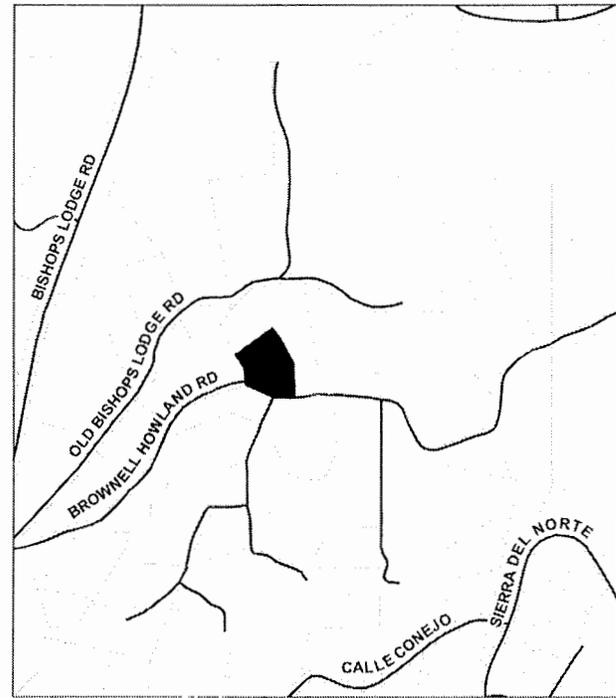




# Land Use Department Planning Commission Staff Report

Site Location Map

Case No: 2016-95  
Hearing Date: October 6, 2016  
Applicant: Sommer Karnes and Assoc.  
Request: Variance to 14-5.6(D)  
Location: 155 Brownell-Howland  
Prepared by: Katherine Mortimer  
Zoning: R-1  
Overlay: Escarpment  
Proposal: Variance to allow replacement of a two-story dwelling with a single-story dwelling, an addition of two portals totaling 98 sf on an accessory dwelling unit, and replacement of a fence with a wall within the Ridgetop Overlay District.



**Case #2016-95. 155 Brownell-Howland Escarpment Variance.** Sommer, Karnes and Associates, LLP, agent for John R. Camp Trust and Michelle Cook 2011 Revocable Trust, requests approval of a variance to replace a two-story residential building with a single-story residential building on the same footprint, and addition of two portals totaling 98 square feet to an existing accessory dwelling unit located within the Ridgetop Subdistrict of the Escarpment Overlay District and to replace an existing fence with a 6 foot high wall, 280 linear feet of which is located within the Ridgetop Subdistrict of the Escarpment Overlay District. The 1.567 acre property is zoned R-1 (Residential – 1 unit per acre). (Katherine Mortimer, Case Manager)

## I. RECOMMENDATION

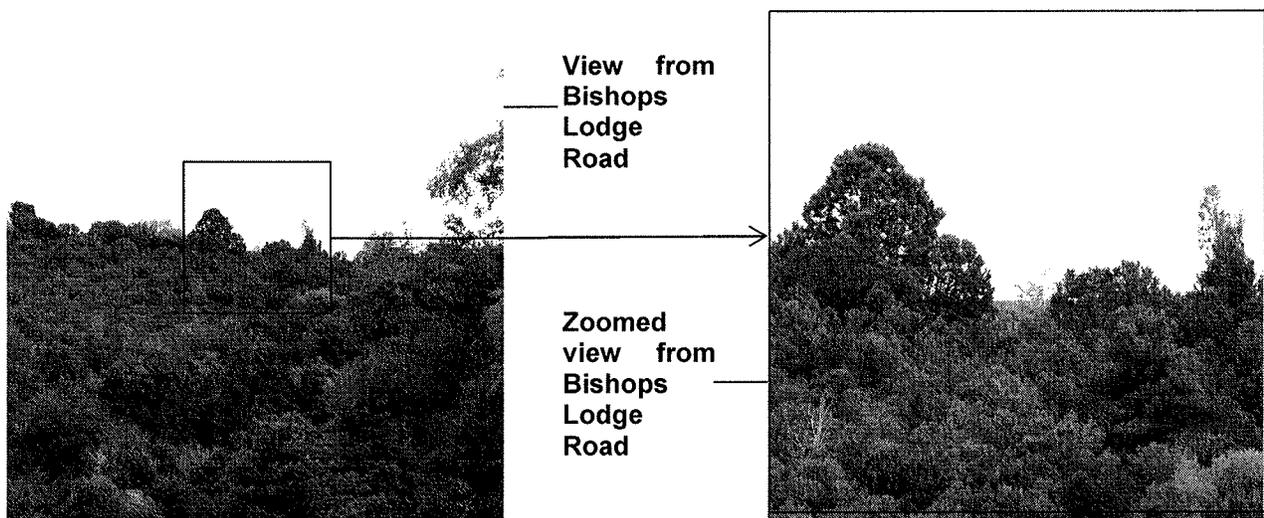
Should the Commission determine the proposed building replacement and portal additions meet the variance criteria outlined below, the Commission may **APPROVE** the request. Staff is not recommending any conditions of approval. Staff comments included in Appendix A provide information about subsequent steps, should this application be approved.

