

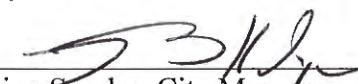
City of Santa Fe, New Mexico

memo

DATE: July 16 for July 29, 2015 City Council Meeting

TO: City Council

VIA:


Brian Snyder, City Manager
Lisa Martinez, Director, Land Use Department
Greg Smith, AICP, Director, Current Planning Division 


FROM: Donna Wynant, AICP, Senior Planner, Current Planning Division 

Case #2015-30. Tune Up Café, 536 Cortez St., General Plan Amendment. Liaison Planning Services, Inc., agent for JC Rivera, LLC, requests approval of a General Plan Future Land Use map amendment to change the designation of 0.13± acres of land from Low Density Residential (3-7 dwelling units per acre) to Community Commercial. The property is located at 536 Cortez. (Donna Wynant, Case Manager)

Case #2015-31. Tune Up Café, 536 Cortez St., Rezoning. Liaison Planning Services, Inc., agent for JC Rivera, LLC, requests rezoning approval of 0.13± acre of land from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial). The property is located at 536 Cortez St. (Donna Wynant, Case Manager)

Cases #2015-30 and #2015-31 are combined for purposes of staff report, public hearing and Governing Body action, but each is a separate application and shall be reviewed and voted upon separately.

1. RECOMMENDATION

Staff and the Planning Commission recommend **APPROVAL OF BOTH CASES WITH CONDITIONS** to the Governing Body.

On May 7, 2015, the Planning Commission found that the application meets all code criteria for a General Plan Amendment and Rezoning. The applicant is requesting a General Plan Amendment from Low Density Residential (3-7 dwelling units per acre) to Community Commercial. Additionally, the applicant is requesting to rezone the property from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial). The applicant will then record the lot consolidation of 536 Cortez and 1115 Hickox into one lot, totaling 0.26 ± acre in size as requested and approved by the Planning Commission if the General Plan Amendment and Rezoning request are approved. This rezoning application does not include approval of a development plan. The conceptual plan submitted by the applicant would involve the steps described in Section II of this report.

II. APPLICATION OVERVIEW

A. Rezoning Application. The applicant acquired the property at 526 Cortez north of and adjacent to his Tune-Up Café at 1115 Hickox. The applicant is proposing to minimize on street parking by his business by providing an 8 space parking lot on the subject property. The request is to change the zoning from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial) to be consistent with the zoning of the Tune-Up Café property. The General Plan must first be amended from Low Density Residential (3-7 dwelling units per acre) to Community Commercial to allow the rezoning as requested. Also, since parking is not allowed as a primary use, the 526 property must be consolidated with the adjacent Tune-Up Café property as a condition of approval of the zoning request.

The application materials indicate that the property was purchased by the applicant to accommodate the existing Tune-Up Café with a new parking lot, not for any future expansion of the business and not for a separate commercial entity. At the Planning Commission public hearing, the applicant stated that he needs to do a slight increase in the size of the kitchen to make it functional. This will neither interfere with the new parking lot, nor increase the parking requirement.

B. Parking Lot Expansion and Site Planning. This rezoning application does not include approval of a development plan by the Planning Commission or by the Governing Body. Implementing the conceptual plan submitted by the applicant would involve approval by staff of the applicant's request to reduce the landscaped buffer area at the north edge of the rezoned lot as "alternate compliance." (Refer to discussion below and to Exhibit 8.)

The applicant's site plan for the parking lot expansion shows the existing Tune-Up Café with the new proposed 8 space parking lot on the lot to the north. If the rezoning is approved, subsequent approval of the plan would involve administrative approvals by staff, and could also involve approval of a landscape-buffer. The schematic plan indicates that the lot would comply with most applicable standards. It would be accessed off of Hickox through the existing parking lot, and would exit as a "right turn only" onto Cortez Street. Existing (significant) trees would be preserved and utilized as a buffer along the north, west and Cortez Street property lines. The new parking lot would be screened with the existing 4' wall along Cortez and a new 6' tall masonry wall along the north and west lot line. The existing dumpster and recycling bins located at 1115 Hickox would be relocated to the subject property as shown on the site plan and a 15' landscape buffer is proposed adjacent to the west lot line as required since it abuts residential property (Subsection 14-8.4(J)(3)). The schematic plan proposes a reduced landscape buffer (5' rather than 15') along the north lot line adjacent that residential property. The applicant has requested approval by staff of a smaller but more intensified, landscape buffer per section 14-8.4(C) Landscape and Site Design "Alternate Means of Compliance." Approval by staff could not occur until after the rezoning is approved, and would require more-detailed landscaping and parking lot plans than have been submitted.

C. Right-of-Way Encroachments. Staff and neighbors have identified concerns with existing parking spaces located on the east side of the property, at the Cortez St. frontage. Cars using those spaces frequently block the public sidewalk, and have to back into the street when exiting the spaces. Neighbors who attended the ENN meeting cited these spaces as a significant hazard. Staff recommends that they be eliminated as a condition of the rezoning application.

In addition, city staff determined several years ago that some of the improvements associated with the outdoor seating area encroached into the city's right-of-way along the Hickox frontage. Staff worked with the applicant to obtain approval from the Governing Body for an agreement to eliminate the encroachment problem by trading land at the corner of Hickox and Cortez. A condition of approval to require the applicant to complete that process is included in this rezoning ordinance.

D. Neighborhood Concerns. An early neighborhood notification meeting was held on 11/24/14 to discuss the proposed general plan amendment and rezoning with neighbors. The neighbors expressed concerns that restaurant operations in recent years have increased problems with traffic volumes and safety, with parking of employee and customer cars on Cortez St., and with noise from late-evening operations. Some neighbors expressed support for the parking lot expansion, and some preferred that there be no access from the parking lot to Cortez St. (See Planning Commission packet- Exhibit E-2 ENN Notes.)

E. Neighbor Encroachment Across Property Line. The applicant's recent survey (see Exhibit 6) shows a slight encroachment of the neighbor's house (Matt Kelly) at 534 Cortez onto 536 Cortez. This encroachment is primarily a private matter between the owners, and does not have a direct effect on the rezoning request. Mr. Kelly requests access to the south wall of this house and protection from vehicle damage. Staff anticipates that administrative approval of parking lot improvements will address the neighbor's safety and access concerns.

III. ATTACHMENTS:

Exhibit 1	Planning Commission Findings of Fact, approved 6/4/15
Exhibit 2	Draft General Plan Amendment Resolution
Exhibit 3	Draft Rezoning Bill – C-2
Exhibit 4	Planning Commission Staff Report Packet
Exhibit 5	Planning Commission Minutes – 6/4/15
Exhibit 6	Letter from Matt Kelly regarding his property at 534 Cortez Street – 6/26/15
Exhibit 7	Survey of 536 Cortez and 1115 Hickox Street- 7/15/15
Exhibit 8	Revised Conceptual Site Plan- 7/20/15

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

Case #2015-30

Tune Up Cafe General Plan Amendment

Case #2015-31

Tune Up Cafe Rezoning to C-2

Owner's Name – JC Rivera LLC

Applicant's Name – Liaison Planning, Inc.

THIS MATTER came before the Planning Commission (Commission) for hearing on May 7, 2015 upon the application (Application) of Liaison Planning, Inc. as agent for JC Rivera LLC (Applicant).

The property is located at 536 Cortez Street (Property) and is comprised of 0.13± acres with the Future Land Use designation of Low Density Residential (3-7 dwelling units per acre) and is zoned R-5 (Residential, 5 dwelling units per acre).

The Applicant seeks: (1) approval of an amendment to the City of Santa Fe General Plan Future Land Use Map (Plan) changing the Future Land Use designation of 0.13± acres from Low Density Residential (3-7 dwelling units per acre) to Community Commercial and (2) to rezone 0.13± acres of the Property from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial).

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 §14-3.1 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.
5. 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)].
 6. An ENN meeting was held on the Application on November 24, 2014 at the DeVargas Mall, Community Room.
 7. Notice of the ENN meeting was properly given.
 8. The ENN meeting was attended by the Applicant and City staff; there were eleven members of the public in attendance and concerns were raised.
 9. 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 and lot split.

The General Plan Amendment

10. 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.
11. 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.
12. 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 proposed use of the subject property will provide parking for an existing restaurant that currently provides employment and a service to the neighborhood and Santa Fe residents.
 - (b) *Consistency with other parts of the Plan [§14-3.2(E)(1)(b)].*
The general plan policy states that there shall be a mix of uses and housing types in all parts of the City and along this area of Hickox, the zones are mixed C-2 and residential. The proposed use of the subject project will be consistent with this policy and will increase opportunities for service to the neighborhood and Santa Fe residents.
 - (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)].*
The area to the north, east and west of the subject property is primarily residential. The properties to the south all along Hickox are zoned for community commercial. Upon approval, the subject property will be consolidated with the adjacent property to the south that has been utilized as commercial.

- (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 or justification [§14-3.2(E)(1)(d)].*

The proposal conforms with § 14-3.2(E)(1)(c) and is consistent with the City's land use policies, ordinances, regulations and plans as they relate to the City's desire to maintain a compact urban form, encourage infill development and mixed use neighborhoods.

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

This criterion is no longer relevant since the adoption of SPaZZo and the relinquishment of the land use regulatory authority outside the city limits and the transfer of authority from extraterritorial jurisdiction to the City.

- (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)(f)].*

Use of the subject property for expansion of an historically/existing commercial use will continually provide centrally located employment and service to the neighborhood and will maintain and promote the mixed use character of the neighborhood.

- (g) *Consideration of conformity with other city policies, including land use policies, ordinances, regulations and plans.*

This request is consistent with the City's land use policies, ordinances, regulations and plans as they relate to the City's desire to maintain a compact urban form, encourage infill development and mixed use neighborhoods.

13. The Commission has considered the criteria established by Code §14-3.2(E)(2) and finds the following facts:

- (a) *the growth and economic projections contained within the general plan are erroneous or have changed.*

The neighborhood has developed over the years and the need for additional off street parking is apparent.

- (b) *no reasonable locations have been provided for certain land uses for which there is a demonstrated need.*

The location for additional parking for the commercial property to the south by providing off street parking that is directly adjacent to and can be accessed through the restaurant parking lot is a reasonable use of this lot.

- (c) *conditions affecting the location or land area requirements of the proposed land use have changed, for example the cost of land space requirements, consumer acceptance, market or building technology.*

The proposed amendment will bring the general plan up to date with the historic use and character of the area.

The Rezoning

14. Under Code §14-3.5(A)(1)(d) any person may propose a rezoning (amendment to the zoning map)

15. 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.

16. Code §§14-3.5(C) establishes the criteria to be applied by the Commission in its review of proposed rezonings.
17. 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 neighborhood has increased in density and the need for off street parking is apparent. The proposed use would allow for additional parking and relieves some of the on street parking which justified the change for zoning.
 - (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(C)(1)(c)].*
The proposed rezoning is consistent with the Plan.
 - (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 rezoning request will provide infill development and promotes mixed land uses that provide an adequate balance of service retail and employment opportunities.
 - (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)(1)(e)];*
The proposed rezoning will not increase the sewer, water lines and public facilities. There will be less impact on public street by providing off street parking.
18. The Commission has considered the criteria established by Code §§14-3.5(D) and finds, subject to the Conditions, the following facts:
- (1) *If the impacts of the proposed development or rezoning cannot be accommodated by the existing infrastructure and public facilities, the city may require the developer to participate wholly or in part in the cost of construction of off-site facilities in conformance with any applicable city ordinances, regulations or policies;*
 - (2) *If the proposed rezoning creates a need for additional streets, sidewalks or curbs necessitated by and attributable to the new development, the city may require the developer to contribute a proportional fair share of the cost of the expansion in addition to impact fees that may be required pursuant to Section 14-8.14.*
Preliminary analysis by city staff indicates that the likely future development will be accommodated by the existing infrastructure and public facilities.

19. The Commission adopts Staff conditions, except for the requirement to apply for a PUD.

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

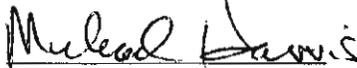
3. The Commission has the power and authority at law and under the Code to review the proposed amendment to the Plan and to make recommendations to the Governing Body regarding such amendment.

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.

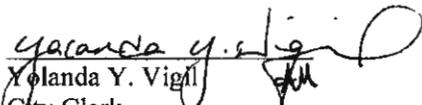
WHEREFORE, IT IS ORDERED ON THE 4th DAY OF JUNE, 2015 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:

- A. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends approval of the Plan Amendment to Community Commercial to the Governing Body.
- B. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends approval of the rezoning request to C-2 to the Governing Body.


Michael Harris, Chair

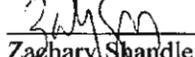
6/4/15
Date:

FILED:


Yolanda Y. Vigil
City Clerk

6/5/15
Date:

APPROVED AS TO FORM:


Zachary Shandler
Assistant City Attorney

6/4/15
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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-___

INTRODUCED BY:

A RESOLUTION

AMENDING THE GENERAL PLAN FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF 0.13± ACRE OF LAND FROM LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS PER ACRE) TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 536 CORTEZ STREET. ("TUNE UP CAFE" GENERAL PLAN AMENDMENT CASE NO. 2015-30).

WHEREAS, the agent for the owner of the subject property (JC Rivera, LLC) has submitted an application to amend the General Plan Future Land Use Map designation of the property from Low Density Residential (3-7 dwelling units per acre) to Community Commercial;

WHEREAS, pursuant to Section 3-19-9 NMSA 1978, the General Plan may be amended, extended or supplemented; and

WHEREAS, the Governing Body has held a public hearing on the proposed amendment, reviewed the staff report and the recommendation of the Planning Commission and the evidence obtained at the public hearing, and has determined that the proposed amendment to the General Plan meets the approval criteria set forth in Section 14-3.2(E) SFCC 1987; and

1 **WHEREAS**, the reclassification will provide parking for an existing restaurant that
2 currently provides employment and a service to the neighborhood and Santa Fe residents; and

3 **WHEREAS**, the reclassification of the Property will not allow a use or change that is
4 inconsistent with prevailing uses of the area, and will not have adverse impacts upon the
5 surrounding neighborhood; and

6 **WHEREAS**, the reclassification of the Property would be substantially consistent with
7 the provisions of the General Plan that promote a compact urban form, that encourages infill
8 development and mixed use neighborhoods; and

9 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
10 **CITY OF SANTA FE :**

11 **Section 1.** That the General Plan Future Land Use Map classification for the
12 Property be and hereby is amended as shown in the General Plan Future Land Use Map attached
13 hereto [EXHIBIT A] and incorporated herein by reference.

14 **Section 2.** Said General Plan amendment and any future development plan for the
15 Property is approved with and subject to the conditions set forth in the table attached hereto
16 [EXHIBIT B] and incorporated herein summarizing City of Santa Fe staff technical memoranda
17 and conditions approved by the Planning Commission on May 7, 2015.

18 PASSED, APPROVED and ADOPTED this ___ day of July, 2015.

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21 JAVIER M. GONZALES, MAYOR

22 ATTEST:

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25 YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:

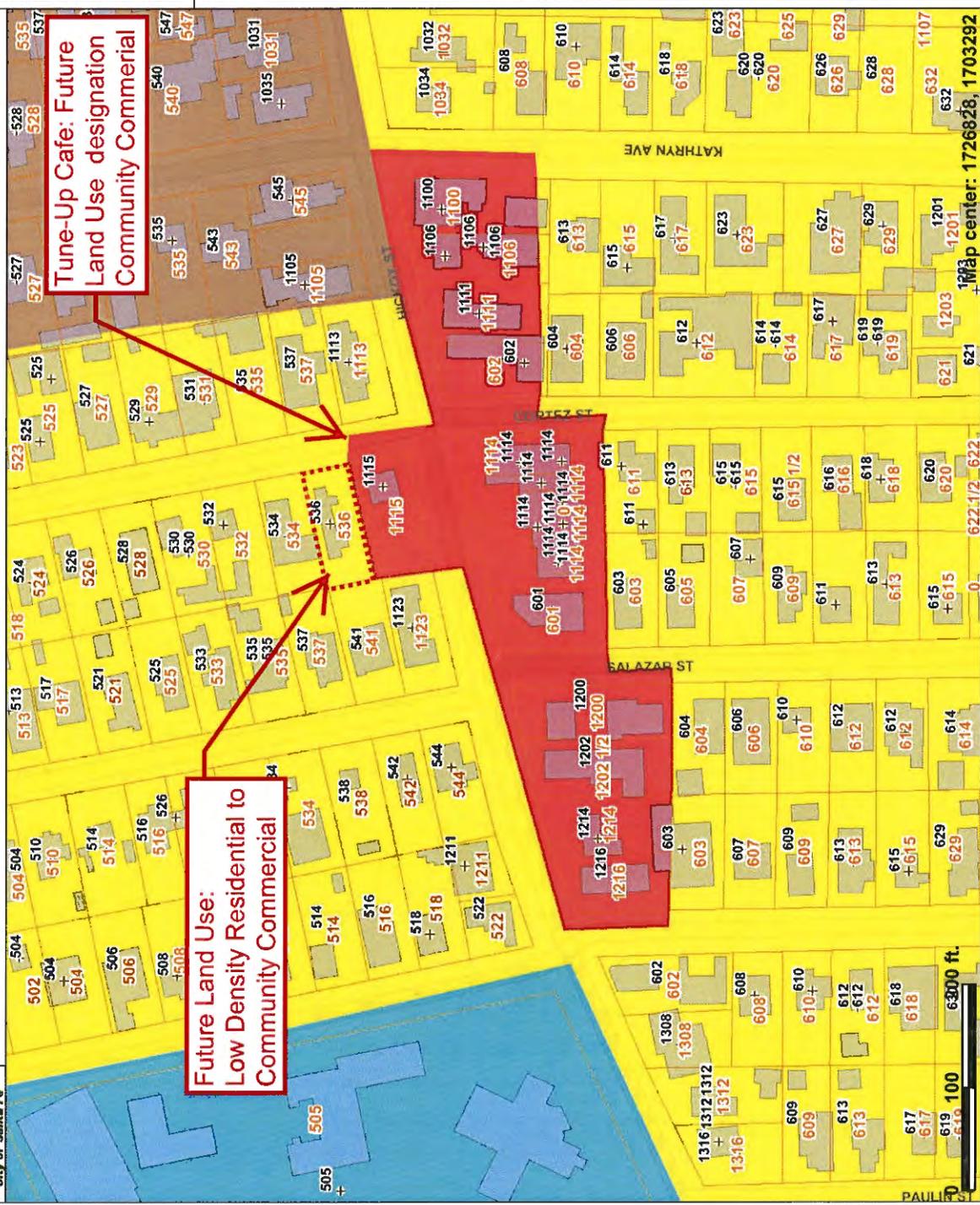
Kelley A. Brennan

KELLEY BRENNAN, CITY ATTORNEY

M/Legislation/Tune-Up Café_GPA



Future Land Use



Future Land Use:
Low Density Residential to
Community Commercial

Future Land Use:
Future Tune-Up Cafe: Future
Land Use designation
Community Commercial

Legend

- City Limits
- Address Points
- Parcels
- Building Footprint
- Santa Fe River
- Future Land Use
 - Mountain/Corridor (1 dwelling per 10+ acres)
 - Very Low Density (1-3 dwellings per acre)
 - Low Density (3-7 dwellings per acre)
 - Moderate Density (7-9 dwellings per acre)
 - Medium Density (7-12 dwellings per acre)
 - High Density (12-29 dwellings per acre)
- Regional Commercial
- Community Commercial
- Neighborhood Center
- Transitional Mixed Use
- Business Park
- Office
- Industrial
- Public/Institutional

Scale: 1:1,773

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

536 Cortez

General Plan Amendment (Case #2015-30)
 Rezoning (Case #2015-31)
 Resolution #2015-___

DRT Conditions of Approval	Department	Staff
<p>1. The Developer shall eliminate the four (4) perpendicular parking spaces on Cortez Street; abandon the existing curb cut; and restore the sidewalk to a typical sidewalk section and install vertical curb and gutter.</p> <p>a. On street parallel parking of one to two vehicles will be permitted along this new curb provided that sight distance requirements are met.</p> <p>i. This sight distance triangle shall be based on the American Association of State Highway and Transportation Officials (AASHTO) standards per City code regarding commercial use of property that accesses a public street.</p> <p>2. The Developer shall work with the City of Santa Fe Parking Division to establish a loading zone on Hickox Street in front of the Tune Up Café; this loading zone shall be marked with appropriate signage.</p> <p>3. The Developer shall install a "do not enter" sign on Cortez Street at the exit of the one way portion of the parking lot.</p>	<p>Traffic Engineering/Public Works</p>	<p>John Romero (per Sandra Kassens)</p>
<p>1. A lot consolidation must be recorded after rezoning.</p> <p>2. At the time of building permit, all terrain management requirements of the Land Development Code must be met.</p> <p>3. At the time of Building permit, all sidewalks and curb cuts must meet City requirements for construction and ADA accessibility.</p>	<p>Land Use Engineer</p>	<p>RB Zaxus</p>

Resolution #2015-___ EXHIBIT *B*
(p. 1 of 2)

536 Cortez

General Plan Amendment (Case #2015-30)
Rezoning (Case #2015-31)
Resolution #2015- _____

<ol style="list-style-type: none">1. Remove the back-out spaces along the east side of the Tune-Up Café building since they obstruct the sidewalk (which is at least partly outside the ROW) and are into the public ROW, which is a public safety and ADA access issue.2. The Tune-Up Café shall not operate with entertainment after 10 pm. Any move to do so would require approval of a use permit to convert from a restaurant to a nightclub per Chapter 14.3. Obtain building permit for the walk-in freezer and storage area along the north property line that was built in several years ago without a permit. sometime between the 2008 aerial photo and the 2011 aerial photo.<ol style="list-style-type: none">a. The permit in 2011 identifies that portion of the building as "existing;"4. Screen the dumpster where shown on the site plan, per 14-_____5. Resolve issues with front patio as it encroaches into Hickox ROW6. Resolve issue with Tune-Up Café sign at the corner of Hickox and Cortez7. Provide lighting plan to ensure all lighting be directed away from surrounding residential properties.8. Landscape plan details – work with adjacent property owner to resolve issue with opening in wall at his	Land Use Senior Planner/Case Manager	Donna Wynant
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*Resolution #2015-_____
(p. 2 of 2)*

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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2015-29

AN ORDINANCE

**AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SANTA FE;
CHANGING THE ZONING CLASSIFICATION FROM R-5 (RESIDENTIAL, 5
DWELLING UNITS PER ACRE) TO C-2 (GENERAL COMMERCIAL); AND
PROVIDING AN EFFECTIVE DATE WITH RESPECT TO A CERTAIN PARCEL OF
LAND COMPRISING 0.13± ACRE LOCATED AT 536 CORTEZ STREET (“TUNE UP
CAFE” REZONING CASE NO. 2015-31).**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. The following real property (the “Property”) located within the municipal boundaries of the city of Santa Fe, is restricted to and classified C-2 (General Commercial):

A parcel of land comprising 0.13± acres located at 536 Cortez Street and more fully described in EXHIBIT A attached hereto and incorporated by reference, located in Section 26, T17N, R9E, N.M.P.M., Santa Fe County, New Mexico,

Section 2. The official zoning map of the City of Santa Fe adopted by Ordinance

1 No. 2001-27 is amended to conform to the changes in zoning classifications for the Property set
2 forth in Section 1 of this Ordinance.

3 **Section 3.** This rezoning action and any future development plan for the Property is
4 approved with and subject to the conditions set forth in the table attached hereto as EXHIBIT B
5 and incorporated herein summarizing the City of Santa Fe staff technical memoranda and
6 conditions recommended by the Planning Commission on May 7, 2015.

7 **Section 4.** This Ordinance shall be published one time by title and general summary
8 and shall become effective five days after publication.

9 APPROVED AS TO FORM:

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11 _____
12 KELLEY A. BRENNAN, CITY ATTORNEY
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25 M/Legislations/2015 Bills/2015-29 Tune-Up Café_Rezoning

Bill No. 2015-29

EXHIBIT A
536 Cortez
Legal Description for C-2 Zoning

Lot 12, Block 2, of Agua Fria Addition No. 1, Section 26, T17N, R9E, N.M.P.M., as shown on plat filed in the office of the County Clerk, Santa Fe County, New Mexico on May 14, 1930, in Plat book 3 at page 377.

