City of Santa Fe, New Mexico

memo

DATE: October 29, 2015 for the November 10, 2015 City Council meeting

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

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

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

Case #2015-43. 2749 & 2751 Agua Fria Street General Plan Amendment. James W. Siebert and Associates, Agent for Emelecio (Leroy) Romero, requests approval of a General Plan Amendment to amend the existing General Plan Future Land Use designation for 2.20 acres from Mountain/Corridor Density Residential to Community Commercial. The property is located at 2749 and 2751 Agua Fria Street. (Zach Thomas, Case Manager)

Case #2015-44. 2749 & 2751 Agua Fria Street Rezoning. James W. Siebert and Associates, Agent for Emelecio (Leroy) Romero, requests rezoning of 2.20 acres from R-1 (Residential – 1 unit per acre) to C-2 (General Commercial). The property is located at 2749 and 2751 Agua Fria Street. (Zach Thomas, Case Manager)

I. RECOMMENDATION

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

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

II. EXECUTIVE SUMMARY

Common along this section of Agua Fria, the property is currently developed with residential and quasi-industrial uses. Those uses were legally nonconforming under the Extraterritorial Zoning Ordinance prior to annexation into the city, and remain legally

nonconforming with the R-1 (Residential – 1 unit per acre) zoning district that was applied at the time of annexation. While the requested rezoning would not make the existing uses conforming, it would enable development of the site with more-intensive commercial uses. The request represents the latest in a series of General Plan Amendment and Rezone requests to higher intensity land use designations and zoning districts in this area. There is general concern that continued approval of rezoning applications without a plan or other coordinated efforts to address land use and infrastructure may result in a haphazard development pattern in the vicinity of the project site.

III. APPLICATION OVERVIEW AND ANALYSIS

The 2.20 acre property consists of 3 parcels used for residential and light quasi-industrial uses. Five residential units and a well and pump repair business are operated on site as a home occupation. Located on the north side of Agua Fria Road, the subject property, known colloquially as the "Castle" property, is within a recently annexed area of the City. Land within the immediate vicinity on the north side of Agua Fria Road has historically been characterized by rural residential intermixed with quasi-industrial uses. Most of the quasi-industrial uses pre-date even the extra-territorial zoning regulations, and have existed as legal nonconforming uses or as home occupations. More urban land use patterns exist south of Agua Fria, characterized by a combination of Mixed-Use and Light Industrial zoned land. Residential and General Industrial zoned land occurs further to the east and west.

The density of the current residential uses and the light industrial nature of the well and pump repair business (home occupation) are nonconforming under the current R-1 zoning and would continue to be nonconforming under the requested C-2 zoning. While the pump repair business would become a permitted use, the residential use would remain nonconforming. Specifically, residential use is not permitted as a principal use in a C-2 zoning district unless a development plan is approved. Additionally, use of mobile homes as dwelling units is specifically prohibited. However, the mobile homes could remain on site as a legally nonconforming use. The well and pump repair business could also remain legally nonconforming with regards to compliance with current development standards.

The quasi-industrial nature of this section of Agua Fria has led to a recent increase in growth pressure exhibited in the form of the following General Plan Amendment and Rezone requests to allow higher intensity uses:

- Pending Rezoning and General Plan Amendment Requests
  - Gerhart Apartments: 11.83 Acres – R-1 to R-21 (2800 South Meadows)
  - 2749 & 2751 Agua Fria: 2.2 Acres – R-1 to C-2 (Leroy Romero property)
- Denied Rezoning Request
  - Blue Buffalo (El Rio Apartments): 16.53 Acres C-1-PUD to R-29. 2725 and 2639 Agua Fria. Existing C-1-PUD zoning based on EZO approvals.
- Approved Rezoning Requests
  - Corazon Santo Rezoning: 8.7 Acres R-2 to R-6 and MU. Res. 2011-70, Ord. 2011-40 & 41. SW corner Agua Fria/Harrison Road, annexed in 1961.

- Rivera Rezoning: 4.65 Acres R-1 to C-2. Ord. 2014-20, Res. 2014-31 Residential and business uses on the site were legally nonconforming under the EZO rules prior to annexation.
- Boylan Property: 3.86 Acres R-1 to C-2. Ord. 2014-32, Res. 2014-87. Intended to permit re-use and expansion of existing light industrial buildings that were legally nonconforming under EZO rules prior to annexation.

No immediate development is proposed by the applicant. The stated purpose of the applications is to leave the applicant's heirs property that could be more easily sold or developed with a higher use.

After the applications were reviewed by the Planning Commission, staff of the Long Range Planning Division began work on the creation of a "West Santa Fe River Corridor Area Master Plan," which would include the project site and other nearby parcels. However, preparation and adoption of the Master Plan will likely take about one year, and the current application should be evaluated on the policies and regulations that are currently in effect.

An Early Neighborhood Notification meeting was held on April 15, 2015 at the Southside Library. The applicant's representative and eight members of the public were in attendance. Discussion centered on concerns about increased traffic and congestions that might occur with additional commercial zoning. Also of concern was the piecemeal approach to rezoning property along Agua Fria. (See Planning Commission Staff Report, Exhibit E).

IV. SUMMARY OF PLANNING COMMISSION ACTION

The Planning Commission recommended the City Council approve the requested General Plan Amendment and Rezone.

ATTACHMENTS:

EXHIBIT 1:

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

EXHIBIT 2: Planning Commission Minutes September 3, 2015

EXHIBIT 3: Planning Commission Staff Report Packet September 3, 2015

City of Santa Fe, New Mexico

City Council

Exhibit 1

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

ITEM # 15-1059

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

Case #2015-43
2749 & 2751 Agua Fria Street General Plan Amendment
Case #2015-44
2749 & 2751 Agua Fria Street Rezoning to C-2

Owner's Name – Emelecio (Leroy) Romero
Agent's Name – James W. Siebert and Associates

THIS MATTER came before the Planning Commission (Commission) for hearing on September 3, 2015 upon the application (Application) of James W. Siebert and Associates as agent for Emelecio (Leroy) Romero (Applicant).

The Applicant requests an amendment to the General Plan Future Land Use map to change the designation of 2.20± acres of land from Mountain/Corridor Density Residential to Community Commercial and requests rezoning of 2.20± acres of land from R-1 (Residential, 1 dwelling unit per acre) to C-2 (General Commercial). The property is located at 2749 & 2751 Agua Fria Street.

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 fifteen 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 General Plan (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) sets 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)]; (b) an Early Neighborhood Notification (ENN) meeting [§14-3.1(F) and (c) compliance with Code Section 14-3.1(H) notice and public hearing requirements.
5. Code §14-3.1(F) establishes procedures for the ENN meeting, including (a) scheduling and notice requirements [Code §14-3.1(F)(4) and (5)]; (b) regulating

the timing and conduct of the meeting [Code §14-3.1(F)(5)]; and (c) setting out guidelines to be followed at the ENN meeting [§14-3.1(F)(6)].

6. An ENN meeting was held on the Application on April 15, 2015 at the Southside Library.
7. Notice of the ENN meeting was properly given.
8. The ENN meeting was attended by the Applicant and City staff; there were eight members of the public in attendance and concerns were raised.
9. Commission staff provided the Commission with a report (Staff Report) evaluating the factors relevant to the Application.
10. Code §14-3.2(B)(2)(b) requires the City's official zoning map to conform to the General Plan, and requires an amendment to the Plan before a change in land use classification is proposed for a parcel shown on the Plan's land use map.
11. The Commission is authorized under Code §14-2.3(C)(7)(a) to review and make recommendations to the Governing Body regarding proposed amendments to the General Plan.
12. City Land Use Department staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable Code requirements and provided the Commission with a written report of its findings Staff Report, subject to certain conditions (the Conditions) set out in such report.

General Plan Amendment

13. Under Code § 14-3.2, an amendment to the General Plan requires submittal of an application for review and recommendation to the Governing Body by the Planning Commission.
14. The Commission has considered the criteria established by Code §14-3.2(E)(1)(a) 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 City is attempting to provide for a diversity of uses in the area along Agua Fria and Siler Road. A traffic impact study prepared by the Applicant indicates it would be feasible to provide access from Agua Fria for commercial development on the project site.
15. The Commission has considered the criteria established by Code §14-3.2(E)(1)(b) and finds the following facts: (b) *Consistency with other parts of the Plan. [§14-3.2(E)(1)(b)]*. Since the 1960's, this area has consisted of a mix of housing and small scale commercial businesses. This property is not located within the boundaries of the Southwest Sector Plan and a definition of appropriate land uses is derived more from consistency with recently approved zoning applications and existing mix of uses rather than reliance on specific plan policy statements.
16. The Commission has considered the criteria established by Code §14-3.2(E)(1)(c) and finds the following facts: (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. [§14-3.2(E)(1)(c)]. Commercial uses have existed in the vicinity for several decades. The City Council has recently approved C-2 zoning on the land just east and west of the properties.

17. The Commission has considered the criteria established by Code §14-3.2(E)(1)(c) and finds the following facts: (c) *The amendment does not: (ii) affect an area of less than two acres, except when adjusting boundaries between districts. [§14-3.2(E)(1)(c)]*. The site is greater than two acres.
18. The Commission has considered the criteria established by Code §14-3.2(E)(1)(c) and finds the following facts: (c) *The amendment does not: (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 proposed General Plan Amendment will not benefit a few landowners at the expense of surrounding landowners as there have been several similar plan amendments during the past several years.
19. The Commission has considered the criteria established by Code §14-3.2(E)(1)(d) and finds the following facts: (d) *An amendment is not required to conform with Code §14-3.2(E)(1)(c) if it promotes the general welfare or has other adequate public advantage or justification [§14-3.2(E)(1)(d)]*. The proposal conforms with Code §14-3.2(E)(1)(c).
20. The Commission has considered the criteria established by Code §14-3.2(E)(1)(e) and finds the following facts: (e) *Compliance with extraterritorial zoning ordinances and extraterritorial plans [§14-3.2(E)(1)(e)]*. This criterion is no longer relevant since the adoption of SPaZZo and the relinquishment of the land use regulatory authority outside the city limits and the transfer of authority from extraterritorial jurisdiction to the City.
21. The Commission has considered the criteria established by Code §14-3.2(E)(1)(f) and finds the following facts: (f) *Contribution to a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity or the general welfare as well as efficiency and economy in the process of development [§14-3.2(D)(1)(f)]*. This area along Agua Fria Road has a long history of diverse land uses, first under County jurisdiction prior to 1990, and then under extraterritorial jurisdiction from 1991 to 2009. It was common for many decades for Santa Fe families to buy land in this area along Agua Fria and construct their homes and start a small business at the same location. This practice has continued as new generations of family members continue to reside on the property and continue the family business. While the General Plan amendment will address some of the land use issues, it does not bring the property up to current code standards and in fact, the property will remain "legal, non-conforming" until a land use and (re)development plan is developed.
22. The Commission has considered the criteria established by Code §14-3.2(E)(1)(g) and finds the following facts: (g) *Consideration of conformity with other city policies, including land use policies, ordinances, regulations and plans.* The proposal is consistent with land use policies, ordinances, regulations and plans.

