City of Santa Fe, New Mexico

memo

DATE: July 8, 2015 for the July 29, 2015 City Council meeting

TO: Mayor Javier M. Gonzales
Members of the City Council

VIA: Brian K. Snyder, P.E., City Manager BKS
Lisa Martinez, Director, Land Use Department
Greg Smith, AICP, Director, Current Planning Division GS

FROM: Zach Thomas, Senior Planner, Current Planning Division ZT

Case #2015-20. 600 Galisteo Street General Plan Amendment. Eva Parker, Trustee for the Lucy C. Ortiz Estate, requests approval of a General Plan Amendment to amend the existing General Plan Future Land Use designation for a 5,581 square foot lot from Moderate Density Residential to Community Commercial. The property is located at 600 Galisteo Street. (Zach Thomas, Case Manager)

Case #2015-21. 600 Galisteo Rezoning. Eva Parker, Trustee for the Lucy C. Ortiz Estate, requests rezoning of a 5,581 square foot lot from R-21 (Residential – 21 units per acre) to BCD (Business-Capitol District). The property is located at 600 Galisteo Street. (Zach Thomas, Case Manager)

I. RECOMMENDATION

The Planning Commission recommends **APPROVAL** to the Governing Body. Staff agrees with the recommendation of the Planning Commission. Two motions will be required in this case, one for the General Plan Amendment and another for the Rezoning.

The Planning Commission unanimously (5-0) recommended approval of the General Plan Amendment and Rezoning, finding that the application meets all code criteria.

II. APPLICATION OVERVIEW

Although it is located in a residential zone, the structure on the 600 Galisteo property was neither constructed as a residence, nor has it ever been used for residential purposes. The property housed multiple businesses for approximately 70 years until a year after the frame

shop moved out in the mid-2000s. While not consistent with the residential zoning, the commercially operated property maintained its non-conforming status until the frame shop moved out. Once the structure remained unoccupied for more than one year, the right to reestablish the non-conforming use was lost (SFCC §14-10.2(C)).

The commercial structure has remained vacant for approximately 10 years. As stated by the applicant, they have been unable to sell the building for the limited types of non-residential uses allowed in the R-21 zone, and they believe that conversion to residential use is impractical. Staff would note that the existing building is legally nonconforming with regard to setbacks and several other development standards under the current R-21 zoning, and would also be legally nonconforming with regard to parking and other standards under BCD or C-1 zoning. The applicants, trustees of the estate that owns the property, seek the general plan amendment and rezone in order to sell the property.

While the property is within the R-21 (Residential – 21 units per acre) zoning district, a variety of commercially zoned land (C-1 and BCD) is in close proximity to the property. The BCD zoning district generally follows the boundary of Paseo de Peralta within this area of the City (See Planning Commission Staff Report, Exhibit C2). Only the adjacent BCD zoning district, across Paseo de Peralta, could be requested pursuant to SFCC §14-3.5(C)(2)(b), which requires zoning districts to be at least two acres in size under most circumstances. The property is separated from other C-1 zoned lots by a single parcel to the west.

The owners of the property were originally interested in rezoning to C-1, which would allow a number of low intensity, non-residential uses, including professional offices (See lists of R-21 and C-1 permitted uses, Planning Commission Staff Report, Exhibit D).

Pursuant to SFCC §14-3.5(B)(2)(b) and 14-3.5(C)(2) *the governing body may approve a rezoning to a less intensive zone district than originally requested by the applicant*, namely C-1. The C-1 zoning district permits a variety of lower intensity commercial uses such as art galleries, gift shops and small offices which is consistent with the historic use of the property as a photography studio and frame shop. The Governing Body could approve C-1 if they determined that SFCC §14-4.3(A) and applicable General Plan policies support the use of the C-1 zoning district as a "transitional buffer between more intense commercial use districts and residential districts."

An Early Neighborhood Notification meeting was held on August 19, 2014 at the main library. Fourteen people were in attendance, including the applicants and public. Substantial discussion regarding the rezone occurred. One immediate neighbor was strongly opposed to the rezone. The remainder of the public did not strongly oppose the rezone but rather focused on addressing concerns associated with the rezone (traffic, noise, garbage), while not wanting to prevent use or sale of the property (See Planning Commission Staff Report, Exhibit E).

III. SUMMARY OF PLANNING COMMISSION ACTION

The Planning Commission recommended that the City Council approved the requested General Plan Amendment and Rezone. However, the Planning Commission also recommended that the City Council explore or consider the less-intense C-1 zoning district per SFCC §14-3.5(B)(2)(b) and 14-3.5(C)(2). Neighbors who testified at the commission hearing

also raised concerns about the intensity of development that might occur with commercial zoning.

ATTACHMENTS:

EXHIBIT 1:

a) Findings of Fact and Conclusions of Law
b) General Plan Amendment Resolution
c) Rezoning Bill

EXHIBIT 2: Planning Commission Minutes April 2, 2015

EXHIBIT 3: Planning Commission Staff Report Packet April 2, 2015

City of Santa Fe, New Mexico

City Council

Exhibit 1

a) Findings of Fact and Conclusions of Law

ITEM # 15-0322

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

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

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

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

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

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

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

FINDINGS OF FACT

General

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

5. Code §14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [§14-3.1(E)(1)(a)(i)]; (b) an Early Neighborhood Notification (ENN) meeting [§14-3.1(F)(2)(a)(iii) and (xii)]; and (c) compliance with Code Section 14-3.1(H) notice and public hearing requirements.
6. A pre-application conference was held on July17, 2014.
7. Code §14-3.1(F) establishes procedures for the ENN meeting, including (a) scheduling and notice requirements [Code §14-3.1(F)(4) and (5)]; (b) regulating the timing and conduct of the meeting [Code §14-3.1(F)(5)]; and (c) setting out guidelines to be followed at the ENN meeting [§14-3.1(F)(6)].
8. An ENN meeting was held on the Application on August 19, 2014 at the Main Branch Public Library on Washington Street.
9. Notice of the ENN meeting was properly given.
10. The ENN meeting was attended by the Applicant and City staff; there were fourteen (14) members of the public in attendance, including representatives of the Applicant.
11. Commission staff provided the Commission with a report (Staff Report) evaluating the factors relevant to the Application and recommending approval by the Commission of the proposed Plan amendment and the rezoning, subject to the conditions set forth in the Staff Report (the Conditions).

The General Plan Amendment

12. Code §14-3.2(B)(2)(b) requires the City's official zoning map to conform to the Plan, and requires an amendment to the Plan before a change in land use classification is proposed for a parcel shown on the Plan's land use map.
13. The Commission is authorized under Code §14-2.3(C)(7)(a) to review and make recommendations to the Governing Body regarding proposed amendments to the Plan.
14. The Commission has considered the criteria established by Code §14-3.2(E)(1) and finds the following facts:
    (a) *Consistency with growth projections for the City, economic development goals as set forth in a comprehensive economic development plan for the City, and with existing land use conditions, such as access and availability of infrastructure [§14-3.2(E)(1)(a)].* The Property was developed in the mid-1930s for commercial use and has been utilized for commercial uses continuously since then until vacated in the mid-2000s by its last commercial occupant. It has remained vacant since, reverting after one year to residential-use zoning pursuant to Code § 14-10.2(C). The Property has never been used for residential purposes. Other properties on the south side of the Paseo in close proximity to the Property are developed with a variety of commercial and office uses. The redevelopment and reuse of the Property for office and low-intensity commercial use is consistent with its prior commercial uses as set out in the Staff Report, and with the Plan, which encourages a mix of uses in all new and existing neighborhoods and the protection and conservation of neighborhood character. In accordance with testimony at the Hearing, limited commercial, office and similar low-intensity uses were consistent with the historic character of the neighborhood and were not objectionable to most neighborhood residents. Testimony also indicated that the Property has become a magnet for vandals and vagrants as a result of the approximately ten-year vacancy and is not

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

(b) *Consistency with other parts of the Plan [§14-3.2(E)(1)(b)].*
The proposed amendment is consistent with provisions of the Plan that encourage the protection and maintenance of neighborhood character, promote mixed-use neighborhoods and economic diversity and support the location of professional and administrative offices in and near neighborhood centers. The Property's orientation to the Paseo, a major arterial street and its close proximity to a variety of commercial and office uses, together with its historic use for commercial purposes and the small size and nonconforming character of the Building, which mitigates against expansion, as well as other physical constraints on future development, including limited parking, support the proposed amendment.

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

(d) *An amendment is not required to conform with Code §14-3.2(E)(1)(c) if it promotes the general welfare or has other adequate public advantage of justification [§14-3.2(E)(1)(d)].*
Although the proposed amendment conforms with Code §14-3.2(E)(1)(c), it also promotes the general welfare and is otherwise advantageous to the public, based on testimony at the Hearing, including, without limitation, from representatives for the Don Gaspar Neighborhood Association, the Don Diego Neighborhood Association, and the Neighborhood Network, which indicated substantial support for the use of the Property for an appropriate low-intensity commercial or office use consistent with the Property's historic use and the neighborhood's historic character.

(e) *Compliance with extraterritorial zoning ordinances and extraterritorial plans [§14-3.2(E)(1)(e)].*
This is not applicable.

(f) *Contribution to a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity or the general welfare as well as efficiency and economy in the process of development [§14-3.2(D)(1)(e)].*
The proposed amendment will contribute to a coordinated, adjusted and harmonious development of the City in that it is consistent with the policies of the Plan as set forth in paragraph 14(a)-(d) above and in the Staff Report.

