



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
SEPTEMBER 25, 2013
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 9/20/13 TIME 4:30p

SERVED BY [Signature]

RECEIVED BY [Signature]

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 – September 11, 2013
9. PRESENTATIONS
 - a) Proclamation – Nick Dominguez, Maintenance Worker. (Cindy Padilla) (5 minutes)
 - b) Muchas Gracias – Ray Sandoval, Zozobra Event Chairman, Kiwanis. (5 minutes)
 - c) Santa Fe Global Trade Initiative Workgroup. (Fabian Trujillo) (5 minutes)
10. CONSENT CALENDAR
 - a) Bid No. 14/03/B – FY 2013/14 Maez Road Water Main Replacement Project and Agreement Between Owner and Contractor; TLC Plumbing and Utility. (Dee Beingessner)
 - b) Bid No. 14/07/B – Retread Tires, Tire Casings and Repairs for Environmental Services Division; Circle J Tires. (Cindy Padilla)
 - c) Bid No. 14/08/B – La Comunidad/New Vistas – Re-Roofing and Professional Services Agreement; Mike Lopez Roofing, LLC. (Chip Lilienthal)



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- d) Request for Approval of Maintenance Agreement – Hardware and Software Maintenance Services for Library Division; Innovative Interfaces, Inc. (Patricia Hodapp)
- e) Request for Approval of Amendment No. 3 to Agreement Between Owner and Architect – Design Services at Mary Esther Gonzales Senior Center (MEG) Warehouse; Ellis/Browning Architects. LTD. (Chip Lilienthal)
- f) Request for Approval of Amendment No. 1 to Professional Services Agreement – Design Services for Water History Park & Museum; Victor Johnson Architect, LLC. (Chip Lilienthal)
- g) Request for Approval of Agreement – 2013 State of New Mexico Severance Tax Bond Capital Appropriation Project for Santa Fe Medians and Sidewalks; New Mexico Department of Transportation. (David Chapman)
 - 1) Request for Approval of Budget Increase – Grant Fund.
- h) Request for Approval of Agreements – 2013 State of New Mexico Severance Tax Bond Capital Appropriation Project; New Mexico Department of Transportation. (David Chapman)
 - 1) Affordable Housing for Veterans.
 - 2) Larragoite Park Improvements.
 - 3) Southwest Activity Node Park.
 - 4) Water History Park and Museum.
 - a) Request for Approval of Budget Increase – Grant Fund.
- i) Santa Fe Railyard Community Corporation. (Robert Siqueiros)
 - 1) Request for Approval of Amendment No. 4 to Amended and Restated Railyard Lease and Management Agreement.
 - 2) Request for Approval of Amendment No. 2 to Lease Agreement for Tract O and the Santa Fe Depot Buildings.
- j) Request for Approval of Amendment No. 8 to Legal Services Agreement – Qwest Corporation v. City of Santa Fe Matters; Cuddy & McCarthy. (Kelley Brennan)
 - 1) Request for Approval of Budget Increase – Insurance Claims Fund.



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- k) Request for Approval of Landlord's Consent and Estoppel – Santa Fe Municipal Airport; Ross Santa Fe, LLC. (Francey Jesson)
- l) Request for Approval of Amendment No. 1 to Professional Services Agreement – Business Incubator Services on Behalf of Economic Development; Santa Fe Business Incubator. (Kate Noble)
- m) Request for Approval of Joint Funding Agreement – Stream Flow Gaging and Ground Water Monitoring; U.S. Department of the Interior Geological Survey. (Claudia Borchert)
- n) FY 2013/2014 Community Development Block Grant Contracts. (Kym Dicome)
 - 1) Request for Approval of Amendment No. 1 to Professional Services Agreement – Increased Allocations as Approved by Community Development Commission; Santa Fe Habitat for Humanities DPA.
 - 2) Request for Approval of Amendment No. 1 to Professional Services Agreement - Increased Allocations as Approved by Community Development Commission; Homewise DPA.
 - 3) Request for Approval of Amendment No. 1 to Professional Services Agreement - Increased Allocations as Approved by Community Development Commission; Housing Trust DPA.
- o) Request for Approval of Procurement Under Cooperative Price Agreement – Equipment for TraCS Version 10 Pilot Grant Project for Police Department; CDW-Government, LLC. (Lieutenant Sean Strahon)
- p) Request for Approval of Telecommunications Services Agreement – CIP High Speed Internet Project for the City of Santa Fe; Cyber Mesa Computer Systems Incorporated. (Sean Moody)
 - 1) Request for Approval of Budget Transfer – Broadband Infrastructure Fund.
- q) CONSIDERATION OF RESOLUTION NO. 2013-____. (Councilor Bushee and Councilor Dimas) A Resolution Affirming the City's Commitment to Equality and Freedom from Discrimination and Violence for all of its Residents, Including Children and Youth; Condemning Bullying, Harassment and Intimidation in Schools; and Urging the Community to Work Together to Further Define and Understand the Multiple Aspects of Bullying. (Chris Sanchez)



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- r) **CONSIDERATION OF RESOLUTION NO. 2013-___. (Councilor Calvert and Councilor Bushee)**
A Resolution Authorizing and Supporting the Submittal of the City's Project Application to the Santa Fe Metropolitan Planning Organization for Funding Under the Fiscal Year 2014/2015 Transportation Alternatives Program for the Santa Fe River Trail Connections and Improvements Project. (Brian Drypolcher and Eric Martinez)
- s) **CONSIDERATION OF RESOLUTION NO. 2013-___. (Councilor Bushee)**
A Resolution Recognizing the Unique Volunteer Services that the Santa Fe Conservation Trust Trails Program Provides on Behalf of the City of Santa Fe's Trails and Open Spaces; and Directing the City Manager to Enter into a Professional Services Agreement with the Santa Fe Conservation Trust to Provide Trails Volunteer Coordinator Services on Behalf of the City of Santa Fe. (Leroy Pacheco)
- t) **CONSIDERATION OF RESOLUTION NO. 2013-___. (Councilor Wurzburger)**
A Resolution Adopting the 2015-2019 Infrastructure Capital Improvements Plan (ICIP). (Isaac Pino)
- u) **Request to Publish Notice of Public Hearing on October 30, 2013:**
 - 1) **Bill No. 2013-36: An Ordinance Relating to the City of Santa Fe Internal Audit Department; Amending Section 2-22 SFCC 1987 to Strengthen Internal Audit Independence. (Councilor Dominguez and Councilor Bushee) (Liza Kerr and Judith Amer)**
 - 2) **Bill No. 2013-37: An Ordinance Relating to Chapter VI SFCC 1987, Boards, Committees and Commissions; Creating a New Article 6-5 SFCC 1987 to Establish the City of Santa Fe Audit Committee. (Councilor Ives and Councilor Bushee) (Liza Kerr and Judith Amer)**
 - a) **CONSIDERATION OF RESOLUTION NO. 2013-___. (Councilor Ives and Councilor Bushee)**
A Resolution Amending Resolution 2010-83 to Repeal the Establishment of the City Audit Committee. (Liza Kerr and Judith Amer)



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- v) Report and 2012 Economic Impact Statement Pursuant to Resolution #2011-64; Use of Fort Marcy Ballpark by Santa Fe Fuego. (Kate Noble) (Informational Only)
 - 11. Request for Approval of Airport Improvement (AIP) Grant 40 to Construct Taxiway F at the Santa Fe Municipal Airport. (Francey Jesson)
 - 12. MATTERS FROM THE CITY MANAGER
 - 13. MATTERS FROM THE CITY ATTORNEY
- Executive Session
- In Accordance with the New Mexico Open Meetings Act, §10-15-1(H)(7), NMSA 1978, Discussion Regarding Pending Litigation in Which the City of Santa Fe is a Participant, NM Consolidated Construction, LLC v. City Council of Santa Fe, et al (D-101-CV-2012-01054) (1st Judicial Court) and City of Santa Fe v. NM Consolidated Construction, LLC (D-101-LR-2013-00023) (1st Judicial Court).
- 14. MATTERS FROM THE CITY CLERK
 - 15. 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



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H. PUBLIC HEARINGS:

- 1) Request from Tokyo Café, Inc. for the Issuance of a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to be Located at Tokyo Café, 1847 Cerrillos Road. (Yolanda Y. Vigil)
- 2) Request from The Guadalupe Café, Inc. for the Following: (Yolanda Y. Vigil)
 - a) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcoholic Beverages at the Pink Adobe and Guadalupe Café, 406 Old Santa Fe Trail, Which Is Within 300 Feet of The San Miguel Mission Church, 401 Old Santa Fe Trail.
 - b) If the Waiver of the 300 Foot Location Restriction is Granted, a Request from The Guadalupe Café, Inc., for a Transfer of Ownership of Dispenser License #683 from Hoback, Inc., dba the Pink Adobe, to The Guadalupe Café, Inc. This License Will be Located at the Pink Adobe and Guadalupe Café, 406 Old Santa Fe Trail.
- 3) Request from Geronimo Hospitality, LLC for the Following: (Yolanda Y. Vigil)
 - a) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcoholic Beverages at Georgia's Museum Café, 223 and 225 Johnson Street, Which Is Within 300 Feet of the First Presbyterian Church and Preschool, 208 and 210 Grant Avenue.
 - b) If the Waiver of the 300 Foot Location Restriction is Granted, a Request from Geronimo Hospitality, LLC for a Transfer of Ownership and Location of Dispenser License #28050 from Monte Circle Partners, LLC, dba Stats Sports Bar & Nightlife, 135 W. Palace, to Geronimo Hospitality, LLC, dba Georgia's Museum Café, 223 and 225 Johnson Street.



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- 4) Request from Foodie 428, LLC for the Following: (Yolanda Y. Vigil)
 - a) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcoholic Beverages at Joseph's, 428 Agua Fria, Which Is Within 300 Feet of Our Lady of Guadalupe Church, 417 Agua Fria.
 - b) If the Waiver of the 300 Foot Location Restriction is Granted, a Request from Foodie 428, LLC for a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to be Located at Joseph's, 428 Agua Fria.
- 5) Request from Santa Fe Cider Works for the Issuance of the Following: (Yolanda Y. Vigil)
 - a) Wine Growers Liquor License to be Located at Santa Fe Cider Works, 4363 Center Place, Unit 9; and
 - b) Wine Wholesaler Liquor License to be Located at Santa Fe Cider Works, 4363 Center Place, Unit 9.
- 6) Request from Dahl Enterprises, LLC for a Transfer of Location of Inter-Local Dispenser License #0493, With on Premise Consumption Only, from Lucky Shoe, 350 E. Therma, Eagle Nest to Ringside Bowl, 500 Market Street, Suite #210. (Yolanda Y. Vigil) **(Postponed at September 11, 2013 City Council Meeting)**
- 7) Request for Approval of Housing and Urban Development (HUD) 2012/2013 Consolidated Annual Performance Evaluation Review (CAPER) for Community Development Block Grant (CDBG). (Kym Dicome)
- 8) **CONSIDERATION OF BILL NO. 2013-33: ADOPTION OF ORDINANCE NO. 2013-___:** (Councilor Trujillo, Mayor Coss and Councilor Wurzbarger)
An Ordinance Relating to the Sale and Consumption of Alcohol on City Property; Amending Section 23-6.2 SFCC 1987 to Authorize the Sale and Consumption of Beer Only in the Areas Designated for Concessions and Seating at Fort Marcy Ballpark in Accordance with State and Local Laws and Regulations. (Alfred Walker)



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- 9) CONSIDERATION OF RESOLUTION NO. 2013-____.
Case #2013-37. Manderfield School General Plan Amendment. JenkinsGavin Design and Development, Agents for Manderfield LLC, Request Approval of a General Plan Future Land Use Map Amendment to Change the Designation of 1.48± Acres from Public/Institutional to Medium Density Residential (7 to 12 Dwelling Units Per Acre). The Property is Located at 1150 Canyon Road. (Heather Lamboy)

- 10) CONSIDERATION OF BILL NO. 2013-34: ADOPTION OF ORDINANCE NO. 2013-____.
Case #2013-38. Manderfield School Rezoning to RAC. JenkinsGavin Design and Development, Agents for Manderfield LLC, Request Rezoning of 1.48± Acres from R-5 (Residential, 5 Dwelling Units Per Acre) to RAC (Residential Arts and Crafts). The Property is Located at 1150 Canyon Road. (Heather Lamboy)

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 955-6520, five (5) days prior to meeting date.

SUMMARY INDEX
 SANTA FE CITY COUNCIL MEETING
 September 25, 2013

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved [amended]	1
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-5
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – SEPTEMBER 11, 2013	Approved	5
<u>PRESENTATIONS</u>		
PROCLAMATION – NICK DOMINGUEZ, MAINTENANCE WORKER		5-6
MUCHAS GRACIAS – RAY SANDOVAL, ZOZOBRA EVENT CHAIRMAN, KIWANIS		6
SANTA FE GLOBAL TRADE INITIATIVE WORKGROUP		6-8
<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR APPROVAL OF AGREEMENT – 2013 STATE OF NEW MEXICO SEVERANCE TAX BOND CAPITAL APPROPRIATION PROJECT FOR SANTA FE MEDIANS AND SIDEWALKS; NEW MEXICO DEPARTMENT OF TRANSPORTATION.	Approved	8
REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND	Approved	8
REQUEST FOR APPROVAL OF AGREEMENTS – 2013 STATE OF NEW MEXICO SEVERANCE TAX BOND CAPITAL APPROPRIATION PROJECT; NEW MEXICO DEPARTMENT OF TRANSPORTATION	Postponed to 10/09/13	9
AFFORDABLE HOUSING FOR VETERANS	Postponed to 10/09/13	9
LARRAGOITE PARK IMPROVEMENTS	Postponed to 10/09/13	9
SOUTHWEST ACTIVITY NODE PARK	Postponed to 10/09/13	9
WATER HISTORY PARK AND MUSEUM	Postponed to 10/09/13	9
REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND	Postponed to 10/09/13	9

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>SANTA FE RAILYARD COMMUNITY CORPORATION:</u>		
REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO AMENDED AND RESTATED RAILYARD LEASE AND MANAGEMENT AGREEMENT; AND REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO LEASE AGREEMENT FOR TRACT O AND THE SANTA FE DEPOT BUILDINGS	Approved	9
REQUEST FOR APPROVAL OF AMENDMENT NO. 8 TO LEGAL SERVICES AGREEMENT – QWEST CORPORATION V. CITY OF SANTA FE MATTERS; CUDDY & McCARTHY	Approved	10
REQUEST FOR APPROVAL OF BUDGET INCREASE – INSURANCE CLAIMS FUND.	Approved	10

END OF CONSENT CALENDAR DISCUSSION		

REQUEST FOR APPROVAL OF AIRPORT IMPROVEMENT (AIP) GRANT 40 TO CONSTRUCT TAXIWAY F AT THE SANTA FE MUNICIPAL AIRPORT	Approved	10-11
MATTERS FROM THE CITY MANAGER	None	11
<u>MATTERS FROM THE CITY ATTORNEY</u>		
EXECUTIVE SESSION	Approved	11
MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	11-12
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	13
PETITIONS FROM THE FLOOR		12-14
APPOINTMENTS	None	15
<u>PUBLIC HEARINGS</u>		
REQUEST FROM TOKYO CAFÉ, INC., FOR THE ISSUANCE OF A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY), TO BE LOCATED AT TOKYO CAFÉ, 1857 CERRILLOS ROAD	Approved	15

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REQUEST FROM THE GUADALUPE CAFÉ, INC.,
FOR THE FOLLOWING:

PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AT THE PINK ADOBE AND GUADALUPE CAFÉ, 406 OLD SANTA FE TRAIL, WHICH IS WITHIN 300 FEET OF THE SAN MIGUEL MISSION CHURCH, 401 OLD SANTA FE TRAIL

Approved

15-16

IF THE WAIVER OF THE 300 FOOT LOCATION RESTRICTION IS GRANTED, A REQUEST FROM THE GUADALUPE CAFÉ, INC., FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #683 FROM HOBACK, INC., D/B/A THE PINK ADOBE, TO THE GUADALUPE CAFÉ, INC. THIS LICENSE WILL BE LOCATED AT THE PINK ADOBE AND GUADALUPE CAFÉ, 406 OLD SANTA FE TRAIL

Approved

15-16

REQUEST FROM GERONIMO HOSPITALITY, LLC.,
FOR THE FOLLOWING:

PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES GEORGIA'S MUSEUM CAFÉ, 223 AND 225 JOHNSON STREET, WHICH IS WITHIN 300 FEET OF THE FIRST PRESBYTERIAN CHURCH AND PRESCHOOL, 208 AND 210 GRANT AVENUE

Approved

17-18

IF THE WAIVER OF THE 300 FOOT LOCATION RESTRICTION IS GRANTED, A REQUEST FROM GERONIMO HOSPITALITY, LLC., FOR A TRANSFER OF OWNERSHIP AND LOCATION OF DISPENSER LICENSE #28050 FROM MONTE CIRCLE PARTNERS, LLC, D/B/A STATS SPORTS BAR & NIGHTLIFE, 135 W. PALACE, TO GERONIMO HOSPITALITY, LLC, D/B/A GEORGIA'S MUSEUM CAFÉ, 223 AND 225 JOHNSON STREET

Approved

17-18

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>REQUEST FROM FOODIE 428 LLC, FOR THE FOLLOWING:</u>		
PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AT JOSEPH'S, 428 AGUA FRIA, WHICH IS WITHIN 300 FEET OF OUR LADY OF GUADALUPE CHURCH, 417 AGUA FRIA	Approved	18-19
IF THE WAIVER OF THE 300 FOOT LOCATION RESTRICTION IS GRANTED, A REQUEST FROM FOODIE 428, LLC, FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT JOSEPH'S, 428 AGUA FRIA	Approved	18-19
<u>REQUEST FROM SANTA FE CIDER WORKS FOR THE ISSUANCE OF THE FOLLOWING:</u>		
WINE GROWERS LIQUOR LICENSE TO BE LOCATED AT SANTA FE CIDER WORKS, 4363 CENTER PLACE, UNIT 9; AND	Approved	19-20
WINE WHOLESALER LIQUOR LICENSE TO BE LOCATED AT SANTA FE CIDER WORKS, 4363 CENTER PLACE, UNIT 9	Approved	19-20
REQUEST FROM DAHL ENTERPRISES, LLC, FOR A TRANSFER OF LOCATION OF INTER-LOCAL DISPENSER LICENSE #0493, WITH ON PREMISE CONSUMPTION ONLY, FROM LUCKY SHOE, 350 E. THERMA, EAGLE NEST TO RINGSIDE BOWL, 500 MARKET STREET, SUITE #210	Approved	20-22
REQUEST FOR APPROVAL OF HOUSING AND URBAN DEVELOPMENT (HUD) 3023/3024 CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REVIEW (CAPER) FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)	Approved	22-23

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CONSIDERATION OF BILL NO. 2013-33: ADOPTION OF ORDINANCE NO. 2013-32. AN ORDINANCE RELATING TO THE SALE AND CONSUMPTION OF ALCOHOL ON CITY PROPERTY; AMENDING SECTION 23-6.2 SFCC 1987, TO AUTHORIZE THE SALE AND CONSUMPTION OF BEER ONLY IN THE AREAS DESIGNATED FOR CONCESSIONS AND SEATING AT FORT MARCY BALL PARK IN ACCORDANCE WITH STATE AND LOCAL LAWS AND REGULATIONS

Approved

23-24

CONSIDERATION OF RESOLUTION NO 2013-____. CASE #2013-3. MANDERFIELD SCHOOL GENERAL PLAN AMENDMENT. JENKINS GAVIN DESIGN AND DEVELOPMENT, AGENTS FOR MANDERFIELD LLC, REQUEST APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 1.48± ACRES FROM PUBLIC/ INSTITUTIONAL TO MEDIUM DENSITY RESIDENTIAL (7 TO 12 DWELLING UNITS PER ACRE). THE PROPERTY IS LOCATED AT 1150 CANYON ROAD

Remanded to Planning Commission 25-49

CONSIDERATION OF BILL NO 2013-34; ADOPTION OF ORDINANCE NO. 2013-33. CASE #2013-38. MANDERFIELD SCHOOL REZONING TO RAC. JENKINS GAVIN DESIGN AND DEVELOPMENT, AGENTS FOR MANDERFIELD LLC, REQUEST REZONING OF 1.48± ACRES FROM R-5 (RESIDENTIAL, 5 DWELLING UNITS PER ACRE) TO RAC (RESIDENTIAL ARTS AND CRAFTS). THE PROPERTY IS LOCATED AT 1150 CANYON ROAD

Remanded to Planning Commission 25-49

MATTERS FROM THE CITY CLERK

None

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COMMUNICATIONS FROM THE GOVERNING BODY

Information/discussion

49-53

ADJOURN

53

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
September 25, 2013**

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on Wednesday, September 25, 2013, 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 David Coss
Councilor Rebecca Wurzburger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Christopher Calvert
Councilor Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Peter N. Ives
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo

Others Attending

Brian K. Snyder, City Manager
Geno Zamora, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

6. APPROVAL OF AGENDA

Mr. Snyder said staff would like to postpone Item 10(p) on the Consent Agenda to the next meeting of the Council on October 9, 2013, while it goes through the Committee process.

MOTION: Councilor Dimas moved, seconded by Councilor Wurzburger, to approve the agenda as amended.

VOTE: The motion was approved on a voice vote with Councilors Bushee, Calvert, Dimas, Ives, Rivera, Trujillo and Wurzburger voting in favor of the motion, none voting against, and Councilor Dominguez absent for the vote.

7. APPROVAL OF CONSENT CALENDAR

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

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

Absent for the vote: Councilor Dominguez.

Against: None.

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, September 23, 2013, regarding Item 10(s) is incorporated herewith to these minutes as Exhibit "1."

A copy of *City of Santa Fe, New Mexico Proposed Amendments(s) to Bill No. 2013-36, Internal Audit Department*, submitted by staff, regarding Item 10(u), is incorporated herewith to these amendments as Exhibit "2."

A copy of Resolution No. 2011-64, introduced by Mayor David Coss, adopted November 9, 2011, regarding Item 10(v), is incorporated herewith to these minutes as Exhibit "3."

- a) **BID NO. 14/03/B – FY 2013/14, MAEZ ROAD WATER MAIN REPLACEMENT PROJECT AND AGREEMENT BETWEEN OWNER AND CONTRACTOR; TLC PLUMBING AND UTILITY. (DEE BEINGESSNER)**
- b) **BID NO. 14/07/B – RETREAD TIRES. TIRE CASINGS AND REPAIRS FOR ENVIRONMENTAL SERVICES DIVISION; CIRCLE J. TIRES. (CINDY PADILLA)**
- c) **BID NO. 14/08/B – LA COMUNIDAD/NEW VISTAS – RE-ROOFING AND PROFESSIONAL SERVICES AGREEMENT; MIKE LOPEZ ROOFING, LLC. (CHIP LILIENTHAL).**
- d) **REQUEST FOR APPROVAL OF MAINTENANCE AGREEMENT – HARDWARE AND SOFTWARE MAINTENANCE SERVICES FOR LIBRARY DIVISION; INNOVATIVE INTERFACES, INC. (PATRICIA HODAPP)**

- e) **REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO AGREEMENT BETWEEN OWNER AND ARCHITECT – DESIGN SERVICES AT MARY ESTHER GONZALES SENIOR CENTER (MEG) WAREHOUSE; ELLIS/BROWNING ARCHITECTS, LTD. (CHIP LILIENTHAL)**
- f) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – DESIGN SERVICES FOR WATER HISTORY PARK & MUSEUM, VICTOR JOHNSON ARCHITECT, LLC. (CHIP LILIENTHAL)**
- g) *[Removed for discussion by Councilor Trujillo]*
- h) *[Removed for discussion by Councilor Trujillo]*
- i) *[Removed for discussion by Councilor Ives]*
- j) *[Removed for discussion by Councilor Ives]*
- k) **REQUEST FOR APPROVAL OF LANDLORD’S CONSENT AND ESTOPPEL – SANTA FE MUNICIPAL AIRPORT, ROSS SANTA FE, LLC. (FRANCEY JESSON)**
- l) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – BUSINESS INCUBATOR SERVICES ON BEHALF OF ECONOMIC DEVELOPMENT; SANTA FE BUSINESS INCUBATOR.**
- m) **REQUEST FOR APPROVAL OF JOINT FUNDING AGREEMENT – STREAM FLOW GAGING AND GROUNDWATER MONITORING; U.S. DEPARTMENT OF THE INTERIOR GEOLOGICAL SURVEY. (CLAUDIA BORCHERT)**
- n) **FY 2013/2014 COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACTS. (KYM DICOME)**
 - 1) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – INCREASED ALLOCATIONS AS APPROVED BY COMMUNITY DEVELOPMENT COMMISSION; SANTA FE HABITAT FOR HUMANITIES DPA.**
 - 2) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – INCREASED ALLOCATIONS AS APPROVED BY COMMUNITY DEVELOPMENT COMMISSION; HOMEWISE DPA.**
 - 3) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – INCREASED ALLOCATIONS AS APPROVED BY COMMUNITY DEVELOPMENT COMMISSION; HOUSING TRUST DPA.**

- o) REQUEST FOR APPROVAL OF PROCUREMENT UNDER COOPERATIVE PRICE AGREEMENT – EQUIPMENT FOR TRACS VERSION 10 PILOT GRANT PROJECT FOR POLICE DEPARTMENT; CDW-GOVERNMENT, LLC. (LIEUTENANT SEAN STRAHON)**
- p) REQUEST FOR APPROVAL OF TELECOMMUNICATIONS SERVICES AGREEMENT – CIP HIGH SPEED INTERNET PROJECT FOR THE CITY OF SANTA FE; CYBER MESA COMPUTER SYSTEMS INCORPORATED. (SEAN MOODY)**
1) REQUEST FOR APPROVAL OF BUDGET TRANSFER – BROADBAND INFRASTRUCTURE FUND.
POSTPONED TO OCTOBER 9, 2013.
- q) CONSIDERATION OF RESOLUTION NO. 2013-84 (COUNCILOR BUSHEE AND COUNCILOR DIMAS). A RESOLUTION AFFIRMING THE CITY’S COMMITMENT TO EQUALITY AND FREEDOM FROM DISCRIMINATION AND VIOLENCE FOR ALL OF ITS RESIDENTS, INCLUDING CHILDREN AND YOUTH, CONDEMNING BULLYING, HARASSMENT AND INTIMIDATION IN SCHOOLS AND URGING THE COMMUNITY TO WORK TOGETHER TO FURTHER DEFINE AND UNDERSTAND THE MULTIPLE ASPECTS OF BULLYING. (CHRIS SANCHEZ).**
- r) CONSIDERATION OF RESOLUTION NO. 2013-85 (COUNCILOR CALVERT AND COUNCILOR BUSHEE). A RESOLUTION AUTHORIZING AND SUPPORTING THE SUBMITTAL OF THE CITY’S PROJECT APPLICATION TO THE SANTA FE METROPOLITAN PLANNING ORGANIZATION FOR FUNDING UNDER THE FISCAL YEAR 2014/2015 TRANSPORTATION ALTERNATIVES PROGRAM FOR THE SANTA FE RIVER TRAIL CONNECTIONS AND IMPROVEMENTS PROJECT. (BRIAN DRYPOLCHER AND ERIC MARTINEZ).**
- s) CONSIDERATION OF RESOLUTION NO. 2013-86 (COUNCILOR BUSHEE). A RESOLUTION RECOGNIZING THE UNIQUE VOLUNTEER SERVICES THAT THE SANTA FE CONSERVATION TRUST TRAILS PROGRAM PROVIDES ON BEHALF OF THE CITY OF SANTA FE’S TRAILS AND OPEN SPACES; AND DIRECTING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH THE SANTA FE CONSERVATION TRUST TO PROVIDE TRAILS VOLUNTEER COORDINATOR SERVICES ON BEHALF OF THE CITY OF SANTA FE. (LEROY PACHECO)**
- t) CONSIDERATION OF RESOLUTION NO. 2013-87 (COUNCILOR WURZBURGER). A RESOLUTION ADOPTING THE 2015-2019 INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN (ICIP). (ISAAC PINO)**

- u) **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON OCTOBER 30, 2013:**
 - 1) **BILL NO. 2013-36. AN ORDINANCE RELATING TO THE CITY OF SANTA FE INTERNAL AUDIT DEPARTMENT; AMENDING SECTION 2-22 SFCC 1987, TO STRENGTHEN INTERNAL AUDIT INDEPENDENCE (COUNCILOR DOMINGUEZ AND COUNCILOR BUSHEE). (LIZA KERR AND JUDITH AMER).**
 - 2) **BILL NO. 2013-37: AN ORDINANCE RELATING TO CHAPTER VI SFCC 1987, BOARDS, COMMITTEES AND COMMISSIONS; CREATING A NEW ARTICLE 6-5 SFCC 1987, TO ESTABLISH THE CITY OF SANTA FE AUDIT COMMITTEE (COUNCILOR IVES AND COUNCILOR BUSHEE). (LIZA KERR AND JUDITH AMER)**
 - a) **CONSIDERATION OF RESOLUTION NO. 2013-____ (COUNCILOR IVES AND COUNCILOR BUSHEE). A RESOLUTION AMENDING RESOLUTION 2010-83 TO REPEAL THE ESTABLISHMENT OF THE CITY AUDIT COMMITTEE. (LIZA KERR AND JUDITH AMER)**
- v) **REPORT AND 2012 ECONOMIC IMPACT STATEMENT PURSUANT TO RESOLUTION #2011-64; USE OF FT. MARCY BALLPARK BY SANTA FE FUEGO. (KATE NOBLE) (INFORMATIONAL ONLY)**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – SEPTEMBER 11, 2013

MOTION: Councilor Bushee moved, seconded by Councilor Dimas, to approve the minutes of the Regular City Council meeting of September 11, 2013, as presented.

VOTE: The motion was approved on a voice vote with Councilors Bushee, Calvert, Dimas, Ives, Rivera, Trujillo and Wurzbarger voting for the motion, none voting against, and Councilor Dominguez: absent for the vote.

9. PRESENTATIONS

- a) **PROCLAMATION – NICK DOMINGUEZ, MAINTENANCE WORKER. (CINDY PADILLA)**

Mayor Coss read the proclamation into the record declaring September 25, 2013, as Nick Dominguez Day in Santa Fe, and presented his widow with the proclamation.

Cindy Padilla said Mr. Dominguez has been employee of the month twice, and thanked all of the City employees in maintenance for their hard work, commenting that they are the unsung heroes keeping our City clean and beautiful.

Mr. Dominguez's daughter thanked everyone on behalf of the family for this honor, saying everyone treated him well. She said, They are our brothers and sisters and are welcome in our home any time."

Mayor Coss thanked the Solid Waste crews for coming down this evening.

b) MUCHAS GRACIAS – RAY SANDOVAL, ZOZOBRA EVENT CHAIRMAN, KIWANIS.

Mayor Coss presented Ray Sandoval and the members of the Kiwanis Club, a Muchas Gracias certificate for their great work during Zozobra this year.

Ray Sandoval said this event reflects the best in all of us, and they reason they wanted to do a great job in respecting community members and their partners, including the City, its biggest partner. He thanked the City for all of its efforts, and for trusting them to carry on "this tradition we love in the City that we love. It means the world to us."

Mayor Coss said, "You guys were true to your word. You worked very very hard, and I know the whole community appreciated it."

c) SANTA FE GLOBAL TRADE INITIATIVE WORKGROUP. (FABIAN TRUJILLO)

Councilor Dominguez arrived at the meeting

A copy of *Santa Fe Global Trade Initiative Member List* is incorporated herewith to these minutes as Exhibit "4."

Councilor Wurzbarger said two years ago she was selected by the National League of Cities to go, at her expense, to Seattle where 19 Mayors from China and 18 venture capitalists met for two days to talk about the opportunities of foreign trade investment and tourism opportunities in the United States. She said Anderson, Indian received 2,000 solar energy jobs in conjunction with an Asian company. She returned and met with the Mayor who sponsored a very successful Coffee with Coss on China, to discover if there were people in Santa Fe who had connections and were doing business in China. She said 75-100 people came and indicated they had connections or were interested in developing such connections. She said from that, through the BQL, they formed a working group called The Asia Group and explored possible connections that could be made. She said a year into that, they decided to expand the group to include a focus on foreign trade, international tourism and recruiting international students to Santa Fe, and the Mission Statement was to support economic growth in the region by promoting foreign trade, international tourism and international student exchange..

Councilor Wurzbarger introduced members of the Global Trade Initiative in attendance.

Alan Austin and Jim Luttjohan reviewed a power point presentation, *Santa Fe Global Trade Initiative Workgroup City Council Presentation September 25, 2013*, which is in the Council packet. Please see this document for specifics of this presentation.

Councilor Bushee would like to know what other parts of the State are receiving visits.

Mr. Luttjohan said both Las Cruces and Albuquerque are picking up significant shares of the market.

Councilor Bushee asked if there is a breakdown available, and Mr. Luttjohan said he would happy to get that from the State website and share with her.

Councilor Bushee asked why people would take the time to drive to Las Cruces, unless the market primarily is from Mexico. She understands the need to boost the international markets and would like to see the cost-effectiveness of any of those newly-targeted markets. She said it would be helpful to get the breakdown of the international and domestic market and how you intend to expend resources to draw visitors, how you expect it to grow. She said these are the same kinds of things she looks for when she decides to bump-up her market share. She said she is surprised by the 12.6%.

Mr. Luttjohan said in November, the State will be presenting its newest study at the Research and Marketing Conference, so he will soon have newer numbers. He is happy to get that information and share it with her.

Councilor Bushee said the top foreign visits are from Mexico and Canada, and asked if he can break down how many of those which come to Santa Fe.

Mr. Luttjohan said these are based on estimates – enplanements or visitor interface. He said he will see if there are numbers attached to those.

Mayor Coss said we have institutions in Santa Fe which sell internationally – Clean Air Systems for Caterpillar, the University of Art & Design, and LANL. He asked if they have worked with any of these institutions, and do they have insights or collaborative impact.

Mr. Austin said they have not been contacted formally.

Mayor Coss said LANL in particular brings many groups to Santa Fe.

Mr. Luttjohan said he works with LANL daily about conferences we host at the Convention Center.

Mayor Coss is pleased they are working with Consul General Ibarra. He said we are the closest neighbor to Mexico, but we have the least trade with them. He believes this work could help turn that around. He noted the emphasis has shifted to Mexico, Korea and perhaps Brazil.

Mr. Austin said they see this as well. He said they have learned in their efforts that China is one of the most complicated countries to do businesses with. He said that, combined with the fact that there is more trade building on the North American continent, and Korea seems to be exceptionally open to that sort of thing. He said that might be where the low hanging fruit is at this point. He said it isn't that you can't get work done in China, but it seems to be more complicated to do that. He said they have heard that from people at the State and federal level when talking how we can make the quickest progress. Hopes connection is made. Mayor visited with Korea and they visited us, more business-friendly.

Mayor Coss said the City will sign a Sister City with Livingston, Zambia, which makes much of its living from tourism, and later in Incheon, Korea, commenting there seems to be more business-friendliness there.

Mayor Coss thanked them for their work, commenting Santa Fe could take more advantage of LANL, Clean Air Systems, Caterpillar and the University, the Council on International Relations. He learned today, 20 Mayors from China will be here next week for a short visit to Santa Fe, which is another opportunity.

CONSENT CALENDAR DISCUSSION

- 12 (g) REQUEST FOR APPROVAL OF AGREEMENT – 2013 STATE OF NEW MEXICO SEVERANCE TAX BOND CAPITAL APPROPRIATION PROJECT FOR SANTA FE MEDIANS AND SIDEWALKS; NEW MEXICO DEPARTMENT OF TRANSPORTATION.**
- 1) REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.
(DAVID CHAPMAN)**

Councilor Trujillo said he pulled this item to clarify that he works for the New Mexico DOT, and used to oversee the Severance Tax Bonds for the District, but he no longer does that, so he does not have a conflict.

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

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

For: Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera and Councilor Trujillo.

Against: None

Absent for vote: Councilor Bushee and Councilor Wurzbarger.

12 (h) REQUEST FOR APPROVAL OF AGREEMENTS – 2013 STATE OF NEW MEXICO SEVERANCE TAX BOND CAPITAL APPROPRIATION PROJECT; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (DAVID CHAPMAN)

- 1) AFFORDABLE HOUSING FOR VETERANS.**
- 2) LARRAGOITE PARK IMPROVEMENTS.**
- 3) SOUTHWEST ACTIVITY NODE PARK.**
- 4) WATER HISTORY PARK AND MUSEUM.**
 - a) REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**

Mr. Zamora said, "I realize this may have been pulled for disclosure of a conflict. However, in examining the title of the advertised item, it has been advertised incorrectly, does not reflect the agreement, therefore we request that it be postponed to the next meeting so it can be appropriately advertised."

MOTION: Councilor Ives moved, seconded by Councilor Trujillo, to postpone this item to the next meeting of the City Council on October 9, 2013.

VOTE: The motion was approved on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbürger voting in favor of the motion and nobody voting against.

12 (i) SANTA FE RAILYARD COMMUNITY CORPORATION:

- 1) REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO AMENDED AND RESTATED RAILYARD LEASE AND MANAGEMENT AGREEMENT.**
 - 2) REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO LEASE AGREEMENT FOR TRACT O AND THE SANTA FE DEPOT BUILDINGS.**
- (ROBERT SIQUEIROS)**

Councilor Ives said he pulled this item to recuse himself from participation, noting he would be recusing himself from participating on Item 10(j) as well, for the reasons usually given.

MOTION: Councilor Calvert moved, seconded by Councilor Trujillo, to approve Items 10(i)(1) and (2), as presented.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Rivera, Councilor Trujillo and Councilor Wurzbürger.

Against: None.

Recused: Councilor Ives.

Absent for the vote: Councilor Dominguez.

- 12(j) REQUEST FOR APPROVAL OF AMENDMENT NO. 8 TO LEGAL SERVICES AGREEMENT – QWEST CORPORATION V. CITY OF SANTA FE MATTERS; CUDDY & McCARTHY. (KELLEY BRENNAN)
1) REQUEST FOR APPROVAL OF BUDGET INCREASE – INSURANCE CLAIMS FUND.

Councilor Ives said he pulled this item to recuse himself from participation, noting he would be recusing himself from participating on Item 10(i) as well, for the reasons usually given.

MOTION: Councilor Calvert moved, seconded by Councilor Trujillo, to approve Item 12(j) and Item 12(j)(1), as presented.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None

Recused: Councilor Ives

Absent for the vote: Councilor Dominguez..

END OF CONSENT CALENDAR DISCUSSION

11. REQUEST FOR APPROVAL OF AIRPORT IMPROVEMENT (AIP) GRANT 40 TO CONSTRUCT TAXIWAY F AT THE SANTA FE MUNICIPAL AIRPORT. (FRANCEY JESSON)

A copy of the *Grant Agreement Part I – Offer, for Grant No. 069420818*, is incorporated herewith to these minutes as Exhibit “5.”

Ms. Jessen presented information regarding this matter, noting because they received the grant on Monday and required it to be executed and returned the same day. They are asking for retroactive approval of the Mayor’s signature for the grant which was done on Monday.

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

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Absent for the vote: Councilor Dominguez..

12. MATTERS FROM THE CITY MANAGER

There were no matters from the City Attorney.

13. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT, §10-15-1(H)(7), NMSA 1978, DISCUSSION REGARDING PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT, M CONSOLIDATED CONSTRUCTION, LLC V. CITY COUNCIL OF SANTA FE, ET AL , D-101-CV-2012-01054, FIRST JUDICIAL COURT AND CITY OF SANTA FE V. NM CONSOLIDATED CONSTRUCTION, LLC, D-101-LR-2013-00023, FIRST JUDICIAL COURT.

MOTION: Councilor Ives moved, seconded by Councilor Dimas, that the Council go into Executive Session for discussion regarding pending litigation in which the City of Santa Fe is a participant, M Consolidated Construction, LLC v. City Council of Santa Fe, et al, D-101-CV-2012-01054, First Judicial District Court, and City of Santa Fe v. NM Consolidated Construction, LLC, D-101-LR-2013-00023, First Judicial District Court, in accordance with §10-15-1(H)(7) NMSA 1978.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Absent for the vote: Councilor Dominguez.

The Council went into Executive Session at 6:00 p.m.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At 7:00 p.m. Councilor Trujillo moved, seconded by Councilor Calvert, 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 unanimously on a voice vote with Councilors Bushee, Calvert, Dimas, Ives, Rivera, Trujillo and Wurzbarger voting in favor of the motion, no one voting against, and Councilor Dominguez absent for the vote.

Mayor Coss moved Items #14 and #15 to the end of the evening agenda

END OF AFTERNOON SESSION AT 7:00 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor David Coss, at approximately p.m. Following the Pledge of Allegiance, salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

Members Present

Mayor David Coss
Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Christopher Calvert
Councilor Bill Dimas
Councilor Peter N. Ives
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo

Members Excused

Councilor Carmichael A. Dominguez

Others Attending

Brian K. Snyder, City Manager
Geno Zamora, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

F. PETITIONS FROM THE FLOOR

A packet of petitions, submitted for the record by Virginia Soto, is incorporated herewith to these minutes as Exhibit "6."

Mayor Coss gave each person two minutes to petition the Governing Body

David McQuarie, 2997 Calle Serrada, said many people wonder why he is such an advocate for disabled public right-of-way. It was part of his job when he worked for the State as the Highway designer. He said shortly after he retired he went to a public hearing on a road, and asked the project manager the reason there weren't adequate crossings for cross roads on the project, and he told me, "It's because you people, we decided that you people cannot make a rational decision as to what to do, therefore you can cross only at the lights. He said as a retired employee he thought "what is his medical training to make the decision on our rationality." He said over and over again he has come to the City about curb ramps on public streets that are lacking, even when you do an overlay. He said by federal regulation and Court decision you have to put them in at the same time as the overlay. The City of Santa Fe hasn't done that,

and haven't installed the ones for 2012 and 2013, but yet you allocate the money. He asked, "Where is the money." He said secondly, under the new directive from the Federal Highway, the City must turn in a schedule of roads they are going to address, public rights of way, and what is to be done, which is due on October 18, 2013. He is petitioning to see this schedule when it is done, because it is a public document and there is no reason he can't see it. He said the City was informed by the Federal Highway Department when it reviewed the plan that the City had to give justification for not putting in the crosswalks at various locations on Old Pecos Trail. He go look at Old Pecos Trail from San Sebastian to Cordova Road, and notice the streets do have crossings, and not only at the lights, they are elsewhere as well. He said when the Feds asked for justification or else they would pull their money in the amount of \$800,000. He asked if the can the City afford that, and if they don't do this by October 18, 2013, they could be turned over to the Department of Justice for legal action.

Virginia Soto said she is here on behalf of the Seniors at the Pasa Tiempo Center. She said they can't get additional kitchen help at the Center. There has only been one since mid-August. The other coordinator resigned. Therefore there is only 1 coordinator for 5 Centers. She said this isn't fair, and the seniors are the ones that suffer. She said she can't depend on her coordinator to be there. She said the main office at Senior Services says they're broke. She doesn't believe that. She asked for Arts & Crafts money in August and they said no, they are broke. That seems kind of funny to her this early in the fiscal year. She said she doesn't know how to address this. She said more seniors would have been here this evening, but the majority don't drive at night and have to depend on somebody to drive them at night, including herself. She presented a packet of petition signatures with the City Clerk.

Robert Sinn said he also is here to talk on behalf of Pasa Tiempo, noting he moved to Santa Fe in 1965, and worked for 23 years as a social worker, and since the seventies has been aware of development of programs for seniors. It is his opinion Santa Fe can be proud of those programs. He has been going to the Pasa Tiempo Center for about 10 years, and recommends others go to the Center. He said the cook does a wonderful job, but works mostly alone is overwhelmed. He said some more help should be available to him. He said Ms. Soto pitches in to make things work and run smoothly. He commends the Center and said he is very proud of Senior Services in Santa Fe.

David Olson talked about an incident that happened at the Genoveva Chavez Center, where hardware came down from the ceiling. He was there when it happened and came to learn that the Santa Fe Police Department is negligent in training its police officers, especially the SWAT team. He said the gas masks they were going to use to go into an area where there was chlorine gas were not rated for chlorine gas. He said the Police and Fire need more training. He said the police would have been dead if they rushed into a cloud of chlorine gas. He said there are other problems at the Chavez Center, saying he was accosted by a security guard and there is a direct line between that guard and other potential police candidates and there is inappropriate behavior that crosses the line of the law.

G. APPOINTMENTS

There were no appointments.

H. PUBLIC HEARINGS

- 1) **REQUEST FROM TOKYO CAFÉ, INC., FOR THE ISSUANCE OF A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY), TO BE LOCATED AT TOKYO CAFÉ, 1847 CERRILLOS ROAD. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of September 19, 2013, with attachments, noting that the business is not located within 300 feet of a church or school, and staff recommends this business be required to comply with all of the City's ordinances as a condition of doing business in the City.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Wurzburger, to approve the request for a Restaurant Liquor License, beer and wine on-premise consumption only, to be located at Tokyo Café, 1847 Cerrillos Road, with all conditions of approval recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

Against: None.

- 2) **REQUEST FROM THE GUADALUPE CAFÉ, INC., FOR THE FOLLOWING:
(YOLANDA Y. VIGIL)**
 - a) **PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AT THE PINK ADOBE AND GUADALUPE CAFÉ, 406 OLD SANTA FE TRAIL, WHICH IS WITHIN 300 FEET OF THE SAN MIGUEL MISSION CHURCH, 401 OLD SANTA FE TRAIL..**

- b) **IF THE WAIVER OF THE 300 FOOT LOCATION RESTRICTION IS GRANTED, A REQUEST FROM THE GUADALUPE CAFÉ, INC., FOR A TRANSFER OF OWNERSHIP OF DISPENSER LICENSE #683 FROM HOBACK, INC., D/B/A THE PINK ADOBE, TO THE GUADALUPE CAFÉ, INC. THIS LICENSE WILL BE LOCATED AT THE PINK ADOBE AND GUADALUPE CAFÉ, 406 OLD SANTA FE TRAIL.**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of September 20, 2013, with attachments. She said the outdoor seating area conforms with the State's requirement, noting there are staff reports in the packet regarding litter, noise and traffic, and there is a letter in the Council packet from Marcia L. Sullivan, President, St. Michael's College, the owner of the San Miguel Mission, indicating they have no objection to this request. She said staff recommends this business be required to comply with all of the City's ordinances as a condition of doing business in the City

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Calvert moved, seconded by Councilor Dimas, to grant the request for a waiver of the 300 foot location restriction to allow the sale of alcoholic beverages at the Pink Adobe and Guadalupe Café, 406 Old Santa Fe Trail, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

MOTION: Councilor Calvert moved, seconded by Councilor Bushee, to approve the request for a transfer of ownership of Dispenser License #683 from Hoback, Inc., d/b/a the Pink Adobe to The Guadalupe Café, Inc., to be located at the Pink Adobe and Guadalupe Café, 406 Old Santa Fe Trail, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

- 3) **REQUEST FROM GERONIMO HOSPITALITY, LLC., FOR THE FOLLOWING:
(YOLANDA Y. VIGIL)**
- a) **PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES GEORGIA'S MUSEUM CAFÉ, 223 AND 225 JOHNSON STREET, WHICH IS WITHIN 300 FEET OF THE FIRST PRESBYTERIAN CHURCH AND PRESCHOOL, 208 AND 210 GRANT AVENUE.**

 - b) **IF THE WAIVER OF THE 300 FOOT LOCATION RESTRICTION IS GRANTED, A REQUEST FROM GERONIMO HOSPITALITY, LLC., FOR A TRANSFER OF OWNERSHIP AND LOCATION OF DISPENSER LICENSE #28050 FROM MONTE CIRCLE PARTNERS, LLC, D/B/A STATS SPORTS BAR & NIGHTLIFE, 135 W. PALACE, TO GERONIMO HOSPITALITY, LLC, D/B/A GEORGIA'S MUSEUM CAFÉ, 223 AND 225 JOHNSON STREET.**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of September 19, 2013, with attachments, which is in the Council packet. She noted there is a letter in the packet from Pastor Harry Eberts III, First Presbyterian Church stating they have no opposition to the request. This application includes an outdoor seating area, and when they build-out, they will be required to configure the outdoor boundary to comply with State requirements. The café is being renovated, therefore they will be required to comply with Fire, Building and Land Use Code Requirements. She said there are staff reports in the packet regarding litter, noise and traffic, and staff recommends this business be required to comply with all of the City's ordinances as a condition of doing business in the City.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Calvert, to grant the request for a waiver of the 300 foot location restriction to allow the sale of alcoholic beverages at Georgia's Museum Café, 223 and 225 Johnson Street, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

MOTION: Councilor Bushee moved, seconded by Councilor Calvert, to approve the transfer of ownership and location of Dispenser License #28050 from Monte Circle Partners, LLC, d/b/a Stats Sports Bar & Nightlife, 135 W. Palace, to Geronimo Hospitality, LLC, d/b/a Georgia's Museum Café, 225 and 225 Johnson Street, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

- 4) **REQUEST FROM FOODIE 428 LLC, FOR THE FOLLOWING:
(YOLANDA Y. VIGIL)**
- a) **PURSUANT TO §60-6B-10 NMSA 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AT JOSEPH'S, 428 AGUA FRIA, WHICH IS WITHIN 300 FEET OF OUR LADY OF GUADALUPE CHURCH, 417 AGUA FRIA.**
 - b) **IF THE WAIVER OF THE 300 FOOT LOCATION RESTRICTION IS GRANTED, A REQUEST FROM FOODIE 428, LLC, FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT JOSEPH'S, 428 AGUA FRIA.**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of September 19, 2013, with attachments, which is in the Council packet. She noted there is a letter of no objection from Reverend Trien-Tri Nguyen, Pastor of Our Lady of Guadalupe Church, and staff reports regarding litter, noise and traffic. She said this application includes an outdoor seating area and it already conforms with the State's requirements. There are staff reports in the packet regarding litter, noise and traffic, and staff recommends this business be required to comply with all of the City's ordinances as a condition of doing business in the City.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Calvert, to grant the request for a waiver of the 300 foot location restriction to allow the sale of alcoholic beverages at Joseph's, 428 Agua Fria, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

Against: None.

MOTION: Councilor Bushee moved, seconded by Councilor Calvert, to approve the request for a Restaurant Liquor License, beer and wine on-premise consumption only, to be located at Joseph's, 428 Agua Fria, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

Against: None.

- 5) **REQUEST FROM SANTA FE CIDER WORKS FOR THE ISSUANCE OF THE FOLLOWING:
(YOLANDA Y. VIGIL)**
- a) **WINE GROWERS LIQUOR LICENSE TO BE LOCATED AT SANTA FE CIDER WORKS, 4363 CENTER PLACE, UNIT 9; AND**
 - b) **WINE WHOLESALE LIQUOR LICENSE TO BE LOCATED AT SANTA FE CIDER WORKS, 4363 CENTER PLACE, UNIT 9.**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of September 19, 2013, with attachments. Ms. Vigil noted the location is not within 300 feet of a church or school, there are staff reports in the packet regarding litter, noise and traffic, and staff recommends this business be required to comply with all of the City's ordinances as a condition of doing business in the City.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Calvert, to approve the request for the issuance of a Wine Growers Liquor License, to be located at Santa Fe Cider Works, 4363 Center Place, Unit 9, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

MOTION: Councilor Bushee moved, seconded by Councilor Ives, to grant the request for a Wine Wholesale Liquor Licence to be located at Santa Fe Cider Works, 4363 Center Place, Unit 9, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, and Councilor Trujillo.

Against: None.

Absent for the vote: Councilor Wurzbarger.

- 6) **REQUEST FROM DAHL ENTERPRISES, LLC, FOR A TRANSFER OF LOCATION OF INTER-LOCAL DISPENSER LICENSE #0493, WITH ON PREMISE CONSUMPTION ONLY, FROM LUCKY SHOE, 350 E. THERMA, EAGLE NEST TO RINGSIDE BOWL, 500 MARKET STREET, SUITE #210. (YOLANDA Y. VIGIL) (Postponed at September 11, 2013 City Council Meeting)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of September 20, 2013, with attachments. Ms. Vigil noted the location is not within 300 feet of a church or school, there are staff reports in the packet regarding litter, noise and traffic, and staff recommends this business be required to comply with all of the City's ordinances as a condition of doing business in the City. Ms. Vigil said staff is requesting a condition of approval that Ringside Bowl will be required to receive its Certificate of Occupancy from Construction Industries of the New Mexico Regulation and Licensing Department, prior to release of City licenses.

Public Hearing

Shelley Mann-Lev, Chair, Santa Fe Prevention Alliance, was sworn. Ms. Mann-Lev said she didn't speak on the previous transfers which were internal transfers of licenses within the City. She said, "It is important for you to know that the City of Santa Fe is currently 255%, 2.5 times over the established quota of liquor licenses per population. So, the State's quota level is one to two thousand, I think you all know that, 1 liquor license for every 2,000 population. And the City of Santa Fe has 2.5 times that. So what I see, and I have to say I've not had a chance to study this, and that may be something we need to do more thoroughly, is bringing a liquor license that's currently located outside the City and adding a new license, so therefore increasing the alcohol outlet density in the City of Santa Fe. And I think over the course of this time, you've had a chance to learn about the issues of alcohol outlet density, and when you have more liquor licenses, you can expect to see all of the alcohol related harms. And I think it's something that you may want to seriously look at – bringing something from Eagle Nest, as I understand, into our City which would increase our alcohol outlet density."

The Public Hearing was closed

Councilor Bushee said it is her understanding that all of these liquor licenses are first approved by the State of New Mexico.

Mr. Zamora said, "That is correct. The State reviews, then takes these licenses and refers them to the City for approval. I appreciate the commentary as an informational item. Density is not one of the statutory provisions granted to cities to deny license transfers, but it is good information to know."

Councilor Bushee asked if the State has a quota that it maintains. "In other words, would it be more beneficial for the alliance to go to the State with their concerns. Most of what we do here tends to be *pro forma*, we have found in the past. So I'm just asking about those quota issues. It's not something the City can actually take into account."

Mr. Zamora said, "There are several alternatives. Obviously, if a statutory change is necessary, then that would be with the State Legislature. There is also Alcohol & Gaming Control at the Regulation and Licensing Department, which is another place to get in there, inform them and communicate community concerns for changes, because that Department would be instrumental in changing the Statutes."

Councilor Bushee said, "But just to be clear, you are instructing us that we cannot take into account the quota or population density and alcohol access."

Mr. Zamora said, "The density of the licenses. Correct. The authority is, most often, health and safety issues, identifiable health and safe issues particular to that license."

Councilor Rivera said we have requested a waiver from the schools, even though they aren't doing that anymore. He said Tierra Encantada Charter School is right there and asked where the cutoff for that is – is it just south of Market Street.

Ms. Vigil said, "I'm not exactly sure where their cutoff is. However, I know that this is not within 300 feet. Each of our requests we do send to our GIS office, so they prepare a map showing what is within 300 feet of the property. But I could get you an exact measurement if you would like."

Councilor Rivera said it would be good for that area just to see where they measure from. Is it from the corner of the property. He said, "I know Tierra Encantada Charter School stretches pretty far back."

Ms. Vigil said it is measured from property line to property line.

Mr. Zamora said, "To provide further information to Councilor Rivera, in that measurement, it would be the closest point of the school's property line to the closest point of the establishment's property line."

Councilor Rivera said, then based on GIS, it's not within the 300 feet and Mr. Zamora said it is not.

MOTION: Councilor Calvert moved, seconded by Councilor Wurzburger, to approve the request from Dahl Enterprises, LLC, for a transfer of location of inter-local Dispenser License #0493, with on premise construction only, from Lucky Shoe, 350 E. Therma, Eagle Next, to Ringside Bowl, 500 Market Street, Suite #210, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Trujillo and Councilor Wurzburger.

Against: Councilor Rivera

Explaining his vote: Councilor Rivera said, "I'm still concerned about the school in the area. I'm not real sure, and I would like some more information about how those measurements are taken, so for now, I'm going to vote no."

**7. REQUEST FOR APPROVAL OF HOUSING AND URBAN DEVELOPMENT (HUD)
3023/3024 CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REVIEW
(CAPER) FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG). (KIM DICOME)**

The staff report was presented by Kim Dicome from her Memorandum of August 15, 2013, with attachments, which is in the Council packet. Please see this Memorandum for specifics of this presentation.

Public Hearing

There was no one speaking for or against this request.

The Public Hearing was closed

Councilor Wurzburger thanked Ms. Dicome for her hard work in getting this done.

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

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

Against: None.

- 8) **CONSIDERATION OF BILL NO. 2013-33: ADOPTION OF ORDINANCE NO. 2013-32 (COUNCILOR TRUJILLO, MAYOR COSS AND COUNCILOR WURZBURGER) AN ORDINANCE RELATING TO THE SALE AND CONSUMPTION OF ALCOHOL ON CITY PROPERTY; AMENDING SECTION 23-6.2 SFCC 1987, TO AUTHORIZE THE SALE AND CONSUMPTION OF BEER ONLY IN THE AREAS DESIGNATED FOR CONCESSIONS AND SEATING AT FORT MARCY BALL PARK IN ACCORDANCE WITH STATE AND LOCAL LAWS AND REGULATIONS. (ALFRED WALKER)**

The staff report was presented by Alfred Walker from the Legislative Summary of this bill which is in the Council packets.

Councilor Bushee asked, with regard to the security guards, if those are the responsibility of the Pecos League.

Mr. Walker said, "Yes. The operating agreement, I think, currently requires that to be the Pecos League's responsibility and it would be in the future as well."

Councilor Bushee asked if we have concluded how many guards are necessary.

Mr. Walker said he is unsure the number has been included, but he believes two currently are required, and thinks that's what the direction would be.

Councilor Bushee asked the sponsor if any best practices were built in, in any of the committees.

Mr. Walker said, "During the Committee process, Councilor Trujillo offered some amendments to add best practices that were requested by the Santa Fe Prevention Alliance.

Councilor asked Mr. Walker to delineate those.

Mr. Walker said, "They are in your packet. In the proposed bill, most of what is in italics has been added. A little bit of that was originally there, but for example, the wristbands limiting the purchase to one drink per person at one time. Food and non-alcoholic beverages shall be sold, water provided at no cost. Managers of the alcohol vendor shall be present at all time with a photograph of the manager with the manager's name and a nametag identifying the manager. Most of that has been added."

Councilor Trujillo said for clarification, in the Ordinance currently, the Pecos League is responsible for putting up the fence and such. He said the Pecos League contracts with the beer vendor, and in that contract, they work out a deal that the beer vendor puts up the fence at their cost. He said, "I just want to be clear on that, so in case there is a contract between the Pecos League and the vendors."

Mr. Zamora said, "This is correct. The ultimate responsibility lies with the Pecos League. However, they are able to subcontract some of their duties."

Public Hearing

Rick Martinez, 725 Macias Road, said he is in support of the Ordinance. He said he has attended a few games and he sees a family thing going and thinks this okay. He said, "The thing I like about it, is that I'm only making one pile of peanuts instead of 2 piles of peanuts in both places. So it is good not to feel so guilty."

Shelley Mann-Lev thanked the City and Councilor Trujillo, in particular, for working to ensure best practices to the extent possible, to keep everyone as safe as possible with the appropriate fencing, security and practices.

The Public Hearing was closed

MOTION: Councilor Trujillo moved, seconded by Councilor Dimas, to adopt Ordinance No. 2013-32.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzburger.

Against: None.

- 9) **CONSIDERATION OF RESOLUTION NO 2013-___, CASE #2013-3. MANDERFIELD SCHOOL GENERAL PLAN AMENDMENT. JENKINSGAVIN DESIGN AND DEVELOPMENT, AGENTS FOR MANDERFIELD LLC, REQUEST APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 1.48± ACRES FROM PUBLIC/INSTITUTIONAL TO MEDIUM DENSITY RESIDENTIAL (7 TO 12 DWELLING UNITS PER ACRE). THE PROPERTY IS LOCATED AT 1150 CANYON ROAD. (HEATHER LAMBOY)**

Items H(9) and H(10) were combined for purposes of presentation, discussion and public hearing, but were voted upon separately.

A Memorandum with attachments, prepared September 12, 2013, for the September 25, 2013 City Council Meeting, regarding Case #2013-37 Manderfield School General Plan Amendment and Case #2013-38 Manderfield School Rezoning from R-5 to RAC, is incorporated herewith to these minutes as Exhibit "7."

A Memorandum with attachments, prepared September 20, 2013, for the September 25, 2013 City Council Meeting, regarding Case #2013-37 Manderfield School General Plan Amendment, is incorporated herewith to these minutes as Exhibit "8."

A power point presentation *Manderfield General Plan Amendment – Medium Density Residential Rezone to RAC*, submitted for the record by staff, is incorporated herewith to these minutes as Exhibit "9."

A copy of a power point presentation *Manderfield School, City Council Meeting, September 25, 2013, submitted for the record* Jennifer Jenkins, is incorporated herewith to these minutes as Exhibit "10."

A letter dated September 20, 2013, regarding Manderfield School General Plan Amendment and Rezoning to RAC, to Mayor Coss and Santa Fe City Council Members, from Joel Boyd, Superintendent of Schools, urging the City Council to approve the requests, is incorporated herewith to these minutes as Exhibit "11."

A letter regarding Renovation of Manderfield School, from Eric P. Enfield, President, Architectural Alliance, Inc., to City Council Members and City Staff, urging the City Council to approve the requests, is incorporated herewith to these minutes as Exhibit "12."

Heather Lamboy presented the Staff Report. Please see Exhibits "7," "8," and "9," for specifics of this presentation.

Questions by the Governing Body prior to the Public Hearing

Councilor Bushee said, referring to Exhibit "9" Conditions proposed by Applicant, "Staff objects to

the third one [condition] because it is unenforceable from your perspective. Why are the first two, well the second one is already part of REC zoning, but the first one, how is that any more enforceable by staff."

Ms. Lamboy said the commercial uses being located in the Manderfield Building can be done through a site design review process in the Development Plan, the Development Plan itself being the enforcement tool.

Councilor Bushee said then there is no way to build in a limitation on what is sold in a development plan process.

Ms. Lamboy said this is correct, but she would like to defer to legal staff to go into further detail.

Kelley Brennan said, "To the extent your question is why... she is correct about the Development Plan. The condition that she is saying is not enforceable, relates to what kind of art can be sold in the studios, and that is just a very hard thing to determine on an ongoing basis."

Councilor Bushee asked what they were trying to limit.

Ms. Brennan said, "I assume that the attempt is to limit the studios from become sort of art galleries selling paintings from New York and California painters, and really they're trying to assure it remains local artists in a sort of live/work situation."

Councilor Bushee asked if there is a requirement that only art will be sold.

Ms. Brennan said, "Again, I think that the RAC zoning, and Tamara may have it, actually regulates some of this and I'm not sure that there needs to be a separate condition actually regulates some of this, and I'm not sure that there needs to be a separate condition."

Councilor Bushee said she is thinking of the current RAC zoning on Canyon Road that restaurants are there, galleries are there.

Tamara Baer said, "The limitation on commercial uses is also very much enforceable through certificates of occupancy and building permits, so there will be inspections of those buildings, and they would get a certificate of occupancy so we would know exactly what the use was at that time. The maximum square footage on the commercial use would be enforceable, not only through the Development Plan, but again through Certificates of Occupancy, and inspections based on building permits that would also be secured. The RAC zoning does specifically limit the kinds of products that are sold, but I think the Applicant was asking for further restrictions that would just be too difficult to ascertain for staff. So, I believe the way it started out and the way it was phrased was they wanted the art sold to be made on the premises by the person who was using the studio, or somebody else who made that art in that studio. So it just becomes very difficult. How would we know if that were the case or not."

Councilor Bushee asked the RAC limitations on the products sold.

Tamara Baer said SFCC Section 14-4 under Zoning Districts provides, "The purpose of the RAC Residential Arts and Crafts Districts is to serve and preserve the prevalent characteristics of certain limited areas of the City. Within these areas, residential uses are intermixed with small arts & crafts shops, studios and galleries where the goods traded are custom produced in small quantities and often one of a kind, where the arts and crafts are taught to small numbers of people, or where persons engaged in the arts and crafts activities are not numerous." She said it is not intended that this District be applied to new areas not having these characteristics. She said when this zoning district was first applied on Canyon Road, the idea behind the policy behind it was to limit national retailers, one of which was William Sonoma from coming in and establishing a local presence."

Councilor Bushee said she wants to be clear and asked, "How did we go from what you just read to restaurants and gallery row on Canyon Road under RAC zoning."

Ms. Baer said there is a list of permitted uses, some of which are permitted as special use permits, so the restaurants come under that category.

Councilor Bushee said then special use permits could be sought, rather than just a Certificate of Occupancy, and Ms. Baer said that is correct.

Public Hearing

Presentation by the Applicant

Jennifer Jenkins, and Coleen Gavin, JenkinsGavin Design & Development, agent for the Applicant was sworn. Ms. Jenkins presented information via power point. See Exhibit "10" for further specifics of this presentation.

Ms. Jenkins said they are excited to be here under what they feel are very positive circumstances for a very special and important historic building constructed in 1928 and designed by John Gaw Meem with additions that occurred over the decades that followed that. She said it is an opportunity to preserve this school and building, and to revitalize this property which sits vacant, surrounded by a chain link fence. She said we are talking about adaptive reuse this evening which is a critical component of historic preservation and often doesn't happen without it. She said the old St. Vincents Hospital is an example of adaptive reuse and a huge investment in this economy, and we have a similar opportunity here.

Ms. Jenkins said, "This is the front of the building, the east elevation, along Canyon Road, and this is another view of that. You can see the old playground equipment in the front. And this is the south elevation, this is the side of the building that fronts Cristo Rey Church. This is the back of the school or the west elevation, and this is the north elevation, that also is... Canyon Road kind of wraps around two sides there.."

Ms. Jenkins continued, "And Heather already went through the request with respect to the General Plan Amendment and our zoning request for Residential Arts and Crafts. We feel our program is very moderate. We're proposing 10 dwelling units, a few art studios and prior to our Planning Commission hearing, and subsequent to it, we have been working diligently with the Canyon Neighborhood Association, as well as some other adjacent property owners, to create appropriate restrictions on use that made the neighborhood more comfortable. Everybody was very supportive of something happening here. This property is not contributing to anything and it's a contributing building, an interesting irony there."

Ms. Jenkins continued, "We are here to talk about an example of how things can work out in a very positive way for neighborhoods and the community at large when we work together. I have the utmost respect for Brian Egolf and the Canyon Neighborhood Association. Everybody worked really hard, together, and we collaborated to create something that the neighborhood can be comfortable with that we feel is a viable economic program, a critical consideration. Staff has been fully supportive of this from the beginning."

Ms. Jenkins continued, "So this is an aerial we saw before showing the property and its nearby surroundings. It's about 1.5 acres. With the casitas we are proposing, the total lot coverage here is probably going to be about 30%. The portion of the building in the front here, it's landscaping and green space and outdoor space, and something we really want to preserve. Obviously we have to do some parking, but it's a necessary evil we have to accommodate, but we are screening the parking with low walls and landscaping to make sure the experience of the school from the street is as positive as possible. So the landscaping and the open space here on this property we think is really key."

Ms. Jenkins continued, "So in terms of comparing intensity of what's going on here with the surrounding neighborhood, we're actually less intense in use of the property than what you see nearby. This is a unique project. So how do we comply with the City's stated intent for how our City grows and develops. We are a bit of a poster child for new growth and redevelopment in the City, touching on issues such as quality of life, which will be much improved with the preservation and revitalization of this property."

