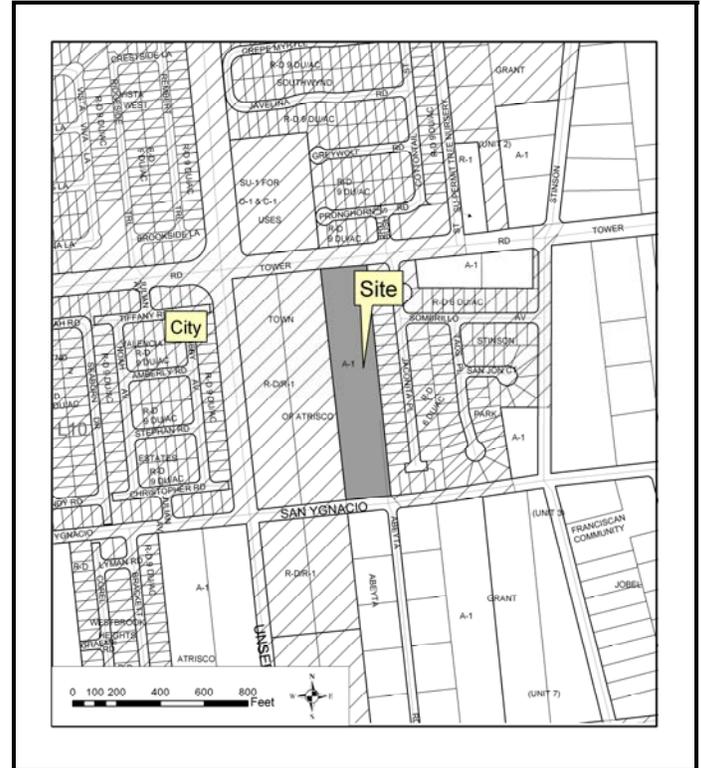


<b>Applicant:</b>	Diana Garcia-Pacheco, Javier Rojo, Richard & Silvia Montoya, and Max Garcia
<b>Agent:</b>	James Pacheco
<b>Location:</b>	Tract 417, located north of San Ygnacio Road SW and south of Tower Road SW
<b>Property Size:</b>	approximately 5.14 acres
<b>Existing Zone:</b>	A-1
<b>Proposed Zoning/SUP:</b>	R-1
<b>Recommendation:</b>	Approval



<b>Summary:</b>	The applicant proposes a zone change from A-1 to R-1 in an effort to acquire the appropriate zoning designation, which will allow a subdivision of the subject site based on the current ownership pattern. The site is located between two parcels located in the City of Albuquerque. This site is located in the Established Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan and Residential Area Five of the Southwest Area Plan. This case was continued from the October 3, 2007 hearing.
<b>Staff Planner:</b>	Enrico Gradi, Program Planner

- Attachments:**
1. Application
  2. Zoning Map

Bernalillo County Departments and other interested agencies reviewed this application from 1/23/07 to 2/12/07.

Agency comments are verbatim and were used in the preparation of this report, which begins on page 12.

**AGENDA ITEM NO.: 13**  
**County Planning Commission**  
**January 9, 2008**

CZ-70018 James Pacheco, agent for Diana Garcia-Pacheco, Javier Rojo, Richard & Silvia Montoya, and Max Garcia, request approval of a zone map amendment from A-1 to R-1 on Tract 417, located north of San Ygnacio Road SW and south of Tower Road SW, between Unser Boulevard and Stinson Street, and containing approximately 5.14 acres. (L-10) (CONTINUED FROM THE OCTOBER 3, 2007 HEARING)

**AREA CHARACTERISTICS AND ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

	<b>Zoning</b>	<b>Land Use</b>
<b>Site</b>	A-1	<b>Two Single Family Dwellings</b>
<b>North</b>	<b>City R-1</b>	Tower Road/Single Family Dwellings
<b>South</b>	A-1	Single Family Dwelling
<b>East</b>	City R-1	Single Family Residential Dwellings
<b>West</b>	City R-1	Vacant

## **BACKGROUND:**

### **The Request**

The applicants are requesting a zone map amendment from A-1 to R-1 on a 5.14 acre (approximately) tract of land located between San Ygnacio Road SW and south of Tower Road SW. This tract of land has four owners, two of which reside on the site and the property contains two single family dwellings which cover approximately 1/3 of the site. The other two owners do not currently live on the site.

The entire 5.14 acre tract has not been legally platted and the four owners have purchased their respective properties by deed. The purpose of the zone change request is to secure an R-1 zone which will allow them to reduce the lot sizes so that they can legally subdivide the tract and create a legal lot for each owner. The Bernalillo County Assessors Office recognizes four separate lots for purposes of taxation; however the Planning Department has no evidence of a subdivision occurring on this parcel.

