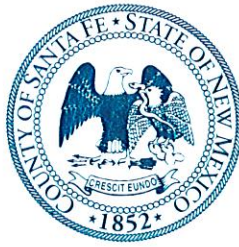


Danny Mayfield  
Commissioner, District 1

Virginia Vigil  
Commissioner, District 2

Robert Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

**DATE:** July 12, 2011

**TO:** Board of County Commissioners

**FROM:** Jose E. Larrañaga, Commercial Development Case Manager

**VIA:** Stephen C. Ross, County Attorney *SCR*  
Jack Kolkmeier, Land Use Administrator *JKC*  
Shelley Cobau, Building and Development Services Manager *SC*  
Wayne Dalton, Building and Development Services Supervisor *WD*

**FILE REF.:** Reconsideration of BCC CASE # MIS 11-5140 Rezoning of Polk Property  
(Commissioner Holian).

### ISSUE:

Polk Rodeo Properties, Ltd. Co., Applicant, Jim Siebert, Agent, requests that the Board of County Commissioners clarify that a future Application to the City of Santa Fe for the rezoning of .63 acres of a 1.88 acre parcel from Rural Residential (RR) to General Commercial (C-2) will not constitute a violation of the Settlement Agreement and Mutual Release of All Claims between the City of Santa Fe, Santa Fe County and Las Soleras, dated May, 2008.

The property is located at 2910 Richards Avenue at the southwest corner of Rodeo Road and Richards Avenue within Area 12 of the Presumptive City Limits, within Section 8, Township 16 North, Range 9 East (Commission District 5).

### SUMMARY:

On May 10, 2011, a proposal to consent to the City's potential rezoning of the Polk property was presented to the Board of County Commissioners (BCC). The decision of the BCC was to deny the request (Exhibit "B").

On June 14, 2011, under matters from the public to the BCC, Mr. Jim Siebert requested a reconsideration of a future Application to the City of Santa Fe for the rezoning of .63 acres of a 1.88 acre parcel from Rural Residential (RR) to General Commercial (C-2). Commissioner Holian, being in the majority of the previous decision by the BCC, requested a reconsideration of BCC Case # MIS 11-5140 Rezoning of Polk Property to be heard on the July 12<sup>th</sup> BCC meeting.

**REQUIRED ACTION:**

The BCC should review the attached material and consider the facts presented, take action to approve, deny, approve or table for further analysis of this request.

**ATTACHMENTS:**

Exhibit "A" – Information submitted by Applicant  
Exhibit "B" – May 10, 2011 BCC Minutes



**JAMES W. SIEBERT  
AND ASSOCIATES, INC.**

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**915 MERCER STREET \* SANTA FE, NEW MEXICO 87505  
(505) 983-5588 \* FAX (505) 989-7313  
siebert.associates@comcast.net**

June 20, 2011

Shelly Cobau  
Building and Development Services Section Manager  
102 Grant Avenue  
Santa Fe, NM 87504

Re: Polk Oil request, southwest corner of Rodeo Road and Richards Ave.

Dear Ms Cobau:

I would like to include additional following information in the County Commission packet for their meeting of July 12, 2011.

Extent of Rural Residential Zoning

The Rural Residential Zoning adopted as part of the "Presumptive City Limits" zoning applies to the Town and Country Subdivision and adjoining lands (see Exhibit A). Land currently zoned Rural Residential represents 107 acres (based on City GIS mapping). The Polk Oil property that is proposed for annexation and rezoning to C-2, General Commercial, consisting of .63 acre represents .006 of the land currently zoned Rural Residential. See Exhibit B for description of existing conditions for the lots owned by Polk Oil Company.



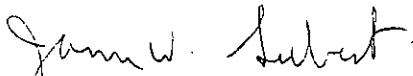
Process for Securing Entitlements

The following is a description of the development review process that will be used by the City of Santa Fe for the Polk Oil request.

- Lot line adjustment plat separating .63 acre of land from 1.45 acres of land described as Lot 1, Block 1 in the Town & County Subdivision owned by Polk Oil. .63 acre of land from the 1.45 acre tract will be incorporated into the existing 1.26 acre commercial tract on Rodeo Road owned by Polk Oil (see exhibit entitled Action #1).
- The adjusted 1.89 acre lot adjacent to Rodeo Road will be annexed to the City of Santa Fe. The remainder of Lot 1 Block 1, consisting of .82 acres, will remain outside the City limits (see exhibit entitled Action #2).
- The .63 acres of land incorporated into Polk Oil tract adjacent to Rodeo Road will be rezoned to C-2, General Commercial. The remainder of the lot consisting of .82 acres will remain RR, Rural Residential (see exhibit entitled Action # 3).

As a condition of approval Polk Oil Company agrees to limit the C-2 zoning to the area shown on the exhibits attached to this letter consisting of .63 acre. Polk Oil also agrees to not allow any access from Richards Ave to the subject .63 acre parcel.

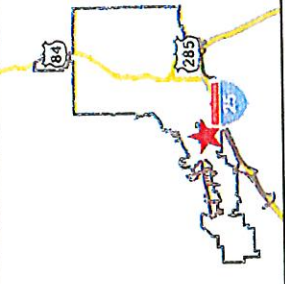
Sincerely,

  
James W. Siebert

Xc: Jim Polk  
Mack With



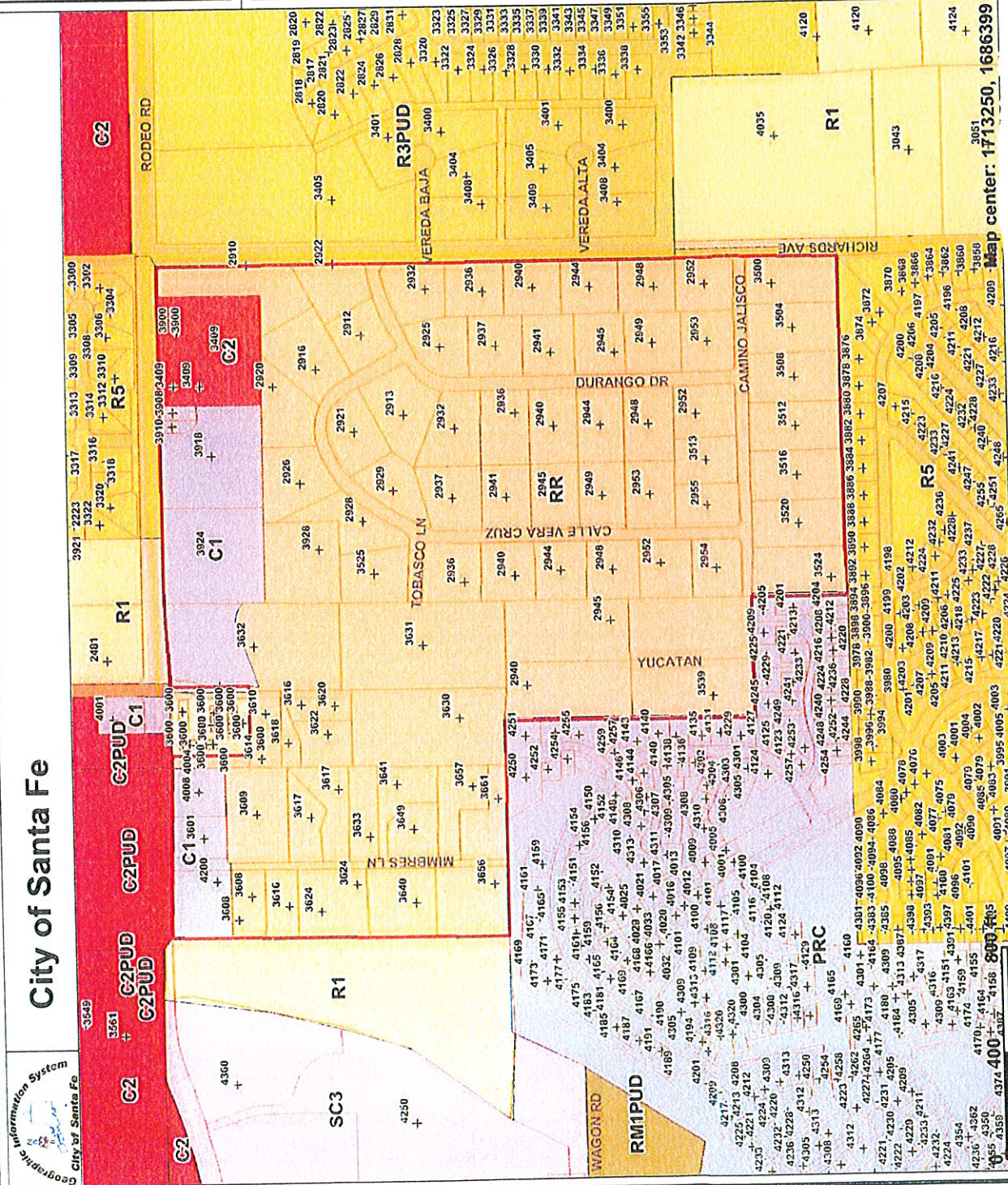
# City of Santa Fe



## Legend

- City Limits
- Address Points
- Parcels
- Santa Fe River
- Zoning**
- RR Rural Residential
- R1, (PUD) Single-Family 1du/ac.
- R2, (DT), (PUD) Single - Family 2du/ac
- R3, (PUD) Single - Family 3du/ac
- R4 Single - Family 4du/ac
- R5, (DT), (PUD), (AC), R6 Single - Family 5-6du/ac
- R7, (I), (PUD), R8 Single - Family 7-8du/ac
- RC5, ACRCS Compound 5du/ac
- RC8, ACRCS Compound 8du/ac
- RM10, (PUD) Multiple - Family 10du/ac
- RMLD, (PUD) Multiple - Family 12du/ac
- RM1, (PUD) Multiple - Family 21du/ac
- RM2, (PUD) Multiple - Family 29du/ac
- RAC Residential Arts & Crafts
- MHP Mobile Home Park

Scale: 1:6,797

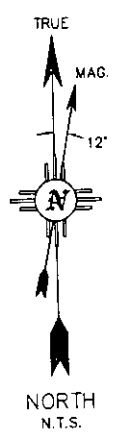


Notes: 107.10 Acres within RR district

This map is a user generated static output from an internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Map center: **T113250, 1686399**

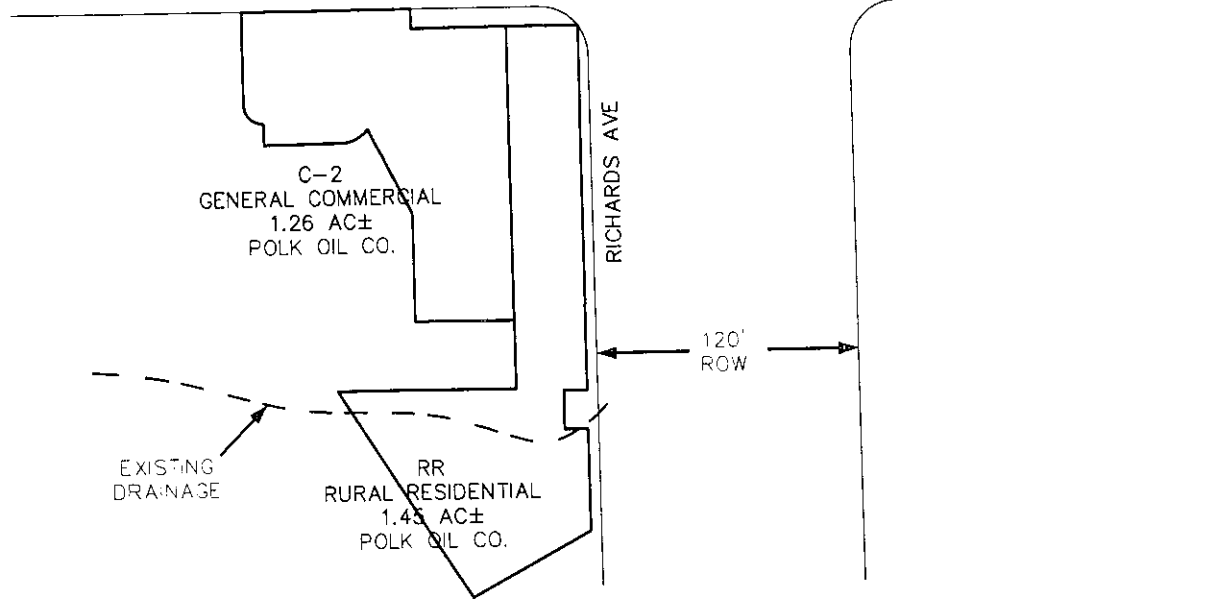




RICHARDS AVE

RODEO ROAD

RODEO ROAD



EXISTING DRAINAGE

C-2  
GENERAL COMMERCIAL  
1.26 AC±  
POLK OIL CO.

RR  
RURAL RESIDENTIAL  
1.45 AC±  
POLK OIL CO.

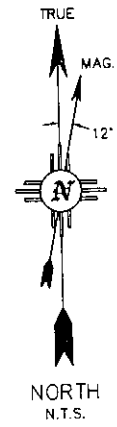
120'  
ROW

LOT 1, BLOCK 1  
TOWN & COUNTRY SUBDIVISION

EXHIBIT B

<p><b>JAMES W. SIEBERT</b> AND ASSOCIATES, INC.</p>	<p>POLK OIL CO. RODEO ROAD</p>	<p>NORTH </p>
<p>915 MERCER STREET • SANTA FE, NEW MEXICO 87505</p> <p>575 987-0588 FAX 505 989-1212</p>	<p>EXISTING CONDITIONS</p>	<p>SCALE N.T.S.</p>

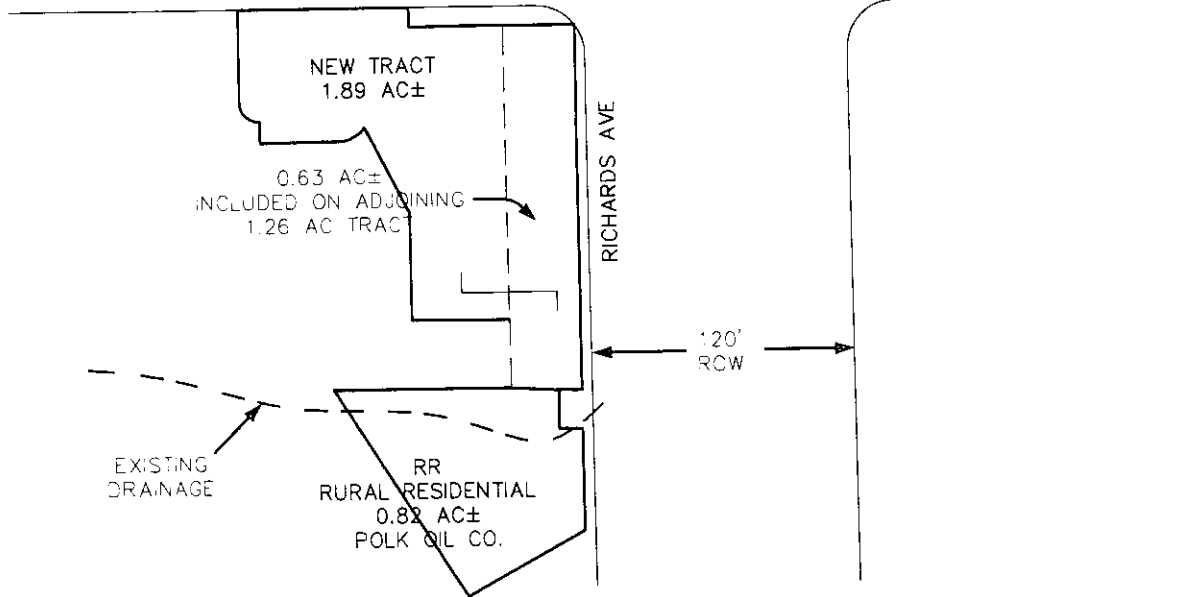
C:\Users\jw\Documents\Projects\11-10-05\11-10-05.dwg