The Rezoning

15. Under Code §14-3.5(A)(1)(d) any person may propose a rezoning (amendment to the zoning map).
16. Code §§14-2.3(C)(7)(c) and 14-3.5(B)(1)(a) provide for the Commission's review of proposed rezonings and recommendations to the Governing Body regarding them.
17. Code §§14-3.5(C) establishes the criteria to be applied by the Commission in its review of proposed rezonings.
18. The Commission has considered the criteria established by Code §§14-3.5(C) and finds, subject to the Conditions, the following facts:
    (a) *One or more of the following conditions exist: (i) there was a mistake in the original zoning; (ii) there has been a change in the surrounding area, altering the character of the neighborhood to such an extent as to justify changing the zoning; or (iii) a different use category is more advantageous to the community, as articulated in the Plan or other adopted City plans [Code §14-3.5(C)(1)(a)].*
    The proposed rezoning is more advantageous to the community for the reasons set forth in the Staff Report and in paragraph 14(a) and (b) above and in testimony at the Hearing, including, without limitation, from representatives for the Don Gaspar Neighborhood Association, the Don Diego Neighborhood Association, and the Neighborhood Network, which indicated substantial support for the use of the Property for an appropriate low-intensity commercial or office use, but opposition to BCD zoning due to concerns that BCD zoning, which permits uses permitted in all other districts of the City, would open the door to BCD zoning on other properties in the neighborhood south of the Paseo, eroding the neighborhood's historic character.
    (b) *All the rezoning requirements of Code Chapter 14 have been met [Code §14-3.5(C)(1)(b)].*
    All the rezoning requirements of Code Chapter 14 have been met.
    (c) *The proposed rezoning is consistent with the applicable policies of the Plan [Section 14-3.5(A)(c)].*
    The proposed rezoning is consistent with the Plan as set forth above and in the Staff Report.
    (d) *The amount of land proposed for rezoning and the proposed use for the land is consistent with City policies regarding the provision of urban land sufficient to meet the amount, rate and geographic location of the growth of the City [Code §14-3.5(C)(1)(d)].*
    The Property is a 5,581 SF lot improved with the Building and related improvements and its use for low-intensity commercial or office is consistent with the uses and character of the area as it has developed and with the historic uses of the Property.
    (e) *The existing and proposed infrastructure, such as the streets system, sewer and water lines, and public facilities, such as fire stations and parks, will be able to accommodate the impacts of the proposed development [Section 14-3.5(C)(e)];*
    Water, sanitary sewer, stormwater, electrical, and natural gas utilities are available to serve the Property.

CONCLUSIONS OF LAW

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

General

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

The General Plan Amendment

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

The Rezoning

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

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

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

Michael Harris
Chair

Date: 5/7/15

[REMAINING SIGNATURES APPEAR ON FOLLOWING PAGE]

FILED:

Yolanda Y. Vigil
City Clerk

5/8/15
Date:

APPROVED AS TO FORM:

Zachary Shandler
Assistant City Attorney

5/7/15
Date:

City of Santa Fe, New Mexico

City Council

Exhibit 1

b) General Plan Amendment Resolution

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-__

A RESOLUTION

AMENDING THE GENERAL PLAN FUTURE LAND USE CLASSIFICATION FROM MODERATE DENSITY RESIDENTIAL TO COMMUNITY COMMERCIAL FOR PROPERTY COMPRISING AN AREA OF APPROXIMATELY 5,581± SQUARE FEET LOCATED AT THE SOUTHWEST CORNER OF PASEO DE PERALTA AND GALISTEO STREET INTERSECTION AND IDENTIFIED AS LOT 1 BLOCK 115 AS SHOWN ON KING'S OFFICAL MAP OF THE CITY OF SANTA FE, 1912, SANTA FE COUNTY, STATE OF NEW MEXICO. ("600 GALISTEO STREET GENERAL PLAN AMENDMENT", CASE #2015-20).

WHEREAS, the agent for the owner of that certain parcel of land comprising 5,581± square feet located at the southwest corner of Paseo de Peralta and Galisteo Street intersection and identified as Lot 1 Block 115 as shown on King's Official Map of the City of Santa Fe, 1912, Santa Fe County, State of New Mexico (the "Property") has submitted an application to amend the General Plan Future Land Use Map classification of the Property from Moderate Density Residential to Community Commercial; and

WHERAS, 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

WHEREAS, the reclassification of the Property will be substantially consistent with the General Plan themes and policies for City Character and Urban Development (General Plan, Chapter 5).

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

Section 1. That the General Plan Future Land Use Map classification for the Property be and hereby is amended to change the designation from Moderate Density Residential to Community Commercial as shown in the General Plan Amendment Map attached hereto as EXHIBIT A and incorporated herein.

PASSED, APPROVED and ADOPTED this __ day of July, 2015.

_____

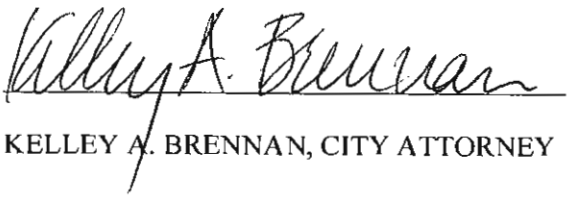
JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

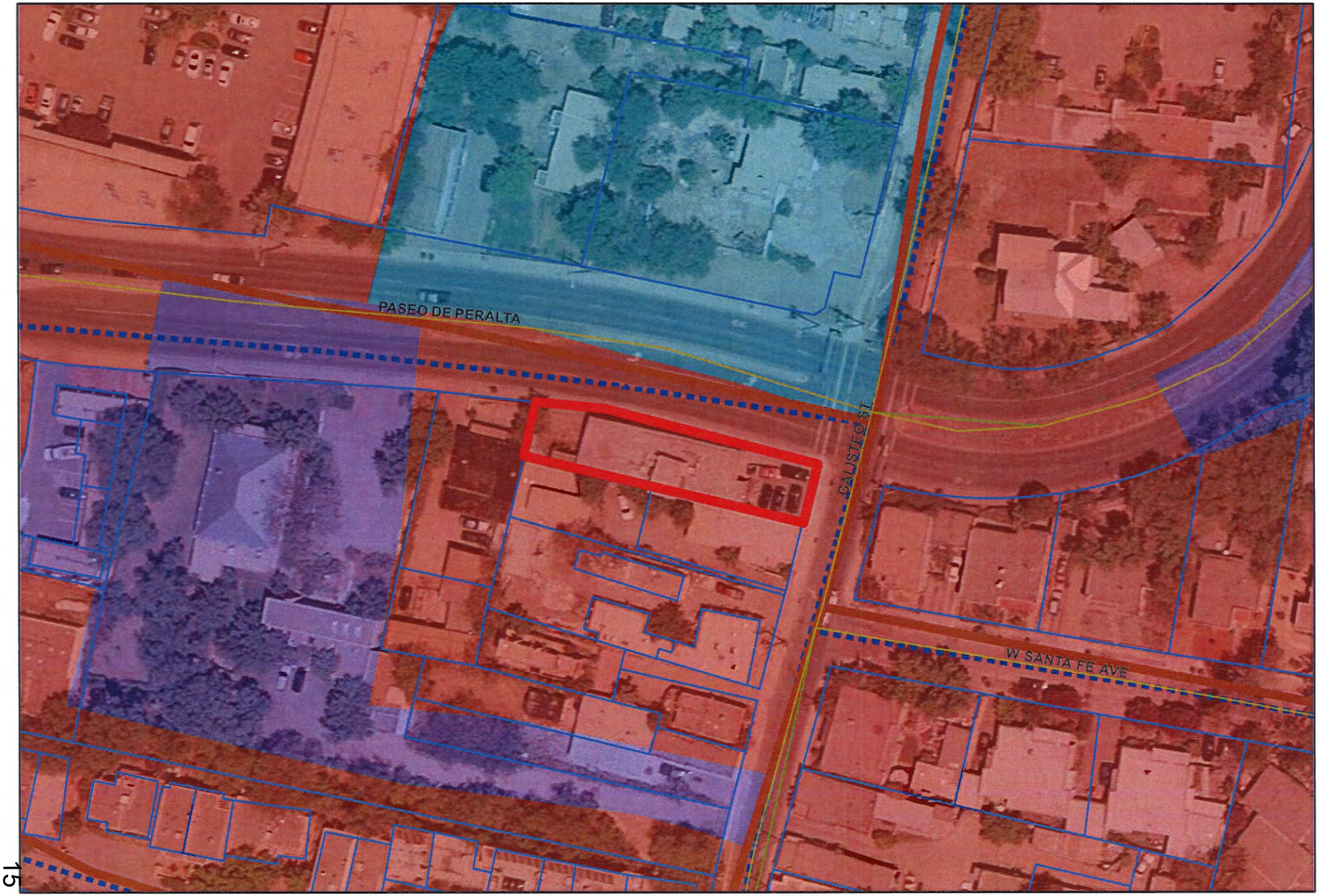
APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY

M/Legislation/Resolutions 2015/600 Galisteo GPA

EXHIBIT A
Resolution No. 2015-
600 Galisteo Street



City of Santa Fe, New Mexico

City Council

Exhibit 1

c) Rezoning Bill

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2015-30

AN ORDINANCE

AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SANTA FE; CHANGING THE ZONING CLASSIFICATION FOR PROPERTIES COMPRISING AN AREA OF APPROXIMATELY 5,581± SQUARE FEET LOCATED AT THE SOUTHWEST CORNER OF THE PASEO DE PERALTA AND GALESTEO STREET INTERSECTION AND IDENTIFIED AS LOT 1 BLOCK 115 AS SHOWN ON KING'S OFFICIAL MAP OF THE CITY OF SANTA FE, 1912, SANTA FE COUNTY, STATE OF NEW MEXICO, FROM R-21 (RESIDENTIAL – 21 DWELLING UNITS PER ACRE) TO BCD (BUSINESS-CAPITOL DISTRICT), AND PROVIDING AN EFFECTIVE DATE. ("600 GALISTEO STREET REZONING", CASE #2015-21).

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

Section 1. That certain parcels of land comprising 5,581± square feet (the "Property") located at the southwest corner of the Paseo de Peralta and Galisteo Street intersection and identified as Lot 1 Block 115 as shown on King's Official of the City of Santa Fe, Santa Fe County, State of New Mexico, that is located within the municipal boundaries of the

City of Santa Fe, is restricted to and classified as BCD (Business-Capitol District) as described in the legal description attached hereto [EXHIBIT A] and incorporated herein by reference.

Section 2. The official zoning map of the City of Santa Fe adopted by Ordinance No. 2001-27 is hereby amended to conform to the changes in zoning classifications for the Properties set forth in Section 1 of this Ordinance.

Section 3. This rezoning action is approved with and subject to the below condition as may be approved by the Governing Body.

The Traffic Engineering Division shall review and approve all access to the lot. Access to the northeast corner of the property from Paseo de Peralta shall be limited to entering vehicles, with ingress and egress permitted onto Galisteo Street, a one-way northbound street.

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

APPROVED AS TO FORM:

KELLEY A. BRENNAN, CITY ATTORNEY

M/Legislation/Bills 2015/2015-30 600 Galisteo_Rezoning

EXHIBIT A

600 Galisteo Legal Description for Bill No. 2015-30

Lot 1 Block 115 as shown on King's Official Map of the City of Santa Fe, 1912, being the lot at the southwest corner of Paseo de Peralta and Galisteo Street in the City and County of Santa Fe, New Mexico.

