

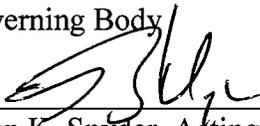
City of Santa Fe, New Mexico

memo

DATE: April 30, 2014 Governing Body Meeting

TO: Governing Body

VIA:



Brian K. Snyder, Acting City Manager
Matthew S. O'Reilly, P.E., Director, Land Use Department
Tamara Baer, Planner Manager, Current Planning Division 

FROM: Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division 

RIVERA GENERAL PLAN AMENDMENT AND REZONING

Case #2013-101. 2791 and 2797 Agua Fria Road (Rivera) General Plan Amendment. James W. Siebert, agent for Stella Rivera, requests General Plan Future Land Use map amendment to change the designation of 4.65± acres from Rural/Mountain/Corridor (1 dwelling unit per acre) to General Commercial. (Dan Esquibel, Case Manager)

Case #2013-102. 2791 and 2797 Agua Fria Road (Rivera) Rezoning. James W. Siebert, agent for Stella Rivera, requests rezoning of 4.65± acres from R-1 (Residential, 1 dwelling unit per acre) to C-2 (General Commercial). The application includes a Development Plan for existing residential and nonresidential uses of the property. (Dan Esquibel, Case Manager)

Attached as Exhibits A1 through E1, are the March 14, 2014 Planning Commission Findings of Fact and Conclusions of Law, proposed Resolution & Bill, February 6, 2014 Planning Commission meeting minutes and packet material for the Governing Body's review.

RECOMMENDATION:

The Land Use Department recommends **APPROVAL** of the General Plan Amendment and Rezoning. No conditions are submitted as part of the General Plan or Rezoning. DRT conditions will be made part of the Development Plan.

Two motions will be required; one for #Case 2013-101 Rivera General Plan Amendment and one for #Case 2013-102 Rivera General Rezoning to C-2.

I. APPLICATION OVERVIEW

At the February 6 Planning Commission meeting, the Commission recommended approval of #Case 2013-101 Rivera General Plan Amendment and #Case 2013-102 Rivera Rezoning to C-2. There were no comments made at the public hearing portion of the meeting.

III. CONCLUSION

The proposal satisfies the criteria in Chapter 14 for General Plan Amendment and Rezoning. The submitted Development Plan identifies existing conditions requiring minor graphic corrections. The proposed requests do not conflict with the General Plan policies of the City nor do they conflict with existing uses in the area. The property is bordered by the Santa Fe River to the north, creating a buffer to the R-1 rural character to the north of the river. The east portion of the property includes the residential component of the development providing a transition from commercial to residential to the east. No negative comments have been provided from other City reviewing Divisions.

IV. EXHIBITS:

Exhibit A: March 14, 2014 Planning Commission Findings and conclusions of Law

Exhibit B: Resolution

Exhibit C: Bill

Exhibit D: February 6, 2014 Planning Commission Minutes

Exhibit E: February 6, 2014 Planning Commission Packet

April 8, 2014
Governing Body
Cases 2013-101 & 102

**RIVERA GENERAL PLAN AMENDMENT
AND REZONING TO GENERAL OFFICE**

EXHIBIT A

March 14, 2014 Planning Commission Findings and Conclusions of Law

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

Case #2013-101

2791 and 2797 Agua Fria Street General Plan Amendment

Case #2013-102

2791 and 2797 Agua Fria Street Rezoning to C-2

Owner's Name – Stella Rivera

Applicant's Name – James W. Siebert and Associates, Inc.

THIS MATTER came before the Planning Commission (Commission) for hearing on February 6, 2014 upon the application (Application) of James W. Siebert and Associates, Inc. as agent for Stella Rivera (Applicant).

The property is located east of the Siler Road intersection at 2791 and 2797 Agua Fria Street (Property) and is comprised of 4.32± acres zoned R-1 (Residential – 1 dwelling unit/acre).

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 Rural Mountain Corridor to Community Commercial and (2) to rezone the Property from R-1 to C-2 (General Commercial).

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

FINDINGS OF FACT

General

1. The Commission heard testimony and took evidence from staff, the Applicant, and members of the public interested in the matter.
2. Santa Fe City Code (Code) §14-3.2(D) sets out certain procedures for amendments to the Plan, including, without limitation, a public hearing by the Commission and recommendation to the Governing Body based upon the criteria set out in Code §14-3.2(E).
3. Code §§14-3.5(B)(1) through (3) set out certain procedures for rezonings, including, without limitation, a public hearing by the Commission and recommendation to the Governing Body based upon the criteria set out in Code §14-3.5(C).
4. Code §14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [§14-3.1(E)(1)(a)(i)]; (b) an Early Neighborhood Notification (ENN) meeting [§14-3.1(F)(2)(a)(iii) and (xii)]; and (c) compliance with Code Section 14-3.1(H) notice and public hearing requirements.
5. A pre-application conference was held on June 13, 2013.

6. 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)].
7. An ENN meeting was held on the Application on August 19, 2013 at the Southside Public Library on 6599 Jaguar Drive.
8. Notice of the ENN meeting was properly given.
9. The ENN meeting was attended by the Applicant and City staff; there was one member of the public in attendance and no concerns were raised.
10. 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.

The General Plan Amendment

11. 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.
12. 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.
13. 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 is located in an area developed with industrial, commercial, mixed-use and higher-density (R-2, R-4 and R-6) residential zoning, generally located on the south side of Agua Fria Street, as well as the abutting R-1 zoning and despite the R-1 zoning has historically been used for commercial uses. The Plan acknowledges the mix of uses in the Siler Road area and encourages the continued development of compatible businesses to provide employment opportunities in close proximity to residential uses. Water, electrical, and natural gas utilities are available to serve the Property. There is currently no sanitary sewer accessible to 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 recognize the prevailing use and character of an area.
 - (c) *The amendment does not: (i) allow uses or a change that is significantly different from or inconsistent with the prevailing use and character of the area; (ii) affect an area of less than two acres, except when adjusting boundaries between districts; or (iii) benefit one of a few landowners at the expense of the surrounding landowners or the general public [§14-3.2(E)(1)(c)].*

The amendment will not allow a use or change that is inconsistent with the prevailing uses of the area and if there is any change in use, buffering to adjacent residential areas will be required. The proposed amendment conforms the zoning of the Property to historic and existing uses and is consistent with zoning in the surrounding area. Based

upon the foregoing, the amendment would 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 or justification [§14-3.2(E)(1)(d)].*

This is not applicable, as, based upon paragraph 13(d) above, the proposed amendment conforms with Code §14-3.2(E)(1)(c).

- (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 13(a)-(c) above.

The Rezoning

14. Under Code §14-3.5(A)(1)(d) any person may propose a rezoning (amendment to the zoning map).
15. Code §§14-2.3(C)(7)(c) and 14-3.5(B)(1)(a) provide for the Commission's review of proposed rezonings and recommendations to the Governing Body regarding them.
16. Code §§14-3.5(C) establishes the criteria to be applied by the Commission in its review of proposed rezonings.
17. The Commission has considered the criteria established by Code §§14-3.5(C) and finds, subject to the Conditions, the following facts:
- (a) *One or more of the following conditions exist: (i) there was a mistake in the original zoning; (ii) there has been a change in the surrounding area, altering the character of the neighborhood to such an extent as to justify changing the zoning; or (iii) a different use category is more advantageous to the community, as articulated in the Plan or other adopted City plans [Code §14-3.5(C)(1)(a)].*
The zoning for the Property was established at the time it was annexed into the City and did not accurately reflect the mixed uses and character existing in the area at the time. Rezoning the Property will not alter that 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 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 consists of 4.32± acres and its use 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, 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

5. The Applicant has the right under the Code to propose the rezoning of the Property.
6. 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 13th OF MARCH 2014 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.
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 C-2.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

Michael A. Davis for

Thomas Spray
Chair

3/13/14
Date:

FILED:

Yolanda Y. Vigil
Yolanda Y. Vigil
City Clerk

3/14/14
Date:

APPROVED AS TO FORM:

Kelley A. Brennan

Kelley Brennan
Interim City Attorney

3/10/14
Date:

April 8, 2014
Governing Body
Cases 2013-101 &102

**RIVERA GENERAL PLAN AMENDMENT
AND REZONING TO GENERAL OFFICE**

EXHIBIT B

Resolution

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2014-__

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10 A RESOLUTION

11 AMENDING THE GENERAL PLAN FUTURE LAND USE CLASSIFICATION FROM
12 RESIDENTIAL - RURAL/MOUNTAIN/CORRIDOR (1 DWELLING UNIT PER ACRE) TO
13 GENERAL COMMERCIAL FOR A 4.65± ACRE PARCEL OF LAND LOCATED
14 APPROXIMATELY 1,100 FEET NORTH EAST OF SILER ROAD ON THE NORTH SIDE
15 OF AGUA FRIA STREET (2791 AND 2797 AGUA FRIA STREET) WITHIN T17N, R9E,
16 SECTION 33 N.M.P.M., SANTA FE COUNTY NEW MEXICO (“2791 AND 2797 AGUA
17 FRIA STREET (RIVERA) REZONING,” CASE NO. 2013-101).

18 WHEREAS, the agent for the owners of that certain parcel of land comprising 4.65± acres
19 located approximately 1,100 Feet North East of Siler Road on the north side of Agua Fria Street
20 (2791 And 2797 Agua Fria Street) within T17N, R9E, Section 33 N.M.P.M., Santa Fe County New
21 Mexico (the "Property") has submitted an application to amend the General Plan Future Land Use
22 Map classification of the Property from Residential – Rural/Mountain/Corridor (1 dwelling unit per
23 acre) to “General Commercial”; and

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

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

5 **WHEREAS**, reclassification of the subject property would be consistent with the General
6 Plan Themes and Policies for Land Use (General Plan, Chapter 3) and Growth Management (General
7 Plan, Chapter 4); and

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

10 **Section 1.** That the General Plan Future Land Use Map classification for the Property
11 be and hereby is amended as shown in the General Plan Amendment legal description attached hereto
12 as EXHIBIT A and incorporated herein.

13 **PASSED, APPROVED, and ADOPTED** this ___ day of _____, 2014.

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17 **ATTEST:**

JAVIER M. GONZALES, MAYOR

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20 _____
YOLANDA Y. VIGIL, CITY CLERK

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22 **APPROVED AS TO FORM:**

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KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

PERIMETER LAND DESCRIPTION, OF THE RIVERA TRACT

THE RIVERA TRACT LYING WITHIN SECTION 33, T.17N., R.9E., N.M.P.M., CITY AND COUNTY OF SANTA FE, NEW MEXICO, SAID PERIMETER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE RIVERA TRACT WHICH LIES S79°06'26"W, 119.10 FEET FROM A BLM BRASS CAP STAMPED LOT 23 AP4, SHC 417, TR1,

THENCE S64°06'16"W, 37.05 FEET TO A POINT;

THENCE S60°49'17"W, 79.97 FEET TO A POINT;

THENCE S59°05'31"W, 247.04 FEET TO A POINT;

THENCE S55°36'21"W, 3.18 FEET TO A POINT;

THENCE N13°57'04"W, 194.52 FEET TO A POINT;

THENCE S57°28'03"W, 49.98 FEET TO A POINT;

THENCE N13°02'25"W, 243.94 FEET TO A POINT;

THENCE N42°17'51"E, 370.63 FEET TO A POINT;

THENCE N62°05'20"E, 77.09 FEET TO A POINT;

THENCE S15°20'23"E, 545.34 FEET TO THE POINT OF BEGINNING, CONTAINING 4.32 ACRES MORE OR LESS, ALL AS SHOWN ON PLAT RECORDED JANUARY 16, 2014 IN PLAT BOOK 769, PAGE 10, OFFICE OF THE SANTA FE COUNTY CLERK.

Res No. _____

EXHIBIT A



DAWSON SURVEYS INC.
PROFESSIONAL LAND SURVEYORS
2502B CAMINO ENTRADA
SANTA FE, N.M. 87505
FILE#9384\DESC DATE:02\24\14

April 8, 2014
Governing Body
Cases 2013-101 &102

**RIVERA GENERAL PLAN AMENDMENT
AND REZONING TO GENERAL OFFICE**

EXHIBIT C

Bill

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-15

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10 AN ORDINANCE

11 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SANTA FE; CHANGING
12 THE CLASSIFICATION FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT TO THE ACRE)
13 TO C-2 (GENERAL COMERCIAL); AND PROVIDING AN EFFECTIVE DATE WITH
14 RESPECT TO A CERTAIN PARCEL OF LAND COMPRISING 4.65± ACRES LOCATED
15 AT 2791 AND 2797 AGUA FRIA STREET (“2791 AND 2797 AGUA FRIA STREET
16 (RIVERA) REZONING,” CASE NO. 2013-102). BE IT ORDAINED BY THE GOVERNING
17 BODY OF THE CITY OF SANTA FE:

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

20 The parcel of land comprising 4.65± acres generally located at 2791 and 2797 Agua Fria
21 Street more fully described in EXHIBIT A attached hereto and incorporated by reference,
22 located in T17N, R9E, Section 33 N.M.P.M., Santa Fe County, New Mexico,

23 **Section 2.** The official zoning map of the City of Santa Fe adopted by Ordinance No.
24 2001-27 is amended to conform to the changes in zoning classifications for the Property set forth in
25 Section 1 of this Ordinance.

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Section 3. This rezoning action and any future development plan for the Property is approved with and subject to the conditions set forth in EXHIBIT B and incorporated herein summarizing the City of Santa Fe staff technical memoranda and conditions recommended by the Planning Commission on February 6, 2014.

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 BRENNAN, INTERIM CITY ATTORNEY

PERIMETER LAND DESCRIPTION, OF THE RIVERA TRACT

THE RIVERA TRACT LYING WITHIN SECTION 33, T.17N., R.9E., N.M.P.M., CITY AND COUNTY OF SANTA FE, NEW MEXICO, SAID PERIMETER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE RIVERA TRACT WHICH LIES S79°06'26"W, 119.10 FEET FROM A BLM BRASS CAP STAMPED LOT 23 AP4, SHC 417, TR1,

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Bill No. 15

EXHIBIT A



DAWSON SURVEYS INC.
PROFESSIONAL LAND SURVEYOR'S
2502B CAMINO ENTRADA
SANTA FE, N.M. 87505
FILE#9384\DESC DATE:02\24\14

EXHIBIT B

2791 and 2797 Agua Fria Road (Rivera) Rezoning

No conditions are submitted as part of the Rezoning. Development Review conditions will be made part of the Development Plan.