RICHARDS AVE

RODEO ROAD

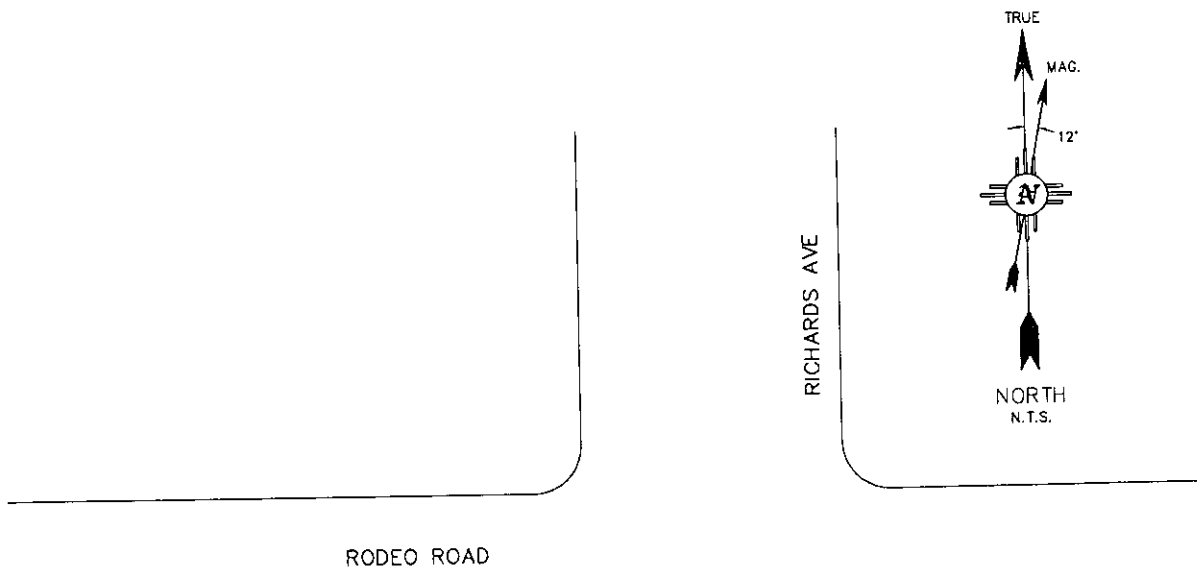
RODEO ROAD



ACTION #1

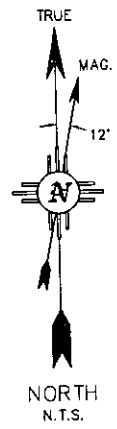
<p><b>JAMES W. SIEBERT</b> AND ASSOCIATES, INC.</p>	<p>POLK OIL RODEO ROAD</p>	<p>NORTH </p>
<p>915 MERCER STREET • SANTA FE NEW MEXICO 87502</p> <p>505 982-6692</p>	<p>LOT LINE ADJUSTMENT</p>	<p>SCALE N.T.S.</p>

10/1/01 10:00 AM 10/1/01 10:00 AM 10/1/01 10:00 AM 10/1/01 10:00 AM 10/1/01 10:00 AM

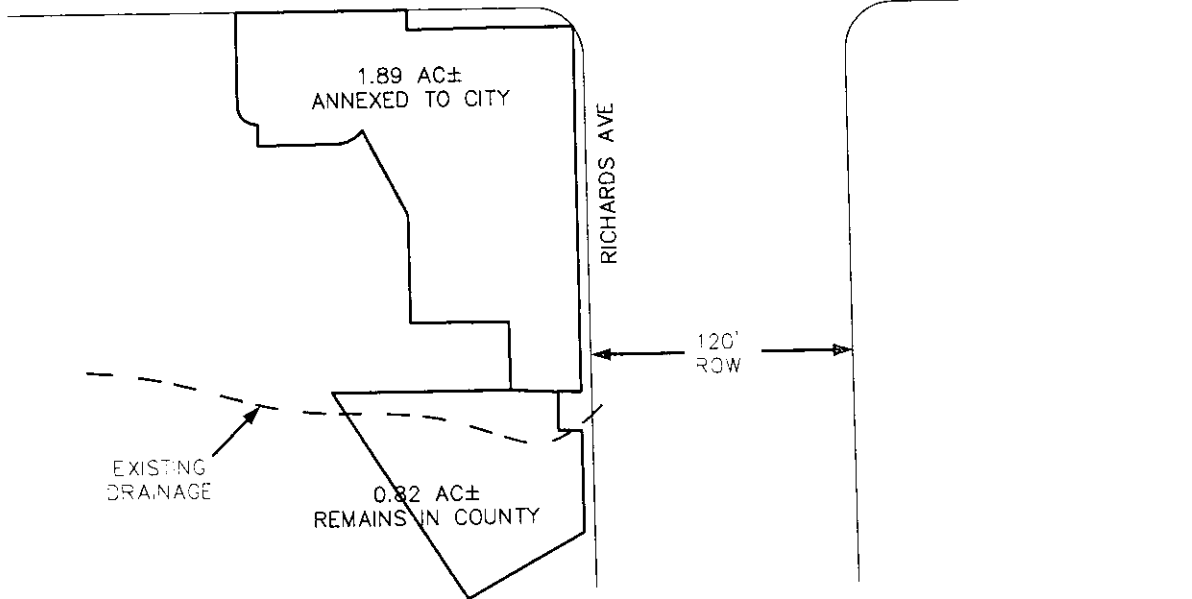


RODEO ROAD

RICHARDS AVE



RODEO ROAD



1.89 AC±  
ANNEXED TO CITY



RICHARDS AVE

120'  
ROW

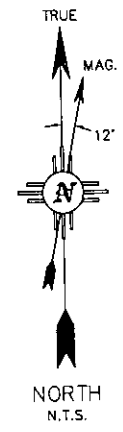
EXISTING  
DRAINAGE

0.82 AC±  
REMAINS IN COUNTY

ACTION #2

<p><b>JAMES W. SIEBERT</b> AND ASSOCIATES, INC.</p>	<p>POLK OIL RODEO ROAD</p>	<p>NORTH </p>
<p>915 MERCER STREET • SANTA FE, NEW MEXICO 87505</p> <p>505 982-0588  FAX 505 988-1212</p>	<p>ANNEXATION</p>	<p>SCALE N.T.S.</p>

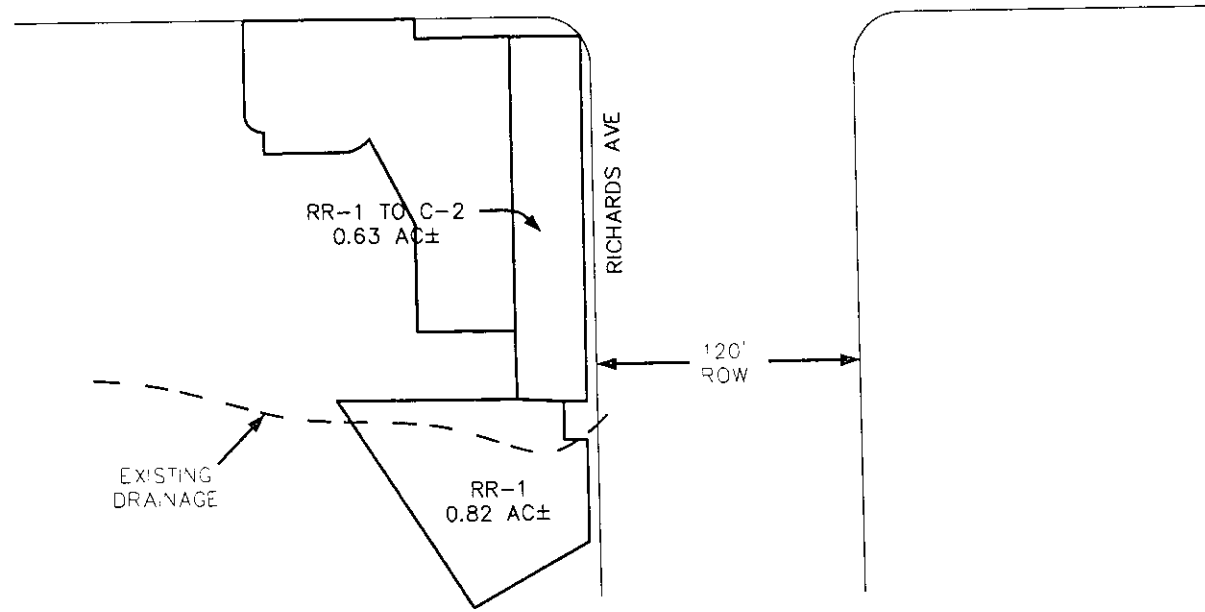
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RICHARDS AVE

RODEO ROAD

RODEO ROAD



ACTION #3

<p><b>JAMES W. SIEBERT</b> AND ASSOCIATES, INC.</p>	<p>POLK OIL RODEO ROAD</p>	<p>NORTH</p> 
<p>515 MERCER STREET • SANTA FE, NEW MEXICO 87505</p>	<p>REZONING</p>	<p>SCALE N.T.S.</p>

11/10/05 11:00 AM 11/10/05 11:00 AM 11/10/05 11:00 AM



CHAIR VIGIL: Thank you, Madam Chair.  
MR. ALLEY: Any questions?  
CHAIR VIGIL: Any questions? This continues to be a public hearing. Is there anyone else that would like to address the Commission on this? Okay, seeing none.  
COMMISSIONER MAYFIELD: Madam Chair.  
CHAIR VIGIL: Commissioner Mayfield.  
COMMISSIONER MAYFIELD: I'll move for approval with the conditions that the applicant has put on himself.  
CHAIR VIGIL: Okay. That would include .25 acre-feet of water use per unit, and I believe there's one unit there now. Is that correct, Mr. Siebert? There's two. No further division of the land. Steve, do you want to address whether that runs in perpetuity when it's filed with the plat?  
MR. ROSS: Well, Madam Chair, yes, of course it does. It will be of record.  
COMMISSIONER ANAYA: I second, Madam Chair.  
CHAIR VIGIL: Okay. And then it's that they also work with the Fire Marshal on the impositions or requirements. Is that the ones you're including, Commissioner Mayfield? Okay. We have a motion with the additional conditions and the conditions by staff. Any further discussion?

The motion passed by unanimous [5-0] voice vote.

XV. A. 7. BCC CASE # MIS 11-5140 Rezoning of Polk Property. Polk Rodeo Properties, Ltd. Co., Applicant, Jim Siebert, Agent, requests that the Board of County Commissioners clarify that a future Application to the City of Santa Fe for the rezoning of .63 acres of a 1.88-acre parcel from Rural Residential (RR) to General Commercial (C-2) will not constitute a violation of the Settlement Agreement and Mutual Release of All Claims between the City of Santa Fe, Santa Fe County and Las Soleras, dated May, 2008. The property is located at 2910 Richards Avenue at the southwest corner of Rodeo Road and Richards Avenue within Area 12 of the Presumptive City Limits, within Section 8, Township 16 North, Range 9 East (Commission District 5)

CHAIR VIGIL: Mr. Larrañaga.  
COMMISSIONER STEFANICS: Madam Chair.  
CHAIR VIGIL: Commissioner Stefanics.  
COMMISSIONER STEFANICS: Is this the case that I requested come back to us so that if any of the community surrounding the property would have the chance to take care of it, because we were just going to move it along?  
CHAIR VIGIL: Yes, I believe it was. So do you have an update on that, also in your presentation, Mr. Larrañaga?  
COMMISSIONER STEFANICS: Thank you.  
MR. LARRAÑAGA: Madam Chair, basically it's the same information that you had last time. It just wasn't noticed as a public hearing and it came forward to you as a public hearing. So all the information in your report is basically what Mr. Ross had presented

SFC CLERK RECORDED 06/03/2011





to you at the last – when it was tabled to come forward. I'd be happy to read the report if you like.

COMMISSIONER STEFANICS: So, Madam Chair, I was basically looking to see if neighbors were going to oppose this or not.

MR. LARRAÑAGA: Madam Chair, I did not receive any negative comments, or positive – any comments on this case. And it was properly noticed. The property was posted, it came out in the *New Mexican* and certified letters were mailed to the adjoiners.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Larrañaga, just for the record, if this is approved, the applicant will still need to comply with any City provisions that they have.

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, yes.

COMMISSIONER MAYFIELD: Thank you.

CHAIR VIGIL: Please proceed with any update.

MR. LARRAÑAGA: Madam Chair, I really don't have any updates but I'd be happy to read the report.

CHAIR VIGIL: What is staff's recommendation?

MR. LARRAÑAGA: Approval.

CHAIR VIGIL: Okay. Are there any questions? Is the applicant here? Okay, Mr. Siebert.

MR. SIEBERT: Madam Chair, my name's Jim Siebert. I was previously sworn. I have a presentation but I know you've been here a long time tonight. Let me say that I have talked to Dr. Higgins who is president of the Town and Country Neighborhood Association, Subdivision Association and we've discussed this in length. He had some comments. I think we've addressed those comments that he had. And with that I'll answer any questions that you may have.

CHAIR VIGIL: Any questions? This is a public hearing. Is anybody out there wanting to address the Commission on this. Please step forward, state your name and address and be sworn in for the record.

[Duly sworn, Rudy Lujan testified as follows:]

RUDY LUJAN: My name is Rudy Lujan. I reside at 2931 Calle Vera Cruz, Santa Fe, New Mexico, that's on Block 3, Lot 16 of the Town and Country Subdivision where this request is being requested I guess. My concern is that we – first of all I just want to say I did not know that Dr. Higgins was the person to talk to about these things. We've never had a meeting with him. I just wanted to say that we are concerned about further development down there in that subdivision. It's a division that – it's rural, with a rural setting. There's about 49 lots with an average size of an acre and a half or acre and a quarter rather.

There's little monitoring from the County on businesses and one that comes to mind is across from my home, is a septic tank business that has a home occupation license but the owners of the lot live in North Carolina, so I don't know. I have brought this before to the County staff and nothing happens. Police action – police monitoring also within the subdivision is nil and I'm concerned about some of the stop signs, one in particular in front of my house. There's nobody stops there. I some times wonder why it is there. And most of all

we're concerned also about the business that this lot engages in. It's a gasoline concern. If this is granted it's going to increase the business probably and we're concerned about the gasoline emissions to our water quality. That's all. Thank you, Madam Chair.

CHAIR VIGIL: Thank you very much. Is there anyone else out there that would like to address the Commission on this? Seeing none, I have a question but I'll defer to Commissioner Stefanics or any one of our staff. If I understand this issue correctly, what we're actually taking action on is the City's Rural Residential Ordinance. They are actually asking us if in fact, if they approve this commercial development it will violate the settlement agreement as it relates to the Rural Residential Ordinance. Is that correct? That's how narrow the issue is?

