City of Las Cruces®

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Council Action and Executive Summary

Item # 9 **Ordinance/Resolution#** 2597 **Council District:** 1

For Meeting of December 6, 2010
(Adoption Date)

TITLE: AN ORDINANCE TO AMEND CHAPTER 38 OF THE LAS CRUCES MUNICIPAL CODE, 1997 (ZONING) TO CREATE SECTION 38-49.3 ADO -- ALAMEDA DEPOT OVERLAY. (ZCA-10-02)

PURPOSE(S) OF ACTION: Adopt newly created Overlay for the Alameda Depot Neighborhood.

Drafter and Staff Contact: Carol McCall		Department: Community Department		Phone: 528-3209	
Department	**Signature**	**Phone**	**Department**	**Signature**	**Phone**
Department Director		528-3067	Budget		541-2107
Other			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: In 1999, the City's Comprehensive Plan was adopted, calling for the creation of an Alameda Depot neighborhood plan and overlay. The Alameda Depot Neighborhood Plan was adopted in April 2009, following many drafts and many public input meetings with neighborhood residents.

Policies stated in the Plan are implemented by the regulatory steps provided in the Overlay. The Overlay includes stated land uses and development standards, steps regulating the demolition of historic structures, and landscape requirements that will help protect the unique character of this historic neighborhood.

The Overlay was drafted and reviewed by neighborhood association leadership during the summer 2010. A revision was prepared based on their input. The revised draft was made available to the public as a hard copy and on the City's website. A neighborhood meeting was held on August 4, 2010, followed by a 30-day review period. Comments received during this time were incorporated into the revised Overlay, which is the document submitted here.

In summary:

- The Overlay provides the regulatory mechanism by which the unique character of the neighborhood is preserved but still allows individual property owners the freedom to manage their properties without excessive limitations;
- The Overlay does not create mandatory design standards nor call for the creation of a local historic district, in keeping with the wishes of neighborhood residents;

- The Overlay provides a demolition review period to help protect historic structures;
- The Overlay provides policies for relaxed off-street parking requirements to accommodate potential changes in land uses;
- The Overlay allows most non-conformities to continue as allowed by right;
- The Overlay details appropriate land uses in different areas of the neighborhood depending on the characteristics of each area.

On September 28, 2010, the Planning and Zoning Commission voted to recommend adoption of this Overlay with amended language by a vote of 6-0. The amended language corrects a discrepancy in the land use table on page 12 under "Theater, Performing Arts." The table should say "NP, C, C" in ADO-1 & 2, ADO-4 & 5 and ADO-6, respectively. The condition noted should read "Uses shall be located on a collector or higher designated roadway."

Public comments received are included in this packet.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A" Alameda Depot Overlay.
3. Attachment 1: Planning and Zoning Commission Meeting Minutes, September 28, 2010,
4. Attachment 2: Summary notes from August 4th public meeting.
5. Attachment 3: Additional public comments received.
6. Attachment 4: Memo to Ordinance #2597 File

SOURCE OF FUNDING:

Is this action already budgeted?			
	Yes	☐	See fund summary below
	No	☐	If No, then check one below:
N/A	*Budget Adjustment Attached*	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?			
N/A	Yes	☐	Funds will be deposited into this fund: _____ in the amount of $_____.
	No	☐	There is no new revenue generated by this action.

FUND EXPENDITURE SUMMARY:

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

OPTIONS / ALTERNATIVES:

1. Vote "Yes" to adopt the proposed Overlay with recommended changes. This will create a special zoning district in the 2001 Zoning Code, as amended, for the Alameda Depot neighborhood.

2. Vote "No"; resulting in no special zoning district for the Alameda Depot neighborhood. Neighborhood property owners would then continue to follow the 2001 Zoning Code, as amended, without overlay provisions. Land use decisions within this neighborhood would be influenced by Alameda Depot Neighborhood Plan policy. However, said policy is not enforceable in and of itself.

3. Vote "Yes" with modifications. Modifications could include such changes in the Overlay as Council deems appropriate.

4. Vote to "Table" 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.

N/A

COUNCIL BILL NO. 11-017
ORDINANCE NO. 2597

AN ORDINANCE TO AMEND CHAPTER 38 OF THE LAS CRUCES MUNICIPAL CODE, 1997 (ZONING) TO CREATE SECTION 38-49.3 ADO -- ALAMEDA DEPOT OVERLAY. (ZCA-10-02)

The City Council is informed that:

WHEREAS, residents from the Alameda Depot area requested assistance in the study and creation of a neighborhood plan and overlay; and

WHEREAS, the 1999 Las Cruces Comprehensive Plan supports neighborhood planning activities to address the concerns of older neighborhoods; and

WHEREAS, the Alameda Depot Neighborhood Plan was adopted on April 27, 2009; and

WHEREAS, leadership from the two neighborhood groups support the proposed Alameda Depot Overlay (ADO) because it addresses all concerns to the extent possible; and

WHEREAS, the Planning and Zoning Commission recommended that the Alameda Depot Overlay be approved at the September 28, 2010 public hearing.

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

(I)

THAT the City of Las Cruces hereby adopts the Alameda Depot Overlay, with corrected text, attached hereto as "Exhibit "A" and made a part of this Ordinance.

(II)

THAT said Overlay shall create a special zoning district in the 2001 Zoning Code, as amended, which shall regulate land use decisions in this unique historic neighborhood.

(III)

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

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: ____
Councillor Silva: ____
Councillor Connor: ____
Councillor Pedroza: ____
Councillor Small: ____
Councillor Sorg: ____
Councillor Thomas: ____

Moved by: Silva

Seconded by: Small

APPROVED AS TO FORM:

City Attorney

Sec. 38-49.3 ADO – Alameda Depot Neighborhood Overlay

List of Sections:

A. PURPOSE
B. APPLICABILITY
C. DELINEATION OF OVERLAY ZONE
D. DEFINITIONS
E. PERMITTED USES
F. DEVELOPMENT STANDARDS
G. PROPERTY ALTERATION, REMODEL OR RENOVATION
H. NON-CONFORMING USES, STRUCTURES, AND PROPERTY
I. FLEXIBLE DEVELOPMENT STANDARDS
J. PARKING REQUIREMENTS
K. LANDSCAPE REQUIREMENTS
L. WALLS AND FENCES
M. SIGNS
N. DEMOLITION
O. LAND USE/ZONE CHANGE REQUESTS
P. SUBMITTAL AND REVIEW PROCESS
Q. APPEALS
R. ENFORCEMENT OF OVERLAY ZONE DISTRICT

Sec. 38-49.3 ADO – Alameda Depot Neighborhood Overlay

A. PURPOSE. The Alameda Depot neighborhood, with its rich history, diverse architecture and peaceful environment, is an important part of Las Cruces life. The purpose of the Alameda Depot Neighborhood Overlay (ADO) is to implement the policies that were established in the Alameda Depot Neighborhood Plan. As it is impacted by changes in downtown and surrounding neighborhoods, residents and property owners want to protect the characteristics that make the Alameda Depot neighborhood special. Specific provisions in this Overlay provide greater flexibility for historic properties and address such things as such as setbacks, land uses, parking and changes to structures that predate the creation of development standards. The Alameda Depot Overlay contains a state historic district and a national historic district, but the neighborhood has not been designated a Local Historic District, and will be exempt from any future Local Historic District ordinances should they be adopted by the City.

B. APPLICABILITY

1. Introduction. This Overlay applies to all properties within the Alameda Depot Neighborhood boundaries. These properties have been categorized into six sub-areas, and have been given new zoning designations based on the distinct characteristics of each (see Section C below). . The Overlay shall be used to regulate development standards, land uses, design of new streets, new buildings, and new public spaces.

2. Terms. The provisions of this Overlay are activated by "shall" when required; "should" when recommended; and "may" when optional. Technical terms used throughout this Code may be defined below in Section D (Definitions). Those terms not defined in Section D shall be accorded their commonly accepted meanings or as defined in Sections 38-20, 21 of the 2001 Zoning Code as amended. In the event of conflicts between these definitions and the provisions herein stated, the Community Development Director shall have the authority pursuant to Section 38-4-B to determine which will be imposed.

3. Diagrams and Illustrations: Diagrams and Illustrations are an integral part of this Overlay and are used to help explain standards and guidelines. The diagrams and illustrations are for illustrative purposes only. When in conflict, written text shall take precedence over diagrams and illustrations.

C. DELINEATION OF OVERLAY. The Alameda Depot Neighborhood Overlay District shall include all properties noted on the associated map (Figure 1). Within the Overlay, six (6) distinct Zones shall be established: ADO-1, the Alameda Corridor; ADO-2, the Griggs/Organ Corridor; ADO-3, the North and South Residential Cores; ADO-4, the Picacho Corridor; ADO-5, Amador Corridor; and ADO-6, the Railroad Corridor. Description of Overlay Zones:

1. ADO-1, the Alameda Corridor: Uses in ADO-1 include single family residential, multi-family residential, low-intensity office and commercial uses, and public/institutional uses

that generate relatively little traffic or parking demand. The residential and historic character of the neighborhood shall be retained as closely as possible.

2. ADO-2, the Griggs/Organ Corridor: Uses in ADO-2 include single family residential, multi-family residential, low-intensity office and commercial uses, and public/institutional uses that generate relatively little traffic or parking demand. The residential and historic character of the neighborhood shall be retained as closely as possible.

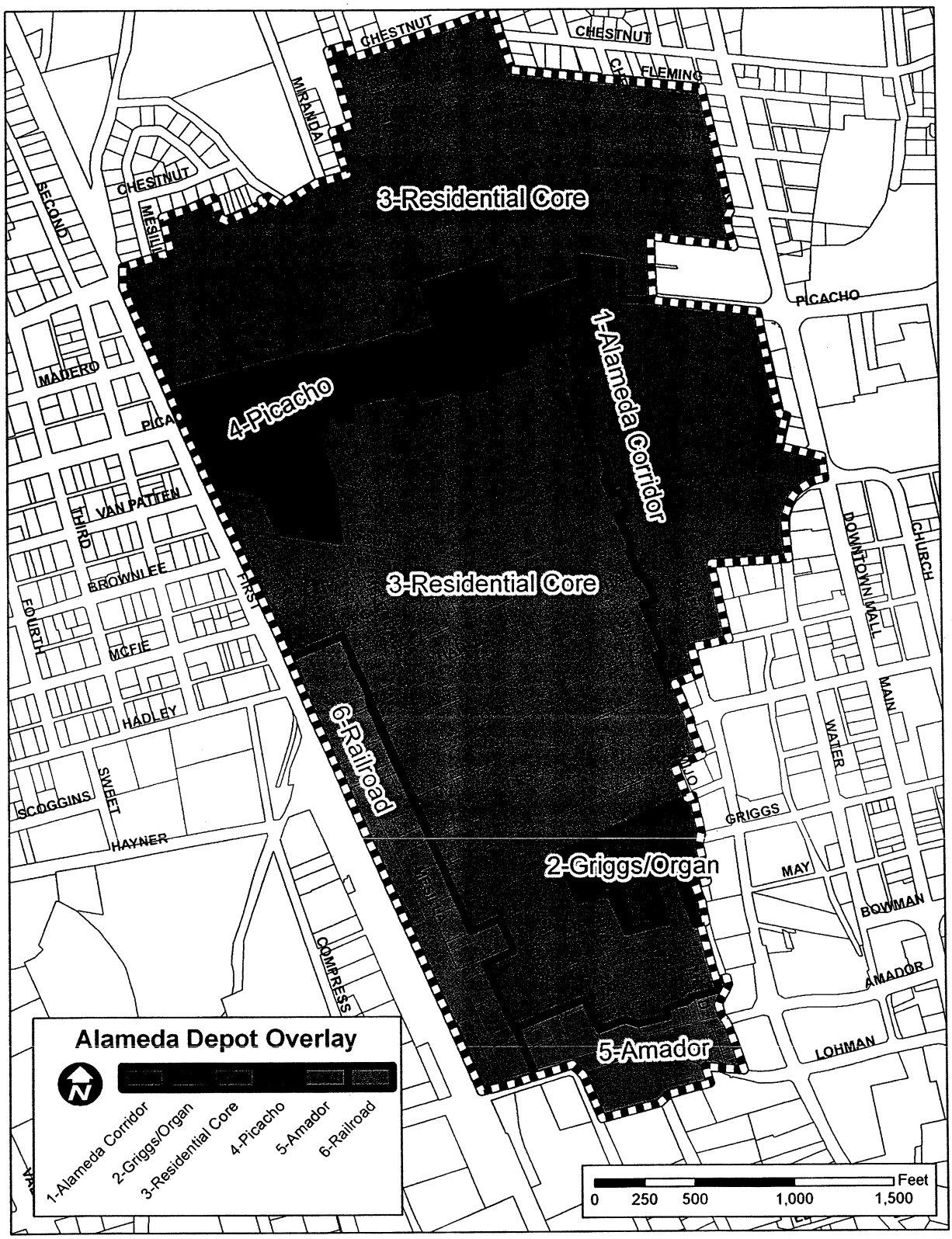
3. ADO-3 the North and South Residential Cores: ADO-3, the Residential Core, is intended to accommodate primarily detached single-family dwelling units, with or without secondary residences, to maintain and protect a low-density residential character of development, and to maintain the historic appearance of this central area of the neighborhood as closely as possible.

