



**Environmental
Planning
Commission**

*Agenda Number: 3
Project Number: 1008431
Case #: 10EPC 40049
October 14, 2010*

Staff Report

Agent	Consensus Planning, Inc.
Applicant	Zsolt Palcza
Request(s)	Zone Map Amendment
Legal Description	East 70 feet Lot 14, Block 3, Monterey Hills Addition
Location	Burton Avenue, between Wellesley Drive and Tulane Drive
Size	Approximately 0.10 acres
Existing Zoning	C-1
Proposed Zoning	R-1

Staff Recommendation

APPROVAL of 10EPC 40049, based on the Findings beginning on Page 9.

Staff Planner
Randall Falkner, Planner

Summary of Analysis

This is a request for a zone map amendment from C-1 to R-1 for East 70 feet Lot 14, Block 3, Monterey Hills Addition. The site is located on Burton Avenue, between Wellesley Drive and Tulane Drive. The applicant intends to remodel and expand the existing house to improve the property.

The request furthers a preponderance of applicable goals and policies found in the Comprehensive Plan. Letters of support from the Southeast Heights Neighborhood Association and an adjacent neighbor have been received. There is no known opposition and the staff recommends approval.

Location Map (3" x 3")

I. AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding zoning, plan designations, and land uses:

	<i>Zoning</i>	<i>Comprehensive Plan Area; Applicable Rank II & III Plans</i>	<i>Land Use</i>
<i>Site</i>	C-1	Established Urban	Single family home
<i>North</i>	R-2	Established Urban	Multi-family residential (Duplex)
<i>South</i>	R-1	Established Urban	Public/Institutional (Bandelier Elementary School)
<i>East</i>	R-1	Established Urban	Single Family Residential
<i>West</i>	C-1	Established Urban	Single family home

II. INTRODUCTION

Proposal

This is a request for a zone map amendment from C-1 to R-1 for East 70 feet Lot 14, Block 3, Monterey Hills Addition. The site is located on Burton Avenue, between Wellesley Drive and Tulane Drive. The applicant intends to remodel and expand the existing house to improve the property. However the current C-1 zoning creates a restriction on expansion of the house since it is considered “non-conforming”.

The EPC is hearing the case because zone map amendments must receive approval from the Environmental Planning Commission (EPC). The applicant has provided justification for the zone map amendment pursuant to R270-1980. The site is located in the Established Urban Area of the Comprehensive Plan. The site is not located within the boundaries of any area or sector development plans.

Context

The subject site contains a single family home that is surrounded by residential uses (single family homes to the east and west and a duplex to the north). To the south, across Burton Avenue, is Bandelier Elementary School. The area surrounding the subject site is a well established neighborhood. The subject site shares Lot 14 with the property to the west, which is another single family home. The legal description of the subject site is East 70 feet Lot 14, Block 3, Monterey Hills Addition, while the legal description of Lot 14 to the west is West 70 feet, Lot 14, Block 3, Monterey Hills Addition.

History

In 1993 the owner of the property to the immediate west requested a special exception (ZA-93-144) to Section 21.B.6, a conditional use for a dwelling unit in a C-1 zone and Section 21.E reference Section 20.E.1: a variance of 3.5 feet and 2 feet to the front yard setback requirements of 5 feet, and 3 feet to the front yard setback wall requirements for a 6 foot high wall on Lot 14 (west 70'), Block 3, Monterey Hills Addition, zoned C-1, and located at 526 Wellesley, SE. The ZHE approved the variance. A conditional use for a dwelling unit in a C-1 zone can no longer be applied for on sites less than 5 acres in size.

The subject site has been used as a single family residence since 1958. The western portion of Lot 14 was once a Laundromat, and the property across Wellesley Drive to the west of Lot 14 was once a small grocery store. The Laundromat is now a single family home and the former grocery store now consists of apartments.

Transportation System

The Long Range Roadway System (LRRS) map, produced by the Mid-Region Council of Governments (MRCOG), identifies the functional classifications of roadways.

Both Burton Avenue and Wellesley Drive are local streets.

No transit lines or bicycle routes, lanes, or trails pass by the subject site.

Public Facilities/Community Services

See attached Public Facilities Map for details.

III. REQUEST FOR ZONE MAP AMENDMENT

Albuquerque Comprehensive Zoning Code

The existing zoning is C-1. The C-1 zone provides suitable sites for office, service, institutional, and limited commercial uses to satisfy the day-to-day needs of residential areas. The requested zoning is R-1. The R-1 zone provides suitable sites for houses and uses incidental thereto in the Established and Central Urban areas.

