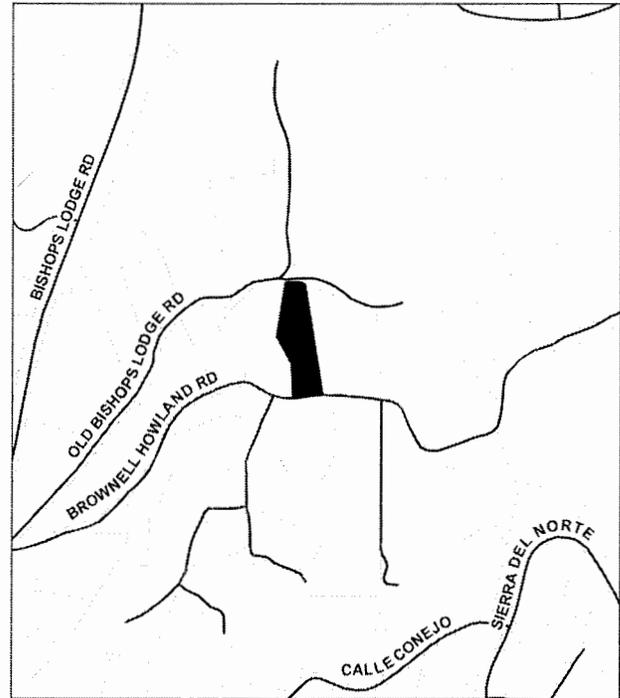




# Land Use Department Planning Commission Staff Report

Site Location Map

Case No:	2016-97
Hearing Date:	October 6, 2016
Applicant:	Sommer Karnes and Assoc.
Request:	Variance to 14-5.6(D)
Location:	165 Brownell-Howland
Prepared by:	Katherine Mortimer
Zoning:	R-1
Overlay:	Escarpment
Proposal:	Variance to allow modifications to the existing residential structure and construction of a yard wall within the Ridgetop Overlay District



**Case #2016-97. 165 Brownell-Howland Escarpment Variance.** Sommer, Karnes and Associates, LLP, agent for John R. Camp Trust Dated 7/25/06 and Michelle Cook 2011 Revocable Trust Dated 2/16/11, requests approval of a variance to modify an existing dwelling within the Ridgetop Subdistrict of the Escarpment Overlay District resulting in a net increase of 27 square feet and to replace an existing fence with a 6 foot high wall, 320 linear feet of which is located within the Ridgetop Subdistrict of the Escarpment Overlay District. The 2.01 acre property is zoned R-1. (Residential – 1 unit per acre). (Residential – 1 unit per acre). (Katherine Mortimer, Case Manager)

