Regular Governing Body Meeting
City of Rio Rancho
AGENDA
October 12, 2023
6:00 PM
Council Chambers

Governing Body Members

Greggory D. Hull, Mayor	Paul Wymer, Councilor District 4
Jim Owen, Councilor District 1	Karissa Culbreath, Councilor District 5
Jeremy Lenentine, Councilor District 2	Nicole List, Councilor District 6
Bob Tyler, Councilor District 3	

Meeting Information
This meeting will be conducted in-person and virtually, as well as, streamed live on the City of Rio Rancho website at https://rrnm.gov/2303/Watch-and-Download-City-Meetings

Public comment on agenda items can be taken in-person or remotely via Zoom meeting software with the access information below.

Join by Computer: https://us06web.zoom.us/j/85302353741?pwd=bWp1QXliSGJoeHhJaGVOczF4MDN0UT09
Meeting ID: 853 0235 3741
Passcode: 789419

Join by Phone:
Dial +1 253 215 8782 US then enter Meeting ID and Passcode

Call to Order and Pledge of Allegiance

Proclamations and Awards of Merit

Public Forum
Pursuant to Section 30.06 Rio Rancho Municipal Code, this section of the agenda is conducted as follows:

(A) Public forum. Any person wishing to address the governing body on any item which is not on the agenda, shall register with the City Clerk within 15 minutes before the beginning of the meeting. Speakers shall be recognized in the order of registration with the City Clerk.
(B) Manner of address. Each person shall seek the recognition of the presiding officer. Each person shall give his name and address. Comments or questions shall be addressed to the governing body as a whole through the presiding officer and not to any members thereof. No person shall enter into any discussion without the permission of the presiding officer.
(C) Time limit. The presiding officer may place a limit on the amount of time any person may speak after being recognized.

*Must be in-person to participate under Public forum. Remote access is not available.

Comments by Councilors

Consent Calendar
There will be no discussion of these items unless a Governing Body Member so requests, in which event the item will be moved to a discussion item on the regular agenda.

1. Minutes of September 28, 2023 Regular Meeting
Minutes of September 28, 2023 Regular Meeting

2. R117, Resolution Authorizing a Budget Adjustment to the Computer and Software Fund (311) and the Utility Operating Fund (501) to Properly Classify Expenditures
Resolution

3. R118, Resolution Authorizing the Disposal of Stored Information Technology Property
Resolution
Exhibit A

4. R119, Resolution Authorizing the Disposal of Recreational Property
Resolution
Exhibit A

5. R120, Resolution Authorizing a Budget Adjustment to the Municipal Gas Tax Fund (270) for Signal Detection Replacement Projects
Resolution

6. R121, Resolution Authorizing Participation in the Transportation Project Fund (TPF) Program Administered by the New Mexico Department of Transportation (NMDOT) for Program Year 2024
Resolution
Draft TPF Agreement.pdf

7. R122, Resolution Authorizing the Disposal of Library and Information Services Department Property
Resolution - Library Disposal for 10-12-23 Meeting.doc
Exhibit A

Boards and Commissions

Public Hearings

8. O24, Ordinance of the City of Rio Rancho, New Mexico Amending the Zoning Classification and Official Zoning Map for the Property Legally Described as Unit 7, Block 18, Lots 128-129, and 132-134, from Unzoned to R-1: Single Family Residential; Providing for Severability and an Effective Date
Ordinance
Zoning, Location
Application
Justification
GB Reproduction of Notices
SSCAFCA Comments
9.12.23 GB Meeting Minutes

9. R123, Resolution Amending the Lomas Negras Specific Area Plan to Update the Land Use Map (Exhibit 13) and the Future Land Use Table (Exhibit 12)
Resolution
Zoning, Location
Updated Land Use Application
Updated Justificaton Summary of Request

Current Lomas Negras SAP Land Use Map
Lomas Negras SAP Land Use Map with Notes
Lomas Negras SAP Land Use Permissive Zoning Designations
Reproduction of Notices_GB
Exhibit A: Proposed LNSAP Land Use Map
Exhbit B to Resolution

10 O25, Ordinance Amending the Zoning Classification and Official Zoning Map for the Property Legally Described as Rio Rancho Estates Unit 13, Block 68, Lots 5-8, From SU/C-1 and O-1 to Special Use (SU) for Multi-Family Residential, Identifying Conditions of Development, Providing for Severability and an Effective Date
Ordinance
Location_Zoning Map.pdf
Zone Map for Larger Surrounding Area.pdf
Application and Renderings.pdf
Justification Letter.pdf
Rendered Site Plan.pdf
Landscape Plan.pdf
Parking Deviation Request Reference Material.pdf
Transportation Engineering Multifamily Parking Memo.pdf
Last 5 Years Changed Zoning and Land Use Exhibit.pdf
Lomas Negras SAP Existing Land Use
Reproduction of Notices_GB.pdf
Public Comment 1.pdf
Public Comment 1A.xlsx
Public Comment 2.pdf
Public Comment 3.pdf
Public Comment 4.pdf
Public Comment 5.pdf
Public Comment 6.pdf
Public Comments Mapped.pdf
September 26, 2023 Planning and Zoning Board Meeting DRAFT Minutes

Second Reading of Ordinances

First Reading of Ordinances

11. O20, Ordinance Amending Chapter 36, Finance and Revenue, Sections 36.05 through 36.08
O20.docx

12. O21, Ordinance Amending Chapter 154, Planning and Zoning, for the Addition of Off-Premises Advertising Signs to Section 154.45; Providing for Severability and an Effective Date
Ordinance
154.45 Off-Premises Advertising Signs
Legal Ad

13. O22, Ordinance Repealing and Replacing Chapter 156, Sign Regulations; Providing for Severability and an Effective Date
Ordinance
Draft Sign Code (Clean Copy)
Draft Sign Code (Redline Copy)
Sign Code Working Group Meeting Date Table
Existing Ch 156 Sign Code.pdf
Legal Ad

14. O23, Ordinance Granting Vexus Fiber, LLC, a Non-Exclusive Franchise to Operate a

Telecommunications Network Within the City Limits by Utilizing Public Places Via the Payment of Franchise Fees for a Period of 10 Years
Ordinance

Discussion and Deliberation

15. R124, Resolution Authorizing a Budget Adjustment to the Infrastructure Fund (305) and the Capital Improvement Water Operations Fund (540) for the Northern Boulevard Reconstruction and Improvement Project
Resolution

16. D39, Advice and Consent of the Governing Body to Award Contract No. 24-034-PW: Northern Boulevard Reconstruction Project for a Total of $7,496,749.16 (including NMGRTs) to Franklin's Earthmoving, Inc.
Contract 24-034-PW DRAFT Northern Boulevard Reconstruction Project
PW2249 Northern Blvd ABM Project Limits Exhibit Map

City Manager

17. Rio Rancho Public Schools G.O. Bond 2023 Presentation

Comments by Councilors

Adjournment

CITY OF RIO RANCHO
COVER PAGE

Legislation Item:

AGENDA DATE:
October 12, 2023

DEPARTMENT:
City Clerk

SUBJECT:
Minutes of September 28, 2023 Regular Meeting

BACKGROUND AND ANALYSIS:

IMPACT:

ALTERNATIVES:

DEPARTMENT RECOMMENDATION:

ATTACHMENT: Minutes of September 28, 2023 Regular Meeting

Governing Body
of the
City of Rio Rancho

MINUTES
SEPTEMBER 28, 2023
6:00 PM
Council Chambers, City Hall

MEMBERS PRESENT:	STAFF PRESENT:
Greggory D. Hull, Mayor	Matt Geisel, City Manager
Jim Owen, Councilor Dist. 1	Peter Wells, Deputy City Manager
Bob Tyler, Councilor Dist. 3	Alexandria Lopez, Deputy City Attorney
Paul Wymer, Councilor Dist. 4	Rebecca Martinez, City Clerk
Karissa Culbreath, Councilor Dist. 5	Amy Rincon, Dir. of Development Svcs.
Nicole List, Councilor Dist. 6	Jason Shoup, Library Director
	James DeFillippo, Fire Chief
MEMBERS ABSENT:	Connie Peterson, Dir. of Parks, Rec & Comm Svcs.
Jeremy Lenentine, Councilor Dist. 2	Stewart Steele, Police Chief
	Yolanda Lucero, Deputy City Clerk

Call to Order and Pledge of Allegiance

Mayor Hull called the meeting to order at 6:00 p.m.

Councilor Lenentine has been excused from the meeting.

Proclamations and Awards of Merit

Mayor Hull read a Proclamation for Domestic Violence Awareness Month, National Hispanic Heritage Month, and Indigenous Peoples' Day.

City Manager

13.) Central New Mexico Community College G.O. Bond 2023 Presentation

Tracy Hartzler, CNM President gave a brief presentation. The CNM General Obligation Bond will provide $80 million in funding for critical projects that support students throughout Central New Mexico. Supporting this bond is a wise investment for anyone who believes in the power of education, a strong local economy, and providing New Mexico's future workforce with opportunities to succeed.

Public Forum

No individual spoke under Public Forum.

DRAFT

Comments by Councilors

Consent Calendar

1.) Minutes of September 14, 2023 Work Session Meeting
2.) Minutes of September 14, 2023 Regular Meeting
3.) R111, Resolution Authorizing a Budget Adjustment to the Traffic Safety and Education Fund (243) for the Education and Enforcement Project
4.) R112, Resolution Authorizing a Budget Adjustment to the Infrastructure Fund (305) for the Design of a Pedestrian Crossing
5.) R113, Resolution Authorizing a Budget Adjustment to the Infrastructure Fund (305) for the Construction of Intersection Improvements at Paseo del Volcan (NM347) and Broadmoor Blvd.
6.) R114, Resolution Authorizing Disposal of Equipment No Longer Needed by a Community Development Block Grant (CDBG) Subrecipient
7.) D37, Appointment of Darryl Manning to the Keep Rio Rancho Beautiful Committee

Bob Tyler moved to approve Consent Calendar. Seconded by Jim Owen

The motion carried by a vote of 6 FOR and 0 AGAINST.
YES: Greggory Hull, Jim Owen, Bob Tyler, Paul Wymer, Karissa Culbreath, Nicole List
NO: None

Boards and Commissions

Public Hearings

8.) R115, Resolution Adopting an Affordable Housing Plan

Amy Rincon, Director of Development Services presented this item. Funding was allocated in 2021 to develop an Affordable Housing Study in response to growing concerns surrounding rising home sales prices and rents and lack of options. The National Development Council was chosen as the consultant to help identify local housing needs as well as the tools and strategies that may be used to meet those needs. A steering committee was created with members from the local business-owner community, realtors, developers, and non-profit affordable housing entities. The needs assessment was collated into the Affordable Housing Study, which was introduced at the Governing Body work session on August 15, 2023. From the study, the Affordable Housing Plan was drafted. Staff recommends approval with findings of fact and conditions.

Liz Ruiz Carlos, Municipal Planner II and Sheldon Bartel, Consultant with National Development Council were available for questions.

Karissa Culbreath moved to approve R115. Seconded by Jim Owen

DRAFT

The motion carried by a vote of 6 FOR and 0 AGAINST.
YES: Greggory Hull, Jim Owen, Bob Tyler, Paul Wymer, Karissa Culbreath, Nicole List
NO: None

Second Reading of Ordinances

First Reading of Ordinances

9.) O16, Ordinance Amending Ordinance No. 28, Enactment No. 22-29 Relating to the Issuance and Sale of City of Rio Rancho, New Mexico Taxable Industrial Revenue Bonds (Atrisco Energy Storage LLC Project), In a Maximum Principal Amount of up to $420,000,000, for the Purpose of Approving Allocation of the Annual Payments In Lieu Of Taxes (PILOT) to Rio Rancho Public Schools (RRPS) and Albuquerque Public Schools (APS) in Conformity with the Requirements of Section 3-32-6 NMSA 1978; Authorizing Execution and Delivery of the Bonds with Updated Series Designation to Reflect the Date of Issuance and Delivery; Ratifying Certain Actions Taken Previously; and Repealing All Actions Inconsistent with this Ordinance

Matt Geisel, City Manager presented O16 and O17 together. During the 2023 New Mexico Legislative Session, Section 3-32-6 of the IRB Act was amended to modify the formula for distributions of PILOT to school districts. The Governing Body approved R-104 22-101, an IRB Inducement Resolution for Atrisco Solar LLC Project and Atrisco Energy Storage LLC Project on October 27, 2022, and adopted the original IRB ordinances (O-28 22-29 and O-29 22-30) on December 15, 2022. Because the issued bonds have not closed, the PILOT distributions for Rio Rancho Public Schools and Albuquerque Public schools must be consistent with the modified formula in Section 3-32-6 NMSA 1978, as amended. Approval of this amendatory ordinance will bring the PILOT distribution formula into compliance with Section 3-32-6 NMSA 1978.

Bob Tyler moved to approve O16. Seconded by Jim Owen

The motion carried by a vote of 6 FOR and 0 AGAINST.
YES: Greggory Hull, Jim Owen, Bob Tyler, Paul Wymer, Karissa Culbreath, Nicole List
NO: None

10.) O17, Ordinance Amending Ordinance No. 29, Enactment No. 22-230 Relating to the Issuance and Sale of City of Rio Rancho, New Mexico Taxable Industrial Revenue Bonds (Atrisco Energy Solar LLC Project), In a Maximum Principal Amount of up to $430,000,000, for the Purpose of Approving Allocation of the Annual Payments In Lieu Of Taxes (PILOT) to Rio Rancho Public Schools (RRPS) and Albuquerque Public Schools (APS) in Conformity with the Requirements of Section 3-32-6 NMSA 1978; Authorizing Execution and Delivery of the Bonds with Updated Series Designation to Reflect the Date of Issuance and Delivery; Ratifying Certain Actions Taken Previously; and Repealing All Actions Inconsistent with this Ordinance

DRAFT

Bob Tyler moved to approve O17. Seconded by Paul Wymer

The motion carried by a vote of 6 FOR and 0 AGAINST.
YES: Greggory Hull, Jim Owen, Bob Tyler, Paul Wymer, Karissa Culbreath, Nicole List
NO: None

Discussion and Deliberation

11.) R116, Resolution Adopting the City of Rio Rancho Strategic Plan 2023-2028

Ryan Chavez, Assistant to the City Manager for Policy and Planning presented this item. In 2022, the City of Rio Rancho completed its first 5-year Strategic Plan. The plan was implemented as a means to set, prioritize, and track goals and objectives of the City operations, in an effort to fulfill the mission of the organization. With input from the Governing Body, the community, and City staff, the 2023-2028 Strategic Plan is a continuance of the City's commitment to using a systematic method for policy formation and the delivery of services to the citizens of Rio Rancho. Progress on the plan will be tracked and reported to the Governing Body annually and made available to the public. Approving the Resolution adopting the proposed 2023-2028 Strategic Plan will result in an operational focus in meeting the goals and objectives listed.

Karissa Culbreath moved to approve R116. Seconded by Jim Owen

The motion carried by a vote of 6 FOR and 0 AGAINST.
YES: Greggory Hull, Jim Owen, Bob Tyler, Paul Wymer, Karissa Culbreath, Nicole List
NO: None

12.) D38, Advice and Consent of the Governing Body for American Rescue Plan Act Subrecipient Agreement Between the City of Rio Rancho and Homewise, Inc., for a Home Repair Program

Peter Wells, Deputy City Manager presented this item. In 2021, the Federal government passed the American Rescue Plan Act (ARPA), which provided $350 billion for state, local, territorial, and tribal governments to respond to the COVID-19 pandemic and its economic impacts. By March 2023, all available funding had been utilized with 15 homes receiving a variety of repair work. The current Fiscal Year Budget approved by the Governing Body includes approximately $580,000 in ARPA funds earmarked for a home repair program. City staff and Homewise, Inc., have developed an agreement, subject to Governing Body consent, to allocate and administer available funding for the second phase of a home repair program. As a subrecipient of the ARPA funding, Homewise, Inc., would assist a minimum of 20 homeowners to repair and preserve their homes. Assistance would be capped at $25,000 for each home and is limited to assistance to homeowners who are at or below 65% of the area median income for

county and size of household based on the most recent data published by the U.S. Department of Housing and Urban Development. The 65% threshold related to income is pursuant to the final Federal rule for ARPA funding us. The City's recent Affordable Housing Study identified minor/major home repair programs as a method to support affordable housing in the community.

Bob Tyler moved to approve D38. Seconded by Karissa Culbreath

The motion carried by a vote of 6 FOR and 0 AGAINST.
YES: Greggory Hull, Jim Owen, Bob Tyler, Paul Wymer, Karissa Culbreath, Nicole List
NO: None

City Manager

Comments by Councilors

Adjournment

7:05 p.m.

APPROVED THIS OCTOBER 12, 2023

_____
Greggory D. Hull, Mayor

ATTEST:

_____
Rebecca A. Martinez, City Clerk
SEAL

DRAFT

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: R117

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Information Technology

SUBJECT:
R117, Resolution Authorizing a Budget Adjustment to the Computer and Software Fund (311) and the Utility Operating Fund (501) to Properly Classify Expenditures

BACKGROUND AND ANALYSIS:
The Information Technology Department proposes a budget adjustment to transfer funds from the Capital Computer Equipment & Software Fund - 311 ($113,937.00) and from the Utilities and Water Fund - 501 ($40,588.00) to Contract Services/Professional Services line items to fund an Enterprise Resource Planning Consultant. The total project budget will be $154,525.00.

IMPACT:
The proposed budget adjustment is necessary to classify consultant services as non-capital expenditures properly.

ALTERNATIVES:
Approve the Resolution.

Do not approve the Resolution.

DEPARTMENT RECOMMENDATION:
City staff recommends approval of the Resolution.

ATTACHMENT: Resolution

CITY OF RIO RANCHO
RESOLUTION

RESOLUTION NO. **ENACTMENT NO.**

RESOLUTION AUTHORIZING A BUDGET ADJUSTMENT TO THE COMPUTER AND SOFTWARE FUND (311) AND THE UTILITY OPERATING FUND (501) TO PROPERLY CLASSIFY EXPENDITURES

WHEREAS: the Information Technology Department is requesting a budget adjustment to fully fund the City's Enterprise Resource Planning Consultant (ERP); and

WHEREAS: a budget adjustment is necessary to classify consultant services as non-capital expenditures properly.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

That authorization is given for the following budget adjustment:

Computer Software (311)

Account	Project No.	Revised Budget	Increase	Decrease	Adjusted Budget
311-0000-410.32-07 Contract Services	FS2009	$82,505	$113,937	$0	$196,442
311-0000-410-7040 Capital Computer Equipment & Software	FS2009	$3,225,007		$113,937	$3,111,070
Total Expenditures		$3,307,512	$113,397	$113,937	$3,307,512

Utilities and Water (501)

Account	Project No.	Revised Budget	Increase	Decrease	Adjusted Budget
501-7005-505.32-07 Contract Services	FS2009	$0	$40,588		$40,588
501-7005-505-7040 Computer Equipment & Software	FS2009	$1,091,717	$0	$40,588	$1,051,129
Total Expenditures		$1,091,717	$40,588	$40,588	$1,091,717

ADOPTED THIS _____DAY OF _____, 2023.

_____
Greggory D. Hull, Mayor

ATTEST:

Rebecca A. Martinez, City Clerk
(SEAL)

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: R118

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Information Technology

SUBJECT:
R118, Resolution Authorizing the Disposal of Stored Information Technology Property

BACKGROUND AND ANALYSIS:
The Information Technology Department has gathered and stored computer equipment including monitors, keyboards, and desktop PC's that are obsolete or broken and are no longer usable.

Such items will not be put into service and continuing to store the items is not optimal.

Staff desires to properly and safely recycle these items.

A complete list of these items is provided in the attachment.

The disposal of personal property is governed by Section 3-54-2, NMSA 1978 requiring Governing Body approval for property that does not exceed $2,500.

IMPACT:
Items will be properly and safely recycled.

ALTERNATIVES:
Approve the Resolution.

Do not approve the Resolution.

DEPARTMENT RECOMMENDATION:
Staff recommends approval of the Resolution.

ATTACHMENT: Resolution
ATTACHMENT: Exhibit A

CITY OF RIO RANCHO
RESOLUTION

RESOLUTION NO. **ENACTMENT NO.**

RESOLUTION AUTHORIZING THE DISPOSAL OF STORED INFORMATION TECHNOLOGY PROPERTY

WHEREAS: the Information Technology Department has gathered and stored computer equipment including monitors, keyboards, and desktop PC's that are obsolete or broken and are no longer usable; and

WHEREAS: such items will not be put into service and continuing to store the items is not safe optimal; and

WHEREAS: staff desires to recycle these items properly and safely; and

WHEREAS: the disposal of personal property is governed by Section 3-54-2, NMSA 1978 requiring Governing Body approval for property that does not exceed $2,500.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

The items listed in Exhibit A, attached hereto, are hereby authorized and approved for proper disposal through recycling.

ADOPTED THIS _____DAY OF _____, 2023.

_____
Greggory D. Hull, Mayor

ATTEST:

_____
Rebecca A. Martinez, City Clerk
(SEAL)

Exhibit A

CITY OF RIO RANCHO STORAGE UNIT

DELL MONITORS		**DELL MONITORS**	
MX0G324H742620281E4L	Outdated	A00CN0F4WW67426143L53EU	Outdated
CN0WH31972872758163H	Outdated	28RL7G25ML4543	Outdated
MX0G324H7426202816UL	Outdated	CN0F4WW67426144726NU	Outdated
CN0YMYH1742613B6563S	Outdated	A00CN0F4WW67426143L53EU	Outdated
A00CN0F4WW67426143L53EU	Outdated	CN0FTGC7FCC00882CPAIA04	Outdated
MX0GM50474262825395S	Outdated	CN0F4WW6742614413T7L	Outdated
A00CN0F4WW67426143L53EU	Outdated	AQ22H9NQ425764L	Outdated
CN02GFKN7444537T156S	Outdated	CN0F4WW67426143M520UA00	Outdated
CN019G4H742610C9072M	Outdated	CN0F4WW67426144726NU	Outdated
A00CN0F4WW67426143L53EU	Outdated	CN0F4WW67426143M52CU	Outdated
CN0F4WW6742614546URM	Outdated	CN0F4WW6742614413KJL	Outdated
CN0F4WW6742614546UGM	Outdated	MY22HCGS100248W	Outdated
CN0F4WW67426143N114U	Outdated	CN0XF9MR7287257VAA5UA00	Outdated
CN0F4WW6742614413UHL	Outdated	CN0F4WW67426143N1C7U	Outdated
A00CN0F4WW67426143L53EU	Outdated	CN0F4WW67426144B0REU	Outdated
CN0F4WW67426144F3M2B	Outdated	FKX4V82	Outdated
CN0F4WW67426143N1WDU	Outdated	CN0F4WW6742614413KPL	Outdated
A00CN0F4WW67426143L53EU	Outdated	A00CN0F4WW67426143L53EU	Outdated
A00CN0F4WW67426143L53EU	Outdated	400CW23	Outdated
CN0F4WW67426143M529U	Outdated	CN0F4WW674261447261U	Outdated
CN0F4WW6742614413UML	Outdated	A00CN0F4WW67426143L53EU	Outdated
CN0F4WW674261443192B	Outdated	CN0F4WW67426144725HU	Outdated
CN0F4WW6742614545RFM	Outdated	CN0F4WW67426143M5H0U	Outdated
CN0F4WW6742614430FCB	Outdated	A01CN0M743D7444504FAHAL	Outdated
CN0M39MD7444525BA77U	Outdated	A00CN0F4WW67426143L53EU	Outdated
CN0XF9MR7287257MDC0UA00	Outdated	CN09TVYF728721CS13KI	Outdated
A00CN0F4WW67426143L53EU	Outdated	CN0FP04F7287238NCDWMA00	Outdated
CN0F4WW6742614413TCL	Outdated	A00CN0F4WW67426143L53EU	Outdated
CN0F4WW67426143N10TU	Outdated	2XZBW23	Outdated
CN0KW14V7426156Q16KL	Outdated	CN0F4WW67426143N11DU	Outdated
A00CN0F4WW67426143L53EU	Outdated	CN0F4WW67426144B1CMU	Outdated
U9D173641423	Outdated	CN0F4WW67426143N10YU	Outdated
U9D173641426	Outdated	CN0F4WW6742614413LJL	Outdated
CNC5230S82	Outdated	CN0F4WW67426144L5U1U	Outdated
CNK11925GT	Outdated	CN0F4WW67426144726WU	Outdated
CN492400FV	Outdated	CN0F4WW67426144726JU	Outdated
CNC5220TD3	Outdated	CN0J4HN6FCC0074ECYNBA00	Outdated
CNC5220TD7	Outdated	A00CN0F4WW67426143L53EU	Outdated
CNK11925GG	Outdated	A00CN0F4WW67426143L53EU	Outdated
CNK11925GR	Outdated	CN0T4KPW7426172E1F2BA00	Outdated
CN493005W6	Outdated	CN0H9WTF6418034J058M	Outdated
CN493005W5	Outdated	CN0F4WW67426144726EU	Outdated
CN492400FJ	Outdated	A00CN0F4WW67426143L53EU	Outdated

CN0C5WJH72872364DARM	Outdated	CN0F4WW6742614546UYM	Outdated
CN493103RP	Outdated	A00CN0F4WW67426143L53EU	Outdated
8.87899E+11	Outdated	CN0F4WW67426144B1DPU	Outdated
CNC5220TDS	Outdated	CN0F4WW67426143N1WTU	Outdated
CNC5220TDR	Outdated	CN0F4WW67426143N10VU	Outdated
CNK11925GH	Outdated	CN0F4WW6742614430W9B	Outdated
CNC5220TCT	Outdated	CN0F4WW67426143N1CEU	Outdated
CN02H2VM641802850MYL	Outdated	CN0F4WW67426144B1C0U	Outdated
CN02H2VM641802850MPL	Outdated	QP00317G5PM Apple Mac	Outdated
CNC5220TCZ	Outdated	CN0F4WW674261447260U	Outdated
CN493103PK	Outdated	CN0F4WW674261447262U	Outdated
CN492400P3	Outdated	CN0JF44YFCC00797G5JUA01	Outdated
MMLYQAA003447071978511	Outdated	CN0JF44YFCC0079DDK1UA01	Outdated
CNC5220TF0	Outdated	C0D28D2	Outdated
CNC5220TDC	Outdated	CN0D307J7444593K410L	Outdated
CN492400P6	Outdated	CN0JF44YFCC00797G2EUA01	Outdated
CNG734027Y	Outdated	CN0F4WW67426144725YU	Outdated
A00CN0F4WW67426143L53EU	Outdated	CN0F4WW67426144725DU	Outdated
CN0FP1827161881QG952	Outdated	CN0JF44YFCC0079DDKVUA01	Outdated
A00CN0F4WW67426143L53EU	Outdated	CN0JF44YFCC0079DDKAUA01	Outdated
CN0G313H74261878211AA00	Outdated	CN0XP5VFFCC0098GAENBA05	Outdated
CN493005VY	Outdated	CN0XP5VFFCC0098GAVWBA05	Outdated
CN09TVYF728721CS14EI	Outdated	7DD28D2	Outdated
CNC5120LW7	Outdated	A00CN0F4WW67426143L53EU	Outdated
CN492400DY	Outdated	CN0GFXN47444535SBU9M	Outdated
CNC5220TCR	Outdated	CN0JF44YFCC00797G33UA01	Outdated
CNC5220TCY	Outdated	CN0XP5VFFCC0098GAWABA05	Outdated
101612M009V0138	Outdated	CN0JF44YFCC00797G73UA01	Outdated
CN493005WD	Outdated	8LX1SY2	Outdated
CN492400DM	Outdated	FDD28D2	Outdated
CN493102ZS	Outdated	CN0JF44YFCC00797G1RUA01	Outdated
CN0JF44YFCC00797G2LUA01	Outdated	CN0XP5VFFCC0098GAWEBA05	Outdated
CNC5120LVZ	Outdated	CN0JF44YFCC00797G2GUA01	Outdated
CNC5220TDH	Outdated	1D6V7D2	Outdated
D76V7D2	Outdated	CN0F4WW67426144B1D9U	Outdated
CN492400NH	Outdated	CN0F4WW67426143N116U	Outdated
CN07GPK9742612361F4L	Outdated	CN0F4WW67426144725CU	Outdated
A03CN0WH3187287271U2AVI	Outdated	CN0J4HN6FCC0074ECV2BA00	Outdated
A00CN0F4WW67426143L53EU	Outdated	CN0XP5VFFCC0098GAWCBA05	Outdated
S085K00270148	Outdated	CN0F4WW67426144724MU	Outdated
CN02GFKN7444537T160S	Outdated	CN0CC299641806AT0EDA	Outdated
CN02H2VM6418023U0BEU	Outdated	CN0JF44YFCC00797G2HUA01	Outdated
CN0CC28071618695CH0V	Outdated	CN0JF44YFCC00797G6YUA01	Outdated
QP9280LU0TM IMAC	Outdated	A01CN0M743D7444504FAHAL	Outdated
CN0FTGC7FCC00882CN8IA04	Outdated	CN0T4KPWQDC007460WDBA00	Outdated
CN0M39MD7444525BA5RU	Outdated	CN0F4WW6742614431FAB	Outdated
CN493005W8	Outdated	CN0CC28071618695CM80	Outdated

CN493103P7	Outdated	6 NO SERVICE TICKET	Outdated
CN493005VQ	Outdated	CNDF4WW6742149M521W	Outdated
CN493103B1	Outdated	CNDF4WW67426143L532U	Outdated
CN493005VJ	Outdated		

DELL LAPTOPS	
163MG92	Outdated
627MG92	Outdated
463MG92	Outdated
H53MG92	Outdated
DRJLPF2	Outdated
5BKSA15404	Outdated
4DTYA03014	Outdated
4DTYA03253	Outdated
3DTYAB20285	Outdated
CPM223ST	Outdated
1XG3421	Outdated
4K6M692	Outdated
3C9JT92	Outdated
D53MG92	Outdated
663MG92	Outdated
20MVNY1	Outdated
853MG92	Outdated
CNPQG92	Outdated
5NPQG92	Outdated
6C19TG2	Outdated
7NPQG92	Outdated
83CRMY1	Outdated
F27MG92	Outdated
86VP421	Outdated
F6YZPD1	Outdated
9YKJ312	Outdated
OFKYAD8874	Outdated

TABLETS	
CK6MG92	Obsolete
DMRGFSYJKDHW	Obsolete
30969140453	Obsolete
JK6M692	Obsolete
3FTYA12338	Obsolete
5BTSA40932	Obsolete
GJ6M692	Obsolete
3FTYA12338	Obsolete
5BTSA40932	Obsolete
3HJYA22360	Obsolete
2481641153	Obsolete
1481764552	Obsolete
19192662953	Obsolete
4x NO SER TICKET	Obsolete

UPS BATTERY	
AS0647131640	Outdated
2541CVLSM871900381	Outdated
3V1330X11164	Outdated
AS1526120603	Outdated
2539CVLSM871901394	Outdated
9444CY0SM473700053	Outdated
3B1330X11211	Outdated
9242BF0SM4469R0008	Outdated
JS0641012881	Outdated
11595368	Outdated

PRINTERS	
CNB1D03881	Outdated
PHBQ401387	Outdated
TH8311P084	Outdated
002283 RR TAG	Outdated
MY79D5Z1DP	Outdated
UG3478F3J186081	Outdated
MY73314027	Outdated
CN810ZG2TO	Outdated
VNB3G28621	Outdated
463476E5J752051	Outdated
CRVDAF3X61N	Outdated

Chairs	**4**	Broken

FUEL CONTROLER
9222103010
1123708
NO TAG

KEYBOARDS	**48**	Broken

PRO VIDEO
RQS10B41693210768
RQS10B41693210768

MATROX MIXER	Outdated
AM16/12	Outdated

MINI PD PRINTERS	
U64145-H5Z275738	Outdated
U64148-M7Z579008	Outdated

CELL PHONES

SAMSUNG S3	Obsolete 1
SAMSUNG S4	Obsolete 5
SAMSUNG S7	Obsolete 2
SAMSUNG S5	Obsolete 5
SAMSUNG PRIME	Obsolete 1
SAMSUNG S5	BROKEN 1
SAMSUNG S6	Obsolete 4
SAMSUNG S7	Obsolete 3
SAMSUNG S8	Obsolete 2
SAMSUNG 5 NOTE	Obsolete 1
SAMSUNG S10	Obsolete 1
SAMSUNG SLIDE	Obsolete 2
IPHONE 4	Obsolete 2
IPHONE 5S	Obsolete 10
IPHONE COLORS 5C	Obsolete 13
IPHONE BLACK 5C	Obsolete 17
IPHONE SE	Obsolete 67
IPHONE 6S	Obsolete 41
MOTOROLA	Obsolete 2
PANTECH	Obsolete 2
KYOCERA ANDROID	Obsolete 1
KYOCERA	Obsolete 2
CASIO	Obsolete 2
MOTOROLA DROID	Obsolete 4
POWER SUPPLY	Obsolete 26
FLIP PHONES	Obsolete 49
BROKEN MISC	Obsolete 22
LG	Obsolete 1

STORAGE SERVER Outdated

RD240-MJMNKADE Outdated

PRO VIDEO

RQS10B41693210768 Outdated

RQS10B41693210768 Outdated

TP LINK SWITCH

2147699000151.00 Outdated

SONIC FIREWALL

0017C5C1700C Outdated

DSD-4 MATRONIX 1 Outdated

JAVELIN VID MONITOR 1 Outdated

TAPCO CP120

NO SER TICKET Outdated

CRAMER1 AUDIO

10010795386 Outdated

PROMETHEAN ABOARD

1 Outdated

EATON 9PX 1500

PA18K08178 Outdated

PANASONIC CD 8 Outdated

VIDEO CARDS 8 Outdated

VCR 2 Outdated

SCANNER/FAX

FI5120C042179

FI5120C042179

SQWZ131286

MISC POWER CORDS

CENTURYLINK SWITCH

B328D5C7

brother
JAVELIN
DELL

OptiPlex 7040
1AD
prime

WIRELESS

DELL
UN 3481
14
brother
PROJECTOR
SUSPENDED CEILING KIT
CMA-440

DELL
DELL
DELL

DELL
Attention
20x

FIRE
FIRE
Promethean
STAIRS
RGENCY
IT ONLY
FIRE
DELL

*CLA Policy Review

*C2G Code Enforcement

*C2G Planning and

ERP

APC
Smart-UPS C 1000
Output Group 1
Output Group 2
Output
Battery connector
48V ⎓ 35A

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: R119

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Fire and Rescue

SUBJECT:
R119, Resolution Authorizing the Disposal of Recreational Property

BACKGROUND AND ANALYSIS:
The Fire and Rescue Department obtained a pool table from the Meadowlark Senior Center that has become unusable due to wear and tear on the operating parts.

It has been determined that safely disposing of the item is the best option.

Section 3-54-2 NMSA, 1978 requires approval from the Governing Body for the disposal of property that does not exceed $2,500.

IMPACT:
Approval of the Resolution will enable the City to dispose of obsolete, non-functional, and unused property.

ALTERNATIVES:
Approve the Resolution.

Do not approve the Resolution.

DEPARTMENT RECOMMENDATION:
Staff recommends approval of the Resolution.

ATTACHMENT: Resolution
ATTACHMENT: Exhibit A

CITY OF RIO RANCHO
RESOLUTION

RESOLUTION NO. **ENACTMENT NO.**

RESOLUTION AUTHORIZING THE DISPOSAL OF RECREATIONAL PROPERTY

WHEREAS: the Fire and Rescue Department located at Station #1 has a pool table that is no longer operational due to overall condition; and

WHEREAS: continuing to store the item is not optimal; and

WHEREAS: the method of disposal will be via normal dumpster trash removal; and

WHEREAS: the estimated value of the pool table is $375.00 and the disposal of personal property is governed by Section 3-54-2, NMSA 1978 requiring Governing Body approval for property that does not exceed $2,500.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

The item listed in Exhibit A, attached hereto, is hereby authorized and approved for disposal.

ADOPTED THIS _____DAY OF _____, 2023.

_____
Greggory D. Hull, Mayor

ATTEST:

_____
Rebecca A. Martinez, City Clerk
(SEAL)

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: R120

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Public Works

SUBJECT:
R120, Resolution Authorizing a Budget Adjustment to the Municipal Gas Tax Fund (270) for Signal Detection Replacement Projects

BACKGROUND AND ANALYSIS:
The Governing Body appropriated funding for signal detection equipment replacement and installation in FY 2024 and a budget adjustment is necessary to properly classify the expenditures as minor equipment.

IMPACT:
The expenditures will be correctly classified as minor furniture and the project will be allowed to proceed. The proposed budget adjustment will not impact the General Fund.

ALTERNATIVES:
Approve the Resolution.

Do not approve the Resolution.

DEPARTMENT RECOMMENDATION:
Staff recommends approval of the Resolution.

ATTACHMENT: Resolution

CITY OF RIO RANCHO
RESOLUTION

RESOLUTION NO. **ENACTMENT NO.**

RESOLUTION AUTHORIZING A BUDGET ADJUSTMENT TO THE MUNICIPAL GAS TAX FUND (FUND 270) FOR SIGNAL DETECTION REPLACEMENT PROJECTS

WHEREAS: the Governing Body appropriated funding for signal detection equipment replacement and installation in FY 2024; and

WHEREAS: a budget adjustment is necessary to properly classify the expenditures as minor equipment and allow the project to proceed.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

That authorization is given for the following budget adjustment:

Infrastructure Fund (270)

Account	Project No.	Revised Budget	Increase	Decrease	Adjusted Budget
270-0000-443.60-70 Minor Equipment	PW2471	$5,600	$35,400		$41,000
270-0000-443.70-25 Major Equipment	PW2471	$35,400		$35,400	$0
Total Uses		$41,000	$35,400	$35,400	$41,000

ADOPTED THIS _____DAY OF _____, 2023.

_____
Greggory D. Hull, Mayor

ATTEST:

_____
Rebecca A. Martinez, City Clerk
(SEAL)

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: R121

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Public Works

SUBJECT:
R121, Resolution Authorizing Participation in the Transportation Project Fund (TPF) Program Administered by the New Mexico Department of Transportation (NMDOT) for Program Year 2024

BACKGROUND AND ANALYSIS:

The City of Rio Rancho applied for a 2024 TPF Grant in May 2023. A letter was received from NMDOT on September 8, 2023 awarding the Broadmoor Blvd. Mill & Inlay project for a total cost of $3,351,000. The City's required match is 5% or $167,550.

The NMDOT's share shall be 95% of the total award or $3,183,450.

As a stipulation of the award, the NMDOT requires that the City of Rio Rancho submit a formal Resolution before execution of the Cooperative Agreement between the public entity and the NMDOT adopting the project and verifying its priority standing with the public entity. The Resolution lists the general scope, route, and termini and references the project costs. This Resolution will be included in the agreement.

IMPACT:
The City of Rio Rancho will receive funds needed to mill & inlay Broadmoor Blvd. from Loma Colorado Blvd. to Country Club Drive, which includes repaving the existing lanes, adding new striping, reconstruction of the existing bike path, and remediating deficient ADA curb ramps.

ALTERNATIVES:
Approve the Resolution.

Do not approve the Resolution.

DEPARTMENT RECOMMENDATION:
Staff recommends approval of the Resolution.

ATTACHMENT: Resolution

ATTACHMENT: Draft TPF Agreement.pdf

CITY OF RIO RANCHO
RESOLUTION

RESOLUTION NO. **ENACTMENT NO.**

RESOLUTION AUTHORIZING PARTICIPATION IN THE TRANSPORTATION PROJECT FUND PROGRAM ADMINISTERED BY THE NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS: the City of Rio Rancho and the New Mexico Department of Transportation have entered into a grant agreement under the Transportation Fund Program for a local road project; and

WHEREAS: the total cost of the project will be $3,351,000 to be funded in proportional share by the parties hereto as follows: New Mexico Department of Transportation's share shall be 95% or $3,183,450; and the City of Rio Rancho's proportional matching share shall be 5% or $167,550; and

WHEREAS: the City of Rio Rancho shall pay all costs which exceed the total amount of $3,351,000.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

Section 1. That the project for this Cooperative Agreement is adopted and has a priority standing.

Section 2. The agreement terminates on June 30, 2026, and the City of Rio Rancho incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into the written agreement.

Section 3. The City of Rio Rancho enters into Cooperative Agreement for Project Control Number LP30045 with the New Mexico Department of Transportation for the TPF Program for year 2024 for Broadmoor Blvd Mill & Inlay project.

Section 4. The scope of this project is to mill & inlay Broadmoor Blvd's existing asphalt lanes, adding striping and reconstructining the bike path, and remediate deficient ADA curb ramps within the control of the City of Rio Rancho in New Mexico.

ADOPTED THIS _____DAY OF_____, 2023.

_____
Greggory D. Hull, Mayor

ATTEST:

Rebecca A. Martinez, City Clerk
(SEAL)

Contract No. _____
Vendor No. **0000047808**
Control No. **HW2LP30045**

TRANSPORTATION PROJECT FUND
GRANT AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and **City of Rio Rancho** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-78 and 18.27.6 NMAC, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Transportation Project Funds (TPF) to the Public Entity for the following project scope **Broadmoor Blvd Mill and Inlay-Construction and construction management/testing for milling the existing 5" of asphalt and repaving the existing 2-lane roadway and bike lanes from Country Club Dr to High Resort Blvd, and the 4-lane roadway and bike path from High Resort Blvd to Loma Colorado Blvd. Deficient ADA curb ramps will also be reconstructed throughout the corridor.** (Project or CN LP30045). This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

a. The estimated total cost for the Project is Three Million Three Hundred Fifty One Thousand Dollars and No Cents **($3,351,000.00)** to be funded in proportional share by the parties as follows:

1. Department's share shall be 95% **$3,183,450.00**
   Broadmoor Blvd Mill and Inlay-Construction and construction management/testing for milling the existing 5" of asphalt and repaving the existing 2-lane roadway and bike lanes from Country Club Dr to High Resort Blvd, and the 4-lane roadway and bike path from High Resort Blvd to Loma Colorado Blvd. Deficient ADA curb ramps will also be reconstructed throughout the corridor.

2. The Public Entity's required proportional matching Share shall be 5% **$167,550.00**
   For purpose stated above

3. Total Project Cost **$3,351,000.00**

b. The Public Entity is responsible for all costs that exceed Project funding.
c. All allocated funds must be spent by **June 30, 2026**.
d. The Public Entity represents that no federal funds will be used to finance the Project.

e. The Public Entity must repay Project funding to the Department if:
   1. The Project is cancelled or partially performed.
   2. A final audit conducted by the Department at Project completion determines the following: an overpayment, unexpended monies or ineligible expenses.

3. The Department:

a. Shall distribute the funds, identified in Section 2a1, in a lump sum to the Public Entity after:
   1. The Department has received this Agreement fully executed with a Resolution of Sponsorship attached as Exhibit B.
   2. Receipt of a letter requesting funds, which includes the following Project documents: Notice of Award/Work Order and Notice to Proceed for the Project.
   3. If a Department's or another entity's right-of-way is involved, a permit or letter of approval/authorization, from the entity with jurisdiction over the Project right-of-way.

b. Will not:
   1. Perform any detailed technical reviews of Project scope, cost, budget, schedule, design or other related documents;
   2. Have any involvement in the construction phase;
   3. Be involved in permit preparation or the review or coordination with regulatory agencies.
   4. Conduct periodic assurance inspections or comparison material testing.
   5. Participate in resolving bidding and contract disputes between the Public Entity and contractors.

c. May perform Project monitoring that might consist of the following:
   1. Review of Project status to ensure that project goals, objectives, performance requirements, timelines, milestone completion budgets and other guidelines are being met.
   2. Request written Project status reports.
   3. Conduct a review of the Local Entity's performance and administration of the Project funds identified in Section 2a.

d. Reserves the right, upon receipt of the Public Entity's Certification of Completion, Exhibit A, to request additional documents that demonstrate Project completion.

e. If required, the District Engineer or designee, will conduct a Project review to determine if permit is required from the Department. If there is a determination that a permit is not required, a letter of approval and authorization will be forwarded to the Public Entity.

4. The Public Entity Shall:

a. Act in the capacity of lead agency for the purpose as described in Section 1.

b. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.

c. Be responsible for all design activities necessary to advance the Project to construction and coordinate construction.

d. Unless otherwise specified in a letter of authorization or permit, design and construct the Project in accordance with the Public Entity's established design standards.

e. Have sole responsibility and control of all project phases and resulting quality of the completed work.

f. If the Project is in full or on a portion of a state highway, on a Department right of way or a National Highway System route:
    1. Obtain from the Department a permit in accordance with 18.31.6.14 NMAC, State Highway Access Management Requirements or a letter of authorization; and
    2. Design and construct the Project in accordance with standards established by the Department.
g. Adopt a written resolution of Project support that includes a commitment to funding, ownership, liability and maintenance. The resolution is attached to this Agreement as Exhibit B.
h. Consider placing pedestrian, bicycle and equestrian facilities in the Project design in accordance with NMSA 1978, Section 67-3-62.
i. Comply with any and all state, local and federal regulations including the Americans with Disabilities Act (ADA) and laws regarding noise ordinances, air quality, surface water quality, ground water quality, threatened and endangered species, hazardous materials, historic and cultural properties, and cultural resources.
j. Be responsible for all permit preparation, review and coordination with regulatory agencies.
k. Cause all designs, plans, specifications and estimates to be performed under the direct supervision of a Registered New Mexico Professional Engineer, in accordance with NMSA 1978 Section 61-23-26.
l. Allow the Department to perform a final inspection of the Project and all related documentation to determine if the Project was constructed in accordance with the provisions of this Agreement. At the Department's request, provide additional documentation to demonstrate completion of the required terms and conditions.
m. Meet with the Department, as needed, or provide Project status reports within thirty (30) days of request.
n. Within 60 days after Project completion, provide the Certification of Completion, which is attached as Exhibit A, that it has complied with the requirements of 18.27.6 NMAC and this Agreement.
o. Upon completion, maintain all the Public Entity's facilities constructed or reconstructed under this Agreement.

5. Both Parties Agree:

a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
b. Unless otherwise indicated in a letter of authorization, the Project will not be incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
c. Pursuant to NMSA 1978, Section 67-3-78, Transportation Project Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
d. The requirements of 18.27.6 NMAC are incorporated by reference.
e. The inability to properly complete and administer the Project may result in the Public Entity being denied future grant funding.

6. Term.
This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on the earliest of the following dates: (a) Department receipt of the Certification of Completion or (b) **June 30, 2026**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment. Neither party shall have any obligation after said date except as stated in Sections 2e, 4l, 4n and 7.

7. Termination.
If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) days written notice. This Agreement may also be terminated pursuant to Section 15. Neither party has any obligation after termination, except as stated in Sections 2e, 4l, 4n and 7.

8. Third Party Beneficiary.
It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.
As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq*.

10. Contractors Insurance Requirements.
The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least $1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.
This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have

been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents will be valid or enforceable unless embodied in this Agreement.

12. Terms of this Agreement.
The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.
The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.
The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.
The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity and the Legislature this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.
There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five (5) years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.
In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.
The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.
This Agreement may be amended by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:_____ Date: _____
Cabinet Secretary or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By:_____ Date: _____
Assistant General Counsel

City of Rio Rancho

By:_____ Date: _____

Title: _____

Attest: _____

Title: _____

EXHIBIT A

CERTIFICATION OF PROJECT COMPLETION

Public Entity:

Control No. LP30045

I, _____, in my capacity as _____ of _____ certify in regard to Control No. **LP30045**:

1. That the Public Entity has complied with the terms and conditions of the requirements under this Agreement and 18.27.6 NMAC.
2. That all work in was performed in accordance with the Agreement.
3. That the total Project cost of _____, with New Mexico Department of Transportation 95% share of _____ and the Public Entity share of _____ is accurate, legitimate, and appropriate for the Project.
4. That the Project was completed on _____ of _____, 20_____

In Witness Whereof, _____ in his/her capacity as_____ of _____ certify that the matters stated above are true to his/her knowledge and belief.

City of Rio Rancho

By:_____ Date: _____

Title: _____ Date: _____

ATTEST:

By:_____ Date: _____

Public Entity Clerk

When completed, send Certification of Project Completion to the District Coordinator, New Mexico Department of Transportation.

EXHIBIT B

RESOLUTION

City of Rio Rancho

PARTICIPATION IN TRANSPORTATION PROJECT FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Rio Rancho** and the New Mexico Department of Transportation have entered into a grant agreement under the Transportation Fund Program for a local road project.

WHEREAS, the total cost of the project will be $3,351,000 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 95% or $3,183,450.00

and

b. **City of Rio Rancho**'s proportional matching share shall be 5% or $167,550.00

TOTAL PROJECT COST IS $3,351,000.00

The **City of Rio Rancho** shall pay all costs, which exceed the total amount of $3,351,000.00**.**

Now therefore, be it resolved in official session that **City of Rio Rancho** determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on June 30, 2026 and the **City of Rio Rancho** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

Now therefore, be it resolved by the **City of Rio Rancho** to enter into Cooperative Agreement for Project Control Number **LP30045** with the New Mexico Department of Transportation for the TPF Program for year 2024 for Broadmoor Blvd Mill and Inlay-Construction and construction management/testing for milling the existing 5" of asphalt and repaving the existing 2-lane roadway and bike lanes from Country Club Dr to High Resort Blvd, and the 4-lane roadway and bike path from High Resort Blvd to Loma Colorado Blvd. Deficient ADA curb ramps will also be reconstructed throughout the corridor.- within the control of the **City of Rio Rancho** in New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

(PRINTED NAME, POSITION)	DATE
(PRINTED NAME, POSITION)	DATE

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: R122

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Library and Information Services

SUBJECT:
R122, Resolution Authorizing the Disposal of Library and Information Services Department Property

BACKGROUND AND ANALYSIS:
The Library and Information Services Department needs to dispose of non-functional, damaged, and/or obsolete items that cannot be used or sensibly stored by selling salvageable items, recycling suitable items, and safely disposing of items deemed unfit or unsafe for sale to the public.

The disposal of personal property is governed by Section 3-54-2, NMSA 1978 requiring Governing Body approval for property that does not exceed $2,500.

IMPACT:
Approval of the Resolution will enable the City to dispose of obsolete and unused property.

ALTERNATIVES:
Approve the Resolution.

Do not approve the Resolution.

DEPARTMENT RECOMMENDATION:
Staff recommends approval of the Resolution.

ATTACHMENT: Resolution - Library Disposal for 10-12-23 Meeting.doc
ATTACHMENT: Exhibit A

CITY OF RIO RANCHO
RESOLUTION

RESOLUTION NO. **ENACTMENT NO.**

RESOLUTION AUTHORIZING THE DISPOSAL OF LIBRARY AND INFORMATION SERVICES DEPARTMENT PROPERTY

WHEREAS: the Library and Information and Services Department needs to dispose of non-functional, damaged, and/or obsolete items that cannot be used or sensibly stored by selling salvageable items, recycling suitable items, and safely disposing of items deemed unfit or unsafe for sale to the public; and

WHEREAS: the disposal of personal property is governed by Section 3-54-2, NMSA 1978 requiring Governing Body approval for property that does not exceed $2,500.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

That authorization is hereby given to properly dispose of the items as depicted in Exhibit A, attached hereto.

ADOPTED THIS _____DAY OF _____, 2023.

_____
Greggory D. Hull, Mayor

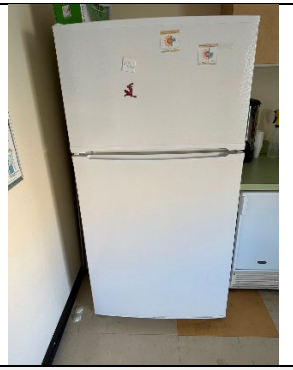
ATTEST:

_____
Rebecca A. Martinez, City Clerk
(SEAL)

Exhibit A

Library and Information Services Department

October 12, 2023

Item Description	Reason for Disposal	Estimated Current Value	Item Image
White Roper Refrigerator with Freezer at Loma Colorado Library	Damaged	$0	
White Admiral Refrigerator with Freezer at Loma Colorado Library	Obsolete	$100	
Total Estimated Current Value:		**$100.00**	

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: O24

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Development Services

SUBJECT:
O24, Ordinance of the City of Rio Rancho, New Mexico Amending the Zoning Classification and Official Zoning Map for the Property Legally Described as Unit 7, Block 18, Lots 128-129, and 132-134, from Unzoned to R-1: Single Family Residential; Providing for Severability and an Effective Date

BACKGROUND AND ANALYSIS:
The applicant, Outer Rim Investments, Inc., requests approval of a Zone Map Amendment to change the zoning from Unzoned to R-1: Single Family Residential, for the property legally described as Unit 7, Block 18, Lots 128-129, and 132-134. The subject property area combined is approximately 2.5 acres.

The Zone Map Amendment request was heard by the Planning and Zoning Board at their meeting on September 12, 2023. The motion to recommend approval carried by a vote of five (5) for and 0 against.

The subject property is located off of 10th St. NW, a residential road, which is off of Northern Blvd. NW, a minor arterial. The property is not within any Specific Area Plans or Master Plans. The adopted Generalized Land Use Map (GLUM), Chapter 5, Map L-2 of the City's Comprehensive Plan conceptualizes this area as future planning but areas directly abutting the property are designated as low, medium density residential.

CONFORMANCE WITH THE CITY ZONING ORDINANCE:
City of Rio Rancho Code of Ordinances (R.O. 2003) Section 150.07 (A) requires that an applicant file a request for a zone map amendment through the City Planning and Zoning Board when a change in zoning designation is sought.

Finding: The application, presented as an attachment, meets the minimum submittal requirements for the proposed zoning request. Pursuant to the criteria provided by R.O. 2003 Section 150.07 (D) (1) through (4), and (E) through (G), a request for change in zoning designation must address the following policies and criterion for a zone map change:

(D)(1) A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the city.

In the justification letter provided as an attachment to this item, the applicant states: "The proposed ZMA provides the opportunity to further the health and welfare of the City by creating the zoning conditions necessary to construct high quality residential homes that will meet the needs of Rio Rancho residents. Additionally, the zone change will allow the properties to be developed

consistent with and will complement the existing and surrounding residential areas."

The Planning and Zoning Board recommends the Governing Body find that the proposed zone map amendment would be consistent with the health, safety, morals, and general welfare of the City by furthering Goal 2: Development, which seeks to "ensure the City has plans and policies in place to attract and create well-planned high-quality, stable, residential, commercial and industrial development." By assigning a zoning district designation, zoning regulations can be established and enforced.

(D)(2) Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should not be made.

The applicant's justification letter states: "This zone change request will allow for stability of land use and a zoning classification. The zone map amendment will allow the property to be developed in a manner that is compatible with the surrounding area. The proposed zoning will not destabilize the land use and zoning in the area, but will strengthen it by aligning it with the surrounding area."

The Planning and Zoning Board recommends the Governing Body find the proposed zone map amendment provides a stable and desirable land use that will integrate with the surrounding residential properties.

(D)(3) A proposed change shall generally be consistent with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City.

The applicant states in their justification letter: "The proposed ZMA does not change, but rather furthers the Rio Rancho Comprehensive Plan’s intent. The ZMA will strengthen it by aligning it with the surrounding area."

The Planning and Zoning Board finds that although this property is labeled as future planning per Map L-2: Generalized Land Use (Existing and Planned) from the Comprehensive Plan, it states that development will usually be limited to low-density residential development until a Specific Area Plan can be adopted. Given that the surrounding areas area all zoned R-1: Single-Family Residential, it is safe to assume that this area will remain low density residential.

(D)(4) The applicant must demonstrate that the existing zoning is inappropriate because:
(a) There was an error, mistake or is necessary to correct an injustice that occurred when the existing zone map pattern was created, including the placement of an R-1 or transitional zone on an antiquated plat filed before the City’s incorporation and adoption of its own zoning code or on land annexed by the City; or
(b) Changed neighborhood or community conditions justify the change; or
(c) A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan, even though (D)(1) or (2) does not apply.

The applicant's justification letter states: "The proposed ZMA is more advantageous to the community, as there is no zoning designation currently assigned to these lots. The applicant is requesting an amendment to the zoning to match the existing zoning located due east of 10th Street."

The Planning and Zoning Board recommends the Governing Body find that the proposed zone map amendment addresses criteria (c), as the proposed zoning would allow for a use that is comparable to the surrounding properties.

(E) The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone.

The applicant's justification letter states: "The cost of land or other economic considerations are not the determining factor for this request. The request is to provide these existing “Unzoned” lots with a current residential zoning designation."

The Planning and Zoning Board recommends the Governing Body find that the cost of land or other economic consideration were not the determining factor for this request, and as demonstrated in the justification letter, the applicant has relied on other factors.

(F) Location on a collector or major street is not in itself sufficient justification of apartment, office, or commercial zoning.

The applicant's justification letter states: "Location on a major street is not the sole justification for this request. The request is to provide these existing “Unzoned” lots with a current residential zoning designation."

The Planning and Zoning Board recommends the Governing Body find that the property is not located on a major street and the request does not involve office, multi-family, or commercial zoning.

(G) A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premises is involved, is generally called a 'spot zone.' Such a change of zone may be approved only when: (1) The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or (2) The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

The applicant's justification letter states: "The requested zone change will not create a spot zone, the lots located directly east of 10th Street are zoned R-1, which is being requested. The request is to provide these existing "Unzoned" lots with a current residential zoning designation. The requested change will also accomplish the Vision of Growth in Section 1 and the goals set forth in Section 6 of the Comprehensive Plan.

The Planning and Zoning Board recommends the Planning and Zoning Board find that the requested zone map amendment would not create a spot zone, as R-1 zoning exists to the east of this property.

SURROUNDING LAND USE/ZONING:
The properties to the north and south are Unzoned. The property to the west is an arroyo, which is also Unzoned, and the City boundary. The properties to the east are zoned R-1: Single-Family Residential per Ordinance No. 67, Enactment No. 94-065.

NOTIFICATIONS:
Notice of pending development application was sent via certified mail, return receipt requested, to the property owners within 100 ft of the subject property. A legal notification was published in the Albuquerque Journal on September 27, 2023. All legal notification requirements for this project have been met.

INTERDEPARTMENTAL/INTERAGENCY REVIEW:

Reviewing Agency	Received Application for Review	Comments
DSD Planning and Zoning	X	Comments within this document
DSD Engineering	X	No adverse comments
Rio Rancho Public Schools	X	No comments provided
Fire and Rescue	X	No comments provided
Police Department	X	No comments provided
SSCAFCA	X	Comments attached
MRCOG	X	No comments provided
Parks, Recreation and Community Services	X	No adverse comments

IMPACT:

The Planning and Zoning Board recommends the Governing Body adopt the Zoning Ordinance, subject to the following findings of fact and conditions of approval:

GENERAL FINDINGS OF FACT:

1. The Planning and Zoning Board may make a recommendation to the Governing Body on the applicant's request for a zone map amendment.
2. The applicant has the authority to apply for a zone map amendment on the subject property.
3. The applicant and adjacent property owners received due process.

SPECIFIC FINDINGS OF FACT FOR APPROVAL:

1. The proposed zone change would be consistent with the health, safety, morals, and general welfare of the City.
2. The applicant has provided sound justification in a narrative dated August 8, 2023 for the proposed zone change which provides stability of zoning along with providing for adequate compatibility with surrounding zoning and future uses.
3. The proposed zone map amendment would be consistent with adopted elements of the Comprehensive Plan.
4. The proposed zone change is more advantageous to the community, as articulated in the justification letter.
5. The applicant has provided sufficient justification that the cost of the land or other economic considerations is not the main justification for the proposed zone map amendment.
6. The applicant has provided sufficient justification that the zone map amendment request is not based on the location of the subject property.
7. The requested zone map amendment is in alignment with the surrounding zoning and is not a "spot zone."

If the Governing Body determines the proposed zone map amendment is not justified, the following findings are recommended for any denial:

SPECIFIC FINDINGS OF FACT FOR DENIAL:

1. The proposed zone map amendment does not meet the requirements of Rio Rancho Code of Ordinances (R.O. 2003) §150.07(D) Amendments.

ALTERNATIVES:

1. The Governing Body may approve the zone map amendment request.
2. The Governing Body may deny the zone map amendment request.

3. The Governing Body may modify the request and approve such modifications.
4. The Governing Body may postpone final action on the request and continue the public hearing to request additional information or consider testimony provided at the public hearing.

DEPARTMENT RECOMMENDATION:

The Planning and Zoning Board recommends the Governing Body adopt the Ordinance.

ATTACHMENT: Ordinance
ATTACHMENT: Zoning, Location
ATTACHMENT: Application
ATTACHMENT: Justification
ATTACHMENT: GB Reproduction of Notices
ATTACHMENT: SSCAFCA Comments
ATTACHMENT: 9.12.23 GB Meeting Minutes

CITY OF RIO RANCHO
ORDINANCE

ORDINANCE NO. **ENACTMENT NO.**

ORDINANCE OF THE CITY OF RIO RANCHO, NEW MEXICO AMENDING THE ZONING CLASSIFICATION AND OFFICIAL ZONING MAP FOR THE PROPERTY DESCRIBED AS, BLOCK 18, LOTS 128-129, AND 132-134, RIO RANCHO ESTATES UNIT 7, FROM UNZONED TO R-1: SINGLE FAMILY RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS: the Governing Body of the City of Rio Rancho has adopted zoning regulations and an official zone map in accordance with New Mexico Statutes Annotated 1978 (NMSA 1978) Chapter 3, Article 21; and

WHEREAS: in accordance with Rio Rancho Code of Ordinances (R.O. 2003) Section 150.07, an application to amend the zoning ordinance on the subject property has been submitted by The City of Rio Rancho, and assigned City Case No. 23-100-00006; and

WHEREAS: the City of Rio Rancho Planning and Zoning Board held a duly noticed public hearing on September 12, 2023, regarding the proposed changes to the Official Zoning Map and, following study and consideration, has made findings (where applicable) whether or not the criteria in R.O. 2003 Section 150.07 are satisfied, and made these recommendations to the Governing Body regarding adoption of the changes; and

WHEREAS: the Governing Body received a report from the Planning and Zoning Board, and such report indicates the Planning and Zoning Board has studied and considered the proposed changes pursuant to R.O. 2003 Section 150.07, and said report includes specific findings related to the affected property; and

WHEREAS: a public hearing occurred, in accordance with procedures set forth in R.O. 2003 Section 150.07, and NMSA 1978 Section 3-21-6, on the proposed zoning district and Official Zone Map changes hereinafter described were duly advertised and held by the Governing Body of the City of Rio Rancho on October 12, 2023 and the Governing Body heard interested parties and citizens for and against the proposed amendments; and

WHEREAS: the proposed amendments to be adopted by this Ordinance comply with the statutory and regulatory requirements of the aforesaid Code of Ordinances and Statutes, and upon specific findings related to the subject property and determining the proposed amendment is consistent with the policies and criteria set forth in R.O. 2003 Section 150.07 (D) through (G), the Governing Body finds the amendments promote the health, safety, morals, and general welfare of the City.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

Section 1. Rezoning of Property: The Official Zone Ordinance is hereby amended by assigning a zoning designation on approximately 2.50 acres from Unzoned to R-1: Single - Family Residential on the land legally described as:

> Rio Rancho Estates Unit 7 Block 18, Lots 128-129, and 132-134, as shown on "SW Portion Unit Seven, Rio Rancho Estates, Town of Alameda Grant, Sandoval County, New Mexico" filed in the office of the County Clerk of Sandoval County, New Mexico on December 11, 1962, Volume RR1 of records of said County, Folio 38, Book 1, Page 38.

Section 2. Land Use, Conditions, Development Standards/Regulations and use of PROPERTY:

A. The properties identified in Section 1, above, are subject to all requirements of the R-1: Single-Family Residential District as set forth in R.O. 2003 Section 154.08 (as of the effective date of this ordinance or as subsequently amended).
B. The City of Rio Rancho Comprehensive Plan Generalized Land Use Map (GLUM), Map L-2, is hereby updated to reflect a "Low/Medium Density Residential" Land Use Designation for the properties identified in Section 1.

Section 3. Severability Clause. If any section, paragraph, clause, or provision of this Ordinance, or any section, paragraph, clause, or provision of any regulation promulgated hereunder shall for any reason be held to be invalid, unlawful, or enforceable, the invalidity, illegality, or unenforceability of such section, paragraph, clause, or provision shall not affect the validity of the remaining portions of this Ordinance or the regulation so challenged.

Section 4. Effective Date. This Ordinance shall become effective ten days after adoption.

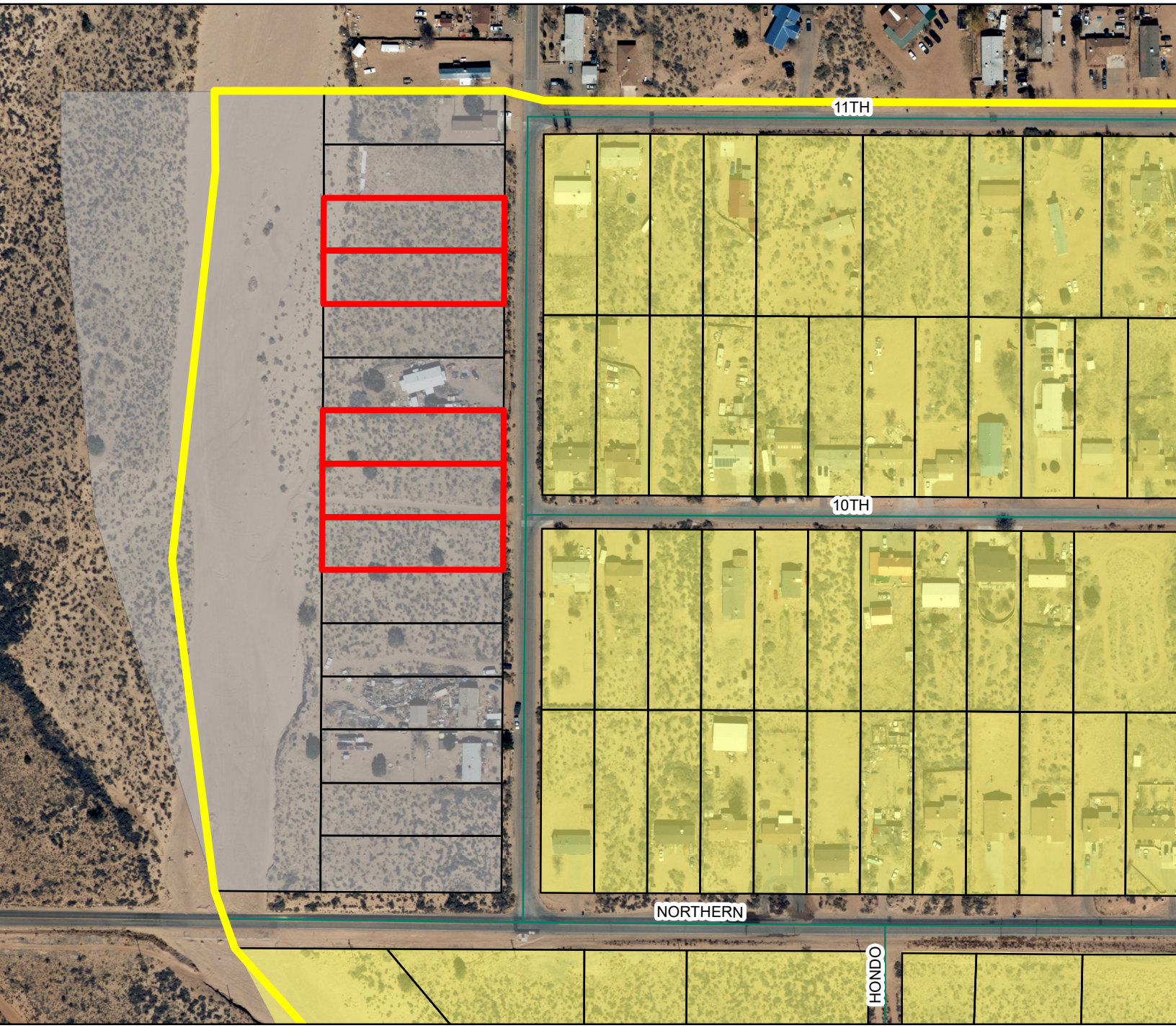
ADOPTED THIS _____ DAY _____, 2023.

_____
Greggory D. Hull, Mayor

ATTEST:

_____
Rebecca A. Martinez, City Clerk
(SEAL)

UNIT 7, BLOCK 18, LOTS 128-129, AND 132-134



Subject Property

Zoning

R-1

Unzoned

GIS
Moving Spatial Data Forward

N
W
E
S

RioRancho
City of Vision

DISCLAIMER: All information in this map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This map is not a survey and should be used for graphical purposes only.

0 190 380 760

Feet

Map created by: Michelle Costilla 8/25/2023

RioRancho
City of Vision

Development Services Department, Ste. 130
3200 Civic Center Circle NE, Rio Rancho, NM 87144
(505) 891-5005

PLANNING & ZONING LAND USE APPLICATION

Please check appropriate box

Administrative Permit	Plan	Subdivision	Zoning
☐ Community Residential Care Facility	☐ Comprehensive Plan Amendment	☐ Final Plat	☐ Annexation
☐ Development Review Committee (DRC)	☐ Corridor Plan Amendment	☐ Preliminary Plat	☐ Appeal
☐ Home Occupation	☐ Master Plan	☐ Summary Plat	☐ Conditional Use Permit
☐ Model Home / Sales Office	☐ Master Plan Amendment	☐ Vacation of Plat/Street	☐ Master Sign Plan
☐ Residential Child Care Facility 6 or <	☐ Specific Area Plan Amendment	☐ Street Name Change	☐ Site Plan
☐ Sign Permit	☐ Text Amendment	☐ Subdivision Interpretation	☐ Special Exception
☐ Other		☐ Subdivision Variance	☐ Variance
			X Zone Map Amendment
			☐ Zoning Certification
			☐ Zoning Interpretation

Please Print In Ink Only or Type
Application must be complete. Please attach the appropriate checklist for the action you are requesting, if applicable.

APPLICANT/AGENT INFORMATION

Applicant Name: Outer Rim Investments Inc		Phone: 505-892-9200
Address: 409 NM Hwy 528, NE		E-Mail: bryana@aswinc.com
City: Rio Rancho	State: NM	Zip: 87124
Proprietary Interest:	List Owners:	
Deed or Ownership Verification Provided: (Initials)	Letter of Authorization Provided: (Initials)	

Agent Name:		Phone:
Address:		E-Mail:
City:	State:	ZIP Code:

DESCRIPTION OF REQUEST: (PLEASE ADD ADDITIONAL SHEET(S) IF NECESSARY)

SITE INFORMATION: (PLEASE PROVIDE ACCURATE LEGAL DESCRIPTION)

Subdivision/Unit : Unit 7	Block(s): 18	Lot(s): 128, 129, 132, 133 and 134
Existing Zoning: "Unzoned"	Proposed Zoning: R-1	
No. of existing lots: 5	No. of proposed lots: 5	Total area of site (acres) 2.5

ACKNOWLEDGEMENT

I hereby acknowledge that I have read this entire application and affirm that all information provided is correct. I agree to comply with the requirements of the City of Rio Rancho as outlined in all applicable laws, ordinances and regulations.

Print Name: Bryan Aragon	Applicant:	Agent:
Signature: Bryan Aragon		Date: August 8, 2023

FOR OFFICIAL USE ONLY

H.T.E. PROJECT #	FEE	RECEIPT #
23-100-00006		

APPLICATION ACCEPTED BY: Michelle Costilla **DATE:** 8/8/23

Form revised January 26, 2017

Outer Rim Investments INC. 409 NM HWY 528 NE, Rio Rancho, NM 87124

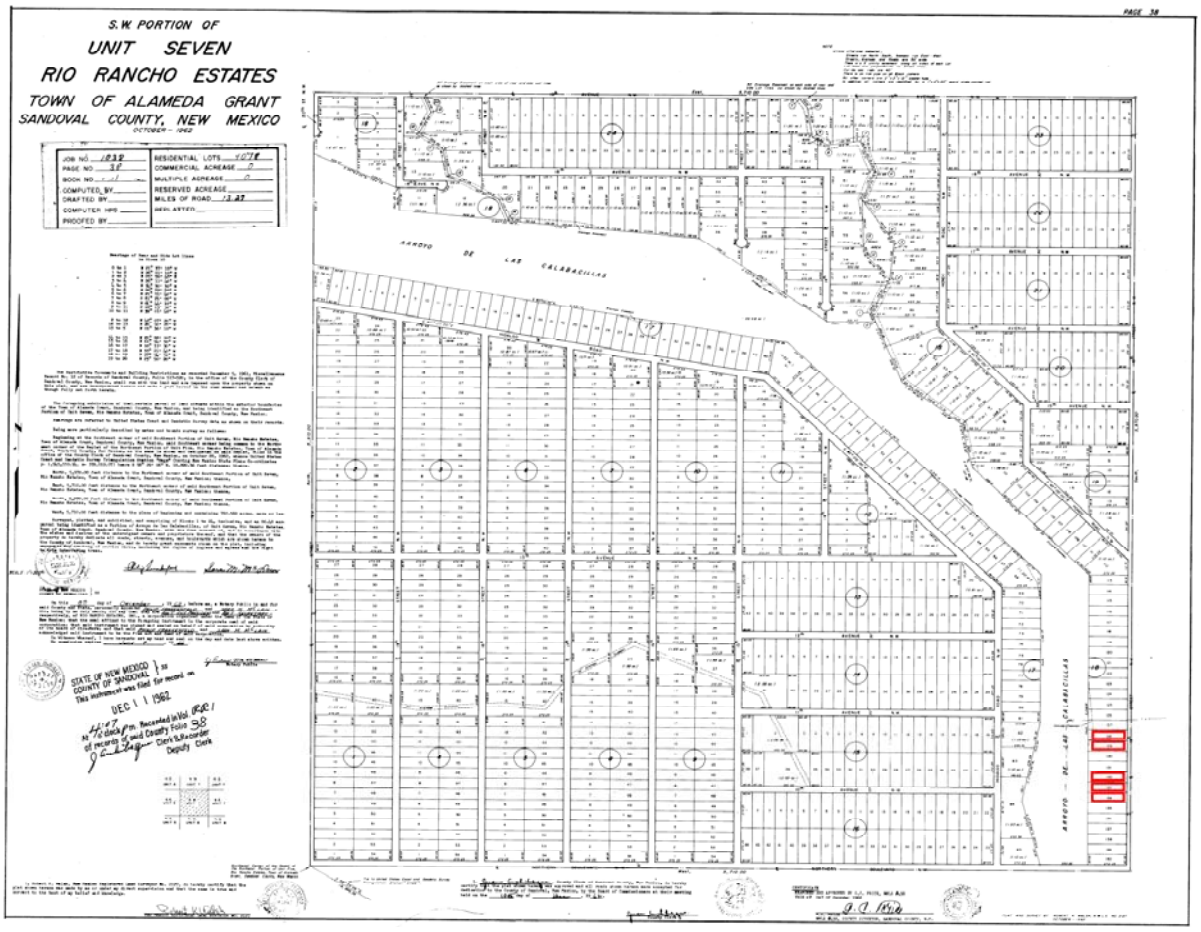
August 8, 2023

Ms. Amy Rincon
Director of Development Services
City of Rio Rancho
3200 Civic Center Circle NE
Rio Rancho, NM 87144

Re: Request for a Zone Map Amendment

Dear Ms. Rincon:

Outer Rim Investments Inc. (the "Applicant") is the owner of all the real properties (the "subject property") involved in this zone map amendment request. This is a request for a Zone Map Amendment("ZMA") for approximately 2.5 acres within the Southwest Portion of the Unit 7 Rio Rancho Estates, more particularly identified as Unit 7, Block 18, Lots 128, 129, 132, 133 and 134 (the "Subject Property"). The Subject Property is located north of Northern Boulevard and off of 10th Street NW (see below).



The applicant is requesting these lots be rezoned from an “Unzoned” condition to an R-1/Single Family Residential designation. This zone change will provide these lots with a zoning classification for future development.

SITE CONTEXT/ZONE MAP AMENDMENT

The subject property is situated adjacent to the City boundary limits. These lots are located north of Northern Boulevard. The residential lots to the east of 10th Street NW were rezoned from the “Unzoned” designation to an R-1 designation by Ordinance 67 Enactment No. 94-065. Directly west of these lots is the Calabacillas Arroyo.

SECTION 150.07 JUSTIFICATION

This section of the request addresses the criteria for a zone map amendment. A justification per Section 150.07 (D-G), Policies for Deciding Zone Map Amendments, is provided below.

(D) The following policies for deciding zone map change applications pursuant to the City Zoning Code are:

1. A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the City.

Applicant response: The proposed Zone Map Amendment is consistent with the health, safety, morals, and general welfare of the City. The proposed ZMA provides the opportunity to further the health and welfare of the City by creating the zoning conditions necessary to construct high quality residential homes that will meet the needs of Rio Rancho residents. Additionally, the zone change will allow the properties to be developed consistent with and will complement the existing and surrounding residential areas.

2. Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should not be made.

Applicant response: This zone change request will allow for stability of land use and a zoning classification. The zone map amendment will allow the property to be developed in a manner that is compatible with the surrounding area.

6.4.2 GOALS

Goal PH-1: To ensure that regulations do not have an unreasonable negative impact on the cost or supply of housing.

Goal PH-2: Maintain the strength, vitality, and stability of all residential neighborhoods and types.

Goal PH-3: Promote a variety of housing types to meet the needs of all members of the community.

Goal PH-4: To ensure that single-family and multi-family residential neighborhoods provide an attractive living environment.

The proposed zoning will not destabilize the land use and zoning in the area, but will strengthen it by aligning it with the surrounding area.

3. A proposed change shall generally be consistent with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City.

Applicant response: The proposed ZMA does not change, but rather furthers the Rio Rancho Comprehensive Plan's intent. The ZMA will strengthen it by aligning it with the surrounding area.

4. The applicant must demonstrate the existing zoning is inappropriate because:

a) The existing zoning is inappropriate because there was a judgment mistake in the original zoning.

c) A different use category is more advantageous to the community, as articulated in the Comprehensive Plan.

Applicant response: The proposed ZMA is more advantageous to the community, as there is no zoning designation currently assigned to these lots. The applicant is requesting an amendment to the zoning to match the existing zoning located due east of 10th Street.

(E) The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone.

Applicant response: The cost of land or other economic considerations are not the determining factor for this request. The request is to provide these existing "Unzoned" lots with a current residential zoning designation.

(F) Location on a collector or major street is not in itself sufficient justification of apartment, office, or commercial zoning.

Applicant response: Location on a major street is not the sole justification for this request. The request is to provide these existing "Unzoned" lots with a current residential zoning designation.

(G) A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "spot zone." Such a change of zone may be approved when:

(1) The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or

(2) The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

Applicant response: The requested zone change will not create a spot zone, the lots located directly east of 10th Street are zoned R-1, which is being requested. The request is to provide these existing "Unzoned" lots with a current residential zoning designation. The requested change will also accomplish the Vision of Growth in Section 1 and the goals set forth in Section 6 of the Comprehensive Plan.

We respectfully request that the Rio Rancho Planning and Zoning Board and Governing Body approve this request for a zone map amendment.

Sincerely,

Bryan Aragon, PE
Land Development Coordinator

The City of Rio Rancho

Development Services
Planning Division
3200 Civic Center Circle NE
Rio Rancho, NM 87144
Phone (505) 891-5005 ● Fax (505) 896-8994

September 21, 2023

RE: Zone Map Amendment, Case No. 23-100-00006
Unit 7, Block 18, Lots 128-129, and 132-134

Dear Property Owner:

You are receiving this certified notice because your property is within 100 feet of a site where a land development decision is required by the Governing Body.

The applicant, Outer Rim Investments, Inc., requests a Zone Map Amendment from Unzoned to R-1: Single Family Residential for the property legally described as Unit 7, Block 18, Lots 128-129, and 132-134. The subject property is approximately 2.5 acres.

The **Governing Body** will consider the request and have the final approval on **Thursday, October 12, 2023** at 6:00 pm in the **Council Chambers** and **Virtually** as a hybrid meeting, through the **Zoom link and number below.**

On the back of this letter is a location map of the project, with the property identified with a red outline.

If you would like to comment on this application, you are encouraged to send in comments in writing, which will be presented to the Governing Body. This Governing Body meeting will be hybrid with options to participate virtually or in person. The City highly encourages citizens to watch the meeting live on the City's website www.rrnm.gov or on Sparklight cable channel 56.

For the **Governing Body meeting**, to participate virtually: Join via computer:
https://us06web.zoom.us/j/85302353741?pwd=bWp1QXliSGJoeHhJaGVOczF4MDN0UT09
Meeting ID: 853 0235 3741 Passcode: 789419 Join via phone: 1-346-248-7799 US

Please contact me via e-mail me at mcostilla@rrnm.gov or call me at 505-896-8362, if you have any questions concerning this matter. The agenda for this hearing and related staff reports will be posted on the City's website, www.rrnm.gov, the Friday before the hearing.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the City Clerk, 505-891-5004, as soon as possible prior to the meeting. Please contact the City Clerk if a summary or other type of accessible format is needed.

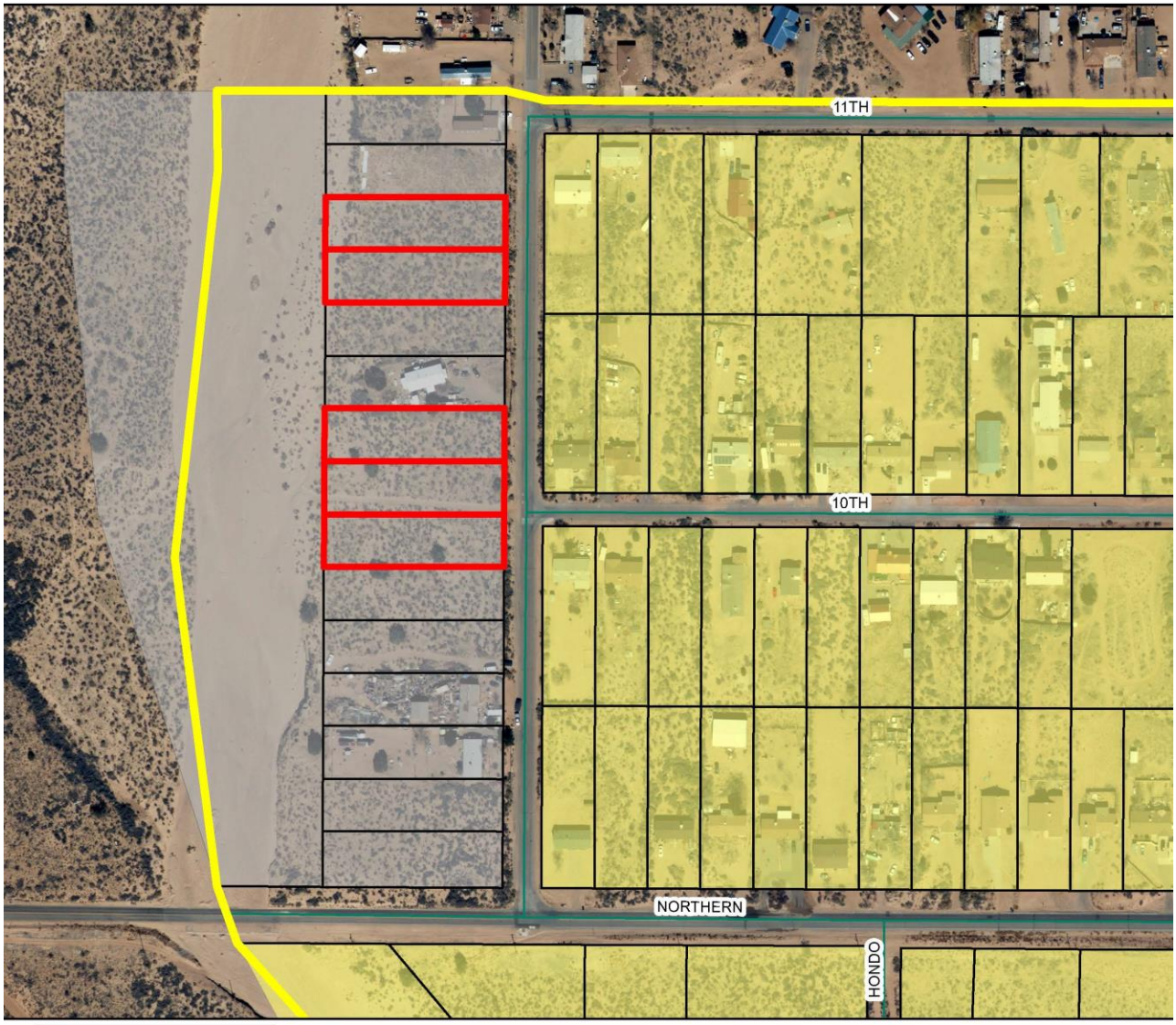
Respectfully,

Michelle Costilla
Municipal Planner II
Development Services Department
City of Rio Rancho

The City of Rio Rancho

Development Services
Planning Division
3200 Civic Center Circle NE
Rio Rancho, NM 87144
Phone (505) 891-5005 ● Fax (505) 896-8994

UNIT 7, BLOCK 18, LOTS 128-129, AND 132-134



Subject Property
Zoning
R-1
Unzoned

GIS
Moving Spatial Data Forward

N
W
E
S

0 190 380 760
Feet

DISCLAIMER: All information in this map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This map is not a survey and should be used for graphical purposes only.

Map created by: Michelle Costilla 8/25/2023

ALBUQUERQUE PUBLISHING COMPANY
7777 Jefferson St. NE, Albuquerque, NM 87109

Ad Proof/Order Confirmation

Account Number
1010956

Ad Order Number
0001578816

CITY OF RIO RANCHO
ATTN: ACCOUNTS PAYABLE
3200 CIVIC CENTER CIR NE
RIO RANCHO, NM 871444501 USA

Ordered By	Sharon Bitah		**Customer Phone**	5058915005	**Joint Ad #**
Customer EMail	sbitah@rrnm.gov		**PO Number**	240051	
Ad Cost		$134.68	**Sales Rep**	wschult	
Tax Amount		$10.27	**Order Taker**	wschult	
Total Amount		$144.95			
Amount Paid		$0.00			
Amount Due		$144.95			
Affidavits	0				

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Pick Up #

Product	Albuquerque Journal	**Placement**	0Legal Notices
Ad Number	0001578816-01	**Classification**	0Non-government
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CITY OF RIO RANCHO
PUBLIC HEARING NOTICE

The GOVERNING BODY of the CITY OF RIO RANCHO, NM, will consider the following matter at its regularly scheduled meeting on Thursday, October 12, 2023 at 6:00 pm:

Text Amendment
Case #23-105-00003
The applicant, City of Rio Rancho, requests to amend City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 154 Planning and Zoning for the addition of Section 154.45 Off-Premises Advertising Signs. This is the first reading of the proposed text amendment.

Text Amendment
Case #22-105-00002
The applicant, City of Rio Rancho, requests a text amendment to repeal and replace City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 156 Sign Regulations. This is the first reading of the proposed text amendment.

Zone Map Amendment
Case #23-100-00006
The applicant, Outer Rim Investments, Inc., requests a Zone Map Amendment from Unzoned to R-1: Single Family Residential for the property legally described as Unit 7, Block 18, Lots 128-129, and 132-134. The subject property is approximately 2.5 acres.

Zone Map Amendment
Case #23-100-00005
The applicant, J Jacob Enterprises, Inc., is requesting approval of a Zone Map Amendment from SU/C-1 and O-1 to SU/R-6, for the subject property legally described as U13, Blk 68, Lots 5, 6, 7, and 8. The properties total 4 acres and are located on the north side of Idalia Rd, west of Broadmoor Blvd.

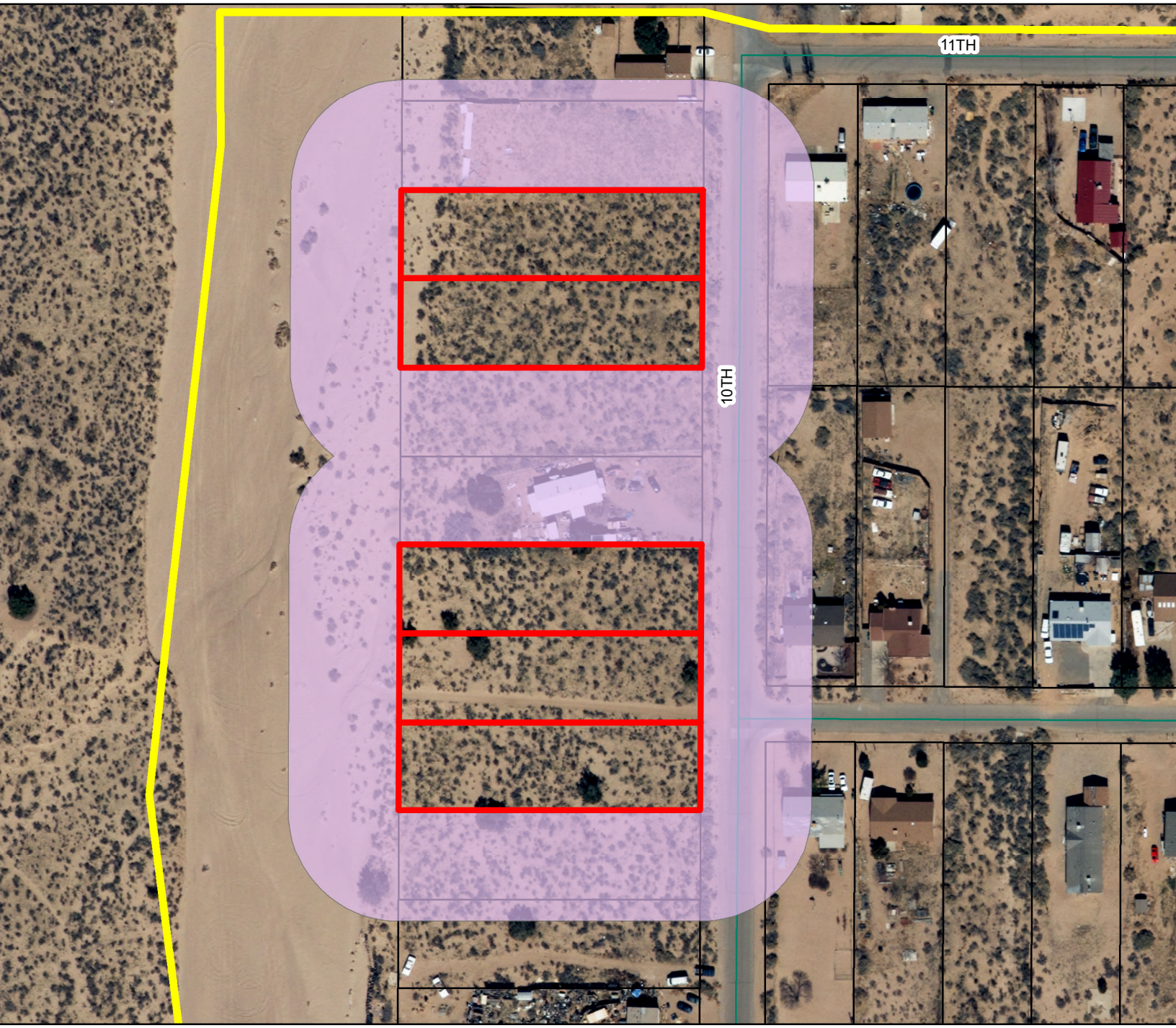
Specific Area Plan Amendment
Case #23-410-00005
The applicant, J Jacob Enterprises, Inc. requests approval of an amendment to the Lomas Negras Specific Area Plan.

The meeting is scheduled in the Council Chambers at City Hall, 3200 Civic Center Cir NE, Rio Rancho, NM. The public is invited to attend in person or virtually at www.rrnm.gov. Materials related to these items are available for viewing in the Development Services Department at City Hall.

If you would like to comment on any of these applications, you are encouraged to submit a written comment to planning@rrnm.gov Written comments will be inserted into the public record.

Journal: September 27, 2023

UNIT 7, BLOCK 18, LOTS 128-129, AND 132-134



Subject Property
100 ft.

GIS
Moving Spatial Data Forward

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Rio Rancho
City of Vision

DISCLAIMER: All information in this map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This map is not a survey and should be used for graphical purposes only.

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Map created by: Michelle Costilla 8/25/2023

DEVELOPMENT SERVICES DEPARTMENT— TRANSMITTAL AND REVIEW SHEET

DATE: August 9, 2023

TO:
(X) Development Services – Matt Geisel, Amy Rincon, David Serrano, Brian Babyak, Cedric Smith, Peter Prukop
(X) Fire and Rescue – Jessica Duron-Martinez, Gerard Bauer
(X) Police - Justin Garcia, Andrew Rodriguez
(X) SSCAFCA – Andy Edmondson
(X) Parks and Recreation - Dyane Sonier
(X) Rio Rancho Public Schools - Michael Baker
(X) MRCOG – Peach Anderson-Tauzer

FROM: **Development Services Department, Planning & Zoning Division**

RE: **Zone Map Amendment**: DSD #23-100-00006 (please reference this # with any correspondence) Unit 7, Block 18, Lots 128-129, and 132-134.

The applicant, Outer Rim Investments, Inc., requests a Zone Map Amendment for the property legally described as Unit 7, Block 18, Lots 128-129, and 132-134. The proposed ZMA is for approximately 2.5 acres to change from Unzoned to R-1: Single Family Residential.

Please review and provide recommendations, comments or corrections on this form and return via hand delivery, fax or e-mail by Wednesday, **August 23, 2022**. If redline comments are made on the plat, please also provide me with a copy. Please contact Michelle Costilla at 505-896-8362 or e-mail mcostilla@rrnm.gov if you have any questions or would like to review a hard copy at my office.

This item has been reviewed and is hereby:
(_) RECOMMENDED FOR APPROVAL
(_) RETURNED FOR REVISIONS RESUBMITTAL REQUIRED
(_) RETURNED WITH COMMENTS RESUBMITTAL NOT REQUIRED

[Type Comments Here or use separate sheet]
The lots described in the request for a zoning change all lay within a Lateral Errosion Zone any future construction would need to meet CORR chapter 152.33.

Digitally signed by Andy Edmondson
Date: 2023.08.22 16:31:05-06'00'
Andy Edmondson

Reviewer _____ Date _____

Planning and Zoning Board
of the
City of Rio Rancho

MINUTES

SEPTEMBER 12, 2023
6:00 PM
Council Chambers, City Hall

MEMBERS PRESENT:	**STAFF PRESENT:**
Kevin Kofchur, District 2	Amy Rincon, Development Services Director
Fred Radosevich, District 3, Chair	Brian Babyak, Planning & Zoning Manager
Robert Gabaldon, District 4 *(Virtual)*	Tim Dvorak, Planner II
Scottie Richardson, District 5, Vice-Chair *(Virtual)*	Michelle Costilla, Planner II
Sal Tortorici, At-Large	Liz Ruiz Carlos, Planner II
MEMBERS ABSENT:	Chris Benson, Planner I
VACANT, District 1	Sharon Bitah, Administrative Assistant
VACANT, District 6	

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chairman Radosevich stated this meeting will convene under the virtual format prescribed by the Attorney General's Office guidance issued for public meetings subject to the Open Meetings Act. This includes virtual or telephonic access via Zoom by members of the public. Instructions on how to access this meeting were made available in advance on the official agenda, as well as on the city's website.

Chairman Radosevich called the meeting to order at 6:00 PM and led those in attendance in the Pledge of Alleglance.

PUBLIC FORUM

CONSENT CALENDAR

1) August 22, 2023 Planning and Zoning Board Meeting Minutes

> Sal Tortorici moved to approve the Consent Calendar. Seconded by Kevin Kofchur.
> The motion carried by a vote of **5 FOR** and **0 AGAINST**.
> **YES**: Kevin Kofchur, Fred Radosevich, Robert Gabaldon, Scottie Richardson, Sal Tortorici
> **NO**: (None)

PUBLIC HEARINGS

2) The applicant, J Jacob Enterprises, Inc., through their agent, Modulus Architects & Land Use Planning, Inc., requested approval of a Zone Map Amendment from SU/C-1 and O-1 to SU: Special Use for R-6: Multi-Family Residential Uses, for the subject property legally described as Unit 13, Block 68, Lots 5, 6, 7, and 8.

Staff member, Liz Ruiz Carlos recommended postponing the item and the public hearing continued to the September 26, 2023 Planning and Zoning Meeting.

> Sal Tortorici moved to postpone Item #2. Seconded by Kevin Kofchur.
> The motion was postponed by a vote of **5 FOR** and **0 AGAINST**.
> **YES**: Kevin Kofchur, Fred Radosevich, Robert Gabaldon, Scottie Richardson, Sal Tortorici
> **NO**: (None)

3) The applicant, Dawn Davide, through her agent, Huitt-Zollars, Inc, requested approval of a Variance to the maximum allowable height of a wall, at the subject property legally described as Monte Bella, Lot 14; located at 2600 Dauphine Ct NE

Staff member, Chris Benson presented the item, recommending denial and stood for questions.

Member of the public, Richard Gonzales, spoke on the item after being administered the oath virtually.

Staff member, Chris Benson clarified some of the questions brought up by the Commissioners. There was discussion regarding safety concerns and code enforcement issues.

Scottie Richardson moved to approve Item #3. Seconded by Kevin Kofchur.
The motion failed by a vote of **0 FOR** and **5 AGAINST**.
YES: (None)
NO: Kevin Kofchur, Fred Radosevich, Robert Gabaldon, Scottie Richardson, Sal Tortorici

4) The applicants, Road Runner Storage Properties LLC, Northern Industrial Investments LLC, MAM Partners LLC, and Red Roan Enterprises LLC, requested approval of a vacation of right-of-way for Walpi Ct NE.

Staff member, Chris Benson presented the item, recommending approval with conditions and stood for questions.

Robert Gabaldon moved to approve Item #4. Seconded by Kevin Kofchur.
The motion carried by a vote of **4 FOR** and **1 AGAINST**.
YES: Kevin Kofchur, Robert Gabaldon, Fred Radosevich, Sal Tortorici
NO: Scottie Richardson

5) The applicant, DR Horton, through their agent, RESPEC, requested approval of a subdivision variance to reduce the required amount of park space under Section 155.46 of City Code, for the Vista Grande Subdivision.

Staff member, Chris Benson presented items #5 and #6 concurrently, recommending approval with findings and conditions and stood for questions.

Agent, Sheldon Greer spoke on the item and along with staff member, Chris Benson, answered questions raised by Commissioner Gabaldon, Commissioner Tortorici, Commissioner Kofchur and Chairman Radosevich.

Scottie Richardson moved to approve Item #5. Seconded by Sal Tortorici.
The motion carried by a vote of **5 FOR** and **0 AGAINST**.
YES: Kevin Kofchur, Fred Radosevich, Robert Gabaldon, Scottie Richardson, Sal Tortorici
NO: (None)

6) The applicant, DR Horton, through their agent, RESPEC, requested approval of a Final Plat for the Vista Grande subdivision to create 92 residential lots and 3 HOA tracts, zoned R-4: Single-Family Residential. The property is legally described as Rio Rancho Estates Unit 13, Block 89, Lots 4-6, 8-13, and Lot 27B and comprises approximately 18.6571 acres.

Staff member, Chris Benson and agent, Sheldon Greer had no further comments and stood for questions.

Sal Tortorici moved to approve Item #6. Seconded by Kevin Kofchur.
The motion carried by a vote of **5 FOR** and **0 AGAINST**.
YES: Kevin Kofchur, Fred Radosevich, Robert Gabaldon, Scottie Richardson, Sal Tortorici
NO: (None)

7) The applicant, AMREP Southwest, Inc., through their agent, Huitt-Zollars, Inc., requested approval of a Subdivision Variance to R.O. 2003 § 155.43 Easements for the property legally described as NMED, Tract J-1.

Staff member, Tim Dvorak presented items #7 and #8 concurrently, recommending approval and stood for questions.

Applicant, Bryan Aragon stated he reviewed and agreed with conditions and stood for questions.

Sal Tortorici moved to approve Item #7. Seconded by Robert Gabaldon.
The motion carried by a vote of **5 FOR** and **0 AGAINST**.
YES: Kevin Kofchur, Fred Radosevich, Robert Gabaldon, Scottie Richardson, Sal Tortorici
NO: (None)

8) The applicant, AMREP Southwest., through their agent, Huitt-Zollars, Inc., requested approval of a final plat for the Northern Meadows Subdivision, creating 24 single-family lots, currently zoned R-3: Mixed Residential District. The subject property is legally described as NMED, Tract J-1 and comprises approximately 2.6804 acres.

Staff member, Tim Dvorak and agent Bryan Aragon had no further comments and stood for questions.

Kevin Kofchur moved to approve Item #8. Seconded by Scottie Richardson.
The motion carried by a vote of **5 FOR** and **0 AGAINST**.
YES: Kevin Kofchur, Fred Radosevich, Robert Gabaldon, Scottie Richardson, Sal Tortorici
NO: (None)

9) The applicant, Outer Rim Investments, Inc., requested a Zone Map Amendment from Unzoned to R-1: Single Family Residential for the property legally described as Unit 7, Block 18, Lots 128-129, and 132-134.

Staff member, Michelle Costilla presented the item, recommending approval with findings to the Governing Body, and stood for questions.

Robert Gabaldon moved to approve Item #8. Seconded by Sal Tortorici.
The motion carried by a vote of **5 FOR** and **0 AGAINST**.
YES: Kevin Kofchur, Fred Radosevich, Robert Gabaldon, Scottie Richardson, Sal Tortorici
NO: (None)

DISCUSSION AND DELIBERATION

COMMENTS BY BOARD MEMBERS

Chairman Radosevich and Commissioner Tortorici announced their planned absences for the next meeting.

STAFF REPORTS

ADJOURNMENT

Sal Tortorici moved to adjourn the meeting. Seconded by Kevin Kofchur.
Chairman Radosevich adjourned the meeting at 6:41 PM.

APPROVED THIS 26TH DAY OF SEPTEMBER, 2023

Scottie Richardson, Vice-Chair

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: R123

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Development Services

SUBJECT:
R123, Resolution Amending the Lomas Negras Specific Area Plan to Update the Land Use Map (Exhibit 13) and the Future Land Use Table (Exhibit 12)

BACKGROUND AND ANALYSIS:
The applicant, J Jacob Enterprises, Inc. requests approval of an amendment to the Lomas Negras Specific Area Plan to change the Land Use Map and Future Land Use Table. A proposed Zone Map Amendment to change the zoning of Unit 13, Block 68, Lots 5, 6, 7, and 8 is being heard concurrently.

This proposed Specific Area Plan Amendment is to update the Land Use Map (Exhibit 13) and Exhibit 12: Future Land Use Table, in the Lomas Negras Specific Area Plan (LNSAP), to allow for compliance with the proposed Zone Map Amendment. The amendment requests the proposed Land Use be amended from "Neighborhood Corridor" to "Community Commercial" for the area legally described as Unit 13, Block 68, Lots 5-8.

Under the "Neighborhood Corridor" land use category (section 4.2 of LNSAP), R-3: Multi-Family Residential is a permissive zoning designation with a recommended high density land use of 29.0 DU/Acre (R-3 in City Code Section 154.10 allows up to 26 DU/Acre). In the requested amendment to "Community Commercial" land use, R-6: Multi-Family Residential is a permissive zoning designation with a recommended density of 35.6 DU/Acre (R-6 in City Code Section 154.13 allows up to 50 DU/Acre). The concurrent Zone Map Amendment application request is for Special Use: R-6: Multi-Family Residential Uses and includes a site plan with 150 dwelling units on four acres (37.5 DU/Ac), which would closely align with the recommendation of the LNSAP and be in conformance with City Code Section 154.13 (B)(3).

This area is bounded by Inca Rd NE to the north and Idalia Rd NE to the south, and is located northwest of the Inca Rd NE and Broadmoor Blvd. NE intersection.

The Lomas Negras Specific Area Plan was adopted June 25, 2008 under Resolution No. 56, Enactment No. 08-51; amended on July 8, 2009, pursuant to Resolution No. 75 Enactment 09-74; and again on February 23, 2011, pursuant to Resolution No. 15 Enactment 11-17. Updates to the Land Use Map were made under Resolution No. 54, Enactment No. 21-53 and Resolution No. 69, Enactment No. 21-068.

The current Land Use Map for the Lomas Negras Specific Area Plan is attached, with a separate attachment identifying the Resolutions updating the Land Use Map or errors on previous versions of the Land Use Map also included (see "with notes" attachment).

The Planning and Zoning Board recommended the Governing Body adopt the Resolution to amend the Lomas Negras Specific Area Plan by a vote of four (4) for and 0 against at the September 26, 2023 Planning and Zoning Board Meeting.

REVIEW CRITERIA:
The City's Comprehensive Plan states that "the City will rely on the development of Specific Area Plans and Master Plans for identifying a specific land use at the parcel-level. Specific Area Plans and Master Plans are a part of the Land Use Element and are used as a statement of policy to guide land use decision making by the Governing Body." The City's Comprehensive Plan further outlines the type of material expected to be included in a Specific Area Plan or Master Plan. Staff has used the list as the guiding policy on whether the amendments fit with Specific Area Plans in general.

The applicant's justification letter states: “the purpose of the Community Center is intended to provide city-wide opportunities for housing, shopping, employment, and industry. Community centers are generally located 2 to 5 miles apart and potentially serve major discount retailers. Community centers include one to five-story non-residential and multi-family residential buildings. Multi-family homes are permitted at the perimeter of the district. Parking accommodations are made with tree shaded and screened, surface parking lots broken into small areas."

The applicant states in their justification letter that the request furthers the following Goals and Objectives of the Lomas Negras Specific Area Plan:

- 3.1 Land Use, Goal 1: Promote a variety of housing choices including low- and medium-density single family residential uses and high-density multi-family residential uses.
- 3.4 Urban Design, Goal: Create neighborhood centers and corridors within walking distance of residences and with a balance of retail, office, and multi-family uses.

