

- 3.3.6 Mechanical and electrical equipment necessary to the conduct of the home occupation use;
- 3.3.7 Amount, location and method of storage of supplies and/or equipment;
- 3.3.8 Location of parking;
- 3.3.9 Type and amount of traffic generated.

SECTION 4 - COMMERCIAL AND INDUSTRIAL NON-RESIDENTIAL DISTRICTS

4.1 Purpose and Intent

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:

- 4.1.1 To permit intensive development of selected land uses at designated locations;
- 4.1.2 To avoid strip commercial and industrial patterns of development along highways, arterials, collectors, and local roads of the County;
- 4.1.3 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;
- 4.1.4 To prevent the preemption of prime areas for commercial or industrial development by residential development;
- 4.1.5 To protect existing and future residential development from encroachment of non-residential uses;
- 4.1.6 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.

4.2 Types and Locations of Commercial or Industrial Districts

4.2.1 Types of Districts and Location Criteria

- a. There are four types of commercial or industrial non-residential districts which may be established at specific qualifying intersections of various types of roads in the County:
- 1) Regional or major center districts, which are established or may be established, shall be located at intersections of major arterials and major highways. The purpose of major center or regional districts is to concentrate extensive regional non-residential activities. Section 4.3.1 infra, defines uses which may be established.
 - 2) Community center districts, which are or may be located at intersections of arterial and/or collector roads for the purpose of concentrating community oriented commercial uses, shopping, offices and service businesses, including travelers services, light industry, research and development complexes and other similar uses. Sub-section 4.3.1, defines uses which may be established.
 - 3) Local or village center districts, which are or may be located at intersections of collector and local roads and in traditional community areas for the purpose of concentrating activities which serve such neighborhood areas for shopping, travelers' and personal services. Section 4.3.2, lists suggested uses.
 - 4) Neighborhood or small scale center districts, which are or may be located at intersections of local roads or in traditional community areas. Uses similar to those which may be established in local or village center districts may be established.



- b. A non-residential use district may be established within a traditional community at a qualifying intersection or at an area which is pursuant to the criteria set forth in Sub-section 4.2.2.
- c. Spacing Between Districts. Intersections which qualify for a commercial or industrial non-residential use district are established either by the proximity of established or potential districts as follows:
- 1) the exterior boundary of a proposed major center or community center commercial or industrial non-residential district, or parcel proposed for zoning or rezoning near the boundary of a proposed or established district, must be one (1) mile from the exterior boundary of another established or proposed district or parcel proposed for zoning in such district; and
 - 2) The exterior boundary of a proposed local or village center or neighborhood or small center commercial or industrial non-residential district or parcel proposed for zoning or rezoning near the boundary of a proposed or established district, must be one-half (1/2) mile from the exterior boundary of any other type established or proposed district, or parcel proposed for zoning in such district.
 - 3) Spacing between districts as described above is intended to assure the integrity of commercial or industrial use areas, residential neighborhoods, and highways. Uses which may locate between the districts are residential, large scale residential, community facilities, or large scale master planned development.
- d. Large Scale Mixed Use Development
- 1) Master Plan Required. Proposed developments which are planned for a mix of residential, large scale residential, and/or non-residential uses and large scale developments or subdivisions which may be developed in phases shall present a master plan for development to the County pursuant to Article V, Sections 5.1 and 5.2 of the Code.
 - 2) Location Criteria. Proposed mixed use developments are allowed to locate anywhere in the County, except that the location of any specific commercial or industrial non-residential use area designated by such proposals shall be subject to the purposes and intent of Subsection 4.2.3. and 4.1.
 - 3) Uses. See Sub-section 4: 3., Guidelines for Permitted Uses and Structures, and Uses Not Listed.
 - 4) Design Standards and Review Criteria: Refer to Section 4.4.
 - 5) Review Requirements: Section 4.5, establishes the applicable reviews.

History. 1980 Comp. 1980-6. Sections 4.2.1 Types of Districts, was amended by County Ordinance 1990-11, adding the term Regional to Sub-section 1; retitling neighborhood as local or village center in Sub-section 3; and adding the term neighborhood to Sub-section 4; specifying new criteria for traditional village areas; criteria for spacing between districts; and adding a provision for large scale mixed use master planned developments.