City of Santa Fe, New Mexico

City Council

Exhibit 2

Planning Commission Minutes April 2, 2015

He asked how that is going to be detailed.

Mr. Siebert said he has an example of that, because he thought that might come up. He provided two photographs [Exhibit "4"]. He said, "In front of you is an example of what this will look like. You have two drawings– one is from a distance and one is close up of what it would look like if you are standing next to the windows. The idea is it is a marketing aspect of storage units and apparently something that is now being used across the United States for more sophisticated storage units. The idea being that people driving by can see exactly what it is. The other thing it does is satisfy the glazing requirement of the Airport overlay." He said it does cast natural light into the space.

Disclosure: Commissioner Gutierrez said before moving forward on the case he wants to disclose "that Mr. Alexis does have another storage facility located on the same road where he operates his business, so they are neighbors and acquaintances, but that is the extent of it."

MOTION: Commissioner Villarreal moved, seconded by Commissioner Bemis, to approve Case #2015-18 Camino de Jacobo Special Use Permit, with all conditions of approval as recommended by staff.

VOTE: The motion was approved on a voice vote, with Commissioners Bemis, Gutierrez, Ortiz, Villarreal and Schackel-Bordegary voting in favor of the motion and no one voting against [5-0].

3. CASE #2015-20. 600 GALISTEO STREET GENERAL PLAN AMENDMENT. EVA PARKER, TRUSTEE FOR THE LUCY C. ORTIZ ESTATE, REQUESTS APPROVAL OF A GENERAL PLAN AMENDMENT TO AMEND THE EXISTING GENERAL PLAN FUTURE LAND USE DESIGNATION FOR A 5,581 SQUARE FOOT LOT FROM MODERATE DENSITY RESIDENTIAL TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 600 GALISTEO STREET. (ZACH THOMAS, CASE MANAGER)

Items F(3) and F(4) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.

A Memorandum, with attachments, prepared March 18, 2015 for the April 2, 2015 meeting, to the Planning Commission, from Zach Thomas, Senior Planner, Current Planning Division, regarding this case is incorporated herewith to these minutes as Exhibit "5."

A color photograph of the subject site, entered for the record by Charles Parker, is incorporated herewith to these minutes as Exhibit "6."

A copy of relevant portions of *Bennett v. City Council for City of Las Cruces*, No. 18478, submitted for the record by Stefanie Beninato, is incorporated herewith to these minutes as Exhibit "7."

A copy of a letter from Peter B. Komis, Don Gaspar Neighborhood Association, submitted for the record by Former Councilor Karen Heldmeyer, is incorporated herewith to these minutes as Exhibit "8."

Mr. Zach Thomas presented the Staff Report in this case. Please see Exhibit "5," for specifics of this presentation.

Public Hearing

Presentation by the Applicant

Charles Parker, husband of Eva Parker, Trustee for the Lucy C. Ortiz Estate, P.O. Box 212, Tesuque, New Mexico was sworn. Mr. Parker said, "The property was purchased in the early to mid 1930s and it was turned into a business and the building was built in the mid-to-late 30's. It had always been a business; it was a grocery store for a long period of time."

Mr. Parker asked if everyone was familiar with 600 Galisteo and what the property looks like. [Exhibit "6"]. He said, "As you will notice from the street view of the property, it has no resemblance for a house. It has a glass front like a store, because that is what it was built for and was used for about seventy years; until the loss of nonconforming status. Everybody involved with the family at present and with the estate had no idea that this nonconforming status existed. Evidently it was done when the original zoning was put in place, for the BCD."

He said if you look at the history of the area that is actually the only business that was there. He said all of the houses that were put into the BCD along Don Gaspar are now businesses where there used to be homes; the one business is now residential.

Mr. Parker said this has caused problems for the family. He said, "Lucy Ortiz was living at our house. She had to sell the house across the street at 526 Galisteo, which was the family home, because we lost her income. The property was handled at that time by a conservatorship company, Dosier State Life Management. They are the ones that allowed it to overlap; they did not do their job."

Mr. Parker said, "Therefore she [Ms. Ortiz] lost roughly $3,000 per month income off of that property; the company prior to that was paying $2,500 a month, so she lost $36,000 a year. He said over 10 years we figure we have lost somewhere between $200,000 and $400,000 on that property, because it was not zoned properly."

Mr. Parker said, "Therefore we're asking that it be corrected at this time and put where it should be; as a C-1or a BCD, and allow the family to sell it and clear the estate out. As it stands now, we have done an appraisal and there is a considerable amount of difference between residential for that property, and commercial."

Mr. Parker asked that the Board please consider correcting the error that was done before their time.

Eva Ortiz Parker, Trustee for the Lucy C. Ortiz Estate, at 06 Rancho de Ortiz in the Village of Rio Medio, P.O. Box 212, Tesuque was sworn. Ms. Parker said she is a fourth or fifth generation... She was born here, her father was born here and her sister is here also tonight. She said she was actually born in that building and so was her sister Angela and they used to live behind the store and the grocery store was in front. She said "in 1945 her father built the house across the street that is now a restaurant and that is where she grew up."

Ms. Parker said, "I have a lot of history with that building. I was born there; I ran a business there at

one time, a photography studio." It breaks my heart that we've been unable to do anything at all with that building." She said her dad was Mayor of Santa Fe between 1948 and 1952 and he was also on the City Council before that for eight years.

Ms. Parker said she would just ask the Commission to please help them; they are at their wits' end and it has cost them heavily.

Chair Harris asked Mr. Parker to step forward also. He asked if Mr. and Ms. Parker understand and accept the conditions that are being proposed by staff.

Mr. and Ms. Parker both said yes. Mr. Parker added that Mr. Thomas has been working with them very closely and has helped them along the way and staff has been very good.

Public Hearing

All those speaking were sworn en masse

Alonzo Lopez, 702 Los Lovatos Road [previously sworn], said "I am a lifelong resident of Santa Fe; paid taxes all my life and I am married to...my sister-in-law is the Trustee Eva Ortiz Parker." Mr. Lopez said he is married to her sister and remembers working at that store "before I got married to Angela and even after." He said it was a vibrant little store, lively; kind of the pulse of the old community of Santa Fe. It was a pretty good experience and was zoned commercial. He said that little grocery store later became of course, Maddies. He said "the family has taken a big loss financially and I don't see why it can't be zoned commercial again." He thanked the Commission for listening to him.

Sally Randall, 901 Alto Street, [previously sworn], said she is a real estate broker here to speak in support of properties that have always been commercial and somehow got zoned residential. She said she represents a property that has been for 200 years a commercial building, that got zoned residential and the owner lost it. She said "I am so happy to see this happening and the consideration of these kinds of properties is before your Commission. Thank you very much for righting the wrong that was done to people who were always commercial and zoned residential; it is a real hardship."

Former Councilor Karen Heldmeyer, 325 E. Berger Street [previously sworn], said she is speaking on behalf of the Don Gaspar Neighborhood Association and Peter Komis, President of the Association. She said Mr. Komis could not be here today because he promised to take his son to see spring training in Arizona, but sends his regards.

Ms. Heldmeyer said, "We all know this is a difficult piece of property." She said she will hit the highpoints of the letter [Exhibit "8"]. She said "we worked with the family over the years to try to get an appropriate use into it. Some uses that they have had in there have been appropriate; some have not."

She said, "When we went to the ENN [Early Neighborhood Notification] way back in May; almost a year ago, we were told by staff that because of the proximity issue the only kind of zoning that they could apply for was BCD. The Neighborhood Association strongly opposes BCD. In fact it was formed over 30

years ago to keep BCD from intruding any further in our neighborhood than it already does. But that doesn't mean that we don't think there aren't appropriate commercial uses for this and that those couldn't be worked out."

Ms. Heldmeyer said what they are requesting is that "the Planning Commission recommend to City Council that they look at more appropriate zoning categories like C-1, like RAC." She said "the only thing they ask, because those weren't discussed at length in the ENN because they kept being told it could only be BCD; that there be a meeting with the neighbors prior to the City Council to consider whatever change in zoning you recommend."

Hubert Van Hecke, 871 Don Diego Neighborhood Association [previously sworn]. Mr. Van Hecke said he recently learned at the ENN meeting about the history of the property and the plans to move forward. He said "clearly this is a parcel that is zoned ...the history is complicated, but it is clearly not a proper parcel for a residence." He said "it has been a small business as they heard before and for all of its history."

Mr. Van Hecke said "it appears that we think that it would be appropriate to have a small business move in there and bring that building to life again. He said the part we worry about...as in Don Gaspar; is we are worried about commercial encroachment, in particular BCD. So we are objecting to the BCD request, but we would be amenable to a C-1." He said, "C-1 is a much more gentle zoning type that would reflect the size and use of a building of that type."

Mr. Van Hecke said, "Also this particular meeting came as a little surprise to us, because we thought there would be another meeting with the various parties involved to make sure we are all on the same page. And I think we are moving to be all on the same page. So, our request is for a more gentle zoning and such as C-1, and maybe perhaps another meeting with all parties."

Greg White, 612 Don Canuto, a member of Don Diego Neighborhood Association [previously sworn] said he is here to speak in favor of the zoning to commercial, as the gentleman before him.

Mr. White said he wanted to again state that, "We understand that the General Plan of the City of Santa Fe was written to promote harmonious development and that it is intended to allow for some changes to occur. We think that this is an example of when the General Plan should be looked at."

Mr. White said he thinks also that the ability of this Commission to go forward with a lesser zoning than what has been requested by the applicant, was an excellent example of why a zoning ordinance should work. He said he would just like to put the response in to support a zoning C-1.

Rick Martinez, 725 Mesilla Road, President of Neighborhood Network [previously sworn], said he wanted to work with the neighborhoods that are here. He said he thought the neighborhoods "are speaking well that they are willing to compromise and go with the C-1. He said, "I think the BCD boundary line was set for a reason and I don't think the boundary line should be jumping from one side of the street to the other; except for that whole side there. Leaving it BCD on the other side of the street makes it more appropriate use for that side. The C-1 is appropriate for that house in that part of the neighborhood and so I

agree with the neighborhood and stand by the neighborhood."