EXHIBIT A
Bill # 2015-29

536 Cortez
General Plan Amendment (Case #2015-30)
Rezoning (Case #2015-31)
Bill #2015-29

DRT Conditions of Approval	Department	Staff
<p>1. The Developer shall eliminate the four (4) perpendicular parking spaces on Cortez Street; abandon the existing curb cut; and restore the sidewalk to a typical sidewalk section and install vertical curb and gutter.</p> <p>a. On street parallel parking of one to two vehicles will be permitted along this new curb provided that sight distance requirements are met.</p> <p>i. This sight distance triangle shall be based on the American Association of State Highway and Transportation Officials (AASHTO) standards per City code regarding commercial use of property that accesses a public street.</p> <p>2. The Developer shall work with the City of Santa Fe Parking Division to establish a loading zone on Hickox Street in front of the Tune Up Café; this loading zone shall be marked with appropriate signage.</p> <p>3. The Developer shall install a "do not enter" sign on Cortez Street at the exit of the one way portion of the parking lot.</p>	<p>Traffic Engineering/Public Works</p>	<p>John Romero (per Sandra Kassens)</p>
<p>1. A lot consolidation must be recorded after rezoning.</p> <p>2. At the time of building permit, all terrain management requirements of the Land Development Code must be met.</p> <p>3. At the time of Building permit, all sidewalks and curb cuts must meet City requirements for construction and ADA accessibility.</p>	<p>Land Use Engineer</p>	<p>RB Zaxus</p>

EXHIBIT B
Bill # 2015-29 (p. Lot 2)
 18

536 Cortez

General Plan Amendment (Case #2015-30)
 Rezoning (Case #2015-31)
 Bill #2015-29

<ol style="list-style-type: none"> 1. Remove the back-out spaces along the east side of the Tune-Up Café building since they obstruct the sidewalk (which is at least partly outside the ROW) and are into the public ROW, which is a public safety and ADA access issue. 2. The Tune-Up Café shall not operate with entertainment after 10 pm. Any move to do so would require approval of a use permit to convert from a restaurant to a nightclub per Chapter 14. 3. Obtain building permit for the walk-in freezer and storage area along the north property line that was built in several years ago without a permit. sometime between the 2008 aerial photo and the 2011 aerial photo. <ol style="list-style-type: none"> a. The permit in 2011 identifies that portion of the building as "existing;" 4. Screen the dumpster where shown on the site plan, per 14-_____ 5. Resolve issues with front patio as it encroaches into Hickox ROW 6. Resolve issue with Tune-Up Café sign at the corner of Hickox and Cortez 7. Provide lighting plan to ensure all lighting be directed away from surrounding residential properties. 8. Landscape plan details – work with adjacent property owner to resolve issue with opening in wall at his 	<p>Land Use Senior Planner/Case Manager</p>	<p>Donna Wynant</p>
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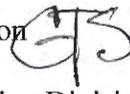
*Bill #2015-29
(p. 2 of 2)*

City of Santa Fe, New Mexico

memo

DATE: April 22, 2015 for the May 7, 2015 meeting

TO: Planning Commission

VIA: Lisa Martinez, Director, Land Use Department
Greg Smith, AICP, Director, Current Planning Division 

FROM: Donna Wynant, AICP, Senior Planner, Current Planning Division 

Case #2015-30. Tune Up Café, 536 Cortez St., General Plan Amendment. Liaison Planning Services, Inc., agent for JC Rivera, LLC, requests approval of a General Plan Future Land Use map amendment to change the designation of .13± acres of land from Low Density Residential (3-7 dwelling units per acre) to Community Commercial. The property is located at 536 Cortez. (Donna Wynant, Case Manager)

Case #2015-31. Tune Up Café, 536 Cortez St., Rezoning. Liaison Planning Services, Inc., agent for JC Rivera, LLC, requests rezoning approval of .13± acres of land from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial). The property is located at 536 Cortez St. (Donna Wynant, Case Manager)

Cases #2015-30 and #2015-31 are combined for purposes of staff report, public hearing and Planning Commission comment and action, but each is a separate application and shall be reviewed and voted upon separately.

RECOMMENDATION

The Commission should direct the applicant to revise the application to propose C-2-PUD (Planned Unit Development), which would ensure that future development would not adversely affect surrounding land uses.

Staff concurs with the applicant's contention that the plan amendment and rezoning of the property at 536 Cortez St. would meet the applicable criteria for approval, if development is limited to construction of a parking lot expansion for the existing restaurant at 1115 Hickox St. as stated in the application materials. Unrestricted development of the property under C-2 zoning would not meet the approval criteria for the requested General Plan amendment and rezoning.

If the Commission determines to recommend **approval**, the rezoning case should be subject to Conditions of Approval as outlined in this report. Commission recommendations to approve or deny General Plan Amendment and Rezoning cases proceed to the City Council for final decision.

I. APPLICATION OVERVIEW

The applicant acquired the property at 526 Cortez north of and adjacent to his Tune-Up Café at 1115 Hickox. The applicant is proposing to minimize on street parking by his business by providing an 8 space parking lot on the subject property. The request is to change the zoning from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial) to be consistent with the zoning of the Tune-Up Café property. The General Plan must first be amended from Low Density Residential (3-7 dwelling units per acre) to Community Commercial to allow the rezoning as requested. Also, since parking is not allowed as a primary use, the 526 property must be consolidated with the adjacent Tune-Up Café property as a condition of approval of the zoning request.

The application requests that review by the city focus primarily on the property at 536 Cortez Street. However, the application materials indicate that the property was purchased by the applicant to accommodate the existing Tune-Up Café with a new parking lot, not for any future expansion of the business and not for a separate commercial entity. The applicant has submitted a schematic plan for the parking lot expansion, but the application does not involve formal approval of the plan. If the rezoning is approved, subsequent approval of the plan would involve administrative approvals by staff, and could also involve approval of landscape-buffer and other variances by the Board of Adjustment. The application could have been structured to include formal approval of the parking lot, by proposing rezoning to C-2-PUD (Planned Unit Development) for both parcels. A C-2-PUD application would also have provided more flexibility in dealing with variances or other exceptions to normal development standards.

II. PROPERTY DESCRIPTION AND BACKGROUND

A. **Existing Conditions at 536 Cortez Street.** The subject property is a 5,923+/- square foot lot located north of the applicant's Tune-Up Café at 1115 Hickox. The application materials indicate that the mobile home on the lot will be removed for the development of a parking lot for the restaurant. Properties to the north, west and east are residential and zoned R-5. (See Exhibit C-2: Zoning & Aerial Map). The property to the south is the Tune-Up Café zoned C-2. Further south, across Hickox are other commercial properties zoned C-2 that stretch three blocks from Alicia Street to Kathryn Avenue. The Tune-Up Café is the only commercially zoned property on the north side of Hickox in this area.

B. **Intended Future Development at 536 Cortez Street.** The proposed parking lot would provide 8 additional spaces. The schematic plan indicates that the lot would comply with most applicable standards. It would be accessed off of Hickox through the existing parking lot, and would exit as a "right turn only" onto Cortez Street (see Exhibit E-2: Proposed Site Plan). Existing (significant) trees would be preserved and utilized as a buffer along the north, west

and Cortez Street property lines. The new parking lot would be screened with the existing 4' wall along Cortez and a new 6' tall masonry wall along the north and west lot line. The existing dumpster and recycling bins located at 1115 Hickox would be relocated to the subject property as shown on the site plan and a 15' landscape buffer is proposed adjacent to the west lot line as required since it abuts residential property (Subsection 14-8.4(J)(3)).

The schematic plan proposes a reduced landscape buffer (5' rather than 15') along the north lot line adjacent that residential property. The applicant has requested approval by staff of a smaller but more intensified, landscape buffer per section 14-8.4(C) Landscape and Site Design "Alternate Means of Compliance." Approval by staff could not occur until after the rezoning is approved, and would require more-detailed landscaping and parking lot plans than have been submitted. If staff does not approve the reduced buffer, the plans would have to be modified to provide the full 15-foot buffer, or the applicant would need approval of a variance by the Board of Adjustment.

C. C-2 Zoning at 1115 Hickox St. The property currently occupied by the café was apparently rezoned from residential to C-2 in 1962, as part of a city-wide update to the zoning map. Several other parcels across Hickox St. were also rezoned to C-2 at the same time, apparently to accommodate pre-existing commercial uses. The property at 1115 Hickox has apparently been operated as a restaurant or other commercial use since prior to 1962.

D. Existing Conditions at 1115 Hickox St. The Tune Up Cafe is currently classified as a conforming permitted use in the category of "Restaurant – full service, with or without incidental alcohol service." That category prohibits "Amplified live entertainment or amplified music for dancing" after 10 p.m. Modification of the existing operation to include entertainment after 10 p.m., or to include outdoor entertainment, would require approval of a special use permit by the Board of Adjustment.

The existing configuration of the building is the result of approval by staff of a building permit in 2011, which increased inside seating capacity from 23 to 40 and also approved an outdoor seating capacity of 19. Table 14-8.6-1 provides two different parking requirements that can be applied to restaurants, and staff apparently approved the restaurant expansion using the lower rate – one space per 200 square feet of net leasable area, rather than one space per 50 square feet of serving area. The parking calculation approved by staff for the permit determined that the 7 spaces provided in the existing parking lot located west of the restaurant building met the minimum code requirements. The existing parking lot was treated as legally nonconforming ("grandfathered in") with regard to the 15-foot buffer requirement, because enforcing the buffer requirement would have eliminated required parking spaces (Subsection 14-8.4(I)(7) Landscape and Site Design – Parking Lots – Compliance).

Although the city receives complaints from nearby residents that overflow parking causes problems on the narrow residential streets near the restaurant, the number of on-site parking spaces complies with minimum code requirements as applied to the 2008 building permit. If the rezoning approved and the 8 additional parking spaces are constructed, the resulting total of 15 parking spaces would exceed the minimum number of spaces required under the lower rate, but would still not meet the requirement under the higher rate.

The 2008 building permit also approved expansion of food preparation and storage areas, but did not address an earlier storage addition which was done without permits near the north property line, in violation of setback and buffer requirements. The applicant recently applied for an after-the-fact building permit for the addition, but approval of the proposed rezoning and lot consolidation would be needed to correct the violations. If the rezoning and consolidation are not approved, the earlier storage addition would require approval of a variance by the Board of Adjustment, or it would have to be demolished. City staff has issued a letter directing the applicant to correct the violation.

Staff and neighbors have identified concerns with existing parking spaces located on the east side of the property, at the Cortez St. frontage. Cars using those spaces frequently block the public sidewalk, and have to back into the street when exiting the spaces. Neighbors who attended the ENN meeting cited these spaces as a significant hazard. These substandard spaces were not counted as required spaces when the 2008 building permit was approved, and the City's traffic engineering staff is recommending that they be eliminated as a condition of the rezoning application. The city may have the authority to abate the spaces or to cite vehicles that block the sidewalk, independently of the rezoning case.

At or about the same time that the 2008 building permit was issued, city staff determined that some of the improvements associated with the outdoor seating area encroached into the city's right-of-way along the Hickox frontage. City staff worked with the applicant to obtain approval from the Governing Body for an agreement to eliminate the encroachment problem by trading land at the corner of Hickox and Cortez. The applicant has not followed up with surveys and deeds that are required to implement the agreement, and enforcement action is still pending.

In addition to other encroachment issues, the outdoor seating area is covered by a freestanding shade structure that appears to encroach into the right-of-way, and which was erected without a permit. Since the awning extends into the required setback area, approval of a variance by the Board of Adjustment would also be required if it is to remain.

E. **Future Development Potential at 536 Cortez St. and 1115 Hickox St.** As noted above, the applicant has chosen not to file a PUD application that would approve development of either or both lots in accordance with a specific development plan, and that would require approval of any amendments to that plan to be approved by the Planning Commission and/or the Governing Body. Since the City Attorney has determined that the Governing Body does not have authority to restrict the types of uses allowed as a condition of approval for a rezoning case, it is not clear that the city would be able to ensure that development of the property at 536 Cortez St. would occur in accordance with the applicant's stated intention to build a parking lot.

Possible alternative scenarios for development of the combined lots that would not involve public hearings include:

- Limited restaurant expansion
- Demolition of the existing building and construction of a retail or office building built above the parking area

- Construction of apartments or residential condominium units with less than 10,000 square feet of total floor area

Setback and buffer requirements would provide practical limits on the potential for development of the property at 536 Cortez as an independent C-2 parcel. Development of apartments or residential condominium units with less than 10,000 square feet would be feasible.

III. GENERAL PLAN AMENDMENT

14-3.2 (E) Approval Criteria

(1) Criteria for All Amendments to the General Plan

The planning commission and the governing body shall review all general plan amendment proposals on the basis of the following criteria, and shall make complete findings of fact sufficient to show that these criteria have been met before recommending or approving any amendment to the general plan:

- (a) consistency with growth projections for Santa Fe, economic development goals as set forth in a comprehensive economic development plan for Santa Fe and existing land use conditions such as access and availability of infrastructure;*

Applicant Response:

The proposed use of the subject property will provide parking for an existing restaurant that currently provides employment and a service to the neighborhood and Santa Fe residents. The property will be accessed off of Hickox and will not utilize additional infrastructure aside from egress onto Cortez Street.

Staff Response:

Development of the property in conjunction with the existing small restaurant at 1115 Hickox St. will not have a significant impact on city-wide growth trends or economic development, nor would there be a significant impact on surrounding land uses or infrastructure. If rezoning leads to intensification of commercial use or additional non-residential traffic and parking on Cortez St., that result would not be consistent with applicable policies.

- (b) consistency with other parts of the general plan;*

Applicant Response:

General plan policy states that "there shall be a mix of uses and housing types in all parts of the City". Along this area of Hickox the zones are mixed C-2 and residential and has historically accommodated both uses. The proposed use of the subject property will be consistent with this policy and will increase opportunities for service to the neighborhood and Santa Fe residents.

Staff Response:

The General Plan has several policies that address neighborhood preservation, encroachment of commercial into residential, infill development, mixed use neighborhoods, etc. (See Exhibit F-1: General Plan Policies). One of the many goals in the General Plan, includes:

5-2-G-5 *Protect neighborhoods from encroachment by non-neighborhood oriented commercial uses and related environmental impacts. ...*

(c) *the amendment does not:*

(i) *allow uses or a change that is significantly different from or inconsistent with the prevailing use and character in the area; or*

Applicant Response:

The area to the north, east and west of the subject property is primarily residential. The properties to the south all along Hickox are zoned for community commercial uses. The intent of this request is to provide additional parking for an existing commercial use, which is neither different nor inconsistent with the prevailing use and character in the area.

Staff Response:

Development of an expanded parking lot for the adjacent restaurant can be considered consistent with the prevailing use and character in the neighborhood. Any significant expansion of the type or intensity of non-residential use would not be consistent.

(ii) *affect an area of less than two acres, except when adjusting boundaries between districts; or*

Applicant Response:

The amendment does affect an area of less than two acres. The legal lot was created in 1930 prior to the development and intent of the General Plan.

Staff Response:

The property requested to be rezoned to C-2 is .13± acres in size and therefore less than 2 acres, but would be an adjustment and extension of the C-2 to the south.

(iii) *benefit one or a few landowners at the expense of the surrounding landowners or the general public;*

Applicant Response:

Upon approval, the subject property will be consolidated with the adjacent property to the south that has always been utilized as commercial. The existing historical use will be maintained and expansion of this use would be consistent with the nature of the longstanding use as seen from Hickox and Cortez Street.

Staff Response:

To the extent that rezoning of the property is subject to conditions that limit significant expansion or intensification of commercial use, the rezoning would not harm surrounding landowners or the general public.

(d) an amendment is not required to conform with Subsection 14-3.2(E)(1)(c) if it promotes the general welfare or has other adequate public advantage or justification;

Applicant Response:

The justification for the rezoning is consistent with the surrounding uses and promotes mixed uses as declared in the general plan.

Staff Response:

This proposal conforms to Section 14-3.2(E)(1)(c) as outlined above.

(e) compliance with extraterritorial zoning ordinances and extraterritorial plans;

Applicant Response:

Not applicable.

Staff Response:

Not applicable.

(f) contribution to a coordinated, adjusted and harmonious development of Santa Fe that in accordance with existing and future needs best promotes health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development; and

Applicant Response:

Use of the subject property for expansion of an historically/existing commercial use, will continually provide centrally located employment and service to the neighborhood. Will maintain and promote the mixed use character of the neighborhood.

Staff Response:

To the extent that rezoning of the property is subject to conditions that limit significant expansion or intensification of commercial use, the rezoning would promote the health and safety and support economic development.

(g) consideration of conformity with other city policies, including land use policies, ordinances, regulations and plans.

Applicant Response:

By allowing the continuation of the historic use of the property to the south and proposed use of the subject property, the General Plan Amendment will expand the City's employment base and promote infill developments that are consistent with land use policies, ordinances, regulations and plans.

Staff Response:

The proposal to reclassify the property as Community Commercial in order to rezone the property for parking is substantially consistent with applicable provisions of the development code.

(2) Additional Criteria for Amendments to Land Use Policies

In addition to complying with the general criteria set forth in Subsection 14-3.2(E)(1), amendments to the land use policies section of the general plan shall be made only if evidence shows that the effect of the proposed change in land use shown on the future land use map of the general plan will not have a negative impact on the surrounding properties. The proposed change in land use must be related to the character of the surrounding area or a provision must be made to separate the proposed change in use from adjacent properties by a setback, landscaping or other means, and a finding must be made that:

(a) the growth and economic projections contained within the general plan are erroneous or have changed;

Applicant Response:

The neighborhood has developed over the years and the need for additional off street parking is apparent. The subject property currently has a mobile home on it that can easily be removed to accommodate parking for the property to the south. The proposed parking lot will only be utilized by the restaurant and all applicable design standards will be adhered to.

Staff Response:

No amendment to land use policies is proposed that would affect consistency with growth and economic projections in the general plan.

(b) no reasonable locations have been provided for certain land uses for which there is a demonstrated need; or

Applicant Response:

It makes sense to allow for additional parking for the commercial property to the south by providing off street parking that is directly adjacent to and can be accessed through the restaurant parking lot.

Staff Response:

No amendment to land use policies is proposed that would affect provision of reasonable locations of restaurant uses.

(c) conditions affecting the location or land area requirements of the proposed land use have changed, for example, the cost of land space requirements, consumer acceptance, market or building technology.

Staff Response:

No amendment to land use policies is proposed that is affected by changed conditions..

IV. REZONING

Section 14-3.5(A) and (C) SFCC 2001 sets forth approval criteria for rezoning as follows:

(1) The planning commission and the governing body shall review all rezoning proposals on the basis of the criteria provided in this section, and the reviewing entities must make complete findings of fact sufficient to show that these criteria have been met before recommending or approving any rezoning:

(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;

(iii) different use category is more advantageous to the community, as articulated in the general plan or other adopted city plans;

Applicant response:

The neighborhood has increased in density and the need for off street parking is apparent. The proposed use would allow for additional parking and relieves some of the on street parking which justifies the change for zoning.

Staff response:

The approval criteria in (a)(1) and (a)(2) are not applicable. There has not been a mistake in the original zoning – the property at 536 Cortez property has been zoned R-5 since 1953, and no significant change has occurred in the surrounding residential area since C-2 zoning was approved in 1962 for the restaurant and lots on the other side of Hickox.

However, approval can be supported to the extent that the C-2 rezoning “is more advantageous to the community” as provided in adopted plans (approval criterion (a)(3)). To a large extent, consistency with those policies depends on the type and intensity of development that occurs as a result of the rezoning, as discussed in the general plan consistency sections of this report.

(b) all the rezoning requirements of Chapter 14 have been met;

Applicant response:

The rezoning requirements of Chapter 14 are addressed herein and the application is consistent with those requirements.

Staff response:

There are no specific additional requirements for C-2 rezoning. As noted in the recommendation section of this report, and as discussed in various other sections, amending the rezoning application to include Planned Unit Development requirements would ensure that various approval criteria can be met, and would ensure that future development would comply with applicable development criteria.

(c) rezoning is consistent with the applicable policies of the general plan, including the future land use map;

Applicant response:

Prior to the approval of the rezoning request, the future land use map will need to be amended which will result in consistency of the rezoning request with the general plan.

Staff response:

Staff concurs with the applicant’s response.

- (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;*

Applicant response:

The rezoning request will provide infill development and promotes mixed land uses that provide an adequate balance of service retail and employment opportunities.

Staff response:

Although Santa Fe currently has a good amount of commercially zoned land, the rezoning of the subject site on this section of Hickox could accommodate an already established use. This rezoning would not have a significant impact on city-wide availability of land available for C-2 uses.

- (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.*

Applicant response:

The proposed rezoning will not increase the sewer, water lines, and public facilities. There will be less impact on public streets by providing off street parking.

Staff response:

Existing infrastructure can accommodate the impacts of likely future development on the property, assuming that there is little or no intensification of commercial traffic, and that access to Cortez St. is properly controlled.

- (2) *Unless the proposed change is consistent with applicable general plan policies, the planning commission and the governing body shall not recommend or approve any rezoning, the practical effect of which is to:*
- (a) *allow uses or a change in character significantly different from or inconsistent with the prevailing use and character in the area;*

Applicant response:

(No response from applicant.)

Staff response:

To the extent that intensification of commercial use is limited, the proposed rezoning of the subject property will not significantly change the character of the surrounding area.

- (b) affect an area of less than two acres, unless adjusting boundaries between districts; or*

Applicant response:

(No response from applicant.)

Staff response:

The proposed C-2 boundary will be adjusted from the south to include the subject property.

- (c) benefit one or a few landowners at the expense of the surrounding landowners or general public.*

Applicant response:

(No response from applicant.)

Staff response:

To the extent that rezoning of the property is subject to conditions that limit significant expansion or intensification of commercial use, the rezoning would not harm surrounding landowners or the general public.

(D) Additional Applicant Requirements

- (1) If the impacts of the proposed development or rezoning cannot be accommodated by the existing infrastructure and public facilities, the city may require the developer to participate wholly or in part in the cost of construction of off-site facilities in conformance with any applicable city ordinances, regulations or policies;*

Applicant response:

The application is to rezone the property in order to provide additional parking for the restaurant to the south. No additional infrastructure is proposed aside from landscaping that meets city regulations.

Staff response:

Preliminary analysis by city staff indicates that the likely future development will be accommodated by the existing infrastructure and public facilities. A detailed assessments of impacts on infrastructure will be done at the time of permits for the parking lot and any permits pending for the Tune-Up Café.

- (2) If the proposed rezoning creates a need for additional streets, sidewalks or curbs necessitated by and attributable to the new development, the city may require the developer*

to contribute a proportional fair share of the cost of the expansion in addition to impact fees that may be required pursuant to Section 14-8.14.

Applicant response:

The proposed parking lot design is to enter from the property to the south, “right turn exit only” onto Cortez Street and to utilize the existing curb cut. All improvements will meet city ordinances regulations and policies.

Staff response:

Impacts on infrastructure will be assessed in detail at the time of any future development proposals. As noted above, removal of substandard parking spaces that obstruct the Cortez St. sidewalk will be required.

V. EARLY NEIGHBORHOOD NOTIFICATION MEETING

An early neighborhood notification meeting was held on 11/24/14 to discuss the proposed general plan amendment and rezoning with neighbors. The neighbors expressed concerns that restaurant operations in recent years have increased problems with traffic volumes and safety, with parking of employee and customer cars on Cortez St., and with noise from late-evening operations. Some neighbors expressed support for the parking lot expansion, and some preferred that there be no access from the parking lot to Cortez St. (See Exhibit E-2: ENN Notes)

VI. CONCLUSION

Staff concurs with the applicant’s contention that the plan amendment and rezoning of the property at 536 Cortez St. would meet the applicable criteria for approval, but only if development is limited to construction of a parking lot expansion for the restaurant at 1115 Hickox as stated in the application materials. Unrestricted development of the property under C-2 zoning would not meet the approval criteria for the requested General Plan amendment and rezoning. Revision of the application to propose C-2-PUD (Planned Unit Development), would be the only clear method to ensure that future development would not adversely affect surrounding land uses.

Staff supports the proposed rezone subject to the attached DRT Conditions of Approval. Those conditions include provisions for:

- Consolidation of the lots at 536 Cortez and 1115 Hickox
- Removing dangerous “back-out” parking spaces that block the sidewalk on Cortez St.
- Adjustment of the Hickox St. right-of-way to eliminate encroachments, as previously approved by the Governing Body.
- Correction of setback violations from non-permitted structures at the north and south property lines at 1115 Hickox St.

VII. ATTACHMENTS:

EXHIBIT A: Conditions of Approval

EXHIBIT B: Development Review Team Memoranda

1. Traffic Engineering Division memorandum, Sandra Kassens
2. Technical Review Division – City Engineer memorandum, Risana Zaxus
3. Solid Waste- email, Eric Lucero
4. Wastewater Management Division email, Stan Holland

EXHIBIT C: Maps

1. Aerial Photograph
2. Future Land Use
3. Current Zoning & Aerial
4. Photographs of site

EXHIBIT D: ENN Materials

1. ENN Responses to Guidelines
2. ENN Meeting Notes

EXHIBIT E: Applicant Materials

1. Letter of Application
2. Additional Information from Applicant
3. Applicant Letter regarding Alternate Means of Compliance
4. Site Development Plan

EXHIBIT F: Other Material

1. General Plan policies supporting commercial infill
2. List of permitted uses in C-2 (General Commercial)

City of Santa Fe, New Mexico

memo

DATE: April 14, 2015

TO: Donna Wynant, Land Use Division

VIA: John J. Romero, Traffic Engineering Division Director *JJR*

FROM: Sandra Kassens, Engineer Assistant *SK*

SUBJECT: Tune Up Café 536 Cortez St., General Plan Amendment and Rezoning. (Case# 2015-30 and 2015-31)

ISSUE:

Liaison Planning Services Inc., agent for JC Rivera, LLC, requests approval of a General Plan Future Land Use map amendment to change the designation of 0.13± acres of land from Low Density Residential (3-7 dwelling units per acre) to Community Commercial. The applicant also requests rezoning approval of 0.13± acres of land from R-5 (Residential 5 dwelling units per acre) to C-2 (General Commercial). The property is located at 536 Cortez Street.