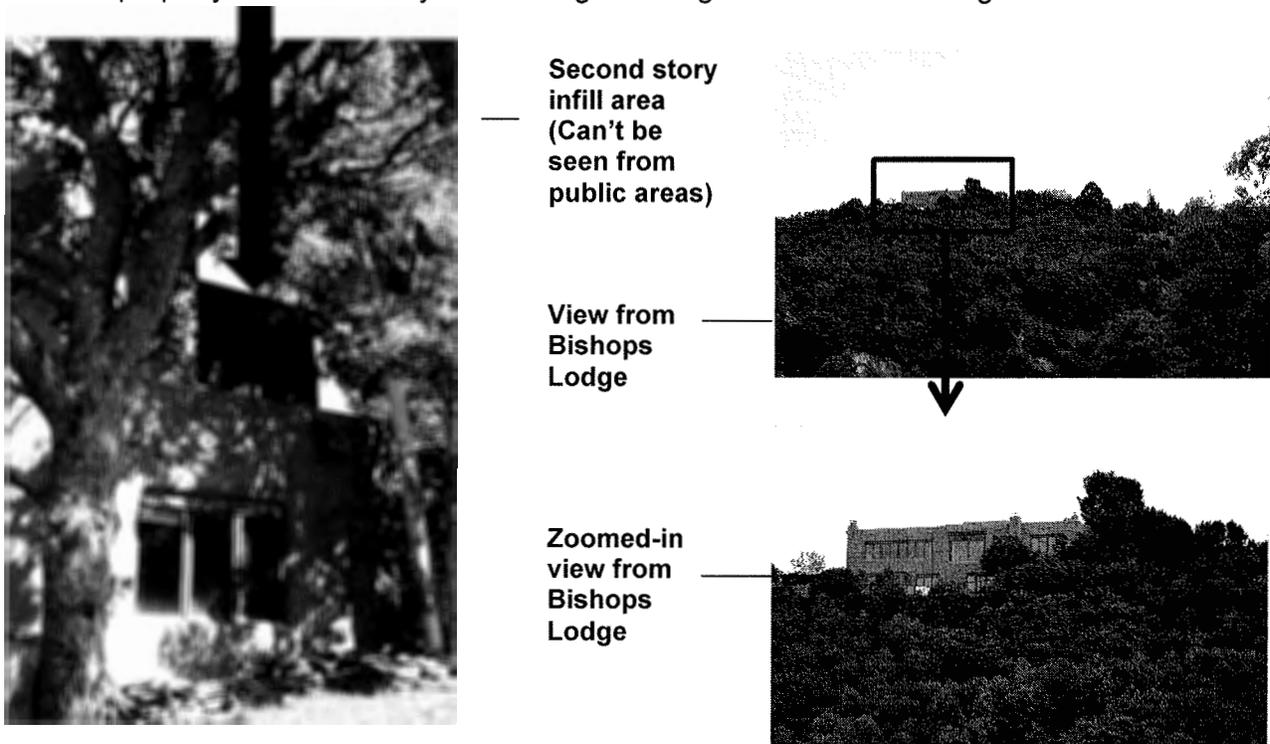
## I. RECOMMENDATION

Should the Commission determine the proposed building additions meet the variance criteria outlined below, the Commission may **APPROVE** the request. Staff is not recommending any conditions of approval. Staff has provided technical corrections which are included in Appendix A that provide information regarding subsequent steps, should this application be approved.

## II. EXECUTIVE SUMMARY

The applicant proposes several minor modifications to the existing house. Where those modifications involve additions or reconstruction of demolished portions of the house, and construction of a new yard wall, a variance is required. The variance request is to allow construction within the Ridgetop Subdistrict for a lot created after February 26, 1992, and to allow two minor second-story additions that would exceed the maximum 14 foot height limit requirement of Subsection 14-8.5(F)(4).

- The existing house is legally nonconforming, since it is located almost entirely within the Ridgetop Subdistrict and/or on slopes exceeding 30 percent. Additions to the building require variances to those same regulations.
- 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 modifications cannot be seen by neighboring properties or any public right-of-way.
- Views from streets are limited to a section of Bishops Lodge Road which is screened by existing vegetation and from Brownell-Howland Road immediately adjacent to the site.
- The proposed reconfigurations to the existing residential structure are located entirely within the Ridgetop Subdistrict of the Escarpment Overlay District.
- The proposed 6-foot yard wall would be partially in the foothills Subdistrict and would replace an existing coyote fence of the same height along a similar alignment; however, it is proposed to go into the property at the driveway to allow a greater sight distance for exiting vehicles.



### III. BACKGROUND

The current lot at 165 was first split off from the property to the east at 155 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 165 that is separate from the principal dwelling unit at 155. The lot split did not significantly affect the nonconforming status of either lot.

Section 14-5.6(D)(1) "Location of Structures; Buildable Site", prohibits any construction within the Ridgetop Subdistrict of the Escarpment Overlay Zone, including additions to existing structures. All of the existing structures on the site are located within the Ridgetop Subdistrict, but were constructed before the escarpment regulations were adopted. There is a small ribbon of land in the Foothills Subdistrict along

the roadway frontage but it is located within the required building setback and is therefore not buildable. The north portion of the site falls steeply away with slopes greater than 30%.

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 restriction, 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 15-5.6. Should the variances be granted, the development would 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, that 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 prohibit development.