Mable Chen, 615 Galisteo [previously sworn], said she has lived in the neighborhood since 1991 and specifically at 615 since 1992. She said she is not totally in favor of C-1 and she couldn't find out exactly what C-1 was. She said, "RAC seems more fitting with the neighborhood; like a framer/arts and crafts type of thing. Her concern is neighborhood creep. She said if you look across the street from Galisteo Street on the same side as Paseo del Peralta, there are 3 units that are basically rental and when the Ortiz grocery store lost its land; these people lost their backyard."

Ms. Chen said, "You do BCD or C-1 it's going to creep over here because properties without yards are not very sellable. She said they will now apply; the place next door is a residential, but as families change, just like with the Ortiz family; that also may start to apply for also C-1, BCD or whichever." She said her concern is "all of a sudden you start creeping down into the neighborhood into C-1."

She said, "Directly adjacent, Max Garcia just died and that property is for sale." She said that is directly on her block and she can see his property from her window. She said her fear is, "If you do C-1, which has a greater range than RAC, eventually over the years, properties will creep. Right behind is also members of the Garcia family and they have a big lot that goes back three or four houses; those are also all rentals, and I can see that creeping as well." Her fear is "if you do a BCD or a C-1; all of that is going to change and all of a sudden you're going to be coming down Galisteo Street and it is not going to be the same anymore."

Christina Lindstrom, 630 Galisteo Street [previously sworn], said she lives 3 houses down and uses Galisteo, which is a one-way street. She said, "In the morning with the congestion coming from the west, east and from the school as well, and they get the buses and the drop off and the children; they have a congested corner." She said she doesn't know how familiar they are with the location...it is difficult for cars when they are entering egress. She said, "You look at the traffic; a traffic study would really tell you what it should be."

Ms. Lindstrom said she didn't even believe that it was only C-1 zoning...the size of the location. She said she sees more accidents between Paseo de Peralta, which is the exit or Galisteo, which is just 25 feet from the traffic light. She said she is recommending if the city were maybe looking at residential, to please make a study and look at this issue very carefully. She said she experiences this issue every morning and every time she drives in and out.

Stefanie Beninato at 604 ½ Galisteo Street [previously sworn] said she owns 604 Galisteo and she is the property directly south of 600 Galisteo Street. She said she has owned the property since '01 and has lived on the property either in one or the other since '04. She said she knows what it is like to have it be commercial.

She said, "First of all I want to say 'point of order': There was not enough notice. The yellow notice board was down Tuesday night on the 24th and did not go back up until Sunday morning on the 28th and was back down on Sunday afternoon and has remained down." She said she received one notice on the 20th and another notice on the 26th. The Don Diego Neighborhood Association did not get notice until the

23rd, so these are all less than 15-day full notices. I am bringing that to your attention. They have already had the hearing and she thought that people appreciate that they don't have to come back again."

Ms. Beninato said again what the Commission is being asked to do is make an exception based on supposed historic use; or historic use rather than on the law. She said she will focus the Commission more on the law itself and the factors she thought the Commission should consider. She said also "it says you can consider going to a less intensive zoning than what the applicant requested; not what the city requested. The city requested BCD; the applicant requested C-1; so what is less than C-1, I don't know." She said she believes under the law that they can consider not C-1.

She said, "With the city's condition of no egress onto Paseo de Peralta, unless they are intending to acquire her property and having a big circle coming out of there; there is going to be less than three parking spaces. The only parking spaces that will be able to be used are the ones to the east of the building; the ones closest to Galisteo Street. Normally people are pulling in and facing the south. If you have three people already parked there it's going to be hard to not to back out into Paseo in order to get around the other two cars to go out onto Galisteo." She said that condition in itself, makes it virtually impossible to be fulfilled.

Ms. Beninato said, "It's been empty for 10 years. There has been no effort until recently to either sell it or get it rezoned. There has been talk, but nothing really done. For me, the sticking point has always been that there is not enough parking. The fact is that when it was Madalyn's it wasn't her property at the time, but they had vents coming out into 604/604½ Galisteo Street. She said to say it is not intensive use really depends on what commercial use is in there. If you have a photography studio and they have to vent out the chemicals; it is not the most healthy place to have to live next to."

Ms. Beninato said there hasn't been much effort to keep that building up. "There has been graffiti for 2½ years on the building and I don't know why. The City would have been willing to get rid of it." She thought it had to do with owner's permission.

Ms. Beninato said she has had homeless people climbing on her structures to get into the building next door; so "yes, it would be good to get used..." She said it is zoned residential; there are residential spaces to the west; the north..."You cross Paseo in the BCD to the east on W. Santa Fe Avenue and of course on mine and the people south of me."

She said, "It could easily be a duplex and yes, it would require some input, some changes in the structure, but I believe that it could be a duplex." To say that nobody wants to live there is not true. The General Plan does control, but you are changing the General Plan in order to basically do spot zoning. And what you have heard over and over again from the Ortiz's and from even people in the public, is that somehow that one little piece of property should be benefited differently than any other property in that area."

Ms. Beninato said, "The Casados property to the West has been residential since the 1890s; my property has been residential since the 1890s and there was some development on W. Santa Fe Avenue, but later on." She said again, residential was what was going on there and there has been commercial creep in that block from Gomez to Galisteo since she has lived here and she has been here since 1975. She said she knows someone who has been the caretaker at the Eugenie Shenard House when it was still residential and that was post 1975. She said "as for that it is less valuable; yes, residential is less valuable

than commercial. Again the Commission is not supposed to be making changes to the General Plan or to a zoning to benefit one property based on financial that they would like to make more money."

Ms. Beninato pointed out that "they [Ortiz] own 610 Galisteo Street and it was extremely run down and their ex-in-laws have called them slum lords." She said "they sold that for about a half million dollars in about 2005 or 2006; they then sold the property across the street [Restaurant Martin] later on." She said "she is sure that they sold that for approximately the same amount and knows that they sold 610 for a half million because she looked it up in county records.

Chair Harris said Ms. Beninato's comments were not relevant and asked that she move on.

Ms. Beninato said she would like to talk about spot zoning. She said from her point of view what the Commission has is a very irregular commercial zoning section on the south side of Paseo de Peralta between Gomez and Galisteo. She said she believes the ordinance, from what the planner said, does not allow to rezone this commercial, because it is not contiguous. Her suggestion, to avoid a legal problem/challenge, because of spot zoning to the General Plan, is that "they decide to take the furthest part south, which is Las Brisas –what used to be Mayflower Storage Company- and go from at least Cerrillos all the way to old Santa Fe Trail and rezone that commercial." She recommended that so that everybody in that area would have the opportunity to have a commercial zoning if they chose; they don't have to. "They could still be residential and taxed as residential." She said, "You would have some, hopefully, rationale for doing that and that is what you need here; a rationale other than benefiting one property and/or even historic use, because it has not been used like that for 10 years."

She said she would read a few things and highlight some of these from a case: *Bennett v. City Council for City of Las Cruces, December, 1998* that has to do with spot zoning. She said, "They wanted to rezone a parcel from R-3 to C2c and the Court of Appeals said: '*our Supreme Court adopted the following definition of spot zoning in the City of Albuquerque v. Paradise Hills*' (she quoted from that 1983 case): '*Spot zoning is an attempt to wrench a single law from its environment and give it a new rating that disturbs the tenor of a neighborhood in which it affects only the use of a particular piece of property, or a small group of adjoining properties and is not related to the general plan for the community as a whole, but is primarily for the private interest of the owner of the property so zoned.*'

Ms. Beninato continued to read: "*This term spot zoning refers to the rezoning of a small parcel of land to permit a use that fails to comply with the comprehensive plan or is inconsistent with the surrounding area, grants a discriminatory benefit to the parcel owner and/or harms neighboring properties or the community welfare. The smaller the property being rezoned, the more likely the finding of spot zoning, while the larger tract, the less inclined the courts are defined.*" She said when they are talking about less in size, 68 acres is a good size; four acres might be too small and that is in a range of cases that are cited in the Bennett case. She said, "Size is often the most important factor, but not the only one. Rezoning of a small lot in a residential area is generally considered spot zoning."

She said in another case cited in the Bennett case: *Lee v. District of Columbia*, a district court case- she read: "*zoning decision is spot zoning if inconsistent with the comprehensive plan and benefits only the owner of the land as opposed to the general public. Finding that ordinance that solely benefited mobile home courts to the detriment of owners of an adjacent land, and adopted not in accordance with the general plan, is spot zoning. Conformity with the comprehensive plan is an indication that the intent of the rezoning has potential benefits beyond just the property owner.*"

Ms. Beninato said her problem here is that the Commission is being asked to change the General Plan specifically so they can rezone this. She said, "You need a rationale for changing the General Plan and needs to be a larger change than just for this one lot. As the owner of the next lot; when it was Gold Leaf Framers, people were pulling onto my property all the time wanting to park there even after I would tell them it was not Gold Leaf Framer's parking. I would get trash in my yard because there was a dumpster on the west side and they were not taking trash out in plastic bags and would leave the top open; there were often lights and machinery running at night that were disturbing since there is a zero lot line in that area." She said her property could also be zoned commercial and it would be so much easier for her to sell her property than as a residence. She said again, there could be a little gallery in her front house and she could've sold her house, which she has been trying to do, for five times over. She said "to listen to that rationale doesn't really...who are you going to benefit? You need to benefit the community."

Ms. Beninato said she would ask again that the Commission postpone this and look at actually changing the General Plan in this area to a larger area to have rationale for making the change, not to just benefit one piece of property; one very small and inadequately sized property for commercial use. Exhibit "7".

Georgette Romero, a broker with Santa Fe Properties [previously sworn], said Eva Ortiz and Chuck Parker asked her to list their property about four months ago. She told them that she could not because there is too much indecision of what the property could be used for. She said she has encouraged them to do this process to see if they can come to some kind of agreement with everyone, in terms of usage. She said the property has been listed on and off for about 4 years, initially with Barker and then with Keller Williams.

Ms. Romero said that someone indicated that it could be sold residential. She said that has been the focus to sell it residential. She talked to the last two brokers who had the property and they have had no interest in anyone wanting to buy the property for residential usage. She said the configuration to the property to date is because the City of Santa Fe widened Paseo de Peralta, leaving this remnant property. She said since she was approached by Eva and Chuck to list the property; although she has not listed the property she has sought buyers for the property. She has found two who have made written offers. She said one would like to use the property for an antique business where clientele comes by appointment only. The other business that would like to buy the property is a gallery on Canyon Road and they would use it for art storage. She said, "They have not been able to move forward because of zoning and they can't...no one wants to get into good negotiations contingent upon a zoning change."

