

# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 9 Ordinance/Resolution# 2567 Council District: 5

For Meeting of March 15, 2010

(Adoption Date)

**TITLE:** AN ORDINANCE APPROVING A ZONE CHANGE FROM H AND A-1 (HOLDING AND FLOOD CONTROL 1981 ZONING CODE) TO R-1A (SINGLE-FAMILY MEDIUM DENSITY) AND R-2 (MULTI-DWELLING LOW DENSITY) FOR 23.83 ± ACRES OF PROPERTY LOCATED ON THE NORTHWEST CORNER OF MORENO ROAD AND ELKS DRIVE. THE PURPOSE OF THE ZONE CHANGE IS TO FACILITATE A SINGLE- AND MULTI-FAMILY RESIDENTIAL MASTER-PLANNED DEVELOPMENT KNOWN AS PASEO DEL ORO PHASE 3 AS WELL AS BRING THE SUBJECT PROPERTY INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED. SUBMITTED BY BRG ENGINEERING FOR TIERRA DEL SOL HOUSING CORPORATION. (CASE Z2796)

**PURPOSE(S) OF ACTION:** A request for a change in zoning from H and A-1 (Holding and Flood Control 1981 Zoning Code) to R-1a (Single-Family Medium Density) and R-2 (Multi-Dwelling Low Density) to facilitate a proposed single-family and multi-family residential development known as Paseo del Oro Phase 3.

<b>Name of Drafter:</b> Jennifer Robertson <i>JR</i>		<b>Department:</b> Community Development		<b>Phone:</b> 528-3226	
<b>Department</b>	<b>Signature</b>	<b>Phone</b>	<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Community Development Department	<i>DW</i>	528-3066	Budget	<i>Richard M. ...</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:**

A Master Plan for Paseo del Oro Phase 3 was reviewed and approved by the Planning and Zoning Commission on January 26, 2010. The Paseo del Oro Master Plan area encompasses approximately 23.83 ± acres of land, which is currently vacant and zoned H and A-1 (Holding and Flood Control from the 1981 Zoning Code). The Master Plan incorporates two (2) planning parcels, Planning Parcel A and B. The land use for Planning Parcel A includes single-family residential homes with a maximum of 69 dwelling units. The land use for Planning Parcel B includes multi-family residential, in this case apartments, with a maximum of 72 units.

The purpose of the zone change request is to facilitate the single-family and multi-family residential development in the approved Master Plan. The proposed zoning includes 15.95 ± acres of R-1a (Single-Family Medium Density), also referred to as Planning Parcel A in the

(Continued on Page 2)

Master Plan, and 7.88 ± acres of R-2 (Multi-Dwelling Low Density), also referred to as Planning Parcel B in the Master Plan.

The property is located on the northwest corner of Moreno Road and Elks Drive. Elks Drive is a Principal Arterial, requiring a total of 120 feet right-of-way according to the MPO Thoroughfare Plan. Moreno Road, a minor local roadway, requires 50 feet of right-of-way. The western boundary of the subject property is the city limit.

To the north of the subject property resides Vista Middle School and east is Scripture Baptist Church. South and west of the subject property is a mixture of vacant land and residential uses. Adjacent zoning to the subject property includes (see Attachment "C" Vicinity Map):

	<u>Zoning</u>	<u>Land Use</u>
North	R-1a and ER5 (ETZ)	School and Residential
South	Holding and RE-M	Residential and Vacant
East	EE and FC	Religious Institution and Flood Control
West	ER4M (ETZ) and ER5 (ETZ)	Residential

The proposed zone change would allow for a single-family development with a density of approximately four (4) units per acre and a minimum lot size of 5,000 square feet and multi-family development with a density of approximately fifteen (15) units per acre and a minimum lot size of 3500 square feet. As the adjacent land uses are also residential and institutional in nature, the proposed zoning is compatible to the adjacent uses. Per the 1999 Comprehensive Plan an urban residential use shall be designated for uses occurring at a density of greater than two (2) dwelling units per acre. These proposed zone changes would qualify as urban residential uses. In addition, high density uses, i.e. R-2 (Multi-Dwelling Low Density), are encouraged by the Comprehensive Plan to concentrate in and around transportation corridors, such as Elks Drive. In addition, high density residential uses should be located and designated to minimize traffic flow through adjacent neighborhoods and should locate on or near transit routes (refer to Exhibit "B" Findings and Comprehensive Analysis). The applicants are proposing landscaping and rock wall to buffer the apartment complex from surrounding single-family homes within the subject property.

On January 26, 2010 the Planning and Zoning Commission recommended conditional approval for the zone change by a vote of 4-0 (two Commissioners were absent and one seat is vacant) and also approved the Master Plan by a vote of 4-0 (two Commissioners were absent and one seat is vacant). The condition states that all newly installed utilities will be placed underground. The condition is made part of the attached Ordinance. Public comment was received at the Planning and Zoning Commission meeting on January 26, 2010 from one person who was concerned about the type of housing planned for the development closest to the property owner's property to the north. The property owner was informed that single-family homes were proposed for the subject property, closest to the property owner's property to the north.

(Continued on Page 3)

**SUPPORT INFORMATION:**

Fund Name / Account Number	Amount of Expenditure	Budget Amount
N/A	N/A	N/A

1. Ordinance.
2. Exhibit "A" Zoning Exhibit.
3. Exhibit "B" Findings and Comprehensive Plan Analysis.
4. Attachment "A" Staff Report for January 26, 2010 Planning and Zoning Commission Meeting for Case Z2796.
5. Attachment "B" Minutes for January 26, 2010 Planning and Zoning Commission Meeting.
6. Attachment "C" Vicinity Map.

**OPTIONS / ALTERNATIVES:**

1. Vote "YES" to approve the proposed Ordinance. This action would approve the proposed zone changes for 23.83 ± acres of land as recommended by the Planning and Zoning Commission. The property will be rezoned from H and A-1 (Holding and Flood Control 1981 Zoning Code) to R-1a (Single-Family Medium Density) for 15.95 ± acres and R-2 (Multi-Dwelling Low Density) for 7.88 ± acres.
2. Vote "NO" and deny the proposed Ordinance. Such action would prevent the proposed 23.83 ± acres being rezoned to R-1a (Single-Family Medium Density) for 15.95 ± acres and R-2 (Multi-Dwelling Low Density) for 7.88 ± acres. The current zoning of H and A-1 (Holding and Flood Control 1981 Zoning Code) will remain in place. The applicant will have to submit an alternative development proposal to develop the subject property as well as amend the recently approved Desert Isles Master Plan.
3. Modify the proposed Ordinance and vote "YES" to approve. The Council may modify the Ordinance by adding conditions as deemed appropriate.
4. Table/Postpone the Ordinance and direct staff accordingly.

**COUNCIL BILL NO.** 10-038  
**ORDINANCE NO.** 2567

**AN ORDINANCE APPROVING A ZONE CHANGE FROM H AND A-1 (HOLDING AND FLOOD CONTROL 1981 ZONING CODE) TO R-1A (SINGLE-FAMILY MEDIUM DENSITY) AND R-2 (MULTI-DWELLING LOW DENSITY) FOR 23.83 ± ACRES OF PROPERTY LOCATED ON THE NORTHWEST CORNER OF MORENO ROAD AND ELKS DRIVE. THE PURPOSE OF THE ZONE CHANGE IS TO FACILITATE A SINGLE- AND MULTI-FAMILY RESIDENTIAL MASTER-PLANNED DEVELOPMENT KNOWN AS PASEO DEL ORO PHASE 3 AS WELL AS BRING THE SUBJECT PROPERTY INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED. SUBMITTED BY BRG ENGINEERING FOR TIERRA DEL SOL HOUSING CORPORATION. (CASE Z2796)**

The City Council is informed that:

**WHEREAS**, the Tierra del Sol Housing Corporation, the property owner, has submitted a request for multiple zone changes for 23.83 ± acres located on the northwest corner of Moreno Road and Elks Drive, also known as Paseo del Oro Phase 3 Master Plan Area; and

**WHEREAS**, the Planning and Zoning Commission, after conducting a public hearing on January 26, 2010, recommended that said zone change request be conditionally approved by a vote of 4-0 (two Commissioners were absent and one seat is vacant).

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

(I)

**THAT** the tracts more particularly described in Exhibit "A", attached hereto and made part of this Ordinance, is hereby conditionally zoned as follows for the Desert Isles Master-Planned Area:

- a. From H and A-1 (Holding and Flood Control 1981 Zoning Code) to R-1a (Single-Family Medium Density) for 15.95 ± acres,
- b. From H and A-1 (Holding and Flood Control 1981 Zoning Code) to R-2 (Multi-Dwelling Low Density) for 7.88 ± acres,

(II)

THAT the condition be stipulated as follows:

1. All newly installed utilities to be placed underground.

(III)

THAT the zoning is based on the findings contained in Exhibit "B" (Findings 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:

*[Signature]*  
City Attorney 2/14/10





BLACKHAM, ROMAN, GREINER  
AND ASSOCIATES, INC.  
ENGINEERING - PLANNING - SURVEYING

**February 2, 2010**

**DESCRIPTION OF A 7.880 ACRE TRACT**

**ZONED: R-2**

A tract of land situate within the Corporate Limits of The City of Las Cruces, Dona Ana County, New Mexico located in projected Section 25, T.22S., R.1E. N.M.P.M., being Lots 11, 12 and part of Lots 13, 14, and 15, Block 27, Elephant Butte Land & Trust Company Subdivision "A", as recorded March 1, 1911 in Plat Book 8, Page 86 of the Dona Ana County Records and being more particularly described as follows, to wit;

BEGINNING at a ½" iron rod found on the northwest intersection of Elks Drive (40' R.O.W.) and Moreno Road (16' R.O.W.) for the southeast corner of Lot 15; WHENCE an aluminum cap found for City of Las Cruces G.I.S. Station bears S. 58°33'55"E., 5927.78 feet;

THENCE from the point of beginning along the north right of way line of Moreno Road S.49°03'52"W., 682.26 feet to corner of this tract

THENCE leaving said right of way line N.40°56'08"W., 201.99 feet to a corner of this tract for the point of curvature;

THENCE around the arc of a curve to the right having a radius of 200.00 feet, an arc length of 32.45 feet, through a central angle of 9°17'45" and whose long chord bears N.36°17'15"W., a distance of 32.41 feet to a corner of this tract for the point of tangency;

THENCE N.31°38'23"W., 220.60 feet to a corner of this tract for the point of curvature;

THENCE around the arc of a curve to the left having a radius of 300.00 feet, an arc length of 108.65 feet, through a central angle of 20°45'04" and whose long chord bears N.38°41'20"E., a distance of 108.06 feet to a corner of this tract for the point of reverse curvature;

THENCE around the arc of a curve to the right having a radius of 300.00 feet, an arc length of 104.50 feet, through a central angle of 19°57'27" and whose long chord bears N.38°17'32"E., a distance of 103.97 feet to a corner of this tract for the point of tangency;

THENCE N.48°16'15"E., 313.01 feet to a corner of this tract for the point of tangency;

THENCE around the arc of a curve to the right having a radius of 200.00 feet, an arc length of 34.98 feet, through a central angle of 10°01'12" and whose long chord bears N.53°16'51"E., a distance of 34.93 feet to a corner of this tract for the point of tangency;

THENCE N.58°17'27"E., 165.60 feet to a corner of this tract;

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**BRG** BLACKHAM, ROMAN, GREINER  
AND ASSOCIATES, INC.  
ENGINEERING - PLANNING - SURVEYING

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THENCE leaving said right of way S.31°42'33"E., 472.22 feet to the point of beginning containing 7.880 acres of land more or less.

Description prepared by Kery W. Greiner, PS 9761.

*Kery W. Greiner*  
Kery W. Greiner, PS 9761

2-2-10  
Date

08-57des.doc





**February 2, 2010**

**DESCRIPTION OF A 15.947 ACRE TRACT**

**ZONED: R-1A**

A tract of land situate within the Corporate Limits of The City of Las Cruces, Dona Ana County, New Mexico located in projected Section 25, T.22S., R.1E. N.M.P.M., being Lots 11, 12 and part of Lots 13, 14, and 15, Block 27, Elephant Butte Land & Trust Company Subdivision "A", as recorded March 1, 1911 in Plat Book 8, Page 86 of the Dona Ana County Records and being more particularly described as follows, to wit;

BEGINNING at a ½" iron rod found on the East right of way line of Elks Drive (40' R.O.W.) for the northeast corner of Lot 15; WHENCE an aluminum cap found for City of Las Cruces G.I.S. Station bears S. 58°33'55"E., 5927.78 feet;

THENCE from the point of beginning along said right of way line S.31°42'33"E., 321.77 feet to a corner of this tract;

THENCE leaving said right of way S.58°17'27"W., 165.60 feet to a corner of this tract for the point of curvature;

THENCE around the arc of a curve to the left having a radius of 200.00 feet, an arc length of 34.98 feet, through a central angle of 10°01'12" and whose long chord bears S.53°16'51"W., a distance of 34.93 feet to a corner of this tract for the point of tangency;

THENCE S.48°16'15"W., 313.01 feet to a corner of this tract for the point of curvature;

THENCE around the arc of a curve to the left having a radius of 300.00 feet, an arc length of 104.50 feet, through a central angle of 19°57'27" and whose long chord bears S.38°17'32"W., a distance of 103.97 feet to a corner of this tract for the point of reverse curvature;

THENCE around the arc of a curve to the right having a radius of 300.00 feet, an arc length of 108.65 feet, through a central angle of 20°45'04" and whose long chord bears S.38°41'20"W., a distance of 108.06 feet to a corner of this tract for the point of tangency;

THENCE S.31°38'23"E., 220.60 feet to a corner of this tract for the point of curvature;

THENCE around the arc of a curve to the left having a radius of 200.00 feet, an arc length of 32.45 feet, through a central angle of 9°17'45" and whose long chord bears S.36°17'15"E., a distance of 32.41 feet to a corner of this tract for the point of tangency;

THENCE S.40°56'08"E., 201.99 feet to a corner of this tract;

*continued*

**BRG****BLACKHAM, ROMAN, GREINER  
AND ASSOCIATES, INC.**  
ENGINEERING - PLANNING - SURVEYING

THENCE S.49°03'52"W., 598.11 feet to a ½" iron rod found with identification #17572 for the southwest corner of this tract;

THENCE N.31°38'23"W., 847.25 feet to a ½" iron rod found with identification #17572 for the northwest corner of this tract;

THENCE N.48°16'15"E., 653.97 feet to a ½" iron rod found with identification #17572 for a corner of this tract;

THENCE S.41°43'45"E., 70.00 feet to a ½" iron rod found with identification #17572 for a corner of this tract;

THENCE N.48°16'15"E., 616.00 feet to the point of beginning containing 15.947 acres of land more or less.

Description prepared by Kery W. Greiner, PS 9761.

  
Kery W. Greiner, PS 9761

2-2-10

Date

08-57des.doc



**EXHIBIT "B"**

**FINDINGS AND COMPREHENSIVE PLAN ANALYSIS**

1. This is a request for zone changes to 23.83 ± acres of land of a Master-Planned area known as Paseo del Oro Phase 3.
2. The adjacent land use and zoning include:

	<u>Zoning</u>	<u>Land Use</u>
North	R-1a and ER5 (ETZ)	School and Residential
South	Holding and RE-M	Residential and Vacant
East	EE and FC	Religious Institution and Flood Control
West	ER4M (ETZ) and ER5 (ETZ)	Residential

3. The request for Zone Change is consistent with the following goals, objectives, and policies of the Comprehensive Plan:

**Land Use Element, Residential Uses, Goal 1, Objective 3**

Establish land use policy, for the purposes of the Land Use Element, for urban and rural residential uses which supports the unique lifestyles of these areas.