4.2.2 Traditional Community Districts

a. Mixed Uses Permitted

~~Traditional Community districts established by the Code are intended to accommodate a mixture of uses such as agriculture, residential, large scale residential, community service, institutional, non-residential or recreational uses anywhere inclusive of the boundaries of the village, provided the performance standards and criteria set forth by the Code are met.~~

2.5 Zoning

In connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.

2.6 Subdivisions

In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided for in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters.

2.7 Other Requirements

The time limits set forth in this Article II shall be extended in order to comply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code.

SECTION 3 - VARIANCES3.1 Proposed Development

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 conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. 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.

3.2 Variation or Modification

In no case shall any variation or modification be more than a minimum easing of the requirements.

3.3 Granting Variances and Modifications

In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

3.4 Height Variance in Airport Zones

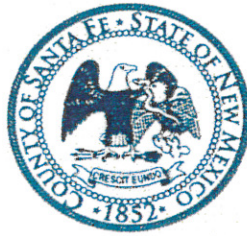
All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the



Daniel "Danny Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Submittal Review

Date	5/24/12		
Project Name	Roybal, Joseph		
Project Location	22B Mystic Lane		
Description	Location Criteria Variance	Case Manager	Jose Larranaga
Applicant Name	Joseph and Hope Roybal	County Case #	12-5180
Applicant Address	15 Thistle Lane Santa Fe, NM 87506	Fire District	Pojoaque
Applicant Phone	505-983-5588 (James Siebert)		
Review Type	Residential <input checked="" type="checkbox"/>	Sprinklers <input type="checkbox"/>	Commercial <input type="checkbox"/>
	Master Plan <input type="checkbox"/>	Preliminary <input type="checkbox"/>	Final <input type="checkbox"/>
	Wildland <input type="checkbox"/>	Variance <input checked="" type="checkbox"/>	Hydrant Acceptance <input type="checkbox"/>
		Inspection <input type="checkbox"/>	Lot Split <input type="checkbox"/>
Project Status	Approved <input type="checkbox"/>	Approved with Conditions <input checked="" type="checkbox"/>	Denial <input type="checkbox"/>

The Fire Prevention Divison/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated (*Note underlined items*) :

Summary of Review

- Roads shall meet the minimum County standards for fire apparatus access roads of a minimum 20' wide all-weather driving surface and an unobstructed vertical clearance of 13' 6" within this type of proposed development. (*page #2*)
- A turn around meeting Santa Fe County Fire Department Access Road Requirements shall be provided. (*page #2*)
- Buildings within a commercial complex shall be assigned, post and maintain a proper and legible numbering and/or lettering systems. (*page #3*)
- All gates on a public way shall be operable by means of a key or switch, which is located in a Knox Lock entry system, keyed to the Santa Fe County system. (*page #3*)



- Fire protection systems such as water storage and/or hydrants may be required per the 1997 Uniform Fire Code, Article 9, Section 903. (page #3)

Fire Department Access

Shall comply with Article 9 - Fire Department Access and Water Supply of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

- **Fire Access Lanes**

Section 901.4.2 Fire Apparatus Access Roads. (1997 UFC) When required by the Chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.

Curbs or signage adjacent to the building, fire hydrant, entrances and landscape medians in traffic flow areas shall be appropriately marked in red with 6" white lettering reading "FIRE LANE – NO PARKING" as determined by the Fire Marshal prior to occupancy. Assistance in details and information are available through the Fire Prevention Division.

- **Roadways/Driveways**

Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

Roads shall meet the minimum County standards for fire apparatus access roads of a minimum 20' wide all-weather driving surface and an unobstructed vertical clearance of 13' 6" within this type of proposed development.

A turn around meeting Santa Fe County Fire Department Access Road Requirements shall be provided.

- **Street Signs/Rural Address**

Section 901.4.4 Premises Identification (1997 UFC) Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.

Section 901.4.5 Street or Road Signs. (1997 UFC) When required by the Chief, streets and roads shall be identified with approved signs.