RECOMMENDED ACTION:

Review comments are based on submittals received on April 1, 2015. The comments below should be considered as Conditions of Approval to be addressed prior to subsequent submittals unless otherwise noted:

1. The Developer shall eliminate the four (4) perpendicular parking spaces on Cortez Street; abandon the existing curb cut; and restore the sidewalk to a typical sidewalk section and install vertical curb and gutter.
 - a. On street parallel parking of one to two vehicles will be permitted along this new curb provided that sight distance requirements are met.
 - i. This sight distance triangle shall be based on the American Association of State Highway and Transportation Officials (AASHTO) standards per City code regarding commercial use of property that accesses a public street.
2. The Developer shall work with the City of Santa Fe Parking Division to establish a loading zone on Hickox Street in front of the Tune Up Café; this loading zone shall be marked with appropriate signage.
3. The Developer shall install a "do not enter" sign on Cortez Street at the exit of the one way portion of the parking lot.

If you have any questions or need any more information, feel free to contact me at 955-6697.

Thank you.

SS001.PM5 - 7/95

WYNANT, DONNA J.

From: ZAXUS, RISANA B.
Sent: Thursday, April 16, 2015 11:41 AM
To: WYNANT, DONNA J.
Subject: Cases # 2015-30 and # 2015-31, Tune Up Cafe GPA and Rezoning

Ms. Wynant,

I have the following review comments on the cases noted above, which are to be considered conditions of approval :

*A lot consolidation must be recorded after rezoning

*At the time of building permit, all terrain management requirements of the Land Development Code must be met

*At the time of building permit, all sidewalks and curb cuts must meet City requirements for construction and ADA accessibility

Please note that Mr. Berke will be providing comments on Landscaping.

Sincerely,

Risana B "RB" Zaxus, PE
City Engineer

WYNANT, DONNA J.

From: LUCERO, ERIC J.
Sent: Wednesday, April 15, 2015 3:02 PM
To: WYNANT, DONNA J.
Subject: DRT Final Comments Due Today

Donna,

No comments at this time for the following cases:

2015-30
2015-31

Thanks,

Eric J Lucero
City of Santa Fe
Environmental Services
Operations Manager
505-955-2205 office
505-670-6562 cell
ejlucero@santafenm.gov

WYNANT, DONNA J.

From: HOLLAND, TOWNSEND S.
Sent: Tuesday, April 07, 2015 10:27 AM
To: WYNANT, DONNA J.
Subject: DRT 2015-30 & 31 Tune Up Cafe 536 Cortez Street General Plan Amendment and Rezoning

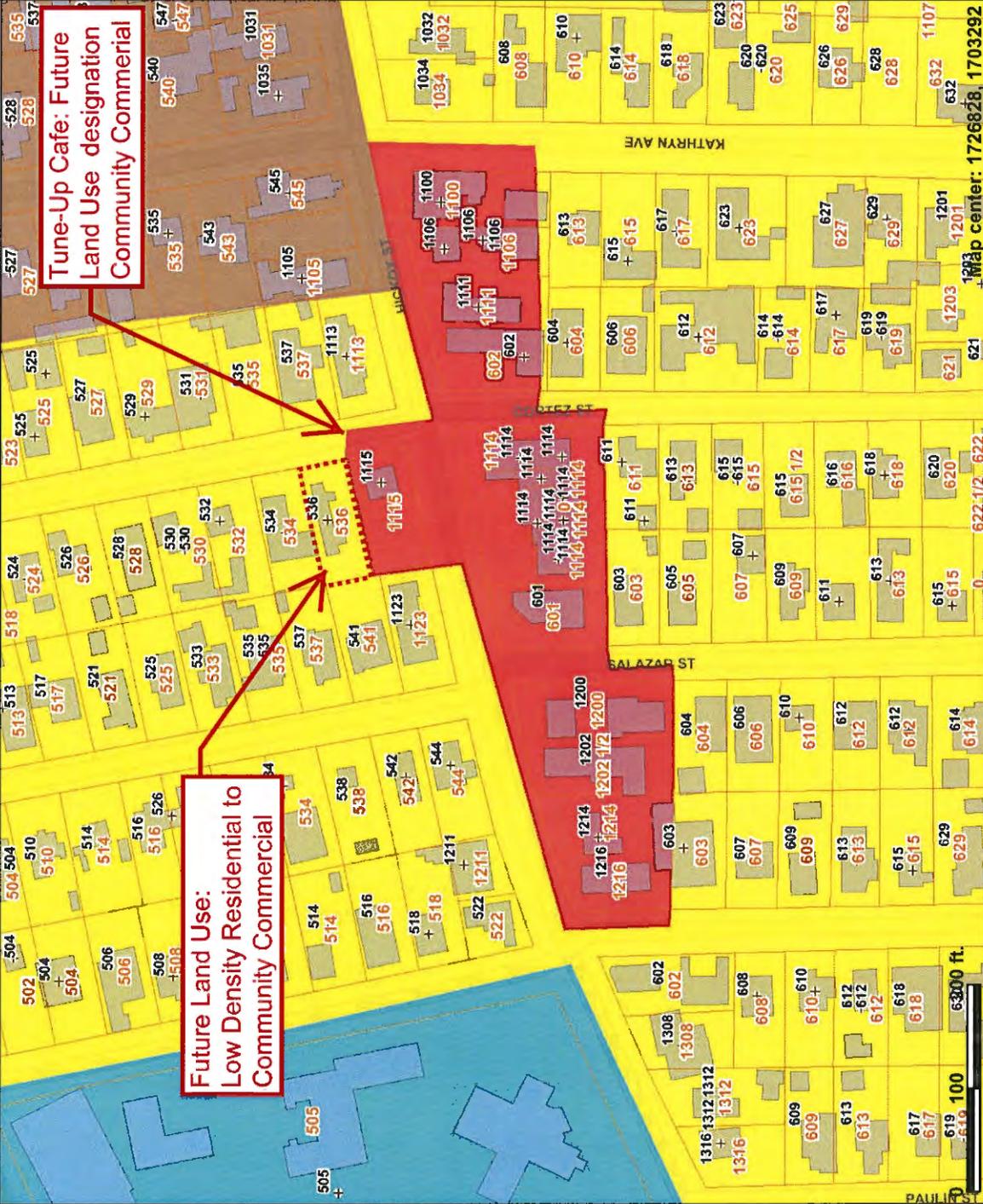
Donna

The Wastewater Division has no objection or comments to address regarding the request by Tune Up Café @ 536 Cortez Street for a General Plan Amendment and Rezoning request.

Please call with any questions

Stan Holland, P.E.
Wastewater Division
73 Paseo Real
Santa Fe, New Mexico 87507
505-955-4637
tsholland@santafenm.gov

Future Land Use



Tune-Up Cafe: Future Land Use designation Community Commercial

Future Land Use: Low Density Residential to Community Commercial

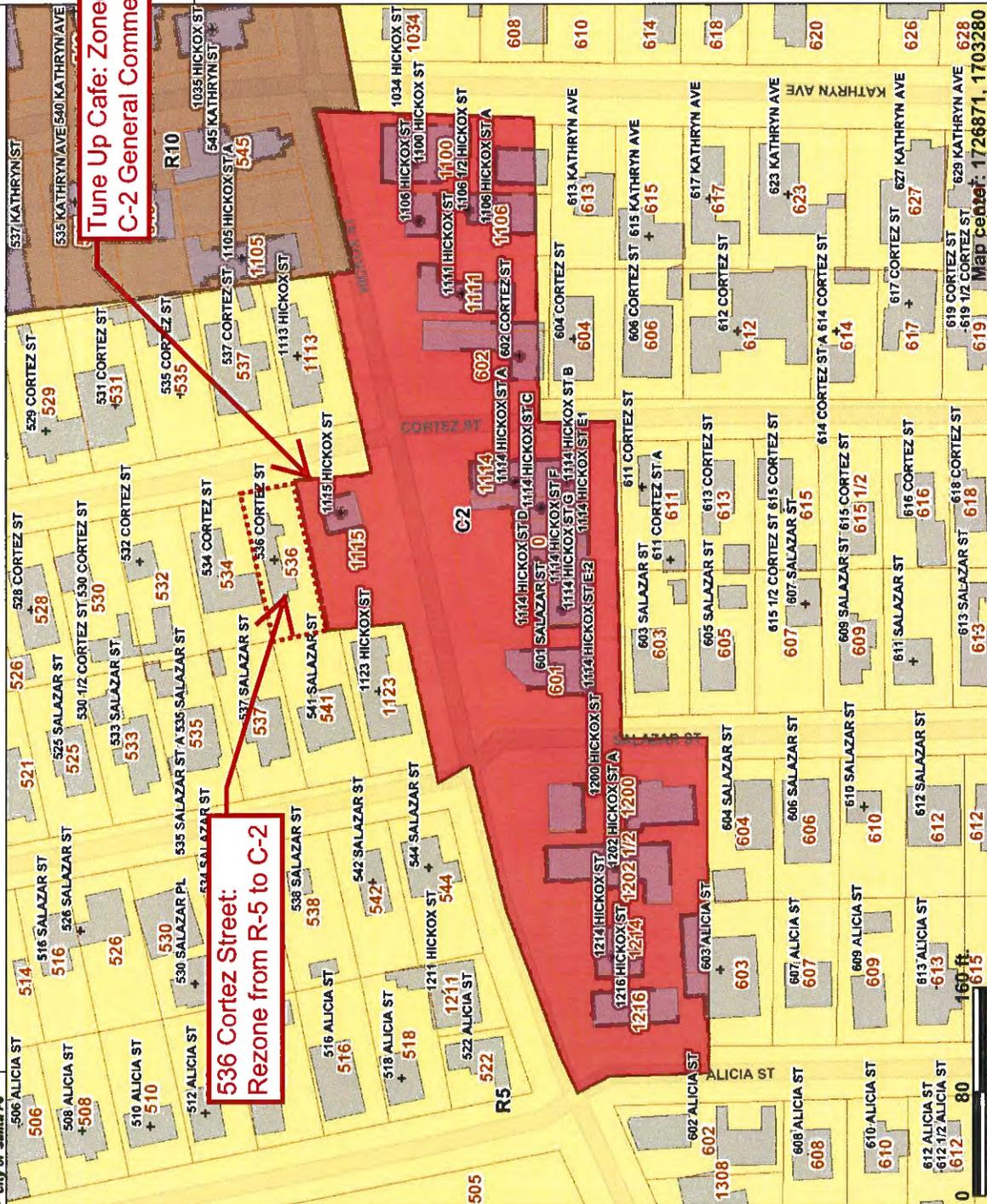
Legend

- City Limits
- Address Points
- Parcels
- Building Footprint
- Santa Fe River
- Future Land Use
 - Mountain/Corridor (1 dwelling per 10+ acres)
 - Very Low Density (1-3 dwellings per acre)
 - Low Density (3-7 dwellings per acre)
 - Moderate Density (7-9 dwellings per acre)
 - Medium Density (7-12 dwellings per acre)
 - High Density (12-29 dwellings per acre)
 - Regional Commercial
 - Community Commercial
 - Neighborhood Center
 - Transitional Mixed Use
 - Business Park
 - Office
 - Industrial
 - Public/Institutional

Scale: 1:1,773

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Zoning Map



Tune Up Cafe: Zoned C-2 General Commercial

**536 Cortez Street:
Rezone from R-5 to C-2**

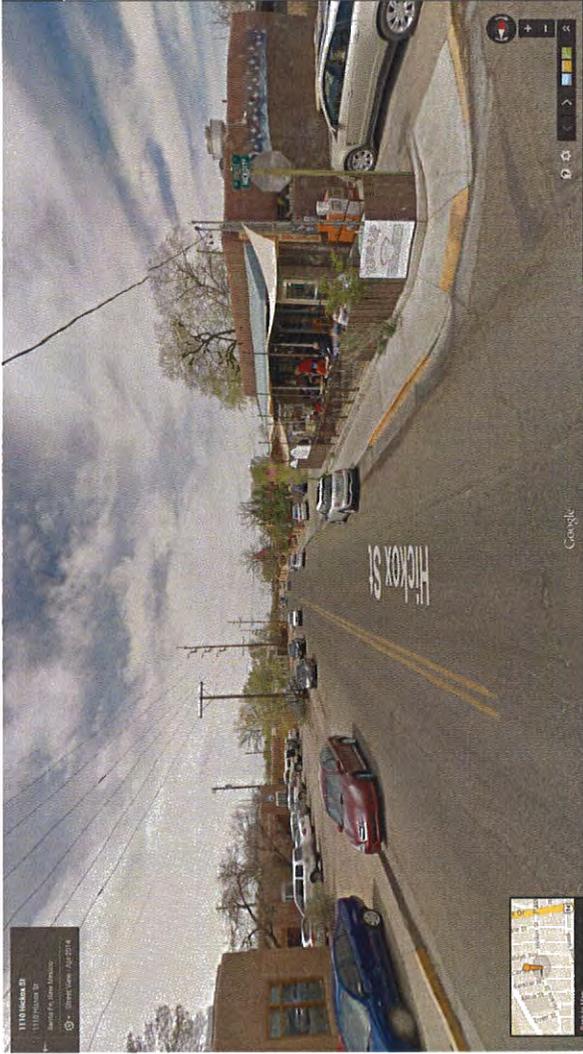
Legend

- City Limits
- Full Address Labels
- Parcels
- Building Footprint
- Zoning**
 - RR Rural Residential
 - R1, (PUD) Single - Family 1du/ac
 - R2, (DT), (PUD), (AC) Single - Family 2du/ac
 - R3, (PUD) Single - Family 3du/ac
 - R4 Single - Family 4du/ac
 - R5, (DT), (PUD), (AC), R6 Single - Family 5-du/ac
 - R7, (I), (PUD), R8 Single - Family 7-8du/ac
 - RC5, RC5AC Compound 5du/ac
 - RC8, RC8AC Compound 8du/ac
 - R10, (PUD) Multiple - Family 10du/ac
 - R12, (PUD) Multiple - Family 12du/ac
 - R21, (PUD) Multiple - Family 21du/ac
 - R29, (PUD), (AC) Multiple - Family 29du/ac
 - RAC Residential Arts & Crafts
 - MHP Mobile Home Park

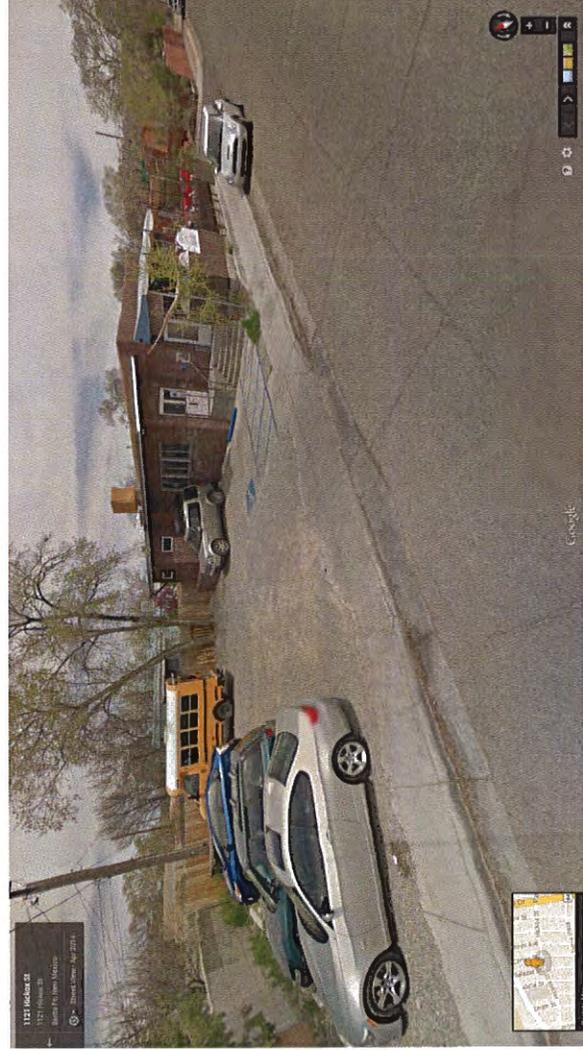


Scale: 1:1,418

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.



View of Hickox Street, looking west from Cortez Street. (Tune-Up Café on the right).



View of the existing parking lot next to the Tune-Up Café.



View of Cortez Street, looking north from Hickox Street. Tune-Up Café on the left.



View of 536 Cortez. Applicant owns this property and requests a rezoning from R-5 to C-2 General Commercial. Mobile home to be demolished for an 8 space parking lot and property to be consolidated with restaurant property at 1115 Hickox Street.



ENN GUIDELINES

Applicant Information

Project Name: 536 Cortez Street

Name: JC Rivera LLC

Address: 1115 Hickox

Phone: (505) 983-7760 E-mail Address: c/o liaisonplanning@gmail.com

<i>Last</i>	<i>First</i>	<i>M.I.</i>
<i>Street Address</i>	<i>Suite/Unit #</i>	
<i>City</i>	<i>State</i>	<i>ZIP Code</i>

Santa Fe NM 87505

Please address each of the criteria below. Each criterion is based on the Early Neighborhood Notification (ENN) guidelines for meetings, and can be found in Section 14-3.1(F)(5) SFCC 2001, as amended, of the Santa Fe City Code. A short narrative should address each criterion (if applicable) in order to facilitate discussion of the project at the ENN meeting. These guidelines should be submitted with the application for an ENN meeting to enable staff enough time to distribute to the interested parties. For additional detail about the criteria, consult the Land Development Code.

(a) EFFECT ON CHARACTER AND APPEARANCE OF THE SURROUNDING NEIGHBORHOODS *For example: number of stories, average setbacks, mass and scale, landscaping, lighting, access to public places, open spaces and trails.*

The property is located on Cortez Street, north of the Tune-up Cafe', zoned R-5 and is approximately 5,923 square feet with a mobile home on it. The applicant would like to re-zone the property so that it may be used for additional parking for the Tune-up Cafe'. As shown on the attached site plan the parking area will be accessed through Hickox Street and will be designed to meet all City development standards.

(b) EFFECT ON PROTECTION OF THE PHYSICAL ENVIRONMENT *For example: trees, open space, rivers, arroyos, floodplains, rock outcroppings, escarpments, trash generation, fire risk, hazardous materials, easements, etc.*

The proposed development will protect the physical environment by meeting all City code regulations for density, parking, setbacks, trash generation and landscaping.

(c) IMPACTS ON ANY PREHISTORIC, HISTORIC, ARCHAEOLOGICAL OR CULTURAL SITES OR STRUCTURES, INCLUDING ACEQUIAS AND THE HISTORIC DOWNTOWN *For example: the project's compatibility with historic or cultural sites located on the property where the project is proposed.*

The property will not impact any prehistoric, historic, archeological, or cultural sites and structures including acequias and is located outside of the historic downtown.

(d) RELATIONSHIP TO EXISTING DENSITY AND LAND USE WITHIN THE SURROUNDING AREA AND WITH LAND USES AND DENSITIES PROPOSED BY THE CITY GENERAL PLAN *For example: how are existing City Code requirements for annexation and rezoning, the Historic Districts, and the General Plan and other policies being met.*

The property is zoned R-5. The proposed re-zone meets the Land Development Code governing the property and densities and use within the City General Plan.

(e) EFFECTS ON PARKING, TRAFFIC PATTERNS, CONGESTION, PEDESTRIAN SAFETY, IMPACTS OF THE PROJECT ON THE FLOW OF PEDESTRIAN OR VEHICULAR TRAFFIC AND PROVISION OF ACCESS FOR THE DISABLED, CHILDREN, LOW-INCOME AND ELDERLY TO SERVICES *For example: increased access to public transportation, alternate transportation modes, traffic mitigation, cumulative traffic impacts, pedestrian access to destinations and new or improved pedestrian trails.*

The applicant proposes to provide adequate ingress and egress to meet the minimum requirements for development. The proposed parking area will maintain adequate parking and landscape standards and will provide access to Hickox. No pedestrian trails are identified.

(f) IMPACT ON THE ECONOMIC BASE OF SANTA FE *For example: availability of jobs to Santa Fe residents; market impacts on local businesses; and how the project supports economic development efforts to improve living standards of neighborhoods and their businesses.*

The applicant proposes to develop the property as a parking lot to be utilized by the Tune-up Cafe'. Which in turn will bring in more customers and relieve the neighborhood of on street parking.

(g) EFFECT ON THE AVAILABILITY OF AFFORDABLE HOUSING AND AVAILABILITY OF HOUSING CHOICES FOR ALL SANTA FE RESIDENTS *For example: creation, retention, or improvement of affordable housing; how the project contributes to serving different ages, incomes, and family sizes; the creation or retention of affordable business space.*

Not Applicable

(h) EFFECT UPON PUBLIC SERVICES SUCH AS FIRE, POLICE PROTECTION, SCHOOL SERVICES AND OTHER PUBLIC SERVICES OR INFRASTRUCTURE ELEMENTS SUCH AS WATER, POWER, SEWER, COMMUNICATIONS, BUS SYSTEMS, COMMUTER OR OTHER SERVICES OR FACILITIES *For example: whether or how the project maximizes the efficient use or improvement of existing infrastructure; and whether the project will contribute to the improvement of existing public infrastructure and services.*

The proposed parking lot will not utilize additional infrastructure but will maximize the efficient use of the existing traffic patterns by providing additional off street parking for the restaurant.

(i) IMPACTS UPON WATER SUPPLY, AVAILABILITY AND CONSERVATION METHODS *For example: conservation and mitigation measures; efficient use of distribution lines and resources; effect of construction or use of the project on water quality and supplies.*

Not Applicable

(j) EFFECT ON THE OPPORTUNITIES FOR COMMUNITY INTEGRATION AND SOCIAL BALANCE THROUGH MIXED LAND USE, PEDESTRIAN ORIENTED DESIGN, AND LINKAGES AMONG NEIGHBORHOODS AND RECREATIONAL ACTIVITY AND EMPLOYMENT CENTERS *For example: how the project improves opportunities for community integration and balance through mixed land uses, neighborhood centers and/or pedestrian-oriented design.*

The property is currently zoned R-5 with a mobile home on site. The applicant is proposing to remove the mobile home and develop it as a parking lot for the Tune-up Cafe'. In order to do this, the property will need to be rezoned to C-2. The proposed project will clearly improve the site and will be designed to take into consideration the surroundings by meeting all development standards for C-2 zoning abutting residential.

(k) EFFECT ON SANTA FE'S URBAN FORM *For example: how are policies of the existing City General Plan being met? Does the project promote a compact urban form through appropriate infill development? Discuss the project's effect on intra-city travel and between employment and residential centers.*

The General Plan states that future land use must take into consideration the protection and conservation of existing neighborhoods with individual identities. The property is adjacent to and will be utilized by a restaurant that has been serving the neighborhood for over 50 years and has always been commercial. The addition of the proposed parking lot will be integrated into the development of the restaurant by providing additional parking for its customers and will be developed to City standards that require buffering through setbacks and landscaping measures.

(l) ADDITIONAL COMMENTS (optional)



**City of Santa Fe
Early Neighborhood Notification Meeting
Sign-In Sheet**

Project Name: 536 Cortez Rezoning Meeting Date: 11/24/14
Meeting Place: Devarzas Community Room Meeting Time: 5:30

Applicant or Representative Check Box below

	Name	Address	Email
<input checked="" type="checkbox"/>	Dulores Vigil	P.O. Box 1835	liaisonplanning@gmail.com
<input type="checkbox"/>	Sara Rosner	541 Salazar	
<input type="checkbox"/>	Kevin M. Lancaster	537 Cortez St	Kevin537@hotmail.com
<input type="checkbox"/>	Penny Spring	537 Cortez St	PennySpring@yahoo.com
<input type="checkbox"/>	Albert Martinez	City of Santa Fe	AA.Martinez@SantaFeNM.gov
<input type="checkbox"/>	Matt Kelly	534 Cortez	makelly@hotmail.com
<input type="checkbox"/>	Ray Anarchy	604 Cortez St	Anarchy.Kombing@aol.com
<input type="checkbox"/>	Dalores Gomez	511 Cortez St	
<input type="checkbox"/>	Pek F Gomez	511 Cortez St	
<input type="checkbox"/>	John F White	1411 Hickox St	White.John.fletcher@gmail.com
<input type="checkbox"/>	Victoria Romero	528 Cortez St	
<input type="checkbox"/>	Jennifer Johnson	506 Cortez St.	ginddedemac.com

For City use: I hereby certify that the ENN meeting for the above named project took place at the time and place indicated.