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

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

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: there was an error when the existing zone map pattern was created; or changed neighborhood or community conditions justify the change; or a different use category is more

advantageous to the community, as articulated in the Comprehensive Plan or other City master plan.

Analysis of Applicant's Justification

Note: Policy citations are in italics; applicant's justification is in regular text; ***staff's analysis is in bold italics***

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

The applicant states that the proposed zone change will not jeopardize the health, safety, morals, and general welfare of the City. Single family zoning is the appropriate zoning for this property, which will allow the continued use and improvement to the property.

The request for a zone map amendment would be consistent with the health, safety, morals, and general welfare of the City. R-1 zoning is appropriate for the subject site and would allow for the continued use and improvement of the property.

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

The applicant states that the proposed amendment will rectify an existing disconnect between the zoning and the land use. The proposed zoning will stabilize the property relative to the neighborhood. The requested zoning is not only more compatible with the existing use of the property, but with the surrounding neighborhood and elementary school as well. In contrast, development of the property under the C-1 zone could be a destabilizing action since some of the C-1 permissive uses would not be appropriate in this location.

The request will provide stability by matching the actual use of the property (single family residential) with the proposed zoning (R-1). The subject site is zoned C-1, but has been used as a single family residence since 1958. Surrounding land use and zoning is primarily residential.

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

Albuquerque / Bernalillo County Comprehensive Plan

The subject site is located in the area designated Established Urban by the Comprehensive Plan.

The applicant has cited the following policies to justify the request:

Developing and Established Urban Areas

Goal: 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.

The applicant states that the proposed Zone Map Amendment will allow the remodel and expansion of an existing single family home. This goal is furthered by this request in that it will allow the continued use of the structure and the ability for a growing family to live at this location with easy access to schools and community services.

The request for R-1 zoning would offer variety and maximum choice in housing by allowing for the remodel and expansion of an existing single family home. The request furthers the Developing and Established Urban Areas goal.

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

The applicant states that the proposed zone map amendment is consistent with the existing pattern in the neighborhood of single family homes. While the surrounding area does contain a mix of residential densities and urban uses, the subject property is developed with a single family home and is surrounded by single family homes and an elementary school. This is not an appropriate location for neighborhood commercial due to the size of the lot, lack of parking, and its location adjacent to Bandelier Elementary School.

The request for R-1 zoning would not add to the full range of urban land uses. The request would allow for more residential, which is already the predominant use in this neighborhood. However, the request will result in maintaining an overall gross density of 5 du/acre. The request partially furthers Policy II.B.5a.

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 and recreational concern.

The applicant states that the single family use is existing; however, the expansion of the existing use is prohibited by the existing zoning.

The request will respect existing neighborhood values and not disrupt the neighborhood since the site will remain a single family residential home. The request furthers Policy II.B.5d.

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

The applicant did not cite this Policy; however, staff believes it applies.

The request would help to maintain the integrity of the existing neighborhood by allowing an R-1 zone on a site that is and has been single family residential since 1958. The request furthers Policy II.B.5e.

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

The applicant states that the change of zoning to R-1 will permit the remodel and expansion of the exiting single family home on the property, adding investment and improvement to the neighborhood that is consistent with the surrounding uses.

The request for R-1 zoning will allow for redevelopment and rehabilitation of an older neighborhood in the Established Urban Area. The current zoning (C-1) will not permit expansion of the existing home since it is considered non-conforming. The request furthers Policy II.B.5o.

Transportation and Transit

Goal: Develop corridors, both street and adjacent land uses that provide a balanced circulation system through efficient placement of employment and services, and encouragement of bicycling, walking, and use of transit/para transit as alternatives to automobile travel, while providing sufficient roadway capacity to meet mobility and access needs.

The applicant states that the subject site is located across from an elementary school with excellent access by walking, bicycle, automobile, and transit to community services located nearby. While this condition is existing, the prohibition against the expansion of the existing use due to the C-1 zoning impacts the owner's ability to stay in the home as their family size increases.

The purpose of the transportation and transit goal is to provide a balanced circulation system through efficient placement of employment and services. The request for an R-1 zone does not do this as the subject site is residential and does not provide a balanced circulation system through efficient placement of employment and services. The site does have sidewalks, but is not along any transit corridors or any bicycle routes, lanes or trails. The request does not further the transportation and transit goal; however, this goal does not really apply to this request.

Policy II.D.4g: Pedestrian opportunities shall be promoted and integrated into development to create safe and pleasant non-motorized travel conditions.

The applicant states that as an existing urban neighborhood, the street grid provides excellent pedestrian access throughout the surrounding neighborhood.

