

City of Santa Fe
Governing Body
Findings of Fact and Conclusions of Law

Case #2015-20

600 Galisteo Street General Plan Amendment

Case #2015-21

600 Galisteo Rezoning to BCD

Applicant – Eva Parker, Trustee for the Lucy C. Ortiz Estate

THIS MATTER came before the Governing Body of the City of Santa Fe for hearing on July 29, 2015 upon the application (Application) of Eva Parker, Trustee for the Lucy C. Ortiz Estate (Applicant).

On April 2, 2015 the Planning Commission (Commission) voted to recommend, subject to certain conditions (the Conditions), that the Governing Body approve (1) an amendment to the City of Santa Fe General Plan Future Land Use Map (Plan) changing the designation of 5,581 ± square-foot lot improved with a building and related improvements on the southwest corner of the intersection of Galisteo Street and the Paseo de Peralta (Property) from Moderate Density Residential (7-9 dwelling units/acre) to Community Commercial and (2) the rezoning of the Property from R-21 to BCD (Business Capitol District) (the Rezoning). Findings of Fact and Conclusions of Law (Commission Findings and Conclusions) embodying the Commission’s vote recommending that the Governing Body approve Application subject to the Conditions, giving consideration to rezoning to C-1 (Office and Related Commercial) pursuant to its authority under Santa Fe City Code (Code) Section 14-3.5(B)(2)(b), were adopted by the Commission on May 7, 2015 and were filed with the City Clerk as Item #15-0322.

In accordance with the foregoing, and after conducting a public hearing, and having heard from staff, the Owner and its representatives, residents of the neighborhood in which the Property is located, and certain interested others, the Governing Body hereby FINDS as follows:

FINDINGS OF FACT

1. The Governing Body has authority, under Code Sections 14-2.1 Table 14-2.1-1 and 14-2.2(A) to review and finally decide upon applications for amendments to the Plan in accordance with the procedures set forth in Code Section 14-3.2(D)(3) and applying the criteria set forth in Code Section 14-3.2(E)(1).
2. The Governing Body has authority, under Code Sections 14-2.1 Table 14-2.1-1 and 14-2.2(A) to review and finally decide upon applications for rezoning in accordance with the procedures set forth in Code Section 14-3.5(B)(2) and applying the criteria set forth in Code Section 14-3.5(C).
3. The Governing Body has authority under Code Section 14-3.5(B)(2)(b) to approve a rezoning to a less intensive zone district than originally requested by the Applicant.

4. Pursuant to Code Section 14-4.6.1(C) Table 14-6.1-1, many uses permitted as of right or with a special use permit in the BCD are prohibited in C-1 districts, including, without limitation, “Colleges and universities, residential”; “Bar, cocktail lounge, nightclub, no outdoor entertainment”; “Restaurant with bar, cocktail lounge or nightclub comprising more than 25% of total serving area”; “Restaurant with drive-through/drive-up”; “Hotels, motels, residential suite hotels”; “Florist shops”; “Office equipment sales and service, retail sale of office supplies”; “Personal service establishments, including cleaning and laundry, appliance repair and similar services”; and “Research, experimental and testing laboratories”.
5. C-1 district zoning is less intensive than the BCD zoning designation originally requested by the Applicant.
6. The General Plan land use classification “Community Commercial” provides for a number of uses that are not permitted in C-1 zoned districts, including, without limitation, retail stores, eating and drinking establishments, and personal services, and is therefore not consistent with C-1 zoning.
7. The General Plan land use classification “Office” provides for uses that are consistent with C-1 zoning, including, without limitation, administrative, financial, business, professional, medical and public offices where retail and other community commercial uses are not appropriate.
8. Pursuant to Code Section 14-4.3(A) C-1 zoning districts serve as transitional buffers between more intense commercial use districts and residential districts.
9. Code Section 14-3.1(H)(2) requires that notice of a public hearing before the Governing Body be provided in accordance with Code Section 14-3.1(H)(1)(a) and that, in addition, the applicant publish notice in a local daily newspaper of general circulation at least fifteen calendar days prior to the public hearing (collectively, the Notice Requirements).
10. The Notice Requirements have been met.
11. The Governing Body reviewed the report dated July 8, 2015 for the July 29, 2015 City Council Meeting prepared by City staff (Staff Report) summarizing the Application and the Commission vote recommending that the Governing Body approve the Application, subject to the Conditions, giving consideration to rezoning to C-1 (Office and Related Commercial) pursuant to its authority under Code Section 14-3.5(B)(2)(b); the Commission Findings and Conclusions embodying said vote; and the evidence introduced at the hearing in accordance with the requirements of Code Section 14-3.5(B)(2)(a).
12. The Governing Body heard direct testimony from City staff, the Applicant’s representative, residents of the neighborhood in which the Property is located, and certain interested others.
13. Commission Findings of Fact 2 through 11, 12 through 14 and 15 through 18 accurately reflect the facts in this matter as presented at the hearing.
14. Commission Conclusions of Law 1 through 5 are within the authority of the Commission and are reasonably based upon the Commission Findings of Fact.
15. Property adjacent to the Property is zoned BCD and other property in close proximity to the Property is zoned BCD and C-1.
16. Based upon the information set forth in Commission Findings of Fact 14 and 18 and the evidence contained in the Staff Report and presented at the hearing, the General Plan land use classification “Office” is more appropriate for the Property than “Community Commercial”.