Dama Murat 11/24/14
 Printed Name of City Staff in Attendance Date
Dama Murat
 Signature of City Staff in Attendance

This sign-in sheet is public record and shall not be used for commercial purposes.



City of Santa Fe Early Neighborhood Notification Meeting Sign-In Sheet

Project Name: 530 Cortez - Rezoning Meeting Date: 11/27/14
 Meeting Place: De Vaneys Community Room Meeting Time: 5:30

Applicant or Representative Check Box below

	Name	Address	Email
<input type="checkbox"/>	1 ART BROWZOKES	524 Cortez St	Arturo.Fernandez@SFCHEP.org
<input type="checkbox"/>	2 Joyce Garcia	513 Cortez St	jm.garcia@dataplumbing.com
<input type="checkbox"/>	3		
<input type="checkbox"/>	4		
<input type="checkbox"/>	5		
<input type="checkbox"/>	6		
<input type="checkbox"/>	7		
<input type="checkbox"/>	8		
<input type="checkbox"/>	9		
<input type="checkbox"/>	10		
<input type="checkbox"/>	11		
<input type="checkbox"/>	12		

For City use: I hereby certify that the ENN meeting for the above named project took place at the time and place indicated.

Printed Name of City Staff in Attendance: Diana Naranjo Signature of City Staff in Attendance: [Signature] Date: 11/27/14
 Printed Name of City Staff in Attendance: Greg Smith Signature of City Staff in Attendance: [Signature]

This sign-in sheet is public record and shall not be used for commercial purposes.



City of Santa Fe Land Use Department Early Neighborhood Notification Meeting Notes

<i>Project Name</i>	536 Cortez Rezoning (for Tune-Up Café)
<i>Project Location</i>	536 Cortez
<i>Project Description</i>	GPA from Low Density Residential to Community Commercial
<i>Applicant / Owner</i>	JC Rivera LLC
<i>Agent</i>	Liaison Planning Services, Inc.
<i>Pre-App Meeting Date</i>	9/18/14
<i>ENN Meeting Date</i>	11/24/14
<i>ENN Meeting Location</i>	DeVargus Mall, Community Room
<i>Application Type</i>	GPA and Rezone
<i>Land Use Staff</i>	Donna Wynant and Greg Smith
<i>Attendance</i>	11 neighbors, applicant's agent, Land Use staff, and Albert Martinez with the City's Parking Division

Notes/Comments:

Meeting started at 5:35. Staff (Ms. Wynant) gave an introduction about the purpose of the ENN meeting and the overall entitlement process. The intent is to gather input early in the process before anything formal is submitted to the City.

The applicant's agent, Dolores Vigil, gave an introduction of the project and the importance of providing additional parking for the Tune-Up Café. She said the applicant bought the property at 536 Cortez for parking. They will remove the trailer for a parking lot and no trees will be removed. She pointed out the location on an aerial photograph and explained the various things have to take into consideration in designing the parking lot.

Ms. Vigil asked people to identify themselves as they gave their comments and questions and identify where they live.

Comment: Parking along the side of Tune-Up Café – problem for southwest clearance. Delivery trucks park on yellow bump outs. Should only be for compact cars, not big vehicles.

Comment: Parking along Cortez is a problem- need a bump out. Ms. Vigil pointed out where the loading area is on Cortez. Must address parking along yellow curb. Why is loading zone marked green.

VR: Employee all-day parking; district needed; not a problem for “Dave’s”. All curb spaces used last weekend.

Albert Martinez responded tried to get the loading before 8:00 am.

The Tune-Up Café has been attracting more people because of liquor. It’s busy on the weekend.

Albert Martinez- parking on residential street – discussed process involved in doing permit parking.

Raymond Arranda, owns business at the southwest corner of Cortez and Hickox. Parking proposal should help the problem a lot and lives next door. Said it wasn’t a night club and that they close at 10:00 pm. Better if 536 Cortez trailer/home is removed.

Jennifer Johnson: Regarding parking – what is the number of spaces required. Could the restaurant expand. More parking required. What is the number of spaces being provided.

John White: 1211 Hickox: Cars have been hit and knocked down the street. People pull out of restaurant and can’t see down the street.

Should be a 4 way stop at the intersection. Other people felt strongly that should be a 4 way stop.

Man said the parking spaces should be maxed out and not the landscaping.

No line of site coming out from Cortez onto Hickox. Doesn’t want opening exiting onto Cortez and said she would oppose the proposal if it exited onto Cortez.

Ms. Vigil said that the City may want traffic to exit onto Cortez.

Man pointed out that it’s a business and it keeps the community going.

Would rezoning increase property taxes? Ms. Vigil replied no it wouldn’t.

Man asked if angled parking could be done instead with the entrance from Cortez and exit onto Hickox.

Greg Smith pointed out that many things are discussed beyond the scope of a rezoning. Plan would be developed after rezoning approved. Turning movements would have to be evaluated.

Penny: Traffic should be studied first before zoning goes forward.

City Council can do conditions of approval prior to zoning approval. Planning Commission to review plan.

Someone asked if the property could be developed as some other commercial development.

Man stated that he's only in support if the traffic congestion and other issues are dealt with.

Matt Kelly who lives next door (534 Cortez) said his south wall is on the property line and he is opposed to the rezoning of his wall and that he would like the 5' wide strip along his property as some kind of easement.

Earl Russel: said that the dead trees on the property need to be removed.

Albert Martinez said he's concerned with safety, getting in and out of the property. One response is to possibly do permit parking.

Woman said there have been accidents.

Joyce Garcia said we have lots of children walking and riding bikes- concerned with safety.

Penny- Cars park in a way to allow for garbage truck pickup.

Truck deliveries come down Cortez. Albert Martinez said that a space for delivery trucks is located along Hickox.

Meeting adjourned at 6:35.

(See attached additional notes from Comment Cards)

COMMENT CARDS (TRANSCRIBED):

Kevin Lancaster, 537 Cortez Street: *“I live directly across the street from this lot. I am in favor of the rezoning of the lot. However I do not approve of the parking lot having either an entrance or exit onto Cortez Street- except for possibly an emergency exit, normally kept gated. I am against “residents only” parking on Cortez Street.”*

Penny Spring, 537 Cortez Street: *“I think a well, kept up commercial property is preferable to a falling down residential property. There are problems with parking on Cortez Street that will not be completely addressed by the parking lot, particularly delivery trucks and employee cars. Condition for approval would be to get the restaurant side parking and garbage off Cortez Street to improve line of sight. Exit must not be on Cortez! ...OR I AM AGAINST! IN & OUT ON HICKOX! 4 way stop on Hickox. AGAINST UNTIL Traffic situation is taken care of by City.”*

Dr. Arturo Gonzales: 524 Cortez Street: *“Rezoning should only occur and approved if the traffic conditions are appropriately addressed as discussed at the De Vargas Community Meeting on the issue. 4 way stop, and speed bumps.”*

John White, 1211 Hickox Street: *“Parking in front of tune-up makes it difficult to see cars coming out of the current parking lot.”*

**GENERAL PLAN
AMENDMENT/
REZONING
REPORT FOR
536 CORTEZ STREET**

Applicant:
JC Rivera LLC
1115 Hickox
Santa Fe NM

Consultant:
Liaison Planning Services Inc.
(505) 920-6839
liaisonplanning@gmail.com

March 30, 2015

EXHIBIT E-1

Table of Contents

1. Introduction and General Description.....2
2. Existing Structures and Uses.....3
3. Application/ Request and Property Description.....3
4. General Plan Amendment Criteria Statement.....4
5. Rezoning Criteria Statement.....5

Appendices

Appendix A – General Plan Amendment Application
Appendix B – Rezoning Application
Appendix C – Warranty Deed
Appendix D – Existing Zoning
Appendix E – Legal Lot of Record
Appendix F – Surveyor's Correspondence
Appendix G – Site Plan

1. Introduction and General Description:

The subject property is a 5,923+/- square foot residential lot located north of 1115 Hickox on the west side of Cortez Street (Please See Exhibit 1). The applicant is requesting a General Plan Amendment to Community Commercial and Rezoning from residential low density (R5) to commercial (C2) less than 2 acres. The applicant requests the proposed zoning to allow additional off street parking for the Tune-up Cafe'.

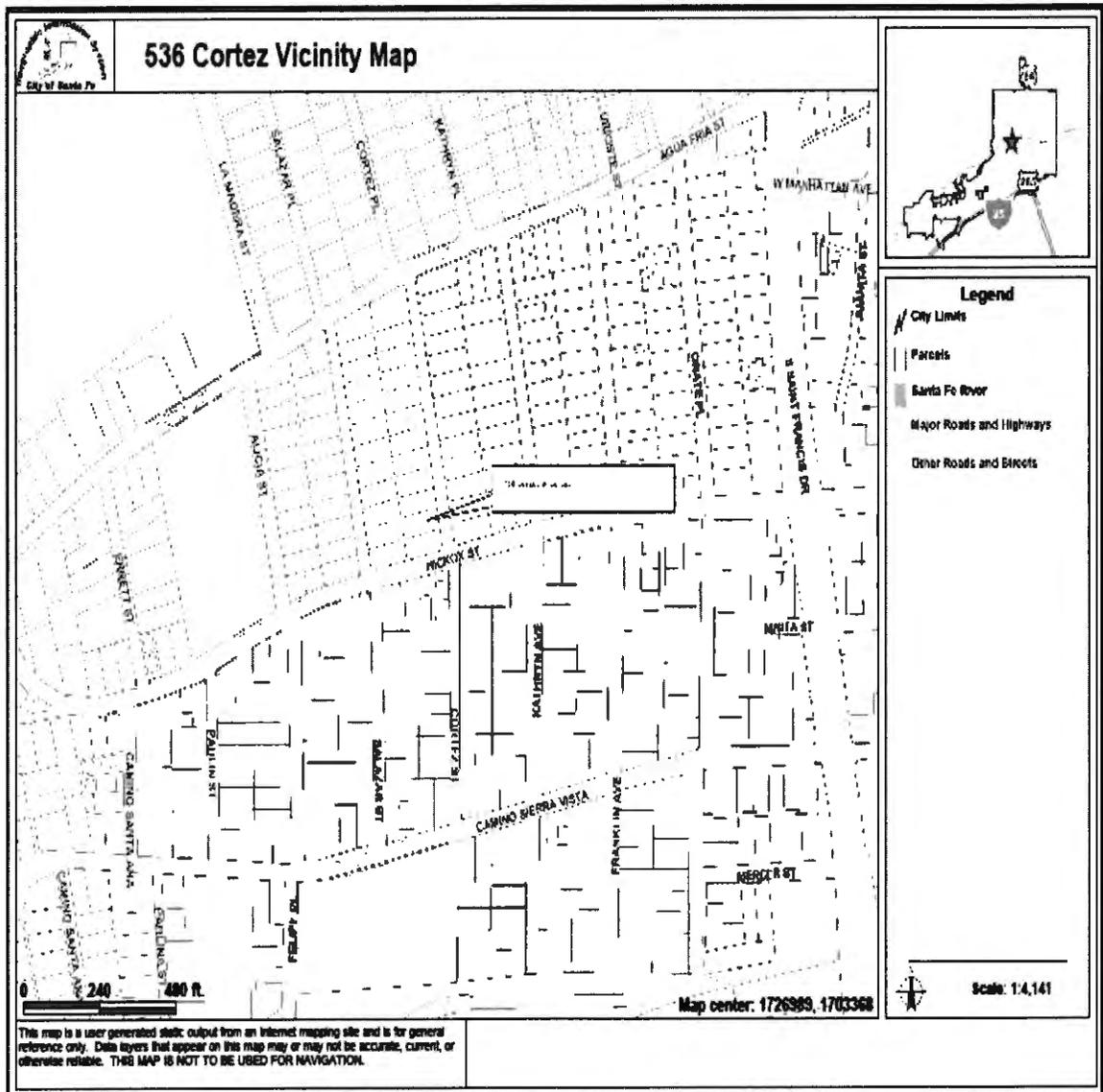


EXHIBIT 1

2. Existing Structures and Uses:

The subject property is currently zoned R5 with a mobile home that is being rented by the applicant. The property is bounded by residential to the north, east and west. The Tune-up Cafe is located to the south.

Appendix D illustrates the existing zoning that surrounds the property.

3. Application/ Request and Property Description:

The applicant has acquired the subject property to minimize on street parking by providing additional parking for the Tune-up Cafe'. The legal lot of record is described as Lot 12, Block 2 of Agua Fria Addition No. 1, as shown on plat filed in the Office of the County Clerk , Santa Fe County, New Mexico on May 14, 1930 in Plat Book 3, Page 377 (Please See Appendix E and F). No encroachments have been identified at this time as attested by a licensed surveyor.

As shown on Appendix G (site plan), eight (8) additional parking spaces are proposed that meet all requirements for such development. The parking will be accessed off of Hickox through the existing parking lot (currently utilized by the Tune-up Cafe') and will exit as a "**right turn only**" onto Cortez Street. All existing (significant) trees will be preserved and utilized as a buffer along the northern, western and Cortez Street property lines. A 4' existing wall along Cortez will be maintained and a 6' masonry wall is proposed along the northern edge of the property that will meet Land Development Code requirements. Additional landscaping will be provided as required. The existing dumpster and recycling bins located at 1115 Hickox will be relocated to the subject property as shown on the enclosed site plan. An existing 6' masonry wall is located along the western property line with ~~and~~ a 15' landscape buffer is proposed as required.

In addition to the initial GPA and Rezoning, the applicant is requesting from the Land Use Director, approval to allow alternative means of compliance with the requirements of section 14-8.4 (C) Compliance and Enforcement, for the proposed 5' landscape buffer along the northern property line as follows:

The subject property is narrow and was created by subdivision plat approval in 1930. Currently, there is a single wide mobile home on the lot. In order to meet development and re-zoning criteria for the proposed parking area, the applicant is requesting alternative means of compliance. If the proposed rezoning is approved, the applicant will consolidate the subject property with the adjacent property to the south and remove the mobile home to develop the lot as additional parking for the Tune-up Cafe'. The Tune-up Cafe' is set back at least 50' from the adjacent residence to the north. The proposed parking lot design and lot consolidation would better achieve the intention of the 15' buffer code requirement by maximizing the goal of the relationship between residential and commercial improvements. A 5' heavily landscaped setback will be maintained. Due

to the location of the Tune-up Cafe', the requirements for landscaping and 6' solid wall, the proposed alternative design minimizes the view of the existing restaurant from adjacent residences. It also provides more natural light, landscaping and off street parking.

4. General Plan Amendment Criteria Statement:

The applicant provides the following responses to the City Code criteria for approval of General Plan Amendments.

(a) consistency with growth projections for Santa Fe, economic development goals as set forth in a comprehensive development plan for Santa Fe and existing land use conditions such as access and availability of infrastructure;

The proposed use of the subject property will provide parking for an existing restaurant that currently provides employment and a service to the neighborhood and Santa Fe residents. The property will be accessed off of Hickox and will not utilize additional infrastructure aside from egress onto Cortez Street.

(b) consistency with other parts of the general plan;

General plan policy states that "there shall be a mix of uses and housing types in all parts of the City". Along this area of Hickox the zones are mixed C-2 and residential and has historically accommodated both uses. The proposed use of the subject property will be consistent with this policy and will increase opportunities for service to the neighborhood and Santa Fe residents.

(c) the amendment does not:

(i) allows uses or change that is significantly different or inconsistent with the prevailing use and character in the area; or

The area to the north, east and west of the subject property is primarily residential. The properties to the south all along Hickox are zoned for community commercial uses. The intent of this request is to provide additional parking for an existing commercial use, which is not different nor inconsistent with the prevailing use and character in the area.

(ii) affect an area of less than two acres, except when adjusting boundaries between districts; or

The amendment does affect an area of less than two acres. The legal lot was created in 1930 prior to the development and intent of the General Plan.

(iii) benefit one or few land owners at the expense of the surrounding landowners or general public;

Upon approval, the subject property will be consolidated with the adjacent property to the south that has always been utilized as commercial. The existing historical use will be maintained and expansion of this use would be consistent with the nature of the longstanding use as seen from Hickox and the primary local street.

(d) an amendment is not required to conform with Subsection 14-3.2(E)(1)(c) if it promotes the general welfare or has other adequate public advantage or justification;

The justification for the rezoning is consistent with the surrounding uses and promotes mixed uses as declared in the general plan.

(e) compliance with the extraterritorial zoning ordinances and extraterritorial plans;

Not Applicable

(f) contribution to a coordinated, adjusted and harmonious development of Santa Fe that in accordance with existing and future needs best promotes health, safety, morals, order, convenience, prosperity, or the general welfare, as well as efficiency and economy in the process of development; and

Use of the subject property for expansion of an historically/existing commercial use, will continually provide centrally located employment and service to the neighborhood. Will maintain and promote the mixed use character of the neighborhood.

(g) consideration of conformity with other city policies, including land use policies, ordinances, regulations and plans;

By allowing the continuation of the historic use of the property to the south and proposed use of the subject property, the General Plan Amendment will expand the City's employment base and promote infill developments that are consistent with land use policies, ordinances, regulations and plans.

5. Rezoning Criteria Statement:

The applicant provides the following responses to the City Code criteria for approval of the rezoning request.

(1) The planning commission and the governing body shall review all rezoning proposals on the basis of the criteria provided in this section, and the reviewing entities must make complete findings of fact sufficient to show that these criteria have been met before recommending or approving any rezoning:

(a) one or more of the following exist:

(i) there was a mistake in the original rezoning;

(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

The neighborhood has increased in density and the need for off street parking is apparent. The proposed use would allow for additional parking and relieves some of the on street parking which justifies the change for zoning.

(iii) a different use category is more advantageous to the community , as articulated in the general plan or other adopted city plans;

(b) all rezoning requirement of Chapter 14 have been met;

The rezoning requirements of Chapter 14 are addressed herein and the application is consistent with those requirements.

(c) the rezoning is consistent with the applicable policies of the general plan, including the future land use map;

Prior to the approval of the rezoning request , the future land use map will need to be amended which will result in consistency of the rezoning request with the general plan.

(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; and

The rezoning request will provide infill development and promotes mixed land uses that provide an adequate balance of service retail and employment opportunities.

(e) the existing and proposed infrastructure, such as the street 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.

The proposed rezoning will not increase the sewer, water lines, public facilities. There will be less impact on public streets by providing off street parking.

APPENDIX A



GENERAL PLAN AMENDMENT APPLICATION

Parcel Information

Project Name: 536 CORTEZ STREET

Address: 536 CORTEZ STREET Property Size: 5.9231 Acres

Current Use of Land: RESIDENTIAL Proposed Use of Land: COMMERCIAL

Does an annexation application accompany this application? YES NO Does a rezoning application accompany this application? YES NO

Early Neighborhood Notice (ENN) meeting date: _____

Preapplication Conference Date: 9/18/14

Uniform Parcel Code Number(s): 11/24/18

Property Owner Information

Company Name: JC RIVERA, LLC

Name: RIVERA CHAROLETE & JESUS

Address: 1115 HICKOX

Street Address: SANTA FE Suite/Unit #: N/A ZIP Code: 87505

City: _____ State: _____

Phone: (505) 670-3428 E-mail Address: _____

Applicant/Agent Information (if different from owner)

Company Name: WALSON PLANNING SERVICES INC.

Name: VIOLA DOLORES E.

Address: PO BOX 1835

Street Address: SANTA FE Suite/Unit #: _____ ZIP Code: _____

City: _____ State: _____

Phone: (505) 920-6839 E-mail Address: Walsonplanning@gmail.com

Correspondence Directed to: Owner Applicant Both

Agent Authorization (if applicable)

I am/We are the owner(s) and record title holder(s) of the property located at: 536 Cortez St.

I/We authorize Dolores E. Rivera Walson Planning Services Inc. to act as my/our agent to execute this application.

Signed: [Signature] Date: 9/24/2014

Signed: _____ Date: _____

Submittal Checklist (Requirements found in Section 14-3.8 SFCC 2001)

Twelve (12) 24"x36" plan sets are required. Please include the following:

<input type="checkbox"/> Letter of Application (intent, location, acreage)	<input type="checkbox"/> Statement addressing approval criteria	<input type="checkbox"/> Legal Lot of Record, Legal Description	<input type="checkbox"/> Development Plan (as defined by Section 14-3.8 SFCC 2001)	<input type="checkbox"/> Landscape, Parking and Lighting Plan, Signage Specifications
<input type="checkbox"/> Terrain Management Plans (as required by Section 14-8.2 SFCC 2001)	<input type="checkbox"/> Traffic Impact Analysis (if required)	<input type="checkbox"/> Proof of Compliance with Conditions of Annexation Approval (if applicable)	<input type="checkbox"/> Sewer and Water Plan (including profiles and details)	<input type="checkbox"/> Phasing Plan (if applicable)
<input type="checkbox"/> Archaeological Clearance (if applicable)				

General Plan Amendment Approval Criteria

All proposed amendments to the General Plan shall be reviewed for compliance with the following criteria:

- (a) Consistency with growth projections for the City using a data base maintained and updated on an annual basis by the City, with 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;
- (b) Consistency with other parts of the General Plan;
- (c) Provision for a determination of land utilization within an area larger than a single property and of general applicability. Generally the area should be at least a section of the City and should be larger than a single block or its equivalent;
- (d) Compliance with the extraterritorial zoning ordinances and extraterritorial plan;
- (e) 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.

In addition to complying with the general criteria set forth above, amendments to the land use policies section of the General Plan shall be made only if evidence is shown for the following:

- (a) The growth and economic projections contained within the plan are erroneous or have changed;
- (b) No reasonable locations have been provided for certain land uses for which there is a demonstrated need; or
- (c) Conditions affecting the location or land area requirements of the proposed land use have changed, for example, the cost of land space requirements, consumer acceptance, market, and building technology; and
- (d) The effect of the proposed change in land use will not have a negative impact on the surrounding property. The proposed change in land use must be related to the character of the surrounding area or a provision must be made to separate the proposed change in use from adjacent property by a setback, landscaping or other means.

Signature

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 2001. Failure to meet these standards may result in the rejection of my application. I also certify that I have met with the City's Current Planning staff in a preapplication meeting to verify that the attached proposal is in compliance with the City's zoning and annexation requirements.

Signature: _____

Date: _____

3/30/15

A case manager will be assigned to your project and will notify you within 10 business days if any additional information is needed. After your application has been reviewed by City staff, you will be contacted by us regarding public notice requirements. A packet of information and instructions will be provided regarding the required mailing and sign posting. Thank you, and feel free to contact the Land Use Department staff at (505) 955-6585 with any questions.

APPENDIX B



(date stamp)

REZONING APPLICATION 14-3.5

Parcel Information

Project Name: 536 CORTEZ STREET Property Size: 5,923 sq ft
 Address: 536 CORTEZ STREET
 Current Zoning: R5 Proposed Zoning: C2
 Does a Development Plan application accompany this application? YES NO
 Preapplication Conference Date: 9/18/14 UPC Code Number: _____
 Early Neighborhood Notice (ENN) meeting date: 11/24/14

Property Owner Information

Name: JC RIVERA LLC RIVERA CHARLOTTE & JESSE
First Last
 Address: 1115 Hickox
Street Address Suite/Unit # 87505
SUNNYSIDE City State ZIP Code
 Phone: 408 670-3428 E-mail Address: _____

Applicant/Agent Information (if different from owner)

Company Name: HAISON PLANNING SERVICES INC. c/o DOLORES E. VIGIL
 Name: DOLORES E. VIGIL
First Last
 Address: PO Box 1835
Street Address Suite/Unit # _____
SANTA FE City State ZIP Code NM 87504
 Phone: (505) 920-6839 E-mail Address: haisonplanning@gmail.com
 Correspondence Directed to: Owner Applicant Both

Agent Authorization (if applicable)

I am/We are the owner(s) and record title holder(s) of the property located at: 536 CORTEZ PLACE
 I/We authorize DOLORES E. VIGIL / HAISON PLANNING SERVICES INC. to act as my/our agent to execute this application.
 Signed: [Signature] Date: 9/24/2014
 Signed: _____ Date: _____

A case manager will be assigned to your project and will notify you within 10 business days if any additional information is needed. After your application has been reviewed by City staff, we will contact you regarding public notice requirements. A packet of information and instructions will be provided regarding the required mailing and sign posting. Please contact the Land Use Department staff at (505) 955-6585 with any questions. **63**

Submittal Checklist (Requirements found in Section 14-3.5 SFCC 1987)

Six (6) 24"x36" or 11"x17" scalable plan sets and 1 CD with a PDF copy are required. Submittal requirements may vary based on the individual application and the requested zoning district. The City reserves the right to request additional information at any time during the review process. See Section 14-4 and 14-5 SFCC 1987 for rezoning regulations related to specific zones. Please include the following and check box to indicate submittal:

<input type="checkbox"/>	Letter of Application (intent, location, acreage)	<input type="checkbox"/>	Narrative addressing approval criteria*	<input type="checkbox"/>	Legal Lot of Record, Legal Description	<input type="checkbox"/>	Development Plan (see Section 14-3.8 SFCC 1987)	<input type="checkbox"/>	Landscape, Parking and Lighting Plan, Signage Specifications
						<input type="checkbox"/>	No Development Plan		
<input type="checkbox"/>	Terrain Management Plans (as required by Section 14-8.2 SFCC 1987)	<input type="checkbox"/>	Traffic Impact Analysis (if required)	<input type="checkbox"/>	Archaeological Clearance (if applicable)	<input type="checkbox"/>	Sewer and Water Plan (including profiles and details), letter of availability (if applicable)	<input type="checkbox"/>	Phasing Plan (if applicable)

***Rezoning Approval Criteria, Sections 14-3.5(C) and (D) SFCC 1987**

(C) Approval Criteria

(1) The planning commission and the governing body shall review all rezoning proposals on the basis of the criteria provided in this section, and the reviewing entities must make complete findings of fact sufficient to show that these criteria have been met before recommending or approving any rezoning:

- (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 general plan or other adopted city plans;
- (b) all the rezoning requirements of Chapter 14 have been met;
- (c) the rezoning is consistent with the applicable policies of the general plan, including the future land use map;
- (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; and
- (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.

