



# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 14 Ordinance/Resolution# 11-120 Council District: 5

For Meeting of November 15, 2010

(Adoption Date)

**TITLE:** A RESOLUTION APPROVING THE VACATION OF RIGHT-OF-WAY OF A PORTION OF CHECK COURT AND A PORTION OF DEL REY BOULEVARD. THE SUBJECT PROPERTY IS LOCATED AT THE INTERSECTION OF CHECK COURT AND DEL REY BOULEVARD. SUBMITTED BY THE CITY OF LAS CRUCES AND FORREST AND JOYCE WESTMORELAND, PROPERTY OWNERS. (S-09-059)

**PURPOSE(S) OF ACTION:** A request for approval of the vacation of right-of-way of a portion of Check Court and a portion of Del Rey Boulevard.

<b>Drafter and Staff Contact:</b> William Hamm <i>William Hamm</i>		<b>Department:</b> Public Works		<b>Phone:</b> 528-3410	
<b>Department</b>	<b>Signature</b>	<b>Phone</b>	<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Department Director	<i>[Signature]</i>	528-3125	Budget	<i>[Signature]</i>	541-2107
Other			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:

On February 21, 2006, City Council approved Resolution 06-251, which is an agreement for the construction of the Del Rey Boulevard realignment between the City of Las Cruces and Forrest Westmoreland in conjunction with the development of the Del Rey Estates Subdivision. Additionally, on January 18, 2010, an agreement was entered into between the City of Las Cruces and the developer of Del Rey Estates Subdivision for additional right-of-way dedication along what is now known as Check Court. These agreements set the foundation for the proposed replat, the dedications and vacations of roadways, and are in accordance with the approved resolution.

On September 28, 2010, the Planning and Zoning Commission approved a replat known as Westmoreland Park Subdivision. The replat included the dedication of the realigned portion of Del Rey Boulevard, additional dedication of Check Court, vacation of the southerly half of Check Court and a portion of Del Rey Boulevard, the dedication of a park and the dedication of a regional pond to the City of Las Cruces.

(Continued on Page 2)

The subject property is located at the intersection of Check Court and Del Rey Boulevard. The subject property comprises of 25 ± acres and is zoned OS-R (Open Space - Recreation), C-2 (Commercial Medium Intensity), O-1 (Office, Neighborhood – Limited Retail) and C-3 (Commercial High Intensity).

The replat dedicated the newly realigned segment of Del Rey Boulevard to the City of Las Cruces. The replat also provided additional dedication to the north of the existing right-of-way in Check Court incorporating a right-of-way width of approximately 20 feet. The replat also proposes to vacate the southerly one-half of existing right-of-way on Check Court, west of the Del Rey Boulevard realignment, and a portion of the previous Del Rey Boulevard Alignment, east of the Del Rey Boulevard realignment, to the adjacent property owner, Charles Williams. Currently, the drivable surface existing on Check Court is located in the southerly one-half of existing right-of-way on Check Court, west of the Del Rey Boulevard realignment. After Check Court, west of the Del Rey Boulevard realignment, has been reconstructed and accepted by the City, the southerly one-half of Check Court, west of the Del Rey Boulevard realignment, will be vacated by the City at its sole expense and the vacated real property will be deeded by the City to the Charles Williams Trust or its successors after the newly constructed Check Court is placed into service.

According to the Subdivision Code, the City Council shall review vacation plats when a request is made to rescind all or part of a recorded subdivision plat of land that has been legally dedicated. Any vacation of public right-of-way requires the approval of City Council.

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A" Copy of Plat.
3. Attachment "A" Planning and Zoning Commission Meeting Agenda and Minutes, September 28, 2010.
4. Attachment "B" Staff Report from Planning and Zoning Commission Meeting, September 28, 2010.

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>	<b>N/A</b>	
	Yes	<input type="checkbox"/> See fund summary below
	No	<input type="checkbox"/> If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/> Expense reallocated from: _____
		<input type="checkbox"/> Proposed funding is from a new revenue source (i.e. grant; see details below)
<input type="checkbox"/> Proposed funding is from fund balance in the <u>(# and Fund Name)</u> Fund.		
<b>Does this action create any revenue?</b>	<b>N/A</b>	
	Yes	<input type="checkbox"/> Funds will be deposited into this fund: <u>(Fund #)</u> in the amount of \$ _____ for FY__.
	No	<input type="checkbox"/> There is no new revenue generated by this action.

**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

**OPTIONS / ALTERNATIVES:**

- Vote **YES** to approve the proposed Resolution. This action affirms the Planning and Zoning Commission recommendation and will allow the vacation of the southerly one-half of existing right-of-way on Check Court, west of the Del Rey Boulevard realignment, and a portion of the previous Del Rey Boulevard Alignment, east of the Del Rey Boulevard realignment. Check Court, west of the Del Rey Boulevard realignment, upon reconstruction shall be realigned north and will represent a right-of-way width of 50 feet. The vacated areas, upon completion of the conditions described herein, shall be deeded to the adjacent property owner, Charles Williams.
- Vote **NO** to deny the proposed Resolution. This action does not uphold the recommendation made by the Planning and Zoning Commission and will prevent the City from implementing an established resolution and agreements regarding the Del Rey Boulevard Realignment Project and the City will retain the excess right-of-way.

3. Amend the proposed Resolution and vote **YES** to approve the amended Resolution. The Council may amend the Resolution as it deems appropriate.
4. Table/Postpone the Resolution and direct staff accordingly.

#### **REFERENCE INFORMATION**

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. Resolution No. 06-251
2. Ordinance No. 2324

**RESOLUTION NO. 11-120**

**A RESOLUTION APPROVING THE VACATION OF RIGHT-OF-WAY OF A PORTION OF CHECK COURT AND A PORTION OF DEL REY BOULEVARD. THE SUBJECT PROPERTY IS LOCATED AT THE INTERSECTION OF CHECK COURT AND DEL REY BOULEVARD. SUBMITTED BY THE CITY OF LAS CRUCES AND FORREST AND JOYCE WESTMORELAND, PROPERTY OWNERS. (S-09-059)**

The City Council is informed that:

**WHEREAS**, Forrest and Joyce Westmoreland and the City of Las Cruces, the property owners, have submitted a request to vacate the southerly one-half of Check Court and a portion of the previous Del Rey Boulevard alignment, and

**WHEREAS**, under Section 3-20-12, NMSA 1978, this City Council is authorized by law to approve a partial vacation of a duly recorded plat of subdivision.

**WHEREAS**, under Section 3-20-12, NMSA 1978, the right of any utility already existing shall not be affected by a vacation or partial vacation of the plat.

**WHEREAS**, pursuant to Chapter 37 (Subdivisions) of the Las Cruces Municipal Code, the City Council shall review vacation plats when a request is made to rescind all or part of a recorded subdivision plat of land that has been legally dedicated, and

**WHEREAS**, pursuant to Resolution 06-251, an agreement between the City of Las Cruces and Forrest Westmoreland in conjunction with the development of the Del Rey Estates Subdivision approving construction of the Del Rey Boulevard realignment, and

**WHEREAS**, the Development Review Committee unanimously recommended approval of the vacation request based on current policy identified within the aforementioned Resolution, and

**WHEREAS**, the Planning and Zoning Commission in a vote of 6-0 (one Commissioner absent) recommended approval of the vacation request at its regular public hearing held on September 28, 2010.

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

**(I)**

**THE** request to vacate a portion of Check Court and a portion of the previous Del Rey Boulevard alignment, be approved.

(II)

THE City staff is hereby authorized to do all deeds and Statement of Vacation necessary in the accomplishment of the herein above.

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

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

VOTE:

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

(SEAL)

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

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

Approved as to Form:

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

# WESTMORELAND PARK SUBDIVISION TOGETHER WITH A PORTION OF DEL REY BLVD DEDICATION AND VACATION

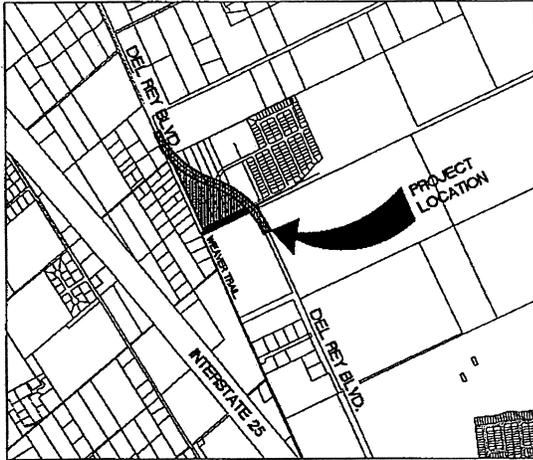
BEING A REPLAT OF PARTS OF LOTS 36 AND 37, BLOCK 15, ELEPHANT BUTTE LAND & TRUST CO. SUBDIVISION "C", CORRECTED AMENDMENT NO. 2, AS RECORDED 7/17/67 IN PLAT RECORD 10, PAGES 10-12,

OF THE DOÑA ANA CO. RECORDS,

WITHIN SECTIONS 19 & 30, T.22 S., R. 2 E., N.M.P.M. OF THE U.S.G.L.O. SURVEYS

CITY OF LAS CRUCES, DOÑA ANA COUNTY, NEW MEXICO

SEPTEMBER 15, 2010



VICINITY MAP NOT TO SCALE

**DEDICATION**

WHEREAS CERTAIN CITY OF LAS CRUCES RIGHTS-OF-WAY WERE VACATED BY COUNCIL RESOLUTION NO. 06-251 TO ALLOW REALIGNMENT OF DEL REY BOULEVARD AND CONTAINS 0.997 ACRE, MORE OR LESS. THESE RIGHTS-OF-WAY ARE LABELED AS TRACTS D AND E HEREON. ALSO PER SAID RESOLUTION, CERTAIN LANDS WERE ACQUIRED BY THE CITY OF LAS CRUCES AND AGREED TO BE NEWLY DEDICATED AS PART OF DEL REY BOULEVARD AS SHOWN HEREON AS PART OF TRACT F AND CONTAINS A TOTAL OF 1.083 ACRES, MORE OR LESS, TOGETHER WITH THE REMAINDER OF TRACT F, CONTAINING 4.284 ACRES, MORE OR LESS, BEING DEDICATED BY THIS PLAT, FOR A TOTAL OF 5.337 ACRES, MORE OR LESS.

AND WHEREAS, THE TRACT OF LAND SHOWN HEREON IS TO BE KNOWN AS WESTMORELAND PARK SUBDIVISION AND CONTAINS 16.105 ACRES OF LAND, MORE OR LESS, INCLUDING THAT AREA BEING DEDICATED AS DEL REY BOULEVARD. TRACT A AS SHOWN HEREON IS HEREBY DEDICATED TO THE CITY OF LAS CRUCES FOR PURPOSES OF A REGIONAL POND FOR RUNOFF OF DEL REY BOULEVARD. TRACT B IS HEREBY DEDICATED TO THE CITY OF LAS CRUCES FOR A PARKING OPEN SPACE.

ALL RIGHTS OF WAY SHOWN HEREON ARE DEDICATED TO THE CITY OF LAS CRUCES. UTILITY EASEMENTS ARE GRANTED FOR THE USE OF THE UTILITY COMPANIES THAT ARE SIGNATORY TO THIS PLAT AND TO THE CITY OF LAS CRUCES. ALL RULES AND REGULATIONS OF THE CITY OF LAS CRUCES AND SAID UTILITY COMPANIES WILL APPLY TO THESE EASEMENTS. ALL OTHER EASEMENTS SHOWN HEREON ARE GRANTED FOR THE USE INDICATED. NO ENCROACHMENT THAT WILL INTERFERE WITH THE USE OF EASEMENTS AS SHOWN ON THIS PLAT IS ALLOWED.

TOTAL COMBINED ACREAGE OF THE SUBDIVISION, DEDICATION AND VACATION AREAS AS SHOWN HEREON IS 25.116 ACRES. THIS SUBDIVISION HAS BEEN DEDICATED IN ACCORDANCE WITH THE UNDERSIGNED OWNERS OF THE LAND SHOWN HEREON.

**WESTMORELAND ENTERPRISES, L.L.C.**

INSTRUMENT OF TITLE: WARRANTY DEED, INSTRUMENT NO. 0628649, RECORDED OCTOBER 30, 2008.

I, THE UNDERSIGNED AND AUTHORIZED REPRESENTATIVE FOR WESTMORELAND ENTERPRISES, L.L.C., DO HEREBY SET MY HAND AND SEAL, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

WESTMORELAND ENTERPRISES, L.L.C.  
FORREST WESTMORELAND, MEMBER  
3005 DEL REY BLVD.  
LAS CRUCES, NM 88012

(STATE OF NEW MEXICO)  
(COUNTY OF DOÑA ANA)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010, BY FORREST WESTMORELAND, MEMBER WHO BEING SWORN, DID SAY THAT THEY ARE THE AUTHORIZED REPRESENTATIVE OF WESTMORELAND ENTERPRISES, L.L.C., AND THIS INSTRUMENT WAS SIGNED AND SEALED ON BEHALF OF THE CORPORATION AND TO BE THE FREE ACT AND DEED OF THE CORPORATION.

NOTARY PUBLIC:  
MY COMMISSION EXPIRES: \_\_\_\_\_

**CITY OF LAS CRUCES**

INSTRUMENT OF TITLE: WARRANTY DEED, INSTRUMENT NO. 0720157, BOOK 621, PAGES 1482-94, RECORDED JUNE 12, 2007; SPECIAL WARRANTY DEED, INSTRUMENT NO. 0736998, RECORDED NOVEMBER 1, 2007; WARRANTY DEED, INSTRUMENT NO. 0742177, RECORDED DECEMBER 21, 2007; WARRANTY DEED, INSTRUMENT NO. 0801288, RECORDED JANUARY 14, 2008.

