CITY OF SANTA FE
CITY ATTORNEY

MEMORANDUM

To: **Members of the Governing Body**

From: **Natalie Cauley, Assistant City Attorney**

Via: **Marcos Martínez, City Attorney**

Re: **Appeal #2026-012950-APPL of Case #2025-11753.** Forrest Thomas of Thomas Trust Holdings LLC Appeals the Planning Commission's June 4, 2026 Decision Approving a Development Plan by Amatren LLC at 1802 Cerrillos Road, 1750 Cerrillos Road, 1361 Fourth Street, and 3rd Berry Avenue

Date: **November 13, 2026 for the November 18, 2026 Special Governing Body meeting**

The Planning Commission approved an application for a Development Plan on 2.72 acres at 1802 Cerrillos Road, 1750 Cerrillos Road, 1361 Fourth Street, and 3rd Berry Avenue (the "Property") for an indoor self-storage facility containing climate-controlled storage and community offices, creative office suites, and a community dog park.

Forrest Thomas, with Thomas Trust Holdings, LLC (the "Appellant") filed an appeal of the approval (the "Appeal"). **[Exhibit 1 (Verified Appeal Petition)]** The Appeal is scheduled to be heard by the Governing Body at a special meeting on November 18, 2026. As contemplated in City Resolution 2011-24, the City Attorney's office prepared this memorandum outlining the issues raised in the appeal, the relief sought, and a short analysis of the parties' claims. **Based on this analysis, the City Attorney's office recommends the Governing Body deny the appeal.**

I. Background

The present appeal concerns an application for a Development Plan submitted by Amatren LLC (the "Applicant") for the subject Property (Land Use Case #2025-11753). The Property is zoned C-2 (general commercial) and located within the Cerrillos Road Highway Corridor (CRHC) Protection District Zone One and the Suburban Archaeological Review District. **[Exhibit 4 (Planning Commission Packet Case #2025-11753) at 1]**

The subject property includes four parcels totaling approximately 2.72 acres: 1802 Cerrillos Rd (1.74 acres), 1750 Cerrillos Rd (0.18 acres), 1361 Fourth St (0.56 acres), and 3rd Berry Ave (0.24 acres). The parcels straddle Fourth St and are located southwest of the Santa Fe Indian School. The Property is the former Empire Builders site. **[Ex. 4 at 2]**

The Applicant requested approval of a Development Plan to demolish the existing structures and redevelop the property as a mixed-use self-storage facility across four buildings totaling approximately 102,000 square feet of gross floor area. The development will include 480 indoor climate-controlled storage units of varying sizes across three floors, associated community office/community room space on Site 1, and 14 "creative office suites" on Site 2, together with parking and a community dog park. "Creative office suites" refers to flexible, individually leasable workspace/workshop-style units intended for low-intensity creative, maker, small-business, studio, or similar uses with associated storage functions. **[Ex. 4 at 2-3]**

The Applicant simultaneously sought Conditional Use Approval, as such approval is required for self-storage facilities in a C-2 zone (Land Use Case #2025-11756). *See* SFCC 1987, Section 14-5.2 Table 5-1 *Summary Table of Allowed Uses*.[1] The Conditional Use Approval was also granted by the Planning Commission after the public hearing on June 4, 2026. **[Exhibit 3 (Planning Commission Minutes for June 4, 2026) at 10]** The Appellant attempted to appeal the Conditional Use Approval (Appeal #2026-012949-APPL) but missed the appeal deadline. On October 28, 2026, the Governing Body agreed with the City Attorney's recommendation to dismiss the appeal based on the missed deadline. As such, this Appeal and memorandum only address the Commission's approval of the Development Plan.

The Appellant has standing to appeal because his company, Thomas Trust Holdings, LLC, received mailed notice of the Application and the Planning Commission's public hearing due to owning an adjacent property. **[Ex. 1 at 3]** *See* SFCC 1987, Section 14-2.1(B)(6)(d)(III) (defining parties with standing to appeal land use final actions).

II. Chapter 14 Requirements for Development Plans

A development plan encompasses development of one or more parcels under common ownership or unified control that will be planned and developed as a whole. SFCC 1987, Section 14-2.1(F)(4)(b).

A development plan serves three purposes. First, it enables the Land Use Director and the Planning Commission to verify compliance with Chapter 14. Second, it documents compliance with final actions to approve or conditionally approve development applications. And, finally, it provides the plans to be followed in construction operations, including phasing. SFCC 1987, Section 14-2.1(F)(4)(a). As applicable here, Planning Commission review and approval is required for development plans that include a gross floor area of 30,000 square feet or more. SFCC 1987, Section 14-2.1(F)(4)(b)(II)(f). (The present Development Plan covers four buildings totaling 102,000 square feet of gross floor area. **[Ex. 4 at 2]**)

[1] At the time the Application was submitted in December 2025, Chapter 14 used the term "Special Use Permit." *See* SFCC 1987, Section 14-3.6 (2025). As a result, many of the materials in the Record reference that term. The Appeal will proceed under the current version of Chapter 14, which is in effect at the time of the hearing before the Governing Body, including using the substituted term "Conditional Use Approval."