MR. ROSS: Yes.

CHAIR VIGIL: Okay. So this is in a commercial area. So the precursor to this is that this area does get annexed? Is that correct?

MR. LARRAÑAGA: Madam Chair, that's correct.

CHAIR VIGIL: Has it been annexed?

MR. LARRAÑAGA: No, Madam Chair.

CHAIR VIGIL: Okay. And how close is it to the first residential property?

MR. LARRAÑAGA: Madam Chair, well, residential property – Madam Chair, Mr. Siebert has an aerial that will show the closest residential property.

CHAIR VIGIL: Is that – there's an arroyo between the commercial node and the residential property. Is this north of the arroyo or south?

MR. SIEBERT: Madam Chair, Commissioners, let me describe this to you. Tract, Lot 1 of Block 1 is all of this, and it has this dog-leg that goes out to Rodeo Road. Originally, where you see this kind of brown here and the red line here, that was also part of this lot, so it did have more frontage at one time. When they widened Richards Avenue they took that portion of the land here. So the one you were talking about, how does this relate to the arroyo? The arroyo goes right through here. What we're requesting or will request of the City is that this point from here up, which would be .63 acres, would be annexed as Zone C-2, which is the same zoning that's immediately contiguous with the property. You might ask, the deal is with the City is that they can't, when they adopt a zoning district they cannot cross – it has to be the same as a lot line. So they can't just willy-nilly draw a line here, which I think they're more than willing to do, make this C-2 and make this rural residential.

The problem is is that the applicant at the time really would not have been able to accomplish a lot split, and the reason I can tell you this is I worked on a lot split in the Extraterritorial area. It was delayed for a year and a half and the reason was it was a jurisdictional thing. The County didn't want to claim it; the City didn't want to claim it. So it wouldn't be possible to do a lot split in the time that the City was developing the presumptive city limits ordinances.

So it's a simple request. All they're asking to do is extend the C-2 from the existing C-2, which Polk Oil owns in this area, over to the right-of-way on Richards Avenue. This property probably was always intended to be more commercial in nature, because if you take a look at the covenants, what the covenants say is that all the properties would be residential, would have to have residential development with no commercial development. Lot 1, Block 1 was excluded from those covenants. So we feel that there really is no impact in terms of to

the neighbors. This property here, the remainder of the property will remain as rural residential.

CHAIR VIGIL: So in fact the answer to my question is it is north of the arroyo and it is next to commercial property. And you aren't asking about the C-2 zoning; you'll be asking the City about that. You're just asking – or the City has asked you to ask us if we're in agreement with allowing this to be excepted from the rural residential requirements.

MR. SIEBERT: That's exactly the case. We got as far as the City Attorney and the City Attorney looked at and said, well, we have a potential issue here. Why don't you go back and get some commitment from the County.

CHAIR VIGIL: Okay. Thank you very much. Did I ask if anybody else would like to address the Commission? Is there? This is a public hearing. If you'd like to please step forward and state your name and address and be sworn in for the record.

[Duly sworn, Romolo U. Martinez testified as follows:]

ROMOLO U. MARTINEZ: My name is Romolo U. Martinez. I live at 805 Allendale, and I own the property just south, adjacent to the one being considered here. And it is located on that annexation number 12, which I would like Mr. Siebert to explain the status of that parcel, number 12. I'll show it on the map since he made it easy for me to look at it and I explained to you where I'm at, just south of his property. I'm looking right here. My property is right here. His property's here. He mentioned the arroyo and [inaudible] it goes here from north to south to the end of the paved area, right here, and I think it's Padmore Avenue. That's my house here. That's my concern. My concern is that Area 12, which is mentioned in his proposal has – I understand there was something in the *Journal* this morning concerning that property. I don't know.

But the City and the County are working together on this particular proposal, annexation or whatever they call it. And [inaudible] if Mr. Poik's property is included here for commercial property it would be very nice if my property would be considered in the future. What steps do I have to take in order to get this to become a reality? Right now, I know for a fact that there are some business areas in here that are commercial, even though they're supposed to be residential. We have some areas that – I don't know if they're doctors or whatever. They have different types of businesses there – and there is apparently, just like the City of Santa Fe they have that phone deal, never enforce it. The County doesn't enforce it's commercial areas there either.

If they're going to have rules and regulations everybody should be followed, allowed to do whatever they want. But cited. I haven't heard of a case here where anybody has been cited on anything. Who's running the show? The County or the City or the State? I have no idea. But I have no objection to Mr. Siebert's proposal today. In the future it might benefit me. I don't know. And that's my position. Except I'd like for him to explain the Area #12 annexation, the status of it at this point.

CHAIR VIGIL: You may be able to summarize that, Mr. Ross.

MR. ROSS: Madam Chair, yes. Area #12 is one of the many areas that were included on the map that accompanied the settlement agreement. It's just a way of identifying different areas in the county and placing them on maps and this particular area is really the Town and County Subdivision. So that area, plus Area #1, which is up near Calle Nopal were both slated for annexation according to the schedule. I don't remember where they are on the

schedule. But they were also required to have this rural residential zoning that Mr. Siebert was talking about to preserve the general character of the area for I believe 20 years. So this gentleman can of course work with the City just like the applicants have to achieve the uses he wants on his property. It would require an application and all that and he'd have to change the zoning. Or he might want to wait until it's annexed; it might be easier, because he might have to go through this process.

CHAIR VIGIL: And what phase of annexation is Area #12 in?

MR. ROSS: I think it's the last phase.

CHAIR VIGIL: And that's schedule 2014?

MR. ROSS: 2013, I think.

CHAIR VIGIL: 2013.

MR. ROSS: Yes.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Steve, I may have read the same article but if the City Council decides to change their mind on these annexation phases, what impact would that have on this Commission if we moved forward on this?

MR. ROSS: Madam Chair, Commissioner Mayfield, I don't think it would affect this particular action tonight. I think that the fact that the City referred this to us in the first place is a positive sign because they're concerned that they not inadvertently violate the settlement agreement. I think what the discussions have been, certainly the discussions between lawyers have been, were that they are uncomfortable with the current schedule and the like to talk to us about revising it. Because they're concerned about not having services available, like say, when the big annexation comes, Airport Road area. So they're concerned about fire and police being available when that annexation occurs. So they may be coming and talking to us about delaying that, but I've not heard that they're interested in not annexing in those areas.

COMMISSIONER MAYFIELD: And Madam Chair and Steve, this gentleman indicated there may be a doctor's office or something going on in some of those residences, that would be afforded under our current rules for a home occupational business or no?

MR. ROSS: I guess you'd have to look at the specific situation. Shelley, do you know about that?

MS. COBAU: Madam Chair, Commissioner Mayfield, under the County home occupation requirements you can have a business like a chiropractor's office as long as you don't have more than six appointments per day.

COMMISSIONER MAYFIELD: Thank you.

CHAIR VIGIL: Would that be a home occupancy business license?

MS. COBAU: That's correct, Madam Chair.

COMMISSIONER MAYFIELD: That's all I had. Thank you.

CHAIR VIGIL: Okay. Any other questions? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I'm sorry sir, I didn't – what was your name again.

MR. MARTINEZ: Romolo U. Martinez.



COMMISSIONER ANAYA: Mr. Martinez. I appreciate your comments and we've had several discussions in the few months I've been on the Commission and I still have some of the same questions that you're raising associated with the annexation issue. I still get comments from my constituents down Airport Road that are very similar to what you've stated today, so I respect what you're saying and I think that – I know we've had some discussions, and I know that there's been – I've had some discussions with Councilors, Councilor Dominguez in particular, but I think there's something we need to do further as far as more discussions with the City for clarity, because Mutt Nelson Road is another example.

It's my understanding, and correct me if I'm wrong, staff, that in the presumptive area of annexation that we're giving up the responsibility of land use issues but working in partnership with them on land use issues. So it's a gray area at best. And so I think that your concerns are not unusual but are common with what I'm hearing. And I don't know. We keep bringing it up and we keep having discussions but I think we need to do something further to bring more clarity for those individuals within those areas that are coming up sooner, and if we need to get our governing bodies together. I've said this on other issues but I'll say it again, I think we need to do it because we're kind of, it seems to me, in kind of a no-man's land, territory, even though we have a settlement agreement. So I'd like to hear from Mr. Kolkmeier on the issue.

MR. KOLKMEYER: Madam Chair, Commissioner Anaya, there's a lot of parts to it, but one of the things that the County is continuing to take as aggressive position as we can is code enforcement. And as you know, we had a meeting with the City and they told us they wanted to do a joint – this was two months ago – a joint effort and nothing happened, so we took our own initiative and we've been issuing notice of violations on Mutt Nelson Road, for example. Now, we issued a notice of violation and if they go to court I believe the City has to be involved in that court case too. So we're kind of still going around in a circle but the issue, at least from the code enforcement perspective is that we feel an obligation to continue to look into those cases and we'll continue to do that.

COMMISSIONER ANAYA: Madam Chair, Mr. Kolkmeier, do you feel that – what do we need to do? What do we as policy makers need to do? Do you feel like you're waiting on us? On the City policy makers and the Commission? What do we need to do to get to the bottom of the issues that are sticking points and have a progression to have some resolution so we're able to address community members like Mr. Martinez here and others?

MR. KOLKMEYER: Madam Chair, Commissioner Anaya, you mean specifically in terms of annexation, not so much in code enforcement? That was the other thing that you brought up. We have agreements. I don't know. I think maybe I'd have to defer to Steve Ross a little bit on that. We have the agreements. We also – I kind of hate to bring this up but we do have the RPA and that was the actual assignment given to the RPA six years ago. And perhaps that needs to be a channel to bring these discussions up again. Short of that I would suggest that it probably has to be government to government policy maker concurrence on some of these things again. It's a real tough situation that we're in right now.

COMMISSIONER ANAYA: So Madam Chair, Commissioners and Mr. Ross, what are our next steps? What do we need to do to phase in what we're going to phase in and actually apply some action steps to where we need to be associated with the annexation? What do we need to do?



MR. ROSS: Well, what we're working on right now is there's a supplemental water/sewer/trash agreement that we're working on right now with the City. After that is the law enforcement and fire agreement, which is according to the settlement agreement there is going to be a ramping up and ramping down of law enforcement and fire by the City and the County as areas are taken over for annexation. And the contours of that agreement were established several years ago but it's never been written down. The City Attorney's office is taking that piece and my office is taking the water/sewer/trash piece. But the schedule is still established in the underlying agreement and while I've heard they would like a year delay on the schedule I haven't seen anything official on that.

COMMISSIONER ANAYA: Madam Chair, Mr. Ross, the first item, or am I mistaken, the first item is land use determination? That's the first item? Land use decisions in the presumptive area of annexation. Because this item that we're hearing today has to do with the settlement agreement associated with the land use action, so it's the land use component supposed to be already transferred to the City and they have all full responsibility on the one hand, but on the other hand we still have areas that we're still doing some code issues.

But I guess to go straight to the point, is the agreement that we have in place, did it already turn over full control of all land use decisions to the City?

MR. ROSS: Yes. The zoning and land use decisions are turned over to the City and by the Extraterritorial Land Use Authority, they passed an ordinance. All of the land use zoning decisions are now in the hands of the City of Santa Fe and being decided by the City. What the – the one area that is an exception from what I just said is the area of code enforcement. In other word, nuisance issues. And we've kept them because there's no provision in Article XIV of the City code for that stuff. So the County is enforcing nuisance issues in the presumptive city limits. All other decisions are being made by the City. And that's by ordinance. So that's very well established.

CHAIR VIGIL: Okay. Can we create a focus for this particular issue. It sort of is blossoming into larger issues. I just want to make a few comments with regard to this. The Rural Residential Ordinance was enacted and I was an active supporter of it and most of the folks in Town and Country were active supporters of it. Their concern was that without the rural protection ordinance there was – they might be required to cap their wells, they wouldn't be able to have the rural residential lifestyle that they actually wanted. Of all the areas in Santa Fe County the folks that are in the Town and Country area were really strong proponents of this.

So I find it rather interesting that even though this is a Rural Residential Ordinance enacted by the City, I guess it was incorporated into the agreement and that's why they're asking us if we think it would violate the agreement. My concern is that, yes, it would violate the agreement from my perspective and the issue would be if in fact we would say it didn't, and this particular strip of property was not in violation of the rural protection ordinance, then what happens when Mr. Martinez wants to come forward in 2013 and get a commercial zoning, go to the City and do that. When in fact our decision to night will be if it will set a precedent, it will set a huge precedent and you as being contiguous to this particular property would have that precedent in your favor.

So the problem I see with this is that if we were to deny it, if we were to say yes, City, we think this does violate the agreement – Steve, I would just ask for some help here with

regard to that – what would that mean? The applicant still has the right to go before the City and request annexation. And the other point I need to make, Steve, and this isn't the time to think about it is if we start allowing this what we're doing is defeating the purposes of the annexation agreement, which in fact was stop the piecemeal annexation. Let us know what we can predict for our county residents and for their future. So that we entered into this agreement after years and years of disagreement with annexation and how it was occurring in the area I represent, which is a traditional historic village which has felt totally surrounded by commercial development, much to their dismay.

So the question would be, if we do deny this, what difference will it make, I guess.

MR. ROSS: Well, Madam Chair, the City Attorney has already indicated to Mr. Siebert that they don't want to go forward if the County expresses the opinion that this particular zoning, if granted, would violate the settlement agreement. So I think that if we say no to this request and tell the City that we're of the opinion that this would violate the settlement agreement, then I don't think he goes forward with the City.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, I move that we deny rezoning of Polk property.

CHAIR VIGIL: Okay. There's a motion. I will second it. Is there any further discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Yes, Madam Chair, under discussion. It seemed to me that if you could put that exhibit up, I got a little confused, but it seems to me that the area north of the arroyo makes logical sense to be commercial. It doesn't make as much sense to me based on what I've heard from the rural agreement that was agreed upon closer to the residential on the other side of the arroyo. Is that something, Madam Chair, Commissioner Stefanics, that you would consider associated with the property.

COMMISSIONER STEFANICS: No, Madam Chair, Commissioner, we're talking about the entire area, and in order to protect the rural residential that is the basis of my motion.

COMMISSIONER ANAYA: Is that only one parcel, both sides of the arroyo, Mr. Siebert? Is it one lot, both sides, or is it two lots?

MR. SIEBERT: It's all one lot. And what the application to the City [inaudible] is three-fold and would incorporate the existing lot. This lot is an existing lot and this one would become a remainder lot [inaudible] rezoning to C-2.

COMMISSIONER ANAYA: So, Madam Chair, your application with the City would request two commercial lots?

MR. SIEBERT: One, of .63 acres.

COMMISSIONER ANAYA: I thought you said earlier that you wanted commercial on the other side of the arroyo as well.

MR. SIEBERT: No. We only want commercial for the immediate area contiguous to commercial land.

COMMISSIONER ANAYA: There's a motion and a second but I actually see, if it's just that lot right next to the commercial, I think that makes sense.

CHAIR VIGIL: Mr. Siebert, before you sit down, what prevents your client

from not waiting until this area gets annexed to go before the City for a C-2 zoning.

MR. SIEBERT: Well, I think the issue would still remain though, wouldn't it? Whether the issue is rural residential zoning and even if it is annexed.

CHAIR VIGIL: But you wouldn't need to come to us. Then the City would be deciding on their own ordinance.