Ms. Jenkins continued, "Economic diversity. Supporting the arts. To have actual working artists on Canyon Road, what a concept and that's what we want to create the opportunity to do. Sustainable growth. Redeveloping existing buildings in our urban core is a sustainable model as opposed to urban and suburban sprawl. Character. This building is a key element of the character of this neighborhood and part of Santa Fe's heritage, so let's preserve it and put it to use, and breath life into this property that has sat vacant and in a process of decay for much too long. Compact urban form. It's there, been there for decades and it is an efficient use of existing infrastructure and services."

Ms. Jenkins continued, "Community oriented development. Having an element like art studios creates a public face to this school that has been a public building. The opportunity for porosity and public interaction with the neighborhood and the community. And lastly mixed use. We know why it matters and why it is important... mixed use creates vitality and what we are looking to accomplish with our program here."

Ms. Jenkins continued, "I do want to talk about the conditions of approval. A huge amount of time and effort among us, the neighbors, Brian Egolf and staff went into formulating these. And I want to touch on condition #5. Mayor, Councilor Bushee, I think those are valid questions and we completely respect staffs' concern about how the City enforces what is sold there. It's not something the City needs to involve themselves in enforcing that item. That's why we want to record these conditions with the County Clerk. They're a public record. Anybody buying property here will have access to these and know what they're buying and the restrictions that exist. We will have covenants. These conditions will be memorialized in our covenants. Language in any lease will say these are the restrictions. We have layers of protection, so that burden doesn't fall on the City, because it is an unusual, atypical condition. It is something that was very important to the neighborhood. It goes to the heart and soul of the intent of RAC zoning – people making and selling art that they make there. And that's what we're trying to accomplish. We're comfortable with it and believe there are other layers and mechanisms of protection which can serve to enforce that without it being something that needs to burden the City."

Ms. Jenkins continued, saying the conditions of approval are listed on the last page of the packet passed out to you [Exhibit "10"].

Speaking to the Request

Mayor Coss gave everyone 3 minutes to speak. All those speaking were sworn en masse.

Brian Egolf, lawyer for the Canyon Neighborhood Association [previously sworn], said "Thank you Mayor and members of the Council. For the sake of brevity, I'd like to make reference to the comments that I made before the Planning Commission and ask that those be incorporated by reference in the hearing tonight, so we don't have to back through that, with your indulgence Mr. Mayor."

Mayor Coss said, "Certainly."

Mr. Egolf said, "I would like to basically outline, very briefly, the process that happened between the Canyon Neighborhood Association and the developer, which was quite productive. Over a series of several weeks, we went back and forth after the application for rezoning and the general plan amendment was denied by the Planning Commission, to really get at the heart of what was behind the Canyon Neighborhood Association's opposition to this application. The opposition was primarily rooted in the idea of 'commercial creep,' for lack of a better word, and the idea that this was going to turn into a new gallery row at the heart of the entrance to Upper Canyon Road. That's where these conditions came from. Because there has been questions about Condition #5, I'll address that one first. The RAC zoning, as we heard when Ms. Baer read the conditions, already has fairly specific requirements. Things like frequently one of a kind, custom made – those are the type of restriction that I think is very much in line with the language of the restriction in Item #5. Any Certificate of Occupancy that might be issued to an art studio could contain those conditions, just like they would contain the otherwise applicable conditions of RAC. They're not of a different nature, they're just of a different type of definition. And I certainly think that, at

least at the stage of the occupancy permit being grant, that those could be included. Those are also very important to the Canyon Neighborhood Association, and I think other associations as well, although I don't want to speak for them. But that was a major focal point of having the Canyon Neighborhood Association come together in this process with the developer, so we are here tonight to tell you that the Canyon Neighborhood Association has withdrawn its opposition to the project on the conditions that these conditions of approval are adopted by the Council."

Mr. Egolf continued, "I would also like to draw the Council's attention to #11, and that is that these conditions include a provision that amendments to these conditions may only be achieved through a future rezoning process of this Governing Body. That is what makes the 3,000 sq. ft. total limit important. It's true that RAC has a 3,000 sq. ft. per parcel limit on commercial activity. However, there is the possibility for a variance to be granted that would allow that to expand from 3,000 sq. ft., as we saw in the previous application, to 4,600 sq. ft., in that case, to allow for a coffee shop. We want to make sure there is not the possibility for a variance to remove that 3,000 sq. ft. total commercial limit on the parcel without coming back before the Governing Body. In other words, there would not be the possibility of getting a variance through the Planning Commission. So I would urge that the Governing Body adopt these conditions, because these really are the product of a lot of hard work by the Neighborhood Association and the developer, and the Neighborhood Association members, and I do think they're reasonable and enforceable. And if there are any questions that come up of a legal nature that relate to this after we get through the testimony, I'm going to stay through the meeting and I'm happy to answer any of the questions that the Council might have either about the process or about the substance of the condition."

Robert Lockwood, local builder, [previously sworn], said he would like to express his support for the project. He said he passed by this school almost every day growing up in Santa Fe. He said, "I think one, as a builder, it's a health and safety hazard to have it just sitting there abandoned the way it is. I've built 7 schools in the last three years, and I can tell you it will never be a school again, because it doesn't fit the model of a modern school. So having an empty innovative use for it is great. And I just think it's a visual blight on Santa Fe, if you look at that school and the site and the landscaping and the horrible chain link fence around it. It reminds me of when they had such trouble building the New Mexico Bank and Trust that's such a nice building now, because people didn't want the old Edwards building with 4-foot high weeds around it taken down. So, I hope you will support this project. I think it's a good project. Thank you."

Cheri Johansen, President, 2369 Botolph, President, Neighborhood Network, [previously sworn], said she is speaking on behalf of the Network. She said, "Unfortunately, the Neighborhood Network opposes the rezoning of the Manderfield School property from R-5 to RAC. Basically, RAC allows the density of 21 units per acre which isn't consistent with the surrounding residential neighborhood. RAC drastically increases the commercial use and density of this property, which is right in the heart of the traditional Cristo Rey neighborhood. It sets a precedent for other similar properties in neighborhoods all across the City. It does not serve the immediate residents from the several neighborhoods who testified to

this at the Planning Commission meeting on August 1st. Many of the people who testified at the Planning Commission were long time residents in this community, some of them 200 years, and that's how long this community has been residential. And they were very concerned about changing the character and nature of the neighborhood. The Planning Commission found that all of the requirements of rezoning had not been met and that the rezoning was not consistent with the General Plan as it does not maintain Santa Fe's unique personality, sense of place and character as defined by the neighborhood residents through testimony at that hearing. They also found that the proposed uses were inconsistent with the prevailing residential use in this area. Once RAC zoning is put into place, it allows, without further notice or review, commercial uses such as arts and crafts studios, galleries, gift shops, arts and craft schools, non-profit theaters, antique stores, art supply stores, custom cabinet stores, floor shops, tailoring and dress shops. These would not be allowed under the current R-5 zoning. We think there are many uses and we hope this wonderful Manderfield School building can be revitalized within the existing zoning, and we would be happy to work with the Schools and the neighborhood to find a solution that does not require a change in density."

Richard Ellenberg, [previously sworn], said he is speaking as a member of the Board of the Canyon Neighborhood Association. He said this is a difficult, industrial building that doesn't really fit in, and sees it as the foot of the Canyon neighborhood, Camino Acacias neighborhood, mostly an entryway to very residential areas and are very cautious about commercial use. He said in addition to the meetings normally held, they held a meeting at Manderfield and leafleted everybody within a mile of the premises. He said the plans you've seen were very well received, but with a great deal of paranoia that we wouldn't get what we were being sold. When we couldn't agree on conditions, 80 people stayed here past midnight at the Planning Commission to oppose the rezoning. After that, they were able to agree on conditions, and with those conditions, people are generally happy with the plans. He sent emails on the proposed agreement to his list over 300 people, about ½ the families in the surrounding neighborhood. He said one person wished it was more residential, 3 people wished the coffee shop was still, which is something they didn't request. He said everyone else was complimentary. He said with regard to the conditions, the 3,000 sq. ft. is the restriction in Code for the building, which is the reason for that condition. He said a building is defined as something not separated by a firewall. He said if you build a firewall next to 3,000 sq. ft. it is technically a different building and another 3,000 sq. ft. He said he has done that and it works. He said, regarding Condition #5, that is extremely important, and if they had known in advance that staff would raise questions about, this room would be full. Condition #5 is intended to make that the sales on the premises are from the artist and not moving over to a gallery. He said in the Code, RAC would allow both artist studios and galleries, neither of which are defined. He said the effort here is to provide some definition that distinguishes between an artist studio and gallery. The definition proposed is very easy to discern. It's made by the people on or at the premises. He said the City won't have an inspector there every day, but if something turns into a gallery, it would be easy to file a complaint and for the City to determine if the conditions are or are not being met. He thinks it is a highly enforceable condition, and meant to deal with the problem that these terms are not defined in the Code. He said, "I would urge you to adopt this if you choose to, but with all conditions intact. They are extremely important to the neighbors, and as I say, this room would be full if people thought there might be a change to them."

Marilyn Bane, 622½ -B Canyon Road, on behalf of the Old SF Association, [previously sworn], said they are against the RAC Zoning. She lives on Canyon Road, and there are few residences left. She said it originally started as a RAC with studios like Drew Bachigalupa who lives there, works there and sells out of his home, but it's not like that any more. Secondly she said you are being asked to say it's this or it's going to be decayed. She said that isn't true, and there are other options. She said if you read your packet and the minutes of the Planning Commission, you heard members of the traditional neighborhoods around Manderfield, not Upper Canyon Road, say they didn't want any part of this. She said the Old Santa Fe Association stands by those traditional neighbors in that traditional neighborhood.

Ms. Bane continued, "Our Board has resolved to petition the Governing Body to change the existing RAC zoning on Canyon Road up from Palace Avenue." She said on the left is RAC zoning, but there is no commercial, and on the right is R-5 zoning. We are asking you to take away the RAC zoning on the left. She said there is one commercial establishment, John Majette's architecture, which is a home occupancy. She said, "There is no reason for that, and it is only because that RAC exists on the left that they are able to do the spot zoning for the R-5 Manderfield."

Ms. Bane continued, "Finally, John Gaw Meem designed Manderfield to be a school for the education of Santa Fe's youth. It's the Old Santa Fe Association's preference and our hope that this building, that was specifically designed to be a school could remain a school. Active reuse is terrific, I agree with Jennifer on that, but real use is better. During the years this property has been on the market, the School was asking \$1.5 million, and sometimes \$1.2 million. As soon as all of this started happening, the price dropped to under \$1 million, \$960,000 roughly. When it was \$1.5 million there wasn't a school that could possibly afford that, and then put on top of that another \$1 to \$2 million in renovations. Now that it is under \$1 million, it would seem to me that it is very possible that a school could do this. They could seriously look at this opportunity to restore Manderfield to its original use. I'd like for you to think about that. I don't know what to do about contracts, but I would like to think that, if there was an opportunity, there could be some kind of time devoted to thinking about something other than this particular option which is not being endorsed by the traditional neighborhood that will lead to the commercial creep that people have been talking about. If you look at 225 Canyon Road, that was zoned originally residential, well look at it now. 225 which was residential, because of variances, but because of special use permits it is now 100% commercial art galleries, mostly representing Phoenix artists. So I would ask you to give that thought. Thank you very much."

Fred Rowe, [previously sworn], said he is speaking as a Board Member and former President of the Neighborhood Network and said he endorses and endorses the statements made previously by Cheri Johansen and Marilyn Bane. He said all of us want to preserve the building, but not at the cost of commercializing and corrupting Santa Fe's oldest Hispanic, residential neighborhood, by, in our view, an illegal rezoning of 1.4 acres which would at least triple the density of the existing R-5 zoning. Instead, the applicant/developer would ignore the Planning Commission unanimously adopted findings, which state, "The RAC rezoning was not justified under City Code provisions and which expressly state that the RAC rezoning was 'not consistent with General Plan Policy' that call for maintaining Santa Fe's unique

personality, sense of place and character as expressed by neighborhood residents' testimony at the Planning Commission hearing, and I'm referring to Finding [inaudible] of the Planning Commission's unanimously adopted Findings.

Mr. Rowe continued, "We've heard a lot about conditions. These conditions have become sweeter and sweeter [inaudible] to the Council, but no matter how sweet the currently proposed conditions, we all know that these conditions can be changed by any Council, by this Council, by future Councils, at the instance of not only this developer, but the obvious successors to this developer to whom they will turn this property over as soon as they believe that they have the upper hand with regard to the rezoning. So even if this Council were inclined to overrule the Planning Commission tonight, which I seriously doubt, such an action may also be set aside by the District Court on appeal for legal reasons. Hence, if the Council disregards the Planning Commission's recommendations, I suggest that the City Attorney should provide the Council with a written, formal opinion, binding in Court, as to why the Planning Commission's findings were wrong and why this rezoning is contrary to the Planning Commission Finding is lawful in light of governing decision by Judge Hall and by the New Mexico Supreme Court."

Eric Enfield, Architect and Planner, [previously sworn], said he has worked on many John Gaw Meem buildings, including the Museum of Spanish Colonial Arts. He worked on the sculpture at the Museum of Fine Arts, Harry's Roadhouse and other projects. He is here in support of the project. He said, "It sounds like the evil developer has moved in on Manderfield from some of the testimony tonight. And I would tell you, I was at the Planning Commission meeting. It wasn't a unanimous vote. There was much support on the Planning Commission for this project. As a matter of fact, the majority of residents that spoke against it also said they appreciated the project and felt the intent was good."

Mr. Enfield continued said the applicants before you have included numerous conditions he finds would be difficult to accept, that they have accepted. He supports the project for numerous reasons. One, he believes the alternate is a deteriorating school, and the alternative is more decay on the school. I also think the sale of the surplus public school property is important to the Public Schools, and I believe you have a letter in your packet that said it is important. The money will go back into the public education system of Santa Fe that needs it. He thinks the proposed uses and associated residential Arts and Crafts zoning is completely appropriate. This isn't commercial zoning. Any bar, restaurant business, professional office, medical office, would require special exceptions, which he doesn't believe the neighbors would allow to be granted. He said the discussion of spot zoning is not accurate. The RAC zoning extends way beyond John Majette's office, and his mother had an antique shop next to it, and he had an antique shop. So that's RAC zoning further up Upper Canyon Road and it's zoned RAC and there are architects, jewelry shops, web designers occurring well beyond this site on Upper Canyon Road.

Mr. Enfield continued, saying this structure housed a fairly intensive use, the Manderfield School. He said the Old Santa Fe Prep was zoned RAC above this property. They probably had 100 kids, with associated teachers, parents and cars. These are some of the reasons he supports the project. He said the proposal for 10 residences and 6 artists studios is less intensive than the previous use which was

institutional. He said institutional is being changed to a residential Arts and Crafts use. He lived on East Alameda as a child, worked as a dishwasher at El Farol and he appreciated having a life on Canyon Road. He said it has changed, and there galleries bringing in art from different places. He said this is the third largest art market behind New York and Los Angeles. He is glad the applicant amended the plan to reflect neighbors concerns, commenting there are no neighbors behind him waiting to say they don't want this in their neighborhood. He said there a couple of people representing neighborhood groups, although he doesn't know if a vote was taken by the Neighborhood Association or the Old Santa Fe Association. He said he feels the developer listened to the neighborhood and hopes the Council agrees.

William Prough, 802 Bishops Lodge Road, [previously sworn], said he has been a resident since 1979, and a business since 1984. He is a local builder and has worked on similar restoration projects throughout the City. He said he is in support of the project, and believes it is appropriate. He spent 20 years with his kids going to school and working in this area. He is delighted that something as well thought out as this could be done there. He said the property is in extreme disrepair, parapets are falling, there is leakage, wood windows are almost falling off the buildings, and there has been forced entry and misuse of the interior by unauthorized people. He said this is a good opportunity, and he encourages the Council to move forward with it.

Rick Martinez, [previously sworn], said he grew up on Canyon Road, so he knows it pretty well, and agrees with Ms. Bane with regard to the fact that it started as residential and is now all commercial. He talked about reuse of schools buildings, including City Hall which was the High School, and Harvey School which is part of the Courthouse, and Harrington. He said Manderfield needs to stay as an institutional use and not be changed to commercial. He said the Indian School demolished its history. He said there is a quote on the walls at the State Archive Building – One who forgets his past has no future. He said, "I ask that you deny this rezoning and tell the Public Schools to look at a better use for this property so we can say we still have a future for our City and have not forgotten our past."

Craig Huitfeld, [previously sworn], said he has been a realtor in Santa Fe for more than 25 years, and he considers this property to be a visual blight. It is in the main core of the tourism district and what is being proposed is a huge improvement, and he totally approves of the project.

Eric Struck [previously sworn], said he is a local business owner in Santa Fe and he is in support of the Manderfield revitalization because it is a building, like the man said before, which is a blight on the community. He thinks we need to move forward and this is an opportunity to make that happen.

Joan Bly, 1266 Upper Canyon Road [previously sworn], said she is here to strongly oppose the change in the zoning to RAC with the conditions, and asked who will monitor the conditions. She said,

"Let's talk about something else if they're met and this turns into commercial property. What about light pollution, what about exhaust pollution from the 42 or more cars that are going to park there. Most of the people who say we should have this, where do they live in relationship to this developing property. I would like to know where they live. I'll bet most of them live more than a mile away, not the hundreds of people who live in San Acacio and the other neighborhoods nearby. Very few of them are supporting this. How many of the 300 on Richard Ellenberg's list actually are supporting this change. Maybe there are quite a few. There are others, I hear I don't know what they are, I understand there are other possibilities, very live other possibilities, and it is not a question that if this proposal is not accepted, Manderfield School in its ugliness will deteriorate into disaster. I don't think that will be the case at all. I think there is a real possibility that once... people don't know the price has gone down, once that's found out. Under the current situation, what you're asking for with the RAC with conditions, these conditions would still allow a situation where there could be a whole bunch of short term rentals there. So we turn Manderfield School into a kind of Santa Fe boutique hotel, so to speak. It still will meet all the rules, but it will be people moving in and out."

Ms. Bly continued, "There is an increasing tendency to commercialize Canyon Road. And one of the things valuable in Santa Fe is not just all of these art sales, but the people who walk up and down Canyon Road, it's actually from Cristo Rey down to the Audubon. They come here to enjoy nature and community, the homes. They want relief from all the galleries. I hear people, when I'm working on the garden out front, I hear people from all nations out there, people on motorcycles, baby strollers, hikers, because they enjoy the fact that it's not commercial. And there could be more than that 17 development, remember there could be 21 with the RAC, with conditions. So, there are lot of people in the Canyon Road Association who do not approve of the RAC with the current conditions, who do not want the change in the zoning. And I think you should hear sometimes, the quiet voices of people in the San Acacio Neighborhood, the traditional Hispanic neighborhoods. They should be heard, and that's not people who have a big commercial interest. Ask who lives close to Manderfield School.

Rad Acton, 1206 Upper Canyon Road, member of Canyon Neighborhood, [previously sworn], said he was a member of the task force that met with the developer to hash out the conditions. He said, "We were aware what proposing an RAC with conditions was going to require of the City Council. And what we found was very reassuring that there was going to be an accommodation of this customization of RAC zoning by the City. And I know that the burden is something that the neighborhood questions whether it can be accurately addressed. And, there's a lot of fear around whether there's going to be this kind of abdication of the vigilance needed to monitor the kinds of businesses that are going to be going into that space. And we've done the best we can to make it very clear what an art studio constitutes. And we hope that you think about the process by which a business is established in that school. The applicant will come to you for a business licence and an occupancy permit. At that point the applicant is asked 3 basic questions and the applicant has to answer in the affirmative for each of the 3 questions. The first. What kind of business is it. If he says art studio, we say great. Next question. Do you plan to sell art that was made off-site, and if he says no, then you say great. And then you ask him, will the art sell in that building be made by you. If he says yes, you say great. You give him that occupancy permit and

he can work and live out of that space. I want to make it very clear that this is not an overly-daunting burden being put on you, and I think the way the conditions were drafted, and the way the neighborhood resolved to put them together is a feasible, feasible undertaking. Customize RAC. Make it work. It's a flawed district or designation for a sensitive, transitional property like this. For it to work, it needs this kind of clarity, and I'm sure the creative staff at Land Use will be able to make that happen. Thank you."

Brad Perkins, 3 Camino Pequino, [previously sworn], said he has a couple of points. He said, "I understand testimony has been given that the OSFTA [Old Santa Fe Trail Association] did not take a vote on this subject. That's incorrect. I'm a member of the Board of OSFTA. I was there. The vote against rezoning was unanimous. It was official, so there should be no question about whether OSFTA supports this or not. In fact, I think as Marilyn may have said, OSFTA is in favor of removing the RAC zoning on Canyon Road all the way back to the Palace intersection. The second comment I would like to make. The nice lady that was here just before Rad, talked about the neighborhood's interest and participation. I was at the PC meeting past midnight. And I can tell you, if you don't know, by my count, 26 people stood up from the community to testify. 23 of the 26 were from the Cristo Rey neighborhood, and they were all speaking against it. There were only two people who spoke for it. The last point I would like to make is that I think that a number of you are running for some office in the upcoming election and I would think that, number one on your platform of things that you are for, would be protection of the neighborhoods in Santa Fe. Protection of the stability of the neighborhoods. This is an assault on the stability of the Cristo Rey neighborhood. It's a precedent. It shows it can be done in any neighborhood in the community. That's bad policy, and that's bad precedent. Of course I hope you'll vote against it."

The Public Hearing was closed

Councilor Bushee said she read all of the minutes, the Findings of Fact and Conclusion of Law. She said, "I read the project. I've been hearing bits and pieces about negotiations, not in great detail. What I can tell you is it's odd. Because I think the developer and the neighborhood, well the neighborhood association, their attorney and their neighborhood may want to go to the same place, because I think you can't do it under RAC zoning. I think what you're trying to do is to rewrite RAC zoning in a way that is unenforceable. What I can say from my perspective of having served here for two decades, RAC is a failed zoning category. If you take a look at Canyon Road, well intentioned. And I started to ask those questions at the start, because there is no way, with all the possibilities for special exceptions and special uses and variances that it would ever.... when we're not here, when all of us up here are gone, I can guarantee you that what you're going to see under RAC zoning category is what you have on lower Canyon Road – restaurants, galleries. It's a good thought, but RAC, it doesn't even qualify as mixed use zoning at this pointy. It's really become commercial. I think it was well intentioned, as I think the discussion between the neighborhood, well Upper Canyon at least, and the developers, I think it was well intentioned. But I have to tell you what Rad describe was this made here, you know, do you live here. Those are the kinds of things we actually apply very strict criteria to our Plaza vendors and it's really also something that people... I mean, it's a nightmare for enforcement for staff."

Councilor Bushee continued, "And I will say that I was surprised to hear staff stand up and say they objected to the conditions, primarily because they have no mechanism by which to enforce them. And so, what I would really suggest.... and again, I'm just going to take one minute. And I am disappointed to see that some of the neighbors that I expected to see here – the Ortegas, Bonifacio Armijo, folks that grew up there, the Abeytas who.... if you look at the map, it's very clear. This is a residential area, and the RAC zoning, while well intentioned in what it states, it's not achievable there. You know, Jennifer you say, working artist on Canyon Road, what a concept. It is a good concept. I don't know how you actually achieve it through RAC zoning. Period. I see no way. I saw some notice... Suby Bowden mentioned a cultural conservation easement. I don't know that staff knows how you create a cultural conservation easement. If someone can tell me about that, please do."

Councilor Bushee continued, "You know. Overflow parking. I can guarantee you that parking will be down to Brad Perkins house on Camino Pequeno if it is a successful venture, because it's already hard enough to get a parking spot on Canyon Road. So I'm just going to, for everybody's sake, and it's clear to me, you know. One of the following conditions must exist for a rezoning. There was a mistake in the original zoning and there's been a change in the surrounding area altering the character of the neighborhood to such an extent as to justify changing the zone. A different use category is more advantageous to the community, as articulated in the plan or other adopted City plans. It states below in the Findings of Fact, that the abandonment of the school use has altered the character of the neighborhood but not to such an extent as would justify changing the zoning. The other comments, written by our attorneys, in terms of the Findings of Fact and Conclusions of Law, changing the plan's designation of the property from public institutional to a residential designation is consistent with the abandonment of the former school use and adjacent properties to the west and the north. And they're designated as medium density residential low. However, the character of existing residential development on the adjacent properties is at the lower density as reflected in the R-5 zoning in all but the property on the north side which has a little bit of RAC. And then it says, consistency with the other parts of the plan. The proposed amendment is not consistent with the provisions of the plan that call for maintaining Santa Fe's unique personality, sense of place of character as expressed by the neighborhood residents for the testimony at the hearing"

Councilor Bushee continued, "And it also goes on to say the proposed amendment will allow a restaurant and art studio use, that is inconsistent with the prevailing residential use of the properties to the west and south. It then says that the proposed amendment does not promote the general welfare or have other public advantages of justification. It also says the proposed amendment will not contribute to a coordinated, adjusted, harmonious development of the City in that it is inconsistent with the policies of the plan as set forth in Paragraph 15(A)(d) above."

Councilor Bushee continued, "And so my concern really is that as well as intentioned as all of the effort that was put forth on this, I don't think you can achieve what you want to do under RAC zoning. And staff has made it clear to me that the conditions are unenforceable."

MOTION: Councilor Bushee moved, seconded by Councilor Wurzburger for purposes of discussion, to deny the request for approval of the General Plan Amendment.

DISCUSSION: Councilor Wurzburger said she read every page as well, and then spent time talking today with Matthew O'Reilly. She said, "I want to start with my concern about process. It was very difficult for me to try to figure out what we were actually looking at. Because we had a recommendation from the Planning Commission on something that we're now not asked to act upon. And we don't have a recommendation from the Planning Commission with respect to this particular proposal which has been worked out independently from the process. The most salient arguments for me were those about the immediate neighborhood, and I too, am concerned that, despite how much work was done by the Canyon Road Association, somehow we don't see those people here tonight, and yet we have their testimony about a proposal which we're not considering tonight. Where I would go with this later, perhaps, would be to at least have a Planning Commission opinion of it again, so we have the opportunity for hearing those voices with respect to what is actually being considered by this council."

Councilor Wurzburger continued, "I'll go ahead and raise a couple of other points that confuse me. I would like clarification from staff because of Cherie's testimony on the definition of RAC, that included restaurants, etcetera, etcetera, and staff, when you were introducing the definition of, when Tamara read it, it did not say that, so I want perfect clarity around, are restaurants, etcetera, etcetera, allowed in RAC."

Ms. Lamboy said the restaurants are now considered a special use, effective March 1, 2012. And so, as previously things were a little more relaxed in that case, just because of the impacts, the Code was updated and changed to allow for additional review of those particular uses. And that's why the restaurant was presented to the Planning Commission as a special use."

Councilor Wurzburger said, "The other thing I have to say, with greatest respect to Rad Acton, for whom I have great respect, my own knowledge... I was with you until you were describing what would happen when you go to the window. And if we expect people at the window who are doing, and this is no direct criticism of staff, but I'm saying in terms of reality, to be sitting there and have the clear definition of the requirements that are placed on this RAC application, I just can't see that those 3 questions, that they would even have them in their portfolio of things that you are asking. Yes indeed, they would say, what is your business going to be, and the person would honestly answer that, but you wouldn't get to all 3 levels of those questions and that concerns. So, I'll defer to someone else, but I would like to have further discussion about the notion of how we actually have a vote on something that has been considered both by the Planning Commission and has an expanded discussion from others in the neighborhood who appear to not have been part of the process that resulted in the proposal upon which we are expected to vote tonight."

Councilor Calvert said, "Picking up on that one point of enforcement of Condition #5. Even if you could do everything Mr. Acton said, what is your protection ongoing. Who will enforce it on a day to day basis after we have approved it. That is the thing that I don't think there's an answer for that I hear right way, in terms of enforcement and making sure that you keep it. You can ask those questions, and even if they answer

honestly, and it's their original intent to do so, down the road that doesn't mean that whoever is in that space is going to continue to comply. And how you enforce that, I think, would be problematic."

Councilor Calvert continued, "I think I concur with Councilor Wurzbarger in the regard that we've had people tell us how could we go against Findings and Conclusions of the Planning Commission, but they were hearing a much expanded case than what is before us tonight. And so, I don't think are necessarily binding on us, I don't think we disregard them altogether, but I don't think we're bound to them, because it's a different case."

Councilor Calvert continued, "The other thing I will say, and pardon the slight digression, but I know this is not part of the case that it is before us, but what I'm hearing the fear of the commercial creep. And I can understand that, but sometimes I think our fear of what could happen, gets in the way of our realizing what could happen in a positive way. And people talk about tradition and traditional uses in some of these neighborhoods. I look at things, like the old market in the 800 block of Palace. God, I don't think that could get built today, but it was the fabric of that neighborhood for many years. Johnny's Market on Camino don Miguel. I don't think anybody would allow it to happen today, but it was part of the fabric and the center of those communities, and it was how people came together. I know the coffee shop proposal isn't before us, but I look at current examples like Downtown Subscription which seems to be fairly successful and people enjoy it, but I don't think I'm hearing any votes in favor of that either tonight. The Better Day Coffee Shop in Casa Solana provided a place for people to meet in Casa Solana that hasn't had one in years. And I think Tierra Contenta made a point to have coffee shop in their community too, and I understand that's not before us, and I'm digressing. But I'm speaking to the point of the fear of the commercial creep. And I think you have to look at what can happen and not always be afraid of what might happen that's negative. One of the things that I hear neighbors and neighborhoods complain about all the time, the number one complaints is traffic and speed in neighborhoods. Well, if you don't ever allow anything that in a neighborhood, then there is a self-fulfilling prophecy that you're going to have more speed and more traffic, because everybody is going to be going somewhere else to do those things that they want to do."

Councilor Calvert continue, "I think, if I understand Councilor Wurzbarger correctly, I think where I would like to see this go, and maybe some of these issues and refinement of the proposal could take place, is to send this back to the Planning Commission to hear the case that is now before us, so that we get their ruling on that case and not be doing a ruling on a new case that hasn't been heard before."

Councilor Ives said he would like clarification on what uses specifically are allowed under the public institutional zoning which currently exists.

Ms. Lamboy said the typical uses allowed in public institutional include school uses as well as City government, state government as well as religious uses. Those are actually... the public institutional is not a zoning category, it is a future land use category. We don't have a zoning district that specifically applies to those types of uses. They are permitted in residential zoned districts wherever those public uses are. A park also may be concluded."

Councilor Ives said then if someone would propose just residential uses on this property, that would be permitted under the current classification without any rezoning being necessary.

Ms. Lamboy said yes. The zoning category of R-5 allows residential, 5 dwelling units per acre. It's not consistent with the General Plan, but if they were just to come in to apply for that, the current zoning would allow that.

Councilor Ives said on some of the conditions of approval, it notes "there shall be a maximum of 18 dwelling units on the lot." He said when he looks at that plan, it suggests 6 in the building space, existing and then it shows the 4 separate casitas. He asked how we get to 18 from there.

Ms. Jenkins said that came out of the discussions with the neighbors, because the 21 dwelling units per acre permissible under the RAC would never fit on this property. There are a lot of inherent restrictions on how this property can be redeveloped. For example, the east elevation, the front of the building that faces Canyon Road, is a primary elevation as far as the Historic Ordinance goes. You can't put any buildings in front of that. You can't block that with buildings. So the only area that is permissible for any kind of new structures is the rear, in the back. So, accommodating access and parking, there is a pretty limited amount of space. They currently are proposing 10 dwellings. She said, "But also, the neighborhood would very.... to be realistic about... well what if at some point maybe the art studios, those got converted to residential uses, and they wanted that flexibility. They said you need to have that kind of flexibility where the art studios could be used residentially or as art studios and in having that inherent flexibility. So when we looked at it... we haven't designed this to the nth degree yet. What we're talking about are our conceptual ideas and looking at the natural restrictions of the land itself. So, for example, the school, if you had relatively small dwellings in the school building, you could have 14 sq. ft. apartments which would be very generous. 800 sq. ft., you could do 2 bedrooms in there. It could be really nice and then 4 dwellings on the exterior for new construction. So the 18 figure was a limit that said, depending on how this gets designed as we move forward, with a little bit of flexibility, but by no means are we interested in 21 du's per acre. It's not a reality, so we put that as a cap, because it allows a certain amount of design flexibility in terms of the size of the units themselves."

Councilor Ives said when this came to the Council from Historic, a condition was placed on the reuse of the existing structural components of the back side of the building to the greatest extent practicable. He said he doesn't see that in here, and asked how that fits.

Ms. Jenkins said, "We are going to be very consistent with that condition with respect to the west facade, the back side of the building, that is not a primary elevation, so theoretically, one could add square footage to the back side of the building, but that is not part of our plan. We are not proposing to add any square footage. We want to add some exterior courtyards to provide for some private outdoor space, so our program now is very consistent with that condition."

Councilor Ives said the language on Condition #5 is problematic as stated, "Only art may be sold at the studios and the art must be produced by the bona fide tenant/owner occupant of the studio or produced at

the studio premises." He said "produced at the studio premises," would seem to open it to participation by any number of artists which, if all sold through the premise, you might have 20 artists selling out of one which studio which begins to hear a great deal like a gallery.

Ms. Jenkins said the studios would be 400-500 sq. ft., which is small, so there are natural restrictions of this property and it's very self-policing. With respect to #5, it is important to note that they worked very diligently with staff on conditions. All of these conditions, per our conversation with staff are absolutely enforceable, via this rezone action as the development plan which will come later. They did have concerns about #5, and we respect that, and the reason there are other mechanisms they have already agreed to with the neighborhood association to put in place, with respect to the covenants. She said, "We have agreed to have covenants that aren't amendable. It's written into the covenants they can never be amended, ever. So there are other layers of enforcement that are absolutely available. Again, a lot of work and a lot of effort. We have 11 conditions. Staff has concerns about enforceability of one of them. But, we don't have concerns about the enforceability of that one. We know that, working with the neighborhood and collaborating with them, is something. It will be a public record. It will be recorded at the County. It will be a public record for future use."

Councilor Bushee she doesn't think staff would say they were unenforceable if they were enforceable.

Matthew O'Reilly said, "I think what you've heard tonight is that staff thinks #5 is not enforceable, mostly, honestly, for the reasons raised by Councilor Calvert. And I would like to add that it is always the City and the City staff who are asked to enforce these kinds of things, and they are the only ones who are legally commissioned to enforce them."

Councilor Bushee said, "And to clarify, the City does not enforce private covenants."

Mr. O'Reilly said that is correct.

Councilor Bushee said, "I presume the coffee shop was jettisoned because of the Planning Commission."

Ms. Jennifer's said, "Partly, and we had a lot of support for the coffee shop, and that was actually in our very early dialogue with members of the neighborhood. It was their idea. It wasn't part of the original neighborhood."

Councilor Bushee asked if she is speaking of the Upper Canyon neighborhood, or existing or surrounding neighborhood, commenting she didn't hear a lot of objection to it.

Ms. Jenkins said there was some objection to the coffee shop, and the Abeytas, the nearest neighbors to the west, expressed concern about the coffee shop. She said they decided it was prudent to let it go. She said since they went to Planning Commission and come back here, one of the most common things they hear is, "Oh, it's too bad about the coffee shop." She said it wasn't part of the original program and they felt okay letting it go. She said the reason people who live west of the project in the traditional

neighborhood aren't here is that they have been dialoguing with them and they are much more comfortable. She said, "We have been in communication, and that's why they're not here."

Councilor Bushee said she watched the Railyard Loft which was supposed to be an artist live/work scenario and it's remained mostly residential at this point. She asked if there a reason they didn't want to pursue the R-5 zoning which would be more compatible.

Ms. Jenkins said, "Restoring that school is extremely expensive. Since this school has been on the market, this is a small town, Colleen and I have engaged with several parties who were looking at acquiring this property. And some you might have been award of, an arts organization and some other parties we've been involved with, and as soon as they run the numbers they bail. It is an extremely endeavor to restore that school."

Councilor Bushee asked if any of them were learning institutions.

Ms. Jenkins said one was a non-profit arts organization, but there were no learning institutions. She said, "A school could not afford the millions of dollars it is going to take to rehabilitate that building, If the school could afford the purchase price of just under a million dollars, maybe. But then it's the problematic issue we've run into with St. Catherine's. The buildings are worthy of preservation and it's expensive. So having the ability of being able to do a couple of extra dwelling units makes an enormous different on the financial viability of the project."

Councilor Bushee said she agrees with Councilors Wurzbarger and Calvert, in terms of process. She said, "It was a little extraordinary that the negotiations happened outside of the Planning Commission venue. She thinks she hears people interested in sending it back to the Planning Commission. However, I don't think it changes anything in terms of the enforceability of the conditions that you worked out with the Upper Canyon neighborhood. So I have my concerns that it's just going to land back here in some kind of an appeal. So I'm going to pass it on to the folks that raised that issue, but those are my questions."

Councilor Wurzbarger said, "It was on the point before, which you did not answer the question, at least not to my satisfaction with respect to Councilor Bushee's specific question, regarding why did you choose to do an RAC as opposed to doing residential, even financially. You started to give a financial answer, and then you flipped into your discussion of institutions. So would you please answer that question, because maybe there's some other way to look at this, where people are.... some modification of home ordinance kind of thing, where they're creating their art, they're living there and there is that consistency with what happens on Canyon Road, so if you will please answer that question. I didn't hear the answer, perhaps Councilor Bushee did."

Ms. Jenkins said, "When the applicant originally was pursuing the property, the desire for something mixed use that has a public component with respect to art and art studios, was part of the vision. That was part of the desire for how do you take a big institutional building and what is appropriate in terms of an adaptive reuse of that building. And her vision was primarily residential that incorporated art studios. And so we looked at what is the zoning that would allow for that."

Councilor Wurzbarger said, "And the difference is the issue of being able to sell as opposed to being able to create."

Ms. Jenkins said, "No. There was a recognition on the part of the Canyon Association, that if someone is there and they're making art, it's appropriate that they should be able to make their art available for sale in that location, and that really came from them. And we thought it was appropriate. And we have been working very closely with the Canyon Neighborhood Association, well in advance of the Planning Commission hearing. We had agreed on a lot of these conditions in advance. And what we were lacking when we went to the Planning Commission was how was the mechanism of enforceability going to work out. How was that going to work out. That was somewhat unresolved when we went to the Planning Commission."

Ms. Jenkins continued, "Post-Planning Commission, we found a way. And we worked very closely with the City Attorney's Office to find a way. And that's the only real difference. A lot of the conditions were in place. They got refined and tweaked and modified, but our interaction with the neighbors started well before then and we just kept going. We kept looking for solutions and compromise and a way to create a win-win."

Councilor Wurzbarger said, "I'm so concerned about the voices that I don't hear."

Councilor Bushee said, "The other concern Jennifer, of course, is you could just get this up-zoning and sell it off. And since there is no enforceability allowed for here, we really have no idea what will happen there in the future, and it may not be about preservation of that building. It may just be about upzoning, tripling the density and you're gone."

Ms. Jenkins said, "That is why we have asked the City and the City has agreed that these conditions will be recorded just like you record a subdivision plat, a development plan. We have conditional zoning all the time."

Councilor Bushee said the lawyers do not let us do conditional zoning.

Ms. Jenkins said that is the very issue we've been working on. That is why we're here. Is because we found a mechanism that Kelley and Geno are comfortable with. This will be recorded in a public record."

Councilor Wurzbarger said she would like to hear from staff in regard to this issue.

Kelley Brennan said, "I wrote Findings of Fact that reflected the Planning Commission's decision and that's what I always do or try to do. And of course, you are the final decision makers in these two case, so I just emphasize that. In hearing, in front of the Planning Commission, there was a lot of misunderstanding, I thought, about conditions on rezonings. And I talked to some of the people afterwards and I said, actually, I think there are circumstances on which conditions on rezonings and general plan amendments can apply, and I point to provisions in the Code, Code Section 14-3.2(D)(3), provides that 'The Governing Body shall take final action to approve, to approve with conditions, or deny the proposed General Plan Amendment, that specifically contemplates approval with conditions'."

Ms. Brennan continued, " Code Section 14-3.5(B)(2)(a), provides, 'The Governing Body may suggest changes to the application as a condition of Governing Body approval. The Governing Body shall take final action to approve, approve with conditions, or deny the proposed rezoning'"

Ms. Brennan continued, "Code Section 14-3.1, which is within the general provisions of the Code, is entitled, 'Conditions of Approval,' says, 'Applications may be approved with conditions of approval to ensure compliance with the purpose and intent of Chapter 14 and any applicable land use policy. Those policies and themes are reflected in the General Plan.' And as I think you've probably heard many times, the General Plan embodies a broad array of themes and policies that sometimes seem to conflict. And it's up to the Planning Commission and the Governing Body and the other body hearing applications, to decide which ones apply most specifically to the projects and applications before them in light of the Code, and what is the long term intent of the community in making a decision."

Ms. Brennan continued, "And so I would say that you can apply conditions, to both, and there is case law to the effect that an applicant can make a unilateral promise to a board or commission, or to the Council, and that promise does not becoming effective and enforceable until the act of zoning. And the process has to be followed. But this is the Supreme Court of New Mexico in a case that's still good law. And so yes, you can apply conditions. What you can't do, is you can't apply a condition that you say, yes, we'll grant you R-10 zoning, but you can only build only 5 units. If the applicant offers, you can accept that offer. You can't modify the zoning for one particular person."

Councilor Bushee said, "Are these the conditions we're talking about specifically here tonight. The conditions can be applied. How can they be enforced."

Ms. Brennan said, "I think the only condition that staff had a problem with was #5. I think the others are entirely within the realm of every day enforcement. The intent of #5 could perhaps be accomplished through better drafting, or slight conceptual changes. I haven't thought about it that much, because it's really not on my radar, but reading it, it seemed it was not the most effective way of accomplishing the end. And what I would say, if the City were required to enforce it, like we do much of our enforcement, somebody would call and make a complaint. And we would go and investigate and find that there was a violation or not. It would be more difficult because it would be, is this your painting, did your cousin do this, did they do it here."

Councilor Bushee asked Ms. Jenkins if they actually have the plans to restore the building.

Ms. Jenkins said, "Yes. That is the plan and the vision, but here's the beauty and this is part of what we worked on with the Canyon Neighborhood Association is, what if it did get flipped. Horrible, death in the family, applicants like I can't deal, I need to unload it. If they sell the property, there is a title search. Guess what the title search turns up in the public record. All the conditions of approval that run with the land. So the next buyer is going to go oh wow. This is everything I'm allowed to do and everything I'm not allowed to do. It runs with the land, so it doesn't matter if there's a next person. If something catastrophic that happens that creates a next owner or developer, the conditions run with the land, and that's what's great about it."

Councilor Bushee said, "Here's my thinking, back to where you were, I think that I should rescind my motion and we should remand this to the Planning Commission to work out all of what we think is maybe not possible at this level. It doesn't feel like Part 2 of the Planning Commission never happened, and it feels like it should happen again."

WITHDRAWAL OF MOTION BY MAKER: Councilor Bushee withdrew her motion.

MOTION: Councilor Wurzbarger moved, seconded by Councilor Calvert, to remand Case #2013-37 and Case #2013-38, back to the Planning Commission for rehearing, with direction that "I am most interested in having confirmation as to who participates in that debate, so we have clarity around the issue of the neighbors who are contiguous who you are representing as saying being for this, even though they are not here tonight, you are representing that."

FURTHER DIRECTION ON THE MOTION: Councilor Wurzbarger said she is not convinced that the maximum of 18 dwelling units should be the number. She said, "I would like to hear further rationale. I know Councilor Ives you had raised that, but I'm still not clear on why 18. I was doing some of the math today with Matt, and it is at 10 now and it can go up to 18, so I don't understand the rationale, unless it's solely for the purpose, you say the word flexibility. The question is, it seems that if that were a lower number, that might be more amenable to those who are concerned about having so much density increase in their neighborhood, so I would like that explanation as well. So, that flowing motion, and we're adding also a question of clarification of the issue if there is any consideration of overflow parking. Of course if you're reducing the density, that would affect that as well. So, is that the kind of motion you can understand, or shall I try again. Shall we do it again."

Mayor Coss said, "I think we have a second from Councilor Calvert with the conditions. I see Matt O'Reilly acting like he wants to say something."

DISCUSSION: Matthew O'Reilly said, "I would just ask that... you heard that this was a very long hearing at the Planning Commission. They struggled with it. There was a lot of testimony. I would just ask the Governing Body that you give very specific, clear direction to the Planning Commission in your motion as to exactly what you want them to do."

CLARIFICATION OF THE MOTION: Councilor Wurzbarger said, "My motion is that we remand this back to the Planning Commission to review the proposal that is actually in front of us tonight, and if the proponent has the ability, they can come back and address the concerns for that application to reflect the issues that have been raised with respect to density, with respect to confirmation of neighborhood, close neighbor participation, and thirdly, the issue that Councilor Bushee has raised of traffic overflow. That means you could have the exact same proposal, but you have a rationale and then explanation of how those three criteria are met in the proposal which is before us tonight, but we're asking to get the Planning Commission's opinion, and not just our own." Councilor Bushee asked if that would be at a public hearing, and Councilor Wurzbarger said, "Oh yes. Public hearing. Big time."

CONTINUATION OF DISCUSSION ON THE MOTION: Councilor Trujillo said, "Jennifer, I really do like the proposal you're making, but with regard to the integrity of neighborhoods, I try to be fair, in all my time on the Council, whether District 1, 2, 3 or 4..... I want something that's going into a neighborhood that fits the neighborhood that the neighborhood is comfortable with. The thing that I don't appreciate is anytime something comes before this Council, it seems like, it always seems like, I'm sorry it's always on the East Side, there's all these threats that are given to if we don't pass this, if you do pass this, we're going to a lawsuit to District Court. I hear this all the time. I hear one person talk about, see what the neighborhood wants. It kind of reminded me of the WalMart issue, because the majority of people that didn't want it, are on this side of town. They knew what was best for us people on the South Side. These are things I have concern about. It's going back to the Planning Commission. I hope they give us better clarification on what they're going to vote on, so we can make the better decision on that. The thing that I don't want to see happen with this property... although it is zoned for a school, I've already seen sometimes, maybe a public school wants to do something with it, but maybe they're going to put it as a high school or a junior high. There's going to be more traffic if it is a high school with those kids driving cars. Are we going to be against that now, because yes, it's still staying a school, but guess what. It's a high school now. There's all these things that can happen. And I really don't want to look back on this in 20 years to see another City Council sitting up here debating, probably the school. You already see the debacle we have with St. Cate's. I sure as heck don't want to see this become another St. Cate's in 20 years down the line. Some Council saying, gee, I wish the Council back in 2013 would have done the right thing. I know this is going back to the Planning Commission. We'll see where it goes."

Councilor Calvert said, "The reason I would like this to go back, are two things that have changed. One, part of the proposal has been dropped, and secondly, a bunch of supposedly reassuring conditions have been added. When looking at the minutes of the Planning Commission, people were testifying on the old case. And everybody's giving us opinions on where everybody stood on this project, but it isn't the same project, so we don't know if everybody's opinions are the same or different, or where those stand with the revised project. So I would like to give them all an opportunity to see this revised project. They may not have understood that it was going to be before us, or that the project had changed before it came to us and may not be here. But they sure were there at the Planning Commission. I think I would like to see them have the opportunity to look at the project as it now stands, with the added conditions and with certain things dropped, and to see whether they're next to the project or not. I think they'll need to see what the project is now before we can put any credibility in those opinions that were given before."

CLARIFICATION OF THE MOTION: Ms. Brennan said, "I just want to say Mayor, Councilors, that I assume that the motion is for a remand and a rehearing on the application as submitted to the Council."

Councilor Wurzbarger said yes, that is more succinct.

CONTINUATION OF DISCUSSION ON THE MOTION: Councilor Ives said he has been puzzled during the discussion about a number of things including the distinction between Home Occupation and Arts and Crafts Studio, both of which come into play in this particular discussion. When I look at what our Ordinances currently provide, I note a Home Occupation is defined as, "An occupation or business activity that results in a product or service that is conducted for gainful employment in a dwelling unit by a person residing in that dwelling unit. A home occupation is customarily incidental to the residential use of the dwelling unit." So presumably, an artist living in a dwelling unit could use that dwelling unit as a studio space to create art in.

Councilor Ives continued, "If I look at the Arts & Crafts Studio definition, it says, "A building that contains artists or craft studio space, or schools in which works of art or craft are produced that may be sold on or off the premises." He said, "In the home occupation, I don't see any prohibition against home sale. In fact, I think it would be presumed to be the case. But where these come into real focus, in terms of my thinking on this, is R-5 versus an RAC overlay. So there's some of me that wonders whether or not much of what is seeking to be accomplished in this, could be accomplished without doing an RAC overlay, because you would have however many homes in which home occupations could be pursued, which could include using that home space as a studio space with the artist living in that space. Am I missing something."

Mr. O'Reilly said he is impressed the way Councilor Ives focused in on that, because that's really what Condition #5 seeks to do – make this more like a home occupation. He said, "There would be a difference. The RAC is not an overlay. It is a stand-alone zoning district. A Home Occupation, there are two types. There are the types where clientele does not come to the premises, and there are the less frequent types where clientele does come to the premises, and there are real restriction in the Home Occupation on those types of home occupations where clientele comes to the premises. In RAC zoning, there is no such restriction. 100 people could come to one of these studios a day. If there were 5 of them, it could be 500 people. A home occupation had that kind of traffic would not be approved by the Land Use Department. So, there is a difference, although you are very perceptive in pointing out that Condition #5 does get this closer to what a Home Occupation is. If the applicant could live with the kinds of restriction that a home occupation would provide, that could be one way of going in this case, and it would not require any rezoning at all.

Councilor Ives said, "I'm curious too, ultimately I do think the notion of remand on this matter is appropriate. I first of all commend the efforts of the potential purchaser to work... they've obviously been engaged in an extensive negotiation with the neighborhood associations which have resulted in one of the few splits I've seen sitting up here during my time where different neighborhood associations have taken different positions on the same matter."

Councilor Ives continued, "I must admit I'm curious. If, for instance, this property were put back into use as a school and had 200 students coming to it on a daily basis, the traffic impact of that would probably be even more extensive than and RAC overlay, and I expect we would be hearing horrible objections with regard to traffic, even though that was the classic use to which this premise had been put in prior years. I would encourage the neighborhood associations to really consider what the goal is here. Bringing a school back in there would be consistent with historic uses, and presumably preserving the character of this neighborhood in a way that many people in the earlier proceedings spoke somewhat eloquently to, having attended school there and having grown up in this neighborhood, but I do expect that type of use would not be appreciated by the neighborhoods at this point in time, given how often traffic issues are such a driver in these kinds of rezonings and such. So, I'm hopeful in remanding this case for consideration by the Planning Commission that there might be opportunity for further discussion for a way that agreement could be reached. The last thing anyone wants is for this property to lie fallow and deteriorate and clearly some compromise is really called for and I think it's close to being there, quite frankly."

Councilor Rivera said, "Jennifer, this is probably going to be a repeat of what everybody said, but I think the people most affected by this change are the immediate neighbors, and they're not represented by an association. And I think the Upper Canyon Road Neighborhood Association, it appeared as though they were trying to speak on behalf of everybody, but what we had in the packet was only negative from the people right around in the neighborhood that were really going to be affected by this. I don't know what the Planning Commission is going to do, but in the future, if you could look to the people right around this area and then memorialize that somehow. You said you had some discussion with them and that's why they weren't here, however, I don't have anything to verify that or not."

Mayor Coss said, "I would just say that I think remanding is the right decision, and I kind of went there when Richard Ellenberg said, 'if they knew that staff thought Condition #5 wasn't enforceable, there would be 80 people here.'"

Councilor Ives said, "Another thought to keep in mind, and this might be one where staff contribution might be appropriate on remand, the notion that restrictive covenants which run in perpetuity with a property are always enforceable by somebody to whom those covenants run. I didn't hear anything that suggested these covenants would run to any parties other than those associated strictly with this property. So, presumably if all owners of the property agreed to modify them, they would have that capacity under the law. So, I'm not sure that's an answer to the question of perpetuity and the existence of the covenants, and I understand that as part of the development process, some of that burden could be taken on by the City. But again, a thought for folks as this goes back on remand, also to keep in mind that we always struggle for that mechanism when folks are trying to find an appropriate negotiation on these things."

Councilor Wurzbarger said, "I'm closing with an announcement. Please help keep the vote going strong in USA Today's campaign to find the most iconic street in America. Canyon Road is in the two right now, but recently slipped from number one position. Votes are allowed daily, so please spread the word, and keep the pressure on through October 7th when voting, parenthetically I say whether you like exactly what's happened historically or not. It's the Ten Best dot com awards travel iconic American Street. This would

help us as a community, so please call the CVB so you can hear all that again. Thank you Mayor for indulging me to do that.”

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Explaining his vote: Councilor Dimas said, “I never got to say anything. I’m just glad you’re not building a two-story gym there. Yes.”

- 10) **CONSIDERATION OF BILL NO 2013-34; ADOPTION OF ORDINANCE NO. 2013-____. CASE #2013-38. MANDERFIELD SCHOOL REZONING TO RAC. JENKINS GAVIN DESIGN AND DEVELOPMENT, AGENTS FOR MANDERFIELD LLC, REQUEST REZONING OF 1.48± ACRES FROM R-5 (RESIDENTIAL, 5 DWELLING UNITS PER ACRE) TO RAC (RESIDENTIAL ARTS AND CRAFTS). THE PROPERTY IS LOCATED AT 1150 CANYON ROAD. (HEATHER LAMBOY)**

This case was remanded to the Planning Commission for a rehearing, with specific direction from the Council to the Planning Commission.

14. **MATTERS FROM THE CITY CLERK**

Yolanda Vigil, City Clerk, reminded the Council of the Special City Council meeting to discuss the Charter amendments is on Thursday, October 3, 2013, at the Santa Fe Public Schools Administration Building, 5:30 p.m.

15. **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 September 25, 2013, is incorporated herewith to these minutes as Exhibit “13.”

Councilor Wurzbarger

Councilor Wurzbarger introduced the following:

1. A Resolution relating to the development of a Veterans Art Therapy Program in Santa Fe; directing staff to convene a meeting of the Department of Veterans Services, Veterans Affairs, Health and Human Services agencies, service providers, art therapy organizations, funders and relevant agencies and organizations to discuss the establishment of a Veterans Art Therapy Program in Santa Fe. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "14."
2. A Resolution endorsing the Resident Assistance Demonstration (RAD) Program under the management of the Santa Fe Civic Housing Authority for renovation and improvement of HUD subsidized housing; and approving a lease addendum for each lease authorized and approved by Ordinance No. 2013-25 based on the presumption that each lease is a "Ground Lease" and all buildings, improvements and fixtures now or hereafter erected will be owned in fee simple by the Santa Fe Civic Housing Authority and be deemed real estate under local law. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "15."

Councilor Bushee

Councilor Bushee asked to cosponsor the Mayor's Resolution on the LEAD Task Force.

Councilor Bushee introduced the following:

1. A Resolution relating to the enhancement of City of Santa Fe Environmental Services and the use of recycled materials; directing staff to establish Ordinance provisions related to: commercial businesses providing equal space for trash receptacles and recycling containers; mandated green waste collection days and the mandated use of recycled asphalt, within the City limits, that contains a minimum of 10% recycled glass to be used within the City limits of Santa Fe. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "16."
2. A Resolution supporting initiation of a needs assessment by the North Central Regional Transit District to identify alternative service and financing options to begin provision of scheduled Regional Transit service to the Santa Fe Ski Basin. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "17"

Councilor Bushee asked legal staff to look at the Resolution they received from the AFSCME leadership, saying she doesn't believe this is within our purview to introduce..

Mr. Snyder said he hasn't seen it, and Councilor Bushee said she would provide a copy to him.

Councilor Bushee would like to jump-start the Animal Services changes, noting it was introduced 1½ years ago, and needs to get back in the process. She said we have been waiting on the County to make suggested changes, but doesn't know if that's going to happen, and wants to move ahead now.

Councilor Trujillo

Councilor Trujillo said "Councilor Dimas and Councilor Rivera, your Dallas Cowboys beat my St. Louis Rams really good this past weekend." He said he was in Dallas this weekend for the game.

Councilor Trujillo wished Councilor Dimas a Happy Birthday today.

Councilor Trujillo wished Jody Porter a Happy Birthday as well.

Councilor Trujillo reminded everyone that this Friday is Demon Horsemen football, and urged everybody to attend the game.

Councilor Trujillo it has brought to his attention there are businesses which are rounding up their bills to the next whole number, but they aren't telling the patrons ahead of time. He said they should round it down, not up. He said this practice can amount to a lot of money over a year. He said he spoke with the City Attorney, but the City has no jurisdiction here. He told the people who called him to contact the Attorney General. He said we're struggling to make ends meet, and he would like for the City to look into this.

Councilor Trujillo asked the City Manager to look into who is responsible for checking the culverts along the Arroyo Chamiso. He said they are pretty full with all the rain, and will continue to build up debris, and water will be running over the road.

Councilor Trujillo said Jody posted some really nice pictures at the City's website about all water flowing down the River, which is fabulous. He said for the last 3 years, we haven't been able to have our fishing derby. He asked how long this water will be running down the Santa Fe River, and if there is a possibility to do what is necessary in the next few weeks to do the Fishing Derby.

He wished Happy Anniversary to his mother, saying his parents would have been married 48 years of marriage, but his father passed in 1988 at the age of 48, after 22 years of marriage. He said this is still a special day for his mother.

Councilor Rivera

Councilor Rivera wished Councilor Dimas a Happy Birthday.

Councilor Rivera, on behalf of Councilor Dominguez and himself, thanked Chris Ortiz and the City staff for their work with the Sidewalk Angels. He said the average age of the workers was about 50 years old, and they worked good for two hours and then started to fade. He said they cleared two small sections of sidewalk and filled up two roll-off dumpsters to maximum capacity.

Councilor Rivera said he has been summoned for jury duty, so if he is called he may have to miss a committee meeting, and will let everyone know as quickly as possible..

Councilor Ives

Councilor Ives asked to cosponsor on Councilor Wurzburger's Resolution regarding Veterans, Councilor Bushee's Resolution relating to the enhancement of the City's Environmental Services, and to cosponsor of each of the 3 Mayors.

Councilor Ives wished Councilor Dimas a Happy Birthday.

Councilor Ives said he read about Councilor Calvert's decision not to run for reelection. He expressed appreciation to him, and said he has admired his service and time, and is sorry he couldn't convince him to stay in the race.

Councilor Dimas

Councilor Dimas said he has only one item. He said he received a call from a former Mayor who was a little perturbed that the City did paving around his business on Early without any notice.

Councilor Calvert

Councilor Calvert introduced an Ordinance relating to street performers on public property; amending Section 23-8 SFCC 1987. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "18

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Councilor Calvert Councilor Dimas a Happy Birthday.

Mayor Coss

Mayor Coss introduced the following:

1. A Resolution advancing the recommendation of the LEAD Task Force to establish an operations team to map out the process and to serve as the Program Oversight Committee for the LEAD Pilot Program. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "19."
2. An Ordinance annexing approximately 4,100 acres (Phase 2) in accordance with the "Annexation Phasing Agreement between the City of Santa Fe and Santa Fe County" executed in February 2009, and amended in June 2013; Phase 2 Annexation includes Areas 1, 2, 4, 5, 7, 12 and the New Mexico Highway 599 right-of-way between Interstate 25 and the current City corporate boundary east of the Camino la Tierra Interchange. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "20."
3. A Resolution calling for a regular municipal election to be held March 4, 2014, for the purpose of electing one Mayor at-large and one City Councilor from each Council District. A copy of the Resolution was not available at the time the minutes were submitted.

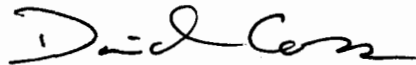
Mayor Coss wished Councilor Dimas and Jody Porter a Happy Birthday.

Mayor Coss said the Fire Department is hosting the Auto-X training which is a nation-wide training, noting two firefighters from Zambia will be taking the training. He said we will be signing the Sister City Agreement with Livingston, Zambia, on Friday afternoon at the Convention Center, and invited the public and members of the Governing Body to attend and participate, on 3:30 p.m. on Friday afternoon.

I. ADJOURN

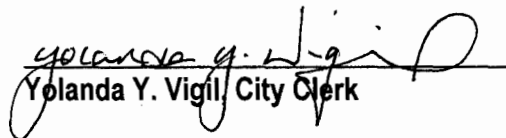
The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 10:15 p.m.

Approved by:



Mayor David Coss

ATTESTED TO:


Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Council Stenographer

CITY COUNCIL MEETING
EXECUTIVE SESSION
September 25, 2013

The governing body of the City of Santa Fe met in an executive session duly called on September 25, 2013 beginning at 6:00 p.m.

The following was discussed:

- 1) In Accordance with the New Mexico Open Meetings Act, §10-15-1(H)(7), NMSA 1978, Discussion Regarding Pending Litigation in Which the City of Santa Fe is a Participant, NM Consolidated Construction, LLC v. City Council of Santa Fe, et al (D-101-CV-2012-01054) (1st Judicial Court) and City of Santa Fe v. NM Consolidated Construction, LLC (D-101-LR-2013-00023) (1st Judicial Court).

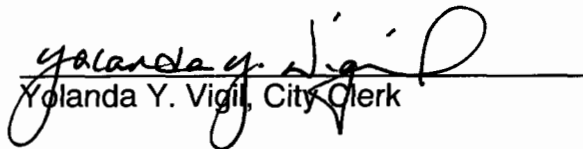
PRESENT

Mayor Coss
Councilor Bushee
Councilor Calvert
Councilor Dimas
Councilor Dominguez
Councilor Ives
Councilor Rivera
Councilor Trujillo
Councilor Wurzbarger

STAFF PRESENT

Brian K. Snyder, City Manager
Geno Zamora, City Attorney
Yolanda Y. Vigil, City Clerk
Zachary Shandler, Assistant City Attorney
Alfred Walker, Assistant City Attorney

There being no further business to discuss, the executive session adjourned at 6:40 p.m.


Yolanda Y. Vigil, City Clerk

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, SEPTEMBER 23, 2013**

ITEM 11

REQUEST FOR APPROVAL OF A RESOLUTION RECOGNIZING THE UNIQUE VOLUNTEER SERVICES THAT THE SANTA FE CONSERVATION TRUST TRAILS PROGRAM PROVIDES ON BEHALF OF THE CITY OF SANTA FE'S TRAILS AND OPEN SPACES; AND DIRECTING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH THE SANTA FE CONSERVATION TRUST TO PROVIDE TRAILS VOLUNTEER COORDINATOR SERVICES ON BEHALF OF THE CITY OF SANTA FE (COUNCILOR BUSHEE) (LEROY PACHECO)

PUBLIC WORKS COMMITTEE ACTION: Approved on Consent

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON WURZBURGER			
COUNCILOR CALVERT	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	Excused		

Exhibit "1"

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2013-36
Internal Audit Department

Mayor and Members of the City Council:

We propose the following amendment(s) to Bill No. 2013-36:

1. On page 4, lines 9-20, *delete* the following:

"E. The internal auditor's work shall result in a complete written final report being made of each annual audit, special audit, investigation and/or examination made ("report"). Each report, in its final form, shall set out in detail, in a separate section, any violation of law or good accounting practices found. Such reports are confidential under this Ordinance until in its final form. Reports shall not exist in a draft form for more than four (4) weeks without presentation to the finance committee and/or audit committee and/or the governing body. If the report is not in its final form to be presented after four (4) weeks, then staff shall inform the finance committee and/or the audit committee and/or the governing body, in writing, the specific date the final report will be presented and basis for the additional time needed. The final report should be presented to the city manager no sooner than ten (10) days before its presentation to the audit committee and the finance committee and the governing body should immediately be notified that the final report has been delivered to the city manager."

And *insert* the following in lieu thereof:

"E. The internal auditor's work shall result in a complete written final report being made of each annual audit, special audit, investigation and/or examination made ("report") and shall be delivered to the city manager, except if city manager is the subject of the audit, then the report shall be delivered to the mayor. The internal auditor shall also notify the governing body in writing that the final report has been delivered. Each report, in its final form, shall set out in detail, in a separate section, any violation of law or good accounting practices found. Such reports are confidential under this Ordinance until placed on the finance committee's agenda or put in its final form, whichever occurs first. Reports shall not exist in a draft form for more than four (4) weeks without presentation to the finance committee. Final reports shall also be timely presented to the audit committee. If the draft report is not ready to be delivered to the city manager in its final form or is not ready to be presented to the finance committee after four (4) weeks, then staff shall inform the finance committee and in writing, the specific date, absent court order not exceeding twenty (20) days, when the final report will be delivered to the city manager or presented to the finance committee and the stated basis for the additional time needed."

2. *Delete* amendment #s 5 and 6 on Councilor Calvert's proposed amendment sheet and insert the following amendment in lieu thereof:

On page 7, on lines 17-23, *delete* the following:

"(1) Within sixty (60) days of the beginning of each fiscal year, the internal auditor shall submit a one-to-five-year audit plan to the audit committee and the city manager for review and comments. The internal auditor shall have final authority to select the audits planned which shall be approved by the governing body. The proposed plan shall include the rationale for the selections, for auditing departments, offices, boards, activities, subcontractors and agencies for the period. The approved audit plan may be amended after review;"

Exhibit "2"

And insert the following in lieu thereof:

“(1) Within sixty (60) days after the beginning of each fiscal year, the internal auditor shall submit a one-to-five-year audit plan to the audit committee, the city manager and the governing body for review and comments, but the internal auditor shall have final authority to select the audits planned. The proposed plan shall include the rationale for the selections, for auditing departments, offices, boards, activities, subcontractors and agencies for the period. This plan may be amended after review;”

3. On page 13, line 2, *insert* the following Section:

Section 9. A new Subsection 2-22.11 SFCC 1987 is ordained to read:

2-22.11 [NEW MATERIAL] Audits and the Inspection of Public Records Act.

A. This subsection is adopted pursuant to the general welfare and police powers conferred upon the city of Santa Fe by §3-17-1 et seq. and §3-18-1 et seq. NMSA 1978, pursuant to the powers conferred upon the city of Santa Fe by the New Mexico Constitution, Article X §§6(D) and 6(E) and the Municipal Charter Act §3-15-1 et seq. NMSA 1978, which have been exercised by the city's adoption of the Santa Fe Municipal Charter. The purpose of this subsection is within both the city's home rule powers and the delegated powers that all municipalities have to provide for the general welfare of their residents by the general welfare clause in Section 3-17-1(B) NMSA 1978 and police power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order within the municipality” by Section 3-18-1(F) and (G) NMSA 1978.

B. At all times during the audit process and after the report becomes a public record; the internal auditor shall follow applicable standards and 2.2.2 NMAC regarding the release of any information relating to the audit. Applicable standards include but are not limited to *the AICPA Code of Ethics Rule 301* and related interpretations and guidance, Institute for Internal Auditors interpretations and guidance and GAGAS 4.30 to 4.32 and GAGAS 4.40 to 4.44.