## II. EXECUTIVE SUMMARY

- The application consists of requests for the following work within the Ridgetop Subdistrict of the Escarpment Overlay District:
  - Removal of a two-story main house and replacement with a one-story house
  - Adding two portals to an existing guest house totaling 98 square feet
  - Removal of an existing 6-foot front yard wall with a new 6-foot yard wall which is partially in

the Foothills Subdistrict and partially within the Ridgetop Subdistrict.

- The existing house is legally nonconforming, since it is located almost entirely within the Ridgetop Subdistrict of the Escarpment Overlay District. Demolition of the house would extinguish its legal nonconforming status, and any new structure must be evaluated on its own merits under the regulations currently in effect.
- The existing lot is also legally nonconforming, and any development on the lot will require a variance to either the terrain management or escarpment regulations.
- The proposed house would reduce the amount of development on the site by 3,341 square feet.
- The proposed portals cannot be seen by neighboring properties or any public right-of-way.
- A portion of the existing second story that can be seen from Bishops Lodge Road will no longer be visible should the two-story structure be replaced with a one-story structure.
- The proposed development is almost entirely within the Ridgetop Subdistrict.
- The proposed yard wall would meander in and out of the Ridgetop and Foothills Subdistricts.



### III. BACKGROUND

The current lot at 155 was first split off from the property to the east at 165 Brownell-Howland Road (Case #2016-05, approved by the Summary Committee March 3, 2016), creating a legal lot of record for the principal dwelling unit at 155 that is separate from the principal dwelling unit at 165. The lot at 155 was then further reduced in size by a lot line adjustment with the adjacent lot to the west at 145 Brownell-Holland Road (Case #2016-79 approved by staff on July 29, 2016). That adjustment transferred ownership of approximately 1.9 acres of land from 155 to 145, resulting in a 1.567-acre lot at 155 and a 3.895-acre lot at 145. The transferred land includes the site of a 5,500 square-foot pond which was on 155 and is now on 145.

The lot split and lot line adjustment have not significantly affected the nonconforming status of the lots at 155 and 165 Brownell-Holland Road. The land transferred to 145 is effectively inaccessible from 155, due to an extremely steep slope over 50 feet in height, and most of the transferred land is undevelopable due to slopes in excess of 30 percent slope.

Section 14-5.6(D)(1) "Location of Structures; Buildable Site", prohibits any construction within the Ridgetop

Subdistrict of the Escarpment Overlay Zone. All of the existing structures on the site are located within the Ridgetop Subdistrict, but were constructed before the escarpment regulations were adopted.

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, 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 development would need to comply with all of the other requirements of the Escarpment Overlay Zone. The intent of the district is to preserve the City's aesthetic beauty and the natural environment. (Sections 14-5.6(1) and (2))

Escarpment Overlay Subdistricts Map



There is a narrow strip of the subject property along the road that is within the less-restricted Foothills Subdistrict. However, that strip is narrow and mostly within a 20-foot building setback such that there is no buildable area within the Foothills Subdistrict. North of the Foothill strip is a large area of Ridgetop Subdistrict, where the existing buildings are located. The land north of that is not within the Escarpment Overlay District, but consists of slopes steeper than 30 percent where the terrain management regulations prohibits development.

**IV. GENERAL VARIANCE APPROVAL CRITERIA (14-3.16(C)(1)-(5))**

The variance process balances reasonable use of the applicant's property against compliance with the letter and intent of adopted regulations. The property must be consistent with at least one of the circumstances listed in Criteria 1a through 1d, and must be consistent with all of the criteria in Criteria 2 through 5.