### Request Justification

The applicant maintains that the request is justified according to Resolution 116-86 in that there have been significant changes in the neighborhood and community conditions in this area since the original zoning was established. Also, the proposed R-1 zoning would be more advantageous to the community than the existing A-1 zone classification because it allows the residential densities that are called for in the adopted sector plans. The primary reason for the requested zone change is to allow the four property owners who hold individual title to the subject site to subdivide the tract and allocate a legal lot to each party.

### **Surrounding Land Uses and Zoning Activity**

This site is surrounded by the City of Albuquerque on the north, west and east, the area south of the site zoned A-1, located in Bernalillo County and contains a single family dwelling.

## **APPLICABLE PLANS AND POLICIES:**

### **Albuquerque/Bernalillo County Comprehensive Plan**

This site lies in the Developing Urban Area of the Albuquerque/Bernalillo Comprehensive Plan. The Goal of this area 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.

**Policy a** states that the Established and Developing Urban Areas shall allow a full range of urban land uses, resulting in an overall gross density of up to five dwelling units per acre.

**Policy d** states that 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.

**Policy e** states that new growth shall be accommodated through development of areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of existing neighborhoods can be assured.

**Policy f** states that clustering of homes to provide larger shared open areas and houses oriented towards pedestrian or bikeways shall be encouraged.

**Policy g** states that development shall be carefully designed to conform to topographical features and include trail corridors in the development where appropriate.

**Policy h** states that higher density housing is more appropriate in the following situations:

- . In designated Activity Centers
- . In areas with excellent access to the major street network.
- . In areas where a mixed density pattern is already established by zoning or use, where it is compatible with existing areas land uses and where adequate infrastructure is or will be available.
- . In areas now predominately zoned single-family only where it comprises a complete block face and faces onto similar or higher density development; up to 10 dwelling units per acre.
- . In areas where a transition is needed between single-family homes and much more intensive development; densities will vary up to 30 dwelling units per net acres according to the intensity of development in adjacent areas.

**Policy k** states that the land adjacent to arterial streets shall be planned to minimize harmful effects of traffic; livability and safety of established residential neighborhoods shall be protected in transportation operations.

**Policy l** states that quality and innovation in design shall be encouraged in all new development design shall be encouraged which is appropriate for the plan area.

**Policy m** states that urban and site design which maintains and enhances unique vistas and improves the quality of the visual environment shall be encouraged.

### **Air Quality**

The Goal is to improve air quality to safe guard public health and enhance the quality of life.

**Policy g** states that pollution from particles shall be minimized.

- Use vegetation, landscaping and other erosion control techniques to minimize dust pollution especially from construction sites.

### **Southwest Area Plan (SWAP)**

The site is located in Residential Area Five of the Southwest Area Plan.

**Policy 26 (h)** allows up to nine dwelling units per net acre in Residential Area 5, when city water and sewer services are available.

**Policy 1** states, "Techniques to ensure water quality and to enhance water conservation shall be established by the appropriate governmental agencies to enforce policies adopted in the Ground-Water Protection Policy and Action Plan and to prevent further groundwater contamination in the Plan area."

**Policy 5** states, "As development occurs in the Plan area, provisions shall be made to ensure erosion is controlled during and after construction. Runoff and erosion controls shall be developed throughout Soil Conservation Service Zones 3 & 4 to protect Zone 5."

**Policy 6** states, "Specific land use regulations, with performance and improvement standards, shall be created to protect agricultural lands."

**Policy 19** states that all development and subdivisions shall be required to limit the level of water runoff generated from new construction or paving in order to reduce velocity and volume of runoff, and to ensure the viability and capacity of down stream facilities.

**Policy 25** states the County and City shall stabilize residential zoning and land use in the plan area.

**Policy 30** states standards for outdoor lighting shall be implemented to ensure that their use does not interfere with the night sky environment and unnecessarily adjacent properties.

a. Outdoor light poles within residential areas should not exceed sixteen (16) feet in height above existing grade; when mounted on buildings or structures, fixtures should not exceed twelve (12) feet from existing grade.

**Policy 32** states enhance the visual character and quality of the streetscape and overall development by integrating the design and materials of required perimeter walls.

a. Walls shall be signed to complement the architectural character of the neighboring development by incorporating the features and motifs used on adjacent homes or buildings.

b. Discourage long expanses of uninterrupted wall surface and encourage walls to be indented, offset, or in a serpentine form to avoid a tunnel effect.

**Policy 34** Require, where feasible, development to respect views of the mountains to the east and the mesa to the west. Preserve views to and from the sites by incorporating design details.

#### Albuquerque/Bernalillo County Zoning Ordinance

### **Resolution 116-86 defines criteria for evaluating Zone Map changes and Special Use Permit applications.**

A. A proposed land use change must be found to be consistent with the health, safety, and general welfare of the residents of the County.

