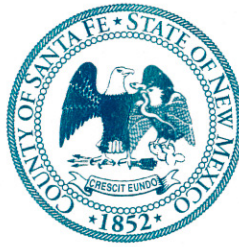


Danny Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: August 14, 2012

TO: Board of County Commissioners

FROM: Jose E. Larrañaga, Commercial Development Case Manager

VIA: Vicki Lucero, Building and Development Services Manager
Penny Ellis-Green, Interim Land Use Administrator

jel
VL
PE

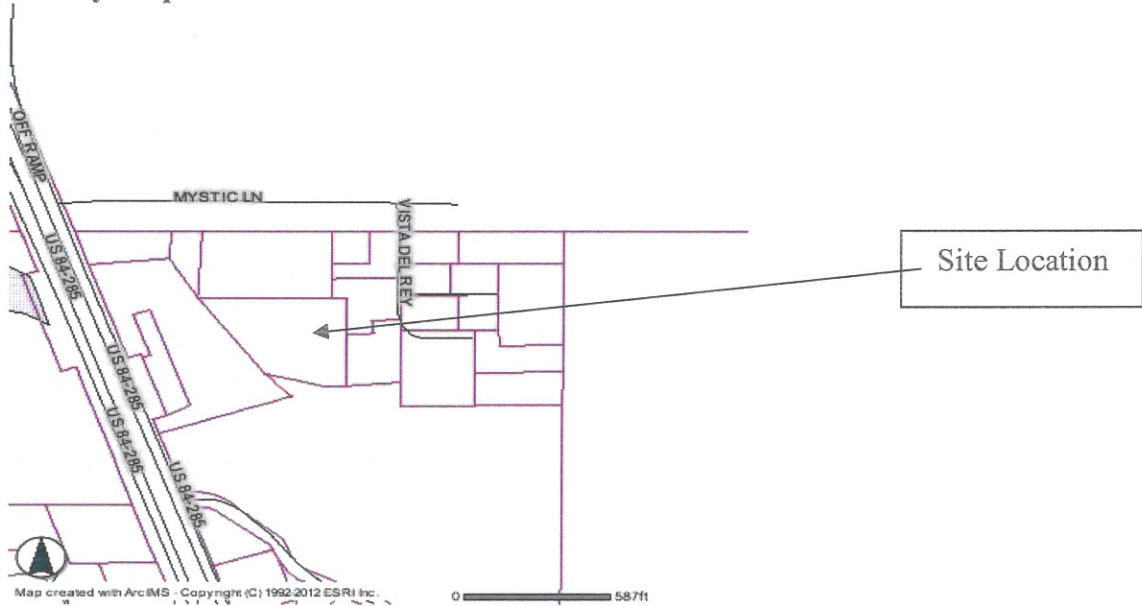
FILE REF.: CDRC Case # V 12-5180 Joseph and Hope Roybal Variance

ISSUE:

Joseph and Hope Roybal, Applicants, James Siebert (James W. Siebert and Associates, Inc.), Agent, request a variance of Article III, § 4 (Commercial and Industrial Non-Residential Districts), of the Land Development Code, to allow commercial zoning outside of a designated commercial district on 3.98 acres.

The property is located southeast of the Village of Cuyamungue, east of the US 84-285 frontage Road, between Exit 176 and Buffalo Thunder Road, at 22 B Mystic Lane, within Section 28, Township 19 North, Range 9 East, (Commission District 1).

Vicinity Map:



SUMMARY:

On June 21, 2012, the County Development Review Committee (CDRC) met and acted on this case. The decision of the CDRC was to recommend approval of the Applicants request for a variance.

The Applicants request a variance to allow commercial uses to be located outside a designated commercial node. The Applicants state that this site is suitable for commercial uses for the following reasons: the Buffalo Thunder interchange could be considered a qualifying intersection as a Major Center District; a significant portion of the property is located within the required 2,500 foot radius used for inclusion in a Major Center Node; commercial businesses have consistently operated on the site; the site is contiguous or in close proximity to properties that are used for commercial or non-residential activity.

Staff's response: Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District) vacated the existing commercial nodes and designated mixed use districts. A County Business Registration was assigned to the property for New Mexico Trees in 1996 and expired in 2007, no other Business Registrations have been issued to this site. The neighboring properties with commercial or non-residential activities are State and Pueblo owned and the County has no zoning jurisdiction on these parcels.