The proposed General Plan amendment does not address the current land use mix. No development plan was addressed at this hearing.

23. The Commission has considered the criteria established by Code §14-3.2(E)(2)(a) and finds the following facts: (a) *the growth and economic projections contained within the general plan are erroneous or have changed.* When the existing General Plan was adopted in 1999, it did not recognize the land use complexity of Agua Fria Street. The current Mountain/Corridor Density Residential and R-1 designations are inconsistent with the pattern of Santa Fe families buying land in this area along Agua Fria and constructing their homes and starting a small business at the same location.
24. The Commission has considered the criteria established by Code §14-3.2(E)(2)(b) and finds the following facts: *no reasonable locations have been provided for certain land uses for which there is a demonstrated need.* The Applicant has resided at this location for many decades. The application of the C-2 zoning is a better step, as opposed to maintaining the status quo, to allow the Applicant's children to benefit from the property and to try to address the mix of residential and commercial uses on this property on this particular street.
25. The Commission has considered the criteria established by Code §14-3.2(E)(2)(c) and finds the following facts: *conditions affecting the location or land area requirements of the proposed land use have changed, for example the cost of land space requirements, consumer acceptance, market or building technology.* The conditions affecting the subject land are jurisdictional rather than a result of market conditions.

Rezoning

26. Under Code §14-3.5(C), the Commission may review the proposed rezonings and make recommendations to the Governing Body by the Planning Commission.
27. The Commission has considered the criteria established by Code §14-3.5(C)(1)(a) and finds the following facts: *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 current R-1 zoning designation is inconsistent with the historical pattern of Santa Fe families buying land in this area along Agua Fria and constructing their homes and starting a small business at the same location. The City Council recently approved C-2 zoning for the nearby Boylan property and Rivera property. Given the discrepancy between the zoning maps and the actual land use, it would be advantageous to recognize the existing land use pattern for these areas as part of amending the city maps.
28. The Commission has considered the criteria established by Code §14-3.5(C)(1)(b) and finds the following facts: *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.

29. The Commission has considered the criteria established by Code §14-3.5(C)(1)(c) and finds the following facts: *The proposed rezoning is consistent with the applicable policies of the Plan [Section 14-3.5(C)(1)(c)]*. The proposed rezoning is consistent with the Plan.
30. The Commission has considered the criteria established by Code §14-3.5(C)(1)(d) and finds the following facts: *The amount of land proposed for rezoning and the proposed use for the land is consistent with City policies regarding the provision of urban land sufficient to meet the amount, rate and geographic location of the growth of the City [Code §14-3.5(C)(1)(d)]*. The rezoning request 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. There is larger other undeveloped C-2 zoned land available in the southern region of the urban area, generally along Cerrillos Road, the Las Soleras and Entrada Contenta developments.
31. The Commission has considered the criteria established by Code §14-3.5(C)(1)(e) and finds the following facts: *(e)The existing and proposed infrastructure, such as the streets system, sewer and water lines, and public facilities, such as fire stations and parks, will be able to accommodate the impacts of the proposed development [Section 14-3.5(C)(1)(e)]*; Public utilities are available on Agua Fria, including water, gas and electric lines, cable and telephone lines. A traffic impact study prepared by the Applicant indicates it would be feasible to provide access from Agua Fria from commercial development on the project site. Future land uses that may be proposed on the property might require further review by the Planning Commission to address traffic, access, connectivity and other infrastructure requirements.
32. The Commission has considered the criteria established by Code §§14-3.5(D)(1),(2) and finds the following facts: *If the impacts of the proposed development or rezoning cannot be accommodated by the existing infrastructure and public facilities, the city may require the developer to participate wholly or in part in the cost of construction of off-site facilities in conformance with any applicable city ordinances, regulations or policies; If the proposed rezoning creates a need for additional streets, sidewalks or curbs necessitated by and attributable to the new development, the city may require the developer to contribute a proportional fair share of the cost of the expansion in addition to impact fees that may be required pursuant to Section 14-8.14.* Existing infrastructure is available to serve this development and has the capacity to accommodate the current uses. At the time of this rezoning proposal, there was no planned change of use, no detailed development plan for which to address specific infrastructure requirements.

CONCLUSIONS OF LAW

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

General

1. The proposals 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.
4. The Applicable Requirements have been met.

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.
7. The Applicable Requirements have been met.

WHEREFORE, IT IS ORDERED ON THE 1 DAY OF OCTOBER, 2015 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:

That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends approval of the General Plan Amendment to Community Commercial to the Governing Body.

That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends approval of the rezoning request to C-2 to the Governing Body, subject to Staff Conditions.

Michael Harris, Chair

10/7/15
Date:

FILED:
Yolanda Y. Vigil
City Clerk

10/7/15
Date:

APPROVED AS TO FORM:
Zachary Shandler
Assistant City Attorney

10-1-15
Date:

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-

A RESOLUTION

AMENDING THE GENERAL PLAN FUTURE LAND USE CLASSIFICATION FROM MOUNTAIN/CORRIDOR DENSITY RESIDENTIAL TO COMMUNITY COMMERCIAL FOR PROPERTY COMPRISING AN AREA OF APPROXIMATELY 2.20± ACRES LOCATED ON THE NORTH SIDE OF AGUA FRIA AND IDENTIFIED AS 2749 AND 2751 AGUA FRIA STREET WITHIN THE CITY OF SANTA FE, SANTA FE COUNTY, STATE OF NEW MEXICO. ("2749 AND 2751 AGUA FRIA STREET GENERAL PLAN AMENDMENT", CASE #2015-43).

WHEREAS, the agent for the owner of certain parcels of land comprising 2.20± acres located north of Agua Fria Street and identified as 2749 and 2751 Agua Fria Street within the City of Santa Fe, Santa Fe County, State of New Mexico (the "Property") has submitted an application to amend the General Plan Future Land Use Map classification of the Property from Mountain/Corridor Density Residential to Community Commercial; and

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE: That the General Plan Future Land Use Map classification for the Property be and hereby is amended to change the designation from Mountain/Corridor Density Residential to Community Commercial as shown in the General Plan Amendment Map attached hereto as EXHIBIT A and incorporated herein.

PASSED, APPROVED and ADOPTED this _____ day of November, 2015.

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

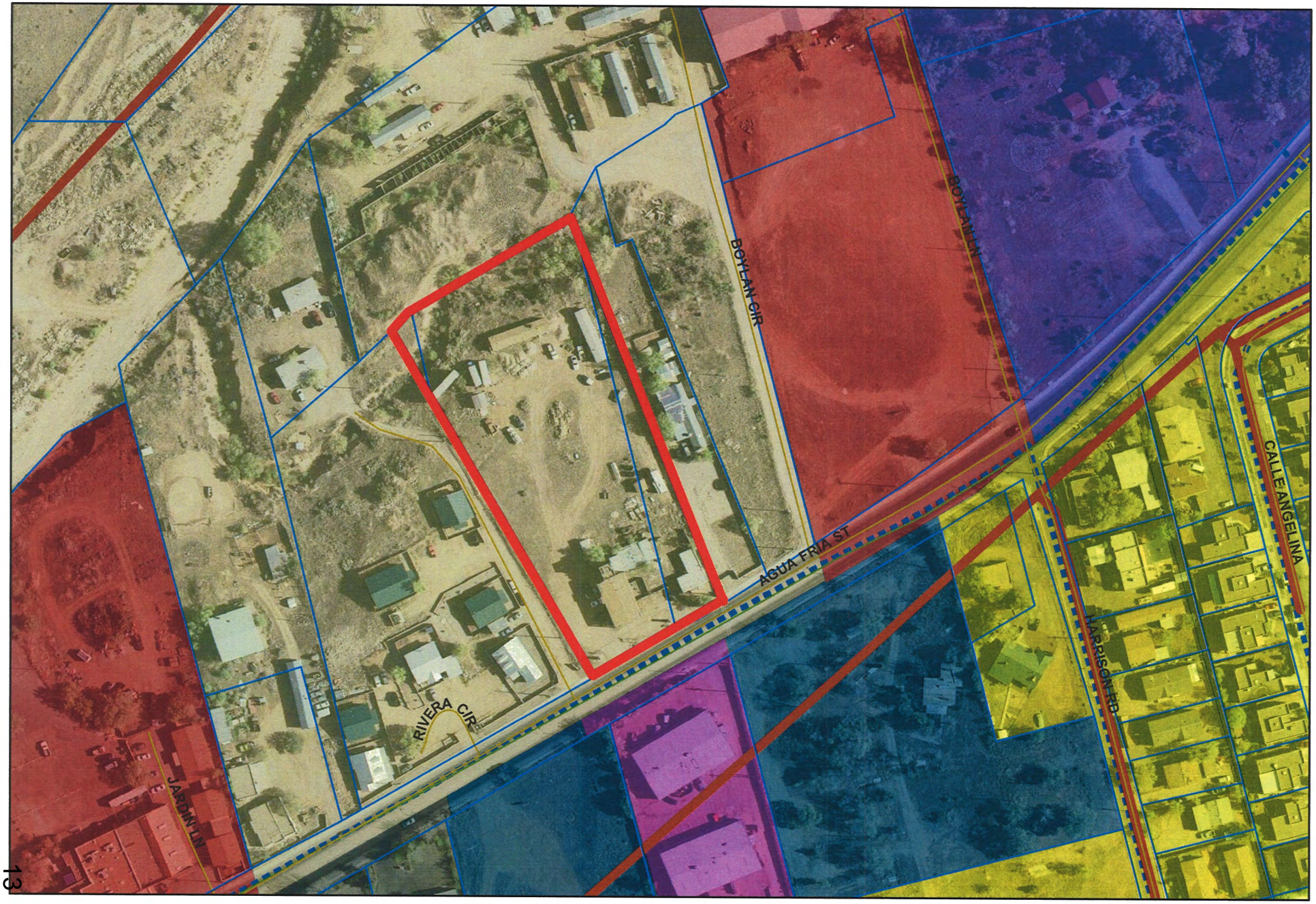
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, CITY ATTORNEY

EXHIBIT A
Resolution No. 2015-
2749 and 2751 Agua Fria Street



CITY OF SANTA FE, NEW MEXICO

BILL NO. 2015-39

AN ORDINANCE

AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SANTA FE; CHANGING THE ZONING CLASSIFICATION FOR PROPERTIES COMPRISING AN AREA OF APPROXIMATELY 2.20± ACRES LOCATED NORTH OF AGUA FRIA STREET AND IDENTIFIED AS 2749 AND 2751 AGUA FRIA STREET WITHIN THE CITY OF SANTA FE, SANTA FE COUNTY, STATE OF NEW MEXICO, FROM R-1 (RESIDENTIAL – 1 DWELLING UNIT PER ACRE) TO C-2 (GENERAL COMMERCIAL), AND PROVIDING AN EFFECTIVE DATE. ("2749 AND 2751 AGUA FRIA STREET REZONING", CASE #2015-44).

