

City of Santa Fe, New Mexico

memo

DATE: March 30, 2016, for the April 7, 2016 Meeting

TO: Planning Commission

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

FROM: Katherine Mortimer, Supervising Planner, Land Use Department 

Case #2016-13. 451 Circle Drive Escarpment Variance. Buena Vistas Designs, agent for Catherine and Don Lucas, request approval of a variance to allow an addition to a house within the Ridgetop Subdistrict of the Escarpment Overlay District. The 2.05 acre property is zoned R-1 (Residential – 1 unit per acre). (Katherine Mortimer, Case Manager)

RECOMMENDATION

If the Commission determines the proposed 1,321 square foot addition to the existing residential footprint meets the variance criteria outlined below, the Commission may **APPROVE WITH CONDITIONS**. Appropriate conditions are provided in Exhibit A of this report.

I. BACKGROUND

The applicant requests an escarpment variance to Section 14- 5.6(D)(1) “Location of Structures; Buildable Site” which states:

“For all lots subdivided or resubdivided on or before February 26, 1992, all structures shall be located within the foothills subdistrict unless the only buildable site is located within the ridgetop subdistrict. For all lots subdivided or resubdivided after February 26, 1992, development in the ridgetop subdistrict of the escarpment overlay district, other than driveway access and utilities, is prohibited.” [Underline added for emphasis.]

II. EXECUTIVE SUMMARY

Should the Commission approve the requested variance, an application for building permit shall incorporate all conditions of approval and be consistent with the building and features included in the application for variance before construction can proceed. The variance is limited to the building footprint as shown on the plans submitted with this application. The addition shall further comply with all other requirements of the

Escarpment Overlay District and Chapter 14.

The applicant proposes a 1,321 square-foot addition (1,056 square feet of building and a 256 square foot portal area) to the 3,450 square-foot footprint of the existing home on Lot 3 of the Circle View Subdivision. The lot was created in 1980 and the existing house was built around 1993.

The higher, flatter portion of the lot closest to Circle Drive is located within the Ridgetop Subdistrict of the Escarpment Overlay District. The remainder of the lot is outside the Escarpment District – none of the lot is

within the Foothills Subdistrict.

Most of the existing home is located outside the Ridgetop, although two corners encroach. The existing driveway is located within the Ridgetop. The proposed addition would be within the Ridgetop Subdistrict of the Escarpment Overlay District. The addition would be screened from view on the north and west sides by the existing house, and would only be visible at the driveway entry from Circle Drive.

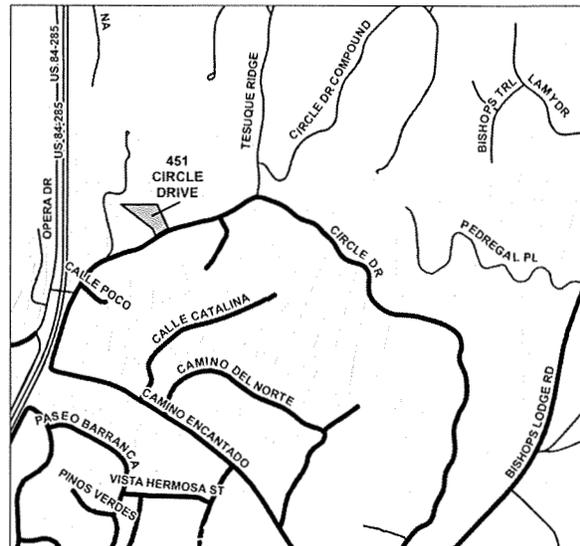
Slopes on much of the remainder of the lot are steeper than 30 percent, and could not be developed without variances to grading regulations.

If the Commission determines that special circumstances apply to the lot, the variance may be approved. The proposed location for the addition on the southwest corner of the residence would limit visibility from locations other than the property frontage and would minimize grading and removal of existing trees.

