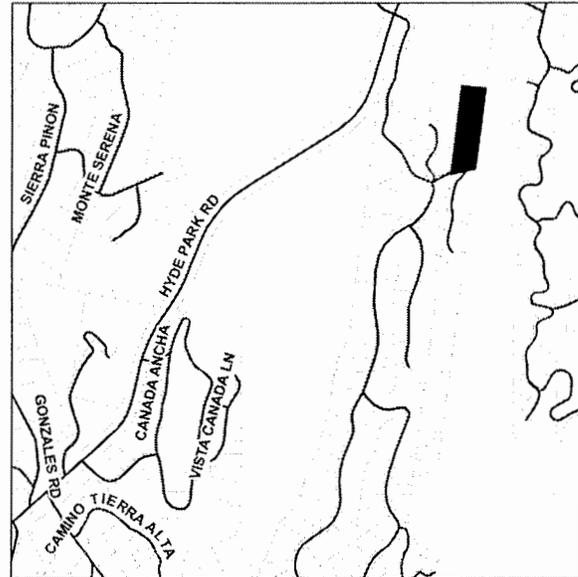




Land Use Department Planning Commission Staff Report

Site Location Map

Case No: 2016-96
 Hearing Date: October 6, 2016
 Applicant: Sommer, Karnes and Associates, LLP
 Request: Variance to 14-5.6(D)
 Location: 2051 Cerros Altos
 Prepared by: Katherine Mortimer
 Zoning: R-1
 Overlay: Escarpment
 Proposal: Variance to allow construction of a single-family residence within the Ridgetop Subdistrict of the Escarpment Overlay District.



Case #2016-96. 2051 Cerros Altos Escarpment Variance. Sommer, Karnes and Associates, LLP, agent for Julie Silverstein Trust and the Kim M. Colweck Trust, requests approval of a variance to allow construction of a single-family residence within the Ridgetop Subdistrict of the Escarpment Overlay District. The 4.337 acre property is zoned R-1 (Residential – 1 unit per acre). (Katherine Mortimer, Case Manager)

I. RECOMMENDATION

Should the Commission determine the proposed siting meets the variance criteria outlined below, the Commission may **APPROVE** the request subject to the following conditions of approval:

#	Condition of approval	Dept/Division	To be completed by:
1	Color of residence shall be chosen to blend into the surrounding landscape	LU/Technical Review	Building Permit Application
2	This variance supersedes Variance #2016-06 approved by the Planning Commission on March 3, 2016, which is hereby declared to be null and void upon approval of this variance.	Case Manager	

II. EXECUTIVE SUMMARY

- The application meets the approval criteria to variances in the Escarpment Overlay District.
- A prior approval was granted (Case #2016-06, March 3, 2016) to construct the proposed residence

on a different location on the site, with a terrain management variance to permit more than one-half of the building footprint on natural slopes of greater than 20% ("50-50 Rule"). Since that approval, the property owners have changed the proposed building location.

- The prior terrain management variance will be rescinded, should this variance be approved.
- The prior analysis found that siting the structure anywhere on the lot represents a tradeoff between a terrain management and an escarpment variance, either of which was supportable.
- The proposed house would be constructed on a flatter part of the lot, and would not require any variances to the terrain management regulations.
- The proposed house would have a floor area of 4,356 square feet, and the footprint – the area covered by the house, portals, etc. – would be 6,318 square feet.
- Views from Hyde Park Road would be mitigated by selection of a house color which best matches the surrounding landscape.
- The proposed house would be one of the larger homes in the subdivision and immediate neighborhood, but it would represent the smallest percentage of footprint compared to the size of the site. The size of the footprint of the proposed home is similar to those of other homes in the same subdivision and in the surrounding neighborhood.

III. BACKGROUND

The lot was created in 2004 as Lot 6 of the Cerros Altos Subdivision. Subsection 14-5.6(D)(1) "Location of Structures; Buildable Site" prohibits any construction within the Ridgetop Subdistrict of the Escarpment Overlay Zone.

A development plan sheet recorded with the 2004 subdivision shows a buildable site of 5,853 square feet on the 4.337-acre lot. Such sites are provided when creating a new lot to demonstrate that the lot being created is a buildable lot, but are not intended to indicate the only buildable area or to restrict development to only the area shown. The house proposed by the applicant could not be built on the designated buildable site, or any other location on the lot without one or more variances. The development plan also includes a 50 foot building setback and a 30-foot road setback on the west side of the property.

