

City of Santa Fe, New Mexico

memo

DATE: December 9, 2015 for the December 17, 2015 Board of Adjustment Meeting

TO: Board of Adjustment

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

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

233 CANYON ROAD SPECIAL USE PERMIT

Case #2015-114. 233 Canyon Road Special Use Permit. Rita and Michael Linder, request Special Use Permit approval to expand a Restaurant Use. The property is zoned RC-8-AC.

RECOMMENDATION

The Land Use Department recommends approval of the Special Use Permit subject to the following conditions:

1. Parking on the property shall not be restricted to any business and shall be open to all patrons for any business on the property.

I. SUMMARY

On May 15, 2012 The Board of Adjustment (BOA) granted a special use permit for a restaurant use containing 733 square feet located at 233 Canyon Road Suite B (reference Exhibit A3 for minutes and Staff Memorandum). The applicants/owners of the building and businesses located in both Suite A and Suite B are closing the retail use in Suite A (Jewel Mark) and requesting to expand the existing restaurant Special Use Permit into Suite A containing 1,188 square feet. This would increase the existing restaurant use to a total of 1,901 square feet.

Approval of a special use permit is required for all restaurants in the RC-8-AC zone, and because this property is legally nonconforming with regard to allowed square footage of non-residential use and required parking.

The property is located in the first block of Canyon Road, where Canyon Road begins at Paseo de Peralta. The property consists of one building, approximately 4,475 square feet, on a lot of approximately 0.19 acres. The building is divided into three suites which house the following businesses:

Business Name (Owner)	Suite	City Business License
Jewel Mark (Rita Linder) “ <i>Now closing</i> ”	A	2011-2015
Caffe Greco (Julia Linder) “requesting to expand into Suite A”	B	2011-2015
Jacqueline’s Place (Michael Linder)	C	2003-2015

II. BACKGROUND

A. Previous Use Permit and Nonconforming Status

In 2012, the Board approved a special use permit to allow 733 square feet of restaurant use. At that time, staff and the Board determined that property should be treated as legally nonconforming with regard to the extent of nonresidential square footage that existed, and with the number of parking spaces provided:

- The entire 4,475-square-foot building is devoted to nonresidential uses., Table 14-6.1-1 “*Table of Permitted Uses*” states that “No more than 3,000 square feet of gross floor area may be devoted to nonresidential uses.”
- Table 14-8.6-1 “*Parking and Loading Requirements*” requires both retail and restaurant uses to provide a parking ratio of 1 parking space for every 200 square feet of net leasable area. The building is 100% occupied with nonresidential use and the property has only two parking spaces to support the existing uses where approximately 20 would normally be required.

Table 14-6.1-1, “*Table of Permitted Uses*”, under Food and Beverages, lists “Restaurant - full service, with or without incidental alcohol service,” as a Special Use in the Arts and Crafts Overlay District. Additionally. The approval by the Board in 2012 included a determination that the limited restaurant use complied with similar approval criteria to those that are required for the new application.

B. Restaurant Parking Requirements

Appendix A of the Land Use Development Code provides two possible parking ratios for restaurant types of use:

- The category of “Restaurants” requires 1 space per 200 square feet of net leasable area, the same rate that applies to art galleries and other retail uses.
- The category of “Eating and drinking establishments” requires one space per each 50 square feet of serving area. Serving area is not specifically defined, but is interpreted to include indoor and outdoor customer seating and standing areas.

Staff and the Board applied the “Restaurants” parking requirement in approving the 2012 use permit, and that rate is the one typically used for restaurant uses by the Land Use Department. Note that neither term is defined in the code.

II. APPROVAL CRITERIA

The Santa Fe City Code requires special use permit review for a restaurant use within an Arts and Craft Overlay District, and for a change of legal nonconforming uses. The site is also located within the Downtown and Eastside Historic Review District but that does not affect changes inside the building.

A special use permit is granted for a specific use and intensity. Pursuant to Section 14-3.6(D) (Approval Criteria and Conditions), to grant a special use permit the BOA shall make the following findings:

14-3.6(D)(1)(a)- (Authority): “that the land use board has the authority under the section of Chapter 14 described in the application to grant a special use permit;”

Staff Analysis

The change in legal nonconforming use and a restaurant use are allowed subject to a Special Use Permit. Pursuant to Santa Fe City Code Section 14-2.4(C) (Powers and Duties), the Board of Adjustment is granted the authority to take action on a special use permit.

14-3.6(D)(1)(b)- (Public Interest): “that granting the special use permit does not adversely affect the public interest, and”

Staff Analysis

The Governing Body has implemented the General Plan as stated in Section 14-1.3 (General Purposes). The resulting ordinances establish minimum standards for health, safety and welfare affecting land uses and developments as a means to protect the public interest. The city has reviewed the proposed Special Use Permit application in accordance with these ordinances. With recommended conditions, the proposed Special Use Permit application complies with minimum standards of Chapter 14 SFCC.

14-3.6(D)(1)(c)- (Compatible With And Adaptable To): “that the use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the premises under consideration.”

Staff Analysis

The application complies with this finding for the following reasons.

The first component is established by Chapter 14 “Table 14-6.1-1-Table of Permitted Uses” (reference Exhibit A2 for copy of table excerpt). Under the "Food and Beverages", “Restaurant - full service, with or without incidental alcohol service” is identified as an allowable use subject to approval under the provisions of Section 14-3.6 (Special Use Permits).

Additionally, a change of legal nonconforming uses pursuant Section 14-10.2(E) is also permitted subject to the provisions of Section 14-3.6 (Special Use Permits. The proposed use is adaptable to buildings in the vicinity provided licensing requirements, as defined by the State of New Mexico relating to operations, and Chapter 14 SFCC related to zoning, have been satisfied.

14-10.2(E)- Change of Use

A legal nonconforming use may, as a special use permit, be changed to another legal nonconforming use if the board of adjustment finds that the proposed use is equally appropriate or more appropriate to the district than the existing legal nonconforming use and the new use does not increase the level of nonconformity. In allowing such change, the board of adjustment may require appropriate conditions and safeguards in accordance with the purposes of Chapter 14.

Staff Analysis

Staff believes that the change from retail to restaurant use is a compatible use for the Canyon Road area, especially considering this is an expansion of an existing restaurant.

No negative comments were received from the City Development Review Team. However, the Fire Marshal submitted standard conditions appropriate to the proposed use. Conditions of approval are listed in Exhibits A and B attached.

III. ENN

14 people attended the ENN meeting. Two concerns were raised by the attendees and responded to by the applicant and by staff:

Concern 1: The property contained only 2 parking spaces. Where were patrons going to park.

Staff response: Parking for the property is legally nonconforming. There was no change in nonconformity with the replacement of the retail use to the restaurant use. The parking standards for both uses are 1 parking space for every 200 square feet.

Applicant's response: Many patrons walk to the restaurant.

Concern 2: Would alcohol be served?

Applicant's response: The Cafe Greco already serves alcohol.

The ENN attendance list and other materials are attached as an exhibit.

IV. CONCLUSION

The proposed request is consistent with previously approved and established uses for the property. Minor remodeling is anticipated with this approval. Any exterior alterations would be subject to Historic Board review and approval. The Land Use Department has reviewed the application and determined that it complies with the necessary findings to recommend approval. These include: 1) that the Board of Adjustment has the authority under Chapter 14 to grant a Special Use Permit; 2) that granting the permit does not adversely affect the public interest; 3) that the use and associated building are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity; and 4) that the changes to the use will be appropriate to the district and does not increase the nonconformity.

The Board of Adjustment may specify additional conditions of approval as provided in Subsection 14-3.6 (D)(2) (attached).

V. EXHIBITS

Exhibit A1- Chapter 14-3.6 “Special Use Permit” Approval Criteria and Conditions

A2- Table of Permitted Uses

A3- May 15, 2012 BOA minutes

Exhibit B - DRT comments

1. City Engineer for Land Use Department

4. Traffic Engineering Division

5. Fire Marshal

Exhibit C- ENN and correspondence

Exhibit D- Applicant’s Data

December 17, 2015
Board Of Adjustment
Case # 2015-114
**233 Canyon Road Special Use
Restaurant Use
SPECIAL USE PERMIT**

EXHIBIT A

Approval Criteria

A1

14-3.6 SPECIAL USE PERMITS

(A) Purpose and Intent

Special use *permits* are intended to allow flexibility in providing for, regulating or preventing specified uses within various districts as provided in Table 14-6.1-1 so they are compatible with existing or desired land use patterns. Special use *permit* approval is required for certain uses so that potential detrimental effects may be reduced or avoided and conflicts in land use may be prevented. Special use *permits* are necessary because of the wide variety of uses that are allowed within zone districts and because of the variety of existing sites and uses found in the community.

(B) Approval Authority

The planning commission and the board of adjustment have the authority to hear and decide *applications* for special use *permits* as authorized by Chapter 14; to decide questions that are involved in determining whether special use *permits* should be granted; and to grant special use *permits* with such conditions and safeguards as appropriate under Chapter 14 or to deny special use *permits* when not in harmony with the intent and purpose of Chapter 14.

(C) Procedures

(1) Site Plan Approval

Special use *permits* shall include approval of a site plan and other site *development* drawings necessary to document that the type and extent of *development* proposed can be accomplished in conformance with applicable *development* standards.

(2) Application

The *application* shall indicate the section of Chapter 14 under which the special use *permit* is sought and state the grounds on which it is requested;

(3) Approval Limited

(Ord. No. 2013-16 § 7)

A special use *permit* is granted for a specific use and *intensity*. A special use *permit* is required for any change of use to a new or different use category that requires a special use *permit* as designated in Table 14-6.1-1. A special use *permit* is required for any significant expansion or intensification of a special use.

(D) Approval Criteria and Conditions

(1) Necessary Findings

To grant a special use *permit*, a *land use board* shall make the following findings:

- (a) that the *land use board* has the authority under the section of Chapter 14 described in the *application* to grant a special use *permit*;
- (b) that granting the special use *permit* does not adversely affect the public interest, and
- (c) that the use and any associated *buildings* are compatible with and adaptable to *buildings, structures* and uses of the abutting *property* and other *properties* in the vicinity of the *premises* under consideration.

(2) Conditions

The *land use board* may specify conditions of approval that are necessary to accomplish the proper *development* of the area and to implement the policies of the *general plan*, including:

- (a) special *yards* or *open spaces*;
- (b) fences, *walls* or *landscape screening*;
- (c) provision for and arrangement of parking and vehicular and pedestrian circulation;
- (d) on-site or off-site *street*, sidewalk or utility improvements and maintenance agreements;
- (e) noise generation or attenuation;
- (f) dedication of *rights of way* or easements or access rights;
- (g) arrangement of *buildings* and use areas on the site;
- (h) special hazard reduction measures, such as *slope* planting;
- (i) minimum site area;
- (j) other conditions necessary to address unusual site conditions;
- (k) limitations on the type, extent and *intensity* of uses and *development* allowed;
- (l) maximum numbers of *employees* or occupants permitted;
- (m) hours of operation;
- (n) establishment of an expiration date, after which the use must cease at that site;
- (o) establishment of a date for annual or other periodic review at a public hearing;

- (p) plans for sustainable use of energy and recycling and solid waste disposal;
- (q) any other appropriate conditions and safeguards, in conformity with Chapter 14 or provisions of other chapters of the Santa Fe City Code that regulate *development* and use of land; and
- (r) conditions may not be imposed that restrict the use to a specific *person* or group.

(E) Expiration of Special Use Permits

(Ord. No. 2013-16 § 8)

- (1) A special use *permit* that has not been exercised within three years from the date of the approval expires as provided in Section 14-3.19(B)(5). Approval of the special use *permit* may be extended as provided in Section 14-3.19(C).
- (2) If the use approved by the special use *permit* ceases for any reason for a period of more than three hundred sixty-five days, the special use *permit* shall expire except as provided for government uses in Section 14-10.2(C)(2).