The Planning and Zoning Board recommends the Governing Body find that the proposed amendment to the Land Use Map in the LNSAP meets the intent, Goals and Objectives of the Specific Area Plan by enabling a variety of housing and commercial uses and zoning districts under the Community Commercial Land Use. The Community Commercial Land Use allows for higher density multi-family land uses under R-6 zoning and more permissive commercial uses under C-2 zoning. Community Commercial also allows for C-1, SU/MU, and MU/A similar to the existing Neighborhood corridor. The proposed Land Use accomplishes the Land Use goal of the LNSAP: "Develop land use categories which allow for choice of a variety of zoning districts and which mitigate impacts on surrounding uses through design standards."

The request allows for a corridor of possible multi-family, mixed-use, or commercial zoning adjacent to a minor arterial (Idalia Rd) and in close proximity to a principal arterial (Northern Blvd.), accomplishing the Urban Design goal, Land Use Goal 2 of the LNSAP, and Comprehensive Plan Goal L-1 by "Encourag[ing] mixed uses – retail, office, residential, and community uses – pedestrian-oriented and clustered around corridors and activity centers."

The remaining Neighborhood Corridor land use categories surrounding the site may also allow for future pedestrian connections between the proposed Community Center Land Use and future commercial developments, furthering the goals of pedestrian oriented development and limiting development exclusively oriented around automobile access. Specifically, the request may further Policy L-3 of the City Comprehensive Plan: "Promote and support development that incorporates walkability."

The Planning and Zoning Board recommends the Governing Body find that the proposed amendment accomplishes these goals by allowing for a variety of housing choices and commercial development. The change in land use to Community Center, allows for additional high-density multi-family development under the R-6 zoning designation. The Planning and Zoning Board

recommends the Governing Body find this change in Land Use furthers Goal 1 of the LNSAP, as recent amendments to the SAP Land Use Map have eliminated a net total of 15.26 acres of "High Density Residential" Land Use since 2018.

The request for Community Commercial and the allowance of R-6: Multi-family zoning under this Land Use may also accomplish Goal PH-3: "Promote a variety of housing types to meet the needs of all members of the community" and Policy PH-1: "Promote quality, community-friendly multifamily development, through features such as enhanced open space and pedestrian connectivity" of the City Comprehensive Plan.

The Planning and Zoning Board recommends the Governing Body approve of the request to amend the Land Use Map and Future Land Use Table of the Lomas Negras Specific Area Plan, as the request conforms with and furthers the goals, policies, and objectives of the Lomas Negras Specific Area Plan and City Comprehensive Plan.

SITE ANALYSIS: The Lomas Negras Specific Area Plan was adopted June 25, 2008 under Resolution No. 56, Enactment No. 08-51; amended on July 8, 2009, pursuant to Resolution No. 75 Enactment 09-74; and again on February 23, 2011, pursuant to Resolution No. 15 Enactment 11-17.

The plan encompasses an area of 981 acres located in Unit 13, containing the Mirador del Sol, High Range 1-5, Tierra del Oro, Tierra del Norte, Solcito, Melon Ridge, Stonegate, and Scottish Isle Master Plan areas. It is bounded by Montezuma Blvd. NE on the north, Loma Colorado Blvd. NE on the east, Montoyas Arroyo on the west, and Idalia Rd NE on the south. Overlap occurs in Blocks 68 and 77 with the Del Norte Specific Area Plan. The overlay zone for that plan applies in these locations.

The subject property area is bounded by Inca Rd NE to the north and Idalia Rd NE to the south, and is located north of the Idalia Rd NE and Broadmoor Blvd. NE intersection.

LAND USE: The subject property being amended in the Specific Area Plan currently has a "Neighborhood Corridor" land use in the Lomas Negras Specific Area Plan (Exhibit 13), and a "Commercial (Neighborhood, Community), Mixed-Use, Office" Land Use in the Generalized Land Use Map, Map L-2 in the City Comprehensive Plan. The proposed amendment would update the Specific Area Plan to reflect a "Community Commercial" land use and the proposed amendment to the LNSAP conforms with the GLUM, Map L-2.

GRADING AND DRAINAGE: No proposed changes.
CIRCULATION: No proposed changes.
PHASING AND FINANCING: No proposed changes.
DESIGN STANDARDS: No proposed changes.

NOTIFICATIONS: Notifications were sent to affected property owners via certified letter, return receipt requested in conjunction with the Zone Map Amendment request. A legal advertisement was placed in the September 26, 2023 edition of the Albuquerque Journal. All legal notification requirements have been met.

IMPACT:

The Planning and Zoning Board recommends that the Governing Body approve the request for an amendment to the Lomas Negras Specific Area Plan subject to the findings and conditions below:

GENERAL FINDINGS OF FACT:

1. The Planning and Zoning Board may make a recommendation to the Governing Body on the

applicant's request for an amendment to the Lomas Negras Specific Area Plan.
2. The applicant has the authority to make an application to request an amendment to the Lomas Negras Specific Area Plan.
3. The applicant and adjacent property owners received due process, as proper notice and an opportunity to present view was given.

SPECIFIC FINDINGS OF FACT AND CONDITONS FOR APPROVAL:
1. The change of Land Use from Neighborhood Corridor to Community Commercial does not adversely affect the goals and objectives of the Lomas Negras Specific Area Plan.
2. The change of Land Use to Community Commercial will be consistent with the goals and policies from the Land Use Element of the Comprehensive Plan.

ALTERNATIVES:
1. The Governing Body may approve the request.
2. The Governing Body may deny the request.
3. The Governing Body may modify the request and approve such modifications.
4. The Governing Body may continue the public hearing to request additional information or to consider testimony provided at the public hearing.

DEPARTMENT RECOMMENDATION:
The Planning and Zoning Board recommends the Governing Body adopt the Resolution amending the Lomas Negras Specific Area Plan.

ATTACHMENT: Resolution
ATTACHMENT: Zoning, Location
ATTACHMENT: Updated Land Use Application
ATTACHMENT: Updated Justificaton Summary of Request
ATTACHMENT: Current Lomas Negras SAP Land Use Map
ATTACHMENT: Lomas Negras SAP Land Use Map with Notes
ATTACHMENT: Lomas Negras SAP Land Use Permissive Zoning Designations
ATTACHMENT: Reproduction of Notices_GB
ATTACHMENT: Exhibit A: Proposed LNSAP Land Use Map
ATTACHMENT: Exhbit B to Resolution

CITY OF RIO RANCHO
RESOLUTION

RESOLUTION NO. **ENACTMENT NO.**

RESOLUTION AMENDING THE LOMAS NEGRAS SPECIFIC AREA PLAN TO UPDATE THE LAND USE MAP (EXHIBIT 13) AND THE FUTURE LAND USE TABLE (EXHIBIT 12)

WHEREAS: the State of New Mexico has granted the City of Rio Rancho the power, authority, jurisdiction and duty to enforce and carry out the provisions of law relating to planning, platting, zoning, and the power to adopt, amend, extend and carry out a general municipal or master plan which may be referred to as the general or master plan, all pursuant to 3-19-1, NMSA, 1978; and

WHEREAS: the Governing Body of the City of Rio Rancho has adopted a Comprehensive Plan that addresses and provides for specific goals, policies, and actions; proposes land use throughout the City; provides for adoption of specific area plans for specific areas within the City; and also provides for land use in master planned communities via master plans; and

WHEREAS: the Governing Body of the City of Rio Rancho has adopted a Comprehensive Plan that addresses land use in master planned communities; and

WHEREAS: the Governing Body of the City of Rio Rancho adopted the Lomas Negras Specific Area Plan on June 25, 2008, under Resolution No. 56, Enactment No. 08-51; and amended the plan on July 8, 2009, pursuant to Resolution No.75 Enactment 09-74; February 23, 2011, pursuant to Resolution No. 15 Enactment No. 11-17; May 27, 2021, pursuant to Resolution No. 54, Enactment No. 21-053; and July 22, 2021, pursuant to Resolution No. 69, Enactment No. 21-068; and

WHEREAS: the Planning and Zoning Board of the City of Rio Rancho reviewed the amendments to the Lomas Negras Specific Area Plan at their meeting held on September 26, 2023, and following public hearing recommends approval of those amendments and modifications; and

WHEREAS: the Governing Body of the City of Rio Rancho has reviewed the proposed amendments (Case No. 23-410-00005) to the Lomas Negras Specific Area Plan at their meeting held on October 12, 2023, and following public hearing and receipt of the Planning and Zoning Board's report and recommendation, has determined that the amended Plan is in conformance with the City of Rio Rancho Comprehensive Plan.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

Section 1. The Governing Body hereby approves and adopts the amendments and modifications to the Lomas Negras Specific Area Plan as shown as Exhibit A and B to this Resolution.

Section 2. This Resolution shall take effect immediately upon adoption.

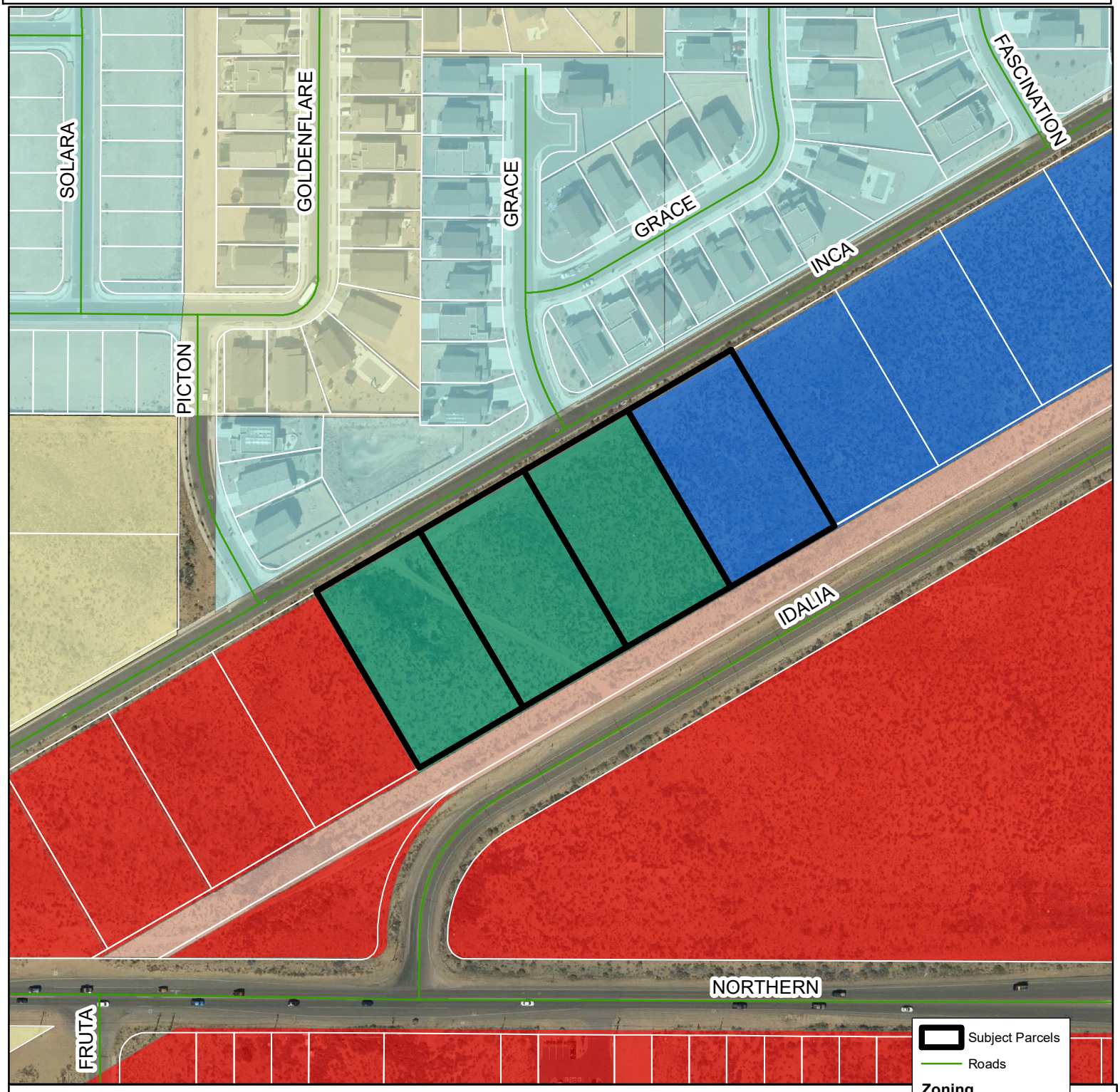
ADOPTED THIS _____DAY OF _____, 2023.

_____
Greggory D. Hull, Mayor

ATTEST:

_____
Rebecca A. Martinez, City Clerk
(SEAL)

UNIT 13, BLOCK 68, LOTS 5-8
ZONE MAP AMENDMENT & SAP AMENDMENT



RioRancho City of Vision

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DISCLAIMER: All information in this map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This map is not a survey and should be used for graphical purposes only.

GIS Moving Spatial Data Forward

Map Created by Liz Ruiz Carlos on 9/8/2023

Development Services Department, Ste. 130
3200 Civic Center Circle NE, Rio Rancho, NM 87144
(505) 891-5005

PLANNING & ZONING LAND USE APPLICATION

Please check appropriate box

Administrative Permit	Plan	Subdivision	Zoning
☐ Community Residential Care Facility	☐ Comprehensive Plan Amendment	☐ Final Plat	☐ Annexation
☐ Development Review Committee (DRC)	☐ Corridor Plan Amendment	☐ Preliminary Plat	☐ Appeal
☐ Home Occupation	☐ Master Plan	☐ Summary Plat	☐ Conditional Use Permit
☐ Model Home / Sales Office	☐ Master Plan Amendment	☐ Vacation of Plat/Street	☐ Master Sign Plan
☐ Residential Child Care Facility 6 or <	☒ Specific Area Plan Amendment	☐ Street Name Change	☐ Site Plan
☐ Sign Permit	☐ Text Amendment	☐ Subdivision Interpretation	☐ Special Exception
☐ Other		☐ Subdivision Variance	☐ Variance
			☒ Zone Map Amendment
			☐ Zoning Certification
			☐ Zoning Interpretation

Please Print In Ink Only or Type
Application must be complete. Please attach the appropriate checklist for the action you are requesting, if applicable.

APPLICANT/AGENT INFORMATION

Applicant Name: J Jacob Enterprises, Inc.		Phone: (505) 344-5300
Address: 100 Sun Ave NE, Suite 600		E-Mail: jerome@jacobenterprises.com
City: Albuquerque	State: New Mexico	Zip: 87109
Proprietary Interest: Owner	List Owners: Jerome Maldonado	
Deed or Ownership Verification Provided: (Initials)	Letter of Authorization Provided: (Initials)	
Agent Name: Modulus Architects & Land Use Planning, Inc.		Phone: (505) 338-1499 ext. 1000
Address: 100 Sun Ave NE, Suite 600		E-Mail: angela@modulusarchitects.com
City: Albuquerque, NM 87109	State: NM	ZIP Code: 87109

DESCRIPTION OF REQUEST: (PLEASE ADD ADDITIONAL SHEET(S) IF NECESSARY)

This request is a two-part request, the 1) for a Zone Map Amendment / Site Plan Approval for SU/R-6 for a 150 Unit Multifamily project. Current zoning is SU/C-1 2) Amended Land User Map to Community Commercial – Amended Exhibit 12 Future Land Use Map Table to remove /C-1 on Idalia between 26th & 30th Lomas Negras Specific Area Plan

SITE INFORMATION: (PLEASE PROVIDE ACCURATE LEGAL DESCRIPTION)

Subdivision/Unit : Rio Rancho Estates	Block(s): 68	Lot(s): Lots 5 – 8
Existing Zoning: SU/C-1	Proposed Zoning: SU/R-6	
No. of existing lots: 4	No. of proposed lots: 4	Total area of site (acres) 4 Acres

ACKNOWLEDGEMENT

I hereby acknowledge that I have read this entire application and affirm that all information provided is correct. I agree to comply with the requirements of the City of Rio Rancho as outlined in all applicable laws, ordinances and regulations.

Print Name: Angela M. Williamson Piarowski	Applicant: Agent for Owner	Agent: Agent
Signature: Angela Piarowski		Date: 06/29/2023

FOR OFFICIAL USE ONLY

H.T.E. PROJECT #	FEE	RECEIPT #

APPLICATION ACCEPTED BY: _____ **DATE:** _____

MODULUS ARCHITECTS & LAND USE PLANNING, INC.

100 Sun Avenue, Suite 600
Albuquerque, NM 87109
Phone: (505) 338-1499

Planning and Zoning Board
City of Rio Rancho
3200 Civic Center Circle NE
Rio Rancho, NM 87144

Updated September 3, 2023

Re: This is a Two-Part Request 1) Special Use Zone Map Amendment for SU/R-6 for the property legally described as: Unit 13, Block 68, Lot 5, 6, 7 & 8 Rio Rancho Estates – Approximately 4-Acres 2) Specific Area Plan Amendment for the Lomas Negras Specific Area Plan

Dear Planning and Zoning Board,

Modulus Architects & Land Use Planning, Inc., hereafter referred to as "Agent" for the purpose of this request, represents J Jacob Enterprises, Inc., hereafter referred to as the "Property Owner." The agent is requesting approval of a Special Use Zone Map Amendment (ZMA) and accompanying Site Plan for the parcels legally described above and below. The parcels (the "subject site") are a combined +/- 4.0 acres in size. Three of the parcels (5, 6 & 7) are zoned Special Use for C-1 and one parcel, (parcel 8) is zoned O-1. The second part of our request is to amend to Lomas Negras Specific Area Plan that makes the following changes: 1) Amended Land Use Map to Community Commercial and 2) Amended Exhibit 12: Future Land Use Table to remove SU/C-1 on Idalia between 26th & 30th Street.

The purpose of this letter is to provide the very pertinent background, policy analysis and justification for the proposed Special Use Zone Map Amendment request and Specific Area Plan Amendments. The site is currently vacant and undeveloped (See Figure 1). The legal description for the properties are Unit 13, Block 68, lot 5, 6, 7 & 8 Rio Rancho Estates, approximately 4 acres generally located north side of Idalia Road west of Braodmoor Boulevard.

This Special Use Zone Map Amendment request is to modify the existing Special Use zone for approximately 4 acres to change from the current SU/C-1 zoning to the proposed SU/R-6 zoning. A 150-unit multi family project is proposed to be constructed on the site with the approval of the Special Use Zone Map Amendment request. The apartment homes propose a mix of 1-bedroom and 2-bedroom units. Furthermore, a Plat will be processed to create the contiguous 4-acre parcel. This platting action will move forward at a later date, once the request for a Zone Map Amendment has been decided.

This request also includes the Amendment of the Lomas Negras Specific Area Plan that specifically would make two changes as follows:

1) Amend the Land Use Map to Community Commercial.

The **purpose of the Community Center** is intended to provide city-wide opportunities for housing, shopping, employment, and industry. Community centers are generally located 2 to 5 miles apart and potentially serve major discount retailers. Community centers include one- to five-story non-residential and multi-family residential buildings. Multi-family homes are permitted at the perimeter of the district. Parking accommodations are made with tree-shaded and screened, surface parking lots broken into small areas.

The requested R-6 Multifamily residential district is an allowable use in the Community Commercial Land Use area.

2) Amend Exhibit 12: Future Land Use Table to remove SU-C-1 on Idalia between 26th & 30th Street.

Exhibit 12: Future Land Use	Zoning Districts	Acreage	%	Density	Population
Community Center	C-2 designated (C-1, SU/MU, MU/A, R-6)	13.2	1.3%	-	0
Neighborhood Center	C-1 designated (CMU, O-1, O-2, SU/ MU, MU/A, R-3)	32.0	3.3%	-	0
Neighborhood Corridor **CMU on south side of Montezuma will be C-1 if lots consolidated*	C-1 designated CMU designated* (O-1, SU/ MU, MU/A, R-3)	37.7 0.0	3.8%	-	0
Office Corridor	O-1 designated O-2 designated	36.7 15.0	3.7% 1.5%	-	0
High Density Residential	R-6 R-3 undesignated	9.1 19.3 24.5	0.9% 2.0% 2.5%	32 36 34	291 1,055 1,401
Medium Density Residential	R-4 R-5 undesignated	15 2.5 0.0 33 0.3	15.5 % 33.7 %	10.9 17.4 11.8	1,662 0 3,113
Low Density Residential	R-1 R-2 undesignated	70.0	7.2% 4.6% 9.2%	6.2 8.7 7.5	168 392 1,134

		45.0 90.2			
Parks and Schools	OS, PR, SU-schl (dedicated)	15.5	1.6%	-	0
Streets, Drainage, Utility ROW	-	89.7	9.1%	-	0

The Lomas Negras Specific Area Plan outlines specific goals and objectives that align with the Vision 2020 Integrated Comprehensive Plan. The SAP first and foremost as Goal 1) promotes a variety of housing choices including high density multifamily residential uses. We will demonstrate further how this this request furthers a preponderance of the goals and objectives in the Comprehensive Plan in our policy analysis.

Lomas Negras Specific Area Plan 3.0 Goals and Objectives

3.1 Land Use

Goal 1: Promote a variety of housing choices including low- and medium-density single family residential uses and high-density multi-family residential uses. **This request would further this goal by allowing for a variety of housing choices in the form of multifamily housing.**

3.4 Urban Design

Goal: Create neighborhood centers and corridors within walking distance of residences and with a balance of retail, office, and multi-family uses. **This request would further this goal by allowing for a variety of housing choices in the form of multifamily uses that would help the balance between retail, office and single family residential uses.**

SITE OWNERSHIP

The site has been owned by JJM Enterprises (DBA: J Jacobs Enterprises) since 2008 and remains in this ownership group today. They will be the developer on this project.

SITE HISTORY

Lots 5, 6 & 7 were legally changed by the applicant and approved by the City of Rio Rancho (Ordinance No. 42) August 14, 2009 from O-1 to SU/C-1 permissive uses, except bars/lounges, drive-up liquor dispensing windows and adult only uses as well as Conditional Uses for the O-1 Office District. Including design standards including but not limited to setbacks, landscaping, on-site parking and building standard as required by the C-1 Retail Commercial District and the Lomas Negras Specific Area Plan. Prior to that Lots 5 – 8 were originally zoned for Single Family Residential but were legally changed to O-1 by approval of the City of Rio Rancho (Ordinance No. 18) in 1999. Lot 8 has remained O-1 zoning.

J Jacob Enterprises has a long and successful track record of developing family oriented multi-family projects. Their intention is to continue this success at this location providing the current and future residents of Rio Ranch with expanded housing opportunities.

Figure 1: Site Location

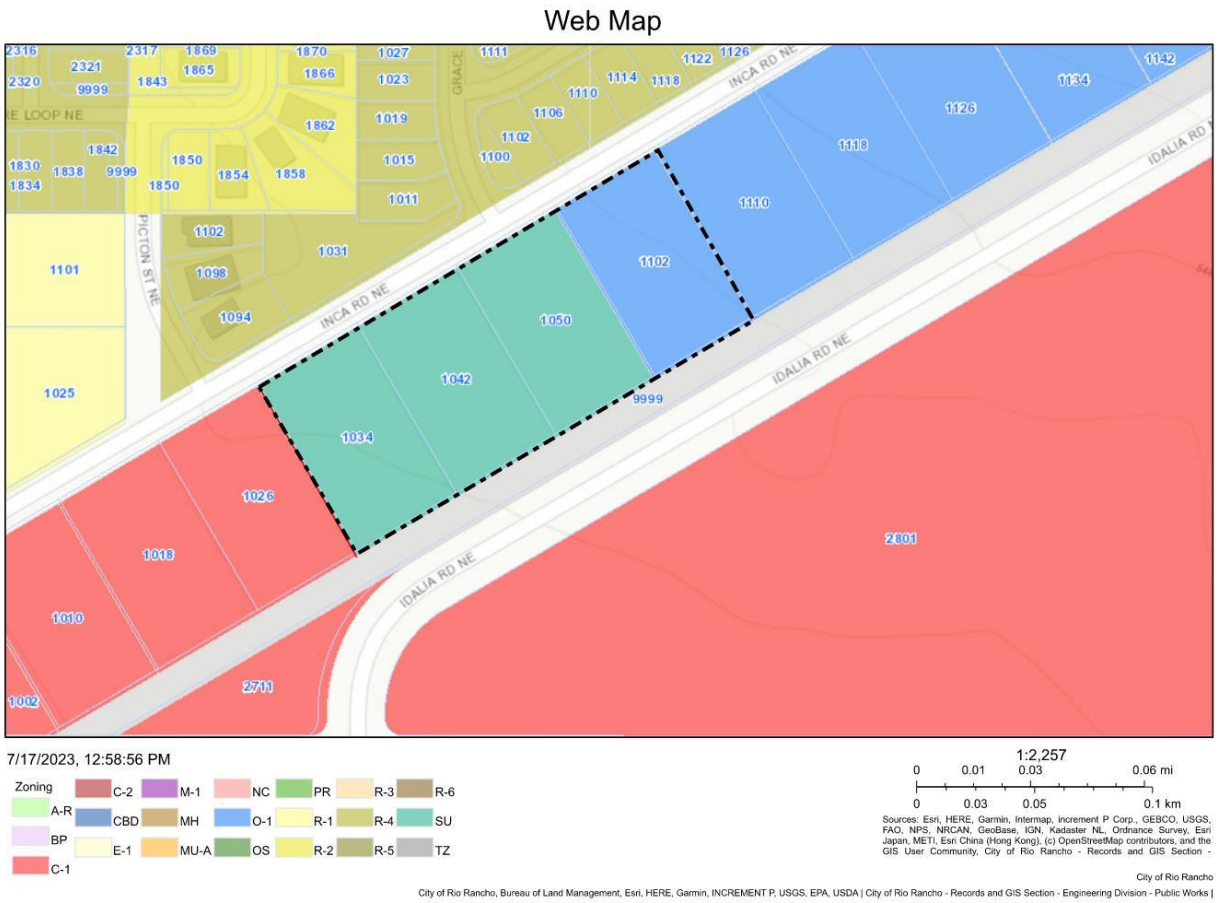
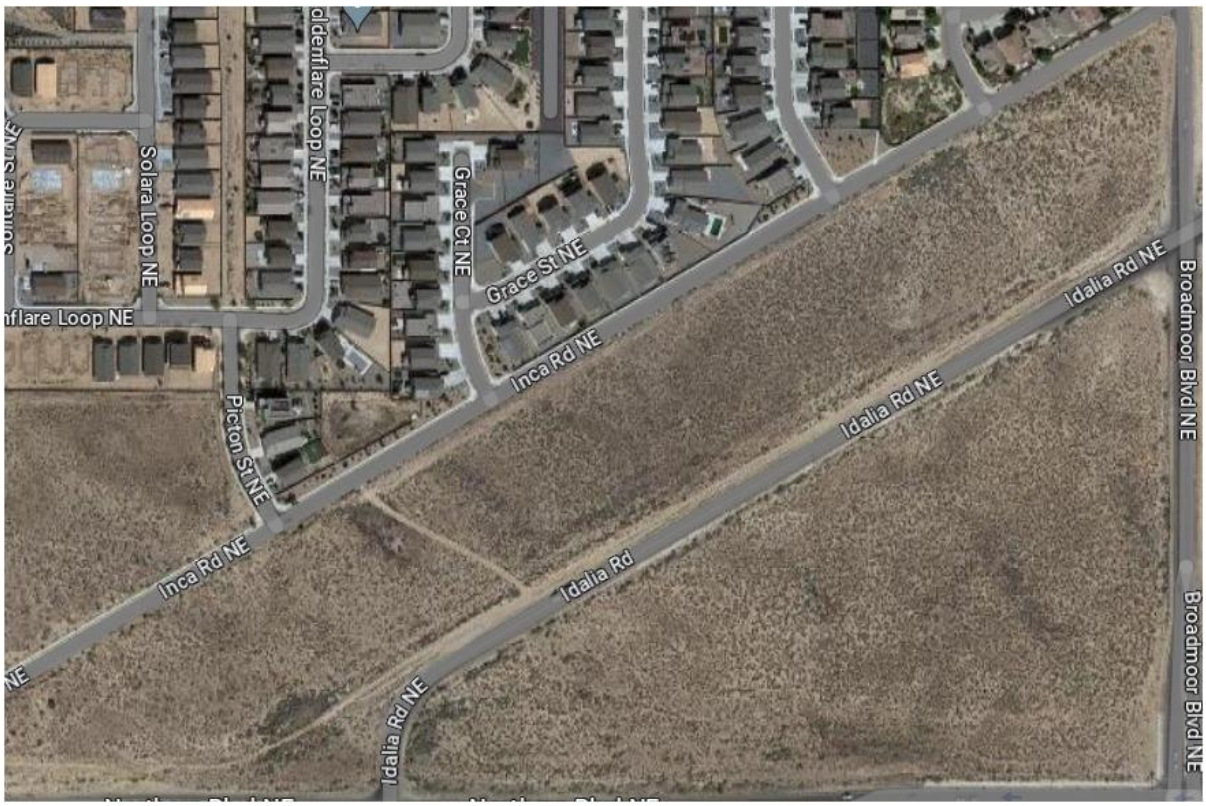


Figure 2: Aerial Exhibit of Site Location



PRE-APPLICATION AND COMMUNITY OUTREACH

Modulus Architects and the Development team attended a pre-application meeting with the City of Rancho Planning staff on January 18, 2023. The development team proactively began a community outreach program with the community developer of the single family residential developments to the north. A great deal of dialogue was held via email and a community open house meeting was held at the Loma Colorado library on June 14, 2023.

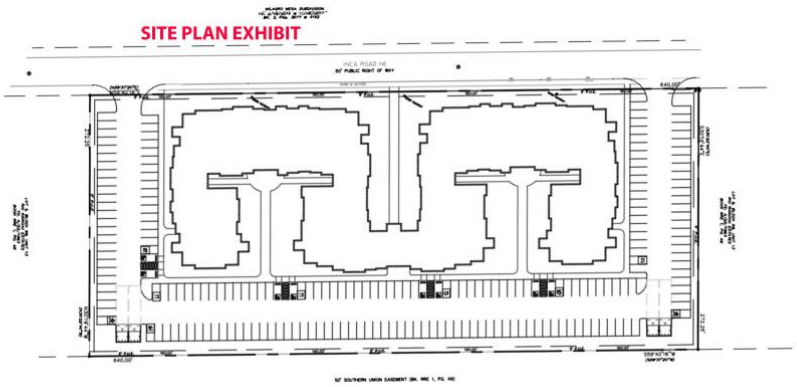
The rendering below was presented to the attendees of the open house meeting and much discussion was had. There was quite a bit of opposition to the project but we were able to walk away from the meeting with several requests from the adjacent residents. The first of which was to flip the access into and out of the multifamily development which was shown on Inca Drive and to relocate this access to Idalia Road so that the future residents would not access Inca directly for ingress and egress. The next request that was made was to create additional buffer area between the single family residence and the multifamily units by putting the parking field between Inca and our building.

We updated our plan to accommodate the comments from our meeting. We closed all access on Inca and show access now from Idalia only. We also flipped the parking and moved the building so that we added an additional buffer of more than 85 ft. from our property line to our building where we previously had the building adjacent to the property line.

Figure 3: Original Rendering Presented to the Community Open House Meeting 6/14/2023

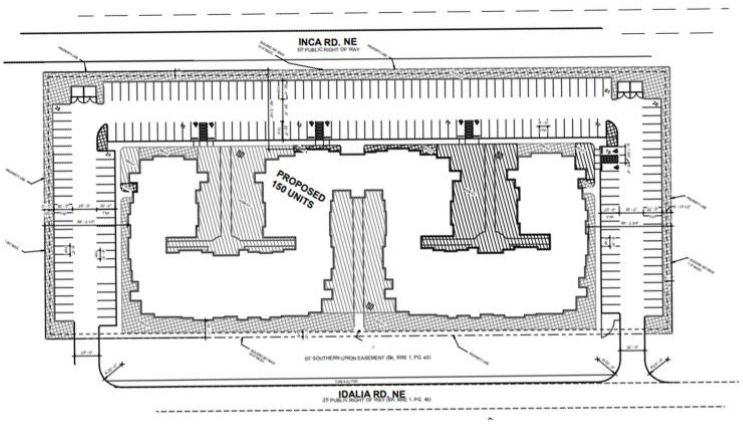
Figure 4: Site Plan Option Presented 6/14 – Revised Site Plan After Meeting

Site Plan Option (1)
Presented to Neighborhood Association on June 14, 2023



SIte Plan Option (2)
SIte Plan Modified with input from the community residents. Changes include:
1. Close access from Inca
2. Provide access from Idalia only
3. Create a large buffer area by moving the parking field bewteen the adjacent residents and the multifamily buildings

Presented to Neighborhood Association on June 28, 2023



After the updates above were circulated to the City of Rio Rancho Engineering and Transportation as well as the NM Gas Company it was determined that access from Idalia is not the preferred scenario. Idalia is a Minor Arterial Roadway and not intended for access. The master transportation network plan always anticipated access from these parcels would be obtained from Inca. Therefore, we changed the access back to Inca but we did leave the parking and buffer space as requested from the community outreach meeting. Additionally, we were unable to secure approval from the land owner of to gain the requied approvals to access our property from Idalia.

Figure 5: Final Update to Site Plan after Additional Studies and Meetings - Update as of 8/20

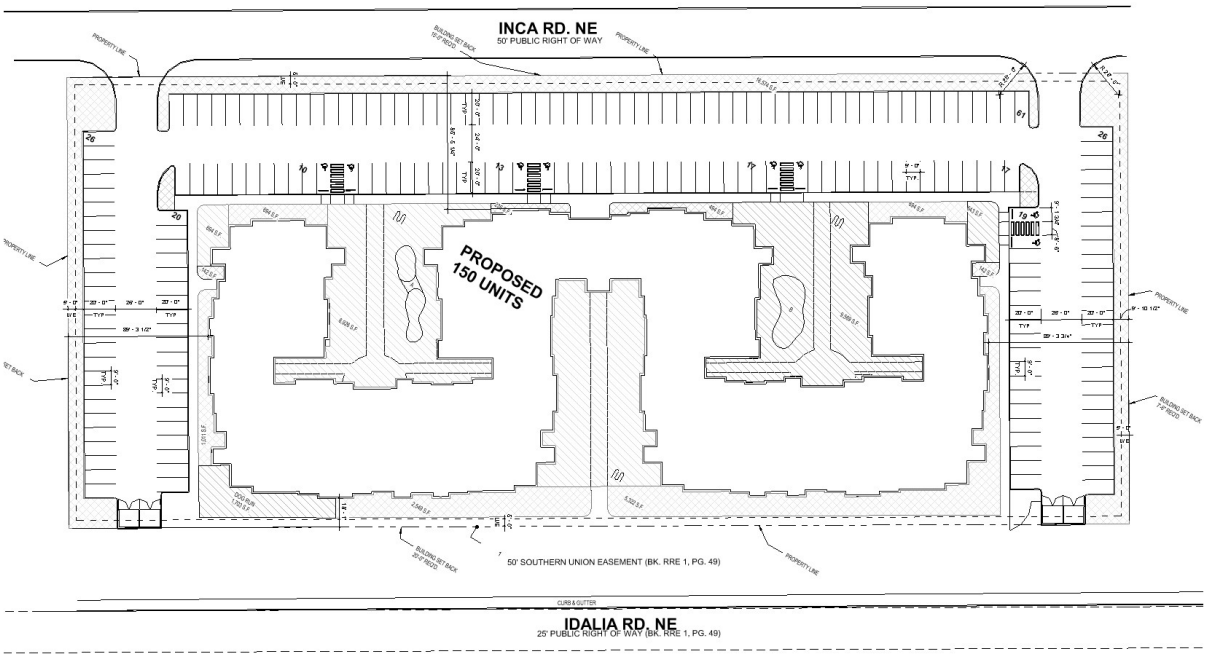


Figure 6: Aerial Rendered Site Plan

MULTI FAMILY HOUSING BENEFITS

Comprising 15% (20.6 million units) of the nation's housing stock, multifamily rental housing plays a vast and diverse housing role that serves an essential and evolving purpose in communities across the country. At its core, multifamily housing increases the density, variety, and efficiency of a municipality's housing.

Multifamily housing broadly improves our cities in four far-reaching ways:

- *Invigorating economic vitality by improving the livelihood of workers and businesses*
- *Improving fiscal health by increasing the tax base and efficiently using public resources*

- *Increasing environmental sustainability by efficiently building and operating residential units*
- *Enhancing quality of life by allowing for healthy, culturally vibrant, and place-based lifestyles*

The benefits of Multifamily Housing – In any market, but particularly in Rio Rancho, multifamily housing exhibits three fundamental characteristics that allow it to yield a far-reaching set of benefits.

Wide Variety – Multifamily housing serves a wide range of household types and needs. The wide range of available unit types, locations, and price points allows multifamily housing to accommodate a unique variety of household types, income levels, and lifestyle preferences.

Greater Efficiency – Multifamily housing is cost-effective and efficient to both build and operate. Development costs for multifamily housing are far lower on a per-unit basis than single-family. Multifamily housing also makes more efficient use of utilities and other infrastructure.

Increased Density - Multifamily housing allows for more housing units to be built on any given parcel of land. Increasing the density of households can quickly expand the tax base and commercial vitality of an area. It also allows for more much-needed housing to be built in desirable areas with greater employment, easier access to transit, and generally a higher quality of life, as these areas typically are more land-constrained and expensive to build in.

Economic Growth and Vitality

Multifamily housing stimulates and sustains local economies, neighborhood health, and overall economic competitiveness. Multifamily housing supports the expansion and diversification of the local workforce. An expanding housing supply often both indicates and allows for an expanding economy. Multifamily housing is the most efficient way to increase the supply of housing, which is necessary to accommodate employment and household growth. A lack of housing supply will either prevent growth or lead to the displacement of existing households.

Housing density can improve the productivity and lifestyle of people who work in employment centers with high traffic volume. As jobs cluster within employment centers that experience growing levels of traffic, commute times can be ameliorated if people can find and afford housing near where they work. Because apartments allow housing to be efficiently built in desirable areas near employment and transit, people living in apartments have shorter commute times on average.

Multifamily rental housing attracts critical segments of the workforce, such as younger households and households earning modest incomes. While multifamily housing serves households of all ages and income levels, it is uniquely able to provide young people with the mobility and urbanism they often prefer and is able to provide affordably priced housing options in good locations.

Multifamily housing development is a signal and stimulator of neighborhood growth. The development of multifamily housing tends to encourage the concentration of households and

incomes needed to support new retail and commercial development. At a time when retail footprints across the nation are receding, a notable increase in mixed use developments containing residential with retail and/or office indicates that denser housing can attract and support commercial activity.

Community Fiscal Health

Multifamily housing improves fiscal health by both increasing revenues and decreasing costs, positioning local budgets to more effectively serve the public good. Greater household density increases the tax base through expanding the number of both households and businesses. Denser households contribute more to property and sales taxes. Moreover, by stimulating commercial growth, multifamily housing can further increase local sales and business taxes.

Municipalities save significantly on costs incurred by critical physical infrastructure, such as new roads, water lines, and sewer lines. Savings are experienced in upfront capital costs, operations and maintenance costs, and eventual replacement costs. Denser development also leads to savings on the costs of ongoing delivery of public services, such as police, ambulance, and fire services. Multifamily housing efficiently increases tax revenues for local governments.

- ***Compared to conventional suburban development, denser development saves 38% on the delivery of upfront infrastructure and 10% on the cost of delivering public services.***

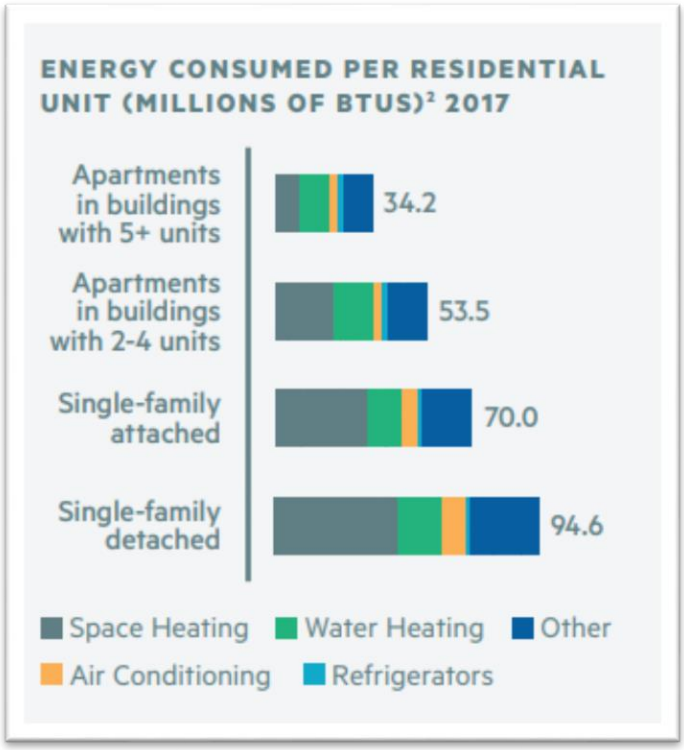
- ***Denser housing development generates 10 times more tax revenue per acre than conventional single family development.***

Environmental Sustainability

Increased housing density benefits the environment by reducing carbon impact and preserving open space and natural amenities. Multifamily housing lowers the energy intensity of creating a housing unit, or the "embodied energy" of extracting materials and building the structure. The energy savings can be substantial; as embodied energy can range from 10 to 45 percent of the total energy impact of a building through its lifecycle.

By requiring a smaller land footprint, multifamily housing helps to preserve open space and undeveloped land, natural amenities that can be difficult to preserve in sprawling areas. Multifamily properties require less energy to maintain on a per-unit basis, resulting in both energy and cost savings for residents and property managers. This energy impact is substantial, as residential and commercial buildings consume 41 percent of the nation's energy each year.

Multifamily housing decreases the resources used for infrastructure and services. Surrounding infrastructure, such as, roads, public transportation, street lighting, water pipes, and sewage treatment, also contributes to embodied and operational energy use. Multifamily housing makes uses of these resources much more efficiently.



Quality of Life

Multifamily housing improves quality of life by improving public health, allowing for vibrant public spaces and amenities, and providing housing options for a variety of lifestyles. Density allows for cities to be walkable and cyclable, for streetscapes to be attractively designed for high volumes of foot traffic, and for a wide variety of people to interact with each other. Not only does this improve the aesthetic experience of living in a city, it can positively affect public, physical, and mental health.

Denser housing helps to preserve open space and public facilities and contributes to the volume and diversity of people who make these spaces interesting. Valuable cultural spaces that require
high volumes of patronage to remain viable are made possible by densification.

Varied housing provides choosing power. By efficiently increasing the stock of housing available in a city, multifamily housing allows people to more easily choose where they live. People might be able to live nearer to their work or avoid being displaced from or priced out of a neighborhood or municipality they prefer. They may choose to adopt a lifestyle that is unique to multifamily housing, such as ease of maintenance and walkability.

Solving the Rio Rancho Missing Middle

Once heralded as the ideal place for a young family seeking their first home- avoiding the high prices in Albuquerque – Rio Rancho was the place to be. Now many are having trouble finding affordable homes in the City of Vision. Prices have surged 35.7 percent since January 2020 and 80 percent of that increase has taken place since January 2021.

The median resale for price – not for new homes – is now at $330,000 –

So how do we solve the problem – bring back Rio Rancho's missing middle! Rio Rancho's Missing Middle Housing is a range of house-scale buildings with multiple units—compatible in scale and form with detached single-family homes—located in a neighborhood. Missing middle housing – and the fact is, we don't have enough of it in Rio Rancho!

While conversations about missing middle housing and why it's important to all communities have enough of it aren't new, they're becoming louder and more frequent because wages aren't keeping up with housing costs. That's because we haven't built enough housing to keep up with demand at all price points. Plus, **our longtime focus on single-family housing has limited our ability to meet the needs of our growing communities and meet the desire of residents of all ages to live in their desired community.**

Missing middle housing provides more housing choices. When we have more choices, we create thriving and sustainable neighborhoods for people and businesses. In other words, "workforce housing matters to everyone."

Identifying the Misconceptions/Inaccurate Information of the Community Meeting:

Contrary to misconceptions voiced at the community meeting on June 14, 2023, a tremendous amount of research has been done demonstrating that multifamily housing does not negatively affect property values, public schools, crime, traffic, and emissions. In many instances, these issues are in fact improved. **Our outline below identifies actual data, studies, and real-time engineering disproving the misconceptions about this project.**

Property Values

Perhaps the most widely assumed fact is that home values will be negatively impacted by multifamily developments taking up residence nearby. This is another often-assumed myth. The U.S. Census Bureau found that working communities with multifamily dwellings actually have higher property values than working communities without them. The average value of single-family residential homes was highest in working communities with the most multifamily units, in comparison to communities with only single-family residential properties.

Public Schools

Similarly, multifamily housing does not place undue strain on local public schools. This concern is premised on the assumption that multifamily developments will bring in too many families with school-age children while yielding lower tax revenues. In fact, residents of multifamily housing typically have far fewer children, while the net impact of multifamily housing on a city's fiscal health is positive when considering the increase in tax revenues.

Traffic

Does multifamily development really cause an increase in traffic congestion and parking problems, as opponents claim? To residents of the neighborhood where such development might take place, an increase in congestion seems self-evident – **but only by comparing an apartment development to the status quo (i.e., no development). The proper comparison, however, is to the impact on congestion of an equal number of new single-family units.**

On average, apartment residents own fewer cars than single-family homeowners: the latter average two cars per household compared with only one for the former. Beyond that, single family housing generates more automobile trips per household, as evidenced in the table below.

On weekdays, a single-family detached house generates 42 percent more trips than does a unit in an apartment. The difference is even greater on the weekend: 58 percent more trips on Saturdays, and 50 percent more trips on Sundays. This large difference is seen not only in the totals, but also

at the peak hours, morning and afternoon, weekdays and weekends. By any measure, it is clear that single-family houses generate more automobile traffic than apartments – or any other type of housing. In explaining why single-family houses produce the most traffic, the Institute of Transportation Engineers noted that they are the largest units in size, with the most residents, but also pointed out that they had "more vehicles per unit than other residential land uses; they were generally located farther away from shopping centers, employment areas and other trip attractors than other residential land uses; and they generally have fewer

alternate modes of transportation available, because they were typically not as concentrated as other residential land uses.

Though written not as a policy document, but rather simply a straightforward, quantitative analysis, this is a good summary of the reasons why compact development engenders less traffic than sprawl.
Interestingly, single-family owners use their cars more often than apartment residents use theirs. On average, cars in single-family houses make 18 percent more trips during the week, 31 percent more trips on Saturday, and 41 percent more trips on Sunday than cars owned by apartment residents.

Thus, not only are there more cars per household in single-family houses than apartments, each of those cars generate more traffic – and a higher demand for parking spaces at retail stores, offices, schools, and other facilities.

Crime

Opponents of rental housing often argue that while people who own their homes are invested in the long-term success and safety of a community, people who rent apartments are merely short-term transients and therefore less desirable neighbors. That view has a long history and probably seems so unremarkable, so obvious, that proof is unnecessary.

But in fact, this idea is merely a perception based on how crime rates are reported. Many different studies have been done on the topic, just recently, a study conducted by Harvard concluded that the perception of more crime around multifamily communities comes from the practice of reporting stats based on the count of police calls by address. An apartment property with 100+ units at the same address may be wrongly compared to one single-family residence. Per the Arizona Multifamily Housing's study, "When police data is analyzed on a per unit basis, the rate of police activity in apartment communities is no worse than single family subdivisions, and in many cases, lower than single-family residential areas."

The view that renters are not as engaged in their communities as owners seems to arise from the two apparent characteristics of renters: (i) by definition, they don't own their own residence, hence are thought to have less of a "stake" in the community; and (ii) they tend to move more often. These characteristics are seen as making them transitory residents, perhaps more akin to visitors than to long-term residents. But there are also countervailing forces. For example, single-family renters do not tear down old houses and replace them with "McMansions," a phenomenon that can greatly alter neighborhoods, in ways that are not always desired by the existing residents.

In addition, it is important to recognize that housing tenure is different from residential stability. Housing tenure refers to how long an individual has lived in one place, while neighborhood stability reflects the quality, cohesion and safety of a community. It is the latter that may be the key factor:

Neighborhood residents may be less interested in distinguishing the exact cause than in ensuring the best outcome, and for many, promoting homeownership rather than renting seems an effective way to do so. In fact, that turns out not to be the case: • Apartment residents are almost twice as likely to socialize with their neighbors as owners of single-family houses

(33 percent vs. 17 percent).

- Apartment residents are just as likely as house owners to be involved in structured social groups like sports teams, book clubs, and the like (22 percent for sports groups, 10-11 percent for other groups).
- Just like single-family owners, apartment residents identify closely with the town or city they live in (60 percent for apartment residents vs. 64 percent for single-family owners).
- Almost half (46 percent) of apartment residents feel close to the neighborhood they live in. This is not as high a share as for single-family owners (65 percent), but still sizable. •
- Apartment residents are virtually as interested in politics and national affairs as house owners are (66 percent vs. 70 percent).

The Multifamily Record: Conclusion

Overwhelming evidence based on actual research is fairly strong that multifamily rental housing:
(1) does not impose greater costs on local governments;
(2) does it increase traffic and parking problems;
(3) when well-designed and appropriate to the neighborhood, does not reduce (and may even enhance) property values; and
(4) does not inherently attract residents who are less neighborly or more apt to engage in (or attract) criminal activity.

PARKING REQUIREMENT DEVIATION REQUEST

A parking deviation request accompanies this Special Use Zone Map Amendment request. The proposed multi-family project requests a deviation to the standard parking to a total number of parking spaces to be 210 spaces or a ratio of 1.4 spaces per dwelling unit. This will provide adequate parking for the residents and their guests. Lee Engineering Transportation and Parking Engineers were hired to do a parking study v\for this project.

The CONCLUSIONS Based on the results of this parking analysis:

A total of 210 parking spaces will be provided for the proposed multi-family development. While the number of parking spaces proposed to be provided falls below the City of Rio Rancho's requirements (249 parking spaces):

- Using the ITE peak parking demand per dwelling unit for Multi-Family Housing (Low-Rise) shows that the proposed 210 parking spaces would exceed the demand of 182 by 28 spaces or 13 (thirteen) percent.
- Using the ITE peak parking demand per bedroom for Multi-Family Housing (Low-Rise) shows that the proposed 210 parking spaces would exceed the demand of 149 by 61 spaces or 29 (twenty-nine) percent.

The backup data and analysis has been submitted with this request.

This is supported by the ITE (Institute of Transportation Engineers). ITE recommendations are for 1.2 parking space per unit. This project consists of 51% of one bedroom units, thus, an

overall ratio of 1.4 spaces per dwelling unit is more than adequate.

This request for the parking deviation will be submitted to the City Development Services Director in support of this application. J Jacobs Enterprises Properties has developed and continues to own and manage several similar multi-family projects. Some of the projects have significantly less parking than the standard City of Rio Rancho requirements and they have not experienced any issues. In addition, other cities have implemented similar parking ratios for multifamily projects.

ZONE MAP AMENDMENT JUSTIFICATION: RIO RANCHO COMPREHENSIVE PLAN

J Jacob Enterprises recognizes the importance of bringing forth development that furthers Rio Rancho's desired growth scenario. The Rio Rancho Comprehensive Plan was consulted to ensure the Special Use Zone Map request furthers a multitude of goals and policies as expressed in the plan. Presented below is an analysis of how the Zone Map Amendment to SU/ R-6/Multi-Family Residential to allow a multifamily development complies with and furthers multiple Land Use, Population and Housing, Transportation, Urban Design, and Economic Development goals and policies.

1. Vision for Growth – (pg. V-1) As Rio Rancho grows, the development of higher intensity nodes with high-density residential land uses will be necessary to create transit opportunities, walkable neighborhoods, and complete streets (landscaped medians and sidewalk buffers, transit and bicycle lanes etc.).

Applicant Response: ***The Special Use Zone Map to allow for a multifamily project supports the long standing vision for growth that anticipated the need and desire for higher density residential uses and calls this use "necessary" to help create complete communities.***

2. Land Use Goal 1: Encourage mixed uses - retail, office, and residential centered on pedestrian-oriented developments along principal arterial roads.

Applicant Response: ***The proposed Special Use Zone Map Amendment supports Land Use Goal 1 in two ways. The opportunity to add a mix of housing opportunities into a predominantly single family residential area helps to create a mix us uses and housing types request helps to further Land Use Goal 1; by adding more affordable housing options adjacent to O-1 and C-1 zoned property, you will inherently strengthen the local workforce and create these very types of developments next to the residents that will be future employees. Multifamily housing supports the expansion and diversification of the local workforce. An expanding housing supply often both indicates and allows for an expanding economy and local business. Multifamily housing is the most efficient way to increase the supply of housing, which is necessary to accommodate employment and household growth.***

The second way that that this Zone Map Amendment furthers Land Use Goal 1 is by allowing for a residential development at the intersection of a minor arterial roadway (Idalia Road) and Northern Blvd which is a principal arterial roadway thus furthering the goal of locating residential development along principal arterial roadways.

3. Land Use Goal 2: Encourage consolidation of lots to promote a variety of land uses in a planned manner.

Applicant Response: This request for a Special Use Zone Map to allow for a multifamily project would require a consolidation of lots in a planned and cohesive manner and provide a mix of housing options within the area furthering Land Use Goal 2

4. Land Use Goal 3: Maintain a balance of land uses throughout the City.

Applicant Response: An approval of this request would further the City's Land Use Goal of maintaining a balance of land uses throughout the City by providing for a balance of land uses and housing options throughout the City. In fact, currently single family homes far exceed any other housing options creating an imbalance in affordability and lifestyle choices in housing.

5. Population and Housing Goal 1: To ensure that regulations do not have an income levels throughout the city. unreasonable negative impact on the cost or supply of housing.

Applicant Response: The proposed Special Use Zone Map Amendment will directly help to further Population and Housing Goal 1; to ensure that zoning and regulations do not negatively impact the cost or supply of housing. Ensuring the City has housing options for all income levels in essential to a thriving community. Once heralded as the ideal place for a young family seeking their first home- avoiding the high prices in Albuquerque – Rio Rancho was the place to be. Now many are having trouble finding affordable homes in the City of Vision. Prices have surged 35.7 percent since January 2020 and 80 percent of that increase has taken place since January 2021. The median resale for price – not for new homes – is now at $330,000.

6. Population and Housing Goal 3: Promote a variety of housing types to meet the needs of all members of the community.

Applicant Response: The proposed Special Use Zone Map Amendment for a multifamily apartment home development furthers the City's Population and Housing Goal by allowing for a variety of housing types to meet the needs of all community members. Adding choices in housing and lifestyle to this area will make the area more robust and present the opportunity for residents to choose a housing situation that fits their lifestyle best while still living in the City of Rio Rancho. The addition of a multi-family development will "increase residential densities in order to provide efficient services and affordable housing" (City of Rio Rancho Comprehensive Plan).

7.. Policy Population and Housing Policy 5: Encourage mixed-use and mixed-income housing opportunities in designated growth nodes:

Applicant Response: Ensuring the City has housing options for all income levels in essential to a thriving community. Prices have surged 35.7 percent since January 2020 and 80 percent of that increase has taken place since January 2021. The median resale for price – not for new homes – is now at $330,000. An approval of this Zone Map

Amendment will help to further this Policy by allowing for the addition of more affordable housing options in an area designated for growth.

8. Policy Population and Housing Policy 12: Ensure that affordable housing opportunities are dispersed throughout the city.

Applicant Response: ***The proposed Zone Map Amendment to allow for multifamily development would further this Policy by ensuring that more affordable housing opportunities are provided in an area where there currently is no multifamily development.***

9. Transportation Goal 1: Encourage development that effectively mixes land uses to create an efficient transportation system that reduces congestion, improves air quality and creates opportunities to build Rio Rancho's economy.

Applicant Response: ***This request would allow for development that would further the Transportation Goal of encouraging development that effectively mixes land uses to create an efficient transportation system that reduces congestion, improves air quality and creates opportunities to build Rio Rancho's economy. The development of a multifamily project located within a sea of single family homes will reduce congestion and improve air quality. Apartment residents own fewer cars than single-family homeowners: Single family housing generates more automobile trips per household. The is widely documented with the ITE (Institute of Transportation Engineers).***

On weekdays, a single-family detached house generates 42 percent more trips than does a unit in an apartment. The difference is even greater on the weekend: 58 percent more trips on Saturdays, and 50 percent more trips on Sundays. This large difference is seen not only in the totals, but also at the peak hours, morning and afternoon, weekdays and weekends.

By any measure, it is clear that single-family houses generate more automobile traffic than apartments – or any other type of housing. In explaining why single-family houses produce the most traffic, the Institute of Transportation Engineers noted that they are the largest units in size, with the most residents, but also pointed out that they had "more vehicles per unit than other residential land uses. Thus, a multifamily development would serve the housing needs of Rio Rancho while reducing the traffic congestion and emissions that the same number of single family homes would create, further the goal of Transportation.

10. Economic Development Goal 3: Enhance the tax base. Economic Development Goal EDR 2: Reduce retail sales leakage to other New Mexico cities.

Applicant Response: The Special Use Zone Map amendment and proposed multifamily complex enhances the tax base by locating residents near commercial centers where residents can easily support Rio Rancho's tax base. Residents will have the opportunity to purchase their goods and services in the neighboring businesses. The availability of rental housing lowers housing costs and increases the spending power of residents. Proximity of the proposed complex to existing goods and services will reduce leakage of

Gross Receipts Tax to other neighboring cities. The development will serve as a catalyst for vacant commercial land to develop. The increase of residents the complex will bring to the neighborhood will be a desirable factor for future commercial development and businesses. Tenants of the commercial development will support the expansion of the city's tax base. Construction of this project will add needed gross receipts tax revenue to the City and provide valuable construction jobs for community residents.

ZONE MAP AMENDMENT POLICY COMPLIANCE

(D) The following policies for deciding zone map change applications pursuant to the City Zoning Code are:

1. A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the City.

Applicant Response: ***The proposed zone map amendment is consistent with the health, safety, morals, and general welfare of the City through the creation of development conditions necessary for a new multi-family neighborhood and locate residents closer to goods and services, make the remaining land more viable for development commercial use, and will provide expanded housing and lifestyle choices for current and future residents.***

2. Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should not be made.

Applicant Response: ***If granted, the Special Use Zone Map Amendment will have a positive effect on the stability of land use and zoning. The proposed zoning will provide development that is more compatible with surrounding uses and will contribute achieving a vibrant community with a mix of housing and lifestyle choices. The site has remained undeveloped for 20+ years and the influx of more people in the area will serve as an incentive for commercial development to build on the adjacent parcels.***

The change of R-6/Multi-Family Residential is more appropriate than the SU/Commercial and Industrial designation because the development seeks to enhance the current character of the area and not change it. Provided this amendment is approved, the required site plan for a Special Use Zone Map Amendment will be submitted to Development Services for review and approval.

3. A proposed change shall generally be consistent with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City.

Applicant Response: ***The proposed Special Use Zone Map Amendment is consistent with the City of Rio Rancho Comprehensive Plan. As demonstrated, It furthers principles of the Comprehensive Plan in the following ways: it ensures a land use pattern that encourages a mix of housing and lifestyle opportunities in an area that has no other housing choices. It helps to create a more efficient transportation network by reducing***

automobile trips, congestion and improving air quality as compared to the same number of single family homes. Multifamily housing supports the expansion and diversification of the local workforce. An expanding housing supply often both indicates and allows for an expanding economy and local business. Multifamily housing is the most efficient way to increase the supply of housing, which is necessary to accommodate employment and household growth. This project will serve as a link between neighborhoods as the site is located adjacent to major thoroughfares that aid in accessing other areas of Rio Rancho; and enhances the tax base by locating residents in close proximity to goods and services within Rio Rancho, providing gross receipts tax for the construction, and construction jobs. This proposed Special Use Zone Map Amendment will contribute to a vital community, more affordable housing and lifestyle options and will help contribute to a robust local economy in a number of ways which have been outlined in our request. All of the factors are consistent with and further the Comprehensive Plan.

4. The applicant must demonstrate the existing zoning is inappropriate because:

a) there was an error, mistake or is necessary to correct an injustice that occurred when the existing zone map pattern was created, antiquated plat filed before the City's incorporation and adoption of its own Zoning Code or on land annexed by the City or

b) changed neighborhood or community conditions justify the change, or

c) a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan, even though (1) or (2) above do not apply. Applicant's reliance on this provision requires proof that (a) there is a public need for a change of the kind in question, and (b) that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

Applicant Response: ***In this case, b and c apply. Changed neighborhood and community conditions justify the change. Since the approval of the SU/C-1 zoning, national trends of declining retail have decreased the demand for commercial real estate acreage, and the City of Rio Rancho has since then updated their zoning code and comprehensive plan to better reflect the values and growth needs of the community.***

J Jacobs Enterprises, LLC feels the requested use category is more advantageous to the community of Rio Rancho for the following reasons:

The request fulfills a community need articulated in the comprehensive plan. Within the Population and Housing element in the Comprehensive Plan as articulated in our policy analysis. "– to attract and create well-planned high-quality, stable, residential, commercial and industrial development, as the second goal of the City's Strategic Plan directs, we need to create a mix of housing opportunities" (PH-6).

The plan implies a mix of housing opportunities will aid the stability of other zones. In this case, the addition of multifamily is more advantageous because it will add to the variety of housing desired to support the population of the City and support the future development of neighboring commercial by increasing the number of patrons to the establishments and potential employees.

The site has remained vacant for 20+ years. The local demand for retail development has decreased, mirroring the national trend of declining brick and mortar-based commerce. The addition of more residents combined with its adjacency to C-1 and o-1 zoning will provide better conditions for future commercial development to thrive.

(E) The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone.

Applicant Response: ***The cost of land or other economic considerations are not the determining factor behind this request. However, market data reflects that the need for large commercial properties have been reduced due to changing shopping trends and the addition of more affordable housing units will not only promote the development of vacant land but increase the viability of the remaining commercial corner land surrounding this site.***

(F) Location on a collector or major street is not in itself sufficient justification of apartment, office, or commercial zoning.

Applicant Response: ***The purpose for the request for Special Use Zone Map Amendment request for R-6/Multi-Family Residential is supported by a multitude of goals and policies adopted by the City of Rio Rancho and does not rely on its adjacency to an arterial roadway as justification.***

(G) A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "spot zone." Such a change of zone may be approved only when:

1. The change will clearly facilitate realization of the Comprehensive plan and any applicable adopted sector development plan or area development plan;

Or

2. The area of the proposed zone change is different from surrounding land because it will function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of the structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

Applicant Response: ***This request to change the existing SU/C-1 to the requested R-6/Multi-Family Residential clearly facilitates the realization of the Comprehensive Plan in a multitude of ways. Embracing the goals for higher density housing options and more affordable housing choices further a preponderance of policies in the Comprehensive Plan and will help to foster smart planning that creates a strong, thriving community fostering connection, culture and economic growth.***

This request would clearly facilitate implementation of the Comprehensive Plan as shown in the response to our policy analysis as well as the desire to provide a mix of

housing options in Rio Rancho which is greatly needed. ***This site as a principal location in for multifamily development. In order to achieve these uses, a mix of zoning designations must be present, thus making this site a suitable location to serve as a transition between adjacent zone districts which include C-1 to the south and west, O-1 to the east and R-1 to the north. Creating a zone that is needed to achieve the goals and policies outlined for the Comprehensive Land Use Plan.***

	Zoning
Subject Site	***Lots 5, 6 & 7 - SU/C-1 (Retail Commercial District)*** ***Lot 8 - O-1 (Office District)***
West	***C-1 Zoning (Retail Commercial District)***
South	***C-1 Zoning (Retail Commercial District)***
East	***O-1 Zoning (Office District)***
North	***R-1 Zoning (Single Family Residential)***

Policies & goals supported are plentiful and include desired a mix of housing, Land Use Goals and Policies, Population & Housing Goals and Policies, Transportation Goals and Policies, Economic Development by improving the economic base of the City.

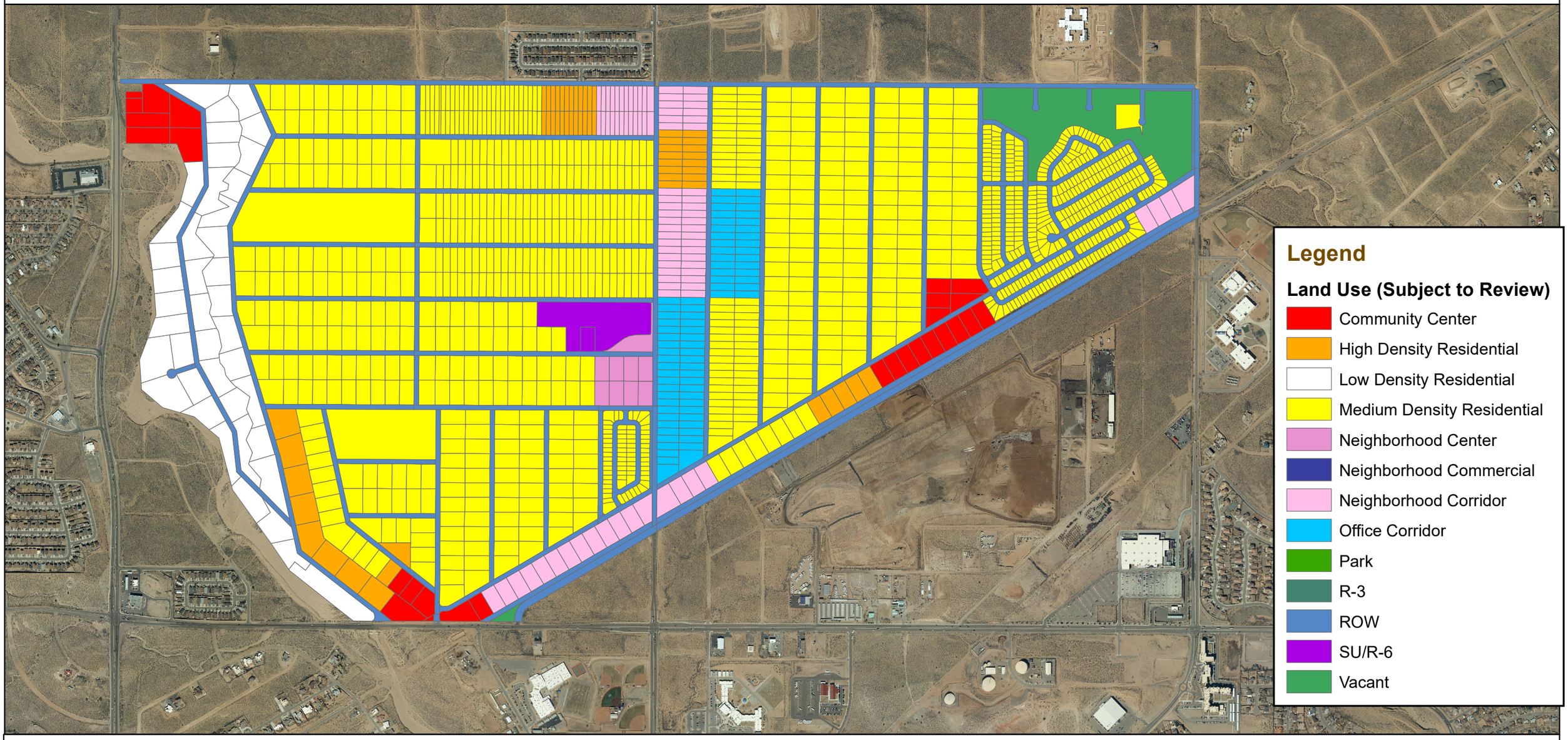
Based upon the justification provided, we respectfully request that the Rio Rancho Planning and Zoning Board recommend approval of this request for a Special Use Zone Map Amendment and

Please feel free to contact me at (505) 338-1499 or via email at: angela@modulusarchitects.com with any questions that you might have.

Sincerely,

Angela M. Piarowski, CEO/Managing Partner
Modulus Architects & Land Use Planning, Inc.
100 Sun Ave NE, Suite 600
Albuquerque, New Mexico 87109
Office: (505) 338.1499 ext. 1000
Cell + Text: (505) 999.8016
Email: angela@modulusarchitects.com

LOMAS NEGRAS AREA LAND-USE EXHIBIT



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Map Created by Jansen Lyons 9-14-2023

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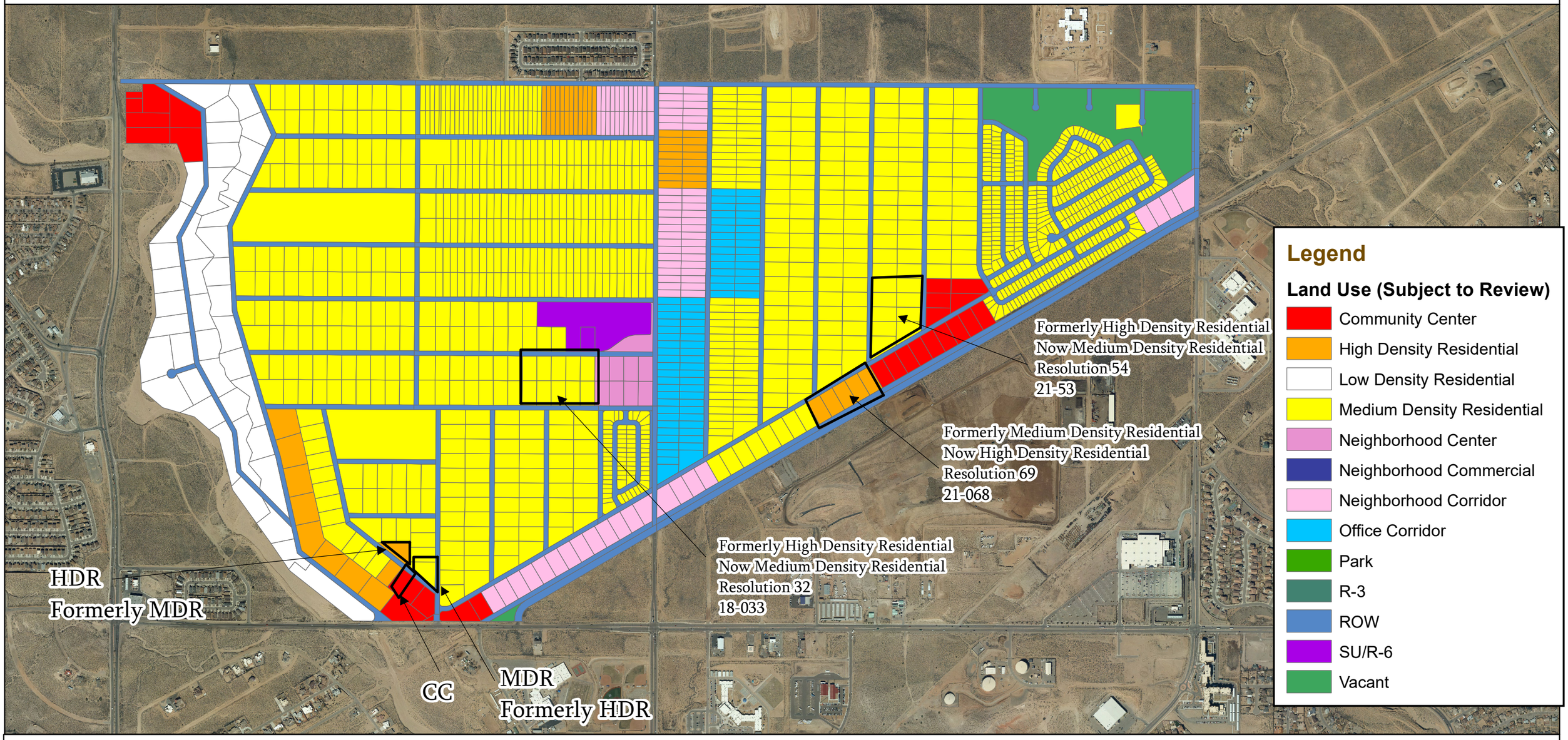
RioRancho City of Vision

GIS Moving Spatial Data Forward

LOMAS NEGRAS AREA LAND-USE EXHIBIT



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RioRancho
City of Vision

GIS
Moving Spatial Data Forward

- Expand the City‟s gross receipts tax base by recruiting additional local retail and office uses.
- Make Rio Rancho a place where one can live, work, shop, and play without leaving the city.

The following guidelines were used in developing the future land use plan:

- Mixed Use Activity Centers designated to reduce vehicular travel and promote pedestrian connectivity
- Balance of residential, retail, office, and employment in all neighborhoods
- Community Centers (R-6, O-2, C-1, C-2, MU) located at intersecting arterial streets
- Neighborhood Centers (O-1, R-3, MU, CMU and sometimes C-1) located at intersecting collector streets
- Neighborhood Corridors (CMU, O-1, R-3 and, sometimes, C-1) located along narrow lot strips
- High Density Multi-Family Residential (R-3, R-6, and MU) located along future transit corridors (and near schools that provide open space relief) and located to break up commercial strips
- Low and Medium Density Residential located within the interior of neighborhood super-blocks. Parks and schools are allowable uses in all residential areas.

4.2 Land Use Categories

The *Lomas Negras Specific Area Plan* contains proposed land use categories that are consistent with and promote the goals and policies of the *Vision 2020 – Integrated Comprehensive Plan*. The purpose of creating these land use categories, or sectors, is to identify a range of land use options that would be considered as appropriate within these sectors. The eight land use categories identified in this plan are:

- Community Center
- Neighborhood Center
- Neighborhood Corridor
- Office Corridor
- High Density Residential
- Medium Density Residential
- Low Density Residential
- Park and School sites.

4.2.1 Community Center

Purpose: The Community Center is intended to provide city-wide opportunities for housing, shopping, employment, and industry. Community centers are generally located 2 to 5 miles apart and potentially serve major discount retailers. Community centers include one- to five-story non-residential and multi-family residential buildings. Multi-family homes are permitted at the perimeter of the district. Parking accommodations are made with tree-shaded and screened, surface parking lots broken into small areas.

Acreage: 13.2 acres

Allowable Uses in the following zoning districts:

- C-1 Retail Commercial District; Min. Lot Size: 21,780 SF, 35 ft. setback, 32 ft. height
- C-2 Wholesale and Warehouse Commercial District; Min. Area: 10,890 SF, 35 ft. setback, 32 ft. height
- O-2 Office/ Institutional District; Min. Lot Size: 21,780 SF, 35 ft. front setback, 1 ft. setback per 1 ft. height side and rear, 32 ft. height, 15% lot landscaped, 50% in front
- MU/A Mixed Use Activity Center District, 20-100 acres, 48 ft. height, Max. footprint: 15,000 SF, 15 ft. front, 10 ft. rear setback. Master plan approval is required.
- SU/ MU Special Use District for Mixed Uses: May be a combination of 2 or more land uses to include live-work units, multi-family, office, and retail commercial either side-by-side or within the same building. Retail and office uses should comprise at least 51% of the subdivision, property, or building. Site plan approval by the Planning and Zoning Board is required.
- R-6 Multi-Family Residential District
  Min. Lot Size: 10,000 SF, High Density: 35.6 DU/A, 72 ft. height.
- R-3 Multi-Family Residential District; Min. Lot Size; 1,200 SF (Townhouses) to 10,000 SF (Apartments), 32 ft. height; High Density: 29.0 DU/A

The City will rezone properties in designated Neighborhood Centers as the highest and best use: C-2 Retail Commercial District. They may be later rezoned to one of the districts listed above.

4.2.1 Neighborhood Center

Purpose: The Neighborhood Center is intended to provide multiple opportunities to neighborhood residents for housing, shopping, employment, and recreation with providing higher density and intensity than found along the corridor. The neighborhood center includes one- to two-story, non-residential and multi-family residential buildings. Neighborhood centers are generally 1 to 2 miles apart and potentially serve as grocery-anchored retail centers. Multi-family homes are permitted at the perimeter of the district. Parking accommodations are made with on-street parking and landscaped, shared surface parking lots located behind buildings.

Acreage: 30.0 acres

Allowable Uses in the following zoning districts:

- C-1 Retail Commercial District; Min. Lot Size: 21,780 SF, 35 ft. setback, 32 ft. height
- CMU Mixed Use (Neighborhood) Commercial District; Min. Lot Size: 10,890 SF, 35 ft. setback, 32 ft. height
- O-1 Office/ Institutional District; Min. Lot Size: 10,890 SF, 25 ft. front setback, 1 ft. setback per 1 ft. height side and rear, 20 ft. height, 15% lot landscaped, 50% in front
- O-2 Office/ Institutional District; Min. Lot Size: 21,780 SF, 35 ft. front setback, 1 ft. setback per 1 ft. height side and rear, 32 ft. height, 15% lot landscaped, 50% in front
- MU/A Mixed Use Activity Center District, 10-20 acres, 26 ft. height, Max. footprint: 6,000 SF, 15 ft. front, 10 ft. rear setback. Master plan approval is required.
- SU/ MU Special Use District for Mixed Uses: May be a combination of 2 or more land uses to include live-work units, multi-family, office, and retail commercial either side by side or within the same building. Site plan approval by the Planning and Zoning Board is

required. Retail and office uses should comprise at least 51% of the subdivision, property, or building.
- R-3 Multi-Family Residential District; Min. Lot Size; 1,200 SF (Townhouses) to 10,000 SF (Apartments), 32 ft. height; High Density: 29.0 DU/A

The City will rezone properties in designated Neighborhood Centers as the highest and best use: C-1 Retail Commercial District. They may be later rezoned to one of the districts listed above.

4.2.2 Neighborhood Corridor

Purpose: The Neighborhood Corridor is intended to also provide multiple opportunities for neighborhood residents for housing, shopping, employment, and recreation but with less density and intensity of uses. The corridor includes one- and two-story, non-residential buildings. Clusters of single-family homes are permitted at the perimeter of the corridor. Parking accommodations are made with on-street parking and landscaped, shared surface parking lots located behind buildings.

Acreage: 55.1 ~~43.1~~

Allowable Uses in the following zoning districts:
- C-1 Retail Commercial District; Min. Lot Size: 21,780 SF, 35 ft. setback, 32 ft. height
- CMU Commercial Mixed Use District; Min. Lot Size: 10,890 SF, 35 ft. setback, 32 ft. height
- O-1 Office/ Institutional District; Min. Lot Size: 10,890 SF, 25 ft. front setback, 1 ft. setback per 1 ft. height side and rear, 20 ft. height, 15% lot landscaped, 50% in front
- O-2 Office/ Institutional District; Min. Lot Size: 21,780 SF, 35 ft. front setback, 1 ft. setback per 1 ft. height side and rear, 32 ft. height, 15% lot landscaped, 50% in front
- MU/A Mixed Use Activity Center District; 10-20 acres, 26 ft. height, Max. footprint: 6,000 SF, 15 ft. front, 10 ft. rear setback. Master plan approval is required. Retail and office uses should comprise at least 51% of the subdivision, property, or building. Because of the small lots in along the Idalia Rd. corridor, MU/A zoning may only be used if a sufficient number of lots are assembled to provide the minimum 10-acre requirement.
- SU/ MU Special Use District for Mixed Uses: May be a combination of 2 or more land uses to include multi-family, office, and retail commercial either side by side or within the same building. Site plan approval by the Planning and Zoning Board is required.
- R-3 Multi-Family Residential District; Min. Lot Size; 1,200 SF (Townhouses) to 10,000 SF (Apartments); 32 ft. height, High Density: 29.0 DU/A

The City will rezone properties in designated Neighborhood Centers as the highest and best use: C-1 Retail Commercial District for ½ acre lots or greater and CMU Commercial Mixed Use District for ½ acre and smaller lots. They may be later rezoned to one of the districts listed above.

4.2.2 Office Corridor

Purpose: The Office Corridor is intended to also provide a transition between residential and commercial uses.

Acreage: 32 ~~44.9 acres~~

The City of Rio Rancho

Development Services
Planning Division
3200 Civic Center Circle NE
Rio Rancho, NM 87144
Phone (505) 891-5005 ● Fax (505) 896-8994

September 22, 2023

RE: Zone Map Amendment and Specific Area Plan Amendment
Case No. 23-100-00005 and 23-410-00005
Unit 13, Block 68, Lots 5-8

Dear Property Owner:

You are receiving this certified notice because your property abuts a site where a land development decision is required by the Governing Body.

The applicant, J Jacob Enterprises, Inc., is requesting approval of a Zone Map Amendment from SU/C-1 and O-1 to SU/R-6, for the subject property legally described as U13, Blk 68, Lots 5, 6, 7, and 8. The applicant is also requesting a Specific Area Plan Amendment for the Lomas Negras Specific Area Plan. The properties total 4 acres and are located on the north side of Idalia Rd, west of Broadmoor Blvd.

The **Governing Body** will consider the request on **Thursday, October 12, 2023** at 6:00 pm in the **Council Chambers** and **Virtually** as a hybrid meeting, through the **Zoom link and number below.**

On the back of this letter is a location map of the project, with the subject property identified with the black outline.

If you would like to comment on this application, you are encouraged to send in comments in writing, which will be presented to the Governing Body. This Governing Body meeting will be hybrid with options to participate virtually or in person. The City highly encourages citizens to watch the meeting live on the City's website www.rrnm.gov or on Sparklight cable channel 56.

For the **Governing Body Meeting**, to participate virtually: Join via computer: https://us06web.zoom.us/j/85302353741?pwd=bWp1QXliSGJoeHhJaGVOczF4MDN0UT09 or call 1-720-707-2699 Meeting ID: 853 0235 3741 **Passcode:** 789419

Please do not hesitate to contact me via e-mail me at lruizcarlos@rrnm.gov or call me at 505-896-8785, if you have any questions concerning this matter. The agenda for this hearing and related staff reports will be posted on the City's website, www.rrnm.gov, the Friday before the hearing.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the City Clerk, 505-891-5004, as soon as possible prior to the meeting. Please contact the City Clerk if a summary or other type of accessible format is needed.

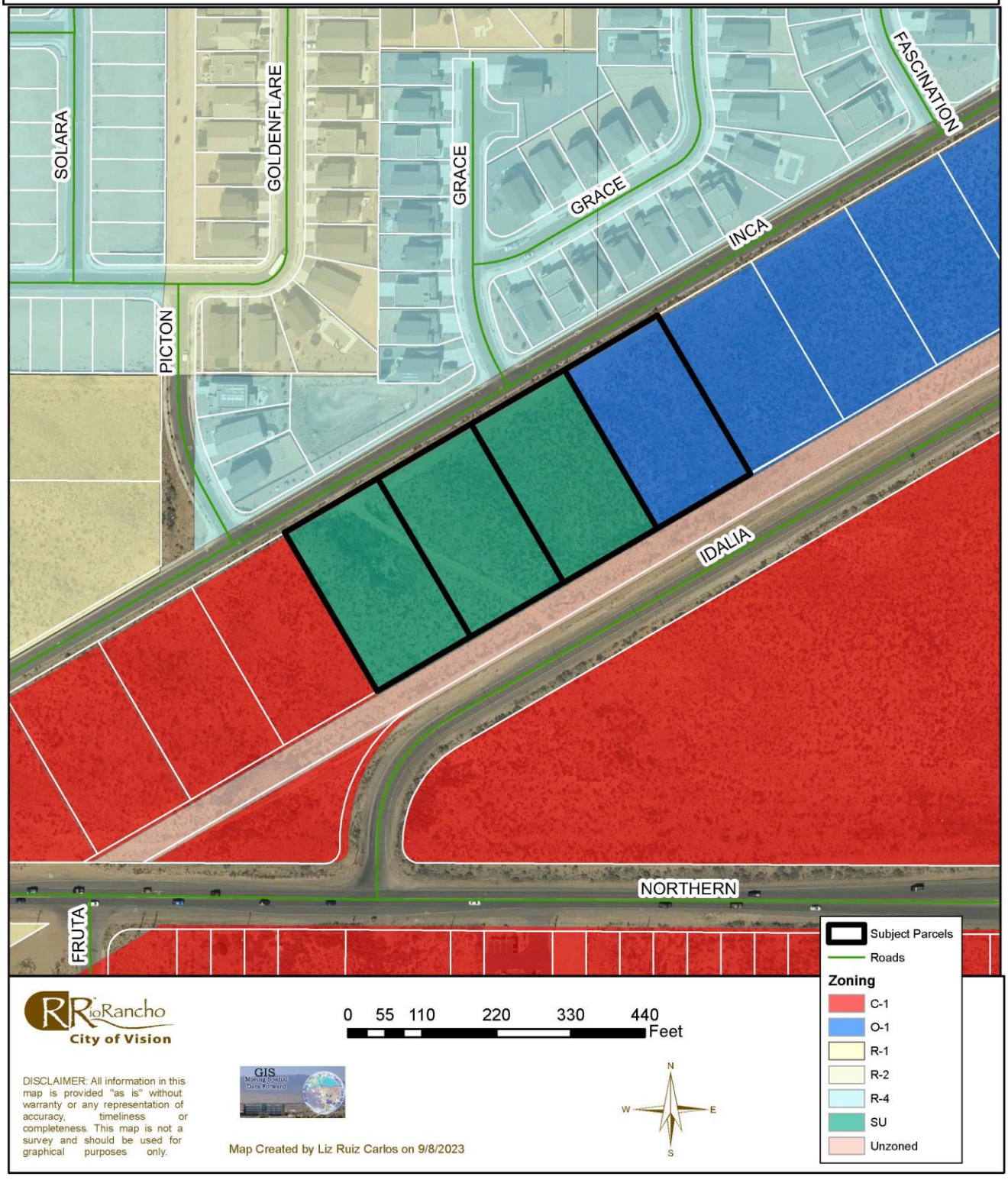
Respectfully,

Liz Ruiz Carlos
Municipal Planner II
Development Services Department
City of Rio Rancho

The City of Rio Rancho

Development Services
Planning Division
3200 Civic Center Circle NE
Rio Rancho, NM 87144
Phone (505) 891-5005 ● Fax (505) 896-8994

UNIT 13, BLOCK 68, LOTS 5-8
ZONE MAP AMENDMENT & SAP AMENDMENT



CITY OF RIO RANCHO
PUBLIC HEARING NOTICE

The GOVERNING BODY of the CITY OF RIO RANCHO, NM, will consider the following matter at its regularly scheduled meeting on Thursday, October 12, 2023 at 6:00 pm:

Text Amendment
Case #23-105-00003
The applicant, City of Rio Rancho, requests to amend City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 154 Planning and Zoning for the addition of Section 154.45 Off-Premises Advertising Signs. This is the first reading of the proposed text amendment.

Text Amendment
Case #22-105-00002
The applicant, City of Rio Rancho, requests a text amendment to repeal and replace City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 156 Sign Regulations. This is the first reading of the proposed text amendment.

Zone Map Amendment
Case #23-100-00006
The applicant, Outer Rim Investments, Inc., requests a Zone Map Amendment from Unzoned to R-1: Single Family Residential for the property legally described as Unit 7, Block 18, Lots 128-129, and 132-134. The subject property is approximately 2.5 acres.

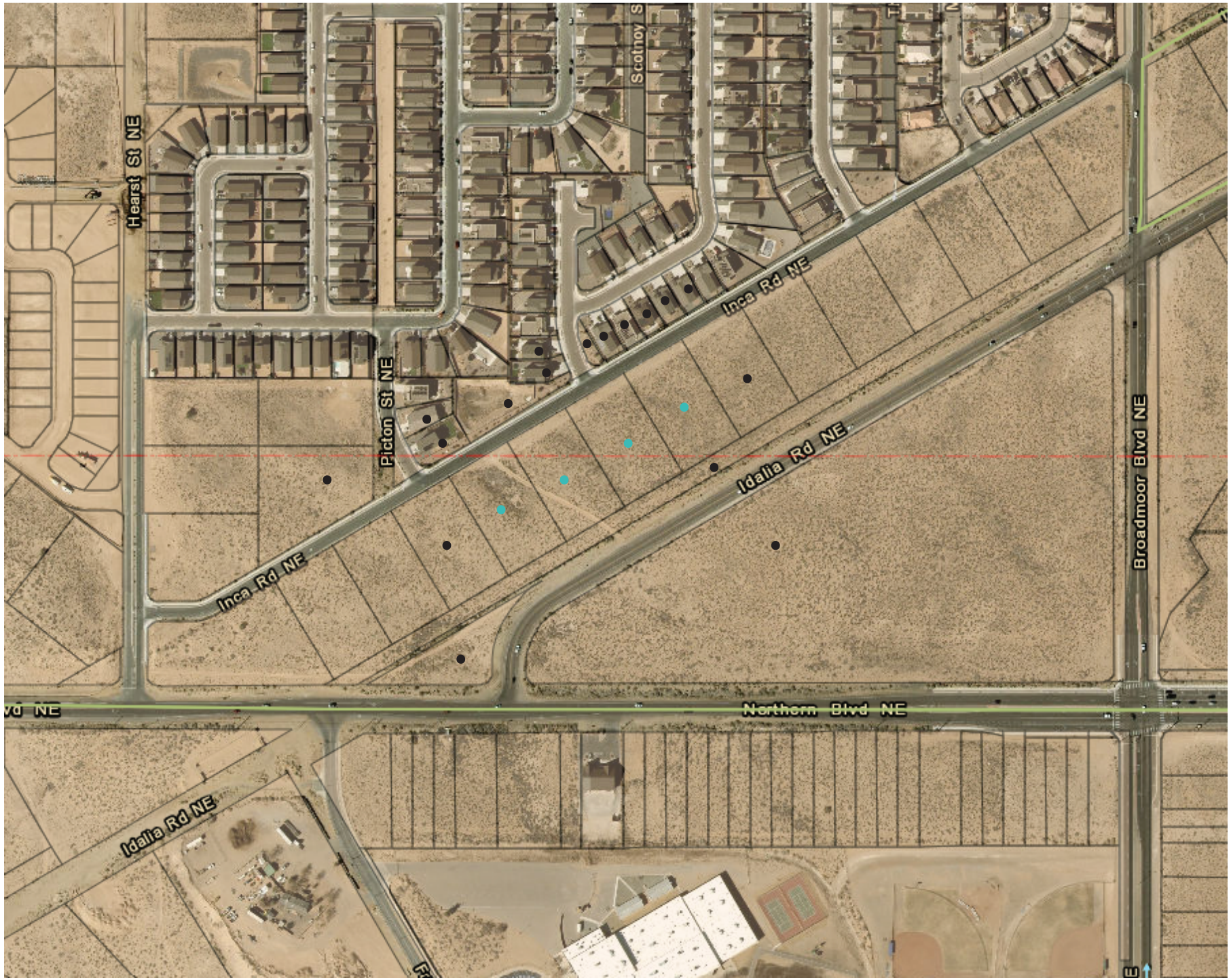
Zone Map Amendment
Case #23-100-00005
The applicant, J Jacob Enterprises, Inc., is requesting approval of a Zone Map Amendment from SU/C-1 and O-1 to SU/R-6, for the subject property legally described as U13, Blk 68, Lots 5, 6, 7, and 8. The properties total 4 acres and are located on the north side of Idalia Rd, west of Broadmoor Blvd.

Specific Area Plan Amendment
Case #23-410-00005
The applicant, J Jacob Enterprises, Inc. requests approval of an amendment to the Lomas Negras Specific Area Plan.

The meeting is scheduled in the Council Chambers at City Hall, 3200 Civic Center Cir NE, Rio Rancho, NM. The public is invited to attend in person or virtually at www.rrnm.gov. Materials related to these items are available for viewing in the Development Services Department at City Hall.

If you would like to comment on any of these applications, you are encouraged to submit a written comment to planning @rrnm.gov Written comments will be inserted into the public record.

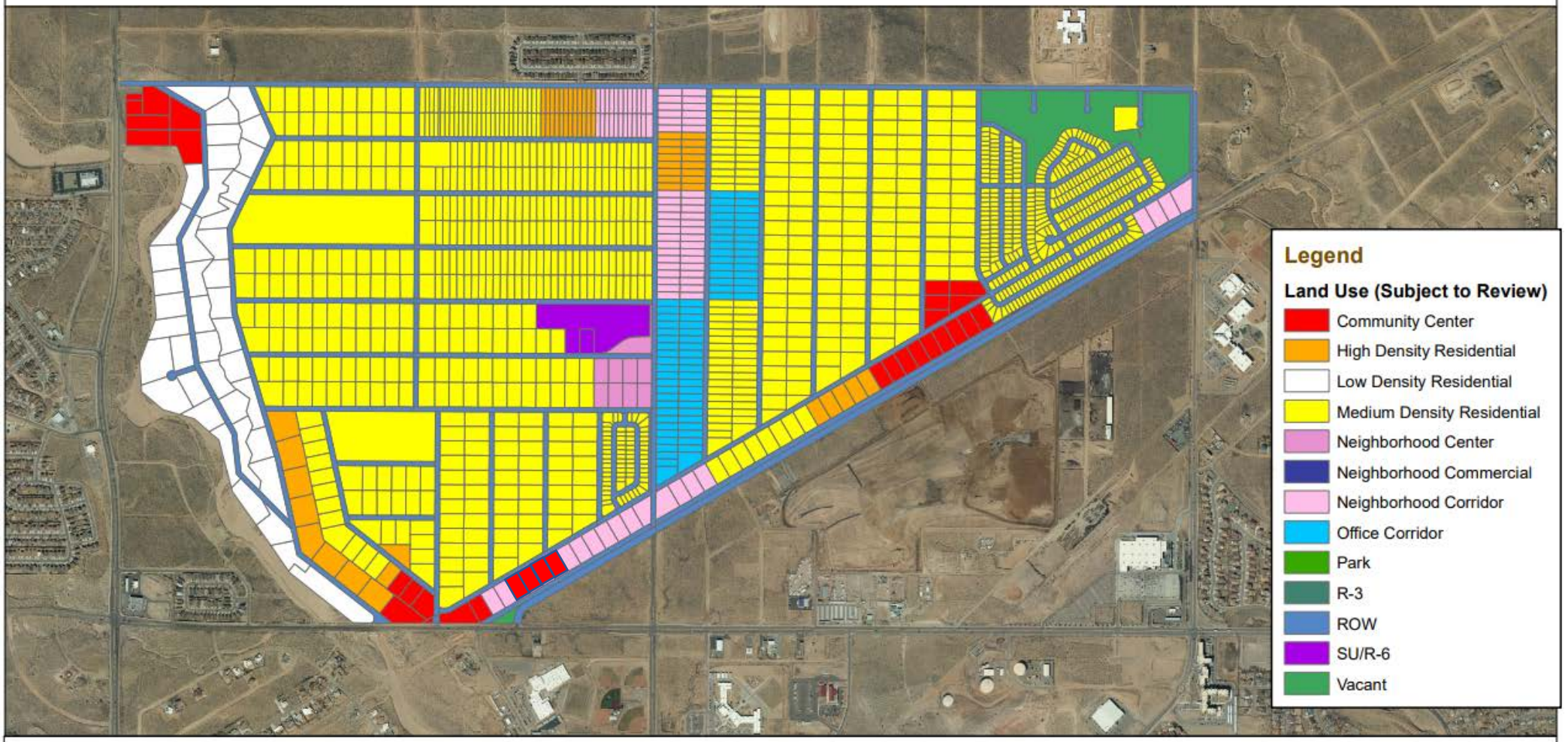
Journal: September 27, 2023



Notice Map:

• - Certified Mail, return receipt requested

LOMAS NEGRAS AREA LAND-USE EXHIBIT



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Map Created by Jansen Lyons 9-14-2023

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RR Rio Rancho City of Vision

GIS

Exhibit 12: Future Land Use	Zoning Districts	Acrea ge	%	Densit y	Population
Community Center	C-2 designated (C-1, SU/MU, MU/A, R-6)	13.2	1.3%	-	0
Neighborhood Center	C-1 designated (CMU, O-1, O-2, SU/ MU, MU/A, R-3)	32.0	3.3%	-	0
Neighborhood Corridor **CMU on south side of Montezuma will be C-1 if lots consolidated*	C-1 designated CMU designated* (O-1, SU/ MU, MU/A, R-3)	37.7 0.0	3.8%	-	0
Office Corridor	O-1 designated O-2 designated	36.7 15.0	3.7% 1.5%	-	0
High Density Residential	R-6 R-3 undesignated	9.1 19.3 24.5	0.9% 2.0% 2.5%	32 36 34	291 1,055 1,401
Medium Density Residential	R-4 R-5 undesignated	15 2.5 0.0 33 0.3	15.5 % 33.7 %	10.9 17.4 11.8	1,662 0 3,113
Low Density Residential	R-1 R-2 undesignated	70.0	7.2% 4.6% 9.2%	6.2 8.7 7.5	168 392 1,134
		45.0 90.2			
Parks and Schools	OS, PR, SU-schl (dedicated)	15.5	1.6%	-	0
Streets, Drainage, Utility ROW	-	89.7	9.1%	-	0

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: O25

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Development Services

SUBJECT:
O25, Ordinance Amending the Zoning Classification and Official Zoning Map for the Property Legally Described as Rio Rancho Estates Unit 13, Block 68, Lots 5-8, From SU/C-1 and O-1 to Special Use (SU) for Multi-Family Residential, Identifying Conditions of Development, Providing for Severability and an Effective Date

BACKGROUND AND ANALYSIS:
The applicant, J Jacob Enterprises, Inc., is requesting approval of a Zone Map Amendment from SU for C-1 and O-1 to SU: Special Use for Multi-Family Residential uses, for the subject property legally described as Unit 13, Block 68, Lots 5, 6, 7, and 8. The properties total 4 acres and are located between Inca Rd NE (residential street) and Idalia Rd NE (minor arterial), addressed off of Inca Rd NE. The property is west of Broadmoor Blvd. NE (minor arterial) and north of Northern Blvd. NE (principal arterial).

The adopted Generalized Land Use Map (GLUM), Map L-2 of the City Comprehensive Plan identifies the subject property as "Commercial (Neighborhood Community), Mixed-Use, Office" and will be amended to a "High Density Residential" land use. The subject property's Land Use is guided by the Lomas Negras Specific Area Plan, currently designated as "Neighborhood Corridor".

Concurrent to this Zone Map Amendment request, is an amendment to the Lomas Negras Specific Area Plan. The Specific Area Plan amendment request is to change the Land Use from Neighborhood Corridor to Community Commercial and update the Future Land Use Table.

This request was heard by the Planning and Zoning Board at their meeting on September 26, 2023, after being postponed from the September 12, 2023 Planning and Zoning Board Meeting. The motion to recommend approval carried by a vote of four (4) and 0 against.

CONFORMANCE WITH THE CITY ZONING ORDINANCE:

City of Rio Rancho Code of Ordinances (R.O. 2003) Section 150.07 (A) requires that an applicant file a request for a zone map amendment through the City Planning & Zoning Board when a change in zoning designation is sought.

The Planning and Zoning Board recommends the Governing Body find that the application, presented as an attachment, meets the submittal requirements for the proposed zoning request. Criteria is satisfied.

Pursuant to the criteria provided by R.O. 2003 Section 150.07 (D) through (G), a request for change in zoning designation must address the following policies and criterion for a zone map change:

(D) The following policies for deciding zone map change applications pursuant to the City zoning code are hereby adopted:

(1) A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the City.

The applicant states: "the proposed zone map amendment is consistent with the health, safety, morals, and general welfare of the City through the creation of development conditions necessary for a new multi-family neighborhood and locates residents closer to goods and services, make the remaining land more viable for development commercial use, and will provide expanded housing and lifestyle choices for current and future residents."

The Planning and Zoning Board recommends the Governing Body find that the proposed zoning is consistent with the health, safety, morals and general welfare of the City. The requested Zone Map Amendment would enable additional multi-family housing dwellings in the City of Rio Rancho, providing residents with increased housing options in a growing area of the City. In the last five years, amendments to the Lomas Negras Specific Area Plan have resulted in a net loss of 15.26 acres of "High Density Residential" Land Use in the surrounding area, and a separate Zone Map Amendment has resulted in a loss of 18.83 acres of R-6: Multi-Family Residential (Ordinance No. 23, Enact. 21-25); see attachment for mapping of these areas. This proposed Zone Map Amendment request would allow for approximately four (4) acres of multi-family residential zoning and land use to return in this area of the City, consistent with the morals and welfare of the City.

The Planning and Zoning Board recommends the Governing Body finds that the multi-family development may provide a transition zone between Commercial zoned properties to the south and single-family neighborhoods to the north, consistent with the health, safety, morals, and welfare of the City and its residents.

(2) Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should be made.

The applicant states: "If granted, the Special Use Zone Map Amendment will have a positive effect on the stability of land use and zoning. The proposed zoning will provide development that is more compatible with surrounding uses and will contribute achieving a vibrant community with a mix of housing and lifestyle choices. The site has remained undeveloped for 20+ years and the influx of more people in the area will serve as an incentive for commercial development to build on the adjacent parcels. The change of R-6/Multi-Family Residential is more appropriate than the SU/Commercial designation because the development seeks to enhance the current character of the area and not change it."

The Planning and Zoning Board recommends the Governing Body find that the zone change will bring added stability to the area as it will act as a buffer and transition between lower density development to the north and commercial zoning to the south. The proposed Zone Map Amendment would provide multi-family development in an area of the City that has seen approximately 34 acres of high density land use and zoning amended and reduced since 2018, allowing for a stability of multi-family land uses and potential connectivity to adjacent commercially zoned properties.

(3) A proposed change shall generally be consistent with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City.

The applicant states: "[the request] furthers principles of the Comprehensive Plan in the following ways: it ensures a land use pattern that encourages a mix of housing and lifestyle opportunities in an area that has no other housing choices. It helps to create a more efficient transportation network by reducing automobile trips, congestion and improving air quality as compared to the same number of single family homes. Multifamily housing supports the expansion and diversification of the local workforce. An expanding housing supply often both indicates and allows for an expanding economy and local business. All of the factors are consistent with and further the Comprehensive Plan."

The applicant includes in their justification letter the following goals and policies of the City Comprehensive Plan:

- Vision for Growth (V-1)
- Land Use Goals L-1, L-2, and L-3
- Population and Housing Goals PH-1 and PH-3
- Population and Housing Policy PH-5 and PH-12
- Transportation Goal TR-1
- Economic Development Goals EDP-3 and EDR-2

The Planning and Zoning Board recommends the Governing Body find that the zone change is consistent with adopted elements of the Comprehensive Plan. The request would address Goals L-1 and L-3 of the Land Use Element of the Comprehensive Plan, by promoting a balance of land uses and a mixture of uses along arterial roads in the City (Idalia Road). The request for multi-family zoning adjacent to commercially zoned properties may also promote and support development that incorporates walkability, meeting Policy L-3.

The Planning and Zoning Board recommends the Governing Body find that the proposed change to SU: Special Use for Multi-Family Residential Uses promotes and furthers goals and policies of the Population and Housing Element of the City Comprehensive Plan. The proposed zoning and site plan furthers Goal PH-3: Promote a variety of housing types to meet the needs of all members of the community, as well as Policies PH-1 and PH-4. These policies are to "Promote quality, community-friendly multifamily development, through features such as enhanced open space and pedestrian connectivity" (PH-1) and "Establish site and building design guidelines to create an effective transition, or necessary buffer, between substantially different land uses and densities." (PH-4).

The Planning and Zoning Board recommends the Governing Body find that the request meets the Goals and Objectives of the Lomas Negras Specific Area Plan, as the current land use designation allows for multi-family development. The concurrent Specific Area Plan Amendment (case no. 23-410-05) is further aligning the land use with the density proposed by this application. The amendment request to the Lomas Negras Specific Area Plan would allow for higher density multi-family development on the subject property, as the current underlying Land Use allows for R-3 multi-family uses at a slightly lower density. The proposed "Community Commercial" Land Use allows for C-1 and C-2 commercial uses, mixed-use development, and R-6: Multi-Family Zoning.

The Lomas Negras Specific Area Plan lists "Promote a variety of housing choices including low- and medium-density single family residential uses and high-density multi-family residential uses" and "Create neighborhood centers and corridors within walking distance of residences and with a balance of retail, office, and multi-family uses" as goals, which the request would further.

Criteria may be satisfied with the approval of the amendment to the Lomas Negras Specific Area Plan. Request conforms to the Goals, Objectives, and Policies of the City Comprehensive Plan and Lomas Negras Specific Area Plan.

(4) The applicant must demonstrate that the existing zoning is inappropriate because:

(a) There was an error, mistake or is necessary to correct an injustice that occurred when the existing zone map pattern was created, including the placement of an R-1 or transitional zone on an antiquated plat filed before the City's incorporation and adoption of its own zoning code or on land annexed by the City; or
(b) Changed neighborhood or community conditions justify the change; or
(c) A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan, even though (D)(1) or (2) does not apply. Applicant's reliance on this provision requires proof that (i) there is a public need for a change of the kind in question, and (ii) that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

The applicant states that: "In this case, b and c apply. Changed neighborhood and community conditions justify the change. Since the approval of the SU/C-1 zoning, national trends of declining retail have decreased the demand for commercial real estate acreage... In this case, the addition of multifamily is more advantageous because it will add to the variety of housing desired to support the population of the City and support the future development of neighboring commercial by increasing the number of patrons to the establishments and potential employees... The addition of more residents combined with its adjacency to C-1 and and O-1 zoning will provide better conditions for future commercial development to thrive."

The Planning and Zoning Board recommends the Governing Body find that the existing zoning is inappropriate because a different zoning type would be more advantageous for the community. The proposed high density zoning designation serves as a buffer between the C-1 zoning to the south and the R-4: Single Family zoning to the north; as well as provides a more varied mix of housing strategies, per goal PH-6 of the comprehensive plan.