April 8, 2014
Governing Body
Cases 2013-101 & 102
**RIVERA GENERAL PLAN AMENDMENT
AND REZONING TO GENERAL OFFICE**

EXHIBIT D

February 6, 2014 Planning Commission Minutes

SUMMARY INDEX
CITY OF SANTA FE
PLANNING COMMISSION
February 6, 2014

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CALL TO ORDER/ROLL CALL	Quorum	1
APPROVAL OF AMENDED AGENDA	Approved	1
<u>APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS</u>		
MINUTES – JANUARY 9, 2014	Approved	2
FINDINGS/CONCLUSIONS – <u>CASE #2013-119.</u> LOT 6A, PLAZA LA PRENSA, SOUTHWEST BUSINESS PARK FINAL SUBDIVISION PLAT	Approved	2
<u>OLD BUSINESS</u>	None	2
<u>NEW BUSINESS</u>		
CASE 2013-101. 2791 and 2797 AGUA FRIA ROAD (RIVERA) GENERAL PLAN AMENDMENT. JAMES W. SIEBERT, AGENT FOR STELLA RIVERA, REQUESTS GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 4.65± ACRES FROM RURAL/ MOUNTAIN/CORRIDOR (1 DWELLING UNIT PER ACRE) TO GENERAL COMMERCIAL	Approved	2-7
CASE 2013-102. 2791 AND 2797 AGUA FRIA ROAD (RIVERA) REZONING. JAMES W. SIEBERT, AGENT FOR STELLA RIVERA, REQUESTS REZONING OF 4.65± ACRES FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO C-2 (GENERAL COMMERCIAL). THE APPLICATION INCLUDES A DEVELOPMENT PLAN FOR EXISTING RESIDENTIAL AND NON-RESIDENTIAL USES OF THE PROPERTY	Approved	2-7

CASE #2013-128. 2868 RUFINA STREET

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
(HOMEWISE) REZONING. JENKINS GAVIN DESIGN & DEVELOPMENT, INC., AGENT FOR HOMEWISE, INC., REQUESTS REZONING OF 2.39± ACRES FROM I-2 (GENERAL INDUSTRIAL) TO I-1 (LIGHT INDUSTRIAL) TO ACCOMMODATE A PROPOSED 20,000± SQ. FT. OFFICE BUILDING	Approved	8-14
<u>CASE #2013-130.</u> 313-317 CAMINO ALIRE (DESERT ACADEMY) GENERAL PLAN AMENDMENT. DAVID SCHUTZ, AGENT FOR DESERT ACADEMY, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 1.38± ACRES OF LAND FROM RESIDENTIAL LOW DENSITY (3-7 DWELLING UNITS PER ACRE) TO OFFICE. THE PROPERTY IS THE FORMER SITE OF DESERT ACADEMY	Approved	14-19
<u>CASE 2013-131.</u> 313-317 CAMINO ALIRE (DESERT ACADEMY) REZONING. DAVID SCHUTZ, AGENT FOR DESERT ACADEMY, REQUESTS REZONING OF 1.38± ACRES OF LAND FROM 4-5 (RESIDENTIAL, 5 DWELLING UNITS PER ACRE) TO C-1 (OFFICE AND RELATED COMMERCIAL). THE PROPERTY IS THE FORMER SITE OF DESERT ACADEMY	Approved	14-19
STAFF COMMUNICATIONS	Information/discussion	19
MATTERS FROM THE COMMISSION	Information/discussion	20
ADJOURNMENT		20

**MINUTES OF THE MEETING
OF THE
PLANNING COMMISSION
February 6, 2014**

A regular meeting of the City of Santa Fe Planning Commission, was called to order by Chair Tom Spray, at approximately 7:10 p.m., on Thursday, February 6, 2014, in the City Council Chambers, City Hall, Santa Fe, New Mexico.

A. ROLL CALL

MEMBERS PRESENT:

Commissioner Tom Spray, Chair
Commissioner Lisa Bemis
Commissioner Michael Harris
Commissioner Signe Lindell
Commissioner Lawrence Ortiz
Commissioner John Padilla
Commissioner Dan Pava
Commissioner Renee Villarreal

MEMBERS EXCUSED:

Commissioner Angela Schackel-Bordegary

OTHERS PRESENT:

Matthew O'Reilly, Director, Land Use Department
Tamara Baer, Planner Manager, Current Planning Division – Staff liaison
Kelley Brennan, Assistant City Attorney
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance for the conducting of official business.

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AMENDED AGENDA

MOTION: Commissioner Villarreal moved, seconded by Commissioner Bemis, to approve the Agenda as presented.

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Bemis, Harris, Lindell, Ortiz, Padilla, Pava, and Villarreal voting in favor of the motion and no one voting against [7-0].

D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

1. MINUTES – JANUARY 9, 2014

MOTION: Commissioner Harris moved, seconded by Commissioner Villarreal, to approve the minutes of the meeting of January 9, 2014, as presented.

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Bemis, Harris, Lindell, Ortiz, Padilla, Pava and Villarreal voting in favor of the motion and no one voting against [7-0].

2. FINDINGS/CONCLUSIONS

CASE #2013-119. LOT 6A, PLAZA LA PRENSA, SOUTHWEST BUSINESS PARK FINAL SUBDIVISION PLAT.

A copy of the Findings of Fact and Conclusions of Law in Case #2013-119, Lot 6A, Plaza la Prensa, Southwest Business Park Final Subdivision Plat, is incorporated herewith to these minutes as Exhibit "1."

MOTION: Commissioner Villarreal moved, seconded by Commissioner Ortiz, to approve the Findings of Fact and Conclusion of law in Case #2013-119, Lot 6A, Plaza la Prensa, Southwest Business Park Final Subdivision Plat, as presented by staff.

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Bemis, Harris, Lindell, Ortiz, Padilla, Pava and Villarreal voting in favor of the motion and no one voting against [7-0]

E. OLD BUSINESS

There was no old business.

F. NEW BUSINESS

Items F(1) and F(2) were combined for purposes of presentation, public hearing and discussion but were voted upon separately.

- 1. CASE 2013-101. 2791 and 2797 AGUA FRIA ROAD (RIVERA) GENERAL PLAN AMENDMENT. JAMES W. SIEBERT, AGENT FOR STELLA RIVERA, REQUESTS GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 4.65± ACRES FROM RURAL/MOUNTAIN/CORRIDOR (1 DWELLING UNIT PER ACRE) TO GENERAL COMMERCIAL. (DAN ESQUIBEL, CASE MANAGER)**

A Memorandum dated January 30, 2014, for the February 6, 2014 Planning Commission Meeting, with attachments, to the Planning Commission from Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division, regarding Case #2013-101, 2791 and 2797 Agua Fria Road (Rivera) General Plan Amendment, and Case #2013-102, 2791 and 2797 Agua Fria Road (Rivera) Rezoning, is incorporated herewith to these minutes as Exhibit "2."

A copy of a Santa Fe County Business Registration certificate, with attached receipt for \$35 from Santa Fe County, are incorporated herewith collectively to these minutes as Exhibit "3."

A series of color photographs and drawings of the subject site, used by Daniel Esquibel in his presentation, and entered for the record by Daniel Esquibel, are incorporated herewith to these minutes collectively as Exhibit "4."

The staff report was presented by Daniel Esquibel. Please see Exhibit "2" for specifics of this presentation.

Recommendation: The Land Use Department recommends approval of the General Plan Amendment and Rezoning with no conditions of approval as part of the General Plan or Rezoning. DRT conditions will be made part of the Development Plan.

Public Hearing

Presentation by the Applicant

Jim Siebert, 915 Mercer, Agent for the Applicant, Stella Rivera and her son George Rivera, was sworn. Mr. Siebert said, "Originally, this property was under County jurisdiction, and if you wanted something, you would go to the County and request approval for a building permit or other permits. Then there was the Extraterritorial Jurisdiction which lasted for about 12 years, and then at that time, it was both City and County jurisdictions. You would still though at that time, submit all your applications to the County. Then in 2009, the City adopted the SPPAZO [Subdivision, Platting, Planning, And Zoning Ordinance] for the presumptive City limits. At that point, they established zoning for the property and jurisdictional control at the same time. On January 1, 2014, this and other parts of the presumptive City limits, were annexed to the City."

Mr. Siebert continued, "And part of the reason I'm giving this history, is I think there's going to be a question that comes up is, one, the City established the zoning back in 2009, why didn't the applicant at that time say something. What has progressed over all this time is that the Riveras have lived through all these jurisdictions, and the result has been that they continued to do business as they have always done business. But in this particular case, because one of the businesses was no longer renewing their business licenses, it was leasing the old Club Alegria, all that came to an end and they became a non-conforming use. They simply couldn't continue to do business as they have in the past."

Mr. Siebert continued, "And just to kind of further give you a little background on these kinds of lack of understanding of jurisdictional issues, I'm going to hand you out a couple of items, and leave this with the secretary [Exhibit "3]. What this is, and once again to reiterate, 2009 is when the City took over the jurisdiction of this particular area. Then in 2010, the County issued a Business Registration for Club Alegria [Exhibit "3], so even then there was some real confusion about who had jurisdiction over this area."

Mr. Siebert continued, "And then the Sylvans Wholesale was just a few doors down from this particular request. They issued a business license, the Sylvans, in the exact same area in 2012. So you can begin to understand the kinds of confusion that existed in this particular area of what was the County."

Mr. Siebert continued, "So the property is currently zoned R-1. There is a variety of uses on the property and I will point those out on the aerial. So, under current R-1 regulations, the only use that would be existing on the property that would be conforming would be Stella Rivera's residence. Everything else would be a non-conforming use. If it burned down, they couldn't simply replace it. These uses, by the way, most of them have been in business for 50 years."

Mr. Siebert continued, "So let me pull out some maps. So just to reiterate what staff has pointed out in the way of zoning. The property sits 'here.' 'This' is the Ulibarri landscaping business that sits on 'this' property over 'here.' 'C-2' is 'here.' And kind of scattered throughout 'here' is a mix of what were approved commercial uses in the County, a lot of those are now non-conforming uses. But roughly across the street is I-2. Heavy industry which is the most intensive zoning district that Santa Fe has. 'This' is the [inaudible] structure, 'this' is the old Nambe manufacturing location. And I tell you what's taken place and what's on the property. 'This' is Stella Rivera's home, and it has been there for the last 50 years. 'This' is the old Club Alegria. The Club Alegria really hasn't existed for about 10 years. It's been closed up. And some of the uses that have been in there, the last one was a pond supply and contractor. There have been carpentry shops, two different carpentry shops that sit on 'this' side. There are 4 apartment units that are 'here,' and another rental unit that sits 'here,' and not shown in the photograph, there's a landscape businesses that have based some of their supplies out of the old Club Alegria."

Mr. Siebert continued, "The kind of interesting thing about this is that what we're requesting tonight is the continuation of uses that have existed on this property for 50 years. So all of a sudden we're going from the lowest single family district in Santa Fe to a C-2 general commercial district. And I think the one thing I'd like to leave you with is George Rivera in some of our discussions, he said, when they moved to the property and his dad built the house and started Club Alegria, that in that particular area, that's what people did. You moved, you built a house and you started your business, and a lot of those businesses actually in the surrounding areas are still there today. So with that, I would like to request your approval of C-2 zoning and the General Plan Amendment and I'll answer any questions you may have."

Speaking to this request

There was no one speaking for or against this request.

The Public Testimony Portion of the Public Hearing Was Closed

Commissioner Lindell said she has questions about the sewer and capping of the well. She asked what infrastructure is available to this property.

Mr. Esquibel said, "As you know, this was annexed in from the County and the development of this piece of property came in during the 1950's and 1960's. In any event, the development of this property actually came in prior to the County Code. The County Code came into effect in 1981, and their General Plan came into effect in 1980, so a lot of infrastructure was built as it was in the County when there wasn't much infrastructure from the City available to that, and it has maintained its status quo. Within the City limits, they will be able to attach on any infrastructure that is available to the property. And what was requested by our DRT for Sewer and Water, was that there was movement in that direction for connection by capping the well and connecting to the sewer system. And that will be a function of the Development Plan as we move forward with that review."

Commissioner Lindell said, "I guess I'm somewhat not clear. I understand about capping the well and attaching to the City water, but it says they would obtain a septic system permit. So, is it going to stay on septic."

Mr. Esquibel said he would leave that to Stan Holland to determine whether or not there will be a push to connect them. He is unsure exactly where the sewer system is along Agua Fria. He said, currently, if they have an existing septic system, we would like to make sure that the infrastructure they've developed around the septic system can still accommodate that growth. Sometimes it will develop over and over again, but the septic system stays the same size. They might increase the leach field a little bit, but the actual box that's put in the ground doesn't increase in size, so they're looking at that as a main issue.

Commissioner Lindell said she thinks this property borders the River, and Mr. Esquibel said this is correct.

Commissioner Lindell said it says it's not accessible to the City public sewer system. She hopes by the time this property is developed more that it would have access to a public sewer system rather than putting a septic system there. She said, "I don't know that I'm really looking for an answer on this, because I don't think there is an answer on it, I'm just putting out a wish list on it. So there is water there that they have to cap the well and tap into City water. That's what it sounds like. Is that true."

Mr. Esquibel said, "I believe so, yes."

Ms. Baer said, "There's a 10 inch water line in Agua Fria, so water is available immediately in front of the site, and so they will be connecting to City water. There is no City sewer line that is adjacent to or within 200 feet of the property, so the sewer folks take a look at the proximity of the nearest line. If it's not within 200 feet, then they're not required by Code to connect to City sewer. So that's simply not available at this time."

Commissioner Lindell asked, "If it were available some time in the future, prior to anything happening with this property, would then they be required to attach."

Ms. Baer said they would be required to connect at time of development or improvement of the property.

Commissioner Padilla said Mr. Trujillo's memo provides, "All structures will be served by individual meters. That's upon development of the property. Or did I understand you correctly, if this is approved, part of the development plan, there were no conditions of approval, do not require that they connect on approval of this general plan amendment and rezoning. Is that correct."