I, THE UNDERSIGNED AND AUTHORIZED REPRESENTATIVE FOR THE CITY OF LAS CRUCES, DO HEREBY SET MY HAND AND SEAL, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

MAYOR KENNETH MIYAGISHIMA  
CITY OF LAS CRUCES  
P.O. BOX 20000  
LAS CRUCES, NEW MEXICO 88004

ATTEST: ESTHER MARTINEZ  
CITY CLERK

(STATE OF NEW MEXICO)  
(COUNTY OF DOÑA ANA)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010, BY \_\_\_\_\_ WHO BEING SWORN, DID SAY THAT THEY ARE THE AUTHORIZED REPRESENTATIVE OF THE CITY OF LAS CRUCES, AND THIS INSTRUMENT WAS SIGNED AND SEALED ON BEHALF OF THE CORPORATION AND TO BE THE FREE ACT AND DEED OF THE CORPORATION.

NOTARY PUBLIC:  
MY COMMISSION EXPIRES: \_\_\_\_\_

**UTILITY APPROVALS**

THIS PLAT HAS BEEN APPROVED FOR EASEMENT PURPOSES ONLY. THE SIGNING OF THIS PLAT DOES NOT IN ANY WAY GUARANTEE UTILITY SERVICE BY THE UNDERSIGNED COMPANIES TO THE SUBDIVISION.

**MOONGATE WATER COMPANY INC.**

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO MOONGATE WATER COMPANY INC. ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF WATER UTILITIES.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

**EL PASO ELECTRIC COMPANY**

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO THE EL PASO ELECTRIC COMPANY ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF (UNDERGROUND ONLY), (OVERHEAD ONLY), (UNDERGROUND AND/OR OVERHEAD), (UNDERGROUND AND DESIGNATED OVERHEAD FEEDER) ELECTRICAL UTILITIES.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

**COMCAST CABLE COMMUNICATIONS, INC.**

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO COMCAST CABLE COMMUNICATIONS, INC. ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF (UNDERGROUND ONLY), (OVERHEAD ONLY), (UNDERGROUND AND/OR OVERHEAD), (UNDERGROUND AND DESIGNATED OVERHEAD FEEDER) CABLE UTILITIES.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

**QWEST COMMUNICATIONS**

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO QWEST COMMUNICATIONS ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF (UNDERGROUND ONLY), (OVERHEAD ONLY), (UNDERGROUND AND/OR OVERHEAD), (UNDERGROUND AND DESIGNATED OVERHEAD FEEDER) TELEPHONE UTILITIES.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

**CITY OF LAS CRUCES APPROVALS**

THIS PLAT HAS BEEN APPROVED BY THE CITY OF LAS CRUCES AND ALL THE REQUIREMENTS FOR APPROVAL IN THE ABOVE PLAT HAVE BEEN COMPLIED WITH TO THE SATISFACTION OF THE CITY OF LAS CRUCES. SUBJECT TO ANY AND ALL CONDITIONS REQUIRED BY THE PLANNING AUTHORITY OF THIS PLAT.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
DIRECTOR OF COMMUNITY DEVELOPMENT

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
DIRECTOR OF UTILITIES

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
DIRECTOR OF PUBLIC WORKS

**CITY PLANNING AND ZONING COMMISSION APPROVAL**

THIS PLAT HAS BEEN SUBMITTED TO AND CHECKED BY THE CITY OF LAS CRUCES PLANNING AND ZONING COMMISSION. IT CONFORMS WITH THE EXPANSION OF EXISTING UTILITIES AND THOROUGHFARES AND IS IN ACCORDANCE WITH GENERAL CITY PLANNING.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
CHAIRPERSON

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
SECRETARY

**COUNTY OF DOÑA ANA, CLERK'S RECEPTION**

PLAT NO. \_\_\_\_\_ RECEPTION NO. \_\_\_\_\_  
(STATE OF NEW MEXICO) (COUNTY OF DOÑA ANA)

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE DAY OF \_\_\_\_\_, 2010, AT \_\_\_\_\_ O'CLOCK (A.M./P.M.), AND DULY RECORDED IN PLAT RECORD \_\_\_\_\_, PAGE(S) \_\_\_\_\_ FILED IN THE RECORDS OF SAID COUNTY.

BY: \_\_\_\_\_  
COUNTY CLERK

**SURVEYOR'S CERTIFICATION**

I, ROXANNE C. NIMMER, A NEW MEXICO PROFESSIONAL SURVEYOR CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THIS SURVEY AND PLAT MEET MINIMUM STANDARDS FOR SURVEYING IN THE STATE OF NEW MEXICO.

ROXANNE C. NIMMER, PS 12200 DATE OF SURVEY \_\_\_\_\_

SHEET 1 OF 2

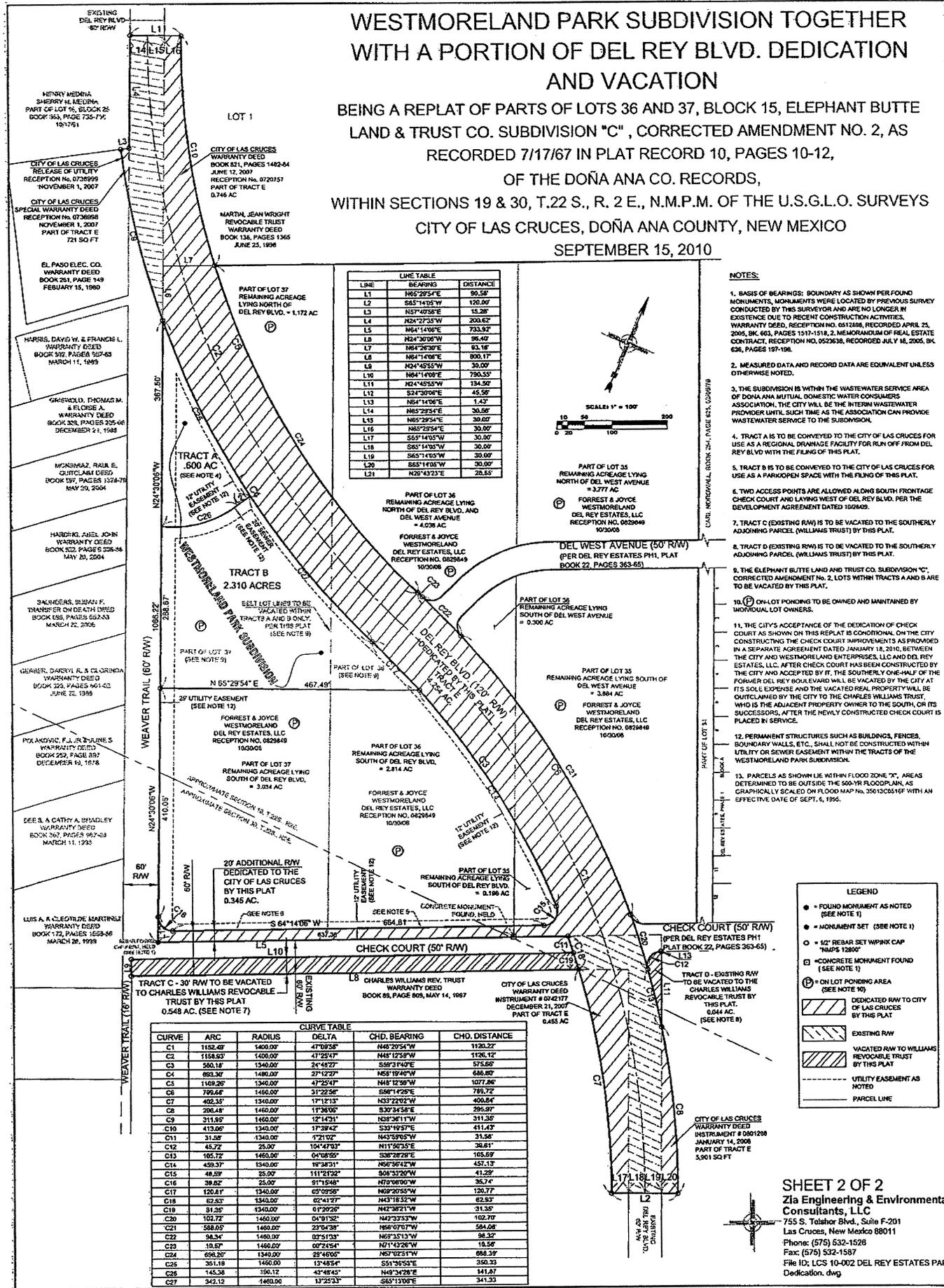
Zia Engineering & Environmental  
Consultants, LLC  
755 S. Telshor Blvd., Suite F-201  
Las Cruces, New Mexico 88011  
Phone: (575) 532-1526  
Fax: (575) 532-1587  
File ID: LCS 10-002 DEL REY ESTATES PARK/  
Dedication.dwg



# WESTMORELAND PARK SUBDIVISION TOGETHER WITH A PORTION OF DEL REY BLVD. DEDICATION AND VACATION

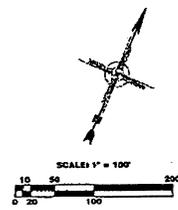
BEING A REPLAT OF PARTS OF LOTS 36 AND 37, BLOCK 15, ELEPHANT BUTTE LAND & TRUST CO. SUBDIVISION "C", CORRECTED AMENDMENT NO. 2, AS RECORDED 7/17/67 IN PLAT RECORD 10, PAGES 10-12, OF THE DOÑA ANA CO. RECORDS, WITHIN SECTIONS 19 & 30, T.22 S., R. 2 E., N.M.P.M. OF THE U.S.G.L.O. SURVEYS

SEPTEMBER 15, 2010



**LINE TABLE**

LINE	BEARING	DISTANCE
L1	N65°29'54"E	80.58'
L2	S65°14'05"W	120.00'
L3	N57°40'58"E	15.28'
L4	N27°25'00"W	200.62'
L5	N64°14'06"E	733.92'
L6	N24°30'35"W	96.40'
L7	N64°28'30"E	63.16'
L8	N64°14'06"E	805.17'
L9	N24°45'55"W	30.00'
L10	N64°14'06"E	790.53'
L11	N24°45'55"W	134.50'
L12	S24°30'06"E	45.58'
L13	N64°14'06"E	1.42'
L14	N65°29'54"E	30.58'
L15	N65°29'54"E	30.00'
L16	N65°29'54"E	30.00'
L17	S65°14'05"W	30.00'
L18	S65°14'05"W	30.00'
L19	S65°14'05"W	30.00'
L20	S65°14'05"W	30.00'
L21	N20°43'23"E	28.85'



- NOTES:**
1. BASIS OF BEARINGS: BOUNDARY AS SHOWN PER FOUND MONUMENTS. MONUMENTS WERE LOCATED BY PREVIOUS SURVEY CONDUCTED BY THE SURVEYOR AND ARE NO LONGER IN EXISTENCE DUE TO RECENT CONSTRUCTION ACTIVITIES. WARRANTY DEED, RECEPTION NO. 081248, RECORDED APRIL 23, 2005, BK. 603, PAGES 1517-1518, 2. MEMORANDUM OF REAL ESTATE CONTRACT, RECEPTION NO. 05292638, RECORDED JULY 18, 2005, BK. 636, PAGES 197-198.
  2. MEASURED DATA AND RECORD DATA ARE EQUIVALENT UNLESS OTHERWISE NOTED.
  3. THE SUBDIVISION IS WITHIN THE WASTEWATER SERVICE AREA OF DONA ANA MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION. THE CITY WILL BE THE INTERIM WASTEWATER PROVIDER UNTIL SUCH TIME AS THE ASSOCIATION CAN PROVIDE WASTEWATER SERVICE TO THE SUBDIVISION.
  4. TRACT A IS TO BE CONVEYED TO THE CITY OF LAS CRUCES FOR USE AS A REGIONAL DRAINAGE FACILITY FOR RUN OFF FROM DEL REY BLVD WITH THE FILING OF THIS PLAT.
  5. TRACT B IS TO BE CONVEYED TO THE CITY OF LAS CRUCES FOR USE AS A PARK OPEN SPACE WITH THE FILING OF THIS PLAT.
  6. TWO ACCESS POINTS ARE ALLOWED ALONG SOUTH FRONTAGE CHECK COURT AND LAYING WEST OF DEL REY BLVD. PER THE DEVELOPMENT AGREEMENT DATED 10/26/09.
  7. TRACT C (EXISTING R/W) IS TO BE VACATED TO THE SOUTHERLY ADJOINING PARCEL (WILLIAMS TRUST) BY THIS PLAT.
  8. TRACT D (EXISTING R/W) IS TO BE VACATED TO THE SOUTHERLY ADJOINING PARCEL (WILLIAMS TRUST) BY THIS PLAT.
  9. THE ELEPHANT BUTTE LAND AND TRUST CO. SUBDIVISION "C", CORRECTED AMENDMENT NO. 2, LOTS WITHIN TRACTS A AND B ARE TO BE VACATED BY THIS PLAT.
  10. ON LOT PONDING TO BE OWNED AND MAINTAINED BY INDIVIDUAL LOT OWNERS.
  11. THE CITY'S ACCEPTANCE OF THE DEDICATION OF CHECK COURT AS SHOWN ON THIS PLAT IS CONDITIONAL ON THE CITY CONSTRUCTING THE CHECK COURT IMPROVEMENTS AS PROVIDED IN A SEPARATE AGREEMENT DATED JANUARY 18, 2010, BETWEEN THE CITY AND WESTMORELAND ENTERPRISES, LLC AND DEL REY ESTATES, LLC. AFTER CHECK COURT HAS BEEN CONSTRUCTED BY THE CITY AND ACCEPTED BY IT, THE SOUTHERLY ONE-HALF OF THE FORMER DEL REY BOULEVARD WILL BE VACATED BY THE CITY AT ITS SOLE EXPENSE AND THE VACATED REAL PROPERTY WILL BE OUTTITLED BY THE CITY TO THE CHARLES WILLIAMS TRUST, WHO IS THE ADJACENT PROPERTY OWNER TO THE SOUTH, OR ITS SUCCESSORS, AFTER THE NEWLY CONSTRUCTED CHECK COURT IS PLACED IN SERVICE.
  12. PERMANENT STRUCTURES SUCH AS BUILDINGS, FENCES, BOUNDARY WALLS, ETC., SHALL NOT BE CONSTRUCTED WITHIN UTILITY OR SEWER EASEMENT WITHIN THE TRACTS OF THE WESTMORELAND PARK SUBDIVISION.
  13. PARCELS AS SHOWN LIE WITHIN FLOOD ZONE "0", AREAS DETERMINED TO BE OUTSIDE THE 50-YR FLOODPLAIN, AS GRAPHICALLY SCALED ON FLOOD MAP NO. 35012C816F WITH AN EFFECTIVE DATE OF SEPT. 4, 1995.

