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PLANNING COMMISSION

September 3, 2015

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PLANNING COMMISSION
Thursday, September 3, 2015 - 6:00pm
City Council Chambers
City Hall 1st Floor - 200 Lincoln Avenue

CALL TO ORDER

A regular meeting of the City of Santa Fé Planning Commission was called to order by Chair Michael Harris on the above date at approximately 6:00 p.m. in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fé, New Mexico.

A. ROLL CALL

Members Present

Commissioner Michael Harris, Chair
Commissioner Brian Patrick Gutierrez, Secretary
Commissioner Roman Abeyta [arriving later]
Commissioner Justin Greene
Commissioner Vince Kadlubek
Commissioner Piper Kapin
Commissioner Sarah Cottrell Probst

Members Absent

Commissioner Katharine Anne Chávez [excused]

OTHERS PRESENT:

Ms. Lisa Martínez, Planning and Land Use Department Director
Mr. Greg Smith, Current Planning Division Director and Staff Liaison
Mr. Daniel A. Esquibel, Senior Planner, Current Planning Division
Mr. Zach Thomas, Current Planning Division, Senior Planner
Mr. Zach Shandler, Assistant City Attorney
Mr. Carl Boaz, Stenographer

NOTE: All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Planning and Land Use Department.

B. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

C. APPROVAL OF AGENDA

Ms. Lisa Martínez recommended, in light of the number of people here and those interested in the study session to have Gerhart Apartments first, study session second, and the Agua Fria case third.

Commissioner Kadlubek pointed out does mention the Gerhart case and might be something that is discussed in the study session so he asked if the Commission could make the study session before Gerhart.

Ms. Martínez cautioned that the rules for the study session prohibit the Commission from discussing individual cases in that study session. She also recommended limiting the study session to one hour.

Chair Harris noted that the Commission is midstream with Gerhart, starting late last month and made a certain amount of progress so he felt the Commission should take care of that old business before moving into new business.

Commissioner Greene moved to approve the agenda as amended with the Study Session as the first item under New Business. Commissioner Kadlubek seconded the motion which passed by unanimous (5-0) voice vote. Commissioner Abeyta was not present for the vote.

D. APPROVAL OF CONSENT AGENDA

Staff had no recommendation on the Consent Agenda.

Commissioner Kapin moved to approve Case #2015-73 as proposed. Commissioner Greene seconded the motion and the motion passed by unanimous (5-0) voice vote. Commissioner Abeyta was not present for the vote.

Chair Harris asked for clarification whether the Commission could approve the consent case in this motion or just the agenda.

Mr. Shandler deferred to the Recorder, Mr. Boaz.

Mr. Boaz said he wrote that the Consent Case #2015-73 was approved by the unanimous vote of the Commission in this motion.

E. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

1. MINUTES: August 6, 2015

There were no changes requested by Staff.

Commissioner Abeyta arrived at 6:08 p.m.

Chair Harris welcomed Commissioner Abeyta to the meeting.

Commissioner Abeyta apologized for being late. He was at Ft. Marcy setting up for Zozobra.

Commissioner Gutierrez requested a correction on page 69, first paragraph where the statement begins, "I have no problem with them going to two stories...." He said he did not make that statement. Another Commissioner made those comments. He thought that was a statement by Commissioner Kadlubek.

Commissioner Probst requested a correction on page 51, where there was a quote from her that said, "looking at putting up." What she said was, "looking at building up."

Then on page 61, about half way down the page are two references to an "unidentified commissioner" and those should be attributed to her.

Commissioner Greene requested a correction on page 54, 3rd paragraph, 3rd line, where it should say "taken out" instead of "taking out." And on the 5th line, it should say "14-16 feet of fill" not 14-16 feet of well."

In the final paragraph, it should say, "He had seen comments since 1985 (since the master plans were 1985 and 2006). 1985 is the correction.

Chair Harris requested a correction on page 40, 2nd paragraph, 3rd line, it should say "good will," not "good well." The in the next paragraph, Mr. Jason should be Mr. Adams.

O page 36, it says "Greg said..." It should say, "Mr. Miller said..." Mr. Miller is the landscape architect.

There were no other requests for corrections to these minutes.

Commissioner Kadlubek moved to approve the minutes for August 6, 2015 as amended. Commissioner Greene seconded the motion and it passed by unanimous (6-0) voice vote.

2. FINDINGS/CONCLUSIONS:

- a. **Case #2015-47. 455 St. Chair Harris Drive Christus St. Vincent Regional Medical Center Master Plan Amendment.**
- b. **Case #2015-74. 455 St. Chair Harris Drive Christus St. Vincent Regional Medical Center Development Plan and Variances.**
- c. **Case #2015-75. 455 St. Chair Harris Drive Christus St. Vincent Regional Medical Center Special Use Permit.**

Mr. Shandler explained that all three could be grouped together in one motion. There were comments submitted from parties and he exchanged the changes with all parties.