Article III, § 4.1 (Purpose and Intent) states: Commercial and industrial non-residential land uses are permitted only in zoned districts of various sizes and locations in the County of Santa Fe. Non-residential districts specifically for commercial or industrial land uses are established in order: to permit intensive development of selected land uses at designated locations; to avoid strip commercial and industrial patterns of development along highways, arterials, collectors, and local roads of the County; to protect the function of the County's highways, arterials, collectors, and local roads by controlling the number of access locations to commercial and industrial use areas; to prevent the preemption of prime areas for commercial or industrial development by residential development; to protect existing and future residential development from encroachment of non-residential uses; to provide the opportunity to master plan non-residential use areas, so that adequate fire and police protection may be provided and appropriate infrastructure constructed.

Article II, § 3 (Variances) states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This Section goes on to state "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified." **The variance criterion does not consider financial or medical reasons as extraordinary hardships.**

Article II, § 3.2 (Variation or Modification) states: "In no case shall any variation or modification be more than a minimum easing of the requirements".

This Application was submitted on May 11, 2012.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.

APPROVAL SOUGHT: Approval of a variance of Article III, § 4, Commercial and Industrial Non-Residential Districts.

GROWTH MANAGEMENT AREA: El Norte, SDA-2.

VARIANCE: Yes

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	Fire	Conditional Approval

STAFF RECOMMENDATION: Denial of a variance from Article III, § 4 Commercial and Industrial Non-Residential Districts, of the Land Development Code, to allow commercial zoning outside of a designated commercial district on 3.98 acres.

If the decision of the BCC is to approve the Applicant's request, staff recommends imposition of the following condition:

1. The Applicant shall submit, in a timely manner, a request for Master Plan Zoning to the Building and Development Services Department (As per Article III, § 4.1.1.6).

EXHIBITS:

1. Material Submitted by Applicant
2. Article III, § 4 (Commercial and Industrial Districts)
3. Article II, § 3 (Variances)
4. Fire Prevention Division Letter
5. Aerial Photos of Site
6. CDRC Minutes

**REQUEST FOR VARIANCE FROM
COMMERCIAL NODE DESIGNATION**

CUYAMUNGUE, NEW MEXICO

JOSEPH & HOPE ROYBAL

SUBMITTED

BY

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

MAY 11, 2011



NBF-4

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<i>History of Commercial Use</i>	4
<i>Consistency with Other Commercial Uses</i>	4
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FIGURES

Figure 1	Vicinity Map
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APPENDICIES

Appendix A	Pre-Code Deeds
Appendix B	Recorded Plat Reduction
Appendix C	New Mexico Discount Trees Business License
Appendix D	OSE Well Information

Project Location

The subject tract consists of 3.983 acres of land located within Township 19 North, Township 9 East, projected Section 28. The property is located southeast of the Village of Cuyamungue and east of the US 84-285 frontage road, between Exit 176 and Buffalo Thunder Road. Figure 1 is a vicinity map showing the location of the property overlaid on a USGS map.

