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**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item # 7 Ordinance/Resolution# 2562 Council District: 5

**For Meeting of February 22, 2010**  
 (Adoption Date)

**TITLE:** AN ORDINANCE APPROVING A MAJOR AMENDMENT TO BOTH THE LOS CONTENTOS CONCEPT PLAN AND FINAL SITE PLAN AND A REQUEST FOR A ZONE CHANGE FROM C-2C (COMMERCIAL MEDIUM-INTENSITY) AND R-4 (MULTI-DWELLING HIGH DENSITY & LIMITED RETAIL OFFICE) TO PUD (PLANNED UNIT DEVELOPMENT FOR 3.15 ± ACRES OF PROPERTY. THE PURPOSE OF THE MAJOR AMENDMENT IS TO CHANGE THE LAND USE FROM SINGLE-FAMILY RESIDENTIAL TO MULTI-FAMILY RESIDENTIAL, LIMIT THE MAXIMUM NUMBER OF DWELLING UNITS TO 80, AND MODIFY THE REAR YARD SETBACK TO 7-FEET. THE MAJOR AMENDMENT IS LIMITED TO PHASE IV OF THE ORIGINAL LOS CONTENTOS PUD. THE SUBJECT PROPERTY IS LOCATED WEST OF DEL REY BOULEVARD AND NORTH OF MARS AVENUE. SUBMITTED BY LILLEY ENGINEERING FOR THOMAS TEST (PUD-09-01).

**PURPOSE(S) OF ACTION:** The applicant is requesting to amend the concept plan and final site plan of the Los Contentos PUD to modify the land use, limit the maximum number of dwelling units, and reduce the rear yard setback. The purpose of the zone change request is to bring the development into compliance with the PUD (Planned Unit Development) zoning district as prescribed in the 2001 Zoning Code, as amended.

<b>Name of Drafter:</b> Cheryl Rodriguez <i>CR</i>		<b>Department:</b> Community Development		<b>Phone:</b> 528-3207	
<b>Department</b>	<b>Signature</b>	<b>Phone</b>	<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Community Development	<i>DW</i>	528-3066	Budget	<i>Richard Robert</i>	541-2107
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The Los Contentos Planned Unit Development comprises 13.2 ± acres and is located on the north side of Mars Avenue, which is classified as a Collector, approximately 600 feet west of the intersection of Mars Avenue and Del Rey Boulevard, which is classified as a Principal Arterial. There are no bus stops located in the general area and/or trails. The closest bicycle lanes are located approximately 1,500-feet southeast of the subject area along Bataan Memorial West.

In 1997, the original Planned Unit Development (PUD) for Los Contentos was approved. The original PUD was restricted to detached and attached single-family site-built and manufactured/mobile homes. The underlying zoning of the subject property was R-4 (High

(Continued on Page 2)

Density Residential and Limited Office, 1981 Zoning Code) and C-2C (General Commercial-Conditional, 1981 Zoning Code).

Under the 1981 Zoning Code, a PUD was processed similar to a special use permit. Developments that pursued a PUD under the 1981 Zoning Code submitted a conceptual land use plan that identified the development standards and land uses within the PUD area. The properties underlying zoning district(s) remained unchanged but future development on the properties were governed under the approved PUD concept plan.

In 2001, a major PUD amendment was reviewed and approved by the Planning and Zoning Commission to broaden the uses allowed within Phases II, III, and IV of the Los Contentos PUD. The amendment allowed apartments and townhouses in addition to adding an area for mini-storage units for neighborhood use. Phases II, III, and IV were to be developed as a multi-family land use, e.g., apartments, for a total of 198 units. The amendment was approved prior to the adoption of the 2001 Zoning Code, as amended.

In 2004, another PUD amendment was reviewed and approved by the Planning and Zoning Commission to combine Phase II, III, and IV into one phase and to provide residential development containing single-family, patio home and/or townhouse lots, and apartments. The amendment allowed for 24 apartment units and 83 single-family lots to be established. In addition, the area identified as Phase IV modified the land use from multi-family to single-family residential to allow for approximately 32 lots for single-family townhouse development.

The amendment was submitted under the 2001 Zoning Code, as amended, but not processed in accordance with the 2001 Zoning Code, as amended. Under the 2001 Zoning Code a PUD became a zoning district. The 2001 Zoning Code further regulates the creation and modification of concept plans and final site plans. A concept plan identifies the land uses and development standards. A final site plan functions similar to that of a preliminary plat.

With the 2004 PUD amendment, a zone change should have occurred to change the zoning of the property from R-4 (Multi-Dwelling High Density & Limited Retail Office) and C-2C (Commercial Medium Intensity-Conditional) to PUD (Planned Unit Development). Furthermore, the amendment to the concept plan should have gone to City Council for final action due to the modification of land uses. This action did not occur.

In 2009, the current (proposed) amendment was submitted for consideration. The amendment affects the area identified as Phase IV on the final site plan. Phase IV consists of 3.15 ± acres. The existing land use of Phase IV is single-family residential. The amendment proposes to modify the land use from single-family residential to multi-family residential. The applicant also proposes to cap the number of dwelling units within Phase IV at 80. Typically in multi-family high density residential development, the minimum density is 10 dwelling units to the acre and the developer must establish the maximum density. The applicant is proposing a density of 25 dwelling units to the acre.

In addition, the applicant is proposing to modify the rear yard setback from 15-feet to 7-feet. A 7-foot rear yard setback is consistent with rear yard setbacks for multi-family residential development as currently established in the 2001 Zoning Code.

As part of this major amendment to the concept plan and final site, staff is also recommending that a zone change be processed to correct the error from the 2004 amendment. The zone change request for Phase IV would be from R-4 (Multi-Dwelling High Density & Limited Retail Office) and C-2C (Commercial Medium Intensity-Conditional) to PUD (Planned Unit Development). This zone change request would bring the property and the Los Contentos PUD that was created in 1997 into compliance with the 2001 Zoning Code.

On December 15, 2009, the Planning and Zoning Commission recommended approval for both the major amendment to the concept plan and final site plan as well as the zone change by a vote of 6-0-0 (one Commissioner absent). Staff has not received any public comment from the zone change request.

### **SUPPORT INFORMATION:**

<b>Fund Name / Account Number</b>	<b>Amount of Expenditure</b>	<b>Budget Amount</b>
N/A	N/A	N/A

1. Ordinance
2. Exhibit "A" – Legal Description for Phase IV, Final Site Plan, Concept Plan (Phase IV Development Guidelines)
3. Exhibit "B" – Findings and Comprehensive Plan Analysis
4. Attachment "A" – Staff Report to the Planning and Zoning Commission for Case PUD-09-01
5. Attachment "B" – Minutes from the December 15, 2009 Planning and Zoning Commission meeting
6. Attachment "C" – Vicinity Map

### **OPTIONS / ALTERNATIVES:**

1. Vote **YES** to approve the Ordinance. This action affirms the Planning and Zoning Commission recommendation for approval. The subject property will be rezoned from C-2C (Commercial Medium Intensity-Conditional) and R-4 (Multi-Dwelling High Density & Limited Retail Office) to PUD (Planned Unit Development) and will be in compliance with the 2001 Zoning Code, as amended. The applicant can also proceed with multi-family residential development for Phase IV.
2. Vote **NO** to deny the Ordinance. This action reverses the recommendation by the Planning and Zoning Commission. The current zoning designation of C-2C (Commercial Medium Intensity-Conditional) and R-4 (Multi-Dwelling High Density & Limited Retail Office) will remain on the subject property. The land use for Phase IV will remain as single-family residential, there will be no cap on dwelling units, and the rear yard setback will not be modified.

3. **Modify the Ordinance and vote YES to approve the modified Ordinance. The Council may modify the Ordinance by adding conditions as deemed appropriate.**
4. **Table/Postpone the Ordinance and direct staff accordingly.**

COUNCIL BILL NO. 10-033  
ORDINANCE NO. 2562

**AN ORDINANCE APPROVING A MAJOR AMENDMENT TO BOTH THE LOS CONTENTOS CONCEPT PLAN AND FINAL SITE PLAN AND A REQUEST FOR A ZONE CHANGE FROM C-2C (COMMERCIAL MEDIUM-INTENSITY) AND R-4 (MULTI-DWELLING HIGH DENSITY & LIMITED RETAIL OFFICE) TO PUD (PLANNED UNIT DEVELOPMENT FOR 3.15 ± ACRES OF PROPERTY. THE PURPOSE OF THE MAJOR AMENDMENT IS TO CHANGE THE LAND USE FROM SINGLE-FAMILY RESIDENTIAL TO MULTI-FAMILY RESIDENTIAL, LIMIT THE MAXIMUM NUMBER OF DWELLING UNITS TO 80, AND MODIFY THE REAR YARD SETBACK TO 7-FEET. THE MAJOR AMENDMENT IS LIMITED TO PHASE IV OF THE ORIGINAL LOS CONTENTOS PUD. THE SUBJECT PROPERTY IS LOCATED WEST OF DEL REY BOULEVARD AND NORTH OF MARS AVENUE. SUBMITTED BY LILLEY ENGINEERING FOR THOMAS TEST (PUD-09-01).**

The City Council is informed that:

**WHEREAS**, Lilley Engineering on behalf of Thomas Test, the property owner, has submitted a request for a major amendment to the Los Contentos Planned Unit Development (Phase IV) to modify the land use from single-family residential to multi-family residential, limit the maximum number of dwelling units to 80, and modify the rear yard setback to 7-feet; and

**WHEREAS**, as part of the major amendment, a zone change request must be processed with the subject property to bring the property into compliance with PUD (Planned Unit Development) zoning district as established in the 2001 Zoning Code, as amended; and

**WHEREAS**, the zone change request is for 3.15 ± acres of property (Phase IV) from C-2 (Commercial Medium Intensity-Conditional) and R-4 (Multi-Dwelling High Density & Limited Retail Office) to PUD (Planned Unit Development); and

**WHEREAS**, the Los Contentos development was created in 1997 under the 1981 Zoning Code as a Planned Unit Development (PUD) with underlying zoning districts of C-2 (Commercial Medium Intensity-Conditional) and R-4 (Multi-Dwelling High Density & Limited Retail Office); and

**WHEREAS**, in 2004 an amendment to the Los Contentos Planned Unit Development was approved that modified land uses and as such a zone change request

should have been initiated to bring the property into compliance with the 2001 Zoning Code, as amended; and

**WHEREAS**, the Planning and Zoning Commission, after conducting a public hearing on December 15, 2009, recommended that said zone change request be approved by a vote of 6-0-0 (one Commissioner absent).

**NOW, THEREFORE**, Be it ordained by the governing body of the City of Las Cruces:

**(I)**

**THAT** the land more particularly described in Exhibit "A," attached hereto and made part of this Ordinance, is hereby zoned PUD (Planned Unit Development).

**(II)**

**THAT** the concept plan and final site plan for the land more particularly described in Exhibit "A," attached hereto and made part of this Ordinance, is hereby approved.

**(III)**

**THAT** the zoning and the major amendment to the Los Contentos Planned Unit Development is based on the findings contained in Exhibit "B" (Finding and Comprehensive Plan Analysis), attached hereto and made part of this Ordinance.

