



ZBOA Agenda Item # 5 June 6, 2017

PELUC Request by Kenneth & Brenda Anderson File #: APP-2017-02

Kenneth and Brenda Anderson are requesting approval for a Previously Established Land Use Conformity (PELUC) Certificate to re-establish a single-family residence in a Wholesale/Light Industrial (M-1) zoning district. The subject property is located at 1306 Cypress Street. The property consists of 0.16 acres and, at the time of this writing, contains a single-family residence damaged by a fire. (The applicant has purchased a demolition permit to remove the structure.)

Single-family residences are not a permitted use in M-1 zoning. The single-family residence was built before zoning was adopted, and became nonconforming when the M-1 zoning was adopted in the area. The problem developed when the house was damaged by fire; when damaged beyond 60% of its fair market value, it must conform to today's standards, including zoning. The structure was damaged beyond 60%, to the extent where it is more feasible to demolish the house than repair it. Given the fact that single-family residences are not allowed in M-1 zoning districts, the applicants were left with two choices in order to rebuild their house: either rezone or apply for a PELUC. The Industrial Activity Center Character Area makes the parcel ineligible to rezone for a residential zoning district, so the PELUC is the only recourse. (Please note: this case is running concurrently with APP-2017-03 for the same property and concerns a front yard setback variance.)

The PELUC process offers an opportunity to re-establish a nonconforming use that was legally operating on January 1, 2009, when the LDR became effective. PELUCs can only authorize the last legally nonconforming use, "IF" it was legally operating at the time the LDR became effective on January 1, 2009. (This use was a legal nonconforming use on January 1, 2009.) If the PELUC is granted, the property may not be utilized for another nonconforming use.

The request is for a PELUC, replacing the damaged single-family house with a new one in the same location. The area is a mixture of industrial uses, churches, and site-built homes. While M-1 zoning allows an array of industrial-type uses, the small size of the parcel better lends itself to a residential use than it does to an industrial-type use. Given the property has been occupied by a single-family residence for decades, and the surrounding properties include a mixture of uses, staff supports the request as presented.

Staff Recommendation: Find consistent with the PELUC Review Criteria and **approve** the PELUC Certificate for a single-family residence.

PELUC Eligibility Criteria

In order to be eligible for PELUC consideration, the non-conforming use shall be consistent with all of the following criteria. Any non-conformity that is expressly prohibited by the following criteria, shall not be eligible to apply for such waiver of non-conforming use status. Staff's responses to these Eligibility Criteria are listed below:

<i>(1) The non-conforming use shall have been originally established as a legal use and have been in existence on the date of adoption of the LDR (January 1, 2009)</i>	
Staff:	This criteria is SATISFIED.
<i>(2) The waiver provisions by this PELUC review process shall be applicable only to existing non-conforming uses of land and cannot be applied to waive any other development criteria in the LDR, such as but not limited to, environmental requirements, buffering, open space, building codes, lot area, impervious surface, parking, or setbacks.</i>	
Staff:	This criteria is SATISFIED.
<i>(3) In all future land use and zoning categories, the following uses shall not be eligible to apply for a PELUC certificate: (a) Industrial uses, such as those permitted in the M-2 District, adjoining residential areas. (b) Any industrial use for which sole access is to a local or collector street.</i>	
Staff:	This criteria is SATISFIED. The requested use is non-industrial.
<i>(4) In order to protect existing residential areas from encroachment of incompatible uses that are destructive to the character and integrity of the residential environment, the following uses that are located within areas zoned for residential use shall not be eligible to apply for a PELUC certificate: (a) Commercial use and development in excess of 20,000 square feet of building floor area, other than office uses. (b) All industrial uses.</i>	
Staff:	This criteria is SATISFIED. The use is not a commercial or industrial use.
<i>(5) No request for waiver can be submitted which exceeds 75% impervious surface per lot with the exception of single-family residential uses. A request for waiver can be submitted for single-family residential land uses regardless of the impervious surface percentage.</i>	
Staff:	This criteria is SATISFIED.

PELUC Review Criteria

The following criteria shall be applied in evaluating and deciding any application for a Previously Established Land Use Conformity (PELUC) Certificate. No application for a PELUC shall be granted by the Zoning Board of Appeals unless satisfactory provisions and arrangements have been made concerning each of the following criteria, all of which are applicable to each application. Responses to these criteria from both the Applicant and Staff are listed below :

<i>(1) Demonstrate how the impact of the non-conformity is minimal upon surrounding land uses and is not detrimental to the public health, safety and welfare and, as a result, the non-conforming status may be waived:</i>	
Applicant:	It will have no impact.
Staff:	The impact of a house will be very minimal on the neighbors.
<i>(2) Explain how the non-conformity may be substantially mitigated such that the development may attain conforming status by implementing the outlined mitigation steps. A site plan or plan of development may be required to demonstrate mitigative measures that will maintain compatibility through specified design measures.</i>	
Applicant:	It will be a house and will not have any impact.
Staff:	The applicant is proposing to replace the damaged single-family residence with a new single-family residence, having very little impact on the neighborhood.

