City of Santa Fe

Agenda

REGULAR MEETING OF
THE GOVERNING BODY
JULY 29, 2015
CITY COUNCIL CHAMBERS

CITY CLERK'S OFFICE
DATE 7/24/15 TIME 4:20p
SERVED BY
RECEIVED BY

AFTERNOON SESSION – 5:00 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – July 8, 2015
9. PRESENTATIONS

   a) July Employee of the Month – V. Esperanza Trujillo, Utility Billing Administration – Public Utilities Department. (Mayor Gonzales) (5 Minutes)

10. CONSENT CALENDAR

   a) Request for Approval of Cooperative Project Agreement – St. Francis Crossing from Acequia Trail to Railyard Project – Construction of Multi-Path Grade Crossing Underpass (US 84/285); New Mexico Department of Transportation. (Melissa McDonald)

   b) Request for Approval of Budget Adjustment in the Amount of $62,700, from Fire Project Fund to Project Business Unit 32215 for Fire Station 1 Parking Lot Resurfacing Project; On-Call Roadways & Trails Construction Fund for (Bid No. 14/10/B). (Jan Snyder)

   c) Request for Approval of Memorandum of Understanding – Parking Permits for On-Street Parking Spaces and for Use of City Parking Facilities for County Employees; Santa Fe County. (Noel Correia)

   d) Request for Approval of Change Order No. 8 – Santa Fe Reservoirs Infrastructure Improvements Project; RMCI, Inc. (Robert Jorgensen)

e) Request for Approval of Water Rights Purchase Agreement – Up to 18.417 Acre-Feet of 1907 Middle Rio Grande Water Rights; Luis J. Luna and Martha Luna. (Andrew Erdmann)

f) Request for Approval of Professional Services Agreement and Approval of Budget Increase in the Amount of $250,500 – Engineering Services for Feasibility Study to Optimize the Use of Regional Reclaimed Wastewater for Water Division (RFP #15/34/P); Carollo Engineers, Inc. (Bill Schneider)

g) Request for Approval of Budget Increase in the Amount of $45,808 in Order to Fulfill an Agreement Obligation the City of Santa Fe has With Sam and Josie Montoya. (Kelley Brennan and Bryan Romero)

h) Request for Approval of Grant Award and Agreement and Budget Increase in the Amount of $125,000 – Education and Technical Assistance Services for Environmental Services Division; The Recycling Partnership, Inc. (Cindy Padilla and Lawrence Garcia)

i) Request for Approval of Amendment No. 1 to Professional Services Agreement – KSFR Broadcasting Services for City Council and Special Meetings; Northern New Mexico Radio Foundation, Inc. (Joe Abeyta)

j) CONSIDERATION OF RESOLUTION NO. 2015-____. (Finance Committee)
A Resolution Relating to a Request for Approval of Third and Fourth Quarter (Year-End) Budget Adjustments for Fiscal Year 2014/2015. (Cal Probasco)

k) CONSIDERATION OF RESOLUTION NO. 2015-____. (Councilor Maestas, Councilor Dominguez, Councilor Bushee and Councilor Trujillo)
A Resolution Directing Staff to Seek Solutions to Santa Fe's Housing Affordability Crisis, Specifically as it Relates to Gentrification, Inequity, and the Widening Gap Between Rich and Poor in Santa Fe; Providing a Framework for Housing and Urban Planning Policy. (Alexandra Ladd)

l) CONSIDERATION OF RESOLUTION NO. 2015-____. (Councilor Maestas)
A Resolution Recommending the Governing Body Oppose Any Legislation that Would Alter the Method by Which Municipal Gross Receipts Taxes are Distributed to Municipalities. (Oscar Rodriguez)

m) CONSIDERATION OF RESOLUTION NO. 2015-____. (Councilor Trujillo)
A Resolution in Support of Defouri and Guadalupe Street Bridge Improvements Funded Through a Municipal Arterial Program Cooperative Agreement with the New Mexico Department of Transportation. (Desirae Lujan)

1) Request for Approval of Municipal Arterial Program Cooperative Agreement with the New Mexico Department of Transportation for Bridge Improvements to the Defouri and Guadalupe Street Bridges.

2) Request for Approval of Budget Adjust Request in the Amount of $80,000.

n) CONSIDERATION OF RESOLUTION NO. 2015-____. (Mayor Gonzales and Councilor Ives)
A Resolution Directing the City of Santa Fe Arts Commission to Develop a Long-Term Cultural Plan, the Purpose of Which is to Inventory Cultural Assets, Assess Needs, Draft Specific Recommendations to Support the Current and Long-Term Health of Our Cultural Community, and Identify Ways the City of Santa Fe can Support and Develop its Unique Cultural Brand; Directing the Arts Commission to Work With Other Appropriate Groups; and Directing the Arts Commission to Provide a Six (6) Month Update, and Present a Final Report One Year from Adoption of this Resolution. (Debra Garcia)

o) CONSIDERATION OF RESOLUTION NO. 2015-____. (Councilor Trujillo)
A Resolution Requesting the Governing Body Consider and Approve a Grant Agreement from the State Tourism Department, Litter Control Beautification Section, for Keep Santa Fe Beautiful. (Gilda Montano)

p) Update on Tournament and Adult League Fee Changes per Ordinance 2014-18. (Jennifer Romero) **(Informational Only)**

11. CONSIDERATION OF RESOLUTION NO. 2015-____. (Councilor Rivera and Councilor Bushee)
A Resolution Directing the City of Santa Fe Fire Department to Waive EMT Standby Fees for the Santa Fe Summer Series Equestrian Event at the Equicenter de Santa Fe; and Authorizing the Payment of Said Fees from a Portion of the Lodgers Tax Dedicated for Public Safety Overtime Costs. (Fire Chief Litzenberg and Randy Randall)

12. Pursuant to Resolution No. 2015-40, Presentation of Findings Related to the GRT Dedication Provision in 18-10.4 SFCC 1987 – Public Bus System, the General Fund and Quality of Life Purposes. (Oscar Rodriguez)

13. **Case No. 2015-76.** Request for Approval of the Recommendation of the City Attorney to Remand Back to the Historic Districts Review Board, Pursuant to the Stipulation Between the Parties, the Appeal of the First National Bank of Santa Fe, N.A., as Trustee of the Martha Field Trust from the May 12, 2015 Decision of the Historic Districts Review Board to Deny Applicant's Request to Demolish a Structure at 355 East Palace Avenue. (Zachary Shandler)

14. **Case No. 2015-51.** Appeal of the May 7, 2015 Decision of the Planning Commission Approving the Requests of the Benevolent and Protective Order of the Elks Lodge No. 460 to Divide its Property at 1615 Old Pecos Trail into Two Lots; and of MVG Development/Morningstar Senior Living's Requests for a Special Use Permit to Operate a Continuing Care Facility on One of Said Lots and for Development Plan Approval for the Construction of an Approximately 73,550 Square Foot Building on Said Lot to House Said Facility.

    a) Motion to Reconsider the July 8, 2015 Decision of the Governing Body Denying the Appeal in Case No. 2015-51 for the Purpose of Remanding the Matter to the Planning Commission for Further Consideration with Respect to Whether Modifications to the Design of the Proposed Continuing Care Facility May Render it More Compatible with and Adaptable to Neighboring Properties, Specifically with Respect to Adjacent Residential Properties, Including, without Limitation, Modifications to Height, Massing, Floor Stepbacks, Color and Fenestration and the Use of Screening to Provide Visual Buffering. (Mayor Gonzales)

        1) Motion to Reconsider.

        2) Motion to Remand.

    b) Request for Approval of Findings of Fact and Conclusions of Law in Case No. 2015-51. (Zachary Shandler)

        1) Motion to Approve.

15. MATTERS FROM THE CITY MANAGER

16. MATTERS FROM THE CITY ATTORNEY

Executive Session

In Accordance with the New Mexico Open Meetings Act §§10-15-1(H)(2) and (8) NMSA 1978, Discussion Regarding Limited Personnel Matters, Including, Without Limitation, the Organization of City Government; and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the City of Santa Fe, Including, Without Limitation, the Disposition for Economic Development Purposes of 5± Acres of Land on Siler Road; the Disposition by Lease of 4,200± SF of Building Space; and the Short-Term Lease of 4,000± SF of Building Space. (Kelley Brennan)

17. Action Regarding the Disposition for Economic Development Purposes of 5± Acres of Land on Siler Road. (Kelley Brennan)

18. Action Regarding the Disposition by Lease of 4,200± SF of Building Space. (Kelley Brennan)

19. Action Regarding the Short-Term Lease of 4,000± SF of Building Space. (Kelley Brennan)

20. MATTERS FROM THE CITY CLERK

21. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. SALUTE TO THE NEW MEXICO FLAG

D. INVOCATION

E. ROLL CALL

F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

- Community Health Care and Hospital Study Group
- Veterans' Advisory Board
- Board of Adjustment

H. PUBLIC HEARINGS:

1) CONSIDERATION OF RESOLUTION NO. 2015-___:
Case #2015-30. Tune-Up Café General Plan Amendment. Liaison Planning Services, Inc., Agent for JC Rivera, LLC, Requests Approval of a General Plan Future Land Use Map Amendment to Change the Designation of 0.13± Acre of Land from Low Density Residential (3-7 Dwelling Units Per Acre) to Community Commercial. The Property is Located at 536 Cortez St. (Donna Wynant)

2) CONSIDERATION OF BILL NO. 2015-29: ADOPTION OF ORDINANCE NO. 2015-___.
Case #2015-31. Tune-Up Café Rezoning. Liaison Planning Services, Inc., Agent for JC Rivera, LLC, Requests Rezoning Approval of 0.13± Acre of Land from R-5 (Residential, 5 Dwelling Units per Acre) to C-2 (General Commercial). The Property is Located at 536 Cortez St. (Donna Wynant)

3) CONSIDERATION OF RESOLUTION NO. 2015-___:
Case #2015-20. 600 Galisteo Street General Plan Amendment. Eva Parker, Trustee for the Lucy C. Ortiz Estate, Requests Approval of a General Plan Future Land Use Designation for a 5,581 Square Foot Lot from Moderate Density Residential to Community Commercial. The Property is Located at 600 Galisteo Street. (Zachary Thomas)

4) CONSIDERATION OF BILL NO. 2015-30: ADOPTION OF ORDINANCE NO. 2015-___.
Case #2015-21. 600 Galisteo Street Rezone. Eva Parker, Trustee for the Lucy C. Ortiz Estate, Requests Rezoning of a 5,581 Square Foot Lot from R-21 (Residential, 21 Dwelling Units per Acre) to BCD (Business-Capitol District). The Property is Located at 600 Galisteo Street. (Zachary Thomas)

5) CONSIDERATION OF BILL NO. 2015-26: ADOPTION OF ORDINANCE NO. 2015-____. (Councilor Ives)
An Ordinance Amending the Campaign Code, Section 9.2 SFCC 1987 to Modify the Definitions of "Contribution" and "Expenditure" and Create a Definition for "Coordinated Expenditure"; to Modify Provisions Related to Independently Sponsored Campaign Communications and Reporting; to Modify Provisions Related to the Contents of Campaign Finance Statements; and to Make Such Other Changes as are Necessary to Clarify the Provisions of the Campaign Code. (Zachary Shandler)

6) CONSIDERATION OF BILL NO. 2015-27: ADOPTION OF ORDINANCE NO. 2015-____. (Councilor Ives)
An Ordinance Amending the Public Campaign Finance Code, Section 9-3 SFCC 1987 to Modify the Definitions of "Contribution" and "Expenditure", Delete the Definition of "Qualifying Contribution" and Create a Definition for "Coordinated Expenditure" and "Qualified Small Contribution"; to Modify the Requirements to Qualify as a Participating Candidate; to Delete Provisions Related to "Seed Money Contributions" and "Qualifying Contributions"; to Establish Provisions for Qualified Small Contributions; to Modify Provisions Related to "Reports of Expenditure" To Expand Reporting Requirements; to Add Provisions for "Additional Reporting of Qualified Small Contributions and Additional Matching Payments from Fund"; and to Make Such Other Changes as are Necessary to Clarify the Provisions of the Public Campaign Finance Code. (Zachary Shandler)

7) CONSIDERATION OF BILL NO. 2015-19: ADOPTION OF ORDINANCE NO. 2015-___. (Finance Committee)
An Ordinance Amending Subsection 11-9.1 SFCC 1987 and Section 18-9 SFCC 1987 to Require that Prior to Authorizing a Reallocation of Proceeds from a Voter-Approved General Obligation Bond or Tax that Deviates Materially from the Information Provided to the Electorate that the Governing Body Authorize Such Reallocation through the Adoption of an Ordinance. (Oscar Rodriguez) (**Postponed at July 8, 2015 City Council Meeting**)

8) CONSIDERATION OF BILL NO. 2015-20: ADOPTION OF ORDINANCE NO. 2015-___. (Councilor Bushee)
An Ordinance Amending Section 14-2.3(D) SFCC 1987; Establishing Membership Requirements for the Planning Commission. (Lisa Martinez) (**Postponed at July 8, 2015 City Council Meeting**)

9) CONSIDERATION OF BILL NO. 2015-24: ADOPTION OF ORDINANCE NO. 2015-____. (Councilor Bushee)
An Ordinance Amending Subsection 12-6-6.1 of the City of Santa Fe Uniform Traffic Ordinance to Prohibit the Parking of a Motor Vehicle in a Marked Bicycle Lane; Making Minor Grammatical Changes. (Keith Wilson)

10) CONSIDERATION OF BILL NO. 2015-25: ADOPTION OF ORDINANCE NO. 2015-____. (Mayor Gonzales)
An Ordinance Authorizing the Sale of 2,263 Square Feet of Real Property Located Adjacent to 830 El Caminito Street and Described as "Area of Gain" as Shown and Delineated on a Plat of Survey Entitled, "Lot Line Adjustment Workmap of Property Located at 830 El Caminito" Prepared by Paul A. Armijo, N.M.P.S. No. 13604, Dated October 2, 2014, Lying and being Situate Within the Santa Fe Grant, Projected Section 30, T17N, R9E, N.M.P.M., in the City and County of Santa Fe, New Mexico. (Matthew O'Reilly)

I. ADJOURN

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been addressed, the meeting should be reconvened at 7:00 p.m., the following day and shall be adjourned not later than 12:00 a.m. Agenda items, not considered prior to 11:30 p.m., shall be considered when the meeting is reconvened or tabled for a subsequent meeting.

NOTE: New Mexico law requires the following administrative procedures be followed when conducting "quasi-judicial" hearings. In a "quasi-judicial" hearing all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross-examination. Witnesses have the right to have an attorney present at the hearing.

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6521, five (5) working days prior to meeting date.

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Wednesday, July 29, 2015

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MATTERS FROM THE CITY MANAGER	None	
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MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
July 29, 2015

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Javier M. Gonzales, on Wednesday, July 29, 2015, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present
Mayor Javier M. Gonzales
Councilor Peter N. Ives, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Signe I. Lindell
Councilor Joseph M. Maestas
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo

Others Attending
Brian K. Snyder, City Manager
Kelley Brennan, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

6. APPROVAL OF AGENDA

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to approve the agenda as presented.

VOTE: The motion was approved on a voice vote with Mayor Gonzales, and Councilors Bushee, Dimas, Dominguez, Ives Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none against.

7. APPROVAL OF CONSENT CALENDAR

Mayor Gonzales said as noted by Ms. Byers, any items that are removed he would like to move to the end of the meeting unless we finish our afternoon session sooner so we can try to make it to 6:00 p.m., to go into executive session because there are several issues the Council needs to discuss in executive session. So if we finish the first part soon enough, then we can go to items that have been tabled, but if we don't, he would like to move items removed for discussion to the end of the evening session.

Councilor Dominguez asked if anyone is going to remove Item G for discussion, and there was no one. He said he won't remove it, but he would like to have a conversation with staff after the vote.

Councilor Rivera said he had asked at one of the Committee meetings to be a cosponsor on Item 10(k).

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to approve the following Consent Calendar, as amended.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

a) **REQUEST FOR APPROVAL OF COOPERATIVE PROJECT AGREEMENT – ST. FRANCIS CROSSING FROM ACEQUIA TRAIL TO RAILYARD PROJECT – CONSTRUCTION OF MULTI-PATH GRADE CROSSING UNDERPASS (US 84/285); NEW MEXICO DEPARTMENT OF TRANSPORTATION. (MELISSA McDONALD)**

b) **REQUEST FOR APPROVAL OF BUDGET ADJUSTMENT IN THE AMOUNT OF $62,700 FROM FIRE PROJECT FUND TO PROJECT BUSINESS UNIT 32215 FOR FIRE STATION 1 PARKING LOT RESURFACING PROJECT; ON-CALL ROADWAYS & TRAIL CONSTRUCTION FUND FOR BID NO. 14/10/B). (JAN SNYDER)**

c) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – PARKING PERMITS FOR ON-STREET PARKING SPACES AND FOR USE OF CITY PARKING FACILITIES FOR COUNTY EMPLOYEES; SANTA FE COUNTY. (NOEL CORREIA)**

d) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 8 – SANTA FE RESERVOIRS INFRASTRUCTURE IMPROVEMENTS PROJECT; RMCI, INC. (RICHARD JORGENSEN)**

e) REQUEST FOR APPROVAL OF WATER RIGHTS PURCHASE AGREEMENT – UP TO 18,417 ACRE FEET OF 1907 MIDDLE RIO GRANDE WATER RIGHTS; LUIS J. LUNA AND MARTHA LUNA. (ANDREW ERDMANN)

f) *[Removed for discussion by Councilor Maestas]*

g) REQUEST FOR APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF $45,808 IN ORDER TO FULFILL AN AGREEMENT OBLIGATION THE CITY OF SANTA FE HAS WITH SAM AND JOSIE MONTOYA. (KELLEY BRENNAN AND BRYAN ROMERO)

h) REQUEST FOR APPROVAL OF GRANT AWARD AND AGREEMENT AND BUDGET INCREASE IN THE AMOUNT OF $125,000 – EDUCATION AND TECHNICAL ASSISTANCE SERVICES FOR ENVIRONMENTAL SERVICES DIVISION; THE RECYCLING PARTNERSHIP, INC. (CINDY PADILLA AND LAWRENCE GARCIA)

i) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – KSFR BROADCASTING SERVICES FOR CITY COUNCIL AND SPECIAL MEETINGS; NORTHERN NEW MEXICO RADIO FOUNDATION, INC. (JOE ABEYTA)

j) *[Removed for discussion by Councilor Ives]*

k) *[Removed for discussion by Councilor Ives]*

l) *[Removed for discussion by Councilor Ives]*

m) *[Removed for discussion by Councilor Trujillo]*

n) CONSIDERATION OF RESOLUTION NO. 2015-63 (MAYOR GONZALES AND COUNCILOR IVES). A RESOLUTION DIRECTING THE CITY OF SANTA FE ARTS COMMISSION TO DEVELOP A LONG-TERM CULTURAL PLAN, THE PURPOSE OF WHICH IS TO INVENTORY CULTURAL ASSETS, ASSESS NEEDS, DRAFT SPECIFIC RECOMMENDATIONS TO SUPPORT THE CURRENT AND LONG-TERM HEALTH OF OUR CULTURAL COMMUNITY AND IDENTIFY WAYS THE CITY OF SANTA FE CAN SUPPORT AND DEVELOP ITS UNIQUE CULTURAL BRAND; DIRECTING THE ARTS COMMISSION TO WORK WITH OTHER APPROPRIATE GROUPS; AND DIRECTING THE ARTS COMMISSION TO PROVIDE A SIX (6) MONTH UPDATE, AND PRESENT A FINAL REPORT ONE YEAR FROM ADOPTION OF THIS RESOLUTION. (DEBRA GARCIA)

o) CONSIDERATION OF RESOLUTION NO. 2015-64 (COUNCILOR TRUJILLO). A RESOLUTION REQUESTING THE GOVERNING BODY CONSIDER AND APPROVE A GRANT AGREEMENT FROM THE STATE TOURISM DEPARTMENT, LITTER CONTROL BEAUTIFICATION SECTION, FOR KEEP SANTA FE BEAUTIFUL. (GILDA MONTANO)

p) UPDATE ON TOURNAMENT AND ADULT LEAGUE FEE CHANGES PER ORDINANCE 2014-18. (JENNIFER ROMERO) (INFORMATIONAL ONLY)

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JULY 8, 2015

MOTION: Councilor Trujillo moved, seconded by Councilor Maestas, to approve the minutes of the Regular City Council meeting of July 8, 2015, as presented.

VOTE: The motion was approved unanimously on a voice vote with Mayor Gonzales and Councilors Bushee, Dimas, Dominguez, Ives, Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none against.

9. PRESENTATIONS

a) JULY EMPLOYEE OF THE MONTH – V. ESPERANZA TRUJILLO, UTILITY BILLING ADMINISTRATION – PUBLIC UTILITIES DEPARTMENT. (MAYOR GONZALES)

Mayor Gonzales read the nomination into the record, and presented Ms. Trujillo with a plaque, and a check for $100 from the Employee Benefits Committee, and thanked her for her outstanding service to the City.

Councilor Rivera said as Public Utilities Chair he sees Ms. Trujillo dealing with customers when he goes in the office, and she is always very delightful and a good presence when you first walk into the Water Company. He said she does a great job, and it concerns him that she is a temp employee. He said, "We have a shining star within our organization, and these are the type of people that I think we need to try to bring on, on a full time basis. And I know there are many throughout the City, but they're out there, and we hear about them, we see them and Esperanza is just a great example of that. Congratulations, you're doing a great job and I truly hope the City can find a way to bring you on full time."

Councilor Dimas congratulated Ms. Trujillo saying he has known her for many years.

Councilor Bushee said this is an exceptional family, and Ms. Trujillo has been doing an exceptional job, and looks forward to Ms. Trujillo having a long tenure here at the City.

Councilor Dominguez thanked Ms. Trujillo for her service and her family for their support for her.

Councilor Ives said this a well deserved award, and a delight to see her here, and hopes there will be many more such occasions.

Mayor Gonzales recognized Phil Trujillo a long time public servant of Santa Fe, saying we miss him and enjoy his music throughout the City.

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MOTION: Councilor Bushee moved, seconded by Councilor Rivera, to reconsider the previous approval of the agenda, to consider Item 10(k) from the Consent Calendar next on the agenda, and to approve the agenda as amended.

VOTE: The motion was approved on a voice vote with Mayor Gonzales, and Councilors Bushee, Dimas, Dominguez, Ives Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none against.
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CONSENT CALENDAR DISCUSSION

10(k) CONSIDERATION OF RESOLUTION NO. 2015-65 (COUNCILOR MAESTAS, COUNCILOR DOMINGUEZ, COUNCILOR BUSHEE, ~~AND~~ COUNCILOR TRUJILLO AND COUNCILOR DIMAS. A RESOLUTION DIRECTING STAFF TO SEEK SOLUTIONS TO SANTA FE'S HOUSING AFFORDABILITY CRISIS, SPECIFICALLY AS IT RELATES TO GENTRIFICATION, INEQUITY AND THE WIDENING GAP BETWEEN RICH AND POOR IN SANTA FE; PROVIDING A FRAMEWORK FOR HOUSING AND URBAN PLANNING POLICY. (ALEXANDRA LADD)

A copy of proposed amendments to the Substitute Resolution, submitted by Councilor Ives, is incorporated herewith to these minutes as Exhibit "1."

An Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, July 27, 2015, regarding this item, is incorporated herewith to these minutes as Exhibit "2."

Councilor Ives said he expressed concerns when he first saw this measure last week at BQL, and he spoke with members of Chainbreakers about his intention to file amendments [Exhibit "1"]. He said the 5 pillars as described seem to be gaining traction nationally through www.righttothecity.org which is an amalgam of a number of organizations, primarily in large cities that deal with issues relating to homelessness, displacement of people due to gentrification and other issues. He has looked through various measures and reports referred to in the measure, and his amendments focus on what he thinks is the real issue which is affordability Santa Fe and the attributes of neighborhoods in Santa Fe, and eliminating references in the measure. He said while it is an issue, it isn't an issue we as the Governing Body should be directing staff to try and answer for us. He thinks these are issues which the Governing Body has the capacity try and address. The amendments he has proposed are designed to look at some of the attributes of this measure that is being put forth nationally and make them, in his mind, more relevant to Santa Fe.

Councilor Ives continued, saying some of the pillars put forward include affordability which is a critical issue in Santa Fe, and one we do need to address. He said our prior efforts to define affordability have missed the mark in large part and many people are not able to find housing in Santa Fe, and that's resulted in people leaving the City. He thinks we need to reassess what we mean by affordable and affordability, and expand in intelligent ways our Land Use Code to make sure all of our neighborhoods have a presence of affordable housing. He thinks the stated goal of accessibility and non-segregation is exactly where we need to be headed. He said he proposes amending the measure to read that housing in Santa Fe should be affordable.

Councilor Bushee said there is no motion on the floor, and she would like to move for approval so we can have this discussion.

MOTION: Councilor Bushee moved, seconded by Councilor, Rivera to adopt Resolution No. 2015-65, as presented.

DISCUSSION: Councilor Ives said he proposes changing the predicates slightly to have it read, "Now, Therefore, Be It Resolved, that the Governing Body of the City of Santa Fe acknowledges the importance of the following 5 factors in evaluating all housing and transportation planning decisions and policies, affordability being one and having that state, "*Housing in Santa Fe should be affordable relative to household income and other reasonable expenses, with regard to quality, sustainability and health, housing in Santa Fe should contribute to individual family, community and planetary health, accessibility [inaudible] so affordable rental and home ownership opportunities in Santa Fe should be made accessible to historically marginalized populations throughout the City and be integrated both socially and geographically with regard to stability, permanence and protection from displacement*," modifying that provision to read, "*The City should work to shield low income renters and homeowners from economic forces and changes in government policies that lead to displacement over the long term*." He proposes changing the 5th factor from community control to community participation, which seemed to be the focus of that, providing that, "*The City should work to ensure that it's housing and transportation policies are adopted through democratic structures and processes which include input from those who are homeless and live in poverty with particular emphasis and special protections allowed for areas composed of a majority of low income residents.*"

Councilor Ives continued saying, further in the Resolution, he proposes to strike out as an item that Staff should be considering, and bringing the notion that, "*Santa Fe's widening gap between rich and poor, rather focusing on housing and transportation affordability, in terms of collaborating with community organizations*," not having the language refer only to those *"that represent and serve workers, renters, low income homeowners*," but say, "*To communicate with community organizations, including those that represent workers, renters, low income homeowners," etc*. In Item #3, consider and include and highlight "the needs of all low income Santa Fe residents to allow the Governing Body in its deliberations to prioritize the needs of renters, providing housing services and programming particularly support services for those transitioning out of homelessness, rental assistance and subsidized rental units, including the upcoming 2016 update of the analysis and impediments to fair housing, examples of best practices, examples of best practices from other communities, including those which serve to identify and eliminate patterns of discrimination and cause a displacement, and then work with community organizations including those..."

Councilor Ives said he believes with these modifications improve the measure by not asking staff to take on items that I think are more appropriate for us, as policymakers, rather than staff to be considering. One of the issues he indicated to Chainbreaker Group at the BQL Committee was his concern that there had not been involvement of a broad spectrum of the Santa Fe Community. He said the National site for right to work which posts information regarding some of Chainbreaker's efforts does indicate that Chainbreaker provided information saying it had met with limited numbers of the Santa Fe community. He said if we're talking about significant changes, as he thinks, many of which he is glad to see come into the community, he thinks we need to reach out broadly across the community to other community organizations and not a very limited and restricted set.

Councilor Ives continued, saying he is in keeping and in alignment with many of the provisions that have been proposed, he would note there was, on the RightToTheCity website, talking about Chainbreakers a prior draft measure of this Resolution whose language was preferable to what we have tonight. He said it is available and makes many of the many same points he has been trying to make here tonight.

Councilor Ives continued, "I do hope to be able to approve this with amendments that I think are appropriate, and with that..."

Councilor Bushee said, "The amendments were just proposed and read to us, and I want to suggest to Councilor Ives, I'm glad he's done some work on this. However, this has been through several committees, in fact this is a substitute resolution, because the main sponsor, Councilor Maestas worked with staff to make sure they were comfortable with the Resolution that we have asked you to approve. The amendments, as have been read into the record are not friendly, and I would ask the Councilor to make his own motion in a moment. But what I will say, and remind the Councilor that this a Resolution. This is an intention, and the beginning of a dialogue. This is simply saying, go out and engage in a dialogue across all appropriate departments to explore potential policy *[inaudible]* and community partnership solutions. I don't see any limitation in here about which organization to work with or any issue to address. It is intentionally left to be broad because the discussion is just being kicked off."

Councilor Bushee continued, "I think what will come back from going out into the community and really having this dialogue will be more specifics. I had those concerns initially in terms of the specificity, but in dialogue with both members of Chainbreakers and our staff, I felt it was important to let this community dialogue begin. So I would hope that we would just move this along and see what comes out of it, and then we have the opportunity..... Some of the proposals, Councilor Ives, feel to me it would more appropriate in different documents in the City, including Master Plan, General Plan, affordable housing... what's that plan we have.... in any case, I really feel like this is a lot of changes at the last minute. This went through committees, I know you weren't there where we had these similar discussions. I just want to suggest that perhaps we let this begin and then we see what comes out of it. And I know Councilor Maestas wants to address some of these concerns."

Councilor Maestas said he won't repeat what Councilor Bushee said. He thinks the Resolution is an acknowledgment of efforts done in a grassroots manner that is rallying around the issue of affordable house. He think it's important to uphold the integrity of the works done by these groups. For example, not changing the 5 pillars, acknowledging the good work and considering the 5 pillars in reviewing our policies

and programs as they relate to affordable housing. The Resolution invokes the spirit of collaboration and partnership between these organizations and the City to look at our policies and any recommendations that come from this legislation will come to this body. There is no direct adoption of any pillars or any principles that have been done in the community. Our policies and procedures stand on their own, reiterating this is an acknowledgment of the good work done in the community and a willingness to commit staff to work with them in a partnership and identify ways we can improve our policies and programs to be more responsive to the principles of the 5 pillars. This is the reason he wants to keep the work unchanged in the legislation – to maintain the integrity.

Councilor Maestas continued saying the City has committed its resources in the past to try and effect change in the inventory of rental housing, so obviously this Governing Body and prior Governing Bodies have been very concerned about the inventory of rental housing. We have committed resources and tried to change a market. He thinks this isn't as substantial, and said, as Councilor Bushee, he sat with staff an d they hashed it out, and they felt earlier versions were much too limiting on the City, and the Substitute Resolution before us really does meet the intent, acknowledges the effort. He said staff is okay with this legislation and he urges approval.

Councilor Dominguez said he reviewed the amendment sheet earlier and there are some things that are relevant, and relatively innocent as well as some things that are very substantial and significant. For example, there definitely a difference between economic inequity and poverty. He said we don't qualify some poverty grants in the poorest part of our community because we don't reach the threshold of poverty. This is a small example of how we need to be very careful about the language we use, and how this could be a whole different piece of legislation.

Councilor Dominguez continued, commenting we need to acknowledge the widening gap between rich and poor, and deleting that doesn't get to the heart of the challenges we have in this community which is the widening gap between rich and poor – however we want to address it or sugar coat it, the realities are there and they're true. He thinks that's the way some of the constituency in Santa Fe feels. He said, respectfully, by watering-down some of the language, in many ways it dismisses the realities we have in this community. He thinks this a valiant effort for a solution by the constituents who "live the language on a daily basis," to solve the problem. He thinks when staff starts its work, they will realize this language doesn't do the effort justice because of deep and widening issues we need to address. He said once this work begins it will be even more evident.

Councilor Ives was recognized by the Mayor to close debate, asking if he wants to propose amendments..

Councilor Ives said he proposed amendments on the amendment as a friendly amendment, but those were already rejected by the Maker, saying, "I'm not sure that that's anything but a moot point." Again, I don't want to mis-interpreted here, and I knew there would be some opportunity to think that somehow I was being insensitive, and that is not the case. I very much believe there is a proper function of government, especially at the City level, do deal significantly with housing needs, with transportation needs in our community in ways that allow all members of the City, all our citizens, to live and prosper here, and to have a good life. Again, just to dispel thoughts there. Because I don't want to be mischaracterized in any way."

Councilor Ives continued, "Councilor Bushee was suggesting that there's no attempt to limit the discussion and yet the language and the measure for instance, in the Be It Further Resolved section, #2, it says, 'Collaborate with community organizations that represent and/or serve workers, renters, low income homes or people experiencing homelessness and/or displacement.' My proposed change to that language was, 'collaborate with community organizations, including those so it's not exclusive. And again, my one criticism of the organization is that they have spoken with a very small group of people in the community about these issues, and we commend those efforts extensively. I think it's a great effort getting people who otherwise don't have a voice involved. That said, our community is much broader than that, and I don't want to see people excluded from those conversations. So I'm interested in being, actually, more inclusive than less inclusive. So I just want to be clear on that point."

Councilor Ives continued, "And with regards to the descriptions of this effort to begin the conversation, when he looks at the language that says, "The Governing Body of the City of Santa Fe acknowledges the importance of the 5 pillars as a much needed emphasis on the framework that informs, guides and directs all housing and urban planning decisions and policies, I do see that more as a prescriptive statement of intent rather than simply, 'Let's have the conversation.' I couldn't agree more that we need the conversation, that we need to find solutions to affordability. I look at Tierra Contenta and I've contemplated that construct in our City as I've been looking at this. And I think the one thing that we probably did wrong there was relying on that one geographic area as the locus for affordable housing significantly did that. I think we need to bring affordable housing to every portion of our City in ways that respects the City's esthetics. And I do believe passionately that we can do that. I just don't think that this measure gets exactly where we need to go for the reasons I've stated. So I'll leave it there."

Councilor Bushee said she would suspect that the Governing Body would be more receptive to some of these conversations that did take place last Monday at Public Works, and we haven't had the opportunity to really take a look. She wouldn't think anything in the current Resolution is limiting, and would suggest that these will all be public meetings open to anyone and this is just a framework that's been narrowed to focus on several broad topics – inequity, housing and growing gaps in our community. And it's simply that."

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Explaining his vote: Councilor Dimas said, "Yes, and would you please add me as a cosponsor.

Explaining his vote: Councilor Ives said, "I'll say yes, and make a brief statement with my vote. Understanding the statements made by the Governing Body and by the sponsors of this measure with regards to how it is to be interpreted and how it is to be implemented by staff as non-limiting and as an effort to view these very important conversations which is a goal I support entirely, I will vote in favor of it, but I do have worries about how it could be interpreted. So I'll just say I will be curious to see how it plays out in all of our housing and urban planning policies in the future.

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END OF CONSENT CALENDAR DISCUSSION

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11. CONSIDERATION OF RESOLUTION NO. 2015-66 (COUNCILOR RIVERA, AND COUNCILOR BUSHEE, COUNCILOR LINDELL, COUNCILOR DOMINGUEZ, COUNCILOR DIMAS AND COUNCILOR IVES). A RESOLUTION DIRECTING THE CITY OF SANTA FE FIRE DEPARTMENT TO WAIVE EMT STANDBY FEES FOR THE SANTA FE SUMMER SERIES EQUESTRIAN EVENT AT THE EQUICENTER DE SANTA FEP AND AUTHORIZING THE PAYMENT OF SAID FEES FROM A PORTION OF THE LODGERS TAX DEDICATED FOR PUBLIC SAFETY OVERTIME COSTS. (FIRE CHIEF LITZENBERG AND RANDY RANDALL)

Randy Randall said this is a last minute request from an equestrian even actually in the second week, to have approximately $13,534 worth of standby EMT fees waived for the 3 weeks of their events. They have 15 days of show they're open to the public, noting it is free to the public, and then there is a day of practice each week. He said this is a great way to use the Lodger's Tax – to support public safety. It is a great tourism event for Santa Fe. He said this is the only event made by this event. He said on the tourism side, they did flyers to promote it to the visitors, noting the event came together quickly and they could a little extra promotional help as well.

Councilor Lindell asked to be added as a cosponsor. She said she and her partner attended the event last weekend, as well as for a while this afternoon. She said it's a wonderful event which is fun, exciting and free to the public. She said it is amazing how the facility has been upgraded. She encouraged people to attend.

MOTION: Councilor Lindell moved, seconded by Councilor Bushee, to approve this request.

DISCUSSION: Councilor Bushee said she used to play in tournaments out there on the fields, they were polo grounds and then it went into foreclosure. She said this is a great revival and use of that facility, and looks forward to increased business coming out of this.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Explaining his vote: Councilor Dominguez said, "Add me as a sponsor, please. I vote yes."

Explaining his vote: Councilor Ives said, "I too would join as a sponsor and respond yes."

Explaining his vote: Councilor Dimas said, "Yes. And please add me as a cosponsor as well, even though it's Randy Randall, and I'm sure they will be bringing the bachelor in here next year.

Actually it starts next week, Randy, just to let you know. I'll be watching with bated breath."

12. **PURSUANT TO RESOLUTION NO. 2015-40, PRESENTATION OF FINDINGS RELATED TO THE GRT DEDICATION PROVISION IN 18-10.4 SFCC 1987 – PUBLIC BUS SYSTEM, THE GENERAL FUND AND QUALITY OF LIFE PURPOSES. (OSCAR RODRIGUEZ)**

Mayor Gonzales noted Mr. Rodriguez isn't present to make a presentation.

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MOTION: Councilor Ives moved, seconded by Councilor Lindell, to reconsider the previous approval of the amended agenda, to move Item 12 to the end of the agenda, and to approve the amended agenda as amended.

VOTE: The motion was approved on a voice vote with Mayor Gonzales, and Councilors Bushee, Dimas, Dominguez, Ives Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none against.
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13. **CASE NO. 2015-76. REQUEST FOR APPROVAL OF THE RECOMMENDATION OF THE CITY ATTORNEY TO REMAND BACK TO THE HISTORIC DISTRICTS REVIEW BOARD, PURSUANT TO THE STIPULATION BETWEEN THE PARTIES, THE APPEAL OF THE FIRST NATIONAL BANK OF SANTA FE, N.A., AS TRUSTEE OF THE MARTHA FIELD TRUST FROM THE MAY 12, 2015 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD TO DENY APPLICANT'S REQUEST TO DEMOLISH A STRUCTURE AT 355 EAST PALACE AVENUE. (ZACHARY SHANDLER)**

Zachary Shandler presented information regarding this Case, commenting that staff is looking for a motion to affirm the remand back to the Historic Board.

MOTION: Councilor Ives moved, seconded by Councilor Dominguez for purposes of discussion, to approve the recommendation of the City Attorney to remand Case #2015-76 back to the Historic Districts Review Board.

DISCUSSION: Councilor Dominguez said then the applicant has requested the remand and Mr. Shandler said yes.

Karl Sommer said, "This is a stipulation between the parties that Mr. Shandler and I have been discussing, that if this case is going to come to the Council, have all of the issues at one time, rather than up here piecemeal and then back. And the reason is that there is an issue related to the historic status of this property. The Historic Board did not make that determination, so it could come to the City Council and you could ask the question, well what's the historic status and Mr. Rasch would say, it wasn't determined by the Board. You might then just send it back and say well why don't give us the historic status before we deal with that. That's the purpose of it. Just want the record to be clear, that's what we're talking about, so

we don't have a blood bath up here, and then go back down and have another bloodbath, and then come back here and have another blood bath – do it all at once.

Councilor Dominguez said so it's not just the Applicant, it's something that's mutual between the parties.

Mr. Shandler said, "Correct. I'm just trying to be as quick as possible to stipulate."

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

14. CASE NO. 2015-51. APPEAL OF THE MAY 7, 2015 DECISION OF THE PLANNING COMMISSION APPROVING THE REQUESTS OF THE BENEVOLENT AND PROTECTIVE ORDER OF THE ELKS LODGE NO. 460 TO DIVIDE ITS PROPERTY AT 1615 OLD PECOS TRAIL INTO TWO LOTS; AND OF MVG DEVELOPMENT/MORNINGSTAR SENIOR LIVING'S REQUESTS FOR A SPECIAL USE PERMIT TO OPERATE A CONTINUING CARE FACILITY ON ONE OF SAID LOTS AND FOR DEVELOPMENT PLAN APPROVAL FOR THE CONSTRUCTION OF AN APPROXIMATELY 73,550 SQUARE FOOT BUILDING ON SAID LOT TO HOUSE SAID FACILITY.

a) MOTION TO RECONSIDER THE JULY 8, 2015 DECISION OF THE GOVERNING BODY DENYING THE APPEAL IN CASE NO. 2015-51 FOR THE PURPOSE OF REMANDING THE MATTER TO THE PLANNING COMMISSION FOR FURTHER CONSIDERATION AND RESPECT TO WHETHER MODIFICATIONS TO THE DESIGN OF THE PROPOSED CONTINUING CARE FACILITY MAY RENDER IT MORE COMPATIBLE WITH AND ADAPTABLE TO NEIGHBORING PROPERTIES, SPECIFICALLY WITH RESPECT TO ADJACENT RESIDENTIAL PROPERTIES, INCLUDING WITHOUT LIMITATION, MODIFICATIONS TO HEIGHT, MASSING, FLOOR STEPBACKS, COLOR AND FENESTRATION AND THE USE OF SCREENING TO PROVIDE VISUAL BUFFERING. (MAYOR GONZALES)

1) MOTION TO RECONSIDER.

Yolanda Vigil said, "So your first action would be a Motion to Reconsider, and if that is approved, then you would go into a Motion to Remand."

Mayor Gonzales said, "Correct. And if the Motion to Reconsider is not approved, or there's not one in place, then we would move to the Findings of Fact, correct."

Ms. Vigil said, "Yes sir. 14(B)."

Mayor Gonzales said, "Before we do this, let me just.... because I'm the individual who asked to bring this forward, state a couple of things. One, I hope our Council never finds ourselves at midnight having to vote on such a certainly complicated, but divisive, case. And hopefully in the future I can do a better job of either tabling or figuring out how to move our decision into a point of the day that we can actually discuss it, debate it, and determine whether we want to approve whatever is before us or not. Having said all that, it was a struggle that evening; it's been a struggle since. Mostly because of the divisiveness in the community over this decision. So since that night, the Elks are an organization that is near and dear to so many of us that have been born and raised in this community, has continued over the course of time has been one of those institutions has been a place where people have either raised money or certainly been able to use the facility for various family events. And there is a recognition, I don't think that they have said, or hidden the fact that they have some challenging times financially, and one of their best assets has been property, and how they put that into beneficial use is something that clearly is something that needs to be considered."

Mayor Gonzales continued, "Also one of the ways is the location. They're in a very important corridor as was stated that night. There is a concern as to the visual aspect and the size of the development. And that being, I voted with the majority to deny the appeal by the neighborhood, because as I stated that night, it came down to the issue of supporting the Planning Commission and the City Attorney's Office as to whether the special use designation was met."

Mayor Gonzales continued, "Having said that, there has been time that I've spent over and over in our Code taking a look at what a special use permit is for a continuing care facility. And I understand that conflict that exists between the neighborhood and our own attorneys as to whether this meets the definition of the Code or not. I also understand that we have to find a way to take this very divisive issue and try and overcome some of the hurt that has occurred throughout our community. I think that when you reflect over the past couple of weeks, we've heard things like 'Rich East Siders,' just want to tell us where facilities should go. We've heard things like "corrupt Hispanic cronies,' just going along with a decision to support their own. And those are hurtful feelings that divide a community, that don't belong in this forum, and we have to find a way to overcome that and call it out. If there's anything we've learned over the past several months is that whenever there are stereotypes in the community that hurt the community, or keep portions of a community down, or separate communities, we have to confront those and be as honest as we possibly can. And the truth is, there's still some stereotypes in the community, whether you've been here for a long time, or just moved here, you probably could pick those words that people use to create further division or hurt."

Mayor Gonzales continued, "And so I want to find a way that we can have that conversation. But minus it, I'm hoping to keep the Elks and the neighborhoods and MorningStar at the table. I do think that, and I want to disclose for the record, that I have had conversations with members of the Elks, and I have had conversations with the neighbors, and do believe that people want to find a common solution. There are those who do want to go to Court and just let the Court decide it, but that's the easy way, I think, to abdicate the responsibility we have. To one, not only get it right when we create that designation, but, two, to try and find a way that there can be a common ground that is achieved, to achieve both perspectives."

Mayor Gonzales continued, "And so what I'm asking the Council to do, is to reconsider this and send it back to the Planning Commission to be able to address the issue of the special use permit, and to address the size of the facility. That night, when we last took this vote, MorningStar showed a willingness to find some type of modification. We did not have enough time that night to try and fully explore it. Hopefully, if we remand it back to the Planning Commission for both the consideration of does it meet the Code in terms of special use permit the facility, and two, can it be modified in a way that's more reflective of the buildings in the corridor, then maybe we can find that win-win situation."

Mayor Gonzales continued, "I'm just asking the Governing Body to consider doing that tonight, rather than ending it on our stage and most certainly, turning it over to the District Courts to make the decision on whether facility should exist or not."

Councilor Bushee said, "Mayor, we need to ask the Parliamentarian a couple of questions. Because I'm a little concerned about the procedure. I understand what you've just spoken to, in terms of trying to address divisiveness. But I have a concern, because in the past when we've had.... and in fact, I've looked at some Robert's Rule of Order and how we operate, so I want clarification. It's my understanding that a motion to reconsider has to happen the evening of the vote, and that a Motion to Rescind would be more in order. And that a Motion to Rescind would take place at a later date, usually the next meeting, where we would have a decision on that reopening of the case, what we want to do, in terms of where we want to send it, what we might want to do. That's my experience from having served and having dealt with appeals in the past. So I'm going to ask the Parliamentarian to address the Robert's Rule of Order that we operate by in that case. And then I do want to just mention that we will not be making decisions if we approve the Resolution that I'm bringing forward. I already introduced it on Monday which essentially a follow-up to what I introduced in the past, which says we stop at Midnight. Now, we'll not longer, if we pass this, have the ability to suspend the rules, we'll go on to the next evening session at about 5:00 p.m."

Councilor Ives said, "I have not looked at Robert's Rules specifically on these issues, but I happen to have a handy reference. And I will also ask for guidance from the City Attorney."

Mayor Gonzales said, "Why don't we ask Kelley while you're looking at that, and then you can affirm whether Kelley's interpretation is correct."

Kelley Brennan, City Attorney, said, "It has been this party's practice several times in the past, on Motions to Reconsider, to take them at the following meeting as long as final action hasn't been taken. In this case, final action is the Findings of Fact and Conclusions of Law. And that is why it was placed on the agenda, prior to the adoption of the Findings of Fact and Conclusions of law. This body, the Planning Commission, and I believe the Historic Districts Review Board, has followed this rule."

Councilor Bushee said, " So that I can clarify with the Parliamentarian. Is it a motion to rescind or a motion to reconsider. And again, in the past, we've heard it at a different meeting because of notification requirements. And so I was surprised to read in a press release that we were going to the Planning Commission mostly to consider design elements. And I will address the City Attorney on *ex parte* communication which has been drilled into us. A lot of that has taken place, so I would like answers on

that. But I would like you to rule on what I presented to you and I would really like to make sure that we follow procedures. And it's my understanding again that the vote takes place, a rescission is more appropriate whether we call it reconsideration, but Robert's Rules says rescission of the vote. That will have to come from Mayor who was in the majority and that we would vote on what we do from there at another meeting. That's my understanding of how we really need to do it."

Councilor Ives said, "And on that point, in referring to the item that you have identified within Robert's Rules, I don't know if this is the 11th edition that we fun under here at the City. It does talk about, '*A motion to reconsider must be made within a limited time after the action on the original motion.*' It does state here that that '*often and usually occurs at the same meeting, or if it's a multi-day proceeding within the context of that series of meetings over several days.*' This Council, and I cannot remember the exact date, adopted the determination actually that decisions were final when the Findings and Conclusions were accepted by the Governing Body. So in that sense, the vote taken will not be confirmed as official until a vote on the Findings and Conclusions in the packet, so I think we are acting within the spirit of the rules in terms of consideration being made within a limited time after the action on the original motion. So, from my perspective, and where I sit, a Motion to Rescind makes sense as we do have the Findings and Conclusions before us, and we could proceed on that basis, and again, would ask for guidance from the City Attorney on the point."

Ms. Brennan said, "There is a Motion to Rescind, and there is a Motion to Reconsider, both are possibilities, and either can be made. A rescission would rescind your vote and then you would start again. What you are doing is reconsidering for a given purpose. Either motion would be appropriate. They have slightly different rules that apply. A Motion to Reconsider has been noticed appropriately, a Motion to Rescind has not. So you can proceed. As I said, it has been practice, that a Motion to Reconsider is appropriate before final action is taken."

Councilor Maestas said, "I'm okay with either reconsideration or rescission. My question is, on the motion to remand, does it have to be conditional. Must we put parameters on the remand, for example, limited to design modifications to reduce the size. Or does just a general Motion to Remand to Planning and Zoning open the entire consideration for the development up."

Ms. Brennan said, "We can just make a motion to remand. I think that the bodies below and having staff of the land use committees for a number of years, do appreciate guidance from this body when matters are remanded to them, but you could just remand."

Councilor Trujillo said, "If we remand this back, you're saying this rule... it would go back to the Planning Commission and it's going before a whole brand new set of Planning Commissioners that were appointed by Mayor Gonzales. This isn't the Planning Commission that made the decision. So, if we send this back to them, or if we just remand, they'll hear the whole thing over again, and they can technically say that the past Planning Commission is wrong, and it's over. So, if we set parameters, we want you to look at esthetics, setbacks like that, they would have follow that if we mandate that. But if we just remand it, they can just say, you know what, we don't want it anymore, we vote no, and that's it'."

Ms. Brennan said, "If you just remand it without guidance they would have more flexibility to act than if you remand with guidance."

Councilor Bushee said, "Just so I understand. If this goes back to the Planning Commission would that be a *de novo* kind of hearing. And how does... are we in the context of an appeal, and all of this *ex parte communication* that's taken place, I fear that the City is setting itself up for a lawsuit.

Mayor Gonzales said, "I want to make it clear, because my conversations have been with both neighbors and members of the Elks, not MorningStar and not SENA. And what I have clearly asked, has been that there be some consideration for finding common ground, being able to work together. So I want to be very clear in disclosing that the conversations were not with MorningStar or members of SENA. They were with individuals that certainly have vested interests, but the discussion was purely limited to, please stay at the table. Please stay talking as opposed to going to court."

Ms. Brennan said, "Certainly, you're required to disclose *ex parte* conversations and discussion. And if you believe on the matter before you, you can be an impartial and fair judge, essentially, you can proceed. Typically, we say those conversations should not relate to the merits or substance of an appeal, if you discuss procedure. A lot of time, I know constituents call you and say, what happens next, what should we do, how is this going to be addressed, you can say there's going to be a hearing next week, I encourage you to come and discuss it. So I think that you've made a disclosure. If you state for the record that you believe you can consider the Motion to Reconsider, and assuming you make a Motion to Remand, in a fair and impartial manner."

Councilor Dominguez said, "So a couple of questions. I just want to make clear, or ask for some clarity, Kelly. There are potentially 3 different options. One is a Motion to Reconsider, right. One is a Motion to Remand, and one is a Motion to Rescind. Are we looking and rescinding and... go ahead."

Ms. Brennan said, "I'm sorry, I didn't mean to interrupt you. First, you would do a Motion to Reconsider which has been properly noticed, a Motion to Rescind has not. So you would first do a Motion to Reconsider, which basically.... and you vote on it. And if the vote supports the Motion, then you would go on to reconsider. And the reconsideration would be to remand. Now if you, yourselves, wanted to hear the whole issue again, that would not have been noticed, and you would have to schedule it for deliberation at the next Council meeting, with or without a hearing, as you chose. But basically, first the Motion To Reconsider, and then the Motion to Remand."

Councilor Dominguez said, "So, to carry that discussion on a little bit further, and just to make it clear, this is not necessarily something that I support, and I'll get to that in a little bit, but I just want to make sure that I, at least, understand the policies and procedures. The opportunity to have the Planning Commission, which is a new Planning Commission by the way, to hear this case *de novo,* would have to be explicit by this Governing Body, or that's guidance enough, I should say."

Ms. Brennan said, "Yes, Councilor, I believe that if you return it with guidance, they will follow that guidance."

Councilor Dominguez said, "So, I'm going to ask you this Kelley, because I don't... I want to... I'll just ask you this Kelley. Has anything changed in the application."

Ms. Brennan said, "I'm not aware of any change. This is a Motion to Reconsider, and then again, you would go on to the next motion, which means what is being reconsidered is the decision you made. And you would be substituting, for the decision you made, a decision to remand back. In other words, you could have made a motion that night to remand it back to the Planning Commission for further consideration on Issues X, Y and Z."

Councilor Dominguez said, "So, if I hear you correctly, what you're saying is, as far as you know, nothing has changed."

Ms. Brennan said that is correct.

Councilor Dominguez said, "The application has not changed."

Ms. Brennan said that is correct.

Councilor Dominguez said, "And so, this is again, Mayor, I know that you've had your discussion and thank you for disclosing that, but that puts some of us at an unfair advantage, because we have not had that discussion. And so, if the application hasn't changed and we are not theoretically allowed to have those communications, those *ex parte* communications with one side or the other, that puts some of us in a tough spot. Because I have to, basically, hearing you say that the application hasn't changed, there is the potential that maybe it could change and maybe it couldn't change. Maybe there's going to be some more political pressure on a different body that may make it change. That, to me, just sets it up for even a bigger bowl of spaghetti."

Councilor Dominguez continued, "So having said that, the other comment that I wanted to make is that we're just really going down some really scary roads here with the quasi-judicial stuff and *ex parte* communications. And I've seen this before. I remember when the Cathedral came to us years ago. This was one of my first meetings. I'll never forget when one of the applicants told the Mayor at that time, I thought we had a deal. And it just blew up in everyone's face. So that's pretty scary."

Mayor Gonzales said, "Let me make clear that that conversation has not happened."

Councilor Dominguez said, "Well thank you for that, and again, I thank you for your disclosure, and I imagine you're relying on the City Attorney to make sure we do this the right way. But if nothing has changed, it's not... I think it's, at least as I understand it, nothing has changed. And from what I remember, it was all about the use and not necessarily the scale or the development plan. And that's one of the things that makes me concerned, is that if people are just opposed to the use, it doesn't matter what the scale may be, unless you're going to completely change the use, that it won't make that much of a

difference. And so, and unless someone can tell me that something's changed, I can't support either the motion to reconsider, or the motion to remand. But I do want to say I appreciate the efforts to really try to make things work so that we can all get along, so I appreciate that, and we'll just kind of see how things go. Thank you Mayor."

Councilor Bushee said, "A point of order, if I understand from *[inaudible]*. Who has to make the Motion to reconsider. Somebody in the majority and the second as well."

Ms. Brennan said, "The motion has to be made by someone who voted in the majority in the original action. The second can be made by any member."

Councilor Rivera, "I'm sorry, Kelly. Just one more time regarding the Commission's Finding of Facts and Conclusions of Law, just so I'm clear."

Ms. Brennan said she is unclear what the question is.

Councilor Rivera said, "You said that this really doesn't become an official ruling until we accept the Planning [Commission] Findings. Is that correct."

Ms. Brennan said, "That's correct. When you vote on the Findings of Fact and Conclusions of Law on your decision, the decision becomes final and triggers the period for appeal."

Councilor Rivera said, "So I'm looking at the minutes from July 8th, the motion, '*Councilor Dominguez moved, seconded by Councilor Trujillo, that the Planning Commission acted in accordance with law in reliance and substantial evidence and to dismiss the appeal in Case #2015-51, and adopting the Planning Commission's Findings of Fact and Conclusions of Law as our own.*' So, did we not already adopt those."

Ms. Brennan said, "You adopted them generally. And there are two triggers for appeal. One is the adoption of the Findings as an order of this body, and one, if we fail to that within 31 days of the vote, that becomes the moment the appeal period starts. So typically, in these cases, particularly on appeal, we do Findings for the Governing Body that set forth their authority and adopt specific Findings and Conclusions, and may alter them somewhat. For instance, in this case, the Findings that are attached in the packet change the effective date of the Special Use Permit, or when it terminates, because the decision point was a different date. So we do typically do your own Findings of Fact, but then attach those."

Councilor Rivera said, "The only time I have seen Findings of Fact and Conclusions of Law come back is when we forget to do so in the original motion. That did not happen in this case."

Ms. Brennan said, "We have done some Findings of Fact and Conclusions of Law where we are specifically incorporating certain things and others. Sometimes it is because a decision is somewhat different."

Councilor Rivera said, "I've heard from people from the Southeast Neighborhood Association that basically have said that they don't want compromise at all. They just don't want anything there. They want it to basically to revert back to the original zoning that was there for the property. I understand what you're trying to do Mayor, but I'm not sure that the Southeast Neighborhood Association is really willing to have anything more than just what the original zoning was. That's from some of the discussions that I've read in the paper, on-line regarding some of the comments. I think we all received an email today, also, it was sent out to all the Governing Body that the Southeast Neighborhood Association also is supporting remanding, but they also have some conditions they would like to see there as well. And again, I think we make decisions on this Governing Body every day that you're going to have 50% of the people happy and 50% of the people not. And if we're going to bring back every decision we make, we're going to have much longer meetings than midnight. Unless there are substantial changes that have been looked at, I'm not sure anything is going to change, and I really can't support it going back. Thank you Mayor."

Councilor Trujillo said, "You know Mayor, I recall that meeting, at the eleventh hour.... and you asked them, can there be a compromise. And I think they wanted to shave off 2,000 sq. ft., maybe. And I remember the attorney from them. There is no compromise. So that's what I'm trying to understand as it's stated. Nothing's changed. What compromise do you think is really going to happen. I've heard it from everybody, that evening too. We support MorningStar. We love MorningStar. It's good, but build it somewhere else. That was the whole tone of the entire meeting. Build it somewhere else. And I look right now, I see the Elk's Lodge, I see the church that's built there now. Right now, if those two buildings were to come before us to be built, do you think they would be built. I doubt it, I really doubt, because there's not a *[inaudible]* to that supposed historic corridor. I've been on the losing end on a lot of votes. I'll give you an example. The Bachelor, plastic bottles."

Councilor Trujillo continued, "I was on the Plaza this weekend. I had a discussion with some people there who said, you know since the Mayor wants to bring back this, there's a lot of issues I'd like to... this is coming from visitors. Why don't we do the minimum wage, it's killing me. That's my concern is are we going to open this up now to bring like every single thing. If I was on the losing end of something, I want to bring it back because I wasn't happy with that decision like my constituents. Like I said, I've been on the losing end of a lot of issues. I suck it up and I want to move on. I may not agree. Many time I've not agreed with the Planning Commission and with the Historic Review Board, but democracy in action. A vote was taken and we move on. That's all I have Mayor, thank you."

Councilor Maestas said, "I think ideally I would rather entertain a Motion to Rescind, instead of to reconsider, but since it's been noticed as such, I would support that, provided it was simply limited to our July 8, 2015, decision. Now, the Motion to Remand, that's the hard part, and there's just no way I could support a condition under a Motion To Remand that just affects the size or any design elements of it. It would have to reopen, I think, all 3 issues – the Lot Split, the Special Use Permit and the Development Plan itself. Those are the only conditions under which I would support a Motion to Remand. That's all I have."

MOTION TO CALL FOR THE QUESTION: Councilor Dimas moved to call for the question.

Mayor Gonzales said there is no motion and we will need a motion first.

Councilor Dominguez pointed out the motion has to come from someone who voted in the majority.

Mayor Gonzales asked for further questions, saying he will then make a motion because he wants to address some of the issues at Council.

Councilor Dominguez said, "It looks like we're going to call the question, so I want to make a comment real quick before we do that."

Mayor Gonzales said a motion is needed before there can be a call for the question.

Councilor Dominguez said, "Yes, after you make the motion. I want for everyone to understand, I think that we kind of understand where votes are going to come down I think. The one thing that the people who are going to be on the losing end tonight, for lack of a better way to put it, are not making a motion to approve the Findings of Fact and Conclusions of Law, so I think that says something about not pushing the issue to the edge, if you will. But, understanding just kind of where the votes are and understanding how it's going to play out. So I think it needs to be recognized that at least I'm not supporting a motion to approved the Findings of Fact and Conclusions of Law, but I do not support the motion that I think is going to be made. Thank you Mayor."

Mayor Gonzales said, "So let me just address a couple of points here tonight, and I'll go back to where we started. I think it's okay for Santa Fe to have leaders that can reflect on their decisions, and ponder whether their vote was right or wrong. I think it's important that we have that. But most certainly, where the patch we're going down now, is one where there's going to be lawsuits, and delays and I don't think it necessarily serves anyone's interests to have the Courts decide what should happen on this parcel. I also think that part of the natural process was going to require mediation at some point between the parties. So why can we not try to make that happen as best we can now. One of the areas that I continue to look at, because MorningStar did come in under the guise of a continuing care facility, is that our Code addresses those points."

Mayor Gonzales continued, "And so, if we got it right, the Planning Commission is going to get it right. If we didn't get it right, in terms of the interpretation, whether vetted or not, there might be, or if they come up with something different, then we have to assess did we get it right the first time or not, I think that's okay. I don't think we have to be a Governing Body that says just because a decision has been made, we can never look back, especially important ones that divide a community."

Mayor Gonzales continued, "Now, I have more faith in the parties. I do have faith in the Elks wanting to find compromise. I do have faith in the neighborhoods wanting compromise. What that looks like, I don't know, but by sending it back to the Planning Commission, hopefully it allows for more f a conversation. I will say this to all, that if this passes, it does not mean that I have stated there shouldn't be some type of facility on the site. It remains to be seen what comes back, or what kind of compromise would be in place. It just requires everyone to be at the table and not try to have winners and losers. We

just all have to be open and supportive of the conversation and the dialogue continuing to go on. So with that, as being a person who voted in the majority, I would make a motion."

MOTION: Mayor Gonzales, as a person who voted in the majority, moved, seconded by Councilor Maestas, to reconsider the July 8, 2015 decision of the Governing Body denying the appeal in Case #2015-51, for the purpose of remanding the matter to the Planning Commission for further consideration with respect to whether the proposed use is permitted under our Code, and whether the facility design is compatible and adaptable to the corridor and the neighboring properties.

POINT OF ORDER: Councilor Bushee said she believes these are two separate motions

Mayor Gonzales said there were two issues in his Motion to Reconsider.

Ms. Brennan said, "That's correct this the motion to reconsider for the purpose of. It's not making the actual motion to remand."

Councilor Maestas, "It's not tied to the remand Correct. Okay."

DISCUSSION: Councilor Bushee said, "I find myself scratching my head quite a bit over the fact that I think we're still discussing an appeal. Is that correct."

Ms. Brennan said, "The decision was made on an appeal. That's correct."

Councilor Bushee said, "What I keep hearing is compromise, design. What I don't hear is, is this a continuing care facility. The legal parameters of the appeal. I don't hear, should this special use, is it appropriate. Is the facility appropriate in the location."

Mayor Gonzales said, "That was in the motion. I stated that they would further consider with respect to whether the proposed use is permitted under our Code, and the facility design is compatible with and adaptable to the corridor and the neighboring properties."

Councilor Bushee said, "Okay, so we're going to vote on the Motion to Reconsider, and then the Motion to Remand is going to be the same thing you just said."

Mayor Gonzales said, "Yes."

Ms. Brennan said, "I think the Motion to Remand will be a Motion to Remand on those points, to remand all 3 cases on those two points."

Councilor Ives said, "It has been, at some level, difficult to sit here as a member of the Governing Body on the two recent planned use cases. It has certainly made apparent to me that we need to find some type of modifications to our Land Use Code offering opportunity to anybody coming before and into the process an opportunity really to sit down and have discussions that are frank and forthright, and from where I sit, outside of this process which does end up pitting parties against each other. As a member of the Navajo

Nation Bar, Navajo peacemaking is a process that I deeply respect, based on my limited experience with it, because it is designed to bring parties together to restore a sense of balance in the community. And my hope is that we can find some means of accomplishing a similar purpose in our clearly conflicted land use decisions. Everybody here is aware of my statements during our last consideration of this issue. I will support this motion.

CALL FOR THE QUESTION: Councilor Dimas moved, seconded by Councilor Bushee, to call for the question.

VOTE ON THE CALL FOR THE QUESTION: The call for the question was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None. [Councilor Rivera and Councilor Trujillo had voted against, but on clarification that the vote being taken is for the Call for the Question, changed their votes to be in favor of the motion.

Explaining his vote: Councilor Rivera said, "I don't like the message this is sending to businesses that are thinking about moving to our City and really, if you're a community that can afford to hire a lawyer and threaten to sue, that you have more weight than other parts of the community, so I vote no."

Explaining his vote: Councilor Trujillo said, "This sends a message to the staff and the Planning Commission that you got it wrong, according to some people, and this is going to become the norm. I vote no."

Clarification prior to voting: Councilor Bushee clarified that this is a vote on the call for the question. Mayor Gonzales said we're voting on the Motion to Call the Question

VOTE: The Motion to Reconsider was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Ives, Councilor Lindell and Councilor Maestas.

Against: Councilor Rivera, Councilor Trujillo, Councilor Dimas and Councilor Dominguez.

Explaining his vote: Councilor Rivera said, "No for the reasons stated."

Explaining her vote: Councilor Bushee said, "Yes, but I have much more debate on the decision to remand.

Explaining his vote: Councilor Dimas said, "Very simply, no."

2) MOTION TO REMAND.

MOTION: Mayor Gonzales moved, seconded by Councilor Lindell, to remand to the Planning Commission the three (3) cases heard by the Governing Body on appeal on July 8, 2015, identified as Case #2015-51 for further consideration with respect to whether the proposed use is permitted under the Code and the facility design is compatible and adaptable to neighboring properties, including with respect to adjacent residential properties, including consideration and modifications of height, massing, floor setbacks, color and the use of screening to provide visual buffering.

DISCUSSION: Councilor Dominguez said, "I just want to reiterate, Kelley, that as far as you know nothing in the application has changed."

Ms. Brennan said, "That is correct Councilor."

Councilor Maestas said, "Kelley, can you clarify that the motion includes all 3 issues, all aspects of the Planning and Zoning [Planning Commission] approval, the Lot Split, the Special Use Permit and the Development Plan, or is this motion just limited to the design."

Ms. Brennan said, "It refers to the 3 cases, which are 3 that you named, and it gives guidance asking for consideration on the on use, the definition and on design."

Councilor Bushee said, "Again, I'm just going to ask, should we not be hearing this piece of it at the next meeting, or in a separate meeting. It feels like.... it's how we've been doing it in the past. I don't know whether you have to open hearings again. This is very highly unusual."

Councilor Dominguez said, "On that point, Councilor Bushee, that is a good question. Is the motion specific to a new public hearing at the Governing Body level, assuming that the Commission changes their position on the issue."

Ms. Brennan said, "Any decision of the Planning Commission can be appealed to the Governing Body. So, unless there is an effective agreement between the parties as to these matters, I would assume that it may come up to the Governing Body again on appeal."

Councilor Dominguez said, "No. No. My question is, does it become a public hearing at the Governing Body again. If we hear it *de novo* then, does it become... because essentially we're hearing it *de novo*, with the way the motion was made."

Ms. Brennan said yes.

Councilor Dominguez said, "So then, a new Planning Commission, new public hearing for the Governing Body."

Ms. Brennan said yes.

Councilor Bushee said, "And then I wanted to follow up Mayor."

Mayor Gonzales recognized Karl Sommer to ask a quick question.

Karl Sommer, Attorney for MorningStar, said, "It is directly to the point that you all are discussing. Mayor, thank you for the moment. The Motion to Remand is for the Planning Commission to do further study on the issues as the motion is outline. That doesn't tell us, from the Applicant standpoint what we have to do or what the Planning Commission does. Do they hold a public meeting and they have their debated based on the record, and the new Commissioners look at the record and that sort of thing, or do we go back and have another meeting at whatever center we're going to have it. And what are we going to present – the same thing. There's a little bit of confusion about what is expected of the parties, including the Planning Commission. So if there's some clarification on that, that would be most helpful."

Ms. Brennan said, "I would assume that you may want to add to your Motion to Remand that they hold a public hearing in considering these things. And I would note that the Code relating to special use permits sets out a list of the kinds of conditions that can be made, many relating to design, siting and those kinds of things, hours of operation. If you recall, the Planning Commission in the first decision, made, I think, 15 conditions or something like that. Some related to when the contractors could be on site, some are related to lighting and those kinds of things. There is a broad list of things, and I would assume they would have a public hearing, and in fact might establish slightly different conditions under those circumstances."

Mayor Gonzales said, "Let me just ask. My thought is that there's been an enormous amount of public testimony already on both sides. And the issue of remanding back, from my point of view, is to, one, be able to address the Special Use Permit in the Code. And, two, give the Applicant time to work through any type of, if there are any type of agreements with the neighborhoods on what could be accepted, or not. If there's not, then the Planning Commission can determine, one, obviously, if it meets the Special Use Code. Two, what conditions they would want to place on it again, in coming. Because I do think that there are a number of conditions that are available to both the Planning Commission and the Council that were not utilized that evening, regarding the application that could be further considered if that was the case."

Ms. Brennan said, "Mayor, I would recommend, in part because of the changed composition of the Planning Commission, that they hold a public hearing, and perhaps ask that people that have spoken that they review the record as well, and that comments be to any new circumstances or conditions."

Mayor Gonzales said, "If it's appealed to the Council, we would have the prerogative on whether there was a hearing or not."

Ms. Brennan said, "You would have to have a public hearing because it is an appeal and because there may be a new decision."

Mayor Gonzales recognized Karl Sommer.

Karl Sommer said, "If I may make one suggestion, and it comes really from your comments, Mayor, earlier. And you said something very unique in this process in the City and that was this. That you foresee, because of the divisiveness of the nature of this particular application and others, that there would be a mediation process. The Code doesn't require that. However, I think it is a unique suggestion. And let me put this out there, is, at this level, this board could say, we've reconsidered and we're going to send you all to a mediation. If you come up with something and you can report back to us, you could remand it back on that agreement for the Planning Commission to consider."

Mr. Sommer continued, "The mediation at this point, would allow parties who are really essentially going to have to put their heads together and come together, if they possibly can, and report back to the Council whether or not it was a fruitful mediation. And then you could remand in light of whatever the outcome of that was. That would be productive, it would save City resources, it would bring people to the table that need to be at the table. And I make that suggestions because I think that MorningStar would certainly participate in that, and it would not forestall anything you could do at a later date."

Mayor Gonzales said that's a great idea.

Councilor Bushee said, "Mayor, I hadn't finished my line of questioning. So here's my concern. And I guess part of the question is directed to you, Mayor. If you've had a change of heart, wouldn't it be more clean to just reconsider your vote here. Because we've had our City Attorney defend the last Planning Commission. We have virtually a new Planning Commission makeup. Then, we're going to have the legal record reflect how we voted previously here, and how we might have to vote on an appeal of the new Planning Commission's decision. I really, genuinely feel like the waters couldn't get any muddier, and the process couldn't less appeal-like."

Mayor Gonzales said, "If we're getting muddier is because we're adding to it. Now look, the issue of the question, is whether it meets Special Use Permit or not. I've gone back, I've looked at it. I understand the conflict that occurred. I don't think there's anything wrong with sending it back to the Planning Commission to ask the question again. This is not an issue of whether there's a sudden change of heart in trying to push it down to the Planning Commission, or not. I think there is a legitimate question that remains: Does the Special Use portion of the Code, or does this Applicant meet the Special use Portion of the Code. I would feel much better if, one, we give an opportunity for the neighbors and the Applicant to actually talk outside of an environment where there is a winner and loser. And two, yes, if there's a fresh set of eyes, they can look at it, they can examine it. I don't think there's anything inappropriate. If there's muddy waters it's because we keep throwing mud into it and we should just send it back and let people begin to talk."

Mayor Gonzales recognized Frank Herdman for remarks.

Frank Herdman, Attorney for Southeast Neighborhood Association (SENA), said, "Mr. Mayor, on behalf of the Appellants in the case that is before you, it would be our preference and recommendation that, if there is mediation, that it be conducted in conjunction with a remand to the Planning Commission.

That would be a better use of resources, because it would not burden your calendar which has a multiplicity of things. As opposed to the Planning Commission's calendar which is devoted to land use and planning only."

Councilor Dominguez said, "So, based on what I've just heard the attorneys state from both parties. We just had a case Kelley, where both parties basically said they wanted to take something back to the Historic Board. Right. Has anyone asked that of these applicants. It sounds like they're kind of going down that road. Right. They're talking about mediation and maybe the road is a little greener on this side."

Mr. Sommer said, "If I may Mayor, just briefly. As you said earlier, we see where the vote is going. If the votes are going some direction to a remand, whatever the process is laid out to be fruitful, if Mr. Herdman says that a remand that included a mandatory mediation of some kind, obviously mediation is not binding. People sit and talk, see if they work it out. If they can't, they report that they can't work it out. If they work something out, then they present that. That's not the end of it. It goes whoever has to decide it. Certainly going in front of the Planning Commission with a mediated resolution gives the chance of success at a decision, and no appeal, much better. But the mediation, and requiring that people sit at a table in a confidential mediation session so people can really consider it, we think that would be productive as part of your requirements."

Councilor Dominguez said, "If I can, Mayor, I'm hearing then that there is no formal stipulation between parties to necessarily go down this road."

Mr. Herdman said, "I can so state on behalf of the Appellants, we would not oppose mediation in conjunction with..."

Mr. Sommer asked, "Would you agree to do it if it was remanded, and that is the question – would you agree to do it."

Mr. Herdman said, "Obviously, if it is a condition of the remand, of course we will participate. There's no question about it."

Mayor Gonzales said, "I think to do it conjunctively is probably a good path to go."

Councilor Maestas said, "Just under discussion, point of order. Kelley, what happens if the Motion to Remand fails. Can we entertain a motion to approve the Appeal tonight."

Ms. Brennan said, "If the Motion to Remand fails, you will then move on to the Findings of Fact and Conclusions of Law which would be final action in the case. So effectively, that would be doing that. And the other thing is, before you discuss the motion, if you do want to ask the parties or require the parties to mediate before the matter is heard by the Planning Commission again, you can add that to the motion."

FRIENDLY AMENDMENT: Mayor Gonzales said, "So, I would like to add that to the existing motion." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

CONTINUATION OF DISCUSSION ON THE MOTION, AS AMENDED: Councilor Bushee asked, "Follow up question, Kelley. We've had a motion to reconsider. If the remand motion dies, would it not also remain that the Motion To Reconsider would stand."

Ms. Brennan said, "You are correct Councilor. The Motion To Reconsider, if approved, would mean that you would want to reconsider. If you wanted to reconsider, I would say you should then schedule that deliberation for the next meeting and postpone the decision of the Findings of Fact and Conclusions of Law."

Councilor Bushee said, "And a Motion To Reconsider would have to be made here, tonight, after the remand vote, if it failed."

Ms. Brennan said, "A motion to deliberate at the next meeting. You mean the Motion to Reconsider."

[Several people speaking at the same time here]

Councilor Bushee said, "We've already had the Motion to Reconsider which was successful. So is there no way this evening to reconsider the decision, if the remand fails."

Ms. Brennan said, "If the remand fails, yes, although again, I would advise that that reconsideration take place at the next meeting of the Governing Body, and that the Findings be postponed."

Mayor Gonzales said, "I'm very much opposed to that. I don't know where we're going to go if the Council decides they want to bring it back directly to the Council without going to the Planning Commission. I don't think that gives enough time for the parties to sit and see if they can find a solution as well as have the Planning Commission consider. It shouldn't take long in this process, but it is going to give some good time and it keeps it, hopefully, out of Court, and keeps people at the table to find some conclusion."

Councilor Dominguez asked, "Does this have to have, and I'm not quite sure if I heard the answer clearly enough earlier.... Does this require a new ENN, because there is some level of, I don't want to say mediation, but some level of negotiation that happens at that point in time."

Ms. Brennan said, "The motion... no, it would not require an ENN, I believe, but I think the motion now includes the direction to the parties to mediate before the Planning Commission hears the matter."

Councilor Dominguez said, "So, if I can Mayor, just as a final comment. I certainly support the idea of going to mediation. I think that's really something that should have been done earlier. I'm surprised that we don't have that built into our Code on these sorts of cases. Maybe we ought to look at our Code again in a little bit more detail. But that speaks to how fluid this Code is, is that every time a case comes up, you're going to find one word that contradicts something and requires this big, huge debate. But I'm not going to support motion just in principle, because again, I think we do have a process that is in place. A process that many other applicants have had to comply with, and have done so, and have come out on one end or the other of the decision. So for that, I just wanted to make that statement for the record."

Mayor Gonzales asked to go to the roll call vote, saying we have got some more work to do tonight.

VOTE: The motion, as amended, was defeated on the following Roll Call vote:

For: Mayor Gonzales, Councilor Ives, Councilor Lindell and Councilor Maestas.

Against: Councilor Trujillo, Councilor Rivera, Councilor Dimas, Councilor Dominguez and Councilor Bushee.

Mayor Gonzales said, "I want to say, I'm not going to agree to have this come back to the Council. It has to start at the Planning Commission."

Councilor Bushee said, "I have a motion Mayor."

MOTION: Councilor Bushee moved, seconded by Councilor Trujillo, to have a reconsideration of this appeal at a future Council meeting, and in the interim, ask that the parties try and mediate this issue.

DISCUSSION: Mayor Gonzales said, "I'm opposed to that. I think that we went into this Motion to Reconsider, we stated that the motion was to send it back to the Planning Commission. I went along with that. This quick change to.... and all of you voted on it, at least in the affirmative. The change to move it to the Council now, just seems wrong. So I'm opposed to that motion, but Roll Call.

Councilor Bushee said, "My motion is for the next Council meeting, with mediation in the interim."

Councilor Rivera asked, "Kelley, what happens if this motion fails."

Ms. Brennan said, "You could conceivably reconsider your Motion to Reconsider, or you could come up with another plan."

Councilor Rivera said, "That's what I was afraid you were going to say."

Mayor Gonzales said, "There's nothing wrong with a Motion to Reconsider the Reconsider, because we've got a process that needs to be followed. We agreed on the Motion to Reconsider, at least 5 of us. For that to be changed now, and ask that it goes to the Council is the wrong way to do this and I'm not going to support it. Roll call."

VOTE: The motion was defeated on the following Roll Call vote:

For: Councilor Bushee, Councilor Maestas, Councilor Ives and Councilor Lindell.

Against: Mayor Gonzales, Councilor Trujillo, Councilor Dimas, Councilor Dominguez and Councilor Rivera.

Clarification of motion prior to casting his vote: Councilor Ives asked, "Could you please tell me what the motion was again, and there's a reason for this." **Ms. Vigil** said, "To reconsider at the next meeting and mediation would be held prior to that meeting." **Councilor Ives** said, "And I heard that amendment to the original motion by the maker, but no agreement by the second, which was Councilor Maestas. **Councilor Maestas** said, "Pardon me." **Councilor Ives** said, "I didn't hear your approval as the second for the modification to the motion to include mediation between and the next City Council. **Council Maestas** said, "I accepted that as friendly." **Councilor Ives** said, "I'm not sure if everybody is clear on that, I certainly wasn't."

Explaining his vote: Councilor Ives said, "I very much agree with the Mayor that remand makes sense in this context, and thank you for allowing me a moment when we're voting to state my piece. I honestly am not sure where we go if this measure fails, because we have outstanding then, a Motion for Reconsideration. And so it's a question by whom. I believe very strongly that the Planning Commission is the logical place for that to occur, and especially given the request for median as part and parcel of that. So, while I don't think this is the best path forward insofar as deviation is significantly and objective here, I'll vote yes, but my desire is for remand."

Mayor Gonzales said, "Okay, we can stay here all night. There is a pathway we can go to get this moving back to the neighborhood, back to the Elks. I'm hopeful that we can get to an agreement on how that can happen.

Councilor Dominguez said, "So Mayor, just a question, and not that I'm in support of kind of the direction that we're going, but to try to help the process out. Kelley, can we make a Motion to Reconsider with specific steps that need to be taken. In other words, A, goes back to the Planning Commission, B, it goes to... whatever steps there are that we can to articulate, and then indicate in that motion that the final step, if this is what the Governing Body wants, is for the Governing Body to make that final decision because it is an Appeal. I'm just trying to get us to a place where we can make a motion that's clear enough to kind of get this off the table."

Ms. Brennan said, "Effectively, I think you are talking about a Motion to Remand with certain requirements, if the idea is to send it back to the Planning Commission with direction, and there would be... you have under Code... certainly any appeal of that decision would come to you. If there weren't an appeal, it would presumably mean that the parties had agreed with the decision. So, a Motion to Remand with those requirements, would accomplish what I think you're looking at.

Councilor Dominguez said, "To be a little bit more specific, date specific."

Mayor Gonzales said, "The dates. Would we specifically state the dates that they would have to hear it by."

Councilor Dominguez said, "So the Planning Commission has to hear this in two moth s, or whatever."

Ms. Brennan said, "I think if it were two months that could probably... that's a reasonable timeframe, given the kinds of things that come before them."

Councilor Dominguez said, "And I'm just wondering if that kind of motion helps the process out a little bit. Thank you Mayor.

MOTION: Mayor Gonzales moved, seconded by Councilor Lindell, to remand to the Planning Commission the 3 cases heard by the Governing Body, on Appellants rights, and that they consider the Case 2015-51, with respect to whether the proposed use is permitted under the Code, and the facility design is compatible, with and adaptable to the neighboring properties, including with respect to adjacent resident properties, including consideration of modifications of height, massing, floor set-backs, color and the use of screening to provide visual buffering and in the Motion, ask between now and the next Planning Commission meeting that we can get a calendar on, that there be mandatory mediation, and if they can't schedule it before the Planning Commission can notice it, it will have to wait, but they do mandatory mediation and prior to making it to the Planning Commission."

DISCUSSION: Councilor Bushee asked, "Kelley, can you just keep making the same motion even if it has failed."

Mayor Gonzales said, "I changed it."

Councilor Bushee asked, "How."

Mayor Gonzales said, "We added the requirement of mediation."

Councilor Bushee said, "That was part of the first motion."

Mayor Gonzales said, "It was an amendment. So the timing would be that it would be heard at the next Planning Commission meeting that it could be noticed for and that there be mandatory mediation prior to that. If the parties can't get together before it's appropriately noticed, it will be delayed to the following Planning Commission."

Ms. Brennan said, "And Mayor, I believe that that Planning Commission meeting would be the September meeting."

Councilor Bushee said, "But, I asked the Attorney a point of order. Can a motion just keep being made. It's the same motion."

Ms. Brennan said, "Because he added something to it, meaning to hear it by a certain date."

VOTE: The motion was defeated on the following Roll Call vote:

For: Mayor Gonzales and Councilor Ives, Councilor Lindell and Councilor Maestas.

Against: Councilor Dimas, Councilor Dominguez, Councilor Rivera, Councilor Trujillo and Councilor Bushee.

Councilor Maestas said, "I have a plan. You said that was an option."

MOTION: Councilor Maestas moved, seconded by Councilor Bushee, to approve the appeal of the May 7, 2015, Planning Commission.

DISCUSSION: Mayor Gonzales said, "It wasn't even noticed, how can we do that."

Councilor Bushee said, "We had a Motion to Reconsider that passed."

Ms. Brennan said, "You have a motion to reconsider, so you are now reconsidering the vote you made, but I believe that should be at the next meeting for notice purposes, just to be absolutely clear on that point.

REVISED MOTION: Councilor Maestas moved, seconded by Councilor Bushee, to revise the previous Motion that we take up at the next meeting, a Motion to approve the appeal of the May 7, 2015, decision regarding Case #2015-51.

VOTE: The motion was defeated on the following Roll Call vote:

For: Councilor Ives, Councilor Maestas and Councilor Bushee.

Against: Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Rivera and Councilor Trujillo

Explaining his vote: Councilor Dominguez said, "That contradicts the spirit of what the Mayor is trying to do, so I vote no, even though I don't agree with it."

Clarification of motion prior to casting his vote: Councilor Ives said, "Give me clarify of what we're voting on." **Ms. Vigil**, "You would take up at the next meeting to approve the appeal for reconsideration. Is that your motion." **Councilor Maestas** said, "Yes." **Councilor Ives** said, "And part of the reason I'm asking is, in the Findings of Fact and Conclusions of Law in the case, it indicates that the Appellants are the Southeast Neighborhood Association for its members, and Jim Dyke and Jerry D. Christopher, individually, so that was one party, if you will to the decision that was made. That's a place where all are on the same side of the decision. **Ms. Brennan** said, "Yes, Councilor. They were the Appellants."

Explaining his vote: Councilor Ives said, "Again for me, it's not the preferred course, but I will vote in favor."

Explaining her vote: Councilor Lindell said, "I'm going to vote no on this, because I don't think that it brings forward any opportunity for the two parties to show any spirit of cooperation on this, which was what the point of this was, so I'm going to vote no."

Explaining his vote: Councilor Trujillo said, "We need to put a tent around this circus, because this is what it's turning into. No."

Explaining her vote: Councilor Bushee said, "I want to clarify that, why the decision rests here, is that the Planning Commission makeup has changed completely. And we've made this record go all over the place. The decision lies with us. I feel Mayor, if you were going to reconsider your vote because you had concerns about the facility fitting in that space, the decision lies with us. And I do believe we should also have it here next meeting, have a hearing, and that we should mediation in the interim, so that will be the motion I'll make after this. So yes."

MOTION: Councilor Bushee moved, seconded by Councilor Maestas, that we move to reconsider and approve the Appeal at the next Council meeting, with mandated mediation of the two parties in the Interim.

DISCUSSION: Mayor Gonzales said, "Right. So there's a motion to approve the appeal..."

Councilor Bushee said, "To reconsider the approval of.... yes, just like Councilor Maestas's motion, only with mediation in the interim. I didn't vote against that. That perhaps assuages Councilor Lindell's concerns."

Ms. Brennan said, "Councilor Bushee. A point of order. If mediation is mandated, it may be better to move it to a subsequent meeting, say the second meeting in August, just to give time for that process."

Councilor Bushee said, "I would like to keep it to the first [meeting], because I won't be here for the second [meeting]."

Mayor Gonzales said, "Councilor Bushee, you've missed my whole point as to why I wanted to reconsider this, unfortunately. While there may still be questions as to the issue of the Code, the reconsideration is about an opportunity to bring two very divided communities together to the table, on their own, without this political body trying to interject what should happen on that property. So I am imploring and asking this Council that we do stop this circus that's going on right now, and be able to remand this back to the Planning Commission. Because honestly, if we don't, then we're not going to get anywhere. It's not going to appease the Elks, it's not going to appease the neighbors, and it's just going to be an unfortunate evening for this City that we can't find a way to remand an important issue, that's been highly divisive and controversial, back to the Planning Commission, back to mediation, and allow for that conversation to happen. What is the sense of urgency to have to get this in front of us at the next election, we may not get it by the next election, at the next meeting. But we have to be able to give individuals an opportunity to talk and I hope that this Council will deny the Motion, let us get on with the evening's business, by remanding it back to the Planning Commission. Both parties have agreed to mandatory mediation. Both parties have agreed to sit down, because it's the only right way to go for our community."

Councilor Bushee said, "Mayor, can I respond. I don't understand why remanding to a new, entirely new Planning Commission is the only method. We're asking that they have time to mediate in the interim, and it comes back. I think the decision rests here."

Mayor Gonzales said, "I'm not going to debate that point, I've stated it, so Roll Call."

VOTE: The motion was defeated on the following Roll Call vote:

For: Councilor Lindell, Councilor Maestas and Councilor Bushee.

Against: Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo, Councilor Dimas and Mayor Gonzales.

Explaining his vote: Councilor Dominguez said, "I'll debate that point. We have a process in place Councilor Bushee that determines whether or not certain items come to this Governing Body or not. If we want to change that process, then so be it. It shouldn't be done tonight at this meeting on such a controversial issue. The second thing I want to say, is back to my old saying, you know the road to hell is paved with good intentions, Mayor. So I'm going to vote no."

Explaining his vote: Councilor Ives said, "You know, I'm curious to see how this will play out, so on this particular one, in part because I think remand is the logical choice and I certainly hope that the position that would provide the parties that opportunity to get together and come back to the Planning Commission makes the most sense. I'll vote no."

Clarification prior to casting her vote: Councilor Lindell said, "I have a question for Ms. Brennan. What happens if the mediation can't be accomplished prior to the next Council meeting." **Ms. Brennan** said, "I would imagine, Councilor, that there would be a request to postpone that, the deliberation of the proceeding to a date where the mediation process had been completed, either successfully, or not. But in a complex dispute like this, sometimes the mediation might take more than one session, and given that the parties, there are a number of people associated with the parties, getting them together and accomplishing a successful mediation might take a little more time. And I spent my day at a mediation that I thought would be wrapped up, and there's going to be other sessions. I think that's fairly common. **Councilor Lindell** said, "Okay, thank you."

Explaining her vote: Councilor Lindell said, "Because there is mediation in this motion, I will vote yes."

Explaining his vote: Councilor Dimas said, "Mayor, I can only say one thing. This has really turned into a dog and pony show. No."

Explaining his vote: Mayor Gonzales said, "Councilor Dimas, it's a damned shame that it has. I'm going to say no."

Mayor Gonzales said, "We're going to take a 10 minute break, and when we come back, we're going to have a motion that we're either going to reconsider the reconsideration and get this done tonight, or we're going to come back and we're going to figure out how to remand it back to the Planning Commission. It's the decision of this Council. We'll be back at 7:15 p.m.

There was a short break 7:05 to 7:20

Mayor Gonzales said we will try once more and then he will ask to postpone the decision and try and reflect on what is the best pathway.

Mayor said Mr. Herdman has asked to address the Council quickly because Mr. Sommer had an opportunity to state his preference.

Mr. Herdman said, "I just wanted to be clear that, on behalf of the Appellants, including the Southeast Neighborhood Association, our preferred alternative is to remand to the Planning Commission with mandatory mediation. We believe the Planning Commission will be able to manage the mediation, decide on the timing the mediation and able to oversee that process effectively. As again, they are Land Use and Planning Commission, an agency of the City, and we think that that is where this properly belongs. So I just wanted to make sure that the Appellants' position is crystal clear. Thank you Mayor."

Councilor Dominguez said, "A question for you Frank, since you're the.... is that consistent with your statement at the last meeting."

Mayor Gonzales said, "You don't have to answer that Frank."

Councilor Dominguez said, "Well, no, I just want to know, because part of the question that has been asked is if something has changed."

Mr. Herdman said, "Well, I think that what's changed is a groundswell of concern that has been expressed by this community."

Councilor Dominguez said, "I haven't asked you what's changed. I just asked you if it is consistent with your comments at the last meeting."

Mr. Herdman said, "It is not consistent with the request of whether there was remand to Planning Commission. However, the issue of mediation, to my recollection, did not come up. And since then, I think that...."

Councilor Dominguez said, "You've answered my question, thank you."

Councilor Bushee said, "Why the vehicle of the Planning Commission, because the body has changed. Why could you not mediate the parties before it came back here for reconsideration."

Mr. Herdman said, "There's a variety of concerns, one is timing. We think that it is going to take a while to identify a mediator..."

Councilor Bushee asked, "If we pick a different date for mediation, I mean for a hearing at the Council, give you two months."

Mr. Herdman said, "It's my belief, based on 20 years of experience doing land use law in the City of Santa Fe, that the Planning Commission is going to be a more effective forum, because it's dedicated to planning and land use related decisions. And so, just based on that, I think it would more efficient and I think it would be more effective."

Mayor Gonzales said, "I would like to ask for one more motion and if not, let's table this until the next Council meeting, because obviously cooler heads need to prevail and we've got work to do on the agenda.

MOTION: Councilor Bushee moved to postpone this to the next Council meeting.

Mayor Gonzales said he would like to ask for one more motion before you move to postpone. He said, "Councilor Bushee if you can just allow us to try and figure out a way forward before we put the pause in, I would appreciate it.

THE MOTION DIED FOR LACK OF A SECOND.

MOTION: Councilor Ives moved, seconded by Councilor Lindell, to remand all 3 cases to the Planning Commission for reconsider of all issues, with direction that mediation be conducted between the parties, with all due speed in order that the matter could be considered timely, not delay ultimate consideration of this matter by the City Council, and allow parties the opportunity to fully determine whether or not there are... that they can see what final agreement, if any, that they could come to that could be brought to the Planning Commission as part of its deliberative process.

DISCUSSION: Councilor Bushee said, "Wait a minute, I have to ask, for clarification, how is that different than the previous two motions that have been denied."

Ms. Brennan said, "The motions were remanding 3 cases on two points. The definitional point and the design point, and I understand Councilor Ives' motion to be on all 3 points – Lot Split, Special Use Permit and Development Plan."

Councilor Bushee asked, "But not on design."

Ms. Brennan said, "The design would be part of the Development Plan and Special Use Permit consideration. So, it's not only organized differently, it calls out a different process."

Councilor Bushee said, "I would ask you to limit the discussion the definition, and not, what is the second one."

Ms. Brennan said the second one was design issues, but that would be the same... by limiting it, it would be the same as the prior motion.

Councilor Bushee said, "I want to consider the Special Use Permit, and the definition of continuing care, and whether or not that was an appropriate facility for that space. I don't want to get into massing and design, I want to get into that decision, directly."

Ms. Brennan said, "Councilor Bushee, consideration of the Special Use Permit, would include all those design issues, because the Special Use Permit standard is the compatibility with an adaptability too, and that addresses those design issues, and also raises all the other conditions. So, by referring back to the Special Use Permit, you are including those issues. As I say, Councilor Ives' motion does differ from the prior ones because it includes consideration by the Planning Commission of all 3 applications for the Lot Split, the Special Use Permit and the Development Plan, if I'm correct."

VOTE: The motion was defeated on the following Roll Call vote:

For: Councilor Ives, Councilor Lindell, Councilor Maestas and Mayor Gonzales.

Against: Councilor Rivera, Councilor Trujillo, Councilor Bushee, Councilor Dimas and Councilor Dominguez.

MOTION: Councilor Bushee moved, seconded by Councilor Maestas, to postpone this item to the next meeting of the City Council.

DISCUSSION: Mayor Gonzales said, "All right, there is a motion to postpone this item. I apologize to all parties who waited tonight. Hopefully, we will be able to get our act together so that you actually can be able to begin the process of discussing how to be able to go forward as a community."