Respectfully submitted,

Staff

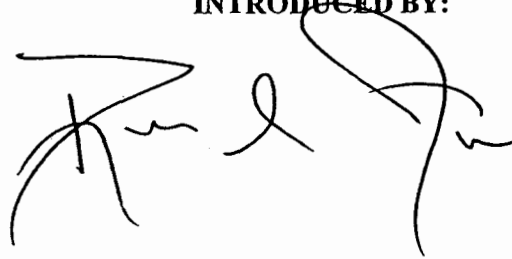
ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

Yolanda Y. Vigil, City Clerk

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2011-64

INTRODUCED BY:



A RESOLUTION

AUTHORIZING THE CITY MANAGER TO SUPERVISE AND DIRECT THE PLACEMENT AND OPERATION OF A BEER GARDEN AT FORT MARCY BALLPARK FOR THE SALE AND CONSUMPTION OF BEER ONLY AT PROFESSIONAL BASEBALL GAMES; AND TO ENSURE THAT THE CITY COMPLIES WITH THE DIRECTIVES OF THIS RESOLUTION, AND THE LAWS OF THE CITY OF SANTA FE AND THE STATE OF NEW MEXICO.

WHEREAS, the Pecos League ("League") is an independent professional baseball league whose teams play in cities that do not have major or minor league baseball teams and is not affiliated with either; and

WHEREAS, for the 2011 baseball season the League consisted of teams from Roswell, Carlsbad, Las Cruces, Alamogordo and Ruidoso, New Mexico and Alpine, Texas; and

WHEREAS, the League is exploring the possibility of expanding to include a team to represent Santa Fe; and

WHEREAS, having a professional baseball team represent Santa Fe would be a way for our

1 community to come together to enjoy a baseball game, would inspire our youth toward athletic
2 activity and at the same time support the local economy; and

3 **WHEREAS**, having a professional baseball team in Santa Fe would bring economic
4 development to Santa Fe because visitors to Santa Fe who support the out-of-town teams will follow
5 their teams to Santa Fe to watch a game, stay in area hotels, eat in area restaurants and shop in area
6 stores; and

7 **WHEREAS**, related businesses and jobs will likely develop, including souvenir production
8 and sales, which would also advertise Santa Fe; and

9 **WHEREAS**, the League relies on ticket sales, food and beverage sales and official League
10 paraphernalia sales to pay its players; and

11 **WHEREAS**, as a means of supporting a Santa Fe team, the League relies on beer sales at its
12 games and has requested that it be authorized to do so at Fort Marcy Ballpark; and

13 **WHEREAS**, Article 23-6 SFCC 1987 regulates the sale and consumption of alcoholic
14 beverages on City property; and

15 **WHEREAS**, on November 9, 2011 the Governing Body adopted Ordinance No. 2011-36
16 which amended Article 23-6 SFCC 1987; and

17 **WHEREAS**, such amendment permits the sale or consumption of alcoholic beverages at Fort
18 Marcy Ballpark in an area designated as a beer garden that shall be used for the sale and consumption
19 of only beer and only at professional baseball games; and

20 **WHEREAS**, the Governing Body desires to strictly regulate the placement and operation of
21 the beer garden at Fort Marcy Ballpark to ensure a safe environment for the attendees and for the
22 surrounding neighborhoods.

23 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
24 **CITY OF SANTA FE** that the Governing Body recognizes that having a professional baseball team
25 represent Santa Fe would bring our community together to support a Santa Fe baseball team, inspire

1 our youth toward athletic activity and our local economy; and would be an overall positive economic
2 development opportunity.

3 **BE IT FURTHER RESOLVED** that the Governing Body strongly encourages the League
4 to consider using the services of local Santa Fe businesses for all matters related to the professional
5 baseball team, which may include, but not be limited to the following:

- 6 • Advertising of the baseball team and the games;
- 7 • Coordinated promotional events highlighting local products and services;
- 8 • Uniform production;
- 9 • Team clothing and souvenir production and sales;
- 10 • Restaurants and overnight accommodations;
- 11 • Beer distribution and sales; and
- 12 • Food distribution and concession sales.

13 **BE IT FURTHER RESOLVED** that the City Manager is authorized to supervise and direct
14 the placement and operation of a beer garden at Fort Marcy Ballpark for the sale and consumption of
15 beer only and only at professional baseball games. The City Manager shall ensure that the following
16 directives are strictly adhered to, for the purpose of ensuring a safe environment for the attendees and
17 for surrounding neighborhoods:

18 1. The beer garden shall be located in a designated area of Fort Marcy Ballpark that is
19 comprised of no more than 25% of the area designated for ballpark seating.

20 2. There shall be a buffer around the beer garden that shall be a sufficient height to
21 prevent the circulation of alcohol outside of the beer garden. Additionally, there shall be an inner
22 buffer between the outer buffer and the beer garden seating that shall be a sufficient to manage
23 crowds in the beer garden.

24 3. There shall be restricted entry and exit to the beer garden with security officers
25 stationed at entries and exits.

1 4. No person under the age of twenty-one (21) shall be permitted in the beer garden.

2 5. Persons desiring to consume beer shall be required to wear a wristband that restricts
3 consumption to a maximum of three 12 ounce beers during the course of a professional baseball
4 game.

5 6. The sale of beer shall terminate at the end of sixth inning of the professional baseball
6 game.

7 7. All League baseball games shall begin no earlier than 6:00 P.M.

8 **BE IT FURTHER RESOLVED** that prior to the operation of the beer garden, the City
9 Manager shall ensure that the City has either applied for and obtained a governmental liquor license
10 from the New Mexico Regulation and Licensing Department, Alcohol and Gaming Division; or, in
11 the alternative, has contracted with a licensed alcohol vendor to operate the beer garden.

12 **BE IT FURTHER RESOLVED** that the City Manager will negotiate separate agreements
13 with the professional baseball league and any affiliated entities that will generate revenue from the
14 games such as food and beverage concessionaires and alcohol dispensers. Every agreement shall
15 include a clause that requires the contractor to pay the City for costs reasonably related to the
16 operation and use of Fort Marcy Ballpark for professional baseball games. The Governing Body has
17 an on-going interest regarding the use of Fort Marcy Baseball Park by the League; therefore, staff is
18 directed to assure that at all times the League is in compliance with City of Santa Fe ordinances,
19 resolutions and policies.

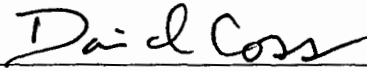
20 **BE IT FURTHER RESOLVED** that any unanticipated costs incurred by the City that are
21 related to the operation and use of Fort Marcy Ballpark for the League's professional baseball games shall
22 be paid and/or reimbursed to the City by the League.

23 **BE IT FURTHER RESOLVED** that the City Manager shall ensure that the City complies with
24 the directives of this resolution, and the laws of the City of Santa Fe and the State of New Mexico.

25 **BE IT FURTHER RESOLVED** that at the end of the 2012 League baseball season, staff is

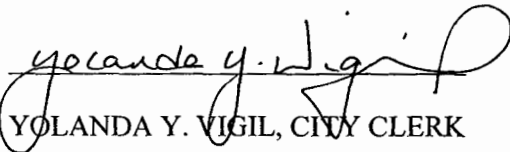
1 directed to give a full report, including a full economic impact statement, to the Governing Body
2 regarding the use of Fort Marcy Ballpark by the League for professional baseball games.

3 **PASSED, APPROVED, and ADOPTED** this 9th day of November, 2011.

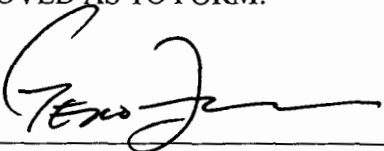
4
5 

6 DAVID COSS, MAYOR

7 ATTEST:

8
9 
10 YOLANDA Y. VIGIL, CITY CLERK

11
12 APPROVED AS TO FORM:

13
14 

15 GENO ZAMORA, CITY ATTORNEY



**Santa Fe Global Trade Initiative
Member List**

<u>NAMES</u>	<u>ORGANIZATION</u>	<u>PHONE</u>
George Rivera	Governor, Pojoaque Pueblo	505-690-1314
David Coss	Mayor, City of Santa Fe	
Rebecca Wurzburger	Mayor Pro Tem, City of Santa Fe	
Kathy Keith	Regional Development Corp	505-220-7085
Alan Austin	NM Bank & Trust	505-660-0539
Belinda Wong-Swanson	Qforma	505-660-7948
Robert Lockwood	Lockwood Construction	505-470-6961
Edward Herrera	NM Trade Office	505-827-0315
Heidi Wernett	China Edutainment & Media Svcs	505-603-5491
JQ Whitcomb		505-920-5490
Martin Leger	NM Tourism Department	505-827-8036
Nancy Baker	NM Economic Development Dept	505-827-0228
Carlos Beserra	NM Economic Development Dept	505-827-0230
Sandra Necessary	US Department of Commerce	505-231-0075
Joellyn Baca	Inn and Spa at Loretto	505-984-7960
Stuart Kirk		505-986-6862
Jim Luttjohann	City of Santa Fe	505-955-6209
Fabian Trujillo	City of Santa Fe	505-955-6912
Kate Noble	City of Santa Fe	505-955-6915
Debra Garcia y Griego	City of Santa Fe	505-955-6707



U.S. Department
of Transportation
Federal Aviation
Administration

SPONSOR
COPY

ITEM #11

ITEM # 13-0947

GRANT AGREEMENT
PART I – OFFER

September 20, 2013

Date of Offer

Santa Fe Municipal

(herein called the "Airport")

3-35-0037-040-2013

Grant No

069420818

DUNS No

TO: City of Santa Fe
(herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated September 13, 2013, for a grant of Federal funds for a project at or associated with the Santa Fe Municipal Airport, which Project Application, as approved by the FAA, is hereby incorporated herein and made a part hereof; and

WHEREAS, the FAA has approved a project for the Airport (herein called the "Project") consisting of the following:

Construct Taxiway "F"

all as more particularly described in the Project Application.

Exhibit "5"

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, as amended, herein called "the Act," and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, **THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES** to pay, as the United States' share of the allowable costs incurred in accomplishing the Project, 93.75 per centum thereof.

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

CONDITIONS

1. The maximum obligation of the United States payable under this Offer shall be \$1,557,510.00. For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of Section 47108(b) of the Act, the following amounts are being specified for this purpose:

\$ 1,557,510.00 for airport development

The source of this Grant may include funding from the Small Airport Fund.

2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.
3. Payment of the United States' share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. The Sponsor shall carry out and complete the Project without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.
The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before, September 23, 2013, or such subsequent date as may be prescribed in writing by the FAA.
7. The Sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.
8. The United States shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

9. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER REQUIREMENTS

A. Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions

For purposes of this award term:

1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <https://www.sam.gov/portal/public/SAM/>).

2. Data Universal Numbering System

DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR Part 25, Subpart C:

- a. A Governmental organization, which is a State, local government, or Indian Tribe;
- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization; and
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. 210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations"). A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

10. **ELECTRONIC GRANT PAYMENT(S):** The requirements set forth in these terms and conditions supersede previous financial invoicing requirements for FAA grantees. Each payment request under this grant agreement must be made electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees. The following are the procedures for accessing and utilizing the Delphi eInvoicing System.

A. Grant Recipient Requirements.

- (1) Grantees must have Internet access to register and submit payment requests through the Delphi eInvoicing system unless, under limited circumstances, a waiver is granted by the FAA and DOT under section (c) below.
- (2) Grantees must submit payment requests electronically and the FAA will process payment requests electronically.

B. System User Access.

- (1) Grantees must contact the FAA Airports District/Regional Office and officially submit a written request to sign up for the system. The FAA Office of Airports will provide the grantee's name, email address and telephone number to the DOT Financial Management Office. The DOT will then invite the grantee

via email to sign up for the system and require the grantee to complete two forms. The grantee will complete a web based DOT registration form and download the Proof of Identification form to verify the grantee's identity.

- (2) The grantee must complete the Proof of Identification form, and present it to a Notary Public for verification. The grantee will return the notarized form to:

DOT Enterprise Services Center
FAA Accounts Payable, AMZ-100
PO Box 25710
Oklahoma City, OK 73125

- (3) The DOT will validate the both forms and email a user ID and password to the grantee. Grantees should contact the FAA Airports District/Regional Office with any changes to their system information.

Note: Additional information, including access forms and training materials, can be found on the DOT eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>).

C. **Waivers.** DOT Financial Management officials may, on a case by case basis, waive the requirement to register and use the electronic grant payment system based on user requests and concurrence of the FAA. Waiver request forms can be obtained on the DOT eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>) or by contacting the FAA Airports District/Regional Office. Recipients must explain why they are unable to use or access the Internet to register and enter payment requests.

- (1) All waiver requests should be sent to the FAA Airports District/Regional Office for concurrence, prior to sending to the Director of the Office of Financial Management, US Department of Transportation, Office of Financial Management, B-30, room W93-431, 1200 New Jersey Avenue SE, Washington DC 20590-0001, DOTElectronicInvoicing@dot.gov. The Director of the DOT Office of Financial Management will confirm or deny the request within approximately 30 days.

- (2) If a grantee is granted a waiver, the grantee should submit all hard-copy invoices directly to:
DOT/FAA
PO Box 25082
AMZ-110
Oklahoma City, OK 73125

11. **INFORMAL LETTER AMENDMENT OF AIP PROJECTS:** It is mutually understood and agreed that if, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000.00 or five percent (5%), whichever is greater, the maximum obligation of the United States can be unilaterally reduced by letter from the FAA advising of the budget change. Conversely, if there is an overrun in the total actual eligible and allowable project costs, FAA may increase the maximum grant obligation of the United States to cover the amount of the overrun not to exceed the statutory percent limitation and will advise the Sponsor by letter of the increase. It is further understood and agreed that if, during the life of the project, the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the change in grant description will be unilaterally amended by letter from the FAA. Upon issuance of the aforementioned letter, either the grant obligation of the United States is adjusted to the amount specified or the grant description is amended to the description specified.
12. **AIR AND WATER QUALITY:** Approval of the project included in this agreement is conditioned on the Sponsor's compliance with applicable air and water quality standards in accomplishing project construction. Failure to comply with this requirement may result in suspension, cancellation, or termination of Federal assistance under this agreement.
13. **PAVEMENT MAINTENANCE MANAGEMENT PROGRAM:** For a project to replace or reconstruct pavement at the airport, the Sponsor shall implement an effective airport pavement maintenance management program as is required by Airport Sponsor Assurance Number C-11. The Sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with federal financial assistance at the airport. As a minimum, the program must conform with the provisions outlined below

Pavement Maintenance Management Program

An effective pavement maintenance management program is one that details the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed. An airport sponsor may use any form of inspection program it deems appropriate. The program must, as a minimum, include the following:

a. **Pavement Inventory.** The following must be depicted in an appropriate form and level of detail:

- (1) location of all runways, taxiways, and aprons;
- (2) dimensions;
- (3) type of pavement, and;
- (4) year of construction or most recent major rehabilitation.

For compliance with the Airport Improvement Program (AIP) assurances, pavements that have been constructed, reconstructed, or repaired with federal financial assistance shall be so depicted.

b. **Inspection Schedule.**

- (1) **Detailed Inspection.** A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," the frequency of inspections may be extended to three years.
- (2) **Drive-By Inspection.** A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition.

c. **Record Keeping.** Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The types of distress, their locations, and remedial action, scheduled or performed, must be documented. The minimum information to be recorded is listed below:

- (1) inspection date,
- (2) location,
- (3) distress types, and
- (4) maintenance scheduled or performed.

For drive-by inspections, the date of inspection and any maintenance performed must be recorded.

- d. **Information Retrieval.** An airport sponsor may use any form of record keeping it deems appropriate, so long as the information and records produced by the pavement survey can be retrieved to provide a report to the FAA as may be required.
- e. **Reference.** Refer to Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements and establishing an effective maintenance program. Specific types of distress, their probable causes, inspection guidelines, and recommended methods of repair are presented.

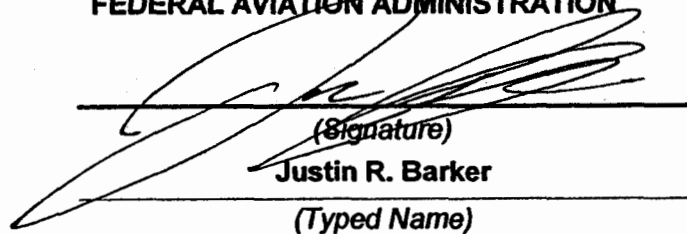
14. **PROJECTS WHICH CONTAIN PAVING WORK IN EXCESS OF \$250,000:** The Sponsor agrees to perform the following:

- a. Furnish a construction management program to FAA prior to the start of construction which shall detail the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program shall include as a minimum:
- (1) The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract.
 - (2) Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided.
 - (3) Procedures for determining that testing laboratories meet the requirements of the American Society of Testing and Materials standards on laboratory evaluation, referenced in the contract specifications (D 3666, C 1077).
 - (4) Qualifications of engineering supervision and construction inspection personnel.
 - (5) A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.
 - (6) Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.

- b. Submit at completion of the project, a final test and quality control report documenting the results of all tests performed, highlighting those tests that failed or that did not meet the applicable test standard. The report shall include the pay reductions applied and the reasons for accepting any out-of-tolerance material. An interim test and quality control report shall be submitted, if requested by the FAA.
 - c. Failure to provide a complete report as described in paragraph b, or failure to perform such tests, shall, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction shall be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the grant agreement.
 - d. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.
15. **BUY AMERICAN REQUIREMENT:** Unless otherwise approved by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this grant. The Sponsor will include in every contract a provision implementing this special condition.
16. **MAXIMUM OBLIGATION INCREASE FOR PRIMARY AIRPORTS:** In accordance with Section 47108(b) of the Act, as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer
- a. may not be increased for a planning project;
 - b. may be increased by not more than 15 percent for development projects;
 - c. may be increased by not more than 15 percent for land projects.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**



(Signature)

Justin R. Barker

(Typed Name)

**ACTING MANAGER, LOUISIANA/NEW MEXICO
AIRPORTS DEVELOPMENT OFFICE**

(Title)

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application. I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this 23rd day of September, 2013.

City of Santa Fe

(Name of Sponsor)

David Coss

(Signature of Sponsor's Designated Official Representative)

(SEAL)

By:

David Coss

(Typed Name of Sponsor's Designated Official Representative)

Title:

Mayor

(Typed Title of Sponsor's Designated Official Representative)

Attest:

Yolanda G. Nigri
City Clerk
cc mtg. 9.25-13

CERTIFICATE OF SPONSOR'S ATTORNEY

I, Geno Zamora, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of New Mexico. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at 1:30 this 13th day of Sept., 2013.

By

Geno Zamora

(Signature of Sponsor's Attorney)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Application for Federal Assistance SF-424	
*1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	
*2. Type of Application * If Revision, select appropriate letter(s): <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision *Other (Specify) _____	
*3. Date Received: _____ 4. Applicant Identifier: 3-35-0037	
5a. Federal Entity Identifier: 3-35-0037	*5b. Federal Award Identifier: _____
State Use Only:	
6. Date Received by State: _____	7. State Application Identifier: _____
8. APPLICANT INFORMATION:	
*a. Legal Name: City of Santa Fe	
*b. Employer/Taxpayer Identification Number (EIN/TIN): 856000168	*c. Organizational DUNS: 069420818
d. Address:	
*Street 1: <u>PO Box 909</u>	
Street 2: _____	
*City: <u>Santa Fe</u>	
County: <u>Santa Fe</u>	
*State: <u>NM</u>	
Province: _____	
*Country: <u>USA</u>	
*Zip / Postal Code <u>87504-0909</u>	
e. Organizational Unit:	
Department Name: N/A	Division Name: Airport
f. Name and contact information of person to be contacted on matters involving this application:	
Prefix: <u>Ms.</u>	*First Name: <u>Francey</u>
Middle Name: _____	
*Last Name: <u>Jesson</u>	
Suffix: _____	
Title: <u>Airport Manager</u>	
Organizational Affiliation: <u>santa Fe Municipal Airport</u>	
*Telephone Number: 505-955-2901 Fax Number: 505-955-2905	
*Email: fmjesson@ci.santa-fe.nm.us	

Application for Federal Assistance SF-424

***9. Type of Applicant 1: Select Applicant Type:**

B. County Government

Type of Applicant 2: Select Applicant Type:

C. City or Township Government

Type of Applicant 3: Select Applicant Type:

C. City or Township Government

*Other (Specify)

***10. Name of Federal Agency:**

DOT/FAA Southwest Region, Fort Worth, Texas 86193-0630

11. Catalog of Federal Domestic Assistance Number:

20.106 _____

CFDA Title:

Airport Improvement Program

12. Funding Opportunity Number:

Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

City of Santa Fe, County of Santa Fe, State of New Mexico

***15. Descriptive Title of Applicant's Project:**

Taxiway F Construction

Application for Federal Assistance SF-424

16. Congressional Districts Of:

*a. Applicant: 3

*b. Program/Project: 3

Attach an additional list of Program/Project Congressional Districts if needed.

17. Proposed Project:

*a. Start Date: 10/01/13

*b. End Date: 12/31/2014

18. Estimated Funding (\$):

*a. Federal	<u>1,557,511</u>
*b. Applicant	<u>51,430</u>
*c. State	<u>51,430</u>
*d. Local	<u> </u>
*e. Other	<u> </u>
*f. Program Income	<u> </u>
*g. TOTAL	<u>1,661,345</u>

***19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- a. This application was made available to the State under the Executive Order 12372 Process for review on _____.
- b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- c. Program is not covered by E. O. 12372

***20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)**

- Yes
- No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U. S. Code, Title 218, Section 1001)

** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr. *First Name: David
Middle Name: _____
*Last Name: Coss
Suffix: _____

*Title: Mayor

Telephone Number: 505-955-6590

Fax Number: 505-955-6695

* Email: mayor@santafenm.gov

*Signature of Authorized Representative: *David Coss*

*Date Signed: 9-13-13

Application for Federal Assistance SF-424

***Applicant Federal Debt Delinquency Explanation**

The following should contain an explanation if the Applicant organization is delinquent of any Federal Debt.

PART II

**PROJECT APPROVAL INFORMATION
SECTION A**

Item 1.

Does this assistance request require State, local, regional, or other priority rating?

Yes X No

Name of Governing Body
Priority Rating

Item 2.

Does this assistance request require State, local, advisory, educational or health clearance?

Yes X No

Name of Agency or Board
(Attach Documentation)

Item 3.

Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?

Yes X No

(Attach Comments)

Item 4.

Does this assistance request require State, local, regional or other planning approval?

X Yes No

Name of Approving Agency NMDOT AD
Date

Item 5.

Is the proposed project covered by an approved comprehensive plan?

Yes X No

Check one: State
Local
Regional
Location of Plan

Item 6.

Will the assistance requested serve a Federal installation?

Yes X No

Name of Federal Installation
Federal Population benefiting from Project:

Item 7.

Will the assistance requested be on Federal land or installation?

Yes X No

Name of Federal Installation
Location of Federal Land
Percent of Project

Item 8.

Will the assistance requested have an impact or effect on the environment?

Yes X No

See instruction for additional information to be provided.

Item 9.

Will the assistance requested cause the displacement of individuals families, businesses, or farms?

Yes X No

Number of:
Individuals
Families
Businesses
Farms

Item 10.

Is there other related Federal assistance other project previous, pending or anticipated?

Yes X No

See instruction for additional information to be provided.

PART II - SECTION C

The Sponsor hereby represents and certifies as follows:

1. **Compatible Land Use.**-The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

Airspace Zoning

2. **Defaults.**-The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

None

3. **Possible Disabilities.**-There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

None

4. **Land.**-(a) The Sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport, subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

Fee Simple, no encumbrances

*State Character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

PART II - SECTION C (Continued)

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

- (b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

None

- (c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which are identified on the aforementioned property map designated as Exhibit "A":

None

5. Exclusive Rights - There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

None

*State Character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

PART III - BUDGET INFORMATION - CONSTRUCTION

SECTION A- GENERAL

1. Federal Domestic Assistance Catalog No. 20-106
 2. Functional or Other Breakout

SECTION B - CALCULATION OF FEDERAL GRANT

Cost Classification	Use only for revisions		Total Amount Required
	Approved Amount	Adjustments + or (-)	
1. Administration expense			
2. Preliminary expense			
3. Land structures, right-of-way			
4. Architectural engineering fees			\$199,201
5. Other architectural engineering fees			\$2,000
6. Project inspection fees			\$153,345
7. Land development			
8. Relocation expenses			
9. Relocation payments to individuals or businesses			
10. Demolition and removal			
11. Construction and project improvement			\$1,306,799
12. Equipment			\$0
13. Miscellaneous			
14. Total (Lines 1 through 12)			\$1,661,345
15. Estimated Income (if applicable)			\$0
16. Net Project Amount (line 14 minus 15)			\$1,661,345
17. Less: Ineligible Exclusions			\$0
18. Add Contingencies			
19. Total Project Amt. (Excluding Rehab. Grants)			\$1,661,345
20. Federal Share requested of Line 19			\$1,557,511
21. Add Rehabilitation Grants Requested (100%)			\$0
22. Total Federal grant requested (Lines 20 & 21)			\$1,557,511
23. Grantee Share			\$51,917
24. Other Shares State Aviation			\$51,917
25. Total Project (Lines 22, 23 & 24)			\$1,661,345

SECTION C - EXCLUSIONS		
26. Classification	Ineligible for Participation (1)	Excluded from Contingency
a.		
b.		
c.		
d.		
e.		
f.		
g.		
Totals	\$0.00	\$0.00
SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE		
27. Grantee share		
a. Securities		
b. Mortgages		
c. Appropriations (By Applicant)		\$51,917.03
d. Bonds		
e. Tax-Levies		
f. Non Cash		
g. Other (Explain)		
h. Total - Grantee Share	\$0.00	\$51,917.03
28. Other Shares		
a. State Aviation		\$51,917.03
b. Other		
c. Total other shares	\$0.00	\$51,917.03
29. TOTAL	\$0.00	\$103,834.06
SECTION E - REMARKS		
PART IV PROGRAM NARRATIVE (Attache - See Instructions)		

**PART IV
PROGRAM NARRATIVE**

(Suggested Format)

PROJECT: SAF Taxiway F Construction
AIRPORT: Santa Fe Municipal Airport
<p>1. Objective: Construct a new taxiway, parallel to Runway 10-28, from the midfield intersection to the 10 approach. Such taxiway, will connect to Runway 15-33 and thence connect to existing Taxiway F from 15-33, across 2-20, to the apron. This will enable traffic to avoid back taxi on Runway 10-28 and more importantly, get air traffic out of the midfield intersection.</p>
<p>2. Benefits Anticipated: Safety and use. SAF is a Part 139 certificated airport. It currently holds a Class I certificate. Regional jet service began in June 2009. Great Lakes Airlines can use Runway 10-28 and the new parallel taxiway F, for arrivals and departures. This enables the ATCT to put Great Lakes traffic on a runway other than the primary runway, 2-20, which improves safety and capacity.</p>
<p>3. Approach: <i>(See approved Scope of Work in final Application)</i> Most of the construction of this parallel taxiway will be constructed without interruption to traffic, and without runway closures. There are two connector taxiways to 10-28 which require partial closure of Runway 10-28 while construction is done. Those connections will be short in duration. There is one connection to Runway 15-33 which will require that Runway 15-33 be closed. Again, for a short duration.</p>
<p>4. Geographic Location: City of Santa Fe, Santa Fe County, New Mexico. Located in the central portion of the State and is the airport for the State Capital. The airport is five miles west of the City of Santa Fe. The project is located in US House District 1, who's representative is Ben Ray Lujan.</p>
<p>5. If Applicable, Provide Additional Information: In completing this project, all three runways will have parallel taxiways, and traffic movement through the midfield intersection will be eliminated, thereby improving safety. Taxi traffic will no longer have to move through the midfield runway intersection.</p>
<p>6. Sponsor's Representative: <i>(incl. address & tel. no.)</i> Francey Jesson, C.M., Airport Manager City of Santa Fe PO Box 909 Santa Fe, NM 87504 505-955-9501</p>

SPONSORS BUDGET ANALYSIS

LOCATION	Santa Fe (SAF)
AIP PROJECT NUMBER	3-35-0037-40-2013

LAND ACQUISITION	\$
CONSTRUCTION	1,306,799
ENGINEERING	199,201
ADMINISTRATIVE	2,000
INSPECTION	123,345
TESTING	30,000
EQUIPMENT	-
OTHER (SPECIFY)	-
Program Management (if applicable)	-
TOTAL	\$ 1,661,345

REMARKS:

Taxiway F Construction

PROJECT COSTS:	\$	1,661,345
FAA share (93.75%)	\$	1,557,511
SPONSOR share	\$	103,834

SOUTHWEST REGION, DOT FAA

SUPPLEMENT TO PREAPPLICATION FOR FEDERAL ASSISTANCE

DATED September 13, 2013

SUBMITTED BY City of Santa Fe

TO IMPROVE Santa Fe Municipal AIRPORT

DESCRIPTION OF WORK TO BE ACCOMPLISHED (list by principal work item) (Use nearest dollar)					
ITEM OF WORK A		TOTAL ESTIMATED COST	SPONSOR'S FUNDS	FAA FUNDS REQUESTED	ESTIMATED DATE WORK WOULD COMMENCE
NO.	DESCRIPTION	B	C	D	E
1	SAF Taxiway F Construction	\$1,661,345	\$103,834	\$1,557,511	Sept., 2013
TOTALS		\$1,661,345	\$103,834	\$1,557,511	

ASSURANCES Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.
2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.
3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project.

- C. **Sponsor Certification.** The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- q. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.¹
- r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- t. Copeland Anti kickback Act - 18 U.S.C. 874.1
- u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

- Executive Order 11246 - Equal Employment Opportunity¹
- Executive Order 11990 - Protection of Wetlands
- Executive Order 11998 – Flood Plain Management
- Executive Order 12372 - Intergovernmental Review of Federal Programs
- Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150 - Airport noise compatibility planning.
- d. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- i. 49 CFR Part 20 - New restrictions on lobbying.
- j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.^{1 2}
- m. 49 CFR Part 26 - Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.¹
- o. 49 CFR Part 29 - Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).
- p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.¹

Office of Management and Budget Circulars

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. Responsibility and Authority of the Sponsor.

- a. **Public Agency Sponsor:** It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- b. **Private Sponsor:** It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability. It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or

modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in

permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.
7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.
8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.
9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.
10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.
11. **Pavement Preventive Maintenance.** With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.
12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of

submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates. It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference. It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications. It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to

commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.
18. **Planning Projects.** In carrying out planning projects:
 - a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
 - b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
 - c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
 - d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
 - e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
 - f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
 - g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
 - h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.
19. **Operation and Maintenance.**
 - a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition

and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
- 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
- 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. **Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. **Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. **Economic Nondiscrimination.**

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for

furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
 - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
 - e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
 - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
 - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
 - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
 - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.
23. **Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public.

For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the

airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms,

conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:

- d.
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft. It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities. It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars

and roads), including all proposed extensions and reductions of existing airport facilities; (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and (4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

- 30. **Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

- 31. **Disposal of Land.**

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another

project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.
32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.
33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated 01/12/2012 and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.
36. **Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.
37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation

and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

38. Hangar Construction. If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



**FAA
Airports**

Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

Updated: 4/16/2013

View the most current versions of these ACs and any associated changes at:
<http://www.faa.gov/airports/resources/advisorycirculars>

NUMBER	TITLE
70/7460-1k	Obstruction Marking and Lighting
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5050-4	Citizen Participation in Airport Planning
150/5050-8	Environmental Management Systems for Airport Sponsors
150/5060-5	Airport Capacity And Delay
150/5070-6B	Airport Master Plans
150/5070-7	The Airport System Planning Process
150/5100-13B	Development of State Standards for Nonprimary Airports
150/5100-19D	Guide for Airport Financial Reports Filed by Airport Sponsors
150/5200-12C	First Responders Responsibility for Protecting Evidence at the Scene of an Aircraft Accident/Incident
150/5200-18C	Airport Safety Self-Inspection
150/5200-28D	Notices to Airmen (NOTAMS) for Airport Operators
150/5200-30C	Airport Winter Safety And Operations
150/5200-31C Change 2	Airport Emergency Plan

NUMBER	TITLE
150/5200-32A	Reporting Wildlife Aircraft Strikes
150/5200-33B	Hazardous Wildlife Attractants On or Near Airports
150/5200-34A	Construction or Establishment of Landfills near Public Airports
150/5200-36A	Qualifications for Wildlife Biologist Conducting Wildlife Hazard Assessments and Training Curriculums for Airport Personnel Involved in Controlling Wildlife Hazards on Airports
150/5200-37	Introduction to Safety Management Systems (SMS) for Airport Operators
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-6D	Aircraft Fire and Rescue Facilities and Extinguishing Agents
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5210-13C	Airport Water Rescue Plans and Equipment
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design
150/5210-17B	Programs for Training of Aircraft Rescue and Firefighting Personnel
150/5210-18A	Systems for Interactive Training Of Airport Personnel
150/5210-19A	Driver's Enhanced Vision System (DEVS)
150/5210-20	Ground Vehicle Operations on Airports
150/5210-23	ARFF Vehicle and High Reach Extendable Turret (HRET) Operation, Training and Qualifications
150/5210-24	Airport Foreign Object Debris (FOD) Management
150/5210-25	Performance Specification for Airport Vehicle Runway Incursion Warning Systems (RIWS)
150/5220-9A	Aircraft Arresting Systems
150/5220-10E	Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles
150/5220-16D	Automated Weather Observing Systems(AWOS) for Non-Federal Applications

NUMBER	TITLE
150/5220-17B	Aircraft Rescue and Fire Fighting (ARFF) Training Facilities
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20	Airport Snow and Ice Control Equipment
150/5220-21C	Aircraft Boarding Equipment
150/5220-22B	Engineered Materials Arresting Systems (EMAS) for Aircraft Overruns
150/5220-23	Frangible Connections
150/5220-24	Foreign Object Debris Detection Equipment
150/5220-25	Airport Avian Radar Systems
150/5220-26	Airport Ground Vehicle Automatic Dependent Surveillance - Broadcast (ADS-B) Out Squitter Equipment
150/5230-4B	Aircraft Fuel Storage, Handling, Training, and Dispensing on Airports
150/5300-7B	FAA Policy on Facility Relocations Occasioned by Airport Improvements or Changes
150/5300-13A	Airport Design
150/5300-14B	Design of Aircraft Deicing Facilities
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17C	Standards for Using Remote Sensing Technologies in Airport Surveys
150/5300-18B	General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Field Data Collection and Geographic Information System (GIS) Standards
150/5320-5C Change 1	Surface Drainage Design
150/5320-6E	Airport Pavement Design and Evaluation
150/5320-12C Change 8	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-15A	Management Of Airport Industrial Waste
150/5325-4B	Runway Length Requirements for Airport Design
150/5335-5B	Standardized Method of Reporting Airport Pavement Strength - PCN

NUMBER	TITLE
150/5340-1K Change 1	Standards for Airport Markings
150/5340-5C	Segmented Circle Airport Marker System
150/5340-18F	Standards for Airport Sign Systems
150/5340-26B	Maintenance of Airport Visual Aid Facilities
150/5340-30G	Design and Installation Details for Airport Visual Aids
150/5345-3G	Specification for L-821, Panels for the Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7E	Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10G	Specification for Constant Current Regulators and Regulator Monitors
150/5345-12F	Specification for Airport and Heliport Beacons
150/5345-13B	Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	FAA Specification For L-823 Plug And Receptacle, Cable Connectors
150/5345-27D	Specification for Wind Cone Assemblies
150/5345-28G	Precision Approach Path Indicator (PAPI) Systems
150/5345-39D	Specification for L-853, Runway and Taxiway Retro reflective Markers
150/5345-42F	Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories
150/5345-43G	Specification for Obstruction Lighting Equipment
150/5345-44J	Specification for Runway and Taxiway Signs
150/5345-45C	Low-Impact Resistant (LIR) Structures
150/5345-46D	Specification for Runway and Taxiway Light Fixtures
150/5345-47C	Specification for Series to Series Isolation Transformers for Airport Lighting Systems
150/5345-49C	Specification L-854, Radio Control Equipment
150/5345-50B	Specification for Portable Runway and Taxiway Lights

NUMBER	TITLE
150/5345-51B	Specification for Discharge-Type Flashing Light Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)
150/5345-53D	Airport Lighting Equipment Certification Program
150/5345-54B	Specification for L-884, Power and Control Unit for Land and Hold Short Lighting Systems
150/5345-55A	Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56B	Specification for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-13 Change 1	Planning and Design Guidelines for Airport Terminal Facilities
150/5360-14	Access to Airports By Individuals With Disabilities
150/5370-2F	Operational Safety on Airports During Construction
150/5370-10F	Standards for Specifying Construction of Airports
150/5370-11B	Use of Nondestructive Testing in the Evaluation of Airport Pavements
150/5370-13A	Off-Peak Construction of Airport Pavements Using Hot-Mix Asphalt
150/5370-15B	Airside Applications for Artificial Turf
150/5370-16	Rapid Construction of Rigid (Portland Cement Concrete) Airfield Pavements
150/5370-17	Airside Use of Heated Pavement Systems
150/5380-6B	Guidelines and Procedures for Maintenance of Airport Pavements
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness
150/5390-2C	Heliport Design
150/5395-1	Seaplane Bases

THE FOLLOWING ADDITIONAL APPLY TO AIP PROJECTS ONLY

Updated: 2/4/2013

NUMBER	TITLE
150/5100-14D	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
150/5100-17	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects
150/5150-2C	Federal Surplus Personal Property Program for Public Airport Purposes
150/5190-6	Exclusive Rights at Federally Obligated Airports
150/5190-7	Minimum Standards for Commercial Aeronautical Activities
150/5300-15A	Use Of Value Engineering For Engineering And Design Of Airport Grant Projects
150/5300-9B	Predesign, Prebid, and Preconstruction Conferences for Airport Grant Projects
150/5320-17	Airfield Pavement Surface Evaluation and Rating Manuals
150/5370-6D	Construction Progress and Inspection Report - Airport Improvement Program (AIP)
150/5370-12A	Quality Control of Construction for Airport Grant Projects
150/5380-7A	Airport Pavement Management Program

September 17, 2013

Petition to Senior Services Director

City of Santa Fe

RE: Reassignment of Louis Heidel, Cook at Pasatiempo Senior Center

We the undersigned hereby protest the reassignment of Louis Heidel, cook assigned to Pasatiempo Senior Center.

Mr. Heidel has been the cook at Pasatiempo Senior Center for over five years. We are very satisfied with the service he provides us and find the quality of his meals to be excellent. We believe that reassigning Mr. Heidel to another senior center and assigning a new cook to Pasatiempo Senior Center would have a negative influence on the quality of the services provided by the Pasatiempo Senior Center by damaging our sense of community and disrupting continuity of services within the Center..

NAME	ADDRESS	PHONE
Emilia MARTINEZ	2509 ROSINA	424-9083
JOANN M. SING	2509 ROSINA ST	316-6249
BERNA SANDVAL	1904 NOTES PL	9828981
G. J. ADOLFO	1042 W HOLY HORN	
Arnelia Garcia	658 METCALLE ST	699-7183
Dela M. Mendez	120 N ARMISTO LN	
CARMEN O. MORAÑA	1600 La Canequita apt. F-3	
AL GONZALES	2976 PLAZA AZUL	
Dolores Gonzales	2976 PLAZA AZUL	
Lynn Holt	1	310-1446
Gunter NASSIHOFF	PO Box 33684, SANTA FE NM	87594
Joie Armijo	3360 Camino RD SE NM	87507
Denny M. Pardo	3249 La Paz Ln SE NM	87507
Julia Gomez	2537 Camino Calleses St	87525
Lucretia Gomez	502 S. St Francis Drive St	87501
Julie M. RIZ	PO Box 5443 SFE	87502
Evelyn Jimenez-Tam	1928 Thomas Ave.	87505
Abel Tam	1928 Thomas Ave.	SE 87505
Teresa Montanez	P.O. Box 23131	87505
Judy Montanez	2312 Calle Falcon	87505
CRISTILLA GONZALES	2647 Calle Primavera	87505

September 17, 2013

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NAME	ADDRESS	PHONE
Jean F. Miller	374 Calle Colina	983-1751
Francisco	530. [unclear]	371-12495
Carol R. Kuntz	132 Arroyo Honda Tr. SF	983-7080
Debra Wein	Box 67 5713 La Sula Blvd	
Jane J. [unclear]	3036 Pueblo Pines SF	983-8320
Ronda Payne	414 Bishop's Lodge Rd	983-6428
Leo [unclear]	29 [unclear]	702-8982
Stacy Trimmer	112 Valley Dr. SF	983-6988
May Canyon	2870 Plaza Amarilla	471-6332
Speedy [unclear]	PO Box 23072, SF 87502	474-8044
Mary Ellen Duran	2192 Lumber Ct SF 87505	474-5570
Walt [unclear]	" " "	" "
Charlie Lujan	1213 Italia St. N.M. 87504	473-9819
Jo [unclear]		
Frances [unclear]	1013 Tierra Dr. SF	
Patricia Martinez	2509 Bascom St.	490-1933
Nazario Rojas	SANTA FE	
Elizabeth [unclear]	1500 [unclear] SF	
Frank [unclear]	PO Box 55 [unclear] N.M.	
Nora Martinez		
Carlos Martinez		

September 17, 2013

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NAME	ADDRESS	PHONE
Alfred Martinez	713 Columbia sr. (565)	501-1340
Ramon F Encinas	27 Valle Vista Blvd	(805) 316-3529
Jese F Vigil	917 CANYON RD	983-9402
Josie Lopez	923 " "	204-3722
Wes Sandoz	654 Alta Vista BS	204-3929
Maria G. Barton	204 ALTA VISTA	985-5980
Chris P Martinez	2081 CALLE NORCA	471-8574
Theresa S. Armijo	1299 Cerro Colorado Rd	505-983-8034
Katerie Romero	465 N. San Francisco St	505-795-1562
Nicole Ruiz	3991 Cam. Juliana #214	1505-757-7898
ROSINA ORTIZ	662 ALTA VISTA	983-2580
Grace E. Gutierrez	3471 Cerillos Rd - #64	982-1882
TERRI Gonzales	36 Camino Apolonia	466-1674
Ricardo Vigil	City Rd 6, San Pedro	753-5579
Orlando Watson	1819 Camino La Canada	819 7927
Earl S.		
Fidel Otero		
Benjie Martinez		
Mary Loomis	102 Pine St.	983-9454
Carmen Baca	1602 La Cumbre	413-6523
Lordita Roybal	1208 Canyon Rd	982-22149

September 17, 2013

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NAME	ADDRESS	PHONE
Fadi Ha Joud	668 ALTA VISTA E-19	988 995-0937
Valdez Marcia	668 1 st CI	501-1242
Wendy Winder	662 ALTA VISTA D-11	730-7179
Victor Martinez	662 ALTA VISTA D-14	501-0099
Robert Ayer	662 ALTA VISTA D-16	762-231-3278
Grace McQueen		
HARRY FIDSON	668 ALTA VISTA E-10	30-0532
Dorothy Lee		649-9324
Ruben	MITCHELL	
W.S. Harris		
Shirley Ann		
Edna Martinez		
Albert Raybet	F-5	955-1674
Rae Sanchez		820-0858
Al Ross	1500 Pacheco	982-6483
LONEL RUSSEW	E5	
Virginia NAVA	650 ALTA VISTA A-16	795-8440
Consuelo MAN RAY	650 ALTA VISTA A-6	811-9195
JUAN TRAYLOR	662 ALTA VISTA ST	982-9102
Lujan Andres de Vera	558 ALTA VISTA C-8	231-1906
Domitilla Collier	654 ALTA ST B-15	

September 17, 2013

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City of Santa Fe

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NAME	ADDRESS	PHONE
Yuri Kreis	658 ALTA VISTA C-13	570-9758
JERRY LYNCH	" " " C-19	213-5410
MARIA Delgado	654 ALTA VISTA 1917	
Ann Spohnhauer	654 Alta Vista Cir	
Judy E. Romero	6151 AIRPORT RD #61 SFNM	470-0950
Virginia Lee	139 Ridgewood	983-5114
Barbara Rockford	126 Mateo Cicca	982-8133
Frances Plummer	428 Alta Vista	982-1213
John J. Iannone	1172 Alta Vista	982-1213
Bill Giese	La Cienega	860-0291
Elaine Masten	1621-4th St	505-984-8106
Dolores Serrato	1881 Vista del Sur	438-9845
Benny Mauer		470-3713
Laura Hallums	2777 LA SELLA DORADA	471-3589
Teresa Torre	2401 Camino Capitán, SFNM	471-6745
Frank Morales		469-1100
JERRY BYRD	2084 CALLE NAVIDAD	424-3457
Tom Tapp	2401 Camino Capitán	471-6745
J. SIVERANS	2709 Ave del Sur	471-7104
Robert Sinn	453 Camino Don Miguel	988-3589

City of Santa Fe, New Mexico

memo

DATE: September 12, 2013 for the September 25, 2013 City Council meeting

TO: Mayor David Coss
Members of the City Council

VIA: Brian K. Snyder, P.E., City Manager *BS*
Matthew S. O'Reilly, P.E., Director, Land Use Department *MSO*
Tamara Baer, ASLA, Planning Manager, Current Planning Division *TB*

FROM: Heather L. Lamboy, AICP, Senior Planner, Current Planning Division *HL*

Case #2013-37. Manderfield School General Plan Amendment. JenkinsGavin Design and Development, agents for Manderfield LLC, request approval of a General Plan Future Land Use Map Amendment to change the designation of 1.48± acres from Public/Institutional to Medium Density Residential (7 to 12 dwelling units per acre). The property is located at 1150 Canyon Road. (Heather Lamboy, Case Manager)

Case #2013-38. Manderfield School Rezoning to RAC. JenkinsGavin Design and Development, agents for Manderfield LLC, request rezoning of 1.48± acres from R-5 (Residential, 5 dwelling units per acre) to RAC (Residential Arts and Crafts). The property is located at 1150 Canyon Road. (Heather Lamboy, Case Manager)

I. RECOMMENDATION

The Planning Commission recommends **DENIAL** to the Governing Body.

Two motions will be required in this case, one for the General Plan Amendment and another for the Rezoning.

On August 1, 2013, the Planning Commission found the proposed General Plan Amendment and Rezoning did not meet the approval criteria and recommended denial to the Governing Body. Two related cases were also presented to the Planning Commission at that time, a Special Use permit to allow a restaurant (coffee shop) and a Variance to permit additional non-residential square footage, for a total of 4,600 square feet (a total of 3,000 square feet is permitted by the RAC zoning district). The Planning Commission denied the Special Use and Variance requests. The applicant is not appealing the Special Use and Variance decisions (see attached correspondence in Exhibit 3).

Exhibit "7"

The Planning Commission considered the staff and applicant presentations and heard from over 40 members of the public at the Planning Commission hearing. After lengthy discussion, the Planning Commission voted 4-3 to recommend denial to the Governing Body for the General Plan Amendment and the Rezoning.

II. APPLICATION OVERVIEW

The applicant is requesting a General Plan Amendment to change the Future Land Use from Institutional to Medium Density Residential. Additionally, the applicant is requesting to rezone the property from R-5 (Residential, 5 dwelling units per acre) to RAC (Residential Arts and Crafts, 21 dwelling units per acre). The applicant proposes the adaptive reuse of the historic Manderfield School building for 6 rental apartments and approximately 3,000 square feet of artist studio space. In addition, 4 single-family detached dwelling units with carports are proposed to the west of the school building (see Conceptual Site Plan in Exhibit 3). The Manderfield School is currently vacant and the site is 1.48± acres. The site is surrounded by a variety of uses, including institutional (church and a city park) to the south and east, residential to the west, and residential and office to the north.

Public comments received during the Early Neighborhood Notification (ENN) meeting and subsequent follow-up meetings included concerns regarding traffic, density, and the possibility of commercial intrusions into the neighborhood. In response to neighborhood concerns, the applicant has modified the application to remove the Special Use request for the coffee shop on the site, and has reduced the proposed non-residential square footage to 3,000. The applicant has also agreed to limit all non-residential development to the Manderfield building in order to mitigate any impacts on the neighborhood.

Subsequent to the Planning Commission meeting on August 1, 2013, the applicant met with certain parties who had spoken against the proposal, including the Canyon Road Neighborhood Association. The Land Use Department was not a participant in those meetings, which resulted in a list of conditions agreed to by the applicant and the Canyon Road Neighborhood Association. These were emailed to the Land Use Department on September 12 and are included in this packet as part of Exhibit 3. The Land Use Department notes that Item 5 in that list is not practically enforceable by the City.

ATTACHMENTS:

EXHIBIT 1:

- a) Findings of Fact and Conclusions of Law
- b) General Plan Amendment Resolution
- c) Rezoning Bill

EXHIBIT 2: Planning Commission Minutes August 1, 2013

EXHIBIT 3: Applicant Correspondence
Manderfield Conceptual Site Plan 9-10-13
Canyon Neighborhood Association Letter

EXHIBIT 4: Planning Commission Staff Report Packet May 2, 2013

City of Santa Fe, New Mexico

Exhibit 1

**Findings of Fact
Resolution
Bill**

ITEM # 13-0918

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

Case #2013-37

Manderfield School General Plan Amendment

Case #2013-38

Manderfield School Rezoning to RAC

Case #2013-39

Manderfield School Special Use Permit and Variance

Owner's Name – Santa Fe Public Schools

Applicant's Name – Manderfield LLC

Agent's Name – JenkinsGavin Design & Development, Inc.

THIS MATTER came before the Planning Commission (Commission) for hearing on August 1, 2013 upon the application (Application) of JenkinsGavin Design & Development, Inc., as agent for the Santa Fe Public Schools and Manderfield LLC (Applicant).

The Applicant proposes to redevelop the historic Manderfield School (the Building) at 1150 Canyon Road (Property) with six residential units and a coffee house and to construct four new detached single-family residential units (identified by the Applicant as "casitas") and related site improvements (collectively, the Project) on the Property. The Property is comprised of 1.48± acres zoned R-5 (Residential – 5 dwelling units/acre) and is in the Downtown and Eastside Historic District. The Building is designated as "contributing" under the Historic Districts Ordinance.

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 Public/Institutional to Medium Density Residential (7-12 dwelling units/acre); (2) to rezone the Property from R-5 (Residential – 5 dwelling units/acre) to RAC (Residential Arts and Crafts); (3) a Special Use Permit to allow a full-service restaurant use in order to operate a coffee shop on the Property; and (4) a variance from the requirements of Santa Fe City Code (Code) §14-7.2(H) to permit 4,600 square feet of non-residential use where a maximum of 3,000 square is allowed (the Variance).

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. The Commission has authority under Code §14-2.3(C)(7)(a) to review and make recommendations to the Governing Body regarding amendments to the Plan.
3. The Commission has authority under Code §14-2.3(C)(7)(c) to review and make recommendations to the Governing Body regarding rezonings.
4. The Commission has authority under Code §14-2.3(C)(3) to hear and decide requests for special use permits pursuant to Code §14-3.6 and for variances pursuant to Code §14-3.16 when they are part of a development request requiring Commission review.
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) and (iii)]; (b) an Early Neighborhood Notification (ENN) meeting [§14-3.1(F)(2)(a)(iii), (vii), (viii) and (xii)]; and (c) compliance with Code Section 14-3.1(H)(1)(a)-(d) and (I) notice and public hearing requirements.
6. A pre-application conference was held on April 23, 2013.
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 at 5:30 p.m. on May 15, 2013 at the First Presbyterian Church at 208 Grant Avenue.
9. Notice of the ENN meeting was properly given.
10. The ENN meeting was attended by the Applicant, City staff and approximately 18 members of the public interested in the matter.
11. Code §14-3.1(J) provides that applications may be approved with conditions of approval to ensure compliance with the purpose and intent or any section of Chapter 14 and any applicable City land use policy.
12. 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, rezoning, special use permit and variance, all subject to the conditions set out in the Staff Report (Conditions).

The General Plan Amendment

13. 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.
14. Under Code §14-3.2(D)(2)(a) and (b) applications for amendments to the Plan must be submitted to the Commission for review at a public hearing and transmitted to the Governing Body, together with a recommendation based on the criteria set forth in Code §14-3.2(E)(1) as to approval, disapproval, desirable changes and special conditions and safeguards.

15. 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 Plan shows the Property bounded on the west by a combination of Medium Density Residential (7-12 dwelling units/acre) and Low Density Residential (3-7 dwelling units/acre) and on the north by Medium Density Residential. Changing the Plan's designation of the Property from Public/Institutional to a residential designation is consistent with the abandonment of the former school use and adjacent properties to the west and north, which are designated in the Plan as Medium Density Residential and Low Density Residential. However, the character of existing residential development on the adjacent properties is at the lower density as reflected in the R-5 zoning that surrounds the Property on all but the north side, which is zoned RAC. 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 not consistent with provisions of the Plan that call for maintaining Santa Fe's unique personality, sense of place and character, as expressed by neighborhood residents through the testimony at the Hearing.

- (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 proposed amendment will allow restaurant and art studio use that is inconsistent with the prevailing residential use of the properties to the west and south.

- (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)].*

The proposed amendment does not promote the general welfare or have other public advantages of justification.

- (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 not contribute to a coordinated, adjusted and harmonious development of the City in that it is inconsistent with the policies of the Plan as set forth in paragraph 15(a)-(d) above.

The Rezoning

16. Under Code §14-3.5(A)(1)(d) any person may propose a rezoning (amendment to the zoning map).
17. Code §14-3.5(B)(1) provide for the Commission's review of proposed rezonings and recommendations to the Governing Body regarding them. Under Code §14-3.2(D)(2)(a) and (b) all proposed rezonings must be submitted to the Commission for review at a public hearing based on the approval criteria set forth in Code §14-3.2(C)(1) and the application transmitted to the Governing Body with a recommendation as to findings and conditions, desirable changes and recommendations for approval or disapproval.
18. Code §14-3.5(C) establishes the criteria to be applied by the Commission in its review of proposed rezonings.
19. 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 abandonment of the school use has altered the character of the neighborhood, but not to such an extent as would justify changing the zoning.
 - (b) *All the rezoning requirements of SFCC Chapter 14 have been met [Code §14-3.5(C)(1)(b)].*

All the rezoning requirements of Code Chapter 14 have not 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 not consistent with the Plan as set forth in paragraph 15 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 [Code §14-3.5(C)(1)(d)].*

The Property consists of 1.48± acres and its proposed use is consistent with the cited City polices in that it expands an existing district.
 - (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.

The Special Use Permit

20. Pursuant to Code §14-3.6(B), the Commission has the authority to hear and decide applications for special use permits; to decide questions that are involved in determining whether special use permits should be granted; and to grant special permits with such conditions and safeguards as appropriate under Code Chapter 14 or to deny special use permits when not in harmony with the intent and purpose of Code Chapter 14.

21. Code §14-3.6(D) sets out the approval criteria (Permit Criteria) and certain potential conditions for the grant of a special use permit.
22. The Commission has considered the Permit Criteria established by Code §14-3.6(D) and finds the following facts:
 - (a) *The Commission has the authority under the section of Code Chapter 14 cited in the Application to grant a special use permit [Code §14-3.6(D)(1)(a)].*
The Commission has the authority to grant a special use permit for a full service restaurant use in an RAC district.
 - (b) *Granting the special use permit does not adversely affect the public interest [Code §14-3.6(D)(1)(b)].*
Granting a special use permit for a full service restaurant use on the Property will adversely affect the public interest in that the Property is located in an area that has developed with low density residential uses and although there is RAC zoning to the north, existing development in the RAC district in the vicinity of the Property does not include significant commercial uses and does include a park.
 - (c) *That the use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the premises under consideration [Code §14-3.6(D)(1)(c)].*
For the reasons set forth in paragraphs 15, 19 and 22(b) above, the use and the Project are not compatible with and adaptable to the buildings, structures and uses of the abutting property and other properties in the vicinity of the Property.
23. Code §14-3.6(D)(2) provides that the Commission may specify conditions of approval that are necessary to accomplish the proper development of the area and to implement the policies of the Plan.

The Variance

24. Code §14-3.16(B) authorizes the Commission to approve, approve with conditions or deny the Variance based on the Application, input received at the public hearing and the approval criteria set forth in Code §14-3.16(C).
25. The information contained in the Staff Report and the testimony and evidence presented at the hearing is not sufficient to establish with respect to the Applicant's request for the Variance from the requirements of Code §14-7.2(H) to permit 4,600 square feet of non-residential use where a maximum of 3,000 square is allowed in that (a) while the size and historic character of the Building distinguishes it from other structures in the vicinity that are subject to the same regulations, and impose physical constraints on development, those characteristics do not prevent the redevelopment of the Property at a density consistent with other residential properties in the area; and (b) development of the Property consistent with existing R-5 zoning is not infeasible and can occur without the Variance.

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, rezoning, special use permit and variance were properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
2. The ENN meeting complied with the requirements established under the Code. The General Plan Amendment
3. The Commission has the power and authority at law and under the Code to review the proposed amendment to the Plan and to make recommendations to the Governing Body regarding such amendment.
4. Based upon the foregoing Findings of Fact, the proposed amendment to the Plan does not meet the criteria set forth in Code §14-3.2(E)(1).

The Rezoning

5. The Applicant has the right under the Code to propose the rezoning of the Property.
6. The Commission has the power and authority at law and under the Code to review the proposed rezoning of the Property and to make recommendations regarding the proposed rezoning to the Governing Body based upon that review.
7. Based upon the foregoing Findings of Fact, the proposed rezoning does not meet the criteria set forth in Code §14-3.2(C)(1).

The Special Use Permit

8. The Property is zoned R-5 and the Commission does not have the authority under the Code to grant a special use permit for a restaurant use in an R-5 zone. If the Property is rezoned to RAC, the Commission has the authority to grant a special use permit for such use.
9. The proposed special use permit for a restaurant use does not meet the Permit Criteria.

The Variance

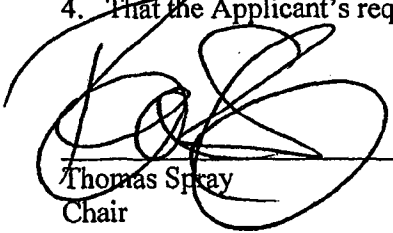
10. The Commission has the power and authority under the Code to review and approve the Applicant's request for the Variance.
11. The Applicant has not met the criteria for a variance set forth in Code §§14-3.16(C).

WHEREFORE, IT IS ORDERED ON THE 12TH OF SEPTEMBER 2013 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 and upon the failure of a motion to recommend that the Governing Body approve the said amendment, the Commission recommends to the Governing Body that it deny the Plan amendment.
2. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law and upon the failure of a motion to recommend that the Governing Body approve the said

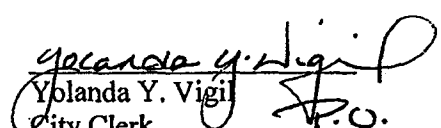
rezoning, the Commission recommends to the Governing Body that it deny the rezoning of the Property to RAC.

3. That the Applicant's request for a special use permit is denied.
4. That the Applicant's request for the Variance is denied.


Thomas Spray
Chair

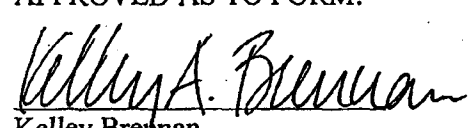
9/12/13
Date:

FILED:


Yolanda Y. Vigil
City Clerk

9/13/13
Date:

APPROVED AS TO FORM:


Kelley Brennan
Assistant City Attorney

9/12/13
Date:

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2013-__

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10 A RESOLUTION

11 AMENDING THE GENERAL PLAN FUTURE LAND USE CLASSIFICATION FROM
12 LOW DENSITY RESIDENTIAL (3 TO 7 DWELLING UNITS PER ACRE) TO MEDIUM
13 DENSITY RESIDENTIAL (7 TO 12 DWELLING UNITS PER ACRE) FOR 1.48± ACRES
14 LYING AND BEING SITUATE WITHIN PROJECTED SECTION 30, TOWNSHIP 17
15 NORTH, RANGE 10 EAST, WITHIN THE SANTA FE GRANT, NEW MEXICO PRIME
16 MERIDIAN, SANTA FE COUNTY, NEW MEXICO, WHICH IS LOCATED AT 1150
17 CANYON ROAD. ("MANDERFIELD" GENERAL PLAN AMENDMENT, CASE #2013-
18 37).

19 WHEREAS, the agent for the owner of that certain parcel of land comprising 1.48±
20 acres located at 1150 Canyon Road and lying within projected Section 30, Township 17 North,
21 Range 10 East, within the Santa Fe Grant, New Mexico Prime Meridian, Santa Fe County, State
22 of New Mexico (the "Property") has submitted an application to amend the General Plan Future
23 Land Use Map classification of the Property from Low Density Residential to Medium Density
24 Residential; and

25 WHEREAS, pursuant to Section 3-19-9 NMSA 1978, the General Plan may be

1 amended, extended or supplemented; and

2 WHEREAS, the Governing Body has held a public hearing on the proposed amendment,
3 reviewed the staff report and the recommendation of the Planning Commission and the evidence
4 obtained at the public hearing, and has determined that the proposed amendment to the General
5 Plan meets the approval criteria set forth in Section 14-3.2(E) SFCC 1987; and


6 WHEREAS, the reclassification of the Property will be substantially consistent with the
7 General Plan themes and policies for Land Use (General Plan, Chapter 3) and Growth
8 Management (General Plan, Chapter 4).

9 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
10 CITY OF SANTA FE:

11 Section 1. That the General Plan Future Land Use Map classification for the
12 Property be and hereby is amended as shown in the General Plan Amendment legal description
13 attached hereto as EXHIBIT A and incorporated herein.

14 Section 2. Said General Plan amendment is approved.

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17 APPROVED AS TO FORM:

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19 _____
20 GENO ZAMORA, CITY ATTORNEY

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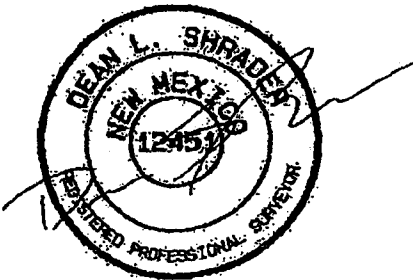
Manderfield School Property Legal Description

A CERTAIN TRACT OF LAND LYING AND BEING SITUATE WITHIN PROJECTED SECTION 30, TOWNSHIP 17 NORTH, RANGE 10 EAST; WITHIN THE SANTA FE GRANT, NMPM. ALSO LYING WITHIN THE CITY AND COUNTY OF SANTA FE, NEW MEXICO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE MANDERFIELD SCHOOL PROPERTY FROM WHENCE AN ALUMINUM CAP FOR CITY OF SANTA FE CONTROL MONUMENT "CD-8" BEARS N04°46'34"W, 1976.61' DISTANT;

THENCE FROM SAID POINT OF BEGINNING N 11°36'00" W, 326.80' TO A POINT;
THENCE S 84°54'00" E, 70.80' TO A POINT;
THENCE S 74°30'00" E, 113.09' TO A POINT;
THENCE S 35°23'00" E, 128.05' TO A POINT;
THENCE S 18°13'00" E, 170.10' TO A POINT;
THENCE S 85°49'00" W, 241.75' TO THE POINT AND PLACE OF BEGINNING.
CONTAINING 1.484 ACRES, MORE OR LESS.

BEING MORE FULLY SHOWN ON A "BOUNDARY SURVEY OF MANDERFIELD SCHOOL PROPERTY ..." PREPARED BY DEAN L. SHRADER, PS 12451 ON 10/8/2012 AND BEARING HIS PROJECT NO. 12102.



1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2013-34

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10 AN ORDINANCE

11 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SANTA FE;
12 CHANGING THE ZONING CLASSIFICATION FOR 1.48± ACRES LYING AND BEING
13 SITUATE WITHIN PROJECTED SECTION 30, TOWNSHIP 17 NORTH, RANGE 10
14 EAST, WITHIN THE SANTA FE GRANT, NEW MEXICO PRIME MERIDIAN, SANTA
15 FE COUNTY, NEW MEXICO, WHICH IS LOCATED AT 1150 CANYON ROAD,
16 FROM R-5 (RESIDENTIAL, 5 DWELLING UNITS PER ACRE) TO RAC
17 (RESIDENTIAL ARTS AND CRAFTS, 21 DWELLING UNITS PER ACRE), AND
18 PROVIDING AN EFFECTIVE DATE. ("MANDERFIELD REZONING," CASE
19 #2013-38).

20
21 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

22 Section 1. That a certain parcel of land comprising 1.48± acres (the "Property")
23 located within projected Section 30, Township 17 North, Range 10 East, within the Santa Fe
24 Grant, New Mexico Prime Meridian, Santa Fe County, State of New Mexico, of which 1.48±
25 acres are located within the municipal boundaries of the City of Santa Fe, are restricted to and

1 classified as RAC (Residential Arts and Crafts, 21 dwelling units per acre) as described in the
2 legal description attached hereto [EXHIBIT A] and incorporated herein by reference.


3 **Section 2.** The official zoning map of the City of Santa Fe adopted by Ordinance
4 No. 2001-27 is hereby amended to conform to the changes in zoning classifications for the
5 Property set forth in Section 1 of this Ordinance.

6 **Section 3.** This rezoning action and any future development plan for the Property is
7 approved with and subject to the conditions set forth in the table attached hereto [EXHIBIT B]
8 and incorporated herein summarizing the City of Santa Fe staff technical memoranda and
9 conditions recommended by Land Use Department staff on August 1, 2013.

10 **Section 4.** This Ordinance shall be published one time by title and general summary
11 and shall become effective five days after publication.

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APPROVED AS TO FORM:


GENO ZAMORA, CITY ATTORNEY

WGH DESERT SURVEYING, INC.

Dean Shrader, P.S. 12451



1925 Aspen Drive, Ste. 401 • Santa Fe, N.M. 87505 • Phone: (505) 438-8094 • Fax: (505) 424-1709 • wghdesert@newmexico.com

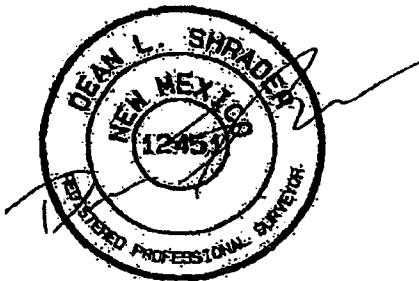
Manderfield School Property Legal Description

A CERTAIN TRACT OF LAND LYING AND BEING SITUATE WITHIN PROJECTED SECTION 30, TOWNSHIP 17 NORTH, RANGE 10 EAST; WITHIN THE SANTA FE GRANT, NMPM. ALSO LYING WITHIN THE CITY AND COUNTY OF SANTA FE, NEW MEXICO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE MANDERFIELD SCHOOL PROPERTY FROM WHENCE AN ALUMINUM CAP FOR CITY OF SANTA FE CONTROL MONUMENT "CD-8" BEARS N04°46'34"W, 1976.61' DISTANT;

THENCE FROM SAID POINT OF BEGINNING N 11°36'00" W, 326.80' TO A POINT;
THENCE S 84°54'00" E, 70.80' TO A POINT;
THENCE S 74°30'00" E, 113.09' TO A POINT;
THENCE S 35°23'00" E, 128.05' TO A POINT;
THENCE S 18°13'00" E, 170.10' TO A POINT;
THENCE S 85°49'00" W, 241.75' TO THE POINT AND PLACE OF BEGINNING.
CONTAINING 1.484 ACRES, MORE OR LESS.

BEING MORE FULLY SHOWN ON A "BOUNDARY SURVEY OF MANDERFIELD SCHOOL PROPERTY ..." PREPARED BY DEAN L. SHRADER, PS 12451 ON 10/8/2012 AND BEARING HIS PROJECT NO. 12102.