A2

Table 14-6.1-1

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2
RESIDENTIAL																						
Group Living																						
Continuing care community	S	S	S	S	S	S		S		P	S	P	P	P			S				P	(A)(1)
Group Residential Care Facility	S	S	S	S	S	S		S		P	S	P	P	P			S				P	
Group Residential Care Facility, Limited	P	P	P	P	P	P		P		P	S	P	P	P			S				P	
Group Residential Care Facility, Correctional			S		S	S		S		P*	P*	P*	P*	S			S				S	
Boarding, dormitory, monastery	S	S	S	S	S	P		P		P	S	P	S	P			S				S	
Household Living																						
Dwelling, multiple-family	p ¹	P	P		P	P	P	P		P	p ⁶	P	P	P				p ⁶	p ⁶	p ⁶	P	(A)(5), (A)(6)
Dwelling, single-family	P	P	P	P	P	P	P	P		P	p ⁶	P	P	P							P	(A)(5)
Manufactured homes	P	P	P	P	P	P	P	P		P	p ⁶	P	P	P							P	(A)(4)
Mobile home, permanent installation	S	S	S	S	S	S		S		S		S	S									(A)(2)
Mobile home park							p ⁹															(A)(3); See 14-6.4(B)

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2	
Short Term Rental Unit	Prohibited except as set forth in Section 14-6.2(A)(5)(a)										P	P	P	P	P						P	P	(A)(5), (A)(6)
PUBLIC, INSTITUTIONAL AND CIVIC (Ord. No. 2014-31 § 11)																							
Emergency Services																							
Police and fire stations	S	S	S	S	S	S	S	S		P	P	P	P	P	P	P	P	P	P	P	P	P	
Police substations (6 or fewer staff)	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P	
Preschool, Daycare for Infants or Children																							
Small (6 or fewer)	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P	
Large (More than 6)	S	S	S	S	S	S	S	S		P	P	P	P	P	S		P	P	P	P	S		
Electrical Facilities (See 14-6.2(F) for Planning Commission Review Requirements)																							
Distribution facilities	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P	(F), (G)
Substation	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P	(F)
Switching station	P	P								P	P	P		P	P	P	P	P	P	P	P	P	(F)
Transmission lines	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P	(F)
Educational																							
Elementary and secondary schools, public and private	S	S	S		S	S		S		P*	P*	P*	S	P*	S		P*	S	S	S	P*		
Colleges and universities, residential	S	S	S		S	S		S		S	S	S	S	P			S				S	(B)(2)	
Colleges and universities, nonresidential										P	P	P	P	P	P		P	P	P	P	P		
Museums		S	S		S	S		p ¹⁰		P	P	P		P	P		P	P	P	P	P		
Vocational or trade schools, nonindustrial								p ¹⁰		P	P	P		P	P		P	P	P	P	P		

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2	
Arts and crafts schools								p ¹⁰	p	p	p	p		p	p		p	p	p	p	p	p ²	
Dance studios								p ¹⁰	p	p	p			p	p		p	p	p	p	p	p ²	
Photographers' studios								p ¹⁰	p	p	p			p	p		p	p	p	p	p	p ²	
Assembly																							
Private clubs and lodges	S	S	S		S	S		S	S	p*	p*	p*	p*	p*	p*		p*	p*	p*	p*	p*	p ²	
Financial Services																							
Banks, credit unions (without drive-through)										p	p			p	p		p	p	p	p	p	p ²	
Banks, credit unions (with drive-through)										p*	p*			p	p*		p*	p*	p*	p*	p*	p ²	
Food and Beverages																							
Bar, cocktail lounge, nightclub, no outdoor entertainment								S ^{3,10}	S ³		p*			p	p	p		p*	p*	p*	p ²		
Bar, cocktail lounge, nightclub, with outdoor entertainment								S ^{3,10}	S ³		p*			p*	p*	p*		p*	p*	p*	p ²		
Restaurant - full service, with or without incidental alcohol service								S ^{3,10}	S ³		p			p	p	p	S	p	p	p	p	p	

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2	
Restaurant with bar, cocktail lounge or nightclub comprising more than 25% of total serving area.								S ^{3,10}	S ³		p*			p*	p	p		p*	p*	p*	p ²		
Restaurant - Fast service/take-out, no drive-through/drive-up								S ^{3,10}		p ⁴	p	p ⁴		p	p	p	S	p	p	p	p		
Restaurant - with drive-through/drive-up											p*			p*	p*	p*	S	p*	p*	p*	p ²		
Medical																							
Apothecary shops or pharmacies										p	p		p	p	p			p	p	p	p	p ²	
Medical and dental offices or clinics								S ¹⁰	S	p	p	p	p	p	p		p	p	p	p	p	p ²	
Offices, Business and Professional																							
Business and professional offices excluding medical and dental and financial services								S ¹⁰	S	p	p	p	p	p	p	p	p	p	p	p	p	p ²	
Public Accommodation																							
Bed and breakfast houses and inns											p			p	p		p				p		
Conference and extended stay lodging facilities											p			p	p		p						

CATEGORY	RR	R-1	R-7	R-7	RC-5,	R-10	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I	I	BIP	SC-1	SC-2	SC-3	MU	Use-Specific
----------	----	-----	-----	-----	-------	------	-----	-----	------	-----	-----	-----	----	-----	---	---	-----	------	------	------	----	--------------

Specific Use	- R-6	- R-9	-I	RC-8	- R-29															***	Regs 14-6.2
Hotels, motels, residential suite hotels									P				P	P						P	
Vacation time share projects									P				P	P							(C)(7)
Public Transportation																					
Transit transfer facilities									S		S	P	P	P	S	S	P	P	S		
Recreation and Entertainment																					
Commercial recreational uses and structures; theaters, bowling alleys, pool-rooms, driving ranges, etc.									P				P	P	P			P	P	P	S ²
Exercise, spas or gym facilities									P				P	P	P			P	P	P	p ²
Nonprofit theaters for production of live shows							p*10	S	P				P	P	P	P		P	P	P	p ²
Retail Sales and Services																					
Antique stores							p ¹⁰	P		P			P	P			P	P	P	P	p ²
Art supply stores							p ¹⁰	P		P			P	P			P	P	P	P	p ²
Bookshops							p ¹⁰	P		P			P	P			P	P	P	P	p ²
Cabinet shops, custom							p ¹⁰	P		P	P		P	P	P	P					
Department and discount stores									P				P	P				P	P	P	p ²
Flea markets									P				P	P							(C)(3)

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2	
Florist shops								p ¹⁰	P		P			P	P			P	P	P	P	p ²	
Funeral homes or mortuaries										P	P			P	P								
Furniture stores											P			P	P	P				P	P	p ²	
Neighborhood grocery stores and laundromats	S	S	S		S	S	S			S	P	S	S								P	(C)(4)	
Office equipment sales and service; retail sale of office supplies											P			P	P	P				P	P	p ²	
Retail establishments not listed elsewhere											P			P	P	P			P	P	P	p ²	
Retail and service uses that are intended to serve the primary uses and that do not exceed 5,000 square feet														P	P	P	P					p ²	

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2	
Retail sales accessory to any permitted use, provided that such commercial uses shall not occupy more than ten percent of the total floor area of all buildings occupied by the																	A					S ²	

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2	
principal use																							
Sign shops											P	P		P	P	P						p ²	
Service Establishments																							
Barber shops and beauty salons										P	P	P		P	P			P	P	P		p ²	
Personal care facilities for the elderly						S		S		P	P	P	P	P	P		P	P	P	P		p ²	(C)(7)
Personal service establishments including cleaning and laundry, appliance repair and similar services											P			P	P			P	P			p ²	
Tailoring and dressmaking shops								P	P	P	P			P	P		P	P	P	P		p ²	
Sexually Oriented Businesses																							
All															P	P							(C)(1)

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2
Storage																						
Individual storage areas within a completely enclosed building											S			P	P	P	P	P	P	P		(D)(2)
Mini-storage units										S				P	P	P		P	P	P		(D)(3)
Telecommunication																						
Telecommunications Facilities	Permitted as set forth in Section 14-6.2(E) (for facilities in public rights of way see Article 27-2 SFCC 1987)																					
Vehicles and equipment																						
Commercial parking lots and garages											P		P	P	P	P	A	P	P	P		See 14-8.6(B)(6)
Service and repair establishments including filling stations and repair garages											P			P	P	P			S	S		
Tire recapping and retreading											P			P	P	P						

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2	
Industrial																							
Automobile salvage and wrecking yards, junkyards or yards used in whole or in part for scrap or salvage operations or for processing, storage, display or sales of any scrap, salvage or secondhand building materials, junk automobiles or second hand automobile parts																							
Research, experimental and testing laboratories											P			P	P	P	P						(D)(4)
Manufacturing and Production																							

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2
Light assembly and manufacturing											P			P	P	P	P					

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2
Outdoor Storage																						
Outdoor storage lots and yards, except wrecking yards, junkyards or yards used in whole or in part for scrap or salvage operations or for processing, storage, display, or sales of any scrap, salvage or second-hand building materials, junk automobiles or second-hand automobile parts															P	P	A					
Warehouse and Freight Movement																						
Wholesaling and distribution operations - 3,000 square feet or less of storage											P			P	P	P						
Wholesaling and distribution operations - over 3,000 square feet of storage															P	P						

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2
AGRICULTURAL USES																						
Animal production	S																					(H)
Crop production	S																					(H)
Commercial stable	S																					(H)
ACCESSORY USES																						
Accessory structures of a permanent, temporary or portable nature such as coverings not constructed of solid building materials, including inflatable covers over swimming pools and tennis courts and such other accessory structures which exceed 30 inches in height from the average ground elevation.	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Children's play areas and play equipment	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A	A	
Accessory dwelling units	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A				A	14-6.3 (C)(1)
Greenhouses, noncommercial	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A				A	

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2	
Home occupations	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	14-6.3 (C)(2)
Hospital heliport													A8										

CATEGORY Specific Use	RR	R-1 - R-6	R-7 - R-9	R-7 -I	RC-5, RC-8	R-10 - R-29	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2	
Other uses and structures customarily accessory and clearly incidental and subordinate to permitted permissible uses and structures	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A					A	
Private barbecue pits, private swimming pools	A	A	A	A	A	A	A	A		A	A	A	A	A	A		A					A	
Private daycare for infants and children	A	A	A	A	A	A	A	A		A	A	A	A	A	A		A	A	A	A	A	A	
Private garages	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A	A	A	
Residential use ancillary to an approved use		A	A	A	A	A	A	A		A	A	A	A	A	A		A	A	A	A	A	A	14-6.3(B)(5), (B)(6) and (B)(7)
Utility sheds, located within the rear yard only	A	A	A	A	A	A		A		A		A	A									A	

*Special use permit required if located within 200 feet of residentially-zoned property; otherwise permitted. (Ord. No. 2013-16 § 29)
 **Uses listed are in addition to those permitted in the underlying district. No more than 3,000 square feet of gross floor area may be devoted to nonresidential uses.
 ***See Section 14-7.3(B)(1) for additional MU district regulations including minimum percentage of residential use. (Ord. No. 2013-16 § 22)
 1. In the RR district, multiple-family dwellings are limited to four per lot.
 2. Hours of operation limited to 7 a.m. to 10 p.m.
 3. Amplified live entertainment or amplified music for dancing prohibited after 10 p.m.
 4. Not to exceed 1,000 square feet gross floor area, sales of alcohol prohibited.
 5. Hospital is a permitted use in the Las Soleras Hospital District; requires special use permit in the Christ St. Vincent Hospital District.
 6. See Section 14-6.2(A)(7) for additional regulations for principal dwelling units in the C-2, BIP and SC districts.
 7. See Section 14-6.3 for additional accessory use regulations; see Section 14-6.4 (Temporary Uses or Structures)
 8. In the Las Soleras Hospital District a heliport serving a hospital is a permitted use.
 9. See Section 14-7.2(I) for standards for pre-existing mobile home parks and Section 14-6.2(A)(3)(a) for prohibition of new mobile home parks in MHP districts.
 10. See Section 14-7.2(H) 3,000 square foot limit applies to specified uses in RAC district. (Ord. No. 2014-31 § 11)

A3

**MINUTES OF THE MEETING OF THE
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
SANTA FE, NEW MEXICO
Tuesday, May 15, 2012**

A. CALL TO ORDER AND ROLL CALL

A regular meeting of the City of Santa Fe Board of Adjustment was called to order by Gary Friedman, Chair, at approximately 7:00 p.m., on Tuesday, May 15, 2012, in the Council Chambers, City Hall, Santa Fe, New Mexico.

MEMBERS PRESENT:

Gary Friedman, Chair
Rachel L. Winston, Vice-Chair
James A. Brack
Alexandra G. Ladd
Patricia Hawkins
Monica Montoya
Daniel H. Werwath

OTHERS PRESENT:

Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division
Tamara Baer, Planning Manager, Current Planning Division
Kelley Brennan, Assistant City Attorney
Melessia Helberg, Stenographer

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

B. PLEDGE OF ALLEGIANCE

Following the Pledge of Allegiance, Rabbi Hellmen presented the invocation.

C. APPROVAL OF AGENDA

MOTION: Monica Montoya moved, seconded by James Brack, to approve the agenda as presented.

VOTE: The motion was approved unanimously on a voice vote.

D. APPROVAL OF MINUTES – January 17, 2012

MOTION: Daniel Werwath moved, seconded by Patricia Hawkins, to approve the minutes of the meeting of January 17, 2012, as presented.

VOTE: The motion was approved unanimously on a voice vote.

E. FINDINGS/CONCLUSIONS – NONE

There were no Findings/Conclusions for approval.

F. OLD BUSINESS

There was no old business.

G. NEW BUSINESS

1. **CASE 2012- 32. 233 CANYON ROAD SPECIAL USE PERMIT. HORCASITAS LAND USE CONSULTING, AGENT FOR RITA AND MICHAEL LINDER, REQUEST SPECIAL USE PERMIT TO ALLOW A RESTAURANT. THE PROPERTY IS ZONE RC8AC. (DAN ESQUIBEL, CASE MANAGER)**

Gary Friedman said Dan Esquibel, Case Manager, will be presenting the case. The Applicant will then have an opportunity to speak. The people in favor of the application will get an opportunity to speak, and people who are not in favor of the application will get an opportunity to speak. During that period of time for the Board of Adjustment to ask questions of both the applicant and staff before discussing and reaching a decision in this matter.