The following criteria are required by Subsections 14-3.16(C)(1)-(5) to grant a variance:

| <b>Criterion 1: One or more of the following special circumstances applies:</b>  |  |
|--|--|
| <b>(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; OR</b> | <b>Criterion Met:<br/>(Yes/No/N/A)<br/>YES</b> |
| <b>(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; OR</b>  | <b>YES</b>                                     |

|  |            |
|--|------------|
| <b>(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</b>   | <b>N/A</b> |
| <b>(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).</b>   | <b>N/A</b> |
| <b>Evaluation:</b> The parcel is a legal nonconforming lot that was created via a lot split earlier this year. The existing main residence, accessory dwelling units and coyote fence were constructed when structures were allowed within the Ridgetop Subdistrict. The Ridgetop Subdistrict occupies the developable land. There is a ribbon of Foothill Subdistrict along the edge of the road but it is within the required building setback and is therefore not developable. Land to the north is not within the Escarpment Subdistrict but falls away steeply at the edge of the Ridgetop Subdistrict and is unbuildable. |            |

|  |   |
|--|---|
| <b>Criterion 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.</b>   | <b>Criterion Met:</b><br>(Yes/No/N/A)<br><b>YES</b> |
| <b>Evaluation:</b> There is no buildable area that can be accessed that is not within the Ridgetop Subdistrict. The application requests a net reduction in development over that which exists on the site currently and replacement of an existing coyote fence with a solid yard wall and a driveway gate. |   |

|  |   |
|--|---|
| <b>Criterion 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.</b>  | <b>Criterion Met:</b><br>(Yes/No/N/A)<br><b>YES</b> |
| <p><b>Evaluation:</b> 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 amount of development on the site, including the main and guest houses, would continue to be one of the smallest in the surrounding neighborhood. The footprints of the development on other lots surrounding the subject lot range from 1,527 to 9,290 square feet. The proposed footprint, including the portal additions to the guesthouse, would be 5,044 square feet. This data was gathered by analyzing nine homes located adjacent to, or within 2 lots, of the subject property. Most are either partially or completely within the Ridgetop Subdistrict. The proposed footprint would be slightly less than the median footprint size of 5,070 square feet.</p> <p>Based on this definition, the intensity of development would not exceed developments that are allowed on other similar properties in the vicinity. Noise and traffic will not differ from any other properties in the vicinity. The size of the proposed project and yard wall are generally consistent with the development of other nearby lots. The addition will comply with all other Escarpment Overlay regulations and the remainder of Chapter 14.</p> |   |

|  |   |
|--|---|
| <b>Criterion 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:</b>   | <b>Criterion Met:</b><br>(Yes/No/N/A)<br><b>YES</b> |
| <b>Evaluation:</b> To determine reasonable use of a property we look to other properties in the neighborhood. As noted under Criterion 3 above, the proposed use of the property is slightly less than the median intensity and most properties in the area have walls or fences at the street frontage. |   |

|   |   |
|---|---|
| <b>Criterion 4a: Has the property or could it be used without variances for a different category or lesser intensity of use?</b>  | <b>Criterion Met:</b><br>(Yes/No/N/A)<br><b>YES</b> |
| <b>Evaluation:</b> The property is residentially zoned and fully developed, and therefore cannot be used for a different category or lesser intensity of use. Moreover, development of any kind on the subject property is prohibited per SFCC §14-5.6(D)(1). Therefore, the property cannot be used without variances for a different category or lesser intensity of use. |   |

|   |   |
|---|---|
| <b>Criterion 4b: The variance is consistent 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.</b>  | <b>Criterion Met:</b><br>(Yes/No/N/A)<br><b>YES</b> |
| <b>Evaluation:</b> While the reconstruction of the main house, the addition of portals to the guest house, and replacement of the coyote fence with a solid wall would be contrary to the prohibition of building in the Ridgetop Subdistrict of the Escarpment Overlay Zoning District, it would not be contrary to the purpose and intent of the Subdistrict, because the development would eliminate views of any built structures from Bishops Lodge Road. For this same reason it would not impact mountain views or scenic vistas from the City. It would have no impact on environmentally sensitive areas nor cause erosion or drainage problems. Neither would it be contrary to purpose or intent of any other Section of Chapter 14. |   |

|   |   |
|---|---|
| <b>Criterion 5: The variance is not contrary to the public interest.</b>  | <b>Criterion Met:</b><br>(Yes/No/N/A)<br><b>YES</b> |
| <b>Evaluation:</b> The proposed reconstruction of the main house, portal additions to the guest house, and replacement of a coyote fence with a solid yard wall would not be 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 changes to the structures would eliminate the existing minimal view from Bishops Lodge Road. 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. |   |