Manderfield School-Conditions of Approval
 Planning Commission
 Cases #2013-38, #2013-39 and #2013-40 Rezone to RAC, Special Use Permit, and Variance
 Revised for the August-September 25, 2013 Planning Commission-City Council Hearing

Conditions	Department	Staff
Wastewater Division: 1. All development on the site shall be connected to the City's public sewer collection system.	Wastewater Division	Stan Holland
Affordable Housing: 1. Per Ordinance 2011-17, applications for residential building permits for 10 or fewer units do not have to provide an affordable unit. Instead the applicant pays a fractional fee. 2. Fractional fees are temporarily reduced by 70% through June 8, 2014 and are paid to the City's Affordable Housing Trust Fund. If the units are constructed after June 8, 2014, the fee schedule may change. The fees are as follows: Fractional Fee (Home ownership) =1/2 sales price of 3BR, Tier 2 home x unit fraction x 0.3 (70% reduction) =\$69,000 x 1.2 x 0.3 = \$16,560 Fractional Fee (Rental) =1/2 sales price of 3BR, Tier 2 Home x unit fraction x 0.3 (70% reduction) 6 units x 15% = 0.9 =\$69,000 x 0.9 x 0.3 = \$18,630 Total Fee Due (Until June 8, 2014): \$35,190	Affordable Housing	Alexandra Ladd
Technical Review Division 1. There shall be direct pedestrian access to the site via the sidewalk.	Technical Review	Noah Berke
City Engineer for Land Use: 1. In accordance with Article 14-9.2(E)(6), "replacement of existing sidewalks is not required if they are in good condition and substantially in compliance with ADAAG." Prior to submitting a Development Plan, the designer, accompanied by appropriate City staff, will inspect the existing sidewalk and note any deficiencies. All deficiencies are to be corrected and noted in the plans. 2. All applicable terrain and stormwater management requirements of Article 14-8.2 of the Land Development Code must be met.	Technical Review	Risana "RB" Zaxus
Fire Department: 1. All development on the site shall comply with the currently adopted International Fire Code (IFC). 2. All Fire Department access shall be no greater than 10% grade throughout.	Fire Department	Reynaldo Gonzales

Manderfield School-Conditions of Approval

Planning Commission

Cases ~~#2013-38, #2013-39 and #2013-40~~ Rezone to RAC, Special Use Permit, and Variance

Revised for the ~~August 1~~ September 25, 2013 ~~Planning Commission~~ City Council Hearing

Conditions	Department	Staff
<ol style="list-style-type: none"> 3. Any development shall meet water supply requirements prior to construction. 4. The access road for the site shall be a minimum of 20 feet wide for Fire Department access, without a variance granted for providing life safety suppression systems. 5. There shall be a maximum 150-foot distance to all portions of the buildings. 6. Proper signage for fire lanes and no on-street parking shall be provided as required by the IFC. 		
<p>Current Planning:</p> <ol style="list-style-type: none"> 1. Applicant shall pay Parks impact fees since dedication of park land is not feasible for this project (Section 14-8.15(C)(2) SFCC 1987). In the event that the current 100% reduction on residential impact fees is still in place at the time of building permit, then the Applicant will contribute \$4,000.00 toward the construction of a new pedestrian walkway along Alameda between Patrick Smith Park and Canyon Road, and such payment will be made prior to the issuance of residential building permits. 2. No application can be made for a liquor license for 15 years from the date of the approval of the Special Use Permit for the restaurant. 3. No amplified music will be permitted after 9pm for the restaurant use. 4. The Special Use Permit and Variance approval are conditional upon approval of the General Plan Amendment and Rezoning. 5. Additional parking shall be provided to account for outdoor seating to ensure that sufficient on-site parking is provided; and 6. In order to ensure compatibility with existing land use patterns, the Land Use Department recommends the following condition limiting the extent and intensity of non-residential use of the property: Non-residential uses (excluding any permitted home occupation uses) shall be restricted to the Manderfield School building. 	<p>Current Planning/Road ways& Trails/MPO</p>	<p>Heather Lamboy/ Eric Martinez/ Keith Wilson</p>

City of Santa Fe, New Mexico

Exhibit 2

**Planning Commission Minutes
August 1, 2013**

4. **CASE #2013-37. MANDERFIELD SCHOOL GENERAL PLAN AMENDMENT. JENKINGSGAVIN DESIGN AND DEVELOPMENT, AGENTS FOR MANDERFIELD LLC, REQUEST APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 1.48± ACRES FROM PUBLIC/ INSTITUTIONAL TO MEDIUM DENSITY RESIDENTIAL (U TO 12 DWELLING UNITS PER ACRE). THE PROPERTY IS LOCATED AT 1150 CANYON ROAD. (HEATHER LAMBOY, CASE MANAGER) (Postponed from July 11, 2013)**

Items G(4), G(5) and G(6) were combined for the purposes of presentation, public hearing and discussion, but were voted upon separately.

A Memorandum, with attachments, prepared July 19, 2013, for the August 1, 2013 Planning Commission meeting, to the Planning Commission members, from Heather L. Lamboy, Senior Planner, Current Planning Division, is incorporated herewith to these minutes as Exhibit "10."

A power point presentation *Manderfield General Plan Amendment, Rezoning, Special Use and Variance*, entered for the record by Heather Lamboy, is incorporated herewith to these minutes as Exhibit "11."

A Memorandum dated August 1, 2013, to the Planning Commission, from Current Planning Division, regarding Additional Information, with the following Attachments: (1) Case #2013-37, Manderfield School General Plan Amendment; (2) Case #2013-38, Manderfield School Rezoning to RAC; and (3) Case #2013 2013-39, Manderfield School Special Use Permit and Variance, is incorporated herewith to these minutes as Exhibit "12."

A power point presentation *Manderfield School Planning Commission Meeting, August 1, 2013*, entered for the record by Jennifer Jenkins, is incorporated herewith to these minutes as Exhibit "13."

A letter dated August 1, 2013, To Whom It May Concern, regarding Manderfield School Project, from Rachel Fiance, is incorporated herewith to these minutes as Exhibit "14."

A packet of letters in support of the project, entered for the record by Jennifer Jenkins, are incorporated herewith collectively to these minutes as Exhibit "15."

A letter dated July 29, 2013, with attachments, to Heather Lamboy, Planning Commission and to whom it may concern, from James Gollin, President, Canyon Neighborhood Association, entered for the record by Brian Egolf, is incorporated herewith to these minutes as Exhibit "16."

A copy of a Memorandum Opinion in *Vista Encantado Neighborhood Association, et al, Appellants vs. City of Santa Fe and Safe Property, LLC*, First Judicial District Court, dated July 16, 2008, by Judge James A. Hall, entered for the record by Fred Rowe, is incorporated herewith to these minutes as Exhibit "17."

A letter dated July 3, 2013, to the Planning Commission, from Mike Loftin, Homewise, entered for the record by Hillary Welles, is incorporated herewith to these minutes as Exhibit "18."

A packet of letters entered for the record by Richard Ellenberg, are incorporated herewith collectively to these minutes as Exhibit "19."

A letter dated August 1, 2013, to City of Santa Fe Planning Commission, Heather Lamboy, from Mark Trimmer, regarding Manderfield School, entered for the record by Colleen Gavin, is incorporated herewith to these minutes as Exhibit "20."

Heather Lamboy presented information in this case via power point. Please see Exhibits "10" and "11" for specifics of this presentation.

Public Hearing

Presentation by the Applicant

Chair Spray reminded Ms. Jenkins that she is still under oath.

Jennifer Jenkins, JenkinsGavin Design and Development, Agent for the owner [previously sworn]. Ms. Jenkins said they are here on behalf of the Applicant, Clare Moray and her father Mike Moray. She introduced Kurt Sommer, who is here on behalf of the Morays as well.

Ms. Jenkins said she is here to request the Commission's support to preserve the Manderfield School, which was designed by John Gaw Meem, constructed in 1928. It is a contributing building in the Downtown and East Side Historic District. It is on the State Register of Historic Places. The building has been vacant for years. The building is surrounded with a chain link fence, and there is no activity. It is not on the tax rolls, and "it is begging to be preserved." She said, "How do we preserve a 400 sq. ft., big old institutional building. How do we go about that. It's not easy. It's a really fun, exciting challenge frankly."

Ms. Jenkins presented information via power point presentation [Exhibit "13"]. Ms. Jenkins said, "This is the area surrounding the property. It's about 1½ acres. It is bordered by Canyon Road on its north and to its east, and it has the Cristo Rey Church to the south, as well as the other institutional buildings associated with the church. The new Water Tower Park is across the street. As Heather pointed out, the general plan has an institutional designation which we are asking to change this evening. And this is the zoning in the neighborhood. As you can see, the orange is the existing Residential Arts & Crafts zoning that exists along this stretch of Canyon Road, that comes to the top of Canyon Road, and we are proposing it to incorporate the Manderfield property."

Ms. Jenkins continued, "And this is a site plan that talks about kind of what the vision is for the property. And, as you can see in this east elevation portion, we are proposing a coffee house. We are proposing also 6 residential units that are primarily focused on the west side. And I am oriented a little differently, I do apologize if that's confusing, but north is on 'this' end of the building on the right side, and Canyon Road 'here' on the bottom, is the east side of the property. And the west elevation, on the top of

the page, and 'this' little end cap here, we're proposing for residential uses on the interior of the building, as well as four new casitas that would be located essentially on the rear of the property."

Ms. Jenkins continued, "And as Heather mentioned, we are proposing to maintain the existing access on Canyon Road, the existing driveway. You come into a parking area at front that serves the non-residential portion of the building. To create a public area of the building and then the private areas of the property, we are proposing a gated access here leading to a one-way driveway with a new exit onto Canyon Road in this area. It works better for emergency access and general circulation to maintain the dead end. The casitas are 1,200 to 1,400 sq. ft.. they aren't designed but that is their vision. There will be covered parking as well as parking for the residential units inside the Manderfield Building."

Ms. Jenkins continued, "A big part of the goal here is to preserve as much open and green space as possible, so they envision the front of the building, augmenting the landscaping, creating lawn and outdoor areas for people and to beautify that façade of the school. It is a contributing building in the Downtown and East Side Historic District, so the exterior modifications will be minimal with new stucco and new roof which will give it the TLC it needs and deserves. We are proposing private, outdoor courtyards for private outdoor space and entrances for the residential units, which you can see along the side."

Ms. Jenkins continued, "Why RAC. You may hear people in the neighborhood saying just leave it at R-5. I want to share with you the process of how we arrived at this vision. In architecture we hear, form follows function. This is an adaptive reuse of an existing building, where function follows form. The building, based on the natural restrictions of the building and of the Historic Code tells us more than we tell it. The blue are designated as primary elevations by the Historic Districts Review Board, so most of the east elevation and a good portion of the north elevation 'here,' are primary. That means you can't change the windows, can't add doors, you are limited significantly on the degree of modification you can do there. We have existing entry at the mid-point of the building. If that's the only way to get in this side of the building, okay."

Ms. Jenkins continued, "Here's the thing about residential private access, some sense of private outdoor space is critical to making that viable, desirable, giving a nice quality of life. We have that option on the west and 'here' on the south side. We don't have that option here. All of 'this' has to be accessed from one point. So, in utilizing the central corridor as access internally for the art studios, there are no store fronts, with their own door facing Canyon Road. We have to preserve the windows, we can't add doorways, we can't convert windows to doorways. And the key thing about historic status is you can go to the H-Board and ask for an exception, and the H-Board does grant exceptions in certain cases, but they can't grant exceptions that threaten status. We were before the H-Board a few months ago. A little bungalow on Delgado had an old portal out of proportion with the building, out of scale, poorly constructed. We wanted to maintain the look of that, but we wanted to beef it up a little bit and make it more in scale with the building. They wouldn't let us do it, because it would have threatened the contributing status of that building. So we said, okay, we will preserve that, we will maintain that."

Ms. Jenkins continued, "Manderfield School. They [H-Board] are not going to approve exceptions that threaten the status of this building. So our east façade is sacrosanct from that standpoint. This is the concept of art studios having that internal access. There's great north light here, there is great ceiling

heights and volumes. The spaces, these old classrooms translate so beautifully to that. The art studios, we're looking at 350 to 500 sq. ft., relatively small space. Structurally, the building is pretty sound in terms of the low bearing walls. We're trying to honor those and we want to keep them in place. We really love the idea when you walk inside, you go, wow, this was a school once, and it still maintains that feeling. We are going to move the chalkboards into the coffee house. We're preserving the hardwood floors. We don't want to gut the interior into non-recognition of what this place once was, and this is how we accomplish that."

Ms. Jenkins continued, "Early on, before Clare reached out to us, before she even made an offer on the property, she reached out to the Canyon Neighborhood Association. She knew they had great interest in this property and what happens here, as they should. She was contacted by Richard Ellenberg and they had lunch and breakfast and visited, and shared her vision. And he said what would be great would be a coffee house, a neighborhood gathering place, that could draw the community here. She thought that an interesting idea, and we moved forward with the coffee house which is the subject of the special use permit before you this evening."

Ms. Jenkins continued, "And one point to make, is we have been dialoguing with the neighborhood quite a bit. Over the last several months, we've had a series of 10 meetings, a combination of meetings with Canyon Neighborhood Association and their members, individual property owners, the Association's legal counsel, an ENN meetings – a series of 10 meetings. The feedback we've received about the program has been positive overall and we're pleased by that. Concern has been expressed about what could happen if somebody else ends up developing the property, how do we prevent the commercial creep. We have agreed the only non-residential uses are limited to the Manderfield Building, and the casitas will stay residential and can't be converted to galleries. This is a residential program with a small non-residential component. RAC is not commercial zoning, it is residential zoning that allows for mixed use. RAC is in the residential section of the Code not the commercial section. That is an important distinction. RAC says no more than 3,000 sq. ft. of a building can be non-residential. We are asking for a small variance so we can have 4,600 sq. ft. of non-residential space as opposed to the 3,000 sq. ft. limitation."

Ms. Jenkins continued, "In our dialogue with the neighborhood over the past months, some requests have been made and we've agreed to most of them, and I just want to touch on those quickly. Limiting non-residential uses to the Manderfield Building. If there is any outdoor seating for the coffee house, the square footage would be counted toward the parking requirement. There is concern about ensuring adequate on-site parking and we are happy to do that. With regard to alcohol consumption at the coffee house, we're next door to the Cristo Rey Church and have no interest in serving alcohol. Originally, there was a 15 year time limit on the prohibition, to keep in mind changing conditions in the neighborhood, but that has been eliminated, and alcohol consumption at the coffee house is prohibited, period."

Ms. Jenkins continued, "The parking area of the building is being screened with vegetation, including evergreen vegetation as well as a four-foot wall. We want to make sure the view from Canyon Road is as attractive as possible. We have limited the total number of dwelling units. RAC allows 21 dwellings per acre. That's never going to fit here in a trillion years, it's not possible. We're limited to single-story here, per the Historic District height limitations, which will mandate everything be single story."

We have put an overall maximum residential density limitation of 18 units, we're proposing 10 dwellings right now, but that would allow the non-residential space to convert to residential over time if that's how it worked out."

Ms. Jenkins continued, "Concern was expressed about the existing retaining wall along Canyon Road, and they intend to preserve the wall presuming it is structurally sound. It is on our property line and along the retaining wall there is area between the sidewalk and the wall we could plant to soften it and screen the retaining wall. It is City property so we would have to get a license agreement from the City to landscape it, and we feel confident it would be granted, and agreed to landscape the public right of way to soften the view of the retaining wall. Again, it's about beautification at this point."

Ms. Jenkins continued, "We have further restricted the types of non-residential permitted RAC uses, which are in the packet. Looking at the types of spaces we're creating, 350 to 500 sq. ft., the coffee house is about 1,200 sq. ft. Say somebody comes in and in an art studio teaches a yoga class, or a photographer, and such. These are the uses that feel like they make sense in the building, because the building isn't going anywhere, and make sense in the types of spaces we're creating. And so these are the limitations we would have on the kinds of non-residential uses."

Ms. Jenkins said, "With respect to due process, there is a process for making modifications to what we're proposing. These are the uses you can do in RAC, but you have to go to the Board of Adjustment or to this body for approval. There are more special use uses than there are permissible uses in RAC. It's pretty restrictive already, and inherent restrictions are built into the zoning. It's a 3,000 sq. ft. limitation. We're asking for a little more to be able to relate to the existing structure and these are the uses.... you can't do an office without coming to this body or the Board of Adjustment. There is due process for any of these other uses."

Ms. Jenkins continued, "We heard some rumblings in the neighborhood that somehow things changed, the plan changed – we said one thing and then we're doing another. It's not the case, and it's very important and I want to make this very clear. 'This' is the plan that was sent out in the ENN notice, 'this' drawing right here was sent. We have 6 residences, we have art studios, we have 4 casitas at the rear. 'This' went into the ENN notice. We sent out 70 letters, only 17 people came to the meeting, which is unfortunate. 'This' is the plan we actually showed at the ENN meeting. Same 4 casitas, arts and crafts space, coffee house. And 'this' is the plan that we're showing tonight. The only difference is, we heard concerns about adequate on-site parking, so we added more residential guest parking at the rear and we added a sidewalk that leads out to the sidewalk on Canyon Road to make sure of good pedestrian access. 'Those' are the only changes."

Ms. Jenkins continued, "So, we've agreed to as much as we think we can reasonably agree to, and maintain a viable vehicle to preserve this building. Some ideas were thrown around about guaranteeing, in perpetuity that nothing ever changes. And I respect that changes can be scary, but guarantees like that don't exist in life in general. And so, we are availing ourselves of the City Code to say, what we can do to ensure that this is done appropriately. And that's what we are here doing tonight."

Ms. Jenkins continued, "In addition to the conditions that are approved tonight, there will be restrictive covenants on this property. Obviously there's going to be a condominium for the residential units and those covenants will restrict the fact that these units in the back can be only residential, just as the special use permit is proposed. We are availing ourselves of everything we can, to assure the appropriate protections for the property."

Ms. Jenkins continued, "Lastly, I'm going to give the recorder, I have 39 letters of support here. I think most of them made it to your desk, but I'm unsure if 100% made it. And I'm going to give them to the recorder so they can be entered into the record [Exhibit "15"]. So, I greatly appreciate your attention and with that, would be happy to stand for any questions. Thank you."

Speaking to the Request

All those speaking to the request were sworn en masse

Chair Spray allowed attorneys representing people or entities 5 minutes to speak to the request, and individuals speaking to the request were allowed 2 minutes to speak to the issue, later amended to 1½ minutes.

Brian Egolf, Attorney, representing the Canyon Neighborhood Association [previously sworn], said the Association recently took an unanimous vote of its Board requesting that the Commission deny the matters before you tonight, and to recommend to the Governing Body that the zoning change and the change to the general plan not be approved.

Mr. Egolf said, "The concerns of the Neighborhood Association are the following. There is certainly some concern about growing commercialization in this part of the community. There is concern about the durability of the proposed restrictions on the use of the property as well as the enforceability of any restrictions that would be imposed on the property. Mr. Chair, with your indulgence, I would like to give you a quick picture of the process the Neighborhood Association has gone through over the past 6 weeks, trying to come to an accommodation and agreement with the developer."

Mr. Egolf continued, "Most recently, I met with JenkinsGavin, both with their counsel and without and with the developer and without, and throughout we were discussing the general concept with the plan originally presented. There were some concerns, but these were concerns that were, as we got further into it, we realized were the details that could be ironed out. But the Neighborhood Association wanted assurances that what was being proposed would actually be constructed. Where, if, for example, after a zoning change occurs, if there was a subsequent buyer, that there would be restrictions contemplated in the special use permit which would be found on the property, not in a special use permit approved by this body that could then be abandoned, leaving behind a rezoned 1½ acre parcel in the middle of this neighborhood. Unfortunately, Santa Fe does not have an ordinance permitting conditional zoning. The concerns could have been addressed with a conditional zoning approval, but unlike Las Cruces for example, the City does not have an ordinance that allows that to be done."

Mr. Egolf continued, "So, we moved away from the concept of conditional zoning. We looked at conditions on special use permits and on variances, and while those do provide some protection, they are of course subject to amend or change by a future Planning Commission. But, also if those permits are not used, if the property is rezoned and a different owner comes along or a different decision is made about the project going forward, those conditions would be lost. So then, we looked at a cultural preservation easement. The Neighborhood Association spent a considerable amount of time and research to see if this would be an appropriate vehicle for the purposes of imposing on the property itself, the conditions very similar to those that were just discussed. The idea was, and I'll give you some that we proposed to the developer as a way to start the negotiations, for how we could put a cultural preservation easement together. The idea that it would be adopted by the School Board. We discussed the Historic Santa Fe Foundation as the trustee to hold that easement, then we would be able to forward with the assurance that those restrictions are protected by State law, under the Cultural Preservation Easement Act, and would be durable and enforceable going forward, regardless of who owns the property and other factors."

Mr. Egolf continued, "The elements that we sought to have included such as a cultural preservation easement, were an overall limit on the entire parcel of commercial square footage of 4,600 sq. ft. That is the amount that is being requested this evening. We thought it would be appropriate, in doing a Cultural Preservation Easement, to ask that that be the total limit, not just for the Manderfield Building, but for the entire parcel. So, if the casitas are not constructed, that we wouldn't see a gallery built in the area to the west of the Manderfield Building, which would be permissible under RAC and you could have up to 3,000 sq. ft. of commercial space per structure. So we thought, let's ask for a total aggregate square footage limit of 4,600 square feet."

Mr. Egolf continued, "We talked about what sort of commercial activity would be allowed and what kinds of goods and services would be sold in the studios. And we suggested, as an opening to the negotiations, that there be a cultural preservation easement condition that would say that only goods produced by tenants or their relatives or their artist collaborators would be sold there, so we wouldn't have tee-shirt shops or kitsch being sold under the guise of arts and crafts in the Manderfield Building in those studios there. We discussed a prohibition on the sale of alcohol. We proposed an overall limit on the total number of habitable structures of 5, which is what's being requested tonight. We suggested a single story limit which is part of what is being requested. We had some issues with outdoor music and hours of operation of the coffee shop and things. These were all things we proposed to begin the process of negotiation."

Mr. Egolf continued, "In response, we never received a written offer, a counter-offer. We heard some concerns they had about the impact that imposing that kind of cultural easement might have on their ability in the future, to draw down on federal tax credits that flow from the work done on a building listed on the National Register of Historic Places. It's important to mention that the Manderfield Building is listed on the State Register. It's not listed on the National Register, and we understand from the developer that they hope to have it listed on the National Register and then seek a federal tax benefit for the work done on the building. We suggested there might be a way to work this easement to not jeopardize those tax credits. But that conversation happened last Friday. So we requested this meeting be postponed by a month or two to give myself and Mr. Sommer the opportunity to sit and do some of the research that was necessary and see if there was a way to find an accommodation that would make the neighborhood association

comfortable, but also to allow the project to go forward. Unfortunately there was not an agreement on the postponement, and so we find ourselves here tonight unfortunately, in opposition."

Chair Spray noted Mr. Egolf has exceeded his 5 minutes.

Mr. Egolf said, "I would like to add a few things, just for the purpose of making a record, because, depending on what happens tonight, we will be pursuing this."

Chair Spray said, "I would be good with that if the folks can come back down to 90 seconds, 1½ minutes so you can continue."

Mr. Egolf said, "I have some handouts. I'm not sure what the process is, if you would want to see these. I have a very few comments to make about the applicability of the general plan and the zoning request, if I may Mr. Chair."

Chair Spray told Mr. Egolf to give the handouts to the recorder and the staff.

Mr. Egolf entered the documents into the record [Exhibit "16"].

Mr. Egolf said, "At this point, I would like to make a couple of comments for the record about the ENN process, and about the general plan amendment as well as the zoning change. We believe that, based on the scope of the rezoning request that the discussion that occurred at the ENN was insufficient to give proper notice about what's being contemplated. And specifically, under 14-3.1(F)(6)(a), there is to be a conversation about the effect on the rezoning on the character and appearance of the surrounding neighborhood. That includes not just the effect that the project has, the effect of the rezoning on the surrounding neighborhood. As you will see from the minutes that were produced from the ENN, that was not the topic of conversation in terms of what the effect on the neighborhood would be of other uses that are permitted under the RAC. We think that should have been part of the presentation. As well to think that we should have discussion about the relationship to existing density and land use within the surrounding area and with the land use that is permissible with changes to the general plan. That also was not discussed, but it was an important component. And those concerns would have rise to the Neighborhood being here tonight."

Mr. Egolf continued, "Finally, with relation to the general plan amendment criteria. Let me talk about 14-3.2(E)(c)(1). It's required that the amendment not allow uses or changes that are significantly different from or inconsistent with the prevailing use and character in the area. As you'll see from the aerial map and the google maps print out [Exhibit "16"], the nearest commercial use, with the exception of the small architect's studio, is about a half mile away. There simply is no commercial activity near to the Manderfield School. While there is RAC zoning across the street, with the exception of that one architect's office, none of it is used for commercial. It's all used for residential, and so this fails to meet the general plan criteria, in that the change comports with the area. Only if you consider the area affected to be the entire stretch of Canyon Road down to El Farol and beyond, is there an argument that it is appropriate for the General Plan Change."

Mr. Egolf continued, "The other criterion under (E)(c)(3) is 'The amendment should not benefit one or a few landowners at the expense of the surrounding landowners or the general public.' Obviously, this change benefits a single landowner, so that part of that prohibition is satisfied. You are going to hear from the immediate neighbors immediately to the west that they are not in support of this plan because of the impact this will have on their residences. And you'll hear some other opposition tonight. And based on the opposition, as well as the lack of comportsment with the surrounding area, you are on solid ground to recommend denial."

Mr. Egolf continued, "And then on the rezoning criteria, as to 14-3.5(C)(1)(a)(2), there has been no change in the surrounding area. While Manderfield is closed, that is not a change that gives rise to justification for this amendment and for the change in zoning. And also it is not consistent under (C)(1)(c), it's not consistent with the applicable policies of the general plan, including the future land use map, as I pointed out just a moment ago."

Mr. Egolf continued, "Final thought is that this is not the only thing that can ever happen to the Manderfield School. The choice is not this, or nothing. The choice is this, or something else in the future. And the Neighborhood Association would urge the body to proceed cautiously and not be convinced that this is an all or nothing proposition. It's the neighborhood that is... *[inaudible here because Mr. Egolf moved away from the microphone]* This is the only way to preserve this school. And finally, the claims that this about preserving Manderfield is simply not the case. This is about whether this particular plan should be allowed or not. This is not about whether Manderfield School should or would be preserved or not. Thank you."

Fred Rowe, President, Santa Fe Neighborhood Law Center, Board member of the Neighborhood Network [previously sworn], said he will be speaking largely from a legal perspective this evening which may simplify the Commission's resolution of the 3 separate cases, all of which the proponent must prevail on in order to make out on his proposition.

Mr. Rowe said, "First, in the guise of preserving the old school building which no one opposes and everyone supports, the developer seeks a rezoning that would at least triple the density of the present R-5 zoning area and would permit broad future commercialization of a residential area. Consequently this proposal is not opposed only by the Association for which the previous speaker advocated, but is also opposed by the Old Santa Fe Association, the Historic Santa Fe Association, the Neighborhood Network all of whom will speak presently and express reasons for their opposition, above and beyond the points that were made by Mr. Egolf. The critical issues I would put before this Commission is that this proposal clearly violates Judge Hall's Vista Encantada decision, which prohibits piecemeal rezoning, and I'm quoting from the opinion, 'that would undermine the purpose of zoning ordinances for enabling residents to rely on predicable, standard land use policies for the are.' These are quotations from Judge Hall's Opinion, and I'll hand the opinion to the Reporter, so it can be made part of the record [Exhibit "17"]."

Chair Spray advised Mr. Rowe that he has exceeded his time and asked him to wrap-up.

Mr. Rowe said, "This project is an illegal, piecemeal rezoning, that will rezone 1.34 acres from R-5, which prohibits commercial usage to RAC, which allows broad, future commercialization. Moreover, it would triple, at least, the allowable density from 5 to 15 units, and for starters, it may be up for additional density if they come back. But apparently, we heard, the developer rejected an easement that would permanently, for the future, limit the commercialization of this particular 1.34 acres. Both restrictions were designed to prevent future commercialization and conversion of the coffee shop to a McDonald's or a pizza take out or a bingo parlor, all of which could become a part of this project in the future. While some Canyon Road areas are partially commercial, this tract is not adjacent to those areas which are on lower Canyon Road. This is on Upper Canyon Road."

Chair Spray again advised Mr. Rowe that he has exceeded his time, and said there are a lot of people behind him that want to stay with the 1½ limit and give extra time to Mr. Egolf, because he requested that. He is trying to make it fair for everyone and asked him "please not to make that more difficult for him to do that. One more sentence please."

Mr. Rowe said this approval would establish a horrendous precedent, and allow commercialization of a residential area whenever commercial owners wanted to encroach on a quiet residential district. He thanked the Chair for his patience.

Hillary Wells, Jenkins Gavin, 130 Grant Avenue [previously sworn], read a letter into the record from Mike Loftin, Homewise, who could not be here this evening, who said, "I wholeheartedly support the Manderfield project and look forward to the City's approval of the necessary entitlements. Please see Exhibit "18" for the complete text of this letter. Ms. Welles said she has another letter for the record. Chair Spray said she has exceeded her time and asked her to submit the letter to the reporter to be entered for the record.

Elena Benton, Board of ACSYL Neighborhood Association [previously sworn], said it is the oldest and largest neighborhood association in Santa Fe. She cautioned the Commission about what happened in their neighborhood when the Old Pepper's Restaurant on Old Pecos Trail was changed to a nightclub. It took them two years to remove the nightclub, noting they promised they would never do anything to harm the neighborhood. She said the park around the corner from the nightclub changed from something usable and enjoyable to something where "mothers were pushing strollers over hypodermic needles, condoms and broken glass." She said it was a burden on their neighborhood, and their safety was compromised, noting there were more than 170 police phone calls during the two years. She said they finally were able to remove them because they were able to find a zoning limitation to get it kicked out. She said it has taken more than 4 restaurants changing owners to that location to find one that is family representative and accepted by the neighborhood. She said the hotel is owned by a local family who also has a home very close to the property, noting they also own the Sage Inn. She said, if this is passed, she strongly urges the Commission put limitations on what in there and what can be changed, because as time passes, the owners can change opinions that greatly affect the neighborhood. She said a nightclub would be disastrous here.

Richard Ellenberg, 1714 Canyon Road [previously sworn], said he has letters to be entered into the record [Exhibit "19"] which he provided to the reporter. He said he was contacted last winter about the project and he met with the prospective purchaser and told her she had a good board to work with, noting more than half of the Board is professionally involved in real estate and they aren't scared of development. He told her they wouldn't do RAC zoning, because it has so many uses and is so unlimited, and it would be very destructive, understanding that Manderfield is the entrance to the whole Canyon Association, the East Alameda networks, the Camino Acequia Associations. He said you see maps that focus just on the little spur coming up Canyon Road and not on the whole surrounding area which is all residential. He said he told her, "You have a good plan, we'll buy it, as long as you can guarantee that's what you're going to deliver." He said Jennifer Jenkins was hired and she called him. He said they talked about the possibilities that could happen under RAC. He said they then hold a meeting for people from ½ mile around the development, and 40-50 people attend. He thinks people like the plan. He said they are very concerned that they aren't going to get what they are being promised. He said we told them that we are hiring a lawyer for the neighborhood that the documents are written so we will get what is promised.

Mr. Ellenberg said, "After that meeting, the Board votes unanimously to be willing to support the plan, assuming and hiring an attorney to document that we would get what is being sold. We got a reply to that, 'no way.' No conditions, no covenants, no releases are agreeable, they want much broader uses. They want to change this, they want lots of flexibility. Basically, the developer ran away from this pretty plan you've seen, and plan that this Board was willing to support 100%. So what this comes down is, you are being asked to RAC zoning and you can't condition it. If you condition it in the variances, variances will be used to [inaudible]."

Chair Spray said Mr. Ellenberg's time has expired and asked him to wrap up.

Mr. Ellenberg said, "I want to put one figure in the record. This is 1.48 acres, at 40% lot coverage, that's 67,000 sq. ft. approximately you have to be covered. This would leave a difference of some 50,000 square plus to be built on this lot. If it's RAC, it can all be commercial and you can't limit it. There is a limit of 3,000 sq. ft. per building, but each building is separate, and if two structures are put next to each other with a fire wall they are separate building for the Code. If you approve RAC zoning, this is the horse out of the barn and there's nothing that can be done about it. We are sensitive to the need to be flexible with it, but we don't support just letting the horse out of the barn with a substantial rezoning that can go anywhere if the property owner changes their mind, or whatever."

Marilyn Bane, President, Historic Neighborhood Association [previously sworn], and is speaking on behalf of the Association's behalf. Their Board has voted to support the Canyon Neighborhood Association in opposing the developer's requested RAC zoning, which they believe would set the stage for increased commercialization of this historic residential area and affect negatively the quality of life for its residents. She is also a resident of Canyon Road, at 622 ½ B, commonly referred to as Lower Canyon Road. This property being discussed is "Upper Lower Canyon Road," as to be distinguished from "Upper Canyon Road." She said much of Lower Canyon Road carries and RAC zoning. This is the area she lives in that is sometimes called "tinsel town," other times "gallery row," and on a good day "the art and soul of Santa Fe." She said, even though it is RAC, she has never heard it referred to as

residential. She said when Canyon Road first received the designation the area really was live/work and it was mixed used. She said the street made its fame and fortune based on local artists living and working and showing their paintings or sculptures out of their homes. There was a grocery store where they could get a quart of milk. The houses and stores are all galleries, many adjunct business from Scottsdale, Los Angeles or New York. After 5:00 p.m., there is no life on Canyon Road, save for tourists walking or driving to or from Geronimo's, the Compound or El Farol.

Ms. Bane continued, saying when you continue to travel up Canyon Road to Palace Avenue, there is a gallery on the right, "The Last Gallery on the Right," and well named. From that point on there are no other galleries or businesses with the exception of the architect which is housed in a beautiful old house at 1034 Canyon Road, on the left.

Chair Spray said Ms. Bane she has exceeded her time and asked her to wrap up.

Ms. Bane continued, "That's why I'm confused when the application states that the Manderfield School is in the surrounding area of small businesses and mixed use areas. It simply isn't. Which is why, in another section of the application, it refers to the opportunity of bring small arts or businesses into the area, which unfortunately, it will. These will not be grocery stores, dry cleaners or other businesses that serve the existing neighborhood. They'll be whatever the market will bear for the developer. If you go up Canyon Road 'here,' you will see a gentle mixture of new homes, old homes and very old homes, all of them are private residences. All of them are a part of a very special residential neighborhood. You'll see hollyhocks, flowers all the way up, and the people you see there, are there from ten to five. They live there. They are generations of Santa Feans who have lived and still live in these homes. The Vigils, the Ortiz', the Olivas', and many other prestigious Santa Fe families are still there. The children, grandchildren, uncles, aunts who were both there, often still live there. This is the best of Santa Fe. You've heard it from other speakers, I'd like to reinforce that. Lower Canyon Road should not be allowed to creep up with the creeping commercialization and that will happen if you approve the RAC zoning this evening. Please deny this request."

Steve Westheimer, 1240 Canyon Road [previously sworn], said he is a close neighbor to the proposed project. He said, in his opinion and many other neighbors in the immediate neighborhood, the proposal is completely out of character with what surrounds it. It is true across the road it is zone RAC in a very small strip that abuts the River, there was no commercial development there, until the coffee house at the intersection, which is to the west. There is no commercial development to the east and to the north and south. He said Ms. Jenkins has talked about their vision, but they are worried that this is not yet a plan. The others have given you ample reason for denial. We all want Manderfield to be preserved, and it will be. The question is at what other cost to the neighborhood. He said, "I would suggest to you, at this time, that this proposal at this time, and in that location does not meet your criteria and will not be consistent with what is in the best interest of the neighborhood.

Chair Spray thanked Mr. Westheimer for his remarks and for finishing on time.

Cherie Johansen, President, Neighborhood Network [previously sworn], said she is speaking on behalf of the Network and its affiliate neighborhood association, and supports the Canyon Association in its opposition to the developer's request for RAC zoning. The Network feels this would set the stage for the commercialization of this historic residential area and adversely affect the quality of life of its residents. The Network stands with the Canyon Neighborhood Association and the neighbors of Cristo Rey Church. If this is approved, it will negatively affect the neighborhood in the area. She said they would like to see this great historic facility revitalized, and they applaud the better use of public school funds, but the neighbors are opposed to the commercial intrusion into the historic residential neighborhood. And the requested quadruple increase in density from 5 dwelling units to the RAC designation of 21 dwelling units. The proposed coffee shop and artistic studios are presented as attractions to the neighbors to enjoy and to meet and greet. However, there are no guarantees once the variance is granted that the 1,200 sq. ft. coffee shop could later become any commercial establishments. Many commercial uses can go into RAC zoned areas without further public input or notice, and many other uses would be allowed if the special use permit is granted. She said, "We are asking that you deny the request."

George Jones, 570 Camino Monte Bello [previously sworn], said they have owned 1018-B Canyon Road since 1997, which was their beloved vacation home for many years. They know many people in the neighborhood, which is predominantly residential from Palace to the Manderfield School, and always had been residential. He said the petitioners' map of the RAC area, it eliminates the land that is actually Monsignor Patrick Smith Park, noting the RAC area is actually very small. He said in looking at the 3 reasons for rezoning, the characteristics of the neighborhood have not changed in a long long time. He said another issue for them is safety. He said in that stretch, Canyon Road is very narrow, and there are not sidewalks all the way. He said there are no sidewalks in front of their property. It is a heavily trafficked area during the day, a lot of trade traffic, tourists. There are many times he has to stop and let an ongoing car pass because there isn't enough room in places. This project will add to that traffic, noting there is already a big addition to the traffic with 1020 Canyon Road, where 7-8 new homes are being built.

Chair Spray said Mr. Jones has exceeded his time, and asked him to conclude his remarks.

Mr. Jones said safety and parking will be issues. There is no parking on Alameda and the spill-over will park on Canyon Road. Nobody should be forced to walk through an unsafe area from the last gallery to this coffee house. He wants to save the school, but this isn't the project to do that.

Sondra Goodwin, 1615 Cerro Gordo Road [previously sworn], said her grandfather was Sage Goodwin, an architect who worked for John Gaw Meem in the late 1920s and early 1930s. She isn't here to speak to the project design. She speaks in favor of the project, but in fear of retaliation. She said she is unaffiliated. She is for infill, high density and mixed resident-commercial zoning. Our current zoning laws support sprawl, forcing a drive. She spoke about bees dying because of loss of habitat, and in 50 years some species will be extinct because of sprawl. She asked who you are thinking of when you support these ideas, saying she is the future, and infill and high density are the way to go. She urged approval of this project.

Eric Enfield, Architect, [previously sworn] said he has done a lot of renovation projects in Santa Fe, including the Museum of Spanish Colonial art and has worked on many John Gaw Meem buildings. He is in support of the proposal because it is an alternative to deteriorating schools, and the funding will help the schools. He feels the uses and the approved zoning are appropriate. The zoning is RAC with extremely limited uses. He would prefer renovation to deterioration. Some neighbors are drawing the line on commercial development on Canyon Road, but precedent has already been set. He went to school on Upper Canyon Road in 1972, and went there recently to purchase jewelry and there are architects offices web designers and residential. The area is zoned residential with an arts and crafts overlay. He said the proposed zoning is appropriate doesn't allow bars, restaurants, business, professional, medical, grocery or laundromats without a special exception which will trigger a public process. He said there probably were in this school every day along with associated parents and cars. He said the proposal for 10 residential units, a coffee house and 6-8 art studios is a less intense use that existed previously. He said this plan initially supported by the Canyon Neighborhood Association, and after the support, it was decided to ask for restrictions in perpetuity.

Chair Spray said Mr. Enfield has exceeded his time and asked him to wrap up his remarks.

Mr. Enfield said if the Canyon Neighborhood Association specifically oppose the coffee house/restaurant house, the Commission could include a denial of this use on this property and not allow the special use permit for this part of the project. He asked the Commission to support the project and to ask for a hand count of those in support of the project.

John Eddy, Board member, Old Santa Fe Association [previously sworn], said he is here on behalf of the Association. Mr. Eddy said the Association is excited about the concept of adaptive reuse. He said there is a confluence of buildings on these blocks which are unique to Santa Fe, among them Cristo Rey Church. He said they do like the idea of adaptive reuse, but are very concerned about the creep of zoning from Lower Canyon Road making its way to middle Upper Canyon Road. Their Association voted to support the Canyon Neighborhood Association in asking the Commission to deny the request for rezoning.

Joseph Maestas, 3999-A Old Santa Fe Trail [previously sworn], commended the Commission for the tough job they have. He said he is here in support of the Canyon Neighborhood Association's position to turn down these requests. He said this project has many many positive aspects, and it is unfortunate an agreement couldn't be reached between the developer and the Association. He said perhaps more time is needed to come to some consensus. He would like to a show of hands in favor of denying these requests. He said part of the job of the Commission is to weigh compliance with appropriate codes with public acceptance and hopes the Commission will side with public acceptance.

Stephanie Gonzales, 511 Apodaca Hill [previously sworn], said she is concerned that there are still so many unanswered issues, and she hopes perhaps a dialogue between the developers and Mr. Egolf can resume. She is here tonight because of the many unanswered questions. She said the vision has changed from the beginning, commenting it is a whole different vision right now. She is here tonight to request that the Commission deny this request.

Brad Acton, 1206 Upper Canyon Road [previously sworn], said his sentiment is one of extreme disappointment that the process was pushed to this point without negotiation between the Association. He wished that the developers had been to reach an agreement on the additional layer of restrictions in addition to RAC zoning to the satisfaction of the neighborhood. He said there is a potential fruitful outcome of such a negotiation. He said the proposed mechanism doesn't seem to negate receiving federal tax dollars for the historic registration status the building could achieve. He is hoping that this board will see potential in these future negotiations, given the passion of the neighborhood representatives here tonight, and ask the developers to go back to the table with the Association's attorney, and seriously look at the benefits of the cultural property overlay easement. He said they think the project is worth this effort. They think RAC is an excessively coarse designation for this very sensitive location. He said a refining of that designation is entirely possible with the continuation of the negotiations, with serious consideration of the cultural overlay.

Bonifacio Armijo, 1103 Avenida Cordoniz [previously sworn], said he also has a residence at 463 Camino Don Miguel. He said he served 5 years on Planning Commission and commends the members for their work. He said he believes the problem with the project is people don't want to see happen here what happened in downtown. He spent a year on the Downtown Steering Committee, and they found the over-growth of allowing too much commercial in a residential area, and we need to be careful. He said currently there is a good cut-off line at Alameda and Palace and Canyon is where most of the commercial ends and all the residential takes off. And after that there are Prep and Cristo Rey and Atalaya and other schools, but the rest is residential. He commends the developers in trying to bring forward a project, noting Santa Fe needs more projects, noting he is a building contractor by trade. He said this is, however, a project in the wrong place. He said they have done a good job of designing around the School, but he has concerns if you allow this to take place what will happen after that. He is opposed to this project.

Erica Wheeler, 1151 East Alameda [previously sworn], said she can see Manderfield from her house. She would love to see something positive to happen with the school, noting there are a lot of positive aspects to the development. However, as it stands, she is urging the Commission to deny the request for the rezoning. She is very concerned about overflow parking because "my street is prime for that and I've seen what has happened with the Canyon Road Tea House." She said the overflow parking is along Alameda and sometime they park on the east side of Alameda which turns it into a single lane road. She urged the Commission to deny the request at this point, so people can get back to the table and do a better job of planning.

Richard Yates, 540 Palace [previously sworn], said he built a house at 1242 Canyon Road in 1983, and resided there for 27 years and raised 3 children there. He said living on that side of town was wonderful, but each time he left his house, he drove through other peoples neighborhoods to get services – buy food, go to restaurants, etc. He said he is in favor of the project and like that they are adding smaller residential units to it. He said the property could be developed as a single residence which is what happened on the east side where there are larger and larger houses and fewer and fewer people. He said the school is no longer a school is there are less children living in the area.

Former City Councilor Karen Heldmeyer, 325 E. Berger [previously sworn], said she lives in the Don Gaspar neighborhood which has had its own run-ins with RAC, so they know the permitted uses in the RAC without public input or discussion. They also know about the special exceptions which are much more intense uses. They are asking for a special exception, not for a coffee house, but for a restaurant which, if approved, any kind of restaurant could move in there. They also know about other commercial uses which just kind of sneak in because the City business license people don't always talk to the people in land use. She said this is much too much an intensive use for this area. She said she, too, served as a Planning Commissioner, as well as a City Councilor, and she has heard dreams, wishes, hopes and promises and intents. She said, "My rule of thumb always was, to ask them 'if you're really sincere about this, will you limit your use to that very specific small use.' And sometimes people would say yes, but most of the time they would say, 'we want the flexibility, or what if we sell the property.' And what that tells you is that there is a wide open door when you give RAC zoning to a property, that all kinds of things that can go through. This is a nice piece of land on the east side. There isn't much of that. It's a John Gaw Meem building. We know there aren't going to be any more of those. There can be something that is appropriate for this, but RAC zoning is just too much in this particular location."

Roman Abeyta, 4325 Camino Lila [previously sworn], said Camino Lila is actually Airport Road. However, he grew up on Canyon Road, and went to Manderfield School before he attended Atalaya. He said his dad still lives at 1132 Canyon Road, two houses away from Head Start. He said he also has served on the Planning Commission, and has worked in Planning and Land Use. He said the proposal is too intense for this property. He said, as Mr. Armijo stated previously, Cristo Rey is right on the other side of the School, and asked, "If you grant this, what will happen next." He said what could happen is Lower Canyon Road will become as intense as Upper Canyon Road, and this will be the one parcel that opens the door for that, so he is requesting the Commission to deny this request.

Chris Abeyta [previously sworn] said he speaks for David Rodriguez, who owned the land where Cristo Rey and Manderfield are located. He said, as his mom Rosendita Abeyta said, this gentleman wanted to preserve the spirit of Cristo Rey and education and the community. He said he played in the area and at Manderfield. He sees it every day. He doesn't see how that spirit would be preserved, and how the children who grew up there can walk in there in a gated community, as we're not allowed in any gated communities. He this lady said, 'the building speaks to us.' He said it has spoken to

him many times and he never heard it say the word casitas. He said he is speaking for the spirit, commenting that he is about spirit, about Santa Fe and la tierra y la gente. He said he really believes this project won't be successful and urges the Commission to deny it.

Robert Abeyta, 1134 Canyon Road [previously sworn], said "this is my brother and he said most of the things I was going to say." Mr. Abeyta said his problem is the coffee shop, noting we have 60 coffee shops in Santa Fe and we don't need another coffee shop. He said the traffic is terrible, and we don't need more houses. He is concerned about the water use, commenting we are in a drought. He asked if we want more houses and more water uses coming out of this project. He said, "I'm against that."

Vicki Ortega, Cerro Gordo [previously sworn] said she is opposed to this project. She said her grandfather helped to build Cristo Rey Church and she attended kindergarten at Manderfield. She said it is sentimental to her, however she speaks from a common sense point of view. She said, "We in this neighborhood have seen so much change that has not been beneficial to the neighborhood." She strongly urges the Commission to seriously consider not approving the project. She said the project is not in the interest of the neighborhood. She was here last week to oppose two different requests to downgrade homes from historical status. She has been back in the neighborhood for 12 years, having grown up on Cerro Gordo, and has seen constant constant change because of these kinds of requests. She is concerned that there won't be anything historical about the east side if all of these projects keep being approved. She urged the Commission to not approve this process.

Brad Perkins, 3 Camino Pequeno [previously sworn], said he strenuously objects to the proposed upzoning. First, the community surrounding Cristo Rey has been a religiously, centric residential neighborhood for more than 100 years. He said RAC zoning has the possibility to demolish that essence. He said the possible choices under RAC cause a real fear of what could happen. Secondly, the Cristo Rey neighborhood has always been a residential community and nothing else, providing homes for multi generations of New Mexico families. As a result, it is now, one of the most deeply rooted communities in Santa Fe. He said there would be no benefit to the community from a zoning change that is clearly evident from the development plan currently being consider. He said, "I would go one step further from what Fred Rowe said about Jim Hall's decision, and the follow up to that, 'The Supreme Court declared that there had to be a significant change in the neighborhood to justify a rezoning, or there had to be a mistake in the zoning in the first place.' He said neither of those conditions apply, and nothing has happened in that neighborhood, until now to justify a rezoning.

Chair Spray noted Mr. Perkins has exceeded his time and asked him to conclude.

Mr. Perkins said, "Yes very quick. The Supreme Court also said, 'proof would have to show at a minimum that there is a public need for a change of the kind in question. The change has to be justified by need, and that the need would be best served by changing the classification by the particular piece of property in question as compared with other available property.' And that's from the State Supreme Court, and I think that settles the question right there."

Michael Lass, 1211 Upper Canyon Road, Member and Immediate Past President of the Canyon Neighborhood association [previously sworn]. He said he is proud of the community and Santa Fe. He said he would like to highlight a few points. The point they are making is that RAC a very broad zoning and it is subject to abuse. He said the Board felt this proposal, as you've heard, had a great deal of merit. Their central concern was that the merit of the proposal be proposed. He said Ms. Heldmeyer put the point on it when she said, when you turn to the developer and say, we like your proposal, but we want to assure that it will be implemented and it won't have untoward consequences in the future. Will you commit by the appropriate restrict, and the developer says to you no, that speaks volumes. He said we are looking for them to put a real commitment to what they say it is, and not with broad arguments to zoning and all this other stuff. The commitment they say they will make to this project and to our community and they are unwilling to do that, and that's why we're all here tonight.

Suby Bowden [previously sworn], said she is a neighbor of the subject property. She said she also was a Planning Commissioner for many years, and understands their role tonight is representing the common good, and the community is fundamental to the conversation this evening. She said the applicant is offering great opportunity for the common good, to support the school system through the purchase, to preserve the building. They are also sitting adjacent to the Catholic church, which she believes is the largest commercial establishment on Canyon Road. She said there is huge traffic coming in and out of the Church on a regular basis, so traffic to her isn't the issue. She also said the Canyon Neighborhood Association has gone further than she expected them to go, in saying that what has been proposed they are willing to meet which is a big step. She said it appears one proposal by the association has been made to establish a cultural conservation easement with the Santa Fe Public schools assures the Schools meet its needs, the community meets its needs and the needs of the Association, and the developer meets what has been asked for. And ultimately, they go back to the table and work out the logistics. She said when she was on the Commission she saw many neighborhoods do this over and over and over again, and it's good for our community. The general plan calls for neighborhood associations to have greater voice for the next 20 years when put into place in 2001, and it is 12 years later. She encouraged the Commission to ask everyone to go back to the table with a cultural conservation easement which will allow everyone to work it out together for our common good.

Kurt Sommer, 200 West Marcy, Sommer, Udall, Sutin, Hardwick & Hiatt [previously sworn], said he represents the developer. He said, "I want to address a couple of the issues, particularly the negotiations that Mr. Egolf brought up, the cultural conservation easement that he wants imposed on the property and why we would not agree to it. Imposing a preservation easement at the front end of a development will jeopardize, potentially, some of the tax codes which would be used to support the development of the project. The answer to that was, however, was we're willing to impose covenants and restrictions once it was zoned on the property that would meet all of their needs. Unfortunately, and I think Mr. Egolf was correct when he said that we couldn't do conditional zoning that would do it on the front end. We're telling you we are willing, unlike what Ms. Heldmeyer said, we are willing commit to limit the project as proposed. Nobody is against the project that is there. We are willing to do the project that is there,

we're willing to do it by prior covenant that are unamendable to allow this to happen. We just could not agree to the cultural preservation easement on the front end, because it will jeopardize a conservation easement on the façade that we want to grant. It will possibly jeopardize the historic tax credits.'

Mr. Sommer continued, "And as a tax lawyer, I'm telling you it's not appropriate to do it on the front, and if we had to do it on the front end, we may lose those benefits which would detrimentally affect the economics of this project. We are willing to do it voluntarily on the covenants and restrictions on the project. It will not provide for commercial creep that they're worried about, which is a legitimate concern. All the concerns raised here today are legitimate. I'm not minimizing them one bit. What I'm saying to you is, there already are sufficient restrictions about height that could be put on by virtue of the zoning. Ms. Jenkins adequately addressed that. There are also limitations about how much commercial could be put into the building, because of the size of the building, no more than 3,000 sq. ft. We're asking for a minor exception to that particular point."

Mr. Sommer continued, "The coffee house, we could address that specifically with them. The coffee house idea came about solely because the community asked for it. I'm going to pass my time, but I thank you very much, and I appreciate it."

Ronnie Layden [previously sworn] said, "Everybody made very good points, and nobody loves my Santa Fe as much as I love my Santa Fe. I'm a native. I actually own the very last gallery on Canyon Road. I'm a little bit past The Last Gallery on the Right. I'm Ronnie Layden Fine Art. I have so many pass by my gallery and ask for directions to Cristo Rey Church. So I heard discussions about it being a little small road and it being dangerous for pedestrians. I park on Alameda. It's not the overflow parking from the Tea House. I park there and other people that work there. So those two concerns aren't existing anyway. It's a tourist attraction and quite honestly that school falling apart is an eyesore. To tell you the truth, I'm a starving artist. The traffic dies off up there, so I don't see any other business, other than a coffee shop with some studios next to a church. I think it's a cute little marriage right there. Anything other like some nightclub or a K-Mart is absurd and just wouldn't happen. I'm speaking that I'm the last gallery on Canyon Road. There is the Audubon Society, there are other businesses up farther than us, but it's not going to bring all of Santa Fe up through there. A coffee shop, people stopping, looking at the Church. I think it's a nice little stop for them to get some refreshment."

Colleen Gavin, JenkinsGavin Design and Development [previously sworn] read a letter into the record from Mark Trimmer, which says, "I encourage those in the position to make a difference to promote this project as a means to balance the demands of those who wish to cling to the past and those who wish to take the best of yesterday and transform it into a powerful resource for the future. Please see Exhibit "20," for the complete text of this letter.

Wrap-up by Applicant

Chair Spray gave Ms. Jenkins 5 minutes to wrap-up and make any final comments regarding the application.

Jennifer Jenkins [previously sworn] said, "I'm going to be brief. I want to reiterate a couple of points. Again we don't want to let things to get lost in the shuffle. There are some key things that came out of all of our discussions with the neighborhood. And we said yes. We [they?] said 4,600 sq. ft. of non-residential only. We said yes. They said the casitas, only residential. We said yes. Single story structures. We said yes. Make sure you park your outdoor seating, we want to make sure you have plenty of parking on site. We said yes. We said yes. We said yes. It comes down to how do we say yes. How does that happen. There's certain restrictions tonight that are being attached to the special use permit. Okay, you want to hear this. We volunteered to do a master plan that would be recorded and run with the land. We volunteered to do that. We said the master plan, that's a great mechanism. We can document all of this on the master plan, what a fabulous idea. Can't do a master plan. Staff had concerns about if it is in effect a conditional zoning, that we can't do. For me to volunteer to an additional entitlement and an additional thing, that's [inaudible] as you can imagine. So that option was not available to us any longer, unfortunately."

Ms. Jenkins continued, "As Kurt said, originally when the cultural property preservation easement idea was presented, we were really encouraged, really, that is a really good idea. Can't do the master plan, maybe this is the way to go. Restoring that building is a huge financial investment. The tax credits that are available through the state and federal governments are essential to making that work. Nobody in the world is going to restore that building without being able to utilize those tax credits. The tax credits are there for a reason, to make preservation of historic buildings possible. To make it possible."

Ms. Jenkins continued, "We learned, through Kurt, we can't do it. But here's what we can do. I've already said we have restrictive covenants on the property, but we can also have restrictive covenants that cannot be amended, ever. There is case law that's come down about this, that I'm sure Mr. Sommer would be happy to speak to. You can put covenants on some things that can't be amended, ever, regarding the quantity of non-residential that could be there. We said yes."

Ms. Jenkins continued, "We were supposed to be before you last month. We postponed, ourselves, in order to continue the dialogue. And so we're here before you this month. We said yes. So tonight, we have an opportunity and we agree that the non-residential needs to be limited. We're not arguing with any of it. Thank you for your time."

The Public Testimony Portion of the Public Hearing Was Closed

Chair Spray thanked everyone who testified, saying we greatly appreciate your input and thoughts on this process.

The Commission commented and asked questions as follows:

- Commissioner Harris said, "I'll say, to kind of get to the point, that I'm in favor of the project. I think a lot of the issues that have been raised by the various associations, or people unaffiliated with the associations, are legitimate. I simply accept the representation of the applicant that limits can be place, whether they are covenants that can't be amended, I think there are other mechanisms I can't speak to right now. I heard Mr. Abeyta, you were the most eloquent of everyone, I'm serious,

you were. And you had a great response that you never heard the word casitas. The word I don't want to hear on Manderfield is decay. It is similar to what's happened to St. Catherine's School. School hasn't been in session there since the early 1970's. Head start was there at Manderfield. I have to believe the problem Presbyterian had was just non-compliance of the facility. It just isn't suitable for teaching children there, and I don't think it's suitable for a lot of things. I do think it's suitable for this project."

Commissioner Harris continued, "I have to say too that I'm sure this probably will upset some people. I've lived here in Santa Fe for 37 years, not nearly as long as yourself certainly, but I have a good sense of this town. And I've lived in the south central part of town. When I view Canyon Road and all the areas that we're talking about, I see a mix of activities. I don't see it segregated. I don't see a dividing line necessarily at the last gallery on the right or even Mr. Layden's. To my way of thinking, it continues on. I think this type of mixed use is appropriate. Again, that's my point of view as a Santa Fean who lives several miles away. I probably wouldn't go to the coffee shop, but 1/4 mile from my house is Java Joe's on Rodeo Road and it's a great place. It's a tremendous success where people congregate and touch base. I think this type of facility could be a real addition to the neighborhood."

Commissioner Harris continued, "I'm going to defer a little bit. It is my role, it seems, to get the dialogue started and I do have some other technical comments, but I'd like to defer to my fellow Commissioners to speak."

- Commissioner Schackel-Bordegary said it is her role to come after Commissioner Harris in this case tonight, and she appreciates his brevity and cutting to the chase, and she is going to do the same in saying she supports this project. She said she is generally in the same neighborhood as Commissioner Harris, saying they could meet at Java Joe's without getting in their cars, which is an important community principle. She appreciates all the views expressed here, certainly those who are generational residents of Canyon Road. She said it changed a long time ago, it's always been changing. It's changed since the mid-80's. It's not only residential anywhere any more.

Commissioner Schackel-Bordegary said, "I want to go to Suby Bowden's comments about our role up here to think of the common good. And that's where I'm coming from, and that is just knowing that the school is owned by the School District and it has been an asset that has set there for as long as I can... I grew up here too. I went to school in a different part of town, but it wasn't an active school when I was in elementary school. And here we are 30 some years later. This is an opportunity. And Santa Fe being Santa Fe for better and worse, but economic opportunities don't knock on our door. We're not Detroit. Think of all the buildings. We're not Detroit, we'll never be Detroit, but we have to a vibrant, living, breathing community too, and this is a change we can live with. I've heard enough of that tonight to support this."

- Commissioner Bemis said, "I feel very strongly, from what I heard tonight, that there are enough questions by the people who live there and will be affected by what's going to happen. I don't know what you are going to do with the school, but I really am not in favor of what is being asked tonight. I think it's not a thing that should be rushed into. I think there's so many people that there that feel so strongly that this is not what they want, or they don't trust it. Maybe those things will be worked out, but for now I am not voting for it."
- Commissioner Pava thanked everyone for staying and participating, and said he appreciates the comments he has heard this evening. He said Santa Fe is about getting along. He said, "I would have to say, that in listening to all I've heard, at first I thought this is a slam-dunk, but it's definitely more complicated. It seems that most of our cases tonight were complicated. And yet, if you look outside of Santa Fe, we see examples of adaptive reuse of old school buildings." He spoke about what was done in Portland by a company that has taken old school buildings in the middle of neighborhoods and re-used them successfully, and the City hasn't come apart, commenting there are many similarities between Portland and Santa Fe.

Commissioner Pava said, "I like the idea of adaptive reuse. I don't like seeing buildings become decrepit, or in the case of some historic structures in Santa Fe, falling apart because of lack of investment. There may be better ways to do this. But here's somebody willing to put out capital and work a deal, and it may not be perfect, but most things aren't. I think this isn't a bad approach, but there risks with the RAC zoning, and there are risks leaving it the way it is. I think we're not looking at a horrendous precedent, we're looking more at the natural and incremental growth and change that happens in the City and that things will change. I think this may be the difference between classical zoning *per se* and the broader view of planning – what's happening with the City. I don't think the building can be torn down in any circumstances. And we've heard of a way to keep it to improve and renovate it."

Commissioner Pava continued, saying he is somewhat familiar with the building, because his daughter attended to the Oz School not far from this one. He believes in the RAC and appreciates having that used there. He is a resident of Barrio la Canada which is a very mixed neighborhood, and they can walk to their own local coffee houses there. He thinks the choice here is difficult, but from what he is heard this evening, he would be willing to wager on the zone change, because we're only making a recommendation to the Council on the general plan amendment and zone change, and this may be appealed one way or another. However, as a Planning Commissioner he feels it is his job to listen to everyone, and he is in favor of recommending this to the Council at this point.

- Commissioner Padilla thanked everybody for attending and testifying this evening, and hopes we can work together in the spirit of cooperation and collaboration to get this resolved.
- Commissioner Padilla asked how many living units there will be, saying he understood her to say first 18 and then 10.

Ms. Jenkins said they are proposing 10 dwelling units at this time, 6 in the Manderfield Building and 4 casitas. She said, "Looking at the possibility if the arts and craft spaces or the coffee house maybe, at some point in the future, converted to residential. So basically that 18 is kind of a maximum that could allow the entire property at some point to be all residential. That's all that is. There is no intent to do that, but it is all about converting the rest of the school, potentially to residential space."

- Commissioner Padilla said that is a moving target. He said, "What was mentioned tonight by a number of those presenting testimony was a concern that it can change, that it's an open issue, and if we really are getting what we were promised. And to see 10 and then you quickly, in a presentation mention 18 units, it kind of perked my ear up." He asked, if we start going through and looking at reviews and approvals, are those things, the art studio space, coffee house, etc., is the developer willing to commit to those to not expand to other types of uses, such as additional residential units.

- Commissioner Padilla said the casita development is basically a little gated community, and asked where visitors to owners of the casitas will park.

Ms. Jenkins said there are quite a few guest parking spaces in the rear. The guest would go through the gate through a key pad or be buzzed in, or whatever is typical, and each casita has two designated parking space. Ms. Jenkins said there is one assigned parking space for each residence in the Manderfield building, and we are over-parked as far as the City Code requirements for residential to make sure there is plenty of guest parking in the rear."

- Commissioner Padilla asked Ms. Jenkins to identify where the guest parking is located.

Ms. Jenkins indicated the location of the parking spaces on one of the drawings in Exhibit "10."

- Commissioner Padilla said he visited the site today, and the site itself has been referred to as deteriorating, an eyesore, and such. He asked if there is deferred maintenance on the building, noting those characterizations, eyesore, deterioration, are because it hasn't been occupied. He asked, "When you develop the sidewalk and so forth, the sidewalk won't be replaced, it will be repaired as need it will connect from one end of the property to the other – wrap around the entire front of the property."

Ms. Jenkins said this is correct. Using one of the drawings in Exhibit "10," Ms. Jenkins said, "There is existing sidewalk along Canyon Road, and where we are proposing the new driveway cut onto Canyon Road 'here,' there's a little gap 'there' that we will fill in. The existing sidewalk is in really good shape, and there is a gap 'here' we will be constructing. And we will fix any ADA deficiencies, any significant cracks, any elevation changes that create problems, so it will be repaired as necessary."

- Commissioner Padilla said she spoke about planting in the small landscape area to provide a buffer between the retaining wall and the street. He asked if there would be pedestrian access

through the retaining walls. He said he if was walking up Canyon Road to the coffee shop, he would have to walk all the way around, up toward Cristo Rey and then into the property.

Ms. Jenkins said one of the neighbors presented the idea, and they are actually looking it, of a possible penetration in the retaining wall with stairs. She said the ADA access would still come 'this' way, but there would be stairs that would "dump" you into the center or the heart of the project, and they like that idea a lot. They will be looking at that structurally and with the elevation change.

- Commissioner Padilla asked if these kind of changes to the proposed plan will come back to this Commission for review.

Ms. Lamboy said if it is simply putting in a stair, that would not require additional review by this body.

- Commissioner Padilla said you have identified the primary façade as the east façade and a portion of the north façade. He asked how the portion of the north façade identified.

Ms. Jenkins said, "You see the blue right here. Just that portion 'there,' and that has been designated by the H-Board as primary. She said it went before the H-Board last year for designating primary elevations. It wasn't for design, it was strictly for them to designate primary elevations.

- Commissioner Padilla said, "In reference to the primary façade , on the east side, what you've designated as entry, just to the south of the coffee house, is there an existing entry there.

Ms. Jenkins said that is the existing entry.

- Commissioner Padilla said, "It is an offset. There's a little portal."

Ms. Jenkins said it is not original and was added later, so that is the reason it isn't primary there, because that element, as well as where the coffee house is, aren't original elements. They are old, but they're not original.

- Commissioner Parilla said, "Going to the west façade, if you're coming from north going south, as I walked it today, it looks like where you have your first two extensions onto this historic building there's a gap in the building. I couldn't walk around to the back of it. But it seems to be an indent. Are you adding square footage."

Ms. Jenkins said, "We are adding no habitable square footage. What you see 'here' these are just outdoor courtyards, with low courtyard walls. We're not adding any heated or habitable square footage."

- Commissioner Padilla said the parapet line does come from the northeast corner, goes south and then actually turns back into the building. Your plans show that as covered completely.

Ms. Jenkins said, "We have not done full as-builts on the building yet, so the footprint we have here is pulled directly from the boundary survey, so it's possible there may be some of those little details..."

- Commissioner Padilla asked if the square footage could change in reference to that.

Ms. Jenkins said, "No, I think we're right at about 11,400 sq. ft., so I don't expect that to change significantly."

Chair Spray said we are nearing midnight and he would like to continue and make a decision tonight, so we will need a motion to suspend the rules and continue the meeting after midnight.

MOTION: Commissioner Harris moved, seconded by Commissioner Schackel-Bordegary, to suspend the rules and continue the meeting past midnight.

VOTE: The motion was approved unanimously on a voice vote, with Commissioners Bernis, Harris, Ortiz, Padilla, Pava, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [7-0].

- Commissioner Padilla asked Ms. Jenkins to show him the location of the additional parking in the guest area.

Ms. Jenkins said, "Each of the residences have covered parking, so where you see the carports that are for either the casitas that are in the Manderfield Building. All the uncovered parking, there are 8 guest parking spaces, and there is one 'here,' there's two 'here,' there's four 'here' and there is one over 'here'."

- Commissioner Padilla said, "You said that the casitas each have 2 spaces, and I see those 4 carports, so that would be 6, and you're saying the residential units inside the Manderfield School."

Ms. Jenkins said, "They have one assigned space, and so there are two carports, right 'here.' So there's 2 carports 'here', and then there are 4 carports 'here,' so that's the 6 covered, assigned spaces for the residences in the building. The uncovered spaces are the 8 guest parking spaces."