The neighborhood association that goes by the acronym SMASH had one comment. They were concerned that there would be some inconsistency in how the conditions would be carried forward. Their president met with Mr. Esquibel earlier today and Mr. Esquibel explained the process so there is no reason to change the Findings, based on SMASH comments.

There were ten comments from the applicant. [A copy of their comments is attached to these minutes as Exhibit 2.]

The first was a proposed change to Finding #16 that proposed alternative language that would now read, "Consistent with General Plan policies, the amendments to the Master Plan will enhance the provision of medical care in the community." Mr. Shandler said that seemed acceptable. The Chair asked that he add to the sentence, "and ensure provision of community services for residents. That is a neutral comment so Mr. Shandler didn't think it would be a problem.

The second comment was that the applicants wanted to have Exhibit A (of Mr. Esquibel's conditions formally attached. Mr. Shandler explained that it was not necessary because it is part of the packet and would go to Council so it didn't need to be actually stapled to the findings.

The third comment was on Finding #26 where they didn't feel Mr. Shandler carried forward the concept of pro rata participation. For the record, their Finding #26 would be, "Applicant shall provide pro rata participation in traffic calming along Hospital Drive if and to the extent such traffic calming is determined to be necessary by the Public Works Department. Mr. Shandler believed that to be a more accurate representation so he recommended adopting St. Vincent's language for Finding 26.

The fourth comment was on Finding #29 where he referred to the "angle of the primary axis point" and it should be the "grade of the primary axis point." Mr. Shandler accepted that amendment.

The fifth comment was on Finding #34 where they wanted Mr. Shandler to strike the word "create" and replace it with "study" so it would read, "The applicant may expand its site traffic circulation plan to study an internal pedestrian circulation plan." That change is acceptable to Mr. Shandler. There was some discussion that some Commissioners wanted it to be a mandatory condition and he had advised to use "may." He believed the word "may" was actually the word used in the transcript. He asked if that was acceptable.

Chair Harris said he looked at the transcript and Mr. Shandler is correct. It was a late hour and Mr. Shandler did suggest "may" but the Commission really wanted the internal pedestrian circulation plan to be studied along with the site circulation plan. They go hand in hand. He proposed not to add "may" as a qualifier. Mr. Shandler agreed.

Commissioner Kadlubek said that "may" is already in there so the Finding #34 should change the word "may" to "shall." The applicant shall study.

Mr. Shandler said the sixth comment was on Finding #38 where the applicant asked to delete that finding in its entirety. The point he was making for the record was that the additional curb cut on eastern part of St. Michael's Drive for maintenance, he didn't think the Commission signed on to that as part of the plan and he wanted that to be clear for the applicant. Perhaps #38 reflects the Commission's view or maybe it should be changed.

Chair Harris said the seventh comment he did respond on this and felt #38 is a reference to #37 and even though they provide a reference to the transcript of #18, he didn't find it. What he did find was on the top of #17 was that Mr. Romero agreed with the NMDOT recommendation after seeing no reasons for it that no access would be granted and recommended to resolve it with internal circulation. To he felt that the condition as written is appropriate. The Commission did not adopt the additional curb cut as part of its approval of the Master Plan.

Commissioner Kadlubek felt it was okay to leave #38 in there.

Mr. Shandler said the eighth comment was on Finding #55, last sentence that said the generator would be removed. The applicant preferred that it say, "The applicant presented a letter from the current owner of the Physicians' Plaza Building saying that the generator would be removed." Mr. Shandler agreed that the applicant's statement was more accurate and accepted that condition.

The last comment was on Finding #65 where the applicant replace the finding with, "The Land Use Director shall have the authority to administratively approve such signage as is consistent with the goals of the 1985 Master Plan and may do so without the mutual variance if such signage exceeds the standards in the Land Development Code. Mr. Shandler conferred with Mr. Esquibel and Mr. Esquibel agreed with that language.

Commissioner Greene concluded that the applicant would not need a sign variance ever again.

Mr. Smith explained that Staff believes that the Council, in approving the Master Plan, has the authority to allow staff flexibility in adopting the language that is proposed. There would be no public review process.

Commissioner Greene asked if that was so, even if it was a sign variance they had previously requested.

Mr. Smith said that unless the Staff exceeded the authority of the Council in approving the Master Plan and that was appealed to the Commission and Council, there would not be a public process. He added that Staff intends to exercise careful jurisdiction in that matter if they are granted that authority.

Mr. Shandler said whatever changes are approved in the Findings would be reflected in the Conclusions.

Commissioner Kadlubek moved to approve the Findings of Fact and Conclusions of Law for Case #2015-47, Case #2015-74, Case #2015-75 as amended. Commissioner Kapin seconded the

motion and it passed by unanimous voice vote.

d. Case #2015-66. 820 Camino Vistas Encantada Variance.

The Findings and Conclusions for Case #2015-66 are attached to these minutes as Exhibit 3.

Mr. Shandler said there were no changes to his Findings and Conclusions.