(2) Unless the proposed change is consistent with applicable general plan policies, the planning commission and the governing body shall not recommend or approve any rezoning, the practical effect of which is to:

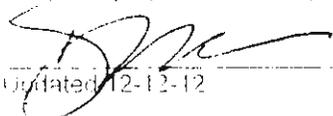
- (a) allow uses or a change in character significantly different from or inconsistent with the prevailing use and character in the area;
- (b) affect an area of less than two acres, unless adjusting boundaries between districts; or
- (c) benefit one or a few landowners at the expense of the surrounding landowners or general public.

(D) Additional Applicant Requirements

- (1) If the impacts of the proposed development or rezoning cannot be accommodated by the existing infrastructure and public facilities, the city may require the developer to participate wholly or in part in the cost of construction of off-site facilities in conformance with any applicable city ordinances, regulations or policies;
- (2) If the proposed rezoning creates a need for additional streets, sidewalks or curbs necessitated by and attributable to the new development, the city may require the developer to contribute a proportional fair share of the cost of the expansion in addition to impact fees that may be required pursuant to Section 14-8.14.

Signature

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 1987. Failure to meet these standards may result in the rejection of my application. I also certify that I have met with the City's Current Planning staff in a preapplication meeting to verify that the attached proposal is in compliance with the City's zoning requirements.

Signature:  _____
(Updated 12-12-12)

Date: 3/30/10

APPENDIX C

WARRANTY DEED

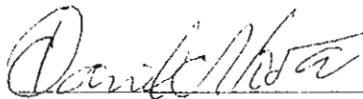
OSCAR D. NOVA and TERESA NOVA, Husband and Wife, for consideration paid, grant to JC RIVERA LLC, A NEW MEXICO LIMITED LIABILITY COMPANY whose address is 536 Cortez Street, Santa Fe, NM the following described real estate in Santa Fe County, New Mexico:

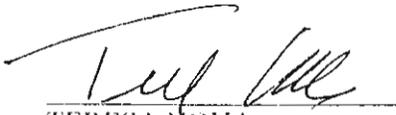
Lot 12, Block 2, of Agua Fria Addition No. 1, as shown on plat filed in the office of the County Clerk, Santa Fe County, New Mexico on May 14, 1930, in Plat book 3 at page 377.

SUBJECT TO: Restrictions, Reservations and Easements of record.

with warranty covenants.

Witness our hands this 2 day of September, 2014.


OSCAR D. NOVA


TERESA NOVA

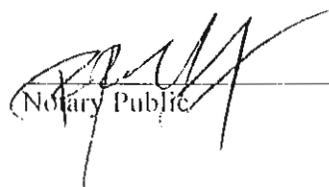
ACKNOWLEDGMENT FOR NATURAL PERSONS

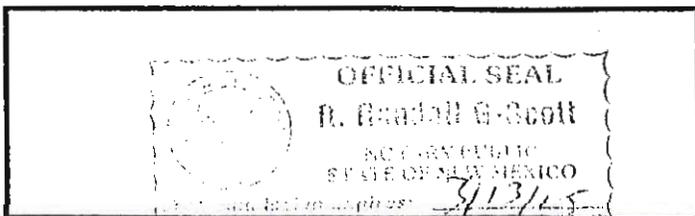
STATE OF NEW MEXICO

COUNTY OF SANTA FE

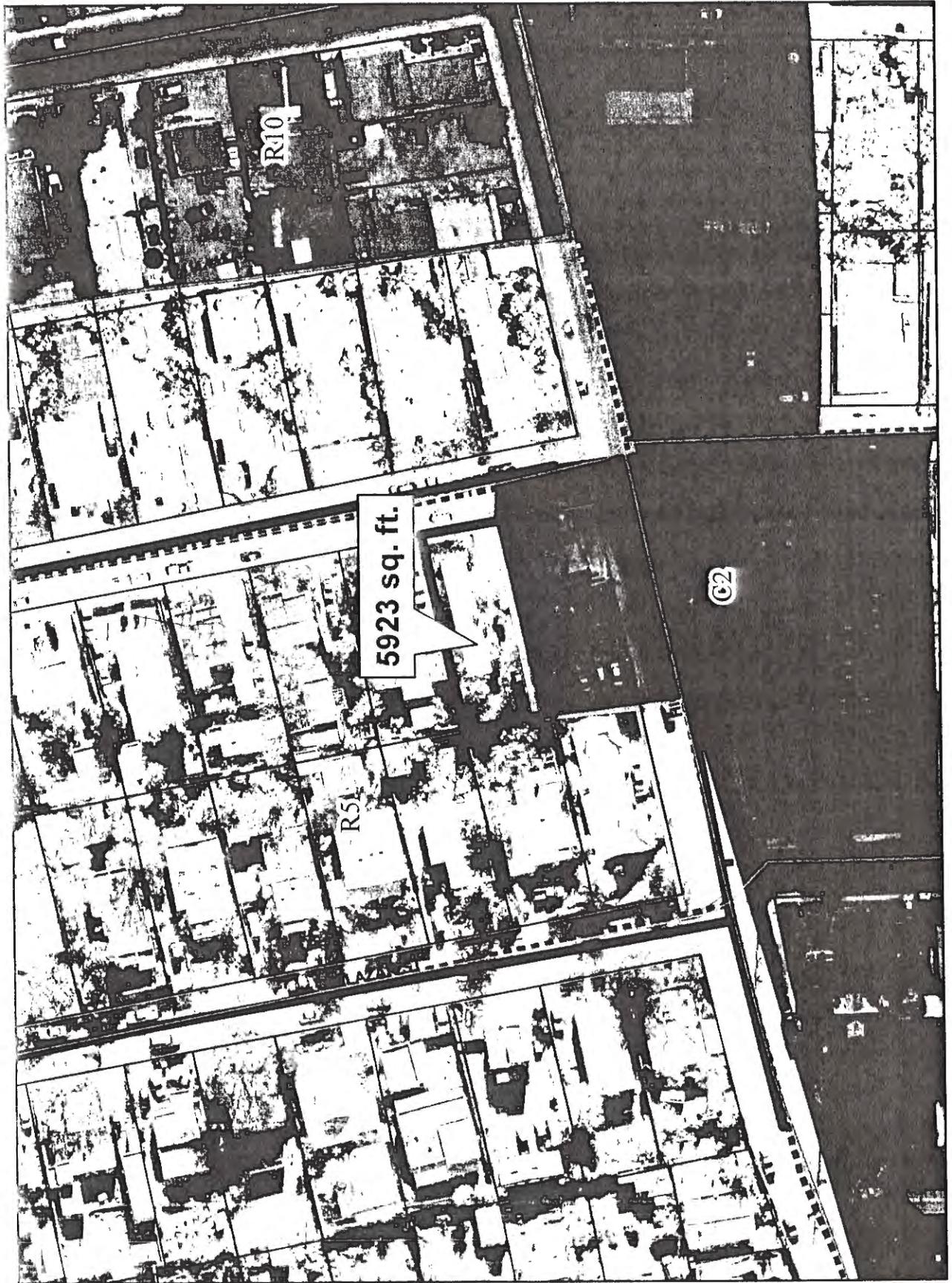
This instrument was acknowledged before me on 5 day of September, 2014, by OSCAR D. NOVA and TERESA NOVA.

My Commission Expires: 3/13/15


Notary Public



536 Cortez Place (Potential Rezone to J-2 and GPA to Community Commercial)
Future Land Use: Low Density
Zoning: R-5



APPENDIX E

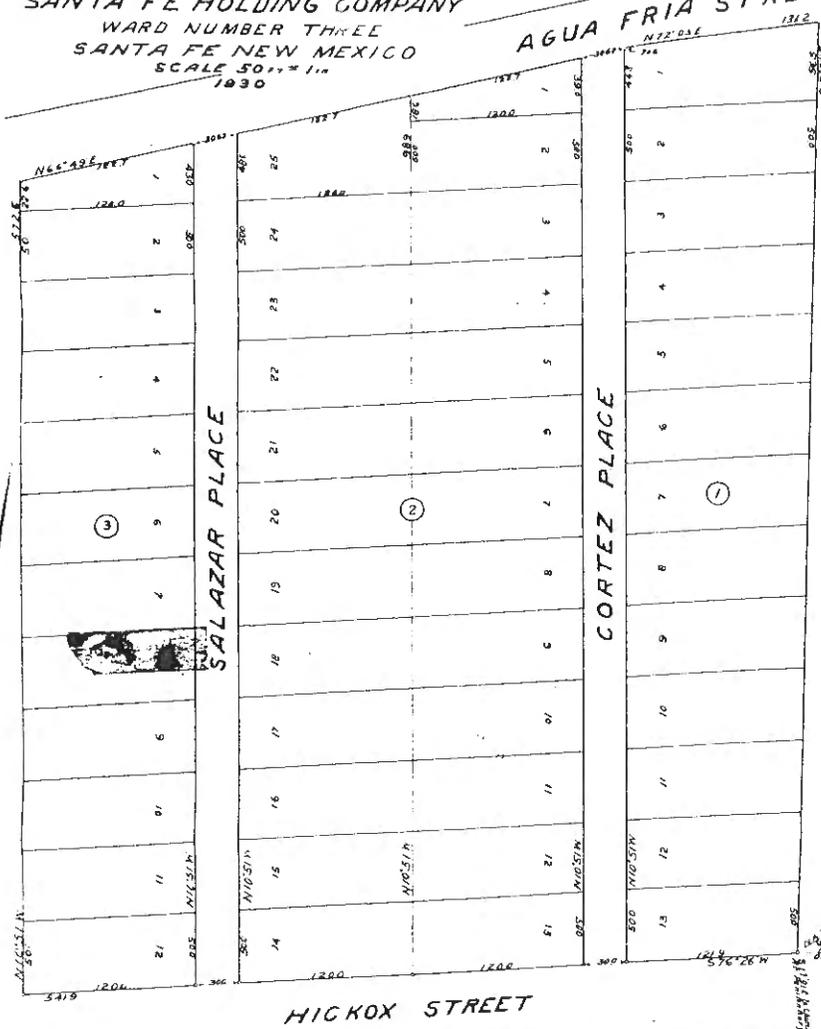
5-14-30

Accepted by resolution of the Council of the City of Santa Fe, New Mexico, on the 12th day of May AD 1930.

Attest: _____ Mayor
 _____ City Clerk

**AGUA FRIA ADDITION
 NUMBER ONE BY THE
 SANTA FE HOLDING COMPANY
 WARD NUMBER THREE
 SANTA FE NEW MEXICO
 SCALE 50' = 1" 1930**

AGUA FRIA STREET



DEDICATION
 State of New Mexico,
 County of Santa Fe

Know all men by these presents, that the undersigned, the Santa Fe Holding Company (No Stockholder's Liability) a corporation has made a subdivision according to this plat of the following described lands to-wit: AGUA FRIA ADDITION NUMBER ONE being Tracts A2 and A3 as represented upon a plat whose title is "PLAT OF HOUGHTON TRACTS LOCATED IN PRECINCT 4 SANTA FE N.M. MADE FOR SANTA FE HOLDING CO. November 3 1926" a copy of which said plat is filed in the office of the County Clerk of Santa Fe County, and being more particularly described as follows: beginning at a point on the North side of Hickox Street, from which the flag on the Capitol bears N78°28'E and the tall chimney of the Penitentiary bears S17°01'E, thence S76°26'W 541.9 feet, thence N10°31'W 572.6 feet, thence N66°42'6\"/>

The said dedication being in set forth on this map, and has been made and is made with the free consent and in accordance with the desire of the said Santa Fe Holding Company (No Stockholder's Liability) a Corporation and has been named by its President "AGUA FRIA ADDITION NUMBER ONE"

In witness whereof, the said holder, The Santa Fe Holding Company (No Stockholder's Liability) a Corporation has caused its name to be signed by its President and attested by its Secretary this 14th day of May AD 1930.

By Mathew B. Stern
 President
 Attest: Edith J. Pugh
 Secretary

State of New Mexico,
 County of Santa Fe

On this 14th day of May AD 1930 before me personally appeared Mathew B. Stern, who being first duly sworn did say that he is the President of the Santa Fe Holding Company (No Stockholder's Liability) a Corporation that the seal affixed to the instrument herein is the seal of the said Corporation, and that the instrument herein was executed on behalf of said corporation by authority of its Board of Directors, and the said Mathew B. Stern acknowledged that he executed the same as the free act and deed of the said Corporation.

In witness whereof I have hereunto signed my name and affixed my official seal the day and year in this certificate subscribed.
 My commission expires - 10-10-1930

CERTIFICATE
 I hereby certify that this plat and the field notes thereon are a true and correct copy of a survey made in the field under my direction on the 6th and 7th days of May AD 1930.
 Hubert G. Tuttle
 Licensed Surveyor

Santa Fe Holding Company Tract 23-B Santa Fe Holding Company Tract 25 Santa Fe Holding Company Tract 24-A

377

377
 Oct 3

APPENDIX F



**ASSOCIATED
SURVEYS**

Michael V. Trujillo

N.M.P.S. No. 12130

Lot 12, Block 2 of Agua Fria Addition No. 1, as shown on plat filed in the Office of the County Clerk, Santa Fe County, New Mexico on May 14, 1930, in Plat Book 3, Page 377.

Telephone 424-1395 ■ Mobile 690-4542
JAMMER101@AOL.COM
1202 A Parkway Drive ■ Santa Fe ■ New Mexico ■ 87507

APPENDIX G

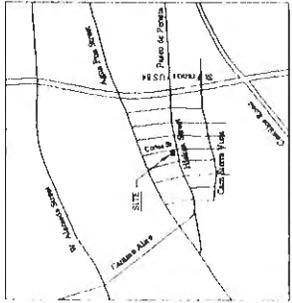
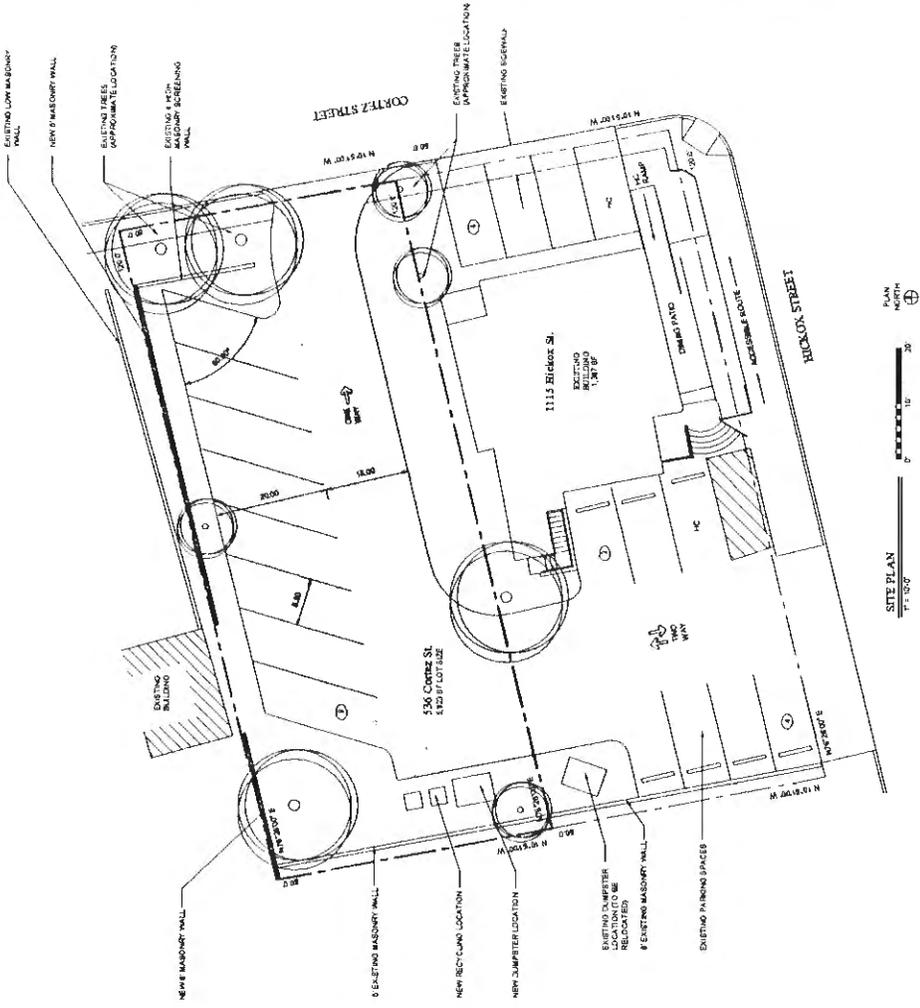


Liaison Planning Services, Inc.
 Liaison Planning Services, Inc.
 P.O. Box 1835
 Santa Fe, NM 87504
 (505) 940-6439
 liaisonplanning@gmail.com

Site Plan for 536 Cortez Street Santa Fe, New Mexico

Not For
Development Purposes

March 30, 2015



VICINITY MAP

LIAISON Planning Services Inc.

P.O. Box 1835 Santa Fe, NM 87504 (505) 920-6839 liaisonplanning@gmail.com

March 30, 2015

Donna Wynant, AICP Land Use Senior Planner
City of Santa Fe Land Use Department
P.O. Box 909
Santa Fe, NM 87504-0909

Re: General Plan Amendment and Rezoning *Additional Information*
536 Cortez Street Santa Fe, NM

Dear Ms. Wynant,

As requested, I am providing you with additional information for the above referenced on behalf of JC Rivera LLC.

Rezoning

(D) Additional Applicant Requirements

- (1.) If the impacts of the proposed development or rezoning cannot be accommodated by the existing infrastructure and public facilities, the city may require the developer to participate wholly or in part in the cost of construction of off-site facilities in conformance with any applicable city ordinances, regulations or policies;

The application is to rezone the property in order to provide additional parking for the restaurant to the south. No additional infrastructure is proposed aside from landscaping that meets city regulations.

- (2.) If the proposed rezoning creates a need for additional streets, sidewalks or curbs necessitated by and attributable to the new development, the city may require the

EXHIBIT E-2

developer to contribute a proportional fair share of the cost of the expansion in addition to impact fees that may be required pursuant to Section 14-8.14.

The proposed parking lot design is to enter from the property to the south, "right turn exit only" onto Cortez Street and to utilize the existing curb cut. All improvements will meet city ordinances regulations and policies.

General Plan Amendment

(2) Additional Criteria Amendments to Land Use Policies

In addition to complying with the general criteria set forth in Subsection 14-3.2(E)(1), amendments to the land use policies section of the general plan shall be made only if evidence shows that the effect of the proposed change in the land use shown on the future land use map of the general plan will not have a negative impact on the surrounding properties. The proposed change in land use must be related to the character of the surrounding area or a provision must be made to separate the proposed change in use from adjacent properties by setback, landscaping, or other means and a finding must be made that:

- (a) The growth and economic projections contained within the general plan are erroneous or have changed;
The neighborhood has developed over the years and the need for additional off street parking is apparent. The subject property currently has a mobile home on it that can easily be removed to accommodate parking for the property to the south. The proposed parking lot will only be utilized by the restaurant and all applicable design standards will be adhered to.
- (b) No reasonable locations have been provided for certain land uses for which there is a demonstrated need; or
It makes sense to allow for additional parking for the commercial property to the south by providing off street parking that is directly adjacent to and can be accessed through the restaurant parking lot.
- (c) Conditions affecting the location or land area requirements of the proposed land use changed, for example, the cost of the land space requirements, consumer acceptance, market or building technology.

Please contact me if you have any questions or require additional information. I request that this item be heard by the Planning Commission on May 7, 2015.

Sincerely,



Dolores I. Vigil

LIAISON Planning Services Inc.

P.O. Box 1835 Santa Fe, NM 87504 (505) 920-6839 liaisonplanning@gmail.com

April 10, 2015

Lisa Martinez, Land Use Director
City of Santa Fe Land Use Department
P.O. Box 909
Santa Fe, NM 87504-0909

Re: Alternate Means of Compliance
536 Cortez Street Santa Fe, NM

Dear Ms. Martinez,

On behalf of JC Rivera LLC, please accept this letter as a formal request for an approval to allow alternate means of compliance as required per section 14-8.4 (C) for the required 15' landscape buffer located at the above referenced address (see proposed site plan). The applicant is in the process of requesting an approval for a General Plan Amendment to Community Commercial and Rezoning from residential low density (R5) to commercial (C2) less than 2 acres. The applicant requests the proposed zoning to allow additional off street parking for the Tune-up Cafe'.

Compliance and Enforcement per 14.8.4 (C)

(4) The *land use director* shall have discretion to allow alternate means of compliance with the requirements of this section when the proposed alternate means satisfy the intent, and are equivalent to or exceed the requirements of, this Section 14-8.4 and when:

(a) site conditions, including the configuration of the *lot*, topography or existing vegetation, make full compliance impossible or impractical;

The subject property is narrow and not wide enough to provide the 15' buffer, parking and drive aisle. The lot was created by subdivision plat approval in 1930. Currently, there is a single wide mobile home on the lot. In order to meet development and rezoning and development criteria for the proposed parking area, the applicant is requesting alternative means of compliance (see Exhibit A).

(b) the proposed alternate means of compliance are appropriate to the design intent, especially in response to *landscape* or site design consistent with the surrounding area or with the historic character of Santa Fe; and

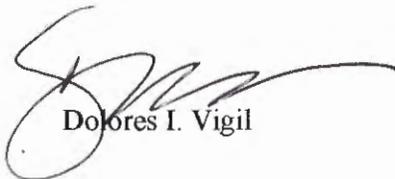
If the proposed rezoning is approved, the applicant will remove the mobile home to develop the lot as additional parking for the Tune-up Cafe'. The Tune-up Cafe' is set back at least 50' from the adjacent residence to the north. The proposed parking lot design would better achieve the intention of the 15' buffer code requirement by maximizing the goal of the relationship between residential and commercial improvements.

(c) the proposed alternate means of compliance promote good storm water management, water conservation and *water harvesting* equal to or greater than the original requirement.

A 5' heavily landscaped setback will be maintained and serviced by an automatic drip system. Due to the location of the Tune-up Cafe', the requirements for landscaping and 6' solid wall, the proposed alternative design minimizes the view of the existing restaurant from adjacent residences. It also provides more natural light, and landscaping. The site will be designed to provide the landscaping with water run-off. The neighborhood will benefit from additional off street parking. The neighbors have commented that on street parking is creating congestion. Granting this alternative compliance will allow the Tune-up Cafe' to address this issue and reduce impact on surrounding streets.

Please contact me if you have any questions or require additional information.