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Ives, Councilor Lindell and Councilor Maestas.

Against: Councilor Rivera, Councilor Trujillo, Councilor Dimas and Councilor Dominguez.

Explaining his vote: Councilor Ives said, "I will vote yes, but express my disappointment in our incapacity to have not reached a reasonable decision that would have accommodated the position of both the parties before the Council."

Councilor Dominguez said, "I want to make a comment on that Mayor, just real quickly. Again, one of the motions that wasn't considered, was a motion to accept the Findings of Fact and Conclusions of law. I think that needs to be recognized. Thank you Mayor."

Mayor Gonzales said, "Real quick. So the Motion to Reconsider to send back to the Planning Commission, I'm assuming that's non-existent then. All right. Zach, so this motion to reconsider, it was approved to go back to the Planning Commission, but there's no agreement, so I'm assuming that that doesn't count.... does it count, does it not count."

Mr. Shandler said, "Mr. Mayor, the Motion to Reconsider took it off the table. You guys had a healthy discussion this evening, and have now made a decision to postpone any further healthy discussions to the next meeting."

Mayor Gonzales said, "Unless we, at the next meeting can come to an agreement that supports this reconsideration, then I'm assuming it doesn't exist, and we move on to whether the Findings of Fact are going to be accepted or not."

Mr. Shandler said, "I think that's correct, Mayor. The next item, we're going to withdraw the Findings of Fact at this time, and the lawyers will be *[inaudible]* tomorrow morning. Thank you."

Mayor Gonzales said, "I just want to make clear that if we cannot remand this whole process back to the Planning Commission, then we have to reconsider the motion that was going to direct it back to the Planning Commissions, so we can move on with this case, because I think both parties need to determine whether there is going to be a course of action that goes through the Courts, or if there is a course of action that can go through the regular land use process. So, hopefully, at the next scheduled meeting, if we can't find that process, then we will move on the Findings of Fact and we will have the parties to do what they need to do."

b) REQUEST FOR APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW IN CASE NO. 2015-51. (ZACHARY SHANDLER)

1) MOTION TO APPROVE

No action was taken on this item.

END OF AFTERNOON SESSION AT APPROXIMATELY 7:30 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor Javier M. Gonzales, at approximately 7:30 p.m. There was the presence of a quorum as follows:

Members Present
Mayor Javier M. Gonzales
Councilor Peter N. Ives, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Signe I. Lindell
Councilor Joseph M. Maestas
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo

Others Attending
Brian K. Snyder, City Manager
Kelley Brennan, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

F. PETITIONS FROM THE FLOOR

Mayor Pro-Tem Ives gave each person two minutes to petition the Governing Body.

David McQuarle, 2997 Calle Cerrada, said he is here to ask you ro please direct staff to follow Resolution No. 2009-51, Section 3, where all Public Works Projects shall be reviewed by the Mayor's Committee on Disability. He said in 2004, Federal Highway advised the City to adopt a policy on key intersections, and currently they do not have standard treatment of key intersections. According to them it's okay for a person to go up to 50 feet out of their way past 2 of 3 of the intersection. It's okay to go 1 ½ miles to cross the street. Another incident says you go to the County Courthouse if you use a mobility device, you can't use the sidewalks. State law requires you to be able to use sidewalks by §77-6-399A. What are we supposed to do. Give us some help. Let me ask you to direct staff to develop a policy on key intersection *[inaudible]*.

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VERBATIM TRANSCRIPT
OF THE REQUESTED PORTION OF PETITIONS FROM THE FLOOR, ITEM #F
FROM THE EVENING SESSION
CITY COUNCIL MEETING
July 29, 2015

STEFANIE BENINATO: I am Stefanie Beninato, P.O. Box *[inaudible]*, Santa Fe, New Mexico. I am speaking to the Council, that I noticed that last week I saw some surveyors near my property and I asked them what they were surveying. And they said they were surveying for 600 Galisteo Street. And the surveys are only good for about 90 days, so I began to wonder why someone would have a survey done before you had the approval on the General Plan change and the Rezoning change. And it's not something I am going to making part of my formal statements on the record about this application. But I did just bring it up, because it's just kind of odd that you were doing something that cost money like that before you had approval. Thank you."

I certify that this is a true and accurate transcript of the requested portion of Petitions from the Floor, Item #F, from the Evening Session, City Council Meeting, July 29, 2015.

_____
Melessia Helberg, Council Stenographer

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Mayor Gonzales said there is a sign-in sheet and if you want to sign in, feel free to do so. That way you don't have to stay standing for any kind of testimony that you would like to give to the Council on any type of Ordinance.

Mayor Gonzales said Councilor Maestas, as is tradition, pulls an item from the Consent Calendar so he can make a quick disclosure for the record, and asked the Council if we can go ahead and allow him to do that, because there is an individual here from the DOT. He said Councilor Trujillo has a quick disclosure as well.

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MOTION: Councilor Trujillo moved, seconded by Councilor Dimas, to reconsider the previous approval of the agenda as amended, to consider Items 10(f) and 10(m) from the Consent Calendar from the Afternoon Session, and to approve the amended agenda, as further amended.

VOTE: The motion was approved on a voice vote with Mayor Gonzales, and Councilors Bushee, Dimas, Dominguez, Ives Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none against.

CONSENT CALENDAR DISCUSSION

10(f) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT AND APPROVAL OF BUDGET INCREASE IN THE AMOUNT OF $250,500 – ENGINEERING SERVICES FOR FEASIBILITY STUDY TO OPTIMIZE THE USE OF REGIONAL RECLAIMED WASTEWATER FOR WATER DIVISION (RFP #15/34/P); CAROLLO ENGINEERS, INC. (BILL SCHNEIDER)

Disclosure. Councilor Maestas said, "As I've stated throughout the policy process, this particular action involve funding from the Bureau of Reclamation. I have disclosed that I do work for the Bureau of Reclamation. I do not directly manage the funding program under which these funds are made available for this project, so therefore I will be recusing my vote."

MOTION: Councilor Trujillo moved, seconded by Councilor Dimas, to approve this request.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Rivera and Councilor Trujillo.

Against: None.

Recused: Councilor Maestas.

10(m) CONSIDERATION OF RESOLUTION NO. 2015-67 (COUNCILOR TRUJILLO). A RESOLUTION IN SUPPORT OF DEFOURI AND GUADALUPE STREET BRIDGE IMPROVEMENTS FUNDED THROUGH A MUNICIPAL ARTERIAL PROGRAM COOPERATIVE AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION. (DESIREE LUJAN)

1) REQUEST FOR APPROVAL OF MUNICIPAL ARTERIAL PROGRAM COOPERATIVE AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR BRIDGE IMPROVEMENTS TO THE DEFOURI AND GUADALUPE STREET BRIDGES.
2) REQUEST FOR APPROVAL OF BUDGET ADJUST REQUEST IN THE AMOUNT OF $80,000.

Disclosure: Councilor Trujillo said, "Thank you Mayor. As always, I do work for the New Mexico Department of Transportation. I used to oversee the Municipal Arterial Programs back in the days, I no longer do that. There is no conflict of interest, I will move for approval."

MOTION: Councilor Trujillo moved, seconded by Councilor Lindell, to approve Item 10(m) Resolution No. 2015-68, and Items 10(m)(1) and 10(m)(2) as presented.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

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The Council then returned to the Evening Agenda

G. APPOINTMENTS

A copy of the resume of Patricia Boies, J.D., an appointee to the Community Health Care and Hospital Study Group, is incorporated herewith to these minutes as Exhibit "3."

COMMUNITY HEALTH CARE AND HOSPITAL STUDY GROUP.

Mayor Gonzales made the following appointment to the Community Health Care and Hospital Study Group:

Kathy Armijo Etre, PhD, Christus St. Vincent, Vice President of Community Health;
Diane Spencer, District 1199 NM Hospital Workers Union Representative;
Judith K. Williams, Ph.D., Santa Fe County Commission Representative;
Carolyn Roberts, MSN, RN, Santa Fe County Commission Representation; and
Patricia A. Boies, Santa Fe County, Director of Community Services Representative.

MOTION: Councilor Bushee moved, seconded by Councilor Rivera, to approve these appointments.

VOTE: The motion was approved unanimously on a voice vote with Mayor Gonzales and Councilors Bushee, Dimas, Dominguez, Ives, Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none voting against.

VETERANS ADVISORY BOARD

Mayor Gonzales made the following appointment to the Veterans Advisory Board:

Sigrid Hannah Mabel (Veteran) – term ending 05/2017.

MOTION: Councilor Dimas moved, seconded by Councilor Trujillo, to approve this appointment.

VOTE: The motion was approved unanimously on a voice vote with Mayor Gonzales and Councilors Bushee, Dimas, Dominguez, Ives, Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none voting against.

BOARD OF ADJUSTMENT

Mayor Gonzales made the following appointment to the Board of Adjustment:

Patricia M. Hawkins, Reappointment – term ending 09/2017.

MOTION: Councilor Bushee moved, seconded by Councilor Lindell, to approve this appointment.

VOTE: The motion was approved unanimously on a voice vote with Mayor Gonzales and Councilors Bushee, Dimas, Dominguez, Ives, Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none voting against.

H. PUBLIC HEARINGS

1) **CONSIDERATION OF RESOLUTION NO. 2015-68; CASE NO. 2015-30 TUNE UP CAFÉ GENERAL PLAN AMENDMENT. LIAISON PLANNING SERVICES, INC., AGENT FOR JC RIVERA, LLC, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 0.13± ACRE OF LAND FROM LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS PER ACRE) TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 536 CORTEZ ST. (DONNA WYNANT)**

Items #H(1) and H(2) were combined for purposes of presentation, discussion and public hearing, but were voted upon separately.

A Memorandum dated July 16, 2015 for the July 29, 2015 Meeting of the Governing Body, with attachments, to Members of the Governing Body, from Donna Wynant, Senior Planner, Current Planning Division, in this case, is incorporated herewith to these minutes as Exhibit "4."

A letter in support of the Tune Up Café General Plan Amendment and Rezoning, to the City Council, from Dr. Matthew J. Kelly, is incorporated herewith to these minutes as Exhibit "5."

A copy of a statement for the record in opposition to rezoning one lot, submitted for the record by Stefanie Beninato, is incorporated herewith to these minutes as Exhibit "6."

The staff report was presented by Greg Smith, Director, Current Planning Division. Please see Exhibit "4," for specifics of this presentation.

Public Hearing

Presentation by the Applicant

Mayor Gonzales asked if the Applicant had a presentation and the Applicant said no.

Speaking to the Request

Mayor Gonzales gave each person 2 minutes to speak to the Request.

All those speaking were sworn en masse

Joseph Romero, 612 Cortez [previously sworn] , said he is not sure if they're going to change the parking. He said right now the parking is really bad, noting there is a lot of traffic going through Cortez and Hickox. He said he thinks they said they were going to buy another piece of property to add to the parking, but he's not positive about that. He also said he also unsure if he is rezoning everything to make it more than one-story, and if they're going to go 2 or 3 stories.

Carmella Romero, 612 Cortez [previously sworn], said the bad thing about Cortez is when she gets out of her property these big trucks are coming in from Sierra Vista, and believes they are coming from Cerrillos Road to Baca Street and to Cortez, and coming fast and she knows it's for the restaurant. She thinks we need to put in some speed humps on the road, because the parking is really bad on Cortez where she lives and there's going to be an accident when they drive really fast. She asked if the restaurant going to be changed or is this just for the parking.

Jazz Reisz, 1528 La Cienegita [previously sworn], said she owns property at 530 Cortez Street, 3-4 houses down from the Tune-Up. She said, "As I testified at the Planning Commission, I'm totally in favor of this zoning change, whatever the *[inaudible] are*. I think it's great for the neighborhood. They need more parking. So I'm in favor of it. Thank you."

Vicki Romero, 528 Cortez [previously sworn], said walking on Cortez to go south to Hickox a person must get off the sidewalk and walk on the street. She said the restaurant traffic parks on the side of the restaurant, not only on the sidewalk, but also on the street between Hickox and Cortez. She said sidewalks are only for pedestrian traffic. She said this problem was discussed at the meeting where City employee representative said he would discuss this with the restaurant owners, have it corrected, and have someone to monitor and enforce the situation. The next meeting, the City representatives said the City is thinking about the sidewalk, and to date nothing has been done and they are still walking on the street. On Hickox people park on both sides and you can't see oncoming traffic and traffic seems to come a little fast, noting you have to get halfway onto Hickox before you can see any oncoming traffic. We were told at the last meeting that they were allowed to park there, but must have a special permit, and deliveries

must be made early in the morning. She said this isn't being adhered to. She said Cisco and Shamrock are parking there at all hours of the day to unload. She said the receiving is done on Cortez Street, t-boning the restaurant to they can't pass. She said they shouldn't be parked on Cortez Street because it is a residential area. She said big trucks travel Cortez to make deliveries. She said we need signage saying this is not a truck traffic street. She said Cortez and Hickox Streets is a carnival. She hates it and she lives there.

Stefanie Beninato, P.O. 160 [previously sworn], said she doesn't live near there, but she is bringing up the issue of spot zoning. She said this is a request for a change to the General Plan for 0.3 acres, and there are questions she thinks need to be address if you are going to expand to change this very small piece of land for this purpose. She said she said she hears that the owner wants this change to bring things into compliance, as they have promised before, but it never happened. She thinks the parking is just one dramatic issue. She said she would send them to the record, *[inaudible]* v. City Council of Las Cruces, 1999. NM Ct. Of Appeals case, and they talk about the spot zoning in Watson v. *[inaudible]* and that is a Court of Appeals 1999 case. And they basically say that spot zoning is determined on an *ad hoc* basis, that refers to the leasing of a small parcel of land to permit use that fails to comply with the comprehensive zoning. So the fact that we have to change the comprehensive plan to be able to allow this ability in the factor that says it's spot zoning, that fails to comply with the comprehensive plan or is inconsistent with the surrounding area *[inaudible]* and harms neighboring properties. And we are talking about benefit to the community, which is another way to look at it. The change to the General Plan is too adverse, so you have a much smaller than is required under case law.

Bettina Rafael, 611 Cortez Street [previously sworn], said she lives about ½ block from the Tune-Up Café. She agrees with previous speakers on the difficulty of traffic and parking in the neighborhood that have resulted from the success of the Tune Up. She would hope that this proposal will help resolve some of those concerns by providing more safe parking and some of the overcrowding that has resulted in the past. She said, "I will also speak in favor of this, because I value the Tune Up as a member of my local community, and I really appreciate the mixed use that this represents in Santa Fe, where residential communities can have a local café, a local meeting place, some place that I feel personally very identified with and that others are drawn to. I am very much in keeping the Tune Up thriving and hopefully it can be done in a way that doesn't complicate future zoning issues.

Julia Chavez, 2664 Calle Ensenada [previously sworn], asked, "I wanted to know if the taxes going to go up on this."

Mayor Gonzales said we will ask the staff to answer those questions, and we don't answer questions back and forth, we just want to hear your input.

Ms. Chavez said she isn't familiar with this, her husband just passed away and he was paying the taxes on the house.

Mayor Gonzales said, "We'll make sure that Greg Smith can direct to you to somebody that might be able to answer questions regarding what the implications to your taxes might be."

The Public Hearing was closed

Councilor Ives asked the current use at 536 Cortez.

Mr. Smith said currently the property is occupied by a mobile home.

Councilor Ives asked if the mobile home has been removed.

Mr. Smith said no.

Councilor Ives asked to what use is the mobile home made.

Mr. Smith said it is a dwelling unit.

Councilor Ives said to be clear, we are eliminating a dwelling unit here in favor of the parking lot. He asked if there were tenants in trailer.

Mr. Smith said he doesn't know, but he is sure the Applicant's representatives can address that issue.

Mayor Gonzales asked Councilor Ives if he has questions for the Applicant's representatives, and Councilor Ives said yes.

Dolores Vigil, P.O. Box 1835, Santa Fe 87504, representing the Applicant, asked Councilor Ives what is his question.

Councilor Ives said as he understands it, the prior use of 536 Cortez has been as a residence for some number of people. He asked by approving this, and converting the property to parking, he wants to understand how many people will be moved out of that facility and required to find housing elsewhere in the City.

Ms. Vigil said there are 4 people living there right now, noting it a rental and they have a new place to move into down the street. She said Applicant bought a home recently and plans to move in there.

Councilor Lindell said, "The applicant, I know, has heard a lot of complaints from people in the neighborhood, and I've spoken with people in the neighborhood, but I really appreciate the lengths that they've gone to, to address the neighbor's parking issues, in terms of purchasing a property and even purchasing another property and making a home for the people that live in the manufactured housing that is on the subject site. I know we need two motions for this.

MOTION: Councilor Lindell moved, seconded by Councilor Bushee, to adopt Resolution No. 2015-68, approving Case #2015-30, Tune-Up Café General Plan Amendment.

DISCUSSION: Councilor Bushee understands they want to make this a parking lot, and asked if there are other plans for an additional building or other uses, and asked if there can be restrictions if it goes beyond that.

Ms. Vigil said the applicant has a good plan to do an addition to the kitchen only. No additional seating is proposed. She said currently the kitchen is extremely tight. She said that is part of the reason for the lot consolidation so it would be one lot, so it would be easier to comply with the requirements.

Councilor Bushee asked, because we are changing the zoning to commercial she is concerned about future uses of the Café.

Mr. Smith said that conditions of approval can be imposed.

Councilor Bushee said she understands there is a right turn only onto Cortez.

Mr. Smith said the Council is not voting on a specific site plan, and the Applicant has indicate it intends to pursue administrative approval for right turn only, and Mr. Romero is here to answer any technical questions on annexation.

Councilor said she will get to that, after she gets the answer to this question. She understands the concerns of Ms. Romero and others on Cortez. She hopes this makes the situation better.

Christopher Graeser, Attorney for Applicant, said, "To address the concern on use. We talked about that a lot at Planning Commission, and certain any number of uses in C2 would actually have less impact on a neighborhood, and some that would have more, but would be clearly inappropriate. As I said during the Planning Committee, we would be happy to negotiate with any neighbors to impose covenants to limit those. At the time, and pretty much so far, no neighbors have approached us expressing concerns about any envisioned use if Tune Up ever cease to be there. We're happy to have that discussion. And I think the Application addresses all the concerns we heard expressed. It's not going to be 2 or 3 stories or anything like that. And yes, the point of this is to add parking, because parking is the number one concern expressed by the neighborhood."

Councilor said she wants to make sure that Zach can tell us what can come in, noting it's a small lot and can't accommodate a whole lot of anything in uses.

Mr. Shandler said, "As in the *Hands of America* case on Rodeo Road that you heard several months ago, you cannot put conditions on zoning."

Councilor Maestas noted there are staff conditions but he doesn't see them in the Findings of Fact and Conclusions of Law, and asked if we need to amend the motion to include the conditions of approval.

Mr. Graeser said the DRT conditions were in an attached table and they agree with all of them.

Ms. Brennan said, "If the Planning Commission didn't, you certainly should approve with the conditions of staff."

FRIENDLY AMENDMENT: Councilor Maestas said he would like to add approval with all conditions of approval recommended by staff. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Ms. Vigil noted the conditions are attached as Exhibit B to the Bill, so they are incorporated as a part of the bill.

VOTE: The motion, as amended, was approved on the following Roll Call vote:

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Absent for the vote: Mayor Gonzales.

Explaining his vote: Councilor Ives said, "Yes, and I'll make a brief statement after the vote."

Councilor Ives said, "My comment would be, in this action just now, which I fully support because it makes sense in the context of the community and the uses and expanding parking which resolves a number of issues within that neighborhood. Nonetheless, eliminated one more potential low income housing unit, if there are 4 people living in a trailer, I don't know what the rents were, but I can't imagine they were excessively high. And of course, earlier this evening we were moving to try and address some of those issues. So I just see some inconsistencies in some of our actions tonight, but again, I fully support what we've done here. Thank you."

2) **CONSIDERATION OF BILL NO. 2015-29, ADOPTION OF ORDINANCE NO. 2015-20; CASE NO. 2015-30. TUNE UP CAFÉ REZONING. LIAISON PLANNING SERVICES, INC., AGENT FOR JC RIVERA, LLC, REQUESTS REZONING APPROVAL OF 0.13± ACRE OF LAND FROM R-5 (RESIDENTIAL, 5 DWELLING UNITS PER ACRE) TO C-2 (GENERAL COMMERCIAL). THE PROPERTY IS LOCATED AT 536 CORTEZ ST. (DONNA WYNANT)**

MOTION: Councilor Maestas moved, seconded by Councilor Lindell, to adopt Ordinance No. 2015-20, approving Case No. 2015-30, Tune Up Café Rezoning as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Absent for the vote: Mayor Gonzales.

3) **CONSIDERATION OF RESOLUTION NO. 2015-69; CASE NO. 2015-20. 600 GALISTEO STREET GENERAL PLAN AMENDMENT. EVA PARKER, TRUSTEE FOR THE LUCY C. ORTIZ ESTATE, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE DESIGNATION FOR A 5,581 SQUARE FOOT LOT FROM MODERATE DENSITY RESIDENTIAL TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 600 GALISTEO STREET. (ZACHARY THOMAS)**

Items H(3) and H(4) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.

A Memorandum dated July 8, 2015 for the July 29, 2015 Meeting of the Governing Body, with attachments, to Members of the Governing Body, from Zach Thomas, Senior Planner, Current Planning Division, in this case, is incorporated herewith to these minutes as Exhibit "7."

A letter in support of the rezoning of 600 Galisteo Street, from Peter B. Komis, President, Don Gaspar Neighborhood Association, submitted for the record by Karen Heldmeyer, Vice-President, is incorporated herewith to these minutes as Exhibit "8."

The staff report was presented by Zachary Thomas. Please see Exhibit "7" for specifics of this presentation.

Public Hearing

All those speaking were sworn en masse

Presentation by Applicant

Eva Ortiz Parker, P.O. Box 212, Tesuque, 87574, Applicant [previously sworn]. Ms. Parker read a statement into the record as follows: "First of all I would like to thank the most Honorable Javier Gonzales and esteemed Council members here tonight for hearing our petition. As a 9th generation Santa Fean, I am humbly asking for your approval for the property located at 600 Galisteo to be rezoned as a commercial property. The building located at 600 Galisteo has been a business for over 80 years. It was originally built and established as a grocery store, comparable to Kaune's. The store was named Ortiz Food Store and later became known as Frank's, after my father the late Frank S. Ortiz. Dad was elected

and served two terms as Mayor of Santa Fe between 1948 and 1952. Previous to that, my father was elected and served 8 years on the City Council. At that times the jobs were unsalaried. Can you imagine putting up with what you have to put up with tonight and not get paid. Dad was also appointed Postmaster of Santa Fe. Finally, the Frank S. Ortiz Dog Park is named after my father as a remembrance of his public service and dedication to his beloved Santa Fe."

Ms. Parker continued, " The building at 600 Galisteo has always been a business. It was used as a full service grocery store from the late thirties to the late sixties, including a meat market with a butcher and a large liquor department. After my father they rented it to a photo studio. I joined the Madelyn's Photography Studio in 1981 and ran the business until I retired in 1992, to take care of my mom, the late Lucy C. Ortiz, a former first lady of Santa Fe. After that, we rented the building to a frame shop. Around the turn of the century, we began to have problems and couldn't rent it, because one particular neighbor kept saying it wasn't zoned for commercial, and then the recession hit. To make a long story short, I would really humbly ask you to please grant our petition so we can restore my dad's former business to sell it. I am in charge of my mom's estate and I want to pay everybody off. Thank you very much."

Speaking to the Request

Karen Heldmeyer, speaking on behalf of Peter B. Komis, as President of the Don Gaspar Neighborhood Association [previously sworn] who couldn't be here tonight, because there was a family medical Association. Former Councilor Heldmeyer read the statement into the record in support of the rezoning of 6009 Galisteo to C-1. Please see Exhibit " 8," for the text of Mr. Komis's statement.

Chuck Parker, spouse of Eva Ortiz Parker [previously sworn] said staff, most notably Zach Thomas, has been very helpful. He is here mostly to answer questions. He sees this as a correction from the original zoning. He said someone drew a line down Paseo de Peralta and didn't look what was on either side. The Ortiz family on one side is BCD, and their business on the other side is a residence. So somehow they got switched, and it should have been designated as a commercial property long ago. He said C-1 is completely acceptable for the family, but they couldn't request it and the reason they had to ask for BCD.

Angela Ortiz Lopez, [previously sworn] said her sister Eva said pretty much what she had in mind to say, and she will back up her husband remarks, noting he is going to talk for her.

Alonzo Lopez, 702 Los Lovatos Road, Santa Fe [previously sworn], husband of Angela Ortiz Lopez. Mr. Lopez said he is a native Santa Fean and former educator in the Santa Fe Public Schools. He said she is the daughter of Frank Ortiz, who served as Mayor 1948-1952. He said he remembers Frank Ortiz as working hard and serving his community and didn't mind working for free, because at that time City elected officers didn't get paid. They said the vacant property at 600 Galisteo does foster crime. It is a perfect spot for drug trafficking. It can also be a pit stop for trafficker since there is an empty parking behind the building. He said the six families of Frank and Lucy Ortiz would appreciate you approving the

zoning that has been approved by the Planning Committee, and he thanks the Governing Body on behalf of the Ortiz family.

Hubert Van Hecke, 871 don Cubero [previously sworn], said he is the Acting President of the Don Diego Neighborhood Association, but he is speaking for himself tonight. He said the Don Diego neighborhood is mostly residential surrounded by commercial on most sides, and they are sensitive about encroachment of commercial rezoning into the residential area. They are aware of the history of the property and that is almost impossible to sell the property as a residential property. He said at the ENN meeting about a year ago there was general agreement between most parties that C-1 zoning allowing low intensity commercial development, like a small office or a frame shop is the most appropriate use for the land. He said he requests that the rezoning be to C-1 and not to BCD.

Georgette Romero, 1000 Paseo de Peralta [previously sworn], said she is a broker for Santa Fe Properties, and will be representing the Ortiz family on the sale of the property once the zoning is determined. She is the third or fourth realtor for several years who have not been able to sell the property. She said when they asked her to sell it, she was able to put two offers together for light commercial businesses, a storage space for a gallery on Canyon Road, and an antique dealer who would have scheduled appointments. Both offers failed because the people could no longer wait for the zoning to be determined. She said during the listing of the property there have been no offers for residential and they can no longer rent it for commercial for what is going on and it's not suitable for residential rental. She said the family no longer has the funds available to continue to carry the property. She feels it's a potential fire hazard because it's sitting empty. She asked them to consider a change, whether to BCD or C1.

Stefanie Beninato, [previously sworn], asked for additional time for her presentation because she is speaking on behalf of the new owners of 604 Galisteo.

Mayor Gonzales said she would have the same amount of time as everyone else, and she could submit the complete statement for the record.

Ms. Beninato read a statement into the record in opposition to the rezoning, stating the reasons for her opposition. Please see Exhibit "6," for specifics of this presentation.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Lindell, to adopt Resolution No. 2015-69, approving Case #2015-20, 600 Galisteo Street General Plan Amendment, with all conditions of approval as recommended by staff.

VOTE: The motion was approved on the following Roll Call vote:

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Councilor Ives said he would like to include a finding including SFCC 14-4.3(A), as an applicable General Plan policy to support the use of C-1 Zoning District as a buffer between more intense commercial use districts and residential districts, and that this property meets those requirements.

Mr. Smith said, in terms of C-1 zoning, the corresponding General Plan designation would be office rather than community commercial, and apologized that he didn't make that correction. He said the Planning Commission recommended community commercial on the General Plan in the BCD. If the Council's intent is to end up with C-1 zoning, the General Plan Amendment should specify office.

MOTION: Councilor Ives moved, seconded by Councilor Bushee, to reconsider the previous decision in Item #H(3) Case #2015-20, 600 Galisteo General Plan Amendment.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Councilor Ives asked for clarity on the action needed to ultimately allow C-1 zoning.

Mr. Smith said you need to amend the General Plan Future Land Use Map to the Office designation for this parcel.

MOTION: Councilor Ives moved, seconded by Councilor Bushee, with respect to Item H(3) Case #2015-20, 600 Galisteo Street General Plan Amendment, to amend the General Plan Future Land Use Map to the Office designation for this parcel.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

4) CONSIDERATION OF BILL NO. 2015-30; ADOPTION OF ORDINANCE NO. 2015-21; CASE NO. 2015-11. 600 GALISTEO STREET REZONE. EVA PARKER, TRUSTEE FOR THE LUCY C. ORTIZ ESTATE, REQUESTS REZONING OF A 5,581 SQUARE FOOT LOT (RESIDENTIAL, 21 DWELLING UNITS PER ACRE) TO BCD (BUSINESS-CAPITOL DISTRICT). THE PROPERTY IS LOCATED AT 600 GALISTEO STREET. (ZACHARY THOMAS)

MOTION: Councilor Ives moved, seconded by Councilor Lindell, to approve the rezoning of the property located at 600 Galisteo Street to C-1.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

5) CONSIDERATION OF BILL NO. 2015-26. ADOPTION OF ORDINANCE NO. 2015-23 (COUNCILOR IVES). AN ORDINANCE AMENDING THE CAMPAIGN CODE, SECTION 9.2 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE;" TO MODIFY PROVISIONS RELATED TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING; TO MODIFY PROVISIONS RELATED TO THE CONTENTS OF CAMPAIGN FINANCE STATEMENTS; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE CAMPAIGN CODE. (ZACHARY SHANDLER)

Items H(5) and H(6) were combined for purposes of presentation, public hearing and discussion but were voted upon separately

A copy of the relevant portion of the Finance Committee minutes of July 13, 2015, regarding Items H(5) and H(6), is incorporated herewith to these minutes as Exhibit "9"

A copy of the relevant portion of the Finance Committee minutes of July 29, 2015, regarding Items H(5) and H(6), is incorporated herewith to these minutes as Exhibit "10."

A copy of a proposed Amendment sheet to Item H(6), is incorporated herewith to these minutes as Exhibit "11."

A copy of an article from the Opinion Pages of *The New York Times*, by Lawrence Lessig, dated July 21, 2015, titled, *The Only Realistic Way to Fix Campaign Finance*, entered for the record by Ruth Kovnat, is incorporated herewith to these minutes as Exhibit "12."

The staff report was presented by Zachary Shandler, Assistant City Attorney. Mr. Shandler reviewed the proposed changes to Items H(5) and H(6).

Mr. Shandler said, "We will be discussing two Ordinance changes by Councilor Ives tonight. We'll be discussing Chapter 9-2 of the Campaign Code and Chapter 9-3, the Public Finance Code. There are 4 major change proposed. I will spend 3 minutes on the first 3, and 3 minutes on the 4th."

Mr. Shandler continued, "Let me start with the bottom line. First, there is no better group equipped to debate these two Ordinance changes. You've run campaigns, you've recruited treasurers, you've signed campaign reports and you've sat here as Councils and made tough decisions over the power of the purse strings. Those two experiences may intersect tonight."

Mr. Shandler continued, "Second, during the 2014 Mayoral election there were some citizens that alleged local unions acted in coordination with other candidates, giving the candidates an unfair advantage. These citizens asked what does coordination really mean. During the 2014 Mayoral election there were also some citizens that alleged Washington, D.C. unions expended money into the Mayor's race to give one candidate an unfair advantage, and the publicly funded candidates did not have enough money to respond. Based on these allegations, those of the last election, the City Ethics and Campaign Review Board had meetings and came up with a four-part Resolution."

Mr. Shandler continued, "Part one. The citizens are confused what coordination means, let's give them a better definition and give them fact pattern examples. These changes appear in Chapter 9.2 and Chapter 9.3. Part two. The U.S. Supreme Court has said cities cannot limit Washington, D.C. unions from expending money, but let's try to monitor them better, require expanded disclosure of who they are, require them to follow ports of their contributors. That way, the court can make it's own judgments. So let's have an expanded revelation of these third party groups. This appears in Chapter 9.3. Part three. The advocacy group Common Cause said, we think the way for Councilor Bushee and Councilor Dimas to have a chance to fight back against the Washington, D.C. union money is to give them a chance to raise private money. Let's use a hybrid model. They can be publicly funded candidates and get money from the Campaign Finance funds, but they can also raise an unlimited amount of private money throughout the entire election cycle, at no more than $100 per person. Common Cause wants these candidates to have two different bank accounts, one for the *[inaudible]* money and tracking how it's used, and another for the private money and how it's raised and used. These proposed changes will appear in Chapter 9.3."

Mr. Shandler continued, "In part four, one could now argue now that these public funded candidates will be spending all of their time raising money in this hybrid system. Is there a way to get a bigger bang for the bucks. How about a match. The courts have said a match cannot be triggered on what your opponents do. What about an earned match. A match based on your own behavior. How about if you raise $1 in private funds, you get $4 from the government fund. That's the four-times match. But then you probably ask, do I get a match for all the private money I raised under this hybrid system. No. In this proposal, you can raise an unlimited amount of private funds, but you can only request a government match up to 200% of the initial grant. So, if I get $60,000 in my initial grant, the most I can get in the match is $120,000, that's 200% of the initial grant."

Mr. Shandler continued, "Let's try this out with say, I'm running for Mayor because I'm particularly motivated tonight. I get from the 600 contributions from Santa Fe electors, I get qualified and I get my initial $60,000 in government funds. Then, as part of the election, I raise $30,000 in private funds. I then go to the City Clerk and $30,000 times four, I get another check from the fund of $120,000. I can continue to raise money, but that's what I get from the fund."

Mr. Shandler continued, "So how does your campaign experience intersect with your experience as Councilors as the holder of purse strings. If you go to page 89 of the packet, I've prepared a checkbook balance sheet. It's on page 89. It starts with the current balance of the fund. Currently, under the City Code, even if you don't do anything tonight, there are 2 requirements. You always have to put $150,000 from the General Fund into the Campaign Fund each fiscal year. And you always have to have $300,000 in the fund for Council judges and $600,000 in the fund for Mayor Council years. You can never have a zero balance. If so, the City has to reduce by proportionate amount the amount paid out to the publicly funded candidates. And as you will see in the chart on page 89, if you take an average of 7 Council candidates and 3 Mayor candidates that are publicly funded like last time, and if every one of the qualifies to get the initial grant, and everyone does private funding and does the four-to-one match, you will see the fund balance quickly changes."

Mr. Shandler continued, "On page 91 there are a series of amendments. Councilor Ives' amendment number one, if you like parts 1 and 2 of the bill, you should approve Councilor Ives' amendment number 1, because there were typos that needed to be carried forward. Ives' amendment number 2, if you like part 3, those are also corrections that need to be made. Lindell number 1, if you don't like part 3 and 4 at this time, then you may want to consider Lindell amendment number 1. Lindell amendment number 2 has nothing to do with this package. It just will require receipts for the publicly funded candidates, it's kind of a stand alone. In Maestas number 1, if you like parts 3 and 4, but you want some modifications you should consider that."

Mr. Shandler continued, "So I expect you will have questions based on your experience, but I request that you defer staff questions at this time because of the late hour, and especially until you hear from the City's Ethics and Campaign Review Board [ECRB] members, and I see we have several here tonight, because as part of their presentation they may answer some of your questions."

Mayor Gonzales asked if we can ask the Board to address the Council before we ask questions.

Mr. Shandler said he would like for them to have a chance to speak to you.

Councilor Maestas said he sponsored another amendment not mentioned by Mr. Shandler, which was in the packet of materials. It basically limits the Public Fund balance for a Council election, Council/Judge, and the Mayoral election.

Mr. Shandler said we'll call that Maestas number 2 if it was on a separate sheet.

Mayor Gonzales invited the members of the ECRB to come forward. He thanked them, on behalf of the entire City Council, for taking on this role, commenting it was time consuming and had a lot of research by the ECRB to find a solution to help us enhance the public finance system in Santa Fe.

Justin Miller, Chair, ECRB, thanked him for the appreciation commenting, "We are happy to do it." He introduced Ruth Kovnat and Paul Biderman. He said one of the duties of the ECRB is to evaluate, and review and provide recommendations on ideas to improve Campaign Finance laws in the City to the Governing Body. He said what is before you in the form of Councilor Ives' bills is the work of the Board in which they have been engaged over the past 7-8 months, since December 2014. He said the Board met a number of times and benefitted from the thoughts and ideas of a whole range of people, including national experts in the field from the Brennan Center for Justice, the Campaign Law Center, from local organizations including Common Cause, League of Women Voters, the Thornburg Foundation, the Neighborhood Law Center and others. They heard from a number of dedicate and thoughtful citizens who attended every one of the meetings and providing their thoughts and ideas on everything along the way. They also benefitted from hearing from a number of candidates in the last election, which was the first municipal involving public financing for the Mayor and Council race. We were happy to hear the thoughts of the candidates and their first hand experiences in public financing which was very important to their considerations.

Mr. Miller continued, saying the bills before the Council this evening do several things as mentioned by Mr. Shandler. Predominantly, the bills address concerns that the public and others had regarding transparency issues and coordination between candidates and outside groups, and a way for the public to have a better sense of what kind of money is coming into campaigns, and to improve public confidence in elections. And the other very significant thing the bills do is change the process by which candidates qualify for public financing, and the matching funds.

Mr. Miller thanked the Governing Body for its consideration of the bills, and said Mr. Biderman and Ms. Kovnat were the driving force on the working group that did much of the drafting along with Mr. Shandler and other staff. He said all three are available to answer questions.

Public Hearing

Mayor Gonzales gave everyone 2 minutes to speak to the issue

Brian Sweeney, 1209 Lujan Street, said in a representative republic there is going to be government by the people. He said the increasing cost of political campaign are a barrier to political engagement, equivalent in some ways to a poll tax on the candidates. He said when only the wealthy can afford to fund a fledgling campaign, our political system skews the affluent and older. He said the only barrier to elected public service in Santa Fe should be a person's competence. He said public funding campaigns allow those elected to govern with the interest of all constituents and not just high dollar donors. Additionally, elected officials can concentrate on governing instead of fundraising. He said modest investment in public campaign financing improve governance, the integrity of the office, increase access and political engagement at a time when the country needs leadership on these issues and each category needs improvement nationwide. He urged approval so Santa Fe can continue to lead the nation in creating an election system that can reflect the voices of everyone.

Vicki Harrison, 844 Pecos Loop in Rio Ranch, Executive Director, Common Cause New Mexico. She said they support these proposals. She disagreed with Mr. Shandler, saying they don't want public financing candidates to be fundraising. She said this is a volunteer program along with the matching funds. She said it is designed if you find yourself against a private candidate or PAC that is spending a lot more money than you. It is not designed for candidates to start raising money immediately they need it or not. However, they can do it, but it won't play out in the media. She said publicly financed candidates in Santa Fe are different. She said they wanted this proposal several years ago, and were told Santa Fe is different and matching funds aren't needed, because everyone would take public financing, there would be no PACS, which they found to be untrue. She said Common Cause would like it if PACs couldn't spend money when there is a public financed race. However, the Supreme Court said we can't do, but we can require disclosure from PACs and groups that aren't PACs and spend money on elections whatever those might do. She said Common Cause urges you to pass the bills as drafted by the ECRB, but they are fine with tweaks – knock down the match if you are concerned about financing.

Jazz Reisz, 1528 La Cienegitas, said she hopes you will approve this bill, commenting she loves local politics, and this will be a model for other municipalities.

Mary Wilczynski, 602 Sunset Street, said the 2010 elections that followed the United decision were the most expensive in our nation's history totaling $306 billion, and it is expected to continue to rise directly. There is an increased concern that heightened campaign spending can purchase favorable policy outcomes. She said the public funding is the best tool to combat the corrupting influences of outside campaign spending. She said publicly funded elections promote numerous benefits in addition to fighting corruption, and reduce the opportunity for corruption and strengthen our perception of government, as well as promoting contested and competitive elections, fostering diversity in the electoral process and encourage voter centered campaigns. She is a small business owner that cares deeply about the City and urges the Governing Body to support these bills and enhance the legitimacy of government by engaging in the democratic process.

Former Councilor Karen Heldmeyer said she is speaking for herself only. She said these bills were written by attorneys and sound like they are written by attorneys. She said you need to look at the people who have been, and will be in the future, candidates, which is a different perspective. She said on the ECRB the person who ran campaigns, often had a different perspective than the attorneys. She said this will do nothing to stop PACs. As pointed out in several meetings, they can't because of the Supreme Court, but it's the best they can do, but it isn't going to stop PACs. The public needs to be aware of that, or they're going to be very upset by some of the outcomes of this. There is a broader definition of coordination which is okay. It's basically going to be unenforceable unless you have a mole, a disgruntled employee or somebody presses the wrong send button on their email. However, at least it's a definition.

Former Councilor Heldmeyer continued, saying the issue of more money is interesting, especially in view of the financial problems the City is having now. She suggested thinking about the cap. How much can the City afford to do, as well as for the candidates. She said there is a provision in the law that says if

you start collecting money and there isn't enough to do matching, they will get a prorated grant from the fund. She said nobody can run a campaign knowing 3-5 months down the line, you won't know how much money you are going to get. This has to be dealt with. She said there is a lot of talk that this is to counter last minute attacks, but it doesn't because of the timing. She said two weeks before is not the last minute. The Saturday before is last minute.

Reverend Holly Beaumont, 27 Old Gallisteo Way, Organizing Director, Interfaith Worker Justice New Mexico, said she has lived for here about 30 years and has testified on many issues over the years. She can speak from experience of the bolder decisions made by this Council during those 30 years. She said this is a step in the right direction, having worked on many campaigns on the local level. She said you also will be providing leadership statewide and nationally. She said they believe it's their calling to sound the alarm on significant systemic threats to the foundations of our society. The unchecked power of special interest dominating our politics right here in our City and state, threatens the common good and the very foundation of our democracy. She said the lack of appropriate limits on money in politics is hurting our democracy and undermining our citizens' faith in the democratic process. It is important that we have a system that allows working families to fully participate in the democratic process and for shared public policy that benefits them and their families.

Meredith Machan, 613 Webber Street, League of Women Voters, said she is speaking as State President of the League of Women Voters of New Mexico. She said they strongly support election policies that ensure election integrity. She they strongly support publicly financed elections. She said they appreciate all of the hard work by the ECRB and the individuals and groups to clarify the definitions, and to define what is coordination. She encouraged the Governing Body to make the requirements for disclosure as strong as you, and said they want to see some sanctions for violations. She encouraged the City to continue to work on the Ordinance. She hopes the City will approve as much as you can to bring back the integrity of elections. She said, "Finally, you are a role model for the State and for many communities."

Mark Hoyt, 912 Baca Street, said he is on the Chamber of Commerce Board. He said he wants to highlight the issue of money, because he is sure everyone is concerned about how to finance this. He said if you look at what's happening nationally, there is a matter of urgency to find the money to publicly finance our campaigns and to insulate our community in the greatest possible way against people coming from outside and actually subverting our community and our democracy locally. He can't do much nationally, but we can do what we can to protect what we have here. It seems to him that finding the money to finance this program would be of the utmost importance because not to do so basically undermines the community. He has lived in Santa Fe for 30 years, and urged the Governing Body to find the money to do this right. He said it isn't a perfect solution, but it's a step in the right direction and supports the greater good of the community in Santa Fe, and urged the Governing Body to support Common Cause and adopt this legislation.

Stefanie Beninato, concerned citizen, said she was only able to attend 2 meetings of the ECRB concerning these changes and she appreciates the time and dedication in making these proposals. She

thinks having examples of illegal activities is a good idea, and it is of utmost importance to have as much disclosure as possible. She likes the idea of sanctions, but doesn't know how that would work. She is concerned about the amount of money for matching. She understands people need public support and that we voted for that. With regard to matching funds, she asked where the money will come from. She is concerned about the number, and at some point it is obscene and not appropriate for an election in the City of our size. She asked how we can get back to ideas, rather than the citizens funding these campaigns, and how do we get back to qualifications, not where you are born. How do we get back to the issues that really should be of concern to everybody in the City. The again thanked the ECRB for its work.

Simon Brackley, President, Santa Fe Chamber of Commerce, 1644 St. Michaels Drive, said he hopes they had the opportunity to read his expanded comments in a opinion piece in last Sunday's *Santa Fe New Mexican*. He expressed the gratitude of the Chamber for the volunteer members of the ECRB who have given months of their time to take on these extremely difficult issues which are difficult at the local and national level. He said the recognize there are no easy solutions. He said the Chamber supports their recommendations, and primarily "we support steps forward in terms of efficiency and transparency. We believe those issues are of most concern to business people and citizens of Santa Fe, and urge you to support their recommendations.'

Ruth Kovnat, 407 Camino del Monte Sol, a member of the ECRB. She said she emailed an Op-Ed from *The New York Times* to the Governing Body, and wanted to enter it for the record [Exhibit " 12"]. Ms. Kovnat read short excerpts from the article. Please see Exhibit " 12," for the complete news article

Warren Martinez, 3083 Monte Sereno, said, "I am here to remind you of what you do and thank you for your dedication. I want remind you of what each one of you come to our Santa Fe Hispanic Chamber with, and that's dedication with the word accountability. So as you consider what is being discussed today, and there's been some real experts there, think about what you started out, and that's accountability. The PACs, the disclosures, that will make a difference, and people can vote knowing where the money is coming home. That makes a huge difference with our voters. Thank you all, I appreciate your time."

<u>The Public Hearing was closed</u>

Mayor Gonzales said, "I understand there are individuals who want to propose amendments, can we, for the betterment of time, make sure that when you propose your amendments that you are able to offer your comments, propose your amendments and then allow for other Councilors to make amendments, so we don't have so much back and forth going on.

Councilor Bushee said she had the opportunity for a dialogue with Ruth Kovnat and Vickie Harrison on this issue with the League of Women Voters. She said one of the problems that we saw and don't know how to address is the fact that often PACs or independents will have contributions from PACs where they do not have to list the contributors to the PACs. She asked if the City has a mechanism by

which we can insist if someone is going accept money from a third party or a PAC, and it is.... she doesn't know what name to use. She asked, "If there is a PAC and it's just listed PAC for Progress Santa Fe, for example, and won't list its contributors, is there some way we can demand that we get the contributors to be listed."

Paul Biderman said, "We looked at that and suddenly realized that we would like to require disclosure as the Supreme Court invites in the Citizens United States. It says we can go ahead and do this because you can require disclosure. As Common Cause referred to it, it's called a Russian doll *[inaudible]*. You can fit one inside another, inside another, inside another, and you never reach the end. I like to liken it to two facing lawyers, and somebody could always go one step beyond, and not be disclosed unless you keep going all that way and that would be an impossible technical burden. So we inserted some language which says simply, if any donations, as you say, on behalf of an independent group are not require to be disclosed to the City Clerk, that has to be disclosed on the campaign material."

Councilor Bushee said she would like to tackle this issue and she doesn't know how.

Ms. Kovnat said you have before the proposal to expand the disclosure requirement to any entity or person that spends as much as $250 in a whole variety of campaign political activities. So there is disclosure at the first level. As you point out, the question is what is disclosed is that the contribution is made by some nicely named entity, can we get the names of the contributors to that nicely named entity. We discussed this at great length in the ECRB, and we concluded that with the limited staff at the City that we could not come up with a way of really tracking that all the way back. At the meeting, there was a suggestion for an electronic way of doing it, and she asked her to write it up so the ECRB could consider it. However, they couldn't "get there" this go-around, so they simply adopted the very good suggestion of Paul Biderman that at least, if there were no way of disclosing the ultimate contributors, that the campaign materials and the campaign activities of those independent spenders would have to have a disclosure that there is no disclosure of the actual contributors.

Councilor Bushee asked Mr. Shandler to comment.

Mr. Shandler said, "So let's say I'm running for Council and I'm a publicly funded candidate and a group called Happy Americans spends more than $250 with a mailer saying that I'm a great guy. So if they spend more than $250, they do have to report to the City Clerk their expenditures and who their contributors are, so the *New Mexican* can figure out who is behind these happy people. And let's say the happy get money from me, super super happy people. So what the point was, we don't require the super happy happy people to also list their contributors. What we've done is created a kind of disincentive device that the happy people, if they get money from the super happy people, the happy people mailer has to put a disclaimer on their mailer saying this money came from a party that does not have to disclose their contributions to the City Clerk. So maybe that's a disincentive for the happy people to getting money from the super happy people."

Councilor Bushee said, "It just makes me sad sad."

Councilor Maestas said his amendments are the product of many many conversations with a lot of the advocates here today and with involved staff. He briefly reviewed his proposed amendments which are in the Council packet beginning on packet page 16. Please see the amendments for specifics of this presentation. Councilor Maestas noted he has no amendments to Bill No. 2015-26, and supports it as it is presented.

Councilor Maestas continued, thanking the ECRB for putting this bill forward, but as written, he feels the pendulum is swinging in the opposite direction, and we're almost privatizing public financing by making matching funds so wide open. He said he can obtain contributions anywhere in the City outside his District and get matching funds. He said that would discourage a candidate from engaging with their constituents in the campaign, and focuses on him being a good public finance candidate and encourages him to do grass roots campaigning instead of fundraising. He said the two opportunities for match turns it into a campaign long effort of raising funds which gets away from the spirit of public financing.

Councilor Lindell thanked the ECRB for its work, noting she was able to meet with Ms. Kovnat on a Saturday morning which she appreciates. She said she too is completely happy with Bill No. 2015-26. However, she thinks Bill No. 2015-27, does need more time. She doesn't think they are in real agreement about that. She also agrees with what Councilor Heldmeyer said. She said it is unfortunate that none of this keeps dark money or PAC money out of our elections. She thinks it is important for everyone to be aware of that. And we can spend from the City's monies and we can't stop that from happening.

Councilor Lindell continuing saying some people say it doesn't add money to how much elections would cost, which doesn't make sense to her. In the last election if we would have used the numbers proposed, the number she comes up is $990,000, and that's an awful lot of money for the City to spend on an election when we face the deficits we face currently. We have to make hard decisions on how to spend our precious resources.

[STENOGRAPHER'S NOTE: At this point, Councilor Lindell moved to approve Item #6, Bill 2015-27. Following the approval, the Mayor returned to Item H(5), Bill #2015-26]

MOTION: Councilor Lindell moved, seconded by Councilor Ives, to adopt Ordinance No. 2015-23 (Bill 2015-26).

DISCUSSION: Councilor Ives asked if this includes the amendments he proposed.

CLARIFICATION BY COUNCILOR BUSHEE: Councilor Bushee said to be clear on the last vote, we did not accept his second amendment.

Ms. Vigil said this is correct, and Councilor Ives agreed.

Mr. Shandler said, "I think Councilor Ives amendments were approved by the Council on No. 27. The only thing I would add to Councilor Lindell's motion the friendly amendment for Councilor Bushee to have the have the *[inaudible]* party exception language."

Mayor Gonzales asked Councilor Ives if he has an amendment. He said, "As Zach said we got it all done on 27. Do you have one for 26."

Councilor Ives said he thought he did, but they could be on 27, and Ms. Vigil said all of the amendments are on 27.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Explaining her vote: Councilor Bushee said, "Yes, and I would be happy to serve on any working group to offer my experience."

Explaining his vote: Councilor Ives said, "Yes, and I'll have a brief statement after the vote."

Councilor Ives said, "It's interesting, because one of the delights of his first campaign which was publicly finance, was being able to have coffees in peoples' houses and that fell under that $200 exclusion and promoted an opportunity to get out into District 2 to meet with neighbors in an informal setting, respond to questions. I'm sad to see that deleted here tonight."

6) **CONSIDERATION OF BILL NO. 2015-27; ADOPTION OF 2015-22 (COUNCILOR IVES). AN ORDINANCE AMENDING THE CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE;" DELETE THE DEFINITION OF "QUALIFYING CONTRIBUTION" AND CREATE A DEFINITION FOR " COORDINATED EXPENDITURE" AND QUALIFIED SMALL CONTRIBUTION;" TO MODIFY THE REQUIREMENTS TO QUALIFY AS A PARTICIPATING CANDIDATE; TO DELETE PROVISIONS RELATED TO "SEED MONEY CONTRIBUTIONS," AND "QUALIFYING CONTRIBUTIONS;" TO ESTABLISH PROVISIONS FOR QUALIFIED SMALL CONTRIBUTIONS; TO MODIFY PROVISIONS RELATED TO "REPORTS OF EXPENDITURE" TO EXPAND REPORTING REQUIREMENTS; TO ADD PROVISIONS FOR ADDITIONAL REPORTING OF QUALIFIED SMALL CONTRIBUTIONS AND ADDITIONAL MATCHING PAYMENTS FROM FUND;" AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE PUBLIC CAMPAIGN FINANCE CODE. (ZACHARY SHANDLER)**

MOTION: Councilor Lindell moved, seconded by Councilor Rivera, to approve Ordinance No. 2015-22, Bill No. 2015-27, with the two amendments she has proposed, in addition to Councilor Ives Amendments No. 1 and No. 2, and in Councilor Maestas's proposed amendments to include Item No. 1 and Item No. 3.

DISCUSSION: Mayor Gonzales said then the motion is for Bill No. 2015-27, Item H(6), and includes Councilor Ives amendments.

Councilor Lindell said this is correct.

Mayor Gonzales said the motion also includes Councilor Lindell's amendments and asked which amendment from Councilor Maestas are included.

Councilor Lindell said it includes from Councilor Maestas' amendment, Item #1 and Item #3.

Councilor Dimas said he spoke with Councilor Lindell about where he is coming from on this, as well as to Common Cause and several other people as well. He said, "I want to make a brief statement this evening. In the last Mayoral election in 2014, all 3 candidates in an effort to level the playing field, used public campaign financing. But when top union officials, their attorneys and top political party officials formed PAC to support one candidate, that's when the concept of a level playing field went to hell. Even with fixes, unscrupulous people will still form PACs and circumvent the rules to get their candidate elected by raising large amounts of money to buy the election. Public campaign financing will be nothing more than supplementing money the PACs and a waste of hard-earned taxpayer money. I'm not sure this is what the voters wanted. I'm not naive enough to believe that these fixes will help much. I know Public Campaign Financing reform in some form will probably pass the Council tonight, because it's the politically correct thing to do. However, I don't always do what's politically correct."

Councilor Maestas said he can't support this, and thinks the amendment put forth by Councilor Lindell "pretty much "guts" all the changes, it's a wholesale removal of some of the amendments that were recommending. He is doing his best to salvage a lot of those principles which he finds worthy. He thinks we should try this match, and likes the concept of an earned match.

MOTION TO AMEND: Councilor Maestas moved, seconded by Councilor Ives, to amend the motion to "add all of my Amendment No. 1, and Amendment No. 2.

FRIENDLY AMENDMENT: Councilor Ives would like his amendments in the amendment sheets that are attached.

DISCUSSION ON THE FRIENDLY AMENDMENT: Mayor Gonzales said he thought Councilor Lindell included Councilor Ives' items in her motion.

Councilor Ives said he understood this to be a separate motion.

Mayor Gonzales said Councilor Lindell included Councilor Ives' amendments in the original motion.

Councilor Ives said understood Councilor Maestas to be making a brand new motion that included his amendments and would look to the City Attorney to provide clarity here if she can.

Mayor Gonzales asked Councilor Maestas to provide clarity, because "what I understood is that you wanted to add to the original motion for consideration all of your amendments. They wouldn't address Councilor Ives amendments, because they're already in the original motion."

Councilor Maestas said Councilor Ives amendments are already in the original motion.

Councilor Bushee asked who seconded the Motion and the Mayor said it was seconded by Councilor Ives.

Councilor Ives said, "A point of order just to get clarity on Councilor Maestas's action, Councilor Lindell's motion was to adopt her amendment which removes 20-15-27 from page 6, line 22 through page 19 line 19, and I understood Councilor Maestas to say he didn't agree with that, because that functionally gutted that particular provision. So I had understood him to be making a new motion, as opposed to an amendment to the motion that Councilor Lindell is making."

Ms. Brennan said, "Councilor Lindell's Motion was on the floor, and if it was a friendly amendment, I think it is not in order.... well her motion is on the floor. You're the Parliamentarian."

Councilor Ives said he knows, but there is not a clear understanding of what each of the motions contains, and he would look to Councilor Maestas to clarify.

Councilor Maestas said, "I think my motion indirectly preserves all the basic concepts in the 2015-27 Ordinance, the match, it modifies the match, clarifies how a candidate would be eligible for matching funds, specifies the process. So it basically upholds the match provision in the legislation as it was proposed, but it is contrary to Councilor Lindell's motion."

Councilor Ives said that was his understanding, so he just wanted to clarify that there was an inconsistency here.

Councilor Lindell said, "I just wanted to clarify with Councilor Maestas. I thought that your amendment said not a four-time match, but a two time match."

Mayor Gonzales said and your motion would have gone back to the four-time match.

Councilor Lindell said, "No no no. There would have been no match at all and it would have kept it the way things are right now."

Councilor Maestas said, "Number 7 on mine, changes from four times to two times the matching funds. The percentage is the same. The cap of the 200% is still intact."

Councilor Lindell said, "But you had just said that the legislation remains as presented, and it doesn't, it goes to a two-time instead of four-time."

Mayor Gonzales said I think we ought to go to Councilor Lindell's motion so we can see if there is support on that, and if not, then we can go to you.

FRIENDLY AMENDMENT: Councilor Bushee said on page 4 of the Ordinance, Section 2, Item A, line 21, she would like to remove *the cost of an event held in honor of or on behalf of a candidate when the total cost of the event amounts to no more than $200*. She said that was completely confusing, now that we're opening all of the collection of funds, I think that's still confusing. **THE AMENDMENT WAS FRIENDLY TO THE MAKER, BUT THERE WAS NO RESPONSE FROM THE SECOND.**

Mr. Shandler said that language is in both 9.2 and in 9.3.

Councilor Bushee said, "Okay we'll get there."

Councilor Rivera said a the second to the main motion, he wants to make clear. It says, *The term contribution does not include those contributions that are less than $200*, and Councilor Bushee wants to include that.

Mayor Gonzales said, "So the issue of being able to create matching funds in an effort to accelerate or develop more of a level playing field, is something you would remove from this bill. Is that correct."

Councilor Lindell said, "At this point in time, it needs more work... I think that we need more time to work on this."

Mayor Gonzales said, "If this was a bill that we were moving into the 2016 City Council elections, what would be the standard course."

Councilor Lindell said, "The same it has been in the last elections, aside from the new definitions."

Mayor Gonzales said, "PAC money or other money that comes in on behalf of a candidate, other candidates won't be allowed to accelerate their public participation to try and find that level playing field. Is that correct."

Councilor Lindell said, "For this next go around, it would be as it is now."

Councilor Rivera said, "I am supporting the motion because we are in a position now where we're coming up to the 2016 election, and Yolanda needs some definitive answers before we can move on. So, to me, this is last minute. I appreciate and I like all the changes. I think what the Committee did is really good, but there's some fine tuning that needs to go on. And that fine tuning should come from all of you, the professionals that do it. It shouldn't be fine tuning from us up here. Us making legislation on the fly is not a good idea. So, I'm okay with it being left alone for a little bit and then really taking really good strong hold once you get up to the next Mayoral election. I don't want to put all these proposals, all these ideas that come on the fly from each one of us out, and have something really go awry in this next election. And again, I'm planning on running again, and these changes would definitely benefit me, but I think there's more important things than something really being beneficial to myself, so that why I am supporting Councilor Lindell's motion and really hope we can fine tune it and not leave it to us to redo it, and leave it to you the professionals. So thank you."

Councilor Maestas said, "This motion before us just returns everything back to the status quo. And I kind of disagree. I think the ideal time to assess lessons learned is when it's fresh in your memory and you have a vivid recollection of the issues. You have the focus of the Ethics Board and they devoted a lot of time to this, it was very well thought out. And so we're not talking about a lot of changes. The legislation, as introduced, incorporates all their changes they are recommending. We're not talking about a lot of last minute changes. We have the final legislation here. I'm proposing amendments to what was introduced, and so, it's just unfortunate. But I think the time to really assess this... this is highly evolutionary and best time to revisit it is when it's fresh in your mind. I think you strike when the iron's hot with this issue. And I'm sorry to see these very progressive concepts done away with. Consolidating the seed money with a qualifying contribution, and calling them small contributions. Introducing the concept of an earned match are very innovative and progress – it's what Santa Fe is." He said he can't support the motion.

Councilor Ives said, "Just so everybody is clear, in part because Councilor Lindell's amendment is very broad. Could you state simply, and I think Councilor Maestas has made good progress on what the effect of Councilor Lindell's amendment is on bill 2015-27, understanding that 2015-27 was the recommendation after 7 months of hard work by the Committee in trying to address problems identified in the last election cycle.

Mr. Shandler said, "Talking about Bill 27, there's 3 main parts to that. A definitional change and that definitional change is identical to the one in Bill 26. So if you like the one in 26, you might like it in 27. It does two other things. It allows private fundraising and the matching funds. Lindell Amendment #1 says delete the last two parts and just keep the definitional change, everything after a certain page is deleted and kept status quo. Lindell Amendment #2 adds a separate stand along provision requiring receipts. Ives Amendment #1 corrects some of the definitional typos in part 1, so Ives #1, Lindell #1, Lindell #2 are all consistent, and all that's doing is making the definitional change in 27."

Mr. Shandler continued, "Ives #2, part of Councilor Lindell's motion, and I'm going to try to persuade her to correct that. Ives #2 goes to the hybrid system, so it contradicts Lindell #1, so I think Ives #2 may not be part of your intent of your motion."

Councilor Lindell said, " Thank you."

Mr. Shandler said, "And then you added parts of Maestas #1, which includes you don't have to give back clipboards, you have to give back computers instead. That is the sum of the motion."

Mr. Shandler continued, "Now, I'm going to walk very gingerly so we don't go back to where were 3 hours ago. But the ECRB is willing to accept the remand. They're willing to set up a working group to focus on the concerns of part 3 and part 4. Whether that needs to be formally part of your motion Councilor Lindell or Councilor Ives, I don't know, but they're willing to do some more work on that, in effect it's their representation on your position."

Mayor Gonzales recognized Mr. Biderman for very brief remarks.

Mr. Biderman said, "We understand your concerns, we hear you. And would very much want to see 2015-26 pass tonight. We think it's ready to go, we think you're behind it. If you want to make a few tweaks that basically we need. One point I haven't heard raised on 27 is that if we don't adopt that in time for the next election cycle, we will lose the opportunity for Councilors to take advantage of the financing system. What we heard at the committees was, we don't care that much about that because this is mainly a mayor's issue. If that if the consensus of the Councilors, we are willing to back to the drawing board with you. We would like to have open meetings with the ECRB and members of this Council as a working group to try to figure out just how we can work these out without trying to do it on the fly, as you've correctly pointed out. So we would want Councilor Lindell's motion adopted to keep the definition changes so those are consistent. And otherwise, we'll go back to the drawing board for the rest of it. And please give us only a few months to do this, because I don't want to spend a whole year on it."

Ms. Kovnat said one way of doing this would be to adopt the definitions for coordinated expenditures and the disclosure provisions and postpone the consideration of the rest of it to a time certain. She is concerned that the ECRB needs to have a deadline, and is afraid members of Council might also need a deadline. They would like to work with you on this, so procedurally this is what she suggests.

Councilor Dominguez said what he heard when he met with various folks, there was this willingness to go back to the drawing board. He agrees with Councilor Maestas this is a very progressive way of doing business. However, that doesn't mean that it's the best and he believes there could be unintended consequences. He said that's what we experienced during the last election cycle. He said we need to focus on moving forward and becoming more progressive. He thinks there is too much to lose if we don't get it right. He would agree that this something more akin to a mayoral election which tend to be a little more sophisticated, complicated, more creative. He said if there were shenanigans happening at a City Council level with regard to public financing, it would way more obvious. He said, "I will say, finally, yes it is fresh in people's minds, but many times it's more of an emotional reaction which he doesn't want. He wants a real reaction with a lot of thought and substance to it. He thanked the ECRB for the work done, but he thinks there needs to be a little bit more work.

Councilor Bushee said she has run twice in publicly financed campaigns for Council. It capped the funds at $15,000, it was a grassroots effort, and they educated the voters on what it was about and there no outside funds. What sees now in looking at the example in the packet on page 90, the 2014 Mayor's race ran under the proposed new code section of the 4-1 match, the cash on hand at the end she would have had would be $210,000. This brought the election back to walking and knocking on doors rather than lots of glossy handouts. She said understand the concern arose because of the PAC situation. She knows we can put your minds together again and come up with a few more things. She said asked for some way to take a hard look at who is contributing even from the PACs. She thinks we'll get there, but we may not get there in time for the upcoming election.

FRIENDLY AMENDMENT: Councilor Bushee would like to amend the motion to remand this back to the ECRB with a date certain, or postpone this section. **THE AMENDMENT WAS FRIENDLY TO THE MAKER BUT THERE WAS NO RESPONSE FROM THE SECOND.**

Councilor Ives said what launched review of these matters were the multitude of complaints relating to the presence in PAC money in our most recent mayoral election. He said we are proposing to deal with the more minor issues by changing definitions, taking up reporting which is laudable and needs to be done and is good, and hopes there are no issues when we consider 2015-26. He said, "Functionally, what the Council is doing is rejecting the thinking of some highly qualified people who have had input from nationally respected sources on this PAC money issue, and I suppose I find it puzzling to some degree that that issue which began this discussion now seems to want to yet go by the wayside. I think we had an opportunity to look at this measure and I think there are some amendments which tighten up some of the language in constructive ways, but again, this matter comes forward from the ECRB and we do have the opportunity tonight to act affirmatively and very positively to try and address the complaints that were raised with regards to the presence of PAC related funding in our election campaign. So I guess I would urge folks to reconsider their thoughts in this regard, take positive action.":

Councilor Ives continued, "With regard to remand, I think the Committee is free to take up these issues under its charge under its organic statute at any point in time, regardless of whether we remand or take any other action on these matters. That really is what you're charged with doing. And it's more a question of your tolerance for it I think than anything else. So again, I would urge the reconsideration of the rejection of the amendments in 2015-27, because it is in large part, the heart and soul of trying to address the issues that were raised in the last election."

Mayor Gonzales said, "I agree with Councilor Ives on this issue, for a couple of reasons. One, having participated in the last Mayor election and being the individual who, where other outside entities were formed to support. I understand the importance, and what this full set would have provided for the other individuals in that election. Certainly from the capacity to provide more funds, whether it's to respond to issues or to advocate, this would have helped. And I think that the work that the ECRB has done on this issue to date positions us well to send a very strong message to future candidates, that if outside money plays, because it's allowed to legally plan, there are mechanisms within the Campaign Code to assure, to the degree possible, and I know we can cap the funds, that more money can be made available for candidates to get their message out."

Mayor Gonzales continued, "If we don't support what they presented to us now, in delaying that for another discussion to hopefully see how there can be even more light that's been shed, more transparency or ways to remove the veils of some of the *[inaudible]* that might be created. I think they would have presented it to us tonight. I think we would have seen every bit of language. And I think they presented it, that would provide some transparency. The fact that they want to work with us to try and find an answer out there that might be acceptable to the entire Governing Body shows they're willing to sit at the table with us, which is great. But honestly, I don't know there's much more you guys can do in terms of legal research that will provide us a legitimate campaign ordinance that can do, as best it can, to create a level playing field when outside groups play."

Mayor Gonzales continued, "My preference is to adopt the recommendations tonight the ECRB has presented, send the message out that the City is going to take seriously being able to provide as much of a level playing field as possible, and go forward. If we're worried about what it's going to cost the City in terms of dollars, we can cap what currently has been made available. And make sure if campaigns submit

the ability to get more funds within a time period and all those monies are gone, well that's something that we can address at the time. I really really hope that all of your reconsider, if you're considering not supporting the ECRB's recommendations tonight. I'll tell you, being a participant in that election and the individual where people were casting lots of stones, I think it would have been good for that campaign if there were other funds that were available to be used. So I hope you guys reconsider this on that."

Councilor Dimas thanked the ECRB and Common Cause, noting he appeared before the ECRB and brought his issues with the last campaign. He thanked them for listening and taking the things that both he and Councilor Bushee had to say. He appreciate the hard work, commenting it's tough to be a volunteer and not be paid anything. He said he had a nice meeting with Common Cause, and they tried to get him to go in a different direction, but "I'm pretty stubborn when it comes to that type of thing, and I have my beliefs and that's how I believe, and everything ended well." He thanked them for listening to his concerns at the time.

CALL FOR THE QUESTION: Councilor Dimas called for the question. **THE CALL FOR THE QUESTION FAILED FOR LACK OF A SECOND.**

Councilor Maestas said it's time to start summarizing. He said democracy is an experiment, and the ECRB did present some very new principles – the match, and to streamline the existing process. He thinks we should have preserved all the aspects and elements they brought forth through their long deliberations and many hours spent developing proposing legislation. He said his amendments recommending scaling it back, and converting the new proposals into a pilot. We could have and should have adopted some form of their proposed legislation that would be in effect prior to the next election. He said if we delay this further it can't be implemented for the next election, so he can't support the motion.

Councilor Dominguez said this is no way meant to disregard the work done by the ECRB and staff and others. He said, "But I don't think this is so time sensitive we have to do it today, and that we have to do it for this next election. I think we can learn from the previous election, the previous Mayoral election, to make sure we can do whatever we can do to get it right for the next Mayoral election. These sorts of things are those that will continue to evolve, because there is always going to be someone who is creative who does whatever they do. So this isn't going to be the last time we ever see amendments to the concept of public financed campaigns. We're going to have to continue to work at it and make sure we get it right this time so we can learn from whatever happens this time, and make changes for the next time.

FRIENDLY AMENDMENT: Councilor Dominguez would like this to come back to the Governing Body in January to see what other work has been done and to potentially make other amendments to the bill at the time, so that is his friendly. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Bushee said everybody missed the discussions at the Committee levels and the ECRB heard it loud and clear. She said if it were to apply to the upcoming election it would be serving incumbents and nobody has been clear about which matching system would work. And when they "came at it," everybody admitted their hands were tied in dealing with the dark money situation we faced in the last mayoral election. And really, all these changes in the matching system is dealing with the situation where we have

a highly privately funded candidate which we haven't had in Council elections since we've had public campaign finance reform. That's what she tried to say at the beginning, is when she ran as a Council candidate it worked perfectly, but not with the independents and the PACs. She thinks we're on the right track, and we can tweak it and get a little better. She asked Mr. Shandler for a number for the campaign, noting it doubles or triples what we normally would experience in a Council race.

Councilor Bushee continued, saying the original intent of campaign finance reform and public funding of campaigns was to get big money out. Now if we could find a way to get dark money out, we all would be very happy.

Ms. Vigil said she would recommend what Mr. Shandler said, which is to take out Councilor Ives' Amendment 2 because that will restore the qualifying period. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

VOTE: The motion, as amended, as approved on the following Roll Call vote:

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Rivera and Councilor Trujillo.

Against: Mayor Gonzales, Councilor Maestas and Councilor Ives.

Explaining his vote: Mayor Gonzales said, "No. And I believe we're missing a great opportunity to take an early step forward. Hopefully, we can come back in January and get this resolved."

7) **CONSIDERATION OF BILL NO. 2015-19: ADOPTION OF ORDINANCE NO. 2015-24 (FINANCE COMMITTEE). AN ORDINANCE AMENDING SUBSECTION 11-9.1 SFCC 2987 AND SECTION 18-9 SFCC 1987, TO REQUIRE THAT PRIOR TO AUTHORIZING A REALLOCATION OF PROCEEDS FROM A VOTER-APPROVED GENERAL OBLIGATION BOND OR TAX THAT DEVIATES MATERIALLY FROM THE INFORMATION PROVIDED TO THE ELECTORATE THAT THE GOVERNING BODY AUTHORIZE SUCH REALLOCATION THROUGH THE ADOPTION OF AN ORDINANCE. (OSCAR RODRIGUEZ) (Postponed at July 8, 2015 City Council Meeting)**

Public Hearing

Former Councilor Karen Heldmeyer said she knows sometimes emergencies exist where you have to move money. However, she has had tell her today that they thought this was just a license to steal, and the City was planning on moving money all over the place for all kinds of things, and this was the means by which that going happen. She said she thinks a lot more people will show up for this kind of Ordinance, because they haven't been very happy with the moving around of money that has occurred in the last tow months. She said, "Think very carefully, you might want to put in some caveats, some stop loss things, but this is... how the public is viewing this is not particularly flattering to the Governing Body."

The Public Hearing was closed

Councilor Dominguez said the reason we decided to propose this is because of what happened with, for the example, the Parks Bond. He said it's a little bit clearer on how reallocations get made. He said it got lost in Committee at one time, noting this was proposed a number of months ago.

Mr. Rodriguez said it was before the REDW audit had come out. He said there seems to be a lot more doubts raised by the Finance Committee during the debate.

Councilor Dominguez said he has gone back and forth on this.

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to adopt Ordinance No. 2015-24, as presented.

DISCUSSION: Councilor Dominguez said the intent is to make sure that any time there is a G.O. Bond that there would be a public process or public hearing to reallocate the funds.

Mr. Rodriguez said there is already a requirement for a public hearing, and this goes beyond this to require that the Ordinance be amended which adds another 30 days. These are the kinds of doubts that were being raised at the Finance Committee.

Ms. Brennan said, "It would be an Ordinance that.... the allocation would be by Ordinance. So it would be somewhat like the rezoning ordinances which just go into a separate file. There already is a required hearing, and this would add cost and time. When we had the discussion, I had not been there at the earlier meetings, but in the minutes, someone asked how many might come before it and it was 50-60. So we would have to go through the request to advertise, and that cost may be $350, and it's usually 30 days before you can hear it. And then it's heard, but we still have a public hearing. So the point at the time was to have a public hearing as I understood it, which the Ordinance was previously amended to provide for. And I think it's on page 4, you'll see how this changes. Yes, I think Councilor Ives had... on page 4, line 5, you can see the language that is being removed, *shall be voted upon by the Governing Body after a public hearing*, and the words 'after a public hearing,' are coming out, and this would add 'through the adoption of an ordinance.' There would be an ordinance reallocating funds, but currently there is a public hearing requirement in the Ordinance."

Councilor Maestas said this is a good interim step. He said you can't put an entire plan for bicycles and trails on the ballot, you have to put a general statement on the ballot. He said the next best thing to hang your hat on is what you promoted in the form of policy. So there is always going to be this difference and there are going to be changes, and they will be inevitable. He thinks this is a good first step to deal with the changes. He said Former Councilor Heldmeyer's suggestion is to look deeper and be more definitive in terms of what we do. He will work on using the official CIP for priority projects unfunded. This is a good way to respect and fund existing capital priorities without dedicated funding. We have more work on this, and if it passes, to post it along with all the bond information, perhaps at the website.

Councilor Ives said he brought the measure to include a public hearing because it was the evident thing to do after the Park Bond issue had arisen. He believe holding a public hearing, as opposed to going through the adoption of an Ordinance a much more extended and expensive project, doesn't necessarily allow for the circumstances Council Heldmeyer was addressing. He said he isn't in favor of this.

Mayor Gonzales said we have a long way to go to regain the public trust, and doesn't think this bill helps toward that effort. If we are going to have bond elections or any voter approved allocation of funds, we have to stay true to that if we're going to hold the trust of the public. He said we have done corrections to get us through this year. However, going forward, the public needs to have the confidence that we will spend the money on what they vote on, and not through an Ordinance, a public hearing and through a City process be able to reallocate and redirect those funds. He will oppose this request.

VOTE: The motion was approved on the following Roll Call vote:

For: Councilor Dimas, Councilor Dominguez, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: Councilor Ives, Councilor Lindell, Councilor Bushee and Mayor Gonzales.

8) CONSIDERATION OF BILL NO. 2015-20: ADOPTION OF ORDINANCE NO. 2015-25 (COUNCILOR BUSHEE). AN ORDINANCE AMENDING SECTION 14-2.3(D) SFCC 1987; ESTABLISHING MEMBERSHIP REQUIREMENTS FOR THE PLANNING COMMISSION. (LISA MARTINEZ) (Postponed at July 8, 2015 City Council Meeting)

The staff report was presented by Lisa Martinez from the materials in the Council packet, noting the requirements were amended by the Public Works Committee.

Public Hearing

Vince Kadlubek, 614 Solana Drive, said he is here to speak as a Planning Commission, and as an individual. He hopes everyone had the opportunity to read the minutes from the Planning Commission meeting, especially regarding the thoughts of the long time Commissioners like Ortiz, Harris, Villarreal and of the new Commissioners. He said the minutes are quite telling in terms of what this Ordinance expressed to the current and old Commission. He said there were questions as to which communities to include and which ones do you not include, commenting we see architecture and landscape, and wonders where the art community is, the business community. He thinks these are big questions. He said they talked about non-profits and which to include and not include.

Mr. Kadlubek said from a personal standpoint, it transitions to his personal experience. When he was nominated for the Planning Commission he talked to a lot of Councilors and got some very good advice. The number one advice he got was to be neutral, to come to the Planning Commission meetings as a neutral, objective mind and voice. He said if they are trying to create neutrality by putting 8 people

from various communities to try to balance the commission, he thinks this is the wrong direction to go. he thinks a lot slanted views would come from that. He said we need to ask for a general neutrality and objectivity from anybody who the Mayor wants to appoint and approved by the Governing Body. He said he was nominated and approved by the Council, and the first thing he saw at his first meeting was an Ordinance which to him and the other new Commissioners said to them that they weren't worthy to be there. He said he is starting a business here, committing his life to Santa Fe, and stayed here, and employ people here. He is active in the community, has worked for non-profits, and sat on task forces. He said he is 33 years old and has been an active member of the community. He asked the Governing Body to consider the comments and the recommendation of the Planning Commission.

Marilyn Bane, Past President of the Neighborhood Network, currently the Vice-President. Ms. Bane thanked the Public Works Committee for recommending the Neighborhood Network to be a part of this. She said this important, and you've shown a great deal of inclusiveness, and that you want diversity and expertise. She said she likes the structure for representatives from each of the Districts. She said there are better ways for us to understand one another, and believes we are looking for that. She said if there is confusion about what they do, or any questions, she would like to answer them. She thinks this is a great thing, and believes whomever you select will do a great job on the Commission.

The Public Hearing was closed

Councilor Bushee said this went through Public Works. She said she had no ownership, she just knew there was no geographic diversity. She said she is sorry if the members of the Planning Commission took this bill to mean they were not qualified. She said people want a neutral way to appoint members to the Planning Commission and this is what they came up with.

Councilor Dominguez said he likes the idea of having one representative from each district, as well as having 4 at large, although he would like two from each District. He asked who the Old Santa Fe Association representatives and Councilor Bushee said they were dropped from the list.

Councilor Bushee said we're looking at the Amendment from Public Works.

Councilor Dominguez said the fastest growing part of the community is on the south side. He said there are very few Neighborhood Associations in that part of the community. He doesn't like to tie it down this specifically poses some problems. He asked if the nominee of the Neighborhood Network will be a member of the Neighborhood Network or someone at large nominated by the Network. He would rather not have that language in the bill, commenting there isn't an equitable distribution of neighborhood associations throughout the City.

Councilor Dominguez said it provides one member shall be an Affordable Housing Planner and Advocate. He said he would rather have a member that is an affordable housing tenant, someone who really lives the life that Planning Commissioners make decisions on. Councilor Dominguez said, regarding a Professional Planner, he likes professionalism, but this is too vague and there needs to be more specificity there. He said he likes the idea that we have a landscape planner to give that perspective. He isn't ready to propose solutions and wants to hear from the sponsors of the bill.

Councilor Ives said he also likes the idea of one from each district. Most other examples from other cities did not prescribe specific professional requirements, aside from having relevant experience. He thinks the Planning Commission is one that should be available to everybody with that modicum of relevant experience that qualifies them. He said we have celebrated artists on the Planning Commission and others who under this might have no opportunity or place on the Planning Commission.

MOTION: Councilor Ives moved, seconded by Councilor Dominguez, to adopt No. 2015-25, with an amendment to provide that each District within the City shall have at least one representative on the Commission, and that there be 5 at-large members, and all members of the Planning Commission will be required to have relevant experience.

DISCUSSION: Councilor Trujillo said there will be 5 at-large and asked who will say from what district they will be – the Mayor or the Council.

Councilor Ives said we all approve members of the Planning Commission.

Councilor Trujillo said his concern is that the at-large members will come from the same district.

Councilor Ives said he doesn't think it would happen, because people on the Council are reasonable in terms of who gets appointed. He is comfortable with having it being an at-large selection to make sure that the broadest spectrum of people from across Santa Fe have the opportunity to serve on the Commission.

Mayor Gonzales said currently there is only 1 member from District 3 and 1 member from District 2, so he anticipates that any recommendations that would come forward, depending on how tonight goes, that there would be representatives from each District. He said any Mayor needs to be given some latitude and discretion with guidance from the Council that they need more representatives from their Districts. He also like the idea, potentially of going to 2 individuals per district, and making sure the interests are met. It ensure the entire City has participation on the Commission and that it is a true citizen's committee.

Councilor Trujillo said his preference would be 2 per District.

Mayor Gonzales said he would be supportive of that and thinks it would assure there is proper balance throughout the City.

Councilor Bushee said it's all friendly, commenting it was about taking note that we haven't had geographic representation and equity.

Councilor Dominguez agrees with Councilor Trujillo. However, the unintended consequence of being so rigid is that we had a member from the unincorporated area from the presumptive City limits which was good. We needed that perspective from people that really weren't in any District at that time. He thinks we shouldn't be too rigid and we need some flexibility, especially in view of the fact that we will be redistricting again at some point in the future.

Councilor Bushee said she would prefer two from each District. She is willing to amend the bill however the Council would like.

Councilor Ives said in the existing ordinance there is a statement under composition that, *members who are qualified by training, experience and ability to exercise sound and practical judgment on civic, social, economic and governmental affairs* is hunkey-dorey.

Councilor Maestas said he doesn't believe we need any professional, prescriptive requirements, but he does think it should be two per District, because he wants to ensure representation from the high growth areas. He said our Districts are equal in population, so you ensure you have adequate representation. He agrees with Council Ives and thinks we need layperson to serve. He thinks we could be injecting bias if we have all these professional requirements.

Councilor Dominguez said he is in favor of two per District. He said however, "The Governing Body needs to recognize this fact. District 4 which is the second lowest voting District in the City has twice as many registered voters as District 3, with 12,000 voters in District 4. Think about it. We have equity in population, but we don't have equity in registered voters, and that's not the charge of the Redistricting Commission and we don't have any control over that. But if you look at District 3 more closely, and he supports the idea of 2 per district, you have a huge discrepancy between the people in Tierra Contenta versus the north side of Airport Road where there is a more transient community. A lot of apartments, mobile homes. My fear is, and not even a relative fear, but I just want to make the point that you potentially could have 2 representatives living in Tierra Contenta representing all of District 3, when their realities are not the same as many realities on the north side of District 3 which is where the majority of the unincorporated area was. It's less like than if we had somebody from District 1 or 2, but I just want to make that point and make sure the Governing Body is aware that even though we have some sense of equity, and in one district where there are fewer registered voters, we still have an inequity in incomes and such just within that corridor itself. Let's do two."

FRIENDLY AMENDMENT: Councilor Dominguez proposed to do two representatives from each District. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Bushee said, "To be clear, we're getting rid of the professional stuff and we're sticking with 2 per District and one at large."

Mayor Gonzales said that is correct, as well as eliminating who shall have the nominees to the Commission, moving to 2 per District with 1 at large.

VOTE: The motion, as amended, was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Explaining her vote: Councilor Bushee said, "The irony is that was my original bill, I shopped it around and I came up with this other bill because everybody liked that, and then here we are. Yes."

9) **CONSIDERATION OF BILL NO. 2015-24: ADOPTION OF ORDINANCE NO. 2015-26 (COUNCILOR BUSHEE). AN ORDINANCE AMENDING SUBSECTION 12-6-6.1 OF THE CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE TO PROHIBIT THE PARKING OF A MOTOR VEHICLE IN A MARKED BICYCLE LANE; MAKING MINOR GRAMMATICAL CHANGES. (KEITH WILSON)**

Keith Wilson presented information regarding this item from the materials in the Council packet.

Public Hearing

There was no one speaking to this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Ives, to adopt No. 2015-26, as presented.

DISCUSSION: Councilor Bushee said there were people here from the bicycle community, but they had to leave because it got dark and late.

Councilor Dimas said this came to the Public Safety Committee and left without a recommendation to the Council because there were questions. He said he supports the bill, but he has one problem, and that is in residential areas you've got bicycle lanes. He said for example, Camino Carlos Rey one of the main thoroughfares, but people also park personal vehicles on the street because they have no place else to park. He said people are going to be just a little ticked off if they have to move their vehicles off street, because it is a public thoroughfare with public parking. He is curious as to how to handle that, noting he has no problem with it on the main thoroughfares and other areas, but when it gets to residential areas, he believes there will be problems enforcing it. He said you're going to have a lot of feedback from a lot of people that do park in front of their houses, and he is unsure if you have a solution or recommendation.

Mr. Wilson said they did discuss that, and the key word is "marked bicycle lane," and the sections of Camino Carlos Rey you are referencing aren't marked. There's a bike lane, and a stripe that creates a shoulder, but there no signage or pavement marking. He said portions from Siringo to Cerrillos have a marked bike lane, but from Siringo to almost Zia there are no marked bicycle lanes at this time. He spoke with the City's Traffic Engineer after the Public Safety meeting and discussed that issue. He told Mr. Wilson that when the were implementing marked bicycle lanes, if there currently on-street parking, they will do a public process before implementing marked bicycle lanes in those location. In the Bicycle Master Plan, we identified some key corridors and prioritized those through the implementation plan for placement

of marked bicycle lanes. The majority were not residential streets, and were the main corridors that currently don't have parking on them. There may be some instances where there will have to be a process before the bicycle lanes are marked, and believes Camino Carlos Rey would be one of those locations.

Councilor Dimas said they are marked now as bicycle lanes on Camino Carlos Rey.

Mr. Wilson said what constitutes a marked bicycle lane is not just a shoulder stripe, it has to have either a pavement symbol which a bicycle with an arrow and/or a sign designating it as a bicycle lane. Currently, the section pretty much from Siringo to Zia all it has is a shoulder stripe which technically couldn't be enforced as a marked bicycle land.

Councilor Dimas said then the Parking Division will be cognizant of that when they go out and start citing people.

Mr. Wilson said he doesn't think the Parking Division has authority in that area.

Councilor Dimas said it is the Police Department and that may come up anyway with the new Parking Ordinance that he is going to be doing, commenting he needed clarification as to where we're going with that.

Responding to Councilor Trujillo, Mr. Wilson reiterated that the bicycle lanes will be at the Siringo Intersection and then heading toward Cerrillos Road, and then approaching the Zia intersection there is a short section of bike lane at that location. There are other locations on Richards and Don Gaspar.

Councilor Trujillo said he applauds Councilor Bushee as the champion of bicyclists. He said, " However, it still bugs me that everywhere I go in this community, I see bicyclists with their hats, and they're so safety conscious, but the minute there is a red light or a stop sign, zoom. They could care less about that. It has always been one of my pet peeves. If you're riding a bicycle, stop at the Stop sign, stop at the stoplight, follow the same rules as vehicles. You know what, they're going to shoot through there and get killed. I see it all the time. Here, we do all of these things for these things for bicyclists, make trails them and all these safety issues for them and they don't give a damn, so that's all I have to say. I support this.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Absent for the vote: Councilor Dominguez

Explaining his vote: Councilor Dimas said, "Yes, and would you keep me updated on what's going on in those particular areas that we were speaking about. Yes."

10) CONSIDERATION OF BILL NO. 2015-25: ADOPTION OF ORDINANCE NO. 2015-27 (MAYOR GONZALES). AN ORDINANCE AUTHORIZING THE SALE OF 2,263 SQUARE FEET OF REAL PROPERTY LOCATED ADJACENT TO 830 EL CAMINITO STREET AND DESCRIBED AS "AREA OF GAIN" AS SHOWN AND DELINEATED ON A PLAT OF SURVEY ENTITLED, "LOT LINE ADJUSTMENT WORKMAP OF PROPERTY LOCATED AT 830 EL CAMINITO" PREPARED BY PAUL A. ARMIJO, N.M.P.S. NO. 13604, DATED OCTOBER 2, 2014, LYING AND BEING SITUATE WITHIN THE SANTA FE GRANT, PROJECTED SECTION 30, T17N, 49E, N.M.P.M., IN THE CITY AND COUNTY OF SANTA FE, NEW MEXICO. (MATTHEW O'REILLY).

The staff report was presented by Matthew O'Reilly. Please see the Council packet for specifics of this presentation.

Public Hearing

There was no one speaking to this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Trujillo, to adopt No. 2015-27, as presented.

DISCUSSION: Councilor Ives said this was City property, and asked why it was walled off, and for what period of time, and who paid for the use of that property.

Mr. O'Reilly said the area was walled off without the City's knowledge or permission. He said prior to the agreement with the new owner to purchase this property, the City was able to collect back rent for the lease of this property an amount of $24,000 for eight years of unauthorized use of the property from the previous property owner.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, and Councilor Trujillo.

Against: None.

Absent for the Vote: Councilor Rivera.

The Governing Body Then Returned to the Balance of the Afternoon Agenda

CONSENT CALENDAR DISCUSSION

10 (j) CONSIDERATION OF RESOLUTION NO. 2015-70 (FINANCE COMMITTEE). A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF THIRD AND FOURTH QUARTER (YEAR-END) BUDGET ADJUSTMENTS FOR FISCAL YEAR 2014/2015. (CAL PROBASCO)

Councilor Ives said we get these Budget Adjustment Requests long afterwards, and he always had a bit of a disjointed moment reviewing the matters and trying to relate it back to what action was taken when, during our Council proceeds where it was approved. He is unsure whether the need for a change to the BAR or a BAR is reflected on the FIR that comes forward with any of these measures when we're adopting them. He said his objective here will be to get a much better handle on all of our budgetary changes after we put a budget in place, because he wants to understand what we're doing when because it has real consequences. He asked, "If you can tell me, what in our FIR indicates whether we will be subsequently receiving a BAR request, and if the answer is nothing, I would like to see us implement something on our FIR that actually accomplishes that. The other think I think would be very helpful is on the listing of the BAR is to have a reference to the item number in the meeting where the measure was actually approved. So it would be an additional column indicating when the action was taken by Council approving the change that is then reflected on the BAR."

Mr. Rodriguez will be happy to make that change. He said not all of the items that come to you in the form of Resolution, etc., actually require the BAR. He said the BARs you get come with contracts.

Councilor Ives asked when those measures come before us, realizing there obviously is a great number that the City Manager under his authority handles. But for those that come to staff, he would love to see somewhere indicated in the memos, prominently displayed, highlighted, bolded that this will involve a subsequent Budget Adjustment Request.

MOTION: Councilor Trujillo moved, seconded by Councilor Rivera, to adopt Resolution No. 2015-70.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

10(I) CONSIDERATION OF RESOLUTION NO. 2015-71 (COUNCILOR MAESTAS). A RESOLUTION RECOMMENDING THE GOVERNING BODY OPPOSE ANY LEGISLATION THAT WOULD ALTER THE METHOD BY WHICH MUNICIPAL GROSS RECEIPTS TAXES ARE DISTRIBUTED TO MUNICIPALITIES. (OSCAR RODRIGUEZ)

Mr. Rodriguez said this is through the Municipal League, noting Taxation & Revenue is considering altering the way it distributes state-shared GRTs, noting TRD would like to go to a per capita basis. We have a more robust economy and this would drastically, drastically impact our distribution.

MOTION: Councilor Maestas moved, seconded by Councilor Bushee, to adopt Resolution No. 2015-71

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

15. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

12. PURSUANT TO RESOLUTION NO. 2015-40, PRESENTATION OF FINDINGS RELATED TO THE GRT DEDICATION PROVISION IN 18-10.4 SFCC 1987 – PUBLIC BUS SYSTEM, THE GENERAL FUND AND QUALITY OF LIFE PURPOSES. (OSCAR RODRIGUEZ)

A Memorandum dated July 14, 2015, with attachment, to the Mayor and Members of the City Council, from Oscar S. Rodriguez, Finance Director, regarding this matter, is incorporated herewith to these minutes as Exhibit "13.

Oscar Rodriguez presented information from his Memorandum of July 14, 2015 regarding this matter. Please see Exhibit "13," for specifics of this presentation.

Councilor Maestas said he brought this forward to look at the process in allocation of these funds which gives Transportation first priority. He said when we purchase buses using and NMFA loan for a term that would exceed the useful life of the buses, we made Transit pay for the debt service out of its operating budget. That tells him we are not truly meeting the capital needs of our Transportation system. He said federal capital grants are drying up, and we need to rethink the way we allocate this. He will be bringing forward legislation to that effect.

16. MATTERS FROM THE CITY ATTORNEY – EXECUTIVE SESSION

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §§10-15-1(H)(2) AND (8) NMSA 1978, DISCUSSION REGARDING LIMITED PERSONNEL MATTERS, INCLUDING, WITHOUT LIMITATION, THE ORGANIZATION OF CITY GOVERNMENT; AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE CITY OF SANTA FE, INCLUDING, WITHOUT LIMITATION, THE DISPOSITION FOR ECONOMIC DEVELOPMENT PURPOSES OF 5± ACRES OF LAND ON SILER ROAD; THE DISPOSITION BY LEASE OF 4,200± SF OF BUILDING SPACE; AND THE SHORT-TERM LEASE OF 4,000± SF OF BUILDING SPACE. (KELLEY BRENNAN).

MOTION: Councilor Bushee moved, seconded by Councilor Trujillo, that the Council go into Executive Session, in accordance with the Open Meetings Act §10-15-1(H)(2) and (8) NMSA 1978, as recommended by the City Attorney for:

1. Discussion regarding limited personnel matters, including, without limitation, the organization of city government; and
2. Discussion of the purchase, acquisition or disposal of real property or water rights by the City of Santa Fe, including, without limitation, the disposition for economic development purposes of 5± acres of land on Siler Road; the disposition by lease of 4,200± SF of building space; and the short term lease of 4,000± SF of building space.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

The Council went into Executive Session at 11:05 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At 11:50 p.m., Councilor Rivera moved, seconded by Councilor Dimas, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.
Absent for the vote: Councilor Bushee.