MR. SIEBERT: I don't believe so.

CHAIR VIGIL: What do you think, Steve?

MR. ROSS: Madam Chair, I think the problem still exists because the agreement is for 20 years, so the City would still be concerned whether their rezoning would violate the provisions of the settlement agreement that discuss the rural character of the area. So I don't think the problem goes away with annexation.

CHAIR VIGIL: Okay, thank you. Thank you, Mr. Ross. We have a motion to deny the request for approving, agreeing that the rural residential protection ordinance would not violate the agreement and it's been seconded.

**The motion passed by majority [3-2] voice vote with Commissioners Stefanics, Holian and Vigil voting in favor and Commissioners Anaya and Mayfield voting against.**

- XV. **8. BCC CASE # MIS 02-5053 Sonterra Master Plan Extension. Great Western Investors (Richard Montoya), applicant, Scott Hoeft, agent, request an extension of a previously approved master plan for a mixed-use development (residential, commercial, community) in a village zone consisting of 520 residential units and 29,117 square feet of commercial space on 245 acres. The property is located off Vista del Monte east of Valle Lindo Subdivision within the Community College District, within Section 30, Township 16 North, Range 9 East (Commission District 5)**

VICKI LUCERO (Residential Development Case Manager): Thank you, Madam Chair. On August 26, 2002, the BCC granted master plan approval for the referenced development. On February 28, 2006, the BCC granted approval of a water service agreement for use of the Santa Fe county water system. On April 10, 2007, the BCC granted a two-year time extension of the Sonterra master plan which expired on August 26, 2009

On September 8, 2009, the BCC granted another two-year time extension of the Sonterra master plan which will expire on August 26, 2011.

The applicant's agent has submitted a request for a third two-year time extension of the master plan, stating that due to current market conditions and limited demand for residential lots, the owners of the property are requesting additional time in order for the residential market to rebound. At that stage they will proceed with preliminary plat and/or development plan.

The County Land Development Code specifies that master plan approvals shall be considered valid for a period of five years from the date of approval by the BCC. Master plan approvals may be renewed and extended for additional two-year periods by the BCC at the



Danny Mayfield  
Commissioner, District 1

Virginia Vigil  
Commissioner, District 2

Robert Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

**DATE:** July 12, 2011

**TO:** Board of County Commissioners

**FROM:** Jose E. Larrañaga, Commercial Development Case Manager

**VIA:** Stephen C. Ross, County Attorney *SCR*  
Jack Kolkmeier, Land Use Administrator *JK*  
Shelley Cobau, Building and Development Services Manager *SC*  
Wayne Dalton, Building and Development Services Supervisor *WD for WD*

**FILE REF.:** BCC CASE # MIS 11-5140 Rezoning of Polk Property

### ISSUE:

Polk Rodeo Properties, Ltd. Co., Applicant, Jim Siebert, Agent, requests that the Board of County Commissioners clarify that a future Application to the City of Santa Fe for the rezoning of .63 acres of a 1.88 acre parcel from Rural Residential (RR) to General Commercial (C-2) will not constitute a violation of the Settlement Agreement and Mutual Release of All Claims between the City of Santa Fe, Santa Fe County and Las Soleras, dated May, 2008.

The property is located at 2910 Richards Avenue at the southwest corner of Rodeo Road and Richards Avenue within Area 12 of the Presumptive City Limits, within Section 8, Township 16 North, Range 9 East (Commission District 5).

### SUMMARY:

On May 10, 2011, a proposal to consent to the City's potential rezoning of the Polk property was presented to the Board of County Commissioners (BCC). The decision of the BCC was to deny the request (Exhibit "J").

The owners of the Polk property, located at the intersection of Rodeo Road and Richards Avenue, within Annexation Area 12, have applied to the City of Santa Fe for rezoning of their property from the Rural Residential Zoning (RR), the zoning assigned by the Extraterritorial Land Use Authority (ELUA), to commercial designation (C-2). The existing zoning in the immediate area is commercial along Rodeo Road and Richards Avenue and is primarily residential in the neighborhoods behind the intersection and generally in the Town and Country Subdivision.



A Settlement Agreement and Mutual Release of Claims was established by the City of Santa Fe, Santa Fe County and Las Soleras in May of 2008. Section 2(c) of the annexation Settlement Agreement states: "Area 1 and 12 shall be annexed but the rural residential zoning prevalent in the area shall be respected by the City following annexation and urban densities shall not be established within Area 1 or Area 12 during the term of this Agreement. Appropriate zoning shall be developed by the City for these areas prior to annexation" (Exhibit "A").

The City of Santa Fe is awaiting consent by the BCC to amend the Settlement Agreement specific to Area 12 and Section 2(c) so that the City may take the same action along with a request to rezone the identified portion of the property (.63 acres) through the City process for review and final decision by the City Council (Exhibit "E").

The City of Santa Fe created a RR classification within the City Code and the ELUA classified properties in Ordinance No. 2009-01 (SPPaZO) using the newly created "RR" zoning classification. Although portions of Areas 1 and 12 received RR zoning, other areas received R-1, and still owners received a variety of other classifications, including commercial. The zoning classifications assigned by the ELUA were pragmatic, property-by-property decisions, based on evidence of the use and probable future use of the property consistent with the settlement agreement. It was not the view of the ELUA, or of City and County legal staff, that Section 2(c) requires that only the RR zoning designation be applied within Area 1 and 12. Such a view would not be consistent with multiple tenets of common law.

During the development of the zoning ordinance for the extraterritorial zone, the ELUA recognized that uses and development patterns other than rural residential existed and must be respected. The key phrases in the settlement agreement ("... the rural residential zoning [that is] prevalent ..." and "... urban densities shall not be established ...") were viewed by the ELUA and City and County staff as permitting rezoning of areas within the extraterritorial zone with the goals of the agreement and common law. This view of Section 2(c) of the settlement agreement, if accepted, means that the settlement agreement should not preclude the Polk property owners from seeking commercial zoning along a major collector within the area planned for rural residential, so long as the overall objectives of the agreement are adhered to by the City when addressing the request. For example, if commercial zoning on this parcel would create urban densities or be inconsistent with the prevailing character of the area, the City might deny the request. Also, if a major commercial center were planned within an area now zoned RR, the City might deny that request as well. But, given the fact that the proposed rezoning adjoins multiple other commercial uses that were previously recognized by the ELUA and two major collectors and a major intersection, it does not appear to be inconsistent with the settlement agreement to describe this property as both appropriate for commercial development and consistent with the prevailing historical use of the general vicinity.

**REQUIRED ACTION:**

The BCC should review the attached material and consider the facts presented, take action to approve, deny, disapprove or table for further analysis of this request.

**RECOMMENDATION:**

The following facts support consent by the BCC to amend the Settlement Agreement specific to Area 12 and Section 2(c): portions of Area 12 received RR zoning, other areas received R-1, and still others received a variety of other classifications, including commercial; the intent of the settlement agreement was not to limit Area 12 to a zoning designation of RR; the ELUA recognized that uses and development patterns other than rural residential existed and shall be respected; the proposed rezoning adjoins multiple other commercial uses that were previously recognized by the ELUA and two major collectors and a major intersection; the proposed rezoning is consistent with the settlement agreement for commercial development and consistent with the prevailing historical use of the general vicinity.

A review of the Settlement Agreement Section 2(c) specific to Area 12 and Ordinance No. 2009-01 (SPPaZO) has established findings that the Settlement Agreement should not preclude the Polk property owners from seeking commercial zoning along a major collector within the area planned for rural residential. The overall objective of the agreement shall be adhered to by the City when addressing the request and appropriate zoning shall be developed by the City for this area prior to annexation.

**ATTACHMENTS:**

- Exhibit "A" – Settlement Agreement
- Exhibit "B" – City Annexation Areas
- Exhibit "C" – Los Soleras General Plan
- Exhibit "D"- Ordinance No. 2009-1 (SPPaZO)
- Exhibit "E" – Correspondence from City
- Exhibit "F" – Correspondence from Siebert
- Exhibit "G" – Memo Presented to BCC on April 18, 2011
- Exhibit "H" - Aerial Photo of Property
- Exhibit "I" – Plats
- Exhibit "J" – May 10, 2011 BCC Minutes
- Exhibit "K" – Additional Information submitted by the Applicant

SETTLEMENT AGREEMENT  
AND MUTUAL RELEASE OF CLAIMS

This Settlement Agreement is entered by and between the Governing Body of the City of Santa Fe, New Mexico, a municipal corporation organized and existing under the Laws of the State of New Mexico (hereinafter referred to as "the City"), the Board of County Commissioners of Santa Fe County, a political subdivision of the State of New Mexico (hereinafter referred to as "the County"), the Extraterritorial Zoning Authority and the Extraterritorial Zoning Commission, extraterritorial planning and zoning bodies created through a Joint Powers Agreements by and between the City and County (entities created by the 1991 Joint Powers Agreement of the City and County and hereinafter referred to as "the EZA" and "the EZC"), and the owners of land within Area 10, as defined herein, whose signatures are included at the end of this Agreement (hereinafter collectively referred to as "Las Soleras"), all collectively referred to herein as "the parties."

WHEREAS, a dispute has arisen among the parties hereto over the proposed annexation of the proposed development known as "Las Soleras" and the dispute resulted in the filing of six lawsuits in the federal and State courts in New Mexico;

WHEREAS, the dispute concerning the annexation of Las Soleras led to differences of opinion between the City and the County over the issue of annexation in general;

WHEREAS, part of the mandate of the Regional Planning Authority, a joint City and County Board devoted to regional planning and established by the Fifth Amended





and Restated Joint Powers Agreement for the Regional Planning Authority (hereinafter referred to as "the RPA"), is to address the annexation issue, but the controversy over Las Soleras' application to the EZC and EZA arose before the RPA could complete its work;

**WHEREAS**, the dispute outlined above and the lawsuits have significantly burdened the parties, affected City/County relations, impaired the reasonable development of the City, and has burdened the County with an area that is largely urban;

**WHEREAS**, the parties desire to resolve all the disputes and lawsuits in a comprehensive settlement that: (i) permits annexation of Las Soleras (portions of area 10, identified on Attachment A hereto), (ii) permits annexation of Areas 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, the unannexed portion of Area 13, Areas 15, 16, 17 and 18, identified on Attachment A, in a way that does not unreasonably impact the City, the County, or the citizens residing in those areas, (iii) resolves annexation issue for a period of no less than twenty years and enables the City and County to effectively plan in their respective jurisdictions; (iv) addresses the need to establish sensible water and wastewater utility service areas for the City and County and remedies existing inconsistencies in the service areas in a reasonable way; and (v) focuses City/County interactions on positive intergovernmental projects rather than lawsuits and controversy; and

**WHEREAS**, the parties hereto therefore desire to enter into a binding agreement to settle the remaining lawsuits and all issues related thereto.

**NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**1. STIPULATED DISMISSAL OF ALL PENDING LITIGATION.** Upon final execution of this Agreement by all of the parties hereto, the parties shall file a stipulation of dismissal of each of the following cases:

a. *Las Soleras Datta Ltd. Co. Gerontine Partnership, the Crossing LLC, Crownz Santa Fe LLC, Randall Schmilie, Tierra de la Amigos LLC, and Burttram Family Investments LLC v. City of Santa Fe*, First Judicial District Court Cause No. D-0101-CV-2006-02397; and

b. *City of Santa Fe v. Santa Fe Extraterritorial Zoning Authority, Santa Fe Extraterritorial Zoning Commission and Las Soleras Ltd., J. Harmon Burttram and Anne Janssen, Faye E. Gardner, and Building Services Co., as owners of the proposed Development Known as the Las Soleras Development*, First Judicial District Court Cause No. D-0101-CV-2006-01555.

**2. ANNEXATION OF AREAS 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, THE UNANNEXED PORTION OF AREA 13, AREAS 15, 16, 17 AND 18.**


a. The City shall annex Areas 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, the unannexed portion of Area 13, Areas 15, 16, 17 and 18, all as shown on Attachment A.<sup>1</sup>

b. The annexations referred to in the previous paragraph shall be accomplished within the five year period commencing on the effective date of this Agreement. Annexations shall be accomplished through any of the means described in NMSA 1978, §§ 3-7-1 through 3-7-18 (1965)(as amended), but the petition method set forth in NMSA 1978, § 3-7-17.1 (2003) shall be preferred. In the event the Municipal Boundary Commission method set forth in NMSA 1978, §§ 3-7-11 through 3-7-16 (1965)(as amended) is used, or the petition method is used but all owners fail to sign the petition thus requiring action of the Extraterritorial Land Use Authority as set forth in

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<sup>1</sup> The remaining portion of Area 10 will be annexed, but is addressed specially in Section 3 of this Agreement.

NMISA 1978, § 3-7-17.1(c) (2003), then the County shall fully cooperate with the City in the prosecution of the applications.

 c. Area 1 and Area 12 shall be annexed but the rural residential zoning prevalent in the area shall be respected by the City following annexation and urban densities shall not be established within Area 1 or Area 12 during the term of this Agreement. Appropriate zoning shall be developed by the City for these areas prior to annexation.

d. Residents of Area 1 shall be permitted to submit a petition or petitions with the Board of County Commissioners to include portions of Area 1 in the Agua Fria Traditional Historic Community prior to annexation.

e. Area 7 shall be annexed concurrently or following annexation of Areas 2, 3, 4, and 5.

f. The City may annex Areas 1, 2, 3, 4, 5, 6, 8, 9, 11, 12, the unannexed portion of Area 13, 15, 16, 17 and 18, ) immediately or, alternatively, may annex the areas sequentially over a period not to exceed five years. Specific target dates for filing of the appropriate petition with the Municipal Boundary Commission or the appropriate petition pursuant to the petition method shall be established by a separate written City-County Agreement. The City and the County immediately shall undertake a joint comprehensive survey of existing conditions within Areas 2, 4 and 5 to identify relevant public infrastructure in those areas that will be subject to the terms of this Agreement and to identify relevant public nuisances. The information gathered may be used to establish specific target dates for annexation and to plan annexation within those areas. Once agreed upon, the target dates may only be changed by subsequent written amendment.



g. Territory to be annexed pursuant to this Agreement shall be referred to herein as "Areas to be Annexed" and current city boundaries augmented by these Areas to be Annexed shall be referred to as within the "Presumptive City Limits." No areas outside the Presumptive City Limits shall be annexed for twenty years unless the City and the County specifically agree by separate written agreement. Area 14, the Rodeo Grounds and County Fair Grounds, shall remain unannexed.

h. The County approves the annexation of Areas 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, the unannexed portion of Area 13, Areas 15, 16, 17 and 18, and shall provide to the City such approvals in writing and in appropriate forums after due notice and opportunity to comment on annexations initiated by the petition method pursuant to NMSA 1978, § 3-7-17.1 (2003).

i. The Beatty annexation (a portion of area No. 10 described on Attachment C to this Agreement) shall be recorded immediately without objection by the County.

j. County roads lying within parcels to be annexed shall be annexed contemporaneously with the adjoining parcels, and any County road that serves as a boundary for annexed property shall be annexed contemporaneously to the right of way boundary opposite the parcel being annexed. Upon annexation of any road owned by the County as provided for in this paragraph, the City shall assume ownership and maintenance responsibilities, and the County thereafter shall have no responsibility for the road.

k. The County shall maintain existing county roads within the Areas to be Annexed to customary county maintenance standards until annexation by the City. This







