

ADDITIONAL STAFF INFORMATION

SP000007462

U

EASEMENTS, COVENANTS, AND RESTRICTIONS

THIS EASEMENTS, COVENANTS, AND RESTRICTIONS ("ECR") made and entered into as of the 28 day of August, 2017, by and between **NEW COVENANT CHURCH OF ALBUQUERQUE**, a New Mexico nonprofit corporation whose address is 7201 Paseo Del Norte NE, Albuquerque, NM 87113 ("Church"), and **KAPLAN PASEO, LLC**, a New Mexico limited liability company whose address is #17 Hogan Court, Paako Village, Sandia Park, New Mexico 87047 ("Kaplan").

WITNESSETH:

WHEREAS, Church is the owner in fee simple of certain real property situated in the City of Albuquerque, County of Bernalillo, State of New Mexico, which property is more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Church Property"); and

WHEREAS, Kaplan has acquired or will acquire fee simple title to certain real property situated in said City, County, and State, pursuant to that certain Purchase and Sale Agreement, by and between Kaplan as "Purchaser" and Church as "Seller", said property being located adjacent to and contiguous with the Church Property and being the same property described in Exhibit "B" attached hereto and made a part hereof (the "Kaplan Property"); and

WHEREAS, it is Kaplan's intent to construct a restaurant building on the Kaplan Property; and

WHEREAS, Church and Kaplan now desire to enter into this Declaration, subject to the terms, conditions, and provisions as hereafter set forth.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid, the premises, and other good and valuable consideration, the receipt and legal sufficiency of all of which both parties hereto do hereby acknowledge, and subject to the terms, conditions and provisions as more particularly set forth hereafter, Kaplan and Church do hereby covenant and agree as follows:

1. Use Restrictions.

A. **Right of First Refusal.** Church shall have a Right of First Refusal to purchase the Kaplan Property in the event Kaplan decides to sell the Kaplan Property. If Kaplan receives a bona fide third party offer to purchase the Kaplan Property, Kaplan

shall submit the offer to Church and Church shall have thirty (30) days to accept or reject such offer and enter into a mutually agreeable purchase and sale agreement with Kaplan for the sale of the Kaplan Property under the business terms set forth in the offer. Church acknowledges that an offer to purchase the Kaplan Property will most likely include an offer to purchase any and all buildings and improvements then existing on the Kaplan Property and the lessor's interest in any ongoing business then located therein and the Right of First Refusal shall apply to the entire offer not just the portion pertaining to the purchase of the unimproved Kaplan Property. In the event that Church chooses to reject the offer, Kaplan may proceed to sell the Kaplan Property to such third party under the terms of the offer and, if the sale to said third party in accordance with the offer is closed, this Right of First Refusal shall thereafter be null and void. A transfer of the Kaplan Property to an affiliate of Kaplan shall not be deemed to be an offer to purchase subject to this right of first refusal. A sale, transfer or other conveyance of fifty percent (50%) or more of the beneficial interest in Kaplan (excluding intrafamily transfers for estate planning purposes and intrafamily transfers upon death) shall be considered a transfer of the property and subject to this Right of First Refusal.

B. Plan Review. Kaplan shall, at its own cost and expense, design and engineer its restaurant building (subject to Church's reasonable approval as to building colors and exterior)(the "Building") and related site work. Purchaser shall submit building colors and exterior plans to Church for approval, which approval shall not be unreasonably withheld, conditioned or delayed prior to submittal to the appropriate governmental authorities.

C. Demolition and Paving. During the development of the Kaplan Property, Kaplan, shall, at its own cost and expense, remove the current block wall in front of the proposed Building on Paseo del Norte. Additionally, during the development of the Kaplan property, Kaplan, at Kaplan's sole cost and expense, will regrade, pave and stripe the parking lots and drive aisles to the north and west of the Building (including without limitation all existing parking areas and drive aisles on the Church Property) in substantial accordance with the plans and specifications approved by the Church and at least to the standards used in commercial developments in Albuquerque for paved parking lots (six inches of base and 3 to 4 inches of asphalt). At any time that Kaplan, its agents or contractors conduct any construction activities on the Church Property, Kaplan shall maintain liability and casualty insurance in the minimum amount of \$2,000,000.00 per occurrence and \$3,000,000.00 in the aggregate and the Church shall be named as an additional insured on such insurance policy. Prior to starting any construction activity on the Church Property, Kaplan shall deliver to the Church a certificate of insurance in accordance with the preceding sentence. Furthermore, Kaplan hereby indemnifies, holds harmless and agrees to defend the Church from and against any and all claims, damages, attorney's fees, court costs and/or actions involving the Church related directly or indirectly to any of Kaplan's construction activities on the Church Property.

2. Cross Access Easement. Church does hereby create, grant and establish, for the benefit of the Kaplan Property and for the nonexclusive use and enjoyment of Kaplan, its successors and assigns and its employees, agents, contractors, tenants, lessees, customers, licensees, and invitees, an easement over and across the drive aisles of the Church Property for ingress, egress, and access purposes in order to provide vehicular ingress, egress and access to and from the Kaplan Property and connecting the Kaplan Property to the Holly Avenue NE public right of way. Kaplan does hereby create, grant and establish, for the benefit of the Church Property and for the nonexclusive use and enjoyment of Church, its successors and assigns and its employees, agents, contractors, tenants, lessees, customers, licensees, and invitees, an

easement over and across the drive aisles of the Kaplan Property for ingress, egress, and access purposes in order to provide vehicular ingress, egress and access to and from the Church Property and connecting the Church Property to the Holly Avenue NE public right of way. The cross-access easements herein granted shall be referred to collectively as the "Cross Access Easement".

A. After completion of initial construction of the Building and driveway improvements by Kaplan, Kaplan shall be responsible for all costs of maintenance, repair, and/or replacement of the Kaplan Property and the main drive aisle connecting to Holly Avenue NE and Church shall be responsible for all costs of maintenance, repair, and/or replacement of the Church Property except as specifically set forth hereinbelow. If the repairs, maintenance and/or replacement was necessitated by the negligence of the other party, its successors and/or assigns, then the party responsible for such negligence shall reimburse the non-negligent party for the actual and reasonable costs attributable to their negligence. Each party shall timely maintain, repair, or make replacements to their respective properties. Should one party not timely maintain, repair or make replacements, the other party shall have the right but not the obligation to perform such maintenance, repairs or replacement for the non-performing party on such party's behalf and the non-performing party shall reimburse the other for the costs thereof within thirty (30) days after receipt of same. In the event non-performing party does not timely reimburse the performing party as provided herein, such amounts due shall bear interest at the rate of eight percent (8%).

B. Kaplan and Church covenant and agree that, except as provided hereafter, the driveways within the Cross Access Easement shall at all times be open and not obstructed so as to permit the free flow of two-way traffic between Holly Avenue NE and their respective parcels.

C. In the event of maintenance, repair, or replacement, each party agrees to exercise commercially reasonable diligence to complete such work and to perform such work in a manner that minimizes interference with the free flow of traffic within the Cross Access Easement.

3. Cross Parking Easement. Church does hereby create, grant and establish, for the benefit of the Kaplan Property and for the nonexclusive use and enjoyment of Kaplan, its successors and assigns and its employees, agents, contractors, tenants, lessees, customers, licensees, and invitees, an easement over and across the parking areas of the Church Property for parking purposes in order to provide parking for the Kaplan Property. Kaplan does hereby create, grant and establish, for the benefit of the Church Property and for the nonexclusive use and enjoyment of Church, its successors and assigns and its employees, agents, contractors, tenants, lessees, customers, licensees, and invitees, an easement over and across the parking areas of the Kaplan Property for parking purposes in order to provide parking for the Church Property. The cross-parking easements herein granted shall be referred to collectively as the "Cross Parking Easement".

A. After completion of initial construction of the Building and parking improvements by Kaplan, Kaplan shall be responsible for all costs of cleaning, restriping and maintaining the parking areas located on both the Kaplan and the Church Property. After completion of initial construction of the Building and parking improvements by Kaplan, Kaplan shall be responsible the repair and/or replacement of the parking areas located to the east of the main drive aisle connecting to Holly Avenue NE and Church shall be responsible for repair and/or replacement of the parking areas located to the

west of the main drive aisle connecting to Holly Avenue NE. If the repair and/or replacement was necessitated by the negligence of the other party, its successors and/or assigns, then the party responsible for such negligence shall reimburse the non-negligent party for the actual and reasonable costs attributable to their negligence. Should one party not timely repair or make replacements, the other party shall have the right but not the obligation to perform such repairs or replacement for the non-performing party on such party's behalf and the non-performing party shall reimburse the other for the costs thereof within thirty (30) days after receipt of same. In the event non-performing party does not timely reimburse the performing party as provided herein, such amounts due shall bear interest at the rate of eight percent (8%).

B. In the event of maintenance, repair, or replacement, each party agrees to exercise commercially reasonable diligence to complete such work and to perform such work in a manner that minimizes interference with use of the Cross Parking Easement.

4. Temporary Construction Easement. Church does hereby create, grant and establish for the benefit of the Kaplan Property a temporary, non-exclusive construction easement with rights of access, ingress, and egress ("Construction Easement") over and across the parking and drive aisles within the Church Property for the purposes of developing the Kaplan Property. This Construction Easement shall expire by its own terms upon the receipt of a Certificate of Occupancy on the Kaplan Property.