(3) Demonstrate how the nonconformity may meet the following inter-site compatibility criteria:	
(a) Aesthetically and functionally compatible land uses:	
<i>Applicant:</i>	NA
<i>Staff:</i>	The structure is compatible with or has a lower intensity than other neighboring properties.
(b) Adequate buffering, screening, landscaping, and architectural treatment if located in a residential area:	
<i>Applicant:</i>	NA
<i>Staff:</i>	NA. Proposed house on a industrially zoned property
(c) Sufficient parking, designed to provide safe internal circulation and off-site access:	
<i>Applicant:</i>	NA
<i>Staff:</i>	No proposed changes. Existing driveway.
(4) If applicable, please show how the objectionable impacts of service and delivery areas, refuse and recycling collection areas, as well as other outdoor storage and work areas generally associated with commercial or residential buildings shall be designed to minimize off-site impacts:.	
<i>Applicant:</i>	NA
<i>Staff:</i>	There are no outdoor storage or service areas.

Staff Review Comments:

Engineering Department: No comments.

Fire Department: No comments.

Plan Review: No comments.

Public Works: No comments.

Utilities: No comments.

Landscape: No comments.

Historic Preservation: This property is not within the Local Historic District or an Overlay District and therefore requires no further review from this Department.

Police: No comments.

Attachments:

- Zoning Location Map
- Aerial Map
- Floor Plan



Kenneth and Deborah Anderson
PELUC & Variance Request

1306 Cypress St
Tax Map: 0157A Parcel: 032



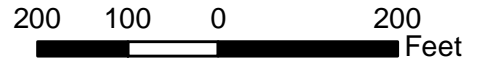
** Map Data Source: VALOR GIS, May 2017



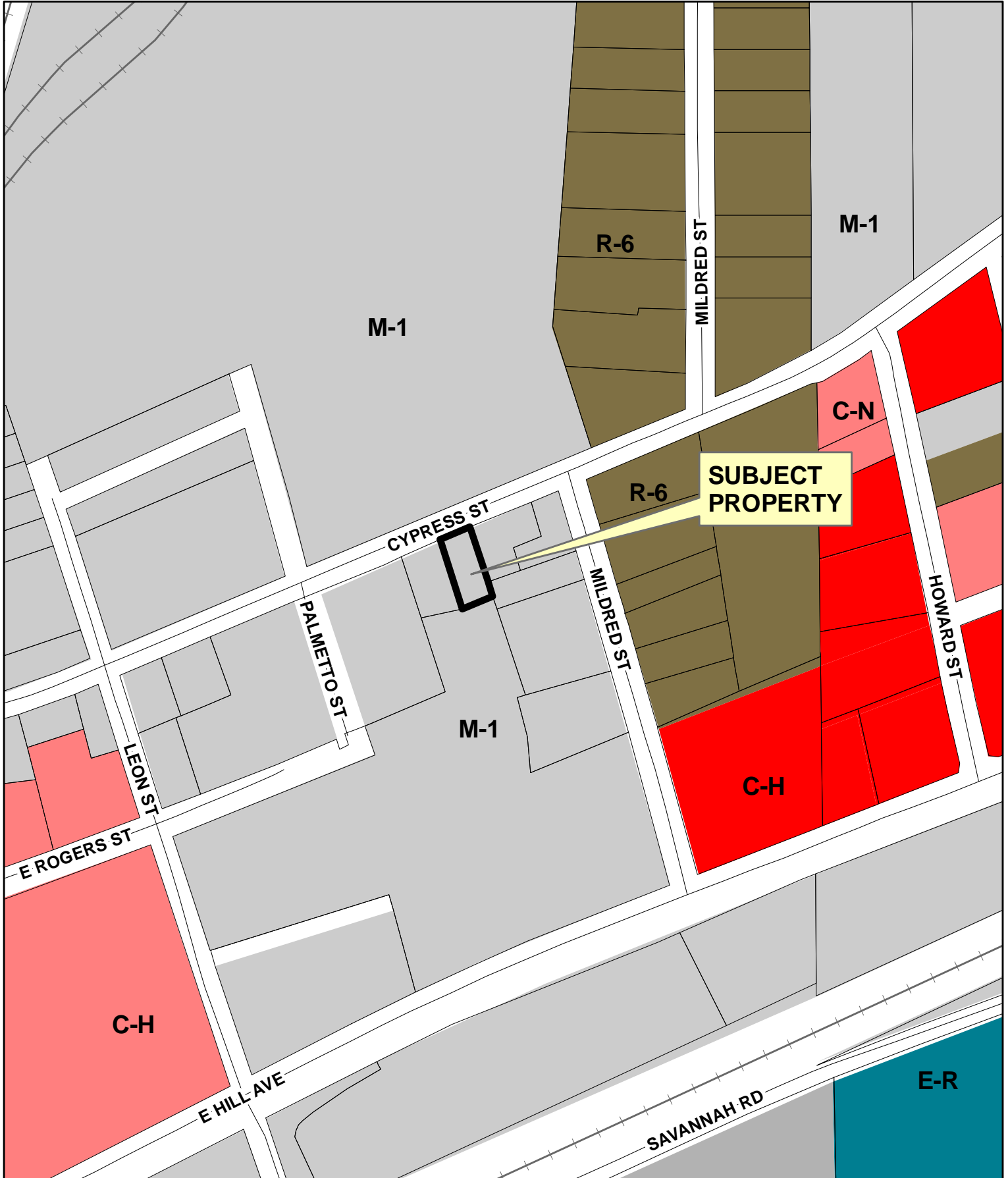


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Kerala 1

12x12

BR

12x12

BR

FRONT

BATH

BATH

12x40

LIVING / KITCHEN

BATH DOOR