Commissioner Kadlubek moved to approve the Findings of Fact and Conclusions of Law for Case #2015-66, 820 Camino Vistas Encantada Variance, as presented. Commissioner Greene seconded the motion and it passed by unanimous (6-0) voice vote.

F. CONSENT

- 1. Case #2015-73. San Isidro Apartments Development Plan Time Extension.** Report of the Land Use Director's approval of a one-year administrative time extension for Phase II B (up to 126 units) of the San Isidro Apartments Development Plan located 4501 San Ignacio Road. The August 17, 2015 expiration would be extended to August 17, 2016. Sommer Karnes & Associates LLP, agents for BRT Realty Operating Partnership. (Zach Thomas, Case Manager)

The consent case was approved earlier under Approval of Consent Agenda.

Chair Harris welcomed Commissioner Abeyta to the Planning Commission.

G. OLD BUSINESS

- 1. Case #2015-57. Gerhart Apartments General Plan Amendment.** Scott Hoeft of Santa Fe Planning Group, agent for Storm River LLC requests approval of a General Plan Future Land Use map amendment to change the designation of 11.83± acres of land from Low Density Residential (1-3 dwelling units per acre) to High Density Residential (12-29 dwelling units per acre). The property is located at 2800 South Meadows Road. (Donna Wynant, Case Manager) **(POSTPONED FROM AUGUST 6, 2015)**

- 2. Case #2015-58. Gerhart Apartments Rezoning.** Scott Hoeft of Santa Fe Planning Group, agent for Storm River LLC, requests rezoning approval of 11.83± acres of land from R-1 (Residential, 1 dwelling units per acre) to R-21 (Residential, 21 dwelling units per acre). The property is located at 2800 South Meadows Road. (Donna Wynant, Case Manager) **(POSTPONED FROM AUGUST 6, 2015)**

A Memorandum dated August 25, 2015 for the September 3, 2015 meeting to the Planning Commission from Ms. Donna Wynant, Senior Planner, in this matter is incorporated herewith to these minutes as Exhibit 4. Please refer to Exhibit 4 for details concerning the Staff Report for Case #2015-57 and Case #2015-58.

Chair Harris explained that the Commission didn't start hearing this case until 12:30 a.m. and began hearing it because people stayed at the meeting for the previous six and a half hours. So after the applicant and Staff made some initial statements they decided to postpone it from the August 6 meeting and continue hearing it at this time.

Chair Harris asked Ms. Wynant if she had more to address in the staff report.

Ms. Wynant apologized for missing the August 6 meeting, having been called to take care of a family emergency. She was grateful that Mr. Smith presented for her at the earlier meeting. She explained that there was an informal neighborhood meeting at the Southside Public Library on August 25th with some of the residents and their comments were a late communication to the Commission. Those same concerns were raised at that meeting. The applicant will make the presentation. She asked Mr. Smith for anything else to mention.

Mr. Smith said the position of the Staff is unchanged. Staff recognized that the recommendation for approval of the rezoning is at odds with the previous policy and does specifically change the General Plan policy. But Staff reviewed the facts and believe the changed circumstances that have transpired since the adoption of the Southwest Area Master Plan (SWAMP) in the SPAZO zoning ordinance do justify changing the zoning on this property.

Mr. Scott Hoefft, Southwest Planning Group, said they have a project with 220 dwelling units on eleven acres on South Meadows Road near the new interchange on NM 599 and wanted to talk about the map that Ms. Wynant displayed. It was essentially a regional map to show what was occurring in the area. He identified it on the map and explained that the area shown to the north in blue is the city site for a new fire station. Village Plaza is a commercial property to the east. Beyond that is a new park, the Agua Fria volunteer fire station and La Familia. This area is fairly well planned out and beyond the commercial area is the traditional village with a gap of wind between owned by the BLM and a strip of land between the school and Cottonwood/ beyond Cottonwood a vacant parcel and then state land again. Most of the uses have already been determined for that area.

It is consistent with the City's growth management plan. It is in phase 2 of the Urban Area Staging Plan which goes to 2025. The intent of the plan is to concentrate population at greater densities in future growth areas, encourage compact urban form as an infill project to make most efficient use of roads, utilities and parks.

Across South Meadows Road is a vacant 10-acre parcel and He intends to try to make that as a contribution to the County Trails network. They are willing to work with whatever entity to make that work. The bulk of that is in the flood plain. The commercial area close to the highway interchange will be a nice complement to the area.

Mr. Hoefft introduced Mr. Mike Gomez as traffic engineer and Chris Cordova who did the market analysis. He noted there hasn't been a market rate project in the last 10 years. Between the last meeting and this one, they sat with the neighbors and had a pretty cordial meeting

PUBLIC HEARING

Ms. Katherine Sherlock, 1044 Camino Oraibi in Casa Alegre was sworn. She said she is a member of West Santa Fe River Alliance and heard about the development through that organization. And she wanted to raise several questions. It is a part of their concern for not only the river corridor door but Agua Fria Road. She heard this plan is for a gated community. It is right next to a school with mostly low income students. She thought how to manage that and the impression given to the kids is a question.