**CURVE TABLE**

CURVE	ARC	RADIUS	DELTA	CHD. BEARING	CHD. DISTANCE
C1	1152.48'	1460.00'	47°39'58"	N65°29'54"E	1152.48'
C2	1152.48'	1460.00'	47°39'58"	N49°12'53"W	1152.12'
C3	580.18'	1340.00'	24°49'27"	S56°31'40"E	575.66'
C4	863.30'	1460.00'	27°12'27"	N58°19'40"W	646.89'
C5	1169.26'	1340.00'	47°25'47"	N49°12'59"W	1077.26'
C6	795.64'	1460.00'	31°22'26"	S56°11'29"E	785.72'
C7	428.24'	1340.00'	17°12'11"	N57°29'02"W	426.84'
C8	286.48'	1460.00'	11°38'06"	S37°34'58"E	286.37'
C9	311.85'	1460.00'	12°14'31"	N38°36'11"W	311.35'
C10	413.06'	1340.00'	17°29'42"	S33°19'57"E	411.43'
C11	31.39'	1340.00'	9°21'02"	N42°39'05"W	31.56'
C12	435.79'	25.00'	104°47'38"	N11°52'35"E	26.81'
C13	102.72'	1460.00'	04°08'59"	S38°28'20"E	105.69'
C14	459.37'	1340.00'	18°38'31"	N56°56'42"W	457.13'
C15	48.59'	25.00'	111°21'29"	S08°33'20"W	41.29'
C16	39.82'	25.00'	91°15'48"	N70°08'00"W	36.74'
C17	120.81'	1340.00'	05°39'59"	N09°29'55"W	120.77'
C18	62.83'	1340.00'	02°41'57"	N43°16'32"W	62.82'
C19	81.25'	1340.00'	01°29'26"	N42°30'21"W	81.35'
C20	102.72'	1460.00'	04°01'32"	N42°33'53"W	102.70'
C21	588.05'	1460.00'	23°04'38"	N56°07'07"W	584.08'
C22	34.34'	1460.00'	07°51'33"	N65°35'13"W	34.32'
C23	18.87'	1460.00'	07°24'54"	N71°42'47"W	18.58'
C24	658.20'	1340.00'	28°46'06"	N57°02'51"W	658.39'
C25	351.18'	1460.00'	13°48'54"	S51°38'59"E	350.33'
C26	145.38'	156.12'	43°48'45"	N49°34'28"E	141.67'
C27	342.12'	1460.00'	13°25'23"	S63°13'08"E	341.33'

**LEGEND**

- FOUND MONUMENT AS NOTED (SEE NOTE 1)
- MONUMENT SET (SEE NOTE 1)
- 1/2" REBAR SET W/PAK CAP "NAPS 12800"
- CONCRETE MONUMENT FOUND (SEE NOTE 1)
- ⊕ ON LOT PONDING AREA (SEE NOTE 9)
- ▨ DEDICATED R/W TO CITY OF LAS CRUCES BY THIS PLAT
- ▨ EXISTING R/W
- ▨ VACATED R/W TO WILLIAMS REVOCABLE TRUST BY THIS PLAT
- - - UTILITY EASEMENT AS NOTED
- ▭ PARCEL LINE

**SHEET 2 OF 2**  
**Zia Engineering & Environmental Consultants, LLC**  
 755 S. Telsor Blvd., Suite F-201  
 Las Cruces, New Mexico 88011  
 Phone: (575) 532-1526  
 Fax: (575) 532-1587  
 File ID: LCS 10-002 DEL REY ESTATES PARK Dedication.dwg



**City of Las Cruces®**  
PEOPLE HELPING PEOPLE

**PLANNING AND ZONING COMMISSION  
AGENDA**

The following agenda will be considered by the Planning and Zoning Commission of the City of Las Cruces, New Mexico, at a public hearing held on **Tuesday, September 28, 2010 beginning at 6:00 p.m. at City Hall, 700 N. Main Street, Las Cruces, New Mexico.**

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 1-800-659-8331 (TTY) if accommodation is necessary. This document can be made available in alternative formats by calling the same numbers listed above.

**I. CALL TO ORDER**

**II. APPROVAL OF MINUTES – August 24, 2010**

**III. POSTPONEMENTS**

1. **Case Z2816:** A request for a zone change from UR (Urban Ranch from the 1981 Zoning Code) to EE (Equestrian Estate) for two parcels of land located south of Shannon Road and west of Beyer Road. The subject properties consist of two lots for a total of 3.00 ± acres: Lot one encompasses 2.00 ± acres and lot two encompasses 1.00 ± acres. The proposed zone change will bring the subject properties into compliance with the 2001 Zoning Code, as amended. Submitted by Anne Shannon and Bea Wade, property owners.

**IV. WITHDRAWALS**

**V. CONSENT AGENDA**

*Those items on the consent agenda will be voted by one motion with the acceptance of the agenda. Any Planning and Zoning Commissioner, Staff or member of the public may remove an item from the consent agenda for discussion by the commission.*

- 1. **Case S-09-059:** A request for approval of a replat known as Westmoreland Park Subdivision. The subject property comprises of 25.11 ± acres and is zoned OS-R (Open Space - Recreation), C-2 (Commercial Medium Intensity), O-1 (Office, Neighborhood – Limited Retail) and C-3 (Commercial High Intensity).

The proposal includes the dedication of the realigned portion of Del Rey Boulevard, additional dedication of Check Court, vacation of the southerly half of Check Court, the dedication of a park and the dedication of a regional pond to the City of Las Cruces. The subject property is located at the intersection of Check Court and Del Rey Boulevard. Submitted by the City of Las Cruces and Forrest and Joyce Westmoreland, property owners.

2. **Case S-10-035:** A request for approval of a replat known as Tellbrook Subdivision Unit 2, Replat No. 2. The subject property comprises of 2.987 ± acres and is zoned R-1a (Single-Family Medium Density). The proposal creates two (2) lots total, a 0.748 ± acre drainage tract to be owned and maintained by the Dona Ana County Flood Commission and a 2.241 ± acre residential lot to be retained by the current property owners. The property is located on Winchester Road, east of Las Alturas Drive. Submitted by the Dona Ana County Flood Commission for Alfred and Eileen King, property owners.

#### VI. OLD BUSINESS

#### VII. NEW BUSINESS

1. **Case ZCA-10-02:** A recommendation to the City Council regarding an amendment to Chapter 38 (Zoning Code) of the Las Cruces Municipal Code, 1997 to create Section 38-49.3 Alameda Depot Overlay (ADO). Submitted by the City of Las Cruces.
2. **Case IDP-43:** A request for an infill development proposal (IDP) for 0.321 ± acres of underutilized land located at 1040 Brownlee. The subject property is zoned R-2 (Multi-Dwelling Low Density). The subject property currently contains four underlying lots that run the length of the property from north to south in which the applicant intends to replat the lot lines to allow the existing four lots run from east to west. The applicant proposes to demolish an existing apartment complex on the subject property and develop four (4) single-family residential townhomes. The infill development proposal seeks to deviate from the rear and front yard setback requirements of the R-2 zoning district. The R-2 zoning district requires a minimum front yard setback of 20-feet and a minimum rear yard setback of 20-feet. The applicant is requesting a 15-foot front yard setback and a 15-foot rear yard setback, which is a 5-foot deviation from the minimum development standards. All other development standards for a townhouse development will be met. Submitted by Eric Dick of Hurlburt Construction, LLC, property owner.
3. **Case PUD-09-04:** A request for approval of a concept plan for a Planned Unit Development (PUD) known as Villa Amador. The subject properties are located south of Amador Avenue and west of Valley Drive. The subject properties encompass 53.382 +/- acres and are zoned M-1/M-2 (Industrial Standard) and PUD (Planned Unit Development). The proposed PUD will entail three (3) parcels: Parcel 1 will encompass 6.311 ± acres and is proposed for Industrial uses; Parcel 2 will encompass 18.263 ± acres and is also proposed for Industrial

uses; and, Parcel 3 which will encompass 28.808 ± acres and is proposed for a mobile home subdivision that will allow for single-family site-built, manufactured houses, and/or mobile homes. The applicant is also proposing that redevelopment of the existing industrial area of the proposed PUD be phased and that parking, landscape, and outdoor lighting improvements be implemented pursuant to the phasing of industrial redevelopment. Submitted by Scanlon White, Inc. for IFL, LLC, property owner.

#### **VIII. OTHER BUSINESS**

#### **IX. PUBLIC PARTICIPATION**

#### **X. STAFF ANNOUNCEMENTS**

#### **XI. 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 1-800-659-8331 (TTY) if accommodation is necessary. This document can be made available in alternative formats by calling the same numbers list above.

MEETING OF PLANNING AND ZONING COMMISSION  
FOR THE  
CITY OF LAS CRUCES  
City Council Chambers  
September 28, 2010 at 6:00 p.m.

**BOARD MEMBERS PRESENT:**

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

**BOARD MEMBERS ABSENT:**

- Donald Bustos, Member

**STAFF PRESENT:**

- Vince Banegas, AICP
- Cheryl Rodriguez, Development Services Administrator
- Carol McCall, Planner
- Andy Hume, Planner
- Adam Ochoa, Acting Planner
- Robert Gonzales, Las Cruces Fire.
- Jared Abrams, City Legal Staff
- Becky Eich, Recording Secretary

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

Scholz: Good evening, and welcome to the Planning and Zoning Commission for September. I'd like to introduce the members of Commission to you, on my far right is Mr. Shipley, he is the Mayor's appointee for the Commission. Next to him is Commissioner Crane and he represents District 4. Next to him is our newest member, Commissioner Stowe who represents District 1. Next to him is Commissioner Evans who represents District 5. Next to me is Commissioner Beard, who represents District 2. I'm Charlie Scholz the Chair of the Commission, and I represent Council District 6.

**II. APPROVAL OF MINUTES - August 24, 2010**

Scholz: Our first order of business is the approval of the minutes of August 24, 2010. Are there any additions or corrections to the minutes? Commissioner Cranes.

1 Crane: Page 31, line 25, "it would be still", should be "steal. Page 32, line 22  
2 should say "Burlington Northern would". And page 32 line 29 "one-third of  
3 its expenses by fair", should be "fare".  
4

5 Scholz: I have one, page 10, just read it and you will see. No, never mind. Page  
6 34, line 5 "once again" should have a comma after again. Are there any  
7 other changes or corrections? Okay, I'll entertain a motion to approve.  
8

9 Crane: So moved.

10 Scholz: Second?

11 Shipley: Second.

12 Scholz: All those in favor, say aye.

13 ALL COMMISSIONERS - AYE.

14 Scholz: The minutes are approved.

15  
16  
17 **III. POSTPONEMENTS**

18  
19  
20  
21  
22  
23 1. **Case Z2816:** A request for a zone change from UR (Urban Ranch from the  
24 1981 Zoning Code) to EE (Equestrian Estate) for two parcels of land located  
25 south of Shannon Road and west of Beyer Road. The subject properties  
26 consists of two lots for a total of 3.00 +/- acres: Lot one encompasses 2.00  
27 +/- acres and lot two encompasses 1.00 +/- acres. The proposed zone  
28 change will bring the subject properties into compliance with the 2001 Zoning  
29 Code, as amended. Submitted by Anne Shannon and Bea Wade, property  
30 owners.

31  
32 Scholz: If you are here for Case Z2816 we are not going to consider that today.  
33 That's a postponement of Case Z2816.  
34

35 **IV. WITHDRAWALS - None**

36  
37 Scholz: No withdrawals, Mr. Ochoa.

38  
39 Ochoa: No sir, not tonight.