The Planning Commission reviews a development plan for conformity to Chapter 14, considers the staff report and recommendation, and may require any changes deemed advisable for compliance with the Code and the kind and extent of improvements to be made by the applicant to comply with the Code. The Commission may approve, approve with conditions, or deny a development plan. SFCC 1987, Section 14-2.1(F)(4)(d)(VII).

To approve a development plan, the Planning Commission must make two findings. First, they must find that approving the development plan will not adversely affect the public interest. Second, they must find 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. SFCC 1987, Section 14-2.1(F)(4)(e)(II). 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 General Plan, including in a wide range of areas that are specified in SFCC 1987, Section 14-2.1(F)(4)(e)(III).

III. Issues raised in the appeal and relief sought

The Appellant brings three challenges on appeal: (1) the Commission could not make the necessary public-interest finding as there was inadequate traffic and access information; (2) the mandatory findings of "compatibility and adaptability" were not established on the record presented; and (3) the Development Plan did not comply with Chapter 14 prior to approval, as evidenced by the outstanding issues related to stormwater and lighting in the City's technical review. **[Ex. 1 at 4-5]**

Pursuant to these challenges, the Appellant asks the Governing Body to reverse the Planning Commission's approval of the Development Plan or, in the alternative, to vacate the approval and remand for "a determination based on a record demonstrating Chapter 14 compliance and substantial evidence for the required findings." **[Ex. 1 at 6]**

IV. Analysis

Each of the Appellant's arguments will be analyzed in turn.

A. The Appellant challenges the traffic evidence as inadequate to support the public-interest finding.

The Appellant first challenges the submitted traffic evidence as inadequate to support the Commission's finding that the Development Plan would "not adversely affect the public interest." **[Ex. 1 at 4]** The Appellant states "[b]ecause the traffic evidence focused on trip quantity, the record needed evidence addressing the character of the Project's larger-vehicle traffic and the associated site-specific safety concerns – not merely a low aggregate trip count." **[*Id.*]**

Pursuant to the City's Transportation Impact Analysis Guidelines, an Initial Transportation Assessment was prepared by the Applicant that evaluated the anticipated traffic associated with the proposed uses. **[Ex. 4 at 243-72]** The assessment estimated ten AM peak-hour trips and seventeen PM peak-hour trips, which was below the threshold to trigger a higher-level traffic study

known as a Traffic Impact Analysis (TIA). **[Ex. 4 at 248, 72; Exhibit 7 (Transportation Impact Analysis Guidelines) at 8, 33]** The City Traffic Engineer concurred with these findings. **[Ex. 4 at 60]**

The Appellant takes issue with the focus on trip count rather than "larger-vehicle traffic and the associated site-specific safety concerns." **[Ex. 1 at 4]** But the types of vehicles anticipated for a development, and related site safety and access, are not addressed through traffic studies. They are instead resolved in site and infrastructure design review, which for this Project were addressed in the Conditions of Approval:

- **Condition of Approval 27:** Developer should provide certification that its engineers have provided NMDOT project development engineers opportunity to review site plans in accordance with the departments proposed redesign and reconstruction of Cerrillos Rd.
- **Condition of Approval 28:** A detailed signage and striping plan for all required on-street signage, pavement markings, and any related regulatory, directional sign shall be submitted for review and approval by Public Works.

[Exhibit 2 (Planning Commission Findings of Fact and Conclusions of Law Case #2025-11753) at 8] The certification from NMDOT was completed prior to the Planning Commission's hearing. **[Ex. 4 at 157-62]** And the signage and striping plan is an additional opportunity for the City to ensure that vehicle and safety concerns related to traffic are adequately addressed. The Planning Commission also had additional comments from the City's Traffic Engineer in the record, which indicated site safety would be addressed in future stages of City review:

1. City of Santa Fe Building Code, Chapter 23-3.2 states that before commencement of any new construction, it is mandatory for the owner to obtain approval from the Public Works Department for any driveway curb cut or sidewalk crossing. This approval must be issued before a building permit for such new construction is approved.
2. Note as the public infrastructure plans move forward to building permit, these may be subject to additional reviews and possible corrections to meet Public Works Standards for roadways, ADA, signing, striping, lighting, etc. prior to building permit approval.

[Ex. 4 at 100]

The Planning Commission thus has sufficient information in the record to conclude that traffic related to the Development Plan would not adversely affect the public interest.