Ms. Baer said, "The 2008 Ordinance, which required connection if those utilities were available, does say specifically, upon improvement or development of the property. Now I believe this is a separate condition that Mr. Trujillo is asking for and it would become a condition of this approval. So, in other words, it's not that the Code necessarily requires it until the time of improvement or development. But as I read Mr. Trujillo's memo, I think he's asking for that to happen before the rezoning would be recorded."

Commissioner Padilla asked Mr. Siebert if that acceptable to the owner.

Mr. Siebert said it was his understanding that there were no conditions associated with this. He said some of the property is on City water.

George Rivera, 2182 Candelero Street, son of the owner, was sworn.

Mr. Padilla noted the request for approval of the General Plan Amendment and Rezoning have no conditions of approval. He said staff has stated, as part of this approval, you will be required to connect the entire project to City services.

Ms. Baer said, "If I may, I would like to retract that. The report does say there are no conditions that attach to the rezoning and the general plan amendment. They do say the DRT conditions, of which this is one, would apply at the time of the development plan. So, if they come in for a new development plan to expand or to add additional property, that's when that would have to happen."

Commissioner Padilla asked what units are on City water service at this time.

Mr. Rivera said, "In 1984, when I remodeled the Club Alegria, we hooked up to the City. So, the Club Alegria has City water and we worked it where, in case the well would dry out, or something happened to the well, City water will service the 4 apartments and my mother's house to the right side. So, we're all hooked up with City water, except we just have one meter that provides for everything, but right now it's only metered for the building for the nightclub building. But we have access if we wanted to provide water for the apartments with the hookup we already have there."

Chair Spray asked said at the bottom of packet page 4, it says "because the property is zoned R-1, the liquor license that is located on the property for over 50 year can no longer be used at its historic location." He asked, "Does that mean if the zoning is changed, the liquor license can be used, and is that the plan."

Mr. Siebert said, "The way it works with the liquor license is that a liquor license is not valid unless the underlying zoning permits the liquor license and that activity to occur. In this particular case, the liquor license is valid. It still remains valid, it's kept current every year with the State, but since it's zoned R-1, he can't use the liquor license. Now whether it will be used again when it becomes C-2, it would then be a valid license under State law. Whether Mr. Rivera uses it at that location, remains to be seen. He has the opportunity once it is zoned, to lease it and move it to another location within the City limits. Before, he was in the County and didn't have that opportunity. You can't move a liquor license from the County to the City, so at this time, it would probably depend on what the ultimate use of the old Club Alegria would be."

Chair Spray said, "So the possibility would exist that you could use it again."

Mr. Siebert said yes.

Chair Spray said, "Ms. Baer or Ms. Brennan, can I ask you, would that going forward in the Development Plan, would that have anything to do with anything."

Ms. Baer said, "It may not Mr. Chair, Commissioners. If it turns out they just do a tenant remodel, and there's no development, there's nothing that kicks in the development plan requirement, which in this case would be 10,000 sq. ft. or more of new construction. Then that would simply be processed as part of the building permit."

Chair Spray said, "So he can open it up and Club Alegria lives again."

Ms. Baer said, "They would have to go through the City Council, I believe."

Mr. Siebert said, "The nightclub itself would require, I want to say a special exception, but what is it now. Is it a special use under the new Code. So if they want to do a nightclub, it would have to come back for another hearing for a special exception."

Responding to the Chair, Ms. Baer said, "The hearing would be through this body because it is adjacent to residential."

MOTION: Commissioner Pava moved, seconded by Commissioner Ortiz, to recommend to the Governing Body, the approval of Case #2013-101, 2791 and 2797 Agua Fria Road (Rivera) Rezoning as recommended by staff.

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Bemis, Harris, Lindell, Ortiz, Padilla, Pava and Villarreal voting in favor of the motion and no one voting against [7-0].

2. **CASE 2013-102. 2791 AND 2797 AGUA FRIA ROAD (RIVERA) REZONING. JAMES W. SIEBERT, AGENT FOR STELLA RIVERA, REQUESTS REZONING OF 4.65± ACRES FROM R-1 (RESIDENTIAL, 1 DWELLING UNIT PER ACRE) TO C-2 (GENERAL COMMERCIAL). THE APPLICATION INCLUDES A DEVELOPMENT PLAN FOR EXISTING RESIDENTIAL AND NON-RESIDENTIAL USES OF THE PROPERTY. (CAN ESQUIBEL, CASE MANAGER)**

MOTION: Commissioner Pava moved, seconded by Commissioner Villarreal, to recommend to the Governing Body, the approval of Case #2013-102, 2791 and 2797 Agua Fria Road (Rivera) Rezoning, as recommended by staff.

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Bemis, Harris, Lindell, Ortiz, Padilla, Pava and Villarreal voting in favor of the motion and no one voting against [7-0].

3. **CASE #2013-128. 2868 RUFINA STREET (HOMEWISE) REZONING. JENKINS GAVIN DESIGN & DEVELOPMENT, INC., AGENT FOR HOMEWISE, INC., REQUESTS REZONING OF 2.39± ACRES FROM I-2 (GENERAL INDUSTRIAL) TO I-1 (LIGHT INDUSTRIAL) TO ACCOMMODATE A PROPOSED 20,000± SQ. FT. OFFICE BUILDING. (DONNA WYNANT, CASE MANAGER).**

A Memorandum, with attachments, dated January 24, 2014 for the February 6, 2014 meeting, to the Planning Commission from Donna Wynant, Senior Planner, Senior Planning Division, is incorporated herewith to these minutes as Exhibit "5."

A series of aerial photographs and drawings of the subject site, used by Jennifer Jenkins in her presentation, and entered for the record by Jennifer Jenkins, are incorporated herewith to these minutes collectively as Exhibit "6."

The staff report was presented by Donna Wynant. Please see Exhibit "5" for specifics of this presentation.

Recommendation: Staff recommends approval of the request to rezone property at 2868 Rufina Street from I-2 to I-1, with all staff conditions as outlined in the report.

Public Hearing

Presentation by the Applicant

Jennifer Jenkins and Colleen Gavin, JenkinsGavin Design & Development, Agent for the Applicant, were sworn. Ms. Jenkins said, "We are here this evening on behalf of Homewise, Inc., in request a 2.39 acre parcel, at the corner of Clark Road and Rufina."

April 8, 2014
Governing Body
Cases 2013-101 &102
**RIVERA GENERAL PLAN AMENDMENT
AND REZONING TO GENERAL OFFICE**

EXHIBIT E

February 6, 2014 Planning Commission Packet

City of Santa Fe, New Mexico

memo

DATE: January 30, 2014 for the February 6, 2014 Planning Commission Meeting

TO: Planning Commission

VIA: Matthew S. O'Reilly, P.E., Director, Land Use Department *MSO*
Tamara Baer, Planner Manager, Current Planning Division *TB*

FROM: Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division *DAE*

RIVERA GENERAL PLAN AMENDMENT AND REZONING TO GENERAL OFFICE.

Case #2013-101. 2791 and 2797 Agua Fria Road (Rivera) General Plan Amendment. James W. Siebert, agent for Stella Rivera, requests General Plan Future Land Use map amendment to change the designation of 4.65± acres from Rural/Mountain/Corridor (1 dwelling unit per acre) to Community Commercial. (Dan Esquibel, Case Manager)

Case #2013-102. 2791 and 2797 Agua Fria Road (Rivera) Rezoning. James W. Siebert, agent for Stella Rivera, requests rezoning of 4.65± acres from R-1 (Residential, 1 dwelling unit per acre) to C-2 (General Commercial). The application includes a Development Plan for existing residential and nonresidential uses of the property. (Dan Esquibel, Case Manager)

RECOMMENDATION:

The Land Use Department recommends **APPROVAL** of the General Plan Amendment and Rezoning with no conditions of approval as part of the General Plan or Rezoning. DRT conditions will be made part of the Development Plan.

Two motions will be required: one for #Case 2013-101 Rivera General Plan Amendment and one for #Case 2013-102 Rivera Rezoning.

I. APPLICATION OVERVIEW

The Applicant is requesting a General Plan Future Land Use Map amendment from Rural/Mountain/Corridor and Rezoning from R-1 (1 dwelling unit per acre) to C-2 (General Commercial) in order to continue legal nonconforming nonresidential use established on the property. The property came into the City's jurisdiction on August 27, 2009 under Ordinance 2009-01 and was annexed as part of the Phase 2 annexation on January 1, 2014.

Nonresidential use was established on the property prior to the adoption of County zoning regulations, and by County standards was considered legal nonconforming. Legal nonconforming status continued under the City’s jurisdiction. The property was designated R-1 on August 27, 2009 as part of the original SPPAZO ordinance, which granted zoning jurisdiction to the City.

The property consists of 4.32± acres, located on the north side of Agua Fria Street and accessed directly from Agua Fria Street. The property is the site of the former Club Alegria night club housed in a 10,000 square foot building, and no longer in operation. However, a liquor license is still held by the applicant and located at the property. The uses now established on the property contain a mix of both residential and commercial. The building that housed the night club now contains wood working shops occupying 3000 square feet and a landscaping firm with portable buildings occupying 220 square feet. The balance of the structure remains empty. Other uses on the property are residential, consisting of 5 rental units and 1 single family dwelling occupied by the applicant. Residential use is allowed in a C-2 District as part of an approved Development. The applicant is proposing a Development Plan to allow existing residential uses to continue.

The adjoining properties include the Santa Fe River, with sand and gravel extraction to the north, Agua Fria Street to the south, residential to the east, a landscape company to the northwest and residential to the southwest.

City zoning surrounding the property is R-1 (Residential-1 dwelling unit per acre) to the north, west and east, and I-2 (Heavy Industrial) across the street on the south side of Agua Fria Street.

Direction	Use
North	R-1 (1 dwelling units per acre)
South	South side of Agua Fria Street I-2 (General Industrial)
East	R-1 (1 dwelling unit per acre)
West	R-1 for 630± feet then C-2 (General Commercial)

The nearest C-2 (General Commercial) District is approximately 630± feet west of the property, with pockets of residential and legal nonconforming commercial uses in between.

Early Neighborhood Notification

An Early Neighborhood Notification (ENN) meeting was held on August 19, 2013 at the Southside Library. No concerns were raised.

I. GENERAL PLAN AMENDMENT POLICIES & APPROVAL CRITERIA

Case #2013-101. Rivera General Plan Amendment.

The Future Land Use Map identifies this area as Rural Mountain Corridor, 1 dwelling unit to the acre. Section 14-3.2 of the Land Development Code establishes approval criteria for General Plan Amendments. These are addressed below.

Chapter 14 Criteria

Section 14-3.2 (E) (1) Approval Criteria (applicable criteria)

The Planning Commission shall review and make a finding on the following criteria:

(1) Criteria for All Amendments to the General Plan

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

Applicant response: *This is a rather unique property where many of the buildings have existed on the lot for over 50 years. This is not a matter of being in the path of growth but having existed within a developed area of the City for a substantial period of time, well beyond the time limits of the current property became the subject of the City's land use regulatory controls, including the rezoning of the property to R-1, single Family residential.*

Staff response: *The proposal is consistent with the City of Santa Fe growth projections and makes efficient use of existing infrastructure. The existing use of the property provides a continued employment base for the City, consistent with economic development goals for Santa Fe.*

- (b) Consistency with other parts of the General Plan;

Applicant response: *The City General Plan shows this property as Rural/Mountain/Corridor, 1 dwelling per acre. The properties across Agua Fria to the south are zoned I-2, Heavy Industrial zoning and consist of industrial, service and retail businesses. The properties on either side of the subject rezoning consist of a mix of commercial, multi-family, mobile homes, residential rentals and a few scatter single family dwellings. The properties at the northeast corner of the Siler Road and Agua Fria Road intersections are zoned C-2/PUD and extend for a distance of approximately 560 feet along Agua Fria. It is assumed that the properties that are currently zoned C-2/PUD required a general plan amendment that was approved as part of the rezoning process. With the exception of a few scattered single family dwellings, the land to the east is very similar to the land that was previously rezoned C-2/PUD at the northeast corner of Siler Road and Agua Fria Road intersection.*

Staff response: *The property was annexed as part of the Phase 2 City Initiated Annexation. The physical layout and design along this portion of Agua Fria Street from the property to the Siler Road intersection is predominantly nonresidential, in contrast to the rural characteristics of the Rural corridor designation. A change in general policy for this area would not conflict with the comprehensive growth policies of the city.*

- (c) the amendment does not:

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

Applicant Response: *The uses have existed on this property for 25-30 years. The surrounding uses have a similar time frame.*

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

Applicant Response: *The requested amendment is greater than 2.0 acres in size.*

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

Applicant Response: *The requested commercial zoning designation is generally consistent with the land use patterns found on surrounding and near-by lots.*

Staff response to i, ii & iii: *The prevailing use for the property is R-1 (Residential-1 dwelling unit to the acre) with nonconforming, nonresidential uses as well. The adjoining properties to the west also include a mix of residential and nonconforming, nonresidential uses. This portion of the District represents the outskirts of the R-1 District bordered by Agua Fria Street and I-2 zoning across the street. The change would be consistent with the area and the 4.32± acre tract is sufficiently large so as to be consistent with city rezoning policies. Further, it converts nonconforming uses and structures specifically designed for nonresidential use to conforming uses and structures along Agua Fria Street.*

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

Applicant Response: *The justification for the rezoning action is based on the historic use of the property.*

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

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

- (f) contribution to a coordinated, adjusted and harmonious development of 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: *With the exception of the single family residence occupied by Ms. Rivera, none of the other structures within the development request are consistent with the underlying R-1, single family residential zoning that is associated with the current zoning on the property. As non-conforming structures they cannot be modified to allow for other uses or expand the structure beyond its current foot print. In fact, the club/bar has not been operational for some time and as such is no longer a legal, nonconforming use. Because the property is zoned R -1 the liquor license that is located on the property for over 50 years can no longer be used at its historic location, since the use does not conform to the underlying zoning. This inability to make investments in the existing structures can lead to the neglect of these structures which does*

nothing to "promote health, safety, morals ... or general welfare." Encouraging redevelopment of these structures will maintain their value and discourage blight in this area of the City proposed for annexation in the near future.