40 **START**

41 **V. CONSENT AGENDA**

42  
43 1. **Case S-09-059:** A request for approval of a replat known as Westmoreland  
44 Park Subdivision. The subject property comprises of 25.11 +/- acres and is  
45 zoned OS-R (Open Space - Recreation), C-2 (Commercial Medium Intensity),  
46 O-1 (Office, Neighborhood - Limited Retail) and C-3 (Commercial High

1 Intensity). The proposal includes the dedication of the realigned portion of  
 2 Del Rey Boulevard, additional dedication of Check Court, vacation of the  
 3 southerly half of Check Court, the dedication of a park and the dedication of a  
 4 regional pond to the City of Las Cruces. The subject property is located at  
 5 the intersection of Check Court and Del Rey Boulevard. Submitted by the  
 6 City of Las Cruces and Forrest and Joyce Westmoreland, property owners.  
 7

- 8 2. **Case S-10-035:** A request for approval of a replat known as Tellbrook  
 9 Subdivision Unit 2, Replat No. 2. The subject property comprises of 2.987 +/-  
 10 acres and is zoned R-1a (Single-Family Medium Density). The proposal  
 11 creates two lots total, a 0.748 +/- acre drainage tract to be owned and  
 12 maintained by the Doan Ana County Flood Commission and a 2.241 +/- acre  
 13 residential lot to be retained by the current property owners. The property is  
 14 located on Winchester Road, east of Las Alturas Drive. Submitted by the  
 15 Doña Ana County Flood Commission for Alfred and Eileen King, property  
 16 owners.  
 17

18 Scholz: Okay, there are two items on the consent agenda, Case S-09-059 and  
 19 Case S-10-035. And here's how the consent agenda works folks; if there  
 20 are no objections by people from the public, or Commissioners, or people  
 21 from the staff, then we'll just take one vote and we'll vote these in. All  
 22 right, so anyone from the staff wants to talk to S-09-059 or S-10-035?  
 23

24 Ochoa: No sir.

25 Scholz: Any Commissioners? Okay, anyone from the public? All right, I'll ask for  
 26 a motion to approve the consent agenda.  
 27

28 Crane: So moved.

29 Shipley: I move to approve the consent agenda.  
 30

31 Scholz: I think that was a tie. Is there a second?  
 32

33 Crane: Seconded.  
 34

35 Scholz: Okay, it's been moved and seconded. All those in favor say aye.  
 36

37 ALL COMMISSIONERS - AYE.  
 38

39 Scholz: Those opposed same sign. The consent agenda is approved.  
 40

41 **END**

42 **VI. OLD BUSINESS - NONE**  
 43

44 Scholz: All right we have no old business before us, so we'll go directly to the new  
 45 business.  
 46

ATTACHMENT "B"



City of Las Cruces®

TO: Planning and Zoning Commission

FROM: Development Review Committee (DRC)

PREPARED BY: Jennifer Robertson, Planner *JR*

DATE: September 28, 2010

SUBJECT: Westmoreland Park Subdivision

RECOMMENDATION: Approval of Replat

**Case S-09-059:** A request for approval of a replat known as Westmoreland Park Subdivision. The subject property comprises of 25.11 ± acres and is zoned OS-R (Open Space - Recreation), C-2 (Commercial Medium Intensity), O-1 (Office, Neighborhood - Limited Retail) and C-3 (Commercial High Intensity). The proposal includes the dedication of the realigned portion of Del Rey Boulevard, additional dedication of Check Court, vacation of the southerly half of Check Court, the dedication of a park and the dedication of a regional pond to the City of Las Cruces. The subject property is located at the intersection of Check Court and Del Rey Boulevard. Submitted by the City of Las Cruces and Forrest and Joyce Westmoreland, property owners.

### BACKGROUND

The subject property is located at the intersection of Check Court and Del Rey Boulevard. The subject property comprises of 25 ± acres and is zoned OS-R (Open Space - Recreation), C-2 (Commercial Medium Intensity), O-1 (Office, Neighborhood - Limited Retail) and C-3 (Commercial High Intensity).

The replat proposes to dedicate the newly realigned segment of Del Rey Boulevard to the City of Las Cruces incorporating a right-of-way width of approximately 120 feet. The replat additionally proposes additional dedication to the north of the existing right-of-way in Check Court incorporating a right-of-way width of approximately 20 feet. The replat also proposes to vacate the southerly one-half of existing right-of-way on Check Court, west of the Del Rey Boulevard realignment, to the adjacent property owner, Charles Williams. Based on the area proposed for vacation and dedication of Check Court, the total right-of-way width proposed is 50 feet. The City's acceptance of the dedication of Check Court is conditional of the City constructing the Check Court improvements. After Check Court has been constructed and accepted by the City, the southerly one-half of Check Court will be vacated by the City at its sole expense and the vacated real property will be deeded by the City to the Charles Williams Trust or its successors after the newly constructed Check Court is placed into service.

On February 21, 2006, City Council approved Resolution 06-251, which is an agreement for the construction of the Del Rey Boulevard realignment between the City of Las Cruces and Forrest Westmoreland in conjunction with the development of the Del Rey Estates Subdivision. Additionally, on January 18, 2010, an agreement was entered into between the City of Las Cruces and the developer of Del Rey Estates Subdivision for additional right-of-way dedication along what is now known as Check Court. These agreements set the foundation for the proposed replat, the dedications and vacations of roadways, and are in accordance with the approved resolution.

Lastly, Westmoreland Park Subdivision proposes to replat the subject property in order to delineate and dedicate a regional pond tract and a park to the City of Las Cruces. In addition, the proposal reflects adherence to the approved master plan and zoning for Del Rey Estates Subdivision. The approved master plan for Del Rey Estates located a multiuse pathway along the inside of the private property west of Weaver Trail. This path has been relocated into the City's right-of-way and will be developed along with the park and Check Court reconstruction at a later date.

The developer is proposing to provide utilities in the following manner:

Sewer:	City of Las Cruces
Water:	Moongate Water Company
Gas:	City of Las Cruces

#### FINDINGS

1. The proposed replat is in conformance with Resolution 06-251 regarding the Del Rey Boulevard Alignment and the January 18, 2010 Agreement between the City of Las Cruces and Del Rey Estates Subdivision.
2. The proposed replat is in conformance with the City Subdivision Code, Zoning Code, Design Standards, Transportation Plan, and Stormwater Management Policy Plan.
3. The subject property is zoned OS-R (Open Space - Recreation), C-2 (Commercial Medium Intensity), O-1 (Office, Neighborhood - Limited Retail) and C-3 (Commercial High Intensity).
4. The proposed replat is in conformance with the approved master plan for the subject property.
5. Staff has reviewed the proposed replat and no significant outstanding issues exist.

**RECOMMENDATION**

On September 8, 2010, the Development Review Committee (DRC) reviewed the proposed replat. The DRC reviews replats from an infrastructure, utilities and improvement standpoint. The DRC recommended approval of the replat.

**OPTIONS**

1. Approve the replat as recommended by the DRC.
2. Approve the replat and with conditions as determined by the Planning and Zoning Commission.
3. Deny the replat.

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 Replat
3. DRC Agenda and Minutes – September 8, 2010
4. Resolution 06-251
5. Agreement between the City of Las Cruces and the Developer of Del Rey Estates Subdivision dated January 18, 2010
6. Zoning Map
7. Vicinity Map

## ATTACHMENT 1

## DEVELOPMENT STATEMENT for City Subdivision Applications

Please note: The following information is provided by the applicant for information purposes only. The applicant is not bound to the details contained in the development statement, nor is the City responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission 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: CITY OF LAS CRUCES FOR FOREST & JOYCE WESTMORELAND

Contact Person: CLC-DAVID HARBAS

Contact Phone Number: \_\_\_\_\_

Contact e-mail Address: \_\_\_\_\_

Web site address (if applicable): \_\_\_\_\_

Proposal Information

Name of Proposal: WESTMORELAND PARK SUBDIVISION

Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)  
FOR CITY PARK & POND, REMAINDER FOR FUTURE COMMERCIAL DEVELOPMENT

Location of Subject Property DEL RAY BLVD.

(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: 9.300

Zoning of Subject Property: OS-R & C-3

Proposed number of lots 2, to be developed in 2 phase (s).

Proposed square footage range of homes to be built N/A to \_\_\_\_\_

Anticipated traffic generation \_\_\_\_\_ trips per day.

Anticipated development schedule: work will commence on or about \_\_\_\_\_ and will take \_\_\_\_\_ to complete.

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

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). CITY PROPOSES TO BUILD A PARK &

PONDING AREA.

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**Attachments**

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

Location map

Subdivision Plat

Proposed house elevations

\*renderings of architectural or site design features

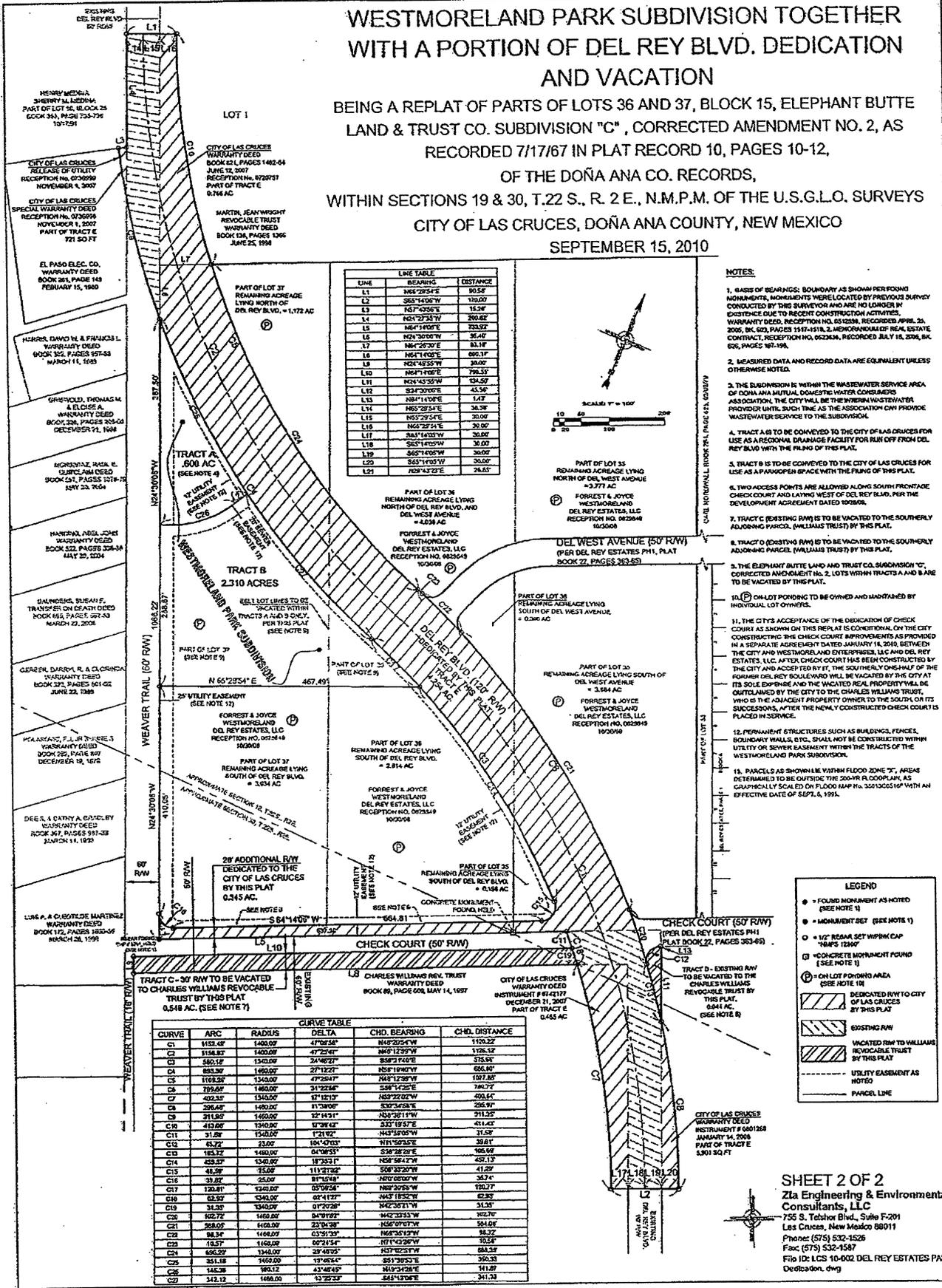
\*other pertinent information



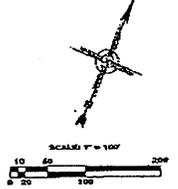
# WESTMORELAND PARK SUBDIVISION TOGETHER WITH A PORTION OF DEL REY BLVD. DEDICATION AND VACATION

BEING A REPLAT OF PARTS OF LOTS 36 AND 37, BLOCK 15, ELEPHANT BUTTE LAND & TRUST CO. SUBDIVISION "C", CORRECTED AMENDMENT NO. 2, AS RECORDED 7/17/67 IN PLAT RECORD 10, PAGES 10-12, OF THE DOÑA ANA CO. RECORDS, WITHIN SECTIONS 19 & 30, T.22 S., R. 2 E., N.M.P.M. OF THE U.S.G.L.O. SURVEYS CITY OF LAS CRUCES, DOÑA ANA COUNTY, NEW MEXICO

SEPTEMBER 15, 2010



LINE	BEARING	DISTANCE
L1	N85°29'54"E	10.52'
L2	S87°40'00"W	13.00'
L3	N87°00'00"E	15.28'
L4	N01°23'33"W	200.82'
L5	N64°14'00"E	733.77'
L6	N01°30'00"W	36.40'
L7	N62°00'00"E	83.47'
L8	N64°14'00"E	695.17'
L9	N01°45'55"W	33.00'
L10	N64°14'00"E	791.33'
L11	N01°30'00"W	54.56'
L12	S87°40'00"W	45.39'
L13	N84°14'00"E	1.42'
L14	N65°29'54"E	36.39'
L15	N65°29'54"E	30.00'
L16	N64°29'54"E	30.00'
L17	S84°14'00"W	30.00'
L18	S85°14'00"W	30.00'
L19	S85°14'00"W	30.00'
L20	S85°14'00"W	30.00'
L21	N01°43'22"E	74.83'



