

PLANNING DEPARTMENT  
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## OFFICIAL NOTIFICATION OF DECISION

January 21, 2021

EA Properties, LLC  
2632 Pennsylvania St NE, Suite C  
Albuquerque NM, 87110

**Project #2020-004780**  
RZ-2020-000050- Zoning Map Amendment (Zone Change)

### **LEGAL DESCRIPTION:**

Consensus Planning, agent for EA Properties LLC, requests a Zoning Map Amendment from R-1A to R-T for Lots 21 & 22, Block 7, Albright & Moore Addition, located at 1314 Los Tomases Drive NW, between Summer Avenue NW and Kinley Avenue NW, approximately 0.17 acre (J-14)  
Staff Planner: Silvia Bolivar

On January 21, 2021, the Environmental Planning Commission (EPC) voted to Approve Project #2020-004780/RZ 2020-000050, a Zoning Map Amendment (Zone Change), based on the following findings:

1. The request is for a zoning map amendment (zone change) for an approximately 0.17 acre site legally described as Lots 21 & 22, Block 7, Albright & Moore Addition (the "subject site"). The subject site is located at 1314 Los Tomases Drive NW, between Summer Avenue NW and Kinley Avenue NW.
2. The subject site, which the applicant owns, is zoned R-1A (Single-Family Zone District). This zoning was received as a conversion from the subject site's former zoning of S-R (Sawmill Residential) from the previous Sawmill/Wells Park Sector Development Plan.
3. The applicant is requesting a zone change to R-T (Townhouse Zone District) in order to bring the existing three dwelling units into compliance, as they are currently a nonconforming use in the R-1A zone.
4. The application was submitted on December 3, 2020 and is being reviewed using the November 2020 version of the Integrated Development Ordinance (IDO).
5. The subject site is in an Area of Consistency as designated by the Comprehensive Plan. It is not in an Activity Center or along a designated Corridor. The subject site is within the Sawmill/Wells Park Character Protection Overlay Zone (CPO-12).
6. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Integrated Development Ordinance (IDO) are incorporated herein by reference and made part of the record for all purposes.

7. The request furthers the following applicable Comprehensive Plan Policies regarding Community Identity:

- A. Policy 4.1.2 – Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mix of uses, and character of building design.

The potential building scale allowed under the proposed R-T district is the same as the existing R-1A zoning due to the requirements of the Sawmill/Wells Park CPO-12. Both zones allow for the construction and maintenance of two-story houses (26 feet tall) and the CPO-12 requirements dictate identical setbacks for low-density residential development regardless of the zoning district.

- B. Policy 4.1.4 – Neighborhoods: Enhance, protect, and preserve neighborhoods and traditional communities as key to our long-term health and vitality.

The Applicant has invested in the property and the requested zone change will facilitate the maintenance and rehabilitation of the property by giving the Applicant the confidence in the continued use of a third unit to make a return on their investment. The subject site was already developed when the Applicant purchased the property in 2019 but they are being proactive in addressing the issues of nonconformity.

8. The request furthers the following applicable Comprehensive Plan sub-policies regarding Land Use:

- A. Policy 5.2.1(d) Land Uses: d. Encourage development that broadens housing options to meet a range of incomes and lifestyles.

The increased density on the subject site will add a complimentary housing type that helps fulfill the lack of low-income housing in the area.

- B. Policy 5.2.1(f) Land Uses: f. Encourage higher density housing as an appropriate use in the following situations:

- ii. In areas with good street connectivity and convenient access to transit;
- iii. In areas where a mixed density pattern is already established by zoning or use, where it is comparable with existing area land uses, and where adequate infrastructure is or will be available.

The request furthers the sub-policies related to land uses by making the existing multi-unit low-density residential development of the subject site conforming and adding to the mixture of housing types present in the Wells Park neighborhood. By allowing the existing duplex and accessory dwelling unit on the subject site, the zone change will make the existing housing on the property permissive that includes three different small families or a multi-generational living situation in a location that has good access to transit that provide options for transportation, work areas, and lifestyles.