- Commissioner Padilla said, "8 guest parking spaces for 10 units."

Ms. Jenkins said, "Exactly, in addition to the 12, there's a total of 17 for the 10 units, yes."

- Commissioner Padilla said, "I thought the 17 on the east side was for the commercial use."

Ms. Jenkins said, "Yes. The commercial parking spaces in the front are intended to be designated for the art studios and the coffee houses. There's 17 spaces there."

- Commissioner Padilla said, "And they will be designated for that use only, the parking for the commercial use. If somebody overflows into that, they'll get booted out."

Ms. Jenkins said, "I don't think we've gotten to that level of detail yet. I think that in the evening, obviously the non-residential space is going to be quiet. So if someone was having a gathering and residential guests park there, I think that would actually be a really good use of that space in the evening."

- Commissioner Padilla said, "I guess one of the comments is, you know, knowing the concern of parking, I think your guest parking may be a little short, but that's just me."
- Commissioner Villarreal said, "I was curious if staff had, without getting into all the history of this property, have there been other proposals put forward to use this property, because it sounds like the School District hasn't been creative enough to use it for educational purposes. So in your recollection what hasn't made this property work in terms of a redevelopment."

Ms. Baer said in the 5 years she's been here, she doesn't recall any discussions with anyone regarding this property.

Ms. Lamboy said the property was proposed for a non-profit organization. There was a contract previously that I read about, but it did not get any 'feet' as it were, and so that deal did fall through. The last consistent use there was Presbyterian head start, which left in 2006."

- Commissioner Villarreal said, "So I guess when I think about this property, I commend the developer for trying to be creative about what can work here. I think it's challenging to be creative and be sensitive, but also consider the historical issues that have faced Santa Fe in general, especially Canyon Road. It's difficult for me because on one hand, I see the value of supporting and maintaining the historic value of a building and trying to make it into something else, but I'm also in the mind set that we should be keeping the historic value of the community and how they feel about in an area and what they think is right and authentic. But if you think about Canyon Road, that's long been past. Those of you that have just moved there or are new, which I think 20-30 years is still pretty new. This has gone way beyond the point where people have had an opportunity to have a public forum like this to express their views about what they think is right in their community. Back in the days, that didn't exist. So you're lucky, and I think we're all fortunate to have a public process where people are able to express their opinions."
- Commissioner Villarreal continued, "There are aspects of this development that I think are interesting. I think they could work. I wish there were more people in support of something that makes sense for the community, even if it is a coffee shop or a restaurant. But what I don't like

about this development is the fact that it is a gated community. It's exclusive. Again, that's something we've been struggling with historically in Santa Fe. And being facetious, I guess is the way I think, most of the casitas won't even be used by people that live here full time, so maybe some of you wouldn't actually have to deal with long term, regular residents, because they won't live here full time. But that's another issue. I guess the way it's coming down in my mind set, based on comments, and I want to just let everyone know, there's always two sides to a story. As this is planned, the way the casitas are set up, I'm not in support of this particular development. And I challenge the community, and I'm not just speaking to the neighborhood association, or people that are active in it. I'm talking about challenging the local people who live there to think of something that does work. It's a great property. I would hate for some property like this to go to waste that continually deteriorates. And I challenge you, and I'm looking at so many out here in front, what if there's another way, and how come we haven't thought about it yet. And that's why I asked about why something hasn't worked there. There is a fear of change, but maybe this particular zoning scheme doesn't work in this area now, and I would like to see something different."

- Commissioner Ortiz thanked everyone for their time, comments and opinions. He said this isn't an easy decision. He said he has concerns about a gated community, although he lives in a gated community at Airport Road and 599, which is a little bit different. He said, "I know, listening to the Abeytas, they really had some great issues and it's a family that's been there for a long time. My father was raised on Cerro Gordo. I'm a Santa Fe native. I went to school at Wood Gormley. I was the Street Director for the City, and I went all over this City looking at all kinds of things and communities and issues. But, for some odd reason, something is telling me on this that I just don't feel good about this particular development. I don't like seeing that building deteriorate, it's really said. But he doesn't feel like he can support this. He hopes we can make a decision on this.
- Commissioner Harris asked Mr. Sommer and Mr. Egolf, and what kind of binding language can be put in place.

Mr. Sommer said his thought was to make the covenants non-amendable for a period of 99 years, which would institute the restrictions for limited commercial development on the property. He said, "In terms of the height restriction, I don't have any problem with putting a height restriction in the covenants, but the zoning really limits the height restriction by itself, so that you wouldn't have additional development on the property by virtue of increasing the height of the building, but I wouldn't have a problem instituting that, or telling my client, let's put that provision in there as well. I don't think it was a matter of disagreement about what they were asking us to do. It's a question about the mechanism he wanted us to do it with."

Mr. Sommer continued, "If you look at the Cultural Preservation Act and how it would be implemented, there are provisions in it, that if we put them on today, I'm afraid it would limit the ability to impose conservation façade easements on this property and obtain any tax objective or tax benefit from that, and I don't want to do it on the front end. Not only that, the cultural preservation easement would have to be imposed by, at this time, by the current owner which is the public school system. I haven't heard anybody ask the Public School system are you willing to

put a cultural preservation easement on this property before you sell it. So, I don't know the answer to that. I'm telling you that the developers wanted to do it by covenant, and I think we can do it for a period of 99 years, which would make it a non amendable provision of the covenant with respect to commercial development on the property and height limitations which seem to be the biggest problem, but I'll let Mr. Egolf address that."

Mr. Egolf said with two lawyers, you're going to get two different opinions. He said the issue is the mechanism and putting covenants in place. He said you're not voting on anything tonight, you're not approving the project that we are seeing here. You are approving a rezoning of the whole thing, the general plan change, and then a variance and special use permit. He said, "There's nothing that you're voting on tonight that has anything to do with this. The sidewalks and everything, that all comes later, so I think that bears mentioning. And I mention it, because the covenants as described here, are going to come into effect at the end of the project. So you've got the casitas and the residential units. I don't know if they're all part of the same Homeowners Associations or if there are two separate ones, or what the plan would be for that, how they're drafted, how many of them have to be sold before the owners take over. And then, what do they say, how do they get implemented. It's all up to the developer in terms of what they say, how they get implemented and who enforces them."

Mr. Egolf continued, "That is the problem as we see it from the Association perspective, is that's there's a lot of if's between tonight and covenants that would come into place. And so we're not sure all those if's are going to fall in line to give us the comfort that the Association needs. Now, as to the façade easement, and the applicability of the cultural preservation easement, we believe, and again, this is just a tiny issue, because we haven't had the chance to look into this, Mr. Sommer and myself, and discuss it, I believe very very strongly that there is absolutely a way to do a cultural preservation easement that explicitly exempts the façade of this building, even exempts the interior of the building. It exempts the Manderfield Building entirely so there would be no risk to the tax credits, if all you're talking about is the unoccupied land. And to me, and the Association that is the real meat of what you're deciding right now. It's not what happens to the building, or what it's going to look like, or whether there's a coffee shop or a tacorillo, or whatever goes in there. That's not this. That's not the vote tonight. The vote is what about happens to all the other land, that's why we're so concerned about making sure we're not putting the cart before the horse with the zoning decision that may result in 6 months, a year, two years, whenever the buildings are completed, and covenants, and we have no idea what they're going to look like. So it's kind of a cart before the horse issue, it's an enforceability issue. I think if we have some time, we can work it out, but again, but because of the timing issue, that's why we've asked you to say no. Not because of the building nearly as much as because of the unoccupied land and the tremendous uncertainty with what could happen to that if this development doesn't happen, if it is owned by a different owner.

Mr. Egolf continued, "Oh, and by the way, I should mention. I did speak to the Superintendent of Public Education Santa Fe, and he told me twice that if the School Board needs to adopt a cultural preservation easement, they're happy to do it. They're concerned about the sales price. They don't care. So we've had that conversation with the Association, and myself personally, we

discussed this with the Superintendent. They're happy to do it if it facilitates the sale and moving forward with the support of the neighborhood. I realize School Board member Carrillo is not here any more, but we did discuss it. Oh, hi, there you are, sorry you're right behind us."

Mr. Carrillo's remarks were inaudible because he was speaking from the audience.

Chair Spray said, "Thank you sir. You can't speak unless you've been sworn in, we've closed the public meeting. Continue sir."

Mr. Egolf said, "That it's. That's the impression I have as of now."

Kurt Sommer said, "One quick response and that is cultural preservation easements and conservation easements impose restrictions on property which diminish value. So to take a speculative decision that the School Board is going to do it and not have a diminution in value is a speculation. I'm telling you that nobody has talked to them, nobody's approved it from the School Board's perspective to put this on. And this idea that Mr. Egolf has come up is simply inappropriate, because the current owner is the one who has to impose that restriction on the property. And it will have a diminution in value. That's why people get tax credits for that."

- Commissioner Harris said, "My experience as a Commissioner, the process that is in place, I've yet to see an example of "bait and switch," so I'm probably less concerned, as you expressed some concerns Mr. Egolf about what might happen. I think that we have a pretty comprehensive process here in the City, that I think the various steps along the way can provide the assurance that the people you represent, that the covenants can be put in place that would work, that would limit those uses to the ones that were listed by Ms. Jenkins. Now I haven't heard anybody say yea or nay about those usages, I can't remember all of them, but they were fairly innocuous in my mind. There wasn't anything that was really that offensive. So, again, I'm relying on the process that is in place, and that includes certainly the review of the Governing Body. And if it's approved, move on to development plans. I just want to make it clear that if this project moves forward, whether or not there is an appeal, if the Governing Body agrees with the rezoning, the next step would be a development plan, is that correct."

Ms. Baer said, "Not a development plan that would come before this body. The development would be administratively approved, because it's required, because it's more than 3 units of new construction, but less than 10,000 sq. ft. That does trigger development plan, but by staff review."

- Commissioner Harris said, "I'm still comfortable with that, frankly. I don't have anything else to add."
- Commissioner Padilla said staff commented about home occupation so the proposed casitas could have a home occupation designation to them by an owner, and asked if this is correct.

Ms. Lamboy said, "That is correct as long as they receive the proper permits through the City process."

- Commissioner Padilla said, "An individual comes in and buys a unit, what is to limit that individual from turning that into a short term rental."

Ms. Lamboy said, "The short term is a lengthy process, that actually gets involved. I guess, theoretically it could occur, but would be difficult to get on the list. I guess there's a long waiting list."

- Commissioner Padilla said then it's not impossible. He said, "In reference to Condition #4 from the Fire Department, 'Access road at site shall be a minimum of 20 feet wide.' I see in the proposed plan, a 16 foot wide road. Has that been diminished."

Ms. Lamboy said, "Rey Gonzales visited the site and determined 16 feet would be sufficient, because it's a one-way roadway, and so a site visit was conducted after that."

- Commissioner Padilla asked if the road would be provided with sidewalks and such, or would people be walking in the street. Because I see overall what I would call a right of way of 16 feet, so does it get diminished by sidewalks."

Ms. Lamboy said there are no sidewalks proposed on that roadway because it truly is a lot access roadway and it would not require sidewalks.

- Commissioner Padilla said, "So that can change from a 20 foot requirement to 16 feet, because he has reviewed that."

Ms. Lamboy said that is correct.

- Commissioner Bemis said she understands that a special use permit and variance approval is only through showing hardship, and she doesn't see any hardship here. I would also like to add that in any residential area where you are asking for a special use permit, what I hear from the people that live there, I think it's not a good thing."

Ms. Baer said, "There are certain uses that are allowed outright in a particular zoning district and others that are allowed through special use. The special use requires a public hearing and approval either by the Planning Commission or by the Board of Adjustment. So those uses are pre-designated in a way that calls to your attention that they need some special attention and they may require special conditions which the Land Use Review Board has the authority to place upon the use. And those conditions can be very broad. And if I may add, if it is the Planning Commission's desire, you can ask for a development plan to be brought back to this body."

Ms. Lamboy said, "A point of clarification and correction, with regard to the question of a short term rental, and the possibility of being there, the current waiting period is approximately one to years, so it's not as difficult as I represented."

- Commissioner Schackel Bordegary asked "Why gated."

Ms. Jenkins said, "This is a mixed use compound that we are creating. We have a small amount of non-residential uses mixed together with residential uses. In laying this out, we felt it was important to create a little bit of on the ground separation. We see this as a public side to the project, which is the east side 'here,' and there's a little more of a private side to the project. And so, it is not gated at Canyon Road. The beauty of this plan, is this is open to the community and to the neighborhood, to visit a coffee house, an art studio. The gates are set back here so somebody visiting the coffee doesn't try to park in my carport. That's the intent. It's really, simply about creating a sense more of the private side and the public side. That was really all. But, like I said, this is about creating porosity with the neighborhood and access for the community into this building."

Chair Spray asked if we would be looking for a motion on the first case, the Manderfield School General Plan Amendment, if that would be the appropriate order, and Ms. Brennan said yes.

Chair Spray said we are looking for recommendations on the General Plan Amendment and the Rezoning, and asked Ms. Brennan if that is correct and Ms. Brennan said yes.

Chair Spray said, whatever we decide here tonight is not the end of the road for this process. This process would continue if we recommend modifying the general plan and rezoning to RAC, we do not walk out of here with a general plan amendment and a rezone to RAC. It is only a recommendation to the Council. He thanked Ms. Jenkins for clarifying the gated aspect, noting we aren't voting on gates tonight.

Ms. Jenkins said we aren't voting on gates. She said, "Another point. It was also about limiting the amount of traffic that would come out onto Canyon Road just to those residences, so it is about traffic control as well as the public/private idea."

Ms. Brennan said the General Plan Amendment and Rezoning are recommendations to the Governing Body, and both the Special Use Permit and the Variance, if approved, should be conditioned on the approval of the Governing Body.

Commissioner Harris asked if the conditions of approval from staff would be attached to the Special Use Permit.

Ms. Baer said, "That's correct."

MOTION: Commissioner Harris moved, seconded by Commissioner Pava, to recommend approval of Case #2013-37, Manderfield School General Plan Amendment, to the Governing Body.

VOTE: The motion was defeated on the following roll call vote [4-3]:

For: Commissioner Harris, Commissioner Pava and Commissioner Schackel-Bordegary

Against: Commissioner Bemis, Commissioner Ortiz, Commissioner Padilla and Commissioner Villarreal.

Chair Spray asked if this vote renders Cases #2013-38 and #2013-39 moot, or should we take those votes as well.

Ms. Baer said, "Mr. Chair, if you would, just vote on the matter in any case."

5. **CASE #2013-38. MANDERFIELD SCHOOL REZONING TO RAC. JENKINS GAVIN DESIGN AND DEVELOPMENT, AGENTS FOR MANDERFIELD LLC, REQUEST REZONING OF 1.48± ACRES FROM R-5 (RESIDENTIAL, 5 DWELLING UNITS PER ACRE) TO RAC (RESIDENTIAL ARTS AND CRAFTS). THE PROPERTY IS LOCATED AT 1150 CANYON ROAD. (HEATHER LAMBOY, CASE MANAGER) (Postponed from July 11, 2013)**

MOTION: Commissioner Harris moved, seconded by Commissioner Pava, to recommend approval of Case #2013-38, Manderfield School Rezoning to RAC, to the Governing Body.

VOTE: The motion was defeated on the following roll call vote [4-3]:

For: Commissioner Harris, Commissioner Pava and Commissioner Schackel-Bordegary

Against: Commissioner Bemis, Commissioner Ortiz, Commissioner Padilla and Commissioner Villarreal.

6. **CASE # ~~2012~~ 2013-39. MANDERFIELD SCHOOL SPECIAL USE PERMIT AND VARIANCE. JENKINS GAVIN DESIGN AND DEVELOPMENT, AGENTS FOR MANDERFIELD LLC, REQUEST A SPECIAL USE PERMIT TO ALLOW A FULL SERVICE RESTAURANT FOR A PROPOSED COFFEE HOUSE. THE APPLICATION ALSO INCLUDES A VARIANCE TO 14-7.2(H) TO ALLOW FOR 4,600 SQUARE FEET OF NON-RESIDENTIAL USE WHERE A MAXIMUM OF 3,000 SQUARE FEET IS ALLOWED. THE PROPERTY IS LOCATED AT 1150 CANYON ROAD. (HEATHER LAMBOY, CASE MANAGER) (Postponed from July 11, 2013)**

Commissioner Harris noted an error in the caption, which should be 2013-39.

Ms. Lamboy said, "Commissioner Spray, that is correct. It should be 2013-39. But, we would like to request that you act... send an action to the City Council, because this will be going to the Governing Body. And so, because the motion failed to be approved, there needs to be some kind of positive motion to send to the Council."

Chair Spray said he doesn't understand, and asked Ms. Brennan for language.

Ms. Brennan said it should be that you do not recommend approval to the Governing Body. She said, "In other words, the motion failed to recommend approval, now you need to say you recommend that they not approve. A separate motion."

Chair Spray said, "Is the maker of the motion understanding that. Isn't that what we just voted on, I'm sorry."

Ms. Brennan said, "You voted on whether to recommend approval."

Chair Spray said, "So we're recommending not to approve. That's what you're saying."

Ms. Brennan said, "Correct."

Chair Spray said, "I don't know if you want to make that motion Commission Harris. That seems somewhat different. I think that's a different motion than you intended, not to put words in your mouth."

[Commissioner Harris's remarks here were inaudible because his microphone was turned off.]

Chair Spray said, "I think they might, and let's see what they can do if they want to. The Chair is still looking for a motion."

MOTION: Commissioner Villarreal moved, seconded by Commissioner Ortiz, to recommend that the Governing Body do not approve the Special Use Permit in Case #2013-39, Manderfield School Special Use Permit and Variance.

VOTE: The motion was approved on the following roll call vote [4-3]:

For: Commissioner Bemis, Commissioner Ortiz, Commissioner Padilla and Commissioner Villarreal.

Against: Commissioner Harris, Commissioner Pava and Commissioner Schackel-Bordegary.

Ms. Brennan said, "What I should have said, that would have it much easier, is that you move to recommend denial."

Chair Spray said, "I believe we rejected that. We already did that. I think we did that one already. We did that when we did the Special Use Permit. We're on the variance now, it's the last one."

Commissioner Pava said the motion mentioned the Special Use Permit and the Variance.

Chair Spray said, "Whether it did or not, we need a separate one. We need another motion for that. Say it again please."

Ms. Brennan said, "To recommend denial."

Chair Spray said, "To recommend denial. Is there a motion."

MOTION: Commissioner Villarreal moved, seconded by Commissioner Padilla, to recommend denial of the Variance in Case #2013-39, Manderfield School Special Use Permit and Variance, to the Governing Body.

VOTE: The motion was approved on the following roll call vote [4-3]:

For: Commissioner Bemis, Commissioner Ortiz, Commissioner Padilla and Commissioner Villarreal.

Against: Commissioner Harris, Commissioner Pava and Commissioner Schackel-Bordegary

H. STAFF COMMUNICATIONS

Ms. Baer said, with regard to the Rancho Siringo project, the Council denied approval of the general plan amendment and the rezoning.

I. MATTERS FROM THE COMMISSION

Commissioner Harris reported on the Summary Committee meeting this morning. Two cases were fairly straightforward and were approved. He said the third case, which also was approved, involved a lot split involving land which had been rezoned off Rufina for a bid on a VA clinic, assisted living and medical offices, which may now change. He said in yesterday's paper it announced that the VA clinic was awarded to the developers of Las Soleras. He said they are in negotiations with another medical clinic. He said if they remain substantially in line with what we saw previously, another medical facility, then the project will move forward. The Committee imposed a condition that If there is a substantive change then it will come back to the full Commission.

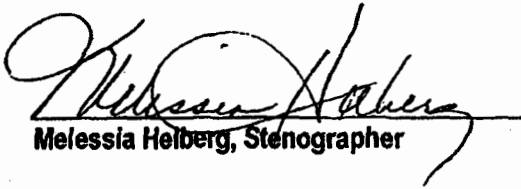
J. ADJOURNMENT

There was no further business to come before the Commission.

MOTION: Commissioner Pava moved, seconded by Commissioner Ortiz, to adjourn the meeting.

VOTE: The motion was approved unanimously on a voice vote, and the meeting was adjourned at approximately 12:30 a.m.

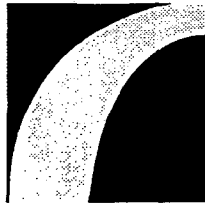
Tom Spray, Chair


Melessia Helberg, Stenographer

City of Santa Fe, New Mexico

Exhibit 3

**Applicant Correspondence
Updated Concept Plan 9-10-13
Canyon Neighborhood Association Letter**



jenkinsgavin
DESIGN & DEVELOPMENT INC

TRANSMITTAL

DATE: September 11, 2013
TO: Heather Lamboy
FROM: Hillary Welles
RE: Case #2013-37, 38
Manderfield School General Plan Amendment and Rezoning to RAC

Attached are copies of the revised Conceptual Site Plan for the Manderfield School project. 25 reduced copies are provided for the City Council Exhibits, as well as one full size copy per your request. Changes have been made in accordance with the Planning Commission's decision at their meeting of August 1, 2013, as follows:

- The coffee house has been deleted per the Planning Commission's denial of the Special Use Permit.
- The artist studios have been reduced to 3,000 s.f. per the Planning Commission's denial of the Variance request for additional square footage.

Please let us know if you require anything further or have any questions.

Thank you.



jenkinsgavin
DESIGN & DEVELOPMENT INC

Manderfield General Plan Amendment & Rezone

Rezone Conditions of Approval

September 10, 2013

1. There shall be a maximum of 3,000 square feet of commercial use on the parcel, all of which shall be within the Manderfield School building.
2. Commercial uses shall be limited to artist studios.
3. All areas marked as residential in the Conceptual Site Plan shall remain residential, except for permissible home occupations.
4. Any area set aside for use as a studio may be converted to residential and back again, but may not be used for commercial purposes other than working artist studio space.
5. Only art may be sold at the studios and the art must be produced by the bona fide tenant/owner occupant of the studio or produced at the studio premises.
6. All new structures shall be single-story with a maximum allowable height of 16'-8" in accordance with Historic District regulations.
7. The parking lot on the east side of the Manderfield School building shall be screened from Canyon Road with appropriate vegetation, including evergreens, and a four foot high wall. The landscaping plan is subject to review and approval by City Current Planning Division Staff and the wall is subject to approval by the City Historic Districts Review Board.
8. In order to soften the appearance of the existing retaining wall along Canyon Road, the area between the wall and the sidewalk will be landscaped, subject to execution of a Licensing Agreement with the City of Santa Fe.
9. There shall be a maximum of 18 dwelling units on the lot.
10. There shall be no more than five habitable buildings on the parcel.
11. The Rezone Ordinance shall incorporate these conditions and the Conceptual Site Plan and will be recorded with the County Clerk. The conditions may only be amended by future rezoning action of the City Council.

LAMBOY, HEATHER L.

From: Hillary Welles <hillary@jenkinsgavin.com>
Sent: Wednesday, September 11, 2013 4:51 PM
To: LAMBOY, HEATHER L
Cc: jennifer@jenkinsgavin.com; colleen@jenkinsgavin.com
Subject: Case #2013-39, Manderfield School Special Use Permit and Variance

Dear Heather,

We will not be appealing the Planning Commission's denial of the of the Special Use Permit and Variance Request for the above case.

Best regards,

Hillary Welles
JenkinsGavin Design & Development
130 Grant Avenue, Suite 101
Santa Fe, NM 87501
505-820-7444



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Fax: (505) 962-3311
starchitect@comcast.net
www.santafearchitects.com

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MANDERFIELD SCHOOL
SANTA FE, NEW MEXICO
CONCEPTUAL SITE PLAN

REVISIONS:
NO. DATE

NO.	DATE

DATE:
9-13-2013
DRAWN BY:
SH
CHECKED BY:
PM



SHEET

A-0

SITE DATA

LOT COVERAGE
 EXISTING SCHOOL: 11827 SQFT
 CASITAS: 1880 SQFT
 COVERED PARKING: 3013 SQFT
 TOTAL ROOF AREA: 20710 SQFT
 LOT COVERAGE: 31.2% / MAX ALLOWABLE 47%

PARKING CALCULATIONS:
RESIDENTIAL:
 ATTACHED DA: 1 SQ SPACE PER UNIT @ 8 UNITS = 8 SPACES
 DETACHED DA: 2 SPACES PER UNIT @ 4 UNITS = 8 SPACES
 17 SPACES REQUIRED: 18 SPACES PROVIDED

COMMERCIAL:
 ART STUDIOS: 1 SPACE PER 200 S.F. M.L.A.
 800 S.F. NET LEASABLE = 15 SPACES REQUIRED

OPEN SPACE:
 REQUIRED: 750 SF/UNIT @ 10 UNITS = 2,500 SQ.FT.
 PROVIDED: 4,148 SQ.FT.

ZONING: RAC
 MAXIMUM ALLOWABLE DWELLING UNITS: 18

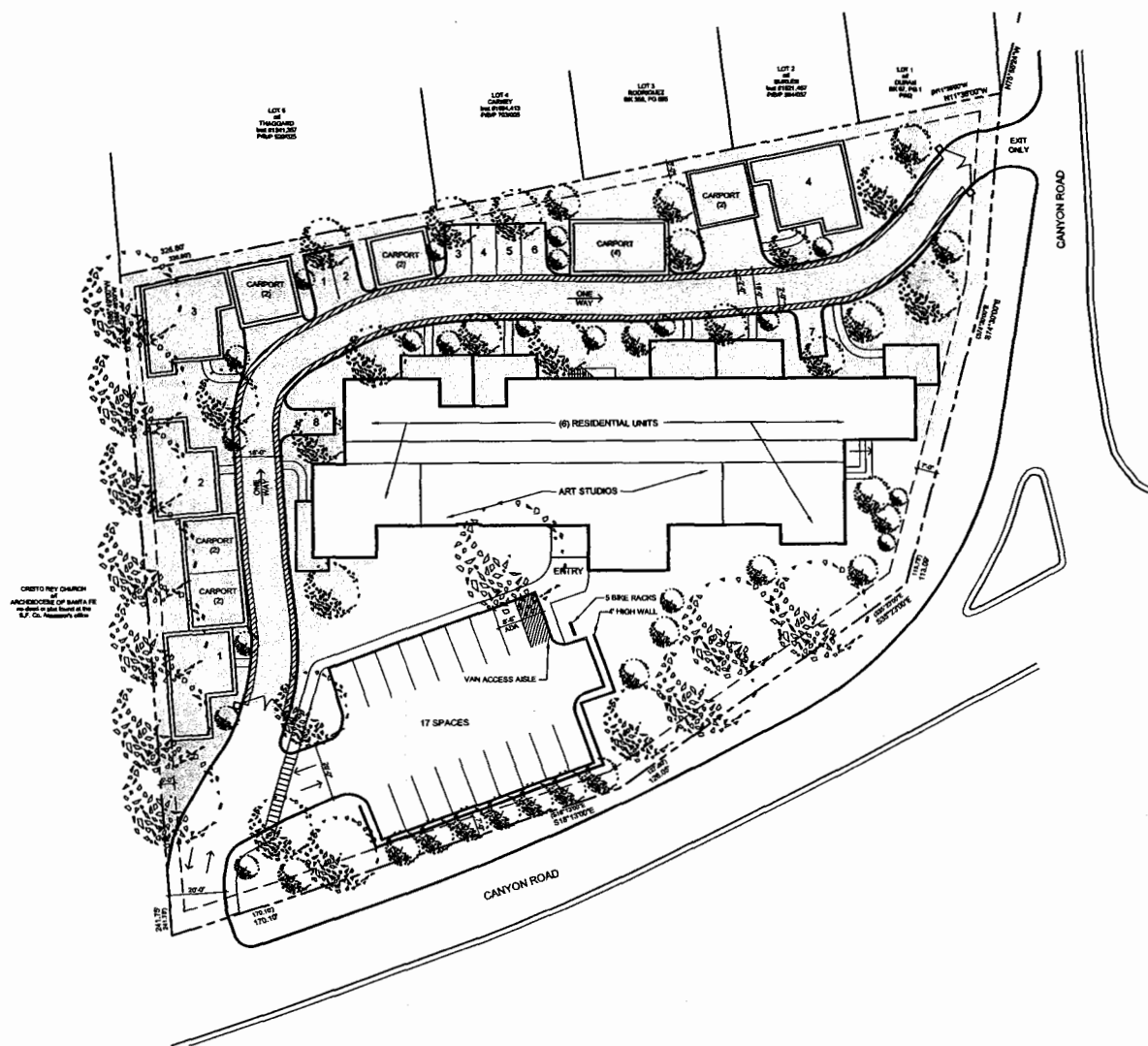


THE MIX OF USES AND LOCATIONS OF NEW IMPROVEMENTS SHOWN HEREON ARE CONCEPTUAL AND SUBJECT TO CHANGE AS PART OF THE BUILDING PERMIT PROCESS.



VICINITY MAP

Manderfield School General Plan Amendment, Case #2013-37
 Manderfield School Rezoning to RAC, Case #2013-38



MANDERFIELD REZONE - CONCEPTUAL SITE PLAN
 scale: 1" = 20'-0"



Canyon Neighborhood Association

12 September 2013

To the City Council:

After working with the Maraist family and their representative Jennifer Jenkins over the past few weeks, the Canyon Neighborhood Association no longer opposes the rezoning of the Manderfield property on the condition that all of the 11 conditions below are incorporated into to the rezoning ordinance. Details of our position will be presented at the City Council hearing. Thank you for your attention.



James Gollin,

President, Canyon Neighborhood Association

Conditions:

1. There shall be a maximum of 3,000 square feet of commercial use on the parcel, all of which shall be within the Manderfield School building.
2. Commercial uses shall be limited to artist studios.
3. All areas marked as residential in the Conceptual Site Plan shall remain residential, except for permissible home occupations.
4. Any area set aside for use as a studio may be converted to residential and back again, but may not be used for commercial purposes other than working artist studio space.
5. Only art may be sold at the studios and the art must be produced by the bona fide tenant/owner occupant of the studio or produced at the studio premises.
6. All new structures shall be single-story with a maximum allowable height of 16'-8" in accordance with Historic District regulations.
7. The parking lot on the east side of the Manderfield School building shall be screened from Canyon Road with appropriate vegetation, including evergreens, and a four foot high wall. The landscaping plan is subject to review and approval by City Current Planning Division Staff and the wall is subject to approval by the City Historic Districts Review Board.
8. In order to soften the appearance of the existing retaining wall along Canyon Road, the area between the wall and the sidewalk will be landscaped, subject to execution of a Licensing Agreement with the City of Santa Fe.
9. There shall be a maximum of 18 dwelling units on the lot.
10. There shall be no more than five habitable buildings on the parcel.
11. The Rezone Ordinance shall incorporate these conditions and the Conceptual Site Plan and will be recorded with the County Clerk. The conditions may only be amended by future rezoning action of the City Council.

City of Santa Fe, New Mexico

Exhibit 4

Planning Commission Staff Report Packet



August 1, 2013


City of Santa Fe, New Mexico

memo

DATE: July 19, 2013 for the August 1, 2013 Planning Commission meeting

TO: Planning Commission Members

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

FROM: Heather L. Lamboy, AICP, Senior Planner, Current Planning Division 

Case #2013-37. Manderfield School General Plan Amendment. JenkinsGavin Design and Development, agents for Manderfield LLC, request approval of a General Plan Future Land Use Map Amendment to change the designation of 1.48± acres from Public/Institutional to Medium Density Residential (7 to 12 dwelling units per acre). The property is located at 1150 Canyon Road. (Heather Lamboy, Case Manager)

Case #2013-38. Manderfield School Rezoning to RAC. JenkinsGavin Design and Development, agents for Manderfield LLC, request rezoning of 1.48± acres from R-5 (Residential, 5 dwelling units per acre) to RAC (Residential Arts and Crafts). The property is located at 1150 Canyon Road. (Heather Lamboy, Case Manager)

Case #2012-39. Manderfield School Special Use Permit and Variance. JenkinsGavin Design and Development, agents for Manderfield LLC, request a Special Use Permit to allow a full service restaurant for a proposed coffee house. The application also includes a variance to 14-7.2(H) to allow for 4,600 square feet of non-residential use where a maximum of 3,000 square feet is allowed. The property is located at 1150 Canyon Road. (Heather Lamboy, Case Manager)

I. RECOMMENDATION

The Land Use Department recommends **APPROVAL WITH CONDITIONS** as outlined in the Conditions of Approval as revised for the August 1, 2013 Planning Commission meeting.

This case was postponed at the July 11, 2013 Planning Commission hearing at the request of the applicant in order to address neighborhood association concerns. No new submittals have been provided. Some conditions of approval have been changed, as further detailed in the Overview.

This application meets all code criteria for a General Plan Amendment and Rezoning, as discussed in the original staff report for the Planning Commission meeting of July 11, 2013.

Four motions will be required in this case, one each for the General Plan Amendment, the Rezoning, the Special Use Permit and the Variance.

II. APPLICATION OVERVIEW

This case was originally scheduled to be heard at the July 11, 2013 Planning Commission meeting. The applicant requested a postponement in order to address concerns raised by the neighborhood, which had expressed concerns regarding the types of uses permitted on the site. The Special Use Permit and Zoning will establish the uses that are permitted on the site (refer to List of Permitted Uses provided in July 11, 2013 staff report packet), as well as other conditions of development.

After the publication of the staff report for July 11, the applicant raised concerns with the wording of the Wastewater and Technical Review conditions. Staff consulted with the Wastewater Division Engineer, and the wording of the condition was changed to more accurately reflect requirements regarding public sewer system connections.

In the case of the Technical Review Division condition, the applicant requested that the existing sidewalks be repaired rather than replaced. Technical Review Division staff visited the site to assess the condition of the existing sidewalk. An updated memorandum has been provided in Exhibit 1. It was determined that the sidewalk could be repaired and some minor ADA-related improvements would be made. A revised condition of approval has been proposed related to this determination, and is reflected in red in the City Engineer's conditions of approval.

Finally, the condition regarding the voluntary contribution for the construction of the River Trail has been amended. When the applicant agreed to the contribution amount, the applicant was looking at an old fee schedule that erroneously stated the fee was \$97 per dwelling unit instead of \$971 (which was corrected with the last round of amendments to Chapter 14). The applicant stated that the expectation was to pay approximately \$970 instead of \$10,270 as required by the Impact Fee Ordinance (when there is no reduction in place). The applicant is now offering to pay \$4,000 as a contribution to the River Trail construction.

III. ATTACHMENTS:

EXHIBIT 1: Revised Conditions of Approval, City Engineer Memorandum, Public Correspondence

1. Revised Conditions of Approval
2. City Engineer for Land Use Memorandum regarding Sidewalks, Risana Zaxus
3. Jennifer Jenkins Email regarding River Trail Contribution
4. Public Correspondence received since 7/5/13

EXHIBIT 2: Staff Report Packet, July 11, 2013

City of Santa Fe, New Mexico

Exhibit 1

**Conditions of Approval
City Engineer Memorandum
Public Correspondence**

Manderfield School— Conditions of Approval
 Planning Commission
 Cases #2013-38, #2013-39 and #2013-40 Rezone to RAC, Special Use Permit, and Variance
Revised for the August 1, 2013 Planning Commission Hearing

Conditions	Department	Staff
<p>Wastewater Division:</p> <p>1. Apartments, studios, the coffee shop and casitas shall all be separately metered <u>All development on the site shall be and</u> connected to the City's public sewer system collection system.</p>	Wastewater Division	Stan Holland
<p>Affordable Housing:</p> <p>1. Per Ordinance 2011-17, applications for residential building permits for 10 or fewer units do not have to provide an affordable unit. Instead the applicant pays a fractional fee.</p> <p>2. Fractional fees are temporarily reduced by 70% through June 8, 2014 and are paid to the City's Affordable Housing Trust Fund. If the units are constructed after June 8, 2014, the fee schedule may change. The fees are as follows:</p> <p style="margin-left: 40px;">Fractional Fee (Home ownership) =1/2 sales price of 3BR, Tier 2 home x unit fraction x 0.3 (70% reduction) =\$69,000 x 1.2 x 0.3 = \$16,560</p> <p style="margin-left: 40px;">Fractional Fee (Rental) =1/2 sales price of 3BR, Tier 2 Home x unit fraction x 0.3 (70% reduction) 6 units x 15% = 0.9 =\$69,000 x 0.9 x 0.3 = \$18,630</p> <p style="margin-left: 40px;">Total Fee Due (Until June 8, 2014): \$35,190</p>	Affordable Housing	Alexandra Ladd
<p>Technical Review Division</p> <p>1. There shall be direct pedestrian access to the site via the sidewalk.</p> <p>2. Where possible, sidewalk along Alameda shall be widened to 5 feet, repaired, and resurfaced using colored concrete as required by the Historic Districts Ordinance.</p>	Technical Review	Noah Berke
<p>City Engineer for Land Use:</p> <p>1. Sidewalk must meet the requirements of Article 14-9.2(E) of the Land Development Code.</p> <p>1. All applicable terrain and stormwater management requirements of Article 14-8.2 of the Land Development Code must be met.</p> <p><u>1. In accordance with Article 14-9.2(E)(6), "replacement of existing sidewalks is not required if they are in good condition and substantially in compliance with ADAAG." Prior to submitting a Development Plan, the designer, accompanied by appropriate City staff, will inspect the existing sidewalk and note any deficiencies. All deficiencies are to be corrected and noted in the plans.</u></p> <p>0.2. All applicable terrain and stormwater management requirements of Article 14-8.2 of the Land Development Code must be met.</p>	Technical Review	Risana "RB" Zaxus

Manderfield School Conditions of Approval
 Planning Commission
 Cases #2013-38, #2013-39 and #2013-40 Rezone to RAC, Special Use Permit, and Variance
 Revised for the August 1, 2013 Planning Commission Hearing

Conditions	Department	Staff
<p>Fire Department:</p> <ol style="list-style-type: none"> 1. All development on the site shall comply with the currently adopted International Fire Code (IFC). 2. All Fire Department access shall be no greater than 10% grade throughout. 3. Any development shall meet water supply requirements prior to construction. 4. The access road for the site shall be a minimum of 20 feet wide for Fire Department access, without a variance granted for providing life safety suppression systems. 5. There shall be a maximum 150-foot distance to all portions of the buildings. 6. Proper signage for fire lanes and no on-street parking shall be provided as required by the IFC. 	Fire Department	Reynaldo Gonzales
<p>Current Planning:</p> <p>1. Applicant shall pay Parks impact fees since the dedication of park land is not feasible for this project (Section 14-8.15(C)(2) SFCC 1987). The applicant has agreed to pay impact fees despite the fact that fees currently have a moratorium.</p> <p>The impact fees for Parks are:</p> <p>Single Family Residential — 4 Units x \$1,111 per unit = \$4,444</p> <p>Apartments — 6 Units x \$971 per unit = \$5,826</p> <p>Total Fee Due at Building Permit: \$10,270</p> <p>1. <u>Applicant shall pay Parks impact fees since dedication of park land is not feasible for this project (Section 14-8.15(C)(2) SFCC 1987). In the event that the current 100% reduction on residential impact fees is still in place at the time of building permit, then the Applicant will contribute \$4,000.00 toward the construction of a new pedestrian walkway along Alameda between Patrick Smith Park and Canyon Road, and such payment will be made prior to the issuance of residential building permits.</u></p> <p>1.2. No application can be made for a liquor license for 15 years from the date of the approval of the Special Use Permit for the restaurant.</p> <p>2.3. No amplified music will be permitted after 9pm for the restaurant use.</p>	Current Planning/Road ways& Trails/MPO	Heather Lamboy/ Eric Martinez/ Keith Wilson

City of Santa Fe, New Mexico

memo

DATE: July 17, 2013

TO: Heather Lamboy, Case Manager

FROM: Risana B "RB" Zaxus, PE
City Engineer for Land Use Department

RE: Case # 2013-37, # 2013-38, and # 2013-39
Manderfield School General Plan Amendment, Rezoning, and
Special Use Permit and Variance

The following review comments are to be considered conditions of approval for this case:

In accordance with Article 14-9.2(E)(6), "replacement of existing sidewalks is not required if they are in good condition and substantially in compliance with ADAAG." Prior to submitting a Development Plan, the designer, accompanied by appropriate City staff, will inspect the existing sidewalk and note any deficiencies. All deficiencies are to be corrected and noted in the plans.

All applicable terrain and stormwater management requirements of Article 14-8.2 of the Land Development Code must be met.

LAMBOY, HEATHER L.

From: Jennifer Jenkins <jennifer@jenkinsgavin.com>
Sent: Monday, July 08, 2013 12:18 PM
To: BAER, TAMARA; LAMBOY, HEATHER L.
Cc: Colleen; 'Hillary Welles'
Subject: Manderfield - Alameda Trail

Tamara & Heather,

Due to the issue of the typo in the impact fee schedule that we discovered on Friday, we need to modify our offer with respect payment of residential Parks impact fees in the event the fee moratorium is still in place when we obtain building permits. We would like to suggest the following revision to Current Planning condition #1:

Applicant shall pay Parks impact fees since dedication of park land is not feasible for this project (Section 14-8.15(C)(2) SFCC 1987). In the event that the current moratorium on residential impact fees is still in place at the time of building permit, then the Applicant will contribute \$4,000.00 toward the construction of a new pedestrian walkway along Alameda between Patrick Smith Park and Canyon Road, and such payment will be made prior to the issuance of residential building permits.

We greatly appreciate your assistance in resolving this matter. Please let me know if you have any questions.

Thank you!

Jennifer Jenkins

JenkinsGavin Design & Development, Inc.

130 Grant Avenue, Suite 101

Santa Fe, New Mexico 87501

Ph. (505) 820-7444

jennifer@jenkinsgavin.com

www.jenkinsgavin.com

Rec'd 7/5/13 JJS

Mary Ray Cate
Sunlit Art
1677 Cerro Gordo Road
Santa Fe, NM 87501-6148
505-989-1630

July 5, 2013

Land Use Department
City of Santa Fe
Santa Fe, NM 87501

Dear Planning Commission members,

I am writing in support of the proposed renovation and new use of the former Manderfield School, case numbers 2013-37,38,39. As an artist and a resident of the upper canyon area for the past 33 years, I welcome the proposal that the abandoned school be converted to artists' studios, condos and a coffee shop.

Having a neighborhood grocery store, coffee shop or other commercial establishment that could be a local gathering place would enhance a sense of community, save time and gas, and restore the kind of people-oriented town that existed before cars ruled. I would love to be able to buy food within a mile of my house rather than having to drive through the downtown area to get to La Manzanita Coop.

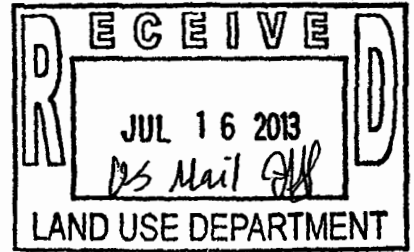
At the recent meeting at the site sponsored by the Canyon Neighborhood Association, several people were concerned about parking and increased traffic. Yet of the 40 or so people who attended, most either came on foot or on bikes. There were only about 10 cars parked outside the school. A locally oriented business close to our homes would help the environment, encourage us to exercise more, and not increase traffic in the area. The designers have planned more than enough parking spaces both for the living units and the studios and coffee shop.

At present the abandoned school is a forlorn and unattractive part of our neighborhood. The landscaping and site design proposed will preserve the past as well as make the property very attractive. I urge you to approve the proposal.

Sincerely,



Mary Ray Cate
www.sunlit-art.com



Carol W. Stephens
1010 E. Alameda St.
Santa Fe, NM 87501

July 10, 2013

Planning Commission
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

To Whom It May Concern:

My husband and I would like to add our support to the proposed reuse of the Mandanfield Elementary School. We think not only will it benefit our neighborhood but be beneficial to Santa Fe and its add a wonderful new element to the art community here.

Sincerely yours,
Carol W. Stephens

Received # 1/23/2013 vs Mail
OM

Bruce K. Reitz
1662 ½ Cerro Gordo
Santa Fe, New Mexico 87501

Ms. Heather Lamboy
Senior Planner, Current Planning Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, New Mexico 87501

Dear Ms. Lamboy,

After reviewing the proposal for the redevelopment of the Manderfield School, I am writing to express my opposition to the proposed re-zoning of the property.

The proposal to put 10 residences, 4600 square feet of commercial space, and 35 parking spaces is a dense development on 1.48 acres in an area currently zoned R5. The increase in traffic in the area has not been adequately considered or presented to the community. Additionally, parts of the project has been misrepresented as "artist studios" when commercial gallery space appears to be intended. The zoning of Canyon Road the area has been falsely characterized as RAC, "what all of Canyon Road is zoned up to the Manderfield property line..." per the developer's page at www.facebook.com/Manderfieldsf/. In fact, three sides of the Manderfield property abuts property zoned R5 and only the fourth side (north of Canyon Road) abuts RAC. I believe these misrepresentations and false statements have been made to garner community support, and should be corrected.

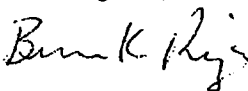
The current Manderfield zoning of R5, without the possibility of commercial development, would permit seven residential units to be created within the Manderfield School structure. Having just completed extensive renovations on a similar vintage property, with similar architectural restrictions, I disagree with the developer's statement that "it is not financially possible to convert the historically preserved building from a school to sole residences". Given the proposed low purchase price and high residential values in the area, I believe prudent and creative developer could certainly create appropriate residential renovations and still make a healthy profit. The proposed intense development, commercial space, and rentals merely serve to elevate the developer's profit margin at the expense of the community.

Should the Current Planning Division consider the proposed rezoning and variance proposals, please consider two additional items be made public:

1) A traffic study should be done to quantify the impact on the stretch of Canyon Road between East Palace and East Alameda. This portion of Canyon Road is very narrow and largely residential. The proposed Manderfield commercial development will undoubtedly precipitate a significant traffic increase on this stretch of Canyon Road.

2) Elevations of the four proposed new casitas should be published. The footprint of these structures is quite small, suggesting multi-storied structures, and they are located immediately adjacent to the property boundaries. The adjacent residential neighbors should have foreknowledge before the re-zoning is approved and potential two story constructions are built five feet from their one-story residences.

Best Regards,



Bruce K. Reitz

7/19/2013

City of Santa Fe, New Mexico

Exhibit 2

Staff Report Packet 7-11-13

City of Santa Fe, New Mexico

memo

DATE: June 25, 2013 for the July 11, 2013 Planning Commission meeting

TO: Planning Commission Members

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

FROM: Heather L. Lamboy, AICP, Senior Planner, Current Planning Division *HL*

Case #2013-37. Manderfield School General Plan Amendment. JenkinsGavin Design and Development, agents for Manderfield LLC, request approval of a General Plan Future Land Use Map Amendment to change the designation of 1.48± acres from Public/Institutional to Medium Density Residential (7 to 12 dwelling units per acre). The property is located at 1150 Canyon Road. (Heather Lamboy, Case Manager)

Case #2013-38. Manderfield School Rezoning to RAC. JenkinsGavin Design and Development, agents for Manderfield LLC, request rezoning of 1.48± acres from R-5 (Residential, 5 dwelling units per acre) to RAC (Residential Arts and Crafts). The property is located at 1150 Canyon Road. (Heather Lamboy, Case Manager)

Case #2012-39. Manderfield School Special Use Permit and Variance. JenkinsGavin Design and Development, agents for Manderfield LLC, request a Special Use Permit to allow a full service restaurant for a proposed coffee house. The application also includes a variance to 14-7.2(H) to allow for 4,600 square feet of non-residential use where a maximum of 3,000 square feet is allowed. The property is located at 1150 Canyon Road. (Heather Lamboy, Case Manager)

I. RECOMMENDATION

The Land Use Department recommends **APPROVAL WITH CONDITIONS** as outlined in this report.

This application meets all code criteria for a General Plan Amendment and Rezoning, as discussed below.

Four motions will be required in this case, one each for the General Plan Amendment, the Rezoning, the Special Use Permit and the Variance.

II. APPLICATION OVERVIEW

The applicant is requesting a General Plan Amendment from Public/Institutional to Medium Density Residential and is requesting to rezone the property from R-5 (Residential, 5 dwelling units per acre) to RAC (Residential Arts and Crafts, 21 dwelling units per acre) in order to be able to adaptively reuse the now vacant Manderfield Elementary School. The property consists of one lot totaling approximately 1.48± acres. Proposed uses for the site include: a 1,200 square-foot coffee shop (which requires the Special Use Permit in the RAC zoning district); 3,400 square feet of studio space or other uses typically permitted in the RAC zoning district; 6 rental apartments within the Manderfield School building; and 4 new detached single-family residential units located to the south and west of the existing school building.

This mixed-use development would be subject to an association that will have control over the common elements. The common elements on the site include the corridor between the artist studios/coffee shop and the apartments as well as the open spaces between the detached casitas and at the front of the Manderfield building.

The site is surrounded by a variety of uses, including residential to the west and north, institutional to the east (Power Plant Park), and religious to the south (Cristo Rey Church). This site is adjacent to both Residential (R-5) and Residential Arts and Crafts (RAC) zoning districts. The request to rezone the site would expand the RAC zoning boundary from across Canyon Road to this property.

As part of this application, the applicant has agreed to pay the park impact fees even during the period identified for 100% impact fee reduction by Ordinance 2012-2. This ordinance was passed in 2012 in order to help stimulate residential development. Eric Martinez, the Roadway and Trails Supervisor, in his review requested the contribution of funds for improvement of the pedestrian walkway along Alameda between Patrick Smith Park and Canyon Road, which would be an important connection for the Alameda Street multi-purpose recreational trail system, as called for in the 2012 City of Santa Fe Bicycle and Trails Master Plan. The contribution made by the applicant for the construction of this connector will be \$10,270, based on the amount of fee that would normally be paid if the temporary impact fee reduction were not in effect.

The site is already served by water and wastewater, and is easily accessible via existing street infrastructure. Redevelopment of this infill site would make for an efficient use of City resources.

If these applications are approved, further review and approval by the Historic Districts Review Board will be required.

Early Neighborhood Notification

An Early Neighborhood Notification (ENN) meeting was held on May 15, 2013. Many members of the adjacent neighborhood attended the meeting and expressed concerns about potential traffic impacts, the design and preservation of the Manderfield building, the location of the detached housing to near the western property line, and parking.

III. CHAPTER 14 GENERAL PLAN AMENDMENT CRITERIA

Section 14-3.2 of the Land Development Code establishes approval criteria for general plan

amendments. These are addressed below.

Section 14-3.2 (E) (1) Criteria for All Amendments to the General Plan

(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 area surrounding the subject property comprises a mix of uses, including moderate density residential, offices, galleries, and institutional. The mix of uses proposed for the subject property is consistent with this neighborhood pattern. The project will be served by the existing roadway and utility infrastructure and provide a pedestrian friendly environment.*

***Staff Response:** The proposal is consistent with the City of Santa Fe growth projections and makes efficient use of existing infrastructure. Small business employment and housing opportunities will be provided on the site, which is an efficient adaptive reuse of the now-closed elementary school.*

- (b) consistency with other parts of the general plan;

***Applicant Response:** This request incorporates and reflects consistency with the General Plan in terms of promoting mixed-use neighborhoods and economic diversity. The intent is to allow uses that will create a pleasant and successful addition to the neighborhood. Its location also proves to be cost effective due to the availability of existing infrastructure, including the issues related to infill and urban sprawl referenced throughout the General Plan. Adaptive reuse is a key factor in land conservation, historic preservation, and the reduction of urban sprawl.*

***Staff Response:** The National Trust for Historic Preservation, in its 2011 publication entitled "The Greenest Building: Quantifying the Environmental Value of Building Reuse" reports that adaptive reuse of buildings consume much less energy than demolition and construction of new buildings. The adaptive reuse of the Manderfield School building not only preserves Santa Fe's historic fabric, but it also provides for efficient use of City resources and has less of an environmental impact, all of which are promoted in the City's General Plan.*

- (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: *Prevailing uses in the surrounding Canyon Road area include a mix of galleries, restaurants, and shops, as well as residential and institutional. The proposed amendment and related rezone will be consistent with these types of uses, combining residences with artists' studios and a coffee house.*

Staff Response: *While the eastern section of Canyon Road between East Palace Avenue and Alameda is more characteristically residential, it is zoned Residential Arts and Crafts (RAC) which permits a variety of small scale non-residential uses. The Manderfield site's proximity to Alameda provides good access and directs nonresidential traffic away from residential areas. The proposed uses at the Manderfield site are not unlike uses found in the Canyon Road neighborhood.*

(ii) affect an area of less than two acres, except when adjusting boundaries between districts; or

Applicant Response: *The proposed amendment is an expansion of the boundary of the Medium Density Residential found immediately west of the subject property.*

Staff Response: *The applicant is correct, the General Plan category boundary will simply be adjusted from the west and north to this site.*

(iii) benefit one or a few landowners at the expense of the surrounding landowners or the general public;

Applicant Response: *Promoting an appropriate mix of land uses benefits the neighborhood through the provision of services and employment opportunities in close proximity to residents, which supports the goal of minimizing car trips and encouraging alternative means of transportation. The project's design will invite pedestrian access from Canyon Road and surrounding parks, shops, and galleries.*

Staff Response: *The site has been designed to mitigate any external impacts and reduce the overall impact of the site on adjacent property owners. The proposed single-family residential units, the apartments, and the small-scale nonresidential uses will be a less intense use of the site than an elementary school. The adaptive reuse of this historic resource retains value in the neighborhood and benefits the public as a whole.*

(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: *Not applicable.*

Staff Response: *The amendment has a public benefit of preserving a historically contributing building and the overall character of the Downtown and Eastside Historic District.*

(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: This designation request and proposed adaptive reuse of the existing 11,400 square foot school building will promote community integration and social balance by providing a mixed use approach, including studio space for artists and a coffee house that will draw locals and tourists to the site. The provision of art studio space and a coffee house will provide a key link among surrounding residential, institutional, and arts and crafts neighbors, offering services and employment opportunities in the vicinity of hundreds of residents.

Staff Response: This proposal provides for an efficient use of existing infrastructure on an infill site. The introduction of small-scale business and shopping opportunities proximate to the neighborhood will serve the community.

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

Applicant Response: The adaptive reuse of the school is an environmentally sensitive effort to ensure that this historically contributing building is preserved and utilized to the benefit of the community. An empty building is a detriment to the neighborhood and does not positively impact the local economy. This proposal is consistent with the City's policies promoting infill, redevelopment, historic preservation, and mixed use.

Staff Response: As stated previously, the adaptive reuse of the school property is energy efficient and respects the character of this section of Canyon Road. The proposed concept plan conforms with the City's land use policies and regulations.

IV. CHAPTER 14 REZONING CRITERIA

Section 14-3.5 (C) of the Land Development Code sets forth approval criteria for rezoning as follows:

(C) Approval Criteria

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

- (a) one or more of the following conditions exist:
- (i) there was a mistake in the original zoning;

Applicant Response: *Not applicable.*

Staff Response: *No mistake was made in the original zoning for the subject site. Institutional uses, including educational uses, are permitted in all zoning districts of the city. Now that the site is proposed for mixed-use development, the zoning must be changed so the proposed uses will conform with the zoning district.*

- (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

Applicant Response: *Not applicable.*

Staff Response: *The elementary school use ceased to exist with the closing of the school by the district in 1972. Since then, the building housed a variety of educational uses and the Presbyterian Services Head Start Program until the 2009. The building has been vacant since 2009. No educational or other use has been proposed until this time. The vacant building is a detriment to the vitality of the neighborhood, and threatens the historic building through neglect.*

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

Applicant Response: *The requested zone change to RAC is consistent with surrounding zoning, which includes RAC, R-5, and R-10PUD. The proposed adaptive reuse of the existing 11,400 square foot school building will support Santa Fe's economic base by providing additional residential options, studio space for artists, employment opportunities, and a coffee house that will serve hundreds of residents in the vicinity. Instead of an unused institutional building, the facility will house a vibrant mix of uses that will benefit the community.*

Staff Response: *As the applicant stated, the zone change enables the reuse of the property. There are challenges with reusing such a large building, especially considering the anticipated investment that will be needed to preserve the Manderfield building. The reuse permits small-scale mixed uses that are comparable to and compatible with those found in the neighborhood.*

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

Applicant Response: *Yes.*

Staff Response: *No deficiencies to Chapter 14 compliance were identified by the Development Review Team.*

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

Applicant Response: *Please refer to the responses to the General Plan Amendment approval criteria outlined above.*

Staff Response:

This request is consistent with the following General Plan Themes:

1.7.2 Quality of Life: Enhance the quality of life of the community and ensure the availability of community services for residents. *This mixed-use development can enhance the quality of life by providing housing and employment opportunities within close proximity to each other.*

1.7.3 Transportation Alternatives: Reduce automobile dependence and dominance. *By having employment and housing opportunities proximate to one another, the project reduces automobile dependence. The mix of uses also provides for entertainment and shopping opportunities in walking distance for the neighborhood.*

1.7.4 Economic Diversity: Develop and implement a comprehensive strategy to increase job opportunities, diversify the economy, and promote arts and small businesses. *This project will enable the establishment of small and arts-oriented business in an established arts market.*

1.7.8 Character: Maintain and respect Santa Fe's unique personality, sense of place, and character. *Through the preservation of the Manderfield building, the unique personality of the site will be maintained. Generations of Santa Feans attended school at Manderfield, and generations more could potentially benefit from this Canyon Road landmark through living at, working at, or visiting the site.*

1.7.12 Mixed Use: Provide a mix of land uses in all areas of the city. *Through the incorporation of small business and the coffee shop, which tends to be a community gathering space, the project will provide a mix of uses that will affirm Santa Fe's traditional development pattern.*

- (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

Applicant Response: *The proposed redevelopment of the Manderfield School property exemplifies a compact urban form and desired infill development.*

Staff Response: *Growth is anticipated and expected within the City limits; the General Plan advocates for a compact urban form with sensitive and compatible infill. The concept plan provided by the applicant for the Manderfield site respects the historic character of the Canyon Road streetscape, while permitting limited development on the site for housing and small businesses.*

- (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 project will be served by existing City infrastructure and services. Any requisite improvements or upgrades to existing utilities will be implemented as part of the construction process.*

Staff Response: *Staff concurs with the applicant.*

(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;

Staff Response: *The use will not significantly change the character of the neighborhood, and this proposed mixed-use development will not be inconsistent with the prevailing uses and character of the neighborhood.*

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

Staff Response: *In this case the zoning boundary will be adjusted between adjacent districts.*

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

Staff Response: *This application, although it will benefit one landowner, does not do so at the expense to the surrounding landowners or the general public. Public benefit will be realized from this project through preservation of a historic building and the creation of small-scale employment and housing opportunities on the site.*

(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;

Staff Response: *The proposed project is accommodated by existing utility infrastructure.*

(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: *There is no need for additional streets, sidewalks or curbs associated*

with this rezoning request. When a permit is reviewed, further analysis may be required to determine whether other public improvements are necessary.

V. CHAPTER 14 SPECIAL USE CRITERIA

Section 14-3.6(D) of the Land Development Code sets forth approval criteria and special conditions for Special Use Permits.

The applicant is requesting a Special Use Permit for a 1,200 square foot full-service restaurant that will house a coffee shop. The applicant has committed to the neighborhood association and the City that no application will be made for a liquor license for the full-service restaurant for 15 years from the date of the Special Use Permit approval. If the applicant were to eventually apply for a liquor license, a public hearing would be required and variances would have to be approved due to the Manderfield site's proximity to Cristo Rey Church.

Additional measures to mitigate impacts of the Special Use include the placement of the commercial parking area along Alameda away from the adjoining residential uses, landscape screening of the parking lot to preserve the streetscape character of that section of Canyon Road/Alameda Street, and orientation of the coffee shop away from the adjoining residential uses. The Manderfield rental apartments and casitas will provide a transition to the Canyon Road neighborhood to the west.

The coffee shop and other uses on the Manderfield property shall at all times be in compliance with applicable City ordinances including SFCC Section 10-2.4 which prohibits the reproduction of sound that is audible at the property boundary after 9 p.m.

The Special Use Permit will be specific to the 1,200 square foot restaurant use and may not be expanded without approval through another Special Use Permit hearing process.

The Planning Commission may impose additional conditions to ensure that any external impacts of the Special Use are mitigated. Types of conditions of approval that may be imposed are listed in Section 14-3.6(D)(2) SFCC 1987 (found below).

Approval Criteria and Conditions

- (1) Necessary Findings
 - (a) that the land use board has the authority under the section of Chapter 14 described in the application to grant a special use permit;

Applicant Response: *No response.*

Staff Response: *The Planning Commission has the authority to grant a Special Use Permit associated with this application.*

- (b) that granting the special use permit does not adversely affect the public interest, and

Applicant Response: *Granting the Special Use Permit will benefit the public interest by providing employment opportunities for Santa Fe residents, both during construction and once the coffee house is functioning, as well as generating tax revenue. As only the café currently in the area is the Tea House several blocks down Canyon Road, the coffee house will offer a welcome and convenient venue for locals and visitors to gather. Furthermore, the location of the coffee house will serve as an appropriate transition between the Canyon Road arts and crafts district and the adjacent residential neighborhoods.*

Staff Response: *As discussed in the approval criteria for both the General Plan Amendment and the Rezoning, the granting of this Permit will not adversely affect the public interest. A historic building will be preserved and a mix of uses will be incorporated into the neighborhood, which benefits the public interest. The Special Use Permit for the 1,200 square foot coffee shop on this site provides for a broader mix of uses and makes the project more economically viable.*

- (c) that the use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the premises under consideration.

Applicant Response: *The Canyon Road area consists of a mix of galleries, shops, offices, and residences, as well as the Cristo Rey Church. The proposed coffee house is compatible with this lively mix of uses. Renovation of the existing Manderfield School and construction of the four residential casitas will be in conformance with zoning and the Historic District regulations, and will remain compatible with the buildings and structures of the neighboring properties. [STAFF NOTE: This case has not yet been reviewed by the Historic Districts Review Board (HDRB); therefore, no approval has been granted for Historic District review. If approvals are obtained for the General Plan Amendment, the Rezoning, the Special Use Permit and Variance, the applicant will seek approval for design through the HDRB.]*

Staff Response: *The proposed 1,200 square foot coffee shop will be small scale, and will be compatible with other buildings in the neighborhood. The use will be housed in the Manderfield School, and will provide new life to that historic building.*

(2) Conditions

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

- (a) special yards or open spaces;
- (b) fences, walls or landscape screening;

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

Based on an analysis of the proposed Special Use Permit, the Land Use Department recommends that no application for a liquor license be permitted for 15 years from the date of the Special Use Permit approval and that all amplified music will not be permitted after 10pm.

VI. VARIANCE

Section 14-7.2(H) states that "Not more than three thousand (3,000) square feet of the gross floor area of a building shall be devoted to nonresidential uses." The purpose of the Residential Arts and Crafts zoning is to serve and preserve the prevalent characteristics of limited areas of the City,

where residential uses are intermixed with small-scale art and crafts shops, studios and galleries, and the limit on square footage helps to preserve the predominately residential character of the district.

The proposed adaptive reuse of the Manderfield presents a unique circumstance in that the applicant is utilizing an existing building for studio spaces. The applicant is proposing a maximum of 4,600 square feet of nonresidential use, of which 1,200 will be dedicated to a coffee shop. As part of the remodel of the Manderfield building, the applicant is avoiding the removal of existing load-bearing walls to save cost as well as retain the historic character of the school building. The artist studio spaces will be organized in the existing classrooms (which are approximately 550 square-feet each).

The corridor between the artist studios on the east side of the building and the residential apartments on the south and west sides of the building will remain open as a limited common space that will be accessible via the artist studios and coffee shops as well as the rental apartments.

Section 14-3.16(C) Approval Criteria

Subsections 14-3.16(C)(1) through (5) and, if applicable, Subsection 14-3.15(C)(6), are required to grant a variance.

- (1) One or more of the following special circumstances applies:
 - (a) unusual physical characteristics exist that distinguish the land or structure from others in the vicinity that are subject to the same relevant provisions of Chapter 14, characteristics that existed at the time of the adoption of the regulation from which the variance is sought, or that were created by natural forces or by government action for which no compensation was paid;

***Applicant Response:** The unusual characteristic of the property that distinguishes it from others in the vicinity is the Manderfield School itself. The building is designated as Contributing to the Downtown and Eastside Historic District and, therefore, must be retained. Accordingly, the proposed mix of uses must fit into the physical constraints of the existing structure. The proposed configuration of residential and commercial uses is a natural fit to the present layout, providing appropriate separation, while integrating access. Furthermore, in order to ensure the adaptive reuse is economically feasible, existing load-bearing walls are being retained, thereby limiting modifications to the floor plan.*

***Staff Response:** Staff agrees with the applicant that the existence of the historic Manderfield School building presents the special circumstance in this case.*

- (b) the parcel is a legal nonconforming lot created prior to the adoption of the regulation from which the variance is sought, or that was created by government action for which no compensation was paid;

***Applicant Response:** Not applicable.*

***Staff Response:** Not applicable.*

- (c) there is an inherent conflict in applicable regulations that cannot be resolved by compliance with the more-restrictive provision as provided in Section 14-1.7; or

Applicant Response: *Not applicable.*

Staff Response: *The applicant will achieve a higher standard of the preservation of a historic building through a viable economic reuse of the Manderfield School building. The building has been vacant for several years now, and this proposal will give the building a second life and ensure its maintenance and preservation for the enjoyment of future generations of Santa Feans.*

- (d) the land or structure is nonconforming and has been designated as a landmark, contributing or significant property pursuant to Section 14-5.2 (Historic Districts).

Applicant Response: *Yes. Please refer to criterion (a) above.*

Staff Response: *The land and structure conform to the current R-5 zoning district as long as it is an educational use. Once the educational use ceases to exist, the structure becomes nonconforming. The Manderfield School building is designated as contributing for the purposes of the Historic Districts Ordinance, Section 14-5.2.*

- (2) The special circumstances make it infeasible, for reasons other than financial cost, to develop the property in compliance with the standards of Chapter 14.

Applicant Response: *Limiting the nonresidential uses to 3,000 square feet would not permit the building to be reused in the manner consistent with its existing layout. The separate wings provide an organic opportunity to incorporate some degree of appropriate separation between the residences and the commercial activity. Furthermore, private exterior entry is critical in order to render the residential units functional. Due to the fact that most of the east elevation is designated as primary, no exterior alterations are permitted. Therefore, doors cannot be added to provide the requisite provide residential entry except at the south facing portion of the east wing, which is not primary. The proposed coffee house is the only other location on the east façade that can be modified to provide access to the building, and that entrance has a commercial, rather than residential, aspect. These special circumstances render it necessary to expand the commercial square footage of the project.*

Staff Response: *Staff agrees with the applicant that the special challenges presented in the adaptive reuse of a historically contributing building makes it difficult to limit the nonresidential square footage to 3,000 square feet.*

- (3) The intensity of development shall not exceed that which is allowed on other properties in the vicinity that are subject to the same relevant provisions of Chapter 14.

Applicant Response: *The proposed redevelopment is compliant with all other provisions of Chapter 14. In addition, under the proposed RAC zoning, the maximum*

allowable density on the property is 31 dwelling units. However, only ten dwelling units are proposed for the project, along with the artists' studios and coffee house.