17. Based upon the information set forth in Commission Findings of Fact 14 and 18 and the evidence contained in the Staff Report and presented at the hearing, C-1 zoning is more appropriate for the Property than BCD zoning.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted at the hearing, the Governing Body hereby CONCLUDES as follows:

1. The Commission Findings and Conclusions, a copy of which is attached hereto as **Exhibit A**, are adopted in part by the Governing Body as follows: Commission Findings 2 through 11, 12 through 14 and 15 through 18 and Conclusions of Law 1 through 5. The foregoing enumerated Findings of Fact and Conclusions of Law are hereby adopted by the Governing Body and are incorporated in these Findings of Fact and Conclusions of Law as if set out in full herein. Those Findings of Fact and Conclusions of Law not specifically adopted herein are specifically not adopted.
2. The General Plan land use classification “Office” is more appropriate for the Property than the “Community Commercial” land use classification originally requested by the Applicant.
3. C-1 district zoning is less intensive than the BCD zoning designation originally requested by the Applicant.
4. A Plan amendment classifying the Property as “Office” meets the criteria established by Code Section 14-3.2(E)(1).
5. Rezoning to C-1 rather than the proposed Rezoning to BCD is more appropriate for the Property and meets the criteria established by Code Sections 14-3.5(C) and 14-4.3(A) and is consistent with the Plan.

WHEREFORE, IT IS ORDERED ON THE _____ OF AUGUST 2015 BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

That the Plan is amended to classify the Property as “Office” and the Property is rezoned to C-1, subject to the Conditions set forth on **Exhibit B**, a copy of which is attached hereto.

Mayor

Date:

FILED WITH THE CITY CLERK:

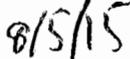
Yolanda Y. Vigil
City Clerk

Date:

APPROVED AS TO FORM:



Kelley Brennan
City Attorney



Date:

City of Santa Fe
Planning Commission
Findings of Fact and Conclusions of Law

Case #2015-20
600 Galisteo Street General Plan Amendment
Case #2015-21
600 Galisteo Street Rezoning to BCD

Applicant – Eva Parker, Trustee for the Lucy C. Ortiz Estate

THIS MATTER came before the Planning Commission (Commission) for hearing on April 2, 2015 upon the application (Application) of Eva Parker, Trustee for the Lucy C. Ortiz Estate (Applicant).