**IV. GENERAL VARIANCE APPROVAL CRITERIA**

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>	
(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	Criterion Met: (Yes/No/N/A) <b>YES</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>YES</b>
(c) There is an inherent conflict in applicable regulations that cannot be resolved	<b>N/A</b>

by compliance with the more-restrictive provision as provided in Section 14-1.7; OR	
<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 residence 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 is within the required building setback. 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> (Yes/No/N/A) <b>YES</b>
<b>Evaluation:</b> No buildable area exists on this lot that can be accessed that is not within the Ridgetop Subdistrict. The application requests a small increase 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. The new wall would be longer than the coyote fence to create an area outside of the fence at the end of the driveway to allow for greater sight distance for vehicles exiting the driveway.	

<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> (Yes/No/N/A) <b>YES</b>
<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 amount of development on the site is, and would continue to be, one of the smallest in the surrounding neighborhood. The footprints of the development on other lots around the subject lot range from 1,527 to 9,290 square feet. The proposed footprint would be 4,683 square feet. This was determined 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 4,683 square foot footprint would be less than the median footprint size of 5,070 square feet.  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 be any different from other properties in the vicinity. The sizes of the proposed house footprint and yard wall are generally consistent with the development of other nearby lots. The project will comply with all other Escarpment Overlay regulations and other applicable provisions of Chapter 14, including the terrain management regulations.	
<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> (Yes/No/N/A) <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 used of the property is slightly less than the median intensity and most of the 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> (Yes/No/N/A) <b>YES</b>
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**Evaluation:** 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> (Yes/No/N/A) <b>YES</b>
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**Evaluation:** The purpose and intent of the Escarpment Overlay District is provided in Section III of this report. While the additions and yard wall construction would be contrary to the prohibition of building in the Ridgetop Subdistrict of the Escarpment Overlay Zoning District and to the maximum height restriction of 14 feet, it would not be contrary to the purpose and intent of the Subdistrict, because the proposed additions would not be seen from any public areas or rights-of-way and the wall would only be visible from Brownell-Howland Road immediately adjacent to the site. 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 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> (Yes/No/N/A) <b>YES</b>
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**Evaluation:** The proposed reconstruction of the main house and portal additions to the guest house 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 not be visible from Bishops Lodge Road and the wall would only be visible from Brownell-Howland Road immediately adjacent to the site. Staff does not believe that the proposed request for variances 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)]:

(1) Where the planning commission finds that extraordinary hardship may result from strict compliance with these regulations, it may vary the regulations so that	<b>Criteria Met:</b> (Yes/No/N/A)
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<p>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>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. The north side of the residence is visible from a portion of Bishops Lodge Road at the very northern end of the City limits. However, vegetation and the existing second floor blocks visibility to the areas where the second story additions and other building reconfigurations are proposed. The proposed yard wall is only visible 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 are 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.

**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	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 Division	Prior to construction

**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 – 165 155 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:
<ol style="list-style-type: none"> <li>1. All Fire Department access shall be no greater than a 10% grade throughout.</li> <li>2. Fire Department Access shall not be less than 20 feet width to any new/remodel construction.</li> <li>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.</li> <li>4. Fire Department shall have 150 feet distance to any portion of the building on any new construction.</li> <li>5. Shall have water supply that meets fire flow requirements as per IFC</li> </ol>	<p><b>Prior to any remodel construction the current code adopted by the governing body may need to be met.</b></p>

\*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: 2016-97 – 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	
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(C)(2)(d): “Include natural topography, storm drainage, *grading*, and erosion control plans to demonstrate compliance with Subsection (H).”
2. On elevations, show a vertical line that represents where the ridgetop Subdistrict ends with clear shading showing the new additions.
3. Screening shall be provided with landscaping complying with Article 14-5.6 (G)(7): “There shall be one tree, existing or planted meeting minimum height and size requirements, for every fifteen (15) linear feet of horizontal *wall* of each *structure* which shall be located no closer than five (5) feet and no further than thirty (30) feet from such *wall*.”

