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Council Action and Executive Summary

Item # 10 **Ordinance/Resolution#** 2681

For Meeting of April 1, 2013 (Ordinance First Reading Date) **For Meeting of** May 6, 2013 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☒ LEGISLATIVE ☐ ADMINISTRATIVE

TITLE: **AN ORDINANCE TO AMEND THE MUNICIPAL CODE, ARTICLE V, SECTION 38-49.2 SOUTH MESQUITE NEIGHBORHOOD OVERLAY ZONE DISTRICT TO ENACT TEXT CHANGES WHICH CLARIFY EXISTING PROVISIONS, STANDARDS, PROCEDURES, PURPOSES AND INTENT OF THE OVERLAY DISTRICT AND WHICH ARE NON-SUBSTANTIVE IN NATURE. SUBMITTED BY THE COMMUNITY DEVELOPMENT DEPARTMENT, CASE ZCA-12-01.**

PURPOSE(S) OF ACTION:

Amend the South Mesquite Overlay Zone.

COUNCIL DISTRICT: 1		
Drafter/Staff Contact: Carol McCall CM	**Department/Section:** Community Development/ Planning & Neighborhood Services	**Phone:** 528-3209
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The South Mesquite Neighborhood Overlay Zone District (SMO) was adopted on May 24, 2005. The Overlay contains provisions for land uses, development standards, design standards, parking, landscaping and demolition. The Overlay also created the South Mesquite Design Review Board (DRB), the administrative body that approves or disapproves proposed changes to exterior design elements on historic structures and some proposals for new construction.

Since the SMO adoption, the DRB has reviewed dozens of proposals. Often, the board has found it difficult to interpret the regulations in the Overlay. The text is inaccurate in places, the design standards are sometimes vague and there are occasional loopholes, making approval or disapproval of a project difficult. Additionally, these problems provide enough ambiguity that decisions by the DRB could easily be overturned upon appeal. Other inaccuracies are simply clerical errors that were overlooked in the original editing process. This amendment would clarify existing standards, procedures, purposes and intent of the SMO without changing the content or meaning of the document.

Staff did not hold a neighborhood meeting regarding this amendment due to its administrative nature. However, Las Esperanzas, Inc. (LEI) is the only known neighborhood group that may have had a response to the proposal. Because two members of the group sit on the DRB and were able to provide their comments at both a work session and regular meeting, staff was confident of the general acceptance of the proposal by LEI. The DRB voted unanimously (7-0) to recommend approval of the proposed amendments at their meeting on December 20, 2012. Subsequently, at their meeting on January 22, 2013, the Planning and Zoning Commission voted (5-0, one absence and one seat vacant) to recommend approval of the proposed amendment.

For further information on background and planning process, refer to Attachment "B", Planning and Zoning Commission Staff Report for Case ZCA-12-01.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Amended South Mesquite Neighborhood Overlay Zone District February 2013.
3. Attachment "A", Amended South Mesquite Neighborhood Overlay Zone District, Tracked Changes February 2013.
4. Attachment "B", P & Z Staff Report for Case ZCA-12-01.
5. Attachment "C", Planning and Zoning Commission meeting minutes January 22, 2013 and work session minutes January 15, 2013.

SOURCE OF FUNDING:

Is this action already budgeted?			
N/A	Yes	☐	See fund summary below
	No	☐	If No, then check one below:
	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 $_____ for FY__.
	No	☐	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 amend the Municipal Code, Article V, Section 38-49.2 South Mesquite Neighborhood Overlay Zone District to correct and clarify a number of administrative errors.
2. Vote "No"; this will not amend the South Mesquite Neighborhood Overlay Zone District. Staff and the South Mesquite Design Review Board will continue to use the existing document to administer cases.
3. Vote to "Amend"; this would amend the South Mesquite Neighborhood Overlay Zone District with additional changes as determined by the Council.
4. Vote to "Table"; this would delay or cancel the amendment to the South Mesquite Neighborhood Overlay Zone District; staff would be directed accordingly.

REFERENCE INFORMATION:

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

1. Ordinance No. 2200.

COUNCIL BILL NO. 13-026
ORDINANCE NO. 2681

AN ORDINANCE TO AMEND THE MUNICIPAL CODE, ARTICLE V, SECTION 38-49.2 SOUTH MESQUITE NEIGHBORHOOD OVERLAY ZONE DISTRICT TO ENACT TEXT CHANGES WHICH CLARIFY EXISTING PROVISIONS, STANDARDS, PROCEDURES, PURPOSES AND INTENT OF THE OVERLAY DISTRICT AND WHICH ARE NON-SUBSTANTIVE IN NATURE. SUBMITTED BY THE COMMUNITY DEVELOPMENT DEPARTMENT, CASE ZCA-12-01.

WHEREAS, the 1999 Las Cruces Comprehensive Plan encourages neighborhood districts/overlay zone districts to address such issues as architectural styles and design elements which are compatible with the surrounding neighborhood especially as a means of preserving an identifiable neighborhood image; and

WHEREAS, Ordinance 2200 was adopted on May 24, 2005, which amended Chapter 38 of the Las Cruces Municipal Code to enact Section 38-49.2 South Mesquite Overlay Zone District and included development standards, permitted land uses and design standards specific to this historic neighborhood; and

WHEREAS, administrative changes in the document are necessary to correct clerical errors and clarify existing text.

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

(I)

THAT Chapter 38, Section 38-49.2 of the Las Cruces Municipal Code, South Mesquite Overlay Zone District, is hereby amended as shown in Exhibit "A."

(II)

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

DONE AND APPROVED this_____ day of _____ 2013.

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

Sec. 38-49.2 SMO - South Mesquite Neighborhood Overlay Zone District

A. PURPOSE. The South Mesquite Neighborhood District is designed to deal with issues unique to Las Cruces' Original Townsite and surrounding area. Specific provisions in this Ordinance deal with issues such as setbacks and zoning designations that are better suited to this older part of the city. Additionally, neighborhood design standards have been created that will help enhance and preserve the unique character of Las Cruces' first neighborhood.

B. DELINEATION OF OVERLAY DISTRICT BOUNDARIES. The South Mesquite Overlay District shall include all properties noted on the associated map. (See Figure 1.)

C. DEFINITIONS. Definitions shall rely on those noted in Section 38-20 of the 2001 Zoning Code, as amended unless otherwise noted here:

Accessory Structure: See Section 38-51 of the 2001 Zoning Code, as amended.

Accessory Dwelling Unit (ADU): See Section 38-53 of the 2001 Zoning Code, as amended.

Area 1: The boundaries of the South Mesquite Neighborhood Overlay District, excluding Area 2, as show in Figure 1.

Area 2: The boundaries of the Original Townsite, located within the South Mesquite Overlay, as shown in Figure 1.

Compatible: Capable of existing together in harmony. Parts of a whole that work well together when pieced together. Compatibility with existing elements does not mean uniformity.

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

Contributing: A resource that is listed as "contributing" on the National Register of Historic Places or the State Register of Cultural Properties. In the law regulating historic districts in the United States, a contributing resource is any building, structure, site, or object which adds to the historical integrity or architectural qualities that make the historic district important. In this document, "contributing" and "significant" may be used interchangeably.

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

Design Standards: Regulations intended to preserve the historic and architectural character within the South Mesquite Overlay Zone District.

Exterior Appearance: The visual character of all outside surfaces of a structure, including facades, fenestration pattern, signage, light fixtures, steps, or character-defining features, such as corbelled posts, exposed vigas, tiles, canales, etc.

Exterior remodeling, exterior renovation, and exterior alteration: Any change or rearrangement in the supporting members of an existing building, such as exterior bearing walls, columns, beams, girders, as well as any substantial change in rooflines, number of doors and/or windows added, removed, or resized, or any enlargement to or diminution of a building or structure, whether horizontally or vertically. Maintenance or repair shall not be construed as exterior remodeling, renovation, and/or alteration.

Façade: Typically the front of a building; however, any elevation on view is considered a facade.

Historic:. In this document, structures that are listed as contributing or significant by the National Register of Historic Places or the State Register of Cultural Properties.

Historic Integrity: The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's period of significance.

Historic Register: In this document, the National Register of Historic Places or the State Register of Cultural Properties.

LCMC: Most current edition of the Las Cruces Municipal Code

New Construction: The erection of a new structure or accessory structure on a lot or property.

Ordinary Maintenance or Repair: Any change that is not new construction, removal, or alteration. Repair may include patching, piecing-in, splicing, consolidating, or otherwise reinforcing or upgrading historic materials such as masonry, wood and architectural metals according to recognized preservation methods. Repairing also includes the limited replacement in kind, or with compatible substitute material, of extensively deteriorated or missing parts or features when there are surviving examples, such as adobe bricks, brackets, dentils, or portions of slate or tile roofing.

Primary Façade(s): Any and all sides of a building which face a public right-of-way. A building may have more than one primary facade.

Primary Structure(s): In this document, the structure(s) for which the use is the main use of the parcel (not an Accessory Use as defined in Section 38-51 of the 2001 Zoning Code, as amended). Note: It is possible to have more than one primary structure on a parcel, for example two residences, or a retail shop and a residence.

Rehabilitation: Making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. Most projects in the South Mesquite Overlay will be rehabilitation projects.

Relocation: Any relocation of a structure from its originally installed site to another site.