III. ESCARPMENT OVERLAY ZONING DISTRICT

Land within the Escarpment Overlay district is considered to have significant visual impact to the City. Within the Overlay District, the Ridgetop Subdistrict is considered more visible than the Foothills Subdistrict. In addition to placement restrictions, buildings within the Escarpment Overlay District are subject to height,

Site Location Map



Escarpment Zoning Subdistricts



color, exterior lighting, and landscaping restrictions intended to reduce potential visual impacts as set forth in Section 14-5.6. Should the variance be granted, the proposed addition would be required to comply with the following requirements.

The purpose of the Escarpment Overlay Zoning District per Section 14-5.6(A)(1) is to:

- (a) Promote the economic, cultural, and general welfare of the people of the city;
- (b) Ensure the harmonious, orderly, and efficient growth and development of the city;
- (c) Conserve the value of buildings and land;
- (d) Encourage the most appropriate use of land; and
- (e) Preserve the natural environment and the distinctive and historic ridgetop and foothills area environment as a visual asset for the benefit of the community and to maintain and encourage the sense of the city as a small community.
- (f) Reduce the risk to life and health of residents in the escarpment by reducing wildfire risk; and
- (g) Encourage the conservation of water, especially for maintaining landscaping materials.

The intent of the Escarpment Overlay Zoning District per Section 14-5.6(A)(3) is:

- (a) Preservation of the city's aesthetic beauty and natural environment is essential to protect the general welfare of the people of the city, to promote tourism and the economic welfare of the city, and to protect the cultural and historic setting of the city;
- (b) Development is highly visible on or about the ridgetop areas of the foothills for great distances and detracts from the overall beauty of the natural environment and adversely impacts the aesthetics of the mountain and foothill vistas as seen from the city;
- (c) Land within the escarpment overlay district is environmentally sensitive due to the presence of steep slopes, erosion problems, drainage problems and other environmental attributes;
- (d) The interest and welfare of the people of the city is to prohibit development on ridgetop areas of the foothills to the extent possible as allowed by law; and
- (e) The interest and welfare of the people of the city is to restrict development in the escarpment overlay district to preserve the aesthetic beauty and natural environment of the ridgetop areas of the foothills and to protect the mountain views and scenic vistas from the city to the extent possible.

IV. ESCARPMENT-SPECIFIC VARIANCE APPROVAL CRITERIA

The Escarpment Overlay District includes the following two variance criteria, in addition to criteria applicable to all variances to Chapter 14. Those criteria are (14-5.6(K)):

(1) Where the planning commission finds that extraordinary hardship may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation shall not have the effect of nullifying the intent and purpose of these regulations.

(2) In granting variances or modifications, the planning commission may require such conditions as will, in its judgment, assure substantially the objectives of the standards or requirements so varied or modified.

The intent of the Escarpment Overlay District lists preservation of Santa Fe's aesthetic beauty, mountain views and scenic vistas. Since the project would not be visible from anywhere other than the driveway entrance, the proposed addition would not be counter to the protection of those qualities. Additionally, disturbance of steep slopes and associated erosion and drainage challenges would not occur at the proposed location.

V. VARIANCE PROCEDURES

The variance process balances reasonable use of the applicant's property against compliance with the letter and intent of adopted regulations. Subsection 14-3.16(C) lists the criteria which must be met in order to approve a variance request. Those criteria set up a two-stage review process.

In the first stage of review, the Commission must determine that special circumstances apply to the property that make it infeasible, for reasons other than financial cost, to develop the property in compliance with the standards of Chapter 14. Special circumstances may include physical characteristics that distinguish the property from others in the vicinity, such as unusual topography. Special circumstances may also include conflicting regulations that prevent development of the property without a variance to one or more of the regulations.

VI. VARIANCE APPROVAL CRITERIA

Criteria in Subsections 14-3.16(C)(1) through (5) are required to grant a variance. The property must be consistent with at least one of the circumstances listed in items 1a through 1d and must meet all of the criteria in items 2 through 5. Staff analysis shows that this application is consistent with item 1a and meets the criteria in items 2 through 5.

