhance the appearance of the landscape.

The proposed text amendment meets the intent of the Zoning Code (Section 14-16-1-3) by creating orderly, harmonious, and economically sound development while promoting the health, safety, convenience, and general welfare of the citizens of the City. The request promotes the health, safety, and general welfare of the City by deleting the language in the existing zoning code that causes confusion, and by clarifying that package liquor sales are not allowed in the C-1 zone. Residential neighborhoods that are adjacent to the C-1 zone would be protected by this request. Alcoholic drink in a C-1 zone would only be able to be sold permissively under a restaurant license for sale of beer and wine, in accordance with the state requirements for a restaurant liquor license (Section 60-6A-4 NMSA 1978). The request meets the intent of the Zoning Code (Section 14-16-1-3).

Albuquerque / Bernalillo County Comprehensive Plan

Policy Citations are in Regular Text; *Staff Analysis is in Bold Italics*

The Comprehensive Plan is the Rank 1 planning document for the City, containing goals and policies that provide a framework for development and service provision.

Developing and Established Urban Area

The 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.

Applicable policies include:

Policy II.B.5d: 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, or recreational concern.

The request will respect neighborhood values by clarifying that package liquor sales are not allowed in the C-1 zone. Residential neighborhoods that are adjacent to the C-1 zone would be protected by this request. When the Zoning Code was amended in 2005 to prohibit the sale of alcoholic beverages within 500 feet of a Community Residential Program, it created confusion with regard to the C-1 zone, which had previously allowed alcohol to be sold only for on-premise consumption in conjunction with a restaurant (beer and wine) liquor license. The 2005 amendment was interpreted as allowing off-premise package liquor sales in the C-1 zone. The request will delete the language that has caused confusion, and clarifies that the 500-foot prohibition applies to restaurant licenses. The request furthers Policy II.B.5d.

Human Services

The Goal is to site human service facilities in locations that provide the greatest possible access to services, and to consider human rights and human service needs in development and redevelopment throughout the Plan area.

Policy II.D.8c: Development's negative effects upon individuals and neighborhoods shall be minimized.

The request would clarify that package liquor sales are not allowed in the C-1 zone and that the 500-foot prohibition applies to restaurant licenses. This would protect residential neighborhoods that are located adjacent to C-1 zones. The request furthers Policy II.D.8c.

Public Safety

The Goal is to develop a safe and secure community in cooperation with the public and other governmental agencies.

The request will help to develop a safe and secure community in cooperation with the public and other governmental agencies. Off-premise package liquor sales would no longer be allowed in the C-1 zone. Alcoholic drink may be sold only under a license for sale of beer and wine as provided by Section 60-6A-4 NMSA 1978. The request furthers the Public Safety goal.

III. AGENCY & NEIGHBORHOOD CONCERNS

Reviewing Agencies/Pre-Hearing Discussion

City Departments and other interested agencies reviewed this application from 2/28/2011 to 3/11/2011. Agency comments begin on page 7.

Neighborhood/Public

No comments have been received concerning this request and there is no known neighborhood or other opposition to the proposed text amendment.

IV. CONCLUSION

This is a request by City Council to amend the text in Section 14-16-2-16 (A)(8)(i) of the Zoning Code, to clarify that the only alcohol that can be sold permissively in a C-1 zone is beer and wine in accordance with the State of New Mexico requirements (Section 60-6A-4 NMSA 1978) for a restaurant liquor license. The amendment is intended to clarify that package liquor sales are not allowed in the C-1 zone.

There is no neighborhood opposition to the request. The request furthers a preponderance of policies in the Comprehensive Plan and Zoning Code Section 14-16-1-3. Planning Staff recommends approval of this request.

FINDINGS – 11EPC 40014, 4/14/2011, Text Amendment to the Zoning Code

1. This is a request by City Council to amend the text in Section 14-16-2-16 (A)(8)(i) of the Zoning Code, to clarify that the only alcohol that can be sold permissively in a C-1 zone is beer and wine in accordance with the State of New Mexico requirements (Section 60-6A-4 NMSA 1978) for a restaurant liquor license. The amendment is intended to clarify that package liquor sales are not allowed in the C-1 zone.

2. The request was submitted by the City Council on February 9, 2011 as Bill No. O-11-45 and affects Section 14-16-2-16 (A)(8)(i) of the Zoning Code which currently states:

Alcoholic drink may be sold only under a restaurant license for sale of beer and wine, as provided by Section 60-6A-4 NMSA 1978 except the retailing of alcoholic drink, for on or off premise consumption, within 500 feet of a Community Residential Program or Hospital for Treatment of Substance Abusers, is prohibited pursuant to Section 14-16-3-12 (A)(11) ROA 1994.