Another question is about the actual size. She asked if this is way too big an amount. High density was mentioned as an advantage. "But if you have high density along with parking, you no longer have the benefit of high density savings." She is looking at traffic congestion. "Is it appropriate to the area? I did read the General Plan. Even though it was written in 1999, it hasn't been revised yet to my knowledge. It talks about what is appropriate for the area. Size is a big question."

Mr. William Mean, 2073 Camino Montoya, was sworn. He said at their second informal ENN meeting with Scott Hoefft - and he thanked him for doing that - a couple of new neighbors came out and they were in closer proximity. They had concerns about restricting lighting to be toward the northwest away from the Agua Fria traditional village and having evergreens along on the southwest border of South Meadows to screen the apartments from them. They commented about how bad the lighting is from the school and a flashing neon sign nearby so it is already light polluted.

They also advocated for rainwater harvesting on those trees and using bigger than 2" caliper trees.

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

Chair Harris said the Planning Commission is pleased that the applicant and the neighbors got together. It represents real progress. He added, "We are considering the General Plan Amendment and Rezoning and if that moves forward after Council consideration, we will be looking at the development plan and it would come back to this body and we will be dealing with specifics that you raised in your letter.

The Public Hearing was closed.

Mr. Shandler requested that Mr. John Romero be allowed to speak next as he is double-booked.

Chair Harris agreed but then said the Commission is open to questions from the Commissioners, of staff, of the applicant and others and the public, if appropriate.

Mr. Romero reviewed the traffic memo and noted that, basically, there are three conditions. The first is to put right-turn deceleration lanes at both driveways. The second is the 4 bullets. He said, "We are asking

them to urbanize South Meadows along frontage and also along a portion of the school's frontage with raised median, bike lanes on the north side of the road, a shoulder on the other side, a buffer space and a sidewalk on their side of the road. We are also recommending that it be based off of a fair share contribution and that they receive impact fee credits for that portion of the improvements. The reason for this is right now, we are trying to fit this all into a two-lane rural highway that was built by the County. The school provided a left-turn deceleration lane by jogging out the northbound lane."

The last condition is regarding South meadows and Agua Fria. They did do a traffic study. The interchange has lots of capacity and can handle a lot of traffic. It was designed that way so there is no problem at that point Access with South Meadows is okay but at Agua Fria it is congested without left turn bays. His suggestion is to ask the developer to provide fair-share improvements to the intersection. It depends on how much traffic there development contributes to that intersection. The intersection is in the ICIP list to ask State Legislature for improvements. At the last session, the City received \$25,000 to at least fund the design and then construction funding would come from Council.

Commissioner Kapin noted in the report it was stated that the TIA doesn't address whether local roads would be needed to provide access to other undeveloped parcels nearby and that the two proposed driveways will impact future development on South Meadows. There seems to be some specific requirements about where curb cuts can happen. She asked what the impact is on future development and whether there will be enough access and if the Commission needs to consider that at all right now.

Mr. Smith recalled the Land Use staff, at the previous meeting, said those concerns could be deferred to the development plan meeting.

Commissioner Kapin said in the report it was sort of a question whether it may be resolvable.

Mr. Smith said they reviewed those details in more detail after the first meeting.

Commissioner Kapin asked if Land Use Staff feel they are resolvable at the development plan review stage.

Mr. Smith agreed.

Commissioner Greene, along same lines, said a question came up with City leased property adjacent and potential access. "Are we giving up the opportunity for access to that property?"

Mr. Romero replied that it does have good access at the roundabout and he believed it has sufficient access there for fire station and the like.

Commissioner Greene asked if the fire station would be better served if it also had access to the north and also to the west at South Meadows. He wondered if there had been any attempt to create some sort of road network in that whole section surrounded by the frontage road which design is yet to be determined.

Mr. Smith said that is also included in staff comments to defer to the development plan. For the record,

the Land Use Staff understanding is that the entire 38 per parcel is leased by the City but only 5 acres will be used as the site for the fire station. If the Commission wants to direct it to Mr. O'Reilly, he could address it.

Chair Harris asked Mr. O'Reilly what the City is considering for that parcel.

Mr. O'Reilly said the City earlier this year entered a long term lease for this 30.5 acres. The purpose of the lease - the land is owned by State Land Office as New Mexico Trust Lands and the City has been working on that lease for several years. The City Council and Commissioner for Public Lands entered into that lease earlier. The primary purpose of the leasehold is for construction of a future fire station which has been in the planning since around 2008 and 2009 when City was working on annexation. It was determined that another fire station was needed in this area once the city took over my response obligations in this area. It is part of annexation phase 2. The idea is that the fire station would be located at the extreme north portion of the property of about 4 acres. The Fire Department wants that location because of immediate access to 599 through the roundabout. There is no frontage road right-of-way dedicated at this time by the highway department along the south side of Highway 599. So the frontage road will not continue on the south side. The advantages of having a fire station there were discussed at length by the Council. It is in accord with location strategy and proper spacing of fire stations. It also allows fire department quick access to Airport Road. There might be a need for secondary emergency access to South Meadows Road. This leased land is not under consideration tonight and there are no firm plans on how to develop that land.