Ms. Romero said someone made the comment about language such as 'slum lords and the family having come into $1 million', but what is not taken into account is there are many heirs in this family; not just Eva and her sisters. She said because they have been unable to sell the property, it has fallen into disrepair and the care of the property has fallen on the Parkers. They do not have the wherewithal to continue to carry this. She said her concern is a couple of things; vandalism to the property. She is most concerned about arson to the property. She has been by there every night and has seen homeless people at the back of the property that are camped out. She said that given the proximity of other homes to this property, she thought vandalism and arson should be a concern for everybody. She thought "if something were to happen to the property, there is a possibility that it definitely could affect the other properties due to proximity."

Ms. Romero thought it would definitely increase the salability of the properties nearby. She thought when the Paseo de Peralta was widened by the City, consideration should have been given to the family at that time for rezoning. Ms. Romero said because the property has fallen into disrepair, it now merits a much lesser value. She said regarding parking there is an area to the west of the building where people working there could park. There is room for 2-3 cars if parked in tandem; and in front of the building she is sure there is room for 3 cars. She said the businesses she has described do not have the usage.

Ms. Romero said this is affecting all of us because it is not pretty to look at. She said she thought the laws are important to everyone, but when it comes down to hurting people, she thought the laws are not doing anyone any good.

The Public Testimony Portion of the Public Hearing was closed

Commissioner Schackel-Bordegary asked Ms. Brennan if the opinion of the city is this seems to be a spot zoning action.

Ms. Brennan said no, she does not believe so.

Commissioner Villarreal asked if staff could explain to the Commission and to the public, the options for zoning. She said first staff recommended BCD, but that was coming from the applicant; or staff's recommendation initially. She asked how the conversation went to C-1 and if there is any other zoning possibilities. She said she is wondering about MU and RAC that people brought up and if staff could elaborate on that.

Mr. Thomas said yes. The applicant per the requirements of the Code, requested BCD. It is the only other contiguous zoning district other than R-21, which they are in, to that parcel. He said C-1 is in close proximity, however is separated by a single parcel. He said, "In early conversations with the applicant we suggested getting other neighbors involved, in essence going the C-1 route. That zoning district seems to adequately serve what they were interested in doing; low intensity, commercial activity such as gallery, etc." He said the adjacent neighborhood was not interested.

He said ultimately it was a request to be rezoned to BCD. Staff recommends approval of that, however per the section of the Code that also allows the Governing Body to rezone to a lesser intensive use such as the nearby C-1. He said staff is also in support of that. That is where that comes from.

Mr. Thomas said in regard to the question of RAC, that district is very similar to C-1.It is mainly the Canyon Road area and does allow restaurants and art galleries. This almost identical, in fact is marginally more per the use table; potentially more intensive depending on the type of business, or less intensive. They are very similar. But RAC is not in this area, which is why they did not have that discussion; it was focused more around the C-1.

Commissioner Villarreal asked if this were to be rezoned, it goes on to whatever recommendation staff gives to the City Council. She was told that is correct. She asked if they decide on the type of use for the rezoning, whether this would come back to the Commission for development plan. She asked Mr. Thomas to explain the process of what happens next.

Mr. Thomas said if it were to be rezoned to hypothetically BCD or C-1, any use that is allowed in that district would be in theory allowed on this property. Mr. Thomas said there will be no further discretionary hearing once it has the zoning. Basically it would be treated at business license or, if modifications are done to the building, perhaps the building permits, etc. The discretionary hearing is at rezone stage and any use allowed within that zoning district would be allowed.

Commissioner Villarreal asked if that would include staff looking at parking and if that would be at the building permit stage. Mr. Thompson agreed.

Chair Harris said looking at the list of permitted uses for instance for C-1, and thinking about the parking requirements for any number of these uses; it seems like there are so many restraints with parking or landscape requirements, etc. He asked if any thought had been given as to what might be acceptable for a C-1 designation.

Mr. Thomas said there was discussion of that early in the process. It focuses around the recent historic use of the property, which was frame shops, low intensity specialty shops like arts and crafts, etc. There are constraints on the property. It is an existing non-conforming structure and that would continue to be the case. It lost its non-conforming status from the use perspective, but it is a nonconforming structure as it exists today. Chair Harris is correct that any future use that potentially could go in would likely be constrained by parking and things like that.

Chair Harris asked, with the permitted uses, if a variance would be required to the city standards and if so, how that is handled. He assumes that would not come back to the Planning Commission since they are not looking at a development plan.

Mr. Thomas agreed. There are no proposed changes to the structure. Perhaps a variance may come to the Commission, but whether it would be recommended is hard to know without looking at the specifics and what is available on the site and the type of use that would go in. As indicated in the Staff Report with the one condition of approval; traffic engineering did review this to ensure there was a lesser impact at least on Paseo, trying to direct traffic more toward the Galisteo one-way exit and entrance.

Chair Harris asked Mr. Parker to come forward. He said to Mr. Parker, having heard the testimony from various people, he would like to hear from him. The Commission knows why this application, after the General Plan amendment and then the rezoning, is to go from R-21 to BCD. He asked if it would be acceptable to Mr. Parker and his group to go to C-1, a less intensive use.

Mr. Parker said yes. The only way they could get in front of the Planning Commission was to go BCD. He said they talked to the Casados next door several times and asked if they would like to join them and change their property to C-1; which would adjoin Margo Cutler, realtor, next to them. He said they would have had a continuous C-1. He said they even offered to pay the Casados' difference in taxes for the next 5 to 10 years to entice them and show them their property would be worth more. He said they were dead set against it and wants their children to inherit it as a residence and nothing more.

Mr. Parker said they tried to go the other routes, but BCD was the only thing they had left. He said they would be willing to consider anything less; it is just not a house.

Chair Harris asked if Mr. Parker would be willing to follow up with the Don Diego Neighborhood

Association and the other associations who spoke, basically on Mr. Parker's behalf.

Mr. Parker said yes. "We don't want to disrupt the neighborhood; we want a business there; maybe a lawyer, because the new courthouse is not too far away; someone who deals with appointments only, because there is limited space parking. They can schedule the people who are coming in and won't have to worry about parking." He said there is parking down Galisteo to the north that is a state lot.

Mr. Parker said they are willing to work with anyone they need to. He said they have to clear this estate out for the family. There are six families involved. He said they just got it through court about four years ago and have repeatedly listed it. He said he started with what they recommended and kept dropping the price, because nobody is interested in it, especially as a house. They have had one of the real estate agents draw up a plan for a duplex but the cost of doing that... "The estate has no money right now. We have had to loan money from our personal accounts at this time."

Commissioner Villarreal said the way it is zoned now is *moderate density residential*. She asked staff, if the zoning stays as it is now, how many housing units if for some reason that could be raised, could actually be put on that property.

Mr. Thomas said a quick calculation is probably one. It is zoned R-21, but it is a very small lot. He said it is basically a function of the density calculation and meeting the other development standards; so, without a site plan; conservatively he would say one, maybe 2 houses.

Mr. Parker said if they were to tear that building down; they could have a building approximately 15 feet wide and 50 feet long, because of the setbacks. He said they go up to the curb now and they wouldn't be able to do that if that building was demolished.

Commissioner Gutierrez said on the RAC zoning; they received a letter from the Don Gaspar Neighborhood Association that they would like to see that as opposed to the other zoning. Staff said it is really similar to C-1 and Mr. Romero mentioned two possible uses for the property, for art storage and antiques by appointment. He asked if those fit into both of those zonings.

Mr. Thomas said looking through the Land Use Table, quickly, generally, yes. He gave an example of a small scale studio or a gallery as permissible in both zonings. However, something more straight retail such as an art supply store would actually be permitted in RAC and not C-1. He said going back to what he explained earlier, generally something like a lawyer or a small boutique, specialty, like a gallery is really what C-1 is for. He said RAC is more like a Canyon Road situation where there is a more density of arts and crafts retail stores mixed in with restaurants, cafes, coffee shops, etc. Generally they were looking for a small office or small gallery that fits in better with C-1, as well as that there is C-1 in very close proximity.

Ms. Baer said she did a quick calculation and 2 dwelling units would fit on that property.

MOTION: Commissioner Schackel-Bordegary moved, seconded by Commissioner Villarreal for purposes of discussion, to recommend approval to the City Council, of Case #2015-20 600 Galisteo Street General Plan Amendment, with all conditions of approval as recommended by staff.

AMENDMENT: Commissioner Villarreal said she would like a friendly amendment to the Governing Body

to consider and further discuss the possibility for C-1 zoning, since staff recommends zoning BCD.

Ms. Baer explained the Commission's recommendation would be to approve the case, but to consider the lower intensity zoning of C-1.

Commissioner Schackel-Bordegary accepted the amendment as friendly to the maker.

Chair Harris pointed out they are really focusing on an amendment to the General Plan.

Ms. Baer said in that case, rather than community commercial, the C-1 designation would be "office as a land use. She said in this case your recommendation to the governing body would be to recommend approval of the change in the land use designation and that they consider rather than community commercial, the office land use designation.

FRIENDLY AMENDMENT: Commissioner Villarreal said she would like to amend the motion to recommend that the governing body consider office land designation.

THE AMENDMENT WAS FRIENDLY TO THE MAKER, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMISSION.

Chair Harris stated the motion is to recommend to change the future land use designation from moderate density residential to office. He asked for a roll call vote.

VOTE: The motion, as amended, was approved on a voice vote, with Commissioners Bemis, Gutierrez, Ortiz, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0]

4. CASE #2015-21. 600 GALISTEO STREET REZONE. EVA PARKER, TRUSTEE FOR THE LUCY C. ORTIZ ESTATE, REQUESTS REZONING OF A 5,581 SQUARE FOOT LOT FROM R-21 (RESIDENTIAL – 21 UNITS PER ACRE) TO BCD (BUSINESS-CAPITOL DISTRICT). THE PROPERTY IS LOCATED AT 600 GALISTEO STREET. (ZACH THOMAS, CASE MANAGER.

MOTION: Commissioner Schackel-Bordegary moved, seconded by Commissioner Villarreal, to recommend to the Governing Body approval of Case #2015-21, 600 Galisteo Street Rezoning of the parcel to BCD per the Staff Report recommendation with consideration given to the lesser zoning.

DISCUSSION: Commissioner Villarreal said she wanted to remind them that in our historic neighborhoods the mixed uses like this, where residential is among businesses, are the norm and things change over time. She said unfortunately zoning does not capture historical use and it gets complex. She said she wants to add that because before people moved into the area it was a mixed use neighborhood and that was how it was done historically. She said she would like the ability to use mixed use zoning in the area, but as it stands they have limited options because of the widening of the roads and the particularities of this particular property.