Development of the proposed home on the site would require a variance from either the terrain management or the Escarpment Overlay District regulations, or a more compact building footprint than is proposed by the applicant.

Land within the Escarpment Overlay District is considered to have significant visual impact to the City, and the intent of the district is to preserve the City's aesthetic beauty and the natural environment. [Subsections 14-5.6(A)(1) and (A)(2)] 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.

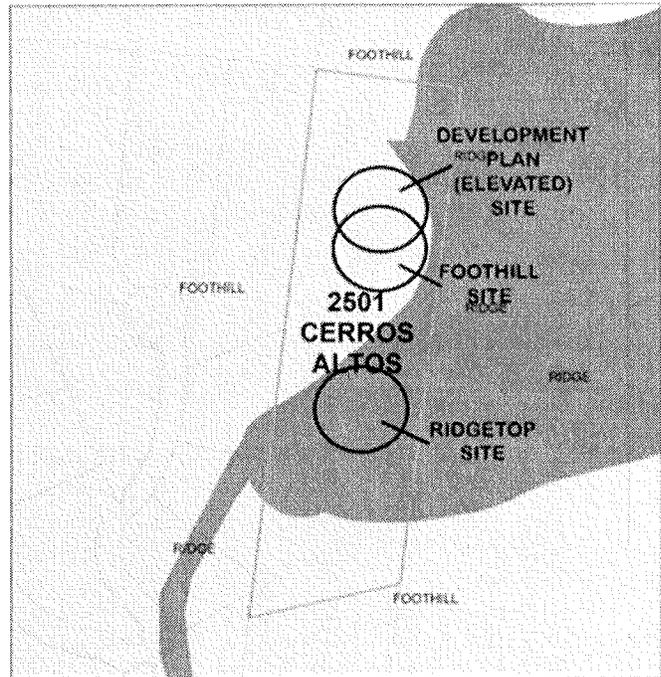
The Terrain and Stormwater Management regulations regulate grading and drainage [Section 14-8.2]. Their intent includes protecting life and property and protecting the scenic character from grading scars and vegetation removal, as well as managing stormwater to minimize erosion and flooding. Key provisions include prohibition of buildings on slopes steeper than 30 percent, and a requirement that each lot contain a buildable site that would accommodate a building with a footprint of at least 2,000

square feet. The terrain management regulations also include the “50-50 rule:” on lots with slopes of 20 percent or steeper, 50 percent of the building footprint may be on slopes between 20 and 30 percent, but 50 percent of the footprint must be on slopes less than 20 percent.

In order to construct the home proposed on the site, it would require a variance to either the 50-50 rule of the terrain management regulations or to the prohibition on construction within the Ridgetop Subdistrict of the Escarpment Overlay Zone. The applicants first applied for and received a variance to the terrain management regulation’s 50-50 rule. They have now changed their minds and are requesting instead a variance to the prohibition on construction in the Ridgetop Subdistrict. Should the new request be approved, the previous variance approval would be rescinded.

Although the new location is more visible than the one that was previously approved, overall visual impact would be mitigated somewhat by the shorter driveway. The shorter driveway will reduce cut and fill slopes and retaining walls, and will also reduce removal of significant vegetation.

Escarpment Zoning District Map



Original Location



Proposed Location



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:

Criterion 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; OR	Criterion Met: (Yes/No/conditional/N/A) YES
(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	NO
(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	NO
(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).	N/A
Evaluation: The parcel is a legal conforming lot as that was created as Lot 6 of the Cerros Altos Subdivision (Case #S2004-10), approved and recorded in 2004. However, the developable area, shown as the "elevated site" in the Escarpment Zoning District Map on page 3, is an awkward configuration and access would require extensive grading, impacting slopes greater than 30% to accommodate the proposed building design. Fire access is more difficult and more vegetation would be disturbed. It is these unique physical characteristics of the site which meet the first sub-criterion.	