5. Signage. Kaplan and Church shall have the right to install their own sign(s) on their own property if they choose to put signs on their respective properties at their own costs.

6. This Agreement constitutes the entire Agreement between the parties and may not be altered, amended, modified, supplemented or terminated except by written instrument executed by duly authorized representatives of each party to this Agreement and properly acknowledged so as to be in recordable form.

7. In the event of a breach by either party of any terms, provisions, covenants, conditions, or restrictions set forth herein, the nonbreaching party may pursue any and all remedies available to such party at law or in equity and, in such event, the prevailing party shall be entitled to recover all costs and expenses, in amounts determined to be reasonable by the court, incurred by such party in connection with such legal and/or equitable cause of action.

8. This Agreement, and all covenants, agreements, terms, provisions and conditions set forth herein, shall run with the land and shall be forever binding upon Church and Kaplan and their respective heirs, legatees, successors, assigns, and transferees unless terminated by the parties by written and recordable instrument in accordance with the terms and provisions of Section 6 of this Agreement.

9. Kaplan and Church covenant and agree, each with the other, that any future mortgagee taking a mortgage on the Kaplan Property and/or the Church Property shall take said mortgage subject to this Agreement and all rights, duties and obligations created herein and such mortgage shall provide that, in the event of foreclosure or deed in lieu thereof, all rights and benefits accruing to the other party pursuant to this Agreement shall not be disturbed.

10. Should any part, term or provision of this ECR be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or otherwise affected thereby.

New Covenant Church of Albuquerque
a New Mexico nonprofit corporation

By: 
David Row, President

STATE OF NEW MEXICO)
) SS
COUNTY OF BERNALILLO)

This instrument was acknowledged before me this 5th day of September, 2017, by David Row, President, on behalf of New Covenant Church of Albuquerque.



OFFICIAL SEAL
RICHARD A. DAVIS
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires: 7/12/18


NOTARY PUBLIC
My Commission Expires: 7/12/18

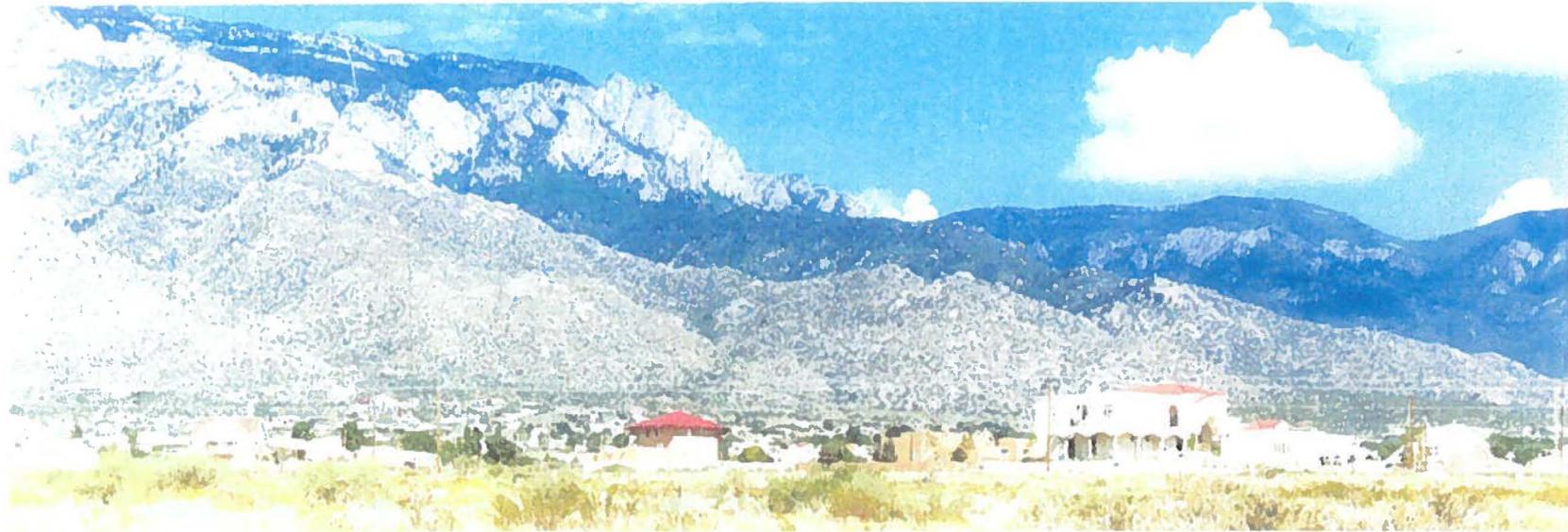
EXHIBIT "A"
CHURCH PROPERTY
LEGAL DESCRIPTION

Lot 9-A-1, Block 10, North Albuquerque Acres Tract 2 Unit 3, City of Albuquerque, Bernalillo County, New Mexico, as said lot is shown and described on the replat thereof filed in the office of the County Clerk of Bernalillo County, New Mexico on June 8, 2017, in Book 2017C, Page 0071, as Instrument No. 2017055412.

EXHIBIT "B"
KAPLAN PROPERTY
LEGAL DESCRIPTION

Lot 9-A-2, Block 10, North Albuquerque Acres Tract 2 Unit 3, City of Albuquerque, Bernalillo County, New Mexico, , as said lot is shown and described on the replat thereof filed in the office of the County Clerk of Bernalillo County, New Mexico on June 8, 2017, in Book 2017C, Page 0071, as Instrument No. 2017055412.

La Cueva Sector Development Plan



City Of Albuquerque
Contracting Agency

Sites Southwest
Chief or Lead Planners

Resource Technology, Inc.
Terry O. Brown, P.E., Civitas, Inc.
Team



Approved June, 2000
Revised October, 2003

Acknowledgements

Office of the Mayor/CAO

Jim Baca, Mayor
Lawrence Rael, Chief Administrative Officer
Vickie Fisher, Deputy Chief Administrative Officer
Connie Beimer, Deputy Chief Administrative Officer

Albuquerque City Council

Michael Brasher, District 9, President
Alan Armijo, District 1, Vice President
Vincent E. Griego, District 2
Adele Baca-Hundley, District 3
Brad Winter, District 4
Tim Kline, District 5
Hess Yntema, District 6
Mike E. McEntee, District 7
Greg Payne, District 8

Environmental Planning Commission

Joe Chavez, Chair
Robert Heiser, Vice-Chair
David Sandoval
Susan Johnson
Elizabeth Begay
Mick McMahan
Tim Eichenberg
Charles Gara
Sandy Henderson

City of Albuquerque Planning Department

Robert R. McCabe, APA, AIA, Planning Director
Richard Sertich, AICP, Associate Director
Joel C. Wooldridge, FAICP, Advanced Planning Manager
Carmen Marrone, Community Planner, Project Manager

EPC Task Force

Commissioner Elizabeth Begay
Commissioner Bob Heiser
Ron Bohannon, Tierra West
Phil Garcia, Garcia Kraemer & Associates
Pat Verrelle, Vineyard Neighborhood Assn.
Fabrizio Bertoletti, Assoc. Director, Planning Department
Russell Brito, Planner, Development Services Division

La Cueva Advisory Committee

Ron Bohannon, Tierra West
Don Hoech, Hoech Real Estate
Walter Miller, Vineyard NA
Bob Prendergast, Nor Este NA
Dennis Olona, Property Owner

Consultant Team

Sites Southwest, LLC
Resource Technology, Inc.
Terry O. Brown, PE
Civitas, Inc.

A special thanks goes to the many volunteers (individuals and committees) who gave countless hours of their time and service in conceptualizing and developing the La Cueva Sector Development Plan. Through their dedication and commitment, this plan became a reality.

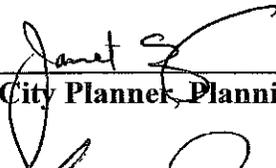
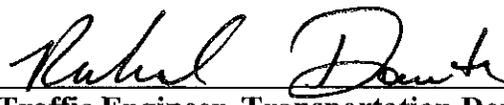
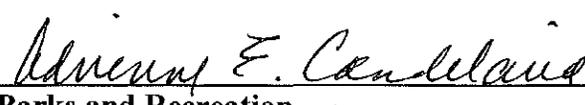
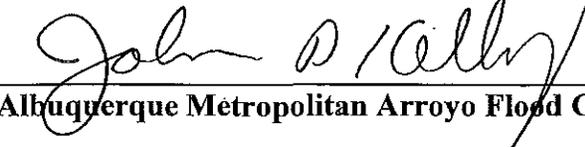
© City of Albuquerque, 2000

Permission is hereby granted to reproduce all or part of this document provided there are appropriate citations and acknowledgements.

LA CUEVA SECTOR DEVELOPMENT PLAN
Application No. 00450-00000-01348
Project No. 1000827

On June 19, 2000, the Environmental Planning Commission recommended and the City Council approved the La Cueva Sector Development Plan as outlined in Council Bill No. R-50, Enactment No. 65-2000. This Sector Plan replaces the La Cueva High School Land Use Guide, which was adopted in 1986.

LA CUEVA SECTOR DEVELOPMENT PLAN
Reviewed by
THE DEVELOPMENT REVIEW BOARD

 _____ City Planner, Planning Division, City of Albuquerque	<u>12/15/00</u> Date
 _____ City Engineer, Engineering Division	<u>10/23/00</u> Date
 _____ Traffic Engineer, Transportation Department	<u>4 Oct - 2000</u> Date
 _____ Parks and Recreation	<u>10/23/00</u> Date
 _____ Utility Department	<u>10/4/00</u> Date
 _____ Albuquerque Metropolitan Arroyo Flood Control Authority	<u>12-14-00</u> Date

1 uses in the RD zone shall be regulated according to the City Zoning
2 Code, subject to the density maximums shown in Exhibit 12.