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

Section 1. That certain parcels of land comprising 2.20± acres (the "Property") located north of Agua Fria Street and identified as 2749 and 2751 Agua Fria Street within the City of Santa Fe, Santa Fe County, State of New Mexico, that are located within the municipal boundaries of the City of Santa Fe, are restricted to and classified as C-2 (General Commercial)

as described in the legal description attached hereto [EXHIBIT A] and incorporated herein by reference.

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

Section 3. This rezoning action is approved with and subject to the conditions attached hereto [EXHIBIT B] as may be approved by the Governing Body.

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

APPROVED AS TO FORM:

KELLEY A. BRENNAN, CITY ATTORNEY

EXHIBIT A
BILL NO. 2015-39

DESCRIPTION PORTION OF LOT 1, S.H.C. 417

874208

A TRACT OF LAND LYING AND BEING SITUATE WITHIN SECTION 33, TOWNSHIP 17 NORTH, RANGE 9 EAST, N.M.P.M. SANTA FE COUNTY, NEW MEXICO, A PORTION OF LOT 1, S.H.C. 417 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT FROM WHENCE THE SOUTH 1/4 CORNER OF SECTION 33, T 17 N, R 9 E, N.M.P.M. BEARS N58°25'44"E, 211.04 FEET; THENCE N28°18'30"E, 61.25 FEET; THENCE N42°37'36"E, 61.51 FEET TO THE 1/4 CORNER;

THENCE FROM SAID POINT OF BEGINNING ALONG THE FOLLOWING BEARINGS AND DISTANCES
S13°26'32"E, A DISTANCE OF 137.41 FEET; THENCE
N30°39'57"W, A DISTANCE OF 121.40 FEET; THENCE
N45°43'20"E, A DISTANCE OF 41.86 FEET TO THE POINT AND PLACE OF BEGINNING.
CONTAINING AN AREA OF 0.057 ACRES MORE OR LESS.

DESCRIPTION LOT 22

A TRACT OF LAND LYING AND BEING SITUATE WITHIN SECTION 33, TOWNSHIP 17 NORTH, RANGE 9 EAST, N.M.P.M. SANTA FE COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT FROM WHENCE THE SOUTH 1/4 CORNER OF SECTION 33, T 17 N, R 9 E, N.M.P.M. BEARS N28°18'30"E, 61.25 FEET; THENCE N42°37'36"E, 61.51 FEET TO THE 1/4 CORNER;

THENCE FROM SAID POINT OF BEGINNING ALONG THE FOLLOWING BEARINGS AND DISTANCES
S14°23'17"E, A DISTANCE OF 469.25 FEET TO THE NORTH RIGHT OF WAY (NEW) OF AGUA FRIA ROAD; THENCE ALONG THE NEW RIGHT OF WAY ALONG AGUA FRIA
S59°45'02"W, A DISTANCE OF 119.41 FEET; THENCE
N30°48'22"W, A DISTANCE OF 314.99 FEET; THENCE
N13°26'32"W, A DISTANCE OF 137.41 FEET; THENCE
N58°25'44"E, A DISTANCE OF 211.04 FEET TO THE POINT AND PLACE OF BEGINNING.
CONTAINING AN AREA OF 1.845 ACRES MORE OR LESS.

DESCRIPTION PORTION OF LOT 27

A TRACT OF LAND LYING AND BEING SITUATE WITHIN SECTION 33, TOWNSHIP 17 NORTH, RANGE 9 EAST, N.M.P.M. SANTA FE COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT FROM WHENCE THE SOUTH 1/4 CORNER OF SECTION 33, T 17 N, R 9 E, N.M.P.M. BEARS N28°18'30"E, 61.25 FEET; THENCE N42°37'36"E, 61.51 FEET TO THE 1/4 CORNER;

THENCE FROM SAID POINT OF BEGINNING ALONG THE FOLLOWING BEARINGS AND DISTANCES
S21°22'31"E, A DISTANCE OF 456.85 FEET TO THE NORTH RIGHT OF WAY (NEW) OF AGUA FRIA ROAD; THENCE ALONG THE NEW RIGHT OF WAY ALONG AGUA FRIA
S59°45'02"W, A DISTANCE OF 57.77 FEET; THENCE
N14°23'17"W, A DISTANCE OF 469.25 FEET TO THE POINT AND PLACE OF BEGINNING.
CONTAINING AN AREA OF 0.299 ACRES MORE OR LESS.

EXHIBIT "A"

2749 and 2751 Agua Fria Rezone–Conditions of Approval
EXHIBIT B for Bill No. 2015-39
Case #2015-44 – 2749 and 2751 Agua Fria Rezone

Conditions	Department	Staff
The Traffic Engineer conducted a review of the preliminary subdivision plat and provided the following comments which are noted as Conditions of Approval: 1. The applicant shall dedicate sufficient Right-of-Way (ROW) to the City of Santa Fe for a future auxiliary lane along the frontage of the properties on Agua Fria Street. The Dedication Plat shall be reviewed and approved by the Public Works Department prior to recordation. 2. The applicant shall grant access easements from lots 1 and 34 through Lot 22 via a shared access driveway to Agua Fria Street. 3. The applicant shall include the following notes on said plat: • At such time that a Developer of any of lots 1, 22 or 34 applies for a building permit, development plan approval, or requests a business license that increases the intensity of use of the properties; the developer shall consult with the Public Works Department to determine the need for a right-turn deceleration lane. If it is determined to be necessary by the Public Works Department, the Developer shall construct an auxiliary lane per approval of the Public Works Department. • At such time that a Developer of any of lots 1, 22 or 34 applies for a building permit, development plan approval, or requests a business license that increases the intensity of use of the subject properties; the Developer shall close the driveway from lot 34 to Agua Fria Street and utilize the shared access granted by this plat.	Traffic Engineering	John Romero/ Sandra Kassens
All future buildings require separate water meters.	Water Division	Dee Beingessner
Prior to the development or improvement of the property, owners and developers of the property shall obtain a technical sewer evaluation review by the City of Santa Fe Wastewater Division.	Wastewater Division	Stan Holland

City of Santa Fe, New Mexico

City Council

Exhibit 2

Planning Commission Minutes September 3, 2015

Commissioner Abeyta encouraged Staff to take the lead on it. In the County, there were clear goals and time lines and Staff took the lead. We want input but we can't be afraid to keep it moving forward. We can't always please everybody. And the Commission should stick to the time lines.

Chair Harris thanked Staff and Councilor Bushee for bringing it forward now. We appreciate the discussion.

The Commission took a break at 8:12 p.m. and reconvened at 8:22 p.m. with all Commissioners present.

1. **Case #2015-43. 2749 & 2751 Agua Fria Street General Plan Amendment.** James W. Siebert and Associates, agent for Emelecio (Leroy) Romero, requests approval of a General Plan Amendment to amend the existing General Plan Future Land Use designation for 2.20 acres from Mountain Density Residential to Community Commercial. The property is located at 2749 and 2751 Agua Fria Street. (Zach Thomas, Case Manager)

2. **Case #2015-44. 2749 & 2751 Agua Fria Street Rezone.** James W. Siebert and Associates, agent for Emelecio (Leroy) Romero, requests rezoning of 2.20 acres from R-1 (Residential – 1 unit per acre) to C-2 (General Commercial). The property is located at 2749 and 2751 Agua Fria Street. (Zach Thomas, Case Manager)

Commissioner Gutierrez recused himself from these cases as Mr. Romero is his customer.

Mr. Thomas presented the staff report for these cases.

A Memorandum dated August 25, 2015 from Zach Thomas to the Planning Commission for the September 3, 2015 meeting is herewith attached to these minutes as Exhibit 5. Please refer to Exhibit 5 for details concerning these cases.

Mr. Thomas explained that this is a focused follow-up to the study session - an actual case to rezone in the area just discussed. It is on north side of Agua Fria and was annexed into the City on January 1, 2014. It is known locally as the "castle" property.

Mr. Thomas showed several slides and explained that Agua Fria has served as an urban growth boundary for the City. The south side has a variety of mixed uses whereas the north side is mostly residential and a few industrial nonconforming uses. The next exhibit showed the C-2 area in the staff report and the recent rezones that have occurred in the area which he listed. This site is a legally non-conforming use. There is no plan in place to address growth in this area.

Applicant's Presentation

Mr. Jim Siebert, 915 Mercer Street was sworn. He asked Chair Harris it those people wishing to speak in favor could be sworn in as a group.

Chair Harris said he preferred to wait until the public hearing.

Mr. Siebert gave some history on the area. Until 1980 it was entirely under county jurisdiction - After 1980, the zoning regulations came to City boundary so it remained under county jurisdiction but in 1981 extraterritorial came into being with reps from city and county meeting to exercise jurisdiction with the County predominating.

This property has been used as commercial for significant time. During that period of time, the county didn't do any rezoning and had relaxed attitude, encouraging family business so their licenses were renewed as a matter of course.

He said that Club Alegria was under R-1 as a holding zone and was rezoned later.

He handed out some pictures of this property [attached to these minutes as Exhibit 6].One of them showed Leroy Romero's dad, Archie, who sold cars there. The auto dealership license dated to the 1960's and was the beginning of the castle. What has taken place happened over a period of time. The next page is something from the County Clerk to Leroy and his brother who had a commercial enterprise - Castle Rock Indian Trader business. They moved onto the property in 1957. The people at that time, bought the property and built their houses and established their businesses.