- NOTES:**
- BASES OF BEARINGS, BOUNDARY AS SHOWN PER FOUND MONUMENTS, MONUMENTS WERE LOCATED BY PREVIOUS SURVEY CONDUCTED BY THIS SURVEYOR AND ARE NO LONGER IN EXISTENCE DUE TO RECENT CONSTRUCTION ACTIVITIES. WARRANTY DEED, RECEPTION NO. 023008, RECORDED APRIL 23, 2005, BK. 603, PAGES 157-1518. 2. MEMORANDUM OF REAL ESTATE CONTRACT, RECEPTION NO. 023246, RECORDED JULY 18, 2006, BK. 605, PAGES 187-190.
  - MEASURED DATA AND RECORD DATA ARE EQUIVALENT UNLESS OTHERWISE NOTED.
  - THE SUBDIVISION IS WITHIN THE WASTEWATER SERVICE AREA OF DOÑA ANA MUNICIPAL DOMESTIC WATER CONSUMERS ASSOCIATION. THE CITY WILL BE THE WASTEWATER/WATER PROVIDER UNTIL SUCH TIME AS THE ASSOCIATION CAN PROVIDE WASTEWATER SERVICE TO THE SUBDIVISION.
  - TRACT A IS TO BE CONVEYED TO THE CITY OF LAS CRUCES FOR USE AS A REGIONAL DRAINAGE FACILITY FOR RUN OFF FROM DEL REY BLVD WITH THE PLUNG OF THIS PLAT.
  - TRACT B IS TO BE CONVEYED TO THE CITY OF LAS CRUCES FOR USE AS A PARKWAY SPACE WITH THE PLUNG OF THIS PLAT.
  - TWO ACCESS POINTS ARE ALLOWED ALONG SOUTH FRONTAGE CHECK COURT AND LYING WEST OF DEL REY BLVD, PER THE DEVELOPMENT AGREEMENT DATED 10/20/08.
  - TRACT C (EXISTING RW) IS TO BE VACATED TO THE SOUTHERLY ADJOINING PARCEL, (WILLIAMS TRUST) BY THIS PLAT.
  - TRACT D (EXISTING RW) IS TO BE VACATED TO THE SOUTHERLY ADJOINING PARCEL, (WILLIAMS TRUST) BY THIS PLAT.
  - THE ELEPHANT BUTTE LAND AND TRUST CO. SUBDIVISION "C", CORRECTED AMENDMENT NO. 2, LOTS WITHIN TRACTS A AND B ARE TO BE VACATED BY THIS PLAT.
  - ON LOT PENDING TO BE OWNED AND MANAGED BY INDIVIDUAL LOT OWNERS.
  - THE CITY'S ACCEPTANCE OF THE DEDICATION OF CHECK COURT AS SHOWN ON THIS REPLAT IS CONDITIONAL ON THE CITY CONSTRUCTING THE CHECK COURT IMPROVEMENTS AS PROVIDED IN A SEPARATE AGREEMENT DATED JANUARY 14, 2010, BETWEEN THE CITY AND WESTMORELAND DEL REY ESTATES, LLC AND DEL REY ESTATES, LLC. AFTER CHECK COURT HAS BEEN CONSTRUCTED BY THE CITY AND ACCEPTED BY IT, THE SOUTHERLY ONE-HALF OF THE FORMER DEL REY SQUARE WILL BE VACATED BY THE CITY AT ITS SOLE EXPENSE AND THE VACATED REAL PROPERTY WILL BE OUTLINED BY THE CITY TO THE CHARLES WILLIAMS TRUST, WHO IS THE ADJOINING PROPERTY OWNER TO THE SOUTH. OR ITS SUCCESSORS, AFTER THE NEWLY CONSTRUCTED CHECK COURT IS PLACED IN SERVICE.
  - PERMANENT STRUCTURES SUCH AS BUILDINGS, FENCES, BOUNDARY WALLS, ETC., SHALL NOT BE CONSTRUCTED WITHIN UTILITY OR SEWER EASEMENT WITHIN THE TRACTS OF THE WESTMORELAND PARK SUBDIVISION.
  - PARCELS AS SHOWN IN WITHIN FLOOD ZONE "X", AREAS DETERMINED TO BE OUTSIDE THE 100-YR FLOODPLAIN, AS GRAPHICALLY SCALED ON FLOOD MAP NO. 3201300510P WITH AN EFFECTIVE DATE OF SEPT. 5, 1995.

**LEGEND**

- FOUND MONUMENT AS NOTED (SEE NOTE 1)
- MONUMENT SET (SEE NOTE 1)
- 1/2" REBAR SET W/IN CAP TYPIC 1200'
- CONCRETE MONUMENT FOUND (SEE NOTE 1)
- ON LOT PENDING AREA (SEE NOTE 10)
- ▨ DEDICATED RW TO CITY OF LAS CRUCES BY THIS PLAT, 6641 AC (SEE NOTE 8)
- ▨ EXISTING RW
- ▨ VACATED RW TO WILLIAMS REVOCABLE TRUST BY THIS PLAT
- UTILITY EASEMENT AS NOTED
- PARCEL LINE

**CURVE TABLE**

CURVE	ARC	RADIUS	DELTA	CHD. BEARING	CHD. DISTANCE
C1	1153.47'	1460.00'	47°09'54"	N46°29'25"W	1162.52'
C2	1148.87'	1460.00'	47°22'44"	N46°17'35"W	1162.52'
C3	180.19'	1343.00'	24°46'27"	S53°14'00"E	575.80'
C4	863.30'	1060.00'	27°12'27"	N51°18'00"W	666.80'
C5	1103.25'	1343.00'	47°22'44"	N46°17'35"W	1071.89'
C6	179.66'	1460.00'	31°22'56"	S31°22'56"E	146.72'
C7	422.87'	1350.00'	17°12'17"	N53°22'00"W	406.64'
C8	296.48'	1460.00'	11°33'00"	S30°33'00"E	296.97'
C9	211.85'	1460.00'	32°14'51"	N38°20'11"W	511.25'
C10	413.00'	1340.00'	17°39'47"	S35°18'57"E	414.42'
C11	31.26'	1340.00'	1°21'22"	N45°03'00"W	31.25'
C12	63.72'	23.00'	104°00'00"	N11°50'00"E	39.81'
C13	163.72'	1460.00'	04°06'25"	S38°28'28"E	165.66'
C14	459.57'	1340.00'	17°39'47"	N56°54'27"W	452.17'
C15	48.29'	1460.00'	11°12'32"	S31°22'00"E	41.29'
C16	31.87'	25.00'	81°14'48"	N10°00'00"W	34.74'
C17	120.81'	1245.00'	05°04'56"	N49°30'56"W	120.77'
C18	62.92'	2340.00'	02°11'27"	N43°18'52"W	62.92'
C19	31.26'	1340.00'	07°30'28"	N45°03'00"W	31.25'
C20	162.72'	1460.00'	04°06'25"	N42°30'57"W	162.70'
C21	268.00'	1460.00'	23°04'28"	N50°07'07"W	594.68'
C22	84.34'	1468.00'	03°51'35"	N68°35'13"W	84.32'
C23	10.57'	1468.00'	60°24'54"	N11°42'26"W	10.58'
C24	466.29'	1340.00'	22°44'25"	N51°02'07"W	584.33'
C25	351.18'	1469.00'	17°06'24"	S51°30'52"E	350.33'
C26	146.28'	950.12'	43°48'48"	N19°34'28"E	141.87'
C27	342.12'	1468.00'	13°22'33"	S45°13'00"E	341.23'

**SHEET 2 OF 2**  
**Zta Engineering & Environmental Consultants, LLC**  
 755 S. Tishon Blvd., Suite F-201  
 Las Cruces, New Mexico 88011  
 Phone: (575) 532-1526  
 Fax: (575) 532-1587  
 File ID: LCS 10-002 DEL REY ESTATES PARK Dedication.dwg

## ATTACHMENT 3

**City of Las Cruces****DEVELOPMENT REVIEW COMMITTEE (DRC)  
AGENDA FOR  
WEDNESDAY, SEPTEMBER 8, 2010**

The Development Review Committee (DRC) will consider the following agenda on **Wednesday, September 8, 2010 at 9:00 A.M.**, in **Room 2150** located at the City Hall, 700 North Main Street, Las Cruces, New Mexico.

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES – July 7, 2010
- III. OLD BUSINESS - NONE
- IV. NEW BUSINESS
  1. **S-09-059: Westmoreland Park Subdivision, Replat**
    - A request for approval of a replat known as Westmoreland Park Subdivision.
    - The subject property comprises of 15.57 ± acres and is zoned OS-R (Open Space - Recreation) and C-3 (Commercial High Intensity).
    - The proposal includes the dedication of the realigned portion of Del Rey Blvd., additional dedication of Check Ct., partial vacation of Check Ct., the dedication of a park and the dedication of a regional pond to the City of Las Cruces.
    - Submitted by the City of Las Cruces and Forrest and Joyce Westmoreland, property owners.
- 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 1-800-659-8331 (TTY) if accommodation is necessary. This document can be made available in alternative formats by calling the same numbers list above.

**DEVELOPMENT REVIEW COMMITTEE**

1  
2  
3  
4 Following are the verbatim minutes of the City of Las Cruces Development Review  
5 Committee meeting held on Wednesday, September 8, 2010 at 9:00 a.m. at City Hall,  
6 700 North Main Street, Room 2150, Las Cruces, New Mexico.

7  
8 **DRC PRESENT:** Cheryl Rodriguez, Community Development  
9 Tom Murphy, MPO  
10 Meei Montoya, Utilities  
11 Mark Johnston, Facilities  
12 Mark Dubbin for the Fire Marshal  
13 Loretta Reyes, Public Works

14  
15 **STAFF PRESENT:** Jennifer Robertson, Community Development  
16 Lora Dunlap, Recording Secretary

17  
18 **I. CALL TO ORDER (9:02 am)**

19  
20 Rodriguez: Go ahead and call this meeting to order for Wednesday, September  
21 8<sup>th</sup>; it's approximately 9:02 in the morning.

22  
23 **II. APPROVAL OF MINUTES – July 7, 2010**

24  
25 Rodriguez: The first item on the agenda is the approval of the minutes from July 7,  
26 2010.

27  
28 Murphy: Tom Murphy, move approval.

29  
30 Dubbin: Second, Mark Dubbin.

31  
32 Rodriguez: Any discussion? Seeing none, all those in favor say aye.

33  
34 Members: Aye.

35  
36 Rodriguez: Those opposed? None.

37  
38 **III. OLD BUSINESS – NONE**

39  
40 **IV. NEW BUSINESS**

41  
42 **1. S-09-059: Westmoreland Park Subdivision, Replat**

- 43 • A request for approval of a replat known as Westmoreland Park
- 44 Subdivision.
- 45 • The subject property comprises of 15.57 ± acres and is zoned OS-R
- 46 (Open Space - Recreation) and C-3 (Commercial High Intensity).

- 1                   • The proposal includes the dedication of the realigned portion of Del Rey  
2 Blvd., additional dedication of Check Ct., partial vacation of Check Ct.,  
3 the dedication of a park and the dedication of a regional pond to the City  
4 of Las Cruces.  
5                   • Submitted by the City of Las Cruces and Forrest and Joyce  
6 Westmoreland, property owners.  
7
- 8 Rodriguez: We have one item for new business. It's Westmoreland Park  
9 Subdivision, Replat and Jennifer if you can go ahead and present the  
10 case. I know the City's representing the property owners in this too so  
11 that's the reason why Forrest Westmoreland's not here.  
12
- 13 Robertson: This is Case S-09-059, Westmoreland Park Subdivision Replat; it's a  
14 request for approval of a replat. The subject property comprises of  
15 15.57 ± acres and is zoned OS-R and C-3. Not only is it a replat but it  
16 includes the dedication of a realigned portion of Del Rey Boulevard,  
17 additional dedication of Check Court on the northerly section west of  
18 Del Rey Boulevard, partial vacation of Check Court on the same side  
19 of Del Rey and also on the east side, southerly section of Check  
20 Court. The dedication of a park which is Tract B and a regional pond  
21 which is tract A, both being dedicated to or all being dedicated excuse  
22 me, to the City of Las Cruces so if we couldn't have enough stuff going  
23 on in this plat. I think I've talked to all the departments and any  
24 outstanding comments that they had during review, but that concludes  
25 the introduction.  
26
- 27 Rodriguez: Jennifer, as part of this I know this was part of the Del Rey Estates  
28 Master Plan, is that correct?  
29
- 30 Robertson: Yes.  
31
- 32 Rodriguez: And what they're proposing to do, is that in accordance with the  
33 Master Plan or was there any deviation?  
34
- 35 Robertson: No deviations from the Master Plan, however the acreage and the  
36 zoning do not perfectly overlap at this point. The OSR does go down  
37 into Mr. Westmoreland's commercial property just a little bit but that  
38 can be fixed by the developer when they develop that commercial  
39 property to clean up the Master Plan.  
40
- 41 Rodriguez: I know that there's been several departments working on this project  
42 so we'll go ahead and go around the table; Utilities?  
43
- 44 Montoya: We don't have... no comments, we approve it July 30<sup>th</sup> (inaudible)  
45 closely on this so don't have comment.  
46