3 Residential development more intense than what is typically
4 allowed in the R-1 zone (i.e. lot size less than 5000 square feet) will be
5 subject to site development plan for subdivision approval by the DRB.
6 Development in the RD zone that requires a site development plan must
7 meet the design regulations in Section 5.4.6 of this plan.

8 For Lots 10 through 16, Block 19, Tract 3, Unit 3, North
9 Albuquerque Acres and Lots 10 through 16, Block 18, Tract 3, Unit 1,
10 North Albuquerque Acres, any lot that is less than three quarters of an
11 acre in size will have access to Carmel N.E.”

12 Section 2. SEVERABILITY CLAUSE. If any section, paragraph,
13 sentence, clause, word or phrase of this resolution is for any reason held
14 to be invalid or unenforceable by any court of competent jurisdiction,
15 such decision shall not affect the validity of the remaining provisions of
16 this resolution. The Council hereby declares that it would have passed
17 this resolution and each section, paragraph, sentence, clause, word or
18 phrase thereof irrespective of any provisions being declared
19 unconstitutional or otherwise invalid.

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

20
21
22
23
24
25
26
27
28
29
30
31

32 X:\SHARE\Legislation\Seventeen\R-239fsfinal.doc

CITY of ALBUQUERQUE
FIFTEENTH COUNCIL

COUNCIL BILL NO. R-03-307

ENACTMENT NO. 103-2003

SPONSORED BY: Brad Winter, by request

RESOLUTION

AMENDING CHAPTER 5 OF THE LA CUEVA SECTOR DEVELOPMENT PLAN, TO
PROVIDE FURTHER CLARIFICATION OF EXISTING LANGUAGE.

WHEREAS, the City adopted the La Cueva Sector Development Plan in June
of 2000 through Council Enactment 65-2000; and

WHEREAS, the City Council has the authority to not only adopt but amend
such a sector development plan; and

WHEREAS, Chapter 5 of the La Cueva Sector Plan contains some unclear
language that needs to be further clarified in order to provide consistent
interpretation and application of the development and design regulations
contained in the sector plan; and

WHEREAS, clarification of certain language in the La Cueva Sector
Development Plan was presented to the Environmental Planning Commission on
June 19, 2003 as text amendments to the sector plan; and

WHEREAS, on June 19, 2003, the Environmental Planning Commission, in
its advisory role on land use and planning matters, recommended approval of
certain text amendments to Chapter 5 of the La Cueva Sector Development Plan
to the City Council.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
ALBUQUERQUE THAT LA CUEVA SECTOR DEVELOPMENT PLAN, CHAPTER 5
is amended as follows:

SECTION 1. Section 5.2, RD Zone is amended to read:

The RD (developing residential) zone is the predominant residential zone in the
plan area. Maximum densities for areas zoned RD are established in the Zoning
Plan (Exhibit 12). Densities are based on gross acreage of the lot, which is

1 measured from property line to property line, excluding existing public right-of-
2 way and/or prescriptive roadway easements. The residential uses in the RD
3 zone shall be regulated according to the City Zoning Code, subject to the
4 density maximums shown in Exhibit 12.
5 Residential development more intense than what is typically allowed in the R-1
6 zone (i.e. lot size less than 5000 square feet) will be subject to site
7 development plan for subdivision approval by the DRB.
8 Development in the RD zone that requires a site development plan must meet
9 the design regulations in Section 5.4.6 of this plan.

SECTION 2. Section 5.4, SU-2 Zones, paragraph 5 is amended to read:

A site development plan and landscaping plan approved by the Environmental
Planning Commission are required for all SU-2 zoned properties except that
residential development on lots greater than 5,000 square feet will not require
site development plan approval by the EPC.

SECTION 3. Section 5.4.5, SU-2/Mixed Use, Permissive Use #2 is amended
to read:

2. Dwelling unit (house, townhouse, or apartment) constituting up to 25% of
the gross floor area on the premises, pursuant to a site development plan.
Usable open space shall be provided on site in an amount equal to 400 square
feet for each efficiency or one-bedroom dwelling unit, 500 square feet for each
two-bedroom dwelling unit, and 600 square feet for each dwelling unit
containing three or more bedrooms. The total open space requirement of the R-
D zone shall also be met.

SECTION 4. Section 5.4.5, SU-2/Mixed Use, Conditional Uses is amended
to read:

Conditional Uses

1. Uses conditional in the C-1 zone except that the following are not allowed as
a conditional use.
 - a. Auto, trailer, truck rental
 - b. Kennel
 - c. Watchman mobile home
 - d. Outdoor storage

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

1 SECTION 5. Section 5.4.6, Common Design Regulations, Regulation 8R-1 is
2 amended to read:
3 8R-1: Open space, as provided in the RD zone, is required for residential
4 development in the RD and SU-2/Mixed Use zone. Priority areas for open space
5 dedications are:

- 6 First Priority: east/west arroyo trails or "pockets" adjacent to the trails.
- 7 Second Priority: north/south mid-block pedestrian ways.

8 SECTION 6. FINDINGS ACCEPTED. The following text amendment findings
9 shall be adopted by the City Council:

- 10 1. This is a request for text amendments to Chapter 5 of the La Cueva Sector
11 Development Plan for clarification purposes. The proposed text amendments
12 will not change the context or intent of the plan, but will only provide further
13 clarification of existing language in order to provide consistent application and
14 interpretation of the regulations contained in Chapter 5 of the plan.
- 15 2. The La Cueva Sector Development Plan was adopted in June of 2000 to
16 provide land use, zoning and development strategies to encourage urban
17 development within the plan area. The proposed text amendments will not in
18 any way alter these intentions.
- 19 3. The District 4 Coalition of Neighborhoods is in support of the proposed text
20 amendments. No opposition to the request has been expressed by the La Cueva
21 Community or any other interested parties.

22 SECTION 7. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
23 clause, word or phrase of this resolution is for any reason held to be invalid or
24 unenforceable by any court of competent jurisdiction, such decision shall not
25 affect the validity of the remaining provisions of this resolution. The Council
26 hereby declares that it would have passed this resolution and each section,
27 paragraph, sentence, clause, word or phrase thereof irrespective of any
28 provisions being declared unconstitutional or otherwise invalid.

29
30
31

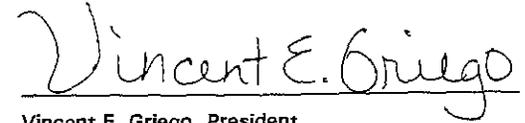
32 X:\SHARE\Legislation\Fifteen\R-307fin.doc

1 PASSED AND ADOPTED THIS 8th DAY OF SEPTEMBER, 2003
2 BY A VOTE OF: 8 FOR 0 AGAINST.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Yes: 8

Excused: Payne

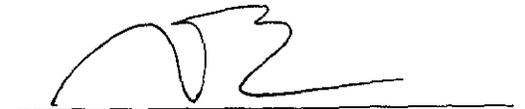


Vincent E. Griego, President

City Council

APPROVED THIS 19th DAY OF September, 2003

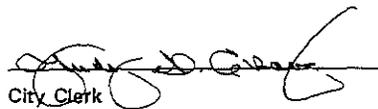
Bill No. R-03-307



Martin Chávez, Mayor

City of Albuquerque

ATTEST:


City Clerk

CITY of ALBUQUERQUE
FIFTEENTH COUNCIL

COUNCIL BILL NO. R-03-257

ENACTMENT NO. 68-2003

SPONSORED BY: Brad Winter, by request

RESOLUTION

AMENDING THE LA CUEVA SECTOR DEVELOPMENT PLAN, SECTION 5.4.5, SU-2/MIXED USE ZONE, PROVISION #7 TO ALLOW DRIVE-UP FACILITIES TO OCCUR ON LESS THAN 1.75 ACRES IF A CORNER LOT IS INVOLVED IN THE DEVELOPMENT SCHEME.

WHEREAS, the City adopted the La Cueva Sector Development Plan in June of 2000 through Council Enactment 65-2000; and

WHEREAS, the Council has the authority to not only adopt but amend such a sector development plan; and

WHEREAS, the Sector Plan established SU-2/Mixed Use Zoning and land use guidelines for the plan area; and

WHEREAS, on March 20, 2003, the Environmental Planning Commission, in its advisory role on land use and planning matters, recommended approval of a text amendment to Section 5.4.5 SU-2/Mixed Use Zone, Provision #7 of the La Cueva Sector Development Plan to the City Council; and

WHEREAS, the text amendment meets the requirements of and fulfills the policies of *Resolution 270-1980* because an oversight was committed when the 1.75 acre requirement was established by not considering corner lot acreage; and

WHEREAS, the Environmental Planning Commission found the sector plan amendment is not in conflict with any applicable plans including the Comprehensive Plan and the La Cueva Sector Development Plan.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. LA CUEVA SECTOR DEVELOPMENT PLAN AMENDED. Section 5.4.5, SU-2/Mixed Use Zone, Provision #7 is amended to read as follows:
7. Drive-up facility, as permissive in the C-1 zone, provided that a minimum of 1.75 acres be provided for each drive-up facility. Where corner lots are involved, a minimum of 1.3 acres shall be provided for each drive-up facility due to additional right-of-way dedication requirements.