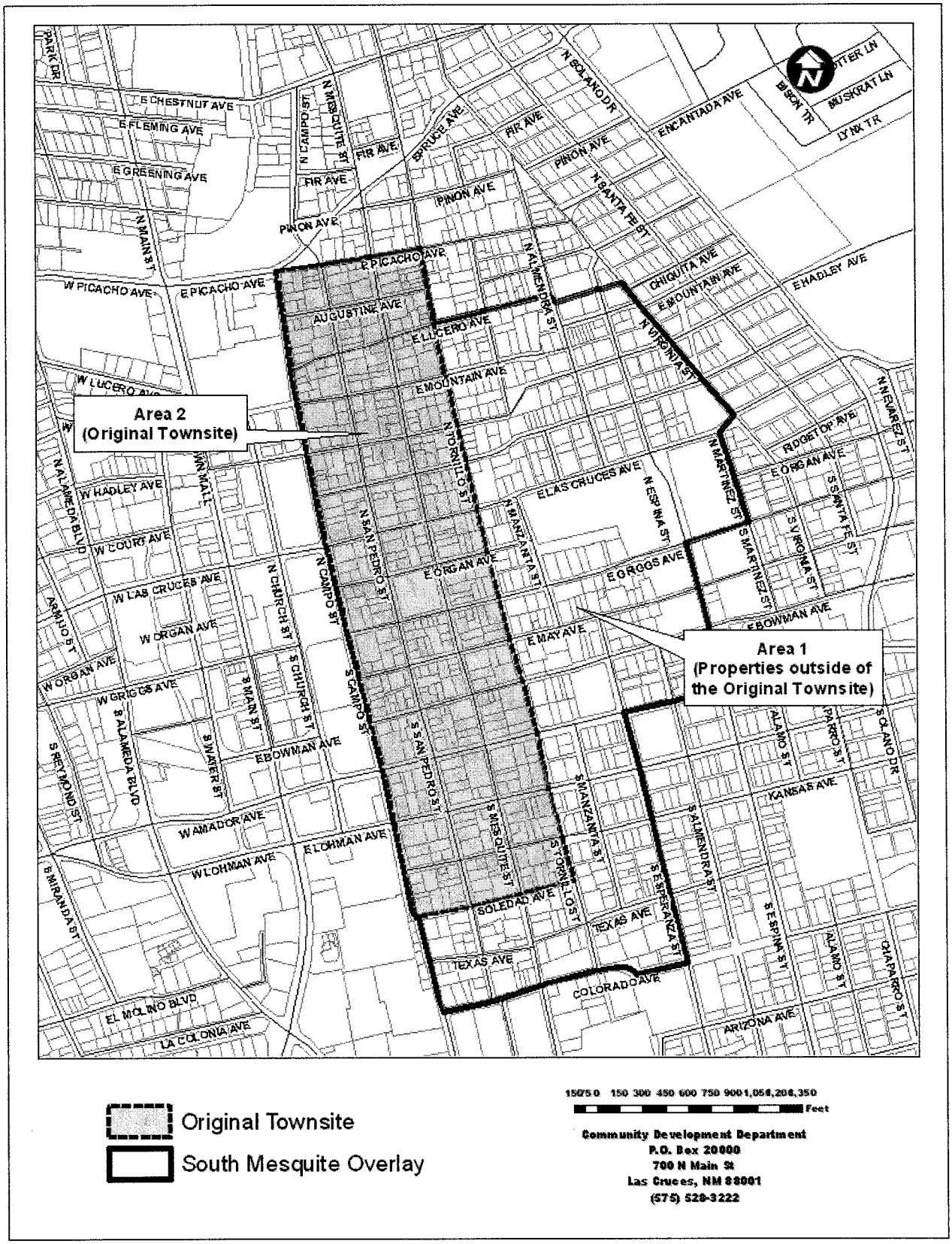
Significant: A resource that is listed as "significant" on the National Register of Historic Places or the State Register of Cultural Properties. In the law regulating historic districts in the United States, a significant resource is any building, structure, site or object which adds to the historical integrity or architectural qualities that make the historic district worthy of registration. In older nominations, the terms "significant" and "contributing" were used to "rank" buildings, but in newer nominations, the status of a resource is either contributing or non-contributing. "Significant" is no longer used as a separate term. In this document, "significant" and "contributing" may be used interchangeably.

SMO: South Mesquite Overlay

DRB: South Mesquite Design Review Board

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. Note: Although "structure" and "building" have different meanings for many preservationists, in this document the two words are used interchangeably.

Figure 1 South Mesquite Overlay Boundaries



D. 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, as amended from the date of its enactment and other sections of the City Zoning Code and other City Codes and Ordinances where applicable. Development requirements shall be established for the entire Overlay Zone District (Area 1 and Area 2), as follows (unless indicated in other sections of this Overlay):

1. DEVELOPMENT STANDARDS.

Minimum Lot Area/Size	3500 square feet
Minimum Lot Width/Frontage	50 feet
Minimum Lot Depth	50 feet
Minimum Side Setback	5 feet*
Minimum Rear Setback	5 feet*
Minimum Front Setback(s)	Front setbacks shall be compatible with the surrounding area. (The surrounding area shall generally mean all structures, with the exception of fences, on the same side of the block.) The applicant shall work with Community Development Department staff to determine a front setback distance with staff having the final determination. Any appeals to this decision shall be made to the DRB.

At the minimum, all setbacks shall meet Clear Site Triangle requirements**.

Maximum Building Height: ***	25 feet to contain no more than two stories in Area 1. 14 feet to contain no more than one story in Area 2.

* Overhangs are **not** permitted within the required setbacks.

** Clear-Site Triangle requirements must be met or applicable encroachment agreements must be entered into when applicable. Variances to Clear Site Triangle may be granted by Public Works Department or designee as needed.

***Any requests for greater building height and number of stories than those stated require an application for a variance, reviewed by the Design Review Board for recommendation to the Planning and Zoning Commission.

2. LANDSCAPE REQUIREMENTS: Landscaping shall follow standards set forth in the Design Standards (Chapter 32 of the LCMC) unless stated below.

   a. A landscaping buffer, a minimum of five (5) feet, excluding sidewalks, shall be provided and maintained along all street frontages. This landscaping

shall be accomplished by the use of a combination of greenery, trees, lawn grass, shrubs, crushed stones, cactus, lava rock, or similar materials.

b. In addition, all areas not devoted to buildings, structures, paved drives, walks and off-street parking facilities shall be covered with one of the above materials. In the event a buffer is not possible, Flexible Development Standards may be considered for further options per Section 38-56 of the 2001 Zoning Code, as amended.

c. Landscaping shall not interfere with visibility for safe ingress and egress.

d. Community Development Department staff shall review landscape plans for adherence to Landscape Requirements.

E. PERMITTED USES. There shall be no land uses within this Overlay Zone District except as listed below or as noted elsewhere in this chapter. C-3 districts are not allowed in the SMO unless pre-existing at the time of adoption of this Ordinance (Ordinance 2200, May 24, 2005). Uses that are pre-existing at the time of adoption of this Amendment and are no longer permitted by right shall be considered legally non-conforming and shall follow the provisions of Sections 38.70-76 of the 2001 Zoning Code, as amended.

(1) SOUTH MESQUITE R-1 SINGLE-FAMILY LOW DENSITY RESIDENTIAL DISTRICT (Maximum of Eight (8) Dwelling Units per Acre).

PURPOSE. The South Mesquite R-1 District is intended to accommodate detached single-family dwelling units and to maintain and protect a low density residential character of development.

a. SOUTH MESQUITE R-1 PERMITTED USES. The following uses are permitted with their noted conditions in the South Mesquite R-1 Districts.

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Uses and Structures. Refer to Section 38-51 of the 2001 Zoning Code, as amended.

Accessory Dwelling Unit. Shall follow requirements found in Section 38-33A of the 2001 Zoning Code, as amended.

Bed and Breakfast. This use shall have direct access to at least a major local-designated roadway where the number of guest rooms is limited to four (4).

Construction Yard or Building (Temporary). Such yard or building shall be removed upon completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence five (5) feet in height. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the Design Standards.

Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.

Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.

Home Occupation. Subject to the provisions of Section 38-52 of the 2001 Zoning Code, as amended.

Kennel (Private, Residential). See Chapter 7 (Animals) of the LCMC

Manufactured Home. See Section 38-57 of the 2001 Zoning Code, as amended.

Public Park, Playground, or Ballfields. See Section 38-33E of the 2001 Zoning Code, as amended.

Real Estate Office (Temporary). Permitted only when used in conjunction with a residential subdivision, provided such use shall be discontinued upon the completion of the development or within three (3) years from date permit issued, whichever is sooner.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be

located within twenty-five (25) feet of property used for residential purposes.

Single Family Detached Dwelling Unit. One dwelling per parcel

Storage of recreational vehicles and motor vehicle appurtenances. Storage of personal recreational vehicles, boats, trailers, or similar uses shall be limited to a maximum of one (1) per dwelling unit in the front or side yard, with no limit in the rear yard, separated at least five (5) feet from any property line.

Swimming Pool (Private). Permitted only when a protective fence, four (4) feet in height, is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

b. SOUTH MESQUITE R-1 SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10. D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.

Community Building.

School (Private, Public, and Parochial)

(2) SOUTH MESQUITE R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

PURPOSE. The South Mesquite R-2 District is intended to accommodate an overall maximum density of fifteen (15) dwelling units per acre. This district is intended for single-family, duplex or apartment units in which a medium density residential character is protected and maintained.

a. SOUTH MESQUITE R-2 PERMITTED USES WITH THEIR NOTED CONDITIONS:

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Uses and Structures. Refer to Section 38-51 of the 2001 Zoning Code, as amended.

Bed and Breakfast. This use shall have direct access to at least a major local-designated roadway where the number of guest rooms is limited to four (4).

Apartments. Two or more units in any configuration, not to exceed a maximum density of fifteen (15) dwelling units per acre.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the 2001 Zoning Code, as amended, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for. Care of thirteen (13) or more children at one time is prohibited in residential zoning districts.

Condominiums. Maximum of four (4) attached units.

Construction Yard or Building (Temporary). Such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the Design Standards. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.

Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.

Home Occupation. Subject to the provisions of Section 38-52 of the 2001 Zoning Code, as amended.

Manufactured Home. One dwelling unit per parcel.

Public Park, Playground, or Ballfield.

Kennel (Private, Residential). See Chapter 7 of the LCMC.

Real Estate Office (Temporary). Permitted only when used in conjunction with a residential subdivision, provided such use shall be discontinued upon the completion of the development or within three (3) years from date permit issued, whichever is sooner.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Single Family Dwelling. One dwelling unit per parcel.

Storage: Recreational Vehicles. Storage of personal recreational vehicles, boats, trailers, or similar uses shall be limited to a maximum of one (1) per dwelling unit in the front yard, with no limit in the rear yard, separated at least five (5) feet from any property line.

Swimming Pools: Private. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

Townhouses. Maximum of four (4) attached units.

Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation

as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

b. SOUTH MESQUITE R-2 SPECIAL USES. The following uses require review by the Design Review Board for recommendation to the Planning and Zoning Commission in accord with Section 38-10. D.3. of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.

Community Building.
School (Public, Private, Parochial).

(3) SOUTH MESQUITE R-3 HIGH DENSITY RESIDENTIAL DISTRICT (Maximum of Thirty (30) Dwelling Units per Acre)

PURPOSE. The South Mesquite R-3 District is intended to accommodate multiple family dwelling units and accessory structures and uses. The zone is intended to maintain and protect high density residential development that is characteristic of apartments, townhouses, condominiums, and other similar dwelling complexes. Single-family dwellings are also permitted. The South Mesquite R-3 Zone is intended to be located in areas that have access to main thoroughfares.

a. SOUTH MESQUITE R-3 PERMITTED USES WITH THEIR NOTED CONDITIONS:

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rghts-of-way and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Uses and Structures. Refer to Section 38-51 of the 2001 Zoning Code, as amended.

Bed and Breakfast. This use shall have direct access to at least a major local-designated roadway where the number of guest rooms is limited to four (4).

Apartments. Two or more units in any configuration with a maximum density of thirty (30) dwelling units per acre.

Boarding House.