The property is located at 600 Galisteo Street and includes a 5, 581 SF lot improved with a building (Building) and related improvements on the southwest corner of the intersection of Galisteo Street with the Paseo de Peralta (Property) zoned R-21 (Residential – 21 dwelling units/acre). The Property was developed in the mid-1930s for commercial use and remained a commercial use until the mid-2000s, when it was vacated. It has remained vacant since that time and has a result, has lost its status as a legal nonconforming use and reverted to R-21 zoning.

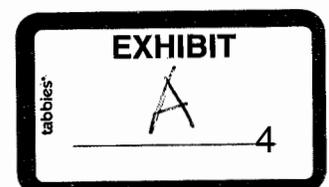
The Applicant seeks (1) approval of an amendment to the City of Santa Fe General Plan Future Land Use Map (Plan) changing the designation of the Property from Moderate Density Residential (7-9 dwelling units/acre) to Community Commercial and (2) to rezone the Property from R-21 to BCD (Business Capitol District).

After conducting a public hearing and having heard from staff and all interested persons, the Commission hereby FINDS, as follows:

FINDINGS OF FACT

General

1. The Commission heard testimony and took evidence from staff, the Applicant, and members of the public interested in the matter.
2. Santa Fe City Code (Code) §14-3.2(D) sets out certain procedures for amendments to the Plan, including, without limitation, a public hearing by the Commission and recommendation to the Governing Body based upon the criteria set out in Code §14-3.2(E).
3. Code §§14-3.5(B)(1) through (3) set out certain procedures for rezonings, including, without limitation, a public hearing by the Commission and recommendation to the Governing Body based upon the criteria set out in Code §14-3.5(C).
4. Code §14-3.5(B)(2)(b) provides that the Governing Body may approve a rezoning to a less intensive zone than originally requested by an applicant.



5. Code §14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [§14-3.1(E)(1)(a)(i)]; (b) an Early Neighborhood Notification (ENN) meeting [§14-3.1(F)(2)(a)(iii) and (xii)]; and (c) compliance with Code Section 14-3.1(H) notice and public hearing requirements.
6. A pre-application conference was held on July 17, 2014.
7. Code §14-3.1(F) establishes procedures for the ENN meeting, including (a) scheduling and notice requirements [Code §14-3.1(F)(4) and (5)]; (b) regulating the timing and conduct of the meeting [Code §14-3.1(F)(5)]; and (c) setting out guidelines to be followed at the ENN meeting [§14-3.1(F)(6)].
8. An ENN meeting was held on the Application on August 19, 2014 at the Main Branch Public Library on Washington Street.
9. Notice of the ENN meeting was properly given.
10. The ENN meeting was attended by the Applicant and City staff; there were fourteen (14) members of the public in attendance, including representatives of the Applicant.
11. Commission staff provided the Commission with a report (Staff Report) evaluating the factors relevant to the Application and recommending approval by the Commission of the proposed Plan amendment and the rezoning, subject to the conditions set forth in the Staff Report (the Conditions).

The General Plan Amendment

12. Code §14-3.2(B)(2)(b) requires the City's official zoning map to conform to the Plan, and requires an amendment to the Plan before a change in land use classification is proposed for a parcel shown on the Plan's land use map.
13. The Commission is authorized under Code §14-2.3(C)(7)(a) to review and make recommendations to the Governing Body regarding proposed amendments to the Plan.
14. The Commission has considered the criteria established by Code §14-3.2(E)(1) and finds the following facts:
 - (a) *Consistency with growth projections for the City, economic development goals as set forth in a comprehensive economic development plan for the City, and with existing land use conditions, such as access and availability of infrastructure [§14-3.2(E)(1)(a)].*

The Property was developed in the mid-1930s for commercial use and has been utilized for commercial uses continuously since then until vacated in the mid-2000s by its last commercial occupant. It has remained vacant since, reverting after one year to residential-use zoning pursuant to Code § 14-10.2(C). The Property has never been used for residential purposes. Other properties on the south side of the Paseo in close proximity to the Property are developed with a variety of commercial and office uses. The redevelopment and reuse of the Property for office and low-intensity commercial use is consistent with its prior commercial uses as set out in the Staff Report, and with the Plan, which encourages a mix of uses in all new and existing neighborhoods and the protection and conservation of neighborhood character. In accordance with testimony at the Hearing, limited commercial, office and similar low-intensity uses were consistent with the historic character of the neighborhood and were not objectionable to most neighborhood residents. Testimony also indicated that the Property has become a magnet for vandals and vagrants as a result of the approximately ten-year vacancy and is not

generating any economic activity. Water, sanitary sewer, stormwater, electrical, and natural gas utilities are available to serve the Property.