4. ADO-4, the Picacho Corridor: Uses in ADO-4 include single family residential, multi-family residential and low- and medium-intensity office and commercial uses. The residential and historic character of the neighborhood shall be retained as closely as possible. All office and commercial uses are intended to serve as transition zones between higher intensity uses on Picacho Avenue and the predominantly residential uses of the neighborhood.

5. ADO-5, Amador Corridor: Uses in ADO-5 include single family residential, multi-family residential and low- and medium-intensity office and commercial uses. The residential and historic character of the neighborhood shall be retained as closely as possible. All office and commercial uses are intended to serve as transition zones between higher intensity uses on Amador Avenue and adjacent to the Central Business District and the predominantly residential uses of the neighborhood.

6. ADO-6, the Railroad Corridor: ADO-6, the Mesilla Street/Railroad Track corridor, is intended to exist as a mixed use environment allowing low intensity manufacturing, low- and medium-intensity office and commercial, and limited residential uses. Residential uses must be part of a mixed use development. Residential uses existing at the time of adoption of this Overlay that are not a part of a mixed use development are considered legally non-conforming, and shall adhere to the Non-conforming Use provisions stated below in Section H, with the exception of item H.1.a). These uses are not subject to the one-year vacancy limit.

Figure 1 Alameda Depot Neighborhood Overlay Boundaries



D. DEFINITIONS. Definitions are in addition to those noted in Chapter 38-20, 21 of the LCMC:

Accessory Use or Structure: A subordinate use or structure, the use of which is incidental to and customarily found in connection with the principal dwelling on the same property. Examples: gazebo, greenhouse, tool shed, detached garage, guest dwelling, swimming pool, tennis court, barn, and flag pole (Also see Section 38-53 of the 2001 Zoning Code as amended).

Accessory Dwelling Unit: A self-contained living quarter containing independent kitchen (cooking/culinary) facilities attached to and under the same roof as the main dwelling, created by: the conversion of an existing single-family dwelling; or the addition to an existing single-family dwelling; or the incorporation of applicable areas into a new single-family dwelling design which is subsequently constructed. (Also see Section 38-53 of the 2001 Zoning Code as amended).

Brew-Pub: A brewpub is a microbrewery which serves food or is combined with a pub. A microbrewery, or craft brewery, is a brewery which produces a limited amount of beer. The maximum amount of beer a brewery can produce and still be classed as a microbrewery in New Mexico is less than or equal to 200,000 barrels a year, according to the New Mexico Alcohol & Gaming Division.

Central Business District (CBD): All properties with zoning designation of CBD according to the 2001 Zoning Code as amended.

Compatible: Capable of existing together in harmony. Parts of a whole that work well together when pieced together.

Consistent: That which is similar to, or nearly the same.

Contributing Property: A property, structure or object that adds to the historical integrity or architectural qualities that make the historic area significant. In general, a contributing property is key to a historic district's historic associations, historic architectural qualities, or archaeological qualities. (A list of Contributing properties in the Alameda Depot Neighborhood Overlay is available from the Community Development Department.)

Dwelling, Above Ground Floor: Dwelling unit(s) located above ground floor office or commercial uses.

Demolition: An act that destroys or removes in whole or in part of the exterior of a building or structure on a property.

Façade: Any exterior wall of a structure.

Guest Dwelling: A detached or attached dwelling to be used for temporary occupancy only and is not to be rented or leased. A guest dwelling shall be no more than fifty percent (50%)

of the main dwelling's heated/cooled square footage and shall not contain a kitchen. (Also see Section 38-53 of the 2001 Zoning Code as amended.)

Historic: Structures/buildings deemed historic are those listed as Contributing on the Federal and/or State Historic Registers.

Historic District: Area in which historic buildings and their settings are protected by public review. Historic districts comprise the city's significant historic and architectural resources. Inclusion in a historic district signifies that a property contributes to an ensemble that is worth protecting by virtue of its historic importance or architectural quality.

Infill: An area within the core of the City where land use and development policies specify provisions with incentives for development of vacant parcels. The boundaries are Interstate 25, the north boundary of the University Avenue Corridor Overlay District, Valley Drive, Hoagland Road, North Alameda Boulevard, Three Crosses and North Main Street.

LCMC: Most current edition of the Las Cruces Municipal Code

Live/Work Unit: A building that may be used flexibly for living and working in the same building. A variety of uses in the buildings is encouraged. Dwelling units may be located above the ground floor, attached to the rear of a Shop Front, or detached and located in the rear or side yard. Work is of a commercial nature subject to business registration requirements and not a home occupation.

Manufactured Home: is a manufactured or modular home that is a single-family dwelling with a heated area of at least thirty-six (36) feet by twenty-four (24) feet and at least eight hundred sixty-four (864) square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the regulations made pursuant to that act. (Article VI, Sec. 38-57 of the 2001 Zoning Code as amended).

Mixed Use: For the purposes of this overlay, the term refers to the practice of allowing more than one type of land use category (i.e., Residential, Office or Commercial, etc.) in a single building or set of buildings located on a single parcel. Condominium maps created and filed showing distinct sub-lots on an otherwise single parcel shall be considered as a single parcel for purposes herein stated.

Mobile Home: A moveable or portable housing structure larger than forty (40) feet in body length, eight (8) feet in width or eleven (11) feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes, but does not include structures built to the standards of any municipal building code and other technical codes. (Article VI, Sec. 38-57 of the 2001 Zoning Code as amended).

National Historic District: An area that the U.S. government designates as historically important through the U.S. Department of Interior, under the auspices of the National Park Service. Federally designated historic districts are listed on the National Register of Historic Places. The Alameda Depot Neighborhood Overlay contains a National Historic District.

Outdoor Plaza or Space: A generally open area that may be used for active or passive purposes by one or more businesses and the public visiting the location. An example may include an outdoor seating area for a café or restaurant, outdoor sales and service, a landscaped plaza serving as open space for patrons and visitors alike, etc.

Overlay and Special Zoning District: Synonymous terms used to define boundaries around an area that has a set of unique or unusual characteristics. Overlays and Special Zoning Districts have a special purpose as defined in an accompanying plan, and may alter general residential, office, commercial or industrial zoning districts or replace them entirely.

Performing Arts Center: A multi-use performance facility that is intended for use by various types of the performing arts, including dance, music and theatre.

Secondary Residence: A dwelling unit that is subordinate in size and location to the main dwelling on a single property, and may be rented or leased as an independent dwelling unit. A secondary residence is different from a guest dwelling or accessory structure in that it is distinct dwelling unit containing a kitchen. Examples include a traditional guest house, apartment, cottage or converted garage.

State Historic District: An area that is designated by the State as historically important and which follows criteria similar to the federal standards. State listings can have similar benefits to federal designation, such as qualification for grants and tax incentives. Designation of a district is through a review process at the State Historic Preservation Office. New Mexico's Register of Historic Places lists districts and individual properties. The Alameda Depot Neighborhood Overlay contains a State Historic District.

Step-back: In buildings with multiple stories, a reduction in the footprint of each level located successively farther from the ground. Step-backs prevent a 'canyon effect,' which deprives neighboring properties of sun light, and ensure that streets and yards are provided adequate light and air. In addition, they create articulation and a sense of vertical rhythm in the architecture. The space created by a step-back may be used for terraces, gardens, outdoor seating, etc.

Structure: That which is built or constructed, an edifice or building of any kind, or any place of work artificially built up or composed of parts joined together in some definite manner.

Traditional Guest House: A type of secondary residence with kitchen facilities found in the Alameda Depot neighborhood as a result of adaptive reuse of existing structures on the same parcel as the primary dwelling. Historically, these units were converted from non-residential uses, such as a coach house.

E. PERMITTED USES -- Permitted, Conditional and Special Uses shall be established for each Zone in this Overlay District. Land uses in ADO-1, the Alameda Corridor; ADO-2, the Griggs/Organ Corridor; ADO-4, the Picacho Corridor; ADO-5, Amador Corridor; and ADO-6, the Railroad Corridor shall follow the Land Use Tables in E-2 below. Uses in ADO-3, the North and South Residential Cores, shall be in accordance with the underlying zoning in place at the time of the adoption of this Overlay (see Figure 2 above) and are listed in the Land Use Table in E-3 below.

1. LAND USE DEFINITIONS: Unless otherwise stated, land uses are as follows:

   a) RESIDENTIAL – Low and medium density residential uses in the Alameda Depot Neighborhood Overlay are intended to accommodate single-family site built/manufactured dwelling units, including patio homes and townhouses, and multi-family dwellings up to twenty (20) per acre, with no more than four (4) attached units each.

   b) LOW INTENSITY OFFICE: These office uses are small-scale, and provide low-intensity service activities. No goods or merchandise are prepared or sold on the premises with the exception of those activities that serve the primary use. Access to streets that are a major local or higher designation is recommended.

   c) LOW INTENSITY COMMERCIAL: Low intensity commercial uses are those that generate small-scale retail and service activities within a neighborhood area.

   d) MEDIUM INTENSITY COMMERCIAL: Medium intensity commercial areas facilitate and encourage development of those uses which provide retail and service activities as a convenience to the general public.

   e) PUBLIC/INSTITUTIONAL – These are uses dedicated to public or non-profit service, such as schools, religious institutions, government & quasi-governmental agencies, libraries, etc.

   f) LOW INTENSITY INDUSTRIAL: Low intensity industrial uses are those that accommodate a wide variety of light manufacturing, commercial, processing, storage, packaging, compounding, wholesaling and distribution operations. Such uses shall be constructed and operated to ensure that there is: 1) No activity producing noise, glare or heat observable or measurable outside the building; 2) No emission of objectionable dust, fumes, odors, vapors, gases, smoke or other forms of air pollution; 3) No vibration which is discernible beyond the property lines to the human sense of feeling for three minutes or more duration in any one hour of a day.