**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: 2016-97 – 165 Brownell-Howland Escarpment Variance  
Case Mgr: Katherine Mortimer



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**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.	
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\*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.**

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**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*

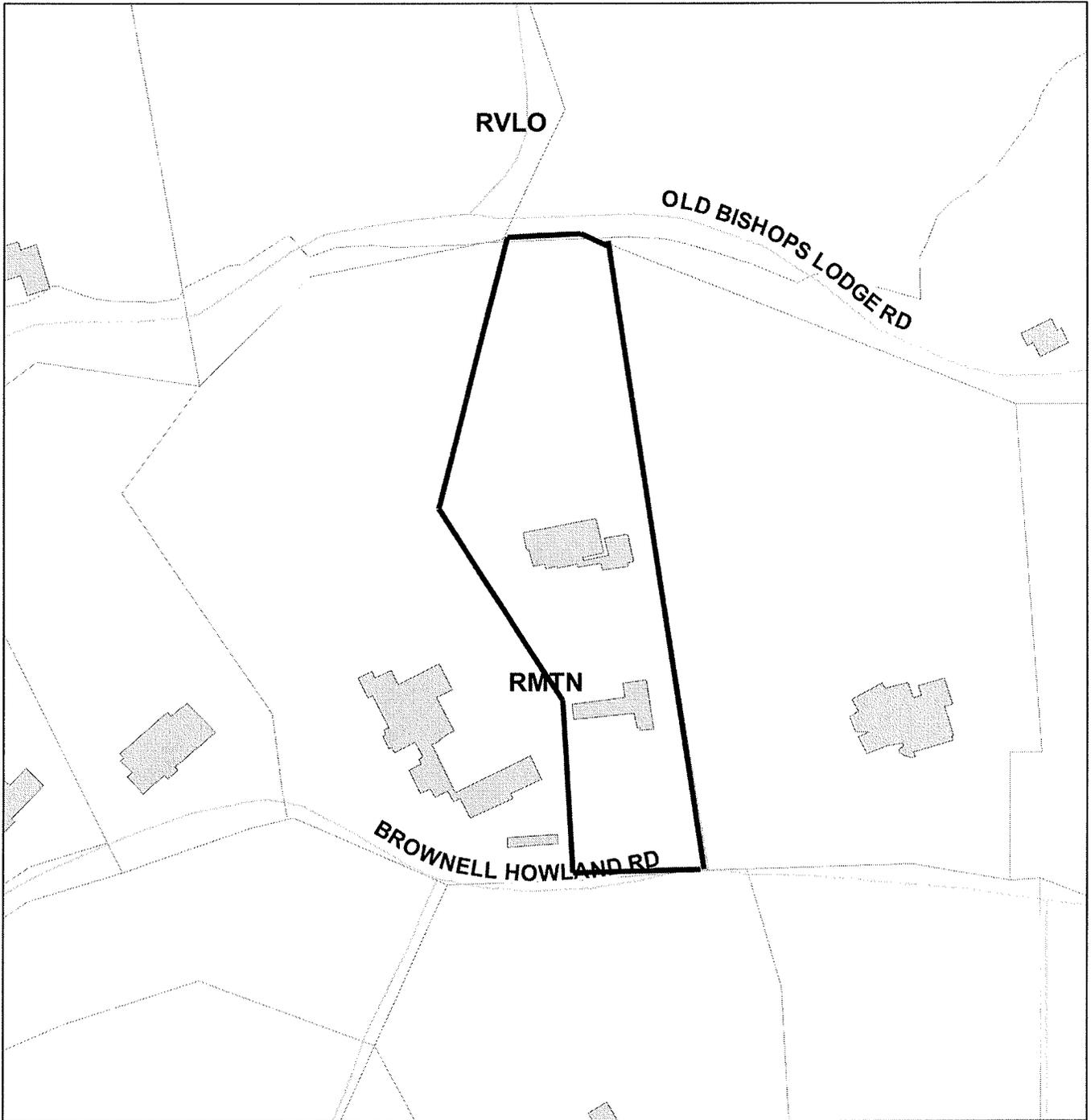
Engineer Assistant  
Engineering Division  
Public Works Department  
*City of Santa Fe*  
505-955-6697