Section 2. FINDINGS ACCEPTED. The following zone map amendment findings shall be adopted by the City Council:

1. This is a request for a text amendment to the *La Cueva Sector Development Plan*, Section 5.4.5, Provision #7 under the SU-2 Mixed Use Zone which allows drive-up facilities as a Permissive Use "provided that a minimum of 1.75 acres be provided for each drive-up facility". The subject site is zoned SU-2/Mixed Use and is located at the southwest corner of Carmel and Wyoming NE. The site contains approximately 1.61 acres as a result of right-of-way dedication required for Wyoming Blvd. The applicant proposes to build a drive-up bank on the subject site.

2. The subject request is consistent with the Developing Urban goal of the *Comprehensive Plan* in that the proposed text amendment will allow necessary services to be built which will support urban growth in the area. The request is also consistent with Developing Urban policies d, e, i, j, and k in that the neighborhood values and integrity will not be compromised since the proposed use is appropriate under the current zoning and since development of the site will require site plan review by the EPC which will assure minimal harmful effects of traffic, livability and safety.

3. The subject site is located within a *Community Activity Center*, as designated in the *Comprehensive Plan*. Wyoming Boulevard, which is adjacent to the site, is designated an *Enhanced Transit Corridor* per the *Comprehensive Plan*. The subject request does not jeopardize the goals and policies for *Centers and Corridors* per the *Comprehensive Plan* because the proposed use will be located at the edge of the Center and because development of the site will require EPC site plan approval, which will assure compliance with the goals and policies for *Centers and Corridors*.

[+ Bracketed / Underscored Material +] - New
[- Bracketed / Strikethrough Material -] - Deletion

[+ Bracketed / Underscored Material +] - New
[- Bracketed / Strikethrough Material -] - Deletion

[+ Bracketed / Underscored Material +] - New
[- Bracketed / Strikethrough Material -] - Deletion

1 4. Although the applicant does not propose to change the zoning district
2 from SU-2/Mixed Use, the request does involve amending a provision under this
3 zone, which essentially changes the zone. The applicant has fulfilled the
4 requirements of R-270-1980 because when the Sector Plan was approved, the
5 City Council placed a 1.75 acre, or two-lot requirement for a drive-up facility,
6 based on an average lot size of .88 acre. Since the City Council did not take
7 into consideration that the corner lots are less than .88 acre, which means that
8 three lots would be required in order to develop a drive-up facility, an oversight,
9 or error was committed.

10 5. The subject request meets the requirements of the *La Cueva Sector*
11 *Development Plan* and does not compromise the Plan because the applicant
12 does not propose to change the zoning or the land use that would otherwise be
13 permitted under the SU-2/Mixed Use zone.

14 6. Properties zoned SU-2/Mixed Use in the *La Cueva Sector Plan* are
15 intended to be regulated per the C-1 zone in the City Zoning Code with some
16 exceptions. The C-1 zone only allows drive-up banks as a Permissive Use.
17 Other drive-up services are allowed as a Conditional Use in the C-1 zone.
18 Provision #7 of the SU-2/Mixed Use Zone in the *La Cueva Sector Plan* allows all
19 drive-up facilities provided 1.75 acres is provided for each facility. The subject
20 request is more in line with what is required in the C-1 zone.

21 7. Staff recommends approval of the subject request, however, in order to
22 preserve the integrity of the plan and to avoid the granting of special exceptions
23 to the plan, it is recommended that Section 5.4.5, Provision #7 be amended to
24 read as follows: "7. Drive-up facility, as permissive in the C-1 zone, provided
25 that a minimum of 1.75 acres be provided for each drive-up facility. Where
26 corner lots are involved, a minimum of 1.3 acres shall be provided for each
27 drive-up facility due to additional right-of-way dedication requirements."

28 8. The District 4 Coalition of Neighborhoods supports placing a bank at this
29 location.

30 Section 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
31 clause, word or phrase of this resolution is for any reason held to be invalid or
32 unenforceable by any court of competent jurisdiction, such decision shall not

1 affect the validity of the remaining provisions of this resolution. The Council
2 hereby declares that it would have passed this resolution and each section,
3 paragraph, sentence, clause, word or phrase thereof irrespective of any
4 provisions being declared unconstitutional or otherwise invalid.

1 PASSED AND ADOPTED THIS 9th DAY OF JUNE, 2003
2 BY A VOTE OF: 5 FOR 0 AGAINST.

3
4 Yes: 5

5 Excused: E. Griego, V. Griego, Mayer, Payne
6

7
8
9
10 

11 Vincent E. Griego, President
12 City Council
13

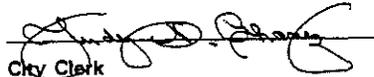
14
15
16 APPROVED THIS 12th DAY OF June, 2003

17
18 Bill No. R-03-257

19
20
21 

22 Martin Chávez, Mayor
23 City of Albuquerque

24 ATTEST:

25
26 
27 City Clerk
28

[+ Bracketed Material +] - New
[- Bracketed Material -] - Deletion

CITY of ALBUQUERQUE
FIFTEENTH COUNCIL

COUNCIL BILL NO. 0-02-73 ENACTMENT NO. 10-2003

SPONSORED BY: Brad Winter, by request

1 ORDINANCE

2 ANNEXATION, 02EPC-01353/02EPC-01354, ANNEXING 115 ACRES MORE OR
3 LESS, INCLUDING 67 ACRES OF PASEO DEL NORTE R-O-W, LOCATED NORTH
4 OF PASEO DEL NORTE BETWEEN VENTURA AND EUBANK, NE AND AMENDING
5 THE ZONE MAP TO ESTABLISH RD AND SU-2/MIXED USE ZONING.

6 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
7 ALBUQUERQUE:

8 Section 1. AREA PROPOSED FOR ANNEXATION. The owner of the
9 majority of the area proposed for annexation hereby presented a signed petition
10 to annex the following territory: 115 acres, more or less, located north of Paseo
11 del Norte between Ventura and Eubank, NE; and more particularly described as
12 follows:

- 13 A. Lots 10-23, blocks 19 & 20, Tract 3, Unit 3, and lots 10-24, block
14 18, and lots 3-30, block 20, Tract 3, Unit 1, North Albuquerque
15 Acres, for a total of 71 acres, 23 of which are located within the
16 Paseo del Norte R-O-W;
- 17 B. All of the right-of-way adjoining the land described in A. of this
18 Section to the extent it is not already in the City and also all of lots 6-
19 16, block 21, and lots 1-16, block 31, Tract A, Unit A and lots 17-24,
20 block 10, and lots 24-32, block 20, Tract 3, Unit 3, North
21 Albuquerque Acres located within the Paseo del Norte R-O-W
22 immediately west of the land described in A. of this section.

23 Section 2. ANNEXATION ACCEPTED. The petition and the area specified
24 in Section 1 above meet the requirements of Resolution 54-1990 (Annexation
25 Policy) because the property is contiguous to city boundaries, accessible to city

1 services, and will have convenient street access. Furthermore, the request for
2 annexation fulfills the intention of Policy 3a of the Comprehensive Plan for Rural
3 areas because density patterns and community goals have been more
4 specifically defined through the development of a lower ranking plan and
5 because the developer has agreed to pay for all infrastructure improvements.
6 Therefore, the above territory is hereby annexed.

7 Section 3. ZONE MAP AMENDED. The annexation creates a changed
8 community condition that justifies the zoning. The establishment of RD and
9 SU-2/Mixed Use Zoning on the subject property is consistent with the current
10 zoning of the property and will provide stability of land use and zoning.
11 Therefore, the zone map adopted by Section 14-16-1-1 et. seq. R.O.A. 1994 is
12 hereby amended, establishing RD 4 DU/acre, RD 6DU/acre and SU-2/Mixed Use
13 zoning.

14 Section 4. FINDINGS ACCEPTED. The Council adopts the following zone
15 map amendment findings recommended by the Environmental Planning
16 Commission:

- 17 A. This is a request for the establishment of RD zoning for lots 10-23,
18 block 19, Tract 3, Unit 3 and lots 10-24, block 18 and lots 7-26,
19 block 20, Tract 3, Unit 1 and SU-2/Mixed Use zoning for lots 10-23,
20 block 20, Tract 3, Unit 3, all in North Albuquerque Acres and located
21 at Paseo del Norte and Holbrook NE.
- 22 B. This request meets the requirements of Policy 3a under the Rural
23 designation of the Comprehensive Plan which states that density
24 patterns shall be more specifically defined through lower rank
25 planning. This was accomplished with the adoption of the North
26 Albuquerque Acres Sector Development Plan, a Rank 3 plan, in
27 February of 2001.
- 28 C. R-270-1980: The applicant has justified the request because the
29 proposed zoning will offer stability since it will allow land uses and
30 densities that are already assigned to the site and anticipated by the
31 surrounding community.