2. LAND USES in ADO-1, the Alameda Corridor; ADO-2, the Griggs/Organ Corridor; ADO-3, the North and South Residential Cores; ADO-4, the Picacho Corridor; ADO-5, Amador Corridor; and ADO-6, the Railroad Corridor.

a) RESIDENTIAL USES	ADO-1 ADO-2	ADO-4 ADO-5	ADO 6	CONDITIONS
Assisted Living or Retirement Facility	C	C	NP	Use shall be located on a collector or higher designated roadway.
Bed and Breakfast	C	C	NP	See Sec. 38-53.
Boarding House	A	A	NP	
Dwelling Unit, including: Accessory Dwelling Unit Apartments Detached Site Built Single Family DU (incl. manufactured homes) Duplex, Triplex, etc. Dwelling, Live-Work Guest Dwelling Patio Homes Townhouse (Attached Single Family DU) Secondary Residences	A	A	C	In ADO 6, residential uses are intended to be multi-family and must be part of a live/work or multi-use development project. Proposals must go through Infill Development Proposal (IDP) process. Project must be no more than 50% residential.
Fraternity/Sorority House	A	A	NP	
Halfway House	S	S	NP	
Home for Disabled	A	A	NP	
Nursing Home	C	C	NP	Use shall be located on a collector or higher designated roadway.
Temporary/Homeless Shelter	A	A	NP	
A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted				

b) RESIDENTIAL RELATED USES	ADO-1 ADO-2	ADO-4 ADO-5	ADO 6	CONDITIONS
Accessory Uses & Structures	C	C	C	See Sec. 38-51
Greenhouse (Non-commercial), Garden Shed, Tool Shed	C	C	C	See Sec. 38-51
Recreational Court, Tennis, etc., Private	C	C	C	See Sec. 38-51
A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted				

9) RECREATIONAL USES	ADO-1 ADO-2	ADO-4 ADO-5	ADO 6	CONDITIONS
Health/Exercise Club/Gymnasium/Sports Institution	NP	A	A	
Park	A	A	A	
Recreational Court, Tennis, etc., Public	A	A	A	
Skating Rink	NP	A	NP	
Swimming Pool, Commercial or Public	C	C	C	See Sec. 38-53
A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted				

d) INSTITUTIONAL RELATED USES	ADO-1 ADO-2	ADO-4 ADO-5	ADO 6	CONDITIONS
Child Care: Family Child Care Home (5-6 children)	C	C	C	See Sec. 38-53
Child Care: Group Child Care Home (7-12 children)	C	C	C	See Sec. 38-53
Child Care: Child Care Center or Preschool (over 12 children)	NP	S	S	See Sec. 38-53 and 38-54
Community Buildings	C	C	NP	See Section 38-53
Convention Center/Exhibition Hall	A	A	NP	
Institutional Office (incl. quasi-governmental)	A	A	A	
Library/Museum	C	C	C	See Sec. 38-53
Religious Institution w/Columbarium	C	C	C	See Sec. 38-53
School (K-12) Public, Private, Parochial	C	C	NP	See Sec. 38-53 May be located on local roadway
School, College or University	C	C	NP	See Sec. 38-53
School, Commercial, Trade or Technical	C	C	C	See Sec. 38-53
Theatre, Performing Arts	NP	C	C	Use shall be located on a collector or higher designated roadway.
A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted				

e) OFFICE & COMMERCIAL LAND USES	ADO-1 ADO-2	ADO-4 ADO-5	ADO 6	CONDITIONS
Art Studio	C	C	C	Retail activity is limited to 25% of the gross floor area in ADO-1 and ADO-2, and 50% in ADO-4, ADO-5 AND ADO-6.
Bank, Bonding & Financial Institution (No Drive-Thru)	A	A	A	
Eating and Drinking Establishments (Café, Cafeteria, Coffee Shop, Restaurant; Bar, Pub, Tavern (No Dancing); Brewpub; etc.)	C	A	A	No drive thru permitted.
Equipment (Large) Repair & Service (Non-Vehicular)	NP	C	C	No outside storage of parts, materials, or equipment is permitted.
Equipment Rental	NP	C	C	No outside storage of parts, materials, or equipment is permitted.
Gas Station	NP	A	A	
General Office and Service (Accounting, Auditing & Bookkeeping; Architectural, Contracting, Engineering, Planning & Surveying; Photo Studio; Barber/Beauty/Hair Salon & Related Personal Care; Cleaning & Maid Services; Consulting Services; Counseling Services; Credit Reporting & Collection; Desktop Publishing & Graphic Design; Funeral Home; Insurance; Laboratory; Legal Services; Lessons (Art, Dance, Music, etc.); Mailing & Stenographic Services; Medical/Dental Office; Motion Picture Production; Real Estate; Research Organization, Noncommercial; Tax Preparation; and other similar Business Offices.	A	A	A	
General Retail & Commercial (Bicycle Sales, Service and Repair; Building Materials; Delicatessen, Carpet/Window Treatments; Clothing Store; Convenience Store; Department Store; Produce/Meat Market; Grocery Store; Hardware Store w/out outdoor sales or storage; Furniture Store; Garden Supply; Home Furnishings; Laundry/Dry Cleaning Services; Liquor Store; Pawn Shop; Pharmacy; Photography Studio; Plant Nursery; Specialty Foods such as bakeries, confectionaries, etc.; Specialty Store such as books, music, toys, etc.; Variety Store; Video/DVD Rental/Sales; and other typical small-scale Commercial establishments.)	A	A	A	
A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted				

OFFICE & COMMERCIAL LAND USES	ADO-1 ADO-2	ADO-4 ADO-5	ADO 6	CONDITIONS
Health Care Clinic (Non-Hospital)	NP	A	A	
Hotel/Motel/Youth Hostel	NP	A	A	
Petroleum/Propane Sales	NP	C	C	Use shall be screened with an opaque buffer or screen meeting current Fire Code standards. Also see Sec. 38-53
Private Club or Lodge	NP	A	A	
Radio/TV Studio/Station	NP	A	A	
Seasonal Sales, Non-temporary (Fireworks, Agricultural Produces, Snowcone Stand, Firewood Sales, etc.)	C	C	C	All structure locations shall meet all applicable setback requirements. If sited on property where other uses exist, there shall be no obstruction of the driving aisles or parking stalls unless it can be proven that there is an excess of parking area. If the use does not follow temporary use provisions, the property shall be subject to all applicable development requirements. See also Sec. 38.50 & 38.53.
Small Item Repair Shop	C	C	C	No outdoor storage of parts, materials or equipment is permitted.
Telemarketing/Mail Order/Call Center	NP	C	C	No warehousing or distribution is permitted
Temporary (Non-Seasonal)	C	C	C	See Section 38.50
Theater, Movie	NP	A	A	
Theater, Performing Arts	NP	~~A~~C	~~A~~C	Uses shall be located on a collector or higher designated roadway.
Upholstery Shop	C	C	C	No outdoor storage of parts, materials or equipment is permitted.
Vehicle Sales/Service/Rental/Repair (inc. body shop, parts stores, repair & service, wash/wax/detailing (self- or full-service), sales, rental, campers, tire sales/repair, etc.)	NP	C	C	No salvage yard or related activities shall be permitted. No outside storage of parts, materials or equipment permitted.
A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted				

D INDUSTRIAL LAND USES	ADO-1 ADO-2	ADO-4 ADO-5	ADO 6	CONDITIONS
Above Ground Storage Tanks for Flammable & Combustible Liquids and LP Gas	NP	NP	C	See Sec. 38.53
Cab Stand	NP	NP	A	
Cabinetry and Woodworking	NP	NP	A	
Communication/Vertical Structures	C	C	C	See Sec. 38-59
Contractor's yard (general, plumbing, mechanical and others of a similar nature)	NP	NP	C	All storage outside of buildings shall be enclosed with an opaque screen
Face Mount (attached to primary use)	C	C	C	See Sec. 38-59
Jewelry, Silverware & Plated Ware	NP	NP	A	
Laboratories (Medical/Dental/R & D)	NP	NP	A	
Manufacturing, Low Intensity	NP	NP	A	See "Land Use Definitions" above
Ministorage Units	NP	NP	A	
Musical Instrument Fabrication/Manufacture	NP	NP	A	
Parking Facilities, Commercial (Garages & Public Parking Lots	NP	NP	A	
Printing and Publishing	NP	NP	A	
Railroad Terminal	NP	NP	A	
Signs & Advertising Fabrication/Manufacture	NP	NP	A	
Storage/Display of Merchandise for Sale (except Manufactured buildings, mobile homes & operable cars, trucks, motorcycles & RVs)	NP	NP	C	Outdoor display is permitted and is required to be enclosed behind a solid wall or solid fence no less than 6 feet in height.
Storage outside of buildings of materials, equipment and supplies not for sale	NP	NP	C	All outdoor storage shall be enclosed with a Type A screen
Storage, warehousing accessory to Office, Retail, Service or Industry	NP	NP	C	All outdoor storage shall be enclosed with a Type A screen
Utility Installation, Public/Private	C	C	C	See Section 38-53
Water Purification, Commercial	NP	NP	A	
Wholesale Trade, any product	NP	NP	A	
A = Allowed C = Conditional S = Special Use Permit NP = Not Permitted				

3. LAND USES IN ADO 3. Land uses in ADO-3, the North and South Residential Cores, follow the underlying zoning designations existing as of the date of adoption of this Ordinance, and may be found in Sections 38.31-33 of the 2001 Zoning Code as amended, with the following modifications:

   a) Low intensity office and commercial uses in predominantly residential areas are conditional and must include a residential component, for example, home occupation or live-work units as described in Section 38.52 of the 2001 Zoning Code as amended.

   b) Secondary Residences, as defined in Section D above, are an allowed use in the Residential Cores.

   c) Industrial uses are not allowed in the Residential Cores.

F. DEVELOPMENT STANDARDS. There shall be no development or alteration of the lands, uses, or structures within the Overlay Zone District except as provided for by this section of the 2001 City Zoning Code from the date of its enactment and other sections of the City Zoning Code and other City Codes and Ordinances where applicable. Development requirements and permitted uses shall be established for the entire Overlay Zone District, as follows (unless otherwise indicated).

1. PLACEMENT OF PRIMARY STRUCTURES --RESIDENTIAL	
Lot Area/Size	Minimum: 3500 square feet Maximum: Not to exceed size of largest existing lot on both sides of the same block Applications for replats that would result in a larger lot size will be considered on a case by case basis.
Minimum Lot Width/Frontage	40 feet
Minimum Lot Depth	70 feet
Front Setback	Within the range of primary building setbacks on both sides of the same block.
Secondary Front Setback	5 feet
~~Front Setback~~	~~Minimum: 5 feet~~ ~~•Setback may be less than 5 feet only if there is an existing structure on the same property with a setback of less than 5 feet.~~ ~~Maximum: 5 feet, unless open space is required.~~ ~~•Buildings that request a greater setback shall use that setback frontage for active or passive open space as defined herein. Under no circumstances shall outdoor~~

	~~sales or service activities encroach on the public right-of-way.~~ ~~•Awnings and entrance canopies may protrude into the setback.~~ • ~~Second story bay windows, porches, decorative elements, landscaping, etc. may protrude into the setback.~~
Side Setback	Minimum: 5 feet • Setback may be zero only if there is an existing structure on the same property with a zero setback. • Storm water required to be contained on subject parcel. • Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes.
Rear Setback	Minimum: 10 feet • Setback may be less than 10 feet only if there is an existing structure on the same property with a setback of less than 10 feet. • Storm water required to be contained on subject parcel. • Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes.
Maximum Building Height	35 feet • Proposed development adjacent to the Central Business District or Picacho Avenue may obtain a 35% flexible development standard approval for structures greater than 35 feet, and will be considered on a case-by-case basis. If adjacent use is Single Family Residential, this exception shall not apply. • For buildings greater than 2 stories, the upper stories shall be stepped back from the line of the front façade. (See Definitions)
Maximum # Attached Units	4
Maximum Density	20 Dwelling Units/Acre
At the minimum, all setbacks shall meet Clear Sight Triangle requirements, and where applicable, encroachment agreements must be entered into. Variances to Clear Sight Triangle will be considered by the Public Works Department.	