(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:

Not applicable

Staff Analysis:

Unique physical characteristics do exist that distinguish the land from others in the vicinity that are subject to the escarpment overlay district. Due to the unique topography of the site there is only one buildable site on the property that is outside of the Ridgetop Subdistrict, on the west side of the house. Most of the land outside of the Ridgetop Subdistrict has steep slopes, much of which is greater than 30%. The area that could be built on, based on the terrain management regulations, is lower than the entry level of the existing house. At that location the new master bedroom suite could not meet the owner's goal of providing a master bedroom suite on the same level as the entryway to support aging-in-place.

(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:

The parcel is a legal non-conforming lot located in the Circle View Subdivision, Lot 3; which was approved and recorded in 1980. The existing residence was constructed circa 1993 at the time the original overlay district was created. However, legislation in 2005 created the non-conformity, as it created the restriction for new construction in the ridgetop subdistrict is prohibited for lots created, subdivided or re-subdivided after February 26, 1992. These circumstances apply with 14-3.16(C)(1).

Staff Analysis:

The portions of the existing residence that encroach into the Ridgetop are nonconforming, however, the lot would be non-conforming if there was less than 2000 square feet of land that could be developed without a variance of any kind before there was any construction on the site. It is impossible to verify the pre-existing natural topography of the site. However, the land outside of the Ridgetop Subdistrict and not occupied by the existing residence contains steep slopes that would require variance to the terrain management regulations to develop. Therefore, it is not possible to determine if the lot is nonconforming at this time.

(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 Analysis:
Staff concurs.

(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:
Not applicable

Staff Analysis:
Staff concurs that this section does not apply to this property as it is not located in an historic district.

(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:

The Owner's desire for the master suite addition was to provide an additional bedroom to accommodate aging-in-place. The existing residence is for the most part outside the ridgetop district with the exception of 10 sf at the corner of the existing living room and 240 sf at the garage. The existing steep slopes around the east, west and north elevations that are outside the ridgetop overlay made new construction at these locations extremely difficult. In addition, the existing grade is 20%-30% or 30% and greater. Attaching to the existing residence at those locations, with the desire to maintain the existing main floor level would have created massing +/- 22' from existing grade with severe impact to the natural environment should construction be attempted. The proposed addition at the southeast corner of the main level will be 13'-6" above proposed grade; excavating approximately 24" at the south elevation; with limited impact both environmentally and visually while utilizing already disturbed area on the site.

Staff Analysis:

Steep slopes outside of the Ridgetop Subdistrict would make construction of the addition only feasible at the northwest corner of the building, which is at a lower level than the entry. Therefore, the intention of the addition to create a master suite on the entry level could not be met at that location. As noted by the applicant, construction at the northwest corner would disturb existing natural vegetation and steep slopes. All other locations outside of the Ridgetop Subdistrict would disturb slopes greater than 30% which would

conflict with the terrain management regulation prohibiting construction on slopes steeper than 30%.

(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 Circle View covenants allow additions of this scale and will be screened from Circle Drive by numerous pinon and juniper trees. There will be no increase in the intensity of use affection traffic or noise. Scale of the entire residence will be commensurate with the neighborhood. We propose to match existing stucco color, use double hung windows with wood trim detail and color to match existing and parapet detail to match existing at garage. The extent of grading and drainage will be minimized at the proposed location for the addition.

Staff Analysis:

Chapter 14 defines intensity as "The extent of development per unit of area; or the level of use as determined by the number of employees and customers and degree of impact on surrounding properties such as noise and traffic." With regard to the intensity of use, the proposed house is, and would continue to be, consistent with the size of other homes in the surrounding neighborhood. The sizes of footprints of houses in the surrounding area around the subject site range from 2,140 to 14,620 square feet. This data was taken by analyzing nine homes located on Circle Drive, also located partially or fully within the Ridgetop Subdistrict. The proposed 4,771 final square foot footprint is less than average footprint size of 7,550 square feet.