Staff response: The applicant's focus for the property is the continued reuse of the existing structure. Nothing prevents adaptive reuse of the existing structures to develop within the existing zoning and meeting requirements in accordance with health, safety and welfare. However, a change in zoning from R-1 to C-2 will expand the variety of uses allowed for the property, promoting greater opportunity for economic development. The current uses within the property are legal non-conforming, which, upon expiration, could not be reinstated under the current zoning. This would result in empty buildings requiring massive remodeling or tear down in order to redevelop in a residential or approved district nonresidential manner. Continued reuse of the existing structure provides for efficient use of City resources and has less of an environmental impact, all of which are promoted in the City's General Plan.

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

Applicant response: The City has a policy of promoting a mix of land uses, this property has historically included a mix of residential, retail and entertainment. The recent changes to the City code now permit residential uses within a C-2 commercial district.

Staff response: The proposal is submitted to all appropriate city departments for review and comment. This provides full compliance with all city polices, ordinances and regulations (reference Exhibits A1 through A7 Development Review Team "DRT" responses).

(2) Additional Criteria for Amendments to Land Use Policies

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

Applicant response: When the existing General Plan was adopted in 1999 it seems that the General Plan failed to recognize the land use complexity of this part of the urban area. It is not a matter of the growth and economic projections being in error as it is the failure to observe the variety of existing land uses and assign a zoning district that best fit those land uses. Under the current zoning regulations residential uses are only allowed in a C-2 zoning district if there is a development plan that accompanies the rezoning request. The City was not in a position to prepare a development plan for this area or other areas with a mix of commercial and residential uses when the property was assigned its current zoning designation

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

Applicant response: There are other locations in Santa Fe where general commercial is available. This location has served as a commercial use for over 50 years.

- (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: *This property has historically been subject to either County or Extraterritorial jurisdiction. This property has always be recognized as a legal non –conforming use until the City exerted jurisdictional control over this property, at which time unbeknownst to the land owner the commercial status was eliminated.*

Staff response (a), (b) and (c): *Growth has generally shifted to the south and west parts of the City, which increases the need for services, including C-2 types of uses in this part of town.*

Additional criteria for amendment identify that the proposed change in land use be related to the character of the surrounding properties. With findings that:

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

Applicant response: *When the existing General Plan was adopted in 1999 it seems that the General Plan failed to recognize the land use complexity of this part of the urban area. It is not a matter of the growth and economic projections being in error as it is the failure to observe the variety of existing land uses and as sign a zoning district that best fit those land uses. Under the current zoning regulations residential uses are only allowed in a C-2 zoning district if there is a development plan that accompanies the rezoning request. The City was not in a position to prepare a development plan for this area or other areas with a mix of commercial and residential uses when the property was assigned its current zoning designation.*

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

Applicant response: *There are few locations this close to the center of the City where such a variety of land uses can take place. The 1-2, Heavy Industrial District across Agua Fria does not allow for residential uses and restricts retail and office uses as well. With the rezoning of this property to C-2 the City begins to recognize the diverse land use pattern that has existed along this section of Agua Fria for the last 50 years.*

- (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 conditions affecting the subject land are more jurisdictional than a result of market conditions. Historically this area has been under extraterritorial jurisdiction where diverse mixes of land uses are permitted as part of the development review process. Santa Fe County permitted business licenses for changes to uses within buildings as legal, non-conforming structure uses. When the City assumed regulatory control over this area, the assignment of R-1 rezoning made all of the structures, with the exception of the single family residence, non-conforming structures. The application of the C-2 zoning with a development plan will bring all of the structures into conformity.*

Since the structures are existing there is no impact to the surrounding property, which consists of heavy industrial zoning across Agua Fria to the south, the Ulibarri tract to the west with a landscape business and single family residential to the east. All these uses have co-existed with each other for 30-40 years. At the time this area developed, which was in the 50's and 60's families built their homes and started their businesses on the same lot. This was the land use pattern for the area and pretty much remains the same pattern today.

Staff response (a),(c) and (d): *The recent City-initiated annexation and the existing non-residential development along this corridor segment, together, support reconsideration of land use designations. Additionally, while general commercial districts exist in Santa Fe, increasing interest in servicing the industrial properties with general services is on the rise. Providing support services to industrial areas in their proximity reduces the need to travel to other areas of the city for such services and removes any pressure to accommodate those services within the industrial districts themselves.*

IV. REZONING POLICIES & APPROVAL CRITERIA

Case #2013-102. Rivera Rezoning to C-2.

Chapter 14 – Santa Fe City Code

Article 14-3.5(C) of Chapter 14 SFCC, establishes approval criteria that the reviewing bodies must make in order to recommend or approve any rezoning:

- (1) The planning commission and the governing body shall review all rezoning proposals on the basis of the criteria provided in this section, and the reviewing entities must make complete findings of fact sufficient to show that these criteria have been met before recommending or approving any rezoning:
 - (a) one or more of the following conditions exist:
 - (i) there was a mistake in the original zoning;
 - (ii) there has been a change in the surrounding area, altering the character of the neighborhood to such an extent as to justify changing the zoning; or
 - (iii) a different use category is more advantageous to the community, as articulated in the *general plan* or other adopted *city plans*;

Applicant response: *When the existing General Plan was adopted in 1999 it seems that the General Plan failed to recognize the land use complexity of this part of the urban area. It is not a matter of the growth and economic projections being in error as it is the failure to observe the variety of existing land uses and assign a zoning district that best fit those land uses. Under the current zoning regulations residential uses are only allowed in a C-2 zoning district if there is a development plan that accompanies the rezoning request. The City was not in a position to prepare a development plan for this area or other areas with a mix of commercial and residential uses when the property was assigned its current zoning designation.*

Staff response: *There was no error in the original zoning that was established for this large area annexed into the city. It is not clear if during the review, consideration was given to this specific area and existing conditions for designation. More likely, and in recognition of the diversity of land uses in the area, any consideration of rezoning was postponed to individual property owners or groups of owners. Upon staff recommendation, the applicant did pursue the possibility of rezoning a larger area by including adjacent properties in the application, but those property owners were not interested in applying for rezoning at this time.*

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

Applicant response: *There are few locations this close to the center of the City where such a variety of land uses can take place. The I-2, Heavy Industrial District across Agua Fria does not allow for residential uses and restricts retail and office uses as well. With the rezoning of this property to C-2 the City begins to recognize the diverse land use pattern that has existed along this section of Agua Fria for the last 50 years.*

Staff response: *The property was annexed as part of the Phase 2 City Initiated Annexation Plan. The zoning designation granted by the city is residential allowing 1 dwelling unit to the acre (R-1). No significant changes to the area have occurred beyond phase 2 annexation and zoning to R-1.*

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

Applicant response: *The owner of the property states that a liquor license has existed on this property for the Club Alegria for 50 years. Commercial uses have taken place on this property since approximately 1955. The prior Club Alegria building has been used for approximately 10 years as various retail commercial uses, including a pond supply and construction company that also sold various exterior patio goods associated with the pond sales. Other commercial uses such as landscape companies and their associated yards have occupied the property for several years. The City General Plan shows this property and other properties between Agua Fria and the Santa Fe River as "Low Density Residential". The predominate land use for this area is commercial and higher density rental housing. Since this area was brought into the "Presumptive City Limits" and zoned R-1, single family residential, one dwelling per acre, most of the uses have become non-conforming. The land owners are now limited in the expansion of the existing structures on the property and the issuance of business licenses. If the business ceases to exist for one year or more the property must revert back to a low density single family use which is not consistent with the existing land use pattern.*

Given the inconsistency between the zoning and the actual land use it would be more advantageous to recognize the existing land use pattern for the area. It does not make planning sense to create non-conformity out of 70 to 80 percent of the ownership in the vicinity of this request. That non-conformity discourages investment in the property and can lead to blight in the area.

Staff response: *At the time of annexation and zoning designation, the city also categorized future Land Use for the area. The Future Land Use Map identified the property as Rural Mountain Corridor, 1 dwelling per acre. The proposed request to rezone from R-1 to C-2 is consistent with*

that portion of the R-1 District closest to the I-2 and C-2 Districts along Agua Fria Street where the predominant use is nonresidential. The rezoning provides appropriate infill development to the area while converting nonconformities to conforming.

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

Applicant response: *Currently the existing zoning is R-1, Single Family Residential, one dwelling per acre. Rezoning of the property to C-2 would bring the uses on this property into conformance with the historic uses that have taken place on this property.*

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

Applicant response: *The City General Plan shows this tract as "Rural/Mountain/Corridor, 1 dwelling unit to the acre", which is inconsistent with the use of the property and the surrounding uses for the area. It appears that the area was inadequately surveyed when the City General Plan was prepared and when zoning was assigned to this area during the adoption of spaZZo, or the ordinance that established the zoning legislation for the areas that the City planned to annex in the future. It is therefore, not that the property is inconsistent with the General Plan, especially the future land use map, but that the land use designation established by the City General Plan was incorrect.*

Staff response to "b" and "c": *As previously discussed, the proposal is submitted to all appropriate city departments for review and comments to the reviewing bodies. This provides full compliance with all city polices, ordinances and regulations (reference Exhibits A1 through A7 Development Review Team "DRT" responses)." The applicant has submitted a request for a General Plan Amendment, which, if approved, will provide consistency with the Future Land Use Map.*

- (d) the amount of land proposed for rezoning and the proposed use for the land is consistent with city policies regarding the provision of urban land sufficient to meet the amount, rate and geographic location of the growth of the city; and

Applicant response: *Although there is a limited amount of vacant or developed C-2 land in this area of the City, the land area associated with this request should not be considered an addition to the City's supply of C-2 land, since it has been used for that purpose for 55 years. The rezoning request for the subject property should be considered an infill development rather than a property that is located in the path of the future growth of the community.*

Staff response: *At 4.32+ acres, the subject property is greater than the 2 acre minimum for rezoning. The existing uses on the property are a mix of nonconforming and residential uses. The already existing nonresidential uses are typically found in a C-2 District (General Commercial). The adjoining uses include residential and nonconforming commercial. The areas to the south and west represent more compact urban form supporting infill, versus auto-oriented, low-density development found in rural communities.*

- (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: All public utilities are available on Agua Fria, including water and sewer lines, gas and electric lines and cable and telephone lines. The City has completed street improvements and widening of Agua Fria adjacent to the subject property including upgrades to the Agua Fria and Siler Road intersection. Siler Road has recently been completed from Agua Fria to West Alameda providing for alternative points of access to this site. The closest Fire Station to this site is located on Cerrillos Road near Third Street within a five minute service radius to this property. The County has been negotiating with the Boylan family to purchase the 6± acre tract of land adjacent to the northern boundary of this property. This purchase would allow for the continuation of the Santa Fe River improvements and the construction of trail on the north side of the Santa Fe River.

Staff response:
DRT comments and conditions have been submitted to the Planning Commission addressing infrastructure review.

V. DEVELOPMENT PLAN

The applicant has submitted a Development Plan in order to allow residential development in a C-2 District (if rezoned). As previously stated in this report, there are 5 residential rentals units and 1 single family residence, which is occupied by the applicant. The Development Plan submitted is fairly basic, essentially depicting existing conditions. The Development Plan requires minor graphic delineations related to parking, landscaping and terrain management to be brought to code standards. No new construction is proposed as part of this application. Any future construction of 10,000 square feet or more will trigger the requirement for a new Development Plan for Planning Commission review and approval.

VI. CONCLUSION

The proposal satisfies the criteria in Chapter 14 for General Plan Amendment and Rezoning. The submitted Development Plan identifies existing conditions requiring minor graphic additions. The proposed requests do not conflict with the General Plan policies of the City nor with existing uses in the area. The property is bordered by the Santa Fe River to the North, creating a buffer to the R-1 rural character to the north and providing a distinct and identifiable boundary between the residential to the east. All City reviewing Divisions support the applications as presented. Proposals for significant development or expansion will require Planning Commission review of a new Development Plan.

VII. EXHIBITS:

Exhibit A -DRT comments

- A1: Wastewater Management
- A2: Water Division
- A4: Environmental Services Division
- A5: Technical Review Division
- A6: Traffic Engineering
- A7: Fire Marshal

Exhibit B- Future Land Use and Zoning map

- B1: Land Use Map
- B2: Zoning Map

Exhibit C - ENN and correspondence

Exhibit D - Applicant submittals

- D1: General Plan and Rezoning information

Packet Attachment -Plans and Maps

February 6, 2014
Planning commission
Case # 2013-101 &102

**RIVERA GENERAL PLAN AMENDMENT
AND REZONING TO GENERAL OFFICE**

EXHIBIT A

Development Review Team (DRT)



MEMO

Wastewater Management Division DEVELOPMENT REVIEW COMMENTS

E-MAIL DELIVERY

Date: October 7, 2013

To: Dan Esquibel, Case Manager

From: Stan Holland, P.E.
Wastewater Management Division

Subject: Case 2013-101 & 102 - 2791 & 2797 Agua Fria Road Rezoning and General Plan
Amendment

The subject properties are not accessible to the City public sewer system. Prior to any new construction on the lot, the owner shall obtain a septic system permit from the State of New Mexico Environment Department (505-827-1840).

There are no Wastewater Division comments for the Applicant to address.

City of Santa Fe
memo

DATE: October 16, 2013

TO: Dan Esquibel, Land Use Planner, Land Use Department

FROM: Antonio Trujillo, ^A Water Division Engineer

SUBJECT: Case #2013-101, 102. 2791 and 2797 Agua Fria Road General Plan
Amendment and Rezone

All structures will have to be served by individual metered services. The well will have to be capped. Fire protection is to be addressed by the Fire Department. This may require a main extension for the installation of fire service or fire protection.

S-waste-1 20130-101.txt
From: MARCO, RANDALL V.
Sent: Tuesday, October 15, 2013 3:23 PM
To: ESQUIBEL, DANIEL A.
Subject: Case 20130-101

Dan,
For this case refuse & recycling must be brought to an area for pickup that is currently being serviced by the City of Santa Fe solid waste division.