Commissioner Abeyta asked Mr. O'Reilly if the Agua Fria volunteer Fire Station wasn't just up the street from there.

Mr. O'Reilly said the City won't use the Agua Fria Fire Development and needs to have a full service fire station including residential facilities for its staff. The Agua Fria Fire Department facility is more of a garage only capable of housing equipment. It was addressed in our discussions.

Commissioner Abeyta asked what will happen to the Agua Fria Volunteer Fire Station then. When it comes to a fire emergency, it doesn't matter if it is city or county. He asked if there have been discussions with the County about it.

Mr. O'Reilly said he would disagree slightly. The fire station is not a valid station under the IFC requirements for the City which has to be at a different level. There were extensive discussions about it. It is not part of the discussions tonight. The fire department would be happy to address it with the Commission. The City found an appropriate location and hoped to build it soon.

Commissioner Gutierrez asked Mr. O'Reilly if right now there is just one entrance to that property.

Mr. O'Reilly said right now the access is from the roundabout. That is the only way to get to this property right now.

Commissioner Gutierrez pointed out that in the packet, the applicant referred to the fire station more than once. He asked what the realistic time frame is to build the station.

Mr. O'Reilly said he couldn't answer that. There was a bond issue some years ago for this fire station but that didn't pass. Now the City is faced with the responsibility for fire protection on this side of town. He suggested we should bring the fire chief to the Commission to talk about how that will be done.

Commissioner Kadlubek asked Mr. Romero about traffic to gated communities and whether traffic backup would be taken into consideration.

Mr. Romero said they would take that into consideration at the time of the development plan.

Commissioner Greene said the General Plan talks about connectivity and road network and now it has two cul-de-sacs and could connect these two pieces of property with a shared road in between and connect with South Meadows. He thought the General Plan recommends more connectivity.

Mr. Romero said he looked at it from an operational standpoint and didn't know in which context that was generated in the General Plan. But this area has a very unique shape to it. He didn't see an advantage to get to South Meadows except directly to the roundabout.

Commissioner Greene said the layout doesn't have a design for pedestrians and this would put people in harm's way.

Mr. Romero said there could be pedestrian and bike connections between the two properties.

Commissioner Probst said, in light of moving most of these to the development plan consideration, she asked if the Commission would deal with any of the conditions now.

Chair Harris clarified that if the recommendation is approval to the Governing Body for the General Plan Amendment and for the Rezoning, then the Staff has proposed that these conditions will be attached. He asked if that is correct.

Mr. Smith said Staff is not recommending the circulation conditions be attached to the rezoning. Those circulation concerns can be addressed at the time the development plan is in front of the Commission. Mr. Romero has recommended specific conditions he presented to the Commission but not for the road network. That will be reviewed more carefully with the Development Plan.

Commissioner Probst noted that Romero recommended deceleration lanes.

Mr. Smith agreed but in context, it is that the circulation be adequate in the development plan.

Commissioner Abeyta understood Commissioner Greene's point about connectivity but it is a fire station and we might not want more traffic going in front of a fire station with fire trucks going onto a residential road so no access from South Meadows and probably they would want connectivity to the roundabout.

Mr. Romero said since the rest of the development of that property is unknown, he would agree with that statement and he didn't see making a fire truck go through the development to get to the fire. Regarding circulation, he felt that is more appropriate to the development plan and why most of his comments are about issues outside of that circulation issue.

Chair Harris asked Mr. Hoefft what level of discussion had been held on that 10 acres.

Mr. Hoefft said that parcel is in the flood plain and they have been approached by County Open Space Staff and asked to provide that land to the County. And then it got stalled. The developers have a requirement for an amount of open space. There is a park dedication requirement so the City could require them to reserve that as open space. He met with Mr. Thompson about it and Mr. Thompson said their focus was in other parts of the City. It is an either/or option. We are required to do the impact fee either by land dedication or paying a fee. Those are the options on the table. We have no intent to develop that parcel.

Chair Harris assumed other matters of discussion would occur at the development plan review.

Mr. Smith agreed. There will be a specific proposal concerning dedication of park space then.

Commissioner Greene asked if the Commission shouldn't discuss if that is in the City's best interests. There is a park across from the school. He asked if the Commission is in a position to get that codified right now.

Mr. Hoefft said the problem, in talking with Mr. Thompson, is with sustaining that park. In his conversation with the County, the County was very interested in the land because the river trail goes right through it. But a quick dedication might not be beneficial to the City at this point. Mr. Thompson stated that in his letter in so many words and he wanted time to sort it out.

Commissioner Greene added that the Commission needs time to look at the map. There are specific formulae in the code. It obviously needs fire protection so the City will build a station. If it costs \$100,000 to build a park, that would be part of the impact fee.

Mr. Hoefft understood. The question is that the Code gives an option and he was just questioning if this is the forum to decide it when Parks has not addressed it.

