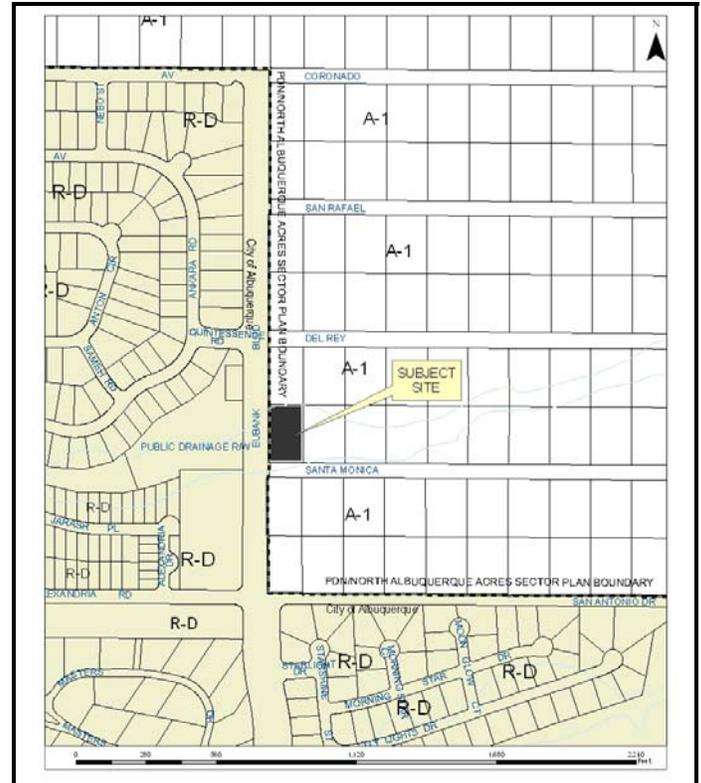


Applicant:	Dion C. and Maxine Lear
Agent:	John R. Taylor, Esq.
Location:	Northeast corner of Eubank and Santa Monica
Property Size:	Approximately 0.74 acre
Existing Zone:	A-1
Proposed Request:	O-1
Recommendation:	Denial



Summary:	The applicant is requesting a zone change from A-1 to O-1 for a lot in North Albuquerque Acres. The site is vacant and surrounded nearby residential development.
Staff Planner:	Mari Simbaña, Program Planner

- Attachments:**
1. Application
 2. Land Use and Zoning Map

Bernalillo County Departments and other interested agencies reviewed this application from June 24, 2008 to July 14, 2008. Agency comments were used verbatim in preparation of this report, and begin on page 11.

AGENDA ITEM NO.: 14
County Planning Commission
August 6, 2008

CZ-80003 John R. Taylor, agent for Dion & Maxine C. Lear, requests approval of a zone map amendment from A-1 to O-1 on Tract 17, Block 17, Unit 2, North Albuquerque Acres, on the northeast corner of Eubank Boulevard NE and Santa Monica Avenue NE, and containing approximately .74 acres. (D-21)

AREA CHARACTERISTICS AND ZONING HISTORY
Surrounding Zoning & Land Uses

Site	Zoning	Land Use
	A-1	Vacant
North	A-1	Vacant
South	Right-of-Way A-1	Santa Monica Vacant
East	A-1	Vacant
West	Right-of-Way City of Albuquerque	Eubank Boulevard Public Drainage Right-of-Way

BACKGROUND:

The Request

The subject site of approximately 0.74 acres is within the Paseo Del Norte/North Albuquerque Acres Sector Development Plan area. This predominantly residential community is bordered on the west and south by residential subdivisions within Albuquerque city limits. The applicant wishes to rezone the site from A-1 to O-1.

Request Justification

The applicant believes that the requested zoning is appropriate given the projected widening of Eubank Blvd. The application explains that with the O-1 zoning, the site “will be well suited to the purpose of a transition between the street and adjacent neighborhood.”