Buildings within a commercial complex shall be assigned, post and maintain a proper and legible numbering and/or lettering systems to facilitate rapid identification for emergency responding personnel as approved by the Santa Fe County Fire Marshal.

- **Slope/Road Grade**

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

Driveway/fire access shall not exceed 11% slope and shall have a minimum 28' inside radius on curves.

- **Restricted Access/Gates/Security Systems**

Section 902.4 Key Boxes. (1997 UFC) *When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the chief is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the chief.*

Commercial buildings may be required to install a Knox Cabinet or applicable Knox device as determined by this office for Fire Department access, Haz-Mat/MSDS data, and pre-fire planning information and for access to fire protection control rooms (automatic fire sprinklers, fire alarm panels, etc...).

All gates on a public way shall be operable by means of a key or switch, which is located in a Knox Lock entry system, keyed to the Santa Fe County system. Details, information and forms are available from the Fire Prevention Division

Life Safety

Fire Protection requirements listed for this development have taken into consideration the hazard factors of potential occupancies as presented in the developer's proposed use list. Each and every individual structure of a commercial or public occupancy designation will be reviewed and must meet compliance with the Santa Fe County Fire Code (1997 Uniform Fire Code and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code, which have been adopted by the State of New Mexico and/or the County of Santa Fe.

The following bulleted areas will be addressed with specific conditions in subsequent review submittals as the information becomes available.

- **Other**

Fire protection systems such as water storage and/or hydrants may be required per the 1997 Uniform Fire Code, Article 9, Section 903.

General Requirements/Comments

▪ Inspections/Acceptance Tests

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

Prior to acceptance and upon completion of the permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes.

▪ Permits

As required

Final Status

Recommendation for Variance approval with the above conditions applied.

Victoria DeVargas, Inspector

Victoria DeVargas
Code Enforcement Official

5/24/12
Date

Through: David Sperling, Chief/Fire Marshal
Buster Patty, Fire Prevention Captain

File: NorthReg/DevRev/Pojoaque/RoybalJosephVAR.doc

Cy: Jose Larranaga, Land Use Office
Joseph and Hope Roybal, Applicants
District Chief
File

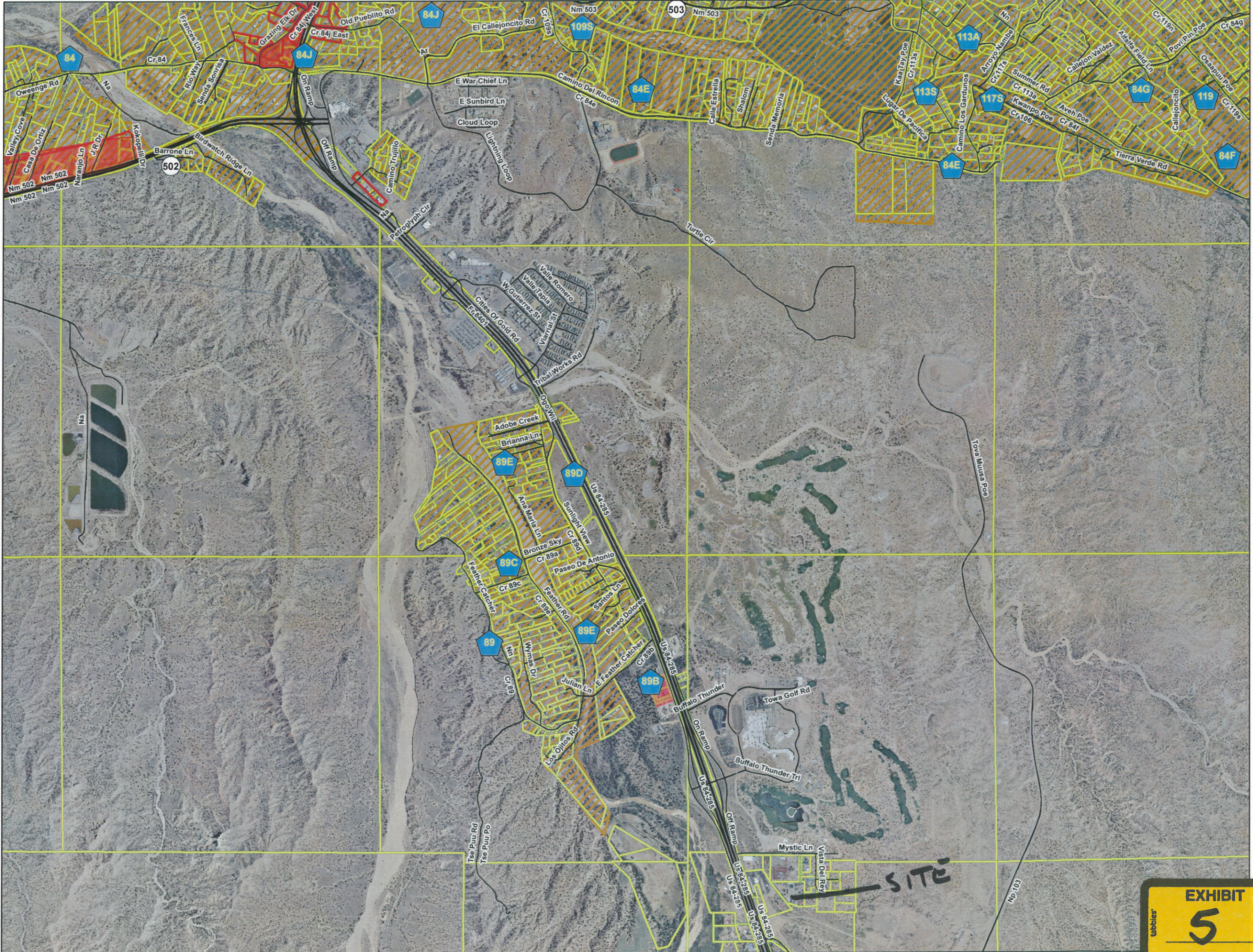
Enclosed: Fire Department Access Requirements
(applicant only)