Based on this definition, the intensity of development of the home, including the proposed attached addition, would not exceed developments that have been allowed on other similar properties in the vicinity. Noise and traffic will be no different from any other properties in the vicinity. The size of the proposed attached addition and the extent of proposed grading, are generally consistent with the development of other nearby lots. The addition will comply with all other Escarpment Overlay regulations and the rest of Chapter 14.

(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:

None provided.

Staff Analysis:

The proposal is to expand an existing single-family structure to create a master suite on the entry level to facilitate aging-in-place, which is consistent with this zoning designation. As noted above, the size of the footprint of the home would continue to be consistent with the existing homes on Circle Drive within the Ridgetop Subdistrict. Therefore, staff believes the addition could be considered a reasonable use of the property.

(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:

In working within the ridgetop ordinance, the proposed addition is located in an area with minimal impact on the existing terrain, views, and massing. The property is consistent with the Very Low Density Residential General Plan Land Use Category. As stated the addition will take advantage of using already disturbed areas with minimal impact on terrain and views.

Staff Analysis:

The purpose and intent of the Escarpment Overlay District is provided in Section III of this report. While the bedroom addition would be contrary to the prohibition of building in the Ridgetop Subdistrict, it would not be contrary to the purpose and intent of the Subdistrict. It would not impact the City's aesthetic beauty nor cultural or historic setting as it would not be seen from any public areas or rights-of-way. For this same reason it would not impact mountain views or scenic vistas from the City. It would have little impact on environmentally sensitive areas nor cause erosion or drainage problems. It would not be contrary to goals of any other Section of Chapter 14.

(5) The variance is not contrary to the public interest.

Applicant Response:

The proposed addition is similar to the massing and design of the existing residence. The visual impact will be minimized by existing trees and situated below grade at the south. We are not aware of any of any aspect of this variance to be contrary to the public interest

Staff Analysis:

The construction of an attached addition on the lot is not contrary to the public interest. The public interest in relation to Section 14-5.6 "Escarpment

Overlay District” includes protecting, maintaining and enhancing the health safety and general welfare of the citizens. It also includes protecting the visual impact of development and the natural environment of Santa Fe. The proposed addition ensures sound and orderly development while adhering to all other Escarpment Overlay Regulations. Staff does not believe that the proposed request for a variance to the Escarpment Overlay District violates the purpose and intent of the regulations as set forth in Section 14-5.6.

VII. ATTACHMENTS:

EXHIBIT A: Conditions of Approval

EXHIBIT B: City Staff Memoranda

1. Waste Water Division Engineer Memorandum, Stan Holland
2. Water Division Memorandum, Dee Beingessner
3. Fire Department Memorandum, Rey Gonzales
4. Technical Review Division Memorandum, Somie Ahmed
5. Traffic Engineering Division Memorandum, Sandra Kassens
6. Metropolitan Planning Organization Memorandum, Keith Wilson

EXHIBIT C: Maps and Photos

1. General Plan Land Use Designation Map
2. Zoning Map
3. Aerial Photo
4. Street View Photo from Circle Drive at center of property line
5. Street View Photo from Circle Drive at driveway entry

EXHIBIT D: Applicant Submittals

City of Santa Fe, New Mexico

Planning Commission

Exhibit A

**Escarpment Variance
Conditions of Approval**

Exhibit A
 Conditions of Approval
451 Circle Drive Escarpment Variance
 Case #2016-13