Agreement shall not be construed to require the County to provide significant capital improvements to an existing road or construct a new road within the Areas to be Annexed in the absence of a separate written agreement by and between the City and County that provides a means for financing the capital improvements. No construction or other capital improvements to roads within the Presumptive City Limits shall be undertaken by the County after execution of this Agreement without first having obtained written approval from the City. Nothing in this Agreement shall absolve any person or entity from an obligation to complete roads as specified in any approved development plan the Areas to be Annexed.

l. The City shall not construct or maintain roads within the Areas to be Annexed except as provided in a separate written agreement of the City and the County.

m. The City shall provide water and wastewater service within the Presumptive City Limits and shall not provide water and wastewater service outside the Presumptive City Limits unless required by a current contract with a customer, decrees of a court, or applicable rulings of the Public Regulation Commission, unless otherwise agreed upon between the City and the County in a separate written agreement.

n. The water and wastewater utility service areas of the City and County shall coincide with the Presumptive City Limits: the City water and wastewater utility service area shall be within the Presumptive City Limits and the County utility service area shall be outside the Presumptive City Limits.

o. City water and wastewater customers outside the Presumptive City Limits will be transferred to the County when the County is able to provide service unless prohibited by a current contract with a customer, decrees of a court, or applicable rulings



of the Public Regulation Commission. Accordingly, upon consent or assignment, water and wastewater customers not in the City and outside of the Presumptive City Limits, such as those in the Aldea development, IAIA, and the Santa Fe Community College shall become County customers when the County is able to provide water and wastewater service. County water customers within the Presumptive City Limits shall be transferred to the City when the City is able to provide service unless prohibited by a current contract with a customer, decrees of a court, or applicable rulings of the Public Regulation Commission. Accordingly, upon consent or assignment, water customers within Area 7 shall become City customers when the City is able to provide service. The City and County Managers shall meet and confer and develop a plan to accomplish these transfers, and the plan shall be documented in a subsequent written amendment to this Agreement. The Plan shall include provisions for reimbursement of the City and County for the actual value of the infrastructure transferred as established by an appraisal prepared by an appraiser chosen by mutual agreement of the parties. If either party assumes a water delivery obligation for which the customer transferred water rights to the City or County, the City or County shall transfer those water rights, along with the customers, to the other party.

p. The County agrees to adopt an ordinance pursuant to NMSA 1978, § 7-2-14.3 (2003) to provide a partial property tax rebate for low-income taxpayers who have their principal place of residence in the County and, if deemed necessary by the Board of County Commissioners, to adopt a resolution to submit to the qualified electors of the County pursuant to NMSA 1978, §§ 7-2-14.4 (2001) and 7-2-14.5 (1994), the question whether to impose a property tax increase to fund the property tax rebate.

q. In addition to roads and water and wastewater service, discussed previously, the City shall provide municipal services within areas annexed pursuant to this Agreement, including but not limited to solid waste disposal, law enforcement and fire protection.

r. The County shall provide law enforcement and fire protection services to all areas outside of the Presumptive City Limits and to all Areas to be Annexed until annexation. In the area to be annexed that is most densely populated (between Airport Road and Agua Fria Road) and most in need of augmented law enforcement services, the County shall maintain its current level of law enforcement services until annexation and thereafter, by separate Joint Powers Agreement, for a period up to three years following annexation. The City shall immediately upon annexation match that level of law enforcement service provided by the County and over the three year period replace the County law enforcement services.

s. Nothing herein shall preclude interagency coordination of fire protection and law enforcement as set forth in other agreements or through informal means and the County shall continue to provide fire protection and law enforcement services at levels required by such agreements currently in force.

t. The City shall provide to the County, through electronic means if feasible, information concerning the boundaries of each annexation as soon as possible after the annexation is complete so that the City and County will each have the correct City limits on their respective books and records.

u. No further annexation except those specifically set forth in this Agreement will be permitted for twenty years from the effective date of this Agreement unless agreed to in writing specifically by the City and County.

v. Supplemental joint service agreements may be negotiated from time to time between the City and County whereby City services may be provided in advance of annexation, on terms agreeable to the parties.

w. The parties shall sign and record all documents necessary to accomplish the foregoing.

### **3. ANNEXATION, AREA 10.**

a. Las Soleras (a portion of Area No. 10, Attachment A) shall be annexed via a landowner-initiated "Petition Method" application as set forth in NMSA 1978, §3-7-17 A (2) The application shall be submitted to the City of Santa Fe Governing Body immediately upon execution of this Agreement and shall consist of an (1) Annexation Petition, (2) General Plan Amendment and (3) Rezoning, all consistent with the map attached as Attachment B, which map includes the approvals granted by the Extraterritorial Zoning Authority in Case # Z/V 04-4592 (the "Presbyterian Project"). It is expressly understood and agreed that this Agreement does not constitute an approval of any portion of the Application or the map attached hereto as Attachment B.

b. Richards Avenue between Governor Miles and Interstate 25, together with its right of way, shall be annexed contemporaneously with Area 10 as described in paragraph 3(a). The County will consent in writing to the annexation, including the annexation of Richards Avenue. Upon annexation, the County shall provide a quitclaim deed to the City for Richards Avenue between Governor Miles and Interstate 25. The





City shall, upon annexation of Richards Avenue, assume ownership and maintenance and the County shall have no responsibility therefore.

c. The portion of Beckner Road owned by the County shall be annexed along with the annexation of Area 10 as described in paragraph 3(a). The County will consent in writing to the annexation of Beckner Road. Upon annexation, the County shall provide a quitclaim deed for the portion of Beckner Road that it owns. The City shall, upon annexation of Beckner Road, assume ownership and maintenance and the County shall have no responsibility therefore.

d. Any changes to the zoning of Area 10 after the Governing Body's approval of the Annexation Petition, General Plan Amendment, and Rezoning, as described in 3(a) above, shall require rezoning pursuant to City ordinances. Immediately following the Governing Body's approval of the Annexation Petition, General Plan Amendment and Rezoning described in 3(a) above, all additional approvals necessary for development of Area 10 including, but not limited to, preliminary and final development approval, shall be within the City of Santa Fe's jurisdiction.

e. The success of Area 10 is critical to the success of the annexation strategy set forth herein. Accordingly, the City shall in accordance with its applicable ordinances, regulations and rules, issue building permits and other necessary approvals when request by Las Soleras without unreasonable delay.

f. The parties shall sign and record all documents necessary to accomplish the foregoing, including documents, plans, plats and ordinances required.

g. As of the effective date of this Agreement, Las Soleras is within the water service area of the County. The parties acknowledge that Las Soleras has submitted



a Water Dedication and Acknowledgment form to the County in accordance with adopted County water policy in the amount of 36 acre-feet of valid pre-1907 consumptive use water rights (the “Water Rights”) and is beginning the process of transferring the Water Rights to the County to provide for delivery of that amount of water to serve the proposed Presbyterian Project.

The Parties agree that after annexation to the City, the Water Rights shall be transferred by the County to the City and the entitlements to water service from the County will be accepted by the City after they have assumed ownership of the Water Rights. The City shall provide water service to the proposed Presbyterian Project or successor project in the amount of Water Rights transferred to it by the County and in accordance with its water transfer ordinance in effect at that time; provided however, that Las Soleras agrees that after the Water Rights are transferred the City, if the City requests that the transferred Water Rights be transferred to the Buckman well field, Las Soleras agrees to ensure that the point of diversion for use of the transferred Water Rights shall be the Buckman well field.

h. As of the effective date of this Agreement, Las Soleras is within the sewer service area of the County. The parties acknowledge and agree that upon application for annexation of Las Soleras in accordance with subsection a, above, the City shall issue a “can and will serve” letter to Las Soleras for sewer service in accordance with its rules and regulations.

#### **4. THE EXTRATERRITORIAL ZONING AUTHORITY AND EXTRATERRITORIAL ZONING COMMISSION.**

a. The City and County will execute a Joint Powers Agreement for the two mile extraterritorial zone and the five mile planning and platting jurisdiction to abolish the EZA and the EZC in their present form and to establish by ordinances an Extraterritorial Land Use Authority and Extraterritorial Land Use Commission pursuant to NMSA 1978 §3-21-3.2 (2003) exclusively for the following three purposes: (1) to delegate all authority possessed by the City over areas *outside* the Presumptive City limits to the County, including specifically the City's concurrent planning and platting and subdivision approval authority pursuant to NMSA 1978, § 3-20-5 (1965) and the City's concurrent zoning authority pursuant to NMSA 1978, § 3-21-2 (2003) which areas shall be zoned and platted by the County pursuant to its Land Development Code, including specifically the County's concurrent planning and platting authority pursuant to NMSA 1978, § 3-20-5 (1965) and the County's concurrent zoning authority pursuant to NMSA 1978, § 3-21-2 (2003); (2) to delegate planning, platting, subdivision approval and zoning jurisdiction over areas *inside* the Presumptive City Limits to the City, as set forth in this Agreement, which areas shall be zoned and platted based on the RPA Land Use Plan and other appropriate planning tools such as the Southwest Area Master Plan or subsequently-developed plans; upon annexation, property within the areas to be annexed shall receive, as preliminary zoning, the zoning in place prior to annexation; and (3) to address annexation petitions filed with the City pursuant to this Agreement and NMSA 1978, § 3-7-17.1 (2003).

**5. RELEASE OF CLAIMS.** In consideration of full performance of the terms recited herein, the parties hereby release and forever discharge each other, and their Elected Officials, officers, directors, employees, agents, adjusters, assigns, insurers,

underwriters and attorneys from any and all past, present, or future claims that can, may or should arise from any of the various lawsuits detailed above, or for any other injuries, losses or damages arising out of the lawsuits or disputes outlined above. In consideration of full performance of the terms recited herein, the parties hereby release and forever discharge each other, and their Elected Officials, members, officers, directors, employees, agents, adjusters, assigns, insurers, underwriters and attorneys, from any and all past, present or future claims for violations of ordinances, laws, statutes or property damage, economic loss, or any other claims, injuries, losses or damages which the parties have or claims to have arisen out of the lawsuits or disputes.

**6. GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. The parties have participated substantially in the negotiation and drafting of this Agreement and each Party hereby disclaims any defense or assertion in any litigation that any ambiguity herein should be construed against the draftsman.

**7. ENTIRE AGREEMENT.** This Agreement, including the Attachments hereto, and the documents delivered pursuant hereto, and excepting the subsequent amendments and agreements specifically mentioned herein that are required to effectuate the terms of this Agreement, constitute the entire agreement between the parties and supersede all prior and contemporaneous agreements, discussions, negotiations, representations, and understandings of the parties pertaining to the subject matter contained herein. No changes of, modifications of, or additions to this Agreement shall be valid unless the same shall be in writing and signed by all parties hereto.





8. **SEVERABILITY.** If any provision of this Agreement shall be determined to be contrary to law and unenforceable by any court, the remaining provisions shall be severable and enforceable in accordance with their terms. Failure of any party to insist upon strict conformance to the provisions of this Agreement shall not constitute a waiver of any of the provisions hereof.

9. **COUNTERPARTS.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which counterparts collectively shall constitute one instrument representing the Agreement between the parties hereto.

10. **ATTORNEYS FEES.** The parties agree that should this matter be settled under the terms herein, each party will bear its own costs and attorneys fees, except that the City shall reimburse the County for one-half of the attorneys' fees the County expended defending the EZA and EZC, and their members, of the matters referred to in paragraph 1 of this Agreement.

11. **REQUIRED APPROVALS.** The parties acknowledge that this Settlement Agreement must be adopted by the Governing Body of the City of Santa Fe and the Board of County Commissioners of Santa Fe County to be of legal force and effect.

12. **ADMISSIONS.** Nothing in this Settlement Agreement shall constitute or be construed as an admission on behalf of any party as to the validity of any claims, defenses or allegations asserted in the litigation.

13. **LEGAL COUNSEL.** The parties represent and warrant that each has been represented by separate legal counsel of its own choosing throughout the negotiations; that each party has carefully and thoroughly reviewed this Settlement Agreement with its

counsel; that its counsel has approved it as to form; and that each party understands the terms herein. Each of the parties acknowledges that in executing this Settlement Agreement, it relies solely on its own judgment, belief and knowledge and on such advice as it has received from its own counsel.

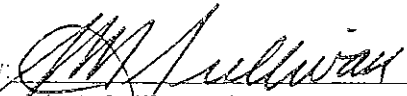
**14. AMENDMENTS.** This Settlement Agreement can only be amended or modified by a written agreement duly executed by all of the parties.

**15. EFFECTIVE DATE.** This Settlement Agreement shall become effective as of the date of the last signature below.

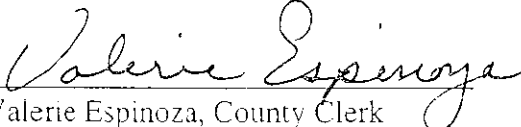
**16. TERM.** The term of this agreement shall be twenty years.

**IN WITNESS WHEREOF,** the Parties hereto have executed this Agreement as of the date of last signature below.

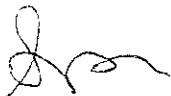
THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY

By:  5/14/08  
Jack Sullivan, Chair Date

ATTEST:

 5/15/08  
Valerie Espinoza, County Clerk Date

Approved as to form:

 5-5-08  
Stephen C. Ross, County Attorney Date

THE GOVERNING BODY OF THE CITY OF SANTA FE

By: David Coss  
David Coss, Mayor

5/19/08  
Date

ATTEST:

Yolanda Y. Vigil  
Yolanda Y. Vigil, City Clerk

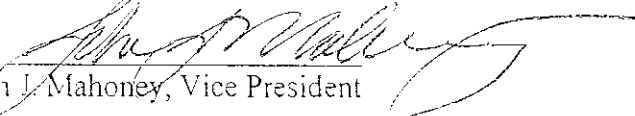
5/19/08  
Date

Approved as to form:

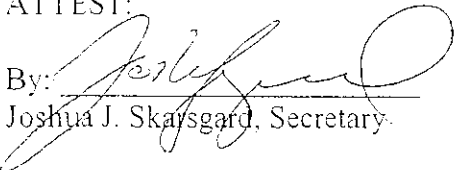
Frank D. Katz  
Frank D. Katz, City Attorney

5/19/08  
Date

BECKNER ROAD EQUITIES, INC.  
a New Mexico Corporation

By:   
John J. Mahoney, Vice President

ATTEST:


By:   
Joshua J. Skarsgard, Secretary

THE CROSSING, LLC  
a Single Member New Mexico Limited Liability Company

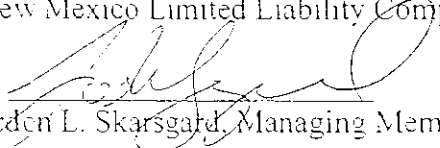
Las Soleras Oeste, Ltd. Co.

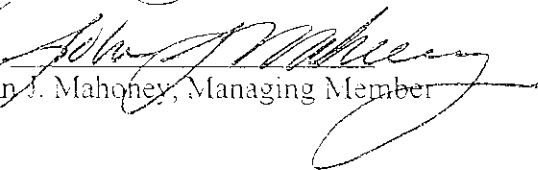
By:   
John J. Mahoney, Managing Operations Member

By:   
Gordon L. Skarsgard, Managing Operations Member BY JOSH SKARSGARD, ATTORNEY IN FACT

By:   
Randall W. Eakin, Managing Oversight Member

CROWNE SANTA FE, LLC  
a New Mexico Limited Liability Company

By:   
Gordon L. Skarsgard, Managing Member BY JOSH SKARSGARD, ATTORNEY IN FACT

By:   
John J. Mahoney, Managing Member



STATE OF NEW MEXICO )  
COUNTY OF Santa Fe ) ss.