- 1 Rodriguez: Facilities?
- 2
- 3 Johnston: Mark Johnston, Facilities. It looks good to me. I see that we call out  
4 tract A as the regional ponding area and just for clarification and for  
5 the record there will be no ponding activity on tract B. Also want to  
6 note that there was talk of a pedestrian walkway around the entire  
7 commercial property and the park property so I want to put that on the  
8 record too.
- 9
- 10 Rodriguez: Fire?
- 11
- 12 Dubbin: Mark Dubbin, Fire Department, we have no issues.
- 13
- 14 Rodriguez: Public Works.
- 15
- 16 Reyes: Loretta Reyes, Public Works. My staff has worked with Jennifer. The  
17 note with regard to tract A being only for runoff from Del Rey  
18 Boulevard is there and then the flood zone note is there and those are  
19 the two things I wanted to check so that's fine. I do have a question  
20 with your initial question about the Del Rey Estates Master Plan and  
21 that we'll fix something when they develop the commercial property.  
22 How's that gonna be monitored, who will know that at that time?
- 23
- 24 Robertson: When they come in, excuse me, Jennifer Robertson. When they come  
25 in for a building permit when Planning does their zoning review, zoning  
26 compliance review, the open space actually goes down the... the  
27 Master Plan, excuse me, originally included the 15 foot parkway and  
28 so the open space actually as a flag pole goes down into the  
29 commercial property all the way down to Check Court and so it's a  
30 kind of, it's a major discrepancy that's going to be caught. I've also  
31 documented all of the Del Rey Estates files as well. We've had  
32 multiple meetings with Mr. Westmoreland and different departments  
33 starting a year and a half back maybe where I also explained to the  
34 developer what this issue was going to mean for them when they  
35 develop the commercial property. In addition there's underlying lot  
36 lines that aren't... not gonna be vacated with this particular  
37 development but they're gonna have to come back and replat as well  
38 because there's several of the properties or several of those lots that  
39 don't conform to C-3 zoning... or lot size requirement so there's a lot of  
40 things that are going to need to be cleaned up besides just the open  
41 space zoning.
- 42
- 43 Reyes: Okay. Alright, thank you Jennifer.
- 44
- 45 Rodriguez: MPO?
- 46

- 1 Murphy: Tom Murphy, MPO. No issues.  
2
- 3 Rodriguez: Okay and just for the record, as part of this development. Yesterday at  
4 City Council, Council did approve the resolution to rename the street  
5 names for that realignment of Del Rey Boulevard so they have been  
6 officially renamed to Check Court and Weaver Trail so that has been  
7 approved and our staff will work with GIS and all the other parties to  
8 get those streets renamed out in the field, etc... Is this the final leg of  
9 that realignment project, Jennifer?
- 10  
11 Robertson: Yes, it is. With this plat there are still some outstanding things that will  
12 need to be done according to this plat. Really more pertaining to  
13 Check Court and Mr. William's property but all that's been worked out  
14 essentially with this plat; we worked with the Legal Department to  
15 phrase a note that says "upon the vacation of the southerly portion of  
16 Check Court, we're going to re-improve the northerly portion of Check  
17 Court." Mr. Westmoreland is dedicating an additional 20 feet of right-  
18 of-way on the north side of Check Court so there would be that  
19 existing 30 feet plus the new 20 feet of dedication totally for a 50 foot  
20 right-of-way width there but we can't take off the road that's currently  
21 existing on the southerly 30 feet until it has been reconstructed so  
22 essentially this is dedication and vacation in lieu of a future  
23 improvement project.  
24
- 25 Rodriguez: And as part of this subdivision pot, it's going to the Planning and  
26 Zoning Commission as dedication and then to City Council because of  
27 the partial vacation of right-of-way?  
28
- 29 Robertson: The vacation has already been handled by Public Works Land  
30 Management Department. A resolution does exist and is also  
31 indicated in a note and the longer legal note that Legal did; the  
32 resolution is included in there by number and so it's...  
33
- 34 Rodriguez: So this is only going to the Planning and Zoning Commission, Okay.  
35
- 36 Robertson: Yes.  
37
- 38 Rodriguez: Any other discussion, comments? Seeing none, do I have a motion to  
39 approve Case-09-059?  
40
- 41 Johnston: So moved, Mark Johnston.  
42
- 43 Dubbin: Second, Mark Dubbin.  
44
- 45 Rodriguez: All those in favor?  
46

1 Members: Aye.

2  
3 Rodriguez: Those opposed? Seeing none, aright it's going to the P&Z in  
4 September.

5  
6 **V. ADJOURNMENT (9:10 am)**

7  
8 Rodriguez: Do I have a motion to adjourn?

9  
10 Reyes: So moved, Loretta Reyes.

11  
12 Johnston: Second.

13  
14 Rodriguez: We are adjourned.

15  
16  
17  
18  
19  
20  
21

*Cheryl Rodriguez*  
Chairperson

## ATTACHMENT 4

Resolution 06-251**A RESOLUTION APPROVING AN AGREEMENT FOR CONSTRUCTION OF THE DEL REY BLVD REALIGNMENT BETWEEN THE CITY OF LAS CRUCES AND FORREST WESTMORELAND IN CONJUNCTION WITH THE DEVELOPMENT OF THE DEL REY ESTATES SUBDIVISION**

The City Council is informed that:

WHEREAS, the City has identified the need to develop a traffic safety improvement project on Del Rey Blvd. for several years by removing two ninety degree turns, and

WHEREAS, Forrest Westmoreland is developing a subdivision on north Del Rey Blvd. adjacent to the section of Del Rey where the safety concerns exist, and

WHEREAS, both the City and Westmoreland have a desire to correct the traffic safety concerns at this location, and

WHEREAS, the attached agreement has been developed to outline the responsibilities of both parties in developing a roadway realignment project together.

NOW THEREFORE, be it resolved by the governing body of the City of Las Cruces:

(1)

THAT, the agreement for construction of the Del Rey roadway realignment between the City of Las Cruces and Forrest Westmoreland on Del Rey Blvd in conjunction with the development of the Del Rey Estates Subdivision, attached hereto as Exhibit "A", is hereby approved.

Resolution No. 06-251  
Page 2 of 2

(II)

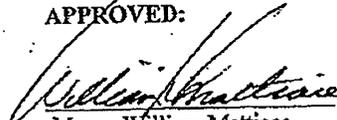
THAT, the Mayor is hereby authorized to execute the agreement on behalf of the City.

(III)

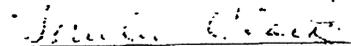
THAT, City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this 21st day of February, 2006.

APPROVED:

  
Mayor William Mattiace

ATTEST:

  
City Clerk (Seal)

VOTE:

Mayor Mattiace:	<u>aye</u>
Councillor Fietze:	<u>aye</u>
Councillor Connor:	<u>aye</u>
Councillor Archuleta:	<u>aye</u>
Councillor Trowbridge:	<u>aye</u>
Councillor Jones:	<u>aye</u>
Councillor Miyagishima:	<u>aye</u>

Moved by: Connor

Seconded by: Trowbridge

APPROVED AS TO FORM:

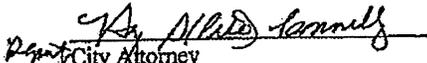
  
Deputy City Attorney

Exhibit "A"

**AGREEMENT FOR CONSTRUCTION OF THE DEL REY BLVD REALIGNMENT  
BETWEEN THE CITY OF LAS CRUCES AND FORREST WESTMORELAND IN  
CONJUNCTION WITH THE DEVELOPMENT OF THE DEL REY ESTATES SUBDIVISION**

This Agreement is entered into on this 3 day of March, 2006, by and between the CITY OF LAS CRUCES, a New Mexico Municipal Corporation ("City"), and Forrest Westmoreland, ("Developer").

**BACKGROUND**

1. The purpose of this Agreement is to establish parameters for surveying, designing and constructing the realignment of Del Rey Blvd. to remove two ninety degree turns in this roadway, "Subject Project" in conjunction with the development of the Del Rey Estates Subdivision, hereinafter referred to as "subdivision project".
2. The City has had a desire to engage in reconstruction activities on north Del Rey Blvd. to remove two very dangerous turns in the roadway alignment to provide a much needed traffic safety project. The City's plans for such improvements have been included in the City 5-year Capital Improvement Plan for several years. However, limited funding has been available to undertake the work.
3. The City received a legislative appropriation in 2005 (Project Number ST-5557(201), Control Number C5507) for right-of-way acquisition, design and construction of this project. The appropriation is for the amount of \$200,000. The total estimated cost for these improvements is up to \$800,000 in total cost.
4. The City has until the year 2010 to completely expend the grant funds, but has not yet started with project development activity.
5. The subdivision project is moving forward at this time. The subject project falls within the boundaries of the proposed subdivision and therefore brings about the need for a cooperative effort to work collaboratively.
6. City staff has asked the developer to work together on the development of the project improvements for mutual benefit and to ensure consistency in planning and design efforts.
7. The City desires to have all improvements that are a part of the subject project to be constructed as one large project to avoid multiple phasing and construction transitions that will compromise the integrity of the project and unnecessarily interfere with traffic flow.
8. The following conditions have been established to delineate respective responsibilities between the City and the Developer to accomplish this task.

Westmoreland  
Development Agreement  
Page 2 of 5

### CONDITIONS

1. The Project boundaries will be limited primarily to the areas described above, which are more fully described on the attached site plan, labeled Exhibit "1".
2. Additional improvements outside of the Developers property consisting only of transitions to existing pavement will be required by Developer to make the project functional as a part of their overall subdivision construction plans.
3. Developer will be required to comply with the City's subdivision and zoning codes by providing all rights of way and construction improvements within the boundaries of their subdivision.
4. Developer agrees to provide and complete the following elements of work for the City with an estimated total value of \$202,987.27:
  - a. Surveying and engineering drawings for the subject project. The estimated value of this work is \$52,644.00.
  - b. Acquisition of rights-of-way outside of the proposed subdivision project as follows and as further described in exhibit "A". The values listed are the total values the City is proposing for land acquisition based on current comparable acquisitions:

a)	Martin Property	20,565 sf	\$20,565.00
b)	Williams Property (East of Del Rey)	5,901 sf	\$ 5,901.00
c)	Williams Property (West of Del Rey)	20,565 sf	\$20,565.00
d)	EPEC Property	898 sf	\$ 1,796.00
e)	Medina Property	4910 sf	\$ 8,592.50
f)	Obtain any necessary appraisals		\$ 9,362.50
g)	Provide all Environmental, Archaeological Clearances, R-OW acquisition mapping and staffing		\$10,272.00

**TOTAL** \$77,054.00

Westmoreland  
Development Agreement  
Page 3 of 5

- c. Construction of Del Rey Blvd. improvements outside of the Subdivision Project both North and South of the Subject Project. These improvements include only transitions on both ends of the subject project to ensure safe engineered connectivity to the primary roadway on Del Rey Blvd. as well as all other intersecting roadways. This transition area is anticipated to encompass about 1,075 sf of pavement for each end. The estimated construction cost for these off-site improvements is \$73,289.28 and is further delineated as follows:

a)	Clear and Grub	\$ 1,000.00
b)	Subgrade Preparation	\$ 5,375.00
c)	6 Inches of Base Course	\$20,898.00
d)	Prime Coat	\$ 2,472.50
e)	2" asphalt pavement	\$28,487.50
f)	Remove/Dispose old Pavement	\$ 6,000.00
g)	Striping and Signage	\$ 2,000.00
h)	Contingency (5%)	\$ 3,261.65
i)	NMGR T	\$ 4,794.63
	<u>TOTAL</u>	<u>\$73,289.28</u>

5. Developer will have plans and specifications compiled in standard City format within 12 months from the effective date of this Agreement. The final construction plans must be in compliance with all applicable design and development standards.
6. Developer agrees to construct the subject project, in accordance with City design standards within Eighteen (18) months from the approval of the plans and specifications called for in Item Nine above. Nothing herein shall prohibit early completion of improvements by Developer.
7. All construction work for Del Rey Blvd will be built according to City standards and will be inspected and tested by the City during construction. The Subdivision Project will not be approved by the City until the Subject Project improvements are complete and accepted by the City.
8. There will be no permit fee for the construction of the improvements contemplated by this agreement as described by Item Four above.
9. The City will make one lump sum payment to Developer in the amount of \$200,000 within 30 days of the execution of this agreement by both parties. Such payment will be for the conditional roadway development for the improvements on Del Rey Blvd., outlined in Exhibit "1". If costs for any element of the aforementioned components increases or otherwise changes, the risk and responsibility therefore shall rest with the Developer and the City shall be held harmless.

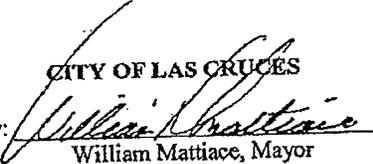
Westmoreland  
Development Agreement  
Page 4 of 5

- 10. If this Agreement is given to an Attorney for enforcement of any provision, the party subject to any judgment by the Court shall be liable for reasonable Attorneys fees and court costs to the prevailing party.
- 11. This Agreement contains the entire agreement between the parties and supersedes any and all other Agreements and understandings, oral or written, whether previous to the execution hereof, or contemporaneous herewith.
- 12. Changes to this Agreement are not binding unless made in writing and signed by both parties.
- 13. This Agreement will be recorded with the Dona Ana County Clerk and is binding upon and inures to the benefit of the successors and/or assigns of the parties. Developer shall not assign or transfer in any way any interest Developer may have in this Agreement without express written consent of the City, which shall not be unreasonably withheld. Any such purported transfer or assignment shall be void.
- 14. If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the agreement is reasonably capable of completion.

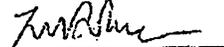
IN WITNESS WHEREOF, the parties have hereunto executed this agreement as of the date and year first above written.

CITY OF LAS CRUCES

By:

  
William Mattiace, Mayor

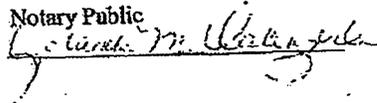
APPROVED AS TO FORM:

  
CITY ATTORNEY

State of New Mexico     )  
  )ss  
County of Dona Ana     )

The foregoing Agreement was acknowledged before me on this 23 day of February, 2006, by William Mattiace, Mayor of the City of Las Cruces, a New Mexico municipal corporation, on behalf of said corporation.