	DRT Conditions of Approval	Department	Staff
1	The subject property is not accessible (within 200 feet) to the City public sewer system. Prior to any new construction on the lot, the owner shall obtain a septic system permit from the State of New Mexico Environment Department.	Wastewater Management Division	Stan Holland
2	<ol style="list-style-type: none"> 1. All Fire Department access shall be no greater than a 10% grade throughout. 2. Fire Department Access shall not be less than 20 feet width. 3. Shall meet the 150 feet driveway requirements must be met as per IFC, or an emergency turn-around that meets the IFC requirements shall be provided. 4. Fire Department shall have 150 feet distance to any portion of the building on any new construction. 5. Shall have a water supply that meets fire flow requirements as per IFC. 6. Must meet all fire protection requirements set forth by IFC 2009 edition for its classified occupancy. 	Fire Marshal	Reynaldo Gonzales
3	<ol style="list-style-type: none"> 1. Height of addition being proposed must meet the height requirements of Article 14-5.6(F)(4) "Architectural & Site Standards" in the Ridgetop subdistrict. 2. Building color, exterior lighting & exterior glazing shall comply with Article 14-5.6(F) "Architectural & Site Standards." 3. Chimneys may exceed the max height by not more than 3' above the immediately adjacent roof as per Article 14-5.6 (F)(4) "Architectural & Site Standards." 4. Landscaping shall comply with Article 14-5.6(G) "Landscaping." 	Escarpment + Landscaping	Somie Ahmed
4	No comment	Terrain Management	RB Zaxus

Exhibit A
Conditions of Approval
451 Circle Drive Escarpment Variance
Case #2016-13

5	No Comment	Water Division	Dee Beingessner
6	No Comment	Traffic Engineering	Sandra Kassens
7	No Comment	Metropolitan Planning Organization	Keith Wilson

City of Santa Fe, New Mexico

Planning Commission

Exhibit B

Development Review Team Memoranda

City of Santa Fe



New Mexico

MEMO

Wastewater Management Division DEVELOPMENT REVIEW COMMENTS

E-MAIL DELIVERY

Date: February 29, 2016

To: Kathrine Mortimer, Case Manager

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

Subject: Case 2016-13 451 Circle Drive Escarpment Variance

The subject property is not accessible (within 200 feet) to the City public sewer system. Prior to any new construction on the lot, the owner shall obtain a septic system permit from the State of New Mexico Environment Department.

The Wastewater Division has no other conditions required for the granting of the variance.

EXHIBIT B-1

City of Santa Fe, New Mexico

memo

DATE: March 14, 2016

TO: Katherine Mortimer, Case Manager

FROM: Reynaldo Gonzales, Fire Marshal *RDG*

SUBJECT: Case #2016-13 451 Circle Drive Escarpment Variance

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

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

1. All Fire Department access shall be no greater than a 10% grade throughout.
2. Fire Department Access shall not be less than 20 feet width.
3. Shall meet the 150 feet driveway requirements must be met as per IFC, or an emergency turn-around that meets the IFC requirements shall be provided.
4. Fire Department shall have 150 feet distance to any portion of the building on any new construction.
5. Shall have a water supply that meets fire flow requirements as per IFC.
6. Must meet all fire protection requirements set forth by IFC 2009 edition for its classified occupancy.

EXHIBIT B-2

City of Santa Fe, New Mexico

memo

DATE: March 3, 2016
TO: Katherine Mortimer, Planner Supervisor
FROM: Somie Ahmed, Planner Technician Senior
SUBJECT: Comments for Case #2016-13, 451 Circle Drive Escarpment Variance

Below are staff's final comments for 451 Circle Drive Escarpment Variance. These comments are based on documentation and plans dated January 5th, 2016:

1. Height of addition being proposed must meet the height requirements of Article 14-5.6(F)(4) "Architectural & Site Standards" in the Ridgetop subdistrict.
2. Building color, exterior lighting & exterior glazing shall comply with Article 14-5.6(F) "Architectural & Site Standards."
3. Chimneys may exceed the max height by not more than 3' above the immediately adjacent roof as per Article 14-5.6 (F)(4) "Architectural & Site Standards."
4. Landscaping shall comply with Article 14-5.6(G) "Landscaping."

EXHIBIT B-3

MORTIMER, KATHERINE E.

From: ZAXUS, RISANA B.
Sent: Tuesday, March 29, 2016 4:02 PM
To: MORTIMER, KATHERINE E.
Subject: RE: Comments on Cases for Planning Commission

Katherine -

I have no review comments on these cases.

RB

From: MORTIMER, KATHERINE E.
Sent: Tuesday, March 29, 2016 4:01 PM
To: ZAXUS, RISANA B.
Subject: Comments on Cases for Planning Commission

RB:

Do you have any comments on the following three escarpment variance cases?