Commissioner Greene said that parcel might be the entire flood plain.

Mr. Smith concurred with the points Mr. Hoefft has raised and apologized that Mr. Thompson wasn't here at the meeting. He anticipated that would be dealt with at the development plan approval time. Mr. Thompson does have concerns about the balance of managing parks relative to the number of parks that are already on his plate.

Commissioner Greene concluded that the budget says a park isn't suitable now but with money it might be.

Mr. Smith reiterated that when it comes to the development plan that there will be a specific recommendation by Staff and provide detailed factors about it.

Commissioner Kadlubek moved in Case #2015-57, Gerhart Apartments General Plan Amendment to recommend approval to the Governing Body. Commissioner Abeyta seconded the motion and it passed by unanimous (6-0) voice vote.

Commissioner Kadlubek appreciated the efforts to have another ENN and asked how it was initiated.

Mr. Hoeft said he initiated it. The Commission gave them a month and they used it productively.

Commissioner Kadlubek said Agua Fria Village should be taken into account at development plan consideration for a larger buffer zone to deal with noise and light pollution.

Commissioner Kadlubek moved in Case #2015-58, Gerhart Apartments Rezoning to recommend approval of rezoning to the Governing Body. Commissioner Kapin seconded the motion and it passed by unanimous (6-0) voice vote.

H. NEW BUSINESS

3. Study Session. Presentations and discussion of planning issues and processes along Agua Fria Road. (Kate Noble and Lisa Martínez)

Ms. Noble hoped the Commission had seen in the memo that Staff put this together to bring intention and clarity along the river corridor and the Agua Fria area. The proposed rezoning requests demonstrate the pressure for change and the Staff want a coordinated effort for rezoning and to minimize a haphazard pattern of development. The goals tonight are outlined in the memo and are threefold: to have clear operating principles currently guiding the recommendations and processes for rezoning requests and General Plan amendments coming before the Commission. This has been a coordinated effort between the Land Use Department and the Long range Planning Staff. It is also to provide a timeline in the form of a resolution from Commissioner Bushee to do some of this planning work. We want to foster a common understanding, if the planning work goes forward and how it will be used.

Ms. Martínez provided the background. She said "As we know, over the last several months, the north side of Agua Fria Road is an area recently annexation and has experienced lots of growth pressure in the form of requests for General Plan amendments and rezones. Folks have come in and asked for higher density land use designations and different zoning districts. Among examples recently considered are the apartments known as the Blue Buffalo for a General Plan amendment and rezoning. We've also had rezoning requests for Corazon Santo, Rivera, the Boylan property, Gerhart Apartments just hear and one more later tonight for 2749 Agua Fria. Land use on the north side in this vicinity have been historically characterized as rural residential with some quasi-industrial uses and most of them really predate the Extraterritorial Zoning regulations and have existed as legal nonconforming uses or as home occupations. South of Agua Fria, the more urbanized land is characterized as a combination of mixed use and also light

industrial zoned land with both residential and general industrial zoned land to the east and also the west. A lot of these rezone requests demonstrate these pressures to change and significantly increase the development potential for these properties in this area north of Agua Fria and east of the Siler Road intersection. She wanted to ensure they promote a coordinated effort to address land use and the infrastructure needs as well to minimize a haphazard pattern of development which could result in undesirable changes to the neighborhood character, inefficient uses of some of the properties and difficulties in providing roads and other public infrastructure.

Mr. Smith provided an update on rezoning and reminded the Commission that there is a memo from Mr. Shandler for the topic under consideration. The short summary is that study session topics can be discussed in the public hearing section but no comments about specific cases are allowed during the study session. He also mentioned that Councilors are in the process of proposing resolutions for review processes. Some of those are scheduled, including one by Councilor Bushee for action at the October Council meeting.

Mr. Smith said they have not provided copies of the resolution because they are still being formulated. We wanted to have it before you timely. They will be considered later.

He asked how we ended up with the zoning pattern at Agua Fria we have now. The general answer is that much of it was in the Southwest Master Plan process. Hundreds of hours of staff time and consultants' time was invested in it during 2001-2003 and was adopted by Council during 2003 - 2007. Much of it was a result of SPAZO - a joint hearing process by the Extraterritorial Land Use Authority and the Extraterritorial Land Use Commission. Those hearings resulted in future land use designation maps in place today. It was an attempt to use city zoning laws, grants to existing property owners prior to the rezoning process. There were two parcels prior to 2014 and the Corazon Santo project on the south side of Agua Fria. The question is whether it is appropriate to rezone properties in this area without further study. The planning in the area could benefit developers and residents. It is still a question rather than a specific recommendation. The applications in front of the Commission in the time frame of the next 18 months to address more specifics. The applicants before the Commission now do have a due process right to a recommendation under the current policies.

Mr. Smith said Ms. Noble and Mr. Liming could further address it with you. But the applicants deserve a recommendation based on current policies. The infrastructure may or may not be able to support those requests. If the Commission decides more planning is needed before more can be recommended, the question boils down to how much study is needed and the pros and cons of more study in this area.