Staff Response: Intensity of development is defined as the level of uses as determined by the number of employees and customers and degree of impact on surrounding properties such as noise and traffic. The Manderfield School itself exceeded the intensity of development for surrounding uses when it was open. The proposed mixed-use development will actually have a lower impact in terms of traffic and noise. The proposed commercial uses will be separated from the residential uses and oriented toward Alameda, with access directly off Alameda. The residential uses will be access controlled, and a one-way drive will circulate from Alameda to Canyon Road on the site behind the school building. These changes in the vehicular circulation and the types of uses will be comparable in intensity to the surrounding neighborhood.

(4) The variance is the minimum variance that will make possible the reasonable use of the land or structure. The following factors shall be considered:

(a) whether the property has been or could be used without variances for a different category or lesser intensity of use;

Applicant Response: Due to the fact that the Manderfield School is a contributing building, the proposed mix of uses fit into the physical constraints of the existing structure. Per the response to (2) above, limiting the nonresidential uses to 3,000 square feet would not permit the building to be reused in a manner consistent with its existing layout.

Staff Response: The proposed variance is the minimum variance to make possible the reasonable adaptive reuse of the Manderfield building while retaining its historically contributing status. The total square footage of the building is 11,357 square feet, divided lengthwise by a corridor of approximately 1,440 square feet. The corridor is an integral feature of the existing building and provides interior access to the nonresidential uses. The net leasable area of the nonresidential uses will represent 3,300 square feet.

(b) consistency with the purpose and intent of Chapter 14, with the purpose and intent of the articles and sections from which the variance is granted and with the applicable goals and policies of the general plan.

Applicant Response: Per Code §14-1.3, Chapter 14 seeks to ensure that Santa Fe is developed in a manner that promotes "healthy, safety, order, convenience, prosperity and the general welfare as well as efficiency and economy in the process of development..." and mandates the creation of "conditions favorable to the health, safety, convenience, prosperity and general welfare of the residents of Santa Fe." The project is consistent with these intents, as well as with the General Plan's intent to promote mixed-use neighborhoods and economic diversity and to minimize urban sprawl through infill development. Adaptive reuse is a key factor in land conservation, historic preservation, and the reduction of urban sprawl.

Staff Response: *A detailed analysis of consistency with the General Plan was provided in Section IV, Chapter 14 Rezoning Criteria, and applies here. This project is an example of finding a way to reuse existing historic resources in a way to benefit the community by providing entertainment and shopping opportunities as well as housing opportunities. The preservation of the Manderfield building is environmentally sustainable. Finally, the Arts & Culture sector is a targeted industry for our local economy.*

- (5) The variance is not contrary to the public interest.

Applicant Response: *The Manderfield School has sat vacant for many years and is an eyesore in the community. The redevelopment of the property is in the public interest in that an important historic building will be preserved and maintained, while once again being a vibrant part of the neighborhood.*

Staff Response: *The Development Review Team reviewed this project and found that all impacts will be mitigated. Comments dealt with access to the site, the number of parking spaces, the placement of the casitas along the southern and western portions of the property and mitigating impacts on adjacent properties. Overall, the proposed mixed-use development will be less intense in noise and traffic than the school use and the proposal will not be contrary to the public interest.*

- (6) There may be additional requirements and supplemental or special findings required by other provisions of Chapter 14.

VI. CONCLUSION

The conditions of approval listed in this case primarily relate to the future development on the site. Conditions relating to the Special Use Permit include limiting the applicant's ability to apply for a liquor license and not permitting amplified music at the restaurant after 9pm. Conditions relating to the rezoning include creating a more pedestrian-friendly environment to access the site by increasing the width of the sidewalks along Canyon and Alameda Roads as well as having pedestrian connections to the site from the sidewalk. Due to the fact that only a concept plan was presented with these cases, the City Engineer has pointed out that future stormwater collection and terrain management must comply with the Land Development Code. Finally, the Current Planning Division placed a condition of approval that affirms the Trails contribution for the amount of \$10,270 for the Alameda Street trail connection between Patrick Smith Park and Canyon Road.

ATTACHMENTS:

EXHIBIT A: Conditions of Approval

1. Conditions of Approval

**EXHIBIT B: List of Permitted Uses in a RAC Zoning District
Ordinance 2012-2, Impact Fee Reduction
Development Review Team Memoranda**

1. List of Permitted Uses in the RAC Zoning District
2. Ordinance 2012-2, Impact Fee Reduction
3. Section 10-2.5 SFCC 1987, Zone District Noise Levels
4. Roadways & Trails Engineering Memorandum, Eric Martinez
5. Metropolitan Planning Organization (MPO) Memorandum, Keith Wilson
6. Technical Review Landscaping Memorandum, Noah Berke
7. Historic Preservation Memorandum, David Rasch
8. Traffic Engineering Memorandum, Sandy Kassens
9. Affordable Housing, Alexandra Ladd
10. City Engineer for Land Use, RB Zaxus
11. Wastewater Division Memorandum, Stan Holland
12. Solid Waste Department, Randall Marco
13. Fire Department Memorandum, Reynaldo Gonzales

EXHIBIT C: Maps

1. Future Land Use Map
2. Zoning
3. Aerial

EXHIBIT D: ENN Materials

1. ENN Meeting Notice
2. ENN Responses to Guidelines
3. ENN Meeting Summary 4-13-13

EXHIBIT E: Applicant Submittals

1. Transmittal Letter & Justification
2. Conceptual Site Plans

EXHIBIT F: Public Correspondence

City of Santa Fe, New Mexico

Exhibit A

Conditions of Approval

Manderfield School Conditions of Approval

Planning Commission

Cases #2013-38, #2013-39 and #2013-40 Rezone to RAC, Special Use Permit, and Variance

Conditions	Department	Staff
<p>Wastewater Division:</p> <ol style="list-style-type: none"> 1. Apartments, studios, the coffee shop and casitas shall all be separately metered and connected to the City's public sewer system collection system. 	Wastewater Division	Stan Holland
<p>Affordable Housing:</p> <ol style="list-style-type: none"> 1. Per Ordinance 2011-17, applications for residential building permits for 10 or fewer units do not have to provide an affordable unit. Instead the applicant pays a fractional fee. 2. Fractional fees are temporarily reduced by 70% through June 8, 2014 and are paid to the City's Affordable Housing Trust Fund. If the units are constructed after June 8, 2014, the fee schedule may change. The fees are as follows: <p>Fractional Fee (Home ownership) =1/2 sales price of 3BR, Tier 2 home x unit fraction x 0.3 (70% reduction) =\$69,000 x 1.2 x 0.3 = \$16,560</p> <p>Fractional Fee (Rental) =1/2 sales price of 3BR, Tier 2 Home x unit fraction x 0.3 (70% reduction) 6 units x 15% = 0.9 =\$69,000 x 0.9 x 0.3 = \$18,630</p> <p>Total Fee Due (Until June 8, 2014): \$35,190</p>	Affordable Housing	Alexandra Ladd
<p>Technical Review Division</p> <ol style="list-style-type: none"> 1. There shall be direct pedestrian access to the site via the sidewalk. 2. Where possible, sidewalk along Alameda shall be widened to 5 feet, repaired, and resurfaced using colored concrete as required by the Historic Districts Ordinance. 	Technical Review	Noah Berke
<p>City Engineer for Land Use:</p> <ol style="list-style-type: none"> 1. Sidewalk must meet the requirements of Article 14-9.2(E) of the Land Development Code. 2. All applicable terrain and stormwater management requirements of Article 14-8.2 of the Land Development Code must be met. 	Technical Review	Risana "RB" Zaxus
<p>Fire Department:</p> <ol style="list-style-type: none"> 1. All development on the site shall comply with the currently adopted International Fire Code (IFC). 2. All Fire Department access shall be no greater than 10% grade throughout. 3. Any development shall meet water supply requirements prior to construction. 4. The access road for the site shall be a minimum of 20 feet wide for Fire Department access, without a variance granted for providing life safety suppression systems. 	Fire Department	Reynaldo Gonzales

Manderfield School- Conditions of Approval
 Planning Commission
 Cases #2013-38, #2013-39 and #2013-40 Rezone to RAC, Special Use Permit, and Variance

Conditions	Department	Staff
5. There shall be a maximum 150-foot distance to all portions of the buildings. 6. Proper signage for fire lanes and no on-street parking shall be provided as required by the IFC.		
Current Planning: 1. Applicant shall pay Parks impact fees since the dedication of park land is not feasible for this project (Section 14-8.15(C)(2) SFCC 1987). The applicant has agreed to pay impact fees despite the fact that fees currently have a moratorium. The impact fees for Parks are: Single Family Residential 4 Units x \$1,111 per unit = \$4,444 Apartments 6 Units x \$971 per unit = \$5,826 Total Fee Due at Building Permit: \$10,270 2. No application can be made for a liquor license for 15 years from the date of the approval of the Special Use Permit for the restaurant. 3. No amplified music will be permitted after 9pm for the restaurant use.	Current Planning/Road ways& Trails/MPO	Heather Lamboy/ Eric Martinez/ Keith Wilson

City of Santa Fe, New Mexico

Exhibit B

**List of Permitted Uses in RAC Zoning District
Ordinance 2012-2, Impact Fee Reduction
Section 10-2.5 SFCC 1987 Zone District Noise Levels
Development Review Team Memoranda**

RAC Residential Arts & Crafts District

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

Permitted Uses

1. Antique stores
2. Art supply stores
3. Arts & crafts schools
4. Arts & crafts studios, galleries, shops; gift shops for the sale of arts & crafts
5. Boarding, dormitory, monastery
6. Bookshops
7. Cabinet shops; custom
8. Dance studios
9. Daycare, preschool for infants & children (6 or fewer)
10. Dwelling- single-family
11. Dwelling, multiple-family
12. Electric transmission lines
13. Electrical distribution facilities
14. Electrical substation
15. Florist shops
16. Foster homes licensed by the State
17. Group, residential care facility (limited)
18. Manufactured homes
19. Museums
20. Non-profit theaters for production of live shows ☼
21. Parks, playgrounds, playfields (public)
22. Police substations (6 or fewer staff)
23. Photographers studios
24. Schools, vocational & trade, non-industrial
25. Tailoring & dressmaking shops

☼ Uses shown with ☼ are permitted in RAC districts; however, a **Special Use Permit** is required if located within 200 feet of residentially zoned property.

Special Use Permit

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

1. Adult day care
2. Bar, cocktail lounge, nightclub; no outdoor entertainment (amplified live entertainment or amplified music for dancing prohibited after 10:00 PM)

3. Bar, cocktail lounge, nightclub; with outdoor entertainment (amplified live entertainment or amplified music for dancing prohibited after 10:00 PM) ☼
4. Clubs & lodges (private)
5. Colleges & universities (residential)
6. Continuing care community
7. Correctional group residential care facility
8. Daycare; preschool; for infants & children (more than 6)
9. Fire stations
10. Grocery stores (neighborhood)
11. Group residential care facility
12. Laundromats (neighborhood)
13. Medical & dental offices & clinics
14. Mobile home permanent installation
15. Neighborhood & community centers (including youth & senior centers)
16. Nursing, extended care, convalescent, recovery care facilities
17. Offices; business & professional (excluding medical, dental & financial services)
18. Personal care facilities for the elderly
19. Police stations
20. Religious assembly (all)
21. Religious, educational & charitable institutions (no schools or assembly uses)
22. Restaurant with bar, cocktail lounge or nightclub comprising more than 25% of total serving area (amplified live entertainment or amplified music for dancing prohibited after 10:00 PM) ☼
23. Restaurant; fast service, take out, no drive through or drive up
24. Restaurant; full service with or without incidental alcohol service (amplified live entertainment or amplified music for dancing prohibited after 10:00 PM)
25. Schools; elementary & secondary (public & private)
26. Sheltered care facilities
27. 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 RAC 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

Max density 21 dwelling units per acre

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: All structures 24 feet;

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 of the structure.

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 side or rear property line, no point on a structure shall be higher than 24 feet above finished grade at the closest point of the perimeter.)

Max lot cover: 40

Maximum Nonresidential Use Area in RAC District: Not more than three thousand (3,000) square feet of the *gross floor area* of a *building* shall be devoted to *nonresidential uses* .

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-6, R-7, R-8, & R-9 districts, an amount not less than fifty percent of the total gross floor area of that dwelling unit; and
- (2) balconies, roof decks or roofed areas such as porches or portals may be included as twenty-five percent of the required private open space;
- (3) private open space does not include parking areas, driveways or related access for automobiles or 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.

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CITY OF SANTA FE, NEW MEXICO

ORDINANCE NO. 2012-2

AN ORDINANCE

AMENDING SECTION 14-8.14(E) SFCC 1987 SO THAT FOR A PERIOD OF TWO YEARS, THE IMPACT FEES FOR RESIDENTIAL DEVELOPMENTS SHALL BE REDUCED BY 100%; AND MAKING SUCH OTHER NECESSARY CHANGES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 14-8.14(E) SFCC 1987 (being Ord. No. 2011-37, §11) is amended to read:

E. Fee Determination

(1) A person who applies for a construction *permit*, except those exempted or preparing an independent fee calculation study, shall pay impact fees in accordance with one of the following fee schedules. If a credit is due pursuant to Section 14-8.14(I), the amount of the credit shall be deducted from the amount of the fee to be paid.

(2) The fee schedule in this Section 14-8.14(E)(2), also referred to as the "temporary" fee schedule, shall be used and its fees assessed on *residential plats and development* plans for a period of two years beginning on January 23, 2012 and ending on January 22, 2014. Thereafter, such *developments* shall be assessed impact fees in accordance with the "new" and "old" fee schedules in Sections 14-8.14(E)(3) and 14-8.14(E)(4) below.

TEMPORARY FEE SCHEDULE FOR RESIDENTIAL DWELLINGS

Land Use Type	Unit	Roads	Parks	Fire	Police	Total

S-F Detached Dwelling or Manufactured Home						
Heated Living Area:						
(0 to 1,500 sq. ft.)	Dwelling	\$0	\$0	\$0	\$0	\$0
(1,501 to 2,000 sq. ft.)	Dwelling	\$0	\$0	\$0	\$0	\$0
(2,001 to 2,500 sq. ft.)	Dwelling	\$0	\$0	\$0	\$0	\$0
(2,501 to 3,000 sq. ft.)	Dwelling	\$0	\$0	\$0	\$0	\$0
(3,001 to 3,500 sq. ft.)	Dwelling	\$0	\$0	\$0	\$0	\$0
(3,501 to 4,000 sq. ft.)	Dwelling	\$0	\$0	\$0	\$0	\$0
(more than 4,000 sq. ft.)	Dwelling	\$0	\$0	\$0	\$0	\$0
Other (Apts., Condos, S.F. Attached Guest H)	Dwelling	\$0	\$0	\$0	\$0	\$0

1 (3) The fee schedule in this Section 14-8.14(E)([2]3), also referred to as the
2 "new" fee schedule, shall be used and its fees assessed on *plats* and *development* plans that receive
3 final approval from the *city* or the *state* construction industries division after June 30, 2008. The
4 "new" fee schedule shall also be applied to construction *permits* issued after June 30, 2008, except
5 where the *permit* is issued for a subdivision or for a *development* plan that is still subject to the "old"
6 fee schedule.

7 **NEW FEE SCHEDULE**

Land Use Type Single-Family Detached Dwelling or Manufactured Home	Unit	Roads	Parks	Fire	Police	Total
Heated Living Area:						
(0 to 1,500 sq. ft.)	Dwelling	\$1,850	\$1,111	\$125	\$44	\$3,130
(1,501 to 2,000 sq. ft.)	Dwelling	\$2,100	\$1,214	\$136	\$48	\$3,498
(2,001 to 2,500 sq. ft.)	Dwelling	\$2,183	\$1,328	\$150	\$53	\$3,714
(2,501 to 3,000 sq. ft.)	Dwelling	\$2,248	\$1,379	\$155	\$55	\$3,837
(3,001 to 3,500 sq. ft.)	Dwelling	\$2,309	\$1,418	\$159	\$56	\$3,942
(3,501 to 4,000 sq. ft.)	Dwelling	\$2,359	\$1,444	\$163	\$58	\$4,024
(more than 4,000 sq. ft.)	Dwelling	\$2,424	\$1,495	\$169	\$59	\$4,147

Accessory dwelling unit (attached or detached)						
Heated Living Area:						
(0 to 500 sq. ft.)	Dwelling	\$518	\$324	\$37	\$13	\$891
(501 to 1,000 sq. ft.)	Dwelling	\$1,036	\$647	\$73	\$26	\$1,782
(1,001 to 1,500)	Dwelling	\$1,554	\$971	\$110	\$39	\$2,674
Other (Apts., Condos, S.F. Attached Guest H)	Dwelling	\$1,554	\$97	\$110	\$39	\$2,674
Hotel/Motel	Room	\$1,203	\$0	\$82	\$29	\$1,314
Retail/Commercial	G.F.A.					
Shopping Center/General Retail	1000 sq. ft.	\$4,597	\$0	\$221	\$78	\$4,896
Auto Sales/Service	1000 sq. ft.	\$2,180	\$0	\$221	\$78	\$2,479
Bank	1000 sq. ft.	\$4,948	\$0	\$221	\$78	\$5,247
Convenience Store w/Gas Sales	1000 sq. ft.	\$8,778	\$0	\$221	\$78	\$9,077
Health Club, Recreational	1000 sq. ft.	\$4,394	\$0	\$221	\$78	\$4,693
Movie Theater	1000 sq. ft.	\$10,412	\$0	\$221	\$78	\$10,711
Restaurant, Sit-Down	1000 sq. ft.	\$5,083	\$0	\$221	\$78	\$5,382
Restaurant, Fast Food	1000 sq. ft.	\$11,064	\$0	\$221	\$78	\$11,363
Restaurant, Pkgd Food	1000 sq. ft.	\$4,597	\$0	\$221	\$78	\$4,896
Office/Institutional	G.F.A.					
Office, General	1000 sq. ft.	\$2,429	\$0	\$124	\$44	\$2,597
Medical Building	1000 sq. ft.	\$3,903	\$0	\$124	\$44	\$4,071
Nursing Home	1000 sq. ft.	\$1,354	\$0	\$124	\$44	\$1,522
Church	1000 sq. ft.	\$1,521	\$0	\$124	\$44	\$1,689
Day Care Center	1000 sq. ft.	\$3,202	\$0	\$124	\$44	\$3,370
Educational Facility	1000 sq. ft.	\$586	\$0	\$124	\$44	\$754
Educational Facility Dorm Room	1000 sq. ft.	\$1,203	\$0	\$82	\$29	\$1,314
Industrial	G.F.A.					
Industrial, Manufacturing	1000 sq. ft.	\$1,610	\$0	\$74	\$26	\$1,710
Warehouse	1000 sq. ft.	\$1,147	\$0	\$47	\$16	\$1,210
Mini-Warehouse	1000 sq. ft.	\$417	\$0	\$47	\$16	\$480

(4) The fee schedule in this Section 14-8.14(E)(3)4, also referred to as the "old" fee schedule, shall be used and its fees assessed on *plats* and *development* plans that received final approval from the *city* or the *state* construction industries division on or before June 30, 2008, which assessment is valid for a period not to exceed four years from the date of the subdivision or *development* plan approval. The "old" fee schedule shall also be applied to construction *permits* issued on or before June 30, 2008.

OLD FEE SCHEDULE

Land Use Type	Unit	Roads	Parks	Fire	Police	Total
S-F Detached Dwelling or Guesthouse						
Heated Living Area						
(0 to 1,500 sq. ft.)	Dwelling	\$1,135	\$767	\$118	\$29	\$2,049
(1,501 to 2,000 sq. ft.)	Dwelling	\$1,527	\$1,128	\$165	\$40	\$2,860
(2,001 to 2,500 sq. ft.)	Dwelling	\$1,820	\$1,397	\$212	\$52	\$3,481
(2,501 to 3,000 sq. ft.)	Dwelling	\$2,053	\$1,614	\$259	\$63	\$3,989
(3,001 to 3,500 sq. ft.)	Dwelling	\$2,247	\$1,793	\$306	\$75	\$4,421
(3,501 to 4,000 sq. ft.)	Dwelling	\$2,414	\$1,946	\$353	\$86	\$4,799
(more than 4,000 sq. ft.)	Dwelling	\$2,560	\$2,080	\$400	\$98	\$5,138
Other (Apts., Condos, S.F. Attached)	Dwelling	\$1,485	\$863	\$94	\$61	\$2,503
Hotel/Motel	Room	\$2,017	\$0	\$182	\$61	\$2,260
Retail/Commercial						
G.F.A.						
Shopping Center/General Retail	1000 sq. ft.	\$3,893	\$0	\$182	\$61	\$4,136
Auto Sales/Service	1000 sq. ft.	\$3,123	\$0	\$182	\$61	\$3,366
Bank	1000 sq. ft.	\$5,249	\$0	\$182	\$61	\$5,492
Convenience Store w/Gas Sales	1000 sq. ft.	\$7,336	\$0	\$182	\$61	\$7,579
Health Club, Recreational	1000 sq. ft.	\$2,814	\$0	\$182	\$61	\$3,057
Movie Theater	1000 sq. ft.	\$8,730	\$0	\$182	\$61	\$8,973
Restaurant, Sit-Down	1000 sq. ft.	\$4,248	\$0	\$182	\$61	\$4,491
Restaurant, Fast Food	1000 sq. ft.	\$9,247	\$0	\$182	\$61	\$9,490
Office/Institutional						
G.F.A.						
Office, General	1000 sq. ft.	\$2,191	\$0	\$182	\$61	\$2,434
Medical Building	1000 sq. ft.	\$3,503	\$0	\$182	\$61	\$3,746
Nursing Home	1000 sq. ft.	\$981	\$0	\$182	\$61	\$1,224
Church	1000 sq. ft.	\$1,632	\$0	\$182	\$61	\$1,875
Day Care Center	1000 sq. ft.	\$3,404	\$0	\$182	\$61	\$3,647
Elementary/Sec. School	1000 sq. ft.	\$534	\$0	\$182	\$61	\$777
Industrial						
G.F.A.						
Industrial, Manufacturing	1000 sq. ft.	\$1,557	\$0	\$182	\$61	\$1,800
Warehouse	1000 sq. ft.	\$1,109	\$0	\$182	\$61	\$1,352

Land Use Type	Unit	Roads	Parks	Fire	Police	Total
Mini-Warehouse	1000 sq. ft.	\$386	\$0	\$182	\$61	\$629
G.F.A. - <i>Gross Floor Area</i> ; fees shown for nonresidential uses are per one thousand square feet of gross floor area						

1 (5) If the type of new *development* for which a construction *permit* is requested is
2 not specified on the fee schedule, the *impact fee administrator* shall determine the fee on the basis of
3 the fee applicable to the most nearly comparable type of land use on the fee schedule. The following
4 shall be used as a guideline for impact fee determination when the specific use is not identified in the
5 fee chart.

6 (a) **Residential**

7 (i) a *home occupation business* shall be charged according to the fee
8 schedule for the appropriate *residential* category; and

9 (ii) the *hotel/motel* ancillary use fee shall apply to meeting rooms,
10 lobby area and general use areas of the facility. Retail and restaurant square footage shall be charged
11 under the commercial use category.

12 (b) **Retail/Commercial**

13 (i) the general retail fee shall be used for a hair salon, *laundromat*,
14 dry cleaner, garden center/nursery retail display area, gas station without a convenience store and
15 inventory storage for a retail *business*, including growing area for a garden center/nursery;

16 (ii) the bank fee assessment shall include the square footage of any
17 drive-through kiosk and parking area with or without a roof;

18 (iii) the restaurant fast food fee shall include square footage for the
19 drive-through kiosk and parking area with or without a roof; and

20 (iv) the packaged food restaurant fee shall be used for a restaurant or
21 bar that does not have any food preparation facilities.

22 (c) **Office/Institutional**

1 (i) the *office* general fee shall be used for a studio that is not
2 *residential* and not retail;

3 (ii) the *office* general fee shall be used for a medical office that does
4 not have any medical equipment, such as an *office* for psychiatry;

5 (iii) the medical *office* fee shall be used for an animal hospital; and

6 (iv) the nursing home fee shall be used for an assisted living facility.

7 **(d) Industrial**

8 (i) the warehouse fee shall be used for an animal shelter, storage that
9 is not inventory storage or maintenance equipment; and

10 (ii) the mini-warehouse fee shall be used for a single storage unit or
11 for multiple storage units.

12 (6) Impact fees shall be assessed and collected based on the primary use of the
13 *building* as determined by the *impact fee administrator*. Uses that are distinct and separate from the
14 primary use, which are not merely ancillary to the primary use and are one thousand square feet or
15 greater, will be charged the impact fee category based on the distinct and separate use.

16 (7) Where a *permit* is to be issued for a *building* "shell" and the *impact fee*
17 *administrator* is unable to determine the intended use of the *building*, the *impact fee administrator*
18 shall assess and collect impact fees according to the zoning district in which the *building* is to be
19 located as follows:

20 (a) C-2 and all SC zones - "Shopping Center/General Retail" fee rate;

21 (b) HZ zone - "Medical *Building*" fee rate; and

22 (c) C-1, C-4 and all other *nonresidential* zones - "*Office, General*" fee rate.

23 (8) If there is an increase in the amount of the impact fee calculation once a tenant
24 improvement *permit* is submitted, the difference from what was paid at the time of the shell *permit*
25 and the tenant improvement fee calculation shall be paid prior to issuance of the construction *permit*.

1 If the fee schedule determination for the square footage of the use identified in the tenant
2 improvement construction *permit* results in a net decrease from what was paid at the time of the shell
3 *permit*, there shall be no refund of impact fees previously paid.

4 (9) Live/work *developments* containing *dwelling units* in combination with
5 *nonresidential* floor area in a common *building* shall pay impact fees for each *dwelling unit* according
6 to the *residential* fee rate for "Other" and for the *gross floor area* intended for *nonresidential* use
7 according to the "Office, General" fee rate. If the initial Live/Work construction *permit application* is
8 for a shell construction *permit*, the *impact fee administrator* shall collect impact fees at the "Office,
9 General" fee rate. If *dwelling units* are added as a use within the *building* after the *building* has been
10 charged impact fees at a *nonresidential* fee rate, and there is no increase in *gross floor area*, the
11 *impact fee administrator* shall collect only the required park impact fees for the *dwelling units* at the
12 *residential* fee rate for "Other" at the time of the *dwelling unit permit application*.

13 10 If a construction *permit application* changes or intensifies the use of an existing
14 *building*, increases the *gross floor area* of an existing *building*, or replaces an existing *building* with a
15 new *building* and new use, the fee shall be based on the net increase in the fee for the new use or
16 increase as compared to what the current fee would be for the previous use or floor area. If the
17 proposed change results in a net decrease in the fee there shall be no refund of impact fees previously
18 paid.

19 PASSED, APPROVED and ADOPTED this 11th day of January, 2012.

20 RECONSIDERED* this 25th day of January, 2012.

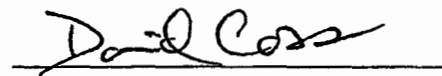
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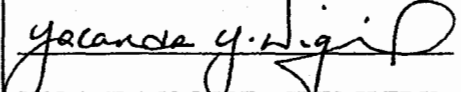


DAVID COSS, MAYOR

1 ATTEST:

2

3



4

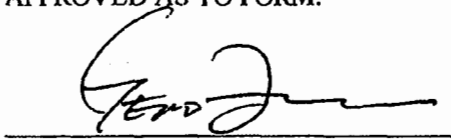
YOLANDA Y. VIGIL, CITY CLERK

5

APPROVED AS TO FORM:

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7



8

GENO ZAMORA, CITY ATTORNEY

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M/Melissa/2012 Ordinances/2012-2 impact fee reduction (reformatted)

Section 10-2.5 SFCC 1987 Zone District Noise Levels; Maximum; Correction.

A. It is a violation of this section for any person to operate or permit to be operated any stationary source of sound in such a manner as to create a ninetieth percentile sound pressure level (L90) for a measurement period of ten (10) minutes or more unless otherwise provided in this section, which exceeds the limits set forth for the following receiving zones. The location for measuring exterior sound levels shall be at least one foot (1') inside the property line of the affected property and three to six feet (3' to 6') above ground level and at least four feet (4') from walls and other reflective surfaces.

Zone District	9:00 p.m. to 7:00 a.m.	7:00 a.m. to 9:00 p.m.
Residential R-1, R-2, R-3, R-4, R-5, R-7, RC-5, RC-8, RM, RAC, AC, PRC, PRRC, HZ, Mobile Home Park	50 dBA	55 dBA
Commercial C-1, C-2, C-4, SC, BCD	55 dBA	60 dBA
Industrial-Agricultural I-1, I-2, IP	70 dBA	75 dBA

When a noise source can be identified and its noise measured in more than one (1) land use category, the limits of the more restrictive use shall apply at the boundaries between different zones.

B. It is a violation of this section for any person to operate, or permit to be operated, any stationary source of sound within any area of the city which creates a tenth percentile sound pressure level (L10) of ten (10) dBA greater than the levels set forth for the receiving zones in paragraph A of this subsection for any measurement period. Such measurement period shall not be less than ten (10) minutes.

C. Notwithstanding the provisions of paragraph B of this subsection, it is a violation of this section for any person to operate or permit to be operated, any stationary source of sound within any area of the city which creates a tenth percentile sound pressure level (L10) greater than fifteen (15) dBA above the ambient sound pressure level (L90) of any measurement period. Such measurement period shall not be less than ten (10) minutes.

(Ordained as Code 1973, §31.2-5 by Ord. #1981-10, §5; SFCC 1981, §6-23-5; Ord. #1988-30, §3)

10-2.6 Sound Level Measurement.

Sound level measurements shall be made with a sound level meter using the "A-weighting" scale, in accordance with standards promulgated by the American national standards institute or other reasonable standards adopted and tested by the city of Santa Fe city manager or appointed designee. (Ordained as Code 1973, §31.2-6 by Ord. 1981-10, §6; SFCC 1981, §6-23-6; Ord. #1988-30, §4)

LAMBOY, HEATHER L

From: MARTINEZ, ERIC B.
Sent: Thursday, June 13, 2013 10:29 AM
To: LAMBOY, HEATHER L
Cc: BERKE, NOAH L.; WILSON, KEITH P.; ROMERO, JOHN J (jromero1@ci.santa-fe.nm.us); BAER, TAMARA; PINO, ISAAC J. (jipino@ci.santa-fe.nm.us); DRYPOLCHER, BRIAN K. (bkdrypolcher@ci.santa-fe.nm.us)
Subject: RE: Manderfield School - Cases 2013-37, 38, & 39

Heather,

No comments re: trails. However, I do agree with Noah's and Keith's comments about sidewalk. It might be that John commented on this already. If possible, it would be great to require sidewalk be installed from the driveway at Patrick Smith Park to where it currently ends at Alameda/Canyon as Noah mentioned. I suppose this could be considered a small piece of the River Trail. Thanks.

Eric

From: BERKE, NOAH L.
Sent: Thursday, June 13, 2013 10:06 AM
To: LAMBOY, HEATHER L.; GONZALES, REYNALDO D.; TRUJILLO, ANTONIO J; LADD, ALEXANDRA G.; WILSON, KEITH P.; MARCO, RANDALL V.; MARTINEZ, ERIC B.; RASCH, DAVID A.
Cc: BAER, TAMARA
Subject: RE: Manderfield School - Cases 2013-37, 38, & 39

Hi Heather,

I am going to require landscape plans at time of Building Permit. I am also going to ask that the sidewalk be continued along Canyon Road. I think currently there is sidewalk but it ends where Alameda and Canyon Road connect.

Noah Berke, CFM
Planner Technician Senior
City of Santa Fe
Land Use Department
Technical Review Division
200 Lincoln Ave.
Santa Fe, NM 87504
Work: (505) 955-6647
Fax: (505) 955-6829

From: WILSON, KEITH P.
Sent: Thursday, June 13, 2013 9:42 AM
To: LAMBOY, HEATHER L.; GONZALES, REYNALDO D.; TRUJILLO, ANTONIO J; LADD, ALEXANDRA G.; BERKE, NOAH L.; MARCO, RANDALL V.; MARTINEZ, ERIC B.; RASCH, DAVID A.
Cc: BAER, TAMARA
Subject: RE: Manderfield School - Cases 2013-37, 38, & 39

Hello Heather:

Thank you for following up. I have two observations based on the Sheet A0 – Manderfield Rezone – Master Plan

- I do not see any pedestrian accommodations (sidewalk) from the street into the development and to the "Entry".
- I do not see a location for bike racks noted on the plan.

Let me know if you have any questions.

Keith P. Wilson
MPO Senior Planner
Santa Fe Metropolitan Planning Organization
P.O. Box 909
Santa Fe, NM 87504-0909
Phone: 505-955-6706
Fax: 505-955-6332
kpwilson@santafenm.gov

Please Visit Our Website at: www.santafemppo.org



Find Us on Facebook

From: LAMBOY, HEATHER L.
Sent: Thursday, June 13, 2013 9:21 AM
To: GONZALES, REYNALDO D.; TRUJILLO, ANTONIO J (jatrujillo@ci.santa-fe.nm.us); LADD, ALEXANDRA G.; BERKE, NOAH L.; WILSON, KEITH P.; MARCO, RANDALL V.; MARTINEZ, ERIC B.; RASCH, DAVID A.
Cc: BAER, TAMARA (tbaer@ci.santa-fe.nm.us)
Subject: Manderfield School - Cases 2013-37, 38, & 39

Hello:

I have not yet heard from you regarding the adaptive reuse of the Manderfield Property. Both the Planning Commission and the City Council really like to understand whether there are any concerns regarding proposed developments.

Please send me your comments so that I can share them with the applicant and include them in the staff report packet. Thank you.

Heather L. Lamboy, AICP
Land Use Senior Planner

Land Use Department
City of Santa Fe, NM
200 Lincoln Avenue, Box 909
Santa Fe, NM 87504-0909
(505) 955-6656



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Cc: BAER, TAMARA (tbaer@ci.santa-fe.nm.us)
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Heather L. Lamboy, AICP
Land Use Senior Planner

Land Use Department

LAMBOY, HEATHER L.

From: BERKE, NOAH L
Sent: Thursday, June 13, 2013 10:06 AM
To: LAMBOY, HEATHER L.; GONZALES, REYNALDO D.; TRUJILLO, ANTONIO J; LADD, ALEXANDRA G.; WILSON, KEITH P.; MARCO, RANDALL V.; MARTINEZ, ERIC B.; RASCH, DAVID A.
Cc: BAER, TAMARA
Subject: RE: Manderfield School - Cases 2013-37, 38, & 39

Hi Heather,

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Noah Berke, CFM
Planner Technician Senior

City of Santa Fe
Land Use Department
Technical Review Division
200 Lincoln Ave.
Santa Fe, NM 87504
Work: (505) 955-6647
Fax: (505) 955-6829

From: LAMBOY, HEATHER L.
Sent: Thursday, June 13, 2013 9:21 AM
To: GONZALES, REYNALDO D.; TRUJILLO, ANTONIO J (jatrujillo@ci.santa-fe.nm.us); LADD, ALEXANDRA G.; BERKE, NOAH L.; WILSON, KEITH P.; MARCO, RANDALL V.; MARTINEZ, ERIC B.; RASCH, DAVID A.
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Land Use Senior Planner

Land Use Department
City of Santa Fe, NM
200 Lincoln Avenue, Box 909
Santa Fe, NM 87504-0909
(505) 955-6656

LAMBOY, HEATHER L.

From: RASCH, DAVID A.
Sent: Friday, June 14, 2013 7:52 AM
To: LAMBOY, HEATHER L
Subject: RE: Manderfield School - Cases 2013-37, 38, & 39

No concerns.
Preliminarily it looks ok.

David Rasch
Historic Preservation Division
City of Santa Fe

From: LAMBOY, HEATHER L.
Sent: Thursday, June 13, 2013 9:21 AM
To: GONZALES, REYNALDO D.; TRUJILLO, ANTONIO J (jatrujillo@ci.santa-fe.nm.us); LADD, ALEXANDRA G.; BERKE, NOAH L.; WILSON, KEITH P.; MARCO, RANDALL V.; MARTINEZ, ERIC B.; RASCH, DAVID A.
Cc: BAER, TAMARA (tbaer@ci.santa-fe.nm.us)
Subject: Manderfield School - Cases 2013-37, 38, & 39

Hello:

I have not yet heard from you regarding the adaptive reuse of the Manderfield Property. Both the Planning Commission and the City Council really like to understand whether there are any concerns regarding proposed developments.

Please send me your comments so that I can share them with the applicant and include them in the staff report packet. Thank you.

Heather L. Lamboy, AICP
Land Use Senior Planner

Land Use Department
City of Santa Fe, NM
200 Lincoln Avenue, Box 909
Santa Fe, NM 87504-0909
(505) 955-6656



LAMBOY, HEATHER L.

From: KASSENS, SANDRA M.
Sent: Wednesday, June 12, 2013 1:14 PM
To: LAMBOY, HEATHER L.
Cc: ROMERO, JOHN J; BAER, TAMARA
Subject: Manderfield School GPA - Rezone and Special Use Permit

Heather,
The Traffic Engineering Division has no comments on the Manderfield School GPA, Rezone to RAC and Special Use Permit, case numbers 2013-37, 2013-38 and 2013-39.

Thank you,
Sandy

*Sandra Kassens
Engineer Assistant
Traffic Engineering
City of Santa Fe
505-955-6697*

City of Santa Fe, New Mexico

memo

DATE: June 18, 2013

TO: Heather Lamboy, AICP
Senior Land Use Planner

FROM: Alexandra Ladd, AICP *ALL*
Special Projects Manager, Office of Affordable Housing

RE: Affordable Housing Requirement for Manderfield School

The Manderfield School Development Plan proposes to create four (4) new casitas for homeownership and six (6) rental units. As per Ordinance 2011-17, applications for residential building permits for ten (10) or fewer units do not have to provide an affordable unit. Instead the applicant pays a fractional fee.

The fees are temporarily reduced by 70%, in effect through June 8, 2014 and are paid into the City's Affordable Housing Trust Fund. The funds are used to provide down payment assistance or support for other affordable housing services.

The fractional fees for the Manderfield School Development Proposal breaks down as follows:

Fractional Fee (Homeownership)
= One-Half Sales Price of 3 BR, Tier 2 Home X Unit Fraction X .3 (70% Reduction)
4 units X 20% = 0.8 units
= \$69,000 X 1.2 X .30 = \$16,560

Fractional Fee (Rental)
= One-Half Sales Price of 3 BR, Tier 2 Home X Unit Fraction X .3 (70% Reduction)
6 units X 15% = 0.9
= \$69,000 X .9 X .30 = \$18,630

Total Fee Due: \$35,190

ACTION REQUESTED:
For your information.

City of Santa Fe, New Mexico

memo

DATE: June 10, 2013

TO: Heather Lamboy, Case Manager

FROM: Risana B "RB" Zaxus, PE
City Engineer for Land Use Department

RE: Case # 2013-37, # 2013-38, and # 2013-39
Manderfield School General Plan Amendment, Rezoning, and
Special Use Permit and Variance

The following review comments are to be considered conditions of approval for this case:

Sidewalk must meet the requirements of Article 14-9.2(E) of the Land Development Code.

All applicable terrain and stormwater management requirements of Article 14-8.2 of the Land Development Code must be met.

City of Santa Fe, New Mexico

memo

DATE: May 31, 2013

TO: Heather Lamboy, Case Manager

FROM: Stan Holland, Engineer, Wastewater Division

SUBJECT: Case #2013-37-38-39 Manderfield School General Plan Amendment,
Rezoning and Special Use Permit

The subject property is accessible to the City sanitary sewer system. As a condition of approval the property and structures shall be connected to the City's public sewer collection system.

The Wastewater has no objection to the request for a General Plan Amendment, Rezoning and Special Use Permit and Variance for this project.

LAMBOY, HEATHER L.

From: MARCO, RANDALL V.
Sent: Thursday, June 13, 2013 2:16 PM
To: LAMBOY, HEATHER L
Subject: FW: Manderfield School - Cases 2013-37, 38, & 39

Heather,

I would require all residential casitas to have refuse and recycling services and the commercial to have commercial refuse services. The pickup depends if we can get a truck on and through the property without safety issues.

Randall Marco
Community Relations / Ordinance Enforcement
Environmental Services Division
Office : 505-955-2228
Cell : 505-670-2377
Fax : 505-955-2217
rvmarco@santafenm.gov

From: BERKE, NOAH L.
Sent: Thursday, June 13, 2013 10:06 AM
To: LAMBOY, HEATHER L.; GONZALES, REYNALDO D.; TRUJILLO, ANTONIO J; LADD, ALEXANDRA G.; WILSON, KEITH P.; MARCO, RANDALL V.; MARTINEZ, ERIC B.; RASCH, DAVID A.
Cc: BAER, TAMARA
Subject: RE: Manderfield School - Cases 2013-37, 38, & 39

Hi Heather,

I am going to require landscape plans at time of Building Permit. I am also going to ask that the sidewalk be continued along Canyon Road. I think currently there is sidewalk but it ends where Alameda and Canyon Road connect.

Noah Berke, CFM
Planner Technician Senior
City of Santa Fe
Land Use Department
Technical Review Division
200 Lincoln Ave.
Santa Fe, NM 87504
Work: (505) 955-6647
Fax: (505) 955-6829

From: LAMBOY, HEATHER L.
Sent: Thursday, June 13, 2013 9:21 AM
To: GONZALES, REYNALDO D.; TRUJILLO, ANTONIO J (jatrujillo@ci.santa-fe.nm.us); LADD, ALEXANDRA G.; BERKE, NOAH L.; WILSON, KEITH P.; MARCO, RANDALL V.; MARTINEZ, ERIC B.; RASCH, DAVID A.
Cc: BAER, TAMARA (tbaer@ci.santa-fe.nm.us)
Subject: Manderfield School - Cases 2013-37, 38, & 39

Hello:

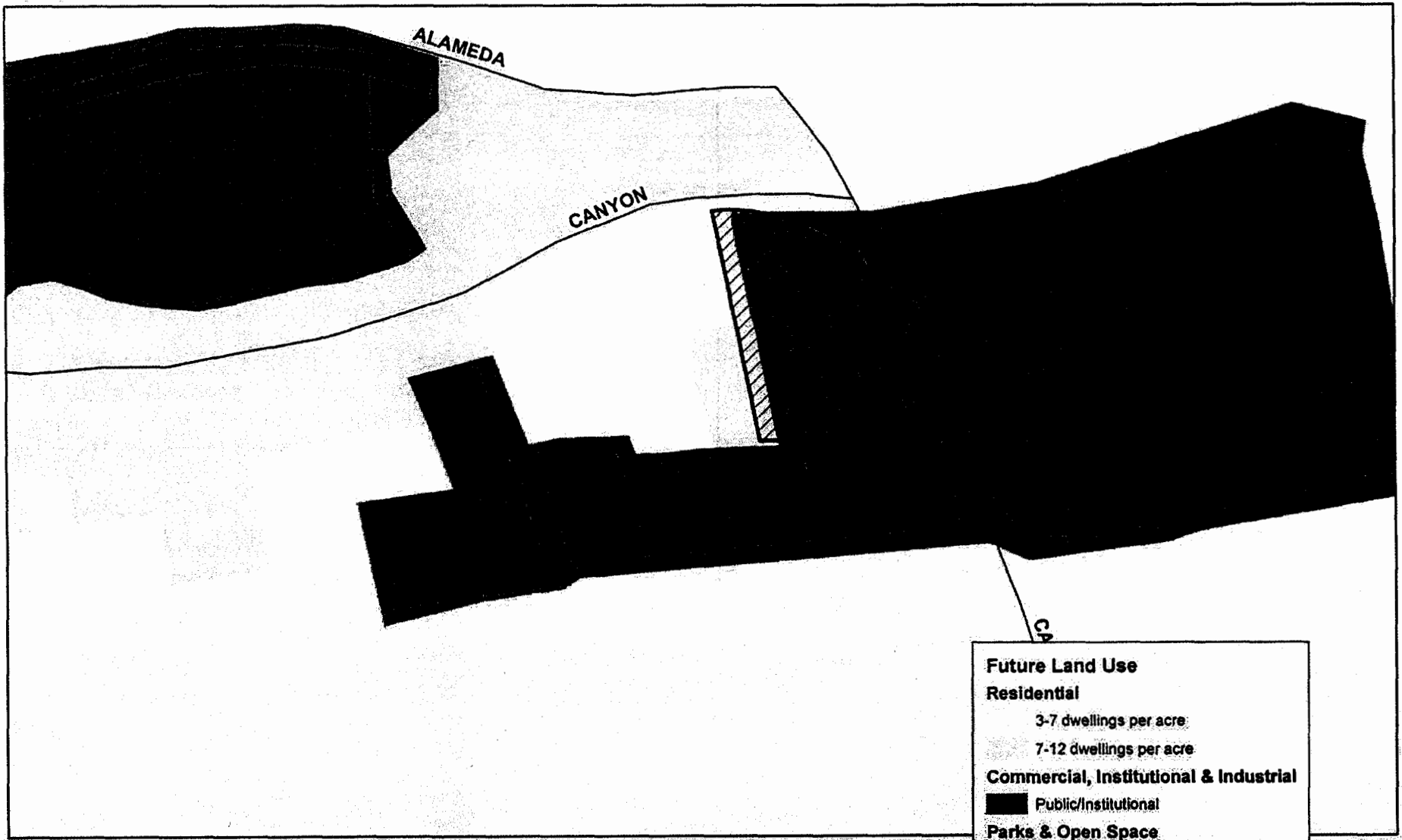
City of Santa Fe, New Mexico

Exhibit C

Maps



Manderfield Future Land Use



Future Land Use

Residential

- 3-7 dwellings per acre
- 7-12 dwellings per acre

Commercial, Institutional & Industrial

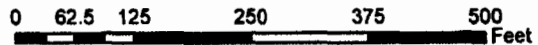
- Public/Institutional

Parks & Open Space

- Parks

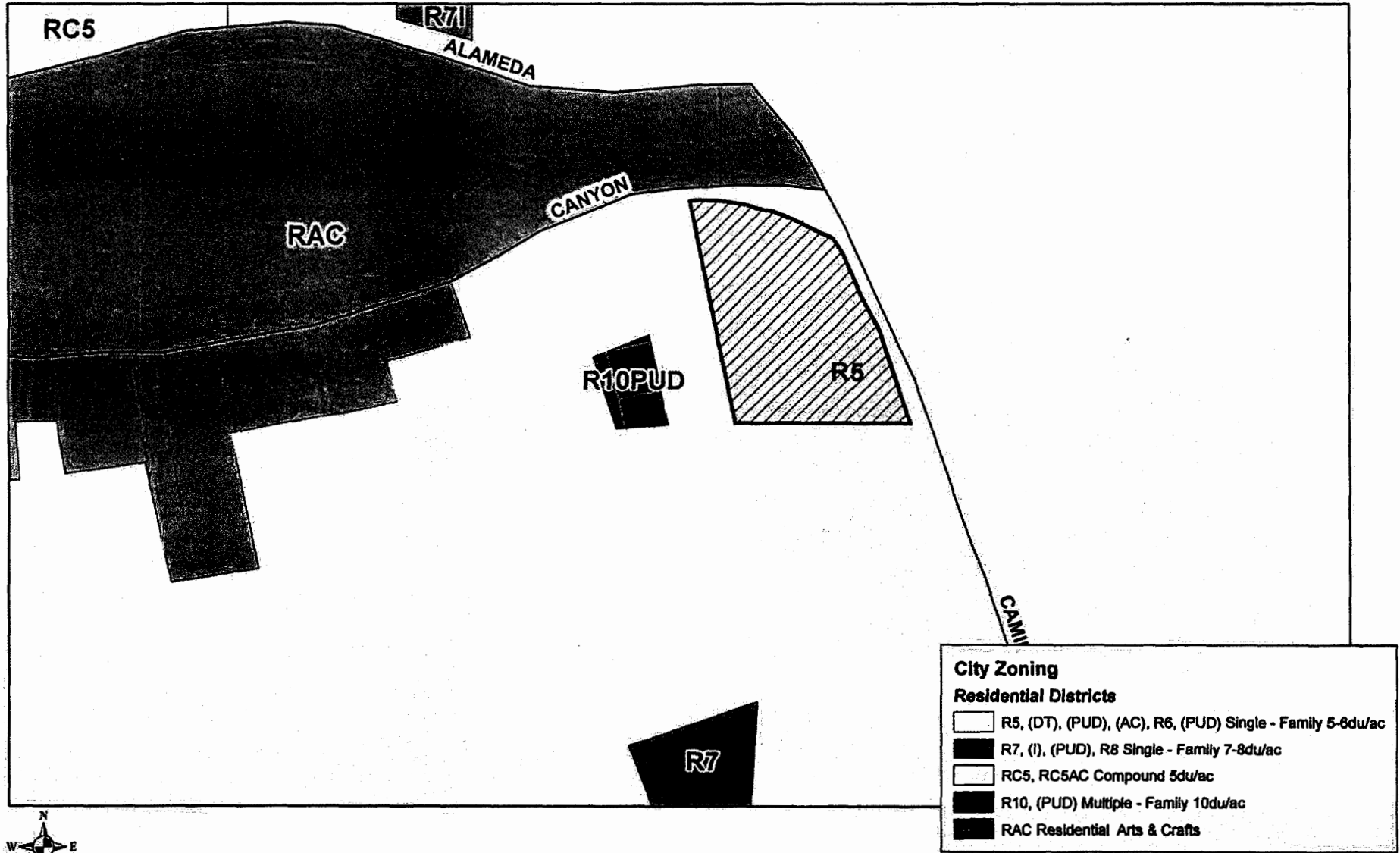


123

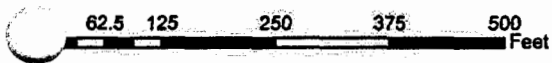




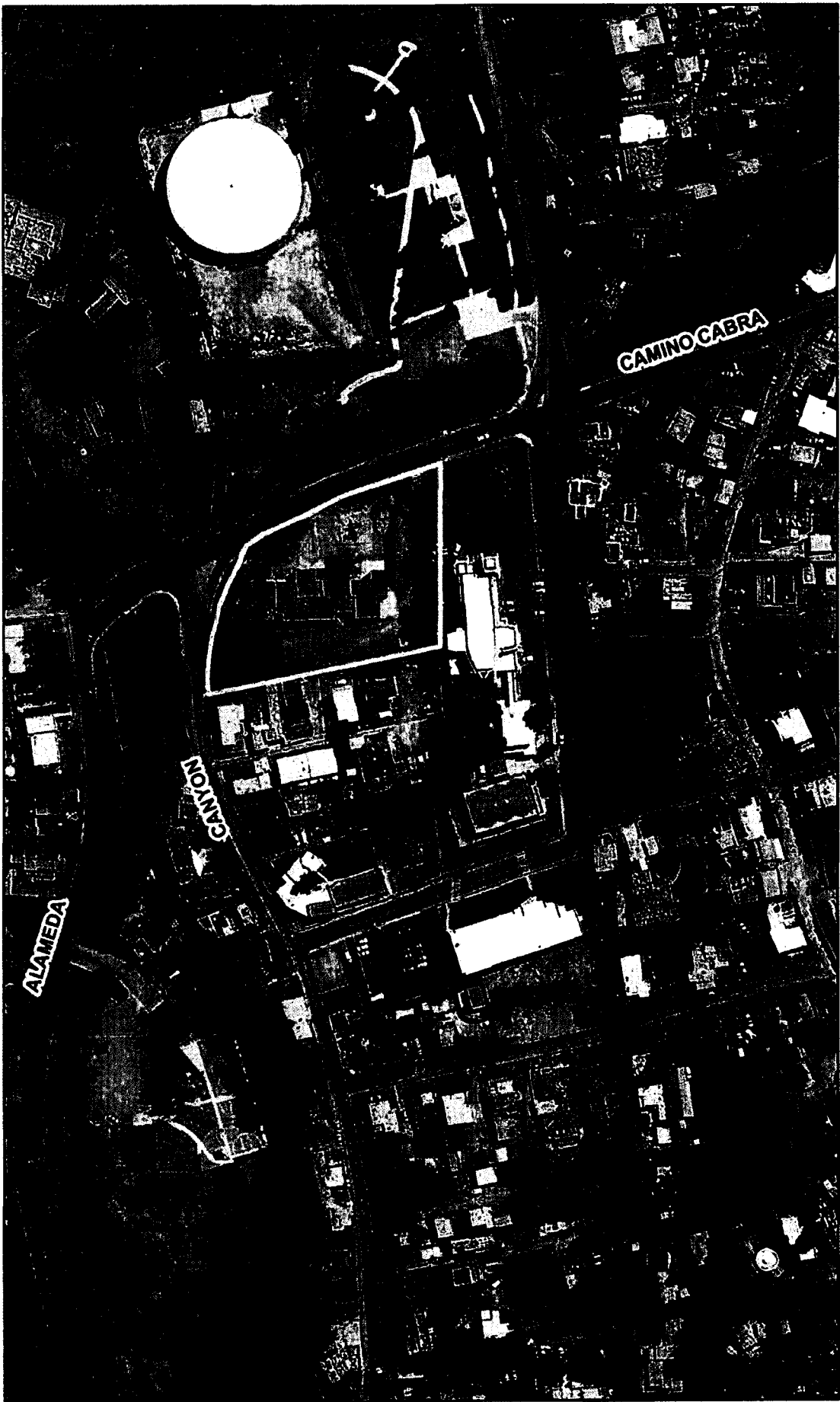
Manderfield Zoning



124



Manderfield Aerial



City of Santa Fe, New Mexico

Exhibit D

**Early Neighborhood Notification (ENN)
Meeting Materials**



EARLY NEIGHBORHOOD NOTIFICATION MEETING

Request for Staff Attendance

Project Information	
Project Name:	<u>Manderfield</u>
Address:	<u>1150 Canyon Road</u> Parcel Size: <u>±1.48 acres</u>
Zoning:	<u>R-5</u> Future Land Use: <u>Public/Institutional</u>
Preapplication Conference Date:	<u>April 23, 2013</u>
Detailed Project Description:	<u>General Plan Amendment from Public/Institutional to Residential Medium Density; Rezone from R-5 to RAC; Special Use Permit to allow a coffee house</u>
Property Owner Information	
Name:	<u>Owner: Santa Fe Public Schools Applicant: Manderfield LLC</u>
Address:	<u>610 Alta Vista St., SF, NM 87505 300 Camino de los Marquez #8, SF, NM 87505</u>
Phone:	<u>Appl: 505-919-8089 E-mail Address: claremaralst@gmail.com</u>
Agent Information (if different from owner):	
Name:	<u>JenkinsGavin Design & Development</u>
Address:	<u>130 Grant Avenue, Suite 101, Santa Fe, NM 87501</u>
Phone:	<u>505-820-7444 E-mail Address: jennifer@jenkinsgavin.com</u>
Agent Authorization (if applicable):	
I am/We are the owner(s) and record title holder(s) of the property located at: _____	
I/We authorize <u>Please see attached authorization letters.</u> to act as my/our agent to execute this application.	
Signed: _____	Date: _____
Signed: _____	Date: _____

Proposed ENN Meeting Dates:		
Provide 2 options:	Preferred Option	Alternative
DATE:	May 15, 2013	
TIME:	5:30 p.m.	
LOCATION:	First Presbyterian Church 208 Grant Avenue Santa Fe, NM 87501	

April 22, 2013

RE: Manderfield School
1150 Canyon Road

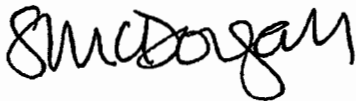
To Whom It May Concern:

This letter shall serve as authorization for JenkinsGavin Design & Development, Inc. to act on our behalf with respect to the referenced property regarding land use applications to be submitted to the City of Santa Fe.

Please call should you have any questions or need additional information.

Thank you.

Sincerely,



Shirley McDougall
Property Asset Manager
Santa Fe Public Schools
505 467 3443
smcdougall@sfps.info

**RE: Manderfield School
1150 Canyon Road**

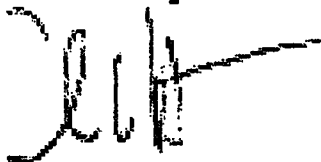
To Whom It May Concern:

This letter shall serve as authorization for JenkinsGavin Design & Development, Inc. to act on my behalf with respect to the referenced property regarding land use applications to be submitted to the City of Santa Fe.

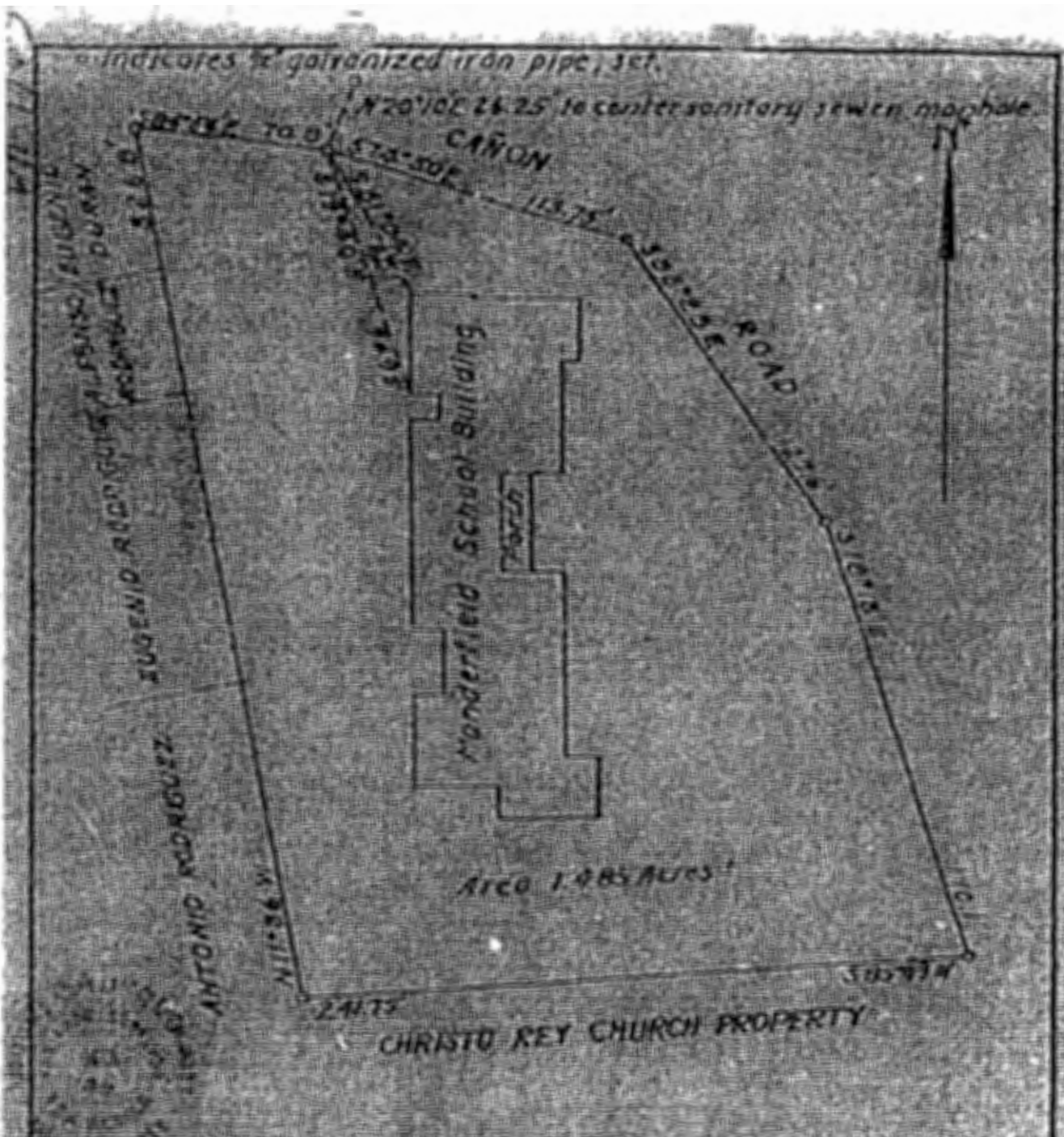
Please call should you have any questions or need additional information.

Thank you.

Sincerely,



Clare Maraist



CERTIFICATE

I hereby certify that this plat and the field note thereon are a true and correct copy of a survey made by me in the field April 22nd, 1949

James C. Harney

MUNICIPAL SCHOOL BOARD

PLAT SHOWING

MANDERFIELD SCHOOL PROPERTY

PRECINCT 3 - SANTA FE, N.M.

April 22nd, 1949 - Scale 1" = 50'

James C. Harney survey/plat

DR 956



Submit by Email

Print Form

Early Neighborhood Notification (ENN) Guidelines

Section 14-3.1(F)(5) SFCC 1987, as Amended

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 1987, 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 each criterion, 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, architectural style, landscaping, lighting, access to public places, open spaces and trails. (Ord. No. 2008-29 § 3)

The ±1.48-acre subject property is home to the historic Manderfield School. The proposed redevelopment (the "Project") will update and expand the existing building while maintaining its historic character. Proposed improvements to the property will entail an adaptive reuse of the existing building to include residential units, art studios, and a coffee house. This mixed-use approach will harmonize with the surrounding neighborhood, which includes studios, offices, galleries/shops, institutional, and residential uses. The proposed casitas will be modest single story structures in keeping with the character of other residences in the neighborhood.

(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.

Existing significant trees will be preserved or replaced in accordance with City Code requirements. Significant landscaped open space areas will be created and all terrain management requirements will be satisfied.

(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 subject property is in the Downtown and Eastside Historic District and the School is designated as a Contributing building. The proposed renovation of the School will preserve this important structure and will be consistent with its existing character. The renovation and the new casitas will be designed in accordance with historic design standards and will be reviewed and approved by the Historic Districts Review Board. Furthermore, the property is located in the Historic Downtown Archaeological District. An archaeological survey of the property was performed in April 2013, and no cultural remains were found. The site has been recommended for clearance by the Archaeological Review Committee.

(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 ±1.48-acre subject property is zoned R5 (Residential, 5 dwelling units per acre) with a Future Land Use designation of Public/Institutional under the City's General Plan. The requested General Plan Amendment from Public/Institutional to Residential Medium Density will be in keeping with neighboring Future Land Use designations of Medium and Low Density Residential. Likewise, the requested zone change from R5 to RAC (Residential Arts & Crafts) will be consistent with surrounding zoning, which includes R5, R10PUD, and RAC.

(e) EFFECTS UPON 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 Project will be easily accessed by pedestrian and vehicular traffic via the existing driveway Camino Cabra. Furthermore, a new driveway to Canyon Road is proposed on the north side of the property. No significant impact on existing traffic patterns or congestion is anticipated. A new parking area will be constructed to accommodate the studios and the coffee house and private parking will be provided for the residences, all in accordance with City Code requirements.

(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 redevelopment of this historic property, which has long sat unused, will have a positive impact on the economic base of Santa Fe through the employment of Santa Fe residents for the construction phase. Once completed, the Project will provide residences and art studios, which will add to the City's economic base, as well as a coffee house that will employ locals, as well as generating tax revenue.

(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. (Ord. No. 2005-30(A) § 4)

In compliance with the requirements of the Santa Fe Homes Program, a fractional fee will be paid to the City's Affordable Housing Trust Fund, which provides down payment assistance and infrastructure funding, as well as supporting other affordable housing efforts.

(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 Project will be served by existing City Infrastructure and services. Any requisite improvements/upgrades to existing utilities will be implemented as part of the construction process.

(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.*

The Project will be served by City water. Improvements will include water harvesting for passive irrigation purposes and water conserving plumbing fixtures.

(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 Project will promote community integration and social balance by providing a mixed use approach, including studio space for artists and a coffee house that will draw locals and tourists to the site. Its design will invite pedestrian traffic from Canyon Road and surrounding parks, shops, and galleries. It will provide a key link among the surrounding residential, institutional, and arts and crafts neighborhoods.

(k) EFFECT UPON 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? The project's effect on intra-city travel; and between employment and residential centers.*

The Project is consistent with the policies of the General Plan by promoting a compact urban form through appropriate infill development, as well as by combining employment opportunities with residential uses.

ADDITIONAL COMMENTS (Optional)



Santa Fe Public Schools
Property & Asset Management
Residential Development Impact Information Form
School Notification as required by City Ordinance 14-8.18 AFCC 1987

Required for all projects that create six or more new residential lots or dwelling units.

- 1. Project Name: Manderfield
- 2. Location of Property: 1150 Canyon Rd.
- 3. Owner/Agent Name: Manderfield LLC
 Mailing Address: 300 Camino de los Manguey # 8
 Phone & Fax: Santa Fe, NM 87505
- 4. Unit Matrix 505 - 919 - 8089

PROJECT EFFECT ON STUDENT POPULATION		
Unit Type	Unit Quantity	Average Price
Single Family (detached)	4	\$400K
Single Family (attached)		
Townhome/ Apartment	6	\$250K
Multi-Family		
Commercial		

- 5. Elementary School Zone for Proposed Development: Atalaya
- 6. Middle School Zone for Proposed Development: Capshaw
- 7. High School Zone for Proposed Development: Santa Fe High
- 8. Build-out Timeline (i.e. year(s); #/yr):
Completion - 2016

Educational Services Center
 610 Alta Vista
 Santa Fe, NM 87505
 Telephone (505) 467-2000
 www.sfps.info

Submit completed form directly to:
 Justin Snyder, Property & Asset Management,
 Santa Fe Public Schools, 610 Alta Vista, Santa Fe, NM 87505



jenkinsgavin
DESIGN & DEVELOPMENT INC

EARLY NEIGHBORHOOD NOTIFICATION MEETING

April 30, 2013

Dear Neighbor:

This letter is being sent as notice of a neighborhood meeting to discuss the redevelopment of the ±1.48-acre Manderfield School property at 1150 Canyon Road. Proposed improvements to the property will entail an adaptive reuse of the existing historic building to include residential units, art studios, and a coffee house, as well as four new residential casitas. To this end, the applicant is submitting applications to the City for a General Plan Amendment from Public/Institutional to Residential Medium Density; a rezoning from R5 (Residential, 5 dwelling units per acre) to RAC (Residential Arts & Crafts District); and a Special Use Permit to allow for the coffee house.