- 2016-13 – 451 Circle Drive Escarpment Variance
- 2016-17 - 195 Brownell Howland Road Escarpment Variance
- 2016-18 - 165 Brownell Howland Road Escarpment Variance

Thank you.

*Katherine Mortimer
Land Use Department
City of Santa Fe, NM
(505) 955-6635*



There is no path to peace, peace is the path. -Gandhi

MORTIMER, KATHERINE E.

From: BEINGESSNER, DEE
Sent: Thursday, March 03, 2016 11:43 AM
To: MORTIMER, KATHERINE E.
Subject: RE: Cases 2016-17, 2016-18, and 2016-19

Yes, sorry!

From: MORTIMER, KATHERINE E.
Sent: Thursday, March 03, 2016 10:47 AM
To: BEINGESSNER, DEE
Subject: RE: Cases 2016-17, 2016-18, and 2016-19

Dee:

Did you mean 2016-13 rather than 2016-19?

*Katherine Mortimer
Land Use Department
City of Santa Fe, NM
(505) 955-6635*



There is no path to peace, peace is the path. -Gandhi

From: BEINGESSNER, DEE
Sent: Wednesday, March 02, 2016 2:34 PM
To: MORTIMER, KATHERINE E.
Subject: Cases 2016-17, 2016-18, and 2016-19

Katherine,

I don't have any comments on any of the three subject cases listed above.

Dee

EXHIBIT B-5

MORTIMER, KATHERINE E.

From: KASSENS, SANDRA M.
Sent: Tuesday, March 08, 2016 10:07 AM
To: MORTIMER, KATHERINE E.
Cc: ROMERO, JOHN J
Subject: RE: Escarpment Variance Cases

Re: Case #2016-13

Katherine,
The Traffic Engineering Division has no comments on the Escarpment variance request at 451 Circle Drive, case # 2016-13.

Sandy
955-6697

From: MORTIMER, KATHERINE E.
Sent: Monday, February 29, 2016 9:42 AM
To: KASSENS, SANDRA M.
Subject: RE: Escarpment Variance Cases

Thanks!

Katherine Mortimer
Land Use Department
City of Santa Fe, NM
(505) 955-6635



There is no path to peace, peace is the path. -Gandhi

From: KASSENS, SANDRA M.
Sent: Monday, February 29, 2016 9:42 AM
To: MORTIMER, KATHERINE E.
Cc: ROMERO, JOHN J
Subject: RE: Escarpment Variance Cases

Katherine,
Circle Drive is a public road, whereas Brownell-Howland is a private road.
Sandy

MORTIMER, KATHERINE E.

From: WILSON, KEITH P.
Sent: Wednesday, March 02, 2016 12:18 PM
To: MORTIMER, KATHERINE E.
Subject: Request for Additional Submittals

Hi Katherine:

I have no comments on the following cases:

- Case #2016-13. 451 Circle Drive Escarpment Variance.
- Case #2016-17. 195 Brownell Howland Road Escarpment Variance.
- Case #2016-18. 165 Brownell Howland Road Escarpment Variance.

Keith P. Wilson
MPO Senior Planner
Santa Fe Metropolitan Planning Organization

Mailing: P.O. Box 909
Santa Fe, NM 87504-0909
Office: 500 Market St, Suite 200 (Above REI Store)
Santa Fe, NM
Map: <http://tinyurl.com/l6kejeg>
Directions & Parking: <http://www.railyardsantafe.com/north-railyard/>
Phone: 505-955-6706
Email: kpwilson@santafenm.gov
santafemppo@santafenm.gov