(b) *Consistency with other parts of the Plan [§14-3.2(E)(1)(b)].*

The proposed amendment is consistent with provisions of the Plan that encourage the protection and maintenance of neighborhood character, promote mixed-use neighborhoods and economic diversity and support the location of professional and administrative offices in and near neighborhood centers. The Property's orientation to the Paseo, a major arterial street and its close proximity to a variety of commercial and office uses, together with its historic use for commercial purposes and the small size and nonconforming character of the Building, which mitigates against expansion, as well as other physical constraints on future development, including limited parking, support the proposed amendment.

(c) *The amendment does not: (i) allow uses or a change that is significantly different from or inconsistent with the prevailing use and character of the area; (ii) affect an area of less than two acres, except when adjusting boundaries between districts; or (iii) benefit one of a few landowners at the expense of the surrounding landowners or the general public [§14-3.2(E)(1)(c)].*

Based upon the foregoing and as set forth in the Staff Report, the proposed amendment: will not allow a use or change that is inconsistent with the prevailing uses of the area or with the historic uses of the Property; adjusts boundaries between districts; and will not benefit the Property owner at the expense of the surrounding landowners and the general public.

(d) *An amendment is not required to conform with Code §14-3.2(E)(1)(c) if it promotes the general welfare or has other adequate public advantage of justification [§14-3.2(E)(1)(d)].*

Although the proposed amendment conforms with Code §14-3.2(E)(1)(c), it also promotes the general welfare and is otherwise advantageous to the public, based on testimony at the Hearing, including, without limitation, from representatives for the Don Gaspar Neighborhood Association, the Don Diego Neighborhood Association, and the Neighborhood Network, which indicated substantial support for the use of the Property for an appropriate low-intensity commercial or office use consistent with the Property's historic use and the neighborhood's historic character.

(e) *Compliance with extraterritorial zoning ordinances and extraterritorial plans [§14-3.2(E)(1)(e)].*

This is not applicable.

(f) *Contribution to a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity or the general welfare as well as efficiency and economy in the process of development [§14-3.2(D)(1)(e)].*

The proposed amendment will contribute to a coordinated, adjusted and harmonious development of the City in that it is consistent with the policies of the Plan as set forth in paragraph 14(a)-(d) above and in the Staff Report.

The Rezoning

15. Under Code §14-3.5(A)(1)(d) any person may propose a rezoning (amendment to the zoning map).
16. Code §§14-2.3(C)(7)(c) and 14-3.5(B)(1)(a) provide for the Commission's review of proposed rezonings and recommendations to the Governing Body regarding them.
17. Code §§14-3.5(C) establishes the criteria to be applied by the Commission in its review of proposed rezonings.
18. The Commission has considered the criteria established by Code §§14-3.5(C) and finds, subject to the Conditions, the following facts:
 - (a) *One or more of the following conditions exist: (i) there was a mistake in the original zoning; (ii) there has been a change in the surrounding area, altering the character of the neighborhood to such an extent as to justify changing the zoning; or (iii) a different use category is more advantageous to the community, as articulated in the Plan or other adopted City plans [Code §14-3.5(C)(1)(a)].*