The Planning and Zoning Board recommends the Governing Body find that changed community conditions justify the change and that there is a public need for the change in this area of the City. Amendments to the Lomas Negras Specific Area Plan have resulted in a net loss of 15.26 acres of "High Density Residential" Land Use and Ordinance No. 23, Enactment No. 21-25 resulted in a zone change of 18.83 acres of R-6: Multi-Family to R-2: Single-Family Residential (in what is the Tierra del Norte Master Plan Area); see attachment for mapping of these amendments. The loss of approximately 34.09 acres of high density land use and zoning within the Lomas Negras Specific Area Plan justifies the public need for additional high density residential in order to promote housing variety and provide a transition of land use intensity from adjacent C-1: Retail Commercial Zoned property.

(5) The cost of land or other economic considerations pertaining to the applicant shall not be a determining factor for a change of zone.

The Planning and Zoning Board recommends the Governing Body find that the cost of land or other economic considerations pertaining to the applicant is not considered a determining factor in the change in zoning designation.

(6) Location on a collector or major street is not in itself sufficient justification of apartment, office, or commercial zoning.

The Planning and Zoning Board recommends the Governing Body find that the location of the subject site is not the justification for the change.

(7) A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when: The change will clearly facilitate realization of the comprehensive Plan and any applicable adopted sector development plan or area development

plan; or the area of the proposed zone change is different form surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

The applicant states, "this request to change the existing SU/C-1 to the requested R-6/Multi-Family Residential clearly facilitates the realization of the Comprehensive Plan in a multitude of ways. The request embraces the city's goals, "for higher density housing options and more affordable housing choices;" but these goals warrant, "a mix of zoning designations." This site serves as a, "suitable location for a transition between adjacent zone districts."

The Planning and Zoning Board recommends the Governing Body find that the requested zone map amendment would not create a spot zone, as it functions as a transition between adjacent single-family residential and C-1: Retail Commercial zoned property. The requested multi-family zoning provides a buffer and transition in intensity between the C-1: Retail Commercial property to the south and west, O-1: Office zoned property to the east, and the R-4: Single Family Residential properties to the north. The proposed zoning is more advantageous for the area and realizes elements of the Comprehensive Plan by enabling a variety of housing options, a mix of uses along the minor arterial Idalia Rd corridor, and possible walkability between multi-family and adjacent commercially zoned properties.

SITE PLAN ANALYSIS:
Per 154.43(A)(3) the site plan at a minimum shall contain the following information:
A. Scale and north arrow; A scale bar and north arrow are included on the landscaping plan. Criteria is satisfied.
B. Lot boundaries and easements; The site plan shows the proposed lot boundary after the four subject properties are combined. Criteria is satisfied.
C. Existing and proposed utilities; The development will tie into city water and sewer. Water and wastewater availability statements will be required at the time of building permit.
D. Existing and proposed rights-of way; The site plan shows the existing Inca Rd NE. There are no additional proposed rights-of-way as part of this application. There is a 50' utility easement between the subject properties and Idalia Rd to the south. Criteria is satisfied.
E. Proposed structures with uses, dimensions, and setbacks; The site plan shows one three-story building, mirrored down the middle, featuring 50 units per floor, for 150 units total. Exercise areas and pathways are also depicted on the site plan. There are no proposed pools or club houses with this development. Criteria is satisfied.
F. Proposed ingress, egress, parking, and circulation; The current site plan depicts access to the site off of Inca Rd NE, on either end of the property; with the building pushed to the back of the property and parking acting as a buffer between the building and Inca Rd increasing the distance between the buildings and the single family dwellings to the north.

This configuration took into account input from surrounding residents' concerns, as well as staff comments. Residents expressed concerns surrounding access off of Inca, and suggested access off of Idalia instead; access off of Idalia would require permission from the property owner of the 50' tract to the south that separates the lots from Idalia Rd. The realignment of Idalia Rd shifted some lot lines and depending on the ingress point could be too close to Northern Blvd. The applicant did try to incorporate access off of Idalia, but after meeting with staff, it became apparent that were a myriad of issues with accessing off of Idalia. The applicant would've had to reconcile getting permission from the owner of the property behind them, to access Idalia, as well as from New Mexico Gas Company, to cross their gas line that runs across that property. Additionally, access onto Idalia from these properties was never considered in studies completed by the City for the area, and as a result, access points would need to be discussed and approved by the City; particularly given the subject properties' proximity to Northern Blvd NE.

The site plan denotes 210 parking spaces surrounding the building on three sides. Per 154.76 Off-Street Parking Requirements, 1 bedroom (1BR) units require 1.5 parking spaces and 2 bedroom units require 1.75 parking spaces. Given the development proposes 75 1BR units and 75 2BR units, it warrants 244 parking spaces per City standards, plus 6 guest parking spaces, for a total of 250 spaces. The proposed site plan deviates by 40 spaces or 16%, and the applicant has submitted a parking deviation analysis that breaks down how the proposed 210 spaces are more than adequate per their findings. The analysis is included as an attachment. Given the subject properties' classification as Special-Use, it allows for the opportunity to build-in reduced parking requirements into the site plan and accompanying ordinance that will guide development on the site.

G. Landscaping and landscape buffers; The applicant has included a landscaping plan that denotes tree and shrub counts, as well as overall landscaping calculations. Criteria is satisfied.
J. Elevations; The applicant has included elevations as part of their submittal package. Elevations and building design conform to City and area plan standards. Building height conforms to City Code and Specific Area Plan. Criteria is satisfied.
I. Adjacent property characteristics; The site plan shows Inca Rd NE and provides context for how the site is oriented in relation to Inca. Criteria is satisfied.
J. Preliminary drainage plan. A preliminary drainage analysis has been submitted and further drainage plans will be required at the time they submit for building permit.

SURROUNDING LAND USE/ZONING:
The neighboring properties to the immediate north are zoned R-4: Single-Family Residential, while the properties to the east are zoned O-1: Office Space, and the properties to the south and west are zoned C-1: Retail Commercial.

NOTIFICATIONS: In accordance with State Statute NMSA 3-21-6, which stipulates notification procedures for this type of zoning action, all property owners within 100 feet of the subject properties received a certified letter containing a notice of action and impending Governing Body hearing, with return service requested. A legal notice was published in the Albuquerque Journal on September 27, 2023.

IMPACT:

The Planning and Zoning Board recommends the Governing Body adopt the Zoning Ordinance, subject to the following findings below:

GENERAL FINDINGS OF FACT:
1. The Planning and Zoning Board may make a recommendation to the Governing Body on the applicant’s request for a zone map amendment.
2. The applicant has the authority to apply for a zone map amendment on the subject property.
3. The applicant and adjacent property owners received due process.

SPECIFIC FINDINGS OF FACT FOR APPROVAL:
1. The proposed ordinance change would be consistent with the health, safety, morals, and general welfare of the City by promoting a variety of housing options in an area of the City that has seen a significant decrease in higher density zoning and land use.
2. The applicant has provided sound justification, in a narrative dated August 22, 2023, for the proposed zone change and the zone map amendment would provide for stability of zoning.
3. The proposed zone map amendment would be consistent with the adopted elements, goals, policies, and objective of the Comprehensive Plan and Lomas Negras Specific Area Plan.
4. The applicant has demonstrated that the SU for Multi-family residential designation would be more advantageous zoning for the subject property.
5. The cost of the land or other economic considerations does not appear to be a justification for the

proposed zone map amendment.
6. The applicant has provided sufficient justification that the zone map amendment request is not solely based on the properties' location on Inca Rd NE.
7. The requested zone map amendment would not create a “spot zone,” as the proposed zone change is more advantageous than the existing zoning, realizes elements of the comprehensive plan, and changed community conditions justify the change.

SPECIFIC CONDITIONS OF APPROVAL:
1. Development of the subject property shall be per the approved site plan attached to the SU: Special Use Ordinance
2. Approval of the Zone Map Amendment is pending approval of Specific Area Plan Amendment case no. 23-410-05, which will result in conformance with the Lomas Negras Land Use Map and Future Land Use Table.

If the Board determines the proposed zone map amendment is not justified, the following findings are recommended for denial:

SPECIFIC FINDINGS OF FACT FOR DENIAL:
1. The proposed zone map amendment does not meet the requirements of Rio Rancho Code of Ordinances (R.O. 2003) §150.07(D) Amendments.
2. The proposed zone map amendment does not conform with the Land Use Map and Future Land Use Table in the Lomas Negras Specific Area Plan.

ALTERNATIVES:
1. The Governing Body may approve the request.
2. The Governing Body may deny the request.
3. The Governing Body may modify the request and approve such modifications.
4. The Governing Body may postpone final action on the request and continue the public hearing to request additional information or consider testimony provided at the public hearing.

DEPARTMENT RECOMMENDATION:
The Planning and Zoning Board recommends the Governing Body adopt the Ordinance.

ATTACHMENT: Ordinance
ATTACHMENT: Location_Zoning Map.pdf
ATTACHMENT: Zone Map for Larger Surrounding Area.pdf
ATTACHMENT: Application and Renderings.pdf
ATTACHMENT: Justification Letter.pdf
ATTACHMENT: Rendered Site Plan.pdf
ATTACHMENT: Landscape Plan.pdf
ATTACHMENT: Parking Deviation Request Reference Material.pdf
ATTACHMENT: Transportation Engineering Multifamily Parking Memo.pdf
ATTACHMENT: Last 5 Years Changed Zoning and Land Use Exhibit.pdf
ATTACHMENT: Lomas Negras SAP Existing Land Use
ATTACHMENT: Reproduction of Notices_GB.pdf
ATTACHMENT: Public Comment 1.pdf
ATTACHMENT: Public Comment 1A.xlsx
ATTACHMENT: Public Comment 2.pdf
ATTACHMENT: Public Comment 3.pdf
ATTACHMENT: Public Comment 4.pdf
ATTACHMENT: Public Comment 5.pdf

ATTACHMENT: Public Comment 6.pdf
ATTACHMENT: Public Comments Mapped.pdf
ATTACHMENT: September 26, 2023 Planning and Zoning Board Meeting DRAFT Minutes

CITY OF RIO RANCHO
ORDINANCE

ORDINANCE NO. **ENACTMENT NO.**

ORDINANCE AMENDING THE ZONING CLASSIFICATION AND OFFICIAL ZONING MAP FOR THE PROPERTY LEGALLY DESCRIBED AS RIO RANCHO ESTATES UNIT 13, BLOCK 68, LOTS 5-8, FROM SU/C-1 AND O-1 TO SPECIAL USE (SU) FOR MULTI-FAMILY RESIDENTIAL, IDENTIFYING CONDITIONS OF DEVELOPMENT, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS: the Governing Body of the City of Rio Rancho has adopted zoning regulations and an official zone map in accordance with New Mexico Statutes Annotated 1978 (NMSA 1978) Chapter 3, Article 21; and

WHEREAS: in accordance with Rio Rancho Code of Ordinances (R.O. 2003) Section 150.07, an application to amend the zoning ordinance on the subject property has been submitted by The City of Rio Rancho, and assigned City Case No. 23-100-00005; and

WHEREAS: the City of Rio Rancho adopted the Lomas Negras Specific Area Plan on June 25, 2008 pursuant to Resolution No. 56 Enactment 08-51; and amended the plan on July 8, 2009, pursuant to Resolution No. 75 Enactment 09-74; February 23, 2011, pursuant to Resolution No. 15 Enactment 11-17; May 27, 2021, pursuant to Resolution No. 54, Enactment No. 21-053; July 22, 2021, pursuant to Resolution No. 69, Enactment No. 21-068; and October 12, 2023, pursuant to Resolution No.__, Enactment No. 23-__

WHEREAS: the City of Rio Rancho Planning and Zoning Board held a duly noticed public hearing on September 26, 2023, regarding the proposed changes to the Official Zoning Map and, following study and consideration, has made findings (where applicable) whether or not the criteria in R.O. 2003 Section 150.07 are satisfied, and made these recommendations to the Governing Body regarding adoption of the changes; and

WHEREAS: the Governing Body received a report from the Planning and Zoning Board, and such report indicates the Planning and Zoning Board has studied and considered the proposed changes pursuant to R.O. 2003 Section 150.07, and said report includes specific findings related to the affected property; and

WHEREAS: a public hearing occurred, in accordance with procedures set forth in R.O. 2003 Section 150.07, and NMSA 1978 Section 3-21-6, on the proposed zoning district and Official Zone Map changes hereinafter described were duly advertised and held by the Governing Body of the City of Rio Rancho on October 12, 2023 and the Governing Body heard interested parties and citizens for and against the proposed amendments; and

WHEREAS: the proposed amendments to be adopted by this Ordinance comply with the statutory and regulatory requirements of the aforesaid Code of Ordinances and Statutes, and upon specific findings related to the subject property and determining the proposed amendment is consistent with the policies and criteria set forth in R.O. 2003 Section 150.07 (D) through (G), the Governing Body finds the amendments promote the health, safety, morals, and general welfare of the City.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

Section 1. Rezoning of property and Change in Land Use.

A. The Official Zone Ordinance is hereby amended on approximately 4 acres from a SU/C-1 and O-1: Office Zoning District to a Special Use for Multi-family residential on the land legally described as:

Rio Rancho Estates Unit 13, Block 127, Lots 5-8, as shown on "SW PORTION OF UNIT THIRTEEN RIO RANCHO ESTATES, TOWN OF ALAMEDA GRANTM SANDOVAL COUNTY, NEW MEXICO" filed in the office of the County Clerk of Sandoval County, New Mexico on April 22, 1963 in Volume RR1, Folio 49.

B. The City Comprehensive Plan, Generalized Land Use Map (GLUM), Map L-2 is hereby amended in the land described in Section 1A above, as having a "High Density Residential" GLUM designation.

Section 2. Land Use, Conditions, Development Standards/Regulations and use of PROPERTY:

A. The property identified in Section 1, above, is subject to all requirements of the R-6: Multi-Family Residential District; as set forth in R.O. 2003 Section 154.13 (as of the effective date of this ordinance or as subsequently amended).

B. The property identified is subject to the following development standards:
   1. Unit Count per the approved site plan.
   2. Landscaping shall be provided at rate of one tree and three shrubs per unit.
   3. Parking space calculations will be determined at a rate of 1.4 spaces per unit.

C. The approved site plan is included as Exhibit A.

D. Minor changes to the site plan may be approved by the Director of Development Services as regulated by R.O.2003 Section 154.43 (as of the effective date of this ordinance or as subsequently amended).

E. Major changes to the site plan will be required to have Governing Body review and approval.

Section 3. Severability Clause. If any section, paragraph, clause, or provision of this Ordinance, or any section, paragraph, clause, or provision of any regulation promulgated hereunder shall for any reason be held to be invalid, unlawful, or enforceable, the invalidity, illegality, or unenforceability of such section, paragraph,

clause, or provision shall not affect the validity of the remaining portions of this Ordinance or the regulation so challenged.

Section 4. Effective Date. This Ordinance shall become effective ten days after adoption.

ADOPTED THIS _____DAY OF _____, 2023.

_____
Greggory D. Hull, Mayor

ATTEST:

_____
Rebecca A. Martinez, City Clerk
(SEAL)

UNIT 13, BLOCK 68, LOTS 5-8
ZONE MAP AMENDMENT

Rio Rancho
City of Vision

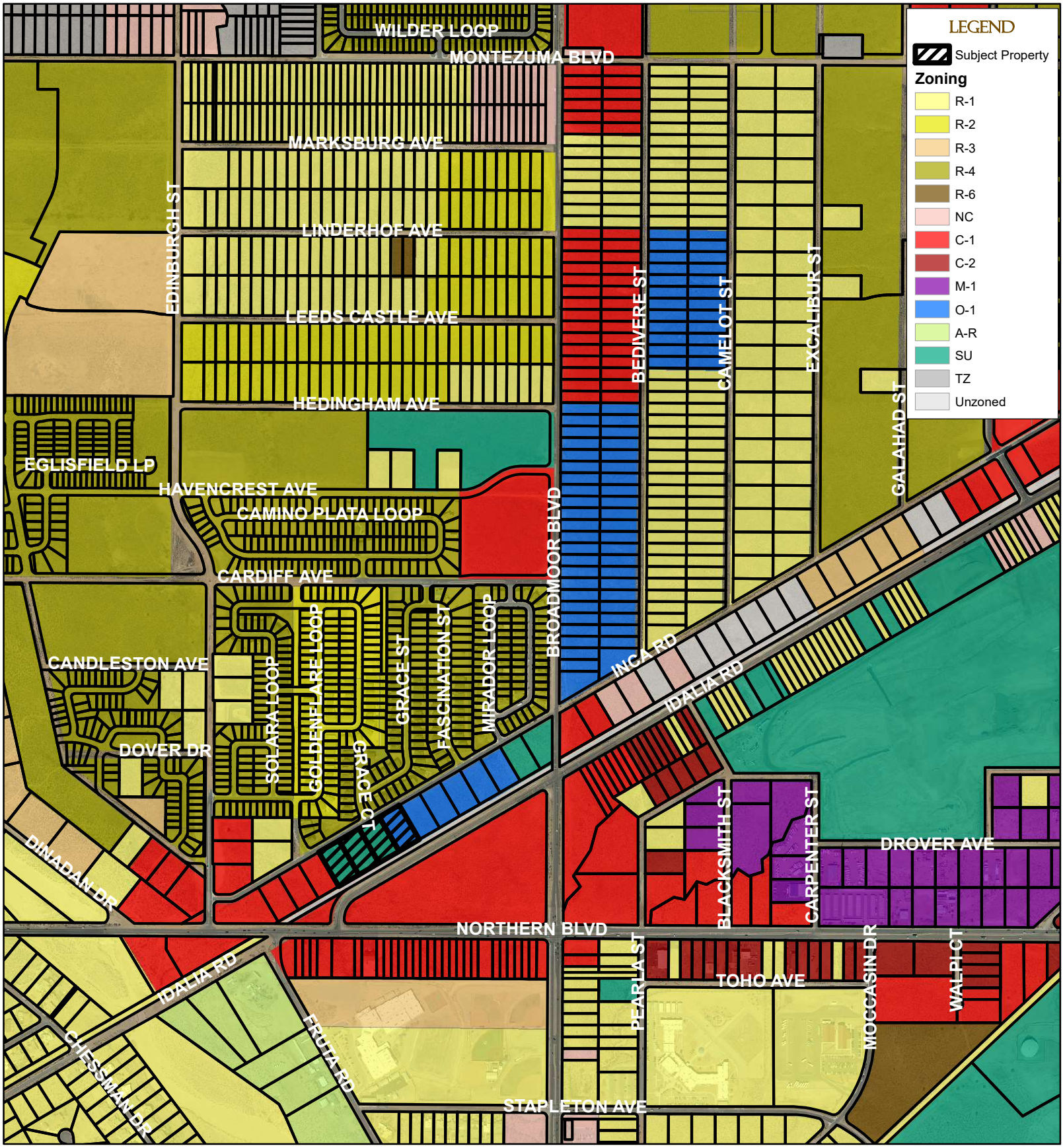
0 55 110 220 330 440 Feet

N
W E
S

DISCLAIMER: All information in this map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This map is not a survey and should be used for graphical purposes only.

Map Created by Liz Ruiz Carlos on 8/24/2023

INCA MULTI-FAMILY: LARGER AREA ZONING



DISCLAIMER: All information in this map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This map is not a survey and should be used for graphical purposes only.

RioRancho City of Vision

GIS Moving Spatial Data Forward

Map Created by Brian Babyak on September 20, 2023

0 0.15 0.3 0.6

Miles

N W E S

Development Services Department, Ste. 130
3200 Civic Center Circle NE, Rio Rancho, NM 87144
(505) 891-5005

PLANNING & ZONING LAND USE APPLICATION

Please check appropriate box

Administrative Permit	Plan	Subdivision	Zoning
☐ Community Residential Care Facility	☐ Comprehensive Plan Amendment	☐ Final Plat	☐ Annexation
☐ Development Review Committee (DRC)	☐ Corridor Plan Amendment	☐ Preliminary Plat	☐ Appeal
☐ Home Occupation	☐ Master Plan	☐ Summary Plat	☐ Conditional Use Permit
☐ Model Home / Sales Office	☐ Master Plan Amendment	☐ Vacation of Plat/Street	☐ Master Sign Plan
☐ Residential Child Care Facility 6 or <	☐ Specific Area Plan Amendment	☐ Street Name Change	☐ Site Plan
☐ Sign Permit	☐ Text Amendment	☐ Subdivision Interpretation	☐ Special Exception
☐ Other		☐ Subdivision Variance	☐ Variance
			☒ Zone Map Amendment
			☐ Zoning Certification
			☐ Zoning Interpretation

Please Print In Ink Only or Type
Application must be complete. Please attach the appropriate checklist for the action you are requesting, if applicable.

APPLICANT/AGENT INFORMATION

Applicant Name: J Jacob Enterprises, Inc.		Phone: (505) 344-5300
Address: 100 Sun Ave NE, Suite 600		E-Mail: jerome@jacobenterprises.com
City: Albuquerque	State: New Mexico	Zip: 87109
Proprietary Interest: Owner	List Owners: Jerome Maldonado	
Deed or Ownership Verification Provided: (Initials)	Letter of Authorization Provided: (Initials)	
Agent Name: Modulus Architects & Land Use Planning, Inc.		Phone: (505) 338-1499 ext. 1000
Address: 100 Sun Ave NE, Suite 600		E-Mail: angela@modulusarchitects.com
City: Albuquerque, NM 87109	State: NM	ZIP Code: 87109

DESCRIPTION OF REQUEST: (PLEASE ADD ADDITIONAL SHEET(S) IF NECESSARY)

This request is for a Zone Map Amendment / Site Plan Approval for SU/R-6 for a 150 Unit Multifamily project. Current zoning is SU/C-1

SITE INFORMATION: (PLEASE PROVIDE ACCURATE LEGAL DESCRIPTION)

Subdivision/Unit : Rio Rancho Estates	Block(s): 68	Lot(s): Lots 5 – 8
Existing Zoning: SU/C-1	Proposed Zoning: SU/R-6	
No. of existing lots: 4	No. of proposed lots: 4	Total area of site (acres) 4 Acres

ACKNOWLEDGEMENT

I hereby acknowledge that I have read this entire application and affirm that all information provided is correct. I agree to comply with the requirements of the City of Rio Rancho as outlined in all applicable laws, ordinances and regulations.

Print Name: Angela M. Williamson Piarowski	Applicant: Agent for Owner	Agent:
Signature: Angela M. Piarowski, Agent		Date: 06/29/2023

FOR OFFICIAL USE ONLY

H.T.E. PROJECT #	FEE	RECEIPT #

APPLICATION ACCEPTED BY: _____ **DATE:**

Form revised January 26, 2017

City of Rio Rancho
Development Services
3200 Civic Center Circle NE, 1st Floor
Rio Rancho, NM 87144
(505) 891-5005 Fax: (505) 896-8994

Zone Map Amendment

Fees

Less than one (1) acre	$ 266.00
One (1) to 4.99 acres	$ 531.00
Five (5) to 9.99 acres	$ 797.00
Ten (10) to 49.99 acres	$1,063.00
Fifty (50) to 100 acres	$1,328.00
Over 100 acres	$1,328.00 for the first 100 acres + $ 266.00 Per each additional acre(s) or portion thereof.

Applicant

Name (Print): **J Jacob Enterprises, Inc.**

Address: **100 Sun Ave NE, Suite 600**

City: **Albuquerque** State: **NM** Zip: **87109**

Phone (W): **(505) 344-5300** Phone (Other): **(505) 338-1499**

Email: **jerome@jjacobenterprises.com**

Proprietary interest in site: List ALL owners: Jerome Maldanado

Agent

Name (Print): **Modulus Architects & Land Use Planning, Angela Piarowski (Agent)**

Address: **100 Sun Ave NE, Suite 600**

City: **Albuquerque** State: **NM** Zip: **87109**

Phone (W): **(505) 338-1499** Phone (Other):

Email: **angela@modulusarchitects.com**

Description of Request: **Zone Map Amendment/ Site Plan Approval for SU/R-6 for a 150 Unit multifamily project. Current zoning for Lots 5,6 & 7 is SU/C-1 and zoning for Lot 8 is O-1 - Subject site is 4-acres.**

Legal Description of Property

Existing

Subdivision/Unit: Rio Rancho Estates Block: Block 68 Lot: Lots 5, 6, 7 & 8

Rio Tract/Parcel: Zoning: Current Zoning SU/C-1 and O-1
Proposed Zoning : SU/R-6

Proposed

Subdivision/Unit: Rio Rancho Estates Block: 68 Lot: Lots 5, 6, 7 & 8

Tract/Parcel: Zoning: SU/R-6

Site Map of Property

Zone Atlas Page(s): _____ No. of existing lots: 4 No of proposed lots: 4 (at this time)

Total area of site (acres): 4-Acres

Density (if applicable): dwelling units per acre: 50 - DU per acres for a total of 150 units

Location of property by streets: On or Near Idalia, Inca, Northern, Broadmoor

Between Idalia and Inca And Broadmoor

Check off if project was previously reviewed by:

☐ Sketch Plat/Plan ☐ Pre-application ☐ Review/DRC Date of Review: _____

(Print) Name: Angela M. Piarowski

☐ Applicant ☒ Agent

Signature: Angela M. Piarowski Date: June 29, 2023

Additional Explanation/Justification of Request

Please see additional supplemental package that includes the following: Application, Site Plan, Project Renderings, Building Elevations, Landscaping Plan, Summary of Request and Policy Analysis.

For Office Use Only

	Application Case Numbers	Action	Fees	Receipt
☐ Internal Routing				
☐ All Check list(s) Complete				
☐ All Fees Collected				
☐ Case Numbers Assigned				
☐ Case History Listed				

Staff Signature: _____ Date: _____

Hearing Date: _____ Actual Hearing Date: _____

Action Taken: _____

If Platting approved, Date Filed with County Clerk: _____

Book: _____ Page: _____ Subdivision: _____

ORIGINAL PERSPECTIVE PLAN PRESENTED AT THE COMMUNITY MEETING JUNE 14, 2023
PRIOR TO CLOSING ACCESS ON INCA ROAD AND ADDING AN ADDITIONAL 85 FT. BUFFER

STEEL PAINT COLOR =
SW- BITTER CHOCOLATE
SW- 6013

EXTERIOR PANELING =
WOOD CLADDING

EXTERIOR CLADDING =
1 X 2 FACE TILE

EXPOSED SMOOTH =
FACED CMU/PAINT
SW- 6068

3 COAT STUCCO FINISH =
SW- 7633

3 COAT STUCCO FINISH =
SW- 7734

3 COAT STUCCO FINISH =
SW- 6084

3 COAT STUCCO FINISH =
SW- 6068

BUILDING DESIGN-COLOR SCHEME STANDARD

REV	DATE	BY	REVISION
6			
5			
4			
3			
2			
1			

MODULUS ARCHITECTS
100 SUN AVE. N.W. SUITE 600
ALBUQUERQUE, NEW MEXICO 87109
PHONE (505) 338-1499 FAX (505) 338-1498

PROJECT TITLE
PROPOSED
INCA ROAD
RIO RANCHO NEW MEXICO

PROJECT MANAGER:
STEPHEN DUNBAR, AIA

JOB NO.
INCA

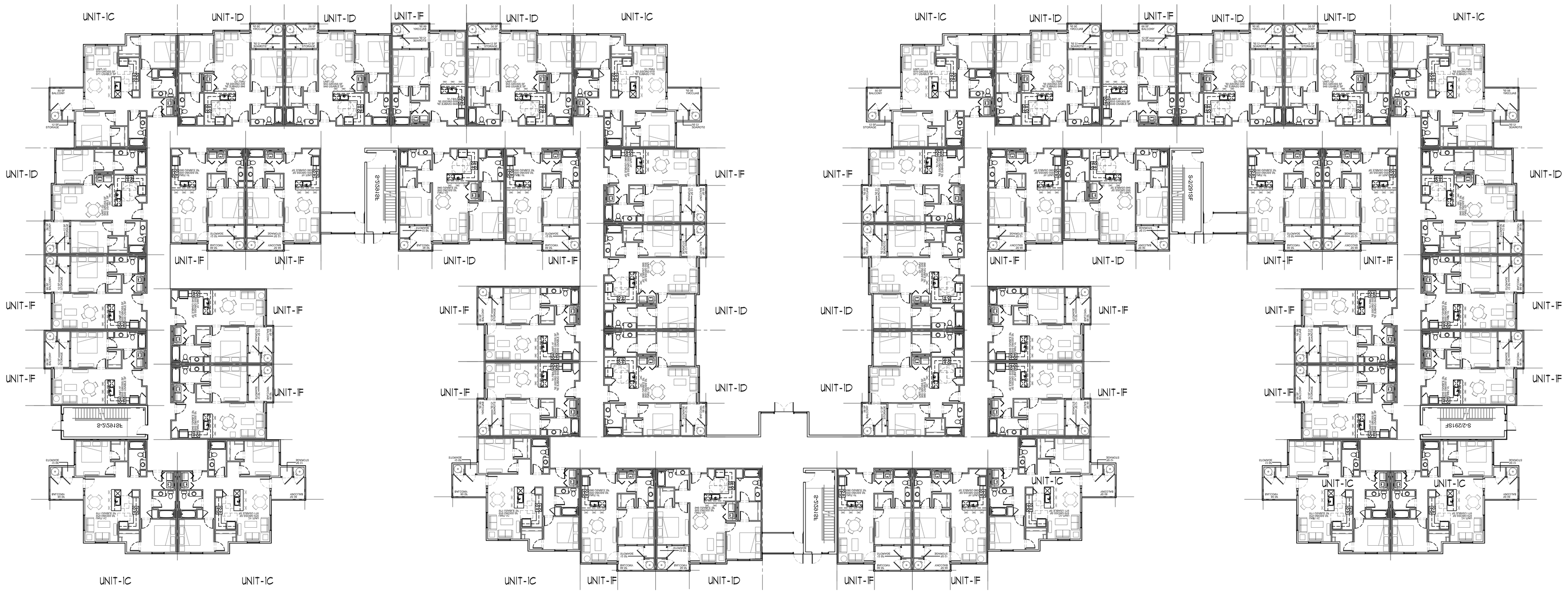
DRAWN BY:
S

SHEET TITLE
PROPOSED EXTERIOR ELEVATION

DATE:
3/06/2023

SCALE:
RE: SCALE

sheet-
11
of-



STANDARD FLOOR PLAN LEVELS 1 THRU 3

25 TWO BEDROOM UNITS PER FLOOR

25 ONE BEDROOM UNITS PER FLOOR

50 TOTAL UNITS PER FLOOR= 150 TOTAL UNITS

REV	DATE	BY	REVISION
A			
1			
2			
3			
4			

MODULUS ARCHITECTS
100 SUN AVE. N.W. SUITE 600
ALBUQUERQUE, NEW MEXICO 87109
PHONE (505) 338-1499 FAX (505) 338-1498

PROJECT TITLE
PROPOSED
INCA ROAD
RIO RANCHO NEW MEXICO

PROJECT MANAGER: STEPHEN DUNBAR, AIA

JOB NO. INCA

DRAWN BY: S

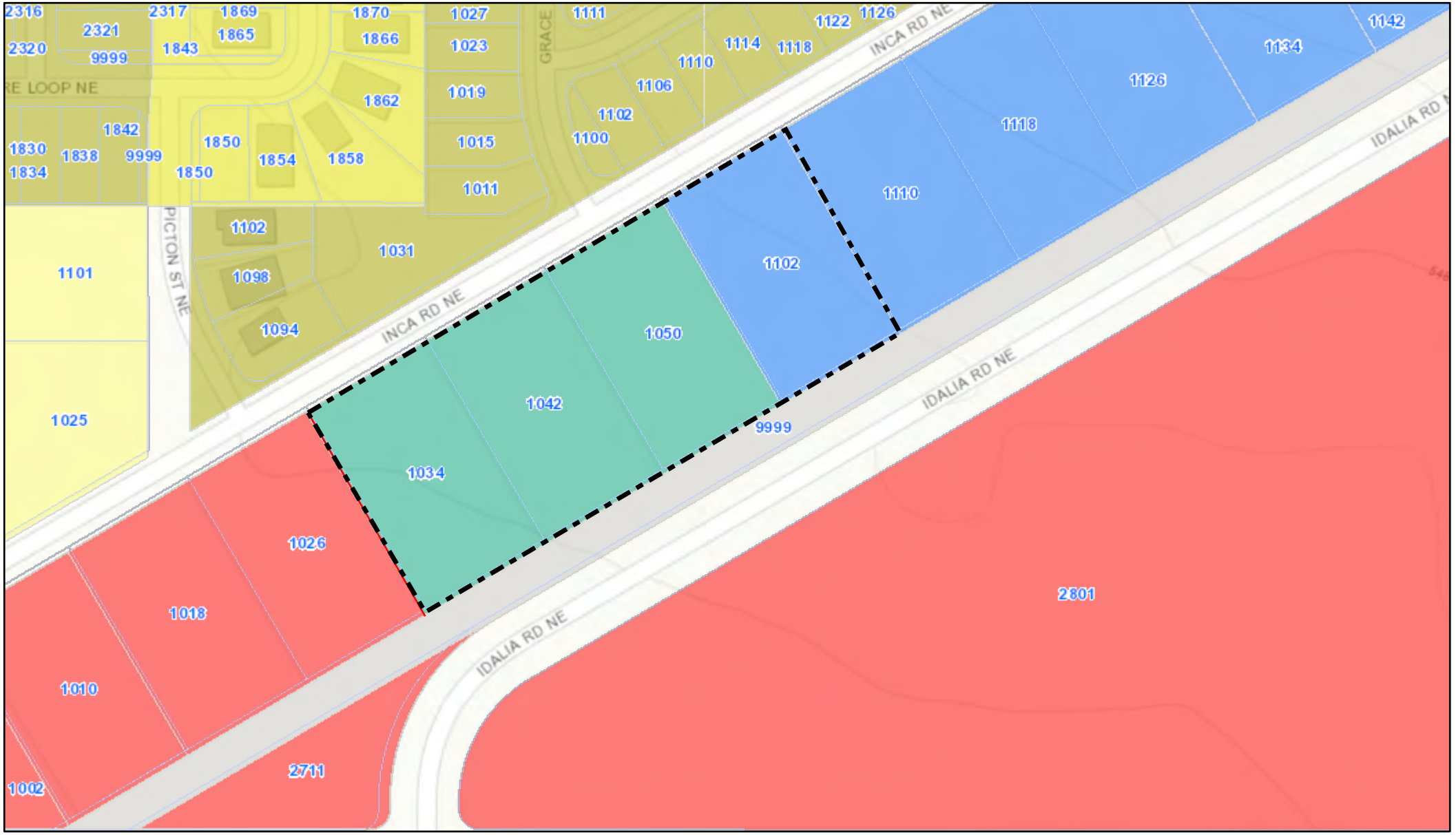
SHEET TITLE
CONCEPTUAL FLOOR PLAN

DATE: 3/06/2023

SCALE: RE: SCALE

sheet- FP-1 of-

Web Map



7/17/2023, 12:58:56 PM

Zoning

A-R	C-2	M-1	NC	PR	R-3	R-6	
BP	CBD	MH	O-1	R-1	R-4	SU	
C-1	E-1	MU-A	OS	R-2	R-5	TZ	

1:2,257

0 0.01 0.03 0.06 mi

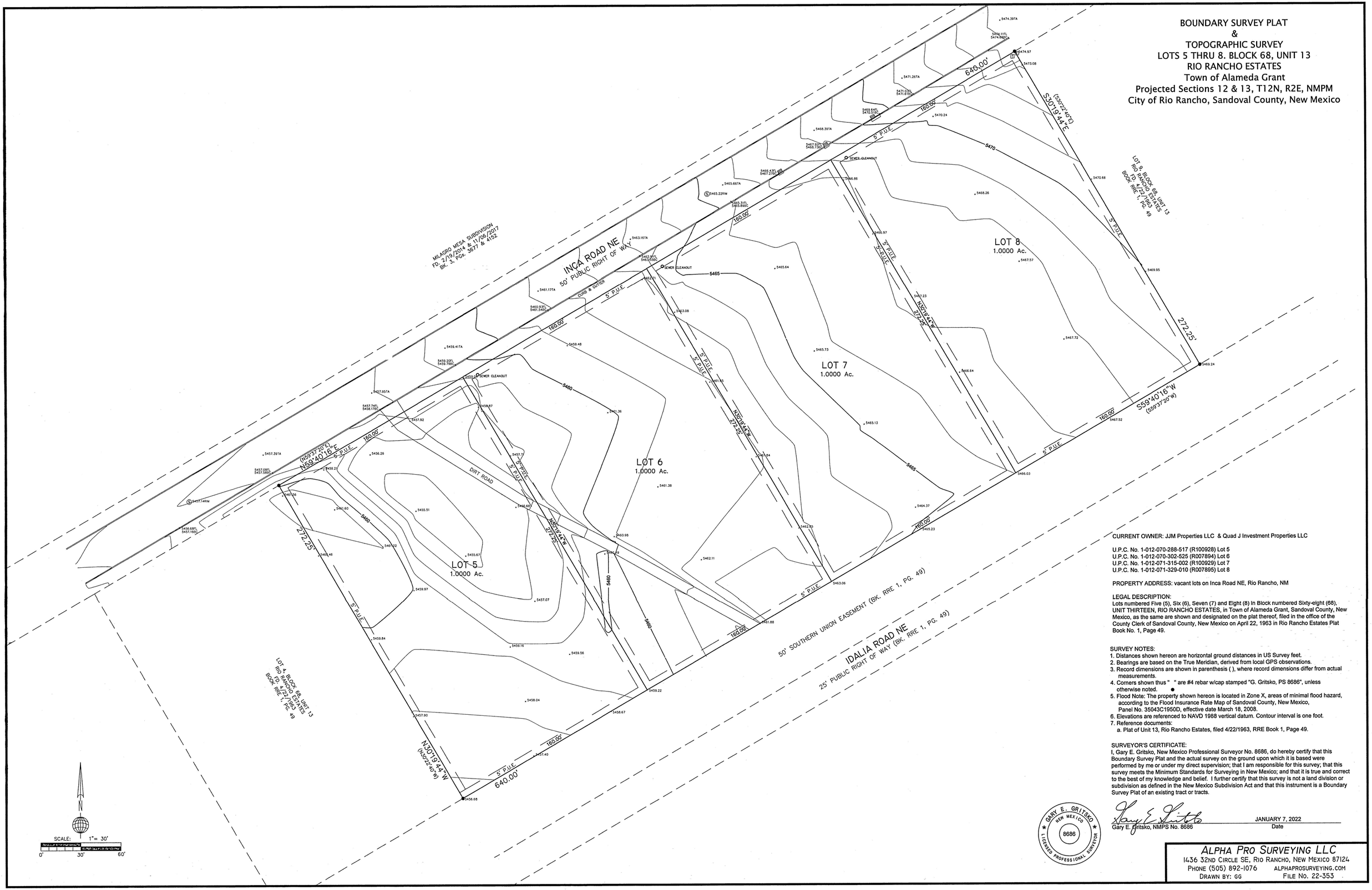
0 0.03 0.05 0.1 km

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, City of Rio Rancho - Records and GIS Section -

City of Rio Rancho

City of Rio Rancho, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA | City of Rio Rancho - Records and GIS Section - Engineering Division - Public Works |

BOUNDARY SURVEY PLAT
&
TOPOGRAPHIC SURVEY
LOTS 5 THRU 8. BLOCK 68, UNIT 13
RIO RANCHO ESTATES
Town of Alameda Grant
Projected Sections 12 & 13, T12N, R2E, NMPM
City of Rio Rancho, Sandoval County, New Mexico



CURRENT OWNER: JJM Properties LLC & Quad J Investment Properties LLC

U.P.C. No. 1-012-070-288-517 (R100928) Lot 5
U.P.C. No. 1-012-070-302-525 (R007894) Lot 6
U.P.C. No. 1-012-071-315-002 (R100929) Lot 7
U.P.C. No. 1-012-071-329-010 (R007895) Lot 8

PROPERTY ADDRESS: vacant lots on Inca Road NE, Rio Rancho, NM

LEGAL DESCRIPTION:
Lots numbered Five (5), Six (6), Seven (7) and Eight (8) In Block numbered Sixty-eight (68), UNIT THIRTEEN, RIO RANCHO ESTATES, in Town of Alameda Grant, Sandoval County, New Mexico, as the same are shown and designated on the plat thereof, filed in the office of the County Clerk of Sandoval County, New Mexico on April 22, 1963 in Rio Rancho Estates Plat Book No. 1, Page 49.

SURVEY NOTES:
1. Distances shown hereon are horizontal ground distances in US Survey feet.
2. Bearings are based on the True Meridian, derived from local GPS observations.
3. Record dimensions are shown in parenthesis ( ), where record dimensions differ from actual measurements.
4. Corners shown thus " ● " are #4 rebar w/cap stamped "G. Gritsko, PS 8686", unless otherwise noted. ●
5. Flood Note: The property shown hereon is located in Zone X, areas of minimal flood hazard, according to the Flood Insurance Rate Map of Sandoval County, New Mexico, Panel No. 35043C1950D, effective date March 18, 2008.
6. Elevations are referenced to NAVD 1988 vertical datum. Contour interval is one foot.
7. Reference documents:
   a. Plat of Unit 13, Rio Rancho Estates, filed 4/22/1963, RRE Book 1, Page 49.

SURVEYOR'S CERTIFICATE:
I, Gary E. Gritsko, New Mexico Professional Surveyor No. 8686, do hereby certify that this Boundary Survey Plat and the actual survey on the ground upon which it is based were performed by me or under my direct supervision; that I am responsible for this survey; that this survey meets the Minimum Standards for Surveying in New Mexico; and that it is true and correct to the best of my knowledge and belief. I further certify that this survey is not a land division or subdivision as defined in the New Mexico Subdivision Act and that this instrument is a Boundary Survey Plat of an existing tract or tracts.

GARY E. GRITSKO * NEW MEXICO * 8686 * LICENSED PROFESSIONAL SURVEYOR

Gary E. Gritsko, NMPS No. 8686 — JANUARY 7, 2022 Date

ALPHA PRO SURVEYING LLC
1436 32ND CIRCLE SE, RIO RANCHO, NEW MEXICO 87124
PHONE (505) 892-1076 ALPHAPROSURVEYING.COM
DRAWN BY: GG FILE NO. 22-353

MODULUS ARCHITECTS & LAND USE PLANNING, INC.

100 Sun Avenue, Suite 600
Albuquerque, NM 87109
Phone: (505) 338-1499

Planning and Zoning Board
City of Rio Rancho
3200 Civic Center Circle NE
Rio Rancho, NM 87144

August 22, 2023

Re: Request for a Special Use Zone Map Amendment for SU/R-6 for the property legally described as: Unit 13, Block 68, Lot 5, 6, 7 & 8 Rio Rancho Estates – Approximately 4-Acres

Dear Planning and Zoning Board,

Modulus Architects & Land Use Planning, Inc., hereafter referred to as "Agent" for the purpose of this request, represents J Jacob Enterprises, Inc., hereafter referred to as the "Property Owner." The agent is requesting approval of a Special Use Zone Map Amendment (ZMA) and accompanying Site Plan for the parcels legally described above and below. The parcels (the "subject site") are a combined +/- 4.0 acres in size. Three of the parcels (5, 6 & 7) are zoned Special Use for C-1 and one parcel, (parcel 8) is zoned O-1. The purpose of this letter is to provide the very pertinent background, policy analysis and justification for the proposed Special Use Zone Map Amendment request. The site is currently vacant and undeveloped (See Figure 1). The legal description for the properties are Unit 13, Block 68, lot 5, 6, 7 & 8 Rio Rancho Estates, approximately 4 acres generally located north side of Idalia Road west of Braodmoor Boulevard.

This Special Use Zone Map Amendment request is to modify the existing Special Use zone for approximately 4 acres to change from the current SU/C-1 zoning to the proposed SU/R-6 zoning. A 150-unit multi family project is proposed to be constructed on the site with the approval of the Special Use Zone Map Amendment request. The apartment homes propose a mix of 1-bedroom and 2-bedroom units. Furthermore, a Plat will be processed to create the contiguous 4-acre parcel. This platting action will move forward at a later date, once the request for a Zone Map Amendment has been decided.

SITE OWNERSHIP

The site has been owned by JJM Enterprises (DBA: J Jacobs Enterprises) since 2008 and remains in this ownership group today. They will be the developer on this project.

SITE HISTORY

Lots 5, 6 & 7 were legally changed by the applicant and approved by the City of Rio Rancho

(Ordinance No. 42) August 14, 2009 from O-1 to SU/C-1 permissive uses, except bars/lounges, drive-up liquor dispensing windows and adult only uses as well as Conditional Uses for the O-1 Office District. Including design standards including but not limited to setbacks, landscaping, on-site parking and building standard as required by the C-1 Retail Commercial District and the Lomas Negras Specific Area Plan. Prior to that Lots 5 – 8 were originally zoned for Single Family Residential but were legally changed to O-1 by approval of the City of Rio Rancho (Ordinance No. 18) in 1999. Lot 8 has remained O-1 zoning.

J Jacob Enterprises has a long and successful track record of developing family oriented multi-family projects. Their intention is to continue this success at this location providing the current and future residents of Rio Ranch with expanded housing opportunities.

Figure 1: Site Location

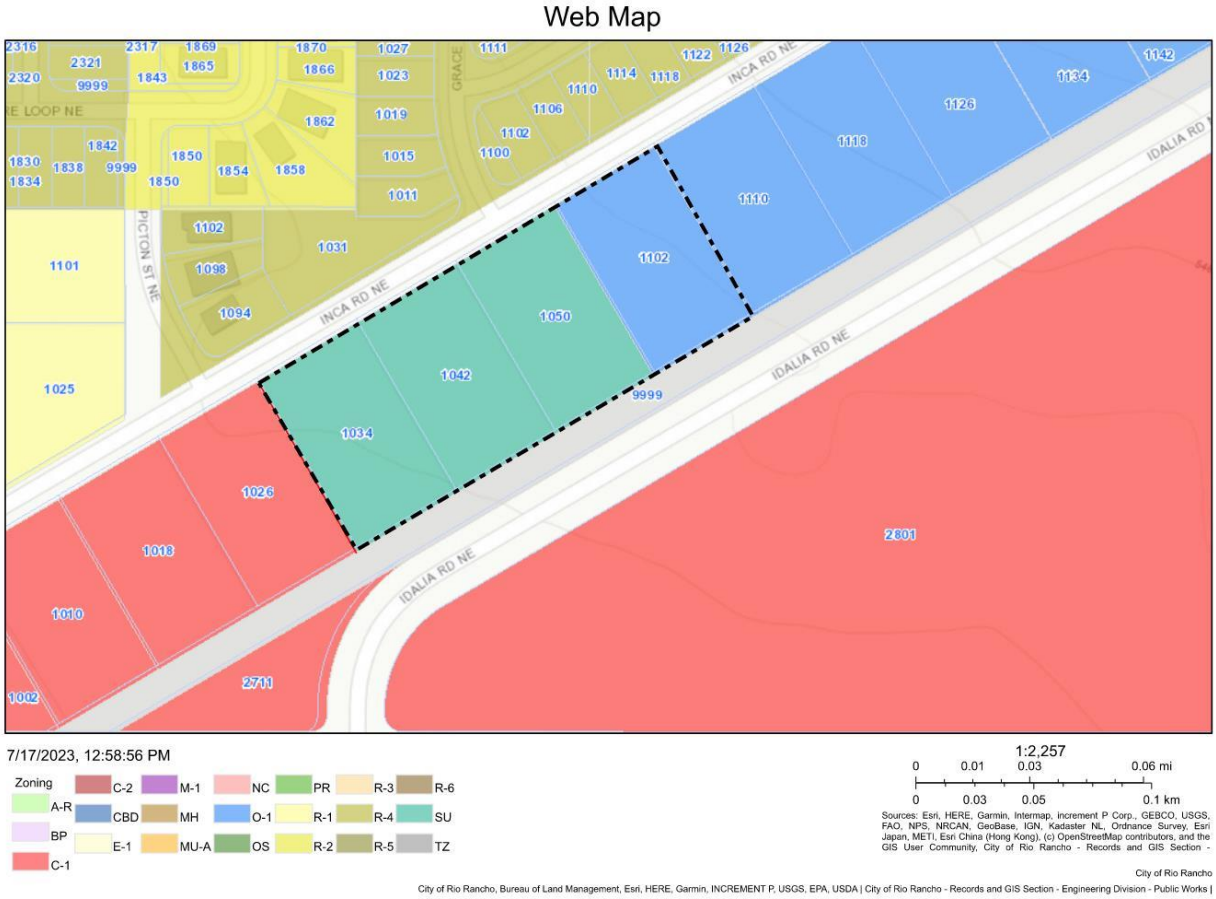
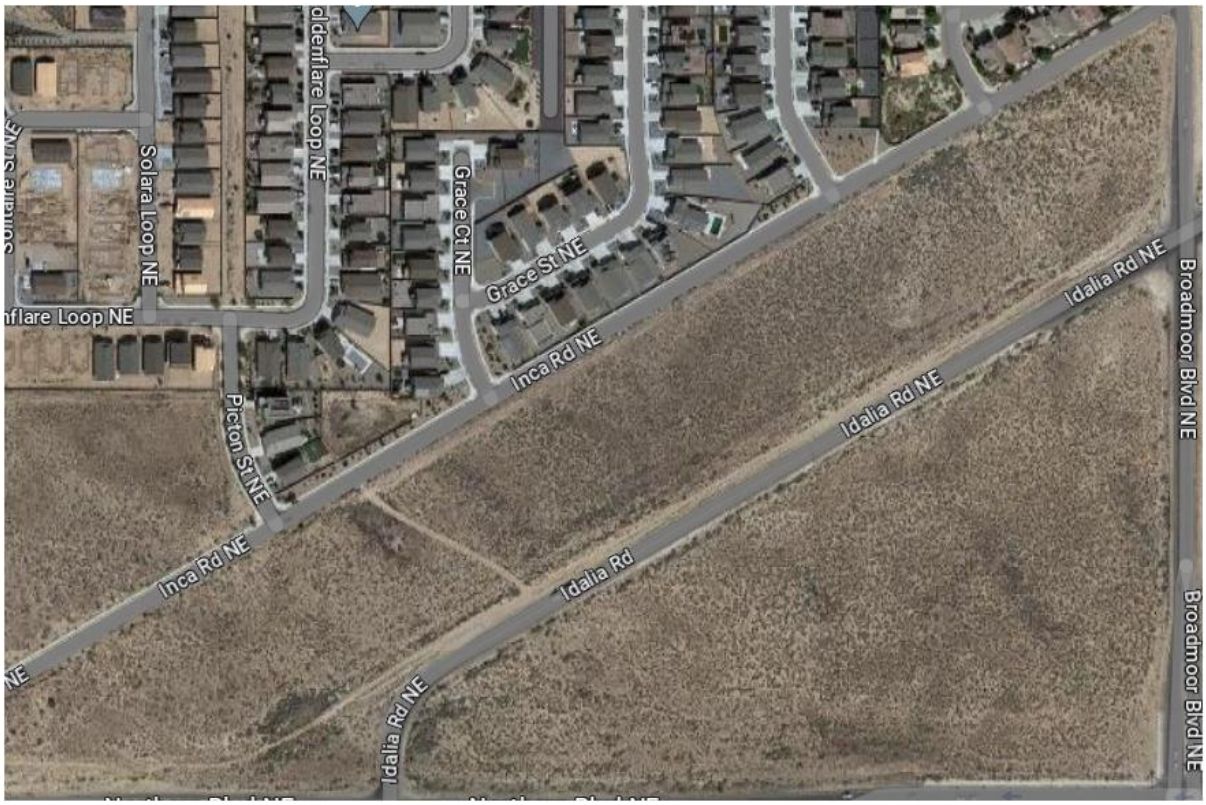


Figure 2: Aerial Exhibit of Site Location



PRE-APPLICATION AND COMMUNITY OUTREACH

Modulus Architects and the Development team attended a pre-application meeting with the City of Rancho Planning staff on January 18, 2023. The development team proactively began a community outreach program with the community developer of the single family residential developments to the north. A great deal of dialogue was held via email and a community open house meeting was held at the Loma Colorado library on June 14, 2023.

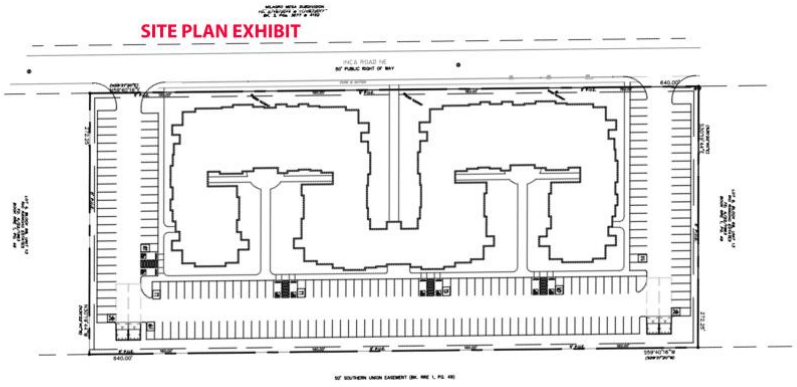
The rendering below was presented to the attendees of the open house meeting and much discussion was had. There was quite a bit of opposition to the project but we were able to walk away from the meeting with several requests from the adjacent residents. The first of which was to flip the access into and out of the multifamily development which was shown on Inca Drive and to relocate this access to Idalia Road so that the future residents would not access Inca directly for ingress and egress. The next request that was made was to create additional buffer area between the single family residence and the multifamily units by putting the parking field between Inca and our building.

We updated our plan to accommodate the comments from our meeting. We closed all access on Inca and show access now from Idalia only. We also flipped the parking and moved the building so that we added an additional buffer of more than 85 ft. from our property line to our building where we previously had the building adjacent to the property line.

Figure 3: Original Rendering Presented to the Community Open House Meeting 6/14/2023

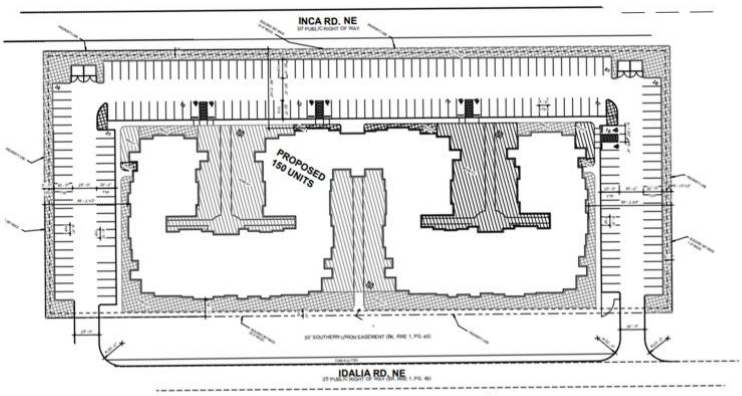
Figure 4: Site Plan Option Presented 6/14 – Revised Site Plan After Meeting

Site Plan Option (1)
Presented to Neighborhood Association on June 14, 2023



SIte Plan Option (2)
SIte Plan Modified with input from the community residents. Changes include:
1. **Close access from Inca**
2. **Provide access from Idalia only**
3. **Create a large buffer area by moving the parking field bewteen the adjacent residents and the multifamily buildings**

Presented to Neighborhood Association on June 28, 2023



After the updates above were circulated to the City of Rio Rancho Engineering and Transportation as well as the NM Gas Company it was determined that access from Idalia is not the preferred scenario. Idalia is a Minor Arterial Roadway and not intended for access. The master transportation network plan always anticipated access from these parcels would be obtained from Inca. Therefore, we changed the access back to Inca but we did leave the parking and buffer space as requested from the community outreach meeting. Additionally, we were unable to secure approval from the land owner of to gain the requied approvals to access our property from Idalia.

Figure 5: Final Update to Site Plan after Additional Studies and Meetings - Update as of 8/20

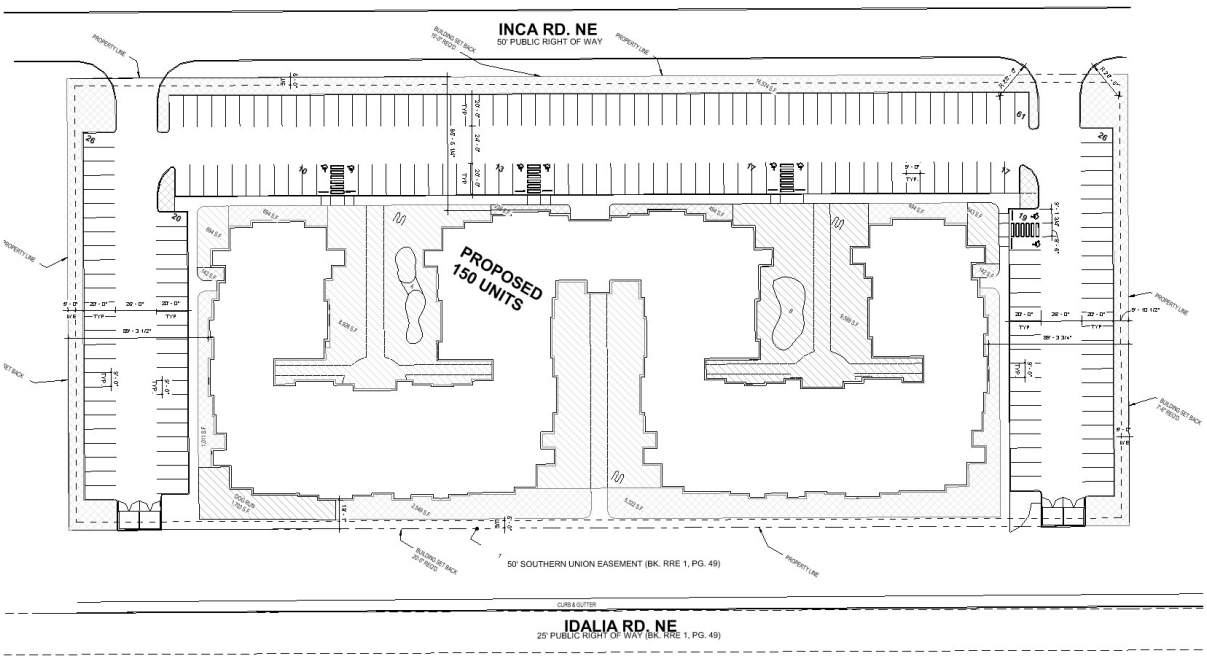


Figure 6: Aerial Rendered Site Plan

MULTI FAMILY HOUSING BENEFITS

Comprising 15% (20.6 million units) of the nation's housing stock, multifamily rental housing plays a vast and diverse housing role that serves an essential and evolving purpose in communities across the country. At its core, multifamily housing increases the density, variety, and efficiency of a municipality's housing.

Multifamily housing broadly improves our cities in four far-reaching ways:

- *Invigorating economic vitality by improving the livelihood of workers and businesses*
- *Improving fiscal health by increasing the tax base and efficiently using public resources*
- *Increasing environmental sustainability by efficiently building and operating residential units*
- *Enhancing quality of life by allowing for healthy, culturally vibrant, and place-based lifestyles*

The benefits of Multifamily Housing – In any market, but particularly in Rio Rancho, multifamily housing exhibits three fundamental characteristics that allow it to yield a far-reaching set of benefits.

Wide Variety – Multifamily housing serves a wide range of household types and needs. The wide range of available unit types, locations, and price points allows multifamily housing to accommodate a unique variety of household types, income levels, and lifestyle preferences.

Greater Efficiency – Multifamily housing is cost-effective and efficient to both build and operate. Development costs for multifamily housing are far lower on a per-unit basis than single-family. Multifamily housing also makes more efficient use of utilities and other infrastructure.

Increased Density - Multifamily housing allows for more housing units to be built on any given parcel of land. Increasing the density of households can quickly expand the tax base and commercial vitality of an area. It also allows for more much-needed housing to be built in desirable areas with greater employment, easier access to transit, and generally a higher quality of life, as these areas typically are more land-constrained and expensive to build in.

Economic Growth and Vitality

Multifamily housing stimulates and sustains local economies, neighborhood health, and overall economic competitiveness. Multifamily housing supports the expansion and diversification of the local workforce. An expanding housing supply often both indicates and allows for an expanding economy. Multifamily housing is the most efficient way to increase the supply of housing, which is necessary to accommodate employment and household growth. A lack of housing supply will either prevent growth or lead to the displacement of existing households.

Housing density can improve the productivity and lifestyle of people who work in employment centers with high traffic volume. As jobs cluster within employment centers that experience growing levels of traffic, commute times can be ameliorated if people can find and afford housing near where they work. Because apartments allow housing to be efficiently built in desirable areas near employment and transit, people living in apartments have shorter commute times on average.

Multifamily rental housing attracts critical segments of the workforce, such as younger households and households earning modest incomes. While multifamily housing serves households of all ages and income levels, it is uniquely able to provide young people with the mobility and urbanism they often prefer and is able to provide affordably priced housing options in good locations.

Multifamily housing development is a signal and stimulator of neighborhood growth. The development of multifamily housing tends to encourage the concentration of households and incomes needed to support new retail and commercial development. At a time when retail footprints across the nation are receding, a notable increase in mixed use developments containing residential with retail and/or office indicates that denser housing can attract and support commercial activity.

Community Fiscal Health

Multifamily housing improves fiscal health by both increasing revenues and decreasing costs, positioning local budgets to more effectively serve the public good. Greater household density increases the tax base through expanding the number of both households and businesses. Denser households contribute more to property and sales taxes. Moreover, by stimulating commercial growth, multifamily housing can further increase local sales and business taxes.

Municipalities save significantly on costs incurred by critical physical infrastructure, such as new roads, water lines, and sewer lines. Savings are experienced in upfront capital costs, operations and maintenance costs, and eventual replacement costs. Denser development also leads to savings on the costs of ongoing delivery of public services, such as police, ambulance, and fire services. Multifamily housing efficiently increases tax revenues for local governments.

- ***Compared to conventional suburban development, denser development saves 38% on the delivery of upfront infrastructure and 10% on the cost of delivering public services.***

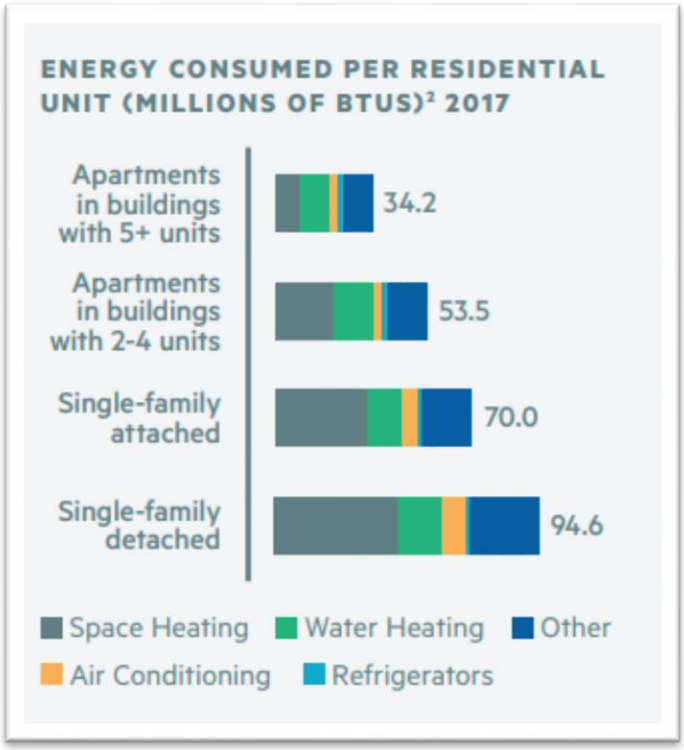
- ***Denser housing development generates 10 times more tax revenue per acre than conventional single family development.***

Environmental Sustainability

Increased housing density benefits the environment by reducing carbon impact and preserving open space and natural amenities. Multifamily housing lowers the energy intensity of creating a housing unit, or the "embodied energy" of extracting materials and building the structure. The energy savings can be substantial; as embodied energy can range from 10 to 45 percent of the total energy impact of a building through its lifecycle.

By requiring a smaller land footprint, multifamily housing helps to preserve open space and undeveloped land, natural amenities that can be difficult to preserve in sprawling areas. Multifamily properties require less energy to maintain on a per-unit basis, resulting in both energy and cost savings for residents and property managers. This energy impact is substantial, as residential and commercial buildings consume 41 percent of the nation's energy each year.

Multifamily housing decreases the resources used for infrastructure and services. Surrounding infrastructure, such as, roads, public transportation, street lighting, water pipes, and sewage treatment, also contributes to embodied and operational energy use. Multifamily housing makes uses of these resources much more efficiently.



Quality of Life

Multifamily housing improves quality of life by improving public health, allowing for vibrant public spaces and amenities, and providing housing options for a variety of lifestyles. Density allows for cities to be walkable and cyclable, for streetscapes to be attractively designed for high volumes of foot traffic, and for a wide variety of people to interact with each other. Not only does this improve the aesthetic experience of living in a city, it can positively affect public, physical, and mental health.

Denser housing helps to preserve open space and public facilities and contributes to the volume and diversity of people who make these spaces interesting. Valuable cultural spaces that require
high volumes of patronage to remain viable are made possible by densification.

Varied housing provides choosing power. By efficiently increasing the stock of housing available in a city, multifamily housing allows people to more easily choose where they live. People might be able to live nearer to their work or avoid being displaced from or priced out of a neighborhood or municipality they prefer. They may choose to adopt a lifestyle that is unique to multifamily housing, such as ease of maintenance and walkability.

Solving the Rio Rancho Missing Middle

Once heralded as the ideal place for a young family seeking their first home- avoiding the high prices in Albuquerque – Rio Rancho was the place to be. Now many are having trouble finding affordable homes in the City of Vision. Prices have surged 35.7 percent since January 2020 and 80 percent of that increase has taken place since January 2021. The median resale for price – not for new homes – is now at $330,000 –

So how do we solve the problem – bring back Rio Rancho's missing middle! Rio Rancho's Missing Middle Housing is a range of house-scale buildings with multiple units—compatible in scale and form with detached single-family homes—located in a neighborhood. Missing middle housing – and the fact is, we don't have enough of it in Rio Rancho!

While conversations about missing middle housing and why it's important to all communities have enough of it aren't new, they're becoming louder and more frequent because wages aren't keeping up with housing costs. That's because we haven't built enough housing to keep up with demand at all price points. Plus, **our longtime focus on single-family housing has limited our ability to meet the needs of our growing communities and meet the desire of residents of all ages to live in their desired community.**

Missing middle housing provides more housing choices. When we have more choices, we create thriving and sustainable neighborhoods for people and businesses. In other words, "workforce housing matters to everyone."

Identifying the Misconceptions/Inaccurate Information of the Community Meeting:

Contrary to misconceptions voiced at the community meeting on June 14, 2023, a tremendous amount of research has been done demonstrating that multifamily housing does not negatively affect property values, public schools, crime, traffic, and emissions. In many instances, these issues are in fact improved. **Our outline below identifies actual data, studies, and real-time engineering disproving the misconceptions about this project.**

Property Values

Perhaps the most widely assumed fact is that home values will be negatively impacted by multifamily developments taking up residence nearby. This is another often-assumed myth. The U.S. Census Bureau found that working communities with multifamily dwellings actually have higher property values than working communities without them. The average value of single-family residential homes was highest in working communities with the most multifamily units, in comparison to communities with only single-family residential properties.

Public Schools

Similarly, multifamily housing does not place undue strain on local public schools. This concern is premised on the assumption that multifamily developments will bring in too many families with school-age children while yielding lower tax revenues. In fact, residents of multifamily housing typically have far fewer children, while the net impact of multifamily housing on a city's fiscal health is positive when considering the increase in tax revenues.

Traffic

Does multifamily development really cause an increase in traffic congestion and parking problems, as opponents claim? To residents of the neighborhood where such development might take place, an increase in congestion seems self-evident – **but only by comparing an apartment development to the status quo (i.e., no development). The proper comparison, however, is to the impact on congestion of an equal number of new single-family units.**

On average, apartment residents own fewer cars than single-family homeowners: the latter average two cars per household compared with only one for the former. Beyond that, single family housing generates more automobile trips per household, as evidenced in the table below.

On weekdays, a single-family detached house generates 42 percent more trips than does a unit in an apartment. The difference is even greater on the weekend: 58 percent more trips on Saturdays, and 50 percent more trips on Sundays. This large difference is seen not only in the totals, but also

at the peak hours, morning and afternoon, weekdays and weekends. By any measure, it is clear that single-family houses generate more automobile traffic than apartments – or any other type of housing. In explaining why single-family houses produce the most traffic, the Institute of Transportation Engineers noted that they are the largest units in size, with the most residents, but also pointed out that they had "more vehicles per unit than other residential land uses; they were generally located farther away from shopping centers, employment areas and other trip attractors than other residential land uses; and they generally have fewer

alternate modes of transportation available, because they were typically not as concentrated as other residential land uses.

Though written not as a policy document, but rather simply a straightforward, quantitative analysis, this is a good summary of the reasons why compact development engenders less traffic than sprawl.
Interestingly, single-family owners use their cars more often than apartment residents use theirs. On average, cars in single-family houses make 18 percent more trips during the week, 31 percent more trips on Saturday, and 41 percent more trips on Sunday than cars owned by apartment residents.

Thus, not only are there more cars per household in single-family houses than apartments, each of those cars generate more traffic – and a higher demand for parking spaces at retail stores, offices, schools, and other facilities.

Crime

Opponents of rental housing often argue that while people who own their homes are invested in the long-term success and safety of a community, people who rent apartments are merely short-term transients and therefore less desirable neighbors. That view has a long history and probably seems so unremarkable, so obvious, that proof is unnecessary.

But in fact, this idea is merely a perception based on how crime rates are reported. Many different studies have been done on the topic, just recently, a study conducted by Harvard concluded that the perception of more crime around multifamily communities comes from the practice of reporting stats based on the count of police calls by address. An apartment property with 100+ units at the same address may be wrongly compared to one single-family residence. Per the Arizona Multifamily Housing's study, "When police data is analyzed on a per unit basis, the rate of police activity in apartment communities is no worse than single family subdivisions, and in many cases, lower than single-family residential areas."

The view that renters are not as engaged in their communities as owners seems to arise from the two apparent characteristics of renters: (i) by definition, they don't own their own residence, hence are thought to have less of a "stake" in the community; and (ii) they tend to move more often. These characteristics are seen as making them transitory residents, perhaps more akin to visitors than to long-term residents. But there are also countervailing forces. For example, single-family renters do not tear down old houses and replace them with "McMansions," a phenomenon that can greatly alter neighborhoods, in ways that are not always desired by the existing residents.

In addition, it is important to recognize that housing tenure is different from residential stability. Housing tenure refers to how long an individual has lived in one place, while neighborhood stability reflects the quality, cohesion and safety of a community. It is the latter that may be the key factor:

Neighborhood residents may be less interested in distinguishing the exact cause than in ensuring the best outcome, and for many, promoting homeownership rather than renting seems an effective way to do so. In fact, that turns out not to be the case: • Apartment residents are almost twice as likely to socialize with their neighbors as owners of single-family houses

(33 percent vs. 17 percent).

- Apartment residents are just as likely as house owners to be involved in structured social groups like sports teams, book clubs, and the like (22 percent for sports groups, 10-11 percent for other groups).
- Just like single-family owners, apartment residents identify closely with the town or city they live in (60 percent for apartment residents vs. 64 percent for single-family owners).
- Almost half (46 percent) of apartment residents feel close to the neighborhood they live in. This is not as high a share as for single-family owners (65 percent), but still sizable. •
- Apartment residents are virtually as interested in politics and national affairs as house owners are (66 percent vs. 70 percent).

The Multifamily Record: Conclusion

Overwhelming evidence based on actual research is fairly strong that multifamily rental housing:
(1) does not impose greater costs on local governments;
(2) does it increase traffic and parking problems;
(3) when well-designed and appropriate to the neighborhood, does not reduce (and may even enhance) property values; and
(4) does not inherently attract residents who are less neighborly or more apt to engage in (or attract) criminal activity.

PARKING REQUIREMENT DEVIATION REQUEST

A parking deviation request accompanies this Special Use Zone Map Amendment request. The proposed multi-family project requests a deviation to the standard parking to a total number of parking spaces to be 210 spaces or a ratio of 1.4 spaces per dwelling unit. This will provide adequate parking for the residents and their guests. Lee Engineering Transportation and Parking Engineers were hired to do a parking study v\for this project.

The CONCLUSIONS Based on the results of this parking analysis:

A total of 210 parking spaces will be provided for the proposed multi-family development. While the number of parking spaces proposed to be provided falls below the City of Rio Rancho's requirements (249 parking spaces):

- Using the ITE peak parking demand per dwelling unit for Multi-Family Housing (Low-Rise) shows that the proposed 210 parking spaces would exceed the demand of 182 by 28 spaces or 13 (thirteen) percent.
- Using the ITE peak parking demand per bedroom for Multi-Family Housing (Low-Rise) shows that the proposed 210 parking spaces would exceed the demand of 149 by 61 spaces or 29 (twenty-nine) percent.

The backup data and analysis has been submitted with this request.

This is supported by the ITE (Institute of Transportation Engineers). ITE recommendations are for 1.2 parking space per unit. This project consists of 51% of one bedroom units, thus, an

overall ratio of 1.4 spaces per dwelling unit is more than adequate.

This request for the parking deviation will be submitted to the City Development Services Director in support of this application. J Jacobs Enterprises Properties has developed and continues to own and manage several similar multi-family projects. Some of the projects have significantly less parking than the standard City of Rio Rancho requirements and they have not experienced any issues. In addition, other cities have implemented similar parking ratios for multifamily projects.

ZONE MAP AMENDMENT JUSTIFICATION: RIO RANCHO COMPREHENSIVE PLAN

J Jacob Enterprises recognizes the importance of bringing forth development that furthers Rio Rancho's desired growth scenario. The Rio Rancho Comprehensive Plan was consulted to ensure the Special Use Zone Map request furthers a multitude of goals and policies as expressed in the plan. Presented below is an analysis of how the Zone Map Amendment to SU/ R-6/Multi-Family Residential to allow a multifamily development complies with and furthers multiple Land Use, Population and Housing, Transportation, Urban Design, and Economic Development goals and policies.

1. Vision for Growth – (pg. V-1) As Rio Rancho grows, the development of higher intensity nodes with high-density residential land uses will be necessary to create transit opportunities, walkable neighborhoods, and complete streets (landscaped medians and sidewalk buffers, transit and bicycle lanes etc.).

Applicant Response: ***The Special Use Zone Map to allow for a multifamily project supports the long standing vision for growth that anticipated the need and desire for higher density residential uses and calls this use "necessary" to help create complete communities.***

2. Land Use Goal 1: Encourage mixed uses - retail, office, and residential centered on pedestrian-oriented developments along principal arterial roads.

Applicant Response: ***The proposed Special Use Zone Map Amendment supports Land Use Goal 1 in two ways. The opportunity to add a mix of housing opportunities into a predominantly single family residential area helps to create a mix us uses and housing types request helps to further Land Use Goal 1; by adding more affordable housing options adjacent to O-1 and C-1 zoned property, you will inherently strengthen the local workforce and create these very types of developments next to the residents that will be future employees. Multifamily housing supports the expansion and diversification of the local workforce. An expanding housing supply often both indicates and allows for an expanding economy and local business. Multifamily housing is the most efficient way to increase the supply of housing, which is necessary to accommodate employment and household growth.***

The second way that that this Zone Map Amendment furthers Land Use Goal 1 is by allowing for a residential development at the intersection of a minor arterial roadway (Idalia Road) and Northern Blvd which is a principal arterial roadway thus furthering the goal of locating residential development along principal arterial roadways.

3. Land Use Goal 2: Encourage consolidation of lots to promote a variety of land uses in a planned manner.

Applicant Response: This request for a Special Use Zone Map to allow for a multifamily project would require a consolidation of lots in a planned and cohesive manner and provide a mix of housing options within the area furthering Land Use Goal 2

4. Land Use Goal 3: Maintain a balance of land uses throughout the City.

Applicant Response: An approval of this request would further the City's Land Use Goal of maintaining a balance of land uses throughout the City by providing for a balance of land uses and housing options throughout the City. In fact, currently single family homes far exceed any other housing options creating an imbalance in affordability and lifestyle choices in housing.

5. Population and Housing Goal 1: To ensure that regulations do not have an income levels throughout the city. unreasonable negative impact on the cost or supply of housing.

Applicant Response: The proposed Special Use Zone Map Amendment will directly help to further Population and Housing Goal 1; to ensure that zoning and regulations do not negatively impact the cost or supply of housing. Ensuring the City has housing options for all income levels in essential to a thriving community. Once heralded as the ideal place for a young family seeking their first home- avoiding the high prices in Albuquerque – Rio Rancho was the place to be. Now many are having trouble finding affordable homes in the City of Vision. Prices have surged 35.7 percent since January 2020 and 80 percent of that increase has taken place since January 2021. The median resale for price – not for new homes – is now at $330,000.

6. Population and Housing Goal 3: Promote a variety of housing types to meet the needs of all members of the community.

Applicant Response: The proposed Special Use Zone Map Amendment for a multifamily apartment home development furthers the City's Population and Housing Goal by allowing for a variety of housing types to meet the needs of all community members. Adding choices in housing and lifestyle to this area will make the area more robust and present the opportunity for residents to choose a housing situation that fits their lifestyle best while still living in the City of Rio Rancho. The addition of a multi-family development will "increase residential densities in order to provide efficient services and affordable housing" (City of Rio Rancho Comprehensive Plan).

7.. Policy Population and Housing Policy 5: Encourage mixed-use and mixed-income housing opportunities in designated growth nodes:

Applicant Response: Ensuring the City has housing options for all income levels in essential to a thriving community. Prices have surged 35.7 percent since January 2020 and 80 percent of that increase has taken place since January 2021. The median resale for price – not for new homes – is now at $330,000. An approval of this Zone Map

Amendment will help to further this Policy by allowing for the addition of more affordable housing options in an area designated for growth.

8. Policy Population and Housing Policy 12: Ensure that affordable housing opportunities are dispersed throughout the city.

Applicant Response: ***The proposed Zone Map Amendment to allow for multifamily development would further this Policy by ensuring that more affordable housing opportunities are provided in an area where there currently is no multifamily development.***

9. Transportation Goal 1: Encourage development that effectively mixes land uses to create an efficient transportation system that reduces congestion, improves air quality and creates opportunities to build Rio Rancho's economy.

Applicant Response: ***This request would allow for development that would further the Transportation Goal of encouraging development that effectively mixes land uses to create an efficient transportation system that reduces congestion, improves air quality and creates opportunities to build Rio Rancho's economy. The development of a multifamily project located within a sea of single family homes will reduce congestion and improve air quality. Apartment residents own fewer cars than single-family homeowners: Single family housing generates more automobile trips per household. The is widely documented with the ITE (Institute of Transportation Engineers).***

On weekdays, a single-family detached house generates 42 percent more trips than does a unit in an apartment. The difference is even greater on the weekend: 58 percent more trips on Saturdays, and 50 percent more trips on Sundays. This large difference is seen not only in the totals, but also at the peak hours, morning and afternoon, weekdays and weekends.

By any measure, it is clear that single-family houses generate more automobile traffic than apartments – or any other type of housing. In explaining why single-family houses produce the most traffic, the Institute of Transportation Engineers noted that they are the largest units in size, with the most residents, but also pointed out that they had "more vehicles per unit than other residential land uses. Thus, a multifamily development would serve the housing needs of Rio Rancho while reducing the traffic congestion and emissions that the same number of single family homes would create, further the goal of Transportation.

10. Economic Development Goal 3: Enhance the tax base. Economic Development Goal EDR 2: Reduce retail sales leakage to other New Mexico cities.

Applicant Response: The Special Use Zone Map amendment and proposed multifamily complex enhances the tax base by locating residents near commercial centers where residents can easily support Rio Rancho's tax base. Residents will have the opportunity to purchase their goods and services in the neighboring businesses. The availability of rental housing lowers housing costs and increases the spending power of residents. Proximity of the proposed complex to existing goods and services will reduce leakage of

Gross Receipts Tax to other neighboring cities. The development will serve as a catalyst for vacant commercial land to develop. The increase of residents the complex will bring to the neighborhood will be a desirable factor for future commercial development and businesses. Tenants of the commercial development will support the expansion of the city's tax base. Construction of this project will add needed gross receipts tax revenue to the City and provide valuable construction jobs for community residents.

ZONE MAP AMENDMENT POLICY COMPLIANCE

(D) The following policies for deciding zone map change applications pursuant to the City Zoning Code are:

1. A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the City.

Applicant Response: ***The proposed zone map amendment is consistent with the health, safety, morals, and general welfare of the City through the creation of development conditions necessary for a new multi-family neighborhood and locate residents closer to goods and services, make the remaining land more viable for development commercial use, and will provide expanded housing and lifestyle choices for current and future residents.***

2. Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the City to show why the change should not be made.

Applicant Response: ***If granted, the Special Use Zone Map Amendment will have a positive effect on the stability of land use and zoning. The proposed zoning will provide development that is more compatible with surrounding uses and will contribute achieving a vibrant community with a mix of housing and lifestyle choices. The site has remained undeveloped for 20+ years and the influx of more people in the area will serve as an incentive for commercial development to build on the adjacent parcels.***

The change of R-6/Multi-Family Residential is more appropriate than the SU/Commercial and Industrial designation because the development seeks to enhance the current character of the area and not change it. Provided this amendment is approved, the required site plan for a Special Use Zone Map Amendment will be submitted to Development Services for review and approval.

3. A proposed change shall generally be consistent with adopted elements of the Comprehensive Plan or other City master plans and amendments thereto including privately developed area plans which have been adopted by the City.

Applicant Response: ***The proposed Special Use Zone Map Amendment is consistent with the City of Rio Rancho Comprehensive Plan. As demonstrated, It furthers principles of the Comprehensive Plan in the following ways: it ensures a land use pattern that encourages a mix of housing and lifestyle opportunities in an area that has no other housing choices. It helps to create a more efficient transportation network by reducing***

automobile trips, congestion and improving air quality as compared to the same number of single family homes. Multifamily housing supports the expansion and diversification of the local workforce. An expanding housing supply often both indicates and allows for an expanding economy and local business. Multifamily housing is the most efficient way to increase the supply of housing, which is necessary to accommodate employment and household growth. This project will serve as a link between neighborhoods as the site is located adjacent to major thoroughfares that aid in accessing other areas of Rio Rancho; and enhances the tax base by locating residents in close proximity to goods and services within Rio Rancho, providing gross receipts tax for the construction, and construction jobs. This proposed Special Use Zone Map Amendment will contribute to a vital community, more affordable housing and lifestyle options and will help contribute to a robust local economy in a number of ways which have been outlined in our request. All of the factors are consistent with and further the Comprehensive Plan.

4. The applicant must demonstrate the existing zoning is inappropriate because:

a) there was an error, mistake or is necessary to correct an injustice that occurred when the existing zone map pattern was created, antiquated plat filed before the City's incorporation and adoption of its own Zoning Code or on land annexed by the City or

b) changed neighborhood or community conditions justify the change, or

c) a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan, even though (1) or (2) above do not apply. Applicant's reliance on this provision requires proof that (a) there is a public need for a change of the kind in question, and (b) that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

Applicant Response: ***In this case, b and c apply. Changed neighborhood and community conditions justify the change. Since the approval of the SU/C-1 zoning, national trends of declining retail have decreased the demand for commercial real estate acreage, and the City of Rio Rancho has since then updated their zoning code and comprehensive plan to better reflect the values and growth needs of the community.***

J Jacobs Enterprises, LLC feels the requested use category is more advantageous to the community of Rio Rancho for the following reasons:

The request fulfills a community need articulated in the comprehensive plan. Within the Population and Housing element in the Comprehensive Plan as articulated in our policy analysis. "– to attract and create well-planned high-quality, stable, residential, commercial and industrial development, as the second goal of the City's Strategic Plan directs, we need to create a mix of housing opportunities" (PH-6).

The plan implies a mix of housing opportunities will aid the stability of other zones. In this case, the addition of multifamily is more advantageous because it will add to the variety of housing desired to support the population of the City and support the future development of neighboring commercial by increasing the number of patrons to the establishments and potential employees.

The site has remained vacant for 20+ years. The local demand for retail development has decreased, mirroring the national trend of declining brick and mortar-based commerce. The addition of more residents combined with its adjacency to C-1 and o-1 zoning will provide better conditions for future commercial development to thrive.

(E) The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone.

Applicant Response: ***The cost of land or other economic considerations are not the determining factor behind this request. However, market data reflects that the need for large commercial properties have been reduced due to changing shopping trends and the addition of more affordable housing units will not only promote the development of vacant land but increase the viability of the remaining commercial corner land surrounding this site.***

(F) Location on a collector or major street is not in itself sufficient justification of apartment, office, or commercial zoning.

Applicant Response: ***The purpose for the request for Special Use Zone Map Amendment request for R-6/Multi-Family Residential is supported by a multitude of goals and policies adopted by the City of Rio Rancho and does not rely on its adjacency to an arterial roadway as justification.***

(G) A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a "spot zone." Such a change of zone may be approved only when:

1. The change will clearly facilitate realization of the Comprehensive plan and any applicable adopted sector development plan or area development plan;

Or

2. The area of the proposed zone change is different from surrounding land because it will function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of the structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

Applicant Response: ***This request to change the existing SU/C-1 to the requested R-6/Multi-Family Residential clearly facilitates the realization of the Comprehensive Plan in a multitude of ways. Embracing the goals for higher density housing options and more affordable housing choices further a preponderance of policies in the Comprehensive Plan and will help to foster smart planning that creates a strong, thriving community fostering connection, culture and economic growth.***

This request would clearly facilitate implementation of the Comprehensive Plan as shown in the response to our policy analysis as well as the desire to provide a mix of

housing options in Rio Rancho which is greatly needed. ***This site as a principal location in for multifamily development. In order to achieve these uses, a mix of zoning designations must be present, thus making this site a suitable location to serve as a transition between adjacent zone districts which include C-1 to the south and west, O-1 to the east and R-1 to the north. Creating a zone that is needed to achieve the goals and policies outlined for the Comprehensive Land Use Plan.***

	Zoning
Subject Site	***Lots 5, 6 & 7 - SU/C-1 (Retail Commercial District)*** ***Lot 8 - O-1 (Office District)***
West	***C-1 Zoning (Retail Commercial District)***
South	***C-1 Zoning (Retail Commercial District)***
East	***O-1 Zoning (Office District)***
North	***R-1 Zoning (Single Family Residential)***

Policies & goals supported are plentiful and include desired a mix of housing, Land Use Goals and Policies, Population & Housing Goals and Policies, Transportation Goals and Policies, Economic Development by improving the economic base of the City.

Based upon the justification provided, we respectfully request that the Rio Rancho Planning and Zoning Board recommend approval of this request for a Special Use Zone Map Amendment and

Please feel free to contact me at (505) 338-1499 or via email at: angela@modulusarchitects.com with any questions that you might have.

Sincerely,

Angela M. Piarowski, CEO/Managing Partner
Modulus Architects & Land Use Planning, Inc.
100 Sun Ave NE, Suite 600
Albuquerque, New Mexico 87109
Office: (505) 338.1499 ext. 1000
Cell + Text: (505) 999.8016
Email: angela@modulusarchitects.com

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SCALE:	DATE	8-21-23	
SHEET	A1		

PROJECT TITLE

PROPOSED

INCA ROAD NE. RIO RANCHO, NM

PROJECT MANAGER	JOB NO.	DRAWN BY:
	Project Number	

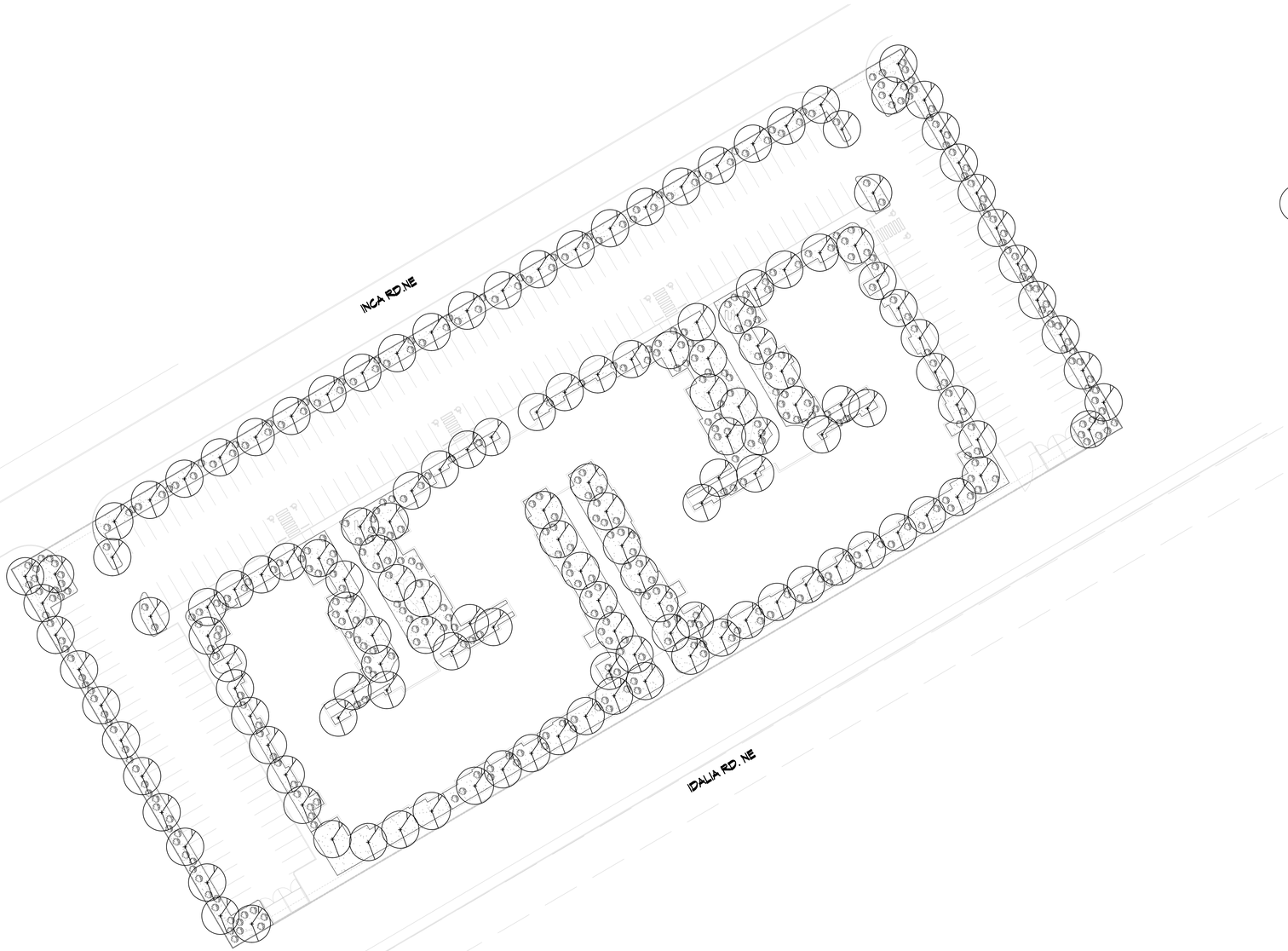
SHEET TITLE

CONCEPTUAL SITE PLAN

MODULUS ARCHITECTS

100 SUN AVENUE NE SUITE 600
ALBUQUERQUE, NEW MEXICO 87109
PHONE (505) 338-1499 FAX (505) 338-1498
TOLL FREE 1-866-224-2161

REV	DATE	BY	REVISION



LANDSCAPE LEGEND

	QTY	SIZE	COMMON/BOTANICAL	HxS
	15Ø	2" cal	Typical Trees	3Øx25
	45Ø	5 Gal	Typical Shrubs	3x4

REQUIRED LANDSCAPING

(2) DECIDUOUS TREES W/ 1 1/2" CALIPER OR 8' HIGH PER UNIT REQ.
15Ø UNITS @ 2 TREES = 3ØØ TREES
(3) FIVE GAL. SHRUBS PER UNIT REQ. 15Ø UNITS @ 3 SHRUBS = 45Ø SHRUBS

ALTERNATIVE LANDSCAPING PROVIDED

TREES PROVIDED = 15Ø
SHRUBS PROVIDED = 45Ø

COOL SEASON GRASS LIMITED TO 15% OF TOTAL LOT AREA
TOTAL LOT AREA 174240 SF / 15% = 26136 SF MAX. ALLOWED
(KENTUCKY BLUEGRASS, FESCUES, RYEGRASSES) ACTUAL AREA T.B.D.

LANDSCAPE AREA SF = 33Ø26 SF

GRAPHIC SCALE
4Ø 2Ø Ø 2Ø 4Ø
SCALE: 1" = 4Ø'-Ø"

Designed By: *ID, Mitchell*
Drawn By: *dm*
Approved By:
Date:

NEW MEXICO ONE CALL
STATEWIDE - 811 OR
1-800-321-ALERT (2537)
www.nmonecall.org
Call two working days
before you dig.

REVISIONS

	Date:	Comment

File ID:

Rio Rancho Multifamily
Landscape Plan

Mitchell Associates, inc
Landscape Architecture
Danny Mitchell
505.639.9583
danny@mitchellassociatesinc.com

Seal:

Landscape Architect
STATE OF NEW MEXICO
DANNY D. MITCHELL
239
REGISTERED
LANDSCAPE ARCHITECT
August 22, 2023

DRAWING NO:
LS-101

MODULUS ARCHITECTS & LAND USE PLANNING

Planning and Zoning Board
City of Rio Rancho
3200 Civic Center Circle NE
Rio Rancho, NM 87144

RE: PARKING REQUIREMENT DEVIATION REQUEST - <u>REFERENCE & SUPPORT MATERIAL</u>

Commissioners,

A parking deviation request accompanies this Special Use Zone Map Amendment request. The proposed multi-family project requests a deviation to the standard parking to a total number of parking spaces to be 210 spaces or a ratio of 1.4 spaces per dwelling unit. This will provide adequate parking for the residents and their guests. This is supported by the ITE (Institute of Transportation Engineers). ITE recommendations are for 1.2 parking space per unit, thus, an overall ratio of 1.4 spaces per dwelling unit is more than adequate.

Lee Engineering, professional licensed Transportation and Parking Engineers were hired to provide a parking analyses for this project. Their analysis and data concluded the following (the full report is attached to this request):

<u>CONCLUSIONS</u>
Based on the results of this parking analysis: • A total of 210 parking spaces will be provided for the proposed multi-family development. • While the number of parking spaces proposed to be provided falls below the City of Rio Rancho's requirements (249 parking spaces): o

- Using the ITE peak parking demand per dwelling unit for Multi-Family Housing (Low-Rise) shows that the proposed 210 parking spaces would exceed the demand of 182 by 28 spaces or 13 (thirteen) percent.
- Using the ITE peak parking demand per bedroom for Multi-Family Housing (Low-Rise) shows that the proposed 210 parking spaces would exceed the demand of 149 by 61 spaces or 29 (twenty-nine) percent.

  Therefore, the amount of parking proposed to be provided for the multi-family development (210 parking spaces) is projected to adequately accommodate the anticipated peak period parking demand.

I implore you to review the reference material I have provided and will present at our hearing. Parking standards across the Country are being reformed in which I highlight several key resources below as well as the recommendations from the ITE as well as the ULI

1. **<u>The current edition of ITE's Institution of Transportation (ITE)</u>** recommends 1.2 Parking Spaces per dwelling unit for multi-family development***. Published by the Institution of Transportation.***

2. **<u>The National Apartment Association</u>** identifies the average parking ratios for apartment properties with 50 or more units is 1.4 per dwelling unit – ***National Apartment Association, Published, "The Transformation of Parking".***

3. **<u>Urban Land Institute</u>** (May 12, 2021) To view ULI's centralized resource of parking policy innovations in the United States, ***Parking policy innovations in the United States.***

4. ***https://knowledge.uli.org/en/reports/research-reports/innovations-in-parking-policy?q&sortBy=relevance&sortOrder=asc&page=1***

5. **Urban Land Institute** (June 23, 2021) WASHINGTON D.C. – ***A 'first-of-its-kind' central resource of innovative parking policy reforms has been launched by the Urban Land Institute (ULI), the world's oldest and largest network of cross-disciplinary real estate and land-use experts, with a view to making more efficient use of land and creating healthier neighborhoods.*** ***https://americas.uli.org/210621parkingreport/***

6. **Smart Growth America** (March 6, 2020) Parking reform for 21st Century communities ***"Legislators reduced minimum parking requirements within housing projects. It also amends the parking ratio for affordable housing and senior housing to require no more the 0.5 parking spaces per unit, and amends the ratio for special needs housing to require no more than 0.3 parking spaces per unit."*** ***https://smartgrowthamerica.org/tag/parking-requirements/***

7. **Environmental and Energy Institute** *(June 3, 2021)* ***How Eliminating Parking Minimums Makes Cities Better*** ***https://www.eesi.org/articles/view/how-eliminating-parking-actually-makes-cities-better#:~:text=Parking%20minimums%20can%20prevent%20city,%2Doriented%20development%20(TOD).&text=Reducing%20the%20amount%20of%20parking,the%20quality%20of%20urban%20landscapes.***

8. **Bloomberg News** (April 26, 2021) Save the planet, kill parking requirements; ***Parking mandates drive up housing costs and climate emissions, see what the nation's leading states are doing to reclaim our cities from parking lots.*** ***https://www.bloomberg.com/news/articles/2021-04-26/to-save-the-planet-kill-minimum-parking-mandates***

9. **State Smart Transportation Initiative** (March 30, 2021) ***"Transportation agencies in California and Minnesota made major advancements, planning for parking reductions and mitigations as a part of their sustainability and climate change plans."*** ***https://ssti.us/2021/03/30/minnesota-and-california-move-toward-reducing-vmt-to-address-climate-change/***

10. **People Over Parking** (October 2018) American Planning Association - ***The usual ratio of one parking space for every one unit was cut in half for larger apartment projects and was eliminated entirely for projects with 50 or fewer units located near high-frequency transit. Lo and behold, the market mostly responded in the exact ways planners had predicted.***https://www.planning.org/planning/2018/oct/peopleoverparking/

11. **The Urban Land Institute (ULI)** ***Parking Policy Reform*** ***https://knowledge.uli.org/-/media/files/research-reports/2021/parking-policy-resources/types-of-off-street-parking-policy-updates.pdf?rev=e2110859d2ca4ed7b7513777f3465289***

12. **Kimley-Horn** (May 2016) Replacing ***Flawed Standards of Parking*** ***https://www.kimley-horn.com/wp-content/uploads/2017/02/PARK_Plus_ParkingGen.pdf***

13. ***Transportation Policy Institute*** (June 25, 2021) ***Parking requirements impacts on Housing Affordability*** ***https://www.vtpi.org/park-hou.pdf***

14. ***Urban Land Institute*** *(July 2, 2018)* ***https://urbanland.uli.org/economy-markets-trends/toward-zero-parking-challenging-conventional-wisdom-multifamily-developments/***

15. ***Colorado Real Estate Journal*** *(February 18, 2019) Future of parking for Multi-family projects****. On a per-unit basis, parking ratios decreased from 1.52 to 1.31 spaces per unit for midrise construction and 1.24 to 1.11 spaces per unit*** *for high-rise construction.* ***https://crej.com/news/whats-the-future-of-parking-for-multifamily-projects/***

16. **Strong Towns** ***(November 23, 2021) More Cities than ever are eliminating Parking Minimums - https://www.strongtowns.org/journal/2018/11/23/a-map-of-cities-that-got-rid-of-parking-minimums-updated?rq=parking***

17. ***Strong Towns – Ending Parking Minimums (November 24, 2020)*** ***https://www.strongtowns.org/journal/2020/11/19/parking-minimums-video***

18. **Parking Reform Network (2021) https://parkingreform.org/resources/mandates-map/**

19. **The Real Estate Business Journal** findings of the parking study completed show that on average, multi-family residential developments should off 1.4 parking spaces per unit – yet only one space is actually being used in most cases. ***Real Estate Business Journal***

Parking requirements for multifamily residential projects have changed drastically in the last several years. All of the institutions above identified several key issues related to the effects of required parking on multi-family housing.

Changing Trends in Car Ownership and Commuting to Work: U.S. Census data reveals declining rates of residents driving alone to work and much higher rates of alternative transportation modes (e.g., transit, bikes, shared driving, work from home).

Parking Demand in Multifamily Apartments Lower than Supply: An empirical analysis of parking occupancy demonstrates that parking supply exceeds demand in all apartment developments surveyed.

CONCLUSION

We respectfully request approval of the parking deviation request for multifamily "apartment" off-street parking requirements. If you have any questions or need additional information regarding this matter, please do not hesitate to contact me.

Sincerely,

Angela Williamson, CEO/Principal (Agent)
Modulus Architects & Land Use Planning, Inc.
100 Sun Ave NE, Suite 600
Albuquerque, NM 87109
Office (505) 338-1499 ext. 1000
Mobile (505) 999-8016
Email: awilliamson@modulusarchitects.com

ARIZONA
TEXAS
NEW MEXICO
OKLAHOMA

August 16, 2023

Angela Piarowski
CEO/Principal
Modulus Architects & Land Use Planning, Inc.
100 Sun Ave NE, Suite 600
Albuquerque, New Mexico 87109

Re: *Rio Rancho Multi-Family Housing Development Parking Study*

Dear Ms. Piarowski,

Lee Engineering has completed our parking study for the proposed multi-family units located on Idalia Road NE in Rio Rancho, New Mexico. This letter report documents our study procedures and findings.

INTRODUCTION

Modulus Architects & Land Use Planning, Inc. seeks to develop the vacant lot on Idalia Road. The proposed development would contain a total of 150 dwelling units, this includes 75 one-bedroom units and 75 two-bedroom units. Per the provided site plan, a total of 210 parking spaces will be provided, including eight ADA parking spaces. Additionally, four bicycle parking spaces will be provided. A site plan for the proposed self-storage building and surrounding parking lots is provided in **Attachment 1** to this letter.

This report is divided into the following sections:

1. City Parking Calculation
2. ITE Dwelling Unit Calculation
3. ITE Bedroom Calculation
4. Conclusions

CITY CODE PARKING CALCULATION

The number of parking spaces needed to accommodate the proposed multi-family development was calculated according to the City of Rio Rancho Planning and Zoning Code (Section 154.76) and are summarized in **Table 1**.

Table 1: City Code Parking Requirements Summary

Land Use	City Code	UNITS	Code Requirement (Parking Spaces)
STUDIO OR ONE-BEDROOM	1.5/UNIT	75	112
TWO-BEDROOM	1.75/UNIT	75	131
GUEST/STAFF PARKING	6 SPACES	-	6
Total Parking Spaces Required By Code			249

With 210 parking spaces provided, the amount of parking provided for the multi-family development will fall below the City code requirement (249) by 39 parking spaces or approximately 16 (sixteen) percent.

ITE DWELLING UNIT CALCULATION

To test the adequacy of the proposed parking for the proposed multi-family development, this method considered the peak period parking demand per dwelling unit for this type of land use provided in the Institute of Transportation Engineers *Parking Generation Manual* (5th Edition), which is provided in **Attachment 2** to this letter. To conduct this analysis, the number of dwelling units (150) was multiplied by the peak period parking demand per unit (1.21) provided in the ITE Engineers *Parking Generation Manual* (5th Edition). A Summary of the peak period parking demand for a 150 dwelling unit Multi-Family (Low-Rise) building is provided in **Table 2**.

Table 2: Peak Period Parking Demand per Dwelling Unit for the Proposed Multi-Family Development

Land Use (ITE Land Use)	ITE Code	Variable	Equation
Equation/Rates			
Multi-family Housing (Low-rise)	220	Dwelling Unit	T = 1.21 (X)
Trips Generated			
Multi-family Housing (Low-rise)	220	150	182 Parking Spaces

ITE BEDROOM CALCULATION

An additional method to test the adequacy of the proposed parking for the proposed multi-family development considered the peak period parking demand per bedroom for this type of land use provided in the ITE *Parking Generation Manual* (5th Edition), which is provided in **Attachment 3** to this letter. To conduct this analysis, the number of bedrooms (225) was multiplied by the peak period parking demand per unit (0.66) provided in the ITE *Parking Generation Manual* (5th Edition). A Summary of the peak period parking demand for a 225 dwelling unit Multi-Family (Low-Rise) building is provided in **Table 3**.

Table 3: Peak Period Parking Demand per Bedroom for the Proposed Multi-Family Development

Land Use (ITE Land Use)	ITE Code	Variable	Equation
Equation/Rates			
Multi-family Housing (Low-rise)	220	Bedrooms	T = 0.66 (X)
Trips Generated			
Multi-family Housing (Low-rise)	220	225	149 Parking Spaces

CONCLUSIONS

Based on the results of this parking analysis:

- A total of 210 parking spaces will be provided for the proposed multi-family development.
- While the number of parking spaces proposed to be provided falls below the City of Rio Rancho's requirements (249 parking spaces):
    - Using the ITE peak parking demand per dwelling unit for Multi-Family Housing (Low-Rise) shows that the proposed 210 parking spaces would exceed the demand of 182 by 28 spaces or 13 (thirteen) percent.
    - Using the ITE peak parking demand per bedroom for Multi-Family Housing (Low-Rise) shows that the proposed 210 parking spaces would exceed the demand of 149 by 61 spaces or 29 (twenty-nine) percent.

Therefore, the amount of parking proposed to be provided for the multi-family development (210 parking spaces) is projected to adequately accommodate the anticipated peak period parking demand.

If you have any questions regarding this study, please contact me at (505) 545-8459. We appreciate the opportunity to provide these services.