17. **ACTION REGARDING THE DISPOSITION FOR ECONOMIC DEVELOPMENT PURPOSES OF 5± ACRES OF LAND ON SILER ROAD. (KELLEY BRENNAN)**

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to direct the City Attorney to take action consistent with the discussion held during the Executive Session.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Absent for the vote: Councilor Bushee

18. **ACTION REGARDING THE DISPOSITION by lease of 4,200± SF OF BUILDING SPACE. (KELLEY BRENNAN)**

No action was taken on this item.

19. **ACTION REGARDING THE SHORT-TERM LEASE OF 4,000 5± SF OF BUILDING SPACE. (KELLEY BRENNAN)**

MOTION: Councilor Rivera moved, seconded by Councilor Dominguez, to direct the City Attorney to take action consistent with the discussion held during Executive Session.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

20. **MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

21. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of July 29, 2015, is incorporated herewith to these minutes as Exhibit " 14."

Councilor Dimas

Councilor Dimas said since we are looking for a new Police Chief, he would recommend using some of the members of the Public Safety Committee on the interview committee. He said he doesn't want to be on that committee, but they do have expertise on the Committee he thinks could be useful.

Councilor Maestas

Councilor Maestas introduced a Resolution authorizing the placement of a question on the ballot of a special election, to be held in conjunction with the regular election on March 1, 2016, to ask the voters of the City of Santa Fe whether or not the *Santa Fe Municipal Charter* should be amended to include a provision to establish a Santa Fe Public Utility Board. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "15."

Councilor Bushee

Councilor Bushee introduced Resolutions amending the *Governing Body Rules* to remove the provision allowing the Governing Body to suspend the Rules and continue a regular or special Council meeting beyond 12:00 a.m. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "16."

Councilor Ives

Councilor Ives introduced an Ordinance amending Subsection 23-6.2 SFCC 1987, to permit the sale and consumption of alcohol in an area of the Plaza along the north curb line of Palace Avenue, running in front of the Palace of the Governors, between Washington Street and Lincoln Avenue for the Christus St. Vincent 150th Anniversary Gala on September 19, 2015.

Councilor Dominguez

Councilor Dominguez introduced a Resolution directing staff to implement a more open public budgeting process that implements public hearings in all four Districts, prioritizes fund needs and results in a final budget that is fully transparent.

Councilor Lindell

Councilor Lindell introduced a Resolution requesting that staff prepare an updated Santa Fe General Plan that streamlines and summarizes the existing Santa Fe General Plan. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "17."

Councilor Trujillo

Councilor Trujillo said his son turned 17 years old last Wednesday and wished him Happy Birthday.

Councilor Trujillo said there will be a Fuego game tomorrow at 1:00 p.m., and again at 6:00 p.m.

Councilor Rivera

Councilor Rivera introduced the following:

1. A Resolution declaring the City of Santa Fe, New Mexico a hybrid entity for purposes of HIPAA and Hitech Compliance. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "18"

2. A Resolution to support Meow Wolf's project and efforts to diversify the economy, revitalize an economically distressed neighborhood and provide a unique family entertainment option for Santa Fe. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "19."

I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 11:58 p.m.

Approved by:

Mayor Javier M. Gonzales

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:

Melessia Helberg, Council Stenographer

ITEM #10 (k)

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO SUBSTITUTE RESOLUTION NO. 2015-___
Affordable Housing

Mayor and Members of the City Council:

I propose the following amendment(s) to Resolution No. 2015-___:

1. On page 1, lines 11 through 14, ***delete*** the title and ***insert*** in lieu thereof the following title:

   "DIRECTING STAFF TO SEEK SOLUTIONS TO SANTA FE'S HOUSING AFFORDABILITY CRISIS, SPECIFICALLY AS IT RELATES TO WHAT AFFORDABILITY MEANS IN SANTA FE, AVAILABILITY OF AFFORDABLE HOUSING IN ALL AREAS OF SANTA FE, AND THE ATTRIBUTES OF NEIGHBORHOODS IN SANTA FE; PROVIDING FACTORS TO BE CONSIDERED IN HOUSING AND TRANSPORTATION PLANNING POLICY"

2. On page 1, ***delete*** lines 17 and 18 and ***insert*** in lieu thereof:

   "**WHEREAS,** Santa Fe is a leader in the nation with regard to innovative and progressive housing policies and the Governing Body wishes to continue to build on the legacy; and"

3. On page 1, line 20, after "wage", ***insert*** "and other"

4. On page 2, line 18, "economic inequity" and ***insert*** in lieu thereof "poverty"

5. On page 2, line 22 after "perpetuate," ***delete*** "the widening gap between rich and poor" and ***insert*** in lieu thereof "Santa Feans leaving Santa Fe to live in areas where housing is more affordable"

6. On page 3, line 3 after "for", ***delete*** "many displaced"

7. On page 3, ***delete*** lines 11 through 17 and ***insert*** in lieu thereof

   "**WHEREAS,** through this process, community members have identified five factors indispensable within Santa Fe to ensure everyone, and not just a portion of our population, has a decent home, access to economic opportunity, and the ability to thrive in our community; and

   WHEREAS, these factors are: 1) Affordability; 2) Quality, Sustainability and Health; 3) Accessibility, Fairness and Equity; 4) Stability; and 5) Community Participation."

8. On page 3, lines 19 through 21, ***delete*** "pillars as much needed emphasis on the framework that informs, guides and directs all housing and urban" and ***insert*** in lieu thereof "factors in evaluating all housing and transportation"

Exhibit "1"

9. On Page 3, line 22, after "Affordability -" ***delete*** "make" and after "Santa Fe", ***insert*** "should be"

10. On page 2, line 24, after "Health -" ***delete*** "ensure that" and after "Santa Fe", ***insert*** "should"

11. On page 4, ***delete*** lines 1 through 10 and ***insert*** in lieu thereof

    "3. Accessibility, Fairness and Equity – affordable rental and homeownership opportunities in Santa Fe should be made accessible to historically marginalized populations throughout the city and be integrated both socially and geographically.

    4. Stability, Permanence and Protection from Displacement – the city should work to shield low-income renters and home owners from economic forces and changes in government policies that lead to displacement over the long term.

    5. Community Participation– the city should work to ensure that its housing and transportation policies are adopted through democratic structures and processes, which include input from those who are homeless and live in poverty, with particular emphasis and special protections allowed for areas composed of a majority of low income residents."

12. On page 4, ***delete*** lines 12 through 25 and on page 5, ***delete*** lines 1 through 10 and ***insert*** in lieu thereof

    "1. Engage in dialogues across all departments to explore potential policy, budgetary and community partnership solutions to address housing and transportation affordability.

    2. Collaborate with community organizations, including those that represent and/or serve workers, renters, low-income homeowners and/or people experiencing homelessness and/or displacement as specifically related to upcoming and ongoing planning processes to include updates of The Housing Strategic Plan/City Plan, the MPO's transportation and pedestrian planning documents; redesign of the City's neighborhood planning process; annual funding allocations related to housing and community development; the City's general management of its land assets; and the 2016 Analysis of Impediments to Fair Housing Choice.

    3. Consider, include and highlight the needs of all low-income Santa Fe residents to allow the Governing Body in its deliberations to prioritize the needs of renters in providing housing services and programming, particularly support services for those transitioning out of homelessness, rental assistance and subsidized rental units.

    4. Include in the upcoming 2016 update of the Analysis of Impediments to Fair Housing examples of best practices examples from other communities including those which serve to identify and eliminate patterns of discrimination and causes of displacement.

    5. Work with community organizations, including those that represent and/or serve workers, renters, low-income homeowners and/or people experiencing

homelessness and/or displacement to discuss how existing City policies, programs, and ordinances can be made more responsive to the problems of low-income citizens of Santa Fe in regard to housing and transportation and provide recommendations to the Governing Body within ninety (90) days."

Respectfully submitted,

_____
Peter Ives , Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

ITEM 10k

ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, JULY 27, 2015

ITEM 11

REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO SEEK SOLUTIONS TO SANTA FE'S HOUSING AFFORDABILITY CRISIS, SPECIFICALLY AS IT RELATES TO GENTRIFICATION, INEQUITY, AND THE WIDENING GAP BETWEEN RICH AND POOR IN SANTA FE; PROVIDING A FRAMEWORK FOR HOUSING AND URBAN PLANNING POLICY **(COUNCILORS MAESTAS, DOMINGUEZ, BUSHEE, TRUJILLO AND RIVERA) (ALEXANDRA LADD)**

PUBLIC WORKS COMMITTEE ACTION: Approved

FUNDING SOURCE:

SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON TRUJILLO			
COUNCILOR BUSHEE	X		
COUNCILOR DIMAS	X		
COUNCILOR DOMINGUEZ	X		
COUNCILOR RIVERA	X		

Exhibit "2"

ITEM #G

PATRICIA BOIES, J.D.
1014 Placita Loma, Santa Fe NM 87501
(505) 995-9538
pboies@santafecountynm.gov

PROFESSIONAL WORK EXPERIENCE

Santa Fe County Community Services Department (2012 - present): As Health Services Division Director, oversee the Health Care Assistance Program and the County Mobile Health Van, and staff the Health Policy and Planning Commission.

- Together with the Health Policy and Planning Commission, produced *Santa Fe County Health Action Plan FY 2015-2017*, highlighting health priorities and following up on *Santa Fe County in 2013: A Community Health Profile*.
- Administered innovative changes to the County Health Care Assistance Program to fund health projects targeted to the health priorities in the *Health Action Plan*, including a mobile crisis response team and a low birth weight prevention initiative.
- Supervised the expansion of the Mobile Health Van to seven days a week and to underserved community locations, resulting in the highest-ever number of visits to the van and health screenings performed.

Capital Hospice and Palliative Care (2007-2010): Developed and implemented a community outreach and education program to raise awareness and funding of this nonprofit, community-based health organization in Washington, DC.

- Built relationships across the multicultural community in creative new ways, contributing to a significant increase in use of services.
- Served as a public voice for the organization, conducting presentations and meetings with public health officials, elected councilmembers, churches, schools, and a wide variety of community groups.
- Managed the extensive volunteer services program and served on the interdisciplinary team.

Seattle Monorail Project (2003-2005): Provided strategic planning and outreach to promote a new rapid transit system and to organize community support.

- Developed and implemented a coordinated program for the downtown cultural, nonprofit, business, and residential community, to build and maintain productive community relations.
- Recruited nonprofit organizations, business owners, and residents to support the project's mission and acted as liaison between the project and the community, facilitating meetings and presenting project plans and technical information.

Exhibit "3"

Paladino Consulting (1998-2003): Provided strategic planning and communications for this start-up green design firm based in Seattle, helping to successfully position the firm as a national leader in sustainable and healthy building.

- Staffed the Governor's Blue Ribbon Commission on Transportation: researched policy alternatives, wrote briefing papers, and gave oral presentations.

Greater Seattle Chamber of Commerce (1995-1999): Directed public policy programs and conferences for this nonprofit membership organization.

- Facilitated a coalition of health care and higher education institutions and organized community support, resulting in consensus and city council enactment of desired improvements.

- Oversaw leadership conferences with state, county, and civic leaders to address regional issues and recommend policies, including securing funding, managing budgets, conducting policy research, and writing and delivering reports.

Seattle Human Rights Department (1989-1990): Provided oversight of operational policies and procedures and advised staff and the public on local and federal anti-discrimination laws in employment, public accommodations, and housing.

- Served as Director's liaison with Human Rights Commission.

Governor of Massachusetts (1983-1989): As Deputy Chief Counsel,

- Acted as lead staff for public policy initiatives and served on multi-disciplinary working groups to form recommendations and implement key priorities.

- Oversaw legal and policy review of legislation, including researching issues, coordinating with community stakeholders and public officials to reach consensus, and preparing materials for public information and understanding.

EDUCATION AND TRAINING

Juris Doctor, *magna cum laude*, Boston University School of Law, Massachusetts

Bachelor of Arts, *cum laude*, English and History, Tufts University, Massachusetts

Certified in Thanatology (conferred after national examination and education in end-of-life care, dying, and bereavement)

Grantsmanship Training Program Certificate, in grant proposal research and writing, The Grantsmanship Center, in Santa Fe

City of Santa Fe, New Mexico

memo

DATE: July 16 for July 29, 2015 City Council Meeting

TO: City Council

VIA: Brian Snyder, City Manager
Lisa Martinez, Director, Land Use Department
Greg Smith, AICP, Director, Current Planning Division

FROM: Donna Wynant, AICP, Senior Planner, Current Planning Division

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Case #2015-30. Tune Up Café, 536 Cortez St., General Plan Amendment. Liaison Planning Services, Inc., agent for JC Rivera, LLC, requests approval of a General Plan Future Land Use map amendment to change the designation of 0.13± acres of land from Low Density Residential (3-7 dwelling units per acre) to Community Commercial. The property is located at 536 Cortez. (Donna Wynant, Case Manager)

Case #2015-31. Tune Up Café, 536 Cortez St., Rezoning. Liaison Planning Services, Inc., agent for JC Rivera, LLC, requests rezoning approval of 0.13± acre of land from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial). The property is located at 536 Cortez St. (Donna Wynant, Case Manager)

Cases #2015-30 and #2015-31 are combined for purposes of staff report, public hearing and Governing Body action, but each is a separate application and shall be reviewed and voted upon separately.

I. RECOMMENDATION

Staff and the Planning Commission recommend **APPROVAL OF BOTH CASES WITH CONDITIONS** to the Governing Body.

On May 7, 2015, the Planning Commission found that the application meets all code criteria for a General Plan Amendment and Rezoning. The applicant is requesting a General Plan Amendment from Low Density Residential (3-7 dwelling units per acre) to Community Commercial. Additionally, the applicant is requesting to rezone the property from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial). The applicant will then record the lot consolidation of 536 Cortez and 1115 Hickox into one lot, totaling 0.26 ± acre in size as requested and approved by the Planning Commission if the General Plan Amendment and Rezoning request are approved. This rezoning application does not include approval of a development plan. The conceptual plan submitted by the applicant would involve the steps described in Section II of this report.

Exhibit "2"

II. APPLICATION OVERVIEW

A. Rezoning Application. The applicant acquired the property at 526 Cortez north of and adjacent to his Tune-Up Cafe at 1115 Hickox. The applicant is proposing to minimize on street parking by his business by providing an 8 space parking lot on the subject property. The request is to change the zoning from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial) to be consistent with the zoning of the Tune-Up Café property. The General Plan must first be amended from Low Density Residential (3-7 dwelling units per acre) to Community Commercial to allow the rezoning as requested. Also, since parking is not allowed as a primary use, the 526 property must be consolidated with the adjacent Tune-Up Café property as a condition of approval of the zoning request.

The application materials indicate that the property was purchased by the applicant to accommodate the existing Tune-Up Café with a new parking lot, not for any future expansion of the business and not for a separate commercial entity. At the Planning Commission public hearing, the applicant stated that he needs to do a slight increase in the size of the kitchen to make it functional. This will neither interfere with the new parking lot, nor increase the parking requirement.

B. Parking Lot Expansion and Site Planning. This rezoning application does not include approval of a development plan by the Planning Commission or by the Governing Body. Implementing the conceptual plan submitted by the applicant would involve approval by staff of the applicant's request to reduce the landscaped buffer area at the north edge of the rezoned lot as "alternate compliance." (Refer to discussion below and to Exhibit 8.)

The applicant's site plan for the parking lot expansion shows the existing Tune-Up Café with the new proposed 8 space parking lot on the lot to the north. If the rezoning is approved, subsequent approval of the plan would involve administrative approvals by staff, and could also involve approval of a landscape-buffer. The schematic plan indicates that the lot would comply with most applicable standards. It would be accessed off of Hickox through the existing parking lot, and would exit as a "*right turn only*" onto Cortez Street. Existing (significant) trees would be preserved and utilized as a buffer along the north, west and Cortez Street property lines. The new parking lot would be screened with the existing 4' wall along Cortez and a new 6' tall masonry wall along the north and west lot line. The existing dumpster and recycling bins located at 1115 Hickox would be relocated to the subject property as shown on the site plan and a 15' landscape buffer is proposed adjacent to the west lot line as required since it abuts residential property (Subsection 14-8.4(J)(3)). The schematic plan proposes a reduced landscape buffer (5' rather than 15') along the north lot line adjacent that residential property. The applicant has requested approval by staff of a smaller but more intensified, landscape buffer per section 14-8.4(C) Landscape and Site Design "Alternate Means of Compliance." Approval by staff could not occur until after the rezoning is approved, and would require more-detailed landscaping and parking lot plans than have been submitted.

C. Right-of-Way Encroachments. Staff and neighbors have identified concerns with existing parking spaces located on the east side of the property, at the Cortez St. frontage. Cars using those spaces frequently block the public sidewalk, and have to back into the street when exiting the spaces. Neighbors who attended the ENN meeting cited these spaces as a significant hazard. Staff recommends that they be eliminated as a condition of the rezoning application.

In addition, city staff determined several years ago that some of the improvements associated with the outdoor seating area encroached into the city's right-of-way along the Hickox frontage. Staff worked with the applicant to obtain approval from the Governing Body for an agreement to eliminate the encroachment problem by trading land at the corner of Hickox and Cortez. A condition of approval to require the applicant to complete that process is included in this rezoning ordinance.

D. Neighborhood Concerns. An early neighborhood notification meeting was held on 11/24/14 to discuss the proposed general plan amendment and rezoning with neighbors. The neighbors expressed concerns that restaurant operations in recent years have increased problems with traffic volumes and safety, with parking of employee and customer cars on Cortez St., and with noise from late-evening operations. Some neighbors expressed support for the parking lot expansion, and some preferred that there be no access from the parking lot to Cortez St. (See Planning Commission packet- Exhibit E-2 ENN Notes.)

E. Neighbor Encroachment Across Property Line. The applicant's recent survey (see Exhibit 6) shows a slight encroachment of the neighbor's house (Matt Kelly) at 534 Cortez onto 536 Cortez. This encroachment is primarily a private matter between the owners, and does not have a direct effect on the rezoning request. Mr. Kelly requests access to the south wall of this house and protection from vehicle damage. Staff anticipates that administrative approval of parking lot improvements will address the neighbor's safety and access concerns.

III. ATTACHMENTS:

Exhibit 1	Planning Commission Findings of Fact, approved 6/4/15
Exhibit 2	Draft General Plan Amendment Resolution
Exhibit 3	Draft Rezoning Bill – C-2
Exhibit 4	Planning Commission Staff Report Packet
Exhibit 5	Planning Commission Minutes – 6/4/15
Exhibit 6	Letter from Matt Kelly regarding his property at 534 Cortez Street – 6/26/15
Exhibit 7	Survey of 536 Cortez and 1115 Hickox Street- 7/15/15
Exhibit 8	Revised Conceptual Site Plan- 7/20/15

ITEM # 15-0448

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

Case #2015-30
Tune Up Cafe General Plan Amendment
Case #2015-31
Tune Up Cafe Rezoning to C-2

Owner's Name – JC Rivera LLC
Applicant's Name – Liaison Planning, Inc.

THIS MATTER came before the Planning Commission (Commission) for hearing on May 7, 2015 upon the application (Application) of Liaison Planning, Inc.as agent for JC Rivera LLC (Applicant).

The property is located at 536 Cortez Street (Property) and is comprised of 0.13± acres with the Future Land Use designation of Low Density Residential (3-7 dwelling units per acre) and is zoned R-5 (Residential, 5 dwelling units per acre).

The Applicant seeks: (1) approval of an amendment to the City of Santa Fe General Plan Future Land Use Map (Plan) changing the Future Land Use designation of 0.13± acres from Low Density Residential (3-7 dwelling units per acre) to Community Commercial and (2) to rezone 0.13± acres of the Property from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial).

After conducting a public hearing and having heard from staff and all interested persons, the Commission hereby FINDS as follows:

FINDINGS OF FACT

General

1. The Commission heard testimony and took evidence from staff, the Applicant, and members of the public interested in the matter.
2. Santa Fe City Code (Code) §14-3.2(D) sets out certain procedures for amendments to the Plan, including, without limitation, a public hearing by the Commission and recommendation to the Governing Body based upon the criteria set out in Code §14-3.2(E).
3. Code §§14-3.5(B)(1) through (3) set out certain procedures for rezonings, including, without limitation, a public hearing by the Commission and recommendation to the Governing Body based upon the criteria set out in Code §14-3.5(C).
4. Code §14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [§14-3.1(E)(1)(a)(i)]; (b) an Early

EXHIBIT 1

Neighborhood Notification (ENN) meeting [§14-3.1(F)(2)(a)(iii) and (xii)]; and (c) compliance with Code Section 14-3.1(H) notice and public hearing requirements.

5. Code §14-3.1(F) establishes procedures for the ENN meeting, including (a) scheduling and notice requirements [Code §14-3.1(F)(4) and (5)]; (b) regulating the timing and conduct of the meeting [Code §14-3.1(F)(5)]; and (c) setting out guidelines to be followed at the ENN meeting [§14-3.1(F)(6)].
6. An ENN meeting was held on the Application on November 24, 2014 at the DeVargas Mall, Community Room.
7. Notice of the ENN meeting was properly given.
8. The ENN meeting was attended by the Applicant and City staff; there were eleven members of the public in attendance and concerns were raised.
9. Commission staff provided the Commission with a report (Staff Report) evaluating the factors relevant to the Application and recommending approval by the Commission of the proposed Plan amendment and the rezoning and lot split.

The General Plan Amendment

10. Code §14-3.2(B)(2)(b) requires the City's official zoning map to conform to the Plan, and requires an amendment to the Plan before a change in land use classification is proposed for a parcel shown on the Plan's land use map.
11. The Commission is authorized under Code §14-2.3(C)(7)(a) to review and make recommendations to the Governing Body regarding proposed amendments to the Plan.
12. The Commission has considered the criteria established by Code §14-3.2(E)(1) and finds the following facts:
    (a) *Consistency with growth projections for the City, economic development goals as set forth in a comprehensive economic development plan for the City, and with existing land use conditions, such as access and availability of infrastructure [§14-3.2(E)(1)(a)].*
    The proposed use of the subject property will provide parking for an existing restaurant that currently provides employment and a service to the neighborhood and Santa Fe residents.
    (b) *Consistency with other parts of the Plan [§14-3.2(E)(1)(b)].*
    The general plan policy states that there shall be a mix of uses and housing types in all parts of the City and along this area of Hickox, the zones are mixed C-2 and residential. The proposed use of the subject project will be consistent with this policy and will increase opportunities for service to the neighborhood and Santa Fe residents.
    (c) *The amendment does not: (i) allow uses or a change that is significantly different from or inconsistent with the prevailing use and character of the area; (ii) affect an area of less than two acres, except when adjusting boundaries between districts; or (iii) benefit one of a few landowners at the expense of the surrounding landowners or the general public [§14-3.2(E)(1)(c)].*
    The area to the north, east and west of the subject property is primarily residential. The properties to the south all along Hickox are zoned for community commercial. Upon approval, the subject property will be consolidated with the adjacent property to the south that has been utilized as commercial.

(d) *An amendment is not required to conform with Code §14-3.2(E)(1)(c) if it promotes the general welfare or has other adequate public advantage or justification [§14-3.2(E)(1)(d)].*
The proposal conforms with § 14-3.2(E)(1)(c) and is consistent with the City's land use policies, ordinances, regulations and plans as they relate to the City's desire to maintain a compact urban form, encourage infill development and mixed use neighborhoods.

(e) *Compliance with extraterritorial zoning ordinances and extraterritorial plans [§14-3.2(E)(1)(e)].*
This criterion is no longer relevant since the adoption of SPaZZo and the relinquishment of the land use regulatory authority outside the city limits and the transfer of authority from extraterritorial jurisdiction to the City.

(f) *Contribution to a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity or the general welfare as well as efficiency and economy in the process of development [§14-3.2(D)(1)(f)].*
Use of the subject property for expansion of an historically/existing commercial use will continually provide centrally located employment and service to the neighborhood and will maintain and promote the mixed use character of the neighborhood.

(g) *Consideration of conformity with other city policies, including land use policies, ordinances, regulations and plans.*
This request is consistent with the City's land use policies, ordinances, regulations and plans as they relate to the City's desire to maintain a compact urban form, encourage infill development and mixed use neighborhoods.

13. The Commission has considered the criteria established by Code §14-3.2(E)(2) and finds the following facts:

(a) *the growth and economic projections contained within the general plan are erroneous or have changed.*
The neighborhood has developed over the years and the need for additional off street parking is apparent.

(b) *no reasonable locations have been provided for certain land uses for which there is a demonstrated need.*
The location for additional parking for the commercial property to the south by providing off street parking that is directly adjacent to and can be accessed through the restaurant parking lot is a reasonable use of this lot.

(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.*
The proposed amendment will bring the general plan up to date with the historic use and character of the area.

The Rezoning

14. Under Code §14-3.5(A)(1)(d) any person may propose a rezoning (amendment to the zoning map)
15. Code §§14-2.3(C)(7)(c) and 14-3.5(B)(1)(a) provide for the Commission's review of proposed rezonings and recommendations to the Governing Body regarding them.

16. Code §§14-3.5(C) establishes the criteria to be applied by the Commission in its review of proposed rezonings.
17. The Commission has considered the criteria established by Code §§14-3.5(C) and finds, subject to the Conditions, the following facts:
    (a) *One or more of the following conditions exist: (i) there was a mistake in the original zoning; (ii) there has been a change in the surrounding area, altering the character of the neighborhood to such an extent as to justify changing the zoning; or (iii) a different use category is more advantageous to the community, as articulated in the Plan or other adopted City plans [Code §14-3.5(C)(1)(a)].*
    The neighborhood has increased in density and the need for off street parking is apparent. The proposed use would allow for additional parking and relieves some of the on street parking which justified the change for zoning.
    (b) *All the rezoning requirements of Code Chapter 14 have been met [Code §14-3.5(C)(1)(b)].*
    All the rezoning requirements of Code Chapter 14 have been met.
    (c) *The proposed rezoning is consistent with the applicable policies of the Plan [Section 14-3.5(C)(1)(c)].*
    The proposed rezoning is consistent with the Plan.
    (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 [Code §14-3.5(C)(1)(d)].*
    The rezoning request will provide infill development and promotes mixed land uses that provide an adequate balance of service retail and employment opportunities.
    (e) *The existing and proposed infrastructure, such as the streets system, sewer and water lines, and public facilities, such as fire stations and parks, will be able to accommodate the impacts of the proposed development [Section 14-3.5(C)(1)(e)];*
    The proposed rezoning will not increase the sewer, water lines and public facilities. There will be less impact on public street by providing off street parking.
18. The Commission has considered the criteria established by Code §§14-3.5(D) and finds, subject to the Conditions, the following facts:
    (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;*
    (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.*
    Preliminary analysis by city staff indicates that the likely future development will be accommodated by the existing infrastructure and public facilities.

19. The Commission adopts Staff conditions, except for the requirement to apply for a PUD.

CONCLUSIONS OF LAW

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

General

1. The proposed Plan amendment and rezoning were properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
2. The ENN meeting complied with the requirements established under the Code.

The General Plan Amendment

3. The Commission has the power and authority at law and under the Code to review the proposed amendment to the Plan and to make recommendations to the Governing Body regarding such amendment.

The Rezoning

4. The Applicant has the right under the Code to propose the rezoning of the Property.
5. The Commission has the power and authority at law and under the Code to review the proposed rezoning of the Property and to make recommendations regarding the proposed rezoning to the Governing Body based upon that review.

WHEREFORE, IT IS ORDERED ON THE 4th DAY OF JUNE, 2015 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:

A. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends approval of the Plan Amendment to Community Commercial to the Governing Body.
B. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends approval of the rezoning request to C-2 to the Governing Body.

Michael Harris, Chair — Date: 6/4/15

FILED:

Yolanda Y. Vigil, City Clerk — Date: 6/5/15

APPROVED AS TO FORM:

Zachary Shandler, Assistant City Attorney — Date: 6/4/15

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-___

INTRODUCED BY:

A RESOLUTION

AMENDING THE GENERAL PLAN FUTURE LAND USE MAP TO CHANGE THE DESIGNATION OF 0.13± ACRE OF LAND FROM LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS PER ACRE) TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 536 CORTEZ STREET. ("TUNE UP CAFE" GENERAL PLAN AMENDMENT CASE NO. 2015-30).

WHEREAS, the agent for the owner of the subject property (JC Rivera, LLC) has submitted an application to amend the General Plan Future Land Use Map designation of the property from Low Density Residential (3-7 dwelling units per acre) to Community Commercial;

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

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

EXHIBIT 2 9

WHEREAS, the reclassification will provide parking for an existing restaurant that currently provides employment and a service to the neighborhood and Santa Fe residents; and

WHEREAS, the reclassification of the Property will not allow a use or change that is inconsistent with prevailing uses of the area, and will not have adverse impacts upon the surrounding neighborhood; and

WHEREAS, the reclassification of the Property would be substantially consistent with the provisions of the General Plan that promote a compact urban form, that encourages infill development and mixed use neighborhoods; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE :

Section 1. That the General Plan Future Land Use Map classification for the Property be and hereby is amended as shown in the General Plan Future Land Use Map attached hereto [EXHIBIT A] and incorporated herein by reference.

Section 2. Said General Plan amendment and any future development plan for the Property is approved with and subject to the conditions set forth in the table attached hereto [EXHIBIT B] and incorporated herein summarizing City of Santa Fe staff technical memoranda and conditions approved by the Planning Commission on May 7, 2015.

PASSED, APPROVED and ADOPTED this ___ day of July, 2015.

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

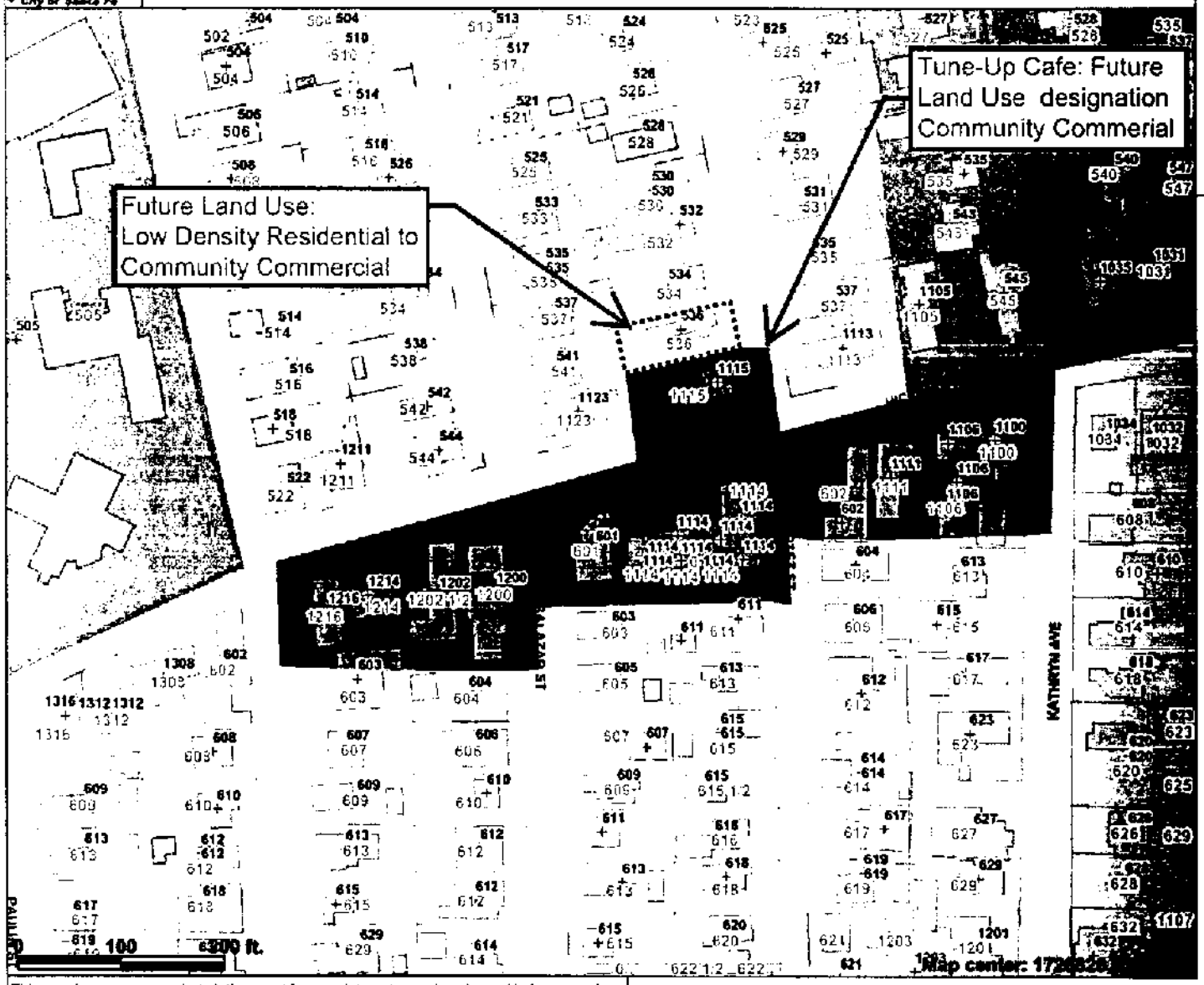
APPROVED AS TO FORM:

Kelley A. Brennan

KELLEY BRENNAN, CITY ATTORNEY

M/Legislation/Tune-Up Café_GPA

Future Land Use



Legend

- City Limits
- Address Points
- Parcels
- Building Footprint
- Santa Fe River
- Future Land Use
  - Mountain/Corridor (1 dwelling per 10+ acres)
  - Very Low Density (1-3 dwellings per acre)
  - Low Density (3-7 dwellings per acre)
  - Moderate Density (7-8 dwellings per acre)
  - Medium Density (7-12 dwellings per acre)
  - High Density (12-28 dwellings per acre)
  - Regional Commercial
  - Community Commercial
  - Neighborhood Center
  - Transitional Mixed Use
  - Business Park
  - Office
  - Industrial
  - Public/Institutional

Scale: 1:1,773

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Resolution #2015-__ EXHIBIT A 12

DRT Conditions of Approval	Department	Staff
1. The Developer shall eliminate the four (4) perpendicular parking spaces on Cortez Street; abandon the existing curb cut; and restore the sidewalk to a typical sidewalk section and install vertical curb and gutter. a. On street parallel parking of one to two vehicles will be permitted along this new curb provided that sight distance requirements are met. i. This sight distance triangle shall be based on the American Association of State Highway and Transportation Officials (AASHTO) standards per City code regarding commercial use of property that accesses a public street. 2. The Developer shall work with the City of Santa Fe Parking Division to establish a loading zone on Hickox Street in front of the Tune Up Café; this loading zone shall be marked with appropriate signage. 3. The Developer shall install a "do not enter" sign on Cortez Street at the exit of the one way portion of the parking lot.	Traffic Engineering/Public Works	John Romero (per Sandra Kassens)
1. A lot consolidation must be recorded after rezoning. 2. At the time of building permit, all terrain management requirements of the Land Development Code must be met. 3. At the time of Building permit, all sidewalks and curb cuts must meet City requirements for construction and ADA accessibility.	Land Use Engineer	RB Zaxus

Resolution #2015-___ EXHIBIT B
(p. 1 of 2)

1. Remove the back-out spaces along the east side of the Tune-Up Café building since they obstruct the sidewalk (which is at least partly outside the ROW) and are into the public ROW, which is a public safety and ADA access issue. 2. The Tune-Up Café shall not operate with entertainment after 10 pm. Any move to do so would require approval of a use permit to convert from a restaurant to a nightclub per Chapter 14. 3. Obtain building permit for the walk-in freezer and storage area along the north property line that was built in several years ago without a permit. sometime between the 2008 aerial photo and the 2011 aerial photo. a. The permit in 2011 identifies that portion of the building as "existing; 4. Screen the dumpster where shown on the site plan, per 14-___" 5. Resolve issues with front patio as it encroaches into Hickox ROW 6. Resolve issue with Tune-Up Café sign at the corner of Hickox and Cortez 7. Provide lighting plan to ensure all lighting be directed away from surrounding residential properties. 8. Landscape plan details – work with adjacent property owner to resolve issue with opening in wall at his	Land Use Senior Planner/Case Manager	Donna Wynant

Resolution #2015-___ (2 of 2)

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2015-29

AN ORDINANCE

AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SANTA FE; CHANGING THE ZONING CLASSIFICATION FROM R-5 (RESIDENTIAL, 5 DWELLING UNITS PER ACRE) TO C-2 (GENERAL COMMERCIAL); AND PROVIDING AN EFFECTIVE DATE WITH RESPECT TO A CERTAIN PARCEL OF LAND COMPRISING 0.13± ACRE LOCATED AT 536 CORTEZ STREET ("TUNE UP CAFE" REZONING CASE NO. 2015-31).

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

Section 1. The following real property (the "Property") located within the municipal boundaries of the city of Santa Fe, is restricted to and classified C-2 (General Commercial):

A parcel of land comprising 0.13± acres located at 536 Cortez Street and more fully described in EXHIBIT A attached hereto and incorporated by reference, located in Section 26, T17N, R9E, N.M.P.M., Santa Fe County, New Mexico,

Section 2. The official zoning map of the City of Santa Fe adopted by Ordinance

EXHIBIT 3

No. 2001-27 is amended to conform to the changes in zoning classifications for the Property set forth in Section 1 of this Ordinance.

Section 3. This rezoning action and any future development plan for the Property is approved with and subject to the conditions set forth in the table attached hereto as EXHIBIT B and incorporated herein summarizing the City of Santa Fe staff technical memoranda and conditions recommended by the Planning Commission on May 7, 2015.

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

APPROVED AS TO FORM:

Kelley A. Brennan

KELLEY A. BRENNAN, CITY ATTORNEY

M/Legislations/2015 Bills/2015-29 Tune-Up Café_Rezoning

Bill No. 2015-29

EXHIBIT A
536 Cortez
Legal Description for C-2 Zoning

Lot 12, Block 2, of Agua Fria Addition No. 1, Section 26, T17N, R9E, N.M.P.M., as shown on plat filed in the office of the County Clerk, Santa Fe County, New Mexico on May 14, 1930, in Plat book 3 at page 377.

EXHIBIT A
Bill # 2015-29

536 Cortez

General Plan Amendment (Case #2015-30)
Rezoning (Case #2015-31)
Bill #2015-29

DRT Conditions of Approval	Department	Staff
1. The Developer shall eliminate the four (4) perpendicular parking spaces on Cortez Street; abandon the existing curb cut; and restore the sidewalk to a typical sidewalk section and install vertical curb and gutter. a. On street parallel parking of one to two vehicles will be permitted along this new curb provided that sight distance requirements are met. i. This sight distance triangle shall be based on the American Association of State Highway and Transportation Officials (AASHTO) standards per City code regarding commercial use of property that accesses a public street. 2. The Developer shall work with the City of Santa Fe Parking Division to establish a loading zone on Hickox Street in front of the Tune Up Café; this loading zone shall be marked with appropriate signage. 3. The Developer shall install a "do not enter" sign on Cortez Street at the exit of the one way portion of the parking lot.	Traffic Engineering/Public Works	John Romero (per Sandra Kassens)
1. A lot consolidation must be recorded after rezoning. 2. At the time of building permit, all terrain management requirements of the Land Development Code must be met. 3. At the time of Building permit, all sidewalks and curb cuts must meet City requirements for construction and ADA accessibility.	Land Use Engineer	RB Zaxus

EXHIBIT B

Bill # 2015-29 (Ord. 2015-2)

1. Remove the back-out spaces along the east side of the Tune-Up Café building since they obstruct the sidewalk (which is at least partly outside the ROW) and are into the public ROW, which is a public safety and ADA access issue. 2. The Tune-Up Café shall not operate with entertainment after 10 pm. Any move to do so would require approval of a use permit to convert from a restaurant to a nightclub per Chapter 14. 3. Obtain building permit for the walk-in freezer and storage area along the north property line that was built in several years ago without a permit. sometime between the 2008 aerial photo and the 2011 aerial photo. a. The permit in 2011 identifies that portion of the building as "existing; 4. Screen the dumpster where shown on the site plan, per 14-___" 5. Resolve issues with front patio as it encroaches into Hickox ROW 6. Resolve issue with Tune-Up Café sign at the corner of Hickox and Cortez 7. Provide lighting plan to ensure all lighting be directed away from surrounding residential properties. 8. Landscape plan details – work with adjacent property owner to resolve issue with opening in wall at his	Land Use Senior Planner/Case Manager	Donna Wynant

Bill #2015-29
(p. 2 of 2)

City of Santa Fe, New Mexico

memo

DATE: April 22, 2015 for the May 7, 2015 meeting

TO: Planning Commission

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

FROM: Donna Wynant, AICP, Senior Planner, Current Planning Division D.W.

Case #2015-30. Tune Up Café, 536 Cortez St., General Plan Amendment. Liaison Planning Services, Inc., agent for JC Rivera, LLC, requests approval of a General Plan Future Land Use map amendment to change the designation of .13± acres of land from Low Density Residential (3-7 dwelling units per acre) to Community Commercial. The property is located at 536 Cortez. (Donna Wynant, Case Manager)

Case #2015-31. Tune Up Café, 536 Cortez St., Rezoning. Liaison Planning Services, Inc., agent for JC Rivera, LLC, requests rezoning approval of .13± acres of land from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial). The property is located at 536 Cortez St. (Donna Wynant, Case Manager)

Cases #2015-30 and #2015-31 are combined for purposes of staff report, public hearing and Planning Commission comment and action, but each is a separate application and shall be reviewed and voted upon separately.

RECOMMENDATION

The Commission should direct the applicant to revise the application to propose C-2-PUD (Planned Unit Development), which would ensure that future development would not adversely affect surrounding land uses.

Staff concurs with the applicant's contention that the plan amendment and rezoning of the property at 536 Cortez St. would meet the applicable criteria for approval, if development is limited to construction of a parking lot expansion for the existing restaurant at 1115 Hickox St. as stated in the application materials. Unrestricted development of the property under C-2 zoning would not meet the approval criteria for the requested General Plan amendment and rezoning.

If the Commission determines to recommend **approval**, the rezoning case should be subject to Conditions of Approval as outlined in this report. Commission recommendations to approve or deny General Plan Amendment and Rezoning cases proceed to the City Council for final decision.

I. APPLICATION OVERVIEW

The applicant acquired the property at 526 Cortez north of and adjacent to his Tune-Up Cafe at 1115 Hickox. The applicant is proposing to minimize on street parking by his business by providing an 8 space parking lot on the subject property. The request is to change the zoning from R-5 (Residential, 5 dwelling units per acre) to C-2 (General Commercial) to be consistent with the zoning of the Tune-Up Café property. The General Plan must first be amended from Low Density Residential (3-7 dwelling units per acre) to Community Commercial to allow the rezoning as requested. Also, since parking is not allowed as a primary use, the 526 property must be consolidated with the adjacent Tune-Up Café property as a condition of approval of the zoning request.

The application requests that review by the city focus primarily on the property at 536 Cortez Street. However, the application materials indicate that the property was purchased by the applicant to accommodate the existing Tune-Up Café with a new parking lot, not for any future expansion of the business and not for a separate commercial entity. The applicant has submitted a schematic plan for the parking lot expansion, but the application does not involve formal approval of the plan. If the rezoning is approved, subsequent approval of the plan would involve administrative approvals by staff, and could also involve approval of landscape-buffer and other variances by the Board of Adjustment. The application could have been structured to include formal approval of the parking lot, by proposing rezoning to C-2-PUD (Planned Unit Development) for both parcels. A C-2-PUD application would also have provided more flexibility in dealing with variances or other exceptions to normal development standards.

II. PROPERTY DESCRIPTION AND BACKGROUND

A. **Existing Conditions at 536 Cortez Street.** The subject property is a 5,923+/- square foot lot located north of the applicant's Tune-Up Café at 1115 Hickox. The application materials indicate that the mobile home on the lot will be removed for the development of a parking lot for the restaurant. Properties to the north, west and east are residential and zoned R-5. (See Exhibit C-2: Zoning & Aerial Map). The property to the south is the Tune-Up Café zoned C-2. Further south, across Hickox are other commercial properties zoned C-2 that stretch three blocks from Alicia Street to Kathyrn Avenue. The Tune-Up Café is the only commercially zoned property on the north side of Hickox in this area.

B. **Intended Future Development at 536 Cortez Street.** The proposed parking lot would provide 8 additional spaces. The schematic plan indicates that the lot would comply with most applicable standards. It would be accessed off of Hickox through the existing parking lot, and would exit as a "*right turn only*" onto Cortez Street (see Exhibit E-2: Proposed Site Plan). Existing (significant) trees would be preserved and utilized as a buffer along the north, west

and Cortez Street property lines. The new parking lot would be screened with the existing 4' wall along Cortez and a new 6' tall masonry wall along the north and west lot line. The existing dumpster and recycling bins located at 1115 Hickox would be relocated to the subject property as shown on the site plan and a 15' landscape buffer is proposed adjacent to the west lot line as required since it abuts residential property (Subsection 14-8.4(J)(3)).

The schematic plan proposes a reduced landscape buffer (5' rather than 15') along the north lot line adjacent that residential property. The applicant has requested approval by staff of a smaller but more intensified, landscape buffer per section 14-8.4(C) Landscape and Site Design "Alternate Means of Compliance." Approval by staff could not occur until after the rezoning is approved, and would require more-detailed landscaping and parking lot plans than have been submitted. If staff does not approve the reduced buffer, the plans would have to be modified to provide the full 15-foot buffer, or the applicant would need approval of a variance by the Board of Adjustment.

C. **C-2 Zoning at 1115 Hickox St.** The property currently occupied by the café was apparently rezoned from residential to C-2 in 1962, as part of a city-wide update to the zoning map. Several other parcels across Hickox St. were also rezoned to C-2 at the same time, apparently to accommodate pre-existing commercial uses. The property at 1115 Hickox has apparently been operated as a restaurant or other commercial use since prior to 1962.

D. **Existing Conditions at 1115 Hickox St.** The Tune Up Cafe is currently classified as a conforming permitted use in the category of "Restaurant – full service, with or without incidental alcohol service." That category prohibits "Amplified live entertainment or amplified music for dancing" after 10 p.m. Modification of the existing operation to include entertainment after 10 p.m., or to include outdoor entertainment, would require approval of a special use permit by the Board of Adjustment.

The existing configuration of the building is the result of approval by staff of a building permit in 2011, which increased inside seating capacity from 23 to 40 and also approved an outdoor seating capacity of 19. Table 14-8.6-1 provides two different parking requirements that can be applied to restaurants, and staff apparently approved the restaurant expansion using the lower rate – one space per 200 square feet of net leasable area, rather than one space per 50 square feet of serving area. The parking calculation approved by staff for the permit determined that the 7 spaces provided in the existing parking lot located west of the restaurant building met the minimum code requirements. The existing parking lot was treated as legally nonconforming ("grandfathered in") with regard to the 15-foot buffer requirement, because enforcing the buffer requirement would have eliminated required parking spaces (Subsection 14-8.4(I)(7) Landscape and Site Design – Parking Lots – Compliance).

Although the city receives complaints from nearby residents that overflow parking causes problems on the narrow residential streets near the restaurant, the number of on-site parking spaces complies with minimum code requirements as applied to the 2008 building permit. If the rezoning approved and the 8 additional parking spaces are constructed, the resulting total of 15 parking spaces would exceed the minimum number of spaces required under the lower rate, but would still not meet the requirement under the higher rate.

The 2008 building permit also approved expansion of food preparation and storage areas, but did not address an earlier storage addition which was done without permits near the north property line, in violation of setback and buffer requirements. The applicant recently applied for an after-the-fact building permit for the addition, but approval of the proposed rezoning and lot consolidation would be needed to correct the violations. If the rezoning and consolidation are not approved, the earlier storage addition would require approval of a variance by the Board of Adjustment, or it would have to be demolished. City staff has issued a letter directing the applicant to correct the violation.

Staff and neighbors have identified concerns with existing parking spaces located on the east side of the property, at the Cortez St. frontage. Cars using those spaces frequently block the public sidewalk, and have to back into the street when exiting the spaces. Neighbors who attended the ENN meeting cited these spaces as a significant hazard. These substandard spaces, were not counted as required spaces when the 2008 building permit was approved, and the City's traffic engineering staff is recommending that they be eliminated as a condition of the rezoning application. The city may have the authority to abate the spaces or to cite vehicles that block the sidewalk, independently of the rezoning case.

At or about the same time that the 2008 building permit was issued, city staff determined that some of the improvements associated with the outdoor seating area encroached into the city's right-of-way along the Hickox frontage. City staff worked with the applicant to obtain approval from the Governing Body for an agreement to eliminate the encroachment problem by trading land at the corner of Hickox and Cortez. The applicant has not followed up with surveys and deeds that are required to implement the agreement, and enforcement action is still pending.

In addition to other encroachment issues, the outdoor seating area is covered by a freestanding shade structure that appears to encroach into the right-of-way, and which was erected without a permit. Since the awning extends into the required setback area, approval of a variance by the Board of Adjustment would also be required if it is to remain.

E. **Future Development Potential at 536 Cortez St. and 1115 Hickox St.** As noted above, the applicant has chosen not to file a PUD application that would approve development of either or both lots in accordance with a specific development plan, and that would require approval of any amendments to that plan to be approved by the Planning Commission and/or the Governing Body. Since the City Attorney has determined that the Governing Body does not have authority to restrict the types of uses allowed as a condition of approval for a rezoning case, it is not clear that the city would be able to ensure that development of the property at 536 Cortez St. would occur in accordance with the applicant's stated intention to build a parking lot.

Possible alternative scenarios for development of the combined lots that would not involve public hearings include:

- Limited restaurant expansion
- Demolition of the existing building and construction of a retail or office building built above the parking area

- Construction of apartments or residential condominium units with less than 10,000 square feet of total floor area

Setback and buffer requirements would provide practical limits on the potential for development of the property at 536 Cortez as an independent C-2 parcel. Development of apartments or residential condominium units with less than 10,000 square feet would be feasible.

III. GENERAL PLAN AMENDMENT

14-3.2 (E) 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:

The proposed use of the subject property will provide parking for an existing restaurant that currently provides employment and a service to the neighborhood and Santa Fe residents. The property will be accessed off of Hickox and will not utilize additional infrastructure aside from egress onto Cortez Street.

Staff Response:

Development of the property in conjunction with the existing small restaurant at 1115 Hickox St. will not have a significant impact on city-wide growth trends or economic development, nor would there be a significant impact on surrounding land uses or infrastructure. If rezoning leads to intensification of commercial use or additional non-residential traffic and parking on Cortez St., that result would not be consistent with applicable policies.

> ***(b) consistency with other parts of the general plan;***

Applicant Response:

General plan policy states that "there shall be a mix of uses and housing types in all parts of the City". Along this area of Hickox the zones are mixed C-2 and residential and has historically accommodated both uses. The proposed use of the subject property will be consistent with this policy and will increase opportunities for service to the neighborhood and Santa Fe residents.

Staff Response:

The General Plan has several policies that address neighborhood preservation, encroachment of commercial into residential, infill development, mixed use neighborhoods, etc. (See Exhibit F-1: General Plan Policies). One of the many goals in the General Plan, includes:

5-2-G-5 *Protect neighborhoods from encroachment by non-neighborhood oriented commercial uses and related environmental impacts. ...*

(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

Applicant Response:

The area to the north, east and west of the subject property is primarily residential. The properties to the south all along Hickox are zoned for community commercial uses. The intent of this request is to provide additional parking for an existing commercial use, which is neither different nor inconsistent with the prevailing use and character in the area.

Staff Response:

Development of an expanded parking lot for the adjacent restaurant can be considered consistent with the prevailing use and character in the neighborhood. Any significant expansion of the type or intensity of non-residential use would not be consistent.

(ii) affect an area of less than two acres, except when adjusting boundaries between districts; or

Applicant Response:

The amendment does affect an area of less than two acres. The legal lot was created in 1930 prior to the development and intent of the General Plan.

Staff Response:

The property requested to be rezoned to C-2 is .13± acres in size and therefore less than 2 acres, but would be an adjustment and extension of the C-2 to the south.

(iii) benefit one or a few landowners at the expense of the surrounding landowners or the general public;

Applicant Response:

Upon approval, the subject property will be consolidated with the adjacent property to the south that has always been utilized as commercial. The existing historical use will be maintained and expansion of this use would be consistent with the nature of the longstanding use as seen from Hickox and Cortez Street.

Staff Response:

To the extent that rezoning of the property is subject to conditions that limit significant expansion or intensification of commercial use, the rezoning would not harm surrounding landowners or the general public.

(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:

The justification for the rezoning is consistent with the surrounding uses and promotes mixed uses as declared in the general plan.

Staff Response:

This proposal conforms to Section 14-3.2(E)(1)(c) as outlined above.

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

Applicant Response:

Not applicable.

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:

Use of the subject property for expansion of an historically/existing commercial use, will continually provide centrally located employment and service to the neighborhood. Will maintain and promote the mixed use character of the neighborhood.

Staff Response:

To the extent that rezoning of the property is subject to conditions that limit significant expansion or intensification of commercial use, the rezoning would promote the health and safety and support economic development.

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

Applicant Response:

By allowing the continuation of the historic use of the property to the south and proposed use of the subject property, the General Plan Amendment will expand the City's employment base and promote infill developments that are consistent with land use policies, ordinances, regulations and plans.

Staff Response:

The proposal to reclassify the property as Community Commercial in order to rezone the property for parking is substantially consistent with applicable provisions of the development code.

(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:

The neighborhood has developed over the years and the need for additional off street parking is apparent. The subject property currently has a mobile home on it that can easily be removed to accommodate parking for the property to the south. The proposed parking lot will only be utilized by the restaurant and all applicable design standards will be adhered to.

Staff Response:

No amendment to land use policies is proposed that would affect consistency with growth and economic projections in the general plan.

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

Applicant Response:

It makes sense to allow for additional parking for the commercial property to the south by providing off street parking that is directly adjacent to and can be accessed through the restaurant parking lot.

Staff Response:

No amendment to land use policies is proposed that would affect provision of reasonable locations of restaurant uses.

(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.

Staff Response:

No amendment to land use policies is proposed that is affected by changed conditions..

IV. REZONING

Section 14-3.5(A) and (C) SFCC 2001 sets forth approval criteria for rezoning as follows:

(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;

(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;

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

Applicant response:

The neighborhood has increased in density and the need for off street parking is apparent. The proposed use would allow for additional parking and relieves some of the on street parking which justifies the change for zoning.

Staff response:

The approval criteria in (a)(1) and (a)(2) are not applicable. There has not been a mistake in the original zoning – the property at 536 Cortez property has been zoned R-5 since 1953, and no significant change has occurred in the surrounding residential area since C-2 zoning was approved in 1962 for the restaurant and lots on the other side of Hickox.

However, approval can be supported to the extent that the C-2 rezoning "is more advantageous to the community" as provided in adopted plans (approval criterion (a)(3)). To a large extent, consistency with those policies depends on the type and intensity of development that occurs as a result of the rezoning, as discussed in the general plan consistency sections of this report.

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

Applicant response:

The rezoning requirements of Chapter 14 are addressed herein and the application is consistent with those requirements.

Staff response:

There are no specific additional requirements for C-2 rezoning. As noted in the recommendation section of this report, and as discussed in various other sections, amending the rezoning application to include Planned Unit Development requirements would ensure that various approval criteria can be met, and would ensure that future development would comply with applicable development criteria.

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

Applicant response:

Prior to the approval of the rezoning request, the future land use map will need to be amended which will result in consistency of the rezoning request with the general plan.

Staff response:

Staff concurs with the applicant's response.

(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:

The rezoning request will provide infill development and promotes mixed land uses that provide an adequate balance of service retail and employment opportunities.

Staff response:

Although Santa Fe currently has a good amount of commercially zoned land, the rezoning of the subject site on this section of Hickox could accommodate an already established use. This rezoning would not have a significant impact on city-wide availability of land available for C-2 uses.

(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:

The proposed rezoning will not increase the sewer, water lines, and public facilities. There will be less impact on public streets by providing off street parking.

Staff response:

Existing infrastructure can accommodate the impacts of likely future development on the property, assuming that there is little or no intensification of commercial traffic, and that access to Cortez St. is properly controlled.

(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:

(No response from applicant.)

Staff response:

To the extent that intensification of commercial use is limited, the proposed rezoning of the subject property will not significantly change the character of the surrounding area.

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

Applicant response:

(No response from applicant.)

Staff response:

The proposed C-2 boundary will be adjusted from the south to include the subject property.

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

Applicant response:

(No response from applicant.)

Staff response:

To the extent that rezoning of the property is subject to conditions that limit significant expansion or intensification of commercial use, the rezoning would not harm surrounding landowners or the general public.

(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:

The application is to rezone the property in order to provide additional parking for the restaurant to the south. No additional infrastructure is proposed aside from landscaping that meets city regulations.

Staff response:

Preliminary analysis by city staff indicates that the likely future development will be accommodated by the existing infrastructure and public facilities. A detailed assessments of impacts on infrastructure will be done at the time of permits for the parking lot and any permits pending for the Tune-Up Café.

(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:

The proposed parking lot design is to enter from the property to the south, "right turn exit only" onto Cortez Street and to utilize the existing curb cut. All improvements will meet city ordinances regulations and policies.

Staff response:

Impacts on infrastructure will be assessed in detail at the time of any future development proposals. As noted above, removal of substandard parking spaces that obstruct the Cortez St. sidewalk will be required.

V. EARLY NEIGHBORHOOD NOTIFICATION MEETING

An early neighborhood notification meeting was held on 11/24/14 to discuss the proposed general plan amendment and rezoning with neighbors. The neighbors expressed concerns that restaurant operations in recent years have increased problems with traffic volumes and safety, with parking of employee and customer cars on Cortez St., and with noise from late-evening operations. Some neighbors expressed support for the parking lot expansion, and some preferred that there be no access from the parking lot to Cortez St. (See Exhibit E-2: ENN Notes)

VI. CONCLUSION

Staff concurs with the applicant's contention that the plan amendment and rezoning of the property at 536 Cortez St. would meet the applicable criteria for approval, but only if development is limited to construction of a parking lot expansion for the restaurant at 1115 Hickox as stated in the application materials. Unrestricted development of the property under C-2 zoning would not meet the approval criteria for the requested General Plan amendment and rezoning. Revision of the application to propose C-2-PUD (Planned Unit Development), would be the only clear method to ensure that future development would not adversely affect surrounding land uses.

Staff supports the proposed rezone subject to the attached DRT Conditions of Approval. Those conditions include provisions for:

- Consolidation of the lots at 536 Cortez and 1115 Hickox
- Removing dangerous "back-out" parking spaces that block the sidewalk on Cortez St.
- Adjustment of the Hickox St. right-of-way to eliminate encroachments, as previously approved by the Governing Body.
- Correction of setback violations from non-permitted structures at the north and south property lines at 1115 Hickox St.

VII. ATTACHMENTS:

EXHIBIT A: Conditions of Approval

EXHIBIT B: Development Review Team Memoranda
1. Traffic Engineering Division memorandum, Sandra Kassens
2. Technical Review Division – City Engineer memorandum, Risana Zaxus
3. Solid Waste- email, Eric Lucero
4. Wastewater Management Division email, Stan Holland

EXHIBIT C: Maps
1. Aerial Photograph
2. Future Land Use
3. Current Zoning & Aerial
4. Photographs of site

EXHIBIT D: ENN Materials
1. ENN Responses to Guidelines
2. ENN Meeting Notes

EXHIBIT E: Applicant Materials
1. Letter of Application
2. Additional Information from Applicant
3. Applicant Letter regarding Alternate Means of Compliance
4. Site Development Plan

EXHIBIT F: Other Material
1. General Plan policies supporting commercial infill
2. List of permitted uses in C-2 (General Commercial)

City of Santa Fe, New Mexico

memo

DATE: April 14, 2015

TO: Donna Wynant, Land Use Division

VIA: John J. Romero, Traffic Engineering Division Director

FROM: Sandra Kassens, Engineer Assistant

SUBJECT: **Tune Up Café 536 Cortez St., General Plan Amendment and Rezoning. (Case# 2015-30 and 2015-31)**

ISSUE:
Liaison Planning Services Inc., agent for JC Rivera, LLC, requests approval of a General Plan Future Land Use map amendment to change the designation of 0.13± acres of land from Low Density Residential (3-7 dwelling units per acre) to Community Commercial. The applicant also requests rezoning approval of 0.13± acres of land from R-5 (Residential 5 dwelling units per acre) to C-2 (General Commercial). The property is located at 536 Cortez Street.

RECOMMENDED ACTION:
Review comments are based on submittals received on April 1, 2015. The comments below should be considered as Conditions of Approval to be addressed prior to subsequent submittals unless otherwise noted:

1. The Developer shall eliminate the four (4) perpendicular parking spaces on Cortez Street; abandon the existing curb cut; and restore the sidewalk to a typical sidewalk section and install vertical curb and gutter.
    a. On street parallel parking of one to two vehicles will be permitted along this new curb provided that sight distance requirements are met.
        i. This sight distance triangle shall be based on the American Association of State Highway and Transportation Officials (AASHTO) standards per City code regarding commercial use of property that accesses a public street.
2. The Developer shall work with the City of Santa Fe Parking Division to establish a loading zone on Hickox Street in front of the Tune Up Café; this loading zone shall be marked with appropriate signage.
3. The Developer shall install a "do not enter" sign on Cortez Street at the exit of the one way portion of the parking lot.

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

Thank you.

55801.PMS • 7/95

EXHIBIT B-1

WYNANT, DONNA J.

From: ZAXUS, RISANA B.
Sent: Thursday, April 16, 2015 11:41 AM
To: WYNANT, DONNA J.
Subject: Cases # 2015-30 and # 2015-31, Tune Up Cafe GPA and Rezoning

Ms. Wynant,

I have the following review comments on the cases noted above, which are to be considered conditions of approva :

*A lot consolidation must be recorded after rezoning

*At the time of building permit, all terrain management requirements of the Land Development Code must be met

*At the time of building permit, all sidewalks and curb cuts must meet City requirements for construction and ADA accessibility

Please note that Mr. Berke will be providing comments on Landscaping.

Sincerely,

Risana B "RB" Zaxus, PE
City Engineer

EXHIBIT B-2

WYNANT, DONNA J.

From: LUCERO, ERIC J.
Sent: Wednesday, April 15, 2015 3:02 PM
To: WYNANT, DONNA J.
Subject: DRT Final Comments Due Today

Donna,

No comments at this time for the following cases:

2015-30
2015-31

Thanks,

Eric J Lucero
City of Santa Fe
Environmental Services
Operations Manager
505-955-2205 office
505-670-6562 cell
ejlucero@santafenm.gov

EXHIBIT B-3

WYNANT, DONNA J.

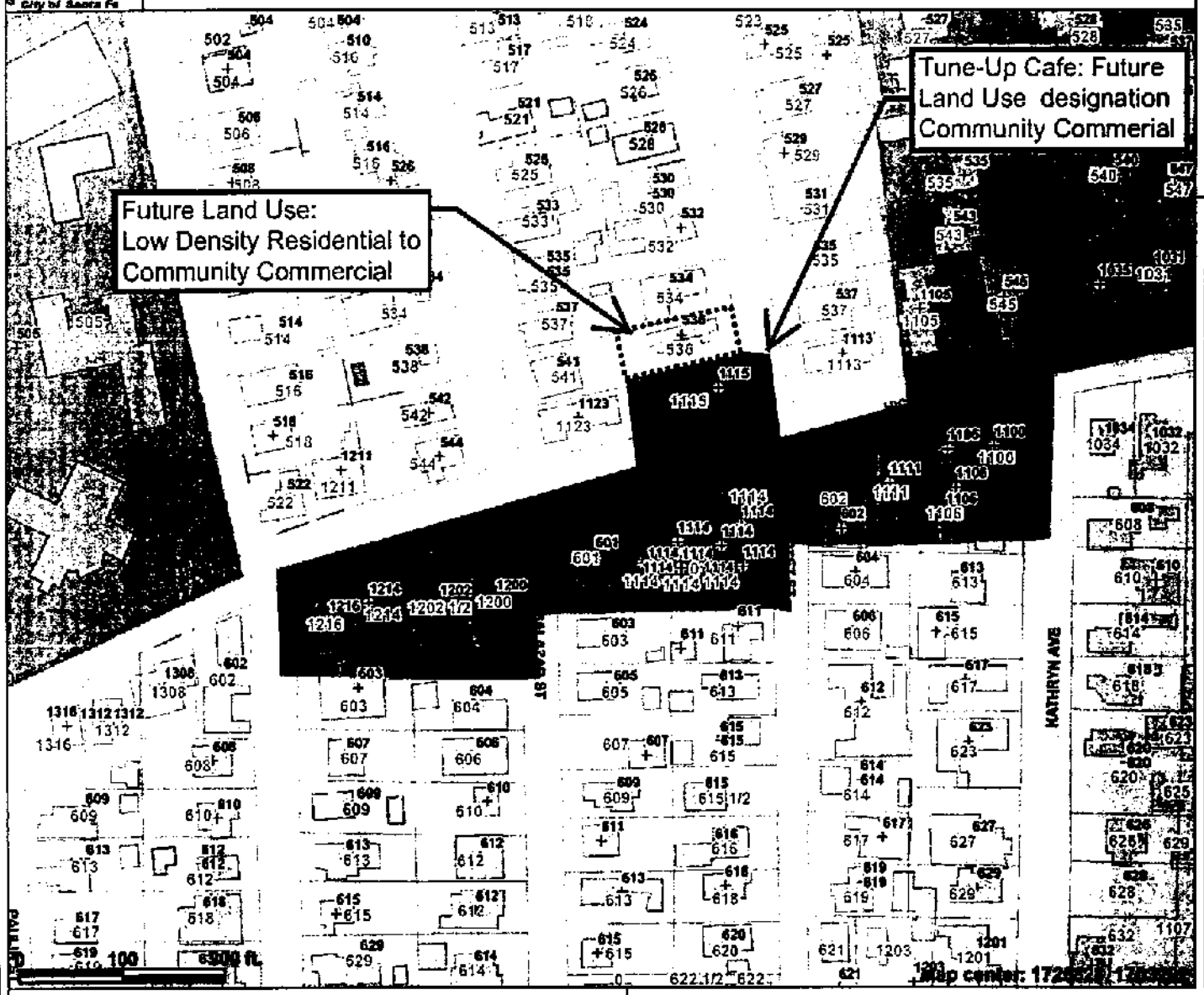
om: HOLLAND, TOWNSEND S.
Sent: Tuesday, April 07, 2015 10:27 AM
To: WYNANT, DONNA J.
Subject: DRT 2015-30 & 31 Tune Up Cafe 536 Cortez Street General Plan Amendment and Rezoning

Donna
The Wastewater Division has no objection or comments to address regarding the request by Tune Up Café @ 536 Cortez Street for a General Plan Amendment and Rezoning request.
Please call with any questions

Stan Holland, P.E.
Wastewater Division
73 Paseo Real
Santa Fe, New Mexico 87507
505-955-4637
tsholland@santafenm.gov

EXHIBIT B-4
37

Future Land Use



Legend

- City Limits
- Address Points
- Parcels
- Building Footprint
- Santa Fe River
- Future Land Use
  - Mountain/Corridor (1 dwelling per 10+ acres)
  - Very Low Density (1-3 dwellings per acre)
  - Low Density (3-7 dwellings per acre)
  - Moderate Density (7-8 dwellings per acre)
  - Medium Density (7-12 dwellings per acre)
  - High Density (12-29 dwellings per acre)
  - Regional Commercial
  - Community Commercial
  - Neighborhood Center
  - Transitional Mixed Use
  - Business Park
  - Office
  - Industrial
  - Public/Institutional

Scale: 1:1,773

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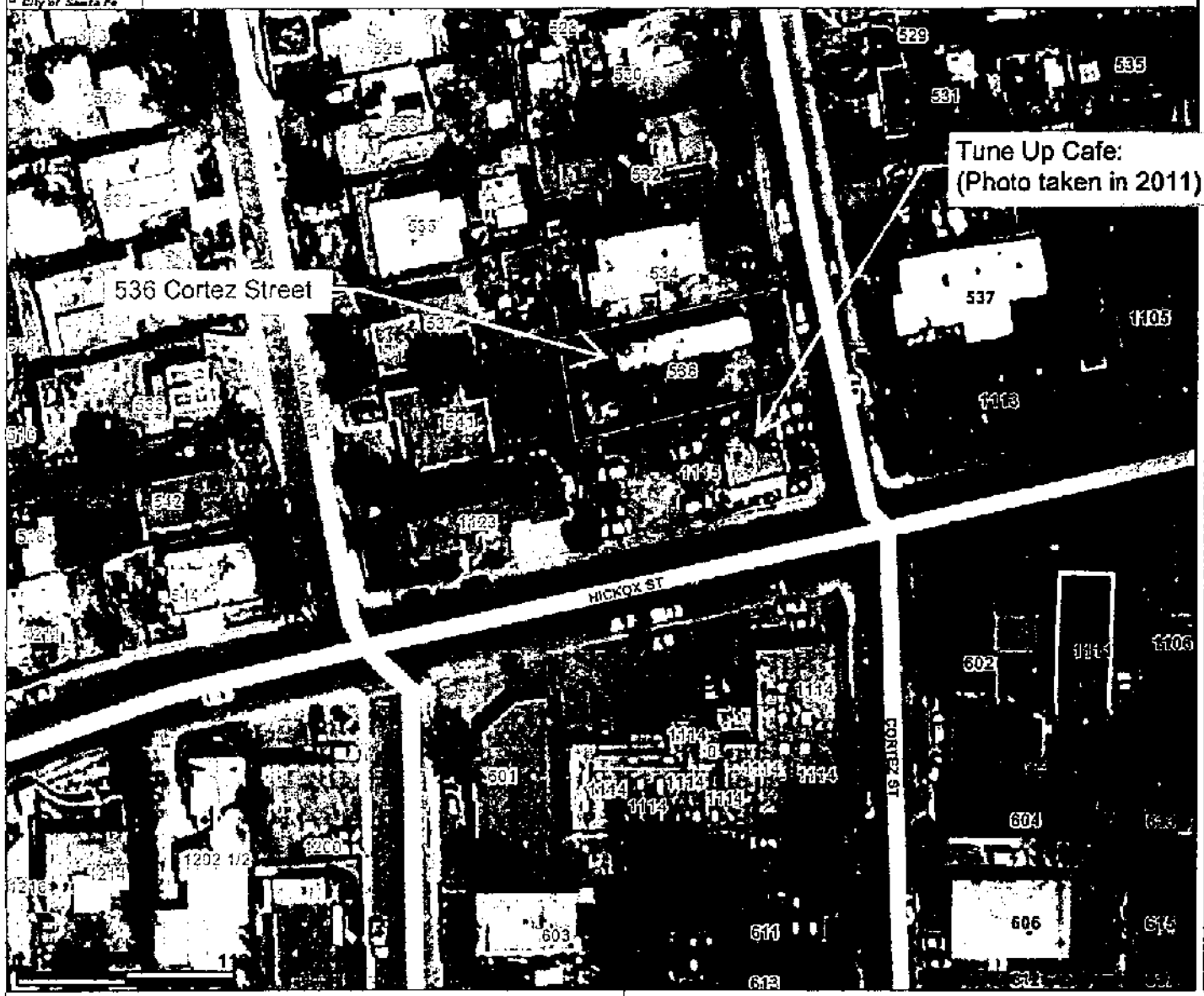
EXHIBIT C2 39

Aerial Photo



Legend

- City Limits
- Parcels
- Santa Fe River
- Major Roads and Highways
- Other Roads and Streets
- 2011 Aerial Photography - 1 foot resolution

Scale: 1:918

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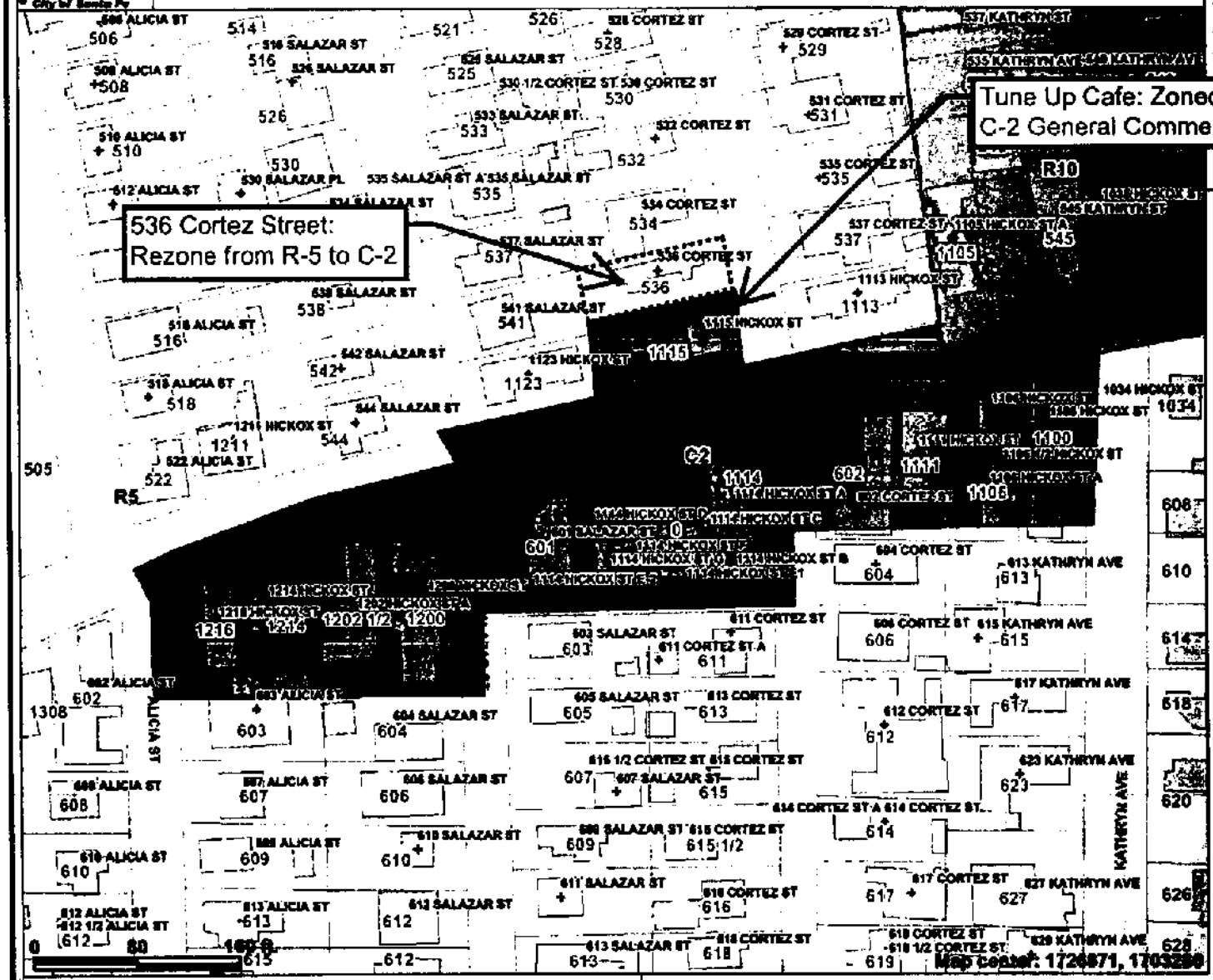
EXHIBIT C-1 38

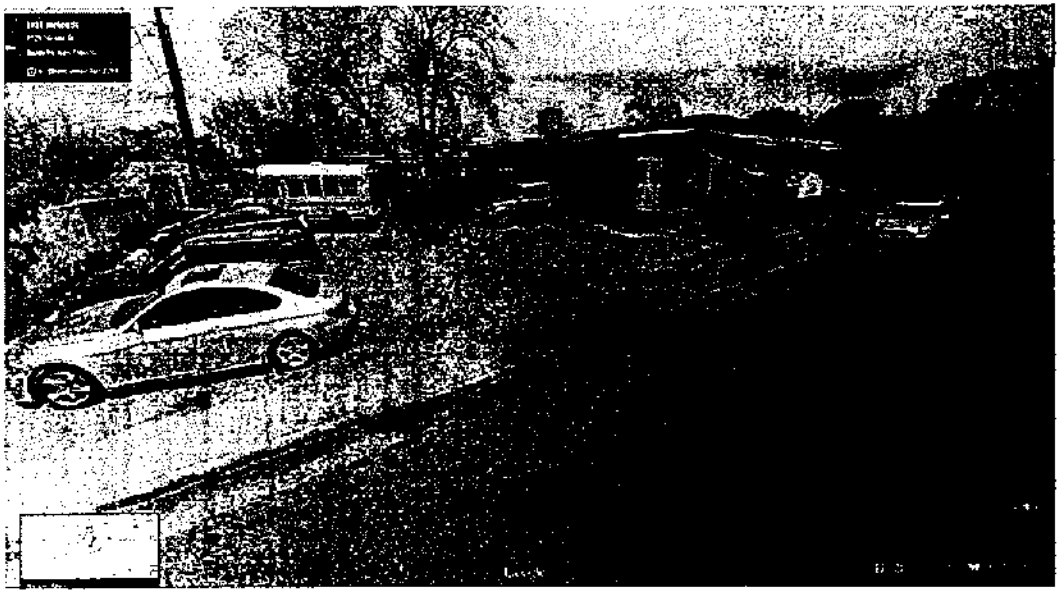
Zoning Map



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

EXHIBIT C3 40

View of Hickox Street, looking west from Cortez Street. (Tune-Up Café on the right).



View of the existing parking lot next to the Tune-Up Café.

EXHIBIT C4

View of Cortez Street, looking north from Hickox Street. Tune-Up Café on the left.

View of 536 Cortez. Applicant owns this property and requests a rezoning from R-5 to C-2 General Commercial. Mobile home to be demolished for an 8 space parking lot and property to be consolidated with restaurant property at 1115 Hickox Street.

ENN GUIDELINES

Applicant Information

Project Name: 536 Cortez Street

Name: JC Rivera LLC
Last | First | M.I.

Address: 1115 Hickox
Street Address | Suite/Unit #

Santa Fe | NM | 87505
City | State | ZIP Code

Phone: (505) 983-7760 E-mail Address: c/o liaisonplanning@gmail.com

Please address each of the criteria below. Each criterion is based on the Early Neighborhood Notification (ENN) guidelines for meetings, and can be found in Section 14-3.1(F)(5) SFCC 2001, as amended, of the Santa Fe City Code. A short narrative should address each criterion (if applicable) in order to facilitate discussion of the project at the ENN meeting. These guidelines should be submitted with the application for an ENN meeting to enable staff enough time to distribute to the interested parties. For additional detail about the criteria, consult the Land Development Code.

(a) EFFECT ON CHARACTER AND APPEARANCE OF THE SURROUNDING NEIGHBORHOODS ***For example: number of stories, average setbacks, mass and scale, landscaping, lighting, access to public places, open spaces and trails.***

The property is located on Cortez Street, north of the Tune-up Cafe', zoned R-5 and is approximately 5,923 square feet with a mobile home on it. The applicant would like to re-zone the property so that it may be used for additional parking for the Tune-up Cafe'. As shown on the attached site plan the parking area will be accessed through Hickox Street and will be designed to meet all City development standards.

(b) EFFECT ON PROTECTION OF THE PHYSICAL ENVIRONMENT ***For example: trees, open space, rivers, arroyos, floodplains, rock outcroppings, escarpments, trash generation, fire risk, hazardous materials, easements, etc.***

The proposed development will protect the physical environment by meeting all City code regulations for density, parking, setbacks, trash generation and landscaping.

(c) IMPACTS ON ANY PREHISTORIC, HISTORIC, ARCHAEOLOGICAL OR CULTURAL SITES OR STRUCTURES, INCLUDING ACEQUIAS AND THE HISTORIC DOWNTOWN ***For example: the project's compatibility with historic or cultural sites located on the property where the project is proposed.***

The property will not impact any prehistoric, historic, archeological, or cultural sites and structures including acequias and is located outside of the historic downtown.

EXHIBIT D-1

(d) RELATIONSHIP TO EXISTING DENSITY AND LAND USE WITHIN THE SURROUNDING AREA AND WITH LAND USES AND DENSITIES PROPOSED BY THE CITY GENERAL PLAN ***For example: how are existing City Code requirements for annexation and rezoning, the Historic Districts, and the General Plan and other policies being met.***

The property is zoned R-5. The proposed re-zone meets the Land Development Code governing the property and densities and use within the City General Plan.

(e) EFFECTS ON PARKING, TRAFFIC PATTERNS, CONGESTION, PEDESTRIAN SAFETY, IMPACTS OF THE PROJECT ON THE FLOW OF PEDESTRIAN OR VEHICULAR TRAFFIC AND PROVISION OF ACCESS FOR THE DISABLED, CHILDREN, LOW-INCOME AND ELDERLY TO SERVICES ***For example: increased access to public transportation, alternate transportation modes, traffic mitigation, cumulative traffic impacts, pedestrian access to destinations and new or improved pedestrian trails.***

The applicant proposes to provide adequate ingress and egress to meet the minimum requirements for development. The proposed parking area will maintain adequate parking and landscape standards and will provide access to Hickox. No pedestrian trails are identified.

(f) IMPACT ON THE ECONOMIC BASE OF SANTA FE ***For example: availability of jobs to Santa Fe residents; market impacts on local businesses; and how the project supports economic development efforts to improve living standards of neighborhoods and their businesses.***

The applicant proposes to develop the property as a parking lot to be utilized by the Tune-up Cafe'. Which in turn will bring in more customers and relieve the neighborhood of on street parking.

(g) EFFECT ON THE AVAILABILITY OF AFFORDABLE HOUSING AND AVAILABILITY OF HOUSING CHOICES FOR ALL SANTA FE RESIDENTS ***For example: creation, retention, or improvement of affordable housing; how the project contributes to serving different ages, incomes, and family sizes; the creation or retention of affordable business space.***

Not Applicable

(h) EFFECT UPON PUBLIC SERVICES SUCH AS FIRE, POLICE PROTECTION, SCHOOL SERVICES AND OTHER PUBLIC SERVICES OR INFRASTRUCTURE ELEMENTS SUCH AS WATER, POWER, SEWER, COMMUNICATIONS, BUS SYSTEMS, COMMUTER OR OTHER SERVICES OR FACILITIES ***For example: whether or how the project maximizes the efficient use or improvement of existing infrastructure; and whether the project will contribute to the improvement of existing public infrastructure and services.***

The proposed parking lot will not utilize additional infrastructure but will maximize the efficient use of the existing traffic patterns by providing additional off street parking for the restaurant.

(i) IMPACTS UPON WATER SUPPLY, AVAILABILITY AND CONSERVATION METHODS ***For example: conservation and mitigation measures; efficient use of distribution lines and resources; effect of construction or use of the project on water quality and supplies.***

Not Applicable

(j) EFFECT ON THE OPPORTUNITIES FOR COMMUNITY INTEGRATION AND SOCIAL BALANCE THROUGH MIXED LAND USE, PEDESTRIAN ORIENTED DESIGN, AND LINKAGES AMONG NEIGHBORHOODS AND RECREATIONAL ACTIVITY AND EMPLOYMENT CENTERS ***For example: how the project improves opportunities for community integration and balance through mixed land uses, neighborhood centers and/or pedestrian-oriented design.***

The property is currently zoned R-5 with a mobile home on site. The applicant is proposing to remove the mobile home and develop it as a parking lot for the Tune-up Cafe'. In order to do this, the property will need to be rezoned to C-2. The proposed project will clearly improve the site and will be designed to take into consideration the surroundings by meeting all development standards for C-2 zoning abutting residential.

(k) EFFECT ON SANTA FE'S URBAN FORM ***For example: how are policies of the existing City General Plan being met? Does the project promote a compact urban form through appropriate infill development? Discuss the project's effect on intra-city travel and between employment and residential centers.***

The General Plan states that future land use must take into consideration the protection and conservation of existing neighborhoods with individual identities. The property is adjacent to and will be utilized by a restaurant that has been serving the neighborhood for over 50 years and has always been commercial. The addition of the proposed parking lot will be integrated into the development of the restaurant by providing additional parking for its customers and will be developed to City standards that require buffering through setbacks and landscaping measures.

(l) ADDITIONAL COMMENTS (optional)

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

Project Name: 536 Cortez Rezoning **Meeting Date:** 11/24/14

Meeting Place: De Vargas Community Room **Meeting Time:** 5:30

Applicant or Representative Check Box below

		Name	Address	Email
☒	1	Dolores Vigil	P.O. Box 1835	l.a.isonplanning@gmail.com
☐	2	Earl Rosner	541 Salazar	
☐	3	Kevin M. Lancaster	537 Cortez St	kevin537@hotsheet.com
☐	4	Penny Spring	537 Cortez St	pennyspring@yahoo.com
☐	5	Albert Martinez	City of Santa Fe	DA Martinez@Santa Fe NM.gov
☐	6	Matt Kelly	534 Cortez	mazkelly@hotmail.com
☐	7	Ray Hrenda	604 Cortez St	Hrenda Plumbing@gmail.com
☐	8	Dolores Gomez	511 Cortez St	
☐	9	Pete F Gomez	511 Cortez St	
☐	10	John F White	1211 Hickox St	[illegible]
☐	11	Victoria Romero	528 Cortez St	
☐	12	Jennifer Johnson	526 Cortez St.	gnddedfmac.com

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

Donna Wynant — Printed Name of City Staff in Attendance

Donna Wynant — Signature of City Staff in Attendance

11/24/14 — 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: 536 Cortez – Remodel **Meeting Date:** 11/24/14

Meeting Place: De Vargas Community Room **Meeting Time:** 5:30

Applicant or Representative Check Box Below

↓		Name	Address	Email
☐	1	Art Gonzales	524 Cortez St	[illegible]
☐	2	Joyce Garcia	513 Cortez St	jmgarcia@dahlplumbing.com
☐	3			
☐	4			
☐	5			
☐	6			
☐	7			
☐	8			
☐	9			
☐	10			
☐	11			
☐	12			

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

Donna Wigrent — Printed Name of City Staff in Attendance

[signature] — Signature of City Staff in Attendance

11/24/14 — Date

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

Greg Smith

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

Project Name	536 Cortez Rezoning (for Tune-Up Café)
Project Location	536 Cortez
Project Description	GPA from Low Density Residential to Community Commercial
Applicant / Owner	JC Rivera LLC
Agent	Liaison Planning Services, Inc.
Pre-App Meeting Date	9/18/14
ENN Meeting Date	11/24/14
ENN Meeting Location	DeVargus Mall, Community Room
Application Type	GPA and Rezone
Land Use Staff	Donna Wynant and Greg Smith
Attendance	11 neighbors, applicant's agent, Land Use staff, and Albert Martinez with the City's Parking Division

Notes/Comments:

Meeting started at 5:35. Staff (Ms. Wynant) gave an introduction about the purpose of the ENN meeting and the overall entitlement process. The intent is to gather input early in the process before anything formal is submitted to the City.

The applicant's agent, Dolores Vigil, gave an introduction of the project and the importance of providing additional parking for the Tune-Up Café .She said the applicant bought the property at 536 Cortez for parking. They will remove the trailer for a parking lot and no trees will be removed. She pointed out the location on an aerial photograph and explained the various things have to take into consideration in designing the parking lot.

Ms. Vigil asked people to identify themselves as they gave their comments and questions and identify where they live.

EXHIBIT D-2

Comment: Parking along the side of Tune-Up Café – problem for southwest clearance. Delivery trucks park on yellow bump outs. Should only be for compact cars, not big vehicles.

Comment: Parking along Cortez is a problem- need a bump out. Ms. Vigil pointed out where the loading area is on Cortez. Must address parking along yellow curb. Why is loading zone marked green.

VR: Employee all-day parking; district needed; not a problem for "Dave's". All curb spaces used last weekend.

Albert Martinez responded tried to get the loading before 8:00 am.

The Tune-Up Café has been attracting more people because of liquor. It's busy on the weekend.

Albert Martinez- parking on residential street – discussed process involved in doing permit parking.

Raymond Arranda, owns business at the southwest corner of Cortez and Hickox. Parking proposal should help the problem a lot and lives next door. Said it wasn't a night club and that they close at 10:00 pm. Better if 536 Cortez trailer/home is removed.

Jennifer Johnson: Regarding parking – what is the number of spaces required. Could the restaurant expand. More parking required. What is the number of spaces being provided.

John White: 1211 Hickox: Cars have been hit and knocked down the street. People pull out of restaurant and can't see down the street.

Should be a 4 way stop at the intersection. Other people felt strongly that should be a 4 way stop.

Man said the parking spaces should be maxed out and not the landscaping.

No line of site coming out from Cortez onto Hickox. Doesn't want opening exiting onto Cortez and said she would oppose the proposal if it exited onto Cortez.

Ms. Vigil said that the City may want traffic to exit onto Cortez.

Man pointed out that it's a business and it keeps the community going.

Would rezoning increase property taxes? Ms. Vigil replied no it wouldn't.

Man asked if angled parking could be done instead with the entrance from Cortez and exit onto Hickox.

Greg Smith pointed out that many things are discussed beyond the scope of a rezoning. Plan would be developed after rezoning approved. Turning movements would have to be evaluated.

Penny: Traffic should be studied first before zoning goes forward.

City Council can do conditions of approval prior to zoning approval. Planning Commission to review plan.

Someone asked if the property could be developed as some other commercial development.

Man stated that he's only in support if the traffic congestion and other issues are dealt with.

Matt Kelly who lives next door (534 Cortez) said his south wall is on the property line and he is opposed to the rezoning of his wall and that he would like the 5' wide strip along his property as some kind of easement.

Earl Russel: said that the dead trees on the property need to be removed.

Albert Martinez said he's concerned with safety, getting in and out of the property. One response is to possibly do permit parking.

Woman said there have been accidents.

Joyce Garcia said we have lots of children walking and riding bikes- concerned with safety.

Penny- Cars park in a way to allow for garbage truck pickup.

Truck deliveries come down Cortez. Albert Martinez said that a space for delivery trucks is located along Hickox.

Meeting adjourned at 6:35.

(See attached additional notes from Comment Cards)

COMMENT CARDS (TRANSCRIBED):

Kevin Lancaster, 537 Cortez Street: *"I live directly across the street from this lot. I am in favor of the rezoning of the lot. However I do not approve of the parking lot having either an entrance or exit onto Cortez Street- except for possibly an emergency exit, normally kept gated. I am against "residents only" parking on Cortez Street."*

Penny Spring, 537 Cortez Street: *"I think a well, kept up commercial property is preferable to a falling down residential property. There are problems with parking on Cortez Street that will not be completely addressed by the parking lot, particularly delivery trucks and employee cars. Condition for approval would be to get the restaurant side parking and garbage off Cortez Street to improve line of sight. Exit must not be on Cortez! ...OR I AM AGAINST! IN & OUT ON HICKOX! 4 way stop on Hickox. AGAINST UNTIL Traffic situation is taken care of by City."*

Dr. Arturo Gonzales: 524 Cortez Street: *"Rezoning should only occur and approved if the traffic conditions are appropriately addressed as discussed at the De Vargas Community Meeting on the issue. 4 way stop, and speed bumps."*

John White, 1211 Hickox Street: *"Parking in front of tune-up makes it difficult to see cars coming out of the current parking lot."*

GENERAL PLAN AMENDMENT/ REZONING REPORT FOR 536 CORTEZ STREET

Applicant:
JC Rivera LLC
1115 Hickox
Santa Fe NM

Consultant:
Liaison Planning Services Inc.
(505) 920-6839
liaisonplanning@gmail.com

March 30, 2015

EXHIBIT E-1

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3. Application/ Request and Property Description.....3
4. General Plan Amendment Criteria Statement.....4
5. Rezoning Criteria Statement.....5

Appendices

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Appendix B – Rezoning Application
Appendix C – Warranty Deed
Appendix D – Existing Zoning
Appendix E – Legal Lot of Record
Appendix F – Surveyor's Correspondence
Appendix G – Site Plan

1. Introduction and General Description:

The subject property is a 5,923+/- square foot residential lot located north of 1115 Hickox on the west side of Cortez Street (Please See Exhibit 1). The applicant is requesting a General Plan Amendment to Community Commercial and Rezoning from residential low density (R5) to commercial (C2) less than 2 acres. The applicant requests the proposed zoning to allow additional off street parking for the Tune-up Cafe'.

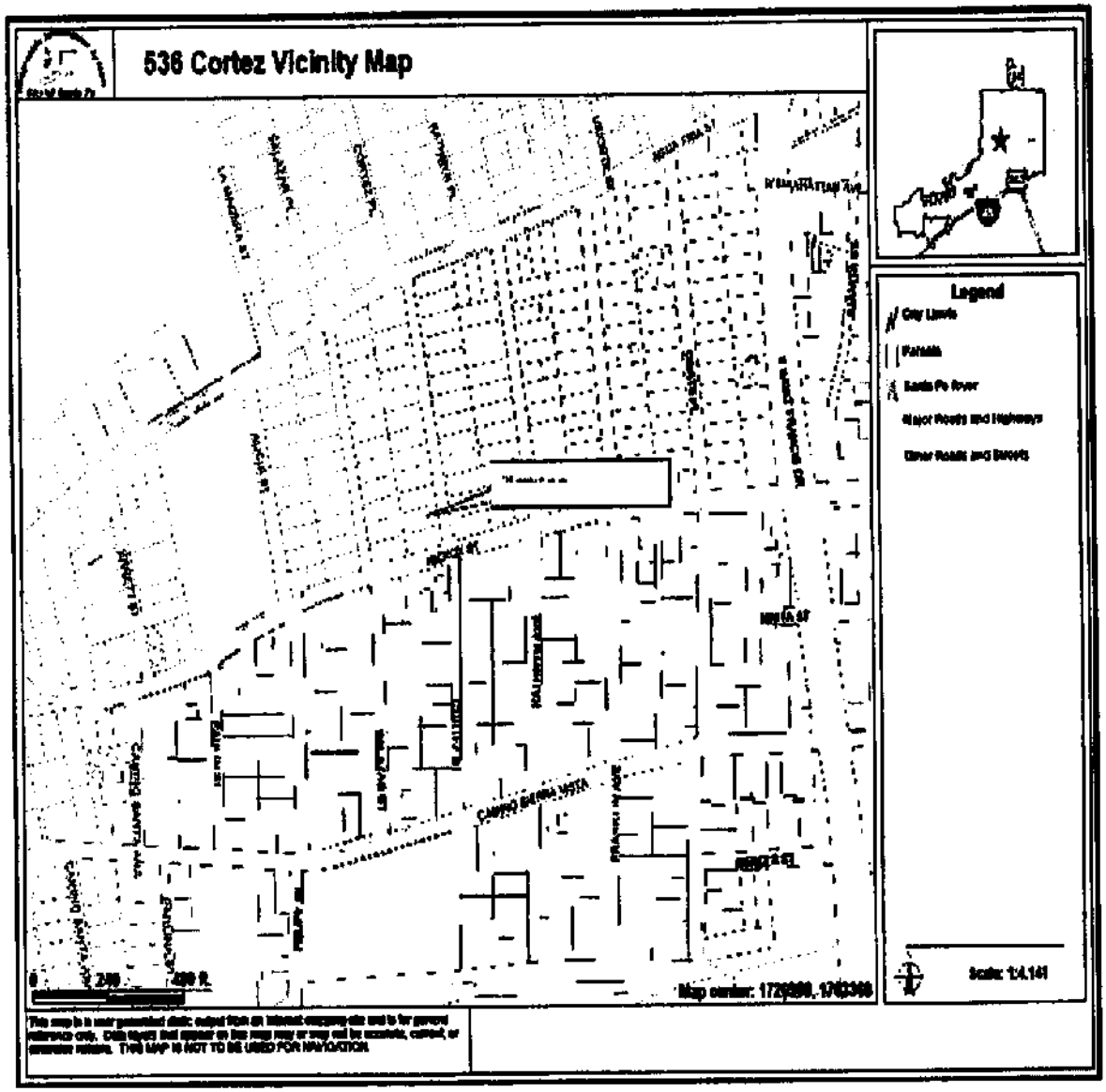


EXHIBIT 1

2.Existing Structures and Uses:

The subject property is currently zoned R5 with a mobile home that is being rented by the applicant. The property is bounded by residential to the north, east and west. The Tune-up Cafe is located to the south.