2. PLACEMENT OF PRIMARY STRUCTURES – NON-RESIDENTIAL	
Lot Area/Size	Minimum: 5000 square feet Maximum: Not to exceed size of largest existing lot on both sides of the same block Applications for replats that would result in a larger lot size will be considered on a case by case basis.
Minimum Lot Width/Frontage	60 feet
Minimum Lot Depth	70 feet
Front Setback (Incl. Secondary Front Setback)	~~Minimum~~: 5 feet • Setback may be less than 5 feet only if there is an existing structure on the same property with a setback of less than 5 feet. • Buildings that request a greater setback shall use that setback frontage for active or passive open space as defined herein. Under no circumstances shall outdoor sales or service activities encroach on the public right-of-way. • Awnings and entrance canopies may protrude into the setback. • Second story bay windows, porches, decorative elements, landscaping, etc. may protrude into the setback.
Side Setback	Minimum: 5 feet • Setback may be zero only if there is an existing structure on the same property with a zero setback. • Storm water required to be contained on subject parcel. • Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes.
Rear Setback	Minimum: 10 feet • Setback may be less than 10 feet only if there is an existing structure on the same property with a setback of less than 10 feet. • Storm water required to be contained on subject parcel. • Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes.
Maximum Building Height	35 feet • Proposed development adjacent to the Central Business District or Picacho Avenue may obtain a 35% flexible development standard approval for structures greater than 35 feet, and will be considered on a case-by-case

	basis. If adjacent use is Single Family Residential, this exception shall not apply. • For buildings greater than 2 stories, the upper stories shall be stepped back from the line of the front façade. (See Definitions)
At the minimum, all setbacks shall meet Clear Sight Triangle requirements, and where applicable, encroachment agreements must be entered into. Variances to Clear Sight Triangle will be considered by the Public Works Department.	

3. PLACEMENT OF GARAGES, SURFACE PARKING, SECONDARY RESIDENCES & ACCESSORY STRUCTURES	
Front Setback -- Residential and Non-Residential	**Garage** (Single Family Residential only): To maintain the historic context of buildings in the neighborhood, garages may be placed within the range of garage front setbacks on both sides of the same block. This ensures that the placement of newly constructed garages is compatible with the location of existing garages in the immediate area and is consistent with the existing integrity and character of the street frontage. If there are no garages on the block to provide a range, the garage setback will be 25 feet. **Other**: No closer than the rear façade of the primary building(s), 40 feet, or at least 50% of the lot depth, whichever is less.
Secondary Front Setback – Residential and Non-Residential	Surface Parking: 8 feet Other: 10 feet
Side Setback -- Residential and Non-Residential	A setback is not required. • No encroachment into ROW permitted. • Storm water required to be contained on subject parcel. • Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes.
Rear Setback -- Residential and Non-Residential	A setback is not required. • No encroachment into ROW permitted. • Storm water required to be contained on subject parcel. • Separation between all structures, on same and adjacent property, must comply with the International Building Code and other companion codes.
At the minimum, all setbacks shall meet Clear Sight Triangle requirements, and where applicable, encroachment agreements must be entered into. Variances to Clear Sight Triangle will be considered by the Public Works Department.	

G. PROPERTY ALTERATION, REMODEL OR RENOVATION

1. Purpose. Property alterations, remodels or renovation standards are established for this District to maintain consistent quality for all development and may be used for the purpose of adaptive re-use of the structure. For the purposes of this section, exterior remodel, renovation, or alteration shall be defined as: any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, as well as any change in roof lines, or any enlargement to or diminution of a building or structure, whether horizontally or vertically. Normal maintenance activities as verified by the City's Building Official or Designee are exempt from this provision.

2. Minor Modifications. In most cases, expansion and/or modifications to a property must comply with the development standards of the Alameda Depot Neighborhood Overlay. However, if, through the determination of the Community Development Director or Designee, said compliance would substantially create an undue burden to the property owner or create a condition whereby the expansion and compliance measure, partially applied, would be substantially out of character with the existing development, an exception may be made. In no case shall a minor modification/expansion:

   a. Equal or exceed a cumulative total of 15% of the Gross Floor Area; or
   b. Equal or exceed a cumulative total of $25,000.00 in valuation; or
   c. Impact parking or landscape requirements.

3. Any proposal meeting one or more of the above criteria shall not be considered as a minor addition and/or modification, and shall, therefore, be subject to normal review and consideration afforded development in the Overlay and may be subject to non-conforming provisions that follow. The applicant must provide estimates for the cost of labor as a means of ensuring compliance with the valuation criteria. Once permission to proceed has been granted by the Community Development Director or Designee, the applicant may apply for the permit. Work shall not commence until permit approval is granted. All other non-conforming use requirements are subject to Sections 38-70-through-76 of the 2001 Zoning Code as amended.

H. NON-CONFORMING USES, STRUCTURES, AND PROPERTY. Non-conforming uses, structures and property that legally existed at the time of adoption of this Overlay shall be considered legal non-conforming, and shall comply with the nonconforming use provisions found below.

1. Land uses that were legally in place at the time of adoption of this Overlay and remain legal uses may continue to the extent the subject regulations allowed, but shall be required to come into compliance with current Overlay standards when the following provisions take place:

   a) The property remains vacant for a period of one (1) continuous year or greater; or

   b) Land Use. A change in use occurs on the property which results in the alteration of the use intensity, e.g. low volume retail to high volume retail, use orientation, e.g. service to retail, or density, e.g. 8 dwelling units to 15 dwelling units, or change in occupancy type from the Building Code perspective; or

   c) Right-of-Way or Lighting. When nonconforming features regarding access from the right-of-way or lighting are involved, these features shall be brought into compliance with current standards when any one-time or cumulative increase of 15% or greater to the gross square footage of building area occurs; or

   d) Signage, Landscaping, Walls or Parking: When nonconforming features regarding signage, landscaping, walls or parking are involved, these features shall be brought into compliance with current standards when any one-time or cumulative increase of 25% or greater to the gross square footage of building area occurs; or

   e) Development Standards. Any noncompliant issues pertaining to setbacks, number of attached units and/or maximum density of existing development shall be brought into compliance with Overlay standards to the extent possible. A nonconforming certificate may be issued based on appropriate documentation. Determination of the extent of compliance shall rest with the Community Development Director or Designee. Compliance with these matters shall not be triggered when a certificate has been issued as appropriate.

2. Legal uses that existed prior to Ordinance adoption (2010) that become a prohibited use with adoption may be allowed to continue to exist and may expand or enlarge (either one-time or cumulative increase) not more than 50% in gross square footage of lot or building area, provided that

   a) The property has not remained vacant for a period of one (1) continuous year or greater; or

   b) A change in use has not occurred on the property which results in the alteration of the use intensity, e.g. low volume retail to high volume retail, or use orientation e.g. service to retail.

3. Exceptions. Regarding any of the above, any one-time or cumulative increase of less than 15% to the gross square footage of building area may take place without requiring compliance to any nonconforming element associated with the property. Exceptions to this provision include those matters the City requires compliance on for purposes of meeting health, safety and welfare concerns.

I. FLEXIBLE DEVELOPMENT STANDARDS: Community Development staff shall review applications for Flexible Development Standards based on requirements cited in Section 38.56 of the 2001 Zoning Code as amended.

J. PARKING REQUIREMENTS

Community Development Department staff shall review plans for adherence to Parking Requirements. Parking requirements shall follow Section 38-58 of the LCMC, with the exceptions stated below:		
1.	Parking Ranges	Parking ranges for automobiles and bicycles are set for land uses in each zone, as noted in Section 38-33. Requests to reduce parking requirements shall be evaluated on a case-by-case basis by the Community Development Director or Designee.
2.	Off-street Parking Location	Parking areas for non-residential and multi-family uses shall be located to the side or back of the subject property and screened or buffered when visible from the street. (See subsequent section below, "LANDSCAPE REQUIREMENT, Planting for Parking Lots.")
3	Adjustments in Required On-Site Parking Spaces	The following provisions are methods to reduce the number of required on-site parking spaces. Any combination of the following options may be used, but in no event shall the reduction amount to more than 50% of the total requirement. The minimum number of parking stalls required is two (2). These provisions may not be utilized for required accessible parking spaces. a. Flex Standards. Applicant may utilize "Tier 1" provisions in Section 38-56 to reduce the number of required on-site parking spaces by up to 25%. Requests to utilize this option shall be evaluated on a case-by-case basis by the Community Development Director or Designee. Applicant may utilize this option in combination with other parking reduction options. b. On-street Parking. In areas where the City has determined that on-street parking is permissible, this parking may be used for up to 25% of the required parking. On-street parking shall be permitted on all local roadways or as deemed appropriate through a traffic analysis conducted and/or approved by the City Traffic Engineer. c. Shared Off-street Parking Areas. Multi-dwelling and nonresidential uses are encouraged to seek shared parking agreements with other multi-dwelling and nonresidential uses on nearby properties. In general, shared parking agreements shall follow criteria found in Section 38-58G.1. Properties

		within ¼ mile, as measured along the street network and pedestrian right-of-way, may be considered when determining how parking demand will be met. d. For properties in the Alameda Depot Neighborhood Overlay that are listed as "Significant" or "Contributing" on the State or National Register of Historic Places and are utilized for office or commercial purposes, it is possible to allow exceptions to the number of on-site parking spaces required in exchange for the improvement or maintenance of the subject property in terms of the building and/or landscaping. In these cases, the applicant shall follow requirements for Off-street Parking in the Historic Districts found in Section 38.58. (Note: Flexible standard provisions **may not** be used in conjunction with this historic district parking exception provision.) e. Other methods to reduce the total number of parking spaces will be considered on a case-by-case basis by the Community Development Director or Designee. These provisions follow Section 38-58. They include: • Adding more bicycle parking • Adding more landscaping • Building a parking structure • Arranging tandem parking stalls • Providing bus stop or bus shelter at bus stops within ¼ mile
5.	Walkways	In parking lots larger than 1 acre or equal to or greater than 200 feet wide, walkways within the lot shall link perimeter sidewalks to primary building entrances.
6.	Prohibited Parking	All vehicles are to be parked along designated streets, in designated driveway or parking areas only. Parking on front lawns and/or landscaped areas shall be prohibited.
7.	Dimensions and ADA Standards	All standards for parking dimensional and ADA requirements for all development within the District shall be consistent with Section 38-58.
8.	Driveways	Driveways width shall comply with City Design Standards.

K. LANDSCAPE REQUIREMENTS: The abundance of mature shade trees in the Alameda Depot Neighborhood contributes to the distinct character of the area. Landscape Requirements are intended to protect this verdant landscape through the careful selection of plants and the implementation of water conservation principals. Community Development Department staff shall review landscape plans for adherence to the Landscape Requirements. Landscaping shall follow Chapter 32-266 of the LCMC, "Development Standards for Landscaping," with the following exceptions and specifications:

1. Applicability: Landscaping standards apply to all new development and redevelopment in the ADO with the exception of properties that are occupied by single family residences and duplexes. Where conflict in regulation exists, the provisions of this section shall supersede other landscaping requirements within the municipal code.

2. Areas to be landscaped: The required area to be landscaped is equal to a minimum of 25% of the entire parcel area, excluding the main building area. Landscape consists of native or drought-tolerant species of both overstory (shade and coniferous trees) and understory plantings (ornamental trees, shrubs, cacti and perennial grasses, ground covers, and flowers).