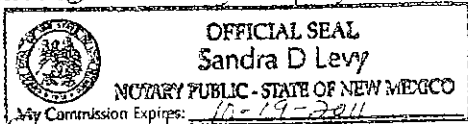
SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me on the 7<sup>th</sup> day of May, 2008 by J. Harmon Burtram, Managing Oversight Member of Las Soleras Del Sur, LLC, a New Mexico limited liability company.

Michael Winston  
Notary Public

My Commission Expires: 6-17-09

STATE OF NEW MEXICO )  
COUNTY OF Bernalillo ) ss.

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me on the 2<sup>nd</sup> day of May, 2008 by Fred Gardner, Managing Member of Geronimo Equities, LLC, a New Mexico limited liability company.

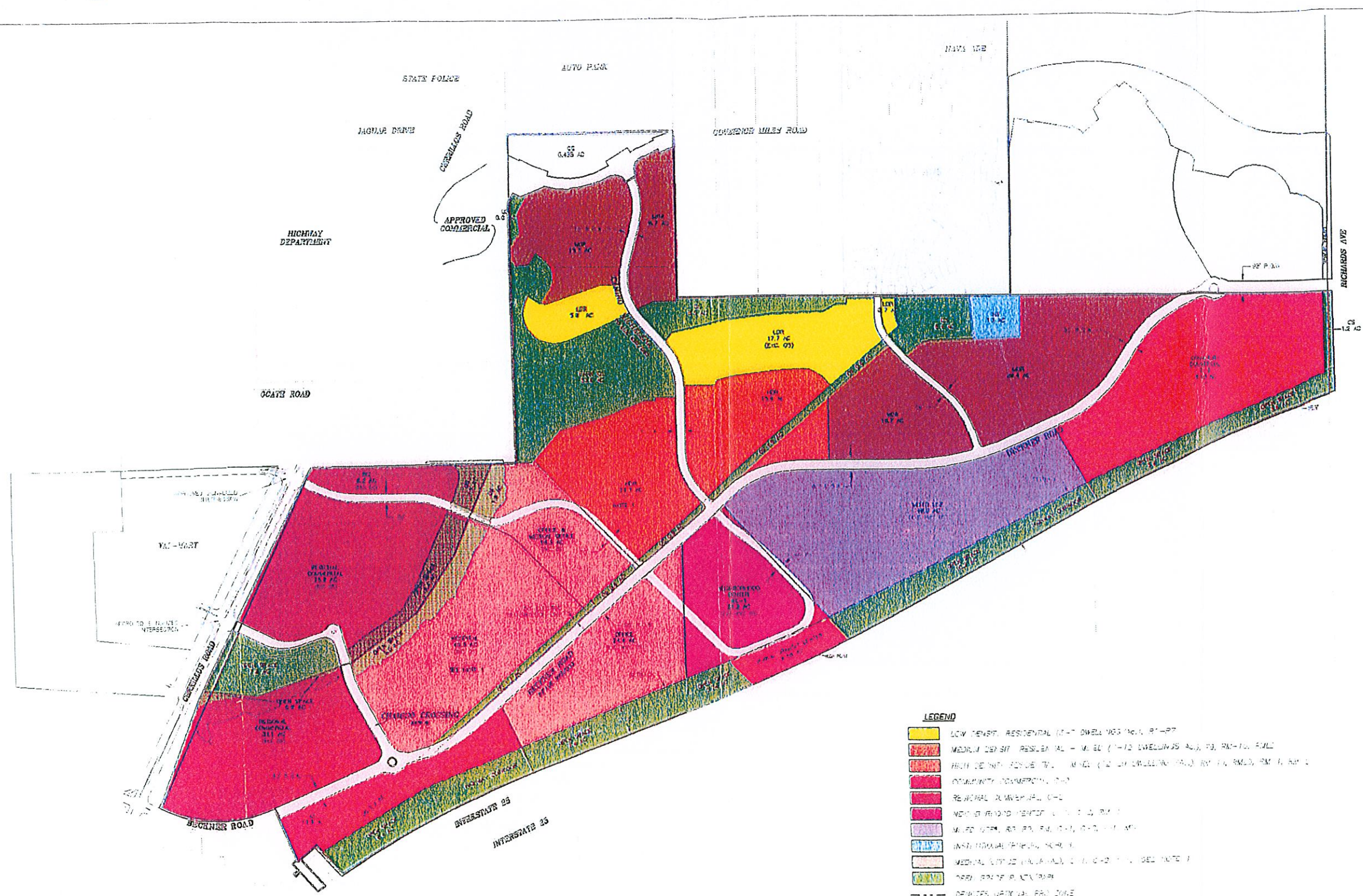


Sandra D Levy  
Notary Public

My Commission Expires: 10-19-2011







- LEGEND**
- LOW DENSITY RESIDENTIAL (SINGLE DWELLINGS ONLY, R1-HP)
  - MEDIUM DENSITY RESIDENTIAL - MIXED (TWO DWELLINGS MAX), R2, RM-FD, RML
  - HIGH DENSITY RESIDENTIAL - MIXED (TWO DWELLINGS MAX), R3, RML, RM-F, RM-L
  - COMMUNITY COMMERCIAL (C-2)
  - REGIONAL COMMERCIAL (C-3)
  - MEDIUM DENSITY MIXED USE (C-4)
  - INSTITUTIONAL (I-1, I-2, I-3)
  - MEDICAL OFFICE (M-1, M-2, M-3)
  - OPEN SPACE (O-1)
  - DEVIATES WORKING PAD ZONE

THE MIXED USE TRANSITIONAL DISTRICT IS DESCRIBED IN RESOLUTION 2007-22 AMENDING THE GENERAL PLAN BY ESTABLISHING "MIXED USE TRANSITIONAL" AS A LAND USE CLASSIFICATION. AS SET FORTH IN THIS RESOLUTION, THIS DESIGNATION INCLUDES PROMOTING A MIXING OF COMPATIBLE LAND USES OCCURRING WITHIN SEVERAL ADJACENT TRACTS OF LAND WHERE COMMERCIAL AND RESIDENTIAL LAND ARE ADJACENT.

**NOTE 1:**  
HOSPITAL RELATED USES, 70' HEIGHT VARIANCE & HELICOPTER TAKE-OFF AND LANDING PAD AS GRANTED BY ECA AT THEIR MEETING OF SEPTEMBER 27, 2007.

EXHIBIT  
**C**

<b>JAMES W. SIEBERT</b> <small>REGISTERED CIVIL ENGINEER</small> 1000 WEST STREET # 200 SANTA FE, NEW MEXICO 87505 (505) 426-8888	<b>LAS SOLERAS</b>	DATE PREPARED: FEBRUARY 2008	 NORTH
	<b>GENERAL PLAN AMENDMENT</b>	CHECKED BY: JWS	
PROJECT NO. 08-001	SHEET NO. 1 OF 2	DATE: 02/01/08	SCALE: AS SHOWN





3PP CLERK RECORDED 09/04/2009

THE SANTA FE EXTRATERRITORIAL LAND USE AUTHORITY

ORDINANCE NO. 2009-01

AN ORDINANCE ESTABLISHING SUBDIVISION, PLATTING, PLANNING AND ZONING RULES WITHIN THE PRESUMPTIVE CITY LIMITS AND WITHIN UNINCORPORATED AREAS OF THE COUNTY THAT ARE SUBJECT TO THE EXTRATERRITORIAL, SUBDIVISION, PLATTING, PLANNING AND ZONING JURISDICTION OF THE CITY OF SANTA FE; ESTABLISHING DEFINITIONS; PROVIDING FOR TRANSITIONAL PROVISIONS; REPEALING ORDINANCE NOS. 1997-4, 1997-3, 1999-1, 1999-5, 1999-6, 2000-01, 2000-03.

BE IT ORDAINED BY THE SANTA FE EXTRATERRITORIAL LAND USE AUTHORITY:

**Section One. Title.** This ordinance may be cited as the Santa Fe Extraterritorial Land Use Authority Subdivision, Platting, Planning and Zoning Ordinance (SPPaZo).

**Section Two. Authority.** This ordinance is enacted pursuant to NMSA 1978, Sections 3-19-5 (2003), 3-20-5 (1998), 3-21-3 (2001), 3-21-3.1 (1989), 3-21-3.2 (2003) and 3-21-4 (1999), the Santa Fe County and City Extraterritorial Land Use Joint Powers Agreement (2008), Ordinance No. 2008-17 of the Board of County Commissioners of Santa Fe County, and Ordinance No. 2008-46 of the Governing Body of the City of Santa Fe.

**Section Three. Scope.** This ordinance applies within the extraterritorial platting and planning zone set forth in NMSA 1978, Section 3-19-5 (2003), and the extraterritorial zoning area set forth in NMSA 1978, Section 13-21-2 (2003).

**Section Four. Repeal.** Ordinance Nos. 1997-4 (except for section 9.8 Mountain Special Review District), 1997-3, 1999-1, 1999-5, 1999-6, 2000-01, 2000-03 of the Extraterritorial Zoning Authority shall be and hereby are repealed.

**Section Five. Planning Basis.** This ordinance implements the City of Santa Fe 1999 General Plan as amended through 2008. The following other planning documents to the extent they are not inconsistent shall also be considered: Regional Planning Authority Land Use Plan (2004), the Southwest Santa Fe County Community Area Plan (2005), the Santa Fe County Growth Management Plan (General Plan)(1999), the Santa Fe County Community College District Plan (2000), the Santa Fe Metro Area Highway Corridor Plan (2000), the Santa Fe Northwest Community Plan (1999), the Santa Fe Extraterritorial Zoning Authority Comprehensive Plan (1998), the Santa Fe Urban and Extraterritorial Future Roads Plan (1999), the Tres Arroyos del Poinente Plan (2006), and the Hyde Park Plan (1994).





Section Six. Definitions.

A. "ELUA" means the Santa Fe Extraterritorial Land Use Authority established by the Santa Fe County and City Extraterritorial Land Use Joint Powers Agreement (2008) and City Ordinance No. 2008-46 and County Ordinance No. 2008-17.

B. "ELUC" means the Santa Fe Extraterritorial Land Use Commission established by the Santa Fe County and City Extraterritorial Land Use Joint Powers Agreement (2008) and City Ordinance No. 2008-46 and County Ordinance No. 2008-17.

C. "EZA" means the Santa Fe Extraterritorial Zoning Authority established by the Santa Fe County and City Extraterritorial Land Use Joint Powers Agreement (1991);

D. "EZC" means the Santa Fe Extraterritorial Zoning Commission established by the Santa Fe County and City Extraterritorial Land Use Joint Powers Agreement (1991);

E. "Presumptive City Limits" means the city limits of the City of Santa Fe following the completion of the annexations provided for in the Settlement Agreement and Mutual Release of Claims (2008), by and between the City of Santa Fe, Santa Fe County, and Las Soleras (as shown on Map A, attached);

F. "Areas to be Annexed" means those areas outside of the current city limits of the City of Santa Fe that will be annexed pursuant to the Settlement Agreement and Mutual Release of Claims (2008), by and between the City of Santa Fe, Santa Fe County, and Las Soleras (as shown on Map A, attached).

**Section Seven. Zoning and Planning and Platting Within the Areas to be Annexed.**

A. Regulation of zoning, subdivision, planning and platting of property within the Areas to be Annexed shall be governed by the City of Santa Fe Land Development Code, Chapter 14. Zoning for properties within the Areas to be Annexed is hereby established by this Ordinance as set forth in the zoning map Map B attached hereto reflecting City zoning districts selected to match land uses adopted in the planning documents referred to in Section 5 and, where applicable, current zoning granted by the EZA. Pending adoption of escarpment overlay districts within Area 18 on Map A, EZA Ordinance No. 1997-4, Section 9.8 establishing rules for the Mountain Special Review District shall apply. The City of Santa Fe will be responsible for administering zoning districts, prescribing uses within districts, rezoning particular parcels, prescribing and enforcing design standards, prescribing procedures for making and processing applications, processing applications, establishing and administering standards for development plans, subdivision of land, and all matters necessary and proper to the foregoing.





B. The City may establish and collect fees for administering zoning, platting and planning and for capital improvements, included but not limited to development review fees, application fees, impact fees, fees for building permit applications, processing, review and inspections and other fees related to development for development within the Areas to Be Annexed.

**Section Eight. Zoning and Planning and Platting Outside the Presumptive City Limits.**

A. Regulation of zoning and planning and platting of property within the extraterritorial zoning and planning and platting authority outside the Presumptive City Limits shall be governed by the Santa Fe County Land Development Code (1996, as amended), including without limitation establishing zoning districts, prescribing uses within districts, establishing zoning of particular parcels, prescribing and enforcing design standards, prescribing procedures for making and processing applications, processing applications, establishing and administering standards for subdivision of land, establishing and providing code enforcement, processing applications for building permits, and all matters necessary and proper to the foregoing.

B. The County may establish and collect fees for administering zoning, platting and planning and capital improvements included but not limited to impact fees, development review fees, enforcement fees, application for development outside the Presumptive City Limits.

**Section Nine. Transitional Provisions.**

**A. Pending Applications.**

1. Each application pending before the ELUA/ELUC for development of property within the Areas to be Annexed shall be transferred to the City of Santa Fe for further processing.

2. Each application pending before the ELUA/ELUC for development of property outside the Presumptive City Limits shall be transferred to Santa Fe County for further processing.

**B. Zoning.**

1. Rezoning of properties within the Areas to be Annexed, as deemed desirable by the City or property owners may be accomplished subsequent to the effective date of this ordinance pursuant to Chapter 14, the City Land Development Code.

2. Properties outside the Presumptive City Limits shall be zoned as established by the Extraterritorial Zoning Authority and the Extraterritorial Zoning Commission prior to the enactment of this Ordinance. Rezoning of such properties, as

deemed necessary by the County may be accomplished subsequent to the effective date of this ordinance pursuant to the County Land Development Code.

**C. Permits and Approvals Without Vested Rights.** Permits and approvals granted by the Extraterritorial Zoning Authority and the Extraterritorial Zoning Commission prior to the effective date of this ordinance for which rights have not vested (approved master plans, special exceptions, recognition of nonconforming uses, development plans, subdivisions, exception plats, and lot line adjustments) shall be henceforth governed by the City Land Development Code within the Presumptive City Limits, and by the Santa Fe County Land Development Code outside the Presumptive City Limits.

**D. Permits and Approvals With Vested Rights.** Permits and approvals granted by the Extraterritorial Zoning Authority and the Extraterritorial Zoning Commission prior to enactment of this ordinance for which rights have vested (whether or not the permit or approval conforms to City Land Development Code) shall be recognized by the City and the County.

**E. Approved Master Plans.**

1. Properties within the Areas to be Annexed that have received final approval of a master plan from the Extraterritorial Zoning Authority or the Extraterritorial Zoning Commission shall within five years of that approval file an application for approval of a development plan, preliminary development plan or subdivision plat in accordance with that Master Plan with the City of Santa Fe or the approval of the master plan shall expire unless an extension is obtained pursuant to the City Land Development Code.