Mr. Siebert went to the easel with a map and pointed out the castle; one of two residential dwelling units, two mobile homes. Leroy lived in one and had an office there for the well repair business. He then showed the zoning of the area. Directly across the street is I-1 light industrial. Most recently was C-2 for club Alegria in April 2014 and the Boylan property in October 2014 as C-2. It has R-1 around it which consists of a series of rental buildings - around 5 units per acre. Next is home occupation business. So the R-1 is a misnomer. It really isn't residential.

They have dealt with the Traffic Staff on several issues. It doesn't meet code for a right turn lane there. The Traffic Division wants to take into account a provision to have a deceleration lane. They wanted to look at it more comprehensively to connect in a continuous deceleration lane for several properties. The condition is that they will dedicate the right-of-way to allow for the deceleration lane and an easement for reconstruction of the sidewalk.

PUBLIC HEARING

Those who wished to speak to this case were sworn in as a group.

Mr. Jim Gray, 1308 Camino Carlos Rael, a half mile up from this property and the President of the West River Neighborhood Association and also a member of the West River Alliance. He had a couple of

issues with the application. He had no trouble understanding that Mr. Romero wants to get it conforming. There are two lots to be zoned C-2 but only one has the business on it and residences are not allowed in C-2 zones. He asked for that zone with no proposed use except to enhance the property value. C-2 allows some uses that the neighborhood doesn't want there but they have no other opportunity to deal with it.

Right now we are trying to get proper zoning and planning and LRP and get the process started. So he asked that the Commission at least postpone it until the further planning meeting takes place.

Ms. Hilario Romero, resident of the La Cieneguilla Camino Rael neighborhood and VP of the association and concur with everything Jim Gray said and asked the Commission to either deny or postpone it so we can work with LRP Division to come to solutions to the area.

We understand they are good neighbors and we want to work with him and not cause problems but come to solutions. This has unfortunately come before a MP and hope that can be considered.

Ms. Monserrat Valles, member of the West River Alliance, supported what Jim Gray said tonight and asked the Commission to postpone it the Master Plan which needs to be done. She added that this is only a small portion of the Santa Fé River Corridor. The huge part is R-1 and then a dental office and then Boylan. Outside it is R-5 and along there it is important to keep that. We need Santa Fé neighbors to deal with real need and not only as she is asking.

Mr. Daniel Romero, 1726 Agua Fria Street, is in favor of rezoning on the reason of general principle. It has been offered commercially for several years and highlights some of the bigger issues. It should have been annexed as commercial in the first place. It is also property in a location with 13,000 cars passing by every day. Lastly, with the continuity of use, looking at surrounding uses - a lot of R-1 is being used asf commercial and (spot zoned) now. Across the street is I-1. He has been there many years and just wants to pass it along to his heirs.

Ms. Nell Sanchez, 501 Fortuna Lane, she has lived there 50 years and raised her children there and know the Romero family all of those fifty years. She supported him and his property there as well as his request for rezoning of his properties.

Mr. Pablo Sanchez, 1142 Harrison Road just up the road, who said he has known the Romero family his whole life. This property has been a commercial site for over 50 years. He remembered going to the place to buy a car from Archie Romero with his father in the 1960's. Please grant the request.

Ms. Philomena López, 817 Camino Consuelo, who said the subject property has been used for residential and commercial uses. Her brother inherited it from their father and will pass it down to his children. She resided there until she married in 1969 and she supports his request to change the use of the land to commercial so their family can continue living there in the City where they were born and want to continue to live.

Ms. Rosella Romero, 2749 C Agua Fria Street, who said for the last 9 years, she and her three children have resided at her father's property and strongly support his request. Her two sons and daughter support

the request. "Thank you for giving us the attention."

Ms. Dede Downs, 1351 Ferguson Lane, thought that this really begs the question of who we are as a City. As a mother and grandmother she deeply understands the impetus to provide for one's children. She would hope, however, that her children would understand that we can't always benefit ourselves at the expense of our neighbors. When you consider this, consider that. The public wasn't able to see the pictures but her neighbors are very much residential on that side of Agua Fria. The other thing she really heard while listening is that because of ways that have always been like Club Alegria, that we just need to continue doing that. It isn't always the smartest way to go. Santa Fé really needs to figure out who it is and how to develop and what kind of provisions to make for future generations, not only for families who have lived here a long time but for all families and businesses Santa Fe hopes to attract. If you would really take the time to let us consider that plan. She agreed with the desire to accelerate the Area 1 plan and it might be well to hold off until that is worked out.

Mr. Pancho Sobiens, 2823 Agua Fria, who said, "We all grew up there. Our parents started businesses there. All we want is to do is have a title that says we can continue the way we are."

Mr. George Rivera, 2182 Candelario Street, owner of Club Alegria for 60 years, said when he retired last year, he found out it was zoned residential. So he has a liquor license and can't use it with residential zoning. He came last year for rezoning and how he supports Mr. Romero's request. For those who say to put it on hold he reminded them that property taxes are not put on hold, insurance premiums are not put on hold and this is his livelihood.

Mr. Reyes Erbarri, 1008 Camino Consuelo, said he was here to support his request. His family have had a landscaping business back to the 1950's. George Rivera mentioned the state of the economy. It is interesting that he brought up taxes. His mother owns 3 acres at 2805 Agua Fria and after annexation, the taxes went from under a thousand dollars to over $3,000. He is in support that it be commercial because it has historic use for commercial. His grandfather and his father moved here and opened the business and he is now trying to run the landscaping business and a jewelry repair business to cope with the downturn in the economy.

Mr. Santos Montoya, 2750 Agua Fria Street, said he has known Leroy Romero all my life. When he was a kid, his dad had a grocery store and they went there to buy groceries. He then had a lumber yard there. He did it. Then he had a good car sales business. To him this has always been commercial and he was here to support Leroy. "He is a true friend and I love the man."

Mr. Rick Martínez, 728 Mesilla Road, said he is in favor of rezoning, not as C-2 but as C-1, which is the business use of this property now. The owner can always come back for C-2 zoning later. He complies with C-1 and the neighbors would be okay with it. But C-2 allows for many more uses. C-1 still gives him the business uses he needs. He asked the Commission to go slow on it. C-1 is good enough now.

Ms. Norma Cross, 1390 Camino Real, was sworn and also felt that C-2 is too much and C-1 would be more appropriate. She understood Mr. Romero's desire to make the most of his property for his children. She said her property will be worth less if it is C-2.

There were no other speakers from the public regarding this case.

Chair Harris closed the public hearing for this case.

Commission Discussion

Commissioner Abeyta asked staff if the property is rezoned to C-2 if it didn't mean every possible use could be done. There is still a development plan to consider and impact to traffic, etc. He asked if certain uses could still be turned down.

Mr. Thomas said if it is rezoned as C-2 every used permitted for C-2 would be possible. There are conditions of it for traffic and access points that are provided.

Commissioner Abeyta clarified that some uses couldn't be provided for. For instance, Agua Fria is only two lanes so a fast food drive through couldn't be approved.

Mr. Thomas said it would be a permitted use.

Commissioner Abeyta argued that the Commission could deny a McDonalds business there because the road isn't wide enough.

Mr. Thomas said those considerations would be reviewed at the staff administrative level.

Commissioner Abeyta asked then, if the Commission approved C-2, Mr. Romero could do anything on the list on this property.

Mr. Smith said the City Attorney has advised us that staff has the authority to permit uses on the property. The trigger for Planning Commission is 10,000 square feet. Staff isn't in a position tonight to tell you a drive through would meet the requirements for this property. But 10,000 square feet is the threshold for most uses.

Commissioner Abeyta asked if there is more analysis down the line.

Mr. Smith clarified that for volume of traffic, it could be denied by staff or through a development plan process.

Commissioner Probst was unclear about living on the property if it is rezoned C-2.

Mr. Smith said residential is specifically prohibited in C-2 but it is a legally non-conforming use now until a plan is done. Trails cannot be used in rezoning.

Commissioner Probst asked the applicant about living on the property. It sounded like the trailers are nonconforming.

Mr. Siebert said the rezoning doesn't change the current status and they would continue as nonconforming and at some time in the future, it will be redeveloped.

Commissioner Probst asked, if the case is postponed as some public members recommended, how long it would be postponed.

Mr. Smith said most of the scenarios call for sector planning in 12-18 months. Councilor Bushee wants to expedite it but simple logistics suggest no possibility of having it be less than that. If the Planning Commission finds that additional planning is required, the applicant could come back again.

Commissioner Probst asked about other properties in this neighborhood.

Mr. Smith said there is at least one other property like this one.

Commissioner Greene asked if the neighbors are taking part in the meeting for master planning.

Ms. Martínez explained that the meeting is being planned and is scheduled for this coming Tuesday to begin discussion and will be in Land Use conference room at 2:00.

Commissioner Greene asked if the neighbors were supportive of that.

Chair Harris said those who wished to answer would have to step up to the microphone.

Pancho Sobiens said he would participate.

Commissioner Greene asked if they are in favor of the rezoning for their business and if they are involved in this master planning.

George Rivera said he would participate.

Commissioner Greene said if the Master Plan for this area is approved and it asks for an internal road network that crosses Mr. Rivera's property, he hoped that he and Mr. Sobiens and the others would join in and share the burden.

George Rivera agreed but right now he didn't know about Master Plans.

Commissioner Greene asked if Mr. Siebert would be there on Tuesday.

Mr. Siebert agreed.

Rick Martinez said when people say they are included in the West River Alliance, it just got organized and the members want to work with the owners of these properties and they got Councilor Bushee and Councilor Lindell to get it started and want to invite the neighbors to the meetings. We really want to work

with them. Those who are there need to have a voice. They are invited to our Alliance.

Philomena López said she couldn't understand why they have worked this property for so many years and now, once it got annexed, he has had to jump through all of these hoops and there is a question of whether it should be commercial or not. She said she sweated there too in the grocery store. How can she live there all of her life as a commercial place and now her brother has to wait another 18 months? It has cost him money. Who has the money to put it aside? We talk about how we want families to keep living here. What are we doing to keep her family here? Or sending them away to find a living elsewhere.

Chair Harris asked if she would be at the meeting on Tuesday.

Philomena Lopez said she would participate next Tuesday.

Reyes said he would love to participate in the panning process and will be there Tuesday.

Commissioner Probst asked if there is anything that would prohibit them from operating the business.