VOTE: The motion, as amended, was approved on a voice vote, with Commissioners Bemis, Gutierrez, Ortiz, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0].

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MOTION: Commissioner Villarreal moved, seconded by Commissioner Gutierrez, to recess the meeting from 5:50 p.m. to 6:15 p.m.

VOTE: The motion, as amended, was approved on a voice vote, with Commissioners Bemis, Gutierrez, Ortiz, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0]

The Planning Commission was in recess from 5:50 p.m. to 6:20 p.m.

Chair Harris called the Planning Commission back into session and before starting on the next three cases remaining all associated with the proposed development on Old Pecos Trail, he wanted to be sure that everyone understands that during the dinner break the Commissioners did not discuss any business before the Commission.

Chair Harris said as he announced on the previous case, there are three cases associated with the proposed development at 1615 Old Pecos Trail: a Lot Split, a Special Use Permit and a Development Plan.

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Following the recess, the Planning Commission resumed consideration of the Agenda, as approved

5. CASE #2015-14. 1615 OLD PECOS TRAIL LOT SPLIT. MONTOYA LAND USE CONSULTING, INC., AGENT FOR THE BENEVOLENT AND PROTECTIVE ORDER OF THE ELKS, LODGE NO. 460,M REQUEST PLAT APPROVAL TO DIVIDE APPROXIMATELY 8.62± ACRES INTO TWO LOTS (B-1 ± 3.85 ACRES AND B-2 ± 4.77 ACRES). THE PROPERTY IS ZONED R-1 (RESIDENTIAL – 1 DWELLING UNIT PER ACRE). (DAN ESQUIBEL, CASE MANAGER)

Case #F(5), F(6), and F(7) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.

A Memorandum, with attachments, prepared March 23, 2015, for the April 2, 2015 Planning Commission meeting, to the Planning Commission, from Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division, regarding this case is incorporated herewith to these minutes as Exhibit "9."

A Memorandum dated April 2, 2015, with attachments, to the Planning Commission, from Current Planning Division regarding Additional Information in Case #2015-14, 1615 Old Pecos Trail Lot Split; Case #2015-15, 1615 Old Pecos Trail Special Use Permit; and Case #2015-16, Old Pecos Trail Development Plan, is incorporated herewith to these minutes as Exhibit "10."

A bound packet of information dated April 2, 2015, to the Planning Commission, with support letters and petitions containing 575 plus signatures from Santa Feans who support the proposed

City of Santa Fe, New Mexico

City Council

Exhibit 3

Planning Commission Staff Report April 2, 2015

City of Santa Fe, New Mexico

memo

DATE: March 18, 2015 for the April 2, 2015 meeting

TO: Planning Commission

VIA: Lisa Martinez, Director, Land Use Department
Tamara Baer, RLA, Manager, Current Planning Division

FROM: Zach Thomas, Senior Planner, Current Planning Division ZT

Case #2015-20. 600 Galisteo Street General Plan Amendment. Eva Parker, Trustee for the Lucy C. Ortiz Estate, requests approval of a General Plan Amendment to amend the existing General Plan Future Land Use designation for a 5,581 square foot lot from Moderate Density Residential to Community Commercial. The property is located at 600 Galisteo Street. (Zach Thomas, Case Manager)

Case #2015-21. 600 Galisteo Street Rezoning. Eva Parker, Trustee for the Lucy C. Ortiz Estate, requests rezoning of a 5,581 square foot lot from R-21 (Residential – 21 units per acre) to BCD (Business-Capitol District). The property is located at 600 Galisteo Street. (Zach Thomas, Case Manager)

Cases #2015-20 and #2015-21 are combined for purposes of staff report, public hearing and Planning Commission review, but each is a separate application and shall be voted upon separately.

RECOMMENDATION

The Land Use Department recommends **APPROVAL** of the General Plan Amendment and Rezoning subject to the conditions as outlined in this report. No specific development is proposed as part of these applications. The request will proceed to the City Council for final decision on the General Plan Amendment and Rezoning.

I. APPLICATION SUMMARY

The 5,581 square foot parcel is a remnant from a larger parcel that was split for right-of-way acquisition when Paseo de Peralta was created. The existing commercial structure on the parcel was first developed in the 1930s as a neighborhood market that later evolved into a local grocery store. After the grocery store closed, the following businesses occupied the structure:

Madalyns Photography, Eva's de Santa Fe Photography, The Photography Studio, a Rug Store and the Gold Leaf Frame Shop. The frame shop closed about 10 years ago and the building has been vacant since that time.

The applicant requests a General Plan Amendment from Moderate Density Residential to Community Commercial and a Rezoning from R-21 (Residential – 21 units per acre) to BCD (Business Capitol District) to allow the continuation of historic commercial use of the property.

II. DISCUSSION AND ANALYSIS

The structure on the 600 Galisteo property was neither constructed as a residence, nor has it ever been used for residential purposes. The property housed multiple businesses for approximately 70 years until a year after the frame shop moved out in the mid-2000s. While not consistent with the residential zoning, the commercially operated property maintained its non-conforming status until the frame shop moved out. Once the structure remained unoccupied for more than one year, the right to reestablish the non-conforming use was lost (SFCC §14-10.2(C)). As such, the commercial structure has remained vacant for approximately 10 years.

The applicants, trustees of the estate that owns the property, seek the General Plan Amendment and Rezone in order to sell the property. As stated by the applicant, it is not possible to lease or sell the commercial building, as the residential zoning prohibits operations of commercial uses (i.e. art galleries, photo studios).

While the property is within the R-21 (Residential – 21 units per acre) zoning district, a variety of commercially zoned land (C-1 and BCD) is in close proximity to the property. The small size of the parcel (less than 2 acres), means that only the adjacent BCD zoning district, across Paseo de Peralta, could be requested pursuant to SFCC §14-3.5(C)(2)(b). The BCD zoning district generally follows the boundary of Paseo de Peralta within this area of the City (See Exhibit C2).

The owners of the property were originally interested in rezoning to C-1, which would allow a number of low intensity, non-residential uses, including professional offices (See lists of R-21 and C-1 permitted uses, Exhibit D). Zoning districts are deemed to extend to the centerline of adjacent roadways, in this case, Paseo de Peralta, and therefore other than R-21 this parcel is only adjacent to BCD, which is across the street to the north. The applicant's ancestors, including former City of Santa Fe Mayor Frank Ortiz, owned a larger tract of land that encompassed the subject parcel, the right-of-way that is now part of Paseo de Peralta, and tract of land that is now Restaurant Martin at 526 Galisteo Street. The latter was the family's residence when the market was operated at 600 Galisteo.

The applicant was unable to request the C-1 (Office and Related Commercial) zoning district because the property is less than 2 acres and is separated from other C-1 zoned lots by a single parcel to the north.

Pursuant to SFCC §14-3.5(B)(2)(b) *the governing body may approve a rezoning to a less intensive zone district than originally requested by the applicant,* namely C-1. The C-1 zoning district permits a variety of lower intensity commercial uses such as art galleries, gifts shops

and small offices which is consistent with the historic use of the property as a photography studio and frame shops.

Given the boundary of BCD along Paseo de Peralta, the Land Use Department and the Traffic Engineering Division (See Exhibit B1) support rezoning to C-1 (Office and Related Commercial).

An Early Neighborhood Notification meeting was held on August 19, 2014 at the main library. Fourteen people were in attendance, including the applicants and public. Substantial discussion regarding the rezone occurred. One immediate neighbor was strongly opposed to the rezone. The remainder of the public did not strongly oppose the rezone but rather focused on addressing concerns associated with the rezone (traffic, noise, garbage), while not wanting to prevent use or sale of the property (See Exhibit E).

II. GENERAL PLAN AMENDMENT

The subject property's current land use designation is Moderate Density Residential as shown on the Future Land Use Map (See Exhibit C1). The applicant requests the Community Commercial designation to allow for BCD (Business Capitol District) zoning. Section 14-3.2(E)(1) sets out the following General Plan Amendment criteria for approval:

(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 applicant stated that the criterion is not applicable.

Staff Response: The property has historically been occupied with commercial uses and is developed with a commercial structure. The Future Land Use designation and accompanying zoning prevent current commercial use of the building. As such, the building remains vacant and is not generating economic activity. All necessary infrastructure is currently in place and the requested General Plan Amendment will not necessitate the need for further infrastructure.

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

Applicant Response: The applicant stated that the criterion is not applicable.

Staff Response: While the subject property is bordered on two sides by residential use, it is situated along a major arterial street (Paseo de Peralta) and is in close proximity to a variety of commercial and office uses. Furthermore, with the exception of the past 10 years, the property has been used for commercial uses since the 1930s. The proposed change will not create inconsistencies with the General Plan. General Plan Policy 5-3-G-2 encourages professional and administrative offices to locate in and near neighborhood centers. The proposed General Plan Amendment and Rezone will allow opportunity to use the existing structure for low intensity commercial uses such as offices.

(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

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

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

Applicant response: We submit that (i) (ii) and (iii) do not apply due to a previous error in the original zoning.

Staff Response: The amendment will not allow uses that are significantly different from or inconsistent with the prevailing character of the neighborhood. The property is in close proximity to a large number of commercial uses. In fact, the location of the property along two major roads (Paseo de Peralta and Galisteo Street), helps buffer the residential uses south of the property from the busy roadways and more intense commercial uses across Paseo de Peralta.

Although the property is less than 2 acres in size, it is an expansion of the BCD district across Paseo de Peralta and therefore qualifies as an adjustment in the boundaries of the BCD zoning district. This request to amend the General Plan Future Land Use Map does not benefit the property owner at the expense of the surrounding landowners or the general public. Rather, it would establish consistency with the historic use.

(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: By properly zoning this property it will be used again, which will stop the vandalism in the area.

Staff Response: The amendment does conform with Subsection 14-3.2(E)(1)(c) as it is not inconsistent with the prevailing use or character of the area, is not less than 2 acres as it is adjusting the boundary of adjacent commercial land and does not benefit one or a few landowners at the expense of surrounding landowners or the general public.

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

Applicant Response: The applicant stated that the criterion is 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: Yes, this was a business supporting the community since the mid to late 1930s.

Staff Response: The commercial structure currently sits vacant as the existing R-21 zoning does not permit commercial use of the property. The proposed General Plan Amendment will allow for the property to be rezoned which will allow economic use of the property and limit further deterioration of the property as it remains vacant.

