

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

Case #2016-99

Arts and Creativity General Plan Amendment

Case #2016-89

Arts and Creativity Rezoning

Owner's Name – City of Santa Fe

Agent's Name – New Mexico Inter-Faith Housing

THIS MATTER came before the Planning Commission (Commission) for hearing on October 6, 2016 upon the application (Application) of New Mexico Inter-Faith Housing as agent for City of Santa Fe (Applicant).

The Applicant requests an amendment to the General Plan Future Land Use map to change the designation of 5.0± acres of land from Public/Institutional to Community Commercial and requests rezoning from I-2 (General Industrial) to C-2 (General Commercial). The property is located at 1222 Siler Road.

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 two 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 July 12, 2016 at Frenchy's Barn.
 7. Notice of the ENN meeting was properly given.
 8. The ENN meeting was attended by the Applicant and City staff; there were twenty-six 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 property is currently owned by the City of Santa Fe, which uses it for storage of heavy machinery materials, storage of dumpsters and landscaping materials.
 12. The City has donated the land for purposes of New Mexico Inter-Faith Housing making application for government funding for development, but the transfer of land is contingent on New Mexico Inter-Faith Housing receiving sufficient requested funding.
 13. The Commission is authorized under Code §14-2.3(C)(7)(a) to review and make recommendations to the Governing Body regarding proposed amendments to the General Plan.
 14. 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

15. 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.
16. 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 1999 Future Land Use Map identifies the project site as being within the "Siler Road Redevelopment District" which is intended to allow industrial use, residential use and mixed use. The proposal of development of the property is consistent with the city's Affordable Housing Needs Assessment and the economic development goals of the City's Economic Development Division.
17. 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)]. The General Themes of Sections 1.7.1 "Affordable Housing" and

Section 1.7.4 “Economic Diversity” are both satisfied by the proposed amendment and the proposed Arts and Creativity Center project. The project is consistent with the goals as lists in Sections 1.7.7 “Water”, 1.7.9 “Urban Form”, and 1.7.12 “Mixed Use.”

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: (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)].* The use of the property for Community Commercial is not significantly different with the prevailing uses in the area and is consistent the concepts behind the Siler Redevelopment District.
19. 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.
20. 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 the City owns this property (and the properties to the north, east, south and west), but the City is attempting to transfer the property to the private sector for private sector development.
21. 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 Governing Body passed Resolution No. 2016-30 recognizing that the Applicant’s general plan amendment and rezoning are enabling a project that will promote the general welfare of the community.
22. 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.
23. 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)].* The Applicant proposes an affordable mixed use development, which satisfies the needs and goals of affordable housing and promoting economic development. The Applicant asserts that the development will be environmentally sensitive, sustainable and that the project will deliver on-

site social services aimed at promoting both economic development and community well-being.

24. 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.
25. 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.* The Governing Body through its approval of Resolution No. 2016-30 asserted that growth and economic projections have changed since the General Plan was created and based on the current Housing Needs Assessment there is a need for more affordable rental housing and the proposed project will satisfy the need by delivering affordable live/work facilities.
26. 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 proposed location was chosen by the City Council due to its location and redevelopment potential. This site will be a donation by the city, which the Applicant states is critical prerequisite for affordable housing multi-family development under the Low Income Tax Credit Program.
27. 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 of the housing market have changed in such a way that the proposed general plan amendment is needed by the community to satisfy the demands of the affordable housing market.

Rezoning

28. Under Code §14-3.5(C), the Commission may review the proposed rezonings and make recommendations to the Governing Body by the Planning Commission.
29. 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)].*
 - a. This area has shifted to being more geographically central and closer to the population centers.

- b. Development in the area has shifted from industrial to more general commercial uses.
 - c. The present uses in the area, such as coffee shops, drug stores, breweries, art collaboratives and residential uses have changed the neighborhood to a point that justifies the request for rezoning.
 - d. Recent transportation infrastructure improvements have allowed for easier connectivity to the area.
 - e. The request to change the zoning from I-2 to C-2, allows for both residential and non-residential uses on the proposed site.
 - f. The proposed zoning category is also more advantageous to the community as it relates to affordable housing, economic development and redevelopment of brownfield areas.
30. 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.
31. 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.
32. 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 proposed location was chosen by the City Council due to its location and redevelopment potential. This site will be a donation by the city, which the Applicant states is critical prerequisite for affordable housing multi-family development under the Low Income Tax Credit Program.
33. 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)];*
- a. A Traffic Impact Analysis, submitted by the Applicant, indicates that it would be feasible to provide direct access from Siler Road for residential and commercial development on the project site.
 - b. Any further traffic improvements, such as deceleration lanes, will be addressed at the time of development plan application.
 - c. The city trails system provides service to this area, through the Acequia Trail, and there are existing bus stops along Agua Fria Street, Siler Road and Rufina Street.
 - d. There is an existing city sewer truck line that runs to the site and provides available connections.
 - e. Water service is available to the site via Siler Road.

- f. All other public facilities, as they currently exist, are able to accommodate impacts of the proposed development.
34. 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.*
- a. The proposed rezoning can be accommodated by existing infrastructure and public facilities.
 - b. The Applicant will be required to provide improvements at the time of development plan.

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 ____ DAY OF NOVEMBER, 2016 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.

Vince Kadlubek, Chair

Date:

FILED:

Yolanda Y. Vigil
City Clerk

Date:

APPROVED AS TO FORM:

Zachary Shandler
Assistant City Attorney

Date: