City of Santa Fe, New Mexico

memo

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

TO: Planning Commission

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

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

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

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

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

I. RECOMMENDATION

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

- Contribution to a coordinated, adjusted and harmonious development of Santa Fe that is in accordance with existing and future needs best promotes health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development. (General Plan criterion 14-3.2(E)(1)(d))
- Allowing a range of potential future uses that could be significantly different from or inconsistent with the prevailing uses in the area. (General Plan criterion 14-3.2(E)(1)(c))

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

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

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

II. EXECUTIVE SUMMARY

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

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

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

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

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

III. APPLICATION SUMMARY

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

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

IV. DISCUSSION AND ANALYSIS

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

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

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

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

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

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

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

V. GENERAL PLAN AMENDMENT

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

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

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

(E) General Plan Approval Criteria

(1) Criteria for all Amendments to the General Plan

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

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

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

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

Targeted sectors are identified as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Applicant response: No response provided.

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

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

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

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

Applicant Response: No response provided.

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

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

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

Staff Response: Not applicable.

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

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

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

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

Applicant Response: No response provided.

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

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

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

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

Applicant Response: When the existing General Plan was adopted in 1999 it seems that the General Plan failed to recognize the land use complexity of this part of the urban area. It is not a matter of the growth and economic projections being in error as it is the failure to observe the variety of existing land uses and assign a zoning district that best fit those land uses. The current R-1, Single Family Residential zoning allowing for one dwelling per acre is unrealistic for either this property or other properties in area south of Agua Fria. The R-1 district is often applied as a holding zone until an application is submitted for a use more suitable for the area.

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

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

Applicant Response: There are few locations this close to the center of the City where such a variety of land uses can take place. The Planning Commission has already recognized diversity of land uses that exists north of Agua Fria by recommending approval of Boylan property zoning from R-1 to C-2. There are other locations for C-2 land in Santa Fe but the majority of developable C-2 land is located at the southern end of the urban area in the vicinity of Cerrillos Road.

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

(c) conditions affecting the location or land area requirements of the proposed land use have changed, for example the cost of land space requirements, consumer acceptance, market or building technology.

Applicant Response: The conditions affecting the subject land are more jurisdictional than a result of market conditions. Historically this area has been under either County or extraterritorial jurisdiction where diverse mixes of land uses were recognized as the historical land use pattern for the area. Santa Fe County permitted business licenses for changes to uses within buildings as legal, non-conforming uses. When the City assumed regulatory control over this area, the assignment of R-1 rezoning made all of the structures, with the exception of the single family residence, non-conforming structures. The application of the C-2 zoning will bring the mix of residential and commercial uses into conformity with City zoning.

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

VI. REZONING

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

(C) Approval Criteria

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

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

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

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

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

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

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

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

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

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

The land owners are now limited in the expansion of the existing structures on the property and the issuance of business licenses other than home occupation licenses. As non-conforming businesses if the business ceases to exist for one year or more the property must revert back to a low density single family use which is not consistent with the existing land use pattern for most of the properties in close proximity to this application.

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

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

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

Applicant Response: Currently the existing zoning is R-1, Single Family Residential, one dwelling per acre, which creates a non-conforming status for this property. Rezoning of the property to C-2 uses would bring this property into conformance with the historic uses that have taken place on this property.

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

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

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

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

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

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

Applicant Response: Although there is a limited amount of vacant or developed C-2 land in this area of the City, the land area associated with this request should not be considered an addition to the City's supply of C-2 land, since it has been used for that purpose for over 50 years. The rezoning request for the subject property should be considered an infill development rather than a property that is located in the path of the future growth of the community. Undeveloped C-2 land is largely available in the southern region of the urban area, generally along Cerrillos Road and to a large extent in the Las Soleras and Entrada Contenta developments.

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

(e) the existing and proposed infrastructure, such as the streets system, sewer and water lines, and public facilities, such as fire stations and parks, will be able to accommodate the impacts of the proposed development.

Applicant Response: Public utilities are available on Agua Fria, including water, gas and electric lines, cable and telephone lines. The City has completed street improvements and widening of Agua Fria adjacent to the subject property including upgrades to the Agua Fria and Siler Road intersection. Siler Road has been completed from Agua Fria to West Alameda providing for alternative routes to Agua Fria. In fact the traffic volumes on Agua Fria have declined with the extension of Siler to West Alameda. There is currently no sewer available to these properties since the sewer line is located on the north side of the Santa Fe River. It is assumed that with the development of the Boylan tract that sewer will be extended along the south side of the Santa Fe River.

The closest Fire Station to this site is located on Cerrillos Road near Third Street within a five minute service radius to this property. The County is finalizing the design for a pedestrian and bicycle trail on the north side of the Santa Fe River. It is unknown what the time frame is for the construction of the trail north of the Santa Fe River.

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) Additional Applicant Requirements

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

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

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

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

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

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

VII. ATTACHMENTS:

EXHIBIT A: Conditions of Approval

EXHIBIT B: Development Review Team Memoranda

1. Traffic Engineering Division memorandum, Sandra Kassens

EXHIBIT C: Maps

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

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

EXHIBIT E: ENN Notes, April 15, 2015

EXHIBIT F: Applicant Packet

City of Santa Fe, New Mexico

Planning Commission

Exhibit A

Conditions of Approval

2749 and 2751 Agua Fria General Plan Amendment and Rezone–Conditions of Approval

Planning Commission

Case #2015-43 & 44 – 2749 and 2751 Agua Fria GPA & Rezone

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

City of Santa Fe, New Mexico

Planning Commission

Exhibit B

Development Review Team Memoranda

City of Santa Fe, New Mexico

memo

DATE: August 24, 2015

TO: Zach Thomas, Land Use Division

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

FROM: Sandra Kassens, Engineer Assistant SMK

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

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

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

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

1) **The applicant shall dedicate sufficient Right-of-Way (ROW) to the City of Santa Fe for a future auxiliary lane along the frontage of the properties on Agua Fria Street. The Dedication Plat shall be reviewed and approved by the Public Works Department prior to recordation.**

2) **The applicant shall grant access easements from lots 1 and 34 through Lot 22 via a shared access driveway to Agua Fria Street.**

3) **The applicant shall include the following notes on said plat:**

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

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

City of Santa Fe

memo

DATE: April 30, 2015

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

FROM: Dee Beingessner, Water Division Engineer

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

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

Fire protection requirements are addressed by the Fire Department.

City of Santa Fe
New Mexico

MEMO

Wastewater Management Division
DEVELOPMENT REVIEW COMMENTS

E-MAIL DELIVERY

Date: April 30, 2015

To: Zach Thomas, Case Manager

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

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

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

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

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

City of Santa Fe, New Mexico

Planning Commission

Exhibit C1

Future Land Use Map

2749 and 2751 Agua Fria Future Land Use Map

City of Santa Fe, New Mexico

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Exhibit C2

Zoning Map

2749 and 2751 Agua Fria Zoning Map

City of Santa Fe, New Mexico

Planning Commission

Exhibit C3

Recent Rezoning Map

Rezonings and Land Use Amendments along Agua Fria East of Siler Road

City of Santa Fe, New Mexico

Planning Commission

Exhibit D

R-1 and C-2 Use Lists

R-1, R-2, R-3, R-4, R-5 and R-6 Residential Districts

The purpose of the R-1, R-2, R-3, R-4, R-5 and R-6 *residential* districts is to be *residential* areas with low population *densities*.

Permitted Uses

1. Daycare; preschool; for infants & children (6 or fewer)
2. Dwelling, multiple-family
3. Dwelling, single-family
4. Electrical distribution facilities
5. Electrical substation
6. Electrical switching station
7. Electrical transmission lines
8. Foster homes licensed by the State
9. Group residential care facility (limited)
10. Manufactured homes
11. Police substations (6 of fewer staff)
12. Public parks, playgrounds & playfields

☼ Requires a **Special Use Permit** if located within 200 feet of residentially zoned property.

Special Use Permits

The following uses may be conditionally permitted in R-1, R-2, R-3, R-4, R-5 and R-6 districts subject to a Special Use Permit:

1. Adult day care
2. Boarding, dormitory, monastery
3. Cemeteries, mausoleums, columbaria
4. Clubs & lodges (private)
5. Colleges & universities (residential)
6. Continuing care community
7. Daycare; preschool; for infants & children (more than 6)
8. Fire stations
9. Grocery stores (neighborhood)
10. Group residential care facility
11. Laundromats (neighborhood)
12. Mobile home; permanent installation
13. Museums
14. Neighborhood & community centers (including youth & senior centers)
15. Nursing, extended care, convalescent, recovery care facilities
16. Police stations
17. Religious assembly (all)
18. Schools; elementary & secondary (public or private)
19. Sheltered care facilities
20. Utilities (all, including natural gas regulation station, telephone exchange, water or sewage pumping station, water storage facility)

Accessory Uses
The following accessory uses are permitted in R-1, R-2, R-3, R-4, R-5 and R-6 districts:

1. Accessory dwelling units
2. Accessory structures, permanent, temporary or portable, not constructed of solid building materials; covers; accessory structures exceeding 30 inches from the ground
3. Barbecue pits, swimming pools (private)
4. Children play areas & equipment
5. Daycare for infants & children (private)
6. Garages (private)
7. Greenhouses (non-commercial)
8. Home occupations
9. Incidental & subordinate uses & structures
10. Residential use ancillary to an approved use
11. Utility sheds, located within the rear yard only

Dimensional Standards

Max density	R-1=1; R-2 = 2; R-3 = 3; R-4 = 4; R-5 = 5; R-6 = 6 dwelling units per acre
Minimum lot:	Area: single family dwellings: minimum 4,000 SF or 2,000 SF if common open space provided; multi-family dwellings 4,000 SF per dwelling unit
Max height:	Residential structures 24 feet; non-residential structures 35; Within 10 feet of a property line, no point on a structure shall be higher than 14 feet above finished grade at the closest point on the perimeter of the structure. Within 15 feet of a side or rear property line, no point on a structure shall be higher than 24 feet above finished grade at the closest point of the perimeter.
Setbacks:	Street 7 (20 for garage or carport); side 5 or 10*; rear 15 or 20% of the average depth dimension of lot, whichever is less A garage or carport with a vehicle entrance facing the street must be set back 20 feet from the street property line (refer to illustration 14-7.1-3) (* Within 10 feet of a property line, no point on a structure shall be higher than 14 feet above finished grade at the closest point on the perimeter of the structure. Within 15 feet of a side or rear property line, no point on a structure shall be higher than 24 feet above finished grade at the closest point of the perimeter.)

Max lot cover: 40; 50 if private open space provided (14-7.5(C)(1)

Private Open Space
The intent of private open space is to ensure easily available access to the outdoors in medium- to high-density developments, and to provide for a sufficient sense of privacy.

Requirements are as follows:
The maximum lot coverage may be increased in accordance with Table 14-7.2-1 if qualifying private open space for each dwelling unit is provided as follows:

(1) for lots in R-1, R-2, R-3, R-4, R-5, R-6, districts, an amount not less than fifty percent of the total gross floor area of that dwelling unit; and
(2) balconies, roof decks or roofed areas such as porches or portals may be included as twenty-five percent of the required private open space;
(3) private open space does not include parking areas, driveways or related access for automobiles or storm-water ponding areas;
(4) the minimum dimension for required private open space shall not be less than 12 feet;
(5) finished grade for required private open space shall have a slope no greater than 1 vertical foot in 10 horizontal feet; and
(6) accessory dwelling units shall also be required to meet the private open space criteria in this Subsection 14-7.5(C); provided, however, that private open space for the accessory dwelling unit does not have to be physically separated from the private open space for the primary dwelling unit, and up to fifty percent of the private open space required for the accessory dwelling unit may be the same private open space provided for the primary dwelling unit; and
(7) there are no planting requirements for private open space.

Minimum Qualifying Open Space

Detached single family dwellings – 14-7.2(C) – None except as provided for lot size averaging. It is intended that the *common open space* required in single-*family* subdivisions where the *lot* size has been reduced from that of a conventional subdivision be a compensation to occupants for reduced *lot* size. It is further intended that *common open space* be usable and be provided for occupants outside of the *lot* but within the subdivision.

Where the *lot* size is between 2,000 and 4,000 square feet, *common open space* is required in an amount such that the sum of the square footage of the *lots* in the *development* plus the sum of the square footage for *common open space*, all divided by the number of single-*family lots*, equals no less than 4,000 square feet.

Multiple family dwellings: common open space = 50% total gross floor area of all buildings, plus private open space = 25% of gross floor area of each unit.

C-2 General Commercial District

The C-2 general commercial district includes areas along *streets* carrying large volumes of traffic where commercial uses are appropriate. Regulations are designed to guide future additions or changes so as to discourage extension of existing and formation of future strip *commercial development*, to preserve the carrying capacity of the *streets* and to provide for *off-street parking* and loading.

Permitted Uses

1. Adult day care
2. Antique stores
3. Art supply stores
4. Arts & crafts schools
5. Arts & crafts studios, galleries & shops; gift shops for the sale of arts & crafts
6. Assembly & manufacturing (light)
7. Automobile service & repair including filling & repair stations
8. Automobile tire recapping & retreading
9. Banks & credit unions with drive-through ☼
10. Banks & credit unions without drive through
11. Bar, cocktail lounge, nightclub with outdoor entertainment ☼
12. Bar, cocktail lounge, nightclub, no outdoor entertainment
13. Barber shops & beauty salons
14. Bed & breakfast and inns
15. Bookshops
16. Cabinet shops (custom)
17. Clubs & lodges (private) ☼
18. Colleges & universities (non-residential)
19. Commercial parking lots & garages
20. Commercial recreational uses & structures (theaters, bowling alleys, pool-rooms, driving ranges, etc)
21. Correctional group residential care facility ☼
22. Dance studios
23. Daycare; preschool; for infants & children (small – 6 or fewer)
24. Daycare; preschool; for infants & children (large – 6 or more)
25. Department & discount stores
26. Dwelling; multiple family (see section 14-6.2(A)(7) for additional regulations)
27. Dwelling; single family (see section 14-6.2(A)(7) for additional regulations)
28. Electrical distribution facilities
29. Electrical substation
30. Electrical switching station
31. Electrical transmission lines
32. Exercise, spas, gym facilities
33. Flea markets
34. Florist shops
35. Funeral homes or mortuaries
36. Furniture stores

37. Grocery stores (neighborhood)
38. Hotels, motels, residential suite hotels
39. Human service establishments ☼
40. Kennels ☼
41. Laboratories; research experimental & testing
42. Laundromats (neighborhood)
43. Lodging facilities; conference & extended stay
44. Manufactured homes (see section 14-6.2(A)(7) for additional regulations)
45. Medical & dental offices & clinics
46. Museums
47. Neighborhood & community centers (including youth & senior centers)
48. Non-profit theaters for production of live shows
49. Nursing; extended care convalescent, recovery care facilities
50. Office equipment sales & service; retail sales of office supplies
51. Office; business & professional (no medical, dental or financial services)
52. Personal care facilities for the elderly
53. Personal service establishments (including cleaning, laundry, appliance repair & similar services)
54. Pharmacies or apothecary shops
55. Photographers studios
56. Police stations
57. Police substations (6 or fewer staff)
58. Public parks, playgrounds, playfields
59. Religious assembly (all)
60. Religious, educational & charitable institutions (no school or assembly uses) ☼
61. Rental; short term
62. Restaurant with bar, cocktail lounge or nightclub comprising more than 25% of total serving area ☼
63. Restaurant with drive-trough, drive-up ☼
64. Restaurant; fast service, take out, no drive through or drive-up
65. Restaurant; full service, with or without incidental alcohol service
66. Retail establishments not listed elsewhere
67. Schools; Elementary & secondary (public & private) ☼
68. Sign shops
69. Tailoring & dressmaking shops
70. Time share vacation projects
71. Utilities (all, including natural gas regulation station, telephone exchange, water or sewage pumping station, water storage facility)
72. Veterinary establishments, pet grooming ☼
73. Vocational or trade schools (non-industrial)
74. Wholesale & distributing operations (under 3,000 square feet of storage)

☼ Requires a **Special Use Permit** if located within 200 feet of residentially zoned property.