**V. ESCARPMENT-SPECIFIC VARIANCE APPROVAL CRITERIA**

In addition to the general variance criteria, the Commission must determine that two special Escarpment Overlay District criteria are met [Subsection 14-5.6(K)]:

|   |  |
|---|--|
| <p>(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.</p> <p>(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.</p>  | <p><b>Criteria Met:</b><br/>(Yes/No/N/A)</p> <p style="text-align: center;"><b>YES</b></p> |
| <p><b>Evaluation:</b> The intent of the Escarpment Overlay District lists preservation of Santa Fe's aesthetic beauty, mountain views and scenic vistas. A portion of the top of the existing house is visible from Bishops Lodge Road. Should that building be replaced with a one-story building, no part of the development on the site would be visible from Bishops Lodge Road or any other public viewing area. The proposed yard wall is visible only from Brownell-Howland Road immediately adjacent to the site. Therefore, the proposed variance requests would not be contrary to the intent of the Escarpment Overlay District.</p> |  |

**VI. ATTACHMENTS:**

EXHIBIT A: Technical Corrections

EXHIBIT B: City Staff Memoranda

1. Fire Department Memorandum, Rey Gonzales
2. Escarpment and Landscape Memorandum, Somie Ahmed
3. Terrain Management Memorandum, RB Zaxus
4. Wastewater Memorandum, Stan Holland
5. Traffic Memorandum, Sandy Kassens

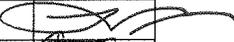
EXHIBIT C: Maps and Photos

1. Escarpment Overlay Map
2. General Plan Land Use Designation Map
3. Zoning Map
4. Aerial Photo

EXHIBIT D: Applicant Submittals

\* Maps and other exhibits reproduced and archived separately from this staff report. File copies are available for review at the Land Use Department office at 200 Lincoln Avenue, West Wing.

**VII. APPROVED BY:**

| Title                                       | Name               | Initials  |
|---|--------------------|---|
| Land Use Department Director                | Lisa Martinez      |  |
| Land Use Current Planning Division Director | Greg Smith         |  |
| Land Use Department Case Manager            | Katherine Mortimer |  |

**City of Santa Fe, New Mexico**

**Planning Commission**

**Exhibit A**  
**Technical Corrections**

**Appendix A**  
**TECHNICAL CORRECTIONS**

The following are the staff-recommended technical corrections for this project:

| # | Condition of approval   | Dept/Division       | To be completed by:                       |
|---|---|---------------------|---|
| 1 | All Fire Department access shall be no greater than a 10% grade throughout.   | Fire Department     | Prior to construction                     |
| 2 | Fire Department Access shall not be less than 20 feet width to any new/remodel construction.  | Fire Department     | Prior to construction                     |
| 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.              | Fire Department     | Prior to construction                     |
| 4 | Fire Department shall have 150 feet distance to any portion of the building on any new construction.  | Fire Department     | Prior to construction                     |
| 5 | Shall have water supply that meets fire flow requirements as per IFC  | Fire Department     | Prior to construction                     |
| 6 | The owner shall obtain a septic system permit from the State of New Mexico Environment Department.  | Wastewater Division | Prior to construction                     |
| 7 | The applicant shall verify that the wall complies with the requirements of the multi-purpose easement as shown on the plat or shall adjust its location to do so. | Case Manager        | Prior to construction permit application. |

**Exhibit A**

**City of Santa Fe, New Mexico**

**Planning Commission**

**Exhibit B**

**City Staff Memoranda**

# Development Review Team

## Comment Form

Date: September 15, 2016  
Staff person: Reynaldo Gonzales  
Dept/Div: Fire  
Case: 2016-95 – 155 Brownell-Howland Escarpment Variance  
Case Mgr: Katherine Mortimer



Review by this division/department has determined that this application will meet applicable standards if the following are met:

Conditions of Approval :

Must be completed by:

1 None

Technical Corrections\*:

Must be completed by:

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 to any new/remodel construction.
3. Shall meet the 150 feet driveway requirements must be met as per IFC, or an emergency turn-around that meets the IFC requirements shall be provided.
4. Fire Department shall have 150 feet distance to any portion of the building on any new construction.
5. Shall have water supply that meets fire flow requirements as per IFC

**Prior to any remodel construction the current code adopted by the governing body may need to be met.**

\*Must be made prior to recording and/or permit issuance

The applicant should be aware that the following code provisions or other requirements will apply to future phases of development of this project:

**EXHIBIT B1**

# Development Review Team

## Comment Form

Date: September 21<sup>st</sup>, 2016  
Staff person: Somie Ahmed  
Dept/Div: LUD/Technical Review Division  
Case: 2016-95 – 155 Brownell-Howland Escarpment Variance  
Case Mgr: Katherine Mortimer



Review by this division/department has determined that this application will meet applicable standards if the following are met:

Conditions of Approval : Must be completed  
by:

|   |  |
|---|--|
| 1 |  |
| 2 |  |
| 3 |  |
| 4 |  |

Technical Corrections\*: Must be completed  
by:

|    |  |
|----|--|
| 1. |  |
| 2. |  |
| 3. |  |
| 4. |  |

\*Must made prior to recording and/or permit issuance

The applicant should be aware that the following code provisions or other requirements will apply to future phases of development of this project:

1. As per Article 14-5.6(F)(4): “In the ridgetop subdistrict the highest point of any *structure* shall not exceed a maximum height of fourteen (14) feet above each and every point of measurement along the *structure* perimeter. This measurement shall be from the undisturbed natural *grade* of the land at the perimeter, or from the finished *grade* at the perimeter, whichever is more restrictive in height. The highest point on the *structure* includes the top of parapets and clerestories, except that chimneys may exceed the maximum height by not more than three (3) feet above the immediately adjacent roof.”
2. As stated in Article 14-5.6(F)(5)(c): “The highest point on the *structure* includes the tops of parapets and clerestories, except that chimneys may exceed the maximum height by not

**EXHIBIT B2**

# Development Review Team

## Comment Form

Date: August 11, 2016  
From: Risana "RB" Zaxus, City Engineer  
Dept/Div: Land Use, Technical Review Division  
Case: Case # 2016-97, 165 Brownell-Howland Escarpment Variance  
Case Mgr: Katherine Mortimer



Review by this division/department has determined that this application will meet applicable standards if the following are met:

Conditions of Approval :

Must be completed by:

|        |  |
|--------|--|
| 1 none |  |
| 2      |  |
| 3      |  |
| 4      |  |

Technical Corrections\*:

Must be completed by:

|        |  |
|--------|--|
| 1 none |  |
| 2      |  |
| 3      |  |
| 4      |  |

\*Must made prior to recording and/or permit issuance

The applicant should be aware that the following code provisions or other requirements will apply to future phases of development of this project:

1. Comply with all terrain management requirements at time of Building Permit.

Explanation of Conditions or Corrections (if needed):

**EXHIBIT B3**

# Development Review Team

## Comment Form

Date: September 19, 2016  
Staff person: Stan Holland, Engineer  
Dept/Div: Public Utilities/Wastewater Division  
Case: 2016-95 – 155 Brownell-Howland Escarpment Variance  
Case Mgr: Katherine Mortimer



---

**The subject property is not accessible to the City public sewer system. Accessible is defined as within 200 feet of a public sewer line.**

Review by this division/department has determined that this application will meet applicable standards if the following are met:

Conditions of Approval:

Must be completed by:

|   |  |
|---|--|
| 1. Prior to any new construction on the lot, the owner shall obtain a septic system permit from the State of New Mexico Environment Department. |  |
|---|--|

\*Must made prior to recording and/or permit issuance

The applicant should be aware that the following code provisions or other requirements will apply to future phases of development of this project:

1. [list any additional items]

Explanation of Conditions or Corrections (if needed):

**EXHIBIT B4**

**MORTIMER, KATHERINE E.**

---

**From:** KASSENS, SANDRA M.  
**Sent:** Tuesday, August 30, 2016 8:24 AM  
**To:** MORTIMER, KATHERINE E.  
**Cc:** ROMERO, JOHN J  
**Subject:** Comments on Escarpment Cases