3. Landscape shall be defined as:

   a) A minimum of one two-inch caliper tree, fifteen five-gallon shrubs and either five one-gallon shrubs or fifty square feet of ground cover plants shall be installed per each 500 square feet of provided landscape area.

   b) All plant materials shall be species native to the Chihuahuan Desert or adapted to our climate and to the location of the Alameda Depot neighborhood in the valley. This is not to say that the landscape plan needs to adhere to "zero-scaping." Rather, plants should be chosen that will survive and thrive in the local climate. Appropriate species include, but are not limited to, those in the following table. It is recommended that the applicant consult with a professional landscape architect or the Dona Ana County Master Gardeners regarding appropriate plant selection.

TREES	SHRUBS	GROUNDCOVER
Arizona Ash	Euonymus	Bermuda
Arizona Cypress	Juniper	TIFF, various
Arizona Mesquite	Pyracantha	Vinca
Canyon Hackberry	Sages (Texas, Chihuahuan,	Horizontal Juniper
Chinese Pistache	Desert, Cherry, Russian)	Trailing Rosemary
Desert Willow	Silverberry	Iceplant
Italian Cypress	Spanish Broom	Creeping Thyme
Lacebark Elm		Powis Castle Artemesia
Palo Verde		Dalea capitata
Pecan		Clover Fern
Pines		
Southern Live Oak		

Texas Honey Mesquite Texas Red Oak Sycamore Western Hackberry		

c) All landscape planting should serve to enhance the architectural value of the building, ground the building in the site, create a pleasant and attractive environment for pedestrians, and mitigate environmental conditions such as excess heat, strong winds and air pollution.

d) Trees shall include shade producing trees which achieve a mature size of at least 25' high and 25' spread and ornamental trees which have particular features such as spring blooms, fall foliage color or bark characteristics.

e) Shrubs shall include a mix of deciduous and evergreen plants.

f) Groundcovers shall serve to prevent soil erosion, provide color, and create an oasis feeling.

4. Installation. The irrigation system and landscaping shall be installed before the completion of building construction and prior to the issuance of a certificate of occupancy unless a written agreement has been made with the city. Such agreements extending the time of installation will be for a maximum period of nine months, and shall be subject to Temporary Certificate of Occupancy provisions and fees.

5. Planting for Parking Lots: All new construction and adaptive reuse of properties shall require planted parking areas. Landscaping in parking areas shall follow Chapter 32-266 of the LCMC, "Development Standards for Landscaping," with the following exceptions or specifications:

a) One tree shall be planted for every five (5) parking spaces within parking lots as they pertain to the uses listed for each area.

b) Trees may be located between the parking lot and the building, or within the parking lot itself. In the event that the landscaped area is between the building and the lot, the area shall be no less than eight feet in width.

c) In the event that the parking area is compliant with Development Standards above and remains adjacent to public right-of-way, there shall be a landscape buffer no less than eight feet wide between the building and the sidewalk or street. The buffer strip shall consist of shade trees and low shrubs or perennial flowers, which may count toward the Landscape Requirement specified above.

d) Trees in parking lots shall be located in an island or planter in which the tree trunks, at mature size, shall be protected from motor vehicles. Islands and planters shall be a

minimum of six feet wide, have a minimum area of thirty-six (36) square feet and a raised border of at least four (4) inches in height.

6. Property owners wishing to install landscaping in City right-of-way (for example, parkways or medians) shall first complete a maintenance and liability agreement with the City's Public Works Department, with the understanding that liability and maintenance shall be property owner's responsibility.

7. In the event that a tree in City right-of-way must be removed in order to maintain or replace sidewalks, the regulations found in the Municipal Code Chapter 26, Article II, Division 2 Repair and Replacement of Sidewalks shall be followed

L. WALLS AND FENCES

1. Existing fences within the District shall remain in place so long as they conform to the standards stated herein.~~existing City ordinances.~~ Increases in structure height, length or configuration shall require full compliance with fencing/wall requirements.

~~2.New fences/walls shall be of a generally "open" design to maintain visibility from the street. As an example, an open fence, including a gate, has for each 1-foot wide segment 60% of the surface area in open spaces which afford a direct view through the fence. Picket, post and rail, tubular steel and wrought iron are examples of acceptable open fencing. A base not greater than three feet (3') in height may be used in combination with the "open" design. All fences/walls in front yards must be "open" by design.~~

~~3.A "closed" fence is defined as a fence, including the gate, which conceals from view adjoining properties, streets, or alleys, or activities conducted behind it. "Closed" fences may only be constructed in side- and rear-yards.~~

~~4.~~2.Historic Structures: On properties with contributing structures listed on the state or national historic register, new walls or fencing should complement or be in keeping with the style of the structure to the greatest extent possible Demolition, removal or alteration of existing historic fences, walls, retaining walls, and steps is discouraged.

~~5.~~3.Fences, walls and hedges facing the street shall adhere to Clear Sight Triangle regulations.

~~6.Fences, walls and hedges within the primary front yard (where primary front yard setback is determined) shall be limited to a height of four feet (4'). The design of man-made structures shall conform to the "open design" provision above.~~

~~7.Fences, walls and hedges that are within five feet (5') of the secondary front property line (side where secondary front yard setback is determined) shall be limited to a height of four feet (4'). If the fence, wall or hedge is setback at least eight feet (8') from the property line, the maximum height shall be limited to height of eight feet (8'). The design of man-made structures shall conform to the "open design" provision above.~~

~~8.~~4. Fences, walls and hedges that are within the rear and side yards shall be limited to a height of eight feet (8').

~~9.~~5. Retaining walls shall be designed in a manner limiting their height to what is absolutely necessary for the retaining purpose intended.

6. All other provisions regarding walls and fences not noted herein shall follow those found in Section 38-60 of the 2001 Zoning Code, as amended.

M. SIGNS. All signage shall be of suitable materials and design so as to be compatible with the architecture of the structure and the residential character of the neighborhood. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with Chapter 36 of the LCMC, unless specified below.

1. Off-Premise Signs. No off-premise signs shall be allowed in the ADO except for the following:

   a) Political signs shall follow regulations stated in Chapter 36-86 of the LCMC (Sign Code).

   b) Off-premise sign displays regarding community events or holidays may be permitted, if approved by the City Manager or designee.

2. On-Premise Freestanding Signs

   a) Ground signs shall be the only freestanding sign allowed within the ADO, and shall be no greater than 24 square feet in size and 4 feet in height. One sign per lot shall be permitted.

   b) On-premise freestanding signs are not permitted on parcels used for residential purposes, except for a development identification sign.

   c) Ground signs may be illuminated, and shall follow regulations stated Chapter 39 of the LCMC (Outdoor Lighting).

   d) Properties developed as business centers shall conform to the following:

      i. One ground sign identifying the name of the center is permitted, and shall be no greater than 24 square feet in size and 4 feet in height.

      ii. A property containing a business center sign may not have additional freestanding signs, except for Temporary signage, which shall follow Chapter 36 of the LCMC.

e) Ground signs shall be placed at least five (5) feet from the outside edge of the right-of-way, and at least five (5) feet from adjacent property lines and not within the clear sight triangle as defined by the City of Las Cruces Design Standards. See Section 32-405.

f) Freestanding multi-use development directory signs are not permitted.

3. On-Premise Attached Signs.

a) Wall Signs:
   i. One (1) square foot of signage for each linear foot of exterior wall space, not to exceed fifty (50) square feet per wall.
   ii. The sign(s) shall be placed on the side of the building used to calculate the square footage of the sign.
   iii. Window and Projecting Signage shall be considered types of wall signs.

b) Multi-Use Development Directory Sign: Exterior Directory Signs, with the name and location of all businesses within a multi-use development, may be wall mounted as specified above.

c) Home-occupation or live-work uses in residential areas shall be allowed one (1) non-illuminated attached sign no greater than 4 square feet in size. Freestanding signs shall not be permitted for home-occupation or live-work uses.

d) Projecting Signage:
   i. Projecting signs shall be considered double-faced signs with each sign face of equal size. Only one side shall be used to determine the square footage
   ii. Projecting signs shall not exceed 6 square feet in sign face area.
   iii. Only one projecting sign shall be allowed per business per street frontage.
   iv. Only ground floor commercial businesses shall be permitted to utilize projecting signs.
   v. Projecting signs must clear walkable areas by at least eight (8) feet as measured from the bottom of the sign to grade and may project no more than four (4) feet from the building or closer than two (2) feet to the sidewalk, whichever is less.
   vi. Projecting signs shall be installed at right angles to a building front.

e) Window Signs:
   i. There shall be no more than one permanent window sign per window.
   ii. Neon signs displayed indoors constitute permanent window signs. Only one neon sign shall be permitted per business façade.
   iii. The total coverage of all permanent, neon and temporary window signs shall not exceed 25 percent of the total glass area of the window.

4. Prohibited Signs: The following signs are prohibited in the Alameda Depot Neighborhood Overlay:

a) Variable electronic message display boards, whether temporary or permanent.
b) Portable and pole signs, whether temporary or permanent.
c) Permanent banners.
d) Pennants, streamers, and other fluttering devices, whether temporary or permanent.
e) Real estate, construction, contractor and "coming soon" signs over twelve (12) square feet in area or over five feet (5') tall.
f) Billboards.
g) All other signs as prohibited in Section H of the Las Cruces Sign Code.

5. Temporary Signs: Temporary Signs shall follow provisions found in the Las Cruces Sign Code, Chapter 36 of the LCMC

N. DEMOLITION. To preserve any contributing structure listed on the historic register (state or national) in the Alameda Depot Neighborhood Overlay, this Ordinance creates a sixty (60) day demolition permit review process that allows time for interested parties to explore alternatives to the demolition of historic structures. Demolition for all other structures shall follow Chapters 30-491 and 38-63 of the LCMC.

1. Demolition permit -- Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. Community Development Department staff will review the application for compliance with the LCMC. A proposal for redevelopment of the property must accompany the permit application.

2. Posting – At the beginning of the 60-day demolition permit review process, the Community Development Department will issue a sign that is to be posted in a conspicuous place on the property. The applicant is responsible for posting the sign and ensuring that it is in place for the entire 60-day period.

3. At the beginning of the 60-day demolition permit review process, the Community Development Department will inform the neighborhood associations, the New Mexico State Historic Preservation Office (SHPO) and the Doña Ana Historical Society that a demolition permit has been applied for.

4. A demolition permit shall be issued upon the completion of the following items: 1) The completion of the 60-day period; and 2) The application meets all City Code requirements and has been approved by the Community Development Department staff. (The applicant may use the 60-day time period to resolve any necessary Code compliance comments.) The permit application may be withdrawn by the applicant at anytime without charge.

5. Prior to the demolition of a historic structure, the applicant shall be responsible for fully documenting the structure, both interior and exterior, to provide a permanent record, in accordance with documentation procedures as follows. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff.

a) Complete the Historic Cultural Property Inventory (HCPI) forms 1 & 2, available in the Community Development Department and online at: http://www.nmhistoricpreservation.org/documents.php?recordnum=10

b) Photograph the historic property: Take several exterior photos of the structure to be demolished (front, rear, sides, close-up views, details, setting, etc.). Photo processing, printing and labeling shall follow the protocol established on the National Register Photo Policy Fact Sheet, available in the Community Development Department and online at: http://www.nps.gov/history/nr/publications/guidance/Photo_Policy_final.pdf

c) If measured drawings done by the Historic American Building Survey exist, the owner should annotate the drawings, showing changes to the property, interior and exterior, that have occurred up to the current date.

d) If known, a short history of the property should be included, in order to document how that property fits within the historic district or community.

e) The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff.

