TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT

DATE: JULY 22, 2002

SUBJECT: REQUEST OF PROPERTY OWNERS OF A PORTION OF TRACT 796 FOR REZONING FROM R-1 SINGLE FAMILY RESIDENTIAL TO R-1 (S) SINGLE STORY OVERLAY DISTRICT IN THE GREER PARK NEIGHBORHOOD (VAN AUKEN CIRCLE AND PORTIONS OF GREER ROAD AND AMARILLO AVENUE)

RECOMMENDATION

Planning staff recommends that the City Council adopt the attached draft ordinance (Attachment A), rezoning a total of 58 lots in Tract 796 (Greer Park) from R-1 Single Family Residential to R-1 (S) Single Story Overlay District.

The Planning and Transportation Commission recommends that the City Council deny the request for rezoning a total of 58 lots in Tract 796 (Greer Park) from R-1 Single Family Residential to R-1 (S) Single Story Overlay District.

BACKGROUND

On July 13, 1992, the City Council adopted a single story overlay zone (S) as part of the Zoning Ordinance (PAMC Chapter 18.13). The Single Story Height Combining District (S) modifies the development regulations of the R-1 single family residential district by limiting the height of structures to 17 feet and one habitable floor and increasing the allowable lot coverage from 35 to 40 percent. The attached letter from the property owners of Tract 796 within the Greer Park Neighborhood (Planning and Transportation Commission staff report Attachment E) requests application of the single story overlay zone to the 58 single family parcels shown on the attached map (Attachment C). Survey results reported in the letter indicate neighborhood support for the application of the single family overlay zone. It should be noted that since the request was submitted, two property owners have changed their
support to opposition resulting in 38 supporters and a 66 percent level of support for the request (see Attachment E). On February 19, 2002, the City Council initiated the request and referred it to the Planning and Transportation Commission.

On May 29, 2002, the Planning and Transportation Commission reviewed and recommended denial of the 58 lots for a single story overlay. A summary of significant issues is contained in the Planning and Transportation Commission staff report (Attachment B). A majority of the Commissioners indicated that the request fell short of meeting all four of the criteria (particularly lot size) established in the Single Story Combining District (S) Overlay Guidelines (Planning and Transportation Commission staff report, Attachment F). Commissioners noted that this request appears to have a lesser percentage of moderate lots in the 6,000 to 8,000 square foot range and a greater proportion of smaller lots of less than 6,000 square feet. Several Commissioners thought that the purpose of the overlay zone was more appropriately solved through the existing deed restriction in the CC&Rs and the new Single Family Individual Review process for second story additions. Several Commissioners expressed concerns that the proposed restriction tends to stifle the evolution of residential neighborhoods rather than providing the flexibility needed to manage change over time. Two of the Commissioners indicated that the request did meet the four criteria and voted to approve the rezoning.

Of the ten property owners within Tract 796 who spoke at the Planning and Transportation Commission meeting, some supported the overlay zone and some spoke in opposition (see Planning and Transportation Commission minutes Attachment G). Supporters indicated that the request met all four criteria for a single story overlay and that City enforcement of a single story overlay was preferable to neighbors suing each other to enforce the existing CC&Rs. Opponents indicated that the existing CC&Rs have been an effective instrument for 50 years and City enforcement is not required to maintain the single story character of the neighborhood.

In addition to the letters attached to the Planning and Transportation Commission staff report, the City has received letters in support and opposition to the rezoning (Attachment H).

Following public testimony, Commissioners discussed the proposal in the context of the criteria contained in the guidelines. Commissioners discussed the merits of including the entire area within the overlay boundary versus deleting ten lots in the southeastern corner of the area (Attachment D). The majority of the Commissioners believed that deleting any of the lots in the southeastern corner would adversely affect the logical boundaries of the neighborhood. The Commissioners indicated that the boundary, as proposed, results in an identifiable neighborhood regardless of whether the overlay is applied. After discussion, the Commission recommended that the City Council deny the proposed rezoning of the 58 homes in Tract 796. The motion passed, 5-2-0 (Holman and Griffin opposed).
The Commission also requested the City Council provide clarification on several issues affecting future requests for single story overlays. These issues include the following: 1) flood plain and height, 2) definition of overwhelming support, 3) definition of moderate lot size, 4) the process for removal of an overlay, and 5) how to apply the flexibility rule established in the Overlay Guidelines. These issues are discussed below.

An excerpt of verbatim minutes of the Planning and Transportation Commission meeting are attached (Attachment G).

**DISCUSSION**

The intent of the single story overlay is to provide a stronger vehicle through zoning for resolving potential disputes in place of lawsuits to stop construction of second story additions. The deed restriction (in the form of CC&Rs) is an agreement among property owners and, therefore, the City has no authority to enforce the provisions of the deed restriction without the overlay zone. It should also be noted that the overlay zoning district was adopted by the City expressly for situations such as this, where a neighborhood believes second stories are incompatible with the existing character of the neighborhood and existing CC&Rs are in place to maintain the single story height limit.

Staff has summarized the Planning and Transportation Commission’s issues and provided responses, as follows:

1. Lot Coverage and Height: The Commission noted the discrepancy in the City’s Zoning Ordinance with respect to the calculation of lot coverage and height in the R-1 district compared with the R-1 (S) district. The recently amended R-1 district regulations include an allowance for single story homes to increase lot coverage from the current 35 percent up to the amount of coverage needed to obtain the full Floor Area Ratio (FAR) allowed on the site. The new allowance for lot coverage, however, does not yet apply to the R-1 (S) combining district. Similarly, in the recently amended R-1 district building height in a flood hazard zone may be increased one-half of the increase in elevation required to reach base flood elevation, up to a maximum house height of 33 feet. In the R-1 (S) district, there is no allowance for additional height of homes in a flood hazard zone. The Commission noted that this discrepancy should be addressed.