Ms. Noble said they would like to understand and hear from the Planning Commission, if Council approves planning in the Agua Fria corridor and it is wildly successful, what that future would look like.

Ms. Martinez added that they have put more detailed information in your packet including Commission approvals and denials. Staff is anxious to hear Commissioners' questions.

Commissioner Probst said, as a new Commissioner, it would be helpful to know what previous Commissions decided and why some were approved and others not.

Mr. Smith said Staff identified four specific cases: Gerhart Apartments, 4927 Agua Fria Road are two of them, For the Blue Buffalo El Rio Apartments, the Planning Commission recommended denial of rezoning. The Planning Commission and Council felt it was outside of what was appropriate. Corazon Santos is down from Blue Buffalo and was approved in 2011 for that mixed use property that was already inside the City Limits. The Rivera rezoning was annexed into the City-County SPAZO and was rezoning R-1 and it was decided that C-2 zoning would be more appropriate but there was no development plan in that case.

Much of the development, especially on the north side, is industrial, quasi-industrial and SPAZO was intended to continue the same EZO rules and it was non-conforming prior to rezoning and remained nonconforming after annexation. Nobody had zoning until a Mater Plan was adopted and some did not happen. So the property owner convinced the Council that C-2 was appropriate for buildings already built there. That was also in 2014.

Chair Harris noted that the Rivera property had Club Alegria on it as a principle unit. And there were other uses. There is always a discussion about traffic. C-2 was more appropriate for their activities. In Boylan, the Blue building was there and a business proposed to be relocated to the building. Those were similar with mixed uses on that property and it is safe to say the primary use historically had been commercial. There were less concerns with its impact on Agua Fria than with El Rio property.

Commissioner Probst said that is helpful.

Commissioner Kadlubek said that determining what area the Commission is talking about is key and they couldn't have the discussion without that.

Mr. Liming said for the record, that some Commissioners may be ahead of others because this was talked about yesterday in the LRP Committee meeting. It was to focus on Area 1 and perhaps go east into the City - There was some discussion but it is still open with the Phase 3 annexation north of Alameda up to 599. There was discussion about Siler Road but that was taken off the table. West of Agua Fria village now has a Master Plan dubbed as SWAMP. There will always be some changes. Land Use will change and people come in with different ideas. Most of the focus yesterday was primarily east of the traditional historic community. Now, what areas east are we talking about? Most is on Area 1 and part of the annexation.

Commissioner Kadlubek said they did talk about this yesterday. What they discussed was also the significance of the area north of Area 1. It is a future annexation zone so right now, the City annexed a large portion which defaulted to R-1 zoning without any plan and now they are trying to go back to try to create a plan and should try to consider the areas planned for future annexation. That whole area will bring up concerns. He would recommend that the Phase 3 be included as part of the planning with some direction at least.

Commissioner Greene was also at the LRP committee and agreed with Commissioner Kadlubek about including that area. One thing that came up there was the need to also address the Calle Nopal corridor at the same time.

Ms. Noble said the Agua Fria Village has expressed an interest in being included and might be included in the comprehensive planning to be included in the planning effort.

Commissioner Kapin asked if the SWAMP includes all of 2, 4, and 5 up to Village. Mr. Liming agreed.

Commissioner Abeyta asked what the process is that will be followed.

Ms. Noble said loosely, what she outlined as a process. That would involve hiring a profession planning consultant and staff would be project managers and the consultant would facilitate outreach and moderate the meetings.

Commissioner Abeyta asked if they would define the scope with the consultant or if that was done.

Ms. Noble said they have not gotten to that level. Amongst the Staff we have different ideas - a look at the code, zoning, massing, infrastructure, dwelling units per acre, etc. We hope to get a common understanding among Commissioners and the Council with the public at large. The Commissioners are sitting in key chairs for what it sees needs to happen.

Chair Harris was bothered by a phrase in the background information about "inefficient use of private property" and asked what that meant.

Mr. Smith said if there is intensification of commercial uses, access to sewer and road network would optimize multi-family or commercial use. If properties are rezoned one by one, then some properties would be left behind and blocked off from the sewer corridor or commercial access to Agua Fria. They could optimize the value to all property owners rather than leave someone out.

Chair Harris didn't recall any land locked circumstances in the Commission's work in last four years. He asked if this inefficient use was from the city's judgment or on behalf of the private owners.

Mr. Smith said the Commission had talked about private covenants, etc. It is possible that the road network could optimize use for all property owners instead of having one long lane for access.

Chair Harris agreed the Commission should talk about optimization to benefit all owners. We know that adjacent property owners will have a voice but the Commission would want to make sure part of the process is to optimize the value of the property. Rather than some inefficient use.

Mr. Smith thought Staff's concepts are not vastly different and are in accord with Chair Harris' statement.

Chair Harris said in March the Commission had a discussion about the General Plan because the Commission's concern at that time was in seeing it in projects coming up and they felt poorly served by the 1999 General Plan. Particularly on his point, the Commission needs to update it. We dealt with Old Pecos Trail scenic corridor and didn't go forward with it.