In accordance with the requirements of the City of Santa Fe's Early Neighborhood Notification regulations, this is to inform you that a meeting is scheduled for:

Time: 5:30 PM
When: Wednesday, May 15, 2013
Where: First Presbyterian Church
208 Grant Avenue
Santa Fe, NM 87501

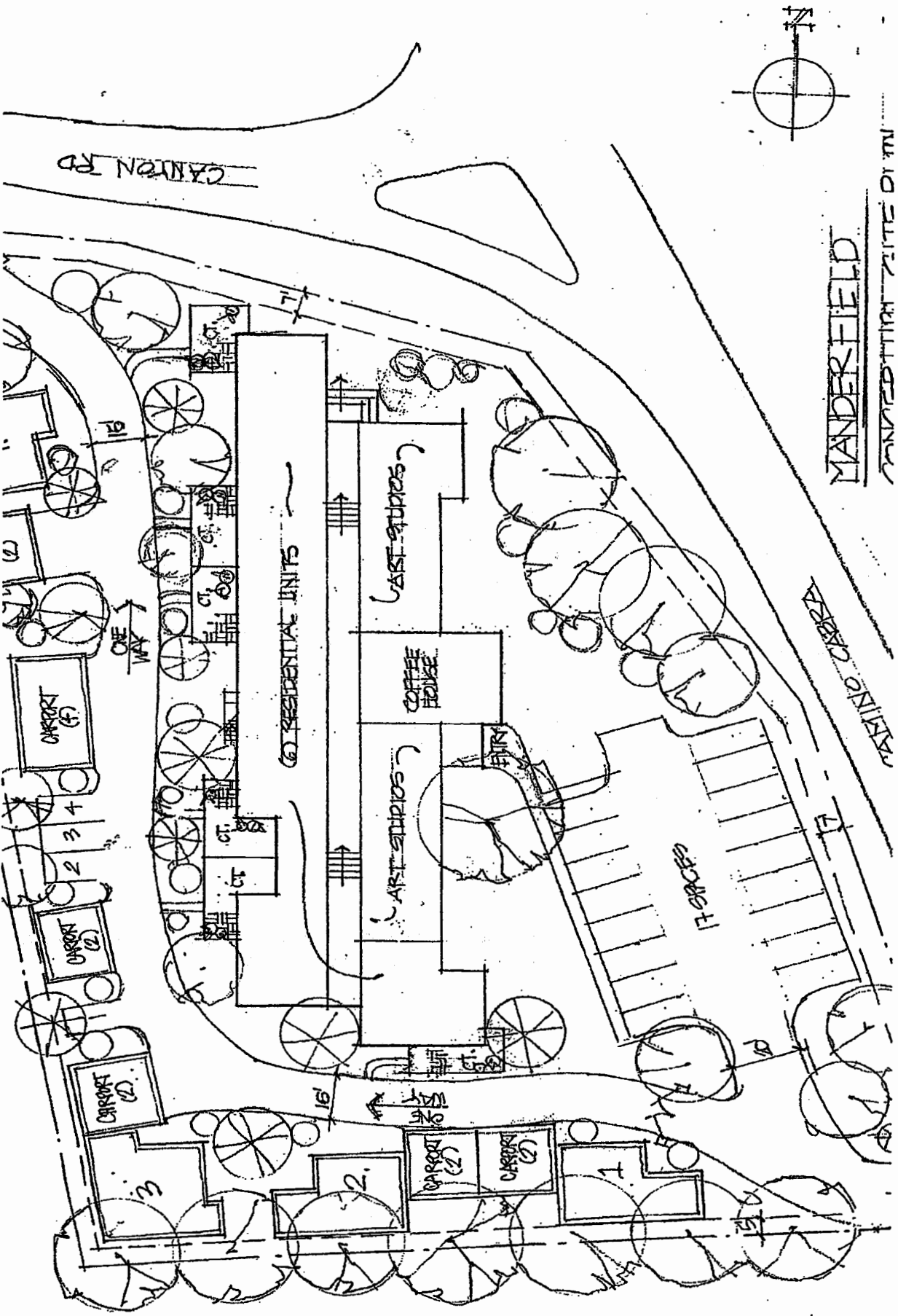
Early Neighborhood Notification is intended to provide for an exchange of information between prospective applicants for development projects and the project's neighbors before plans become too firm to respond meaningfully to community input.

Attached please find a vicinity map and proposed site plan. If you have any questions or comments, please contact Jennifer Jenkins at 505-820-7444 or jennifer@jenkinsgavin.com.

Sincerely,

Jennifer Jenkins

Attachments: Vicinity map
Site plan

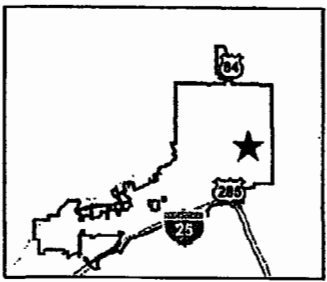
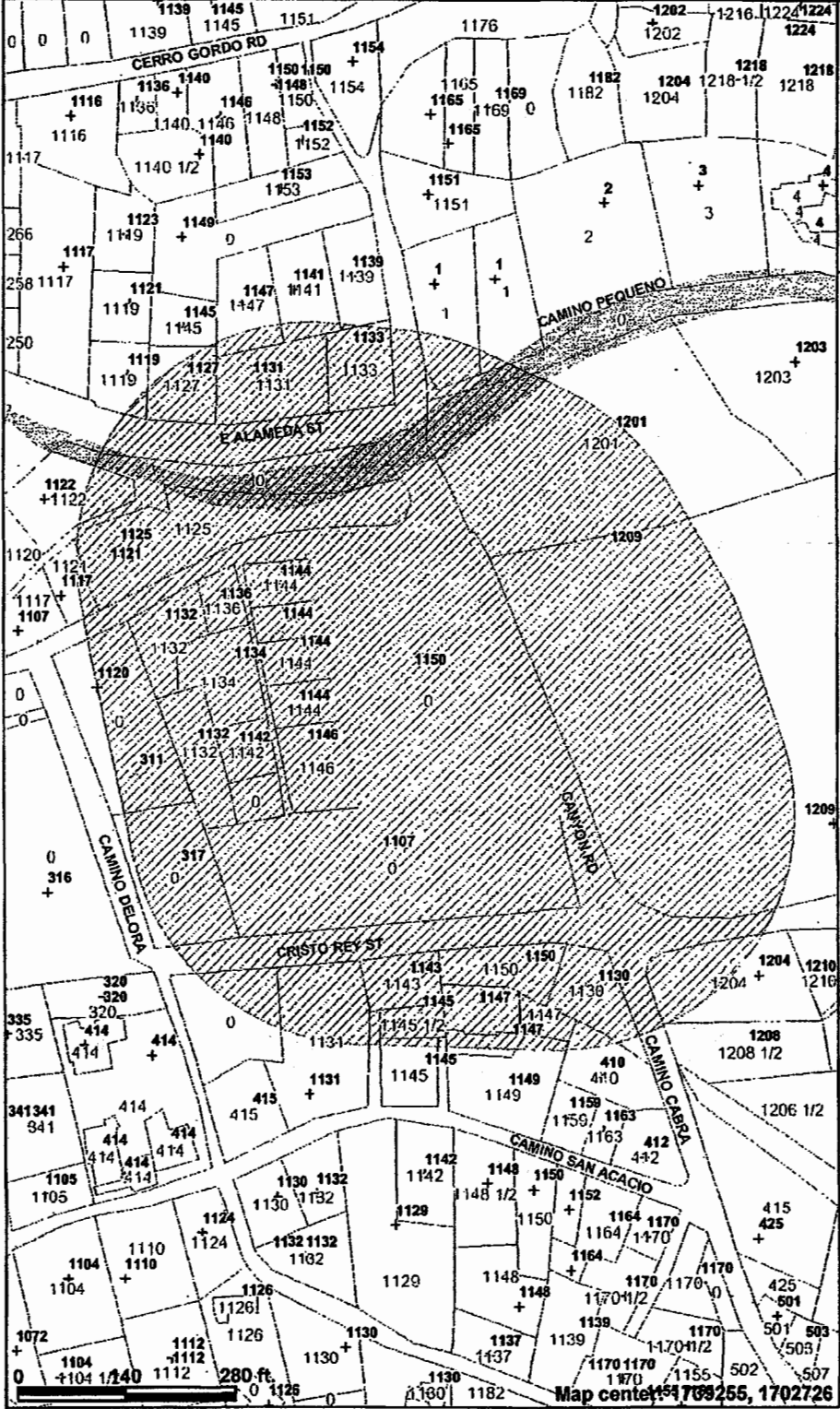


MANDERFIELD

CONCEPTUAL SITE PLAN



Manderfield School ENN Map



Legend

- City Limits
- Address Points
- Parcels
- Santa Fe River
- Major Roads and Highways
- Other Roads and Streets



Scale: 1:2,400

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.



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

<i>Project Name</i>	Manderfield General Plan Amendment and Rezone
<i>Project Location</i>	1150 Canyon Road
<i>Project Description</i>	General Plan Amendment from Public/Institutional to Medium Density Residential Rezone from R-5 to RAC
<i>Applicant / Owner</i>	Manderfield LLC/Santa Fe Public Schools
<i>Agent</i>	Jennifer Jenkins, JenkinsGavin Design & Development
<i>Pre-App Meeting Date</i>	April 23, 2013
<i>Meeting Date</i>	May 15, 2013
<i>ENN Meeting Location</i>	First Presbyterian Church
<i>Application Type</i>	General Plan Amendment & Rezoning
<i>Land Use Staff</i>	Heather Lamboy
<i>Other Staff</i>	
<i>Attendance</i>	Applicant, David Rasch, 18 members of the public

Notes/Comments:

The meeting began with a quick overview by Ms. Lamboy about the Early Neighborhood Notification (ENN) process and how this was the opportunity to have an open dialogue regarding the proposal. Ms. Lamboy explained the sequence of hearings that would be required for this project, which also includes review by the Historic Districts Review Board.

Ms. Jenkins began her presentation by introducing her team. She stated that the property is currently zoned R-5 and has a Future Land Use of Public/Institutional. Ms. Jenkins explained that typically schools do not require a special zoning district and you find them in residentially-zoned districts across the city. Ms. Jenkins stated that the vision for the property is to redevelop it as a mixed-use development with artist studios and a coffee shop on the east side of the school, residential apartments on the west side of the school, and free-standing casitas along the western edge of the property behind the school. She commented that the only significant change about the site plan was that a new exit would be created onto Canyon Road. The exit would be created for

the exclusive use of the residences on site. All commercial traffic associated with the development would enter and exit at the front along Canyon Road. The residential traffic would be restricted access through the use of a vehicular gate.

Ms. Jenkins stated that the Manderfield Elementary building is historic and considered contributing for the purposes of the Historic Districts Ordinance. She stated that the primary elevations are the east and north elevations, and only very minor modifications and maintenance would be permitted on these elevations.

Ms. Jenkins explained that the proposed coffee house use would require a Special Use Permit in the proposed Residential Arts and Crafts (RAC) zoning district. She stated that the maximum commercial square footage permitted in the RAC zoning district is 3,000 square feet. Ms. Jenkins explained that because this is an adaptive reuse, that total would be exceeded by approximately 1,000 square feet and that a Variance would be sought. Ms. Jenkins stated that the 4,000 square feet covers the coffee shop and artist studios on the east side of the Manderfield School building. Ms. Jenkins clarified that the Variance is for that special circumstance only and would never be increased in size without another public hearing.

Ms. Jenkins stated that there would be a 17-spot parking lot located at the front of the Manderfield building to serve the artist studios and coffee shop. For the residences at the rear and the casitas, parking would be distributed either through surface parking spaces or carports at the rear of the site. All parking will be screened through landscaping and low walls to lessen the visual impact.

Ms. Jenkins stated that there would be a total of 10 residential units, 6 apartments located in the Manderfield building and 4 free-standing casitas. Ms. Jenkins explained the locations of the residential units and associated parking and guest parking. Four guest parking spaces would be provided for the residential units.

A question was asked as whether a specific coffee business was being considered, and Ms. Jenkins replied there was not. Another neighbor asked the anticipated cost of development, and Ms. Jenkins stated that she did not have final numbers yet. Another neighbor expressed concern about there being enough parking for the coffee house and studios, and Ms. Jenkins responded that the parking is calculated utilizing the most restrictive retail use, which is one space per 200 square feet. Ms. Jenkins pointed out that office uses typically require 1 space per 350 square feet, which is truer for gallery uses. However, to ensure there would be enough parking, more spaces were provided.

A neighbor asked whether shared parking with Cristo Rey was considered since the hours of operation would be different. Ms. Jenkins stated that had not been a consideration yet, but would be open to it.

Mr. Eddie Romero, who is a relative of the neighbors immediately to the west, stated a concern with the maximum allowable density of 21 dwelling units per acre in the RAC zoning district. He stated that if the project does not work out, and the zoning remains

RAC, there would be the possibility that the site could be developed with much more density. Mr. Romero asked why RAC would be allowed to cross Canyon Road at this point.

Ms. Lamboy responded that on sites smaller than 2 acres, zoning changes may only occur if a boundary is adjusted. The RAC zoning district is considered adjacent even though it is across a street.

Ms. Jenkins pointed out that, in addition to all the requirements associated with zoning (open space, parking, circulation, etc.), the Historic Districts Ordinance limits the height for the site. The maximum height is 16 feet for the site, which limits all development on the site to one story.

Mr. Romero expressed concern regarding the casitas and their proximity to the western property line. He stated that his family did not want the new units looking into their property. Ms. Jenkins pointed out that there would be a wall constructed along the western property line and that the casitas will only be single-story.

A neighbor asked whether there would be CCRs. Ms. Jenkins responded that there would be. Another neighbor asked about trash pickup, and Ms. Jenkins stated that for the commercial property, a dumpster would be located toward the southeastern portion of the property and the residential property would have roll out trash cans as is typical for residential development.

Ms. Jenkins pointed out, in response to an earlier comment, that density could also be controlled through the CC&Rs.

A neighbor asked who Ms. Jenkins is representing. Ms. Jenkins explained that the Manderfield property is currently under contract contingent on the approval of the rezoning; it is still owned by the Santa Fe Public Schools. The neighbor asked whether construction would happen all at once or whether it would occur in phases, and Ms. Jenkins responded that it would happen at once; however, it is anticipated that the revenue from the sale of the casitas would help to finance the renovation of the existing Manderfield building.

A neighbor asked whether any 2-story construction was planned. Ms. Jenkins reiterated that would not be possible given the constraints of the Historic Districts Ordinance. She stated that the maximum heights are 20 feet on the western side of the property and 16'8" on the south side based on the height calculation done by David Rasch, the City's Historic Preservation Planner. Ms. Jenkins offered to create additional height restrictions on the property through the CC&Rs.

There was some discussion about the residential drive at the rear of the Manderfield School and how much retaining wall would have to be built. Vic Johnson suggested that the last casita be stepped to a lower elevation in order to allay neighborhood concerns about the casitas towering over them.

A neighbor asked about stormwater drainage, and Colleen Gavin pointed out the collection points for stormwater across the site. She commented that the ponds would be landscaped so that they would be seen as an amenity instead of an eyesore. The neighbor stated that right now, the Manderfield site drains onto his property and he was concerned about how that issue would be addressed. Ms. Gavin pointed out that currently the site design is schematic, and if the property were rezoned successfully, that she would be happy to work on those details later.

A neighbor asked whether a traffic study had been done. Ms. Jenkins acknowledged that the proposal would create traffic on Canyon Road where there was none previously, but the overall traffic was much less due to the change in use from a school to small scale commercial and residential. She commented that she reviewed the plan with the City's Traffic Engineer, John Romero, and that he stated that no study was needed. Ms. Jenkins pointed out that it will not likely affect Canyon Road traffic too much because the Alameda access will be much easier.

John Midyette, a neighbor, asked whether the existing chain link fencing would stay. Ms. Jenkins stated that the chain link would be removed but the concrete retaining wall would remain with some maintenance and a restucco. Both Mr. Midyette and Mr. Johnson suggested terracing the retaining wall with landscaping and a secondary low fence to address safety concerns and to prevent people from falling over the side. Mr. Johnson stated that it would be important to provide a good transition from public areas to the commercial, and then to the private areas of the site.

When asked, Mr. David Rasch, Historic Preservation Planner, clarified that no more additions would be permitted to the Manderfield building because preservation standards only permit 50% of a building's footprint be added to a contributing or significant historic structure.

Ms. Jenkins then reviewed the public hearing schedule in response to a neighbor's question. She stated that they would make application to be scheduled for a Planning Commission hearing July 11, City Council would likely occur in August or early September, and the Historic Districts Review Board hearing would take place afterward in early 2014. If all approvals are obtained in a timely manner, the project would break ground either summer or fall of 2014, and it would likely take 18 months to complete construction.

Mr. Midyette expressed the desire to identify strategies between staff and the neighborhood to create restrictions so that the project cannot be easily changed, given the permitted density under the RAC zoning district. The meeting concluded at approximately 7:00pm.



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

Project Name: Manderfield

Meeting Date: May 15, 2013

Meeting Place: First Presbyterian Church, 208 Grant Avenue

Meeting Time: 5:30 p.m.

Applicant or Representative Check Box below

↓		Name	Address	Email
<input type="checkbox"/>	1	John W. Dye III	1125 Canyon Rd	JohnTWdyette@AOL.com
<input type="checkbox"/>	2	RAD ACTON	1206 Upper Canyon	radacton@earthlink.net
<input type="checkbox"/>	3	Ken Burles	1144 B Canyon Rd.	kburles@aol.com
<input type="checkbox"/>	4	David Hundley	1144 B Canyon Rd.	dhundley@earthlink.com
<input type="checkbox"/>	5	Mike Rodriguez	33 West Cochi	N/A
<input type="checkbox"/>	6	Kristin Watson	1517 Canyon Rd	artwork@cybermesa.com
<input checked="" type="checkbox"/>	7	Hillary Jelles	130 Grant Ave #101	hillary@jensensegaria.com
<input checked="" type="checkbox"/>	8	Jennifer Jelles	"	jennifer@ " "
<input checked="" type="checkbox"/>	9	Colleen Gavin	"	Colleen @ " "
<input type="checkbox"/>	10	Rosmary Rowell	1341 Canyon Rd	Rorowell@msn.com
<input type="checkbox"/>	11	Mac Watson	1517 Canyon	macwatson@cybermesa.com
<input type="checkbox"/>	12	Ben La Forge	677 Old SF Tr.	pennume@earthlink.net

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

Heather Lamboy

5/15/13 Date

Printed Name of City Staff in Attendance

Signature of City Staff in Attendance

Date

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



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

Project Name: Manderfield **Meeting Date:** May 15, 2013
Meeting Place: First Presbyterian Church, 208 Grant Avenue **Meeting Time:** 5:30 p.m.

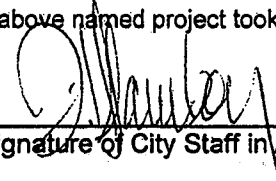
Applicant or Representative Check Box below

↓	Name	Address	Email
<input type="checkbox"/>	1 PETE H Rodriguez	1144 CANYON ROAD	PETE.PADILLO@Q.COM
<input type="checkbox"/>	2 Gilbert Rodriguez	2949 Calle Ibañeta Santa Fe	G244ERS@MSN.COM
<input type="checkbox"/>	3 Paul H. Rodriguez	6304 Koswilk Pl. NW, Albuquerque	Paul.Rodriguez@amco.com
<input type="checkbox"/>	4 Henry Duran	96A Camino Montoya SF NM	Henry.Duran@Comcast.com
<input type="checkbox"/>	5 BRAD PERKINS		SANTA FE BRAD@YAHOO.COM ALL ONE WORK
<input type="checkbox"/>	6 Mr JOHNSON	PO Box 1800 SFNM 87504	
<input type="checkbox"/>	7 David Kite	1301-A Viper CLYDE 87501	davekite1@mac.com
<input type="checkbox"/>	8 Clare Maraist	PO Box 1803 SFNM 87501	ClareMaraist@gmail.com
<input type="checkbox"/>	9 M. HUITFELDT	PO Box 31446 SFNM 87594	MHuitfeldt@gmail.com
<input type="checkbox"/>	10		
<input type="checkbox"/>	11		
<input type="checkbox"/>	12		

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

Heather Lamboy

Printed Name of City Staff in Attendance


Signature of City Staff in Attendance

5/15/13
Date

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

Project Name: Manderfield **Meeting Date:** May 15, 2013
Meeting Place: First Presbyterian Church, 208 Grant Avenue **Meeting Time:** 5:30 p.m.

Applicant or Representative Check Box below

	Name	Address	Email
<input type="checkbox"/>	1 NIKKI VANDENBERG	P.O. Box 10112 SF 87504	nikkivandenberg@hotmail.com
<input type="checkbox"/>	2		
<input type="checkbox"/>	3		
<input type="checkbox"/>	4		
<input type="checkbox"/>	5		
<input type="checkbox"/>	6		
<input type="checkbox"/>	7		
<input type="checkbox"/>	8		
<input type="checkbox"/>	9		
<input type="checkbox"/>	10		
<input type="checkbox"/>	11		
<input type="checkbox"/>	12		

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

Heather Lamboy

Printed Name of City Staff in Attendance

Signature of City Staff in Attendance

5/15/13

Date

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

City of Santa Fe, New Mexico

Exhibit E

Applicant Submittals



jenkinsgavin
DESIGN & DEVELOPMENT INC

May 28, 2013

Heather Lamboy, Senior Planner
Current Planning Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

**RE: MANDERFIELD SCHOOL
GENERAL PLAN AMENDMENT, REZONE, MASTER PLAN, SPECIAL USE
PERMIT & VARIANCE**

Dear Heather:

This letter is submitted on behalf of Manderfield LLC in application for a General Plan Amendment, Rezone, Master Plan, Special Use Permit, and Variance approval for the ±1.48-acre Manderfield School property at 1150 Canyon Road. These applications are submitted for consideration by the Planning Commission at their meeting of July 11, 2013, as summarized below:

1. Amendment to the General Plan Future Land Use Map to change the property's designation from Public/Institutional to Residential Medium Density.
2. Rezone from R5 (Residential, 5 dwelling units per acre) to RAC (Residential Arts & Crafts).
3. Master Plan for the redevelopment of the subject property.
4. Special Use Permit to allow for a coffee house.
5. Variance from City Code §14-7.2 (H).

PROJECT SUMMARY

The ±11,400-square foot Manderfield School is located in the Downtown and Eastside Historic District and is designated as a Contributing building. Designed by architect John Gaw Meem in a Territorial Revival style, the facility was built in 1928, with several subsequent additions constructed in later decades. The public school was closed in 1972; the building has since housed various educational institutions and, most recently, Presbyterian Medical Services' Head Start Program. The property has been unoccupied for several years.

The proposed redevelopment (the "Project") will update the existing building while maintaining its historic character. The Project entails an adaptive reuse of the building to a mixed-use facility that will include six residences, 6-8 artists' studios, and a coffee house. In addition, the area

along the south and west property boundaries will be developed with four single story residential casitas, covered parking, and guest parking.

GENERAL PLAN AMENDMENT

The subject property's current land use designation is Public/Institutional (see attached Future Land Use Map). Outlined below are our responses to the General Plan Amendment approval criteria per §14-3.2(E)(1) for the proposed "Residential Medium Density" designation.

- (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.*

The area surrounding the subject property comprises a mix of uses, including moderate density residential, offices, galleries, and institutional. The mix of uses proposed for the subject property is consistent with this neighborhood pattern. The Project will be served by existing roadway and utility infrastructure and provide a pedestrian friendly environment.

- (b) *Consistency with other parts of the general plan.*

This request incorporates and reflects consistency with the General Plan in terms of promoting mixed-use neighborhoods and economic diversity. The intent is to allow uses that will create a pleasant and successful addition to the neighborhood. Its location also proves to be cost effective due to the availability of existing infrastructure, including the issues relating to infill and urban sprawl referenced throughout the General Plan. Adaptive reuse is a key factor in land conservation, historic preservation, and the reduction of urban sprawl.

- (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*

Prevailing uses in the surrounding Canyon Road area include a mix of galleries, restaurants, and shops, as well as residential and institutional. The proposed amendment and related rezone will be consistent with these types of uses, combining residences with artists' studios and a coffee house.

- (ii) *affect an area of less than two acres, except when adjusting boundaries between districts; or*

The proposed amendment is an expansion of the boundary of the Residential Medium Density designation found immediately west of the subject property.

- (iii) *benefit one or a few landowners at the expense of the surrounding landowners or the general public;*

Promoting an appropriate mix of land uses benefits the neighborhood through the provision of services and employment opportunities in close proximity to residents, which supports the goal of minimizing car trips and encouraging alternative means of transportation. The Project's design will invite pedestrian access from Canyon Road and surrounding parks, shops, and galleries.

- (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. N/A*
- (e) *Compliance with extraterritorial zoning ordinances and extraterritorial plans. N/A*
- (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.*

This designation request and proposed adaptive reuse of the existing 11,400 square foot school building will promote community integration and social balance by providing a mixed use approach, including studio space for artists and a coffee house that will draw locals and tourists to the site. The provision of art studio space and a coffee house will provide a key link among surrounding residential, institutional, and arts and crafts neighbors, offering services and employment opportunities in the vicinity of hundreds of residents.

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

The adaptive reuse of the school is an environmentally sensitive effort to ensure that this historically contributing building is preserved and utilized to the benefit of the community. An empty building is a detriment to the neighborhood and does not positively impact the local economy. This proposal is consistent with the City's policies promoting infill, redevelopment, historic preservation, and mixed use.

REZONING

This request for a rezone from R5 to RAC will allow for the adaptive reuse of the school building to a mixed use facility and the construction of four new detached residences.

Outlined below are the responses to the Rezone Criteria per §14-3.5(C) of the Santa Fe Land Development Code.

- (a) *One or more of the following conditions exist:*

- (i) *There was a mistake in the original zoning. N/A*
- (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. N/A*
- (iii) *A different use category is more advantageous to the community, as articulated in the general plan or other adopted city plans.*

The requested zone change to RAC is consistent with surrounding zoning, which includes RAC, R5, and R10PUD. The proposed adaptive reuse of the existing 11,400 square foot school building will support Santa Fe's economic base by providing additional residential options, studio space for artists, employment opportunities, and a coffee house that will serve hundreds of residents in the vicinity. Instead of an unused institutional building, the facility will house a vibrant mix of uses that will benefit the community.

- (b) *All the rezoning requirements of Chapter 14 have been met. Yes.*
- (c) *The rezoning is consistent with the applicable policies of the general plan, including the future land use map.*

Please refer to the responses to the General Plan Amendment approval criteria outlined 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.*

The proposed redevelopment of the Manderfield School property exemplifies a compact urban form and desired infill development.

- (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.*

The Project will be served by existing City infrastructure and services. Any requisite improvements or upgrades to existing utilities will be implemented as part of the construction process.

MASTER PLAN

The attached Master Plan is hereby submitted as part of the above-described Rezone request. While conceptual in nature, it is the intent of the Master Plan to define the proposed mix of uses and the scope of the redevelopment of the property. The adaptive reuse of the school will include six residences in the west wing and the south end of the east wing of the building. The

remainder of the east wing will house 6-8 artist studios and a ±1,150 square foot coffee house. In addition, the area along the south and west property boundaries will be developed with four single story residential casitas, covered parking, and guest parking.

The existing Canyon Road access at the southeast corner of the property will be maintained. A new driveway is proposed to serve the casitas, which will be an exit-only connection to Canyon Road at the northwest corner of the property. In order to preserve privacy, access to the residences will be controlled via electronic vehicular gates. Parking for the commercial uses will be provided in a new parking area to be constructed on the east side of the property north of the existing driveway. In accordance with City Code requirements, this parking area will be screened from Canyon Road with a four foot masonry wall and landscape improvements.

SPECIAL USE PERMIT

We are requesting a Special Use Permit for a Full Service Restaurant to allow for the proposed coffee house. Outlined below are our responses to the Special Use Permit approval criteria set forth in SFCC §14-3.6(D)(1).

(b) *Granting the Special Use Permit does not adversely affect the public interest.*

Granting the Special Use Permit will benefit the public interest by providing employment opportunities for Santa Fe residents, both during construction and once the coffee house is functioning, as well as generating tax revenue. As the only café currently in the area is the Tea House several blocks down Canyon Road, the coffee house will offer a welcome and convenient venue for locals and visitors to gather. Furthermore, the location of the coffee house will serve as an appropriate transition between the Canyon Road arts and crafts district and the adjacent residential neighborhoods.

(c) *The use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the premises under consideration.*

The Canyon Road area consists of a mix of galleries, shops, offices, and residences, as well as the Cristo Rey Church. The proposed coffee house is compatible with this lively mix of uses. Renovation of the existing Manderfield School and construction of the four residential casitas will be in conformance with zoning and Historic Review District regulations, and will remain compatible with the buildings and structures of the neighboring properties.

VARIANCE

A Variance is requested from City Code §14-7.2 (H), which states that "Not more than three thousand (3,000) square feet of the gross floor area of a building shall be devoted to nonresidential uses." The proposed non-residential component of the adaptive reuse of the

school building will be a maximum of 4,600 square feet. Below are our responses to the approval criteria per SFCC §14-3.16 (C).

(1) *One or more of the following special circumstances applies:*

(a) *unusual physical characteristics exist that distinguish the land or structure from others in the vicinity that are subject to the same relevant provisions of Chapter 14, characteristics that existed at the time of the adoption of the regulation from which the variance is sought, or that were created by natural forces or by government action for which no compensation was paid;*

The unusual characteristic of the property that distinguishes it from others in the vicinity is the Manderfield School itself. The building is designated as Contributing to the Downtown and Eastside Historic District and, therefore, it must be retained. Accordingly, the proposed mix of uses must fit into the physical constraints of the existing structure. The proposed configuration of residential and commercial uses is a natural fit to the present layout, providing appropriate separation, while integrating access. Furthermore, in order to ensure the adaptive reuse is economically feasible, existing load-bearing walls are being retained, thereby limiting modifications to the floor plan.

(b) *the parcel is a legal nonconforming lot created prior to the adoption of the regulation from which the variance is sought, or that was created by government action for which no compensation was paid;*

N/A

(c) *there is an inherent conflict in applicable regulations that cannot be resolved by compliance with the more-restrictive provision as provided in Section 14-1.7; or*

N/A

(d) *the land or structure is nonconforming and has been designated as a landmark, contributing or significant property pursuant to Section 14-5.2 (Historic Districts).*

Yes. Please refer to criterion (a) above.

(2) *The special circumstances make it infeasible, for reasons other than financial cost, to develop the property in compliance with the standards of Chapter 14.*

Limiting the non-residential uses to 3,000 square feet would not permit the building to be reused in a manner consistent with its existing layout. The separate wings provide an organic opportunity to incorporate some degree of appropriate separation between the residences and the commercial activity. Furthermore, private exterior entry is critical in order to render the residential units functional. Due to the fact that most of the east

elevation is designated as primary, no exterior alterations are permitted. Therefore, doors cannot be added to provide the requisite private residential entry except at the south facing portion of the east wing, which is not primary. The proposed coffee house is the only other location on the east façade that can be modified to provide access to the building, and that entrance has a commercial, rather than residential, aspect. These special circumstances render it necessary to expand the commercial square footage of the project.

- (3) *The intensity of development shall not exceed that which is allowed on other properties in the vicinity that are subject to the same relevant provisions of Chapter 14.*

The proposed redevelopment is compliant with all other provisions of Chapter 14. In addition, under the proposed RAC zoning, the maximum allowable density on the property is 31 dwelling units. However, only ten dwelling units are proposed for the Project, along with the artists' studios and coffee house.

- (4) *The variance is the minimum variance that will make possible the reasonable use of the land or structure. The following factors shall be considered:*

(a) *whether the property has been or could be used without variances for a different category or lesser intensity of use;*

Due to the fact that the Manderfield School is a Contributing building, the proposed mix of uses must fit into the physical constraints of the existing structure. Per the response to (2) above, limiting the non-residential uses to 3,000 square feet would not permit the building to be reused in a manner consistent with its existing layout.

(b) *consistency with the purpose and intent of Chapter 14, with the purpose and intent of the articles and sections from which the variance is granted and with the applicable goals and policies of the general plan.*

Per Code §14-1.3, Chapter 14 seeks to ensure that Santa Fe is developed in a manner that promotes "health, safety, order, convenience, prosperity and the general welfare as well as efficiency and economy in the process of development..." and mandates the creation of "conditions favorable to the health, safety, convenience, prosperity and general welfare of the residents of Santa Fe." The Project is consistent with these intents, as well as with the General Plan's intent to promote mixed-use neighborhoods and economic diversity and to minimize urban sprawl through infill development. Adaptive reuse is a key factor in land conservation, historic preservation, and the reduction of urban sprawl.

- (5) *The variance is not contrary to the public interest.*

The Manderfield School has sat vacant for many years and is an eyesore in the community. The redevelopment of the property is in the public interest in that an

important historic building will be preserved and maintained, while once again being a vibrant part of the neighborhood.

- (6) *There may be additional requirements and supplemental or special findings required by other provisions of Chapter 14.*

SANTA FE HOMES PROGRAM

In accordance with the provisions of the Santa Fe Homes Program, a fractional fee will be paid to the Affordable Housing Trust fund for the new residential units.

EARLY NEIGHBORHOOD NOTIFICATION

An Early Neighborhood Notification meeting was held on May 15, 2013. The discussion included the topics of traffic generation, parking, density, and the impact of the new casitas on the existing residences to the west.

In support of these requests, the following documentation is submitted herewith for your review:


1. Development Review Applications
2. Letter of Authorization
3. Lot of Record (Warranty Deed)
4. Archaeological Clearance Permit
5. Future Land Use Map
6. Zoning Map
7. Master Plan – 6 copies and a PDF
8. Fees in the amount of \$2,910.00, as follows: General Plan Amendment \$1,000.00; Rezone \$1,000.00; Special Use Permit \$350.00; Variance \$500.00; Posters \$60.00.

Please do not hesitate to call should you have any questions or need additional information.

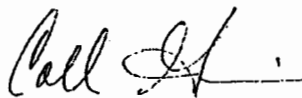
Thank you for your consideration.

Sincerely,

JENKINS GAVIN DESIGN & DEVELOPMENT, INC.



Jennifer Jenkins



Colleen Gavin, AIA

LAMBOY, HEATHER L.

From: Jennifer Jenkins <jennifer@jenkinsgavin.com>
Sent: Monday, July 01, 2013 11:52 AM
To: LAMBOY, HEATHER L.
Cc: Colleen; 'Hillary Welles'
Subject: RE: Manderfield

Hi Heather,

I am writing to follow up with you regarding the sidewalk along E. Alameda. Since the dedication of park land is not feasible for the Manderfield project and in accordance with §14-8.15(C)(2), we will pay Park Impact Fees for the residential units, which can be devoted to this City improvement. We agree to pay these impact fees even if the current moratorium is still in place when we pull our building permits.

Please let me know if you have any questions.

Thank you.

Jennifer Jenkins

JenkinsGavin Design & Development, Inc.
130 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501
Ph. (505) 820-7444
jennifer@jenkinsgavin.com
www.jenkinsgavin.com

From: Jennifer Jenkins [<mailto:jennifer@jenkinsgavin.com>]
Sent: Monday, June 17, 2013 1:10 PM
To: 'LAMBOY, HEATHER L.'
Cc: Colleen (colleen@jenkinsgavin.com); 'Hillary Welles'
Subject: RE: Manderfield

Hi Heather,

This information is helpful – I understand better now. I don't think a site visit will be necessary at this point. So, per our conversation this morning, in accordance with §14-8.15(C)(2), the City will collect Park impact fees for the 10 dwelling units and devote them to this sidewalk improvement?

Jennifer Jenkins

JenkinsGavin Design & Development, Inc.
130 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501
Ph. (505) 820-7444
jennifer@jenkinsgavin.com
www.jenkinsgavin.com

From: LAMBOY, HEATHER L. [<mailto:hllambo@ci.santa-fe.nm.us>]
Sent: Monday, June 17, 2013 11:57 AM

To: jennifer@jenkinsgavin.com
Subject: FW: Manderfield

/ Maybe a site visit is in order? See below. I'd be happy to coordinate, let me know your schedule.

Heather L. Lamboy, AICP
Land Use Senior Planner

From: MARTINEZ, ERIC B.
Sent: Monday, June 17, 2013 11:48 AM
To: LAMBOY, HEATHER L.
Cc: WILSON, KEITH P.
Subject: RE: Manderfield

Heather,

I sure don't. All were asking for is a 5 ft. wide colored concrete sidewalk adjacent to the street connecting P. Smith Park. Not too complicated. The approx. 100 ft. of retaining wall and 150 ft. of handrail starts near the Park entrance and continues east for the aforementioned length. We can meet on site if necessary. Thx.

Eric

From: LAMBOY, HEATHER L.
Sent: Monday, June 17, 2013 11:12 AM
To: MARTINEZ, ERIC B.
Cc: WILSON, KEITH P.
Subject: Manderfield

I spoke with Jennifer this morning, and she said she would like a visual graphic on what you would propose for the sidewalk/River Trail along Alameda. Do you or your staff have something like that? I gave her the linear footage we discussed the other day.

Thank you!

Heather L. Lamboy, AICP
Land Use Senior Planner

Land Use Department
City of Santa Fe, NM
200 Lincoln Avenue, Box 909
Santa Fe, NM 87504-0909
(505) 955-6656



City of Santa Fe, New Mexico

Exhibit F

Public Correspondence

Heather Lamboy, Senior Planner
Current Planning Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

Dear Ms. Lamboy:

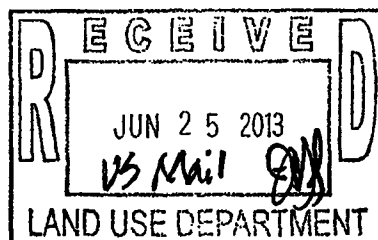
After learning about the proposed Manderfield School project, I feel that it is a great re-use of the long vacant building. The recent conceptual site plan, which was approved by the school board and presented to the neighbors and associations involved in the area, shows a welcome mix of residential and commercial uses. However, it has come to my attention that the property's current zoning of R5 (Residential, 5 units per acre) allows only for residential units, thus necessitating a rezone from R5 to RAC (Residential Arts and Crafts). I understand also that the pending sale of the school hinges on a contingency that the property be rezoned to RAC.

I support this rezone, as it is in keeping with much of the surrounding Canyon Road neighborhood. The proposed mix of residences, art studios, and a coffee house is supported by many neighbors, as it will contribute much to the neighborhood, the community, and local arts and culture.

I thank you for your time and consideration.

Sincerely,

Eric Cousineau 6-20-13
Eric Cousineau Date



June 18, 2013

Ms. Brittny Dayes
1407 Miracerros Lane
Santa Fe, NM 87505

Ms. Heather Lamboy
Senior Planner
Current Planning Division
The City of Santa Fe Planning Commission
200 Lincoln Ave.
Santa Fe NM, 87501

Dear Ms. Lamboy,

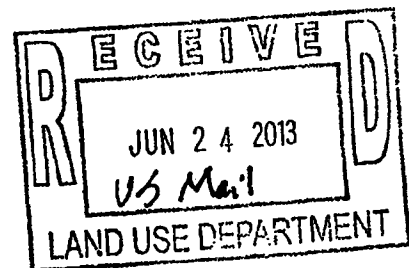
Please accept this letter as full support of the proposed Manderfield School project by
Clare Maraist.

The proposed project will bring a new life to the school and also to the neighborhood. It
will offer necessary live/work space for artists of all mediums, a community gallery and
a coffee shop for the neighborhood. All which will reinvigorate the Upper Canyon area. I
strongly encourage you to support this project!

Thank you for your time.

All the best,


Brittny Dayes



LAMBOY, HEATHER L.

From: Domas, Stephen <SDomas@bwenergylaw.com>
Sent: Friday, June 21, 2013 9:08 AM
To: LAMBOY, HEATHER L.
Subject: Manderfield School
Attachments: 201306212105.pdf

Ms. Lamboy:

I support the rezoning of the Manderfield School. Please see attached.
Thank you.

Stephen Domas

Stephen Domas | Beatty & Wozniak, P.C.
Attorney
500 Don Gaspar Ave.
Santa Fe, NM 87505-2626
505-983-4328
www.bwenergylaw.com

Energy in the Law

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Heather Lamboy, Senior Planner
Current Planning Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

Dear Ms. Lamboy:

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I thank you for your time and consideration.

Sincerely,

Stephen M. Dorris

6/20/13
Date

LAMBOY, HEATHER L

From: Marcy Heller <marcyheller@earthlink.net>
Sent: Friday, June 07, 2013 8:33 AM
To: LAMBOY, HEATHER L
Subject: rezoning for old Manderfield school

June 7, 2013

To: Heather Lamboy
Senior Planner, Current Planning Division:

Dear Ms. Lamboy,

After learning about the proposed Manderfield School project, I feel as if it a great re-use of the long vacant building and will contribute much to the community, neighborhood and the local arts. However, after learning of the current contingency of the sale which require a rezone of the property from an R5 (Residential 5) to RAC (Residential Arts and Crafts), which is all of Canyon Road up to the boundary of the school.

It has come to my attention that no art studios are allowed under its current zoning. I would like to formally support this rezone change for the benefit of our city and our arts community.

It is understood that only residential units are allowed with the current zoning of R5. The recent conceptual plan which was been approved by the school board and presented to the neighbors and associations involved in the area, many wish for a coffee shop and art studios, neither of which are allowed without this change.

I thank you for your time and your consideration.

Martha J. Heller
23 Bobcat Crossing Road
Santa Fe, NM 87508

Heather Lamboy, Senior Planner
Current Planning Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

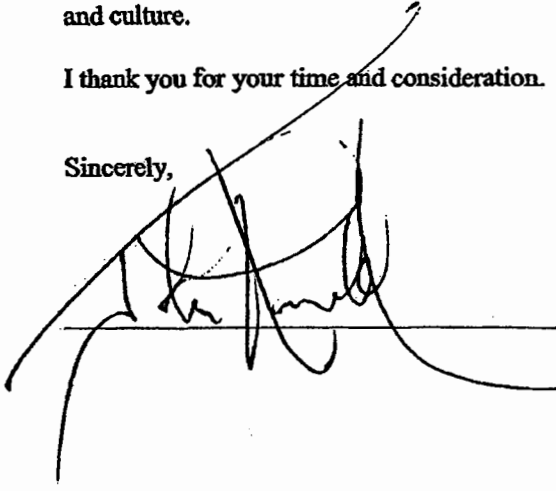
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Sincerely,



6/24/13
Date

Heather Lamboy, Senior Planner
Current Planning Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

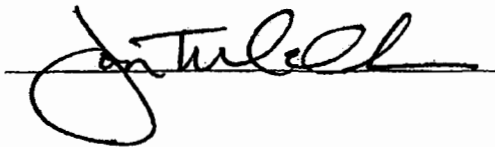
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Current Planning Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

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Sincerely,



6/21/13

Date

Heather Lamboy, Senior Planner
Current Planning Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

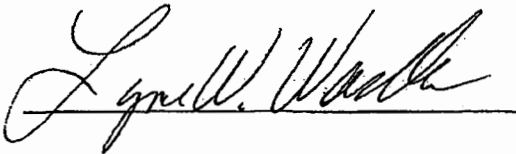
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Sincerely,



6-21-13
Date

Heather Lamboy, Senior Planner
Current Planning Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

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City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

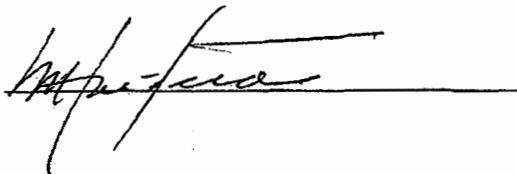
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City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

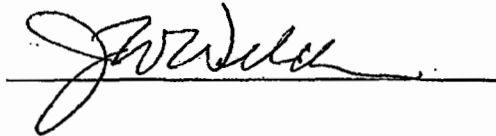
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I thank you for your time and consideration.

Sincerely,



24 June 13
Date

LAMBOY, HEATHER L.

From: Clare Maraist <claremaraist@gmail.com>
Sent: Thursday, June 06, 2013 4:29 PM
To: LAMBOY, HEATHER L.
Subject: Fwd: Manderfield School project

Begin forwarded message:

From: Judy Neunuebel <juju47@gmail.com>
Subject: Manderfield School project
Date: June 6, 2013 2:21:06 PM MDT
To: claremaraist@gmail.com

Clare,

I tried to e-mail this to hllamboym@ci.anta-fe.nm.us. but it bumped back to me, so I'm sending it to you. Please see attachment. Hope it works – good luck!

Judy Neunuebel

To: Heather Lamboy
Senior Planner, Current Planning Division:

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Signed

6/6/2013
Date



To: Heather Lamboy
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Signed

Linda Matthews 6/10/2013

Date

Heather Lamboy, Senior Planner
Current Planning Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501

Dear Ms. Lamboy:

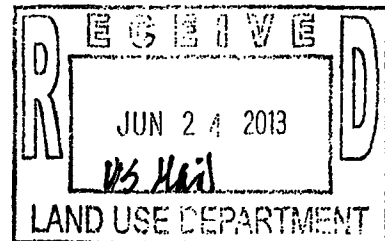
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I thank you for your time and consideration.

Sincerely,

Debbie McAllister 6/17/13
Date
(S.F. Resident since 1975)



City of Santa Fe, New Mexico

memo

DATE: September 20, 2013 for the September 25, 2013 City Council meeting

TO: Mayor David Coss
Members of the City Council

VIA: Brian K. Snyder, P.E., City Manager *BT-S*
Matthew S. O'Reilly, P.E., Director, Land Use Department *MSO*
Tamara Baer, ASLA, Planning Manager, Current Planning Division *TB*

FROM: Heather L. Lamboy, AICP, Senior Planner, Current Planning Division *HL*

Case #2013-37. Manderfield School General Plan Amendment. JenkinsGavin Design and Development, agents for Manderfield LLC, request approval of a General Plan Future Land Use Map Amendment to change the designation of 1.48± acres from Public/Institutional to Medium Density Residential (7 to 12 dwelling units per acre). The property is located at 1150 Canyon Road. (Heather Lamboy, Case Manager)

I. RECOMMENDATION

If the City Council decides to vote in favor of the Manderfield General Plan Amendment, please utilize the attached amended language for the Resolution.

II. BACKGROUND

The legal advertisement and notice letter for the Manderfield General Plan Amendment erroneously stated the existing Future Land Use category as "Low Density Residential." The correct Future Land Use Category for the site is "Public/Institutional." The attached Resolution Amendment will rectify that error.

The staff report and the City Council Agenda list the correct Future Land Use Category.

ATTACHMENTS:

EXHIBIT 1:

- a) Amendment Sheet
- b) Page 1 of Draft Manderfield Resolution (Case #2013-37)
- c) Redlined amendments in text of draft Resolution

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENTS TO DRAFT MANDERFIELD RESOLUTION
Manderfield General Plan Amendment, Case #2013-37

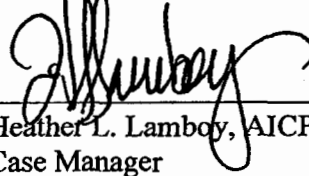
Mayor and Members of the City Council:

I propose the following amendments to the Manderfield General Plan Amendment Resolution:

On page 1, line 12, after "from" *delete* "LOW DENSITY RESIDENTIAL (3 TO 7 DWELLING UNITS PER ACRE)," and *add* "PUBLIC/INSTITUTIONAL"

On page 1, line 23, after "from" *delete* "Low Density Residential," and *add* "Public/Institutional"

Respectfully submitted,



Heather L. Lamboy, AICP
Case Manager

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

Yolanda Y. Vigil, City Clerk

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2013-__

3
4
5
6
7
8
9
10 A RESOLUTION

11 AMENDING THE GENERAL PLAN FUTURE LAND USE CLASSIFICATION FROM
12 LOW DENSITY RESIDENTIAL (3 TO 7 DWELLING UNITS PER ACRE) TO MEDIUM
13 DENSITY RESIDENTIAL (7 TO 12 DWELLING UNITS PER ACRE) FOR 1.48± ACRES
14 LYING AND BEING SITUATE WITHIN PROJECTED SECTION 30, TOWNSHIP 17
15 NORTH, RANGE 10 EAST, WITHIN THE SANTA FE GRANT, NEW MEXICO PRIME
16 MERIDIAN, SANTA FE COUNTY, NEW MEXICO, WHICH IS LOCATED AT 1150
17 CANYON ROAD. ("MANDERFIELD" GENERAL PLAN AMENDMENT, CASE #2013-
18 37).

19 WHEREAS, the agent for the owner of that certain parcel of land comprising 1.48±
20 acres located at 1150 Canyon Road and lying within projected Section 30, Township 17 North,
21 Range 10 East, within the Santa Fe Grant, New Mexico Prime Meridian, Santa Fe County, State
22 of New Mexico (the "Property") has submitted an application to amend the General Plan Future
23 Land Use Map classification of the Property from Low Density Residential to Medium Density
24 Residential; and

25 WHEREAS, pursuant to Section 3-19-9 NMSA 1978, the General Plan may be

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2013-__

3
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10 A RESOLUTION

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13 PUBLIC/INSTITUTIONAL TO MEDIUM DENSITY RESIDENTIAL (7 TO 12
14 DWELLING UNITS PER ACRE) FOR 1.48± ACRES LYING AND BEING SITUATE
15 WITHIN PROJECTED SECTION 30, TOWNSHIP 17 NORTH, RANGE 10 EAST,
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24 Medium Density Residential; and

25 WHEREAS, pursuant to Section 3-19-9 NMSA 1978, the General Plan may be



Manderfield General Plan Amendment - Medium Density Residential Rezone to RAC



Exhibit "9"

Manderfield



- GP Amendment Public/Institutional to Residential Medium Density**
- Rezone from R-5 to RAC**
- Special Use for Coffee Shop (denied/withdrawn)**
- Variance Non-Residential Uses (denied/withdrawn)**

Manderfield

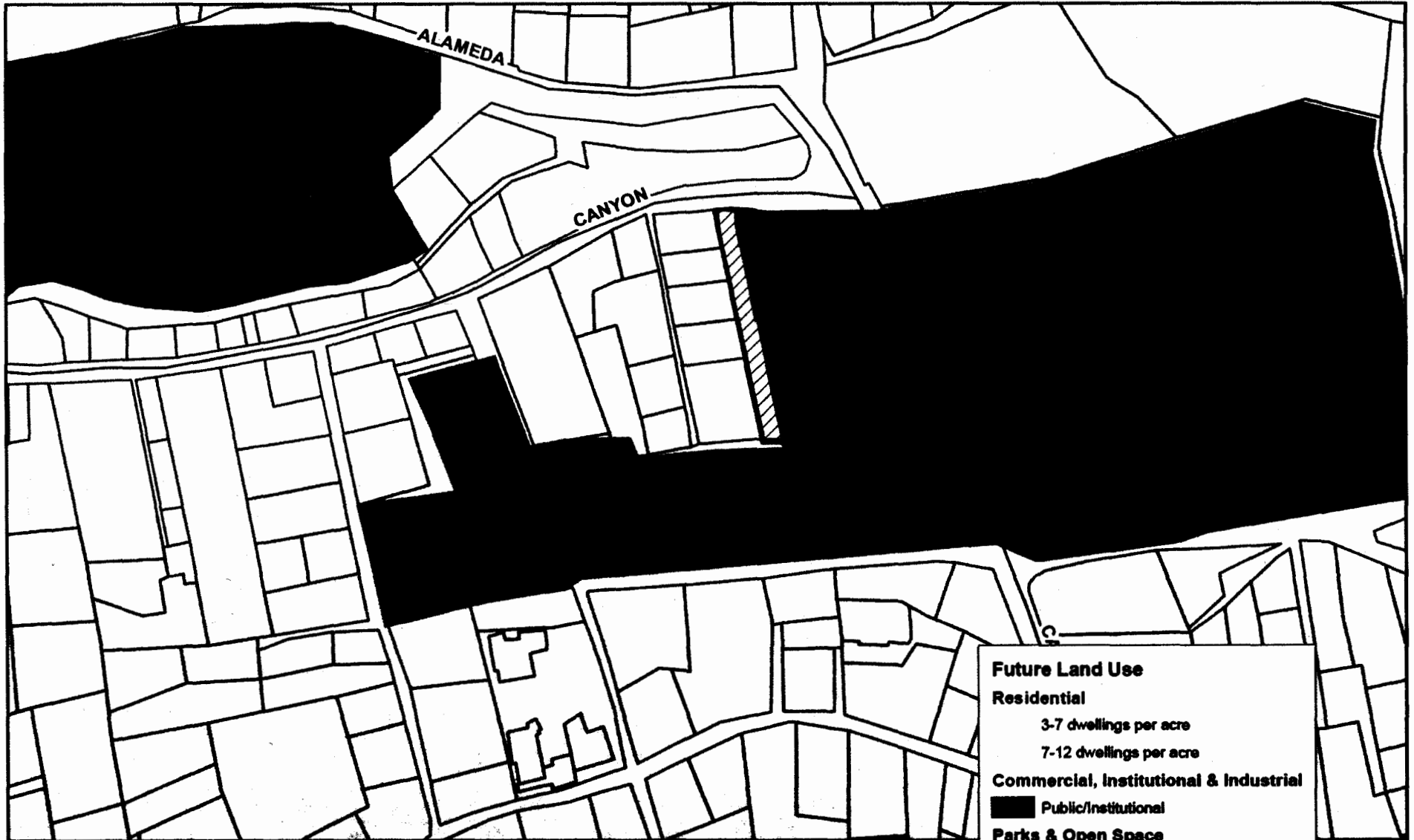


Request:

- **1.48± acre site**
- **Located on Canyon Road across from Power Plant Park**
- **Vacant school building**
- **Historic status is contributing**



Manderfield Future Land Use



Future Land Use

Residential

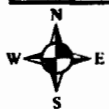
- 3-7 dwellings per acre
- 7-12 dwellings per acre

Commercial, Institutional & Industrial

- Public/Institutional

Parks & Open Space

- Parks



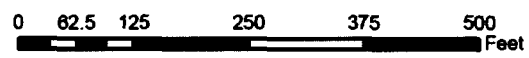
0 62.5 125 250 375 500 Feet



Manderfield Zoning

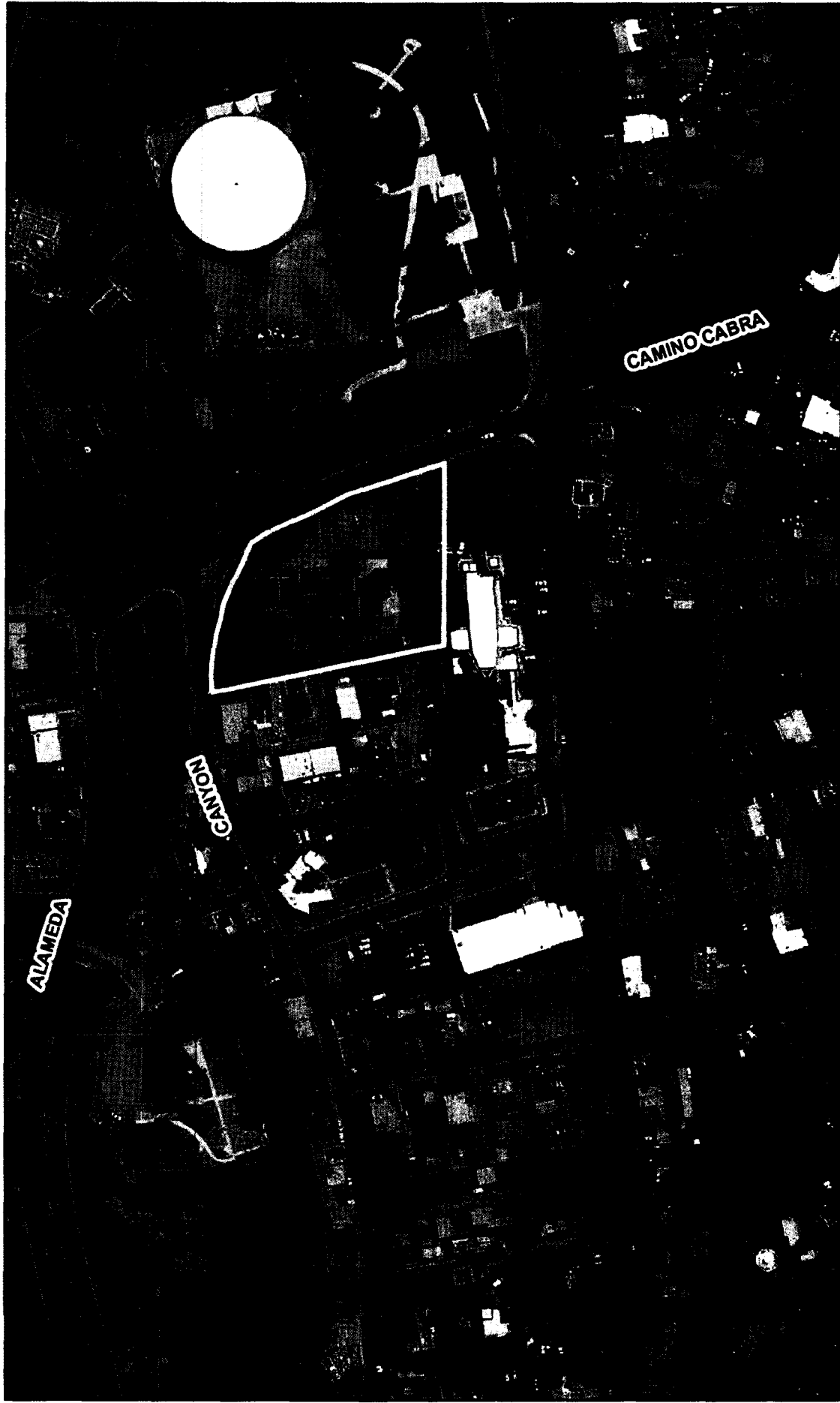


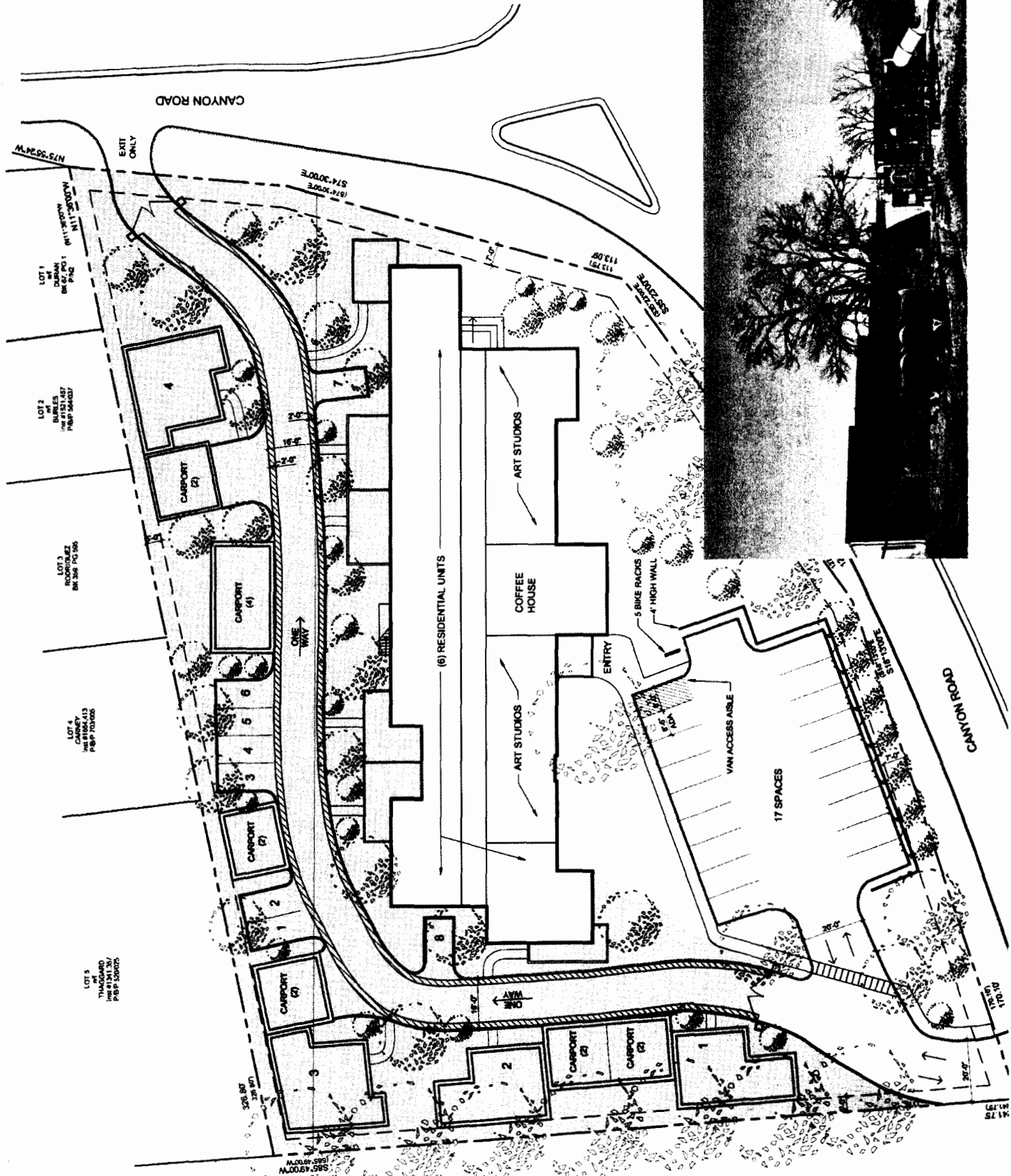
City Zoning	
Residential Districts	
	R5, (DT), (PUD), (AC), R6, (PUD) Single - Family 5-6du/ac
	R7, (I), (PUD), R8 Single - Family 7-8du/ac
	RC5, RC5AC Compound 5du/ac
	R10, (PUD) Multiple - Family 10du/ac
	RAC Residential Arts & Crafts





Manderfield Aerial





BY: REV. CHURCH
 DOCKET OF SANTA FE
 and or plan found in the
 Co. Assessor's office

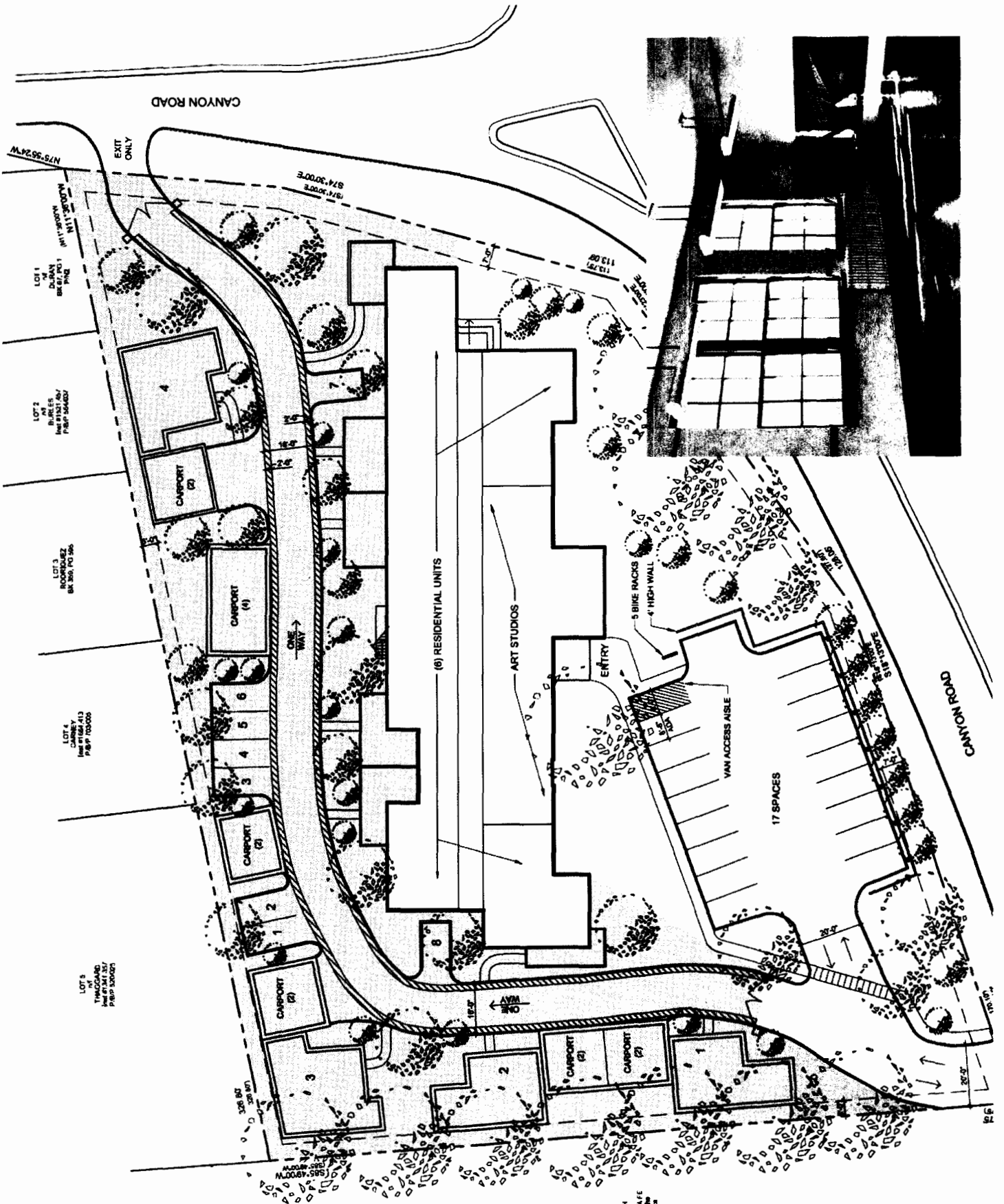


PHOTO BY CHURCH
 PARISH OF SANTA FE
 1000 1/2 1ST ST. N.W.
 ALBUQUERQUE, N.M. 87102

COMMERCIAL SPACES

- 3000 Sq Ft Net Leasable in Manderfield Building only
- Variance Request Removed

RESIDENTIAL

- 6 apartment units
- 4 detached dwelling units with carports

PARKING

- 17 spaces for commercial
- 1.5 spaces/apartment = 9 spaces
- 2 spaces/detached house = 8 spaces
- 1 visitor space
- 18 parking spaces provided

REQUIRED PARK CONTRIBUTION

- \$4,000 contribution to River Trail between Patrick Smith Park and Canyon Road along Alameda
- Will pay contribution even though impact fees are currently reduced by 100%



Manderfield

- **Only two major issues by DRT :**
 - Landscape Plan
 - Stormwater
- **Site is currently served by water, wastewater, and roads**
- **Traffic Division determined the traffic impact of proposed uses would be less than school use**



Manderfield

■ Process:

- If approved, the following approvals must be obtained prior to building permit application:
 - ✓ Historic Districts Review Board
 - ✓ Administrative Development Plan
 - ✓ License Agreement for landscaping in the right-of-way





Conditions Proposed by Applicant:

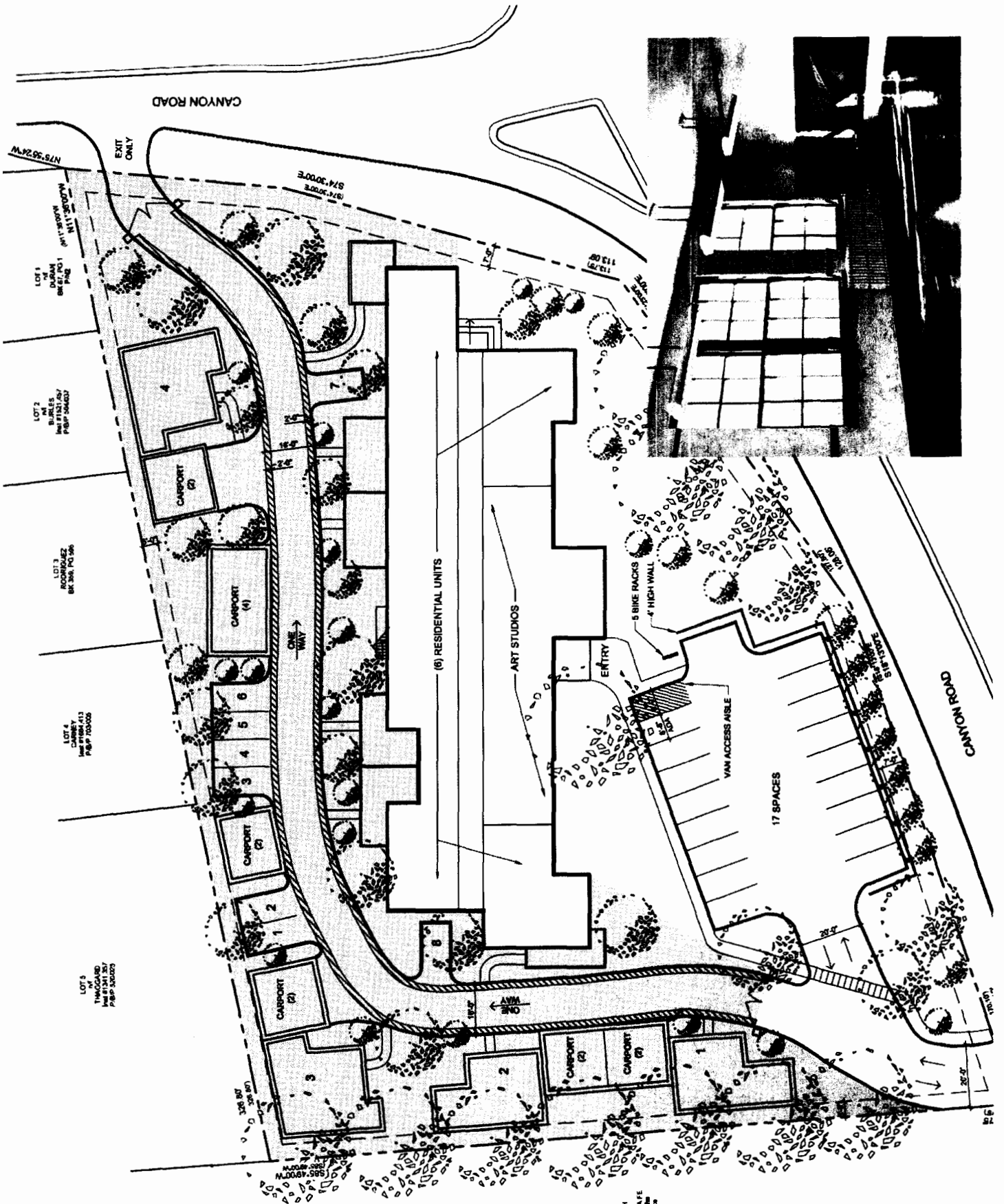
- **Commercial uses limited to Manderfield Building**
- **Maximum 3,000 square feet (RAC code criterion)**
- **Limit on type of products sold (staff objection)**
- **Maximum height 16'8"**
- **Maximum number of buildings**
- **Rezoning Conditions only amended by City Council**



Manderfield

The Planning Commission recommends
DENIAL to the Governing Body





WEST BAY CHURCH
 PARISH OF SAINT ALEX
 1000 BAYVIEW DRIVE
 WEST BAY, MISSISSAUGA, ONT.