[+ Bracketed / Underscored Material +] - New
[- Bracketed / Strikethrough Material -] - Deletion

[+ Bracketed / Underscored Material +] - New
[- Bracketed / Strikethrough Material -] - Deletion



2003033776
5816775



2003033776
5816775
Page: 2 of 6
82/28/2003 02:56P

- D. This request meets the goals and intentions of the *La Cueva Sector Development Plan* which designates the Paseo del Norte Corridor as suitable for higher density residential and mixed use development.
- E. County-owned remnant lots along Paseo del Norte, which are included in the request for zoning, should receive zoning similar to that of the abutting properties.
- F. Utility service, meeting established system standards, may require extraordinary off-site facilities, which would be at the developer's expense. Prior to the City Council hearing, the applicant should enter into a Pre-Annexation Agreement in order to ensure that the City does not incur unnecessary capital costs.
- G. According to Bernalillo County comments, the proposed uses and densities appear to be consistent with those established for these sites by the Bernalillo County Paseo del Norte/North Albuquerque Acres Sector Development Plan.

Section 5. RD zoning at 6 du/acre is hereby established for Lots 3-6 and 27-30, block 20, Tract 3, Unit 1, North Albuquerque Acres which is consistent with established zoning for these lots.

Section 6. Remnant lots along Paseo del Norte, west of the municipal limit line shall be zoned as follows:

- Lots 6-16, Block 21, Tract A, Unit A, North Albuquerque Acres shall be zoned RD;
- Lots 1-12, Block 31, Tract A, Unit A, North Albuquerque Acres shall be zoned R-LT;
- Lots 13-16, Block 31, Tract A, Unit A, North Albuquerque Acres shall be zoned SU-2/C-1;
- Lots 17-24, Block 10, Tract 3, Unit 3, North Albuquerque Acres shall be zoned SU-2/Mixed Use;
- Lots 28-32, Block 20, Tract 3, Unit 3, North Albuquerque Acres shall be zoned SU-1/C-1;
- Lots 24-27, Block 20, Tract 3, Unit 3, North Albuquerque Acres shall be zoned SU-2/Mixed Use.



Section 7. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provisions being declared unconstitutional or otherwise invalid.

Section 8. EFFECTIVE DATE AND PUBLICATION. This ordinance shall take effect five days after publication by title and general summary and when a plat of the territory hereby annexed is filed in the office of the County Clerk.

32X:\SHARE\Legislation\Fifteen\O-73fin.doc



[+ Bracketed/Underscored Material +] - New
[- Bracketed/Strikethrough Material -] - Deletion

[+ Bracketed/Underscored Material +] - New
[- Bracketed/Strikethrough Material -] - Deletion

1 PASSED AND ADOPTED THIS 10 DAY OF FEBRUARY, 2003
2 BY A VOTE OF: 7 FOR 0 AGAINST.

3
4 Yes: 7

5 Excused: E. Griego, V. Griego

6
7
8
9
10 Vincent E. Griego

11 Vincent E. Griego, President

12 City Council

13
14
15
16 APPROVED THIS 26 DAY OF February, 2003

17
18 Bill No. O-02-73

19 Martin Chávez

20 Martin Chávez, Mayor

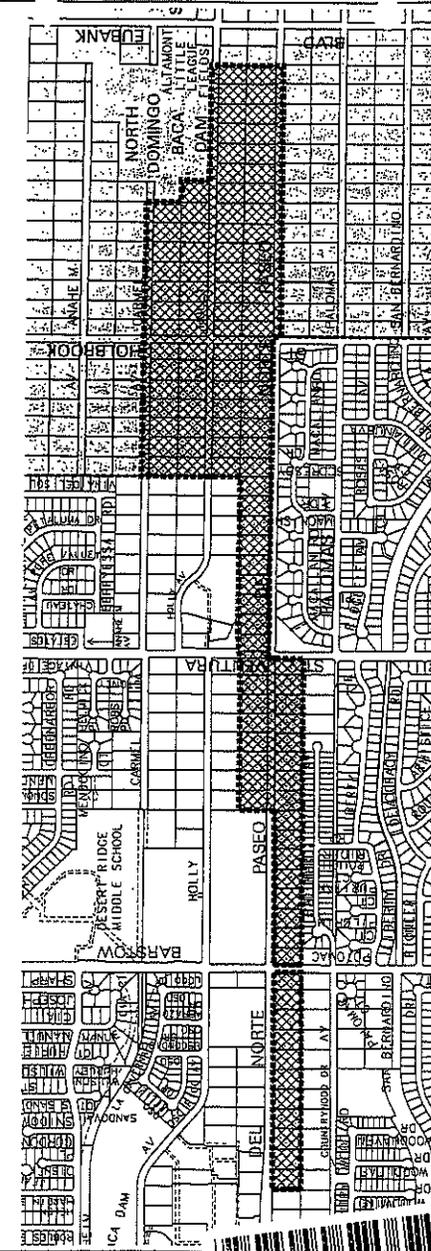
21 City of Albuquerque

22
23
24 ATTEST:

25
26 Mary Herrera
27 City Clerk

28
29
30
31
32
Mary Herrera Bern. Co. ORDN R 19.09
2003033776
5816775
Page: 6 of 6
02/28/2003 02:56P
BK-R51 Pg-3714

Proposed annexation in Zone Maps C-20, C-21, D-19, D-20 and D-21
Project # 1002195



CITY OF Albuquerque
City of Albuquerque Planning Department
© Copyright 2002

MUNICIPAL LIMITS
AREA PROPOSED FOR ANNEXATION
GRAY SHADING INDICATES COUNTY

Map Printed November 14, 2002

2003033776
5816775
Page: 5 of 6
02/28/2003 02:56P
BK-R51 Pg-3714

CITY of ALBUQUERQUE
FIFTEENTH COUNCIL

COUNCIL BILL NO. R-02-185 ENACTMENT NO. 17-2003

SPONSORED BY: Brad Winter, by request

RESOLUTION

1
2 SECTOR DEVELOPMENT PLAN AMENDMENT 02EPC-01355, AMENDING THE
3 LA CUEVA SECTOR DEVELOPMENT PLAN TO INCORPORATE NEWLY
4 ANNEXED PROPERTIES, LOTS 10-23, BLOCKS 19 & 20, TRACT 3, UNIT 3,
5 AND LOTS 10-24, BLOCK 18 AND LOTS 3-30, BLOCK 20, TRACT 3, UNIT 1,
6 NORTH ALBUQUERQUE ACRES AND ALL OF THE RIGHT-OF-WAY OF PASEO
7 DEL NORTE INTO THE BOUNDARY OF THE PLAN; AND LIMITING LAND USES
8 ON LOTS 10 - 16, BLOCK 20, TRACT 3, UNIT 3; AND LIMITING ACCESS TO
9 CARMEL NE FROM LOTS 10 - 16, BLOCK 19, TRACT 3, UNIT 3, NORTH
10 ALBUQUERQUE ACRES, AND FROM LOTS 10 - 16, BLOCK 18, TRACT 3,
11 UNIT 1, NORTH ALBUQUERQUE ACRES.

12 WHEREAS, the City of Albuquerque originally adopted the La Cueva Sector
13 Development Plan in June of 2000 through action on Council Resolution R-50,
14 Enactment Number 65-2000; and

15 WHEREAS, the Council has the authority to not only adopt but amend such a
16 sector development plan; and

17 WHEREAS, the La Cueva Sector Plan was adopted as a land use control
18 pursuant to the Comprehensive City Zoning Code; and

19 WHEREAS Exhibit 12 in the La Cueva Sector Development Plan and the text
20 in Chapter 5, "ZONING" were adopted as an extension of the Zoning Code and
21 its zone map; and

22 WHEREAS, on October 17, 2002, the Environmental Planning Commission,
23 in its advisory role on land use and planning matters, recommended approval of

1 an amendment to the La Cueva Sector Development Plan to the City Council;
2 and
3 WHEREAS, the Environmental Planning Commission found the Sector
4 Development Plan Amendment was not in conflict with any applicable plans
5 including the Comprehensive Plan and the La Cueva Sector Development Plan;
6 and

7 WHEREAS, the Environmental Planning Commission, in its advisory role on
8 land use and planning matters, recommended approval of the establishment of
9 RD and SU-2/Mixed Use zoning for the newly annexed area.

10 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
11 ALBUQUERQUE:

12 Section 1. The La Cueva Sector Development Plan is amended. All maps of
13 the La Cueva Sector Development Plan are amended to expand the boundaries
14 of the plan area to incorporate the newly annexed area of Lots 10-23, Blocks 19
15 & 20, Tract 3, Unit 3, and Lots 10-24, Block 18 and Lots 3-30, Block 20, Tract
16 3, Unit 1, North Albuquerque Acres and all of the Right-of-Way of Paseo del
17 Norte from Wyoming to the eastern edge of the municipal limits.