Randall Marco
Community Relations / Ordinance Enforcement
Environmental Services Division
Office : 505-955-2228
Cell : 505-670-2377
Fax : 505-955-2217
rvmarco@santafenm.gov

S-waste-2 2013-102.txt
From: MARCO, RANDALL V.
Sent: Tuesday, October 15, 2013 3:24 PM
To: ESQUIBEL, DANIEL A.
Subject: Case #2013-102

Dan,
No solid waste issues at this time.

Randall Marco
Community Relations / Ordinance Enforcement
Environmental Services Division
Office : 505-955-2228
Cell : 505-670-2377
Fax : 505-955-2217
rvmarco@santafenm.gov

DATE: October 15, 2013

TO: Dan Esquibel
Case Manager

FROM: Risana "RB" Zaxus, PE
City Engineer for Land Use Department

RE: Case # 2013-101 and # 2013-102
2791 and 2797 Agua Fria Road
General Plan Amendment and Rezoning

I have no review comments on this case.

City of Santa Fe, New Mexico

memo

DATE: October 21, 2013

TO: Daniel Esquibel, Planning and Land Use Department

VIA: John Romero, Traffic Engineering Division Director *JE*

FROM: Sandra Kassens, Traffic Engineering Division *SKK*

SUBJECT: 2791 and 2797 Agua Fria General Plan Amendment & Rezone. Cases # 2013-101 and 102

ISSUE:

James W. Siebert, agent for Stella Rivera, requests General Plan Future Land Use map amendment to change the designation of 4.65± acres from Residential Low Density (3-7 dwelling units per acre) to General Commercial, Case # 2013-101. James W. Siebert, agent for Stella Rivera, requests rezoning of 4.65± acres from R-1 (Residential, 1 dwelling unit per acre) to C-2 (General Commercial). The application includes a Development Plan to address existing residential and nonresidential uses of the property including night club and liquor sales, case # 2013-102. The property is located approximately 440 feet northeast of the Siler Road/Agua Fria intersection and within phase 2 of the City initiated Annexation area.

RECOMMENDED ACTION:

Review comments are based on submittals received on October 2, 2013. The comments below should be considered as Conditions of Approval to be addressed prior to final approval unless otherwise noted:

1. Applicant shall remove the existing drive-pads at 2797 and 2791 Agua Fria Street; replace them with sidewalk and curb and gutter; maintain the existing drive-pad for the commercial driveway and a construct a 20 foot wide drive-pad at Jardin Lane.
2. Although the Traffic Engineering Division had previously requested either the construction of a right turn deceleration lane or a Traffic Impact Study (TIS) to demonstrate that a right-turn deceleration lane is not needed; neither shall be required at this time. This decision is based on our realization that it could be onerous to relocate a curb drop-inlet and possibly a power pole in order to accommodate a right lane deceleration lane.

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

February 6, 2014
Planning commission
Case # 2013-101 &102

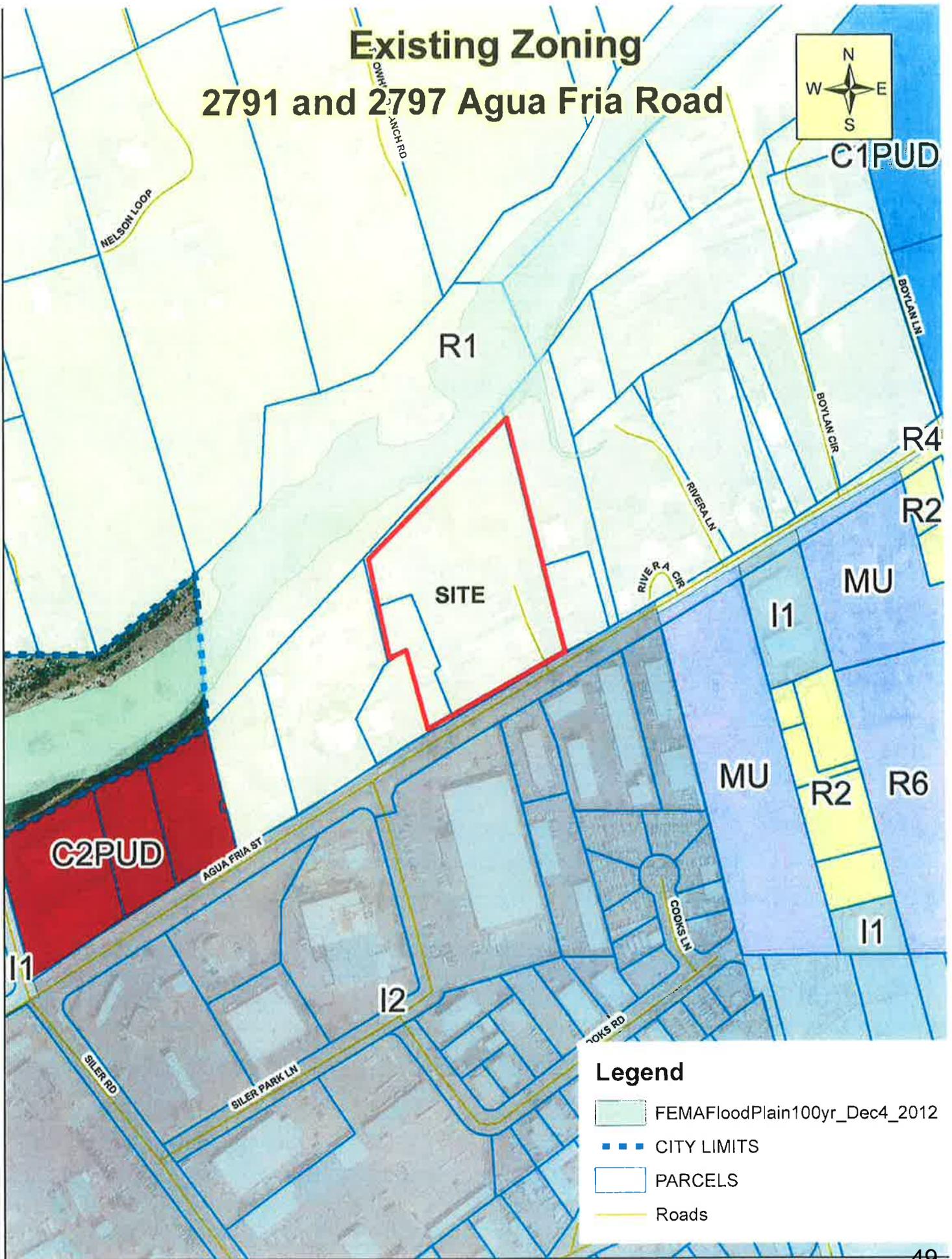
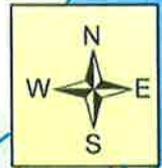
**RIVERA GENERAL PLAN AMENDMENT
AND REZONING TO GENERAL OFFICE**

EXHIBIT B

Future Land Use and Zoning map

Existing Zoning

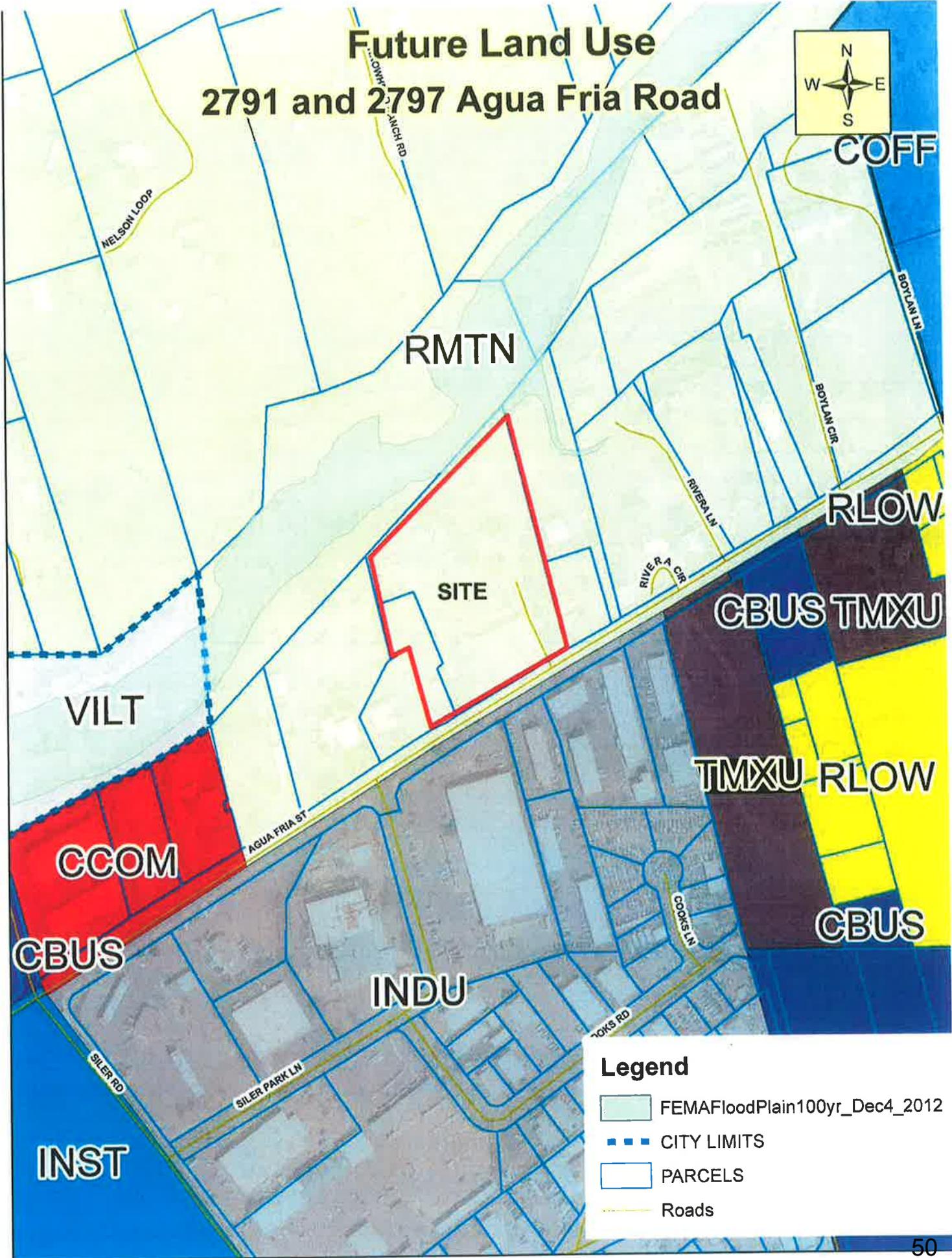
2791 and 2797 Agua Fria Road



Legend

- FEMA Flood Plain 100yr_Dec4_2012
- CITY LIMITS
- PARCELS
- Roads

Future Land Use 2791 and 2797 Agua Fria Road



Legend

-  FEMA Flood Plain 100yr_Dec4_2012
-  CITY LIMITS
-  PARCELS
-  Roads

February 6, 2014

Planning commission

Case # 2013-101 &102

**RIVERA GENERAL PLAN AMENDMENT
AND REZONING TO GENERAL OFFICE**

EXHIBIT C

ENN



**JAMES W. SIEBERT
AND ASSOCIATES, INC.**

**915 MERCER STREET * SANTA FE, NEW MEXICO 87505
(505) 983-5588 * FAX (505) 989-7313
jim@jwsiebert.com**

EARLY NEIGHBORHOOD NOTIFICATION MEETING

April 26, 2013

Dear Neighbor:

Southwest Business Park is requesting a General Plan Amendment to amend to contiguous tracts of land from very low density to community commercial and rezoning from R-1 to C-2. The subject properties are located at 2791 Agua Fria Rd and 2797 Agua Fria Rd.

In accordance with the requirements of the City of Santa Fe's Early Neighborhood Notification regulations, this is to inform you that a meeting is scheduled for:

Time: 5:30 PM
When: Monday August 19, 2013
Where: Southside Library
6599 Jaguar Drive
Santa Fe, NM 87507

Early Neighborhood Notification is intended to provide for an exchange of information between prospective applicants for development projects and the project's neighbors before plans become too firm to respond meaningfully to community input.

Attached, please find a vicinity map on reverse side of this letter. If you have any questions or comments, please contact (*James Siebert & Assoc. Inc., (505) 983-5588, jim@jwsiebert.com*).

Sincerely,

James W. Siebert

Attachments: Vicinity map



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

<i>Project Name</i>	Rivera Agua Fria GPA & Rezoning
<i>Project Location</i>	2791 & 2797 Agua Fria Street
<i>Project Description</i>	General Plan Amendment from Single Family Residential to Commercial and rezoning from R-1 to C-2 of two contiguous lots at – (5.79 acres +/-).
<i>Applicant / Owner</i>	Stella Rivera
<i>Agent</i>	James w. Siebert & Assoc., Inc.
<i>Pre-App Meeting Date</i>	6/13/13
<i>ENN Meeting Date</i>	8/19/13
<i>ENN Meeting Location</i>	Southside Library – 6599 Jaguar Drive
<i>Application Type</i>	ENN
<i>Land Use Staff</i>	Heather Lamboy
<i>Other Staff</i>	
<i>Attendance</i>	1

Notes/Comments:

There were no comments or concerns raised.



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

Project Name: 2791 & 2797 Agua Fria Rezoning **Meeting Date:** 8/19/13
Meeting Place: South Side Library **Meeting Time:** 5:30

Applicant or Representative Check Box below

	Name	Address	Email
<input type="checkbox"/>	1 <u>LARRY ROMERO</u>	<u>2749-B AGUA FRIA</u>	<u>NONE</u>
<input type="checkbox"/>	2		
<input type="checkbox"/>	3		
<input type="checkbox"/>	4		
<input type="checkbox"/>	5		
<input type="checkbox"/>	6		
<input type="checkbox"/>	7		
<input type="checkbox"/>	8		
<input type="checkbox"/>	9		
<input type="checkbox"/>	10		
<input type="checkbox"/>	11		
<input type="checkbox"/>	12		

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

Heather Lambory [Signature] 8/19/13
 Printed Name of City Staff in Attendance Signature of City Staff in Attendance Date

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



ENN GUIDELINES

Applicant Information

Project Name: 2791& 2797 Agua Fria Rezoning (Rivera Tracts)

Name: Siebert James W
Last First M.I.