Mr. Smith said he would be allowed to continue operating the business but would need to ask for a change from one nonconforming use to another at the Board of Adjustment if the business use changes.

Commissioner Kapin was interested in the reference to the West River Alliance because the owners there don't seem to know about it. She was concerned that the entire neighborhood needs to be invited to get on board and get the conversation going.

Ms. Martínez said about the meeting on Tuesday that even though it is a kick off meeting and not meant to exclude anybody. These two areas, Old Pecos Trail and Agua Fria will be heard at Public Works and this meeting is to discuss and put out general information before Public Works.

Commissioner Kadlubek pointed out that it was the Alliance that got Councilor Bushee to work on the resolution. The Alliance was lobbying. We need to have a better understanding from our point of view who the neighborhood associations are. Nothing we have received deals with those associations and our decisions affect them. It is not political. It is about doing what is right for the community. Some are trying to halt further progress for some of these people. He asked that next time, the Commission have a case where the neighborhood association is identified and who is part of that association. We don't know the difference if one person stands up to represent them.

Mr. Shandler asked for the record why C-1 isn't on the table for consideration.

Mr. Thomas said the applicant asked for C-2 and 14-3.5 allows the Governing Body to grant a zone of less intensity but Staff went by what the applicant asked for.

Mr. Shandler pointed out that there are PUDs on this map. He asked why it is not a PUD request. The C-1 PUD area was rezoned in the SWAZO process. The Del Rio was done by the Ecoversity land use and a dental clinic. It is an approximation of the previous zoning ordinance special exceptions. The red property

zoned C-2 PUD to the east reflected a commercial use granted under the EZO.

Mr. Siebert said if you look at historic uses on this property, Mr. Romero's repair business doesn't fit under the C-1 designation. He thought there is concern and in response to Commissioner Abeyta there is a considerable review process. If there is an increase in intensity, it requires a traffic study and if it doesn't meet the traffic use it doesn't get approved. It is much the same with sewer - so there are some constraints in the review process.

Also, he believed it is a 2-3 year process to get the plan approved. The applicant has spent a good deal of money to get to this point and he is not a person of substantial means.

Mr. Shandler noted the staff report says the use is not consistent with R-1 and not clear that C-2 would be consistent. So he wanted to give the applicant a chance to rebut some of those things.

Mr. Siebert said the zoning to east, south and west is consistent. Light industrial across the street, C-2 up the street and a series of commercial to the west either C-2 zone or actual use that would fit with the C-2 category. So he felt it is consistent with surrounding uses.

Chair Harris thought the applicant has a strong case for rezoning in the General Plan with not just recent history spoken to by others but certainly the long term history spoken to by members of the public. And he tended to agree with Mr. Siebert's statement that the plan will play out over a longer period of time.

He considered that it essentially creates a de facto moratorium until the sector plan is finalized even though the Commission has postponed some to a date certain to give the applicant time to sort out issues. Sometimes that is done on a technical basis and sometimes with neighbors. He used Hands of America as an example. Hands of America did go to C-2.

He also wanted to acknowledge Mr. Smith's statement that we can't limit the use here but Hands of America agreed to limitations on the use of their property.

This is a great neighborhood and he loved the castle on that street. So he loved the history and wanted to avoid bad blood and felt an amount of resentment would come with anxiety for the future.

So Chair Harris asked if the applicant would consider postponing to a date certain - after the Tuesday meeting - and hope that within the community, they could identify something that would make it work.

Mr. Siebert appreciated the comments. He asked the City Attorney, if limitations are agreed to on a voluntary basis, whether that could be considered in rezoning.

Mr. Shandler said it was what was agreed to voluntarily with Hands Across America so he presumed it could be here also.

Commissioner Probst asked how that would be enforced.

Chair Harris thought it would be with deed restrictions but he didn't remember exactly how it ended up.

Mr. Siebert asked a moment to confer with his client about tabling to a date certain.

The Commission discussed it off the record with the mikes off.

Mr. Boaz asked if they were taking a break while the applicant stood ready at the podium.

Chair Harris said no and the meeting resumed.

Mr. Siebert said they would agree to table to a date certain and in that process consider what limitations they would agree to.

Commissioner Kapin expressed concern whether negotiations with the small group right now would be problematic for neighbors who are not part of the process when the entire community is not all involved.

Chair Harris said in Hands of America it seemed successful and we don't even know what uses they would not pursue but ultimately it was up to the applicant to decide what was acceptable. Although we put a rubber stamp on it yet it satisfied not only the Commission but also Staff and the applicant.

Commissioner Kadlubek said in an ideal situation it would be something Land Use would accept. Yes it is C-2 and a lot of uses are allowed under C-2. But he would hope he would trust Staff to make a good decision on that. He was sure a lot of development scrutiny happens with Staff.

Commissioner Abeyta said his problem with the fairness aspect was that Mr. Romero has really been C-2 and it is ironic he comes in now and gets stuck with this plan. In his mind it was commercial. It was a grocery, then a lumber yard, then a car dealership and now welding. He didn't want to see Mr. Romero never get this resolved. The Commission does have the discretion if something comes in; Staff won't allow something that is inappropriate and water, sewer, and traffic won't either. He already is C-2 and the neighborhood has to accept that.

Commissioner Kadlubek wanted confirmation that the current business wouldn't be allowed in a C-1 zone.

Mr. Smith agreed.

Commissioner Kadlubek asked what would happen if the vote is denial tonight.

Mr. Smith reminded the Commission that the vote is a recommendation to the Governing Body. Often the applicant withdraws and chooses not to go to Council. But the applicant can and the ultimate decision can choose to follow or not follow the recommendation of the Commission.

Commissioner Greene hoped that Staff makes the right decision but if it is less than 10,000 square feet, Staff can deny certain uses. The neighbors can hire an attorney and we would never see it again.

As long as the current use continues, the Commission could not stop it. So continuity either by postponing or whatever doesn't stop what is going on there. He thought this might put a little fire under Staff to come up with a 50 acre plan that might be better for the owners rather than each one going through this very expensive process.

Chair Harris was not advocating postponing to tag along with the process outlined earlier, but there might be good reasons to postpone to a date certain for more dialogue. There is much respect in the neighborhood and a scheduled meeting on Tuesday. He thought there might be a better meeting of the minds by then. Everyone is talking about the future. They are talking about the future and concerns for their family. There seems to be a common interest here to postpone to a date certain to allow for more agreement.

Mr. Shandler said it isn't really C-2; it is something else. It is rural. You cannot live on C-2 property. The Staff also said they cannot put limits on the uses. So how to satisfy those mutual goals is the issue. The long term idea might be a sector plan. Or the owner could volunteer for deed restrictions on the property.

Commissioner Abeyta noted there were C-2 rezonings done in April and October and this property is right between them. He couldn't see anything other than C-2 here.

Ms. Martínez clarified that if the idea for postponing is a hope of something coming out of Tuesday's meeting would help, the topic is purely about planning and what the boundaries would be so no discussion on uses will happen on Tuesday.

Commissioner Abeyta moved in Case #2015-43, 2749 & 2751 Agua Fria Street General Plan Amendment to recommend approval to the Governing Body, ~~subject to Staff conditions~~. Commissioner Probst seconded the motion and it passed by unanimous (5-0) roll call vote with all Commissioners voting in favor and none voting against. Commissioner Gutierrez was not present for the vote, having recused himself from considering this case.

Case #2015-43, 2749 & 2751 Agua Fria Rezone

Commissioner Abeyta moved in Case #2015-43, 2749 & 2751 Agua Fria Rezone to recommend approval to the Governing Body with Staff conditions. Commissioner Kapin seconded the motion and it passed by unanimous (5-0) roll call vote with all Commissioners voting yes and none voting against. Commissioner Gutierrez was not present for the vote, having recused himself.

Commissioner Greene explained his yes vote after first passing that he would really like for Current Planning, LRP, and City Council and City Attorney all to be involved on Tuesday so we can get a Master Plan for this area, a better planning process in the future and so that people like Mr. Romero don't have to go through this on their own property.

Mr. Smith clarified that Staff did not recommend conditions of approval for the General Plan Amendment but did recommend conditions of approval for the rezoning case.

Commissioner Kadlubek wanted the public know the tough position the Planning Commission is in - not because of anything current but because of lack of planning with annexation that has happened in the last 20 years.

Chair Harris thanked all who spoke regardless of their position. It was very civilized discussion. Thanks for your participation.

Mr. Romero thanked everyone also.

Commissioner Gutierrez did not return to the bench after the vote was taken, having departed at the time of recusal.

I. STAFF COMMUNICATIONS

Ms. Martínez knew the Commission's deliberations tonight were tough and the timing seemed really bad. A lot of people said that too. As we see others come forward, we need to plan for it. Combine that with resolutions coming forward and people taking an interest made it the perfect storm. We absolutely appreciate people coming forward and offering to help. We don't have financial resources to really make it happen and grateful for those who volunteered to come forward so we don't have to wrestle with these decisions. Hopefully we will come up with good decisions.

Chair Harris agreed it was bad timing and he wasn't quite satisfied after four hours with the decision. With more experience, he could anticipate this coming. It seems to have a certain momentum. The public is a bit more engaged than earlier in the year. We need to keep the momentum for it and it is absolutely critical. It worked out well.

Commissioner Greene asked, now that this case is resolved, if Commissioners can participate in Tuesday's meeting as much as possible.

Ms. Martínez agreed but if there might be a quorum, it needs to be noticed.

The way the meeting was put together is that one individual from this new alliance went to Councilor Bushee and asked if they could help with the scope of the area. So it will expand and others will be asked to participate. It was intended to work on it before Public Works and intend to have a study session with Public Works also not for next meeting but the one after that.

Commissioner Greene hoped to be there on Tuesday and encouraged all neighbors to participate and identify every single property for a MP for that 50 acres. It won't be that difficult. We should think positive about it to get a better plan.

Mr. Smith said Mr. Shandler is providing a memo on study sessions. The Findings of Fact and Conclusions of Law will include the Planning Commission's specific recommendation on this application.

But when you are talking about a plan - you may consider it legislative and are not precluded from discussion and can have a quorum.

Commissioner Kapin asked if every Commissioner could come on Tuesday.

Mr. Smith said a quorum would be five members.

Commissioner Kapin added that as long as we don't discuss specific cases we can be tere.

Mr. Shandler generally agreed but said if Commissioners get pulled toward community organizing they should step out.

Commissioner Greene said he would step out if necessary.