**(IV)**

**THAT** the zoning of said properties be shown accordingly on the City Zoning Atlas.

(V)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

APPROVED:

\_\_\_\_\_  
Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
City Clerk

VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

# LOS CONTENTOS PLANNED UNIT DEVELOPMENT PHASE IV

LAS CRUCES, DONA ANA COUNTY, NEW MEXICO  
DECEMBER 2009

3.156 ACRES

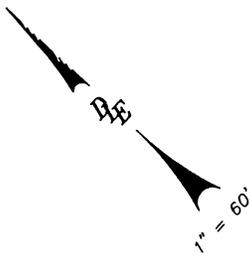
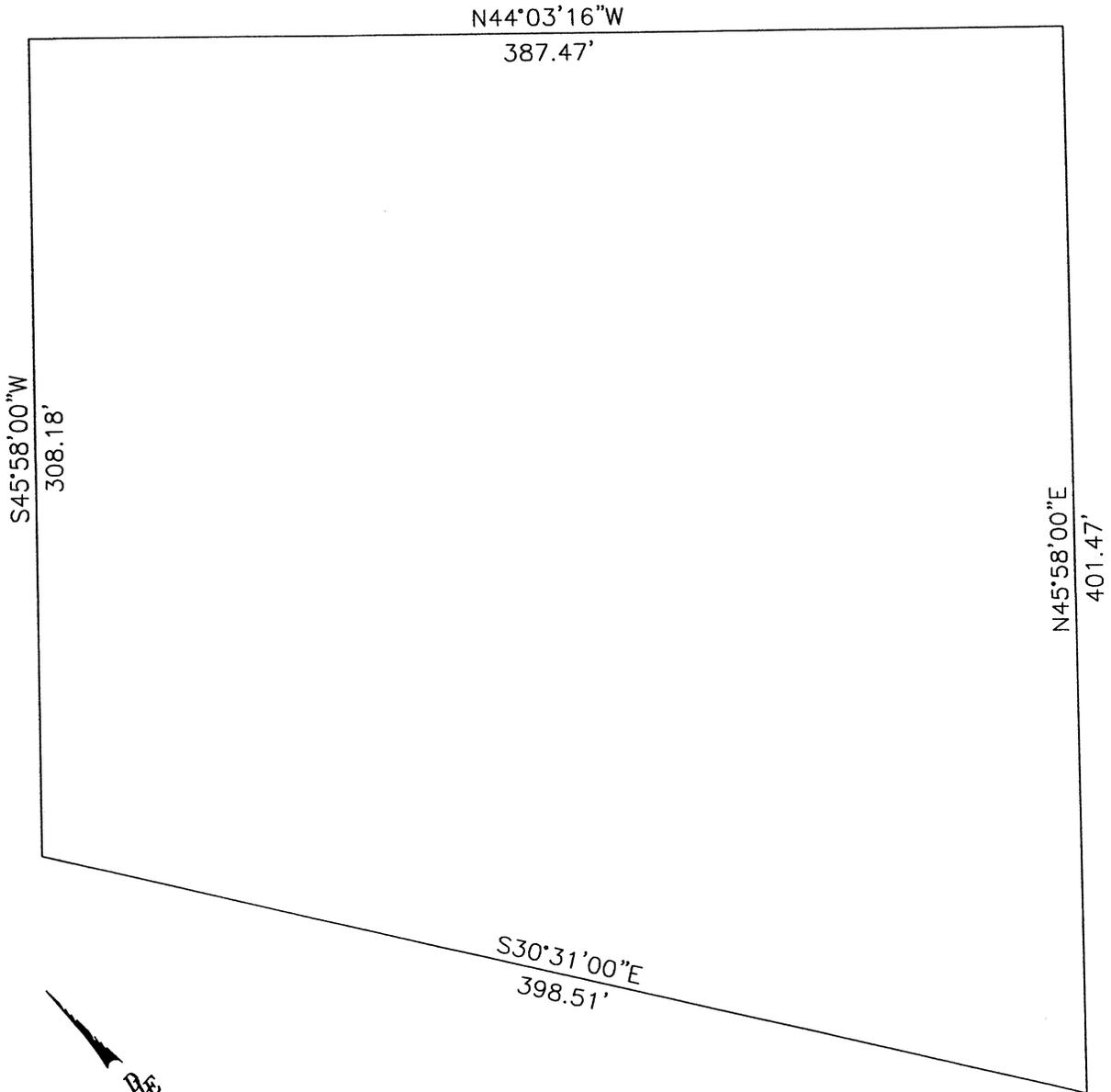
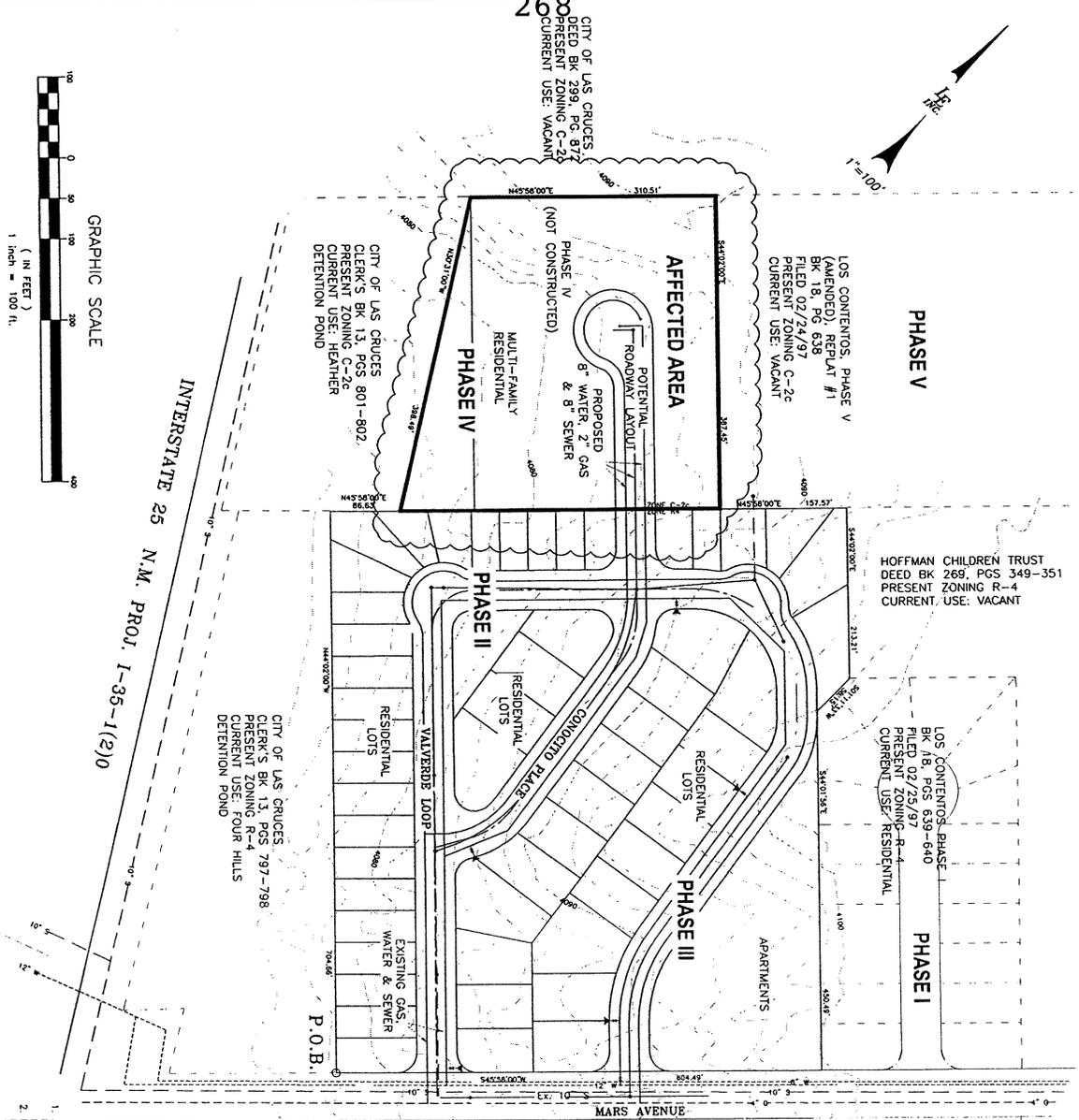


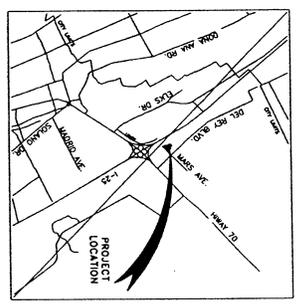
Exhibit "A"

DEL REY BOULEVARD

**PHASE IV**  
3.15 ACRES  
MULTI-FAMILY - MAX. 80 UNITS



**LOS CONTENTOS  
PLANNED UNIT DEVELOPMENT  
PHASES IV**  
LAS CRUCES, DOÑA ANA COUNTY, NEW MEXICO  
SEPTEMBER 2009



**VICINITY MAP**

**PUD GENERAL NOTES**

1. THIS DOCUMENT IS INTENDED TO AMEND THE EXISTING P.U.D. TO ALLOW PHASE IV TO CONFORM TO R-4 ZONING REQUIREMENTS AND AS MODIFIED HEREIN W/ THE FLEXIBILITY OF STREET APPROVAL OF DEVIATIONS FROM THE SITE PLAN W/IN R-4 STANDARDS AND REQUIREMENTS.
2. ALTHOUGH NOT ANTICIPATED, PHASES MAY BE ADDED OR PHASE LINES ADJUSTED TO ACCOMMODATE MARKET DEMANDS.
3. ALL STREETS TO BE MINOR LOCAL.
4. ALL STREET CONSTRUCTION TO CONFORM TO CITY OF LAS CRUCES DESIGN STANDARDS.
5. ALL UTILITIES CONSTRUCTION TO CONFORM TO CITY OF LAS CRUCES STANDARD SPECIFICATIONS FOR UTILITY CONSTRUCTION.
6. ALL DRAINAGE CONTROL CONSTRUCTION TO CONFORM TO CITY OF LAS CRUCES DESIGN STANDARDS.
7. SETBACKS AS FOLLOWS:
 

FRONT	REAR	SIZE	STREET
5	5	5.0	5
10	10	5.0	10
15	15	10.0	15
20	20	15.0	20
20	20	15.0	20
20	20	15.0	20
20	20	15.0	20
8. UTILITY EXISTENTS SHOWN ARE 12" FRONT YARD EXISTENTS FOR UNDERGROUND INSTALLATION OF TELEPHONE, TELEPHONE AND CABLE TV.
9. ALL LOTS FOR MULTIPLE FAMILY HOUSING.
10. PHASES I, II, III AND V ARE INCLUDED IN THIS SITE PLAN TO SHOW COMPLETE, ORIGINAL BOUNDARY OF THE APPROVED PUD.
11. LANDSCAPE CONCEPT WILL CENTER AROUND XERISCAPE AND INDIGENOUS DESERT PLANTS, FLOWERS, BOLLERS AND TREES, PONDING AREAS, BUFFERS, PLANTERS AND SEPARATION OF PROPERTIES SHALL INCORPORATE SPECIMEN (LARGE OR MATURE) MATERIAL.
12. INFRASTRUCTURE FOR PHASES II AND III IS EXISTING.
13. PHASE IV IS PROPOSED TO BE LIMITED TO 80 UNITS.
14. PHASE IV DEVELOPMENT WILL COMPLY WITH LAS CRUCES FIRE DEPARTMENT REQUIREMENTS.

**GENERAL NOTES**

1. AMENDMENT PROPOSES ALLOWING CONSTRUCTION OF MULTI-FAMILY HOUSING ON SINGLE LOTS IN PHASE IV AND PHASE V.
2. INITIAL PERMITS ON EACH PARCEL IN PHASE IV SHALL REQUIRE THE CONSTRUCTION OF A MINIMUM OF TWO UNITS WITH THE MINIMUM DENSITY PER ZONING CODE.

**STATEMENT OF APPROVAL**

THIS PUD CONCEPT PLAN HAS BEEN APPROVED BY THE LAS CRUCES CITY COUNCIL.