RECUSAL: Gary Friedman, Chair, said his law firm, Cassut, Hays and Friedman, has done work for the Applicant within the past year on other matters, not him personally, but one of his partners, which was not involving this particular case, but involving other matters for the Applicants. He said because of that, even though he has no bias with respect to this case for the Applicants, the proper thing is for him to recuse himself from handling this meeting, and being present at this meeting. He apologized, but he believes it is the ethical thing to do. He said Vice-Chair Rachel Winston will be chairing the meeting. He said, to echo what Rabbi Hellman said, this is a large audience, and asked everyone to respect one another when speaking, and to respect the process. He said it may be necessary to establish time limits for those speaking.

Rachel Winston, Vice-Chair, assumed the duties of the Chair.

A Memorandum prepared May 9, 2012, for the May 15, 2012 meeting, with attachments, to the Board of Adjustment, from Daniel A. Esquibel, Land Use Planner Senior, is incorporated herewith to these minutes as Exhibit "1."

A copy of *Correction to Page 2, first paragraph*, entered for the record by Daniel A. Esquibel, is incorporated herewith to these minutes as Exhibit "2."

Staff was sworn

Staff Report

The staff report was presented by Dan Esquibel, which is contained in Exhibit "1," and Exhibit "2," which is a correction to Exhibit "1." Mr. Esquibel noted there is an addendum to the Staff Report because one of the sentences was deleted by accident before it went out [Exhibit "2"].

RECOMMENDATION: The Land Use Department recommends approval of the Special Use Permit, subject to the following conditions:

1. Parking on the property will not be restricted to any business and shall be open to all patrons to any business on the property; and
2. All City permits and licenses shall be obtained prior to any construction or operation on the property.

Questions from the Board

Vice-Chair Winston asked Mr. Esquibel if he has a copy of the King's Map.

Mr. Esquibel said it is on page 85 of the packet, noting he circled the area so members can see the existing building which was located on the King's Map. He said on page 86, he superimposed the King's Map over the GIS so the Board can see how it overlays onto the property. He provided other aerial maps, commenting the color printing didn't come out on the 1992 aerial, but it did identify the building, and then you can see the building in 2011 as well on the next page.

Commissioner Montoya asked, in the attached documentation, if the Applicant does have permission to operate a business through the Certificate of Occupancy process, noting they have a license to occupy the premises at the restaurant.

Mr. Esquibel said his understanding is that the permit was issued to the Linders for an auxiliary use to a gallery, which allows them to sell coffee, packaged donuts and various items, but it is not permissioned technically to operate a restaurant use within that facility.

Commissioner Ladd said for clarification, "your approval is contingent on the fact that they get that C.O. to operate the full scale restaurant."

Mr. Esquibel said, "Yes. The approval is based on whether you, as a body, approve the Special Use Permit."

Public Hearing

All those speaking including the Applicant were sworn en masse at this time

Presentation by the Applicant

Richard Horcasitas, Agent for Michael and Rita Linder, Café Greco, Applicant, was sworn.

Mr. Horcasitas said they have read the staff report and appreciate the recommendation for approval, and they are here tonight to get the final piece of the move of Café Greco from another location to this location. He said it has been quite an adventure. He said they feel this Application is in keeping with the Land Use Code, Chapter 14, that it is compatible with the neighborhood and the use is intentioned to help Santa Fe and have another opportunity for people who are visiting, people living in the neighborhood, and other folks to have a nice, hospitable, friendly place to enjoy a cup of coffee or a pastry or anything that might be added to the menu. They are here to request approval of the Special Use Permit, noting they have a lot of support.

Commissioner Montoya asked Mr. Horcasitas if he said that Café Greco is at an alternate site currently, and they will be moving to this location.

Mr. Horcasitas said yes, noting Café Greco has been in business since 1993, referring to packet pages 18-21, which indicates Café Greco has had a business registration/license 1993 to 2011. He said last year in the second half of the year, the Linders decided to look for another location, having been at 80 E. San Francisco for all these years. He said they found a great location Canyon Road, went to the Building Department, requested their business license, and started putting man hours and materials to create a new space for their café. He said, "There was a realization after the business license was issued and the C.O. for the space was approved, it was realized that in this location, with an Arts and Crafts overlay, it did require the need for a Special Use Permit approval before the Board of Adjustment. That sort of put things on a hold a bit and in limbo. So we're glad to be here finally tonight to be able to get that Special Use Permit completed to allow the Linders to be able to get on with their business. The employees, there's three new employees that have been employed on the business. And you know, when there's businesses closing down all over town, these folks are making an effort to go in the right direction and take the change and do something that could be beneficial to our community. So that's why we're here tonight."

Commissioner Ladd noted two site plans were submitted as part of the application, and it appears the only difference is that one of them labels where the serving area is. She asked Mr. Horcasitas to describe how the full scale restaurant will affect the existing business, and if any layout changes are being made.

Mr. Horcasitas said no layout changes are anticipated. He said there are 3 basic rooms in the space. In the café area, there is a serving counter with an espresso machine, and there is a freezer for ice

cream, a cooler for water and sodas and such. There is a hearth room which is designed for people to be able to get their pastry or coffee and have a place to sit and use the wi-fi, get on their computers and do their work, watch the big screen TV. He said then there is a gallery to the side. He said those are all depicted in the color photographs in the packet. He said Suite B is relegated to the café, the gallery and the hearth room, and there is no more construction. He said it can't grow any more. He said to the left is the jewelry store, and to the right Suite C and D is Jacqueline's clothing store, a small boutique.

Commissioner Hawkins said she understood that the space has been operating as a modified café, with an espresso machine, water and pre-packaged pastries. She asked where they will put a kitchen to have a full service restaurant.

Mr. Horcasitas said that will be determined by the development of the minute, reiterating for the moment, it is coffee, pastries, possibly sandwiches and pre-prepared salads off-site to be served during the day to the clients that come in.

Commissioner Hawkins asked if the Linders are doing that now, what is it that they want to do in addition.

Mr. Horcasitas said they aren't doing that now. All they're serving now is coffee and pre-packaged pastries, and sodas and ice cream from the freezer. He said because this is a stand alone space, it requires approval from the Board of Adjustment for the Special Use Permit. He said they want to move into possibly having sandwiches and salads available, simple things.

Commissioner Hawkins said then there is no intent to build a kitchen to have a full service restaurant.

Mr. Horcasitas said, "Not a full, full, full kitchen. But I could see the ability to have chili dogs or maybe even a small grill for burgers or something like that. Those have not been pursued, and that development of the menu has not been... we're not going down that road, but we want to have the flexibility to move to those things with the proper authorities making any inspections, as the State Food Inspectors, that sort of thing."

Speaking in Favor of the Request

Vice-Chair Winston gave everyone 3 minutes to speak to the request.

Rabbi Leonard Hellman [previously sworn], said he is in favor of the proposal to have more opportunities to have lunch for more citizens. Santa Fe has grown and needs more facilities. The opposition says we don't need more restaurants. This is a good proposal and it will add another restaurant. He said more restaurants will attract more visitors, which is good and will help others to get more customers.

Eric Enfield [previously sworn], said it has been a tough 3 years for anyone in business, and he supports any business trying to open and help the economy. He knows the Linders, and has lived in that neighborhood most of his life. He said there was a Tito's on the corner. He likes the location of this little café, and he was there the other day and thought it is a cute place. He said it is great to have a place to have coffee on Canyon Road. He said there are other businesses along Canyon Road, but he believes everyone will do fine. He thinks supporting the arts market in the City is one of the most important things we can do, and believes this proposal supports that.

Yolanda Chavez [previously sworn], said she has worked for the Linders for the past year. She said she grew up on East Palace and Canyon Road, and is aware of the changes that have taken place over the years. She supports the proposal because it isn't different from anything that is already there. She said it provides the opportunity for people to work. She was out of work for 3 years, and the Linders gave her a chance to work with them. She said being loyal and trustworthy is at the top of their agenda, because they truly embrace it. She said the Linders hire people to work who wouldn't have had the opportunity otherwise. She has seen people come into the café and interact with one another. She said this is a good thing to approve because it brings people together. However, it is unique because it offers an opportunity for local artists to display their wares which they might not be able to display otherwise. She said the Linders hire people at decent wages, so they can feed their families. She encouraged the Board to approve this proposal, because it's good for Santa Fe and good for the people that are native and those who are not. She said diversity is one thing we embrace and what makes Santa Fe special.

Ruth Jones [previously sworn] said she has worked for the Linders for a short time, and every day someone comes in looking for a restaurant, and the closest is two blocks away. She said these people usually are tired and/or hungry, and this café is impeccable, clean, run well. She said the man who used to own the house runs the little coffee shop. He's friendly, sits out front and talks to everyone. She thinks this would be an asset to the community, and sees nothing against it.

Gail Karr [previously sworn] said she has been a Plaza vendor for 26 years. She said the first most asked question is where are the rest rooms, and the second is how can I get to Canyon Road. She said people talk to her about their problems or how they feel that day. She said when the Linders had their Alley Café she would send people there, because they were welcoming and made people feel good, but it also was good for their business. She there are a lot of merchants who don't treat people well in Santa Fe. She this would be a good occasion for people of like mind to get together. She said it is a great opportunity for local artists to sell to people who are ethical, commenting she has sold to the Linders and know from experience they are ethical which is hard to find in this community.

Frankie Lucero [previously sworn] said he is a Santero in Santa Fe, and has had a very successful career as an artist, artisan and carver. He said he frequently take clients to Canyon Road and they work their way from downtown up Canyon Road. It is hard to find a place to sit and have coffee and sandwich. He said this will be a great opportunity for him as a businessman to entertain and promote

Santa Fe and its beauty. He said this building is classic Santa Fe style, and they aren't changing anything about it. He said he and his brothers have the opportunity to show their work there, noting one of his brothers already has work in the gallery space. He thinks this is a great deal. He said the people are very nice and very outgoing, and thinks this can be nothing but a great venture.

Denise Mills [previously sworn] said she has lived in Santa for 30 years and worked on the Plaza so she knows Santa Fe quite well, and has known the Linders for more than 20 years. She said the Linders are fabulous people and are only here to make the town better. She said people move here from other places and leave, but the Linders are here to stay and we really need to support them. She said we have to stand behind people like the Linders who are here for the best of the community and all of us and who are not going to leave. She said the Linders are trying to make it a better place for all of us, and we should stand behind them. She said they will make Santa Fe and Canyon Road a much better place. This isn't downtown and people can walk there, get something to eat and a cup of coffee, noting coffee at Starbuck's is \$5. She said we should support this local family who has the best intentions. She said everyone is here to support that, and "we just want them here."

Phyllis Waxlander-Katt [previously sworn] and she has owned Waxlander Gallery on Canyon Road for 27 years. She said there are very few places to eat and have coffee on Canyon Road. She said there are very expensive places to eat at the top of Canyon Road. She said there is one little coffee-sandwich place, and one other place next to her. She welcomes having the Linders on Canyon Road, noting she has known them for 20 years and they're wonderful people. She said Canyon Road has 150 galleries and shops, and she doesn't see how we could close down, or not allow a restaurant that serves coffee and that is "as cute as can be." She likes that people come to her gallery and want coffee, and she doesn't like to send them downtown, although she wishes those merchants well. She said Canyon Road needs this business.

Gail Rappaport [previously sworn] said is the Executive Director of Congregation Beit Tikva, and works for Rabbi Hellman and Rabbi Levy and Michael Linder is their cantor. She said much of what she is going to say has been said. She has been in New Mexico for 42 years, 34 in Santa Fe, and she has seen the town grow which is good. She actively helped the hospital when it sought to put in Physicians Plaza because any growth is good for the community, and anything which enhances this community will make it a better place. The Linders have done so much for the community, in addition to the fact they've had wonderful stores, commenting that Mr. Linder sings on the Plaza for events. She said she has a food allergy just as his daughter has, and she knows this café will meet those food requirements which aren't met by other restaurants. She said visitors will know they have a place to go for this, as well as people who live here who share their food concerns. She asked this Board to support having this absolute necessity and growth on Canyon Road.

Kate Shane, President of Congregation Beit Tikva [previously sworn] said she has lived in Santa Fe for 33 years. She said she has had the best relationship with the Linders and she has seen them take care of people in the community. She said they embrace people when they first come to Santa Fe, and try to get them a job if they can't hire them. She said she has had relatives to visit Santa Fe and they are "about to drop by the time they walk from their hotel to Canyon Road," commenting she always has a backpack full of bottled water. She thinks it is wonderful to have a little restaurant where this one is located, because it helps people walking up and down Canyon Road who are dying of thirst. She said she has walked into their shop and asked for water and coffee. She plays the harp, and walking to where she plays the harp, she passes two restaurants right in a row. She thinks there is room for another restaurant on Canyon Road, especially in this location.

Martin Levy, Rabbi for Beit Tikva [previously sworn] said he is also the senior level figure skating coach at the GCCC arena, where he works with students 5-15. He said many times people come into the GCCC who are tourists from across the country and the world, and they ask where to go to see great art and he immediately tells them Canyon Road. He said now that the Linders are on Canyon Road, they have added exponentially to the quality and the excellence of the galleries and the whole *joie de vivre* of being in Santa Fe. He said the Linders are exemplary people and there is only an upside to adding a little more to their restaurant, which is a tremendous boon to the economy of the local merchants. He has been here for only 4 years, but he "got here as fast as I could." He said the first time he visited the Linder business, Mr. Linder had coffee with him and introduced him to two well known business leaders, which was terrific for him – to be able to interact with business people with whom he wouldn't otherwise interact. It is an outstanding art and jewelry institution as well as a place for people to come together, mingle and become friends.