Katherine,  
The Engineering Division has no comments on the following Escarpment Variance requests:

| <u>Case #</u> | <u>Title</u>                             |
|---------------|--|
| 2016-90       | 730 Canada Ancha Escarpment Variance     |
| 2016-95       | 155 Brownell-Howland Escarpment Variance |
| 2016-97       | 165 Brownell-Howland Escarpment Variance |
| 2016-96       | 2051 Cerros Altos Escarpment Variance    |

Sandy

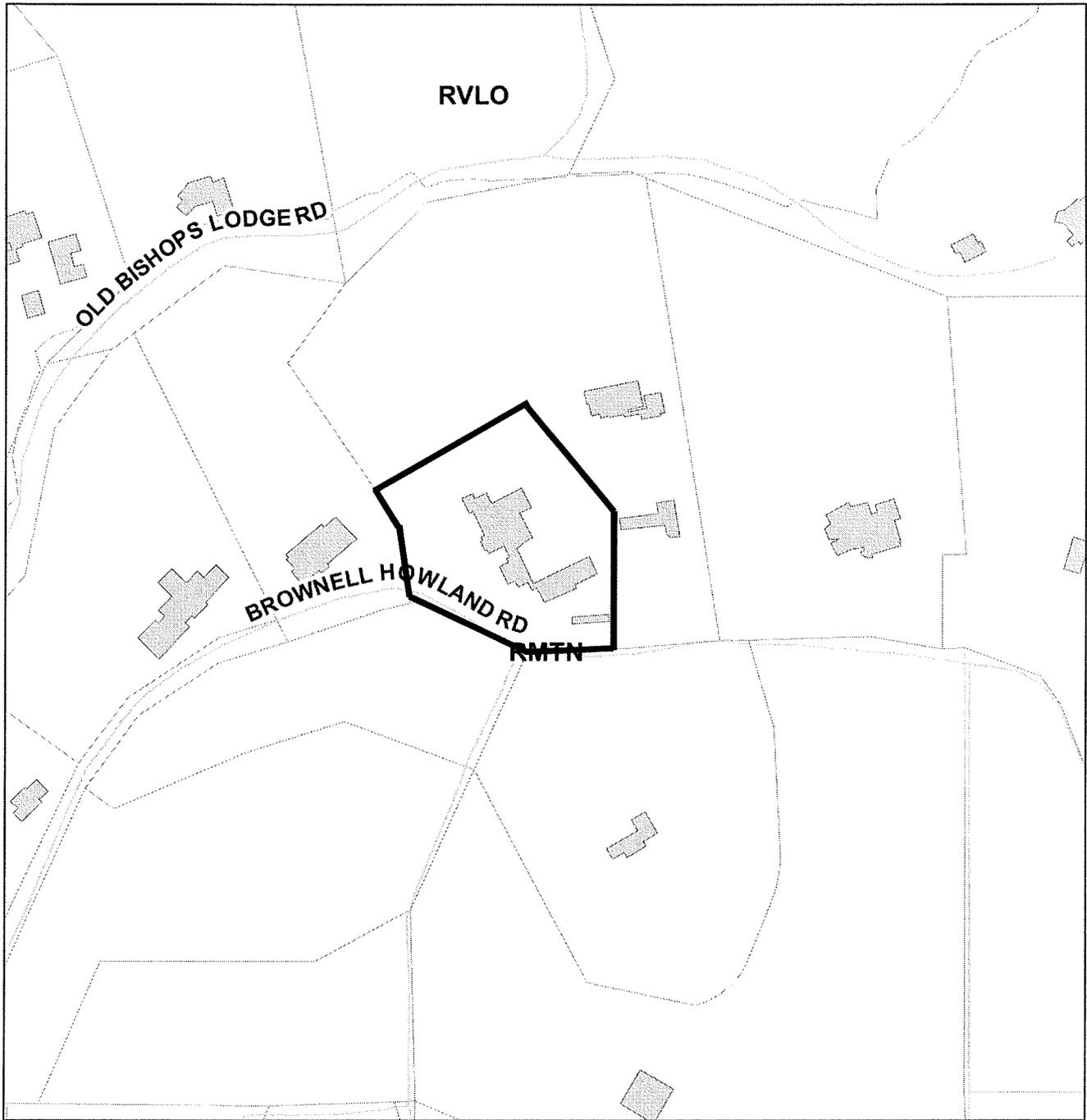
*Sandra Kassens*  
Engineer Assistant  
Engineering Division  
Public Works Department  
*City of Santa Fe*  
505-955-6697