ZONING ADMINISTRATOR

NO.	DATE	REVISIONS AND RECORD OF ISSUE	EGR	BY	CHK
011/12/09		PUD AMENDMENT SUPPORT	DL	DL	DL

CLIENT: TEST  
PROJECT: LOS CONTENTOS  
**LILLEY ENGINEERING INC.**  
5190 CULZ BULLISUA LAS CRUCES, NM 88011 (505) 581-0006

PUD - PHASE IV SITE PLAN	PROJECT NUMBER	DRAWING NUMBER	REV
LOS CONTENTOS	000035	CONTENTOS	0
SHEET 1 OF 1			

LOS CONTENTOS SUBDIVISION

AMENDMENT FOR PHASE IV

PLANNED UNIT DEVELOPMENT (PUD)

DEVELOPMENT GUIDELINES

3.15 ACRE PARCEL  
LOCATED IN SECTION 32, T.22S., R.2E., NMPM  
OF THE USGLO SURVEYS  
LAS CRUCES, DONA ANA COUNTY, NEW MEXICO

DEVELOPER

TOM TEST  
P.O. BOX 151  
WAYNE, PENNSYLVANIA 19087

ENGINEER

LILLEY ENGINEERING INC.  
5160 CALLE BELLISIMA  
LAS CRUCES, NEW MEXICO 88011

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GENERAL INFORMATION AND AUTHORITY (Updated)

The property is located southwest of Del Rey Boulevard, North of Mars Avenue and East of Interstate 25. Refer to the site location map provided within.

The site is within an approved PUD and is currently zoned R-4 for Phases I, II & III and C-2C for Phase IV. Presently, the land use for Phase I is 100% developed. The infrastructure for Phases II and III is in place. The surrounding neighborhoods are predominately residential with mobile homes and detached, single-family homes to the East, a convalescence center to the North, vacant land to the South and West. This PUD is in conformance with the City of Las Cruces Zoning Code.

LEGAL DESCRIPTION AND OWNERSHIP (Updated)

Part of Los Contentos Master Plan, Las Cruces, Doña Ana County, New Mexico.

The property proposed to be affected is currently owned by:

Del Ray Associates, LLC,  
c/o Tom Test, P.O. Box 151, Wayne, PA 19087

PLANNING OBJECTIVES (Updated)

The purpose of this project is to create a diverse subdivision satisfying several public needs in the housing market. Recent market changes have limited opportunities for some types of housing and have brought about the need for properties that are affordable to a lower income group.

There is no proposed change to the original four objectives of this PUD. They are:

1. Provide for site built or pre-manufactured, single-family detached homes
2. Provide for site built or pre-manufactured, attached residences
3. Provide for multiple family housing, including apartments

Phases II and III are platted for 55 residential lots and one apartment lot for an approximately total of 80 dwelling units. Total acreage in Phases II and III is 10.0 acres. The density is 8 DU/ac. This is well below the approved PUD density of 12 DU/ac. Phase IV is proposed to have a maximum density of 80 units. The total development density would be  $80+80=160$  units, which is approximately 12 units/acre.

The large parcel in Phase IV is necessary because of terrain and utility considerations. The existing sewer main for this area is several feet uphill from the western portion of Phase IV. Providing sewer to this parcel will require a lift station. Since this is a rather small service area, a lift station owned and operated by CLC is not warranted. The site developer will be required to install a private system. The best method of ensuring the proper maintenance of a private system is to have a single owner, making the parcel more appropriate for rental property with multi-family housing.

There is portion of Phase IV that will be dedicated to storm runoff retention as required. It is not expected that this site layout will change during the platting process; however, the Phase IV lots may be adjusted to accommodate multiple dwelling units on individual lots.

DEVELOPMENT SCHEDULE (Updated)

PHASE II and III 95% complete  
Phase IV 2010

FINAL OWNERSHIP (No Change Proposed)

All lots in Phases IV will be sold individually or retained by the developer as rental property and will be fully encumbered by various access and utility easements. All roads will be dedicated to the City of Las Cruces.

MINIMUM LOT SETBACKS (Updated)

	<u>FRONT</u>	<u>REAR</u>	<u>SIDE</u>	<u>STREET SIDE</u>
Detached Unit Lots	20	15	5	15
Attached Unit Lots	15 or 20*	15	5 or 0	15
0 Lot Line Lots	15 or 20*	15	10 or 0	15
Apartment Lots	20	15	10	15
Phase IV	20	7	5 or 0	15

\* Min. 20 ft. setback at garages.

Minimum lot size for lots located in Phase IV will be limited to 4,000 square feet.

LANDSCAPE CONCEPT (Updated)

Apartment complexes will be landscaped according to City of Las Cruces Design Standards. Individual lots will be landscaped in accordance with the desires of the individual lot owners. The following front yard landscaping requirements will apply to all lot owners, by covenants, and shall be installed within three months of construction completion: front yard landscaping shall be designed and installed to cover all exposed and untreated soil, and shall consist of turf, vegetative ground covers, bark mulch, gravel and/or decorative stone in such degree, composition, and combinations as desired by the lot owner. Other vegetative materials such as trees, shrubs, and desert vegetation, such as cacti and mesquite, are encouraged but not required.

Permit drawings for the apartments and multi-family housing will be reviewed by the City of Las Cruces.

DRAINAGE (No Change Proposed)

All drainage improvements will conform to City of Las Cruces design standards. Increase in runoff will be handled by on-site ponding. There is a large retention facility to be located in Phase IV.

DESIGN OF PAVEMENT (Updated)

The streets of this subdivision are paved with plant mixed bituminous pavement, a compacted base course, and a compacted subgrade. The design is in accordance with an approved soils report and pavement design as required by the City of Las Cruces reviewing staff.

All streets have 50 feet of right-of-way 2.5-foot parkways, a 24-inch curb and gutter system and 33 feet of pavement. 4-foot sidewalks will be installed at time of lot development.

TRAFFIC IMPACT (No Change Proposed)

Access is by Mars Ave, which feeds onto Del Rey Blvd to the east of the PUD. Mars Ave is designed to be a collector and dead ends at the I-25 row to the west of this PUD.

Traffic impact based upon 6.5 to 10 trips per unit per day at 107 units shall be 696 to 1070 trips per day. The previously approved PUD would have generated 1482 trips per day, a decrease of 786 to 412 trips per day or 53% to 28%.

ACCESSORY BUILDINGS (No Change Proposed)

All accessory buildings must comply with all City of Las Cruces standards.

DEVELOPMENT ISSUES (Updated)

Parking for the apartment and multi-family units will be provided according to City of Las Cruces standards.

**EXHIBIT "B"**  
**FINDINGS AND COMPREHENSIVE PLAN ANALYSIS**

1. The Los Contentos Planned Unit Development was established in 1996 under the authority of the 1981 Zoning Code. Amendments to the Los Contentos Planned Unit Development were approved in 2001 and 2004.
2. The Los Contentos Planned Unit Development comprises 13.2 ± acres. Phase II and III comprise of 10 ± acres and Phase IV comprises of 3.2 ± acres.
3. The Los Contentos Planned Unit Development is located west of Del Rey Boulevard and north of Mars Avenue. The Metropolitan Planning Organization (MPO) has classified Mars Avenue as a Collector and Del Rey Boulevard as a Principal Arterial.
4. The underlying zoning of the Los Contentos Planned Unit Development is R-4 (Multi-Dwelling High Density & Limited Retail Office) and C-2C (Commercial Medium Intensity-Conditional).
5. The major amendment to the Los Contentos Planned Unit Development is for Phase IV. The amendment proposes to modify the land use from single-family residential to multi-family residential. The amendment also proposed to modify the rear yard setback from 15-feet to 7-feet.
6. The zone change request for Phase II, III, and IV of the Los Contentos Planned Unit Development is to bring the property into compliance with the 2001 Zoning Code, as amended, as it pertains to the zoning district of PUD (Planned Unit Development).

7. Adjacent zoning and land uses include:

	<u>Zoning</u>	<u>Land Use</u>
North	C-2	Mesilla Valley Hospital
South	C-3	Vacant
East	C-3	Vacant
West	R-4	Regional drainage pond

8. The major amendment to the concept plan and final site plan and zone change request is consistent with the following goals, objectives, and policies of the 1999 Comprehensive Plan:

Land Use Element, Residential Uses, Goal 1, Objective 3, Policy 3.10

High density residential uses shall be located and designed to minimize traffic flow through adjacent neighborhoods and should locate on or near existing or future planned transit routes.

Land Use Element, Residential Uses, Goal 1, Objective 3, Policy 3.14

The City shall encourage urban residential development on the East Mesa.

Housing Element, Goal 1

Provide a variety of housing opportunities that will satisfy the needs of existing and future households at all economic levels.



TO: Planning and Zoning Commission

FROM: Cheryl Rodriguez, Development Services Administrator *CR*

DATE: December 15, 2009

SUBJECT: Los Contentos – Phase IV – Major Amendment to Concept Plan/Final Site Plan & Zone Change Request

Zone Change Request for Phase II and III of Los Contentos

RECOMMENDATION: Approval

**Case PUD-09-01:** A request for a major amendment to both the Los Contentos Concept Plan and Final Site Plan and a request for a zone change from C-2C (Commercial Medium Intensity-Conditional) and R-4 (Multi-Dwelling High Density & Limited Retail Office) to PUD (Planned Unit Development) for 3.15 ± acres of property. The purpose of the major amendment is to change the land use from single-family residential to multi-family residential, limit the maximum number of dwelling units to 80, and modify the rear yard setback to 7 feet. The major amendment is limited to Phase IV of the original Los Contentos PUD. The subject property is located west of Del Rey Boulevard and north of Mars Avenue. Submitted by Lilley Engineering for Thomas Test.

**Case PUD-09-01zc:** A request for a zone change from C-2C (Commercial Medium Intensity-Conditional) and R-4 (Multi-Dwelling High Density & Limited Retail Office) to PUD (Planned Unit Development) for 10 ± acres for the development known as Los Contentos. The purpose of the zone change is to bring the property into compliance with the PUD zoning district as set forth in the 2001 Zoning Code, as amended. Submitted by the City of Las Cruces.

**BACKGROUND**

The Los Contentos Planned Unit Development comprises 13.2 ± acres and is located on the north side of Mars Avenue, which is classified as a Collector, approximately 600 feet west of the intersection of Mars Avenue and Del Rey Boulevard, which is classified as a Principal Arterial. There are no bus stops located in the general area and/or trails. The closest bicycle lanes are located approximately 1,500-feet southeast of the subject area along Bataan Memorial West.

In 1997, the original Planned Unit Development (PUD) for Los Contentos was approved. The original PUD was restricted to uses to detached and attached single-family site-built and

manufactured/mobile homes. The underlying zoning of the subject property was R-4 (High Density Residential and Limited Office, 1981 Zoning Code) and C-2C (General Commercial-Conditional, 1981 Zoning Code).

Under the 1981 Zoning Code, a PUD was processed similar to a special use permit. Developments that pursued a PUD under the 1981 Zoning Code submitted a conceptual land use plan that identified the development standards and land uses within the PUD area. The properties underlying zoning district(s) remained unchanged but future development on the properties are governed under the approved PUD concept plan.

In 2001, an amendment was reviewed and approved by the Planning and Zoning Commission to broaden the uses allowed within Phases II, III, and IV of the Los Contentos PUD. The amendment allowed apartments and townhouses in addition to adding an area for mini-storage units for neighborhood use. Phases II, III, and IV were to be developed as a multi-family land use, e.g., apartments, for a total of 198 units. The amendment was approved prior to the adoption of the 2001 Zoning Code, as amended.

In 2004, an amendment was reviewed and approved by the Planning and Zoning Commission to combine Phase II, III, and IV into one phase and to provide residential development containing single-family, patio home and/or townhouse lots, and apartments. The amendment allowed for 24 apartment units and 83 single-family lots to be established. In addition, the area identified as Phase IV modified the land use from multi-family to single-family residential to allow for approximately 32 lots for single-family townhouse development.

The amendment was submitted under the 2001 Zoning Code, as amended, but not processed in accordance with the 2001 Zoning Code, as amended. Under the 2001 Zoning Code, as amended, a PUD became a zoning district. The 2001 Zoning Code, as amendment further regulates the creation and modification of concept plans and final site plans. A concept plan identifies the land uses and development standards. A final site plan functions similar to that of a preliminary plat.