Mr. Smith noted the next meeting is the first Thursday in October and he didn't anticipate a second meeting in October. He said it is possible one or more resolutions will appear before the Commission in October and you can recommend approval or not.

Commissioner Kadlubek wondered if the LRP will be determining its own criteria without really designing. The ones who show up will do the process. We are handing over a Master Plan to those who are more involved. He asked Commissioners to be mindful of that process and how we move forward on the General Plan for getting input. He would like to see the same vetting of this neighborhood Master Plan. We don't know who will dominate the discussion and who will get left out. Those who get left out are those who could be moving into the area. They have as much stake as those who do live there.

When thrown together, it is a wash. Staff and Governing Body saying we have a budget crisis - or we have a housing crisis - so we don't consider just one voice for showing up. He said he is very committed to the process.

Commissioner Greene said the community at large has spoken loudly but we've get stuck to our work.

J. MATTERS FROM THE COMMISSION

Chair Harris said he has referred to himself for being the old timer and the new comers have done well – have risen to the occasion. So he is looking forward to whatever comes in front of the Commission.

Commissioner Kapin pointed out that a huge portion of the packet was printed really blurry and wondered if staff could make sure all the printing is clear before releasing it to us.

Secondly, she asked if it is necessary to waste a stamp on getting the agenda sent three times - once by mail and once by email and once in the packet.

Ms. Martínez said they have tried to cover all bases and save resources that way. She apologized for the printer. She also took the Commission's comments into consideration for formatting to make it simpler and we put the attachments right after the case and also checked the outline format to make sure things tracked carefully. They are looking at making significant changes to the reports - opening page for executive summary and what you should be voting on and trying to find a simpler way to provide the reports and hope we can make it better.

Commissioner Kapin said it was much easier to read this time with the new format.

Chair Harris said he asked Mr. Shandler if findings were available on St. Vincent's Hospital so he could review them and Mr. Shandler had provided them. In the future he would continue to ask. He made several suggestions to him and some were pretty substantial.

Mr. Shandler said he does that for the HDRB as one email.

K. ADJOURNMENT

The meeting was adjourned at 10:30 p.m.

Approved by:

_____

Michael Harris, Chair

Submitted by:

Carl Boaz mh

Carl Boaz for Carl G. Boaz, Inc.

City of Santa Fe, New Mexico

City Council

Exhibit 3

Planning Commission Staff Report September 3, 2015

City of Santa Fe, New Mexico

memo

DATE: August 25, 2015 for the September 3, 2015 meeting

TO: Planning Commission

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

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

Case # 2015-43. 2749 & 2751 Agua Fria Street General Plan Amendment. James W. Siebert and Associates, Agent for Emelecio (Leroy) Romero, requests approval of a General Plan Amendment to amend the existing General Plan Future Land Use designation for 2.20 acres from Mountain/Corridor Density Residential to Community Commercial. The property is located at 2749 and 2751 Agua Fria Street. (Zach Thomas, Case Manager)

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Cases #2015-43 and #2015-44 are combined for purposes of staff report, public hearing and Planning Commission review, but each is a separate application and shall be voted upon separately.

I. RECOMMENDATION

While existing development patterns on the project site and other nearby parcels are not consistent with existing R-1 zoning, it is not clear that the proposed general plan amendment and rezoning for unrestricted C-2 development would be consistent with the applicable approval criteria. Staff analysis notes concerns with the following approval criteria regarding:

- Contribution to a coordinated, adjusted and harmonious development of Santa Fe that is 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. (General Plan criterion 14-3.2(E)(1)(d))
- Allowing a range of potential future uses that could be significantly different from or inconsistent with the prevailing uses in the area. (General Plan criterion 14-3.2(E)(1)(c))

- Demonstration that the proposed use category is more advantageous to the community, as articulated in the general plan or other adopted city plans. (Rezone criterion 14-3.5(C)(1)(a)(iii))
- Demonstration that existing or proposed infrastructure will be able to accommodate future development, including planning for a local street network and access to city sewer lines. (Rezone criterion 14-3.5(C)(1)(e))

If the Commission determines that the applications are consistent with the criteria and recommends approval of the applications, conditions of approval that would apply to the rezoning are outlined in the attachments to this report.

No specific development is proposed as part of these applications. The Commission's recommendation will proceed to the City Council for final decision on both the general plan amendment and rezoning.

II. EXECUTIVE SUMMARY

The residential and quasi-industrial uses currently located on the property were apparently legally nonconforming for many years prior to annexation, and they remain legally nonconforming. The proposed rezoning would not make those uses conforming, but would enable future development for other types of more-intense commercial uses.

Approval of zoning that significantly increases the development potential for properties on the north side of Agua Fria Road east of the Siler Road intersection may be premature until there has been a careful analysis of the likely effects of development on all of the roughly 50 acres of undeveloped and under-developed land in that vicinity. That could occur as part of a sector plan as called for by General Plan Policy 4-5-I-2:

> "Prepare sector plans for each of the future growth areas. These must be coordinated with the Staging Plan and include public and human service facilities such as schools, libraries, and community and senior centers."

Although rezoning to C-2 was approved for two nearby parcels in 2014, staff is concerned that continued approval of rezoning applications without a community area plan or other coordinated effort to address land use and infrastructure will make it more likely that a haphazard pattern of development will occur, resulting in undesirable changes to neighborhood character, inefficient use of private property and difficulties in providing roads and other public infrastructure.

A draft resolution calling for creation of a "West Santa Fe River Corridor area master plan" has been introduced by Councilor Bushee, and may be considered by the Governing Body in September. That plan would include the project site and other nearby parcels, but preparation and adoption of a master plan would likely take six months to one year.

III. APPLICATION SUMMARY

The 2.20 acre property consists of 3 parcels used for residential and light industrial uses. Five residential units and a well and pump repair business are operated on site as a home occupation.

The applicant requests a General Plan amendment from "Mountain/Corridor Density Residential" to "Community Commercial" and a rezoning from R-1 (Residential – 1 unit per acre) to C-2 (General Commercial).

IV. DISCUSSION AND ANALYSIS

Located on the north side of Agua Fria Road, the subject property, known colloquially as the "Castle" property, is within a recently annexed area of the City. Land within the immediate vicinity on the north side of Agua Fria Road has historically been characterized by rural residential intermixed with quasi-industrial uses. Most of the quasi-industrial uses pre-date even the extra-territorial zoning regulations, and have existed as legal nonconforming uses or as home occupations. More urban land use patterns exist south of Agua Fria, characterized by a combination of Mixed-Use and Light Industrial zoned land. Residential and General Industrial zoned land occurs further to the east and west.

The north side of Agua Fria has recently experienced increased growth pressure in the form of General Plan Amendment and Rezone requests to higher intensity land use designations and zoning districts. Staff has identified about a half-dozen property-specific applications to amend the future land use map and zoning map in the immediate Agua Fria Area since the Subdivision, Planning, Platting and Zoning Ordinance (SPPAZO) was adopted.

- Pending Rezoning Requests
  - Gerhart Apartments: 11.83 Acres – R-1 to R-21 (2800 South Meadows)
  - 2749 Agua Fria: 2.2 Acres – R-1 to C-2 (Leroy Romero property)
- Denied Rezoning Request
  - Blue Buffalo (El Rio Apartments): 16.53 Acres C-1-PUD to R-29. 2725 and 2639 Agua Fria. Existing C-1-PUD zoning based on EZO approvals.
- Approved Rezoning Requests
  - Corazon Santo Rezoning: 8.7 Acres R-2 to R-6 and MU. Res. 2011-70, Ord. 2011-40 & 41. SW corner Agua Fria/Harrison Road, annexed in 1961.
  - Rivera Rezoning: 4.65 Acres R-1 to C-2. Ord. 2014-20, Res. 2014-31 Residential and business uses on the site apparently were legally nonconforming under the EZO rules prior to annexation.
  - Boylan Property: 3.86 Acres R-1 to C-2. Ord. 2014-32, Res. 2014-87. Intended to permit re-use and expansion of existing light industrial buildings that were apparently legally nonconforming under EZO rules prior to annexation.

Exhibit C3 shows rezoning applications along Agua Fria east of Siler Road.

The density of the current residential uses and the light industrial nature of the well and pump repair business are nonconforming under the current R-1 zoning and would continue to be legally nonconforming under C-2 zoning. Specifically, residential use is not permitted as a

principal use in a C-2 zoning district unless a development plan is approved, and use of mobile homes as dwelling units is specifically prohibited. The pump and well repair business would become a permitted type of use, but would remain legally nonconforming unless extensive modifications were made to bring the business portion of the site into conformance with parking, landscaping and other site development standards. No immediate development is proposed as part of the requested General Plan Amendment and Rezone. The stated purpose of the applications is to leave the applicant's heirs property that could be more easily sold or developed with a higher use.

An Early Neighborhood Notification meeting was held on April 15, 2015 at the Southside Library. The applicant plus eight members of the public were in attendance. Members of the public noted concerns with increased traffic along Agua Fria associated with the piecemeal commercial rezoning occurring within the area. (See **Exhibit E**).

V. GENERAL PLAN AMENDMENT

The subject property's current land use designation is Mountain/Corridor Density Residential as shown on the Future Land Use Map (See **Exhibit C1**). That designation, which calls for a density of one dwelling unit per ten acres, was assigned during the city-county annexation process by the "Subdivision, Planning, Platting and Zoning Ordinance (SPPAZO). Those designations, and several recent C-2 and I-1 rezoning approvals granted by the city for nearby parcels, occurred without detailed studies of overall future land use patterns and infrastructure needs.

The applicant requests the Community Commercial designation to allow for C-2 (General Commercial) zoning.

Sections 14-3.2(E)(1) and (E)(2) SFCC 1987 set out the following General Plan Amendment criteria for approval:

(E) General Plan Approval Criteria

(1) Criteria for all Amendments to the General Plan

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

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

Applicant Response: Santa Fe has an annual growth rate of approximately one percent. The City is attempting to provide for a diversity of uses in the area along Agua Fria and Siler road. This is evidenced by the City Council's action to reject the Euclidian zoning applicable to the I-1 and I-2 districts and allow for a more liberal application of permitted uses in this area.

The City's 2008 Economic Development Plan recommends the following "targeted businesses".

Targeted sectors are identified as follows:

- Media (Film, Publishing, Journalism, Video Game Production, etc.)
- Green – Consistent with Sustainable Santa Fe Plan and including: Clean renewable energy (with a focus on the solar industry), water conservation, waste reduction technologies and outdoor and recreational activities and equipment.
- Technology (Biotech, Nanotech, Software design, etc.)
- Knowledge Based Enterprise (Research and Development, Think Tanks, Financial Services, Consulting, Public Policy, etc.)
- Arts & Culture (Artisans, Fine Artists, and Cultural Heritage as described in the City's Cultural, Arts and Tourism Plan.)