Sincerely,

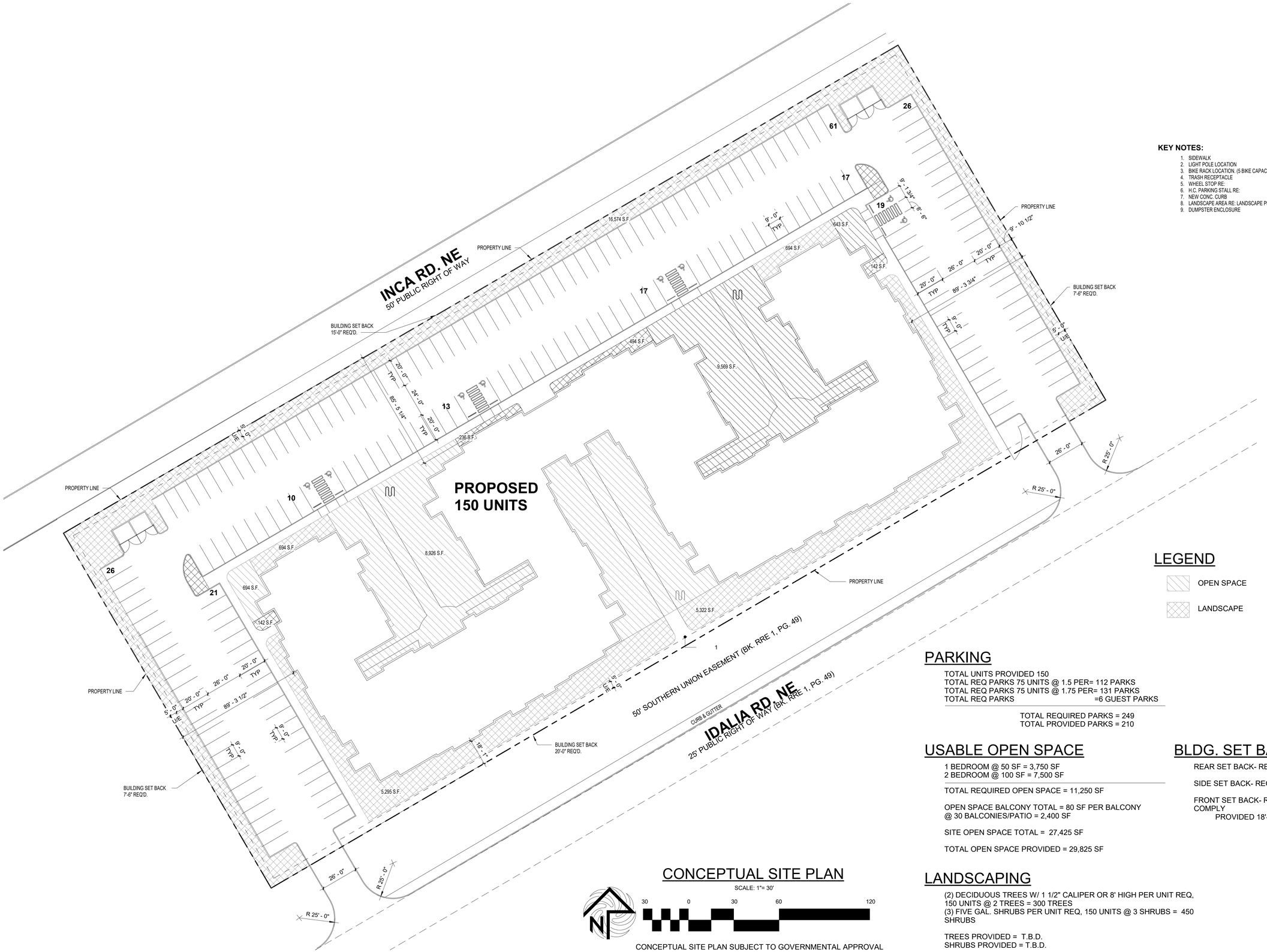
Jonathon Kruse

Digitally signed by Jonathon Kruse
DN: C=US, E=jkruse@lee-eng.com, O=Lee Engineering, CN=Jonathon Kruse
Date: 2023.08.16 14:12:12-06'00'

Jonathon, Kruse, PE PTOE
Project Manager
Lee Engineering, LLC

COPYRIGHT 2021 MODULUS ARCHITECTS

H:\DWG_ACTIVE\000-Preliminary Work\Rio Rancho Multi_Family\F- Graphics\1 - Current\5 - DWG\RIO RANCHO MULTIFAMILY-v2.rvt
6/27/2023 2:59:46 PM
PROPOSED



KEY NOTES:

1. SIDEWALK
2. LIGHT POLE LOCATION
3. BIKE RACK LOCATION. (5 BIKE CAPACITY) RE: DTL.
4. TRASH RECEPTACLE
5. WHEEL STOP RE:
6. H.C. PARKING STALL RE:
7. NEW CONC. CURB
8. LANDSCAPE AREA RE: LANDSCAPE PLAN
9. DUMPSTER ENCLOSURE

LEGEND

OPEN SPACE

LANDSCAPE

PARKING

TOTAL UNITS PROVIDED 150
TOTAL REQ PARKS 75 UNITS @ 1.5 PER= 112 PARKS
TOTAL REQ PARKS 75 UNITS @ 1.75 PER= 131 PARKS
TOTAL REQ PARKS =6 GUEST PARKS

TOTAL REQUIRED PARKS = 249
TOTAL PROVIDED PARKS = 210

USABLE OPEN SPACE

1 BEDROOM @ 50 SF = 3,750 SF
2 BEDROOM @ 100 SF = 7,500 SF

TOTAL REQUIRED OPEN SPACE = 11,250 SF

OPEN SPACE BALCONY TOTAL = 80 SF PER BALCONY
@ 30 BALCONIES/PATIO = 2,400 SF

SITE OPEN SPACE TOTAL = 27,425 SF

TOTAL OPEN SPACE PROVIDED = 29,825 SF

BLDG. SET BACKS

REAR SET BACK- REQ 15'= COMPLY

SIDE SET BACK- REQ 7'-6"= COMPLY

FRONT SET BACK- REQ 20'= DOESN'T COMPLY
PROVIDED 18'-1"

LANDSCAPING

(2) DECIDUOUS TREES W/ 1 1/2" CALIPER OR 8' HIGH PER UNIT REQ, 150 UNITS @ 2 TREES = 300 TREES
(3) FIVE GAL. SHRUBS PER UNIT REQ, 150 UNITS @ 3 SHRUBS = 450 SHRUBS

TREES PROVIDED = T.B.D.
SHRUBS PROVIDED = T.B.D.

COOL SEASON GRASS LIMITED TO 15% OF TOTAL LOT AREA
TOTAL LOT AREA 174,240 SF / 15% = 26,136 SF MAX. ALLOWED
(KENTUCKY BLUEGRASS, FESCUES, RYEGRASSES) ACTUAL AREA T.B.D.

LANDSCAPE AREA SF = 33,026 SF

CONCEPTUAL SITE PLAN

SCALE: 1"= 30'

30 0 30 60 120

CONCEPTUAL SITE PLAN SUBJECT TO GOVERNMENTAL APPROVAL

REV	DATE	BY	REVISION

MODULUS ARCHITECTS
100 SUN AVENUE NE SUITE 600
ALBUQUERQUE, NEW MEXICO 87109
PHONE (505) 338-1499 FAX (505) 338-1498
TOLL FREE 1-866-224-2161

PROJECT TITLE
PROPOSED
INCA ROAD NE. RIO RANCHO, NM

PROJECT MANAGER | JOB NO. Project Number | DRAWN BY:

SHEET TITLE
CONCEPTUAL SITE PLAN

DATE 5-5-23
SCALE:

SHEET
A1

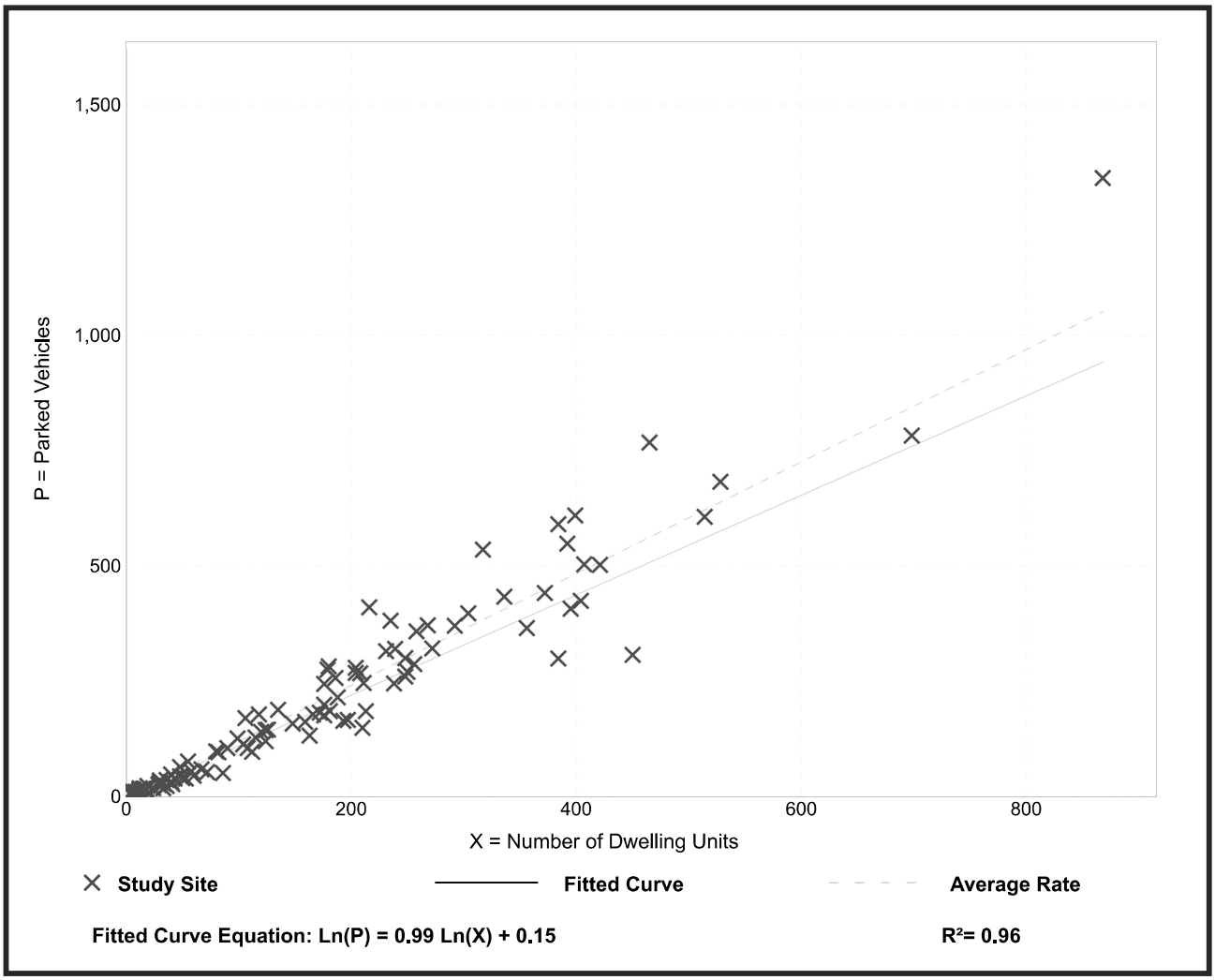
Multifamily Housing (Low-Rise)
(220)

Peak Period Parking Demand vs: **Dwelling Units**
On a: **Weekday (Monday - Friday)**
Setting/Location: **General Urban/Suburban (no nearby rail transit)**
Peak Period of Parking Demand: **11:00 p.m. - 6:00 a.m.**
Number of Studies: 119
Avg. Num. of Dwelling Units: 156

Peak Period Parking Demand per Dwelling Unit

Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
1.21	0.58 - 2.50	1.03 / 1.52	1.16 - 1.26	0.27 (22%)

Data Plot and Equation



Parking Generation Manual, 5th Edition ● Institute of Transportation Engineers

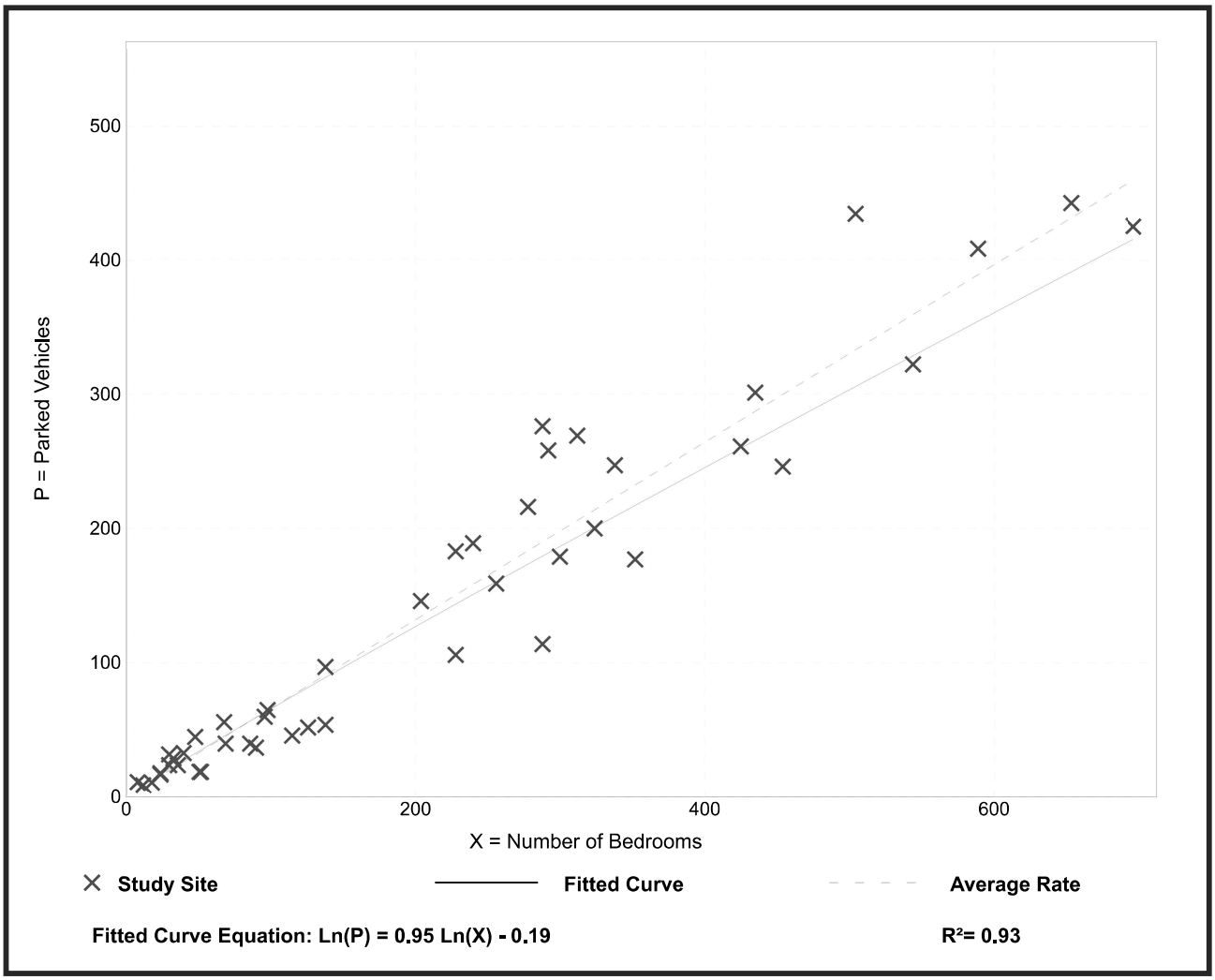
Multifamily Housing (Low-Rise)
(220)

Peak Period Parking Demand vs: **Bedrooms**
On a: **Weekday (Monday - Friday)**
Setting/Location: **General Urban/Suburban (no nearby rail transit)**
Peak Period of Parking Demand: **11:00 p.m. - 6:00 a.m.**
Number of Studies: 45
Avg. Num. of Bedrooms: 215

Peak Period Parking Demand per Bedroom

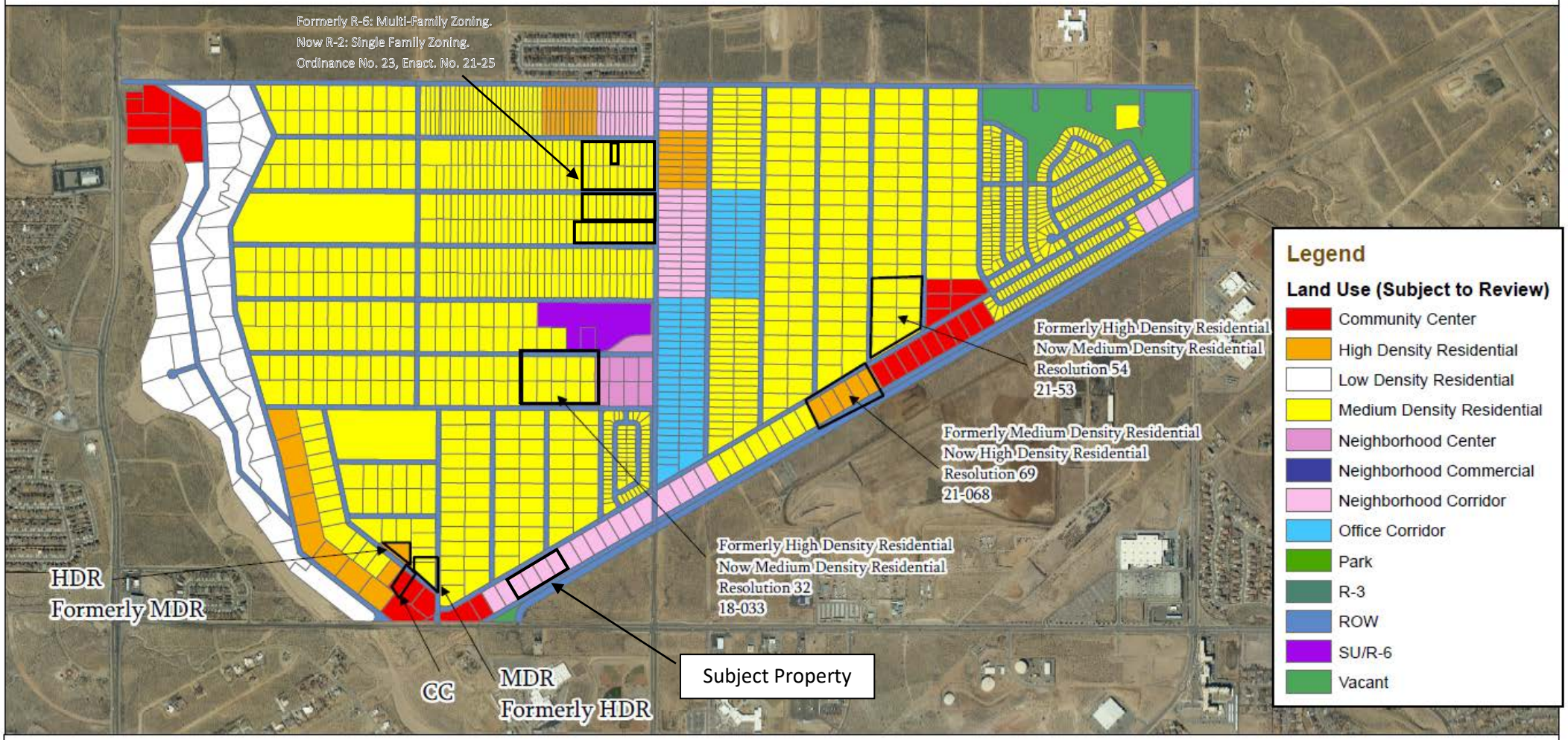
Average Rate	Range of Rates	33rd / 85th Percentile	95% Confidence Interval	Standard Deviation (Coeff. of Variation)
0.66	0.37 - 1.38	0.61 / 0.86	0.62 - 0.70	0.15 (23%)

Data Plot and Equation



Parking Generation Manual, 5th Edition ● Institute of Transportation Engineers

LOMAS NEGRAS AREA LAND-USE EXHIBIT



DISCLAIMER: All information in this map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This map is not a survey and should be used for graphical purposes only.

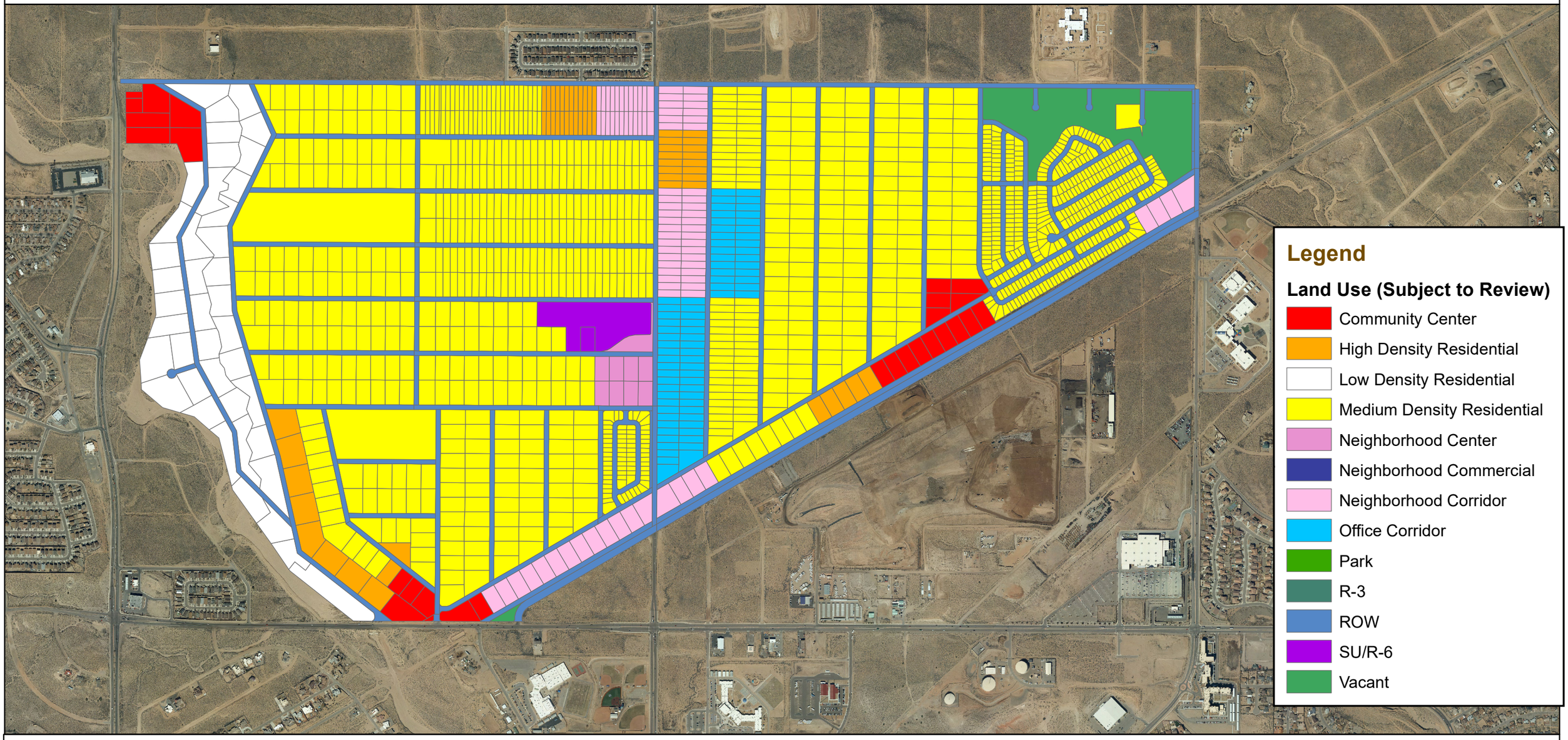
Map Created by Jansen Lyons 9-14-2023
Map additions created by Brian Babyak 9-20-2023

0 0.2 0.4 0.8
Miles

Rio Rancho City of Vision

GIS

LOMAS NEGRAS AREA LAND-USE EXHIBIT



DISCLAIMER: All information in this map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This map is not a survey and should be used for graphical purposes only.

N
W E
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Map Created by Jansen Lyons 9-14-2023

0 0.2 0.4 0.8
Miles

RioRancho City of Vision

GIS Moving Spatial Data Forward

The City of Rio Rancho

Development Services
Planning Division
3200 Civic Center Circle NE
Rio Rancho, NM 87144
Phone (505) 891-5005 ● Fax (505) 896-8994

September 22, 2023

RE: Zone Map Amendment and Specific Area Plan Amendment
Case No. 23-100-00005 and 23-410-00005
Unit 13, Block 68, Lots 5-8

Dear Property Owner:

You are receiving this certified notice because your property abuts a site where a land development decision is required by the Governing Body.

The applicant, J Jacob Enterprises, Inc., is requesting approval of a Zone Map Amendment from SU/C-1 and O-1 to SU/R-6, for the subject property legally described as U13, Blk 68, Lots 5, 6, 7, and 8. The applicant is also requesting a Specific Area Plan Amendment for the Lomas Negras Specific Area Plan. The properties total 4 acres and are located on the north side of Idalia Rd, west of Broadmoor Blvd.

The **Governing Body** will consider the request on **Thursday, October 12, 2023** at 6:00 pm in the **Council Chambers** and **Virtually** as a hybrid meeting, through the **Zoom link and number below.**

On the back of this letter is a location map of the project, with the subject property identified with the black outline.

If you would like to comment on this application, you are encouraged to send in comments in writing, which will be presented to the Governing Body. This Governing Body meeting will be hybrid with options to participate virtually or in person. The City highly encourages citizens to watch the meeting live on the City's website www.rrnm.gov or on Sparklight cable channel 56.

For the **Governing Body Meeting**, to participate virtually: Join via computer: https://us06web.zoom.us/j/85302353741?pwd=bWp1QXliSGJoeHhJaGVOczF4MDN0UT09 or call 1-720-707-2699 Meeting ID: 853 0235 3741 **Passcode:** 789419

Please do not hesitate to contact me via e-mail me at lruizcarlos@rrnm.gov or call me at 505-896-8785, if you have any questions concerning this matter. The agenda for this hearing and related staff reports will be posted on the City's website, www.rrnm.gov, the Friday before the hearing.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the City Clerk, 505-891-5004, as soon as possible prior to the meeting. Please contact the City Clerk if a summary or other type of accessible format is needed.

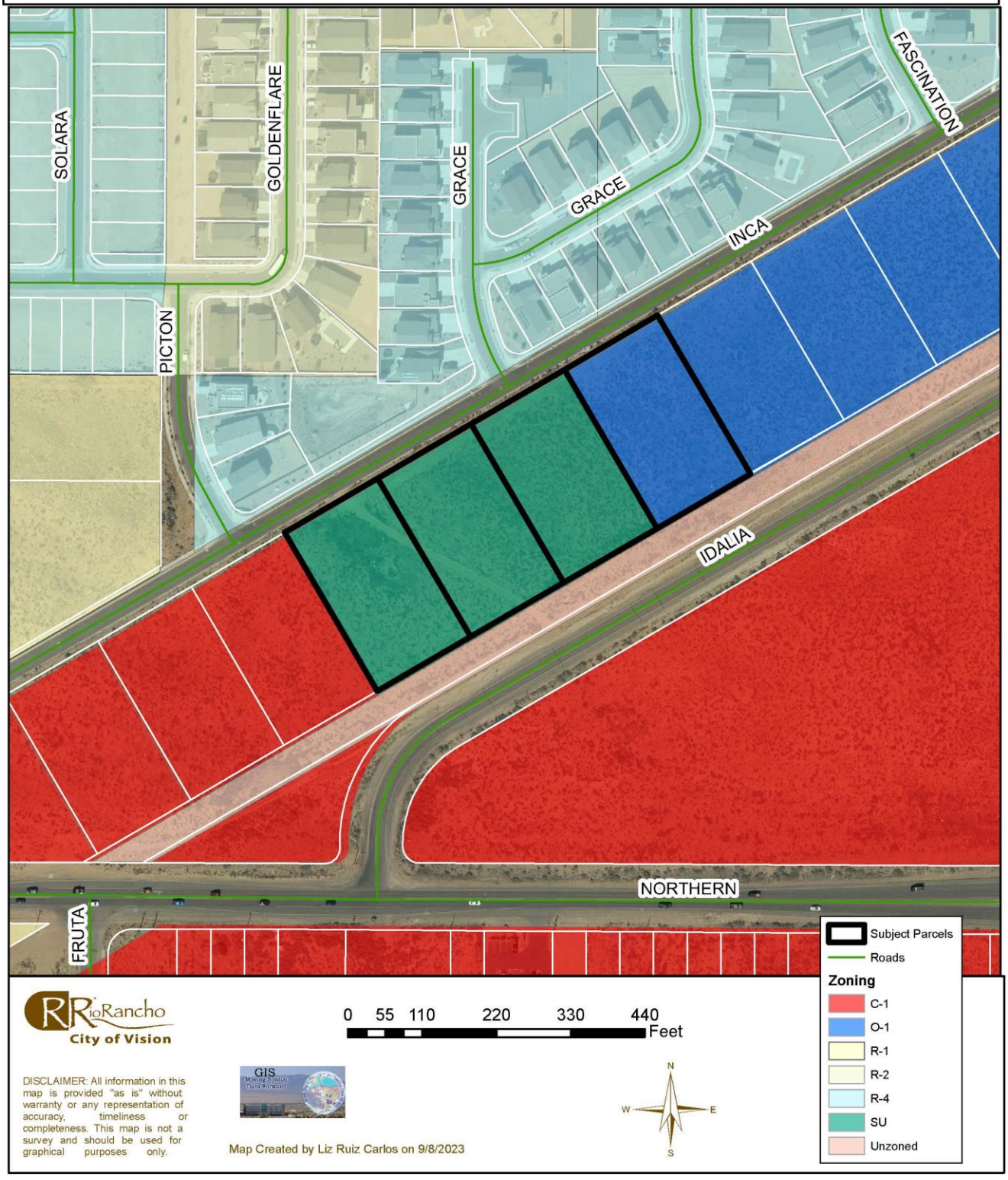
Respectfully,

Liz Ruiz Carlos
Municipal Planner II
Development Services Department
City of Rio Rancho

The City of Rio Rancho

Development Services
Planning Division
3200 Civic Center Circle NE
Rio Rancho, NM 87144
Phone (505) 891-5005 ● Fax (505) 896-8994

UNIT 13, BLOCK 68, LOTS 5-8
ZONE MAP AMENDMENT & SAP AMENDMENT



CITY OF RIO RANCHO
PUBLIC HEARING NOTICE

The GOVERNING BODY of the CITY OF RIO RANCHO, NM, will consider the following matter at its regularly scheduled meeting on Thursday, October 12, 2023 at 6:00 pm:

Text Amendment
Case #23-105-00003
The applicant, City of Rio Rancho, requests to amend City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 154 Planning and Zoning for the addition of Section 154.45 Off-Premises Advertising Signs. This is the first reading of the proposed text amendment.

Text Amendment
Case #22-105-00002
The applicant, City of Rio Rancho, requests a text amendment to repeal and replace City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 156 Sign Regulations. This is the first reading of the proposed text amendment.

Zone Map Amendment
Case #23-100-00006
The applicant, Outer Rim Investments, Inc., requests a Zone Map Amendment from Unzoned to R-1: Single Family Residential for the property legally described as Unit 7, Block 18, Lots 128-129, and 132-134. The subject property is approximately 2.5 acres.

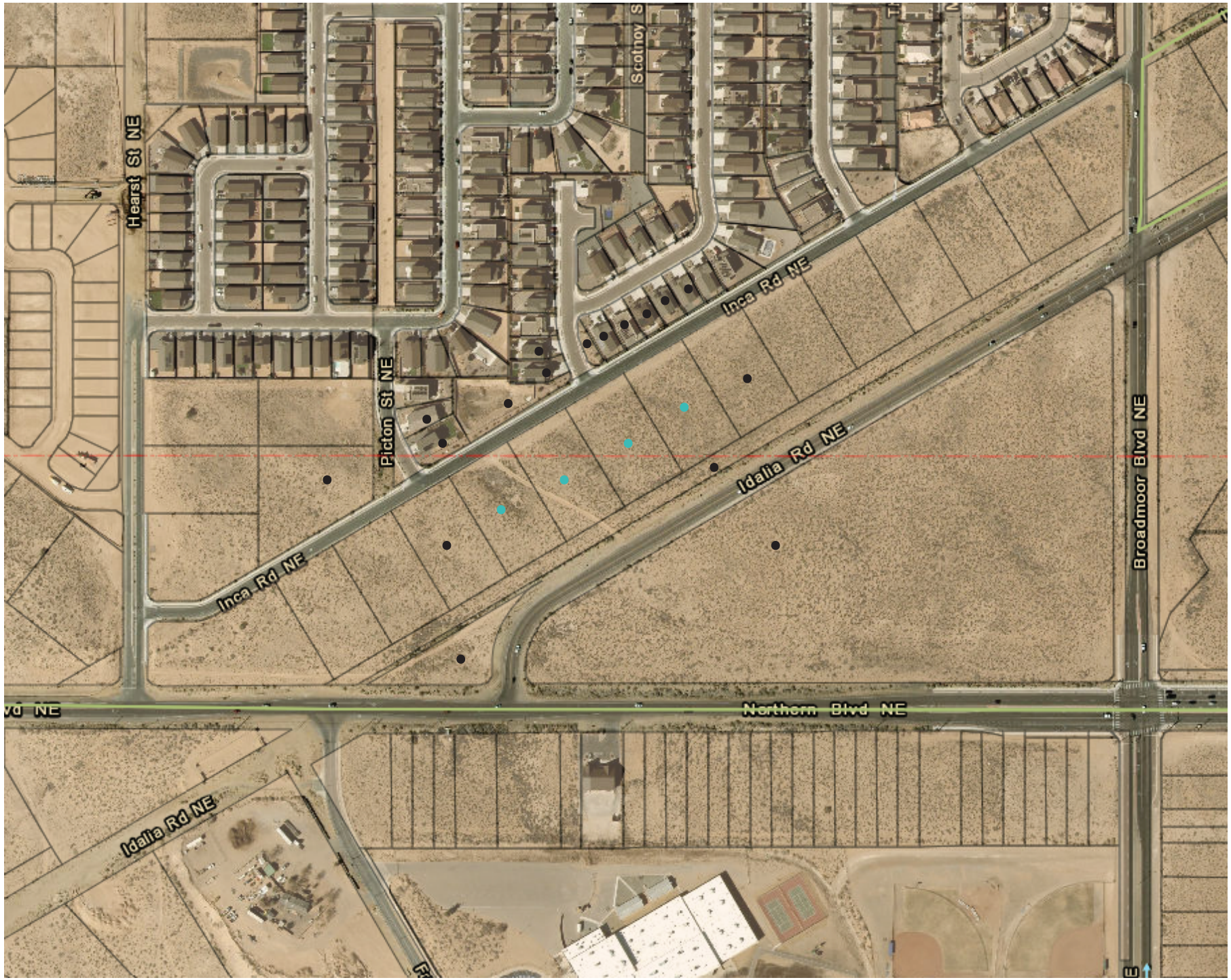
Zone Map Amendment
Case #23-100-00005
The applicant, J Jacob Enterprises, Inc., is requesting approval of a Zone Map Amendment from SU/C-1 and O-1 to SU/R-6, for the subject property legally described as U13, Blk 68, Lots 5, 6, 7, and 8. The properties total 4 acres and are located on the north side of Idalia Rd, west of Broadmoor Blvd.

Specific Area Plan Amendment
Case #23-410-00005
The applicant, J Jacob Enterprises, Inc. requests approval of an amendment to the Lomas Negras Specific Area Plan.

The meeting is scheduled in the Council Chambers at City Hall, 3200 Civic Center Cir NE, Rio Rancho, NM. The public is invited to attend in person or virtually at www.rrnm.gov. Materials related to these items are available for viewing in the Development Services Department at City Hall.

If you would like to comment on any of these applications, you are encouraged to submit a written comment to planning @rrnm.gov Written comments will be inserted into the public record.

Journal: September 27, 2023



Notice Map:

• - Certified Mail, return receipt requested

9-10-2023

Planning & Zoning board

Mr. Kevin Kofchur
Mr. Fred Radosevich
Mr. Robert Gabaldon
Mr. Scottie Richardson
Mr. Salvatore Tortorici

Governing Body
Mr. Jim Owen
Mr. Jeremy Lenentine
Mr. Bob Tyler
Mr. Paul Wymer
Ms Karissa Culbreath
Ms. Nicole List
Mayor Greggory D Hull

Mr. Matt Geisel – City Manager

Mr. Peter Wells – Assistant City Manager

Mr. Josh Rubin – Citty Attorney

I want to go on the record as being opposed to the rezoning of 4 lots on Inca St to RU6 to allow the building of High-Density Apartments proposed by Modulus Development, JJM properties, and Quad J properties at the addresses of :1034 Inca St NE, 1042 Inca St NE, 1050 Inca St NE and 1102 Inca St NE

3 years ago, before deciding to move to Milagro Mesa, my husband and I looked at lots in the area. I went to the city planners and asked for a Master Plan for the area, and asked what could go into Office Corridors. Knowing it could be offices, and other businesses that were up to 3 stories, we decided on purchasing our home.

I am not opposed to having the land developed for what was originally intended! It is supposed to be a buffer between residential and commercial properties.

1. Rezoning this land to High – density residential is defined as being "within 1/8-mile walking distance of a commercial center, employment center, or other community facility"
    a. Where is this walkability
    b. Where are these centers?
    c. Even if the Smith's decides to go in across the street (Mayor Hull told me it was permanently pulled from discussions) – the entrance to the apartments is on Inca. It doesn't have any walkability at all!
2. Mayor Hull has spoken directly to me regarding the "gross city tax revenue leakage" primarily to Albuquerque. When we purchased here after looking at the zoning, I was encouraged that I might find medical and professional services close by. I now go to Albuquerque, and when I do – I commit "leakage" since I shop and eat whenever I have an appointment.
3. PNM has a right of way on Idalia. Because that was there when the initial Master Plan was created, it was deemed desirable to develop business along the corridor as a buffer to the residential areas.
    a. The Edinburgh and Inca intersection having recently been completed supports this existing zoning.
    b. You cannot make a left going west onto Inca – to Edinburgh – You must do a right, pass into the bike lane, and do a quick hard U-turn.
    c. When Edinburgh is completed, going south you can not take a left onto Inca – you must go to Idalia and do a U-turn
    d. In all cases, we know that the shortest way will be found, and that is illegally traversing Edinburgh – doing illegal turns.

Another very important issue I have with the rezoning is this is just the start of enclosing our residential neighborhood with RU6 apartments! If you decide to rezone apartments, all of the neighborhood corridors will have a precedent to rezone Including the rest of Inca and the Neighborhood corridors on Broadmoor!

The following four statements are supported by https://douglasnewby.com/2014/07/adding-density-destroys-neighborhoods-one-house-at-a-time/)

1. **Adding zoning density to residential neighborhoods encourages absentee owners to replace homeowners, which destabilizes neighborhoods.**

"Investors, speculators, and absentee owners will buy properties from homeowners and then rent them. These absentee owners will disinvest in properties, letting them deteriorate since they are speculating on selling the lots in the future for denser residential use. For instance, a home in the 90-year-old Mount Auburn neighborhood of 1,000 sf cottages might be projected as a lot for a duplex, fourplex, or a new home with a new 1,000 sf backyard rental house behind it. In this case, a speculator will not want to invest in maintaining a house that they plan to tear down or think a future buyer will tear down for higher density rental units. "(

2. **Homeowners and renters prefer to live next to single-family homes rather than next to apartments.** https://douglasnewby.com/2014/07/adding-density-destroys-neighborhoods-one-house-at-a-time/)

Adding zoning density to neighborhoods makes them less attractive to both homeowners and renters. Less attractive neighborhoods attract less desirable tenants. This creates a downward neighborhood spiral. Less attractive tenants make the neighborhood less attractive for homeowners.

3. **Higher density attracts absentee owners.**

Lower density attracts homeowners. Density attracts renters; density repels homeowners. A good example is the comparison of Northern Hills to Munger Place. Northern Hills is a neighborhood built at the same time and with similar size homes found in Munger Place and Swiss Avenue that are the same distance from downtown. Northern Hills is closer to Central Expressway than Munger Place is to the I-30 expressway. In the 1960s Northern Hills might have declined as people were leaving Dallas close-in neighborhoods, but it never fell into the condition of derelict divided up rent houses found in Munger Place. This is because Northern Hills was not over-zoned for apartments and additional density. Homeowners are attracted to homes and are repelled by carved up rent houses and apartments like the ones that were built on Gaston Avenue in the 1960s, a street that ran through Munger Place.

4. **Density discourages lending on single-family homes.**

The higher the percentage of homeownership in a neighborhood, the easier it is to get a loan. We even see in condominiums, the higher the percentage of owner occupied units in the condominium, the easier it is for a condominium unit buyer to obtain a loan.

What do these four statements mean? The sense of community in Milagro Mesa, Solcito, Melon Ridge, Mirador, and Tierra Del Oro will shows signs of "renter syndrome" – where single family homes are now rental – with transitions yearly! The community that we are building will be lost – as we become another area of rental housing.

Next, the intent of having zoning levels in place is to ensure a smooth transition between uses. Jumping from OS1 and **5 levels** to RU6 (potentially 6 stories!) does not make any sense whatsoever! Skipping 5 levels is unheard of! Skipping levels hasn't been done since the mid 80's!

1. **Explain to me why we would move backward in zoning instead of moving forward?**
2. **Why would we not develop the existing high-density properties that are already in place?**
3. Has the design carefully considered the potential drawbacks, such as **overcrowding, noise, and strain on infrastructure?** Low-density housing means **less crowding, more privacy**. It also means fewer vehicles, more open spaces, and an environment that's much, much cleaner and healthier.

Currently in our Master Plan we have the Office Corridors/Neighborhood Corridors (very confusing because the Rio Rancho Planning department cannot give me a correct map), **RU1, RU3 and RU6 already zoned**! We should continue to develop the existing master plan! If you take a ride down Broadmoor, you will see that development is happening! New roads and homes are being built! If we deviate from the plan it could lead to uncontrolled growth without adequate development of infrastructures, including water, gas, electricity, and roads!

Let me emphasize that until **you complete 90%** of the EXISTING RU3/RU6 Rio Rancho will not know if it needs more high-density apartments! The fact is that high density has already been designed into the existing Master Plan and that of other neighborhoods! This should be developed first and foremost!

Affordability is a hot button that is always coming up. If these homes weren't affordable, developers would not build them. Affordability is personal. What is affordable varies. Homes are affordable. It depends on what you want as affordable. A $1900 truck payment? Always going out to get coffee? Or owning a home! Choices – it all comes down to individual choices.

The city wants to "create traditional neighborhoods" according to the Executive summary (page v-9) We have that in our plans! Why not develop the plan? Why not develop a Planned Urban Development? A PUD in an area that has absolutely zero building on it currently? I understand the AMREP issues – but challenges will make the city stronger. Changing a plan that is developing as it was intended is good!

The developer indicated that traffic studies have not been performed! The city planners tell me we don't need to do one, and if you do a rezone, and it proves to be a bad decision, you cannot revoke the change!

We need a Rezoning Traffic study (RTS) Traffic Impact Assessment (TIA) Traffic Impact Study (TIS) and a Site Plan and Parking impacts. There are modeling tools used widely throughout the United States to perform these tasks, even though it is a proposed site. None of these studies have been performed. And it will not just affect these 4 lots. It will affect the entire stretch of the Inca corridor!

Changing the zoning on this property would be a **determinate to the existing plan that would create a buffer between R1 residential and the commercial** properties further to the south. This strip of land was to be the buffer zone. Per documentation given to me on 3 separate occasions this was a major consideration when we decided to build in Milagro Mesa, Rio Rancho NM.

4.2.2 Office Corridor

Purpose: The office Corridor is intended to also provide a transition between residential and commercial uses (page 26 of the Lomas Negras Specific Area Plan)

This plan has 1.5 parking spots per apartment. (I understand that the developer wants to lower it to 1.4!) I've been told that this is the bare minimum required for Rio Rancho. Statistical data from the US Census from 2019 for Rio Rancho Apartment dwellers show the Majority have 2 or more cars. Extrapolate the statistical information and you are short 40 plus spots! Not counting visitor spaces! (See attached spread sheet with information from www.city-data.com – Rio Rancho apartment dwellers).

This information clearly shows that parking will be an issue. Where will they park?

If you rezone –Parking on Inca, Edinburgh, and the side streets should be denied! We should have no parking signs! It is difficult enough to have two cards side by side since the streets are so narrow - it would create issues if emergency vehicles were needed in the residential areas.

Inca is a school bus zone! The safety of our children should be a prime consideration in adding additional traffic to our streets!

Inadequate apartment and street parking is another reason that this property should not be rezoned!

As for "blending in with the neighborhood" – these apartments do not have any open spaces, are significantly smaller than our smallest home (1400 sq feet) and exceed the height of the homes in the neighborhood.

After researching all the issues, the most important one is SPOT ZONING. The City of Rio Rancho, if they allow a rezone, will be promoting SPOT ZONING!

II. SPOT ZONING.

Spot zoning. — The term "spot zoning" refers to the rezoning of a small parcel of land to permit a use that fails to comply with a comprehensive plan or is inconsistent with the surrounding area, grants a discriminatory benefit to the parcel owner, and/or harms neighboring properties or the community welfare. Spot zoning is determined on an ad hoc basis, depending on the facts and circumstances of each case. *Watson v. Town Council of Town of Bernalillo*, 1991-NMCA-009, 111 N.M. 374, 805 P.2d 641.

Spot zoning is illegal in all 50 states! It will greatly benefit this landowner, while it will harm the residents of the Lomas Negras Master Plan.

I stand against this rezoning!

Terri Rees

1189 Fascination St NE

Rio Rancho, NM 87144

CARS PER APARTMENT

CITY-DATA.COM 2019

Rio Rancho, NM

# OF CARS		PERCENTAGE
0	425	0.055987353
1	2474	0.325912265
2	2939	0.387169016
3	1420	0.187063628
4	333	0.043867738
TOTAL	7591	1

% OF HOMES WITH 2 OR MORE CARS

	0.387
	0.187
	0.043
TOTAL	**0.617**

		total planned parking spots	
150 apartments	x 1.5 spaces	225	
zero cars*			-5
1 car			48
2 cars			114
3 cars			84
4 cars			24
total spots needed			265
shortage**		-40	
% SHORT		15%	

*probability of zero cars in Rio Rancho so far from public transportation is unlikely

**does not included guest parking

(No subject)

marilyn jackson <marilynjackson13@gmail.com>

Sun 9/10/2023 12:07 PM

To:LIZBETH RUIZ CARLOS <lruizcarlos@rrnm.gov>

Caution! This message was sent from outside your organization.

You don't often get email from marilynjackson13@gmail.com. Learn why this is important

Dear Ms. Carlos:
I am a resident of Milagro Mesa at 1155 Grace Street Northeast and I stand in great opposition to the proposed rezoning of our community for the purpose of building multi-unit housing.
Thank you for your time and consideration.
Marilyn Jackson

MR R. Olver & MS S. Cresap

1185 Fascination St. NE

Rio Rancho, NM 87144

September 13th, 2023

Planning & Zoning board

Mr. Kevin Kofchur
Mr. Fred Radosevich
Mr. Robert Gabaldon
Mr. Scottie Richardson
Mr. Salvatore Tortorici

Governing Body

Mr. Jim Owen
Mr. Jeremy Lenentine
Mr. Bob Tyler
Mr. Paul Wymer
Ms Karissa Culbreath
Ms. Nicole List
Mayor Greggory D Hull

Mr. Matt Geisel – City Manager

Mr. Peter Wells – Assistant City Manager

Mr. Josh Rubin – Citty Attorney

I am writing this letter in opposition to proposed rezoning of 4 lots on Inca St to RU6 to allow the building of High-Density Apartments proposed by Modulus Development, JJM properties, and Quad J properties at the addresses of :1034 Inca St NE, 1042 Inca St NE, 1050 Inca St NE and 1102 Inca St NE.

When me and my family were finally ready to purchase our first family home, we decided that Rio Rancho would be the best fit for us. A few of these reasons are but not limited to: lower crime rates than Albuquerque, the level of education my 10-year-old daughter would receive and a sense of community that we would become part of moving into an area like Milagro Mesa.

I previously lived at Eagle Ranch Apartments located in Albuquerque, where there was no sense of community, regular gun crime and limited parking and congested traffic. Parking was a serious issue as often there was none, and people were forced to park in fire zones. These apartments had 1.5 parking spaces per apartment. Yet it did have great accessibility to local amenities, stores, and parks etc. I mention these things to highlight why we chose our home here in Rio Rancho.

Since buying our home here in Rio Rancho we have never looked back. The sense of community and safe environment for my daughter to play outside with her friends who all attend Ernest Stapleton Elementary, is irreplaceable.

We really did buy into the masterplan for the surrounding area and feel that rezoning this land to RU6 would only impact negatively on your current residents by destroying the sense of community that is found in Milagro Mesa. High density homes without local transportation and access to readily available local services will only attract transient tenants. This coupled with the lack of adequate proposed parking spaces will certainly create overflow into neighboring streets. Inca is a bus route for the nearby schools, and this will impact on the safety of our children with such a drastic increase in traffic with no prior planning to accommodate such an increase.

I am accustomed to high density homes which add value to their areas, however those are located within a city's typical downtown area, with an abundance of transportation and recreational activities to attract tenants.

There is not an example to compare this proposed RU6 development to here in Rio Rancho, especially one overlooking single family homes and for good reason. I am not against the development of this land and welcome it, but oppose the change to RU6, as we do have vacant sites waiting for development that are already in the masterplan designated for high density homes.

The developer of this land has purchased this land knowing what is currently permitted to be built, we purchased our home also knowing this. For the city to approve this change it would send a clear signal that master plans are to be ignored, current residents will be ignored, and this will set precedence for additional rezoning of adjacent lots to RU6, as spot zoning is illegal here in Rio Rancho.

There is no need for these lots to be rezoned as before mentioned we have vacant lots currently zoned for high density residential that are undeveloped.

While I am sure Rio Rancho and its elected officials want to welcome new developments to increase its residential tax base, this should be done with the consideration of current residents and investors in mind.

Yours Sincerely

Richard Olver

Richard Olver

9/19/2023

Rio Rancho Planning & Zoning Board

RE: High-density Apartment Project on Inca

Let us begin by stating that we want to go on the record as being opposed to the re-zoning to RU6 granting the development of High-Density Apartments on the parcels of land identified below:

1034 Inca St NE, Rio Rancho NM 87144
1042 Inca St NE, Rio Rancho NM 87144
1050 Inca St NE, Rio Rancho NM 87144
1102 Inca St NE, Rio Rancho NM 87144

The groups involved with this proposed development are Modulus Development, JJM Properties, and Quad J Properties have requested this re-zoning to change this corridor from business to residential to meet their own financial goals. Re-zoning will set a precedent that the existing Master Plan can be modified to suit their financial needs. This is a clear example of SPOT ZONING as defined below.

II. SPOT ZONING.
The term "spot zoning" refers to the rezoning of a small parcel of land to permit a use that fails to comply with a comprehensive plan or is inconsistent with the surrounding area, grants a discriminatory benefit to the parcel owner, and/or harms neighboring properties or the community welfare. Spot zoning is determined on an ad hoc basis, depending on the facts and circumstances of each case. *Watson v. Town Council of Town of Bernalillo*, 1991-NMCA-009, 111 N.M. 374, 805 P.2d 641.

The approved Master Plan is already zoned for RU1, RU3, and RU6. Residential is currently happening in this area. If affordable housing was an issue wouldn't the builders stop building these "expensive" houses? Infrastructure for high-density housing was not planned for this specific parcel of land and this project will affectively change the demand on utilities, noise, light pollution, and traffic in a negative manner.

We keep hearing "affordable housing" but houses in this area range from $300K and up are being sold. As a matter of face Westway Homes is building a massive development in Rio Rancho with homes north of $400K. Does this support the mayors "affordable housing" talking points? Page V-9 of the Executive summary the city of Rio Rancho wants to "create traditional neighborhoods". Why deviate from the approved Master Plan?

It was mentioned by the developer that traffic studies have not been performed and the City Planners have stated that one is not necessary. How can this be? RTS (Rezoning Traffic Study) and TIA (Traffic Impact Assessment) are common modeling tools used nationwide to guide city

planners. How do you put in place the proper infrastructure necessary to support the continued area growth without using these tools?

Parking Issue.

The minimum apartment parking spaces is 1.5 per unit for Rio Rancho. Below are parking data from Rio Rancho, NM (New Mexico) City Info

No vehicle:	425	5.60% of renters
1 vehicle:	2,474	32.59% of renters
2 vehicles:	2,939	38.72% of renters
3 vehicles:	1,420	18.71% of renters
4 vehicles:	333	4.39% of renters

* 7,591 Renter occupied units in Rio Rancho

Applying those numbers to the proposed project we get the following.

No vehicle:	-8	5.60% of renters	-8	Parking Spaces
1 vehicle:	49	32.59% of renters	49	Parking Spaces
2 vehicles:	58	38.72% of renters	116	Parking Spaces
3 vehicles:	28	18.71% of renters	84	Parking Spaces
4 vehicles:	7	4.39% of renters	28	Parking Spaces
* 150 units – Modulus project			**269**	**Total Parking Spaces**

Rio Rancho Requirement: 1.5 Spaces * 150 Apartments: 225 Spaces (Minimum)

* Deficit of 44 Spaces

Modulus Request to Modify Parking Requirement: 1.4 Spaces * 150 Apartments: 210 Spaces

* Deficit of 59 Spaces

In both scenarios the overflow resulting from the lack of parking will be on the streets surrounding the development. The neighboring streets are narrow as is and were not designed to support cars parking on the streets and surrounding neighborhoods. This overflow will reduce surrounding streets to a one-way creating a difficult “wait to pass” commutes for neighbors and risky drives for emergency vehicles and school buses. After all, Inca is a school bus zone! Our HOA has ordinances in place that prohibit parking of vehicles on the street to avoid these issues.

We are not against development, but against development that has intent of drastically deviating from the established Master Plan for this area. We support development that will create “traditional neighborhoods” as stated on page V-9 of the Executive Summary for Rio Rancho.

Violet Bolanos & Ben Racela
1210 Fascination St NE
Rio Rancho, NM 87144

Proposed Zoning Amendment

Amy Johnson <amy.bd.johnson@gmail.com>

Fri 9/22/2023 11:02 AM

To:LIZBETH RUIZ CARLOS <lruizcarlos@rrnm.gov>

1 attachments (980 KB)

Proposed Site Plan.pdf;

Caution! This message was sent from outside your organization.

You don't often get email from amy.bd.johnson@gmail.com. Learn why this is important

Good morning,

My name is Amy Johnson, and I am the president of the homeowners association for Milagro Mesa. I live at 1106 Grace Street NE, and my property is directly adjacent to the lots in question. I will be in attendance at the meeting on Tuesday, but I wanted to submit my concerns in writing prior to that day. I just had a chance to review the site plan submitted by the developer, and I am quite honestly horrified by what they are proposing. During our meetings earlier this year there were several issues that we asked them to address. One of the most significant was the available parking. The residents of our neighborhood are deeply concerned about the lack of parking given the potential occupancy of the building. This is not a walkable neighborhood, and there is no easily accessible public transportation. You need a car in order to get to work, access groceries, pharmacies, doctors offices, or any other necessities. Instead of acknowledging that issue, the developers have submitted a parking deviation request for fewer spaces than the city requires. If this is approved, I do not see any way they can avoid overflow parking onto Inca Rd, which was one of the top concerns of our residents. I appreciate that the ingress and egress have been moved to Idalia Rd instead of Inca, but residents who are unable to find parking in their lot will not be able to park along Idalia, leaving them no choice but to park on Inca. The developer has not taken any steps to address this problem.

There are also concerns about the traffic this project will cause on Inca Rd. As you have already seen in a few of the other public comments, access to our neighborhood on Inca is limited by a one way ingress in Edinburgh. This would leave people parked along Inca with two options for egress. They can either drive through the Solcito neighborhood to access the egress on Edinburgh, or they can leave at the intersection at Inca and Broadmoor. This intersection is dangerous on a good day, with a more than 45 degree turn out and a partially obstructed view of oncoming traffic to the left. We are deeply concerned about potential congestion and safety issues if there is an increase in utilization of this intersection, and those concerns have not been addressed.

I have some additional concerns about the infrastructure support for a high density residential building at this location. The water and sewer demands of high density residential buildings are substantially greater than they would be for an office building. I asked the developers several times about the ability of the system to handle such high demand, and I have not received an answer. I'm concerned about how this will be addressed and if there is any potential for impacts to our current services if remediation needs to be done to accommodate the needs of the project.

During our meeting we also discussed the placement of the building along Inca Rd. We are all concerned about the proximity of the building to the road, but I am particularly concerned due to my property directly facing the building. Putting the building that close to the road will allow people who live on the upper floors a direct view into not only my backyard, but my master bedroom. This creates not only a privacy issue, but a security issue as well. We had asked the developer to try to reconfigure the building to create a buffer zone between our property and the building. The plans they shared with us and claimed they were submitting as the final plan did do this. I've attached a copy of the plan they provided, and as you can see the parking field was moved to the area along Inca to create the buffer zone. I've reviewed the plans attached to the agenda, and I cannot determine if the site plan they provided is the same as what they have submitted to the city. The landscape plan does show the parking field along Inca, but it also shows the ingress and egress points along Inca as well. The rendering, which was updated to reflect the ingress/egress points along Idalia, places the building directly along Inca. Based on the placement of the building in the rendering, there would not be enough room to plant trees along Inca. Looking at other apartment buildings adjacent to residential neighborhoods in Rio Rancho, parking fields and/or trees are typically used to create a privacy buffer between the apartment buildings and the neighborhoods. While the landscape plan does show this, the rendering does not.

These are just a few of the issues that we have discussed with the developer in the past couple of months. The attachments included in the agenda indicate to me that the developer has not made their final decision about the layout of the site. I question how an informed decision on rezoning can be made when the developer has submitted plans that show two completely different site configurations, and major elements like ingress and egress points are unclear.

In my opinion, the people who originally zoned the lots in question took these issues into consideration. There is a reason why the lots that start behind our neighborhood were zoned as O-1 instead of SU. I believe that the original planners understood the impacts that a development such as the one proposed would have on the residents of the adjacent community. The impacts of this project would simply be too substantial on the Milagro Mesa and Solcito neighborhoods to be practical, and I urge the board to reconsider the recommendation to approve the rezoning request at this time.

Thank you,
Amy Johnson
Milagro Mesa HOA President

Say No to the Zoning change on Inca Road (Unit 13, Block 68, Lots 5-8)

Spencer Knudsen <spencer.knudsen@gmail.com>

Mon 9/25/2023 11:02 AM

To:LIZBETH RUIZ CARLOS <lruizcarlos@rrnm.gov>;**Planning <Planning@rrnm.gov>**

Caution! This message was sent from outside your organization.

Some people who received this message don't often get email from spencer.knudsen@gmail.com. Learn why this is important

Hello Ms. Ruiz Carlos,

I'm concerned about the possible zoning change along Inca Road across from the Milagro Mesa housing development (Grace Court). I attended the meeting 2 weeks ago to voice my concerns against the zoning change but the topic was postponed until 9/26/23. I will not be able to attend the meeting tomorrow evening due to prior commitments, so I want to let you know my concerns.

1. Inca Road is not set up to handle more traffic. It is difficult to exit Inca Road to the west at Edinburgh Street and the intersection at Broadmoor has poor visibility in both directions, not to mention the size of the cracks in the road that continue to widen.

2. Parking for the apartments will not be adequate. I've never seen an apartment complex that has sufficient parking. I attended the meetings at RR Library with the architect and the developer and they very much understated the amount of parking spaces that would be required if all units were rented out. I don't want to see cars parked on the street on Inca or on Grace.

3. The access should be from Idalia, not Inca. Why can't the property in question be accessed from Idalia? That would alleviate several concerns.

4. The Purpose of the Planning and Zoning Board is to promote "aesthetically appealing and harmonious development of the city." **Allowing a 3 story apartment building in this location is neither aesthetically appealing or harmonious! No one can reasonably argue that it is.**

5. I purchased my property knowing that the land across Inca Road was zoned for commercial use. I accepted the risk that some day there might be an Autozone, restaurant or medical office along Idalia. I never imagined that there would be a 3 story building there in the middle of empty land.

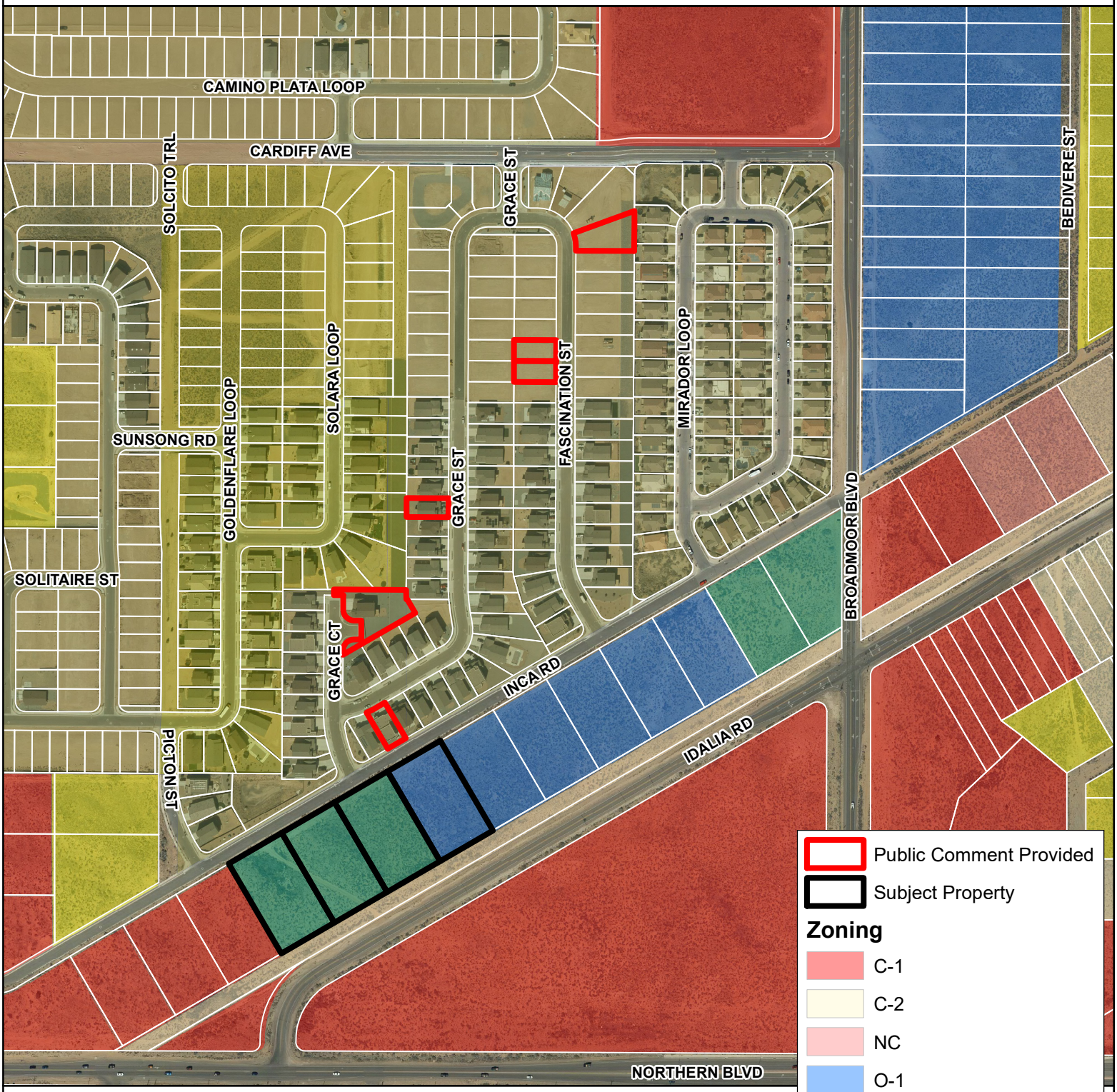
6. I agree that Rio Rancho needs more apartment options - but those apartments should be built in the right places. They should be along 528, Northern, Unser or other main roads. This would allow bus routes to service the apartments. Right now, high school kids living in this area are not even offered school bus routes! A perfect location for the apartments being proposed is off Northern and Rockaway - next to the senior living center.

Please do the right thing for the city and the current residents of Rio Rancho and **say NO** to the zoning change!

Thank you,
Spencer Knudsen

Concerned resident of Milagro Mesa HOA
1044 Grace Ct NE

UNIT 13, BLOCK 68, LOTS 5-8 - ZMA/SAP AMENDMENT



RioRancho City of Vision

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Feet

GIS Moving Spatial Data Forward

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DISCLAIMER: All information in this map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This map is not a survey and should be used for graphical purposes only.

Map Created by Liz Ruiz Carlos on 9/25/2023

Planning and Zoning Board
of the
City of Rio Rancho

MINUTES

SEPTEMBER 26, 2023
6:00 PM
Council Chambers, City Hall

MEMBERS PRESENT:	**STAFF PRESENT:**
Kevin Kofchur, District 2	Amy Rincon, Development Services Director
Robert Gabaldon, District 4 *(Virtual)*	Brian Babyak, Planning & Zoning Manager
Scottie Richardson, District 5, Vice-Chair	Tim Dvorak, Planner II
Lisa Hardisty, District 6	Michelle Costilla, Planner II
MEMBERS ABSENT:	Liz Ruiz Carlos, Planner II
VACANT, District 1	Chris Benson, Planner I
Fred Radosevich, District 3, Chair	Sharon Bitah, Administrative Assistant
Sal Tortorici, At-Large	

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Vice-Chair Richardson called the meeting to order at 6:00 PM and led those in attendance in the Pledge of Allegiance.

Vice-Chair Richardson stated this meeting will convene under the virtual format prescribed by the Attorney General's Office guidance issued for public meetings subject to the Open Meetings Act. This includes virtual access via Zoom meeting software by members of the public who choose to participate in this fashion.

PUBLIC FORUM

CONSENT CALENDAR

1) September 12, 2023 Planning and Zoning Board Meeting Minutes

Kevin Kofchur moved to approve the Consent Calendar. Seconded by Robert Gabaldon.
The motion carried by a vote of **3 FOR, 0 AGAINST** and **1 ABSTENTION**.
YES: Kevin Kofchur, Robert Gabaldon, Scottie Richardson
NO: (None)
ABSTAIN: Lisa Hardisty

PUBLIC HEARINGS

2) The applicants, Bob and Reola Arellano, requested approval of a Preliminary/Final Plat to adjust the building envelope for 5616 Barranca Overlook Pl NE, legally described as HLMM2, Blk A, Lot 45.

Staff member, Liz Ruiz Carlos presented the item, recommending approval with findings and conditions and stood for questions.

Applicant, Bob Arellano stood for questions.

Robert Gabaldon moved to approve Item #2. Seconded by Kevin Kofchur.
The motion carried by a vote of **4 FOR** and **0 AGAINST**.
YES: Kevin Kofchur, Robert Gabaldon, Scottie Richardson, Lisa Hardisty
NO: (None)

3) The applicant, J Jacob Enterprises, Inc. requested approval of an amendment to the Lomas Negras Specific Area Plan.

Staff member, Liz Ruiz Carlos presented items #3 and #4 concurrently, recommending approval to the Governing Body with findings and conditions and stood for questions.

Agent, Angela Williamson provided a presentation on the items and stood for questions.

The following members of the public spoke on the item:

- Terri Rees
- Amy Johnson

Development Services Director. Amy Rincon, staff member, Liz Ruiz Carlos, and Agent, Angela Williamson answered numerous questions from Commissioner Kofchur, Commissioner Hardisty, and Commissioner Gabaldon.

Robert Gabaldon moved to approve Item #3. Seconded by Kevin Kofchur.
The motion carried by a vote of **4 FOR** and **0 AGAINST**.
YES: Kevin Kofchur, Robert Gabaldon, Scottie Richardson, Lisa Hardisty
NO: (None)

4) The applicant, J Jacob Enterprises, Inc., through their agent, Modulus Architects & Land Use Planning, Inc., requested approval of a Zone Map Amendment from SU/C-1 and O-1 to SU: Special Use for Multi-Family Residential Uses, for the subject property legally described as Unit 13, Block 68, Lots 5-8.

Staff member, Liz Ruiz Carlos had no further comments.

Kevin Kofchur moved to approve Item #4. Seconded by Lisa Hardisty.
The motion carried by a vote of **4 FOR** and **0 AGAINST**.
YES: Kevin Kofchur, Robert Gabaldon, Scottie Richardson, Lisa Hardisty
NO: (None)

5) The applicant, the City of Rio Rancho requested approval of a text amendment to the Rio Rancho Municipal Code of Ordinances repealing and replacing Title XV Land Usage, Chapter 156, Sign Regulations.

Staff member, Tim Dvorak and Development Services Director, Amy Rincon presented the item, recommending approval to the Governing Body with findings and stood for questions.

Development Services Director. Amy Rincon clarified questions from Commissioner Kofchur, Commissioner Hardisty, and Commissioner Gabaldon.

Commissioner Kofchur commended the team on creating a thorough and thoughtful document, which was supported by Vice-Chair Richardson with further appreciative comments from Commissioner Gabaldon.

Robert Gabaldon moved to approve Item #5. Seconded by Kevin Kofchur.
The motion carried by a vote of **4 FOR** and **0 AGAINST**.
YES: Kevin Kofchur, Robert Gabaldon, Scottie Richardson, Lisa Hardisty
NO: (None)

DISCUSSION AND DELIBERATION

6) The applicant, Amestoy Construction and Development II, LLC, through their agent, Aldrich Land Surveying, requested approval of an amended Preliminary Plat for Tierra Del Norte on the property

legally described as Unit 13, Block 43, Lots 20-28 and 31-39, Block 44, Lots 22-42, Block 45, Lots 22-31 and 39-40.

Staff member, Michelle Costilla presented the item, recommending approval with findings and conditions, and stood for questions.

Agent, Tim Aldrich spoke on the item and answered Commissioner Gabaldon's inquiry.

Kevin Kofchur moved to approve Item #6. Seconded by Lisa Hardisty.
The motion carried by a vote of **4 FOR** and **0 AGAINST**.
YES: Kevin Kofchur, Robert Gabaldon, Scottie Richardson, Lisa Hardisty
NO: (None)

COMMENTS BY BOARD MEMBERS

Vice-Chair Richardson, Commissioner Kofchur and Commissioner Gabaldon welcomed Commissioner Hardisty to the Planning and Zoning Board.

STAFF REPORTS

7) Planning and Zoning Monthly Building Activity Report- AUGUST 2023

8) Planning and Zoning Monthly Summary Plat Report - AUGUST

ADJOURNMENT

Lisa Hardisty moved to adjourn the meeting. Seconded by Kevin Kofchur.
Vice-Chair Richardson adjourned the meeting at 7:43 PM.

APPROVED THIS 12TH DAY OF OCTOBER, 2023

_____

Fred Radosevich, Chairman

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: O20

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Financial Services

SUBJECT:
O20, Ordinance Amending Chapter 36, Finance and Revenue, Sections 36.05 through 36.08

BACKGROUND AND ANALYSIS:
First reading of an Ordinance.

Sections 36.05 through 36.08 of Municipal Code address various financial operations of the City. Specifically addressed are certain limitations on expenditures, requirements of recording and reporting on the City's finances, the payment of City funds, and audit requirements. These sections have not been updated in more than 30 years and require clarification and modification to ensure consistency with modern technology and processes, as well as the requirements of the Office of the State Auditor.

The changes are summarized below:

- Section 36.05 - addresses multi-year contracts and compliance with the Bateman Act, NMSA § 6-6-11 as amended.
- Section 36.06 - addresses public availability of annual financial reports which are posted on the City's website, adds language to allow for electronic payments (i.e., wire and ACH) and associated requirements.
- Section 36.07 - no changes proposed.
- Section 36.08 - modifies contracting and payment for the City's independent auditors to align with the requirements of the State Auditor Rule (2.2.2.1 - 2.2.2.16 NMAC) and State Statute, (NMSA §§ 12-6-1 to 12-6-15 as amended).

IMPACT:
The proposed amendments will clarify and modernize the Municipal Code to enable compliant use of current technologies.

ALTERNATIVES:
Approve the Ordinance

Do not approve the Ordinance.

DEPARTMENT RECOMMENDATION:
Staff is recommending approval of the Ordinance.

ATTACHMENT: O20.docx

CITY OF RIO RANCHO
ORDINANCE

ORDINANCE NO. **ENACTMENT NO.**

ORDINANCE AMENDING CHAPTER 36, FINANCE AND REVENUE, SECTIONS 36.05 THROUGH 36.08

WHEREAS: the City of Rio Rancho has adopted an ordinance outlining requirements for various financial processes; and

WHEREAS: Chapter 36, Finance and Revenue, Sections 36.05 through 36.08, of the City's Municipal Code have not been updated in more than 30 years; and

WHEREAS: City staff continues to evaluate the City's financial processes to identify areas to create efficiencies while maintain sound internal controls, best practices and complying with State requirements; and

WHEREAS: the language in the City's Municipal Code should be clarified and modernized to support compliance with State Statute, the New Mexico Administrative Code and use of modern technologies.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

Section 1. Title III, Chapter 36, Sections 36.05 through 36.08, R.O. 2003, is hereby amended as follows (strikethrough deleted text and underline new text):

36.05 EXPENDITURES LIMITED TO INCOME.
The governing body shall not indebt or contract to indebt the city for debts of any kind or nature which cannot be paid by the end of the current fiscal year out of money actually collected and belonging to the then-current fiscal year in compliance with the Bateman Act NMSA § 6-6-11, as amended. This section ~~policy~~ shall not apply to ~~insurance contracts not exceeding five years or to lease/purchase agreements or lease agreements~~ exemptions of the Bateman Act included in NMSA § 6-6-12, as amended. If it is in the best interest of the City, and the City has reasonable assurance that sufficient revenue can be appropriated, the City may enter into multi-year contracts subject to the requirements and limitations of the Procurement Code and contingent upon sufficient appropriations being made therefor by the Governing Body.

36.06 FINANCIAL RECORDS AND REPORTS.
(A) The Treasurer shall establish financial accounts, records, reports and procedures in accordance with generally accepted accounting principles and the policies established by the governing body. The Treasurer shall conform to the rules and regulations established by the local government division of the State Department of Finance and Administration, shall keep all books, records and accounts in the form prescribed by the division and the governing body, and shall make all reports as may be required by the division, the Mayor and the City Council. The Treasurer shall prepare annually, at the close of the fiscal year, a financial report showing the receipts, expenditures and balances of each fund. A copy

of the financial report shall be ~~filed in the City Clerk's office as a public record.~~made available to the public.

(B) The Treasurer shall maintain a cash book wherein shall be entered daily, in detail, all items of receipts and disbursements of public money, and which shall be balanced daily so as to show the balance of public money on hand at the close of each day's business; and the cash book shall be a public record and shall be open to public inspection. Receipts shall be furnished as prescribed by NMSA § 3-37-4, as amended.

~~(C)~~(1) ~~No p~~Payment of funds shall be made ~~except~~ upon a warrant of the municipality or by an authorized electronic payment method. A warrant shall be signed by the Mayor or ~~his~~their authorized representative, and countersigned by the City Treasurer or as prescribed by the Uniform Facsimile Signature of Public Officials Act, NMSA §§ 6-9-1 to 6-9-6. An electronic payment may be authorized by the Treasurer or their authorized representative. A warrant or electronic payment shall state the:

(a) Account or account number to which the warrant or electronic payment is payable; and

(b) Name of the ~~person to whom the warrant is payable~~ payee for which the warrant or electronic payment is issued.

(2) The ~~finance officer~~ Treasurer shall keep a record of all warrants and electronic payments issued. The record shall show the:

(a) ~~Number of the warrant~~A unique number identifying the warrant or electronic payment;

(b) Date it was issued;

(c) Amount of the warrant or electronic payment;

(d) Account to which the warrant or electronic payment is chargeable; and

(e) Name of the ~~person to whom the warrant was issued~~payee for which the warrant or electronic payment was issued.

36.07 DEPOSITS AND INVESTMENTS.

Under direction of the governing body serving as the Board of Finance, the Treasurer shall deposit and invest municipal funds as authorized and permitted by state statute.

36.08 ANNUAL INDEPENDENT AUDIT.

Annually, following the close of the fiscal year, the governing body shall contract with an independent auditor of its choice, approved by the State Auditor, or with the State Auditor's staff~~.~~. ~~for~~If an independent auditor is used, progress payments paid by the City shall be made in accordance with the Audit Act, NMSA §§ 12-6-1 to 12-6-15 as amended, and the State Auditor Rule, 2.2.2 NMAC (5/14/1971, as amended through 3/28/2023). ~~of the city finances. No payment shall be made to an independent auditor for work in progress unless authorized by the State Auditor.~~ Final payment shall not be made until the State Auditor has issued a determination and written finding that the audit has been

made in a competent manner in accordance with the contract and applicable regulations by the State Auditor and pursuant to the requirements of the Audit Act, NMSA §§ 12-6-1 to 12-6-15 as amended, and the State Auditor Rule, 2.2.2 NMAC (5/14/1971, as amended through 3/28/2023). The governing body may, as it deems necessary, contract for special independent audits conducted in accordance with regulations established by the State Auditor and with generally accepted audit standards.

Section 2. Severability Clause. If any section, paragraph, clause, or provision of this Ordinance, or any section, paragraph, clause, or provision of any regulation promulgated hereunder shall for any reason be held to be invalid, unlawful, or enforceable, the invalidity, illegality, or unenforceability of such section, paragraph, clause, or provision shall not affect the validity of the remaining portions of this Ordinance or the regulation so challenged.

Section 3. Compiling Clause. This Ordinance shall be incorporated in and compiled as part of the Revised Ordinances of the City of Rio Rancho, (R.O. 2003).

Section 4. Effective Date. This Ordinance shall become effective ten days after adoption.

ADOPTED THIS _____DAY OF _____, 2023.

_____
Greggory D. Hull, Mayor

ATTEST:

_____
Rebecca A. Martinez, City Clerk
(SEAL)

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: O21

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Development Services

SUBJECT:
O21, Ordinance Amending Chapter 154, Planning and Zoning, for the Addition of Off-Premises Advertising Signs to Section 154.45; Providing for Severability and an Effective Date

BACKGROUND AND ANALYSIS:
The City of Rio Rancho, seeks to amend R.O. 2003 Chapter 154 *Planning and Zoning* for the addition of Off-Premises Digital Advertising Signs to Section 154.45, being moved from its existent location in R.O. 2003 Chapter 156.33.

This item is scheduled before the Planning and Zoning Board on Tuesday, October 10, 2023. This is the first reading of the proposed amendment.

Concurrently, the City of Rio Rancho is seeking a repeal and replacement to City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 156 *Sign Regulations* (Case # 22-105-00002). After careful consideration, it was determined by staff during the process of updating Chapter 156 that the off-premises advertising sign standards (also known as digital billboards) located in Chapter 156 would be better placed in Chapter 154 Planning and Zoning. Staff came to this conclusion, as off-premises signage represents in itself a distinct land use, which requires a conditional use permit in order to be initially established. Subsequently, off-premises digital advertising signs are subject to conditional use permit reapproval every ten (10) years. This allows staff to ensure compliance with all off-premises advertising sign provisions, as well as to assess if the site or site conditions are no longer suited for the off-premises sign.

Staff has not proposed any changes to off-premises advertising sign standards; however, all references to directional kiosk signs have been removed from this section, as the directional kiosk sign type will not exist moving forward.

Off-Premises Digital Advertising Signs are proposed to be moved to Section 154.45 of Chapter 154. Below is the proposed section:

Section 154.45 Off-Premises Advertising Signs:

(A) Off-premises digital advertising signs are considered a distinct land use and shall be approved via the conditional use permit process or administratively as set forth herein.

1. A conditional use permit is required for a digital off-premises sign and shall be valid for 10 years. A new application shall be required thereafter.
2. Criteria to deny approval of a conditional use permit may include but are not limited to the following:

(a) The conditional use permit for the sign is in conflict with the safety and general welfare of the city.

(b) The conditional use is not in conformance with the comprehensive plan or other approved master plans.

(c) A change in community conditions directly related to off-premises advertising.

(B) Off-premises digital advertising signs are permitted on nonresidential, private property and public property, excluding all right-of-way areas, within the area identified herein as the Off-Premises Advertising Overlay Zone (OAOZ). The overlay zone is as follows:

1. Within 75 feet of the east or west right-of-way lines of NM 528/Pat D'Arco Highway from the southern city limit to US HWY 550.
2. Within 75 feet of the south right-of-way line of US HWY 550 between NM 528/Pat D'Arco Highway and the alignment for the Northwest Loop Road.
3. Within 75 feet of the right-of-way lines of Paseo Del Volcan between Unser Boulevard to US HWY 550.
4. Within 75 feet north or south of the right-of-way lines of Southern Boulevard between NM 528/Pat D'Arco Highway and Unser Boulevard.
5. Within 75 feet east or west of the right-of-way lines of Unser Boulevard from the southern city limit to Progress Boulevard.

(C) Off-premises digital advertising signs permitted in this section shall be in accordance with the following criteria:

1. Signs shall be in accordance with the following:
   (a) A maximum of 11x22: 242 square feet.
   (b) Twenty-four-foot maximum height.
2. Both sides of a sign shall have copy. Embellishments and animation are prohibited.
3. When within 100 feet of an elevated roadway, the height measured from the bottom of the sign may be a maximum of 10 feet above the elevated roadway.
4. Electronic video display signs shall have an automated dimming feature (photocell) to adjust for lower light and night conditions.
5. Signs shall be located in a nonvehicular area or within a landscape planter.
6. A minimum separation of 10,560 feet is required between off-premises signs located on the same side of a street and a separation of 5,280 feet is required from another off-premises sign located on the opposite side of a street. A minimum separation of 300 feet (including rights-of-way) from single-family residential development shall be maintained. No off-premises advertising sign shall be located within 100 feet of an on-premises sign located on another parcel. The off-premises advertising company shall provide a survey stamped by a registered surveyor or engineer verifying the aforementioned distance separations.
7. Off-premises advertising signs shall be maintained and shall be administratively reviewed on an annual basis to ensure sign maintenance.
8. Failure to maintain signs shall result in a public hearing if applicable before the Planning and Zoning Board to determine the appropriateness of continuing the use.
9. The support structure shall be skirted with a decorative base.

The Planning and Zoning Board recommends the Governing Body find that off-premises digital advertising sign regulations fit more appropriately in Chapter 154 of the City of Rio Rancho Code of Ordinances (R.O. 2003). Separating off-premises signage standards from all other sign regulations clearly demonstrates off-premises signage as an independent land use, to be reviewed and permitted as per the section standards.

NOTIFICATIONS:
A legal notification was published in the September 27, 2023 edition of the Albuquerque Journal. All

notification requirements have been met.

IMPACT:

The Planning and Zoning Board recommends approval of the addition of Section 154.45 Off-Premises Advertising Signs to City of Rio Rancho Code of Ordinances Title XV Land Use Chapter 154 Planning and Zoning to the Governing Body, subject to the findings and conditions set forth below:

General Findings of Fact:

1. The Governing Body may review and approve the request for an amendment to R.O. 2003 Chapter 154 Planning and Zoning providing for the addition of R.O. 2003 § 154.45 Off-Premises Advertising Signs.
2. The City has the authority to make an application to request an amendment to R.O. 2003 Chapter 154 Planning and Zoning.
3. The applicant and affected property owners received due process, as proper notice and an opportunity to present views was given.

Specific Findings of Fact:

1. The proposed text amendment to R.O. 2003 § provides for the addition of Section 154.45 Off-Premises Advertising Signage.
2. The addition of Section 154.45 Off-Premises Signs does not conflict with the intent of City of Rio Rancho Code of Ordinances Title XV Land Use R.O. 2003 Chapter 156 Sign Regulations.
3. The proposed text amendment is consistent with the goals and elements of the Comprehensive Plan.

ALTERNATIVES:

1. The Governing Body may approve the request;
2. The Governing Body may deny the request;
3. The Governing Body may modify the request and approve such modifications;
4. The Governing Body may continue the public hearing to request additional information or to consider testimony provided at the public hearing.

DEPARTMENT RECOMMENDATION:

The Planning and Zoning Board recommends the Governing Body adopt the Ordinance.

ATTACHMENT: Ordinance
ATTACHMENT: 154.45 Off-Premises Advertising Signs
ATTACHMENT: Legal Ad

CITY OF RIO RANCHO
ORDINANCE

ORDINANCE NO. **ENACTMENT NO.**

ORDINANCE AMENDING CHAPTER 154, PLANNING AND ZONING, FOR THE ADDITION OF OFF-PREMISES ADVERTISING SIGNS TO SECTION 154.45; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS: the Governing Body of the City of Rio Rancho has adopted zoning regulations and an official zone map in accordance with New Mexico Statutes Annotated 1978 (NMSA 1978) Chapter 3, Article 21; and

WHEREAS: the Governing Body finds that off-premises advertising signs, also known as billboards, constitute a distinctive land use belonging in Chapter 154; and

WHEREAS: in accordance with Rio Rancho Code of Ordinances (R.O. 2003) Section 33.15 (C) (2) (f) on October 10, 2023, the City of Rio Rancho Planning and Zoning Board reviewed the proposed amendment in a duly noticed public hearing regarding the proposed changes, and made these recommendations to the Governing Body regarding adoption of the changes; and

WHEREAS: the Governing Body received a report from the Planning and Zoning Board, and such report indicates the Planning and Zoning Board has studied and considered the proposed changes; and

WHEREAS: public hearings occurred, in accordance with procedures set forth in R.O. 2003 Section 150.07, and NMSA 1978 Section 3-21-6, on the proposed text amendment hereinafter described were duly advertised and held by the Governing Body of the City of Rio Rancho on October 12, 2023 (First Reading) and October 26, 2023 (Second and Final Reading), and the Governing Body heard interested parties and citizens for and against the proposed text amendment; and

WHEREAS: the proposed text amendment to be adopted by this Ordinance complies with the statutory and regulatory requirements of the aforesaid Code of Ordinances and Statutes, and upon specific findings and determination that the proposed text amendment is consistent with the policies and criteria set forth in R.O. 2003, the Governing Body finds that the text amendment promotes the health, safety, morals, and general welfare of the City.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

Section 1. Section 154.45 OFF-PREMISES ADVERTISING SIGNS (B) is hereby added to Chapter 154 as the following:

154.45 Off-Premises Advertising Signs.

(A) Off-premises advertising signs are considered a distinct land use and shall be approved via the conditional use permit process or administratively as set forth herein.

(1) A conditional use permit is required for a digital off-premises sign and shall be valid for 10 years. A new application shall be required thereafter.

(2) Criteria to deny approval of a conditional use permit may include but are not limited to the following:

(a) The conditional use permit for the sign is in conflict with the safety and general welfare of the city.

(b) The conditional use is not in conformance with the comprehensive plan or other approved master plans.

(c) A change in community conditions directly related to off-premises advertising.

(B) Off-premises digital advertising signs are permitted on nonresidential, private property and public property, excluding all right-of-way areas, within the area identified herein as the Off-Premises Advertising Overlay Zone (OAOZ). The overlay zone is as follows:

(1) Within 75 feet of the east or west right-of-way lines of NM 528/Pat D'Arco Highway from the southern city limit to US HWY 550.

(2) Within 75 feet of the south right-of-way line of US HWY 550 between NM 528/Pat D'Arco Highway and the alignment for the Northwest Loop Road.

(3) Within 75 feet of the right-of-way lines of Paseo Del Volcan between Unser Boulevard to US HWY 550.

(4) Within 75 feet north or south of the right-of-way lines of Southern Boulevard between NM 528/Pat D'Arco Highway and Unser Boulevard.

(5) Within 75 feet east or west of the right-of-way lines of Unser Boulevard from the southern city limit to Progress Boulevard.

(C) Off-premises digital advertising signs permitted in this section shall be in accordance with the following criteria:

(1) Signs shall be in accordance with the following:

(a) A maximum of 11x22: 242 square feet.

(b) Twenty-four-foot maximum height.

(2) Both sides of a sign shall have copy. Embellishments and animation are prohibited.

(3) When within 100 feet of an elevated roadway, the height measured from the bottom of the sign may be a maximum of 10 feet above the elevated roadway.

(4) Electronic video display signs shall have an automated dimming feature (photocell) to adjust for lower light and night conditions.

(5) Signs shall be located in a nonvehicular area or within a landscape planter.

(6) A minimum separation of 10,560 feet is required between off-premises signs located on the same side of a street and a separation of 5,280 feet is required from another off-premises sign located on the opposite side of a street. A minimum separation of 300 feet (including rights-of-way) from single-family residential development shall be maintained. No off-premises advertising sign shall be located within 100 feet of an on-premises sign located on another parcel. The off-premises advertising company shall provide a survey stamped by a registered surveyor or engineer verifying the aforementioned distance separations.

(7) Off-premises advertising signs shall be maintained and shall be administratively reviewed on an annual basis to ensure sign maintenance.

(8) Failure to maintain signs shall result in a public hearing if applicable before the Planning and Zoning Board to determine the appropriateness of continuing the use.

(9) The support structure shall be skirted with a decorative base.

Section 2. Severability Clause. If any section, paragraph, clause, or provision of this Ordinance, or any section, paragraph, clause, or provision of any regulation promulgated hereunder shall for any reason be held to be invalid, unlawful, or enforceable, the invalidity, illegality, or unenforceability of such section, paragraph, clause, or provision shall not affect the validity of the remaining portions of this Ordinance or the regulation so challenged.

Section 3. Compiling Clause. This Ordinance shall be incorporated in and compiled as part of the Revised Ordinances of the City of Rio Rancho, (R.O. 2003).

Section 4. Effective Date. This Ordinance shall become effective shall become effective at the expiration of ten days after adoption.

ADOPTED THIS _____ DAY OF _____, 2023.

_____

Greggory D. Hull, Mayor

ATTEST:

_____

Rebecca A. Martinez, City Clerk
(SEAL)

154.45 Off-Premises Advertising Signs.

(A) Off-premises advertising signs are considered a distinct land use and shall be approved via the conditional use permit process or administratively as set forth herein.

(1) A conditional use permit is required for a digital off-premises sign and shall be valid for 10 years. A new application shall be required thereafter.

(2) Criteria to deny approval of a conditional use permit may include but are not limited to the following:

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(4) Electronic video display signs shall have an automated dimming feature (photocell) to adjust for lower light and night conditions.

(5) Signs shall be located in a nonvehicular area or within a landscape planter.

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(8) Failure to maintain signs shall result in a public hearing if applicable before the Planning and Zoning Board to determine the appropriateness of continuing the use.

(9) The support structure shall be skirted with a decorative base.

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CITY OF RIO RANCHO
PUBLIC HEARING NOTICE

The GOVERNING BODY of the CITY OF RIO RANCHO, NM, will consider the following matter at its regularly scheduled meeting on Thursday, October 12, 2023 at 6:00 pm:

Text Amendment
Case #23-105-00003
The applicant, City of Rio Rancho, requests to amend City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 154 Planning and Zoning for the addition of Section 154.45 Off-Premises Advertising Signs. This is the first reading of the proposed text amendment.

Text Amendment
Case #22-105-00002
The applicant, City of Rio Rancho, requests a text amendment to repeal and replace City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 156 Sign Regulations. This is the first reading of the proposed text amendment.

Zone Map Amendment
Case #23-100-00006
The applicant, Outer Rim Investments, Inc., requests a Zone Map Amendment from Unzoned to R-1: Single Family Residential for the property legally described as Unit 7, Block 18, Lots 128-129, and 132-134. The subject property is approximately 2.5 acres.

Zone Map Amendment
Case #23-100-00005
The applicant, J Jacob Enterprises, Inc., is requesting approval of a Zone Map Amendment from SU/C-1 and O-1 to SU/R-6, for the subject property legally described as U13, Blk 68, Lots 5, 6, 7, and 8. The properties total 4 acres and are located on the north side of Idalia Rd, west of Broadmoor Blvd.

Specific Area Plan Amendment
Case #23-410-00005
The applicant, J Jacob Enterprises, Inc. requests approval of an amendment to the Lomas Negras Specific Area Plan.

The meeting is scheduled in the Council Chambers at City Hall, 3200 Civic Center Cir NE, Rio Rancho, NM. The public is invited to attend in person or virtually at www.rrnm.gov. Materials related to these items are available for viewing in the Development Services Department at City Hall.

If you would like to comment on any of these applications, you are encouraged to submit a written comment to planning @rrnm.gov Written comments will be inserted into the public record.

Journal: September 27, 2023

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: O22

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Development Services

SUBJECT:
O22, Ordinance Repealing and Replacing Chapter 156, Sign Regulations; Providing for Severability and an Effective Date

BACKGROUND AND ANALYSIS:
The applicant, City of Rio Rancho, seeks to repeal and replace City of Rio Rancho Code of Ordinances (R.O. 2003) Title XV Land Uses Chapter 156 Sign Regulations.

This item came before the Planning and Zoning Board on Tuesday, September 26, 2023. The Planning and Zoning Board voted four (4) for and 0 against, to recommend approval of the Text Amendment to the Governing Body. This is the first reading of the ordinance.

The current Chapter 156: Sign Regulations was adopted on August 10, 2011 via Ordinance No. 11-14, and amended by Ordinance No. 28, Enactment No.12-28 on September 26, 2012. The decision to revisit and amend the Sign Code was predicated by multiple factors, including: clearly defining both existing and new sign types, reorganizing information for easier public and staff use, and providing content neutral requirements for signs as stipulated by Supreme Court case *Reed vs. Gilbert.*

On February 2, 2021, an RFP for revisions to City of Rio Rancho Code of Ordinances Title XV Land Use Chapter 156 Sign Regulations was granted to Camiros, LTD. Subsequently, stakeholders were identified and interviewed by Camiros, LTD to direct and assess the needs for the sign code update. Stakeholders included the Rio Rancho Chamber of Commerce, City of Rio Rancho Development Services and legal staff, sign production companies, real estate agents, home builders, and the New Mexico Home Builders Association. The stakeholder interviews provided a framework to inform the direction for the proposed changes for Chapter 156. A matrix of the interviewed stakeholders is provided below:

Stakeholder Name:	**Organization/Affiliation:**	**Interview Time:**
Michelle Rohl	ERA Real Estate	April 27, 2022 8:00-8:45am MST
John Garcia	Homebuilders Association of NM	April 27, 2022 9:00-9:45am MST
Josh Rubin	City of Rio Rancho City Attorney	April 27, 2022 9:00-9:45am MST
Sandy Moran	Sign Art of NM	April 27, 2022 10:00-10:45am MST
Jerry Schalow	Rio Rancho Chamber of Commerce	April 27, 2022 11:00-11:45am MST

David Branch	City of Rio Rancho Code Enforcement	April 27, 2022 12:00-12:45pm MST
Angela King	City of Rio Rancho Planning and Zoning	April 27, 2022 2:00-2:45pm MST
Jeanie Springer Knight	Springer 5 Investments	April 27, 2022 3:00-3:45pm MST
Michael Seligman	Coldwell Banker Real Estate	April 29, 2022 8:00-8:45am MST
Tonya Buxton	DR Horton	April 29, 2022 9:00-9:45am MST
Fred Shepherd	Sandoval Economic Alliance	April 29, 2022 10:00-10:45am MST
Francisca Zimmerman-Hakes	Hakes Brothers	April 29, 2022 11:00-11:45am MST
Christian Venegas	Hakes Brothers	April 29, 2022 1:00-1:45pm MST

Following stakeholder interviews, Camiros, LTD and Development Services analyzed the feedback and determined how to best address the sign code update. From these interviews, stakeholders identified their biggest priorities:

- Make Chapter 156 clearer and more user-friendly for both the public and City staff.
- Maintain the business-friendly processes of Common and Master Sign Plans.
- Fix inconsistencies, discrepancies, and vagueness of terminology and requirements throughout Chapter 156.
- Address temporary signs in the right-of-way.
- Address sign content neutrality, as stipulated by Supreme Court Cases *Reed vs. Gilbert* and *Austin vs. Reagan.*
- Optimize flexibility for sign design requirements as appropriate.

Camiros, LTD proceeded to compose the updated draft ordinance for Chapter 156. Following completion of the first draft ordinance, Development Services worked with Camiros, LTD to make edits and revisions to the draft document.

After these rounds of revision, the draft ordinance was presented at the August 16, 2022 Governing Body Work Session. During the Work Session, it was determined that the draft ordinance needed further review time and additional edits to appropriately address the concerns of the Governing Body and Rio Rancho Chamber of Commerce.

Following the August 16 Governing Body Work Session, a Sign Code Working Group composed of Mayor Greggory Hull, District 4 City Councilor Paul Wymer, Planning and Zoning Board Chair Fred Radosevich, and Rio Rancho Chamber of Commerce member Kelly Wainwright began meeting regularly. City Manager Matt Geisel, Development Services Director Amy Rincon, Municipal Planner II Timothy Dvorak, Zoning Specialist Angela King and Camiros Principals Chris Jennette, and Artista Strungys staffed the meetings.

The Sign Code Working Group began regular, bi-weekly meetings beginning Wednesday, October 12, 2022 and concluding Wednesday, June 28, 2023. The role of this group was to analyze and discuss the Draft Sign Code line by line to ensure that the proposed regulations, alterations, and reorganizations made sense and reflected the overarching goals the City had identified. A table of the working group meetings and agenda topics discussed can be found in the applicable attachment.

<u>Proposed Chapter 156: Sign Regulations</u>

156.01 Title, Purpose, and Applicability

This section of Chapter 156 introduces the purpose and goals of the sign code, which focus around the health, safety, and welfare of the City, while providing for the preservation of the natural surrounding beauty and enhancing the economic climate for businesses throughout the City.

The Planning and Zoning Board recommends the Governing Body find this section duly reflects the goals of the goals of the City; Criteria is satisfied.

156.02 Definitions and Rules of Measurement

In the proposed draft, the definitions and measurement sections have been combined and moved to the front of the document. In the current Chapter 156, the definitions are at the end of the document in Appendix C, with rules for measurement currently located in Section 156.42, mid-way through the document.

Both staff, Camiros, and the working group agreed moving definitions and measurement standards to the beginning of the document makes the document more accessible and user-friendly, for both the public and staff.

New definitions were added to address sign types not currently in the code, as well as to clarify new and existing terms.

The most relevant additions/changes to definition terms can be seen below:

Attention-Getting Device. This term provides a catch-all for temporary signage designed to attract attention. Attention-getting devices comprise sails, pennants, banners, temporary flex pole signs, balloon and inflatable signs, and similar.

Drive-In Restaurant. Previously, drive-ins have not been defined. This is added to provide a framework for the newly-classified drive-in standards, which have been clarified and more defined.

Flag. Definition modified to exclude flags with messages commercial in nature.

Flag, Commercial. New definition provided to differentiate commercial flags from all other flag types.

Multi-Tenant Commercial Center. This definition replaces the previous term "Shopping Center." This definition is designed to work with the new definitions Sign, Multi-Tenant Commercial Center and Unified Sign Plan, which provide clearer direction for unified sign development in these areas.

Nit. New definition, illumination term added.

Off-Premises Sign, Permanent. Definition expanded. Permanent off-premises signs are also referred to as billboards, which have been determined to be a distinct land use better suited for Chapter 154 of the City of Rio Rancho Municipal Code.

Off-Premises Sign, Temporary. Previously not defined in the code. This definition covers all temporary signage which does not reflect a product, service, activity, event, etc. taking place at the property on which the sign is located. Examples include snipe and bandit signs.

Sign, Blade. New sign type, defined for the first time in this code.

Sign, Canopy. New sign type to differentiate canopy signs from awning signs. Canopy signs are further broken down into two types: Canopy, non-structural and Canopy, structural to provide separate standards for canopy signs which are temporary and structurally independent from canopy

signs which are integral to the structure they are attached to.

Sign, Drive-Through. New sign type providing further standards for drive-through signage.

Sign, Freestanding Pylon. This term has been modified and recategorized for ease of access and differentiation from freestanding monument signs.

Sign, Freestanding Monument. This term has also been modified and recategorized for ease of access and differentiation from freestanding pylon signs.

Sign, Gateway. New sign type added to code.

Sign, Government. Definition expanded for clarification on what constitutes a government sign. Of note, government signs do not include required legal notice by municipal codes and ordinances, which are not controlled by the sign code.

Sign, Multi-Tenant Commercial Center. New sign type added to address signage controlled in a shopping center, complimentary to the definition of Multi-Tenant Commercial Center.

Sign, Nonconforming. Definition expanded for nonconforming provisions.

Sign, Right-of-Way. New temporary sign type added to provide for signs duly permitted under the new right-of-way signage permitting standards.

Sign, Vehicle. New sign type providing for what constitutes a vehicle sign.

Sign, Wall - Standard. Wall signage terminology expanded to the categories of standard, painted, and projected types. Clarification provided in all wall sign types that window signage are not considered wall signs.

Sign, Wall - Painted. New sign type, which provides the parameters for what constitutes a painted wall sign. The current code does not address standards for painted wall signs.

Sign, Wall - Projected. New sign type, which provides the parameters for what constitutes a projected wall sign. This sign type is not addressed in the current code.

Sign, Window. Definition modified to provide expanded clarification on what constitutes a window sign.

Sign, Wrap. New sign type that addresses wrapped signage on construction sites, maintenance areas, etc.

Sign, Yard. New sign type to differentiate from temporary signage.

Unified Sign Plan. Updated process condensing the separate processes of the Common and Master sign plans, providing for a singular process which serves the function of both plan types.

B. Rules of Measurement.

Signage measurement standards have been moved from the previous section in the current code (Section 156.42) to Section 156.02.

1. (A) Sign area measurement standards have been clarified for further context. (B) Window measurement provisions are new, providing for architectural considerations and window coverage

parameters.

2. Sign height has been additionally clarified, but mirrors the current standards for sign height measurement.

3. Vertical clearance measurement provisions are new, vertical distance being measured from the ground directly below the sign to the lowest point of the sign.

4. Measurement of multiple sign faces have been clarified for easier measurement. Sign faces with an interior angle of 45 degrees or less are calculated as separate sign faces; sign faces with an interior angle greater than 45 degrees are calculated as the sum of both sign faces.

5. Frontage length measurement for standalone buildings and tenant spaces have been clarified. Frontage length is measured as the linear distance between the surfaces of the outermost parallel walls of a principal structure. Tenant space frontage is measured from centerline to centerline between party walls.

6. Measurement standards for sign setbacks remain unchanged.

The proposed expansions and clarifications to the definitions constitute a more usable and enforceable sign code. Reorienting definitions and rules of measurement to the beginning of the document additionally improves user accessibility and comprehension.

156.03 Summary Table of Allowed Signs

This section provides for an updated signage table, addressing general permissions for sign types and whether or not they require a permit. In the current code, this table is presented as Appendix B near the end of the document. Both staff and the working group felt moving the summary table near the front of the document provided a better overview for both the public and staff when initially determining whether certain signage requires permitting or not.

Additionally, each sign type is notated with the applicable section of the code where the full standards for that sign type are located. This summary table is included for reference purposes only; in the case of any conflicts between the provisions of Chapter 156 and the summary table, the specific sign regulations shall control over this table.

This summary table section provides enhanced accessibility to the ordinance, providing an initial reference point for users of the document to orient themselves in the code and be directed to the specific information needed.

156.04 General Standards

This section of the code outlines the general standards which signs shall abide by. This section first addresses sign exceptions (i.e., signage or similar which does not fall under the purview of this ordinance for permitting standards). This includes works of art without a commercial message, holiday decorations with no commercial message, public notices placed by government entities, and signs inside buildings not visible from the right-of-way.

Additionally, this section addresses location restrictions, sign audio components, sign illumination, construction standards, and required maintenance. These provisions mirror the function of the current code while providing for expansions in detail to each of these categories. Signs are not allowed to be erected or placed in any clear-sight triangle, any location which violates building or fire code, or any area which prevents ingress or egress from a site or is placed on private property without property owner/agent consent. Audio components are prohibited, except in the case of

drive-through signs for order communication, government-operated signs, or gas station pump video screens. Illumination standards remain in line with Chapter 159 of the City of Rio Rancho Municipal Code and State of New Mexico Night Sky Protection Act.

Construction standards address how signs are to be placed/erected, maintaining compliance with all building, electrical, and applicable codes. Standards for permitted materials for signs address the necessary materials and requirements for permanent and temporary signage. The required maintenance section has been expanded, with the additional maintenance provision that sign face changes, provided there are not changes to the structural or electrical components, do not require a sign permit.

Section H additionally addresses that permanent off-premises signage (digital billboards) are considered a distinct land use, and that these permanent off-premises sign regulations will move to Chapter 154 of the City of Rio Rancho Municipal Code.

These updated and expanded standards more readily address the current sign climate, while providing for more clear and detailed sign standards. This in turn allows for enhanced user comprehension for both the public and staff.

156.05 Sign Permit

This section addresses the requirements for sign permitting, providing for the staff approval procedure and the City's authority to remove illegally constructed or placed signs that have not obtained a sign permit. This section mirrors the current permitting/approval process established in the current Chapter 156.

The proposed standards for permitting and approval operate in the same manner as the current code.

156.06 Prohibited Signs

This section addresses signs specifically prohibited by the code. All signs not expressly permitted by this chapter are prohibited.

Prohibited signs include portable signs (not including A-frame signs), signs that constitute a traffic hazard (i.e. signs that obstruct the view of or may be misconstrued as any authorized traffic sign), and temporary off-premises signs, also known as bandit or snipe signs (does not include right-of-way signs, which have their own new permitting process).

The prohibited signs section provides clarifications on which sign types are not allowed.

156.07 Signs Exempt from Permit

This section of the code addresses signs which do not require a permit; however, the signs outlined in this section still must adhere to the regulations as set forth herein. Below are the most relevant additions/modifications:

A-Frame Sign. This sign type has been updated to reflect one sign allowed per establishment, or one sign per tenant if in a multi-tenant development. Spacing requires 15 feet separation between signs, and signs must be located within 15 feet of the primary entrance of the business. Additionally, the permissive current maximum square footage of 12 square feet in total has been broken up to 6 square feet per sign face, as a single 12 square foot sign face would be impractical for the sign type.