**City of Santa Fe, New Mexico**

**Planning Commission**

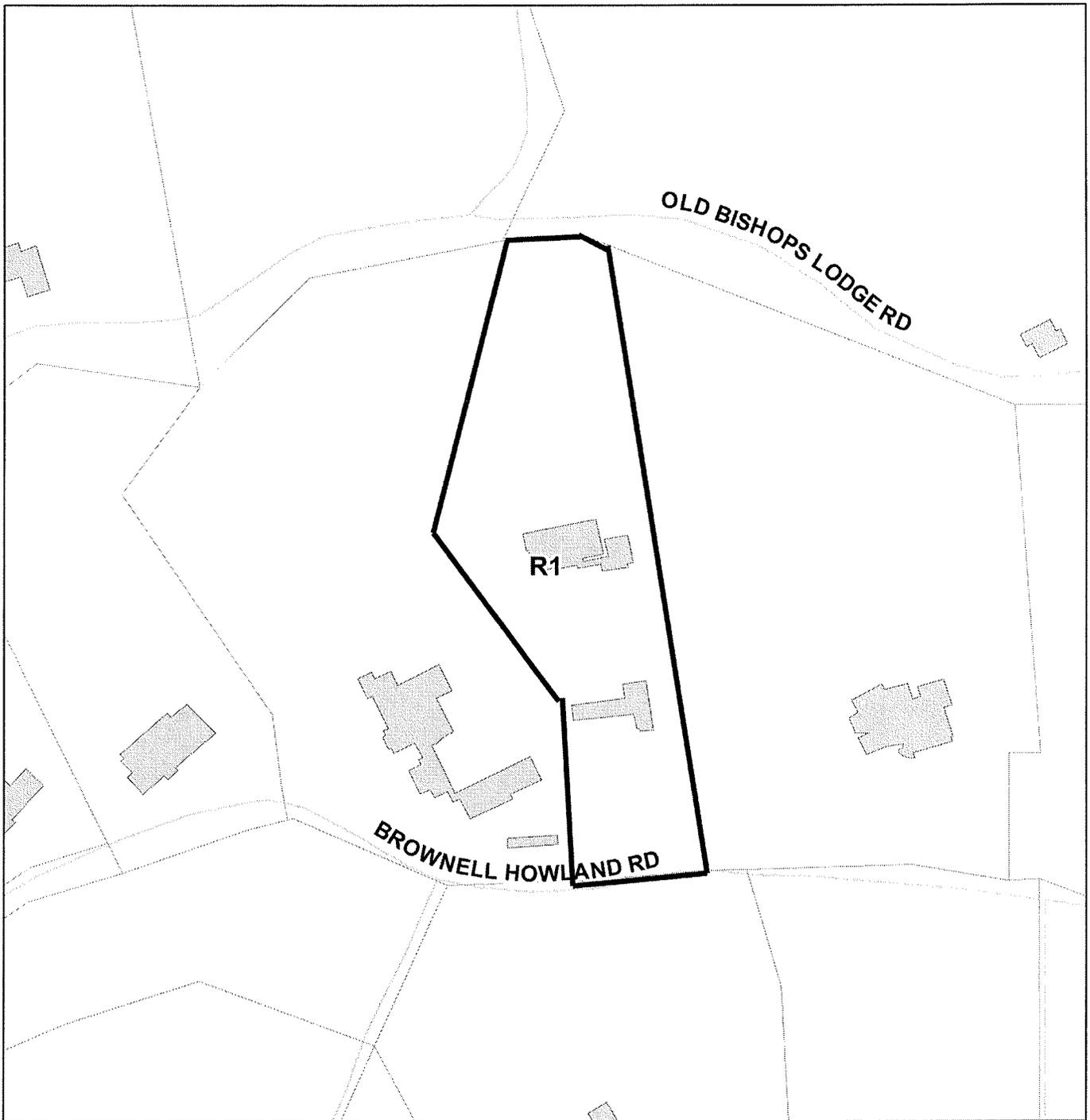
**Exhibit C**  
**Maps and Photos**

# 165 Brownell-Howland Road Future Land Use Map



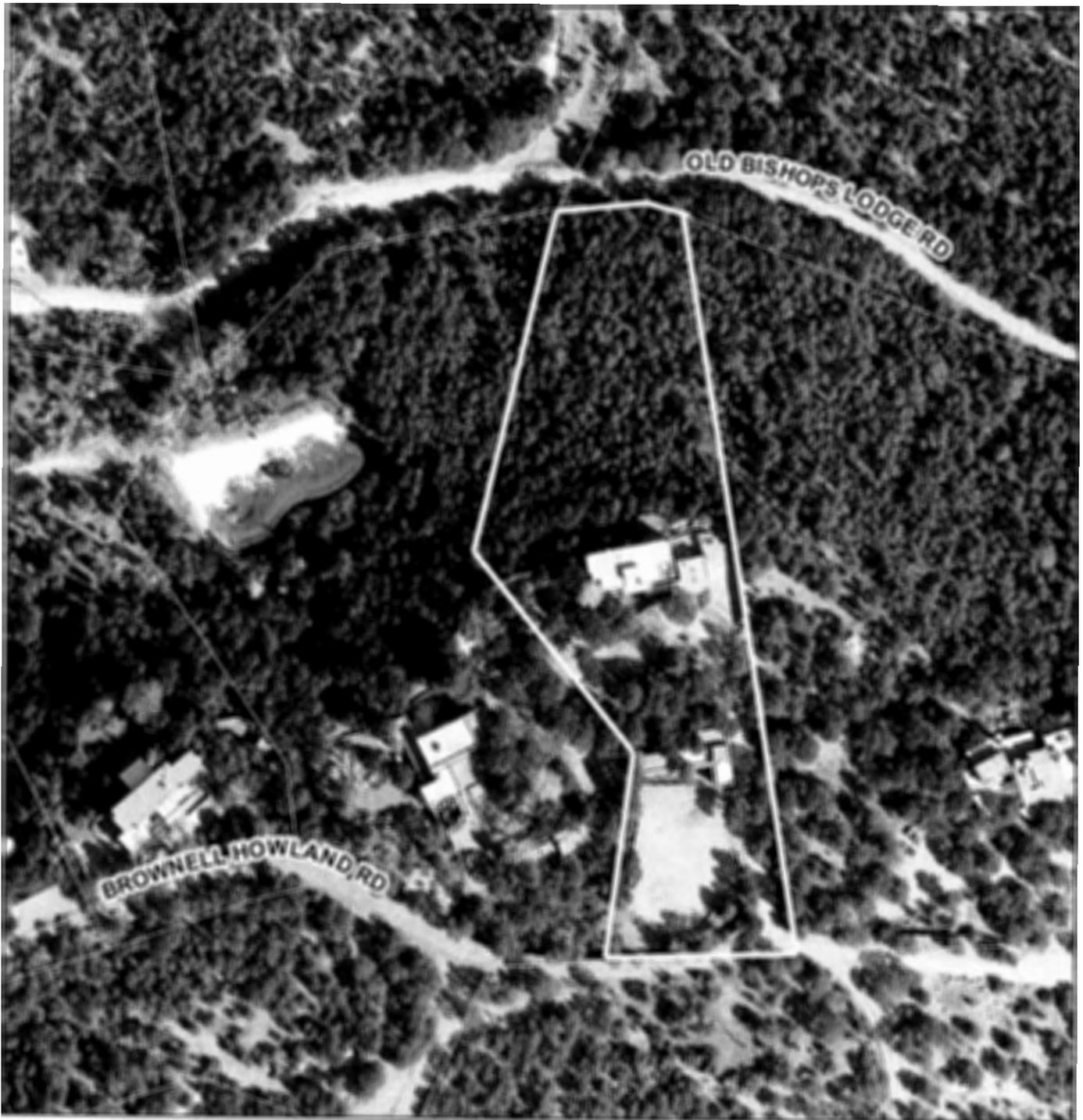
**EXHIBIT C1**

# 165 Brownell-Howland Road Zoning Map



**EXHIBIT C2**

# 165 Brownell-Howland Road Aerial Photo



**EXHIBIT C3**

**City of Santa Fe, New Mexico**

**Planning Commission**

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