Official Submittal Review

4 of 4

NBF-21

Map of Property in Santa Fe County



Legend

- Commercial Nodes
- Pojoaque Mix Use Area
- Approx 500 ft Buffer
- Approx 500 ft Buffer
- driveways
- Minor Roads
- Major Roads
- Parcels_sde
- tradtown polygon
- Traditional Community
- Traditional Historic

1:18,000
1 inch represents 1,500 feet



WARNING:
Two (2) foot contour data sets are NOT SUITABLE FOR ENGINEERING WORK. These data are appropriate for PLANNING PURPOSES ONLY.

Orthophoto from 2008
Contour Interval 2 Feet

This information is for reference only. Santa Fe County assumes no liability for errors associated with the use of these data. Users are solely responsible for confirming data accuracy.



May 29, 2012

EXHIBIT
5

NBF-22

Map of Property in Santa Fe County



Legend

- Commercial Nodes
- Pojoaque Mix Use Area
- Approx 500 ft Buffer
- Approx 500 ft Buffer
- driveways
- Minor Roads
- Major Roads
- Parcels_sde
- tradtown polygon
- Traditional Community
- Traditional Historic

1:6,000

1 inch represents 500 feet



WARNING:
Two (2) foot contour data sets are NOT SUITABLE FOR ENGINEERING WORK. These data are appropriate for PLANNING PURPOSES ONLY.

Orthophoto from 2008
Contour Interval 2 Feet

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May 29, 2012

NBF-23

**F. CDRC Case # V 12-5180 Joseph and Hope Roybal Variance
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)**

Mr. Larrañaga recited the case caption and provided staff summary as follows:

“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. The creation of a Major Center District at the Buffalo Thunder interchange would encompass a portion of the Traditional Residential District as designated by the Pojoaque Valley Traditional Community District. 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.”

Mr. Larrañaga said staff has 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. Therefore, staff recommends 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 CDRC 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).



Chair DeAnda asked whether there had been an opportunity to renew the business registration on the site. Mr. Larrañaga said the permit was closed for any number of reasons.

Member Katz asked why the property was not included in a major center district. Mr. Larrañaga said the surrounding properties are either state or pueblo land. An amendment to the Pojoaque Community Ordinance would be required to create the node.

Member Katz said he understood some of the vicinity property was not within the County's jurisdiction but designating the property as commercial seemed appropriate.