With the 2004 amendment, a zone change should have occurred to change the zoning of the property from R-4 (Multi-Dwelling High Density & Limited Retail Office) and C-2C (Commercial Medium Intensity-Conditional) to PUD (Planned Unit Development). Furthermore, the amendment to the concept plan should have gone to City Council for final action due to the modification of land uses. This action did not occur.

In 2009, another amendment was submitted for consideration. This is the amendment that is under consideration by the Planning and Zoning Commission. The amendment affects the area identified as Phase IV on the final site plan. Phase IV consists of 3.15 ± acres. The existing land use of Phase IV is single-family residential. The amendment proposes to modify the land use from single-family residential to multi-family residential. The applicant also proposes to cap the number of dwelling units within Phase IV at 80. Typically in multi-family high density residential development, the minimum density is 10 dwelling units to the

acre and the developer must establish the maximum density. The applicant is proposing a density of 25 dwelling units to the acre.

In addition, the applicant is proposing to modify the rear yard setback from 15-feet to 7-feet. A 7-foot rear yard setback is consistent with rear yard setbacks for multi-family residential development as currently established in the 2001 Zoning Code, as amended.

As part of this major amendment to the concept plan and final site, staff is recommending that a zone change be processed to correct the error from the 2004 amendment. The zone change request for Phase IV would be from R-4 (Multi-Dwelling High Density & Limited Retail Office) and C-2C (Commercial Medium Intensity-Conditional) to PUD (Planned Unit Development). This zone change request would bring the property and the Los Contentos PUD that was created in 1996 into compliance with the 2001 Zoning Code, as amended.

Furthermore, staff also recommends that a zone change request be pursued for the Phase II and III of the original Los Contentos PUD to correct the processing error that occurred with the 2004 amendment. The zone change request for Phase II and III would be from R-4 (Multi-Dwelling High Density & Limited Retail Office) and C-2C (Commercial Medium Intensity-Conditional) to PUD (Planned Unit Development). This zone change should have occurred with the 2004 amendment that established the existing single-family residential development on Valverde Loop and Conocito Place. The zone change for Phase II and III of Los Contentos will bring the property into compliance with 2001 Zoning Code, as amended.

## **FINDINGS**

1. The Los Contentos Planned Unit Development was established in 1996 under the authority of the 1981 Zoning Code. Amendments to the Los Contentos Planned Unit Development were approved in 2001 and 2004.
2. The Los Contentos Planned Unit Development comprises 13.2 ± acres. Phase II and III comprise of 10 ± acres and Phase IV comprises of 3.2 ± acres.
3. The Los Contentos Planned Unit Development is located west of Del Rey Boulevard and north of Mars Avenue. The Metropolitan Planning Organization (MPO) has classified Mars Avenue as a Collector and Del Rey Boulevard as a Principal Arterial.
4. The underlying zoning of the Los Contentos Planned Unit Development is R-4 (Multi-Dwelling High Density & Limited Retail Office) and C-2C (Commercial Medium Intensity-Conditional).
5. The major amendment to the Los Contentos Planned Unit Development is for Phase IV. The amendment proposes to modify the land use from single-family residential to multi-family residential. The amendment also proposed to modify the rear yard setback from 15-feet to 7-feet.

6. The zone change request for Phase II, III, and IV of the Los Contentos Planned Unit Development is to bring the property into compliance with the 2001 Zoning Code, as amended, as it pertains to the zoning district of PUD (Planned Unit Development).

7. Adjacent zoning and land uses include:

	<u>Zoning</u>	<u>Land Use</u>
North	C-2	Mesilla Valley Hospital
South	C-3	Vacant
East	C-3	Vacant
West	R-4	Regional drainage pond

8. The major amendment to the concept plan and final site plan and zone change request is consistent with the following goals, objectives, and policies of the 1999 Comprehensive Plan:

Land Use Element, Residential Uses, Goal 1, Objective 3, Policy 3.10

High density residential uses shall be located and designed to minimize traffic flow through adjacent neighborhoods and should locate on or near existing or future planned transit routes.

Land Use Element, Residential Uses, Goal 1, Objective 3, Policy 3.14

The City shall encourage urban residential development on the East Mesa.

Housing Element, Goal 1

Provide a variety of housing opportunities that will satisfy the needs of existing and future households at all economic levels.

**RECOMMENDATION**

Staff has reviewed the request to amend the concept plan and final site plan for Los Contentos Phase IV and recommends approval.

Staff has reviewed the zone change request for Los Contentos Phase IV and recommends approval.

Staff recommends approval of the zone change request for Los Contentos Phase II and III to correct the zoning map error.

**OPTIONS****Case PUD-09-01:**

1. Approve the amendment to the concept plan and final site plan. Approval of the amendment will also approve a zone change request for the subject property to bring the property into compliance with the 2001 Zoning Code, as amended.
2. Approve the amendment to the concept plan and final site plan with conditions as determined appropriate by the Planning and Zoning Commission. Approval of the amendment will also approve a zone change request for the subject property to bring the property into compliance with the 2001 Zoning Code, as amended.
3. Deny the amendment to the concept plan and final site plan.

**Case PUD-09-01zc:**

1. Approve the zone change request.
2. Approve the zone change request with conditions as determined appropriate by the Planning and Zoning Commission.
3. Deny the zone change request.

**NOTE:** Decisions must be based on “findings”. The findings presented in this document can only be used to support **APPROVAL**, thus specific findings from each commissioner voting for denial will be necessary. Other findings may be based on the Comprehensive Plan, Zoning Code, or other City plans and policies. Findings may also be based on information presented at public hearings, information obtained through site inspections, etc.

The Planning and Zoning Commission is a recommending body to the City Council regarding zone change cases and major amendments to concept plans/final site plans. The City Council has final authority over zoning cases.

**ATTACHMENTS**

1. Development Statement
2. Final Site Plan
3. Phase IV Development Guidelines – Concept Plan
4. Legal Description for Phase II, Phase III, and Phase IV
5. Vicinity/Zoning Map

**DEVELOPMENT STATEMENT for Zoning Applications**  
**(Use for Zone Changes, SUP's and PUD's)**  
Please type or print legibly

Please note: The following information is provided by the applicant for information purposes only. The applicant is not bound to the details contained in the development statement, nor is the City responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission or City Council may condition approval of the proposal at a public hearing where the public will be provided an opportunity to comment.

**Applicant Information**

Name of Applicant: MICHAEL TEST  
Contact Person: DAN LILLEY  
Contact Phone Number: 650.3696  
Contact e-mail Address: lilleyeng@comcast.net  
Web site address (if applicable): \_\_\_\_\_

**Proposal Information**

Location of Subject Property LOS CONTENTOS SUBD

(In addition to description, attach map. Map must be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area)

Current Zoning of Property: R4 PUD C2 PUD

Proposed Zoning: R4 PUD ALLOWING 1, 2, 3 & 4 UNIT DWELLINGS/LOT

Acreage of Subject Property: APPROX. 5 ACRES

Detailed description of intended use of property. (Use separate sheet if necessary):

CURRENT PUD DOES NOT MENTION MULTIPLE DWELLINGS ON ONE LOT. OWNERS WISH TO CONSTRUCT 1, 2, 3 & 4 UNIT DWELLINGS ON INDIVIDUAL LOTS

Proposed square footage and height of structures to be built (if applicable):

N/A

Anticipated hours of operation (if proposal involves non-residential uses):

N/A

Anticipated traffic generation N/A trips per day (if known).

Anticipated development schedule: Work will commence on or about IMMEDIATELY and will take approximately THROUGH FULL BUILD-OUT to complete.

How will stormwater runoff be addressed (on-lot ponding, detention facility, etc.)?

THERE IS A DETENTION FACILITY ON SITE

Will any special landscaping, architectural or site design features be implemented in the proposal (for example, rock walls, landscaped medians or entryways, or architectural themes)? If so, please describe and attach rendering if available:

ALL OTHER POD AND ZONING RESTRICTIONS WILL BE ADHERED TO.

**Attachments**

Please attach the following: (\* indicates optional item)

Location map

Detailed site plan

Proposed building elevations\*

Renderings or architectural or site design features\*

Other pertinent information\*

LOS CONTENTOS SUBDIVISION

AMENDMENT FOR PHASE IV

PLANNED UNIT DEVELOPMENT (PUD)

DEVELOPMENT GUIDELINES

3.15 ACRE PARCEL  
LOCATED IN SECTION 32, T.22S., R.2E., NMPM  
OF THE USGLO SURVEYS  
LAS CRUCES, DONA ANA COUNTY, NEW MEXICO

DEVELOPER

TOM TEST  
P.O. BOX 151  
WAYNE, PENNSYLVANIA 19087

ENGINEER

LILLEY ENGINEERING INC.  
5160 CALLE BELLISIMA  
LAS CRUCES, NEW MEXICO 88011

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GENERAL INFORMATION AND AUTHORITY (Updated)

The property is located southwest of Del Rey Boulevard, North of Mars Avenue and East of Interstate 25. Refer to the site location map provided within.

The site is within an approved PUD and is currently zoned R-4 for Phases I, II & III and C-2C for Phase IV. Presently, the land use for Phase I is 100% developed. The infrastructure for Phases II and III is in place. The surrounding neighborhoods are predominately residential with mobile homes and detached, single-family homes to the East, a convalescence center to the North, vacant land to the South and West. This PUD is in conformance with the City of Las Cruces Zoning Code.

LEGAL DESCRIPTION AND OWNERSHIP (Updated)

Part of Los Contentos Master Plan, Las Cruces, Doña Ana County, New Mexico.

The property proposed to be affected is currently owned by:

Del Ray Associates, LLC,  
c/o Tom Test, P.O. Box 151, Wayne, PA 19087

PLANNING OBJECTIVES (Updated)

The purpose of this project is to create a diverse subdivision satisfying several public needs in the housing market. Recent market changes have limited opportunities for some types of housing and have brought about the need for properties that are affordable to a lower income group.

There is no proposed change to the original four objectives of this PUD. They are:

1. Provide for site built or pre-manufactured, single-family detached homes
2. Provide for site built or pre-manufactured, attached residences
3. Provide for multiple family housing, including apartments

Phases II and III are platted for 55 residential lots and one apartment lot for an approximately total of 80 dwelling units. Total acreage in Phases II and III is 10.0 acres. The density is 8 DU/ac. This is well below the approved PUD density of 12 DU/ac. Phase IV is proposed to have a maximum density of 80 units. The total development density would be  $80+80=160$  units, which is approximately 12 units/acre.

The large parcel in Phase IV is necessary because of terrain and utility considerations. The existing sewer main for this area is several feet uphill from the western portion of Phase IV. Providing sewer to this parcel will require a lift station. Since this is a rather small service area, a lift station owned and operated by CLC is not warranted. The site developer will be required to install a private system. The best method of ensuring the proper maintenance of a private system is to have a single owner, making the parcel more appropriate for rental property with multi-family housing.

There is portion of Phase IV that will be dedicated to storm runoff retention as required. It is not expected that this site layout will change during the platting process; however, the Phase IV lots may be adjusted to accommodate multiple dwelling units on individual lots.

DEVELOPMENT SCHEDULE (Updated)

PHASE II and III    95% complete  
Phase IV            2010

FINAL OWNERSHIP (No Change Proposed)

All lots in Phases IV will be sold individually or retained by the developer as rental property and will be fully encumbered by various access and utility easements. All roads will be dedicated to the City of Las Cruces.

MINIMUM LOT SETBACKS (Updated)

	<u>FRONT</u>	<u>REAR</u>	<u>SIDE</u>	<u>STREET SIDE</u>
Detached Unit Lots	20	15	5	15
Attached Unit Lots	15 or 20*	15	5 or 0	15
0 Lot Line Lots	15 or 20*	15	10 or 0	15
Apartment Lots	20	15	10	15
Phase IV	20	7	5 or 0	15

\* Min. 20 ft. setback at garages.

Minimum lot size for lots located in Phase IV will be limited to 4,000 square feet.