Jerry Pluck [previously sworn] said he is speaking in favor of granting the Special Use Permit to the Linders and Café El Greco. He said the Linders have been merchants in Santa Fe for more than 20 years, are well respected productive citizens who have added to the quality of life in Santa Fe. He is in support of the Linders' application, commenting they are investing thousands of dollars to improve the newly acquired property at this location in accordance with City Code. He said they are risking their funds to establish a new small business, and will be adding taxpaying workers to the employed rolls of the City. He said there are dozens of galleries, several galleries and 4 cafes on Canyon Road – specifically the Teahouse, Fish 'n' Spoon, Café des Artists and the newest addition, Café El Greco. He said there are several tables in the shop and in the adjoining patio, along with a flat screen TV, in a beautiful setting. The structure blends with other on Canyon Road and there is no legitimate reason to deny this application, and trusts the Board will do the right thing and approve this application.

Barbara Bellamont [previously sworn], said she was born and raised here, but left and came back several times, and is now here to stay. She remembers Tito's on the corner of Garcia Street, where you could walk to and shop. She thinks having a small café which could expand under a Special Use Permit is a boon to the area. She urged the Board to grant the Special Use Permit and allow the vendors to be able to utilize the building, which is in keeping with Canyon Road. She said this won't change the

exterior, so there is no issue there. She said it is an open and welcoming place, and gives us the opportunity to enjoy our nice weather while offering shelter when it snows.

Karen Wright [previously sworn], said she is very happily working for the Linders. She said she is protective of Canyon Road, commenting that her grandmother came to Santa Fe in the 1930's and built houses on Canyon Road with Taos Pueblo Indians, and purchased a number of houses in that area. She lived in a house on Canyon Road growing up. She said with regard to competition, she would remind people that all of the great cities in the world have restaurant areas and they're packed with people. She said this place has great festivity, with a fire in the fireplace, and a lovely patio. She believes there are sufficient people coming to Santa Fe in the summer, as well as in the fall and spring, to support this and the other restaurants on Canyon Road. She said this is not a massive endeavor, so it wouldn't attract huge crowds. She said everyone who has been there so far has been so ecstatically delighted with this place. She is in favor of the wonderful little place.

Annadelle [inaudible] was sworn, and said she has lived in Santa Fe and worked for the Linders for 8 years. She said people visiting the coffee shop have happy faces, so she is in support of this request. She said she loves Santa Fe, like many others, and she loves the Linders. She asked for approval of this request.

Janie Siska [previously sworn], said she has lived in Santa Fe for 39 years and has lived in the Canyon Road area several times. She urged the Board to support the Linders who are wonderful people, and their contributions will add to pedestrian traffic which is so important for a community.

Peter Greavis [previously sworn], said he is a professional designer and planner of commercial interiors, and the Linders have done a tremendous job in improving the entire complex from one end to the other. He said the area they want to convert to a restaurant, currently is a coffee shop, which they have made very charming and comfortable. He said there is an area behind "there" on the premises that can be turned into a kitchen which would meet codes, noting there is plumbing "back there," so it wouldn't be a makeshift place. He said the location is wonderful, because there is only one other eatery in the area, although there are many in the higher part of Canyon Road. He said, in addition to the coffee shop, there is a marvelous patio with tables and chairs where people can sit and eat and drink. He said he helped the Linders with their jewelry store there last year, when a couple with children asked where they could get something to eat for their children. He told them to go to Travel Bug around the corner where he goes often. He said Café Greco has coffee, muffins, ice cream, candy bars and drinks, which are very special little things that tourists and people walking up and Canyon Road will appreciate. He urged the Board to give the Linders the opportunity to make this a restaurant. It is a small place, which is comfortable, charming and beautiful.

Julia Beall [previously sworn], said the Linders are her parents, and they work hard. She said, in terms of procedure, they obtained a C.O. and operating license in November for this café, followed all of the rules, began with an ENN, prepared for this meeting, and they have the correct parking spaces. She said they want to follow all the rules, and believes they have demonstrated that. She said they employ 4 people which is a very big deal. She is touched that so many people are here to support them. She said her husband grew up here, and his family owned Bealls department store. She said the café prices are reasonable. She said perhaps one day they will serve frito pies, noting they now have 90 cent Mounds, and water for \$1. She said everything in the store is local or made in the USA. She said a local Santero is able to sell his work at their place, noting it is important to the Linders to support local artists. She said their integrity is sound, they will do anything to make this happen and they're here for a long time.

Jacqueline Beall [previously sworn], said when she was little her grandparents, the Linders, had a small cart on the Plaza and now they are in a big building. She said they have an area where they sell coffee and food and chocolate, and hot chocolate. She said the atmosphere is pretty and they have painted it lots of different colors, and they have a lot of local artists displaying their work. She said she really really loves what they did with the place, because it was colorless. She thinks it would be a good idea if they could sell more things in the café.

Vida Tiomkins [previously sworn], said she has been in Santa Fe for 7 years, and has lived on 3 continents in 8 countries and she finally feels she is at home. The Linders have been a great part of including her into the community, made her feel a part of their family. She trusts the Linders with everything, and buys all her jewelry from them. She said it is amazing they are diversifying, adding things to their business and helping the community and making Santa Fe the special place we all want it to be.

Speaking in opposition to the Request

Thresa Vortenberg was sworn, said she is neutral in this matter. She is a second generation New Mexican, and has owned a gallery on Canyon Road for 30 years and she welcome all business, business growth and businesses flourishing, and wants to see Canyon Road flourish. She has a concern about policy. She asked if we now build it first and get permission later, noting this is a protocol question. She is wondering about the completion of the project and then getting an exception, and asked if this is the way Santa Fe and Canyon Road will operate, and is she is here to ask how the process works. She reiterated that she is neutral because she is very pro business and very pro Santa Fe.

Vice-Chair Winston said this wasn't an instance of building first and then getting permission second. She understands the current status of the café has been approved and they are now seeking a permit to add a new use.

Tamara Baer, Current Planning Division, said, "There is some confusion on that point. The City issued a Certificate of Occupancy for this business, I'm not sure it was at this location... I'm sorry, rather a business license. A business license was issued and it was made clear to the Applicant at that time that

the use was to be an accessory, or as Dan said, an ancillary use to the primary use of the premises. And the City didn't entirely understand at the time that the Certificate of Occupancy was issued that this was a separate stand-alone business, even though it was issued in a different name. So when all of that was brought to our attention, that was when we asked the owners of the business to come forward and follow the correct procedures if they wanted to have a stand alone business, which is permitted only as a special use, and that's what we're doing now.

John Pen LaFarge, 647 Old Santa Fe Trail [previously sworn], said he is here as a Board member of the Historic Neighborhood Association, and its Immediate Past President. He said a lot of fondness has been expressed for the business and the Linders which he thinks is lovely. He agrees, because he has been in the café, and it is charming. However, he thinks all of this irrelevant. He said he isn't here to speak against the proposal, so much as he is asking this Board to consider a few objective ideas, commenting the objective criteria, rather than the foregoing "love fest," should guide the Board's decision. He said 30 years ago, when this property first became commercial from residential, the neighborhood expressed concern there wouldn't be any parking provided. He said at that time, there was a hearing to consider whether to allow any parking to be provided by the people who worked or owned property in this particular area. He said the problem has been exactly as they predicted, and there's not enough parking on Canyon Road, commenting that Canyon Road is ridiculously crowded, and the cars flow onto the side streets and park where the residents would like to park. This is a problem which he feels will be exacerbated by this business, unless this Board sees to it that it does not exacerbate this problem, and that no other business exacerbates the parking problem. He said this is a big problem in Santa Fe as a whole, and on Canyon Road in particular.

Mr. LaFarge continued, saying another objective criteria the Board should consider is that this business should observe the City's Ordinances. He said when he first went by the café, and to this date, the business has posters, really large posters, hanging on its outside walls which is illegal. He said the Linders have been informed by the City that this is illegal. He said, "I gave them my warning that it was illegal. They're still up." He is told there is a problem with visible air conditioning on the top of the building. He said, "Whatever the objective criteria are that the ordinances enforce, the City really should enforce its ordinances. And you should help the City enforce its ordinances. There's no point to the City having ordinances, if the City ignores its ordinances. So, as part of the approval, if you give this approval, I think that you, in particular and the City in general, should see to it that this business, in particular, follows the ordinances, provides parking and makes itself into a good citizen. Tito, who was mentioned several times before, did have a store in this area. He did provide parking, and as far as I know, he observed all the Ordinances. Thank you."

Robert Nichols was sworn. Mr. Nichols said he has a gallery a block away from this proposed business or change. He said, on one hand, it will be wonderful to have a place to send people to go to rest rooms, because that is one of the things lacking on Canyon Road, but he's not sure this is their intention. He is, however, extremely concerned about the parking situation. He said, as Mr. LaFarge said, there are employees. He said employees can take the shuttle or get to the area in other ways. He said at an earlier meeting, we were told that they were expecting people to come to their restaurant as a destination, and he

doesn't believe people will go there on the shuttle from other parts of town. He said his biggest concern is parking, and he is concerned that people will be encouraged to drive there. He said he doesn't know whether this is a café with sweets and salads, or if it is to be turned into a place where burgers and tacos are going to be sold. He said he would like this Board to consider these things.

The public testimony portion of the public hearing was closed

The Board commented and asked questions as follows:

- Commissioner Montoya asked Mr. Esquibel to reiterate how the Code works in terms of his discussion in the Staff Report which talks about the parking requirement, which says that "the parking requirement is the same for existing as it is for the proposed use," and asked if the proposed use meets the parking requirement.

Mr. Esquibel said, "In my analysis, we found that the uses that have been within that building have maintained their status quo with galleries. And since the City has been approving those uses over and over again, once the building took up most of that area on the property, the parking was accepted as such, being non-conforming. So, when the previous use ceased to exist and the restaurant now moves in with the same conditioned requirements for parking, there is no real intensification of that non-conformity, so it was allowed as such. Otherwise, we would have required additional parking."

- Commissioner Ladd said she understands there are 4 businesses on this property, 3 of which are owned by the same family, the fourth business is not. She asked if we know that business owner's perspective on this proposed use.

Mr. Esquibel said he is unsure of the relationship between all of the owners within the building, and this is a definite question to ask the Linders, since they own the property, and it would be with them that they would hold that lease.

- Commissioner Brack asked Mr. Horcasitas to comment in this regard.

Mr. Horcasitas said all of the businesses are now owned by the Linders. He said the Linders went into the property as a renter and a lessor, and since then, just recently, they "took ownership and bought the building from the previous owner, so all the businesses are owned by the Linders."

- Commissioner Brack said one of Mr. Esquibel's recommendations is that "the parking on the property shall be restricted to any business and shall be open to all patrons to any business on the property." He asked him to explain how this works.

Mr. Esquibel said, "When I conducted a site inspection, I found that they had a plaque at the back of that parking area that restricted it to two businesses. Being that that was the only parking available for the property, it was our evaluation that the parking should be open to whoever parks

there for any one of the businesses, and that was the point of that condition... and not be restricted to one or the other.”

Mr. Horcasitas said, “Up until recently, when you see the parking area on the east side of the building, there is a wall that faces the south. And along that wall, there was a plaque which said ‘Parking for Jacqueline’s and Jewel Mark.’ Okay, that plaque has been taken off and there will be a new plaque which will read ‘Parking for 233 Canyon Road,’ and that covers that.”

- Commissioner Hawkins said, in the packet the Board received, it states very definitely that the Linders own the businesses but not the property, and asked if this has changed.

Mr. Esquibel said, “We recently found that out a couple days ago. According to our research, it sold back in February.”

- Commissioner Ladd asked where the business owners and staff park currently.

Mr. Horcasitas briefly conferred with his client. Mr. Horcasitas said, “Most of the folks park at the Cathedral and take the shuttle, the free shuttle that we have that the City of Santa Fe has provided for all the community. There are 4 stops up and down Canyon Road. And, there is occasion to park on the street, but most of time it is to park at the Cathedral and then taking the shuttle.”

- Commissioner Werwath asked the Applicant how many employees we are talking about on any given work day for parking purposes for the proposed business.

After conferring with his client, Mr. Horcasitas said there could be about 8 people on site for all the businesses on any given day at any given moment.

- Commissioner Werwath asked how many employees are anticipated to be there for the Specific Use which is under consideration this evening.

After conferring with his client, Mr. Horcasitas said there would be one person at the café, noting this is what the staffing has been so far.

Rita Linder was sworn.

- Commissioner Ladd said Mr. Esquibel has a condition of approval that “All City permits and or licenses shall be obtained...” and asked if there is an issue with the large posters which are hanging on the wall, referred to by a member of the public.

Mr. Esquibel said, “My understanding is that David Rasch is currently working with them to get them permitted, and the City is also currently working with the Linders to permit the HVAC systems that were recently placed on the roof.”

- Commissioner Ladd asked Mr. Esquibel if this is encompassed in his recommendation for approval – that all of that be taken care of.

Mr. Esquibel said, "As well as other signs on the property, yes."

- Commissioner Hawkins asked, "Does this mean, what you've just said, that they already have all City permits and licenses that are needed to operate this business."