Surrounding Land Use and Zoning

The subject site is immediately adjacent to vacant A-1 properties on the north, south, and east. To the west, across from Eubank Blvd. is Quintessence subdivision, a residential development within the City of Albuquerque jurisdiction, zoned R-D. A residential care facility is located across Eubank Blvd., southwest of the site. Just over 1800 feet north of the subject site near Eubank Blvd. and San Francisco, there are four lots zoned SD-HC. This is a special zone designated by the Paseo Del Norte/North Albuquerque Sector Development Plan that allows Uses permissive in the R-1 zone as well as a bed and breakfast house, a day care center, an extended care facility, and signage. The closes properties having zoning that permits the operation of an office are just over 4000 feet north of the subject site. The special zones are, SD-RO and SD-LC-2.

APPLICABLE PLANS AND POLICIES:

Albuquerque/Bernalillo County Comprehensive Plan

Policy 3 The stated Goal of the Rural Area is “to maintain the separate identity of Rural Areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns.” The following includes applicable policies:

Policy 3.a. of the Rural Area Goal states that “higher density development may occur at appropriate locations. Rural Area density patterns shall be more specifically defined through lower rank planning. Each higher density area is to be controlled by site development plan and is to be located well away from other such higher density areas.”

Policy 3.b states that “Development in Rural Areas shall be compatible with natural resource capacities, including water availability and capacity, community and regional goals and shall include trail corridors where appropriate.”

Policy 3.g states that “the following shall guide industrial and commercial development in the Rural Areas.”

- Small-scale, local industries, which employ few people and may sell products on the same premises, are the most desirable industrial use.
- Neighborhood and/or community-scale rather than regional scale commercial centers are appropriate for rural areas. Strip commercial development should be discouraged and, instead, commercial development should be clustered at major intersections and within designated mountain and valley villages.”

Paseo Del Norte/North Albuquerque Acres Sector Development Plan

4.3 Zone Change Criteria

Resolution ELUA 2-1998 adopted policies for considering zone map changes. The development of significant transportation corridors in the area (Paseo del Norte and Eubank in particular) will impact the character of the lands adjacent to them and constitute a changed neighborhood or community condition as described in Resolution ELUA 2-1998. In addition the increase in the area’s population coupled with impacts of the transportation corridors create a situation which makes limited commercial and moderate density residential uses more advantageous to the neighborhood and community than A-1 zoning along these corridors.

The joint technical team/CAC defined the criteria to be used to identify properties that meet the policies for zone map changes. The criteria establish properties impacted by a change in condition that makes the existing A-1 zoning inappropriate. The criteria also ensure that land use changes are consistent with the policies of Resolution ELUA 2-1998. In addition, the committee established criteria to ensure that any land use changes would not be harmful to the community. The criteria are shown in Table 4-1.

Table 4-1 Criteria Used for Selection of Sites and Land Uses

Criteria Applying to All Sites

1. Sites should not be more than a one-quarter mile driving distance from Paseo del Norte or Eubank. (Area impacted by change in neighborhood or community conditions)
2. Sites should be separated from vacant land by a road, a lot with an existing structure, open space, a municipal boundary, or public right-of-way. (Insurance that land use change will not be harmful to adjacent property)
3. No higher use than C-N (neighborhood commercial) should be used. (Insurance that land use change will not be harmful to adjacent property)
4. Alternative land uses should be used as transitions between less compatible land uses. (Insurance that land use change will not be harmful to adjacent property)

Criteria Applying to Residential Sites

5. Higher density residential land uses should be used to buffer existing homes from Paseo del Norte and Eubank. (Insurance that land use change will not be harmful to adjacent property)
6. Higher density residential sites should be at least six lots in size. (No spot zoning)
7. No higher density than six dwelling units per acre should be used. (Insurance that land use change will not be harmful to adjacent property)

Criteria for Non-Residential Sites

8. Non-residential sites should have visual frontage to Paseo del Norte or Eubank. (Area impacted by change in neighborhood or community conditions)
9. Non-residential sites should be two lots deep to discourage strip center development. (No strip zoning)
10. Commercial sites should not be within 300 feet of an existing home. (Insurance that land use change will not be harmful to adjacent property)
11. Non-residential sites should not have direct access to local roads. (Insurance that land use change will not be harmful to adjacent property)

Based on the criteria, the Technical Team/CAC identified twelve sites that meet the County's policies for zone map changes (In 2002, 4 sites E, Y, Z-1, and Z-2 were annexed by the City of Albuquerque). Through the Corridor Study process and the Sector Development Plan process the advisory committees established permitted land uses and conditions for these sites. Table 4-2 summarizes the permitted land uses and conditions established by the Sector Development Plan for each site.