Ownership and Legal Lot of Record

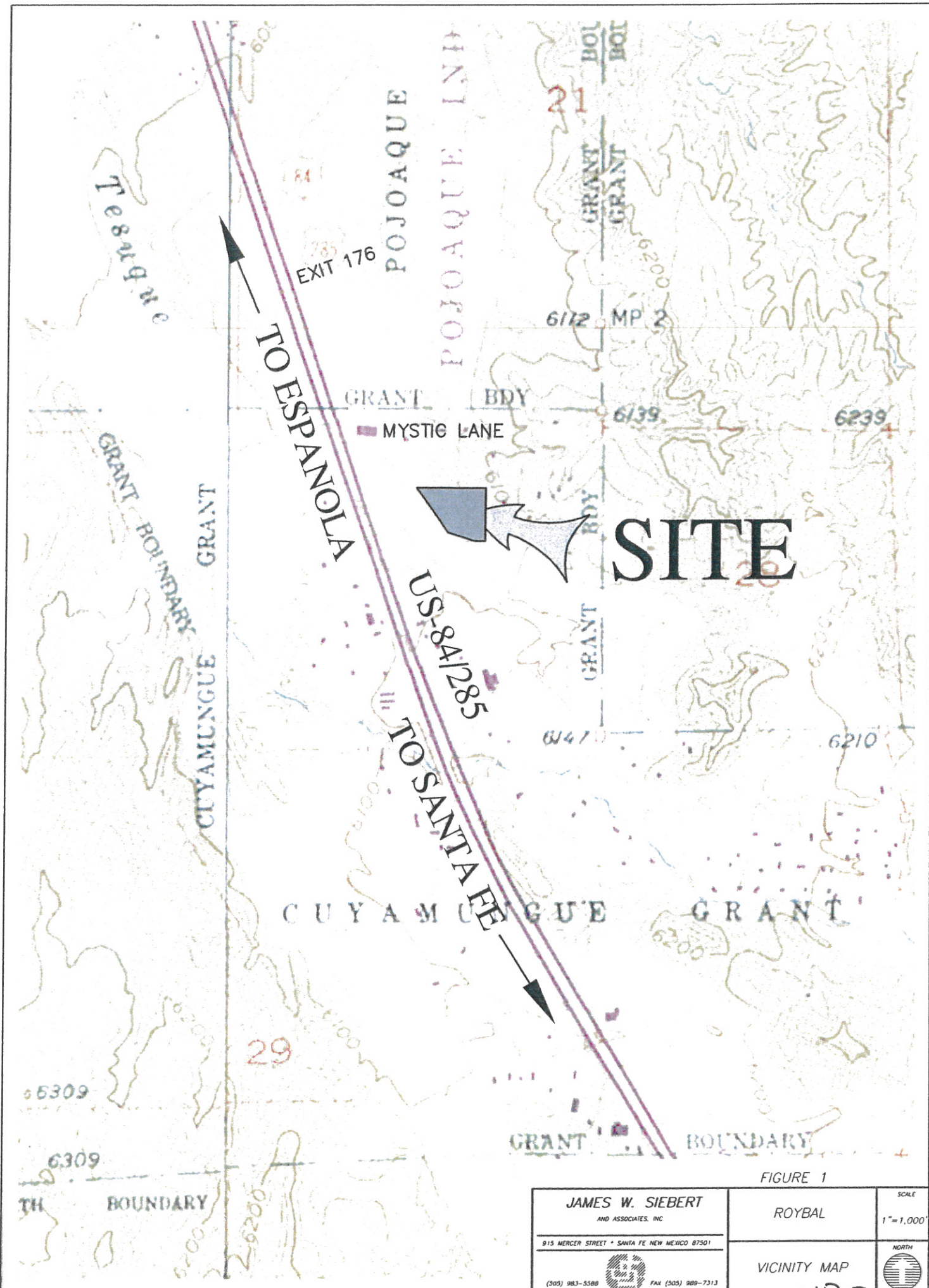
The property is owned by Joseph and Hope Roybal who are residents of Santa Fe County and have owned the land since 2001. The lot of record is created by a Real Estate Agreement recorded in the office of the County Clerk on July, 1978 in Book.358 Page(s) 416-418. Joseph and Hope Roybal purchased the property from Richard and Margaret Osborn (New Mexico Trees) on July 19, 2001. The pre-code real estate agreement and warranty deed to the Roybal's can be found in Exhibit A. A plat description of the property is provided in a Public Notice plat attached as Exhibit B.

Access

The access to the property is from Mystic Lane, which is a private roadway that connects to the US 84-285 frontage road. The frontage road and Mystic Lane intersection is approximately ¼ mile south of the Buffalo Thunder (Exit 177) intersection. The distance from the frontage road and Mystic Lane intersection to the driveway to this property is 1,544 feet. The driveway access to the property from Mystic Lane is 40 feet in width. The driveway is located on fee simple land rather than an easement.

Terrain Conditions

There is not a FEMA 100 year flood plain located on the property. The closest flood plain is located on the west side of US 84-285, being the Rio Tesuque. The flood plains relative to the property are shown on the cover sheet for the plan set that accompanies the application. The property is relatively flat with an average slope of 2-3 percent across the property. There are no significant drainages on the lot and there is no evidence of erosion from concentrated runoff on the property.