Mr. Esquibel said, "The only permit that I'm aware of, aside from the Jewel Mark and the other businesses, is the business license that was placed inside of the packet. We are currently working with them to get them permitted for the HVAC system they placed on the roof. They will have to go through the Historic Preservation for a review, just as they have here, in order to maintain what they have. And then there are some signs, I was advised by David Rasch.... I think David Rasch is here if you want to ask him questions on how they work with the Historic District, what they're doing there."

- Commissioner Hawkins asked, "But in terms of permits from the Board of Health, or anything having to do with the operation of a restaurant."

Mr. Esquibel said, "I'm not sure they have a full permit to operate a restaurant, since they haven't got approval. And from what I was told previously, when they originally came in, they didn't require something from the Environmental Department, since all of their food was pre-packaged and came from elsewhere."

David Rasch, Historic Division, Land Use Department, was sworn.

- Commissioner Ladd said, "I just wanted to confirm that if we're approving this use tonight, I guess it just got a little confusing for me, is the way it is usually ordered, that we would approve this Special Use Permit and then it would go to Historic to take care of the sign issues and the other appearance issues."

Mr. Rasch said, "Just as a brief statement. The Land Use Department, pending tonight's hearing, has put permits on hold, so they do have a signed permit pending your approval for the café. So there are some things on hold. We are working with the owners to make sure that all of the Historic Ordinance issues are maintained properly. So we are working currently to get things approved, but we wanted to make sure that the Special Use Permit was in place before any additional permits could be granted."

- Commissioner Ladd said, "Okay, so I just wanted to make sure that if we approve [this] tonight, suddenly there aren't a bunch of loose ends that get lost in the shuffle. We're... it's all tied together in the process."

Mr. Rasch said, "Yes, we're working actively with the owners and the representatives."

City of Santa Fe, New Mexico

memo

DATE: May 09, 2012 for the May 15, 2012 Board of Adjustment Meeting

TO: Board of Adjustment

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

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

233 CANYON ROAD SPECIAL USE PERMIT

Case #2012-32. 233 Canyon Road Special Use Permit. Horcasitas Land Use Consulting, agent for Rita and Michael Linder, requests Special Use Permit (SUP) approval to allow a Restaurant. The property is zoned RC8AC. (Dan Esquibel, Case Manager).

RECOMMENDATION

The Land Use Department recommends approval of the Special Use Permit subject to the following conditions:

1. Parking on the property shall not be restricted to any business and shall be open all patrons to any business on the property.
2. All city permits and or licenses shall be obtained prior to any construction or operation on the property.

I. SUMMARY and ANALYSIS

This application is for a Special Use Permit to allow a restaurant use at this location, which is zoned RC-8/AC (Residential Compound – 8 Dwelling Units per acre/Arts and Crafts Overlay).

Per 14-2.4 (C)(2) Powers and Duties of the Board of Adjustment (BOA), "The BOA has the review and decision-making responsibilities set forth in Table 14-2.1-1 to be carried out in accordance with the provisions of Chapter 14 and has the following additional responsibilities:

- (2) to hear and decide applications for special use permits as provided in Sections 14-3.6 and 14-6 (Permitted Uses and Use Regulations), unless jurisdiction for such special use permits is specifically reserved to another land use board;

Exhibit "1"

Overlay District, adding that such uses are “in addition to those permitted in the underlying district,” and adding that “No more than 3,000 square feet of gross floor area may be devoted to nonresidential uses.” The same Table of Permitted Uses footnotes that, “Amplified live entertainment or amplified music for dancing prohibited after 10 pm.”

Additionally, 14-5.4, Arts and Crafts District, describes the (A) Purpose and Intent of this Overlay district as follows: “ It is the intent of the arts and crafts (AC) district to allow arts and crafts and other related commercial uses in eligible underlying districts. Within this overlay district, residential and limited office and retail commercial uses are intermixed with small arts and crafts shops, studios and galleries where the goods traded are custom-produced in small quantities and are often one of a kind; where the arts or crafts are taught to small numbers of people; or where small numbers of persons are engaged in arts and crafts activities.”

The City of Santa Fe issued a Certificate of Occupancy (“C/O”) to Caffe Greco, located in Suite B, as an ancillary use to their gift shop, located in Suite A. The C/O allowed Caffe Greco limited sales of coffee and pre-packaged goods (coffee and pastries) to patrons of the gift shop. Caffe Greco is now seeking a Special Use Permit to operate as a full restaurant versus the ancillary use to the gift shop. The proposal is to permit a restaurant/coffee shop called Caffe Greco at 233 Canyon Road. The property has a total of four businesses at this location. Three of these are owned by the Linder family, who is the applicant for the Caffe Greco SUP. The Linders own the businesses not the property.

The property is located in the first block of Canyon Road, where Canyon Road begins at Paseo de Peralta. The property consists of one building, approximately 4,475 square feet, on a lot of approximately 0.19 acres. The building is divided into four suites which house the following businesses:

Business Name (Owner)	Suite	City Business License
Jewel Mark (Rita Linder)	A	2011-2012
Caffe Greco (Julia Linder)	B	2011-2012
Dancing Ladies de Santa Fe (Gerald Schuak)	C	2003-2012
Jacqueline’s Place (Michael Linder)	D	2011-2012

The lot and existing building on the property appear on the “Kings Map” (1912 & 1924). However, the “Kings Map” shows a smaller version of the structure. The current building footprint on the property appears on the City’s 1992 GIS aerial photo (Exhibit F). Verification of a building permit for the increased footprint from the “Kings Map” to present day size is unavailable as the City does not retain building permit records for more than ten years. The existing building footprint limits parking on the property to two parking spaces located at the rear portion of the property as accessed from Canyon Road. Business license information in City records can be traced back to 1988 (reference Exhibit D).

Parking requirements are based on the type of use, and are the same for restaurants as they are for galleries: one space per 200 square feet of net leaseable area. While an “Art Gallery” use is a permitted use by right within the “Arts and Crafts District overlay”, “Restaurant” uses require review and approval by the Board of Adjustment. Since non-residential use at this location can

be documented as far back as 1988, and lot coverage and parking as far back as 1992, the amount of parking is considered nonconforming.

Chapter 14 does not allow intensification of nonconformity. However; because the required parking for both Restaurant and Art Gallery uses are the same, parking non-conformity is not intensified by the change from retail to a restaurant or restaurant to retail. This would allow the proposed restaurant to occupy the space without increasing parking spaces on the property.

II. APPROVAL CRITERIA

14-3.6 (D) lists the following approval criteria and conditions for Special Use Permits:

(1) Necessary Findings

To grant a special use permit, a land use board shall make the following findings:

- (a) that the land use board has the authority under the section of Chapter 14 described in the application to grant a special use permit,
- (b) that granting the special use permit does not adversely affect the public interest, and
- (c) that the use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the premises under consideration.

(2) Conditions

The land use board may specify conditions of approval that are necessary to accomplish the proper development of the area and to implement the policies of the general plan, including:

- (a) special yards or open spaces;
- (b) fences, walls or landscape screening;
- (c) provision for and arrangement of parking and vehicular and pedestrian circulation;
- (d) on-site or off-site street, sidewalk or utility improvements and maintenance agreements;
- (e) noise generation or attenuation;
- (f) dedication of rights of way or easements or access rights;
- (g) arrangement of buildings and use areas on the site;
- (h) special hazard reduction measures, such as slope planting;
- (i) minimum site area;

- (j) other conditions necessary to address unusual site conditions;
- (k) limitations on the type, extent and intensity of uses and development allowed;
- (l) maximum numbers of employees or occupants permitted;
- (m) hours of operation;
- (n) establishment of an expiration date, after which the use must cease at that site;
- (o) establishment of a date for annual or other periodic review at a public hearing;
- (p) plans for sustainable use of energy and recycling and solid waste disposal;
- (q) any other appropriate conditions and safeguards, in conformity with Chapter 14 or provisions of other chapters of the Santa Fe City Code that regulate development and use of land; and
- (r) conditions may not be imposed that restrict the use to a specific person or group.

III. ENN

An Early Neighborhood Notification (ENN) meeting was conducted on February 15, 2012 at the main library on Washington Street. Several area residents were in attendance at the meeting. Concerns centered on off street parking, construction to the building, ADA compliance, and restaurant saturation in the area.

IV. CONCLUSION

The proposed request is consistent with previously approved and established uses for the property. No new construction is anticipated with this approval. The Land Use Department has reviewed the application and determined that it complies with the necessary findings to recommend approval. These include: 1) that the Board of Adjustment has the authority under Chapter 14 to grant a Special Use Permit; and 2) that granting the permit does not adversely affect the public interest; and 3) that the use and associated building are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity.

The Board of Adjustment may specify additional conditions of approval, including but not limited to those excerpted from 14-3.6 (D) above.

V. EXHIBITS

Exhibit A- Chapter 14-3.6 "Special Use Permit" Approval Criteria

Exhibit B - DRT comments

- 1. City Engineer for Land Use Department**
- 2. Wastewater Management Division**
- 3. Solid Waste Division**
- 4. Traffic Engineering Division**
- 5. Water Division Engineer**

Exhibit C- ENN and correspondence

Exhibit D- Business License Data and Building permit information

Exhibit E- Applicant's Data

Exhibit F- Aerial Photos and King's Map

Packet Attachment -Plans and Maps

14-3.6 SPECIAL USE PERMITS**(A) Purpose and Intent**

Special use *permits* are intended to allow flexibility in providing for, regulating or preventing specified uses within various districts as provided in Table 14-6.1-1 so they are compatible with existing or desired land use patterns. Special use *permit* approval is required for certain uses so that potential detrimental effects may be reduced or avoided and conflicts in land use may be prevented. Special use *permits* are necessary because of the wide variety of uses that are allowed within zone districts and because of the variety of existing sites and uses found in the community.

(B) Approval Authority

The planning commission and the board of adjustment have the authority to hear and decide *applications* for special use *permits* as authorized by Chapter 14; to decide questions that are involved in determining whether special use *permits* should be granted; and to grant special use *permits* with such conditions and safeguards as appropriate under Chapter 14 or to deny special use *permits* when not in harmony with the intent and purpose of Chapter 14.

(C) Procedures**(1) Site Plan Approval**

Special use *permits* shall include approval of a site plan and other site *development* drawings necessary to document that the type and extent of *development* proposed can be accomplished in conformance with applicable *development* standards.

(2) Application

The *application* shall indicate the section of Chapter 14 under which the special use *permit* is sought and state the grounds on which it is requested;

(3) Approval Limited

A special use *permit* is granted for a specific use and *intensity*. Any change of use or more intense use shall comply with Chapter 14 and, if appropriate, shall required a new or amended special use *permit*.

(D) Approval Criteria and Conditions**(1) Necessary Findings**

To grant a special use *permit*, a *land use board* shall make the following findings:

- (a) that the *land use board* has the authority under the section of Chapter 14 described in the *application* to grant a special use *permit*;
- (b) that granting the special use *permit* does not adversely affect the public interest, and
- (c) that the use and any associated *buildings* are compatible with and adaptable to *buildings, structures* and uses of the abutting *property* and other *properties* in the vicinity of the *premises* under consideration.

(2) Conditions

The *land use board* may specify conditions of approval that are necessary to accomplish the proper *development* of the area and to implement the policies of the *general plan*, including:

- (a) special *yards* or *open spaces*;
- (b) fences, *walls* or *landscape screening*;
- (c) provision for and arrangement of parking and vehicular and pedestrian circulation;
- (d) on-site or off-site *street*, sidewalk or utility improvements and maintenance agreements;
- (e) noise generation or attenuation;
- (f) dedication of *rights of way* or easements or access rights;
- (g) arrangement of *buildings* and use areas on the site;
- (h) special hazard reduction measures, such as *slope* planting;
- (i) minimum site area;
- (j) other conditions necessary to address unusual site conditions;
- (k) limitations on the type, extent and *intensity* of uses and *development* allowed;
- (l) maximum numbers of *employees* or occupants permitted;
- (m) hours of operation;
- (n) establishment of an expiration date, after which the use must cease at that site;
- (o) establishment of a date for annual or other periodic review at a public hearing;
- (p) plans for sustainable use of energy and recycling and solid waste disposal;
- (q) any other appropriate conditions and safeguards, in conformity with Chapter 14 or provisions of other chapters of the Santa Fe City Code that regulate *development* and use of land; and
- (r) conditions may not be imposed that restrict the use to a specific *person* or group.

(E) Expiration of Special Use Permits

- (1) If the special exception use has not been exercised within three years from the date of the approval of the special exception, the approval shall expire and any subsequent use of the land shall conform to the provisions specified in Chapter 14. Approval of the special use *permit* may be extended as provided in Section 14-3.19.
- (2) If the use approved by the special use *permit* ceases for any reason for a period of more than one hundred eighty days, the special use *permit* shall expire.

DATE: April 9, 2012
TO: Dan Esquibel, Case Manager
FROM: Risana "RB" Zaxus, PE
City Engineer for Land Use Department
RE: Case # 2012-32
233 Canyon Road Special Use Permit

I have no review comments on this Special Use Permit.

- Commissioner Hawkins asked, "If this Board grants a Special Use Permit, is there any risk that the other permits would not be granted, or that they would be automatically granted because of the Special Use Permit. In other words, is this Board going to supercede other boards that may have questions about this proposal."