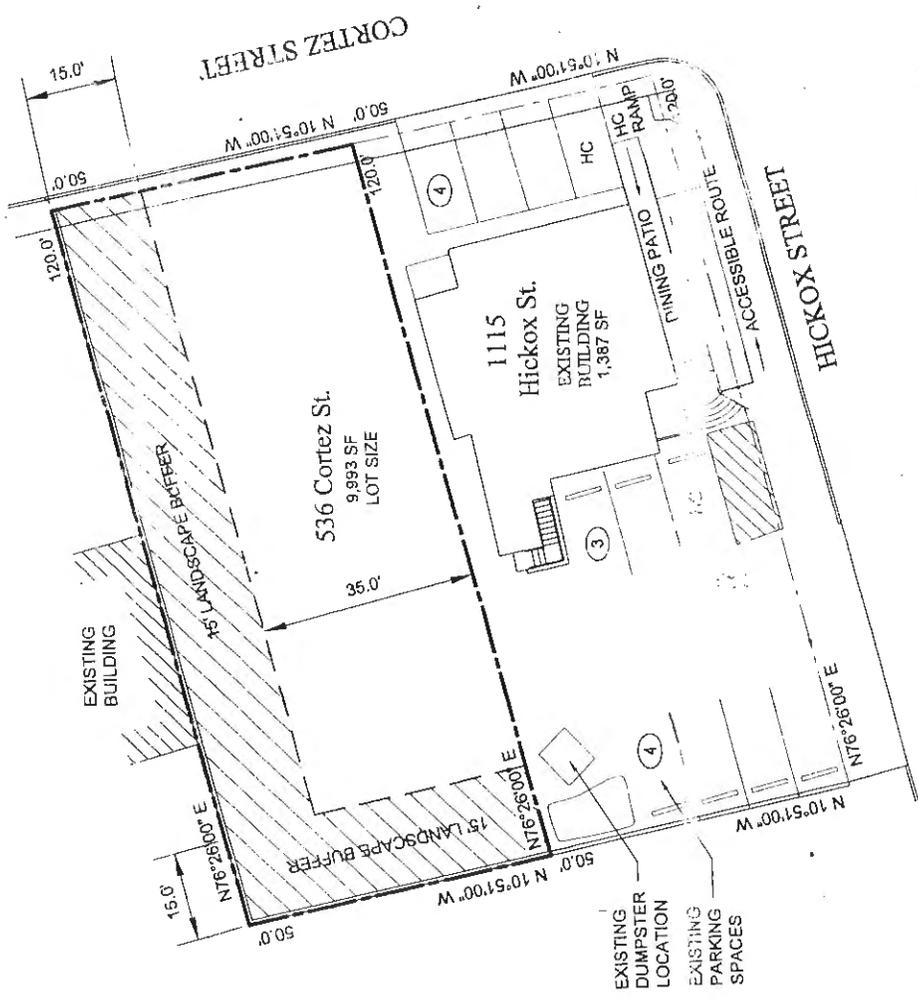
Sincerely,



Dolores I. Vigil

Attachments: Proposed Site Plan
Exhibit A

Dolores I. Vigil
 Liaison Planning Services Inc.
 P.O. Box 1835
 Santa Fe NM 87504
 (505) 920-6339
 liaisonplanning@gmail.com



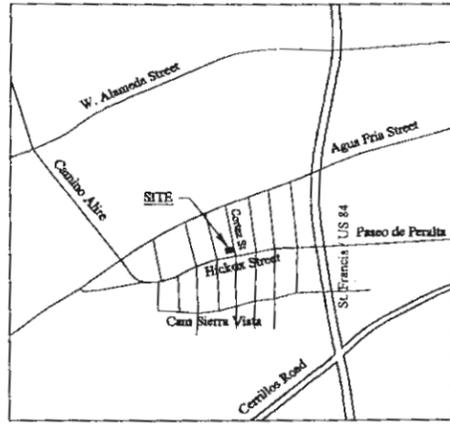
PROVIDE TOTAL AREA (WHICHEVER IS MORE RESTRICTIVE):
 15' BUFFER AREA ALONG ADJACENT RESIDENTIAL AREAS = 2,325 SF
 20% OF LOT SIZE = 5,993 X 0.2 = 1,197 SF

OPEN SPACE REQUIREMENTS

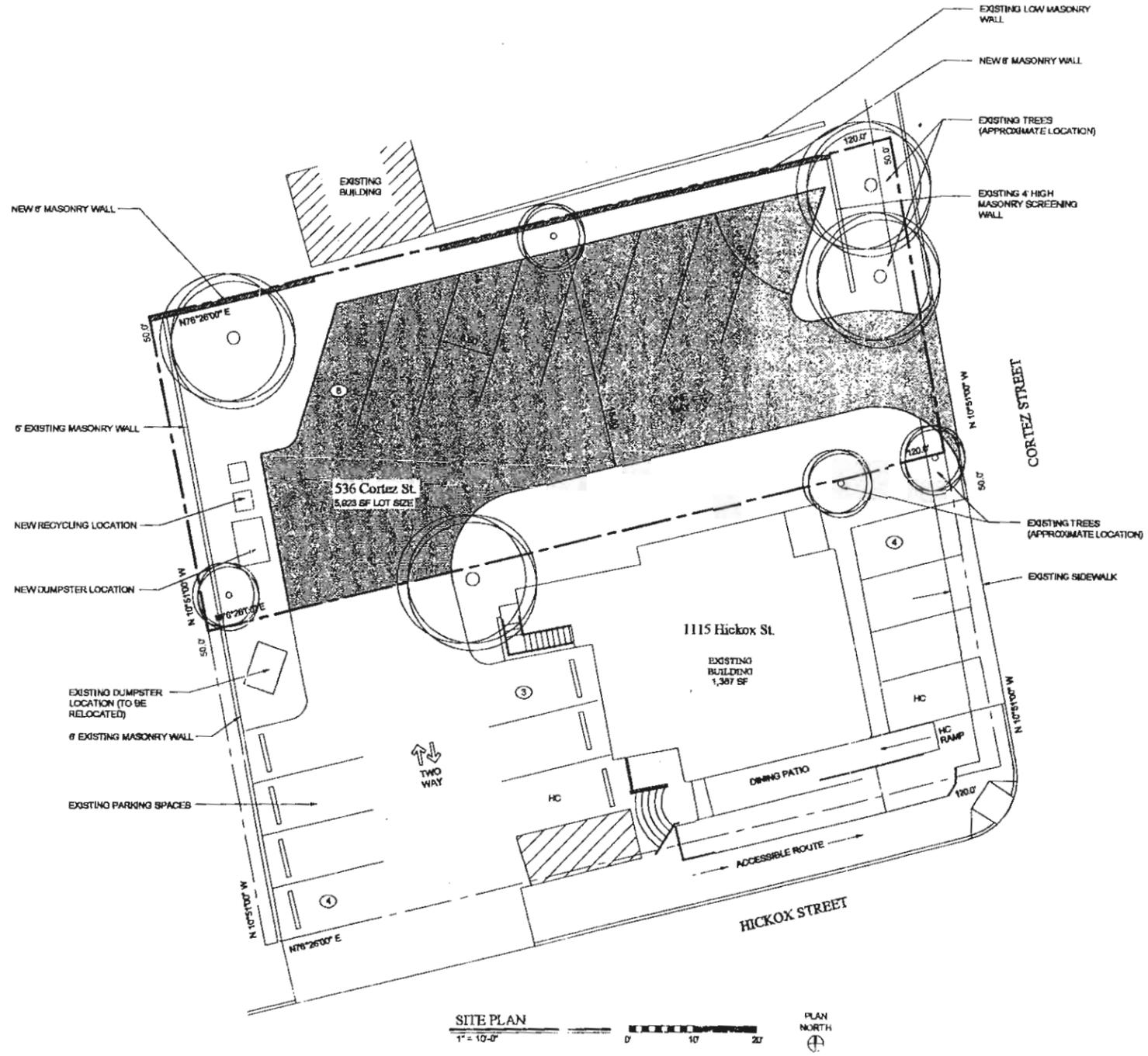
PLAN NORTH



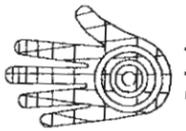
Exhibit 'A'
 Not for Development Purposes
 536 Cortez Street
 Santa Fe NM
 1/21/14



VICINITY MAP
NORTH



Dolores I. Vigil
Liaison Planning Services, Inc.
P.O. Box 1835
Santa Fe, NM 87504
(505) 920-6839
liaisonplanning@gmail.com



Liaison Planning Services, Inc.

Site Plan for
536 Cortez Street
Santa Fe, New Mexico

Not For
Development Purposes

March 30, 2015

1.7 GENERAL PLAN THEMES

1.7.4 ECONOMIC DIVERSITY

Develop and implement a comprehensive strategy to increase job opportunities, diversify the economy, and promote arts and small businesses.

The General Plan includes policies to promote economic development and the arts; a strategy is outlined in the Community Economic Development Plan, a separate document maintained by the city. Themes of the strategy include regionalism, sustainability, quality of life, equity of education, economic opportunities, and diversification. The General Plan locates sites for arts and new businesses in a variety of settings.

1.7.9 URBAN FORM

Promote a compact urban form and encourage sensitive/compatible infill development.

Promotion of a compact urban form has been a major criteria in selecting new growth areas. Growth and reintensification areas have been selected to minimize distances between different parts of the city, and between job centers and residential areas. Incentives are provided to promote infill development.

1.7.12 MIXED USE

Provide a mix of land uses in all areas of the city.

The General Plan provides a mix of compatible uses that fulfill everyday retail and service needs in existing and new neighborhoods. This urban structure affirms Santa Fe 's traditional development pattern.

5-2 DOWNTOWN AND COMMERCIAL DEVELOPMENT

- 5-2-G-4 Provide for uses to meet everyday needs within neighborhoods in the form of pedestrian-oriented neighborhood centers.
- 5-2-G-5 Protect neighborhoods from encroachment by non-neighborhood oriented commercial uses and related environmental impacts. Provide design standards and economic location criteria for big-box retail.
- 5-2-G-6 Ease transitions between commercial and surrounding areas.

For additional policies related to affordable and economic development, see Sections 10.1 and 10.2 and Institutional Framework Section 11.

- 3-G-1 There shall be consistency between the General Plan and the city's land use development laws (see Section 11 policies).
- 3-G-2 There shall be a mix of uses and housing types in all parts of the city.
Mixed use should not just be encouraged, but in certain areas, such as the mixed-use districts(neighborhood centers) and redevelopment areas, it is specifically recommended in the General Plan.
- 3-G-3 There shall be infill development at densities that support the construction of affordable housing and a designated mix of land uses that provide an adequate balance of service retail and employment opportunities to address residential growth throughout the Urban Area, including the Railyard property.

C-2 General Commercial District

The C-2 general commercial district includes areas along *streets* carrying large volumes of traffic where commercial uses are appropriate. Regulations are designed to guide future additions or changes so as to discourage extension of existing and formation of future strip *commercial development*, to preserve the carrying capacity of the *streets* and to provide for *off-street parking* and loading.

Permitted Uses

1. Adult day care
2. Antique stores
3. Art supply stores
4. Arts & crafts schools
5. Arts & crafts studios, galleries & shops; gift shops for the sale of arts & crafts
6. Assembly & manufacturing (light)
7. Automobile service & repair including filling & repair stations
8. Automobile tire recapping & retreading
9. Banks & credit unions with drive-through ☼
10. Banks & credit unions without drive through
11. Bar, cocktail lounge, nightclub with outdoor entertainment ☼
12. Bar, cocktail lounge, nightclub, no outdoor entertainment
13. Barber shops & beauty salons
14. Bed & breakfast and inns
15. Bookshops
16. Cabinet shops (custom)
17. Clubs & lodges (private) ☼
18. Colleges & universities (non-residential)
19. Commercial parking lots & garages
20. Commercial recreational uses & structures (theaters, bowling alleys, pool-rooms, driving ranges, etc)
21. Correctional group residential care facility ☼
22. Dance studios
23. Daycare; preschool; for infants & children (small – 6 or fewer)
24. Daycare; preschool; for infants & children (large – 6 or more)
25. Department & discount stores
26. Dwelling; multiple family (see section 14-6.2(A)(7) for additional regulations)
27. Dwelling; single family (see section 14-6.2(A)(7) for additional regulations)
28. Electrical distribution facilities
29. Electrical substation
30. Electrical switching station
31. Electrical transmission lines
32. Exercise, spas, gym facilities
33. Flea markets
34. Florist shops
35. Funeral homes or mortuaries
36. Furniture stores

37. Grocery stores (neighborhood)
38. Hotels, motels, residential suite hotels
39. Human service establishments ☼
40. Kennels ☼
41. Laboratories; research experimental & testing
42. Laundromats (neighborhood)
43. Lodging facilities; conference & extended stay
44. Manufactured homes (see section 14-6.2(A)(7) for additional regulations)
45. Medical & dental offices & clinics
46. Museums
47. Neighborhood & community centers (including youth & senior centers)
48. Non-profit theaters for production of live shows
49. Nursing; extended care convalescent, recovery care facilities
50. Office equipment sales & service; retail sales of office supplies
51. Office; business & professional (no medical, dental or financial services)
52. Personal care facilities for the elderly
53. Personal service establishments (including cleaning, laundry, appliance repair & similar services)
54. Pharmacies or apothecary shops
55. Photographers studios
56. Police stations
57. Police substations (6 or fewer staff)
58. Public parks, playgrounds, playfields
59. Religious assembly (all)
60. Religious, educational & charitable institutions (no school or assembly uses) ☼
61. Rental; short term
62. Restaurant with bar, cocktail lounge or nightclub comprising more than 25% of total serving area ☼
63. Restaurant with drive-through, drive-up ☼
64. Restaurant; fast service, take out, no drive through or drive-up
65. Restaurant; full service, with or without incidental alcohol service
66. Retail establishments not listed elsewhere
67. Schools; Elementary & secondary (public & private) ☼
68. Sign shops
69. Tailoring & dressmaking shops
70. Time share vacation projects
71. Utilities (all, including natural gas regulation station, telephone exchange, water or sewage pumping station, water storage facility)
72. Veterinary establishments, pet grooming ☼
73. Vocational or trade schools (non-industrial)
74. Wholesale & distributing operations (under 3,000 square feet of storage)

☼ Requires a **Special Use Permit** if located within 200 feet of residentially zoned property.

Special Use Permit

The following uses may be conditionally permitted in C-2 districts pursuant to a Special Use Permit:

1. Boarding, dormitory, monastery
2. Cemeteries, mausoleums & columbaria
3. Colleges & universities (residential)
4. Continuing care community
5. Group residential care facility
6. Group residential care facility (limited)
7. Hospitals
8. Mini storage units
9. Sheltered care facilities
10. Storage; individual storage areas within a completely enclosed building
11. Transit transfer facilities

Accessory Uses

The following accessory uses are permitted in C-2 districts:

1. Accessory dwelling units
2. Accessory structures, permanent, temporary or portable, not constructed of solid building materials; covers; accessory structures exceeding 30 inches from the ground
3. Barbecue pits, swimming pools (private)
4. Children play areas & equipment
5. Daycare for infants & children (private)
6. Garages (private)
7. Greenhouses (non-commercial)
8. Home occupations
9. Incidental & subordinate uses & structures
10. Residential use ancillary to an approved use

Dimensional Standards

Minimum district size None.

14-7.5(D)(8)(c) C-2 District Qualifying *private open space* is required for each ground-floor *dwelling unit* at a minimum of twenty-five percent of the total *gross floor area* of that unit. *Dwelling units* located above commercial units are not required to provide *private open space*.

Maximum height: 45

Minimum setbacks:

Non-residential uses: Street 5; side 0, rear 10

Where rear yard abuts a residential neighborhood no less than 25 feet rear yard setback shall be provided or 20% of the depth of the lot, whichever is less. A 15 foot buffer is required for non-residential uses adjacent to residential uses.

Max lot cover: 60

Nonresidential and Mixed Use Open Space Standards

The minimum dimension for *nonresidential open space* shall be ten (10) feet and cover a minimum of three hundred (300) square feet, unless the area is a component of interior parking *landscape* and meets the requirements for *open space* credits for *water harvesting* described in this Subsection 14-7.5(D)(6).

The percentage of *required open space* shall be calculated on the basis of total *lot* area, and shall be no less than twenty-five percent unless the conditions described in Subsection 14-7.5(D)(6) are met; then the *required open space* may be reduced by a maximum of ten percent of the total *lot* size. More restrictive requirements for individual zoning districts shall apply.

Qualifying *private open space* is required for each ground-floor *dwelling unit* at a minimum of twenty-five percent of the total *gross floor area* of that unit. *Dwelling units* located above commercial units are not required to provide *private open space*.

Residential Open Space

C-2 District

Qualifying *private open space* is required for each ground-floor *dwelling unit* at a minimum of twenty-five percent of the total *gross floor area* of that unit. *Dwelling units* located above commercial units are not required to provide *private open space*.

VOTE: The motion, as amended, was approved on the following Roll Call vote [6-2]:

For: Commissioner Villarreal, Commissioner Chavez, Commissioner Gutierrez, Commissioner Kadlubek, Commissioner Kapin and Commissioner Ortiz.

Against: Commissioner Padilla and Commissioner Schackel-Bordegary.

Explaining his vote: Commissioner Padilla said, "I'd like to vote no on this and make a statement that I would have liked to have additional information presented to us for deliberation, but my vote is no."

Explaining her vote: Commissioner Schackel-Bordegary said, "Like Commissioner Padilla, I'm going to vote no for the same reason [inaudible because her microphone wasn't turned on]."

3. **CASE #2015-36. 108 VIGIL LANE CERTIFICATE OF COMPLIANCE. SOMMER, KARNES & ASSOCIATES, AGENT, REQUEST PLANNING COMMISSION APPROVAL OF A CERTIFICATE OF COMPLIANCE IN ORDER TO ESTABLISH LEGAL LOT OF RECORD PER THE PROCEDURES SET OUT IN SFCC 1987 14-3.7(A)(7). THE REQUEST MAY INCLUDE A VARIANCE TO LOT AREA AND ACCESS REQUIREMENTS. THE PROPERTY IS ± 0.16 ACRES, ZONED R-5 (RESIDENTIAL – 5 DWELLING UNITS PER ACRE), AND IS LOCATED AT 108 VIGIL LANE. (ZACH THOMAS, CASE MANAGER)**

A Memorandum dated April 28, 2015 for the May 7, 2015 Meeting, to the Planning Commission from Zach Thomas, Senior Planner, Current Planning Division, in this matter, is incorporated herewith to these minutes as Exhibit "9."

This item is postponed to the next meeting of the Planning Commission



4. **CASE #2015-30. TUNE UP CAFÉ GENERAL PLAN AMENDMENT. LIAISON PLANNING SERVICES, INC., AGENT FOR JC RIVERA LLC, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 0.13± ACRES OF LAND FROM LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS PER ACRE) TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 536 CORTEZ. (DONNA WYNANT, CASE MANAGER)**

Items J(4) and J(5) were combined for purposes of presentation and discussion, but were voted upon separately.

A Memorandum, with attachments, prepared April 22, 2015, for the May 7, 2015 meeting, to the Planning Commission, from Donna Wynant, Senior Planner, Current Planning Division, regarding Case #2015-30 and Case #2015-31, is incorporated herewith to these minutes as Exhibit "10."

A letter dated May 6, 2015, To Whom It May Concern, from Keren James, in support of these cases, presented for the record by Dolores Vigil, is incorporated herewith to these minutes as Exhibit "11."

A Memorandum dated May 7, 2015, to the Planning Commission, from Current Planning Division, regarding Additional Information, is incorporated herewith to these minutes as Exhibit "12."

Mr. Smith said, "Partly for the benefit of new Commissioners, they are reminded that this is a quasi-judicial case. It raises interesting procedural questions we've tried to simplify, and I hope we did not oversimplify them, and certainly at any point if the Commissioners do have questions of staff, either myself or the City Attorney, in procedural issues we'll be happy to respond on them. It's a case that kind of points out the strengths and weaknesses of the traditional zoning regulations that the City of Santa Fe has. There is an argument to be made that zoning is either you approve it or you deny it. Either property is zoned C-2 or it is not zoned C-2. Staff analysis on this case has raised a number of issues where, in common sense terms, if it's possible we do sit down and [inaudible] this rezoning makes sense to the extent that it will achieve the stated ends of the Applicant to address problems that have occurred in the operation of an existing business. It's not at all clear to staff that the final approval of the rezoning can be made absent to important aspects of the Applicant's proposal. First that the lot be consolidated with the lot on which the existing restaurant operates. There is very limited potential for any reasonable C-2 parcel of the size of the 1 lot at Cortez that is being rezoned today. But also that over the years that I've been working, there is a history of cases where the Planning Commission and City Council have added conditions of approval that tend to micromanage a project, and may be on the edge of what is an acceptable legal terms of restricting uses of property and unfairly limiting the rights of the property owner to exercise zoning that has been approved for their property."

Mr. Smith continued, "Our recommendation to the Commission, and Ms. Wynant will go into more details about the background and the rationale. However, it is not clear that this rezoning case should be approved unless there are effective ways to ensure that, first, the lots will be consolidated. And, second, that there would be some type of hearing process before there is any significant intensification or expansion or a change to the use of the property. Our recommendation to the Commission is essentially to say that staff concurs that on balance, the stated intent of the Applicant to provide more effective parking for the existing restaurant operation is a worthwhile goal. It noted also that there are 4 categories of [inaudible] type of use in the allowed use table. The applicant is operating, according to the application, within the only class that does not require a hearing in front of the Board of Adjustment to intensify the use within this proximity to a residential neighborhood. So with that general background, I'll defer to Ms. Wynant if the Chair agrees."

Donna Wynant presented information in this case via overhead. Please see Exhibit "10," for specifics of this presentation.

Ms. Wynant said she would like to read the conclusion into the record, as follows: "Staff concurs with the applicant's contention that the Plan Amendment and Rezoning of the property at 536 Cortez Street would meet the applicable criteria for approval, but only if development is limited to construction of a parking lot expansion for the restaurant at 1115 Hickox St., as stated in the application materials. Unrestricted development of the property [and that I would like to say means that unrestricted

development, and you can look at that last exhibit in your packet of all the different kinds of things that are allowed in a C-2 District which is quite extensive] under a C-2 zoning [all the things that could go in there] would not meet the approval criteria for the requested General Plan Amendment and Rezoning. The vision of the application to propose C-2 PUD, [which is C-2 with a Planning and Development Overlay] would be the only clear method to ensure that future development would not adversely affect surrounding land uses. Staff supports the proposed rezone subject to the attached DRT conditions of approval. And those conditions include provisions for consolidation of the lots at 536 Cortez and 1115 Hickox, removing the backup parking spaces that block the sidewalk on Cortez Street, adjustment of the Hickox Street right-of-way to eliminate encroachments as previously approved by the Governing Body and then correction of setback violations for non-permitted structures at the north and south property lines at 1115 Hickox. That is referring to a walk-in cooler and storage structure that we did get a building permit application on and it is waiting for this process to go forward so that the properties are all combined and that those setback violations are not issues any longer."

Ms. Wynant continued, "So you can see on your DRT chart there might be some other things mentioned, so you can see those. So therefore, staff is recommending approval subject to all those conditions."

Mr. Smith said, "Mr. Chairman, I would state for the record, that the Staff Recommendation is that the application before the Commission, with the amendment, that those conditions together would support a staff recommendation for approval."

Chair Harris said, "I think all of us are little unclear about the meaning of your statement and what you would propose."

Mr. Smith said, "The Commission is not being asked to vote on this, when in fact it's not clear that the Commission has the authority to make any requirements with a straight C-2 rezoning that would restrict the applicant to only the development as shown in this plan. If the application were amended to a Planned Unit Development Overlay District, the Commission would be voting on a rezoning case that did include this Plan [inaudible] very much like it. And that development overlay other than as shown in that plan would require the applicant to come back through a public hearing process at the Commission and/or the Council."

Chair Harris said, "To make sure I understand, what you're saying it's triggered by the Applicant making an amended application, correct."

Mr. Smith said, "So staff's recommendation is it's now going to the Commission which can make the appropriate findings to approve the zoning without the amendment to a PUD or some other method of ensuring that the scope of development will be effectively limited."

Chair Harris said, "Again, is it a requirement that the Applicant make an amended application, or are you saying that the Commission can amend basically the staff's formal recommendation."

Mr. Smith said, "The Code states that the Commission and Council can approve rezoning to a more restricted class of development. It's not clear that that type of amendment without a development plan submitted would have any real effect."

Chair Harris said, "I hate to say it, but I don't think you're providing very clear guidance on this."

Mr. Smith said, "I'm sorry, so the staff findings for a C-2 PUD with a plan similar to the one shown on the screen tonight would clearly meet the approval criteria. C-2 zoning without a restriction to the plan shown on the screen would likely not meet the approval criteria."

Chair Harris said, "My question is, why didn't staff recommend formally what you've described in terms of C-2 PUD."

Mr. Smith said, "Mr. Chairman, if it would be more clear, then staff would be happy to phrase the recommendation as postpone with direction to the Applicant to amend and present a PUD with a preliminary development plan."

Commissioner Padilla said, "In fairness to the Applicant, the case that is before us tonight, and as presented by staff this evening, is a request for a C-2 Rezoning, not a C-2 PUD, even though in your conclusions you clearly state that revision of the application to propose a C-2 Planned Unit Development would be the only clear method to ensure future development. The case before us is a C-2 application. Is that what you're putting on this applicant as a condition of approval, that they come forward with a C-2 PUD application."

Mr. Smith said, "To try and be clear. If the choice is between approval of C-2 without restrictions, the staff would recommend denial of the straight C-2 rezoning. It is not clear that the straight C-2 rezoning would meet the approval criteria. We've offered the PUD as an alternative to the denial that we would otherwise recommend."

Chair Harris said we probably will have some follow-up questions once we get to discussion of any motions, but "I think we'll set that discussion aside for right now, and I think, unless you have further information you want to provide, Ms. Wynant, I think we should hear from the Applicant."

Ms. Wynant said, "I'm fine, Mr. Chair."