Sign for Residential Construction Activity. This is a new sign type, which matches the current standards of the current code's temporary sign standards for area and height in residential zones. Illumination of these signs is prohibited, and these signs shall be removed upon the completion of construction.

Sign for Nonresidential or Mixed-Use Construction Activity. This is a new sign type, which additionally matches the current standards of the current code's temporary sign standards for area and height in commercial zones.

Sign for Cultural or Historic Site. This is a new sign type which allows for signs on cultural or historic sites. Signs may be freestanding or wall-mounted.

Sign for Gas Pump Island. This is also a new sign type, undefined by the current code. This language clarifies where signs can be located on gas pump islands, with a maximum of one, 2-square-foot sign per gas pump island.

Flag. This section provides clarification on flags, which are permitted in all districts. This approach does not limit the number or size of flags, though flag poles require a building permit per Chapter 154 of the City of Rio Rancho City Code and are subject to property line setbacks. This section does not provide for commercial flags, which are prohibited.

Sign for Multiple Tenant Building Entry. This is technically a new sign type, which replaces the current code's standards for "building identification signs." This section has been modified to address content neutrality.

Sign for On-Site Repair, Renovation, or Improvement. This is also a new sign type, which conforms to the current code's standards for temporary signage in residential zones. One freestanding sign may be placed on a lot once a permit for the applicable repair, renovation, or improvement has been approved.

Sign for Parking Lot or Structure Circulation Point. This sign term replaces the existent terminology for "Incidental/Directional/Safety" signs, maintaining the current code standards while providing for further clarification for how and where these signs can be placed.

Sign for Real Estate Activity. This approach expands the allowances for real estate signage, identifying maximum sign square footage based on zoning district where the sign is to be located. These signs are allowed to be constructed as freestanding, wall, or window signs.

Window Sign. This section provides for expanded standards on window signage. Permissive window sign coverage has been increased to a proposed 50% coverage, an expansion from the current code standard of 25%. This section additionally permits window signage in all districts, allows for internal illumination, and clarifies window displays, which are not considered window signs.

Yard Sign. This is a new sign type, which defines permissive signage within private residential property. These standards are consistent with the current code standards for signs on private property.

Expanding and clarifying the types of signs allowed without having to submit for a permit provides for greater flexibilities.

156.08 Sign Permit Required

This section of the code addresses signs which require a permit. Below are the most relevant

additions and modifications:

Attention-Getting Device. This is a new sign type classification, comprising temporary sign types such as sails, pennants, flex pole flags, banners, and balloons/inflatables. This section provides for two types of attention-getting devices: freestanding and wall-mounted. Each tenant with ground floor frontage is allowed one (1) wall-mounted and one (1) freestanding attention-getting device installed or mounted simultaneously. By themselves, freestanding attention-getting devices are permitted at a ratio of one attention-getting device per every 25 feet of frontage. Display periods are determined by the nature of the event: 15 days if not coordinated with an event; if part of an event, display is allowed seven days prior to the event, during the event, and three days after the event. Four display periods are allowed per year, with a minimum separation of 30 days in between display periods.

Arcade Sign. Arcade sign permissions have been expanded to include allowance in nonresidential and mixed-use development in all districts. This is more permissive than the current code, which only allows arcade signs within the neighborhood and commercial/industrial sign districts, and only "where a plaza exists." Sign number has been expanded to one arcade sign per building entry. Arcade signs do not count towards the maximum building-mounted sign area for either single or multi-tenant structures.

Awning Sign. This section has been expanded and clarified to address the vagueness within the current section of the code. This updated section provides for measurements, a minimum vertical clearance, and a clear allowance of 25% sign surface area allowed per awning surface area. Letter attachment flexibilities have been added to provide for lettering mounted above or below an awning.

Blade Sign. This is a new sign type, similar to the arcade sign. While the current code has standards for "projecting signs," which this section is based on and consistent with, these standards did not directly address blade signage. Vertical clearance provisions have been added.

Canopy Sign. Canopy signs have been split into two different categories: non-structural and structural. These sections provide a clearer and more permissive approach than the current code, which stipulates an unclear allowed area for canopy signs as, "sign area on perpendicular face of building." By providing specific letter copy allowances (25% surface area), along with provisions for illumination and vertical clearance, these standards allow for greater flexibility and interpretation. Additionally, freestanding structural canopy signs are exempt from the total calculation of allowable building-mounted sign area.

Wall Sign (Standard, Painted, & Projecting). Wall signage has been updated to reflect a clearer and more intuitive measurement approach. The current code stipulates a maximum of "20% of building frontage," but does not explain how this measurement is to be applied. With the new approach, standard wall signs are permitted in a ratio of one square foot of signage per foot of linear frontage, with a default of a 50 square foot sign allowed if a tenant frontage is less than 50 feet. Painted and projecting wall sign types have been added to address these differing wall sign types.

Drive-Through Sign. This is a new sign type created to address specific standards geared towards drive-through signage; this section provides for standards for drive-through signage, as well as on-site stall signage. These permissions arose from the working group, which saw an opportunity to clarify this specific signage and differentiate it from the general freestanding monument provisions.

Electronic Message Sign. This section provides for an expansion in permissions for electronic message signs. Electronic message signs are limited to freestanding monument and multi-tenant commercial center signs. Provisions were added to allow for reduced square footage when an electronic message sign is adjacent to a residential zone.

Gateway Sign. This is a new sign type added, allowing provisions for gateway signs.

Ground Signs. Expansions to ground sign provisions include allowance for one ground sign per street frontage, an expansion from the current code, which only allows for one sign per 200 linear feet. Regulations for freestanding monument and freestanding pylon signs otherwise remain the same.

Multi-Tenant Commercial Center Sign. This is a new sign type which addresses multi-tenant signage. Multi-tenant commercial signs are limited to freestanding monument signs; multi-tenant developments consisting of 5 acres or more are required to apply for a unified sign plan.

Residential Subdivision Sign. This is a new sign type which provides specific provisions for residential subdivision signs, as no specific provisions are defined in the current code.

Right-of-Way Sign. This is a new, modified sign type, providing provisions for permitting temporary signs within the right-of-way. In the current code, temporary signage is allowed in the right-of-way per Section 156.23. There are provisions for *subdivision directional signs*, *directional kiosk signs*, *political signs*, and *directional, noncommercial and single event signs*.

Due to the Supreme Court ruling of *Reed vs. Gilbert*, sign codes are not allowed to regulate signage based on content. Sign standards needed to be revised to remove sign content. The content categories above have been reconfigured into two different display periods: *Weekend Right-of-Way Display Period* and *60-Day Display Period.* This section additionally provides for sign standards, which outline parameters for sign size, placement, and material.

The Weekend Right-of-Way Display Period is valid for one calendar month and allows for a maximum of 50 signs, which can be posted every weekend of the calendar month applied for from Friday at 12:00 noon through Monday at 12:00 noon local time. Applicants may additionally apply for up to four months in advance. This display period largely mirrors the allowances and process of the current subdivision directional signs process.

The 60-Day Right-of-Way Display Period allows for a maximum of 50 signs, which can be placed in the right-of-way for up to 60 consecutive calendar days. An individual may apply for up to three 60-Day Right-of-Way Display Permits within a twelve month period. This display period is a combination of the remaining right-of-way content categories.

<u>156.09 Unified Sign Plan</u>

The Unified Sign Plan section represents a revised process which consolidates the processes of the current Common Sign Plan (Section 156.30) and Master Sign Plan (Section 156.31). As these processes are largely duplicitous of each other, staff and the consultant felt it beneficial to combine both processes into a singular process.

Unified Sign Plans allow for coordination of signs within developments of significant size, while also allowing for single-tenant and multi-tenant nonresidential developments of any size to enter into a unified sign plan. Developments of 5 acres or greater are required to submit for a unified sign plan; this reflects the current standard for master sign plans in Chapter 156.31.

Unified sign plans must be reviewed and approved by the Planning and Zoning Board. This section additionally retains the ability for an administrative amendment to the unified sign plan, provided the changes account for a less than 10% change to the previously approved unified sign plan. Unified sign plans also maintain the flexibilities of requesting signage or standards which exceed that of Chapter 156, per the identified criteria as outlined in this section.

156.10 Nonconforming Signs

The nonconforming section of Chapter 156 has been expanded and clarified to provide for clearer guidance on what constitutes nonconformity. This section outlines how nonconformance eligibility is determined for signs existing prior to this code update. Nonconforming signs existing lawfully prior to the implementation of the new code regulations may remain, so long as the sign is not damaged more than 50% of the sign's value, which would be determined by a repair cost estimate.

Nonconforming signs must come into compliance with the current code regulations and cannot be expanded or replaced if taken down; however, this section provides for the flexibility of allowing for sign face maintenance/replacement for nonconforming signs, so long as the structure is not altered in any way to accommodate the change.

IMPLEMENTATION and EFFECTIVE DATE:
The new sign code would be effective January 1, 2024. For the first six months of 2024, Staff will focus on education of the new sign code with applicants and stakeholders. Code Enforcement efforts would not start until after July 1, 2024.

NOTIFICATIONS:
A legal notification was published in the September 27, 2023 edition of the Albuquerque Journal. All notification requirements have been met.

IMPACT:

The Planning and Zoning Board recommends the Governing Body adopt the Ordinance to repeal and replace R.O. 2003 Chapter 156 Sign Regulations, subject to the findings set forth below:

General Findings of Fact:

1. The City of Rio Rancho has the authority to make an application to request an amendment to repeal and replace R.O. 2003 Chapter 156 Sign Regulations.
2. The Governing Body has the authority to approve the repeal and replacement of R.O. 2003 Chapter 156 Sign Regulations.
3. The applicant and affected property owners received due process, as proper notice and an opportunity to present views was given.

Specific Findings of Fact:

1. The proposed text amendment to repeal and replace R.O. 2003 156 Sign Regulations is consistent with the health, safety, and welfare of the City of Rio Rancho.

ALTERNATIVES:

1. The Governing Body may approve the request;
2. The Governing Body may deny the request;
3. The Governing Body may modify the request and approve such modifications;
4. The Governing Body may continue the public hearing to request additional information or to consider testimony provided at the public meeting.

DEPARTMENT RECOMMENDATION:

The Planning and Zoning Board recommends the Governing Body adopt the Ordinance.

ATTACHMENT: Ordinance
ATTACHMENT: Draft Sign Code (Clean Copy)
ATTACHMENT: Draft Sign Code (Redline Copy)
ATTACHMENT: Sign Code Working Group Meeting Date Table
ATTACHMENT: Existing Ch 156 Sign Code.pdf
ATTACHMENT: Legal Ad

CITY OF RIO RANCHO
ORDINANCE

ORDINANCE NO. **ENACTMENT NO.**

ORDINANCE REPEALING AND REPLACING CHAPTER 156, SIGN REGULATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS: in order to create a more updated and usable sign code and to conform to provisions as outlined by Supreme Court Case *Reed vs.* Gilbert, The City of Rio Rancho has determined an update to Chapter 156 *Sign Regulations* is necessary; and

WHEREAS: City of Rio Rancho Code of Ordinances Title XV Land Use Chapter 156 *Sign Regulations* was repealed and replaced by Ordinance No. 13, Enactment No. 11-14, adopted by the Governing Body on August 10, 2011, and subsequently amended by Ordinance No. 28, Enactment No. 12-28, adopted by the Governing Body on September 26, 2012; and

WHEREAS: the City of Rio Rancho granted RFP Request 21-DS-110 for revisions to City of Rio Rancho Code of Ordinances Title XV Land Use Chapter 156 *Sign Regulations* on February 2, 2021 to Camiros, LTD; and

WHEREAS: the Development Services Department worked with Camiros, LTD to identify and conduct stakeholder interviews to determine the direction for updates to Chapter 156 *Sign Regulations*; and

WHEREAS: the Draft Sign Code was presented at the August 16, 2022 Governing Body Workshop and it was determined further revisions were needed; and

WHEREAS: a Sign Code Working Group consisting of members from the Governing Body, Planning and Zoning Board, The Rio Rancho Chamber of Commerce, and Development Services was established; and

WHEREAS: the Sign Code Working Group held regular meetings from October 12, 2022 to June 28, 2023 to address all proposed revisions, stakeholder feedback, and group input for the Draft Sign Code; and

WHEREAS: the Draft Sign Code document resulting from the Sign Code Working Group was presented during the August 15, 2023 Governing Body Workshop; and

WHEREAS: the Planning and Zoning Board of the City of Rio Rancho reviewed the proposed Draft Sign Code to repeal and replace Chapter 156 at their meeting held on September 26, 2023, and following public hearing recommended approval of the repeal and replacement of Chapter 156; and

WHEREAS: the Governing Body of the City of Rio Rancho reviewed the proposed Draft

Sign Code to repeal and replace Chapter 156 at their meeting held October 26, 2023, and following public hearing and receipt of the Planning and Zoning report and recommendation, has determined that the repeal and replacement of Chapter 156 *Sign Regulations* conforms.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

Section 1. Chapter 156: Sign Regulations shall be repealed and replaced in its entirety as follows:

156.01 Title, Purpose, and Applicability
156.02 Definitions and Rules of Measurement
156.03 Summary Table of Allowed Signs
156.04 General Standards
156.05 Sign Permit
156.06 Prohibited Signs
156.07 Signs Exempt from Permit
156.08 Sign Permit Required
156.09 Unified Sign Plan
156.10 Nonconforming Signs

156.01 Title, Purpose, and Applicability.

The purpose of this Chapter is to establish a comprehensive system of controls regarding the construction, installation, and maintenance of signs in the City of Rio Rancho. This regulations within this Chapter are intended to:

(A) Promote and protect the health, safety, and welfare of the City by ensuring the compatibility of signs with surrounding structures and land uses.

(B) Preserve the natural beauty and scenic environment of Rio Rancho, while enhancing the City's business and economic climate through regulations that encourage the orderly and effective display of signs, and discourage sign clutter.

(C) Protect the public from hazardous conditions that may result from the indiscriminate use and placement of signs, structurally unsafe signs, signs that obscure the vision of pedestrians or motorists, and signs that compete or conflict with necessary traffic signals, government signs, and warning signs.

156.02 Definitions and Rules of Measurement.

(A) Definitions.

Attention-Getting Device. Devices or ornamentations designed for the purpose of attracting attention. Attention-getting devices include sails, pennants, banners, temporary flex pole signs, balloon and inflatable signs, and similar. Flags of nations, states, and cities, or fraternal, religious, and civic organizations, or temporary holiday decorations are not attention-getting devices.

Awning. A roof-like cover designed for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walkway, or door, with no supports that extend to the ground.

Drive-in Restaurant. An eating establishment where customers park their vehicles in designated stalls and place orders through a speaker system, or directly with a restaurant employee. Food is delivered to the customer in the vehicle, and customers remain in their vehicle throughout the dining experience.

Flag. Flags of any nation, state, municipality, or political subdivision, flags officially designated as a national, state, or local symbol, or flags of fraternal, religious, and civic organizations. Pennants and sails are not considered flags.

Flag, Commercial. A sign consisting of fabric, plastic, vinyl, mesh, mylar or similar pliable material attached to a freestanding flagpole or building-mounted flagpole.

Foot-candle. A unit of measure of illuminance equal to one lumen of light spread over an area of one square foot.

Lumen. A unit of light or illumination from a lamp or bulb, as defined by the International System of Units (SI). A typical 60-watt incandescent bulb or a 13-watt fluorescent bulb emits approximately 800 lumens. Light incident on a surface is measured in foot-candles (SI) using a commercial light meter.

Marquee. A permanent roof-like structure constructed of permanent building materials that extends from the wall of a structure with no supports extending to the ground providing protection from the elements.

Multi-Tenant Commercial Center. A multi-tenant commercial center is a commercial development under unified control consisting of three or more separate commercial establishments sharing a common building, or which are in separate buildings sharing a common access/entranceway or parking area.

Nit. A unit of measurement used to quantify the brightness or luminance of a light source. One nit is equal to one candela per square meter.

Off-Premises Sign, Permanent. A permanent sign directing attention to a specific business, product, service, entertainment event, activity, or other commercial activity that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. Permanent off-premises signs are also called billboards (See Chapter 154 of the City of Rio Rancho Municipal Code).

Off-Premises Sign, Temporary. A temporary sign directing attention to a specific business, product, service, entertainment event, activity, or other commercial activity that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. This includes any ground-mounted, building-mounted, or sign painted, pasted, or otherwise affixed to any tree, rock, fence, utility pole, hydrant, bridge, sidewalk, parkway, curb or street, bench, or trash receptacle that directs attention off-premises.

On-Premises Sign. A sign directing attention to a business, product, service,

entertainment event, activity, or other commercial activity that is sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located.

Right-of-Way. The total area of land deeded, reserved by plat, or otherwise acquired by the city, primarily for the use of the public for the movement of people, goods, and vehicles. For the purpose of this chapter, city drainage or utility easements, and other city-owned easements, such as maintenance and service roads serving channels or arroyos, are also included.

Sign. A lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, or inform that is visible from a public right of way.

Sign Face. The area of a sign that is designed and intended to display information, graphics, or messages. It represents the visible side or sides of the sign that are meant to be seen by pedestrians, motorists, or other viewers.

Sign, A-Frame. A freestanding temporary, movable sign ordinarily in the shape of the letter “A” or some variation thereof. An A-Frame sign is displayed on the ground, not permanently fixed to the ground, and is usually two-sided, generally connected at the top and separated at the bottom.

Sign, Animated. A sign that uses moving or changing lights to depict action, movement, or the optical illusion of movement of part of the sign structure, sign, or pictorial segment, or including the movement of any illumination or the flashing or varying of light intensity to create a special effect or scene. Animated signs do not include electronic message signs.

Sign, Arcade. Any sign suspended from and located entirely under an arcade, covered porch, covered walkway, or similar architectural feature.

Sign, Awning. An awning sign is a sign printed, painted, stamped, perforated, stitched, or otherwise displayed upon an awning.

Sign, Blade. A sign attached to and projecting out from a building face or wall, generally at right angles to the building. Blade signs include signs that are totally in the right-of-way, partially in the right-of-way, or fully on private property.

Sign, Canopy. A canopy sign is a sign printed, mounted, or installed upon a canopy. A canopy sign may be one of two types:

(1) Canopy, Non-Structural. A roofed structure attached to a building, which is not integral to the structure, that is made of durable, weather-resistant material such as canvas, canvas-like material, nylon, or vinyl-coated fabric, placed to extend outward from the building and supported both by mountings on the structure wall and by supports that extend to the ground.

(2) Canopy, Structural. A roofed structure constructed of permanent building materials, such as metal, brick, stone, wood or similar building materials, which is constructed as part of and attached to a building, and extends outward from the building, supported both by the structure and by supports that extend to the

ground.

Sign, Changeable Message. A component of a sign, allowing for a message to be changed manually.

Sign, Drive-Through. A sign constructed as a component of a drive-through facility.

Sign, Electronic Message. A sign designed with a portion of the sign area using changing light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the electronic display panel(s) to form a message or messages in text and/or images, where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs, Flashing signs and animated signs are not considered electronic message signs. Electronic message signs do not include electronic billboards, which are addressed as billboards in Chapter 154 of the City of Rio Rancho Municipal Code.

Sign, Flashing. A sign with an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic message signs.

Sign, Freestanding Pylon. A sign that is placed on or supported by the ground, independent of the principal structure on the lot and affixed, attached, or erected on a pole or pylon.

Sign, Freestanding Monument. A sign that is placed on or supported by the ground, independent of the principal structure on the lot, designed with a monument base that is an integral part of the sign structure.

Sign, Gateway. A sign that is installed over a pedestrian entryway and supported by the ground, independent of the principal structure on the lot, designed as an entryway feature to the property.

Sign, Government. A sign erected and maintained pursuant to and in discharge of any government function. A government sign does not include any required legal notice by municipal codes and ordinances; such legal notice is not controlled by the sign code.

Sign, Marquee. A sign that is displayed upon or attached to a marquee. Where designed as a changeable message sign, the changeable message portion may be manually changed or electronically changed when permitted by this Code.

Sign, Moving. A sign where the entire sign structure or a portion of which rotates, moves, elevates, or in any way alters position or geometry. A tri-vision sign where triangular prisms rotate inside a frame to show a new message and/or information are considered moving signs. Moving signs do not include clocks or barber poles.

Sign, Multi-Tenant Commercial Center. A freestanding monument sign installed in conjunction with a multi-tenant commercial center.

Sign, Nonconforming. A sign which was in conformity with the applicable regulations when created but which would now be prohibited or does not conform to one or more of the regulations in the sign code or future amendments thereto.

Sign, Portable. A sign whose principal supporting structure is intended, by design and construction, to rest upon the ground for support and may be easily moved or relocated for reuse. Portable signs include, but are not limited to, signs mounted upon a trailer, wheeled carrier, or other non-motorized mobile structure, with wheels or with wheels removed. Portable signs do not include A-frame signs.

Sign, Residential Subdivision. A freestanding monument sign installed at the entrance of a residential subdivision. A Residential Subdivision Sign may also be mounted on or integrated into an entry feature, such as a wall.

Sign, Right-of-way. A temporary sign installed in the public right-of-way in accordance with an approved right-of-way display permit. Right-of-way signs shall not be considered temporary off-premises signs.

Sign, Roof. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure. A sign attached to an exterior wall of a building but whose face extends above the roofline or plate line by less than 10% of the face of a sign shall not be considered a roof sign.

Sign, Temporary. Any sign which is erected for a limited time and/or special purpose, typically constructed from semi-durable materials and not constituting a permanent structure.

Sign, Vehicle. Signs placed, mounted, installed, or painted on a vehicle for the primary purpose of attracting
attention to an occupant's presence within a building at which the vehicle is being parked.

Sign, Wall – Standard. A sign that is attached directly to an exterior wall of a building or dependent upon a building for support and projects 18 inches or less from the wall of a structure with the exposed face of the sign in a plane substantially parallel to the face of the wall. Window signs are not considered wall signs.

Sign, Wall – Painted. A sign that is painted, applied, or affixed directly on the exterior wall of a building or structure. A painted wall sign is not limited to only the application of paint, but includes other methods of application and/or material including but not limited to tile, screen printing, vinyl application, and paste-ups.

Sign, Wall – Projected. A sign created by an optical device that projects an image directly onto the exterior wall of a building or structure by light or other technological means.

Sign, Window. A sign that is attached to, placed upon, or printed on the interior or exterior of a window or door of a building, or displayed on the interior within two feet of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary. Shadowbox design within display windows, where the window display is designed with a background enclosure that blocks views into the establishment, is considered a window sign and the entire area of the shadowbox is subject to the maximum sign area limitation.

Sign, Wrap. A sign consisting of fabric, plastic, vinyl, mesh, mylar or a similar pliable

material attached to a building or structure under construction, renovation, or maintenance and used to screen such construction, renovation, or maintenance activity

Sign, Yard. A sign placed within a street-facing yard intended to be viewed by the public.

Strobe light. An electronic lighting device designed to emit intense, rapid flashes of light in a systematic and repetitive manner, typically at frequencies ranging from a few to several dozen flashes per second, with each flash lasting for a brief duration.

Unified Sign Plan. A Unified Sign Plan addresses signage on a site to establish a coordinated and consistent approach to all signs within developments of significant size. Unified Sign Plans also allow for modification of the regulations of this Code such as permitted height, area, location and number of signs to respond to unique site conditions such as topography, size, or relation to a public street that would limit or restrict normal sign visibility.

(B) Rules of Measurement.

(1) Sign Area.

(a) The sign area of each sign is the total exposed surface devoted to the sign's message, including all ornamentation, embellishment, symbols, logos, letters, characters, other figures, or frames, whether structural or decorative. The calculation of sign area does not include any supports or bracing. For channel letters or freestanding logos/symbols, the sign area is calculated as the customary, applicable mathematical formula for the total area of each square, circle, ellipse, rectangle, or triangle, or combination thereof, that encompasses each word, logo, image, background, and/or display.

Sign Area

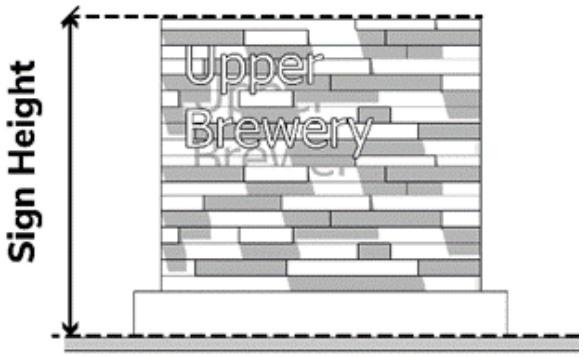
(b) Window area, for the purpose of calculating maximum area of window signs, is calculated as a continuous surface until divided by an architectural or structural element. Mullions are not considered an element that divides window area. Total window area is calculated as length times width of the window area. Only the individual letters or logos of the window sign shall be used in the calculation of surface area. The transparent film around the perimeter of the individual letters or logos composing the

window sign and used to affix the window sign to the interior or exterior of a windowpane or glass door shall be exempt from the area calculations, provided that such portion of the film maintains 100% transparency.

(2) Sign Height.

For ground signs, sign height is measured as the vertical distance measured from the normal grade at the base of the sign to the highest point of the sign, including any decorative elements. Normal grade shall be construed to be the existing grade prior to construction or the newly established grade after construction, exclusive of any fill, berm, mound, or excavation solely for the purpose of locating the sign, whichever is lower. Where a sign is installed on a slope, height shall be measured from the average grade at the base of the sign, determined by measuring the grade at the center of each side of the sign structure and calculating the average.

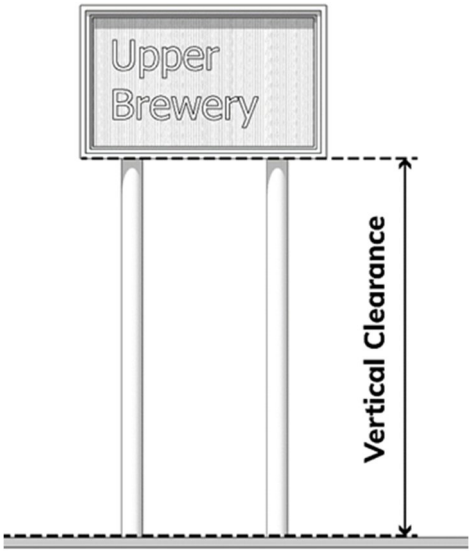
Sign Height



(3) Vertical Clearance.

Vertical clearance is measured as the vertical distance measured from the ground directly below the sign to the lowest point of the sign.

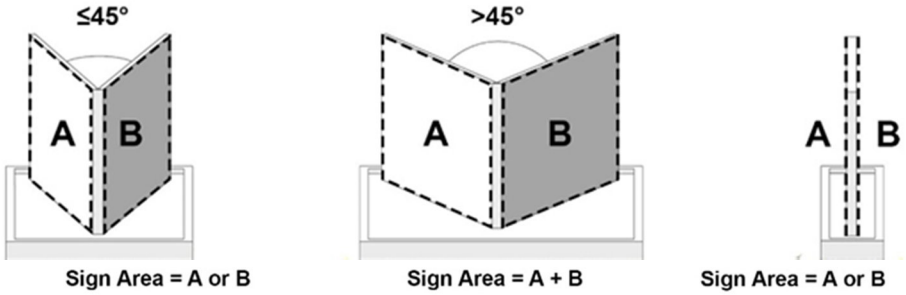
Vertical Clearance



(4) Number of Sign Faces.

If the interior angle between two sign faces is 45° (degrees) or less, the sign area is calculated as the area of one face only. If the interior angle between two sign faces is greater than 45° (degrees), the sign area is calculated as the sum of the two faces.

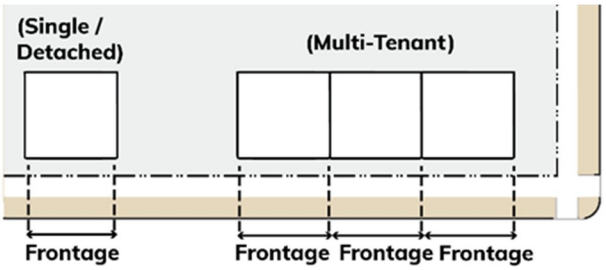
Calculation of Sign Faces



(5) Frontage Length.

Frontage length is measured as the linear distance between the surfaces of the outermost parallel walls of a principal structure. Where frontage length is calculated on a tenant basis, it is measured from the centerline of any party wall defining the tenant unit to the centerline of another party wall or the surface of an exterior wall.

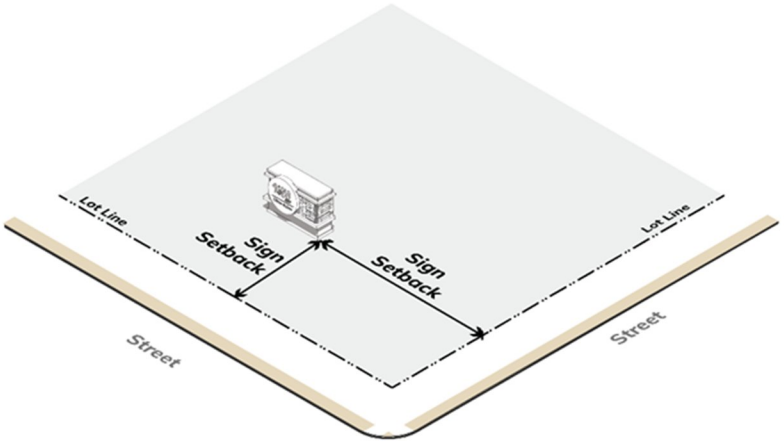
Calculation of Frontage Length



(6) Sign Setback.

Sign setback is measured perpendicularly from the applicable property line to the closest point of the sign or sign structure.

Calculation of Sign Setback



156.03 Summary Table of Allowed Signs.

Table 156-01, Summary Table of Allowed Signs, catalogs the types of permitted signs, both permanent and temporary, and indicates whether such sign requires a sign permit. This table is provided for reference purposes only. In the case of any conflict with the regulations of this Chapter and this ordinance, the specific sign regulations control over this table. Permanent Off-Premises Signs, also called Billboards, are not included in this table and are regulated by Chapter 154 of the City of Rio Rancho Municipal Code.

Table 156-01: Summary Table of Allowed Signs

Sign Type (Section Reference)	No Permit Required	Permit Required	Permissions
A-Frame Sign (156.07.A)	✔		Nonresidential and mixed-use development in nonresidential, SU, and H-1 districts
Arcade Sign (156.08.B.2)		✔	Nonresidential and mixed-use development in all districts

Table 156-01: Summary Table of Allowed Signs			
Sign Type (Section Reference)	**No Permit Required**	**Permit Required**	**Permissions**
Attention-Getting Device (156.08.A)		✔	Nonresidential and mixed-use development in the nonresidential and SU districts
Awning Sign (156.08.B.3)		✔	Multi-family dwellings, nonresidential development, and mixed-use development in all districts
Blade Sign (156.08.B.4)		✔	Nonresidential and mixed-use development in the nonresidential, SU, and H-1 districts
Canopy Sign - Non-Structural (156.08.B.5.a)		✔	Multi-family dwellings, nonresidential development, and mixed-use development in all districts
Canopy Sign – Structural (156.08.B.5.b)		✔	Attached: Multi-family dwellings, nonresidential development, and mixed-use development in all districts Freestanding: Gasoline service stations, drive-through window restaurants, and drive-through facilities in all districts
Drive-Through Sign (156.08.C)		✔	Drive-through window restaurants and drive-through facilities in all districts
Electronic Message Sign (156.08.D)		✔	Nonresidential and mixed-use development in the nonresidential and SU districts For the following uses in all districts: cultural facilities, educational facilities, parks, places of worship, or similar uses Gasoline service stations in any district, to display copy that is required to be displayed by law
Flag (156.07.G)	✔		All districts
Freestanding Sign, Monument (156.08.F.2)		✔	Multi-family dwellings, nonresidential development, and mixed-use development in all districts
Freestanding Sign, Pylon (156.08.F.3)		✔	Nonresidential and mixed-use development in the nonresidential and SU Districts, with the exception of the NC and O-1 Districts

Table 156-01: Summary Table of Allowed Signs			
Sign Type (Section Reference)	**No Permit Required**	**Permit Required**	**Permissions**
Gateway Sign (156.08.E)		✔	Nonresidential and mixed-use development in the nonresidential, SU, and H-1 districts
Government Sign (156.07.F)	✔		All districts
Marquee Sign (156.08.G)		✔	Nonresidential and mixed-use development in the C-1, C-2, O-1, M-1, and SU districts
Multi-Tenant Commercial Center Sign (156.08.F.4)		✔	Multi-tenant commercial centers in all districts
Residential Subdivision Sign (156.08.F.5)		✔	Residential subdivisions in all districts
Right-of-Way Sign (156.08.H)		✔	Within the public right-of-way, subject to standards
Sign for Cultural or Historical Site (156.07.D)	✔		Sites or buildings with cultural or historical significance in all districts
Sign for Multiple Tenant Building Entry (156.07.H)	✔		Multi-family dwellings, nonresidential development, and mixed-use development with multiple tenants in all districts
Sign for Nonresidential or Mixed-Use Construction Activity (156.07.C)	✔		Sites where active nonresidential or mixed-use construction is taking place in all districts
Sign for On-Site Repair, Renovation, or Improvement (156.07.I)	✔		Sites where on-site repair, renovation, or improvements are taking place in all districts
Sign for Parking Lot or Structure Circulation Point (156.07.J)	✔		Parking lots and structures in all districts
Sign for Real Estate Activity (156.07.K)	✔		Sites where a structure or lot is offered for sale, lease, or rent in all districts

Table 156-01: Summary Table of Allowed Signs			
Sign Type (Section Reference)	**No Permit Required**	**Permit Required**	**Permissions**
Sign for Residential Construction Activity (156.07.B)	✔		Sites where active residential construction is taking place in all districts
Sign on Gas Pump Island (156.07.E)	✔		Gasoline service stations in all districts
Wall Sign, Painted (156.08.B.7)		✔	Nonresidential and mixed-use development in all districts
Wall Sign, Projected (156.08.B.8)		✔	Nonresidential and mixed-use development in the nonresidential and SU districts
Wall Sign, Standard (156.08.B.6)		✔	Nonresidential and mixed-use development in all districts
Window Sign (156.07.L)	✔		Nonresidential and mixed-use development in all districts
Yard Sign (156.07.M)	✔		All residential districts

156.04 General Standards.

All signs constructed, erected, modified, or altered shall comply with the following standards.

(A) Exceptions.

All signs constructed, erected, modified, or altered shall comply with the standards of this Chapter, whether such signs do or do not require a sign permit, except for those items listed in this section. The following signs are not regulated by this Chapter.

(1) Signs within a building or enclosed space within a development that are not visible from a public right-of-way.

(2) Any required public notice, sign, or warning installed by federal, state, or local governments.

(3) Logos and labels located on mechanical equipment, recycling bins, trash containers, and similar equipment, which are part of the equipment as manufactured and/or installed.

(4) Works of art that do not contain a commercial message.

(5) Holiday decorations that do not contain a commercial message.

(B) Location Restrictions.

(1) No sign may be erected in a location that violates the building code, fire code, and other applicable City codes or ordinances.

(2) No sign is permitted within the clear sight triangle as established within Chapter 154 of the City of Rio Rancho Municipal Code.

(3) Only signs that have been placed by or authorized by the federal government, state government, or the City may be installed on public property. Any sign installed on public property, including rights-of-way, without prior authorization, will be removed by the City without notice and may be disposed of.

(4) No permanent sign may be erected on private property without the consent of the property owner or his/her authorized agent. Any sign installed on private property without authorization may be removed by the property owner without notice and may be disposed of.

(5) No sign may be erected in a manner that obstructs access to any ingress or egress, fire escapes, fire hydrants, fire department connections, or standpipes and similar fire safety connections.

(C) Audio Components.

Audio components are prohibited as part of any sign, except for the following:

(1) Drive-through sign: For drive-through signs, including signs in individual stalls at drive-in restaurants, the audio component is limited to communication between the customer and the restaurant staff taking orders.

(2) Signs owned and/or operated by a government agency.

(3) Permitted gas station pump video screens.

(D) Illumination.

In addition to the standards below, all outdoor lighting shall comply with Chapter 159 of the City of Rio Rancho Municipal Code and the State of New Mexico Night Sky Protection Act. In the case of a conflict, the more stringent requirement shall apply.

(1) Any sign illumination, including gooseneck reflectors, external illumination, and internal illumination, shall be designed, located, shielded, and directed to prevent the casting of glare or direct light upon roadways and surrounding properties, and prevent the distraction of motor vehicle operators or pedestrians in the public right-of-way.

(2) The sign face of internally illuminated signs shall function as a filter to diffuse illumination. The sign face shall cover all internal illumination components so that no exposed bulbs are visible.

(3) All external illumination of a sign shall concentrate the illumination upon the printed area of the sign face.

(4) The use of bare bulbs as external illumination is only permitted for marquee signs.

(5) No sign illumination may be combined with reflective materials, such as mirrors, polished metal, or highly glazed tiles, which would increase glare.

(6) The maximum allowable illumination measured at the property line is one lumen per square foot (one foot-candle), unless such signs are allowed to extend over the property line, where the maximum allowable illumination is measured at the back of curb or edge of pavement.

(7) For electronic message signs, the maximum brightness is limited to 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours, and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset. The sign shall have an ambient light meter and automatic or manual dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise.

(E) Construction Standards.

(1) Supports and braces shall either be designed as an integral part of the overall sign or obscured from public view to the extent feasible.

(2) All signs attached to a building shall be installed and maintained so that wall penetrations are watertight and the structure does not exceed allowable stresses of supporting materials.

(3) All signs shall be designed and constructed in compliance with the building code, electrical code, and all other applicable codes and ordinances.

(4) Glass comprising any part of a sign shall be safety glass.

(5) Conduits, raceways, and other components of a sign illumination system shall be designed as an integral part of the overall sign structure and obscured from public view to the extent technically feasible.

(F) Permitted Materials for Signs.

(1) Permanent sign structures shall be constructed of durable materials such as brick, wood or simulated wood, stone, concrete, metal, plastic, or high-density urethane (HDU) foam board or similar durable foam construction. Solid awnings and structural canopies shall be constructed of permanent building materials.

(2) Awning, canopy, blade, and wall signs may also be constructed of durable weather resistant material such as canvas, nylon, or vinyl-coated fabric.

(3) Wall, awning, canopy, and blade signs constructed of material shall be mounted within a frame so that they are held taut between all support posts.

(G) Required Maintenance.

(1) All signs shall be kept in a safe and well-maintained condition and appearance, and shall be repainted or otherwise maintained by the property owner or business owner to prevent corrosion or deterioration caused by the weather, age, or any other condition.

(2) All signs shall be maintained to prevent any kind of safety hazard, including faulty or deteriorated sign structures, a fire hazard, or an electrical shock hazard.

(3) All unused sign hardware or wiring shall be removed.

(4) No sign frame may remain unfilled or allow any internal part or element of the sign structure to be visible.

(5) If a sign is maintained in an unsafe or unsecured condition, it shall be removed or the condition corrected. If the sign is not removed or the condition is not corrected within the required time period, the City may enforce this order through applicable enforcement procedures.

(6) The City may remove any sign that is creating an imminent danger of significant harm to persons or property summarily and without notice. The owner of such sign is responsible for all costs of removal. The method for collection of costs may include, but shall not be limited to, a lien pursuant to 3-36-1 to 3-36-7 NMSA 1978.

(7) Where possible by the design of a sign structure, the owner of a permanent sign that becomes obsolete after the associated activity or use is discontinued or abandoned shall remove all sign copy from the sign structure and the panels shall be removed and replaced with a blank panel. This requirement is not satisfied by reversing (i.e., turning such copy so that it faces inward), painting over, covering with vinyl or other fabric, or other means of obfuscating such copy.

(8) Any activity that increases the sign area, sign height, or any sign dimension, or moves the location of a sign, requires a sign permit.

(9) The following maintenance activities are exempt from requiring a sign permit. All other maintenance and alterations to a sign require a permit.

(a) Painting, cleaning, or other normal maintenance and repair of a sign. This does not include any structural changes or any changes in the electrical components of the sign, including the removal or replacement of electrical components.

(b) Changing the copy of a changeable message sign

(H) Permanent Off-Premises Signs.

Permanent off-premises signs are considered billboards, which are a distinct land use, and are subject to the regulations of Chapter 154 of the City of Rio Rancho Municipal Code.

156.05 Sign Permit.

No sign, unless specifically identified as exempt by this Chapter, may be erected, constructed, altered, or relocated without first obtaining approval of a sign permit in accordance with the following.

(A) Authority.

The Director of Development Services or their designee is responsible for determining compliance with this title and issuing a sign permit.

(B) Approval Procedure.

(1) A complete application for a sign permit, as well as any submittals required as a component of the application, shall be submitted to the Director of Development Services or their designee. If the party submitting the application does not own the subject property, the property owner is required to submit written permission for the installation of the sign as a component of the application.

(2) Upon receiving an application for a sign permit, the Director of Development Services or their designee shall review it for completeness. If the application is determined to be incomplete, the applicant shall be notified in writing, specifying the deficiencies in the application.

(3) Following a determination of completeness, the Director of Development Services or their designee shall either:

(a) Approve the sign permit, if the application complies with all the requirements of these regulations and any other applicable codes.

(b) Deny the sign permit, if the application fails in any way to comply with the requirements of these regulations or any other applicable codes. If the application is denied, the applicant shall be notified in writing, specifying the section or sections of these regulations or any other applicable codes with which the application is inconsistent.

(C) Fees.

To obtain a sign permit, all fees in accordance with the City’s associated fee schedule shall be paid.

(D) Illegal Signs.

(1) Illegally constructed signs.

If a sign is constructed illegally without a required sign permit, the Director of Development Services or their designee will serve notice to the property owner that such sign shall be removed within 30 days of notice for permanent signs or seven days of notice for temporary signs. If the sign is not removed within the required period, the Director of Development Services or their designee may enforce this order through any remedies that are and as may from time to time be provided for or allowed by state law or municipal ordinances.

(2) Illegally placed signs.

Any sign placed on public property or within the public right-of-way without authorization may be removed immediately and without notice.

156.06 Prohibited Signs.

The following sign types are specifically prohibited. All signs not expressly permitted by this chapter are also prohibited.

(A) Flashing signs, except as specifically permitted within this Code.

(B) Moving signs whether illuminated or not, including any sign that rotates, revolves, or has any visible moving part, or any sign that gives the appearance of movement, including signs designed to be moved by wind or other natural elements. This excludes clocks and barber poles.

(C) Portable signs, not including A-frame signs.

(D) Roof signs.

(E) Strobe lights, moving or fixed spotlights, floodlights/searchlights.

(F) Signs that constitute a traffic hazard, including signs that:

(1) Interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal, or device because of its position, shape, or color, including signs illuminated in red, green, or amber color.

(2) May be confused with any public safety lighting, including signs illuminated in red and blue colors.

(3) Mislead, interfere with, or confuse traffic.

(G) Temporary off-premises signs. Also known as push signs, bandit signs, and snipe signs.

(H) Vehicle signs. This prohibition does not include signs painted on or applied to vehicles, trucks, or buses that are being operated and stored in the normal course of

business, such as signs located on delivery trucks, moving vans, and rental trucks, provided that the primary purpose of such vehicles is not the display of such sign, and that they are properly parked or stored in areas related to their use as vehicles and all such vehicles are in operable condition. This does not include vehicle for-sale signs.

(I) Video display screens.

156.07 Signs Exempt from Permit.

(A) A-Frame Sign.

(1) A-frame signs are permitted for nonresidential and mixed-use development in the City's nonresidential districts, and the SU and H-1 Districts.

(2) One A-frame sign is permitted per establishment, including one for each tenant in a multi-tenant development. A minimum separation of 15 feet is required between A-frame signs.

(3) A-frame signs shall be located within 15 feet of the primary entrance of the business, and shall not interfere with pedestrian traffic or violate any standards of accessibility as required by ADA or other accessibility codes.

(4) A-frame signs are limited to six square feet in area per side, and shall be no taller than four feet in height.

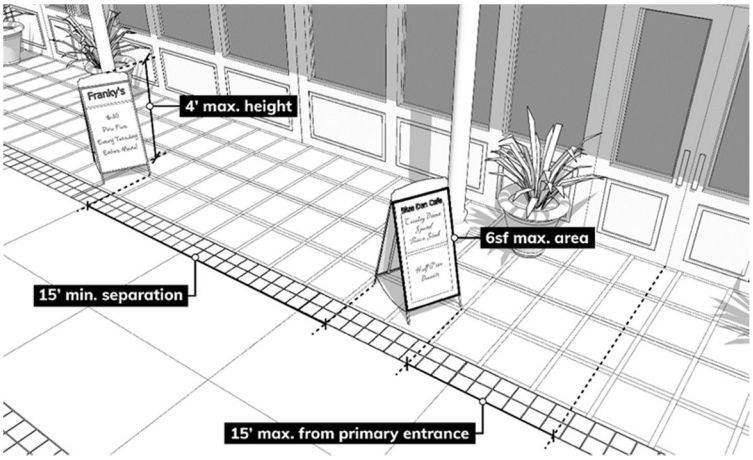
(5) A-frame signs may be displayed outdoors during business hours only. At all other times, the signs shall be stored indoors.

(6) A-frame signs shall not be displayed outdoors when severe wind, rain, or other weather conditions may pose a hazard.

(7) Illumination of A-frame signs is prohibited.

(8) No A-frame sign may have any type of electronic component.

A Frame Sign



(B) Sign for Residential Construction Activity.

Where active residential construction is taking place, a temporary sign is permitted subject to the following:

(1) One sign is permitted at each entrance to a residential subdivision or master planned community from a street classified as a collector or arterial.

(2) Signs shall be designed as freestanding signs, wall signs, or signs on a fence, and shall be located a minimum of five feet from any property line.

(3) Signs are limited to 32 square feet in area, and six feet in height.

(4) Illumination of signs is prohibited.

(5) Signs shall be removed once construction within the residential subdivision or master planned community is complete.

(C) Sign for Nonresidential or Mixed-Use Construction Activity.

Where active nonresidential or mixed-use construction is taking place, a temporary sign is permitted subject to the following:

(1) One sign is permitted per street frontage.

(2) Signs shall be constructed as freestanding signs, wall signs, or signs installed on a fence.

(3) The total square footage of signs on a lot shall not exceed 64 square feet, unless located on a single parcel 20 acres or more in size, in which case the total square footage shall not exceed 128 square feet.

(4) Individual signs are limited to 32 square feet in area. When freestanding, signs are limited to six feet in height and shall be located a minimum of five feet from any property line.

(5) In lieu of a freestanding sign, wall sign, or sign installed on a fence, a wrap sign may be used to wrap the fence or the structure under construction. A wrap sign requires review and approval during site plan review. Such wrap sign shall be made of mesh or similar material. There is no maximum square footage limitation for a wrap sign.

(6) Illumination of signs is prohibited.

(D) Sign for Cultural or Historical Site.

Sites or buildings with cultural or historical significance are permitted a permanent sign, subject to the following:

(1) Signs on culturally or historically significant sites or buildings are limited to

one sign per street frontage.

(2) Signs on culturally or historically significant sites or buildings may be constructed as freestanding signs or wall signs as follows:

(a) Signs are limited to six square feet.

(b) Freestanding signs are limited to four feet in height and shall be located a minimum of five feet from any property line.

(c) Wall signs shall be placed to be an integral part of the structure, cut into stone or masonry, or be a permanently affixed plaque of metal or other durable material.

(E) Sign on Gas Pump Island.

A maximum of one sign mounted on each gas station pump island is permitted and is limited to two square feet in sign area. All such signs shall be oriented to face the vehicle parked at the pump.

(F) Government Sign.

(1) Government signs are allowed in all districts and in any number, configuration, or size.

(2) In all districts, the type and extent of illumination required is at the discretion of the authorized government agency.

(G) Flag.

Flags are permitted in all districts.

(1) Flags may be freestanding or wall mounted. There is no limit on the number of flags permitted.

(2) There is no limit on the size of flags.

(3) All flagpoles shall conform to the standards established within Chapter 154 of the City of Rio Rancho Municipal Code.

(4) Flags may be externally illuminated, and shall comply with Chapter 159 of the City of Rio Rancho Municipal Code and the State of New Mexico Night Sky Protection Act.

(H) Sign for Multiple Tenant Building Entry.

Multi-family dwellings, nonresidential development, and mixed-use development with multiple tenants in all districts are permitted a permanent sign at each building entry, subject to the following:

(1) A maximum of one sign is allowed per building entry.

(2) Signs may be constructed as either freestanding signs or wall signs.

(3) Signs are limited to eight square feet in area.

(4) Freestanding signs are limited to six feet in height, and shall be located within five feet of the building entry, and a minimum of five feet from any property line.

(5) Wall signs shall be installed within five feet of the building entry.

(I) Sign for On-Site Repair, Renovation, or Improvement.

On lots where on-site repair, renovation, or improvements are taking place, a temporary sign is permitted. Such temporary signs are subject to the following:

(1) A maximum of one sign per lot is permitted.

(2) Signs are permitted in all districts on sites with active repair, renovation, or improvement projects.

(3) Signs may be installed only after approval of a permit for the repair, renovation, or improvement activity. Signs shall be removed upon the completion of the repair, renovation, or improvement activity.

(4) Signs may be constructed as freestanding signs, subject to the following:

(a) Signs are limited to a maximum of eight square feet in area and six feet in height.

(b) Signs shall be located a minimum of five feet from any property line.

(c) Signs may not be illuminated.

(J) Sign for Parking Lot or Structure Circulation Point.

Parking lots and structures in all districts are permitted permanent signs at parking lot and/or structure circulation points in accordance with the following:

(1) Circulation points include, but are not limited to, entrances/exits, driveway intersections, drive-through lanes, fire zones, and parking lot drive aisles.

(2) Signs are limited to a maximum of four square feet in area and five feet in height.

(3) Freestanding parking lot or structure circulation point signs shall be located a minimum of five feet from any right-of-way line.

(4) Signs for parking lot or structure circulation points may be internally or externally illuminated.

(K) Sign for Real Estate Activity.

When a structure or lot is offered for sale, lease, or rent, a temporary real estate activity sign is permitted on such lot as follows:

(1) Signs are permitted in all districts, and shall be located on the lot offered for sale, lease, or rent, or at the entrance of a new residential subdivision.

(2) Signs are limited to one sign per street frontage, except for new residential subdivisions which are limited to one sign.

(3) Signs may be constructed as freestanding, wall, or window signs, apart from those for new residential subdivisions which shall be freestanding. Freestanding signs shall be located a minimum of five feet from any property line.

(4) Signs are subject to the following maximum sign area limitations:

(a) Residential districts, A-R, OS, PR, T-Z: eight square feet.

(b) Nonresidential, SU and H-1 districts (not including M-1 or BP): 32 square feet.

(c) M-1 and BP districts: 40 square feet.

(d) New residential subdivision of three lots or more (any district): 32 square feet.

(5) Freestanding signs are limited to six feet in height.

(6) Signs for real estate activity may not be illuminated.

(7) Signs shall be removed within five days of final closing, lease, or rental.

(L) Window Sign.

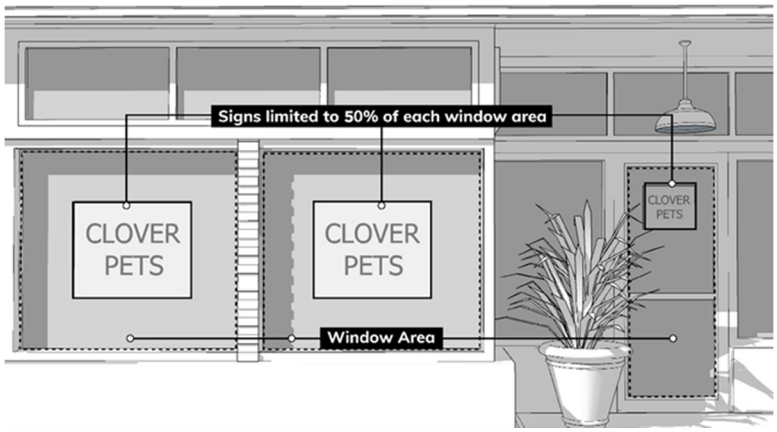
(1) Window signs are permitted for nonresidential and mixed-use development in all districts.

(2) All window signs, whether temporary or permanent, are limited to no more than 50% of the surface of each window area. Window area is measured as a continuous surface until divided by an architectural or structural element. Mullions are not considered an element that divides window area.

(3) Internally illuminated window signs are permitted, but are limited to a maximum area of six square feet or 30% of the surface of the window area, whichever is less. Such illuminated signs may not contain an animated or flashing component, and may not strobe.

(4) Window displays of items sold on the premises are not considered window signs.

Window Sign



(M) Yard Sign.

Yard signs are permitted in all residential districts.

(1) There is no limit on the number of signs permitted, however the maximum total sign area may not exceed 32 square feet.

(2) Individual signs are limited to a maximum of eight square feet in area and six feet in height.

(3) Yard signs shall be located a minimum of five feet from any right-of-way line.

(4) No sign may be illuminated.

(5) Signs shall not be used for any on-premises or off-premises advertising.

156.08 Sign Permit Required.

This section describes the types of signs allowed with a sign permit. Specific regulations for each sign type may include further restrictions pertaining to which districts and/or uses within a district may utilize these sign types.

(A) Attention-Getting Device.

Attention-getting devices are permitted as temporary signs for nonresidential and mixed-use development in the nonresidential and SU districts.

(1) Attention-getting devices are limited to the following display periods:

(a) When used in coordination with an event, attention-getting devices are permitted a total display period of seven days prior to the start of the

event, the duration of the event, and three days following the end of the event.

(b) When not in coordination with an event: 15 days.

(c) Four display periods per year are permitted, with a minimum of 30 days required between successive display periods.

(2) Attention-getting devices for multi-tenant sites are subject to the following:

(a) Each tenant establishment with ground floor frontage in a multi-tenant structure may have one freestanding and one wall-mounted attention-getting device installed or mounted simultaneously.

(b) The display period and minimum 30-day interval between displays applies to each tenant establishment individually, rather than the site as a whole.

(3) Freestanding attention-getting devices are subject to the following:

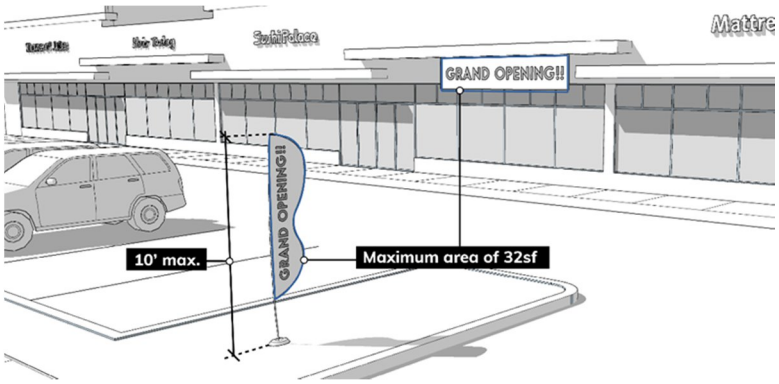
(a) Freestanding attention-getting devices are allowed at a ratio of one attention-getting device for every 25 linear feet of street frontage. Where a structure or tenant space has less than 25 linear feet of street frontage, one attention-getting device is permitted. There shall be a 15 foot separation between freestanding attention-getting devices.

(b) Freestanding attention-getting devices are limited to a maximum height of ten feet and 32 square feet in area. If designed as a balloon or inflatable sign, a freestanding attention-getting device is limited to a maximum of 15 feet in height, including any tethering.

(c) Freestanding attention-getting devices shall be located a minimum of five feet from the property line, as measured from the outermost portion of the sign. No part of a freestanding attention-getting device may extend over the property line.

(4) Wall-mounted attention-getting devices are limited to 60 square feet, and may not exceed the height of the ground floor of the structure. Wall-mounted attention getting devices for multi-tenant structures are limited to 32 square feet per tenant establishment.

Attention-Getting Device



(B) Building-Mounted Signs.

(1) General Regulations.

(a) The following are considered building-mounted signs: permanent arcade signs, awning signs, blade signs, canopy signs, standard wall signs, and painted or projected wall signs.

(b) Single-tenant structures are permitted a maximum building-mounted sign area of two square feet per one linear foot of building length or 50 square feet, whichever is greater. Multi-tenant structures are permitted a maximum building-mounted sign area of two square feet per one linear foot of frontage per ground-floor tenant, or 50 square feet per ground-floor tenant, whichever is greater.

(c) Building-mounted signs may be used in any quantity or combination, so long as the total permitted square footage is not exceeded and all individual signs conform to the specific provisions per sign type established in Sections 156.08.B.2 through 156.08.B.8 below.

(2) Arcade Sign.

(a) Arcade signs are permitted for nonresidential and mixed-use development in all districts.

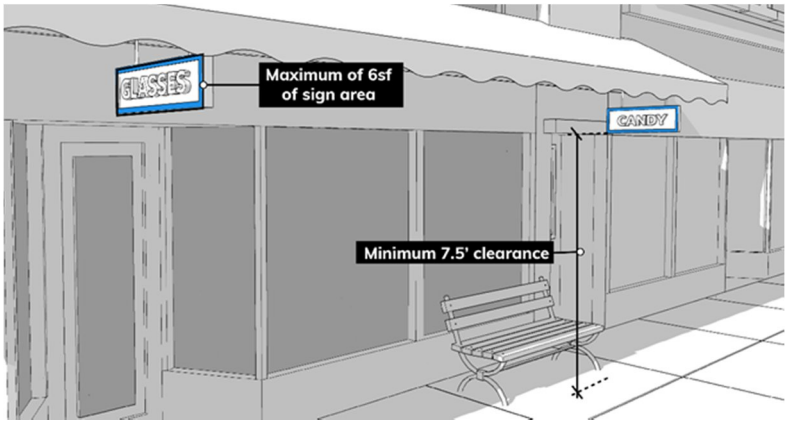
(b) Arcade signs shall be located beneath, and shall be securely attached to an arcade, gallery, covered porch or walkway, awning, or canopy.

(c) One arcade sign is permitted per building entry.

(d) Arcade signs shall maintain a minimum vertical clearance of 7.5 feet from the surface above which the sign is mounted, and are limited to a maximum of 12 square feet in sign area.

(e) Arcade signs are not counted toward the maximum building-mounted sign area for single- or multi-tenant structures.

Arcade Sign



(3) Awning Sign.

(a) Awning signs are permitted for multi-family dwellings, nonresidential development, and mixed-use development in all districts.

(b) Awning signs shall maintain a minimum vertical clearance of 7.5 feet from the surface above which the sign is mounted.

(c) Awning signs may encroach into the public right-of-way, but shall be located at least two feet from a curb line.

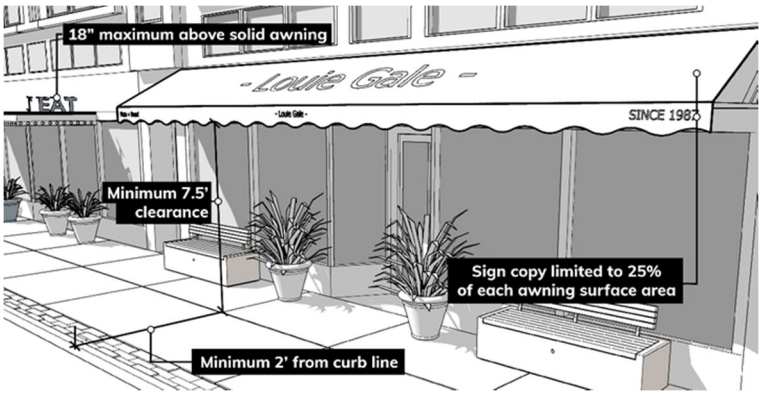
(d) Sign copy on any awning sign is limited to 25% of each awning surface area (front, sides, valance).

(e) Awning signs shall be constructed of durable, weather-resistant material such as, but not limited to, canvas, canvas-like material, nylon, vinyl-coated fabric, or permanent building material such as metal.

(f) Solid, non-textile awnings are permitted lettering attached to and located either above or below the awning to a maximum height of 18 inches. If attached below the awning, a minimum vertical clearance of 7.5 feet shall be maintained from the bottom of the lettering to the surface above which it is mounted.

(g) Awning signs may be externally illuminated. Any illumination of an awning sign shall be focused on the sign copy or printed area. Back-lit awnings are prohibited.

Awning Sign



(4) Blade Sign.

(a) Blade signs are permitted for nonresidential and mixed-use development in the nonresidential, SU and H-1 districts.

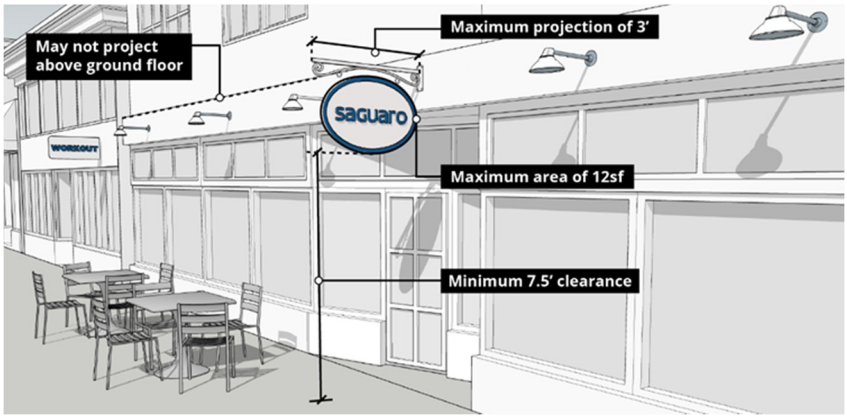
(b) One blade sign is permitted per establishment with ground-floor frontage on a street or public plaza.

(c) Blade signs are limited to 12 square feet, and may project a maximum of three feet from the façade.

(d) Blade signs shall maintain a minimum vertical clearance of 7.5 feet from the surface above which the sign is mounted. No blade sign affixed to a building may project higher than the ground floor, including the sign support structure.

(e) Blade signs may be internally or externally illuminated.

Blade Sign



(5) Canopy Sign.

Canopy signs are divided into two types: non-structural and structural.

(a) Non-Structural Canopy Signs

1. Non-structural canopy signs are permitted for multi-family

dwellings, nonresidential development, and mixed-use development in all districts.

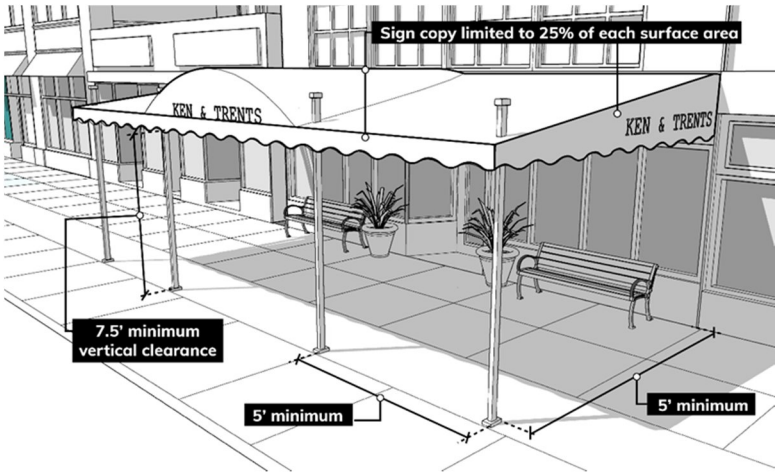
2. Non-structural canopy signs shall maintain a minimum vertical clearance of 7.5 feet.

3. Non-structural canopy signs may encroach into the public right-of-way but shall be located at least two feet from the curb line. Support posts shall maintain a minimum separation of five feet between posts and five feet between the posts and any building wall.

4. Sign copy on any canopy sign is limited to 25% of each surface area (front, sides, valance).

5. Non-structural canopy signs may be externally illuminated. Any illumination shall be focused on the sign copy or printed area. Back-lit canopies are prohibited.

Non-Structural Canopy Sign



(b) Structural Canopy Signs

1. Permissions for Structural Canopy Signs

Structural canopy signs are permitted as follows:

i. Structural canopy signs attached to the principal structure are permitted for multi-family dwellings, nonresidential development, and mixed-use development in all districts.

ii. Freestanding structural canopy signs are permitted for gasoline service stations, drive-through window restaurants, and drive-through facilities in any district.

2. Structural Canopy Signs Attached to Principal Structure

Structural canopy signs attached to the principal structure are subject to the following:

i. Canopy signs attached to the principal structure may encroach into the public right-of-way but shall be located at least two feet from a curb line.

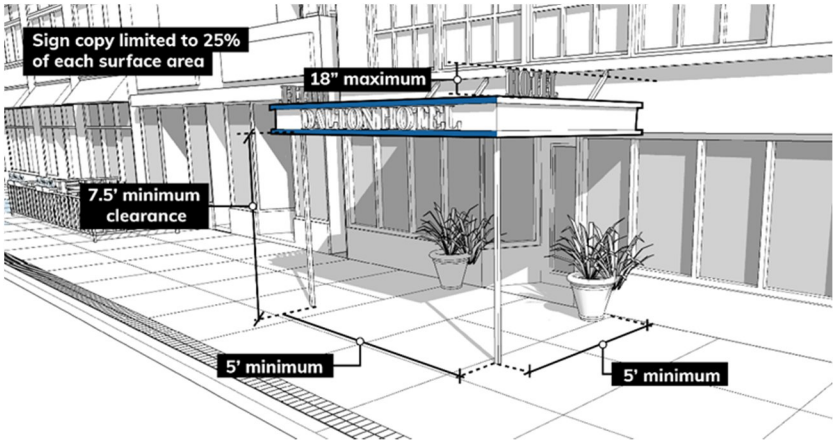
ii. Support posts shall maintain a minimum separation of five feet between posts and five feet between the posts and any building wall.

iii. Canopy signs attached to a building shall maintain a minimum vertical clearance of 7.5 feet.

iv. For structural canopies attached to a principal building, sign copy is limited to 25% of each surface area. Such signs are permitted lettering attached to and located either above or below the canopy to a maximum height of 18 inches. If attached below the canopy, a minimum vertical clearance of 7.5 feet shall be maintained from the bottom of the lettering to the surface above which it is mounted.

v. Structural canopy signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign copy or printed area.

Structural Canopy Sign Attached to Principal Structure



3. Freestanding Structural Canopy Signs

Freestanding structural canopy signs are subject to the following. Such signs are exempt from the calculation of total building-mounted sign area.

i. Freestanding structural canopy signs are subject to the setback requirements of the district where they are located or ten feet from any property line, whichever is

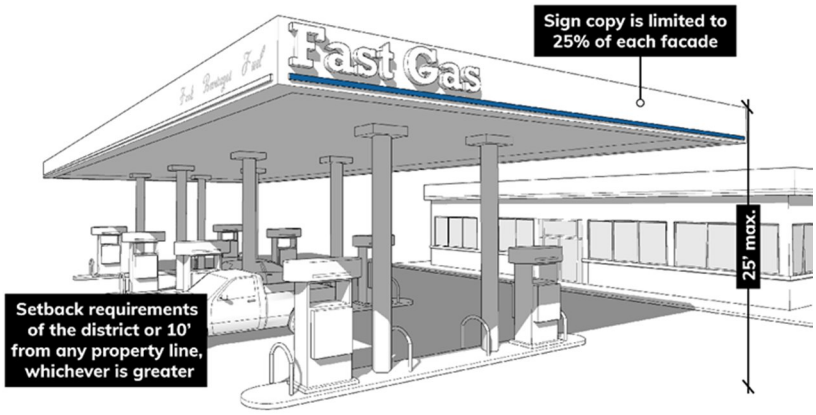
greater.

ii. Freestanding structural canopy signs are limited to a maximum height of 25 feet. Height is measured to the top of a flat roof or to the average height between the eave and the ridge of a pitched roof.

iii. For freestanding structural canopies, sign copy is limited to a maximum of 25% of the area of each façade. No sign may be mounted above the top of the roof of the structural canopy, but a sign mounted on the structural canopy façade may extend a maximum of six inches above the roofline.

iv. Freestanding structural canopy signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign copy or printed area. Freestanding structural canopies are permitted an illuminated band along each facade of the canopy, which is limited to 10% of the overall height of the facade of the canopy.

Freestanding Structural Canopy Sign



(6) Wall Sign, Standard

(a) Standard wall signs are permitted for nonresidential and mixed-use development in any district.

(b) Standard wall signs are permitted on all facades of a structure. On a site consisting of multiple structures, each structure is permitted wall signs per the regulations of this section. The square footage permitted for individual structures shall not be combined to create a larger sign on any one structure.

(c) For a single tenant structure, the maximum total wall sign area is

one square foot per one linear foot of building wall where the wall sign(s) will be mounted or 50 square feet, whichever is greater. The square footage permitted for individual façades shall not be combined to create a larger sign on any one façade.

(d) For a structure that contains multiple tenants, each tenant that has exterior ground floor frontage is permitted a total wall sign area of one square foot per one linear foot of frontage or 50 square feet, whichever is greater. The square footage permitted for individual tenants shall be used only for each tenant frontage, and shall not be combined to create a larger sign along any tenant frontage.

(e) The number of individual wall signs on a façade is not limited, however the cumulative sign area of all signs on a facade shall not exceed the maximum allowable total wall sign area per façade.

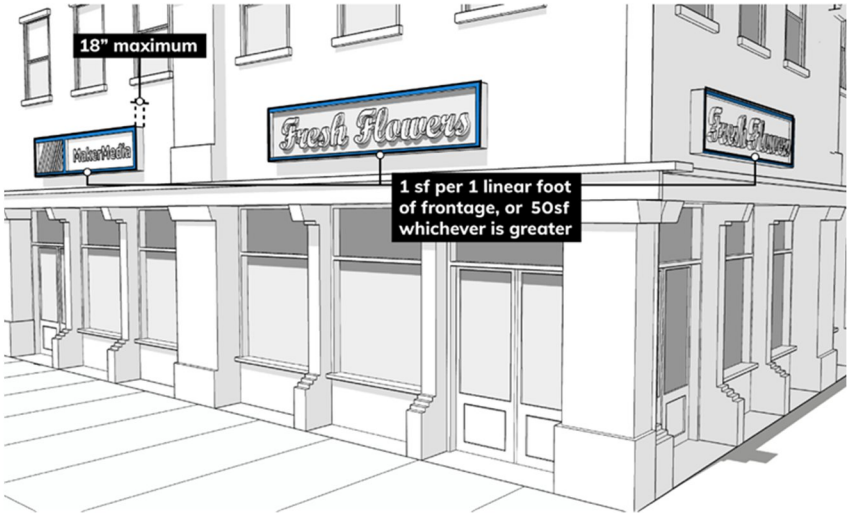
(f) Standard wall signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

(g) Signs shall be safely and securely mounted to the building wall, and may project a maximum of 18 inches from the façade to which they are mounted.

(h) No wall sign affixed to a building, including any sign support structure, may project horizontally beyond the end of a wall, or vertically beyond the roofline of a flat-roofed structure, or the eave of a pitched-roof structure.

(i). On existing buildings, a parapet wall shall not be constructed for the sole purpose of increasing the allowable height of a wall sign. For new buildings, when a sign is mounted on a parapet wall, such parapet wall shall maintain consistency with the architectural design of the building, including building materials.

Wall Sign – Standard



(7) Wall Sign, Painted.

(a) Painted wall signs are permitted for nonresidential and mixed-use development in any district.

(b) Painted wall signs are permitted on each facade of a structure.

(c) Painted wall signs are limited to 50% of the façade on which they are painted, or 200 square feet, whichever is less. The square footage permitted for individual façades shall not be combined to create a larger sign on any one façade.

(d) Painted wall signs may be externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

(e) Painted wall signs shall not project more than 0.25 inches from a building wall.

(8) Wall Sign, Projected.

(a) Projected wall signs are exempt from the calculation of total building-mounted sign area.

(b) Projected wall signs are permitted for nonresidential and mixed-use development in the nonresidential and SU districts.

(c) Projected wall signs are limited to 50% of the façade onto which they are projected.

(d) Projected wall signs shall remain static and shall not flash, rotate, or move. No projected wall sign shall display video.

(e) Projected wall signs shall not direct glare onto adjacent properties.

(f) Projected wall signs shall not extend beyond the façade onto which they are projected.

(g) Projected wall signs shall not be projected over any other permanent or temporary sign, including painted wall signs.

(C) Drive-Through Sign.

(1) Drive-through signs are permitted for all drive-through window restaurants and drive-through facilities in any district.

(2) Drive-through signs are limited to a maximum of 70 square feet in area and ten feet in height, and may comprise a mixture of separate freestanding signs, including preview boards installed at earlier points in the drive-through lane. The total square footage of all signs, however, shall not exceed 70 square feet.

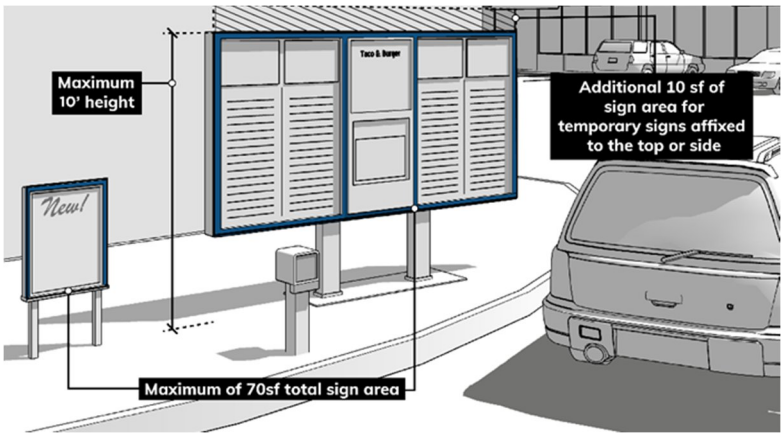
(3) An additional ten square feet of sign area is permitted for temporary signs affixed to the top or sides of a permanent drive-through sign.

(4) Drive-in restaurants, where customers park in designated stalls and remain in their vehicles to dine, are permitted one sign per parking stall. Such signs are limited to a maximum of 30 square feet in area per stall, and six feet in height. Signs may comprise a mixture of freestanding signs, and temporary signs such as promotions or special items affixed to the top or sides of a permanent sign. The total square footage of all signs, however, shall not exceed 30 square feet per stall.

(5) Any drive-through sign, including signs within stalls at drive-in restaurants, shall be located a minimum of 15 feet from any residential district property line, measured from sign face to property line.

(6) Drive-through signs, including signs within stalls at drive-in restaurants, may be internally illuminated, and may contain an electronic screen for interaction and verification with customers.

Drive-Through Sign



(D) Electronic Message Sign.

(1) Electronic message signs are permitted for the following:

(a) Nonresidential and mixed-use development in the nonresidential and SU districts.

(b) The following uses in any zoning district: cultural facilities, educational facilities, parks, places of worship or similar uses.

(c) Gasoline service stations in any district are permitted an electronic message sign to display any copy that is required to be displayed by law, such as fuel prices.

(2) Electronic message signs are limited to the following dimensions:

(a) Electronic message signs are limited to freestanding monument signs (156.08.F.2) and multi-tenant commercial center signs (156.08.F.4), and shall be integrated into a larger sign structure. The electronic component is limited to a maximum of 75% of the total area of the sign, or the limitations established in items b and c below, whichever is less.

(b) The electronic component of electronic message signs in the nonresidential and SU districts is limited to a maximum of 50 square feet, unless located immediately adjacent to or across a right-of-way from a residential district, in which case they are limited to a maximum of 30 square feet.

(c) The electronic component of electronic message signs in any district other than the nonresidential and SU districts is limited to a maximum of 30 square feet.

(3) Only one electronic message sign per lot is permitted. For the purposes of this regulation, a multi-tenant development comprising separate lots of record, including any out-lot parcels, is considered one lot.

(4) The sign structure shall contain permanent copy in addition to the electronic component, such that if the electronic component is turned off, the sign is not blank.

(5) Each message or image displayed on an electronic message sign shall be static for a minimum of eight seconds, and shall be complete, not continuing on a subsequent message.

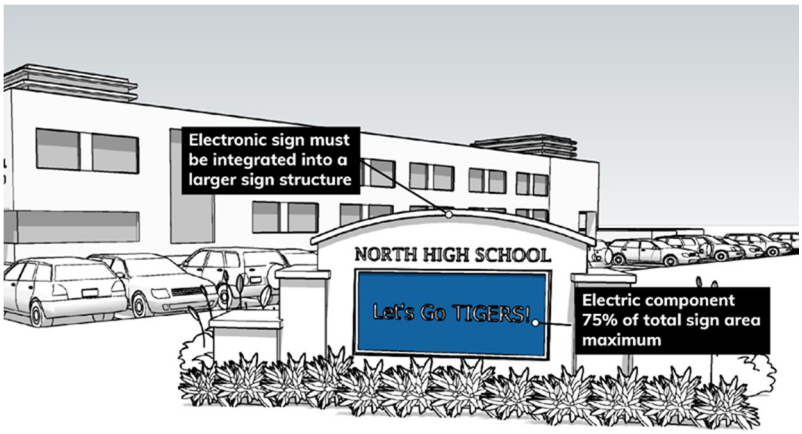
(6) Electronic message signs shall display static messages only, with no animation or effects simulating animation or video. Transitions from one message to another shall appear instantaneous as perceived by the human eye. Any scrolling, flashing, blinking, fading, rolling, shading, dissolving, spinning, revolving, shaking, or any other effect that gives the appearance of movement to the message or any component of the sign is prohibited.

(7) For electronic message signs, the maximum brightness is limited to 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours, and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset. The sign must have an ambient light meter and automatic or manual dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise.

(8) All signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.

(9) Electronic message signs shall not operate as an off-premises sign. This does not include public service messages.

Electronic Message Sign



(E) Gateway Sign.

(1) Gateway signs are permitted for nonresidential and mixed-use development in the nonresidential, SU, and H-1 districts.

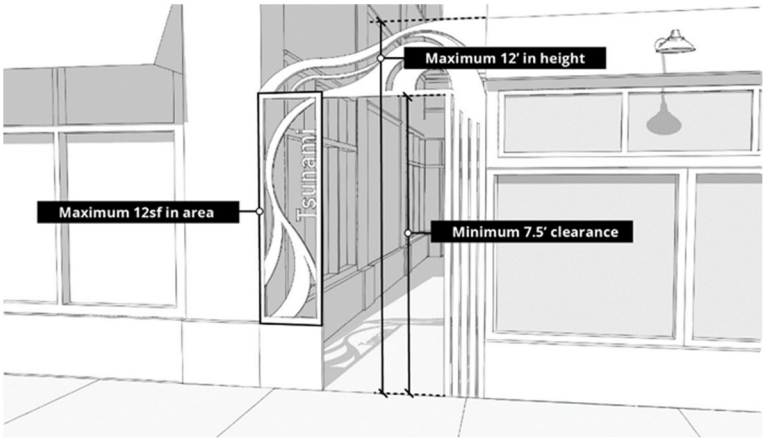
(2) One gateway sign is permitted per street frontage. Gateway signs shall be located over a main pedestrian entryway.

(3) Gateway signs may not project into, over, or otherwise encroach on a public right-of-way or easement.

(4) Gateway signs are limited to a maximum of 12 square feet in area and 12 feet in height. Signs shall maintain a minimum 7.5 foot vertical clearance to allow for passage through the sign.

(5) Gateway signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Gateway Sign



(F) Ground Signs.

(1) General Regulations.

(a) The following are considered ground signs: freestanding monument signs, freestanding pylon signs, multi-tenant commercial center signs, and residential subdivision signs.

(b) Each lot is permitted one ground sign per street frontage. One additional ground sign is permitted where a street frontage exceeds 200 linear feet in length. A minimum of 50 feet separation is required between ground signs.

(c) All ground signs shall conform to the specific provisions per sign type established in Sections 156.08.F.2 through 156.08.F.5 below.

(2) Freestanding Sign, Monument.

(a) Freestanding monument signs are permitted for multi-family dwellings, nonresidential development, and mixed-use development in any district.

(b) Freestanding monument signs in residential districts are limited to a maximum of 40 square feet in area and eight feet in height.

(c) In all other districts, freestanding monument signs are limited to a maximum of 70 square feet in area and ten feet in height, unless located immediately adjacent to or across a right-of-way from a residential district, in which case they are limited to a maximum of 60 square feet in area and ten feet in height.

(d) A freestanding monument sign shall be designed so that the width of the top of the sign face is a minimum of 70% and a maximum of 130% of the width of the base, unless designed with decorative posts as follows:

1. To provide flexibility for freestanding monument sign installation on sites where the ground is not level, structural (non-decorative) posts may extend from the ground to support the sign. Such posts are limited to a maximum of one foot in height (measured to the bottom of the sign face) above the ground at the location of their installation.

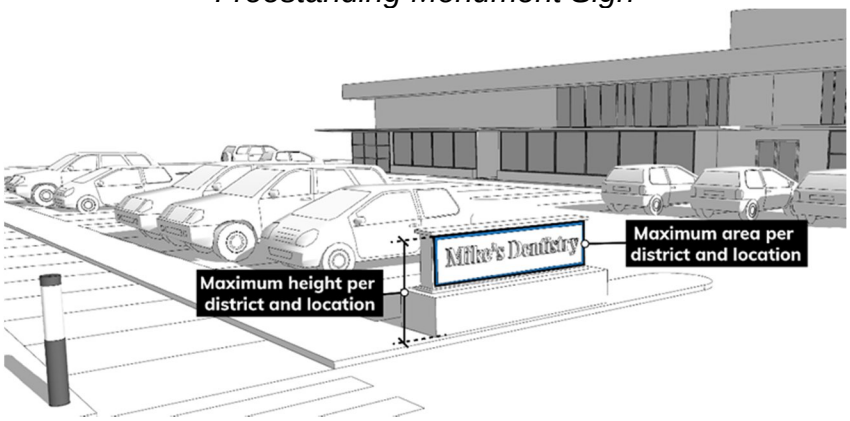
2. Freestanding monument signs may be designed to include decorative posts as a component of the overall sign structure and design. Such posts are limited to a maximum of three feet in height (measured to the bottom of the sign face) above the ground at the location of their installation.

(e) Freestanding monument signs shall be set back a minimum of five feet from any property line, and may not project into, over, or otherwise encroach on a public right-of-way or easement.

(f) Freestanding monument signs may be internally or externally

illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Freestanding Monument Sign



(3) Freestanding Sign, Pylon.

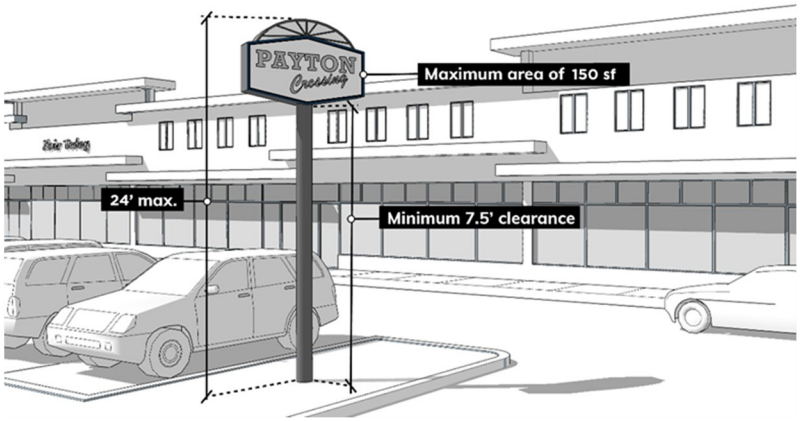
(a) Freestanding pylon signs are permitted for nonresidential and mixed-use development in the nonresidential and SU Districts, with the exception of the NC and O-1 Districts.

(b) Freestanding pylon signs are limited to 150 square feet in area and 24 feet in height, unless located immediately adjacent to or across a right-of-way from a residential district, in which case they are limited to 60 square feet in area and 16 feet in height.

(c) Freestanding pylon signs shall maintain a minimum vertical clearance of 7.5 feet from the bottom of the sign face to the surface of the ground below.

(d) Freestanding pylon signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Freestanding Pylon Sign



(4) Multi-Tenant Commercial Center Sign.

The following standards apply to multi-tenant commercial center signs. Multi-tenant commercial centers of five or more acres are also required to submit a unified sign plan per the standards of Section 156.09.

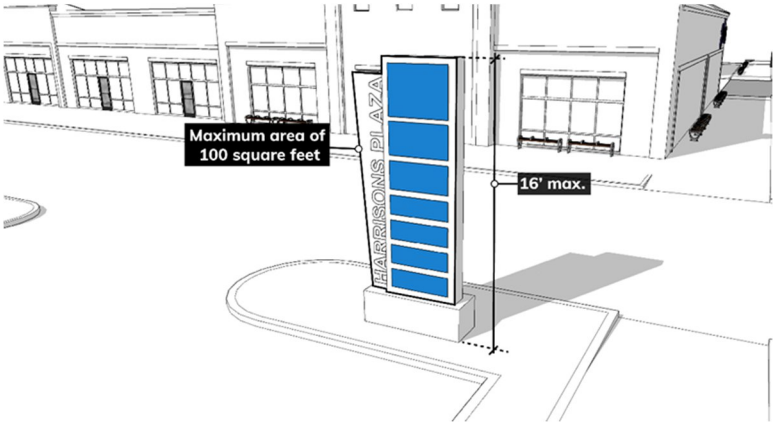
(a) Multi-tenant commercial center signs are permitted for multi-tenant commercial centers in any district. A multi-tenant commercial center is a commercial development under unified control consisting of three or more separate commercial establishments sharing a common building, or which are in separate buildings sharing a common access/entranceway or parking area. For the purposes of this regulation, a multi-tenant development comprising separate lots of record, including any out-lot parcels, is considered one lot.

(b) Multi-tenant commercial centers are permitted one sign per street upon which the commercial center has frontage of 100 feet or more. No street frontage may have more than one multi-tenant commercial center sign.

(c) Multi-tenant commercial center signs shall be constructed as freestanding monument signs.

(d) Multi-tenant commercial center signs are limited to 100 square feet in area and 16 feet in height.

Multi-Tenant Commercial Center Sign



(5) Residential Subdivision Sign.

(a) Residential subdivision signs are permitted for residential subdivisions in all districts.

(b) One residential subdivision sign is permitted for each entry point into the subdivision development. A minimum separation of 200 feet is required between signs.

(c) Residential subdivision signs shall be constructed as freestanding monument signs, or mounted on/integrated into entry features such as

decorative or retaining walls.

(d) Residential subdivision signs are limited to 150 square feet in area and ten feet in height.

Residential Subdivision Sign

(G) Marquee Sign.

(1) Marquee signs are permitted for nonresidential and mixed-use development in the C-1, C-2, O-1, M-1, and SU Districts.

(2) Marquee signs shall be supported solely by the building to which they are attached. No exterior columns or posts are permitted as supports.

(3) The roof of a marquee sign may not be used for any purpose other than to form and constitute a roof and shall be constructed of noncombustible material.

(4) Water from the roof of a marquee may not drain, drip, or flow directly onto the surface of a public right-of-way. Sufficient downspouts, drains, and gutters shall be installed as part of each marquee to prevent water from the roof of the sign from flowing onto the surface of a public right-of-way.

(5) Marquee signs shall be erected over a building entrance, and are limited to the width of the building entrance, plus an additional five feet on each side of the entrance doors.

(6) A marquee sign shall maintain a minimum vertical clearance of ten feet from the surface above which it is mounted. The roof of a marquee sign shall not extend above any second-story windowsills, and shall not conceal or obscure any significant architectural features or ornamentation of the building to which it is mounted.

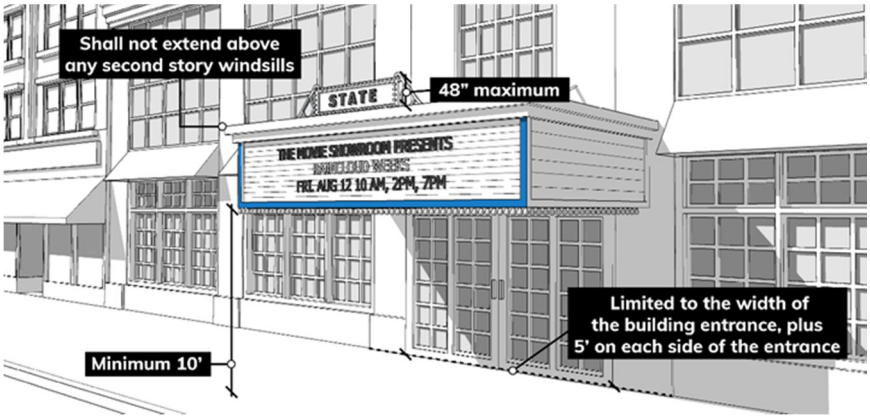
(7) Marquee signs may encroach into a public right-of-way, but shall be located a minimum of two feet from any curb line.

(8) Marquee signs are permitted lettering attached to and located above the roof of the sign to a maximum height of 48 inches.

(9) Marquee signs are permitted an electronic message component, subject to the standards of Section 156.08.D for such signs. Marquee signs are also permitted a changeable message board as a component of the marquee structure. However, the marquee sign may include only one of these two components, not both.

(10) Marquee signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Marquee Sign



(H) Right-of-Way Sign.

Right-of-Way Signs are permitted as temporary signs, subject to the standards below.

(1) Right-of-Way Display Permit Required.

It is unlawful for any person other than a City employee to place a sign in the public right-of-way without a valid Right-of-Way Display Permit. An individual may apply for either a Weekend Right-of-Way Display Permit or a 60-Day Right-of-Way Display Permit. An individual may only have one active Right-of-Way Display Permit at a time.

(a) Weekend Right-of-Way Display Period

1. Temporary signs may be posted on the weekends from Friday at 12:00 noon through Monday at 12:00 noon local time.

2. A maximum of 50 individual signs may be posted.

3. A Weekend Right-of-Way Display Permit is valid for all weekends during one calendar month.

4. No more than 12 Weekend Right-of-Way Display Permits may be issued to any person within a 12 month period.

5. A person may apply for up to four consecutive calendar months in advance for a Weekend Right-of-Way Display Permit.

(b) 60-Day Display Period

1. Temporary signs may be posted in the right-of-way for up to 60 consecutive calendar days.

2. No more than three 60-Day Right-of-Way Display Permits may be issued to any person within a twelve month period

3. A maximum of 50 individual signs may be posted.

(2) Sign Standards.

Temporary signs displayed in the public right-of-way in accordance with a validly issued Right-of-Way Display Permit pursuant to this Chapter shall conform with all of the following:

(a) Signs may be a maximum of eight square feet in sign area and three feet in height.

(b) All signs shall be constructed of semi-durable materials, such as but not limited to corrugated plastic, vinyl, acrylic, or similar and must be anchored to the extent possible to prevent movement of the sign. Anchoring of the sign may not be permanent in nature and shall not damage the property upon which it is placed.

(c) Signs shall not be affixed to or leaned against any street light, utility pole, traffic signal, fence, or other similar structure in the right-of-way. Signs shall not be posted in medians, traffic circles, or roundabouts.

(d) Signs shall not encroach on or interfere with any vehicular access point, or pedestrian access point.

(e) Permitted signs left in the right-of-way more than 48 hours after expiration of an applicable permit may be removed by the City.

(f) Non-permitted signs or duly-permitted signs placed in the right-of-way which violate any of the requirements of this Chapter are subject to removal by the City at the expense of the responsible party.

(g) No sign may be placed in the clear-sight triangle area of any signalized or unsignalized intersection criteria is based on AASHTO's" A Policy on Geometric Design of Highways and Streets.

156.09 Unified Sign Plan.

(A) General Applicability.

(1) A unified sign plan shall be used to coordinate all signs within developments of significant size, establishing criteria to govern the design and

construction of signs for current and future tenants.

(2) In any district, nonresidential and mixed-use development upon which more than one sign requiring a permit is proposed to be erected may elect or be required to submit a unified sign plan in accordance with the following:

(a) Single-tenant and two-tenant nonresidential or mixed-use developments of any size, and multi-tenant nonresidential and mixed-use developments less than five acres in size may submit a unified sign plan at the option of the applicant.

(b) Multi-tenant nonresidential and mixed-use developments, including multi-tenant commercial centers, are required to submit a unified sign plan if five acres or more in size.

(3) Unified sign plans shall be submitted and approved in accordance with this section.

(B) Applicability to Existing Development.

(1) For development existing as of - **date of adoption** – that requires a unified sign plan under the regulations of this section, the property owner may optionally submit a unified sign plan for approval. Once such unified sign plan is approved per the process described in this section, it shall be kept on file with the Department of Development Services and all future signs shall comply with the approved unified sign plan. If a proposed sign is in compliance with the unified sign plan, the Director of Development Services or their designee will issue a sign permit.

(2) If a development existing prior to – **date of adoption** – that requires a unified sign plan under the regulations of this section chooses to forego the submission of a unified sign plan, each future sign installed in the development shall comply with all standards of this Chapter.

(C) Unified Sign Plan Requirements.

A unified sign plan shall provide details and specifications to establish a coordinated and consistent approach to all signs within a development. At a minimum, unified sign plans shall include the following:

(1) A site plan for all lots within the development on which signs will be located, at a scale of not less than one inch to 100 feet and including the location of all buildings, parking lots, driveways and landscaped areas. The site plan shall accurately indicate the number, location, and orientation of all signs for which a permit is being sought, and the anticipated location of future signs requiring a permit.

(2) A table or tables containing the following:

(a) The number and description of all signs within the development for

which a permit is being sought, as well as future signs requiring a permit.

(b) Computation of the maximum total sign area and number of signs permitted on the development site by this code.

(c) Computation of the total sign area and number of signs being proposed, including dimensions of individual signs, maximum area, and maximum height.

(3) Specification of standards for consistency among signs within the development, including color scheme, lettering or graphic style, lighting, typical location of building-mounted signs, materials, and sign proportions.

(4) For each sign included in the unified sign plan for which a permit is being sought, the following shall be required:

(a) Sign elevation, including annotated dimensions and description of sign elements.

(b) For building-mounted signs, elevations including the location of each sign on the building face.

(c) Description of illumination proposed for each sign.

(D) Approval Procedure.

Unified sign plans shall be approved by the Planning and Zoning Board in accordance with the following:

(1) The applicant shall submit a unified sign plan to the Director of Development Services or their designee, who will review the unified sign plan and provide comment to the applicant. The applicant may modify the plan or submit the plan to the Planning and Zoning Board through the City Development Department. If the unified sign plan has not been modified per the comments of the Director of Development Services or their designee, a report detailing the comments will be forwarded to the Planning and Zoning Board with the unified sign plan.

(2) The Planning and Zoning Board will review the unified sign plan at a public meeting. The Board will approve, approve with conditions, or deny the unified sign plan.

(3) If the unified sign plan is approved with conditions, the plan shall be revised to comply with such conditions and be submitted to the Director of Development Services or their designee, who will verify that the revised unified sign plan complies with all required conditions.

(4) If the unified sign plan is denied by the Planning and Zoning Board, the applicant may choose to submit a new unified sign plan or appeal the decision to the Governing Body.

(5) Approved unified sign plans will be kept on file with the Director of Development Services. Following approval, no permanent sign shall be erected, placed or maintained except in conformance with the unified sign plan. If a proposed sign is in compliance with the unified sign plan, the Director of Development Services or their designee will approve the application through the standard permit process.

(E) Amendments to Unified Sign Plans.

(1) The Director of Development Services or their designee may approve minor modifications to an approved unified sign plan, including modifications to sign dimensions of 10% or less, and relocation of a sign or signs to respond to final site engineering or building construction issues such as topography, drainage, underground utilities, structural safety, or pedestrian and vehicular circulation, when such relocation is deemed to maintain general compliance with the approved unified sign plan.

(2) Any modification not considered a minor modification requires resubmittal of a unified sign plan to be approved by the Planning and Zoning Board.

(F) Flexibility for Unique Properties, Buildings, and Sign Designs.

The unified sign plan may provide flexibility for properties that contain unique elements or requirements, such as those that may need more signage than is otherwise allowed (in size or in quantity), those that may require additional signage due to a unique orientation – such as adjacency to a major thoroughfare, or those that wish to include unique design elements such as signs with sculptural or placemaking features.

(1) A unified sign plan may be approved by the Planning and Zoning Board with elements that exceed the permitted height, area, and/or number of signs specified in this Chapter with the recommendation of the Director of Development Services or their designee. Such recommendation shall be based on findings in accordance with the following:

(a) The development contains unique or unusual physical characteristics such as topography, proportion, size or relation to a public street that would limit or restrict normal sign visibility.

(b) The development exhibits unique characteristics of land use, architectural style, site location, physical scale, historical interest, or other distinguishing features that represent clear variation from conventional development.

(c) The proposed signage incorporates special design features such as sculptural or placemaking elements, or logos, emblems, murals, or statuaries that are integrated with the building architecture.

(2) A recommendation to approve a unified sign plan with elements that exceed the standards of this Chapter shall be forwarded from the Director of

Development Services or their designee to the Planning and Zoning Board with the unified sign plan per the requirements of Section 156.09.D.

156.10 Nonconforming Signs.

(A) A nonconforming permanent sign and sign structure may remain in use so long as it remains otherwise lawful and has not been damaged or destroyed to the extent of more than 50% of its value. A nonconforming permanent sign and sign structure that is damaged or destroyed to the extent of 50% or more of its value shall not be restored or repaired unless in conforms to all applicable regulations of this Code.

(B) Sign value, for the purposes of item A above, is determined by comparing a repair cost estimate of the damaged sign with an estimate of the cost of a new, identical sign. Sign owners shall supply such estimates to the Director of Development Services or their designee.

(C) Once a nonconforming sign and/or sign structure has been removed, it shall not be restored or repaired unless it conforms to all applicable regulations of this Code.

(D) All temporary nonconforming signs shall be removed or brought into conformance within 60 days of the effective date of this Code.

(E) The sign face of an existing nonconforming permanent sign may be replaced, but the structure shall not be altered to accommodate such change.

(F) No nonconforming sign and sign structure may be relocated, in whole or in part, to any other location on the same or another lot, unless the entire sign and sign structure conforms to all regulations applicable to the lot where the sign is relocated.

(G) No nonconforming sign shall be altered or enlarged in a way that increases the nonconformity of the sign or sign structure. This does not include normal maintenance and cleaning, or changing of the sign face.

Section 2. Severability Clause. If any section, paragraph, clause, or provision of this Ordinance, or any section, paragraph, clause, or provision of any regulation promulgated hereunder shall for any reason be held to be invalid, unlawful, or enforceable, the invalidity, illegality, or unenforceability of such section, paragraph, clause, or provision shall not affect the validity of the remaining portions of this Ordinance or the regulation so challenged.

Section 3. Compiling Clause. This Ordinance shall be incorporated in and compiled as part of the Revised Ordinances of the City of Rio Rancho, (R.O. 2003).

Section 4. Effective Date. This Ordinance shall become effective January 1, 2024.

ADOPTED THIS _____DAY OF _____, 2023.

Greggory D. Hull, Mayor

ATTEST:

Rebecca A. Martinez, City Clerk
(SEAL)

156 SIGN REGULATIONS

156.01 Title, Purpose, and Applicability
156.02 Definitions and Rules of Measurement
156.03 Summary Table of Allowed Signs
156.04 General Standards
156.05 Sign Permit
156.06 Prohibited Signs
156.07 Signs Exempt from Permit
156.08 Sign Permit Required
156.09 Unified Sign Plan
156.10 Nonconforming Signs

156.01 Title, Purpose, and Applicability

The purpose of this Chapter is to establish a comprehensive system of controls regarding the construction, installation, and maintenance of signs in the City of Rio Rancho. This regulations within this Chapter are intended to:

A. Promote and protect the health, safety, and welfare of the City by ensuring the compatibility of signs with surrounding structures and land uses.

B. Preserve the natural beauty and scenic environment of Rio Rancho, while enhancing the City's business and economic climate through regulations that encourage the orderly and effective display of signs, and discourage sign clutter.

C. Protect the public from hazardous conditions that may result from the indiscriminate use and placement of signs, structurally unsafe signs, signs that obscure the vision of pedestrians or motorists, and signs that compete or conflict with necessary traffic signals, government signs, and warning signs.

156.02 Definitions and Rules of Measurement

Attention-Getting Device. Devices or ornamentations designed for the purpose of attracting attention. Attention-getting devices include sails, pennants, banners, temporary flex pole signs, balloon and inflatable signs, and similar. Flags of nations, states, and cities, or fraternal, religious, and civic organizations, or temporary holiday decorations are not attention-getting devices.

Awning. A roof-like cover designed for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walkway, or door, with no supports that extend to the ground.

Drive-in Restaurant. An eating establishment where customers park their vehicles in designated stalls and place orders through a speaker system, or directly with a restaurant employee. Food is delivered to the customer in the vehicle, and customers remain in their vehicle throughout the dining experience.

Flag. Flags of any nation, state, municipality, or political subdivision, flags officially designated as a national, state, or local symbol, or flags of fraternal, religious, and civic organizations. Pennants and sails are not considered flags.

Flag, Commercial. A sign consisting of fabric, plastic, vinyl, mesh, mylar or similar pliable material attached to a freestanding flagpole or building-mounted flagpole.

Foot-candle. A unit of measure of illuminance equal to one lumen of light spread over an area of one square foot.

Lumen. A unit of light or illumination from a lamp or bulb, as defined by the International System of Units (SI). A typical 60-watt incandescent bulb or a 13-watt fluorescent bulb emits approximately 800 lumens. Light incident on a surface is measured in foot-candles (SI) using a commercial light meter.

Marquee. A permanent roof-like structure constructed of permanent building materials that extends from the wall of a structure with no supports extending to the ground providing protection from the elements.

Multi-Tenant Commercial Center. A multi-tenant commercial center is a commercial development under unified control consisting of three or more separate commercial establishments sharing a common building, or which are in separate buildings sharing a common access/entranceway or parking area.

Nit. A unit of measurement used to quantify the brightness or luminance of a light source. One nit is equal to one candela per square meter.

Off-Premises Sign, Permanent. A permanent sign directing attention to a specific business, product, service, entertainment event, activity, or other commercial activity that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. Permanent off-premises signs are also called billboards (See Chapter 154 of the City of Rio Rancho Municipal Code).

Off-Premises Sign, Temporary. A temporary sign directing attention to a specific business, product, service, entertainment event, activity, or other commercial activity that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. This includes any ground-mounted, building-mounted, or sign painted, pasted, or otherwise affixed to any tree, rock, fence, utility pole, hydrant, bridge, sidewalk, parkway, curb or street, bench, or trash receptacle that directs attention off-premises.

On-Premises Sign. A sign directing attention to a business, product, service, entertainment event, activity, or other commercial activity that is sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located.

Right-of-Way. The total area of land deeded, reserved by plat, or otherwise acquired by the city, primarily for the use of the public for the movement of people, goods, and vehicles. For the purpose of this chapter, city drainage or utility easements, and other city-owned easements, such as maintenance and service roads serving channels or arroyos, are also included.

Sign. A lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, or inform that is visible from a public right of way.

Sign Face. The area of a sign that is designed and intended to display information, graphics, or messages. It represents the visible side or sides of the sign that are meant to be seen by pedestrians, motorists, or other viewers.

Sign, A-Frame. A freestanding temporary, movable sign ordinarily in the shape of the letter "A" or some variation thereof. An A-Frame sign is displayed on the ground, not permanently fixed to the ground, and is usually two-sided, generally connected at the top and separated at the bottom.

Sign, Animated. A sign that uses moving or changing lights to depict action, movement, or the optical illusion of movement of part of the sign structure, sign, or pictorial segment, or including the movement of any illumination or the flashing or varying of light intensity to create a special effect or scene. Animated signs do not include electronic message signs.

Sign, Arcade. Any sign suspended from and located entirely under an arcade, covered porch, covered walkway, or similar architectural feature.

Sign, Awning. An awning sign is a sign printed, painted, stamped, perforated, stitched, or otherwise displayed upon an awning.

Sign, Blade. A sign attached to and projecting out from a building face or wall, generally at right angles to the building. Blade signs include signs that are totally in the right-of-way, partially in the right-of-way, or fully on private property.

Sign, Canopy. A canopy sign is a sign printed, mounted, or installed upon a canopy. A canopy sign may be one of two types:

1. **Canopy, Non-Structural.** A roofed structure attached to a building, which is not integral to the structure, that is made of durable, weather-resistant material such as canvas, canvas-like material, nylon, or vinyl-coated fabric, placed to

extend outward from the building and supported both by mountings on the structure wall and by supports that extend to the ground.

2. Canopy, Structural. A roofed structure constructed of permanent building materials, such as metal, brick, stone, wood or similar building materials, which is constructed as part of and attached to a building, and extends outward from the building, supported both by the structure and by supports that extend to the ground.

Sign, Changeable Message. A component of a sign, allowing for a message to be changed manually.

Sign, Drive-Through. A sign constructed as a component of a drive-through facility.

Sign, Electronic Message. A sign designed with a portion of the sign area using changing light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the electronic display panel(s) to form a message or messages in text and/or images, where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs, Flashing signs and animated signs are not considered electronic message signs. Electronic message signs do not include electronic billboards, which are addressed as billboards in Chapter 154 of the City of Rio Rancho Municipal Code.

Sign, Flashing. A sign with an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic message signs.

Sign, Freestanding Pylon. A sign that is placed on or supported by the ground, independent of the principal structure on the lot and affixed, attached, or erected on a pole or pylon.

Sign, Freestanding Monument. A sign that is placed on or supported by the ground, independent of the principal structure on the lot, designed with a monument base that is an integral part of the sign structure.

Sign, Gateway. A sign that is installed over a pedestrian entryway and supported by the ground, independent of the principal structure on the lot, designed as an entryway feature to the property.