Address: 915 Mercer Street
Street Address Suite/Unit #
Santa Fe, NM 87505
City State ZIP Code

Phone: (505) 983-5588 E-mail Address: jim@jwsiebert.com

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

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

The surrounding neighborhoods south of the Santa Fe River and on either side of the development request are generally one story in height and since they are commercial buildings they are typically 18 to 24 feet in height. Given the age of many of the buildings that are located between Agua Fria Street and the Santa Fe River the building setbacks vary considerably since many of the buildings predate City zoning regulations. Landscaping and lighting is limited on this property and surrounding properties. There is a trail that is planned on the north side of the Santa Fe River. The County is negotiating for the purchase of open space along the Santa Fe River, immediately north of the subject property. The County has not yet acquired the property at this point in time.

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

There is a separate tract of land between the northern boundary of this property and the Santa Fe River. This property contains the width of the Santa Fe River from bank to bank. A small portion of the northern area of the property is encumbered by a 100 year flood plain. There are no escarpments or rock outcroppings which pertain to this tract of land. Fire risk is limited to the existing buildings which are currently serviced by City water and City fire hydrants. There are no hazardous materials stored within the subject tracts of land. There are no platted easements located on the property. The County is negotiating for the tract of land to the north that contains the Santa Fe River to purchase this land as open space.

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

This property is located within the River/Trails Archaeological District. An archaeological survey and report is required for tracts of land 2 acres or greater in size. An archaeological report and survey will be required for this property. There are no known cultural sites or structures located on the property. There are no acequias that serve or have ever served the land as they relate to this property. This tract of land is not located within the Historic Downtown.

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

The land use pattern for this tract of land is consistent with the land uses to the east and west of the property. The intensity of use increases on the South side of Agua Fria, where the land is zoned I-2, Heavy Industrial. The City General Plan recommends a land use of low density residential, allowing for 1-3 dwellings per acre. This future land use recommendation is inconsistent with the current use not only on this property but the parcels of land to the east and west of this property. The request for C-2, General Commercial zoning, is consistent with the current uses on the property and a reasonable transition from the I-2. Heavy industrial zoning that is located on the South side of Agua Fria. The properties to the east and west of the subject tract are similar in scope and density to the uses located on the Rivera tract. The property is not currently located within the City limits although it is served by City water and City sewer. The City has entered into an amended settlement agreement with the County to annex this area between Agua Fria Road at the end of 2013 or beginning of 2014.

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

This length of Agua Fria Road that is in the area of this property has been improved with new pavement, access management and sidewalks on both sides of the road. Pedestrian access and safety has been greatly enhanced by these recent improvements to Agua Fria Road. There is a City transportation bus stop with 200 feet of this property. The sidewalks were constructed to satisfy the ADA access requirements at the driveways along Agua Fria Road allowing for wheel chairs to navigate this section of Agua Fria Road improving access for the disabled. With the extension of the trail system along the Santa Fe River there will be the opportunity to bicycle to the City center from this area via a bridge crossing on Siler Road. The traffic generation will be no greater than what has historically occurred on the property.

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

This property has historically been used for commercial purposes. The uses on the property have offered employment to Santa Fe residents for over 60 years. While the City does not currently collect gross receipts from the businesses on this property it will begin collecting gross receipts as soon as the property is legally annexed to the City.

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

The uses on this property consist of both commercial and residential. There is a single family residence on the smaller lot that is occupied by the owner of the property. There are also three rental dwelling units located on the both lots. There is no proposal at this time to convert the housing to commercial uses. The existing rental units will continue to be utilized for residential purposes.

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

This property is already served by a full complement of City services including water and sewer. There is a City bus route that serves this section of the City that is located within 200 feet of the property. With annexation this tract of land is eligible for City police and fire protection and solid waste collection. No additional public infrastructure is required to serve this property. There are fire hydrants located along Agua Fria Road, two of which are across Agua Fria and one hydrant is located on the same side of the street within 300 feet of the requested rezoning.

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

Water lines are currently available on Agua Fria and are capable of serving an increase in intensity of use, should that occur on the property. The owner's plan is to maintain the current uses on the property and as such the water use on the property will remain the same until such time as redevelopment of the property takes place. Any redevelopment of the property that increases water use will have to comply with the City water conservation measures.

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

This property has been used for commercial and residential purposes for the last 40-60 years. Community integration is already accomplished by the mix of residential and commercial that occurs on these lots. There is an existing sidewalk on Agua Fria and the completion of the trail system on the north side of the Santa Fe River will allow for a pedestrian and bicycle connection to Santa Fe's downtown.

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

This area of Santa Fe has been part of the Santa Fe Urban Boundary since the 1970s. Annexing this area implements the City General Plans that have been adopted over the last 40 years. It does not promote compact urban form since it has been part of the compact urban form for the last 40 years. A variety of residential development is located within a mile of this proposed rezoning.

(l) ADDITIONAL COMMENTS (optional)

February 6, 2014
Planning commission
Case # 2013-101 &102

**RIVERA GENERAL PLAN AMENDMENT
AND REZONING TO GENERAL OFFICE**

EXHIBIT D

Applicant submittal

2791 & 2797 AGUA FRIA ROAD

GENERAL PLAN AMENDMENT

DEVELOPMENT PLAN

&

REZONING REPORT

PREPARED FOR

STELLA RIVERA

PREPARED BY

JAMES W. SIEBERT & ASSOC., INC

SEPTEMBER, 2013

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APPENDICES

Appendix A	Warranty Deed
Appendix B	Surrounding Legal Lot of Record Plats
Appendix C	ENN Sign-in Sheet
Appendix D	Aerial Photo
Appendix E	Well Permit

FIGURES

- Figure 1: Vicinity Map
- Figure 2: Photos of Property

PROJECT DESCRIPTION AND LOCATION

The subject property is located at 2791 and 2797 Agua Fria Road and consists of approximately 4.65 acres. The property is currently zoned R-1 with several existing buildings used for single family, rental and commercial purposes. The prior Club Algeria building was used as a dance hall/night club with an adjoining liquor store. More recently the building has been used for a variety of retail uses including a pond supply. This same structure has been occupied by two different wood working shops for approximately 15 years.

Figure 1 is a vicinity map indicating the location of the subject property relative to the City street system and other known land marks in the area.

OWNERSHIP, LEGAL LOT OF RECORD

The subject property is owned by Stella Rivera. A warranty deed for the property in the name of Ms. Rivera can be found in Appendix A to this report.

The legal lot of record for this property is created by exception, or defined as a lot surrounded by recorded legal lots of record. The three recorded plats that form the west, north and east boundaries of the subject property are provided in Appendix B. Agua Fria Road serves as the southern boundary for this property.

DEVELOPMENT REQUEST

The applicant is requesting a general plan amendment to amend the existing land use from Residential Low Density to General Commercial and to rezone the subject 4.65 acres from R-1 (one dwelling per acre) to C-2 (General Commercial). Included with this request is a development plan for the property allowing residential uses to be included with the commercial uses if the C-2 zoning for this property is approved.

ENN

An Early Neighborhood Notification (ENN) meeting was held on August 19, 2013 at the Tierra Contenta Library. One couple attended the meeting to find out the process required to rezone their property to C-2 since the historic use has been for commercial purposes and they were interested in rezoning there property which is in close proximity to the requested rezoning. No subsequent comments were received in writing on the requested general plan amendment or rezoning. The sign in sheet for the meeting is provided in Appendix C.

PRIOR JURISDICTION AND EXISTING CONDITIONS

The property consists of 4.65 acres of land with several buildings located on the property. The size and type of use for these building is provided below.

<u>Building Use</u>	<u>Building Size</u>
Prior Liquor Sales and Bar/Club	10,000 square feet
Wood Working Shops	3,000 square feet
Single family (Estela Rivera residence)	2,650 square feet
Rental Unit west side	2,050 square feet
Rental Units on east side tract (4 units)	5,000 square feet
Landscape firm in multiple portable buildings	220 square feet

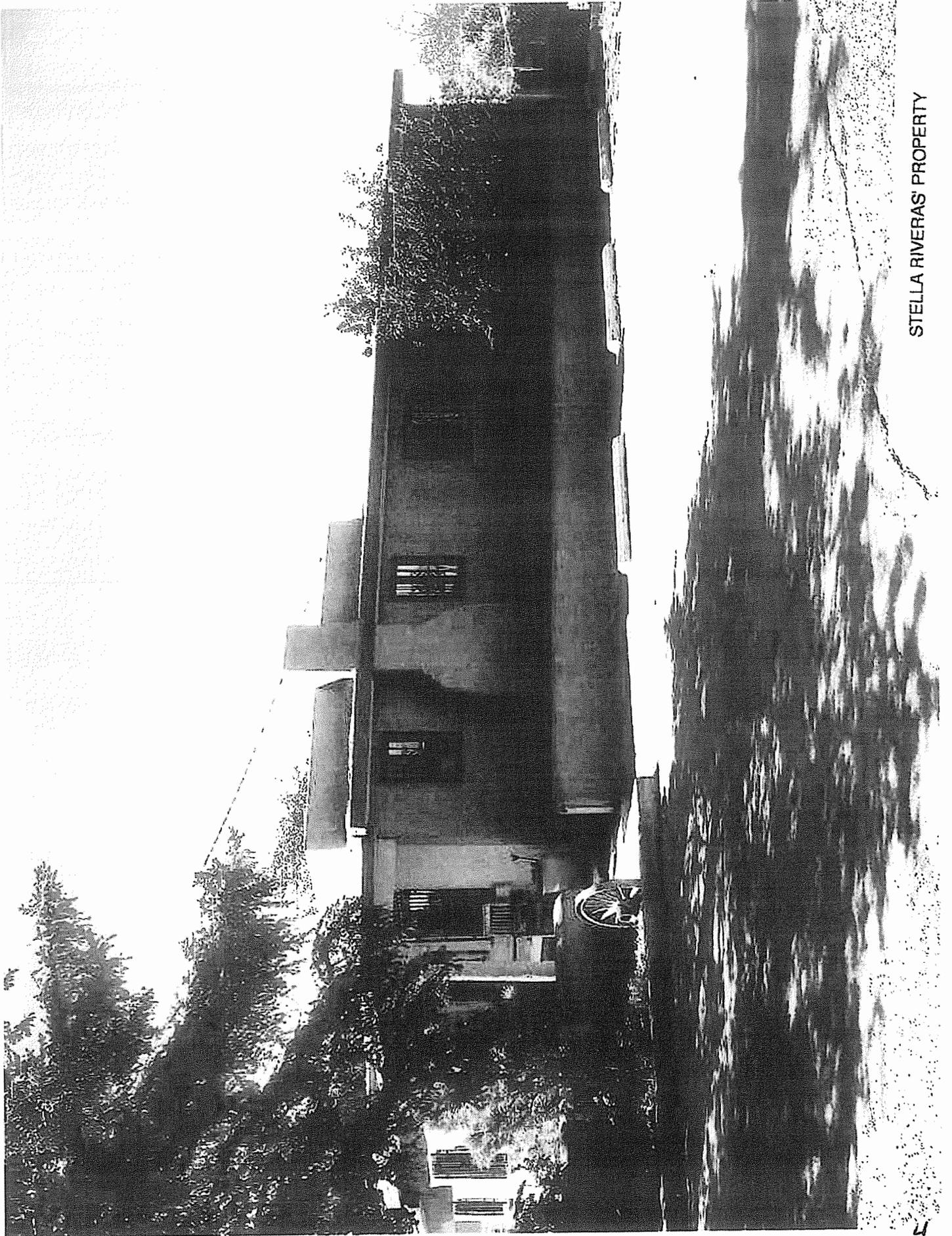
Various photos of the buildings on property are included in Figure 2 of the report

ACCESS

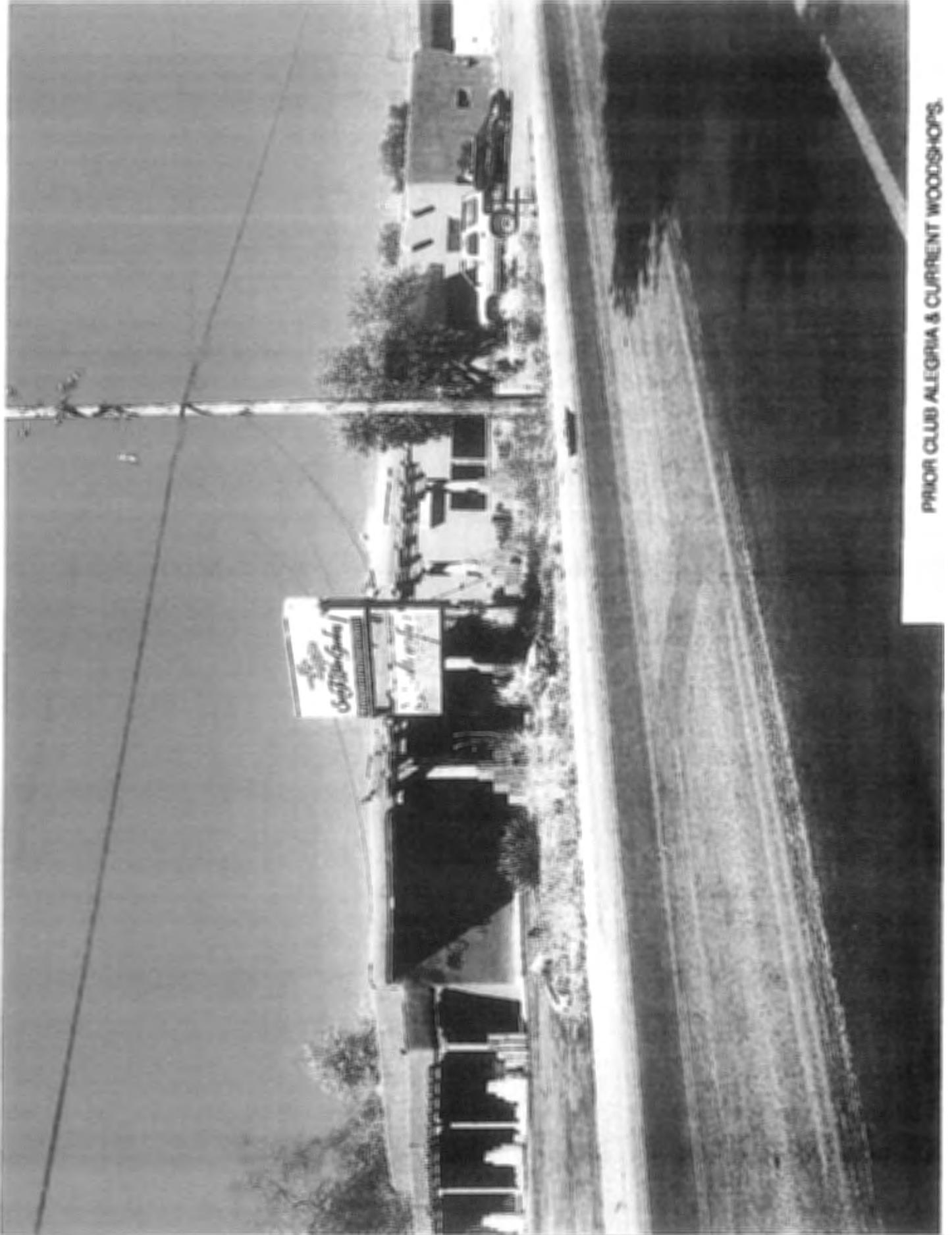
Access to the property is directly off Agua Fria. There is an existing driveway that accesses the back of the Club Alegria building and the residential units to the west. There is another private driveway that has been named Jardin Lane that provides access to the four attached rental units, storage shed and vacant land that sits at a lower elevation from the remainder of the property.