2. Properties outside the Presumptive City Limits that have received final approval of a master plan from the Extraterritorial Zoning Authority or the Extraterritorial Zoning Commission shall be permitted to file an application for approval of a preliminary development plan or plat from the County.

**F. Approved Preliminary Development Plans or Plats.**

1. Properties within the Areas to be Annexed that have received preliminary development plan or plat approval from the Extraterritorial Zoning Authority or the Extraterritorial Zoning Commission but have not received final development plan or plat approval, shall within 24 months of said approval file an application for approval of a final development plan or subdivision plat in accordance with that preliminary plan or plat with the City of Santa Fe or the approval of the preliminary development plan or plat shall expire unless an extension is obtained pursuant to the City Land Development Code.

2. Properties outside the Presumptive City Limits that have received preliminary development plan or plat approval from the Extraterritorial Zoning



Authority or the Extraterritorial Zoning Commission but have not received final development plan or plat approval, may file an application for approval of a preliminary development plan or plat with the County. The application will be governed and processed according to the County Land Development Code.

**G. Approved but Unrecorded Final Development Plans and Plats.**

Properties that have received final development plan or plat approval from the Extraterritorial Zoning Authority or the Extraterritorial Zoning Commission but have not recorded the plan or plat shall within 18 months of the approval complete the recordation process under the terms of the final approval or the approval will expire unless an extension is obtained pursuant to the City Land Development Code.

**H. Approved and Recorded Final Development Plans, Plats or Permits.** Properties that have received final development plan or plat approval from the Extraterritorial Zoning Authority or the Extraterritorial Zoning Commission and have recorded the plan or plat shall within 24 months of the approval apply for construction permits consistent with that plan or plat from the City of Santa Fe or the approval will expire unless an extension is obtained pursuant to the City Land Development Code..

**Section Ten. Enforcement.** Enforcement of Land Development Codes within the delegated authority set forth in this Ordinance shall be made by the entity responsible for enforcement of those Codes, e.g. within the Presumptive City Limits, the City Code shall govern as set forth in this Ordinance, and the City shall be responsible for enforcement of its Land Development Code pursuant to this delegated authority. Likewise, within the County and outside the Presumptive City Limits, the County Land Development Code shall govern as set forth in this Ordinance, and the County shall be responsible for enforcement of the terms of that Code.

**Section Eleven. Business and Itinerant Vendor Licenses.** The City shall issue business and itinerant vendor licenses within the Presumptive City Limits. The County shall issue business and itinerant vendor licenses outside the Presumptive City Limits. Licenses validly issued pursuant to the Extraterritorial Zoning Ordinance shall be valid until expiration.

**Section Twelve. Building and Development Permits.** Building and/or development permits sought within the Presumptive City Limits shall be obtained from the City. Building and/or development permits sought outside the Presumptive City Limits shall be obtained from the County or the Construction Industries Division. Building and development permits that pertain to property for which final approvals were approved through the Extraterritorial Zoning Ordinance shall be governed by the terms of the approval.

PASSED, APPROVED AND ADOPTED this 27<sup>th</sup> day of August, 2009.

THE EXTRATERRITORIAL LAND USE  
AUTHORITY OF SANTA FE COUNTY

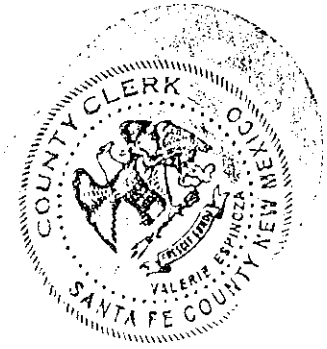
By: [Signature]  
Harry Montoya, Chair

ATTEST: [Signature]  
Valerie Espinoza, Santa Fe County Clerk

[Signature]  
Yoanda Vigil, City Clerk

APPROVED AND TO FORM:  
[Signature]  
Stephen C. Ross, Santa Fe County Attorney

[Signature]  
Frank Katz, City Attorney



INSTRUMENT RECORDED 09/04/2009

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss  
ELUA ORDINANCE  
PAGES: 9  
I Hereby Certify That This Instrument Was Filed for  
Record On The 4TH Day Of September, 2009 at 02:14:03 PM  
And Was Duly Recorded as Instrument # 1576351  
Of The Records Of Santa Fe County  
Witness My Hand And Seal Of Office  
Valerie Espinoza  
Deputy, [Signature] County Clerk, Santa Fe, NM







# Annexation Areas Future Land Use & Zoning Districts

Adopted 08/27/2009

Extraterritorial Land Use Authority

## SouthWest

### City Zoning Districts

#### Residential Districts

- R1, (PUD) Single - Family 1-dw/acre
- R2, (DT), (PUD) Single - Family 2-dw/acre
- R3, (PUD) Single - Family 3-dw/acre
- R4 Single - Family 4-dw/acre
- R5, (DT), (PUD), AC, R6, (PUD) Single - Family 5-dw/acre
- R7, (S, PUD), R8 Single - Family 7-dw/acre
- RCS, ACRCB Compound 5-dw/acre
- RCS, ACRCB Compound 6-dw/acre
- RM10, (PUD) Multiple - Family 10-dw/acre
- RMLD, (PUD) Multiple - Family 12-dw/acre
- RM1, (PUD) Multiple - Family 21-dw/acre
- R62, (PUD) Multiple - Family 26-dw/acre
- RAC Residential Arts & Crafts
- MS Mobile Home Park
- RR, Rural Residential
  - 3/4 Acre: No City water or sewer
  - 1/2 Acre: City water or sewer
  - 1/3 Acre: City water and sewer
  - 1/4 Acre: City water and sewer and 40% common open space

#### Non-Residential and Mixed Use Districts

- C1, (PUD) Office and Retail Commercial
- C2, (PUD) General Commercial
- C4 Limited Office and Retail
- H2 Hospital Zone
- BCD Business Capital District
- I1, (PUD) Light Industrial
- I2 General Industrial
- IP Business Industrial Park
- PRC, PRSC Planned Community
- SC1, SC2, SC3 Planned Shopping Center
- MU Mixed Use

**NOTE:**  
 Asterisk denotes a parcel or parcels which may be affected by institutional development approvals granted under the Extraterritorial Zoning Ordinance and which may not be subject to the extent provided in Extraterritorial Land Use Authority Ordinance No. 2009-01. Parcels may also be affected by EZO approvals, but which are not designated on this map.

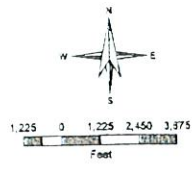
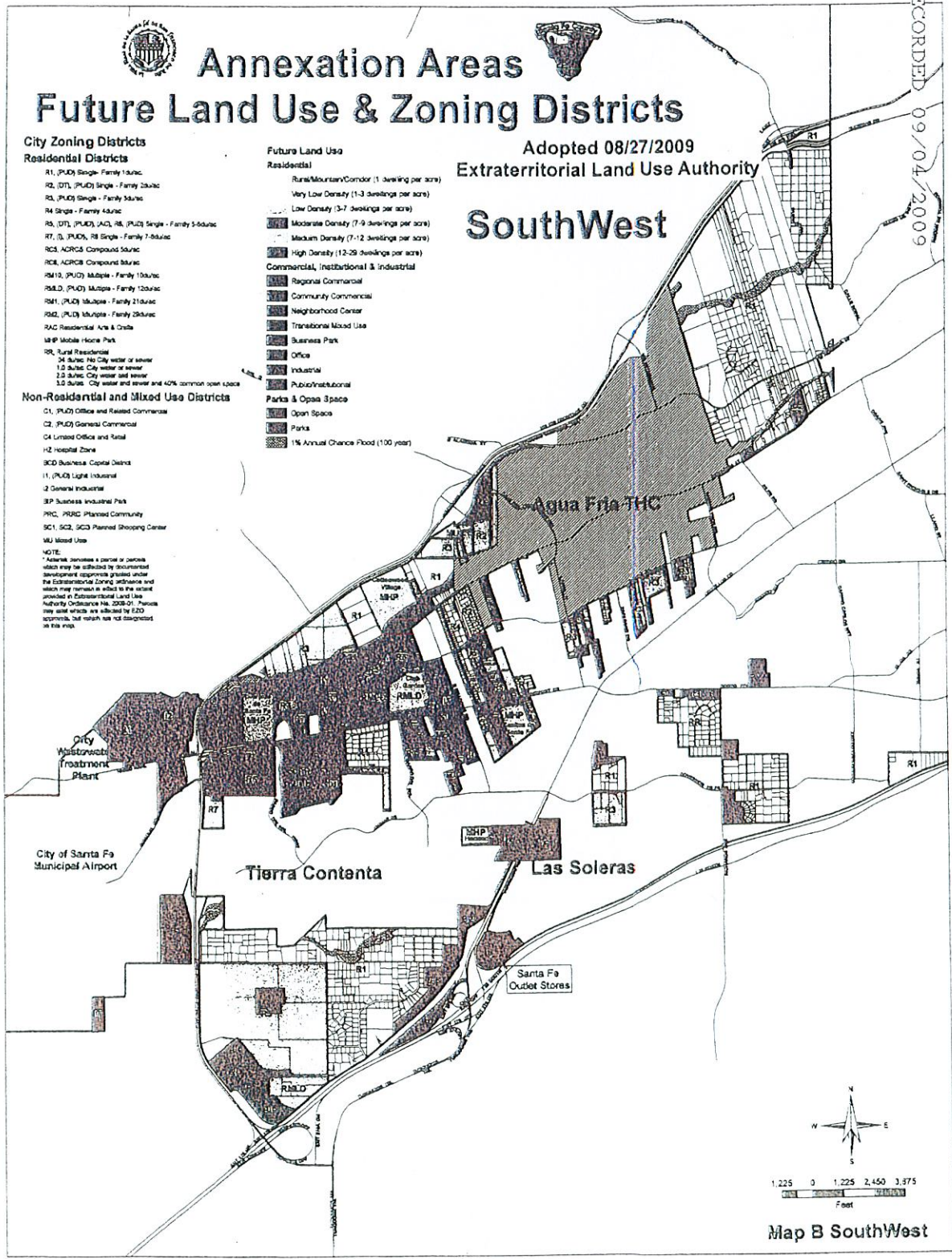
### Future Land Use

#### Residential

- Rural/Mountain/Condom (1 dwelling per acre)
- Very Low Density (1-3 dwellings per acre)
- Low Density (3-7 dwellings per acre)
- Moderate Density (7-9 dwellings per acre)
- Medium Density (7-12 dwellings per acre)
- High Density (12-26 dwellings per acre)

#### Commercial, Institutional & Industrial

- Regional Commercial
- Community Commercial
- Neighborhood Center
- Transitional Mixed Use
- Business Park
- Office
- Industrial
- Public/Institutional
- Parks & Open Space
- Open Space
- Parks
- 1% Annual Chance Flood (100 year)



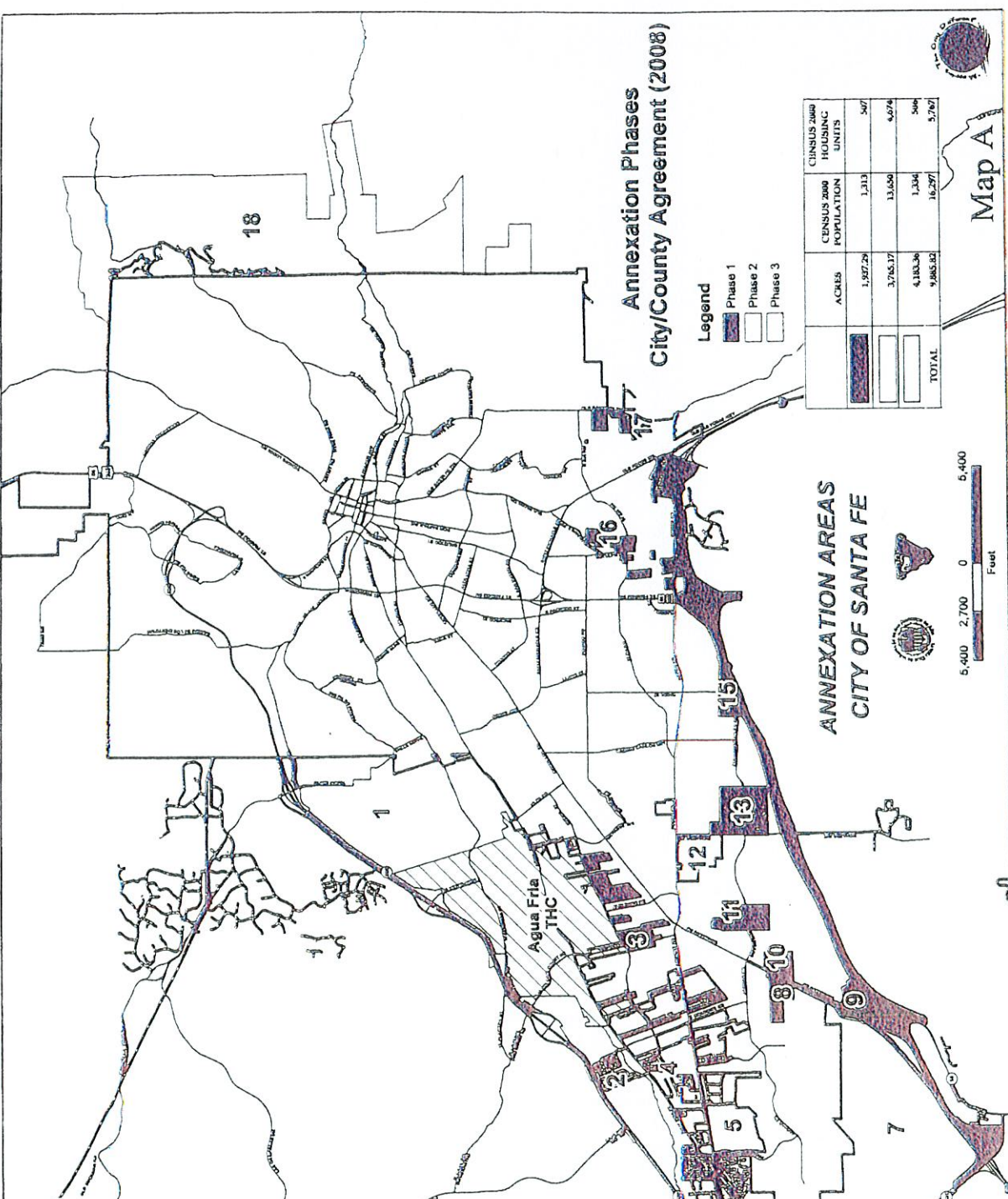
Map B SouthWest

**ANNEXATION AREAS**  
**FOR THE CITY OF SANTA FE**  
**FOR THE YEAR 2009**  
**DATE RECORDED: 09/04/2009**

ANNEXATION AREA	ACRES	POPULATION	HOUSING UNITS
ANNEXATION AREA 1 (SP River to Rio Grande, South of Agua Fria Traditional Villa Rd.)	807.56	1,872.28	507
ANNEXATION AREA 2 (SP River to Rio Grande, South of Agua Fria Traditional Villa Rd.)	1,284.17	3,763.17	4,674
ANNEXATION AREA 3 (Quadrilateral Area between Agua Fria Traditional Villa Rd. and Agua Fria Traditional Villa Rd.)	791.93	1,872.28	507
ANNEXATION AREA 4 (South of Agua Fria Traditional Villa Rd. and Agua Fria Traditional Villa Rd.)	598.15	1,336.50	346
ANNEXATION AREA 5 (Airport / WOODY)	323.64	791.93	212
ANNEXATION AREA 6 (South of Terra Colorado)	1319.51	3,131.31	4,041
ANNEXATION AREA 7 (West side of Centennial Rd.)	492.51	1,134.36	296
ANNEXATION AREA 8 (West side of Centennial Rd.)	38.24	92.51	24
ANNEXATION AREA 9 (South of Terra Colorado)	44.94	108.24	28
ANNEXATION AREA 10 (Quadrilateral West of Nueva Arbo)	88.27	227	30
ANNEXATION AREA 11 (Land along South side of Agua Fria Traditional Villa Rd.)	123.77	158	21
ANNEXATION AREA 12 (East side of Rio Grande, South of 1.25 & West of Pecos Rd.)	170.10	206	27
ANNEXATION AREA 13 (Portion of Rio Grande (Boundary) to be the unincorporated portion of the unincorporated portion)	48.05	11	1
ANNEXATION AREA 14 (East of Rio Grande, West of Agua Fria Traditional Villa Rd.)	139.21	131	17
ANNEXATION AREA 15 (Property along west side of Agua Fria Traditional Villa Rd.)	37.41	28	4
ANNEXATION AREA 16 (Land between the east town City Limits and the National Forest)	270.82	228	30
ANNEXATION AREA 17 (Town City Limits to 1.25 & West of Pecos Rd.)	5.50	5	1
ANNEXATION AREA 18 (South of Terra Colorado)	85.5	16,297	5,797
<b>TOTALS</b>	<b>9,838.82</b>	<b>16,297</b>	<b>5,797</b>

\* Estimates based on Census 2000 Block Level data. Information includes the Agua Fria traditional historic community.