Condominiums.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Care of thirteen (13) or more children at one time is prohibited in the residential zoning districts listed. Refer to Section 38-52 of the 2001 Zoning Code, as amended, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for.

Construction Yard or Building (Temporary Use). Such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the Design Standards. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.

Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.

Home Occupation. Subject to the provisions of Section 38-52 of the 2001 Zoning Code, as amended.

Nursing Home/Assisted Living Facility.

Kennel (Private, Residential). See Chapter 7 of the LCMC.

Public Park, Playground, and Ballfield.

Real Estate Office: Temporary. Permitted only when used in conjunction with a residential subdivision provided such use shall be discontinued upon the completion of the development or within three (3) years from date of permit, whichever is sooner.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking

located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Single Family Dwellings. One dwelling unit per parcel.

Swimming Pool: Private. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

Townhouses. Maximum of eight (8) attached units.

Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

b. SOUTH MESQUITE R-3 SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.

Community Building.
School (Public, Private, Parochial.

(4) SOUTH MESQUITE R-4 HIGH DENSITY RESIDENTIAL AND LIMITED OFFICE DISTRICT (Maximum of Forty (40) Dwelling Units per Acre)

PURPOSE. The South Mesquite R-4 District is intended to accommodate a mixture of high density multiple family dwelling units and limited offices in which no merchandise or goods are sold as the primary business. The South Mesquite R-4 Zone is intended to be located in areas that have access to main thoroughfares and are large enough in area to accommodate large-scale apartment complexes or limited office developments.

a. SOUTH MESQUITE R-4 PERMITTED USES WITH THEIR NOTED CONDITIONS:

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting Uniform Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Uses and Structures. Refer to Section 38-51 of the 2001 Zoning Code, as amended.

Apartments. Two or more units in any configuration, with a maximum density of forty (40) dwelling units per acre.

Bed and Breakfast. This use shall have direct access to at least a major local-designated roadway where the number of guest rooms is limited to four (4).

Boarding House.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the LCMC, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for. Care of thirteen (13) or more children at one time is prohibited in the residential zoning districts listed.

Condominiums.

Construction Yard or Building (Temporary Use). Such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the Design Standards. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.

Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.

Home Occupation. Subject to the provisions of Section 38-52 of the 2001 Zoning Code, as amended.

Nursing Homes/Assisted Living Facility.

Kennel (Private, Residential). See Chapter 7 of the LCMC.

Offices (limited). Offices that have a very low traffic volume such as attorneys, accountants, and architects are permitted, provided such uses maintain the residential character of the neighborhood and zoning district in which they are located. There shall be no goods or merchandise prepared or sold on the premises. Uses such as medical offices, barbershops, hairdressers, banks, and similar commercial and business offices which generate moderate or high volumes of traffic are prohibited in the South Mesquite R-4 District.

Public Park, Playground, and Ballfield.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Single Family Dwellings. One dwelling unit per parcel.

Swimming Pool: Private. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

Townhouses. Maximum of ten (10) attached units.

Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque

screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

b. SOUTH MESQUITE R-4 SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.

Community Building.
Institution: Public, Educational, Religious, or Philanthropic.
School (Public, Private, Parochial).
Swimming Pool (Public or Private).

(5) SOUTH MESQUITE O-1 OFFICE DISTRICT:
PURPOSE. The South Mesquite O-1 District is intended to accommodate office, service and institutional uses in which merchandise or goods are not prepared or sold as the primary business. This zone is designed to be a transition between commercial and residential uses and serve specified business, personal and professional services that can function efficiently without generating large volumes of vehicular traffic. Drive-up/drive-thru windows are not allowed in this district. The South Mesquite O-1 District should maintain a predominantly residential character.

a. SOUTH MESQUITE O-1 PERMITTED USES.

Art Studio
Barber Shop
Beauty Shop
Community or Public Office Building
Cosmetologist Shop
Funeral Home, Mortuary, excluding Crematoriums
Insurance Office
Law Office
Lessons (art, dance, music, and the like)
Photographic Studio
Professional and Business Offices (excluding medical offices)
Real Estate Office
Residential Uses

b. PERMITTED USES--WITH CONDITIONS: The following uses are permitted in accord with stated conditions: Residential uses are not permitted in the South Mesquite O-1 Zone, except in cases where a proprietor uses a part of an office building as a dwelling. Limited landscaping is also required in the South Mesquite O-1 Zone:

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Building. See Accessory Building/Structure of Section 38-51 of the 2001 Zoning Code, as amended.

Construction Yard of Building (temporary use). Permitted only during construction, provided such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence of a minimum of five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the Design Standards. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department

Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten

(10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

c. SOUTH MESQUITE O-1 SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.

Institution: Public, Educational, Religious, or Philanthropic.
Public Building (Other than Offices).
Schools (Public, Private, Parochial).

(6) SOUTH MESQUITE C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

PURPOSE. The South Mesquite C-1 District is intended to accommodate limited retail and service establishments as a convenience to nearby residential neighborhoods. This zone is designed to be compatible and consistent with the needs and character of a residential neighborhood. Uses such as the sale, service and repair of motor vehicles, engines, and mobile homes; gasoline service stations and body shops; dancing establishments; the wholesaling and warehousing of merchandise; pet shops; and similar uses, are not permitted in the South Mesquite C-1 zone. Drive-up/drive-thru windows are also not allowed in this district Landscaping shall be required, as per Landscape Requirements in the development standards section.

a. SOUTH MESQUITE C-1 PERMITTED USES. The following uses are permitted by right in the South Mesquite C-1 District provided the gross floor area of each business does not exceed three thousand (3,000) square feet. Uses exceeding three thousand (3,000) square feet may be considered as a Special Use Permit, reviewed by the DRB for recommendation to the Planning and Zoning Commission in accordance with Section 38-10 of the 2001 Zoning Code, as amended in order to insure that the size of the business does not create undue traffic congestion, noise or other problems that would be detrimental to the residential character of the neighborhood.. Businesses shall not exceed six thousand (6,000) square feet of gross floor area.

Arts and Crafts Studio
Bakery
Barber Shop
Beauty Parlor
Bicycle Sales and Service
Bookstores and Stationery Shops
Cigarette and Cigar Shops

Coffee Shop and Snack Bar
Community Building (publicly or privately owned)
Cosmetologist Shop
Delicatessen
Dressmaking Shop
Dry-cleaning and Steamcleaning (receiving shop)
Florist Shop
Gift Shop
Grocery Store
Hobby Shop and Toy Store
Household Appliance and Repair Shop
Knit and Yarn Shops
Laundry (self service)
Lessons (art, dance, music, and the like)
Library
Meat and Seafood Markets
Messenger Service
Newspaper Distribution Office
Offices: Professional and Business
Photographic Studio
Post Office
Prescription Shop
Private Club or Lodge
Public Park, Playground, Recreational Use
Real Estate Office
Residences (Residences in South Mesquite C-1 shall comply with South Mesquite R-4 development standards)
Restaurant
Shoe Repair Shop
Tailor Shop
Variety Store

b. PERMITTED USES--WITH CONDITIONS: The following uses are permitted in accord with stated conditions.

Above Ground Storage Tanks for Flammable and Combustible Liquids. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tanks shall be permitted only when meeting current Fire Code requirements

as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Building. See Accessory Building/Structure in Section 38-51 of the 2001 Zoning Code, as amended.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the 2001 Zoning Code, as amended, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for.

Construction Yard or Building (Temporary Use). Permitted only during construction, provided use or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a solid fence of a minimum of five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the Design Standards. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Christmas Tree Sales. Temporary, not prior to November 15 and provided lots are removed by December 31.

Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.

Home Occupation. Subject to the provisions of Section 38-52 of the 2001 Zoning Code, as amended.

Retail Sales: Specialized Merchandise. Retail sales, except as otherwise noted, shall be limited to stores that specialize in a particular type of merchandise such as clothing, records, shoes, home appliances, or other similar convenience goods to serve nearby residential neighborhoods.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or

fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Storage: Incidental to Primary Use. Storage shall be permitted only for merchandise incidental to the primary use of the business. Such storage shall be totally enclosed within the building of primary use, and at least ten percent (10%) of the gross floor area shall be used for retail sales or service. Exterior or open storage is prohibited.

Swimming Pools. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

c. C-1 SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.

Golf Course and Country Club.
Structures with a Gross Floor Area exceeding 3,000 Square Feet.
Institutions: Public, Educational, Religious, or Philanthropic.
School (Public, Private, and Parochial).

(7) SOUTH MESQUITE C-2 GENERAL COMMERCIAL DISTRICT

PURPOSE. The intent of the South Mesquite C-2 Zoning District is to provide for certain commercial/retail uses which generate large volumes of automobile traffic. The district is intended for areas surrounding major arterial intersections where a wide range of automobile-related service facilities, convenience goods and personal services are desirable and appropriate as a land use. Landscaping shall be required as per Landscape Regulations in the development standards section. Drive-up/drive-thru windows are not allowed in this district

a. SOUTH MESQUITE C-2 PERMITTED USES. The following uses are permitted by right in the C-2 South Mesquite District:

Animal Hospital and Clinic
Arts and Crafts Studio
Bakery
Barber Shop and Beauty Parlor
Bicycle Sales and Service
Business Service Establishment
Catering
Cigarette and Cigar Stand
Clothing Store and Apparel Shop
Community and Public Building
Convention or Exhibition Hall
Dressmaking Shop
Drugstore
Drycleaning and Steamcleaning
Electrical Shop
Florist
Food Store
Glass Cutting and Finishing
Gymnasium
Hardware Store
Household Appliance Sales, Service and Repair
Institutions, Public and Quasi-Public
Laundry
Lessons (art, music, dance, and the like)
Newsstand
Nursing or Convalescent Home
Office (business and professional)
Paint Sales
Pet Shop
Photographic Studio and Supply Store
Plant Nursery
Printing and Engraving Shop

Private Club or Lodge
Public Park, Playground, Recreational Use
Radio, Television, Music Store
Residence (Residences in the South Mesquite C-2 zoning district shall comply with South Mesquite R-4 zoning district development standards).
Restaurant
Retail Sales
Shoe Repair
Show and Sales Room for Business Products
Skating Rink
Sporting Goods Store
Tailoring
Telegraph and Messenger Service
Variety Store

b. PERMITTED USES WITH CONDITIONS: The following South Mesquite C-2 uses are permitted in accord with stated provisions.

Above Ground Storage Tanks for Flammable and Combustible Liquids. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tanks shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Assembly of Arts and Crafts. Only when such assembly is for display and sale on the premises or when such assembly occupies less than one thousand, five hundred (1,500) square feet of a building.