All other properties in the plan area were intended to remain A-1. If any use other than A-1 is proposed, the Corridor Study specifies that uses within this area by limited to those that generate no more than 10 vehicles trips per day per original lot (or one acre), which is the typical amount of traffic generated by a single family home.

4.5 Amendments To The Sector Development Plan Zoning

Any request for a change in zone or for a special use permit on any property within the Sector Development Plan boundary is considered to be a Sector Development Plan amendment and would be evaluated according to the criteria and process of the Zoning Ordinance.

9.2 North Albuquerque Acres Design Overlay Zone

This overlay zone applies to all of the properties in the plan area that are zoned A-1. It is intended to replace Appendix B of the Bernalillo County Zoning Ordinance, which is a design overlay zone for designated properties within the North Albuquerque Acres area. The intent of the North Albuquerque Acres Design Overlay Zone is to allow for clustered residential development on parcels that are impacted by flood zones or other physical constraints that render a portion of the property undevelopable. An overall gross density equal to that of the previously platted lots, or one unit per acre, shall be maintained.

Bernalillo County Zoning Ordinance

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

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted Bernalillo County Zoning Ordinance.

- 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 Board of County Commissioners.
- 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. An error in the original zone map.
 - 2. Changed neighborhood conditions, which justifies a change in land use or
 - 3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the Board of County Commissioners.
- 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. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- H. 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 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.
- I. 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 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.

Section 19: Landscaping and Buffer Landscaping Regulations:

Where a nonresidential zone which is hereafter developed for a business purpose abuts a residentially zoned property, 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 shall contribute toward this requirement.
 2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets of no less than 15 feet. All other requirements same as 1.b. and 1.c. above.
- B. In a nonresidential zone, a solid wall or a solid fence at least six feet high shall be erected on sides abutting a single family residential use, except for those sides abutting public right-of-way.
- E. Landscaping which dies shall be replaced by the property owner who is obligated to provide it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-day period falls at a time of the year when planting of landscaping is inadvisable, a waiver may be granted by the Zoning Administrator to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the County Zoning Office.
- G. Parking spaces within a parking lot shall be no more than 50 feet from a tree.
- H. Nonconforming Landscaping. Premises which, when they were developed, were not required to be developed in accordance with the Landscaping and Buffer Landscaping Regulations Section of this ordinance, shall be made to conform with this regulation within two years due to the amendment of the map or text of this ordinance.

ANALYSIS:

Surrounding Land Use and Zoning

The surrounding area is zoned and developed for residential development. Although there are limited commercial uses permitted within the community, the Paseo Del Norte/North Albuquerque Acres Sector Development Plan identifies these mainly along Paseo del Norte Blvd., over 4000 feet north of the subject site.

Plans

Albuquerque/Bernalillo County Comprehensive Plan Policy 3 states that the, goal of the Rural Area is “to maintain the separate identity of Rural Areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns.”

Paseo Del Norte/North Albuquerque Acres Sector Development Plan

4.3 Zone Change Criteria

Resolution ELUA 2-1998 adopted policies for considering zone map changes. The development of significant transportation corridors in the area (Paseo del Norte and Eubank in particular) will impact the character of the lands adjacent to them and constitute a changed neighborhood or community condition as described in Resolution ELUA 2-1998. In addition the increase in the area’s population coupled with impacts of the transportation corridors create a situation which makes limited commercial and moderate density residential uses more advantageous to the neighborhood and community than A-1 zoning along these corridors.