LANDSCAPE CONCEPT (Updated)

Apartment complexes will be landscaped according to City of Las Cruces Design Standards. Individual lots will be landscaped in accordance with the desires of the individual lot owners. The following front yard landscaping requirements will apply to all lot owners, by covenants, and shall be installed within three months of construction completion: front yard landscaping shall be designed and installed to cover all exposed and untreated soil, and shall consist of turf, vegetative ground covers, bark mulch, gravel and/or decorative stone in such degree, composition, and combinations as desired by the lot owner. Other vegetative materials such as trees, shrubs, and desert vegetation, such as cacti and mesquite, are encouraged but not required.

Permit drawings for the apartments and multi-family housing will be reviewed by the City of Las Cruces.

DRAINAGE (No Change Proposed)

All drainage improvements will conform to City of Las Cruces design standards. Increase in runoff will be handled by on-site ponding. There is a large retention facility to be located in Phase IV.

DESIGN OF PAVEMENT (Updated)

The streets of this subdivision are paved with plant mixed bituminous pavement, a compacted base course, and a compacted subgrade. The design is in accordance with an approved soils report and pavement design as required by the City of Las Cruces reviewing staff.

All streets have 50 feet of right-of-way 2.5-foot parkways, a 24-inch curb and gutter system and 33 feet of pavement. 4-foot sidewalks will be installed at time of lot development.

TRAFFIC IMPACT (No Change Proposed)

Access is by Mars Ave, which feeds onto Del Rey Blvd to the east of the PUD. Mars Ave is designed to be a collector and dead ends at the I-25 row to the west of this PUD.

Traffic impact based upon 6.5 to 10 trips per unit per day at 107 units shall be 696 to 1070 trips per day. The previously approved PUD would have generated 1482 trips per day, a decrease of 786 to 412 trips per day or 53% to 28%.

ACCESSORY BUILDINGS (No Change Proposed)

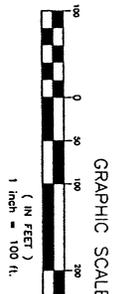
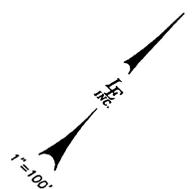
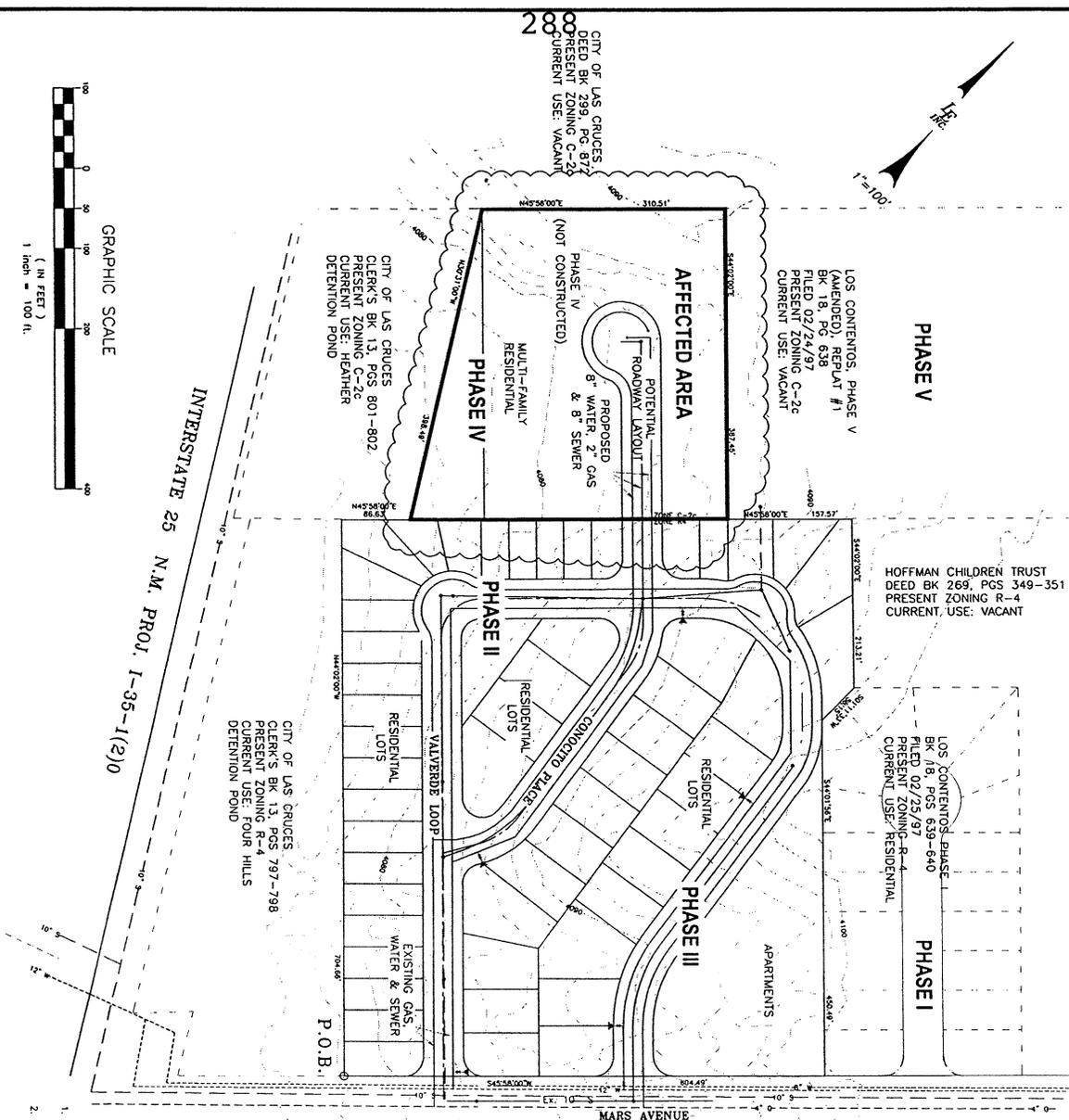
All accessory buildings must comply with all City of Las Cruces standards.

DEVELOPMENT ISSUES (Updated)

Parking for the apartment and multi-family units will be provided according to City of Las Cruces standards.

**PHASE IV**  
3.15 ACRES  
MULTI-FAMILY - MAX. 80 UNITS

**LOS CONTENENTOS  
PLANNED UNIT DEVELOPMENT  
PHASES I, II, III, IV  
LAS CRUCES, DONA ANA COUNTY, NEW MEXICO  
SEPTEMBER 2009**

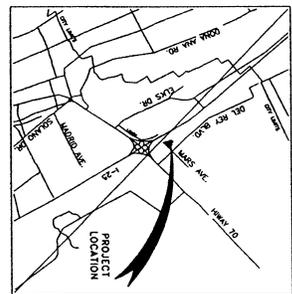


NO.	DATE	REVISIONS AND RECORD OF ISSUE	FOR	BY
011/12/09		PUD AMENDMENT SUPPORT	DL	DL
			DL	DL

CLIENT: TEST  
PROJECT: LOS CONTENENTOS

**LILLEY ENGINEERING INC.**  
5180 CALLE BRILLISMA LAS CRUCES, NM 88011 (505) 521-0000

PUD - PHASE IV SITE PLAN	PROJECT NUMBER	DRAWING NUMBER
LOS CONTENENTOS	00035	CONTENENTOS 0
SHEET 1 OF 1		



**PUD GENERAL NOTES**

1. THIS DOCUMENT IS INTENDED TO AMEND THE EXISTING PUD TO ALLOW PHASE IV TO CONFORM TO R-4 ZONING REQUIREMENTS AND AS MODIFIED HEREIN, W/ THE FLEXIBILITY OF STAFF APPROVAL OF DEVIATIONS FROM THE SITE PLAN W/ R-4 STANDARDS AND REQUIREMENTS.
2. ALTHOUGH NOT ANTICIPATED, PHASES MAY BE ADDED OR PHASE LINES ADJUSTED TO ACCOMMODATE MARKET DEMANDS.
3. ALL STREETS TO BE MINOR LOCAL.
4. ALL STREET CONSTRUCTION TO CONFORM TO CITY OF LAS CRUCES DESIGN STANDARDS.
5. ALL UTILITIES CONSTRUCTION TO CONFORM TO CITY OF LAS CRUCES STANDARD SPECIFICATIONS FOR UTILTY CONSTRUCTION.
6. ALL DAMAGE CONTROL CONSTRUCTION TO CONFORM TO CITY OF LAS CRUCES DESIGN STANDARDS.
7. SETBACKS AS FOLLOWS:
 

DETACHED UNIT LOTS	FRONT	REAR	SIDE	STREET
ATTACHED UNIT LOTS	20	15	5.0	15
FRONT LINE LOTS	20	15	10.0	15
PHASE IV	20	7	5.0	15
8. UTILTY EXISTENTS SHOWN ARE 12" FRONT YARD EXISTENTS FOR UNDERGROUND INSTALLATION OF ELECTRIC, TELEPHONE AND CABLE TV.
9. ALL LOTS FOR MULTIPLE FAMILY HOUSING.
10. PHASES I, II, III AND V ARE INCLUDED IN THIS SITE PLAN TO SHOW COMPLETE, ORIGINAL BOUNDARY OF THE APPROVED PUD.
11. LANDSCAPE CONCEPT WILL CENTER AROUND XERISCAPE AND INDIGENOUS DESERT PLANTS, FLOWERS, BOLLERS AND TREES. POOLING AREAS, BUFFERS, PLAYERS AND SEPARATION OF PROPERTIES SHALL INCORPORATE SPECIEM (LARGE OR MATURE) MATERIAL.
12. INFRASTRUCTURE FOR PHASES II AND III IS EXISTING.
13. PHASE IV IS PROPOSED TO BE LIMITED TO 80 UNITS.
14. PHASE IV DEVELOPMENT WILL COMPLY WITH LAS CRUCES FIRE DEPARTMENT REQUIREMENTS.

**STATEMENT OF APPROVAL**

AMENDMENT PROPOSES ALLOWING CONSTRUCTION OF REDUCING THE MINIMUM LOT SIZE TO 4,000 SF, AND INITIAL PERMITS ON EACH PARCEL IN PHASE IV SHALL REQUIRE THE CONSTRUCTION PER ZONING CODE WITH THE MINIMUM SEVEN (7) ZONING CODE.

THIS PUD CONCEPT PLAN HAS BEEN APPROVED BY THE LAS CRUCES CITY COUNCIL

ZONING ADMINISTRATOR

**GENERAL NOTES**

1. AMENDMENT PROPOSES ALLOWING CONSTRUCTION OF REDUCING THE MINIMUM LOT SIZE TO 4,000 SF, AND INITIAL PERMITS ON EACH PARCEL IN PHASE IV SHALL REQUIRE THE CONSTRUCTION PER ZONING CODE WITH THE MINIMUM SEVEN (7) ZONING CODE.

INTERSTATE 25 N.M. PROJ. I-35-1(2)0

CITY OF LAS CRUCES  
CLERK'S BK 13, PGS 801-802  
PRESENT ZONING C-2c  
CURRENT USE: HEATHER  
DETENTION POND

CITY OF LAS CRUCES  
CLERK'S BK 13, PGS 797-798  
PRESENT ZONING R-4  
CURRENT USE: FOUR HILLS  
DETENTION POND

HOFFMAN CHILDREN TRUST  
DEED BK 269, PGS 349-351  
PRESENT ZONING R-4  
CURRENT USE: VACANT

LOS CONTENENTOS, PHASE I  
BK 18, PGS 639-640  
FILED 02/25/97  
PRESENT ZONING R-4  
CURRENT USE: RESIDENTIAL

BOLDT FAMILY TRUST  
KENTPAC ASSOC. NOMINEE TRUST  
CLERK'S BK 46, PGS 1578-77  
PRESENT ZONING C-2  
CURRENT USE: VACANT

ROSANNI CONRAN  
CLERK'S BK 16, PG 1820-1822  
PRESENT ZONING C-2  
CURRENT USE: VACANT

P.O.B.