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

Applicant Response: The applicant stated that the criterion is not applicable.

Staff Response: This request is consistent with the City's land use policies, ordinances, regulations and plans as they relate to the City's desire to promote and maintain economically developable land in close proximity to downtown and residential neighborhoods. While the subject property is currently zoned for residential use, it is in close proximity to a variety of other commercial properties and has always been used for commercial and not residential uses.

(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 applicant stated that the criterion is not applicable.

Staff Response: The proposed General Plan Amendment will permit commercial use on property that has been used for a variety of commercial used since the 1930s. The amendment does not impact any growth or economic projections, and will not change or affect the character of the surrounding area.

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

Applicant Response: The applicant stated that the criterion is not applicable.

Staff Response: A variety of locations are available throughout the City for commercial uses. While this location is designated residential, it has always been used for commercial 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.

Applicant Response: The applicant states that the criterion is not applicable

Staff Response: Nonconforming status of the commercial operation was lost after the building was vacant for more than one year. Since that time, the residential designation and zoning has prevented use of the existing structure.

III. 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;

Applicant Response: There was a mistake in the original zoning.

Staff Response: In the vicinity of the subject parcel, Paseo de Peralta acts as a general boundary between commercial and residential zoning. As such, a residential zoning was given to a majority of residential parcels on this side (southside) of Paseo de Peralta, the subject parcel has never been used for residential and has only functioned as a commercial property.

(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;

Applicant Response: No response was provided.

Staff Response: No changes have occurred to the surrounding areas. However, the property contains a commercial structure that is nonconforming with the current residential zoning.

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

Applicant Response: No response was provided.

Staff Response: The proposed General Plan Amendment and Rezone will allow future use of the existing commercial structure and prevent further deterioration of the building.

The following General Plan Policies articulate the importance of commercial uses in the vicinity of neighborhoods:

Policy: 5-2-G-4: Provide for uses to meet everyday needs within neighborhoods in the form of pedestrian-oriented neighborhood centers.

Policy 5-3-G-2: Encourage professional and administrative offices to locate in and near neighborhood centers.

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

Applicant Response: We are working with the City staff to meet all requirements.

Staff Response: The proposed rezone complies with all rezoning requirements of Chapter 14.

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

Applicant Response: We are working with the City staff to meet all requirements.

Staff Response: The applicant requests a change to the Future Land Use Map to create consistency with the proposed zoning. The rezoning is consistent with policies of the General Plan regarding the commercial property in the vicinity of residential neighborhoods. See response to (a)(iii) above.

(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: We are working with the city staff to meet all requirements.

Staff Response: The subject site is better suited for BCD or C-1 zoning than residential zoning. With the exception of the past 10 years, the property has been used for commercial uses since the 1930s. Furthermore, General Plan Policies speak to the importance of commercial zoned property in close proximity to residential neighborhoods.

(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: This is an existing structure and will have no impact.

Staff Response: Infrastructure and public facilities are available to serve future development of the property.

(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.

Staff Response: Basic infrastructure including: streets, sidewalks, water, and sewer, are available to adequately serve the site as it currently exists. However, a condition has been proposed to require that vehicles enter from Paseo de Peralta (Eastbound) and exit onto Galisteo Street, a left-turn only onto the one-way northbound Galisteo Street.

IV. CONCLUSION

Staff supports the proposed General Plan Future Land Use Map Amendment from Moderate Density Residential to Community Commercial and the proposed Rezone from R-21 to BCD or C-1, subject to the proposed condition of approval. As stated pursuant to SFCC §14-3.5(B)(2)(b), the governing body may approve a rezoning to a less intensive zone district than originally requested by the applicant. The Land Use Department and Traffic Engineering Division also recommends rezoning to the less intensive C-1 zoning district for the reasons stated in the Traffic Engineering Division memorandum (See Exhibit B1). If the less intensive C-1 zoning is recommended and approved, the land use designation will be amended to Office to be consistent with the zoning.

VI. ATTACHMENTS:

EXHIBIT A: Conditions of Approval

EXHIBIT B: Development Review Team Memoranda
1. Traffic Engineering Division memorandum, Sandra Kassens

EXHIBIT C: Maps
1. Future Land Use
2. Current Zoning

EXHIBIT D: R-21 and C-1 Use Lists

EXHIBIT E: ENN Notes, August 19, 2014

EXHIBIT F: Applicant Letter

City of Santa Fe, New Mexico

Planning Commission

Exhibit A

Conditions of Approval

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

Planning Commission

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

Conditions	Department	Staff
The Traffic Engineer conducted a review of the preliminary subdivision plat and provided the following comments which are noted as Conditions of Approval: 1. The Traffic Engineering Division shall review and approve all access to the lot. Access to the northeast corner of the property from Paseo de Peralta shall be limited to entering vehicles, with ingress and egress permitted onto Galisteo Street, a one-way northbound street.	Traffic Engineering	John Romero/ Sandra Kassens

City of Santa Fe, New Mexico

Planning Commission

Exhibit B

Development Review Team Memoranda

City of Santa Fe, New Mexico

memo

DATE: March 24, 2015

TO: Zach Thomas, Land Use Division

VIA: John J. Romero, Traffic Engineering Division Director

FROM: Sandra Kassens, Engineer Assistant SMK

SUBJECT: **600 Galisteo Street General Plan Amendment and Rezone. (Case# 2015-20 and 2015-21)**

ISSUE:
Eva Parker, Trustee for the Lucy C. Ortiz Estate, requests approval of a General Plan amendment to amend the existing General Plan Future Land Use designation for a 5,581 square foot lot from Moderate Density Residential to Community Commercial; and additionally she requests approval of a rezoning the above described lot from R-21 (Residential – 21 dwelling units per acre) to BCD (Business-Capital District). The property is located at 600 Galisteo Street.

RECOMMENDED ACTION:
Review comments are based on submittals received on February 25, 2015. The comments below should be considered as Conditions of Approval to be addressed prior to approval unless otherwise noted:

1. The proposed BCD zoning allows both C-1 and C-2 type uses. We have concerns with the sites ability to handle traffic related to high turnover C-2 type uses such as Coffee Shops and Bakeries. With this in mind we recommend that the property be designated as C-1 zoning.
2. The Traffic Engineering Division shall review and approve all access to the lot. Access to the northeast corner of the property from Paseo de Peralta shall be limited to entering vehicles, with ingress and egress permitted onto Galisteo Street, a one-way northbound street.

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

Thank you.

City of Santa Fe, New Mexico

Planning Commission

Exhibit C

Maps

Future Land Use - 600 Galisteo Street

Zoning - 600 Galisteo Street

City of Santa Fe, New Mexico

Planning Commission

Exhibit D

R-21 and C-1 Use Lists

R-10, R-12, R-21 and R-29 Residential Districts

The purpose of the R-10, R-12, R-21 and R-29 districts is to make available a variety of *dwelling unit* types to serve a wide range of household needs at medium- and high-*density* levels.

Permitted Uses

1. Boarding, dormitory, monastery
2. Daycare; preschool; for infants & children (6 or fewer)
3. Dwelling, multiple-family
4. Dwelling, single-family
5. Electrical distribution facilities
6. Electrical substation
7. Electrical transmission lines
8. Foster homes licensed by the State
9. Group residential care facility (limited)
10. Manufactured homes
11. Police substations (6 or fewer staff)
12. Public parks, playgrounds & playfields

☼ Requires a **Special Use Permit** if located within 200 feet, excluding rights-of-way, of residentially zoned property.

Special Use Permits

The following uses may be conditionally permitted in R-10, R-12, R-21 and R-29 *residential* districts subject to a Special Use Permit:

1. Adult day care
2. Clubs & lodges (private)
3. Colleges & universities (residential)
4. Continuing care community
5. Correctional group residential care facility
6. Daycare; preschool; for infants & children (more than 6)
7. Fire stations
8. Grocery stores (neighborhood)
9. Group residential care facility
10. Laundromats (neighborhood)
11. Mobile home; permanent installation
12. Museums
13. Neighborhood & community centers (including youth & senior centers)
14. Nursing, extended care, convalescent, recovery care facilities
15. Personal care facilities for the elderly
16. Police stations
17. Religious assembly (all)
18. Religious educational & charitable institutions (no schools or assembly uses) ☼
19. Schools; elementary & secondary (public & private)
20. Sheltered care facilities

21. Utilities (all, including natural gas regulation station, telephone exchange, water or sewage pumping station, water storage facility)

Accessory Uses

The following accessory uses are permitted in R-10, R-12, R-21 and R-29 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
11. Utility sheds, located within the rear yard only

Dimensional Standards

Max density R-10=10; R-12, R-21 & R-29 = 10 dwelling units per acre – or per development plan or special use permit approval (14-7.2(F))

Minimum lot: Area: Single family: 3,000 square feet (may be reduced to 2,000 square feet if common open space is provided.) Multiple-family: as required to comply with gross density factor.

It is intended that the *common open space* required in single-*family* subdivisions where the *lot* size has been reduced from that of a conventional subdivision be a compensation to occupants for reduced *lot* size. It is further intended that *common open space* be usable and be provided for occupants outside of the *lot* but within the subdivision.

Where the *lot* size is between two thousand (2,000) and four thousand (4,000) square feet, *common open space* is required in an amount such that the sum of the square footage of the *lots* in the *development* plus the sum of the square footage for *common open space*, all divided by the number of single-*family lots*, equals no less than four thousand (4,000) square feet.

Max height: R-21 & R-29: 24 (36 with development plan or special use permit approval (14-7.2(E)).

R-10 & R-2-LD: 24

Within 10 feet of a property line, no point on a structure shall be higher than 14 feet above finished grade at the closest point on the perimeter of the structure. Within 15 feet of a property line, no point on a structure shall be higher than 24 feet above finished grade at the closest point of the perimeter.

Setbacks: Generally established by a development plan approved by the Planning Commission, otherwise: Street 7 (20 for garage or carport); side 5 or 10*; rear 15 or 20% of the average depth dimension of lot, whichever is less

A garage or carport with a vehicle entrance facing the street must be set back 20 feet from the street property line (refer to illustration 14-7.1-3)

(*Within 10 feet of a property line, no point on a structure shall be higher than 14 feet above finished grade at the closest point on the perimeter of the structure. Within 15 feet of a property line, no point on a structure shall be higher than 24 feet above finished grade at the closes point of the perimeter.)