Special Use Permit
The following uses may be conditionally permitted in C-2 districts pursuant to a Special Use Permit:

1. Boarding, dormitory, monastery
2. Cemeteries, mausoleums & columbaria
3. Colleges & universities (residential)
4. Continuing care community
5. Group residential care facility
6. Group residential care facility (limited)
7. Hospitals
8. Mini storage units
9. Sheltered care facilities
10. Storage; individual storage areas within a completely enclosed building
11. Transit transfer facilities

Accessory Uses
The following accessory uses are permitted in C-2 districts:

1. Accessory dwelling units
2. Accessory structures, permanent, temporary or portable, not constructed of solid building materials; covers; accessory structures exceeding 30 inches from the ground
3. Barbecue pits, swimming pools (private)
4. Children play areas & equipment
5. Daycare for infants & children (private)
6. Garages (private)
7. Greenhouses (non-commercial)
8. Home occupations
9. Incidental & subordinate uses & structures
10. Residential use ancillary to an approved use

Dimensional Standards

Minimum district size None.

14-7.5(D)(8)(c) C-2 District Qualifying *private open space* is required for each ground-floor *dwelling unit* at a minimum of twenty-five percent of the total *gross floor area* of that unit. *Dwelling units* located above commercial units are not required to provide *private open space*.

Maximum height: 45

Minimum setbacks:
Non-residential uses: Street 5; side 0, rear 10

Where rear yard abuts a residential neighborhood no less than 25 feet rear yard setback shall be provided or 20% of the depth of the lot, whichever is less. A 15 foot buffer is required for non-residential uses adjacent to residential uses.

Max lot cover: 60

Nonresidential and Mixed Use Open Space Standards

The minimum dimension for *nonresidential open space* shall be ten (10) feet and cover a minimum of three hundred (300) square feet, unless the area is a component of interior parking *landscape* and meets the requirements for *open space* credits for *water harvesting* described in this Subsection 14-7.5(D)(6).

The percentage of *required open space* shall be calculated on the basis of total *lot* area, and shall be no less than twenty-five percent unless the conditions described in Subsection 14-7.5(D)(6) are met; then the *required open space* may be reduced by a maximum of ten percent of the total *lot* size. More restrictive requirements for individual zoning districts shall apply.

Qualifying *private open space* is required for each ground-floor *dwelling unit* at a minimum of twenty-five percent of the total *gross floor area* of that unit. *Dwelling units* located above commercial units are not required to provide *private open space*.

Residential Open Space

C-2 District

Qualifying *private open space* is required for each ground-floor *dwelling unit* at a minimum of twenty-five percent of the total *gross floor area* of that unit. *Dwelling units* located above commercial units are not required to provide *private open space.*

City of Santa Fe, New Mexico

Planning Commission

Exhibit E

ENN Notes

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

Project Name	2749, 2751 Agua Fria Rezone
Project Location	2749, 2751 Agua Fria
Project Description	GP Amendment, Rezone R-1 to C-2 for 2.2 Acres located on the north side of Agua Fria
Applicant / Owner	Leroy Romero
Agent	Siebert and Associates
Pre-App Meeting Date	
ENN Meeting Date	April 15, 2015
ENN Meeting Location	Southside Public Library
Application Type	GP Future Land Use Map Amendment, Rezoning
Land Use Staff	Greg Smith
Other Staff	None
Attendance	Applicant representative and eight members of the public.

Notes/Comments:
Applicant's representative Victoria Dalton presented a brief summary of the proposed project and showed maps and aerial photos of the project site. Ms. Dalton indicated that there was no arroyo crossing the property, that two rental dwelling units are located on the property, and that there are currently no plans for further development of the property.

Ms. Dalton stated the purpose of the rezoning is to eliminate the nonconforming status of the current rental units and the well drilling/repair business on the property, and to provide future benefit for the heirs of the current owner. She noted other nonconforming businesses are nearby, and cited other Agua Fria rezoning cases as precedents.

Various members of the public noted concerns with traffic volume and congestion on Agua Fria, indicating that commercial development would add to problems and "destroy the neighborhood bit by bit." Neighbors noted concerns with this and other recent and possible future development proposals being done piecemeal without planning.

Ms. Dalton responded that additional development could help to pay for infrastructure upgrades, and stated that the rezoning would not directly increase traffic. The meeting concluded after approximately one hour.

City of Santa Fe, New Mexico

Planning Commission

Exhibit F

Applicant Packet