He believed that to establish a community plan for the Agua Fria area, the Commission needed to do it in an accelerated fashion, yet do it appropriately. Now it was looking like it might be 18 months away. Money is an issue. The current General Plan doesn't serve the town very well. It identifies priorities and sixteen years later, they are not done.

Mr. Smith said for the Land Use Staff, the SWAMP was an effort was to plan west of the Agua Fria Village and the ball has been dropped for the community to the east.

Commissioner Kadlubek was amazed that the Governing Body didn't implement anything in the last 16 years but they are here now and now can address it.

For the LRP Committee, that fits in. There will also be a push for looking at the General Plan. The language now is a summarization and streamlining of the General Plan. It is a very huge document and one we hardly even look at. The ideals are the same today so we should summarize and streamline it. We also have some sector plans coming to us: the River Trail Master Plan and the Old Pecos Trail. The Commission needs to have direction as to what the criteria and priorities from the City are in looking at future development including budget, budget deficits, industries we want to attract. Out of that is what a General Plan looks like and after that, sector plans follow.

Councilor Bushee wanted to clarify because some of the Commissioners are new, that the SWAMP covered everything up to the Area 1. It was incorporated into the General Plan. While you can see the stressors in Area1 is because it was annexed a year and a half ago. It was a very limited scope with 3 from the County and 3 from City to decide that an office should be C-1 or R-21. It is only a small area that is stressed. There are spot zones and the City needs to take a little time out. She agreed that the General Plan does need to be updated. She was grateful to see the "LRP look" tonight. It will impact the structures that are there.

She said the resolution she submitted lets the Old Pecos Trail Scenic Corridor go forward and putting the Long Range Plan together with Economic Development is to make this go forward quickly. Councilor Lindell will slow the General Plan down a little. The Agua Fria Historic Village also wants an overlay zone to deal with height and design issues. The neighbors don't want a moratorium at all.

Commissioner Abeyta said the Commission should include the area above Area1 because otherwise we would be doing what they did before. That would provide more flexibility. It is not in the City right now but it is slated for annexation soon. Ms. Noble agreed.

Commissioner Kapin asked what is meant by "form-based code."

Mr. Liming explained that zoning tends to be more traditional. We may have aspects of form-based code in Chapter 14. It focuses more on design issues. Zoning calls out land uses and form-based deals more with design issues. He imagined in Area 1 we might get into design issues, as well. First we need to define the area we are considering. Some of them are subdivided into residential issues and those generally last a long time. It depends on the planning area being looked at.

Commissioner Kapin said she keeps thinking going east all the way to St. Francis. She asked if there are big chunks of land that are in the river corridor that the Commission needs to consider.

Mr. Liming agreed there are some areas moving east into the City. He was not sure area 1 would be exclusive. There are areas in the City that have large tracts of vacant land to include. Going further, things are pretty well developed.

Chair Harris said, to clarify the process of the resolution, potentially there are three resolutions and they are a moving target. Resolutions for the River Trail, Old Pecos Trail and the General Plan are all circulating at certain levels. He asked Councilor Bushee if they will come to the Planning Commission for consideration.

Councilor Bushee said she could only speak to her resolutions. Councilor Lindell wants to hold off on the General Plan to look at both sector plans. Most of the details are spelled out. This is a bigger effort and they will go to the next Public Works meeting and then come to the Planning Commission. The General Plan will probably come soon after that.

Mr. Smith added that the plans themselves will have public hearings as part of the adoption process.

Chair Harris reasoned that the Commission will have plenty of opportunity to consider them.

Councilor Bushee agreed. We want to see the Planning Commission deal with them.

Commissioner Kadlubek wanted some stronger understanding from Staff around budget issues and stronger criteria with teeth in it. There are lots of different criteria in the General Plan but nothing is highlighted above anything else. What is important now considering the deficit, is that only 38% of the work force lives within the city and 97% of housing is occupied. That needs to be part of our criteria so we can better decide how to judge factors of water, traffic, jobs, economic development, affordable housing and what the Commission should be looking at as a priority. They are not all equal and without the priorities the loudest voice or politics wins. He wanted to make decisions based on what is best for the City.

Commissioner Greene reiterated that this is Sector 1 and we should hope to expedite it. It is only about 50 acres and we know most of the owners. We need to get them into a room and get it worked out. We should be able to manage it. If we want to do something north of Alameda - we could do that but let's focus on that part south of Alameda and deal with the traffic, etc. And then take on the Calle Nopal area later by a few months.

Commissioner Kapin asked what the schedule on annexation is now.

Mr. Liming said by around 2018 they should have it done.

Commissioner Kapin didn't want that area to be forgotten and wanted to be clear about when the Commission will consider it. It would be smart to get in front of it. The Commission needs a set timeline to get that plan done.

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 if 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. Martinez 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 Ecovercity 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. Martinez 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 there.

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 for Carl G. Boaz, Inc.