9. The request furthers the following applicable Comprehensive Plan Policies regarding Housing:
- A. Goal 9.1 Supply: Ensure a sufficient supply and range of high-quality housing types that meet current and future needs at a variety of price levels to ensure more balanced housing options.
- The higher density provides three housing units to residents and households of varying income levels and created more housing choices for the changing needs of the community.
- B. Policy 9.1.1 Housing Options: Support the development, improvement, and conservation of housing for a variety of income levels and types of residents and households.
- Expanding the kinds of housing choices that are available in the area is important in order to provide more of an opportunity to live close to jobs, schools, etc. at varying price points.
- C. Policy 9.1.2 Affordability: Provide for mixed-income neighborhoods by encouraging high-quality, affordable, and mixed income housing options throughout the area.
- The request would facilitate providing affordable and mixed income housing options by providing a diverse housing option that is comparable to the townhouses in the R-T zone nearby. The request would allow for housing options to be expanded in the area with varying price points.
- D. Goal 9.3. Density: Support increased housing density in appropriate places with adequate services and amenities.
- The request furthers Goal 9.3-Density as the addition of the accessory dwelling unit will provide increased density in an area that has adequate services and amenities.
- E. Policy 9.3.2 Other Areas: Increase housing density and housing options in other areas by locating near appropriate uses and services and maintaining the scale of surrounding development.
- The request would increase density and housing options in other areas by locating near appropriate uses and services.
- c. Allow accessory dwelling units in areas with existing infrastructure capacity, where intergenerational living is encouraged, where walkability is encouraged, and where affordable housing is needed in single-family neighborhoods
- The request would facilitate the allowance of an accessory dwelling unit in the area in order to provide affordable housing and the opportunity for intergenerational living.
10. Sawmill/Wells Park Metropolitan Redevelopment Area Plan Goals:
- A. Preserve a balance between housing which serves low income families and higher priced market rate units.
- This goal is furthered by providing for an additional permissive unit on the subject property, which affects rental costs and allows for a greater variety of housing types that are provided within the Wells Park neighborhood.

The Zone Map Amendment if approved will provide higher density while expanding the housing choices for a variety of income levels, specifically low income families. The request furthers Goal A of the Sawmill/Wells Park Metropolitan Redevelopment Area plan.

G. Avoid negative impacts from new development on the existing streets.

K. Protect and improve the existing residential neighborhoods.

These goals are furthered because the three dwelling units on the property are contained within an existing building that has been on the site since at least 1996. If the site were to be redeveloped, the height and setback requirements of the R-T zone in combination with the additional lot width, second story setback, and other design standards in the Sawmill/Wells Park CPO-12 mandate a building form not unlike what exists on the property currently and on other properties in the neighborhood.

Negative impacts have been avoided by adding the accessory dwelling unit to an existing property rather than undertaking new construction. The existing streets will not be impacted due to parking for the subject property as these uses have been accommodated on-site. The request furthers Goal G.

The request contributes to improving the existing neighborhoods as the increase in density has created a more efficient use of the land and avoided further land disturbance in the area. The request furthers Goal K.

M. Increase and improve housing without displacing current residents.

This goal is furthered by allowing a gentle increase in density on just the subject property rather than allowing a larger scale development or requesting a wholesale change in zoning for a large area of the neighborhood.

No one on the subject property has been displaced by the addition of the accessory dwelling unit but more housing has been provided. It is important to note that housing has been increased at the subject site due to the lot being deep and narrow allowing for the units to be built without displacing anyone or disturbing the neighborhood. The request furthers Goal M.

11. The applicant has adequately justified the request pursuant to Integrated Development Ordinance (IDO) Section 14-16-6-7(G)(3)-Review and Decision Criteria for Zoning Map Amendments, as follows:

A. Criterion A: Consistency with the City's health, safety, morals and general welfare is shown by demonstrating that a request furthers a preponderance of applicable Comprehensive Plan Goals and policies (and other plans if applicable) and does not significantly conflict with them.