City Council suggests that the request be amended as follows:

Alcoholic drink may be sold only under a restaurant license for sale of beer and wine, as provided by Section 60-6A-4 NMSA 1978 [+,+]. [~~except the retailing of alcoholic drink, for on or off premise consumption,~~] [The sale of beer and wine under a restaurant license, however, is prohibited] within 500 feet of a community residential program or hospital for treatment of substance abusers [~~is prohibited~~] pursuant to Section 14-16-3-12 (A)(11) ROA 1994.”

3. 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.

4. The request meets the intent of Zoning Code Section 14-16-1-3 by creating orderly, harmonious, and economically sound development while promoting the health, safety, convenience, and general welfare of the citizens of the City. The request promotes the health, safety, and general welfare of the City by deleting the language in the existing zoning code that causes confusion, and by clarifying that package liquor sales are not allowed in the C-1 zone. Residential neighborhoods that are adjacent to the C-1 zone would be protected by this request. Alcoholic drink in a C-1 zone would only be able to be sold permissively under a restaurant license for sale of beer and wine, in accordance with the state requirements for a restaurant liquor license (Section 60-6A-4 NMSA 1978).

5. The request furthers the following policies of the Comprehensive Plan:
 - a. Developing and Established Urban Policy II.B.5d – The request will respect neighborhood values by clarifying that package liquor sales are not allowed in the C-1

- zone. When the Zoning Code was amended in 2005 to prohibit the sale of alcoholic beverages within 500 feet of a Community Residential Program, it created confusion with regard to the C-1 zone, which had previously allowed alcohol to be sold only for on-premise consumption in conjunction with a restaurant (beer and wine) liquor license. The 2005 amendment was interpreted as allowing off-premise package liquor sales in the C-1 zone. The request will delete the language that has caused confusion, and clarifies that the 500-foot prohibition applies to restaurant licenses.
- b. Human Services Policy II.D.8c – Development’s negative effects upon individuals and neighborhoods would be minimized by the request. The request would clarify that package liquor sales are not allowed in the C-1 zone and that the 500-foot prohibition applies to restaurant licenses. This would protect residential neighborhoods that are located adjacent to C-1 zones.
 - c. Public Safety Goal – The request will help to develop a safe and secure community in cooperation with the public and other governmental agencies. Off-premise package liquor sales would no longer be allowed in the C-1 zone. Alcoholic drink may be sold only under a license for sale of beer and wine as provided by Section 60-6A-4 NMSA 1978.
6. There is no neighborhood opposition to the request.

RECOMMENDATION - 11EPC 40014, 4/14/2011, Text Amendment to the Zoning Code

APPROVAL of 11EPC 40014, a text amendment to the Zoning Code, Section 14-16-2-16 (A)(8)(i), be forwarded to the City Council, based on the preceding Findings.

***Randall Falkner
Planner***

cc: City of Albuquerque/City Council, P.O. Box 1293, Albuquerque, NM 87103
City of Albuquerque/Planning Department, 600 2nd St. NW, 3rd Floor, Albuquerque, NM 87102

Attachments

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Enforcement

Reviewed, no comment.

Office of Neighborhood Coordination

Long Range Planning

This amendment will clarify the regulations regarding alcohol sales in the C-1 zone. This has been an issue for staff and applicants. This amendment will clarify what is allowed, when and where.

Transportation Development (City Engineer/Planning Department):

- Reviewed, no comments.

Hydrology Development (City Engineer/Planning Department):

- The Hydrology section has no objection to the Zoning Code Amendment.

Transportation Planning (Department of Municipal Development):

- Reviewed, and no comments regarding on-street bikeways or roadway system facilities.

Traffic Engineering Operations (Department of Municipal Development):

- *No comments received.*

Street Maintenance (Department of Municipal Development):

- No comments received.

New Mexico Department of Transportation (NMDOT):

- No comments received.

RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT

and NMDOT:

Conditions of approval for the proposed Zone Map Amendment shall include:

None

WATER UTILITY AUTHORITY

Utility Services

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Reviewed, no objection. Request does not affect our facilities.

Open Space Division

Open Space has no adverse comments

City Forester

POLICE DEPARTMENT/Planning

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division

FIRE DEPARTMENT/Planning

No Comments

TRANSIT DEPARTMENT

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY

Reviewed, no comment.

ALBUQUERQUE PUBLIC SCHOOLS

This will have no impacts to the APS district.

MID-REGION COUNCIL OF GOVERNMENTS

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

PNM has no comments based on information provided to date.