



City of Las Cruces®

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Council Action and Executive Summary

Item # 5 Ordinance/Resolution# 2650

For Meeting of February 21, 2012
(Ordinance First Reading Date)

For Meeting of March 5, 2012
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: AN ORDINANCE TO REPEAL SECTION III SUBSECTION 3 OF ORDINANCE 2447 IN ORDER TO CORRECT A CONDITION TO ACCURATELY REFLECT THE MOTION MADE BY COUNCIL DURING A LAS CRUCES CITY COUNCIL MEETING HELD ON APRIL 28, 2008, AFFECTING PARCEL 32 OF THE HIGH RANGE PUD.

PURPOSE(S) OF ACTION:

To correct a transcription error and accurately reflect the intent of and the motion for Ordinance 2447 as made by the Las Cruces City Council on April 28, 2008.

COUNCIL DISTRICT: 6		
<u>Drafter/Staff Contact:</u> Katherine Harrison-Rogers	<u>Department/Section:</u> Community Development/ Building & Development Services	<u>Phone:</u> (575) 528-3049
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The proposed Ordinance is intended to rectify a transcription error to Section III Subsection 3 of Ordinance 2447. On April 28, 2008, Council adopted Ordinance 2447 which approved a major amendment to the concept plan for the High Range Planned Unit Development (PUD) and for final site plan approval for a multi-family residential development known as Copperstone Villas located on 22± acres within parcel 32 of the High Range PUD located west of Roadrunner Parkway, south of the water tower, and north of Veterans' Park.

During deliberation at the April 28, 2008 Council meeting to consider the master plan amendment and final site plan, considerable dialogue regarding the conditions occurred. Due to the complexity of the motion and the discussion that followed, staff clarified the motion to verify that a single-story restriction found in both condition 3 and condition 4 (Section III Subsections 3 & 4 of Ordinance 2447) was only for those structures located on the northern property boundary of Parcel 32 in Phase 3 of Copperstone Villas, not the entirety of Phase 3. This elucidation was affirmed by Council prior to the vote; however, condition 3 (Section III Subsection 3 of Ordinance 2447) was inadvertently modified to read "All buildings on Parcel 32 (Phase 3) are limited to a single-story structure" and does not reflect the motion made by Council adopting Ordinance

2447. It should be noted that condition 4 (Section III Subsection 4 of Ordinance 2447) reads “All Buildings located within the first row adjacent to the northern property line boundary of Parcel 32 (Phase 3) down to the western end of the property line boundary of Parcel 32 (Phase 3) are limited to single-story structures with attached garages” and is reflective of the intent of and the motion made by Council during the April 28, 2008 hearing.

The purpose of the proposed Ordinance is only to rectify the transcription error regarding condition 3 and does not modify the intent of the Council decision during the April 28, 2008 hearing.

SUPPORT INFORMATION:

1. Ordinance.

SOURCE OF FUNDING:

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

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

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

OPTIONS / ALTERNATIVES:

1. Vote “Yes”; this will repeal only Section III Subsection 3 of Ordinance 2447 and will reaffirm the motion made by Council on April 28, 2008, which limits only the northern

portion of the property in Phase 3 of Copperstone Villas (High Range PUD Planning Parcel 32) to single-story structures.

2. Vote "No"; this will retain Section III Subsection 3 (condition 3) of Ordinance 2447 and will limit all buildings in Phase 3 of Copperstone Villas (High Range PUD Planning Parcel 32) to single-story structures.
3. Vote to "Amend"; this could allow Council to modify the Ordinance by adding appropriate conditions based on findings of fact.
4. Vote to "Table"; this could allow Council to table/postpone the Ordinance to 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. *(If none, type "N/A" below Reference Information.)*

1. Ordinance No. 2447.
2. Ordinance No. 2414.
3. Ordinance No. 2414 Conditions.

COUNCIL BILL NO. 12-028
ORDINANCE NO. 2650

AN ORDINANCE TO REPEAL SECTION III SUBSECTION 3 OF ORDINANCE 2447 IN ORDER TO CORRECT A CONDITION TO ACCURATELY REFLECT THE MOTION MADE BY COUNCIL DURING A LAS CRUCES CITY COUNCIL MEETING HELD ON APRIL 28, 2008, AFFECTING PARCEL 32 OF THE HIGH RANGE PUD.

The City Council is informed that:

WHEREAS, Ordinance 2447 was for the repeal of Ordinance 2414 and for the approval of a Major Amendment to the Concept Plan for the High Range Planned Unit Development (PUD) for planning parcels 18, 24, 28, 29, 30, 31, 32, and 33, originally submitted by Binns, Ltd Co. (PUD 07-01 & 07-05), for a total of 156 ± acres located east and west of Roadrunner Parkway, west of the future extension of Sonoma Springs, and north of Veteran's Park; and

WHEREAS, Ordinance 2447 also included approval of the final site plan for a multi-family residential development known as Copperstone Villas located in planning parcel 32 of the High Range PUD; and

WHEREAS, the Las Cruces City Council considered and approved Ordinance 2447 on April 28, 2008, with fifteen (15) conditions found in Section III Subsections 1 to 15 by a vote of 6-1; and

WHEREAS, the Las Cruces City Council made a motion during the Las Cruces City Council meeting held on April 28, 2008, to adopt Ordinance 2447 which included all original conditions listed in Ordinance 2414 and replaced condition 6 as approved with Ordinance 2414, and amended condition 4 as approved with Ordinance 2414, and included an additional condition, which then became condition 7 of Ordinance 2447, and renumbered the subsequent conditions; and

WHEREAS, it is necessary to repeal Section III Subsection 3 (also known as

condition 3) of Ordinance 2447, as it inaccurately reflects the desire of City Council; and

WHEREAS, the condition specified in Section III Subsection 3 of Ordinance 2447 states "All buildings on Parcel 32 (Phase 3) are limited to a single-story structure;" and

WHEREAS, the Las Cruces City Council motion made during the Las Cruces City Council Hearing held on April 28, 2008, was clarified by staff at two (2) hours, seven (7) minutes, and fifteen (15) through thirty-seven (37) seconds of deliberation on the audio transcript and was affirmed by the Las Cruces City Council that the single story restriction was only for those structures located on the northern property boundary of Parcel 32 in Phase 3 of Copperstone Villas; and

WHEREAS, the condition specified in Section III Subsection 4 of Ordinance 2447 accomplishes the single-story restriction on the northern property boundary of Parcel 32 in Phase 3 of Copperstone Villas and states "All Buildings located within the first row adjacent to the northern property line boundary of Parcel 32 (Phase 3) down to the western end of the property line boundary of Parcel 32 (Phase 3) are limited to single-story structures with attached garages."

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

(I)

THAT Section III Subsection 3 of Ordinance 2447 considered and approved by City Council on April 28, 2008, is hereby repealed.

(II)

THAT the approval of the repeal of Section III Subsection 3 of Ordinance 2447 is based upon the official video, audio, and written transcripts and records of the Las Cruces City Council hearing held on April 28, 2008.

(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 _____, 2012

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

- Mayor Miyagishima: _____
- Councillor Silva: _____
- Councillor Smith: _____
- Councillor Pedroza: _____
- Councillor Small: _____
- Councillor Sorg: _____
- Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:


City Attorney