Appendix D illustrates the existing zoning that surrounds the property.

3.Application/ Request and Property Description:

The applicant has acquired the subject property to minimize on street parking by providing additional parking for the Tune-up Cafe'. The legal lot of record is described as Lot 12, Block 2 of Agua Fria Addition No. 1, as shown on plat filed in the Office of the County Clerk , Santa Fe County, New Mexico on May 14, 1930 in Plat Book 3, Page 377 (Please See Appendix E and F). No encroachments have been identified at this time as attested by a licensed surveyor.

As shown on Appendix G (site plan), eight (8) additional parking spaces are proposed that meet all requirements for such development. The parking will be accessed off of Hickox through the existing parking lot (currently utilized by the Tune-up Cafe') and will exit as a "***right turn only***" onto Cortez Street. All existing (significant) trees will be preserved and utilized as a buffer along the northern, western and Cortez Street property lines. A 4' existing wall along Cortez will be maintained and a 6' masonry wall is proposed along the northern edge of the property that will meet Land Development Code requirements. Additional landscaping will be provided as required. The existing dumpster and recycling bins located at 1115 Hickox will be relocated to the subject property as shown on the enclosed site plan. An existing 6' masonry wall is located along the western property line with and a 15' landscape buffer is proposed as required.

In addition to the initial GPA and Rezoning, the applicant is requesting from the Land Use Director, approval to allow alternative means of compliance with the requirements of section 14-8.4 (C) Compliance and Enforcement, for the proposed 5' landscape buffer along the northern property line as follows:

The subject property is narrow and was created by subdivision plat approval in 1930. Currently, there is a single wide mobile home on the lot. In order to meet development and re-zoning criteria for the proposed parking area, the applicant is requesting alternative means of compliance. If the proposed rezoning is approved, the applicant will consolidate the subject property with the adjacent property to the south and remove the mobile home to develop the lot as additional parking for the Tune-up Cafe'. The Tune-up Cafe' is set back at least 50' from the adjacent residence to the north. The proposed parking lot design and lot consolidation would better achieve the intention of the 15' buffer code requirement by maximizing the goal of the relationship between residential and commercial improvements. A 5' heavily landscaped setback will be maintained. Due

to the location of the Tune-up Cafe', the requirements for landscaping and 6' solid wall, the proposed alternative design minimizes the view of the existing restaurant from adjacent residences. It also provides more natural light, landscaping and off street parking.

4. General Plan Amendment Criteria Statement:

The applicant provides the following responses to the City Code criteria for approval of General Plan Amendments.

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

The proposed use of the subject property will provide parking for an existing restaurant that currently provides employment and a service to the neighborhood and Santa Fe residents. The property will be accessed off of Hickox and will not utilize additional infrastructure aside from egress onto Cortez Street.

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

General plan policy states that "there shall be a mix of uses and housing types in all parts of the City". Along this area of Hickox the zones are mixed C-2 and residential and has historically accommodated both uses. The proposed use of the subject property will be consistent with this policy and will increase opportunities for service to the neighborhood and Santa Fe residents.

(c) the amendment does not:

(i) allows uses or change that is significantly different or inconsistent with the prevailing use and character in the area; or

The area to the north, east and west of the subject property is primarily residential. The properties to the south all along Hickox are zoned for community commercial uses. The intent of this request is to provide additional parking for an existing commercial use, which is not different nor inconsistent with the prevailing use and character in the area.

(ii) affect an area of less than two acres, except when adjusting boundaries between districts; or

The amendment does affect an area of less than two acres. The legal lot was created in 1930 prior to the development and intent of the General Plan.

(iii) benefit one or few land owners at the expense of the surrounding landowners or general public;

Upon approval, the subject property will be consolidated with the adjacent property to the south that has always been utilized as commercial. The existing historical use will be maintained and expansion of this use would be consistent with the nature of the longstanding use as seen from Hickox and the primary local street.

(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;

The justification for the rezoning is consistent with the surrounding uses and promotes mixed uses as declared in the general plan.

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

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

Use of the subject property for expansion of an historically/existing commercial use, will continually provide centrally located employment and service to the neighborhood. Will maintain and promote the mixed use character of the neighborhood.

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

By allowing the continuation of the historic use of the property to the south and proposed use of the subject property, the General Plan Amendment will expand the City's employment base and promote infill developments that are consistent with land use policies, ordinances, regulations and plans.

5.Rezoning Criteria Statement:

The applicant provides the following responses to the City Code criteria for approval of the rezoning request.

(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 exist:

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

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

The neighborhood has increased in density and the need for off street parking is apparent. The proposed use would allow for additional parking and relieves some of the on street parking which justifies the change for zoning.

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

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

The rezoning requirements of Chapter 14 are addressed herein and the application is consistent with those requirements.

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

Prior to the approval of the rezoning request , the future land use map will need to be amended which will result in consistency of the rezoning request with the general plan.

(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; and

The rezoning request will provide infill development and promotes mixed land uses that provide an adequate balance of service retail and employment opportunities.

(e) the existing and proposed infrastructure, such as the street 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.

The proposed rezoning will not increase the sewer, water lines, public facilities. There will be less impact on public streets by providing off street parking.

APPENDIX A

GENERAL PLAN AMENDMENT APPLICATION

Parcel Information

Project Name: 536 CORTEZ STREET

Address: 536 CORTEZ STREET

Property Size: 5.923 acres

Current Use of Land: RESIDENTIAL

Proposed Use of Land: COMMERCIAL

Does an annexation application accompany this application? YES ☐ NO ☒

Does a rezoning application accompany this application? YES ☒ NO ☐

Early Neighborhood Notice (ENN) meeting date:

Preapplication Conference Date: 9/18/14

Uniform Parcel Code Number(s): 11/24/14

Property Owner Information

Company Name: JC RIVERA, LLC

Name: RIVERA (Last) CHARLEITE & JESUS (First) (M.I.)

Address: 1115 Hickox (Street Address) Suite/Unit #

SANTA FE (City) NM (State) 87505 (ZIP Code)

Phone: 505 470-3428 E-mail Address:

Applicant/Agent Information (if different from owner)

Company Name: LAWSON PLANNING SERVICES INC.

Name: VIGIL (Last) DOLORES (First) E. (M.I.)

Address: PO BOX 1835 (Street Address) Suite/Unit #

SANTA FE (City) NM (State) 87504 (ZIP Code)

Phone: (575) 526-6839 E-mail Address: lawsonplanning@gmail.com

Correspondence Directed to: ☐ Owner ☒ Applicant ☐ Both

Agent Authorization (if applicable)

I am/We are the owner(s) and record title holder(s) of the property located at: 536 Cortez St.

I/We authorize Dolores Vigil / Lawson Planning to act as my/our agent to execute this application.

Signed: [signature] Date: 9/24/2014

Signed: Date:

Submittal Checklist (Requirements found in Section 14-3.8 SFCC 2001)

☐ *Twelve (12) 24"x36" plan sets are required. Please include the following:*

☐	Letter of Application (intent, location, acreage)	☐	Statement addressing approval criteria	☐	Legal Lot of Record, Legal Description	☐	Development Plan (as defined by Section 14-3.8 SFCC 2001)	☐	Landscape, Parking and Lighting Plan, Signage Specifications
☐	Terrain Management Plans (as required by Section 14-8.2 SFCC 2001)	☐	Traffic Impact Analysis (if required)	☐	Proof of Compliance with Conditions of Annexation Approval (if applicable)	☐	Sewer and Water Plan (including profiles and details)	☐	Phasing Plan (if applicable)
☐	Archaeological Clearance (if applicable)								

General Plan Amendment Approval Criteria

All proposed amendments to the General Plan shall be reviewed for compliance with the following criteria:

(a) Consistency with growth projections for the City using a data base maintained and updated on an annual basis by the City, with economic development goals as set forth in a comprehensive economic development plan for the City, and with existing land use conditions, such as access and availability of infrastructure;

(b) Consistency with other parts of the General Plan;

(c) Provision for a determination of land utilization within an area larger than a single property and of general applicability. Generally the area should be at least a section of the City and should be larger than a single block or its equivalent;

(d) Compliance with the extraterritorial zoning ordinances and extraterritorial plan;

(e) Contribution to a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity or the general welfare as well as efficiency and economy in the process of development.

In addition to complying with the general criteria set forth above, amendments to the land use policies section of the General Plan shall be made only if evidence is shown for the following:

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

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

(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, and building technology; and

(d) The effect of the proposed change in land use will not have a negative impact on the surrounding property. 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 property by a setback, landscaping or other means.

Signature

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 2001. Failure to meet these standards may result in the rejection of my application. I also certify that I have met with the City's Current Planning staff in a preapplication meeting to verify that the attached proposal is in compliance with the City's zoning and annexation requirements.

Signature: _____ Date: 3/30/17

A case manager will be assigned to your project and will notify you within 10 business days if any additional information is needed. After you application has been reviewed by City staff, you will be contacted by us regarding public notice requirements. A packet of information and instructions will be provided regarding the required mailing and sign posting. Thank you, and feel free to contact the Land Use Department staff at (505) 955-6585 with any questions.

APPENDIX B

(date stamp)

REZONING APPLICATION 14-3.5

Parcel Information

Project Name: 5316 Rezoning Property Size: 5,923 sf

Address: 5316 Cerrillos Street

Current Zoning: R5 Proposed Zoning: C2

Does a Development Plan application accompany this application? YES ☐ NO ☐

Preapplication Conference Date: 9/18/14 UPC Code Number:

Early Neighborhood Notice (ENN) meeting date: 11/24/14

Property Owner Information

Name: JC River LLC (First) River Charouche & Jesus (Last)

Address: 1115 Hickox (Street Address) Suite/Unit #

Santa Fe NM 87505 (City, State, ZIP Code)

Phone: 505 670-3428 E-mail Address:

Applicant/Agent Information (if different from owner)

Company Name: Lawson Planning Services Inc c/o Dolores E. Vigil

Name: Dolores E. Vigil (First, Last)

Address: PO Box 1835 (Street Address) Suite/Unit #

Santa Fe NM 87504 (City, State, ZIP Code)

Phone: (505) 920-6839 E-mail Address: lawsonplanning@gmail.com

Correspondence Directed to: ☐ Owner ☒ Applicant ☐ Both

Agent Authorization (if applicable)

I am/We are the owner(s) and record title holder(s) of the property located at: 5316 Cerrillos Place

I/We authorize Lawson Vigil / Lawson Planning Svcs Inc to act as my/our agent to execute this application.

Signed: [signature] Date: 9/24/2014

Signed: Date:

A case manager will be assigned to your project and will notify you within 10 business days if any additional information is needed. After your application has been reviewed by City staff, we will contact you regarding public notice requirements. A packet of information and instructions will be provided regarding the required mailing and sign posting. Please contact the

Submittal Checklist (Requirements found in Section 14-3.5 SFCC 1987)

Six (6) 24"x36" or 11"x17" scalable plan sets and 1 CD with a PDF copy are required. Submittal requirements may vary based on the individual application and the requested zoning district. The City reserves the right to request additional information at any time during the review process. See Section 14-4 and 14-5 SFCC 1987 for rezoning regulations related to specific zones. Please include the following and check box to indicate submittal:

☐	Letter of Application (intent, location, acreage)	☐	Narrative addressing approval criteria*	☐	Legal Lot of Record, Legal Description	☐	Development Plan (see Section 14-3.8 SFCC 1987)	☐	Landscape, Parking and Lighting Plan, Signage Specifications
						☐	No Development Plan		
☐	Terrain Management Plans (as required by Section 14-8.2 SFCC 1987)	☐	Traffic Impact Analysis (if required)	☐	Archaeological Clearance (if applicable)	☐	Sewer and Water Plan (including profiles and details), letter of availability (if applicable)	☐	Phasing Plan (if applicable)

*Rezoning Approval Criteria, Sections 14-3.5(C) and (D) SFCC 1987

(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;
- (ii) there has been a change in the surrounding area, altering the character of the neighborhood to such an extent as to justify changing the zoning; or
- (iii) a different use category is more advantageous to the community, as articulated in the general plan or other adopted city plans;

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

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

(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; and

(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.

(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;

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

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

(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;

(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.

Signature

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 1987. Failure to meet these standards may result in the rejection of my application. I also certify that I have met with the City's Current Planning staff in a preapplication meeting to verify that the attached proposal is in compliance with the City's zoning requirements.

Signature: _____ Date: 5/20/13

Updated 12-12-12

APPENDIX C

PROGRESSIVE TITLE SERVICES
PRO GF # 1408005

ERROPERTY TAX 0[illegible]

WARRANTY DEED

OSCAR D. NOVA and TERESA NOVA, Husband and Wife, for consideration paid, grant to JC RIVERA LLC, A NEW MEXICO LIMITED LIABILITY COMPANY whose address is 536 Cortez Street, Santa Fe, NM the following described real estate in Santa Fe County, New Mexico:

Lot 12, Block 2, of Agua Fria Addition No. 1, as shown on plat filed in the office of the County Clerk, Santa Fe County, New Mexico on May 14, 1930, in Plat book 3 at page 377.

SUBJECT TO: Restrictions, Reservations and Easements of record.

with warranty covenants.

Witness our hands this 5 day of September, 2014.

OSCAR D. NOVA

TERESA NOVA

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO

COUNTY OF SANTA FE

This instrument was acknowledged before me on 5 day of September, 2014, by OSCAR D. NOVA and TERESA NOVA.

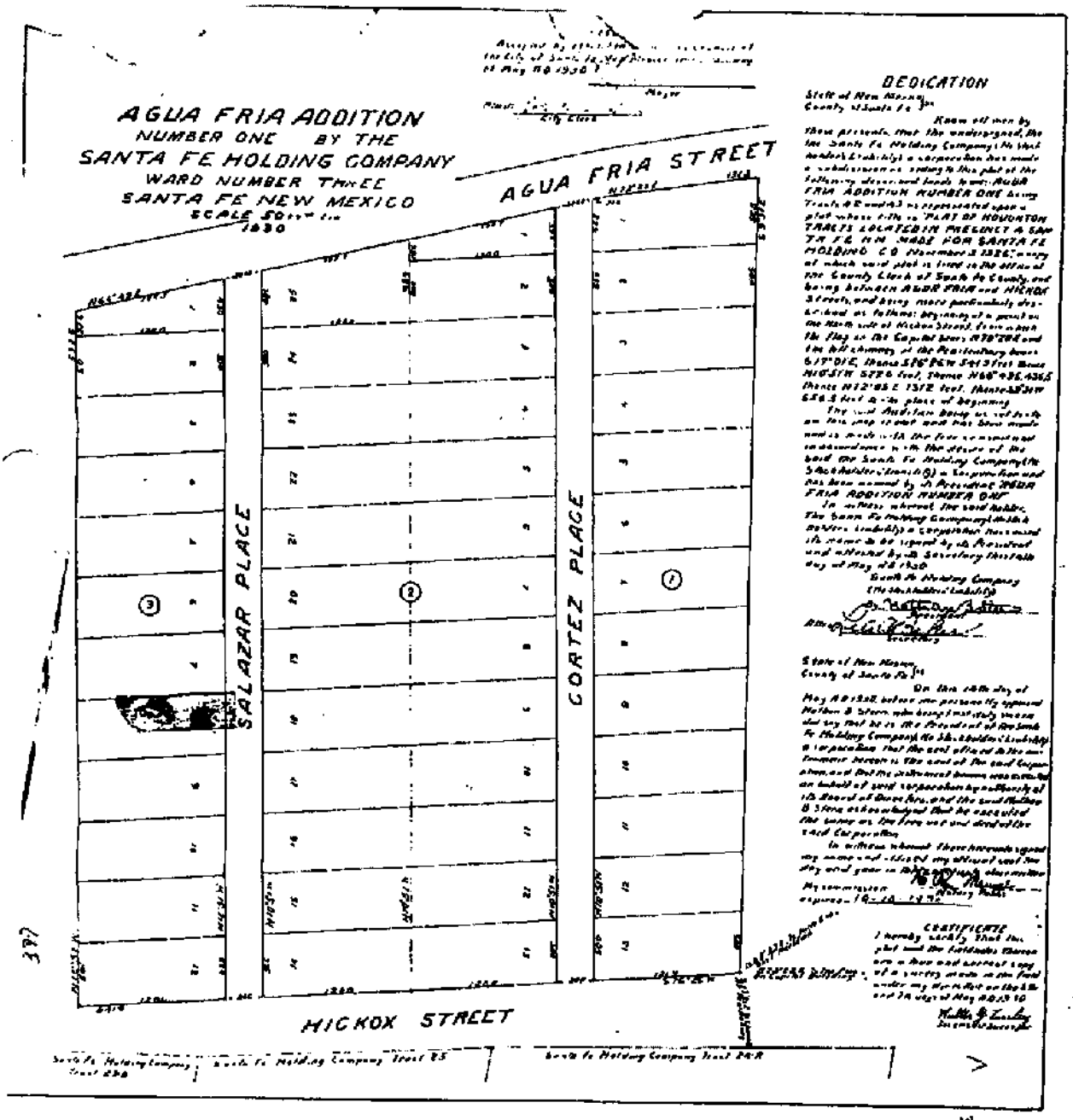
My Commission Expires: 3/13/15

Notary Public

OFFICIAL SEAL
R. Randall G. Scott
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 3/13/15

5 Cortez Place (Potential Rezone to C-2 and GPA to Community Commercial)
Future Land Use: Low Density
Zoning: R-5

APPENDIX E


AGUA FRIA ADDITION
NUMBER ONE BY THE
SANTA FE HOLDING COMPANY
WARD NUMBER THREE
SANTA FE NEW MEXICO
AGUA FRIA STREET
SALAZAR PLACE
CORTEZ PLACE
HICKOX STREET
DEDICATION
CERTIFICATE

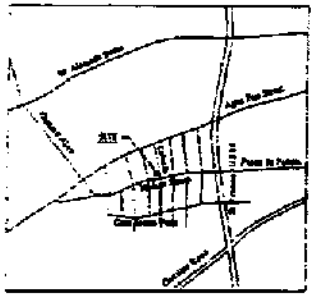
APPENDIX F

ASSOCIATED SURVEYS
Michael V. Trujillo
N.M.P.S. No. 12130

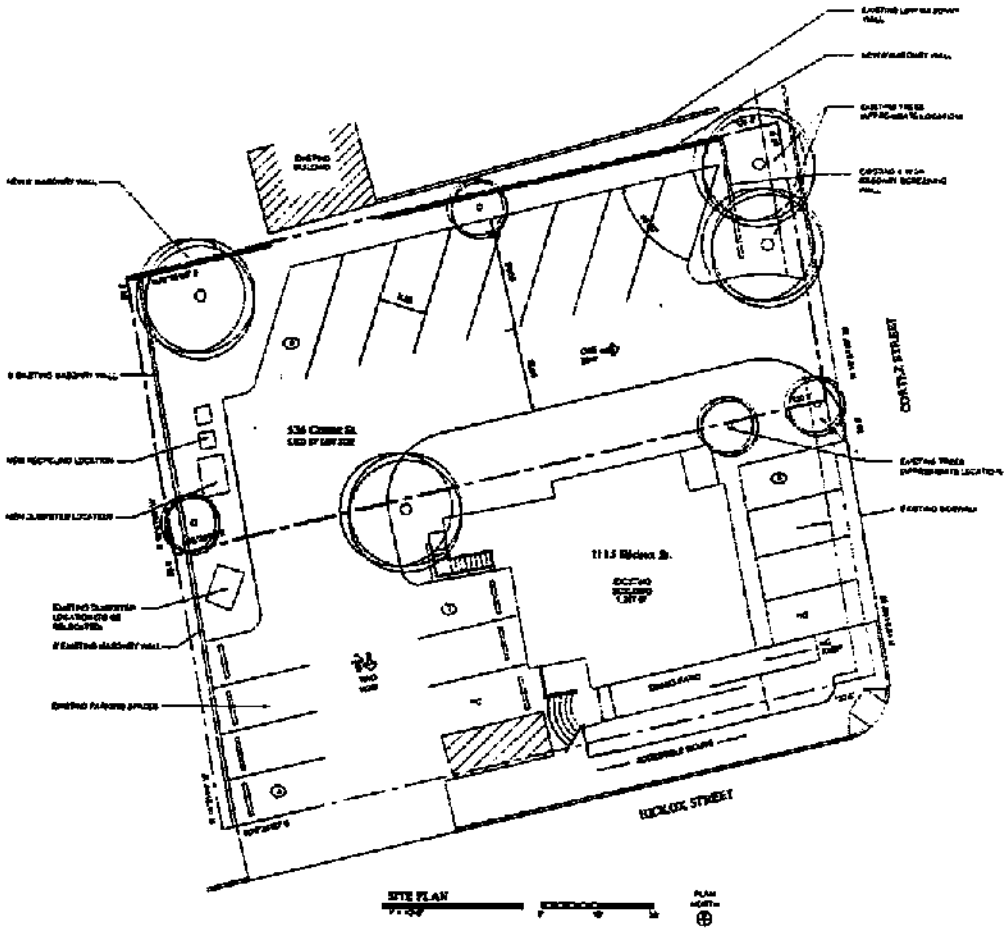
Lot 12, Block 2 of Agua Fria Addition No. 1, as shown on plat filed in the Office of the County Clerk, Santa Fe County, New Mexico on May 14, 1930, in Plat Book 3, Page 377.

Telephone 424-1395 • Mobile 690-4542
JAMMER101@AOL.COM
1202 A Parkway Drive • Santa Fe • New Mexico • 87507

APPENDIX G



VICINITY MAP



Liaison Planning Services Inc.

Site Plan for

536 Cortez Street

Santa Fe, New Mexico

Not For Development Purposes

March 30, 2011

LIAISON Planning Services Inc.

P.O. Box 1835 Santa Fe, NM 87504 (505) 920-6839 liaisonplanning@gmail.com

March 30, 2015

Donna Wynant, AICP Land Use Senior Planner
City of Santa Fe Land Use Department
P.O. Box 909
Santa Fe, NM 87504-0909

Re: General Plan Amendment and Rezoning *Additional Information*
536 Cortez Street Santa Fe, NM

Dear Ms. Wynant,

As requested, I am providing you with additional information for the above referenced on behalf of JC Rivera LLC.

<u>Rezoning</u>

(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;
The application is to rezone the property in order to provide additional parking for the restaurant to the south. No additional infrastructure is proposed aside from landscaping that meets city regulations.

(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

EXHIBIT E-2

developer to contribute a proportional fair share of the cost of the expansion in addition to impact fees that may be requires pursuant to Section 14-8.14.
The proposed parking lot design is to enter from the property to the south, "right turn exit only" onto Cortez Street and to utilize the existing curb cut. All improvements will meet city ordinances regulations and policies.

General Plan Amendment

(2) Additional Criteria 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 the 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 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;
The neighborhood has developed over the years and the need for additional off street parking is apparent. The subject property currently has a mobile home on it that can easily be removed to accommodate parking for the property to the south. The proposed parking lot will only be utilized by the restaurant and all applicable design standards will be adhered to.

(b) No reasonable locations have been provided for certain land uses for which there is a demonstrated need; or
It makes sense to allow for additional parking for the commercial property to the south by providing off street parking that is directly adjacent to and can be accessed through the restaurant parking lot.

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

Please contact me if you have any questions or require additional information. I request that this item be heard by the Planning Commission on May 7, 2015.

Sincerely,

Dolores I. Vigil

LIAISON Planning Services Inc.

P.O. Box 1835 Santa Fe, NM 87504 (505) 920-6839 liaisonplanning@gmail.com

April 10, 2015

Lisa Martinez, Land Use Director
City of Santa Fe Land Use Department
P.O. Box 909
Santa Fe, NM 87504-0909

Re: Alternate Means of Compliance
536 Cortez Street Santa Fe, NM

Dear Ms. Martinez,

On behalf of JC Rivera LLC, please accept this letter as a formal request for an approval to allow alternate means of compliance as required per section 14-8.4 (C) for the required 15' landscape buffer located at the above referenced address (see proposed site plan). The applicant is in the process of requesting an approval for a General Plan Amendment to Community Commercial and Rezoning from residential low density (R5) to commercial (C2) less than 2 acres. The applicant requests the proposed zoning to allow additional off street parking for the Tune-up Cafe'.

Compliance and Enforcement per 14.8.4 (C)

(4) The *land use director* shall have discretion to allow alternate means of compliance with the requirements of this section when the proposed alternate means satisfy the intent, and are equivalent to or exceed the requirements of, this Section 14-8.4 and when:

(a) site conditions, including the configuration of the *lot*, topography or existing vegetation, make full compliance impossible or impractical;

The subject property is narrow and not wide enough to provide the 15' buffer, parking and drive aisle. The lot was created by subdivision plat approval in 1930. Currently, there is a single wide mobile home on the lot. In order to meet development and re-zoning and development criteria for the proposed parking area, the applicant is requesting alternative means of compliance (see Exhibit A).

EXHIBIT E-3

(b) the proposed alternate means of compliance are appropriate to the design intent, especially in response to *landscape* or site design consistent with the surrounding area or with the historic character of Santa Fe; and

If the proposed rezoning is approved, the applicant will remove the mobile home to develop the lot as additional parking for the Tune-up Cafe'. The Tune-up Cafe' is: set back at least 50' from the adjacent residence to the north. The proposed parking lot design would better achieve the intention of the 15' buffer code requirement by maximizing the goal of the relationship between residential and commercial improvements.

(c) the proposed alternate means of compliance promote good storm water management, water conservation and *water harvesting* equal to or greater than the original requirement.

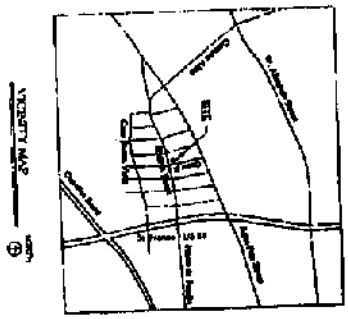
A 5' heavily landscaped setback will be maintained and serviced by an automatic drip system. Due to the location of the Tune-up Cafe', the requirements for landscaping and 6' solid wall, the proposed alternative design minimizes the view of the existing restaurant from adjacent residences. It also provides more natural light, and landscaping. The site will designed to provide the landscaping with water run-off. The neighborhood will benefit from additional off street parking. the neighbors have commented that on street parking is creating congestion. Granting this alternative compliance will allow the Tune-up Cafe' to address this issue and reduce impact on surrounding streets.

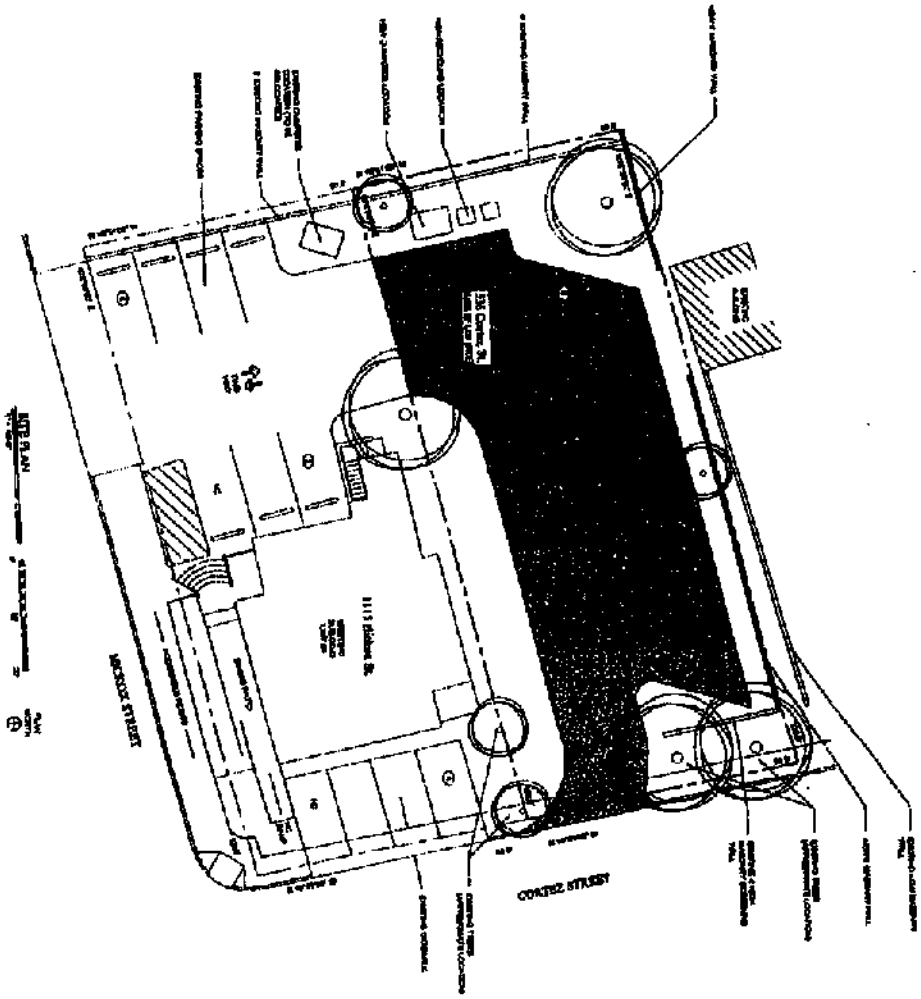
Please contact me if you have any questions or require additional information.

Sincerely,

Dolores I. Vigil

Attachments: Proposed Site Plan
Exhibit A





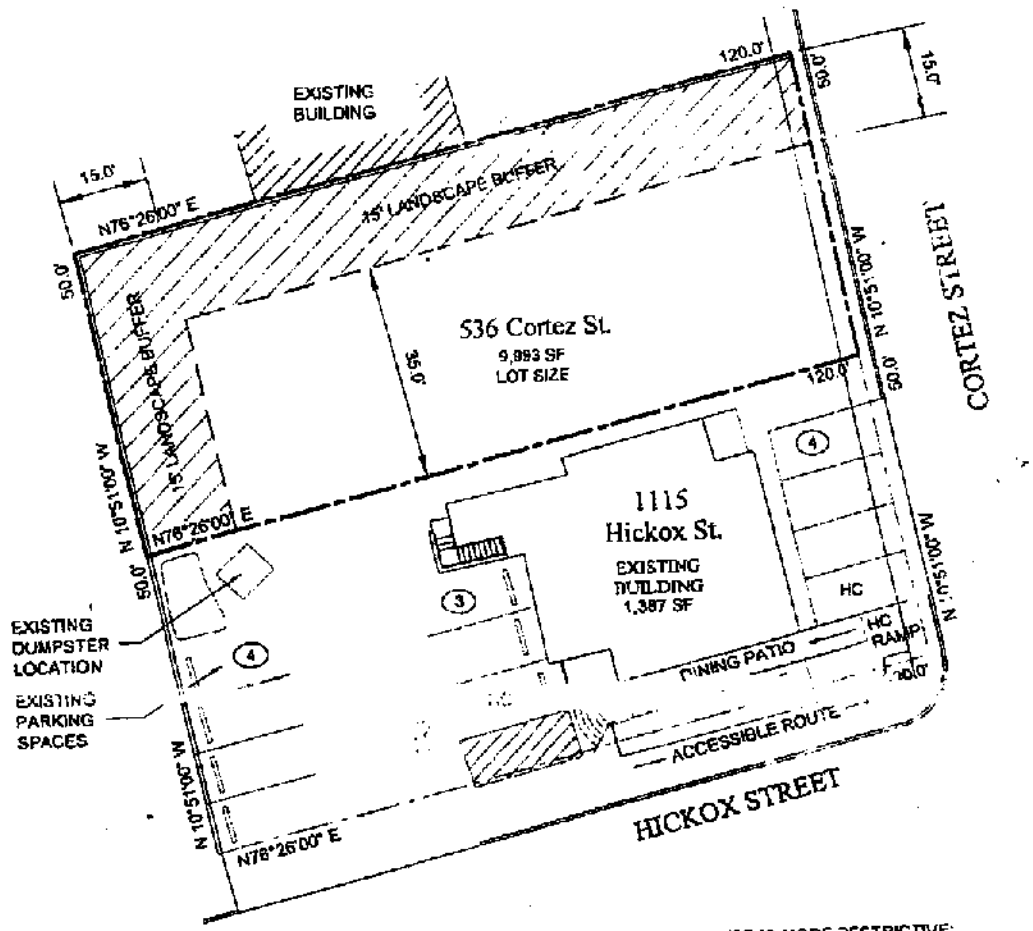
Site Plan for

536 Cortez Street

Santa Fe, New Mexico

Liaison Planning Services INC.

Dolores I. Vigil
Liaison Planning Servic[illegible]
P.O. Box 1835
Santa Fe NM 87504
(505) 920-6839
liaisonplanning@gmail.c[illegible]



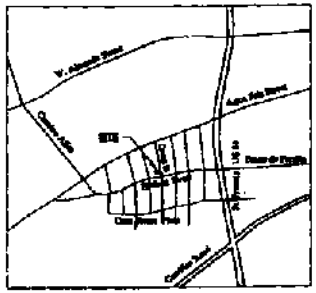
PROVIDE TOTAL AREA (WHICHEVER IS MORE RESTRICTIVE:
15' BUFFER AREA ALONG ADJACENT RESIDENTIAL AREAS = 2,325 SF
20% OF LOT SIZE = 5,893 X 0.2 = 1,187 SF

OPEN SPACE
REQUIREMENTS

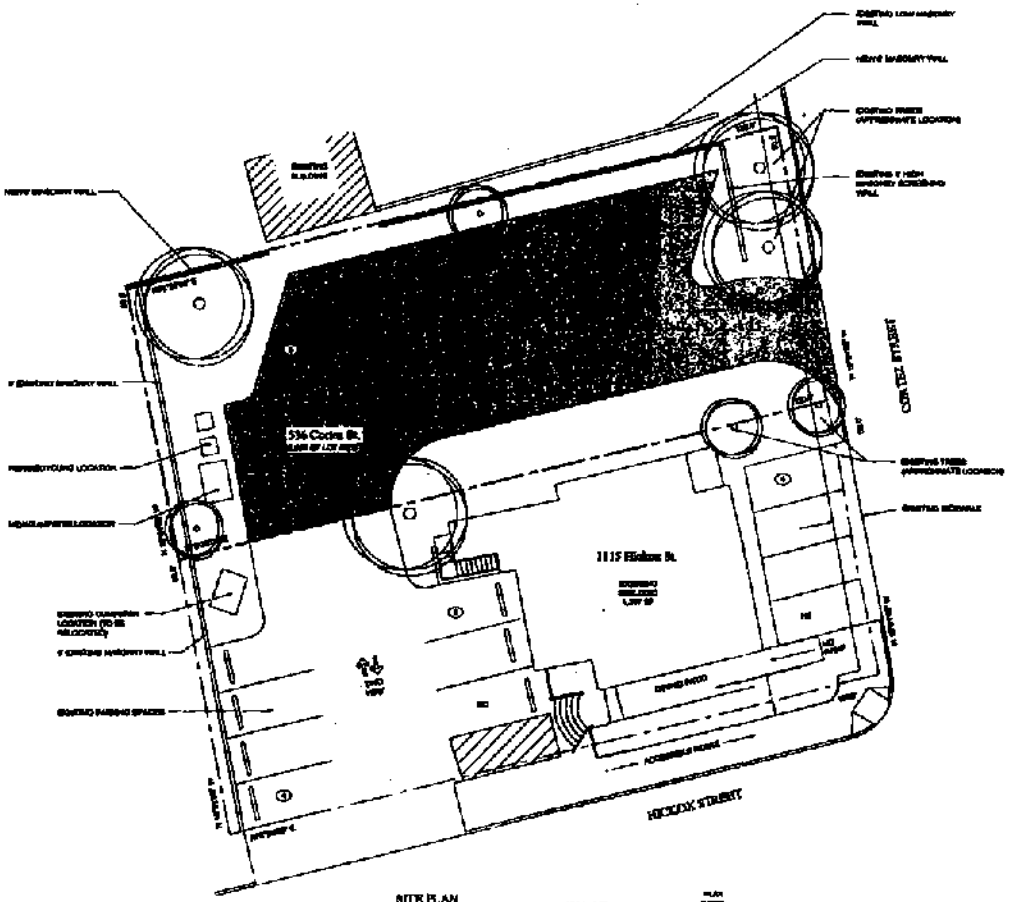
0 10' 20'

PLAN
NORTH

Exhibit 'A'
Not for Development Purposes
536 Cortez Street
Santa Fe NM
1/21/14



VICINITY MAP



SITE PLAN

Dolores I. Vigil
Liaison Planning Services Inc.
P.O. Box 11855
Santa Fe, NM 87504
(505) 920-6439
liaisonplanning@gmail.com

Liaison Planning Services INC.

Site Plan for
536 Cortez Street
Santa Fe, New Mexico

Not For
Development Purposes

Sept 20, 2011

1.7 GENERAL PLAN THEMES

1.7.4 ECONOMIC DIVERSITY

Develop and implement a comprehensive strategy to increase job opportunities, diversify the economy, and promote arts and small businesses.

The General Plan includes policies to promote economic development and the arts; a strategy is outlined in the Community Economic Development Plan, a separate document maintained by the city. Themes of the strategy include regionalism, sustainability, quality of life, equity of education, economic opportunities, and diversification. The General Plan locates sites for arts and new businesses in a variety of settings.

1.7.9 URBAN FORM

Promote a compact urban form and encourage sensitive/compatible infill development.

Promotion of a compact urban form has been a major criteria in selecting new growth areas. Growth and reintensification areas have been selected to minimize distances between different parts of the city, and between job centers and residential areas. Incentives are provided to promote infill development.

1.7.12 MIXED USE

Provide a mix of land uses in all areas of the city.

The General Plan provides a mix of compatible uses that fulfill everyday retail and service needs in existing and new neighborhoods. This urban structure affirms Santa Fe 's traditional development pattern.

5-2 DOWNTOWN AND COMMERCIAL DEVELOPMENT

5-2-G-4 Provide for uses to meet everyday needs within neighborhoods in the form of pedestrian-oriented neighborhood centers.

5-2-G-5 Protect neighborhoods from encroachment by non-neighborhood oriented commercial uses and related environmental impacts. Provide design standards and economic location criteria for big-box retail.

5-2-G-6 Ease transitions between commercial and surrounding areas.

For additional policies related to affordable and economic development, see Sections 10.1 and 10.2 and Institutional Framework Section 11.

3-G-1 There shall be consistency between the General Plan and the city's land use development laws (see Section 11 policies).

3-G-2 There shall be a mix of uses and housing types in all parts of the city.

Mixed use should not just be encouraged, but in certain areas, such as the mixed-use districts(neighborhood centers) and redevelopment areas, it is specifically recommended in the General Plan.

3-G-3 There shall be infill development at densities that support the construction of affordable housing and a designated mix of land uses that provide an adequate balance of service retail and employment opportunities to address residential growth throughout the Urban Area, including the Railyard property.

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*.

VOTE: The motion, as amended, was approved on the following Roll Call vote [6-2]:

For: Commissioner Villarreal, Commissioner Chavez, Commissioner Gutierrez, Commissioner Kadlubek, Commissioner Kapin and Commissioner Ortiz.

Against: Commissioner Padilla and Commissioner Schackel-Bordegary.

Explaining his vote: Commissioner Padilla said,"I'd like to vote no on this and make a statement that I would have liked to have additional information presented to us for deliberation, but my vote is no."

Explaining her vote: Commissioner Schackel-Bordegary said, "Like Commissioner Padilla, I'm going to vote no for the same reason *[inaudible because her microphone wasn't turned on]*.

3. **CASE #2015-36. 108 VIGIL LANE CERTIFICATE OF COMPLIANCE. SOMMER, KARNES & ASSOCIATES, AGENT, REQUEST PLANNING COMMISSION APPROVAL OF A CERTIFICATE OF COMPLIANCE IN ORDER TO ESTABLISH LEGAL LOT OF RECORD PER THE PROCEDURES SET OUT IN SFCC 1987 14-3.7(A)(7). THE REQUEST MAY INCLUDE A VARIANCE TO LOT AREA AND ACCESS REQUIREMENTS. THE PROPERTY IS ± 0.16 ACRES, ZONED R-5 (RESIDENTIAL – 5 DWELLING UNITS PER ACRE), AND IS LOCATED AT 108 VIGIL LANE. (ZACH THOMAS, CASE MANAGER)**

A Memorandum dated April 28, 2015 for the May 7, 2015 Meeting, to the Planning Commission from Zach Thomas, Senior Planner, Current Planning Division, in this matter, is incorporated herewith to these minutes as Exhibit "9."

This item is postponed to the next meeting of the Planning Commission

4. **CASE #2015-30. TUNE UP CAFÉ GENERAL PLAN AMENDMENT. LIAISON PLANNING SERVICES, INC., AGENT FOR JC RIVERA LLC, REQUESTS APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 0.13± ACRES OF LAND FROM LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS PER ACRE) TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 536 CORTEZ. (DONNA WYNANT, CASE MANAGER)**

Items J(4) and J(5) were combined for purposes of presentation and discussion, but were voted upon separately.

A Memorandum, with attachments, prepared April 22, 2015, for the May 7, 2015 meeting, to the Planning Commission, from Donna Wynant, Senior Planner, Current Planning Division, regarding Case #2015-30 and Case #2015-31, is incorporated herewith to these minutes as Exhibit "10."

A letter dated May 6, 2015, To Whom It May Concern, from Keren James, in support of these cases, presented for the record by Dolores Vigil, is incorporated herewith to these minutes as Exhibit "11."

A Memorandum dated May 7, 2015, to the Planning Commission, from Current Planning Division, regarding Additional Information, is incorporated herewith to these minutes as Exhibit "12."

Mr. Smith said, "Partly for the benefit of new Commissioners, they are reminded that this is a *quasi judicial* case. It raises interesting procedural questions we've tried to simplify, and I hope we did not over-simplify them, and certainly at any point if the Commissioners do have questions of staff, either myself or the City Attorney, in procedural issues we'll be happy to respond on them. It's a case that kind of points out the strengths and weaknesses of the traditional zoning regulations that the City of Santa Fe has. There is an argument to be made that zoning is either you approve it or you deny it. Either property is zoned C-2 or it is not zoned C-2. Staff analysis on this case has raised a number of issues where, in common sense terms, if it's possible we do sit down and [inaudible] this rezoning makes sense to the extent that it will achieve the stated ends of the Applicant to address problems that have occurred in the operation of an existing business. It's not at all clear to staff that the final approval of the rezoning can be made absent to important aspects of the Applicant's proposal. First that the lot be consolidated with the lot on which the existing restaurant operates. There is very limited potential for any reasonable C-2 parcel of the size of the 1 lot at Cortez that is being rezoned today. But also that over the years that I've been working, there is a history of cases where the Planning Commission and City Council have added conditions of approval that tend to micromanage a project, and may be on the edge of what is an acceptable legal terms of restricting uses of property and unfairly limiting the rights of the property owner to exercise zoning that has been approved for their property."

Mr. Smith continued, "Our recommendation to the Commission, and Ms. Wynant will go into more details about the background and the rationale. However, it is not clear that this rezoning case should be approved unless there are effective ways to ensure that, first, the lots will be consolidated. And, second, that there would be some type of hearing process before there is any significant intensification or expansion or a change to the use of the property. Our recommendation to the Commission is essentially to say that staff concurs that on balance, the stated intent of the Applicant to provide more effective parking for the existing restaurant operation is a worthwhile goal. It noted also that there are 4 categories of *[inaudible]* type of use in the allowed use table. The applicant is operating, according to the application, within the only class that does not require a hearing in front of the Board of Adjustment to intensify the use within this proximity to a residential neighborhood. So with that general background, I'll defer to Ms. Wynant if the Chair agrees."

Donna Wynant presented information in this case via overhead. Please see Exhibit "10," for specifics of this presentation.

Ms. Wynant said she would like to read the conclusion into the record, as follows: "Staff concurs with the applicant's contention that the Plan Amendment and Rezoning of the property at 536 Cortez Street would meet the applicable criterial for approval, but only if development is limited to construction of a parking lot expansion for the restaurant at 1115 Hickox St., as stated in the application materials. Unrestricted development of the property [and that I would like to say means that unrestricted

development, and you can look at that last exhibit in your packet of all the different kinds of things that are allowed in a C-2 District which is quite extensive] under a C-2 zoning [all the things that could go in there] would not meet the approval criteria for the requested General Plan Amendment and Rezoning. The vision of the application to propose C-2 PUD, [which is C-2 with a Planning and Development Overlay] would be the only clear method to ensure that future development would not adversely affect surrounding land uses. Staff supports the proposed rezone subject to the attached DRT conditions of approval. And those conditions include provisions for consolidation of the lots at 536 Cortez and 1115 Hickox, removing the backup parking spaces that block the sidewalk on Cortez Street, adjustment of the Hickox Street right-of-way to eliminate encroachments as previously approved by the Governing Body and then correction of setback violations for non-permitted structures at the north and south property lines at 1115 Hickox. That is referring to a walk-in cooler and storage structure that we did get a building permit application on and it is waiting for this process to go forward so that the properties are all combined and that those setback violations are not issues any longer."

Ms. Wynant continued, "So you can see on your DRT chart there might be some other things mentioned, so you can see those. So therefore, staff is recommending approval subject to all those conditions."

Mr. Smith said, "Mr. Chairman, I would state for the record, that the Staff Recommendation is that the application before the Commission, with the amendment, that those conditions together would support a staff recommendation for approval."

Chair Harris said, "I think all of us are little unclear about the meaning of your statement and what you would propose.'

Mr. Smith said, "The Commission is not being asked to vote on this, when in fact it's not clear that the Commission has the authority to make any requirements with a straight C-2 rezoning that would restrict the applicant to only the development as shown in this plan. If the application were amended to a Planned Unit Development Overlay District, the Commission would be voting on a rezoning case that did include this Plan *[inaudible]* very much like it. And that development overlay other than as shown in that plan would require the applicant to come back through a public hearing process at the Commission and/or the Council."

Chair Harris said, "To make sure I understand, what you're saying it's triggered by the Applicant making an amended application, correct."

Mr. Smith said, "So staff's recommendation is it's now going to the Commission which can make the appropriate findings to approve the zoning without the amendment to a PUD or some other method of ensuring that the scope of development will be effectively limited."

Chair Harris said, "Again, is it a requirement that the Applicant make an amended application, or are you saying that the Commission can amend basically the staff's formal recommendation."

Mr. Smith said, "The Code states that the Commission and Council can approve rezoning to a more restricted class of development. It's not clear that that type of amendment without a development plan submitted would have any real effect."

Chair Harris said, "I hate to say it, but I don't think you're providing very clear guidance on this."

Mr. Smith said, "I'm sorry, so the staff findings for a C-2 PUD with a plan similar to the one shown on the screen tonight would clearly meet the approval criteria. C-2 zoning without a restriction to the plan shown on the screen would likely not meet the approval criteria."

Chair Harris said, "My question is, why didn't staff recommend formally what you've described in terms of C-2 PUD."

Mr. Smith said, "Mr. Chairman, if it would be more clear, then staff would be happy to phrase the recommendation as postpone with direction to the Applicant to amend and present a PUD with a preliminary development plan."

Commissioner Padilla said, "In fairness to the Applicant, the case that is before us tonight, and as presented by staff this evening, is a request for a C-2 Rezoning, not a C-2 PUD, even though in your conclusions you clearly state that revision of the application to propose a C-2 Planned Unit Development would be the only clear method to ensure future development. The case before us is a C-2 application. Is that what you're putting on this applicant as a condition of approval, that they come forward with a C-2 PUD application."

Mr. Smith said, "To try and be clear. If the choice is between approval of C-2 without restrictions, the staff would recommend denial of the straight C-2 rezoning. It is not clear that the straight C-2 rezoning would meet the approval criteria. We've offered the PUD as an alternative to the denial that we would otherwise recommend."

Chair Harris said we probably will have some follow-up questions once we get to discussion of any motions, but "I think we'll set that discussion aside for right now, and I think, unless you have further information you want to provide, Ms. Wynant, I think we should hear from the Applicant."

Ms. Wynant said, "I'm fine, Mr. Chair."

Public Hearing

Presentation by the Applicant

Christopher Graeser, attorney, 316 East Marcy, said "I'm an attorney under my oath." Mr. Graeser presented information using the overhead. Mr. Graeser said, "As I go through the staff report on this, it's clear that what's staff is saying is it meets the requirements, it's consistent with the Code, there's no harm to the neighborhood. I think those findings are made throughout and accordingly, staff supports the proposed rezone, subject to the DRT conditions of approval. And we accept all of those conditions, by

the way. All of those conditions are acceptable, including one Mr. Smith expressed concern, that if you condition it on ensuring that the lots are consolidated, that that actually happen. And the City's had spotty history in following up on that. We certainly commit to do that, and I'll put a note on my agenda to make sure it happens within the 30 days."

Mr. Graeser continued, "Commissioners, this is a neighborhood café. Tune Up wants to be a good neighbor. This is a local business, a walkable business for many many people, but it's not walkable for everybody. And the biggest concern we hear expressed by neighbors, by far the biggest concern raised at the ENN, was lack of off street parking, or to put it another way, excessive on-street parking. And this application addresses exactly that. This application is solely to be able to use the adjoining lot which Jesus and Charlotte purchased for parking for the restaurant. There's no intent to change the use, to build a new building. There won't be any expansion of the dining room, it's not going to become a nightclub, they have no liquor license, they don't intend to get a liquor license. The one thing they would like to do, and have no current intentions to do, and can't afford to do. But what they would like to do is to expand the kitchen slightly. Jesus emailed me a picture a while ago, and I want to show it to you, because I just feel badly for these guys. That's the kitchen. As I said, the only change they would be looking at is trying to add 200 sq. ft. to the kitchen at some point if they could."

Mr. Graeser continued, "At the risk of repeating myself, I think that nearly all the concerns expressed by the neighbors, will be addressed by more parking, and by working with the delivery trucks to keep them off Cortez. They have been doing that, they will continue to do it. It typically is only a problem when a new driver gets on a route and doesn't know to stay off Cortez. There is definitely concern about the backout spaces, right in 'here,' and 'those' will be eliminated with the new plan."

Mr. Graeser continued, "Tune Up Café supports putting a 4-way stop at Cortez and Hickox. I talked to Mr. Romero and it's not warranted at this time. He said one of the things they look at is not enough accidents there. I suggested by simply lending my car to my mother a couple more times, I would take care of that. He indicated that wasn't a good idea."

Mr. Graeser continued, "This application is for 536 Cortez property, not the 1115 Hickox property. The Hickox property, the Tune Up Café property is zoned C-2, has been zoned C-2, and is subject to the entire C-2 use list. The application is simply for the parking lot to bring that into the C-2 zoning."

Mr. Graeser continued, "The staff suggestion or interest or concern about making it a Planned Use Development, and the suggestion that we should apply for PUD for both parties, the Tune Up Café property and the property which will be consolidated. And what I get it's not because of this application, not because of the intended use which does fully comply with the Code and is consistent, but because of what could happen in the future. I think the term the staff report uses is unrestricted development. And we get it. We get the concern. If you look at the use list for C-2, there are some things that are totally compatible with allocation of that neighborhood – antique store, art supply, barber shop, book shop – things about the size of my office building. There's days we have a total of 6 trips in and out of that building, that would be compatible. There also are things in the use list that are incompatible with that

location, with that area with that size of property, because the use list does include filling stations, bars and cocktail lounges, flea markets, sewerage pumping stations and those would not be appropriate and we get that."

Mr. Graeser continued, "And our concern about a PUD is that it unfairly limits the existing property which is C-2 zoned. It limits its utility, it limits its value and it isn't part of this application. That restaurant has been an amenity to the neighborhood, it's doing well, hopefully it will continue doing well for many years, or indefinitely. If it doesn't, if it closes for some reason, if the Tune Up Café becomes Tune Up's not here, then what. It is really unfair to do a PUD and you're going to be held to this restaurant use, when I think that's probably not even what the neighbors would prefer to see out there. They might prefer to see something less intense. And that's a major concern of the PUD, is preserving the utility, the future value of the property, to say nothing of having to go through the whole process again."

Mr. Graeser continued, "Many of you may recall the Hands of America Case I was in front of you on a couple of months ago, the wood shop, and that time, we made a representation to the Commission that we were working with the neighbors, we would continue to work with the neighbor on that use list, on uses that concern them. We did that. We sat, we had a really good meeting, we went through and checked off uses, argued about them, talked about them and ended up agreeing, to the point it was my idea to come up with some kind of contract or private covenants or such, because Mr. Shandler informed us that the City couldn't impose those conditions on its own. And in fact the neighborhood representative just stood up and said, as long as Mr. Graeser says that on the record, we're comfortable with that. And everyone is really happy. And I see this is a perfect example of that sort of situation. We're entirely willing to work with the neighbor, to sit with them, go through those uses and to identify uses that are not appropriate, and to make that commitment either publicly on the record, or as part of a private contract. But those uses won't be allowed and won't be used on that property."

Mr. Graeser continued, "I understand Mr. Smith's concern that this doesn't really satisfy the City's ability to do something about future uses or have a public hearing if some of those more incompatible uses were to occur. And I'm not sure this does address that, other than Mr. Shandler, but we could also impose covenants to allow the City to enforce those. I don't know if the City gets into that or not. But I do have a concern when you look at the PUD criteria. They just don't seem to be applicable to this situation. It talks about plan districts, encouraging innovative site planning design, for a project that is superior to the development obtainable under existing zoning regulations and creating unified development that is superior to what would otherwise be attainable. You know, superior is nice, but that's not what we're going for here. I don't think we're trying to do anything different, anything innovative. We're just trying to build a parking lot. And I just don't see the PUD as being applicable or relevant there, also it would be a really small planned unit development."

Mr. Graeser continued, "There is one gentleman who lives north of the 536 property who was a little concerned about the potential use of the parking lot, and I actually think that *[inaudible]* discussion about using the innovative buffering solution makes a lot of sense there. Rather than just a 15 foot strip, we could talk about getting some really intense plantings there to really block that."

Mr. Graeser continued, "I think that's about what I have. If you have any questions, Dolores Vigil is here to address any more technical planning questions."

Chair Harris said he is sure there will be questions, but first he wants to open the public hearing portion of the case, and come back to him in a little bit.

Speaking to the Request

All those speaking were sworn en masse

Rachelle Woods, 123 Spruce Street [previously sworn], said she doesn't understand much about the details of zoning, etc, but she works on Hickox, and this is an incredible enlivener in the neighborhood for all the businesses. She said most people who live in the neighborhood patronize the Tune Up Café. She said, "I want the City to support them to do what they can do to keep making us happy."

Jaz Reis [previously sworn], said she lives in the neighborhood, and the Tune Up Café does a great job. She said her only complaint is on street parking. She said, "I hope you will approve this. I don't understand the stuff you've been spending the last half hour talking about, I think it would be great if you approved their plan to add some parking. Thank you."

Matt Kelly, 534 Cortez [previously sworn], said he lives just north of the proposed parking lot. His problem is, as you can see, part of his house is right on the property line, and my house is on the right, and it's right on the property line. He said, "As I understand this program, a 6 foot wall is going to be put up right adjacent to my wall. What I would like, basically, is to maintain access to the wall. Right now, I have to ask a friendly neighbor just to look at the wall even. But if should need some repairs, I would like some break or something in the wall so I could walk around it with a ladder and a wheelbarrow. I just want access to it, and I'm wondering if there could be some bend or something in that wall so I have better access to it, please."

Daniel Werwath, 1726 Agua Fria Street [previously sworn], said you might remember me as having been nominated to your board, prior to a really exciting bit of publicity. I found it interesting to hear your discussion earlier tonight about qualifications for the board. I declined my nomination because, frankly, so I can do what I'm going to do right now, and speak in favor of a small business owner who is successful, trying to be more successful and compatible with their neighborhood and respond to neighborhood concerns. He said, "I have dealt with lots of PUDs. I've done them. They're big. This isn't a planned unit development, this isn't a threshold. There is adequate development review controls, at the permitting level, at special use level. The idea of subjecting this to a planned unit development is burdensome for a small business center. So I'm just here to say, please consider approving this tonight. I think these guys have shown great good faith in working with neighbors, the community and the City, so I hope you will approve it this evening. Thank you."

Raymond Aranda, President, Aranda Plumbing [previously sworn], said he is directly across the street from his good friend and business owners, Charlotte and Jesus. He has known them since they bought the place 8 years ago. He said he has made it a great success. He said it is a wonderful place to eat. They do have a small problem with the parking. He said he has offered his 8 spaces for their use after work, after 5:00 p.m., and on Saturdays after 1:00 p.m. He said Jesus has taken that opportunity for parking, and he has no problem with it. He said Jesus works 7 days a week, and the restaurant is complementary to this small area. Mr. Aranda said he has been in this location for almost 65 years, and it just complements the area. He said, "The reason he should get approval for the parking lot, is because during the work day, he has to park parallel on the north side and parallel on the south side of Hickox. So that little space off Hickox is just for two cars, so that creates a little problem. So by him getting approval to park his other vehicles, what he's proposing now would just be a great help. It would help the traffic. It would just be wonderful for everyone concerned. Having that at Cortez, where he parks, there's a blind parking spot when you're trying to cross because there are cars. So I highly recommend that you approve this request."

Vicky Romero, 528 on Cortez [previously sworn], read a statement into the record as follows: "Walking on Cortez Street toward Hickox, a person must get off the sidewalk and walk on the street. Restaurant traffic parks on the side of the restaurant overlapping not only on the sidewalk, but also on the street. This is dangerous because it's right on the intersection, plus sidewalks are meant for pedestrians. The problem was discussed at the last meeting. A City employee at this meeting said he would discuss the problem with the restaurant owners, get it corrected and let the restaurant monitor the situation. To date, it is the same situation. There are no compact cars only signs, large vehicles park there and most of the time they are overlapping in to the sidewalk and into the street. On Hickox Street, curbs are painted yellow in front of the restaurant and in front of the triplex. This is ignored by everyone. It is dangerous, because traffic going into Hickox does not have a clear view of oncoming traffic. There are always accidents happening at this intersection. We need bump-outs at this intersection. Our street, Cortez Street, is full of cars parked on both sides of the street. This leaves our street a one-way street. If you enter from the north side, you must wait for the south side to clear to continue. Summer is coming on. The situation is going to get worse. The restaurant is open from 7:00 a.m. to 10:00 p.m., sometimes 11:00 p.m. when the last person leaves. This restaurant is open 7 days a week, 15 to 15 ½ hours a day. People throw their cigarette butts, empty miniature bottle and the like for us all to clean up. If you allow them to rezone commercial, please do not do so until you make Cortez Street resident parking only and also install bumpouts on Hickox Street as you get out of Cortez Street. Please do not sentence us to a lifetime of having to put up with Tune Up restaurant traffic."

Dolores Vigil, Liaison Planning Services [previously sworn], read a letter of support for this application into the record from a neighbor, Keren James, urging the Commission to approve this change [Exhibit "11"]. Please see Exhibit "11" for the text of this letter.

<u>The Public Testimony Portion of the Public Hearing Was Closed</u>

Disclosure: Commissioner Kadlubek said, "Before I have any questions or comments about this, I just want to ask Mr. Shandler. I was employed by the Tune Up Café 5 years ago. I have no association currently. I worked for them for about 6 months, and was just wondering if you would consider that to be a conflict of interest. If so, I would happily recuse myself."

Mr. Shandler said, "Mr. Chair, that doesn't rise to a conflict of interest. You can remain as a voting member."

Commissioner Padilla, speaking to Dolores Vigil, said he is looking at two site plans, one before you on the podium and Exhibit A in our packet. He said Mr. Kelly mentioned there is a problem with the property line and the 6 foot wall that's being proposed. He said Exhibit A of the plan which is in the packet, shows the existing building is right on the property line. He said the plan on the screen right now, shows the building off the property line. The concern was being able to have access to the wall. He asked Ms. Vigil to explain and clarify which one of those is accurate.

Ms. Vigil said, "When we drew up the site plan, we actually had to work off an old survey plat, and we didn't have accurate information. We did have an *[inaudible]* that was done by a surveyor. And he did point out, in his disclosure statement that this was not for development purposes, so we tried to work within our means as best we could. As you know, once the rezoning is approved, we would have to do an official survey. So, for clarification, what we're looking at, is from 'this' corner from the northwest corner of the property to the east, where the neighbors' home actually touches the property. I believe his house is actually on the property line. So what we're proposing to do is to put a 6 foot long, from 'here' to 'here,' leave it open and then another 6 foot long from 'here' to the edge of the sidewalk."

Commissioner Padilla said, "Right now, you see the existing building off the property line."

Ms. Vigil said, "Right, but it is actually on the property line."

Commissioner Padilla said, "Then Mr. Kelly would have access to the south side of his residence which abuts what you are calling the property line."

Ms. Vigil said, "Yes sir. If you would see 'here,' there's a wall that goes along, that's where we assume the property line is. So we just have it on our property, the 6 foot wall, and leave that portion of the wall open so he would be able to access his property."

Commissioner Padilla said, "In reference to the comment from Mr. Aranda. Mr. Aranda had mentioned that there is after hours use of parking in that lot. Approximately how many spaces are in Aranda Plumbing's parking lot.'

Ms. Vigil said, "He said 8."

Mr. Padilla said, "And I guess Mr. Graeser, question, are those parking spaces compensated or are they provided to the Tune Up Café at no cost."

Ms. Vigil said, "No, they have been offered by Mr. Aranda to be used."

Commissioner Kapin asked if the C-2 PUD zoning affect the property value, or have the potential to affect it. She said, "Just to be clear, would a property zoned that way be less valuable than a property just zone C-2."

Mr. Smith said, "I'm not sure I can answer that question reliably. It is possible it would decrease the value to someone who wanted to change this. It's possible it would increase the value to someone who wanted this specific Ordinance that actually guarantee the particular use is permitted on the property."

Commissioner Kapin said, for clarification, you are requesting that there is a consolidation with the already owned C-2 zoned property, and would "that force that one to be rezoned to something that they didn't.... like they didn't purchase it as C-2 PUD zoned property. So you're saying they would have to change that."

Mr. Smith said, "So the C-2 PUD would have to be applied to both properties. If there is not a PUD overlay applied, then the existing Hickox property would simply extend the boundary of the C-2 District to include the new parcel without any overlay district issue being involved."

Chair Harris asked John Romero to speak to the issue of how best to deal with parking and traffic – explain your recommendations.

John Romero, Traffic Engineer, said, "We've dealt with this area in the past, and parking is a problem. So just like everyone explained, because of lack of available parking, people park very close to that intersection and it makes it difficult for people to see when they're exiting Cortez onto Hickox. So we paint the curbs yellow. My understanding is that parking prohibition does get violated. So it's requested that we place all way stops to help prevent the sight distance problem. We haven't recommended it, because it has not met warrants. My opinion is the problem is lack of parking. And the proposed project as presented solves that problem. We receive parking problem complaints on Cortez Street. I think this further does it."

Mr. Romero continued, "Regarding establishing neighborhood parking, the Parking Division currently is working on establishing a policy for that. Because neighborhood parking isn't as simple as placing a sign and having people know who is a neighbor, who is not. Each vehicle has to get a permit, and a lot of times people do not enjoy that added hassle in having to park in front of their house. They're trying to come up with a policy to polls streets to see if that is the consensus of the entire street."

Mr. Romero continued, "Regarding the parking complaint about blocking the sidewalk. As you can see right 'here,' 'this' is where people currently park off Cortez and their vehicles overhang onto the sidewalk. It is one of our conditions that they eliminate those parking spaces. I understand that is on a separate piece of property, than what is being zoned, but to consolidate them, in my opinion, brings that separate property into the fold of this approval. So our recommendation is for them to remove the 3 parkings, and repair the curb and gutter, that way it prevents that parking."

Mr. Romero continued, "The other thing, regarding the delivery trucks, a condition is to have them work with Parking Division to establish a green loading zone, that way it's clear where it is supposed to be. That loading zone can be designated for certain times, so that way patrons of the restaurant can use it during non-loading zone times. So say from 6:00 a.m. to 10:00 a.m., it's a loading zone, after that, it's free parking for anybody. The Parking Division will work with the restaurant owner to try to establish those times that accomplish both parking situations."

Chair Harris asked where would the Loading Zone be. For example, if it was on Hickox in front of the restaurant, that would exacerbate the sight line problems described by some of the neighbors. Do you know where that loading zone likely would be.

Mr. Romero said, "Where they currently load is on the east side of Cortez, but we would go out there and verify that for all those reasons. We would not want to encroach into the existing yellow curbs areas the City has painted, so it would have to be somewhere exclusive of those areas, but obviously with enough room to handle the truck."

Chair Harris said on the east side of Cortez to exit, they would need to travel the distance of Cortez.

Mr. Romero said, "I'm sorry, it'll be on Hickox on the east side of Cortez. We would not put it on Cortez, that's what we're trying to avoid."

Chair Harris said part of the recommendation is the traffic pattern we see with a right turn only exiting onto Cortez. He said reconfiguration of parking spaces is necessary for an entrance and exit onto Hickox. Is that possible.

Mr. Romero said, "I don't know if they have the room. My understanding is what they're trying to do is to address the neighborhood concern that people exiting the restaurant want to use Cortez. In my opinion, that doesn't necessarily happen for people that are parked in there. I think they do experience some restaurant traffic cruising Cortez Street trying to find parking, but I think this is a separate issue. People that are parked in that parking lot, in my opinion, they would go to the most convenient street which would be Hickox. Regardless of what side of town you're going to, Hickox is the most convenient street to use, whether you're going to St. Francis Drive, or on toward Agua Fria or Alameda."

Chair Harris said that pattern still puts traffic on Cortez, right turn only.

Mr. Romero said it is only for a quarter block.

Chair Harris asked, "In your mind, is that preferable to just having an entrance and exit directly onto Hickox. You could pick up some parking space at the end where you turn onto Cortez."

Mr. Romero said, "I would be fine with an exit and entrance."

Chair Harris said you're fine either way, and Mr. Romero said, "Either way."

Mr. Shandler said, "This is to the applicants, but while Mr. Romero is up there. So the Property Management Division has been waiting 3 years for the land swap. So now that you're here, I'd like to know your commitment when that's going to be complete and when you're going to do Mr. Romero's two conditions. Will you give us a timetable."

Mr. Graeser said, "Attorney Shandler, there seems to be a little confusion on who was waiting on who. It's certainly the intention to do that, and the intention currently is to do the entire survey at once, so the survey for the lot consolidation and the land swap at the same time."

Mr. Shandler said, "Can you be a little more specific. A citizen said summer is coming up. Is this going to be resolved. Are you going to do what Mr. Romero wants you to do by the summer time."

Mr. Graeser said the Planner has a better idea on the timing.

Ms. Vigil asked him to repeat that, noting the applicant is here and may want to give you a more definite date as to when that might happen. She said, "I know there are some financial constraints. We're doing development on the property. I would like to say, for the record, that when we first met, I did bring this to his attention, because staff had brought it to my attention and why it's actually part of the condition. And so his intention was to get that done as part of the surveying for consolidation, which makes more sense..... also, I think part of that is that once the rezoning is approved, then they have 30 days to get the consolidation completed. Correct."

Mr. Shandler said, "That's true in the consolidation, but I'm talking about Mr. Rivera getting rid of the 4 parking places, restoring the sidewalk, getting that loading zone. When will we see that."

Jesus Rivera, owner was sworn. Mr. Rivera said, "My intention is to do it at the same time, to start probably with the rezoning."

Mr. Shandler said, "I asked two questions, and one of them was the swapping of the property, you're on City property. The second question though, is when are you going to get rid of those 4 parking spaces and rebuild the sidewalk. When will you do that."

Mr. Rivera said, "Again, when happen the rezoning. Thanks."

Commissioner Padilla said, "On page 13 of 14, in the Conclusion, the second paragraph states: 'Staff supports the proposed rezone subject to the attached DRT Conditions of Approval.' Those conditions include the following, that you stated I believe in your Staff Report. So staff supports the proposed C-2 Rezoning, is what I'm reading in there. Is that correct."

Mr. Smith said, "The conclusion is stated two different ways. On the first page it states that the PUD would be required to enforce compliance with those conditions. As we've discussed, and I believe, that the Applicant has made specific representations about the timing of compliance with those, and what it is to comply with those that have not been in the application materials prior to this point. The staff has more assurances at this point than we have had in the past, and would, no doubt, for the Commission if

they recommend approval of that, the PUD process, staff would still note that it is not clear that we have enforceable deadlines on some of these things, other than the Applicant's statement. But we may defer to the judgment of the Commission and the Council on that issue."

Commissioner Kadlubek said he is new to the process and is trying to figure out the timing of everything. He asked, "Was the applicant, and this is a question for staff, was the Applicant, or was there any point during this application process, that the Applicant could have been made aware of the shift in going to a C-2 PUD, and/or the conditions that you included in here. It seems like a lot of this is sort coming up now, and it seems like this isn't in the best interest of a business that's trying to do what's right for the neighborhood.. That the staff could have sort of led them into a certain direction that could have seen success, and I'm just wondering if there is a chance for that, or if this is the process that this is the moment for that."

Mr. Smith said, "The staff could have done a better job of communicating at the time they finished with the Applicant. They did make the final recommendation available to the Applicant last week. We did have a brief discussion with the Applicant. We advised the Applicant that there are ongoing concerns about the enforcement of the parking and other issues going back to actually to prior to the time that the Council adopted the Resolution about the process. So, specifically, on the PUD, that seemed after various discussions that it might be a very appropriate mechanism to ensure enforcement of ongoing concerns they have been discussing, in fact, ever since the building permit was issued for the kitchen expansion in 2008, there have been ongoing discussions about these issues."

Commissioner Gutierrez said, "Mr. Smith the Building Permit was issued in 2008 to expand the kitchen."

Mr. Smith said, "A Building Permit was issued in 2008 to expand the kitchen. We subsequently discovered that there had in fact been another addition that had not gotten the permit, and that is the one that we're discussion is still pending. Staff issued the permit to expand the kitchen and change the seating arrangement in 2008. That was on the west side of the building. The addition on the north side, had been done prior to that, and staff did not discover that no permit had obtained for that until last year, in 2014."

Commissioner Gutierrez said, "Mr. Graeser and Mr. Rivera, you did mention that you would like to further expand the kitchen that you're working in tight quarters. Is this not possible without the use of the second property, Cortez Street property."

Mr. Graeser referred the question to Dolores Vigil.

Ms. Vigil said, "In 2008, they did apply for a permit for an expansion on the dining area only, and an additional bathroom. The kitchen was not part of the application at the time. If you look at the Site Plan, you'll see that within the C-2 on the east side of the property there is a 15 foot setback. So that's approximately 15 feet, so there would be no expansion to that side of the building. The only expansion that would occur would have to go to the north for the kitchen. And it makes sense, because the kitchen is on that side anyway."

Commissioner Gutierrez said without the zoning, the C-2, expansion of the kitchen won't happen .

Ms. Vigil said, "It wouldn't happen."

Mr. Smith said, "If I could respond to Commissioner Gutierrez. Part of the difficulty in correcting the problem in getting an after the fact permit for the kitchen expansion on the north, was that there is a requirement that there be a 15 foot landscape buffer between the Commercial District and the Residential District. So absent approval of the rezoning and consolidation of the property, there would be setback and property line issues, and there also would be buffer issues that could be resolved only by demolishing that addition, or by getting a variance from the Board of adjustment. And so, rezoning will solve the problem. A variance could solve the problem. Demolition of the addition could solve the problem."

Commissioner Gutierrez asked, "With C-2 PUD, will that restrict expansion of the kitchen."

Mr. Smith said, "Depending on how the C-2 PUD was approved, it could set a specific limit on seating capacity, it could set a specific limit on the footprint. The *[inaudible]* I believe is that a substantial expansion is prohibited without an amendment to the PUD Plan."

Commissioner Villarreal said she knows we're not talking about the kitchen expansion this case. She asked, "If there were into the future, an expansion of the kitchen, wouldn't that compromise what you're proposing now as parking spaces. In the area you're looking at parking, and you want to expand something, how would that look like. Wouldn't that compromise the parking in the future.

Mr. Graeser said, "It would be right in 'here.' It's not part of the parking. We're not talking about anything large. It shows you a picture of that kitchen. There would be some spacing here to put a little something. That's what they would like to do if they could afford it at some point."

Commissioner Villarreal asked Mr. Graeser if there is the possibility of an in/out to Hickox, and asked if he has explored that as an option instead of using Cortez as an exit.

Mr. Graeser said this design was developed in consultation with City staff, to make something acceptable to City staff, and it would be reasonable to try to redesign it if that is a direction.

Commissioner Villarreal asked, "But in your expertise, given the space in the current parking area and going into the new parking area, what is your opinion about that option."

Mr. Graeser said Ms. Vigil has a sketch of something that would work doing that.

Dolores Vigil said, "It's redlined all over the place, but this is one of the site plans we've drawn up and worked out. Really, actually, we were trying to avoid going onto Cortez in the beginning. And after meeting with staff and Traffic Engineer, they recommended we go onto Cortez as a right turn only. We might be able to meet that criteria of going in and out through Hickox. Here's another one which actually shows the parking spaces."

Commissioner Villarreal asked Mr. Rivera's opinion about going in through the current parking lot, going towards the back and what it looks like when people are exiting through the old parking lot.

Ms. Vigil said, "One thing we found out when doing this study is that we'll lose a couple of parking spaces along 'here' because of the width, but we'll end up with maybe two tandem parking spaces on the west side of the existing parking lot."

Commissioner Villarreal said then it would take away existing parking spaces, and asked if that would add to the new parking area.

Ms. Vigil said they may be able to get one more in the back.

Commissioner Villarreal asked what would be the total parking spaces under this scenario.

Ms. Vigil said approximately 12 with one handicapped space, versus 15 originally.

Commissioner Villarreal said she knows the area and is a patron of the restaurant, commenting that Cortez is a difficult street because it's narrow. She said Cortez is an issue and asked John Romero to elaborate on the issue Ms. Romero brought up about the bump-outs and if that is a possibility and what that would look like.

Mr. Romero said he thinks what she is talking about is a bulb-out in the area of "No Parking," that way people can't park there. He said, "On the Hickox, I'm not sure if that would fix what she's talking about parking on both side. We would have to prohibit parking on one side of the street, and in a lot of our older streets in the City, we basically take the stance of 'leave well enough along.' Because they were build back when we didn't know better about wide to build our streets. Back to what Dolores said about staff's direction to do an entrance and/or exit onto Hickox. The kind that she showed, cut off 'here' parking all the way to the end. In addition to having 3 less parkings, if someone can't find parking they have to back all the way out. And in order to avoid that, we would have to get rid of even more to make a turnaround. To me, to get the most bang for our buck and to fix what I really think is the major problem in this area of off street parking, was to allow that access point onto Cortez."

Commissioner Villarreal said that is what she was getting at, but she wanted him to explain that, since we didn't have another option. She noted what he sketched out, is that the area he said is painted yellow in front of the restaurant on Hickox.

Mr. Romero said it might not be that far, and he is unsure of the extent, but it's not to scale.

Commissioner Villarreal said, "I guess in my opinion, because there will be additional parking and Mr. Aranda has generously offered his spaces primarily for evening patrons, the other property I believe functions in the same. They close at 5:00 p.m., and there is additional parking. It's really lunch that's problematic. I think if there is a way to see that this goes with additional parking then consider in the future if there is a need for resident only parking, let's see efforts that are more elaborate than just putting up a sign and saying residents only. The residents have to go through the process of getting permits and it's

not easy, and she thinks people who have lived in other cities realize that's not a fun process."

Commissioner Chavez asked, regarding the recommendation for the C2 PUD zoning, what the concerns of staff are. Is it concerns about enforcement of the current plan and making sure it is enforced as we oversee it, or is it concerns about future use if we expand that property into C-2 and the possible uses for that property might be altered by being expanded.

Mr. Smith said, "In thinking of an answer to the multiple part question. The first part is we are concerned about being able to ensure that the plan being discussed currently will be the plan that is built, and concern if there is not some restriction on the use in the form of PUD or some other way, that there is a potential that, first this plan would occur, and second that other things might occur which would have adverse impacts on the neighborhood, such as significant expansion of the seating capacity of the restaurant, modification or changes to use that could include, hypothetically, tearing down the build and construction of a 2-3 story office or other type of building in its place. As Mr. Graeser pointed out, if you look at the list of possibles in the C-2, there are some that would be more objectionable than a restaurant there, and many that would be less objectionable. The PUD would provide a public hearing process that would ensure a public process before any significant change to the use occurred."

Commissioner Chavez asked if the business maintained the C-2 zoning, for example, what process would be necessary to tear down the building and rebuild.

Mr. Smith said, "If the square footage of the new building was less than 10,000 sq. ft., it would be to update a building permit for most of the uses. Some of the uses, such as a nightclub, would require a special use permit. A mini-office and retail and personal service type uses would not require a special use permit, but there would be no public hearing process whatsoever."

Mr. Smith said, "Just briefly in response to previous questions about the two-way versus the one-way parking, the practical difference might be to allow the increase of one space net. The other practical impact could be to eliminate 10 fee of landscaping between the parking lot or between the parking lot and the property line. The driveway is more narrow on the one way driveway than the driveway that would be required for a two-way driveway."

Chair Harris said earlier Mr. Graeser said he wanted to respond to some of the neighbors comments and asked if he would like to do so now.

Mr. Graeser said, "I think a number of them were addressed. Mr. Kelly is concerned about access to the back of his house, and we certainly can take care of that. And then again, I think the innovative site design with buffering so there wouldn't be a wall, but probably some landscaping there, so he isn't looking at the parking lot. I think that was addressed.

Mr. Graeser continued, "Ms. Romero had three primary concerns. One was not having a sidewalk on Cortez and that's going to be addressed because those parking spots will go away and the sidewalk will be restored there."

Mr. Graeser continued, "To address Attorney Shandler's concern, I talked to my client and this will all be done at the same time, when all the approvals are done, the parking lot gets built. Those parkings spots will be removed, the sidewalk will be built. It will all be done at the same time."

Mr. Graeser continued, "Ms. Romero had a concern about the sidewalk and folks parking on Cortez which is something we're trying to address by adding a number of spots and hopefully making that happen. She had concern about trash, and whether or not that's coming from Tune Up, we can't say, but Jesus did say he will send an employee out on a regular basis to pick up trash on Cortez just as a good neighbor gesture. Those are what I wanted to address. Yes I think that takes care of it unless you have questions."

Chair Harris asked if Ms. Romero would like to speak.

[Ms. Romero's remarks here were for the most part inaudible.] Ms. Romero said something about the bumpouts on Cortez. She said, "Looking west toward St. Anne's Church, same thing, right on that intersection you can't see and I would suggest bumpouts on both sides so that you have a clear view of the traffic coming."

Commissioner Kadlubek said earlier Mr. Romero had said an all-way stop wasn't warranted, and asked what warrants an all-way stop.

Mr. Romero said the primary warrant for it is the amount of side street traffic. The reason for that is that it is as a federal requirement, and secondly, if they didn't use that, they would have stop signs at every single intersection. People would ignore them because there is a lot and because there's not enough side street traffic to "keep them hones," so it ends up creating more crashes than what you try to prevent.

Commissioner Kadlubek asked if pedestrian traffic is considered for all-way stops, or would that be a crosswalk. He said for this property, off-street parking happens on the south side of Cortez and if you're crossing to walk to Tune Up, to him that the most dangerous component.

Mr. Romero said they don't put stop signs for traffic calming, because there is an area on Galisteo at Coronado where they put an all-way stop to slow down traffic, and we were requested to remove it because it was a nuisance. He said, "The City had measured before speeds, and we now measured after speeds and it didn't change them which is consistent with national studies. As far as ease of getting across the street, the way we would measure it is the number of sufficient gaps for pedestrians to cross, and it's a function of how far they have to cross, and we measure gaps in traffic. I would think there would be enough gaps in this area. To put it in perspective, we recently did a gap study on Rodeo Road across from Genoveva Chavez Center, and granted there you only have to cross one direction at a time and there are signals metering it, that one met enough gaps to allow 60 opportunities within an hour for a pedestrian to cross, so I would think this pace would be sufficient.

Commissioner Kadlubek said in looking at the parking table, there is different criteria for parking for a restaurant and a different criteria for an eating and drinking establishment and asked the difference between the two.

Mr. Smith said that language was adopted into the Code at various times starting in 1962, and at this time, the practical answer is nobody knows for sure. In 2008, the staff approved the permit for the *[inaudible]* expansion. We looked at the number of spaces and found that the existing parking lot on the premises met that requirement. There was a period of time before that, when the unwritten policy was to use the higher of the two requirements. He said the Commissioners and staff have said that we need to look at the parking requirements, and that is still true.

Commissioner Padilla said, regarding page 3 of 14, under Item D, paragraph 2, it addresses seating capacity, parking, and the seating capacity is up to 40 inside with up to 19 outside, so a total of 59 patrons. He said the requirement for parking is being calculated on the 1 space per 200 sq. ft. of net usable area. He asked the required parking for this side.

Ms. Wynant said, "This is the crux of the problem. We looked at the number of parking spaces which was 1 for 200, that's the least intense of the calculations. It came out to be about 7 parking spaces, and 1 per 50 was 30 spaces. So really, even with the expansion of the new parking lot, it's not meeting the parking requirement I've calculated by 1 per 50." She said it's not enough parking for everything that's going on there, permitted or unpermitted, and it makes a big difference as to what factors are used. There are minimum standard, and then there is the reality of business doing its day to day operation and you can see the results. There's just not enough parking there."

Commissioner Padilla said right now the Tune Up Café at 1115 Hickox is not compliant, it is basically a non-conforming site and a non-conforming use in terms of parking. He said the rezoning and the addition of 8 parking spaces gives them a total of 15, and even at that point it still would not be in compliance with the required parking. It would alleviate some of the issues, but even with the expansion it would continue to be non-conforming. Correct."

Mr. Smith said, "I would like to say officially in the record, that staff is of the opinion that the parking is legally non-conforming because in fact it was City staff that issued the permit for the current pricing capacity with that number of spaces. Our record does not clearly show whether the employee who issued the parking determined that it was conforming to the standards based on 1 per 200, or whether they give them credit for previous non-conformities, or made some other interpretation. I think it's clear that had we to do it over again, we would have applied the higher parking requirement before we issued the permit."

Chair Harris said we've heard what can be done in C-2, many of which are entirely inappropriate. He said we also heard Mr. Graeser say they would look at some limitations on the uses. He said, "And my question to you, perhaps, Mr. Shandler because I also heard Mr. Smith say that it's unclear how far a commission can go, as an advisory body in terms of limitations on the property. He asked if there is a defensible mechanism, covenants being negotiated to run with the property, if it were to be zoned straight C-2.

Mr. Shandler said, "It's the City Attorney's position that the City is not going to get involved with that. If the private parties want to do that, they can, but the City is not going to put limits on zoning."

Chair Harris said we really would have to accept the parties representations about what they're willing to do. Trust.

Mr. Shandler said, "There was some discussion earlier about there are mechanisms that are in place, and that's why the City Attorney's Office position is that you cannot put limits on zoning."

Chair Harris said he understands, but he is bothered because there seems to be a pattern of improvements and uses, seating area and other things that were conditions that were applied earlier that haven't been met. If it boils down to negotiations between the parties, we have to disregard that pattern in some ways, and asked if Mr. Graeser would like to respond.

Mr. Graeser said he understands the Chair's concerns. He said as parties, we have a full legal right to impose covenants to enter into a contract, and can see a number of different avenues to getting there, with members of the neighborhood who are concerned about some of those uses. They are willing to strike out a whole lot of those uses by covenant or private contract, which isn't something the City can enforce, but "certainly the folks who live in the area who are concerned about it can enforce that."

Mr. Graeser said his point about the case on Hands of America was that by the time they finished the process the parties had developed such trust that no one was requiring a contract. They were just happy with me standing up and saying, "We're not going to put in a kennel here. We make that commitment. They are fine." He isn't suggesting that anyone has to trust them in this case, but he is suggesting they can impose privately negotiated covenants as restrictions on the land.

Chair Harris said the conversations would be with concerned neighbors primarily on Cortez. He asked if there has been discussion with a formal neighborhood association.

Mr. Graeser said, "As far as I know there is no formal neighborhood association. Part of what we're dealing with here are the City staff's concern about potential other future uses, knowing the neighborhood has expressed concerns about potential future other uses, but we're saying we are happy to address them despite that."

Chair Harris said he wants to be sure everyone understands what Mr. Smith said earlier, and we can ask him to reiterate that. He said boils down to a recommend for approval with conditions. He said, "There are some qualifying statements in there that don't clearly come across as recommendations for C-2 PUD."

Mr. Smith said, "I'll see if I can state it even more simply than previously. Essentially the core of the findings to approve the General Plan Amendment and the Rezoning are compatibility with surrounding uses. The Applicant had the opportunity to file an application that would have provided a legally enforceable Development Plan that could only have been changes at a public hearing process. The Applicant chose not to do that. The Commission needs to decide whether, in their judgment, the finding of

compatibility with surrounding land uses can be made for a C-2 rezoning that does not include any enforceable Development Plan or other restriction on how the property would be used in the future, short of simply complying with the Code requirements in effect for C-2 Districts."

Commissioner Gutierrez said, "Two issues, parking and a kitchen, are those your two issues."

Mr. Graeser said, "Those are the two primary issues facing the use of that property, yes. It has a really small kitchen, and that's not what we are here for, but we want to put it out there because that is a concern of something we would like to deal with at some point. Parking is the primary one, buying that lot next door and turning it into a parking lot seemed to be the best way to address that."

Commissioner Gutierrez said, listening to Mr. Smith earlier, "with the PUD you can address the parking and you may be able to address the addition of space for the kitchen. He asked, "How do you guys feel about taking this back and talking with City staff about addressing both those concerns at once."

Mr. Graeser said, "We would disagree with that. We objected during the process for several reasons. The first is it is someone onerous to go back, start over and go through the whole PUD process. The second is it unfairly limits the potential use of the property that is currently zoned C-2, and could be used for a wide range of uses that may be very appropriate for that property, if as I said, this restaurant does not end of being there forever. There are number of other uses allowed in the C-2 Use List that this property could be used for, and it's simply not one thing."

Commissioner Gutierrez said, "Mr. Smith on the second property, if it went PUD, if you guys could work something out, could he keep the zoning on the C-2 zoning in the front."

Mr. Smith said, "I do not think that would practically effective. I had not thought about that. I believe it would not meet the rezoning criteria unless they were consolidated, and consolidation would prevent the two different districts. In other words, one lot could not be zoned partly C-2 PUD and partly C-2, and so. It's an interesting suggestion, although I don't think it would practical in terms of Code compliance, and it layers more obstacles that we can solve."

Commissioned Schackel-Bordegary said, "This has been a neighborhood community building business. I understand the legal zoning issues here. I do not see the value or utility of applying onus zoning onto this to change something in real time that is community. So, I'm in my last few meetings on the Planning Commission, so I'm going out on a limb to say this and I don't ever want to see parking requirements prevent businesses and neighborhoods from having businesses in them. It's the beauty of Santa Fe. We should not separate uses. We should not prevent businesses from conducting themselves if they don't have parking that meets whatever Codes, arcane and otherwise that we have in this. So, I've had it with the Code. And I don't want to see a business not to be able to stay in the neighborhood because of parking or traffic. So get it back guys. Santa Fe developed mixed use, okay. This is my second to the last meeting on the Planning Commission, and I've got leave to go put my daughter to bed. So you guys carry on, you're doing great and that's all I've got to say. We didn't have a lot of neighborhoods serving businesses. I've got no restaurants out on Rodeo Road I can walk to. None. Yucca. Rodeo. None. Subway, maybe. Okay, bye, good night."

Commissioner Schackel-Bordegary departed the meeting

Chair Harris thanked Commissioner Schackel-Bordegary.

Commissioner Chavez said she also thinks she is inclined to trust these business owners, especially given the testimony of the community. She said, "I think they are acting in good faith, and I am inclined to forward with the requirements in the DRT conditions of approval, but to keep the C-2 zoning in that. And how to construct that as a motion."

MOTION: Commissioner Chavez moved, seconded by Commissioner Kadlubek, to recommend approval of Case #2015-330, Tune Up Café General Plan Amendment to the Governing Body, to change the parcel of land from low density to Community Commercial.

VOTE: The motion was approved on the following Roll Call vote [7-0]:

For: Commissioner Villarreal, Commissioner Chavez, Commissioner Gutierrez, Commissioner Kadlubek, Commissioner Kapin, Commissioner Ortiz and Commissioner Padilla.

Absent for the vote: Commissioner Schackel-Bordegary.

5. **CASE #2015-31. TUNE UP CAFÉ REZONING. LIAISON PLANNING SERVICES, INC., AGENT FOR JC RIVERA LLC, REQUESTS REZONING OF 0.13± ACRES OF LAND FROM LOW DENSITY RESIDENTIAL (3-7 DWELLING UNITS PER ACRE) TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 536 CORTEZ. (DONNA WYNANT, CASE MANAGER)**

MOTION: Commissioner Chavez moved, seconded by Commissioner Padilla, to recommend approval of Case #2015-31, Tune Up Café Rezoning, 536 Cortez Street, with all staff conditions of approval set out in the Staff Report and with a clarification by the second "that the conditions of approval are noted on page 13 of the Staff Report [Exhibit "10"] where it states 4 bullet items and the attached DRT conditions."

DISCUSSION: Mr. Smith said, "For the record and for the Recording Secretary, I would qualify that staff conditions of approval are recommended in Section 6 of the Staff Report [Exhibit "10"] on page 13, at the bottom and immediately following pages, Exhibit A, Exhibit E(1) and B(2), include conditions of approval recommended by staff, apart from the PUD."

VOTE: The motion was approved on the following Roll Call vote [7-0]:

For: Commissioner Villarreal, Commissioner Chavez, Commissioner Gutierrez, Commissioner Kadlubek, Commissioner Kapin, Commissioner Ortiz and Commissioner Padilla.

Absent for the vote: Commissioner Schackel-Bordegary.

MATTHEW J. KELLY, M.D.
1114 Hickox
Santa Fe, New Mexico 87501
(505) 982-9961

2015

Date: June 26, 2015

To: Santa Fe City Council

re: Case #2015-30 and Case #2015-31

In the proposed amendment and rezoning, the lot at 536 Cortez St. is to be rezoned from R5 to C2.

My home is the adjacent lot at 534 Cortez St. My house's south adobe wall encroaches onto the lot of 536 Cortez.

There is a proposed 6 foot solid masonry wall to be built between the commercial and residential zones. In the site plan the proposed wall is exactly adjacent to my house's south wall. This possibility would make access to my wall impossible. I spoke at the planning commission meeting in an effort to foreclose this option. The commission was assured that the proposed wall would not be adjacent to my wall, but rather the solid masonry wall would include my adobe wall. My house wall would then be exposed to the risk of being struck by a vehicle in the proposed parking lot. My wall needs protection from this possibility.

My position is:

1. Preservation of my access to the south wall of my house.
2. Protection of the south wall of my house from vehicle damage.

Since a wall and green area are to be established between commercial and residential zones, perhaps the wall should be moved sufficient distance from my adobe wall so as to protect it and maintain access. I am willing to maintain the green zone on my side of the proposed wall.

I spoke recently with Jesus Rivera of the Tune-up. He said he would talk to his lawyer about an easement, but I have heard nothing more about this.

EXHIBIT 6

This proposed rezoning places part of my residence in a commercial zone. If I am not able to maintain reasonable access and protection, then I ask that you deny the request to rezone 536 Cortez St.

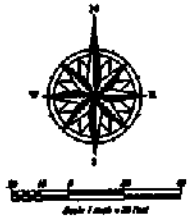
Sincerely,

Matthew J. Kelly MD

LOT CONSOLIDATION
SURVEY PLAT
OF
LOT 12 and LOT 13
JC RIVERA LLC, A New Mexico Limited Liability Corporation
Lying and being situate within Lot 12 and Lot 13, Block 2, of the Agua Fria Addition, Number 1, by the Santa Fe Holding Company, Ward No. 3, City of Santa Fe, State of New Mexico.

LOT 12, Block 2 Area = 0.34 Acres ± - SF.P.C. Number 1-023-000-100-004
LOT 13, Block 2 Area = 0.14 Acres ± - SF.P.C. Number 1-023-000-100-001

TOTAL AREA = 0.48 Acres ±



DOCUMENTS REFERENCED

PLAT: Boundary Survey for Jesse A. Baytos as filed for record in the Office of the Santa Fe County Clerk in Book 652, Page 052, as certified by Philip B. Wagner, NMPS 9768, Dated April 18, 2007.