Sign, Government. A sign erected and maintained pursuant to and in discharge of any government function. A government sign does not include any required legal notice by municipal codes and ordinances; such legal notice is not controlled by the sign code.

Sign, Marquee. A sign that is displayed upon or attached to a marquee. Where designed as a changeable message sign, the changeable message portion may be manually changed or electronically changed when permitted by this Code.

Sign, Moving. A sign where the entire sign structure or a portion of which rotates, moves, elevates, or in any way alters position or geometry. A tri-vision sign where triangular prisms rotate inside a frame to show a new message and/or information are considered moving signs. Moving signs do not include clocks or barber poles.

Sign, Multi-Tenant Commercial Center. A freestanding monument sign installed in conjunction with a multi-tenant commercial center.

Sign, Nonconforming. A sign which was in conformity with the applicable regulations when created but which would now be prohibited or does not conform to one or more of the regulations in the sign code or future amendments thereto.

Sign, Portable. A sign whose principal supporting structure is intended, by design and construction, to rest upon the ground for support and may be easily moved or relocated for reuse. Portable signs include, but are not limited to, signs mounted upon a trailer, wheeled carrier, or other non-motorized mobile structure, with wheels or with wheels removed. Portable signs do not include A-frame signs.

Sign, Residential Subdivision. A freestanding monument sign installed at the entrance of a residential subdivision. A Residential Subdivision Sign may also be mounted on or integrated into an entry feature, such as a wall.

Sign, Right-of-way. A temporary sign installed in the public right-of-way in accordance with an approved right-of-way display permit. Right-of-way signs shall not be considered temporary off-premises signs.

Sign, Roof. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure. A sign attached to an exterior wall of a building but whose face extends above the roofline or plate line by less than 10% of the face of a sign shall not be considered a roof sign.

Sign, Temporary. Any sign which is erected for a limited time and/or special purpose, typically constructed from semi-durable materials and not constituting a permanent structure.

Sign, Vehicle. Signs placed, mounted, installed, or painted on a vehicle for the primary purpose of attracting attention to an occupant's presence within a building at which the vehicle is being parked.

Sign, Wall – Standard. A sign that is attached directly to an exterior wall of a building or dependent upon a building for support and projects 18 inches or less from the wall of a structure with the exposed face of the sign in a plane substantially parallel to the face of the wall. Window signs are not considered wall signs.

Sign, Wall – Painted. A sign that is painted, applied, or affixed directly on the exterior wall of a building or structure. A painted wall sign is not limited to only the application of paint, but includes other methods of application and/or material including but not limited to tile, screen printing, vinyl application, and paste-ups.

Sign, Wall – Projected. A sign created by an optical device that projects an image directly onto the exterior wall of a building or structure by light or other technological means.

Sign, Window. A sign that is attached to, placed upon, or printed on the interior or exterior of a window or door of a building, or displayed on the interior within two feet of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary. Shadowbox design within display windows, where the window display is designed with a background enclosure that blocks views into the establishment, is considered a window sign and the entire area of the shadowbox is subject to the maximum sign area limitation.

Sign, Wrap. A sign consisting of fabric, plastic, vinyl, mesh, mylar or a similar pliable material attached to a building or structure under construction, renovation, or maintenance and used to screen such construction, renovation, or maintenance activity.

Sign, Yard. A sign placed within a street-facing yard intended to be viewed by the public.

Strobe light. An electronic lighting device designed to emit intense, rapid flashes of light in a systematic and repetitive manner, typically at frequencies ranging from a few to several dozen flashes per second, with each flash lasting for a brief duration.

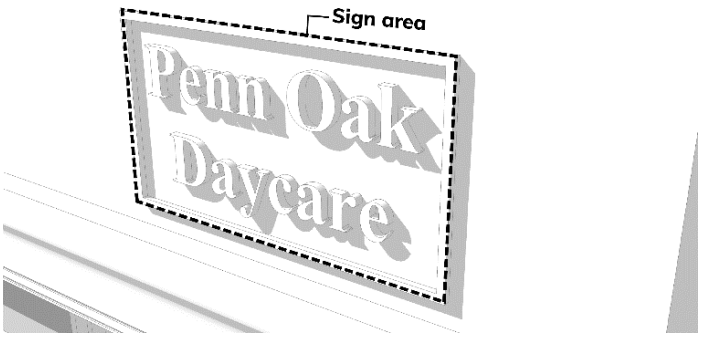
Unified Sign Plan. A Unified Sign Plan addresses signage on a site to establish a coordinated and consistent approach to all signs within developments of significant size. Unified Sign Plans also allow for modification of the regulations of this Code such as permitted height, area, location and number of signs to respond to unique site conditions such as topography, size, or relation to a public street that would limit or restrict normal sign visibility.

B. Rules of Measurement

1. Sign Area

a. The sign area of each sign is the total exposed surface devoted to the sign's message, including all ornamentation, embellishment, symbols, logos, letters, characters, other figures, or frames, whether structural or decorative. The calculation of sign area does not include any supports or bracing. For channel letters or freestanding logos/symbols, the sign area is calculated as the customary, applicable mathematical formula for the total area of each square, circle, ellipse, rectangle, or triangle, or combination thereof, that encompasses each word, logo, image, background, and/or display.

Sign Area

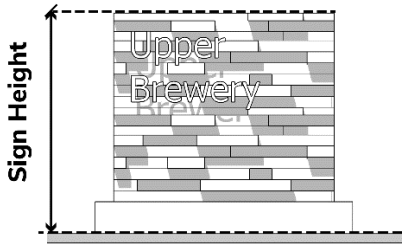


b. Window area, for the purpose of calculating maximum area of window signs, is calculated as a continuous surface until divided by an architectural or structural element. Mullions are not considered an element that divides window area. Total window area is calculated as length times width of the window area. Only the individual letters or logos of the window sign shall be used in the calculation of surface area. The transparent film around the perimeter of the individual letters or logos composing the window sign and used to affix the window sign to the interior or exterior of a windowpane or glass door shall be exempt from the area calculations, provided that such portion of the film maintains 100% transparency.

2. Sign Height

For ground signs, sign height is measured as the vertical distance measured from the normal grade at the base of the sign to the highest point of the sign, including any decorative elements. Normal grade shall be construed to be the existing grade prior to construction or the newly established grade after construction, exclusive of any fill, berm, mound, or excavation solely for the purpose of locating the sign, whichever is lower. Where a sign is installed on a slope, height shall be measured from the average grade at the base of the sign, determined by measuring the grade at the center of each side of the sign structure and calculating the average.

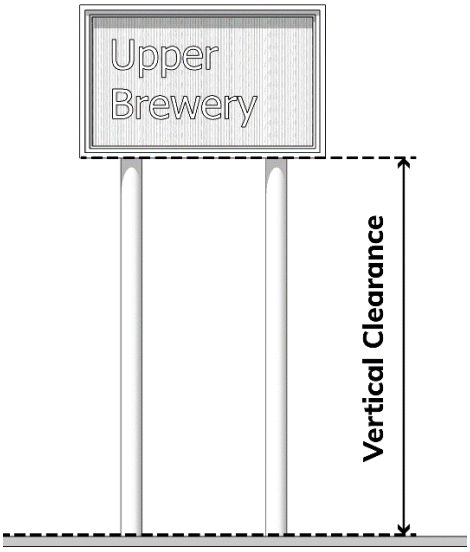
Sign Height



3. Vertical Clearance

Vertical clearance is measured as the vertical distance measured from the ground directly below the sign to the lowest point of the sign.

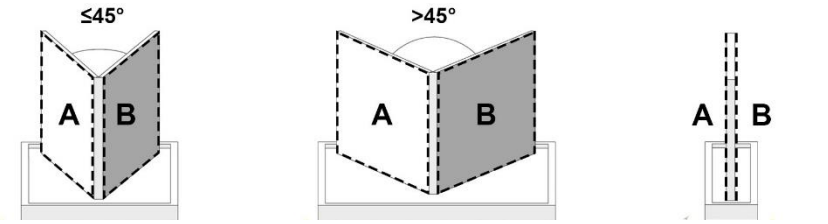
Vertical Clearance



4. Number of Sign Faces

If the interior angle between two sign faces is 45° (degrees) or less, the sign area is calculated as the area of one face only. If the interior angle between two sign faces is greater than 45° (degrees), the sign area is calculated as the sum of the two faces.

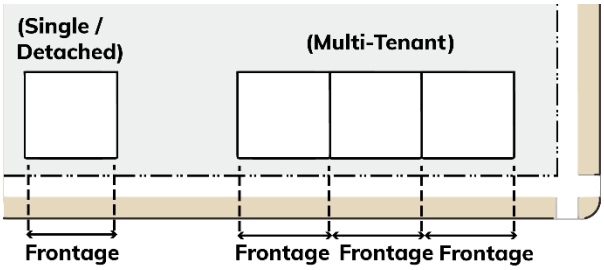
Calculation of Sign Faces



5. Frontage Length

Frontage length is measured as the linear distance between the surfaces of the outermost parallel walls of a principal structure. Where frontage length is calculated on a tenant basis, it is measured from the centerline of any party wall defining the tenant unit to the centerline of another party wall or the surface of an exterior wall.

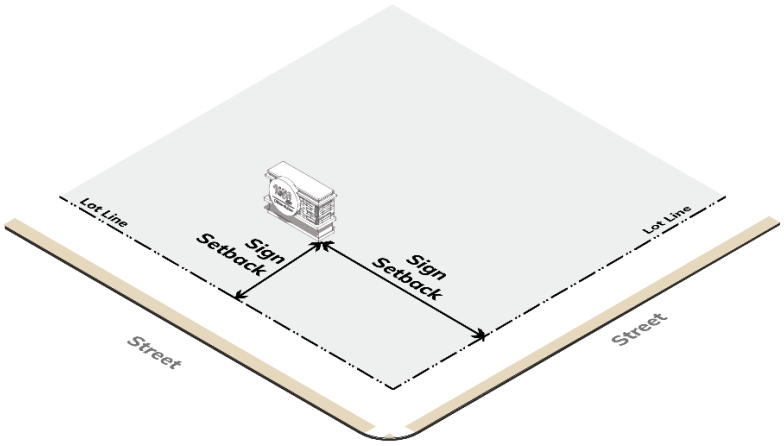
Calculation of Frontage Length



6. Sign Setback

Sign setback is measured perpendicularly from the applicable property line to the closest point of the sign or sign structure.

Calculation of Sign Setback



156.03 Summary Table of Allowed Signs

Table 156-01, Summary Table of Allowed Signs, catalogs the types of permitted signs, both permanent and temporary, and indicates whether such sign requires a sign permit. This table is provided for reference purposes only. In the case of any conflict with the regulations of this Chapter and this ordinance, the specific sign regulations control over this table. Permanent Off-Premises Signs, also called Billboards, are not included in this table and are regulated by Chapter 154 of the City of Rio Rancho Municipal Code.

Table 156-01: Summary Table of Allowed Signs

Sign Type (Section Reference)	**No Permit Required**	**Permit Required**	Permissions
A-Frame Sign (156.07.A)	✓		Nonresidential and mixed-use development in nonresidential, SU, and H-1 districts
Arcade Sign (156.08.B.2)		✓	Nonresidential and mixed-use development in all districts
Attention-Getting Device (156.08.A)		✓	Nonresidential and mixed-use development in the nonresidential and SU districts
Awning Sign (156.08.B.3)		✓	Multi-family dwellings, nonresidential development, and mixed-use development in all districts
Blade Sign (156.08.B.4)		✓	Nonresidential and mixed-use development in the nonresidential, SU, and H-1 districts
Canopy Sign - Non-Structural (156.08.B.5.a)		✓	Multi-family dwellings, nonresidential development, and mixed-use development in all districts
Canopy Sign – Structural (156.08.B.5.b)		✓	Attached: Multi-family dwellings, nonresidential development, and mixed-use development in all districts Freestanding: Gasoline service stations, drive-through window restaurants, and drive-through facilities in all districts
Drive-Through Sign (156.08.C)		✓	Drive-through window restaurants and drive-through facilities in all districts

Table 156-01: Summary Table of Allowed Signs			
Sign Type (Section Reference)	**No Permit Required**	**Permit Required**	Permissions
Electronic Message Sign (156.08.D)		✔	Nonresidential and mixed-use development in the nonresidential and SU districts For the following uses in all districts: cultural facilities, educational facilities, parks, places of worship, or similar uses Gasoline service stations in any district, to display copy that is required to be displayed by law
Flag (156.07.G)	✔		All districts
Freestanding Sign, Monument (156.08.F.2)		✔	Multi-family dwellings, nonresidential development, and mixed-use development in all districts
Freestanding Sign, Pylon (156.08.F.3)		✔	Nonresidential and mixed-use development in the nonresidential and SU Districts, with the exception of the NC and O-1 Districts
Gateway Sign (156.08.E)		✔	Nonresidential and mixed-use development in the nonresidential, SU, and H-1 districts
Government Sign (156.07.F)	✔		All districts
Marquee Sign (156.08.G)		✔	Nonresidential and mixed-use development in the C-1, C-2, O-1, M-1, and SU districts
Multi-Tenant Commercial Center Sign (156.08.F.4)		✔	Multi-tenant commercial centers in all districts
Residential Subdivision Sign (156.08.F.5)		✔	Residential subdivisions in all districts
Right-of-Way Sign (156.08.H)		✔	Within the public right-of-way, subject to standards
Sign for Cultural or Historical Site (156.07.D)	✔		Sites or buildings with cultural or historical significance in all districts
Sign for Multiple Tenant Building Entry (156.07.H)	✔		Multi-family dwellings, nonresidential development, and mixed-use development with multiple tenants in all districts
Sign for Nonresidential or Mixed-Use Construction Activity (156.07.C)	✔		Sites where active nonresidential or mixed-use construction is taking place in all districts
Sign for On-Site Repair, Renovation, or Improvement (156.07.I)	✔		Sites where on-site repair, renovation, or improvements are taking place in all districts
Sign for Parking Lot or Structure Circulation Point (156.07.J)	✔		Parking lots and structures in all districts
Sign for Real Estate Activity (156.07.K)	✔		Sites where a structure or lot is offered for sale, lease, or rent in all districts
Sign for Residential Construction Activity (156.07.B)	✔		Sites where active residential construction is taking place in all districts
Sign on Gas Pump Island (156.07.E)	✔		Gasoline service stations in all districts
Wall Sign, Painted (156.08.B.7)		✔	Nonresidential and mixed-use development in all districts
Wall Sign, Projected (156.08.B.8)		✔	Nonresidential and mixed-use development in the nonresidential and SU districts
Wall Sign, Standard		✔	Nonresidential and mixed-use development in all districts

Table 156-01: Summary Table of Allowed Signs			
Sign Type (Section Reference)	**No Permit Required**	**Permit Required**	Permissions
(156.08.B.6)			
Window Sign (156.07.L)	✔		Nonresidential and mixed-use development in all districts
Yard Sign (156.07.M)	✔		All residential districts

156.04 General Standards

All signs constructed, erected, modified, or altered shall comply with the following standards.

A. Exceptions

All signs constructed, erected, modified, or altered shall comply with the standards of this Chapter, whether such signs do or do not require a sign permit, except for those items listed In this section. The following signs are not regulated by this Chapter.

1. Signs within a building or enclosed space within a development that are not visible from a public right-of-way.

2. Any required public notice, sign, or warning installed by federal, state, or local governments.

3. Logos and labels located on mechanical equipment, recycling bins, trash containers, and similar equipment, which are part of the equipment as manufactured and/or installed.

4. Works of art that do not contain a commercial message.

5. Holiday decorations that do not contain a commercial message.

B. Location Restrictions

1. No sign may be erected in a location that violates the building code, fire code, and other applicable City codes or ordinances.

2. No sign is permitted within the clear sight triangle as established within Chapter 154 of the City of Rio Rancho Municipal Code.

3. Only signs that have been placed by or authorized by the federal government, state government, or the City may be installed on public property. Any sign installed on public property, including rights-of-way, without prior authorization, will be removed by the City without notice and may be disposed of.

4. No permanent sign may be erected on private property without the consent of the property owner or his/her authorized agent. Any sign installed on private property without authorization may be removed by the property owner without notice and may be disposed of.

5. No sign may be erected in a manner that obstructs access to any ingress or egress, fire escapes, fire hydrants, fire department connections, or standpipes and similar fire safety connections.

C. Audio Components

Audio components are prohibited as part of any sign, except for the following:

1. Drive-through sign: For drive-through signs, including signs in individual stalls at drive-in restaurants, the audio component is limited to communication between the customer and the restaurant staff taking orders.

2. Signs owned and/or operated by a government agency.

3. Permitted gas station pump video screens.

D. Illumination

In addition to the standards below, all outdoor lighting shall comply with Chapter 159 of the City of Rio Rancho Municipal Code and the State of New Mexico Night Sky Protection Act. In the case of a conflict, the more stringent requirement shall apply.

1. Any sign illumination, including gooseneck reflectors, external illumination, and internal illumination, shall be designed, located, shielded, and directed to prevent the casting of glare or direct light upon roadways and surrounding properties, and prevent the distraction of motor vehicle operators or pedestrians in the public right-of-way.

2. The sign face of internally illuminated signs shall function as a filter to diffuse illumination. The sign face shall cover all internal illumination components so that no exposed bulbs are visible.

3. All external illumination of a sign shall concentrate the illumination upon the printed area of the sign face.

4. The use of bare bulbs as external illumination is only permitted for marquee signs.

5. No sign illumination may be combined with reflective materials, such as mirrors, polished metal, or highly glazed tiles, which would increase glare.

6. The maximum allowable illumination measured at the property line is one lumen per square foot (one foot-candle), unless such signs are allowed to extend over the property line, where the maximum allowable illumination is measured at the back of curb or edge of pavement.

7. For electronic message signs, the maximum brightness is limited to 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours, and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset. The sign shall have an ambient light meter and automatic or manual dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise.

E. Construction Standards

1. Supports and braces shall either be designed as an integral part of the overall sign or obscured from public view to the extent feasible.

2. All signs attached to a building shall be installed and maintained so that wall penetrations are watertight and the structure does not exceed allowable stresses of supporting materials.

3. All signs shall be designed and constructed in compliance with the building code, electrical code, and all other applicable codes and ordinances.

4. Glass comprising any part of a sign shall be safety glass.

5. Conduits, raceways, and other components of a sign illumination system shall be designed as an integral part of the overall sign structure and obscured from public view to the extent technically feasible.

F. Permitted Materials for Signs

1. Permanent sign structures shall be constructed of durable materials such as brick, wood or simulated wood, stone, concrete, metal, plastic, or high-density urethane (HDU) foam board or similar durable foam construction. Solid awnings and structural canopies shall be constructed of permanent building materials.

2. Awning, canopy, blade, and wall signs may also be constructed of durable weather resistant material such as canvas, nylon, or vinyl-coated fabric.

3. Wall, awning, canopy, and blade signs constructed of material shall be mounted within a frame so that they are held taut between all support posts.

G. Required Maintenance

1. All signs shall be kept in a safe and well-maintained condition and appearance, and shall be repainted or otherwise maintained by the property owner or business owner to prevent corrosion or deterioration caused by the weather, age, or any other condition.

2. All signs shall be maintained to prevent any kind of safety hazard, including faulty or deteriorated sign structures, a fire hazard, or an electrical shock hazard.

3. All unused sign hardware or wiring shall be removed.

4. No sign frame may remain unfilled or allow any internal part or element of the sign structure to be visible.

5. If a sign is maintained in an unsafe or unsecured condition, it shall be removed or the condition corrected. If The sign is not removed or the condition is not corrected within the required time period, the City may enforce this order through applicable enforcement procedures.

6. The City may remove any sign that is creating an imminent danger of significant harm to persons or property summarily and without notice. The owner of such sign is responsible for all costs of removal. The method for collection of costs may include, but shall not be limited to, a lien pursuant to NMSA SS 3-36-1 to 3-36-7.

7. Where possible by the design of a sign structure, the owner of a permanent sign that becomes obsolete after the associated activity or use is discontinued or abandoned shall remove all sign copy from the sign structure and the panels shall be removed and replaced with a blank panel. This requirement is not satisfied by reversing (i.e., turning such copy so that it faces inward), painting over, covering with vinyl or other fabric, or other means of obfuscating such copy.

8. Any activity that increases the sign area, sign height, or any sign dimension, or moves the location of a sign, requires a sign permit.

9. The following maintenance activities are exempt from requiring a sign permit. All other maintenance and alterations to a sign require a permit.

a. Painting, cleaning, or other normal maintenance and repair of a sign. This does not include any structural changes or any changes in the electrical components of the sign, including the removal or replacement of electrical components.

b. Changing the copy of a changeable message sign

H. Permanent Off-Premises Signs

Permanent off-premises signs are considered billboards, which are a distinct land use, and are subject to the regulations of Chapter 154 of the City of Rio Rancho Municipal Code.

156.05 Sign Permit

No sign, unless specifically identified as exempt by this Chapter, may be erected, constructed, altered, or relocated without first obtaining approval of a sign permit in accordance with the following.

A. Authority

The Director of Development Services or their designee is responsible for determining compliance with this title and issuing a sign permit.

B. Approval Procedure

1. A complete application for a sign permit, as well as any submittals required as a component of the application, shall be submitted to the Director of Development Services or their designee. If the party submitting the application does not own the subject property, the property owner is required to submit written permission for the installation of the sign as a component of the application.

2. Upon receiving an application for a sign permit, the Director of Development Services or their designee shall review it for completeness. If the application is determined to be incomplete, the applicant shall be notified in writing, specifying the deficiencies in the application.

3. Following a determination of completeness, the Director of Development Services or their designee shall either:

a. Approve the sign permit, if the application complies with all the requirements of these regulations and any other applicable codes.

b. Deny the sign permit, if the application fails in any way to comply with the requirements of these regulations or any other applicable codes. If the application is denied, the applicant shall be notified in writing, specifying the section or sections of these regulations or any other applicable codes with which the application is inconsistent.

C. Fees

To obtain a sign permit, all fees in accordance with the City's associated fee schedule shall be paid.

D. Illegal Signs

1. Illegally constructed signs

If a sign is constructed illegally without a required sign permit, the Director of Development Services or their designee will serve notice to the property owner that such sign shall be removed within 30 days of notice for permanent signs or seven days of notice for temporary signs. If the sign is not removed within the required period, the Director of Development Services or their designee may enforce this order through any remedies that are and as may from time to time be provided for or allowed by state law or municipal ordinances.

2. Illegally placed signs

Any sign placed on public property or within the public right-of-way without authorization may be removed immediately and without notice.

156.06 Prohibited Signs

The following sign types are specifically prohibited. All signs not expressly permitted by this chapter are also prohibited.

A. Flashing signs, except as specifically permitted within this Code.

B. Moving signs whether illuminated or not, including any sign that rotates, revolves, or has any visible moving part, or any sign that gives the appearance of movement, including signs designed to be moved by wind or other natural elements. This excludes clocks and barber poles.

C. Portable signs, not including A-frame signs.

D. Roof signs.

E. Strobe lights, moving or fixed spotlights, floodlights/searchlights.

F. Signs that constitute a traffic hazard, including signs that:

1. Interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal, or device because of its position, shape, or color, including signs illuminated in red, green, or amber color.

2. May be confused with any public safety lighting, including signs illuminated in red and blue colors.

3. Mislead, interfere with, or confuse traffic.

G. Temporary off-premises signs. Also known as push signs, bandit signs, and snipe signs.

H. Vehicle signs. This prohibition does not include signs painted on or applied to vehicles, trucks, or buses that are being operated and stored in the normal course of business, such as signs located on delivery trucks, moving vans, and rental trucks, provided that the primary purpose of such vehicles is not the display of such sign, and that they are properly parked or stored in areas related to their use as vehicles and all such vehicles are in operable condition. This does not include vehicle for-sale signs.

I. Video display screens.

156.07 Signs Exempt from Permit

A. A-Frame Sign

1. A-frame signs are permitted for nonresidential and mixed-use development in the City's nonresidential districts, and the SU and H-1 Districts.

2. One A-frame sign is permitted per establishment, including one for each tenant in a multi-tenant development. A minimum separation of 15 feet is required between A-frame signs.

3. A-frame signs shall be located within 15 feet of the primary entrance of the business, and shall not interfere with pedestrian traffic or violate any standards of accessibility as required by ADA or other accessibility codes.

4. A-frame signs are limited to six square feet in area per side, and shall be no taller than four feet in height.

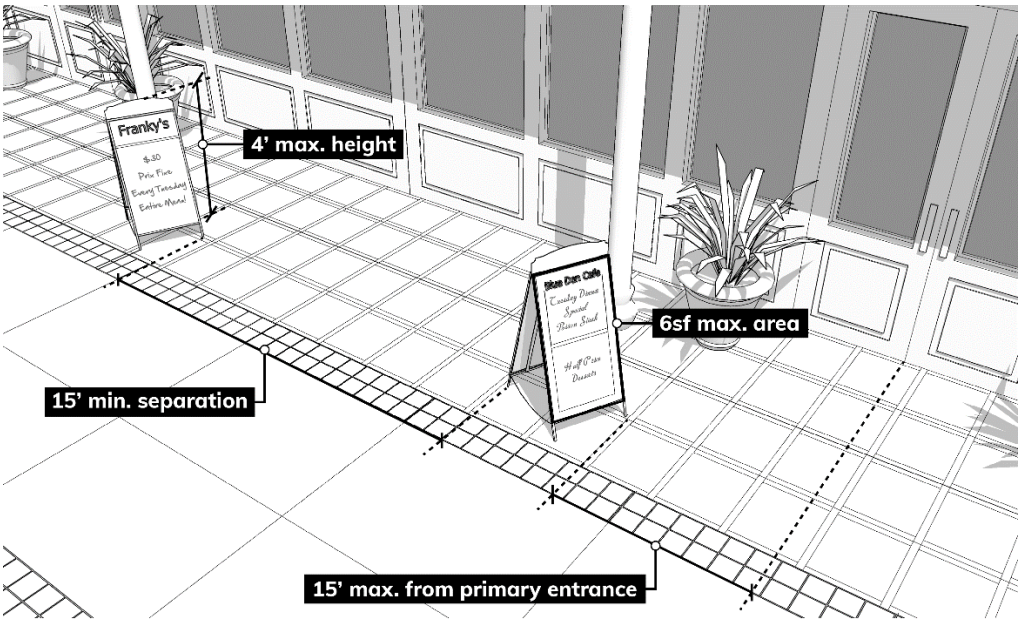
5. A-frame signs may be displayed outdoors during business hours only. At all other times, the signs shall be stored indoors.

6. A-frame signs shall not be displayed outdoors when severe wind, rain, or other weather conditions may pose a hazard.

7. Illumination of A-frame signs is prohibited.

8. No A-frame sign may have any type of electronic component.

A-Frame Sign



B. Sign for Residential Construction Activity

Where active residential construction is taking place, a temporary sign is permitted subject to the following:

1. One sign is permitted at each entrance to a residential subdivision or master planned community from a street classified as a collector or arterial.

2. Signs shall be designed as freestanding signs, wall signs, or signs on a fence, and shall be located a minimum of five feet from any property line.

3. Signs are limited to 32 square feet in area, and six feet in height.

4. Illumination of signs is prohibited.

5. Signs shall be removed once construction within the residential subdivision or master planned community is complete.

C. Sign for Nonresidential or Mixed-Use Construction Activity

Where active nonresidential or mixed-use construction is taking place, a temporary sign is permitted subject to the following:

1. One sign is permitted per street frontage.

2. Signs shall be constructed as freestanding signs, wall signs, or signs installed on a fence.

3. The total square footage of signs on a lot shall not exceed 64 square feet, unless located on a single parcel 20 acres or more in size, in which case the total square footage shall not exceed 128 square feet.

4. Individual signs are limited to 32 square feet in area. When freestanding, signs are limited to six feet in height and shall be located a minimum of five feet from any property line.

5. In lieu of a freestanding sign, wall sign, or sign installed on a fence, a wrap sign may be used to wrap the fence or the structure under construction. A wrap sign requires review and approval during site plan review. Such wrap sign shall be made of mesh or similar material. There is no maximum square footage limitation for a wrap sign.

6. Illumination of signs is prohibited.

D. Sign for Cultural or Historical Site

Sites or buildings with cultural or historical significance are permitted a permanent sign, subject to the following:

1. Signs on culturally or historically significant sites or buildings are limited to one sign per street frontage.

2. Signs on culturally or historically significant sites or buildings may be constructed as freestanding signs or wall signs as follows:

a. Signs are limited to six square feet.

b. Freestanding signs are limited to four feet in height and shall be located a minimum of five feet from any property line.

c. Wall signs shall be placed to be an integral part of the structure, cut into stone or masonry, or be a permanently affixed plaque of metal or other durable material.

E. Sign on Gas Pump Island

A maximum of one sign mounted on each gas station pump island is permitted and is limited to two square feet in sign area. All such signs shall be oriented to face the vehicle parked at the pump.

F. Government Sign

1. Government signs are allowed in all districts and in any number, configuration, or size.

2. In all districts, the type and extent of illumination required is at the discretion of the authorized government agency.

G. Flag

Flags are permitted in all districts.

1. Flags may be freestanding or wall mounted. There is no limit on the number of flags permitted.

2. There is no limit on the size of flags.

3. All flagpoles shall conform to the standards established within Chapter 154 of the City of Rio Rancho Municipal Code.

4. Flags may be externally illuminated, and shall comply with Chapter 159 of the City of Rio Rancho Municipal Code and the State of New Mexico Night Sky Protection Act.

H. Sign for Multiple Tenant Building Entry

Multi-family dwellings, nonresidential development, and mixed-use development with multiple tenants in all districts are permitted a permanent sign at each building entry, subject to the following:

1. A maximum of one sign is allowed per building entry.

2. Signs may be constructed as either freestanding signs or wall signs.

3. Signs are limited to eight square feet in area.

4. Freestanding signs are limited to six feet in height, and shall be located within five feet of the building entry, and a minimum of five feet from any property line.

5. Wall signs shall be installed within five feet of the building entry.

I. Sign for On-Site Repair, Renovation, or Improvement

On lots where on-site repair, renovation, or improvements are taking place, a temporary sign is permitted. Such temporary signs are subject to the following:

1. A maximum of one sign per lot is permitted.

2. Signs are permitted in all districts on sites with active repair, renovation, or improvement projects.

3. Signs may be installed only after approval of a permit for the repair, renovation, or improvement activity. Signs shall be removed upon the completion of the repair, renovation, or improvement activity.

4. Signs may be constructed as freestanding signs, subject to the following:

a. Signs are limited to a maximum of eight square feet in area and six feet in height.

b. Signs shall be located a minimum of five feet from any property line.

c. Signs may not be illuminated.

J. Sign for Parking Lot or Structure Circulation Point

Parking lots and structures in all districts are permitted permanent signs at parking lot and/or structure circulation points in accordance with the following:

1. Circulation points include, but are not limited to, entrances/exits, driveway intersections, drive-through lanes, fire zones, and parking lot drive aisles.

2. Signs are limited to a maximum of four square feet in area and five feet in height.

3. Freestanding parking lot or structure circulation point signs shall be located a minimum of five feet from any right-of-way line.

4. Signs for parking lot or structure circulation points may be internally or externally illuminated.

K. Sign for Real Estate Activity

When a structure or lot is offered for sale, lease, or rent, a temporary real estate activity sign is permitted on such lot as follows:

1. Signs are permitted in all districts, and shall be located on the lot offered for sale, lease, or rent, or at the entrance of a new residential subdivision.

2. Signs are limited to one sign per street frontage, except for new residential subdivisions which are limited to one sign.

3. Signs may be constructed as freestanding, wall, or window signs, apart from those for new residential subdivisions which shall be freestanding. Freestanding signs shall be located a minimum of five feet from any property line.

4. Signs are subject to the following maximum sign area limitations:

a. Residential districts, A-R, OS, PR, T-Z: eight square feet.

b. Nonresidential, SU and H-1 districts (not including M-1 or BP): 32 square feet.

c. M-1 and BP districts: 40 square feet.

d. New residential subdivision of three lots or more (any district): 32 square feet.

5. Freestanding signs are limited to six feet in height.

6. Signs for real estate activity may not be illuminated.

7. Signs shall be removed within five days of final closing, lease, or rental.

L. Window Sign

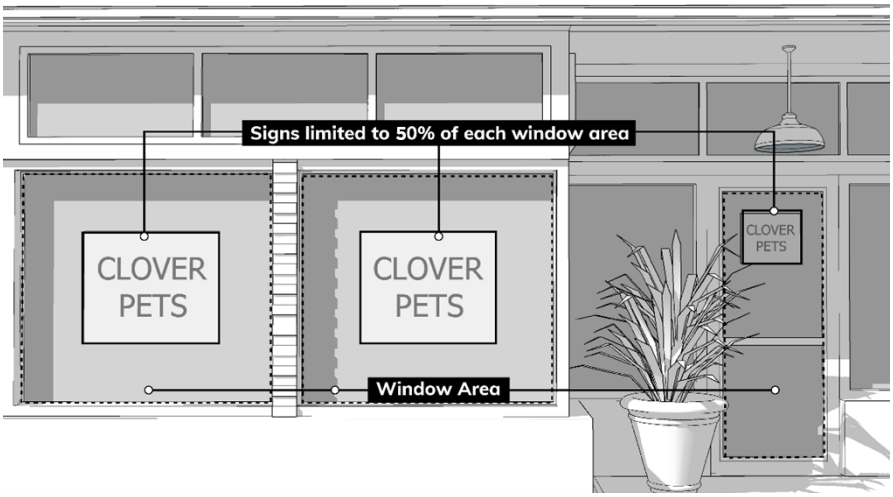
1. Window signs are permitted for nonresidential and mixed-use development in all districts.

2. All window signs, whether temporary or permanent, are limited to no more than 50% of the surface of each window area. Window area is measured as a continuous surface until divided by an architectural or structural element. Mullions are not considered an element that divides window area.

3. Internally illuminated window signs are permitted, but are limited to a maximum area of six square feet or 30% of the surface of the window area, whichever is less. Such illuminated signs may not contain an animated or flashing component, and may not strobe.

4. Window displays of items sold on the premises are not considered window signs.

Window Sign



M. Yard Sign

Yard signs are permitted in all residential districts.

1. There is no limit on the number of signs permitted, however the maximum total sign area may not exceed 32 square feet

2. Individual signs are limited to a maximum of eight square feet in area and six feet in height.

3. Yard signs shall be located a minimum of five feet from any right-of-way line.

4. No sign may be illuminated.

5. Signs shall not be used for any on-premises or off-premises advertising.

156.08 Sign Permit Required

This section describes the types of signs allowed with a sign permit. Specific regulations for each sign type may include further restrictions pertaining to which districts and/or uses within a district may utilize these sign types.

A. Attention-Getting Device

Attention-getting devices are permitted as temporary signs for nonresidential and mixed-use development in the nonresidential and SU districts.

1. Attention-getting devices are limited to the following display periods:

a. When used in coordination with an event, attention-getting devices are permitted a total display period of seven days prior to the start of the event, the duration of the event, and three days following the end of the event.

b. When not in coordination with an event: 15 days

c. Four display periods per year are permitted, with a minimum of 30 days required between successive display periods.

2. Attention-getting devices for multi-tenant sites are subject to the following:

a. Each tenant establishment with ground floor frontage in a multi-tenant structure may have one freestanding and one wall-mounted attention-getting device installed or mounted simultaneously.

b. The display period and minimum 30-day interval between displays applies to each tenant establishment individually, rather than the site as a whole.

3. Freestanding attention-getting devices are subject to the following:

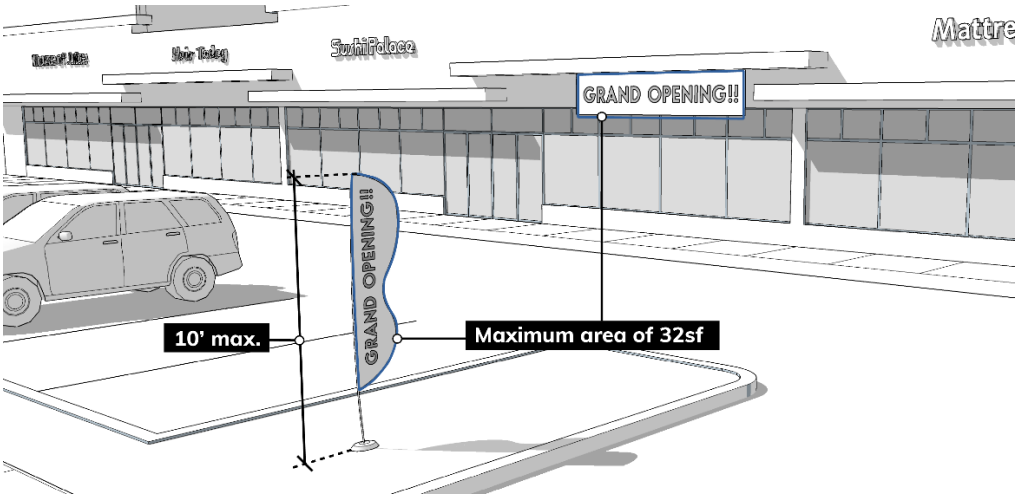
a. Freestanding attention-getting devices are allowed at a ratio of one attention-getting device for every 25 linear feet of street frontage. Where a structure or tenant space has less than 25 linear feet of street frontage, one attention-getting device is permitted. There shall be a 15 foot separation between freestanding attention-getting devices.

b. Freestanding attention-getting devices are limited to a maximum height of ten feet and 32 square feet in area. If designed as a balloon or inflatable sign, a freestanding attention-getting device is limited to a maximum of 15 feet in height, including any tethering.

c. Freestanding attention-getting devices shall be located a minimum of five feet from the property line, as measured from the outermost portion of the sign. No part of a freestanding attention-getting device may extend over the property line.

4. Wall-mounted attention-getting devices are limited to 60 square feet, and may not exceed the height of the ground floor of the structure. Wall-mounted attention getting devices for multi-tenant structures are limited to 32 square feet per tenant establishment.

Attention-Getting Device



B. Building-Mounted Signs

1. General Regulations

a. The following are considered building-mounted signs: permanent arcade signs, awning signs, blade signs, canopy signs, standard wall signs, and painted or projected wall signs.

b. Single-tenant structures are permitted a maximum building-mounted sign area of two square feet per one linear foot of building length or 50 square feet, whichever is greater. Multi-tenant structures are permitted a maximum building-mounted sign area of two square feet per one linear foot of frontage per ground-floor tenant, or 50 square feet per ground-floor tenant, whichever is greater.

c. Building-mounted signs may be used in any quantity or combination, so long as the total permitted square footage is not exceeded and all individual signs conform to the specific provisions per sign type established in Sections 156.08.B.2 through 156.08.B.8 below.

2. Arcade Sign

a. Arcade signs are permitted for nonresidential and mixed-use development in all districts.

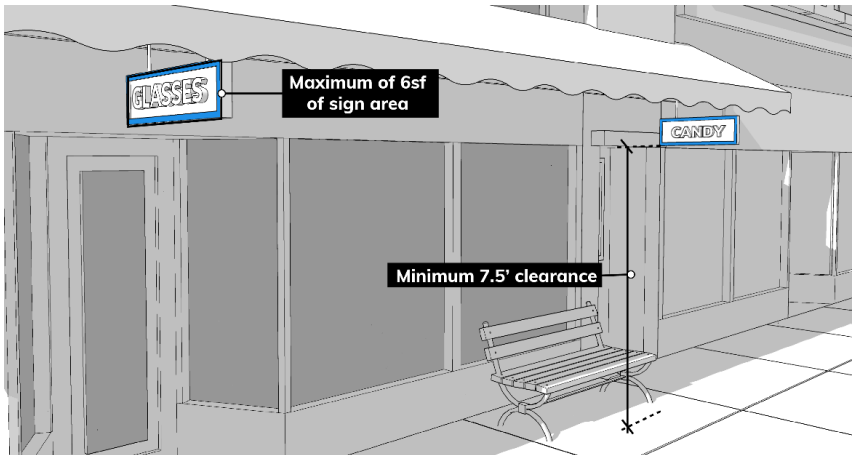
b. Arcade signs shall be located beneath, and shall be securely attached to an arcade, gallery, covered porch or walkway, awning, or canopy.

c. One arcade sign is permitted per building entry.

d. Arcade signs shall maintain a minimum vertical clearance of 7.5 feet from the surface above which the sign is mounted, and are limited to a maximum of 12 square feet in sign area.

e. Arcade signs are not counted toward the maximum building-mounted sign area for single- or multi-tenant structures.

Arcade Sign



3. Awning Sign

a. Awning signs are permitted for multi-family dwellings, nonresidential development, and mixed-use development in all districts.

b. Awning signs shall maintain a minimum vertical clearance of 7.5 feet from the surface above which the sign is mounted.

c. Awning signs may encroach into the public right-of-way, but shall be located at least two feet from a curb line.

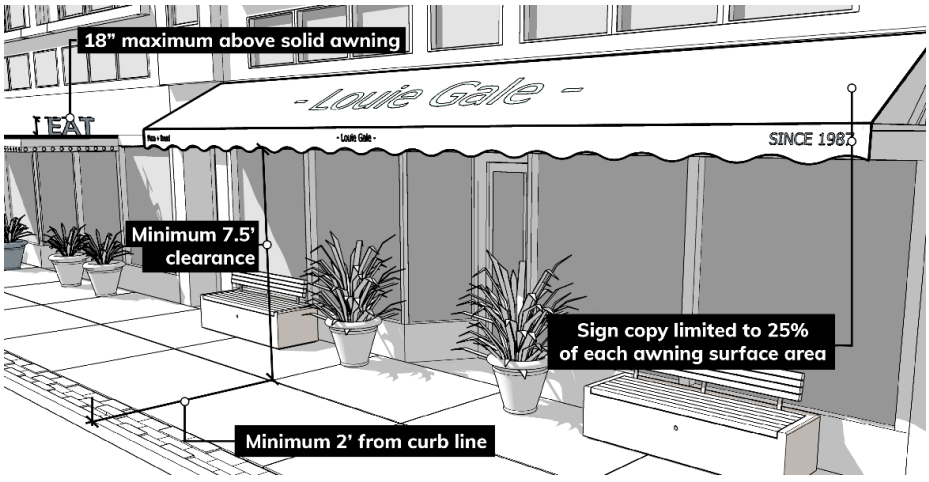
d. Sign copy on any awning sign is limited to 25% of each awning surface area (front, sides, valance).

e. Awning signs shall be constructed of durable, weather-resistant material such as, but not limited to, canvas, canvas-like material, nylon, vinyl-coated fabric, or permanent building material such as metal.

f. Solid, non-textile awnings are permitted lettering attached to and located either above or below the awning to a maximum height of 18 inches. If attached below the awning, a minimum vertical clearance of 7.5 feet shall be maintained from the bottom of the lettering to the surface above which it is mounted.

g. Awning signs may be externally illuminated. Any illumination of an awning sign shall be focused on the sign copy or printed area. Back-lit awnings are prohibited.

Awning Sign



4. Blade Sign

a. Blade signs are permitted for nonresidential and mixed-use development in the nonresidential, SU and H-1 districts.

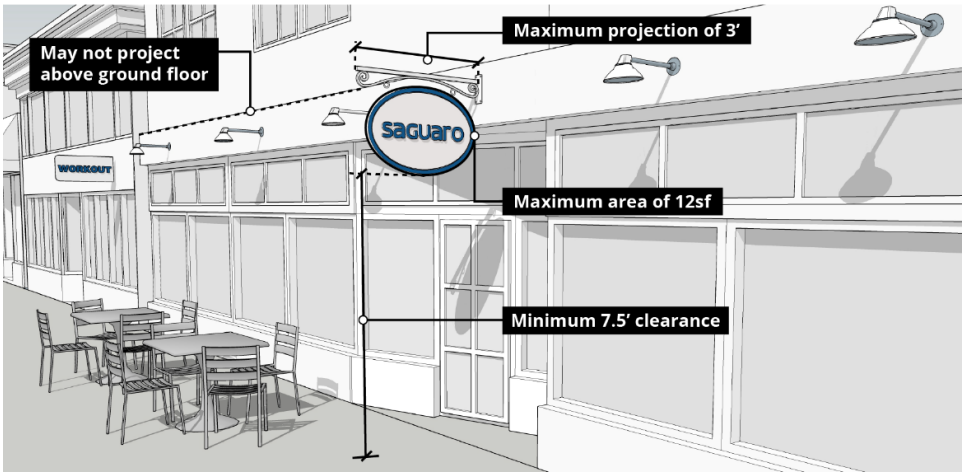
b. One blade sign is permitted per establishment with ground-floor frontage on a street or public plaza.

c. Blade signs are limited to 12 square feet, and may project a maximum of three feet from the façade.

d. Blade signs shall maintain a minimum vertical clearance of 7.5 feet from the surface above which the sign is mounted. No blade sign affixed to a building may project higher than the ground floor, including the sign support structure.

e. Blade signs may be internally or externally illuminated.

Blade Sign



5. Canopy Sign

Canopy signs are divided into two types: non-structural and structural.

a. Non-Structural Canopy Signs

i. Non-structural canopy signs are permitted for multi-family dwellings, nonresidential development, and mixed-use development in all districts.

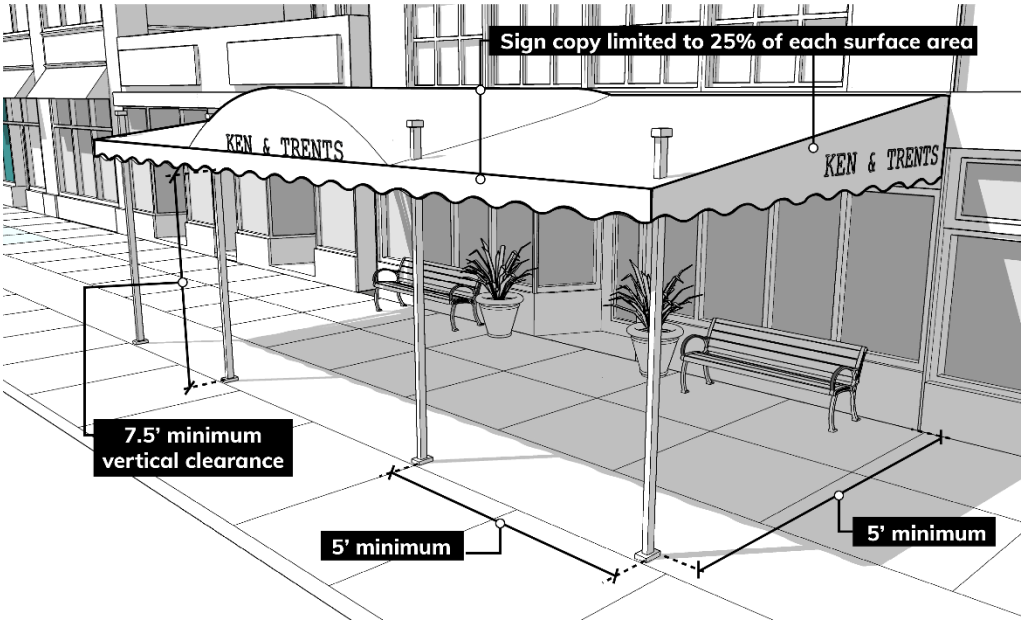
ii. Non-structural canopy signs shall maintain a minimum vertical clearance of 7.5 feet.

iii. Non-structural canopy signs may encroach into the public right-of-way but shall be located at least two feet from the curb line. Support posts shall maintain a minimum separation of five feet between posts and five feet between the posts and any building wall.

iv. Sign copy on any canopy sign is limited to 25% of each surface area (front, sides, valance).

v. Non-structural canopy signs may be externally illuminated. Any illumination shall be focused on the sign copy or printed area. Back-lit canopies are prohibited.

Non-Structural Canopy Sign



b. Structural Canopy Signs

if. Permissions for Structural Canopy Signs
Structural canopy signs are permitted as follows:

(A) Structural canopy signs attached to the principal structure are permitted for multi-family dwellings, nonresidential development, and mixed-use development in all districts.

(B) Freestanding structural canopy signs are permitted for gasoline service stations, drive-through window restaurants, and drive-through facilities in any district.

ii. Structural Canopy Signs Attached to Principal Structure
Structural canopy signs attached to the principal structure are subject to the following:

(A) Canopy signs attached to the principal structure may encroach into the public right-of-way but shall be located at least two feet from a curb line.

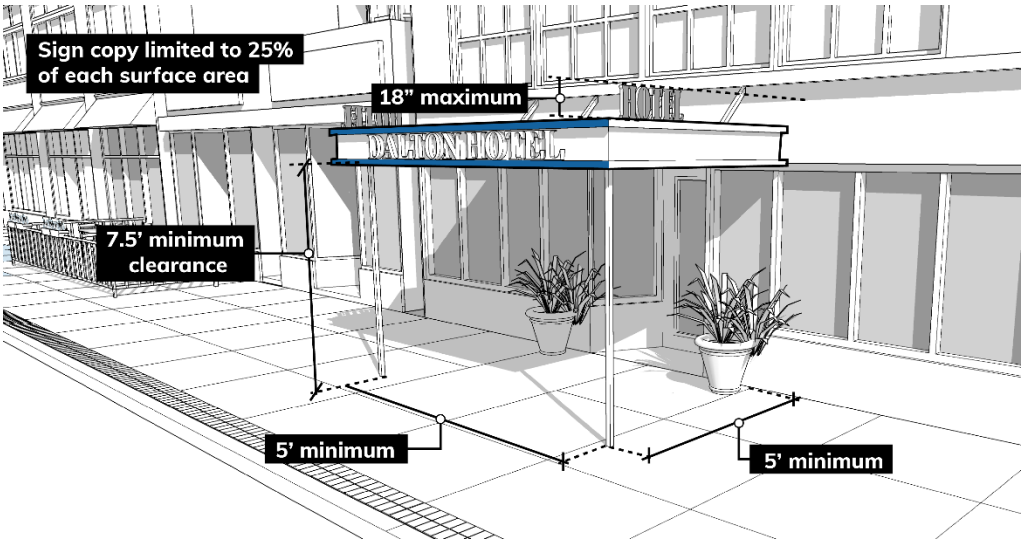
(B) Support posts shall maintain a minimum separation of five feet between posts and five feet between the posts and any building wall.

(C) Canopy signs attached to a building shall maintain a minimum vertical clearance of 7.5 feet.

(D) For structural canopies attached to a principal building, sign copy is limited to 25% of each surface area. Such signs are permitted lettering attached to and located either above or below the canopy to a maximum height of 18 inches. If attached below the canopy, a minimum vertical clearance of 7.5 feet shall be maintained from the bottom of the lettering to the surface above which it is mounted.

(E) Structural canopy signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign copy or printed area.

Structural Canopy Sign Attached to Principal Structure



iii. Freestanding Structural Canopy Signs

Freestanding structural canopy signs are subject to the following. Such signs are exempt from the calculation of total building-mounted sign area.

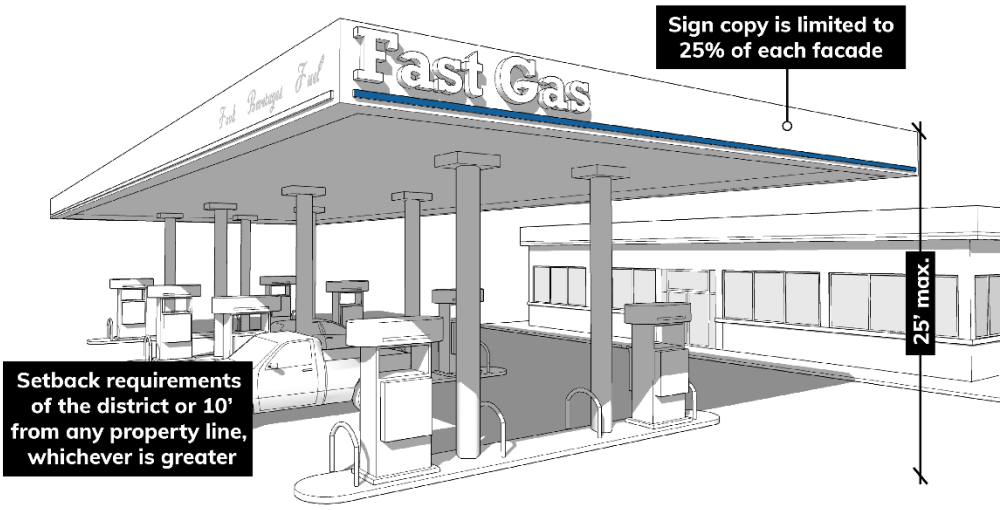
(A) Freestanding structural canopy signs are subject to the setback requirements of the district where they are located or ten feet from any property line, whichever is greater.

(B) Freestanding structural canopy signs are limited to a maximum height of 25 feet. Height is measured to the top of a flat roof or to the average height between the eave and the ridge of a pitched roof.

(C) For freestanding structural canopies, sign copy is limited to a maximum of 25% of the area of each façade. No sign may be mounted above the top of the roof of the structural canopy, but a sign mounted on the structural canopy façade may extend a maximum of six inches above the roofline.

(D) Freestanding structural canopy signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign copy or printed area. Freestanding structural canopies are permitted an illuminated band along each facade of the canopy, which is limited to 10% of the overall height of the facade of the canopy.

Freestanding Structural Canopy Sign



6. Wall Sign, Standard

a. Standard wall signs are permitted for nonresidential and mixed-use development in any district.

b. Standard wall signs are permitted on all facades of a structure. On a site consisting of multiple structures, each structure is permitted wall signs per the regulations of this section. The square footage permitted for individual structures shall not be combined to create a larger sign on any one structure.

c. For a single tenant structure, the maximum total wall sign area is one square foot per one linear foot of building wall where the wall sign(s) will be mounted or 50 square feet, whichever is greater. The square footage permitted for individual façades shall not be combined to create a larger sign on any one façade.

d. For a structure that contains multiple tenants, each tenant that has exterior ground floor frontage is permitted a total wall sign area of one square foot per one linear foot of frontage or 50 square feet, whichever is greater. The square footage permitted for individual tenants shall be used only for each tenant frontage, and shall not be combined to create a larger sign along any tenant frontage.

e. The number of individual wall signs on a façade is not limited, however the cumulative sign area of all signs on a facade shall not exceed the maximum allowable total wall sign area per façade.

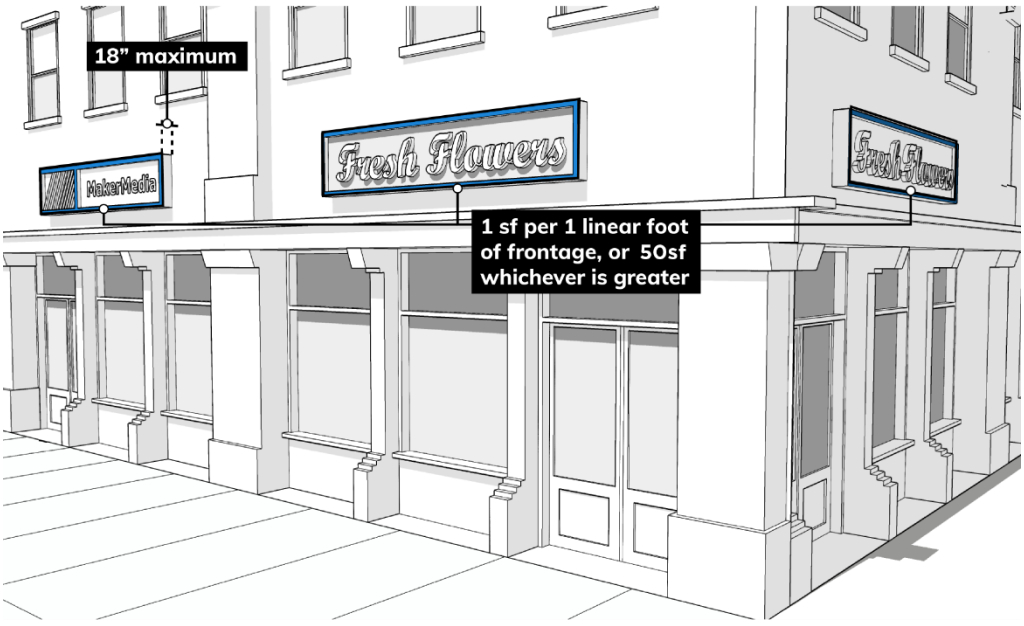
f. Standard wall signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

g. Signs shall be safely and securely mounted to the building wall, and may project a maximum of 18 inches from the façade to which they are mounted.

h. No wall sign affixed to a building, including any sign support structure, may project horizontally beyond the end of a wall, or vertically beyond the roofline of a flat-roofed structure, or the eave of a pitched-roof structure.

a. On existing buildings, a parapet wall shall not be constructed for the sole purpose of increasing the allowable height of a wall sign. For new buildings, when a sign is mounted on a parapet wall, such parapet wall shall maintain consistency with the architectural design of the building, including building materials.

Wall Sign - Standard



7. Wall Sign, Painted

a. Painted wall signs are permitted for nonresidential and mixed-use development in any district.

b. Painted wall signs are permitted on each facade of a structure.

c. Painted wall signs are limited to 50% of the façade on which they are painted, or 200 square feet, whichever is less. The square footage permitted for individual façades shall not be combined to create a larger sign on any one façade.

d. Painted wall signs may be externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

e. Painted wall signs shall not project more than 0.25 inches from a building wall.

8. Wall Sign, Projected

a. Projected wall signs are exempt from the calculation of total building-mounted sign area.

b. Projected wall signs are permitted for nonresidential and mixed-use development in the nonresidential and SU districts.

c. Projected wall signs are limited to 50% of the façade onto which they are projected.

d. Projected wall signs shall remain static and shall not flash, rotate, or move. No projected wall sign shall display video.

e. Projected wall signs shall not direct glare onto adjacent properties.

f. Projected wall signs shall not extend beyond the façade onto which they are projected.

g. Projected wall signs shall not be projected over any other permanent or temporary sign, including painted wall signs.

C. Drive-Through Sign

1. Drive-through signs are permitted for all drive-through window restaurants and drive-through facilities in any district.

2. Drive-through signs are limited to a maximum of 70 square feet in area and ten feet in height, and may comprise a mixture of separate freestanding signs, including preview boards installed at earlier points in the drive-through lane. The total square footage of all signs, however, shall not exceed 70 square feet.

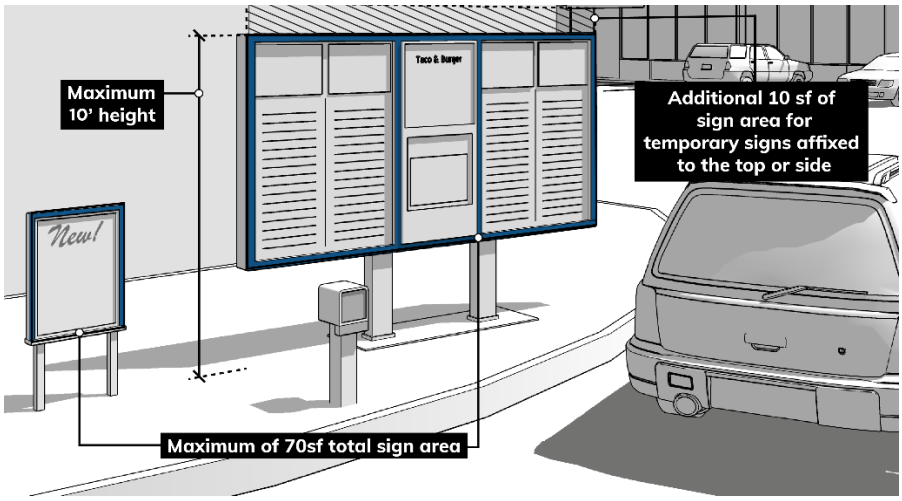
3. An additional ten square feet of sign area is permitted for temporary signs affixed to the top or sides of a permanent drive-through sign.

4. Drive-in restaurants, where customers park in designated stalls and remain in their vehicles to dine, are permitted one sign per parking stall. Such signs are limited to a maximum of 30 square feet in area per stall, and six feet in height. Signs may comprise a mixture of freestanding signs, and temporary signs such as promotions or special items affixed to the top or sides of a permanent sign. The total square footage of all signs, however, shall not exceed 30 square feet per stall.

5. Any drive-through sign, including signs within stalls at drive-in restaurants, shall be located a minimum of 15 feet from any residential district property line, measured from sign face to property line.

6. Drive-through signs, including signs within stalls at drive-in restaurants, may be internally illuminated, and may contain an electronic screen for interaction and verification with customers.

Drive-Through Sign



D. Electronic Message Sign

1. Electronic message signs are permitted for the following:

a. Nonresidential and mixed-use development in the nonresidential and SU districts.

b. The following uses in any zoning district: cultural facilities, educational facilities, parks, places of worship or similar uses.

c. Gasoline service stations in any district are permitted an electronic message sign to display any copy that is required to be displayed by law, such as fuel prices.

2. Electronic message signs are limited to the following dimensions:

a. Electronic message signs are limited to freestanding monument signs (156.08.F.2) and multi-tenant commercial center signs (156.08.F.4), and shall be integrated into a larger sign structure. The electronic component is limited to a maximum of 75% of the total area of the sign, or the limitations established in items b and c below, whichever is less.

b. The electronic component of electronic message signs in the nonresidential and SU districts is limited to a maximum of 50 square feet, unless located immediately adjacent to or across a right-of-way from a residential district, in which case they are limited to a maximum of 30 square feet.

c. The electronic component of electronic message signs in any district other than the nonresidential and SU districts is limited to a maximum of 30 square feet.

3. Only one electronic message sign per lot is permitted. For the purposes of this regulation, a multi-tenant development comprising separate lots of record, including any out-lot parcels, is considered one lot.

4. The sign structure shall contain permanent copy in addition to the electronic component, such that if the electronic component is turned off, the sign is not blank.

5. Each message or image displayed on an electronic message sign shall be static for a minimum of eight seconds, and shall be complete, not continuing on a subsequent message.

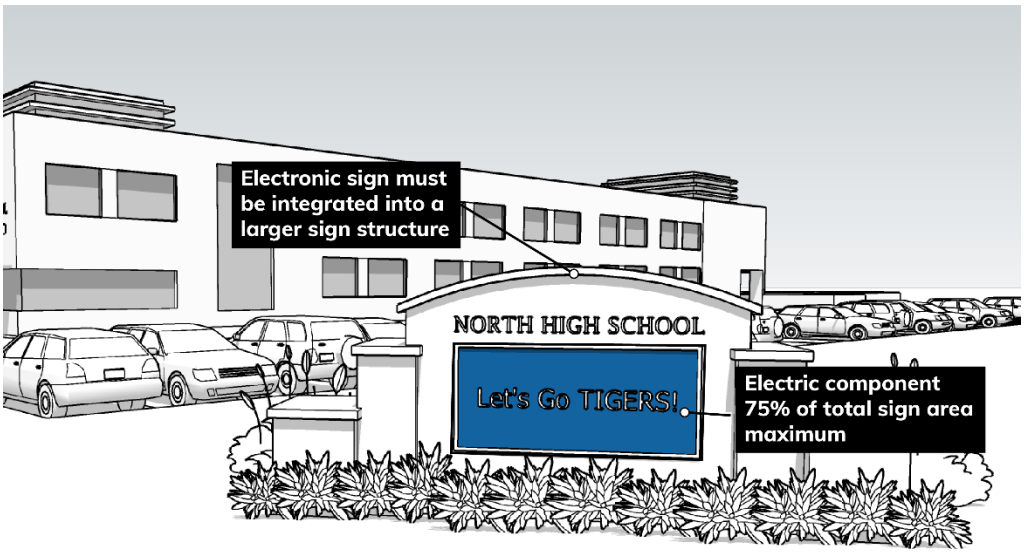
6. Electronic message signs shall display static messages only, with no animation or effects simulating animation or video. Transitions from one message to another shall appear instantaneous as perceived by the human eye. Any scrolling, flashing, blinking, fading, rolling, shading, dissolving, spinning, revolving, shaking, or any other effect that gives the appearance of movement to the message or any component of the sign is prohibited.

7. For electronic message signs, the maximum brightness is limited to 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours, and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset. The sign must have an ambient light meter and automatic or manual dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise.

8. All signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.

9. Electronic message signs shall not operate as an off-premises sign. This does not include public service messages.

Electronic Message Sign



E. Gateway Sign

1. Gateway signs are permitted for nonresidential and mixed-use development in the nonresidential, SU, and H-1 districts.

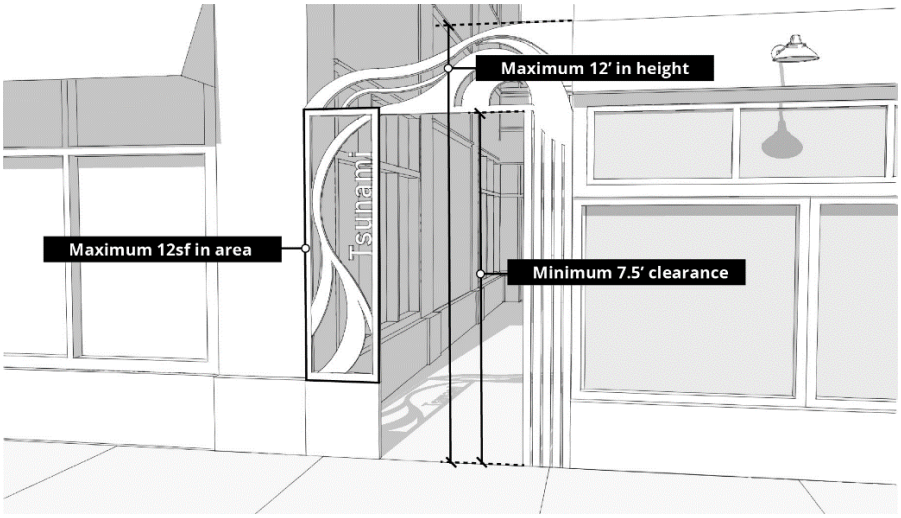
2. One gateway sign is permitted per street frontage. Gateway signs shall be located over a main pedestrian entryway.

3. Gateway signs may not project into, over, or otherwise encroach on a public right-of-way or easement.

4. Gateway signs are limited to a maximum of 12 square feet in area and 12 feet in height. Signs shall maintain a minimum 7.5 foot vertical clearance to allow for passage through the sign.

5. Gateway signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Gateway Sign



F. Ground Signs

1. General Regulations

a. The following are considered ground signs: freestanding monument signs, freestanding pylon signs, multi-tenant commercial center signs, and residential subdivision signs.

b. Each lot is permitted one ground sign per street frontage. One additional ground sign is permitted where a street frontage exceeds 200 linear feet in length. A minimum of 50 feet separation is required between ground signs.

c. All ground signs shall conform to the specific provisions per sign type established in Sections 156.08.F.2 through 156.08.F.5 below.

2. Freestanding Sign, Monument

a. Freestanding monument signs are permitted for multi-family dwellings, nonresidential development, and mixed-use development in any district.

b. Freestanding monument signs in residential districts are limited to a maximum of 40 square feet in area and eight feet in height.

c. In all other districts, freestanding monument signs are limited to a maximum of 70 square feet in area and ten feet in height, unless located immediately adjacent to or across a right-of-way from a residential district, in which case they are limited to a maximum of 60 square feet in area and ten feet in height.

d. A freestanding monument sign shall be designed so that the width of the top of the sign face is a minimum of 70% and a maximum of 130% of the width of the base, unless designed with decorative posts as follows:

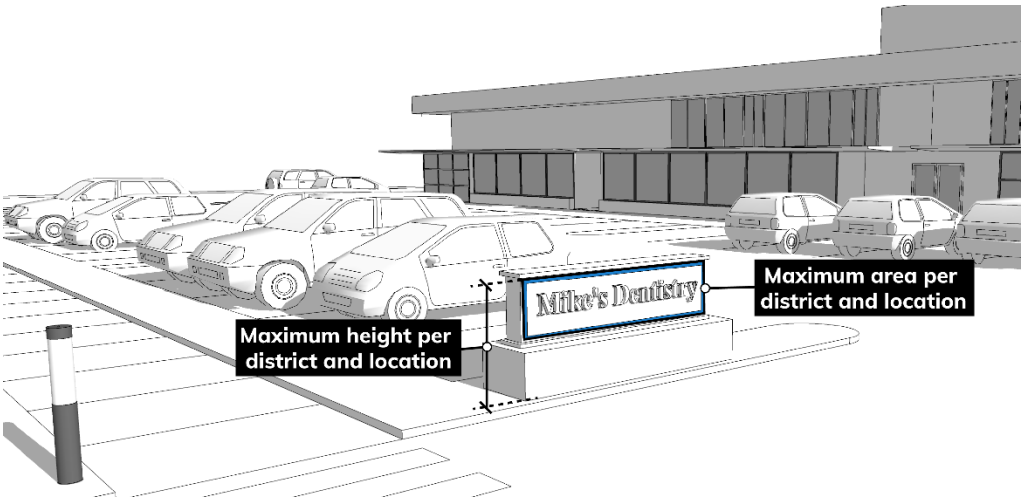
i. To provide flexibility for freestanding monument sign installation on sites where the ground is not level, structural (non-decorative) posts may extend from the ground to support the sign. Such posts are limited to a maximum of one foot in height (measured to the bottom of the sign face) above the ground at the location of their installation.

ii. Freestanding monument signs may be designed to include decorative posts as a component of the overall sign structure and design. Such posts are limited to a maximum of three feet in height (measured to the bottom of the sign face) above the ground at the location of their installation.

e. Freestanding monument signs shall be set back a minimum of five feet from any property line, and may not project into, over, or otherwise encroach on a public right-of-way or easement.

f. Freestanding monument signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Freestanding Monument Sign



3. Freestanding Sign, Pylon

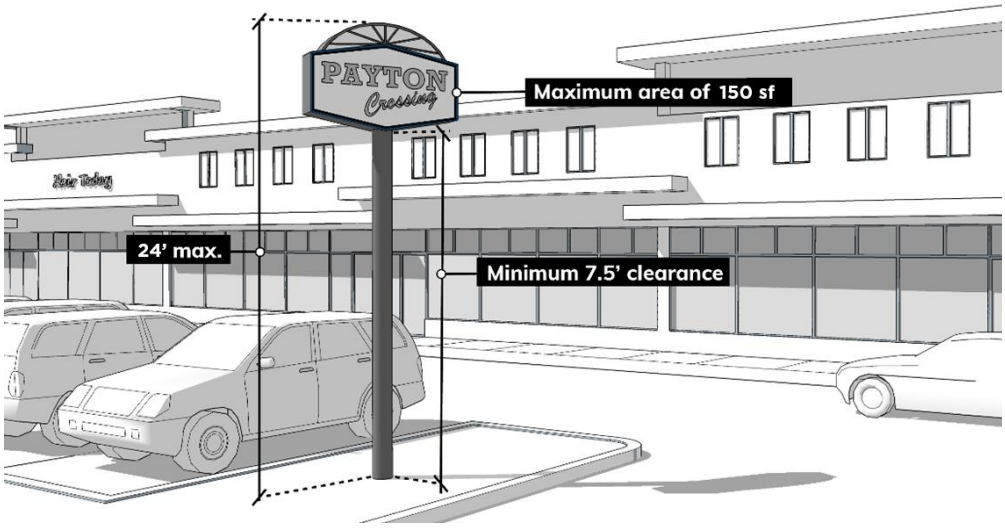
a. Freestanding pylon signs are permitted for nonresidential and mixed-use development in the nonresidential and SU Districts, with the exception of the NC and O-1 Districts.

b. Freestanding pylon signs are limited to 150 square feet in area and 24 feet in height, unless located immediately adjacent to or across a right-of-way from a residential district, in which case they are limited to 60 square feet in area and 16 feet in height.

c. Freestanding pylon signs shall maintain a minimum vertical clearance of 7.5 feet from the bottom of the sign face to the surface of the ground below.

d. Freestanding pylon signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Freestanding Pylon Sign



4. Multi-Tenant Commercial Center Sign

The following standards apply to multi-tenant commercial center signs. Multi-tenant commercial centers of five or more acres are also required to submit a unified sign plan per the standards of Section 156.09.

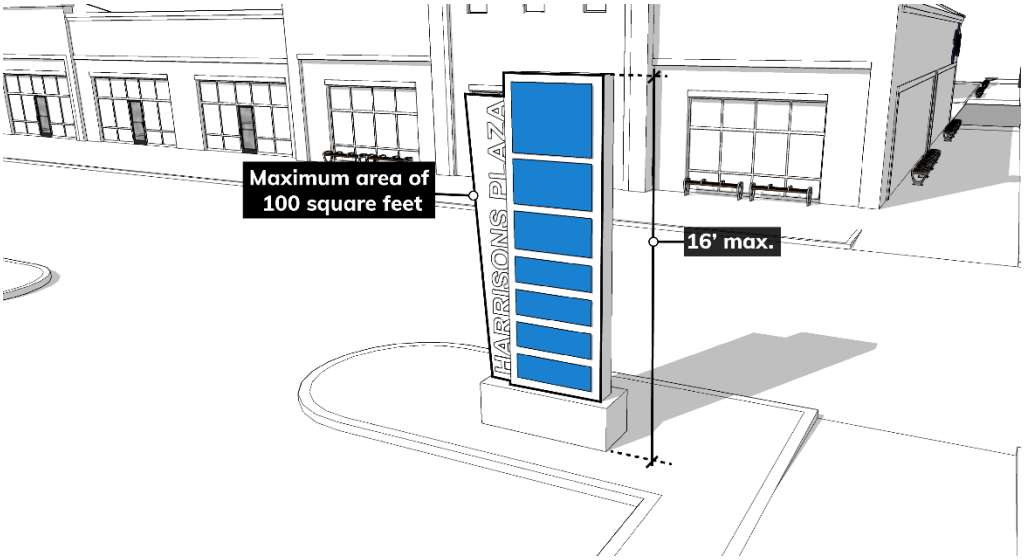
a. Multi-tenant commercial center signs are permitted for multi-tenant commercial centers in any district. A multi-tenant commercial center is a commercial development under unified control consisting of three or more separate commercial establishments sharing a common building, or which are in separate buildings sharing a common access/entranceway or parking area. For the purposes of this regulation, a multi-tenant development comprising separate lots of record, including any out-lot parcels, is considered one lot.

b. Multi-tenant commercial centers are permitted one sign per street upon which the commercial center has frontage of 100 feet or more. No street frontage may have more than one multi-tenant commercial center sign.

c. Multi-tenant commercial center signs shall be constructed as freestanding monument signs.

d. Multi-tenant commercial center signs are limited to 100 square feet in area and 16 feet in height.

Multi-Tenant Commercial Center Sign



5. Residential Subdivision Sign

a. Residential subdivision signs are permitted for residential subdivisions in all districts.

b. One residential subdivision sign is permitted for each entry point into the subdivision development. A minimum separation of 200 feet is required between signs.

c. Residential subdivision signs shall be constructed as freestanding monument signs, or mounted on/integrated into entry features such as decorative or retaining walls.

d. Residential subdivision signs are limited to 150 square feet in area and ten feet in height.

Residential Subdivision Sign

G. Marquee Sign

1. Marquee signs are permitted for nonresidential and mixed-use development in the C-1, C-2, O-1, M-1, and SU Districts.

2. Marquee signs shall be supported solely by the building to which they are attached. No exterior columns or posts are permitted as supports.

3. The roof of a marquee sign may not be used for any purpose other than to form and constitute a roof and shall be constructed of noncombustible material.

4. Water from the roof of a marquee may not drain, drip, or flow directly onto the surface of a public right-of-way. Sufficient downspouts, drains, and gutters shall be installed as part of each marquee to prevent water from the roof of the sign from flowing onto the surface of a public right-of-way.

5. Marquee signs shall be erected over a building entrance, and are limited to the width of the building entrance, plus an additional five feet on each side of the entrance doors.

6. A marquee sign shall maintain a minimum vertical clearance of ten feet from the surface above which it is mounted. The roof of a marquee sign shall not extend above any second-story windowsills, and shall not conceal or obscure any significant architectural features or ornamentation of the building to which it is mounted.

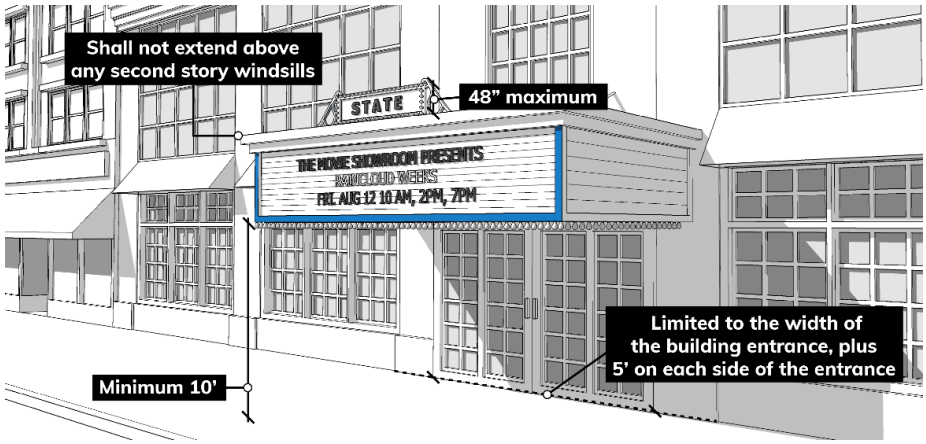
7. Marquee signs may encroach into a public right-of-way, but shall be located a minimum of two feet from any curb line.

8. Marquee signs are permitted lettering attached to and located above the roof of the sign to a maximum height of 48 inches.

9. Marquee signs are permitted an electronic message component, subject to the standards of Section 156.08.D for such signs. Marquee signs are also permitted a changeable message board as a component of the marquee structure. However, the marquee sign may include only one of these two components, not both.

10. Marquee signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Marquee Sign



H. Right-of-Way Sign

Right-of-Way Signs are permitted as temporary signs, subject to the standards below.

1. Right-of-Way Display Permit Required.
It is unlawful for any person other than a City employee to place a sign in the public right-of-way without a valid Right-of-Way Display Permit. An individual may apply for either a Weekend Right-of-Way Display Permit or a 60-Day Right-of-Way Display Permit. An individual may only have one active Right-of-Way Display Permit at a time.

a. Weekend Right-of-Way Display Period

i. Temporary signs may be posted on the weekends from Friday at 12:00 noon through Monday at 12:00 noon local time.

ii. A maximum of 50 individual signs may be posted.

iii. A Weekend Right-of-Way Display Permit is valid for all weekends during one calendar month.

iv. No more than 12 Weekend Right-of-Way Display Permits may be issued to any person within a 12 month period.

v. A person may apply for up to four consecutive calendar months in advance for a Weekend Right-of-Way Display Permit.

b. 60-Day Display Period

i. Temporary signs may be posted in the right-of-way for up to 60 consecutive calendar days.

ii. No more than three 60-Day Right-of-Way Display Permits may be issued to any person within a twelve month period

iii. A maximum of 50 individual signs may be posted.

2. Sign Standards.
Temporary signs displayed in the public right-of-way in accordance with a validly issued Right-of-Way Display Permit pursuant to this Chapter shall conform with all of the following:

a. Signs may be a maximum of eight square feet in sign area and three feet in height.

b. All signs shall be constructed of semi-durable materials, such as but not limited to corrugated plastic, vinyl, acrylic, or similar and must be anchored to the extent possible to prevent movement of the sign. Anchoring of the sign may not be permanent in nature and shall not damage the property upon which it is placed.

c. Signs shall not be affixed to or leaned against any street light, utility pole, traffic signal, fence, or other similar structure in the right-of-way. Signs shall not be posted in medians, traffic circles, or roundabouts.

d. Signs shall not encroach on or interfere with any vehicular access point, or pedestrian access point.

e. Permitted signs left in the right-of-way more than 48 hours after expiration of an applicable permit may be removed by the City.

f. Non-permitted signs or duly-permitted signs placed in the right-of-way which violate any of the requirements of this Chapter are subject to removal by the City at the expense of the responsible party.

g. No sign may be placed in the clear-sight triangle area of any signalized or unsignalized intersection criteria is based on AASHTO's" A Policy on Geometric Design of Highways and Streets.

156.09 Unified Sign Plan

A. General Applicability

1. A unified sign plan shall be used to coordinate all signs within developments of significant size, establishing criteria to govern the design and construction of signs for current and future tenants.

2. In any district, nonresidential and mixed-use development upon which more than one sign requiring a permit is proposed to be erected may elect or be required to submit a unified sign plan in accordance with the following:

a. Single-tenant and two-tenant nonresidential or mixed-use developments of any size, and multi-tenant nonresidential and mixed-use developments less than five acres in size may submit a unified sign plan at the option of the applicant.

b. Multi-tenant nonresidential and mixed-use developments, including multi-tenant commercial centers, are required to submit a unified sign plan if five acres or more in size.

3. Unified sign plans shall be submitted and approved in accordance with this section.

B. Applicability to Existing Development

1. For development existing as of - *date of adoption* – that requires a unified sign plan under the regulations of this section, the property owner may optionally submit a unified sign plan for approval. Once such unified sign plan is approved per the process described in this section, it shall be kept on file with the Department of Development Services and all future signs shall comply with the approved unified sign plan. If a proposed sign is in compliance with the unified sign plan, the Director of Development Services or their designee will issue a sign permit.

2. If a development existing prior to – *date of adoption* – that requires a unified sign plan under the regulations of this section chooses to forego the submission of a unified sign plan, each future sign installed in the development shall comply with all standards of this Chapter.

C. Unified Sign Plan Requirements

A unified sign plan shall provide details and specifications to establish a coordinated and consistent approach to all signs within a development. At a minimum, unified sign plans shall include the following:

1. A site plan for all lots within the development on which signs will be located, at a scale of not less than one inch to 100 feet and including the location of all buildings, parking lots, driveways and landscaped areas. The site plan shall

accurately indicate the number, location, and orientation of all signs for which a permit is being sought, and the anticipated location of future signs requiring a permit.

2. A table or tables containing the following:

a. The number and description of all signs within the development for which a permit is being sought, as well as future signs requiring a permit.

b. Computation of the maximum total sign area and number of signs permitted on the development site by this code.

c. Computation of the total sign area and number of signs being proposed, including dimensions of individual signs, maximum area, and maximum height.

3. Specification of standards for consistency among signs within the development, including color scheme, lettering or graphic style, lighting, typical location of building-mounted signs, materials, and sign proportions.

4. For each sign included in the unified sign plan for which a permit is being sought, the following shall be required:

a. Sign elevation, including annotated dimensions and description of sign elements.

b. For building-mounted signs, elevations including the location of each sign on the building face.

c. Description of illumination proposed for each sign.

D. Approval Procedure

Unified sign plans shall be approved by the Planning and Zoning Board in accordance with the following:

1. The applicant shall submit a unified sign plan to the Director of Development Services or their designee, who will review the unified sign plan and provide comment to the applicant. The applicant may modify the plan or submit the plan to the Planning and Zoning Board through the City Development Department. If the unified sign plan has not been modified per the comments of the Director of Development Services or their designee, a report detailing the comments will be forwarded to the Planning and Zoning Board with the unified sign plan.

2. The Planning and Zoning Board will review the unified sign plan at a public meeting. The Board will approve, approve with conditions, or deny the unified sign plan.

3. If the unified sign plan is approved with conditions, the plan shall be revised to comply with such conditions and be submitted to the Director of Development Services or their designee, who will verify that the revised unified sign plan complies with all required conditions.

4. If the unified sign plan is denied by the Planning and Zoning Board, the applicant may choose to submit a new unified sign plan or appeal the decision to the Governing Body.

5. Approved unified sign plans will be kept on file with the Director of Development Services. Following approval, no permanent sign shall be erected, placed or maintained except in conformance with the unified sign plan. If a proposed sign is in compliance with the unified sign plan, the Director of Development Services or their designee will approve the application through the standard permit process.

E. Amendments to Unified Sign Plans

1. The Director of Development Services or their designee may approve minor modifications to an approved unified sign plan, including modifications to sign dimensions of 10% or less, and relocation of a sign or signs to respond to final site engineering or building construction issues such as topography, drainage, underground utilities, structural safety, or pedestrian and vehicular circulation, when such relocation is deemed to maintain general compliance with the approved unified sign plan.

2. Any modification not considered a minor modification requires resubmittal of a unified sign plan to be approved by the Planning and Zoning Board.

F. Flexibility for Unique Properties, Buildings, and Sign Designs

The unified sign plan may provide flexibility for properties that contain unique elements or requirements, such as those that may need more signage than is otherwise allowed (in size or in quantity), those that may require additional signage due to a unique orientation – such as adjacency to a major thoroughfare, or those that wish to include unique design elements such as signs with sculptural or placemaking features.

1. A unified sign plan may be approved by the Planning and Zoning Board with elements that exceed the permitted height, area, and/or number of signs specified in this Chapter with the recommendation of the Director of Development Services or their designee. Such recommendation shall be based on findings in accordance with the following:

a. The development contains unique or unusual physical characteristics such as topography, proportion, size or relation to a public street that would limit or restrict normal sign visibility.

b. The development exhibits unique characteristics of land use, architectural style, site location, physical scale, historical interest, or other distinguishing features that represent clear variation from conventional development.

c. The proposed signage incorporates special design features such as sculptural or placemaking elements, or logos, emblems, murals, or statuaries that are integrated with the building architecture.

2. A recommendation to approve a unified sign plan with elements that exceed the standards of this Chapter shall be forwarded from the Director of Development Services or their designee to the Planning and Zoning Board with the unified sign plan per the requirements of Section 156.09.D.

156.10 Nonconforming Signs

A. A nonconforming permanent sign and sign structure may remain in use so long as it remains otherwise lawful and has not been damaged or destroyed to the extent of more than 50% of its value. A nonconforming permanent sign and sign structure that is damaged or destroyed to the extent of 50% or more of its value shall not be restored or repaired unless in conforms to all applicable regulations of this Code.

B. Sign value, for the purposes of item A above, is determined by comparing a repair cost estimate of the damaged sign with an estimate of the cost of a new, identical sign. Sign owners shall supply such estimates to the Director of Development Services or their designee.

C. Once a nonconforming sign and/or sign structure has been removed, it shall not be restored or repaired unless it conforms to all applicable regulations of this Code.

D. All temporary nonconforming signs shall be removed or brought into conformance within 60 days of the effective date of this Code.

E. The sign face of an existing nonconforming permanent sign may be replaced, but the structure shall not be altered to accommodate such change.

F. No nonconforming sign and sign structure may be relocated, in whole or in part, to any other location on the same or another lot, unless the entire sign and sign structure conforms to all regulations applicable to the lot where the sign is relocated.

G. No nonconforming sign shall be altered or enlarged in a way that increases the nonconformity of the sign or sign structure. This does not include normal maintenance and cleaning, or changing of the sign face.

156 SIGN REGULATIONS

156.01 Title, Purpose, and Applicability
156.02 Definitions and Rules of Measurement
156.03 Summary Table of Allowed Signs
156.04 General Standards
156.05 Sign Permit
156.06 Prohibited Signs
156.07 Signs Exempt from Permit
156.08 Sign Permit Required
156.09 Unified Sign Plan
156.10 Nonconforming Signs

156.01 Title, Purpose, and Applicability

The purpose of this Chapter is to establish a comprehensive system of controls regarding the construction, installation, and maintenance of signs in the City of Rio Rancho. This regulations within this Chapter are intended to:

A. Promote and protect the health, safety, and welfare of the City by ensuring the compatibility of signs with surrounding structures and land uses.

B. Preserve the natural beauty and scenic environment of Rio Rancho, while enhancing the City's business and economic climate through regulations that encourage the orderly and effective display of signs, and discourage sign clutter.

C. Protect the public from hazardous conditions that may result from the indiscriminate use and placement of signs, structurally unsafe signs, signs that obscure the vision of pedestrians or motorists, and signs that compete or conflict with necessary traffic signals, government signs, and warning signs.

156.02 Definitions and Rules of Measurement

Attention-Getting Device. Devices or ornamentations designed for the purpose of attracting attention. Attention-getting devices include sails, pennants, banners, temporary flex pole signs, balloon and inflatable signs, and similar. Flags of nations, states, and cities, or fraternal, religious, and civic organizations, or temporary holiday decorations are not attention-getting devices. **NEW**

Awning. A roof-like cover designed for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walkway, or door, with no supports that extend to the ground. **NEW**

Drive-in Restaurant. An eating establishment where customers park their vehicles in designated stalls and place orders through a speaker system, or directly with a restaurant employee. Food is delivered to the customer in the vehicle, and customers remain in their vehicle throughout the dining experience. **NEW**

Flag. Flags of any nation, state, municipality, or political subdivision, flags officially designated as a national, state, or local symbol, or flags of fraternal, religious, and civic organizations. Pennants and sails are not considered flags. **MODIFIED**.

Flag, Commercial. A sign consisting of fabric, plastic, vinyl, mesh, mylar or similar pliable material attached to a freestanding flagpole or building-mounted flagpole. **NEW**

Foot-candle. A unit of measure of illuminance equal to one lumen of light spread over an area of one square foot. **MODIFIED**

Lumen. A unit of light or illumination from a lamp or bulb, as defined by the International System of Units (SI). A typical 60-watt incandescent bulb or a 13-watt fluorescent bulb emits approximately 800 lumens. Light incident on a surface is measured in foot-candles (SI) using a commercial light meter. **NEW**

Marquee. A permanent roof-like structure constructed of permanent building materials that extends from the wall of a structure with no supports extending to the ground providing protection from the elements. **MODIFIED**

Multi-Tenant Commercial Center. A multi-tenant commercial center is a commercial development under unified control consisting of three or more separate commercial establishments sharing a common building, or which are in separate buildings sharing a common access/entranceway or parking area. **NEW**

Nit. A unit of measurement used to quantify the brightness or luminance of a light source. One nit is equal to one candela per square meter. **NEW**

Off-Premises Sign, Permanent. A permanent sign directing attention to a specific business, product, service, entertainment event, activity, or other commercial activity that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. Permanent off-premises signs are also called billboards (See Chapter 154 of the City of Rio Rancho Municipal Code). **NEW**

Off-Premises Sign, Temporary. A temporary sign directing attention to a specific business, product, service, entertainment event, activity, or other commercial activity that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. This includes any ground-mounted, building-mounted, or sign painted, pasted, or otherwise affixed to any tree, rock, fence, utility pole, hydrant, bridge, sidewalk, parkway, curb or street, bench, or trash receptacle that directs attention off-premises. **NEW**

On-Premises Sign. A sign directing attention to a business, product, service, entertainment event, activity, or other commercial activity that is sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. **MODIFIED**

Right-of-Way. The total area of land deeded, reserved by plat, or otherwise acquired by the city, primarily for the use of the public for the movement of people, goods, and vehicles. For the purpose of this chapter, city drainage or utility easements, and other city-owned easements, such as maintenance and service roads serving channels or arroyos, are also included. **ALIGNED (CH. 96)**

Sign. A lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, or inform that is visible from a public right of way. **MODIFIED**

Sign Face. The area of a sign that is designed and intended to display information, graphics, or messages. It represents the visible side or sides of the sign that are meant to be seen by pedestrians, motorists, or other viewers. **NEW**

Sign, A-Frame. A freestanding temporary, movable sign ordinarily in the shape of the letter "A" or some variation thereof. An A-Frame sign is displayed on the ground, not permanently fixed to the ground, and is usually two-sided, generally connected at the top and separated at the bottom. **MODIFIED**

Sign, Animated. A sign that uses moving or changing lights to depict action, movement, or the optical illusion of movement of part of the sign structure, sign, or pictorial segment, or including the movement of any illumination or the flashing or varying of light intensity to create a special effect or scene. Animated signs do not include electronic message signs. **MODIFIED**

Sign, Arcade. Any sign suspended from and located entirely under an arcade, covered porch, covered walkway, or similar architectural feature. **MODIFIED**

Sign, Awning. An awning sign is a sign printed, painted, stamped, perforated, stitched, or otherwise displayed upon an awning. **MODIFIED**

Sign, Blade. A sign attached to and projecting out from a building face or wall, generally at right angles to the building. Blade signs include signs that are totally in the right-of-way, partially in the right-of-way, or fully on private property. **NEW**

Sign, Canopy. A canopy sign is a sign printed, mounted, or installed upon a canopy. A canopy sign may be one of two types: **NEW**

1. **Canopy, Non-Structural.** A roofed structure attached to a building, which is not integral to the structure, that is made of durable, weather-resistant material such as canvas, canvas-like material, nylon, or vinyl-coated fabric, placed to extend outward from the building and supported both by mountings on the structure wall and by supports that extend to the ground.

2. **Canopy, Structural.** A roofed structure constructed of permanent building materials, such as metal, brick, stone, wood or similar building materials, which is constructed as part of and attached to a building, and extends outward from the building, supported both by the structure and by supports that extend to the ground.

Sign, Changeable Message. A component of a sign, allowing for a message to be changed manually. **MODIFIED**

Sign, Drive-Through. A sign constructed as a component of a drive-through facility. **NEW**

Sign, Electronic Message. A sign designed with a portion of the sign area using changing light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the electronic display panel(s) to form a message or messages in text and/or images, where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs, Flashing signs and animated signs are not considered electronic message signs. Electronic message signs do not include electronic billboards, which are addressed as billboards in Chapter 154 of the City of Rio Rancho Municipal Code. **MODIFIED**

Sign, Flashing. A sign with an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic message signs. **NEW**

Sign, Freestanding Pylon. A sign that is placed on or supported by the ground, independent of the principal structure on the lot and affixed, attached, or erected on a pole or pylon. **MODIFIED**

Sign, Freestanding Monument. A sign that is placed on or supported by the ground, independent of the principal structure on the lot, designed with a monument base that is an integral part of the sign structure. **MODIFIED**

Sign, Gateway. A sign that is installed over a pedestrian entryway and supported by the ground, independent of the principal structure on the lot, designed as an entryway feature to the property. **NEW**

Sign, Government. A sign erected and maintained pursuant to and in discharge of any government function. A government sign does not include any required legal notice by municipal codes and ordinances; such legal notice is not controlled by the sign code. **MODIFIED**

EDITOR'S NOTE: Government sign does not include any required legal notice by municipal codes and ordinances. Such legal notice is not controlled by the sign code.

Sign, Marquee. A sign that is displayed upon or attached to a marquee. Where designed as a changeable message sign, the changeable message portion may be manually changed or electronically changed when permitted by this Code. **MODIFIED**

Sign, Moving. A sign where the entire sign structure or a portion of which rotates, moves, elevates, or in any way alters position or geometry. A tri-vision sign where triangular prisms rotate inside a frame to show a new message and/or information are considered moving signs. Moving signs do not include clocks or barber poles. **NEW**

Sign, Multi-Tenant Commercial Center. A freestanding monument sign installed in conjunction with a multi-tenant commercial center. **NEW**

Sign, Nonconforming. A sign which was in conformity with the applicable regulations when created but which would now be prohibited or does not conform to one or more of the regulations in the sign code or future amendments thereto. **MODIFIED**

Sign, Portable. A sign whose principal supporting structure is intended, by design and construction, to rest upon the ground for support and may be easily moved or relocated for reuse. Portable signs include, but are not limited to, signs mounted upon a trailer, wheeled carrier, or other non-motorized mobile structure, with wheels or with wheels removed. Portable signs do not include A-frame signs. **MODIFIED**

Sign, Residential Subdivision. A freestanding monument sign installed at the entrance of a residential subdivision. A Residential Subdivision Sign may also be mounted on or integrated into an entry feature, such as a wall. **MODIFIED**

Sign, Right-of-way. A temporary sign installed in the public right-of-way in accordance with an approved right-of-way display permit. Right-of-way signs shall not be considered temporary off-premises signs.

Sign, Roof. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure. A sign attached to an exterior wall of a building but whose face extends above the roofline or plate line by less than 10% of the face of a sign shall not be considered a roof sign. **CURRENT**

Sign, Temporary. Any sign which is erected for a limited time and/or special purpose, typically constructed from semi-durable materials and not constituting a permanent structure. **MODIFIED**

Sign, Vehicle. Signs placed, mounted, installed, or painted on a vehicle for the primary purpose of attracting attention to an occupant's presence within a building at which the vehicle is being parked. **NEW**

Sign, Wall – Standard. A sign that is attached directly to an exterior wall of a building or dependent upon a building for support and projects 18 inches or less from the wall of a structure with the exposed face of the sign in a plane substantially parallel to the face of the wall. Window signs are not considered wall signs. **MODIFIED**

Sign, Wall – Painted. A sign that is painted, applied, or affixed directly on the exterior wall of a building or structure. A painted wall sign is not limited to only the application of paint, but includes other methods of application and/or material including but not limited to tile, screen printing, vinyl application, and paste-ups. **NEW**

Sign, Wall – Projected. A sign created by an optical device that projects an image directly onto the exterior wall of a building or structure by light or other technological means. **NEW**

Sign, Window. A sign that is attached to, placed upon, or printed on the interior or exterior of a window or door of a building, or displayed on the interior within two feet of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary. Shadowbox design within display windows, where the window display is designed with a background enclosure that blocks views into the establishment, is considered a window sign and the entire area of the shadowbox is subject to the maximum sign area limitation. **MODIFIED**

Sign, Wrap. A sign consisting of fabric, plastic, vinyl, mesh, mylar or a similar pliable material attached to a building or structure under construction, renovation, or maintenance and used to screen such construction, renovation, or maintenance activity. **NEW**

Sign, Yard. A sign placed within a street-facing yard intended to be viewed by the public. **NEW**

Strobe light. An electronic lighting device designed to emit intense, rapid flashes of light in a systematic and repetitive manner, typically at frequencies ranging from a few to several dozen flashes per second, with each flash lasting for a brief duration. **NEW**

Unified Sign Plan. A Unified Sign Plan addresses signage on a site to establish a coordinated and consistent approach to all signs within developments of significant size. Unified Sign Plans also allow for modification of the regulations of this Code such as permitted height, area, location and number of signs to respond to unique site conditions such as topography, size, or relation to a public street that would limit or restrict normal sign visibility. **NEW**

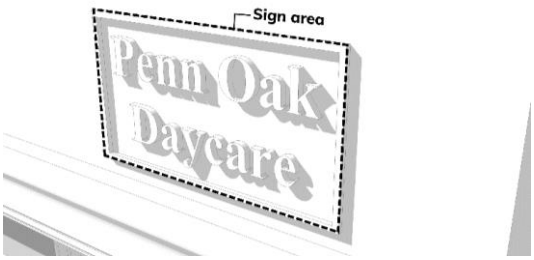
B. Rules of Measurement

1. Sign Area

a. The sign area of each sign is the total exposed surface devoted to the sign's message, including all ornamentation, embellishment, symbols, logos, letters, characters, other figures, or frames, whether structural or decorative. The calculation of sign area does not include any supports or bracing. For channel letters or freestanding logos/symbols, the sign area is calculated as the customary, applicable mathematical formula for the

total area of each square, circle, ellipse, rectangle, or triangle, or combination thereof, that encompasses each word, logo, image, background, and/or display. **CURRENT/CLARIFIED**

Sign Area



b. Window area, for the purpose of calculating maximum area of window signs, is calculated as a continuous surface until divided by an architectural or structural element. Mullions are not considered an element that divides window area. Total window area is calculated as length times width of the window area. Only the individual letters or logos of the window sign shall be used in the calculation of surface area. The transparent film around the perimeter of the individual letters or logos composing the window sign and used to affix the window sign to the interior or exterior of a windowpane or glass door shall be exempt from the area calculations, provided that such portion of the ~~transparent~~ film maintains 100% transparency ~~of the window.~~ **NEW**

EDITOR'S NOTE: This does not address opaque or semi-opaque window clings that do not contain imagery or text that constitute a sign.

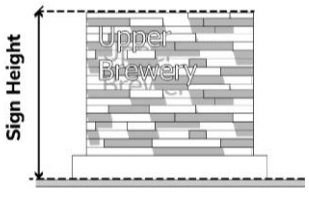
Commented [CJ1]: Comment (Tim/ 6/28 Minutes) says "remove sentence on transparency requirements, as we don't have transparency standards."

Clarifying that this should remain. It is not a minimumtransparency standard, but simply a provision that specifies that area of a window sign that is 100% transparent or clear is not counted as sign area. If it is not 100% transparent or clear, it is counted toward the area of the window sign. I've clarified in an editor's note below that window clings that don't constitute signs are not addressed by this.

2. Sign Height

For ground signs, sign height is measured as the vertical distance measured from the normal grade at the base of the sign to the highest point of the sign, including any decorative elements. Normal grade shall be construed to be the existing grade prior to construction or the newly established grade after construction, exclusive of any fill, berm, mound, or excavation solely for the purpose of locating the sign, whichever is lower. Where a sign is installed on a slope, height shall be measured from the average grade at the base of the sign, determined by measuring the grade at the center of each side of the sign structure and calculating the average. **CURRENT (CLARIFIED)**

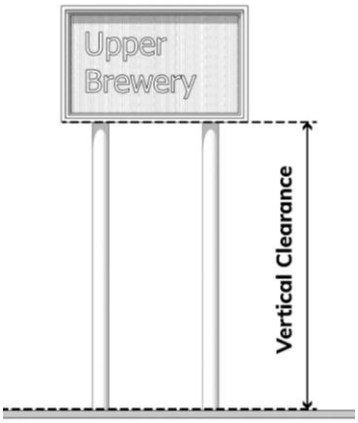
Sign Height



3. Vertical Clearance

Vertical clearance is measured as the vertical distance measured from the ground directly below the sign to the lowest point of the sign. **NEW**

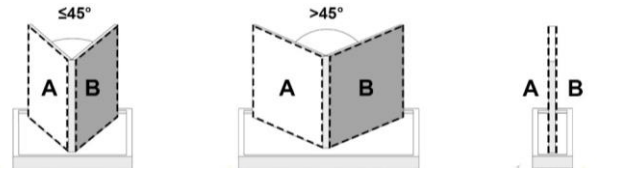
Vertical Clearance



4. Number of Sign Faces

If the interior angle between two sign faces is 45° (degrees) or less, the sign area is calculated as the area of one face only. If the interior angle between two sign faces is greater than 45° (degrees), the sign area is calculated as the sum of the two faces. **MODIFIED**

Calculation of Sign Faces

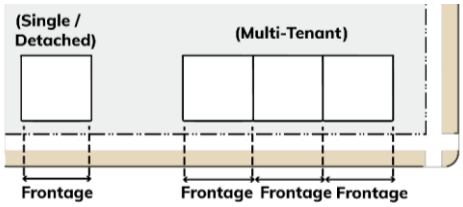


Sign Area = A or B | Sign Area = A + B | Sign Area = A or B

5. Frontage Length

Frontage length is measured as the linear distance between the surfaces of the outermost parallel walls of a principal structure. Where frontage length is calculated on a tenant basis, it is measured from the centerline of any party wall defining the tenant unit to the centerline of another party wall or the surface of an exterior wall. **CURRENT (CLARIFIED)**

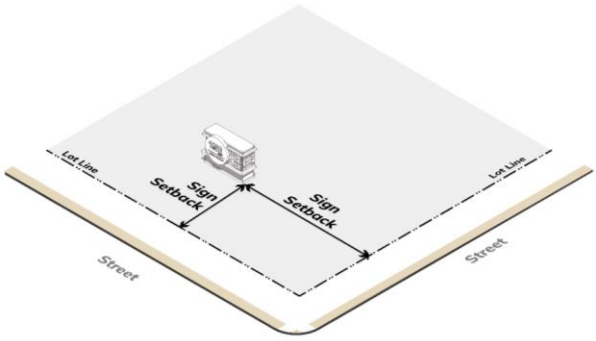
Calculation of Frontage Length



6. Sign Setback

Sign setback is measured perpendicularly from the applicable property line to the closest point of the sign or sign structure. **CURRENT (MOVED)**

Calculation of Sign Setback



156.03 Summary Table of Allowed Signs

Table 156-01, Summary Table of Allowed Signs, catalogs the types of permitted signs, both permanent and temporary, and indicates whether such sign requires a sign permit. This table is provided for reference purposes only. In the case of any conflict with the regulations of this Chapter and this ordinance, the specific sign regulations control over this table. Permanent Off-Premises Signs, also called Billboards, are not included in this table and are regulated by Chapter 154 of the City of Rio Rancho Municipal Code.