**Policy 3.1** An urban residential use shall be so designated where these uses occur at a density of greater than two dwelling units per acre. A rural residential use shall be so designated where these uses occur at a density of less than or equal to two dwelling units per acre.

**Policy 3.4** High density uses shall be encouraged to concentrate in and around transportation and communication corridors, thereby supporting a mixed distribution of uses. Lower and rural density residential uses shall be located away from such corridors.

**Policy 3.5** All residential development shall address the following urban design criteria: compatibility to the adjacent neighborhood in terms of architectural design, height/density, and the provision of landscaping. Architectural and landscaping design standards for residential uses shall be established in the Comprehensive Plan Urban Design Element.

**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.

4. Staff has reviewed the proposed zone changes and no significant outstanding issues exist. The zone change request is consistent with the master plan.
5. Development of the property is subject to the Las Cruces Development Code including provisions and standards for building, design standards, subdivisions and zoning.



**City of Las Cruces**

TO: Planning and Zoning Commission  
FROM: Development Review Committee (DRC)  
PREPARED BY: Jennifer Robertson, Planner *JR*  
DATE: January 13, 2010  
SUBJECT: Paseo del Oro Phase 3, Master Plan and Zone Change  
(S-09-033, Z2796)  
RECOMMENDATION: Approval of Master Plan  
Approval of Zone Change w/Conditions

**Case S-09-033:** A request for approval of a master plan known as Paseo Del Oro Phase 3. The subject property comprises 30.87 ± acres and is zoned H and A-1 (Holding, Flood Control from 1981 Zoning Code and Flood Control). The applicant is seeking a zone change for the subject property to R-1a (Single-Family Medium Density) for 15.95 ± acres and R-2 (Multi-dwelling Low Density) for 7.88 ± acres. The master plan proposes 15.95 ± acres of single-family residential with a maximum of 69 dwelling units and 7.88 ± acres for multi-dwelling residential uses with a maximum of 72 dwelling units. The subject property is located at the intersection of Elks Drive and Moreno Road. Submitted by BRG Engineering for Tierra Del Sol Housing Co. and Scripture Baptist Church, property owners.

**Case Z2796:** A request for a zone change from H and A-1 (Holding, Flood Control from 1981 Zoning Code) to R-1a (Single-Family Medium Density) for 15.95 ± acres and R-2 (Multi-Dwelling Low Density) for 7.88 ± acres for a total of 23.83 ± acres of land located at the intersection of Elks Drive and Moreno Road. The purpose of the zone change request is to facilitate a proposed single and multi-family residential development known as Paseo Del Oro Phase 3. Submitted by BRG Engineering for Tierra Del Sol Housing Co.

### BACKGROUND

#### Proposed Paseo Del Oro Phase 3 Master Plan:

The proposed Paseo Del Oro Phase 3 Master Plan area encompasses approximately 30.87 ± acres and the current land use is a combination of vacant land and a religious institution located at the intersection of Elks Drive and Moreno Road. This proposed Master Plan contains two (2) planning parcels which are identified with specific land use, acreage, proposed maximum density and proposed maximum number of dwelling units.

Planning Parcel 'A' is the proposed single-family residential area and incorporates 15.95 ± acres. Planning Parcel 'A' proposes a maximum of 69 single-family dwelling units. In addition, Planning Parcel 'A' will accommodate a regional pond for the run-off created by the single-family residential development. Planning Parcel 'A' also includes property

located to the east of Elks Drive, approximately  $7 \pm$  acres owned by the Scripture Baptist Church, included as part of Master Plan. In order to accommodate the drainage, the developer is proposing to construct a drainage channel to divert the original flow of the North Fork Moreno Arroyo to the regional pond. In order for the developer to accomplish this he/she must complete a CLOMR/LOMR (FEMA Map Revision Process) to reestablish the floodplain southwest of I-25 to the western boundary of the proposed master plan area to the proposed drainage tract. The property owned by the Scripture Baptist Church is upstream from the proposed residential development and includes a segment of the proposed drainage channel, referred to on the Master Plan proposal as a 'Drainage Tract.' Scripture Baptist Church is in concurrence with the proposal and is not requesting any further development or rezoning approvals. The regional pond is to be built to City Design Standards and the developer intends to dedicate the pond to the City. The maintenance of the pond will be the responsibility of the developer until the City accepts the dedication and maintenance of the pond.

Planning Parcel 'B' is the proposed multi-dwelling residential area and incorporates  $7.88 \pm$  acres. Planning Parcel 'B' proposes a maximum of 72 multi-dwelling units. The developer intends to utilize on-lot ponding to contain runoff from the multi-dwelling residential development.

Access to the subdivision is being provided through Elks Drive (Principal Arterial) and Moreno Road (Minor Local Road). Elks Drive is a Principal Arterial, requiring a total of 120 feet right-of-way according to the MPO Thoroughfare Plan. Minor local roadways require 50 feet of right-of-way. All adjacent and internal roadways will be designed and constructed pursuant to City Design Standards. Internal and adjacent roadway design, layout, dedication and the drainage control channel and regional pond design will be determined by final engineering design during subsequent development processes, i.e. preliminary and final platting. The developer will be responsible for all off-site improvements and requirements imposed by affected agencies regarding the design and construction of the drainage channel in addition to other subdivision improvement requirements. Park impact fees will be assessed for both phases of the development.

#### **Proposed Zone Change:**

The zoning of the Master Plan area must adhere to the boundaries of the single-family and multi-dwelling residential uses. As noted earlier, no zone changes are requested for the property owned by the Scripture Baptist Church. The land included in the zoning request, which is owned by Tierra del Sol Housing Co., is currently vacant and zoned H and A-1 (Holding, Flood Control from 1981 Zoning Code). The applicant is requesting to change the current zoning to R-1a (Single-Family Medium Density) for  $15.95 \pm$  acres and R-2 (Multi-Dwelling Low Density) for  $7.88 \pm$  acres for a total of  $23.83 \pm$  acres of land located at the intersection of Elks Drive and Moreno Road. The purpose of the zone change request is to facilitate a proposed single- and multi-family residential development known as Paseo Del Oro Phase 3.

#### **Utility Service:**

The City of Las Cruces Utilities Department has reviewed and approved the concept of the master plan submittal. Dona Ana Mutual D.W.C.A. has reviewed the service request and

will provide water service to the proposed development. All utility connections and extensions will be coordinated with the service providers. Utilities will be provided as follows:

- Electric: El Paso Electric
- Gas: City of Las Cruces
- Water: Dona Ana Mutual D.W.C.A.
- Sewer: City of Las Cruces

**FINDINGS**

1. The adjacent land use and zoning include:

	<u>Zoning</u>	<u>Land Use</u>
North	R-1a and ER5 (ETZ)	School and Residential
South	Holding and RE-M	Residential and Vacant
East	EE and FC	Religious Institution and Flood Control
West	ER4M (ETZ) and ER5 (ETZ)	Residential

2. The proposed Master Plan is in conformance with the City Subdivision Code, Zoning Code, Design Standards, Transportation Plan, and Stormwater Management Policy Plan.

3. The request for Zone Change is consistent with the following goals, objectives, and policies of the Comprehensive Plan:

**Land Use Element Goal 1**

**Residential Policies**

- 1.3. 1. An urban residential use shall be so designated where these uses occur at a density of greater than two dwelling units per acre. A rural residential use shall be so designated where these uses occur at a density of less than or equal to two dwelling units per acre.
- 1.3.4. High density uses shall be encouraged to concentrate in and around transportation and communication corridors, thereby supporting a mixed distribution of uses. Lower and rural density residential uses shall be located away from such corridors.
- 1.3.5. All residential development shall address the following urban design criteria: compatibility to the adjacent neighborhood in terms of architectural design, height/density, and the provision of landscaping. Architectural and landscaping design standards for residential uses shall be established in the Comprehensive Plan Urban Design Element.
- 1.3.10. 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.

4. Staff has reviewed the proposed master plan and zone change and no significant outstanding issues exist. The zone change request is consistent with the proposed amendment to the master plan.
5. No public comment has been received as of the date of this report.

#### **RECOMMENDATION FOR CASE S-09-033**

On January 6, 2010 the Development Review Committee (DRC) reviewed the proposed Master Plan. The DRC reviews master plans from an infrastructure, utilities and public improvement standpoint. The DRC had no issues with this proposal and after discussion recommended approval of the Master Plan.

#### **RECOMMENDATION FOR CASE Z2796**

Staff has reviewed the zone change, and based on the preceding findings recommends approval with the following conditions:

1. All new utilities shall be underground.

**Please note:** The Planning and Zoning Commission is the final authority on Master Plans and their decision may be appealed to City Council. The Planning and Zoning Commission is a recommending body to the City Council regarding zone change cases. The City Council has final authority over zoning cases.

#### **OPTIONS**

1. Approve the Master Plan and Zone Change request as recommended by DRC and staff.
2. Approve the Master Plan and Zone Change request with additional conditions as determined appropriate by the Planning and Zoning Commission.
3. Deny the Master Plan and Zone Change request.

**Please note:** A denial would need to be based on findings other than those identified by staff or the Development Review Committee.

#### **ATTACHMENTS**

1. Development Statement
2. Copy of the Master Plan
3. Copy of Zoning Plat
4. DRC Agenda and Minutes – January 6, 2010
5. Zoning map
6. Vicinity Map



**City of Las Cruces**  
PEOPLE HELPING PEOPLE

**DEVELOPMENT STATEMENT FOR CITY SUBDIVISION  
APPLICATIONS**

Community Development Department  
PO Box 20000, Las Cruces, NM 88011  
(505) 528-3222

*Please note: Type or print legibly. 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 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: ALBERT DAVALOS  
Contact Person: ALBERT DAVALOS  
Contact Phone Number: 575-642-5931  
Contact e-mail Address: adavalos@tierradelosolhousing.org  
Web site address (if applicable): N/A

**Proposal Information**

Name of Proposal: PASEO DEL ORO PHASE III SUBDIVISION  
Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)  
SINGLE-FAMILY & MULTI-FAMILY DWELLING UNITS  
Location of Subject Property ELKS DRIVE AND MORENO ROAD  
(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)  
Acreage of Subject Property: 23.827 AC  
Zoning of Subject Property: HOLDING  
Proposed number of lots <sup>67 RESIDENTIAL &</sup> 1 MULTI-FAMILY, to be developed in 2 phase (s).  
Proposed square footage range of homes to be built 2,300 to 4,000  
Anticipated traffic generation 1445 trips per day.  
Anticipated development schedule: work will commence on or about MAY 2010

and will take 36 MONTHS to complete.

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

REGIONAL DETENTION POND FOR SINGLE-FAMILY DWELLING UNITS AND/OR ON LOT PONDING FOR MULTI-FAMILY DWELLING UNITS.

Will any special landscaping, architectural or site design features be implemented into the proposal (for example, rock walls, landscaped medians or entryways, entrance signage, architectural themes, decorative lighting)? If so, please describe and attach rendering (rendering optional).

ROCKWALLS WILL BE INSTALLED, AS WELL AS A DRAINAGE CHANNEL, WHICH WILL CONVEY FLOWS FROM OFF-SITE STORM WATER.

### **Attachments**

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

Location map

Subdivision Plat

Proposed house elevations

\*renderings of architectural or site design features

\*other pertinent information

Attachment 2

MASTER PLAN  
PASO DEL ORO PHASE III

A 2407' ACRE TRACT LOCATED IN PROJECTED SECTIONS 25, TOWNSHIP 22 SOUTH, RANGE 1 EAST, N.M.P.M., IN LAS CRUCES, NEW MEXICO, DECEMBER 1, 2009  
SCALE: 1"=40'

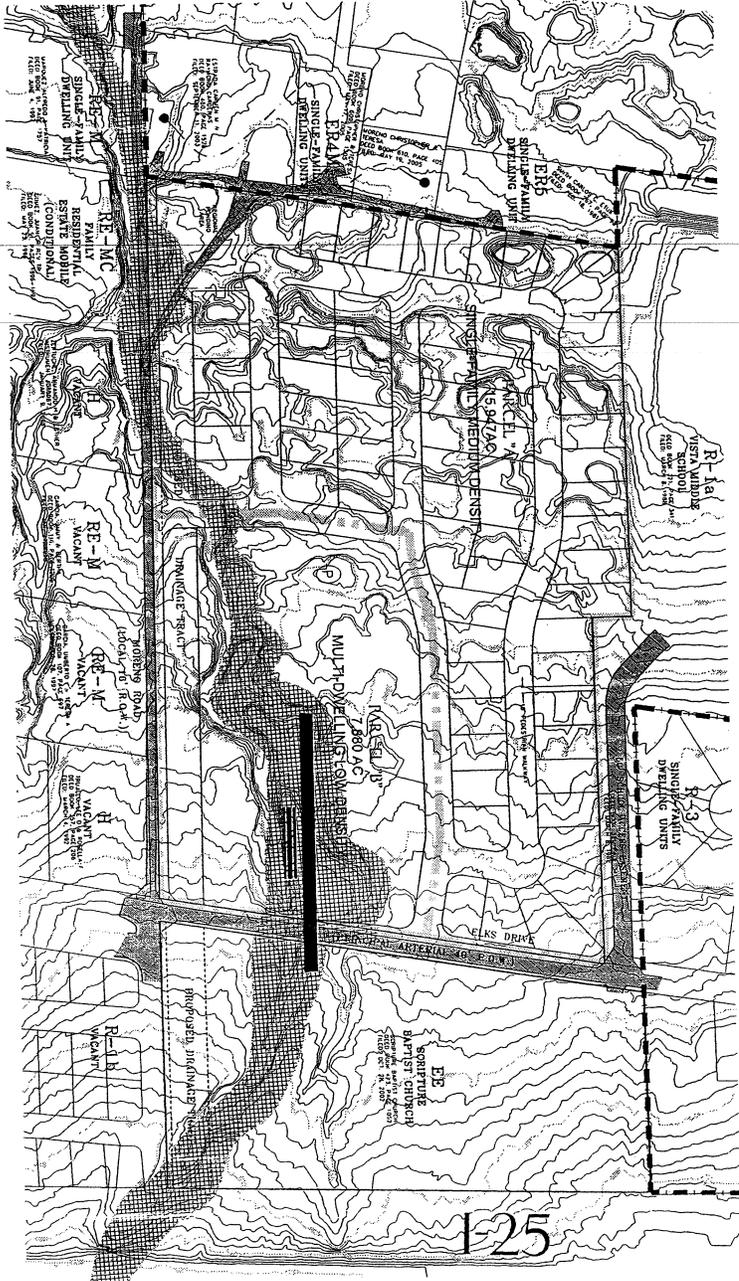
LAND USE TABLE

PARCEL (T)	LAND USE	RESIDENTIAL DENSITY (DENS)	CHANGING DENSITY (CD)
1	1.441 AC	43	48
2	3.283 AC	61	72
3	1.248 AC	44	48
4	1.248 AC	44	48
TOTAL		111	111

POPULATION  
111 = 2.7 PERSONS PER DWELLING UNIT = 301 PERSONS

TRAFFIC CONTROL	DO	TRUCKS	TRUCKS
RESIDENTIAL USE	20	40	40
PAVED DRIVEWAYS	72	64	64
RESIDENTIAL TRAFFIC			

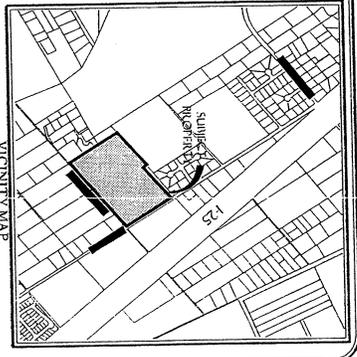
- CITY LIMITS
- PARCEL BOUNDARY
- SUBDIVISION BOUNDARY
- RESERVATION AREA
- EXISTING PAVED ROADS
- EXISTING DIRT ROADS



SUBDIVISION ACCESS:  
ACCESS SHALL BE VIA ELKS DRIVE AND MORENO ROAD.