Bed and Breakfast. This land use shall have direct access to at least a major local-designated roadway. The number of rooms is limited to 10 rooms per quarter (1/4) acre.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the 2001 Zoning Code, as amended, Home Occupation Business Registration,

for babysitting service/child care when twelve (12) or fewer children are cared for.

Christmas Tree Sales. Temporary, not prior to November 15, provided lots are cleaned and removed by December 31.

Construction Yard or Building (Temporary). Such yard or building shall be removed upon completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the Design Standards. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Contractor-type yards (e.g. associated with Cooling, Heating, Plumbing, and Sheetmetal shops). Yards shall be maintained in a neat and orderly fashion and enclosed by a solid wall or fence a minimum of six (6) feet in height (clear-site-triangle requirements must be met).

Cottage Industry. A cottage industry is defined as any manufacturing, compounding, and/or assembly process, including food preparation, which is subordinate to a primary use of retail sales or service. This use is not to be confused with or treated as a home occupation. Cottage industry may only occur within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on site only, and shall not pose any significant adverse impact to adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet may be used in the conduct of the cottage industry.

Firewood Sales. No more than twenty (20) cords stored on site.

Furniture Assembly (Accessory Use). Permitted only as an incidental or accessory use to retail sales. Maximum floor area for assembly shall not exceed three thousand (3,000) square feet, not to exceed thirty percent (30%) of the total business floor area, and shall be within the same building.

Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.

Home Occupation. Subject to the provisions of this Section and Section 38-52 of the 2001 Zoning Code, as amended.

School. Elementary, Middle or High Schools shall be located on a collector or higher designated roadway. Commercial, Trade or Technical Schools, College or University shall be located on a minor arterial or higher designated roadway. All sites shall have a minimum of one (1) acre. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Storage as an Accessory Use. Storage shall be permitted only when incidental or accessory to sales of merchandise. Such storage shall be within a totally enclosed area and at least five percent (5%) of the gross floor area shall be used for retail sales or service.

Temporary Uses. Temporary uses, such as fireworks stands, shall be allowed in the South Mesquite C-2 District and shall follow the timelines and other such requirements established in Sec. 38-50 of the 2001 Zoning Code, as amended

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Swimming Pools. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is required to insure overhead safety.

Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation

as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

c. SOUTH MESQUITE C-2 DISTRICT SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.

Antenna, Towers, Communication Structures, and Other Vertical Structures

(8) C-3 COMMERCIAL HIGH INTENSITY: C-3 districts are not allowed in the SMO unless pre-existing at the time of adoption of this Ordinance (Ordinance 2200, May 24, 2005). Uses that are pre-existing at the time of adoption of this Amendment and are no longer permitted by right shall be considered legally non-conforming and shall follow the provisions of Sections 38.70-76 of the 2001 Zoning Code, as amended.

F. SPECIAL USES (All Zoning Districts). A Special Use is a use that is not permitted by right in a zoning district. A Special Use requires review for recommendation by the DRB to the Planning and Zoning Commission to determine impacts on the surrounding area. The procedures for approval may be found in Section 38-54A of the 2001 Zoning Code, as amended.

Antenna, Towers, Communication Structures, and Other Vertical Structures (South Mesquite zone: C-2): Any antenna, towers, communication structures, and other vertical structures must be unobtrusive and screened from view with respect and deference to the unique character of this district. Collocation is encouraged and must be done so that the structure, antenna, etc., is incorporated as a part of the design to the structure to which it is attached/placed.

Cemetery or Similar Uses (South Mesquite zones: R-1, R-2, R-3, R-4). Any cemetery site shall contain at least five (5) acres and shall be located on a major local or higher designated roadway. A columbarium shall be located on a major local or higher designated roadway with the lot size meeting the zoning district minimum lot size.

Community Buildings (South Mesquite zones: R-1, R-2, R-3, R-4).

Gross Floor Area: Exceeding Three Thousand (3,000) Square Feet (South Mesquite Zone: C-1): The maximum gross area per business may exceed three thousand (3,000) square feet in a South Mesquite C-1 District provided it can be shown that the increase in size will not be inconsistent with the purpose of the South Mesquite C-1 District and will not create traffic congestion. Businesses shall not exceed six thousand (6,000) square feet of gross floor area.

Halfway House (South Mesquite zones: R-1, R-2, R-3, R-4, O-1, C-1, C-2).

Hospital and Overnight Clinic (South Mesquite zones: R-4, C-1).

Institution: Public, Educational, Religious, and Philanthropic (South Mesquite zones: R-4, O-1, C-1).

Nursing Home/Assisted Living Facility (South Mesquite zones: R-1, R-2). Must be located on a collector or higher designated roadway.

School - Public, Private, Parochial (South Mesquite Zones: R-1, R-2, R-3, R-4, O-2): Elementary, Middle or High Schools shall be located on a collector or higher designated roadway. Commercial, Trade or Technical Schools, College or University shall be located on a minor arterial or higher designated roadway. All sites shall have a minimum of one (1) acre. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Swimming Pool - Public or Commercial (All South Mesquite Residential "R" Districts and South Mesquite O-1): A protective fence or wall no less than six (6) feet in height shall be provided which completely encloses the pool area, and the pool shall be no closer than twenty-five (25) feet from any property line. Approval from the electric utility is required to ensure safety (see Section 38-60 of the 2001 Zoning Code, as amended).

G. PARKING REQUIREMENTS. The following exceptions to the parking requirements found in Sections 38-33 and 38-58 of the 2001 Zoning Code, as amended shall be used in the SMO:

1. Buildings within the SMO constructed prior to 1955 shall not be required to provide off-street parking.

2. Buildings within the SMO constructed after 1955 shall be eligible to use the historic district parking requirements found in Section 38-58 of the 2001 Zoning Code, as amended.

3. The City Traffic Engineer or a designee shall determine which streets will be prohibited from use for on-street parking.

H. NON-CONFORMING USES, STRUCTURES, AND PROPERTY. Many people refer to non-conforming uses as the "Grandfather Clause." If a use, structure, etc., was established legally under the previous code, it is considered a legal non-conforming use. Except for the following, requirements stated in Sections 38.70-76 of the 2001 Zoning Code, as amended shall apply.

1. If a non-conforming use becomes and remains vacant, a two (2) year time limit shall be placed on reestablishing the non-conforming use at that location.

I. DESIGN REVIEW. PURPOSE: To ensure quality property development and renovation and to protect the historic character of the neighborhood, the following requirements regulating urban design are established in this Overlay Zone District.

1. Establishment of the South Mesquite Design Review Board (DRB). A design review board shall consist of four professionals in historic preservation, history, architecture, interior design, banking, finance, construction or similar associated professions. Three additional members shall own property and/or live within the South Mesquite Street Overlay Zone District boundaries. Procedures shall follow those found for Non-standard Boards and Committees in Chapter 2 of the LCMC.

2. Duties of the South Mesquite Design Review Board. Members of the Board shall state the factual basis and the findings of their vote.

   a. Applicability of Design Standards. The DRB shall review and have final authority on:
      i. the design of the exterior of a new structure(s) in Area 2;
      ii. the design of the exterior of any one time or cumulative addition to the existing structure(s) in Area 2;
      iii. the design of the exterior of an addition to a significant or contributing structure in Area 1; and/or
      iv. the alteration of the exterior appearance of any significant or contributing structure in Area 1.

   b. Infill. Infill projects requiring review by the DRB pursuant to the SMO will require longer processing than the Infill process noted in Section 38-40 of the 2001 Zoning Code, as amended.

   c. Planned Unit Development (PUD). The DRB shall be a recommending body to the Planning and Zoning Commission.

   d. Variances. For Area 2, the DRB shall be a recommending body to the Planning and Zoning Commission.

   e. Special Use Permits. For Area 2, the DRB shall be a recommending body to the Planning and Zoning Commission.

   f. Zone Changes. For Area 1 and Area 2, the DRB shall be a recommending body to the Planning and Zoning Commission.

   g. Land Use. It is possible to request an additional land use not already noted within the permitted use lists on a specific parcel within the SMO. Each request will be considered on a case-by-case basis. These requests will be processed per the rezoning process noted in Section 38-10 of the 2001 Zoning Code, as amended and this section.

h. Cases not listed above shall go before the DRB if design issues related to the historic integrity of the neighborhood are involved or at the discretion of the Department Director or designee.

i. State- or Federally-funded projects requiring review by the State Historic Preservation Officer (SHPO) are exempt from review by the DRB. In New Mexico, state-funded includes funding by municipalities.

3. Projects other than those requiring approval by the DRB shall be reviewed for compliance to design standards by Community Development staff and are required to meet all other applicable City Codes.

4. Design Guidelines. Specific design criteria shall be used by staff and the DRB to determine the appropriateness of construction and rehabilitation projects, and to determine whether the request is consistent or inconsistent with existing development.

   a. Applicable development must ultimately utilize architectural styles, methods, and materials that are visually compatible with the original structure, surrounding structures (especially where new construction is proposed), and the overall character of the historic district. This should not be interpreted as a requirement to mimic existing styles or construction materials, but as a means for these types of projects to result in a visually compatible transition between old and new structures within the general neighborhood and/or on a single parcel of land.

   b. In addition to the standards stated herein, staff and the DRB shall review projects based upon *The Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring and Reconstructing Historic Buildings*, and *The New Mexico Historic Building Inventory Manual, 1980.* These resources are available for public review in the Community Development Department or on the City's website.

5. <u>Design Standards</u>. Additional components that must be given specific attention include the following criteria:
   a. Maintain a visual balance and rhythm between walls, doors, and windows along any given street segment to uphold the District's unique look and character.
      i. Doors/entryways must be located on the primary streetside façade.
      ii. Windows must be compatible with neighboring buildings in terms of placement, size, and shape.
      iii. Roof materials and style must promote compatibility throughout the subject property's street segment.

b. To assure that primary structure(s) maintain the principal focus, attached and detached garages or carports shall be set back a minimum of ten (10) feet back from the primary structure(s) and primary streetside façade.

c. New development and remodeling projects shall utilize adobe, brick, stone, lime plaster, stucco, wood or other natural materials on all exterior facades.

d. Fences and walls shall be of a material compatible with the structure and/or neighborhood; chain link is prohibited.e.. New development should reflect a style consistent with those noted in *The New Mexico Historic Building Inventory Manual, 2001*..

f. New development and remodeling projects shall create a landscape design, whether for commercial or residential projects, that is compatible with the subject property's street segment.

g. Commercial dumpsters are required to be screened from any streetside façade. (Applies to all projects except single family residential.)

J. SUBMITTAL AND REVIEW PROCESS. The following submittal and review procedures are established to protect persons and property in the South Mesquite Overlay Zone District. Applications shall be obtained from the Community Development Department, Building Permit Section.

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

2. The applicant shall submit at minimum, one copy of all application materials for new development and additions 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.