PLAT: Agua Fria Addition, Number 1 by the Santa Fe Holding Company, Ward Number 3, as filed in the Office of the Santa Fe County Clerk in Book 3, Page 277, as certified by Walter G. Farley, NMPS 94, Dated May 7, 1930.

Warranty Deed: Book 3236, Page 435.

Warranty Deed: Instrument No. 1515451

LEGEND

Bearings are derived from a three hour static observation, applying grid to ground state plane (NAD 83) New Mexico Central Zone Coordinates. Geodetic local position using GPS RTK Topcon Hiper +, (N 87°50'36"E) distances are ground - bearings are grid.

- Monument found number 4 rebar with 5217 cap or "X" in concrete or as noted.
- Monuments set, no. 4 rebar with 10988 cap or mag nail with 10988 aluminum tag in concrete.
- City of Santa Fe aluminum cap found and used as noted.
- "X" Pole
- Overhead utility line with power pole.
- Electric Meter
- Cleanout plug
- Water Meter

SURVEYORS NOTES

Every document of record reviewed and considered as part of this survey is noted hereon. Only those documents noted hereon were supplied to the surveyor or its researcher by Land Surveying Company, L.L.C.

Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence or other facts that an accurate and current abstract may disclose.

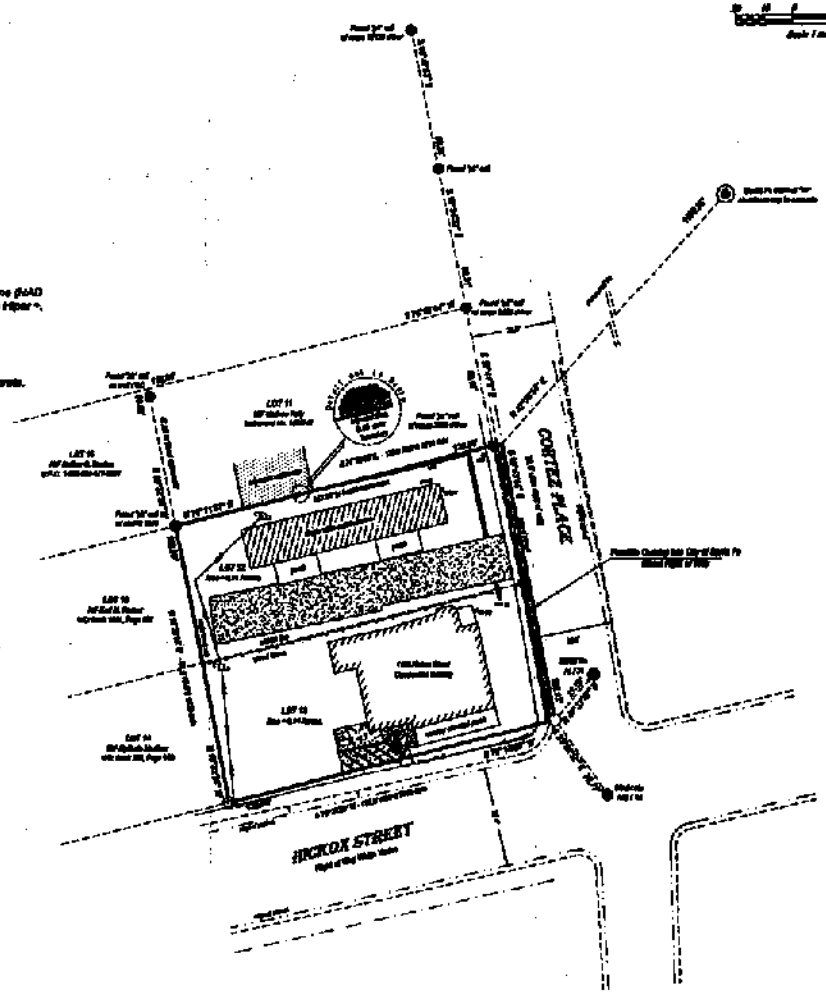
The lands as depicted on this plat hereon are mapped Zone "X" as per FEMA. Sub is an area determined to be outside the 0.2% annual chance floodplain. See FIRM Panel No. 3500460 0418E, effective date December 4, 2012.

STATE OF NEW MEXICO }
COUNTY OF SANTA FE }ss

HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE _____ DAY OF _____
A.D., 20__ AT ____ O'CLOCK ____ M., RECORDED
IN BOOK _____ PAGE _____ AS
DOCUMENT No. _____ IN THE OFFICE
OF THE COUNTY CLERK OF SANTA FE COUNTY, STATE OF
NEW MEXICO.

WITNESS MY HAND AND SEAL OF COUNTY OFFICE
SANTA FE COUNTY
BARBARA SALAZAR

_____
DEPUTY CLERK



OWNERS CONSENT

State of Pursuant to have presents:

The undersigned sole owner and proprietor of Lot 12 and Lot 13 of the Agua Fria Addition do hereby consent to the Filing of this Map as indicated on the plat hereon. This Lot Consolidation has been processed with the survey as to measurements to the values and desires of the undersigned land owners. We hereby dedicate on the plat hereon the public Easements and platting jurisdiction of the City of Santa Fe, State of New Mexico.

_____
JESUS RIVERA, AGENT FOR
JC Rivera, LLC a New Mexico Limited Liability Corporation

STATE OF NEW MEXICO
COUNTY OF SANTA FE

The foregoing instrument was acknowledged before me this _____ day of _____ 20__, by Jesus Rivera.

_____
NOTARY PUBLIC

MY COMMISSION EXPIRES _____

CITY OF SANTA FE REVIEW

_____
CITY OF SANTA FE LAND USE ENGINEER

_____
CITY OF SANTA FE PLANNER

SANTA FE COUNTY TREASURER'S OFFICE

_____

CITY OF SANTA FE NOTES AND CONDITIONS:

1. The property as described in Zone C2 (PLD) Office and Related Commercial Planned Land Use Activity Ordinance No. 2003-49. Refer to Zoning Map Index I-17.
2. Property Development is required to comply with the provisions of such applicable City of Santa Fe Ordinance adopted prior to plat and/or Development Plan Recording with Santa Fe County Clerk as required for a building permit application that modifies any provision of Chapter 12 Development Code, NFCC 3007 and subsequent amendments.
3. Individual owners for platted parcels will be determined at the time of building permit application as required in the Santa Fe Land Development Code.
4. The recording of this Consolidation Plat does not constitute approval by the City of Santa Fe and may, or in any manner hereunto bind other lands private or public.

SURVEYORS CERTIFICATE

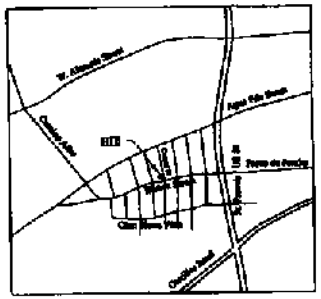
I, Salvador I. Vigil, a Registered New Mexico Professional Surveyor do hereby certify that this Lot Consolidation Survey Plat was prepared from an actual field survey performed by me or under my direct supervision on July 16, 2016. The boundaries as depicted on the plat hereon were established using found monuments and documents of record. This survey is not a Land Division or Subdivision. [illegible] the New Mexico Subdivision Act. This survey meets the minimum standards for surveying [illegible] Mexico Board of Examiners for Professional Surveyors and Engineers.

PRELIMINARY SURVEY FOR REVIEW 7-16-2016
Salvador I. Vigil NMPS 10988 Date

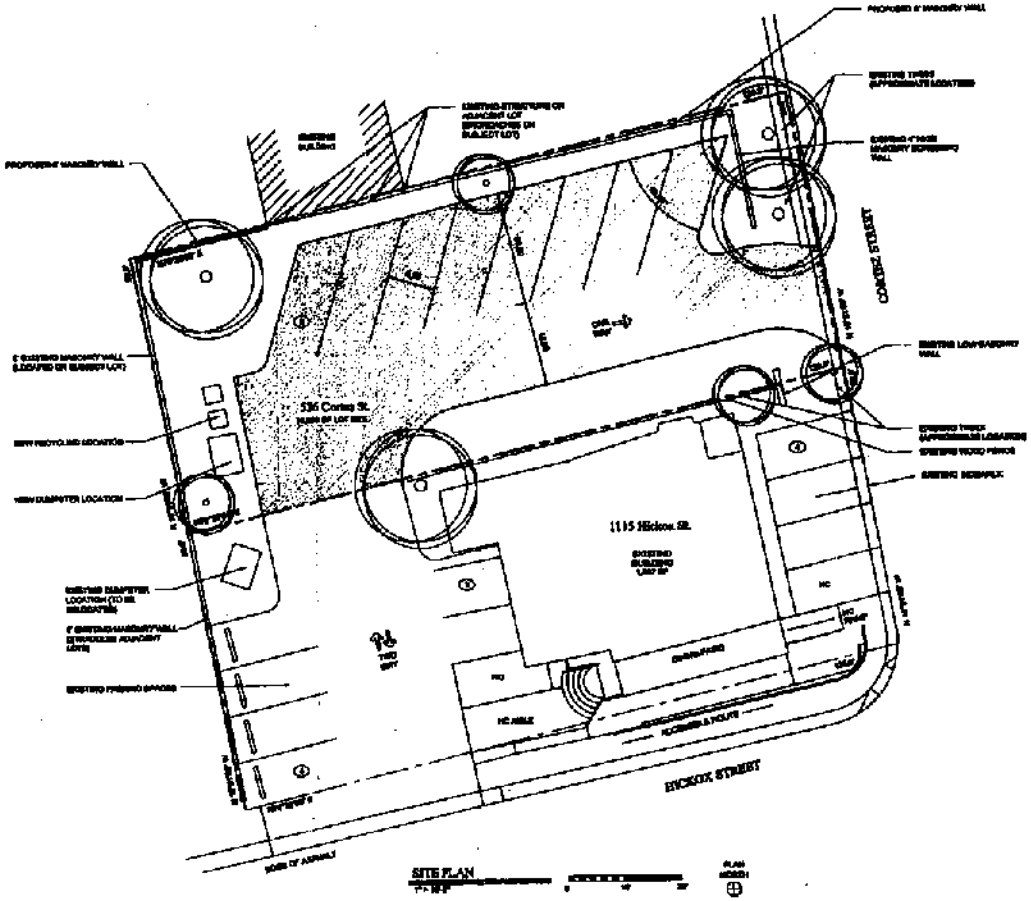
LAND SURVEYING COMPANY, L.L.C.
[illegible] NMSL 10988
P.O. BOX [illegible]
SANTA FE, NEW MEXICO
505-473-0903
Cellular 505-692-1571

PREPARED BY	S.I. Vigil, NMPS	SANTA FE COUNTY CLERK'S SEAL or Comm. Fmt
DATE	JULY 16, 2016	Jesus and Charmel Rivera
PROJECT No.	1-27 SURPLAT	Lot 12 and Lot 13, Block 2, Agua Fria Addition
CHECKED	S.I. Vigil, PLS	408 Hickox Place and 1113 Hickox Street
SHEET No.	One	City of Santa Fe, State of New Mexico

EXHIBIT 14



VICINITY MAP



Liaison Planning Services INC.

Site Plan for

536 Cortez Street

Santa Fe, New Mexico

Preliminary Site Plan (Not for Development Purposes)

Preliminary Site Plan

July 20, 2015

EXHIBIT B

City Council of the City of Santa Fe
200 Lincoln Ave.
Santa Fe, NM 87501

Re: Tune Up Café General Plan Amendment and Rezoning

By this letter I confirm that Tune Up Café has agreed to address the issues expressed in my June 26, 2015 letter to my satisfaction and I support the general plan amendment and rezoning.

Thank you,

Dr. Matthew J. Kelly

Exhibit "5"

APPEAL RE: 600 GALISTEO ST
OPPOSITION TO REZONING ONE LOT

I am opposed because:

1. No notice to the Don Diego NA. Notice for the Planning Commission inadequate. Don Diego NA got notice late. Sign on property down 10/15 days.
2. The application is incomplete or it is the wrong process. The applicants' response was "Not applicable" for all except one question relating to changing the General Plan (6 criteria) or rezoning (6 criteria). The answer to one question was "It was a mistake".
3. It is too late to ask the city to correct what the applicant alleges is a mistake but actually was what the city council agreed to when it installed Paseo de Peralta and instituted zoning (all commercial within Paseo with a few exceptions for existing commercial outside Paseo). This alleged mistake occurred at least 10 yrs ago if not 50 yrs ago and the heirs now want to do something different.
4. It is spot zoning (if you have to change the general plan for one small lot and it only benefits the one lot then it is spot zoning and not allowed). The city's ordinance requires at least 2 acres to change the General Plan. This property is 1/8 of an acre. It is too bad that Kelley Brennan deliberately misrepresented the law to the Planning Commission on this point. See Transcript of Commission meeting Brennan: "I do not believe it is spot zoning." If she does not know the case law on this point, maybe the city needs a different attorney in that position. Exhibit A
5. The city planner (Zach Miller) filled in the application for the applicants. The Planner's job is to review the application and determine if it is complete. He also misstated info including that it was never used as a residence. Eva Ortiz Parker testified under oath that she lived on the property for some time at the Planning Commission meeting.
6. The property has only been assessed at $134,000 until 2015 when it went to $310,000. The Ortizes have tried to sell it for $590.000--now $350.000. Exhibit C County Assessor Property Account Summary.
7. The heirs are not entitled to any set amount under the inheritance or the the highest return. It is a GIFT, not a right. They also were heirs to the $1.2 million in real estate sales in Santa Fe between 2006 and 2010 and to the 500 acres that Ms Ortiz owned in Tesuque—not exactly poor relatives.
8. The city's proposed solution to the parking is not viable. The planner suggests no parking on the westside of the bldg. (2 places) and that the 3 spots on the east side will flip onto Galisteo rather than backing into Paseo. Who will enforce this solution? How will the 3500 sq. ft. bldg have enough parking?
9. The property existed in its current configuration before 1912. Exhibit B
10. The Ortizes bought this property in approximately 1934. Any development is the result of the Ortiz's decisions to overcrowd the lot.
11. The Ortizes did not "lose" land when Paseo was built. Ormand Earp, city engineer, spent years negotiating the sales for Paseo under the city's eminent domain power. The road that became Paseo is wider in that block than in other places. Exhibit C.
12. The Ortizes have contributed to the problems of vandalism and graffiti by not keeping the weeds down, not responding timely to the graffiti on the bldg. and by not taking care of the broken windows. It has been better since the city intervened.

Exhibit "6"

13. Beninato spent 4 yrs selling her property at 604 Galisteo. She too heard it was too noisy, too close to the street, not enough of a yard; not enough parking etc. Her home was classic Santa Fe style and was all infrastructures were renovated.
14. 600 Galisteo could easily be a duplex. It has enough parking and outdoor areas. It may require soundproofing the walls.
15. I own 604 ½ Galisteo St. It borders the southside of 600 Galisteo St.

SUGGESTION: REJECT APPLICATION OR CREATE A Residential Arts and Crafts zone by going back to Las Brisas (commercially zoned—not BCD) and then at least 5 lots wide to make it approx. 2 acres (going toward Cerrillos). You all can figure out the rationale.

Stefanie Beninato

Stefanie Beninato
PO Box 1601
Santa Fe NM 87504

OPPOSITION

Lucy Ortiz Estate Exhibit A Beninato

Bennett v. City Council for Las Cruces, 1999-NMCA-015, 126 N.M. 619, 973 P.2d 871 (1998).
The Rezoning Ordinance Did Not Constitute Impermissible Spot Zoning

{17} Gary Krivokapich and the City challenge the district court's finding that the Council's rezoning of the Parcel from R-3 to C-2c was illegal spot zoning, resulting in the court's finding that the Council's actions were arbitrary, capricious, and erroneous. Our Supreme Court adopted the following definition of spot zoning in City of Albuquerque v. Paradise Hills Special Zoning District Commission, 99 N.M. 630, 632, 661 P.2d 1329, 1331 (1983) (quoting 101A C.J.S. Zoning & Land Planning § 44, at 161 (1979) (footnotes omitted)):

"Spot zoning is an attempt to wrench a single lot from its environment and give it a new rating that disturbs the tenor of the neighborhood, and which affects only the use of a particular piece of property or a small group of adjoining properties and is not related to the general plan for the community as a whole, but is primarily for the private interest of the owner of the property so zoned."

{18} In the leading New Mexico case on spot zoning, Watson v. Town Council of Bernalillo, 111 N.M. 374, 378, 805 P.2d 641, 645 (Ct.App.1991), this Court stated "[s]pot zoning is determined on an ad hoc basis, depending on the facts and circumstances of each case." The Watson Court elaborated on the definition above, stating:

"The term `spot zoning' refers to the rezoning of a small parcel of land to permit a use [that] fails to comply with a comprehensive plan or is inconsistent with the *876 surrounding area, grants a discriminatory benefit to the parcel owner, and/or harms neighboring properties or the community welfare."

Id. (quoting 2 Edward H. Ziegler, Jr., Rathkopf's The Law of Zoning and Planning § 28.01, at 28-1 to 28-2 (Rev.1990)). In Watson, this Court applied this definition of spot zoning to determine whether the Town of Bernalillo's rezoning of newly-annexed property from agricultural and residential use to industrial use constituted spot zoning. We examined: (1) the disharmony with the surrounding area; (2) the size of the area rezoned; and (3) the benefit of the rezoning to the community or the owner of the parcel to determine whether spot zoning occurred. See Watson, 111 N.M. at 378, 805 P.2d at 645. After concluding that these factors did not support a finding of impermissible spot zoning, we also viewed the change in accordance with documents that were found to comprise the comprehensive plan. See id. at 380, 805 P.2d at 647.

{19} In Watson, the facts that the surrounding area was "largely vacant or in agricultural use" and that the property was better "suited for industrial rather than residential use" supported the zoning change. Id. at 378-79, 805 P.2d at 645-46. The large size (sixty-eight acres) of the tract leaned "in favor of a finding against spot zoning." Id. at 378, 805 P.2d at 645. This Court also found that the intent of the rezoning to allow construction of a gypsum plant was "done for the benefit of the community" because it would employ up to eighty-seven people from the local community and would comprise nearly 25% of the town's tax revenues, and because the

company would provide a scholarship program, student summer employment, and develop a park. Id. at 379, 805 P.2d at 646. We stated that examination of these factors led us to conclude that substantial evidence supported the district court's conclusion of no spot zoning. When we examined the rezoning in light of the comprehensive plan, we held that the documents comprising the plan supported the development of local employment opportunities and the use of annexed land and land near Interstate 25 for such a purpose. See id. at 380-81, 805 P.2d at 647-48. We thus concluded that the Town of Bernalillo's rezoning did not constitute spot zoning. See id. at 382, 805 P.2d at 649.

{20} Since spot zoning is dependant upon the facts and circumstances of each case, we examine the above factors as we did in Watson. In accordance with our standard of review, we look at the whole record to determine whether there is substantial evidence to support the Council's zoning change and whether the change constituted impermissible spot zoning. See id. at 376, 805 P.2d at 643. We are mindful that "'[n]o proposition of zoning law is better settled than that a municipality has the right to amend its zoning ordinance where the amendment is reasonable and follows the procedure prescribed by the enabling legislation.'" Id. at 377, 805 P.2d at 644 (quoting 2 E.C. Yokley, Zoning Law and Practice § 11-3, at 93 (4th ed.1978))

Size

{26} The smaller the property being rezoned, the more likely the finding of *878 spot zoning; while the larger the tract, the less inclined courts are to find spot zoning. See Watson, 111 N.M. at 379, 805 P.2d at 646; 1 Anderson's American Law of Zoning, supra, § 5.15, at 412, 414. Size is often the most important factor, but not the only one in determining spot zoning. See Fifteen Fifty N. State Bldg. Corp. v. City of Chicago, 15 Ill.2d 408, 155 N.E.2d 97, 102 (1958) (inconsistent rezoning of small parcels discouraged, but not "every reclassification of a single tract is void ipso facto"). Cases finding impermissive spot zoning have overwhelmingly involved parcels small in size, but many of these cases also involved the rezoning of a residential lot within a uniformly residential neighborhood. See Friedland v. City of Hollywood, 130 So.2d 306, 308 (Fla.Dist.Ct.App. 1961) (rezoning two adjacent lots in residential neighborhood to allow a gas station found to be spot zoning); Hunt v. City of San Antonio, 462 S.W.2d 536, 540 (Tex.1971) (rezoning two adjacent lots spot zoning in residential neighborhood); see also 1 Anderson's American Law of Zoning, supra, § 5.15, at 413 n. 19. In the case on appeal, the relatively small parcel size, 4.2 acres, favors a finding of spot zoning, but is not a conclusive finding of impermissible spot zoning. It is not the rezoning of a single lot in a residential neighborhood. We view the small size of the parcel in conjunction with other existing factors. See Town of Marblehead v. Rosenthal, 316 Mass. 124, 55 N.E.2d 13, 14 (1944) ("The invalidity of `spot [z]oning' depends upon more than the size of the `spot.'"); see also 1 Anderson's American Law of Zoning, supra, § 5.15, at 416-17.

3. Benefit to the Community or the Owner

{27} We next examine whether the rezoning primarily benefits the property owner or the community. Gary Krivokapich presented evidence that the proposed commercial center would create up to forty-two jobs and increase the community's tax base. The Council also recognized that if it approved the rezoning, it would attach additional conditions on development relating

size, height, use, and landscaping that would result in a more attractive commercial center which would be beneficial to the community.

{28} Gary Krivokapich also presented as evidence the result of an informal survey his family conducted of the 225 nearest residences. The survey revealed that a majority of neighbors would prefer a quality commercial development rather than apartments designed for low-income residents or college students, as permitted by the present zoning, and that some neighbors would prefer neither. Opponents of the rezoning stated that the survey was biased and that the City needed upscale apartments which could be developed on that property. Given this evidence, while this zoning change may not benefit the community to the same extent as the change in Watson, the Council could nonetheless reasonably conclude that some benefit would accrue to the surrounding community and not just to the property owners. Cf. Lee v. District of Columbia Zoning Comm'n, 411 A.2d 635, 641 (D.C.1980) (finding that zoning decision is spot zoning if inconsistent with comprehensive plan and benefits only owner of the land as opposed to the general public); Jackson & Perkins Co. v. Martin, 12 N.Y.2d 1082, 240 N.Y.S.2d 29, 190 N.E.2d 422, 422 (1963) (finding that ordinance which solely benefitted mobile home courts to detriment of owners of adjacent land, and adopted not in accordance with comprehensive plan is spot zoning).

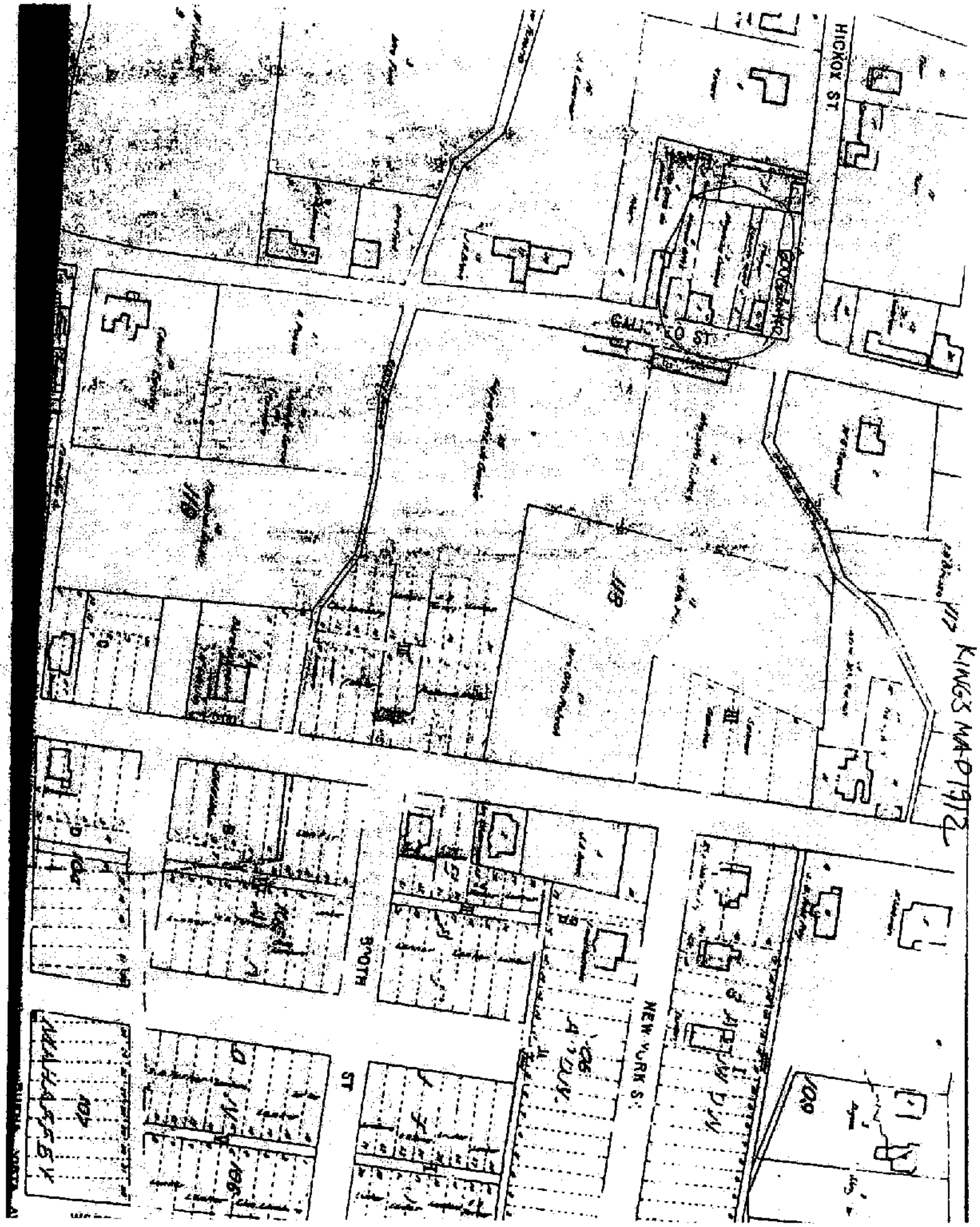
{29} We cannot conclude after examining the above factors that the Council's rezoning of the Parcel from R-3 to C-2c constituted impermissible spot zoning. However, we must also analyze whether the rezoning violates the comprehensive plan, thereby supporting the district court's finding of spot zoning.

B. Comprehensive Plan

{30} As stated above, spot zoning may also occur "if the use fails to comply with the comprehensive plan." Watson, 111 N.M. at 378, 805 P.2d at 645. Conformity with the comprehensive plan is an indication that the intent of the rezoning has potential benefits beyond just the property owner. In examining the rezoning in light of the comprehensive plan, we also are mindful of the above discussion concerning the benefit to *879 the community of the zoning change as an indicator of compliance with the comprehensive plan.

{31} The City adopted a comprehensive plan which encourages a well-balanced array of attractive and convenient commercial uses in Las Cruces. The comprehensive plan discourages "dispersed, leapfrog development," but, at the same time, encourages infill development. City of Las Cruces Comprehensive Plan, Resolution No. 86-096, 2.0, at 6 (Nov. 18, 1985). The comprehensive plan addresses commercial developments, stating that it encourages "planned nodes or centers in all new commercial development and ... discourage[s] further strip commercial development," id. 7.7, at 15, while also stating that in "areas previously planned, where a recognizable transition in use is occurring, ... [t]he City will encourage office, retail and/or mixed use infill development within the downtown area, and south of Boutz Road west of El Pas

OPPOSITION BENINATO Exhibit B



OPPOSITION 600 GALISTEO ST
Bennett

Exhibit C

Property Account Summary

As Of 6/22/2015 Status: Active

Alternate Property Number: 1054098109585000000

Account No.: 11925632

Account Type: REAL

TCA: CI-N

Situs Address: 600 GALISTEO ST
SANTA FE NM 87505

Legal: LOT 1 BLK 92

Parties:

Role	Name & Address
Owner	ORTIZ, LUCY C PO BOX 212 TESUQUE NM 87574
Taxpayer	ORTIZ, LUCY C PO BOX 212 TESUQUE NM 87574

310,100 ASSESSED VALUE ~~JTA~~

Property Values:

Value Name	2015	2014	2013
Net Taxable Value Total (TVR)	$103,365	$44,173	$44,173

↳ 132,000 Approx assessed value

Property Characteristics:

Tax Year	Characteristic	Value
2015	REAL PROP USE CODE	COMMERCIAL
	TOWNSHIP	CI
	INSIDE OUTSIDE	Y
	USE ZONE	NA - N/A
	COMMISSIONER CODE	INSIDE SANTA FE CITY LIM.
	PLAT BOOK PAGE	
	ACRES	0.0000
	ALT ID	LOT 1 BLK 92
	Most Recent Deed	1392/206
	Second Most Recent Deed	338/278
	PROVAL CLASS CODE	4013 - Comm Business Improved

Exemptions:

(End of Report)

City of Santa Fe, New Mexico

memo

DATE: July 8, 2015 for the July 29, 2015 City Council meeting

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

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

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

Case #2015-20. 600 Galisteo Street General Plan Amendment. Eva Parker, Trustee for the Lucy C. Ortiz Estate, requests approval of a General Plan Amendment to amend the existing General Plan Future Land Use designation for a 5,581 square foot lot from Moderate Density Residential to Community Commercial. The property is located at 600 Galisteo Street. (Zach Thomas, Case Manager)

Case #2015-21. 600 Galisteo Rezoning. Eva Parker, Trustee for the Lucy C. Ortiz Estate, requests rezoning of a 5,581 square foot lot from R-21 (Residential – 21 units per acre) to BCD (Business-Capitol District). The property is located at 600 Galisteo Street. (Zach Thomas, Case Manager)

I. RECOMMENDATION

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

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

II. APPLICATION OVERVIEW

Although it is located in a residential zone, the structure on the 600 Galisteo property was neither constructed as a residence, nor has it ever been used for residential purposes. The property housed multiple businesses for approximately 70 years until a year after the frame

shop moved out in the mid-2000s. While not consistent with the residential zoning, the commercially operated property maintained its non-conforming status until the frame shop moved out. Once the structure remained unoccupied for more than one year, the right to reestablish the non-conforming use was lost (SFCC §14-10.2(C)).

The commercial structure has remained vacant for approximately 10 years. As stated by the applicant, they have been unable to sell the building for the limited types of non-residential uses allowed in the R-21 zone, and they believe that conversion to residential use is impractical. Staff would note that the existing building is legally nonconforming with regard to setbacks and several other development standards under the current R-21 zoning, and would also be legally nonconforming with regard to parking and other standards under BCD or C-1 zoning. The applicants, trustees of the estate that owns the property, seek the general plan amendment and rezone in order to sell the property.

While the property is within the R-21 (Residential – 21 units per acre) zoning district, a variety of commercially zoned land (C-1 and BCD) is in close proximity to the property. The BCD zoning district generally follows the boundary of Paseo de Peralta within this area of the City (See Planning Commission Staff Report, Exhibit C2). Only the adjacent BCD zoning district, across Paseo de Peralta, could be requested pursuant to SFCC §14-3.5(C)(2)(b), which requires zoning districts to be at least two acres in size under most circumstances. The property is separated from other C-1 zoned lots by a single parcel to the west.

The owners of the property were originally interested in rezoning to C-1, which would allow a number of low intensity, non-residential uses, including professional offices (See lists of R-21 and C-1 permitted uses, Planning Commission Staff Report, Exhibit D).

Pursuant to SFCC §14-3.5(B)(2)(b) and 14-3.5(C)(2) *the governing body may approve a rezoning to a less intensive zone district than originally requested by the applicant*, namely C-1. The C-1 zoning district permits a variety of lower intensity commercial uses such as art galleries, gift shops and small offices which is consistent with the historic use of the property as a photography studio and frame shop. The Governing Body could approve C-1 if they determined that SFCC §14-4.3(A) and applicable General Plan policies support the use of the C-1 zoning district as a "transitional buffer between more intense commercial use districts and residential districts."

An Early Neighborhood Notification meeting was held on August 19, 2014 at the main library. Fourteen people were in attendance, including the applicants and public. Substantial discussion regarding the rezone occurred. One immediate neighbor was strongly opposed to the rezone. The remainder of the public did not strongly oppose the rezone but rather focused on addressing concerns associated with the rezone (traffic, noise, garbage), while not wanting to prevent use or sale of the property (See Planning Commission Staff Report, Exhibit E).

III. SUMMARY OF PLANNING COMMISSION ACTION

The Planning Commission recommended that the City Council approved the requested General Plan Amendment and Rezone. However, the Planning Commission also recommended that the City Council explore or consider the less-intense C-1 zoning district per SFCC §14-3.5(B)(2)(b) and 14-3.5(C)(2). Neighbors who testified at the commission hearing

also raised concerns about the intensity of development that might occur with commercial zoning.

ATTACHMENTS:

EXHIBIT 1:

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

EXHIBIT 2: Planning Commission Minutes April 2, 2015

EXHIBIT 3: Planning Commission Staff Report Packet April 2, 2015

City of Santa Fe, New Mexico

City Council

Exhibit 1

a) Findings of Fact and Conclusions of Law

ITEM # 15-0322

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

Case #2015-20
600 Galisteo Street General Plan Amendment
Case #2015-21
600 Galisteo Street Rezoning to BCD

Applicant – Eva Parker, Trustee for the Lucy C. Ortiz Estate

THIS MATTER came before the Planning Commission (Commission) for hearing on April 2, 2015 upon the application (Application) of Eva Parker, Trustee for the Lucy C. Ortiz Estate (Applicant).

The property is located at 600 Galisteo Street and includes a 5, 581 SF lot improved with a building (Building) and related improvements on the southwest corner of the intersection of Galisteo Street with the Paseo de Peralta (Property) zoned R-21 (Residential – 21 dwelling units/acre). The Property was developed in the mid-1930s for commercial use and remained a commercial use until the mid-2000s, when it was vacated. It has remained vacant since that time and has a result, has lost its status as a legal nonconforming use and reverted to R-21 zoning.

The Applicant seeks (1) approval of an amendment to the City of Santa Fe General Plan Future Land Use Map (Plan) changing the designation of the Property from Moderate Density Residential (7-9 dwelling units/acre) to Community Commercial and (2) to rezone the Property from R-21 to BCD (Business Capitol District).

After conducting a public hearing and having heard from staff and all interested persons, the Commission hereby FINDS, as follows:

FINDINGS OF FACT

General

1. The Commission heard testimony and took evidence from staff, the Applicant, and members of the public interested in the matter.
2. Santa Fe City Code (Code) §14-3.2(D) sets out certain procedures for amendments to the Plan, including, without limitation, a public hearing by the Commission and recommendation to the Governing Body based upon the criteria set out in Code §14-3.2(E).
3. Code §§14-3.5(B)(1) through (3) set out certain procedures for rezonings, including, without limitation, a public hearing by the Commission and recommendation to the Governing Body based upon the criteria set out in Code §14-3.5(C).
4. Code §14-3.5(B)(2)(b) provides that the Governing Body may approve a rezoning to a less intensive zone than originally requested by an applicant.

5. Code §14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [§14-3.1(E)(1)(a)(i)]; (b) an Early Neighborhood Notification (ENN) meeting [§14-3.1(F)(2)(a)(iii) and (xii)]; and (c) compliance with Code Section 14-3.1(H) notice and public hearing requirements.
6. A pre-application conference was held on July17, 2014.
7. Code §14-3.1(F) establishes procedures for the ENN meeting, including (a) scheduling and notice requirements [Code §14-3.1(F)(4) and (5)]; (b) regulating the timing and conduct of the meeting [Code §14-3.1(F)(5)]; and (c) setting out guidelines to be followed at the ENN meeting [§14-3.1(F)(6)].
8. An ENN meeting was held on the Application on August 19, 2014 at the Main Branch Public Library on Washington Street.
9. Notice of the ENN meeting was properly given.
10. The ENN meeting was attended by the Applicant and City staff; there were fourteen (14) members of the public in attendance, including representatives of the Applicant.
11. Commission staff provided the Commission with a report (Staff Report) evaluating the factors relevant to the Application and recommending approval by the Commission of the proposed Plan amendment and the rezoning, subject to the conditions set forth in the Staff Report (the Conditions).

The General Plan Amendment

12. Code §14-3.2(B)(2)(b) requires the City's official zoning map to conform to the Plan, and requires an amendment to the Plan before a change in land use classification is proposed for a parcel shown on the Plan's land use map.
13. The Commission is authorized under Code §14-2.3(C)(7)(a) to review and make recommendations to the Governing Body regarding proposed amendments to the Plan.
14. The Commission has considered the criteria established by Code §14-3.2(E)(1) and finds the following facts:
    (a) *Consistency with growth projections for the City, economic development goals as set forth in a comprehensive economic development plan for the City, and with existing land use conditions, such as access and availability of infrastructure [§14-3.2(E)(1)(a)].* The Property was developed in the mid-1930s for commercial use and has been utilized for commercial uses continuously since then until vacated in the mid-2000s by its last commercial occupant. It has remained vacant since, reverting after one year to residential-use zoning pursuant to Code § 14-10.2(C). The Property has never been used for residential purposes. Other properties on the south side of the Paseo in close proximity to the Property are developed with a variety of commercial and office uses. The redevelopment and reuse of the Property for office and low-intensity commercial use is consistent with its prior commercial uses as set out in the Staff Report, and with the Plan, which encourages a mix of uses in all new and existing neighborhoods and the protection and conservation of neighborhood character. In accordance with testimony at the Hearing, limited commercial, office and similar low-intensity uses were consistent with the historic character of the neighborhood and were not objectionable to most neighborhood residents. Testimony also indicated that the Property has become a magnet for vandals and vagrants as a result of the approximately ten-year vacancy and is not

generating any economic activity. Water, sanitary sewer, stormwater, electrical, and natural gas utilities are available to serve the Property.

(b) *Consistency with other parts of the Plan [§14-3.2(E)(1)(b)].*
The proposed amendment is consistent with provisions of the Plan that encourage the protection and maintenance of neighborhood character, promote mixed-use neighborhoods and economic diversity and support the location of professional and administrative offices in and near neighborhood centers. The Property's orientation to the Paseo, a major arterial street and its close proximity to a variety of commercial and office uses, together with its historic use for commercial purposes and the small size and nonconforming character of the Building, which mitigates against expansion, as well as other physical constraints on future development, including limited parking, support the proposed amendment.

(c) *The amendment does not: (i) allow uses or a change that is significantly different from or inconsistent with the prevailing use and character of the area; (ii) affect an area of less than two acres, except when adjusting boundaries between districts; or (iii) benefit one of a few landowners at the expense of the surrounding landowners or the general public [§14-3.2(E)(1)(c)].*
Based upon the foregoing and as set forth in the Staff Report, the proposed amendment: will not allow a use or change that is inconsistent with the prevailing uses of the area or with the historic uses of the Property; adjusts boundaries between districts; and will not benefit the Property owner at the expense of the surrounding landowners and the general public.

(d) *An amendment is not required to conform with Code §14-3.2(E)(1)(c) if it promotes the general welfare or has other adequate public advantage of justification [§14-3.2(E)(1)(d)].*
Although the proposed amendment conforms with Code §14-3.2(E)(1)(c), it also promotes the general welfare and is otherwise advantageous to the public, based on testimony at the Hearing, including, without limitation, from representatives for the Don Gaspar Neighborhood Association, the Don Diego Neighborhood Association, and the Neighborhood Network, which indicated substantial support for the use of the Property for an appropriate low-intensity commercial or office use consistent with the Property's historic use and the neighborhood's historic character.

(e) *Compliance with extraterritorial zoning ordinances and extraterritorial plans [§14-3.2(E)(1)(e)].*
This is not applicable.

(f) *Contribution to a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity or the general welfare as well as efficiency and economy in the process of development [§14-3.2(D)(1)(e)].*
The proposed amendment will contribute to a coordinated, adjusted and harmonious development of the City in that it is consistent with the policies of the Plan as set forth in paragraph 14(a)-(d) above and in the Staff Report.

The Rezoning

15. Under Code §14-3.5(A)(1)(d) any person may propose a rezoning (amendment to the zoning map).
16. Code §§14-2.3(C)(7)(c) and 14-3.5(B)(1)(a) provide for the Commission's review of proposed rezonings and recommendations to the Governing Body regarding them.
17. Code §§14-3.5(C) establishes the criteria to be applied by the Commission in its review of proposed rezonings.
18. The Commission has considered the criteria established by Code §§14-3.5(C) and finds, subject to the Conditions, the following facts:
    (a) *One or more of the following conditions exist: (i) there was a mistake in the original zoning; (ii) there has been a change in the surrounding area, altering the character of the neighborhood to such an extent as to justify changing the zoning; or (iii) a different use category is more advantageous to the community, as articulated in the Plan or other adopted City plans [Code §14-3.5(C)(1)(a)].*
    The proposed rezoning is more advantageous to the community for the reasons set forth in the Staff Report and in paragraph 14(a) and (b) above and in testimony at the Hearing, including, without limitation, from representatives for the Don Gaspar Neighborhood Association, the Don Diego Neighborhood Association, and the Neighborhood Network, which indicated substantial support for the use of the Property for an appropriate low-intensity commercial or office use, but opposition to BCD zoning due to concerns that BCD zoning, which permits uses permitted in all other districts of the City, would open the door to BCD zoning on other properties in the neighborhood south of the Paseo, eroding the neighborhood's historic character.
    (b) *All the rezoning requirements of Code Chapter 14 have been met [Code §14-3.5(C)(1)(b)].*
    All the rezoning requirements of Code Chapter 14 have been met.
    (c) *The proposed rezoning is consistent with the applicable policies of the Plan [Section 14-3.5(A)(c)].*
    The proposed rezoning is consistent with the Plan as set forth above and in the Staff Report.
    (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 [Code §14-3.5(C)(1)(d)].*
    The Property is a 5,581 SF lot improved with the Building and related improvements and its use for low-intensity commercial or office is consistent with the uses and character of the area as it has developed and with the historic uses of the Property.
    (e) *The existing and proposed infrastructure, such as the streets system, sewer and water lines, and public facilities, such as fire stations and parks, will be able to accommodate the impacts of the proposed development [Section 14-3.5(C)(e)];*
    Water, sanitary sewer, stormwater, electrical, and natural gas utilities are available to serve the Property.

CONCLUSIONS OF LAW

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

General

1. The proposed Plan amendment and rezoning were properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
2. The ENN meeting complied with the requirements established under the Code.

The General Plan Amendment

3. The Commission has the power and authority at law and under the Code to review the proposed amendment to the Plan and to make recommendations to the Governing Body regarding such amendment.

The Rezoning

4. The Applicant has the right under the Code to propose the rezoning of the Property.
5. The Commission has the power and authority at law and under the Code to review the proposed rezoning of the Property and to make recommendations regarding the proposed rezoning to the Governing Body based upon that review.

WHEREFORE, IT IS ORDERED ON THE 7th OF MAY 2015 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:

1. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends to the Governing Body that it approve the Plan amendment, subject to the Conditions.
2. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends to the Governing Body that it approve the rezoning of the Property to BCD, subject to the Conditions, giving consideration to rezoning to C-1 (Office and Related Commercial) pursuant to its authority under Code §14-3.5(B)(2)(b) to approve a rezoning to a less intensive zone than originally requested by an applicant, subject to the Conditions.

Michael Harris
Chair

Date: 5/7/15

[REMAINING SIGNATURES APPEAR ON FOLLOWING PAGE]

FILED:

Yolanda Y. Vigil
City Clerk

Date: 5/8/15

APPROVED AS TO FORM:

Zachary Shandler
Assistant City Attorney

Date: 5/7/15

City of Santa Fe, New Mexico

City Council

Exhibit 1

b) General Plan Amendment Resolution

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-__

A RESOLUTION

AMENDING THE GENERAL PLAN FUTURE LAND USE CLASSIFICATION FROM MODERATE DENSITY RESIDENTIAL TO COMMUNITY COMMERCIAL FOR PROPERTY COMPRISING AN AREA OF APPROXIMATELY 5,581± SQUARE FEET LOCATED AT THE SOUTHWEST CORNER OF PASEO DE PERALTA AND GALISTEO STREET INTERSECTION AND IDENTIFIED AS LOT 1 BLOCK 115 AS SHOWN ON KING'S OFFICAL MAP OF THE CITY OF SANTA FE, 1912, SANTA FE COUNTY, STATE OF NEW MEXICO. ("600 GALISTEO STREET GENERAL PLAN AMENDMENT", CASE #2015-20).

WHEREAS, the agent for the owner of that certain parcel of land comprising 5,581± square feet located at the southwest corner of Paseo de Peralta and Galisteo Street intersection and identified as Lot 1 Block 115 as shown on King's Official Map of the City of Santa Fe, 1912, Santa Fe County, State of New Mexico (the "Property") has submitted an application to amend the General Plan Future Land Use Map classification of the Property from Moderate Density Residential to Community Commercial; and

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. That the General Plan Future Land Use Map classification for the Property be and hereby is amended to change the designation from Moderate Density Residential to Community Commercial as shown in the General Plan Amendment Map attached hereto as EXHIBIT A and incorporated herein.

PASSED, APPROVED and ADOPTED this __ day of July, 2015.

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

Kelley A. Brennan

KELLEY A. BRENNAN, CITY ATTORNEY

M/Legislation/Resolutions 2015/600 Galisteo GPA

EXHIBIT A
Resolutio. lo. 2015-
600 Galisteo Street

City of Santa Fe, New Mexico

City Council

Exhibit 1

c) Rezoning Bill

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2015-30

AN ORDINANCE

AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SANTA FE; CHANGING THE ZONING CLASSIFICATION FOR PROPERTIES COMPRISING AN AREA OF APPROXIMATELY 5,581± SQUARE FEET LOCATED AT THE SOUTHWEST CORNER OF THE PASEO DE PERALTA AND GALESTEO STREET INTERSECTION AND IDENTIFIED AS LOT 1 BLOCK 115 AS SHOWN ON KING'S OFFICIAL MAP OF THE CITY OF SANTA FE, 1912, SANTA FE COUNTY, STATE OF NEW MEXICO, FROM R-21 (RESIDENTIAL – 21 DWELLING UNITS PER ACRE) TO BCD (BUSINESS-CAPITOL DISTRICT), AND PROVIDING AN EFFECTIVE DATE. ("600 GALISTEO STREET REZONING", CASE #2015-21).

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

Section 1. That certain parcels of land comprising 5,581± square feet (the "Property") located at the southwest corner of the Paseo de Peralta and Galisteo Street intersection and identified as Lot 1 Block 115 as shown on King's Official of the City of Santa Fe, Santa Fe County, State of New Mexico, that is located within the municipal boundaries of the

City of Santa Fe, is restricted to and classified as BCD (Business-Capitol District) as described in the legal description attached hereto [EXHIBIT A] and incorporated herein by reference.

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

Section 3. This rezoning action is approved with and subject to the below condition as may be approved by the Governing Body.

The Traffic Engineering Division shall review and approve all access to the lot. Access to the northeast corner of the property from Paseo de Peralta shall be limited to entering vehicles, with ingress and egress permitted onto Galisteo Street, a one-way northbound street.

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

APPROVED AS TO FORM:

Kelley A. Brennan

KELLEY A. BRENNAN, CITY ATTORNEY

M/Legislation/Bills 2015/2015-30 600 Galisteo_Rezoning

EXHIBIT A

600 Galisteo Legal Description for Bill No. 2015-30

Lot 1 Block 115 as shown on King's Official Map of the City of Santa Fe, 1912, being the lot at the southwest corner of Paseo de Peralta and Galisteo Street in the City and County of Santa Fe, New Mexico.

City of Santa Fe, New Mexico

City Council

Exhibit 2

Planning Commission Minutes April 2, 2015

He asked how that is going to be detailed.

Mr. Siebert said he has an example of that, because he thought that might come up. He provided two photographs [Exhibit "4"]. He said, "In front of you is an example of what this will look like. You have two drawings – one is from a distance and one is close up of what it would look like if you are standing next to the windows. The idea is it is a marketing aspect of storage units and apparently something that is now being used across the United States for more sophisticated storage units. The idea being that people driving by can see exactly what it is. The other thing it does is satisfy the glazing requirement of the Airport overlay." He said it does cast natural light into the space.

Disclosure: Commissioner Gutierrez said before moving forward on the case he wants to disclose "that Mr. Alexis does have another storage facility located on the same road where he operates his business, so they are neighbors and acquaintances, but that is the extent of it."

MOTION: Commissioner Villarreal moved, seconded by Commissioner Bemis, to approve Case #2015-18 Camino de Jacobo Special Use Permit, with all conditions of approval as recommended by staff.

VOTE: The motion was approved on a voice vote, with Commissioners Bemis, Gutierrez, Ortiz, Villarreal and Schackel-Bordegary voting in favor of the motion and no one voting against [5-0].

3. CASE #2015-20. 600 GALISTEO STREET GENERAL PLAN AMENDMENT. EVA PARKER, TRUSTEE FOR THE LUCY C. ORTIZ ESTATE, REQUESTS APPROVAL OF A GENERAL PLAN AMENDMENT TO AMEND THE EXISTING GENERAL PLAN FUTURE LAND USE DESIGNATION FOR A 5,581 SQUARE FOOT LOT FROM MODERATE DENSITY RESIDENTIAL TO COMMUNITY COMMERCIAL. THE PROPERTY IS LOCATED AT 600 GALISTEO STREET. (ZACH THOMAS, CASE MANAGER)

Items F(3) and F(4) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.

A Memorandum, with attachments, prepared March 18, 2015 for the April 2, 2015 meeting, to the Planning Commission, from Zach Thomas, Senior Planner, Current Planning Division, regarding this case is incorporated herewith to these minutes as Exhibit "5."

A color photograph of the subject site, entered for the record by Charles Parker, is incorporated herewith to these minutes as Exhibit "6."

A copy of relevant portions of *Bennett v. City Council for City of Las Cruces*, No. 18478, submitted for the record by Stefanie Beninato, is incorporated herewith to these minutes as Exhibit "7."

A copy of a letter from Peter B. Komis, Don Gaspar Neighborhood Association, submitted for the record by Former Councilor Karen Heldmeyer, is incorporated herewith to these minutes as Exhibit "8."

Mr. Zach Thomas presented the Staff Report in this case. Please see Exhibit "5," for specifics of this presentation.

Public Hearing

Presentation by the Applicant

Charles Parker, husband of Eva Parker, Trustee for the Lucy C. Ortiz Estate, P.O. Box 212, Tesuque, New Mexico was sworn. Mr. Parker said, "The property was purchased in the early to mid 1930s and it was turned into a business and the building was built in the mid-to-late 30's. It had always been a business; it was a grocery store for a long period of time."

Mr. Parker asked if everyone was familiar with 600 Galisteo and what the property looks like. [Exhibit "6"]. He said, "As you will notice from the street view of the property, it has no resemblance for a house. It has a glass front like a store, because that is what it was built for and was used for about seventy years; until the loss of nonconforming status. Everybody involved with the family at present and with the estate had no idea that this nonconforming status existed. Evidently it was done when the original zoning was put in place, for the BCD."

He said if you look at the history of the area that is actually the only business that was there. He said all of the houses that were put into the BCD along Don Gaspar are now businesses where there used to be homes; the one business is now residential.

Mr. Parker said this has caused problems for the family. He said, "Lucy Ortiz was living at our house. She had to sell the house across the street at 526 Galisteo, which was the family home, because we lost her income. The property was handled at that time by a conservatorship company, Dosier State Life Management. They are the ones that allowed it to overlap; they did not do their job."

Mr. Parker said, "Therefore she [Ms. Ortiz] lost roughly $3,000 per month income off of that property; the company prior to that was paying $2,500 a month, so she lost $36,000 a year. He said over 10 years we figure we have lost somewhere between $200,000 and $400,000 on that property, because it was not zoned properly."

Mr. Parker said, "Therefore we're asking that it be corrected at this time and put where it should be; as a C-1or a BCD, and allow the family to sell it and clear the estate out. As it stands now, we have done an appraisal and there is a considerable amount of difference between residential for that property, and commercial."

Mr. Parker asked that the Board please consider correcting the error that was done before their time.

Eva Ortiz Parker, Trustee for the Lucy C. Ortiz Estate, at 06 Rancho de Ortiz in the Village of Rio Medio, P.O. Box 212, Tesuque was sworn. Ms. Parker said she is a fourth or fifth generation... She was born here, her father was born here and her sister is here also tonight. She said she was actually born in that building and so was her sister Angela and they used to live behind the store and the grocery store was in front. She said "in 1945 her father built the house across the street that is now a restaurant and that is where she grew up."

Ms. Parker said, "I have a lot of history with that building. I was born there; I ran a business there at

one time, a photography studio." It breaks my heart that we've been unable to do anything at all with that building." She said her dad was Mayor of Santa Fe between 1948 and 1952 and he was also on the City Council before that for eight years.

Ms. Parker said she would just ask the Commission to please help them; they are at their wits' end and it has cost them heavily.

Chair Harris asked Mr. Parker to step forward also. He asked if Mr. and Ms. Parker understand and accept the conditions that are being proposed by staff.

Mr. and Ms. Parker both said yes. Mr. Parker added that Mr. Thomas has been working with them very closely and has helped them along the way and staff has been very good.

Public Hearing

All those speaking were sworn en masse

Alonzo Lopez, 702 Los Lovatos Road [previously sworn], said "I am a lifelong resident of Santa Fe; paid taxes all my life and I am married to...my sister-in-law is the Trustee Eva Ortiz Parker." Mr. Lopez said he is married to her sister and remembers working at that store "before I got married to Angela and even after." He said it was a vibrant little store, lively; kind of the pulse of the old community of Santa Fe. It was a pretty good experience and was zoned commercial. He said that little grocery store later became of course, Maddies. He said "the family has taken a big loss financially and I don't see why it can't be zoned commercial again." He thanked the Commission for listening to him.

Sally Randall, 901 Alto Street, [previously sworn], said she is a real estate broker here to speak in support of properties that have always been commercial and somehow got zoned residential. She said she represents a property that has been for 200 years a commercial building, that got zoned residential and the owner lost it. She said "I am so happy to see this happening and the consideration of these kinds of properties is before your Commission. Thank you very much for righting the wrong that was done to people who were always commercial and zoned residential; it is a real hardship."

Former Councilor Karen Heldmeyer, 325 E. Berger Street [previously sworn], said she is speaking on behalf of the Don Gaspar Neighborhood Association and Peter Komis, President of the Association. She said Mr. Komis could not be here today because he promised to take his son to see spring training in Arizona, but sends his regards.

Ms. Heldmeyer said, "We all know this is a difficult piece of property." She said she will hit the highpoints of the letter [Exhibit "8"]. She said "we worked with the family over the years to try to get an appropriate use into it. Some uses that they have had in there have been appropriate; some have not."

She said, "When we went to the ENN [Early Neighborhood Notification] way back in May; almost a year ago, we were told by staff that because of the proximity issue the only kind of zoning that they could apply for was BCD. The Neighborhood Association strongly opposes BCD. In fact it was formed over 30

years ago to keep BCD from intruding any further in our neighborhood than it already does. But that doesn't mean that we don't think there aren't appropriate commercial uses for this and that those couldn't be worked out."

Ms. Heidmeyer said what they are requesting is that "the Planning Commission recommend to City Council that they look at more appropriate zoning categories like C-1, like RAC." She said "the only thing they ask, because those weren't discussed at length in the ENN because they kept being told it could only be BCD; that there be a meeting with the neighbors prior to the City Council to consider whatever change in zoning you recommend."

Hubert Van Hecke, 871 Don Diego Neighborhood Association [previously sworn]. Mr. Van Hecke said he recently learned at the ENN meeting about the history of the property and the plans to move forward. He said "clearly this is a parcel that is zoned ...the history is complicated, but it is clearly not a proper parcel for a residence." He said "it has been a small business as they heard before and for all of its history."

Mr. Van Hecke said "It appears that we think that it would be appropriate to have a small business move in there and bring that building to life again. He said the part we worry about...as in Don Gasper; is we are worried about commercial encroachment, in particular BCD. So we are objecting to the BCD request, but we would be amenable to a C-1." He said, "C-1 is a much more gentle zoning type that would reflect the size and use of a building of that type."

Mr. Van Hecke said, "Also this particular meeting came as a little surprise to us, because we thought there would be another meeting with the various parties involved to make sure we are all on the same page. And I think we are moving to be all on the same page. So, our request is for a more gentle zoning and such as C-1, and maybe perhaps another meeting with all parties."

Greg White, 612 Don Canuto, a member of Don Diego Neighborhood Association [previously sworn] said he is here to speak in favor of the zoning to commercial, as the gentleman before him.

Mr. White said he wanted to again state that, "We understand that the General Plan of the City of Santa Fe was written to promote harmonious development and that it is intended to allow for some changes to occur. We think that this is an example of when the General Plan should be looked at."

Mr. White said he thinks also that the ability of this Commission to go forward with a lesser zoning than what has been requested by the applicant, was an excellent example of why a zoning ordinance should work. He said he would just like to put the response in to support a zoning C-1.

Rick Martinez, 725 Mesilla Road, President of Neighborhood Network [previously sworn], said he wanted to work with the neighborhoods that are here. He said he thought the neighborhoods "are speaking well that they are willing to compromise and go with the C-1. He said, "I think the BCD boundary line was set for a reason and I don't think the boundary line should be jumping from one side of the street to the other; except for that whole side there. Leaving it BCD on the other side of the street makes it more appropriate use for that side. The C-1 is appropriate for that house in that part of the neighborhood and so I

agree with the neighborhood and stand by the neighborhood."

Mable Chen, 615 Galisteo [previously sworn], said she has lived in the neighborhood since 1991 and specifically at 615 since 1992. She said she is not totally in favor of C-1 and she couldn't find out exactly what C-1 was. She said, "RAC seems more fitting with the neighborhood; like a framer/arts and crafts type of thing. Her concern is neighborhood creep. She said if you look across the street from Galisteo Street on the same side as Paseo del Peralta, there are 3 units that are basically rental and when the Ortiz grocery store lost its land; these people lost their backyard."

Ms. Chen said, "You do BCD or C-1 it's going to creep over here because properties without yards are not very sellable. She said they will now apply; the place next door is a residential, but as families change, just like with the Ortiz family; that also may start to apply for also C-1, BCD or whichever." She said her concern is "all of a sudden you start creeping down into the neighborhood into C-1."

She said, "Directly adjacent, Max Garcia just died and that property is for sale." She said that is directly on her block and she can see his property from her window. She said her fear is, "If you do C-1, which has a greater range than RAC, eventually over the years, properties will creep. Right behind is also members of the Garcia family and they have a big lot that goes back three or four houses; those are also all rentals, and I can see that creeping as well." Her fear is "if you do a BCD or a C-1; all of that is going to change and all of a sudden you're going to be coming down Galisteo Street and it is not going to be the same anymore."

Christina Lindstrom, 630 Galisteo Street [previously sworn], said she lives 3 houses down and uses Galisteo, which is a one-way street. She said, "In the morning with the congestion coming from the west, east and from the school as well, and they get the buses and the drop off and the children; they have a congested corner." She said she doesn't know how familiar they are with the location...it is difficult for cars when they are entering egress. She said, "You look at the traffic; a traffic study would really tell you what it should be."

Ms. Lindstrom said she didn't even believe that it was only C-1 zoning...the size of the location. She said she sees more accidents between Paseo de Peralta, which is the exit or Galisteo, which is just 25 feet from the traffic light. She said she is recommending if the city were maybe looking at residential, to please make a study and look at this issue very carefully. She said she experiences this issue every morning and every time she drives in and out.

Stefanie Beninato at 604 ½ Galisteo Street [previously sworn] said she owns 604 Galisteo and she is the property directly south of 600 Galisteo Street. She said she has owned the property since '01 and has lived on the property either in one or the other since '04. She said she knows what it is like to have it be commercial.

She said, "First of all I want to say 'point of order'. There was not enough notice. The yellow notice board was down Tuesday night on the 24th and did not go back up until Sunday morning on the 28th and was back down on Sunday afternoon and has remained down." She said she received one notice on the 20th and another notice on the 26th.The Don Diego Neighborhood Association did not get notice until the

23rd, so these are all less than 15-day full notices. I am bringing that to your attention. They have already had the hearing and she thought that people appreciate that they don't have to come back again."

Ms. Beninato said again what the Commission is being asked to do is make an exception based on supposed historic use; or historic use rather than on the law. She said she will focus the Commission more on the law itself and the factors she thought the Commission should consider. She said also "it says you can consider going to a less intensive zoning than what the applicant requested; not what the city requested. The city requested BCD; the applicant requested C-1; so what is less than C-1. I don't know." She said she believes under the law that they can consider not C-1.

She said, "With the city's condition of no egress onto Paseo de Peralta, unless they are intending to acquire her property and having a big circle coming out of there; there is going to be less than three parking spaces. The only parking spaces that will be able to be used are the ones to the east of the building; the ones closest to Galisteo Street. Normally people are pulling in and facing the south. If you have three people already parked there it's going to be hard to not to back out into Paseo in order to get around the other two cars to go out onto Galisteo." She said that condition in itself, makes it virtually impossible to be fulfilled.

Ms. Beninato said, "It's been empty for 10 years. There has been no effort until recently to either sell it or get it rezoned. There has been talk, but nothing really done. For me, the sticking point has always been that there is not enough parking. The fact is that when it was Madalyn's it wasn't her property at the time, but they had vents coming out into 604/604½ Galisteo Street. She said to say it is not intensive use really depends on what commercial use is in there. If you have a photography studio and they have to vent out the chemicals; it is not the most healthy place to have to live next to."

Ms. Beninato said there hasn't been much effort to keep that building up. "There has been graffiti for 2½ years on the building and I don't know why. The City would have been willing to get rid of it." She thought it had to do with owner's permission.

Ms. Beninato said she has had homeless people climbing on her structures to get into the building next door; so "yes, it would be good to get used..." She said it is zoned residential; there are residential spaces to the west; the north..."You cross Paseo in the BCD to the east on W. Santa Fe Avenue and of course on mine and the people south of me."

She said, "It could easily be a duplex and yes, it would require some input, some changes in the structure, but I believe that it could be a duplex." To say that nobody wants to live there is not true. The General Plan does control, but you are changing the General Plan in order to basically do spot zoning. And what you have heard over and over again from the Ortiz's and from even people in the public, is that somehow that one little piece of property should be benefited differently than any other property in that area."

Ms. Beninato said, "The Casados property to the West has been residential since the 1890s; my property has been residential since the 1890s and there was some development on W. Santa Fe Avenue, but later on." She said again, residential was what was going on there and there has been commercial creep in that block from Gomez to Galisteo since she has lived here and she has been here since 1975. She said she knows someone who has been the caretaker at the Eugenie Shenard House when it was still residential and that was post 1975. She said "as for that it is less valuable; yes, residential is less valuable

than commercial. Again the Commission is not supposed to be making changes to the General Plan or to a zoning to benefit one property based on financial that they would like to make more money."

Ms. Beninato pointed out that "they [Ortiz] own 610 Gallisteo Street and it was extremely run down and their ex-in-laws have called them slum lords." She said "they sold that for about a half million dollars in about 2005 or 2006; they then sold the property across the street [Restaurant Martin] later on." She said "she is sure that they sold that for approximately the same amount and knows that they sold 610 for a half million because she looked it up in county records.

Chair Harris said Ms. Beninato's comments were not relevant and asked that she move on.

Ms. Beninato said she would like to talk about spot zoning. She said from her point of view what the Commission has is a very irregular commercial zoning section on the south side of Paseo de Peralta between Gomez and Gallisteo. She said she believes the ordinance, from what the planner said, does not allow to rezone this commercial, because it is not contiguous. Her suggestion, to avoid a legal problem/challenge, because of spot zoning to the General Plan, is that "they decide to take the furthest part south, which is Las Brisas –what used to be Mayflower Storage Company- and go from at least Cerrillos all the way to old Santa Fe Trail and rezone that commercial." She recommended that so that everybody in that area would have the opportunity to have a commercial zoning if they chose; they don't have to. "They could still be residential and taxed as residential." She said, "You would have some, hopefully, rationale for doing that and that is what you need here; a rationale other than benefiting one property and/or even historic use, because it has not been used like that for 10 years."

She said she would read a few things and highlight some of these from a case: *Bennett v. City Council for City of Las Cruces, December, 1998* that has to do with spot zoning. She said, "They wanted to rezone a parcel from R-3 to C2c and the Court of Appeals said: '*our Supreme Court adopted the following definition of spot zoning in the City of Albuquerque v. Paradise Hills*' (she quoted from that 1983 case): '*Spot zoning is an attempt to wrench a single law from its environment and give it a new rating that disturbs the tenor of a neighborhood in which it affects only the use of a particular piece of property, or a small group of adjoining properties and is not related to the general plan for the community as a whole, but is primarily for the private interest of the owner of the property so zoned.*'

Ms. Beninato continued to read: "*This term spot zoning refers to the rezoning of a small parcel of land to permit a use that fails to comply with the comprehensive plan or is inconsistent with the surrounding area, grants a discriminatory benefit to the parcel owner and/or harms neighboring properties or the community welfare. The smaller the property being rezoned, the more likely the finding of spot zoning, while the larger tract, the less inclined the courts are defined.*" She said when they are talking about less in size, 68 acres is a good size; four acres might be too small and that is in a range of cases that are cited in the Bennett case. She said, "Size is often the most important factor, but not the only one. Rezoning of a small lot in a residential area is generally considered spot zoning."

She said in another case cited in the Bennett case: *Lee v. District of Columbia*, a district court case- she read: "*zoning decision is spot zoning if inconsistent with the comprehensive plan and benefits only the owner of the land as opposed to the general public. Finding that ordinance that solely benefited mobile home courts to the detriment of owners of an adjacent land, and adopted not in accordance with the general plan, is spot zoning. Conformity with the comprehensive plan is an indication that the intent of the rezoning has potential benefits beyond just the property owner.*"

Ms. Beninato said her problem here is that the Commission is being asked to change the General Plan specifically so they can rezone this. She said, "You need a rationale for changing the General Plan and needs to be a larger change than just for this one lot. As the owner of the next lot; when it was Gold Leaf Framers, people were pulling onto my property all the time wanting to park there even after I would tell them it was not Gold Leaf Framer's parking. I would get trash in my yard because there was a dumpster on the west side and they were not taking trash out in plastic bags and would leave the top open; there were often lights and machinery running at night that were disturbing since there is a zero lot line in that area." She said her property could also be zoned commercial and it would be so much easier for her to sell her property than as a residence. She said again, there could be a little gallery in her front house and she could've sold her house, which she has been trying to do, for five times over. She said "to listen to that rationale doesn't really...who are you going to benefit? You need to benefit the community."

Ms. Beninato said she would ask again that the Commission postpone this and look at actually changing the General Plan in this area to a larger area to have rationale for making the change, not to just benefit one piece of property; one very small and inadequately sized property for commercial use. Exhibit "7".

Georgette Romero, a broker with Santa Fe Properties [previously sworn], said Eva Ortiz and Chuck Parker asked her to list their property about four months ago. She told them that she could not because there is too much indecision of what the property could be used for. She said she has encouraged them to do this process to see if they can come to some kind of agreement with everyone, in terms of usage. She said the property has been listed on and off for about 4 years, initially with Barker and then with Keller Williams.

Ms. Romero said that someone indicated that it could be sold residential. She said that has been the focus to sell it residential. She talked to the last two brokers who had the property and they have had no interest in anyone wanting to buy the property for residential usage. She said the configuration to the property to date is because the City of Santa Fe widened Paseo de Peralta, leaving this remnant property. She said since she was approached by Eva and Chuck to list the property; although she has not listed the property she has sought buyers for the property. She has found two who have made written offers. She said one would like to use the property for an antique business where clientele comes by appointment only. The other business that would like to buy the property is a gallery on Canyon Road and they would use it for art storage. She said, "They have not been able to move forward because of zoning and they can't...no one wants to get into good negotiations contingent upon a zoning change."

Ms. Romero said someone made the comment about language such as 'slum lords and the family having come into $1 million', but what is not taken into account is there are many heirs in this family; not just Eva and her sisters. She said because they have been unable to sell the property, it has fallen into disrepair and the care of the property has fallen on the Parkers. They do not have the wherewithal to continue to carry this. She said her concern is a couple of things; vandalism to the property. She is most concerned about arson to the property. She has been by there every night and has seen homeless people at the back of the property that are camped out. She said that given the proximity of other homes to this property, she thought vandalism and arson should be a concern for everybody. She thought "if something were to happen to the property, there is a possibility that it definitely could affect the other properties due to proximity."

Ms. Romero thought it would definitely increase the salability of the properties nearby. She thought when the Paseo de Peralta was widened by the City, consideration should have been given to the family at that time for rezoning. Ms. Romero said because the property has fallen into disrepair, it now merits a much lesser value. She said regarding parking there is an area to the west of the building where people working there could park. There is room for 2-3 cars if parked in tandem; and in front of the building she is sure there is room for 3 cars. She said the businesses she has described do not have the usage.

Ms. Romero said this is affecting all of us because it is not pretty to look at. She said she thought the laws are important to everyone, but when it comes down to hurting people, she thought the laws are not doing anyone any good.

The Public Testimony Portion of the Public Hearing was closed

Commissioner Schackel-Bordegary asked Ms. Brennan if the opinion of the city is this seems to be a spot zoning action.

Ms. Brennan said no, she does not believe so.

Commissioner Villarreal asked if staff could explain to the Commission and to the public, the options for zoning. She said first staff recommended BCD, but that was coming from the applicant; or staff's recommendation initially. She asked how the conversation went to C-1 and if there is any other zoning possibilities. She said she is wondering about MU and RAC that people brought up and if staff could elaborate on that.

Mr. Thomas said yes. The applicant per the requirements of the Code, requested BCD. It is the only other contiguous zoning district other than R-21, which they are in, to that parcel. He said C-1 is in close proximity, however is separated by a single parcel. He said, "In early conversations with the applicant we suggested getting other neighbors involved, in essence going the C-1 route. That zoning district seems to adequately serve what they were interested in doing; low intensity, commercial activity such as gallery, etc." He said the adjacent neighborhood was not interested.

He said ultimately it was a request to be rezoned to BCD. Staff recommends approval of that, however per the section of the Code that also allows the Governing Body to rezone to a lesser intensive use such as the nearby C-1. He said staff is also in support of that. That is where that comes from.

Mr. Thomas said in regard to the question of RAC, that district is very similar to C-1.It is mainly the Canyon Road area and does allow restaurants and art galleries. This almost identical, in fact is marginally more per the use table; potentially more intensive depending on the type of business, or less intensive. They are very similar. But RAC is not in this area, which is why they did not have that discussion; it was focused more around the C-1.

Commissioner Villarreal asked if this were to be rezoned, it goes on to whatever recommendation staff gives to the City Council. She was told that is correct. She asked if they decide on the type of use for the rezoning, whether this would come back to the Commission for development plan. She asked Mr. Thomas to explain the process of what happens next.

Mr. Thomas said if it were to be rezoned to hypothetically BCD or C-1, any use that is allowed in that district would be in theory allowed on this property. Mr. Thomas said there will be no further discretionary hearing once it has the zoning. Basically it would be treated at business license or, if modifications are done to the building, perhaps the building permits, etc. The discretionary hearing is at rezone stage and any use allowed within that zoning district would be allowed.

Commissioner Villarreal asked if that would include staff looking at parking and if that would be at the building permit stage. Mr. Thompson agreed.

Chair Harris said looking at the list of permitted uses for instance for C-1, and thinking about the parking requirements for any number of these uses; it seems like there are so many restraints with parking or landscape requirements, etc. He asked if any thought had been given as to what might be acceptable for a C-1 designation.

Mr. Thomas said there was discussion of that early in the process. It focuses around the recent historic use of the property, which was frame shops, low intensity specialty shops like arts and crafts, etc. There are constraints on the property. It is an existing non-conforming structure and that would continue to be the case. It lost its non-conforming status from the use perspective, but it is a nonconforming structure as it exists today. Chair Harris is correct that any future use that potentially could go in would likely be constrained by parking and things like that.

Chair Harris asked, with the permitted uses, if a variance would be required to the city standards and if so, how that is handled. He assumes that would not come back to the Planning Commission since they are not looking at a development plan.

Mr. Thomas agreed. There are no proposed changes to the structure. Perhaps a variance may come to the Commission, but whether it would be recommended is hard to know without looking at the specifics and what is available on the site and the type of use that would go in. As indicated in the Staff Report with the one condition of approval; traffic engineering did review this to ensure there was a lesser impact at least on Paseo, trying to direct traffic more toward the Galisteo one-way exit and entrance.

Chair Harris asked Mr. Parker to come forward. He said to Mr. Parker, having heard the testimony from various people, he would like to hear from him. The Commission knows why this application, after the General Plan amendment and then the rezoning, is to go from R-21 to BCD. He asked if it would be acceptable to Mr. Parker and his group to go to C-1, a less intensive use.

Mr. Parker said yes. The only way they could get in front of the Planning Commission was to go BCD. He said they talked to the Casados next door several times and asked if they would like to join them and change their property to C-1; which would adjoin Margo Cutler, realtor, next to them. He said they would have had a continuous C-1. He said they even offered to pay the Casados' difference in taxes for the next 5 to 10 years to entice them and show them their property would be worth more. He said they were dead set against it and wants their children to inherit it as a residence and nothing more.

Mr. Parker said they tried to go the other routes, but BCD was the only thing they had left. He said they would be willing to consider anything less; it is just not a house.

Chair Harris asked if Mr. Parker would be willing to follow up with the Don Diego Neighborhood

Association and the other associations who spoke, basically on Mr. Parker's behalf.

Mr. Parker said yes. "We don't want to disrupt the neighborhood; we want a business there; maybe a lawyer, because the new courthouse is not too far away; someone who deals with appointments only, because there is limited space parking. They can schedule the people who are coming in and won't have to worry about parking." He said there is parking down Galisteo to the north that is a state lot.

Mr. Parker said they are willing to work with anyone they need to. He said they have to clear this estate out for the family. There are six families involved. He said they just got it through court about four years ago and have repeatedly listed it. He said he started with what they recommended and kept dropping the price, because nobody is interested in it, especially as a house. They have had one of the real estate agents draw up a plan for a duplex but the cost of doing that... "The estate has no money right now. We have had to loan money from our personal accounts at this time."

Commissioner Villarreal said the way it is zoned now is *moderate density residential*. She asked staff, if the zoning stays as it is now, how many housing units if for some reason that could be raised, could actually be put on that property.

Mr. Thomas said a quick calculation is probably one. It is zoned R-21, but it is a very small lot. He said it is basically a function of the density calculation and meeting the other development standards; so, without a site plan; conservatively he would say one, maybe 2 houses.

Mr. Parker said if they were to tear that building down; they could have a building approximately 15 feet wide and 50 feet long, because of the setbacks. He said they go up to the curb now and they wouldn't be able to do that if that building was demolished.

Commissioner Gutierrez said on the RAC zoning; they received a letter from the Don Gaspar Neighborhood Association that they would like to see that as opposed to the other zoning. Staff said it is really similar to C-1 and Mr. Romero mentioned two possible uses for the property, for art storage and antiques by appointment. He asked if those fit into both of those zonings.

Mr. Thomas said looking through the Land Use Table, quickly, generally, yes. He gave an example of a small scale studio or a gallery as permissible in both zonings. However, something more straight retail such as an art supply store would actually be permitted in RAC and not C-1. He said going back to what he explained earlier, generally something like a lawyer or a small boutique, specialty, like a gallery is really what C-1 is for. He said RAC is more like a Canyon Road situation where there is a more density of arts and crafts retail stores mixed in with restaurants, cafes, coffee shops, etc. Generally they were looking for a small office or small gallery that fits in better with C-1, as well as that there is C-1 in very close proximity.

Ms. Baer said she did a quick calculation and 2 dwelling units would fit on that property.

MOTION: Commissioner Schackel-Bordegary moved, seconded by Commissioner Villarreal for purposes of discussion, to recommend approval to the City Council, of Case #2015-20 600 Galisteo Street General Plan Amendment, with all conditions of approval as recommended by staff.

AMENDMENT: Commissioner Villarreal said she would like a friendly amendment to the Governing Body

to consider and further discuss the possibility for C-1 zoning, since staff recommends zoning BCD.

Ms. Baer explained the Commission's recommendation would be to approve the case, but to consider the lower intensity zoning of C-1.

Commissioner Schackel-Bordegary accepted the amendment as friendly to the maker.

Chair Harris pointed out they are really focusing on an amendment to the General Plan.

Ms. Baer said in that case, rather than community commercial, the C-1 designation would be 'office as a land use. She said in this case your recommendation to the governing body would be to recommend approval of the change in the land use designation and that they consider rather than community commercial, the office land use designation.

FRIENDLY AMENDMENT: Commissioner Villarreal said she would like to amend the motion to recommend that the governing body consider office land designation.

THE AMENDMENT WAS FRIENDLY TO THE MAKER, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMISSION.

Chair Harris stated the motion is to recommend to change the future land use designation from moderate density residential to office. He asked for a roll call vote.

VOTE: The motion, as amended, was approved on a voice vote, with Commissioners Bemis, Gutierrez, Ortiz, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0]

4. CASE #2015-21. 600 GALISTEO STREET REZONE. EVA PARKER, TRUSTEE FOR THE LUCY C. ORTIZ ESTATE, REQUESTS REZONING OF A 5,581 SQUARE FOOT LOT FROM R-21 (RESIDENTIAL – 21 UNITS PER ACRE) TO BCD (BUSINESS-CAPITOL DISTRICT). THE PROPERTY IS LOCATED AT 600 GALISTEO STREET. (ZACH THOMAS, CASE MANAGER.

MOTION: Commissioner Schackel-Bordegary moved, seconded by Commissioner Villarreal, to recommend to the Governing Body approval of Case #2015-21, 600 Galisteo Street Rezoning of the parcel to BCD per the Staff Report recommendation with consideration given to the lesser zoning.

DISCUSSION: Commissioner Villarreal said she wanted to remind them that in our historic neighborhoods the mixed uses like this, where residential is among businesses, are the norm and things change over time. She said unfortunately zoning does not capture historical use and it gets complex. She said she wants to add that because before people moved into the area it was a mixed use neighborhood and that was how it was done historically. She said she would like the ability to use mixed use zoning in the area, but as it stands they have limited options because of the widening of the roads and the particularities of this particular property.

VOTE: The motion, as amended, was approved on a voice vote, with Commissioners Bemis, Gutierrez, Ortiz, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0].

****

MOTION: Commissioner Villarreal moved, seconded by Commissioner Gutierrez, to recess the meeting from 5:50 p.m. to 6:15 p.m.

VOTE: The motion, as amended, was approved on a voice vote, with Commissioners Bemis, Gutierrez, Ortiz, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0]

The Planning Commission was in recess from 5:50 p.m. to 6:20 p.m.

Chair Harris called the Planning Commission back into session and before starting on the next three cases remaining all associated with the proposed development on Old Pecos Trail, he wanted to be sure that everyone understands that during the dinner break the Commissioners did not discuss any business before the Commission.

Chair Harris said as he announced on the previous case, there are three cases associated with the proposed development at 1615 Old Pecos Trail: a Lot Split, a Special Use Permit and a Development Plan.

****

Following the recess, the Planning Commission resumed consideration of the Agenda, as approved

5. CASE #2015-14. 1615 OLD PECOS TRAIL LOT SPLIT. MONTOYA LAND USE CONSULTING, INC., AGENT FOR THE BENEVOLENT AND PROTECTIVE ORDER OF THE ELKS, LODGE NO. 460,M REQUEST PLAT APPROVAL TO DIVIDE APPROXIMATELY 8.62± ACRES INTO TWO LOTS (B-1 ± 3.85 ACRES AND B-2 ± 4.77 ACRES). THE PROPERTY IS ZONED R-1 (RESIDENTIAL – 1 DWELLING UNIT PER ACRE). (DAN ESQUIBEL, CASE MANAGER)

Case #F(5), F(6), and F(7) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.

A Memorandum, with attachments, prepared March 23, 2015, for the April 2, 2015 Planning Commission meeting, to the Planning Commission, from Daniel A. Esquibel, Land Use Planner Senior, Current Planning Division, regarding this case is incorporated herewith to these minutes as Exhibit "9."

A Memorandum dated April 2, 2015, with attachments, to the Planning Commission, from Current Planning Division regarding Additional Information in Case #2015-14, 1615 Old Pecos Trail Lot Split; Case #2015-15, 1615 Old Pecos Trail Special Use Permit; and Case #2015-16, Old Pecos Trail Development Plan, is incorporated herewith to these minutes as Exhibit "10."

A bound packet of information dated April 2, 2015, to the Planning Commission, with support letters and petitions containing 575 plus signatures from Santa Feans who support the proposed

City of Santa Fe, New Mexico

City Council

Exhibit 3

Planning Commission Staff Report April 2, 2015

City of Santa Fe, New Mexico

memo

DATE: March 18, 2015 for the April 2, 2015 meeting

TO: Planning Commission

VIA: Lisa Martinez, Director, Land Use Department
Tamara Baer, RLA, Manager, Current Planning Division

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

Case #2015-20. 600 Galisteo Street General Plan Amendment. Eva Parker, Trustee for the Lucy C. Ortiz Estate, requests approval of a General Plan Amendment to amend the existing General Plan Future Land Use designation for a 5,581 square foot lot from Moderate Density Residential to Community Commercial. The property is located at 600 Galisteo Street. (Zach Thomas, Case Manager)

Case #2015-21. 600 Galisteo Street Rezoning. Eva Parker, Trustee for the Lucy C. Ortiz Estate, requests rezoning of a 5,581 square foot lot from R-21 (Residential – 21 units per acre) to BCD (Business-Capitol District). The property is located at 600 Galisteo Street. (Zach Thomas, Case Manager)

Cases #2015-20 and #2015-21 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.

RECOMMENDATION

The Land Use Department recommends **APPROVAL** of the General Plan Amendment and Rezoning subject to the conditions as outlined in this report. No specific development is proposed as part of these applications. The request will proceed to the City Council for final decision on the General Plan Amendment and Rezoning.

I. APPLICATION SUMMARY

The 5,581 square foot parcel is a remnant from a larger parcel that was split for right-of-way acquisition when Paseo de Peralta was created. The existing commercial structure on the parcel was first developed in the 1930s as a neighborhood market that later evolved into a local grocery store. After the grocery store closed, the following businesses occupied the structure:

Madalyns Photography, Eva's de Santa Fe Photography, The Photography Studio, a Rug Store and the Gold Leaf Frame Shop. The frame shop closed about 10 years ago and the building has been vacant since that time.

The applicant requests a General Plan Amendment from Moderate Density Residential to Community Commercial and a Rezoning from R-21 (Residential – 21 units per acre) to BCD (Business Capitol District) to allow the continuation of historic commercial use of the property.

II. DISCUSSION AND ANALYSIS

The structure on the 600 Galisteo property was neither constructed as a residence, nor has it ever been used for residential purposes. The property housed multiple businesses for approximately 70 years until a year after the frame shop moved out in the mid-2000s. While not consistent with the residential zoning, the commercially operated property maintained its non-conforming status until the frame shop moved out. Once the structure remained unoccupied for more than one year, the right to reestablish the non-conforming use was lost (SFCC §14-10.2(C)). As such, the commercial structure has remained vacant for approximately 10 years.

The applicants, trustees of the estate that owns the property, seek the General Plan Amendment and Rezone in order to sell the property. As stated by the applicant, it is not possible to lease or sell the commercial building, as the residential zoning prohibits operations of commercial uses (i.e. art galleries, photo studios).

While the property is within the R-21 (Residential – 21 units per acre) zoning district, a variety of commercially zoned land (C-1 and BCD) is in close proximity to the property. The small size of the parcel (less than 2 acres), means that only the adjacent BCD zoning district, across Paseo de Peralta, could be requested pursuant to SFCC §14-3.5(C)(2)(b). The BCD zoning district generally follows the boundary of Paseo de Peralta within this area of the City (See Exhibit C2).

The owners of the property were originally interested in rezoning to C-1, which would allow a number of low intensity, non-residential uses, including professional offices (See lists of R-21 and C-1 permitted uses, Exhibit D). Zoning districts are deemed to extend to the centerline of adjacent roadways, in this case, Paseo de Peralta, and therefore other than R-21 this parcel is only adjacent to BCD, which is across the street to the north. The applicant's ancestors, including former City of Santa Fe Mayor Frank Ortiz, owned a larger tract of land that encompassed the subject parcel, the right-of-way that is now part of Paseo de Peralta, and tract of land that is now Restaurant Martin at 526 Galisteo Street. The latter was the family's residence when the market was operated at 600 Galisteo.

The applicant was unable to request the C-1 (Office and Related Commercial) zoning district because the property is less than 2 acres and is separated from other C-1 zoned lots by a single parcel to the north.

Pursuant to SFCC §14-3.5(B)(2)(b) *the governing body may approve a rezoning to a less intensive zone district than originally requested by the applicant,* namely C-1. The C-1 zoning district permits a variety of lower intensity commercial uses such as art galleries, gifts shops

and small offices which is consistent with the historic use of the property as a photography studio and frame shops.

Given the boundary of BCD along Paseo de Peralta, the Land Use Department and the Traffic Engineering Division (See Exhibit B1) support rezoning to C-1 (Office and Related Commercial).

An Early Neighborhood Notification meeting was held on August 19, 2014 at the main library. Fourteen people were in attendance, including the applicants and public. Substantial discussion regarding the rezone occurred. One immediate neighbor was strongly opposed to the rezone. The remainder of the public did not strongly oppose the rezone but rather focused on addressing concerns associated with the rezone (traffic, noise, garbage), while not wanting to prevent use or sale of the property (See Exhibit E).

II. GENERAL PLAN AMENDMENT

The subject property's current land use designation is Moderate Density Residential as shown on the Future Land Use Map (See Exhibit C1). The applicant requests the Community Commercial designation to allow for BCD (Business Capitol District) zoning. Section 14-3.2(E)(1) sets out the following General Plan Amendment criteria for approval:

(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: The applicant stated that the criterion is not applicable.

Staff Response: The property has historically been occupied with commercial uses and is developed with a commercial structure. The Future Land Use designation and accompanying zoning prevent current commercial use of the building. As such, the building remains vacant and is not generating economic activity. All necessary infrastructure is currently in place and the requested General Plan Amendment will not necessitate the need for further infrastructure.

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

Applicant Response: The applicant stated that the criterion is not applicable.

Staff Response: While the subject property is bordered on two sides by residential use, it is situated along a major arterial street (Paseo de Peralta) and is in close proximity to a variety of commercial and office uses. Furthermore, with the exception of the past 10 years, the property has been used for commercial uses since the 1930s. The proposed change will not create inconsistencies with the General Plan. General Plan Policy 5-3-G-2 encourages professional and administrative offices to locate in and near neighborhood centers. The proposed General Plan Amendment and Rezone will allow opportunity to use the existing structure for low intensity commercial uses such as offices.

(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: We submit that (i) (ii) and (iii) do not apply due to a previous error in the original zoning.

Staff Response: The amendment will not allow uses that are significantly different from or inconsistent with the prevailing character of the neighborhood. The property is in close proximity to a large number of commercial uses. In fact, the location of the property along two major roads (Paseo de Peralta and Galisteo Street), helps buffer the residential uses south of the property from the busy roadways and more intense commercial uses across Paseo de Peralta.

Although the property is less than 2 acres in size, it is an expansion of the BCD district across Paseo de Peralta and therefore qualifies as an adjustment in the boundaries of the BCD zoning district. This request to amend the General Plan Future Land Use Map does not benefit the property owner at the expense of the surrounding landowners or the general public. Rather, it would establish consistency with the historic use.

(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: By properly zoning this property it will be used again, which will stop the vandalism in the area.

Staff Response: The amendment does conform with Subsection 14-3.2(E)(1)(c) as it is not inconsistent with the prevailing use or character of the area, is not less than 2 acres as it is adjusting the boundary of adjacent commercial land and does not benefit one or a few landowners at the expense of surrounding landowners or the general public.

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

Applicant Response: The applicant stated that the criterion is not applicable.

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: Yes, this was a business supporting the community since the mid to late 1930s.

Staff Response: The commercial structure currently sits vacant as the existing R-21 zoning does not permit commercial use of the property. The proposed General Plan Amendment will allow for the property to be rezoned which will allow economic use of the property and limit further deterioration of the property as it remains vacant.

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

Applicant Response: The applicant stated that the criterion is not applicable.

Staff Response: This request is consistent with the City's land use policies, ordinances, regulations and plans as they relate to the City's desire to promote and maintain economically developable land in close proximity to downtown and residential neighborhoods. While the subject property is currently zoned for residential use, it is in close proximity to a variety of other commercial properties and has always been used for commercial and not residential uses.

(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: The applicant stated that the criterion is not applicable.

Staff Response: The proposed General Plan Amendment will permit commercial use on property that has been used for a variety of commercial used since the 1930s. The amendment does not impact any growth or economic projections, and will not change or affect the character of the surrounding area.

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

Applicant Response: The applicant stated that the criterion is not applicable.

Staff Response: A variety of locations are available throughout the City for commercial uses. While this location is designated residential, it has always been used for commercial uses.

(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 applicant states that the criterion is not applicable

Staff Response: Nonconforming status of the commercial operation was lost after the building was vacant for more than one year. Since that time, the residential designation and zoning has prevented use of the existing structure.

III. REZONING

Section 14-3.5(A) and (C) SFCC 2001 sets forth approval criteria for rezoning as follows:

(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: There was a mistake in the original zoning.

Staff Response: In the vicinity of the subject parcel, Paseo de Peralta acts as a general boundary between commercial and residential zoning. As such, a residential zoning was given to a majority of residential parcels on this side (southside) of Paseo de Peralta, the subject parcel has never been used for residential and has only functioned as a commercial property.

(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: No response was provided.

Staff Response: No changes have occurred to the surrounding areas. However, the property contains a commercial structure that is nonconforming with the current residential zoning.

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

Applicant Response: No response was provided.

Staff Response: The proposed General Plan Amendment and Rezone will allow future use of the existing commercial structure and prevent further deterioration of the building.

The following General Plan Policies articulate the importance of commercial uses in the vicinity of neighborhoods:

Policy: 5-2-G-4: Provide for uses to meet everyday needs within neighborhoods in the form of pedestrian-oriented neighborhood centers.

Policy 5-3-G-2: Encourage professional and administrative offices to locate in and near neighborhood centers.

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

Applicant Response: We are working with the City staff to meet all requirements.

Staff Response: The proposed rezone complies with all rezoning requirements of Chapter 14.

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

Applicant Response: We are working with the City staff to meet all requirements.

Staff Response: The applicant requests a change to the Future Land Use Map to create consistency with the proposed zoning. The rezoning is consistent with policies of the General Plan regarding the commercial property in the vicinity of residential neighborhoods. See response to (a)(iii) above.

(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: We are working with the city staff to meet all requirements.

Staff Response: The subject site is better suited for BCD or C-1 zoning than residential zoning. With the exception of the past 10 years, the property has been used for commercial uses since the 1930s. Furthermore, General Plan Policies speak to the importance of commercial zoned property in close proximity to residential neighborhoods.

(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: This is an existing structure and will have no impact.

Staff Response: Infrastructure and public facilities are available to serve future development of the property.

(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;

(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.

Staff Response: Basic infrastructure including: streets, sidewalks, water, and sewer, are available to adequately serve the site as it currently exists. However, a condition has been proposed to require that vehicles enter from Paseo de Peralta (Eastbound) and exit onto Galisteo Street, a left-turn only onto the one-way northbound Galisteo Street.

IV. CONCLUSION

Staff supports the proposed General Plan Future Land Use Map Amendment from Moderate Density Residential to Community Commercial and the proposed Rezone from R-21 to BCD or C-1, subject to the proposed condition of approval. As stated pursuant to SFCC §14-3.5(B)(2)(b), the governing body may approve a rezoning to a less intensive zone district than originally requested by the applicant. The Land Use Department and Traffic Engineering Division also recommends rezoning to the less intensive C-1 zoning district for the reasons stated in the Traffic Engineering Division memorandum (See Exhibit B1). If the less intensive C-1 zoning is recommended and approved, the land use designation will be amended to Office to be consistent with the zoning.

VI. 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

EXHIBIT D: R-21 and C-1 Use Lists

EXHIBIT E: ENN Notes, August 19, 2014

EXHIBIT F: Applicant Letter

City of Santa Fe, New Mexico

Planning Commission

Exhibit A

Conditions of Approval

600 Galisteo Street General Plan Amendm ind Rezone—Conditions of Approval

Planning Co. ission

Case #2015-20 & 21 – 600 Galisteo Street 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 Traffic Engineering Division shall review and approve all access to the lot. Access to the northeast corner of the property from Paseo de Peralta shall be limited to entering vehicles, with ingress and egress permitted onto Galisteo Street, a one-way northbound street.	Traffic Engineering	John Romero/ Sandra Kassens

City of Santa Fe, New Mexico

Planning Commission

Exhibit B

Development Review Team Memoranda

City of Santa Fe, New Mexico

memo

DATE: March 24, 2015

TO: Zach Thomas, Land Use Division

VIA: John J. Romero, Traffic Engineering Division Director

FROM: Sandra Kassens, Engineer Assistant SMK.

SUBJECT: **600 Galisteo Street General Plan Amendment and Rezone. (Case# 2015-20 and 2015-21)**

ISSUE:
Eva Parker, Trustee for the Lucy C. Ortiz Estate, requests approval of a General Plan amendment to amend the existing General Plan Future Land Use designation for a 5,581 square foot lot from Moderate Density Residential to Community Commercial; and additionally she requests approval of a rezoning the above described lot from R-21 (Residential – 21 dwelling units per acre) to BCD (Business-Capital District). The property is located at 600 Galisteo Street.

RECOMMENDED ACTION:
Review comments are based on submittals received on February 25, 2015. The comments below should be considered as Conditions of Approval to be addressed prior to approval unless otherwise noted:

1. The proposed BCD zoning allows both C-1 and C-2 type uses. We have concerns with the sites ability to handle traffic related to high turnover C-2 type uses such as Coffee Shops and Bakeries. With this in mind we recommend that the property be designated as C-1 zoning.
2. The Traffic Engineering Division shall review and approve all access to the lot. Access to the northeast corner of the property from Paseo de Peralta shall be limited to entering vehicles, with ingress and egress permitted onto Galisteo Street, a one-way northbound street.

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

Thank you.