**City of Santa Fe, New Mexico**

**Planning Commission**

**Exhibit C**  
**Maps and Photos**

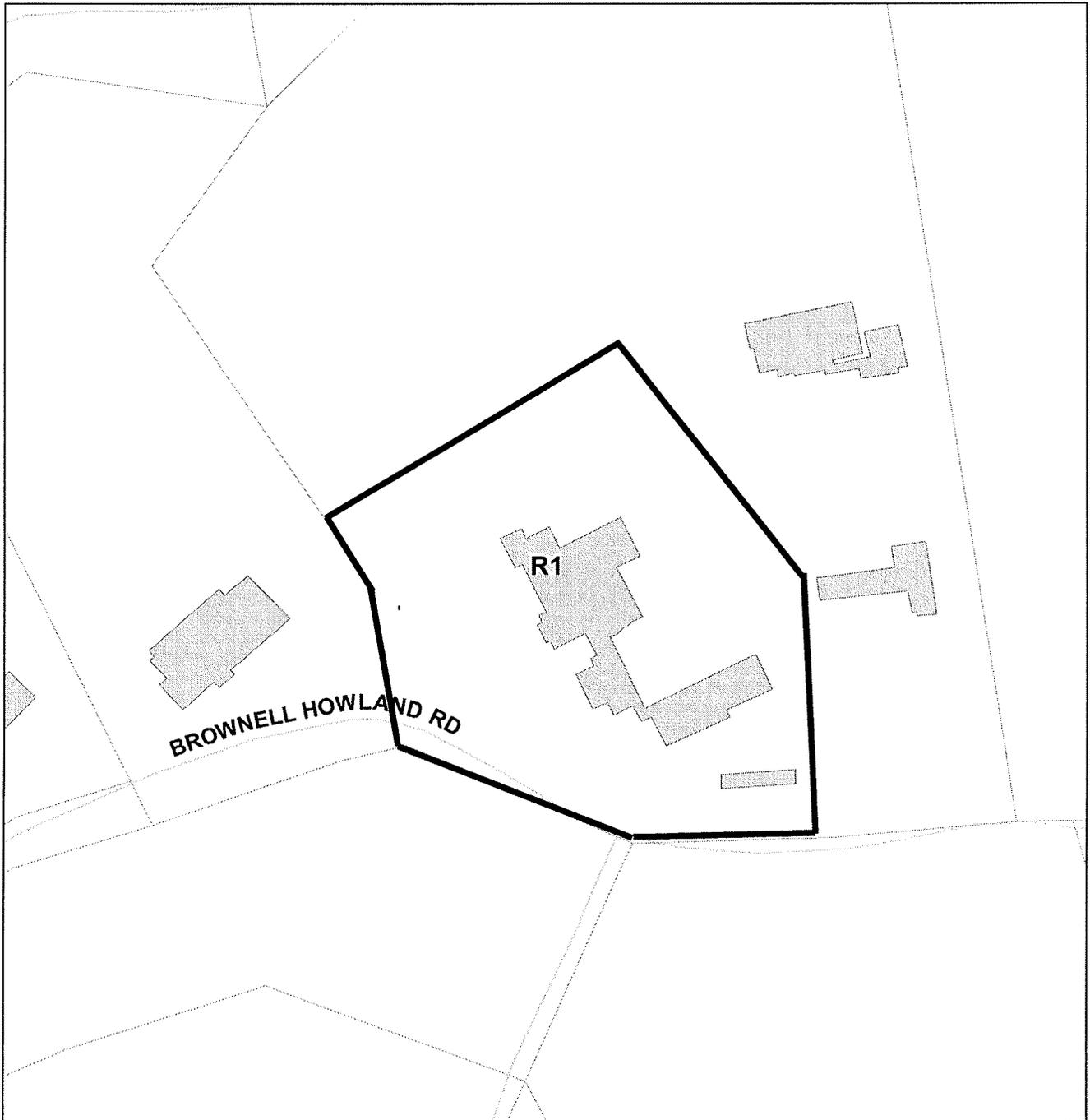
# 155 Brownell-Howland Road Future Land Use Map



**EXHIBIT C1**



# 155 Brownell-Howland Road Zoning Map



**EXHIBIT C2**



# 155 Brownell-Howland Road Aerial Photo



**EXHIBIT C3**

**City of Santa Fe, New Mexico**

**Planning Commission**

**Exhibit D**  
**Applicant Submittals**