Table 156-01: Summary Table of Allowed Signs

Sign Type (Section Reference)	**No Permit Required**	**Permit Required**	Permissions
A-Frame Sign (156.07.A)	✔		Nonresidential and mixed-use development in nonresidential, SU, and H-1 districts
Arcade Sign (156.08.B.2)		✔	Nonresidential and mixed-use development in all districts
Attention-Getting Device (156.08.A)		✔	Nonresidential and mixed-use development in the nonresidential and SU districts
Awning Sign (156.08.B.3)		✔	Multi-family dwellings, nonresidential development, and mixed-use development in all districts
Blade Sign (156.08.B.4)		✔	Nonresidential and mixed-use development in the nonresidential, SU, and H-1 districts
Canopy Sign - Non-Structural (156.08.B.5.a)		✔	Multi-family dwellings, nonresidential development, and mixed-use development in all districts
Canopy Sign – Structural (156.08.B.5.b)		✔	Attached: Multi-family dwellings, nonresidential development, and mixed-use development in all districts Freestanding: Gasoline service stations, drive-through window restaurants, and drive-through facilities in all districts
Drive-Through Sign (156.08.C)		✔	Drive-through window restaurants and drive-through facilities in all districts

Table 156-01: Summary Table of Allowed Signs			
Sign Type (Section Reference)	**No Permit Required**	**Permit Required**	Permissions
Electronic Message Sign (156.08.D)		✔	Nonresidential and mixed-use development in the nonresidential and SU districts For the following uses in all districts: cultural facilities, educational facilities, parks, places of worship, or similar uses Gasoline service stations in any district, to display copy that is required to be displayed by law
Flag (156.07.G)	✔		All districts
Freestanding Sign, Monument (156.08.F.2)		✔	Multi-family dwellings, nonresidential development, and mixed-use development in all districts
Freestanding Sign, Pylon (156.08.F.3)		✔	Nonresidential and mixed-use development in the nonresidential and SU Districts, with the exception of the NC and O-1 Districts
Gateway Sign (156.08.E)		✔	Nonresidential and mixed-use development in the nonresidential, SU, and H-1 districts
Government Sign (156.07.F)	✔		All districts
Marquee Sign (156.08.G)		✔	Nonresidential and mixed-use development in the C-1, C-2, O-1, M-1, and SU districts
Multi-Tenant Commercial Center Sign (156.08.F.4)		✔	Multi-tenant commercial centers in all districts
Residential Subdivision Sign (156.08.F.5)		✔	Residential subdivisions in all districts
Right-of-Way Sign (156.08.H)		✔	Within the public right-of-way, subject to standards
Sign for Cultural or Historical Site (156.07.D)	✔		Sites or buildings with cultural or historical significance in all districts
Sign for Multiple Tenant Building Entry (156.07.H)	✔		Multi-family dwellings, nonresidential development, and mixed-use development with multiple tenants in all districts
Sign for Nonresidential or Mixed-Use Construction Activity (156.07.C)	✔		Sites where active nonresidential or mixed-use construction is taking place in all districts
Sign for On-Site Repair, Renovation, or Improvement (156.07.I)	✔		Sites where on-site repair, renovation, or improvements are taking place in all districts
Sign for Parking Lot or Structure Circulation Point (156.07.J)	✔		Parking lots and structures in all districts
Sign for Real Estate Activity (156.07.K)	✔		Sites where a structure or lot is offered for sale, lease, or rent in all districts
Sign for Residential Construction Activity (156.07.B)	✔		Sites where active residential construction is taking place in all districts
Sign on Gas Pump Island (156.07.E)	✔		Gasoline service stations in all districts
Wall Sign, Painted (156.08.B.7)		✔	Nonresidential and mixed-use development in all districts
Wall Sign, Projected (156.08.B.8)		✔	Nonresidential and mixed-use development in the nonresidential and SU districts
Wall Sign, Standard		✔	Nonresidential and mixed-use development in all districts

Table 156-01: Summary Table of Allowed Signs			
Sign Type (Section Reference)	**No Permit Required**	**Permit Required**	Permissions
(156.08.B.6)			
Window Sign (156.07.L)	✔		Nonresidential and mixed-use development in all districts
Yard Sign (156.07.M)	✔		All residential districts

156.04 General Standards

All signs constructed, erected, modified, or altered shall comply with the following standards.

A. Exceptions

All signs constructed, erected, modified, or altered shall comply with the standards of this Chapter, whether such signs do or do not require a sign permit, except for those items listed In this section. The following signs are not regulated by this Chapter.

1. Signs within a building or enclosed space within a development that are not visible from a public right-of-way.

2. Any required public notice, sign, or warning installed by federal, state, or local governments.

3. Logos and labels located on mechanical equipment, recycling bins, trash containers, and similar equipment, which are part of the equipment as manufactured and/or installed.

4. Works of art that do not contain a commercial message.

5. Holiday decorations that do not contain a commercial message.

B. Location Restrictions

1. No sign may be erected in a location that violates the building code, fire code, and other applicable City codes or ordinances.

2. No sign is permitted within the clear sight triangle as established within Chapter 154 of the City of Rio Rancho Municipal Code.

3. Only signs that have been placed by or authorized by the federal government, state government, or the City may be installed on public property. Any sign installed on public property, including rights-of-way, without prior authorization, will be removed by the City without notice and may be disposed of.

4. No permanent sign may be erected on private property without the consent of the property owner or his/her authorized agent. Any sign installed on private property without authorization may be removed by the property owner without notice and may be disposed of.

5. No sign may be erected in a manner that obstructs access to any ingress or egress, fire escapes, fire hydrants, fire department connections, or standpipes and similar fire safety connections.

C. Audio Components

Audio components are prohibited as part of any sign, except for the following:

1. Drive-through sign: For drive-through signs, including signs in individual stalls at drive-in restaurants, the audio component is limited to communication between the customer and the restaurant staff taking orders.

2. Signs owned and/or operated by a government agency.

3. Permitted gas station pump video screens.

D. Illumination

In addition to the standards below, all outdoor lighting shall comply with Chapter 159 of the City of Rio Rancho Municipal Code and the State of New Mexico Night Sky Protection Act. In the case of a conflict, the more stringent requirement shall apply.

1. Any sign illumination, including gooseneck reflectors, external illumination, and internal illumination, shall be designed, located, shielded, and directed to prevent the casting of glare or direct light upon roadways and surrounding properties, and prevent the distraction of motor vehicle operators or pedestrians in the public right-of-way.

2. The sign face of internally illuminated signs shall function as a filter to diffuse illumination. The sign face shall cover all internal illumination components so that no exposed bulbs are visible.

3. All external illumination of a sign shall concentrate the illumination upon the printed area of the sign face.

4. The use of bare bulbs as external illumination is only permitted for marquee signs.

5. No sign illumination may be combined with reflective materials, such as mirrors, polished metal, or highly glazed tiles, which would increase glare.

6. The maximum allowable illumination measured at the property line is one lumen per square foot (one foot-candle), unless such signs are allowed to extend over the property line, where the maximum allowable illumination is measured at the back of curb or edge of pavement.

7. For electronic message signs, the maximum brightness is limited to 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours, and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset. The sign shall have an ambient light meter and automatic or manual dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise.

E. Construction Standards

1. Supports and braces shall either be designed as an integral part of the overall sign or obscured from public view to the extent feasible.

2. All signs attached to a building shall be installed and maintained so that wall penetrations are watertight and the structure does not exceed allowable stresses of supporting materials.

3. All signs shall be designed and constructed in compliance with the building code, electrical code, and all other applicable codes and ordinances.

4. Glass comprising any part of a sign shall be safety glass.

5. Conduits, raceways, and other components of a sign illumination system shall be designed as an integral part of the overall sign structure and obscured from public view to the extent technically feasible.

F. Permitted Materials for Signs

1. Permanent sign structures shall be constructed of durable materials such as brick, wood or simulated wood, stone, concrete, metal, plastic, or high-density urethane (HDU) foam board or similar durable foam construction. Solid awnings and structural canopies shall be constructed of permanent building materials.

2. Awning, canopy, blade, and wall signs may also be constructed of durable weather resistant material such as canvas, nylon, or vinyl-coated fabric.

3. Wall, awning, canopy, and blade signs constructed of material shall be mounted within a frame so that they are held taut between all support posts.

G. Required Maintenance

1. All signs shall be kept in a safe and well-maintained condition and appearance, and shall be repainted or otherwise maintained by the property owner or business owner to prevent corrosion or deterioration caused by the weather, age, or any other condition.

2. All signs shall be maintained to prevent any kind of safety hazard, including faulty or deteriorated sign structures, a fire hazard, or an electrical shock hazard.

3. All unused sign hardware or wiring shall be removed.

4. No sign frame may remain unfilled or allow any internal part or element of the sign structure to be visible.

5. If a sign is maintained in an unsafe or unsecured condition, it shall be removed or the condition corrected. If The sign is not removed or the condition is not corrected within the required time period, the City may enforce this order through applicable enforcement procedures.

6. The City may remove any sign that is creating an imminent danger of significant harm to persons or property summarily and without notice. The owner of such sign is responsible for all costs of removal. The method for collection of costs may include, but shall not be limited to, a lien pursuant to NMSA SS 3-36-1 to 3-36-7.

7. Where possible by the design of a sign structure, the owner of a permanent sign that becomes obsolete after the associated activity or use is discontinued or abandoned shall remove all sign copy from the sign structure and the panels shall be removed and replaced with a blank panel. This requirement is not satisfied by reversing (i.e., turning such copy so that it faces inward), painting over, covering with vinyl or other fabric, or other means of obfuscating such copy.

8. Any activity that increases the sign area, sign height, or any sign dimension, or moves the location of a sign, requires a sign permit.

9. The following maintenance activities are exempt from requiring a sign permit. All other maintenance and alterations to a sign require a permit.

a. Painting, cleaning, or other normal maintenance and repair of a sign. This does not include any structural changes or any changes in the electrical components of the sign, including the removal or replacement of electrical components.

b. Changing the copy of a changeable message sign

H. Permanent Off-Premises Signs

Permanent off-premises signs are considered billboards, which are a distinct land use, and are subject to the regulations of Chapter 154 of the City of Rio Rancho Municipal Code.

156.05 Sign Permit

EDITOR'S NOTE: This mirrors the current sign permit procedure.

No sign, unless specifically identified as exempt by this Chapter, may be erected, constructed, altered, or relocated without first obtaining approval of a sign permit in accordance with the following.

A. Authority
The Director of Development Services or their designee is responsible for determining compliance with this title and issuing a sign permit.

B. Approval Procedure

1. A complete application for a sign permit, as well as any submittals required as a component of the application, shall be submitted to the Director of Development Services or their designee. If the party submitting the application does not own the subject property, the property owner is required to submit written permission for the installation of the sign as a component of the application.

2. Upon receiving an application for a sign permit, the Director of Development Services or their designee shall review it for completeness. If the application is determined to be incomplete, the applicant shall be notified in writing, specifying the deficiencies in the application.

3. Following a determination of completeness, the Director of Development Services or their designee shall either:

a. Approve the sign permit, if the application complies with all the requirements of these regulations and any other applicable codes.

b. Deny the sign permit, if the application fails in any way to comply with the requirements of these regulations or any other applicable codes. If the application is denied, the applicant shall be notified in writing, specifying the section or sections of these regulations or any other applicable codes with which the application is inconsistent.

C. Fees
To obtain a sign permit, all fees in accordance with the City's associated fee schedule shall be paid.

D. Illegal Signs

1. Illegally constructed signs
If a sign is constructed illegally without a required sign permit, the Director of Development Services or their designee will serve notice to the property owner that such sign shall be removed within 30 days of notice for permanent signs or seven days of notice for temporary signs. If the sign is not removed within the required period, the Director of Development Services or their designee may enforce this order through any remedies that are and as may from time to time be provided for or allowed by state law or municipal ordinances.

2. Illegally placed signs
Any sign placed on public property or within the public right-of-way without authorization may be removed immediately and without notice.

156.06 Prohibited Signs

EDITOR'S NOTE: All signs below are prohibited by the current code, unless noted below as a new prohibition.

The following sign types are specifically prohibited. All signs not expressly permitted by this chapter are also prohibited.

A. Flashing signs, except as specifically permitted within this Code.

B. Moving signs whether illuminated or not, including any sign that rotates, revolves, or has any visible moving part, or any sign that gives the appearance of movement, including signs designed to be moved by wind or other natural elements. This excludes clocks and barber poles.

C. Portable signs, not including A-frame signs. **NEW**

D. Roof signs.

E. Strobe lights, moving or fixed spotlights, floodlights/searchlights.

F. Signs that constitute a traffic hazard, including signs that: **NEW**

1. Interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal, or device because of its position, shape, or color, including signs illuminated in red, green, or amber color.

2. May be confused with any public safety lighting, including signs illuminated in red and blue colors.

3. Mislead, interfere with, or confuse traffic.

G. Temporary off-premises signs. Also known as push signs, bandit signs, and snipe signs. **NEW**

H. Vehicle signs. This prohibition does not include signs painted on or applied to vehicles, trucks, or buses that are being operated and stored in the normal course of business, such as signs located on delivery trucks, moving vans, and rental trucks, provided that the primary purpose of such vehicles is not the display of such sign, and that they are properly parked or stored in areas related to their use as vehicles and all such vehicles are in operable condition. This does not include vehicle for-sale signs.

I. Video display screens.

156.07 Signs Exempt from Permit

A. A-Frame Sign

1. A-frame signs are permitted for nonresidential and mixed-use development in the City's nonresidential districts, and the SU and H-1 Districts.

2. One A-frame sign is permitted per establishment, including one for each tenant in a multi-tenant development. A minimum separation of 15 feet is required between A-frame signs.

EDITOR'S NOTE: Limitation of 1 sign per establishment/tenant is new, current code does not have a limitation on number of A-Frame signs. Separation requirement is also new. These are common standards in sign codes to ensure that signs do not proliferate and block pedestrian circulation.

3. A-frame signs shall be located within 15 feet of the primary entrance of the business, and shall not interfere with pedestrian traffic or violate any standards of accessibility as required by ADA or other accessibility codes.

4. A-frame signs are limited to six square feet in area per side, and shall be no taller than four feet in height.

EDITOR'S NOTE: Current standard is 12sf max. sign area per business. Here, we have split it into 6sf per side of the sign; this is no real change in the amount of signage allowed, but ensures that a sign remains in scale with the A-Frame form – a 12sf single sided sign would be very large for this type of sign. The height maximum is a new standard to ensure visibility over the signs, another common provision in modern sign codes.

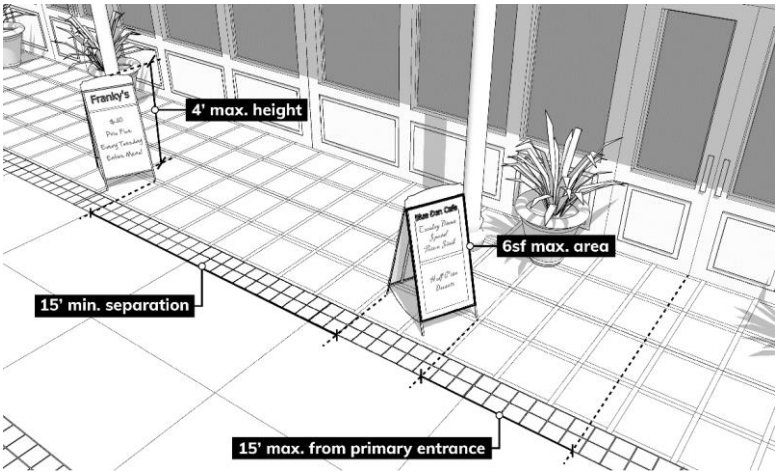
5. A-frame signs may be displayed outdoors during business hours only. At all other times, the signs shall be stored indoors.

6. A-frame signs shall not be displayed outdoors when severe wind, rain, or other weather conditions may pose a hazard.

7. Illumination of A-frame signs is prohibited.

8. No A-frame sign may have any type of electronic component.

A-Frame Sign



B. Sign for Residential Construction Activity

Where active residential construction is taking place, a temporary sign is permitted subject to the following:

1. One sign is permitted at each entrance to a residential subdivision or master planned community from a street classified as a collector or arterial.

2. Signs shall be designed as freestanding signs, wall signs, or signs on a fence, and shall be located a minimum of five feet from any property line.

3. Signs are limited to 32 square feet in area, and six feet in height.

EDITOR'S NOTE: This is a new sign type. Proposed standards match the current code's temporary sign standards for area and height in residential zones (156.22).

4. Illumination of signs is prohibited.

5. Signs shall be removed once construction within the residential subdivision or master planned community is complete.

C. Sign for Nonresidential or Mixed-Use Construction Activity

Where active nonresidential or mixed-use construction is taking place, a temporary sign is permitted subject to the following:

1. One sign is permitted per street frontage.

2. Signs shall be constructed as freestanding signs, wall signs, or signs installed on a fence.

3. The total square footage of signs on a lot shall not exceed 64 square feet, unless located on a single parcel 20 acres or more in size, in which case the total square footage shall not exceed 128 square feet.

EDITOR'S NOTE: This is a new sign type. Proposed standards match the current code's temporary sign standards for area and height in commercial zones (156.22).

4. Individual signs are limited to 32 square feet in area. When freestanding, signs are limited to six feet in height and shall be located a minimum of five feet from any property line.

EDITOR'S NOTE: Proposed area for individual signs matches the current code's limitation for an individual sign (156.22). Six foot height limitation is a new addition.

5. In lieu of a freestanding sign, wall sign, or sign installed on a fence, a wrap sign may be used to wrap the fence or the structure under construction. A wrap sign requires review and approval during site plan review. Such wrap sign shall be made of mesh or similar material ~~that is not completely opaque~~. There is no maximum square footage limitation for a wrap sign.

EDITOR'S NOTE: This is a new flexibility, allowing for unlimited square footage when using a wrap sign on a fence or structure.

6. Illumination of signs is prohibited.

D. Sign for Cultural or Historical Site

EDITOR'S NOTE: This is a new sign type, allowing for signs on cultural or historical sites.

Sites or buildings with cultural or historical significance are permitted a permanent sign, subject to the following:

1. Signs on culturally or historically significant sites or buildings are limited to one sign per street frontage.

2. Signs on culturally or historically significant sites or buildings may be constructed as freestanding signs or wall signs as follows:

a. Signs are limited to six square feet.

b. Freestanding signs are limited to four feet in height and shall be located a minimum of five feet from any property line.

c. Wall signs shall be placed to be an integral part of the structure, cut into stone or masonry, or be a permanently affixed plaque of metal or other durable material.

E. Sign on Gas Pump Island

A maximum of one sign mounted on each gas station pump island is permitted and is limited to two square feet in sign area. All such signs shall be oriented to face the vehicle parked at the pump.

EDITOR'S NOTE: This is a new sign type, allowing for small signs on gas pump islands.

F. Government Sign

1. Government signs are allowed in all districts and in any number, configuration, or size.

2. In all districts, the type and extent of illumination required is at the discretion of the authorized government agency.

EDITOR'S NOTE: Standards are aligned with current approach.

G. Flag

Flags are permitted in all districts.

1. Flags may be freestanding or wall mounted. There is no limit on the number of flags permitted.

2. There is no limit on the size of flags.

EDITOR'S NOTE: This proposed approach does not limit the number or size of flags. Flagpoles, as structures, are currently regulated within Chapter 154 of the City Code which limits them to 32 feet in height, and requires a ten foot setback from any property line in any residential district (154.60). In commercial districts, flagpoles are limited to 50 feet in height, and must be set back 25 feet from any property line. Heights greater than 50 feet may be approved by a conditional permit (154.61).

3. All flagpoles shall conform to the standards established within Chapter 154 of the City of Rio Rancho Municipal Code.

4. Flags may be externally illuminated, and shall comply with Chapter 159 of the City of Rio Rancho Municipal Code and the State of New Mexico Night Sky Protection Act.

H. Sign for Multiple Tenant Building Entry

EDITOR'S NOTE: New sign type. Standards match the current code's standards for "building identification signs." It has been renamed to meet content neutrality rules.

Multi-family dwellings, nonresidential development, and mixed-use development with multiple tenants in all districts are permitted a permanent sign at each building entry, subject to the following:

1. A maximum of one sign is allowed per building entry.

2. Signs may be constructed as either freestanding signs or wall signs.

3. Signs are limited to eight square feet in area.

4. Freestanding signs are limited to six feet in height, and shall be located within five feet of the building entry, and a minimum of five feet from any property line.

5. Wall signs shall be installed within five feet of the building entry.

I. Sign for On-Site Repair, Renovation, or Improvement

On lots where on-site repair, renovation, or improvements are taking place, a temporary sign is permitted. Such temporary signs are subject to the following:

1. A maximum of one sign per lot is permitted.

2. Signs are permitted in all districts on sites with active repair, renovation, or improvement projects.

3. Signs may be installed only after approval of a permit for the repair, renovation, or improvement activity. Signs shall be removed upon the completion of the repair, renovation, or improvement activity.

4. Signs may be constructed as freestanding signs, subject to the following:

a. Signs are limited to a maximum of eight square feet in area and six feet in height.

EDITOR'S NOTE: This is a new sign type. Proposed standards match the current code's temporary sign standards for area and height in residential zones (156.22).

b. Signs shall be located a minimum of five feet from any property line.

c. Signs may not be illuminated.

J. Sign for Parking Lot or Structure Circulation Point

Parking lots and structures in all districts are permitted permanent signs at parking lot and/or structure circulation points in accordance with the following:

1. Circulation points include, but are not limited to, entrances/exits, driveway intersections, drive-through lanes, fire zones, and parking lot drive aisles.

2. Signs are limited to a maximum of four square feet in area and five feet in height.

EDITOR'S NOTE: This is a new sign type. Proposed standards match the current code's standards for "Incidental/Directional/Safety" signs.

3. Freestanding parking lot or structure circulation point signs shall be located a minimum of five feet from any right-of-way line.

4. Signs for parking lot or structure circulation points may be internally or externally illuminated.

K. Sign for Real Estate Activity

When a structure or lot is offered for sale, lease, or rent, a temporary real estate activity sign is permitted on such lot as follows:

1. Signs are permitted in all districts, and shall be located on the lot offered for sale, lease, or rent, or at the entrance of a new residential subdivision.

2. Signs are limited to one sign per street frontage, except for new residential subdivisions which are limited to one sign.

3. Signs may be constructed as freestanding, wall, or window signs, apart from those for new residential subdivisions which shall be freestanding. Freestanding signs shall be located a minimum of five feet from any property line.

4. Signs are subject to the following maximum sign area limitations:

a. Residential districts, A-R, OS, PR, T-Z: eight square feet.

EDITOR'S NOTE: Proposed standards match the current code (156.22)

b. Nonresidential, SU and H-1 districts (not including M-1 or BP): 32 square feet.

EDITOR'S NOTE: Proposed standards match the current code (156.22)

c. M-1 and BP districts: 40 square feet.

EDITOR'S NOTE: Proposed standards exceed what is allowed in the current code.

d. New residential subdivision of three lots or more (any district): 32 square feet.

EDITOR'S NOTE: Proposed standards match the current code (156.22)

5. Freestanding signs are limited to six feet in height.

6. Signs for real estate activity may not be illuminated.

7. Signs shall be removed within five days of final closing, lease, or rental.

L. Window Sign

1. Window signs are permitted for nonresidential and mixed-use development in all districts.

2. All window signs, whether temporary or permanent, are limited to no more than 50% of the surface of each window area. Window area is measured as a continuous surface until divided by an architectural or structural element.

Mullions are not considered an element that divides window area.

EDITOR'S NOTE: Proposed standards exceed the current code, which allows for 25% coverage. Window signs are also proposed to be permitted in all districts for nonresidential and mixed use buildings, a more permissive approach than the current code.

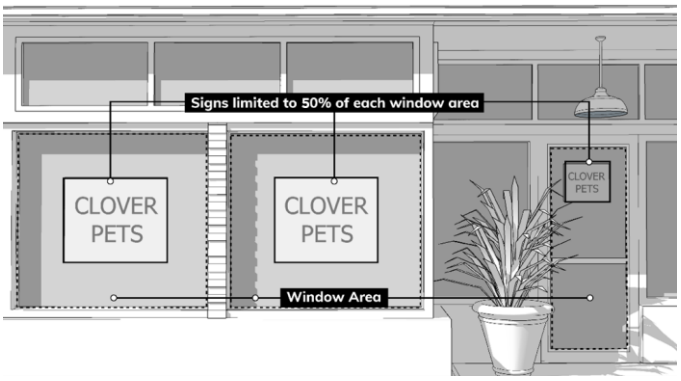
3. Internally illuminated window signs are permitted, but are limited to a maximum area of six square feet or 30% of the surface of the window area, whichever is less. Such illuminated signs may not contain an animated or flashing component, and may not strobe.

EDITOR'S NOTE: Allowance for internally illuminated window signs is a new flexibility.

4. Window displays of items sold on the premises are not considered window signs.

EDITOR'S NOTE: This is another clarification that provides flexibility, not in the current code.

Window Sign



M. Yard Sign

Yard signs are permitted in all residential districts.

1. There is no limit on the number of signs permitted, however the maximum total sign area may not exceed 32 square feet

2. Individual signs are limited to a maximum of eight square feet in area and six feet in height.

EDITOR'S NOTE: This is a newly defined sign type. Proposed standards, however, match the current regulations for these types of signs on private property (156.22)

3. Yard signs shall be located a minimum of five feet from any right-of-way line.

4. No sign may be illuminated.

5. Signs shall not be used for any on-premises or off-premises advertising.

156.08 Sign Permit Required

This section describes the types of signs allowed with a sign permit. Specific regulations for each sign type may include further restrictions pertaining to which districts and/or uses within a district may utilize these sign types.

A. Attention-Getting Device

Attention-getting devices are permitted as temporary signs for nonresidential and mixed-use development in the nonresidential and SU districts.

~~1.~~ ~~One freestanding and one wall-mounted attention-getting device may be installed or mounted simultaneously.~~

~~2~~1. Attention-getting devices are limited to the following display periods:

a. When used in coordination with an event, attention-getting devices are permitted a total display period of seven days prior to the start of the event, the duration of the event, and three days following the end of the event.

b. When not in coordination with an event: 15 days

c. Four display periods per year are permitted, with a minimum of 30 days required between successive display periods.

~~3~~2. Attention-getting devices for multi-tenant sites are subject to the following:

a. Each tenant establishment with ground floor frontage in a multi-tenant structure may have one freestanding and one wall-mounted attention-getting device installed or mounted simultaneously.

b. The display period and minimum 30-day interval between displays applies to each tenant establishment individually, rather than the site as a whole.

~~4~~3. Freestanding attention-getting devices are subject to the following:

a. Freestanding attention-getting devices are allowed at a ratio of one attention-getting device for every 25 linear feet of street frontage. Where a structure or tenant space has less than 25 linear feet of street frontage, one attention-getting device is permitted. There shall be a 15 foot separation between freestanding attention-getting devices.

EDITOR'S NOTE: This is more permissive than the current code, which only allows 12 square feet of sign area per business.

b. Freestanding attention-getting devices are limited to a maximum height of ten feet and 32 square feet in area. If designed as a balloon or inflatable sign, a freestanding attention-getting device is limited to a maximum of 15 feet in height, including any tethering.

EDITOR'S NOTE: Proposed standards exceed the 12 square feet allowed within the current regulations for these types of signs, currently called "Flags (Flex-Pole) on nonresidential lots."

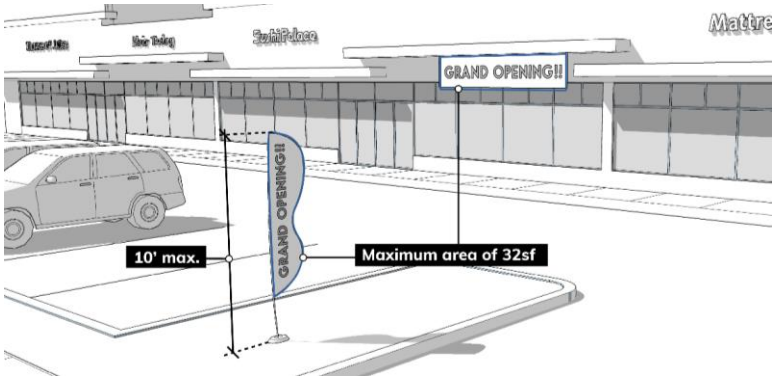
c. Freestanding attention-getting devices shall be located a minimum of five feet from the property line, as measured from the outermost portion of the sign. No part of a freestanding attention-getting device may extend over the property line.

~~5~~4. Wall-mounted attention-getting devices are limited to 60 square feet, and may not exceed the height of the ground floor of the structure. Wall-mounted attention getting devices for multi-tenant structures are limited to 32 square feet per tenant establishment.

EDITOR'S NOTE: Proposed standards for wall-mounted attention-getting devices match the current standards for these types of signs, currently called "banners."

Commented [CJ2]: Removed this limitation; controlled below for multi-tenant; I don't think it was our intent to limit the number of these, but to allow them based upon frontage as specified in 3a.

Attention-Getting Device



B. Building-Mounted Signs

1. General Regulations

a. The following are considered building-mounted signs: permanent arcade signs, awning signs, blade signs, canopy signs, standard wall signs, and painted or projected wall signs.

b. Single-tenant structures are permitted a maximum building-mounted sign area of two square feet per one linear foot of building length or 50 square feet, whichever is greater. Multi-tenant structures are permitted a maximum building-mounted sign area of two square feet per one linear foot of frontage per ground-floor tenant, or 50 square feet per ground-floor tenant, whichever is greater.

EDITOR'S NOTE: Proposed standards are a new, clearer, more permissive approach to these signs. Current code is somewhat vague and allows for "20% of building frontage," though it is unclear how this is calculated or applied. Example – 50 feet of frontage would be allowed 100sf of sign area under this new approach, which could include any (or all) of the sign types in items 2-8 below.

c. Building-mounted signs may be used in any quantity or combination, so long as the total permitted square footage is not exceeded and all individual signs conform to the specific provisions per sign type established in Sections 156.08.B.2 through 156.08.B.8 below.

2. Arcade Sign

a. Arcade signs are permitted for nonresidential and mixed-use development in all districts.

EDITOR'S NOTE: This is more permissive than the current code, which only allows this sign type in the neighborhood and commercial/industrial sign districts, and only "where a plaza exists."

b. Arcade signs shall be located beneath, and shall be securely attached to an arcade, gallery, covered porch or walkway, awning, or canopy.

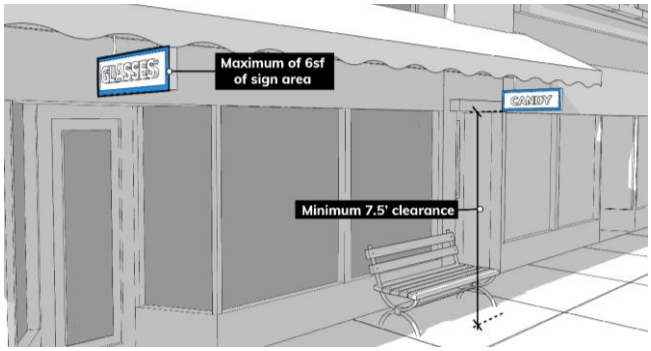
c. One arcade sign is permitted per building entry.

d. Arcade signs shall maintain a minimum vertical clearance of 7.5 feet from the surface above which the sign is mounted, and are limited to a maximum of 12 square feet in sign area.

EDITOR'S NOTE: Proposed area matches the current code. Vertical clearance is a new standard.

e. Arcade signs are not counted toward the maximum building-mounted sign area for single- or multi-tenant structures.

Arcade Sign



3. Awning Sign

a. Awning signs are permitted for multi-family dwellings, nonresidential development, and mixed-use development in all districts.

b. Awning signs shall maintain a minimum vertical clearance of 7.5 feet from the surface above which the sign is mounted.

c. Awning signs may encroach into the public right-of-way, but shall be located at least two feet from a curb line.

d. Sign copy on any awning sign is limited to 25% of each awning surface area (front, sides, valance).

EDITOR'S NOTE: Proposed standards are a new, clearer, more permissive approach to these signs. Current code is somewhat vague and allows for "20% of awning for each tenant space or building," but does not specify how the 20% is measured.

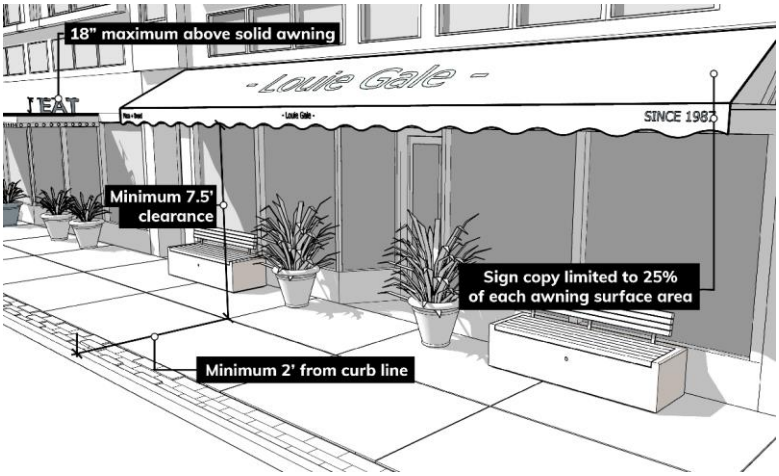
e. Awning signs shall be constructed of durable, weather-resistant material such as, but not limited to, canvas, canvas-like material, nylon, vinyl-coated fabric, or permanent building material such as metal.

f. Solid, non-textile awnings are permitted lettering attached to and located either above or below the awning to a maximum height of 18 inches. If attached below the awning, a minimum vertical clearance of 7.5 feet shall be maintained from the bottom of the lettering to the surface above which it is mounted.

EDITOR'S NOTE: This is a new flexibility, not within the current code.

g. Awning signs may be externally illuminated. Any illumination of an awning sign shall be focused on the sign copy or printed area. Back-lit awnings are prohibited.

Awning Sign



4. Blade Sign

a. Blade signs are permitted for nonresidential and mixed-use development in the nonresidential, SU and H-1 districts.

b. One blade sign is permitted per establishment with ground-floor frontage on a street or public plaza.

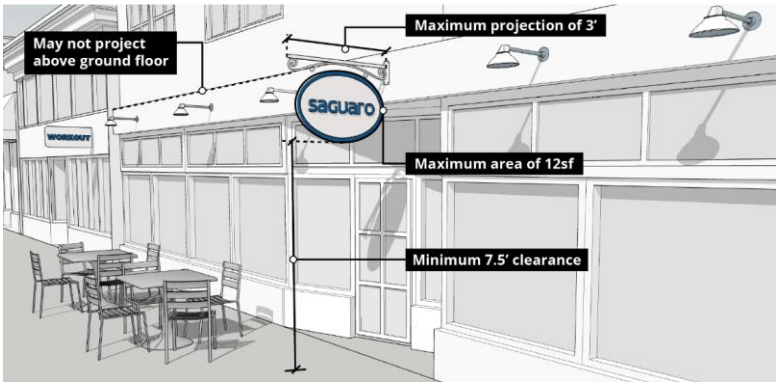
c. Blade signs are limited to 12 square feet, and may project a maximum of three feet from the façade.

EDITOR'S NOTE: This sign has been renamed. Proposed standards match the current code's standards for "Projecting Signs." Vertical clearance (below) is a new standard which is related to public safety.

d. Blade signs shall maintain a minimum vertical clearance of 7.5 feet from the surface above which the sign is mounted. No blade sign affixed to a building may project higher than the ground floor, including the sign support structure.

e. Blade signs may be internally or externally illuminated.

Blade Sign



5. Canopy Sign

EDITOR'S NOTE: Proposed standards are a new, clearer, more permissive approach to canopy signs. The current code specifies the allowed area for canopy signs as "sign area on perpendicular face of building," which is unclear and difficult to administer. The proposed approach includes allowances for multiple types of canopy signs, and allows a significant area for sign copy to be displayed, largely in alignment with the approach to awning signs, which are more permissive than the current code.

Canopy signs are divided into two types: non-structural and structural.

a. Non-Structural Canopy Signs

I. Non-structural canopy signs are permitted for multi-family dwellings, nonresidential development, and mixed-use development in all districts.

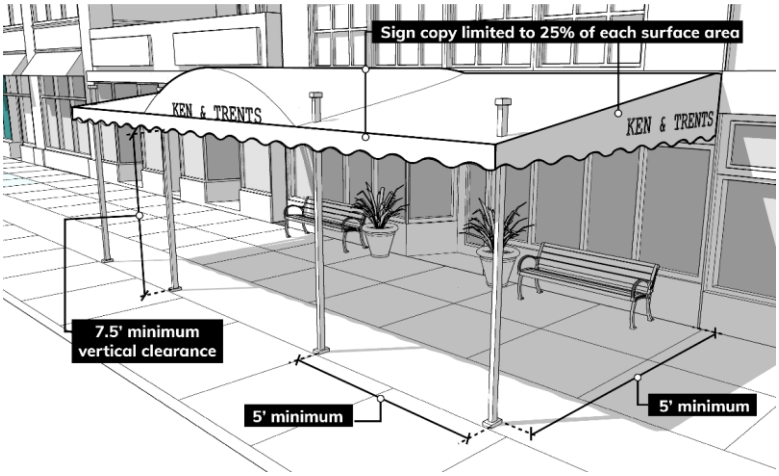
ii. Non-structural canopy signs shall maintain a minimum vertical clearance of 7.5 feet.

iii. Non-structural canopy signs may encroach into the public right-of-way but shall be located at least two feet from the curb line. Support posts shall maintain a minimum separation of five feet between posts and five feet between the posts and any building wall.

iv. Sign copy on any canopy sign is limited to 25% of each surface area (front, sides, valance).

v. Non-structural canopy signs may be externally illuminated. Any illumination shall be focused on the sign copy or printed area. Back-lit canopies are prohibited.

Non-Structural Canopy Sign



b. Structural Canopy Signs

if. Permissions for Structural Canopy Signs
Structural canopy signs are permitted as follows:

(A) Structural canopy signs attached to the principal structure are permitted for multi-family dwellings, nonresidential development, and mixed-use development in all districts.

(B) Freestanding structural canopy signs are permitted for gasoline service stations, drive-through window restaurants, and drive-through facilities in any district.

ii. Structural Canopy Signs Attached to Principal Structure
Structural canopy signs attached to the principal structure are subject to the following:

(A) Canopy signs attached to the principal structure may encroach into the public right-of-way but shall be located at least two feet from a curb line.

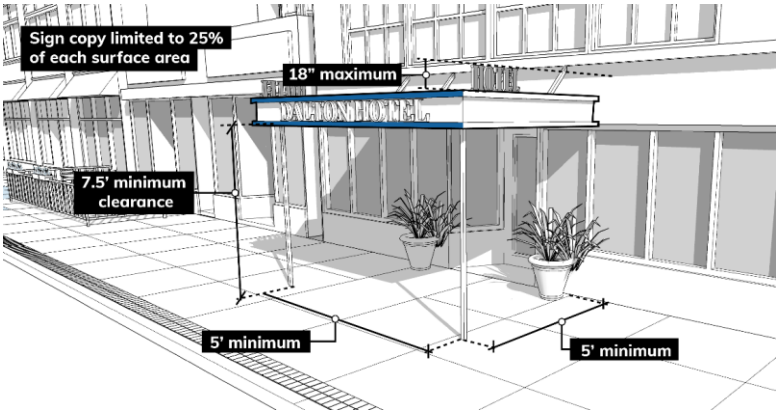
(B) Support posts shall maintain a minimum separation of five feet between posts and five feet between the posts and any building wall.

(C) Canopy signs attached to a building shall maintain a minimum vertical clearance of 7.5 feet.

(D) For structural canopies attached to a principal building, sign copy is limited to 25% of each surface area. Such signs are permitted lettering attached to and located either above or below the canopy to a maximum height of 18 inches. If attached below the canopy, a minimum vertical clearance of 7.5 feet shall be maintained from the bottom of the lettering to the surface above which it is mounted.

(E) Structural canopy signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign copy or printed area.

Structural Canopy Sign Attached to Principal Structure



iii. Freestanding Structural Canopy Signs

Freestanding structural canopy signs are subject to the following. Such signs are exempt from the calculation of total building-mounted sign area.

EDITOR'S NOTE: Exemption from the calculation of total building-mounted sign area is a significant new flexibility.

(A) Freestanding structural canopy signs are subject to the setback requirements of the district where they are located or ten feet from any property line, whichever is greater.

(B) Freestanding structural canopy signs are limited to a maximum height of 25 feet. Height is measured to the top of a flat roof or to the average height between the eave and the ridge of a pitched roof.

(C) For freestanding structural canopies, sign copy is limited to a maximum of 25% of the area of each façade. No sign may be mounted above the top of the roof of the structural canopy, but a sign mounted on the structural canopy façade may extend a maximum of six inches above the roofline.

(D) Freestanding structural canopy signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign copy or printed area. Freestanding structural canopies are permitted an illuminated band along each facade of the canopy, which is limited to 10% of the overall height of the facade of the canopy.

Freestanding Structural Canopy Sign

6. Wall Sign, Standard

EDITOR'S NOTE: This is clearer and more permissive than the approach to "attached/building/wall signs" in the current code. Current standards allow "20% of building unit frontage," however it is unclear how the current 20% allowance is measured (frontage is a linear measurement).

Example of new approach – 50 feet of frontage would allow for 50 square feet of wall sign area for a single tenant. Regardless of frontage, all tenants and structures are guaranteed a minimum of 50 square feet of sign area, more permissive than the current code.

a. Standard wall signs are permitted for nonresidential and mixed-use development in any district.

b. Standard wall signs are permitted on all facades of a structure. On a site consisting of multiple structures, each structure is permitted wall signs per the regulations of this section. The square footage permitted for individual structures shall not be combined to create a larger sign on any one structure.

c. For a single tenant structure, the maximum total wall sign area is one square foot per one linear foot of building wall where the wall sign(s) will be mounted or 450 square feet, whichever is greater. The square footage permitted for individual façades shall not be combined to create a larger sign on any one façade.

d. For a structure that contains multiple tenants, each tenant that has exterior ground floor frontage is permitted a total wall sign area of one square foot per one linear foot of frontage or 50 square feet, whichever is greater. The square footage permitted for individual tenants shall be used only for each tenant frontage, and shall not be combined to create a larger sign along any tenant frontage.

e. The number of individual wall signs on a façade is not limited, however the cumulative sign area of all signs on a facade shall not exceed the maximum allowable total wall sign area per façade.

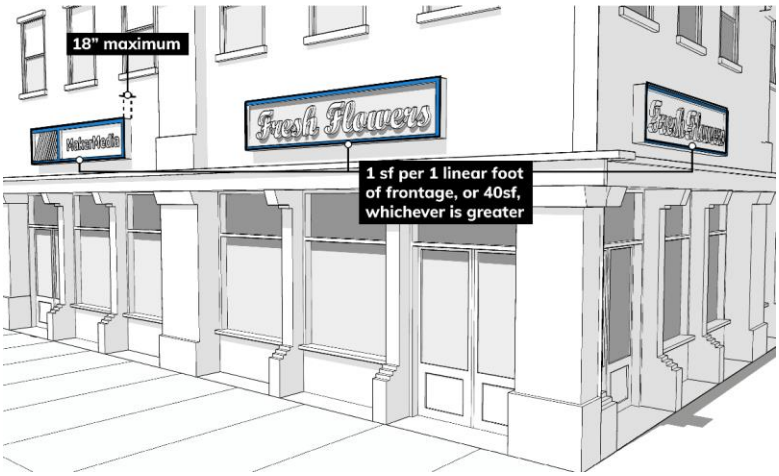
f. Standard wall signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

g. Signs shall be safely and securely mounted to the building wall, and may project a maximum of 18 inches from the façade to which they are mounted.

h. No wall sign affixed to a building, including any sign support structure, may project horizontally beyond the end of a wall, or vertically beyond the roofline of a flat-roofed structure, or the eave of a pitched-roof structure.

a. On existing buildings, a parapet wall shall not be constructed for the sole purpose of increasing the allowable height of a wall sign. For new buildings, when a sign is mounted on a parapet wall, such parapet wall shall maintain consistency with the architectural design of the building, including building materials.

Wall Sign - Standard



7. Wall Sign, Painted

EDITOR'S NOTE: This is a new sign type that allows for significant sign area.

a. Painted wall signs are permitted for nonresidential and mixed-use development in any district.

b. Painted wall signs are permitted on each facade of a structure.

c. Painted wall signs are limited to 50% of the façade on which they are painted, or 200 square feet, whichever is less. The square footage permitted for individual façades shall not be combined to create a larger sign on any one façade.

d. Painted wall signs may be externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

e. Painted wall signs shall not project more than 0.25 inches from a building wall.

8. Wall Sign, Projected

EDITOR'S NOTE: This is a new sign type that allows for significant sign area.

a. Projected wall signs are exempt from the calculation of total building-mounted sign area.

b. Projected wall signs are permitted for nonresidential and mixed-use development in the nonresidential and SU districts.

c. Projected wall signs are limited to 50% of the façade onto which they are projected.

d. Projected wall signs shall remain static and shall not flash, rotate, or move. No projected wall sign shall display video.

e. Projected wall signs shall not direct glare onto adjacent properties.

f. Projected wall signs shall not extend beyond the façade onto which they are projected.

g. Projected wall signs shall not be projected over any other permanent or temporary sign, including painted wall signs.

C. Drive-Through Sign

EDITOR'S NOTE: This is a new sign type. Standards are more permissive than the current "freestanding monument sign" allowances.

1. Drive-through signs are permitted for all drive-through window restaurants and drive-through facilities in any district.

2. Drive-through signs are limited to a maximum of 70 square feet in area and ten feet in height, and may comprise a mixture of separate freestanding signs, including preview boards installed at earlier points in the drive-through lane. The total square footage of all signs, however, shall not exceed 70 square feet.

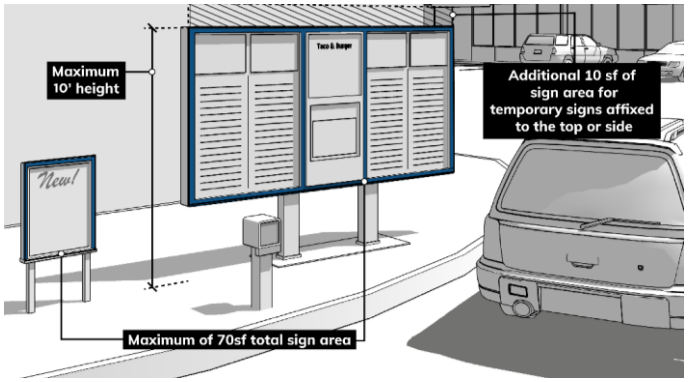
3. An additional ten square feet of sign area is permitted for temporary signs affixed to the top or sides of a permanent drive-through sign.

4. Drive-in restaurants, where customers park in designated stalls and remain in their vehicles to dine, are permitted one sign per parking stall. Such signs are limited to a maximum of 30 square feet in area per stall, and six feet in height. Signs may comprise a mixture of freestanding signs, and temporary signs such as promotions or special items affixed to the top or sides of a permanent sign. The total square footage of all signs, however, shall not exceed 30 square feet per stall.

5. Any drive-through sign, including signs within stalls at drive-in restaurants, shall be located a minimum of 15 feet from any residential district property line, measured from sign face to property line.

6. Drive-through signs, including signs within stalls at drive-in restaurants, may be internally illuminated, and may contain an electronic screen for interaction and verification with customers.

Drive-Through Sign



D. Electronic Message Sign

EDITOR'S NOTE: Electronic message signs are more broadly permitted in this draft than in the current code. Electronic message signs do not include electronic billboards, which are addressed as billboards in Chapter 154 of the City of Rio Rancho Municipal Code.

1. Electronic message signs are permitted for the following:

a. Nonresidential and mixed-use development in the nonresidential and SU districts.

b. The following uses in any zoning district: cultural facilities, educational facilities, parks, places of worship or similar uses.

c. Gasoline service stations in any district are permitted an electronic message sign to display any copy that is required to be displayed by law, such as fuel prices.

2. Electronic message signs are limited to the following dimensions:

a. Electronic message signs are limited to freestanding monument signs (156.08.F.2) and multi-tenant commercial center signs (156.08.F.4), and shall be integrated into a larger sign structure. The electronic component is limited to a maximum of 75% of the total area of the sign, or the limitations established in items b and c below, whichever is less.

b. The electronic component of electronic message signs in the nonresidential and SU districts is limited to a maximum of 50 square feet, unless located immediately adjacent to or across a right-of-way from a residential district, in which case they are limited to a maximum of 30 square feet.

EDITOR'S NOTE: 50 square foot maximum is the current standard. 30 square foot limitation when adjacent or across from a residential district is new permission from that of the current approach, which prohibits electronic message signs within 40 feet of a residential district. The 30 square foot limitation is the current code's allowance for these signs in the neighborhood and institutional sign districts. Since we have allowed them within 40 feet of a residential district, we feel it is a reasonable compromise to make them slightly smaller.

c. The electronic component of electronic message signs in any district other than the nonresidential and SU districts is limited to a maximum of 30 square feet.

EDITOR'S NOTE: This is the current standard.

3. Only one electronic message sign per lot is permitted. For the purposes of this regulation, a multi-tenant development comprising separate lots of record, including any out-lot parcels, is considered one lot.

4. The sign structure shall contain permanent copy in addition to the electronic component, such that if the electronic component is turned off, the sign is not blank.

5. Each message or image displayed on an electronic message sign shall be static for a minimum of eight seconds, and shall be complete, not continuing on a subsequent message.

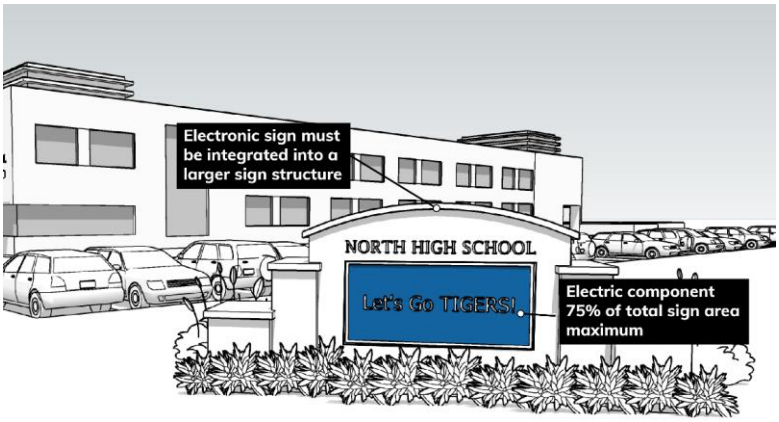
6. Electronic message signs shall display static messages only, with no animation or effects simulating animation or video. Transitions from one message to another shall appear instantaneous as perceived by the human eye. Any scrolling, flashing, blinking, fading, rolling, shading, dissolving, spinning, revolving, shaking, or any other effect that gives the appearance of movement to the message or any component of the sign is prohibited.

7. For electronic message signs, the maximum brightness is limited to 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours, and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset. The sign must have an ambient light meter and automatic or manual dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise.

8. All signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.

9. Electronic message signs shall not operate as an off-premises sign. This does not include public service messages.

Electronic Message Sign



E. Gateway Sign

EDITOR'S NOTE: This is a new sign type, not defined or addressed within the current code.

1. Gateway signs are permitted for nonresidential and mixed-use development in the nonresidential, SU, and H-1 districts.

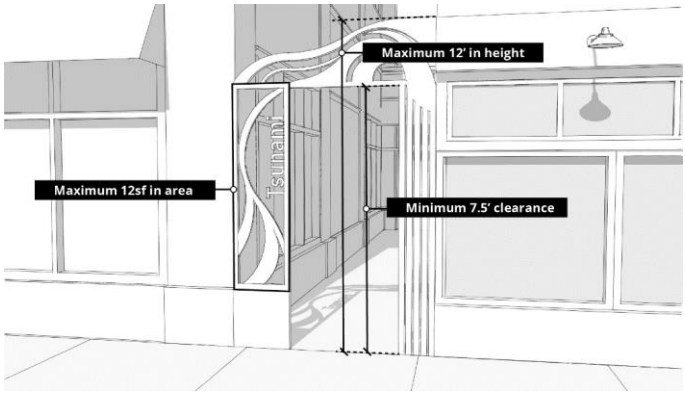
2. One gateway sign is permitted per street frontage. Gateway signs shall be located over a main pedestrian entryway.

3. Gateway signs may not project into, over, or otherwise encroach on a public right-of-way or easement.

4. Gateway signs are limited to a maximum of 12 square feet in area and 12 feet in height. Signs shall maintain a minimum 7.5 foot vertical clearance to allow for passage through the sign.

5. Gateway signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Gateway Sign



F. Ground Signs

1. General Regulations

a. The following are considered ground signs: freestanding monument signs, freestanding pylon signs, multi-tenant commercial center signs, and residential subdivision signs.

b. Each lot is permitted one ground sign per street frontage. One additional ground sign is permitted where a street frontage exceeds 200 linear feet in length. A minimum of 50 feet separation is required between ground signs.

EDITOR'S NOTE: This is more permissive than the current code. Current code allows one sign per street frontage, regardless of length in all but the commercial/industrial sign district. In the commercial/industrial sign district, one sign is allowed per 200 linear feet of frontage.

Example: 400' of linear frontage would be needed to have two ground signs under the current code, and would only be allowed in the commercial/industrial sign district. In the proposed draft, a second sign would be allowed at 200 linear feet of frontage, regardless of the district.

c. All ground signs shall conform to the specific provisions per sign type established in Sections 156.08.F.2 through 156.08.F.5 below.

2. Freestanding Sign, Monument

a. Freestanding monument signs are permitted for multi-family dwellings, nonresidential development, and mixed-use development in any district.

b. Freestanding monument signs in residential districts are limited to a maximum of 40 square feet in area and eight feet in height.

EDITOR'S NOTE: This is the current standard for freestanding monument signs.

c. In all other districts, freestanding monument signs are limited to a maximum of 70 square feet in area and ten feet in height, unless located immediately adjacent to or across a right-of-way from a residential district, in which case they are limited to a maximum of 60 square feet in area and ten feet in height.

EDITOR'S NOTE: This aligns with the current code, which allows 70 square feet in the commercial/industrial sign district, but limits signs to 60 square feet in the neighborhood and institutional sign districts.

d. A freestanding monument sign shall be designed so that the width of the top of the sign face is a minimum of 70% and a maximum of 130% of the width of the base, unless designed with decorative posts as follows:

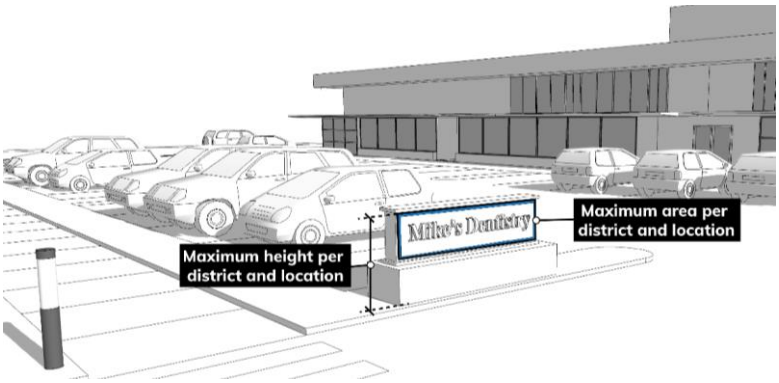
i. To provide flexibility for freestanding monument sign installation on sites where the ground is not level, structural (non-decorative) posts may extend from the ground to support the sign. Such posts are limited to a maximum of one foot in height (measured to the bottom of the sign face) above the ground at the location of their installation.

ii. Freestanding monument signs may be designed to include decorative posts as a component of the overall sign structure and design. Such posts are limited to a maximum of three feet in height (measured to the bottom of the sign face) above the ground at the location of their installation.

e. Freestanding monument signs shall be set back a minimum of five feet from any property line, and may not project into, over, or otherwise encroach on a public right-of-way or easement.

f. Freestanding monument signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Freestanding Monument Sign



3. Freestanding Sign, Pylon

a. Freestanding pylon signs are permitted for nonresidential and mixed-use development in the nonresidential and SU Districts, with the exception of the NC and O-1 Districts.

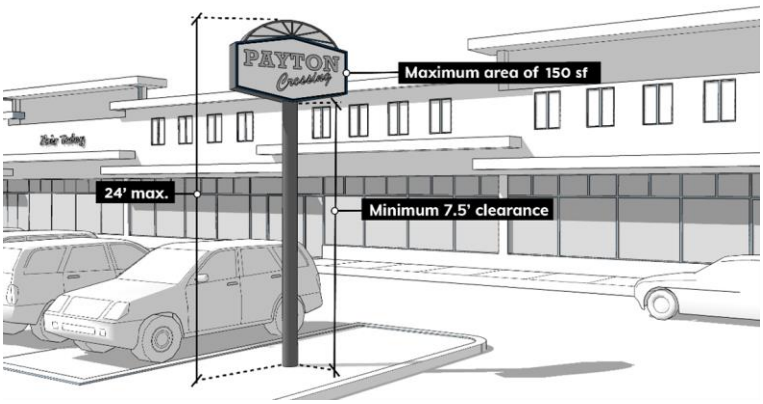
b. Freestanding pylon signs are limited to 150 square feet in area and 24 feet in height, unless located immediately adjacent to or across a right-of-way from a residential district, in which case they are limited to 60 square feet in area and 16 feet in height.

EDITOR'S NOTE: This is the current standard for pedestal/pylon signs.

c. Freestanding pylon signs shall maintain a minimum vertical clearance of 7.5 feet from the bottom of the sign face to the surface of the ground below.

d. Freestanding pylon signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Freestanding Pylon Sign



4. Multi-Tenant Commercial Center Sign

EDITOR'S NOTE: This is a new sign type. The 100 square feet and 16 feet in height allowed by this sign type is more permissive than the current freestanding monument sign (70sf and 10' in height).

The following standards apply to multi-tenant commercial center signs. Multi-tenant commercial centers of five or more acres are also required to submit a unified sign plan per the standards of Section 156.09.

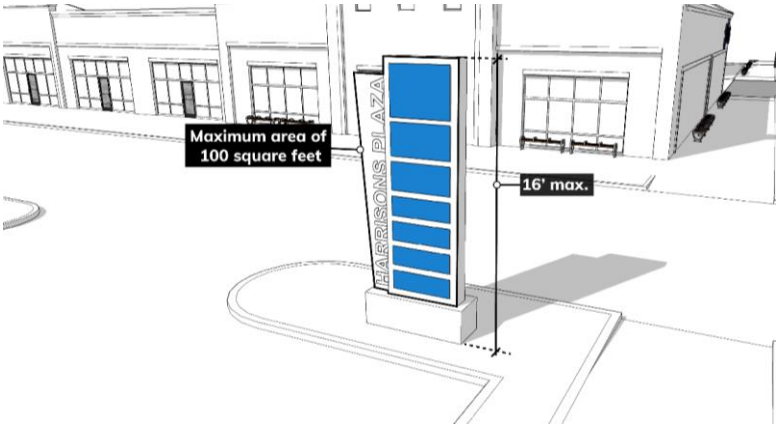
a. Multi-tenant commercial center signs are permitted for multi-tenant commercial centers in any district. A multi-tenant commercial center is a commercial development under unified control consisting of three or more separate commercial establishments sharing a common building, or which are in separate buildings sharing a common access/entranceway or parking area. For the purposes of this regulation, a multi-tenant development comprising separate lots of record, including any out-lot parcels, is considered one lot.

b. Multi-tenant commercial centers are permitted one sign per street upon which the commercial center has frontage of 100 feet or more. No street frontage may have more than one multi-tenant commercial center sign.

c. Multi-tenant commercial center signs shall be constructed as freestanding monument signs.

d. Multi-tenant commercial center signs are limited to 100 square feet in area and 16 feet in height.

Multi-Tenant Commercial Center Sign



5. Residential Subdivision Sign

EDITOR'S NOTE: This is a new sign type. "Subdivision sign" is defined in the current code, but no specific standards are identified. "Attached/building/wall sign" and "freestanding monument sign" contain specific standards for subdivision entries, allowing for 32 square feet (attached/building/wall) and 40 square feet and 8 feet in height (freestanding monument). This sign type is more permissive, allowing for 150 square feet in area, and ten feet in height.

a. Residential subdivision signs are permitted for residential subdivisions in all districts.

b. One residential subdivision sign is permitted for each entry point into the subdivision development. A minimum separation of 200 feet is required between signs.

c. Residential subdivision signs shall be constructed as freestanding monument signs, or mounted on/integrated into entry features such as decorative or retaining walls.

d. Residential subdivision signs are limited to 150 square feet in area and ten feet in height.

Residential Subdivision Sign

G. Marquee Sign

EDITOR'S NOTE: This is a clearer, more permissive approach to marquee signs. Current standards are vague, indicating allowed sign area as "on perpendicular face of marquee," difficult to interpret and administer.

1. Marquee signs are permitted for nonresidential and mixed-use development in the C-1, C-2, O-1, M-1, and SU Districts.

2. Marquee signs shall be supported solely by the building to which they are attached. No exterior columns or posts are permitted as supports.

3. The roof of a marquee sign may not be used for any purpose other than to form and constitute a roof and shall be constructed of noncombustible material.

4. Water from the roof of a marquee may not drain, drip, or flow directly onto the surface of a public right-of-way. Sufficient downspouts, drains, and gutters shall be installed as part of each marquee to prevent water from the roof of the sign from flowing onto the surface of a public right-of-way.

5. Marquee signs shall be erected over a building entrance, and are limited to the width of the building entrance, plus an additional five feet on each side of the entrance doors.

6. A marquee sign shall maintain a minimum vertical clearance of ten feet from the surface above which it is mounted. The roof of a marquee sign shall not extend above any second-story windowsills, and shall not conceal or obscure any significant architectural features or ornamentation of the building to which it is mounted.

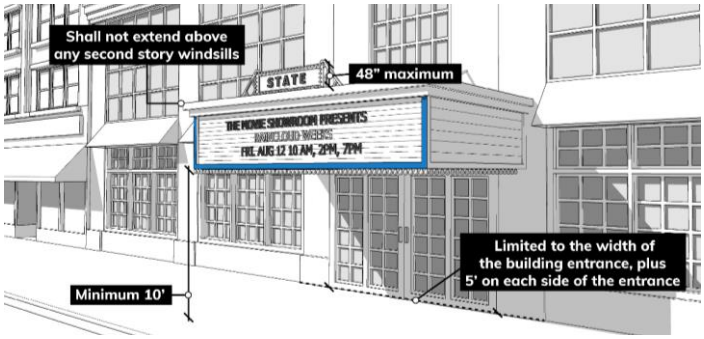
7. Marquee signs may encroach into a public right-of-way, but shall be located a minimum of two feet from any curb line.

8. Marquee signs are permitted lettering attached to and located above the roof of the sign to a maximum height of 48 inches.

9. Marquee signs are permitted an electronic message component, subject to the standards of Section 156.08.D for such signs. Marquee signs are also permitted a changeable message board as a component of the marquee structure. However, the marquee sign may include only one of these two components, not both.

10. Marquee signs may be internally or externally illuminated. If externally illuminated, the lighting shall be focused on the sign face.

Marquee Sign



H. Right-of-Way Sign

EDITOR'S NOTE: This sign type has been added per discussion and review with the Sign Code working group.

Right-of-Way Signs are permitted as temporary signs, subject to the standards below.

1. Right-of-Way Display Permit Required.
It is unlawful for any person other than a City employee to place a sign in the public right-of-way without a valid Right-of-Way Display Permit. An individual may apply for either a Weekend Right-of-Way Display Permit or a 60-Day Right-of-Way Display Permit. An individual may only have one active Right-of-Way Display Permit at a time.

a. Weekend Right-of-Way Display Period

i. Temporary signs may be posted on the weekends from Friday at 12:00 noon through Monday at 12:00 noon local time.

ii. A maximum of 50 individual signs may be posted.

iii. A Weekend Right-of-Way Display Permit is valid for all weekends during one calendar month.

iv. No more than 12 Weekend Right-of-Way Display Permits may be issued to any person within a 12 month period.

v. A person may apply for up to four consecutive calendar months in advance for a Weekend Right-of-Way Display Permit.

b. 60-Day Display Period

i. Temporary signs may be posted in the right-of-way for up to 60 consecutive calendar days.

ii. No more than three 60-Day Right-of-Way Display Permits may be issued to any person within a twelve month period

iii. A maximum of 50 individual signs may be posted.

2. Sign Standards.
Temporary signs displayed in the public right-of-way in accordance with a validly issued Right-of-Way Display Permit pursuant to this Chapter shall conform with all of the following:

a. Signs may be a maximum of ~~shall be less than~~ eight square feet in sign area and three feet in height.

b. All signs shall be constructed of semi-durable materials, such as but not limited to corrugated plastic, vinyl, acrylic, or similar and must be anchored to the extent possible to prevent movement of the sign. Anchoring of the sign may not be permanent in nature and shall not damage the property upon which it is placed.

c. Signs shall not be affixed to or leaned against any street light, utility pole, traffic signal, fence, or other similar structure in the right-of-way. Signs shall not be posted in medians, traffic circles, or roundabouts.

d. Signs shall not encroach on or interfere with any ~~clear-sight triangle,~~ vehicular access point, or pedestrian access point.

e. Permitted signs left in the right-of-way more than 48 hours after expiration of an applicable permit may be removed by the City.

f. Non-permitted signs or duly-permitted signs placed in the right-of-way which violate any of the requirements of this Chapter are subject to removal by the City at the expense of the responsible party.

g. No sign may be placed in the clear-sight triangle area of any signalized or unsignalized intersection criteria is based on AASHTO's" A Policy on Geometric Design of Highways and Streets.

156.09 Unified Sign Plan

EDITOR'S NOTE: This is a revised process that consolidates the current processes for "Common Signage" and "Master Sign" plans. Applicability, requirements, and flexibilities have all been clarified, making it easier for users to understand what is required of them and for administrators to administer this requirement.

A. General Applicability

1. A unified sign plan shall be used to coordinate all signs within developments of significant size, establishing criteria to govern the design and construction of signs for current and future tenants.

2. In any district, nonresidential and mixed-use development upon which more than one sign requiring a permit is proposed to be erected may elect or be required to submit a unified sign plan in accordance with the following:

a. Single-tenant and two-tenant nonresidential or mixed-use developments of any size, and multi-tenant nonresidential and mixed-use developments less than five acres in size may submit a unified sign plan at the option of the applicant.

b. Multi-tenant nonresidential and mixed-use developments, including multi-tenant commercial centers, are required to submit a unified sign plan if five acres or more in size.

3. Unified sign plans shall be submitted and approved in accordance with this section.

B. Applicability to Existing Development

1. For development existing as of - *date of adoption* – that requires a unified sign plan under the regulations of this section, the property owner may optionally submit a unified sign plan for approval. Once such unified sign plan is approved per the process described in this section, it shall be kept on file with the Department of Development Services and all future signs shall comply with the approved unified sign plan. If a proposed sign is in compliance with the unified sign plan, the Director of Development Services or their designee will issue a sign permit.

2. If a development existing prior to – *date of adoption* – that requires a unified sign plan under the regulations of this section chooses to forego the submission of a unified sign plan, each future sign installed in the development shall comply with all standards of this Chapter.

C. Unified Sign Plan Requirements

A unified sign plan shall provide details and specifications to establish a coordinated and consistent approach to all signs within a development. At a minimum, unified sign plans shall include the following:

1. A site plan for all lots within the development on which signs will be located, at a scale of not less than one inch to 100 feet and including the location of all buildings, parking lots, driveways and landscaped areas. The site plan shall accurately indicate the number, location, and orientation of all signs for which a permit is being sought, and the anticipated location of future signs requiring a permit.

2. A table or tables containing the following:

a. The number and description of all signs within the development for which a permit is being sought, as well as future signs requiring a permit.

b. Computation of the maximum total sign area and number of signs permitted on the development site by this code.

c. Computation of the total sign area and number of signs being proposed, including dimensions of individual signs, maximum area, and maximum height.

3. Specification of standards for consistency among signs within the development, including color scheme, lettering or graphic style, lighting, typical location of building-mounted signs, materials, and sign proportions.

4. For each sign included in the unified sign plan for which a permit is being sought, the following shall be required:

a. Sign elevation, including annotated dimensions and description of sign elements.

b. For building-mounted signs, elevations including the location of each sign on the building face.

c. Description of illumination proposed for each sign.

D. Approval Procedure

Unified sign plans shall be approved by the Planning and Zoning Board in accordance with the following:

1. The applicant shall submit a unified sign plan to the Director of Development Services or their designee, who will review the unified sign plan and provide comment to the applicant. The applicant may modify the plan or submit the plan to the Planning and Zoning Board through the City Development Department. If the unified sign plan has not been modified per the comments of the Director of Development Services or their designee, a report detailing the comments will be forwarded to the Planning and Zoning Board with the unified sign plan.

2. The Planning and Zoning Board will review the unified sign plan at a public meeting. The Board will approve, approve with conditions, or deny the unified sign plan.

3. If the unified sign plan is approved with conditions, the plan shall be revised to comply with such conditions and be submitted to the Director of Development Services or their designee, who will verify that the revised unified sign plan complies with all required conditions.

4. If the unified sign plan is denied by the Planning and Zoning Board, the applicant may choose to submit a new unified sign plan or appeal the decision to the Governing Body.

5. Approved unified sign plans will be kept on file with the Director of Development Services. Following approval, no permanent sign shall be erected, placed or maintained except in conformance with the unified sign plan. If a proposed sign is in compliance with the unified sign plan, the Director of Development Services or their designee will approve the application through the standard permit process.

E. Amendments to Unified Sign Plans

1. The Director of Development Services or their designee may approve minor modifications to an approved unified sign plan, including modifications to sign dimensions of 10% or less, and relocation of a sign or signs to respond to final site engineering or building construction issues such as topography, drainage, underground utilities, structural safety, or pedestrian and vehicular circulation, when such relocation is deemed to maintain general compliance with the approved unified sign plan.

2. Any modification not considered a minor modification requires resubmittal of a unified sign plan to be approved by the Planning and Zoning Board.

F. Flexibility for Unique Properties, Buildings, and Sign Designs

The unified sign plan may provide flexibility for properties that contain unique elements or requirements, such as those that may need more signage than is otherwise allowed (in size or in quantity), those that may require additional signage due to a unique orientation – such as adjacency to a major thoroughfare, or those that wish to include unique design elements such as signs with sculptural or placemaking features.

1. A unified sign plan may be approved by the Planning and Zoning Board with elements that exceed the permitted height, area, and/or number of signs specified in this Chapter with the recommendation of the Director of Development Services or their designee. Such recommendation shall be based on findings in accordance with the following:

a. The development contains unique or unusual physical characteristics such as topography, proportion, size or relation to a public street that would limit or restrict normal sign visibility.

b. The development exhibits unique characteristics of land use, architectural style, site location, physical scale, historical interest, or other distinguishing features that represent clear variation from conventional development.

c. The proposed signage incorporates special design features such as sculptural or placemaking elements, or logos, emblems, murals, or statuaries that are integrated with the building architecture.

2. A recommendation to approve a unified sign plan with elements that exceed the standards of this Chapter shall be forwarded from the Director of Development Services or their designee to the Planning and Zoning Board with the unified sign plan per the requirements of Section 156.09.D.

156.10 Nonconforming Signs

EDITOR'S NOTE: This section has been expanded and clarified.

A. A nonconforming permanent sign and sign structure may remain in use so long as it remains otherwise lawful and has not been damaged or destroyed to the extent of more than 50% of its value. A nonconforming permanent sign and sign structure that is damaged or destroyed to the extent of 50% or more of its value shall not be restored or repaired unless in conforms to all applicable regulations of this Code.

B. Sign value, for the purposes of item A above, is determined by comparing a repair cost estimate of the damaged sign with an estimate of the cost of a new, identical sign. Sign owners shall supply such estimates to the Director of Development Services or their designee.

C. Once a nonconforming sign and/or sign structure has been removed, it shall not be restored or repaired unless it conforms to all applicable regulations of this Code.

D. All temporary nonconforming signs shall be removed or brought into conformance within 60 days of the effective date of this Code.

E. The sign face of an existing nonconforming permanent sign may be replaced, but the structure shall not be altered to accommodate such change.

EDITOR'S NOTE: This is a new flexibility, not within the current code.

F. No nonconforming sign and sign structure may be relocated, in whole or in part, to any other location on the same or another lot, unless the entire sign and sign structure conforms to all regulations applicable to the lot where the sign is relocated.

G. No nonconforming sign shall be altered or enlarged in a way that increases the nonconformity of the sign or sign structure. This does not include normal maintenance and cleaning, or changing of the sign face.

Sign Code Working Group Meeting Date Table:

Sign Code Working Group Meeting Date:	**Agenda Topics Discussed:**
October 12, 2022	Overview of Ordinance and discussion of goals and how to proceed.
October 26, 2022	Staff presentation on issues with the current sign code.
November 9, 2022	Continuation of staff presentation, discussion of elements.
November 30, 2022	Begin line-by-line reading of draft sign code, discussion of elements.
December 7, 2022	Continuation of draft code reading. Section: Summary Table
December 21, 2022	Continuation of draft code reading. Sections: Sign Permit, Prohibited Signs
January 11, 2023	Discussion on temporary signs in the right-of-way.
January 25, 2023	Presentation on hypothetical business (permissive signage current vs. draft)
February 8, 2023	Continuation of hypothetical business comparison, temporary signs in the right-of-way.
March 8, 2023	Continuation of temporary signs in the right-of-way discussion, proposed language.
March 22, 2023	Continuation of draft code reading. Section: Sign Permit Required
April 12, 2023	Continuation of draft code reading. Section: Sign Permit Required, Unified Sign Plan.
April 26, 2023	Continuation of draft code reading. Sections: Nonconforming Signs, Prohibited Signs, Signs Exempt from Permit.
June 14, 2023	Discussion of June revision of the draft sign code.
June 28, 2023	Final group read-through. Edits made throughout document as necessary.

CHAPTER 156
SIGN REGULATIONS

Section

General Provisions

156.01 Purposes; applicability; effect
156.02 Definitions
156.03 Exemptions
156.04 Prohibited signs
156.05 Nonconforming signs; time of compliance
156.06 Violations
156.07 Enforcement; remedies
156.08 Appeals

Specific Provisions And Requirements

156.20 Types of signs allowed on private property
156.21 Signs in the public right-of-way
156.22 Temporary signs
156.23 Temporary signs in the public right-of-way

Special Provisions

156.30 Common signage plan
156.31 Master sign plans
156.32 Special exceptions
156.33 Off-premises advertising signs
156.34 Limitations on electronic message signs

Permits Required; Procedure

156.40 Permits required
156.41 General permit procedures
156.42 Measurement standards
156.43 Design, construction and maintenance
Appendix A: Sign Districts
Appendix B: Signs by Type and Sign District
Appendix C: Definitions

GENERAL PROVISIONS

156.01 PURPOSES; APPLICABILITY; EFFECT.

(A) Signs constitute a separate and distinct use of the property upon which they are placed and affect the use of adjacent roads, streets, walkways, and other properties. The provisions of this chapter are made to establish reasonable and objective regulations for all signs that are visible to the public, in order to protect the general public health, safety, welfare, convenience and aesthetics. This chapter is intended to serve the public's need to be given helpful directions, and to be informed of available products, businesses, and services. All signs in the City of Rio Rancho shall be subject to this chapter except for those signs deemed exempt in Section 156.03.

(B) This chapter is adopted under the zoning authority of the city in furtherance of the more general purposes set forth in Chapter 154.

(C) All signs shall be installed and maintained in conformance with the standards, procedures, and other requirements of this chapter.

(1) Where there is conflict, the strictest interpretation shall apply unless otherwise determined by the Director.

(D) The effect of this chapter as more specifically set forth herein is:

(1) To establish a permit system to allow a variety of types of signs in commercial and industrial areas of the city and a limited variety of signs in residential areas of the city, subject to the standards and the permit procedures of this chapter;

(2) To allow certain signs that are unobtrusive and incidental to the primary use of the property on which they are located, subject to the requirements of this chapter;

(3) To provide for temporary signs in limited circumstances in the public right-of-way;

(4) To prohibit all signs not expressly permitted by this chapter; and

(5) To provide for the enforcement of the provisions of this chapter.

(Ord. 11-14)

Cross-reference:

Adult business sign requirements, see § 111.06

Planning and Zoning, see Chapter 154

Subdivisions, see Chapter 155

156.02 DEFINITIONS.

(A) For the purpose of this chapter, the definitions contained within Appendix C shall apply unless the context clearly indicates or requires a different meaning.

(B) Words and phrases not defined herein, but defined in Chapter 154, shall be given the meanings set forth in Section 154.03, Definitions. All words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this chapter.

(Ord. 11-14)

156.03 EXEMPTIONS.

The following signs shall be exempt from regulation under this chapter:

(A) Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance;

(B) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the property line of the lot or parcel on which the sign is located;

(C) Works of art that do not include a commercial message, place name, or logo;

(D) Holiday lights and decorations with no commercial message, except that the decorations may contain sponsor names that are uniform in design with no other advertising, logos or any other words or graphics that are unique to a sponsor; and

(E) Traffic control signs on private property, such as “Stop,” “Yield” and similar signs, the faces of which meet Department of Transportation standards and which contain no commercial message of any sort.

(Ord. 11-14)

156.04 PROHIBITED SIGNS.

(A) The following signs are prohibited in all sign districts unless otherwise expressly permitted in this code:

(1) Abandoned signs as defined in this code.

(2) Animated signs; signs with visible moving, revolving or rotating parts, noise making, flashing or fluttering lights or other illuminating devices that have a changing brightness or intensity of color.

(3) Billboards.

(4) Signs that exceed two square feet in area on vehicles or trailers that are parked or located for the primary purpose of displaying the sign.

(5) Signs with exposed incandescent, metal halide, or fluorescent light bulbs.

(6) Roof signs.

(7) All signs not expressly permitted under this chapter or exempt from regulation in accordance with the previous section are prohibited in the city.

(Ord. 11-14)

156.05 NONCONFORMING SIGNS; TIME OF COMPLIANCE.

(A) Except as may be provided by the terms of this section, signs lawfully established before the effective date of new regulations may continue to be displayed without modifications to their dimensions, appearance or location, notwithstanding the effect of any more restrictive regulation. As used herein, “modification” shall not include alterations caused by ordinary maintenance and minor repairs.

(B) The following signs shall be subject to all of the regulations contained in this chapter:

(1) Any nonconforming sign established without complying with the sign code in effect at the time the sign is established;

(2) Any nonconforming sign that has been discontinued or abandoned for a period of at least 90 days, or which has been destroyed or damaged to an extent greater than 50% of its in-place replacement cost;

(3) Any nonconforming sign that is a part of a remodel or expansion that requires such sign to be relocated;

(4) Any temporary sign;

(5) Any sign which is unsafe or which is a hazard to the public.

(Ord. 11-14)

156.06 VIOLATIONS.

Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided by Chapter 150 and by state law:

(A) To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing the sign or the lot on which the sign is located;

(B) To install, create, erect, or maintain any sign requiring a permit without a permit;

(C) To fail to remove any sign that is installed, created, erected or maintained in violation of this chapter, or for which the sign permit has lapsed; or

(D) To continue any violation. Each day of a continued violation of this chapter shall be considered a separate violation when applying the penalty portions of this chapter.

(Ord. 11-14)

156.07 ENFORCEMENT; REMEDIES.

(A) Any violation or attempted violation of this chapter or of any condition or requirement adopted pursuant hereto may be restrained, corrected or abated, as the case may be, by injunction or other appropriate proceedings pursuant to state law or municipal ordinance. A violation of this chapter shall be considered a violation of Chapter 154. The remedies shall include the following:

(1) Issuing a stop-work order for all work on any signs on the same lot;

(2) Seeking an injunction or other order of restraint or abatement that requires the removal of the sign or the correction of the nonconformity;

(3) Imposing any penalties that can be imposed directly by the city under Chapter 150;

(4) Seeking in any court of competent jurisdiction, the imposition of any penalties that can be imposed by the court under Chapter 150; and

(5) In the case of a sign that poses an immediate danger to the public health or safety, taking measures as are available to the city under the applicable provisions of Chapter 150 and the building code for such circumstances.

(6) The enforcement process shall be as outlined in Chapter 150 except that signs posted in the right-of-way that are not in accordance with this chapter will be removed by the Enforcement Officer or by the Department of Police pursuant to a memorandum of agreement with the State of New Mexico Transportation Department.

(7) The city shall not be responsible for damages to confiscated signs.

(B) The city shall have other remedies as are and as may from time to time be provided for or allowed by state law or municipal ordinances for the violation of this chapter.

(Ord. 11-14; Am. Ord. 12-28)

156.08 APPEALS.

An aggrieved party may appeal the final decision of the City Development Department as outlined in Title XV, Land Usage, Chapter 150, General Provisions, Article I, Administration and Enforcement, Section 150.08, Appeals.

(Ord. 11-14; Am. Ord. 18-28)

SPECIFIC PROVISIONS AND REQUIREMENTS

156.20 TYPES OF SIGNS ALLOWED ON PRIVATE PROPERTY.

(A) Signs shall be in accordance with Appendix B and all regulations set forth in this code.

(B) Primary signs are considered permanent and identify an establishment or premises while the establishment is operative or the premises are occupied. Primary signs require a sign permit. The following are the different types of primary signs:

(1) Wall signs.

(2) Marquee.

(3) Awning signs.

(4) Projecting.

(5) Hanging signs.

(6) Freestanding signs (pedestal/pylon, monument).

(C) Secondary signs provide information that is secondary to identifying the major activities occurring on the premises. Secondary signs may be permanent or temporary. Secondary signs do not require a sign permit. The following are categories of permanent and temporary secondary signs:

(1) Building/establishment identification wall signs.

(2) Incidental signs.

(3) Directional signs.

(4) Window signs.

(5) Public utility signs.

(6) Signs required by law.

(D) Temporary secondary signs are used for a specific reason for a specific period. Temporary signs on private property do not require a sign permit if in accordance with Appendix B and all the regulations set forth herein. Temporary signs located in the public right-of-way may require a sign permit. The following are types of temporary signs:

(1) Development/construction signs.

(2) Real estate signs.

(3) Banner signs.

(4) Pennants, flags, streamers and other similar devices.

(5) Open house directional signs.

(6) Subdivision directional signs.

(7) Inflatable displays.

(8) Window signs.

(9) Portable signs.

(E) The following are signs permitted by a public hearing process. Sign permits are required pursuant to approval of the applicable process.

(1) Master sign plans.

(2) Off-premises advertising signs.

(3) Special exception signs.

(Ord. 11-14)

156.21 SIGNS IN THE PUBLIC RIGHT-OF-WAY.

No signs shall be allowed in the public right-of-way, except for the following:

(A) *Permanent signs.* Permanent signs, including: public signs erected by or on behalf of a governmental body to post legal notices, governmental approved community signs (Adopt-A-Spot), governmental approved directional kiosk signs, signs to identify public property, convey public information and direct or regulate pedestrian and vehicular traffic; bus stop signs erected by a public transit company; and informational signs of a public utility regarding its poles, lines, pipes or facilities.

(B) *Temporary signs.* Temporary signs posted in accordance with Section 156.22.

(C) *Warning signs.* Emergency warning signs erected by a governmental agency, a public utility company or a contractor doing authorized or permitted work within the public right-of-way.

(D) *Other signs forfeited.*

(1) Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation.

(2) In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing a sign the full costs of removal and disposal of the sign.

(E) For the purpose of this chapter, right-of-way excludes State of New Mexico right-of-way (e.g., NMSR 528, US 550, and NMSR 448).

(Ord. 11-14)

156.22 TEMPORARY SIGNS.

(A) Temporary signs are allowed only so long as they do not violate the intent of this chapter and the goals of the city's general plan.

(B) Temporary signs may be posted on property in all zones of the city, subject to the following requirements and those applicable provisions stated elsewhere in this chapter:

(1) A temporary sign may be posted only with the consent of the property owner or occupant.

(2) All temporary signs must be constructed and designed of materials durable enough to withstand the elements to which the sign is to be subjected. No temporary sign shall be illuminated or painted with light-reflecting paint.

(3) No additions, tag sign streamers, attention-getting devices or other appurtenances shall be attached to any temporary sign.

(4) No temporary sign shall be located in the clear sight triangle, obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street furniture, or otherwise create a hazard, including a tripping hazard.

(5) Signs in the right-of-way may not be located or posted on medians, trees, utility poles, or other utility structures located in the right-of-way.

(6) *Nuisances.* If any temporary sign becomes a nuisance as defined elsewhere in the code, such signs may be subject to removal, relocation, or other actions to eliminate the nuisance.

(C) *Temporary signs in residential zones (private property).*

(1) The total square footage for temporary signs posted on a lot in a residential sign district, in the aggregate, shall not exceed 32 square feet.

(2) No individual sign shall exceed eight square feet and six feet in height if freestanding.

(3) One development/construction sign not to exceed 32 square feet and six feet in height may be placed at the entrance of a subdivision or model home village until the subdivision is complete.

(4) *Repealed by Ord. 12-28*.

(5) No temporary sign in a residential zone shall advertise or promote any commercial enterprise not conducted on the same lot.

(6) See Appendix B for additional stipulations as to type, size and number of signs permitted.

(D) *Temporary signs in commercial zones (private property).*

(1) Temporary signs shall be located on the same lot the signs pertain to, not in the public right-of-way.

(2) The total square footage for temporary signs posted on a lot in all commercial (nonresidential) sign districts, in the aggregate, shall not exceed 64 square feet.

(3) Development located on a single parcel 20 or more acres in size may post signage that does not in the aggregate exceed 128 square feet.

(4) No individual sign shall exceed 32 square feet.

(5) A temporary sign shall not advertise or promote any commercial enterprise or event not conducted on the same lot except as otherwise stipulated herein.

(6) See Appendix B for additional stipulations as to type, size, and number of signs permitted.

(Ord. 11-14; Am. Ord. 12-28; Am. Ord. 14-06)

156.23 TEMPORARY SIGNS IN THE PUBLIC RIGHT-OF-WAY.

(A) The following types of temporary signs are allowed. A permit is required for subdivision directional, kiosk, political, and special event signs.

(1) *Subdivision directional signs.* Permits for temporary signs in the public right-of-way are allowed on a limited basis during periods of new construction activity which require the need for subdivision directional signs. Directional signs may only be used to direct traffic to subdivisions that are less than 90% completed. The purpose of such signs is to minimize confusion among prospective purchasers who wish to inspect development projects, while promoting traffic safety and reducing the visual blight of sign proliferation. This type of sign is allowed as follows:

(a) Signs, which do not exceed eight square feet, may be posted on the weekends from Friday at 12:00 noon through Monday at 12:00 noon.

(b) The maximum number of signs that may be posted with a permit is six signs per builder, per subdivision.

(c) A permit is valid for one calendar month; however, permits may be purchased in advance for a period not to exceed 12 months.

(d) The sign message on signs of this type is limited to the builder's name, subdivision identification, and an arrow.

(e) *Repealed by Ord. 12-28.*

(2) *Directional kiosk signs.* The purpose of a kiosk sign is to provide a uniform, coordinated method of offering developers and retail businesses a means of providing directional signs to their projects and businesses. City-owned directional kiosk signs in the public right-of-way may be erected at sites approved by and as per policies and procedures set forth by the City Manager.

(3) *Political signs.* Temporary political signs may be placed in the right-of-way as follows:

(a) The maximum number of signs allowed in the right-of-way for a city-wide candidate or ballot issue is 50; for a district candidate, 25.

(b) Political signs may not exceed eight square feet in size.

(c) Signs may be erected 90 days prior to the election for which they are intended and must be removed within seven days after the election.

(4) *Directional, noncommercial and single event signs.* The purpose of directional, noncommercial, or single event signs is to provide a method of providing the public with directions to events of a limited duration with changing locations. These signs include, but are not limited to, signs that provide direction to garage sales, open house events, special events, voting or polling locations (restricted to government agencies), and public community meetings such as neighborhood association meetings.

(a) These signs may be placed in the right-of-way no sooner than one week before the event and must be removed no later than 24 hours after the conclusion of the event, except for garage sale signs which may be placed in the right-of-way on Fridays and remain until Sunday after the conclusion of the garage sale.

(b) The maximum number of signs that may be posted is 10 per event.

(c) Due to the limited duration of these types of events, no permit is required for this type of sign.

(d) The maximum size allowed for this type of sign is eight square feet.

(Ord. 11-14; Am. Ord. 12-07; Am. Ord. 12-28)

SPECIAL PROVISIONS

156.30 COMMON SIGNAGE PLAN.

(A) *Common signage plan.*

(1) Owners of two or more contiguous lots disregarding intervening streets may enter into a common signage plan for the purpose of allowing shared use of freestanding signage. Generally, participation in a common signage plan is permitted for businesses located a maximum of 600 feet from a major thoroughfare.

(2) The owners may file with the Director a common signage plan for all the lots included in the plan conforming to the provisions of this section, and if approved, a 25% increase in the square footage of the freestanding signs shall be allowed for each lot included in the plan.

(B) *Provisions of common signage plan.* The common signage plan shall contain all of the following information and shall specify standards for consistency among common signs on the lots affected by the plan with regard to color scheme, lettering or graphic style, and lighting and sign proportions.

(C) *Limit on number of freestanding signs under common signage plan.* The common signage plan shall limit the number of freestanding signs to a total of one for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of the signs.

(D) *Other provisions.* The common signage plan may contain restrictions as the owners of the lots may reasonably determine.

(E) *Consent.* All owners shall sign the common signage plan or their authorized agents in such form as the Director shall require.

(F) *Procedures.* A common signage plan may be included in any development plan, site plan, planned unit development plan or other official plan required by the city for the proposed development and may be processed simultaneously with the other plan.

(G) *Amendment.* Filing a new common signage plan that conforms to all requirements of the chapter then in effect may amend a common signage plan.

(H) *Existing signs not conforming to common signage plan.* If any new or amended common signage plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within three years, all signs not conforming to the proposed amended plan or to the requirements of this chapter in effect on the date of submission.

(I) *Binding effect.*

(1) After approval of a common signage plan, no sign shall be erected, placed or maintained, except in conformance with the plan, and the plan may be enforced in the same way as any provision of this chapter.

(2) In case of any conflict between the provisions of a plan and any provision of this chapter, this chapter shall control.

(Ord. 11-14; Am. Ord. 12-28)

156.31 MASTER SIGN PLANS.

(A) A master sign plan shall be used to establish criteria for and govern the construction of all signs associated with a use for which a master sign plan has been approved. A permit shall be required for individual signs following or in conjunction with the approval of a master sign plan. Signs constructed in violation of an approved master sign plan shall be considered in violation of this sign code.

(B) A master sign plan shall be required of an applicant for a new development in the following circumstances:

(1) Any portion, tenant or use of a nonresidential development seeking sign permit approval for any or all of a development, campus, shopping center or business park greater than five acres in size;

(C) *Submission requirements.* An application for master sign plan approval shall be submitted to the Department and shall include:

(1) An accurate site plan of the entire lot(s) on which the use(s) will be located at a scale of not less than one inch to 100 feet;

(2) Location of buildings, parking lots, driveways and landscaped areas on the lot;

(3) A table or tables containing:

(a) Computation of the maximum total sign area;

(b) Maximum area for individual signs;

(c) Height and number of freestanding signs; and

(d) Statement of the maximum total sign area and maximum number of signs permitted on the site(s) by this sign code;

(4) An accurate indication on the site plan of the location and orientation of each sign for which a permit is currently being requested, the anticipated location of future signs requiring a permit, and the location of all reasonably anticipated limited permit signs;

(5) A description and illustration of the following shall be required:

(a) Sign elevations for all signs;

(b) Location of each sign on the building(s) with building elevations if necessary;

(c) All sign proportions; and

(d) Types of illumination.

(D) *Procedures.* The Planning and Zoning Board shall approve master sign plans.

(E) *Flexible criteria.* The master sign plan may be approved by the Planning and Zoning Board with elements that exceed the permitted height, area, and or number of signs specified in the sign code if the Director recommends that:

(1) The development contains unique or unusual physical conditions such as topography, proportion, size or relation to a public street that would limit or restrict normal sign visibility;

(2) The proposed or existing development exhibits unique characteristics of land use, architectural style, site location, physical scale, historical interest or other distinguishing features that represent clear variation from conventional development; or

(3) The proposed signage incorporates special design features such as logos, emblems, murals or statuaries that are integrated with building architecture.

(F) *Amendment.* A master sign plan may be amended by filing a new master sign plan to be approved by the Planning and Zoning Board.

(G) *Binding effect.* After approval, no permanent sign shall be erected, placed or maintained except in conformance with such plan and without obtaining a sign permit pursuant to this chapter and in conformance with the master sign plan. The Director or his designee is authorized to approve, through the standard permit process, sign applications in conformance with the approved master plan even though such applications may conflict with the terms of this sign code, but only to the extent that the application is in conformance with the master sign plan.

(H) A master sign plan shall be enforced in the same manner as any other provisions of this sign code.

(I) The master sign plan shall be included in the application for final approval of any master plan, planned unit development, office/business/industrial park development or building permit application for approvals. If the master sign plan has not been approved prior to the submission of such documents, it may be processed simultaneously.

(J) *Longevity.* An approved master sign plan shall have longevity of two years from the approval date to commence the first sign. If a sign associated with the master sign plan has not been approved within two years from the approval date, approval of a new master sign plan shall be required.

(Ord. 11-14; Am. Ord. 12-28)

156.32 SPECIAL EXCEPTIONS.

(A) An application for special exception may be applied for by submittal of an application to the Director or his or her designee, to be processed and submitted for review by the Planning and Zoning Board. A special exception may be requested to deviate from certain requirements herein specified for signage including but not limited to area, dimensions, height, location and any other sign characteristics.

(B) A special exception may be granted by the Planning and Zoning Board if the Board deems a special circumstance exists which warrants the signage requested. The following criteria shall be used in the review and approval of requests:

(1) A literal application of the code would not allow the property to be used at its highest and best use as zoned;

(2) The granting of the requested exception would not be materially detrimental to the property owners in the vicinity;

(3) Conditions exist which are unique to the property or type and size of development that would cause hardship under a literal interpretation of the sign code;

(4) The granting of the special exception is in the best interests of the public at large and would not be contrary to the general objectives of the sign code and adopted land use plans.

(C) The Planning and Zoning Board may attach any additional requirements necessary to maintain the intent and purpose of this chapter, in the interest of the public.

(D) An application for special exception shall be scheduled for review by the Planning and Zoning Board within 30 working days of receipt of the application and payment of the applicable fee.

(E) *Repealed by Ord. 21-04.*

(F) *Longevity.* An approved special exception shall have longevity of two years from the approval date to commence the first sign. If a sign associated with the master sign plan has not been approved within two years from the approval date, approval of a new master sign plan shall be required.

(Ord. 11-14; Am. Ord. 12-28; Am. Ord. 21-04)

156.33 OFF-PREMISES ADVERTISING SIGNS.

(A) Off-premises advertising signs, digital and commercial directional kiosk signs are each considered a distinct land use and shall be approved via the conditional use permit process or administratively as set forth herein.

(1) A conditional use permit is required for a digital off-premises sign and shall be valid for 10 years. A new application shall be required thereafter.

(2) Criteria to deny approval of a conditional use permit may include but are not limited to the following:

(a) The conditional use permit for the sign is in conflict with the safety and general welfare of the city.

(b) The conditional use is not in conformance with the comprehensive plan or other approved master plans.

(c) A change in community conditions directly related to off-premises advertising.

(B) Off-premises digital advertising signs are permitted on nonresidential, private property and public property, excluding all right-of-way areas, within the area identified herein as the Off-Premises Advertising Overlay Zone (OAOZ). The overlay zone is as follows:

(1) Within 75 feet of the east or west right-of-way lines of NM 528/Pat D'Arco Highway from the southern city limit to US HWY 550.

(2) Within 75 feet of the south right-of-way line of US HWY 550 between NM 528/Pat D'Arco Highway and the alignment for the Northwest Loop Road.

(3) Within 75 feet of the right-of-way lines of Paseo Del Volcan between Unser Boulevard to US HWY 550.

(4) Within 75 feet north or south of the right-of-way lines of Southern Boulevard between NM 528/Pat D'Arco Highway and Unser Boulevard.

(5) Within 75 feet east or west of the right-of-way lines of Unser Boulevard from the southern city limit to Progress Boulevard.

(C) Off-premises digital signs permitted in this section shall be in accordance with the following criteria:

(1) Signs shall be in accordance with the following:

(a) A maximum of 11x22: 242 square feet.

(b) Twenty-four-foot maximum height.

(2) Both sides of a sign shall have copy. Embellishments and animation are prohibited.

(3) When within 100 feet of an elevated roadway, the height measured from the bottom of the sign may be a maximum of 10 feet above the elevated roadway.

(4) Electronic video display signs shall have an automated dimming feature (photocell) to adjust for lower light and night conditions.

(5) Signs shall be located in a nonvehicular area or within a landscape planter.

(6) A minimum separation of 10,560 feet is required between off-premises signs located on the same side of a street and a separation of 5,280 feet is required from another off-premises sign located on the opposite side of a street. A minimum separation of 300 feet (including rights-of-way) from single-family residential development shall be maintained. No off-premises advertising sign shall be located within 100 feet of an on-premises sign located on another parcel. The off-premises advertising company shall provide a survey stamped by a registered surveyor or engineer verifying the aforementioned distance separations.

(7) Off-premises advertising signs shall be maintained and shall be administratively reviewed on an annual basis to ensure sign maintenance.

(8) Failure to maintain signs shall result in a public hearing if applicable before the Planning and Zoning Board to determine the appropriateness of continuing the use.

(9) The support structure shall be skirted with a decorative base.

(D) Off-premises commercial directional kiosk signs are permitted in accordance with the following:

(1) Signs are in accordance with the policies and procedures to be set forth administratively by the City Manager.

(2) Generally, one sign per quadrant is permissible at intersections of streets classified as a collector or an arterial.

(3) Commercial kiosk signs will be subject to annual review and an annual renewal fee.

(Ord. 11-14; Am. Ord. 12-07; Am. Ord. 12-28)

156.34 LIMITATIONS ON ELECTRONIC MESSAGE SIGNS.

Programmable electronic signs are prohibited within residential districts and permitted elsewhere in accordance with Appendix B and shall conform to the following:

(A) No sign shall display animated messages, including flashing, blinking, fading, rolling, shading, dissolving, or any other effect that gives the appearance of movement.

(B) No sign shall contain any audio message.

(C) No sign shall be displayed for a period of less than eight seconds.

(D) Transition from one message to the other shall appear instantaneous as perceived by the human eye.

(E) Each sign message shall be complete in itself and shall not continue on a subsequent sign message.

(F) Signs shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of three-tenths foot candles above ambient lights, as measured using a foot candle meter and in conformance with the following process:

(1) Light measurements shall be taken with the meter aimed directly at the sign message face, or at the area of the sign emitting the brightest light if that area is not the sign message face. Measurements shall be taken as follows:

Table 5: Digital Sign Luminance

Sign Area	Distance of Measurement
200 – 249 sq. ft.	150 feet
150 – 199 sq. ft.	136 feet
125 – 149 sq. ft.	118 feet
100 – 124 sq. ft.	107 feet
75 – 99 sq. ft.	96 feet
50 – 74 sq. ft.	83 feet
35 – 49 sq. ft.	67 feet
24 – 34 sq. ft.	56 feet
15 – 24 sq. ft.	47 feet
1 – 14 sq. ft.	36 feet

(G) An ambient light measurement shall be taken using a foot candle meter at some point between the period between 30 minutes past sunset and 30 minutes before sunrise with the sign turned off to a black screen. Immediately following the ambient light measurement, an operating sign light measurement shall be taken with the sign turned on to full white copy. The brightness of a sign conforms to the brightness requirements of this subsection if the differences between the ambient light measurement and the operating sign light measurement is three-tenths foot candles or less.

(H) All signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.

(Ord. 11-14)

PERMITS REQUIRED; PROCEDURE

156.40 PERMITS REQUIRED.

(A) If a sign requiring a permit under the provisions of this chapter is to be placed, constructed, erected, or modified on a lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection or modification of a sign in accordance with the requirements of this chapter.

(B) No signs shall be erected in the public right-of-way except in accordance with Sections 156.21 and 156.22.

(C) No sign permit of any kind shall be issued for an existing or proposed sign unless the sign is consistent with the requirements of this chapter (including those protecting existing signs) in every respect and/or any other approvals in effect for the property such as a common signage plan, master plan, or master sign plan.

(D) Placement of a sign in a public utility easement is subject to an approved encroachment agreement providing for the installation, maintenance, and removal of the sign.

(Ord. 11-14)

156.41 GENERAL PERMIT PROCEDURES.

The following procedures shall govern the application for, and issuance of, all sign permits under this chapter, and the submission and review of common signage plans and master sign plans:

(A) *Applications.* All applications for sign permits of any kind and for approval of a common signage plan shall be submitted to the Director or his or her designee on an application form or in accordance with application specifications published by the Director.

(B) *Fees.* A sign permit is not valid until such time that the applicable fees set forth by the city have been paid.

(C) *Completeness.* Within five working days of receiving an application for a sign permit, the Director shall review it for completeness. If the Director finds that it is incomplete, the Director shall notify the applicant within five days of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this chapter.

(D) *Action.* Within 10 working days of the submission of a complete application for a sign permit, the Director shall either:

(1) Issue the sign permit, if the sign conforms in every respect with the requirements of this chapter and of the applicable common signage plan; or

(2) Reject the sign permit if the sign fails in any way to conform to the requirements of this chapter. In case of a notice of rejection, the Director shall specify in the rejection the section or sections of the chapter or applicable plan with which the sign is inconsistent.

(E) *Action on common signage plan.* On any application for approval of a common signage plan, the Director shall take action on the applicable one of the following dates:

(1) Fifteen working days after the submission of a complete application if the application is for signs for existing buildings; or

(2) On the date of final action on any related application for building permit, site plan or development plan for signs involving new construction.

(3) On or before the applicable date, the Director shall either:

(a) Approve the proposed plan if the sign as shown on the plan and the plan itself conform in every respect with the requirements of this chapter; or

(b) Reject the proposed plan if the sign as shown on the plan or the plan itself fails in any way to conform to the requirements of this chapter. In case of a rejection, the Director shall specify in the rejection the section or sections of the chapter with which the plan is inconsistent.

(F) *Action on master sign plans.* On any application for approval of a master sign plan, the Planning and Zoning Board shall review the request at a regularly scheduled meeting within 30 working days of receipt of a complete application. The Board shall either approve or disapprove the request.

(Ord. 11-14)

156.42 MEASUREMENT STANDARDS.

(A) For a wall sign that is framed, outlined, painted, or otherwise prepared and intended to provide a background for a sign display, the area and dimensions shall include the entire portion within such background or frame.

(B) For a wall sign comprised of individual letters, figures or elements on a wall or similar surface of the building or structure, the area and dimensions of the sign shall encompass a regular geometric shape (rectangle, circle, etc.) or a combination of regular geometric shapes, which form, or approximate, the perimeter of all elements in the display, the frame, and any applied background that is not part of the architecture of the building. When separate elements are organized to form a single sign, but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form, or combination of forms, which comprises all of the display areas, including the space between different elements. Minor appendages to a particular regular shape shall not be included in the total area of a sign.

(C) For a freestanding sign, the sign area shall include the frame, if any, but shall not include:

(1) A pole or other structural support unless such is intentionally illuminated or otherwise designed to constitute a display device, or a part of a display device.

(2) Architectural features that are either part of the building or freestanding structure and not an integral part of the sign, and which may consist of landscaping, building or structural forms complementing the site in general.

(D) *Computation of area of multi-faced signs.* The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when the sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

(E) *Computation of height.* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

(1) Existing grade prior to construction; or

(2) The newly established grade after construction, exclusive of any filling, boring, mounding, or excavating solely for locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

(F) *Determining building frontages and frontage lengths.*

(1) *Building unit.* The building unit is equivalent to the tenant space. The frontage of the tenant space on the first floor shall be the basis for determining the permissible sign area for wall signs.

(2) *Primary and secondary frontage.* The frontage of any building unit shall include the elevation(s) facing a public street, facing a primary parking area for the building or tenants, or containing the public entrance(s) to the building or building units.

(a) The primary frontage shall be considered the portion of any frontage containing the primary public entrance(s) to the building or building units.

(b) The secondary frontage shall include those frontages containing secondary public entrances to the building or building units, and all building walls facing a public street or frontage or primary parking area that are not designated as the primary building frontage by subsection (F)(2)(a) of this section.

(G) *Length of building frontage.*

(1) The length of any primary or secondary building frontage as defined herein shall be the sum of all lengths parallel, or nearly parallel, to such frontage, excluding any wall length determined by the Department as clearly unrelated to the frontage criteria.

(2) For buildings with two or more frontages, the length of the wall and allowable sign area shall be calculated separately for each such building frontage.

(3) The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

(Ord. 11-14)

156.43 DESIGN, CONSTRUCTION AND MAINTENANCE.

All signs shall be designed, constructed and maintained in accordance with the following standards:

(A) *Maintenance.* Complete maintenance is required for all signs, whether or not in existence prior to adoption of the ordinance codified in this chapter. Maintenance shall include periodic cleaning, replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any faded, peeled, cracked, rusting, or otherwise damaged or broken parts of a sign, and any other activity necessary to restore the sign so that it continues to conform to the requirements and contents of the sign permit issued for its installation and provisions of this chapter.

(B) *Removal of unused sign support structures.* Removal is required of any vacant and/or unused sign support structures, angle irons, sign poles or other remnants of old signs, which are not currently in use, or proposed for reuse.

(C) *Removal of obsolete or abandoned signs.* Signs which conform to the provisions of this chapter but which reflect obsolete sign copy may remain in place provided the obsolete sign copy is left unlit and/or blank.

(D) *Removal of unsafe sign structures.* The Development Services Director shall have the authority to order the repair, maintenance or removal of any sign or sign structure that has become dilapidated or represents a hazard to safety, health, or public welfare. If such a condition is determined by the Director to exist, the Director or his/her designee shall give notice thereof to the property owner by certified mail. If the order is not complied with in a period not to exceed 30 days from service of notice, the Director may cause the sign to be removed or repaired, and the cost of such removal or repair to be charged against the sign owner and/or the property owner.

(E) The numerical address of the business/development shall be placed upon freestanding signage.

(F) Traditional freestanding signage shall be skirted or enclosed in a manner so that the width and depth of the pedestal skirting is appropriately scaled in relation to the width and the depth of the sign.

(G) No additions, tag sign streamers, attention-getting devices or other appurtenances shall be attached to any sign structure or sign panel.

(H) Illumination of signs may be direct or indirect; however, all lighting shall comply with the State of New Mexico Night Sky Protection Act or other applicable city regulations.

(Ord. 11-14)

APPENDIX A SIGN DISTRICTS.

The various zoning districts within Chapter 154 have been grouped together and classified as sign districts. Sign districts therefore need not represent specific zoning districts and may represent unique geographical areas. The Director of Development Services is responsible for determining which the most applicable sign district for any lot is. More than one sign district may apply to a lot if the lot has more than one street frontage. In that case, the most restrictive district policy shall apply. On the tables in Appendix B in this chapter, the headings have the following meanings:

RSF. Residential, single-family. This sign district may include any single-family residential development areas: residential developments in the R-1, R-2, R-3 Townhome, R-4, R-5, A-R, E-1, MH and SU, special use for R-1 zoning districts.

RMF. Residential, multi-family. This sign district may include any multi-family residential development areas: residential developments in the R-3, R-6 and SU, special use for multi-family zoning districts.