Public Hearing

Presentation by the Applicant

Christopher Graeser, attorney, 316 East Marcy, said "I'm an attorney under my oath." Mr. Graeser presented information using the overhead. Mr. Graeser said, "As I go through the staff report on this, it's clear that what's staff is saying is it meets the requirements, it's consistent with the Code, there's no harm to the neighborhood. I think those findings are made throughout and accordingly, staff supports the proposed rezone, subject to the DRT conditions of approval. And we accept all of those conditions, by

the way. All of those conditions are acceptable, including one Mr. Smith expressed concern, that if you condition it on ensuring that the lots are consolidated, that that actually happen. And the City's had spotty history in following up on that. We certainly commit to do that, and I'll put a note on my agenda to make sure it happens within the 30 days."

Mr. Graeser continued, "Commissioners, this is a neighborhood café. Tune Up wants to be a good neighbor. This is a local business, a walkable business for many many people, but it's not walkable for everybody. And the biggest concern we hear expressed by neighbors, by far the biggest concern raised at the ENN, was lack of off street parking, or to put it another way, excessive on-street parking. And this application addresses exactly that. This application is solely to be able to use the adjoining lot which Jesus and Charlotte purchased for parking for the restaurant. There's no intent to change the use, to build a new building. There won't be any expansion of the dining room, it's not going to become a nightclub, they have no liquor license, they don't intend to get a liquor license. The one thing they would like to do, and have no current intentions to do, and can't afford to do. But what they would like to do is to expand the kitchen slightly. Jesus emailed me a picture a while ago, and I want to show it to you, because I just feel badly for these guys. That's the kitchen. As I said, the only change they would be looking at is trying to add 200 sq. ft. to the kitchen at some point if they could."

Mr. Graeser continued, "At the risk of repeating myself, I think that nearly all the concerns expressed by the neighbors, will be addressed by more parking, and by working with the delivery trucks to keep them off Cortez. They have been doing that, they will continue to do it. It typically is only a problem when a new driver gets on a route and doesn't know to stay off Cortez. There is definitely concern about the backout spaces, right in 'here,' and 'those' will be eliminated with the new plan."

Mr. Graeser continued, "Tune Up Café supports putting a 4-way stop at Cortez and Hickox. I talked to Mr. Romero and it's not warranted at this time. He said one of the things they look at is not enough accidents there. I suggested by simply lending my car to my mother a couple more times, I would take care of that. He indicated that wasn't a good idea."

Mr. Graeser continued, "This application is for 536 Cortez property, not the 1115 Hickox property. The Hickox property, the Tune Up Café property is zoned C-2, has been zoned C-2, and is subject to the entire C-2 use list. The application is simply for the parking lot to bring that into the C-2 zoning."

Mr. Graeser continued, "The staff suggestion or interest or concern about making it a Planned Use Development, and the suggestion that we should apply for PUD for both parties, the Tune Up Café property and the property which will be consolidated. And what I get it's not because of this application, not because of the intended use which does fully comply with the Code and is consistent, but because of what could happen in the future. I think the term the staff report uses is unrestricted development. And we get it. We get the concern. If you look at the use list for C-2, there are some things that are totally compatible with allocation of that neighborhood – antique store, art supply, barber shop, book shop – things about the size of my office building. There's days we have a total of 6 trips in and out of that building, that would be compatible. There also are things in the use list that are incompatible with that

location, with that area with that size of property, because the use list does include filling stations, bars and cocktail lounges, flea markets, sewerage pumping stations and those would not be appropriate and we get that.”

Mr. Graeser continued, “And our concern about a PUD is that it unfairly limits the existing property which is C-2 zoned. It limits its utility, it limits its value and it isn’t part of this application. That restaurant has been an amenity to the neighborhood, it’s doing well, hopefully it will continue doing well for many years, or indefinitely. If it doesn’t, if it closes for some reason, if the Tune Up Café becomes Tune Up’s not here, then what. It is really unfair to do a PUD and you’re going to be held to this restaurant use, when I think that’s probably not even what the neighbors would prefer to see out there. They might prefer to see something less intense. And that’s a major concern of the PUD, is preserving the utility, the future value of the property, to say nothing of having to go through the whole process again.”

Mr. Graeser continued, “Many of you may recall the Hands of America Case I was in front of you on a couple of months ago, the wood shop, and that time, we made a representation to the Commission that we were working with the neighbors, we would continue to work with the neighbor on that use list, on uses that concern them. We did that. We sat, we had a really good meeting, we went through and checked off uses, argued about them, talked about them and ended up agreeing, to the point it was my idea to come up with some kind of contract or private covenants or such, because Mr. Shandler informed us that the City couldn’t impose those conditions on its own. And in fact the neighborhood representative just stood up and said, as long as Mr. Graeser says that on the record, we’re comfortable with that. And everyone is really happy. And I see this is a perfect example of that sort of situation. We’re entirely willing to work with the neighbor, to sit with them, go through those uses and to identify uses that are not appropriate, and to make that commitment either publicly on the record, or as part of a private contract. But those uses won’t be allowed and won’t be used on that property.”

Mr. Graeser continued, “I understand Mr. Smith’s concern that this doesn’t really satisfy the City’s ability to do something about future uses or have a public hearing if some of those more incompatible uses were to occur. And I’m not sure this does address that, other than Mr. Shandler, but we could also impose covenants to allow the City to enforce those. I don’t know if the City gets into that or not. But I do have a concern when you look at the PUD criteria. They just don’t seem to be applicable to this situation. It talks about plan districts, encouraging innovative site planning design, for a project that is superior to the development obtainable under existing zoning regulations and creating unified development that is superior to what would otherwise be attainable. You know, superior is nice, but that’s not what we’re going for here. I don’t think we’re trying to do anything different, anything innovative. We’re just trying to build a parking lot. And I just don’t see the PUD as being applicable or relevant there, also it would be a really small planned unit development.”

Mr. Graeser continued, “There is one gentleman who lives north of the 536 property who was a little concerned about the potential use of the parking lot, and I actually think that *[inaudible]* discussion about using the innovative buffering solution makes a lot of sense there. Rather than just a 15 foot strip, we could talk about getting some really intense plantings there to really block that.”

Mr. Graeser continued, "I think that's about what I have. If you have any questions, Dolores Vigil is here to address any more technical planning questions."

Chair Harris said he is sure there will be questions, but first he wants to open the public hearing portion of the case, and come back to him in a little bit.

Speaking to the Request

All those speaking were sworn en masse

Rachelle Woods, 123 Spruce Street [previously sworn], said she doesn't understand much about the details of zoning, etc, but she works on Hickox, and this is an incredible enlivener in the neighborhood for all the businesses. She said most people who live in the neighborhood patronize the Tune Up Café. She said, "I want the City to support them to do what they can do to keep making us happy."

Jaz Reis [previously sworn], said she lives in the neighborhood, and the Tune Up Café does a great job. She said her only complaint is on street parking. She said, "I hope you will approve this. I don't understand the stuff you've been spending the last half hour talking about, I think it would be great if you approved their plan to add some parking. Thank you."

Matt Kelly, 534 Cortez [previously sworn], said he lives just north of the proposed parking lot. His problem is, as you can see, part of his house is right on the property line, and my house is on the right, and it's right on the property line. He said, "As I understand this program, a 6 foot wall is going to be put up right adjacent to my wall. What I would like, basically, is to maintain access to the wall. Right now, I have to ask a friendly neighbor just to look at the wall even. But if should need some repairs, I would like some break or something in the wall so I could walk around it with a ladder and a wheelbarrow. I just want access to it, and I'm wondering if there could be some bend or something in that wall so I have better access to it, please."

Daniel Werwath, 1726 Agua Fria Street [previously sworn], said you might remember me as having been nominated to your board, prior to a really exciting bit of publicity. I found it interesting to hear your discussion earlier tonight about qualifications for the board. I declined my nomination because, frankly, so I can do what I'm going to do right now, and speak in favor of a small business owner who is successful, trying to be more successful and compatible with their neighborhood and respond to neighborhood concerns. He said, "I have dealt with lots of PUDs. I've done them. They're big. This isn't a planned unit development, this isn't a threshold. There is adequate development review controls, at the permitting level, at special use level. The idea of subjecting this to a planned unit development is burdensome for a small business center. So I'm just here to say, please consider approving this tonight. I think these guys have shown great good faith in working with neighbors, the community and the City, so I hope you will approve it this evening. Thank you."

Raymond Aranda, President, Aranda Plumbing [previously sworn], said he is directly across the street from his good friend and business owners, Charlotte and Jesus. He has known them since they bought the place 8 years ago. He said he has made it a great success. He said it is a wonderful place to eat. They do have a small problem with the parking. He said he has offered his 8 spaces for their use after work, after 5:00 p.m., and on Saturdays after 1:00 p.m. He said Jesus has taken that opportunity for parking, and he has no problem with it. He said Jesus works 7 days a week, and the restaurant is complementary to this small area. Mr. Aranda said he has been in this location for almost 65 years, and it just complements the area. He said, "The reason he should get approval for the parking lot, is because during the work day, he has to park parallel on the north side and parallel on the south side of Hickox. So that little space off Hickox is just for two cars, so that creates a little problem. So by him getting approval to park his other vehicles, what he's proposing now would just be a great help. It would help the traffic. It would just be wonderful for everyone concerned. Having that at Cortez, where he parks, there's a blind parking spot when you're trying to cross because there are cars. So I highly recommend that you approve this request."

Vicky Romero, 528 on Cortez [previously sworn], read a statement into the record as follows: "Walking on Cortez Street toward Hickox, a person must get off the sidewalk and walk on the street. Restaurant traffic parks on the side of the restaurant overlapping not only on the sidewalk, but also on the street. This is dangerous because it's right on the intersection, plus sidewalks are meant for pedestrians. The problem was discussed at the last meeting. A City employee at this meeting said he would discuss the problem with the restaurant owners, get it corrected and let the restaurant monitor the situation. To date, it is the same situation. There are no compact cars only signs, large vehicles park there and most of the time they are overlapping in to the sidewalk and into the street. On Hickox Street, curbs are painted yellow in front of the restaurant and in front of the triplex. This is ignored by everyone. It is dangerous, because traffic going into Hickox does not have a clear view of oncoming traffic. There are always accidents happening at this intersection. We need bump-outs at this intersection. Our street, Cortez Street, is full of cars parked on both sides of the street. This leaves our street a one-way street. If you enter from the north side, you must wait for the south side to clear to continue. Summer is coming on. The situation is going to get worse. The restaurant is open from 7:00 a.m. to 10:00 p.m., sometimes 11:00 p.m. when the last person leaves. This restaurant is open 7 days a week, 15 to 15 ½ hours a day. People throw their cigarette butts, empty miniature bottle and the like for us all to clean up. If you allow them to rezone commercial, please do not do so until you make Cortez Street resident parking only and also install bumpouts on Hickox Street as you get out of Cortez Street. Please do not sentence us to a lifetime of having to put up with Tune Up restaurant traffic."

Dolores Vigil, Liaison Planning Services [previously sworn], read a letter of support for this application into the record from a neighbor, Keren James, urging the Commission to approve this change [Exhibit "11"]. Please see Exhibit "11" for the text of this letter.

The Public Testimony Portion of the Public Hearing Was Closed

Disclosure: Commissioner Kadlubek said, "Before I have any questions or comments about this, I just want to ask Mr. Shandler. I was employed by the Tune Up Café 5 years ago. I have no association currently. I worked for them for about 6 months, and was just wondering if you would consider that to be a conflict of interest. If so, I would happily recuse myself."

Mr. Shandler said, "Mr. Chair, that doesn't rise to a conflict of interest. You can remain as a voting member."

Commissioner Padilla, speaking to Dolores Vigil, said he is looking at two site plans, one before you on the podium and Exhibit A in our packet. He said Mr. Kelly mentioned there is a problem with the property line and the 6 foot wall that's being proposed. He said Exhibit A of the plan which is in the packet, shows the existing building is right on the property line. He said the plan on the screen right now, shows the building off the property line. The concern was being able to have access to the wall. He asked Ms. Vigil to explain and clarify which one of those is accurate.

Ms. Vigil said, "When we drew up the site plan, we actually had to work off an old survey plat, and we didn't have accurate information. We did have an *[inaudible]* that was done by a surveyor. And he did point out, in his disclosure statement that this was not for development purposes, so we tried to work within our means as best we could. As you know, once the rezoning is approved, we would have to do an official survey. So, for clarification, what we're looking at, is from 'this' corner from the northwest corner of the property to the east, where the neighbors' home actually touches the property. I believe his house is actually on the property line. So what we're proposing to do is to put a 6 foot long, from 'here' to 'here,' leave it open and then another 6 foot long from 'here' to the edge of the sidewalk."

Commissioner Padilla said, "Right now, you see the existing building off the property line."

Ms. Vigil said, "Right, but it is actually on the property line."

Commissioner Padilla said, "Then Mr. Kelly would have access to the south side of his residence which abuts what you are calling the property line."

Ms. Vigil said, "Yes sir. If you would see 'here,' there's a wall that goes along, that's where we assume the property line is. So we just have it on our property, the 6 foot wall, and leave that portion of the wall open so he would be able to access his property."

Commissioner Padilla said, "In reference to the comment from Mr. Aranda. Mr. Aranda had mentioned that there is after hours use of parking in that lot. Approximately how many spaces are in Aranda Plumbing's parking lot."

Ms. Vigil said, "He said 8."

Mr. Padilla said, "And I guess Mr. Graeser, question, are those parking spaces compensated or are they provided to the Tune Up Café at no cost."

Ms. Vigil said, "No, they have been offered by Mr. Aranda to be used."

Commissioner Kapin asked if the C-2 PUD zoning affect the property value, or have the potential to affect it. She said, "Just to be clear, would a property zoned that way be less valuable than a property just zone C-2,"

Mr. Smith said, "I'm not sure I can answer that question reliably. It is possible it would decrease the value to someone who wanted to change this. It's possible it would increase the value to someone who wanted this specific Ordinance that actually guarantee the particular use is permitted on the property."

Commissioner Kapin said, for clarification, you are requesting that there is a consolidation with the already owned C-2 zoned property, and would "that force that one to be rezoned to something that they didn't... like they didn't purchase it as C-2 PUD zoned property. So you're saying they would have to change that."

Mr. Smith said, "So the C-2 PUD would have to be applied to both properties. If there is not a PUD overlay applied, then the existing Hickox property would simply extend the boundary of the C-2 District to include the new parcel without any overlay district issue being involved."

Chair Harris asked John Romero to speak to the issue of how best to deal with parking and traffic – explain your recommendations.

John Romero, Traffic Engineer, said, "We've dealt with this area in the past, and parking is a problem. So just like everyone explained, because of lack of available parking, people park very close to that intersection and it makes it difficult for people to see when they're exiting Cortez onto Hickox. So we paint the curbs yellow. My understanding is that parking prohibition does get violated. So it's requested that we place all way stops to help prevent the sight distance problem. We haven't recommended it, because it has not met warrants. My opinion is the problem is lack of parking. And the proposed project as presented solves that problem. We receive parking problem complaints on Cortez Street. I think this further does it."

Mr. Romero continued, "Regarding establishing neighborhood parking, the Parking Division currently is working on establishing a policy for that. Because neighborhood parking isn't as simple as placing a sign and having people know who is a neighbor, who is not. Each vehicle has to get a permit, and a lot of times people do not enjoy that added hassle in having to park in front of their house. They're trying to come up with a policy to polls streets to see if that is the consensus of the entire street."

Mr. Romero continued, "Regarding the parking complaint about blocking the sidewalk. As you can see right 'here,' 'this' is where people currently park off Cortez and their vehicles overhang onto the sidewalk. It is one of our conditions that they eliminate those parking spaces. I understand that is on a separate piece of property, than what is being zoned, but to consolidate them, in my opinion, brings that separate property into the fold of this approval. So our recommendation is for them to remove the 3 parkings, and repair the curb and gutter, that way it prevents that parking."

Mr. Romero continued, "The other thing, regarding the delivery trucks, a condition is to have them work with Parking Division to establish a green loading zone, that way it's clear where it is supposed to be. That loading zone can be designated for certain times, so that way patrons of the restaurant can use it during non-loading zone times. So say from 6:00 a.m. to 10:00 a.m., it's a loading zone, after that, it's free parking for anybody. The Parking Division will work with the restaurant owner to try to establish those times that accomplish both parking situations."

Chair Harris asked where would the Loading Zone be. For example, if it was on Hickox in front of the restaurant, that would exacerbate the sight line problems described by some of the neighbors. Do you know where that loading zone likely would be.

Mr. Romero said, "Where they currently load is on the east side of Cortez, but we would go out there and verify that for all those reasons. We would not want to encroach into the existing yellow curbs areas the City has painted, so it would have to be somewhere exclusive of those areas, but obviously with enough room to handle the truck."

Chair Harris said on the east side of Cortez to exit, they would need to travel the distance of Cortez.

Mr. Romero said, "I'm sorry, it'll be on Hickox on the east side of Cortez. We would not put it on Cortez, that's what we're trying to avoid."

Chair Harris said part of the recommendation is the traffic pattern we see with a right turn only exiting onto Cortez. He said reconfiguration of parking spaces is necessary for an entrance and exit onto Hickox. Is that possible.

Mr. Romero said, "I don't know if they have the room. My understanding is what they're trying to do is to address the neighborhood concern that people exiting the restaurant want to use Cortez. In my opinion, that doesn't necessarily happen for people that are parked in there. I think they do experience some restaurant traffic cruising Cortez Street trying to find parking, but I think this is a separate issue. People that are parked in that parking lot, in my opinion, they would go to the most convenient street which would be Hickox. Regardless of what side of town you're going to, Hickox is the most convenient street to use, whether you're going to St. Francis Drive, or on toward Agua Fria or Alameda."

Chair Harris said that pattern still puts traffic on Cortez, right turn only.

Mr. Romero said it is only for a quarter block.

Chair Harris asked, "In your mind, is that preferable to just having an entrance and exit directly onto Hickox. You could pick up some parking space at the end where you turn onto Cortez."

Mr. Romero said, "I would be fine with an exit and entrance."

Chair Harris said you're fine either way, and Mr. Romero said, "Either way."

Mr. Shandler said, "This is to the applicants, but while Mr. Romero is up there. So the Property Management Division has been waiting 3 years for the land swap. So now that you're here, I'd like to know your commitment when that's going to be complete and when you're going to do Mr. Romero's two conditions. Will you give us a timetable."

Mr. Graeser said, "Attorney Shandler, there seems to be a little confusion on who was waiting on who. It's certainly the intention to do that, and the intention currently is to do the entire survey at once, so the survey for the lot consolidation and the land swap at the same time."

Mr. Shandler said, "Can you be a little more specific. A citizen said summer is coming up. Is this going to be resolved. Are you going to do what Mr. Romero wants you to do by the summer time."

Mr. Graeser said the Planner has a better idea on the timing.

Ms. Vigil asked him to repeat that, noting the applicant is here and may want to give you a more definite date as to when that might happen. She said, "I know there are some financial constraints. We're doing development on the property. I would like to say, for the record, that when we first met, I did bring this to his attention, because staff had brought it to my attention and why it's actually part of the condition. And so his intention was to get that done as part of the surveying for consolidation, which makes more sense..... also, I think part of that is that once the rezoning is approved, then they have 30 days to get the consolidation completed. Correct."

Mr. Shandler said, "That's true in the consolidation, but I'm talking about Mr. Rivera getting rid of the 4 parking places, restoring the sidewalk, getting that loading zone. When will we see that."

Jesus Rivera, owner was sworn. Mr. Rivera said, "My intention is to do it at the same time, to start probably with the rezoning."

Mr. Shandler said, "I asked two questions, and one of them was the swapping of the property, you're on City property. The second question though, is when are you going to get rid of those 4 parking spaces and rebuild the sidewalk. When will you do that."

Mr. Rivera said, "Again, when happen the rezoning. Thanks."

Commissioner Padilla said, "On page 13 of 14, in the Conclusion, the second paragraph states: 'Staff supports the proposed rezone subject to the attached DRT Conditions of Approval.' Those conditions include the following, that you stated I believe in your Staff Report. So staff supports the proposed C-2 Rezoning, is what I'm reading in there. Is that correct."

Mr. Smith said, "The conclusion is stated two different ways. On the first page it states that the PUD would be required to enforce compliance with those conditions. As we've discussed, and I believe, that the Applicant has made specific representations about the timing of compliance with those, and what it is to comply with those that have not been in the application materials prior to this point. The staff has more assurances at this point than we have had in the past, and would, no doubt, for the Commission if

they recommend approval of that, the PUD process, staff would still note that it is not clear that we have enforceable deadlines on some of these things, other than the Applicant's statement. But we may defer to the judgment of the Commission and the Council on that issue."

Commissioner Kadlubek said he is new to the process and is trying to figure out the timing of everything. He asked, "Was the applicant, and this is a question for staff, was the Applicant, or was there any point during this application process, that the Applicant could have been made aware of the shift in going to a C-2 PUD, and/or the conditions that you included in here. It seems like a lot of this is sort coming up now, and it seems like this isn't in the best interest of a business that's trying to do what's right for the neighborhood.. That the staff could have sort of led them into a certain direction that could have seen success, and I'm just wondering if there is a chance for that, or if this is the process that this is the moment for that."

Mr. Smith said, "The staff could have done a better job of communicating at the time they finished with the Applicant. They did make the final recommendation available to the Applicant last week. We did have a brief discussion with the Applicant. We advised the Applicant that there are ongoing concerns about the enforcement of the parking and other issues going back to actually prior to the time that the Council adopted the Resolution about the process. So, specifically, on the PUD, that seemed after various discussions that it might be a very appropriate mechanism to ensure enforcement of ongoing concerns they have been discussing, in fact, ever since the building permit was issued for the kitchen expansion in 2008, there have been ongoing discussions about these issues."

Commissioner Gutierrez said, "Mr. Smith the Building Permit was issued in 2008 to expand the kitchen."

Mr. Smith said, "A Building Permit was issued in 2008 to expand the kitchen. We subsequently discovered that there had in fact been another addition that had not gotten the permit, and that is the one that we're discussion is still pending. Staff issued the permit to expand the kitchen and change the seating arrangement in 2008. That was on the west side of the building. The addition on the north side, had been done prior to that, and staff did not discover that no permit had obtained for that until last year, in 2014."

Commissioner Gutierrez said, "Mr. Graeser and Mr. Rivera, you did mention that you would like to further expand the kitchen that you're working in tight quarters. Is this not possible without the use of the second property, Cortez Street property."

Mr. Graeser referred the question to Dolores Vigil.

Ms. Vigil said, "In 2008, they did apply for a permit for an expansion on the dining area only, and an additional bathroom. The kitchen was not part of the application at the time. If you look at the Site Plan, you'll see that within the C-2 on the east side of the property there is a 15 foot setback. So that's approximately 15 feet, so there would be no expansion to that side of the building. The only expansion that would occur would have to go to the north for the kitchen. And it makes sense, because the kitchen is on that side anyway."

Commissioner Gutierrez said without the zoning, the C-2, expansion of the kitchen won't happen .

Ms. Vigil said, "It wouldn't happen."

Mr. Smith said, "If I could respond to Commissioner Gutierrez. Part of the difficulty in correcting the problem in getting an after the fact permit for the kitchen expansion on the north, was that there is a requirement that there be a 15 foot landscape buffer between the Commercial District and the Residential District. So absent approval of the rezoning and consolidation of the property, there would be setback and property line issues, and there also would be buffer issues that could be resolved only by demolishing that addition, or by getting a variance from the Board of adjustment. And so, rezoning will solve the problem. A variance could solve the problem. Demolition of the addition could solve the problem."

Commissioner Gutierrez asked, "With C-2 PUD, will that restrict expansion of the kitchen."

Mr. Smith said, "Depending on how the C-2 PUD was approved, it could set a specific limit on seating capacity, it could set a specific limit on the footprint. The *[inaudible]* I believe is that a substantial expansion is prohibited without an amendment to the PUD Plan."

Commissioner Villarreal said she knows we're not talking about the kitchen expansion this case. She asked, "If there were into the future, an expansion of the kitchen, wouldn't that compromise what you're proposing now as parking spaces. In the area you're looking at parking, and you want to expand something, how would that look like. Wouldn't that compromise the parking in the future."

Mr. Graeser said, "It would be right in 'here.' It's not part of the parking. We're not talking about anything large. It shows you a picture of that kitchen. There would be some spacing here to put a little something. That's what they would like to do if they could afford it at some point."

Commissioner Villarreal asked Mr. Graeser if there is the possibility of an in/out to Hickox, and asked if he has explored that as an option instead of using Cortez as an exit.

Mr. Graeser said this design was developed in consultation with City staff, to make something acceptable to City staff, and it would be reasonable to try to redesign it if that is a direction.

Commissioner Villarreal asked, "But in your expertise, given the space in the current parking area and going into the new parking area, what is your opinion about that option."

Mr. Graeser said Ms. Vigil has a sketch of something that would work doing that.

Dolores Vigil said, "It's redlined all over the place, but this is one of the site plans we've drawn up and worked out. Really, actually, we were trying to avoid going onto Cortez in the beginning. And after meeting with staff and Traffic Engineer, they recommended we go onto Cortez as a right turn only. We might be able to meet that criteria of going in and out through Hickox. Here's another one which actually shows the parking spaces."