The street grid may provide excellent pedestrian access throughout the neighborhood, but this is the case in most neighborhoods throughout the City. The Policy states that pedestrian opportunities shall be promoted and integrated into development. The request does not promote and integrate pedestrian opportunities into development in order to create safe and pleasant non-motorized travel conditions. The request does not further Policy II.D.4g; however, this goal does not really apply to this request.

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

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

(2) The applicant states that the existing zoning is inappropriate due to changed community conditions. The C-1 zoning was established because the adjacent properties had been commercial uses – a Laundromat and a small grocery store. The former grocery store is currently apartments. These uses have long since been converted to residential uses. The subject property was in use as a single family home in 1958 prior to the establishment of the C-1 zone. The property owner to the west is also zoned C-1, however they received a conditional use for a dwelling unit in a C-1 zone prior to the changes to the C-1 regulations that eliminated this option for sites less than 5 acres in size.

(3) The applicant also states that the existing zoning is also inappropriate because it is more advantageous to the community. The property is in the center of an existing and well established residential property and adjacent to an elementary school. R-1 zoning is more advantageous to the neighborhood.

Conditions have changed in this neighborhood over the years. The former commercial uses (a Laundromat and the grocery store) have been converted to residential uses and the subject site has been in use as a single family since 1958. The applicant has shown that the proposed zoning (R-1) is more advantageous to the community than the existing zoning (C-1) by furthering a preponderance of goals and policies in the Comprehensive Plan.

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

The applicant states that the proposed zone change will make the zoning consistent with the land use, which is consistent with the surrounding neighborhood. Some of the permissive uses under the existing C-1 zoning could be harmful to the adjacent properties. Some examples of uses that could have negative impacts are smoke shop (use), restaurant (odors), bank (traffic), auto repair (noise and odors), etc.

There are no permissive uses in the proposed R-1 zoning that would be harmful to the adjacent property, the neighborhood, or the community. The subject site has been in use as a single family home since 1958.

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

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

The applicant states that the proposed zone change will not require any capital expenditures.

The proposed zone change would not require any major or unprogrammed capital expenditures by the City.

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

The applicant states that the economic considerations pertaining to the applicant are not the reason this zone map amendment is justified. The proposed zone map amendment will allow for the remodel and expansion of the existing single family home on the property, which is reasonable and will improve property values for the property.

The cost of land or other economic considerations are not the determining factor for the requested zone map amendment. The applicant already owns the subject site.

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

The subject site is located on Burton Avenue SE, a local street.

The site is not located on an arterial or collector street, but is located on a local street.

- I. *A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "spot zone." Such a change of zone may be approved only when:*
- 1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or*
 - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.*

The applicant states that the proposed zone map amendment will make the property consistent with the zoning to the east and south and the majority of the surrounding neighborhood.

The request for R-1 zoning would not result in a spot zone since there is already R-1 zoning to the south and to the east. The applicant has also shown that the request will clearly facilitate realization of the Comprehensive Plan.

- J. *A zone change request, which would give a zone different from surrounding zoning to a strip of land along a street is generally called "strip zoning." Strip commercial zoning will be approved only where:*
- 1. The change will clearly facilitate realization of the Comprehensive Plan and any adopted sector development plan or area development plan; and*

2. *The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic or special adverse land uses nearby.*

The applicant states that the proposed zone change is not “strip zoning”.

The request would not result in a strip zone.

IV. AGENCY & NEIGHBORHOOD CONCERNS

Reviewing Agencies/Pre-Hearing Discussion

City Departments and other interested agencies reviewed this application from 8/30/2010 to 9/10/2010. There are no adverse comments concerning this request. Agency comments begin on page 12.

Neighborhood/Public

The Neighborhood and/or Homeowners Associations and Coalitions affected by this proposal include the Southeast Heights N.A. and the District 6 Coalition of N.A.’s. Letters of support from the Southeast Heights Neighborhood Association and an adjacent neighbor have been received.

V. CONCLUSION

This is a request for a zone map amendment from C-1 to R-1 for East 70 feet Lot 14, Block 3, Monterey Hills Addition. The site is located on Burton Avenue, between Wellesley Drive and Tulane Drive. The applicant intends to remodel and expand the existing house to improve the property.

The request furthers a preponderance of applicable goals and policies found in the Comprehensive Plan. There is no known opposition and the staff recommends approval.