6. Compliance with the procedure set out in this Section is not required if it is determined by the City of Las Cruces that the immediate demolition of a historic structure is in the best interest of public health, safety, and welfare. The applicant shall be responsible for documenting the structure in accordance with the procedure above to fully demonstrate the need for demolition and to provide a historic record of the structure. In the event that entering the structure would pose a threat to the health, safety and welfare of the documenter, interior photos are not required. This documentation must accompany the memo of determination for demolition by the Building Official prior to the issuance of a demolition permit.

O. LAND USE/ZONE CHANGE REQUESTS: It is possible to request an additional land use not already noted within the permitted use lists on a specific parcel within the Alameda Depot Neighborhood Overlay. Each request for an additional land use must be consistent with the Alameda Depot Neighborhood Plan and will be considered on a case-by-case basis. These requests will be processed per Section 38-10 of the 2001 Zoning Code as amended.

P. SUBMITTAL AND REVIEW PROCESS. The following submittal and review procedures are established for all new development to protect persons and property in the Alameda Depot Neighborhood Overlay. The applicant shall submit at minimum, one copy of all application materials to the Community Development Department for review. Upon submittal, staff shall review the submittal for completeness. If all the required items have been submitted, the Community Development Department shall issue a receipt for submittal.

1. Buildings/Structures. Prior to the filing of an application for development and/or signs, a pre-application conference with Community Development Department staff to review the proposal is strongly encouraged.

2. Subdivisions. For submittal and review of subdivisions within the District, refer to Article V, Chapter 37 of the LCMC pertaining to infill subdivision procedure. The Planning and Zoning Commission has approval authority.

3. Signs. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with Chapter 36 of the LCMC and subsection "G" above.

4. Variances. A variance shall be defined as a variation in the numerical requirements of the 2001 Zoning Code as amended or the Sign Code. Numerical variances to the clear sight triangle requirements shall be considered, reviewed, denied or approved by the Public Works Director or designee, as per Article III of Chapter 26 of the LCMC.

Q. APPEALS. Any aggrieved person who is affected by a decision of an administrative official, commission, committee, or board in the enforcement of the Alameda Depot Neighborhood Overlay may appeal such decision in accordance with Section 38-10 of the Zoning Code as amended.

R. ENFORCEMENT OF OVERLAY ZONE DISTRICT. Provisions to enforce this Section shall be consistent with the Enforcement Provisions of Article II of the 2001 Zoning Code as amended.

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, CLC 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.

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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.

Scholz: First piece of new business and I think Ms. McCall you're up on this, a recommendation ... it's Case ZCA-10-02, a recommendation to the City Council regarding an amendment to Chapter 38. One of the more exciting chapters as I recall. Ms. McCall.

McCall: Thank Mr. Chair, Commissioners. This is the draft of the Alameda Depot Overlay. Last April the neighborhood plan was adopted so we got busy right away working on the draft of the ordinance. First of all, I just want to tell you as background and reminder of what we did last year, the plan was passed to, in very general terms, describe what the neighborhood wanted to do. And in this particular case they wanted some flexibility to deal with irregularly shaped parcels, small parcels, historic structures that over the years have been formed as a result of the historic nature of the neighborhood. So, built into the plan was this idea of flexibility. And the plan provides policies for zoning and land use decisions, but it isn't in itself legally binding, we need an ordinance for that. So, what the ordinance does is describe the boundaries of the overlay or the special zoning district and then it has its own set of regulations for land use and development standards. And it carries out the policies that were discussed in very broad terms in the plan. In the case of any discrepancies, typically the overlay will take precedence over the zoning code, and if there is any question of ambiguity, then generally the more restrictive of the two would be in place. And as I said, it does provide the legal basis for any decisions made based on the plan. And some examples that you're probably already familiar with are the Lohman Avenue Overlay, the University District that was just passed earlier this year, the South Mesquite Overlay, and the North Mesquite Overlay.

First of all, I'll just give you a brief overview of how the document is arranged. I won't go into these sections in a lot of detail, but at the end if you have specific questions about any of them, I would be glad to go back and we can talk about it in more depth. First, there's a map of the overlay boundaries and definitions. There are some definitions that are different than those or in addition to those in the zoning code, so it has its own definition section. Permitted land uses and then development standards. The rest of the document is generally taken up with development standards for construction, remodels, parking, landscaping, that sort of thing. There's also a section on demolition and then, of course, what all of the overlays have is the submittal review and appeal process. These are

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the boundaries of the overlay and what the plan did essentially was divide the entire overlay up into six sub-zoned areas, and they're depicted here. Four of them are relatively commercial and office in nature with some residential areas. And those are generally along the collectors and the higher trafficked roads. And then the residential core which is ADO 3 is divided up, but both of these areas are primarily single-family and low intensity multi-family.

As I said earlier, the plan generally in very broad terms describes what the neighborhood wants and I just wanted to give you an example of the way the plan and the overlay work together. In the plan, for example, there is a policy that says provide reduced setbacks and lot size requirements to accommodate small and irregularly shaped lots, and reflect the character of the existing development and the neighborhood. So over here in the overlay, this is just an example of one of the pages from the overlay. The development standards for residential primary structures are given here and the lot sizes are different from in the zoning code; the setbacks are different than in the zoning code, and one thing that is particular about this that we also have in the South Mesquite Overlay and the North Mesquite Overlay is the front setback is generally an average of the setbacks of the other properties on the street. And that's to maintain some consistency of building and consistency of neighborhood character so that you don't have all of the houses on the street 20-feet back from the curb, but then the new one is right up on the sidewalk, that sort of thing. And then the side and rear setbacks are also similar and again reduced from what the 2001 Zoning Code says.

And here's another example, we created a use called secondary residence for this overlay. It's not seen in the zoning code and it's different from an accessory dwelling in that it is a self contained residence. It has a kitchen. It can be rented out. And in the Alameda Depot Overlay there are quite a few properties that have a primary dwelling, and then a coach house or a converted barn or a garage that have been turned into either mother-in-law apartments or studio apartments or art studios, that sort of thing. But the way the 2001 Zoning Code reads, it's very awkward to have a detached unit or an attached unit for that matter that is on a single-family parcel that can be rented out separately as its own unit rather than just a place for the night watchman to live or a place for visitors to come. So we created that definition for this overlay. And it is defined in the plan and then we carry that definition over to the overlay and then we make that an allowed use by right as a type of dwelling unit in the residential uses.

And here again is just a brief description of the zones within the overlay. The thing about an overlay, and the reason it's a zone change is because you're essentially, changing the zoning code. You're adding a section to the zoning code. And so all of these areas and we'll go back to the map here, all of these areas become zones. In all of them except the residential core, ADO 3, the underlying zoning that's now listed in the

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zoning code is taken away. And it's replaced by the descriptions of what's allowed in that area. So in ADO 1 and ADO 2 you can have single- and multi-family residential low intensity office and commercial, and public and institutional. There are no densities, minimum intensities or maximum densities, maximum intensities listed. It's only by virtue of the fact that this is how its described that we go into, for example if there's new development or re-development on a parcel, in part its determined by the lot size. You're obviously not going to be able to put a big box on a 3500 square foot parcel. So that keeps everything low intensity. And the same is true for the Picacho Corridor and the Amador Corridor and then the Railroad Corridor which is primarily industrial has some low intensity manufacturing and office commercial and office uses, and limited residential. Pretty much based on what is already existing. Any new residential uses in that industrial corridor would have to be part of a mixed use development.

The odd man out here so to speak is ADO 3, the north and south residential cores. In that area the underlying zoning that is in the zoning code stays in place. So if the parcel is zoned R-1, you follow the R-1 land uses in the zoning code. If it's zoned C-1, then you follow the C-1 uses in the zoning code. And this only applies to land uses. It does not apply to development standards. The development standards and everything else that's spelled out in the overlay is also pertinent for ADO. It's only the land uses that follow the zoning code. And then this is just an example from the overlay of how we've structured and listed out the land uses; ADO 1, and 2, 4 and 5, and 6 are listed here and for ADO 3 in the overlay itself it says that land uses will follow the 2001 Zoning Code. So if that ever changes then this automatically changes. If somebody wants to go through a zone change, they would follow the procedure in the zoning code. In the other areas, since the underlying zoning has disappeared, there isn't a zone change. If you want to do something it really just depends on the size of the property, the development standards, and the interest of the neighborhood.

And here's an example from the zoning code which you're very familiar with, of the way the land uses are described and listed out, allowed conditional or in some cases not allowed. Development standards, as I said, are listed in a table format like this and all of those subzones follow the development standards listed here. There are development standards for primary structures, residential, and non-residential, and then separate development standards for garages, parking structures, secondary residences, and accessory structures. And then the rest of the overlay follows this format. Non-conforming use provisions are slightly looser and more flexible than the zoning code; same with parking requirements and landscape requirements. The demolition regulations require a 60-day demolition review period for any historic structure. And one of the things that's new in this section that is not in the South Mesquite Overlay is a very detailed documentation

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process. If you petition to demolish a historic structure and the 60-day review period turns up with nothing and you can go ahead and demolish the building, you're also required to, in a very detailed manner, document the structure with photographs and provide that both to the city and to the state historical preservation office.

And then I just wanted to point out, in the course of preparing for tonight's presentation, I noticed a discrepancy in the land use table, so the document that you have in front of you has the discrepancy and staff would like to propose that whatever recommendation you make tonight, include a recommendation to make this change in the document. The theater/performing arts shows up in two places in the document; in institutional land uses, and in office and commercial land uses. But the criteria are different as you see; for institutional related it's conditional that it should be located on a collector or higher designated roadway; and in office and commercial it's just allowed by right. And what staff would propose is that the office and commercial criteria be changed so that no matter where it is, it's conditional in ADO 4, 5, and 6, and that is that it be located on a collector or higher designated roadway.

Tonight we would ask that you either recommend to the City Council that the overlay be adopted or you do have the option to recommend that it not be adopted; or if you prefer, to table the motion and direct staff accordingly. Should it be recommended for adoption, we expect to go to the City Council on November 15th. And that's my presentation. I'd be glad to answer any questions or go into any of the sections of the overlay in more detail. And I also want to point out, just for the sake of the audience, that I did make a sheet that has, if anybody needs a copy, there are lots of copies of the overlay up here with a page on top that shows what the proposed changes are.

Scholz: All right, thank you Ms. McCall. Are there any questions? Gentlemen. All right, thank you very much. All right, the way we operate, of course, is to have the city present. That is, the city staff presents their case, then the applicant presents his or her case, and then we open it to public discussion. In this case, of course, the city and the applicant are one in the same. So is there someone from the public who wishes to speak to this? If you do, please come up to the microphone, state your name.

Hill: My name is Scott Hill. I just have one question. It sounds like the second...

Scholz: I'm sorry; I didn't catch your name sir.

Hill: Scott Hill.

Scholz: Scott Hill. Thank you.

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Hill: It sounds like the secondary residences are just random apartments, is that … It sounds like you're allowing garage apartments, is that true?

McCall: Yes.

Hill: Why?

McCall: A lot of the parcels in the Alameda Depot Overlay already have them, but they exist as nonconforming uses. And so what the overlay does is kind of give us a new baseline. They're there already so they would be grandfathered in, so we're making them legally allowed by right.

Hill: But if somebody else moves in they can also build (*inaudible*).

Scholz: Would you be on the microphone please, sir?

Hill: If somebody builds, you know comes into the area and builds one they can also build a garage apartment and it seems like if you've got a single-family zoning it shouldn't be allowed. If you're just going to grandfather them in, grandfather them in, but don't just make it a blanket as many as you want. That's just my opinion. I don't live there so I don't care, but.