CONCEPTUAL DRAINAGE PLAN:  
THE PROPOSED REGIONAL RETENTION/DETENTION POND AND THE DRAINAGE TRACT FROM THE POND TO US IS PROPOSED TO BE DEDICATED TO THE CITY OF LAS CRUCES AND MAINTAINED BY THE PROPERTY OWNER. ALL DESIGN STANDARDS WILL BE AS OF THE SUBMITTAL DATE OF THE PLAN.

- MASTER PLAN NOTES:
1. PLANNING PARCELS WILL BE SUBDIVIDED INTO PHASES. EACH PHASE WILL BE PURCHASED, PHASES WILL BE SHOWN ON THE PRELIMINARY PLAN.
  2. ACTUAL INTERNAL AND REGIONAL ROAD LAYOUT AND PAVED SECTION, ALONG WITH DRAINAGE CONTROL CHANNEL AND REGIONAL POND CONFOUNDATIONS WILL BE DETERMINED BY FINAL SUBDIVISION INCLUDED AREAS WITHIN ZONE 'X'. AREAS DETERMINED TO BE OUTSIDE THE 900 YEAR FLOOD INSURANCE RATE MAP COMMENTARY PANELS FOR CONSTRUCTION ON MULTI-FAMILY AND SINGLE-FAMILY SHOWN HERE AS PARCELS 'B'.
  3. THE OWNER OF THE PROPERTY LOCATED AT 4440 ELKS DRIVE IS INVOLVED IN THE PLANNING PROCESS AND IS IN AGREEMENT WITH THE PROPOSED IMPROVEMENTS WITHIN THE DRAINAGE TRACT AS WELL AS THE FINAL MAP REVISION PROCESS.



OWNERSHIP:  
TERRA DEL SOL HOUSING CO.  
4010 25TH AVE. N.W.  
DEED BOOK 30, PAGE 50  
FILED - NOVEMBER 21, 2008

DEVELOPER:  
TERRA DEL SOL HOUSING CORPORATION,  
ENGINEER:  
BLACKHAM, ROMAN, GREENER & ASSOC.  
LAS CRUCES, NEW MEXICO 88005  
505-552-2278

OWNER:  
BLACKHAM, ROMAN, GREENER & ASSOC.  
1202 W. GRYNN DRIVE, SUITE 100  
LAS CRUCES, NEW MEXICO 88005  
505-552-2278

PROPOSED LAND USE: URBAN R-1  
SINGLE-FAMILY MEDIUM DENSITY  
MULTI-FAMILY LOW DENSITY

LOCATION:  
ACRE TRACT LOCATED IN PROJECTED SECTIONS 25, TOWNSHIP 22 SOUTH, RANGE 1 EAST, N.M.P.M., IN LAS CRUCES, NEW MEXICO

APPLICABLE CODES:  
CITY OF LAS CRUCES ZONING CODE  
CITY OF LAS CRUCES UTILITY SPECIFICATIONS  
CITY OF LAS CRUCES DESIGN STANDARDS  
ALL OTHER APPLICABLE CITY, STATE AND FEDERAL CODES IN EFFECT

PROPOSED UTILITY SERVICES:  
WATER: ROMA WMA ADVOC.  
SEWER: LAS CRUCES INTERNAL NATURAL GAS AND GRANDE NATURAL GAS ASSOCIATION  
ELECTRICAL SERVICE: EL PASO ELECTRIC  
TELEPHONE: COMST  
CABLE TV: COMCAST

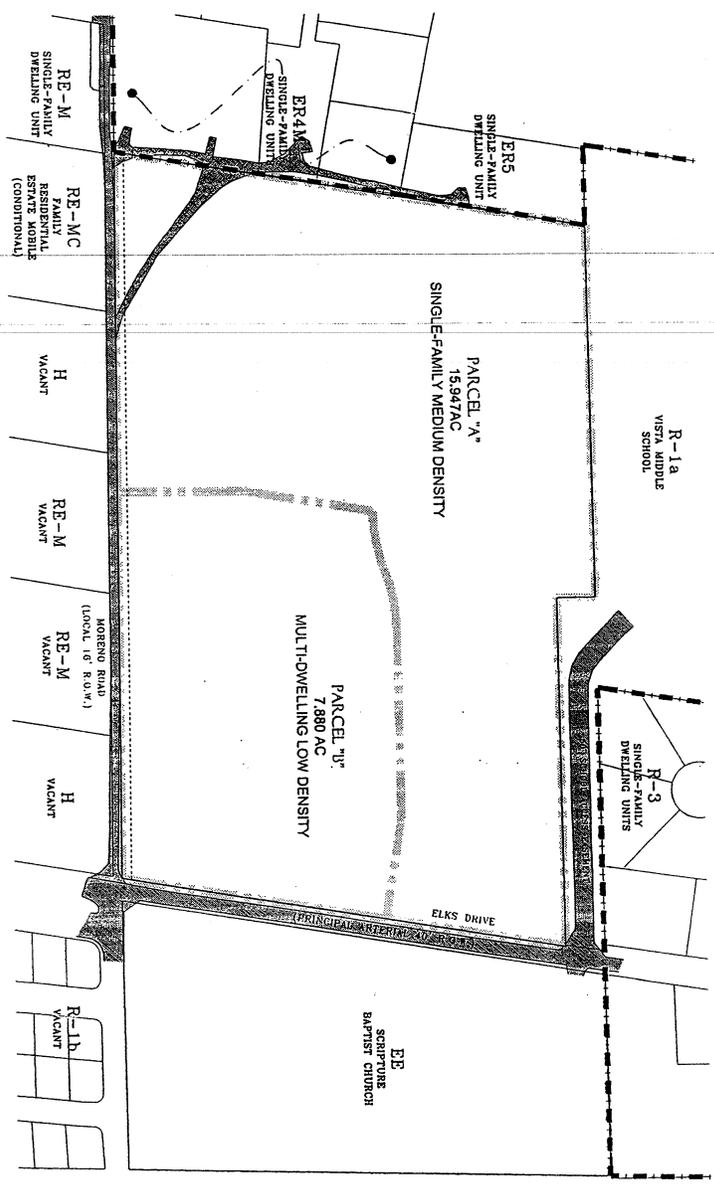
PREPARED BY:  
BLACKHAM, ROMAN, GREENER & ASSOC.  
ENGINEERING, PLANNING, SURVEYING  
108 N. G. STREET  
LAS CRUCES, NM 88001  
PHONE: 505-552-2278  
FAX: 505-552-2278  
WWW: WWW.BRG-ENR.COM  
DATE: DECEMBER 2009



ZONE CHANGE REQUEST

453

- LEGEND
- CITY LIMITS
  - SUBDIVISION BOUNDARY
  - PARCEL BOUNDARY
  - EXISTING PAVED ROADS
  - EXISTING DIRT ROADS



I-25

SHEET NO. <b>2</b>	PROJECT TITLE <b>PASEO DEL ORO PHASE III SUBDIVISION</b>	BRG BLACKHAM, ROMAN, GREINER AND ASSOCIATES, INC. ENGINEERING - PLANNING - SURVEYING 1203 AVILA BLVD. MARK LVL. - LAS CRUCES, NM 88005 - (505) 252-2278 - (505) 252-9586 (FAX)	ENGINEER'S STAMP	REFERENCES
			DATE	REVISIONS



## City of Las Cruces

### DEVELOPMENT REVIEW COMMITTEE (DRC) AGENDA FOR WEDNESDAY, JANUARY 6, 2010

The Development Review Committee (DRC) will consider the following agenda on **Wednesday, January 6, 2010 at 9:00 A.M.**, in the City Council Chambers located at City Hall, 200 North Church Street, Las Cruces, New Mexico.

#### I. CALL TO ORDER

#### II. APPROVAL OF MINUTES – December 16, 2009

#### III. OLD BUSINESS – None

#### IV. NEW BUSINESS

##### 1. S-09-033 Paseo del Oro Phase 3, Master Plan

- A request for approval of a master plan known as Paseo Del Oro Phase 3. The subject property is comprised of 30.87 ± acres and is zoned H and A-1 (Holding and Flood Control from 1981 Zoning Code).
- The master plan proposes 15.95 ± acres of single-family residential uses with a maximum of 69 dwelling units and 7.88 ± acres of multi-dwelling residential uses with a maximum of 72 dwelling units.
- The subject property is located at the intersection of Elks Drive and Moreno Road.
- Submitted by BRG Engineering for Tierra Del Sol Housing Co. and Scripture Baptist Church, property owners.

##### 2. PUD 09-08 and 09-09 Metro Verde PUD Amendment and Final Site Plan

- A request for approval of a Major Amendment and Final Site Plan for the Metro Verde Planned Unit Development (PUD) located within the Sierra Norte master-planned area.
- Located south of the future extension of Dragonfly Avenue, north of Arroyo Road and traversing the future extension of Sonoma Ranch Boulevard.
- Submitted by Denton Ventures, Inc. for Brightview Land Company.

#### V. ADJOURNMENT

The City of Las Cruces does not discriminate on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, or disability in the provision of services. The City of Las Cruces will make reasonable accommodation for a qualified individual who wishes to attend this meeting. Please notify the City Community Development Department at least 48 hours before the meeting by calling 528-3043 (voice) or 528-3016 (TTY) if accommodation is necessary. This document can be made available in alternative formats by calling the same numbers list above.

**DEVELOPMENT REVIEW COMMITTEE**

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Following are the verbatim minutes of the City of Las Cruces Development Review Committee meeting held on Wednesday, January 6, 2010 at 9:00 a.m. in the Las Cruces City Council Chambers, 200 North Church Street, Las Cruces, New Mexico.

**DRC PRESENT:** Cheryl Rodriguez, Community Development  
Tom Murphy, MPO  
Meei Montoya, Utilities  
Mark Johnston, Facilities  
Mark Dubbin for Travis Brown, Fire Dept.  
Claudia Diaz for Loretta Reyes, Public Works  
Natashia Billey for Loretta Reyes, Public Works

**STAFF PRESENT:** Jennifer Robertson, Community Development  
Adam Ochoa, Community Development  
Gary Hembree, Community Development  
Catherine Duarte, Land Management  
Bonnie Ennis, Recording Secretary

**OTHERS PRESENT:** Albert Davalos, Tierra Del Sol Housing Corp.  
Chris McMillan, BRG Engineering  
Matt Kenney, DVI  
John Moscato, Brightview Land Co.

**I. CALL TO ORDER (9:04 am)**

Rodriguez: Go ahead and call this meeting to order for Wednesday, January 6<sup>th</sup>.  
It's approximate 9:05 in the morning.

**II. APPROVAL OF MINUTES – December 16, 2009**

Rodriguez: First item on the agenda is the approval of the minutes from the December 16, 2009 meeting. Do I have a motion to approve?

Murphy: So moved. Tom Murphy.

Johnston: Second. Mark Johnston.

Rodriguez: Any discussion?

Diaz: Yes, I see corrections. Claudia Diaz, Public Works. Page six, second sentence should write, and I'm not sure whether to get with somebody directly or do you want me to spell them out?

1 Rodriguez: Just call out the page number and the line number and then we'll  
2 have you get with clerical staff after the meeting to give them your  
3 corrections.  
4

5 Diaz: Okay, page six, number 2 and number 8, a few corrections on the  
6 wording and spelling.  
7

8 Rodriguez: We'll go ahead and move to approve as amended.  
9

10 Murphy: Move to approve as amended.  
11

12 Johnston: Second.  
13

14 Rodriguez: All those in favor say aye.  
15

16 Members: Aye.  
17

18 Rodriguez: None opposed.  
19

20 **III. OLD BUSINESS - NONE**  
21

22 **IV. NEW BUSINESS**  
23

24 Rodriguez: We have a few items on today's agenda for new business. The first  
25 item is going to be the master plan for Paseo Del Oro Phase 3. This is  
26 a master plan. I know that there is a zone change request that  
27 accompanies this master plan but DRC only hears the master plan  
28 component so I will have Staff, if you can lay out the master plan,  
29 please, for the DRC Body and then present the case and then I'll have  
30 the applicant please add anything to the case. Okay? Jennifer.  
31

32 **1. S-09-033 Paseo del Oro Phase 3, Master Plan**

- 33 • A request for approval of a master plan known as Paseo Del Oro  
34 Phase 3. The subject property is comprised of 30.87 ± acres and is  
35 zoned H and A-1 (Holding and Flood Control from 1981 Zoning Code).
- 36 • The master plan proposes 15.95 ± acres of single-family residential  
37 uses with a maximum of 69 dwelling units and 7.88 ± acres of multi-  
38 dwelling residential uses with a maximum of 72 dwelling units.
- 39 • The subject property is located at the intersection of Elks Drive and  
40 Moreno Road.
- 41 • Submitted by BRG Engineering for Tierra Del Sol Housing Corp. and  
42 Scripture Baptist Church, property owners.  
43

44 Robertson: All right. Jennifer Robertson, Community Development. This is Case S-  
45 09-033, Paseo Del Oro Phase 3 master plan. This is a request for  
46 approval of the master plan. The subject property comprises of 30.87 ±  
47 acres and is zoned H and A-1; H is Holding and A-1 is Flood Control

1 from the 1981 Zoning Code. The master plan proposes 15.95 ± acres.  
 2 It's single-family residential uses with a maximum of 69 dwelling units  
 3 there and 7.88 acres of multi-dwelling residential uses with a maximum  
 4 of 72 dwellings units there. The subject property is located at  
 5 intersection of Elks Drive and Moreno Road and proposal was  
 6 submitted by BRG who is here as well as Tierra Del Sol Housing. I  
 7 believe a representative is here from Tierra Del Sol to speak on the  
 8 proposal.

9  
 10 Rodriguez: Okay, Tierra Del Sol – you can enter your name into the record and  
 11 then, if you want to add anything regarding your development  
 12 application...

13  
 14 Davalos: Okay. My name is Albert Davalos and I'm with Tierra Del Sol Housing  
 15 Corporation and basically what we're looking at is a similar  
 16 development that we did kitty-cornered to this property, Paseo Del Oro  
 17 Phases 1 and 2 and in this development we're proposing bigger lots,  
 18 wider lots and we're looking at flat units, development of single-family  
 19 home ownership units. This is part of a home-funded program also for  
 20 the single family. We've got an application of funding from the City.  
 21 And the other development, the multi-family, we're proposing to do  
 22 market units and affordable units incentive through a tax credit  
 23 program for this coming year. We were unable to submit this year  
 24 because the zoning was not completed. So we lost an opportunity of  
 25 about seven million for the multi-family.

26  
 27 Rodriguez: Okay. I know there was a question on the development application of  
 28 whether or not you were seeking R1-a zoning or the R-1b zoning. The  
 29 master plan that went through the review process was looking for a  
 30 high-density land uses. You're actually going to go with an R1-a zoning  
 31 so the master plan will be amended to reflect the medium-density land  
 32 uses.