City of Santa Fe  
 Planning Department  
 City of Santa Fe, New Mexico  
 This map is for general reference only. Specific information can be obtained from the City Planning Division.



**Annexation Phases**  
**City/County Agreement (2008)**

- Legend**
- Phase 1
  - Phase 2
  - Phase 3

ANNEXATION AREA	ACRES	CENSUS 2000 POPULATION	CENSUS 2000 HOUSING UNITS
1	1,872.28	1,313	507
2	3,763.17	13,650	4,674
3	791.93	1,872.28	507
4	598.15	1,336.50	346
5	323.64	791.93	212
6	1,319.51	3,131.31	4,041
7	492.51	1,134.36	296
8	38.24	92.51	24
9	44.94	108.24	28
10	88.27	227	30
11	123.77	158	21
12	170.10	206	27
13	48.05	11	1
14	139.21	131	17
15	37.41	28	4
16	270.82	228	30
17	5.50	5	1
18	85.5	16,297	5,797
<b>TOTAL</b>	<b>9,838.82</b>	<b>16,297</b>	<b>5,797</b>

**Map A**





# City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909

David Coss, Mayor

Councilors:

Rebecca Wurzbarger, Mayor Pro Tem, Dist. 2  
Patti J. Bushee, Dist. 1  
Chris Calvert, Dist. 1  
Rosemary Romero, Dist. 2  
Miguel M. Chavez, Dist. 3  
Carmichael A. Dominguez, Dist. 3  
Matthew E. Ortiz, Dist. 4  
Ronald S. Trujillo, Dist. 4

January 27, 2011

Stephen C. Ross, County Attorney  
102 Grant Ave.  
Santa Fe, NM 87501

Santa Fe, NM, 87501

Re: Polk Rezoning

Dear Mr. Ross,

I am forwarding to you a copy of a letter from James Siebert, dated January 13, 2011. Mr. Siebert writes on behalf of Jim Polk, who would like to rezone a portion of his property on Rodeo Road. The site is within Area 12 of the City-County Annexation and was zoned Rural Residential under the terms of SPPaZO, Ordinance NO. 2009-01, adopted by the Extraterritorial Land Use Authority on August 27, 2009, and effective October 4, 2009.

As you know, the Settlement Agreement of 2008, specific to Area 12 and per Item 2.c., states that "...Area 12 shall be annexed but the rural residential zoning prevalent in the area shall be respected by the City and urban densities shall not be established... during the term of this Agreement." (20 years)

In speaking with Kelley Brennan, Assistant City Attorney, it is my understanding that the County will present the request to amend the above provision of the Settlement Agreement to the Board of County Commissioners (BCC). If there is a favorable decision by the BCC the City will then take the same request, along with a request to rezone the identified portion of the property, through the City process for review and final decision on the matter by the City Council.

Thank you for your help with this matter and let me know if you need any additional information from the City.

Sincerely,

Tamara Baer, Planner Manager  
City of Santa Fe Land Use Department.

cc. Kelley A. Brennan, Assistant City Attorney





**JAMES W. SIEBERT  
AND ASSOCIATES, INC.**

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**915 MERCER STREET \* SANTA FE, NEW MEXICO 87505  
(505) 983-5588 \* FAX (505) 989-7313  
siebert.associates@comcast.net**

April 20, 2011

Jose Larranaga  
Santa Fe County Land Use  
P.O. Box 276  
Santa Fe, NM 87504

Re: Polk Rezoning

Dear Mr. Larranaga:

The enclosed material is supplemental information provided to the BCC for their hearing on May 10<sup>th</sup>, 2011. The applicant will be requesting the rezoning of .63 acres from RR to C-2. A portion of the existing tract, consisting of .82 acres, will remain Rural Residential. The portion of the lot that remains Rural Residential is designed to be consistent with the existing character of the Town and Country Subdivision and with the intent of the RR District.

In order to extend the existing C-2 zoning, the City Attorney has requested clarification that a conflict does not exist with the Settlement Agreement and Mutual Release of Claims

The rezoning request is designed to extend the current C-2 zoning on Rodeo Road to the right-of-way of Richards Ave allowing Mr. Polk to expand or re-develop the existing commercial uses on his adjoining property to the west, which is currently zoned C-2.

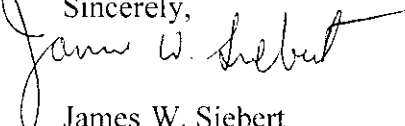
Polk  
BCClttrtojose



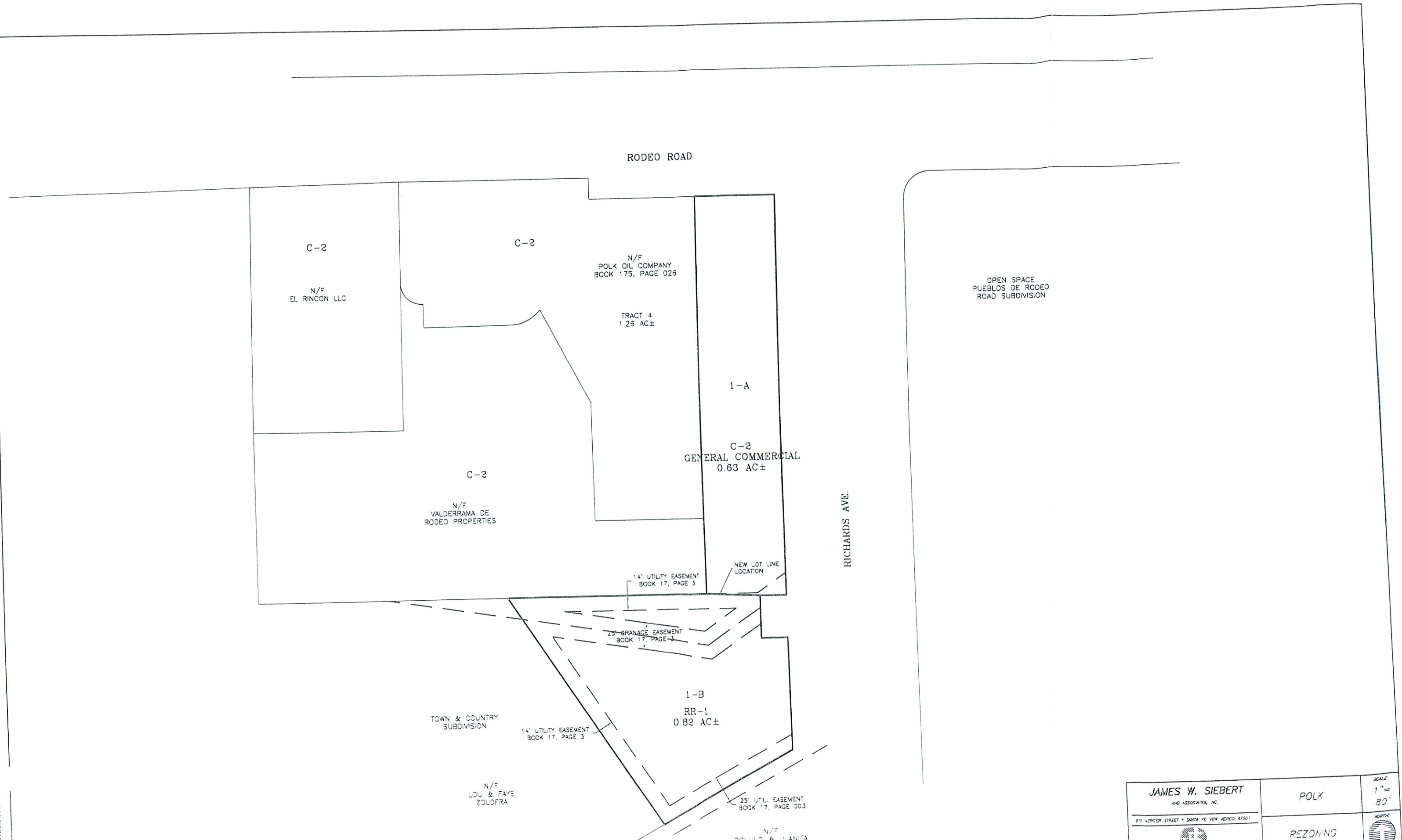
Polk Rezoning  
April 20, 2011  
Page Two of Two

At such time as this request moves forward to the Planning Commission a lot line adjustment plat will be prepared which is consistent with the boundaries of the Rural Residential and General Commercial zoning districts. A description of the subject property and aerial photograph accompanies this letter describing the proposed area for General Commercial zoning and the remainder Rural Residential district.

Thank you for your attention to this matter.

Sincerely,  
  
James W. Siebert

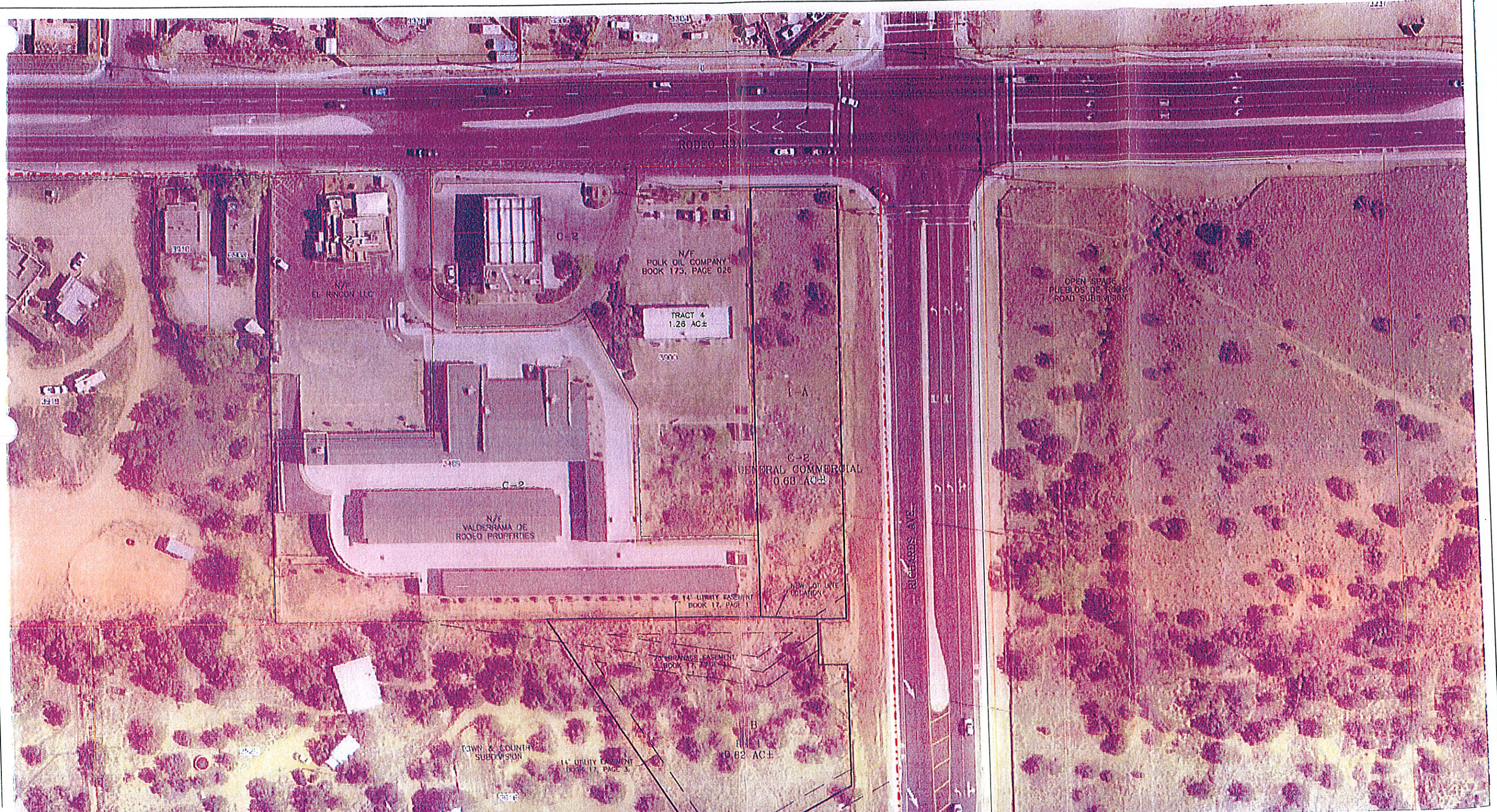




<b>JAMES W. SIEBERT</b> AND ASSOCIATES, INC. <small>315 WERCER STREET • SANTA FE NEW MEXICO 87501</small>	POLK	SCALE 1" = 80'
	REZONING	NORTH 

14-25-2010-00002-011-000005 SITE-11.DWG





RODEO ROAD

RICHARDS AVE

N/F  
EL RINGON LLC

N/F  
POLK OIL COMPANY  
BOOK 173, PAGE 026

TRACT 4  
1.26 AC±

N/F  
VALDERRAMA DE  
RODEO PROPERTIES

C-2  
GENERAL COMMERCIAL  
0.60 AC±

TOWN & COUNTRY  
SUBDIVISION

B  
R-1  
0.82 AC±

N/F  
LOU & FAYE  
ZOFRA

24' UTIL. EASEMENT  
BOOK 17, PAGE 003

OPEN SPACE  
PUEBLOS DE RODEO  
ROAD SUBDIVISION

**JAMES W. SIEBERT**  
AND ASSOCIATES, INC.

310 BERGER STREET • SANTA FE NEW MEXICO 87501

POLK

REZONING

SCALE  
1" =  
80'

NORTH



APR 15 2008 10:00:00 AM SITE 11.DWG