18 Section 2. The La Cueva Sector Development Plan, in its authority a land use
19 control pursuant to the City's Comprehensive Zoning Code, is amended. Exhibit
20 12 in the Plan is amended to establish RD 4 DU/ACRE zoning for Lots 10-23,
21 Block 19, Tract 3, Unit 3 and Lots 10-24, Block 18, Tract 3, Unit 1 and Lots 7-
22 15, Block 20, Tract 3, Unit 1, North Albuquerque Acres; RD 6DU/ACRE zoning
23 for Lots 3-6, Block 20, Tract 3, Unit 1, North Albuquerque Acres; and SU-2/
24 MIXED USE zoning for Lots 10-15, Block 20, Tract 3, Unit 3, North
25 Albuquerque Acres. The La Cueva Sector Development is further amended by
26 inserting the following new paragraph in Section 5.4.5 SU-2/Mixed Use after
27 Paragraph 12 on page 30: 13. Land uses on Lots 10 through 16, Block 20,
28 Tract 3, Unit 3, North Albuquerque Acres are limited to the following:

- 29 a. Permissive and Conditional uses of the R-1 Zone;
- 30 b. Office and Institutional uses of the O-1 Zone;
- 31 c. Small animal clinic and enclosed lodge with an outdoor play yard,
32 provided a solid wall at least six feet in height is erected on the northern,

[+ Bracketed / Underscored Material +] - New
[- Bracketed / Strikethrough Material -] - Deletion

[+ Bracketed / Underscored Material +] - New
[- Bracketed / Strikethrough Material -] - Deletion

[+ Bracketed / Underscored Material +] - New
[- Bracketed / Strikethrough Material -] - Deletion

1 eastern and western sides of the play yard. The La Cueva Sector
2 Development Plan is further amended by inserting the following new
3 subparagraph in Section 5.2 RD Zone on page 26 of the Plan: For Lots 10
4 through 16, Block 19, Tract 3, Unit 3, North Albuquerque Acres, and Lots
5 10 through 16, Block 18, Tract 3, Unit 1, North Albuquerque Acres, any lot
6 that is less than three quarters of an acre in size will not have access to
7 Carmel NE.
8 Section 3. FINDINGS ACCEPTED. The following Sector Plan amendment
9 findings are adopted by the City Council:
10 (A) This is a request for an amendment to the *La Cueva Sector*
11 *Development Plan* for approximately 63 acres located at Paseo del
12 Norte and Holbrook NE.
13 (B) The boundaries of the *La Cueva Sector Development Plan* currently
14 extend east, mid-block between Ventura and Holbrook NE. The
15 applicant is requesting to extend the boundaries of the Sector Plan
16 further eastward to include the subject site.
17 (C) This request meets the goals of Policy 3a under the Rural designation
18 of the *Comprehensive Plan* which calls for higher density areas to be
19 controlled by lower ranking plans and site development plans.
20 (D) Expanding the boundaries of the *La Cueva Sector Plan* to include the
21 subject site will ensure development and design guidance per the
22 regulations of the plan.
23 (E) This request meets the goals of the *La Cueva Sector Plan* which calls
24 for higher density residential and mixed use development within the
25 Paseo del Norte Corridor. The applicant is proposing similar land uses
26 on the subject site.
27 (F) R270-1980: The applicant has shown that the proposed zoning of
28 the *La Cueva Sector Plan* is appropriate for the subject site because it
29 will be more beneficial to the neighborhood, as articulated in the
30 *Comprehensive Plan* and the *La Cueva Sector Plan*.
31 (G) According to Bernalillo County comments, the proposed uses and
32 densities appear to be consistent with those established for these

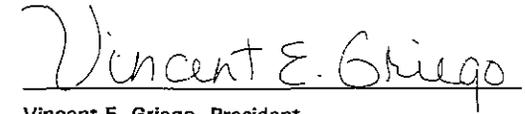
[+ Bracketed / Underscored Material +] - New
[- Bracketed / Strikethrough Material -] - Deletion

1 sites by the Bernalillo County *Paseo del Norte/North Albuquerque*
2 *Acres Sector Development Plan*.
3 Section 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
4 clause, word or phrase of this resolution is for any reason held to be invalid or
5 unenforceable by any court of competent jurisdiction, such decision shall not
6 affect the validity of the remaining provisions of this resolution. The Council
7 hereby declares that it would have passed this resolution and each section,
8 paragraph, sentence, clause, word or phrase thereof irrespective of any
9 provisions being declared unconstitutional or otherwise invalid.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30X:\SHARE\Legislation\Fifteen\R-185fin.doc

1 PASSED AND ADOPTED THIS 10TH DAY OF FEBRUARY, 2003
2 BY A VOTE OF: 7 FOR 0 AGAINST.

3
4
5
6
7
8
9
10
11
12
13
14
15

Yes: 7
Excused: E. Griego, V. Griego



Vincent E. Griego, President
City Council

16 APPROVED THIS 26 DAY OF February, 2003

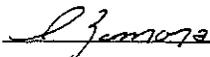
[+Bracketed Material+] - New
[-Bracketed Material-] - Deletion

18 Bill No. R-02-185



Martin Chávez, Mayor
City of Albuquerque

24 ATTEST:

26 
City Clerk

28
29
30
31
32

CITY of ALBUQUERQUE
FIFTEENTH COUNCIL

COUNCIL BILL NO. 0-02-20 ENACTMENT NO. 17-2002

SPONSORED BY: Sally Mayer, by request

ORDINANCE

ANNEXATION, 01114-01090/01110 01105, ANNEXING 33 ACRES MORE OR LESS, LOCATED ON FLORENCE AVENUE BETWEEN LOUISIANA BOULEVARD AND WYOMING BOULEVARD, NE AND AMENDING THE ZONE MAP TO ESTABLISH RD 4DU/ACRE.
BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. AREA PROPOSED FOR ANNEXATION. The owner of the area proposed for annexation hereby presented a signed petition to annex the following territory: 33 acres, more or less, located on Florence Avenue between Louisiana Boulevard and Wyoming boulevard, NE; and more particularly described as follows:

- A. Lots 8-25, Block 3, Tract 1, Unit 3, North Albuquerque Acres; Lots 9-23, Block 4, Tract 1, Unit 3, North Albuquerque Acres, projected Sections 7 and 18, Township 11 North, Range 4 East, NMPM
- B. All of the right-of-way adjoining the land described in A. of this section to the extent it is not already in the City.

The above described territory is contiguous to the City of Albuquerque.

Section 2. ANNEXATION ACCEPTED. The petition and the area specified in Section 1 above are accepted and the above territory is hereby annexed.

Section 3. ZONE MAP AMENDED. The annexation creates a changed community condition that justifies the zoning. The zone map adopted by Section 14-16-1-1 et. seq. R.O.A. 1994 is hereby amended, establishing RD 4 DU/acre.

Section 4. FINDINGS ACCEPTED. The Council adopts the following zone map amendment findings recommended by the Environmental Planning Commission:

- A. This is a request for the establishment of RD 4 DU/acre zoning for Lots 8-25, Tract 1, Unit 3, Block 3, North Albuquerque Acres and Lots 9-23, Tract 1, Unit 3, Block 4, North Albuquerque Acres, containing approximately 33 acres.
- B. The subject site is located in the Developing Urban area of the *Comprehensive Plan*. Under the Developing Urban designation, the requested RD 4 DU/acre furthers the applicable goal and polices of the *Comprehensive Plan* by allowing for an urban environment which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and choice in housing, transportation, and life styles with a location and intensity that shall respect existing neighborhood values, natural environmental conditions and carrying capacities, and scenic resources.
- C. The applicant adequately justifies this request under the Developing Urban designation, as the proposed zoning does not conflict with any applicable city plan or policy, the annexation creates a changed community condition, the RD 4 du/acre zoning is consistent with zoning south of the subject site while also providing a transition to properties from the more intense development planned to the west on properties zoned County A-1 to the north and east.
- D. Since the September 20, 2001 hearing the City Council voted to approve Resolution 01-304 amending the *Comprehensive Plan* designation for the unincorporated portion of North Albuquerque Acres from Developing Urban and Semi-Urban to Rural, but excluded an area which includes the subject site, allowing the subject site to maintain its Developing Urban designation.
- E. The zoning recommendation is, in part, predicated upon the applicant's agreement with the North Albuquerque Acres Community Association dated October 12, 2001, therefore the site development plan for the

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

Mary Herrera Bern. Co. ANEX R 15.00 2002050825 566539 Page: 1 of 5 05/06/2002 03:38P Bk-A35 Pg-0655

Mary Herrera Bern. Co. ANEX R 15.00 2002050825 566539 Page: 2 of 5 05/06/2002 03:38P Bk-A35 Pg-0655

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

1 property should be consistent with the land use limitation of the
2 neighborhood agreement.
3 Section 5. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
4 clause, word or phrase of this ordinance is for any reason held to be invalid or
5 unenforceable by any court of competent jurisdiction, such decision shall not
6 affect the validity of the remaining provisions of this ordinance. The Council
7 hereby declares that it would have passed this ordinance and each section,
8 paragraph, sentence, clause, word or phrase thereof irrespective of any
9 provisions being declared unconstitutional or otherwise invalid.
10 Section 6. EFFECTIVE DATE AND PUBLICATION. This ordinance shall
11 become effective five or more days after publication in full when a copy of the
12 ordinance and a plat of the territory hereby annexed is filed in the office of the
13 County Clerk.

Mary Herrera Bern. Co. ANEX R 15.00
2092958825
5855339
Page: 3 of 5
05/06/2002 03:30P Bk-R35 Pg-8655

1 PASSED AND ADOPTED THIS 15 DAY OF April, 2002
2 BY A VOTE OF: 9 FOR 0 AGAINST.

3
4
5
6 Brad Winter
7
8 Brad Winter, President
9 City Council

10
11
12
13 APPROVED THIS 23rd DAY OF April, 2002

14
15 Bill No. O-02-20

16
17 Martin J. Chavez
18 Martin J. Chávez, Mayor
19 City of Albuquerque

20
21 ATTEST:
22 [Signature]
23
24 City Clerk
25
26
27
28
29
30
31

Mary Herrera Bern. Co. ANEX R 15.00
2092958825
5855339
Page: 4 of 5
05/06/2002 03:38P Bk-R35 Pg-8655

Conditional Uses

1. Uses conditional in the C-1 zone except that the following are not allowed as a conditional use:
 - a. Auto, trailer, truck rental
 - b. Kennel
 - c. Watchman mobile home
 - d. Outdoor storage

Lot Size: No requirements except that a drive-up facility shall be required to provide a minimum of 1.75 acres for each facility except where corner lots are involved, then a minimum of 1.3 acres is required for each drive-up facility. (Refer to Section 5.4.5.7).