33  
 34 Robertson: The master plan has been resubmitted to reflect that zoning and, in  
 35 addition, there was no change to the land use table. R-1a allows for a  
 36 maximum of eight dwelling units and acre and this fits within the range  
 37 of R-1a and at kind of a medium level so they've redone it.

38  
 39 Rodriguez: Okay. We'll go around the table and I'll start with Fire.

40  
 41 Dubbin: Mark Dubbin, Las Cruces Fire Department. We have no issues. There  
 42 were a few conditions in the initial review that the developer has  
 43 agreed to. We have no issues.

44  
 45 Rodriguez: Okay. Facilities?  
 46

- 1 Johnston: Mark Johnston, Facilities. Park impact fees will apply both to the multi-  
 2 family dwelling units and the single-family dwelling units unless it  
 3 meets the criteria and I understand that you have a – you're looking for  
 4 some City support through the CDBG grant – yes?  
 5
- 6 Davalos: No. Through the Home Program.  
 7
- 8 Johnston: Through the Home Program and we do have a... it's worked out  
 9 through that program that there is some waiver and reinstatement of  
 10 park impact fees from another source, depending on how that process  
 11 goes. We would envision taking any of the proceeds from this  
 12 development and putting them into the North Las Cruces Park. We're  
 13 working with the developer on some in-kind services for the same  
 14 monetary value in Las Cruces Park so there is opportunity.  
 15
- 16 Rodriguez: Okay. MPO?  
 17
- 18 Murphy: Tom Murphy, MPO. We met with the applicant to discuss the alignment  
 19 of Elks Road. It's a Principal Arterial and requires 120' of right-of-way.  
 20 There are several constraints that are present in the area that would  
 21 preclude the applicant dedicating the entire amount. It is a portion of  
 22 Elks to the far north where it converges with the Interstate right-of-way  
 23 shortly north of this property and, from an MPO standpoint we're  
 24 comfortable with any kind of reduction that they would need but I think  
 25 the appropriate instrument will be the preliminary plat. But just so that  
 26 the P & Z is aware of the situation at this level is that the full 120' right-  
 27 of-way MPO is comfortable with not receiving that in this location.  
 28
- 29 Rodriguez: Okay. Moreno is a Local?  
 30
- 31 Murphy: Moreno is a Local.  
 32
- 33 Rodriguez: Thank you. Utilities?  
 34
- 35 Montoya: Meei Montoya. We already approved the plan with two conditions. I  
 36 would just like to repeat one of the conditions which is the off-site gas  
 37 main extension must be included as part of the construction drawings  
 38 and final plat review. And I have gotten some return commitments from  
 39 the developer for this gas main extension work so with that, we are  
 40 okay with this.  
 41
- 42 Rodriguez: Public Works?  
 43
- 44 Billey: Public Works would just like to state that the right-of-way acquisition for  
 45 both Elks and Moreno, in order to meet Design Standards, it is the  
 46 responsibility of the developer for that acquisition. That's all.  
 47

- 1 Rodriguez: And all the drainage concerns have been resolved?  
 2  
 3 Billey: Yes.  
 4  
 5 Rodriguez: Okay. And Community Development has no other outstanding issues?  
 6  
 7 Robertson: Nope.  
 8  
 9 Rodriguez: Okay, then do I have a motion to approve the master plan for Paseo  
 10 Del Oro Phase 3.  
 11  
 12 Dubbin: So moved. Mark Dubbin.  
 13  
 14 Montoya: Second. Meei Montoya.  
 15  
 16 Rodriguez: All those in favor say aye.  
 17  
 18 Members: Aye.  
 19  
 20 Rodriguez: Those opposed? Seeing none this will be recommended for approval  
 21 to the Planning and Zoning Commission, I believe, January 26<sup>th</sup>.  
 22  
 23 Davalos: Thank you.  
 24  
 25 **2. PUD 09-08 and 09-09 Metro Verde PUD Amendment and Final Site**  
 26 **Plan**  
 27 • A request for approval of a Major Amendment and Final Site Plan for  
 28 the Metro Verde Planned Unit Development (PUD) located within the  
 29 Sierra Norte master-planned area.  
 30 • Located south of the future extension of Dragonfly Avenue, north of  
 31 Arroyo Road and traversing the future extension of Sonoma Ranch  
 32 Boulevard.  
 33 • Submitted by Denton Ventures, Inc. for Brightview Land Company.  
 34  
 35 Rodriguez: The next item on the agenda is the Metro Verde PUD. I'd like to call  
 36 Staff and the applicant up. I believe we heard this case at the  
 37 December 16<sup>th</sup> DRC as a discussion item. I know at that time there  
 38 were some outstanding issues with Utilities so instead of going into  
 39 the entire perimeter of the case as we did that last meeting, we'll just  
 40 go around the table and see if all of the outstanding review  
 41 comments have been addressed because I know that there's been  
 42 three reviews and a substantial number of meetings by the applicant  
 43 with each reviewing department. So, Utilities, I'll start with you.  
 44  
 45 Montoya: Okay. We met with the developer and the engineer right before the  
 46 holidays and the Utility Operations Engineer approved this concept  
 47 plan and the PUD amendment yesterday. Those conditions will be

1 forwarded to the Engineer and to Community Development. So with  
2 that we approve both the site plan and PUD amendment.

3  
4 Rodriguez: Okay. Public Works?

5  
6 Diaz: Claudia Diaz for Public Works. Matt, I still have some comments  
7 regarding the water harvesting. I just finished reviewing this and as I  
8 stated before Public Works is not actually in favor of your water  
9 harvesting idea and concept because we understand it will help the  
10 overall drainage but we've talked about this as far as you're not  
11 getting any credit for it and it is not used as the main way to manage  
12 the runoff. You have the regional ponds and then you have on-lot  
13 ponding for the multi-family and the commercial site. But there's still  
14 some wording on the concept plan that worries us and on the  
15 drainage report as far as when you're talking about water harvesting  
16 there's still language to, for example, I'll just read this off of page 7 on  
17 the drainage report: *and example of on-lot ponding with the elastic*  
18 *pond is provided in the appendix.* So you are still utilizing the word  
19 "on-lot" ponding but if you look in the appendix you're using it for  
20 "water harvesting."

21 So, that is the main worry in the future that whoever is reviewing  
22 the construction drawings has a concept that there is an on-lot pond  
23 somewhere on that lot but it is not a true on-lot pond. It is a water  
24 harvesting, either swale or tanks or whatever form will be used. So  
25 we're still concerned about that.

26 On the final site plan as well, sheet F-9, still using the wording  
27 "required ponding: all developments shall pond rain water at a rate of  
28 whatever it may be ... on. On-lot ponding or regional ponding can be  
29 used to address this requirement." Again, I believe you are talking  
30 about water harvesting there. Correct?

31  
32 Kenney: I think in the land uses that we use that we are talking commercial  
33 and multi-family applications that would be an on-lot pond similar to  
34 the on-lot ponding that you have in other developments, the multi-  
35 family and commercial. Matt Kenney with DVI.

36  
37 Diaz: Okay, I can see that.

38  
39 Kenney: But we're more than willing to sit down and work on the wording. It is  
40 our intention to provide regional ponding and large on-lot ponds with  
41 commercial multi-family that will address the increase in runoff  
42 consistent with Design Standards. If we've missed some wording  
43 somewhere and we need to clean it up that's perfectly fine. If there's  
44 a way to set a condition that we work with Public Works and address  
45 in the next week or so, if we can make that a condition of today's  
46 approval we'd like to pursue that way.

47

- 1 Diaz: Yes. I'm open to that idea as far as condition because we talked  
2 about it and it's just some wording and I don't want it in the future  
3 when somebody opens up the drainage report and that's what should  
4 be... and just a few clarifications. I know on the final site plan you say  
5 to "see sheet G-1" but of the concept plan. So just some references  
6 back and forth that I'd like to get cleared up so anybody looking at it  
7 in the future knows exactly... "G-1? No, that's not in here. It's in the  
8 concept plan that I need to go to and check what that requirement is."  
9 That's it.  
10
- 11 Rodriguez: Thank you. MPO?
- 12
- 13 Murphy: Tom Murphy, MPO, no outstanding issues.
- 14
- 15 Rodriguez: Facilities.
- 16
- 17 Johnston: Mark Johnston, Facilities. We did have a meeting and we're in  
18 agreement with the public versus private space, the park land, the  
19 open areas and the amenities. So we're in favor of this.
- 20
- 21 Rodriguez: Okay. Fire?
- 22
- 23 Dubbin: Mark Dubbin, Las Cruces Fire Department. We had a couple of  
24 meetings with the developer and the five comments that we had have  
25 been addressed by the developer as well as they can be on the  
26 master plan. A lot of them will be addressed during preliminary plat  
27 and construction phase but we're comfortable with the development.
- 28
- 29 Rodriguez: Okay. And Community Development, all the land uses and zoning  
30 components have been resolved?
- 31
- 32 Ochoa: Correct. Adam Ochoa, Community Development. All of the  
33 comments were addressed from review 2 and some suggestions  
34 were also changed to it, as well, so Community Development's fine.
- 35
- 36 Rodriguez: Great. Matt, do you have anything else to offer?
- 37
- 38 Kenney: No, thank you.
- 39
- 40 Rodriguez: Okay.
- 41
- 42 Diaz: Wait! I would like to just make a comment. You mentioned on the  
43 preliminary plat but there would be no preliminary plat. It would go to  
44 final plat from here on. I just wanted to make that...
- 45
- 46 Rodriguez: The final site plan would function normally as a preliminary plat so  
47 the next phase would be the final plat and I know a lot of Fire's

1                    comments can be resolved at the final plat and construction drawing  
2                    stage.  
3  
4     Dubbin:        I'm comfortable with that.  
5  
6     Rodriguez:    Do I have a motion to approve the concept plan for Metro Verde with  
7                    the condition that all outstanding issues with Public Works be  
8                    resolved prior to the Planning and Zoning Commission meeting on  
9                    January 26<sup>th</sup>?  
10

---

11    Murphy:        So moved. Tom Murphy, MPO.  
12

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13    Dubbin:        Second. Mark Dubbin.  
14  
15    Rodriguez:    All those in favor?  
16  
17    Members:      Aye.  
18  
19    Rodriguez:    None opposed. Do I have a motion to approve the final site plan for  
20                    the Metro Verde Planned Unit Development?  
21  
22    Murphy:        So moved. Tom Murphy, MPO.  
23  
24    Montoya:       Second. Meei Montoya.  
25  
26    Rodriguez:    All those in favor?  
27  
28    Members:      Aye.  
29  
30    Rodriguez:    None opposed. Then this will be forwarded to the Planning and  
31                    Zoning Commission January 26<sup>th</sup>.  
32  
33    Kenney:        Thank you very much.  
34

35    **IV. ADJOURNMENT (9:21 am)**  
36  
37    Rodriguez:    Do I have a motion to adjourn?  
38  
39    Montoya:       Motion to adjourn.  
40  
41    Johnston:      Second.  
42  
43    Rodriguez:    We are adjourned.  
44                    *Cheryl Rodriguez*  
45                    \_\_\_\_\_  
46    Chairperson  
47



# VICINITY MAP



**CASES S-09-033 and Z2796**

**PARCEL: 02-20635 and 02-30620**

**OWNER: Tierra Del Sol Housing Corporation and Scripture Baptist Church**

**ZONING: H and A-1**

0 650 1,300 2,600 3,900 5,200

Feet

*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) 528-3043.*

**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  
January 26, 2010 at 6:00 p.m.

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2  
3  
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5  
6  
7 **BOARD MEMBERS PRESENT:**

8 Charles Scholz, Chairman  
9 Godfrey Crane, Vice Chair  
10 Donald Bustos, Secretary  
11 Charles Beard, Member  
12

13 **BOARD MEMBERS ABSENT:**

14 Shawn Evans, Member  
15 Ray Shipley, Member  
16

17 **STAFF PRESENT:**

18 Cheryl Rodriguez, Development Services Administrator  
19 Adam Ochoa, Acting Planner  
20 Gary Hembree, Senior Planner  
21 Jennifer Robertson, Planner  
22 Robert Gonzales, Las Cruces Fire  
23 Steve Mims, Las Cruces Fire  
24 Jared Abrams, CLC Legal Staff  
25 Becky Eich, Recording Secretary  
26

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

28  
29 Scholz: Good evening, and welcome to the Planning and Zoning Commission for  
30 Tuesday, January 26th. I'm Charlie Scholz the Chair of the Commission.  
31 Let me introduce the other members of the Commission. On my far right  
32 is Commissioner Crane, he represents District 4, he's our Vice Chair.  
33 Next is Commissioner Bustos who represents District 3, and he's our  
34 Secretary. Next to me is Commissioner Beard, he represents District 2,  
35 and I represent District 6.  
36

37 **II. APPROVAL OF WORK SESSION MINUTES - December 15, 2009**

38  
39 Scholz: Okay, the first thing on our agenda is the approval of the minutes. Are  
40 there any additions or corrections to the minutes? Okay, I have a couple.  
41 Page 3, line 6, it should say Tuesday not Thursday, that was a comment  
42 on our current meeting on the 26th. Page 33, line 20, if I can find that, it's  
43 Dripping Springs and Dripping Springs should be caped, capital D, capital  
44 S.  
45

46 Beard: Which line was that?

1  
2 Scholz: It's line 20. It talks about, so it accesses Dripping Springs at the same  
3 location. They're talking about the road of course. And then page 52, line  
4 13 I think masterpiece is actually one word, rather than two words. All  
5 right. So I'll entertain a motion to accept or approve the minutes as  
6 amended.

7  
8 Crane: So moved.

9  
10 Bustos: So moved.

11  
12 Scholz: That's a tie. Is there a second?

13  
14 Beard: Second.

15  
16 Scholz: All those in favor, say aye.

17  
18 ALL COMMISSIONERS - AYE.

19  
20 Scholz: Those opposed same sign. And any abstentions? All right, the minutes  
21 are approved.

22  
23 **III. POSTPONEMENTS - None**

24  
25 Scholz: Okay, our next order of business is postponements. Are there any  
26 postponements Mr. Ochoa?

27  
28 Ochoa: No, sir.

29  
30 Scholz: No postponements.

31  
32 **IV. WITHDRAWALS**

33  
34 **1. Case Z2805:** A request for a zone change from R-1a (Single-Family Medium  
35 Density) to R-3C (Multi-Dwelling Medium Density-Conditional) for 5.00 +/-  
36 acres of property located at 2795 Roadrunner Parkway. The purpose of the  
37 zone change is to allow the use of the property as a religious institution with a  
38 child care center and school facility. Submitted by Faith Chapel Assembly of  
39 God, property owner.

40  
41 Scholz: There is one withdrawal though I note on our agenda. Do you want to  
42 explain that?

43  
44 Ochoa: Yes, sir. Adam Ochoa for Community Development for the record. Just  
45 for the record there is going to be one withdrawal tonight, Case Z2805 has  
46 been formally withdrawn by the applicant.

1  
2 Scholz: Okay, this was the case of asking for a change in zoning at 2795  
3 Roadrunner Parkway for a use of the property as a childcare center, is  
4 that right?

5  
6 Ochoa: That is correct sir.

7  
8 Scholz: Okay, so that's been withdrawn. So if you came to talk about Z2805 it has  
9 been withdrawn.