INS. Institutions. This sign district applies to institutional uses permitted under Chapter 154 that are located in residential zoning districts. The uses may include, but are not necessarily limited to, churches, schools, funeral homes and cemeteries.

NBD. Neighborhood business district. This sign district is used for nonresidential developments that are immediately adjacent to or across the street from residential developments (such as nonresidential developments on Golf Course Road that are directly across from residential development).

COM/IND. Commercial/industrial business district. This sign district includes all nonresidential development typically found in the C-1, retail commercial; C-2, wholesale and warehousing commercial; SU, special use for commercial; O-1 and O-2, office districts; and the M-1 zoning district that does not front on a highway.

HWY. Highway commercial/industrial business district. This sign district includes all nonresidential developments found in the zoning districts listed in the commercial business or industrial districts except that the lots have frontage adjacent to or within 75 feet of a highway, e.g., NMSR 528.

(Ord. 11-14)

APPENDIX B SIGNS BY TYPE AND SIGN DISTRICT.

SIGN TYPE	SINGLE-FAMILY RESIDENTIAL DISTRICT	MULTI-FAMILY RESIDENTIAL DISTRICT	INSTITUTIONAL DISTRICT	NEIGHBORHOOD DISTRICT	COMMERCIAL/ INDUS. DISTRICT
PERMANENT SIGNS ON PRIVATE PROPERTY					
Arcade/ Hanging[1]	Not Allowed	Not Allowed	Not Allowed	• 1 sign: 12 SF per tenant space where a plaza exists	• 1 sign: 12 SF max. sign area per tenant space where a plaza exists
Attached/ Building/ Wall	• 1 sign: 32 SF max. sign area per subdivision entry wall • 1 sign: 2 SF max. sign area if required by law per single premises • 1 sign: 8 SF max. sign area for noncommercial messages per single premises	• 1 sign: 32 SF max. sign area per subdivision entry wall • 1 sign: 2 SF max. sign area if required by law per single premises • 1 sign: 8 SF max. sign area for noncommercial messages per single premises	• 20% of building unit frontage; 18 inches maximum projection	• 20% of building unit frontage; 18 inches max. projection	• 20% of building unit frontage; 18 inches max. projection
Awning[2]	Not Allowed	• 20% of awning at leasing office building only	• 20% of awning for each tenant space or building	• 20% of awning for each tenant space or building	• 20% of awning for each tenant space or building

SIGN TYPE	SINGLE-FAMILY RESIDENTIAL DISTRICT	MULTI-FAMILY RESIDENTIAL DISTRICT	INSTITUTIONAL DISTRICT	NEIGHBORHOOD DISTRICT	COMMERCIAL/ INDUS. DISTRICT
Building Identification[3]	• 1 sign per lot: 2 SF max. sign area	• 1 sign per building: 4 SF max. sign area	• 1 sign per building: 8 SF max. sign area	• 1 sign per building: 8 SF max. sign area	• 1 sign per building: 8 SF max. sign area
Building Marker[4]	• 1 sign per lot: 1 SF	• 1 sign per building: 1 SF max. sign area	• 1 sign per building: 3 SF max. sign area	• 1 sign per building: 3 SF max. sign area	• 1 sign per building: 3 SF max. sign area
Canopy	Not Allowed	Not Allowed	Not Allowed	Not Allowed	• Sign area on perpendicular face of building
Digital/EMS[5]	Not Allowed	Not Allowed	• 30 SF max. message area, 8 seconds minimum display • Maximum 1 EMS per development	• Maximum 30 SF message area, 8 seconds minimum display • Maximum 1 EMS per development	• Maximum 50 SF message area, 8 seconds minimum display • Maximum 1 EMS per development
Digital Off-Premises Advertising Signs	Not Allowed	Not Allowed	Not Allowed	Not Allowed	• Maximum 242 SF sign area (11' x 22), 24 feet max. height • Distance per Section 156.33
Incidental/ Directional/ Safety	Permitted per Section 156.22	Permitted per Section 156.22	• No set number of signs: 4 SF max. sign area, 5 feet max. height	• No set number of signs: 4 SF max. sign area, 5 feet max. height	• No set number of signs: 4 SF max. sign area, 5 feet max. height
Marquee	Not Allowed	Not Allowed	Not Allowed	Not Allowed	• On perpendicular face of marquee
Freestanding Monument[6]	• 1 sign per subdivision entry: 40 SF max. sign area, 8 feet max. height	• 1 sign per subdivision entry: 40 SF max. sign area, 8 feet max. height	• 1 sign per street frontage, 60 SF max. sign area, 10 feet max. height	• 1 sign per street frontage, 60 SF max. sign area, 10 feet max. height	• 1 sign per 200 linear feet of street frontage, 70 SF max. sign area, 10 feet max. height

SIGN TYPE	SINGLE-FAMILY RESIDENTIAL DISTRICT	MULTI-FAMILY RESIDENTIAL DISTRICT	INSTITUTIONAL DISTRICT	NEIGHBORHOOD DISTRICT	COMMERCIAL/ INDUS. DISTRICT
Pedestal/ Pylon	Not Allowed	Not Allowed	• 1 sign: 60 SF max. sign area, 16 feet max. height	• 1 sign: 60 SF max. sign area, 16 feet max. height	• 1 sign per 200 linear feet of street frontage, 150 SF max. sign area, 24 feet max. height
Projecting[7]	Not Allowed	Not Allowed	Not Allowed	Not Allowed	• 1 sign per tenant space: 12 SF max. sign area with a max. projection of 3 feet
Revolving	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed
Roof	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed
Window[8]	Not Allowed	Not Allowed	• Maximum of 25% of total window area	• Maximum of 25% of total window area	• Maximum of 25% of total window area
Flags[9] Federal, State	Permitted	Permitted	Permitted	Permitted	Permitted
TEMPORARY SIGNS IN THE PUBLIC RIGHT-OF-WAY Sections 156.21, 156.22 and 156.23 are applicable to these signs					
Right-of-Way[10] **Directional** Open House Garage Sale[11]	• 10 signs: 8 SF max. sign area within 1/2 mile of open house or garage sale	• 10 signs: 8 SF max. sign area within 1/2 mile of open house or garage sale	• 10 signs: 8 SF max. sign area within 1/2 mile of open house or garage sale	• 10 signs: 8 SF max. sign area within 1/2 mile of open house or garage sale	• 10 signs: 8 SF max. sign area within 1/2 mile of open house or garage sale
Special Event	• 10 signs: 8 SF max. sign area per approved special event	• 10 signs: 8 SF max. sign area per approved special event	• 10 signs: 8 SF max. sign area per approved special event	• 10 signs: 8 SF max. sign area per approved special event	• 10 signs: 8 SF max. sign area per approved special event
Subdivision Directional	• 10 signs: 8 SF max. sign area per builder, per subdivision	• 10 signs: 8 SF max. sign area per builder, per subdivision	• 10 signs: 8 SF max. sign area per builder, per subdivision	• 10 signs: 8 SF max. sign area per builder, per subdivision	• 10 signs: 8 SF max. sign area per builder, per subdivision

SIGN TYPE	SINGLE-FAMILY RESIDENTIAL DISTRICT	MULTI-FAMILY RESIDENTIAL DISTRICT	INSTITUTIONAL DISTRICT	NEIGHBORHOOD DISTRICT	COMMERCIAL/ INDUS. DISTRICT
Political	• Permitted in the public right-of-way per Section 156.23	• Permitted in the public right-of-way per Section 156.23	• Permitted in the public right-of-way per Section 156.23	• Permitted in the public right-of-way per Section 156.23	• Permitted in the public right-of-way per Section 156.23
TEMPORARY SIGNS ON PRIVATE PROPERTY Sections 156.20 and 156.22 are applicable to these signs					
Open House Real Estate Garage Sale Development/Const.	• Permitted on private property per Section 156.22	• Permitted on private property per Section 156.22	• Permitted on private property per Section 156.22	• Permitted on private property per Section 156.22	• Permitted on private property per Section 156.22
Political Signs	• Permitted on private property per Section 156.22	• Permitted on private property per Section 156.22	• Permitted on private property per Section 156.22	• Permitted on private property per Section 156.22	• Permitted on private property per Section 156.22
Commercial Vehicle Signs[12]	Not Allowed	Not Allowed	• Commercial vehicle signs must be on an operable vehicle currently registered and licensed to operate on public streets, and actively used in the daily function of the business to which such signs relate	• Commercial vehicle signs must be on an operable vehicle currently registered and licensed to operate on public streets, and actively used in the daily function of the business to which such signs relate	• Commercial vehicle signs must be on an operable vehicle currently registered and licensed to operate on public streets, and actively used in the daily function of the business to which such signs relate
Mobile Billboards[13]	Not Allowed	Not Allowed	• Mobile billboards may not be parked, except for lunch from 12:00 p.m. to 1:00 p.m., on any property except where it may be legally parked for storage	• Mobile billboards may not be parked, except for lunch from 12:00 p.m. to 1:00 p.m., on any property except where it may be legally parked for storage	• Mobile billboards may not be parked, except for lunch from 12:00 p.m. to 1:00 p.m., on any property except where it may be legally parked for storage

SIGN TYPE	SINGLE-FAMILY RESIDENTIAL DISTRICT	MULTI-FAMILY RESIDENTIAL DISTRICT	INSTITUTIONAL DISTRICT	NEIGHBORHOOD DISTRICT	COMMERCIAL/ INDUS. DISTRICT
A-Frame/ Portable	Not Allowed	• 12 SF max. sign area per business, shall be located on lot in which the business is located	• 12 SF max. sign area per business, shall be located on lot in which the business is located	• 12 SF max. sign area per business, shall be located on lot in which the business is located	• 12 SF max. sign area per business, shall be located on lot in which the business is located
Flags (Flex-Pole) Model Home Subdivision Project	• 1 flag per model home lot • 4 flags per subdivision along the exterior boundary of the subdivision	• 3 flags per development below 5 acres, 6 flags per development above 5 acres	N/A	N/A	N/A
Flags (Flex-Pole) on Nonresidential Lots	N/A	N/A	• 12 SF max. sign area per business, shall be located on lot in which the business is located	• 12 SF max. sign area per business, shall be located on lot in which the business is located	• 12 SF max. sign area per business, shall be located on lot in which the business is located
Balloons/Air Filled	• Maximum 1 balloon 50 SF sign area, not to exceed a height of 100 feet provided placement is set back from the property line a minimum of 1 foot for every 1 foot of height	• Maximum 1 balloon 50 SF sign area, not to exceed a height of 100 feet provided placement is set back from the property line a minimum of 1 foot for every 1 foot of height	• Maximum 1 balloon 50 SF sign area, not to exceed a height of 100 feet provided placement is set back from the property line a minimum of 1 foot for every 1 foot of height	• Maximum 1 balloon 50 SF sign area, not to exceed a height of 100 feet provided placement is set back from the property line a minimum of 1 foot for every 1 foot of height	• Maximum 1 balloon 50 SF sign area not to exceed a height of 100 feet provided placement is set back from the property line a minimum of 1 foot for every 1 foot of height
Pennants/Streamers	Not Allowed	• 1 linear foot per linear foot of street frontage, 14 feet min. vertical clearance	• 1 linear foot per linear foot of street frontage, 14 feet min. clearance	• 1 linear foot per linear foot of street frontage, 14 feet min. clearance	• 1 linear foot per linear foot of street frontage, 14 feet min. clearance

SIGN TYPE	SINGLE-FAMILY RESIDENTIAL DISTRICT	MULTI-FAMILY RESIDENTIAL DISTRICT	INSTITUTIONAL DISTRICT	NEIGHBORHOOD DISTRICT	COMMERCIAL/ INDUS. DISTRICT
Banners	Not Allowed	• 1 banner: 60 SF max. sign area per lot per promotional event	• 1 banner: 60 SF max. sign area per lot per promotional event	• 1 banner: 60 SF max. sign area per lot per promotional event or 32 SF max. sign area per tenant space	• 1 banner: 60 SF max. sign area per lot per promotional event or 32 SF max. sign area per tenant space

[1] Arcade signs located within a plaza shall not count against wall signage and are permitted in addition to wall signage.

[2] Awning signs shall count against wall signage and are permitted in addition to wall signage.

[3] Shall not count against wall signage and are permitted in addition to wall signage.

[4] Shall not count against wall signage and are permitted in addition to wall signage.

[5] Digital signs shall be limited to freestanding signs and in accordance with Section 156.42. All existing digital signs shall come into compliance with this chapter as it pertains to animation and brightness within 90 days of the effective date of the ordinance codified in this chapter. Digital signs shall not be located within 40 feet of a residential zone.

[6] All freestanding signs except monument signs shall have a minimum of seven feet ground clearance.

[7] Projecting signs shall be counted towards wall signage and shall not project beyond a pedestrian walkway.

[8] Window signs shall not count against wall signage and are permitted in addition to wall signage.

[9] Must be installed in accordance with all applicable regulations including but not limited to building permits.

[10] Permitted in the right-of-way per Sections 156.21, 156.22, and 156.23.

[11] A maximum of six garage sales per year is permitted per individual or premises. Garage sale signs shall include an address.

[12] The primary purpose for which the vehicle is used is not for the stationary display of the sign.

[13] *MOBILE SIGN*. Any sign placed upon, applied to the surface of, or attached to a motorized vehicle or towed trailer that is driven on public streets primarily for the purpose of displaying the signage on them; signs commonly referred to as “mobile billboards.”

* Changing the face on monument or wall sign does not require a permit or fee.

(Ord. 11-14; Am. Ord. 12-07; Am. Ord. 12-28; Am. Ord. 14-06)

APPENDIX C DEFINITIONS.

A-FRAME SIGN. Any freestanding, temporary, and/or movable sign usually constructed of two separate wood or metal sign faces attached at the top.

ABANDONED SIGN. Any sign that describes, directs attention to, gives directions for locating any business or establishment no longer in operation, or advertises a product no longer being marketed or any sign structure lacking a sign face or sign copy for a period that exceeds 90 days.

ANIMATED SIGN. Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

ARCADE SIGN. Any sign that is suspended (hanging) from, and located entirely under, a covered porch and/or covered walkway.

ATTACHED SIGN. Any sign that is fastened, attached, connected, or supported in whole or in part by a building.

AWNING SIGN. Any sign that is painted, stamped, perforated, stitched, or otherwise applied on an awning.

BANNER. Any sign of lightweight fabric or similar material that is not permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institutions or business shall not be considered **BANNERS.**

BEACON. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

BILLBOARD. Any sign which directs attention to a business, activity, commodity, service, entertainment or communication that is not conducted, sold or offered at the premises on which the sign is located, or which does not pertain to the premises upon which the sign is located.

BUILDING FACADE. Any exterior wall of a building including windows, doors, and mansard, but not including a pitched roof.

BUILDING IDENTIFICATION SIGN. Any sign that serves to identify only the name, address, and lawful use of the premises upon which it is located and provides no other advertisements or product identification.

BUILDING MARKER. Any sign indicating the name of a building and date and incidental infor-mation about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

BUILDING SIGN. Any sign attached to any part of a building as contrasted to a freestanding sign.

CABINET SIGN. Any sign that contains all the text and/or logo symbols within a single enclosed case.

CANOPY SIGN. A sign that is mounted, painted, or otherwise applied on or attached to the perpendicular face of a freestanding canopy or structural protective cover over an outdoor entry or doorway. **CANOPY SIGNS** are frequently supported by poles and extend over a sidewalk or entry. An awning or a marquee is not a **CANOPY SIGN.**

CHANGEABLE COPY. Any sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means, or manually through placement of letters or symbols on a panel mounted on or on a track system.

CLEAR SIGHT TRIANGLE. An area of unobstructed vision at street intersections between 30 inches and seven feet above the gutter line and is a triangular area at the street corner. Three points and the corresponding lines that connect those three points shall define the area of the **CLEAR SIGHT TRIANGLE** for any given street comer. Point A shall be the intersection of the two centerlines of the two intersecting rights-of-way (middle of the intersection in most cases). Points B and C shall be the appropriate distance along the centerline of each of the intersecting rights-of-way. Appropriate distance is determined by street classification as follows: local street, 75 feet; collector, 100 feet; and arterial street, 150 feet. When extraordinary conditions exist as determined by the Traffic Safety Advisory Committee, the City Engineer has the authority to determine the **CLEAR SIGHT TRIANGLE** area.

COMMERCIAL DIRECTIONAL KIOSK SIGN. A privately owned freestanding and multiple-sided structure located on nonresidential property that displays directional information pertaining to local businesses.

COMMERCIAL MESSAGE. Any sign wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

COMMERCIAL VEHICLE. A vehicle used for business purposes that is clearly identified as such by signs applied, placed or painted on the vehicle.

COMMON SIGNAGE PLAN. A plan set forth by two or more owners of contiguous parcels for installing signage for shared usage by the plan participants.

DEVELOPMENT SIGN. Any sign used to announce the name of a development being, or to be, constructed. A **DEVELOPMENT SIGN** also referred to as a construction sign may include on it all firms involved in the project who wish to advertise (to include licensing numbers where appropriate).

DIRECTIONAL SIGN. Any sign limited to directional messages such as “enter” or “exit.” Logos and business names are permitted as needed to complete the directional message.

DIRECTOR. The Director of Development Services or his or her designee.

ELECTRONIC MESSAGE SIGN. Any sign containing a display consisting of any array of light sources, panels, or disks that are electronically activated, designed to contain commercial copy that is static for at least eight seconds and contains no animation.

EMBELLISHMENT. Structural or decorative elements of a sign incorporating representations of significant architectural features of the associated building or development. Embellishment does not include letters, numerals, figures, emblems, logos, colored bands or other features conveying a commercial advertising message.

FIXED BALLOON. Any lighter-than-air or gas-filled inflatable object attached by a tether to a fixed place.

FLAG. Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

FLAG, DECORATIVE. Any sheet of fabric, square, rectangular or triangular shape which is mounted on a pole, cable, or rope at one end, which may or may not contain text or graphics.

FLEX-POLE SIGN. A temporary sign that consists of a flag that includes an advertising message that is attached to a flexible pole that attracts attention by the flag and pole moving by the wind.

FOOT CANDLE. A measure of illumination on a surface that is one foot from a uniform source of light of one candle and equal to one lumen per square foot.

FREESTANDING SIGN. Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure. Types of **FREESTANDING SIGNS** include pole/pylon and monument.

GARAGE SALE SIGN. A sign used to announce a garage sale, also known as a yard sale, rummage sale and moving sale, for the sale of used personal goods. For the purposes of this chapter, this definition also pertains to community sales, which may involve several individuals at the same location.

GOVERNMENT SIGN. A sign erected and maintained pursuant to and in discharge of any government functions, or required by law, ordinance or other regulation, including legal notices, advertisements, traffic, identification, direction, and information signs on government property. Such signs are exempt from regulation.

GRADE. The height of the top of the curb, or if no curb exists, the height of the edge of the pavement in the lane of travel adjacent to the sign.

HANGING SIGN. Any sign that is suspended from, and located entirely under, a covered porch, covered walkway, or an awning.

HOLIDAY DECORATIONS. Signs or displays, including lighting, which are a nonpermanent installation celebrating national, state, and local holidays or holiday seasons.

IDENTIFICATION SIGN. Any sign of an identification or of an informational nature bearing no advertising.

ILLUMINATED SIGN. Any sign that is illuminated by electric lights or luminous tube located within the interior of the sign.

ILLUMINATION, DIRECT. Illumination which is arranged so the light is directed into the eyes of the viewer from the light source.

ILLUMINATION, INDIRECT. Illumination which is arranged so that the light is reflected from the sign to the eyes of the viewer.

INCIDENTAL SIGN. Any sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone” and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered an **INCIDENTAL SIGN**.

KIOSK SIGN. A freestanding and multiple-sided structure owned by the city and located in public rights-of-way that displays directional information.

LOGO. An emblem, letter, character, pictograph, trademark, or symbol used to represent any firm, organization, entity, or product.

LOT. A parcel of land, the boundaries of which have been established by a legal instrument of record, that is recognized and intended for the purposes of transfer of ownership, that is of sufficient size to meet minimum zoning requirements for area coverage and use, and that can provide yards and other open spaces as required by the zoning regulations.

MARQUEE. Any permanent horizontal roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN. Any sign attached to, in any manner, or made a part of the perpendicular face of a marquee. A **MARQUEE SIGN** is not a canopy or awning sign.

MASTER SIGN PLAN. A plan set forth for the purpose of unifying a variety of signs associated with a multi-tenant or multi-use building, complex of buildings, shopping center, business park, or planned unit developments which identifies the placement, construction, size, materials, colors, method of lighting and other related requirements for those signs that are subject to the plan.

MOBILE SIGN. Any sign placed upon, applied to the surface of, or attached to a motorized vehicle or towed trailer that is driven on public streets primarily for the purpose of displaying the signage on them; signs commonly referred to as “mobile billboards.”

MODEL HOME SIGN. Any sign which is located on a lot with an approved model home.

MONUMENT SIGN. A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles, pylons, or an attached building.

MURAL. Any picture or graphic illustration applied directly to a wall of a building that does not advertise or promote a particular business, service, or product. A **MURAL** is a sign only if it is related by language, logo, or pictorial depiction to the advertisement of any product or service or the identification of any business.

NONCONFORMING SIGN. A sign which was validly installed under laws or ordinances in effect at the time of its installation, but which is in conflict with the current provisions of this code.

OFF-PREMISES SIGN. Any sign which directs attention to a business, commodity, or service sold, offered, or existing elsewhere than upon the same lot where such sign is displayed.

ON-PREMISES SIGN. Any sign which directs attention to a business, commodity, or service sold, offered, or existing on the same lot where such sign is displayed.

OPEN HOUSE SIGN. A sign used to announce a house held open for sale/tour by potential buyers. This applies to new and existing homes.

PARAPET WALL. The vertical extension of a building exterior wall projecting above the roofline of the building.

PENNANT. Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

PERMANENT SIGN. Any sign permanently affixed to the ground or wall.

PERSON. Any individual, association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

PLATE LINE. The point at which any part of the roof structure first touches or bears upon an external wall.

POLITICAL SIGN. A temporary sign intended to advance a political statement, cause, or candidate for office.

PORTABLE SIGN. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless the vehicle is used in the normal day-to-day operations of the business (see definition of **COMMERCIAL VEHICLE**).

PRINCIPAL BUILDING. The building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple **PRINCIPAL BUILDINGS**, but accessory structures shall not be considered **PRINCIPAL**

BUILDINGS.

PROJECTING SIGN. A sign attached to and projecting out from a building face or wall, generally at right angles to the building. Projecting signs include signs that are totally in the right-of-way, partially in the right-of-way, or fully on private property.

PROMOTIONAL EVENT. An event such as but not limited to a grand opening or year-end clearance sale, etc., that promotes a business or group of businesses.

PYLON/POLE SIGN. A freestanding sign that is affixed, attached, or erected on a pole that is not itself an integral part of or attached to a building or structure. There must be a minimum of eight feet from the bottom of the sign to the ground.

REAL ESTATE SIGN. Any temporary sign placed upon property for the purpose of advertising to the public the sale or lease of the property.

RESIDENTIAL SIGN. Any sign located on a lot zoned for residential uses that contains no commercial message except advertising for goods and services legally offered on the premises where the sign is located, if offering such service at such location conforms to all requirements of the zoning ordinance.

REVOLVING SIGN. A sign that revolves on, around, or about a structural support. A structural support includes, but is not limited to, a pole, building or other type of support.

RIGHT-OF-WAY. The public property adjacent to a roadway, excluding medians, which is under the jurisdiction of the City of Rio Rancho.

ROOF SIGN. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure. **ROOF SIGNS** are prohibited in all districts. A sign attached to an exterior wall of a building but whose face extends above the roofline or plate line by less than 10% of the face of a sign shall not be considered a roof sign.

SETBACK. The distance from the property line to the nearest part of the applicable building, structure or sign, measured perpendicularly to the property line.

SHOPPING CENTER. A group of two or more retail or other commercial establishments, having any or all of the following characteristics:

(1) The establishments are connected by a party wall, partitions, canopies, or similar features;

(2) Some or all of the establishments are located in separate buildings which are designed as a single commercial group sharing common parking areas and vehicular ways and which are connected by walkways or other access ways;

(3) The establishments are under the same management or association for enforcing reciprocal agreements controlling management or parking.

SIGN. Any device, fixture, placard or structure that uses any colors, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

SIGN DISTRICT. The classification of a geographical area assigned for calculating the signage allowed for a particular lot.

STREET. A strip of land or way subject to vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property, including, but not limited to, alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails or other thoroughfares.

STREET FRONTAGE. The distance for which a lot line of a lot adjoins a public street, from one lot line intersecting the street to the furthest distant lot line intersecting the same street.

SUBDIVISION DIRECTIONAL SIGN. A temporary sign that is designed and erected for the purpose of directing the public to a recorded residential subdivision for the sale of homes or lots thereon. These signs may be placed on property other than property located within the subdivision.

SUBDIVISION SIGN. Any permanent sign placed on private property, in a private easement or on public property with an approved encroachment agreement, at the entrance of residential subdivisions for the purpose of identification of the subdivision.

SUSPENDED SIGN. Any sign that is suspended from the underside of a plane surface and is supported by the surface.

TEMPORARY SIGN. A sign that is intended for a temporary period of posting on public or private property; is typically constructed from semi-durable materials; and does not constitute a permanent structure.

WALL SIGN. Any sign attached parallel to a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by the wall or building, and which displays only one sign surface.

WINDOW SIGN. Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window.

(Ord. 11-14; Am. Ord. 12-28)

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Ordered By	Sharon Bitah		**Customer Phone**	5058915005	**Joint Ad #**
Customer EMail	sbitah@rrnm.gov		**PO Number**	240051	
Ad Cost		$134.68	**Sales Rep**	wschult	
Tax Amount		$10.27	**Order Taker**	wschult	
Total Amount		$144.95			
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CITY OF RIO RANCHO
PUBLIC HEARING NOTICE

The GOVERNING BODY of the CITY OF RIO RANCHO, NM, will consider the following matter at its regularly scheduled meeting on Thursday, October 12, 2023 at 6:00 pm:

Text Amendment
Case #23-105-00003
The applicant, City of Rio Rancho, requests to amend City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 154 Planning and Zoning for the addition of Section 154.45 Off-Premises Advertising Signs. This is the first reading of the proposed text amendment.

Text Amendment
Case #22-105-00002
The applicant, City of Rio Rancho, requests a text amendment to repeal and replace City of Rio Rancho Code of Ordinances (R.O. 2003) Chapter 156 Sign Regulations. This is the first reading of the proposed text amendment.

Zone Map Amendment
Case #23-100-00006
The applicant, Outer Rim Investments, Inc., requests a Zone Map Amendment from Unzoned to R-1: Single Family Residential for the property legally described as Unit 7, Block 18, Lots 128-129, and 132-134. The subject property is approximately 2.5 acres.

Zone Map Amendment
Case #23-100-00005
The applicant, J Jacob Enterprises, Inc., is requesting approval of a Zone Map Amendment from SU/C-1 and O-1 to SU/R-6, for the subject property legally described as U13, Blk 68, Lots 5, 6, 7, and 8. The properties total 4 acres and are located on the north side of Idalia Rd, west of Broadmoor Blvd.

Specific Area Plan Amendment
Case #23-410-00005
The applicant, J Jacob Enterprises, Inc. requests approval of an amendment to the Lomas Negras Specific Area Plan.

The meeting is scheduled in the Council Chambers at City Hall, 3200 Civic Center Cir NE, Rio Rancho, NM. The public is invited to attend in person or virtually at www.rrnm.gov. Materials related to these items are available for viewing in the Development Services Department at City Hall.

If you would like to comment on any of these applications, you are encouraged to submit a written comment to planning@rrnm.gov Written comments will be inserted into the public record.

Journal: September 27, 2023

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: O23

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Administration

SUBJECT:
O23, Ordinance Granting Vexus Fiber, LLC, a Non-Exclusive Franchise to Operate a Telecommunications Network Within the City Limits by Utilizing Public Places Via the Payment of Franchise Fees for a Period of 10 Years

BACKGROUND AND ANALYSIS:
First reading of an Ordinance.

Vexus Fiber, LLC, desires to obtain a franchise to operate a telecommunications network within the City limits by utilizing certain public places (e.g., streets, alleys, easements, open areas, public ways and public places) via the payment of franchise fees for a period of 10 years.

Vexus Fiber is a fiber optic telecommunications company providing high-speed fiber internet, IP television and digital telephone services for residential and business customers. Vexus Fiber has a long history of providing services to cities including Lubbock, Abilene, Amarillo, Wichita Falls, and most recently, Albuquerque.

Vexus Fiber seeks to connect the local community by operating a telecommunications network that can provide greater bandwidth to meet the City's growing need for internet services.

City staff has negotiated and worked with Vexus Fiber regarding the creation and operation of its franchise, where applicable. Vexus Fiber and the City agree that relevant laws have been followed and adhered to in negotiating the franchise. Staff has reviewed relevant information and has made the assessment that there is no basis to deny the franchise request.

The Franchise Ordinance is substantially similar to the cable television system franchise granted by the City to another telecommunications provider earlier this year. The franchise is non-exclusive and provides a mechanism for a telecommunications system connection for the City government center, each public school, each fire station, and each police station under certain conditions. The maximum allowable fee of 5 percent of gross revenue derived from telecommunications system services is assessed for use of public places. The Franchise Ordinance allows all of the fee revenue received by the City to flow into the General Fund.

If adopted during the Second Reading, the Ordinance will become effective thirty (30) days later, during which time the full Ordinance shall be published twice, not less than seven (7) days apart. Within this time period, a petition objecting the Ordinance, and containing signatures of at least twenty (20) percent of those who voted at the least regular municipal election, can be submitted to the Governing Body, pursuant to State law, 3-42-1 NMSA 1978.

IMPACT:

Approval of the Franchise Ordinance will help to facilitate options for citizens related to their internet service, and it will generate revenue for the City that will be used to fund and provide a variety of public services through the City's General Fund.

Approval of the Ordinance does not prohibit another telecommunications provider's potential deployment of a telecommunications network and other services in Rio Rancho, should they desire to do so.

ALTERNATIVES:

Approve the Ordinance.

Do not approve the Ordinance; however, staff has made an assessment that there is no basis for denial.

DEPARTMENT RECOMMENDATION:

City staff recommends approval of the Ordinance as presented.

ATTACHMENT: Ordinance

CITY OF RIO RANCHO
ORDINANCE

ORDINANCE NO. **ENACTMENT NO.**

ORDINANCE GRANTING TO VEXUS FIBER, LLC, A DELAWARE LIMITED LIABILITY COMPANY, FOR A PERIOD OF TEN (10) YEARS FROM AND AFTER THE PASSAGE, ACCEPTANCE AND EFFECTIVE DATE OF THIS ORDINANCE, THE NONEXCLUSIVE RIGHT, PRIVILEGE, PERMIT AND FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A FIBER OPTIC TELECOMMUNICATIONS NETWORK IN, UPON, ALONG, ACROSS, ABOVE, OVER, AND UNDER STREETS, ALLEYS, EASEMENTS, OPEN AREAS, PUBLIC WAYS AND PUBLIC PLACES, NOW LAID OUT OR DEDICATED, AND ALL EXTENSIONS THEREOF AND ADDITIONS THERETO, IN THE CITY OF RIO RANCHO, PROVIDING TERMS AND CONDITIONS FOR THE OPERATION OF SUCH FIBER OPTIC TELECOMMUNICATIONS NETWORK AND THE PAYMENT OF FEES THEREFORE

WHEREAS: Vexus Fiber, LLC, a Delaware limited liability company ("Vexus"), Vexus has formally notified the City that it desires a non-exclusive franchise to operate a fiber optic telecommunications network and other services within the City limits; and

WHEREAS: City staff has negotiated and worked with Vexus regarding its franchise request, where applicable; and

WHEREAS: approval of the franchise helps to facilitate options for citizens related to their telecommunications service, and generates revenue for the City that is used to provide a variety of public services.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

Section 1. FINDINGS. The Governing Body hereby finds:

(A) The City is authorized to grant and renew franchises for the installation, operation and maintenance of fiber optic telecommunications networks within the City.

(B) The City has endeavored to identify the future telecommunications-related needs and interests of the community; to consider the financial, technical, and legal qualifications of Vexus; and to determine whether plans for upgrading and operating its system are adequate.

(C) The City has relied on Vexus' written representations and has considered all of the information Vexus has presented in making its determination.

(D) The City, having considered the interests proposed and advanced, has found that the grant of the franchise requested, subject to conditions, is in the public interest and hereby grants a franchise to Vexus as follows:

Section 2. DEFINITIONS.

References to any City official or City office also refer to any official or office that succeeds to any or all of the responsibilities of the named official, whether by succession or otherwise. In addition, the following definitions shall apply:

AFFILIATE. When used in connection with Franchisee, means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with the Franchisee.

APPLICABLE LAW. References to laws or "applicable laws" in this Franchise include federal, state and local laws (and regulations lawfully adopted pursuant to those laws) now in effect, and to amended or new federal and state laws lawfully enacted.

TELECOMMUNICATIONS ORDINANCE. Has the same meaning as “Franchise”.

CITY. The City of Rio Rancho; when used to describe a geographic area, the term refers to the boundaries of the City of Rio Rancho, New Mexico, as they exist now or may exist in the future.

CITY COUNCIL. The Rio Rancho Governing Body, or its successor, the Governing Body of the City.

DWELLING UNIT. The definition of “Dwelling Unit” shall be consistent and match the definition as cited in Rio Rancho Municipal Code Section 150.25(B).

FCC. The Federal Communications Commission.

FRANCHISE. This document, i.e., this Ordinance and, upon the written unconditional and acknowledged acceptance by the Franchisee, a contractual agreement, executed between the City and the Franchisee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters. This Franchise, however, is not and shall not for any purpose be considered to be a cable television franchise, nor shall it be construed as a cable television franchise, and no terms used herein shall be construed as relating to a cable television system or cable television service, or the like.

FRANCHISE AREA. All parts of the City now existing and hereafter annexed.

FRANCHISEE. Vexus Fiber, LLC, a Delaware limited liability company and its lawful and permitted successors, assigns and transferees.

GROSS REVENUE.

(1) Includes all revenues derived directly or indirectly by a Provider from or in connection with the Telecommunications Services offered within the City through or by means of a Telecommunications Network within the City, exclusive of any Franchise Fee or tax passed through to consumers on behalf of governmental agencies, received by the Provider for services provided to customers through use of the Network. Gross Revenue shall include any revenue received by a Provider or any Affiliate through any means that is intended to have the effect of evading the payment of compensation that would otherwise be paid to the City for

Franchise Contract granted pursuant to this ordinance.

(2) Gross Revenue shall not include (i) proceeds from the sale of bonds, mortgages, or other evidence of indebtedness, securities, or stocks; or (ii) gross receipts taxes, bad debt write-offs, and customer credits; or (iii) revenue of any Affiliate or Provider from long distance service, commercial mobile radio service, cellular, personal communications service, other wireless communications service, or directory advertising. Each of the above are not included in the definition of Gross Revenue and, therefore, are not included in the calculation of any fee due under a Franchise.

(3) Gross Revenue shall not include the wholesale revenue of any Provider to the extent that the Person providing such wholesale revenue to the Provider pays to the City, pursuant to an agreement with the City, an annual Franchise Fee, or an amount equivalent thereto, calculated on the basis of such Person's Gross Revenue (as defined in this ordinance) from the provision of Telecommunications Service in the City.

(4) Gross Revenue shall be measured and monitored periodically.

ORDINANCE. Has the same meaning as “Franchise”.

PERSON. An individual or a corporation, trust, partnership, limited liability company, or other entity recognized by law.

PUBLIC RIGHTS-OF-WAY. The surface of and the space above and below any street, road, highway, freeway, bridge, lane, path, alley, court, sidewalk, parkway, or right-of way or easement dedicated to compatible uses, now or hereafter existing within the City which may be properly used for the purpose of installing, maintaining, and operating the Telecommunications System; and any other property that the Franchisee is entitled by state or federal law to use by virtue of the grant of this Franchise.

STANDARD DROP. An aerial or underground connection extending no more than 125 feet from the potential Subscriber's demarcation point to the nearest point of subscriber distribution on the Telecommunications Network from which Telecommunications Service is provided to that subscriber.

SUBSCRIBER. The City or any person who lawfully is receiving Telecommunications Service from a Franchisee and does not further distribute such service except as permitted by Franchisee.

SUBSCRIBER NETWORK. The fibers and the equipment and other components that are used in the provision of Telecommunications Service to subscribers.

SYSTEM HUB. A facility for signal interfacing between the Telecommunications Network and supporting networks.

TELECOMMUNICATIONS NETWORK Any System which includes facilities and/or equipment placed in the Public Rights-of-Way and used to provide any Telecommunications Service.

TELECOMMUNICATIONS. This means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

TELECOMMUNICATIONS PROVIDER *("*Provider*")* means:

(1) Any Person who provides any Telecommunications Service within the City by means of: (i) a Telecommunications Network owned by such Person or its Affiliate; (ii) specifically identifiable facilities of a Telecommunications Network reserved or made available for the use of such Person or its Affiliate under a lease or any other arrangement for a term longer than 120 days; or (iii) facilities of a Telecommunications Network not owned by such Person or its Affiliate and not specifically identifiable but obtained from another Person (including another Provider) if the use of such facilities is continuing and substantial. A Person owning or operating telecommunications facilities that merely pass through the City and such Person and facilities do not offer Telecommunications Service to subscribers within the City shall not be subject to this ordinance, provided that Person has received other appropriate authorization from the City to rent or occupy the Public Rights-of-Way.

(2) Except to the extent that a Provider or a Person uses the Public Rights-of-Way, a Provider or any Person which provides commercial mobile radio service, cellular, personal communications service, or other wireless communications service shall not be subject to this ordinance with respect to such service.

TELECOMMUNICATIONS SERVICE. This means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

TELECOMMUNICATIONS SYSTEM. See Telecommunications Network.

Section 3. GRANT OF FRANCHISE; LIMITS AND RESERVATIONS.

(A) Grant, Term and Effective Date.

The City hereby grants to the Franchisee, a non-exclusive right, privilege, permit and franchise to construct, operate, and maintain a Telecommunications System in, upon, across, above, over and under, streets, alleys, easements, open areas, public ways, and public places now laid out or dedicated in the City and upon annexation of any territory to the City, this Franchise shall extend to the territory so annexed, commencing on the effective date of the Franchise and extending for ten (10) years unless earlier terminated in accordance with this Franchise or applicable law. The Franchise and its terms and provisions shall be unconditionally adopted by written instrument executed and acknowledged by the appropriate officials of the City and delivered to the Franchisee which shall accept same not later than thirty (30) days after receiving it by acknowledging the Franchisee's acceptance in writing. The date of the Franchisee's acceptance shall be the effective date of the Franchise.

(B) Surrender.

Franchisee may surrender this Franchise at any time upon filing with the City a written

notice of its intention so to do, at least six (6) months before the surrender date. All the rights and privileges and all of the obligations, duties, and liability of Franchisee under this Ordinance, except as to the extent previously accrued hereunder, shall terminate on the surrender date specified in such notice.

(C) Relation to Other Provisions of Law.

(1) The Franchise issued by the City is subject to Applicable Law. This Franchise does not confer any rights upon the Franchisee other than as expressly provided herein, nor pass rights by implication except those that may otherwise vest pursuant to governing law. The Franchise does not convey title, equitable or legal, in the Public Rights-of Way or public property. Nothing in this Franchise shall be deemed to waive the right of the Franchisee to offer such other services as may be permitted by Applicable Law.

(2) This Franchise and all rights granted under the Franchise are subject to the lawful and non-discriminatory or arbitrary exercise of the police powers the City now has or may later obtain, including but not limited to the power of eminent domain; and are further subject to the exercise of the City's rights as a property owner under state and federal laws. Except as expressly set forth herein, neither the granting of this Franchise or any provision herein shall constitute a waiver or bar to the exercise of any governmental right or power of the City, including without limitation the right of eminent domain, and the right to grant additional fiber optic system franchises. However, once effective, this Franchise is a contract and except as to those changes which are the result of the City's lawful and necessary exercise of police powers, neither party may take any unilateral action which changes the explicit mutual promises.

(3) The Franchise issued and the franchise fees paid hereunder are not in lieu of any other required generally applicable permit, authorization, fee, charge or tax. Without limiting the foregoing, the City, among other things, does not waive the requirements of, or the Franchisee's duty to obtain, all applicable permits, and to comply with the conditions thereof; to comply with zoning laws; or to comply with any generally applicable codes, ordinances and regulations governing the construction of the Telecommunications System.

(D) No Recourse.

Without limiting such immunities as the City or other persons may have under applicable law, Franchisee shall have no monetary recourse whatsoever against the City or its officials, boards, commissions, agents, volunteers, or employees for any loss, costs, expense or damage arising out of any provision or requirement of this Franchise or because of the enforcement of this Franchise or other applicable law, unless the same shall be caused by criminal acts or by willful or gross negligence.

(E) Effect of Change in Law.

In the event that state or federal laws, rules, or regulations preempt a provision or limit the enforceability of a provision of this franchise, then the provision shall be read to be preempted or limited to the extent and for the time, but only to the extent and for the time,

that such laws, rules or regulations validly acted to preempt or limit such provision. In the event such state or federal law, rule, or regulation is subsequently repealed, rescinded, amended, or otherwise changed, so that the provision hereof that had been preempted or limited is no longer so affected, such provision shall thereupon return to full force and effect and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the affected party.

Section 4. RENEWAL PROCEDURES.

The Parties agree that renewal of this Franchise will be guided by and comply with the provisions provided on Exhibit “A” attached hereto and incorporated herein by this reference.

Section 5. TRANSFERS.

(A) The Telecommunications System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto either legal or equitable, or any right, interest or property therein pass to or vest in any Person without the prior written consent of the City, which consent shall not be unreasonably withheld. Such consent shall not be deemed to waive any rights of the City to subsequently enforce this provision, or to enforce any other provision of this Franchise.

(B) The Franchisee shall promptly notify the City of any actual or proposed sale, change in, transfer of, or acquisition by any other party, of control of the Franchisee. The word "control" as used herein is not limited to majority stock ownership but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Franchisee shall make this Franchise subject to cancellation unless and until the City shall have expressly consented in writing thereto. Such consent shall not be deemed to waive any rights of the City to subsequently enforce noncompliance issues relating to this Franchise.

(C) Prior to any such sale, transfer or change in control of the Telecommunications System, the Franchisee shall make a written request to the City for its approval of a sale or transfer or change in control and shall furnish therewith all information required by law.

(D) In seeking the City's consent to any change in ownership or control, the proposed transferee or new controlling Person shall indicate whether it or any of its management officers or directors:

(1) Has or have ever been convicted, pleaded guilty or nolo contendere, or held liable for acts involving deceit including any violation of federal, State or local law or regulations or is currently under an indictment, investigation or complaint charging such acts;

(2) Has or have ever had a judgment in an action for fraud, deceit or misrepresentation entered against it by any court;

(3) Has or have pending any material legal claim, lawsuit or administrative proceeding arising out of or involving a Telecommunications System;

(4) Has the financial, legal and technical capability to enable it to maintain and

operate the Telecommunications System consistent with all of the terms and requirements of this Franchise for the remaining term of the Franchise.

(E) The City shall act on the request within one hundred twenty (120) days of the Franchisee's submission of a complete application with all information required herein. Subject to the foregoing, if the City fails to render a final decision on the request within one hundred twenty (120) days thereafter, such request shall be deemed granted unless the requesting party and the City agree to an extension of time.

(F) Within thirty (30) days of any transfer, sale or change in control, if approved or deemed approved by the City, the Franchisee shall file with the City a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or change in control, certified and sworn to as correct by the Franchisee and the transferee or new controlling Person. In case of a sale or transfer of ownership, the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to applicable law. In the event of a change in control in which the Franchisee is not replaced by another entity, the Franchisee will continue to be bound by all of the provisions of this Franchise.

(G) In reviewing a request for sale or transfer or change in control, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and the Franchisee shall assist the City in so inquiring; however, any inquiry shall not serve to extend the one hundred twenty (120) day review period referenced in subsection E.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of the City shall not be required for any sale, assignment or transfer of the Franchise or Telecommunications System to an intra-company Affiliate; provided that the proposed assignee or transferee must show financial responsibility as is satisfactory to the City and must agree in writing to comply with all of the provisions of this Franchise. Further, the Franchisee may pledge the assets of the Telecommunications System for the purpose of financing without the consent of the City; provided that such pledge of assets shall not impair the Franchisee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

Section 6. FRANCHISE FEE.

(A) Payment to the City.

The Franchisee shall pay the City a franchise fee in an amount equal to five percent (5%) of Gross Revenues. The balance shall be deposited into the general fund or other fund(s) as designated by the City Council.

(B) GAAP (General Acceptable Accounting Principles) Applies.

Records of Telecommunications System revenues and expenses shall be kept in accordance with GAAP. Any disputes related to underpayment of franchise fees will be resolved with reference to GAAP.

(C) Not in Lieu of any other Assessments, Tax or Fee.

The franchise fee is in addition to all other generally applicable fees, assessments, taxes or payments that the Franchisee may be required to pay under any federal, state, or local law.

(D) Payments.

Franchise fees shall be paid quarterly commencing thirty (30) days after the end of each calendar quarter.

(E) No Accord or Satisfaction.

In accordance with the appropriate statute of limitations, no acceptance of any payment by the City required by this Franchise shall be construed as a release or an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee or for the performance of any other obligation of the Franchisee.

(F) Monitoring Audits.

The City may conduct an independent audit of the Franchisee's records reasonably related to the enforcement of this Franchise. If the audit shows that franchise fee payments have been underpaid by five percent (5%) or more, the Franchisee shall pay the total cost of the audit, such cost not to exceed fifteen thousand dollars ($15,000) along with all unpaid franchise fee payments shown thereby, within forty-five (45) days following completion of the audit. The City shall have the right to conduct such audits as the City deems necessary, though no more frequently than once per calendar year, upon thirty (30) days' prior written notice to the Franchisee.

(G) Consumer Disclosure.

The amount of a Subscriber's total bill assessed as a Franchise Fee may be listed as a separate line item.

Section 7. CONSTRUCTION.

(A) All work Subject to City Laws and Regulations.

The construction, operation, and repair of the Telecommunications System shall be performed in compliance with all laws, ordinances, resolutions, departmental rules, regulations, written policies, and practices affecting such system. Persons engaged in the construction, operation, or repair of the Telecommunications System shall exercise reasonable care in the performance of all their activities and shall use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public or to property.

(B) Permits.

All work performed will be performed in strict accordance with the conditions of the appropriate City permits. City will not unreasonably withhold granting of permits. Upon order of the City, any work and/or construction undertaken that is not completed in

compliance with the City's requirements, or which is installed without obtaining necessary permits and approvals shall be removed in accordance with the reasonable time line set forth by the City, unless the Franchisee receives the necessary permits and approvals and/or corrects the non-compliant work or construction.

(C) Safety Codes.

Without limiting the foregoing, the installation, construction, operation and maintenance of the Telecommunications System shall be in accordance with the requirements of the National Electrical Safety Code of the American Insurance Association (successor to National Board of Fire Underwriters) and all applicable laws, ordinances, rules, regulations of the State and of the City affecting electrical installations and buildings in effect at the time of such installation. All structures and all lines, equipment, and connections in, over, under, and upon the streets shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair.

(D) Installations, Excavations, and Restorations.

The City shall have the right to regulate the time, manner and location of facilities in the Public Rights-of-Way. Without limiting the foregoing, the City may require the Franchisee, where unreasonable delay in the Franchisee's work will not result, to coordinate its work with work performed by others in the Public Rights-of-Way so that interference with the use of the Public Rights of-Way by others, including others that may be installing fiber optic systems or other communications systems such as but not limited to fiber, telephone, and cable television, may be minimized. The City may require a person using the Public Rights-of-Way to cooperate with others through joint trenching and other arrangements to minimize adverse impacts on the Public Rights-of-Way, subject to the Franchisee's right to not be unduly delayed in its emergency or planned work. The Franchisee shall have the right to excavate in, occupy, and use all Public Rights-of-Way and easements for the purpose of installing, erecting, constructing, repairing, maintaining, removing, relocating, and operating the Telecommunications System after obtaining any and all appropriate permits from the City.

(E) Employee Identification.

Any and all employees performing work on behalf of the Franchisee shall possess at all times a photo identification badge including a telephone number for verification. The Franchisee's vehicles shall also be marked with applicable identification.

(F) Clean-up and Restoration.

After any excavation shall be made and after work is completed, the Franchisee, at the Franchisee's expense, shall as soon as practicable, weather permitting, remove all surplus material, and restore the portion of the Public Rights-of-Way to a condition that reasonably meets or exceeds the pre-excavation condition of such Rights-of-Way, subject to inspection by the City. Any other affected public or private property shall be restored to a condition reasonably as good as that which existed prior to the work. If the Franchisee fails to restore promptly the affected property, including reseeding, then following written notice to the Franchisee, and reasonable opportunity to cure, the City may make the restoration in a manner satisfactory to the City, and all costs incurred for such restoration,

whether done with the City work forces and equipment or otherwise shall be paid by the Franchisee.

(G) Use of Existing Poles and Conduit.

(1) The Franchisee shall utilize existing poles and conduit wherever possible, subject to the consent of such pole and/or conduit owners. Franchisee shall not install poles in the Right-of-Way without the permission of the City, which City may withhold for any or no reason.

(2) In areas where either electric or telephone utility wiring is aerial, the Franchisee may install aerial fiber optic lines, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(3) In areas where electric and telephone lines or wires are installed underground at the time of Telecommunications System construction, or when all such wiring is subsequently placed underground, all Telecommunications System lines shall also be placed underground with other wireline service at no expense to the City or Subscribers unless funding is generally available for such relocation to all users of the Public Rights-of-Way. All Telecommunications System equipment, including, but not limited to, pedestals and power supplies, must be placed in accordance with the City's applicable code requirements and rules. New drops which are intended to be underground shall be buried within fourteen (14) business days of placement, weather and ground permitting.

(4) In the event that (i) the Franchisee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and (ii) the City in its sole discretion has consented to the installation of a pole, and only in such event, then it shall be lawful for the Franchisee to make all needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of the Franchisee's Telecommunications System. Any poles of the Franchisee shall be located as designated by the proper City authorities.

(5) This Franchise does not grant, give or convey to the Franchisee the right or privilege to install its facilities in any manner on specific utility poles or equipment.

(6) The Franchisee and the City recognize that situations may occur in the future where the City may desire to place its own fiber optic lines or conduit. The Franchisee agrees to cooperate with the City in any construction by the Franchisee that involves trenching or boring, provided that the City has first notified the Franchisee in writing that it is interested in sharing the trenches or bores in the area where the Franchisee's construction is occurring. The Franchisee shall allow the City to lay City cables and conduits in the Franchisee's trenches and bores, provided that the City shares in the cost of the trenching and boring on the same terms and conditions as the Franchisee, and that the City agrees not to use such cables and conduits laid in the Franchisee's trenches and bores to provide commercial services competing with those of the Franchisee under this Franchise.

The City shall be responsible for maintaining its respective cables and conduits buried in the Franchisee's trenches and bores under this paragraph.

(H) Publicizing proposed Construction Work.

The Franchisee will publicize any initial build or any substantial rebuild or upgrade of its Telecommunications System in each affected neighborhood before commencing that work by notifying those persons whose property is within three hundred (300) feet of the work in at least two of the following ways:

(1) Telephone;
(2) In person;
(3) By mail;
(4) Online via its website;
(5) Other forms of electronic communication such as e-mail or text message as allowed by law;
(6) By distributing flyers to residences; or
(7) By publication in local newspapers or by television public service
(8) announcement.

(I) Relocation.

The Franchisee shall, within a reasonable time specified by the City, protect, support, temporarily disconnect, relocate, or remove any of its property when requested by the City by reason of traffic conditions; public safety; Public Right-of-Way construction and repair (including re-grading, resurfacing or widening); Public Right-of-Way vacation; construction, installation or repair of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of government-owned system or utility, public work, public facility, or improvement. Collectively, such matters are referred to below as the "public work." If funds are available to any person using the Public Rights-of-Way for the purpose of defraying the cost of any of the foregoing, the City shall reimburse the Franchisee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the City shall make application for such funds on behalf of the Franchisee.

(J) Contribution.

Nothing herein shall be construed to reduce or otherwise affect any right the Franchisee has to recover (from a party other than the City), seek contribution for or to offset the costs of complying with the requirements of this provision.

(K) Removal or Modification of Facilities.

Whenever the Franchisee intends to discontinue using any facility within the Public Rights-of-Way, the Franchisee shall notify the City of its intent regarding such discontinuance. The Franchisee may remove the facility or request that the City permit it to remain in place. Notwithstanding the Franchisee's request that any such facility remain in place, the City may require the Franchisee to remove the facility from the Right-of-Way and/or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The Franchisee shall use its best efforts to complete

such removal or modification in accordance with a schedule set by the City. Until such time as the Franchisee removes or modifies the facility as directed by the City, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, the Franchisee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Public Right-of-Way, in the same manner and degree as if the facility were in active use, and the Franchisee shall bear all liability for such facility.

(L) Moving of Buildings.

Whenever it becomes necessary to temporarily rearrange, remove, lower, or raise the aerial cables or wires or other apparatus of the Franchisee to permit the passage of any building, machinery, or other object, the Franchisee shall perform such rearrangement upon receipt of payment for the estimated costs incurred by the Franchisee in making such rearrangements, and provided that the Franchisee received written notice at least thirty (30), days in advance from the person or persons desiring to move said building, machinery, or other objects. The written notice shall detail the route of movement of the building, machinery, or other object. The costs incurred by the Franchisee in making such rearrangements of its aerial plant will be borne by the person or persons seeking such rearrangement, unless the aerial plant is placed or maintained in violation of the applicable rules of any local, state, or federal regulatory agency and thereby unlawfully interferes with the movement.

(M) Restoration of Property.

The Franchisee shall reconstruct, replace, or restore to its previous condition in a timely fashion that portion of any street, alley, or public way or place; and any water, sewer, sanitary sewer, storm drainage, traffic signalization or other facility of the City, disturbed or damaged by the Franchisee, to a condition reasonably acceptable to the City consistent with reasonable standards of safety and appearance as required by generally applicable law and codes adopted pursuant to exercise of the City's police powers.

(N) Repairs and Reimbursement.

The Franchisee shall properly replace and repair the surface, base, and landscape treatment of any Public Right-of-Way that may be excavated or damaged by reason of the erection, construction, maintenance, or repair of the Franchisee's facilities within a reasonable time after completion of the work in accordance with existing standards of the City in effect at the time of the work. The Franchisee shall give to the City twenty-four (24) hours' notice prior to undertaking any repair, replacement, or extension of its service on Public Rights-of-Way which require a City permit. Upon failure of the Franchisee to perform any such repair or replacement work, and after ten days' notice in writing shall have been given by the City to the Franchisee, the City may repair such portion of the Public Right-of-Way as may have been disturbed by the Franchisee, its contractors or agents, and upon receipt of an itemized bill from the City, the Franchisee will promptly reimburse the City for all reasonable costs so incurred. Notwithstanding the foregoing, if the City determines that the failure of the Franchisee to properly repair or restore the Public Right-of-Way constitutes a safety hazard to the public, the City may undertake emergency repairs and restoration efforts. The Franchisee shall promptly reimburse the City for all reasonable costs incurred by the City. Should the City reasonably determine,

within three (3) years for the surface or base, and within ninety (90) days for landscape treatment, from the date of any restoration performed by the Franchisee, that such surface, base, or landscape treatment requires additional restoration under this section, the Franchisee shall perform and bear the costs for such additional restoration work to the reasonable satisfaction of the City within a reasonable period of time following notice from the City.

(O) Trimming of Trees.

The Franchisee may, upon reasonable notification to the City, trim trees above ground which infringe upon easements, rights of way or streets of the City to prevent the trees from coming into contact with the Telecommunications System, and the City, at its option may do such trimming at the expense of the Franchisee.

(P) Supplying Maps.

The Franchisee shall maintain on file all available maps, operational data, and reports pertaining to its operations in the City. Upon request of the City, the Franchisee shall furnish to the City, as soon as practicable without charge, current maps in a format compatible with the City's GIS software showing the location and dimension of those distribution facilities located within the Public Rights-of-Way within the Franchise Area. The Franchisee supplying maps under this provision may excise proprietary information so long as the location and dimension of any facilities, and their character (e.g., pole, equipment cabinet, fiber optic cable, power line) are clearly shown.

(Q) Failure to Perform.

If the Franchisee should fail to perform any work required under this Section after written notice and reasonable opportunity to cure, the City may cause work to be performed, and may bill the Franchisee therefore, or draw upon any security fund or bond to recover its costs and associated recovery costs. If the City bills the Franchisee, the Franchisee shall pay the amount billed within thirty (30) days of receipt of the bill.

(R) Inspection of Construction and Facilities.

The City may inspect any of the Franchisee's facilities, equipment or construction in the Public Right-of-Way at any time during normal business hours upon at least twenty-four (24) hour notice, or, in case of an emergency, at any time, upon demand without prior notice. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under applicable law, may order the Franchisee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the City establishes. The City has the right to correct, inspect, administer and repair the unsafe condition if the Franchisee fails to do so, and to charge the Franchisee therefor.

Section 8. CONSTRUCTION PROVISIONS.

(A) Construction Standards.

The Franchisee will comply with all lawful and generally applicable construction standards utilized by the City. The construction, operation, and repair of the Telecommunications

System will be in accord with all applicable law. The construction, operation, and maintenance of the Telecommunications System shall be performed by experienced and properly trained properly and licensed maintenance and construction personnel.

(B) Standards following construction or upgrade.

Upon completion of any Telecommunications System upgrade, the Telecommunications System shall:

(1) Utilize facilities and equipment generally comparable to that used in other high-quality, reliable Telecommunications Systems of similar design, including commercially reasonable backup power resources.

(2) Shall include the facilities and equipment (except customer premises equipment) required to support the broadband services.

(3) Provide reliable service and possess auto-start back-up power at the System Hub and elsewhere reasonably necessary (consistent with accepted industry standards and the system design) to avoid or minimize service interruptions.

Section 9. RESIDENTIAL SERVICE.

(A) Telecommunications System Deployment and Access.

Franchisee has established Telecommunications System deployment plans which include the estimated projected dates when deployment of the Telecommunications System will be completed and activated within the Franchise Area. Franchisee commits to using reasonable efforts to construct its Telecommunications System within the Franchise Area in accordance with those plans and will meet with the City every six (6) months to update the City on the current status of construction and anticipated timeline to completion. The Franchisee may not charge the Subscriber the cost of extending the Telecommunications System plant to a point where the dwelling unit can be served by a Standard Drop, other than its standard, non-discriminatory installation fee.

(B) General Service.

Once the Telecommunications System construction is complete in a given location within the Franchise Area, and Telecommunications Service is available, Franchisee shall provide Telecommunications Service within seven (7) days of a request by any potential Subscriber within the given location. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Franchisee, receipt of a written request by Franchisee or receipt by Franchisee of a verified verbal request. Except as otherwise provided herein, Franchisee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement.

(2) At a non-discriminatory installation charge for a standard installation, consisting of a Standard Drop connecting to an inside wall for Residential Subscribers, with additional charges for non-standard installations computed

according to a non-discriminatory methodology for such installations, adopted by Franchisee and provided in writing to the City.

(3) At non-discriminatory monthly rates for Residential Subscribers.

(C) Cost-Sharing for Low Density Areas.

The Franchisee shall offer a cost-sharing arrangement to residents requesting service in a low-density area whereby the Franchisee and the requesting Subscriber will each bear their proportionate share of construction costs to the point where the Dwelling Unit can be served by a Standard Drop. The Franchisee's share will be the cost of construction multiplied by a fraction, the numerator of which will be the number of Dwelling Units per mile of fiber optic plant in the area where the extension will occur, and the denominator of which will be thirty (30). The requesting Subscribers shall bear the remaining cost on a pro-rata basis. The Franchisee may require the payment of the construction cost borne by potential Subscribers in low density areas be paid in advance.

(D) New Housing Developments.

Nothing in this Agreement shall prohibit the City, the Franchisee, or any other person from entering into an agreement whereby entire new housing developments may be pre-wired for efficient future expansion of the Telecommunications System.

(E) Service to Multiple Dwelling Units.

Consistent with this Section 9, once the Telecommunications System construction is complete in a given location within the Franchise Area and the Telecommunications Network is available, the Franchisee intends to offer the individual units of a Multiple Dwelling Unit the Telecommunications Service offered to other Dwelling Units in the City and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the Franchisee having legal access to said Dwelling Unit.

(F) Mandatory Line Extension for Primary Telecommunications Service Provider.

(1) In the event Franchisee provides Telecommunications Service to at least 65% of all potential subscribers within the Franchise Area, the Franchisee shall, upon written request by an un-served potential subscriber, extend service to any Dwelling Unit not already passed by the Franchisee’s Telecommunications System in which the density of Dwelling Units is at least thirty (30) Dwelling Units per fiber mile from existing connection to the Telecommunications System plant. The Franchisee may not charge the Subscriber the cost of extending the Telecommunications System plant to a point where the dwelling unit can be served by a Standard Drop, other than its standard, non-discriminatory installation fee.

(2) If any other Telecommunications Service provider, other than Franchisee, is actively and currently providing or offering Telecommunications Services to the specific requesting Dwelling Unit requesting Telecommunications Services as described in this Section 9, Paragraph F(1), the Franchisee is not required to extend Telecommunications Service or its Telecommunications System until no

other Telecommunications Service Provider is willing and able to provide Telecommunications Service to the Dwelling Unit.

Section 10. SYSTEM OPERATIONS.

(A) Technical Standards.

The Telecommunications System must meet or exceed industry standard technical performance standards.

(B) Future Upgrades.

The Franchisee shall make such commercially practicable improvements to its Telecommunications System throughout the Franchise term to ensure that Subscribers are able to obtain advanced Telecommunications Service, and so that services can be added throughout the franchise term.

(C) System Maintenance.

The Franchisee may intentionally interrupt service on the Telecommunications System only for good cause and for the shortest time possible and, except in emergency situations or to the extent necessary to fix the affected Subscriber's service problems, only after a minimum of forty-eight (48) hours' prior notice to Subscribers and the City of the anticipated service interruption; provided, however, that there shall be no minimum prior notice period, for planned maintenance that:

(1) Does not require more than two (2) hours' interruption of service; and

(2) occurs between the hours of 1:00 a.m. and 6:00 a.m.

(D) FCC-Mandated Testing.

(1) The Franchisee shall, at its expense, perform any tests on its Telecommunications System that may be required by the FCC or Applicable Law and shall maintain written records of its test results. Copies of such test results will be provided to the City upon request.

(2) All required technical performance tests may be witnessed by representatives of the City. Upon request, the Franchisee will notify the City before any required technical proof-of-performance testing occurs.

(3) The Franchisee shall promptly take such measures as are necessary to correct any performance deficiencies fully and to prevent their recurrence as far as practicable.

(E) Standby Power.

The Franchisee shall provide standby power generating capacity at the System Hub capable of providing at least twelve (12) hours of emergency operation.

SECTION 11. Customer Service Standards; Customer Bills; and Privacy

Protection

(A) Customer Service Standards.

Franchisee shall comply in all respects with industry standard “best practice” customer service requirements as well as any customer service requirements established by Applicable Law.

(B) Customer Bills.

Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that is not misleading and does not omit material information.

(C) Privacy Protection.

Franchisee shall comply with all applicable federal and state privacy laws and regulations adopted pursuant thereto.

Section 12. CONNECTION OF PUBLIC FACILITIES

(A) As Franchisee’s construction of its Telecommunications System passes public buildings within the City, and upon one hundred twenty (120) days advance written request of the City:

(1) Franchisee shall provide one (1) Telecommunications System connection at no charge to each City government building, including without limitation to the City Government Center, each public school, each fire station, and each police station located within the Franchise area within one Standard Drop of the nearest Telecommunications System facilities; and

(2) Franchisee shall provide, at its sole cost and expense, at each connection made in Section 12(A)(1) above either five (5) static IPv4 addresses or twenty-four (24) static IPv6 addresses.

(B) Franchisee covenants and warrants that Franchisee and its related entities shall take no steps to limit, speed or throughput throttle, or in any other way diminish, meter, or alter the City’s or any of the covered public schools’ provision of internet communications delivered to or received from any Internet-connected entity; and

(C) Franchisee may offset the costs for the provision of the services and conditions specified in this Section against the Franchise Fee payable hereunder. Should Franchisee elect to offset complimentary Service after service is activated, Franchisee shall provide the City with advance written notice of such action. Such notice shall document the proposed offset or service charges so that the City can make an informed decision as to its course of action. Upon receipt of such notice the City shall have up to one hundred twenty (120) days to either (1) maintain the commitment with the understanding that the value shall be offset from Franchise Fees; (2) relieve Franchisee from the commitment obligation under the Franchise; or (3) pay for the services rendered pursuant to the commitment in accordance with Franchisee’s regular and nondiscriminatory term and conditions.

Section 13. OPERATION AND REPORTING PROVISIONS.

(A) Right to inspect and copy.

The City shall have the right to inspect and copy records: related in whole or in part to the construction, operation or repair of the Telecommunications System and reasonably necessary for the City to monitor compliance with the terms of this Ordinance or applicable law; or reasonably necessary to the exercise of any right or duty of the City under the same. The Franchisee is responsible for maintaining control over records, as required by law, related to the construction, operation, or repair of the Telecommunications System. Other than records containing confidential financial and/or proprietary information, the Franchisee shall produce these records upon the City's request for the City's inspection within the limits of the City. Records must be maintained for a period of six (6) years, except that the Franchisee may specify a shorter period for certain categories of voluminous records where the information contained therein can be derived simply from other materials. The City agrees it will not audit more than once every two years.

(B) Reports.

Unless the City specifically waives the requirement in writing, the Franchisee shall at all times maintain:

(1) Records of all written complaints received, their nature and resolution. The term "complaints" refers to complaints about any aspect of the Franchisee's construction, operations or repair activities;

(2) Records of outages known to the Franchisee, their cause and duration;

(3) Records of service calls for repair and maintenance indicating the nature of the call for service, the date and time service was requested, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was solved;

(4) Records of installation/reconnection and requests for service extension, indicating date of request, date of acknowledgment, and the date and time service were extended;

(5) Records sufficient to show whether the Franchisee has complied with Applicable Law related to the Telecommunications Service.

(C) Retention of Records; Relation to Privacy Rights.

Nothing in this Section shall be read to require the Franchisee to violate Applicable Law governing privacy. The Franchisee shall be responsible for redacting any data that state or federal law prevents it from providing to the City. Records shall be kept for at least six (6) years, except that service call logs may be retained for three (3) years, so long as the information contained therein is reflected in other documents.

Section 14. INSURANCE; SURETY; INDEMNIFICATION.

(A) Insurance.

General Conditions. Except as this Franchise may otherwise provide, the Franchisee shall procure and maintain in full force and effect during the life of its Franchise, such insurance as is required in this Section below. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico, and they shall be in a form reasonably satisfactory to the City and properly filed and approved by the Superintendent of Insurance, State of New Mexico. The Franchisee shall furnish the City copies of certificates of required insurance upon written request. All certificates of insurance (or policies) shall provide that thirty (30) days' written notice be given to the City before a policy is cancelled, materially changed or not renewed. Various types of required insurance may be written in one or more policies. With respect to all coverages required other than workers' compensation, the City shall be named an additional insured. All coverages shall be primary with respect to operations provided. The certificates of insurance and endorsements for each policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates and other required proofs shall be filed with the City within thirty (30) days of the issuance of this Franchise, once a year thereafter, and whenever there is any change in coverage, upon written request.

(B) No Work Without Insurance.

The Franchisee (or those acting on its behalf) shall not commence construction or operation of the Telecommunications System without first obtaining insurance in amounts and of a type satisfactory to the City. The required insurance must be obtained and maintained for the entire period the Franchisee has facilities in the Public Rights-of-Way or on public property. If the Franchisee, its contractors, or subcontractors do not have the required insurance, the City may order such persons to stop operations until the insurance is obtained and approved.

(C) Work of Subcontractors.

If any part of the construction, operation or repair of the Telecommunications System is subcontracted, the Franchisee shall:

(1) Include any and all subcontractors in its insurance policies; or

(2) Require the subcontractor to secure insurance to protect itself against all hazards enumerated herein which are not covered by the Franchisee's policies.

(D) Approval of Insurance.

Neither approval nor failure to disapprove certificates, policies or the insurance by the City shall relieve the Franchisee or any sub-Franchisee of full responsibility to maintain the required insurance in full force and effect.

(E) Commercial General Liability Insurance Including Automobile.

(1) The Franchisee shall procure and maintain during the life of this Franchise a comprehensive commercial general liability and automobile liability insurance policy with liability limits in amounts not less than One Million

Dollars ($1,000,000) combined single limit of liability for bodily injury, including death, and property damage in anyone occurrence and in the aggregate. Said policies or insurance must include coverage for all operations performed for the City by the Franchisee, including, but not limited to, coverage for collapse, explosion, and underground liability coverage, coverage for the user of all owned, non-owned, hired automobiles, vehicles, and other equipment both on and off work, and contractual liability coverage which shall specifically insure the indemnification provisions of this Ordinance and any Franchise.

(2) The above requirements shall include, but shall not be limited to, protection against:

i. Damage to, or destruction of, public and private property including telephone conduit, telegraph conduit, power conduit, telephone signal cable, fiber optics cable, television cable, computer cable, fire alarm circuits, gas mains, gas service connections, sanitary sewers, sewer, house or building connections, water mains, water service connections, steam lines, petroleum products pipe lines, storm drains, storm inlet lines, including all appurtenances thereto while located below the surface of the ground, including injury or death, to person or persons caused by the Franchisee's operations, including blasting and trenching-backfilling-tamping with or without the use of mechanical equipment; and

ii. The collapse of, or structural damage to, a building, house or structure, including power, telephone, telegraph, fire alarm, and street-light poles, curb and gutter and sidewalk, on public or private property, and destruction of, or damage to, other public and private property resulting therefrom, including injury or death to person or persons caused by the Franchisee, including but not limited to as a result of the Franchisee's operations in the removal of other buildings, structures, including their supports, trees and utility poles, or by excavation, including blasting, and trenching backfilling-tamping with or without use of mechanical equipment. "Other public and private property" as used herein shall include lawns, plants, flowers, trees, fences, yards, walls, etc.

(F) Workers' Compensation Insurance.

The Franchisee shall comply with the provisions of the Workers' Compensation Act, the Subsequent Injury Act, and the New Mexico Occupational Disease Disablement Law. The Franchisee shall procure and maintain during the life of a Franchise, complete workers' and employer's liability insurance in accordance with New Mexico law and regulations. Such insurance shall include coverage permitted under Section 52-1-10 NMSA 1978, for safety devices. With respect to workers' compensation insurance, if the Franchisee elects to be self-insured, it shall comply with the applicable requirements of law. If any portion of the construction, operation or repair of the Telecommunications System is to be subcontracted, The Franchisee shall require the subcontractor similarly to provide such coverage (or qualify as a self-insured) for all latter's employees to be engaged in such work. The Franchisee shall save harmless the City, its officers, agents and employees from any claims or actions occasioned by failure of the Franchisee to comply with the

provisions of this subparagraph. It is agreed that with respect to all workers' compensation insurance, the Franchisee and its insurer shall waive any right of subrogation it may acquire against the City, its officers, agents and employees by reason of any payment made on account of injury, including death resulting therefrom, sustained by any employee arising out of the performance of a Franchise, unless caused by the gross negligence or malfeasance of the City, its officers, agents and employees.

(G) Alterations in Limits.

This Franchise shall be interpreted to permit the City to require the Franchisee to increase its insurance limits, or obtain additional types of insurance should the City determine in good faith that there are significant increased risks to the City or its citizens based on the Franchisee's actions, by such time as reasonably may be specified by the City.

(H) Ratings.

The Franchisee's insurer shall have no less than an "A-" policyholder's rating and a financial rating of at least Class XI in accordance with the Best's rating current at the time purchased, unless specifically waived in writing by the City Manager.

(I) No Contribution.

Any insurance or self-insurance maintained by the City shall be excess of the Franchisee's insurance and shall not contribute with it.

(J) Material Terms.

The insurance requirements are material terms of this Franchise and cannot be changed without the mutual agreement of the City and the Franchisee. The Franchisee shall have insurance in place as herein required by the effective date of this Franchise, and shall, upon request, provide proof of such insurance reasonably satisfactory to the City prior to the effective date of the Franchise grant.

(K) Indemnification.

(1) To the extent permitted by applicable law, the Franchisee agrees to defend, indemnify and hold harmless the City, its trustees, elected and appointed officers, agents, volunteers, and employees, from and against any and all claims, demands, or causes of action of any kind or nature not resulting from the actions of the City, its trustees, elected and appointed officers, agents, volunteers, and employees, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees sustained by any third party arising out of, or by reason of, or resulting from or of the acts, errors, or omissions of the Franchisee, or its agents, independent contractors or employees related to or in any way arising out of the construction, operation or repair of the system, the conduct of the Franchisee's business in the City, or the Franchisee's enjoyment or exercise of its franchise.

(2) The City will notify the Franchisee in writing of its duty to indemnify in any case subject to the indemnity in which the Franchisee is not a named defendant

or plaintiff. The Franchisee will employ competent counsel, reasonably acceptable to the City Attorney.

Section 15. CONTINUITY OF SERVICE.

(A) It is the right of each subscriber in the Franchisee's Franchise Area to receive all available Telecommunications Service offered by the Franchisee as long as the subscriber's financial and other obligations to the Franchisee are satisfied.

(B) The Franchisee shall make its best efforts to provide all Subscribers with continuous services.

(C) Uninterrupted Telecommunications Service. At the City's request, the Franchisee shall operate its system for a temporary period (the "transition period") following the termination of its franchise or any transfer as necessary to maintain Telecommunications Service to Subscribers, and shall cooperate with the City to assure an orderly transition from it to another entity. The transition period shall be no longer than the reasonable period required to select another entity and in no event shall be longer than twelve (12) months, unless extended by mutual consent of the Franchisee and the City. During the transition period, the Franchisee will continue to be obligated to comply with the terms and conditions of this franchise and applicable laws and regulations, and will be deemed to have the necessary authorization required from the City to enable it to provide Telecommunications Service.

(D) If the Franchisee abandons its Telecommunications System during the franchise term or any transition period, or fails to operate its Telecommunications System in accordance with the terms set forth in this Section, the City, at its option, may purchase the Telecommunications System at the price established pursuant to the procedure set forth of Exhibit B incorporated herein by this reference (the “Market Price”) and operate the Telecommunications System or designate another entity to operate the Telecommunications System temporarily until the Franchisee agrees to restore and restores a continuous Telecommunications Service in compliance with the franchise or until the franchise is revoked and a new entity selected by the City is providing Telecommunications Service.

(E) The City shall be entitled to exercise its rights under this Section if the:

(1) The Franchisee fails to provide the Telecommunications Service in accordance with its franchise over a substantial portion of the Franchise Area for one hundred-twenty (120) consecutive hours, unless such failure is due to force majeure or the City authorizes a longer interruption of service; or

(2) The Franchisee, for any period, willfully and without cause refuses to provide the Telecommunications Network in accordance with its franchise over a substantial portion of the Franchise Area.

(F) Rights upon Franchise Termination or Revocation.

If the City revokes the franchise or the franchise otherwise terminates, the City shall have the following rights, in addition to the rights specified in this franchise or under applicable law:

(1) The City may require the former Franchisee to remove its facilities and equipment at the former Franchisee's expense. If the former Franchisee fails to do so within a reasonable period of time, the City may have the removal done at the former Franchisee's and/or surety's expense, subject to any right of abandonment that may be provided for under applicable law. However, Franchisee shall have no obligation to remove its facilities where it utilizes the system to provide other non-Telecommunications Services and has any other authority under applicable law to maintain facilities in the public rights-of-way, or where Franchisee is able to find a purchaser of the Telecommunications System, acceptable to the City, who holds such authorization.

(2) The City, by resolution, may acquire ownership or affect a transfer of the Telecommunications System at the Market Price if the franchise is revoked for cause in accordance with this Franchise.

(3) Section 15(F)(ii) does not apply to an abandonment. If the Telecommunications System or any part thereof is abandoned by the Franchisee, the City may require the Franchisee to transfer title to the abandoned portions to it at no charge, free and clear of encumbrances, and the same will become the City's property and the City may keep, sell, assign, or transfer all or part of the assets of the Telecommunications System, or otherwise dispose of those assets as it sees fit. In the event the City acquires title, the Franchisee shall have no further liability for the Telecommunications System.

Section 16. ENFORCEMENT AND REMEDIES; DUE PROCESS; REVOCATION.

(A) Right to Revoke; Generally.

(1) The City may revoke this Franchise if it finds that the Franchisee has committed a material breach of this Franchise or repeatedly failed to comply with this Franchise; has defrauded or attempted to defraud the City or Subscribers; or has attempted to evade the requirements of this Franchise.

(2) Before revoking a Franchise, the following must have occurred:

i. The City Manager, or designee, must give the Franchisee notice of an alleged default in performance (which notice will describe the nature of an alleged violation or breach) and a thirty (30) calendar day opportunity to cure or such additional time as is reasonably necessary (the "cure period"); except that an opportunity to cure is not required where the defect in performance is due to willful misconduct or fraud or attempted fraud, is an adjudicated felony violation of criminal law, or is part of a pattern of substantial violations where the Franchisee has already had notice and opportunity to cure. The City may extend the cure period for up to thirty (30) additional days if the Franchisee has diligently attempted to correct the alleged default.

ii. Not sooner than thirty (30) calendar days after the City Manager, or designee, notifies the Franchisee of the default (or such longer period as may be required to encompass an extended cure period), the City Council

shall hold a public hearing to consider whether the Franchise should be revoked, at which time the Franchisee and the public will be given an opportunity to be heard and the Franchisee to present evidence for consideration by the City Council.

(3) Following the close of the public hearing the City Council may determine whether to revoke the Franchise. If the Franchisee was entitled to an opportunity to cure a default, the Franchise may not be revoked if the default was fully cured during the cure period, including by payment of all damages and penalties owed. If the City Council determines to revoke the Franchise, it will issue a written decision setting forth the reasons for its decision.

(4) A copy of such decision will be transmitted to the Franchisee.

(B) Rights upon Franchise Termination or Revocation.

If the City revokes the Franchise or the Franchise otherwise terminates, the City may require the former Franchisee to remove its facilities and equipment at the former Franchisee's expense. If the former Franchisee fails to do so within a reasonable period of time, the City may have the removal done at the former Franchisee's and/or its surety's expense, subject to any right of abandonment that may be provided for under applicable law. The Franchisee may appeal such actions to a court of competent jurisdiction.

(C) Termination in the Event of Bankruptcy.

This Franchise will terminate automatically by force of law one hundred eighty (180) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the Franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding. However, the Franchise may be reinstated within that one hundred eighty (180) day period, if:

(1) Such assignment, receivership or trusteeship has been vacated; or

(2) Such assignee, receiver or trustee has fully complied with the terms and conditions of this Franchise, and has executed an agreement, approved by any court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of this Franchise. In the event of foreclosure or other judicial sale of any of the facilities, equipment or property of the Franchisee, the City may revoke the Franchise following a public hearing before the City Council, by serving notice upon the Franchisee and the successful bidder at the sale, in which event the Franchise and all rights and privileges thereunder will be revoked and will terminate thirty (30) calendar days after serving such notice, unless:

i. The City has approved the transfer of the Franchise to the successful bidder; and

ii. The successful bidder has covenanted and agreed with the City to assume and be bound by the terms and conditions of the Franchise.

(D) Effect of termination or forfeiture.

Upon termination or forfeiture of this Franchise, whether by action of the City as provided above, or by passage of time, the City may do one or a combination of the following:

(1) The Franchisee must, should the City so direct, stop using the Telecommunications System for the purposes authorized by the Franchise.

(2) The City may require the former Franchisee to remove all or a portion of its facilities and equipment at the former Franchisee's expense, subject to any right the Franchisee may have to abandon property in place. If the former Franchisee fails to remove its property within a reasonable period of time, the City may have the removal done at the former Franchisee's and/or surety's expense. Such removal by the Franchisee must be done in accordance with all applicable laws and construction standards. Conditions of the site of removal must be left in substantially as good of condition as before the equipment was removed.

Section 17. MISCELLANEOUS PROVISIONS.

(A) Compliance with Laws. The Franchisee shall comply with all applicable federal, state and local laws and regulations as they become effective, unless otherwise stated herein.

(B) Governing Law. This franchise shall be governed and construed in accordance with applicable federal law and the statutes and laws of the state of New Mexico.

(C) No Pledging of the City's Credit. Under no circumstances shall the Franchisee have the authority or power to pledge the credit of the City or incur any obligation in the name of the City. The Franchisee shall save and hold harmless the City, its Governing Body, its officers, employees, boards and commissions for expenses arising out of any unauthorized pledges of the City's credit by the Franchisee under this franchise.

(D) Venue. In the event that suit shall be brought by either party, the parties agree that venue shall be exclusively vested in the Thirteenth Judicial District Court, State of New Mexico or, where otherwise appropriate, exclusively in the United States District Court for the district of New Mexico.

(E) Force Majeure. The Franchisee shall not be deemed in default with provisions of its franchise where performance was rendered impossible by war or riots, civil disturbances, floods or other natural catastrophes beyond the Franchisee's control or the unforeseeable unavailability of labor or materials. The acts or omissions of affiliates are not beyond the Franchisee's control, and the knowledge of affiliates shall be imputed to Franchisee. The Franchise shall not be revoked or the Franchisee penalized for such noncompliance, provided that the Franchisee takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with its Franchise without unduly endangering the health, safety and integrity of the Franchisee's employees or property, or the health, safety and integrity of the Public, Public Rights-of-Way, Public Property, or private property.

(F) Notices. Unless otherwise expressly stated herein, notices required under this franchise shall be mailed first class, postage prepaid, or sent overnight delivery to the

addressees below. Each party may change its designee by providing thirty (30) days written notice to the other party, but each party may only designate one entity to receive notice.

Notices to the Franchisee shall be mailed to the designated entity at the following address:

Vexus Fiber, LLC
ATTN: CFO
912 S. Main St., Ste. 106
Sikeston, MO 63801

Notices to the City shall be mailed to the designated entity at the following address:

City Manager
City of Rio Rancho
3200 Civic Center Circle
Rio Rancho, New Mexico 87144

with a simultaneously-delivered copy to:

City Attorney
City of Rio Rancho
3200 Civic Center Circle
Rio Rancho, New Mexico 87144

Either party may change one or both of its addresses and/or addresses by giving the other party no less than thirty (30) days' written notice to the then-current addresses. Any required copies of notices are an administrative step and do not constitute actual notice.

(G) Calculation of Time. Unless otherwise indicated, when the performance or doing of any act, duty, matter or payment is required hereunder and a period of time or duration for the completion thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration/time.

(H) Time of Essence; Maintenance of Records of Essence. In determining whether the Franchisee has substantially complied with its franchise, the parties agree that time is of the essence to this franchise. The maintenance of records and provision of reports in accordance with the franchise is also of the essence to this franchise.

(I) Publication Costs. The Franchisee shall pay the cost of publication of the franchise ordinance upon the Franchisee's acceptance of the Franchisee.

(J) Captions. The captions and headings of this franchise are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this franchise.

(K) Third Parties. The parties agree this Franchise Agreement creates no rights for any third party.

Section 18. ANTI-TAMPERING.
It shall be unlawful for any person, firm, corporation or other entity:

(A) To make any unauthorized connection, whether physically or electrically.

(B) To willfully tamper with, remove or injure any cable, wires or equipment of the Telecommunications System used by the Franchisee within the Franchise Area for distribution of such signals without the consent of the Franchisee operating such Telecommunications System.

(C) Any person convicted of a violation of this section shall be guilty of a petty misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment of not more than ninety (90) days or by both fine and imprisonment or the maximum permitted under applicable law, as may be less.

Section 19. SEVERABILITY CLAUSE.
If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be illegal, unconstitutional, invalid or unenforceable by a court, agency or legislature of competent jurisdiction, said provision shall be considered a separate, distinct, and independent part of this Franchise, and such decision shall not affect the validity of the remaining provisions of this ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid. In the event that a court or agency or legislature of competent and controlling jurisdiction acts so that any material provision of this agreement is unenforceable according to its terms, or is otherwise void, the parties agree to immediately enter into negotiations in good faith to restore the relative burdens and benefits of this franchise. If the parties are unable to agree to a modification of this Agreement within sixty (60) days, either party may with ninety (90) days prior notice, terminate or shorten the franchise term; or resort to litigation to seek any available equitable relief; or do both. Each party agrees to participate in up to sixteen (16) hours of negotiation during the sixty (60) day period. Notwithstanding the foregoing, if a party believes a provision is not material, it must so notify the other party within fourteen (14) days of a request by such other party that it enter into negotiations, or else the materiality claim is waived. The obligation to negotiate is not tolled, and the parties must discharge their negotiation responsibility notwithstanding the dispute as to materiality. The remedies provided for herein do not prevent a party from contending that a particular provision is enforceable, or foreclose any remedies if a provision is enforceable.

Section 20. MERGER; AMENDMENT.
This Franchise represents the entire agreement between the parties with respect to the matters addressed herein, and all prior franchises, agreements, covenants, and understandings between the parties concerning the same have been merged into this written Franchise. This Franchise shall not be altered, modified, changed, or amended except by a written instrument executed by the parties.

Section 21. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days

after adoption.

ADOPTED THIS ___ DAY OF _____, _____.

For Vexus Fiber, LLC:

By: _____

Name:

Title:

Date: _____

For The City of Rio Rancho, New Mexico:

_____
Greggory D. Hull, Mayor

ATTEST:

_____
Rebecca Martinez, City Clerk
(SEAL)

EXHIBIT “A”

Any time during the final forty-two (42) month period prior to the expiration of the Franchise discussions regarding a potential renewal of the Franchise shall be guided by the following procedures:

1. If not currently in default, Vexus may submit in writing a proposal for renewal of the Franchise (the “Proposal for Renewal”). The Proposal for Renewal shall set forth Vexus’ proposed terms for a renewed franchise. The City may request, in its sole discretion, additional information from Vexus that the Proposal for Renewal shall include, including, but not limited to, a proposal for an upgrade of the Telecommunications System.
2. Following Vexus’ submission of a final Proposal for Renewal, the City shall: (a) renew the Franchise, or (b) determine that the Franchise shall not be renewed.
3. In the event that the City elects to not renew the Franchise, Vexus may request that the City commence a publicly noticed administrative proceeding to consider whether the Franchise should be renewed (the “Franchise Hearing”).
4. The Franchise Hearing shall consider: (a) whether Vexus has complied with the existing Franchise and law; (b) the quality of Vexus’ Telecommunications System, to include signal quality, customer complaints, and billing practices; (c) whether Vexus has the financial, legal, and technical ability to provide the Telecommunications System as set forth in the Renewal Proposal; and (d) whether Vexus’ proposal is reasonable to meet the City’s needs for such a telecommunications service.
5. Vexus shall be afforded adequate notice, along with the opportunity for full participation (to include the right to present evidence and question witnesses) in any Franchise Hearing so conducted.
6. Upon the conclusion of the Franchise Hearing, the City shall issue a written determination, to include the reasons therefor, granting or denying the Proposal for Renewal, based upon the factors set forth in Paragraph 4, above.
7. Vexus may appeal a final denial by the City of the Franchise Proposal within one hundred (100) days to a court of competent jurisdiction.

EXHIBIT “B”

Determination of Market Price

Market Price shall be determined in the manner provided below:

Within ten (10) days after City delivers to Vexus written notice of its election to purchase the Telecommunications System, as may be provided above, City and Vexus shall meet to agree on the Market Price for the Telecommunications System. If City and Vexus agree on the Market Price within such period, Telecommunications System shall be transferred by Vexus to City, by bill of sale using the Market Value as the purchase price within ten (10) days after determination of the Market Price.

If City and Vexus do not agree on the Market Price within the time provided, City and Vexus shall each appoint an appraiser within twenty (20) days and immediately notify the other in writing of such appointment and of the name and address of the appraiser so appointed. City and Vexus shall instruct the appraisers to determine the Market Price of the Telecommunications System within forty-five (45) days after their appointment. If within forty-five (45) days after their appointment the two appraisers do not agree on the Market Price, the Market Price shall be determined as follows:

If the higher appraisal is not more than five (5) percent higher than the lower appraisal, then the Market Price shall equal the average of the determinations made by the two appraisers, and shall be binding on City and Vexus.

If the higher appraisal is more than five (5) percent higher than the lower appraisal, the appraisers shall then appoint a third appraiser within _ ten (10) days after the original two appraisers complete their determination of the Market Price. The third appraiser shall make a determination of Market Price within twenty (20) days after such appointment. The Market Price shall equal the average of the three appraisals, , and shall be binding on City and Vexus. If (i) the third appraiser fails to determine the Market Price within _ twenty (20) days of appointment and as provided above; or (ii) the appraisers selected by City and Vexus are unable to agree on a third appraiser, then in such event the Market Price shall be the average of the determinations of Market Price made by the two appraisers.

Each appraiser appointed pursuant to this Section must be an MAI appraiser (or equivalent) specializing in telecommunications and wireless real estate with at least _ ten (10) years’ continuous and active experience in the county in New Mexico. Each appraiser shall be independent and shall have no financial interest in the Telecommunications System other than to earn a customary fee. The charges for services of each appraiser, if any, shall be borne by the party who selected that appraiser and the charges for the third appraiser shall be borne equally by City and Vexus.

If either Vexus or City fails to appoint an appraiser as provided above, the appraiser appointed by the other party shall alone determine the Market Price and such determination shall be binding on the parties.

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: R124

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Public Works

SUBJECT:
R124, Resolution Authorizing a Budget Adjustment to the Infrastructure Fund (305) and the Capital Improvement Water Operations Fund (540) for the Northern Boulevard Reconstruction and Improvement Project

BACKGROUND AND ANALYSIS:

The City of Rio Rancho received bids for the Northern Boulevard Reconstruction Project (N.M. 528 to Rockaway Boulevard) that includes full-depth roadway reconstruction; a new water line; and the replacement of damaged curbs, the existing asphalt path, and the existing curb ramp to comply with the Americans with Disabilities Act (ADA).

Due to cost escalations in materials and labor for 2022 G.O. Bond projects, including this project, the Northern Boulevard project is underfunded. In 2021, the estimate for the project was $3,959,600.

This budget adjustment of $3,750,000 for the roadway and $1,531,176 for the utilities is necessary to allow the City to proceed with the construction of Northern Boulevard Reconstruction Project.

This Resolution is a companion to the item appearing on the October 12, 2023, Governing Body meeting that awards a contract to Franklin's Earthmoving, totaling $7,496,749.16 including NMGRTs, for the Northern Boulevard Reconstruction Project. If the contract award is not approved by the Governing Body, approval of this Resolution is not necessary.

IMPACT:
Approval of the Resolution will allow the City to complete the Northern Boulevard Reconstruction Project. Unreserved fund balances in the Infrastructure Fund (305) and the Capital Improvement Water Operations Fund (540) will be utilized, which is in addition to voter-approved 2022 G.O. Bond funds.

ALTERNATIVES:
Approve the Resolution.

Do not approve the Resolution.

DEPARTMENT RECOMMENDATION:

Staff recommends approval of the Resolution.

ATTACHMENT: Resolution

CITY OF RIO RANCHO
RESOLUTION

RESOLUTION NO. **ENACTMENT NO.**

RESOLUTION AUTHORIZING A BUDGET ADJUSTMENT TO THE INFRASTRUCTURE FUND (305) AND THE CAPITAL IMPROVEMENT WATER OPERATIONS FUND (540) FOR THE NORTHERN BOULEVARD PROJECT

WHEREAS: the City of Rio Rancho received bids for the Northern Boulevard reconstruction and improvement project (N.M. 528 to Rockaway Blvd.) that includes full-depth roadway reconstruction; a new water line; and the replacement of damaged curbs, the existing asphalt path, and the existing curb ramp to comply with the Americans with Disabilities Act (ADA);

WHEREAS: due to cost escalations in materials and labor for 2022 G.O. Bond projects, including this project, the Northern Boulevard project is underfunded; and

WHEREAS: a budget adjustment is necessary to fully fund the project.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:

That authorization is given for the following budget adjustment:

Infrastructure Fund (305)

Account	Project No.	Revised Budget	Increase	Decrease	Adjusted Budget
305-0000-442.70-10 Capital Expenditures / Road Construction	PW2249	$23,994,222	$3,750,000		$27,744,222
305-0000-442.90-04 Ending Fund Balance / Reserved for Capital	N/A	$4,185,673		$3,750,000	$435,673
Total Uses		$28,179,895	$3,750,000	$3,750,000	$28,179,895

Utility Operating Fund (501)

Account	Project No.	Revised Budget	Increase	Decrease	Adjusted Budget
501-7025-540.80-40 Transfer to Water Capital	N/A	$ 5,240,000	$1,531,176		$6,771,796
501-7005-505.90-01 Ending Fund Balance / Unreserved	N/A	$18,666,958		$1,531,176	$17,135,782
Total Sources		$23,906,958	$1,531,176		$23,906,958

Capital Improvement Fund Water Operations (540)

Account	Project No.	Revised Budget	Increase	Decrease	Adjusted Budget
540-0000-392.50-00 Transfer from Other Funds	N/A	$5,240,000	$1,531,176		$6,771,796
Total Sources		$23,994,222	$42,182		$24,036,404

Account	Project No.	Revised Budget	Increase	Decrease	Adjusted Budget
540-7130-545.70-37	PW2249	$5,700,000	$1,531,176		$7,231,176
Total Uses		$5,700,000	$1,531,176		$7,231,176

ADOPTED THIS _____DAY OF _____, 2023.

_____
Greggory D. Hull, Mayor

ATTEST:

_____
Rebecca A. Martinez, City Clerk
(SEAL)

CITY OF RIO RANCHO
COVER PAGE

Legislation Item: D39

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Public Works

SUBJECT:
D39, Advice and Consent of the Governing Body to Award Contract No. 24-034-PW: Northern Boulevard Reconstruction Project for a Total of $7,496,749.16 (including NMGRTs) to Franklin's Earthmoving, Inc.

BACKGROUND AND ANALYSIS:
The City of Rio Rancho received bids for the Northern Boulevard (N.M. 528 to Rockaway Boulevard) Reconstruction Project that includes full-depth roadway reconstruction; a new water line; and the replacement of damaged curbs, the existing asphalt path, and the existing curb ramp to comply with the Americans with Disabilities Act (ADA).

The construction duration for this project is estimated to be ten (10) months from the notice to proceed date.

An Invitation for Bid (IFB) was issued, and the City received four bids of which Franklin's Earthmoving, Inc. was the low bidder. The proposed contract for Franklin's Earthmoving, totals $7,496,749.16 including NMGRTs.

Due to cost escalations in materials and labor for 2022 G.O. Bond projects, including this project, the Northern Boulevard project is underfunded. In 2021, the estimate for the project was $3,959,600.

This agenda item is a companion to a budget adjustment Resolution appearing on the October 12, 2023, Governing Body meeting that shifts unreserved fund balances in the Infrastructure Fund (305), $3,750,000, and the Capital Improvement Fund Water Operations Fund (540), $1,531,176, to fund project costs. In addition, voter-approved 2022 G.O. Bond funds will be utilized to account for project costs.

IMPACT:
The project for Northern Boulevard (N.M. 528 to Rockaway Boulevard) includes full-depth roadway reconstruction; a new water line; and the replacement of damaged curbs, the existing asphalt path, and the existing curb ramp to comply with the Americans with Disabilities Act (ADA).

ALTERNATIVES:
Approve the contract.

Do not approve the contract.

DEPARTMENT RECOMMENDATION:

Staff recommends that the Governing Body approves the project to award the contract to Franklin's Earthmoving, Inc.

ATTACHMENT: Contract 24-034-PW DRAFT Northern Boulevard Reconstruction Project
ATTACHMENT: PW2249 Northern Blvd ABM Project Limits Exhibit Map

CONTRACT NUMBER 24-034-PW
Construction Contract
Northern Boulevard Reconstruction Project

THIS AGREEMENT is made and entered into by and between the City of Rio Rancho, hereinafter referred to as the "CITY," and Franklin's Earthmoving, Inc., hereinafter referred to as the "CONTRACTOR."

City and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

1. WORK

CONTRACTOR shall complete all Work as specified or indicated here below. The Work and project are generally described in Invitation for Bid IFB 24-004-PW, Additive Alternate #1.

2. GENERAL CONDITIONS

The general conditions ("General Conditions") of this Agreement shall be the Standard General Conditions of the Construction Contract prepared by the Engineers Joint Contract Documents Committee (EJCDC) Document C-700, 2007, and modifications thereto incorporated herein by reference.

3. ENGINEER

The ENGINEER of record for this project, as described in the General Conditions, is the City of Rio Rancho.

4. CONTRACT TIMES

4.1 The Work will be substantially completed within **Three Hundred (300)** consecutive calendar days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions.

4.2 Liquidated Damages. City and Contractor recognize that time is of the essence of this Agreement and that City will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense and difficulties involved in proving the actual loss suffered by City if the Work is not completed on time. Accordingly, instead of requiring any such proof, City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay City **Three Thousand dollars and no cents ($3,000.00)** for each day that expires after the substantial completion date established by the City's written Notice to Proceed.

5. CONTRACT PRICE

The City shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract price comprises the Base Bid described in IFB 24-004-PW, Additive Alternate #1 and all addenda thereto. The Contract price shall be Six Million, Nine Hundred Seventy-Seven Thousand, Seven Hundred Seventy-Seven Dollars and Zero Cents. **($6,977,777.00),** which

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excludes applicable gross receipts tax, subject to additions and deductions as provided in the Contract Documents.

6. NON-APPROPRIATIONS

The terms of this Agreement and all amounts payable hereunder are contingent upon sufficient appropriations therefore by the City's Governing Body. If sufficient appropriations are not made, the City shall notify the Contractor of the same, and this Agreement shall terminate forthwith.

7. PAYMENT PROCEDURES

Contractor shall submit Application for Payment in accordance with Article 14 of the General Conditions. Engineer will process applications for Payment as provided in the General Conditions. The City shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, twenty-one (21) days after receipt of the Engineer approved Application for Payment. All such payments will be measured by the schedule of values established in Paragraph 14.02 of the General Conditions (and in the case of Unit Price Work based on the number of units completed).

8. CONTRACTOR'S REPRESENTATIONS

In order to induce City to enter into this Agreement Contractor makes the following representations:

8.1 Contractor has examined and carefully studied the Contract Documents and other related data identified in the Bidding Documents including "technical data."

8.2 Contractor has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

8.3 Contractor is familiar with and is satisfied as to all federal, state and local laws and regulations that may affect cost, progress, performance and furnishing of the Work.

8.4 Contractor has examined all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except underground facilities) which have been identified in Paragraph 4.02 A of the General Conditions. Contractor accepts the determination set forth in Paragraph 4.02 B of the General Conditions of the extent of the "technical data" contained in such reports and drawings upon which Contractor is entitled to rely as provided in Paragraph 4.02 B.1 of the General Conditions. Contractor acknowledges that such reports and drawings are not Contract Documents and may not be complete for Contractor's purposes. Contractor acknowledges that City and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and underground facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or

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furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the contract price, within the contract times and in accordance with the other terms and conditions of the contract documents.

8.5 Contractor is aware of the general nature of work to be performed by City and others at the site that relates to the Work as indicated in the Contract Documents.

8.6 Contractor has correlated the information known to Contractor, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

8.7 Contractor has given City written notice of all conflicts, errors, ambiguities or discrepancies that Contractor has discovered in the Contract Documents. Contractor certifies that any written resolution thereof by City is acceptable and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

8.8 Contractor shall make prompt payment to its subcontractors and suppliers for amounts owed for work performed on the construction project within seven days after receipt of payment from the City. If Contractor fails to pay Contractor's subcontractor and suppliers by first-class mail or hand delivery within seven days of receipt of payment, Contractor shall pay interest to Contractor's subcontractors and suppliers beginning on the eight day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until payment is issued. These payment provisions apply to all tiers of contractors, subcontractors and suppliers.

9. CONTRACT DOCUMENTS

In addition to this Agreement, the Contract Documents, which comprise the entire agreement between City and Contractor concerning the Work, consist of the documents which are appended to this Contract as listed below in Subsection 9A and the documents which formed part of the IFB package upon which Contractor made its successful bid, as listed below in Subsection 9B.

A. Documents attached to hereto:
   1. Contractor's Bid Form
   2. The Bidder's Listing of Subcontractors for Compliance with Subcontractors Fair Practices Act
   3. Bid Bond
   4. Local/Area/Resident/Resident Veteran/Recycled Content Goods Preference Certification Form
   5. Resident Veteran Preference Certification

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6. Certification of Bidder Regarding Affirmative Action/Equal Employment Opportunity and Non-discrimination
7. Non-Collusion Affidavit
8. Construction Performance Bond
9. Labor and Materials Payment Bond
10. Certificates of Insurance
11. Drawings

B. Documents which were part of the IFB package and not listed above:
1. Advertisement for Bids
2. Instructions to Bidders
3. Standard General Conditions of the Construction Contract, EJCDC Document No. C-700 (2007)
4. Supplemental Conditions
5. Notice to Contractor
6. Wage Decision SA 23-2429-A
7. Any Addenda issued for IFB 24-004-PW, Additive Alternate #1
8. Construction Plans and Specifications as prepared by the City of Rio Rancho.

There are no Contract Documents other than those listed in Section 9 of this Agreement. The Contract Documents may only be amended, modified or supplemented as provided in Paragraphs 3.04 A & B, General Conditions. Any question regarding the documents which formed the IFB package shall be resolved by use of the documents maintained by City in its files on the Work. Contractor may obtain access to these documents at any time, upon reasonable notice.

10. MISCELLANEOUS

10.1 Terms used in this Agreement will have the same meaning as those defined in Article 1 of the General Conditions.

10.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.3 The City and Contractor each binds themselves, their partners, successors, assigns and legal representatives to the other party hereto, in respect to all covenants, agreements and obligations contained in the Contract Documents.

10.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the City and Contractor, who agree that the

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Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.5 If, through any cause, Contractor shall fail to fulfill in timely and proper manner Contractor's obligations under this Agreement, or if Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to Contractor of such termination and specifying the effective date thereof, at least five (5) days prior to the effective date of such termination. In such event, all finished and/or unfinished documents, data, studies, surveys and reports prepared by Contractor under this Agreement shall, at the option of the City, become its property and Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

10.6 Notwithstanding the above, Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the contract by Contractor, and the City may withhold any payments to Contractor for the purpose of set-off until such time as the exact amount of damages due the City from Contractor is determined.

10.7 The City may terminate this Agreement at any time for the City's convenience, by giving at least thirty (30) days' notice in writing to Contractor. If the Agreement is terminated by the City as provided herein, Contractor will be paid for the time provided and expenses incurred up to the termination date. If this Agreement is terminated due to the fault of Contractor, paragraph 10.5 hereof relative to termination shall apply.

10.8 Notices: Any notice required or permitted to be given hereunder shall be sufficient if mailed to the address shown below or faxed to the number shown below for the party receiving notice, or to such other address or fax number of which such party has duly notified the other party in accordance with the provisions of this paragraph.

For notice to the City:
City of Rio Rancho
William Ladd, Project Manager
3200 Civic Center Circle NE
Suite
Rio Rancho, NM 87144

For notice to the Contractor:
Franklin's Earthmoving, Inc.
Augustus Harbaugh, Vice-President
700 Industrial Ave. NE
Albuquerque, NM 87107

10.9 To the extent, if at all, that NMSA § 56-7-1 is applicable to any agreement to indemnify contained in this Contract, and any such agreement to indemnify contained in this Contract is interpreted to indemnify a party against liability, claims, damages, losses, or expenses, including attorney fees, arising out of bodily injury to persons or damage to property caused by, or resulting from, in whole or in part the negligence, act, or omission of the indemnitee, or the agents or employees of the indemnitee, or any legal entity for whose negligence, acts, or omissions any of them may be liable, any such

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agreement to indemnify contained this Contract shall not extend to liability, claims, damages, losses, or expenses, including attorney fees, arising out of:

A. The preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications by the indemnitee or the agents or employees of the indemnitee; or

B. giving or failure to give directions or instructions by the indemnitee, or the agents or employees of the indemnitee, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

10.10 Where documents listed in Section 9 contain terms that are different from City Ordinances, City Ordinances shall prevail. In that regard, any inconsistency between terms occurring among the following portions of this Agreement shall be resolved by giving precedence in the following order: (1) City Ordinances, (2) this Agreement (3) the Supplemental Conditions, and (4) the Standard General Conditions of the Construction Contract.

IN WITNESS WHEREOF, the parties have executed this Agreement to become effective as of the date of the last party's signature.

CITY OF RIO RANCHO	**Franklin's Earthmoving Inc.,**
By: _____	By:_____
Matthew B Geisel, City Manager	Augustus Harbaugh, Vice President
Date:	Date:
_____	_____

APPROVED AS TO FORM:

_____
Josh Rubin, City Attorney

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PW2249 NORTHERN BLVD. RECONSTRUCTION PROJECT

DISCLAIMER: All information in this map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This map is not a survey and should be used for graphical purposes only.

Rio Rancho City of Vision

GIS Moving Spatial Data Forward

Project Boundaries

N W E S

Map Created by Paul A. Chinana 9/28/2023

0 0.05 0.1 0.2

Miles

CITY OF RIO RANCHO
COVER PAGE

Legislation Item:

AGENDA DATE:
October 12, 2023

DEPARTMENT:
Administration

SUBJECT:
Rio Rancho Public Schools G.O. Bond 2023 Presentation

BACKGROUND AND ANALYSIS:

IMPACT:

ALTERNATIVES:

DEPARTMENT RECOMMENDATION:
Presentation