Height. The height requirements of the O-1 zone apply except that the maximum building height is 36 feet.

Setbacks. Minimum setbacks are as defined in the C-1 zone. Maximum setback from Holly Avenue or Carmel Avenue is 30 feet. No parking or driveways are allowed in the setback area.

Site plan requirements. Sites are subject to the site development regulations in §14-16-3-10 and §14-16-3-11 of the City Zoning Code.

5.4.6 Common Design Regulations for All SU-2 Zoned Properties and RT Development in the RD Zone

The following design regulations and guidelines deal with the experience and perception of the plan area by residents and customers and employees of area businesses. The design standards are intended to reinforce the identity of this area through the functional, environmental, and visual qualities of development.

Regulations are labeled “R” and Guidelines are labeled “G”. Regulations are mandatory. Guidelines are recommended.

1. Trail connections

Intent: Provide for safe, effective, and attractive pedestrian-friendly transportation systems that interconnect with residential, commercial, and recreational areas.

1R-1: Trail connections shall be provided from all sites that abut major and minor trails designated in the Trails and Bikeways Facility Plan at a minimum interval of 300 feet. Connections may include intersecting streets with sidewalks, a 6’ asphalt trail, or similar pedestrian facility.

2. On-Site Open Space

Intent: Create more harmonious transitions to adjacent developments and create more open space opportunities.

2R-1: Where on-site open space of residential developments abuts arroyo trails, the open space shall be integrated with the arroyo so more usable open space is created.

2G-1: Cluster development is encouraged to allow larger pockets of open space.

3. Pedestrian Circulation

Intent: Provide pedestrian connections through mixed-use areas and activity centers and separation between parking and pedestrian circulation.

3R-1: Sidewalks shall connect the public street sidewalks, the main entrances to all businesses, transit stops on or off-site, and other buildings on the site, in addition to providing convenient access to adjacent residential

neighborhoods. In shopping centers, clear, logical pathways must be provided to each building on the site, including pad sites.

3R-2: Structures and on-site circulation systems shall be designed to minimize pedestrian/vehicle conflicts.

3R-3: Internal pedestrian walkways shall be distinguished from driving surfaces through the use of special materials such as special pavers, bricks, or scored concrete to enhance pedestrian safety and the attractiveness of the walkways. In parking lots, raised pathways must be provided through parking areas.

3R-4: A 15-foot sidewalk shall be provided along the entire entry façade of all buildings. Shading shall be provided along the façade, using canopies, portals or shade trees spaced at 25 feet. The sidewalk area should be predominantly a walkable surface, although shade structures, landscaping and seating may be placed within this area.

3R-5: The internal pedestrian circulation system is intended to provide clear, logical pathways within and between properties. The site plan shall demonstrate that a development will not impair access to adjoining properties or to major public facilities such as parks and schools.

3R6: All drive-up service facilities shall be designed to minimize the conflict between pedestrians and automobiles. Drive-up facilities shall be located away from the main retail areas, pedestrian areas, and plazas. Drive-up facilities shall be covered with canopies to mitigate the impact of noise and odors.

4. Non-Residential Building orientation

Intent: Provide pleasing views to surrounding uses by providing higher quality facades at the rear and sides of new buildings.

4R-1: Buildings shall orient customer entrances and/or windows to all public spaces, including common areas, trails and streets.

4R-2: When the side of a building faces open space, trails or any street, one of the following shall be provided to create an attractive facade facing the public space:

- display windows and landscaping
- at least one customer entrance and landscaping
- building design and details similar to a front facade and landscaping

4R-3: When the rear of a building faces open space, trails or any street, one of the following shall be provided to create an attractive façade facing the public space:

- display windows and landscaping
- building design and details similar to the front façade and landscaping

Loading docks and trash receptacles shall be integrated into the overall building and landscaping design as described in item 15 below.

4R-4: Customer entrances shall be located convenient to pedestrian walkways and bus stops.

4G1: Buildings should be located on sites in close proximity to plazas and streets. Large areas of parking should be located to the side of plazas and main building entrances.

5. Architectural Character, Non-Residential Buildings

Intent: Reduce the apparent scale and uniformity of facades to make large buildings seem more inviting.

5R-1: Multiple buildings on the same site shall be designed to create a cohesive visual relationship between buildings.

5R-2: Exterior building design and details on all elevations shall be coordinated with regard to color, types of materials, number of materials, and architectural form to achieve harmony and continuity of design.

5R-3: Building masses shall be broken up into smaller scale components to reduce perceived height and bulk and to provide visual interest consistent with the community's identity, character, and scale.

5R-4: Facades greater than 100 feet in length must incorporate recessions or projections along at least 20% of the length of the façade. Recessions must be a minimum depth of three feet and minimum width of 10 feet.

5R-5: No individual building shall be greater than 50,000 square feet in size.

5R-6: Smaller retail stores that are part of a large retail building shall have display windows. Such smaller stores are encouraged. Outside entrances to these smaller stores are encouraged.

5R-7: Each commercial or office building shall have a clearly defined, highly visible customer entrance with features such as canopies or porticos, arcades, arches, wing walls and/or integral planters.

5R-8: No generic prototypical architecture is allowed. Design shall be contextual to its surroundings.

6. Architectural Character, Multi-family Residential Buildings

Intent: Avoid large building blocks and blank facades in multifamily buildings and townhouse clusters.

6R-1: Multiple buildings on the same site shall be designed to create a cohesive visual relationship between buildings and between buildings and on-site open space.

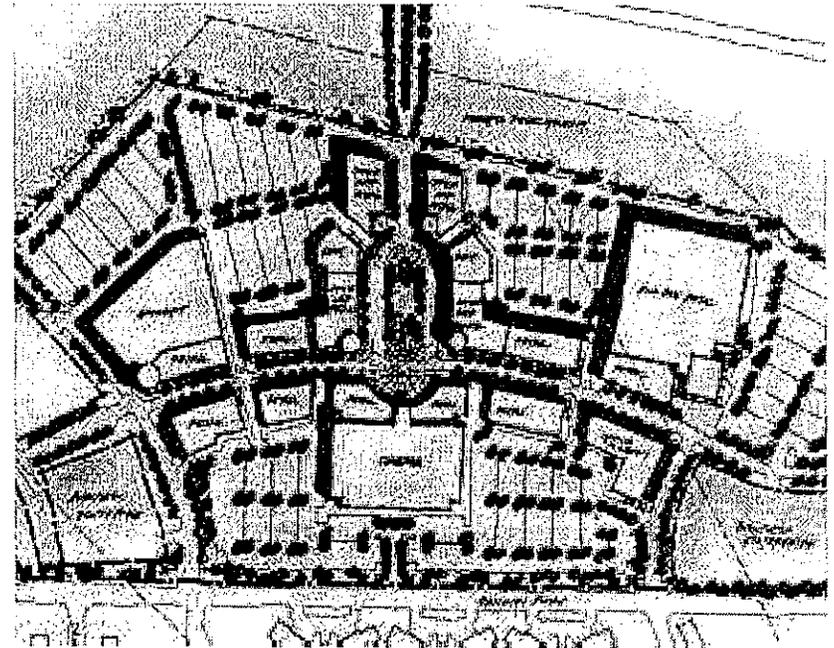


Figure 7. Copper Peaks, a proposed mixed-use project in Butte, Montana, illustrates a mixed-use development oriented to a "main street".

6R-2: Exterior building design and details on all elevations shall be coordinated with regard to color, types of materials, number of materials, and architectural form to achieve harmony and continuity of design.

6R-3: Residential structures shall not present a blank wall, large block face or predominant garage doors (more than 50% of the façade length) to a street or trail. Building masses shall be broken up into smaller scale components to reduce perceived height and bulk, with façade recessions or projections a minimum depth of three feet and minimum width of 10 feet.

6G-1: Residential structures shall orient porches, doors and windows to the street.

7. Architectural Character, Single Family Residential

Intent: Develop innovative designs for new subdivisions that enhance the sense of place, neighborhood interaction, and reinforce existing architectural character in established neighborhoods.

7R-1: All new subdivisions shall incorporate CPTED (Crime Prevention Through Environmental Design) principles into the design of new homes.

7G-1: De-emphasize garages, and orient porches, doors, and windows to the street.

8. Open Space and Common Areas

Intent: Provide public places for people to meet, gather and interact.

8R-1: Open space, as provided in the RD zone is required for residential development in the RD and SU-2/Mixed Use Zone. Priority areas for open space dedications are:

- First Priority: east/west arroyo trails or “pockets” adjacent to the trails
- Second Priority: north/south mid-block pedestrian ways

8R-2: Every non-residential development shall contribute to the enhancement of the community and public spaces by providing amenities such as a plaza, courtyard, patio seating area, or a pedestrian plaza with benches.

8R-3: Non-residential development shall provide public open space amenities equal to the greater of 400 square feet or four percent or greater of the building footprint. A plaza shall have a minimum depth of at least 30 feet on a portion of the plaza. These amenities shall be labeled as such on the site development plan.



Figure 8. Public plazas and courtyards enhance the community.

8R-4: Maintenance of public open space amenities shall be the responsibility of the property owner.