EXISTING GAS WATER & SEWER

RESIDENTIAL LOTS

RESIDENTIAL LOTS

RESIDENTIAL LOTS

RESIDENTIAL LOTS

RESIDENTIAL LOTS

RESIDENTIAL LOTS

PHASE IV

PHASE II

PHASE III

PHASE I

PHASE V

AFFECTED AREA

POTENTIAL ROADWAY LAYOUT

PROPOSED 8" WATER, 2" GAS & 8" SEWER

VALVERDE LOOP

CONDOMINIO PHASE

APARTMENTS

LOS CONTENENTOS, PHASE V (AMENDED), REPLAT #1

FILED 02/24/07

PRESENT ZONING C-2c

CURRENT USE: VACANT

LOS CONTENENTOS, PHASE I

FILED 02/25/97

PRESENT ZONING R-4

CITY OF LAS CRUCES

CLERK'S BK 13, PGS 801-802

PRESENT ZONING C-2c

CURRENT USE: HEATHER

DETENTION POND

CITY OF LAS CRUCES

CLERK'S BK 13, PGS 797-798

PRESENT ZONING R-4

CURRENT USE: FOUR HILLS

DETENTION POND

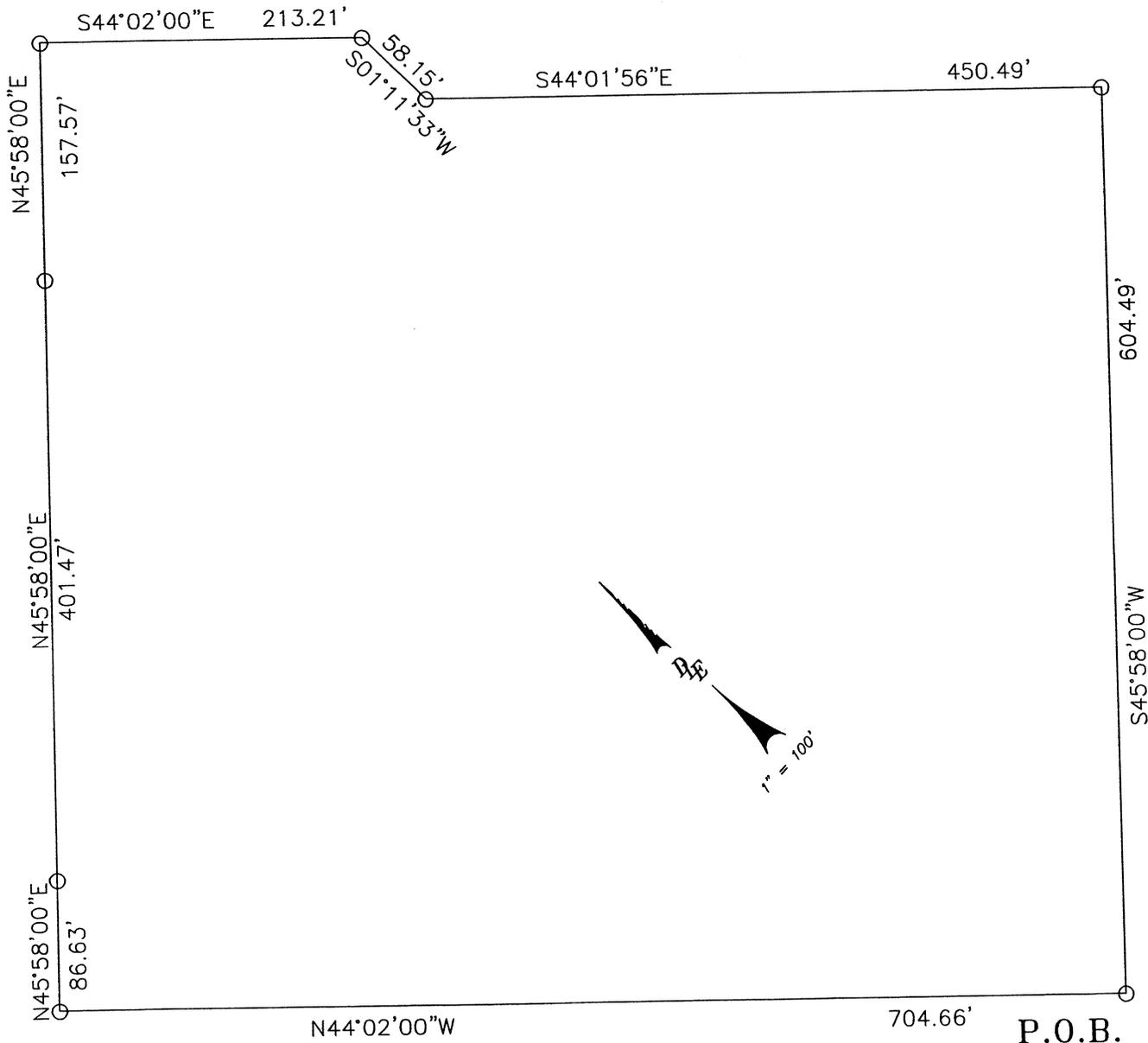
RESIDENTIAL LOTS

# LOS CONTENTOS PLANNED UNIT DEVELOPMENT PHASES II & III

LAS CRUCES, DONA ANA COUNTY, NEW MEXICO

DECEMBER 2009

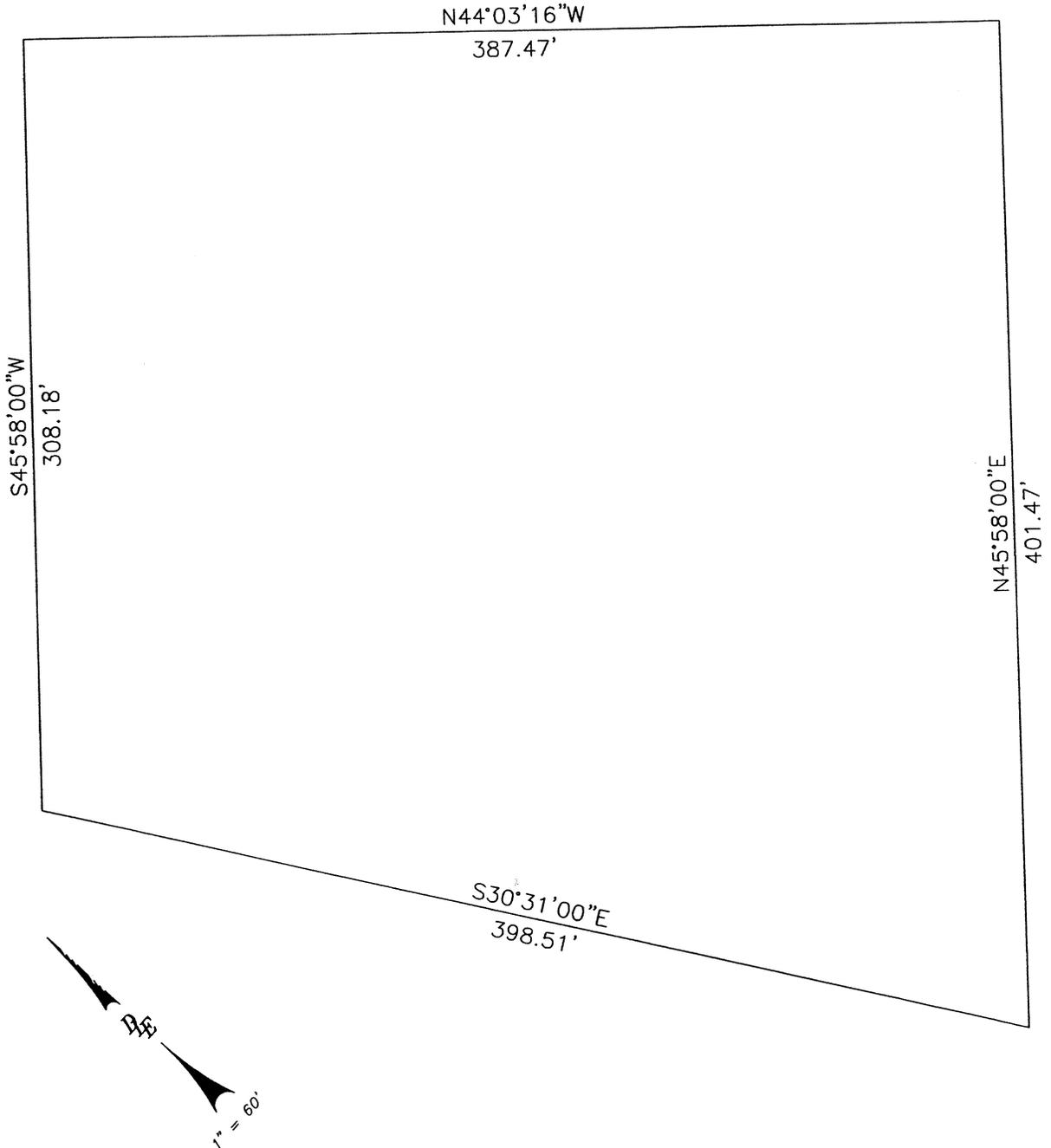
10.00 ACRES

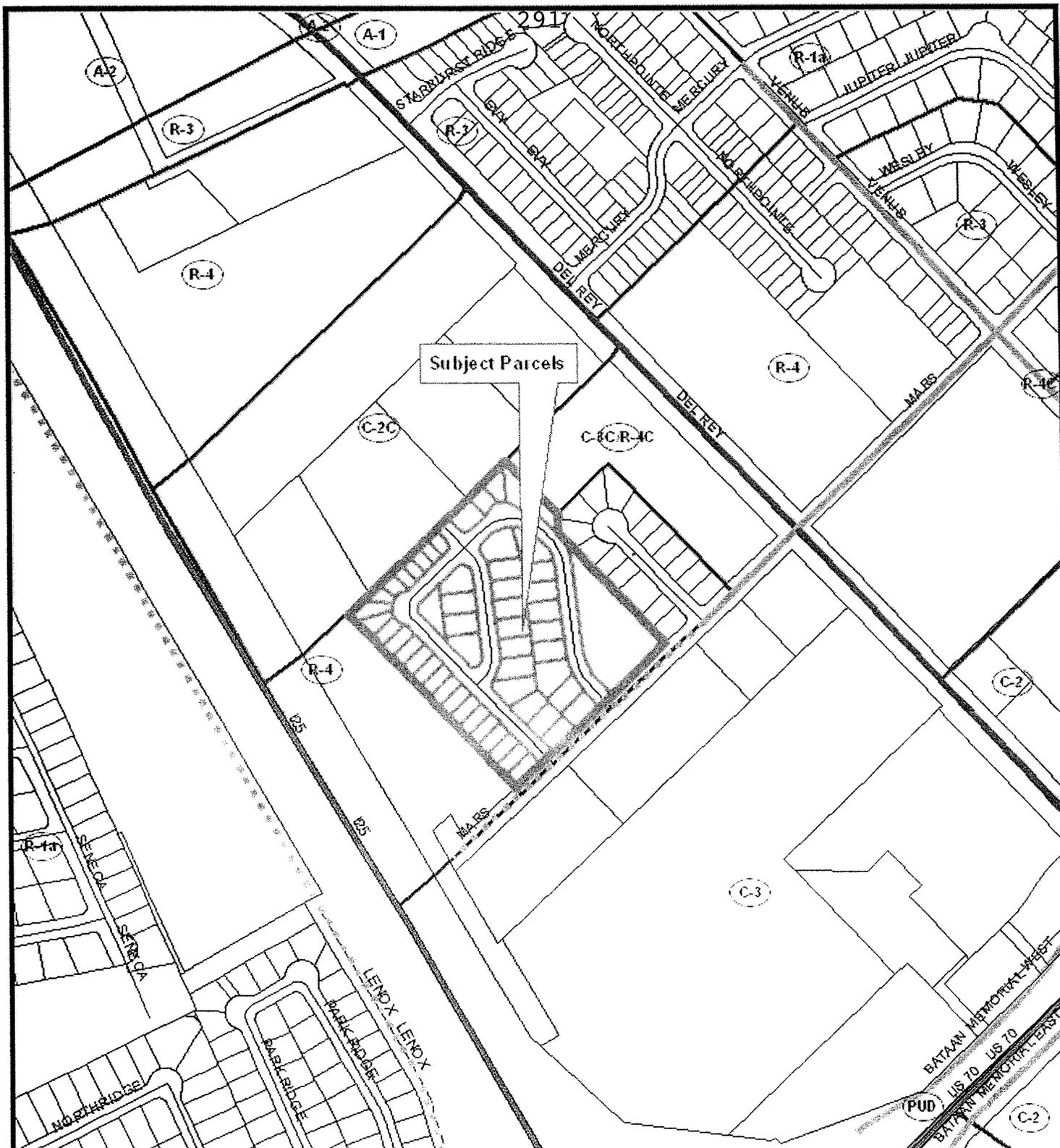


# LOS CONTENTOS PLANNED UNIT DEVELOPMENT PHASE IV

LAS CRUCES, DONA ANA COUNTY, NEW MEXICO  
DECEMBER 2009

3.156 ACRES





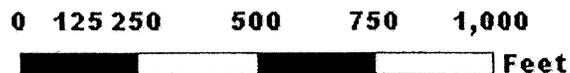
## VICINITY MAP

**CASE NO. PUD-09-01zc**

**DEVELOPMENT: LOS CONTENTOS**

**APPLICANT: CITY OF LAS CRUCES**

**ZONING: C-2C & R-4 TO PUD**



*This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the Community Development Department at (505) 528-3044.*