Of the above uses the City has already started to see an increase in the culture, arts and boutique beer breweries for the area. The area is evolving as a mix of industrial uses, theatres and locations for artists in metals and stone.

Staff Response: The City no longer maintains specific projections for growth rates. Staff has not identified a specific shortage of land available for general commercial development citywide. Existing low-density residential development patterns along Agua Fria would probably not support development of neighborhood-serving commercial development on the project site. The 1999 Future Land Use Map identifies the project site as being within the "Proposed Service Area" of the "Siler Road Redevelopment District:"

> "The Siler Road Redevelopment District is intended to allow this industrial area, located in close proximity to expanding residential aras, to develop land uses compatible with housing, and may be implemented through new mixed-use zoning district regulations which would specify appropriate land uses and design standards." (General Plan Section 3.5)

A traffic impact study prepared by the applicant indicates it would be feasible to provide access from Agua Fria for commercial development on the project site. A review of coordinated access to similar development on other nearby sites via common driveways or local streets has not been done. Connection to the City water system appears to be feasible; connection to sewer service would require coordination with other property owners. Availability of infrastructure is addressed in more detail in Section III.(C)(1)(e) of this staff report.

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

Applicant Response: The City General Plan shows this property as Residential Mountain, 1dwelling per acre.

The properties across Agua Fria to the south are zoned I-1, Light Industrial and MU Mixed Use. The land uses on the property immediately west consist of higher

density rental dwellings. Since the sixties this area has consisted of a mix of housing and small scale commercial businesses. This property is not located within the boundaries of the Southwest Sector Plan and a definition of appropriate land uses is derived more from consistency with recently approved zoning applications and existing mix of uses rather than directed policy.

Staff Response: The subject property is bordered on two sides by residential land use designations and zoning, although mixed-use and light industrial zoning is located immediately south of Agua Fria. Additionally, current uses within the immediate area consist of a mix of residential, light industrial and commercial.

Prior to adoption of SPPAZO, the land use designation was "Greater Agua Fria Area" (GAFA) identified on the 1999 General Plan Future Land Use Map. The Greater Agua Fria Area included all of the land surrounding the Agua Fria Traditional Historic Community that had not been annexed before 1999. The designation was applied to land on both sides of the Santa Fe River, extending to NM 599. Although the map designation was changed, the corresponding text remains in Section 3.5 of the General Plan and may still be applicable (emphasis added):

> "This classification is designed to identify the Greater Agua Fria Area including the Traditional Historic Community Area and other locations within the joint planning jurisdiction of the City and County of Santa Fe. Areas within the Greater Agua Fria Area have evolved from a rural character to take on a more suburban character. A community area plan will help to preserve the life style and character of semirural residential area while providing for a sensitive urban development, mix of land uses, and residential densities."

General Plan Implementing Policy 4-5-I-2 also calls for preparation of a sector plan for "future growth areas," although it is not clear whether the GAFA should be considered as an infill area or as a growth area:

> "Prepare sector plans for each of the future growth areas. These must be coordinated with the Staging Plan and include public and human service facilities such as schools, libraries, and community and senior centers."

Much of the area west of Richards Avenue and Henry Lynch Road was included in the Southwest Santa Fe Community Area Master Plan, which was adopted as part of the General Plan in 2007. However, no detailed planning has been done for the areas east of Henry Lynch Road, including the project site.

A draft resolution calling for creation of a "West Santa Fe River Corridor area master plan" has been introduced by Councilor Bushee. That plan would include the project site and other nearby parcels, but preparation and adoption of a master plan would likely take six months to one year. It is uncertain whether or when that plan might be adopted.

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

Applicant response: No response provided.

Staff Response: As noted above, the property is in close proximity to a large number of residential, light industrial and commercial uses. The proposed amendment will allow for additional commercial uses, though no additional development is currently proposed.

The immediate vicinity around the project site is under increased pressure to accommodate higher intensity uses. As such, there is increased likelihood that the prevailing use and character in the area on the north side of Agua Fria will become less rural. Redevelopment of the project site, along with redevelopment of other nearby sites, has the potential to significantly change the types of uses and intensity of development within the neighborhood.

Although the application affects an area of greater than two acres – the minimum threshold for an amendment per Subsection ii – it is not clear that it is or would become part of a consistent pattern of land uses.

(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: No response provided.

Staff Response: The amendment must conform to the criteria in Subsection 14-3.2(E)(1)(c), since it is not clear that it "promotes the general welfare or has other adequate public advantage or justification."

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

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

Staff Response: Not applicable.

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

Applicant Response: This area along Agua Fria Road has a long history of diverse land uses, first under County jurisdiction prior to 1990, then under extraterritorial jurisdiction from 1991 to 2009. Is was common in the 1950's for Santa Fe residents to buy land in this area along Agua Fria and construct their homes and start a small business at the same location. The owner of the property wishes to continue to rent the two residential dwellings and house adjacent to Agua Fria, live in the one of the two manufactured homes while his daughter lives in the second manufacture home and maintain his current business without the necessity of a home occupation. This promotes the general welfare by having the security that the business use will be allowed by right. It also encourages investment in the property since the commercial zoning provides the security that encourages investment in the property.

Staff Response: For the reasons noted in other sections of this report, it is not clear that the proposed amendment can be considered part of "harmonious development of Santa Fe" as outlined in this criterion.

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

Applicant Response: No response provided.

Staff Response: Previous sections of the applicant's responses cite compliance with economic development policies. It is not clear that this or other policies would override the policies that call for development to be carefully planned for compatibility with existing neighborhood characteristics.

(2) Additional Criteria for Amendments to Land Use Policies:

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

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

Applicant Response: 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. The current R-1, Single Family Residential zoning allowing for one dwelling per acre is unrealistic for either this property or other properties in area south of Agua Fria. The R-1 district is often applied as a holding zone until an application is submitted for a use more suitable for the area.

Staff Response: The proposed General Plan Amendment does not propose an amendment to any land use policy, so the "Additional Criteria" in (2)(a) through (2)(c) are not specifically applicable. The staff responses address consistency with existing policies. As noted above, the Future Land Use Map designation as Mountain/Corridor Residential was applied as part of the annexation process in 2008-2009, and primarily reflects the designations in the old Extraterritorial Zoning Ordinance and Extraterritorial Plan, which generally corresponded to residential uses with 2.5-acre lots. It is not clear that there are erroneous growth and economic projections that would justify the proposed amendment. As noted in previous sections of this staff report, the General Plan calls for preparation of a master plan to guide new development patterns in the vicinity.

(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 Planning Commission has already recognized diversity of land uses that exists north of Agua Fria by recommending approval of Boylan property zoning from R-1 to C-2. There are other locations for C-2 land in Santa Fe but the majority of developable C-2 land is located at the southern end of the urban area in the vicinity of Cerrillos Road.

Staff Response: It is not clear that there is any citywide shortage of land available for C-2 development or redevelopment.

(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 either County or extraterritorial jurisdiction where diverse mixes of land uses were recognized as the historical land use pattern for the area. Santa Fe County permitted business licenses for changes to uses within buildings as legal, non-conforming 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 will bring the mix of residential and commercial uses into conformity with City zoning.

Staff Response: The applicant is correct that the Extraterritorial Zoning Ordinance that previously regulated this area provided additional flexibility in dealing with nonconforming uses than allowed under city regulations. However, uses and structures on the project site appear to have been legally nonconforming under those regulations even before annexation, the EZO regulations would not have allowed expansion by more than 50% of the floor area. The uses and buildings will remain nonconforming even under C-2 zoning.

VI. REZONING

Sections 14-3.5(C) and (D) SFCC 1987 sets forth approval criteria for rezoning as follows:

(C) Approval Criteria

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

(a) one or more of the following conditions exist:

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

Applicant Response: Since the Annexation of this property, the City has used R-1 zoning designation for annexed areas where it serves as a holding zone until another use is proposed for the land. R-1 is the lowest density zoning district designated in the Land Development Code and the designation of this district is inconsistent with the policies of the General Plan.

Staff Response: The City zoning category of R-1 was assigned as part of the City-County SPPAZO annexation process in 2008-2009. The residential density corresponded to the density of 0.4 unit per acre that prevailed under the previous Extraterritorial Zoning Ordinance (EZO).

(ii) there has been a change in the surrounding area, altering the character of the neighborhood to such an extent as to justify changing the zoning;

Applicant Response: The City Council has recently approved C-2, General Commercial zoning for the Boylan property to the east. The land uses along the south side of Agua Fria vary from mixed use, general commercial to light industrial. Prior to the City annexing the area north of Agua Fria Road there was little development activity. With the City commitment of utilities and provision of City services this area is now experiencing requests for development or re-development.

Staff Response: As indicated by recent rezone applications immediately east of the property, there has been increased interest in intensifying both the residential and commercial land uses along Agua Fria. It is reasonable to assume that interest among property owners to rezone to higher intensity uses will continue along this section of Agua Fria. The residential and quasi-industrial uses currently located on the project site and on nearby parcels were apparently legally nonconforming for many years prior to annexation, and they remain legally nonconforming. The proposed rezoning would not make those uses conforming, but would enable future development for other types of more-intense commercial uses.

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

Applicant Response: The City General Plan shows this property and other properties between Agua Fria and the Santa Fe River as "Mountain/Corridor Residential". The predominate land use for this area is a mix of commercial and single family and rental housing. From the time that this area was brought into the "Presumptive City Limits" and zoned R-1, single family residential, one dwelling per acre, many of the existing 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 other than home occupation licenses. As non-conforming businesses 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 for most of the properties in close proximity to this application.

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: It is not clear which general plan or other adopted city policies would support the proposed rezoning as more advantageous to the community. As noted in the sections of this report dealing with the proposed general plan amendment, the plan supports preparation of a sector plan to guide future land use patterns in the vicinity.

(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, which creates a non-conforming status for this property. Rezoning of the property to C-2 uses would bring this property into conformance with the historic uses that have taken place on this property.

Staff Response: The applicant has met the Chapter 14 procedural requirements for rezoning applications, including ENN and notification requirements. No development plan for the property is required for C-2 rezoning, and the City Attorney's Office has advised that restrictions on the types or intensity of uses are not properly included in a rezoning case.