ARCHAEOLOGY

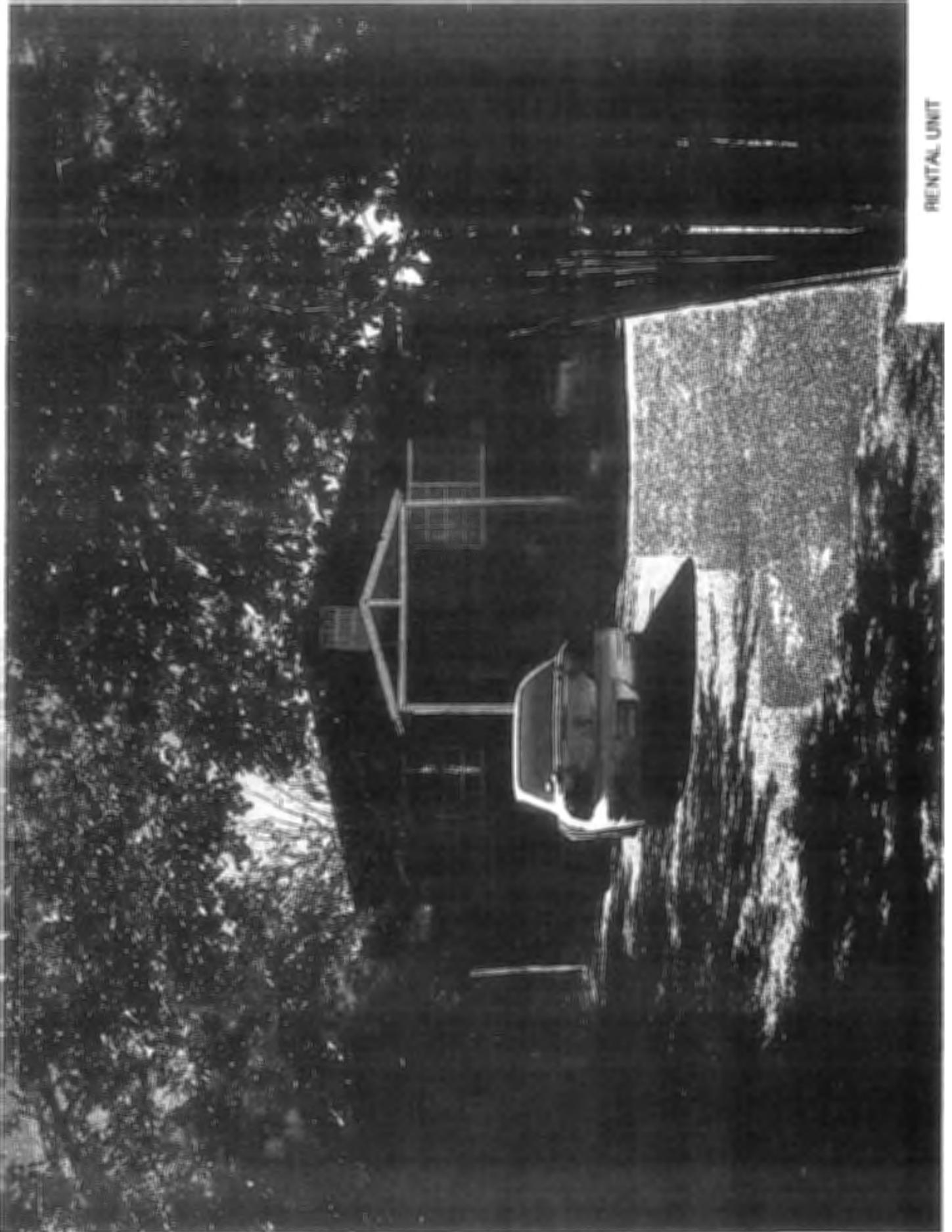
This tract of land is located in the River and Trails district. Per City code an archaeological study is required for parcels more than two acres in size. An archaeology study has been prepared by Steve Townsend and is submitted under a separate cover. There are buildings on the property that are older than 50 years and qualify as having historic potential. There are no alterations of the existing property and no effect to significant cultural resources, therefore cultural resource clearance is recommended by the consulting archaeologist.



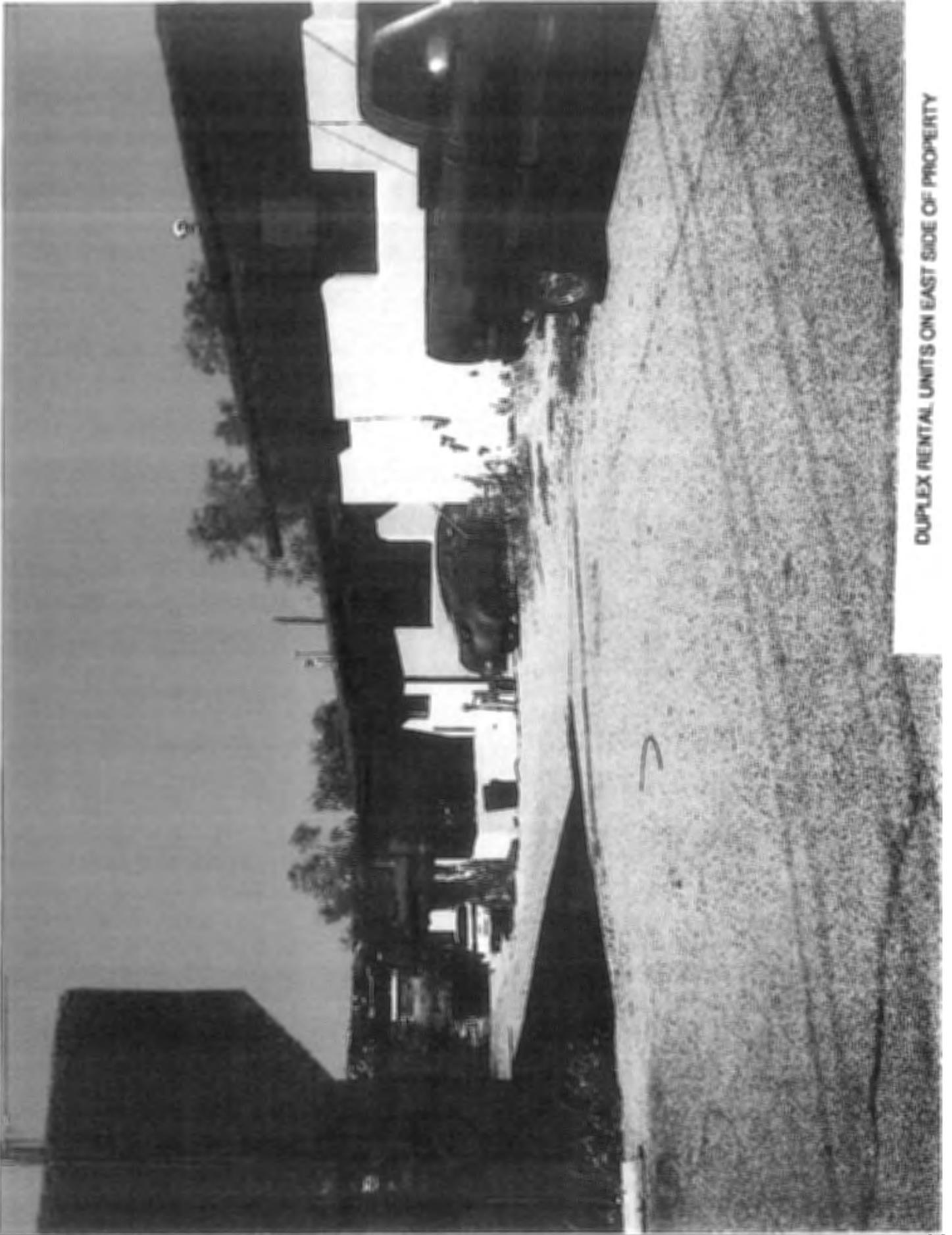
STELLA RIVERAS' PROPERTY



PRIOR CLUB ALEGRIA & CURRENT WOODSHOPS.



RENTAL UNIT



DUPLEX RENTAL UNITS ON EAST SIDE OF PROPERTY

ADJOINING LAND USES

The property on the south side of Agua Fria Road is zoned I-2 which is the most intensive zoning district permitted in Santa Fe. A plumbing supply/retail store and materials yard is across Agua Fria from the subject property. Also across Agua Fria are multiple metal buildings that house a variety of generally light industrial and retail businesses. Adjoining the eastern boundary of the property is one single family dwelling, a barn and other related structures. There is a large wooden building to the rear of this same property located on the eastern boundary that was constructed as a single family residence but is now an abandoned structure.

To the west of the subject property adjacent to Stella Rivera's tract is a single family residence and two mobile homes. At the northwest side of this same tract is the materials yard for Ulibarri Landscape Company. A privately owned vacant tract of land is located on the north side of the subject property. This tract is for the most part located within the flood zone of the Santa Fe River. Santa Fe County has been negotiating the purchase of this tract to continue the restoration and enhancement of the Santa Fe River and to construct a trail along the north bank of the Santa Fe River.

Appendix D is an aerial photograph describing the location of the subject tract and adjoining land uses.

UTILITIES

Water

A 10 inch water line is located in Agua Fria Road. The prior Club Algeria building is served by City water via the 10 inch water line on Agua Fria Road. All the other structures on the property are serviced by a well that is located adjacent to Ms. Rivera's house. The permit for the well issued by the Office of the State Engineer in 1952 is found in Appendix E to this report.

Sewer

All of the buildings are served by existing septic tanks and leach fields. The Club Alegria building and four residential rental units are served by a septic tank and leach field located at the northeast side of the property. Ms. Rivera's residence and adjoining rental unit are served by two separate septic tanks and leach fields.

Dry Utilities

Electric, telephone and gas have been constructed to the property and serve the existing residential and commercial structures. These utilities have been extended underground to the various buildings on the property from Agua Fria Road.

RESPONSE TO GENERAL PLAN AMENDMENT CRITERIA

The Land Development Code lists the criteria for addressing an amendment to the General Plan. Each of these criteria is addressed below.

(1) Criteria for all amendments to the general plan:

- (a) Consistency with growth projections for the City using a data base maintained and updated on an annual basis by the City, with economic development goals as set forth in a comprehensive economic development plan for the City, and with existing land use conditions, such as access and availability of infrastructure.*

This is a rather unique property where many of the buildings have existed on the lot for over 50 years. This is not a matter of being in the path of growth but having existed within a developed area of the City for a substantial period of time, well beyond the time limits of the current General Plan for the City. This property was part of the extraterritorial jurisdiction. In 2009 the property became the subject of the City's land use regulatory controls, including the rezoning of the property to R-1, Single Family Residential.

- (b) Consistency with other parts of the General Plan.*

The City General Plan shows this property as residential, low density, 1-3 dwellings per acre. The properties across Agua Fria to the south are zoned I-2, Heavy Industrial zoning and consist of industrial, service and retail businesses. The properties on either side of the subject rezoning consist of a mix of commercial, multi-family, mobile homes, residential rentals and a few scatter single family dwellings. The properties at the northeast corner of the Siler Road and Agua Fria Road intersections are zoned C-2/PUD and extend for a distance of approximately 560 feet along Agua Fria. It is assumed that the properties that are currently zoned C-2/PUD required a general plan amendment that was approved as part of the rezoning process. With the exception of a few scattered single family dwellings, the land to the east is very similar to the land that was previously rezoned C-2/PID at the northeast corner of Siler Road and Agua Fria Road intersection.

- (c) Compliance with the extraterritorial zoning ordinances and extraterritorial plan.*

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

(d) 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.

With the exception of the single family residence occupied by Ms. Rivera, none of the other structures within the development request are consistent with the underlying R-1, single family residential zoning that is associated with the current zoning on the property. As non-conforming structures they cannot be modified to allow for other uses or expand the structure beyond its current foot print. In fact, the club/bar has not been operational for some time and as such is no longer a legal, nonconforming use. Because the property is zoned R-1 the liquor license that is located on the property for over 50 years can no longer be used at its historic location, since the use does not conform to the underlying zoning. This inability to make investments in the existing structures can lead to the neglect of these structures which does nothing to "promote health, safety, morals ... or general welfare." Encouraging redevelopment of these structures will maintain their value and discourage blight in this area of the City proposed for annexation in the near future.

(2) Additional Criteria for Amendments to Land Use Policies

- a) *The growth and economic projections contained within the plan are erroneous or have changed; or:*

When the existing General Plan was adopted in 1999 it seems that the General Plan failed to recognize the land use complexity of this part of the urban area. It is not a matter of the growth and economic projections being in error as it is the failure to observe the variety of existing land uses and assign a zoning district that best fit those land uses. Under the current zoning regulations residential uses are only allowed in a C-2 zoning district if there is a development plan that accompanies the rezoning request. The City was not in a position to prepare a development plan for this area or other areas with a mix of commercial and residential uses when the property was assigned its current zoning designation.