Referring to a site map, Mr. Larrañaga delineated the site in question and noted the surrounding residential area. He indicated that the property was outside of Pojoaque's ordinance mapping area.

Member Katz asked why if the property is outside the mapping area couldn't it be designated as commercial. Mr. Larrañaga said creating that node will overlap into the Pojoaque mapping area.

Chair DeAnda said it was difficult to understand why this property was not now appropriate for commercial use. Mr. Larrañaga referred to Article III, § 4.1, which states that commercial and industrial non-residential land uses are permitted only in zone districts of various sizes and locations which this property does not meet. The Code strives to avoid strip commercial and industrial patterns of development patterns along highways, arterials, collectors and local roads.

Responding to Member Anaya's question, Mr. Larrañaga said the County has jurisdiction over the property in question. He said the County will probably forward the master plan to the pueblo.

Appearing for the applicant and duly sworn was agent/planner Jim Siebert. He displayed a vicinity map and stipulated that the map was accurate. The node is established from the center of the interchange and using an aerial photograph he located the Pojoaque Pueblo hotel, golf course, Nambe Pueblo's gas station and convenience store and NMDOT storage yard – none of which are under County jurisdiction. Regardless of the jurisdiction, two sides of commercial activities neighbor the Roybal's property. Joseph Roybal has been operating in this locale since 2001 and has a good relationship with his neighbors noting there was a home business on one of the neighboring lots.

Mr. Siebert noted that the property was within Section 28, which is not listed in the ordinance, related to Pojoaque.

Mr. Siebert said the question is whether the major center district or the node applies. Some of the property is subject to the Pojoaque Valley District Plan and that plan recommended the elimination of all nodes. He asked where that leaves property that is outside of the district plan and he further questioned the rationale of eliminating one section of the code and imposing another.

Given all the ambiguities, Mr. Siebert asked that the Committee look at the merits of the request – that it is basically surrounded by commercial development, had been used as a tree nursery and retail nursery since 1975. Thompson Wells moved in after 2001.

Responding to a series of questions posed by Member Gonzales, Mr. Siebert offered the following information: There is a business license from 2007, Thompson Wells has been operating from the site since 2001 and there is a residence on the property that the Roybals do not live in. In regards to equipment on the property, Mr. Siebert said there is a mechanics shop on the property and equipment is generally parked at the operation site, not on the property.

Mr. Siebert said the property owner is drills and repairs wells.

There was no one in the public wishing to speak regarding this request.

Mr. Larrañaga said if approved the property would be eligible for zoning which occurs with the master plan. He indicated that Mr. Siebert has reviewed the conditions and staff has not received any concerns from area residents.

Mr. Katz moved to approve the variance with the condition imposed by staff. Mr. Anaya seconded and the motion passed by unanimous [6-0] voice vote.

~~G. **CDRC CASE # V 12-5230 Joseph and Anna Garcia Variance.**
Joseph & Anna Garcia, Applicant's, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a Small Lot Family Transfer Land Division of 2.516 acres into two lots. The property is located at 3 Avenida Pita, within Section 10, Township 15 North, Range 10 East, (Commission District 4)
[This case is presented verbatim per staff request]~~

~~MR. DALTON: Thank you, Madam Chair. Joseph and Anna Garcia, applicants, request a variance of Article III, Section 10, Lot Size Requirements of the Land Development Code to allow a Small Lot Family Transfer Land Division of 2.516 acres into two lots. The property is located at 3 Avenida Pita, within Section 10, Township 15 North, Range 10 East, Commission District 4.~~

~~The applicants request a variance of the Land Development Code to allow a small lot family transfer of 2.516 acres into two lots. The subject lot was created on February 11, 1985, under development permit number 85-96. There is currently one dwelling unit on the property.~~

~~The Applicants state they are requesting a variance for many reasons. Their son and daughter-in-law were born and raised in Santa Fe where they received their education. They are both active members of the working community and their son is an active member in the Army National Guard. The Applicants would like to be able to share something that was worked hard for with their son, daughter-in-law and grandchildren. The Applicants further state their son and daughter-in-law pay high rent~~