SITE

FIGURE 1

<p>JAMES W. SIEBERT AND ASSOCIATES, INC.</p>	<p>ROYBAL</p>	<p>SCALE 1" = 1,000'</p>
<p>915 MERCER STREET • SANTA FE NEW MEXICO 87501 (505) 983-5588</p>	<p>VICINITY MAP</p>	<p>NORTH</p>

NBF-7

History of Thompson Wells Business

Thompson Wells began business in 1975 in El Rancho, New Mexico. In 1997, Joseph Roybal purchased the business from Tommy Thompson. Joseph Roybal purchased the property in Cuyamungue in 2001 and moved the base of operation to the site that had previously been the business location for New Mexico Discount Trees.

The subject property has continuously operated as a commercial business since 1975. A business license was provided for this property in 2007. This license is attached as Appendix C.

Justification for Variance

This tract of land is best suited for commercial uses for the following reasons:

Location within Major Center District

It is assumed that the Buffalo Thunder interchange would qualify as a major center district given the intensity of uses that are already adjacent to or in close proximity to the interchange. The Node Evaluation Plan provided in the plan set shows the 2,500 foot radius for the distance from the qualifying intersection. A significant portion of the lot is located within the qualifying node for a major center district, representing approximately 84 percent of the property. The request for a commercial use is, therefore, consistent with the Santa Fe County Land Development Code.

History of Commercial Use

A commercial landscape business operated out of this location beginning in 1975. This operation pre-dated the County Land Development Code. Joseph Roybal purchased the property in 2001 from the landscape company and continued the commercial use on the site. This property has continually been used as a well drilling business since 2001.

Consistency with Other Commercial Uses

The New Mexico Department of Transportation has their construction yard immediately north and contiguous with the Roybal property. This NMDOT site has been used for stock piling of materials for use on DOT highways since the 1970's. The Buffalo Thunder Casino complex is located within 500 feet of the subject property. Although there is a golf course in the vicinity of the subject request there is also a construction yard for the Pojoaque Pueblo that is immediately adjacent to Mystic Lane. The Nambe Pueblo has recently completed a gas station, convenience store and travelers' service facility on the US 84-285 frontage road, which is contiguous with the southwestern boundary of the Roybal property. The Pojoaque Pueblo has their administrative office at the corner of Mystic Lane and the US 84-285 frontage road. This was previously a construction office

and yard for an electrical contractor. To the east is a larger warehouse type building that the homeowner uses for restoration of his own vehicles.

Low Impact on Surrounding Properties

There are 12 residential dwellings served by Mystic Lane. The smaller private residential lot to the east located between the Pojoaque Pueblo administrative office and the Roybal property does have a mobile home on the lot which has been abandoned for several years. This lot is not included in the 12 residential dwellings. Mr. Roybal has operated out of this location since 2001 and no complaints have ever been filed with the Santa Fe County Land Use office.

Water Availability

There are two wells on the property. The Office of the State Engineer has designated these wells as RG 25864 and RG 37775. The oldest well dates back to 1975 and was allocated three acre feet of water at the time the permit was issued. This well is not subject to the Aamodt water restrictions since it was drilled prior to 1983. The other well that is in proximity to the shop was drilled in 1982 and is also exempt from the Aamodt restrictions. The information for both wells from the Office of the State Engineer is included in this report as Appendix D.