The proposed rezoning is more advantageous to the community for the reasons set forth in the Staff Report and in paragraph 14(a) and (b) above and in testimony at the Hearing, including, without limitation, from representatives for the Don Gaspar Neighborhood Association, the Don Diego Neighborhood Association, and the Neighborhood Network, which indicated substantial support for the use of the Property for an appropriate low-intensity commercial or office use, but opposition to BCD zoning due to concerns that BCD zoning, which permits uses permitted in all other districts of the City, would open the door to BCD zoning on other properties in the neighborhood south of the Paseo, eroding the neighborhood's historic character.
 - (b) *All the rezoning requirements of Code Chapter 14 have been met [Code §14-3.5(C)(1)(b)].*

All the rezoning requirements of Code Chapter 14 have been met.
 - (c) *The proposed rezoning is consistent with the applicable policies of the Plan [Section 14-3.5(A)(c)].*

The proposed rezoning is consistent with the Plan as set forth above and in the Staff Report.
 - (d) *The amount of land proposed for rezoning and the proposed use for the land is consistent with City policies regarding the provision of urban land sufficient to meet the amount, rate and geographic location of the growth of the City [Code §14-3.5(C)(1)(d)].*

The Property is a 5,581 SF lot improved with the Building and related improvements and its use for low-intensity commercial or office is consistent with the uses and character of the area as it has developed and with the historic uses of the Property.
 - (e) *The existing and proposed infrastructure, such as the streets system, sewer and water lines, and public facilities, such as fire stations and parks, will be able to accommodate the impacts of the proposed development [Section 14-3.5(C)(e)];*

Water, sanitary sewer, stormwater, electrical, and natural gas utilities are available to serve the Property.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Commission CONCLUDES as follows:

General

1. The proposed Plan amendment and rezoning were properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
2. The ENN meeting complied with the requirements established under the Code.

The General Plan Amendment

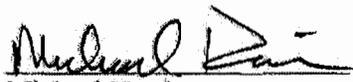
3. The Commission has the power and authority at law and under the Code to review the proposed amendment to the Plan and to make recommendations to the Governing Body regarding such amendment.

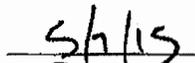
The Rezoning

4. The Applicant has the right under the Code to propose the rezoning of the Property.
5. The Commission has the power and authority at law and under the Code to review the proposed rezoning of the Property and to make recommendations regarding the proposed rezoning to the Governing Body based upon that review.

WHEREFORE, IT IS ORDERED ON THE 7th OF MAY 2015 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:

1. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends to the Governing Body that it approve the Plan amendment, subject to the Conditions.
2. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends to the Governing Body that it approve the rezoning of the Property to BCD, subject to the Conditions, giving consideration to rezoning to C-1 (Office and Related Commercial) pursuant to its authority under Code §14-3.5(B)(2)(b) to approve a rezoning to a less intensive zone than originally requested by an applicant, subject to the Conditions.

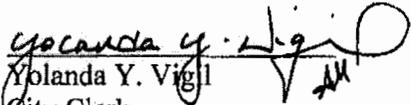

Michael Harris
Chair


Date:

[REMAINING SIGNATURES APPEAR ON FOLLOWING PAGE]

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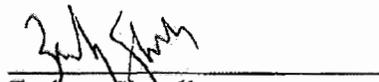
FILED:



Yolanda Y. Vigil
City Clerk

5/8/15
Date:

APPROVED AS TO FORM:



Zachary Shandler
Assistant City Attorney

5/7/15
Date:

600 Galisteo Street General Plan Amendment and Rezone--Conditions of Approval

Planning Commission

Case #2015-20 & 21 - 600 Galisteo Street GPA & Rezone

Conditions	Department	Staff
<p>The Traffic Engineer conducted a review of the preliminary subdivision plat and provided the following comments which are noted as Conditions of Approval:</p> <ol style="list-style-type: none"> The Traffic Engineering Division shall review and approve all access to the lot. Access to the northeast corner of the property from Paseo de Peralta shall be limited to entering vehicles, with ingress and egress permitted onto Galisteo Street, a one-way northbound street. 	<p>Traffic Engineering</p>	<p>John Romero/ Sandra Kassens</p>