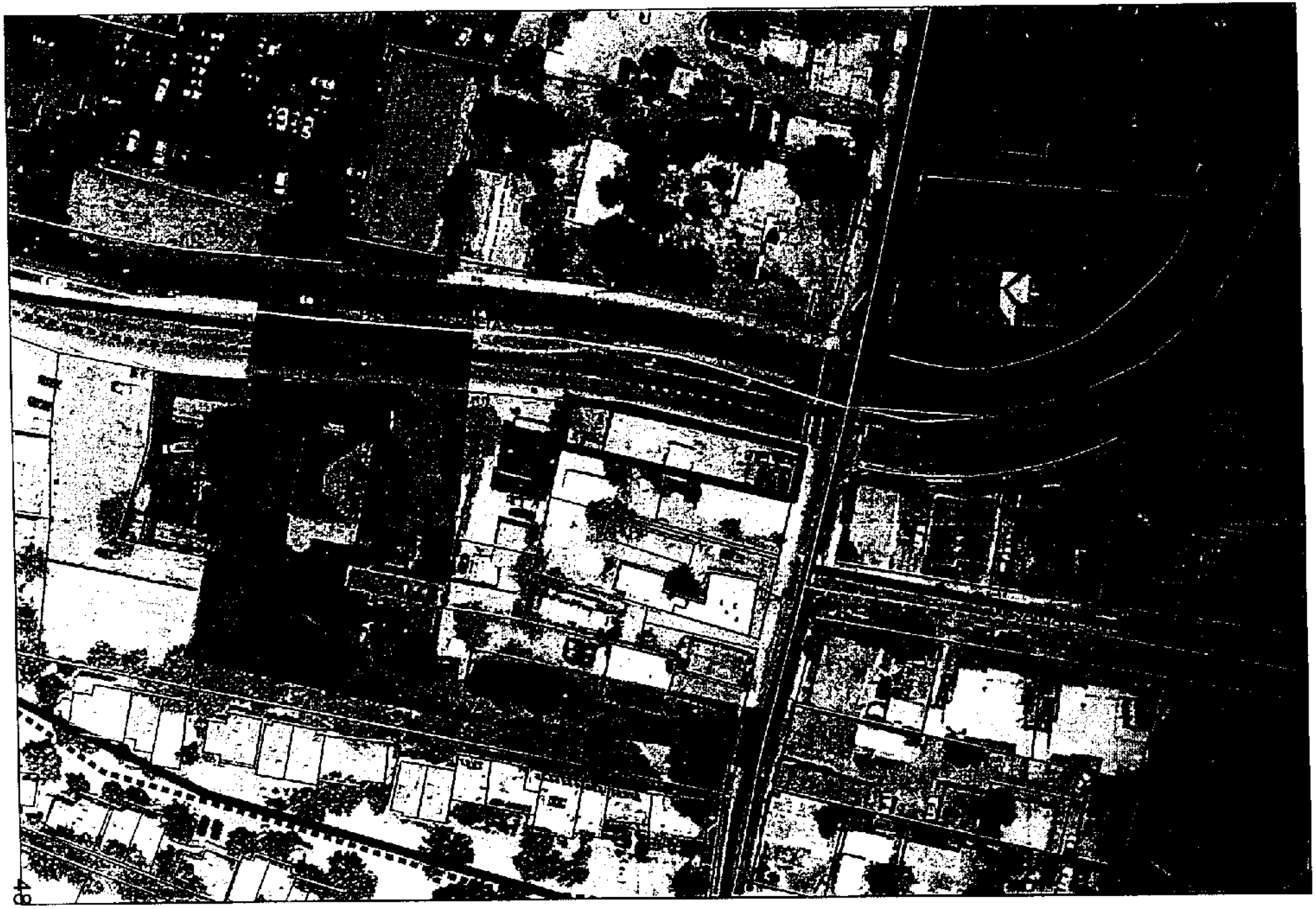
City of Santa Fe, New Mexico

Planning Commission

Exhibit C

Maps

Future Land Use - 600 Galisteo Street



Zoning - 600 Galisteo Street

City of Santa Fe, New Mexico

Planning Commission

Exhibit D

R-21 and C-1 Use Lists

R-10, R-12, R-21 and R-29 Residential Districts

The purpose of the R-10, R-12, R-21 and R-29 districts is to make available a variety of *dwelling unit* types to serve a wide range of household needs at medium- and high-*density* levels.

Permitted Uses

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

☼ Requires a **Special Use Permit** if located within 200 feet, excluding rights-of-way, of residentially zoned property.

Special Use Permits
The following uses may be conditionally permitted in R-10, R-12, R-21 and R-29 *residential* districts subject to a Special Use Permit:

1. Adult day care
2. Clubs & lodges (private)
3. Colleges & universities (residential)
4. Continuing care community
5. Correctional group residential care facility
6. Daycare; preschool; for infants & children (more than 6)
7. Fire stations
8. Grocery stores (neighborhood)
9. Group residential care facility
10. Laundromats (neighborhood)
11. Mobile home; permanent installation
12. Museums
13. Neighborhood & community centers (including youth & senior centers)
14. Nursing, extended care, convalescent, recovery care facilities
15. Personal care facilities for the elderly
16. Police stations
17. Religious assembly (all)
18. Religious educational & charitable institutions (no schools or assembly uses) ☼
19. Schools; elementary & secondary (public & private)
20. Sheltered care facilities

21. 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-10, R-12, R-21 and R-29 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-10=10; R-12, R-21 & R-29 = 10 dwelling units per acre – or per development plan or special use permit approval (14-7.2(F))
Minimum lot:	Area: Single family: 3,000 square feet (may be reduced to 2,000 square feet if common open space is provided.) Multiple-family: as required to comply with gross density factor.

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 two thousand (2,000) and four thousand (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 four thousand (4,000) square feet.

Max height:	R-21 & R-29: 24 (36 with development plan or special use permit approval (14-7.2(E)).
	R-10 & R-2-LD: 24

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 property line, no point on a structure shall be higher than 24 feet above finished grade at the closest point of the perimeter.

Setbacks: Generally established by a development plan approved by the Planning Commission, otherwise: 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 property line, no point on a structure shall be higher than 24 feet above finished grade at the closes point of the perimeter.)

Max lot cover: Multiple-family of 6 or more units: 40

Single-family, two-family or multiple-family of less than 6 units: 40 (70 if private open space is provided (14-7.5(c)(1) increase in maximum lot coverage if private open space is provided.

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:

(a) for *lots* in R-10, R-12, R-21 and R-29, an amount not less than thirty 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 stormwater ponding areas;

(4) the minimum dimension for required private open space shall not be less than twelve (12) feet;

(5) finished grade for required private open space shall have a slope no greater than one (1) vertical foot in ten (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 or multiple family dwellings: 250 square feet of common and / or private open space per unit.

C-1 Office and Related Commercial District

The purpose of the C-1 office and related commercial district is to provide areas for government offices; professional and *business* offices; medical and dental offices or clinics; *personal care facilities for the elderly*; and *hospitals*, laboratories, *pharmacies* and related complementary *businesses* that provide sales or service of office equipment, medical and dental supplies and office supplies. This district serves as a transitional buffer between more intense commercial use districts and *residential* districts.

Permitted Uses

1. Adult day care
2. Arts & crafts schools
3. Arts & crafts studios, galleries & shops,
4. Banks, credits unions (no drive-through)
5. Banks, credits unions (with drive-through) ☼
6. Barber shops & beauty salons
7. Boarding, dormitory, monastery
8. Clubs & lodges (private) ☼
9. Colleges & universities (non-residential)
10. Continuing care community
11. Correctional group residential care facility ☼
12. Dance studios
13. Daycare; preschool for infants & children (6 or fewer) Small
14. Daycare; preschool for infants & children (more than 6) Large
15. Dwelling; multiple family
16. Dwelling; single family
17. Electrical distribution facilities
18. Electrical substation
19. Electrical switching station
20. Electrical transmission lines
21. Fire stations
22. Foster homes licensed by the State
23. Funeral homes or mortuaries
24. Group residential care facility
25. Group residential care facility (limited)
26. Kennels ☼
27. Manufactured homes
28. Medical & dental offices & clinics
29. Museums
30. Neighborhood & community centers (including youth & senior centers)
31. Nursing, extended care, convalescent, & recovery facilities
32. Offices; business & professional (no medical, dental, financial services)
33. Personal care facilities for the elderly
34. Pharmacies or apothecary shops
35. Photographers studios
36. Police stations
37. Police substations (6 or fewer staff)
38. Preschool, daycare for infants & children – Small
39. Preschool, daycare for infants & children – Large
40. Public parks, playgrounds, playfields

41. Religious assembly (all)
42. Religious educational & charitable institutions (no schools or assembly uses) ☼
43. Rental, short term
44. Restaurant; fast service, take out (no drive through or drive up, no alcohol sales, not to exceed 1,000 Square Feet)
45. Schools; Elementary & secondary (public & private) ☼
46. Schools; vocational or trade, non-industrial
47. Tailoring & dressmaking shops
48. Veterinary establishments, pet grooming ☼

☼ 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-1 districts subject to a Special Use Permit:

1. Cemeteries, mausoleums & columbaria
2. Colleges & universities (residential)
3. Grocery stores (neighborhood)
4. Hospitals
5. Laundromats (neighborhood)
6. Mobile home; permanent installation
7. Sheltered care facilities
8. 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 C-1 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 (within the rear yard only)

Dimensional Standards

Minimum district size

- Single family dwelling: 3,000 square feet (may be reduced to 2,000 square feet if common open space is provided.
- Multiple family dwelling: as required to comply with gross density factor.

Maximum height:	36
Minimum setbacks:	
Non-residential uses:	Street 10; side 5, rear 10
Residential uses:	Street 7; side 5 (10 on upper stories); rear 15 or 20% of the average depth dimension of lot, whichever is less
Max lot cover:	
Non-residential uses:	60
Residential uses:	40
Open Space Requirements:	
Single-Family	Where the *lot* size is between two thousand (2,000) and four thousand (4,000) square feet, qualifying *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 four thousand (4,000) square feet.
Multiple-Family	Qualifying *common open space* is required at a minimum of two hundred fifty (250) square feet per unit.
Non Residential	The minimum dimension for *nonresidential open space* shall be 10 feet and cover a minimum of 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 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 25% unless the conditions described in 14-7.5(D)(6) are met; then the *required open space* may be reduced by a maximum of 10% of the total *lot* size.

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	600 Galisteo
Project Location	600 Galisteo
Project Description	Rezone from R-21 to BCD
Applicant / Owner	Chuck and Eva Parker
Agent	N/A
Pre-App Meeting Date	
ENN Meeting Date	8/19/14
ENN Meeting Location	Public Library
Application Type	General Plan Amendment and Rezone
Land Use Staff	Zach Thomas
Attendance	14 neighbors and applicants combined

Notes/Comments:

Meeting started at 5:45. Staff (Mr. Thomas) gave an introduction about the purpose of the ENN meeting the overall entitlement process. Also let Mr. Parker know that a request was made by Stephanie Beninato she would like to speak first as she had to leave the meeting early.

Mr. Parker gave an overview of the history of the property noting that the property was always commercial and has never been used as residential. He further stated that intent of the rezone was to sell the property because nobody would by it with a residential zoning.

Mr. Parker read his answers to the criteria questions.

During the course of the Mr. Parker reading through the questions and answers various comments we interjected by the public.

Ms. Beninato spoke to the following points:

- Made general comments regarding the legal protocol of ENN meetings.
- Made comments about the generally poor condition of the subject property including the poor condition of the wall on the property line. (Mr. Parker responded that he has tried to fix the wall but was not allowed onto Ms. Beninato's property and could therefore not fix it)....Disagreement ensued.
- Light, noise, parking and garbage have historically been a problem with past tenants of the property.
- Gave a statement that the proposal constitutes "spot zoning" and read a New Mexico supreme court decision regarding a case involving spot zoning.

After completing her statements there was general disagreement between Ms. Beninato and Mr. Parker. Ms. Beninato walked out of the room during this time.

Peter Komis stated that his primary concern was the potential for the rezone to create a precedent for additional rezones in the future.

Karen Heldmeyer stated a concern regarding the potential future uses of the property were it to be rezoned.

Mr. Parker made general statements in response to the comments that since the use of the property has historically been commercial that there would be no additional impacts associated with the rezoning. The rezoning is simply doing what should have been done in the first place.

Mr. Komis inquired about the potential for a variance or use permit instead of a rezone.

Paul Duran stated that they have tried that option and it does not work. Nobody will buy the property.

Mr. Parker stated that it is not their intention to hurt the neighborhood and they are only asking for BCD because it is the only zone they can apply for per the requirements of the Code.

There was general discussion about Ms. Beninato and the issues she brought up.

Amy Laugherty stated that concerns with traffic, noise and garbage were the primary issues brought up on the Don Diego Neighborhood Association website

Bernadette Vadurro suggested that everyone find ways to reach a compromise so that concerns could be addressed and the property could be rezoned.

Continued concerns regarding the lack of onsite parking were expressed...

A neighbor responded (Name unknown) that they would be willing to offer their nearby property to provide additional parking.

At the end of the meeting, Mr. Komis expressed more concern about this rezone opening the door to more rezones in the future. He also expressed that it was not his goal to prevent use or sale of the property but just wanted to make sure that the best possible path/option is chosen.

Regarding the question of whether this rezone would create precedent for future rezones: Mr. Thomas responded that that is in some way the ultimate question because rezones are discretionary and it is hard to know how zoning will evolve over time.

The meeting dissolved into general discussion among small groups and ended at 7:30.

City of Santa Fe, New Mexico

Planning Commission

Exhibit F

Applicant Letter

This request is to correct the original zoning of the property located at 600 Galisteo St. This property was first developed in the mid to late 1930's by Frank and Lucy Ortiz as a store selling dry goods and lamp oil to local families. It then became the local grocery store having a meat market, groceries and liquor. This building has always been used for commercial and never for residential. As you can see by the design of the building. When this property was originally zoned it was zoned R 21 with a non-conforming status so the council at the time knew it was a commercial property. If you look at the properties in the BCD you will notice a lot, if not most, are houses that are now commercial raising their value yet the one commercial property in the area was changed to R 21 lowering it's value. This property was turned over to a conservatorship company and they were not aware of the non-conforming status for the property and were unable to rent the property due to the slumping economy and a year of vacancy lapsed and we lost the non-conforming status. As a result the building has sat vacant for more than ten years causing a great loss to Lucy while she was still alive. She was forced to sell off other properties including the family home to pay her living expenses. After the grocery store was closed it became Madalyns Photography followed by Eva's de Santa Fe Photography, The Photography Studio, A Rug store and The Gold Leaf Frame Shop.The frame shop was paying $ 3000.00 a month rent when they moved out. This was zoned residential because of the side of the street it is on and not for what it was always used for. This property is in the estate of the late Frank and Lucy Ortiz. Frank was twice elected Mayor of Santa Fe serving from 1948 thru 1952. Prior to being Mayor he served on the City Council for several years. These were non salaried positions at the time. When Paseo de Peralta was widened and created

from Hickock St. property was purchased from the Ortiz family which is why there is limited parking.

PETER B. KOMIS
DON GASPAR NEIGHBORHOOD ASSOCIATION
610 DON GASPAR AVENUE
SANTA FE, NM 87505-4428
(505) 983-1166 FACSIMILE: (505) 983-2113
(505) 450-6361 CELL

The Don Gaspar Neighborhood Association understands the unique situation of the Ortiz family in regards to their property at 600 Galisteo. The neighborhood has worked with the family in the past to make sure that any commercial enterprise that is at that address is appropriate for the site and the neighborhood.

We also understand that, because of the time lapse that has occurred between commercial uses, the city is now asking the family to rezone the property from residential to commercial zoning.

The Ortiz family initially asked the city to rezone this property to C-1, which the neighborhood feels is an appropriate zoning for the type of low-intensity commercial uses that would be most appropriate for this site.

However, because the closest C-1 zoning, Margo Cutler Real Estate, is separated from 600 Galisteo by another residentially-zoned property, staff instructed the Ortiz family to apply for BCD zoning. This zoning does exist across Paseo de Peralta, which by city standards is deemed "adjacent", even though the actual distance between 600 Galisteo and the closest BCD zoning or the closest C-1 zoning is approximately the same.

While both zoning categories allow the same types of relatively low-intensity commercial uses that seem appropriate for this site, BCD zoning allows a larger number and type of higher-intensity commercial uses, such as public lodging, restaurants, or large retail stores.

Staff has informed the Ortiz family and the neighborhood that only the governing body has the power to allow this property to be zoned C-1 and that is what we urge you to do. At the ENN meetings on this site, the majority of the neighbors and the applicants have been in agreement that this would be a good solution all around.

The Don Gaspar neighborhood has strongly opposed any commercial encroachment into its residential neighborhood. We are not opposing a change to C-1 zoning for 600 Galisteo because this has been the historical use of the property.

However, we strongly oppose a rezoning to BCD because it is too intense for this site and because zoning this property to BCD may set off a chain reaction of rezoning requests that could substantially change the residential character of this area.

We ask the governing body to grant the rezoning of 600 Galisteo to C-1.

Peter B. Komis / KH

Peter B. Komis, President
Signed by Karen Heldmeyer, Vice President

Exhibit "B"

Ms. Lujan said yes, it is an additional funding supplement.

Councilor Maestas noted it is pending, but he understands the State DOT won't grant the funding until the Resolution has been adopted.

Ms. Lujan said yes, until the Resolution is passed and the contract is executed, the State will hold the funding.

Councilor Maestas said now it's fully funded and we're ready to go to construction.

Ms. Lujan said yes.

MOTION: Councilor Maestas moved, seconded by Councilor Trujillo, to approve this request.

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

18. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING THE CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE;" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE;" TO MODIFY PROVISIONS RELATED TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING; TO MODIFY PROVISIONS RELATED TO THE CONTENTS OF CAMPAIGN FINANCE STATEMENTS; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE CAMPAIGN FINANCE CODE (COUNCILOR IVES). (ZACHARY SHANDLER) Committee Review: City Council (request to publish) (approved) 06/24/15; Finance Committee (postponed) 06/29/15 and City Council (public hearing) 07/29/15. Fiscal Impact – No.

A proposed amendment to Item #18 submitted by City staff is incorporated herewith to these minutes as Exhibit "3."

An *Election Amendment Matrix* for Items #18 and #19, prepared by staff is incorporated herewith to these minutes as Exhibit "4."

Items #18 and #19 were combined for purposes of discussion, but were voted upon separately.

Acting Chair Rivera said he pulled Items#18 and #19 to be discussed together. He said he will make some of the same comments he made at the last meeting. He said in his opinion, the changes recommended to be made by the Ethics and Campaign Review Board seem to make things slightly unfair for Council candidates. He said as an incumbent it would seem he would be in favor of this, because as an incumbent who can collect as many donations up to $100 as he would, it would be in his favor to do this and to continue matching funds close to the end. However, for somebody new who didn't have name recognition or the ability to collect that money, it would be an extremely unfair advantage. He said in his opinion, keeping it a level playing field, especially at the Council level, is important to him. He said as an

Exhibit "9"

incumbent, if someone wants to run against him, we should be on an equal playing field if we choose to do public campaign finance. This is his main concern. He asked for comments or questions from the Committee before we hear from the bill sponsor.

Councilors Maestas and Trujillo said they will wait, and let the sponsor speak first.

Councilor Ives said this measure represents 6 months of work by the Ethics and Campaign Review Board to try and address some of the issues highlighted in the last election cycle. He said what you see before you really is some of the best thinking of national organizations that have tried to address the influx of money. The bills represent an effort to find an appropriate balance against the dictates of a number of cases decided by the U.S. Supreme Court, including the Citizens United case which allowed for a certain unlimited capacity of money to come into elections. This is an effort to combat that kind of influence in elections. He said it is a valid point to ask whether or not that is happening here at this point in time. He said his response would be that there is a perception that people who have money to spend on elections are moving out of the federal election cycles and into more state cycles, both governor's office, judicial, and there is reason to anticipate that the same process will continue to a more local level.

Councilor Ives continued saying, the efforts here are to try and bring in the good thinking that's happening nationally to try and address the issues that everybody is perceiving exist in our election cycles in a way that allows a not Constitutionally impermissible means of trying to ensure that all candidates in elections have a capacity to raise funds and have funds in their campaign endeavors. He said that's a broad statement and asked Mr. Shandler to review the specifics, noting there is one member of the ECRB who he thinks would be happy to talk about the work done by that Board.

Chair Rivera said he is okay with Mr. Biderman addressing this issue.

Paul Biderman, 829 Allendale, said he was on the subcommittee of the ECRB that proposed this legislation. They spent many months looking into this issue. He said there was concern on their part about the very limited scope of remedies we have to deal with, because the Supreme Court has imposed this limitation on any kind of restriction any government can impose on the collection and use of funds by these independent organizations. He said they sought advice from the Brennan Center for Social Justice out of the New York University Law School, Common Cause New Mexico and then looked to the State Legislature and the bills introduced to deal with the problem. He said we have two opportunities we're allowed under the Citizens United Case and other cases coming out of the federal system. One is the ability to require disclosure by these independent organizations of its funding sources so we know who is behind the funding coming in to the support of the candidate. He said we also have the ability to put some limits, not how much they collect or spend, but at least to define more strictly the coordination of a contribution that would count against the campaign limits directly to the candidate.

Mr. Biderman continued, saying the Supreme Court has acknowledged that a direct contribution to a candidate is something that can be regulated because of the likelihood of a *quid pro quo*. If the campaign is coordinated with an outside source, then the coordinated expenditure can be part of a campaign limit. And they have tried to tighten up the definitions of coordinated campaigns, because if we

didn't, we would be left with a lot of ambiguity and problems that arose for the board, which really was the heart of what they have been trying to do.

Mr. Biderman continued saying, there was an effort to provide for candidates to raise money to match contributions coming from an independent source which isn't allowed under federal case law. What you can do is allow everybody in the public financing sector to go ahead and raise more money, and they figured putting a $100 limit on what can be contributed isn't enough to influence anybody's vote or who they want to go to bat for. They can accept those contributions to match the outpouring of support that might come from an independent group, and at the same they suggested a match and they used the legislative analysis of four to one match from the City campaign funds to try to help balance that. He said as Councilor Rivera pointed out, perhaps the incumbent has an advantage, but there is a fighting chance for the candidate who doesn't have an outside source to match the contributions coming in from an independent source. He said this is the best they could do, and wished they could limit the contributions from an independent source, but they can't do it.

Acting Chair Rivera said both he and Councilor Ives qualified for public financing in the last election, and it wasn't until after the mayoral election where we see these significant changes. He asked if any thought was given to separating the Mayoral and Council elections.

Mr. Biderman said they heard you "loud and clear," at the last Finance Committee, and they understand there may be a justification for that. However, they would be cautious that just because it hasn't happened so far doesn't rule it out. He said he was the judicial educator for the State and recalls a Supreme Court Justice saying, 'I just had the last cheap Supreme Court election." He said previously nobody was interested in those elections it was a low budget, but not any more, and this could be true for Council candidates as well.

Acting Chair Rivera asked if we have the additional monies that need to be put aside for the match.

Mr. Rodriguez said what is in the budget this year is the same amount as for the last election, because this recommendation wasn't in hand at the time of the budget, and it will take a budget amendment to increase those funds.

Acting Chair Rivera asked the additional amount we would have to put into the fund in order to have the four to one match.

Yolanda Vigil, City Clerk, said she doesn't have figures, but right now there is $550,000 in the fund. She said in the FIR on page 26 of the packet for Item #19, if we did the match it would cost $540,000 for 3 mayoral candidates – $180,000 up front for 3 candidates at $60,000 each, and the balance of $360,000 would be the matching funds for 3 mayoral candidates. She said on page 27 at the top it talks about the Council candidates. There were 7 candidates in 2014, so it would be $315,000 – $105,000 up front at $15,000 each, and then $210 in matching funds.

Acting Rivera said that's the cost if all 7 decided to qualify for public campaign funds.

Ms. Vigil said that was the amount used by those who actually qualified for public funding for the 2014 election, and they based the projections off that election.

Acting Chair Rivera the next Mayor elected will be a paid position, receiving significantly more pa than currently, and asked Ms. Vigil is she thinks there would be more candidates for Mayor in 2016.

Ms. Vigil said she believes so.

Acting Chair Rivera asked Ms. Vigil what concerns she has with administering the election under this bill.

Ms. Vigil said originally one of the dates for applying for the additional matching funds, was the 62nd day before the election. She said Councilor Maestas has said we possibly could amend that to the 50th day before the election and only having one date. She said the 62nd day fell on either New Year's Eve or December 30, and a lot of time there isn't finance staff and people are taking vacations, and she didn't think it would be doable during that time frame to process additional small qualifying contributions. So there would be a recommendation for that change to the 50th day if we were to go forward with this plan.

Acting Chair Rivera asked the source of the additional funding.

Mr. Rodriguez said it would have to come from the ending balance. He said you can make these decisions now, or on the deadline where you would know exactly how much money would be available. He would recommend no funds be moved until that time.

Councilor Maestas said he agrees a lot of work has gone into reviewing the Public Finance Code and he likes many of the recommendations to the Code. He said the City is a progressive city, especially pertaining to elections, the conduct of elections and influence of money in political campaigns. He read a section of the City Charter, "*The escalating cost of campaigning for elective office provides an opportunity for monied interest to control the electoral process of City government. Candidates may be encouraged to put the interest of their campaign contributors ahead of the needs and concerns of their constituents and the passage or defeat of a measure may be skewed by monied interests to the detriment of public interests, in order to eliminate financing inequities, conflicts of interest and the potential for corruption inherent in this situation. The Governing Body shall enact such ordinances and may appoint any such commissions and take such other actions as may be necessary to make campaigns for elective office more democratic.*" He said this is only a portion of the text.

Councilor Maestas continued saying we have made great strides with our Public Finance Code. He feels the Ethics Board took the opportunity in terms of lessons learned after the last election cycle to suggest substantive amendments to the Public Finance Code and the Campaign Code. For example, he supports the elimination of the seed money and consolidating it with the qualifying contribution into one category – small qualifying contributions – ranging from $5 to $100. He supports the change of specifying coordinated expenditures and coordination, which was badly needed.

Councilor Maestas continued saying he has issues with the match provision. He thinks it escalates the costs of campaigning, and incentivizes a fundraising race by a publicly financed candidate. He said to a certain degree it almost privatizes public financing by creating escalating costs of a campaign which is contrary to our Charter. He likes the progressive nature of the match provision as a means to level the playing field for publicly and privately financed candidates. He would support the match provision, which would be triggered if there is a privately financed candidate running against a publicly financed candidate. He questioned the need for a match provision if all of the candidates are publicly financed, because the playing field is already level.

Councilor Maestas said this wasn't his position when this was first discussed, but he feels the match provision is a double edged sword. He would like to factor in a trigger for the match provision. He said the amendments to the bill provide for two match opportunities, and he thinks the second is allowed 15 days prior to the election. He said that is in the final throes of a campaign and you are near the end of your campaign, and feels providing for additional money that late is a waste of public money. It would be basically a money dump. He totally disagrees with the late match opportunity. He suggested striking "62nd day preceding the election and the 15th day preceding the election" for the match opportunity, and replaced it with "the 50th day preceding the election." He said that doesn't interfere with holidays and doesn't present problems for staff, and gives the candidate one opportunity, and is done early enough in the campaign. He said providing more than one match opportunity creates a fundraising race, and undermines the entire intent of public financing.

Councilor Maestas said he thinks the ratio of four to one is too high, and he would like to lower that to a two to one ratio. He likes the progressive nature of the match. He said there was a match previously which was dependent on your opponent's ability to raise funds, which was ruled unconstitutional. So this is basically an earned match and it is up to the candidate to determine whether or not you get a match based on your ability to fund-raise. He reiterated there should be triggers for the match if there is a privately financed candidate in that race. He asked Mr. Shandler if he has comments on his feedback.

Mr. Shandler said, "There was a thorough discussion on all these matters before, so let me try to bottom-line it. These bills have 4 main provisions. One, changing the definition of reported expenditure; two, a greater regulation of independent expenditures; three, creates a hybrid system where you can raise money, up to $100, as a publicly funded candidate; and four, a matching provision. Each item is probably an hours worth of discussion. The first two items, there were a lot of questions last time, but not a lot of reservation. The third and fourth points, there were a lot of reservations, questions raised to Mr. Rodriguez. I think Councilor Lindell, if she had been here, she would probably make a motion saying parts three and four should not be discussed at the full Council meeting on July 29th. We already have a full agenda of 10 public hearings that night. Those two items require additional discussion beyond maybe what you can do. But she's not here to make that motion, and so I don't know if anyone is going to be willing to make that motion, even if the numbers are here to get that motion through. So some topic of this will be discussed on the 29th. The question is, are the votes here to have half of it on the 29th, should you just send it along with the other business and allow Councilors to put a variety of amends on the 29th. Otherwise, we're just going to rehash all the discussions you had at your previous meeting. And there are other people behind me that have other agenda items."

Councilor Ives said as an aside, the Arizona case dealing with the issue of leveling the playing field might, we might afoul of that prohibition if we had a trigger in a campaign where there were public and private candidates. He is unsure that provision would pass constitutional scrutiny in the event some of these provisions were triggered by that type of circumstance, because it seems to be playing to a level playing field, which the Supreme Court has said specifically is the restriction on speech that was prohibited in the Arizona case. He apologized for not remembering the name of the Arizona case.

Councilor Maestas said he talked about creating a trigger, if all candidates are publicly funded and there are no privately financed candidate in that the match provision wouldn't apply. He said if that doesn't pass legal muster, perhaps we can reduce the match if there are no privately financed candidates in the race among publicly financed candidate. We're lowering the disbursement for an uncontested race, so perhaps we could consider reducing the match if there are no privately financed candidates – if creating this trigger doesn't pass legal muster.

Councilor Ives said because of the complexity of these issues, having additional feedback as our meetings progress or when it goes to the Council would make sense and we can then act on all those issues. He said regarding the financing component of our existing provisions, he read from 9-3.4 Public Campaign Finance Fund, Subsection C, provides, "*Beginning with the election of 2014, the Governing Body shall appropriate and deposit in the fund such additional sums, if any, as may be necessary, to ensure, 1. That the balance in the fund 119 days preceding each election for Mayor and 4 Council seats is at least $600,000, and 2. That the balance in the fund 119 days preceding each election for Municipal Judge and 4 Council seats is at least $300,000.*" He said this will allocate $300,000 toward each of the Council races, plus $300,000 for the mayoral race.

Councilor Ives continued, "Nothing in the law would require us to exceed those amounts in any elective cycle as the additional distributions from the fund up to these limits on a *pro rata* availability basis, as opposed to requiring any continual additional monies to be added to the fund. So these act as an *[inaudible]* on the spending associated with campaigns. So there was never an intent to open this up to unlimited public finds. Clearly we do have an obligation under existing Ordinance to fund the campaign fund in those amounts, depending on the cycle, at least 119 days out before any election."

Councilor Maestas said he doesn't know if you are seeking an up or down vote on the legislation that's presented, noting we haven't voted on any amendments. He said we have a subset of the Finance Committee and one of the sponsors of significant amendments not in attendance. He doesn't want to scuttle the whole bill, but he can't support it entirely as presented, and would like to propose some amendments. He said this is where all of the work is supposed to occur – in Committee versus Council. However, this is a significant issue for the entire Council, and it seems to him that the entire Council should take this on, however messy it could be. He is unsure we could arrive on a representative piece of legislation tonight. He said perhaps we can give it a Do Pass, and simply refer full robust debate before the Council, and we could consider formal amendments. He said he would like to submit amendments in a more formal fashion than including them in a staff generated matrix table. He understands you have heartburn as some of the amendments and would like to leave it as is.

Acting Chair Rivera said he likes Councilor Maestas's idea about the trigger and would like to see if something like that could happen, or if we could work it out to happen somehow through one of his suggestions. He likes the idea of reducing the match to two to one. He said perhaps there could be a four to one match for the mayoral race and a two to one match for Council. He would have to think about it more to decide which way would be fair. He said, "You are right, I think it deserves, because of all the work that's been done, due consideration by the entire Governing Body, and would be in favor of moving in forward in however manner the Committee wishes it to move forward."

Councilor Maestas said, "It sounds like we are converging. But maybe in terms of staff direction, Mr. Chair, maybe Zach, you can determine for sure if we could create this trigger of the match provision under the circumstances where in a race there was a privately financed candidate or candidates, that would trigger the match provision. But if there were none, it would not be available. And then maybe if it's not legally acceptable that we look into a reduced match provision, if we can't put that trigger in, is reduce it if there are no privately funded candidates in a race among all publicly financed candidates. Certainly the reduction, the match reduction, I think Councilor Rivera is amenable to reducing that, at least for the Council race. I think we're getting close. So procedurally, Mr. Chair, just give it a do pass."

MOTION: Councilor Trujillo moved, seconded by Councilor Maestas, to move this forward to the Council without recommendation.

DISCUSSION: Councilor Trujillo says he sees this getting very expensive for a Mayor's race. He said this could be significantly expense, and that is his concern for Yolanda about how to disburse all this money within the timeframes. He said does have questions. He said he sought public financing in the last election and he was collecting $5 donations from people, however, when he found he didn't have an opponent, he scrapped it. He thinks candidates without an opponent shouldn't take public financing. He said he wanted to give the money he collected back to the constituents, but he wasn't allowed to do so. He would like to work something out in this regard in this bill.

Councilor Maestas said another portion of the Campaign Practices provides, "*Provide methods of voter education that will enhance the possibility for an open, accountable and responsive campaign process, encourage broad based contributions from the public, and require that each candidate and campaign committee.....*" He said, in terms of "encourage broad based contributions," we went from $5 to $100, and reading this makes him want to lower the maximum on the proposed small qualifying contribution to perhaps to $50 to broaden the contribution consistent with the Charter. He said the higher the contribution, the smaller the population of those contributors, which he thinks is contrary to the intent. He said he may have to think more about the maximum, and lower that to $50 to be consistent and honor the City Charter. He is okay for now with the $100 maximum, but thinks we need to "think about that one passage in there."

Councilor Ives said he appreciates the Committee considering this avenue. He said when it comes before the Governing Body, all will have the opportunity for public comment and is hoping for many people turn out for that as well. He said he was thinking of the Arizona Free Enterprise case, and the notion of drawing a distinction on the basis of the nature of campaign is slightly different. That case simply sought to increase the public campaign financing for candidates vis a vis privately funded candidates who were

receiving additional funds. He said it is a distinction with a difference. He said that is something we would ask our Legal, as well as the ECRB members which he thinks have focused on that issue as well. He thanks the members for moving this forward to the Governing Body so it can be considered fully and all the well considered amendments taken up at that point in time.

Councilor Maestas asked if the motion is for both Items #18 and #19.

Acting Chair Rivera said we have been discussing them together, but we need to vote on them individually, and the motion is for Item #18.

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

19. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING THE CAMPAIGN CODE, SECTION 9.2 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND EXPENDITURE;" DELETE THE DEFINITION OF "QUALIFYING CONTRIBUTION AND CREATE DEFINITION FOR "COORDINATED EXPENDITURE AND "QUALIFIED SMALL CONTRIBUTION;" TO MODIFY PROVISIONS RELATED TO "REPORTS OF EXPENDITURE" TO EXPAND REPORTING REQUIREMENTS; TO ADD PROVISIONS FOR "ADDITIONAL REPORTING OF QUALIFIED SMALL CONTRIBUTIONS AND ADDITIONAL MATCHING PAYMENTS FROM FUND;" AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE CAMPAIGN CODE (COUNCILOR IVES). (ZACHARY SHANDLER) Committee Review: City Council (request to publish) (approved) 06/24/15; Finance Committee (postponed) 06/29/15and City Council (public hearing) 07/29/15. Fiscal Impact – Possibly. (If the bill is adopted in its entirety, the City Clerk may have to review the additional workload and determine whether temporary workers need to be hired)

Ms. Vigil said at the last meeting, Acting Chair Rivera had asked her what was returned for the March 2012 election by the publicly financed candidates. She said $75,000 was disbursed, and $12,127 was returned by the candidates. One Councilor candidate returned $6,000, one $2,3000, Councilor Rivera returned $3,500, and the others were small amounts.

Acting Chair Rivera said his point was that most candidates didn't use the full allotment of what they had, which goes back to his initial argument.

MOTION: Councilor Trujillo moved, seconded by Councilor Maestas, to move this forward to the Council without recommendation.

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

DISCUSSION: Chair Dominguez asked Ms. Garcia to expand on her remarks about transportation and the promotional plan for that.

Ms. Garcia since the Farmer's Market and the City promote this event, they will use website posting, social media, radio interviews and any kind of email that goes out to encourage people living on the south side to use public transportation to get to the Plaza.

FRIENDLY AMENDMENT: Chair Dominguez said he would like to amend the motion to include language directing staff that specific direction. He would like to articulate that to some of our constituents who do not have access to fresh fruit and vegetables. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMITTEE.**

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

20. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING THE PUBLIC CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE;" DELETE THE DEFINITION OF "QUALIFYING CONTRIBUTION" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE" AND "QUALIFIED SMALL CONTRIBUTION;" TO MODIFY THE REQUIREMENTS TO QUALIFY AS A PARTICIPATING CANDIDATE; TO DELETE PROVISIONS RELATED TO "SEED MONEY CONTRIBUTIONS" AND "QUALIFYING CONTRIBUTIONS;" TO ESTABLISH PROVISIONS FOR QUALIFIED SMALL CONTRIBUTIONS; TO MODIFY PROVISIONS RELATED TO "REPORTS OF EXPENDITURE" TO EXPAND REPORTING REQUIREMENTS; TO ADD PROVISIONS FOR "ADDITIONAL REPORTING OF QUALIFIED SMALL CONTRIBUTIONS AND ADDITIONAL MATCHING PAYMENTS FROM FUND;" AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE PUBLIC CAMPAIGN FINANCE CODE (COUNCILOR IVES). (ZACHARY SHANDLER) Committee Review: City Council (request to publish) (approved) 06/24/15; and City Council (public hearing) 07/29/15. Fiscal Impact – Yes. (If adopted, the City Clerk may have to review the additional workload and determine whether temporary workers need to be hired)

Items 20 and 21 were combined for purposes of presentation and discussion

A proposed Amendment to Item #21, submitted by Councilor Signe I. Lindell, is incorporated herewith to these minutes as Exhibit "1."

A proposed Amendment to Item #21, submitted by Councilor Peter N. Ives, is incorporated herewith to these minutes as Exhibit "2."

A copy of ECRB Submittal to Finance Committee: June 29, 2015, regarding Items #20 and #21, submitted for the record by Ruth Kovnat, Member, Ethics and Campaign Review Board, is incorporated herewith to these minutes as Exhibit "3."

Exhibit "10"

It was the consensus among the Committee to hear Items #20 and #21 together.

Mr. Shandler reviewed the information in the Committee packet. Please see the Committee packet for specifics of this presentation.

Mr. Shandler said currently to run for office there are qualifying contributions and seed money to get your name out which is capped at $100. He said there is a form to submit for each person contributing $5. He said you also may have to submit a Qualifying Contribution Report form. He said the Seed Money Contribution form is for everyone who gave up to $100. There is also a Seed Money Expenditure Report on how the money was spent. Mr. Shandler used the overhead to provide examples of the forms, noting this the current *status quo* system.

Mr. Shandler said under this proposal brought forward by Councilor Ives and the ECRB, we get rid of the seed money and qualifying contribution distinction and they are merged to become a Qualifying Small Contribution. He said you can raise as much as you want up to $100, throughout the election cycle.

Chair Dominguez asked where they can find this in the packet.

Mr. Shandler said it begins on page 5 of Bill 2015-27, to the top of page 7.

Councilor Lindell said she believes her pages are not numbered the same as his.

Chair Dominguez said he thinks it is on pages 8 and 9 of the packet.

Mr. Shandler he is now on the same page as the Committee, at the bottom of packet page 8 and top of page 9.

Mr. Shandler said on packet page 9, Paragraph N, Qualifying Period is included in the bill, but there is an amendment Councilor Ives striking paragraph N (Exhibit "2"). He said you should also have a letter from ECRB Member Ruth Kovnat talking about that paragraph (Exhibit "3). He said the qualifying period is when you get those forms filled out, 183 days before the election and up to 106 days before the election is where you get the $5 contributions. He said the proposal will allow you to get these small contributions which could be larger than $5 throughout the election cycle, but at 106 days you have to pause in turn in the forms to Yolanda Vigil, City Clerk, to get qualified. You can continue to raise up to $100 from people throughout the election cycle.

Mr. Shandler said Councilor Ives wants to strike the 106 days before it's referenced elsewhere in the bill. He also refers to 130 days before the election. So this is kind of the unofficial kickoff to the election cycle. That's when you would start to get the qualifying contributions. However, the existing bill does not have a start date for raising seed money. So right now, you could start with the seed money.

Councilor Lindell said then we don't have seed money anymore.

Mr. Shandler said "Right. So I just thought I would tinker with the reasons Councilor Ives thinks both the end is *[inaudible]* somewhere else and the 183 days is now unnecessary, because we are going to a seed money approach where when you kick-in the start date, you can start raising money at any point in the election cycle."

Councilor Lindell asked Mr. Shandler to define election cycle.

Mr. Shandler said this is a question they have been researching. He said it appears that in the current code, for privately funded candidates and publicly funded candidates, at the end of the election you have to zero out your campaign fund, so you would have to give donations or give it back to the City. He thinks that is the end of the election cycle, and the new one starts right after the election, so it is a two-year period.

Councilor Lindell said it could be a 4 year period.

Mr. Shandler said one could make that argument. He said you can make another argument that says all candidates, so that is an interesting point that we have not figured out at the staff level. However, under the new proposal, either 2 or 3 years in advance, you could start raising money.

Chair Dominguez said so they could start raising money next month, or after this approved, to run for Mayor.

Mr. Shandler said they could start that next cycle, arguably. Some people say they might have to wait until March 2016, but then they would have a 2 year window to get these $100 contributions.

Mr. Shandler said the bill changes the language to make sure that it is all in accord with this combined system.

Mr. Shandler said on packet page 19, Section 10 of the Bill, there is a change to 9.2.12, beginning on line 3. He said this is the 4th major change, a matching provision, noting on line 8 it provides, "*..on the sixty-second day preceding the election and the fifteenth day before the election,*' a publicly funded candidate who is raising these small contributions can come into the City Clerk's Office and request a match of the money they have received. It is a four-to-one match, and there is a hard cap that you can't receive more than 200% of your initial grant.

Mr. Shandler said, for example, you've raised about $1,500, so on the 62nd day before the election so you can request the 4 to 1 match to the $1,500 he has raised, and they can receive that and keep raising money and 15 days before the election you could submit another similar type form and get another 4 to 1 match. However, you can never receive more than $30,000 in a supplemental amount. "So you get your $15,000 initially, and it would be capped at $30,000 on total matches, so the most you get from public funds would be $45,000 as a City Council candidate.

Councilor Lindell said she has a number of questions that go all the way through the bill, and asked if Mr. Shandler would like to finish his presentation first.

Chair Dominguez asked Mr. Shandler to complete his presentation, and then we will open for questions.

Mr. Shandler said he will go back to the two major items. He said on packet page 5, Commingled expenditures. He said Councilor Ives brought in national known expert from New York that tracks these things throughout the country to find the best model from Pennsylvania, Delaware, New Jersey and other cities as well. He said this is the question of a third party group and are they really secretly in cahoots with a publicly funded candidate. He said they have tried to find a definition of Coordinated Expenditure. The reason it is significant, is if you are a publically funded candidate you can't be in cahoots, and that's why it's important you can't do it. And so they wrote this definition based on their national research and they went so far as to explain examples. It is clearly the candidates and these third party groups, and they talk about substantial discussion and doing things at the suggestion of the candidate or their agent. They talk about people hopping back and forth from the campaign of the third party group. They talk about the candidate raising money for the third party group within a certain time period. So they provided those examples. And they talk about something that came up in the last election about shared services and shared locations. And if a third party and a candidate are sharing locations or vendors, they have to provide a written firewall proving there is no cahoots going on between the parties.

Mr. Shandler continued saying, they also provided examples of what is not coordination, commenting he is on packet page 7. So, if your group is interviewing someone, or endorsing someone to make a speech, that is not impermissible activity. So they have tried to provide a definition of when these two groups shall not meet, and provided examples of what is permissible and what is impermissible, and to put that into the Code so it is clear to all parties.

Mr. Shandler said the second major point is in other the other bill under tab 21, on packet page 21, dealing with third party groups, covering their communication and reporting. He said currently if you spend more than $250 there are requirements, but this broadens the activity to be more inclusive, and it expands the language to talk about if your expenditure is with the approval of the *[inaudible]* and defeat of a candidate, you are the subject to this. If I just in my *[inaudible]* refer to Councilor Rivera as being soft on crime, just that referring to him 60 days before the election will also trigger if I spend more than $250 to do some reporting. He said the bill also requires a third party group to explain who is behind it, the actual people, which is on packet page 11. It requires you to say the name of the president or the chief executive or equivalent so there is a greater sense of transparency. There is also a media exemption, so *The Santa Fe New Mexican* does not have to worry about that they are considered a third party if they do a favorable editorial or an endorsement.

Mr. Shandler said the final point is that... let's say I set up a cause, Foundation for Free French Fries, and I want to give money to Councilor Maestas, so it's pretty hard for *The New Mexican* to track that down, because they don't say who I am. But let's say I get my money from another group called The Catsup Society and they got their money from the Mustard Society. The group thought a lot about how to track all that money upstream so we really know who is giving that money to Councilor Maestas, named as Mr. Shandler. But that would be an infinite number of sales. So if the group decided there was a third party, noting he is looking at packet page 11, line 11, if I'm giving money from upstream, then on my material I'm going to have to put a disclaimer saying this campaign material is supported in part by

donations from and organization that is not required to disclose it's contributors to the Santa Fe City Clerk. And while you have to say who I am, but most people don't, but if I'm going to put out campaign material I have to put that proviso, so the voters know that some money is coming from upstream. Mr. Shandler said these are the four major points and he will now stop for questions.

The Committee asked questions and commented as follows:

- Chair Dominguez thanked Mr. Shandler, the committees and all the individuals who have taken time to work on this, because it's not easy do. He is sure there was lots of debate, and he is sure there will be a lot of discussion and debate tonight as well. He said it seems we are in search of the perfect process and/or system, but we are not there obviously. He said he has lots of questions, but he is going to open it to the Committee. He said, "My questions pertain to how you define some of these things, like how you define a leadership position. I don't know if there is enough definition for some of that stuff in here."

- Councilor Maestas said with regard to the matching provisions, noting in the PRC race that element of the State Public Finance Act was level struck down. He asked since we are home rule, does that mean can we implement our own match provision in public financing, or does that case have nothing to do with this.

  Mr. Shandler said, "That case has everything to do with this. In Santa Fe, it is my understanding that they used to have the matching provision based on the behavior of my opponent. If my opponent raised a lot of money, then I would kick in for a match. As cited, the Courts have struck that down, so you can't do a match based on someone else's behavior. But it appears permissible, and the group has researched this thoroughly, that if you do a self liberating match, for lack of a better word, that doesn't depend on what your opponent is doing, then that type of match is permissible. An earned match, yes."

- Councilor Maestas said it seems that the Committee kind of combined the seed money with qualifying contributions. And I think that does simplify it, but when you defined it on packet page 9 at the top an earned match. Also it seems that the committee combined seed money with qualified constrictions. When you defined it on page 9 at top you defined it as '... not to exceed $100.' But when it was mentioned on packet page 11, under Eligibility as a Participating Candidate, you said 'no less than $5." He asked the reason he put the maximum when he defined it, he put the minimum elsewhere.

  Mr. Shandler thanked him for bringing that to his attention. He said, "And so under this system, let's say I'm running for Council and I want to pursue this, I will still need to get 150 qualified small contributions of not less than $5 or greater than $100, from Santa Fe electors. So you still need to find that sweet spot of Santa Fe electors, but now the range is wider. It used to be just 150 Santa Fe electors at $5. Now it is $5 dollars to $100 dollars, so those are various types of people that sign up. But, I'm not prohibited from getting all sorts of other people to give me up to $100, or $5 or $25. Aces won't count for my qualifiers, I think that's the term we're trying to focus on. I will need 150 qualifiers but I can get plenty of other contributors."

- Councilor Maestas said then you are saying we can accept qualified small contributions from non-qualified electors, and they need not reside in the City, because that was the case for the seed money in the current Code.

  Mr. Shandler, "You are correct. Both things you said are correct."

- Councilor Maestas said but now it's wide open as long as we meet the minimum of these types of qualified small contributions, we can continue fund-raising from non-qualified electors who resides outside our Council District, if I'm a City Council Candidate, or even outside the City.

  Mr. Shandler said, "That's right. So, my parents live in your District, so they could be your qualifiers, but my brother lives in New York. He can be a contributor but he's not a qualifier. You keep me right on track."

- Councilor Maestas asked if the matching provision applies only to the funds raised from qualified electors or is it just a total in aggregate.

  Mr. Shandler said, "In aggregate."

- Councilor Maestas asked to discuss what constitutes coordination with outside entities. He is glad Mr. Shandler listed what does not qualify as coordination. He said these third party organizations or PACs, can still obtain information from the candidate's website and use it potentially verbatim in their materials. But to him that would seem innocent if they just got the information and the platform, and maybe regurgitated it and put it in their own materials. He asked if that is a violation of coordination. He said he is unsure the restriction on coordination takes into account the availability of information though the candidate's campaign.

  Mr. Shandler said, "That is a hotly contest point. It's called the McConnell Rule. And initially there was some language in there that did prohibit that activity, but it not in the draft now. Let's say I'm an innocent candidate and someone goes to my website and they take the material and I don't know about. So there are some on the Committee that could figure out language that would absolve me as the innocent candidate from being punished if someone took the material and used it. We tried for a variety of different iterations of the language, but we couldn't quite make that work. But if it is still a concern of yours, we have a couple different language changes we could offer to you."

- Councilor Maestas said we are involving vendors and you're asking for a firewall. If a PAC and the candidate use the same vendor, and the vendor has to have this written firewall prior to any expenditure, does the burden of proof of the firewall fall on the candidate, or do we involve the vendor. He asked about the enforceability of this provision as it involves vendors.

  Mr. Shandler said, "There was also substantial discussion on that point, in that the ECRB group is committed to do education and outreach. I don't think they have made a final decision as staff as whether there should be a pre-prepared form that is given out to every education session that

helps explain the vendor firewall policy, that they discussed them. I think that Not a decision if there will be a prepared form explaining vendor firewall policy. I think it probably would be prudent for a candidate to take the lead on that type of project to make sure their vendors have that documentation. That, I think is the idea of the education process, whether there should be a model form or just some type of education."

- Councilor Maestas said it could be part of the required documentation by the candidate, if that coincidence happens.

- Councilor Maestas said, regarding reporting, Section 9-3.14 on packet pages 20 and 21, it seems like there is a hard stop on reporting. He said in the current Finance Code, the regular Code as it pertains to reporting, there is a lag factored in the final Campaign Finance Report which is due two weeks after the election. He said we know there is a lag, and if you make the expenditure and you don't get the product, do you have to report it, or is there some consideration for a lag in the delivery of the service or product. There was a hard stop on the seed money or qualifying contributions, and asked if there was discussion about considering some kind of lag, instead of a hard stop.

  Mr. Shandler said, "I believe we talked about that in detail. I know internally we have discussed that, and I'm pointing to the City Clerk behind me. And you don't have that in your packet now because we're not even sure the direction of today's meeting. But that might be something we can work on some language in advance of the final vote."

- Councilor Maestas said he would like some consideration to be given to the lag in the delivery of products and services, if that report is to be totally inclusive of a certain category of funding. In this case, it's the separate account from qualified small contributions. He said, "You know where I'm going on this, so I guess that would kind of be my input and my advice on reporting."

  Mr. Shandler said, "I think that under the proposed system, we get rid of the hard stop on seed money, and so it may be less of an issue under the proposal."

- Councilor Maestas said with enforceability, this is going to be on the honor system. There will need to be a lot of public education. He asked if there still will be candidate self-certification – each candidate has to sign. He believes the Treasurer has to sign as well. He asked if this will continue under the new legislation, and Mr. Shandler said yes.

- Councilor Maestas said the last issue is unused campaign materials, and asked if that was discussed. He thinks there should be some parameters where we don't have to mess with a book of stamps or envelopes left over, noting he had to turn in both. He said perhaps staff could provide recommendations about how best to treat unused campaign materials. He isn't talking about signs, but there are office supplies, clipboards and such. He said there should be some minimum amount where these don't have to be turned in. He asked staff to take that under advisement and address how best to do this.

Mr. Shandler said he will do so.

- Councilor Maestas thanked the Committee and staff, noting it is a lot of work, commenting it seems you did consider a lot of the lessons learned from the last election cycle.

- Councilor Lindell asked what happens with a group that doesn't come in and file at all, and they carry on campaign activities.

  Mr. Shandler said, "Somebody would have to file a written complaint. I think if they made expenditures over $250, they are within the jurisdiction of the ECRB and subject to their penalties."

- Councilor Lindell she is unsure of what those penalties are. She said if a group raises money, but doesn't file and participate in the election, and someone files a complaint on them and they say so what.

  Mr. Shandler said, "Enforcement in under chapter 6. The ECRB has supreme authority and fining authority, so I think that's how those cases would be resolved."

- Councilor Lindell, referring to packet page 5, line 21, where it says, "*The cost of an event held in honor of or on behalf of a candidate when the total cost of the event amounts to no more than $200.*" She asked what happens if we hold an event and it costs $1,000, but 5 people pay $200 apiece."

  Mr. Shandler said, "I believe the City Attorney's Office probably should issue a memo about this. It is $200 composite. People can't chip in $200 and get a $1,000 event."

- Councilor Lindell asked if this would be one of those things where someone would have to file a complaint against whatever group of people put on the event.

  Mr. Shandler said, "Correct."

- Councilor Lindell asked if they would have to be subpoenaed if they didn't feel like filing or coming in, and Mr. Shandler said this is correct.

- Councilor Lindell asked the timeframe on something like this.

  Mr. Shandler said, "I don't know if there is a specific timeframe. The way I'll answer your question is the ECRB wanted to get the Code changes, which the Council controls, during the summer, and then they have their own regulations to deal with enforcement. In the Fall they are going to meet and I will add that to the list of enforcement issues in terms of the public timing of these complaints."

- Councilor Lindell said she is saying is that this is a very tough thing. She said she knows the Committee spent a lot of time on it. She said we are dealing with a lot of intangible things. We want people to do the right thing, and it's very hard to put this together to make them do the right thing if they are inclined not to do the right thing. She said this is the chosen path for some people.

- Councilor Lindell said she is troubled with the part about physical space, and allowing physical space sharing. It seems as if we're going to clean this up, that such things as sharing physical space lends itself to think logically that you have some kind of coordination. She said, "These are just comments. I'm not asking you to defend any of this Zach."

- Councilor Lindell said on packet page 7, line 24, it provides, "... *has invited the candidate to make an appearance before the groups members....*" She said it doesn't strike her as right that some group doesn't have coordination with a candidate if they have a hall they've rented or owned, and a candidate comes in and speaks to 500 or 1,000 people. She said that doesn't seem very independent, and to her it feels like some coordination.

- Councilor Lindell said on packet page 9, she has stricken lines 4-7, the definition of Qualified Small Contribution, and asked if this is correct, and Mr. Shandler said yes.

- Councilor Lindell said on packet page 11, line 11, candidates running, 150 qualified contributions of no less than $5. She is not sure why $5. Why not $1, why not $10. She doesn't know the where or why of that. She is not sure how we came up with the $150, although she thinks it is a fair number after we have redistricted.

- Councilor Lindell said she is unsure about the language at the bottom of packet page 11, line 23. She asked what happens when you start out and you are committed to doing public financing of your campaign, but part way through you decide you don't want to do public financing any more – how do you get out of it.

  Mr. Shandler asked, "Is this going to happen before December 9, 2015, the qualifying day, the use of the hypothetical."

- Councilor Lindell said, "Let's do before and let's do after."

  Mr. Shandler said, "I would think before, you don't have to do anything further. You haven't provided any notice to the City Clerk, so there is nothing to revoke in that status, so you just start collecting other $100 amounts. I think afterwards, there is a provision in there that says you can keep the money you raised so far and go on as a privately funded candidate."

- Councilor Lindell asked him to repeat that, and Mr. Shandler asked to come back to that so his team can find an exact citation.

- Councilor Lindell asked how much money is in the campaign fund right now.

Mr. Shandler said, "That is in the FIR that is provided, which is on packet page 25. The current balance in the Public Campaign Finance Funds at the end of fiscal year 2015, which is now, is $493,000. The other distribution from the General Fund is $150,000, and it's distributed to the fund on a proportional quarterly basis, at $37,500 per quarter. This means the balance of the funds at the end of this calendar year should be $568,000."

- Councilor Lindell, referring to packet page 12, asked if money can be electronically donated.

  Mr. Shandler said, "I think the intent is of this sentence is to allow the ECRB to set up a regulation to explain how the PayPal text system would put things in an electronic signature. They would begin to probably write that regulation."

- Councilor Lindell asked if that a yes.

  Mr. Shandler said, "The ECRB I believe, would be given the power to clarify that issue. I believe the City Attorney's Office issued a memo last year on that topic, which was not as modern as some computer people are. I will get that memo for you in just a second, but I think that language was drafted to allow the ECRB to write a rule that would modernize that process."

- Councilor Lindell said this is something she would like to have clarification on.

- Councilor Lindell, referring to packet page 15, Certification as a Participating Candidate, said that is 3 months prior to the election, which in her opinion is too late. If you're running for election and you are a serious candidate, you need to be able to make real expenditures prior to 90 days before the election. This is her opinion, and she believes others who have run for office would tell you the same thing, that there are problems with that. She said up to that point, you can't make any expenditures.

  Mr. Shandler said, "You can make limited expenditures for Council, I think $1,500 is the cap."

- Councilor Lindell said she thinks that is extremely late to be able to make expenditures. She said the other part of that is the matching funds are at two distribution times – 62 days prior to the election and 15 days prior to the election.

- Councilor Lindell continued, saying if you are a very serious candidate, running for office is a tremendous, huge amount of work, and all of the candidates she knows are very serious about running for office. She said to undertake a campaign, and not know what your budget is going to be is a very very risky thing to do. She said, for example, on the 62nd day people come in and some have raised the maximum amount of money and others have not, and the funds are disbursed and the fund is absolutely drained and there is a zero balance. She asked what happens when a candidate gets a lot of $100 contributions between the 62nd day and the 15th day, and someone wants matching funds, but the fund has been drained.

  Mr. Shandler said the candidates could raise funds but could not get matching funds.

- Councilor Lindell said some people may or may not be able to raise money quickly. She questioned whether the City could afford a four-times match under the current budget, commenting that the amount we contribute annually to this fund just won't generate that much money.

- Councilor Lindell said she saw an amendment for receipts for expenditures.

- Councilor Rivera said most all of the questions he had have been asked and answered. He asked if any consideration was given to separating the process for electing the Mayor and the City Councilors.

  Mr. Shandler asked if he is saying to have one system for the mayor and a different one for the City Council.

- Councilor Rivera said yes.

  Mr. Shandler said no consideration was given to changing that process.

- Councilor Rivera said this takes what was once a level playing field which now is more in favor or the more wealthy person or the person who knows wealthier people. He said, "To me, this is not where we want to take this." He said we are seeing a lot more changes trying to address the mayoral part of it, and he thinks we are taking the fairness out of the Council part of it. He said these aren't questions, just comments.

  Mr. Shandler said one of the options would be to split effective dates. He said staff may be able to brainstorm on different types of options.

- Councilor Rivera said the fairness issue is his biggest concern. He was somewhat surprised during his campaign with some literature being put out without anyone knowing who it was from, without anybody registered with the Clerk's Office as being affiliated with anybody. He said even though he was affected by that, he still thinks the process was pretty good overall.

- Councilor Rivera continued, saying he is very concerned about the fund, as is Councilor Lindell, and especially for the next mayoral election when the Mayor becomes a paid position. He said there might be more people running, and he is concerned as to whether we will have the funds to do this. He said these are just comments for us to think about, and asked if we really want to take the fairness out of the Council races. He said initially, the seed money was capped at $1,500, and then the contributions to qualify for the $15,000, and that was all you could do. You couldn't earn any more, and you had what you had and that was it, and everybody was on a level playing field. He thinks this removes the level playing field, allowing potentially popular people, wealthier people to gain a very distinct advantage, and he is unsure if this is where we want to go.

- Chair Dominguez thanked everyone for their work on this. He said, "I often wonder if we don't allow paranoia to kind of take over in some of our political process. And I tend to think that sometimes some of that is creeping into some of this as well, because we can dice it and slice it in so many ways. But I think, as Councilor Lindell said, you are going to find people who are not going to be honest and will do whatever they are going to do and find a way to work around the law. And when we try to cast too wide of a net or get to that perfect solution I think we sometimes find trouble."

- Chair Dominguez said one of the things he wants to follow up on, is in terms of empowerment and engagement for people, commenting this does not help, especially in some of the more impoverished parts of the community.

- Chair Dominguez continued, "And I want to get in the political process or a political campaign, and I look at this, it's scary. I'm going to want to do something and it's against the law, and it's an innocent maneuver. He said you get a small group of people who are just trying to get involved in the political process and support a candidate, they have to jump through all these hoops. And they have to understand what it means to potentially be indicted, and just all this stuff that comes with this kind of law, it does not, in his opinion, speak to engagement and empowerment, especially for folks who are not as affluent as those who have worked on campaigns and in this environment for many many many years. Especially if you are a candidate who has good intentions but you're not politically motivated, or haven't been involved in the political process for a long time, this could look scary. This could look like, man I'm afraid to do anything, because the one thing that I might do would be wrong."

- Chair Dominguez continued, "I guess what I'm trying to say is if there is a way to simplify this, it would be helpful, especially if this is being written out of paranoia."

- Chair Dominguez continued saying one of the things he wanted to talk specifically about is on packet pages 6 and 7, Coordinated Expenditures. He said there is a whole list of examples. He said he doesn't know if he would want to put in examples, because that opens the door for a number of things. For example, someone who could come in and say how do you identify a leadership position. He said Section d provides, "*If the individual or entity has employed, has in a leadership position or has accepted a donation of the campaign related professional services...*" He asked how to define leadership position in talking about coordinated expenditures. He understands the intent and likes that we are trying to define coordination between groups, but doesn't know if that is the right avenue to take to give examples.

- Chair Dominguez continued, saying, regarding a firewall system, "If I hire a cousin of mine or a friend of mine who does something on a website, they may not have the ability to identify or recognize what it means to have a firewall system in place to prohibit them from working for my opponent. Maybe I don't mind them working for my opponent. What I'm saying is we may have organizations not sophisticated enough to identify and understand what a firewall system is. That's something I think that needs work."

- Councilor Dominguez continued, "Again, we're under this idea that everyone who is involved every aspect of political work and campaigns understand some of these not so well intended things that have happened that have led to this."

- Councilor Dominguez said, "The last thing, to bring this to some kind of closure, is I have a concern with the finances as well, especially if we are in the dire straits that we are in financially. First of all, I don't know why anyone would want to run for political to run for office, so I don't know if I'm going to get 15 or 20 people to break the bank. But we have to be fair for everyone and make sure there are systems in place for that to happen. I guess I would just be a little bit concerned about the finances and making sure that we have things in place for that."

- Chair Dominguez continued, "And I guess the last thing is, public financing in my opinion, favors incumbents, because the incumbents have the name identification and don't necessarily need the kind of money who people who aren't incumbents need. And it forces people to focus more on the grass roots thing which is good. But in the very beginning, it's not fair for some of the people who don't have that name ID. I'm not going to say that I've always been against publicly financed campaign, so I did participate this last time. I think the intent is good. I think it's a good thing, but we have to be very careful and very deliberate about exactly what it is we're doing, and we shouldn't be trying to anticipate all the other things that could come across."

- Chair Dominguez continued, "And with that. Great job. It's definitely a lot of work I know. And I think we're going to have to get somewhere soon."

- Councilor Maestas said he wants to focus on the match provision. He likes the streamlining overall of what's been done, but really thinks the match provision really swings the pendulum in the opposite direction, and accelerates the privatization of public finance. Any candidate wants to know their budget at the outset of the campaign and plan the campaign around the budget. If there is uncertainty in terms of how well they campaign, he doesn't think any candidate wants to run their campaign that way. It turns into a fundraising race, and loses the focus of the grassroots campaign. He likes the concept, but suggests we scale back the matching provisions and take one bite of the apple at a time, reducing the match to two to one. He said If we leave it up to the 15th day they keep fund-raising and then dump the money. He thinks the match provision is swinging too far to the other side. He believes we need to scale this back and use it as a pilot.

- Chair Dominguez asked if any of the people involved in writing this legislation, have ever managed a campaign or run for office.

  Mr. Shandler said he believes Tara Luján has.

- Chair Dominguez asked if Ms. Luján is the only one, and Mr. Shandler yes.

- Chair Dominguez let's try to give some direction.

- Councilor Lindell said she doesn't want to reject this legislation and would like to send this back to the Committee. She said 3 members of the Committee are here today and heard our comments. She doesn't want to out and out reject this, but to postpone it and have it come back to us in a different form. She would like to postpone Items #21 and #22 and have them come back to us in a different form. She said it seems if we voted now, we would not approve this legislation.

- Councilor Maestas agreed saying it would be great if staff would make some recommendations. He said the legislation needs significant changes before are ready to adopt the bills.

- Chair Dominguez asked the timing on the legislation.

  Mr. Shandler said it can be postponed to the next meeting and we can bring back a scaled down version.

- Councilor Rivera agrees with Councilor Lindell in that he would hate to throw this out completely. He said it is important to get this right.

- Chair Dominguez asked if there would be an opportunity to separate the processes between the Mayoral race and the Council races.

- Councilor Rivera asked in the first publicly financed election how many publicly financed candidates turned money back at the end.

  Ms. Vigil said she doesn't recall, but she can get that information for the Committee at the next meeting.

- Councilor Rivera said he turned back several thousand dollars, and to have an additional $45,000 seems to be too much.

- Councilor Maestas agrees with Councilor Lindell, and believes we should take action on some version that is acceptable. He appreciate the Committee's efforts, commenting this took quite a bit. His only concern is that when we come back the changes won't be material. He said we advertised for the public hearing under this caption. He hopes that we would not significantly gut or remove sections altogether for public hearing. He thinks we should keep it within the scope of the caption and the advertising to make sure we don't have to readvertise and further delay the process. He would like to see this go forward.

MOTION: Councilor Maestas moved, seconded by Councilor Lindell, to postpone Items #20 and #21 to the next meeting of the Committee, and that our feedback be taken into consideration by staff in coordination with the Committee, and propose amendments consistent with that, and come back to us with a new version.

DISCUSSION: Chair Dominguez said if it's not ready to move forward, we shouldn't feel pressured to get it in force by the next election.

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

Ms. Vigil said, in response to Councilor Rivera's question, regarding what monies came back for the 2014 election – Mayoral candidate $2,500, and a number of Council candidates that returned some money one of which was close to $1,000

21. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING THE CAMPAIGN CODE, SECTION 9.2 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND EXPENDITURE" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE;" TO MODIFY PROVISIONS RELATED TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING; TO MODIFY PROVISIONS RELATED TO THE CONTENTS OF CAMPAIGN FINANCE STATEMENTS; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE CAMPAIGN CODE (COUNCILOR IVES). (ZACHARY SHANDLER) Committee Review: City Council (request to publish) (approved) 06/24/15; and City Council (public hearing) 07/29/15. Fiscal Impact – No.

Items #20 and #21 were combined for purposes of presentation and discussion

This item was postponed to the next meeting of the Committee. See action on Item #20 above.

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END OF CONSENT CALENDAR DISCUSSION

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22. DISCUSSION ON CAPITAL IMPROVEMENT PLAN (2015-2020) (OSCAR RODRIGUEZ)

Oscar Rodriguez said this is the second time we have talked about this. A the last meeting we talked about structure where the Finance Committee that sets a basic format the timelines for the departments to work with the respective oversight committees to do service level. And then apply that, and come back with prioritized list of proposed capital improvements which then comes back to this Committee, and you approve it or pass it to the Council as you would a budget – the projects for the next 5 years, and the resources that are available. He said he would like to continue that discussion.

Oscar Rodriguez, Finance Director and Kate Noble, Acting Director, Community Services, reviewed the information that is in the Committee packet. Please see this information for specifics of this presentation.

Item #H(6)

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2015-27
Public Campaign Finance Code

Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2015-27:

1. On page 8, line 4 ***delete*** "is at least" and ***insert*** "shall not exceed" in lieu thereof
2. On page 8, line 7, ***delete*** "is at least" and ***insert*** "shall not exceed" in lieu thereof

Respectfully submitted,

_____

Joseph M. Maestas, Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

Exhibit "11"

Sent to all members of governing body + to mayor. July 22, 2015

mistress america

The New York Times http://nyti.ms/1GxZA5t

The Opinion Pages | OP-ED CONTRIBUTOR

The Only Realistic Way to Fix Campaign Finance

By LAWRENCE LESSIG JULY 21, 2015

CAMBRIDGE, Mass. — FOR the first time in modern history, the leading issue concerning voters in the upcoming presidential election, according to a recent Wall Street Journal/NBC News poll, is that "wealthy individuals and corporations will have too much influence over who wins." Five years after the Supreme Court gave corporations and unions the right to spend unlimited amounts in political campaigns, voters have had enough.

Republican candidates, including Chris Christie, Ted Cruz and Lindsey Graham, and the main Democratic candidates, Hillary Rodham Clinton, Martin O'Malley and Bernie Sanders, all acknowledge the problem, with some tying it to the Supreme Court's 2010 decision in Citizens United, which unleashed virtually unlimited "independent" political spending.

The solution proposed by some, notably Mrs. Clinton, Mr. Graham and Mr. Sanders, is amending the Constitution.

It sounds appealing, but anyone who's serious about reform should not buy it. For a presidential candidate, constitutional reform is fake reform. And no candidate who talks exclusively about amending the Constitution can be considered a credible reformer.

This is not because we don't need constitutional reform. Of course we do. No sane constitutional designer would have picked the mix of restrictions and rights that our Constitution has been read to embrace. And with due respect to the Supreme

Exhibit "12"

Court, neither did our framers. Amendments will be essential to restoring this democracy, just as a healthy diet is essential to the recovery of a patient who has suffered a heart attack.

Nor is this because a constitutional amendment is impossible. No doubt it is ridiculously difficult to amend our Constitution. The veto of one house in just 13 states — representing as little as 5 percent of the American public — could block an amendment. But in the last hundred years we've added 10 amendments to our Constitution, with an average ratification time (excepting the most recent, which took 202 years) of less than 16 months. We've done it before; we can do it again.

Nor does this mean that the many reform organizations pushing for a constitutional amendment are not themselves true reformers. Of course they are, and their work is the most important force building the essential political movement that real reform will require.

But even if we could pass amendment to reverse Citizens United soon (and not since the Civil War has an amendment been adopted with support from just one party), it would not solve the problem of money's influence in American politics.

If the core problem is politicians beholden to their funders, then giving Congress the power to limit the amount spent or the amount contributed would not resolve it. Regardless of how much was spent, the private funding of public campaigns, even with limits, would inevitably reproduce the world we have now.

Real reform will require changing the way campaigns are funded — moving from large-dollar private funding to small-dollar public funding.

Democrats, for example, have pushed for small-dollar public funding through matching systems, like New York City's. Under a plan by Representative John Sarbanes, Democrat of Maryland, contributions could be matched up to nine to one, for candidates who agree to accept only small donations.

Republicans, too, are increasingly calling for small-dollar funding systems. The legal scholar Richard W. Painter, a former "ethics czar" for President George W. Bush, has proposed a $200 tax rebate to fund small-dollar campaigns. Likewise, Jim

Rubens, a candidate in the Republican primary for Senate in New Hampshire last year, proposed a $50 tax rebate to fund congressional campaigns.

Either approach would radically increase the number of funders in campaigns, in that way reducing the concentration of large funders that especially typifies congressional and senatorial campaigns right now.

Some 13 states already offer two kinds of public campaign funding: In Arizona, Connecticut and Maine, "clean elections" laws offer full subsidies to candidates who agree to limit their spending and private fund-raising, while Florida and Hawaii match small donations up to a certain amount. The Brennan Center for Justice wants to expand New York City's matching-contribution law to the rest of the state, saying it would increase transparency, accountability and voter turnout.

Most Americans are deeply skeptical of reform, and especially reform that costs money. So it's much easier to call for a constitutional amendment than to propose public financing.

But solving the crisis in our democracy will not be cheap or easy. We won't end the corruption of a system beholden to the funders until we, the citizens, are the funders. That truth takes courage to utter. This election needs that courage.

Lawrence Lessig, a professor of law at Harvard, is the author of "Republic, Lost: How Money Corrupts Congress — and a Plan to Stop It."

A version of this op-ed appears in print on July 21, 2015, on page A27 of the New York edition with the headline: Free Our Democracy.

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MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Oscar S. Rodriguez, Finance Director

DATE: July 14, 2015

SUBJECT: Report on Resolution 2015-40

This memo provides staff's evaluation of the allocation and expenditure of the ¼% Municipal Gross Receipts Tax revenue (GRT) from Section 18-10 SFCC 1987 as called for in your resolution of May 13, 2015.

You directed staff to evaluate the allocation and expenditure of GRT revenue collected from Section 10-10 SFCC 1987 so it could be determine whether there is a need to amend the dedication provision in the ordinance authorizing this tax. To comply with this directive, staff compiled all of the financial information stored in the City's financial accounting system and prepared the table shown below going back to 1996. While the Governing Body passed the enabling legislation for this tax in 1991, known today as the ¼[E] Municipal GRT, the stored data does not go that far back. Hard copies of the budgets for the years going back to 1991 can be found in the archives, but their format and reporting methods vary from the electronic files and do not allow for a proper comparison. Nevertheless, the 19 years available in the system provide enough of a trend to allow for meaningful conclusions to be drawn.

| Fund | | 18 FISCAL YEARS FROM 1996 UNTIL PRESENT, AS OF THE 28TH OF THE MONTH | | |

You will note that over this time period, transit-oriented funds have together consistently received more than 60% of the funds appropriated from the Municipal GRT Fund. The Transit Operating Fund, which underwrites the Transit Division, has accounted for almost all this distribution (56%). The General Fund has received the 2nd largest share (22%) of the total amount appropriated. The transfers to the General Fund arrive with no effective designation and commingle with the many other revenue streams pouring into it. The Quality of Life Fund has been appropriated the 3rd largest share (12%). Along with the General and Quality of Life Funds, there are other funds that draw from the Municipal GRT Fund that are not specifically transit-oriented. As a group, however, these funds amount to less than 5% of the total disbursed since 1996.

The ¼¢ Municipal GRT Fund's ending balances over this 18-year period have oscillated through changing economic and financial conditions. In recent years, however, City budgets have remained conservative in allocating projected GRT revenue from this fund. This has resulted in the gradual build-up of a moderate reserve in the fund. FY 2014-15 is projected to close with an ending balance of $1,350,122 (18% of budgeted expenses/distributions). The FY 2015-16 Budget was approved with an anticipated ending balance of $2,077,297 (26% of budget).

The pattern of appropriation of Municipal GRT funds appears generally consistent with the language of the legislation that prescribes how this revenue stream is to be distributed:

18-10.4 C.

Revenue from the fifth one-quarter percent (1/4%) increment of the municipal gross receipts tax is dedicated to the public bus system and quality of life purposes in the following manner:

(1) Finance the acquisition, operation, maintenance and any other expenses necessary for or incidental to the provision of a public bus system. In the event that the public bus system is ever discontinued, the funds allocated to this paragraph shall be used for general municipal operations and the discontinuance of the public bus system shall not affect the allocations set out in paragraph (2) below. The governing body shall not discontinue the public bus system until the notice and hearing requirements of subsections 2-2.3A, 2-2.3B, 2-2.4A, 2-2.4D, 2-2.6 SFCC 1987 have been met.

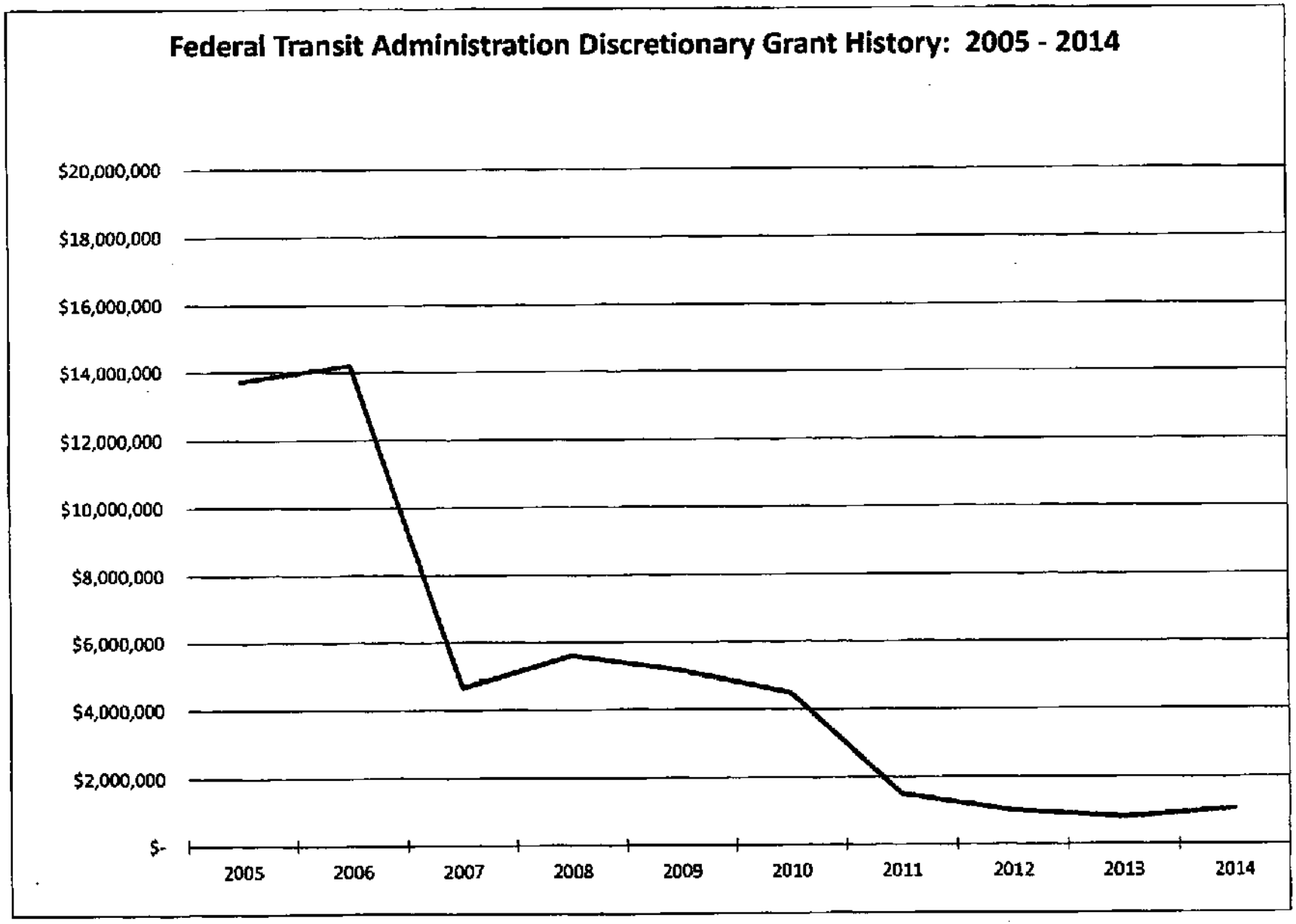
(2) After satisfying the provision of a public bus system, the remaining proceeds of the gross receipts tax shall be allocated as set forth in subparagraphs (2) (a) and (2) (b) below.

(a) Up to two-thirds (2/3) of the proceeds remaining following the distributions provided in paragraph C(2) of the gross receipts tax shall be used for general municipal operations.

(b) Up to one-third (1/3) of the proceeds remaining following the distributions provided for in the paragraph C(1) of the gross receipts tax shall be used exclusively for the following quality of life purposes: recreation, open space, libraries, and parks.

Veteran City staffers explain that the practice during the budget process has been to first address the Transit Division's budget requests before allocating resources from this GRT elsewhere. The FY 2015-16 Budget continued this approach. To the extent that the Transit Division has presented and the Governing Body has addressed the community's transit priorities during the annual budget development process, the GRT from this source has been used to satisfy the public bus system's funding needs before the remaining resources were appropriated to quality of life purposes as set out in the ordinance or left in the ending fund balance. Based on this, staff does not recommend any changes to the ordinance at this time.

I am available to answer any questions and provide further information as you require.


Federal Transit Administration Discretionary Grant History: 2005 - 2014
$20,000,000
$18,000,000
$16,000,000
$14,000,000
$12,000,000
$10,000,000
$8,000,000
$6,000,000
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2005
2006
2007
2008
2009
2010
2011
2012
2013
2014

CITY COUNCIL MEETING OF
July 29, 2015
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY

Mayor Javier Gonzales

Co-Sponsors	Title	Tentative Committee Schedule

Councilor Patti Bushee

Co-Sponsors	Title	Tentative Committee Schedule

Councilor Bill Dimas

Co-Sponsors	Title	Tentative Committee Schedule

Councilor Carmichael Dominguez

Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION DIRECTING STAFF TO IMPLEMENT A MORE OPEN PUBLIC BUDGETING PROCESS THAT IMPLEMENTS PUBLIC HEARINGS IN ALL FOUR DISTRICTS, PRIORITIZES FUNDING NEEDS, AND RESULTS IN A FINAL BUDGET THAT IS FULLY TRANSPARENT.	Finance Committee – 8/17/15 City Council – 8/26/15

Councilor Peter Ives

Co-Sponsors	Title	Tentative Committee Schedule
	AN ORDINANCE AMENDING SUBSECTION 23-6.2 SFCC 1987 TO PERMIT THE SALE AND CONSUMPTION OF ALCOHOL IN AN AREA OF THE PLAZA ALONG THE NORTH CURBLINE OF PALACE AVENUE, RUNNING IN FRONT OF THE PALACE OF THE GOVERNORS, BETWEEN WASHINGTON STREET AND LINCOLN AVENUE FOR THE CHRISTUS ST. VINCENT 150TH ANNIVERSARY GALA ON SEPTEMBER 19, 2015.	Public Works Committee - 8/10/15 City Council (request to publish) - 8/12/15 Finance Committee - 8/17/15 Public Safety Committee - 8/18/15 City Council (public hearing) 9/9/15

This document is subject to change.

Exhibit "14"

Councilor Signe Lindell		
Co-Sponsors	**Title**	**Tentative Committee Schedule**
	A RESOLUTION REQUESTING THAT STAFF PREPARE AN UPDATED SANTA FE GENERAL PLAN THAT STREAMLINES AND SUMMARIZES THE EXISTING SANTA FE GENERAL PLAN.	City Business Quality of Life Committee – 8/12/15 Public Works Committee - 8/24/15 Long Range Planning Subcommittee – 9/2/15 Finance Committee – 9/17/15 City Council 9/30/15

Councilor Joseph Maestas		
Co-Sponsors	**Title**	**Tentative Committee Schedule**
	A RESOLUTION AUTHORIZING THE PLACEMENT OF A QUESTION ON THE BALLOT OF A SPECIAL ELECTION, TO BE HELD IN CONJUNCTION WITH THE REGULAR ELECTION ON MARCH 1, 2016, TO ASK THE VOTERS OF THE CITY OF SANTA FE WHETHER OR NOT THE *SANTA FE MUNICIPAL CHARTER* SHOULD BE AMENDED TO INCLUDE A PROVISION TO ESTABLISH A SANTA FE PUBLIC UTILITY BOARD.	Finance Committee - 8/31/15 Public Utilities Committee - 9/2/15 City Council - 9/9/15

Councilor Chris Rivera		
Co-Sponsors	**Title**	**Tentative Committee Schedule**
	A RESOLUTION DECLARING THE CITY OF SANTA FE, NEW MEXICO A HYBRID ENTITY FOR PURPOSES OF HIPAA AND HITECH COMPLIANCE.	Public Safety Committee - 8/8/15 Finance Committee - 8/31/15 City Council - 9/9/15
	A RESOLUTION TO SUPPORT MEOW WOLF'S PROJECT AND EFFORTS TO DIVERSIFY THE ECONOMY, REVITALIZE AN ECONOMICALLY DISTRESSED NEIGHBORHOOD AND PROVIDE A UNIQUE FAMILY ENTERTAINMENT OPTION FOR SANTA FE.	Economic Development Review Subcommittee – 8/4/15 City Business Quality of Life Committee – 8/12/15 Finance Committee – 8/17/15 City Council 8/26/15

Councilor Ron Trujillo		
Co-Sponsors	**Title**	**Tentative Committee Schedule**

Introduced legislation will be posted on the City Attorney's website, under legislative services. If you would like to review the legislation prior to that time or you would like to be a co-sponsor, please contact Jesse Guillen, (505) 955-6518, jbguillen@santafenm.gov or Rebecca Seligman at (505) 955-6501, rxseligman@santafenm.gov .

This document is subject to change.

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-__

INTRODUCED BY:

Councilor Joseph M. Maestas

A RESOLUTION

AUTHORIZING THE PLACEMENT OF A QUESTION ON THE BALLOT OF A SPECIAL ELECTION, TO BE HELD IN CONJUNCTION WITH THE REGULAR ELECTION ON MARCH 1, 2016, TO ASK THE VOTERS OF THE CITY OF SANTA FE WHETHER OR NOT THE *SANTA FE MUNICIPAL CHARTER* SHOULD BE AMENDED TO INCLUDE A PROVISION TO ESTABLISH A SANTA FE PUBLIC UTILITY BOARD.

WHEREAS, a Public Utility Board ("Board") would advise the Governing Body, through the Public Utilities Committee, on issues related to city utility capital, water conservation, financial planning, operations, rate setting, projects, and policies; and

WHEREAS, the Board would participate in the multi-year financial planning process for City utilities to prioritize programs, and to estimate overall rate impacts; and

WHEREAS, the Board would review the proposed financial plans and revisions, and submit the Board's findings and recommendations to the Governing Body as part of the City's annual financial planning process; and

Exhibit "15"

WHEREAS, the Board would participate in the utility rate design process and make recommendations to the Governing Body on the equitable distribution of rate adjustments among customer classes, as determined in the rate design process; and

WHEREAS, the Board would report to the Governing Body on proposed rate changes during the annual budget hearings and development processes for water, sanitary sewer, and solid waste rates; and

WHEREAS, the Board would participate in the periodic review and analysis of alternative rate designs proposed by the Governing Body; and

WHEREAS, the Board will help identify any general fund cost impacts by utility enterprises and recommend, if any, appropriate transfers from the enterprise fund to the General Fund; and

WHEREAS, the Board will determine if a payment in lieu of taxes (PILOT) shall be made to the General Fund and if so, the board shall recommend an appropriate amount to be transferred; and

WHEREAS, the Board would report on other city activities or proposed policies with significant impacts to water, sewer and solid waste rates; and

WHEREAS, the Governing Body wishes to ask the voters of the City of Santa Fe to amend the *Santa Fe Municipal Charter* to allow for the creation of a Public Utility Board.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the Governing Body hereby authorizes the placement of a question on the ballot of a special election, to be held in conjunction with the regular municipal election on March 8, 2016, to ask the voters of the City of Santa Fe whether or not the *Santa Fe Municipal Charter* should be amended to include a provision to establish a Santa Fe Public Utility Board.

PASSED, APPROVED AND ADOPTED this _____day of _____, 2015.

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, CITY ATTORNEY

Legislation/Resolutions 2015/Public Utility Board

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-__

INTRODUCED BY:

Councilor Patti J. Bushee

A RESOLUTION

AMENDING THE *GOVERNING BODY PROCEDURAL RULES* TO REMOVE THE PROVISION ALLOWING THE GOVERNING BODY TO SUSPEND THE RULES AND CONTINUE A REGULAR OR SPECIAL COUNCIL MEETING BEYOND 12:00 A.M.

WHEREAS, in recent meetings, public comments and city council debate has stretched into the early hours of the morning; and

WHEREAS, it is a disservice to the public to have city council meetings that have significant impact on residents lives extend late into the night; and

WHEREAS, decisions made after hours of testimony and debate may not always be made in the best interests of the residents of the City of Santa Fe; and

WHEREAS, many residents work full-time, and spend time away from family to participate in the democratic process; and

WHEREAS, current *Governing Body Procedural Rules* allow the council members to suspend the rules requiring items not heard prior to 11:30pm be considered at a later date by a majority vote of the members; and

Exhibit "16"

WHEREAS, current *Governing Body Procedural Rules* stipulate that the evening session of a City Council meeting shall be adjourned no later than 12:00 a.m.

WHEREAS, there is a desire by the Governing Body and the public to ensure that council meetings are run in a more efficient, judicious, and expeditious manner that provides the public with the best form of democracy available.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Section III of the *Governing Body Procedural Rules* is hereby amended to read:

Regular City Council meetings are comprised of two sessions each and are held in the Council Chambers on the second and last Wednesday of each month. The afternoon session begins at 5:00 p.m. The evening session begins at 7:00 p.m. and shall be adjourned not later than 12:00 a.m. In the event that any agenda items have not been addressed, the meeting shall be reconvened at 7:00 p.m. the following day, and shall be adjourned not later than 12:00 a.m. Agenda items not considered prior to 11:30 p.m. shall be considered when the meeting is reconvened, or postponed to a subsequent meeting.

Special meetings of the Governing Body may be called pursuant to the *Santa Fe City Code*.

PASSED, APPROVED AND ADOPTED this _____day of _____, 2015.

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, CITY ATTORNEY

Legislation/Resolutions 2015/Governing Body Meeting Limit

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015 - _____

INTRODUCED BY:

Councilor Signe Lindell

A RESOLUTION

REQUESTING THAT STAFF PREPARE AN UPDATED SANTA FE GENERAL PLAN THAT STREAMLINES AND SUMMARIZES THE EXISTING SANTA FE GENERAL PLAN.

WHEREAS, the City previously prepared and adopted the 1999 general plan; and

WHEREAS, the 1999 General Plan cost $500,000, was in process for five years, included over 300 pages, 600 policies and attempted to address nearly all aspects of city government, while many departments and divisions now develop separate plans that do not need the General Plan for guidance; and

WHEREAS, each General Plan (1912, 1947, 1962, 1974, 1983 and 1999) has been a unique and separate document providing guidance for the city's physical development; and

WHEREAS, it is now appropriate to update the 1999 General Plan to address changing conditions; and

WHEREAS, the City desires that the current General Plan be updated in a more concise, easily understood format to reflect current conditions in a way that best communicates its information

Exhibit "17"

and intent; and

WHEREAS, separately developed and adopted area plans, or sector plans, that are able to address smaller geographic areas in more detail would become, upon adoption, a part of the city's General Plan by reference; and

WHEREAS, pursuant to Section 3-19-9 NMSA 1978, municipalities are granted the authority through their planning commissions to "...prepare and adopt a master plan for the physical development of the municipality and the area within the planning and platting jurisdiction of the municipality which in the planning commission's judgment bears a relationship to the planning of the municipality...", and

WHEREAS, pursuant to Section 3-19-9 NMSA 1978 the master plan shall "...be made with the

general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity or general welfare as well as efficiency and economy in the

process of development..."; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that:

1. City Staff is hereby directed to prepare an updated General Plan, that focuses on land use and urban design issues while also addressing transportation, affordable housing and other pertinent issues, consistent with the community's goals in moving toward the future while respecting Santa Fe's great history; and

2. Staff shall obtain public input via meetings for the purpose of reviewing and soliciting input on the updated General Plan, especially goals for the future, in a geographically balanced way, which could include input mechanisms that would be representative of the city as a

whole through a statistically significant sample, rather than relying only those who attend meetings; and

3. An updated General Plan that reflects community-wide goals and sentiment and desire for Santa Fe's future then be brought forth for recommendation by the Planning Commission and adoption by the Governing Body.

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

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, CITY ATTORNEY

M/Legislation/Resolutions 2015/City Plan - 2015

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-__

INTRODUCED BY:

Councilor Christopher M. Rivera

A RESOLUTION

DECLARING THE CITY OF SANTA FE, NEW MEXICO A HYBRID ENTITY FOR PURPOSES OF HIPAA AND HITECH COMPLIANCE.

WHEREAS, the federal government enacted the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), and regulations promulgated under them by the U.S. Department of Health and Human Services, 45 Code of Federal Regulations Parts 160, 162 and 164 ("HIPAA Regulations"), to protect patient health information; and

WHEREAS, a municipality that qualifies as a "covered entity" under HIPAA must comply with HIPAA and HITECH Security and Privacy Rules for the protection of protected health information ("PHI") and Electronic Data Interchange requirements; and

WHEREAS, the City of Santa Fe ("City") is a "covered entity" because it performs "covered functions," as those terms are defined under 45 CFR Section 164.103, of a health plan administered by its Human Resources Department and provision of health care services by the Fire Department; and

Exhibit "18"

WHEREAS, HIPAA Regulations allow an entity that performs covered and non-covered functions to designate itself as a Hybrid Entity; and

WHEREAS, a Hybrid Entity is defined as a single legal entity:

(1) That is a covered entity;

(2) Whose business activities include both covered and non-covered functions; and

(3) That designates health care components in accordance with paragraph § 164.105(a)(2)(iii)(D).

45 CFR 164.103; and

WHEREAS, the Governing Body has determined that it is in the City's best interest to declare itself a Hybrid Entity, it must document and formally designate the City's "health care components" in accordance with 45 CFR 164.504(a)(2)(iii)(D); and

WHEREAS, "health care components" include all parts of the City that would meet the definition of a covered entity if those parts were separate legal entities from the City; and

WHEREAS, "health care components" also include parts of the City that are "business associates", to the extent they may create, receive, maintain transmit or disclose PHI of the health plan administered by the Human Resources Department and health care services provided by the Fire Department; and

WHEREAS, after an assessment of the City's offices, departments, divisions and programs, only certain parts of the City are health care components and therefore should be designated as such; and

WHEREAS, HIPAA sets forth policies, procedures, and guidelines for maintaining security of PHI for health care components; and

WHEREAS, the City will continue to develop safeguards to prevent disclosure of PHI from a City health care component to another part of the City where HIPAA would prohibit disclosure if they were separate legal entities.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE

Section 1: The City of Santa Fe Governing Body hereby designates the City a Hybrid Entity pursuant to 45 CFR Sections 164.103 and 164.105.