Staff acknowledges these discrepancies and believes that the R-1 (S) district rules should be amended to provide the same lot coverage and height requirements as the R-1 district. Staff recommends that these revisions be expedited as part of the Zoning Ordinance Update.

The entire neighborhood is within Flood Zone AE. Areas in this zone have been measured from 3.5 to 5 feet below the minimum flood level, but each lot varies. Average building pad elevations are approximately four feet below minimum flood level. Most of the existing homes in the neighborhood are 12 to 14 feet in height. In some cases under existing R-1 (S)
regulations, the 17 foot height limit would affect the ability of property owners to rebuild their homes. For example, if an existing 14 foot high house was four feet below the minimum flood zone elevation and it was destroyed, a home of similar height (14 feet plus four feet above current grade for a total of 18 feet) could not be reconstructed within the 17 foot height limit. If the existing R-1 (S) regulations were modified to be consistent with the new R-1 regulations, the 17 foot height limit would be less restrictive in the case of a rebuild. For example, if the same 14 foot high house was four feet below the minimum flood zone elevation and it was destroyed, the City would count only two of the four feet towards the height limit, enabling a new house of up to 15 feet from finished grade. This would accommodate most any proposal for new construction of a single story home within this flood zone.

2. Definition of overwhelming support: The Commission noted that the City has an informal guideline that approximately 70% of property owners constitutes overwhelming support for an overlay. However, the guidelines specifically provide a greater degree of flexibility for neighborhoods that are subject to a single story deed restriction. The Commission asked for clarification of this guideline and how it should be applied in future requests.

Staff believes that the 70 percent rule should continue to be a guideline that is applied according to the unique characteristics of each neighborhood. Staff believes that the intent of the guidelines is to leave some flexibility for City decision-makers.

3. Moderate lot size: The Commission noted that the guidelines specifically define moderate lot size as 7,000 to 8,000 square feet. In past requests, staff has considered 6,000 to 8,000 as being moderate if the area is subject to a deed restriction.

The current definition appears to use 7,000 square feet as a minimum for moderate lots sizes because that is approximately the point at which site coverage and FAR results in the same square footage. Staff continues to believe that lots ranging from 6,000 to 8,000 square feet should be considered moderate if the property owners agree to the minor loss of floor area and the neighborhood is subject to a deed restriction. As shown in Attachment B, lots of approximately 7,000 square feet of less would not be able to use the full FAR while lots of greater than 7,000 square feet could utilize the full FAR. The intent of the guidelines is to provide flexibility to those neighborhoods with a deed restriction, and this is specifically stated in the guidelines and applies to all four criteria. When the R-1 (S) district regulations are revised to be compatible with the amended R-1 district, the issue of lot coverage allowed on smaller lots becomes less important as the maximum floor area becomes the determining factor.

4. Removal of an overlay: The Commission asked for clarification on the process that would be used to remove an overlay.
The Zoning Ordinance (Section 18.98.020 et. seq.) specifically provides for initiation of changes in boundaries of zoning districts in three ways: 1) by application of a property owner, 2) by a motion of the City Council, or 3) by motion of the Planning and Transportation Commission. Proposed zone changes then are evaluated by staff, reviewed at a public hearing by the Planning and Transportation Commission with a recommendation to City Council, and approved or denied at a public hearing by the City Council. Passage of a zone change requires affirmative votes from a majority of council members.

5. Flexibility Rule: The guidelines specifically state that “.. for those neighborhoods that contain and have been developed consistent with a single story deed restriction, these guidelines are to be treated with a greater degree of flexibility.” The Commission asked for clarification as to how to apply the flexibility rule in future requests and asked for more specificity in the flexibility rule.

Staff continues to believe that each neighborhood should be evaluated according to its unique characteristics and how those characteristics meet the guidelines. Staff believes that the intent of the flexibility rule for all four criteria is to provide City Council with the discretion to apply the guidelines as they best apply to each distinct neighborhood not to establish numerical standards that would apply to every situation.

**ALTERNATIVES**

Alternatives available to the City Council include:

1) Modify the boundaries of the proposed overlay district; or

2) Deny the rezoning of a total of 58 lots from R-1 Single Family Residential to R-1 (S) Single Story Overlay District.

**ATTACHMENTS**

Attachment A: Ordinance rezoning from R-1 Single Family Residential to R-1(S) Single Story Overlay
Attachment B: Planning and Transportation Commission staff report (with attachments)
Attachment C: Map Showing 58 lots within Tract 796
Attachment D: Map showing ten lots proposed to be deleted in southeastern corner
Attachment E: Map Showing Supporters of Proposed Overlay
Attachment F: Correspondence from Neighbors received at the P&TC meeting
Attachment G: Excerpt of Planning and Transportation Commission Minutes of May 29, 2002
Attachment H: Correspondence received since P&TC meeting of May 29, 2002

PREPARED BY: ______________________________________________
CHANDLER LEE
Project Planner

REVIEWED BY:

_____________________________________________________
STEVE EMSLIE
Director of Planning and Community Environment

CITY MANAGER APPROVAL:

_____________________________________________________
EMILY HARRISON
Assistant City Manager

cc: All Property Owners Shown on Planning and Transportation Commission staff report
Attachment B
All neighbors submitting correspondence as shown in Attachment F