3. If the submittal is for a new structure(s) and/or any one time or cumulative addition to the existing structure(s) in Area 2 or for any significant or contributing structures listed on the historic register, (state or national) in Area 1, the applicants shall meet with the DRB at a public hearing for a formal decision by the Board regarding the proposed project. Public hearing procedures and notice requirements will follow that of the Planning and Zoning Commission found in Section 38-10.D.3 of the 2001 Zoning Code, as amended..

4. The minimum submittal requirements for development proposals shall include the following information that is relevant to the proposal:

a. A statement of objectives to be achieved by the development, inclusive of a description of the character and anticipated use of the proposed development.

b. A scaled site plan that includes the following:
   i. Property boundaries
   ii. Location of all structures
   iii. Age of structures
   iv. Setbacks
   v. Parking layout, if applicable
   vi. Ingress/egress access points
   vii. Areas proposed for landscaping
   viii. Surfacing material for impervious surfaces
   ix. Storm water ponding areas
   x. Dumpster location(s)
   xi. Location of service and loading area(s)
   xii. Freestanding and attached sign locations where applicable
   xiii. North arrow
   xiv. Any other information which conveys how the proposal will meet development requirements.

c. Scaled landscaping plan shall include:
   i. Location, size, and common name of all landscaping
   ii. A complete irrigation plan shall be included, clearly identifying how the landscape will be sustained.

d. Scaled elevations shall include:
   i Each directional view of all structures clearly identifying exterior building materials and treatments, i.e. label each view.
   ii Location and treatment of all fenestrations and other building openings.
   iii Building ornamentation.
   iv Roof design and roof surfacing material.
   v Difference between existing and new construction, if applicable.

e. Color architectural/artistic renderings shall:
   i Reflect all aspects/views of exterior buildings.
   ii Demonstrate the use of building materials through the drawings and list them in legend.

5. Signs. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with the Sign Code (Chapter 36 of the LCMC).

6. 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 the Sign Code.

K. DEMOLITION. PURPOSE: To preserve the character of the South Mesquite Historic District, this ordinance creates a sixty (60) day demolition permit process that will allow time for interested parties to explore alternatives to the demolition of historic structures.

1. Property owners intending to demolish any structure located within Area 2 or any significant or contributing structure listed on the historic register in Area 1 must adhere to the following 60-calendar day process.

   a. Demolition permit - Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. During the 60-day demolition permit process, Community Development Department staff will review the application for compliance with the Las Cruces Building Code (Chapter 30 of the LCMC).

   b. The Community Development Department will issue the sign that is to be posted. The applicant is responsible for posting the sign in a visible location on the property and ensuring that it is in place for the entire 60-day period.

   c. 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. (Code compliance comments regarding the proposed demolition may be resolved within the 60-day time period.)

   d. Compliance with the procedure set out in this Section may be waived by the City Manager or designee if it is determined that immediate demolition of a historic structure is a hazard to the health, safety, and welfare of the public.

   e. The applicant may withdraw the permit application at any time.

2. Demolition in Area 1 for structures not noted above shall follow the Building Code.

L. APPEALS. In the South Mesquite Overlay Zone District, any applications for development must be approved by the City in order for a building permit or sign permit to be issued. If required by this Section, review and approval by the DRB must precede issuance of a permit.

1. If an application is denied by the City staff or South Mesquite Design Review Board based on an interpretation of the South Mesquite Neighborhood Plan and this Section, and an agreement of interpretation cannot be reached and all other procedures established by this Section have been exhausted, the applicant may file for an appeal.

2. The appeal will be processed to the City Council in accordance with Section 38-13 of the 2001 Zoning Code, as amended.

3. Any person aggrieved by a determination of the City Council may appeal to the district court within 30 days after the determination made by City Council, in accordance with Section 38-14 of the 2001 Zoning Code, as amended.

4. A request that is denied by the Board and/or City Council shall not be resubmitted or reconsidered for a period of one (1) year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six (6) months after such denial decision. Special use permits or planned unit developments processed through the Infill Development Process that are denied by the Board and/or the Planning and Zoning Commission may be modified and resubmitted at any time following action by the Board or the Planning and Zoning Commission.

M. ENFORCEMENT OF OVERLAY ZONE DISTRICT. Provisions to enforce this Section shall be consistent with the Enforcement Provisions of Section 38-16 of the 2001 Zoning Code, as amended.

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Sec. 38-49.2 SMO - South Mesquite Neighborhood Overlay Zone District

A. PURPOSE. The South Mesquite Neighborhood District is designed to deal with issues unique to Las Cruces' Original Townsite and surrounding area. Specific provisions in this Ordinance deal with issues such as setbacks and zoning designations that are better suited to this older part of the ~~C~~city. ~~By way of neighborhood participation, it was decided to closely follow the zoning designations and permitted land uses of the City's former 1981 Zoning Code, as amended, with some modifications.~~ Additionally, neighborhood design standards have been ~~added~~ **created** ~~to the general area to~~**that will help** enhance and preserve the unique character of Las Cruces' first neighborhood.

B. DELINEATION OF OVERLAY DISTRICT BOUNDARIES. The South Mesquite Overlay District shall include all properties noted on the associated map. (See Figure 1.)

C. DEFINITIONS. Definitions shall rely on those noted in ~~Chapter 38,~~ Section 38-20 of the ~~LCMC~~ **2001 Zoning Code, as amended** unless otherwise noted here:

Accessory Structure: See Section 38-51 of the 2001 Zoning Code, as amended.

Accessory Dwelling Unit (ADU): See Section 38-53 of the 2001 Zoning Code, as amended.

Area 1: The boundaries of the South Mesquite Neighborhood Overlay District, excluding Area 2, as show in Figure 1.

Area 2: The boundaries of the Original Townsite, located within ~~Area 1~~**the South Mesquite Overlay**, as shown in Figure 1.

Compatible: Capable of existing together in harmony. Parts of a whole that work well together when pieced together. **Compatibility with existing elements does not mean uniformity.**

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

Contributing: A resource that is listed as "contributing" on the National Register of Historic Places or the State Register of Cultural Properties. In the law regulating historic districts in the United States, a contributing resource is any building, structure, site, or object which adds to the historical integrity or architectural qualities that make the historic district important. In this document, "contributing" and "significant" may be used interchangeably.

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

Design and Architectural Guidelines**Standards**: Regulations intended to preserve the historic and architectural character within the South Mesquite Overlay Zone District. ~~In addition to the general requirements for the South Mesquite Overlay District stated above, additional~~

~~requirements regulating urban design in Area 2 have also been established to preserve the unique built environment of Las Cruces' Original Townsite.~~ Exterior Appearance: The visual character of all outside surfaces of a structure, including **facades, fenestration pattern,** ~~the kind and texture of the signs~~**signage**, light fixtures, steps, or ~~appurtenant elements~~**character-defining features, such as corbelled posts, exposed vigas, tiles, canales, etc**.

Exterior remodeling, exterior renovation, and exterior alteration: Any change or rearrangement in the supporting members of an existing building, such as exterior bearing walls, columns, beams, girders, as well as any substantial change in rooflines, number of doors and/or windows added, removed, or resized, or any enlargement to or diminution of a building or structure, whether horizontally or vertically. Maintenance or repair shall not be construed as exterior remodeling, renovation, and/or alteration.

Façade: ~~Any exterior wall of a structure.~~ **Typically the front of a building; however, any elevation on view is considered a facade.**

Historic:~~Structures/buildings deemed historic are those listed as contributing or significant by the Federal and/or State Historic Registers~~. **In this document, structures that are listed as contributing or significant by the National Register of Historic Places or the State Register of Cultural Properties.**

Historic Structure(s): ~~A structure that is listed in the National Register of Historic places, or located in a registered historic district and certified by either the U.S. Department of the Interior or the New Mexico State Historic Preservation Office as being historically significant or contributing to the district.~~

Historic Integrity: The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's period of significance.

Historic Register: In this document, the National Register of Historic Places or the State Register of Cultural Properties.

LCMC: Most current edition of the Las Cruces Municipal Code

New Construction: The erection of a new structure or accessory structure on a lot or property.

Ordinary Maintenance or Repair: Any change that is not new construction, removal, or alteration. Repair may include patching, piecing-in, splicing, consolidating, or otherwise reinforcing or upgrading ~~H~~**h**istoric materials such as masonry, wood and architectural metals according to recognized preservation methods. Repairing also includes the limited replacement in kind, or with compatible substitute material, o**f**~~r~~ extensively deteriorated or missing parts or~~f~~ features when there are surviving examples, such as **adobe bricks,** brackets, dentils, or portions of slate or tile roofing.

Primary Façade(s): Any and all sides of a building which face a public right-of-way. A building may have more than one primary facade.

Primary Structure(s): In this document, the structure(s) for which the use is the main use of the parcel (not an Accessory Use as defined in Section 38-51 of the 2001 Zoning Code, as amended). Note: It is possible to have more than one primary structure on a parcel, for example two residences, or a retail shop and a residence.

Rehabilitation: Making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. Most projects in the South Mesquite Overlay will be rehabilitation projects.

Relocation: Any relocation of a structure from its originally installed site to another site.

Significant: A resource that is listed as "significant" on the National Register of Historic Places or the State Register of Cultural Properties. In the law regulating historic districts in the United States, a significant resource is any building, structure, site~~,~~ or object which adds to the historical integrity or architectural qualities that make the historic district worthy of registration. In older nominations, the ~~two~~ terms "significant" and "contributing" were used to "rank" buildings, but in newer nominations, the status of a resource is either contributing or non-contributing. "Significant" is no longer used as a separate term. In this document, "significant" and "contributing" may be used interchangeably.