B. The Appellant argues the record did not establish the mandatory findings of compatibility and adaptability.

The Appellant's second claim is that "the mandatory finding of compatibility and adaptability was not established on the record presented." **[Ex. 1 at 4-5]** The Appellant asserts the "record concerns material concerns about corridor character, landscaping, screening, pedestrian concerns,

traffic safety, and the design's relationship to the surrounding area." **[*Id.*]** The Appellant continues that the "adaptability component was not separately established" because the staff's response did not "identify evidence showing that a substantial alternative use could actually be accommodated by the approved building and site" nor that there was sufficient parking to accommodate an alternative use. **[Ex. 1 at 5]**

In response to the code's requirement that "the use and any associated buildings are compatible with and adaptable to" nearby buildings, SFCC 1987, Section 14-2.1(F)(4)(e)(II)(b), the Staff Report presented to the Planning Commission stated:

> Staff finds that the proposed uses are compatible with those in the vicinity and that the uses are permitted with a Special Use Permit in the C-2 zoning district. Adjacent uses to the project include hotels, a fire station, auto shops, a restaurant, and another mini-storage facility (Santa Fe Storage). The architectural style of the buildings is compatible with structures in the area, as they will be mostly neutral stucco with some accent materials. The project conforms with all C-2 zoning requirements and eliminates existing nonconformities on the site.

[Ex. 4 at 11]

The Appellant takes issue with the lack of discussion in the Staff Report that the proposed buildings could be adaptable to an alternative use. **[Ex. 1 at 5]** But the Commission had additional evidence before it via the Applicant's response to the compatibility and adaptability criterion: "The self-storage building design lends itself to being adaptable to other uses. The self-storage units within the building shell can be modified to adapt to different uses and the building design is compatible with existing uses in the project vicinity." **[Ex. 4 at 11]** As a result, the Commission had information in the record to support a finding that the proposed use was adaptable to other uses. Finally, the Applicant met the parking requirements for the proposed use and is not required to meet parking requirements for alternative uses other than the one being proposed. *See* SFCC 1987, Section 14-7.5(D).

Accordingly, the Planning Commission's findings of compatibility and adaptability were adequately supported by the record.

C. The Appellant asserts the City's conditions and technical corrections indicate the Development Plan did not comply with Chapter 14 when approved.

The Appellant's final assertion is that the City's "technical review confirms that material compliance remained unresolved when the Development Plan was approved." **[Ex. 1 at 5]** The Appellant argues that issues related to stormwater and lighting were required to be remedied by the Applicant prior to the Commission's approval, rather than prior to recordation. Because they were not resolved by the time of the public hearing, the Appellant argues this demonstrates the Development Plan and approval did not comply with Chapter 14.

In this case, the Planning Commission approved the Development Plan, subject to Conditions of Approval and Technical Corrections. **[Ex. 2]** This is permitted by Chapter 14, as the Planning

Commission has the authority to approve an application with conditions, and to specify conditions of approval that are necessary to accomplish the proper development of the area and to implement the policies of the General Plan. *See* SFCC 1987, Sections 14-2.1(F)(4)(d)(VII), 14-2.1(F)(4)(e)(III). The Commission had the conditions and technical corrections in the record, so they were aware that the Applicant had additional requirements in order to finalize their compliance with the land use code. The Commission could have denied the Application or delayed their consideration until these provisions of code were completed. But the Commission decided to vote for approval based on their belief that compliance could be completed at a later stage and verified by City staff prior to recording the plan or prior to issuing building permits, depending on the condition or correction.

Because the Planning Commission could permit the Applicant to comply with portions of Chapter 14 at a later time, the conditions of approval and technical corrections do not demonstrate that the Development Plan failed to comply with code.

V. Conclusion

Based on this analysis, the City Attorney's Office recommends that the Governing Body **deny** the appeal.

VI. Motion Options

The two options for motions in this case:

Motion 1: I move to deny the appeal, on the grounds that the Planning Commission's approval of the Development Plan for 1802 Cerrillos Road, 1750 Cerrillos Road, 1361 Fourth Street, and 3rd Berry Avenue was supported by substantial evidence in the record and the correct application of Chapter 14.

Motion 2: I move to grant the appeal, on the grounds that the Planning Commission's approval of the Development Plan for 1802 Cerrillos Road, 1750 Cerrillos Road, 1361 Fourth Street, and 3rd Berry Avenue was: *[choose one or both]*

- not supported by substantial evidence in the record;
- based on an incorrect application of Chapter 14;

because: *[explain reasoning]*

and to: *[choose one]*

- remand to the Planning Commission for further findings; or
- overturn the approval and deny the application for a Development Plan.

VII. Record on Appeal

Exhibit	Item	Date
1	Verified Appeal Petition	Aug. 10, 2026
2	Planning Commission Findings of Fact and Conclusions of Law	Sep. 3, 2026
3	Minutes of June 4, 2026 Planning Commission Meeting	June 4, 2026
4	Planning Commission Packet Case #2025-11753	June 4, 2026
5	Submittals of the Appellant	Nov. 9, 2026
6	Submittals of the Applicant	Nov. 9, 2026
7	Transportation Impact Analysis Guidelines	Aug. 29, 2024