10  
11 **V. CONSENT AGENDA**

12  
13 **1. Case Z2808:** A request for a zone change from R-4 (Multi-Dwelling High  
14 Density & Limited Retail and Office) to O-2C (Office, Professional-Limited  
15 Retail Service-Conditional) for 0.300 +/- acres located at 1020 S. Main Street.  
16 The proposed zone change will bring the property into zoning compliance  
17 with the 2001 Zoning Code, as amended. Submitted by Dana M. Kyle on  
18 behalf of Joel & Suzanne L. Newton, property owners.

19  
20 **2. Case Z2796 Moved to new business**

21 **3. Case S-09-033 Moved to new business**

22  
23 Scholz: Okay, the next item is what we call the consent agenda and here's how  
24 the consent agenda works. We ask if there's anyone in the audience or  
25 anyone on the staff or anyone on the Commission who wants to speak to  
26 Case Z2808 or to Case Z2796 or to Case S-09-033. And if there is, we'll  
27 put those on the new business agenda in the first place, but if there is not  
28 we'll just take one vote on these and then they will be approved. Okay. Is  
29 there anyone going to speak to Case Z2808? Okay, how about Case  
30 Z2796 or Case S-09-033? Yes, ma'am.

31  
32 Scholz: Sorry, you'll have to come up to the microphone ma'am and identify  
33 yourself.

34  
35 Waugh: My name is Lee Waugh. And I'm very concerned about ... I live right in  
36 the middle of all this and I'd like to know more about ... great big house  
37 right behind me, you won't be able to see out of the window. Which case  
38 is this specifically ma'am?

39  
40 Ochoa: It'll be for Case Z2796 and S-09-033.

41  
42 Scholz: Okay. Fine. I'll put those on the ... I'll give you a chance to speak to  
43 these when we have the audience participation.

44  
45 Waugh: I don't have to get up again.

46

1 Scholz: No, you can use the handheld mike, that'll be fine. Okay, we'll make Case  
2 Z2796 and Case S-09-033 as the first part of new business. Okay. Then  
3 the only item left on the consent agenda is Case Z2808. I'll entertain a  
4 motion to accept the consent agenda as amended.  
5

6 Bustos: So moved.  
7

8 Scholz: A second.  
9

10 Beard: Second.  
11

12 Scholz: Okay all those in favor say aye.  
13

14 ALL COMMISSIONERS - AYE.  
15

16 Scholz: Those opposed same sign. And any abstentions. All right, the consent  
17 agenda passes.  
18

19 **VI. OLD BUSINESS - NONE**  
20

21 **VII. NEW BUSINESS**  
22

23 Scholz: Now I want to revise ... we don't have any old business. I want to revise  
24 the new business agenda for a couple of reasons, normally what we do in  
25 January meetings is read what we call the Statement of Reasonable  
26 Notice. We're required to do that once a year. That's the statement that's  
27 posted when we have zoning changes and that sort of thing.  
28 Unfortunately, it was omitted from our package and so someone from the  
29 staff is running back to the office to pick that up. So what I want to do is  
30 move that to the end of the meeting. And the election of officers, because  
31 we do election of officers in January as well, I'm also going to move to the  
32 end of the meeting so we can get to the ... what I consider the important  
33 parts of the meeting that is discussing the cases. So I'll entertain a motion  
34 to revise the agenda.  
35

36 Beard: So moved.  
37

38 Scholz: Okay. Is there a second?  
39

40 Bustos: Second.  
41

42 Scholz: All those in favor say aye.  
43

44 ALL COMMISSIONERS - AYE.  
45

1 Scholz: And those opposed same sign. All right. So we've moved items 1 and 2  
2 to the end of the meeting right before other business.  
3

4 **Case Z2796:** A request for a zone change from H and A-1 (Holding, Flood  
5 Control from 1981 Zoning Code) to R-1a (Single-Family Medium Density) for  
6 15.95 +/- acres and R-2 (Multi-Dwelling Low Density) for 7.88 +/- acres for a  
7 total of 23.83 +/- acres of land located at the intersection of Elks Drive and  
8 Moreno Road. The purpose of the zone change request is to facilitate a  
9 proposed single- and multi-family residential development known as Paseo  
10 Del Oro Phase 3. Submitted by BRG Engineering for Tierra Del Sol Housing  
11 Co. and Scripture Baptist Church, property owner.

12  
13 **Case S-09-033:** A request for approval of a master plan known as Paseo Del  
14 Oro Phase 3. The subject property comprises 30.87 +/- acres and is zoned H  
15 and A-1 (Holding, Flood Control from 1981 Zoning Code and Flood Control).  
16 The applicant is seeking a zone change for the subject property to R-1a  
17 (Single-Family Medium Density for 15.95 +/- acres and R-2 (Multi-Dwelling  
18 Low Density) for 7.88 +/- acres. The master plan proposes 15.95 +/- acres of  
19 single-family residential with a maximum of 69 dwelling units and 7.88 +/-  
20 acres for multi-dwelling residential uses with a maximum of 72 dwelling units.  
21 The subject property is located at the intersection of Elks Drive and Moreno  
22 Road. Submitted by BRG Engineering for Tierra Del Sol Housing Co. and  
23 Scripture Baptist Church, property owners.  
24

25 Scholz: Okay, so our first item tonight then is going to be Case Z2796 and Case  
26 S-09-033. I assume Ms. Robertson that you'll want us to suspend the  
27 rules so we can discuss both of these at the same time?  
28

29 Robertson: Yes, Chairman Scholz.  
30

31 Scholz: Okay. That's what we'll do. Is there a motion to suspend the rules so we  
32 can discuss Z2796 and S-09-033 at the same time?  
33

34 Crane: So moved.  
35

36 Scholz: Is there a second?  
37

38 Bustos: Second.  
39

40 Scholz: All those in favor say aye.  
41

42 ALL COMMISSIONERS - AYE.  
43

44 Scholz: Those opposed same sign. Okay, we've suspended the rules. Have at it.  
45

1 Robertson: Thank you Chairman Scholz, Commissioners. This is Case S-09-033 and  
2 Z2796. Paseo Del Oro Phase 3 master plan and zone change. Here's a  
3 quick rundown of the case specifics for Case 09-033, the master plan.  
4 The proposed development is located at the northwest corner of Elks  
5 Drive and Moreno Road. It encompasses approximately 30.87 +/- acres  
6 and the current land use is vacant. Planning parcel A, and I'll go ahead  
7 and get to a copy of that master plan in just a moment in the next slide,  
8 but just to give you a rundown of what the parcels, there are two planning  
9 parcels; planning parcel A is the proposed single-family residential area  
10 and incorporates a little over 15 acres. It also proposes a maximum of 69  
11 single-family dwelling units. In addition, it will accommodate a regional  
12 pond for the runoff created by the single-family residential development.  
13 In order to accommodate the drainage, the developer is proposing to  
14 construct a drainage channel to divert the original flow of the North Fork  
15 Moreno Arroyo to the regional pond. On your master plan and we'll see  
16 this in the next slide in just a moment, you'll see the drainage tract plan  
17 lined out in the southern portion of the properties.

18 The property owned by Scripture Baptist Church which is just to the  
19 east incorporates this drainage tract, but that particular property or  
20 property owner are not asking for any kind of development approvals or  
21 zone changes or anything to that degree. They're merely incorporating  
22 their property for the development channel to be constructed on. The  
23 maintenance of that pond, the regional pond just discussed will be the  
24 responsibility of the developer until the city accepts the dedication and  
25 maintenance of that pond. Planning parcel B is the multi-dwelling  
26 residential area and incorporates almost eight acres. It proposes a  
27 maximum of 72 multi-dwelling units. And the developer intends to utilize  
28 on-lot ponding to contain runoff for the multi-dwelling residential area.  
29 Access to the subdivision is being provided through Elks Drive which is a  
30 principal arterial. Principal arterial according to the MPO Thoroughfare  
31 Plan requires 120-foot total of right-of-way. And Moreno Road, which is a  
32 local road and it's going to require 50-feet of right-of-way. Park impact  
33 fees will be assessed for all phases of this development. And utilities will  
34 be provided in the form of electric, El Paso Electric will be providing that  
35 service. Gas will be provided by the City of Las Cruces. Water will be  
36 provided by Doña Ana Mutual. And sewer will be provided by the city.

37 Here's the copy of the master plan that I was talking to you about.  
38 Planning parcel A incorporates this back area here, and incorporates  
39 almost 16 acres of land. Planning parcel B which is the multi-dwelling  
40 residential area incorporates this area here and is just about eight acres of  
41 land. This is Elks Drive here, the principal arterial right here, and then this  
42 is Moreno Road down to the south here. The drainage tract flows from its  
43 source here just outside of I-25 corridor and flows across the Scripture  
44 Baptist Church property all the way to the regional pond which is proposed  
45 to be down in this corner, this area here.

1           The case specifics for the zoning request. The zoning of the  
 2 master plan area must adhere to the boundaries that the proposed single-  
 3 family and multi-dwelling residential uses. The land is currently vacant  
 4 and zoned H which is holding, and A-1 which is a holdover from the 1981  
 5 Code which is for flood control. As noted earlier, no zone changes are  
 6 requested for the property owned by Scripture Baptist Church. They're  
 7 only being incorporated because there's a drainage tract proposed to be  
 8 constructed on their property. They are also in concurrence with this, they  
 9 have signed the application for the master plan. They're obviously aware  
 10 and in concurrence. The proposed zoning includes 15.95 +/- acres of R-  
 11 1a, single-family medium density residential, and 7.88 +/- acres of R-2  
 12 multi-dwelling low density residential. Here's the zoning request in a more  
 13 simplified form. Here's the R-2 area proposed for multi-dwelling low  
 14 density, and here is the R-1a area proposed for single-family medium  
 15 density.

16           Here's a vicinity map of the area. This is the subject property here.  
 17 This is Moreno Road. Here's the bigger I-25 corridor coming up here.  
 18 And Elks Drive is right here. This area right here is Ferguson. And this  
 19 actually is the site of the school that's just north of the subject property.  
 20 Yes.

21  
 22 Scholz:       Ma'am, you'll have a chance to speak when we allow the public to speak.  
 23 Just hang on.

24  
 25 Robertson:   Here's an aerial photo of the property showing Moreno Road right here  
 26 and Elks Drive right here. There is some residential to the west and to the  
 27 south here. Here's an MPO Thoroughfare Map, as you'll notice Elks Drive  
 28 is a principal arterial and Moreno Road is simply just a local roadway.  
 29 Staff and DRC recommendation, DRC, Development Review Committee  
 30 recommendation for Case S-09-033. It was approved by the DRC on  
 31 January 6, 2010. The DRC reviews master plans from an infrastructure,  
 32 utilities, and public improvement standpoint. The DRC had no issues with  
 33 this proposal and after discussion recommended approval of the master  
 34 plan. The recommendation for Case Z2796, the zone change request is  
 35 consistent with the proposed master plan. Staff has reviewed the zone  
 36 change and recommends approval with the following condition, one, that  
 37 all new utilities be placed underground.

38           Here are the Commissions' options to approve the master plan and  
 39 zone change request as recommended by DRC and staff. I guess before I  
 40 move on further I would request that before you make any choices, you go  
 41 ahead and unsuspend the rules and vote on these two items separately.

42  
 43 Scholz:       Of course.

44  
 45 Robertson:   Number two, you can approve the master plan and zone change request  
 46 as recommended by DRC and staff with additional conditions as

1 determined appropriate by yourselves, or three deny the master plan and  
 2 zone change request. I will stand for questions that yourselves or the  
 3 public may have. The developer also has a presentation for you and  
 4 again we'll both stand for questions at the end of that.  
 5

6 Scholz: Okay. Questions for this lady? No. I have one. Will they be required to  
 7 improve their portion of Elks?  
 8

9 Robertson: Yes.

10 Scholz: Okay.

11  
 12  
 13 Robertson: In terms of subdivision improvements, the regular requirements apply.  
 14 MPO Thoroughfare adjacent, in the design standards there's a set amount  
 15 of improvement that will have to happen for their pro-rata share and the  
 16 same goes for Moreno.  
 17

18 Scholz: Okay. No other questions? All right, may we hear from the developer  
 19 please?  
 20

21 McMillan: Good evening Commissioners. Chris McMillan with BRG Engineering.  
 22 I'm representing the developer. Ms. Jennifer mentioned as Paseo Del Oro  
 23 Phase 3, on behalf of Tierra Del Sol Housing Corporation. Again, just  
 24 some of the basics that she already told, I won't spend a lot of time on it.  
 25 The main thing I'd like to focus on this slide though is Tierra Del Sol, for  
 26 those of you that may not be familiar, provides affordable housing for the  
 27 Las Cruces area as well as Doña Ana County and throughout the area.  
 28 They've done similar projects throughout the area that you may be familiar  
 29 with that I'll talk about in a little bit. Again, utilities are underground. We  
 30 will be participating in the City's park fees, impact fees for parks. The  
 31 project is close to Columbia Elementary and Vista Middle School.  
 32 Something that we've proposed is a pedestrian walkway through the  
 33 subdivision which would allow pedestrian access to the schools without  
 34 having to traverse Elks Drive. So that's a safety feature there.

35 Again as far as the future drainage features, what we're proposing  
 36 is to realign the flood zone into a confined channel and this would undergo  
 37 the FEMA CLOMR LOMR process so that the maps would actually be  
 38 amended and revised. A regional retention/detention pond in the  
 39 southwest corner of the property would attenuate peak flows to at or below  
 40 to pre-development levels. That would be for the single-family housing  
 41 area. And then what we're proposing is on lot ponding would be used for  
 42 the multi-family housing areas. Again, the zone change, you can see,  
 43 Vista Middle School just to the north of us. There are some residential  
 44 areas to the north of us. Scripture Baptist Church is our neighbor on the  
 45 east, and they are as Ms. Robertson mentioned, they are in accordance  
 46 with this project.