Criteria for Non-Residential Sites

- 8. Non-residential sites should have visual frontage to Paseo del Norte or Eubank. (Area impacted by change in neighborhood or community conditions)
- 9. Non-residential sites should be two lots deep to discourage strip center development. (No strip zoning)
- 10. Commercial sites should not be within 300 feet of an existing home. (Insurance that land use change will not be harmful to adjacent property)
- 11. Non-residential sites should not have direct access to local roads. (Insurance that land use change will not be harmful to adjacent property)

All other properties in the plan area were intended to remain A-1. If any use other than A-1 is proposed, the Corridor Study specifies that uses within this area by limited to those that generate no more than 10 vehicles trips per day per original lot (or one acre), which is the typical amount of traffic generated by a single family home.

4.5 Amendments To The Sector Development Plan Zoning

Any request for a change in zone or for a special use permit on any property within the Sector Development Plan boundary is considered to be a Sector Development Plan amendment and would be evaluated according to the criteria and process of the Zoning Ordinance.

Zoning Ordinance

Resolution 116-86 requires that a land use change must clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan.

Agency Comments

According to Public Works staff, "All or a portion of this parcel has been proposed for purchase as part of the Eubank Corridor." The Mid Region Council of Government staff comments that the applicant should meet with County Public Works due to the expected reconstruction and widening of Eubank Blvd. which may start within the 2010 fiscal year.

Analysis Summary

Zoning	
Resolution 116-86	A zone change from A-1 to O-1 would constitute a spot zone given that there is no other lot adjacent to the subject site with O-1 zoning.
Plans	
Comprehensive Plan	Request does not maintain the Rural identity of the area. Request is not compatible with the Sector Plan which specifically states density patterns and special zoning.
Sector Plan	Requires request to amend Sector Development Plan when zone change is being sought.
Other Requirements	
Environmental Health	Applicant must provide water and sewer availability statement.

Conclusion

The lot is currently able to be developed for A-1 uses. The applicant deems the request a strip zone, however, the Paseo Del Norte/North Albuquerque Acres Sector Development Plan (section 4.3) does not support strip zoning. The request is inconsistent with the *Albuquerque/Bernalillo County Comprehensive Plan* in that straight O-1 zoning does not maintain the character and identity of the predominantly residential area as it exists now. A zone change from A-1 to O-1 constitutes a spot zone because there are no other lots adjacent to the subject site with O-1 zoning.

The Sector Plan has already designated special development zones, primarily along Paseo del Norte and in a few other carefully selected areas. Although the Sector Plan acknowledges that the increase in population and transportation impacts on Paseo del Norte and Eubank corridors make limited commercial activities more appropriate than residential uses, it also establishes criteria which the request does not comply with. The subject site is not two lots

deep and is within 300 feet from a single family dwelling, therefore, does meet the criteria for non-residential sites under section 4.3 Zone Change Criteria. It is stated that, "Non-residential sites should be two lots deep to discourage strip center development. (No strip zoning). / Commercial sites should not be within 300 feet of an existing home. (Insurance that land use change will not be harmful to adjacent property)."

RECOMMENDATION:

Staff recommends Denial, based on the following Findings.

Mari Simbaña
Program Planner

FINDINGS:

1. This is a request for a zone map amendment from A-1 to O-1 on Tract 17, Block 17, Unit 2, North Albuquerque Acres, on the northeast corner of Eubank Boulevard NE and Santa Monica Avenue NE, and containing approximately .74 acres.
2. The property is within the Rural Area as designated by the Albuquerque/Bernalillo County Comprehensive Plan.
3. The property is within the boundaries of the Paseo Del Norte/North Albuquerque Acres Sector Development Plan which states that, "Any request for a change in zone or for a special use permit on any property within the Sector Development Plan boundary is considered to be a Sector Development Plan amendment and would be evaluated according to the criteria and process of the Zoning Ordinance."
4. The request conflicts with Resolution 116-86 in that the Albuquerque/Bernalillo County Comprehensive Plan Policy 3.g states that "Strip commercial development should be discouraged and, instead, commercial development should be clustered at major intersections."
5. This request is inconsistent with Resolution 116-86 in that the applicant has failed to demonstrate that the existing zoning is inappropriate.
6. This request is inconsistent with Resolution 116-86 in that it does not facilitate the realization of the Paseo Del Norte/North Albuquerque Acres Sector Development Plan because the requested zone does not meet the criteria for non-residential sites set forth in Section 4.3 as it is not two lots deep and is within 300 feet of an existing home.