Max lot cover: Multiple-family of 6 or more units: 40

Single-family, two-family or multiple-family of less than 6 units: 40 (70 if private open space is provided (14-7.5(c)(1) increase in maximum lot coverage if private open space is provided.

The intent of private open space is to ensure easily available access to the outdoors in medium- to high-density developments, and to provide for a sufficient sense of privacy. Requirements are as follows:

The maximum lot coverage may be increased in accordance with Table 14-7.2-1 if qualifying private open space for each dwelling unit is provided as follows:

(a) for *lots* in R-10, R-12, R-21 and R-29, an amount not less than thirty percent of the total *gross floor area* of that *dwelling unit*.; and

(2) balconies, roof decks or roofed areas such as porches or portals may be included as twenty-five percent of the required private open space;

(3) private open space does not include parking areas, driveways or related access for automobiles or stormwater ponding areas;

(4) the minimum dimension for required private open space shall not be less than twelve (12) feet;

(5) finished grade for required private open space shall have a slope no greater than one (1) vertical foot in ten (10) horizontal feet; and

(6) accessory dwelling units shall also be required to meet the private open space criteria in this Subsection 14-7.5(C); provided, however, that private open space for the accessory dwelling unit does not have to be physically separated from the private open space for the primary dwelling unit, and up to fifty percent of the private open space required for the accessory dwelling unit may be the same private open space provided for the primary dwelling unit; and

(7) there are no planting requirements for private open space.

Minimum Qualifying Open Space

Detached single family dwellings or multiple family dwellings: 250 square feet of common and / or private open space per unit.

C-1 Office and Related Commercial District

The purpose of the C-1 office and related commercial district is to provide areas for government offices; professional and *business* offices; medical and dental offices or clinics; *personal care facilities for the elderly*; and *hospitals*, laboratories, *pharmacies* and related complementary *businesses* that provide sales or service of office equipment, medical and dental supplies and office supplies. This district serves as a transitional buffer between more intense commercial use districts and *residential* districts.

Permitted Uses

1. Adult day care
2. Arts & crafts schools
3. Arts & crafts studios, galleries & shops,
4. Banks, credits unions (no drive-through)
5. Banks, credits unions (with drive-through) ☼
6. Barber shops & beauty salons
7. Boarding, dormitory, monastery
8. Clubs & lodges (private) ☼
9. Colleges & universities (non-residential)
10. Continuing care community
11. Correctional group residential care facility ☼
12. Dance studios
13. Daycare; preschool for infants & children (6 or fewer) Small
14. Daycare; preschool for infants & children (more than 6) Large
15. Dwelling; multiple family
16. Dwelling; single family
17. Electrical distribution facilities
18. Electrical substation
19. Electrical switching station
20. Electrical transmission lines
21. Fire stations
22. Foster homes licensed by the State
23. Funeral homes or mortuaries
24. Group residential care facility
25. Group residential care facility (limited)
26. Kennels ☼
27. Manufactured homes
28. Medical & dental offices & clinics
29. Museums
30. Neighborhood & community centers (including youth & senior centers)
31. Nursing, extended care, convalescent, & recovery facilities
32. Offices; business & professional (no medical, dental, financial services)
33. Personal care facilities for the elderly
34. Pharmacies or apothecary shops
35. Photographers studios
36. Police stations
37. Police substations (6 or fewer staff)
38. Preschool, daycare for infants & children – Small
39. Preschool, daycare for infants & children – Large
40. Public parks, playgrounds, playfields

41. Religious assembly (all)
42. Religious educational & charitable institutions (no schools or assembly uses) ☼
43. Rental, short term
44. Restaurant; fast service, take out (no drive through or drive up, no alcohol sales, not to exceed 1,000 Square Feet)
45. Schools; Elementary & secondary (public & private) ☼
46. Schools; vocational or trade, non-industrial
47. Tailoring & dressmaking shops
48. Veterinary establishments, pet grooming ☼

☼ 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-1 districts subject to a Special Use Permit:

1. Cemeteries, mausoleums & columbaria
2. Colleges & universities (residential)
3. Grocery stores (neighborhood)
4. Hospitals
5. Laundromats (neighborhood)
6. Mobile home; permanent installation
7. Sheltered care facilities
8. Utilities (all, including natural gas regulation station, telephone exchange, water or sewage pumping station, water storage facility)

Accessory Uses
The following accessory uses are permitted in C-1 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
11. Utility sheds (within the rear yard only)

Dimensional Standards

Minimum district size

- Single family dwelling: 3,000 square feet (may be reduced to 2,000 square feet if common open space is provided.
- Multiple family dwelling: as required to comply with gross density factor.

Maximum height:	36
Minimum setbacks:	
Non-residential uses:	Street 10; side 5, rear 10
Residential uses:	Street 7; side 5 (10 on upper stories); rear 15 or 20% of the average depth dimension of lot, whichever is less
Max lot cover:	
Non-residential uses:	60
Residential uses:	40
Open Space Requirements:	
Single-Family	Where the *lot* size is between two thousand (2,000) and four thousand (4,000) square feet, qualifying *common open space* is required in an amount such that the sum of the square footage of the *lots* in the *development* plus the sum of the square footage for *common open space*, all divided by the number of single *family lots*, equals no less than four thousand (4,000) square feet.
Multiple-Family	Qualifying *common open space* is required at a minimum of two hundred fifty (250) square feet per unit.
Non Residential	The minimum dimension for *nonresidential open space* shall be 10 feet and cover a minimum of 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 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 25% unless the conditions described in 14-7.5(D)(6) are met; then the *required open space* may be reduced by a maximum of 10% of the total *lot* size.

City of Santa Fe, New Mexico

Planning Commission

Exhibit E

ENN Notes

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

Project Name	600 Galisteo
Project Location	600 Galisteo
Project Description	Rezone from R-21 to BCD
Applicant / Owner	Chuck and Eva Parker
Agent	N/A
Pre-App Meeting Date	
ENN Meeting Date	8/19/14
ENN Meeting Location	Public Library
Application Type	General Plan Amendment and Rezone
Land Use Staff	Zach Thomas
Attendance	14 neighbors and applicants combined

Notes/Comments:

Meeting started at 5:45. Staff (Mr. Thomas) gave an introduction about the purpose of the ENN meeting the overall entitlement process. Also let Mr. Parker know that a request was made by Stephanie Beninato she would like to speak first as she had to leave the meeting early.

Mr. Parker gave an overview of the history of the property noting that the property was always commercial and has never been used as residential. He further stated that intent of the rezone was to sell the property because nobody would by it with a residential zoning.

Mr. Parker read his answers to the criteria questions.

During the course of the Mr. Parker reading through the questions and answers various comments we interjected by the public.

Ms. Beninato spoke to the following points:

- Made general comments regarding the legal protocol of ENN meetings.
- Made comments about the generally poor condition of the subject property including the poor condition of the wall on the property line. (Mr. Parker responded that he has tried to fix the wall but was not allowed onto Ms. Beninato's property and could therefore not fix it)....Disagreement ensued.
- Light, noise, parking and garbage have historically been a problem with past tenants of the property.
- Gave a statement that the proposal constitutes "spot zoning" and read a New Mexico supreme court decision regarding a case involving spot zoning.

After completing her statements there was general disagreement between Ms. Beninato and Mr. Parker. Ms. Beninato walked out of the room during this time.

Peter Komis stated that his primary concern was the potential for the rezone to create a precedent for additional rezones in the future.

Karen Heldmeyer stated a concern regarding the potential future uses of the property were it to be rezoned.

Mr. Parker made general statements in response to the comments that since the use of the property has historically been commercial that there would be no additional impacts associated with the rezoning. The rezoning is simply doing what should have been done in the first place.

Mr. Komis inquired about the potential for a variance or use permit instead of a rezone.

Paul Duran stated that they have tried that option and it does not work. Nobody will buy the property.

Mr. Parker stated that it is not their intention to hurt the neighborhood and they are only asking for BCD because it is the only zone they can apply for per the requirements of the Code.

There was general discussion about Ms. Beninato and the issues she brought up.

Amy Laugherty stated that concerns with traffic, noise and garbage were the primary issues brought up on the Don Diego Neighborhood Association website

Bernadette Vadurro suggested that everyone find ways to reach a compromise so that concerns could be addressed and the property could be rezoned.

Continued concerns regarding the lack of onsite parking were expressed...

A neighbor responded (Name unknown) that they would be willing to offer their nearby property to provide additional parking.

At the end of the meeting, Mr. Komis expressed more concern about this rezone opening the door to more rezones in the future. He also expressed that it was not his goal to prevent use or sale of the property but just wanted to make sure that the best possible path/option is chosen.

Regarding the question of whether this rezone would create precedent for future rezones: Mr. Thomas responded that that is in some way the ultimate question because rezones are discretionary and it is hard to know how zoning will evolve over time.

The meeting dissolved into general discussion among small groups and ended at 7:30.

City of Santa Fe, New Mexico

Planning Commission

Exhibit F

Applicant Letter

This request is to correct the original zoning of the property located at 600 Galisteo St. This property was first developed in the mid to late 1930's by Frank and Lucy Ortiz as a store selling dry goods and lamp oil to local families. It then became the local grocery store having a meat market, groceries and liquor. This building has always been used for commercial and never for residential. As you can see by the design of the building. When this property was originally zoned it was zoned R 21 with a non-conforming status so the council at the time knew it was a commercial property. If you look at the properties in the BCD you will notice a lot, if not most, are houses that are now commercial raising their value yet the one commercial property in the area was changed to R 21 lowering it's value. This property was turned over to a conservatorship company and they were not aware of the non-conforming status for the property and were unable to rent the property due to the slumping economy and a year of vacancy lapsed and we lost the non-conforming status. As a result the building has sat vacant for more than ten years causing a great loss to Lucy while she was still alive. She was forced to sell off other properties including the family home to pay her living expenses. After the grocery store was closed it became Madalyns Photography followed by Eva's de Santa Fe Photography, The Photography Studio, A Rug store and The Gold Leaf Frame Shop.The frame shop was paying $ 3000.00 a month rent when they moved out. This was zoned residential because of the side of the street it is on and not for what it was always used for. This property is in the estate of the late Frank and Lucy Ortiz. Frank was twice elected Mayor of Santa Fe serving from 1948 thru 1952. Prior to being Mayor he served on the City Council for several years. These were non salaried positions at the time. When Paseo de Peralta was widened and created

from Hickock St. property was purchased from the Ortiz family which is why there is limited parking.