1 Again, some of the similar developments, Paseo Del Oro Phases 1  
 2 and 2 are on Elks Club Road kind of catty-corner from where this project  
 3 is. Tierra Del Sol has done projects in Anthony and again throughout Las  
 4 Cruces providing affordable housing. Again, the master plan  
 5 neighborhood would allow single and multi-family residences. We are  
 6 proposing 69 single-family units and 72 multi-family units to allow for  
 7 development. Again, it was recommended for approval by the DRC on  
 8 January 6th. If you have any questions I'd be happy to take those.  
 9

10 Scholz: Okay. Questions for this gentleman? I just have one, what is your  
 11 definition of affordable?

12  
 13 McMillan: Well I know that there are varying definitions. Tierra Del Sol does actually  
 14 participate in affordable housing. So as far, I don't know exactly what the  
 15 threshold is, I know its certain percentage of income. But I know that  
 16 Tierra Del Sol does participate.  
 17

18 Scholz: Okay, I was thinking you know what's the cost?  
 19

20 McMillan: That I don't know. Again, it is qualified as affordable housing and I know  
 21 they have some sweat equity programs and the developer was not  
 22 actually able to make it tonight. He would better be able to speak to costs  
 23 and things like that.  
 24

25 Scholz: Okay. Any other questions Commissioners? All right. We could hear  
 26 from the public.  
 27

28 Waugh: I have a question.  
 29

30 Scholz: Sure.  
 31

32 Waugh: Lee Waugh, address 4470 Codorniz. Of course I got this in the mail. I  
 33 was trying to see what they were going to build right behind my house. I'm  
 34 in the county. If I jump over my fence, the back, I'm in the city. And then  
 35 there's all that area back behind me and which zoning will that be, single-  
 36 family homes or multi-homes?  
 37

38 Scholz: Okay, Ms. Robertson can you speak to that?  
 39

40 Robertson: Chairman Scholz, Commission, the area buffering the city limits which is  
 41 where you're at, is proposed for R-1a which is single-family. Single-family  
 42 homes. No apartments, no multi-dwelling, its single-family homes. Like  
 43 what you live in.  
 44

45 Waugh: I've been there 26 years. Okay. Thank you.  
 46

1 Scholz: Okay. Thank you. Anyone else from the public wish to comment on this?  
2 Okay, I'm going to close it to public discussion then. Gentlemen what's  
3 your pleasure? Commissioner Crane.  
4  
5 Crane: I move that we approve this zone change with the conditions as suggested  
6 by the staff.  
7  
8 Scholz: Okay, we're going to have rise from the ...  
9  
10 Crane: Restore the rules.  
11  
12 Scholz: Restore the rules, right. I'll entertain a motion to restore the rules.  
13  
14 Crane: So moved.  
15  
16 Scholz: Is there a second?  
17  
18 Bustos: Second.  
19  
20 Scholz: Okay, it's been moved and seconded, all in favor say aye.  
21  
22 ALL COMMISSIONERS - AYE.  
23  
24 Scholz: Those opposed same sign. The rules are restored. Then we deal with  
25 each case separately. So first of all it's Case S-09-033. I'll entertain a  
26 motion to accept.  
27  
28 Crane: So moved.  
29  
30 Scholz: Is there a second?  
31  
32 Bustos: Second.  
33  
34 Scholz: Okay, it's been moved and seconded. I'll call the roll. Commissioner  
35 Crane.  
36  
37 Crane: Aye discussion and findings.  
38  
39 Scholz: Commissioner Bustos.  
40  
41 Bustos: Aye findings and discussion.  
42  
43 Scholz: Commissioner Beard.  
44  
45 Beard: Aye findings and discussions.  
46

- 1 Scholz: And the chair votes aye for findings, discussion, and site visit. Okay, on  
 2 Case Z2796, I'll entertain a motion to accept.  
 3  
 4 Crane: So moved.  
 5  
 6 Scholz: All right, is there a second?  
 7  
 8 Bustos: Second.  
 9  
 10 Scholz: It's been moved and seconded, I'll call the roll. Commissioner Crane.  
 11  
 12 Crane: Aye findings and discussion.  
 13  
 14 Scholz: Commissioner Bustos.  
 15  
 16 Bustos: Aye findings and discussions.  
 17  
 18 Scholz: Commissioner Beard.  
 19  
 20 Beard: Aye findings and discussions.  
 21  
 22 Scholz: And the chair votes aye, findings, discussion, and site visit. Okay, those  
 23 things are approved. Thank you very much.  
 24

25 **3. Case PUD-09-08:** A request for approval for a Major Amendment to the  
 26 Sierra Norte master plan and a request for approval for a concept plan of a  
 27 proposed Planned Unit Development (PUD) known as Metro Verde. Planning  
 28 Parcels 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, and part of Planning  
 29 Parcels 29, and 37 of the Sierra Norte master plan are proposed to be  
 30 amended with a concept plan for Metro Verde. As part of the major  
 31 amendment there is a zone change request from multiple zoning districts to  
 32 PUD (Planned Unit Development). The purpose of the concept plan is to  
 33 develop a mixed-use development that will entail residential, commercial,  
 34 office, retail, and manufacturing land uses with a golf course. The plan shall  
 35 be developed in twenty-six (26) phases with the number of dwelling units  
 36 ranging from 2,701 to 14,922 units. The subject property encompasses 705.2  
 37 +/- acres of land and is located in the Sierra Norte area north of the future  
 38 expansion of Arroyo Road and south of the City Limits. Submitted by DVI on  
 39 behalf of Sierra Norte Land Holdings, LLC, property owner.  
 40

41 **4. Case PUD 09-09:** A request for Final Site Plan approval for a Planned Unit  
 42 Development (PUD) known as Metro Verde. The subject property  
 43 encompasses 705.2 +/- acres of land and that will be a mixed-use  
 44 development. The plan shall be developed in twenty-six (26) phases with the  
 45 number of dwelling units ranging from 2,701 to 14,922 units. The subject  
 46 property is located in the Sierra Norte area north of the future expansion of

1 Arroyo Road and south of the City Limits. Submitted by DVI on behalf of  
2 Sierra Norte Land Holdings, LLC, property owner.

3  
4 Scholz: Okay, our next piece of business is, let me find my agenda here. This is  
5 Case PUD 09-08, a request for approval of a major amendment to the  
6 Sierra Norte master plan, and Case PUD 09-09 a request for final site plan  
7 approval for Planned Unit Development and master plan. Mr. Ochoa.

8  
9 Ochoa: Mr. Chairman I ask the board to suspend the rules.

10  
11 Scholz: Okay, I'll entertain a motion to suspend the rules.

12  
13 Beard: So moved.

14  
15 Scholz: Is there a second?

16  
17 Bustos: Second.

18  
19 Scholz: It's been moved and seconded. All those in favor say aye.

20  
21 ALL COMMISSIONERS - AYE.

22  
23 Scholz: Those opposed same sign. Okay, the rules are suspended. Mr. Ochoa,  
24 it's up to you.

25  
26 Ochoa: Thank you sir. Again for the record Adam Ochoa Community  
27 Development. Last case we've got here for tonight gentlemen is PUD 09-  
28 08 and PUD 09-09, basically both cases for Metro Verde which as you can  
29 see on the vicinity map is located on the most northern part of the Sierra  
30 Norte master planned area highlighted here in the I guess off purple if you  
31 will.

32 A little background on the property, the Sierra Norte Annexation  
33 and master plan were approved in March 2006 which basically annexed  
34 about, a little over 1,900 acres into the City of Las Cruces with 57 planning  
35 parcels and various zoning designations up there. In 2008 the City  
36 Council approved the PUD or Planned Unit Development for Metro Verde  
37 for 187 acres located in the northeastern corner of the Sierra Norte master  
38 planned area as well. The original Metro Verde PUD is a mixed use  
39 development that incorporated residential, commercial, and open space/  
40 recreational land uses. In addition, in September 2007 the Planning and  
41 Zoning Commission approved the preliminary plat for a single-family  
42 residential subdivision in the same area known as The Fountains. Here is  
43 the original Sierra Norte master plan. This is the area that we're talking  
44 about, like I said the majority of it is single-family residential ... well  
45 residential and commercial is what the planning parcels were zoned for  
46 the Sierra Norte Master Plan.

1 A little case specifics on the major amendment, the proposed PUD  
 2 known as Metro Verde will now encompass 705.14 acres and is a mixed  
 3 use development that provides residential, office, commercial, and  
 4 industrial land uses with a golf course. The subject property is located  
 5 within the Sierra Norte master planned area north of the future expansion  
 6 of Arroyo Road, south of the future expansion of Dragonfly Boulevard, and  
 7 generally its west of the future expansion of Sonoma Ranch Boulevard.  
 8 The proposed PUD will be composed of nine different land use districts  
 9 that offer a wide variety of development standards and land uses. The  
 10 PUD will include a recreation center, an urban center, a village center, a  
 11 business park. It'll incorporate the future waste water treatment plant and  
 12 open space with a network of bike and pedestrian trails. Here is a concept  
 13 plan for the proposed PUD Metro Verde with the different shadings of  
 14 green and so forth are the different areas that are being proposed and  
 15 here are the different land uses shown here on the table.

16 A little more in depth into each one of the nine I guess districts that  
 17 will be available in the Planned Unit Development, U-3 which is suburban,  
 18 it's basically for single-family homes, site built homes with yards,  
 19 landscaping surrounding the home. U-4 is general urban which is  
 20 basically primarily residential with townhomes, patio homes,  
 21 condominiums, apartments, and retirement or assisted living areas. U-5a  
 22 is a recreation center. It's a mixed use center that includes residential,  
 23 office, lodging, retail, and so forth and civic uses as well. U-5b is an urban  
 24 center which has retail, lodging, multi-family uses and so forth like that.  
 25 It's more of a high density, high impact area. Village center is mixed use  
 26 structures with kind of a center common area for pedestrian friendly area  
 27 between the buildings if you will, in front of the buildings, I'm sorry, and a  
 28 big common area. SUA is a business park which basically takes in ... it's  
 29 a business park with research, development, and some light industrial  
 30 uses there.

31 Here's a land use table. The permitted uses in each one of the  
 32 different districts in Metro Verde, they range everywhere from residential,  
 33 agricultural, equestrian, some recreational, some service uses, utility  
 34 related uses, and transportation uses. Asterisks next to the A for allowed,  
 35 basically stands for that residential land uses are restricted to the second  
 36 floor and above on multi-story buildings.

37 A little more case specifics on this, Metro Verde PUD also  
 38 introduces some sustainable concepts to help the proposed development  
 39 to be labeled green. The proposed Metro Verde PUD has a phasing plan  
 40 that outlines the build out of the PUD in 26 possible phases in which the  
 41 options to build out in any order and in conjunction with each other as long  
 42 as access, secondary access, infrastructure, and fire flow issues are met  
 43 in accordance with the applicable adopted codes of the City of Las  
 44 Cruces, in other words they can't build it unless they have complete  
 45 access to it. Individual phases will also have the option to be combined  
 46 into larger phases or reduced to smaller phases. The Metro Verde PUD

1 will have direct access from the future expansion of Arroyo Road, Sonoma  
 2 Ranch Boulevard respectively. The Metropolitan Planning Organization  
 3 has classified Arroyo Road and Sonoma Ranch Boulevard as principal  
 4 arterials. In November 2009 the MPO Policy Committee changed  
 5 classification of Dragonfly Boulevard west of Sonoma Ranch Boulevard to  
 6 a local roadway that will be built out as a local roadway. In addition the  
 7 MPO Policy Committee also amended Settlers Pass to be moved slightly  
 8 west from its I guess current location, previous location, onto the  
 9 applicant's property and it will terminate at Arroyo Road rather than  
 10 terminating north of Arroyo Road at Dragonfly Boulevard.

11 Here's the MPO thoroughfare plan showing the future expansions  
 12 of, here's Dragonfly Boulevard here, Sonoma Ranch, and Arroyo Road  
 13 right here as well. Here's some of the sustainability concepts including  
 14 pervious asphalt and so forth like that. Here is a map of the phasing plan  
 15 for Metro Verde PUD, listed from A through Z. Some case specifics for  
 16 the final site plan is the developer has called out a total number of dwelling  
 17 units allowed in the PUD ranging anywhere between a little over 2,700 to  
 18 about 14,922 units. The probable build out for the dwelling units will be  
 19 approximately about 5,122 dwelling units. The proposed layout for the  
 20 final site plan is in accordance with the proposed concept plan. Any future  
 21 final plats submitted for Metro Verde PUD will be processed  
 22 administratively in accordance with the City of Las Cruces subdivision  
 23 code.

24 On January 6, 2010 the Development Review Committee or DRC  
 25 reviewed the concept plan and final site plan for the proposed Metro  
 26 Verde PUD. DRC recommends approval for the concept plan and final  
 27 site plan for the PUD known as Metro Verde. The DRC did request that  
 28 the applicant meet with city engineering staff to conclude all comments  
 29 and any recommendations prior to the Planning and Zoning Commission  
 30 meeting. I believe all outstanding comments have been resolved.  
 31 Recommendation of the Planning and Zoning Commission tonight will be  
 32 forwarded to the City Council for final consideration. Your options tonight  
 33 gentlemen for each one is to vote yes to approve the request, the request  
 34 as recommended by DRC for Case PUD-09-08 and PUD-09-09; vote yes  
 35 to the approve the request with additional conditions as deemed  
 36 appropriate by the P&Z, or vote no to deny the request, or forward to table  
 37 and postpone and direct staff accordingly. That's the conclusion of my  
 38 presentation. Applicant and representatives are here for presentation as  
 39 well. And I stand for questions.

40  
 41 Scholz: Okay. Questions for this gentleman? Commissioner Crane.

42  
 43 Crane: Quite possibly Mr. Ochoa in the large amount of material we've been given  
 44 to study, there's an answer to my question, but perhaps you can save me  
 45 a moment. Where does the water come from for irrigating the golf  
 46 course?

1  
2 Ochoa: Commissioner Crane, Mr. Chairman, I'll go ahead and let the applicant  
3 answer that sir.  
4  
5 Crane: Thank you.  
6  
7 Scholz: Okay, other questions? Okay I have one. I'm curious about Dragonfly  
8 Boulevard. In the original plan Dragonfly Boulevard continued across the  
9 top of the property as I recall. Is that right or should it actually go through  
10 the property?  
11  
12 Ochoa: Mr. Chairman, it actually goes through the property.  
13  
14 Scholz: Okay. And what was the reason for cutting off or for realigning Settlers  
15 Pass Road?  
16  
17 Ochoa: I'm sorry, forgive me, it actually runs on top of the ...  
18  
19 Scholz: On the top of the property. Yeah, that's what I thought. I thought it was  
20 the top, like the northern boundary. What was the idea of cutting off  
21 Settlers Pass Road at Arroyo instead of extending it up to Dragonfly?  
22  
23 Ochoa: Mr. Chairman to our knowledge I believe the topography restraints.  
24  
25 Scholz: Okay. It'd be too difficult to do that?  
26  
27 Ochoa: I believe so sir.  
28  
29 Scholz: Okay. Well all that was reported in our packet was that the MPO had  
30 made that change and I was wondering why they had done that. It seems  
31 to me that restricts access to one side of this property and puts more  
32 pressure on Sonoma Ranch Boulevard, and I don't know what the other  
33 access is. Perhaps the developer can enlighten us.  
34  
35 Ochoa: The developer and the applicant are here to answer any more questions  
36 you might have about that sir.  
37  
38 Scholz: Okay, good. Let us hear from the applicant.  
39  
40 Kenney: Good evening, I'm Matt Kenney from DVI here representing the land  
41 developer. We're going to go through some of the planning and urban  
42 design elements that we worked on and then also engineering and  
43 sustainability. The owner is here, Norte Land Holdings, LLC. The  
44 developer is Bright View Land Company and DVI is the planning urban  
45 design and engineering firm.

1                   So starting with the planning and urban design elements, the  
2 property is located on the northern boundary of the city limits. This is  
3 Highway 70 and this is Interstate 25. Since you were talking about the  
4 major thoroughfare plan, I guess I can go ahead and talk about that while I  
5 have this map up.

6  
7 Scholz:        Sure.

8  
9 Kenney:        I'm actually going to go to the next map. The Bureau of Land  
10 Management has put together a recreation area for the Doña Ana  
11 Mountains, so they're in the process of preserving this and they did not  
12 want Dragonfly Boulevard to cross their property. So we went ahead and  
13 made a request to formerly change the major thoroughfare plan to take  
14 Dragonfly Boulevard off of the major thoroughfare plan based on that  
15 request. A collector by definition connects two arterials and brings traffic  
16 from a neighborhood out to an arterial. So when you take Dragonfly  
17 Boulevard off of the map, this linkage no longer functions as a collector  
18 because it no longer has an arterial to connect to. In addition to that, there  
19 is a significant canyon feature that's the upper part of the Doña Ana  
20 Arroyo watershed and it was deemed appropriate to preserve that within  
21 the recreation area instead of bringing a five-lane road through there and  
22 destroying that ravine. So between the fact that it no longer would  
23 function as a collector and the topographical constraints that are there, the  
24 Policy Committee decided to take Settlers Pass off the map. Does that  
25 help answer that specific question?