BERNALILLO COUNTY DEPARTMENT COMMENTS

Zoning Administrator
24/JUN/2008

Proposed action takes place within the PdN/NAA Sector Development Plan.
If the zone change request (CZ-8003) is approved, development must meet all other plan & zoning ordinance requirements.

The O-1 Office and Institutional Zone is outlined in Section 12 of the ordinance, and is for providing "sites suitable for office, service, and institutional uses". Residential uses, as allowed and regulated in the R-1 zone, are permitted as well.

Other applicable development standards include off-street parking requirements (Sec. 21), landscaping & buffering provisions (Sec. 19), and allowances for sign and wireless telecommunication activities.

Environmental Health:
6/26/08

1. Provide a water and sewer availability statement. Call 924-3987.
2. This lot is smaller than the allowable size for an on-site individual system.
3. Appears that this lot and adjacent lots are part of a storm water collection system. Water appears to be diverted from this lot [east side of Eubank] through a culvert system and under Eubank and into a collection pond.

Zoning Department Manager:
7/708

Based on the above comments there is no adverse comments at this time.
there are no zoning violations.

Building Department Manager:
No comment received

Fire:
No comment received

Public Works:
DRAN:
7/11/08

1. This property is subject to Bernalillo County Code Chapter 38, "Floods". This property is also within the jurisdiction of AMAFCA and is subject to AMAFCA's Drainage Policy (Resolution 1980-15). Prior to any additional development of this property, a grading and

drainage submittal meeting the requirements of the Code and AMAFCA's Drainage Policy will be required.

DRE:

7/11/08

1. All or a portion of this parcel has been proposed for purchase as part of the Eubank Corridor.

Parks & Recreation:

7/15/08

Reviewed, no comment.

Sheriff's:

No comment received

COMMENTS FROM OTHER AGENCIES

MRGCOG:

7/1/08

MPO Project ID 538.0 is the reconstruction and widening of Eubank Bd from 2 to 4 lanes. Funding is programmed for FY 2010, FY 2012, and FY 2013. Coordination with County Public Works is recommended.

For information purposes, Eubank Bd has a functional classification of urban principal arterial.

AMAFCA:

7/11/08

No comment.

City Planning Department:

No comment.

City Public Works:

Transp. Planning: No comment received

Transp. Development:

7/1/08

Any proposed development fronting Eubank, within COA limits, will need to be coordinated with Tony Loyd (924-3994) for a pre-scoping meeting to determine design alternatives and impacts.

Water Resources: No comment received

COUNTY PLANNING COMMISSION
AUGUST 6, 2008
CZ-80003

City Transit:
No comment received

ABCWUA Utility Development Section:
7/14/08
No comment.

City Environmental Health:
No comment received

City Open Space:
7/3/08
Open Space has no adverse comments

NM Department of Transportation:
7/8/08

Possible Impacted NMDOT roadway(s): NM 423.

Departments Comments: Due to the size, and location of the development, there will be no significant impact to the state roadway system. Therefore, we have no requirements or objections to the processing of the requested special use permit.

Albuquerque Public School:
7/15/08

North Albuquerque Acres Tract 3 Unit 2, Lot 17 Block 17, is located Santa Monica Dr NE and Eubank Blvd NE. The owner of the above property requests a special use permit for a spot zone change from A-1 to O-1 for a development that will consist of office space. This will have no adverse impacts to the APS district.

Village of Tijeras:

Public Utility Company of New Mexico:
No comment received

NEIGHBORHOOD ASSOCIATIONS:
North Albuquerque Acres Community Association