Scholz: All right, anyone else from the public wish to speak to this. Okay, I'm going to close it to public input then. Gentlemen what is your pleasure? Well would you come down to the microphone and say your name please?

Sarvo: Hi, I'm Monty Sarvo and I've worked on this plan forever. And I think it's been done really well and we've you know, Melinda back here has worked with me and many of you, and Emily who is our new president of our association. We've worked hard on this and I think we've come to something that we would urge you to support. The neighborhood as a whole spent about six years on this since I got started, and we went door to door for a long time before the plan came to you and got approved. As you know there were some delays in working out some kinks and we were satisfied and I do have one question. May I direct that toward Carol at this time?

Scholz: Please do.

Sarvo: On this one here, this is on the 06/14 date and I didn't find it in the new one which I just got, it talks about in section L, walls and fences. It says, number one, existing fences within the district shall remain a place … blah, blah, blah, then it goes to two, new fences/walls shall be of a generally open design to maintain visibility from … I don't recall that ever being in the plan and it wasn't? Is this something that we can address and modify later, cause that's not what we had in mind, any restrictions, we

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wanted to lower restrictions, not create new ones. So could you explain it?

McCall: Yes, thank you. The issue on fencing is not in the plan. The new type of design is designed to address security and safety in neighborhoods. Along the front, the open design sort of inhibits any kind of intruder or provides security for the property for people who might be hiding in the bushes I guess is the easiest way to say it. The provisions were adopted in the University District Overlay and we were working simultaneously with that sort of language back and forth and discussing land uses and so we put it in because it ... from a police and fire perspective it's a national trend to go that way. Although we did not discuss it, and so certainly if there's any feedback from the neighborhood about it that we receive we can make changes or discuss it.

Sarvo: It's not carved in stone and could be ...

McCall: It's not carved in stone until it's adopted by Council. When it goes to Council it would be adopted.

Scholz: Right.

Sarvo: I would like to ask ...

Scholz: You'll have to stay on mike Mr. Sarvo.

Sarvo: I'm sorry. I would like to ask that that issue be addressed cause I know there will be an adamant feeling in the neighborhood about it. I would just equate it to, should we next have our whole walls around our house glass including the bathroom so they can protect us. I mean the idea is you buy property to have privacy, not to be sitting in a cage in a zoo where you can be protected, but you lose all privacy. And I think that in particularly in a neighborhood like this, if you go to the plan, it very clearly said, "to relax fencing standards". And this to me is a new restriction in fencing standards. And although a national trend, I for one don't like this national trend. And I don't think I'm alone. So, I hope we can address it between now and Council, it would be nice.

Scholz: Well I think that'd be something staff would have to deal with.

McCall: And I will just make one other comment about that, in the zoning code already along the front, the street front of a property, maximum height of a fence or wall is four-feet, and so there is only a one-foot difference and it does not mean that you can't have a four-foot fence, but that top foot would be the one that is adapted. So I just wanted to make that note.

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Scholz: Okay.

Sarvo: Other than that I think, I just want to thank Carol and the rest of the staff for their patience and their hard work on this. I think it's an excellent document and I urge you to pass it. Thank you.

Scholz: Thank you. Yes, Commissioner Shipley.

Shipley: Before you leave the podium sir, the way I read this and interpreted it was to mean that what they're trying to say is for front yards, especially I think it's a police driven thing, is that as they drive by if you have a wall, five-foot wall, somebody's hiding behind it, that's not a good situation for that where they can't see what's going on in there, if there were to be a domestic problem or whatever. And that's the reason the trend is going to fencing that people can see through there. Side yards and rear yards and those kind of things, that's not part of the requirement. It's basically just along the front of the property as I understand it, is that correct Carol? And so the reason they're doing that is more of a safety concern from the standpoint of the worst case scenario that can happen at a property. And that's why the trend nationally has been to do that.

Sarvo: May I comment?

Shipley: Certainly.

Scholz: Yes, go ahead.

Sarvo: I'll be brief. Thank you sir. I understand that, but once again I think in our neighborhood one resounding thing I heard repeatedly and we really went door to door heavily, not just myself but Melinda, everybody that's involved was we don't want new zoning to invade our neighborhood. We want it not to be in our neighborhood. We don't need to be protected in that sense. Our feeling is these are older historical homes, although we're not a local historic district, the idea is to preserve the look and feel. Part of that look and feel are the walls we've had for years and the ability to add such features repetitive of the neighborhood if wanted. And one of the issues just to bring it out Mr. Shipley is that, a lot of these homes, the way they're situated, the front yard is kind of their only private yard. Some of them don't really have a backyard and I just wanted to point that out, or a real side yard. So that's just something I wanted to bring up.

Scholz: Okay. Thank you.

Sarvo: Thank you all much.

Scholz: Commissioner Beard you had a question/comment?

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Beard: I got it answered.

Scholz: You did, okay. All right, now we will close it to public discussion. Commissioners, what's your pleasure? I'll entertain a motion to approve.

Crane: So moved.

Scholz: Okay, it's been moved. Is there a second?

Evans: I second.

Scholz: Okay, it's been moved and seconded.

Evans: Commissioner, is that with the recommended amendment that Carol was advising on the performing arts?

Scholz: Thank you, I was going to read that. With the recommended amendment that Ms. McCall gave us regarding performing and theater arts. It should be theater arts and performing spaces, isn't it, Ms. McCall? I lost that screen too early here.

McCall: Actually, I did not make that distinction, but it could be.

Scholz: It says theater and performing arts.

McCall: Because there is a different land use in office and commercial land uses called theater/movie, so we made the distinction there. But I would be glad to add any language that you think is appropriate to fit the description of the use.

Scholz: I was going to say it's up to you figure out the language it seems to me.

McCall: Okay.

Scholz: That's more appropriate. So what are we saying? Are we saying that we're approving … excuse me; we're adding the top one.

McCall: Yes. Essentially, what staff proposes is that regardless of what it's called, that it be conditionally allowed in ADO 4, 5, and 6.

Scholz: Okay.

McCall: Regardless of where it's placed in the land use table.

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Scholz: Thank you. So gentleman, what we're voting on tonight is this proposal plus the top line. Everyone understand that? Commissioner Shipley.

Shipley: It's both lines, in other words the top and bottom will read the same. They'll both be conditional and they'll both have the requirement, if you go back to that, it has to be …

Crane: Mr. Chairman, we can't refer to top and bottom lines, we have to say …

Shipley: No, I'm going to do that when she goes back.

Crane: Okay.

Shipley: It has to say the institutional related uses are correct, but the office and commercial end uses, the ADO 4, 5, and 6 will have to be conditional, and the conditions will have to read "use shall be located on a collector or higher designated roadway".

McCall: That's right. Thank you.

Shipley: Okay.

Scholz: Thank you Commissioner Shipley. Okay, everyone is clear now on what we're voting on? All right, I'll entertain a motion to approve. We already have that, don't we? All right, I'll call the roll. Commissioner Shipley.

Shipley: Aye findings, discussions, and site visits.

Scholz: Commissioner Crane.

Crane: Aye findings, discussion, and site visit.

Scholz: Okay. Commissioner Stowe.

Stowe: Aye findings, discussion, and site visits many times.

Scholz: Commissioner Evans.

Evans: Aye findings and discussion.

Scholz: Commissioner Beard.

Beard: Aye findings and discussions.

Scholz: And the chair votes aye findings, discussion, and also many site visits. So it passes 6:0.

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Alameda Depot Overlay Draft
Public Meeting, August 4, 2010

Attendees:

Josh Mauldin
William Stowe
Xavier Mendoza
Heather Barrett
Carey Crane
Susan Frary
Bob Burns
Melody Burns
Rebecca Slaughter
Wayne C. Huber
Billy G. Garrett
David Lutz
Elmo Baca
Marsha Weisiger
Monty Sarvo
Carol McCall – CLC
Susan Lowell -- CLC

Following the presentation, the following discussion took place. Attendee comments and questions are shown in ***bolded*** *text. Staff responses are in unbolded text.*

What happens if your property is currently being used in a way that won't be permitted under the Overlay?

The property would become legally-non-conforming. The provisions in the Overlay for non-conforming properties are very similar to those found in the 2001 Zoning Code. However, in the Code, the property in question must not have been vacant for a period longer than one year (Section 38-73). In the Overlay, there is no time limit. In other words, if the use/property is legally-non-conforming, there is not time limit after which the property must come into compliance, as long as all other provisions for non-conforming use are met.

Are you aware of any plans to change/add to the County Judicial Complex (at the corner of Picacho and Alameda)?

Not as far as we know. The County was considering either building a new complex, or making improvements to the existing facility. We don't have an update on this. However, government facilities are not required to follow the Overlay. Policy 3.3.c. in the Alameda Depot Neighborhood Plan states: "Although Doña Ana County is not subject to City zoning requirements, the County should consider the character of the neighborhood in any decisions they make regarding the potential expansion of the judicial complex." In addition, since half of the facility is a contributing structure on both the State and Federal Historic Registers, the County would be required to contact the State Historic Preservation Office (SHPO) for a review of any proposed changes to the property, in order to comply with any State or Federal laws regarding historic properties.

I have a property in ADO-3 zoned R-2, and I'm adjacent to commercial property. I would like to transition the property to something commercial, but still retain the residential component. Will I be able to do this?

In ADO-3, you would follow the underlying zoning of the property that is listed in the 2001 Zoning Code. If the use is an allowed use in R-2, you could do it by right. If not, you could propose a commercial zoning designation that would allow a residential component, or you could propose split zoning, with both a residential component and a commercial component. You would have to submit a zone change request, and the review process would include notification of adjacent property owners.

There are a lot of alleys in the neighborhood, some of which are public and some are private.

There are no policies in the Alameda Depot Neighborhood Plan that address the use of alleys, except to say that access to private property is allowable via alleys. In the University District Plan and Overlay, alleys are proposed to be alternative roadways for pedestrians and cyclists. It's possible that something of this nature could be done in the Alameda Depot neighborhood, but it might require an amendment to the Plan.

I noticed that there is language in the Overlay draft that exempts the neighborhood from future historic district ordinances. What's that all about? (Note: This text appears in the Overlay draft, Section A, Purpose: *The Alameda Depot Overlay contains a state historic district and a national historic district, but the neighborhood has not been designated a Local Historic District, and will be exempt from any future Local Historic District ordinances should they be adopted by the City.*)

In the course of creating the Neighborhood Plan, there were public surveys and much discussion about historic designations and the use of design standards as a way to preserve the historic character of the neighborhood. In the end, respondents said they did not want a local historic district or have design standards. When the leaders of the neighborhood associations reviewed this Overlay draft, they suggested language that would make it very clear that if a city-wide historic preservation ordinance were adopted, the Alameda Depot neighborhood would not have to follow it. This issue could be revisited, depending on other public input received.

For example, my property is on Hess Terrace, which is not within the State or Federal district boundaries, but would be within the ADO. What if our neighborhood did want to fall under city-wide preservation regulations?

It was suggested that the language in the Overlay be revised to more accurately describe what situations might apply. The appropriate time to do this would be during the drafting of a city-wide preservation ordinance, if one is created, or following its adoption. Any potential preservation ordinance would go through a public process with a comment period. Since the dynamics of neighborhoods change, it's possible that the Alameda-Depot District might want Design Standards or even a local historic district ordinance in the future. The public process would be an opportunity to hear all sides, and revisit existing ordinances (the Alameda Depot Overlay) if need be.

During the Plan drafting process, there were differing views. I support the suggestion to reword the ADO.

It's very possible that any potential city-wide historic preservation ordinance would not contain the restrictive language that may be problematic for some people, so it might be better to address this issue if/when a city-wide ordinance is drafted. Then the ADO, as well as the Neighborhood Plan, could be amended if necessary. This issue is part of the scope of the Historic Preservation Ad Hoc Committee – to discuss any potential impact on the already-existing Overlay areas (Alameda Depot, North Mesquite and South Mesquite).