**Community Development Department**  
 575 S Alameda Blvd.  
 Las Cruces, NM 88001  
 (505) 528-3222



MEETING OF PLANNING AND ZONING COMMISSION  
FOR THE  
CITY OF LAS CRUCES  
City Council Chambers  
December 15, 2009 at 6:00 p.m.

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**BOARD MEMBERS PRESENT:**

- Charles Scholz, Chairman
- Godfrey Crane, Vice Chair
- Donald Bustos, Secretary
- Shawn Evans, Member
- Charles Beard, Member
- Ray Shipley, Member

**BOARD MEMBERS ABSENT:**

**STAFF PRESENT:**

- Cheryl Rodriguez, Development Services Administrator
- Adam Ochoa, Associate Planner
- Helen Revels, Associate Planner
- Robert Gonzales, Las Cruces Fire
- Jared Abrams, CLC Legal Staff
- Becky Eich, Recording Secretary

**I. CALL TO ORDER 6:00 PM**

Scholz: Good evening, and welcome to the Planning and Zoning Commission for December 15th. I'm Charlie Scholz the Chair. I'm going to introduce the members of the Commission who are here tonight. On my far right is Commissioner Crane who represents District 4. Next to him is Commissioner Evans who represents District 5. Next to him is Commissioner Bustos District 3. Then next to me is Commissioner Beard, who is representing District 2. And I represent Council District 6.

**II. APPROVAL OF MINUTES – November 24, 2009**

Scholz: Our first order of business is the approval of the minutes of November 24th. Any additions or corrections?

Crane: Mr. Chairman.

Scholz: I'm sorry, and Commissioner Shipley who just joined us. And he is the Mayor's appointee. Okay, thank you Commissioner Bustos. Any additions or corrections to the minutes gentlemen?

Crane: Mr. Chairman.

1 gets full. The one down near where I live ... I'm up here quite frequently  
 2 and I've never seen that parking lot close to crowded. And around the K-  
 3 Mart where I live in this area likewise they could all give up some parking  
 4 without problem. I would say the city should extend you a little slack on  
 5 that matter. So my sympathies are with you.

6  
 7 Scholz: Any other comments or questions gentlemen? Okay, I'll entertain a  
 8 motion to approve.

9  
 10 Crane: So moved.

11  
 12 Scholz: All right it's been moved. Is there a second?

13  
 14 Bustos: Second.

15  
 16 Scholz: All right I'll call the roll. Commissioner Shipley.

17  
 18 Shipley: Aye findings, discussion, and site visit.

19  
 20 Scholz: Commissioner Crane.

21  
 22 Crane: Aye findings, discussion, and site visit.

23  
 24 Scholz: Commissioner Evans.

25  
 26 Evans: Aye findings and discussion.

27  
 28 Scholz: Commissioner Bustos.

29  
 30 Bustos: Aye findings and discussion.

31  
 32 Scholz: Commissioner Beard.

33  
 34 Beard: No findings and discussions.

35  
 36 Scholz: And the chair votes aye findings and discussion and site visit. So it  
 37 passes 5-1.

38  
 39 Jones: And thank you very much for your time.

40  
 41 Scholz: Thank you Mr. Jones.

- 42  
 43 **2. Case PUD-09-01:** A request for a major amendment to both the Los  
 44 Contentos Concept Plan and Final Site Plan and a request for a zone change  
 45 from C-2C (Commercial Medium Intensity-Conditional) and R-4 (Multi-  
 46 Dwelling High Density & Limited Retail Office) to PUD (Planned Unit

1 Development) for 3.15 ± acres of property. The purpose of the major  
 2 amendment is to change the land use from single-family residential to multi-  
 3 family residential, limit the maximum number of dwelling units to 80, and  
 4 modify the rear yard setback to 7 feet. The major amendment is limited to  
 5 Phase IV of the original Los Contentos PUD. The subject property is located  
 6 west of Del Rey Boulevard and north of Mars Avenue. Submitted by Lilley  
 7 Engineering for Thomas Test.  
 8

- 9 **3. Case PUD-09-01zc:** A request for a zone change from C-2C (Commercial  
 10 Medium Intensity-Conditional) and R-4 (Multi-Dwelling High Density & Limited  
 11 Retail Office) to PUD (Planned Unit Development) for 10 ± acres for the  
 12 development known as Los Contentos. The purpose of the zone change is to  
 13 bring the property into compliance with the PUD zoning district as set forth in  
 14 the 2001 Zoning Code, as amended. Submitted by the City of Las Cruces.  
 15

16 Scholz: All right our next case is PUD-09-01. Mr. Ochoa. It's Ms. Rodriguez.

17  
 18 Rodriguez: Mr. Chairman, if we could suspend the rules to hear the two cases, the  
 19 PUD-09-01 and the following case, the PUD 09-01zc together please.  
 20

21 Scholz: Certainly. I'll entertain a motion to suspend the rules.  
 22

23 Evans: Mr. Chairman I move that we suspend the rules.  
 24

25 Scholz: A second  
 26

27 Crane: Seconded  
 28

29 Scholz: All right it's been moved and seconded to suspend the rules so we can  
 30 discuss Cases PUD-09-01 and Case PUD-09-01zc together. All those in  
 31 favor say aye.  
 32

33 ALL COMMISSIONERS - AYE.  
 34

35 Scholz: Those opposed same sign. Motion is carried. We have suspended the  
 36 rules.  
 37

38 Rodriguez: Mr. Chairman, members of the Commission, tonight before you is the  
 39 request for a major amendment to the Los Contentos planned unit  
 40 development; to their concept plan and final site plan. The Los Contentos  
 41 development is located just west of Del Rey Boulevard and north of Mars  
 42 Avenue. Del Rey Boulevard is classified as a principal arterial on the  
 43 MPO Thoroughfare Plan, and Mars Avenue is classified as a collector.  
 44 The development currently is a single-family residential development.  
 45 There are also multiple other uses involved. You also have single-family  
 46 residential development located here. There is also commercial

1 development for mini storage uses, and then in this area which is part of  
2 the major amendment to the Los Contentos concept plan and final site  
3 plan is an area that's currently identified for single-family land use. And  
4 this area is known as Phase IV. There are two elements here for your  
5 consideration tonight; one of them is specifically affecting the major  
6 amendment to those plans to modify land use, cap the number of dwelling  
7 units, and also to modify setbacks. The other element is also to bring the  
8 property into zoning compliance with the 2001 Zoning Code.

9 And I'm going to go through the history of the Los Contentos PUD  
10 to explain why we need to bring this property into compliance. Overall, the  
11 entire Los Contentos PUD comprises 13.2 acres. It is a planned unit  
12 development but the underlying zoning district of the property is C-2, the  
13 commercial medium intensity and R-4 which is the multi-family high  
14 dwelling. The Los Contentos development was originally established was  
15 in 1997 and it was established under the auspices of the 1981 Zoning  
16 Code. At that time PUD was not a zoning district, it was basically like a  
17 special use and it followed the special use provisions in the 1981 Zoning  
18 Code. When the City of Las Cruces adopted the 2001 Zoning Code, it  
19 was at that time that PUD became a zoning district. So under the 1981  
20 Zoning Code you use your underlying zoning district, but your concept  
21 plan as part of the PUD established basically was your governing  
22 document, established your land uses and your development standards.  
23 So in 1997 the original PUD was approved and uses restricted at that time  
24 was to detach and attach single-family housing and manufactured homes.  
25 In 2001, prior to the adoption of the 2001 Zoning Code, there was an  
26 amendment to the PUD, and that was processed and approved. And it  
27 broadened the uses within Phases II, III, and IV. And Phases II, III, and  
28 IV, Phase IV here and Phases II and III were located in this general area.  
29 What it did then was allow for some multi-family development and  
30 commercial development, specifically for mini storage facilities.

31 And then there was another amendment that was processed in  
32 2004. We have already adopted the 2001 Zoning Code and the PUD  
33 zoning district was established and you have a concept plan and a final  
34 site plan that govern a PUD. Concept plan essentially sets forth all of your  
35 land uses, your development standards, and then under a PUD your final  
36 site plan basically if you're doing a single development on a single parcel  
37 of land it's your site design, but also if you're going to be subdividing your  
38 property the final site plan functions very similar to a preliminary plat. In  
39 2004, staff processed an amendment, it only processed an amendment to  
40 the Planning and Zoning Commission, and this amendment should've  
41 gone to City Council. There was a change in land use for Phases II, III,  
42 and IV, and there were also development standards that were established.  
43 Because of the change in land use we should've gone all the way to  
44 Council and it didn't happen that time. And as part of that amendment we  
45 also should've done a zone change request to actually change the  
46 underlying zoning of the property from C-2 to R-4 to a true PUD.

1 In Phase II, III, IV what happened in 2004, they were on the final  
2 site plan and concept plan they were combined into one phase to allow for  
3 single-family and multifamily development, and an array of single-family  
4 type housing styles, patio homes, detached housing, and townhouse  
5 development was the assortment of housing types in that Phase. And  
6 then Phase IV they modified the land use from multi-family to single-family  
7 to allow for 32 single-family lots for a townhouse development.

8 Today's amendment to the Los Contentos PUD affects only Phase  
9 IV. And specifically that amendment is to modify the land use from single-  
10 family back to multi-family. The applicant is also requesting to cap the  
11 number of dwelling units at 80. This represents approximately 25 dwelling  
12 units to the acre, as well as modify the rear yard setback from 15-feet to  
13 seven-feet. And a seven-foot rear yard setback is very typical in the 2001  
14 Zoning Code for multi-family development. You see it in your R-2, R-3,  
15 and R-4 zones for multi-family.

16 Now as part of this there's another element that staff is also  
17 initiating, is part of the major amendment to the Los Contentos, also to  
18 bring it into zoning compliance to go to a PUD for Phase IV. But  
19 separately, the Case number PUD-09-01zc is to correct the zoning error  
20 that took place in 2004 for Phases II and III, and it's just to bring it in to the  
21 PUD zoning district. Staff is not recommending any change in land uses  
22 or development standards. The final site plan that was approved in 2004  
23 was to plat a single-family development. That development currently  
24 exists right now. The infrastructure is currently being built out. All staff  
25 would like to do is correct the zoning map error on there.