On-Site Wastewater

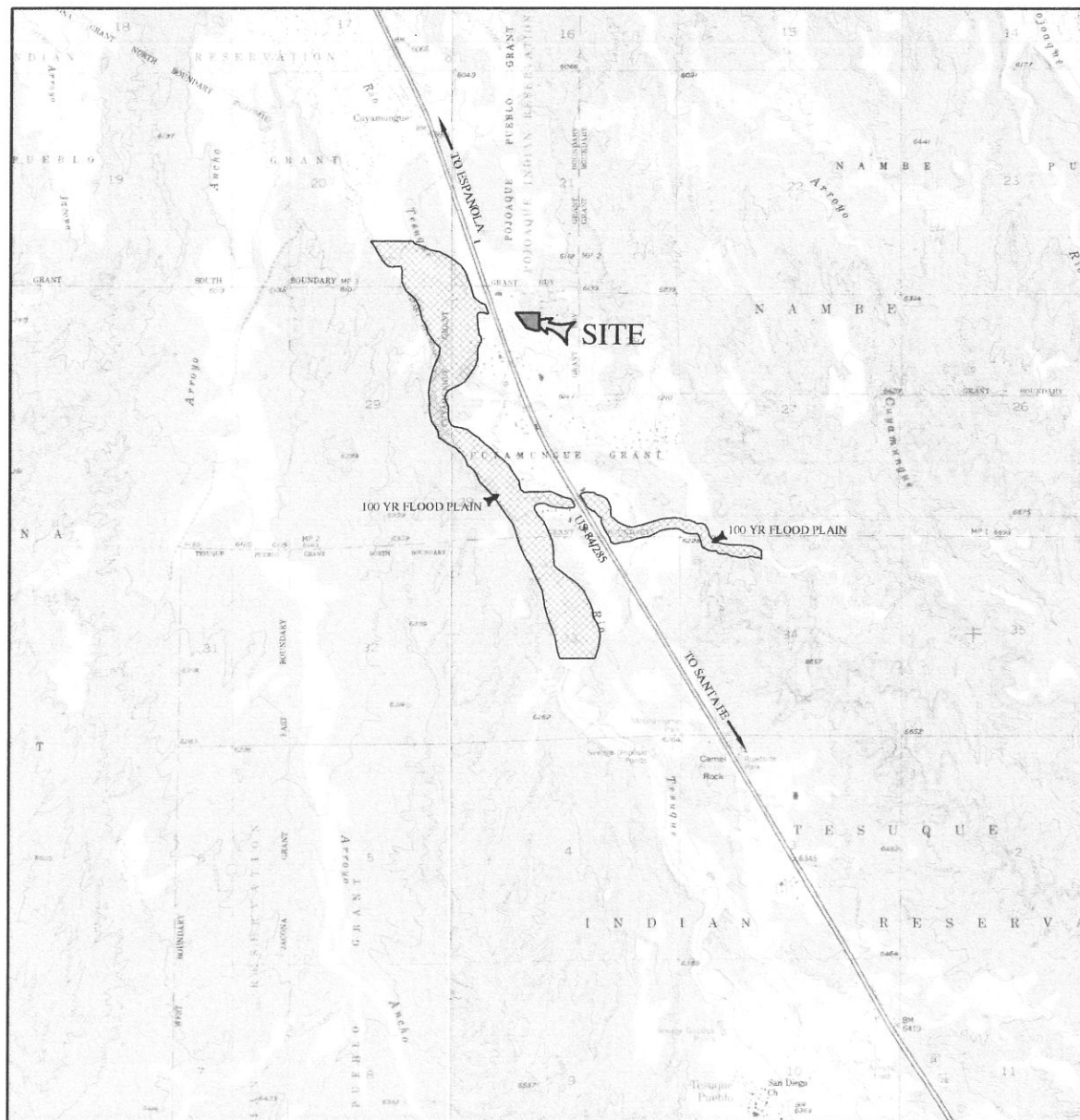
There are two septic tank and leach field systems located on the property. One system serves the house and one system serves the mechanical shop. Each system is more than one hundred feet from the existing wells.

ROYBAL VARIANCE REQUEST FROM COMMERCIAL NODE CUYAMUNGUE, NM

TOWNSHIP 19 N, RANGE 9 E, SEC 28

OWNERS: JOSEPH & HOPE ROYBAL
15 THISTLE LANE
SANTA FE, NM 87506
(505) 982-2000
(505) 995-8669

CONSULTANTS: JAMES W. SIEBERT & ASSOCIATES, INC.
PLANNING CONSULTANT
915 MERCER STREET
SANTA FE, NM 87505
(505) 983-5588



VICINITY MAP
1" = 2000'

INDEX TO SHEETS	
LIST OF SHEETS	SHEET NUMBER
PLANNING SHEETS	
COVER SHEET	P-1
AERIAL PHOTO MAP	P-2
ADJOINERS MAP	P-3
LAND USES MAP	P-4
COMMERCIAL NODE EVALUATION PLAN	P-5

COUNTY

APPROVED BY THE COUNTY DEVELOPMENT REVIEW COMMITTEE
OF SANTA FE COUNTY AT THEIR MEETING OF _____, 2012.

CHAIRPERSON _____ DATE _____

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY AT THEIR MEETING OF _____, 2012.