SMO: South Mesquite Overlay

DRB: South Mesquite Design Review Board

Structure: ~~Is t~~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. **Note: Although "structure" and "building" have different meanings for many preservationists, in this document the two words are used interchangeably.**

Figure 1 [Delete existing map]

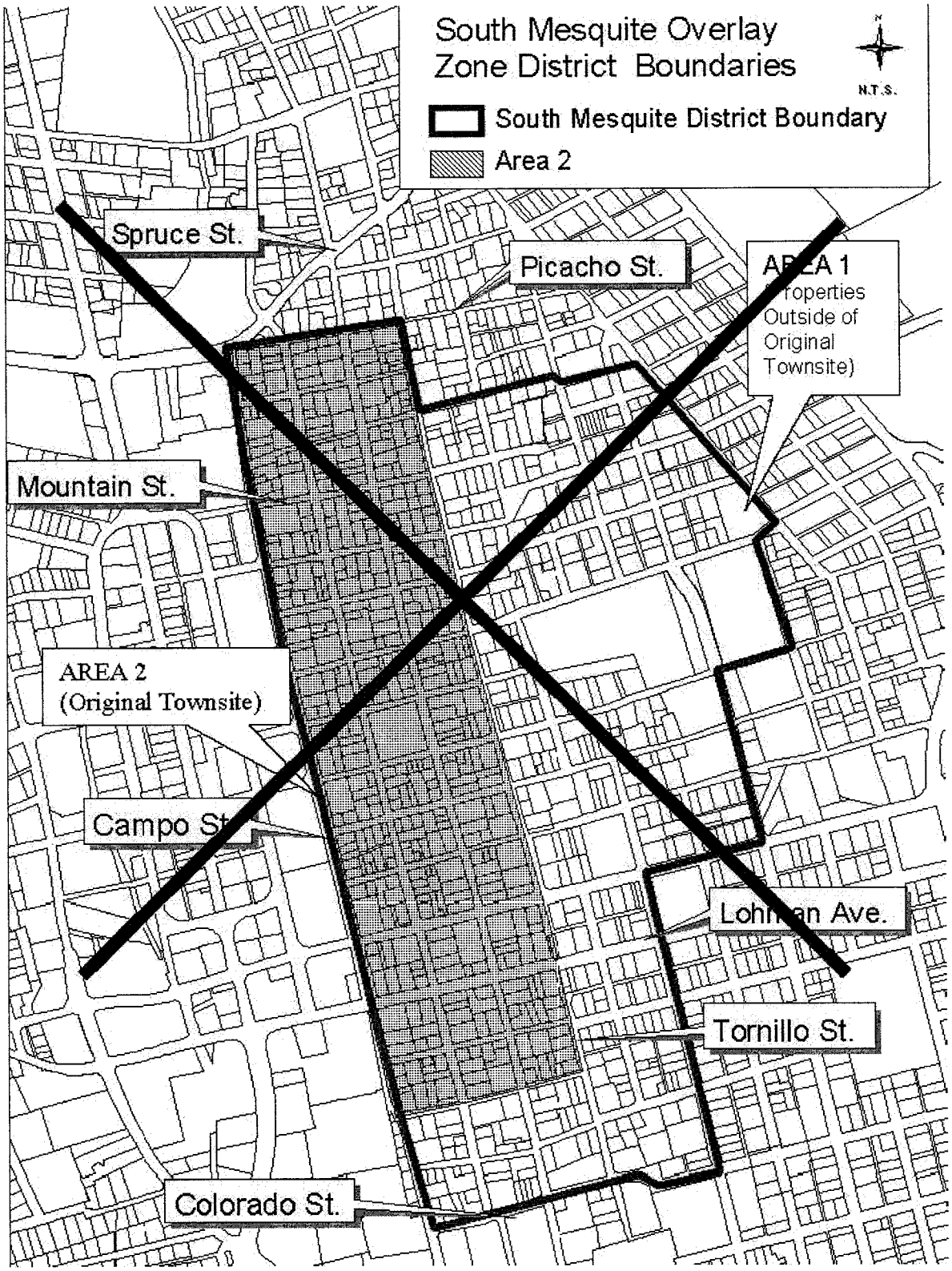
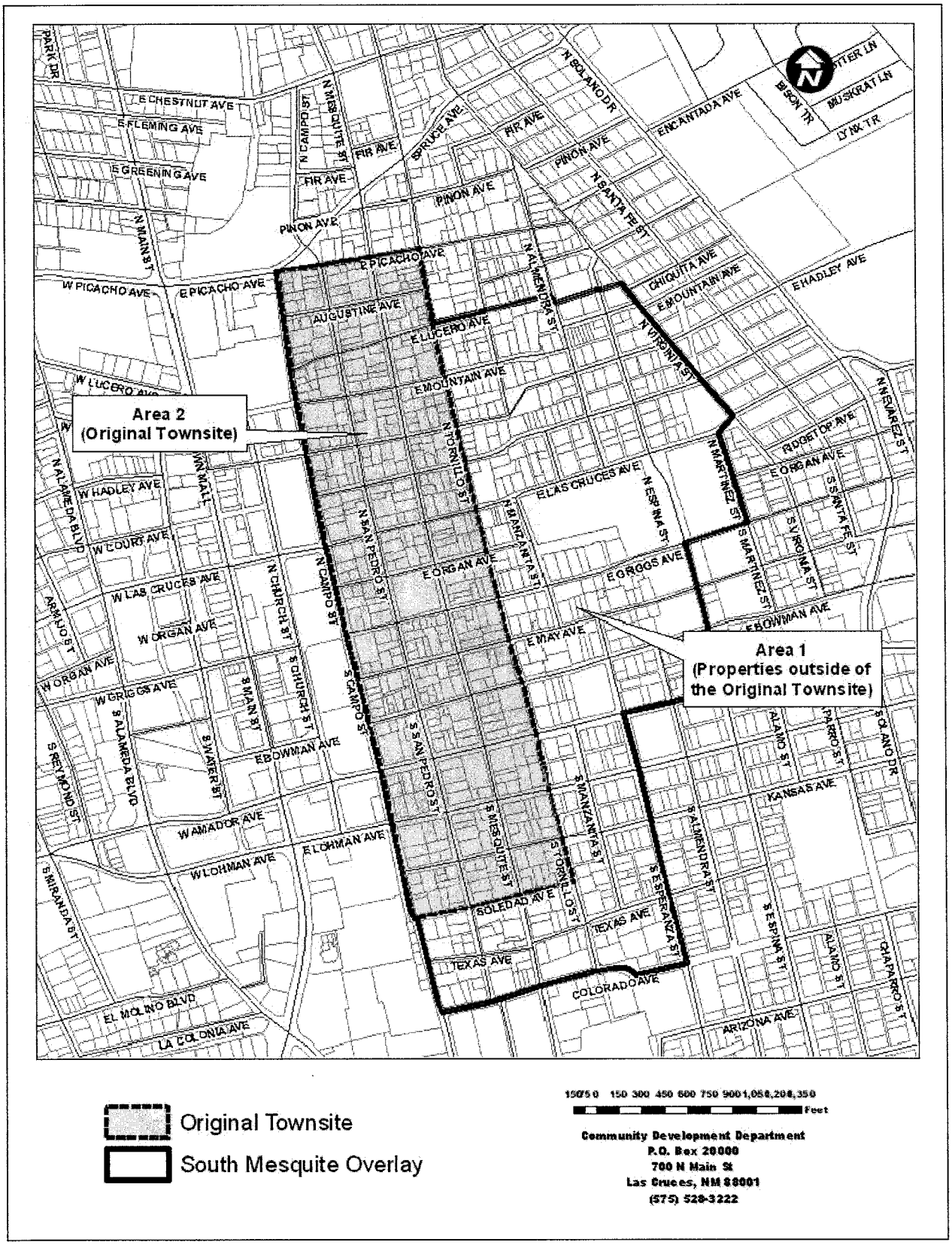


Figure 1 **South Mesquite Overlay Boundaries**



D. DEVELOPMENT STANDARDS~~ AND PERMITTED USES. 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 [1981] 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 (Area 1 and Area 2), as follows~~

~~(unless otherwise indicated):~~ **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, as amended from the date of its enactment and other sections of the City Zoning Code and other City Codes and Ordinances where applicable. Development requirements shall be established for the entire Overlay Zone District (Area 1 and Area 2), as follows (unless indicated in other sections of this Overlay):**

1. DEVELOPMENT STANDARDS.

Minimum Lot Area/Size Minimum Lot Width/Frontage Minimum Lot Depth Minimum Side Setback	3500 square feet 50 feet 50 feet 5 feet*
Minimum Rear Setback	5 feet*
Minimum Front Setback(s)	Front setbacks shall be compatible with the surrounding area. (The surrounding area shall generally mean all structures, with the exception of fences, on the same side of the block.) The applicant shall work with Community Development Department staff to determine a front setback distance with staff having the final determination. Any appeals to this decision shall be made to the South Mesquite Design Review Board**DRB**.

At the minimum, all setbacks shall meet Clear Site Triangle requirements**.

Maximum Building Height: *** 25 feet to contain no more than two stories in Area 1. 14 feet to contain no more than one story in Area 2.

* Overhangs are **not** permitted within the required setbacks.

** Clear-Site Triangle requirements must be met or applicable encroachment agreements must be entered into when applicable. Variances to Clear Site Triangle may be granted by Public Works Department **or designee** as needed.

***Any requests for greater building height and number of stories than those stated require an application for a variance, reviewed by the Design Review Board for recommendation to the Planning and Zoning Commission.

2. LANDSCAPEING REQUIREMENTS: **Landscaping shall follow standards set forth in the Design Standards (Chapter 32 of the LCMC) unless stated below.**

a. A landscaping buffer, a minimum of five (5) feet, excluding sidewalks, shall be provided and maintained along all street frontages. This landscaping shall be accomplished by the use of a combination of greenery, trees, lawn grass, shrubs, crushed stones, cactus, lava rock, or similar materials.

b. In addition, all areas not devoted to buildings, structures, paved drives, walks and off-street parking facilities shall be covered with one of the above materials. In the event a buffer is not possible, Flexible Development Standards may be considered for further options per

Section 38-56 **of the 2001 Zoning Code, as amended**.

~~• The entire lot width shall be landscaped with the exception of approved driveways.~~

~~•~~**c.** Landscaping shall not interfere with visibility for safe ingress and egress.

~~•~~**d.** Community Development Department staff shall review landscape plans for adherence to Landscape Requirements.

E. 3. PERMITTED USES. ~~There shall be no development or alteration of the lands, uses, or structures within this Overlay Zone District except as provided for by this section of the 1981 City Zoning Code from the date of its enactment, and other sections of the City Zoning Code and other codes where applicable. Permitted, Conditional and Special Uses, and their applicable development standards shall be established for each area in this Overlay Zone District. C-3 districts are not allowed in this Overlay Zone District, unless pre-existing at the time of the adoption of this Ordinance.~~ **There shall be no land uses within this Overlay Zone District except as listed below or as noted elsewhere in this chapter. C-3 districts are not allowed in the SMO unless pre-existing at the time of adoption of this Ordinance (Ordinance 2200, May 24, 2005). Uses that are preexisting at the time of adoption of this Amendment and are no longer permitted by right shall be considered legally non-conforming and shall follow the provisions of Sections 38.70-76 of the 2001 Zoning Code, as amended.**

(1) SOUTH MESQUITE R-1 SINGLE-FAMILY LOW DENSITY RESIDENTIAL DISTRICT (Maximum of Eight (8) Dwelling Units per Acre).

PURPOSE. The South Mesquite R-1 District is intended to accommodate detached single-family dwelling units and to maintain and protect a low density residential character of development.

a. **SOUTH MESQUITE** R-1 PERMITTED USES. The following uses are permitted with their noted conditions in the South Mesquite R-1 Districts.