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.	Criterion Met: (Yes/No/conditional/N/A) YES
No location on the site can accommodate the proposed structure without a variance to either the terrain management regulations or the Escarpment Overlay Zone regulations. It therefore represents a tradeoff between variances. Initially the applicants sought and received a variance to the terrain management 50-50 rule. Upon further examination the applicants have changed their minds and are now seeking a variance to the Escarpment Overlay Zone prohibition on building within the Ridgetop Subdistrict.	

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.	Criterion Met: (Yes/No/conditional/N/A) YES

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.” The proposed house would be one of the larger homes in the subdivision and immediate neighborhood, but it would represent the smallest percentage of footprint compared to the size of the site. The footprints of houses on other lots in the same subdivision range from 4,660 to 6,800 square feet and in the neighborhood immediately to the west range from 2,700 to 6,470. The proposed footprint is 6,318 square feet; however, the size of the lot is larger than any other lot in the subdivision and immediate neighborhood. As a ratio of building footprint to lot size, the proposed home would be the smallest in the subdivision and immediate neighbors. The percentage of lot area occupied by the building footprint for existing homes in the same subdivision or immediate neighborhood ranges from 5% to 26%, while the proposed footprint would be 3% of the lot size.

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:	Criterion Met: (Yes/No/conditional/N/A) YES
--	---

To determine reasonable use of a property we look to other properties in the neighborhood. As noted under criterion 3, a home of the size proposed is consistent with others homes in the neighborhood. The proposed building site would require one variance. Location on other possible building sites would require a variance from the terrain management regulations. Therefore, this request represents the minimum variance that will make reasonable use of the land.

Criterion 4a: Has the property or could it be used without variances for a different category or lesser intensity of use?	Criterion Met: (Yes/No/conditional/N/A) YES
--	---

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.

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.	Criterion Met: (Yes/No/conditional/N/A) YES
--	---

Staff evaluation finds that the proposed variance request, including the mitigating characteristics of the proposal and the conditions of approval, is consistent with the purpose and intent of Chapter 14. In this case it is a balance of two different variances, either to the terrain management 50-50 rules or to the prohibition on construction in the Ridgetop Subdistrict of the Escarpment Overlay District, that would need to be granted to approve construction of a home that is similar in size to other homes in the same subdivision and neighborhood. The escarpment district impacts are proposed to be mitigated by using a stucco color that blends into the surrounding landscape.

Criterion 5: The variance is not contrary to the public interest.	Criterion Met: (Yes/No/conditional/N/A) YES
--	---

The proposed new construction 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 view of the residence from Hyde Park Road will be mitigated by the selection of the stucco color. 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>Criteria Met: (Yes/No/conditional/N/A)</p> <p style="text-align: center;">YES</p>
<p>The intent of the Escarpment Overlay District lists preservation of Santa Fe's aesthetic beauty, mountain views and scenic vistas. The residence would be visible from Hyde Park Road where a higher ridgetop behind the project would be visually higher than the proposed residence. The house would not be seen from any other major roadways or any public gathering areas. Therefore location of the residence on this location would not be contrary to the intent of the overlay district.</p>	

VI. EXHIBITS:

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. General Plan Land Use Designation Map
2. Zoning Map
3. 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.

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	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
2	Fire Department shall have 150 feet distance to any portion of the building on any new construction.	Fire Department	Prior to construction
3	Shall have water supply that meets fire flow requirements as per IFC	Fire Department	Prior to construction
4	Connection of the property/structures to the City public sewer system is required	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: 2016-96 2051 Cerros Altos 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. 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.
2. Fire Department shall have 150 feet distance to any portion of the building on any new construction.
3. 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 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:

Explanation of Conditions or Corrections (if needed):

EXHIBIT B1

Development Review Team

Comment Form

Date: September 21st, 2016
Staff person: Somie Ahmed
Dept/Div: LUD/Technical Review Division
Case: 2016-96 – 2051 Cerros Altos 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. Cantilevers of greater than three (3) horizontal feet in depth are prohibited.