Please Visit Our Website at: www.santafemppo.org



Find Us on Facebook



Follow us on Twitter

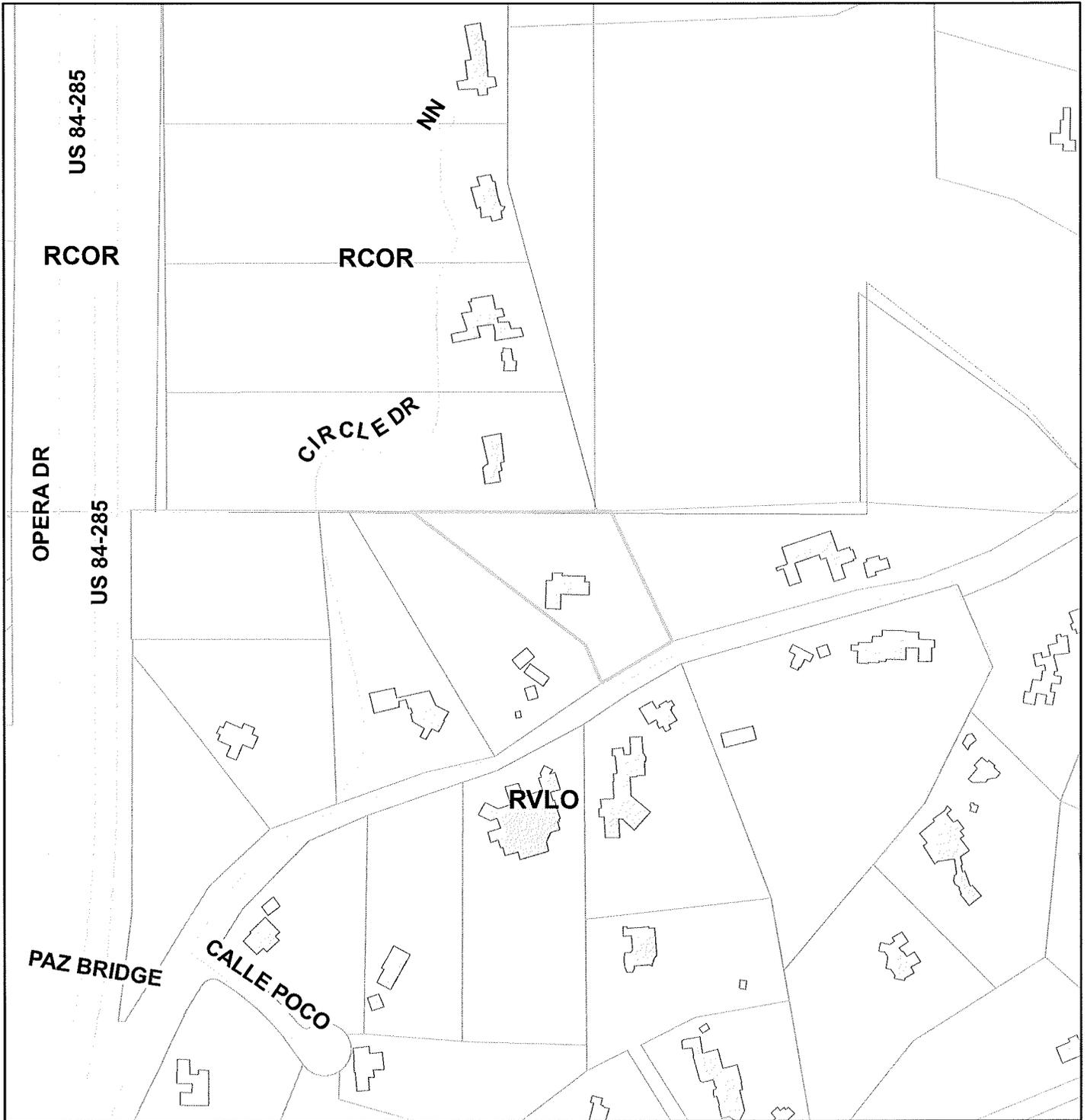
EXHIBIT B-7

City of Santa Fe, New Mexico

Planning Commission

Exhibit C
Maps and Photos