B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.

C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan of other Master Plans and amendments thereto including privately developed area plans, which have been adopted by the County.

D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.

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

1. There was an error in the original zone map.
2. Changed neighborhood or community conditions justify a change in land use or A different use category is more advantageous to the community as articulated in the Comprehensive Plan or other County Master Plan, even though (1) and (2) above do not apply.

F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.

G. A proposed land use change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the County may be:

1. denied due to lack of capital funds; or
2. granted with the implicit understanding that the County is not bound to provide the capital improvements on any special schedule.

H. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.

I. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:

1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted land use 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 uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

J. A zone change request which would give a zone different from the surrounding zoning to a strip of land along a street is generally called a "strip zoning." Such a change of zone may be approved only when:

1. The change will clearly facilitate revitalization 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 due to traffic or special adverse uses nearby.

### Section 19. Landscaping and Buffer Landscaping Regulations:

Where a nonresidential zone which is hereafter developed for a business purpose abuts a conforming residential use, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

A. Landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are exempt.

1. Sites of one acre or less:

- a. There shall be a landscaped setback along all streets of no less than ten feet.
- b. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
- c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback may contribute toward this requirement.

2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets of not less than 15 feet. All other requirements are the same as 1.b and 1.c above.

3. Sites of five acres or more:

- a. There shall be a landscaped area setback along all streets of no less than 20 feet.
- b. The landscaped setback shall not be counted toward the landscaping required as a result of paving.
- c. All other requirements [shall be the] same as 1.b. and 1.c. above.

**ANALYSIS:**

**Surrounding Land Use and Zoning**

The applicant has requested a zone change from A-1 to R-1 as they anticipate subdividing the site to allow the four property owners who hold individual title to the subject site to subdivide the tract and allocate a legal lot to each party. This site is flanked by the City of Albuquerque immediately to the east and west and the zoning allows higher density residential development. The area south of the site is zoned A-1 and contains a single family residential dwelling, the area north of the site is located in the City and contains single family dwellings. The general development pattern for the vicinity is that of single family detached dwellings at a density of approximately five dwelling units per acre.

**Plans**

Albuquerque/Bernalillo County Comprehensive Plan

This site is located in the Developing Area of the Comprehensive Plan. This request appears to facilitate the Comprehensive Plan in that Policy a allows a full range of urban land uses, resulting in an overall gross density of up to five dwelling units per acre. Further, Policy e calls for new growth to be accommodated through development of areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of the existing neighborhoods can be assured.

Southwest Area Plan

The site is located in Residential Area 5 of the Southwest Area Plan that allows up to nine dwelling units per acre for this area of the South Valley when water and sewer services are available. It appears that water and sewer services are available to this site.

**Zoning Ordinance**

This request is consistent with Resolution 116-86 of the Zoning Ordinance. This request would not result in a "spot zone" as residential zoning surrounds the site on the east and west also higher density residential development is supported in this area by the Albuquerque/Bernalillo County Comprehensive Plan and the Southwest Area Plan.

**Agency Comments**

Comments from the Public Works Division state that the property may be subject to the flood insurance requirements of the Federal Emergency Management Agency. Flood insurance is likely to be required for development of these properties.

A grading and drainage plan prepared an engineer licensed in the State of New Mexico and approved by Bernalillo County Public Works is required prior to any development or additional development of this property.

## Analysis Summary

<b>Zoning</b>	
Resolution 116-86	Request does not constitute a "spot zone" as the site is adjacent to the R-1 zone to the east. In addition, the request facilitates the realization of the Southwest Plan and the Albuquerque/Bernalillo Comprehensive Plan
	Changed neighborhood conditions exist in that new residential development exists in the immediate area.
<b>Plans</b>	
Comprehensive Plan	Consistent with density policy for the Developing and Established Urban Areas.
Area Plan	Consistent with Southwest Area Plan, Policy 26 for Residential Area Five.
<b>Other Requirements</b>	
Environmental Health	Municipal water and sewer appears to be available to this property. A water and sewer availability statement will be required.
Public Works	A grading and drainage plan prepared by an engineer licensed in the State of New Mexico and approved by Bernalillo County Public Works is required prior to any development or additional development of this property.

## Conclusion

The request for a zone change from A-1 to R-1 does not constitute a "spot zone" as R-1 zoning exists on the east and west side of the site. Although the site is next to A-1 property to the south, the changed neighborhood conditions demonstrate that this area of the county is developing a higher density residential land use pattern that is consistent with both the Albuquerque/Bernalillo County Comprehensive Plan and the Southwest Area Plan. With regard to planning and technical review, this request meets the requirements of Resolution 116-86, however, one of the proposed properties on the site appears to have a use which constitutes a zoning violation in the current A-1 zone and in a future R-1 zone. Staff recommends a deferral in order to allow the applicant to resolve these issues.