Section 2: In compliance with 45 CFR Section 164.105(a)(2)(iii)(D), the City designates the following as City health care components, which would meet the definition of a covered entity if they were separate legal entities:

- The Human Resources Department to the extent of its covered activity of administering the City's health insurance benefits plans for medical, dental, vision, and health flexible spending plans only. This designation does not extend to the Human Resources Department's other functions, including, but not limited to the City's personnel management, and its hiring and disciplinary duties.
- The Fire Department to the extent of its covered activity of providing health care services only. This designation does not extend to other work performed by the Fire Department, including providing services as part of the City's workers' compensation program or fire response and investigatory activities.

In compliance with 45 CFR Section 164.105(a)(2)(iii)(D), the City additionally designates the following as City health care components to the extent that they meet the definition of a business associate if they were separate legal entities from the City and to extent that they create, receive, maintain, transmit or disclose PHI on behalf of the City's health plan and the Fire Department's health care services:

- The City Attorney's Office in its function involving legal representation.
- The Finance Department to the extent it provides billing, payment, and administration services.
- The Information Technology and Telecommunications Department to the extent

it provides technology services.

- The Audit Department to the extent of its auditing services.

Section 3: Designations of covered entities must be maintained for six (6) years following termination of a covered entity and indefinitely for ongoing covered entities.

Section 4: The City Manager or designee shall organize an appointed committee to meet at least once per year and recommend continued development and implementation of policies and procedures and any other actions necessary for compliance with HIPAA, HITECH, and HIPAA Regulations. The City Manager shall also designate a Privacy Official and identify a Security Official to co-chair the committee and who will be responsible for the development and implementation of policies and procedures. Among other duties, the committee shall assist in continuing to develop safeguards and policies to ensure that:

- Designated health care components shall not disclose PHI to another non-health care component of the City in any circumstance in which HIPAA, HITECH and HIPAA Regulations would prohibit such a disclosure if the health care component and non-health care component were separate and distinct legal entities.
- Designated health care components shall not use or disclose electronic PHI that it creates or receives from or on behalf of another health care component in a way that is prohibited by the privacy and security standards under HIPAA, HITECH and HIPAA Regulations.
- If a worker performs duties for both a health care component and non-health care component of the City, the worker shall not use or disclose PHI created or received in the course of, or incident to, his or her work for the health care

component in a way prohibited by the privacy and security standards under HIPAA, HITECH and HIPAA Regulations.

Membership of the Committee shall consist of, at a minimum, individuals from the following departments or titles:

- Privacy Official;
- Security Official;
- Fire Department;
- Human Resources;
- Information Technology and Telecommunications Department;
- City Attorney's Office;
- Finance Department.

PASSED, APPROVED AND ADOPTED this _____day of _____, 2015.

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, CITY ATTORNEY

Legislation/Resolutions 2015/Hybrid Entity Designation

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-____

INTRODUCED BY:

Councilor Christopher Rivera

A RESOLUTION

TO SUPPORT MEOW WOLF'S PROJECT AND EFFORTS TO DIVERSIFY THE ECONOMY, REVITALIZE AN ECONOMICALLY DISTRESSED NEIGHBORHOOD AND PROVIDE A UNIQUE FAMILY ENTERTAINMENT OPTION FOR SANTA FE.

WHEREAS, Santa Fe's economic development efforts have focused on diversifying the economy for more than a decade; and

WHEREAS, there is a need to attract and retain innovative talent in Santa Fe's economy; and

WHEREAS, bringing together artists and technology to develop products and expand Santa Fe's economy has been an explicit goal; and

WHEREAS, product development and patents are widely considered a measure of innovation in an economy; and

WHEREAS, Meow Wolf is a grass roots artist collective which has gained national attention for its interactive exhibitions in Santa Fe and throughout the country; and

WHEREAS, Meow Wolf will produce in central Santa Fe a unique, family entertainment

Exhibit "19"

experience focused on art, imagination, and play which will give local and tourist families a much-needed option of activity; and

WHEREAS, Meow Wolf will produce a family entertainment experience and cultural attraction that will strengthen Santa Fe's standing in the art, technology and tourism industries; and

WHEREAS, through the development of this project Meow Wolf is bringing together artists, developers, designers, musicians, filmmakers, writers and other creative workers to develop a large scale interactive installation and experience; and

WHEREAS, Meow Wolf will create 80 short-term jobs between May and November, 2015 and 30 full-time, and 35 part time retainable jobs in the City of Santa Fe, beginning in November of 2015; and

WHEREAS, this family entertainment experience will be delivered at an affordable cost for all local Santa Fe families; and

WHEREAS, the Meow Wolf project is an important force in revitalizing an economically distressed area of town including a 33,000 sq. ft. building and 2.7 acre lot of land on Rufina Circle; and

WHEREAS, Meow Wolf will offer hands-on arts education opportunities in a central area of town that is easily accessible by families that live in all four city districts; and

WHEREAS, the project brings together artistic designers with computer programmers and digital fabrication tools to create a product development and prototyping facility capable of manufacturing exportable products from Santa Fe; and

WHEREAS, Meow Wolf will offer high-tech job training and usage of digital fabrication tools (CNC Router, Laser Cutter, 3D Printer, etc.) to employees and the community at large, and

WHEREAS, the facility's outdoor space will be a venue for hosting community events that will bring surrounding, diverse Santa Feans together; and

WHEREAS, Meow Wolf will offer open venue space for music events and live performance to better support an ecosystem of creative development in the performing arts.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE recognizes the economic importance of the Meow Wolf project and shall allocate up to $60,000 of funds to the project for the following economic development services:

1. Employment and skill development of a minimum of 40 individuals
2. High-tech training on digital fabrication tools
3. A minimum of 20 internship opportunities for SFUAD and other students
4. Online gift shop for local products
5. A minimum of 25 products in some stage of development and prototyping to end up as exportable products
6. A minimum of six patent applications
7. Opening to the public of an interactive family oriented attraction

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

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, CITY ATTORNEY

M/Legislation/Resolutions 2015/Meow Wolf support

Mr. Walker continued, "We said okay if we're going to improve this intersection, just this intersection, then the best way to make this intersection work better is to take out the stop sign, and that's where those recommendations came from. We understand some people like the traffic sign there. A good architect friend of mine likes the stop sign there because it does slow the traffic, and she thinks it's more traffic calming than for traffic control, so she wants that in there. Our subdivision works with or without that stop sign on Alameda, so we can go either way as far as that goes."

Mr. Walker continued, "One thing we were talking about is how much traffic there is on Alameda. That has increased and we know it's increased, with the bridge over Siler Road there was definitely an increase in traffic. But the capacity is still there, and amount of our impact is very minimal on the whole intersection, and we feel very confident that the amount of traffic we can generate will be minimal. Thank you."

Mr. Sommer said John Romero, City Traffic Engineer, is here and his report from his Division is in the packet, and you can ask him about those. He said, "I would note for you one of the key recitations in that report was that the traffic study indicates that there are no warrants that justify that intersection the way it is configured now. It is there for other reasons, and I think Morrie alluded to one of them. I would like to turn it over to Rick and Rachel for just two seconds, and then we'll conclude our presentation, Mr. Chairman."

Rachael Watson, 1400 ½ Cerro Gordon, Owner [previously sworn], said she grew up in Santa Fe, about half hour from here, and her family had a very successful tile business for 50 years. She had the opportunity to work with her dad and to see the developments in Santa Fe that they sold tile to and to see the growth of Santa Fe from the time there were dirt roads and it took an hour to get to Rodeo Road. She sees this an opportunity of the history of Santa Fe, and "I just think our development is a really nice project for Santa Fe."

Rick Brenner, 1400 ½ Cerro Gordo, Owner, said contrary to "what I call Fox News letters and signs that have been posted in the area, that my motivation, Rachel's motivation isn't to make a million, two million, five million bucks out of this issue." He said he told all his friends that he is retiring from this business, but he got back into it was he was brought to this site. He said, "I was encouraged by people who live in the other project I did, and by many people in the industry, that Santa Fe needs some more different type of housing, not the issue of affordable, the issue of just a different type of housing that other people who don't like what Homewise is doing, that don't like cookie cutter normal subdivisions, that people can live in and work in and feel comfortable in. I decided, with a lot of encouragement from Rachel to drive me out of retirement that was an excellent opportunity to do something that will work effectively in the neighborhood just like the other one did, that has great access to amenities of the River, the River Trail." He said he thinks it's important for people to know and understand that.

Mr. Sommer said, "Often you have people come in front of you, and you recently had a very controversial case where the property was under contract and they were coming for a zoning request, or a zoning approval of some kind and they were testing the waters with you, and that's understandable in many cases. But Rick and Rachel bought this property because they are committed and because they believe in it. They're not here doing a look-see or tire-kicking. They're a part of this community, they've

been a part of this community, particularly the development community for 30 years. They believe in what they're doing and have done. This projects meets Code, implements City policies and deserves your recommendation for approval. Thank you."

Speaking to the Request

Commissioner Chavez arrived early in the public testimony

Chair Harris asked everyone to provide their name and address. He said, "In the past, we have felt it necessary to limit testimony to 2 minutes, but I think the most important thing is just to be respectful of the people who are here. Everybody has their own voice, but be mindful of what's been said and you may acknowledge, concur or disagree, but we do ask you to be respectful. Also there is no turning to the audience and asking for a show of hands. We consider that to be developing bias one way or the other. We just ask that you address your comments to the Commission."

All those speaking were sworn en masse

Cindy Geist, 2225 West Alameda [previously sworn], lives across the street. She lived on West Alameda before we put in the four-way stops in and it calmed the traffic. She said Alameda is a narrow and curvy road, and with the Siler Road bridge it is a main thoroughfare for more people. "Please don't take away that stop sign." She said people are going 40 mph through that intersection, and it's a really dangerous road.

Jeannie DiLoreto, 149 Calle Don Jose, Rio Vista Subdivision [previously sworn], asked for a different "picture to be put up, the one with the housing" on the overhead because it's important for what she wants to explain.

Mr. Smith said, "I would note for the record that Ms. DiLoreto's letter was distributed to you separately immediately prior to the meeting [Exhibit "7"]."

Ms. DiLoreto said, "I want to say that I do not concur with the Land Use Department's recommendation to approve the zoning change request, and specifically do not concur with the traffic impact analysis, also referred to as the traffic impact study, recommendation to remove the stop signs. I concur with the previous speaker." Ms. DiLoreto has owned a home at this intersection for more than 30 years. She said this is a dangerous area with a history of problems, agrees with statements that traffic on West Alameda has increased, and they have no bus service. She said the bus service ends at Camino Alire. She said if they remove the stop signs the speeding will increase and there is nothing to stop them from the Siler Road roundabout all the way to El Rancho on Alameda. She said Mr. Walker recommended removing the stop signs to change the level of service to an A level, which means traffic travels at a rate higher than the speed limit, which she thinks is appropriate for freeways not urban area. Vehicles turning

left from Calle Nopal onto West Alameda have limited vision because the road curves – speeding cars and limited vision means more accidents. She drives through the intersection, and finds the stop signs annoying, but they help to slow the traffic."

Chair Harris asked Ms. DiLoreto to wrap up her presentation, because she has exceeded two minutes.

Ms. DiLoreto continued, pointing out her house on the aerial map on the overhead. She said they have experienced serious incidents of cars crashing through their back fences and coming down the hills behind their houses, causing thousands of dollars of property damage. She said two cars crashed through Retired City Police Captain Ruth's home. She said a carload of teenagers came through her back fence, landing in her apricot tree killing it, which she didn't mind because it saved their lives. The repairs were $4,0000, increasing her rates by $200 per year.

Chair Harris again asked Ms. DiLoreto to conclude her statement.

Ms. DiLoreto said she and Captain Ruth went to the City and got the yellow barrels along the streets.

Stefanie Beninato, P.O. Box 1601 [previously sworn], said she lived in this area at one time. She said this is a lofts development, and understands they are work/live situations, and asked if that was considered in the traffic study. She said, regarding the density, 5 x 4.25 comes to 21 units, 21.25 rounded down, and 4.25 x 7 is 30 units, rounded up from 29.75. This is a difference of 9 units not 5 or 6 . *[Inaudible]* There is much less density on the other side. *[inaudible]*

Richard Cady, 2190 W. Alameda [previously sworn], said he lives next door to the west of the proposed project. He is concerned about the traffic. He said the traffic is and will be a horror show, commenting he has been almost rear ended 3-4 times after going through the stop sign, noting his wife was rear-ended and had to have medical care. He is horrified to think the stop sign will come down. He said, "Graphically, a bird's-eye view, it looks great, but on the ground it won't work in terms of traffic. I'm telling you it will not work. Thank you."

Mike Sloan, 1702 Medio Street [previously sworn] said he agrees with everyone that traffic is a problem and without the stop signs it will become kind of a super highway and a big problem. He said there are other solutions which need to be there if this will move forward. The other issue is that there is more open land across the River from this lot, and his concern is the change to R-7 will become a precedent, and that will change the character of the entire. He doesn't know you can balance that.

Margaret Carrell [previously sworn], said she owns the property to the west of the proposed project. She is concerned about traffic, noting it is difficult for people to get onto her property. She thinks if the project is allowed, it will be a nightmare with 70 cars trying to get out at one time. This is going to be a big thing for the people who live there.

Rafaelita Bachica, 1713 Medio [previously sworn], said she was caring for her mother at the time the car came crashing down from Calle Nopal and if not for Jimmy's apricot trees she would have lost her life as the car barreled into her back years. These are serious considerations. She said the stop signs are beautiful attempt to stop people, but they don't work, noting there is no ticketing going on there. They also are concerned about the density which seems high, although they paint a beautiful picture, and she has a concern about the rural atmosphere on West Alameda which has been going away, although some does remain. This is a quality of life issue, and they want to preserve some part of the community. She asked the Commission not to rush into what has been presented as a creative and innovative idea."

Kerstyn Porsch [previously sworn] *[Ms. Porsch's remarks are inaudible]* Ms. Porsch said she is not in support of the project because it will change the character of the neighborhood.

Rob Turner, 1703 Santa Fe River Road [previously sworn], said he agrees with everything that has been said. He wishes we could have seen an elevation of the plans because he doesn't know if his objections are appropriate. He finds the plan remarkably inorganic and doesn't see to go along with the rest of the community on either side. He lives along the River and said there is a great deal of space across the River, and the slope down from Alameda adds to the openness. It is a relatively rural atmosphere. He has concern for the "happiness" of people coming out of their subdivision during snow and ice, commenting it's quite a slope and quite a road to come up onto.

Ryan Rempel, 159 Calle Don Jose [previously sworn], and pointed to his residence on the map on the overhead, noting his back yard will be about 10 feet from the nearest building in the new subdivision. He said he doesn't know what goes into traffic study, but "apparently it doesn't involve going to work at 8:00 a.m. and coming home at 5:00 p.m., without the subdivision going in." He said the attorney for the Applicant said all the boxes have been checked. He said it is unfortunate "that none of these boxes were checked for all of the houses in those areas. I live in one of those boxes and nobody checked with him." He is unsure who they are referencing when they talk about community, but they aren't talking about him and the people of this community, so community is a vague term and doesn't apply to the area around the subdivision. He said he and his wife bought their house in reliance that this neighborhood had been zoned R-5 or less on the other side of Alameda. Rezoning to R-7 will lower property values, increase traffic and increase traffic issues, as well as increase the noise. The developers had said the gate between Calle Jose and the development will be used only for emergency access, but it's inevitable that the residents and the City will want to open it for public use. This will create more safety issues, noting Calle Don Jose was not built for R-7 traffic. It was built for R-5 traffic. He is not under the illusion that the property will never be developed, but it needs to be developed as currently zoned which was zoned for a

reason. He said, "Please don't allow this rezoning. It will benefit absolutely no one other than the developers and in fact will harm the integrity of the entire surrounding community of people that actually live there."

Mr. Rempel said, "In my conclusion, I urge you to imagine living in our neighborhood. If this rezoning occurs, better yet, imagine yourself living in my house where your back yard is literally 10 feet from the closest two-story building in the proposed development." He urged them to consider the impact this will have on the current neighborhood.

Marcos Sena, 2191 West Alameda [previously sworn], said he lives directly west of the proposed subdivision. He agrees with everyone about the stop signs. He agrees the zoning should stay at R-5, noting everything across the road is R-1 and he wants to keep it that way.

Florence Sena, 110-B Calle Nopal [previously sworn] said she is against removing the stop signs, so "keep the stop signs."

Paul Olson, 122 LaJoya Road [previously sworn] said he believes R-5 is the appropriate zoning for the area, and to change the zoning would set precedent for the remaining area and potential development in the future. He thinks keeping the zoning at R-5 would allow for more creativity in the development plan for the site.

Kathleen Ilago, 126 Medio Street [previously sworn], said she agrees with all of the neighbors who have come to ask you to keep the zoning at R-5, as opposed to R-7. She said, with regard to traffic, she goes west on Alameda every morning, and without that stop sign she can't imagine getting of there easily. She respectfully disagrees with what has been presented in the traffic study. She would like to reiterate the point the neighbors have made about this setting a precedent. She loves the bucolic nature of the neighborhood. She isn't opposed to development and believes the Applicant wants to do a good job. However, for those of them fortunate enough to live in this neighborhood with young kids who ride bicycles and who enjoy this, she doesn't really see why , at this point, we need to increase the density without a little bit more forethought, and perhaps some master planning, some more discussions, and so she encourages the City to keep it at R-5.

Rick Martinez, 725 Mesilla Road [previously sworn], is here representing the West Santa Fe River Alliance and in support of the neighborhood at keeping the R-5 zoning. He pointed at the area of R-7 zoning on the map on the overhead, saying it is all single story homes and feels like an R-5. This development is all two-story which is a big difference and is not compatible with the existing neighborhood. He said there is no master plan for this River corridor, and asked the Commission to keep it at R-5 zoning and look at something in harmony with the Alameda corridor. He said we need to be careful with what we do because of everything that will follow, and it will fall apart. He supports keeping the stop sign as is. He

said it is 35 mph all along the road, commenting if it was 25 mph it might be a different story. He said, "Actually, 35 is 40."

Marci Riskin, 1707 Purple Aster [previously sworn], said she has lived at this address for 17 years and has watched Alameda turn from a rural collector into an arterial, and the traffic has increased and will continue to increase. She said, "With respect to Morrie," it's going to increase with this subdivision as well with more cars coming out. The City has a responsibility with this increase in density, to keep that road safe. She supports keeping the stop sign, commenting driving home every day she is tailgated the entire way. She said, "In the interest of keeping that road safe, I would like to urge you to keep the stop sign. It helps calm traffic and it helps maintain the speed limit. Thank you very much."

Nancy Desidario, 1702 Medio Street [previously sworn], said she agrees with the previous speakers, and wants to emphasize that one, it will set precedence for the area and if it is rezoned to R-7, it is the beginning of increased density here and across the River, commenting it's a slippery slope. She said people like to live in this area because it is bucolic and if you zone to R-7, no one will want to live there any more, so what's the purpose. Third, she can get onto or off Alameda because of the stop signs. She said where she gets onto Alameda there is a curve going west. She wants to keep the stop signs.

John Addison, 7 Circle, previously a resident at 2240 West Alameda 2000-2014 [previously sworn] which is the first Alameda Lofts development Rick Brenner developed in 1999. He said one of the things density does is it makes these units affordable. He said he his wife and daughter were looking for their first home in Santa Fe, while also considering Albuquerque. However, because they could buy a home for less than $200,000 at 2240 West Alameda, they were able to stay in Santa Fe and not have to commute. His experience with Mr. Brenner is that once the project was finished he stayed involved with the development, served on the condo association board. He wasn't a developer who developed and left, and he is responsible to the community he was able to grow there.

Pamela Ann Hughes , 155 Calle Don Jose [previously sworn], said two neighbors have asked her to speak for them, one is David Sena at 1729 Santa Fe River Road [Exhibit "12"] and one is a disabled woman named Jo Ellen Bokar, 108 Calle Nopal [Exhibit "11"]. Ms. Hughes said she thinks she is the only house bordering the property with no back fence, and looks into heaven with a giant oak tree. She has had the property for 32 years, and it's sad, although she realizes development will happen. However, she thinks going to R-7 is wrong for the area and the traffic. She said it is hard to believe that the City will say the property can outlet onto River Road, because it is tricky getting up the hill and onto Alameda. She said their neighborhood is not made for more traffic, noting people converted their garages into another room and pars are parked on both sides of the street. The peaceful, semi-rural character of the neighborhood would be changed and it would be hurtful to the community. She said everything she knows about the builder is good, and probably would be tasteful, but the two stories right behind her will be where there were horses and goats. She thinks they need an overall plan for their area, because they will have to go through this over and over. There definitely needs to be sidewalks along West Alameda in this area if this

moves forward as an R-5, and there is no bus service that goes by there, so that would be good too.

Todd Christensian, 111 LaJoya Road [previously sworn], said he knows these people are trying to sell the project they want to do and it's colored beautifully by them, but the effect on the people who live in neighborhood is a negative, the increase in traffic and the precedent of R-5. He thinks they should consider building something there at R-5, because rezoning to R-7 will set a precedent for the whole area. He said, "They should develop at R-5, put a few homes in there, make a couple of bucks and leave us alone."

Nancy Fay, 728 Mesilla Road [previously sworn]. Ms. Fay said she has 3 points to make. In *Euclid v. Ambler*, a landmark Supreme Court case in 1926, which established the constitutionality of zoning laws, hinged on a crucial ruling that "benefit for the public welfare must be determined in connection with the circumstances, the conditions and the locality of the case." Ms. Fay said, "On page 6 of the summary section of the information packet from the City, 'The Planning Commission and the Governing Body shall not recommend or approve any rezoning, the practical effect of which is to benefit one or a few landowners at the expense of surrounding landowners or the general public.' So therefore, we must ask for benefits for an approval of Case #2015-46. The summary section of the information packet repeatedly disregards and minimizes the established distinctions between R-5 zoning and R-7. Page 6 states that, 'R-7 is marginally different than the surrounding R-5 zoning.' If these predominant zonings in R-5 exist, I believe that we should keep the R-5, or in fact, rezone to a lower designation."

Ms. Fay continued, "How does approval of Case #2015-46 protect the continuity of the neighborhoods and benefit the general public. The traffic impact study which really turns out to be a car count and not a traffic study, recommends removal of the West Alameda stop signs to 'improve traffic flow.' Testimony has been provided tonight on the long documented history of speeding, crashes that destroyed property and endanger life, the lack of traffic safety and impaired visibility. Sand filled yellow barrels have partially slowed speeding, but then an LOF-A is recommended, which is traffic jargon for traffic flows at or above the proposed speed limit. How does increase the volume of traffic at a documented dangerous intersection benefit the general public. How does this keep the community safe. This is historic after a long struggle to implement traffic calming remedies for a dangerous area, a study now reverses the work to protect the public safety and instead calls for stop signs to be removed at West Alameda and Calle Nopal.

Chair Harris asked Ms. Fay to wrap up her remarks as she has exceeded two minutes.

Ms. Fay continued, "Yes, I am concluding now. With the opening of the Siler Road Bridge onto West Alameda we have additional speeding and risk of more accidents on a two-lane road. So what future will we choose for Santa Fe. Safety on our roads in a livable City that values our legacy or will we be like Esau and sell our birthright for a mess of pottage. Santa Fe needs our Planning Commissioners to now serve the needs of the people, to examine all the required Planning regulations as detailed in Chapter 14, and to rule on this zoning case to benefit the public welfare. Vote note on Case #2015-46, vote no on R-7. Thank you."

The Public Testimony Portion of the Public Hearing was closed

Commissioner Kadlubek asked staff to explain the math of "how we get to 32 and how that is only a 6 unit increase."

Ms. Wynant said, "The first thing you would look at it is what is available to the lot. You have to subtract the flood plain, and once that's done, instead of 4.2 acres, you have 4.13 acres. When you multiply that by 7, a certain number of units, in this case it was 28 units, and then you factor in your affordable units at 20% of that number, so it comes out to 5.6, this is all figuring toward the R-7 zoning. So 5.6 units are affordable. The 28 units that were possible for the site, you multiply by a 15% bonus density – it's an additional 4.2 units. So the 4 units is added to the 28 that was possible at R-7, which comes out to 32 units."

Mr. Wynant continued, "When I started doing the math for the R-5, and I apologize for this not being in the report, I look it through the same calculation, and with an R-5 zoning district, working the math the same way, instead of 32 units would be 27 units. So 32 minus 27 is a difference of 5 units."

Commissioner Kadlubek said there already are issues with traffic on West Alameda and on Agua Fria which exist with or without the development or the stop sign. He said things may get more intense, and maybe not. He wants a sense from Mr. Romero's point of view, what is the vision from Traffic's point of view in regard to West Alameda and Agua Fria moving forward, knowing it has this connection to West Alameda that does have the connection to Siler that has turned it into more of a thoroughfare. He said, "I just want to get a sense from you as to how you guys are imagining how West Alameda will be able to sustain."

John Romero, Traffic Engineer, asked for clarification, what specific issues on Alameda is he speaking about for the City to address. He said he drives this area 4 times a day, so twice as much as a resident. Residents leaving to work, enter in the morning and come back in the afternoon. He said, "I do both. I think I have mentioned this before, it is maybe about 500 yards less of Calle Nopal, so I get off Alameda and its on the River side in the morning, get back on in the same morning and the same thing in the afternoon, so I'm very familiar with this. And the general comments that have been made, those are made on virtually every street in the City, let alone, I would imagine on every street in the nation. People worry about speeding, people worry about rear-ending, drunk drivers, all that type of stuff. So, where cause exists, those types of issues exist."

Commissioner Kadlubek said, "I can be more specific. Given that Siler now connects to West Alameda, it's a way for people to get from the east side of town to the south side of town without having to take Cerrillos. I think West Alameda is obviously being use a lot more since that connection was made. I think if we have continued development on the south side of town which seems also obvious to me, or continued housing development in the Siler Road/Rufina area which seems obvious to me, it seems pretty clear that traffic is going to increase on West Alameda as people use West Alameda instead of using Cerrillos because it's a lot more convenient."

Commissioner Kadlubek continued, "I work on Siler, I live down on the east side, I use West Alameda of course, and I just see that as an obvious trend. So I guess to be specific of what type of traffic issue I would be talking about, it would be the increase of cars on West Alameda would be one. And then two on sort on my side of it, people want to go fast through there, because they want to get from one point of town to the other. So that also sees like a natural thing there. There seems to be an increase in speed or a want to increase speed from cars on that street. I think what I've heard today from testimony does make sense to me as an issue. And I'm just wondering, and this is really like my just wondering like how the City is imagining dealing with this obvious increase of traffic on West Alameda now and over the next 5-10 years."

Mr. Romero said, "That is a tough question. The City has been developed very uniquely from other cities, Phoenix and Albuquerque, that developed roadway systems and a good system with arterials, collectors, sub-collectors and so on. The City of Santa Fe, unfortunately, from a traffic standpoint wasn't developed that way. Our major roads were wagon trails and they were all named after where that wagon trail led, whether it was Alameda, Agua Fria, Galisteo, Pecos, Old Pecos Trail, Old Las Vegas Highway, Old Taos Highway and so on. This is the framework that we're tasked with developing a roadway network around. As far as adding any new roadway network in the area to appease this, I don't see any roadway that could be added short of... there was discussion in the past about a Paseo de Vistas extension, but of course that, just like anything else, the people on Paseo de Vistas don't want that. So we're stuck in a pretty tough area."

Mr. Romero continued, "Now as far as traffic growth, my opinion is I don't see it increasing dramatically. And the reason being is traffic is a function of origin and destination. People are going from someplace to another place. So I understand that the west side is growing, so that is a definite origin. The destination, there's not any more work... the downtown area where people typically drive to is pretty much fully developed. So the destination isn't going to increase, if anything the destinations are going to relocate to the west side."

Mr. Romero continued, "Furthermore, I think I've discussed this at previous Planning Commission meetings, the destination such as work areas in the downtown area have been converted and removed. The PRC has moved out of the Old St. Vincent's Hospital, that's now a hospital. That destination is removed. The PERA has moved, County buildings have moved to the west side. I don't think the population is going to decrease and traffic in general is going to decrease, but I think the way the City has been developing and business has been developing, it has been better distributed throughout the City as opposed to everyone is on the west side and everyone works on the east side. So that's why I think traffic, in general, through this road driving downtown would not increase substantially."

Commissioner Kadlubek said he has concerns about removing the stop sign, and because there is a bend in the road there, it seems it would be difficult for people pulling out from Nopal or the proposed development, and that could be a tough place with people driving above the speed limit. He asked the reason that he put in the conditions that the stop sign be removed.

Mr. Romero said, "To the first point about the sight lines the condition in our Memo was to remove it if it is determined that the sight visibility is adequate. And there is a definite way to do it. We'll measure speeds, pre-flow speeds on mid block, not close to the intersection when people are slowing down and see how fast they're going and based off *[inaudible]* make sure you can see far enough. We'll make sure of that for sure. If that doesn't happen, then I wouldn't recommend removing it. The reason I'm recommending removing it is I do receive a lot of calls to remove that stop sign and the one at El Rancho. People view it as a nuisance. And it is viewed as a nuisance when they are stopped when there's no one on the side street to justify it. The El Rancho one, I have not been able to recommend removal because it is a definite sight line issue there, and I've never felt comfortable removing that stop sign from an administrative standpoint."

Mr. Romero continued, "So being that this was coming, I thought this would be the adequate forum so the public can voice their opinion. We'd be going through two public hearings. So I thought, in an effort to address all the other people that call me to remove it, this would be the forum to try it and leave it up to the Planning Commission and our Council to decide should we do it or not. My personal opinion about removing it and my professional opinion regarding stop signs and their effectiveness as traffic calming, there's been numerous studies that show it is not effective in traffic calming. What happens is people are going at a certain speed, and here's the intersection and this is what they're traveling at. Whenever they get to the stop sign, they slow down and they go right back up."

Mr. Romero continued, "A test to this is on Galisteo at Coronado. A stop sign was placed there in an effort to slow down traffic, and this was done about 10 years ago. Council had asked staff to do that, and staff recommended against it because of what I just said. So they measured speeds and said these are the speeds and we don't think it's going to work. Well Council said, we don't believe you, put the stop sign and we did. This person came to me and asked me to remove it, so we went through the whole gamut and what I did is I measured the speeds in the exact same locations they measured before. Sure enough, the speeds are exactly the same. It did not calm traffic. What it does is it's a lot of stop and go, emissions all the stuff that the City of Santa Fe in general prides itself as being a green, progressive LEED certified City and that's contrary to that."

Mr. Romero continued, "Regarding the level of service and the definition that was mentioned in testimony, that was an incorrect definition of level of service. There's several types of levels of service. On a freeway, getting from Santa Fe to Albuquerque, what they explained is that's where you measure that level of service. But the level of service we're looking at here at an intersection, and that is defined by delay, how long you wait at the intersection, not by speed limit or fast we're going or anything like that. So at Level of Service A, there is virtually no delay, they're not going to have to stop."

Mr. Romero continued, "Another reason why I think the stop sign should be removed is, first of all it doesn't meet federal guidelines. We are required to follow federal guidelines when we place traffic control. It doesn't meet the guidelines to be placed. Second, numerous studies have been created that show that stop signs actually increase the crashes you're trying to prevent. It not only increases rear-ends, but it promotes, when it's not warranted through enough side street volume, it promotes the running of stop signs and that's where those catastrophic crashes happen. Someone enters the intersection, someone doesn't stop and things of those types. For those reasons, where I recommend moving it, the reason I

brought it up at this time, is I really did want to do it in a public forum. I knew there would be opposition, so everybody could voice it, and then we'll leave it to you or the Council to decide if it's appropriate."

Commissioner Kadlubek asked when removing the stop sign or people turning into the new development, does he consider winter conditions of snow and ice.

Mr. Romero said the way that would be considered in a warrant analysis is based on actual crashes that the stop sign could have prevented. He said stop signs won't prevent people from sliding into the barrels. He said the City has a lot of steep roads that go into public roads, and if we were to use that justification we would be placing stop signs at almost every single driveway to prevent that problem. He is in charge of the City workers responsible for placing barrels, and recently he has not known those barrels to be damaged – in the past 7 years – by car accidents. He said they are weathering and are going to be replaced, because they're cracking and the sand is spilling out. The most recent case that they talked about was a drunk driver going excessive speeds, and on the citation it indicated he had a bottle of Wild Turkey in his car. You can't engineer for that, and it could have happened anywhere in the City. He said to prevent that type of crash, we'd have to armor the entire City. So they base it on what they consider to be a typical program, and "I wouldn't consider that to be one."

Commissioner Kapin said if stop signs are not an effective traffing calming tool, what is.

Mr. Romero said in this type of area, City Code doesn't allow us to place vertical devices such as humps because it is an emergency response route. There are things such as bulb-outs, chicanes, things of that nature. He understands people say people are speeding. They did a study on Alameda between Camino Alire and St. Francis, and the same issue was brought up. They did a speed study and 82% were at the speed limit. He said what they can do and ask the developer to help, is to get some real numbers to see what the speeding problem is and what the extent of it is – measure spot speeds at mid-block locations, halfway between Nopal and the roundabout where people have enough room to get up to speed. He said his opinion, "In this area, being that the road is narrow, that in itself is a traffic calming measure. We narrowed the road on Old Pecos Trail, we lowered the speed by 5 mph."

Chair Harris asked what is the width of the right-of-way on Alameda.

Mr. Romero said he doesn't know that specifically.

Chair Harris asked if a roundabout has been considered at Nopal and Alameda, and Mr. Romero said no.

Chair Harris asked his opinion on the effect of a roundabout at that location.

Mr. Romero said, "As far as traffic calming, I believe a roundabout would have the effect as I explained with a stop sign – they'll slow but once they get past it, they will go up to whatever speed they feel comfortable. He said the City's policy currently is we typically don't place a roundabout where an all-way stop or a signal isn't warranted. We usually put roundabouts in lieu of a warranted all-way stop or a warranted signal. One thing federal guidelines recommend is that you don't implement a roundabout

where the side street traffic is 10% or less of the total entering traffic, which I believe is in this area. So based on those guidelines, I don't know if I would recommend it, and it would have to be designed and we would have to evaluate the right of way in that area."

Chair Harris said we've had discussions in the past and there is an ongoing discussion on Governor Miles there is a possibility with Dancing Ground [of a roundabout]. And he remembers Mr. Romero saying recently that the warrants weren't in place at that intersection for an all-way stop, but there was consideration for a roundabout, and wonders what the difference would be. He said he is a fan of roundabouts and thinks they work at a lot of different levels and he thinks the citizens understand and respect them for the most part. He would like to see if that is a possibility.

Mr. Romero said the difference between this and Governor Miles is the traffic study showed that ay some point in the future, that would warrant a roundabout – with future development. The TIA for the Las Soleras master plan demonstrated that intersection warranted a signal. So that's why we were recommending putting that in at this point, a bit earlier, knowing that ultimately, it would fit there. And also, the volumes on Governor Miles are a lot less, under 3,000 cars a day, so there is a good chance that the side street, at this moment is over 10% of the entering traffic."

Chair Harris said, "Guidelines aside, I think it's appropriate. I realize there would be some complications. We don't know if the right of way is there. It seems the grade coming down on Calle Nopal to a roundabout would be a bit problematic, but it might help to allay.... I know you haven't had accidents or noticeable damage to the barrels there for the last 7 years, but there have been some incidents reported. Again, short of... I don't use Alameda that often, but I've been in town a long time and I know how people behave and it seems like what the people of the neighborhood are describing is probably what's happening. It seems to be a problem."

Mr. Romero said, "We can look to put that intersection on our future transportation fund. It will probably be low [in priority]. There are intersections we're looking at, Cerrillos and Sandoval definitely would be a priority over this, we're looking at a roundabout there. We're looking to do potentially, a roundabout at Agua Fria and South Meadows. These are intersections that have major capacity problems. It could possibly be, but would it be realistic that it happen in the next 20 years, I don't think so."

Chair Harris agrees the referenced intersections would carry a lot more traffic and potentially are more appropriate for a roundabout. He asked about a left turn lane, coming from the east, into the proposed development, commenting he would think that would relieve some safety concerns.

Mr. Romero said it would "take you out of the line of traffic." He said they would do a capacity analysis to determine if it is warranted. He said he makes that maneuver twice a day, left in, and he's never had to wait longer than 15 seconds and that's further down where there are no gaps from people stopping. He said, "The traffic study is the empirical, subjective determination that it is a fairly easy movement to make."

Commissioner Padilla said in the testimony for the Applicant an innovative housing project was mentioned, and asked for more information – how is it innovative.

Mr. Sommer asked Mr. Purvis and Mr. Brenner to say why this is different than the single family, detached residential unit in terms of the kinds of space it creates and the opportunity for the diversification of housing in this regard, commenting "I'm the lawyer, they're the professionals."

Commissioner Padilla said there was mention of lofts and everybody perceiving them as a live/work condition, and asked if that is a part of this development.

Mr. Purvis said, "What makes this innovative as much as the land around it are the buildings themselves. The idea is to gather the buildings into small units, so a 1,000 sq. ft. footprint for a building is not very much, you might agree. And by gathering it in, that leaves more space outside that is common area. And the real effort is, instead of everybody having a front yard and a back yard, that this is much more shared land. So that's part of it. The other part of it is by making only a 1,000 sq. ft. footprint, that means you get into a whole different set of people who can afford these units. I think these are the two biggest points. The last one is, of course, by making it two-story, you have the ability to modulate how that is used. You have artists that typically like high light coming in from the north, so you have windows up high and you have the ability to make that work."

Commissioner Padilla asked if all the proposed units are two-story, and Mr. Purvis said yes.

Commissioner Padilla said there are 32 units proposed, and Mr. Purvis said that is correct.

Commissioner Padilla asked him to identify where he plans the 6 affordable units, and if it will be integrated into the overall plan.

Mr. Brenner said, "As you know there is an agreement that is signed between the developer and the City, and part of that agreement identifies where the units will be. There is a requirement in the Code that the units be disbursed, generally compatible or similar to the design, size, etc."

Mr. Brenner, using the enlarged drawing on the overhead, said, "The units that have been identified are 'here,' possibly 'here,' 'here,' 'here,' 'here,' and 'here.' They're disbursed."

Commissioner Padilla asked Mr. Brenner to address his question about the Lofts.

Mr. Brenner said, "These are not the Cerrillos Roads Lofts, the Marquez Lofts, not even the *[inaudible]* Street Lofts. These are residential properties that have lofts as a major element that attract people who like that type of space. In the other project, and John could address it also, there are some people who have home occupations. My guess is the percentage is absolutely no higher than in the Rio Vista Subdivision, in terms of people who work out of their house and bring traffic in. There are very clear and rigid guidelines in City Code as to what home occupation means, and everybody here would have to qualify."

Commissioner Padilla asked if the units are for sale or for rent.

Mr. Brenner said they haven't decided, but they probably be both – some units rented and some sold. That is yet to be determined, and there needs to be discussion with the City's Affordable Housing Administrator about that.

Commissioner Padilla said there has been discussion that the density proposed is not appropriate for the area. He said Rio-Vista Subdivision is shown on the zoning map as an R-7, and asked staff to clarify if the zoning is R-5 or R-7.

Mr. Smith said, "I believe there is confusion because the exhibit in the packet shows R-7 in the green tinted parcel. That is not the Rio Vista Subdivision. That is the parcel that is east of the Rio Vista Subdivision. The Rio Vista Subdivision is zoned R-5. If I might note for the record, there has been considerable discussion about the calculation of density in the R-5 and in the R-7. Let me just clarify for the record that the proper calculation is the maximum density of 24 units under R-5 and 32 units under R-7. In each case, allowing for the maximum density bonus for affordable housing units."

Commissioner Padilla said, "So what we have in our packet indicating the Rio Vista Subdivision as R-7 is incorrect. It is R-5."

Mr. Smith said, "I believe it is labeled correctly, but it's labeled correctly in an unclear way. I'm looking at the Exhibit Zoning Map, if that's the one you're looking at."

Commission Padilla said, "Yes."

Mr. Smith said, "And so the large type number that says R-7 on the green tinted parcel, that green tinted parcel is zoned R-7, but the yellow tinted parcels are R-5. So the R-7 number is there, but it applies to a small tract to the east, not to the Rio Vista Subdivision. The Rio Vista Subdivision is zoned R-5 and the yellow highlighting in the R-5 label shows up in another place that is distant from the Rio Vista Subdivision and does apply to the entire yellow label."

Commissioner Padilla asked Mr. Smith to put that map on the overhead and clarify what we have in our packet.

[Mr. Smith's remarks here are inaudible because he was away from the microphone, but he did as Commissioner Padilla requested]

Commissioner Kapin asked if the R-7 parcel currently is developed, and Mr. Smith said yes.

Commissioner Kapin asked when it was developed.

Mr. Smith said he doesn't have that information.

Commissioner Villarreal said as a planner she likes to get historic perspective from areas being developed. She asked the acreage west of the property and Mr. Brenner said it is 3 acres.

Commissioner Villarreal asked how many units are developed in that area.

Mr. Brenner said it is 15 units plus workshops.

Commissioner Villarreal asked if anyone knows the number of homes in the Rio Vista Subdivision.

An unidentified person in the audience said there are 110 family dwellings.

Ms. Villarreal said she thinks about how things are developed historically, commenting her family has been in Santa Fe for generations. She said a lot of people were against the Rio Vista Subdivision when it was developed. She said she is trying to figure out what makes sense as we begin to grow, noting there is good and bad development, density that makes sense and density that doesn't. She said we are trying to figure out what will work for this area. She said this area previously was farming and agriculture, and they are struggling that it is no longer that scenario. She said, "If it was up to me, I would love for all of that to go back to agriculture, but we know that that's not the case with these kinds of situations." She said she is bringing up the density issue because R-5 seems like a lot to her. She asked the reasoning in looking at R-5 and R-7, and said she is sure it is a financial viability. She asked what makes the difference in an area like this when you're developing lots with 5-6 less units, and how does that change the viability of a development.

Mr. Sommer said, " There are a couple of calculations. And one is the economics – the more units you have, the more you can spread the cost of development and the mofd profitable it may be, depending on the costs at the end of the day. The other thing is, on this property, I note for you Commissioner, as well as the rest of the Commission, this property and the density of the structures you see, will be developed like this, because the idea is, if they're not going to be homes, there will be workshop kinds of structures. So the footprint we're talking about is, are you going it for that, or are you going to use it to provide housing. One of the calculuses that, if that's the right word, that Rick and Rachel went through is, as I told you when I stood up, they believe in this project and one of the things they believe in and have provided is a variety of housing to middle income and lower middle income buyers. And the more you can put into a development without ruining its character and appeal to a broader sector of that middle and lower income, that's what they believe in."

Mr. Sommer continued, "One gentleman got up and said, build a few houses and make a couple of bucks, and leave us alone. That's not this developer. If that's what he was doing, he wouldn't be here tonight. He's not here to build a few houses, make a couple of bucks and move on. He's proven that. So to answer your question directly, those are the 3 elements in it. One of the economics to spread the cost over a greater number of units, two to provide more housing opportunity for the sector he is aiming at and wants to provide housing and to provide it in the footprint and that sort of unit that's there. I hope that answered your question."

Commissioner Villarreal asked if the Applicant looked at the scenario of building at R-5, and if that would mean there would be no affordable housing.

Mr. Sommer said there would still be an affordable housing component and a density bonus, and they would be different – 24 total units of which 20% would be affordable. But there would be less affordable units in the development and a lower density bonus. "So you would have the same level of structure in there."

Commissioner Villarreal said, regarding the space between the east side of the proposed development and the west side of the Rio Vista Subdivision, we are told there is a 10 foot difference between the back yard of Rio Vista and the proposed development.

Mr. Purvis asked if she is speaking about the topographic change.

Commissioner Villarreal said, "I'm thinking about the distance between the east side of the closest unit of the proposed development and the backyard of the west side of the subdivision. Thank you. We were told it was 10 feet."

Mr. Purvis said, "That's correct. I don't know that it's exactly 10 feet, but there is between 10 and 12 feet on the east side. On the west side it's greater, because there is an easement there, the City of Santa Fe has a drainage easement."

Councilor Villarreal asked staff to explain the requirements between subdivisions – the footage requirement.

Mr. Smith said, "The minimum setback for the two story portion of the building on the side property setback is 10 feet."

Mr. Purvis said, "I would add one thing to that is that we noticed the east side of this property seems to be between 4 and 6 feet lower than the property to its east."

Commissioner Villarreal said then the proposed side is 6 feet lower than the existing.

Mr. Purvis said there is a large retaining wall at the edge of the subdivision.

Commissioner Villarreal asked Mr. Griego to explain, from the Fire Department's perspective, the emergency access. She asked if it is proposed to have the emergency access or is that something that hasn't been decided.

Mr. Smith said, "I'm sorry. It's not clear to staff whether the Applicant has specifically proposed to create or not create the road proposed by the Applicant that terminates at the property line and the stub-out street likewise terminates at the property line of what is currently a lot."

Commissioner Villarreal apologized to Officer Griego and asked Mr. Sommer if the access was proposed for emergency purposes.

Mr. Sommer said he understands the emergency access is required by Code, and it isn't just proposed, it's required.

Commissioner Villarreal asked Officer Griego to explain how emergency access works, and how a lock system would work for the Fire Department.

Officer Geronimo Griego, Fire Inspector, City of Santa Fe Fire Department, said, "We have an opticom, a sensor light that is attached to the Fire apparatus that accesses that portion of it. We have a 20 foot access to meet the approach to that gate. The road has to hold the weight of 75,000 pounds, which includes the apparatus weight, and 20 foot width for the gate. So you have the option of putting in a sliding gate or a swinging gate."

Commissioner Villarreal asked how many gates of this kind exist in the City.

Officer Griego said he doesn't know but he would estimate thousands, they're all over.

Commissioner Villarreal asked how many of those convert into through roads.

Officer Griego said he doesn't know, but he hasn't seen any and these are put in solely for the purpose of emergency traffic.

Councilor Villarreal said she would like to reassess the stop sign issue and how that can work, commenting Mr. Romero said he wants us to make that decision as a Commission, which thinks is a little strange. She said, "I actually think it would be a benefit to look at a roundabout. I agree with Chair Harris about that. Or just that we need to look at safety measures in general on that road. I don't know what that means because of prioritization. But I would proposed to keep the stop sign until we can figure out another way to handle speeding, which is an issue where I live off Agua Fria, on the other side of the River, but fairly close to this area. I have no further questions at the moment, so I will yield to my fellow Commissioners. Thank you."

Commissioner Kadlubek said it seems there is a disconnect between an education and general knowledge of the general plan, where it came from, when it was developed, when it was implemented. He said everything leads him to believe that the general plan has identified this area as an infill area and that R-7 is a preferred density for that infill. He would like to "get more color" on the General Plan itself and what means to development in general.

Mr. Smith said, "The General Plan Future Land Use Map and the map that is in the same Chapter as the General Plan.... was adopted by the Planning Commission and City Council in 1999. And staff concurs with the Applicant's analysis of those policies that are relevant to encouraging infill density at a density of 7 units per acres where it is feasible and appropriate to do so. There are General Plan policies that talk about consistency and compatibility with neighborhood character. Without postponing discussion to bring additional policies that are excerpted from the General Plan on the other issues, noting that document is, I forget what the County is, there are several hundred different policy statements in the General Plan, and it's a balancing act. Our Staff Report concurs with the Applicants that on balance, the

policies in that 1999 General Plan do support the density of 7 units per acre in a situation like this."

Commissioner Kadlubek said, "And the General Plan is what we are to go off of in regards to future land use, future developing, along with balancing that with many other things. I guess it's a significant document, and I guess my next question would be is it practical for homeowners to know when they purchase at R-5, but the areas next to it have been determined to be infill areas and that R-7 could exist next door to them. Is that knowledge when someone buys at R-5, because I hear that a lot from neighborhoods, I didn't buy this for it to be an R-7, or I didn't buy this to have my neighbors be R-7. Is that communicated, is that common practice."

Mr. Smith said, "I would suspect that, although I can't speak for everybody, I haven't done a survey of buyers in Santa Fe. I suspect that by and large, it is true that people who buy in a neighborhood expect that the zoning will not change in their neighborhood. The information as to the General Plan designations, those maps are available to the general public, but I suspect that most do not, and most assume that the density will stay. And in fact, that's part of the rationale for making rezoning cases at public hearings is so that not just the applicant, but also the people who live in the vicinity of the proposed rezoning are able to make their opinion known at the rezoning hearings at the Planning Commission and the City Council level."

Commissioner Kadlubek asked about categories of density – low density, high density, and asked if there are different densities that are categorized like that.

Mr. Smith said, "There are. They start at the very lowest which is a corridor density which is less than one unit per acre. The low, medium, medium high and high as we go from one to three, three to five, seven to nine, nine to twelve and twelve to twenty-nine."

Commissioner Kadlubek asked if R-7 is considered to be high density.

Mr. Smith said, "I believe the 7 is the high range of the low density category and the low end of the medium density category."

Chair Harris asked Mr. Walker, "Do you happen to know the right-of-way for Alameda through there.

Mr. Walker said no. He has looked for it, but has found no evidence. He said we have a survey of our property, but not the property across the street, noting the street narrows.

Chair Harris said there is a good deal of distance between the property and the Alameda roadway, noting no dimensions are provided, and there seems to be a property line, on the High Desert Survey, shown across the street. He said, "I'll just assume there is a fair amount of right-of-way in through there. Since Mr. Romero spoke, I've looked at the survey and another document that indicates where the box culvert would be, which is really offset to the west from your proposed driveway."

Mr. Walker said yes, it carries mostly the runoff from Calle Nopal through our property, commenting it is a relatively big box culvert and it goes into a 48 inch pipe and then it drains into the drainage ditch.

Chair Harris said if there is a discussion, for example, of a right turn lane, a deceleration lane heading east into town, he thinks that box culvert probably would represent a bit of problem, a bit of expense.

Mr. Walker said it would be a real big problem, but there is a guard rail on the top of the box culvert.

Chair Harris said it seems to him, the left turn perhaps into the property, assuming the right of way is there, the box culvert wouldn't impact that solution.

Mr. Walker said, "It would actually. To get a left turn lane in there, you would have to widen the road on one side or another. You would have to get another lane in there somehow, so the box culvert goes either to the north if you're heading westbound, widen it on the right hand side...."

Chair Harris said on L-1 is the only place he sees where the box culvert is represented in relation to the driveway.

Mr. Walker said the grading plan should have it in there, because that is where we built the pedestrian path. We actually brought a pedestrian sidewalk. *[Mr. Walker's remarks here are completely inaudible because he was not speaking into a microphone].*

Chair Harris said, "No dimensions. I would rather refer to 'this.' So again, the L-1 suggests to me as well as the survey from High Desert, those documents suggest to me... Mr. Romero, sure."

[Several people speaking at the same time away from the microphone so no transcription here]

Chair Harris said, "First of all I should say that in this case, I'm giving more weight to the anecdotal testimony I've heard from neighbors regarding the Alameda traffic and the value of those two stop signs. I'm providing more weight to the anecdotal versus the empirical, and I respect Mr. Romero's point of view. We've worked a lot together the last 4 years, but in this case the anecdotal is what I'm looking at. Stop signs are important. I also accept Mr. Romero's opinion that even though a roundabout might be appropriate it's going to be pretty far down the road, given the 3 intersections he mentioned. So, I'm thinking how to improve the safety of this area. And it seems to me that, as you've heard Mr. Romero testify, the way people behave is they slow down to come to a stop sign, pause or roll through it and go right back up at the same speed. I have in mind that a left turn lane into this development if the right of way could accommodate it would perhaps temper some of those safety issues."

Mr. Walker said it's a good question. He said his feeling would be that if there is a stop sign there, and somebody is turning left into the site, they have to go through the stop sign too, so they would have a better reaction what the turning movement would be without the stop sign. You actually slow down, the

guy in front of you is going to take a left turn, and you can see him doing something so you can react a little bit better than it would be without the stop sign. The stop sign would help the left turn more than if it wasn't there.

Mr. Sommer said, "As I understand the Chair's question it is, is the distance of the right of way across 'this' portion of West Alameda, if you take it from 'that' side to 'this' side, wide enough to add another lane, so that cars could pass around cars making a left hand turn lane in there. That's your question."

Chair Harris said that is correct.

Mr. Sommer said, "If you put another lane here, if the box culvert is properly represented, that lane is going to stop there. It's going to go right where the box culvert is, and that's what I was confirming with Mr. Romero. The one lane coming into town is not going to get more narrow. So in the other side of the roadway, you must add a lane and that lane is going to continue past the left turn, and that's why we believe the box culvert will be implicated if it is accurately represented there. The other question is, how many cars are making the left turn lane movement from your study."

Mr. Walker said, "It wasn't much, I know that, I'd have to look it up, but I think at the most 10 per hour, if that much. I can get the report and tell you right now."

Chair Harris said, "Just respond to Mr. Sommer. I wasn't necessarily going to take it, if it were to happen, it wouldn't all have to happen on the north side of the road. There seems to be plenty of ground between the edge of West Alameda to the property line for the subject property. That's why I say, I'm assuming that can happen."

Chair Harris continued, "Again, my point is what measures can be taken to improve the safety in this corridor. In my own belief, again, I've already said I accept the anecdotal evidence, and I think the stop signs do provide a measure of safety."

Mr. Walker said, "I was correct, it was 10 cars turning left into the site in an hour."

Commissioner Padilla said there is a graphic scale on the High Desert Survey and the right of way is from property line to property line. It's approximately 60 feet. He said Mr. Romero may have the ability to respond to your question.

Mr. Romero said, "The 60 feet, or whatever the width is, there is a significant field slope on the River side. So to widen that way, we would have to place humongous retaining walls. Regarding the left turn bay, even if the left turn bay was situated just on the east side of the box culvert, you can't automatically transition it right back to where it was, so that transition is definitely is going to go over and past the culvert by the time you get them back to the two lanes. The question about what safety can be done. The whole corridor, if the City could make it into a typical *[inaudible]* with medians, left turn bays, shoulders, bicycle lanes, anything can be done with enough money. That could at least be put in a future plan where that falls again with all the City's priorities. That would be up to the MPO's policy board to

determine. One thing I know about this area of Alameda is, on the north side of it I believe there is a fiberoptic line that doesn't have a lot of shallow cover, as one of my colleagues explained to me. So it is a challenging area, anything can be done, but it's challenging. Because really when you look on Alameda itself, the only area you can widen, if possible, is north, because virtually everywhere east past Nopal is either a big field slope or developed. And so it would take right of way acquisition. It would take a lot of stuff to get it done."

Chair Harris asked what evidence he has from the digital signs that detect vehicle speed and if those devices impact people's behavior.

Mr. Romero said, "We tested a couple early on, and when we placed them, we have numerous ones throughout the City. There is compliance when they're first placed, but people become complacent and they ignore them just like they ignore the speed limit signs. So the speeds will go down, but then they go back up roughly to where they were before."

Mr. Romero said we can look at operating speeds now compared to what they were before, noting he can do something between now and the next meeting.

Chair Harris said it would be worth looking at it, and he would appreciate it if he would do that.

Commissioner Chavez said Mr. Smith was talking about density, and asked if there is anything in the General Plan about the height differential from community feedback, noting a lot of the concern comes about the two story buildings when everything around it is one-story and there is an issue of visibility. She asked if there is anything in the General Plan about development going up as well as the density.

Mr. Smith said, "Starting with the regulations in effect, and going back to the General Plan, the houses in the subdivision to the east are not prevented by City Code to constructing to a two-story height if they chose to do so under City regulations. The General Plan does indicate there is a process referred to in the General Plan and there is a process set up in the zoning regulations where a neighborhood can initiate a neighborhood conservation district, an overlay zoning district that could, in theory restrict the height to one story in a particular subdivision. That neighborhood overlay district has never been applied in the City. It's a difficult and complicated process that's been on the books for only about 5 years. No one has attempted it. Nor am I aware of any other case where the City has adopted a zoning regulation in response to that procedure that's referred to in the General Plan. There are a handful of subdivisions in the City where the Planning Commission has imposed a one-story height limit for all or part of the subdivision. There are a handful of subdivisions where the developer has voluntarily implemented CC&R's that limit the height to be more restrictive than allowed by the zoning regulations otherwise would be allowed by zoning."

Mr. Smith continued, "If I may remind the Commissioners that we are looking at a rezoning case and a preliminary development plan. There will be a separate hearing in front of this Commission on the final development plan if the Commission is interested in leaving some of the detailed issues off to a future hearing."

Commissioner Kadlubek asked how the staff conditions can be amended, and if it would be a motion to amend the staff conditions to remove the stop sign condition, because if so, he would like to do that.

Mr. Smith said I would suggest that the format of the motion to approve the project could include a reference to conditions of approval that would be added or deleted. It could be done separately, but typically, more often be done as part of the main motion.

Mr. Shandler said, "When we're talking about procedure. Let's say, and this is to Mr. Romero, let's say the Commission, and I don't know what they're going to do, if they approved it with the condition to study the roundabout, and let's say, if approved, it has to go through the Findings of fact, and it's a rezoning, it will go to the Council in the late summer. Tell me the mechanics of, are you going to study it, are the applicants going to study it, how much will it cost, will it be available for the August Council meeting, is that too soon. Tell me, if they made that condition to study if there could be a roundabout, how would that really work and who pays for it."

Mr. Romero said, "I think the question is how will it work as it pertains to this development. If it's a matter of us putting it on our Master Transportation Plan, identifying this intersection for future study, that could easily be done, and I could get it to the TCC committee that's the recommending committee to the MPO Policy Board. But as far as... there would be cost in studying and designing it and then what would be done with that. Would we ask the developer to build it. By doing that would it mean, I kind of see that the City would move it up in prioritization because it was designed. I'm not sure what that necessarily would accomplish to determine that at this point unless you were wanting to make it part of this development. I don't know if that answers that question."

Mr. Shandler said, "Let's say they did make it a condition as part of this development, by August would you have a study done. We'll start with that."

Mr. Romero said he may have to defer that to the Applicant, because they would be the ones that would have to revise their study, research the right of way maps and perform the design by August. He just doesn't know.

Mr. Shandler said, "I acknowledge Mr. Smith's point that you could approve this, but once the rezoning gets to the Council, which probably will happen before this more final development plan, the Councilors are going to be reading the minutes and they're going to ask that exact same question. And so, I think you need to kind of think through, if that's the condition you want to make, whether it really has any ramifications or not."

Mr. Romero said, "One thing I'd like to make a point of is something that Morrie mentioned in his presentation is that the development works with or without the all-way stop. It's my opinion that it works better without it, but it works both ways."

Chair Harris said, "I think that's important. Thank you."

Commissioner Villarreal said there are conditions placed in the matrix from the MPO from Keith Wilson, and they're not written as conditions, they're questions and they are clarification statements. She said, "So, I would like to understand what, out of the 3 bullet points, are considered as conditions. Or are they just questions that accidentally got into the matrix."

Mr. Smith said, "I believe you are correct in pointing out that those are not properly characterized as conditions of approval. They would more properly have been included in the request for additional information questions in the review process."

Commissioner Villarreal asked which ones are actually conditions that you, as staff are placing on this project.

Mr. Smith said, "I can't speak definitively for the MPO staff. I believe the first bullet point with regard to why does the project not have a roadway condition is not a condition of approval. The second bullet point says the project should provide a connection to the river trail which exists along its south boundary would be a condition. And the project shows no pedestrian pathways, sidewalks or pedestrian connections to the existing neighborhood to its east, it's not clear to me whether the MPO staff did include that as a condition or not."

Commissioner Villarreal said then on the 3rd point, could Mr. Sommer explain the third point specifically if it is to be part of the conditions.

Mr. Sommer said Mr. Brenner met specifically with Keith Wilson at the MPO and they arrived at an understanding about what would be there, noting this was long after Mr. Wilson did his submittal, and he can ask him to explain what they talked about and what would be proposed

Mr. Brenner said, "We met in the field, Mr. Wilson and I. His concern was that there be connectivity through the community we're building to the new River Trail."

Commissioner Villarreal asked him to explain connectivity, and asked if he is speaking of pedestrian connectivity.

Mr. Brenner said, "...When we went out there, he determined that the proper way to deal with it would be to... the graphics are off a little. 'This' is the road... the extension of River Road is 'here,' and it wouldn't go through a building. 'These' buildings would be further down. So, he wants, where the emergency access road would be for the Fire Department, he wants us to add on an asphalt lane for bicycles and connect it to the existing River Road and then help improve 'this' portion which is an extension of 'this' road, but not as a vehicular road, but as a bicycle lane down to the sidewalk trail which goes through 'here.' So the intent will be met. And he's agreed on that, it's just that it was too late for him to change the language, and as he said, well Rick you're only going to the Planning Commission at this point for preliminary hearing, you're going to revise not only this but many other small details, and we'll be back before them and you'll have an opportunity to endorse my condition at that time."

Commissioner Villarreal said I think we actually should state it the right way tonight so it's on the record as something we think needs to happen.

Mr. Sommer asked, "Did you concur with his suggestion, Rick."

Mr. Brenner said, "Yes."

Mr. Sommer said, "So as he described it, he doesn't have any problem with that connectivity as it was just described."

Commissioner Kapin said in the conditions from Stan Holland, Wastewater, there are statements there that, she is thinking should be clarified for the record, one of which says, "It appears some of the proposed building/foundations and drainage ponds are encroaching into the existing sewer easement which is not allowed." She said, "And then the one bullet right below that is also.... can you clarify if those are conditions or what to do with those."

Mr. Smith said, "These are concerns that would have to be corrected either with the preliminary development plan, or likely as possibly feasible to correct at the final development plan stage. They're not extensive encroachment I don't believe the grading of access to the sewer could also be handled by staff at that point with the final plan."

Commissioner Villarreal said for future reference, perhaps staff could state them as issues to look into versus statements that were concerns of the particular staff person.

Mr. Smith said, "That's a good suggestion. We have begun discussions with the DRT team, and it seems the Commissioners are looking more closely at the language on those, and staff will be more careful and have read it."

MOTION: Commissioner Kadlubek moved, seconded by Commissioner Padilla, to recommend approval to the City Council of Case #2015-46, River Trail Lofts, 2180 and 2184 West Alameda Rezoning with a development plan, with all staff conditions as set out in the Staff Report [Exhibit "6"], "with the following amendments to staff conditions, the first amendment is to remove the first condition in Traffic Engineering Public Works conditions of approval matrix that states, 'Remove the stop signs on West Alameda Street as presented in the TRS in order to improve the operation of the intersection, provided there are no site distance issues at this intersection; and to amend the 3rd bullet point in the MPO's conditions of approval to read, 'to include internal pedestrian pathways,/sidewalks or pedestrian connections to the existing neighborhood to its east'."

DISCUSSION: Mr. Smith said, "For the record, the Commission is actually to recommend approval by the City Council with those conditions."

Chair Harris said this is correct, we are a recommending body in this rezoning case.

Commissioner Villarreal said, "If there's a way to write language with a friendly amendment to have the Council look at traffic opportunities, and we were talking about this, but I really think they are in more of a position to look at and enforce traffic and speed calming possibilities in this area."

Commissioner Padilla asked if this is an amendment or a suggestion or a recommendation.

Commissioner Villarreal said, "A recommendation to the Governing Body to analyze the speeding... I guess I'm asking is I would like the Governing Body to further study this area due to traffic concerns, but more so speeding concerns related not to just this development, but in general."

Commissioner Padilla said, "It's a recommendation, because what we're going to continue to see coming before us as a Planning Commission is development on the west side. We've talked about Agua Fria, now we've got Alameda, we will continue to see development that will happen. Just because it's where development can happen, and it's the issue of infill. In our General Plan it speaks of infill, so I think what we need to do is to make sure that our Governing Body applies the proper resources to areas that we are seeing as potential development areas. Not so much change our motion."

Commissioner Kadlubek said he doesn't think the stop sign has anything to do with this development.

Commissioner Villarreal said, "I'm not asking to remove that portion of it, but if you could put that recommendation in his words versus mine, because I'm tired, and I'm not making much sense."

Ms. Helberg asked if the recommendation is a friendly amendment to the recommendation to the City Council.

Chair Harris said, "It is discussion, and somewhere in the transmittal, Mr. Smith and Mr. Shandler will sort it out and will highlight this recommendation."

VOTE: The motion was approved on the following Roll Call vote [5-0]:

For: Commissioner Villarreal, Commissioner Chavez, Commissioner Kadlubek, Commissioner Kapin, and Commissioner Padilla.

Against: None.

G. STAFF COMMUNICATIONS

Mr. Smith said a Planning Commission meeting is scheduled on June 18, 2015. He did photocopy at the Chair's request some comments and questions submitted by the Chair and Commissioner Kapin. Mr. Smith submitted a copy for the record [Exhibit "13"].

Mr. Smith said the Blue Buffalo Rezoning, heard previously by the Commission, is scheduled for a hearing before the City Council at its meeting on June 25, 2015.

City of Santa Fe, New Mexico

memo

DATE: May 11 for the June 4, 2015 Planning Commission Meeting

TO: Planning Commission

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

FROM: Donna Wynant, AICP, Senior Planner, Current Planning Division DW

Case #2015-42. **Wagon Road Self Storage, Development Plan.** Studio Southwest Architects, agent for Wagon Road Investment, LLC, requests approval of a Development Plan on 2.83± acres of land located at 4000 Office Court for 20,025 sq. ft. of self-storage space and 6,308 sq. ft. of office space. The property is zoned I-1 (Light Industrial). (Donna Wynant, Case Manager)

I. RECOMMENDATION

The Land Use Department recommends **approval** of Case #2015-42 with staff conditions of approval as outlined in this report. If approved, the lot consolidation plat shall be recorded immediately after development plan approval.

II. EXECUTIVE SUMMARY

On June 8, 2008, the Planning Commission approved an amended Development Plan for 330 self-storage units on Tract 2 of the property. This request is to construct a new building with an additional 85 self-storage units and an associated office on a consolidated lot (former Tract 1 and Tract 2)

III. SITE ANALYSIS

The request is for an Amendment to a Development Plan for the Wagon Road Storage facility at 4000 Office Court. The applicant proposes 20,025 square feet of 85 indoor storage units in Building 1 and 2 and 6,308 square feet of office space in Building 3 as shown on the site development plan. The office is located at the northeast corner of the site, at Wagon and Emblem Road and will be used for the administration of the overall 2.83 acre site and for the sale of typical supplies used in the moving process. The three buildings total 26,614 square feet and are separated by 3 hour fire rated walls.

The subject 1 acre parcel (Lot 1) will be consolidated with the adjacent 1.83 acre parcel (Lot 2) to the south subsequent to the approval of the proposed development plan.

The property is zoned I-1 (Light Industrial) and is located within the Wagon Road Business Center. Table 14-6.1-1 identifies that individual storage areas within a completely enclosed building uses may be permitted in I-1 District. The proposal meets lot coverage, open space, setback and height requirements as discussed

The overall site will have two access points; one will be from a new curb cut on Office Court Drive and the other through an existing entrance from Emblem Road. The dumpster will be accessed from a curb cut on Office Court Drive. Traffic Engineering requires curb and sidewalk along the east side of Emblem Road for the extent of the property, including a 5 foot wide landscape buffer.

Wet and dry utilities are available to the property. Terrain Management will be reviewed as part of the building permit process. The applicant has submitted plans showing a reduction in the required open space due to the use of passive and active water harvesting. A final review of these areas will occur at building permit.

The Water Division requires each building to have a separate water meter and any new building to have a new service connection for new meters. No issues or problems were identified by Waste Water or Fire Protection.

IV. CONCLUSION

The applicant has complied with all application process requirements. The applicant conducted a pre-application meeting on March 26, 2015, ENN on April 16, 2015 and notice requirements pursuant to Section 14-3.1(H). Four members from the neighborhood attended and expressed no concerns and general approval of the project (see Exhibit D-2, Early Neighborhood Notification notes.)

The Land Use Department has determined that the proposed application complies with the necessary approval criteria and recommends **APPROVAL** subject to conditions in Exhibit A.

III. ATTACHMENTS:

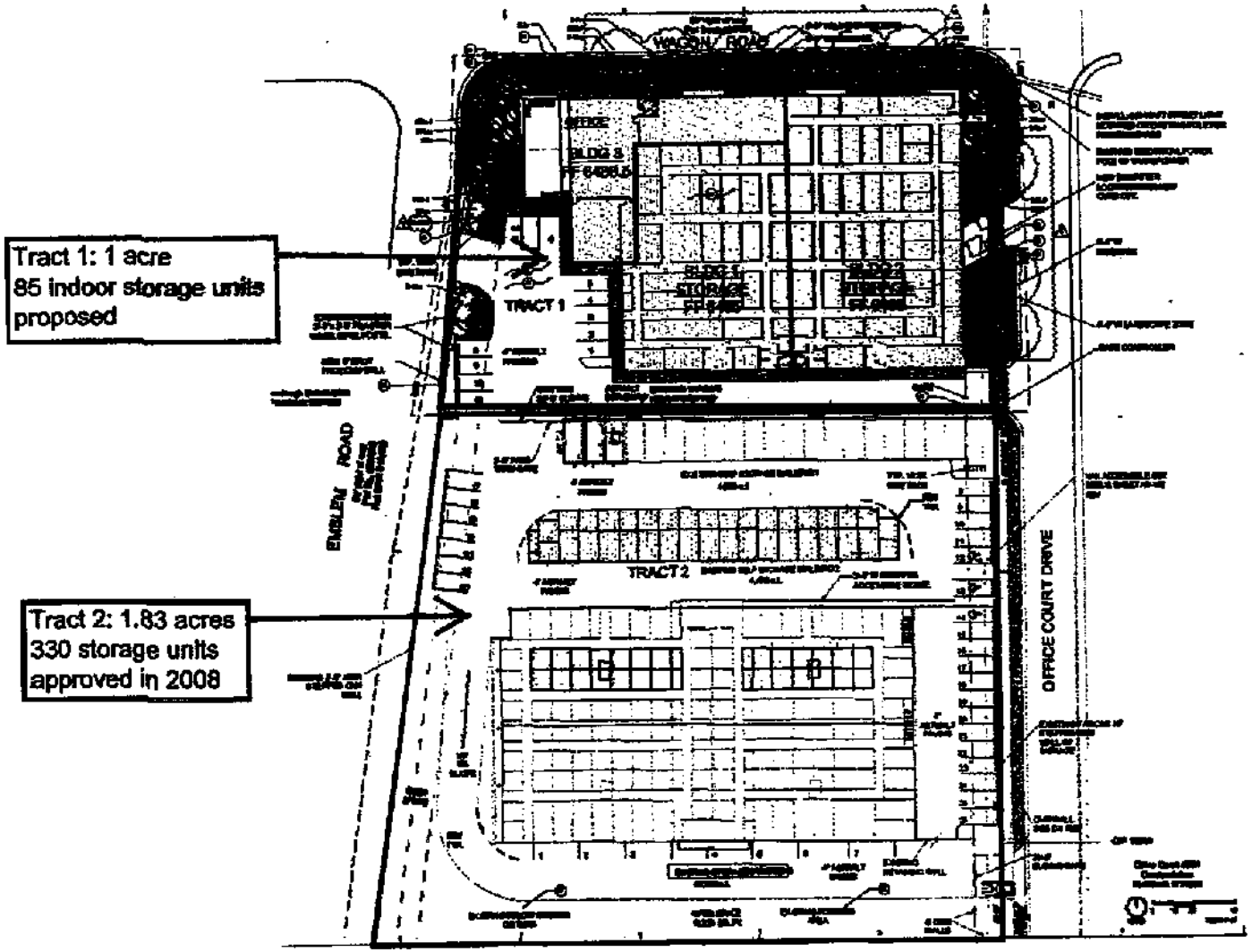
EXHIBIT A: Development Review Team Conditions of Approval

EXHIBIT B: Development Review Team Memoranda
1. Traffic Engineer Review Memorandum, Sandra Kassens, via John Romero
2. MPO Review, Keith Wilson
3. Technical Review Division, City Engineer email, Risana Zaxus
4. Technical Review Division, Landscape Review, Noah Berke
5. Water Division Review Memorandum, Dee Beingessner
6. Fire Marshall Review Memorandum, Reynaldo Gonzales
7. Wastewater Management Division memorandum, Stan Holland
8. Solid Waste Review, Eric Lucero

EXHIBIT C: Maps
1. Zoning Map
2. Aerial

EXHIBIT D: ENN Meeting Materials
1. ENN Guidelines
2. ENN Meeting Notes
3. ENN Sign-In List

EXHIBIT E: Applicant Materials
1. Application
2. Development Plan (11" x 17")


Tract 1: 1 acre
85 indoor storage units
proposed
Tract 2: 1.83 acres
330 storage units
approved in 2008
WAGON ROAD
TRACT 1
TRACT 2
EMBLEM ROAD
OFFICE COURT DRIVE

City of Santa Fe, New Mexico

Exhibit A

Conditions of Approval

River Trail Lofts

(Case #2015-46)

2180 and 2184 West Alameda Rezoning with a Development Plan

DRT Conditions of Approval	Department	Staff
Traffic Engineering Division stated several conditions of approval in the attached memo based on the Traffic Impact Report: • Remove the stop signs on West Alameda Street as presented in the TIS in order to improve the operation of the intersection, provided that there are no sight distance issues at this intersection. The Developer shall make the following changes to the Lot Consolidation plat prior to recordation: • Grant public sidewalk easements for those portions of the 5' wide concrete sidewalk near West Alameda Street where the alignment of said sidewalk leaves the Right-of-Way (ROW) and continues through the subject properties of the River Trail Lofts. • Grant pedestrian access easement(s) from the River Trail Lofts to Santa Fe River Road that abuts the property to the East and to the River Trail on the south end of the property. • Grant Pedestrian access for the internal north-south, 4" thick concrete sidewalk so that it is ADA compliant and connects to the River Trail to the south of the property. (See attached Traffic Engineering memo for more detailed comments regarding required revisions to civil and construction details on the applicant's plan sheets.)	Traffic Engineering/Public Works	John Romero (per Sandra Kassens)
• It appears that Santa Fe River Road was stubbed out at the property line for this project with the intention for it to connect. Why does this project not have a roadway connection with Santa Fe River Road? • This size of project should provide a connection to the River Trail which exists along its south boundary • The project shows no internal pedestrian pathways/sidewalks or pedestrian connections to the existing neighborhood to its east.	MPO	Keith Wilson

• The proposed development requires a water main extension to connect a water main on Santa Fe River Road to a main on a private street off of Alameda St. Each dwelling unit must either be separately metered or sub-metered with a master meter. • An Agreement to construct and dedicate will be required to connect the existing mains through the subject lot. The water division has discussed the main extension concept with the developer. An approved water plan will be required for the agreement to construct and dedicate the new main. • Fire service requirements will have to be determined by the Fire Department prior to development.	Water	Dee Beingessner
Prior to any new construction or remodel shall comply with the current code adopted by the governing body. • All Fire Department access shall be no greater that a 10% grade throughout. • Fire Department Access shall not be less than 20 feet width. • Shall meet the 150 feet driveway requirements must be met as per IFC, or an emergency turn-around that meets the IFC requirements shall be provided. • Fire Department shall have 150 feet distance to any portion of the building on any new construction. • Shall have water supply that meets fire flow requirements as per IFC	Fire Marshal	Reynaldo Gonzales

The following notes shall be added to the plat for the final development plan as a condition of approval: • No fences, walls, or other obstructions shall be placed or constructed across or within public sanitary sewer or utility easements. • Wastewater Utility Expansion Charges for each lot shall be due to the City of Santa Fe at time of building permit application. • Add a note that the development is served by a private on-site sewer collection system The following are conditions of approval: • Show the existing sewer line and sewer easement on the grading/drainage plan and the landscape plan • Indicate on sheet C-3 in the title block that the on-site sewer system is private. • No trees are allowed within the sewer easement as shown on the landscape plan set. • It appears some of the proposed buildings/foundations and drainage ponds are encroaching into the existing sewer easement which is not allowed. • It is not clear how access to the existing sewer manhole within the site will be provided. • It appears the proposed six (6) inch private sewer line can connect to the existing public manhole without the addition of two (2) new public manholes. Please verify.	Wastewater	Stan Holland
• Prior to recording, Development Plan must contain vicinity map and all items listed in Article 14-3.8(C)(1). • Consolidation Plat must be recorded prior to or simultaneous with approved Development Plan.	Land Use Engineer	RB Zaxus

• Provide Landscape Plan as per Article 14-8.4 "Landscape and Site Design" • Show compliance with Article 14-8.4 (F)(2)(e) which states "stormwater detention ponds and retention ponds shall be planted with appropriate trees, shrubs and grasses ,with a minimum of one tree and three shrubs per five hundred (500) square feet of required ponding area. Plants located in the bottom third of the detention pond or retention pond must be adaptable to periods of submersion and may require replacement during periodic maintenance to remove silt". • Provide analysis of how many trees and shrubs are required and how many are actually provided for all open space, detention ponds, and streets. • Provide details on proposed plant species. This shall include icons, species, size and caliper. . • Show compliance with Street Tree Standards. Trees shall be planted in a 5 foot planter strip located between the curb and sidewalk. Each tree shall be space between 25 and 35 feet.	Landscape Review	Noah Berke
There are over 18 units so it does not qualify for service in 90 gallon containers. There should be a space designated for dumpster service.	Solid Waste	Eric Lucero

City of Santa Fe, New Mexico

Exhibit B

Development Review Team Memorandum

City of Santa Fe, New Mexico

memo

DATE: May 19, 2015

TO: Donna Wynant, Land Use Division

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

FROM: Sandra Kassens, Engineer Assistant SMK

SUBJECT: River Trail Lofts, 2180 and 2184 West Alameda –Rezoning, (Case#2015-46.)

ISSUE:
Sommer, Karnes & Associates, agent for Alameda Lofts Investments, LLC requests rezoning of 4.25 acres from R-5 (Residential, 5 dwelling units per acre) to R-7 (Residential, 7 dwelling units per acre). The application includes a Development Plan for 32 dwelling units. The property is located at 2180 and 2184 West Alameda Street.

RECOMMENDED ACTION:
Review comments are based on submittals received on April 29, 2015. The comments below should be considered as Conditions of Approval to be addressed prior to subsequent submittals unless otherwise noted:

1. Traffic Engineering Division review of the Traffic Impact Study (TIS) for River Trail Lofts, by Morey Walker & Associates Engineering, Inc. dated April 24, 2015, (received on April 29, 2015):
   - The Traffic Impact Study (Report) for this proposed rezoning demonstrates that all three legs of the intersection of West Alameda Street with Calle Nopal currently operate at satisfactory levels of service with acceptable control delays, and will continue to do so in the 2018 build year with the addition of the trips generated by the River Trail Lofts. It also shows that the entrance from this development onto West Alameda Street will operate at satisfactory levels.
   - The Engineer Consultant modeled the intersection of West Alameda and Calle Nopal for the existing geometry, that is, an All-Way Stop Control (3-legs); and for a Single Stop Sign on for the southbound Calle Nopal. The All-Way stop control results in traffic backing up during the morning peak hour past the proposed entrance to the River Trail Lofts in the eastbound direction due to the stop sign on Alameda Street. The model of the intersection with only one Stop Sign, on Calle Nopal, has shorter delays and slightly better Levels of Service than that modeled by the existing AWSC.
   - The Intersection of West Alameda Street and Calle Nopal does not meet the warrants for an All-Way stop control based on the traffic counts measured for by the consulting Engineer for this TIS.
   - The Engineer Consultant shall analyze the sight distance at the intersection of West Alameda Street and Calle Nopal and the intersection of the River Trail Lofts entrance onto West Alameda Street per the AASHTO methodology.

BS001.PM5 - 7/05

- The Traffic Engineering Division Concurs with the recommendation to remove the stop signs on West Alameda Street as presented in the TIS in order to improve the operation of the intersection, provided that there are no sight distance issues at this intersection.

2. The Developer shall make the following changes to the Lot Consolidation plat prior to recordation:
   a. Grant public sidewalk easements for those portions of the 5' wide concrete sidewalk near West Alameda Street where the alignment of said sidewalk leaves the Right-of-Way (ROW) and continues through the subject properties of the River Trail Lofts.
   b. Grant pedestrian access easement(s) from the River Trail Lofts to Santa Fe River Road that abuts the property to the East and to the River Trail on the south end of the property.
   c. Grant Pedestrian access for the internal north-south, 4" thick concrete sidewalk so that it is ADA compliant and connects to the River Trail to the south of the property.

3. Sheet C-1_Grading and drainage Plan:
   a. Show the sidewalk easements that are to be granted for this Rezoning and Development plan.
   b. Provide a cross-section to demonstrate clearance of the concrete sidewalk over the existing drainage pipe, include pipe size and clearance between the top of the pipe and the 4" concrete sidewalk.
   c. Show alignment of 4" concrete sidewalk from West Alameda Street, heading south to the River Trail.
   d. Label the retaining walls as such and indicate the dimensions.

4. Sheet C-4_ Civil Details and Construction Notes:
   a. Note 3 - Replace the term "2000 Edition" with "Current Edition" in this sentence with reference to the NMDOT SSHBC.
   b. Note 4 – In the order of preference, switch the order of SSHBC and APWASS so that APWASS is last.
   c. Note 14 and note 25 – Change the telephone number for the City Traffic Engineer to 505-955-6631.
   d. Eliminate notes 23, 24, 30, 31, 32, and 33 from the list of notes. (These requirements are specified in the NMDOT SSHBC, current edition.)
   e. Note 27 – Change the word "muse" to "must".

5. Sheet EC1 – Erosion Control Plan And Details:
   a. Seeding Specifications; change the "2000 Edition" to "Current Edition" in the first sentence.

6. Sheets PAD 1 – 3 of plan set:
   a. Replace the NMDOT PAD sheets with the recently updated section 608 standard drawings pertaining to Accessibility. The most recent, update in January of 2015, may be downloaded from the NMDOT website.

7. Sheet SF-5_ Residential Street Details:
   a. Delete this sheet and replace with references to the appropriate NMDOT standard drawings; to include the applicable 608 drawings and the 609 series drawing that pertains to curb and gutter and sidewalks.

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

Thank you.

WYNANT, DONNA J.

From: WILSON, KEITH P.
Sent: Monday, May 04, 2015 4:37 PM
To: WYNANT, DONNA J.
Cc: KASSENS, SANDRA M.; ROMERO, JOHN J; PACHECO, LEROY N.
Subject: Case #2015-46. River Trail Lofts, 2180 and 2184 West Alameda Rezoning.

Hi Donna:

I am not sure if these questions/comments rise to the level of additional submittals or not for Case #2015-46 River Trail Lofts

1. It appears that Santa Fe River Road was stubbed out at the property line for this project with the intention for it to connect. Why does this project not have a roadway connection with Santa Fe River Road?
2. This size of project should provide a connection to the River Trail which exists along its south boundary
3. The project shows no internal pedestrian pathways/sidewalks or pedestrian connections to the existing neighborhood to its east.

Let me know if you need additional clarification or if you are requesting additional submittals on these questions/comments.

Keith P. Wilson
MPO Senior Planner
Santa Fe Metropolitan Planning Organization
Mailing: P.O. Box 909
Santa Fe, NM 87504-0909
Office: 500 Market St, Suite 200 (Above REI Store)
Santa Fe, NM
Map: http://tinyurl.com/l6kejeq
Directions & Parking: http://www.railyardsantafe.com/north-railyard/
Phone: 505-955-6706
Email: kpwilson@santafenm.gov

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WYNANT, DONNA J.

From: ZAXUS, RISANA B.
Sent: Thursday, May 14, 2015 12:30 PM
To: WYNANT, DONNA J.
Subject: Case # 2015-46, River Trail Lofts

Ms. Wynant –

There are my review comments on the above-referenced project, to be considered as conditions of approval:

*Prior to recording, Developmant Plan must contain vicinity map and all items listed in Article 14-3.8(C)(1).

*Consolidation Plat must be recorded prior to or simultaneous with approved Development Plan.

Risana B "RB" Zaxus, PE
City Engineer

City of Santa Fe, New Mexico

memo

DATE: May 8, 2015

TO: Donna Wynant, Land Use Planner Senior

FROM: Noah Berke, CFM, Land Use Planner Senior

SUBJECT: Request for Additional Submittals for Case #2015-46, River Trail Lofts, 2180 and 2184 West Alameda Rezoning

---

Below are comments for the River Trail Lofts, 2180 and 2184 West Alameda Rezoning request. These comments are based on documentation and plans submitted to the Development Review Team:

- Provide Landscape Plan as per Article 14-8.4 "Landscape and Site Design"
- Show compliance with Article 14-8.4 (F)(2)(e) which states "stormwater detention ponds and retention ponds shall be planted with appropriate trees, shrubs and grasses ,with a minimum of one tree and three shrubs per five hundred (500) square feet of required ponding area. Plants located in the bottom third of the detention pond or retention pond must be adaptable to periods of submersion and may require replacement during periodic maintenance to remove silt".
- Provide analysis of how many trees and shrubs are required and how many are actually provided for all open space, detention ponds, and streets.
- Provide details on proposed plant species. This shall include icons, species, size and caliper. .
- Show compliance with Street Tree Standards. Trees shall be planted in a 5 foot planter strip located between the curb and sidewalk. Each tree shall be space between 25 and 35 feet.

City of Santa Fe

memo

DATE: April 30, 2015

TO: Donna Wynant, Land Use Senior Planner, Land Use Department

FROM: Dee Beingessner, Water Division Engineer

SUBJECT: Case # 2015-46 River Trail Lofts 2180 and 2184 W Alameda

---

The proposed development requires a water main extension to connect a water main on Santa Fe River Road to a main on a private street off of Alameda St. Each dwelling unit must either be separately metered or sub-metered with a master meter.

An agreement to construct and dedicate will be required to connect the existing mains through the subject lot. The water division has discussed the main extension concept with the developer. An approved water plan will be required for the agreement to construct and dedicate the new main.

Fire service requirements will have to be determined by the Fire Department prior to development.

City of Santa Fe, New Mexico

memo

DATE: **May15, 2015**

TO: **Donna Wynant, Case Manager**

FROM: **Reynaldo Gonzales, Fire Marshal** RDG

SUBJECT: **Case #2015-46** River Trail Lofts 2180 and 2184 W Alameda

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 or remodel shall comply with the current code adopted by the governing body.

1. All Fire Department access shall be no greater that a 10% grade throughout.

2. Fire Department Access shall not be less than 20 feet width.

3. Shall meet the 150 feet driveway requirements must be met as per IFC, or an emergency turn-around that meets the IFC requirements shall be provided.

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

City of Santa Fe, New Mexico

memo

DATE:	May 4, 2015
TO:	Donna Wynant, Case Manager
FROM:	Stan Holland, Engineer, Wastewater Division
SUBJECT:	Case #2015-46 River Trail Lofts, 2180 and 2184 West Alameda Rezoning and Development Plan

The subject property is accessible to the City sanitary sewer system.

The following notes shall be added to the plat for the final development plan as a condition of approval:

1. No fences, walls, or other obstructions shall be placed or constructed across or within public sanitary sewer or utility easements.
2. Wastewater Utility Expansion Charges for each lot shall be due to the City of Santa Fe at time of building permit application.
3. Add a note that the development is served by a private on-site sewer collection system

The following are conditions of approval:

1. Show the existing sewer line and sewer easement on the grading/drainage plan and the landscape plan
2. Indicate on sheet C-3 in the title block that the on-site sewer system is private.
3. No trees are allowed within the sewer easement as shown on the landscape plan set.
4. It appears some of the proposed buildings/foundations and drainage ponds are encroaching into the existing sewer easement which is not allowed.
5. It is not clear how access to the existing sewer manhole within the site will be provided.
6. It appears the proposed six (6) inch private sewer line can connect to the existing public manhole without the addition of two (2) new public manholes. Please verify.

WYNANT, DONNA J.

From: LUCERO, ERIC J.
Sent: Wednesday, May 20, 2015 2:04 PM
To: WYNANT, DONNA J.
Subject: RE: DRT Comments ?

Donna,

Sorry for the late response. I have been overwhelmed this week.

\\file-svr-1\Public$\Land Use\2015-46 2180 & 2184 W Alameda- River Trial Lofts
I noticed that there is no designated area for refuse or recycle service on the plans. There is over 18 units so it does not qualify for service in 90 gallon containers. There should be a space designated for dumpster service.

Wagon Road Storage Units:
\\file-svr-1\Public$\Land Use\2015-42 4000 Office Court Drive- Wagon Road Self Storage
I met with the architect on this project. The area designated for refuse service appears to be exactly how we discussed and angled appropriately. I am content with how it is laid out on the plans.

If you have any other questions, feel free to contact me.

Thanks,

Eric J Lucero
City of Santa Fe
Environmental Services
Operations Manager
505-955-2205 office
505-670-6562 cell
ejlucero@santafenm.gov

From: WYNANT, DONNA J.
Sent: Wednesday, May 20, 2015 1:42 PM
To: LUCERO, ERIC J.
Subject: DRT Comments ?