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public ~~rights-orway~~**rights-of-way** and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Uses and Structures. Refer to Section 38-51 of the **2001 Zoning Code, as amended**~~LCMC~~.

Accessory Dwelling Unit. Shall follow requirements found in Section 38-33A of the **2001 Zoning Code, as amended**~~LCMC~~.

Bed and Breakfast. This use shall have direct access to at least a major local-designated roadway where the number of guest rooms is limited to four (4).

Construction Yard or Building (Temporary). Such yard or building shall be removed upon completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence five (5) feet in height. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the ~~LCMC~~**Design Standards**.

Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three
(3) consecutive days.

Home for the Disabled. See Section 38-21 of the **2001 Zoning Code, as amended**~~LCMC~~.

Home Occupation. Subject to the provisions of Section 38-52 of the **2001 Zoning Code, as amended**~~LCMC~~.

Kennel (Private, Residential). See Chapter 7 **(Animals)** of the LCMC **Manufactured Home. See Section 38-57 of the 2001 Zoning Code, as amended**~~LCMC~~.

Public Park, Playground, or Ballfields. See Section 38-33E of the **2001 Zoning Code, as amended**~~LCMC~~.

Real Estate Office (Temporary). Permitted only when used in conjunction with a residential subdivision, provided such use shall be discontinued upon the completion of the development or within three
(3) years from date permit issued, whichever is sooner.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Single Family Detached Dwelling Unit. One dwelling per parcel

Storage of recreational vehicles and motor vehicle appurtenances. Storage of personal recreational vehicles, boats, trailers, or similar uses shall be limited to a maximum of

one (1) per dwelling unit in the front or side yard, with no limit in the rear yard, separated at least five (5) feet from any property line.

Swimming Pool (Private). Permitted only when a protective fence, four (4) feet in height, is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

Utility Installation.~~:~~ The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

b. SOUTH MESQUITE R-1 SPECIAL USES. The following uses require review by the ~~Design Review Board~~**DRB** for recommendation to the Planning and Zoning Commission in accord with Section 38-10. D.3 of the **2001 Zoning Code, as amended**~~LCMC~~. Specific conditions and provisions for each use may be referred to in Part ~~D~~**E** of this Section.

Community Building.

School (Private, Public, and Parochial)

(2) SOUTH MESQUITE R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT PURPOSE. The South Mesquite R-2 District is intended to accommodate an overall maximum density of fifteen (15) dwelling units per acre. This district is intended for single-family, duplex or apartment units in which a medium density residential character is protected and maintained.

a. SOUTH MESQUITE R-2 PERMITTED USES WITH THEIR NOTED CONDITIONS:

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public ~~rights-orway~~~~**rights-of-way**~~**rights-of-way** and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Uses and Structures. Refer to Section 38-51 of the **2001 Zoning Code, as amended**~~LCMC~~.

Bed and Breakfast. This use shall have direct access to at least a major local-designated roadway where the number of guest rooms is limited to four (4).

Apartments. Two or more units in any configuration, not to exceed a maximum density of fifteen (15) dwelling units per acre.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the **2001 Zoning Code, as amended**~~LCMC~~, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for. Care of thirteen (13) or more children at one time is prohibited in residential zoning districts.

Condominiums. Maximum of four (4) attached units.

Construction Yard or Building (Temporary). Such yard or building shall be removed upon the completion of construction or within three

(3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the ~~LCMC~~**Design Standards**. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three

(3) consecutive days.

Home for the Disabled. See Section 38-21 of the **2001 Zoning Code, as amended**~~LCMC~~.

Home Occupation. Subject to the provisions of Section 38-52 of the **2001 Zoning Code, as amended**~~LCMC~~.

Manufactured Home. One dwelling unit per parcel.

Public Park, Playground, or Ballfield.

Kennel (Private, Residential). See Chapter 7 of the LCMC.

Real Estate Office (Temporary). Permitted only when used in conjunction with a residential subdivision, provided such use shall be discontinued upon the completion of the development or within three

(3) years from date permit issued, whichever is sooner.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an

opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Single Family Dwelling. One dwelling unit per parcel.

Storage: Recreational Vehicles. Storage of personal recreational vehicles, boats, trailers, or similar uses shall be limited to a maximum of one (1) per dwelling unit in the front yard, with no limit in the rear yard, separated at least five (5) feet from any property line.

Swimming Pools: Private. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

Townhouses. Maximum of four (4) attached units.

Utility Installation.~~:~~ The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

b. SOUTH MESQUITE R-2 SPECIAL USES. The following uses require review by the Design Review Board for recommendation to the Planning and Zoning Commission in accord with Section 38-10. D.3. **of the 2001 Zoning Code, as amended.** Specific conditions and provisions for each use may be referred to in Part ~~D~~**E** of this Section.

Community Building.
School (Public, Private, Parochial).

(3) SOUTH MESQUITE R-3 HIGH DENSITY RESIDENTIAL DISTRICT (Maximum of Thirty (30) Dwelling Units per Acre)

PURPOSE. The South Mesquite R-3 District is intended to accommodate multiple family dwelling units and accessory structures and uses. The zone is intended to maintain and protect high density residential development that is characteristic of apartments, townhouses, condominiums, and other similar dwelling complexes. Single-family dwellings are also permitted. The South Mesquite R-3 Zone is intended to be located in areas that have access to main thoroughfares.

a. SOUTH MESQUITE R-3 PERMITTED USES WITH THEIR NOTED CONDITIONS:

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public ~~rights-orway~~**~~rights-of-way~~rights-of-way** and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Uses and Structures. Refer to Section 38-51 of the **2001 Zoning Code, as amended**~~LCMC~~.

Bed and Breakfast. This use shall have direct access to at least a major local-designated roadway where the number of guest rooms is limited to four (4).

Apartments. Two or more units in any configuration with a maximum density of thirty (30) dwelling units per acre.

Boarding House.

Condominiums.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Care of thirteen (13) or more children at one time is prohibited in the residential zoning districts listed. Refer to Section 38-52 of the **2001 Zoning Code, as amended**~~LCMC~~, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for.

Construction Yard or Building (Temporary Use). Such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the ~~LCMC~~**Design Standards**. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.

Home for the Disabled. See Section 38-21 of the **2001 Zoning Code, as amended**~~LCMC~~.

Home Occupation. Subject to the provisions of Section 38-52 of the **2001 Zoning Code, as amended**~~LCMC~~.

Nursing Home/Assisted Living Facility.

Kennel (Private, Residential). See Chapter 7 of the LCMC.

Public Park, Playground, and Ballfield.

Real Estate Office: Temporary. Permitted only when used in conjunction with a residential subdivision provided such use shall be discontinued upon the completion of the development or within three
(3) years from date of permit, whichever is sooner.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Single Family Dwellings. One dwelling unit per parcel.

Swimming Pool: Private. Permitted only when a protective fence four
(4) feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

Townhouses. Maximum of eight (8) attached units.

Utility Installation.~~:~~ The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten
(10) feet high. A solid wall or fence shall surround the installation.
Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

b. SOUTH MESQUITE R-3 SPECIAL USES. The following uses require review by the ~~Design Review Board~~**DRB** for recommendation to the Planning and Zoning Commission in accord with Section 38
10.D.3 **of the 2001 Zoning Code, as amended**. Specific conditions and provisions for each use may be referred to in Part ~~D~~**E** of this Section.

Community Building.
School (Public, Private, Parochial.

(4) SOUTH MESQUITE R-4 HIGH DENSITY RESIDENTIAL AND LIMITED OFFICE DISTRICT (Maximum of Forty (40) Dwelling Units per Acre)

PURPOSE. The South Mesquite R-4 District is intended to accommodate a mixture of

high density multiple family dwelling units and limited offices in which no merchandise or goods are sold as the primary business. The South Mesquite R-4 Zone is intended to be located in areas that have access to main thoroughfares and are large enough in area to accommodate large-scale apartment complexes or limited office developments.

a. SOUTH MESQUITE R-4 PERMITTED USES WITH THEIR NOTED CONDITIONS:

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public ~~rights-orway~~**~~rights-of-way~~rights-of-way** and shall be permitted only when meeting Uniform Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Uses and Structures. Refer to Section 38-51 of the **2001 Zoning Code, as amended**~~LCMC~~.

Apartments. Two or more units in any configuration, with a maximum density of forty (40) dwelling units per acre.

Bed and Breakfast. This use shall have direct access to at least a major local-designated roadway where the number of guest rooms is limited to four (4).

Boarding House.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the LCMC, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for. Care of thirteen (13) or more children at one time is prohibited in the residential zoning districts listed.

Condominiums.

Construction Yard or Building (Temporary Use). Such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the ~~LCMC~~**Design Standards**. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three
(3) consecutive days.

Home for the Disabled. See Section 38-21 of the **2001 Zoning Code, as amended**~~LCMC~~.

Home Occupation. Subject to the provisions of Section 38-52 of the **2001 Zoning Code, as amended**~~LCMC~~.

Nursing Homes/Assisted Living Facility.

Kennel (Private, Residential). ~~(~~See Chapter 7 of the LCMC.~~)~~

Offices (limited). Offices that have a very low traffic volume such as attorneys, accountants, and architects are permitted, provided such uses maintain the residential character of the neighborhood and zoning district in which they are located. There shall be no goods or merchandise prepared or sold on the premises. Uses such as medical offices, barbershops, hairdressers, banks, and similar commercial and business offices which generate moderate or high volumes of traffic are prohibited in the South Mesquite R-4 District.

Public Park, Playground, and Ballfield.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Single Family Dwellings. One dwelling unit per parcel.

Swimming Pool: Private. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

Townhouses. Maximum of ten (10) attached units.

Utility Installation~~:~~. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

b. SOUTH MESQUITE R-4 SPECIAL USES. The following uses require review by the ~~Design Review Board~~**DRB** for recommendation to the Planning and Zoning Commission in accord with Section 38-10.

D.3 of the **2001 Zoning Code, as amended.** ~~LCMC~~ Specific conditions and provisions for each use may be referred to in Part ~~D~~**E** of this Section.

Community Building. Institution: Public, Educational, Religious, or Philanthropic. School (Public, Private, Parochial). Swimming Pool (Public or Private).

(5) SOUTH MESQUITE O-1 OFFICE DISTRICT: PURPOSE. The South Mesquite O-1 District is intended to accommodate office, service and institutional uses in which merchandise or goods are not prepared or sold as the primary business. This zone is designed to be a transition between commercial and residential uses and serve specified business, personal and professional services that can function efficiently without generating large volumes of vehicular traffic. Drive-up/drive-thru windows are not allowed in this district. The South Mesquite O-1 District should maintain a predominantly residential character.

a. SOUTH MESQUITE O-1 PERMITTED USES.