My Commission Expires:

Notary Public  


Westmoreland  
Development Agreement  
Page 5 of 5

Forrest Westmoreland

*Forrest Westmoreland*  
Forrest Westmoreland

State of New Mexico     )  
  )ss  
County of Dona Ana     )

The foregoing Agreement was acknowledged before me on this 3rd day of March, 2006,  
by Forrest Westmoreland on behalf of said corporation.

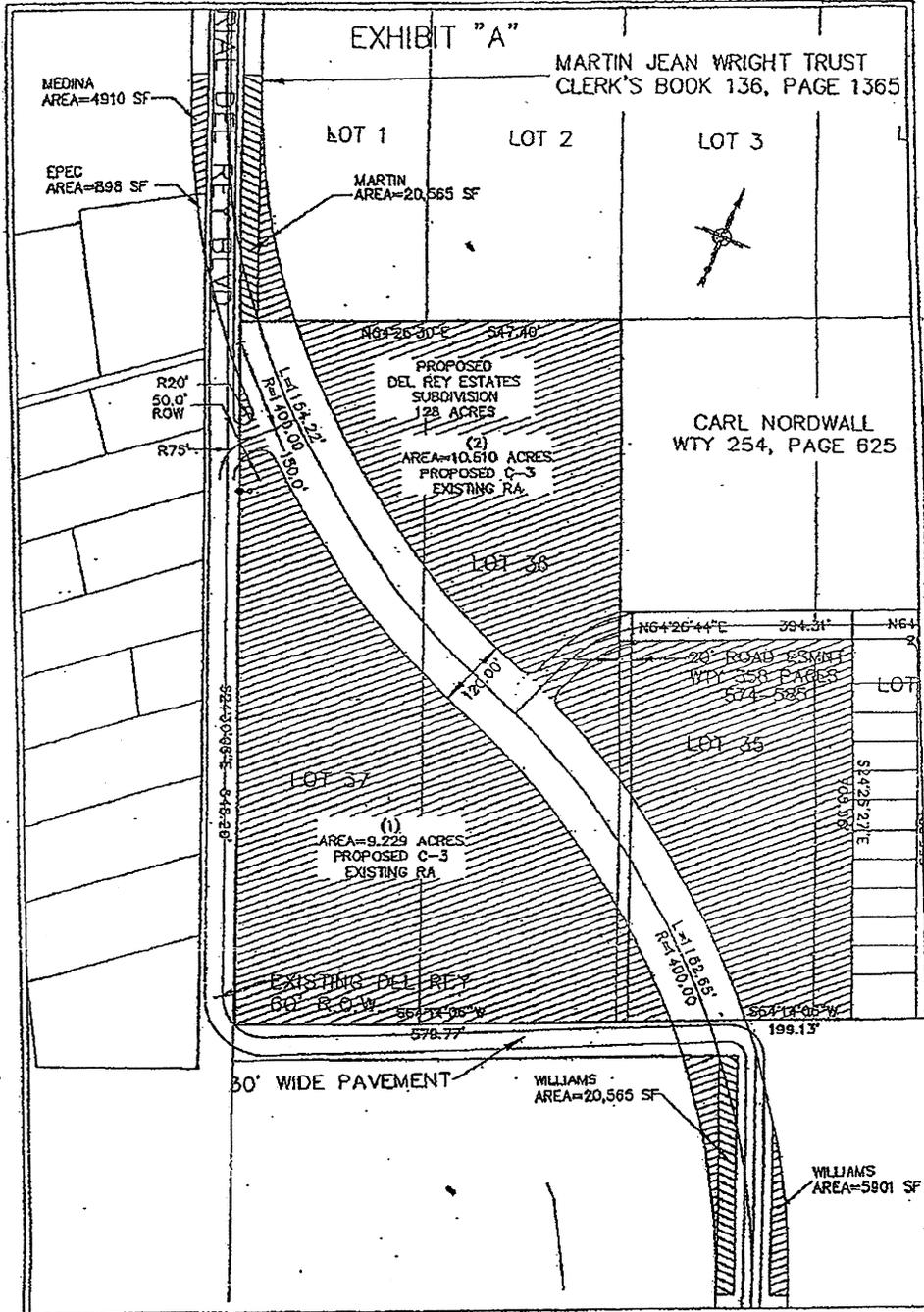
My Commission Expires: 4/4/07

Notary Public  
*Jonathan M. ...*



OFFICIAL SEAL  
JONATHAN M. ...  
NOTARY PUBLIC - STATE OF NEW MEXICO  
My Commission Expires 4/4/07

Exhibit "1"



<p>Zia Engineering &amp; Environmental Consultants, LLC 734 S. Tebbin Blvd., Suite E42 Lafayette, New Mexico 88011 PHONE: (505) 532-1526 FAX: (505) 532-1527</p>	Drawing Name:	Designed By:	REVISIONS		
	OPTION II REVISED	XPS/MJP	Date:	Comment:	
	Project Name:	Drawn By:	MJP		
	DEL REY ESTATES	Approved By:	MJP		
	Date:	1-23-06	File ID: options.dwg	Sheet No: 2 of 3	



# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action Form

For Meeting of February 21, 2006  
(Adoption Date)

**TITLE:**

**A RESOLUTION APPROVING AN AGREEMENT FOR CONSTRUCTION OF THE DEL REY BLVD REALIGNMENT BETWEEN THE CITY OF LAS CRUCES AND FORREST WESTMORELAND IN CONJUNCTION WITH THE DEVELOPMENT OF THE DEL REY ESTATES SUBDIVISION**

**BACKGROUND:**

The realignment of Del Rey Blvd. to remove two ninety degree turns has been a long standing objective for bringing safety to this roadway. The City received a legislative appropriation in 2005 (Project Number ST-5557(201), Control Number C5S07) for right-of-way acquisition, design and construction of this project. The appropriation is for the amount of \$200,000. However, the total estimated cost for these improvements will be up to \$800,000 in total cost.

Due to the lack of sufficient funds to pay for all of the project and in an effort to work collaboratively with the development of the Del Rey Estates Subdivision, which surrounds this portion of Del Rey Blvd., City staff has initiated a dialog with the developers of this area in an attempt to reach a mutually beneficial project development proposal.

(Continued on Page 2)

<b>Name of Drafter:</b> Robert L. Garza	<b>Department:</b> Public Works	<b>Phone:</b> 528-3333
<b>Account Number</b> 400805-47770-744121-0	<b>Amount of Expenditure</b> \$200,000	<b>Budget Amount</b> \$200,000
<b>Strategic Plan Goal / Objective / Strategy Addressed:</b> Infrastructure Goal A -- Develop Policy to ensure equitable distribution of costs for infrastructure improvements		
<b>Performance Budget Goal / Objective Addressed:</b> N/A		
<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Originating Department		528-3333
	<b>Department</b> Budget	<b>Signature</b> 
	Assistant City Manager	541-2107
<b>Legal</b>	<b>Signature</b> 	<b>Phone</b> 541-2076
Rev 08/05		541-2128
	City Manager	

Council Action Form  
Page 2 of 2 pages

Fortunately, the referenced subdivision is moving forward at this time. The subject project falls within the boundaries of the proposed subdivision and therefore brings about an opportunity to work together on a solution to the traffic safety concerns. City engineers desire to have all improvements that are a part of the subject project to be constructed as one large project to avoid multiple phasing and construction transitions that will compromise the integrity of the project and unnecessarily interfere with traffic flow.

As a result, the attached agreement has been drafted for City Council consideration. The agreement delineates the responsibilities of each party and the methods that will be used to collectively and jointly develop the Del Rey Blvd. Alignment. The agreement provides for the City to cover costs associated with work that would typically be outside the area of responsibility for a developer who will also take the lead to survey, design, acquire property and construct all improvements in accordance with City codes and policies.

This attached agreement is an economical method for providing a critical capital improvement to the City's roadway system at the lowest cost possible.

**SUPPORT INFORMATION:**

1. Resolution
2. Roadway Improvement Agreement, Exhibit "A"

**COUNCIL OPTIONS:**

1. Vote "Yes" and approve the agreement to partner with Forrest Westmoreland to provide safety improvements to Del Rey Blvd.
2. Vote "No" and reject the proposed agreement.
3. Vote "Yes" with proposed changes to the agreement. The City Council has the option to direct staff to make changes to the proposed agreement as a condition of approval.
4. Vote to "Table" the Resolution and provide alternative direction to Staff.

(Continue on additional sheets as required)

## ATTACHMENT 5

**Agreement Between Westmoreland Enterprises, LLC / Del Rey Estates, LLC and  
City of Las Cruces for Additional ROW Dedication  
Along Existing Del Rey Boulevard**

This agreement is entered into on this 18 day of Jan, 2010 by and between City of Las Cruces, a New Mexico Municipal Corporation (City) and Westmoreland Enterprises, LLC and Del Rey Estates, LLC (Developer).

**Recitals**

- i. On March 3, 2008 the City of Las Cruces City Council approved an agreement (Resolution 08-251) between The City and Developer for the Construction of the Del Rey Boulevard Realignment.
  - a) The Developer has completed utility, concrete curb and gutter, and pavement improvements as part of said agreement.
  - b) The City has completed permanent barrier/guardrail improvements in the north intersection of new Del Rey Boulevard Re-Alignment as shown in Exhibit D.
  - c) The CLC has completed the remaining asphalt pavement in the SW corner of Del Rey Boulevard Re-Alignment and Check court extension as shown in Exhibit D.
- ii. The purpose of this agreement is to address the City's need for additional ROW/site dedication along the "Old Del Rey Boulevard" within the Del Rey Estates Subdivision area as shown in Exhibit C.

**Arguments**

- 1) The Developer agrees that:
  - a) It will deed property to the City for dedication as a ROW located along "Old Del Rey Boulevard" within the Del Rey Estates Subdivision area as shown in Exhibit C. Said piece of land being approximately 14,600 SF (730'X20').
  - b) It will at its expense correct the concrete collars of three (3) of the five (5) deeper manholes to meet current City of Las Cruces Utility Standards as shown on Exhibit A. The work to meet City standards will be made concurrent with construction of sewer system in Phase II of Del Rey Estates to minimize traffic impacts and reduce costs associated with these repairs.
  - c) It will at its expense landscape the 8' parkways of the adjacent commercial parcel (adjacent to its properties) at the time of development in both sections of old Del Rey Boulevard as shown on Exhibit B.
- 2) The City agrees that:
  - a) Old Del Rey Boulevard along the new dedication (Check Court Extension)
    - i) It will at its expense be responsible for the preparation of all survey and legal plats, boundary surveys, monumentation and deed/title fees required for the conveyance of the newly dedicated land. The City will vacate the property as shown on Exhibit C and described in Section 1 of this agreement.

Development Agreement  
Westmoreland Enterprises/Del Rey Enterprises  
10-28-09  
Page 2 of 4

FINAL DRAFT

- ii) It will at its expense be responsible for the preparation of all survey and legal plats, boundary surveys and monumentation of pond and parks areas to be dedicated to the city between the Old Del Rey Boulevard and the new realigned Del Rey Boulevard as shown on Exhibit C.
  - iii) It will be responsible for the construction of the physical improvements for the new Check Court extension, including the 10' multiuse pathway as shown on Exhibit C).
  - iv) It will allow the developer two (2) permanent driveway access points in conformance with its curb cut ordinance requirements in place at the time of site development, from Check Court Extension into the commercial property located south of the proposed park and north of Check Court extension.
- b) Old Del Rey Boulevard along existing ROW (north-south bound Weaver Trail)
- i) It will be responsible for the construction of the physical improvements for the 10' multiuse pathway as shown on Exhibit C.
- c) Del Rey Estates Phase I
- i) It will allow the remaining sidewalks not currently constructed along the commercial parcels to be constructed by the Developer at its expense at the time of development of these commercial projects. This includes Del West and Check Court as shown on Exhibit E.
  - ii) It will accept the ADA ramps within the boundaries of Del Rey Phase I that conform to current ADA standards. The Developer at its expense will provide a drawing signed by a NM registered land surveyor, showing existing "as-built" elevations for use to receive property. Timing of ADA surveying will be done with the field surveying for the plats described herein and shall be completed within 45 days after this agreement is approved by both parties shown on Exhibit F.
  - iii) It will release the security payment held by it for completion of Del Rey Estates Phase I and will issue its letter of final acceptance within ten (10) working days after approval of this Agreement by both parties.

#### Mutual Obligations

- 1) If this Agreement is placed with an Attorney for enforcement of any provision, the prevailing party to any judgment by the court shall be liable for reasonable Attorneys fees and court costs.
- 2) The entire Agreement of the parties set forth within supersedes any and all other Agreements and understandings, oral or written whether previous to the execution hereof, or contemporaneous herewith.

FINAL DRAFT

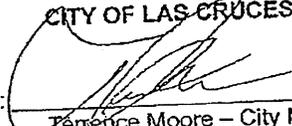
Development Agreement  
Westmoreland Enterprises/Del Rey Enterprises  
10-28-09  
Page 3 of 4

- 3) Changes to this Agreement are not binding unless made in writing and signed by both parties.
- 4) If any or part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

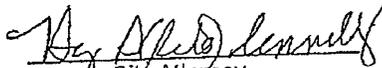
**Third Party Beneficiary**

- 1) This contract is not intended by any of the provisions of any part of the contract to create in the public or any member thereof a third party beneficiary, or to authorize anyone not a party to the contract to maintain pursuant to the provisions of the contract, a suit of any nature based upon this contract.

IN WITNESS WHEREOF, the parties have hereunto executed this agreement as of the date and year first above written.