Commissioner Villarreal asked Mr. Rivera's opinion about going in through the current parking lot, going towards the back and what it looks like when people are exiting through the old parking lot.

Ms. Vigil said, "One thing we found out when doing this study is that we'll lose a couple of parking spaces along 'here' because of the width, but we'll end up with maybe two tandem parking spaces on the west side of the existing parking lot."

Commissioner Villarreal said then it would take away existing parking spaces, and asked if that would add to the new parking area.

Ms. Vigil said they may be able to get one more in the back.

Commissioner Villarreal asked what would be the total parking spaces under this scenario.

Ms. Vigil said approximately 12 with one handicapped space, versus 15 originally.

Commissioner Villarreal said she knows the area and is a patron of the restaurant, commenting that Cortez is a difficult street because it's narrow. She said Cortez is an issue and asked John Romero to elaborate on the issue Ms. Romero brought up about the bump-outs and if that is a possibility and what that would look like.

Mr. Romero said he thinks what she is talking about is a bulb-out in the area of "No Parking," that way people can't park there. He said, "On the Hickox, I'm not sure if that would fix what she's talking about parking on both side. We would have to prohibit parking on one side of the street, and in a lot of our older streets in the City, we basically take the stance of 'leave well enough along.' Because they were build back when we didn't know better about wide to build our streets. Back to what Dolores said about staff's direction to do an entrance and/or exit onto Hickox. The kind that she showed, cut off 'here' parking all the way to the end. In addition to having 3 less parkings, if someone can't find parking they have to back all the way out. And in order to avoid that, we would have to get rid of even more to make a turnaround. To me, to get the most bang for our buck and to fix what I really think is the major problem in this area of off street parking, was to allow that access point onto Cortez."

Commissioner Villarreal said that is what she was getting at, but she wanted him to explain that, since we didn't have another option. She noted what he sketched out, is that the area he said is painted yellow in front of the restaurant on Hickox.

Mr. Romero said it might not be that far, and he is unsure of the extent, but it's not to scale.

Commissioner Villarreal said, "I guess in my opinion, because there will be additional parking and Mr. Aranda has generously offered his spaces primarily for evening patrons, the other property I believe functions in the same. They close at 5:00 p.m., and there is additional parking. It's really lunch that's problematic. I think if there is a way to see that this goes with additional parking then consider in the future if there is a need for resident only parking, let's see efforts that are more elaborate than just putting up a sign and saying residents only. The residents have to go through the process of getting permits and it's

not easy, and she thinks people who have lived in other cities realize that's not a fun process."

Commissioner Chavez asked, regarding the recommendation for the C2 PUD zoning, what the concerns of staff are. Is it concerns about enforcement of the current plan and making sure it is enforced as we oversee it, or is it concerns about future use if we expand that property into C-2 and the possible uses for that property might be altered by being expanded.

Mr. Smith said, "In thinking of an answer to the multiple part question. The first part is we are concerned about being able to ensure that the plan being discussed currently will be the plan that is built, and concern if there is not some restriction on the use in the form of PUD or some other way, that there is a potential that, first this plan would occur, and second that other things might occur which would have adverse impacts on the neighborhood, such as significant expansion of the seating capacity of the restaurant, modification or changes to use that could include, hypothetically, tearing down the build and construction of a 2-3 story office or other type of building in its place. As Mr. Graeser pointed out, if you look at the list of possibles in the C-2, there are some that would be more objectionable than a restaurant there, and many that would be less objectionable. The PUD would provide a public hearing process that would ensure a public process before any significant change to the use occurred."

Commissioner Chavez asked if the business maintained the C-2 zoning, for example, what process would be necessary to tear down the building and rebuild.

Mr. Smith said, "If the square footage of the new building was less than 10,000 sq. ft., it would be to update a building permit for most of the uses. Some of the uses, such as a nightclub, would require a special use permit. A mini-office and retail and personal service type uses would not require a special use permit, but there would be no public hearing process whatsoever."

Mr. Smith said, "Just briefly in response to previous questions about the two-way versus the one-way parking, the practical difference might be to allow the increase of one space net. The other practical impact could be to eliminate 10 fee of landscaping between the parking lot or between the parking lot and the property line. The driveway is more narrow on the one way driveway than the driveway that would be required for a two-way driveway."

Chair Harris said earlier Mr. Graeser said he wanted to respond to some of the neighbors comments and asked if he would like to do so now.

Mr. Graeser said, "I think a number of them were addressed. Mr. Kelly is concerned about access to the back of his house, and we certainly can take care of that. And then again, I think the innovative site design with buffering so there wouldn't be a wall, but probably some landscaping there, so he isn't looking at the parking lot. I think that was addressed.

Mr. Graeser continued, "Ms. Romero had three primary concerns. One was not having a sidewalk on Cortez and that's going to be addressed because those parking spots will go away and the sidewalk will be restored there."

Mr. Graeser continued, "To address Attorney Shandler's concern, I talked to my client and this will all be done at the same time, when all the approvals are done, the parking lot gets built. Those parking spots will be removed, the sidewalk will be built. It will all be done at the same time."

Mr. Graeser continued, "Ms. Romero had a concern about the sidewalk and folks parking on Cortez which is something we're trying to address by adding a number of spots and hopefully making that happen. She had concern about trash, and whether or not that's coming from Tune Up, we can't say, but Jesus did say he will send an employee out on a regular basis to pick up trash on Cortez just as a good neighbor gesture. Those are what I wanted to address. Yes I think that takes care of it unless you have questions."

Chair Harris asked if Ms. Romero would like to speak.

[Ms. Romero's remarks here were for the most part inaudible.] Ms. Romero said something about the bumpouts on Cortez. She said, "Looking west toward St. Anne's Church, same thing, right on that intersection you can't see and I would suggest bumpouts on both sides so that you have a clear view of the traffic coming."

Commissioner Kadlubek said earlier Mr. Romero had said an all-way stop wasn't warranted, and asked what warrants an all-way stop.

Mr. Romero said the primary warrant for it is the amount of side street traffic. The reason for that is that it is as a federal requirement, and secondly, if they didn't use that, they would have stop signs at every single intersection. People would ignore them because there is a lot and because there's not enough side street traffic to "keep them honest," so it ends up creating more crashes than what you try to prevent.

Commissioner Kadlubek asked if pedestrian traffic is considered for all-way stops, or would that be a crosswalk. He said for this property, off-street parking happens on the south side of Cortez and if you're crossing to walk to Tune Up, to him that the most dangerous component.

Mr. Romero said they don't put stop signs for traffic calming, because there is an area on Galisteo at Coronado where they put an all-way stop to slow down traffic, and we were requested to remove it because it was a nuisance. He said, "The City had measured before speeds, and we now measured after speeds and it didn't change them which is consistent with national studies. As far as ease of getting across the street, the way we would measure it is the number of sufficient gaps for pedestrians to cross, and it's a function of how far they have to cross, and we measure gaps in traffic. I would think there would be enough gaps in this area. To put it in perspective, we recently did a gap study on Rodeo Road across from Genoveva Chavez Center, and granted there you only have to cross one direction at a time and there are signals metering it, that one met enough gaps to allow 60 opportunities within an hour for a pedestrian to cross, so I would think this pace would be sufficient."

Commissioner Kadlubek said in looking at the parking table, there is different criteria for parking for a restaurant and a different criteria for an eating and drinking establishment and asked the difference between the two.

Mr. Smith said that language was adopted into the Code at various times starting in 1962, and at this time, the practical answer is nobody knows for sure. In 2008, the staff approved the permit for the *[inaudible]* expansion. We looked at the number of spaces and found that the existing parking lot on the premises met that requirement. There was a period of time before that, when the unwritten policy was to use the higher of the two requirements. He said the Commissioners and staff have said that we need to look at the parking requirements, and that is still true.

Commissioner Padilla said, regarding page 3 of 14, under Item D, paragraph 2, it addresses seating capacity, parking, and the seating capacity is up to 40 inside with up to 19 outside, so a total of 59 patrons. He said the requirement for parking is being calculated on the 1 space per 200 sq. ft. of net usable area. He asked the required parking for this side.

Ms. Wynant said, "This is the crux of the problem. We looked at the number of parking spaces which was 1 for 200, that's the least intense of the calculations. It came out to be about 7 parking spaces, and 1 per 50 was 30 spaces. So really, even with the expansion of the new parking lot, it's not meeting the parking requirement I've calculated by 1 per 50." She said it's not enough parking for everything that's going on there, permitted or unpermitted, and it makes a big difference as to what factors are used. There are minimum standard, and then there is the reality of business doing its day to day operation and you can see the results. There's just not enough parking there."

Commissioner Padilla said right now the Tune Up Café at 1115 Hickox is not compliant, it is basically a non-conforming site and a non-conforming use in terms of parking. He said the rezoning and the addition of 8 parking spaces gives them a total of 15, and even at that point it still would not be in compliance with the required parking. It would alleviate some of the issues, but even with the expansion it would continue to be non-conforming. Correct."

Mr. Smith said, "I would like to say officially in the record, that staff is of the opinion that the parking is legally non-conforming because in fact it was City staff that issued the permit for the current pricing capacity with that number of spaces. Our record does not clearly show whether the employee who issued the parking determined that it was conforming to the standards based on 1 per 200, or whether they give them credit for previous non-conformities, or made some other interpretation. I think it's clear that had we to do it over again, we would have applied the higher parking requirement before we issued the permit."

Chair Harris said we've heard what can be done in C-2, many of which are entirely inappropriate. He said we also heard Mr. Graeser say they would look at some limitations on the uses. He said, "And my question to you, perhaps, Mr. Shandler because I also heard Mr. Smith say that it's unclear how far a commission can go, as an advisory body in terms of limitations on the property. He asked if there is a defensible mechanism, covenants being negotiated to run with the property, if it were to be zoned straight C-2.

Mr. Shandler said, "It's the City Attorney's position that the City is not going to get involved with that. If the private parties want to do that, they can, but the City is not going to put limits on zoning."

Chair Harris said we really would have to accept the parties representations about what they're willing to do. Trust.

Mr. Shandler said, "There was some discussion earlier about there are mechanisms that are in place, and that's why the City Attorney's Office position is that you cannot put limits on zoning."

Chair Harris said he understands, but he is bothered because there seems to be a pattern of improvements and uses, seating area and other things that were conditions that were applied earlier that haven't been met. If it boils down to negotiations between the parties, we have to disregard that pattern in some ways, and asked if Mr. Graeser would like to respond.

Mr. Graeser said he understands the Chair's concerns. He said as parties, we have a full legal right to impose covenants to enter into a contract, and can see a number of different avenues to getting there, with members of the neighborhood who are concerned about some of those uses. They are willing to strike out a whole lot of those uses by covenant or private contract, which isn't something the City can enforce, but "certainly the folks who live in the area who are concerned about it can enforce that."

Mr. Graeser said his point about the case on Hands of America was that by the time they finished the process the parties had developed such trust that no one was requiring a contract. They were just happy with me standing up and saying, "We're not going to put in a kennel here. We make that commitment. They are fine." He isn't suggesting that anyone has to trust them in this case, but he is suggesting they can impose privately negotiated covenants as restrictions on the land.

Chair Harris said the conversations would be with concerned neighbors primarily on Cortez. He asked if there has been discussion with a formal neighborhood association.

Mr. Graeser said, "As far as I know there is no formal neighborhood association. Part of what we're dealing with here are the City staff's concern about potential other future uses, knowing the neighborhood has expressed concerns about potential future other uses, but we're saying we are happy to address them despite that."

Chair Harris said he wants to be sure everyone understands what Mr. Smith said earlier, and we can ask him to reiterate that. He said boils down to a recommend for approval with conditions. He said, "There are some qualifying statements in there that don't clearly come across as recommendations for C-2 PUD."

Mr. Smith said, "I'll see if I can state it even more simply than previously. Essentially the core of the findings to approve the General Plan Amendment and the Rezoning are compatibility with surrounding uses. The Applicant had the opportunity to file an application that would have provided a legally enforceable Development Plan that could only have been changes at a public hearing process. The Applicant chose not to do that. The Commission needs to decide whether, in their judgment, the finding of

compatibility with surrounding land uses can be made for a C-2 rezoning that does not include any enforceable Development Plan or other restriction on how the property would be used in the future, short of simply complying with the Code requirements in effect for C-2 Districts."

Commissioner Gutierrez said, "Two issues, parking and a kitchen, are those your two issues."

Mr. Graeser said, "Those are the two primary issues facing the use of that property, yes. It has a really small kitchen, and that's not what we are here for, but we want to put it out there because that is a concern of something we would like to deal with at some point. Parking is the primary one, buying that lot next door and turning it into a parking lot seemed to be the best way to address that."

Commissioner Gutierrez said, listening to Mr. Smith earlier, "with the PUD you can address the parking and you may be able to address the addition of space for the kitchen. He asked, "How do you guys feel about taking this back and talking with City staff about addressing both those concerns at once."

Mr. Graeser said, "We would disagree with that. We objected during the process for several reasons. The first is it is someone onerous to go back, start over and go through the whole PUD process. The second is it unfairly limits the potential use of the property that is currently zoned C-2, and could be used for a wide range of uses that may be very appropriate for that property, if as I said, this restaurant does not end of being there forever. There are number of other uses allowed in the C-2 Use List that this property could be used for, and it's simply not one thing."

Commissioner Gutierrez said, "Mr. Smith on the second property, if it went PUD, if you guys could work something out, could he keep the zoning on the C-2 zoning in the front."

Mr. Smith said, "I do not think that would practically effective. I had not thought about that. I believe it would not meet the rezoning criteria unless they were consolidated, and consolidation would prevent the two different districts. In other words, one lot could not be zoned partly C-2 PUD and partly C-2, and so. It's an interesting suggestion, although I don't think it would practical in terms of Code compliance, and it layers more obstacles that we can solve."

Commissioned Schackel-Bordegary said, "This has been a neighborhood community building business. I understand the legal zoning issues here. I do not see the value or utility of applying onus zoning onto this to change something in real time that is community. So, I'm in my last few meetings on the Planning Commission, so I'm going out on a limb to say this and I don't ever want to see parking requirements prevent businesses and neighborhoods from having businesses in them. It's the beauty of Santa Fe. We should not separate uses. We should not prevent businesses from conducting themselves if they don't have parking that meets whatever Codes, arcane and otherwise that we have in this. So, I've had it with the Code. And I don't want to see a business not to be able to stay in the neighborhood because of parking or traffic. So get it back guys. Santa Fe developed mixed use, okay. This is my second to the last meeting on the Planning Commission, and I've got leave to go put my daughter to bed. So you guys carry on, you're doing great and that's all I've got to say. We didn't have a lot of neighborhoods serving businesses. I've got no restaurants out on Rodeo Road I can walk to. None. Yucca. Rodeo. None. Subway, maybe. Okay, bye, good night."

Commissioner Schackel-Bordegary departed the meeting

Chair Harris thanked Commissioner Schackel-Bordegary.

Commissioner Chavez said she also thinks she is inclined to trust these business owners, especially given the testimony of the community. She said, "I think they are acting in good faith, and I am inclined to forward with the requirements in the DRT conditions of approval, but to keep the C-2 zoning in that. And how to construct that as a motion."

MOTION: Commissioner Chavez moved, seconded by Commissioner Kadlubek, to recommend approval of Case #2015-330, Tune Up Café General Plan Amendment to the Governing Body, to change the parcel of land from low density to Community Commercial.

VOTE: The motion was approved on the following Roll Call vote [7-0]:

For: Commissioner Villarreal, Commissioner Chavez, Commissioner Gutierrez, Commissioner Kadlubek, Commissioner Kapin, Commissioner Ortiz and Commissioner Padilla.

Absent for the vote: Commissioner Schackel-Bordegary.

5. **CASE #2015-31. TUNE UP CAFÉ REZONING. LIAISON PLANNING SERVICES, INC., AGENT FOR JC RIVERA LLC, REQUESTS REZONING OF 0.13± ACRES OF LAND FROM LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS PER ACRE) TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 536 CORTEZ. (DONNA WYNANT, CASE MANAGER)**

MOTION: Commissioner Chavez moved, seconded by Commissioner Padilla, to recommend approval of Case #2015-31, Tune Up Café Rezoning, 536 Cortez Street, with all staff conditions of approval set out in the Staff Report and with a clarification by the second "that the conditions of approval are noted on page 13 of the Staff Report [Exhibit "10"] where it states 4 bullet items and the attached DRT conditions."

DISCUSSION: Mr. Smith said, "For the record and for the Recording Secretary, I would qualify that staff conditions of approval are recommended in Section 6 of the Staff Report [Exhibit "10"] on page 13, at the bottom and immediately following pages, Exhibit A, Exhibit E(1) and B(2), include conditions of approval recommended by staff, apart from the PUD."

VOTE: The motion was approved on the following Roll Call vote [7-0]:

For: Commissioner Villarreal, Commissioner Chavez, Commissioner Gutierrez, Commissioner Kadlubek, Commissioner Kapin, Commissioner Ortiz and Commissioner Padilla.

Absent for the vote: Commissioner Schackel-Bordegary.

MATTHEW J. KELLY, M.D.
1114 Hickox
Santa Fe, New Mexico 87501
(505) 982-9961

RECEIVED

JUN 30 2015

Land Use Dept.

Date: June 26, 2015

To: Santa Fe City Council

re: Case #2015-30 and Case #2015-31

In the proposed amendment and rezoning, the lot at 536 Cortez St. is to be rezoned from R5 to C2.

My home is the adjacent lot at 534 Cortez St. My house's south adobe wall encroaches onto the lot of 536 Cortez.

There is a proposed 6 foot solid masonry wall to be built between the commercial and residential zones. In the site plan the proposed wall is exactly adjacent to my house's south wall. This possibility would make access to my wall impossible. I spoke at the planning commission meeting in an effort to foreclose this option. The commission was assured that the proposed wall would not be adjacent to my wall, but rather the solid masonry wall would include my adobe wall. My house wall would then be exposed to the risk of being struck by a vehicle in the proposed parking lot. My wall needs protection from this possibility.

My position is:

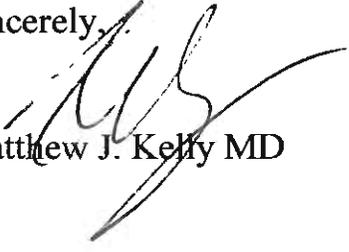
1. Preservation of my access to the south wall of my house.
2. Protection of the south wall of my house from vehicle damage.

Since a wall and green area are to be established between commercial and residential zones, perhaps the wall should be moved sufficient distance from my adobe wall so as to protect it and maintain access. I am willing to maintain the green zone on my side of the proposed wall.

I spoke recently with Jesus Rivera of the Tune-up. He said he would talk to his lawyer about an easement, but I have heard nothing more about this.

This proposed rezoning places part of my residence in a commercial zone. If I am not able to maintain reasonable access and protection, then I ask that you deny the request to rezone 536 Cortez St.

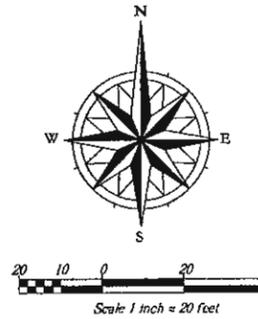
Sincerely,


Matthew J. Kelly MD

LOT CONSOLIDATION
SURVEY PLAT
OF
LOT 12 and LOT 13
JC RIVERA LLC, A New Mexico Limited Liability Corporation
Lying and being situate within Lot 12 and Lot 13, Block 2, of the Agua Fria Addition, Number 1, by the Santa Fe Holding Company, Ward No. 3, City of Santa Fe, State of New Mexico.

LOT 12, Block 2 Area = 0.14 Acres ± - U.P.C. Number 1-053-098-188-504
LOT 13, Block 2 Area = 0.14 Acres ± - U.P.C. Number 1-053-098-190-501

TOTAL AREA = 0.28 Acres ±



OWNERS CONSENT

Know all Persons by these presents:

The undersigned land owners and proprietors of Lot 12 and Lot 13 of the Agua Fria Addition do hereby consent to the Platting of the lands as depicted on the plat hereon. This Lot Consolidation has been prepared with the free consent and in accordance to the wishes and desires of the undersigned land owners. The lands depicted on the plat hereon lie within the planning and platting jurisdiction of the City of Santa Fe, State of New Mexico.

JESUS RIVERA, AGENT FOR
JC RIVERA, LLC a New Mexico Limited Liability Corporation

STATE OF NEW MEXICO
COUNTY OF SANTA FE

The foregoing instrument was acknowledged and sworn to before me this _____ day of _____ 15,
by Jesus Rivera.

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

CITY OF SANTA FE REVIEW

CITY OF SANTA FE LAND USE ENGINEER

CITY OF SANTA FE PLANNER

SANTA FE COUNTY TREASURER'S OFFICE

CITY OF SANTA FE NOTES AND CONDITIONS:

- The property as depicted is Zoned C2 (PUD) Office and Related Commercial Extraterritorial Land Use Authority Ordinance No. 2009-01. Refer to Zoning Atlas Index I-17.
- Property Development is required to comply with the provisions of each applicable City of Santa Fe Ordinance adopted prior to plat and/or Development Plan Recording with Santa Fe County Clerk or submittal for a building permit application that modifies any provision of Chapter 12 Development Code, SFCC 1987 and subsequent amendments.
- Buildable areas for platted parcels will be determined at the time of Building Permit Application as detailed in the Santa Fe Land Development Code.
- The recording of this Consolidation Plat does not constitute approvals by the City of Santa Fe of any, or to any encroachments into other lands private or public.

SURVEYORS CERTIFICATE

I, Salvador I. Vigil, a Registered New Mexico Professional Surveyor do hereby certify that this Lot Consolidation Survey Plat was prepared from an actual field survey performed by me or under my direct supervision on July 15, 2015. The boundaries as depicted on the plat hereon were established using found monuments and documents of record. This survey is not a Land Division or Subdivision as per the New Mexico Subdivision Act. This survey meets the minimum standards for surveys as set forth by the New Mexico Board of Licensure for Professional Surveyors and Engineers.



PRELIMINARY SURVEY FOR REVIEW 7-16-2015

Salvador I. Vigil, NMPS 10988 Date

LAND SURVEYING COMPANY, L.L.C.

SALVADOR I. VIGIL, NMPS 10988 505-473-0003
P.O. BOX 4384
SANTA FE, NEW MEXICO Cellular 505-603-1511

PREPARED BY	S.I. Vigil, NMPS	SANTA FE COUNTY CLERK'S INDEX INFORMATION
DATE	JULY 15, 2015	Jesus and Charolett Rivera
PROJECT No.	L-2719/PLAT	Lot 12 and Lot 13, Block 2, Agua Fria Addition
CHECKED	S.L. Vigil, PM	405 Salazar Place and 1115 Hickox Street
SHEET No.	One	City of Santa Fe, State of New Mexico

EXHIBIT 140

DOCUMENTS REFERENCED

PLAT: Boundary Survey for Anna A. Baylor as filed for record in the Office of the Santa Fe County Clerk in Book 652, Page 003, as certified by Philip B. Wogel, NMPS 9768. Dated April 19, 2007.

PLAT: Agua Fria Addition, Number 1 by the Santa Fe Holding Company, Ward Number 3, as filed in the Office of the Santa Fe County Clerk in Book 3, Page 377, as certified by Walter G. Turley, NMPS 95. Dated May 7, 1930.

Warranty Deed: Book 2335, Page 635.

Warranty Deed: Instrument No. 1515451

LEGEND

Bearings are derived from a three hour static observation, applying grid to ground state plane (NAD 83) New Mexico Central Zone Coordinates Geodetic local position using GPS RTK Topcon Hiper+, (N.82°50'36"E.) distances are ground - bearings are grid.

- Monument found number 4 rebar with 5217 cap or "X" in concrete or as noted.
- Monuments set, no. 4 rebar with 10988 cap or mag nail with 10988 shiner set in concrete.
- City of Santa Fe aluminum cap found and used as noted.
- ☼ Light Pole
- Overhead utility line with power pole.
- et Electric Meter
- co Cleanout plug
- wm Water Meter

SURVEYORS NOTES

Every document of record reviewed and considered as part of this survey is noted hereon. Only those documents noted hereon were supplied to the surveyor or as researched by Land Surveying Company, LLC.

Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence or other facts that an accurate and current abstract may disclose.

The lands as depicted on this plat hereon are rated Zone "X" as per FEMA this is an area determined to be outside the 0.2% annual chance floodplain. See FIRM Panel No. 350049C 0412E, Effective date December 4, 2012.

STATE OF NEW MEXICO }
COUNTY OF SANTA FE } ss

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED

FOR RECORD ON THIS _____ DAY OF _____

A.D., 2015 AT _____ O'CLOCK _____ M., RECORDED

IN BOOK _____ PAGE _____ AS

DOCUMENT No. _____ IN THE OFFICE

OF THE COUNTY CLERK OF SANTA FE COUNTY, STATE OF

NEW MEXICO.

WITNESS MY HAND AND SEAL OF COUNTY OFFICE
SANTA FE COUNTY
GERALDINE SALAZAR

DEPUTY CLERK