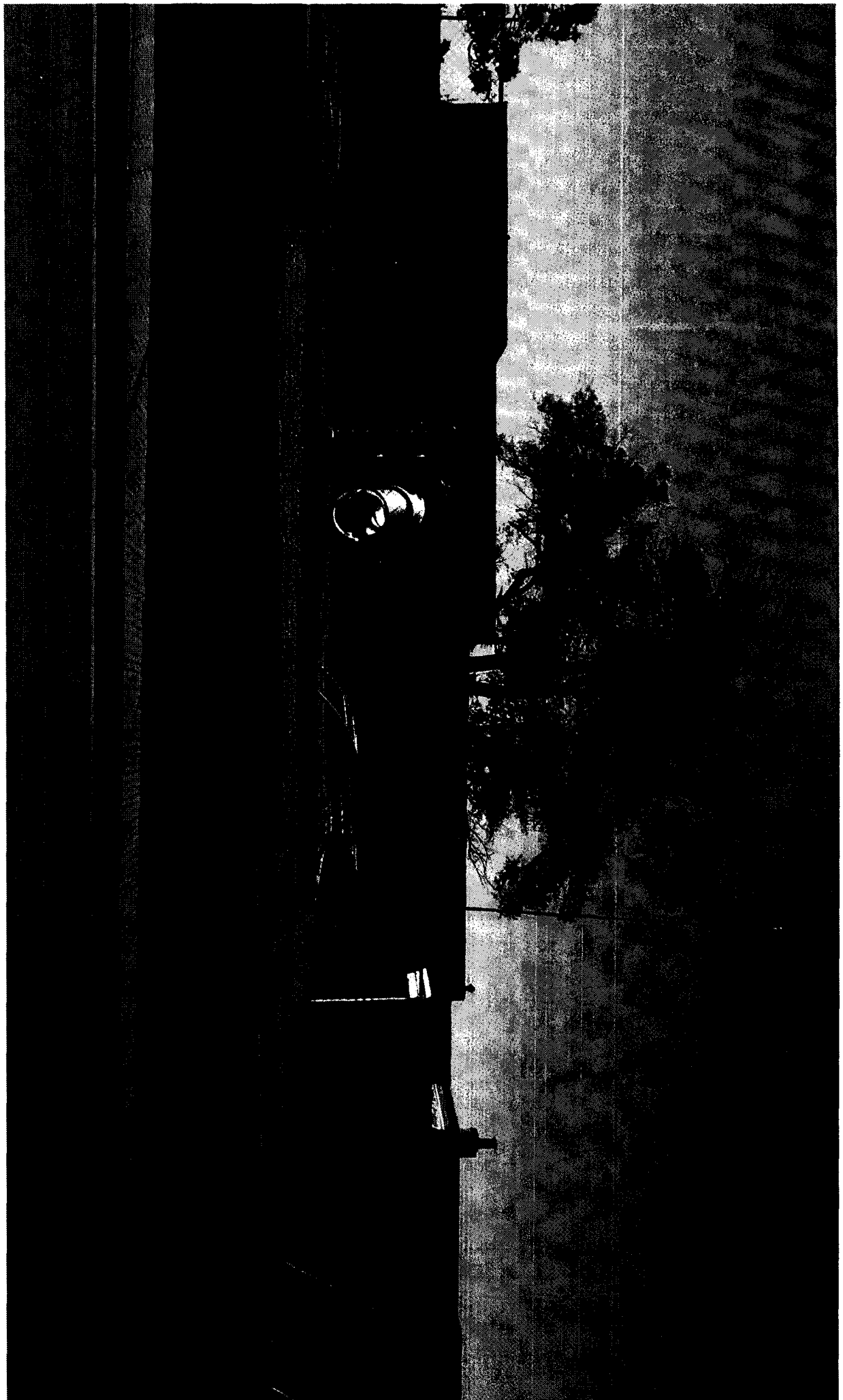


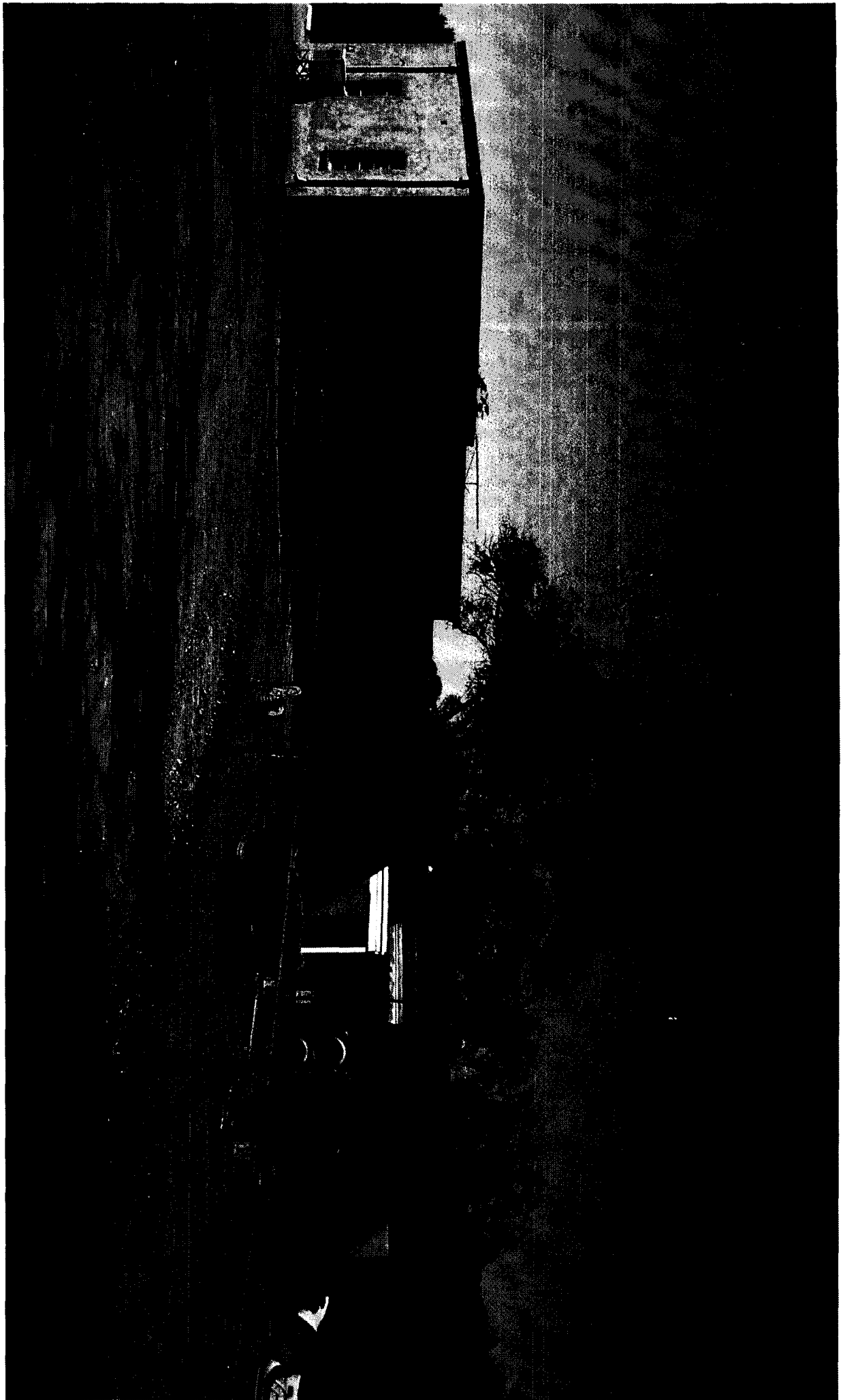
Exhibit "10"

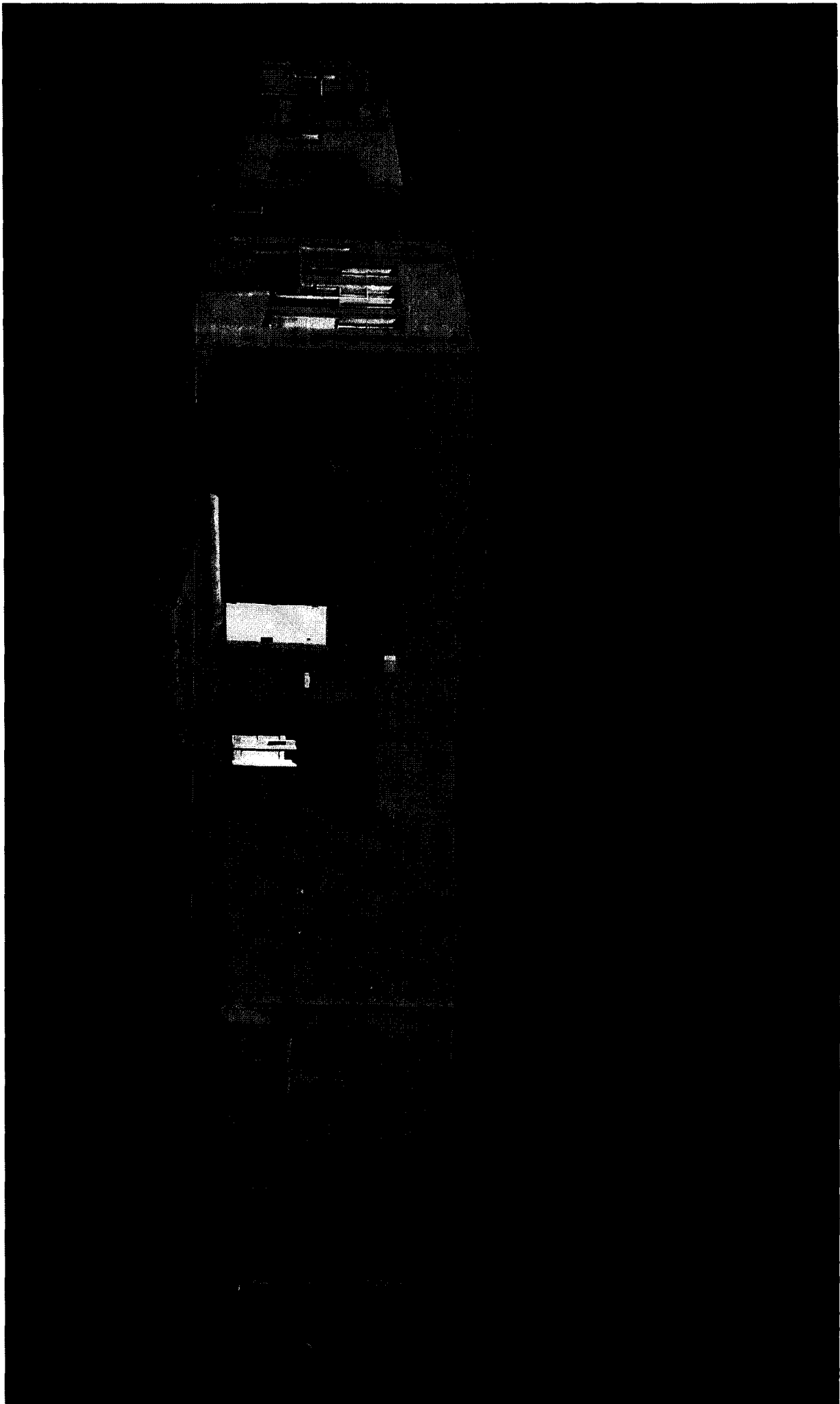
90 25 0 90 Feet

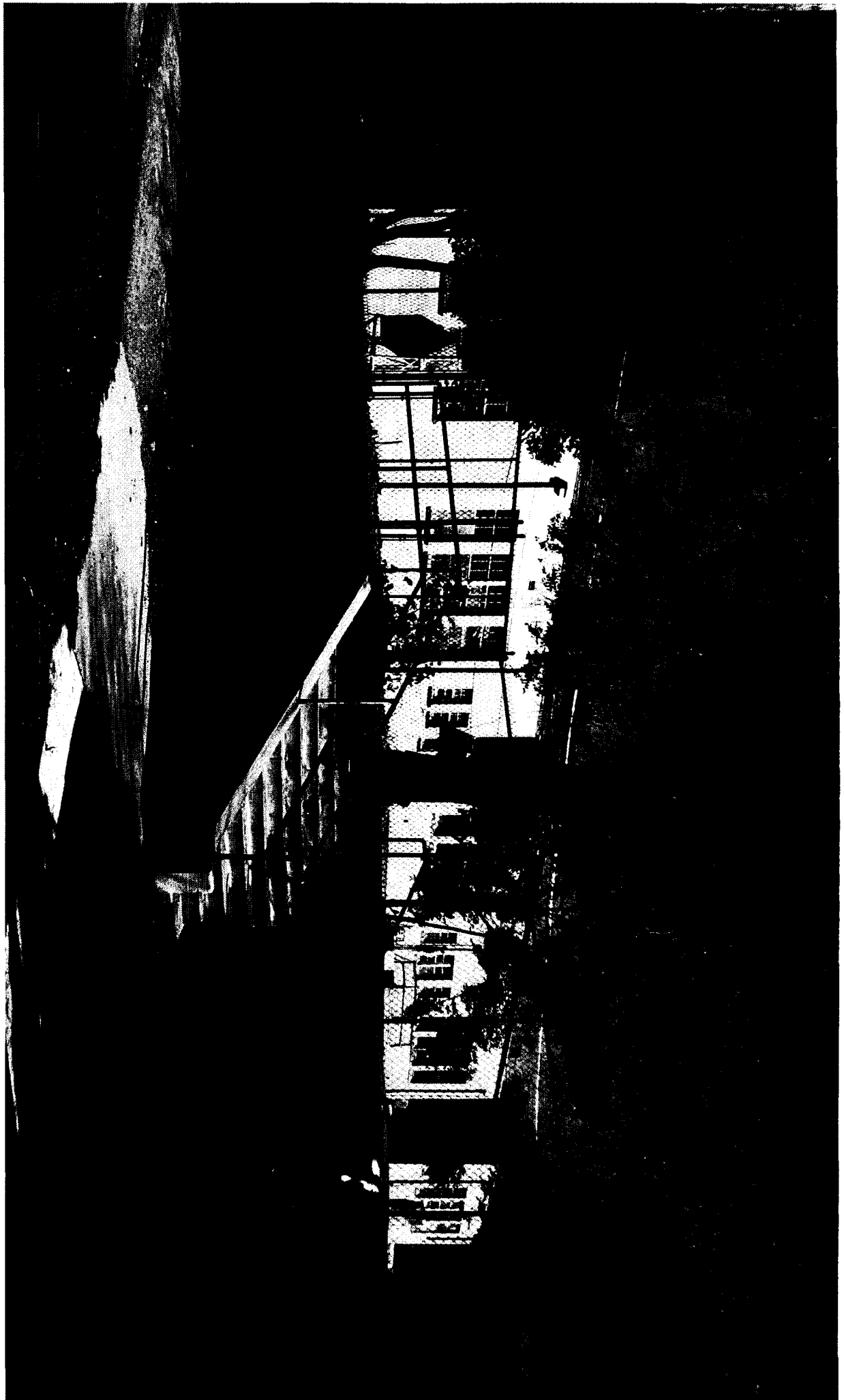
90 25 0 90 Feet











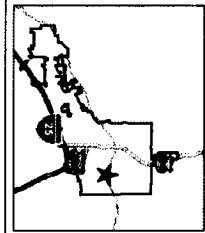




Manderfield School - Zoning Map



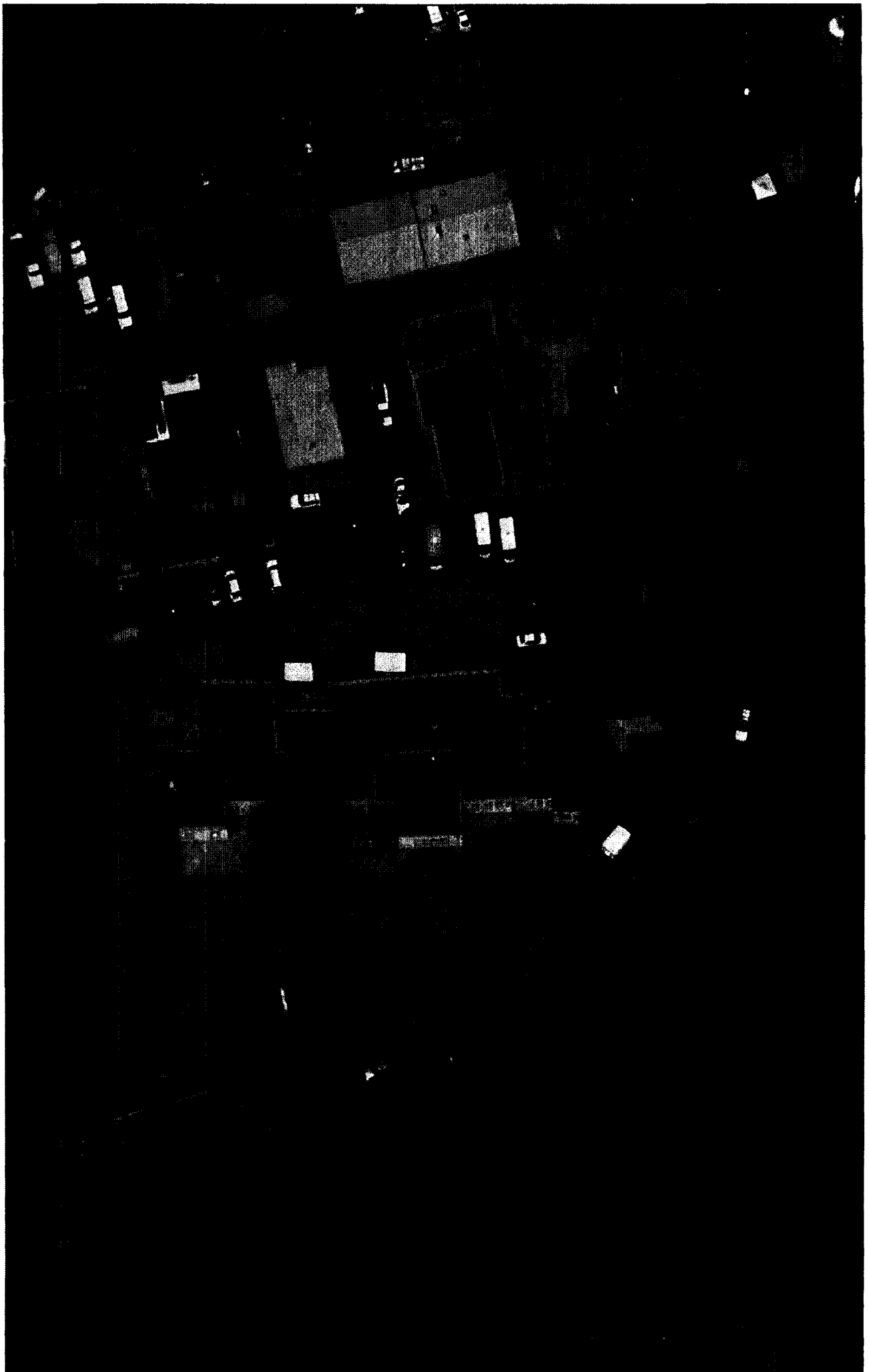
This map is a guide to zoning regulations and is not intended to be used for any other purpose. It is not intended to be used for any other purpose. It is not intended to be used for any other purpose. THIS MAP IS NOT TO BE USED FOR ENFORCEMENT.

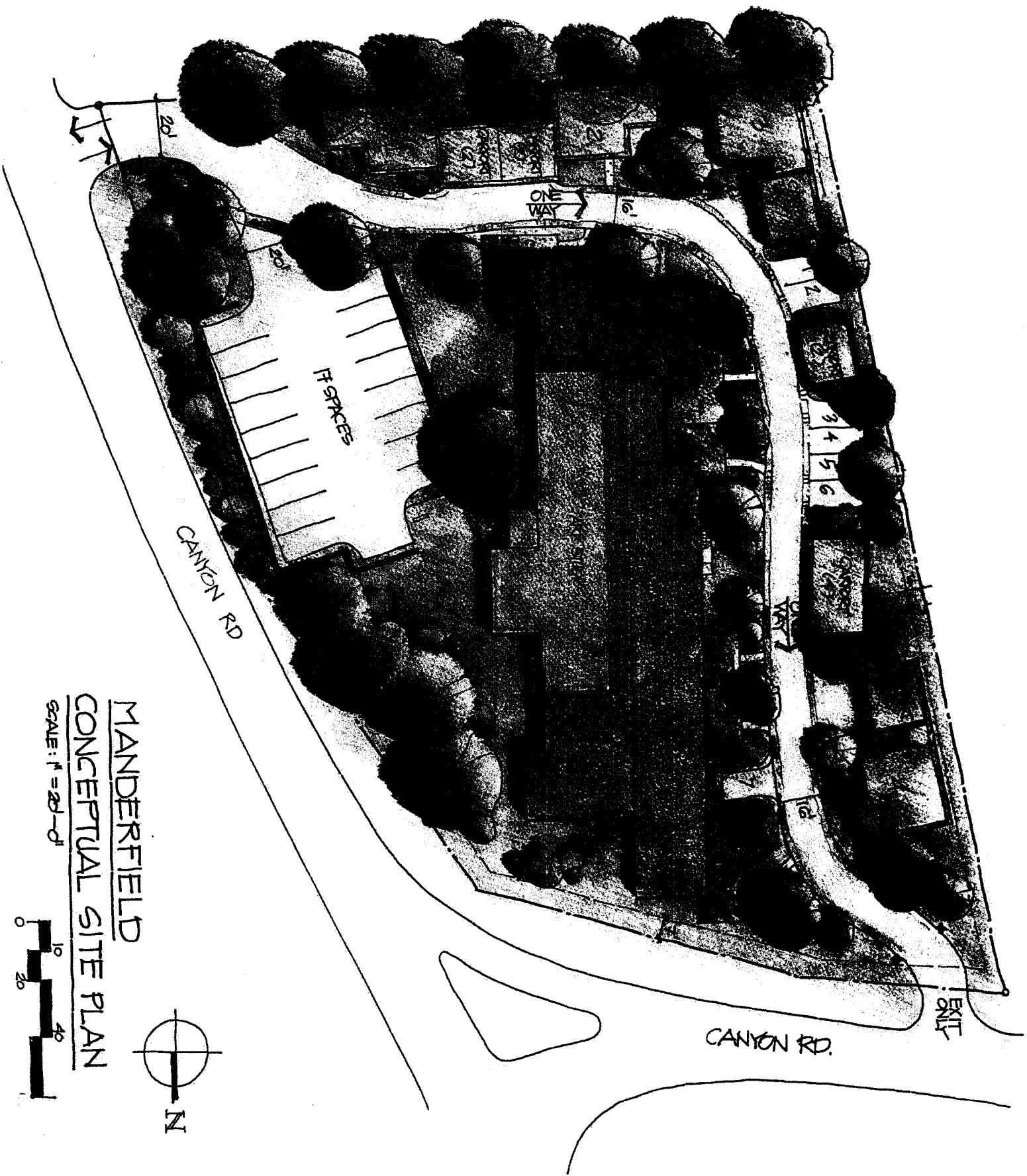


Legend

- City Limits
- Water Feature
- Boundary
- Rural Residential
- R-1 (Single-Family)
- R-2 (Single-Family)
- R-3 (Single-Family)
- R-4 (Single-Family)
- R-5 (Single-Family)
- R-6 (Single-Family)
- R-7 (Single-Family)
- R-8 (Single-Family)
- R-9 (Single-Family)
- R-10 (Single-Family)
- R-11 (Single-Family)
- R-12 (Single-Family)
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- R-20 (Single-Family)
- R-21 (Single-Family)
- R-22 (Single-Family)
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Scale: 1" = 100'

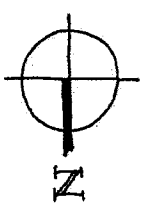




MANDERFIELD

CONCEPTUAL SITE PLAN

SCALE: 1" = 20'-0"



General Plan Compliance

The proposed redevelopment of the Manderfield School exemplifies the following General Plan Themes:

- 1.7.2 **Quality of Life:** *The preservation and restoration of Manderfield serves the community interest by enhancing the neighborhood and revitalizing the property.*
- 1.7.4 **Economic Diversity:** *The redevelopment plan promotes the arts, while maintaining the residential character of the neighborhood.*
- 1.7.5 **Sustainable Growth:** *The redevelopment of an existing building is a sustainable model that conserves valuable resources.*
- 1.7.8 **Character:** *Through adaptive reuse, an important historical building will be preserved as a key element of the neighborhood's character and Santa Fe's heritage.*
- 1.7.9 **Urban Form:** *Manderfield is a prime example of sensitive and compatible infill.*
- 1.7.11 **Community Oriented Development:** *The art studios create the opportunity for vibrant interaction with the neighborhood and the community at large.*
- 1.7.12 **Mixed Use:** *The mix of residences and art studios affirms Santa Fe's traditional development pattern, especially that of Canyon Road.*

Conditions of Approval

1. **There shall be a maximum of 3,000 square feet of commercial use on the parcel, all of which shall be within the Manderfield School building.**
2. **Commercial uses shall be limited to artist studios.**
3. **All areas marked as residential in the Conceptual Site Plan shall remain residential, except for permissible home occupations.**
4. **Any area set aside for use as a studio may be converted to residential and back again, but may not be used for commercial purposes other than working artist studio space.**
5. **Only art may be sold at the studios and the art must be produced by the bona fide tenant/owner occupant of the studio or produced at the studio premises.**
6. **All new structures shall be single-story with a maximum allowable height of 16'-8" in accordance with Historic District regulations.**
7. **The parking lot on the east side of the Manderfield School building shall be screened from Canyon Road with appropriate vegetation, including evergreens, and a four foot high wall. The landscaping plan is subject to review and approval by City Current Planning Division Staff and the wall is subject to approval by the City Historic Districts Review Board.**
8. **In order to soften the appearance of the existing retaining wall along Canyon Road, the area between the wall and the sidewalk will be landscaped, subject to execution of a Licensing Agreement with the City of Santa Fe.**
9. **There shall be a maximum of 18 dwelling units on the lot.**
10. **There shall be no more than five habitable buildings on the parcel.**
11. **The Rezone Ordinance shall incorporate these conditions and the Conceptual Site Plan and will be recorded with the County Clerk. The conditions may only be amended by future rezoning action of the City Council.**



September 20, 2013

Honorable Mayor Coss &
Santa Fe City Council Members
200 Lincoln Avenue
Santa Fe, NM 87501

RE: Manderfield School General Plan Amendement and Rezoning to RAC

Dear Mayor Coss and Councilors,

Santa Fe Public Schools supports the General Plan Amendment and Rezoning for the Manderfield School project. The redevelopment of this historic school is an important effort, both for the public schools and for the Santa Fe community. We ask for your support in approving the applications.

It is essential for the school district to complete the sale of the Manderfield School, which is contingent upon approval of these applications. The applicant is committed to the project and has worked diligently to address all neighborhood concerns. We believe that the moderate program proposed by the applicant is an appropriate adaptive reuse of the school, and will preserve and revitalize the rapidly deteriorating building.

We greatly appreciate your consideration and support.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel Boyd", is written over a large, stylized, circular scribble.

Joel Boyd, Ed.D.

Superintendent of Schools



City of Santa Fe
Attn: Santa Fe City Council Members
200 Lincoln Ave.
Santa Fe, NM 87501

Re: Renovation of Manderfield School

Dear City Council Members and City Staff:

I am writing this letter to support the proposal for the renovation of the Manderfield School. Why do I support this project?

1. The alternate is a deteriorating school that continues to decay.
2. The sale of the surplus public school's property will help the kids of our school system.
3. I think the proposed uses and the associated residential arts and crafts zoning is appropriate. This isn't commercial zoning and the RAC has extremely limited uses. The proposed RAC zoning doesn't allow bars, restaurants, business, professional and medical offices, grocery stores or laundry mats without a special exception.
4. This structure that exists has already housed a fairly intense use when it was a school with probably, at least, 100 kids with associated teachers, parents and cars.

These are the reasons I support this project. I think this proposal for ten residences and six artists' studios is a less intense use than previously existed. I am also happy to hear that the applicants have amended their plans to reflect neighbors' concerns and the Canyon Neighborhood Association voted to approve the revised plan.

I have been an architect in Santa Fe for over thirty years and have lived in New Mexico all my life. I think this proposed renovation and additions will contribute positively to the neighborhood.

Thank you,

A handwritten signature in black ink, appearing to read "Eric P. Enfield", is written over a horizontal line.

Eric P. Enfield, AIA
President, Architectural Alliance, Inc.

Cc: Claire Maraist
File



**CITY COUNCIL MEETING OF
SEPTEMBER 25, 2013
 BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
 BY MEMBERS OF THE GOVERNING BODY**

Mayor David Coss		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION ADVANCING THE RECOMMENDATION OF THE LEAD TASK FORCE TO ESTABLISH AN OPERATIONS TEAM TO MAP OUT THE PROCESS AND TO SERVE AS THE PROGRAM OVERSIGHT COMMITTEE FOR THE LEAD PILOT PROGRAM.	Finance – 9/30/13 Council – 10/9/13
Dominguez Rivera	AN ORDINANCE ANNEXING APPROXIMATELY 4,100 ACRES (PHASE 2) IN ACCORDANCE WITH THE “ANNEXATION PHASING AGREEMENT BETWEEN THE CITY OF SANTA FE AND SANTA FE COUNTY” EXECUTED IN FEBRUARY 2009 AND AMENDED IN JUNE 2013; PHASE 2 ANNEXATION INCLUDES AREAS 1, 2, 4, 5, 7, 12 AND THE NEW MEXICO HIGHWAY 599 RIGHT-OF-WAY BETWEEN INTERSTATE 25 AND THE CURRENT CITY CORPORATE BOUNDARY EAST OF THE CAMINO LA TIERRA INTERCHANGE.	Council (request to publish) – 10/9/13 Public Hearing – 11/13/13
	A RESOLUTION CALLING FOR A REGULAR MUNICIPAL ELECTION TO BE HELD MARCH 4, 2014 FOR THE PURPOSE OF ELECTING ONE MAYOR AT-LARGE AND ONE CITY COUNCILOR FROM EACH COUNCIL DISTRICT.	Council – 10/9/13
Councilor Patti Bushee		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION RELATING TO THE ENHANCEMENT OF CITY OF SANTA FE ENVIRONMENTAL SERVICES AND THE USE OF RECYCLED MATERIALS; DIRECTING STAFF TO ESTABLISH ORDINANCE PROVISIONS RELATED TO: COMMERCIAL BUSINESSES PROVIDING EQUAL SPACE FOR TRASH RECEPTACLES AND RECYCLING CONTAINERS; MANDATED GREEN WASTE COLLECTION DAYS AND THE MANDATED USE OF RECYCLED ASPHALT, WITHIN THE CITY LIMITS, THAT CONTAINS A MINIMUM OF 10% RECYCLED GLASS TO BE USED WITHIN THE CITY LIMITS OF SANTA FE.	Public Utilities – 10/2/12 Finance – 10/21/13 Council – 10/30/13

Amended "13"

Councilor Patti Bushee Cont'd		
	A RESOLUTION SUPPORTING INITIATION OF A NEEDS ASSESSMENT BY THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT TO IDENTIFY ALTERNATIVE SERVICE AND FINANCING OPTIONS TO BEGIN PROVISION OF SCHEDULED REGIONAL TRANSIT SERVICE TO THE SANTA FE SKI BASIN.	Public Works – 10/7/13 Finance – 10/21/13 Council – 10/30/13
Councilor Chris Calvert		
Co-Sponsors	Title	Tentative Committee Schedule
Bushee	AN ORDINANCE RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987.	Public Safety – 10/15/13 Public Works – 10/28/13 Finance – 11/4/13 Council (request to publish) – 11/13/13 Council (public hearing) – 12/11/13
Councilor Bill Dimas		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Carmichael Dominguez		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Peter Ives		
Councilor Chris Rivera		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Ron Trujillo		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Rebecca Wurzburger		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION RELATING TO THE DEVELOPMENT OF A VETERANS ART THERAPY PROGRAM IN SANTA FE; DIRECTING STAFF TO CONVENE A MEETING OF THE DEPARTMENT OF VETERANS SERVICES, VETERANS AFFAIRS, HEALTH AND HUMAN SERVICES AGENCIES, SERVICE PROVIDERS, ART THERAPY ORGANIZATIONS, NONPROFIT ORGANIZATIONS, FUNDERS AND RELEVANT AGENCIES AND ORGANIZATIONS TO DISCUSS THE ESTABLISHMENT OF A VETERANS ART THERAPY PROGRAM IN SANTA FE.	Finance – 10/21/13 Council – 10/30/13

Councilor Rebecca Wurzbarger Cont'd		
	<p>A RESOLUTION ENDORSING THE RESIDENT ASSISTANCE DEMONSTRATION (RAD) PROGRAM UNDER THE MANAGEMENT OF THE SANTA FE CIVIC HOUSING AUTHORITY FOR RENOVATION AND IMPROVEMENT OF HUD SUBSIDIZED HOUSING; AND APPROVING A LEASE ADDENDUM FOR EACH LEASE AUTHORIZED AND APPROVED BY ORDINANCE NO. 2013-25 BASED ON THE PRESUMPTION THAT EACH LEASE IS A "GROUND LEASE" AND ALL BUILDINGS, IMPROVEMENTS AND FIXTURES NOW OR HEREAFTER ERECTED WILL BE OWNED IN FEE SIMPLE BY THE SANTA FE CIVIC HOUSING AUTHORITY AND BE DEEMED REAL ESTATE UNDER LOCAL LAW.</p>	<p>Public Works – 10/7/13 Finance – 10/21/13 Council – 10/30/13</p>

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 Melissa Byers, (505)955-6518, mdbyers@santafenm.gov.

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2013-____

INTRODUCED BY:

Councilor Rebecca Wurzbarger

A RESOLUTION

RELATING TO THE DEVELOPMENT OF A VETERANS ART THERAPY PROGRAM IN SANTA FE; DIRECTING STAFF TO CONVENE A MEETING OF THE DEPARTMENT OF VETERANS SERVICES, VETERANS AFFAIRS, HEALTH AND HUMAN SERVICES AGENCIES, SERVICE PROVIDERS, ART THERAPY ORGANIZATIONS, NONPROFIT ORGANIZATIONS, FUNDERS AND RELEVANT AGENCIES AND ORGANIZATIONS TO DISCUSS THE ESTABLISHMENT OF A VETERANS ART THERAPY PROGRAM IN SANTA FE.

WHEREAS, according the New Mexico Department of Veterans Services, 11,064 veterans live in Santa Fe county; and

WHEREAS, according to the U.S. Department of Veterans Affairs, the prevalence of Post-Traumatic Stress Disorder (PTSD) among Operation Enduring Freedom veterans and Operation Iraqi Freedom veterans is 29% percent; and

WHEREAS, PTSD affects not only veterans but their families as well; and

WHEREAS, research shows that Vietnam veterans have more marital problems and family

1 violence and their children have more behavior problems than veterans without PTSD; and

2 **WHEREAS**, as a priority area of concern for fiscal year 2014, the New Mexico Department
3 of Veteran Services has identified the need to develop long-term plans and strategies for the research
4 and treatment of PTSD, in conjunction and collaboration with the Veterans Administration, health
5 and human services agencies, community groups and volunteer services; and

6 **WHEREAS**, the American Art Therapy Association, in a 2009 white paper entitled *Use of*
7 *Art Therapy in the Treatment of Veterans*, stated that, “For Veterans who are receiving psychiatric
8 care, art therapy can be an effective form of treatment, either as an adjunct to other therapies or as a
9 form of individual or group psychotherapy”; and

10 **WHEREAS**, numerous models of effective art therapy program for veterans and their
11 families exist around the country.

12 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
13 **CITY OF SANTA FE** that City staff is directed to bring together representatives of the New Mexico
14 Department of Veterans Services, Veterans Affairs, health and human services agencies, service
15 providers, art therapy organizations, nonprofit organizations, funders, and relevant agencies and
16 organizations to discuss the development of a veterans art therapy program in Santa Fe.

17 **BE IT FURTHER RESOLVED** that staff shall deliver a report of the group’s findings and
18 recommendations to the Governing Body within 90 days of passage of this resolution.

19 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2013.

20
21
22 ATTEST:

DAVID COSS, MAYOR

23
24 _____
25 YOLANDA Y. VIGIL, CITY CLERK

1 APPROVED AS TO FORM:

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GENO ZAMORA, CITY ATTORNEY

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25 *CAO/Melissa/Resolutions 2013/Veterans Art Therapy*

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NUMBER 2013-_____

INTRODUCED BY:

Councilor Rebecca Wurzbarger

A RESOLUTION

ENDORING THE RESIDENT ASSISTANCE DEMONSTRATION (RAD) PROGRAM UNDER THE MANAGEMENT OF THE SANTA FE CIVIC HOUSING AUTHORITY FOR RENOVATION AND IMPROVEMENT OF HUD SUBSIDIZED HOUSING; AND APPROVING A LEASE ADDENDUM FOR EACH LEASE AUTHORIZED AND APPROVED BY ORDINANCE NO. 2013-25 BASED ON THE PRESUMPTION THAT EACH LEASE IS A "GROUND LEASE" AND ALL BUILDINGS, IMPROVEMENTS AND FIXTURES NOW OR HEREAFTER ERECTED WILL BE OWNED IN FEE SIMPLE BY THE SANTA FE CIVIC HOUSING AUTHORITY AND BE DEEMED REAL ESTATE UNDER LOCAL LAW.

WHEREAS, on June 12, 2013, the governing body adopted Ordinance No. 2013-25 for the purpose of approving three separate leases between the City of Santa Fe and the Santa Fe Civic Housing Authority (SFCHA) for the lease of certain real property to be used for public housing family units located at 1222-1265 Cerro Gordo Road, 1227-1265 Gallegos Lane, 1237-1246 Senda del Valle, 1209-1219 Senda Lane, 911 A-F Agua Fria Street, 1752-1788 Hopewell Street and 1750-

Exhibit "15"

1 1765 Mann Street; and public housing senior units located at 664-670 Alta Vista Street and 1510-
2 1520 Luisa Street; and

3
4 **WHEREAS**, Paragraph 3.2 of each lease provides that the Tenant, SFCHA, may take actions
5 necessary to implement the state or federal requirements necessary to implement the RAD program;
6 and

7 **WHEREAS**, the attached Addendum is required by HUD to implement the RAD program;
8 and

9 **WHEREAS**, the SFCHA has successfully applied for approval of the RAD Program for the
10 City of Santa Fe housing sites and had completed a unit renovation and expansion plan, as well as a
11 financial methodology, and

12 **WHEREAS**, the City of Santa Fe through Resolution 2013-04 declared a City Endorsement
13 of the conversion of public housing units to long term Section 8 contracts under the RAD Program
14 which is part of the Obama Administration Comprehensive Strategy to preserve public and HUD-
15 Assisted Housing; and

16 **WHEREAS**, the Governing Body, through the adoption of Ordinance No. 2013-25 has
17 approved three ground leases between the Santa Fe Civic Housing Authority and the City of Santa Fe
18 for and in consideration of the mutual covenants contained therein; and

19 **WHEREAS**, the United States Department of Housing and Urban Development (HUD) will
20 require, for final approval of the RAD Application, an Addendum to the Ground Lease, (HUD -
21 92070M) which if and so long as the leasehold is subject to a security instrument insured, reinsured,
22 or held by HUD or given to HUD in connection with a resale, or the property is acquired and held by
23 HUD because of a default under the security instrument.

24 **NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**
25 **CITY OF SANTA FE** that the Governing Body hereby endorses endorses the RAD Program under

1 the management of the Santa Fe Civic Housing Authority for renovation and improvement of HUD
2 subsidized housing with such confirmation to include approval of a lease addendum based on the
3 presumption that each lease is a "ground lease" and all buildings, improvements and fixtures now or
4 hereafter erected will be owned in fee simple by the Santa Fe Civic Housing Authority and be deemed
5 real estate under local law.

6 **BE IT FURTHER RESOLVED** that the lease addendum for each ground lease, attached
7 hereto, may be signed by the Mayor of Santa Fe, or delegate, once completed for submission as
8 required by HUD.

9 PASSED, APPROVED, and ADOPTED this ____ day of _____ 2013.

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DAVID COSS, MAYOR

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13 ATTEST:

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YOLANDA Y. VIGIL, CITY CLERK

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17 APPROVED AS TO FORM:

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GENO ZAMORA, CITY ATTORNEY

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22 *M/Melissa/Resolutions 2013/SFCH Lease Addendum*

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2013-__

INTRODUCED BY:

Councilor Patti Bushee

A RESOLUTION

RELATING TO THE ENHANCEMENT OF CITY OF SANTA FE ENVIRONMENTAL SERVICES AND THE USE OF RECYCLED MATERIALS; DIRECTING STAFF TO ESTABLISH ORDINANCE PROVISIONS RELATED TO: COMMERCIAL BUSINESSES PROVIDING EQUAL SPACE FOR TRASH RECEPTACLES AND RECYCLING CONTAINERS; MANDATED GREEN WASTE COLLECTION DAYS AND THE MANDATED USE OF RECYCLED ASPHALT, WITHIN THE CITY LIMITS, THAT CONTAINS A MINIMUM OF 10% RECYCLED GLASS TO BE USED WITHIN THE CITY LIMITS OF SANTA FE.

WHEREAS, §2.03 of the Santa Fe Municipal Charter provides a policy statement regarding environmental protection for the city of Santa Fe; and

WHEREAS, such policy mandates the governing body to encourage re-use and recycling of materials and enact ordinances to effectively administer the environmental protection policy; and

WHEREAS, §21-6 SFCC 1987 has provisions related to the "collection of recyclable materials from residential and nonresidential sources;" and

Exhibit "16"

1 **WHEREAS**, in order to enhance the city's recycling laws, there is a need to establish
2 ordinance provisions in the law that would require that:

- 3 1. Commercial entities provide an equal amount of space for trash receptacles and recycling
4 containers;
- 5 2. The environmental services division schedule and advertise at least two green waste only
6 collection days each year; and
- 7 3. All asphalt that is used in the city limits contain a minimum of 10% recycled glass with
8 the source of glass used is restricted to recycled glass collected within the city limits.

9 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
10 **CITY OF SANTA FE** that:

- 11 1. Staff from the Land Use Department and Environmental Services Division shall
12 collaborate together to create an ordinance provision that would require commercial
13 businesses to provide equal space for trash receptacles and recycling containers.
- 14 2. Staff from the Environmental Services Division shall establish a proposed ordinance
15 provision that would:
 - 16 (a) Require the scheduling and advertising of a minimum of two green waste only
17 collection days each year; and
 - 18 (b) Require that all asphalt that is used in the city limits contain a minimum of 10%
19 recycled glass with the source of glass used being restricted to recycled glass
20 collected within City limits.

21 PASSED, APPROVED and ADOPTED this ___ day of _____, 2013.

22
23 _____
24 DAVID COSS, MAYOR
25

1 ATTEST:

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3 YOLANDA Y. VIGIL, CITY CLERK

4 APPROVED AS TO FORM:

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7 GENO ZAMORA, CITY ATTORNEY

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25 *M/Melissa/Resolutions 2013/Recycling*

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2013 -

INTRODUCED BY:

Councilor Patti Bushee

A RESOLUTION

SUPPORTING INITIATION OF A NEEDS ASSESSMENT BY THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT TO IDENTIFY ALTERNATIVE SERVICE AND FINANCING OPTIONS TO BEGIN PROVISION OF SCHEDULED REGIONAL TRANSIT SERVICE TO THE SANTA FE SKI BASIN.

WHEREAS, regional transit districts function to provide public transit services that connect towns, pueblos, and cities throughout the region and coordinate service needs among different levels of government and jurisdictions; and

WHEREAS, the North Central Regional Transit District (hereinafter referred to as "NCRTD") was created by agreement between the City of Espanola, Los Alamos County, Pojoaque Pueblo, Rio Arriba County, San Ildefonso Pueblo, San Juan Pueblo, Santa Clara Pueblo, the City of Santa Fe, Santa Fe County and Tesuque Pueblo; and

WHEREAS, the NCRTD provides regional transit service that provides access to jobs and retail establishments, medical centers, recreation and cultural sites, and other destinations throughout the four-county service area, all of which fosters economic activity and opportunity in the region; and

Exhibit "17"

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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2013-____

INTRODUCED BY:

Councilor Chris Calvert

Councilor Patti Bushee

AN ORDINANCE

RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Subsection 23-8.1 SFCC 1987 (being Ord. #2009-50, §2) is amended to read:

23-8.1 Legislative Findings.

The governing body of the city of Santa Fe finds that:

~~A. Street performers enhance the character of the city of Santa Fe; and~~

~~B. Street performers are professional entertainers whose livelihood comes from gratuities received; and~~

C]A. Street performers have a right to perform on public property but the judicial branch has upheld St. Augustine, Florida's ordinance prohibiting street performances within a four-block area of the city's historic district in Horton v. City of St. Augustine, 272 F.3d 1318 (11th Cir.2001); and

Exhibit "18"

1 ~~[D. Street performers gather crowds who are entertained by their widely varied and~~
2 ~~creative performances; and~~

3 E]B. At some locations that street performers choose to entertain there is not enough room
4 for a crowd, therefore, public safety matters occur because sidewalks, passageways, streets or
5 entrances to buildings are blocked; and

6 [F]C. Conflicts among street performers, between street performers and local businesses
7 and sponsors of permitted events often arise because of the proximity of the street performers to other
8 street performers, local businesses, or permitted events; and

9 [G]D. Conflicts occur because the sound level of a street performance may interfere with
10 other street performances, business dealings or other permitted events; and

11 [H]E. In order to ~~[facilitate and encourage]~~ allow street performers, there is a need to
12 establish regulation and licensing standards for street performers related to the times and public
13 locations for street performances, distance requirements, public safety and compliance with current
14 ordinances.

15 F. The existence of the street performers in the prohibited area would adversely affect
16 the city's interests in the aesthetics incident to the oldest capital in the United States and would
17 adversely affect the interest of residents and the regulated, code compliant businesses and museums to
18 the enjoyment of peace and quiet in their homes, businesses and museums.

19 G. The existence of street performers in the prohibited area would pose a safety risk to
20 the public and passersby by congestion and clutter to this area of Santa Fe.

21 **Section 2. Subsection 23-8.2 SFCC 1987 (being Ord. #2009-50, §3) is amended to**
22 **read:**

23 **23-8.2 Purpose.**

24 The purpose of this section is to regulate street performances ~~[ensure the ability of street~~
25 ~~performers to perform]~~ in public spaces and to promote harmony among street performers, local

1 businesses, permitted event sponsors, residents and visitors to Santa Fe by:

2 A. Addressing public safety concerns; and

3 B. Balancing ~~[the interests of the]~~ street ~~[performers]~~ performances with interests
4 ~~[these]~~ of the local businesses, permitted event sponsors, residents and visitors to Santa Fe; and

5 C. Establishing regulation and licensing standards for street performers.

6 **Section 3. Subsection 23-8.3 SFCC 1987 (being Ord. #2009-50, §4) is amended to**
7 **read:**

8 **23-8.3 Definitions.**

9 As used in this section:

10 Designated areas means the five (5) designated protected speech locations in the Plaza
11 periphery area.

12 Perform or performance means entertainment such as, but not limited to reciting or singing,
13 acting, dancing, miming, pantomiming, playing a musical instrument or performing a theatrical or
14 literary work.

15 Plaza means the area defined in subsection 23-5.1(R) and inclusive of the surrounding
16 sidewalks in this area on Old Santa Fe Trail, San Francisco Street and Lincoln Avenue.

17 Plaza periphery area means the area outside the Plaza Park, not including the Plaza Park,
18 bounded by Sandoval and Grant Streets on the west, Alameda Street on the south, Paseo de Peralta on
19 the east and Marcy Street on the north. This area includes both sides of the boundary streets.

20 Prohibited area means the Plaza and the following other streets, including city sidewalks on
21 both sides:

22 A. San Francisco Street from Burro Alley to Cathedral Place;

23 B. Don Gaspar Avenue from San Francisco Street to Water Street;

24 C. Old Santa Fe Trail from San Francisco Street to Water Street;

25 D. Palace Avenue from Grant Avenue to Washington Avenue;

- 1 E. Burro Alley from San Francisco Street to Sandoval Street;
2 F. Galisteo Street from San Francisco Street to Water Street; and
3 G. Water Street from Galisteo Street to Old Santa Fe Trail (including the north portion
4 of Cerletti Park up to fifty feet from Water Street).

5 *Street performer* means an individual who performs, as defined herein, on public property
6 within the city of Santa Fe and accepts gratuities from others.

7 **Section 4. Subsection 23-8.4 SFCC 1987 (being Ord. #2009-50, §5) is amended to**
8 **read:**

9 **23-8.4 Business License Required.**

10 A. Street performers shall be required to obtain a city business license in accordance
11 with Section 18-1 SFCC 1987, which may be applied for each calendar year.

12 B. Only one (1) member of a street performer group is required to obtain a business
13 license, unless a member or members of the group also perform individually, then that member or
14 those members shall be required to obtain an individual business license.

15 ~~[C. — A street performer who performs for no more than one thirty (30) day period per year~~
16 ~~may obtain a short term business license.]~~

17 ~~[D]C.~~ Street performers shall pay license fees in accordance with subsection 18-8.10 SFCC
18 1987

19 ~~[E]D.~~ At all times street performers shall have available the performer's business license,
20 ~~[and] proof of identification and New Mexico Taxation and Revenue CRS identification number~~ for
21 review by the city.

22 **Section 5. Subsection 23-8.5 SFCC 1987 (being Ord. #2009-50, §6, as amended) is**
23 **amended to read:**

24 **23-8.5 Regulations.**

25 Street performers may perform on public property within the city of Santa Fe ~~[but],~~ except for

1 the prohibited area. Street performers who perform on public property within the Plaza periphery area
2 must perform at the designated areas. Street performers shall comply with the following regulations.

3 A. Street performers shall not block, in whole or part, or cause the blocking, in whole or
4 part, of any sidewalk, passageway, street, alley, or entrance to a building. If a performer attracts a
5 crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is
6 creating the obstruction. A police officer shall not ask the performer to leave the location unless other
7 reasonable means of restoring the public safety have been exhausted.

8 B. Street performers may accept contributions of money or property at their
9 performance, in exchange for representations of their own work, except that street performers shall not
10 exchange any type of food product or vegetation, on public property. Street performers shall not sell
11 goods or wares on public property at a fixed price except for audio or video recordings.

12 C. Street performers shall not perform on private property unless permission is granted
13 from the property owner.

14 D. Street performers shall not infringe on events for which a city permit has been issued so
15 as not to detract from the stated purpose of the permit including, but not limited to, Indian Market, Spanish
16 Market, Fiesta Arts and Crafts, Fiesta and midday or evening performances at the bandstand on the
17 Plaza. Any performance at such events shall only be with the written permission of the sponsor and
18 provided the performer has received a special event vendor license [provided that a copy has been
19 filed prior to the event with the police department.

20 E. Use of fire, spray paint or aerosol in performances is prohibited.

21 F. Street performers shall stay at least [~~one hundred fifty feet (150')~~] two hundred feet
22 (200') away from other street performers.

23 G. The sound level from street performances shall be kept at such a level that other street
24 performances are not disturbed. The sound level shall not be plainly audible one hundred (100') feet away
25 from the performance site. A performer or group of performers may use sound battery powered portable

1 amplification as long as this sound level is not exceeded. A performer or group of performers may not use
2 public power sources or portable generators.

3 H. Street performers shall remain at one location no longer than two (2) hours and shall not
4 return to that location for two (2) hours, availability of the location permitting.

5 I. Street performers shall perform no earlier than 8:00 a.m. and no later than 9:00 p.m.
6 ~~[11:00 p.m. Sunday through Thursday and 1:00 a.m. on Friday and Saturday nights except at~~
7 ~~city parks and recreation areas, where the curfew is 10:00 p.m., Sunday through Saturday, in~~
8 ~~accordance with subsection 16-13.6 SFCC 1987.]~~

9 J. The designated areas in the Plaza periphery area shall be at:

10 (1) the east side of Don Gaspar Avenue at Cerletti Park approximately fifty (50) feet
11 south from the intersection of Water Street and Don Gaspar Avenue;

12 (2) the east side of Washington Avenue in front of the old library approximately
13 fifty (50) feet north from the intersection of Washington Avenue and Palace Avenue;

14 (3) the west side of Lincoln Avenue approximately fifty (50) feet north from the
15 intersection of West Palace Avenue and Lincoln Avenue;

16 (4) the south side of Water Street approximately twenty-five (25) feet west from the
17 intersection of Water Street and Galisteo Street; and

18 (5) the south side of Marcy Street approximately fifty (50) feet east from the
19 intersection of Marcy Street and Washington Avenue.

20 **Section 6. Subsection 23-8.6 SFCC 1987 (being Ord. #2009-50, §7) is amended to**
21 **read:**

22 **23-8.6 Other Compliance.**

23 The conduct and behavior of all street performers, unless more specifically provided for
24 herein, shall be in compliance with the Santa Fe City Code 1987, which includes more specifically:

25 A. Subsection 10-2.4 — Noises Prohibited;

- 1 B. Subsection 10-2.5 — Zone District Noise Levels; Maximum; Correction;
- 2 C. Subsection 23-4.2 — Solicitation on Public Property; and
- 3 D. Subsection 23-4.8 — Blocking or Obstructing of Sidewalks.

4 **Section 7. Subsection 23-8.7 SFCC 1987 (being Ord. #2009-50, §8, as amended) is**
5 **amended to read:**

6 **23-8.7 Criminal Enforcement; Penalty; Administrative Enforcement.**

7 A. *Criminal Enforcement:* [~~The police department shall enforce the provisions of~~
8 ~~Section 23-8 SFCC 1987.~~

9 (1) ~~Upon the first violation of the provisions of this section, the police may issue~~
10 ~~a written warning to the person violating this section.~~

11 (2) ~~Upon a second and subsequent violation by the same person, the police shall~~
12 ~~issue a citation.~~

13 (3) ~~Any street performer who violates any provision of Section 23-8 SFCC 1987~~
14 ~~or any other city ordinance shall, upon conviction, be punished in accordance with the~~
15 ~~provisions of Article 1-3 SFCC 1987.]~~

16 (1) The police department may evaluate whether the street performer:

17 (a) has a valid license;

18 (b) is performing in an authorized location;

19 (c) is abiding by the audible standards; or

20 (d) is abiding by any provision of this section or any provision of the

21 SFCC 1987.

22 (2) If the police department concludes that a verbal warning is not enough to
23 correct the conduct, the police department may issue a criminal citation that shall, upon
24 conviction, be punished in accordance with the provisions of Article 1-3 SFCC 1987.

25 B. *Administrative Licensure Enforcement.*

1 ~~[(1) If a street performer is in violation of any provision of this section or any~~
2 ~~provision of the SFCC 1987; or is operating in a manner contrary to the public welfare, then~~
3 ~~the city finance director may, in his discretion and upon reasonable evidence:~~

4 ~~(a) Send the street performer a notice of violation specifically stating:~~

5 ~~(i) The nature of the violation;~~

6 ~~(ii) Whether there are past due license fees; and~~

7 ~~(iii) If there are past due license fees, order that the past due~~
8 ~~license fees, plus a penalty that is double the amount due, be paid~~
9 ~~immediately, upon receipt of the notice;~~

10 ~~(iv) If the fee and penalty are not paid, the provisions of this~~
11 ~~section or other provisions of the SFCC 1987 are not complied with and the~~
12 ~~operation contrary to the public welfare is not discontinued within fifteen~~
13 ~~(15) days after receipt of the notice, the street performer shall surrender his~~
14 ~~business license to the finance director and the license shall be placed in~~
15 ~~suspension until a hearing is held before the finance committee for~~
16 ~~consideration of revocation of the business license; or~~

17 ~~(b) If the street performer's action creates an immediate and imminent~~
18 ~~danger, immediately place the business license in suspension until a hearing is held~~
19 ~~before the finance committee for consideration of revocation of the business license.~~

20 ~~(c) Any notice of violation shall specify the date, time and place of the~~
21 ~~hearing by the finance committee in the event the violations are not corrected. The~~
22 ~~street performer shall appear before the finance committee to show cause why the~~
23 ~~business license should not be revoked.~~

24 ~~(2) If, at the hearing before the finance committee, the street performer fails to~~
25 ~~show cause why the business license fee should not be revoked, the finance committee shall~~

1 issue a cease and desist order revoking the business license. Such cease and desist order shall
2 prevent the street performer from performing on public property, for a period of one (1) year
3 from the date of the hearing.

4 ~~(3) — The hearing before the finance committee shall not be less than thirty (30)~~
5 ~~days after the notice provided in paragraph B(1), above, is mailed, via certified mail, to the~~
6 ~~address listed on the street performer business license application.~~

7 ~~(4) — An appearance may be made by counsel and the street performer charged~~
8 ~~with violating this section may present evidence and call witnesses to show cause why his~~
9 ~~license should not be revoked.~~

10 ~~(5) — Any street performer aggrieved by the decision of the finance committee may~~
11 ~~submit to the governing body a written petition for appeal. Such petition for appeal shall:~~

12 ~~—— (a) — Be submitted to the city clerk's office within thirty (30) days of the~~
13 ~~date the action appealed was taken by the finance committee.~~

14 ~~(b) — Set forth that such proceedings or assessments were in error in whole~~
15 ~~or in part, specifying the grounds of the appeal.~~

16 ~~(c) — Be on the agenda of the next regularly scheduled meeting of the~~
17 ~~governing body, during the evening session. Verbal or written notice shall be given to~~
18 ~~the appellant at least five (5) calendar days prior to the meeting of the governing~~
19 ~~body.]~~

20 (1) The police department may evaluate whether the street performer:

21 (a) has a valid license;

22 (b) is performing in an authorized location;

23 (c) is abiding by the audible standards; or

24 (d) is abiding by any provision of this section or any provision of the

25 SFCC 1987.

1 (2) If the police department concludes that a verbal warning is not enough to
2 correct the conduct, the police department may file a written complaint with the finance
3 director, separately or concurrently with actions taken under Section 23-8.7(A). The police
4 department may also temporarily seize a street performer's license if the performer is causing
5 any immediate and imminent danger to the public. The license, if seized, shall be attached to
6 the written complaint.

7 C. *Performing Without a License.*

8 (1) If the police department has temporarily seized a license under Section 23-
9 8.7(B)(2), and the street performer continues to perform and the police department concludes
10 that a verbal warning to stop is not enough to correct the conduct, the performer shall be
11 deemed guilty of a petty misdemeanor and subject to arrest.

12 (2) If a street performer never obtained a license under Section 23-8.4, and the
13 street performer continues to perform and the police department concludes that a verbal
14 warning to stop is not enough to correct the conduct, the performer shall be deemed guilty of
15 a petty misdemeanor and subject to arrest.

16 D. *Administrative Licensure Due Process*

17 (1) The finance director, upon receipt of a written complaint, shall send the street
18 performer a notice of violation and a copy of the written complaint via certified mail to the
19 address listed on the street performer's business license application as well as a courtesy copy
20 to the police department. The notice of violation shall state:

21 (a) the nature of the violation;

22 (b) whether there are past due license fees;

23 (c) if there are past due license fees, order that the past due license fees,
24 plus a penalty that is double the amount due, be paid immediately, upon receipt of the
25 notice;

1 (d) date, time and place of an order to show cause hearing before the
2 finance director, or designee and the hearing must be held within fifteen (15)
3 business days of receipt of the complaint;

4 (e) that an appearance may be made by counsel and the street performer
5 charged with violating this section may present evidence and call witnesses to show
6 cause why his license should not be revoked; and

7 (f) that the police department may, but is not required to send, an officer
8 to testify at the hearing and the Finance Director may give the written complaint its
9 due weight based on the factual circumstances of the matter.

10 (2) If, at the hearing the street performer fails to appear (absent written submittal
11 of a request for a five (5) business day continuance) or show cause why the business license
12 should not be revoked, the finance director shall issue a cease and desist order revoking the
13 business license and shall timely send a copy to the street performer via certified mail as well
14 as a courtesy copy to the police department. Such cease and desist order shall also prevent the
15 street performer from applying for a new license for a period of one (1) year from the date of
16 the hearing.

17 (3) Any street performer aggrieved by the decision of the finance director may
18 submit to the governing body a written petition for appeal. Such petition for appeal shall:

19 (a) Be submitted to the city clerk's office within thirty (30) days of the
20 date the action appealed was taken by the finance committee.

21 (b) Set forth that such proceedings or assessments were in error in whole
22 or in part, specifying the grounds of the appeal.

23 (c) Be on the agenda of the next regularly scheduled meeting of the
24 governing body, during the evening session. Verbal or written notice shall be given to
25 the street performer at least five (5) calendar days prior to the meeting of the governing

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body.

APPROVED AS TO FORM:

GENO ZAMORA, CITY ATTORNEY

m/melissa/bills 2013/Busker Rewrite 9_9_13

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2013-____

3 INTRODUCED BY:

4 Mayor David Coss

5 Councilor Patti Bushee

6 Councilor Bill Dimas

7 Councilor Chris Calvert

8
9
10 A RESOLUTION

11 ADVANCING THE RECOMMENDATION OF THE LEAD TASK FORCE TO ESTABLISH
12 AN OPERATIONS TEAM TO MAP OUT THE PROCESS AND TO SERVE AS THE
13 PROGRAM OVERSIGHT COMMITTEE FOR THE LEAD PILOT PROGRAM.

14
15 WHEREAS, Resolution #2013-76 was adopted by the City Council on July 31, 2013 for the
16 purpose of accepting the recommendations of the LEAD Santa Fe Task Force; and

17 WHEREAS, the recommendations require a clear course regarding process mapping,
18 treatment identification, funding identification and evaluation processes; and

19 WHEREAS, Resolution #2013-76 approved the planning and implementation of an
20 innovative 3 year pre-booking diversion pilot program to divert individuals suffering from an
21 addiction to opiates into treatment and social supports; and

22 WHEREAS, to facilitate the LEAD Santa Fe Task Force recommendations, there is a need to
23 establish a LEAD Operations Team to map out the process and to serve as the program oversight
24 committee for the LEAD pilot program.

25 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE

1 CITY OF SANTA FE THAT in the interest of the health, safety and welfare of the residents of
2 Santa Fe the Governing Body hereby establishes a LEAD Operations Team to map out the process
3 and to serve as the program oversight committee for the LEAD pilot program.

4 **BE IT FURTHER RESOLEVED** that representatives from the District Attorney's Office,
5 the Santa Fe Police Department, the Public Defender's office, case managers and other experts, as
6 well as our partners at the Drug Policy Alliance and the Santa Fe Community Foundation will be part
7 of the LEAD Operations Team.

8 PASSED, APPROVED, and ADOPTED this ____ day of _____, 2013.

9

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11

DAVID COSS, MAYOR

12

ATTEST:

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14

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YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:

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GENO ZAMORA, CITY ATTORNEY

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m/melissa/resolutions 2013/LEAD Operations Team

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2013-38

3 INTRODUCED BY:

4 Mayor David Coss

5 Councilor Carmichael Dominguez

6 Councilor Chris Rivera

7 Councilor Peter Ives

8 AN ORDINANCE

9
10 ANNEXING APPROXIMATELY 4,100 ACRES (PHASE 2) IN ACCORDANCE WITH
11 THE "ANNEXATION PHASING AGREEMENT BETWEEN THE CITY OF SANTA FE
12 AND SANTA FE COUNTY" EXECUTED IN FEBRUARY 2009 AND AMENDED IN
13 JUNE 2013; PHASE 2 ANNEXATION INCLUDES AREAS 1, 2, 4, 5, 7, 12 AND THE
14 NEW MEXICO HIGHWAY 599 RIGHT-OF-WAY BETWEEN INTERSTATE 25 AND
15 THE CURRENT CITY CORPORATE BOUNDARY EAST OF THE CAMINO LA
16 TIERRA INTERCHANGE.
17

18
19 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

20 Section 1. Pursuant to Section 3-7-17.1 NMSA 1978 (2003), the areas of land
21 described as Phase 2 of the city-initiated annexation and shown on the accompanying annexation
22 phasing map, Exhibit A, attached hereto (the "property") are annexed to the city of Santa Fe,
23 thereby extending the corporate limits of the city. Exhibit A shows the contiguous relationship
24 of the annexed lands to the city's corporate limits.

25 Section 2. A petition (the "petition") prepared and submitted by the city, has been

1 presented to the duly established Extraterritorial Land Use Commission for recommendation and
2 the Extraterritorial Land Use Authority for approval. The Extraterritorial Land Use Authority did
3 review and grant approval of the Phase 2 Annexation petition on September 26, 2013.

4 **Section 3.** It is in the best interest of the city and county that the areas specified in
5 the Phase 2 annexation be annexed into the city of Santa Fe. The city is ready, willing and able to
6 serve the areas included in the Phase 2 annexation, in accordance with the various city-county
7 service agreements, *see* Exhibits I–M, attached hereto.

8 **Section 4.** This ordinance shall be published one time by title and general summary
9 and shall become effective January 1, 2014.

10 APPROVED AS TO FORM:

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12 _____
13 GENO ZAMORA, CITY ATTORNEY
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