EXHIBIT B2

Development Review Team

Comment Form

Date: September 19, 2016
From: Risana "RB" Zaxus, City Engineer
Dept/Div: Land Use, Technical Review Division
Case: Case # 2016-96, 2051 Cerros Altos 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. Meet all applicable 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: 2016-96 – 2051 Cerros Altos Escarpment Variance
Case Mgr: Katherine Mortimer

The subject property is 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. Connection of the property/structures to the City public sewer system is required	

*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

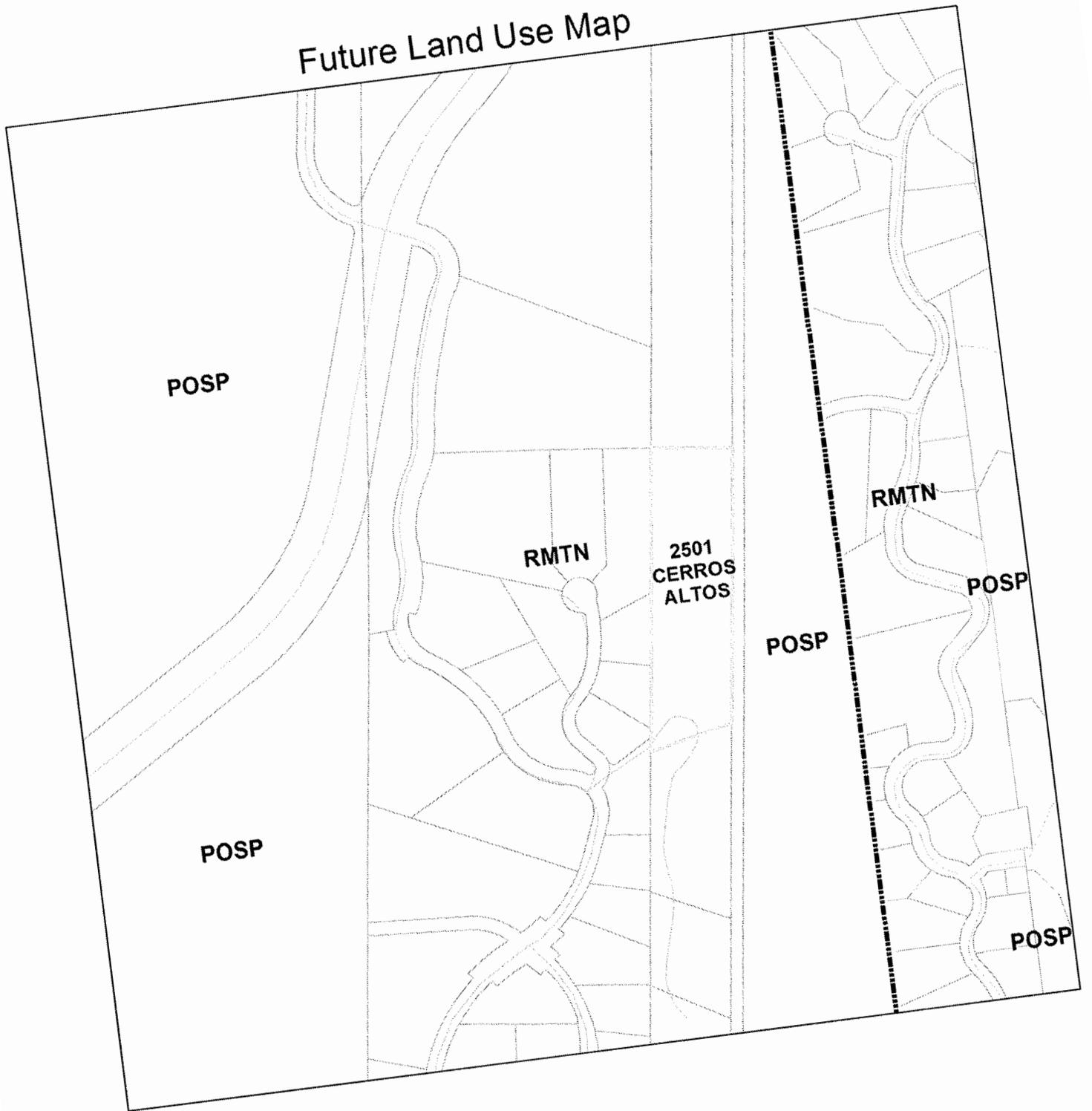
505-955-6697

City of Santa Fe, New Mexico

Planning Commission

Exhibit C
Maps and Photos

Future Land Use Map



POSP

RMTN

2501
CERROS
ALTOS

RMTN

POSP

POSP

POSP

POSP

EXHIBIT C1



Zoning Map

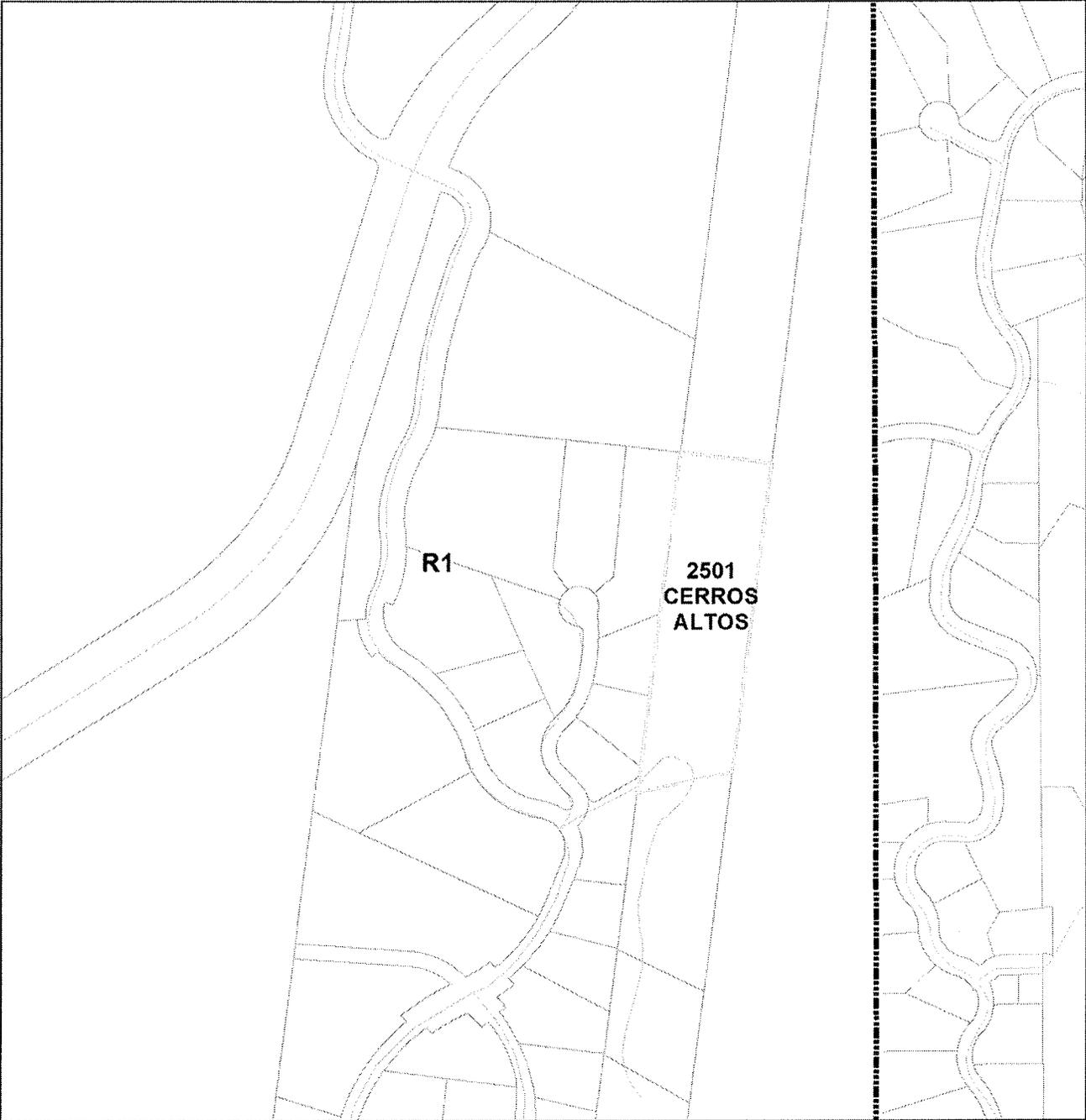


EXHIBIT C2



Aerial Photo



EXHIBIT C3

City of Santa Fe, New Mexico

Planning Commission

Exhibit D
Photo Montages

City of Santa Fe, New Mexico

Planning Commission

Exhibit E
Applicant Submittals