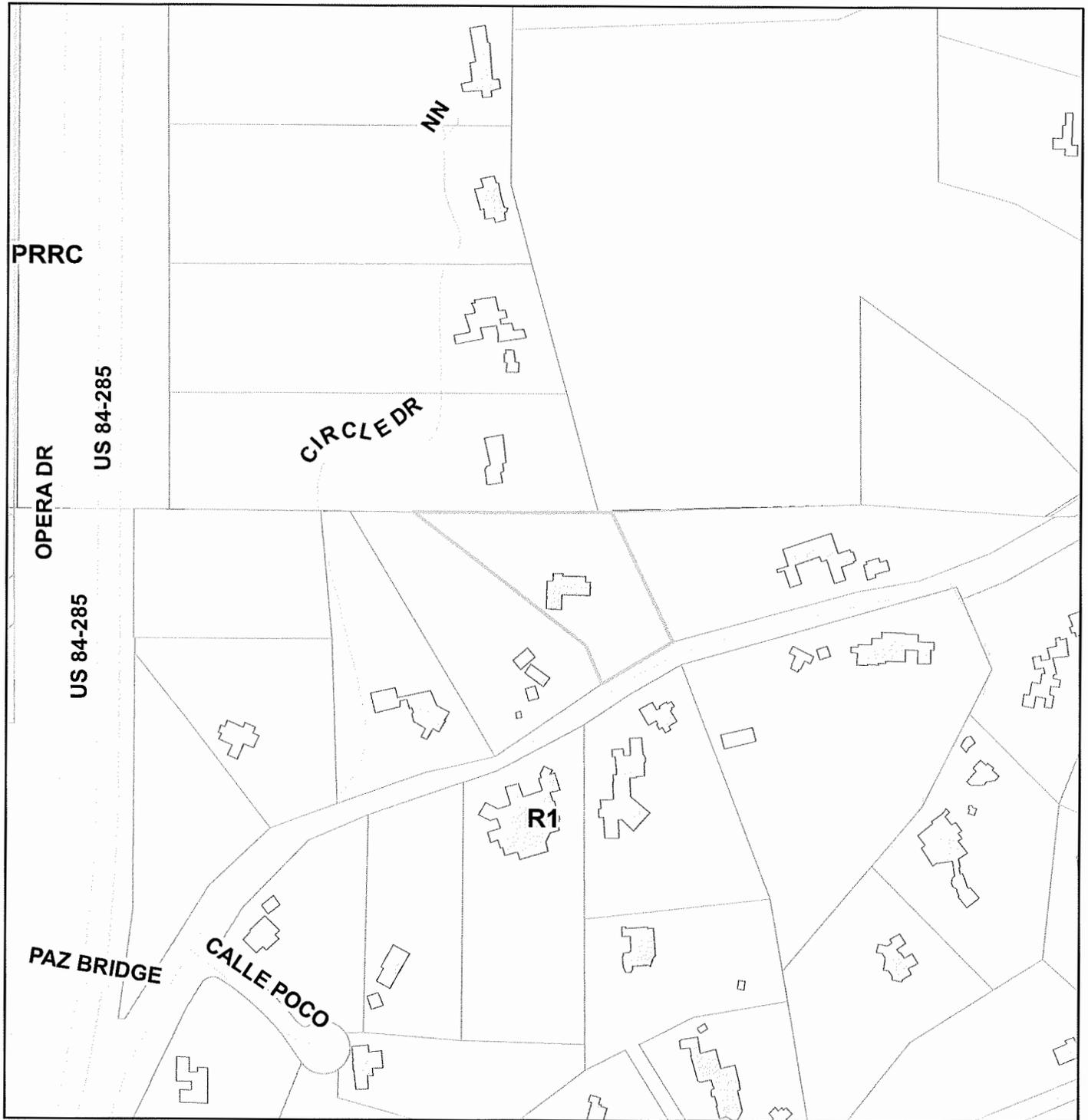
Future Land Use Map



451 Circle Drive

EXHIBIT C1

Zoning Map



451 Circle Drive

EXHIBIT C2

Aerial Photo



451 Circle Drive

EXHIBIT C3

City of Santa Fe, New Mexico

Planning Commission

Exhibit D

Applicant Submittals