Ms. Baer said, "The answer to that is no. You're granting a Special Use Permit. You're considering a Special Use Permit for the use, period. The other permits will be considered and will stand on their own. They cannot, at least one of them, cannot be granted, and that would be the sign permit for the restaurant use, without having this Special Use approved first. But each of them would be considered on its own merits."

MOTION: Commissioner Monica Montoya moved, seconded by Commissioner David Brack, to approve the request for a Special Use Permit in Case #2012-32, with all conditions of approval as recommended by staff, finding that the Special Use Permit does not adversely affect the public interest and that the use and any associated buildings are compatible with, and adaptable to, building structures and uses of abutting property and other properties in the vicinity of the premises under consideration.

EXPLANATION OF HER REASONS FOR MAKING THE PREVIOUS MOTION: Commissioner Montoya said, "I feel comfortable in making this decision because, based on the fact that the property does comply with the parking ordinances, as we've been told by staff. Second that we have been told by the Traffic Engineer, one of the documents in our packet, that there are no issues with the traffic, and so I feel they have complied with City Ordinances."

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Winston, Brack, Ladd, Hawkins, Montoya and Werwath voting in favor of the motion, no one voting against and Chair Friedman recused.

H. BUSINESS FROM THE FLOOR

There was no business from the floor.

I. STAFF COMMUNICATIONS

There were no staff communications.

Chair Friedman returned to the meeting

J. MATTERS FROM THE COMMISSION

There were no matters from the Commission.

December 17, 2015
Board Of Adjustment
Case # 2015-114
**233 Canyon Road Special Use
Restaurant Use
SPECIAL USE PERMIT**

EXHIBIT B

DRT comments

ESQUIBEL, DANIEL A.

From: KASSENS, SANDRA M.
Sent: Friday, December 04, 2015 9:28 AM
To: ESQUIBEL, DANIEL A.
Cc: ROMERO, JOHN J
Subject: 233 Canyon Road Special Use Permit

Dan,
The Traffic Engineering Section has no comments on the Special Use Permit application for Caffe Greco at 233 Canyon Road, case #2015-114.

FYI: The change in use of 1168 s.f. from retail to restaurant generates a net increase of 5 vehicles per hour during the PM peak hour. This increase does not represent a significant impact on the roadway system.

Sandra Kassens

Engineer Assistant
Traffic Engineering Division
Public Works Department
City of Santa Fe
505-955-6697

ESQUIBEL, DANIEL A.

From: AHMED, SOAMIYA A.
Sent: Friday, December 04, 2015 2:50 PM
To: ESQUIBEL, DANIEL A.
Subject: Case # 2015-114

Case: 2015-114
233 Canyon Road Special Use Permit
If construction valuation does not exceed \$100,000, no landscaping is required.

Best,

Somie A. Ahmed
Planner Technician Sr.
Technical Review Division
City of Santa Fe
505.955.6947
saahmed@santafenm.gov

City of Santa Fe, New Mexico

memo

DATE: December 4, 2015

TO: Dan Esquibel, Case Manager

FROM: Reynaldo Gonzales, Fire Marshal 

SUBJECT: Case #2015-114 233 Canyon Road Special Use Permit

I have conducted a review of the above mentioned case for compliance with the International Fire Code (IFC) Edition. If you have questions or concerns, or need further clarification please call me at 505-955-3316.

Prior to any new construction, remodel, or change of use shall comply with the current code adopted by the governing body.

1. Shall meet IFC 2009 Edition requirements.
2. May be required to provide an automatic sprinkler system if occupant load exceeds 99.
3. Shall meet the requirements of IFC 2009 chapter 10 Means of Egress.
4. Fire Department shall have 150 feet distance to any portion of the building on any new construction.
5. Shall have water supply that meets fire flow requirements as per IFC

December 17, 2015
Board Of Adjustment
Case # 2015-114
**233 Canyon Road Special Use
Restaurant Use
SPECIAL USE PERMIT**

EXHIBIT C

ENN



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

<i>Project Name</i>	Caffe Greco
<i>Project Location</i>	233 Canyon Road
<i>Project Description</i>	Special Use Permit to expand a restaurant use in an Arts and Craft Overlay District.
<i>Applicant / Owner</i>	Rita Linder
<i>Agent</i>	N/A
<i>Pre-App Meeting Date</i>	N/A
<i>ENN Meeting Date</i>	Thursday, November 19, 2015
<i>ENN Meeting Location</i>	Main Library, 145 Washington Avenue
<i>Application Type</i>	Special Use Permit
<i>Land Use Staff</i>	Dan Esquibel
<i>Other Staff</i>	None
<i>Attendance</i>	14 participants

Notes/Comments:

The meeting opened with the introduction of City Staff, followed by an explanation of the Early Neighborhood Notification (ENN) meeting process, review process for a Special Use application to the City, applicant's presentation and ended with questions and answers from the attendees.

The concerns brought up by the attendees:

Concern 1: The property contained only 2 parking parking spaces. Where are patrons going to park.

Staff Response: Parking for the property is legal nonconforming. There was no change in nonconformity with the replacement of the retail use to the restaurant use. The parking standards for both uses are 1 parking space for every 200 square feet.

Applicant's Response: Many patrons walk to the restaurant.

Concern 2: If there was gong to be alcohol?

ApplicantsResponse : The Cafe Greco already serve alcohol.



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

Project Name: CAFFE GRÉCO Meeting Date: 11-19-15

Meeting Place: Meeting Time:

Applicant or Representative Check Box below

	Name	Address	Email
<input type="checkbox"/>	SHARDE CAMERON - NOZ	3272 CASA RINCONADA	SHARDECAM@COMCAST.NET
<input type="checkbox"/>	Alex Cordova	813 dunlap st. unit B	alexcordova09@gmail.com
<input type="checkbox"/>	Jennifer Brennan French	355 Gracia Street	
<input type="checkbox"/>	Derek Anderson	93 Old Galisteo	Andersonderek50@yahoo.com
<input type="checkbox"/>	John Pen La Farge	647 Old STE Trl.	Peppam@earthlink.net
<input type="checkbox"/>	Emby Barreiros	93 Old Galisteo	redorgreenchile8@gmail.com
<input type="checkbox"/>	Richard Alden	137 Eberstadt	
<input type="checkbox"/>	Ribbon Chard	136 Cedar St SF	libbichard@aol.com
<input type="checkbox"/>	Michael Jander	4 Tara Prop. SF. 87508	RUNAWAY RITA @ GMAIL.COM
<input type="checkbox"/>	Rita Jander	" "	
<input type="checkbox"/>	Julie Bell	5 " Laguna Land	julialindebell@gmail.com
<input type="checkbox"/>	Acqueline Bell	" "	

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

Dawn A. Eggen [Signature] Date 11-19-15
 Printed Name of City Staff in Attendance Signature of City Staff in Attendance Date

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



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

Project Name: CAFFE GRECO **Meeting Date:** 11-19-15
Meeting Place: _____ **Meeting Time:** _____

Applicant or Representative Check Box below

↓	Name	Address	Email
<input type="checkbox"/>	Charles P. Kanten	137 ELENA ST SF 87501	kantens@outlook.com
<input type="checkbox"/>	SANFORD KANTEN		
<input type="checkbox"/>			

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

Daniel A. Espinoza [Signature] _____
 Printed Name of City Staff in Attendance Signature of City Staff in Attendance Date

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

December 17, 2015
Board Of Adjustment
Case # 2015-114
**233 Canyon Road Special Use
Restaurant Use
SPECIAL USE PERMIT**

EXHIBIT D

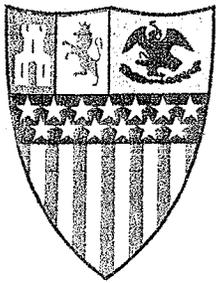
Applicant Data

Caffe Greco
233 canyon Rd
Santa Fe, NM 87501
(505)820-7996

Dear Board of Adjustments

We are requesting permission to expand our caffe. We know that granting a special use permit would not adversely affect the public interest and that the use and any associated are compatible with and adaptable to buildings, structures, and uses of the abutting property and other properties in the vicinity of the premises under consideration.

Sincerely, 
Rita Linder



City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909

www.santafenm.gov

David Coss, *Mayor*

Councilors:

Rebecca Wurzburger, Mayor Pro Tem, Dist. 2

Patti J. Bushee, Dist. 1

Chris Calvert, Dist. 1

Peter N. Ives, Dist. 2

Carmichael A. Dominguez, Dist. 3

Christopher M. Rivera, Dist. 3

Bill Dimas, Dist. 4

Ronald S. Trujillo, Dist. 4

Alcohol Beverage & Gaming Division
Regulations & Licensing Department
725 St. Michael's Drive
Santa Fe, NM 87504

November 9, 2012

RE: Zoning Verification for 233 Canyon Road (Café Greco)

Dear To whom it may concern,

This is in response to a request for zoning verification on the above referenced property. According to the Official Zoning Map, Page H-18 updated May 2001, this property is zoned RC8AC (Residential Arts & Crafts), the restaurant type use has been allowed in a RAC District per special use permit.

14-4.2(F) RAC Residential Arts and Crafts District

(1) Purpose and Intent

This district is intended to serve and preserve the prevalent characteristics of some limited areas of the City. Within these general areas residential uses are intermixed with small arts and crafts shops and studios where the goods traded are custom-produced in small quantities, often one of a kind; where the arts or crafts are taught to small numbers of people; or where the persons engaged in arts and crafts activities are not numerous. It is not intended that this district be applied to new areas not having these characteristics.

14-5.4 ARTS AND CRAFTS DISTRICT

(A) Purpose and Intent

It is the intent of an AC district to overlay portions of residential districts with a district that permits arts and crafts shops. Within this district residential uses are intermixed with small arts and crafts shops and studios where the goods traded are custom-produced in small quantities, often one of a kind; where the arts or crafts are taught to small numbers of people; or where small number of persons are engaged in arts and crafts activities.

The existing use on the property is an eating and drinking establishment which is allowed within an Arts and Crafts district as a Special Exception:

(2) "Eating and drinking establishments, excluding nightclubs and provided that no food or drinks are sold for consumption in automobiles on the premises. (Ord. No. 2002-37 § 32)"

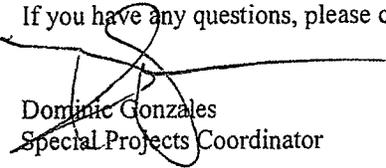
A handwritten signature in black ink, appearing to be 'D' or 'R' with a flourish.

The sale of alcohol is allowed provided it is a subordinate component to the eating and drinking use.

For additional information, reference City of Santa Fe Chapter 14 SFCC regarding these districts (Chapter 14-4 – Zoning Districts/14-6 Permitted Uses).

Note: The information provided in this letter is solely derived from the Official Zoning Map and the minimum requirements set forth in Chapter 14, SFCC 1987. It is the intent of this letter to advise of the ordinances pertaining to the zone districts. It is not the intent to state that the subject property complies with zoning requirements. Occupancy is determined based on zoning compliance at the time of building permit or certificate of occupancy, whichever applies. Additionally, it is not the intent to interfere with or to abrogate or annul any official document including conditions or safeguards made a part of the subject property at the time of any public hearings. Applicants are advised to pursue an independent search of official documents.

If you have any questions, please call me at 505-955-6679.



Dominic Gonzales
Special Projects Coordinator



City of Santa Fe, New Mexico

BUSINESS LICENSE

THIS BUSINESS IS IN COMPLIANCE WITH THE CITY OF SANTA FE LIVING WAGE ORDINANCE, §28-1 S.F.C.C. 1987

City Of Santa Fe
PO BOX 909
Santa Fe NM, 87504

Official Document
Please Post

Business Name: **CAFE GRECO LLC**

Location: **233 CANYON RD B**

Class: **BUSINESS REGISTRATION - STANDARD**

Comment:

Control Number: 0026300

License Number: 15-00029547

Issue Date January 21, 2015

Expiration Date December 31, 2015

CAFE GRECO LLC
233 CANYON RD B

SANTA FE NM 87501

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERABLE TO OTHER BUSINESSES OR PREMISES.



City of Santa Fe, New Mexico

BUSINESS LICENSE

THIS BUSINESS IS IN COMPLIANCE WITH THE CITY OF SANTA FE LIVING WAGE ORDINANCE, §22-1 SFCC, 1987

City Of Santa Fe
PO BOX 909
Santa Fe NM, 87504

Official Document
Please Post

Business Name: **JEWEL MARK**

Location: **233 CANYON RD A**

Class: **BUSINESS REGISTRATION - STANDARD**

Comment:

Control Number: 0026501

License Number: 15-00031545

Issue Date January 21, 2015

Expiration Date December 31, 2015

JEWEL MARK
233 CANYON RD A

SANTA FE NM 87501

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERABLE TO OTHER BUSINESSES OR PREMISES.