26  
27 Scholz:        Well that tells me why they did it, but what my concern was access to the  
28 west side of the property.

29  
30 Kenney:        Okay, we have a development plan at the end that kind of shows our  
31 vision of how the area will built out.

32  
33 Scholz:        Okay.

34  
35 Kenney:        And I think I can show you connectivity at that point.

36  
37 Scholz:        Good. Thank you.

38  
39 Kenney:        So coming back to the overall vicinity map, you'll recall that the original  
40 Metro Verde was this 187 acres in the northeast corner. We're now  
41 expanding to the 700 acres that's the dark green, and ultimately there'll be  
42 amendments to bring in everything in the light green as well. We're  
43 starting with the area north of Arroyo Road cause it ties into the village  
44 center concept and areas south of Arroyo have a different planning  
45 concept. The village center is located in a place that serves the northeast  
46 quadrant of the City of Las Cruces and with the removal of Dragonfly

1 Boulevard the connection to Interstate 25 is Arroyo Road at the Doña Ana  
2 interchange, and so this will give a pretty easy access to the village center  
3 off of what will become at some point a major east/west connector for our  
4 city.

5 As I mentioned, the BLM is working on a Doña Ana Recreation  
6 area. They might possibly include in the recreation area the states land  
7 you see in blue. They might trade it at some point. The schools are being  
8 constructed on Peachtree and Jornada Road, just as a reference point for  
9 you there. As Adam mentioned, this was the original planning primarily  
10 single-family with some commercial nodes. And the preliminary plats that  
11 had come forward had shown a mapping similar to this with primarily  
12 single-family residential around the golf course. What we're proposing is  
13 to use the smart growth principals of the original planned unit development  
14 and create a mixed use neighborhood containing the commercial activity  
15 village that supports the existing northeast, Mesa homes, a large number  
16 of golf course lots, and the vehicle oriented commercial centers. What  
17 we're really doing is returning to the way things were always built, even in  
18 Las Cruces we originally had shops on the bottom and places to live  
19 above, so that you were living where you worked. We hope to bring that  
20 tradition back.

21 Our concept plan, everything ... this is Arroyo Road here and  
22 Sonoma Ranch Boulevard. This is the village center that was approved in  
23 2008 with higher density residential uses around the village center, and  
24 then single-family areas outside of that. As we expand to a larger area it  
25 was important to us to provide commercial uses within walking or biking  
26 distance of all the residential uses so we placed a mixed use center on the  
27 southwest corner of the property as well, that possibly could become a  
28 resort area or some kind that would fit with the club house of the golf  
29 course. And then you have a mixture of different residential uses around  
30 the golf course. A commercial center at the intersection of Sonoma Ranch  
31 Boulevard and Arroyo Road, and then an employment center, for research  
32 and development, office park type uses at that intersection as well.

33 One of the other uses that we're adding is a civic use, a public use  
34 for future wastewater treatment plant the city has on their utility master  
35 plan, a location for a wastewater treatment plant and we're facilitating that  
36 in this property here, and adding additional open space for the drainage. I  
37 believe the original master plan combined the drainage function and the  
38 wastewater treatment function in one tract and we've provided an  
39 additional 10 acres for the wastewater treatment plant. In terms of your  
40 question about the water for the golf course, it's our understanding that the  
41 annexation was based on a condition that the golf course would be  
42 watered with reclaimed water from this wastewater treatment plant when  
43 the city builds it. It's obviously not there yet and it'll take a certain amount  
44 of development to get it built, but ultimately the plan is to water the golf  
45 course with reclaimed water. In the meantime, the golf is intending to drill

1 a well right adjacent to Arroyo Road and that will facilitate the city being  
2 able to prove water rights on the East Mesa over the time that it's in use.

3 Adam went through the land uses very nicely. Ultimately you figure  
4 out what land use you're in, you go down the table, if there's an A there it's  
5 allowed, if there's no A it's not allowed. And the A's that are there, the  
6 allowed uses that are there are allowed by right within that land use, so it  
7 gives you some flexibility in terms of what you can build. So we're looking  
8 to create a place that people will enjoy being. A place that people can live  
9 and work and play. And we've been to a number of these type of centers  
10 around the country, both in the west and in the east and we hope to bring  
11 this type of development to Las Cruces. The engineering and  
12 sustainability concepts are the same as what you saw in 2008 with the  
13 original Planned Unit Development, there is still a commitment for  
14 pervious concrete in the multi-family and village center parking lots which  
15 as we demonstrated before, the typical approach to parking lots with  
16 asphalt or concrete would generate somewhere around 25 acre feet of  
17 runoff off of the parking lots that you see in here. With the pervious  
18 concrete letting the water through you're probably looking at closer to five  
19 acre feet, so it's a tremendous reduction in runoff.

20 In terms of utilities, the project will be served by city water, city  
21 sewer, and Rio Grande gas. And again we maintained all the  
22 sustainability concepts that you saw in the first go round of this project.  
23 We have slides of the different concepts of energy, transportation, water  
24 conservation, waste reduction, and recycling, urban design, and green  
25 building. Our idea here is to create a wholistic approach to green building  
26 and sustainability for the area. Now that we're expanding to a much larger  
27 area, we hope to carry that on through the entire area. So in general a  
28 high density mixed use development will use less energy than typical land  
29 uses will. We have a land use approach that allows for all different modes  
30 of transportation, walking, biking, public transportation, and individual  
31 vehicles. In terms of connectivity, on The Fountains development I  
32 believe that they had not connected across the golf course, we are  
33 proposing to bring a road up the power line and connect internally on this  
34 side, so it does create a nice access loop that we've looked at it with  
35 public works and fire department and other departments within the city  
36 and they feel comfortable that we have enough connectivity with all the  
37 access loops that we have, that people have a lot of different ways in and  
38 out, both for emergencies and for daily use.

39 Again, we're planning on constructing tree lined streets within the  
40 project and using roundabouts at the intersections. This is a roundabout  
41 in Clovis, New Mexico. We're hoping to reduce the amount of water  
42 consumption and the irrigation in the project in general by the use of  
43 pervious concrete and water harvesting throughout. Again, the tree lined  
44 streets will have swales in the parkways to absorb the runoff from the  
45 street. We're looking at ways to reduce construction waste and residential  
46 waste. The developer will provide recycling on site, both for residences

1 with the blue bins but also there is a company in town that can grind up  
2 concrete and wood and other things and use it as soil treatments and  
3 erosion control measures and other things, so that you don't haul the  
4 amount of waste off to the dump that you normally have.

5 This was the village center concept that we had. We have a stage,  
6 an observation tower in the middle, some kiosks for vendors, possibly a  
7 farmers market and so forth. Angled parking on the street. The buildings  
8 are oriented in a way that there's a fairly limited number of west facing  
9 windows, so they'll be fairly energy conscious buildings just from the urban  
10 design standard point. And we have the promenade park that connects  
11 the village center and the plaza to the multi-family areas. This was just an  
12 architectural rendering of what that might look like. Again, we're trying to  
13 make a commitment to sustainability. In terms of walking and biking it's  
14 pretty easy to get from anywhere in the amendment to the village center.  
15 You have a number of different connections that are separate from  
16 vehicles and that'll be nice for walkers and bikers. The promenade park is  
17 the 40-foot wide park system that connects the village plaza to the  
18 multifamily areas and we intend to place play structures along that so that  
19 people living in high density residential have a place to send their kids and  
20 get out of the house a little bit.

21 In order to try to make this an exceptional sustainable development  
22 under the green build New Mexico program we're requiring a list of green  
23 building elements that builders will have to use. These are things that are  
24 more energy conscious above and beyond what the building code requires  
25 builders today and we hope that they'll be enticed to go ahead and join the  
26 green build New Mexico program as they build. So this is a general  
27 development plan of what we think the area might build out as. Each color  
28 on this plan represents a different housing product. You have large estate  
29 lots, you have smaller courtyard homes and casitas. You have a resort  
30 research and development park and so forth. And we think we have  
31 written a Planned Unit Development that will facilitate a really nice project.  
32 I'd be happy to answer any questions you may have.

33  
34 Scholz: Okay, Commissioner Crane.

35  
36 Crane: Thank you for the information on the golf course watering. I think an early  
37 version of this might've appeared before the Commission in my short time  
38 here as goes back just about a couple of years, but I want to bring up a  
39 point about the traffic circles that Commissioner Shipley raised on that  
40 occasion. He pointed out that the circles while they look good were too  
41 small to allow a moving van or any what is the length of a truck, about 65  
42 feet. A 65-foot truck with trailer to get around. And I wonder if the ones  
43 you're going to have are the same size ones in Clovis which look big  
44 enough. I can imagine a semi getting around that. But the original ones  
45 were kind of small. I can't see the size of that.

46

- 1 Kenney: We're using the federal highway administration's recommendations for the  
2 size of the circle and making sure that both fire trucks, buses, and semi  
3 trailers can make it around the circle. It will be a very large circle, since it  
4 is an arterial.  
5
- 6 Crane: Thank you.  
7
- 8 Scholz: All right, other questions for Mr. Kenney. Commissioner Beard.  
9
- 10 Beard: As I remember last time Moongate had water up to that area. Moongate's  
11 not going to provide any of the water for their now? Is it just going to be  
12 provided by the city?  
13
- 14 Kenney: That's correct.  
15
- 16 Scholz: Other questions? Okay, thank you Mr. Kenney. Good presentation.  
17 Appreciate it. All right, I will open this to public discussion. Is there  
18 anyone from the public who wishes to speak to this? Please come up and  
19 state your name.  
20
- 21 Pickett: Good evening Commissioners. My name is Larry Pickett. I'm an attorney  
22 here in town.  
23
- 24 Scholz: Okay, Larry would you stay a little closer to the microphone.  
25
- 26 Pickett: I shall.  
27
- 28 Scholz: Thank you.  
29
- 30 Pickett: Voice is a little hoarse any way. Arise is a point of inquiry on behalf of my  
31 old friend Louie Guariano who is a resident out in that area. And he's  
32 expressed some concerns to me that he would like to bring to the attention  
33 of this Commission. Concerns whether the applicants in this case have  
34 properly complied with the city code. What he is aware of is that there is  
35 pending litigation going on affecting the parties, many of the parties that  
36 are the subject of these developments on these two requests that are  
37 before this Commission. As you should be aware there are city codes that  
38 require applicants to disclose any pending litigation that might be  
39 occurring in that area as part of their conditions of being approved by this  
40 Commission as well as whomever might be involved in doing that. The  
41 obvious purpose of that is that if any of these developers are in the course  
42 of litigation it might affect the title, put a cloud on the title of those  
43 properties out there and create some serious problems.  
44 So the purpose is to bring that to the attention of this Commission.  
45 If you want me to cite to you the codes that specifically address the  
46 requirements of the applicants to disclose pending litigation its 37-46, 38-

1 10c. If the applicants have not made those disclosures, then it would be  
2 our position that they make them, that this matter should be tabled until it's  
3 determined whether it would have a material effect on the ability of these  
4 developers to go forward. And that's my statement to the Commission.  
5 Obviously, we would object if they haven't complied with city code.  
6

7 Scholz: Okay. Thank you. Staff are you going to respond to this?  
8

9 Rodriguez: Mr. Chairman, for the record Cheryl Rodriguez, Community Development  
10 Department. Chapter 37 and subdivision code is not germane to this  
11 development application as this is a PUD submittal. In terms for Chapter  
12 38, it is a zoning code and it is a submittal requirement. The application  
13 has been signed by the property owner and city staff is not aware of any  
14 pending litigation, so I would defer to the applicant as they did submit their  
15 application on whether or not there was any pending litigation. But city  
16 staff is not aware of any pending litigation by a court of law pending for  
17 this area. So I would defer to the applicant to properly answer that  
18 question.  
19

20 Scholz: Okay. May we hear from the applicant?  
21

22 Moscato: Good evening. John Moscato representing Sierra Norte Land Holdings.  
23 The provision that's been pointed out to me reads that any pending  
24 litigation or any final order entered by any court of law regarding the  
25 ownership of the subject property shall be disclosed. There is no pending  
26 litigation regarding the ownership of the subject property.  
27

28 Scholz: Okay. And so that's our only concern here?  
29

30 Moscato: Yes.  
31

32 Scholz: Okay. Thank you very much. Anyone else from the public wish to speak  
33 to this?  
34

35 Pickett: Alert the Commission and the city to Compass Bank versus Sierra Norte  
36 Land Holdings, Katarina LLC, Bright View Land, this is a complaint on  
37 default and foreclosure. Now you all can decide whether that falls within  
38 the definition of the city code. The western oil field supply company  
39 versus Katarina Inc, Sierra Norte Land Holdings, and the City of Las  
40 Cruces, by the way, and it also is a complaint in debt, money due, and  
41 foreclosure. I would suggest you confer with your council before you  
42 make any hasty decision on these requests.  
43

44 Scholz: Thank you Mr. Pickett.  
45

- 1 Abrams: Jared Abrams, city legal. This is kind of a fine line, but in looking at what  
2 Mr. Pickett is citing, it refers to ownership of the land. Now from what I  
3 understand he is referring to is this a suit to force close of mortgage. It  
4 doesn't per se affect ownership of the land, rather the bank is saying  
5 (*inaudible*) debt. So the developer would need to own the land pending  
6 the potential foreclosure. So my opinion would be that it wouldn't apply  
7 here.  
8
- 9 Scholz: Okay. All right. Thank you Mr. Abrams.
- 10  
11 Crane: Mr. Chairman.
- 
- 12  
13 Scholz: Yes. Commissioner Crane.
- 
- 14  
15 Crane: If I default on my house payment, the bank owns my house, doesn't it?  
16  
17 Scholz: If they foreclose, yes.  
18  
19 Crane: Surely then this matter potentially involves ownership of the land?  
20  
21 Abrams: Yes, it would potentially. I guess my point is, if you have two people who  
22 are simultaneously claiming ownership of a parcel of land one could say  
23 that's a dispute as to ownership. But until the bank actually forecloses,  
24 there is no dispute as to ownership, the bank is merely saying you're in  
25 default.  
26  
27 Crane: And foreclosure proceedings are in motion, right?  
28  
29 Abrams: I don't know. (*inaudible*) I assume I'm actually characterizing (*inaudible*).  
30 If what I understand Mr. Pickett is saying is, that it's not a dispute as to  
31 ownership per se, rather the bank is in the midst of foreclosure. It's  
32 admittedly a fine line, but I don't think that it goes to ownership. It's not a  
33 dispute as to ownership, rather it's simply foreclosure on a mortgage.  
34  
35 Crane: Sounds pretty heavy to me. I'm glad I'm not an invested in that property.  
36 It sounds to me as if you're talking about potentially clouded title.  
37  
38 Abrams: Well it doesn't cloud the title, but it could result in the bank eventually  
39 possessing the land.  
40  
41 Scholz: Right, in a change of ownership rather than ... yes, right. So what he's  
42 saying is the ownership is not in dispute, we know who owns it now. If it  
43 goes in foreclosure and the bank forecloses then the bank owns it. Okay?  
44  
45 Crane: So it's an ownership issue?  
46

- 1 Scholz: So the ownership changes. But I think as I look at it you know I don't have  
2 legal training, but you know that's what it seems to me. The ownership  
3 would merely change from the you know the present owner to the bank.  
4
- 5 Abrams: That's correct. Yes.  
6
- 7 Scholz: Right, that's what happens in foreclosure proceedings. I don't think that  
8 clouds the title or makes a contest between the owners.  
9
- 10 Crane: I probably misused the term, but okay if the bank takes over the property,  
11 is the bank going to develop it according to this plan?
- 12
- 13 Abrams: Well most likely the bank would auction it off to someone else as opposed  
14 to develop it itself, but if the bank or any person that purchases it through  
15 the foreclosure auction develops the land and they essentially step into  
16 the shoes of the subdivider. They're still bound by the city's regulations.  
17
- 18 Scholz: Right, they're bound by the zoning decision that has been made. You  
19 know, what you're doing when you buy a piece of land which has been  
20 zoned, you're buying the zoning.  
21
- 22 Abrams: Yeah, so for example if this particular subdivider, developer incur certain  
23 obligations, whoever purchases it from him whether they like those  
24 obligations or not, is bound by them.  
25
- 26 Crane: So this potential ownership change does not stall our proceedings tonight?  
27
- 28 Abrams: Well the way I interpret the ordinance that Mr. Picket is referring to, no it  
29 wouldn't.  
30
- 31 Crane: Thank you.  
32
- 33 Abrams: It might be helpful to have the applicant respond to this in more detail  
34 because obviously he's the one who knows, or presumably knows what if  
35 anything he's being sued for. But as it stands, I don't see the ordinances  
36 interfering with your decision tonight.  
37
- 38 Scholz: Okay. Would the applicant like to respond to this? Please identify  
39 yourself again when you come to the mike.  
40
- 41 Moscato: John Moscato for Sierra Norte Land Holdings.  
42
- 43 Scholz: John, thank you.  
44
- 45 Moscato: I'd like to make two points, number one the foreclosure proceeding that  
46 was referred to pertains only to the original 187 acres of the Metro Verde

1 project. That plan was approved nearly two years ago and is essentially  
 2 unchanged within what's being proposed this evening. Secondly, the bank  
 3 reported a full and complete release of mortgage and noticed that the  
 4 promissory note was paid for the mortgage on that property and that was  
 5 filed of record at the county clerk's office June of 2009. That's public  
 6 record.