(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 "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 SPPaZo, 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: The applicant requests a change to the Future Land Use Map to create consistency with the proposed zoning. Refer to Section III of this staff report for additional discussion of general plan policies applicable to this application.

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

Applicant Response: 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 over 50 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. Undeveloped C-2 land is largely available in the southern region of the urban area, generally along Cerrillos Road and to a large extent in the Las Soleras and Entrada Contenta developments.

Staff Response: Refer to Section III of this staff report for discussion of growth rate projections.

(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: Public utilities are available on Agua Fria, including water, gas and electric lines, 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 been completed from Agua Fria to West Alameda providing for alternative routes to Agua Fria. In fact the traffic volumes on Agua Fria have declined with the extension of Siler to West Alameda. There is currently no sewer available to these properties since the sewer line is located on the north side of the Santa Fe River. It is assumed that with the development of the Boylan tract that sewer will be extended along the south side of the Santa Fe River.

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 is finalizing the design for a pedestrian and bicycle trail on the north side of the Santa Fe River. It is unknown what the time frame is for the construction of the trail north of the Santa Fe River.

Staff Response: A traffic impact study prepared by the applicant indicates it would be feasible to provide access from Agua Fria for commercial development on the project site. A review of coordinated access to similar development on other nearby sites via common driveways or local streets has not been done.

The property is not currently connected to City sewer or water. Connection to the City water system appears to be feasible via a water main in Agua Fria. Connection to sewer service would require coordination with other property owners, since the closest sewer main is within the river corridor. There is currently no plan for coordinating extensions of sewer and water service to the various undeveloped and under-developed parcels within the area; most do not currently have sewer and water connections.

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

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

Applicant Response: Commercial uses have existed in the vicinity for several years. The City Council has recently approved C-2, General Commercial zoning on the land just east and west of these properties. The property is located in an area that is in transition. The redevelopment of land between Agua Fria Road and the Santa Fe River will continue to occur. The pockets of low density residential land will begin to realize a higher market potential.

Staff Response: The property is in close proximity to a large number of residential, light industrial and commercial uses. The proposed amendment will allow for additional commercial uses, though no additional development is currently proposed. Redevelopment of the project site, along with redevelopment of other nearby sites, has the potential to significantly change the types of uses and intensity of development within the neighborhood.

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

Applicant Response: The assembly of these parcels results in a total of over 2.00 acres of land satisfying that criterion.

Staff Response: The subject property is greater than 2 acres.

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

Applicant Response: The majority of landowners south of Agua Fria Street, in the vicinity of this application are in a similar situation. These adjoining and nearby landowners have land uses that are inconsistent with the underlying zoning. The only

benefit that is received by this landowner is his willingness to spend the money on the City development review process to bring the zoning in line with the existing uses on the property.

Staff Response: While the proposed rezone would benefit the property owner, the immediate vicinity around the project site is under increased pressure to accommodate higher intensity uses. As such, there is increased likelihood that the prevailing use and character in the area on the north side of Agua Fria will become less rural and thereby benefit additional nearby property owners with increased development potential.

(D) Additional Applicant Requirements

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

Applicant Response: Existing utility infrastructure is available to serve this development and has the capacity to accommodate the project at full development. Water is located in Agua Fria Road. Sewer is north of the property across the Santa Fe River and is inaccessible at this point. When sewer becomes available there will be sufficient capacity in the line to accommodate the discharge requirements of this development

Staff Response: Refer to Section (C)(1)(e) above.

(2) If the proposed rezoning creates a need for additional streets, sidewalks or curbs necessitated by and attributable to the new development, the city may require the developer to contribute a proportional fair share of the cost of the expansion in addition to impact fees that may be required pursuant to Section 14-8.14.

Applicant Response: There is no additional impact to the street system since no additional development is proposed. Improvements on Agua Fria Street include the widening of the roadway and construction of curb and gutter and sidewalks.

Staff Response: Refer to Section (C)(1)(e) above. The City's Traffic Division will be able to require some on-site mitigation measures when building permits are issued for future development on the property, but there will be very limited authority to require coordination of access or creation of roads which involve other properties.

VII. ATTACHMENTS:

EXHIBIT A: Conditions of Approval

EXHIBIT B: Development Review Team Memoranda

1. Traffic Engineering Division memorandum, Sandra Kassens

EXHIBIT C: Maps

1. Future Land Use
2. Current Zoning
3. Rezonings and Land Use Amendments along Agua Fria East of Siler Road

EXHIBIT D: R-1 and C-2 Use Lists

EXHIBIT E: ENN Notes, April 15, 2015

EXHIBIT F: Applicant Packet

City of Santa Fe, New Mexico

Planning Commission

Exhibit A

Conditions of Approval

2749 and 2751 Agua Fria General Plan Amendment and Rezone–Conditions of Approval
Planning Commission
Case #2015-43 & 44 – 2749 and 2751 Agua Fria GPA & Rezone

Conditions	Department	Staff
The Traffic Engineer conducted a review of the preliminary subdivision plat and provided the following comments which are noted as Conditions of Approval: 1. The applicant shall dedicate sufficient Right-of-Way (ROW) to the City of Santa Fe for a future auxiliary lane along the frontage of the properties on Agua Fria Street. The Dedication Plat shall be reviewed and approved by the Public Works Department prior to recordation. 2. The applicant shall grant access easements from lots 1 and 34 through Lot 22 via a shared access driveway to Agua Fria Street. 3. The applicant shall include the following notes on said plat: • At such time that a Developer of any of lots 1, 22 or 34 applies for a building permit, development plan approval, or requests a business license that increases the intensity of use of the properties; the developer shall consult with the Public Works Department to determine the need for a right-turn deceleration lane. If it is determined to be necessary by the Public Works Department, the Developer shall construct an auxiliary lane per approval of the Public Works Department. • At such time that a Developer of any of lots 1, 22 or 34 applies for a building permit, development plan approval, or requests a business license that increases the intensity of use of the subject properties; the Developer shall close the driveway from lot 34 to Agua Fria Street and utilize the shared access granted by this plat.	Traffic Engineering	John Romero/ Sandra Kassens
All future buildings require separate water meters.	Water Division	Dee Beingessner
Prior to the development or improvement of the property, owners and developers of the property shall obtain a technical sewer evaluation review by the City of Santa Fe Wastewater Division.	Wastewater Division	Stan Holland

City of Santa Fe, New Mexico

Planning Commission

Exhibit B

Development Review Team Memoranda

City of Santa Fe, New Mexico

memo

DATE: August 24, 2015

TO: Zach Thomas, Land Use Division

VIA: John J. Romero, Traffic Engineering Division Director JR

FROM: Sandra Kassens, Engineer Assistant SMK

SUBJECT: **2749 & 2751 Agua Fria Street General Plan Amendment, case #2015-043 & 2749 & 2751 Agua Fria Street Rezone, case #2015-044.**

ISSUE:
James W. Siebert and Associates, agent for Emelecio (Leroy) Romero, requests approval of a General Plan Amendment to amend the existing General Plan Future Land Use Designation for 2.20 acres from Mountain Density Residential to Community Commercial. Mr. Siebert also requests rezoning of 2.20 acres from R-1 (Residential – 1 dwelling unit per acre) to C-2 (General Commercial). The property is located at 2749 and 2751 Agua Fria Street.

BACKGROUND:
The Traffic Impact Study (TIS) requested by the Public Works Department (PWD) indicated that a right-turn deceleration lane would be needed when the intensity of use exceeds a threshold equivalent to that of a 2,600 square foot shopping center. If the C-2 zoning is approved, the 2.2 acres referenced in this request could potentially be developed for any commercial use allowed in C-2 zoning. This study indicates that a deceleration lane will eventually be required in order to mitigate future commercial development of this site. The following conditions of this applicant will ensure that the necessary ROW is available to the City when it is needed. Additional notes on the plat will provide guidance to future developers/owners and land use staff concerning construction requirements for a deceleration lane.

RECOMMENDED ACTION:
Review comments are based on additional submittals received on July 27, 2015. The Comments below shall be considered as Conditions of Approval to be addressed prior to final signoff unless otherwise noted:

1) **The applicant shall dedicate sufficient Right-of-Way (ROW) to the City of Santa Fe for a future auxiliary lane along the frontage of the properties on Agua Fria Street. The Dedication Plat shall be reviewed and approved by the Public Works Department prior to recordation.**
2) **The applicant shall grant access easements from lots 1 and 34 through Lot 22 via a shared access driveway to Agua Fria Street.**
3) **The applicant shall include the following notes on said plat:**

SS001.PM5 - 7/95

- **At such time that a Developer of any of lots 1, 22 or 34 applies for a building permit, development plan approval, or requests a business license that increases the intensity of use of the properties; the developer shall consult with the Public Works Department to determine the need for a right-turn deceleration lane. If it is determined to be necessary by the Public Works Department, the Developer shall construct an auxiliary lane per approval of the Public Works Department.**
- **At such time that a Developer of any of lots 1, 22 or 34 applies for a building permit, development plan approval, or requests a business license that increases the intensity of use of the subject properties; the Developer shall close the driveway from lot 34 to Agua Fria Street and utilize the shared access granted by this plat.**

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

City of Santa Fe

memo

DATE: April 30, 2015

TO: Zach Thomas, Land Use Senior Planner, Land Use Department

FROM: Dee Beingessner, Water Division Engineer

SUBJECT: Case # 2015-44 2749-51 Agua Fria St

The property at 2749 Agua Fria currently has City water service. Water for additional buildings is available in a main on Agua Fria. All future buildings would require separate water meters.

Fire protection requirements are addressed by the Fire Department.

City of Santa Fe
New Mexico

MEMO

Wastewater Management Division
DEVELOPMENT REVIEW COMMENTS

E-MAIL DELIVERY

Date: April 30, 2015

To: Zach Thomas, Case Manager

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

Subject: Case 2015-43 & 44 – 2749 & 2751 Agua Fria Street General Plan Amendment, Rezone and Development Plan

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The subject property is accessible to the City public sewer system. Accessible is defined as within 200 feet of a public sewer line.

The Applicant shall add the following notes to the proposed Development Plan/Site Plan:

1. Connection to the City public sewer system is mandatory when the property is in the City limits and is being developed or improved is accessible to the City sewer system. Prior to the development or improvement of the property, owners and developers of the property shall obtain a technical sewer evaluation review by the City of Santa Fe Wastewater Division.

City of Santa Fe, New Mexico

Planning Commission

Exhibit C1

Future Land Use Map