CHAIRPERSON _____ DATE _____

ATTESTED BY COUNTY CLERK _____ DATE _____

COUNTY REVIEW

LAND USE ADMINISTRATOR _____ DATE _____

DEVELOPMENT PERMIT NO. _____

JAMES W. SIEBERT AND ASSOCIATES, INC. 915 MERCER STREET • SANTA FE NEW MEXICO 87505 (505) 983-5588	ROYBAL	SCALE: AS SHOWN	DATE: MAY 2012	NORTH:
	COVER SHEET	DRAWN BY: HF	CHECKED BY: JWS	SHEET: P-1
		REVISED: 00/00/00	FILE NAME: 201204 3-12 1204-COV	
		WORKED ON: 00/00/00		

NBF-10



JAMES W. SIEBERT AND ASSOCIATES, INC. <small>915 MERCER STREET • SANTA FE NEW MEXICO 87501</small> <small>(505) 983-5588 FAX (505) 989-7313</small>	ROYBAL	SCALE 1" = 200'	DATE MAY 2012
	AERIAL PHOTO	NORTH	PRICE P-2

NBF-11

BUFFALO THUNDER
GOLF COURSE & CASINO

CONSTRUCTION STORAGE

N/F
PUEBLO OF POJOAQUE
BK. 1744 PG. 009

TO ESPANOLA

MYSTIC LANE

N/F
PUEBLO OF POJOAQUE

PUEBLO OF
POJOAQUE
ADMIN

N/F
RICHARD
PETER
WATTS
BK. 1497
PG. 208
RESIDENTIAL
(ABANDONED
MOBILE
HOME)

NMDOT
DIST. 5
MAINTENANCE
FACILITY

N/F
FIDEL &
GINGER
NARANJO
BK. 1221
PG. 598

N/F
ALFREDO REY

N/F
ALFREDO REY

N/F
JOSEPH ROYBAL
BK. 257 PG. 015

N/F
PUEBLO OF NAMBE
NAMBE FALLS TRAVEL CENTER
CONVENIENCE STORE, GAS STATION
& FAST FOOD RESTAURANT

N/F
ALFREDO REY
BK. 588 PG. 430


N/F
I.M. & MARGARET M.
ROYBAL
ROYBAL'S CONSTRUCTION
BK. 359 PG. 146

U.S. HIGHWAY 84 & 285

TO SANTA FE

N/F
PUEBLO OF POJOAQUE
BK. 1744 PG. 009

ARROYO CUY

JAMES W. SIEBERT AND ASSOCIATES, INC. <small>915 MERCER STREET • SANTA FE NEW MEXICO 87501</small> <small>(505) 983-5508 FAX (505) 989-7313</small>	ROYBAL	SCALE 1" = 200'	DATE MAY 2012
	ADJOINERS MAP	NORTH 	PAGE P-3

NBF-12

BUFFALO THUNDER
GOLF COURSE & CASINO

CONSTRUCTION STORAGE

N/F
PUEBLO OF POJOAQUE
BK. 1744 PG. 009

TO ESPANOLA

MYSTIC LANE

PUEBLO OF
POJOAQUE
ADMIN

N/F
RICHARD
PETER
WATTS
BK. 1497
PG. 208
RESIDENTIAL
(ABANDONED
MOBILE
HOME)

NMDOT
DIST 5
MAINTENANCE
FACILITY

N/F
FIDEL &
GINGER
NARANJO
BK. 1221
PG. 598

N/F
ALFREDO REY

N/F
ALFREDO REY

N/F
PUEBLO OF NAMBE

N/F
JOSEPH ROYBAL
BK. 257 PG. 015

NAMBE FALLS TRAVEL CENTER
CONVENIENCE STORE, GAS STATION
& FAST FOOD RESTAURANT

N/F
ALFREDO REY
BK. 588 PG. 430

U.S. HIGHWAY 84 & 285





TO SANTA FE

N/F
LM & MARGARET W
ROYBAL
ROYBAL'S CONSTRUCTION
BK. 358 PG. 146

N/F
PUEBLO OF POJOAQUE
BK. 1744 PG. 009

ARROYO CUY

LEGEND:

-  DENOTES GENERAL COMMERCIAL
-  DENOTES INDUSTRIAL
-  HOME OCCUPATION
-  REQUESTED VARIANCE FOR COMMERCIAL USE

JAMES W. SIEBERT
AND ASSOCIATES, INC.