Hi Eric

Could you get me your comments on:

River Trail Lofts:
\\file-svr-1\Public$\Land Use\2015-46 2180 & 2184 W Alameda- River Trial Lofts

And

Wagon Road Storage Units:
\\file-svr-1\Public$\Land Use\2015-42_4000 Office Court Drive- Wagon Road Self Storage

Thanks

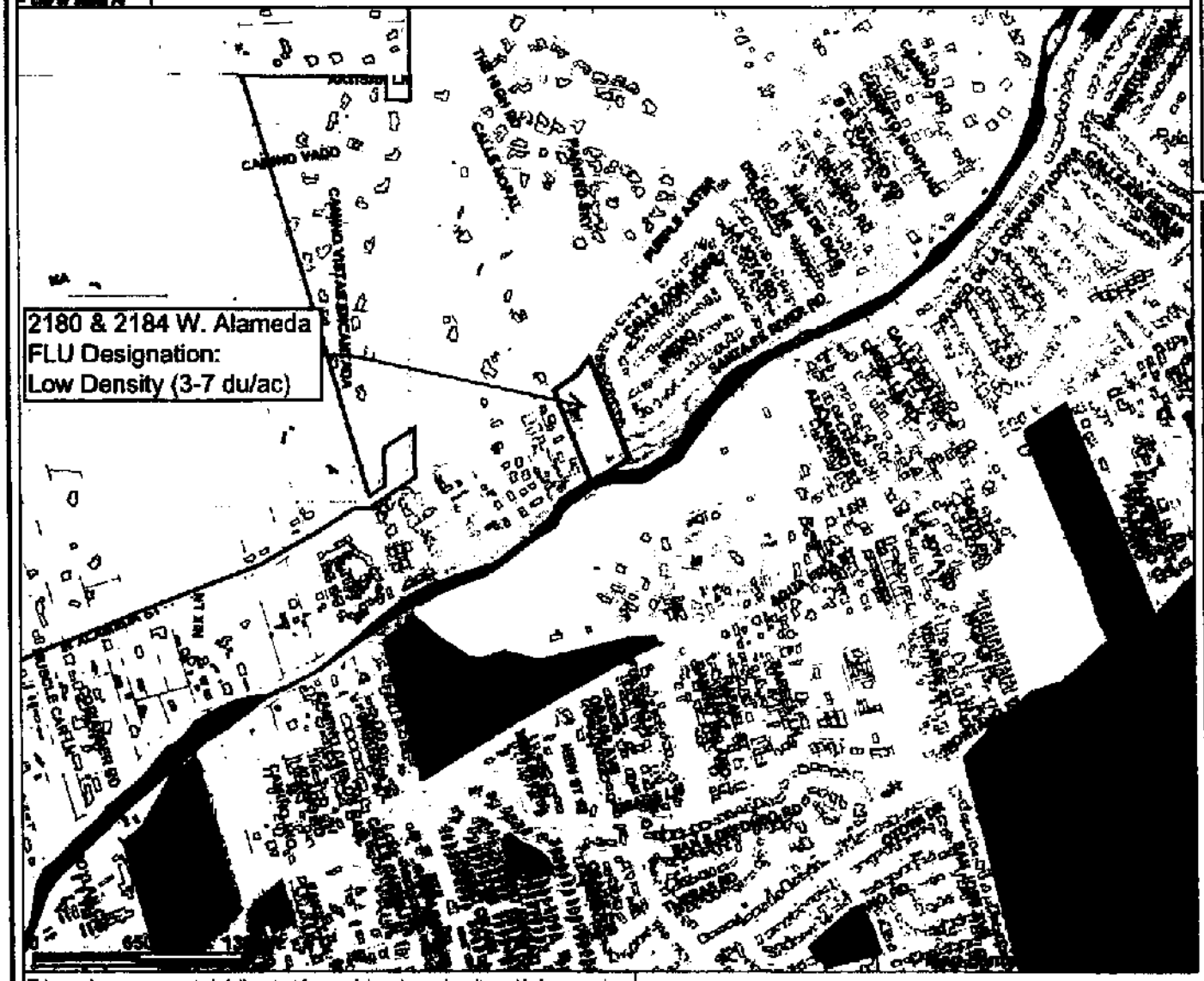
Donna J. Wynant, AICP
Land Use Senior Planner
City of Santa Fe Land Use Department
200 Lincoln Ave., Box 909
Santa Fe, NM 87504-0909
(505) 955-6325
(505) 955-6829 (fax)
djwynant@santafenm.gov

City of Santa Fe, New Mexico

Exhibit C

Maps & Photographs

Future Land Use Map



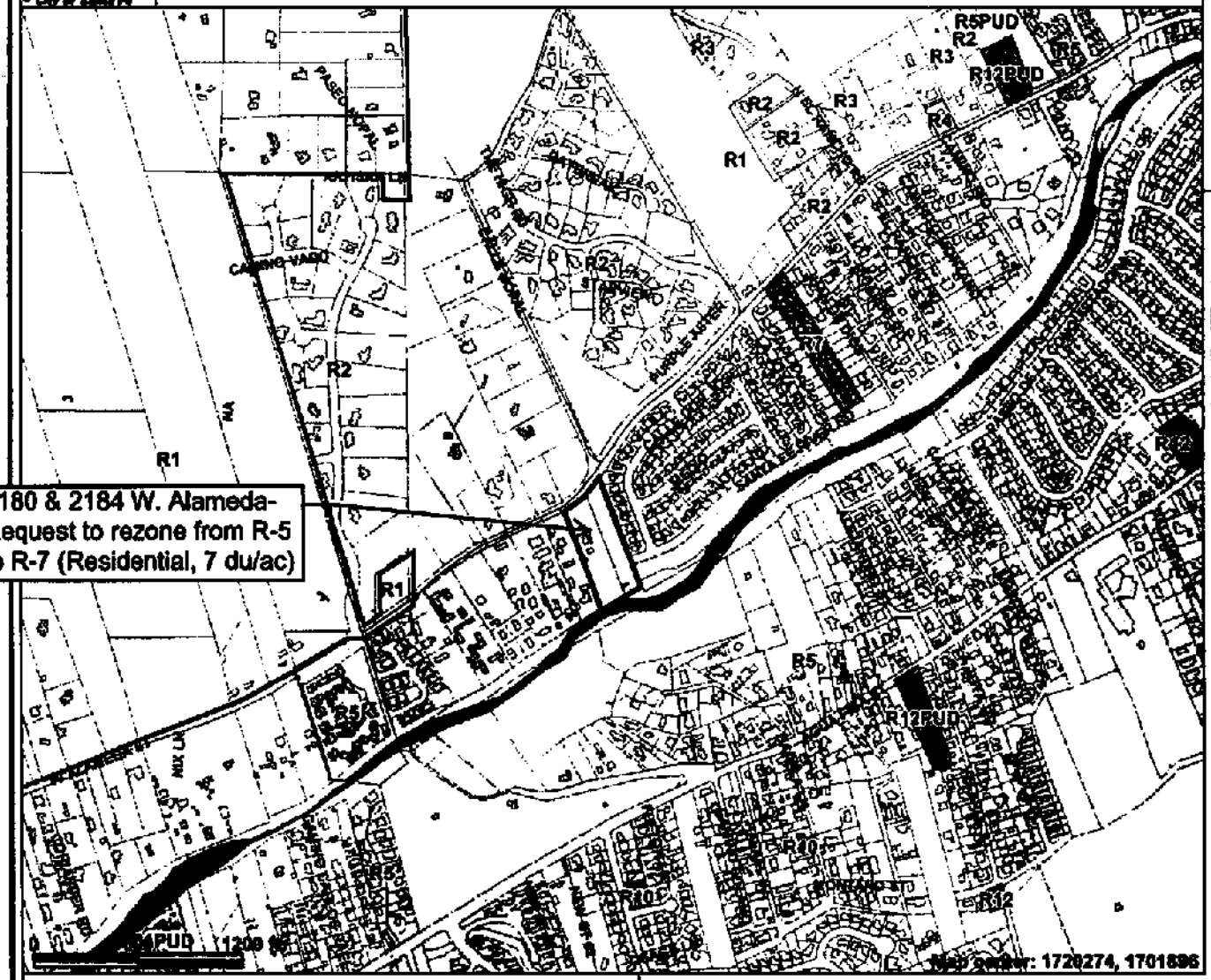
Legend

- City Limits
- Parcels
- Building Footprint
- Santa Fe River
- Future Land Use
  - Mountain/Corridor (1 dwelling per 10+ acres)
  - Very Low Density (1-3 dwellings per acre)
  - Low Density (3-7 dwellings per acre)
  - Moderate Density (7-8 dwellings per acre)
  - Medium Density (7-12 dwellings per acre)
  - High Density (12-29 dwellings per acre)
  - Regional Commercial
  - Community Commercial
  - Neighborhood Center
  - Transitional Mixed Use
  - Business Park
  - Office
  - Industrial
  - Public/Institutional
  - Open Space

Scale: 1:11,154

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Zoning Map



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Legend

- City Limits
- Parcels
- Building Footprint
- Santa Fe River

Zoning

- RR Rural Residential
- R1, (PUD) Single- Family 1du/ac
- R2, (DT), (PUD), (AC) Single - Family 2du/ac
- R3, (PUD) Single - Family 3du/ac
- R4 Single - Family 4du/ac
- R5, (DT), (PUD), (AC), R6 Single - Family 5du/ac
- R7, (I), (PUD), R8 Single - Family 7-8du/ac
- RC5, RC5AC Compound 5du/ac
- RC8, RC8AC Compound 8du/ac
- R10, (PUD) Multiple - Family 10du/ac
- R12, (PUD) Multiple - Family 12du/ac
- R21, (PUD) Multiple - Family 21du/ac
- R29, (PUD),(AC) Multiple - Family 29du/ac
- RAC Residential Arts & Crafts
- MHP Mobile Home Park

Scale: 1:10,373

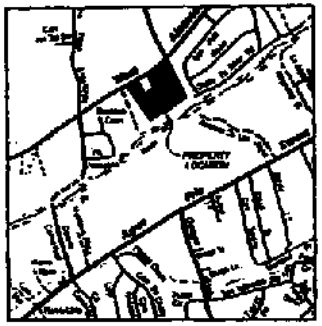
Aerial Map & Utilities

Legend

- City Limits
- Fire Hydrants
- Wastewater Collection Pipelines
- Water Pipe Distribution
- Parcels
- Santa Fe River
- FEMA Base Flood Elevations December 4, 2012
- FEMA Floodplain December 4, 2012 (100 yr)
- Major Roads and Highways
- Other Roads and Streets
- 2011 Aerial Photography - 1 foot resolution

Scale: 1:2,000

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

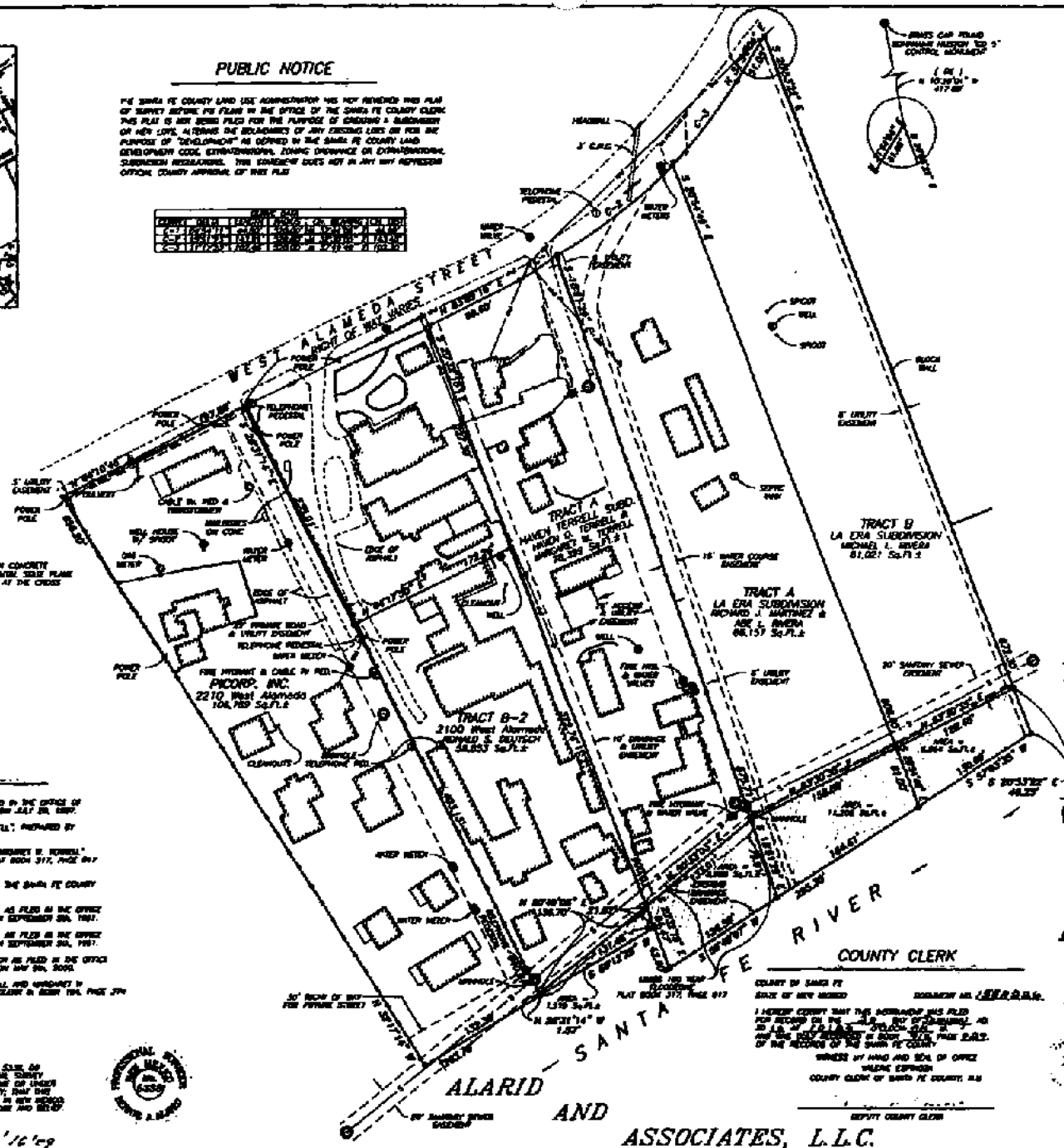


VICINITY MAP

PUBLIC NOTICE

THE SANTA FE COUNTY LAND USE ADMINISTRATOR HAS NOT REVIEWED THIS PLAT OF SURVEY BEFORE THE FILING IN THE OFFICE OF THE SANTA FE COUNTY CLERK. THIS PLAT IS NOT BEING FILED FOR THE PURPOSE OF CREATING A SUBDIVISION OR NEW LOTS, ALTERING THE BOUNDARIES OF ANY EXISTING LOTS OR FOR THE PURPOSE OF "DEVELOPMENT" AS DEFINED IN THE SANTA FE COUNTY LAND DEVELOPMENT CODE, EXTRATERRITORIAL ZONING ORDINANCE OR EXTRATERRITORIAL SUBDIVISION REGULATIONS. THIS EXAMINER DOES NOT IN ANY WAY REPRESENT OFFICIAL COUNTY APPROVAL OF THIS PLAT.

CURVE TABLE									
CURVE	DELTA	LENGTH	RADIUS	TANGENT	CHORD BEARING	CHORD DIST.			
C1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]			
C2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]			
C3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]			
C4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]			
C5	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]			



Graphic Scale

Scale Factor 1" = 50'

SYMBOL LEGEND

- FOUND BRASS CAP MONUMENT AS INDICATED
- FOUND MONUMENT AS SHOWN
- PROPERTY CORNER
- EXISTING SANITARY SEWER MANHOLE
- UTILITY POLE AS INDICATED
- OVER HEAD UTILITY LINE
- FENCE LINE
- WATER UTILITY
- GAS METER
- TELEPHONE PEDESTAL
- CABLE TELEVISION PEDESTAL
- FIRE HYDRANT
- SEPTIC TANK
- DRAINAGE FLOWLINE
- EASEMENT

NOTES

BASIS OF BEARING IS BASED ON A 5/8" TO A BRASS CAP SET IN CONCRETE BY BOHANNAN HUSTON LABELED "CO 5" FROM WHENCE HORIZONTAL GRID PLANE COORDINATES WERE ESTABLISHED FROM A BRASS CAP LOCATED AT THE CROSS OF THE WAYSTYLE LABELED "PORT MARCY" USING NAD 83.

REFERENCE DOCUMENTS

PLAT ENTITLED "EASEMENT SURVEY FOR PICORP, INC." AS FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN PLAT BOOK 346, PAGE 027 ON JULY 29, 1997.

PLAT ENTITLED "LANDS SURVEYED 6-4-34 FOR GLEN L. TERRELL", PREPARED BY WALTER BURLEY ON JUNE 4th, 1934, PROJECT No. 5-127.

PLAT ENTITLED "LOT CONSOLIDATION SURVEY PREPARED FOR MARGARET E. TERRELL", FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN PLAT BOOK 317, PAGE 017 ON OCTOBER 4th, 1995.

PLAT ENTITLED "LA ERA SUBDIVISION", FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN PLAT BOOK 14, PAGE 42.

WARRANTY DEED FROM MARGARET E. TERRELL TO PICORP, INC. AS FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN BOOK 757, PAGE 113 ON SEPTEMBER 9th, 1997.

WARRANTY DEED FROM MARGARET E. TERRELL TO PICORP, INC. AS FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN BOOK 757, PAGE 113 ON SEPTEMBER 9th, 1997.

QUITCLAIM DEED FROM JUDITH DRIESCH TO RONALD F. DRIESCH AS FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN BOOK 1704, PAGE 474 ON MAY 9th, 2000.

WARRANTY DEED FROM WILLIAM J. SCHEET TO JUDITH G. TERRELL AND MARGARET M. TERRELL AS FILED IN THE OFFICE OF THE SANTA FE COUNTY CLERK IN BOOK 1704, PAGE 474

CERTIFICATE

I, [illegible], A NEW MEXICO PROFESSIONAL SURVEYOR NO. [illegible], DO HEREBY CERTIFY THAT THIS DIMENSIONAL SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS OR EXCEEDS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

[illegible] P.L.S. NO. [illegible] 11/16/09 DATE

COUNTY CLERK

COUNTY OF SANTA FE
STATE OF NEW MEXICO

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE ___ DAY OF ___, AD AT ___ O'CLOCK ___ M. AND DULY RECORDED IN BOOK ___ PAGE ___ OF THE RECORDS OF THE SANTA FE COUNTY.

WITNESS MY HAND AND SEAL OF OFFICE
VALERIE ESPINOZA
COUNTY CLERK OF SANTA FE COUNTY, N.M.

DEPUTY COUNTY CLERK

NON-MOTORIZED TRAIL EASEMENT SURVEY PLA

PREPARED FOR

THE CITY OF SANTA F

LOCATED OFF WEST ALAMEDA WITHIN
PROJECTED SECTION 27, T.17 N., R.9 E., N.M.P.
CITY OF SANTA FE, STATE OF NEW MEXICO

City of Santa Fe, New Mexico

Exhibit D

ENN Materials

ENN GUIDELINES

Applicant Information

Project Name: River Trails Lofts at W. Alameda

Name: Alameda Lofts Investments, LLC (*Last*) — Agent – Sommer Karnes & Associates, LLP (*First*) — (*M.I.*)

Address: 200 W. Marcy St (*Street Address*) — Suite 133 (*Suite/Unit #*)

Santa Fe (*City*) — NM (*State*) — 87501 (*ZIP Code*)

Phone: (505) 989-3800 — E-mail Address: KHS@sommer-assoc.com

Please address each of the criteria below. Each criterion is based on the Early Neighborhood Notification (ENN) guidelines for meetings, and can be found in Section 14-3.1(F)(5) SFCC 2001, as amended, of the Santa Fe City Code. A short narrative should address each criterion (if applicable) in order to facilitate discussion of the project at the ENN meeting. These guidelines should be submitted with the application for an ENN meeting to enable staff enough time to distribute to the interested parties. For additional detail about the criteria, consult the Land Development Code.

(a) EFFECT ON CHARACTER AND APPEARANCE OF THE SURROUNDING NEIGHBORHOODS *For example: number of stories, average setbacks, mass and scale, landscaping, lighting, access to public places, open spaces and trails.*

The multi-family community is designed for maximum compatibility with the W. Alameda neighborhood and is based on the 2240 W. Alameda Loft community that is situated a few parcels to the west. The buildings will be situated in a manner that offers maximum landscaped common open space, which will accentuate the semi-rural feeling of the area while providing the flexible housing that is desired by many Santa Feans. The buildings will incorporate Northern New Mexico pitch roofs with two story open loft interiors. The east and west side setbacks will be a minimum of eight (8) feet and up to twenty (20) feet. There will be a walking path through the property, providing access from the property to the Santa Fe river trail to the south.

(b) EFFECT ON PROTECTION OF THE PHYSICAL ENVIRONMENT *For example: trees, open space, rivers, arroyos, floodplains, rock outcroppings, escarpments, trash generation, fire risk, hazardous materials, easements, etc.*

The property has existing easements for drainage, sewer, utilities and the river trail. The southernmost portion of the property, which includes the Santa Fe River trail, includes an area within the floodplain. These easements will be maintained.

The property will be enhanced by the installation of landscaping in the form of native trees, native shrubs, and native grasses.

(c) IMPACTS ON ANY PREHISTORIC, HISTORIC, ARCHAEOLOGICAL OR CULTURAL SITES OR STRUCTURES, INCLUDING ACEQUIAS AND THE HISTORIC DOWNTOWN *For example: the project's compatibility with historic or cultural sites located on the property where the project is proposed.*

There are no known historic or cultural sites located on the property. A portion of the property has been previously developed in historic times. The property is within the River & Trails Archaeological Review District.

(d) RELATIONSHIP TO EXISTING DENSITY AND LAND USE WITHIN THE SURROUNDING AREA AND WITH LAND USES AND DENSITIES PROPOSED BY THE CITY GENERAL PLAN *For example: how are existing City Code requirements for annexation and rezoning, the Historic Districts, and the General Plan and other policies being met.*

The area south of W. Alameda and north of the Santa Fe River is zoned R-5. Properties along the north side of W. Alameda are a mix of R-1 and R-2. The proposed R-7 zoning is consistent with the General Plan Future Land Use designation for the surrounding area of Residential 3-7 dwelling units per acre. The adjecent land to the east has been developed as the Rio Vista subdivision with a traditional single family lot pattern, with lots of about 6,000 square feet each. The 2-story buildings of the proposed project spread out through the property will convey a sense of lower density compared to the Rio Vista subdivision. The layout is similar to the Alameda Lofts project located a few parcels to the west, which was developed by the same applicant. The proposed project is consistent with General Plan policy 4-4-G-1 which promotes infill development to make more efficient use of existing infrastructure.

(e) EFFECTS ON PARKING, TRAFFIC PATTERNS, CONGESTION, PEDESTRIAN SAFETY, IMPACTS OF THE PROJECT ON THE FLOW OF PEDESTRIAN OR VEHICULAR TRAFFIC AND PROVISION OF ACCESS FOR THE DISABLED, CHILDREN, LOW-INCOME AND ELDERLY TO SERVICES *For example: increased access to public transportation, alternate transportation modes, traffic mitigation, cumulative traffic impacts, pedestrian access to destinations and new or improved pedestrian trails.*

Vehicular access will be provided within the property via driveways and parking lots. Parking for residents and guests will be provided within the property at a level that is equal to or greater than City of Santa Fe code. Trails that comply with ADA standards and are "children friendly" will be installed to provide direct access to the Santa Fe River Trail, which provides pedestrian access to the Casa Solana commercial center and, ultimately, to downtown.

(f) IMPACT ON THE ECONOMIC BASE OF SANTA FE *For example: availability of jobs to Santa Fe residents; market impacts on local businesses; and how the project supports economic development efforts to improve living standards of neighborhoods and their businesses.*

Provision of affordable and mid-range market rate housing will increase the amount of workforce housing close to downtown employment centers consistent with the General Plan land use designation for this area. The unit designs will allow for code compliance home occupations that will provide employment opportunities, as small home-based businesses will be likely created. The new community will assist in the economic development process by bringing more shoppers to the commercial enterprises in the area.

(g) EFFECT ON THE AVAILABILITY OF AFFORDABLE HOUSING AND AVAILABILITY OF HOUSING CHOICES FOR ALL SANTA FE RESIDENTS *For example: creation, retention, or improvement of affordable housing; how the project contributes to serving different ages, incomes, and family sizes; the creation or retention of affordable business space.*

The River Trail Lofts at W. Alameda will provide six (6) new affordable housing opportunities through compliance with the City of Santa Fe affordable housing ordinance. Additionally it will serve a large segment of the Santa Fe population with household income just above the limitations of the City affordable programs. The house designs will also serve Santa Feans who are seeking alternative floor plans and styles that function well for creative endeavors.

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

Project Name	River Trail Lofts
Project Location	2180 and 2184 W. Alameda
Project Description	River Trails Lofts. Rezoning from R-5 to R-7. Development Plan Approval for 32 Dwelling Units, and a Lot Consolidation
Applicant / Owner	Richard Martinez, Abe Rivera and Michael River
Agent	Karl Sommer
Pre-App Meeting Date	February 5, 2015
ENN Meeting Date	Wednesday, March 18, 2015
ENN Meeting Location	Frenchy's Field Community Building
Application Type	Rezoning, Development Plan and Lot Consolidation
Land Use Staff	Donna Wynant
Other Staff	None
Attendance	Approximately 28 members of the public, 1 city staff, 4 representing applicant.

Notes/Comments:

Meeting started at 5:35. Staff (Donna Wynant) gave an introduction about the purpose of the ENN meeting and the Rezoning, Development Plan, and Lot Consolidation.

Karl Sommer gave an overview of their request and introduced Rick Brenner and Rachel Watson. Mr. Sommer said the applicants have the property on contract. The subject site is comprised of 2 lots. The applicant, Rick Brenner has developed Alameda Lofts, further to the west. Mr. Sommer said that it is a pleasant place to live and people enjoy living there. He oriented the group to the site on the map. The property is currently zoned R-5. The proposal is for R-7 zoning which would yield an additional 6 dwelling units over the R-5. Most of the buildings have 2 units and the small ones have one unit. The existing house is single story and will be used as a workshop.

Question: Will this include affordable units? Mr. Sommer gave an overview of the City's inclusionary zoning program that requires a certain percentage of the units as affordable. The bonus density will allow additional units. The R-5 district x 4.25 acres allows 21.25 units plus the density bonus. The request for R-7 x 4.25 acres allows 29.75 units plus the density bonus.

Question: Regarding the requirement for a 2nd access, Mr. Brenner said the City does not want a 2nd access. Fire has to at least do a turn around.

Question: Can you tie into a 3 way stop (at W. Alameda and Calle Nopal?)

Morey Walker said he has talked to the City's traffic engineer, John Romero, and they'll work out any problems.

Question: Is the river trail along the property? How green is the project and will the development include any solar?

Mr. Brenner said he does green development. He'll be doing pumice wicks. He has done photo voltaics and will evaluate that for this development. He mentioned the Lena Street Lofts. He said he will build to green standards and will do xeriscaped landscaping. A trail will go through the property to give access to the river trail and will have a gate at the trail.

Question: Will the structures be one or two stories. (They will all be two story). Will these be attached or detached. (Some will be attached, others detached). How many single units are detached?

Question: How does the density of this proposal compare with the W. Alameda Lofts? (Mr. Brenner responded: This project will have 6 additional more units).

Question: Will the lot consolidation require a public hearing and will the applicant close on the property if it does not get zoned? Mr. Sommer explained that the request would go to the Summary Committee, but with no public hearing.

Question: A neighbor who owns property to the west said there's drainage problems onto her property from the subject property, and said the property owner has not maintained his ditch.

Mr. Summer explained how the City deals with the cubic footage of pre and post development water. Morey Walker said he walked the ditch several times and explained that the City never put in the culvert to carry the water away from the property and that the City should maintain it, but will require the property owner to maintain.

Question: Can the developer place taller buildings (i.e. 2 story) to where they would minimize impact on neighbors? (Response: the developer can't accommodate it that way.)

Question: How tall will the structures be? (Response: all structures will be 24 feet tall)

Question: Why do you have parking close to Alameda? (Response: we will redesign the site to where parking will not be at that location.)

Question: If you try to turn west out on the West Alameda- it's a problem Who have you talked to in the City who doesn't like moving the drive closer to the West Alameda and Calle Nopal intersection.

Question: Why isn't there a turn around? The street ends. Will it open in the future?

Question: About trash pick-up, how many dumpsters will there be (response: 2 dumpsters).

Question: Will electricity be overhead. (Response: electricity will come to the site overhead, and the go underground at the site.)

Question: What will happen with the well on site? Will it be capped? (Response: the well can be used for irrigation. The proposal will comply with the city's water conservation regulations and water for the site will be handled with water rights.)

Question: Will there be a meter on the well? (response: we believe it will.)

Question: Someone asked why R-5 won't work for you and asked about the prices and sizes of the units. (Response: If the units are sold – as condo units- then the units would be around $300,000 and the units would range in size from 1,600 – 1,800 sq. ft. units)

Comment: A lot of comments that have been made have to do with density. When you look around the area, most of the properties are zoned R-5. We don't want R-7 zoning.

Question: What kind of lighting will there be on the drive in the development? (Response: No lighting is planned for the road. The proposal will comply with the City's night sky ordinance.)

Question: Will the development be condominium ownership? (Response: We have not yet determined that.)

Question: Who are you targeting for the development? (Response: people with few children or with young children, people in the arts, middle income people, single people, etc.)

Question: Will this be a phased development? (Yes, but we have not determined the staging yet.)

Question: Will there be an HOA or management company to manage the property? (response: yes).

Comment: I think you should have the entrance/exit at the 4-way stop (W. Alameda & Calle Nopal)

Comment: Concerned about emergency vehicles along W. Alameda. There's no room to pull over on W. Alameda.

Question: Will the development be rental or owner occupied? (response: It depends on what we leave for our children. If owner occupied, people often have questions such as how often trash is picked up.

Comment: Someone said she looked up W. Alameda Lofts, and found the development (condo assn.?) is not in good standing. (response: the W. Alameda investment, LLC is probably the W. Alameda nonprofit (HOA Board?)

Question: Do you know what the Rio Vista density is? (Someone in the audience commented that it is R-5)

Question: Regarding the utilities... where will they come from? (Response: from W. Alameda, and into the site in a loop system.)

Question: Are the W. Alameda lofts all occupied? (response: yes)

Question: Someone asked again about whether the units in the development will be a condo or rental. The applicant again responded that that has not yet been determined but stated it will be a multiple family development and not a subdivision project with separate lots.

$220,000-$300,000 (if for sale)
900- 1,500 or 1,600 sq. ft.

Someone mentioned that properties near the river had bad internet reception from Century Link.

Someone pointed out that the various city departments will review the proposal when it gets to the Development Plan request.

The meeting adjourned around 7:30 pm.

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

Project Name: River Trail Lofts **Meeting Date:** 3/18/15

Meeting Place: Franchize **Meeting Time:** 5:30 PM

Applicant or Representative Check Box below

↓		Name	Address	Email
☐	1	Ronald Odion	2210 West Alameda	Searchlightnm@hotmail.com
☐	2	Brian Rempel	159 Calle Don Jose	brrempel@gmail.com
☐	3	DAVID A. SENA	1729 SANTA FE RIVER RD	dsena123@q.com
☐	4	Mark Sena	2191 West Alameda	MMSena@lanl.gov
☐	5	ORLANDO SOLA	109 Calle Nopal	
☐	6	ANDRES C. SALAZAR	1605 City Lights	salazar1605@gmail.com
☐	7	Carlyn Jervis	109 Daybreak	jervidae@cybermesa.com
☐	8	Pamela Mathews	155 Calle Don Jose	pamelaannmathews@hotmail.com
☐	9	Sue Khozein	1002 Paseo de la Cima	Suekhozein@hotmail.com
☐	10	Margaret Terrell	~~2190 B~~ 375 Calle Colorin	pegterrell@msn.com
☐	11	Nury Khozein	1002 Paseo de la Cima	nurykhozein@gmail.com
☐	12	Richard Cady	2190 B West Alameda	richardcady@comcast.net

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

Donna Wynant — Printed Name of City Staff in Attendance

Donna Wynant — Signature of City Staff in Attendance

3/18/15 — Date

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

ENN Sign-In
3/18/15

Name	Address	EMail
Norma Cross	1390 Camino Mio	CROSS@cybermesa.com
~~Ronald Stephen~~		
Ron Deutsch	2200 W. Alameda	
Stephanie Deutsch	607 Don Gaspar	deutsch.stephanie@gmail.com
FRANK RUTE	147 CALLE DON JOSE	
Carlyn Massey	2214 W. Alameda	
Jeanne Cole Baca	2190 W. Alameda	
[illegible]	2190 W Alameda	shoria@newmexico.com
Linda Leera	2214F W. Alameda	
Rita Larrow	" "	
Hilario Romero	1561 La Cieneguita	(505) 474-4533
Mike Sloane	1702 Medio St	Palmolive@cybermesa.com
Nancy Desiderio	" need handouts please	
Pamela Mathews	155 Calle Don Jose, SF 87508	pamelanmathews@hotmail.com
Andres C. SALAZAR	1605 C. Ly Lighter	Salazar1605@gmail.com
Donald Auer	1717 Medio St.	
Kathleen Hillock	1726 Medio St.	kathyhillock@yahoo.com
Rick MARTINEZ	723 Mesilla	morgnMartinez@[illegible]
Anna Hansen	2008 Kiva Rd	dakenicdeveg@newmexico.com

(Signed in other page)

(Signed in other page)

City of Santa Fe, New Mexico

Exhibit E

Applicant Materials
&
Communications

Alameda Lofts Investments, L.L.C.
Rick Brenner & Rachel Watson, Managers
Post Office Box 9146
Santa Fe, NM 87504

City of Santa Fe
Current Planning
Land Use Department
200 Lincoln Avenue
Santa Fe, NM 87501

Dear Land Use Director:

We are herewith submitting an application for both a mulit-family development at 2180/84 West Alameda, Santa Fe, NM and a re-zoning of the property from R-5 to R-7. The property is approximately 4.25 acres.

The development consists of a total of thirty-two (32) dwelling units including six (6) affordable units. This total number of dwelling units includes the required twenty percent (20%) affordable dwelling units and fifteen percent (15%) density bonus.

We have previously reviewed this proposed development with Staff at a pre-application meeting and we have met with neighbors at the Early Neighborhood Notification meeting.

Our agent representing us during the development review process is Sommer Karnes & Associates, 200 W. Marcy Street, Suite 133, Santa Fe, NM 87501, 505 989 3800.

Please let us know if you need any additional information.

Sincerely,

Rick Brenner, Manager
Alameda Lofts Investments, L.L.C.

Copy: Joseph Karnes

River Trails Lofts at West Alameda Rezoning Criteria Statement

The Applicant provides the following responses to the City Code criteria for approval of rezoning requests.

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;

Response: Not applicable.

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

Response: The application proposes a modest increase in allowable density of the subject properties from R-5 to R-7, which is consistent with the existing General Plan future land use designation for the subject property and area. In recent years, properties adjacent to the east (Rio Vista Subdivision) and to the west of the subject properties have developed at effective densities on par with the proposed density. The nature of the development proposed on the subject properties will maintain more contiguous open space than the traditional single family development to the east. The actual density as measured by lot coverage will be equal to or less than the existing contiguous development to the east.

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

Response: General Plan Figure 4-4 includes the subject property within the "Infill Area." General Plan Growth Management provision 4 states that in infill areas, "the city must encourage higher densities of residential and commercial development than existing zoning often allowed. … Smaller subdivided lots and smaller homes help create efficient use of already existing roads and utilities, help ensure cost-efficient public transit, and provide the type of housing that will be in demand as the general population ages during the upcoming decades."

Also, General Plan Policy 4-1-I-1 states "educate the community about the benefits of limiting sprawl and increasing residential densities." General Plan Policy 4-4-I-1 encourages giving of "top priority" to infill development. General Plan policy 4-4-I-6 states that "the target density for new infill residential development, in order to address affordable housing goals, is a minimum of

five units per acre (net) with 7 units per acre (net) preferred ... infill development should propose a reasonable increase in density over the surrounding neighborhood."

The proposed rezoning is consistent with the General Plan future land use designation of 3-7 dwelling units per acre and will further the General Plan's policy directives for infill development and limitation of sprawl. The subject properties are centrally located and provide efficient access to downtown job centers as well as major arterials including St. Francis and Cerrillos Road via Siler Road. The proposed increase in density from 5-7 units per acre is a reasonable increase that will be compatible with existing development in the area.

A trunk sewer line runs through the subject property, and use of this existing infrastructure will be more efficient than extending the sewer line to serve new communities in future growth areas. The multi-family housing proposed concurrently with the rezoning is in demand now and as envisioned by the General Plan, provides for efficient use of resources as well as maximization of open space.

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

Response: The rezoning requirements of Chapter 14 are addressed herein and the application is consistent with those requirements.

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

Response: The rezoning request is consistent with the existing General Plan future land use designation.

(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; and

Response: General Plan Land Use Policy 3-G-3 states "there shall be infill development at densities that support the construction of affordable housing and a designated mix of land uses that provide an adequate balance of service retail and employment opportunities... ." The rezoning request will increase the amount of centrally located land available for multi-family residential uses and will avoid urban sprawl.

(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.

Response: The Subject Properties are currently served by West Alameda Street. A traffic report has been prepared and no access concerns exist. The traffic report concluded that West Alameda is operating at an acceptable level of service that can accommodate the additional traffic generated by the development proposed per the rezoning. Also, if the stop signs at W. Alameda and Calle Nopal were removed, the level of service would be enhanced to LOS A. An existing

sewer trunk line runs through the subject properties. Two existing water main along Alameda and at the termination of Santa Fe River Road are available to serve the subject properties.

(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;

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

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

Response: As addressed herein, the application is consistent with the General Plan future land use designation and applicable General Plan policies. Even if it were not, the proposed uses would not significantly change the character of the prevailing uses in the vicinity or the existing zoning designation of the subject properties.

SOMMER, KARNES & ASSOCIATES, LLP

Mailing Address
Post Office Box 2476
Santa Fe, New Mexico 87504-2476

Street Address
200 West Marcy Street, Suite 139
Santa Fe, New Mexico 87501

Telephone:(505)989.3800
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James R. Hawley, Attorney at Law
jrh@sommer-assoc.com
Of Counsel
Licensed in New Mexico and California

March 27, 2015

VIA US Mail

Jean Salazar
15 City Lights St
Santa Fe, NM 87507

Re: River Trail Lofts Application 2180/84 W. Alameda

Dear Ms. Salazar,

We are writing on behalf of Rachel Watson and Rick Brenner in response to your email to Ms. Wynant at the City Land Use Department. It is unfortunate that you were not able to attend the ENN for Rachel and Rick's plans for 2180/84 W. Alameda, but we appreciate the fact that you have taken the time to express your concerns in your letter to Ms. Wynant at the Land Use Department of the City of Santa Fe (copy attached).

Ms. Wynant passed your concerns on to us and we would like to respond to your questions and comments. We recognize that there are valid neighborhood issues and that Santa Fe has experience major changes in recent decades and that many of these changes have not been for the better. Rachel has lived in Santa Fe all her life and Rick has been active in the community since just shy of forty years. Rachel and Rick have done their utmost to ensure that the communities they have created bring positive changes and enjoyable places to live and work.

To address you specific concerns.

1. In recent years there have been a number of flood plain studies performed by the City of Santa Fe and FEMA. The most recent flood plain maps adopted by the City have identified only a very small portion of the subject property that is along the Santa Fe River Trail as being in the flood plain. Certainly there will not be any construction of homes in this area and all improvements will be located outside of the designated flood plain.

2. The additional homes per acre beyond the existing zoning that we are asking permission to build will not adversely affect the neighborhood and your quality of life. The additional homes will not materially affect the traffic situation on Alameda nor create a whole new urbanization of the area. But the additional dwellings will open up an opportunity for a

greater cross section of our Santa Fe community to live in a lovely environment and in homes that better meet their taste and personal needs. The City has planned for residential use of this area and the proposal is consistent with the City's General Plan land use designation

3. The project engineer is currently performing traffic counts and a traffic analysis, which will be available for review once it is completed and submitted to the City. Clearly the traffic on W. Alameda has increased since the construction of the Siler Street bridge. But we anticipate that the amount of traffic generated by the additional dwellings in this new community will not have a substantial effect on the existing and anticipated conditions. Your suggestion of aligning the driveway with Calle Nopal and creating a four way stop sign is a good one. But unfortunately it is not physically possible and would not provide a viable solution to existing traffic concerns. The traffic analysis will include assessment of existing conditions, conditions with the project and recommendations to mitigate any impacts caused by the project. If you like, we will send you a copy of the report when it is available.

We will endeavor to address your concerns as we move forward. If you have additional questions or concerns, please do not hesitate to contact us.

Sincerely,

Joseph Karnes

Cc: Donna Wynant
Rick Brenner

I couldn't make it to last evening's meeting but I have always wondered why the city allows so much development along the river in what is clearly a flood plain. I know it is unlikely that there will ever be a flood because the river is dammed up in the mountains, but isn't flood insurance still required along the river?

I would suggest that the city leave the R5 zoning in place. The developers will still get some extra units that are affordable. The site plan looks really dense but developers always try to get as many units as possible and say the project isn't feasible with fewer units which is usually baloney.

The big concern for the neighborhood (I live in the Las Lomas subdivision) is how River Trail residents are going to get in and out onto West Alameda. Is there any way to reconfigure the intersection with Nopal and West Alameda to create a 4 way stop? Morning and evening traffic isn't heavy particularly on West Alameda but it is constant and it can be difficult to access West Alameda during those times.

Jean Salazar
1605 City Lights
Santa Fe

SOMMER, KARNES & ASSOCIATES, LLP

Mailing Address
Post Office Box 2476
Santa Fe, New Mexico 87504-2476

Street Address
200 West Marcy Street, Suite 139
Santa Fe, New Mexico 87501

Telephone:(505)989.3800
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Karl H. Sommer, Attorney at Law
khs@sommer-assoc.com
Joseph M. Karnes, Attorney at Law
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Mychal L. Delgado, Certified Paralegal
mld@sommer-assoc.com

James R. Hawley, Attorney at Law
jrh@sommer-assoc.com
Of Counsel
Licensed in New Mexico and California

March 27, 2015

VIA US Mail and Email (mjsena@lanl.gov)

Marc Sena
2191 W. Alameda
Santa Fe, NM 87507

Re: River Trail Lofts Application 2180/84 W. Alameda

Dear Mr. Sena,

We are writing on behalf of Rachel Watson and Rick Brenner in response to your email to Ms. Wynant at the City Land Use Department. Thank you for attending the ENN for Rachel and Rick's plans for 2180/84 W. Alameda and for expressing your concerns in your follow up letter to Ms. Wynant at the Land Use Department of the City of Santa Fe.

Ms. Wynant passed your concerns on to us and we would like to respond to your questions and comments. We recognize that there are valid neighborhood issues and that Santa Fe has experience major changes in recent decades and that many of these changes have not been for the better. Rachel has lived in Santa Fe all her life and Rick has been active in the community since just shy of forty years. Rachel and Rick have done their utmost to ensure that the communities they have created bring positive changes and enjoyable places to live and work.

To address you specific concerns.

1. The additional homes that Rachel and Rick are asking permission to build will not adversely affect the neighborhood and your quality of life. The additional homes will not materially affect the traffic situation on Alameda nor create a whole new urbanization of the area. The additional dwellings will open up an opportunity for a greater cross section of our Santa Fe community to live in a lovely environment and in homes that better meet their taste and personal needs. The City has planned for residential use of this area and the proposal is consistent with the City's General Plan land use designation.

2/6. The project engineer is currently performing traffic counts and a traffic analysis, which will be available for review once it is completed and submitted to the City. Clearly the traffic on W. Alameda has increased since the construction of the Siler Street bridge. But

we anticipate that the amount of traffic generated by the additional dwellings in this new community will not have a substantial effect on the existing and anticipated conditions. Your suggestion of aligning the driveway with Calle Nopal and creating a four way stop sign is a good one. But unfortunately it is not physically possible and would not provide a viable solution to existing traffic concerns. The traffic analysis will include assessment of existing conditions, conditions with the project and recommendations to mitigate any impacts caused by the project. If you like, we will send you a copy of the report when it is available.

3. The on-site well will not be used to supply water for the homes. Any other use of well water and water rights is governed by the Office of the State Engineers and our clients will follow the applicable regulations.

4. The decision regarding the rental or sale of the dwellings in the community will be made based on sound business and personal criteria. Although our clients completely understand the concern for safety, they do not believe that properly managed rental houses contribute in any way to neighborhood crime.

5. The City of Santa Fe has contracted for an engineered solution to the issue of offsite drainage flowing in the drainage easement along the West property line of the subject property. Our clients are trying to work with the City as it implements the engineered plan to insure that it provides a comprehensive solution to the existing drainage issue. At the very least, independent of the proper actions of the City of Santa Fe, our clients will execute their civil engineer's plans for addressing this problem on the subject property.

We will endeavor to address your concerns as we move forward. If you have additional questions or concerns, please do not hesitate to contact us.

Sincerely,

Joseph Karnes

Cc: Donna Wynant
Rick Brenner

Hello Donna,

Here are a few of my concerns regarding the Proposed Santa Fe River Lofts at 2184 West Alameda.

1. Stay with the Current R5 zoning, No R7 Zoning
2. Align the Driveway with Calle Nopal and West Alameda. Possible four (4) way Stop sign.
3. Shut off And Cap Well that is on the Land
4. Units to be Sold, NO rentals. 99% of Homes on the East side of West Alameda from Calle Nopal down are all rentals. We have a bad percentage of Break ins in this area.
5. Arroyo on west side of Proposed property, needs to be dug out and maintained.
6. Traffic Study needs to be done and sent to all surrounding residence, Ever since the put the crossing over the River at Siler to join
   West Alameda, those who live on the West side of West Alameda have a hard time turning left out of their driveways to head East on
   Alameda and those who live on the East side of West Alameda have a hard time turning left out of their driveways to go west on Alameda.

Please forward these on, to whom ever may be able to answer. And or provide comments back to me.

I can be reached at (505(660-8214 after 5:00pm weekdays or by e-mail
misena@lanl.gov

Thank You.

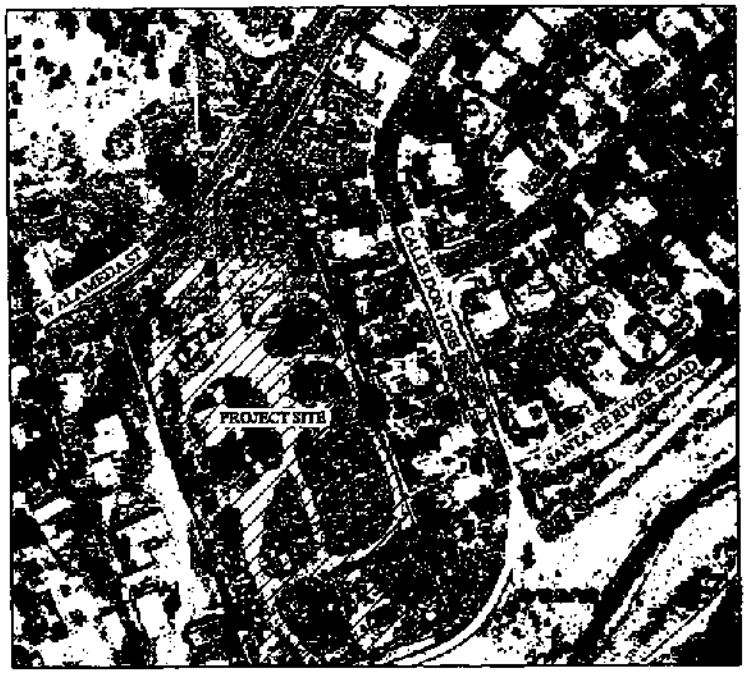
Marc Sena

RIVER TRAIL LOFTS

AT WEST ALAMEDA

DEVELOPMENT PLAN AND REZONING

VICINITY MAP



NTS

SHEET INDEX

SHEET TITLE	No.
COVER SHEET	C
DEVELOPMENT PLAN	D-1
LOT CONSOLIDATION PLAT	S-1
LOT CONSOLIDATION PLAT	S-2
EXISTING CONDITION and SLOPE ANALYSIS	S-3
GRADING PLAN	C-1
WATER LAYOUT PLAN	C-2
SEWER LAYOUT PLAN	C-3
CIVIL DETAILS AND CONSTRUCTION NOTES	C-4
EROSION CONTROL PLAN AND DETAILS	EC-1
LANDSCAPE PLAN	L-1
NMDOT DETAILS	PAD-01 TO PAD-03
CITY OF SANTA FE DETAILS	SF -1 TO SF-5

CONSULTANTS

ENGINEER
Walker Engineering

ARCHITECT
Christopher Purvis Architects

SURVEYOR
High Desert Surveying Inc.

04/27/15

SHEET NO.
C

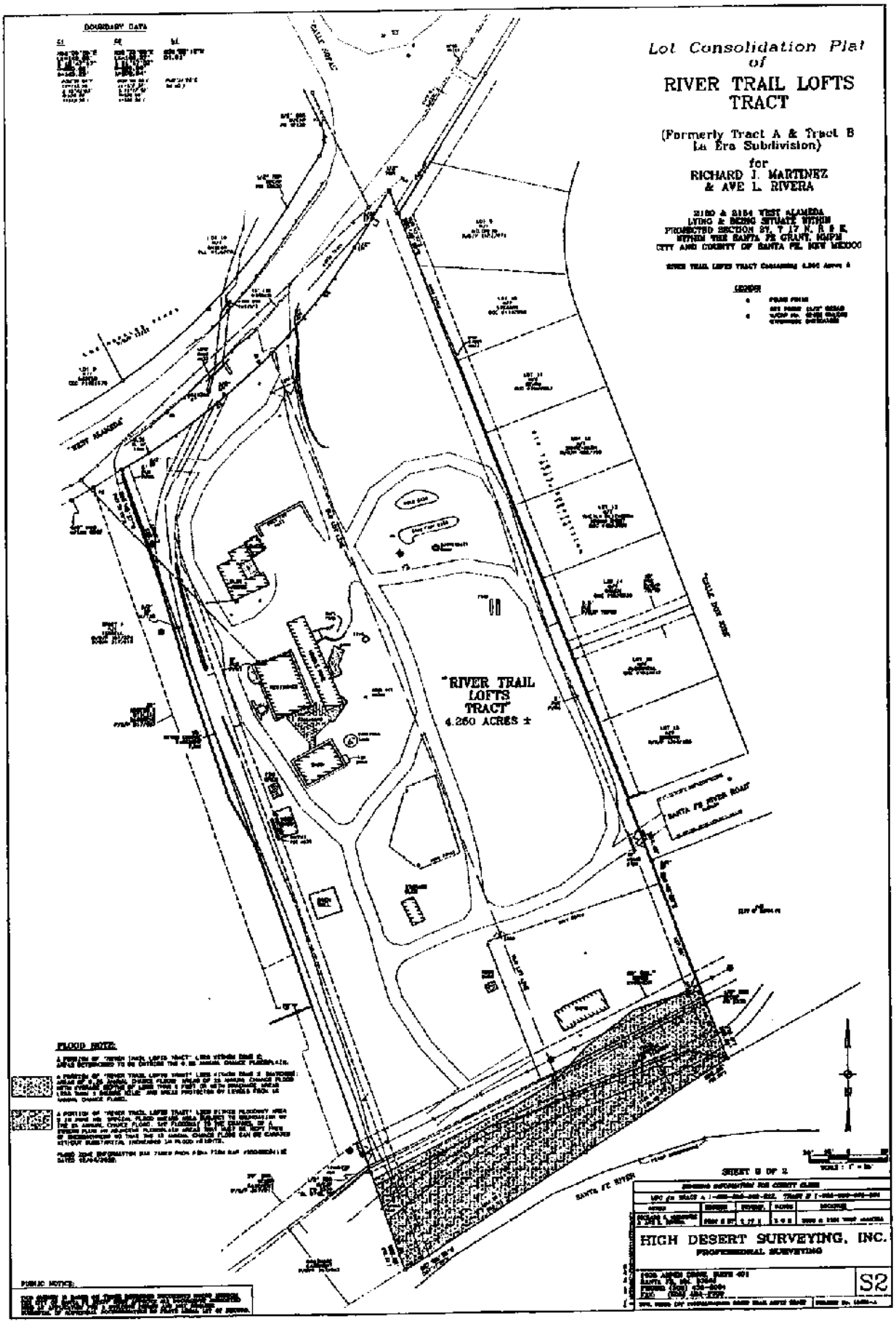
RIVER TRAIL LOFTS AT WEST ALAMEDA

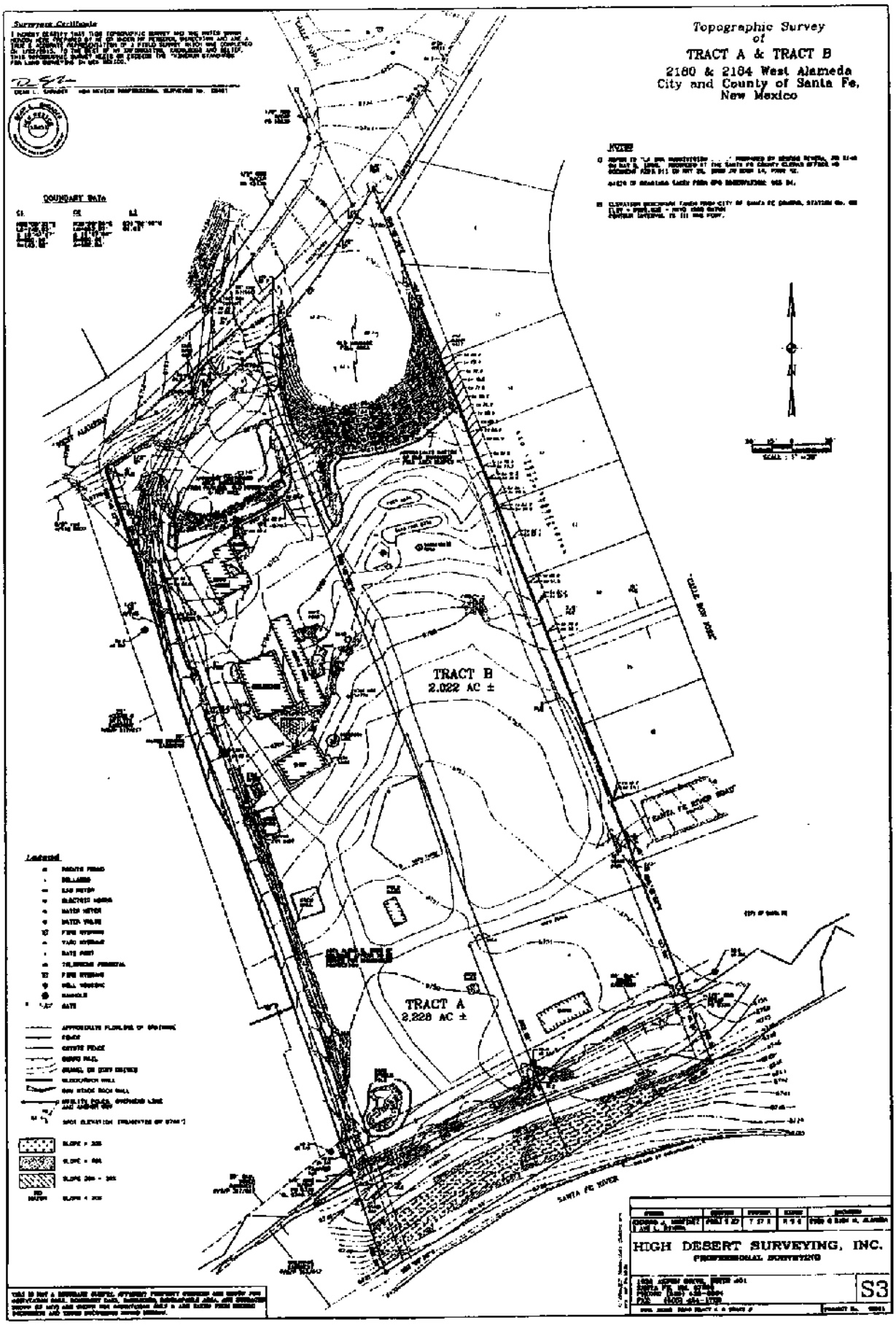
DEVELOPMENT PLAN

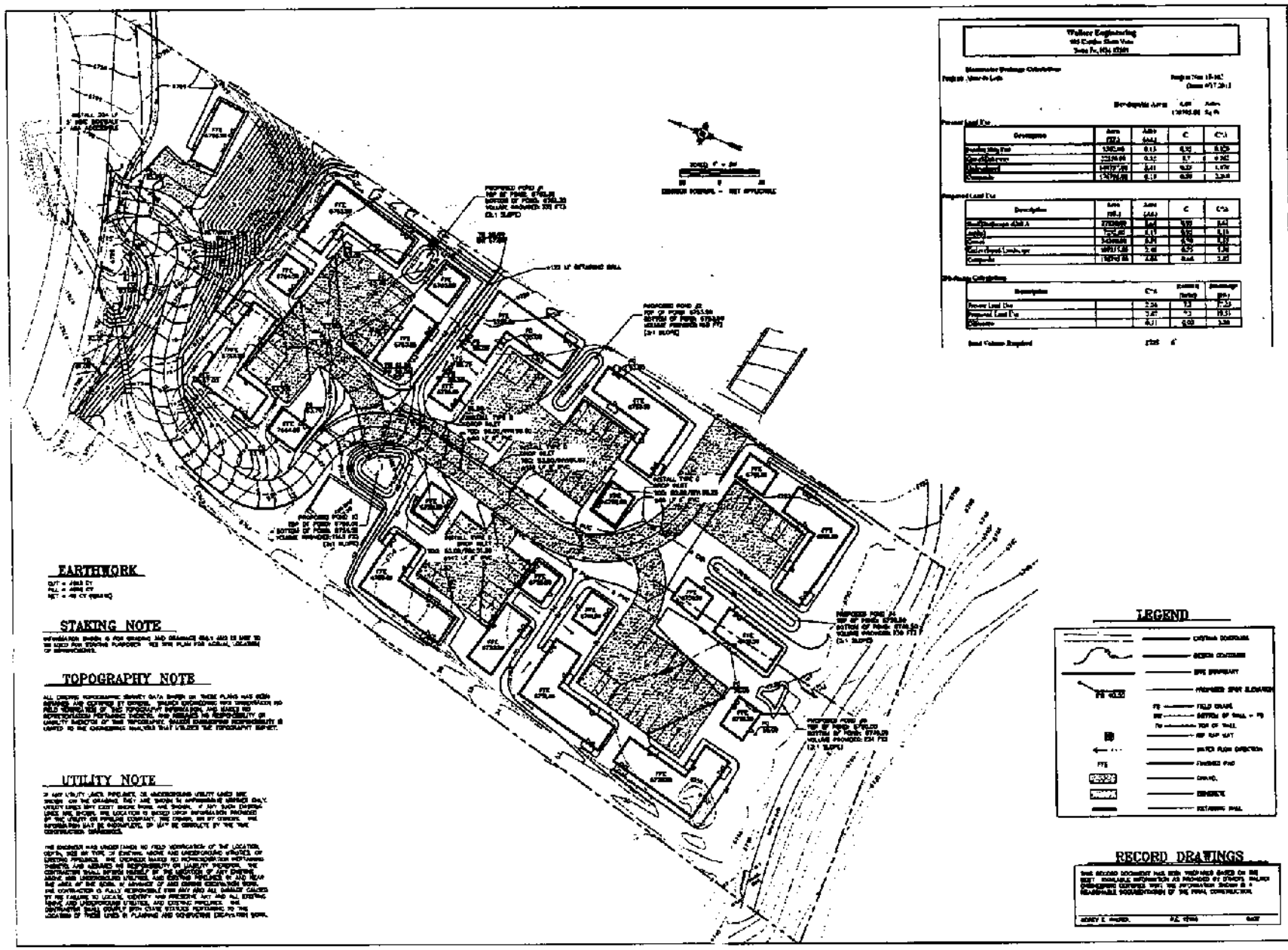
D-1

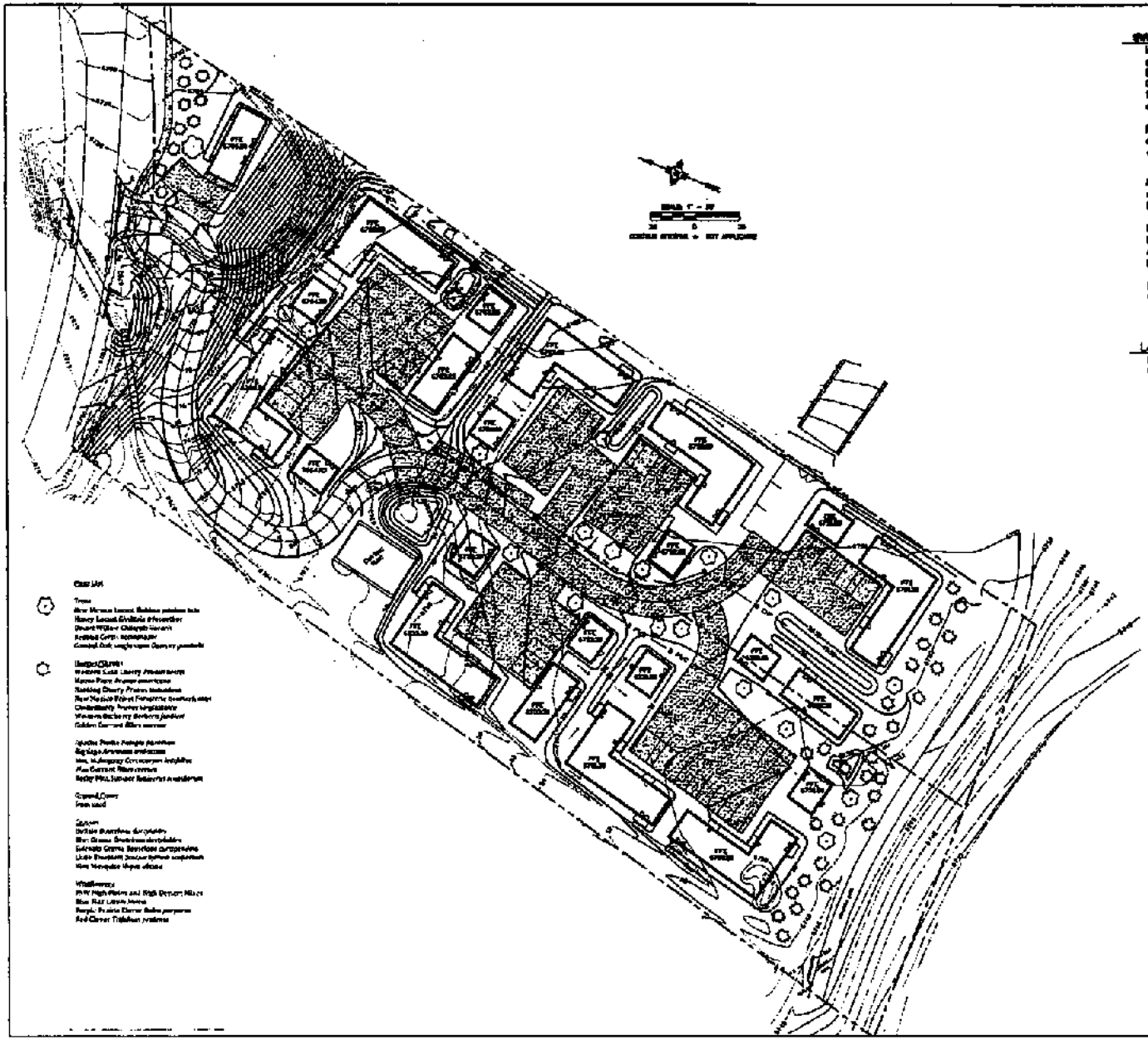
RIVER TRAIL LOFTS
● WEST ALAMEDA
2160/2164 WEST ALAMEDA
SANTA FE, NEW MEXICO

A. CHRISTOPHER [illegible] ARCHITECTS


Lot Consolidation Plat
of
RIVER TRAIL LOFTS TRACT
(Formerly Tract A & Tract B La Era Subdivision)
for
RICHARD J. MARTINEZ & AVE L. RIVERA
"RIVER TRAIL LOFTS TRACT"
4.260 ACRES ±
SHEET 2 OF 2
HIGH DESERT SURVEYING, INC.
PROFESSIONAL SURVEYING
S2


Topographic Survey
of
TRACT A & TRACT B
2180 & 2184 West Alameda
City and County of Santa Fe,
New Mexico
TRACT B
2.022 AC ±
TRACT A
2.228 AC ±
SANTA FE RIVER
HIGH DESERT SURVEYING, INC.
PROFESSIONAL SURVEYORS
S3


EARTHWORK
STAKING NOTE
TOPOGRAPHY NOTE
UTILITY NOTE
LEGEND
RECORD DRAWINGS
Walker Engineering
RIVER TRAIL LOFTS AT WEST ALAMEDA
GRADING AND DRAINAGE PLAN
C1



IRRIGATION NOTES:

Irrigation shall be a complete underground system with Trees to receive (5) 1.0 GPH Drip Emitters and Shrubs to receive (2) 1.0 GPH Drip Emitters. Drip and Bubbler systems to be tied to 1/2" polyipe with flush caps at each end.

Run time per each drip valve will be approximately 15 minutes per day, to be adjusted according to the season.

Point of connection for irrigation system is unknown at current time and will be coordinated in the field.

Irrigation will be operated by automatic controller. Location of controller to be field determined and power source for controller to be provided by others.

Irrigation maintenance shall be the responsibility of the Property Owner.

LANDSCAPE NOTES:

Landscape maintenance shall be the responsibility of the Property Owner.

It is the intent of this plan to comply with the City Of Santa Fe Water Conservation Landscaping and Water Waste Ordinance planting restriction approach.

Approval of this plan does not constitute or imply exemption from water waste provisions of the Water Conservation Landscaping and Water Waste Ordinance. Water management is the sole responsibility of the Property Owner.

Santa Fe Brown Crusher Fines over Filter Fabric shall be placed in all landscape areas which are not designated to receive native seed.

Walker Engineering

PROJECT: RIVER TRAIL LOFTS AT WEST ALAMEDA

SHEET TITLE: LANDSCAPE PLAN

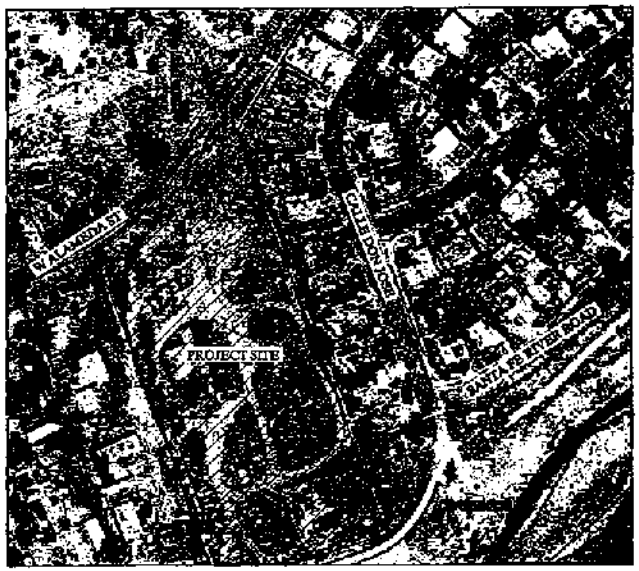
SHEET NO. L1

RIVER TRAIL LOFTS

AT WEST ALAMEDA

DEVELOPMENT PLAN AND REZONING

VICINITY MAP



NTS

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CONSULTANTS

Walker Engineering

Christopher Purvis Architects

High Desert Surveying Inc.

04/27/15

C

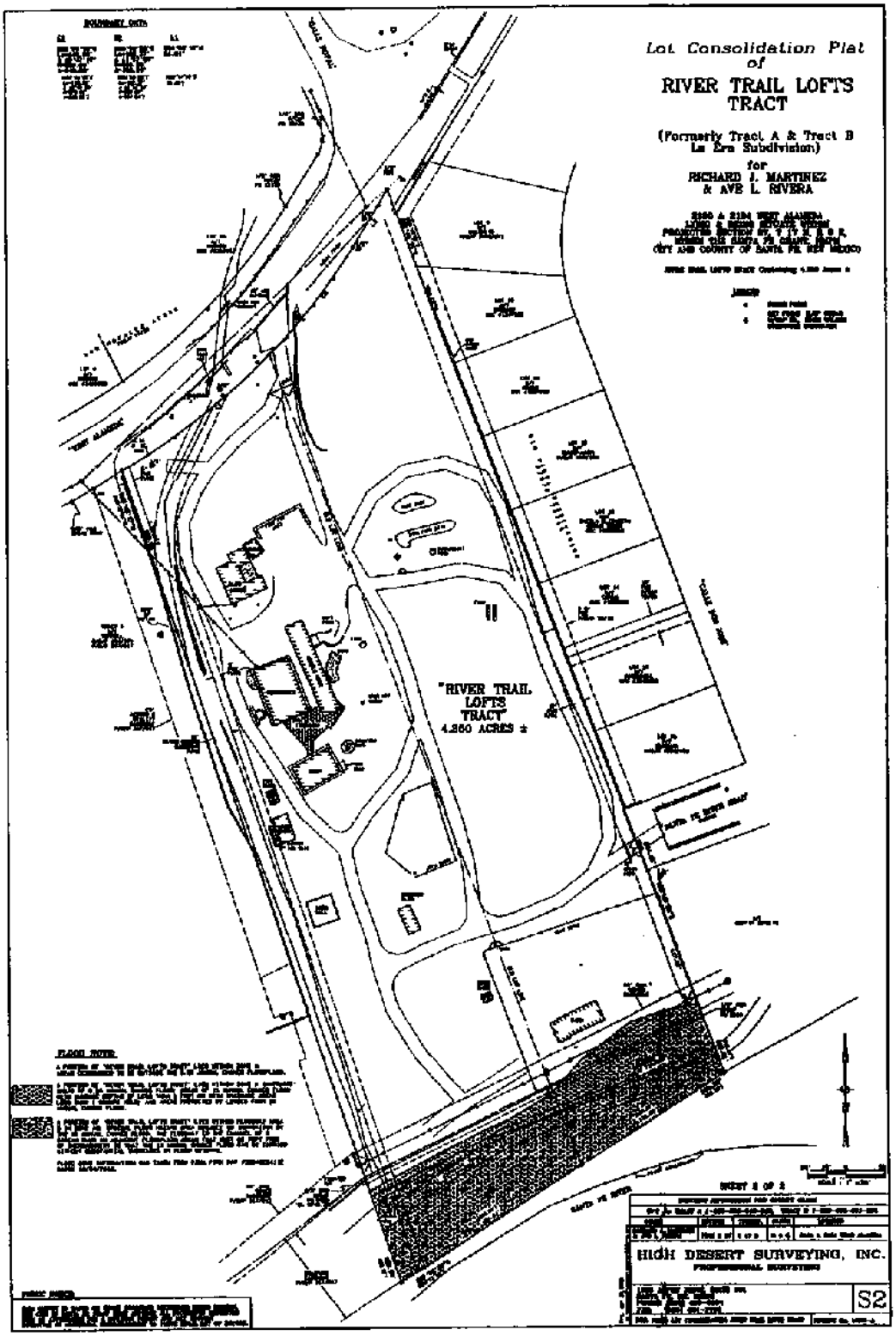
RIVER TRAIL LOFTS AT WEST ALAMEDA

DEVELOPMENT PLAN

D-1

RIVER TRAIL LOFTS
WEST ALAMEDA
21 BUZZARD WEST ALAMEDA
SANTA FE, NEW MEXICO

A. CHRISTOPHER LEWIS ARCHITECTS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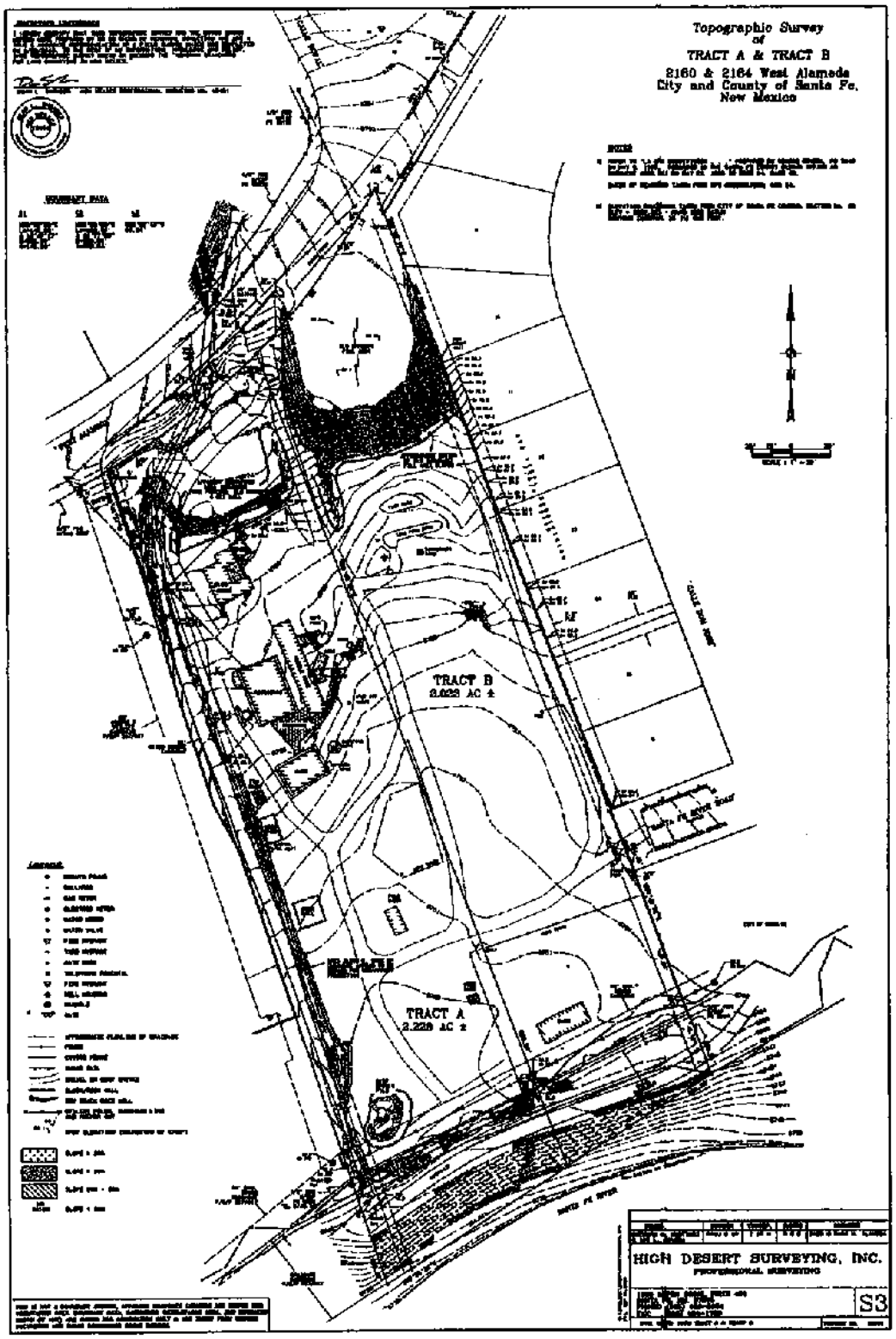
S2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City and County of Santa Fe,
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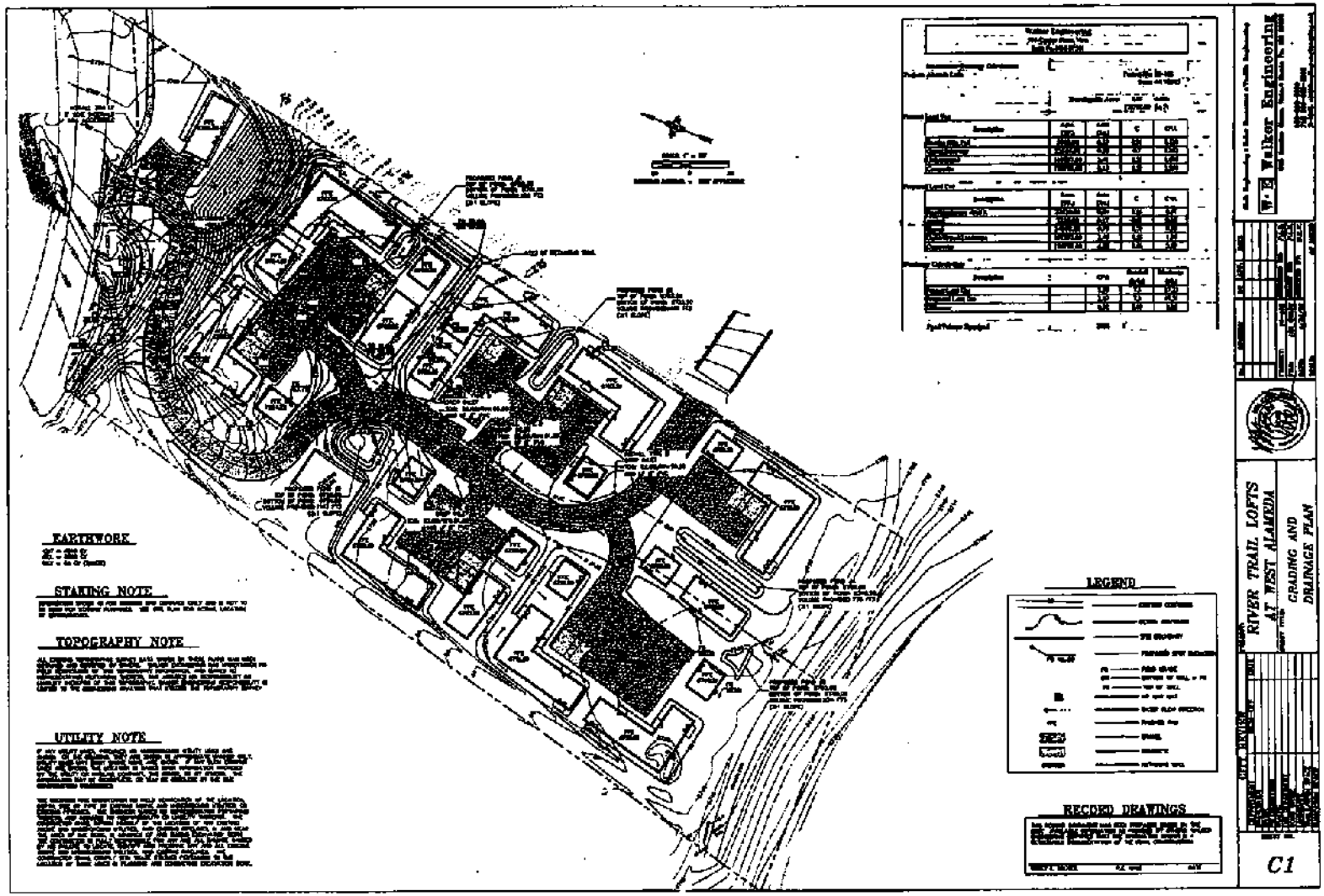
PROFESSIONAL SURVEYING
S3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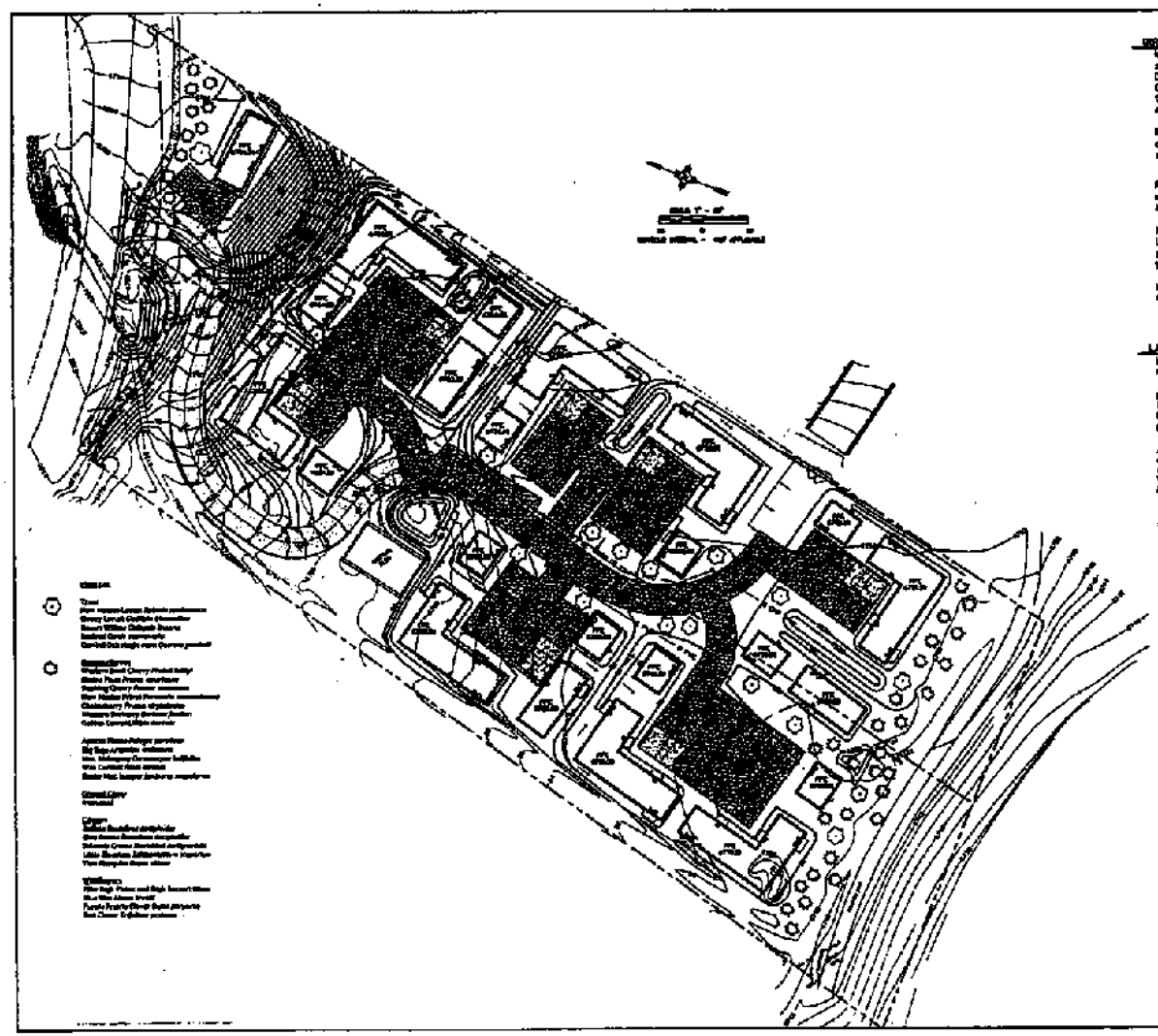

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Walker Engineering

RIVER TRAIL LOFTS AT WEST ALAMEDA

LANDSCAPE PLAN

L1

ITEM #H(3)

BYERS, MELISSA D.

From:	Sylvie Obledo <sobledo@mac.com>
Sent:	Wednesday, August 12, 2015 3:54 PM
To:	BYERS, MELISSA D.
Cc:	BYERS, MELISSA D.
Subject:	River Trail Lofts
Importance:	High

Dear Melissa

I'm writing you about the River Trail Lofts on West Alameda.

As a long time Santa Fe resident and creative, I see a need for high quality contemporary homes that are price sensitive and located in an area that offers a sense of community.

I am excited about this via the River Trail Lofts!!!.....and ask for your support to perpetuate our City Different.

With thanks,
Sylvie

SO Sylvie Obledo

Sylvie Obledo
your brand architect, strategist & stylist
www.sylvieobledo.com

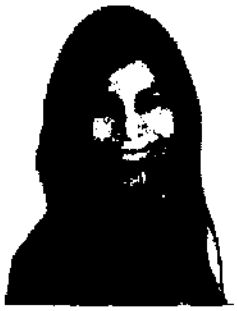

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Exhibit "B"

Sylvie Obledo
sobledo@mac.com

ITEM #H(3)

BYERS, MELISSA D.

From: M F <rainclouds@centurylink.net>
Sent: Wednesday, August 12, 2015 8:39 AM
To: BYERS, MELISSA D.
Subject: River Trail Lofts construction

To Melissa Byers, Assistant city clerk
Please send copy of this letter to each member of the City Council before tonight's meeting

Ref. Case #2015-46, River Trail Lofts, 2180 and 2184 West Alameda
Rezoning with a development plan

Dear Ms. Byers:

This letter presents couple important arguments as to why we are oppose the proposed construction and the rezoning of the property.

First of all, we are concerned with the construction of the River Trail Lofts as it is likely to have negative impact on the neighboring communities. In our neighborhood meeting held on August 4th, we unanimously against the change of zoning from R5 to R7 of the River Trail Lofts. Allowing developers to construct apartments in high density will disrupt and diminish the rural character of the West Alameda area. People who have made their homes along the street as early as 35 years ago for the ambient beauty of the country setting. Special consideration must be given regarding the preservation of the region.

Second, the opening of the west end of Santa Fe River Road will greatly increase the traffic and noise to the adjacent residential streets. The Rio Vista neighborhood has long been a quiet and intimate community. Although the proposed construction plan did promise that the back gate of the lofts will be used for "emergency only", but there is no guarantee that future residents of the Lofts may use the River Road as an alternative access. As result, it can greatly impact the dynamics of our community as well as the quality of our lives. Thank you for reading.

Residents of the Rio Vista Subdivision,
Mira Fong, 1701 Santa Fe River Rd.
Carol Dayton, 1718 Medio
Brian Bylenok, 1718 Medio
Byon Rudolph, 106 Del Rio
Joyce Hardaway, 143 Calle Don Jose
Jane Dearth, 124 La Joya
Robert Hirsch, 124 La Joya
Pamela Mathews, 155 Calle Don Jose
Marti Niman, 1704 Medio

Exhibit "19"

Jenny Loshbaugh, 123 Del Rio
Agiola Bejko, 153 Calle Don Jose
Carla Kountoupes, 1709 Medio
Will Wilson, 1709 Medio
And others.

ITEM #H(3)

BYERS, MELISSA D.

From:	Jeanne DiLoreto <jeanne.diloreto@gmail.com>
Sent:	Wednesday, August 12, 2015 3:38 PM
To:	GONZALES, JAVIER M.; BUSHEE, PATTI J.; silendell@santafenm.gov; MAESTAS, JOSEPH M.; IVES, PETER N.; DOMINGUEZ, CARMICHAEL A.; RIVERA, CHRISTOPHER M.; TRUJILLO, RONALD S.; DIMAS, BILL; BYERS, MELISSA D.; WYNANT, DONNA J.
Subject:	Case # 2015-46, River Trail Lofts, 2180 and 2184 West Alameda Rezoning with a Development Plan

Dear Mayor Gonzales, Councilor Bushee, Councilor Lindell, Councilor Maestas, Councilor Ives, Councilor Dominguez, Councilor Rivera, Councilor Trujillo, Councilor Dimas, Assistant City Clerk Byers, and Senior Planner Wynant:

With regards to Case # 2015-46, River Trail Lofts, 2180 and 2184 West Alameda Rezoning with a Development Plan, I am submitting my comments in writing as follows:

- R-7 zoning is not compatible with existing development in the area.
    - To the east of the property: the Rio Vista subdivision is zoned R-5
    - To the west of the property: the lots all the way to Camino Carlos Rael are zoned R-5
    - To the south of the property: on the other side of the river, the subdivision is zoned R-5
    - To the north of the property: on the other side of West Alameda, the lots are zoned R-1 and R-2

- To be compatible with existing development in the area, the property should remain zoned at R-5 or be re-zoned for less.

- The current R-5 zoning is supported by General Plan Policy 4-4-I-6, which states that "the target density for new infill residential development, in order to address affordable housing goals, is a minimum of five units per acres…while maintaining a balance between land use and traffic carrying capacity of existing streets"

- West Alameda is not a thoroughfare – in this area it's a narrow street with lots of curves, no shoulders or sidewalks, and no room to widen it - this limits the traffic carrying capacity. Traffic has already increased since the installation of the Siler Road Bridge.

- The Santa Fe City Charter was amended in 2014 directing public officials to respect our multi-cultural heritage and preserve our neighborhoods. This directive in the City Charter should be followed to reject the higher density zoning and development request in order to preserve the neighborhood.

- The access to the proposed development from West Alameda is a private road and there are no through streets. This is specifically discouraged in Chapter 14 and in the General Plan.

- Especially if claiming that the proposed units will be affordable, the developer should be clear and specific about the <u>total</u> costs for buyers or renters. Because the proposal is for a private development, there should be full disclosure of any potential costs for which the residents may be assessed, including the following:
    - Maintaining all roads and parking areas;
    - Maintaining the foot trail and gate to the Santa Fe River Trail;
    - City well fees for the metered well;
    - Irrigating the common areas;
    - Maintaining the drainage ditch or culvert on the west side to carry water away from the property;
    - Dumpsters and trash pick-up;
    - Managing and maintaining the current building that is to be changed to a workshop, and the costs of utilities for this building;
    - Maintaining the sewer line that connects to the city sewer.

Exhibit "20"

We need a thoughtful and appropriate plan for the entire West Santa Fe River Corridor that respects and preserves our neighborhood and culture. I support development of this area, but not unplanned development.

Thank you for your attention.
Jeanne DiLoreto
149 Calle Don Jose
Santa Fe, NM 87501

Mayor Gonzales, City Council Members, thank you for the opportunity to speak.

I live in the Rio Vista subdivision directly adjacent to the proposed development. My back yard is 10' from the nearest two story 24' tall building proposed in the development. There is a 5' tall retaining wall separating my yard from the development in question and about a 5' elevation differential between the two properties with my yard being on the high side. This means that the view from my yard to the west will be that of approximately 19' of a condo wall. This will obstruct not only line of site, but more importantly it will obstruct solar gain in the afternoon. The same can be said for other residences that share the property line with the proposed development. Anyone that would like to better understand this is welcome to come over to my place and have a look first hand. Obviously our property values will suffer from this, not to mention quality of life.

It's my belief that this issue was either ignored or not accurately taken into account in the memo sent from the Planning ~~Division~~ Commission to Mayor Gonzales and Members of the Council dated August 3, 2015:

As it reads:

Finding of Fact #23 c. [Code 14-3.8]. – That the Project 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 Project. Regarding that code The Planning Division stated: "The Project is compatible with and adaptable to the buildings and uses of abutting property and other properties in the vicinity because properties along the south side of West Alameda have developed over the years as multi-family type housing, as well as single family subdivisions."

That assessment only addresses the "other properties" portion of the code, but not the "abutting property", or as I like to call it "my property" portion. Shouldn't all points in the code be considered when making a determination?

I don't think the fact that "multi-family type housing on the south side of West Alameda having been developed over the years" is an adequate justification to allow more of the same without taking all factors involved into account. The Planning ~~Division~~ Commission failed to do this.

I could spend the rest of my time picking apart the Planning ~~Divisions~~ Commission's memo, but I believe the issue I just raised demonstrates a severe lack of understanding on the ~~Divisions~~ Commission's part about how exactly this type of development will impact the area.

To the west of my subdivision is a great example, and I believe the only one in the area, of property, zoned R-7, with single story dwellings that don't' obscure views or infringe on solar rights of surrounding property.

The area for the proposed development is currently in a rural or at least semi-rural environment. All you need to do is look across the river or even just across West Alameda to see that. Rezoning R-5 to R-7 with multi-story structures will set a bad precedent for future development in the area. The peaceful, semi-rural character of our community will be severely impacted by this type of precedent.

Exhibit "21"

Another major concern that we believe has not been thoroughly addressed is the additional traffic and specifically how this will impact the West Alameda/Calle Nopal intersection and the entrance to the proposed development. The entrance to the development is currently at the same spot where West Alameda narrows from a two lane road with center turn lanes and bike lanes on each side down to a two lane road with no shoulder at all and guard rails on each side. It doesn't take a traffic engineer to see that the current situation is untenable at best.

The next concern that I'd like to bring up is the gate that separates the Rio Vista subdivision from the proposed development. The developer has previously stated that the gate will be used for emergency purposes only. Regardless of what the council decides we would like to see these promises spelled out as a condition of approval. The Rio Vista subdivision was not built to, and cannot accommodate the added traffic that this development will bring ~~to it~~ were this gate to be opened, be it R-5 or R-7. This also includes traffic that could be generated during the construction process. The streets are to narrow, have cars parked on each side of them and even play host to the occasional game of street ball by neighborhood children. Allowing any additional traffic through Rio Vista, other than emergency, would be nothing less than dangerous and could even be seen as negligent.

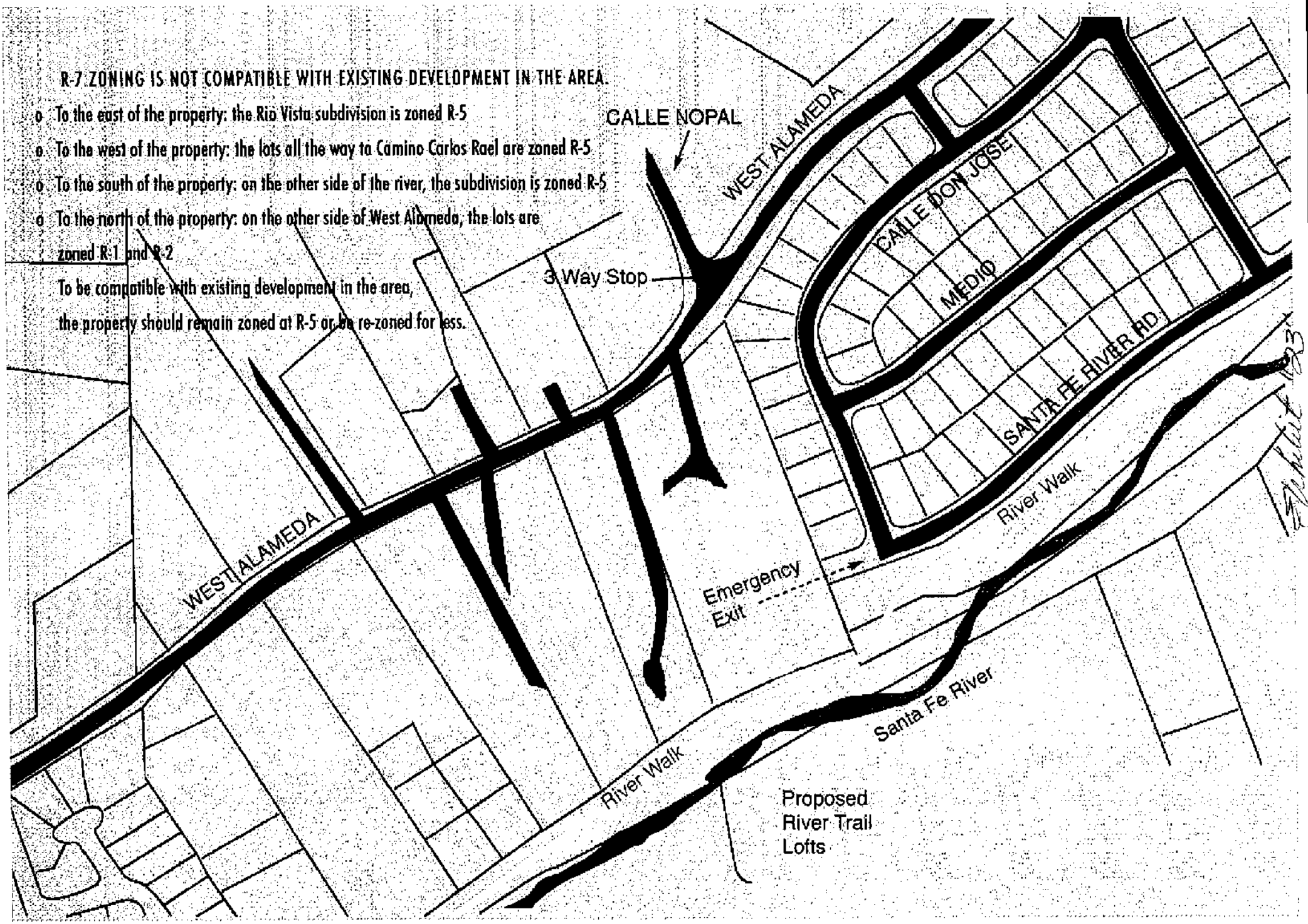
In closing, I'd like to say that growth is inevitable. We all know this and we aren't here to argue that point. However irresponsible growth is not inevitable, as a matter of fact it's 100% preventable. And I would hope that as elected officials you will vote for what is in your constituents best interests and it's my belief that those who spoke before me, those that will speak after and I have adequately expressed to you what our best interests are. Thank you for your time and consideration.

WEST ALAMEDA: TRAFFIC AND SAFETY CONCERNS

- West Alameda is NOT a thorough-fare:
  - From Calle Nopal to the Siler Rd Roundabout, the road is 21 feet wide, with no room to make it wider.
  - At the entrance to the proposed development, W Alameda is only19 feet wide and has guardrails on both sides.
  - At Del Rio Street (about 2 blocks east of Calle Nopal and the only street in the area zoned R-7) West Alameda is 36 feet wide curb-to-curb and has drainage, a sidewalk and a bike lane.
  - There are no bus stops west of Camino Alire.
  - There is no bike lane west of the Rio Vista Subdivision, with no room to add one.
- West Alameda is a narrow, curving, 2-lane road from Camino Alire to Siler Rd (only 2.2 miles!) with numerous traffic warning signs that include:
  - Changing speed limits from 35 MPH to 30 MPH
  - Blind intersections
  - Squiggly arrows for curves ahead
  - 4-way STOP at the El Rancho Rd intersection
  - 3-way STOP at the Calle Nopal intersection
  - Repeated rows of arrows for curved road areas
  - Horseback riders
  - Double row of yellow sand-filled barrels to stop out of control vehicles
  - "Your Speed" detectors with flashing yellow lights.
- Traffic has increased on West Alameda since the opening of the Siler Rd Bridge.
- Projections for future increases from the developer did not include the 6,000 new residences anticipated for the Village Plaza at Tierra Contenta development at the Jaguar Rd Overpass at Highway 599.
- West Alameda is not safe: 25 accidents per year!
  - **113 accidents** on West Alameda from January 1, 2010 to August 6, 2015 (Santa Fe Police Department, Incident Analysis by Classification, from Miquela Gonzales, Crime Analyst, SFPD Investigations, August 10, 2015).
  - 20 of these were accidents with injuries; 1 was a fatality.

Exhibit "22"

R-7 ZONING IS NOT COMPATIBLE WITH EXISTING DEVELOPMENT IN THE AREA.

- To the east of the property: the Rio Vista subdivision is zoned R-5
- To the west of the property: the lots all the way to Camino Carlos Rael are zoned R-5
- To the south of the property: on the other side of the river, the subdivision is zoned R-5
- To the north of the property: on the other side of West Alameda, the lots are zoned R-1 and R-2

To be compatible with existing development in the area, the property should remain zoned at R-5 or be re-zoned for less.