FINDINGS – 10EPC 40049, 10/14/2010, Zone Map Amendment

1. This is a request for a zone map amendment from C-1 to R-1 for East 70 feet Lot 14, Block 3, Monterey Hills Addition. The site is located on Burton Avenue, between Wellesley Drive and Tulane Drive.
2. The applicant intends to remodel and expand the existing house to improve the property. However the current C-1 zoning creates a restriction on expansion of the house since it is considered “non-conforming”.
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 subject site is within the area designated Established Urban by the Comprehensive Plan.
5. The applicant provided an adequate justification for the zone change request pursuant to Resolution 270-1980.
 - a. The request for a zone map amendment would be consistent with the health, safety, morals, and general welfare of the City. R-1 zoning is appropriate for the subject site and would allow for the continued use and improvement of the property.
 - b. The request will provide stability by matching the actual use of the property (single family residential) with the proposed zoning (R-1). The subject site is zoned C-1, but has been used as a single family residence since 1958. Surrounding land use and zoning is primarily residential.
 - c. The request is not in significant conflicts with adopted elements of the Comprehensive Plan, including the following:
 - i. Developing and Established Urban Areas Goal – The request for R-1 zoning would offer variety and maximum choice in housing by allowing for the remodel and expansion of an existing single family home.
 - ii. Developing and Established Urban Area Policy II.B.5d – The request will respect existing neighborhood values and not disrupt the neighborhood since the site will remain a single family residential home.
 - iii. Developing and Established Urban Area Policy II.B.5e – The request would help to maintain the integrity of the existing neighborhood by allowing an R-1 zone on a site that is and has been single family residential since 1958.
 - iv. Developing and Established Urban Area Policy II.B.5o – The request for R-1 zoning will allow for redevelopment and rehabilitation of an older neighborhood

in the Established Urban Area. The current zoning (C-1) will not permit expansion of the existing home since it is considered non-conforming.

- d. (2) Conditions have changed in this neighborhood over the years. The former commercial uses (a Laundromat and the grocery store) adjacent to the store have been converted to residential uses and the subject site has been in use as a single family residence since 1958. (3) The applicant has shown that the proposed zoning (R-1) is more advantageous to the community than the existing zoning (C-1) by furthering a preponderance of applicable goals and policies in the Comprehensive Plan.
 - e. There are no permissive uses in the proposed R-1 zoning that would be harmful to the adjacent property, the neighborhood, or the community. The subject site has been in use as a single family home since 1958.
 - f. The proposed zone change would not require any major or unprogrammed capital expenditures by the City.
 - g. The cost of land or other economic considerations are not the determining factor for the requested zone map amendment. The applicant already owns the subject site.
 - h. The site is not located on an arterial or collector street, but is located on a local street.
 - i. The request for R-1 zoning would not result in a spot zone since there is already R-1 zoning to the south and to the east.
 - j. The request would not result in a strip zone.
6. Letters of support from the Southeast Heights Neighborhood Association and an adjacent neighbor have been received.
7. There is no known neighborhood opposition to the request.

RECOMMENDATION - 10EPC 40049, 10/14/2010, Zone Map Amendment

APPROVAL of 10EPC 40049, a zone map amendment from C-1 to R-1, for East 70 feet Lot 14, Block 3, Monterey Hills Addition, based on the preceding Findings.

***Randall Falkner
Planner***

cc: Zsolt Palcza, 3309 Burton Avenue SE, Albuquerque, New Mexico 87106
Consensus Planning, Inc., 302 8th Street NW, Albuquerque, New Mexico 87102
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Attachments

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Enforcement

The approval of this request will allow for a nonconforming property to become a conforming use.

Office of Neighborhood Coordination

Long Range Planning

No comments received.

CITY ENGINEER

Transportation Development (City Engineer/Planning Department):

- Reviewed, no comments.

Hydrology Development (City Engineer/Planning Department):

- Reviewed, no comments.

DEPARTMENT OF MUNICIPAL DEVELOPMENT

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

This project is in APD's SE Area Command. No Crime Prevention or CPTED comments concerning the proposed Amendment to Zone Change at the time.

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division

FIRE DEPARTMENT/Planning

1) Plans are required to be submitted if the building is used as a residential assisted living facility.

TRANSIT DEPARTMENT

<p>Project # 1008431 10EPC-40049 AMNDT TO ZONE MAP (ESTB ZONING/ZONE CHG)</p>	Adjacent and nearby routes	None
	Adjacent bus stops	None
	Site plan requirements	None.
	Large site TDM suggestions	N/A
	Other information	None.

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY

Reviewed, no comment.

ALBUQUERQUE PUBLIC SCHOOLS

South Heights Addition, Lot 14, Block 3, is located on Burton Ave SE between Wellesley Dr SE and Tulane Dr SE. The owner of the above property requests an Amendment to Zone Map for a Zone Change from C-1 to R-1 for an existing single family home. This will have no adverse impacts to the APS district.

MID-REGION COUNCIL OF GOVERNMENTS

MRCOG staff have no comment on the proposed application.

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

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