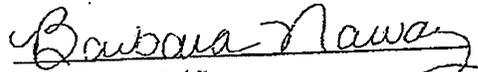
CITY OF LAS CRUCES  
 By:   
 Terrence Moore – City Manager

APPROVED AS TO FORM:

  
 Deputy City Attorney

STATE OF NEW MEXICO            )  
   )ss.  
 COUNTY OF \_\_\_\_\_        )

The foregoing Agreement was acknowledged before me on this 29<sup>th</sup> day of January 2009, by Terrence Moore, City Manager of Las Cruces, a New Mexico Municipal Corporation on behalf of said Corporation.

  
 Notary Public

My Commission Expires:  
3-30-2012

Development Agreement  
Westmoreland Enterprises/Del Rey Enterprises  
10-28-09  
Page 4 of 4

FINAL DRAFT

**WESTMORELAND ENTERPRISES, LLC**

**DEL REY ESTATES, LLC**

By: *Forrest Westmoreland*  
Forrest Westmoreland

By: *Forrest Westmoreland*  
Forrest Westmoreland

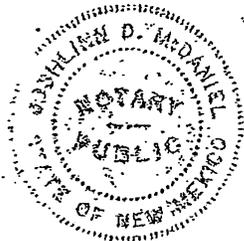
*Shane Selder*  
Title

*Shane Selder*  
Title

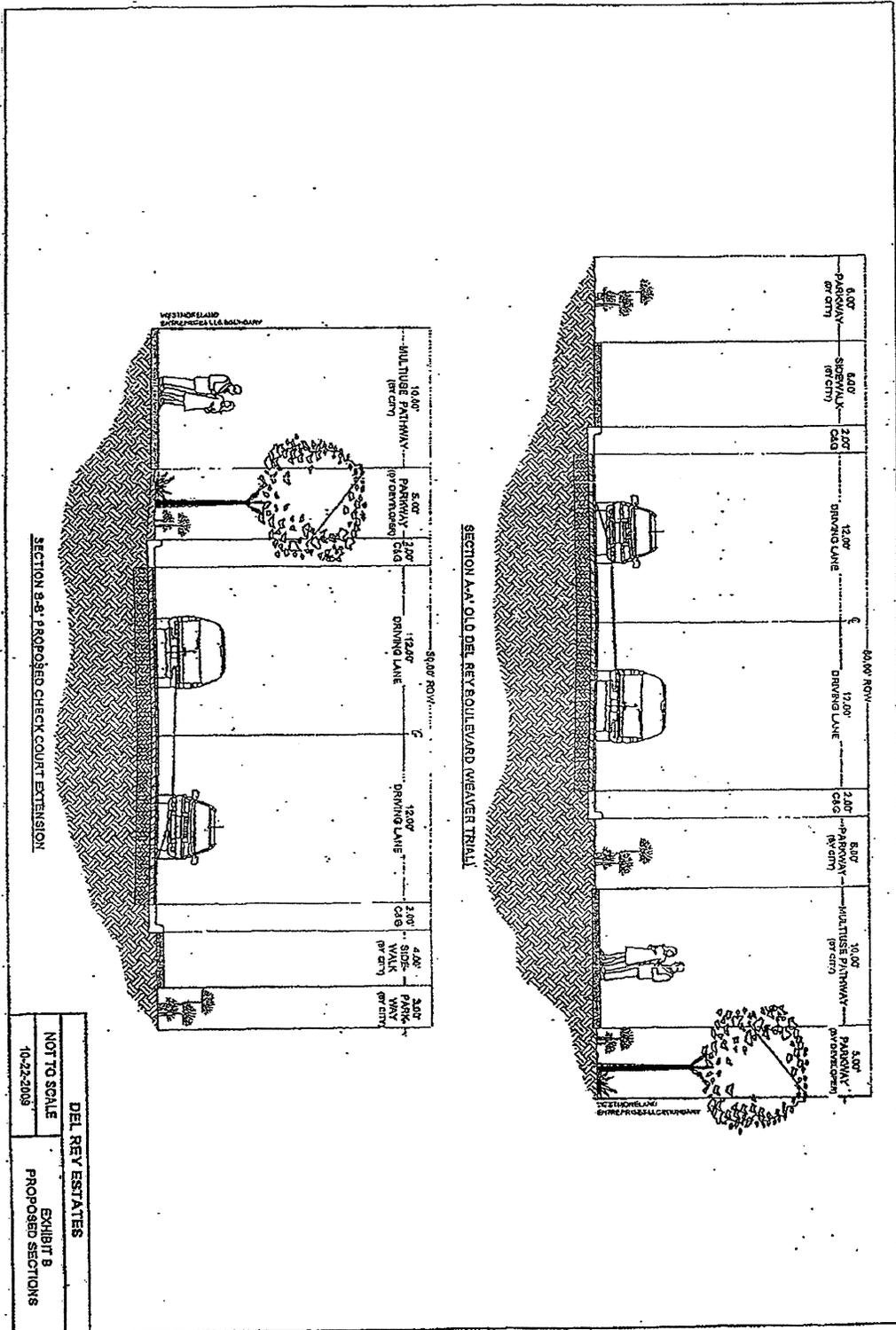
The foregoing Agreement was acknowledged before me on this 18<sup>th</sup> day of July, 2009, by Forrest Westmoreland on behalf of Westmoreland Enterprises, LLC and Del Rey Estates, LLC, New Mexico Municipal Corporations on behalf of said Corporations.

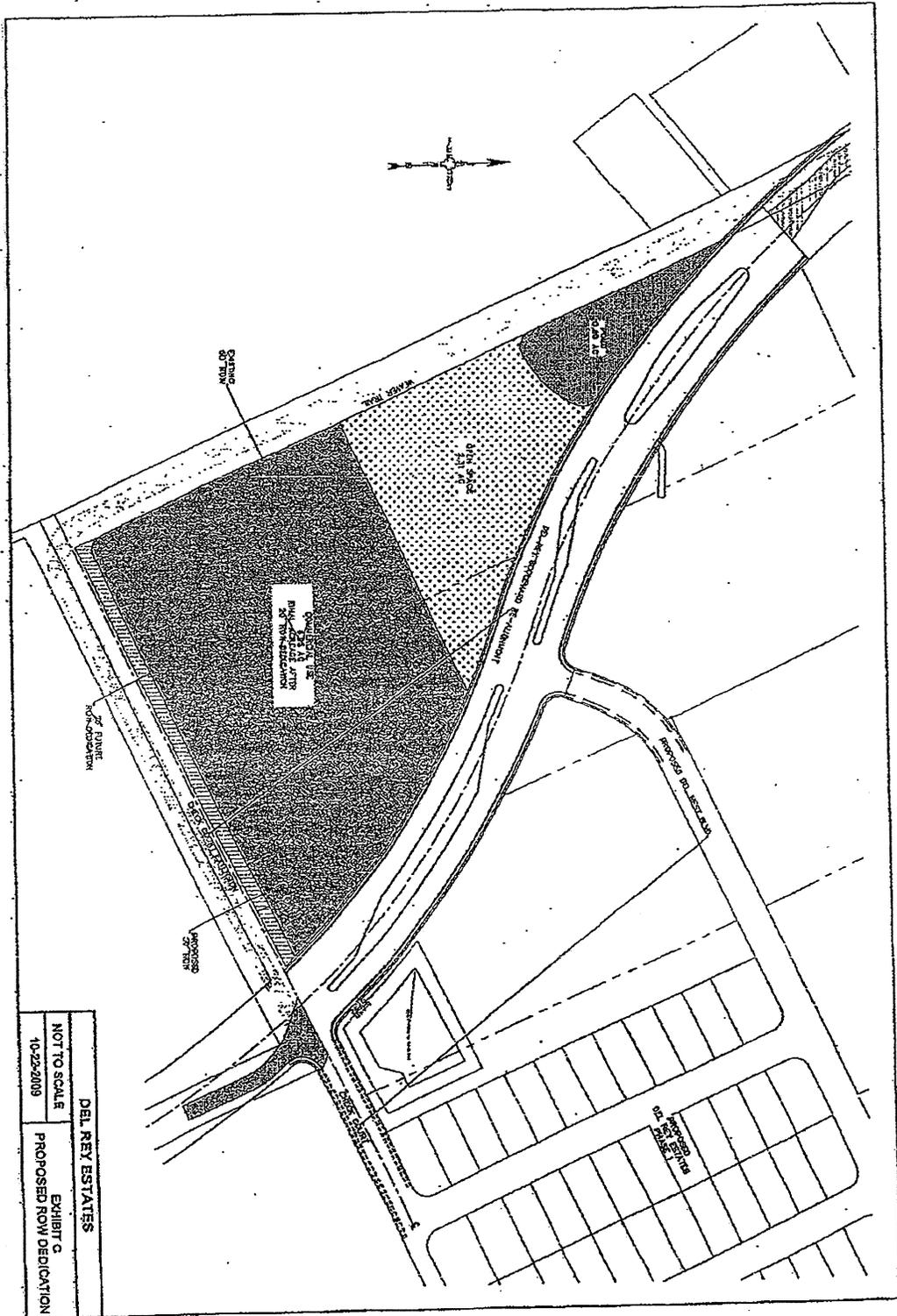
*Joshua M. [Signature]*  
Notary Public

My Commission Expires:  
4/5/11









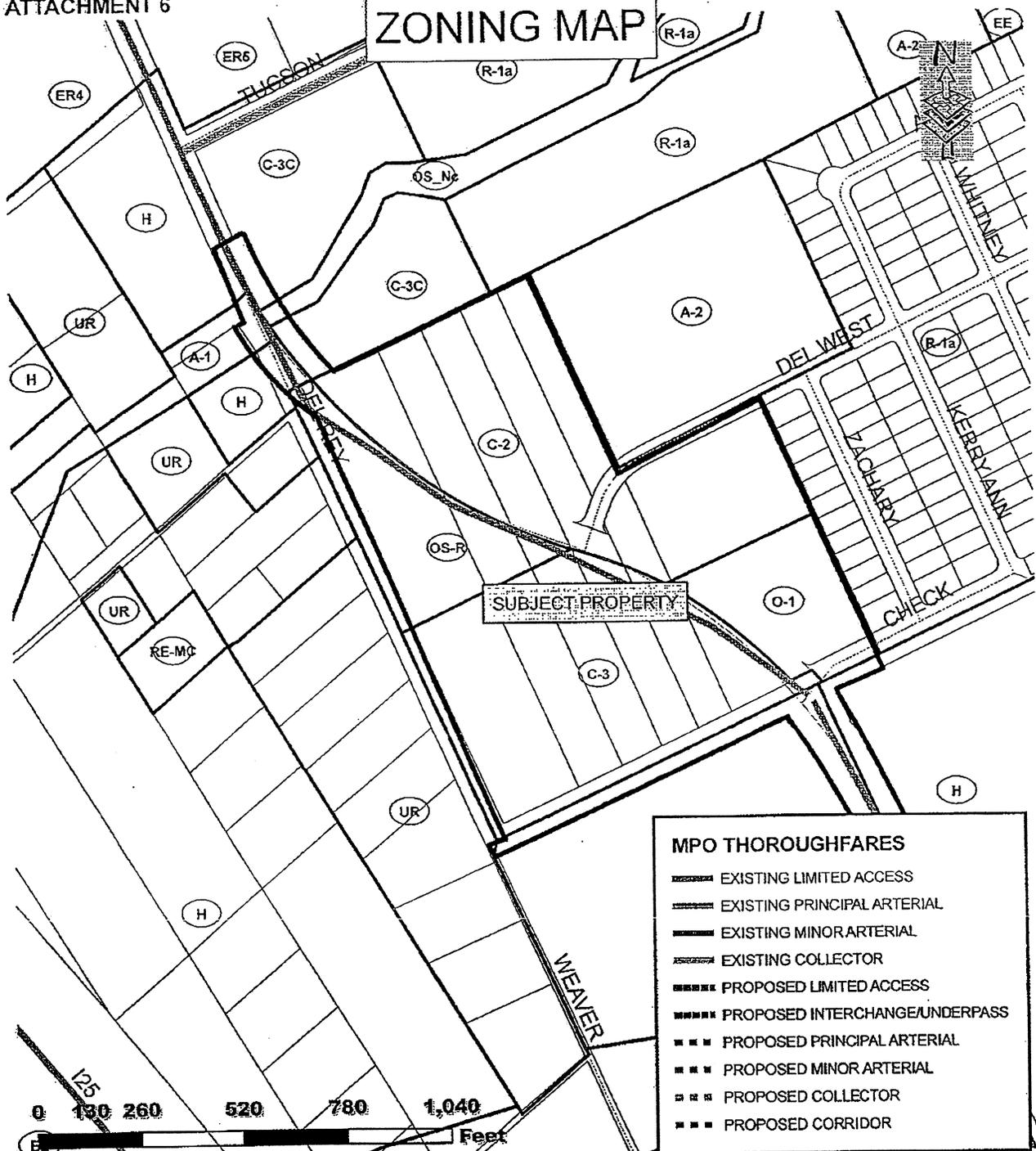






ATTACHMENT 6

# ZONING MAP



**CASE S-09-059, WESTMORLAND PARK SUBDIVISION**  
**PARCEL: 02-20752, 02-22921, 02-20753, 02-22920, 02-22919 & 02-22918**  
**OWNER: FORREST WESTMORELAND & JOYCE**  
**ZONING: OS-R, C-3, C-2 & O-1**

Community Development Department  
 700 N. Main St.  
 P.O. Box 20000  
 Las Cruces, NM 88004  
 (505) 528-3043

*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.*

ATTACHMENT 7

VICINITY MAP



**CASE S-09-059, WESTMORLAND PARK SUBDIVISION**

**PARCEL: 02-20752, 02-22921, 02-20753, 02-22920, 02-22919 & 02-22918**

**OWNER: FORREST WESTMORELAND & JOYCE**

**ZONING: OS-R, C-3, C-2 & O-1**

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