I think there is a plan to form an Arts/Culture District that would include the Alameda Depot neighborhood to the west as well as the Mesquite neighborhood to the east.

In that case, all of the overlays in the affected areas would have to be revisited and probably amended.

The meeting adjourned at 7:45 p.m.

Alameda Depot Overlay Draft Document
Public Comments Received
8/04/10 – 9/13/10

9/09/10

Phone message from Hale Huber, owner of SunTech Services in the ADO-6 Railroad Corridor zone:

On page 12, there is a list of office and commercial land uses. I don't see contractor or contracting office there. Also on page 14, contracting isn't listed in the Industrial Uses section. I am a water purification system provider, which is listed as an allowed use, but I am also a general/solar/plumbing/ mechanical contractor, and these are not listed. I would like the industrial uses to be as flexible and as broad as possible in this area, so that all uses like this are permissible.

Staff Response:

In the General Office and Service uses on page 12, "Contractor" has been added to the list of appropriate office uses. And on page 14, under Industrial Uses, "Contractor's Yard (general, electrical, plumbing, mechanical and others of a similar nature)" was added as a conditional use in ADO-6. The condition is that "All storage outside of buildings shall be enclosed with an opaque screen." This condition comes from the 2001 Zoning Code as amended, and is part of the Contractor's Yard use listed in Section 38-33I Manufacturing & Related Land Uses."

8/02/10

From: The Bakers [wdbaker@attglobal.net]
Sent: Monday, August 02, 2010 4:02 PM
To: Carol McCall
Subject: RE: Alameda Depot Public Meeting
Importance: High

Hi Carol,

Thanks for sending the notice of the upcoming meeting this Wednesday. Since we are leaving on vacation early Thursday morning, I will be unable to attend this particular meeting, but I wanted to submit a couple comments and one question for discussion.

I have reviewed the various sections of the draft overlay as posted on the City website. I am generally in agreement with all sections of the draft plan. I especially applaud the inclusion of a 60-day moratorium on demolition of historic structures, and with the requirement that documentation of these structures be performed before demolition occurs, when practicable. I was also interested in the landscape requirements/guidelines and the acknowledgement that "The abundance of mature shade trees in the Alameda Depot Neighborhood contributes to the distinct character of the area." I agree wholeheartedly with that statement; however, it raises a question about landscaping in our historic district, and where various responsibilities lie for that landscaping.

To elaborate—many of us who own properties in the area have a grassy 'parking strip' between the sidewalk and the street that is technically owned by the City. The property owner's property line ends at the sidewalk. In my experience, the City does <u>not</u> maintain these parking strips; I personally irrigate, mow, and pay for tree trimming on those strips adjacent to my own properties, and plan to continue this practice. Several of the trees on these strips are fruitless mulberries—not native or adapted, but definitely historic, at least 50 years old—and offer valuable shade to sidewalks where people walk every day. A few years before I purchased my property, it is my understanding that the City made plans to remove one of these trees because it was heaving the sidewalk in one area. The property owner at the time found out about the planned removal, stopped the tree removal

crew, and was able to prevail on the City not to remove the historic tree. The sidewalk is uneven, but it doesn't seem to be a problem.

My question—this proposed overlay defines terms and responsibilities for property owners, but I don't see any provision for the City to coordinate with property owners in a situation such as the one I described above. Will the City have 'carte blanche' to remove historic plantings in cases like this, or will they consult with the property owner—or the neighborhood community—to find a reasonable alternative? I would like to see this issue addressed, if appropriate, as the overlay process continues.

I'm glad to know that this overlay process is still moving forward. Please keep me on your e-mail list for future updates.

Regards,
Carol Baker
wdbaker@attglobal.net
575-541-1198

Staff response:

The Municipal Code addresses the issue of sidewalk repair in Chapter 26 – Streets and Sidewalks; Article II – Sidewalks; Division 2 – Repair and Replacement. Section 26-74 – Repair; cost recovery; (b) (2) states: "When a sidewalk is damaged by tree roots, the city shall repair the sidewalk and may remove the trees within the right-of-way. If the trees are removed, the city will offer the opportunity to the abutting property owner to select an equal number of trees from a list approved by the city to be placed in the right-of-way as replacement for those trees that have been removed. The minimum size tree to be installed by the city will be in a 24-inch box container and will have a minimum of a 2-inch caliper trunk."

However, according to Jeff Honeycutt, Street Systems Administrator in the Public Works department, the City does not typically plant trees or shrubs in the rights-of-way. New development may sometimes include plantings of this sort, in which case a landscape plan and a construction and maintenance plan have been agreed upon prior to development. But quite often, individual property owners will plant in this space and carry out the watering and maintenance themselves. Over time, the trees grow too large and the roots cause sidewalks to heave and crack. It is the City's policy to maintain its sidewalks in a good state of repair, and sometimes this necessitates removing trees. In Honeycutt's experience, the abutting property owner may agree to the tree removal but adjacent neighbors protest; or the abutting property owner doesn't want a broken sidewalk, but they don't want the tree removed either. As a result, the Municipal Code regulations are hard to carry out, and each case is handled independently, depending on what gets worked out with the property owner, neighbors and the City.

To address this issue in the Overlay draft document, the following paragraphs have been added to "K. LANDSCAPE REQUIREMENTS" as Sub-sections 6 and 7 on page 25:

6) Property owners wishing to install landscaping in City right-of-way (for example, parkways or medians) shall first complete a maintenance and liability agreement with the City's Public Works Department, with the understanding that liability and maintenance shall be property owner's responsibility.
7) In the event that a tree in City right-of-way must be removed in order to maintain or replace sidewalks, the regulations found in the Municipal Code Chapter 26, Article II, Division 2 Repair and Replacement of Sidewalks shall be followed.

Attachment 4

City of Las Cruces

Community Development
Memorandum

To: Ordinance #2597 File

From: Carol McCall, Planner

Subject: Changes to the Alameda Depot Overlay Draft Document

Date: November 27, 2010 M-10-284

Regarding the Alameda Depot Overlay draft document, changes have been proposed subsequent to the Planning and Zoning Commission meeting of September 28, 2010 at which the Commission voted to recommend adoption of the Ordinance by a vote of 6-0. The first four of the proposed changes would correct clerical errors in the text. The last proposed change would affect the content of the Overlay. All are explained here and each is followed by the corresponding place in the draft document where the proposed change would be made.

Page 12 OFFICE & COMMERCIAL LAND USES, Theater, Performing Arts: Text should read NP; C; C; with the following text entered under CONDITIONS: "Use shall be located on a collector or higher designated roadway." This change is noted in the document as follows:

Theater, Performing Arts	NP	~~A~~C	~~A~~C	Uses shall be located on a collector or higher designated roadway.

Pages 14-15 Section F.1. PLACEMENT OF PRIMARY STRUCTURES – RESIDENTIAL: Second reference to "Front Setback" should be deleted. This text was left over from a previous draft and was not deleted during the earlier revision process. This change is noted in the document as follows:

~~Front Setback~~	~~Minimum: 5 feet~~ ~~•Setback may be less than 5 feet only if there is an existing structure on the same property with a setback of less than 5 feet.~~ ~~Maximum: 5 feet, unless open space is required.~~

	•~~Buildings that request a greater setback shall use that setback frontage for active or passive open space as defined herein. Under no circumstances shall outdoor sales or service activities encroach on the public right-of-way.~~ •~~Awnings and entrance canopies may protrude into the setback.~~ • ~~Second story bay windows, porches, decorative elements, landscaping, etc. may protrude into the setback.~~

Page 16 Section F.2. PLACEMENT OF PRIMARY STRUCTURES – NON-RESIDENTIAL: Front Setback should read "5 feet" not "Minimum: 5 feet." This text was left over from a previous draft and was not deleted during the earlier revision process. This change is noted in the document as follows:

Front Setback (Incl. Secondary Front Setback)	~~Minimum~~: 5 feet • Setback may be less than 5 feet only if there is an existing structure on the same property with a setback of less than 5 feet. • Buildings that request a greater setback shall use that setback frontage for active or passive open space as defined herein. Under no circumstances shall outdoor sales or service activities encroach on the public right-of-way. • Awnings and entrance canopies may protrude into the setback. • Second story bay windows, porches, decorative elements, landscaping, etc. may protrude into the setback.

Page 19 Section H. NON-CONFORMING USES, STRUCTURES, AND PROPERTY, Subsection 1. "Overlay" was added to text to clarify which standards are being referred to. This change is noted in the document as follows:

1. Land uses that were legally in place at the time of adoption of this Overlay and remain legal uses may continue to the extent the subject regulations allowed, but shall be required to come into compliance with current Overlay standards when the following provisions take place

Pages 24-25 Section L. WALLS AND FENCES, subsections 2, 3, 6 and 7. The concept of "open fencing" was first introduced in the University District Plan and Overlay and is based on the CPTED Principals, Crime Prevention Through Environmental Design. The idea is that the open fencing design would discourage intruders or make them more visible to residents and police, thus making the property safer.

However, staff has received several complaints from property owners about this language, stating that it compromises their privacy and have requested that it be removed. Staff proposes deleting subsections 2, 3, 6 and 7, which reference the open fencing concept, and adding the following new language at the end of the section: "All other provisions regarding walls and fences not noted herein shall follow those found in

Section 38-60 of the 2001 Zoning Code as amended. These changes are noted in the document as follows:

L. WALLS AND FENCES

1. Existing fences within the District shall remain in place so long as they conform to the standards stated herein.~~existing City ordinances.~~ Increases in structure height, length or configuration shall require full compliance with fencing/wall requirements.

~~2.New fences/walls shall be of a generally "open" design to maintain visibility from the street. As an example, an open fence, including a gate, has for each 1-foot wide segment 60% of the surface area in open spaces which afford a direct view through the fence. Picket, post and rail, tubular steel and wrought iron are examples of acceptable open fencing. A base not greater than three feet (3') in height may be used in combination with the "open" design. All fences/walls in front yards must be "open" by design.~~

~~3.A "closed" fence is defined as a fence, including the gate, which conceals from view adjoining properties, streets, or alleys, or activities conducted behind it. "Closed" fences may only be constructed in side- and rear-yards.~~

~~4.~~2. Historic Structures: On properties with contributing structures listed on the state or national historic register, new walls or fencing should complement or be in keeping with the style of the structure to the greatest extent possible Demolition, removal or alteration of existing historic fences, walls, retaining walls, and steps is discouraged.

~~5.~~3. Fences, walls and hedges facing the street shall adhere to Clear Sight Triangle regulations.

~~6.Fences, walls and hedges within the primary front yard (where primary front yard setback is determined) shall be limited to a height of four feet (4'). The design of man-made structures shall conform to the "open design" provision above.~~

~~7.Fences, walls and hedges that are within five feet (5') of the secondary front property line (side where secondary front yard setback is determined) shall be limited to a height of four feet (4'). If the fence, wall or hedge is setback at least eight feet (8') from the property line, the maximum height shall be limited to height of eight feet (8'). The design of man-made structures shall conform to the "open design" provision above.~~

~~8.~~4. Fences, walls and hedges that are within the rear and side yards shall be limited to a height of eight feet (8').

~~9.~~5. Retaining walls shall be designed in a manner limiting their height to what is absolutely necessary for the retaining purpose intended.

6. All other provisions regarding walls and fences not noted herein shall follow those found in Section 38-60 of the 2001 Zoning Code as amended.

We respectfully request that when the City Council considers the adoption of the Alameda Depot Overlay, these corrections also be considered as part of the adoption process. Thank you.