City of Santa Fe, New Mexico

BUSINESS LICENSE

THIS BUSINESS IS IN COMPLIANCE WITH THE CITY OF SANTA FE LIVING WAGE ORDINANCE, §28-1 SFCC, 1987

City Of Santa Fe
PO BOX 909
Santa Fe NM, 87504

Official Document
Please Post

Business Name: JACQUELINES PLACE

Location: 233 CANYON RD

Class: BUSINESS REGISTRATION - STANDARD

Comment: JEWELRY CLOTHING

Control Number: 0059321

License Number: 15-00105276

Issue Date January 21, 2015

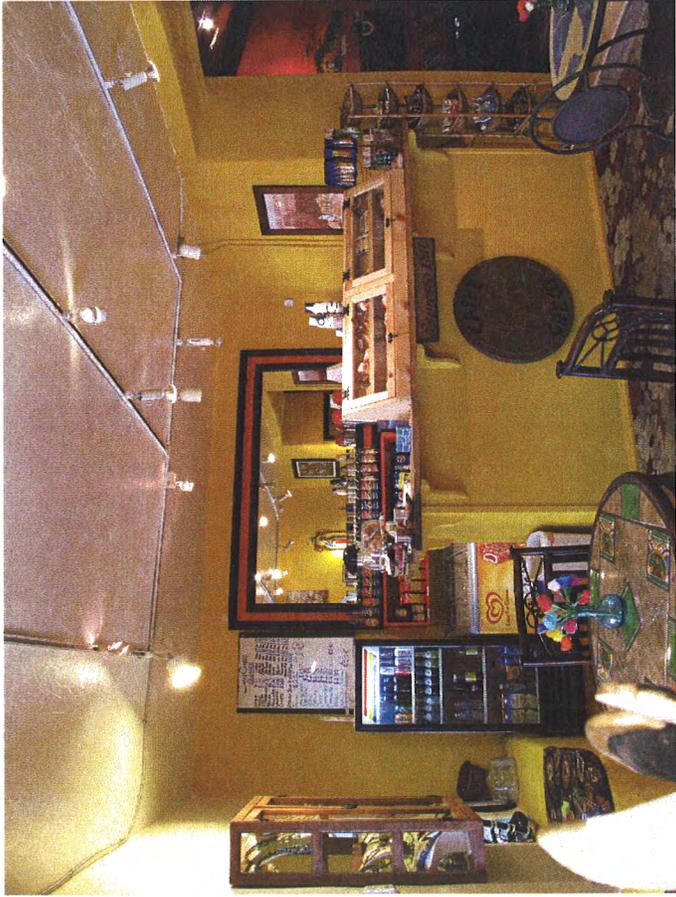
Expiration Date December 31, 2015

JACQUELINES PLACE
233 CANYON RD

SANTA FE NM 87501

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

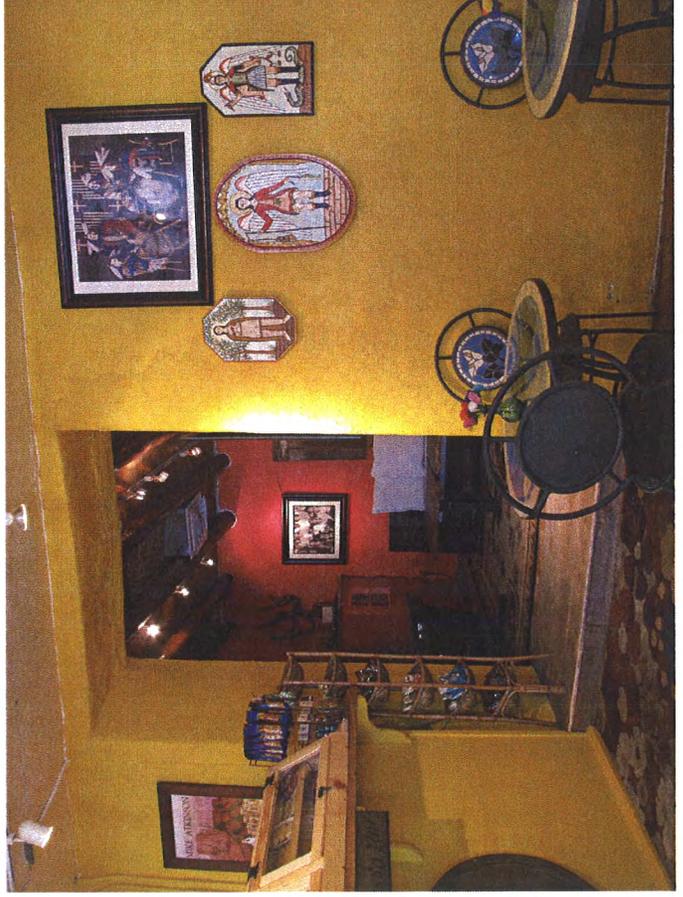
THIS REGISTRATION/LICENSE IS NOT TRANSFERABLE TO OTHER BUSINESSES OR PREMISES.



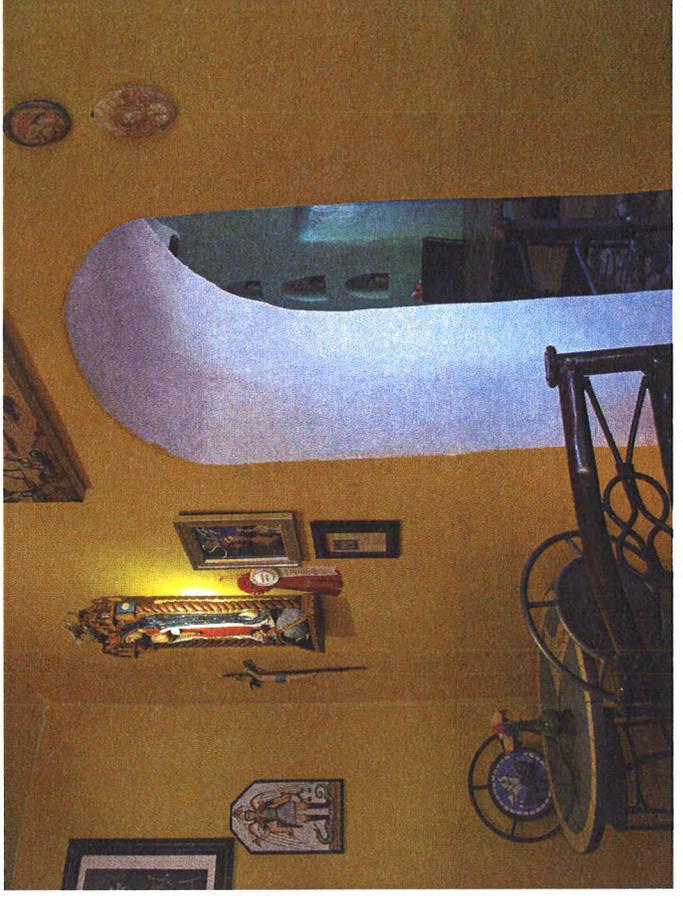
2150_cafe_lookingfat_south_wall_13ft9in.JPG



2152_cafe_rm_looking_west_into_gallery.JPG



2155_looking_west_into_gallery.JPG



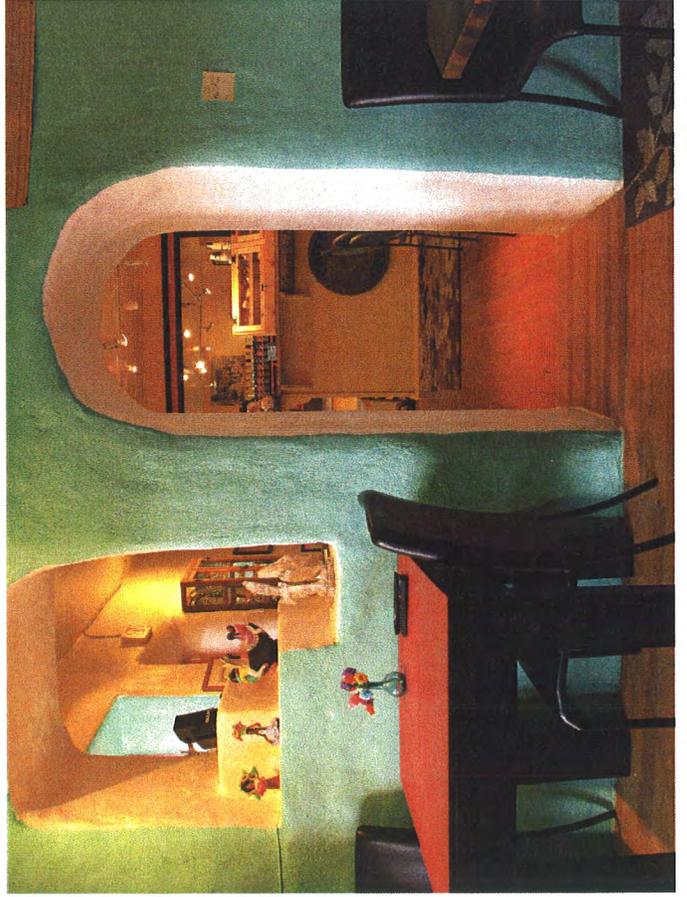
2157_cafe_room_looking_north_into_FP_room.JPG



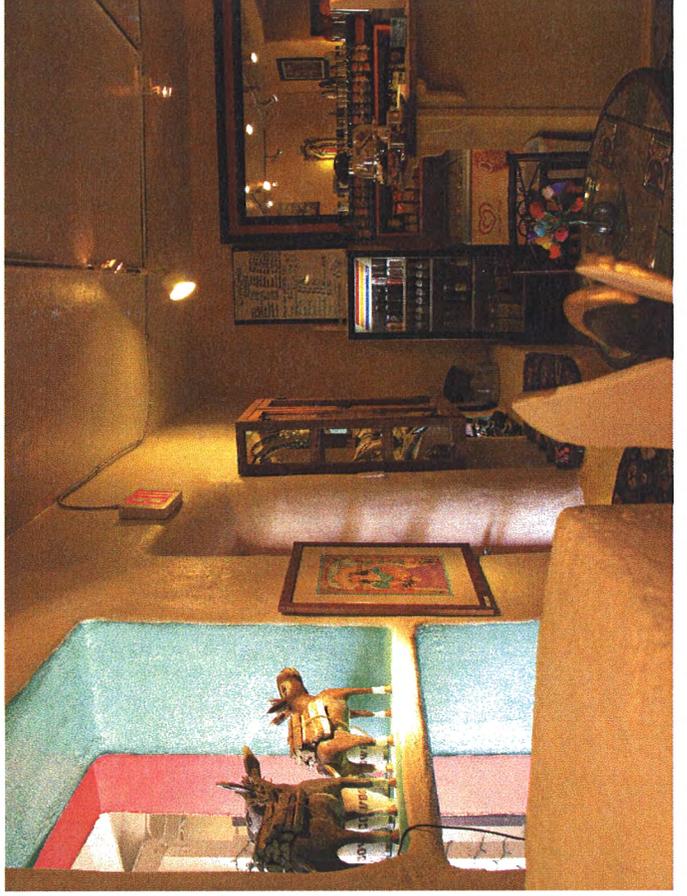
2135_FP room looking east.JPG



2139_FP_room_looking_west_into_room.JPG



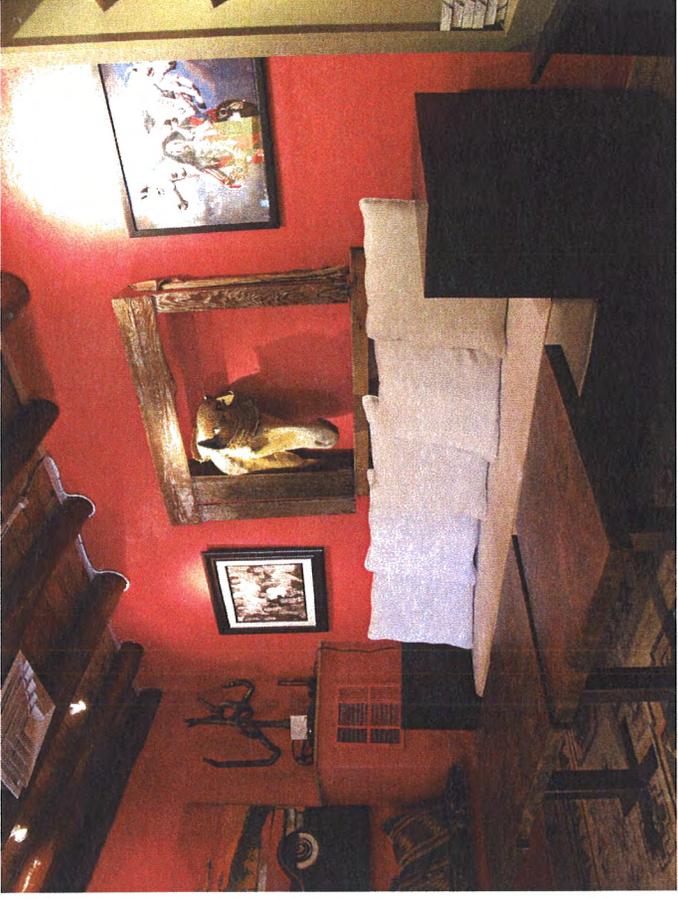
2143_at_FP_looking_north_into_cafe.JPG



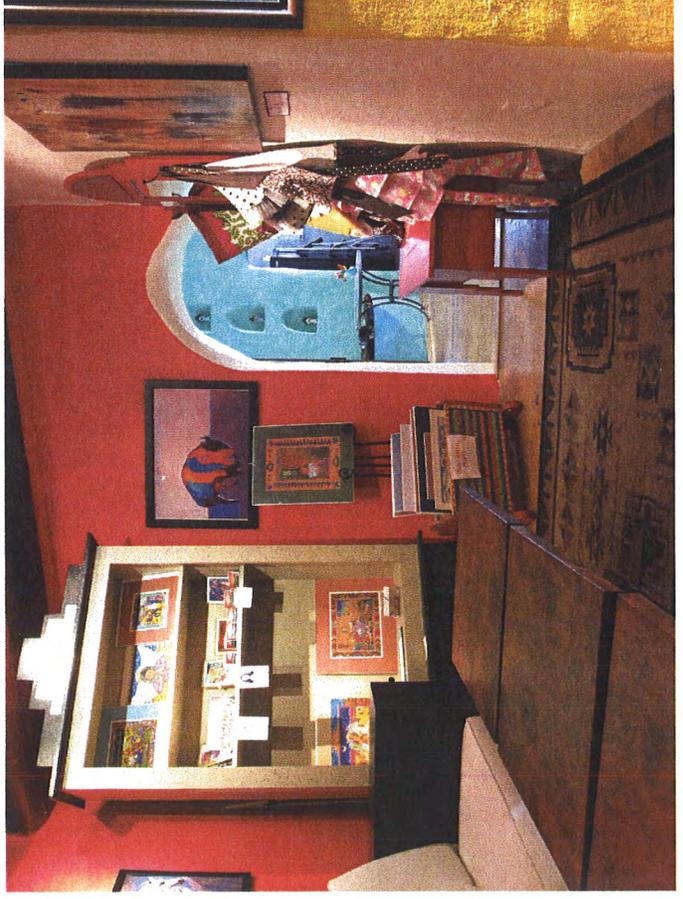
2149_cafe_east_elev_split_wnd_door_split_wnd.JPG