- b) *No reasonable locations have been provided for certain land uses for which there is demonstrated need; or*

There are few locations this close to the center of the City where such a variety of land uses can take place. The I-2, Heavy Industrial District across Agua Fria does not allow for residential uses and restricts retail and office uses as well. With the rezoning of this property to C-2 the City begins to recognize the diverse land use pattern that has existed along this section of Agua Fria for the last 50 years.

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

The conditions affecting the subject land are more jurisdictional than a result of market conditions. Historically this area has been under extraterritorial jurisdiction where diverse mixes of land uses are permitted as part of the development review process. Santa Fe County permitted business licenses for changes to uses within buildings as legal, non-conforming structure uses. When the City assumed regulatory control over this area, the assignment of R-1 rezoning made all of the structures, with the exception of the single family residence, non-conforming structures. The application of the C-2 zoning with a development plan will bring all of the structures into conformity.

- d) *The effect of the proposed change in land use will not have a negative impact on the surrounding property. The proposed change in land use must be related to the character of the surrounding area or a provision must be made to separate the proposed change in use from adjacent property by a setback, landscaping or other means.*

Since the structures are existing there is no impact to the surrounding property, which consists of heavy industrial zoning across Agua Fria to the south, the Ulibarri tract to the west with a landscape business and single family residential to the east. All these uses have co-existed with each other for 30-40 years. At the time this area developed, which was in the 50's and 60's families built their homes and started their businesses on the same lot. This was the land use pattern for the area and pretty much remains the same pattern today.

RESPONSE TO CRITERIA FOR REZONING OF THE PROPERTY

Rezoning Application – Approval Criteria

This section of the report addresses the rezoning criteria set forth in Section 14-3.5(C) of the Land Development Code.

- (a) One or more of the following conditions exist:

- (iii) *A different use category is more advantageous to the community as articulated in the general plan or other adopted plans.*

The owner of the property states that a liquor license has existed on this property for the Club Alegria for 50 years. Commercial uses have taken place on this property since approximately 1955. The prior Club Alegria building has been used for approximately 10 years as various retail commercial uses, including a pond supply and construction company that also sold various exterior patio goods associated with the pond sales. Other commercial uses such as landscape companies and their associated yards have occupied the property for several years.

The City General Plan shows this property and other properties between Agua Fria and the Santa Fe River as "Low Density Residential". The predominate land use for this area is commercial and higher density rental housing. Since this area was brought into the "Presumptive City Limits" and zoned R-1, single family residential, one dwelling per acre, most of the uses have become non-conforming. The land owners are now limited in the expansion of the existing structures on the property and the issuance of business licenses. If the business ceases to exist for one year or more the property must revert back to a low density single family use which is not consistent with the existing land use pattern.

Given the inconsistency between the zoning and the actual land use it would be more advantageous to recognize the existing land use pattern for the area. It does not make planning sense to create non-conformity out of 70 to 80 percent of the ownership in the vicinity of this request. That non-conformity discourages investment in the property and can lead to blight in the area.

(b) All the rezoning requirements of Chapter 14 have been met.

Currently the existing zoning is R-1, Single Family Residential, one dwelling per acre. Rezoning of the property to C-2 would bring the uses on this property into conformance with the historic uses that have taken place on this property.

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

The City General Plan shows this tract as "Low Density Residential, 1-3 dwellings/acre", which is inconsistent with the use of the property and the surrounding uses for the area.

It appears that the area was inadequately surveyed when the City General Plan was prepared and when zoning was assigned to this area during the adoption of SpaZZo, or the ordinance that established the zoning legislation for the areas that the City planned to annex in the future. It is therefore, not that the property is inconsistent with the General Plan, especially the future land use map, but that the land use designation established by the City General Plan was incorrect.

(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.

Although there is a limited amount of vacant or developed C-2 land in this area of the City, the land area associated with this request should not be considered an addition to the City's supply of C-2 land, since it has been used for that purpose for 55 years. The rezoning request for the subject property should be considered an infill development rather than a property that is located in the path of the future growth of the community.

(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.

All public utilities are available on Agua Fria, including water and sewer lines, gas and electric lines and cable and telephone lines. The City has completed street improvements and widening of Agua Fria adjacent to the subject property including upgrades to the Agua Fria and Siler Road intersection. Siler Road has recently been completed from Agua Fria to West Alameda providing for alternative points of access to this site.

The closest Fire Station to this site is located on Cerrillos Road near Third Street within a five minute service radius to this property. The County has been negotiating with the Boylan family to purchase the 6± acre tract of land adjacent to the northern boundary of this property. This purchase would allow for the continuation of the Santa Fe River improvements and the construction of a trail on the north side of the Santa Fe River.

RESPONSE TO GENERAL PLAN AMENDMENT CRITERIA

The Land Development Code lists the criteria for addressing an amendment to the General Plan. Each of these criteria is addressed below.

(1) Criteria for all amendments to the general plan:

(a) Consistency with growth projections for the City using a data base maintained and updated on an annual basis by the City, with economic development goals as set forth in a comprehensive economic development plan for the City, and with existing land use conditions, such as access and availability of infrastructure.

This is a rather unique property where many of the buildings have existed on the lot for over 50 years. This is not a matter of being in the path of growth but having existed within a developed area of the City for a substantial period of time, well beyond the time limits of the current General Plan for the City. This property was part of the extraterritorial jurisdiction. In 2009 the property became the subject of the City's land use regulatory controls, including the rezoning of the property to R-1, Single Family Residential.

(b) Consistency with other parts of the General Plan.

The City General Plan shows this property as residential, low density, 1-3 dwellings per acre. The properties across Agua Fria to the south are zoned I-2, Heavy Industrial zoning and consist of industrial, service and retail businesses. The properties on either side of the subject rezoning consist of a mix of commercial, multi-family, mobile homes, residential rentals and a few scatter single family dwellings. The properties at the northeast corner of the Siler Road and Agua Fria Road intersections are zoned C-2/PUD and extend for a distance of approximately 560 feet along Agua Fria. It is assumed that the properties that are currently zoned C-2/PUD required a general plan amendment that was approved as part of the rezoning process. With the exception of a few scattered single family dwellings, the land to the east is very similar to the land that was previously rezoned C-2/PID at the northeast corner of Siler Road and Agua Fria Road intersection.

(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

The uses have existed on this property for 25-30 years. The surrounding uses have a similar time frame.

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

The requested amendment is greater than 2.0 acres in size.

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

The requested commercial zoning designation is generally consistent with the land use patterns found on surrounding and near-by lots.

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

The justification for the rezoning action is based on the historic use of the property.

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

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

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

With the exception of the single family residence occupied by Ms. Rivera, none of the other structures within the development request are consistent with the underlying R-1, single family residential zoning that is associated with the current zoning on the property. As non-conforming structures they cannot be modified to allow for other uses or expand the structure beyond its current foot print. In fact, the club/bar has not been operational for some time and as such is no longer a legal, nonconforming use. Because the property is zoned R-1 the liquor license that is located on the property for over 50 years can no longer be used at its historic location, since the use does not conform to the underlying zoning. This inability to make investments in the existing structures can lead to the neglect of these structures which does nothing to “promote health, safety, morals ... or general welfare.” Encouraging redevelopment of these structures will maintain their value and discourage blight in this area of the City proposed for annexation in the near future.

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

The City has a policy of promoting a mix of land uses, this property has historically included a mix of residential, retail and entertainment. The recent changes to the City code now permit residential uses within a C-2 commercial district.

(2) Additional Criteria for Amendments to Land Use Policies

- a) *The growth and economic projections contained within the plan are erroneous or have changed; or:*

When the existing General Plan was adopted in 1999 it seems that the General Plan failed to recognize the land use complexity of this part of the urban area. It is not a matter of the growth and economic projections being in error as it is the failure to observe the variety of existing land uses and assign a zoning district that best fit those land uses. Under the current zoning regulations residential uses are only allowed in a C-2 zoning district if there is a development plan that accompanies the rezoning request. The City was not in a position to prepare a development plan for this area or other areas with a mix of commercial and residential uses when the property was assigned its current zoning designation.

- b) *No reasonable locations have been provided for certain land uses for which there is demonstrated need; or*

There are other locations in Santa Fe where general commercial is available. This location has served as a commercial use for over 50 years. The effect of the proposed change in land use will not have a negative impact on the surrounding property. The proposed change in land use must be related to the character of the surrounding area or a provision must be made to separate the proposed change in use from adjacent property by a setback, landscaping or other means.

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

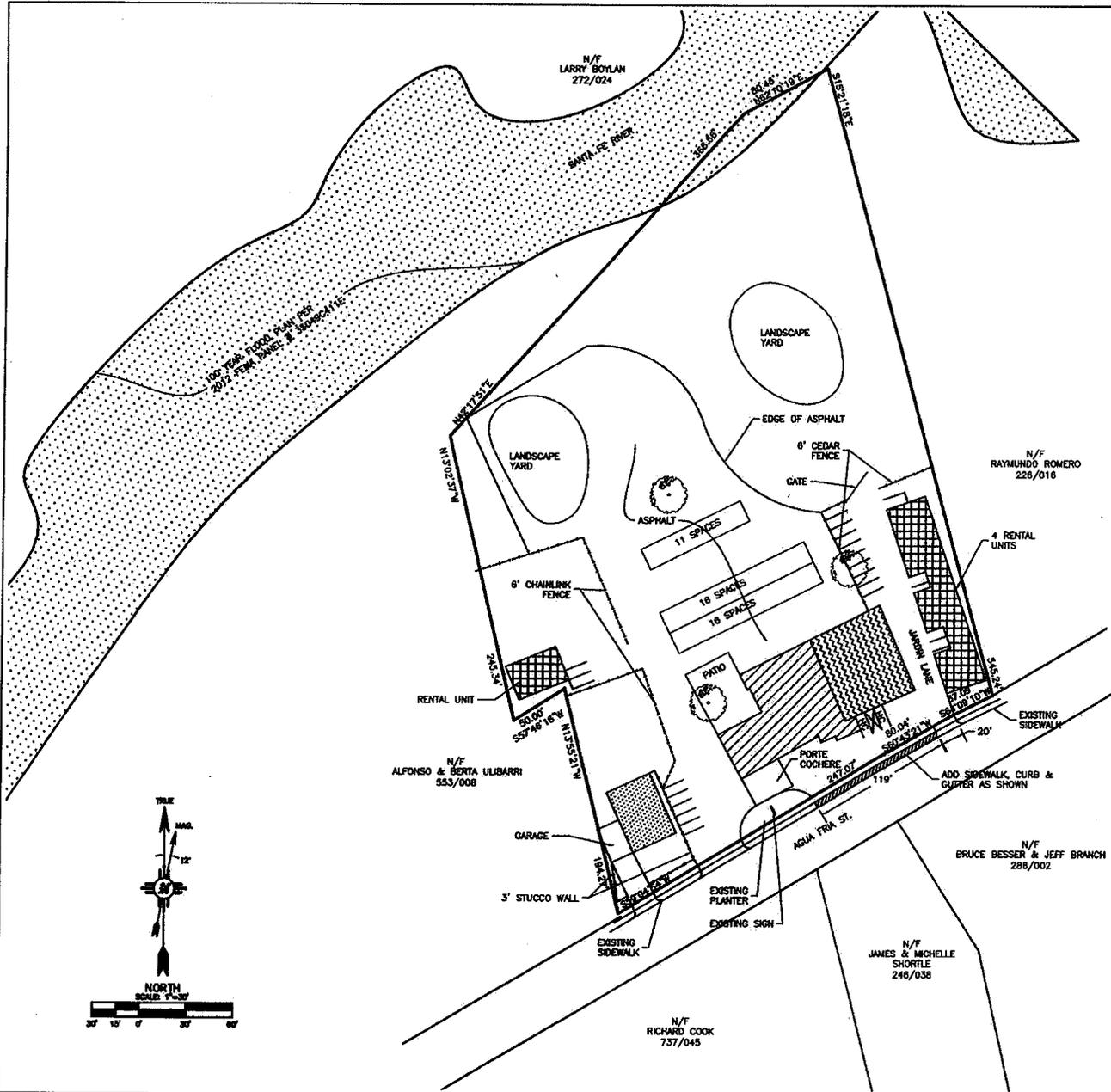
This property has historically been subject to either County or Extraterritorial jurisdiction. This property has always been recognized as a legal non-conforming use until the City exerted jurisdictional control over this property, at which time unbeknownst to the land owner the commercial status was eliminated.

February 6, 2014
Planning commission
Case # 2013-101 &102

**RIVERA GENERAL PLAN AMENDMENT
AND REZONING TO GENERAL OFFICE**

APPLICANT ATTACHMENTS

Plan Attachments

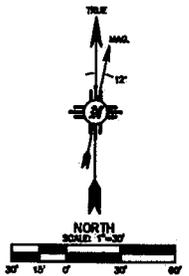


VICINITY MAP
N.T.S.

SITE DATA:
 LOT AREA: 4,324 AC.
 SINGLE FAMILY RESIDENCE: 2,200 SQ. FT.
 RENTAL UNITS: 6,560 SQ. FT.
 COMMERCIAL BUILDING: 11,700 SQ. FT. (MAIN STRUCTURE)
 COMMERCIAL PARKING SPACES: 47 SPACES
 LOT COVERAGE: 11% (20,460 SQ. FT.)

LEGEND:
 SINGLE FAMILY RESIDENCE
 RESIDENTIAL RENTAL UNITS (5)
 COMMERCIAL
 EXISTING CARPENTRY SHOP

NOTE:
 ALL STRUCTURES ON THIS PLAN ARE EXISTING



CASE# 2013-101 & 2013-102

JAMES W. SIEBERT AND ASSOCIATES, INC. <small>214 ANDRÉS STREET • SUITE 100 NEW BERNARD NORTH</small> <small>(205) 863-2000 FAX (205) 868-7313</small>	RIVERA DEVELOPMENT PLAN	DATE: SEPTEMBER 2013 DRAWN BY: JSP CHECKED BY: EJP	DATE: 11/25/2013 TIME: 11:13 02/05/202	SHEET: 1
		SCALE: 1"=50' DATE: SEPTEMBER 2013 CHECKED BY: EJP	DATE: 11/25/2013 TIME: 11:13 02/05/202	SHEET: 1