Based on the justification provided by the Applicant and the findings listed above, the request furthers and is not in conflict with a preponderance of applicable Comprehensive Plan Goals and policies regarding the complete communities and providing affordable housing options.

B. Criterion B: The applicant's policy-based response has adequately demonstrated that the request for a new zone would clearly reinforce and strengthen the established character of the

surrounding Area of Consistency. The response to Criterion B is adequate.

- C. Criterion C: The subject site is located wholly in an Area of Consistency, so this criterion does not apply. The response to Criterion C is sufficient.
- D. Criterion D: The applicant compared the existing R-1A zoning to the proposed R-T zoning, noting which uses would become permissive in the new zone and explaining that properties nearby are zoned R-T. As is clearly shown, only townhouses, bed and breakfast and art gallery become permissive with the requested zone change.

Furthermore, any development on the subject site would have to comply with the IDO's Use Specific Standards and the requirements of the CPO-12 overlay zone, which would help mitigate potential harm to the surrounding properties, neighborhood, or the community. The development standards all serve to limit the overall density of the site. The response to Criterion D is sufficient.

- E. Criterion E: The request meets the requirement that the City's existing infrastructure and public improvements have adequately served the subject site for many years and have adequate capacity to serve the development made possible by the change of zone. The units are served by the existing roadway network including Los Tomases street frontage, nearby transit, water/sewer services, and storm drainage systems. The response to Criterion E is sufficient.
  - F. Criterion F: The requested zone change is not completely based on the property's location on a major street. The property is located on Los Tomases Drive NW, between Summer Avenue NW and Kinley Avenue NW. Los Tomases Drive NW is a local road. The response to Criterion F is sufficient.
  - G. Criterion G: Economic considerations are a factor, but the applicant's justification is not completely or predominantly based upon them. The justification is also not based completely or predominantly upon the cost of land since the applicant already owns the subject site. The main purpose of the request as per the Applicant is to change the zoning in order to bring the existing, nonconforming uses into compliance. The response to Criterion G is sufficient.
  - H. Criterion H: The request will create a spot zone because it would apply a zone different from the surrounding zone district. As per the Applicant, the nature of the structures already on the premises make it unsuitable for uses allowed in adjacent zone districts because under the R-1A zoning the only way to make the duplex conforming is with a subdivision. However, if the property were to be subdivided the accessory dwelling unit would not be allowed. The response to Criterion H is sufficient.
- 12. The applicant's policy analysis adequately demonstrates that the request furthers applicable Goals and policies in the Comprehensive Plan and does not significantly conflict with them.
  - 13. The affected neighborhood organizations is the Wells Park Neighborhood Association (WPNA), which the applicant notified as required. Property owners within 100 feet of the subject site were also notified as required.

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14. The applicant's agent attended the Wells Park Neighborhood Association meeting at the request of the WPNA President. The meeting was held to discuss the request to change the zoning from R-1A (Single-Family Residential) to R-T (Residential – Townhouse). Michael Vos provided an overview showing the property location and existing zoning. The issues of the non-conforming use were discussed and a list of allowable uses in the R-T zone were explained.
15. As of this writing, Staff has received emails from members of the Wells Park Neighborhood Association who oppose the Zoning Map Amendment. They are concerned that the request would create a spot zone that would be inconsistent with CPO-12 and believe that the request is not adequately justified. It was also mentioned that the Zoning Map Amendment would violate the Comprehensive Plan's goals for neighborhoods specifically Policy 4.1.4-Neighborhoods. Other comments have centered on the house barely fitting on the lot and allowing the exception would mean that more changes will be possible in the future.

**APPEAL:** If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **February 5, 2021**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15<sup>th</sup> day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(U) of the IDO, Administration and Enforcement. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal EPC Recommendations to City Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's recommendation.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Successful applicants are reminded that other regulations of the City Zoning Code must be complied with, even after approval of the referenced application(s).

Sincerely,

for Brennon Williams  
Planning Director

BW/SB

cc: Cathrine Mexal, 1402 Los Tomases, Albuquerque NM, 87102  
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