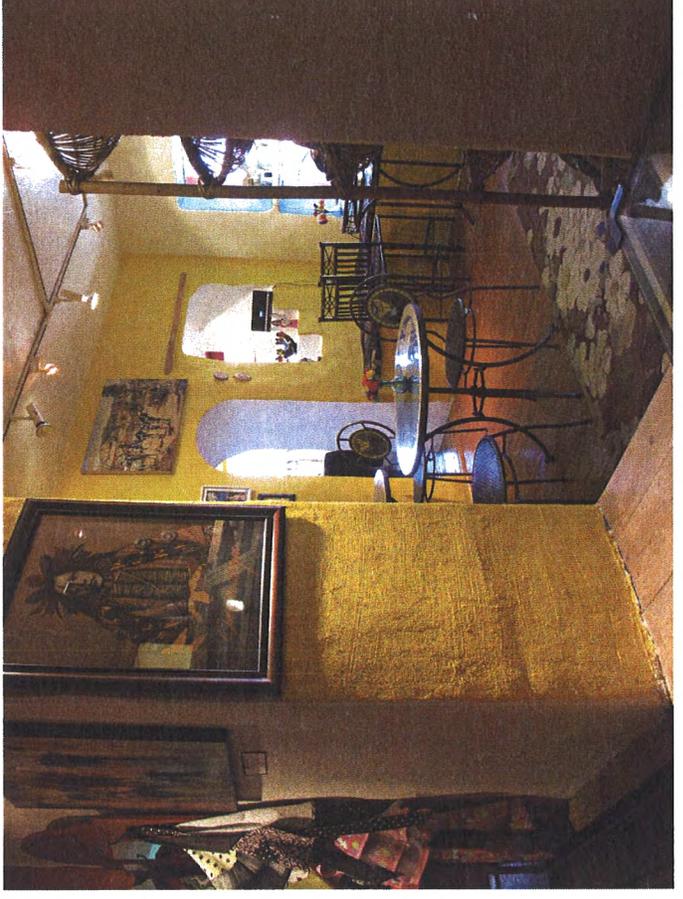
2170_in_the_gallery_looking_-.JPG



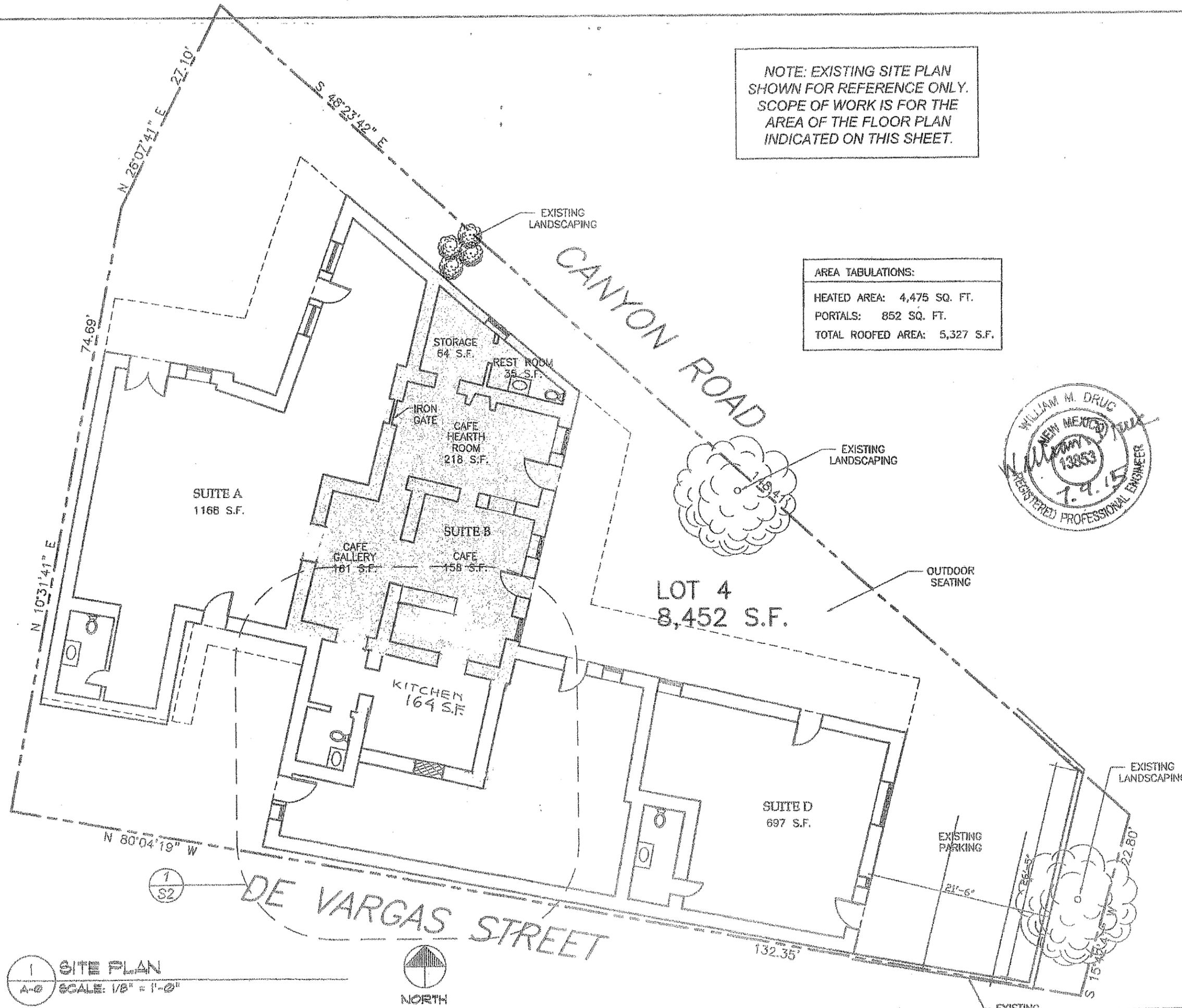
2171_in_gallery_looking_west_lower_ceiling.JPG



2172_in_gallery_looking_north_into_FP_room.JPG



2173_galleri_looking_east_into_cafe.JPG



NOTE: EXISTING SITE PLAN SHOWN FOR REFERENCE ONLY. SCOPE OF WORK IS FOR THE AREA OF THE FLOOR PLAN INDICATED ON THIS SHEET.

AREA TABULATIONS:

HEATED AREA:	4,475 SQ. FT.
PORTALS:	852 SQ. FT.
TOTAL ROOFED AREA:	5,327 S.F.



1 SITE PLAN
A-O SCALE: 1/8" = 1'-0"



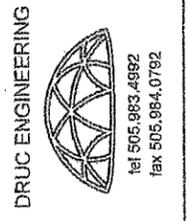
RICHARD HORGASITAS
228 SOUTH GAIT FRANCIS
BUILDING A
SANTA FE, NEW MEXICO, 87501
505-920-3041

233 CANYON ROAD
SANTA FE, NEW MEXICO

DATE: 27 APRIL 201

A-O

Structural Engineers
430 Apodaca Hill
Santa Fe,
New Mexico 87501
bill@druceng.com



DRUC ENGINEERING
tel 505.983.4992
fax 505.984.0792

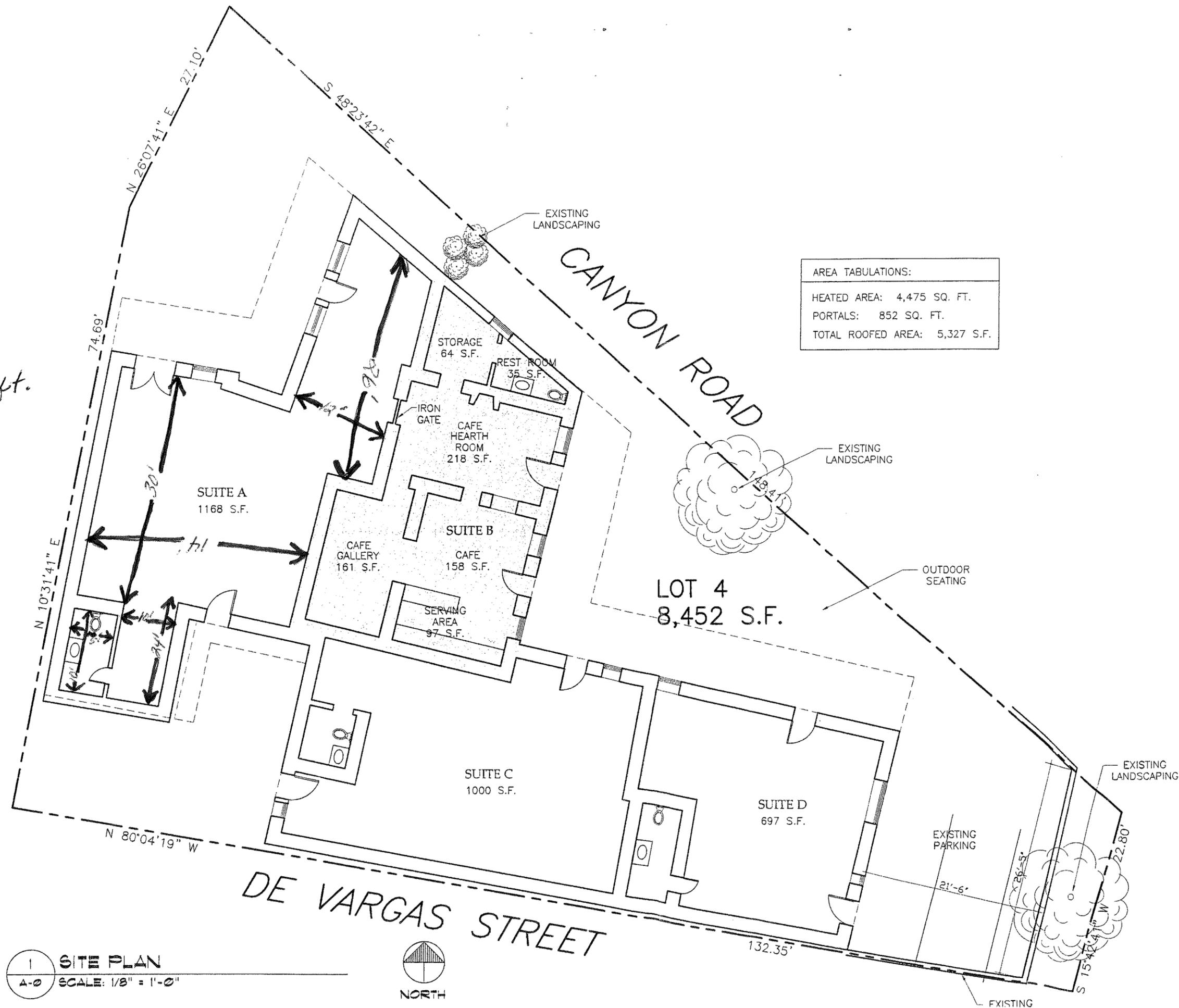
CAFFE GRECO
233 CANYON ROAD
SANTA FE, NM

DATE: 07.09.15
DRAWN BY: JLLCC
CHECK BY: WMD
JOB #: 15080

EXISTING SITE PLAN

SHEET
S1
SHEET 1 OF 2

TOTAL SQ. FT.
1,030



RICHARD HORCABITAS
228 SOUTH SAINT FRANCIS
BUILDING A
SANTA FE, NEW MEXICO, 87501
505-920-3841

233 CANYON ROAD
SANTA FE, NEW MEXICO

DATE: 27 APRIL 201

A-O

1 SITE PLAN
A-O SCALE: 1/8" = 1'-0"