9. Building Materials and Colors

Intent: Foster community identity through the use of compatible building materials and colors.

9R-1: Predominant exterior building materials must be of high quality. These materials include tinted/textured concrete masonry units or stucco. Smooth-faced concrete block, tilt-up concrete panels or pre-fabricated steel panels are prohibited as the predominant exterior building materials.

9R-2: Facade colors must be of low reflecting, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.

9R-3: Dark-colored roofs contribute to higher HVAC cost and should be prohibited. Roof colors must be of low reflecting, subtle, neutral or earth tone colors. Pueblo style flat roofs or pitched roofs with roof tiles are preferred.

9R-4: Trim materials and colors must blend with the predominant building materials. The use of high intensity colors, metallic colors or fluorescent colors is prohibited. No plastic, vinyl, or back-lit panels, fascias or canopies are allowed.

9R5: All canopies and outbuildings shall be contextual and shall be of the same materials used in the general building design.

10. Perimeter Walls

Intent: Add visual interest and character to the streetscape and increase the overall appeal of the development.

10R-1: Walls shall be designed to complement the architectural character of the subdivision or neighboring architecture by incorporating the architectural features and motifs used on adjacent homes or buildings.

10R-2: Materials such as stucco over concrete masonry units, curved interlock block, split face block, slump block, stabilized adobe, brick, tubular wrought iron, see-through masonry blocks, landscaping or a combination of those materials shall be used for perimeter walls. Wood and chain link are not allowed. Concertina wire is not allowed.

10R-3: Long expanses of unbroken walls are prohibited. Walls shall be indented, offset or in serpentine form to avoid "tunnel" effect, as shown in Figure 9.

10R-4: The adopted City of Albuquerque Wall Design Guidelines shall be adopted as regulations.

11. Views

Intent: Ensure that development respects the views of the Sandia Mountains to the east and the mesa to the west. This includes preserving views from out of the site and site design to take advantage of views from the site.

11R-1: Site development plans shall include a View Analysis that shall identify views into and out of the site and indicate how these views will be protected within the site.

11R-2: All utilities shall be placed underground.

11R-3: Rooftop mechanical and electrical equipment, microwave antennae, or similar rooftop hardware shall be screened from public view. The building elements to screen such equipment shall be designed as an integral part of the building architecture. All HVAC equipment shall be less than or equal to the top of any parapet or screen wall. The parapet or screen wall shall be architecturally integrated into the general building design. Where a public road or other public area is elevated, rooftop equipment visible from the road must be covered.

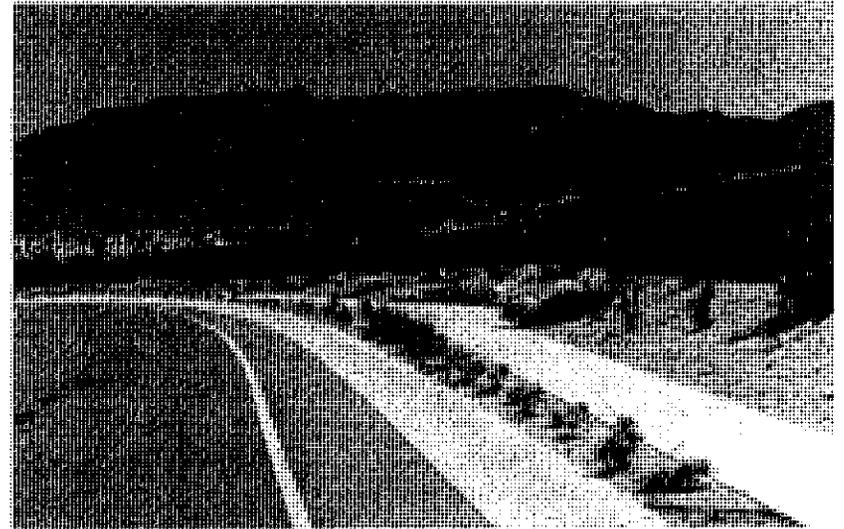
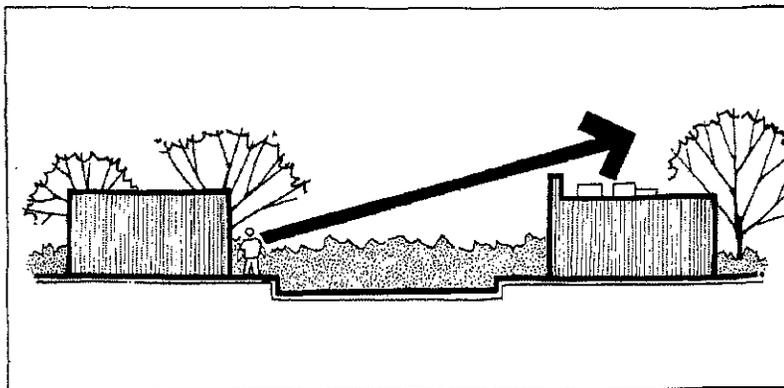


Figure 9 – Perimeter walls must be of compatible materials and landscaped as shown in the top photo. Long expanses of unbroken walls as shown in the bottom photo are prohibited.

12. Off-street Parking

Intent: Provide safe vehicular parking with attention to functional and aesthetic concerns. All parking should be justified. Oversized parking lots or facilities should be discouraged.

In addition to the off-street parking regulations in the City Zoning Code, the following regulations must be met.

12R-1: The number of required parking spaces can be reduced 10% where the site is adjacent to a bus stop and direct pedestrian access is provided to the bus stop.

12R-2: Parking spaces shall be distributed on the site to minimize visual impact. Parking at the rear of the site is encouraged. When parking is located at the front or sides of the site, parking areas shall be placed on at least two sides of a building. Parking areas must be broken up into modules separated by landscaping and other features.

12R-3: The minimum required parking spaces plus ten percent is the maximum parking allowed. A variance to the standard must be approved to increase the allowed parking.

12G-1: Parking areas should be designed to minimize local temperature gain and reduce air pollution. Potential methods of accomplishing this include light colored materials in parking lot surfaces and trees or other shading devices to shade the surface area of the lot.

12G-2: Parking should be placed to encourage and facilitate parking once and walking to multiple destinations.

12G-3: Shared parking in mixed-use areas is encouraged and total spaces may be reduced when the owner

demonstrates that the mix of uses has staggered parking needs.

13. Signage

Intent: Establish continuity and consistency in the design and location of public signage, so that the aesthetic appearance is improved.

In addition to the regulations of the City Zoning Code, the following regulations must be met.

13R-1: All signage shall be designed to be consistent with and complement the materials, color and architectural style of the building or site.

13R-2: Wall mounted signs shall not extend above the roof line.

13R-3: No wall mounted signs are allowed on facades that face abutting residential zones.

13R-4: Where freestanding signs are allowed, all freestanding signs shall be monument signs. Height of monument signs is limited to eight (8) feet with a maximum face area of 50 square feet.

13R-5: No off-premise signs are allowed.

13R-6: No signage is allowed that uses flashing, oscillating, revolving, blinking or audible devices. No banners, pennants, ribbons or streamers are allowed except for thematic special events and with prior approval by the Planning Director.

13R-7: Signage may be illuminated in accordance with the lighting regulation regulations in section 14 of the City zoning code.

13R-8: The maximum individual letter size of all building mounted signs shall be two feet.

13R-9: Logo design signs shall not exceed two feet in height or width.

14. Lighting

Intent: Lighting design should be consistent with the North Albuquerque Acres and Sandia Heights Light Pollution Ordinance as a transition from an urban to a rural environment.

14R-1: Searchlights, spotlights or floodlights are prohibited.

14R-2: All outdoor light fixtures shall be fully shielded and equipped with automatic timing devices.

14R-3: All outdoor light fixtures within commercial or office zones shall remain off between 11:00 PM and sunrise except for security purposes or to illuminate walkways, driveways, equipment yards and parking lots.

14R-4: All outdoor light fixtures used for security purposes or to illuminate walkways, driveways, equipment yards and parking lots shall be designed and operated as cutoff or semi-cutoff fixtures and shall be equipped with light and motion sensors and/or automatic timing devices.

14R-5: All outdoor light fixtures used for decorative effects shall be shielded and focused to minimize light pollution. Such outdoor lighting fixtures shall be turned off between 11:00 PM and sunrise.

14R-6: All outdoor lighting fixtures mounted on buildings or structures shall be mounted at a height no more than 16 feet above finished grade.

14R-7: All outdoor lighting systems shall be designed and operated so that the area 10 feet beyond the property line of the premises receives no more than 0.25 (one-quarter) of a foot candle of light from the premises lighting system. Gas station canopy lighting shall be shielded or recessed to avoid impact on surrounding residences.

15. Loading docks, trash collection, and similar facilities

Intent: Improve overall community design by minimizing negative visual impacts .

15R-1: Loading docks, trash receptacles, utility structures and similar facilities shall be incorporated into the overall design of the building and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets. Screening materials for these areas shall be the same as the principal materials of the building and landscape.

15R-2: Roof canopies shall be provided over all loading docks. Roof canopies shall be architecturally integrated with the building.

16. Landscaping

Intent: Provide a pleasant microclimate for pedestrians and increase the aesthetic appeal of a development.

16G-1: The standards of the Street Tree Ordinance and landscaping provisions of the City Zoning Code apply except that

- Trees placed along the primary pedestrian walkway must be no more than 25 feet apart
- Trees may be clustered at plaza areas or other public gathering places