915 MERCER STREET • SANTA FE, NEW MEXICO 87501

(505) 983-5588 FAX (505) 989-7313

ROYBAL

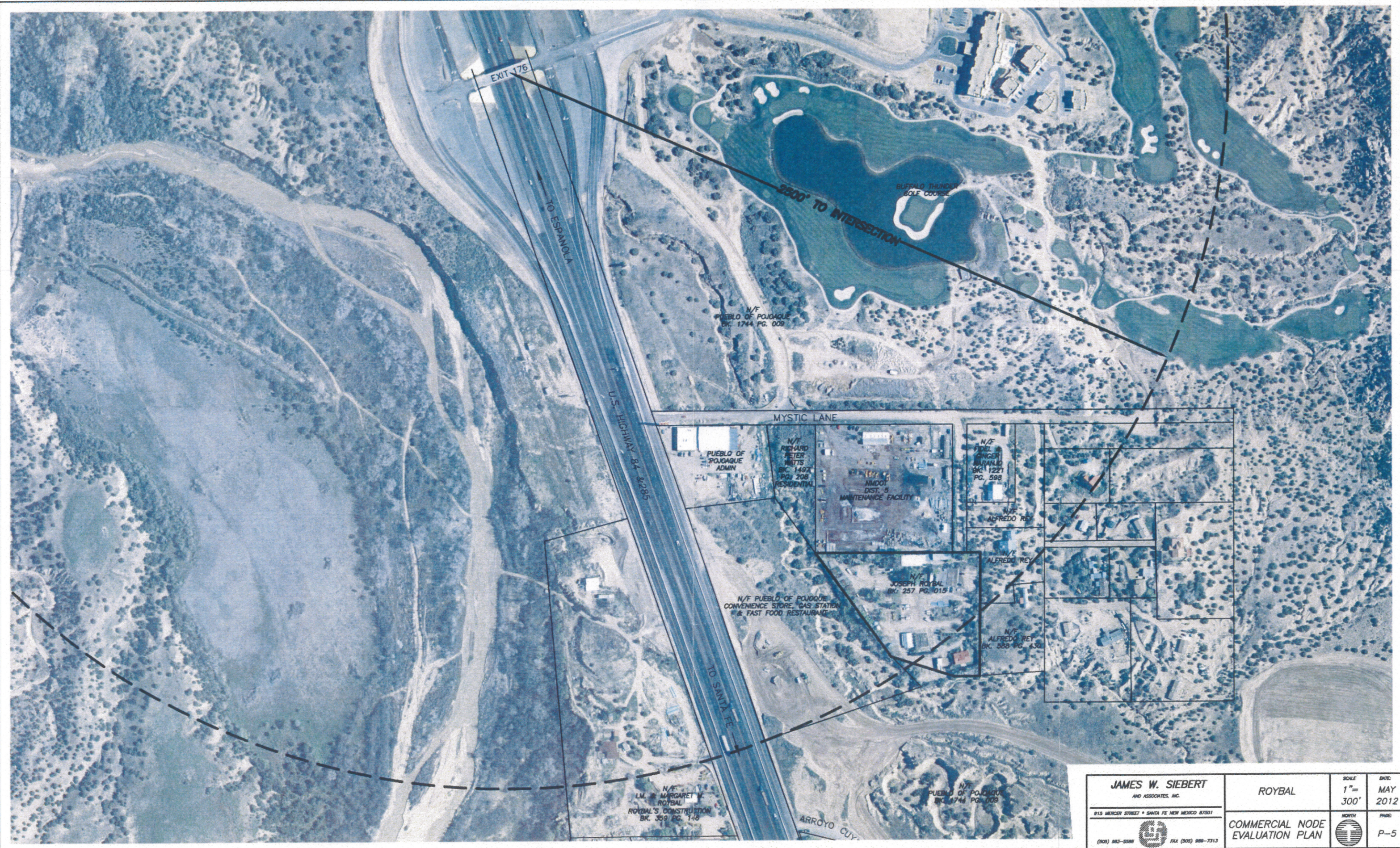
LAND USE MAP



SCALE
1" =
300'

DATE
MAY
2012

PAGE
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NBF-13



JAMES W. SIEBERT AND ASSOCIATES, INC. <small>815 MERCER STREET • SANTA FE, NEW MEXICO 87501</small>  <small>(505) 883-5588 FAX (505) 888-7313</small>	ROYBAL	SCALE 1" = 300'	DATE MAY 2012
	COMMERCIAL NODE EVALUATION PLAN	NORTH 	PAGE: P-5

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