## Additional Staff Comment: January 9, 2008

This case was continued from the October 3, 2007 hearing in order to allow one applicant in particular to address several zoning issues located on one of the parcels identified in the request. To date, staff is unaware of the result of the enforcement process. However, the additional applicant's request that the case proceed.

Staff recommends that the case be approved and that subsequent zoning enforcement proceed within the new zoning category.

**RECOMMENDATION:**

Approval based on the following Findings

Enrico Gradi  
Program Planner

**Findings**

1. This is a request for a zone map amendment from A-1 to R-1 on Tract 417, located north of San Ygnacio Road SW and south of Tower Road SW, between Unser Boulevard and Stinson Street, and containing approximately 5.14 acres.
2. The property is located in the Developing Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan and Residential Area five of the Southwest Area Plan which allow residential densities of up to five and nine dwelling units per acre.
3. This request is consistent with Resolution 116-86 in that it does not constitute a “spot zone” as the site is adjacent to R-1 zoning.
4. The proposed use is consistent with Resolution 116-86 in that changed neighborhood conditions have occurred in the immediate area with residential development.
5. This request is consistent with the health, safety, and general welfare of the residents of the County.

## ***BERNALILLO COUNTY DEPARTMENT COMMENTS***

**Building Department:**

No adverse comment

**Environmental Health:**

Municipal water and sewer appears to be available to this property, where applicable availability should be coordinated with the ABCWUA. A water and sewer availability statement will be required. Please contact the ABCWUA at 924-398 Upon development this property shall have a wastewater system and drinking water system that meets the most current Bernalillo County Ordinances.9.

**Fire:**

No comment

**Zoning Enforcement Manager:**

No adverse comment

**Zoning Administrator:**

If approved, all future development must comply with the standards outlined in Section 9 of the Zoning Ordinance

**Public Works:**

**DRAN:**

1. This property is within the designated 100-year floodplain, as shown on the National Flood Insurance Program's Flood Insurance Rate Map. The property may be subject to the flood insurance requirements of the Federal Emergency Management Agency. Flood insurance is likely to be required for development of these properties.

2. A grading and drainage plan prepared an engineer licensed in the State of New Mexico and approved by Bernalillo County Public Works is required prior to any development or additional development of this property.

DRE:

**1. Tower Road is in the City of Albuquerque's (COA) jurisdiction and access off of Tower Road will require COA approval.**

**2. Adequate road improvements will be required prior to development, including improvements to San Ygnacio and Tower Road, if required by the COA.**

3. Additional right-of-way be required for adjacent roads.

**Parks & Recreation:**

No comment

Sheriff's:

No comment received

**COMMENTS FROM OTHER AGENCIES**

MRGCOG:

No adverse comment

**AMAFCA:**

No adverse comment

City Open Space:

No adverse comment

**City Planning Department:**

No comment

City Public Works: (Water Resources)

No comment

**City Public Works (Transportation Planning):**

No comment

**City Public Works: (Transportation Development)**

No comment

**City Environmental Health:**

No comment

**City Transit:**

No comment

**APS:**

ZCZ 70018 Town of Atrisco Unit 3, Lot 4, is located on Abeyta Rd SW between Tower Rd SW and San Ygnacio Rd SW. The owners of the above property request a zone change from A-1 to R-1 to allow for the construction of a single family home. This development affects Edward Gonzales Elementary School, Truman Middle School, and West Mesa High School. Edward Gonzales Elementary School and West Mesa High School are exceeding capacity. Truman is nearing capacity.

A new southwest elementary school will open in 2008 and will provide relief for Edward Gonzales Elementary School.

A new southwest high school will open with a 9th grade academy in 2008. The remainder of the school will open in 2009. The new high school will provide relief for West Mesa High School.

To address overcrowding at schools, APS will explore various alternatives. A combination or all of the following options may be utilized to relieve overcrowded schools.

- Provide new capacity (long term solution)
- Construct new schools or additions
- Add portables
- Use of non-classroom spaces for temporary classrooms
- Lease facilities
- Use other public facilities
- Improve facility efficiency (short term solution)
- Schedule Changes
- Double sessions
- Multi-track year-round
- Other
- Float teachers (flex schedule)
- Shift students to Schools with Capacity (short term solution)
- Boundary Adjustments / Busing
- Grade reconfiguration
- Combination of above strategies

All planned additions to existing educational facilities are contingent upon taxpayer approval

**NMDOT:**

No comment

**NEIGHBORHOOD ASSOCIATIONS:**

**South Valley Alliance of Neighborhoods**

**South Valley Coalition of Neighborhoods**