7  
 8 Scholz: Okay. Does that answer your question Commissioner Crane?

9  
 10 Crane: Yes, thank you.

11  
 12 Scholz: Thank you very much. Okay, I'm going to close this to public input.  
 13 Commissioners we have to re-instate the rules. All right. So I'll entertain a  
 14 motion to reinstate the rules.

15  
 16 Crane: So moved.

17  
 18 Scholz: A second.

19  
 20 Bustos: Second.

21  
 22 Scholz: All those in favor say aye.

23  
 24 ALL COMMISSIONERS - AYE.

25  
 26 Scholz: Those opposed, same sign. And abstentions. The rules are reinstated.  
 27 Now we can move on Case PUD-09-08. All right, I'll entertain a motion to  
 28 accept, to approve, excuse me.

29  
 30 Crane: So moved.

31  
 32 Scholz: Is there a second?

33  
 34 Bustos: Second.

35  
 36 Scholz: I'll call the roll. Commissioner Crane.

37  
 38 Crane: Aye findings and discussion.

39  
 40 Scholz: Commissioner Bustos.

41  
 42 Bustos: Aye findings and discussion.

43  
 44 Scholz: Commissioner Beard.

45  
 46 Beard: Aye findings and discussions.

- 1  
2 Scholz: And the chair votes aye for findings and discussion. Okay, Case PUD-09-  
3 09. I'll entertain a motion to approve.  
4  
5 Crane: So moved.  
6  
7 Scholz: Is there a second?  
8  
9 Bustos: Second.  
10  
11 Scholz: I'll call the roll. Commissioner Crane.
- 
- 12  
13 Crane: Aye findings and discussion.  
14  
15 Scholz: Commissioner Bustos.  
16  
17 Bustos: Aye findings and discussion.  
18  
19 Scholz: Commissioner Beard.  
20  
21 Beard: Aye findings and discussions.  
22  
23 Scholz: And the chair votes aye findings and discussion. So that's approved as  
24 well. Thank you very much gentlemen for your patience.  
25
- 26 1. Adoption of Statement of Reasonable Notice as required by Section 10-15-  
27 1(B) of the Open Meetings Act, Section 10-15-1 to 10-15-4, New  
28 Mexico Statutes Annotated (1978) as amended.  
29
- 30 Scholz: Okay, our next piece of business is the adoption of the statement of  
31 reasonable notice. And Mr. Hembree, you have.  
32  
33 Hembree: I do have that which was inadvertently left out of your packet and I will  
34 distribute that to the Commissioners right now.  
35  
36 Scholz: Please do. Right and we'll take turns reading it here. Like we did last  
37 year. It's like of like an oral interpretation. Okay, I'll begin reading, I'll do  
38 the first, let's see I'll do all the whereas's, Mr. Beard if you will do the now  
39 therefore, down to section three, so in other words you have now  
40 therefore, one, and two. Mr. Bustos if you will read three and four and four  
41 actually has two parts. There are two fours. Isn't that interesting? So  
42 read three, four, and four. And then Mr. Crane if you will read five, six,  
43 and seven, and I'll close with eight. Okay. Are you ready?  
44 The City of Las Cruces Planning and Zoning Commission  
45 Commissioner Statement of Reasonable Notice for Meetings. The  
46 Planning and Zoning Commission is informed that: Whereas, the

1 Planning and Zoning Commission of the City of Las Cruces met in a public  
 2 hearing at 6:00 p.m. on January 26, 2010. Whereas, Section 10-15-1(D)  
 3 of the Open Meetings Act, Section 10-15-1 to 10-15-4, New Mexico  
 4 Statutes Annotated (1978), as amended, states that, except as may be  
 5 otherwise provided in the Constitution or the provision of the Open  
 6 Meetings Act, all meetings of a quorum of members of any board, Council,  
 7 Commission, administrative adjudicatory body or other policy making body  
 8 of a local public agency held for the purpose of formulating public policy,  
 9 discussing public business or for the purpose of taking any action within  
 10 the authority of or the delegated authority of such body, are declared to be  
 11 public meetings open to the public at all times; and.

12 Whereas, any meetings subject to the Open Meetings Act at which  
 13 the discussion or adoption of any proposed resolution, rule, regulation or  
 14 formal action occurs shall be held only after reasonable notice to the  
 15 public; and.

16 Whereas, Section 10-15-1(D) of the Open Meetings Act, as  
 17 amended, requires the Planning and Zoning Commission of the City of  
 18 Las Cruces to determine annually what constitutes reasonable notice of its  
 19 public meetings.

20 Now, therefore, the Planning and Zoning Commission of the City of  
 21 Las Cruces New Mexico States:

22  
 23 **Beard:** That for regular public hearings and special meetings, the Planning and  
 24 Zoning Commission of the City of Las Cruces generally meets the fourth  
 25 Tuesday of every month at 6:00 p.m. for the regular public hearing, and  
 26 the issuance of an agenda in accordance with this statement shall be  
 27 issued and circulated to the press, radio, and other public information  
 28 media and posted on bulletin boards of the City of Las Cruces City Hall.

29 That a public hearing is required for all requests for Zoning Code  
 30 amendments, Sign Code amendments, zone changes, annexations, initial  
 31 zonings, Planned Unit Developments, infill development proposals,  
 32 special use permits (as defined in Section 38-10 of the 2001 Zoning Code,  
 33 as amended). Notice of the public hearing shall be sent by regular mail to  
 34 all property owners, as shown by the records of the County Assessor,  
 35 within at least 200-feet of the proposed case, excluding streets, alleys,  
 36 channels, canals, railroads, and all other public rights-of-way. Notice shall  
 37 be mailed at least 10 days prior to the required hearing. Notice of the time  
 38 and place of the public hearing shall be published at least 15 days prior to  
 39 the hearing in a newspaper of general circulation in the City.

40  
 41 **Bustos:** That a public hearing is required for requests for Subdivision Code  
 42 amendments, master plans, preliminary plats, and final plates (as defined  
 43 in Chapter 37 of the Las Cruces Municipal Code). Notice of the public  
 44 hearing shall be sent by regular mail to all property owners, as shown by  
 45 the records of the County Assessor, within at least two hundred (200) feet  
 46 of the proposed case excluding streets, alleys, channels, canals, railroads,

1 and all other public rights-of-way. Notice shall be mailed at least nine (9)  
 2 days prior to the required hearing. Notice of the time and place of the  
 3 public hearing shall be published at least nine (9) days prior to the hearing  
 4 in a newspaper of general circulation in the city.

5 That a public hearing is required for all appeals to Zoning Code,  
 6 Design Standards interpretations and Subdivision Code interpretations.  
 7 Notice of the time and place of the meeting shall be published at least  
 8 fifteen (15) days prior to the hearing in a newspaper of general circulation  
 9 in the City.

10 That the Planning and Zoning Commission determines that,  
 11 reasonable notice shall include the issuance and posting of an agenda for  
 12 regular meetings by 4:00 p.m., on Friday preceding the regular Tuesday  
 13 Meeting. That reasonable notice for special meetings shall require the  
 14 issuance and posting of an agenda within 24 hours of the time of the  
 15 special meeting. All other meetings which may be called for informational  
 16 purposes at which no action is to be taken, shall be held only after written  
 17 notice issued to the news media no later than 12:00 noon of the day of  
 18 such meeting, or four hours before such meeting, whichever is greater.

19  
 20 Scholz: No, this is Commissioner Crane's.

21  
 22 Crane: Treading on my lines here.

23  
 24 Scholz: You're on a roll there.

25  
 26 Crane: That in an emergency, wherein it is necessary for the public peace, health,  
 27 safety, and welfare, a meeting may be called with as much notice as may  
 28 be possible under the conditions. That substantial compliance with any  
 29 one of the appropriate foregoing methods of giving notice shall constitute  
 30 compliance with this statement and Section 10-15-1 to 10-15-4 N.M.S.A.  
 31 1978, as amended. Nothing herein shall prevent the use of additional  
 32 means or methods of giving notice of regular or special meetings. Nothing  
 33 herein shall require new notice of any public meeting for which notice has  
 34 been given and which is recessed or adjourned. However, in recessing  
 35 the meeting, the presiding officer shall announce the meeting, the time  
 36 and the place the meeting shall resume.

37 That all such meetings are and shall be open to the public as set  
 38 forth in Section 10-15-1 to 10-15-4 N.M.S.A. 1978, as amended

39  
 40 Scholz: That if any section, paragraph, clause, or provision of this statement shall  
 41 be for any reason held to be invalid or unenforceable, the invalidity or  
 42 unenforceability of such section, paragraph or clause or provision shall not  
 43 affect any of the remaining provisions of this statement or its application to  
 44 other situations. Thus end-ith the reading. Okay, and I will sign this as  
 45 well and date it as well as the secretary will sign and date it.

46

1           2. Election of officers.  
2

3 Scholz:       That brings us to our election of officers. What I'm going to do is, we'll do  
4 the election of the secretary first. I'll ask for nominations for secretary.  
5

6 Bustos:       I nominate Mr. Beard.  
7

8 Scholz:       Okay, Commissioner Beard has been nominated. Are there any other  
9 nominations for secretary? Okay, I'll entertain a motion to close  
10 nominations for secretary.  
11

12 Crane:       So moved.  
13

14 Scholz:       Okay, nominations for secretary are closed. All those in favor of Beard as  
15 Secretary, please say aye.  
16

17 ALL COMMISSIONERS - AYE.  
18

19 Scholz:       Those opposed same sign. All right, Commissioner Beard you are our  
20 new Secretary. Okay, our next selection will be for Vice Chair.  
21 Nomination for Vice Chair is in order.  
22

23 Bustos:       Commissioner Crane.  
24

25 Scholz:       Nominates Commissioner Crane.  
26

27 Beard:       I second it.  
28

29 Scholz:       Okay, it's been nominated and I'll entertain a motion to close the  
30 nominations for Vice Chair.  
31

32 Bustos:       So moved.  
33

34 Scholz:       Okay, we've closed the nominations for Vice Chair. All those in favor of  
35 Crane for Vice Chair, please say aye.  
36

37 ALL COMMISSIONERS - AYE.  
38

39 Scholz:       Those opposed same sign. Okay, Crane is Vice Chair. Now Crane you  
40 will conduct the nomination and election of the president, or the Chair of  
41 the Commission, excuse me.  
42

43 Crane:       We're open for nominations for the Chairman of the Commission. Mr.  
44 Beard.  
45

46 Beard:       I nominate Mr. Scholz.

1  
2 Crane: Are there any other nominations? Then I'll hear a motion to close  
3 nominations.

4  
5 Bustos: So moved.

6  
7 Crane: Second.

8  
9 Beard: Second.

10  
11 Crane: All in favor aye.

12  
13 **ALL COMMISSIONERS - AYE.**

14  
15 Crane: Opposed. Mr. Scholz, we haven't actually elected you yet. Closed.  
16 Nominations are closed. Mr. Scholz is the candidate. All in favor of Mr.  
17 Scholz, aye.

18  
19 **ALL COMMISSIONERS - AYE.**

20  
21 Crane: Any opposed?

22  
23 Scholz: You thought we already did that?

24  
25 Crane: No, we did the closing of the nomination.

26  
27 Scholz: Thank you gentlemen. It'll be my pleasure to serve you again.

28  
29 **VIII. OTHER BUSINESS**

30  
31 **IX. PUBLIC PARTICIPATION**

32  
33 Scholz: Any other public participation? We don't have Mr. Binns here tonight so I  
34 don't see anybody popping up. He was very upset last month when I  
35 didn't allow additional public participation. But he did come up and tell us  
36 what he thought.

37  
38 **X. STAFF COMMENT**

39  
40 Scholz: Staff announcements?

41  
42 Rodriguez: Yes, Mr. Chairman, Commissioners. I'd just like to advise you that on  
43 February 16th, there will be a Planning and Zoning work session at 6:00  
44 p.m. and at that work session is to discuss the proposed amendments to  
45 the University Avenue Corridor plan and to the proposed changes to the  
46 Overlay District as well.

1  
2 Scholz: Will that work session be here?  
3  
4 Rodriguez: I believe so. Mr. Chairman it will be here as also for those proposed  
5 amendments are also scheduled to come before the Planning and Zoning  
6 Commission at your February 23rd regular meeting as well.  
7  
8 Scholz: Okay. It was my understanding a couple of months ago that we were  
9 thinking of suspending the February meeting because you would be  
10 moving.  
11  
12 Rodriguez: Mr. Chairman, no, we will be having our Planning and Zoning Commission  
13 meetings here for February and March, and April right now is your  
14 tentative, your first Planning and Zoning Commission in the new Council  
15 Chambers, is tentatively scheduled for the month of April.  
16  
17 Scholz: Okay. Thank you.  
18  
19 Crane: Mr. Chairman.  
20  
21 Scholz: Yes, Commissioner Crane.  
22  
23 Crane: Could you give us the date and time of that work session again please?  
24  
25 Rodriguez: Tuesday, February 16th at 6:00 p.m.  
26  
27 Crane: Thank you.  
28  
29 Scholz: And then our regular scheduled meeting will be February 23rd?  
30  
31 Rodriguez: Yes, sir.  
32  
33 Scholz: 6:00 p.m. Okay. All right, any other announcements? Thank you staff.  
34  
35 **XI. ADJOURNMENT 7:19**  
36  
37 Scholz: We are adjourned at 7:19.  
38  
39  
40  
41  
42  
43 \_\_\_\_\_  
44 Chairperson