26 This is the current concept plan and final site plan that's being  
27 proposed for Phase IV. Where my cursor is here, this is Phase IV, this is  
28 the affected area. This is where the applicant is proposing to modify land  
29 uses from single-family to multi-family development, as well as modify  
30 their rear yard setback down to seven-foot. And then the other element is  
31 ... this is their single family development here and this tract of land was  
32 plotted out with the subdivision for apartment use. This will stay. All the  
33 land uses and development standards will stay, we just need to change  
34 the official zoning designation from C-3/R-4 to PUD.

35 I talked about the thoroughfare earlier in my presentation. A dated  
36 aerial of the subject property. Staff recommendation on both cases is  
37 approval. And your options this evening for the first Case PUD 09-01  
38 which is the major amendment and zone change request for Phase IV is  
39 Commission can approve the amendments to both the concept plan and  
40 final site plan. This is also a recommendation for approval for the zone  
41 change to bring the property into compliance. If this body identifies  
42 conditions that are appropriate, we can also approve it with conditions, or  
43 deny the amendment. Planning and Zoning actions tonight are a  
44 recommendation to City Council. For the other item, PUD 09-01zc, is  
45 approve the zone change request to bring the property into compliance  
46 with the 2001 Zoning Code. Any additional conditions or I wouldn't

1 foresee any at this point, this body can choose to add those. That  
2 concludes my presentation. This applicant for the first case PUD-09-01 is  
3 here tonight to make a presentation on the major amendment for Phase  
4 IV. I'd be more than happy to answer any questions that the Commission  
5 has.

6  
7 Scholz: All right, questions for Ms. Rodriguez?

8  
9 Shipley: I have a question but I'll wait till after the applicant.

10  
11 Scholz: All right let's hear from the applicant please.

12  
13 Lilley: Mr. Chairman, for the record Dan Lilley, Lilley Engineering. Staff has  
14 described the situation. We were actually in front of you several months  
15 ago and we had reached a point where we were trying to not to use the  
16 word negotiate, we were actually coming up with the verbiage of our  
17 actual request. And it was asked of us to go back to staff and work out  
18 exactly what we want to do with this property. Hence, we've been working  
19 again with staff for several months and we have reached a point where  
20 our original request affected Phases II and III, since that time the  
21 developer has modified his plans for that area to go ahead and develop  
22 that area as is within the existing zoning and requirements that are  
23 currently on Phase II and III. We've limited our request to Phase IV which  
24 essentially is as staff recommended, Ms. Rodriguez has talked to you  
25 about, essentially is just the parcel on the far north end where we have  
26 terrain situations and it is actually our plan, I've been with the PUD since  
27 the first amendment in the last '90's. It's been our plan all along to pretty  
28 much develop this particular parcel with multiple family in mind. Because  
29 of the terrain we're looking at having individually or private owned lift  
30 stations just to get the sewer up or incurring several hundred thousand  
31 dollar cost just in bringing in dirt, so this particular area is much more  
32 suited to multi-family development and individual ownership as opposed  
33 installing drastic septic measures or systems that individuals would  
34 actually have to own, private individuals, and we're not looking forward to  
35 that at all. We have basically limited our request, and I don't want to ... if I  
36 put words in staff's mouth I don't want to mean to do that, but we're  
37 looking at basically complying with R-4 standards in the development of  
38 Phase IV. The modifications to the setbacks that we requested are  
39 actually complying with the R-4 setback requirements which confirms to  
40 the intent of the use of the property. Again infrastructure for the phases  
41 accessing this property is all complete. There are probably 10 or 15 units,  
42 maybe 20 units left to be developed in the north end of the Phases II and  
43 III. The apartment complex is yet to be developed, so land is still vacant.  
44 But essentially the roads have been improved up to this point, up to the  
45 Phase line. And if there are any other questions or concerns, I'd be glad  
46 to ... if Commissioner Shipley has a comment or question I'd be glad to

- 1 respond to anything.  
2
- 3 Scholz: I think he did, yes, Commissioner Shipley.  
4
- 5 Shipley: In Phase IV of the affected area, when you have a cul-de-sac and you're  
6 going to have 80 apartments or I think they're going to be condominiums is  
7 that correct?  
8
- 9 Lilley: Mr. Chairman, Commissioner Shipley, to expand on your question,  
10 basically we are going to comply with the fire marshal's requirements in  
11 that area in the cul-de-sac and the concerns. The concerns the fire  
12 marshal had brought up about how many lots, a cul-de-sac is actually  
13 accessing. We will either, one or the other, either provide a secondary  
14 access or provide sprinkler systems and required fire requirements that  
15 our fire marshal has come up with. I hope that answered.  
16
- 17 Shipley: Well I was just going to say it appears that you've got that many you know  
18 trips ... I was looking at your trip report on the traffic report in there and all  
19 that's got to go through that other neighborhood obviously and that's a  
20 much more condensed use as opposed to the single-family. So I was just  
21 curious as you only have one point of ingress or egress and if there was  
22 an emergency and something happened you know could the fire  
23 department get in or the ambulance get in to rescue somebody else if  
24 there was a fire in one area or whatever and the street was blocked. And  
25 so to me that looks like ... it just looked like there was no way to solve that  
26 problem based upon what I see from your diagram.  
27
- 28 Lilley: Mr. Chair, Commissioner Shipley, essentially your talking the 80 units,  
29 that's one of the reasons why we wanted to set a maximum amount in this  
30 area. For our own development purposes, but essentially 80 units on a  
31 parcel like this ... to give you an idea of apartment complex could have 80  
32 units and they have their driveway into the parking lot. Essentially we  
33 have once they get out of here, there are actually two accesses to Mars,  
34 actually to access to get out of the property itself, but we can go back  
35 down even further, I mean not to argue against myself but Mars is actually  
36 the only street that we can go back up to Del Rey. We do have the width  
37 requirements the ... the dimensional requirements for fire flow and exit,  
38 and we will have and will work with the fire department on your concern  
39 with egress and ingress.  
40
- 41 Scholz: Okay, other questions for this gentleman? My concern was the same.  
42 The entrance, egress, is that road wide enough, cause when I was out  
43 there looking at it the other day it looked to me like it wasn't full width, that  
44 is the stub that's into the affected area.  
45
- 46 Lilley: Mr. Chairman, this particular section of the roadway I believe is 37-foot

1 back of curb to back of curb, just like everything else.  
2  
3 Scholz: Okay.  
4  
5 Lilley: It's a minor city street.  
6  
7 Scholz: Yes, and the fire department is here.  
8  
9 Gonzales: Robert Gonzales, Las Cruces Fire, international fire code allows up to 100  
10 units for multi-family before a second access is required.  
11  
12 Shipley: Okay.  
13  
14 Scholz: Okay. Thank you Mr. Gonzales. Any other questions for this gentleman?  
15 Okay. Is there someone from the public who wishes to speak to this?  
16 Okay, if not we'll close it for public discussion. Gentlemen, what's your  
17 pleasure?  
18  
19 Shipley: We need to reinstate the rules I think.  
20  
21 Scholz: Yes, we do, we need to  
22  
23 Shipley: Or do you want to have discussion before we reinstate it?  
24  
25 Scholz: We can have discussion first. It doesn't matter. But in order to vote on it  
26 we'll obviously have to unsuspend the rules. So, discussion. All right, I'll  
27 entertain a motion to unsuspend the rules.  
28  
29 Crane: So moved.  
30  
31 Scholz: And a second?  
32  
33 Beard: Second.  
34  
35 Scholz: All those in favor of unsuspending the rules please say aye.  
36  
37 ALL COMMISSIONERS - AYE.  
38  
39 Scholz: Those opposed same sign. All right, we're back then to, we'll vote on  
40 Case PUD-09-01 first.  
41  
42 Evans: Mr. Chairman I move that we approve Case PUD-09-01.  
43  
44 Scholz: Is there a second?  
45  
46 Crane: Second.

1  
2 Bustos: Second.  
3  
4 Scholz: Okay it's been ... it was a tie I think. It's been moved and seconded. I'll  
5 call the roll. Commissioner Shipley.  
6  
7 Shipley: Aye findings, discussion, and site visit.  
8  
9 Scholz: Commissioner Crane.  
10  
11 Crane: Aye findings and discussion.  
12  
13 Scholz: Commissioner Evans.  
14  
15 Evans: Aye findings and discussion.  
16  
17 Scholz: Commissioner Bustos.  
18  
19 Bustos: Aye findings, discussion, and site visit.  
20  
21 Scholz: Commissioner Beard.  
22  
23 Beard: Aye findings and discussions.  
24  
25 Scholz: And the Chair votes aye for findings, discussion, and site visit. Now on  
26 Case PUD-09-01zc.  
27  
28 Evans: Mr. Chairman I move that we approve Case PUD-09-09zc.  
29  
30 Scholz: Is there a second?  
31  
32 Bustos: Second.  
33  
34 Scholz: It's been moved and seconded. I'll call the roll. Commissioner Shipley.  
35  
36 Shipley: Aye findings, discussion, and site visit.  
37  
38 Scholz: Commissioner Crane.  
39  
40 Crane: Aye findings and discussion.  
41  
42 Scholz: Commissioner Evans.  
43  
44 Evans: Aye findings and discussion.  
45  
46 Scholz: Commissioner Bustos.

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Bustos: Aye findings, discussion and site visit.

Scholz: Commissioner Beard.

Beard: Aye findings and discussions.

Scholz: And the Chair votes aye. So it's approved 6:0.

**4. Case S-09-056:** A request for an Annexation Plat approval of 213.0704 ± acres of land into the Corporate Limits of the City of Las Cruces, otherwise known as the Burn Annexation, generally located within one-quarter of Section 14 and Lot 5 and part of Lot 6 of Section 22, Township 23 South, Range 2 East of the U.S.G.L.O Surveys. The subject property is located north of Dripping Springs Road and west of the future extension of Sonoma Ranch Boulevard. Submitted by Bohannan Huston Inc. for New Mexico State University Board of Regents.

**5. Case S-09-057:** A request for Master Plan approval (as part of an annexation request) for Burn Annexation containing 213.0704 ± acres generally located generally located within one-quarter of Section 14 and Lot 5 and part of Lot 6 of Section 22, Township 23 South, Range 2 East of the U.S.G.L.O Surveys. The subject property is located north of Dripping Springs Road and west of the future extension of Sonoma Ranch Boulevard. The master plan proposes land uses for an existing museum (NM Farm and Ranch Museum) and its ancillary agriculture uses, institutional use for a public school (9-12), flood control, and mineral extraction. Submitted by Bohannan Huston Inc. for New Mexico State University Board of Regents.

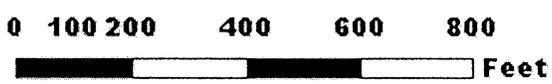
**6. Case Z2806:** A request for Initial Zoning, as part of an annexation request known as Burn Annexation, containing 213.0704 ± acres generally located within one-quarter of Section 14 and Lot 5 and part of Lot 6 of Section 22, Township 23 South, Range 2 East of the U.S.G.L.O Surveys. The subject property is located north of Dripping Springs Road and west of the future extension of Sonoma Ranch Boulevard. The initial zoning request includes 213.0704 ± acres of PUD (Planned Unit Development). The property is currently located within the Extra-Territorial Zone of Doña Ana County. The subject properties are owned by NMSU Board of Regents and have no current zoning. Submitted by Bohannan Huston Inc. for New Mexico State University Board of Regents.

Scholz: That brings us to our next item which is actually a triplet and Ms. Revels, how nice to see you.



### VICINITY MAP

**CASE NO. PUD-09-01**  
**PARCEL: 02-24674**  
**OWNER: TOM TEST**  
**LOCATION: LOS CONTENTOS PHASE IV**  
**ZONING: C-2C & R-4 TO PUD**



*This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the Community Development Department at (505) 528-3033.*

**Community Development Department**  
**575 S Alameda Blvd.**  
**Las Cruces, NM 88001**  
**(505) 528-3222**