Art Studio Barber Shop Beauty Shop Community or Public Office Building Cosmetologist Shop Funeral Home, Mortuary, excluding Crematoriums Insurance Office Law Office Lessons (art, dance, music, and the like) Photographic Studio Professional and Business Offices (excluding medical offices) Real Estate Office Residential Uses

b. PERMITTED USES--WITH CONDITIONS: The following uses are permitted in accord with stated conditions: Residential uses are not permitted in the South Mesquite O-1 Zone, except in cases where a proprietor uses a part of an office building as a dwelling. Limited landscaping is also required in the South Mesquite O-1 Zone:

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public ~~rights-orway~~**rights-of-way** and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Building. See Accessory Building/Structure of Section 3851 of the **2001 Zoning Code, as amended.**~~LCMC .~~

Construction Yard of Building (temporary use). Permitted only during construction, provided such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence of a minimum of five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the ~~LCMC~~**Design Standards**. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire

Department

Home for the Disabled. See Section 38-21 of the **2001 Zoning Code, as amended**~~LCMC~~.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Utility Installation~~:~~. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten
(10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

c. SOUTH MESQUITE O-1 SPECIAL USES. The following uses require review by the ~~Design Review Board~~**DRB** for recommendation to the Planning and Zoning Commission in accord with Section 38
10.D.3 of the **2001 Zoning Code, as amended.** ~~LCMC~~ Specific conditions and provisions for each use may be referred to in Part ~~D~~**E** of this Section.

Institution: Public, Educational, Religious, or Philanthropic.
Public Building (Other than Offices).
Schools (Public, Private, Parochial).

(6) SOUTH MESQUITE C-1 NEIGHBORHOOD COMMERCIAL DISTRICT PURPOSE. The South Mesquite C-1 District is intended to accommodate limited retail and service establishments as a convenience to nearby residential neighborhoods. This zone is designed to be compatible and consistent with the needs and character of a residential neighborhood. Uses such as the sale, service and repair of motor vehicles, engines, and mobile homes; gasoline service stations and body shops; dancing establishments; the wholesaling and warehousing of merchandise; pet shops; and similar uses, are not permitted in the South Mesquite C-1 zone. Drive-up/drive-thru windows are also not allowed in this district Landscaping shall be required, as per Landscape Requirements in the development standards section.

a. SOUTH MESQUITE C-1 PERMITTED USES. The following uses are permitted by right in the South Mesquite C-1 District provided the gross floor area of each business does not exceed three thousand (3,000) square feet. Uses exceeding three thousand (3,000) square feet may be considered as a Special Use Permit, reviewed by the ~~Design Review Board~~**DRB** for recommendation to the Planning and Zoning Commission in accord**ance** with Section 38-10~~.D.3~~ **of the 2001 Zoning Code, as amended** in order to insure that the size of the business does not create undue traffic congestion, noise or other problems that would be detrimental to the residential character of the neighborhood.. Businesses shall not exceed six thousand (6,000) square feet of gross floor area.

Arts and Crafts Studio Bakery Barber Shop Beauty Parlor Bicycle Sales and Service Bookstores and Stationery Shops Cigarette and Cigar Shops Coffee Shop and Snack Bar Community Building (publicly or privately owned) Cosmetologist Shop Delicatessen Dressmaking Shop Dry-cleaning and Steamcleaning (receiving shop) Florist Shop Gift Shop Grocery Store Hobby Shop and Toy Store Household Appliance and Repair Shop Knit and Yarn Shops Laundry (self service) Lessons (art, dance, music, and the like) Library Meat and Seafood Markets Messenger Service Newspaper Distribution Office Offices: Professional and Business Photographic Studio Post Office Prescription Shop Private Club or Lodge Public Park, Playground, Recreational Use Real Estate Office Residences (Residences in South Mesquite C-1 shall comply with South Mesquite R-4 development standards)~~.~~ Restaurant Shoe Repair Shop Tailor Shop Variety Store

b. PERMITTED USES--WITH CONDITIONS: The following uses are permitted in accord with stated conditions.

Above Ground Storage Tanks for Flammable and Combustible Liquids. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public ~~rights-or-way~~**rights-of-way** and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tanks shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Accessory Building. See Accessory Building/Structure in Section 3851 of the **2001 Zoning Code, as amended**~~LCMC~~.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the **2001 Zoning Code, as amended**~~LCMC~~, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for.

Construction Yard or Building (Temporary Use). Permitted only during construction, provided use or building shall be removed upon the completion of construction or within

three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a solid fence of a minimum of five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the ~~LCMC~~**Design Standards**. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Christmas Tree Sales. Temporary, not prior to November 15 and provided lots are removed by December 31.

Home for the Disabled. See Section 38-21 of the **2001 Zoning Code, as amended**~~LCMC~~.

Home Occupation. Subject to the provisions of Section 38-52 of the **2001 Zoning Code, as amended**~~LCMC~~.

Retail Sales: Specialized Merchandise. Retail sales, except as otherwise noted, shall be limited to stores that specialize in a particular type of merchandise such as clothing, records, shoes, home appliances, or other similar convenience goods to serve nearby residential neighborhoods.

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Storage: Incidental to Primary Use. Storage shall be permitted only for merchandise incidental to the primary use of the business. Such storage shall be totally enclosed within the building of primary use, and at least ten percent (10%) of the gross floor area shall be used for retail sales or service. Exterior or open storage is prohibited.

Swimming Pools. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.

Utility Installation.~~:~~ The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

c. C-1 SPECIAL USES. The following uses require review by the ~~Design Review Board~~**DRB** for recommendation to the Planning and Zoning Commission in accord with Section 38-

10.D.3 of the **2001 Zoning Code, as amended.** ~~LCMC~~ Specific conditions and provisions for each use may be referred to in Part ~~D~~E of this Section.

Golf Course and Country Club. Structures with a Gross Floor Area exceeding 3,000 Square Feet.Institutions: Public, Educational, Religious, or Philanthropic. School (Public, Private, and Parochial).

(7) SOUTH MESQUITE C-2 GENERAL COMMERCIAL DISTRICT

PURPOSE. The intent of the South Mesquite C-2 Zoning District is to provide for certain commercial/retail uses which generate large volumes of automobile traffic. The district is intended for areas surrounding major arterial intersections where a wide range of automobile-related service facilities, convenience goods and personal services are desirable and appropriate as a land use. Landscaping shall be required as per Landscape Regulations in the development standards section. Drive-up/drive-thru windows are not allowed in this district

a. SOUTH MESQUITE C-2 PERMITTED USES. The following uses are permitted by right in the C-2 South Mesquite District:

Animal Hospital and Clinic
Arts and Crafts Studio
Bakery
Barber Shop and Beauty Parlor
Bicycle Sales and Service
Business Service Establishment
Catering
Cigarette and Cigar Stand
Clothing Store and Apparel Shop
Community and Public Building
Convention or Exhibition Hall
Dressmaking Shop
Drugstore
Drycleaning and Steamcleaning
Electrical Shop
Florist
Food Store
Glass Cutting and Finishing
Gymnasium
Hardware Store
Household Appliance Sales, Service and Repair
Institutions, Public and Quasi-Public
Laundry
Lessons (art, music, dance, and the like)
Newsstand

Nursing or Convalescent Home
Office (business and professional)
Paint Sales
Pet Shop
Photographic Studio and Supply Store
Plant Nursery
Printing and Engraving Shop Private Club or Lodge Public Park, Playground, Recreational Use Radio, Television, Music Store Residence (Residences in the South Mesquite C-2 zoning district shall comply with South Mesquite R-4 zoning district development standards). Restaurant Retail Sales Shoe Repair Show and Sales Room for Business Products Skating Rink Sporting Goods Store Tailoring Telegraph and Messenger Service Variety Store

b. PERMITTED USES WITH CONDITIONS: The following South Mesquite C-2 uses are permitted in accord with stated provisions.

Above Ground Storage Tanks for Flammable and Combustible Liquids. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public ~~rights-or-way~~**rights-of-way** and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tanks shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.

Assembly of Arts and Crafts. Only when such assembly is for display and sale on the premises or when such assembly occupies less than one thousand, five hundred (1,500) square feet of a building.

Bed and Breakfast. This land use shall have direct access to at least a major local-designated roadway. The number of rooms is limited to 10 rooms per quarter (1/4) acre.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the **2001 Zoning Code, as amended**~~LCMC~~, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for.

Christmas Tree Sales. Temporary, not prior to November 15, provided lots are cleaned and removed by December 31.

Construction Yard or Building (Temporary). Such yard or building shall be removed upon completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open

yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the ~~LCMC~~**Design Standards**. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Contractor-type yards (e.g. associated with Cooling, Heating, Plumbing, and Sheetmetal shops). Yards shall be maintained in a neat and orderly fashion and enclosed by a solid wall or fence a minimum of six (6) feet in height (clear-site-triangle requirements must be met).

Cottage Industry. A cottage industry is defined as any manufacturing, compounding, and/or assembly process, including food preparation, which is subordinate to a primary use of retail sales or service. This use is not to be confused with or treated as a home occupation. Cottage industry may only occur within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on site only, and shall not pose any significant adverse impact to adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet may be used in the conduct of the cottage industry.

Firewood Sales. No more than twenty (20) cords stored on site.

Furniture Assembly (Accessory Use). Permitted only as an incidental or accessory use to retail sales. Maximum floor area for assembly shall not exceed three thousand (3,000) square feet, not to exceed thirty percent (30%) of the total business floor area, and shall be within the same building.

Home for the Disabled. See Section 38-21 of the **2001 Zoning Code, as amended**~~LCMC~~.
Home Occupation. Subject to the provisions of this Section and Section 38-52 of the **2001 Zoning Code, as amended**~~LCMC~~.

School. Elementary, Middle or High Schools shall be located on a collector or higher designated roadway. Commercial, Trade or Technical Schools, College or University shall be located on a minor arterial or higher designated roadway. All sites shall have a minimum of one (1) acre. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five
(25) feet of property used for residential purposes.

Storage as an Accessory Use. Storage shall be permitted only when incidental or accessory to sales of merchandise. Such storage shall be within a totally enclosed area and at least five percent (5%) of the gross floor area shall be used for retail sales or service.

Temporary Uses. Temporary uses, such as fireworks stands, shall be allowed in the South Mesquite C-2 District and shall follow the timelines and other such requirements established in Sec. 38-50 of the
2001 Zoning Code, as amended

Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Swimming Pools. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is required to insure overhead safety.

Utility Installation~~:~~. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten
(10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.

c. SOUTH MESQUITE C-2 DISTRICT SPECIAL USES. The following uses require review by the ~~Design Review Board~~**DRB** for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the **2001 Zoning Code, as amended**~~LCMC~~. Specific conditions and provisions for each use may be referred to in Part ~~D~~**E** of this Section.

Antenna, Towers, Communication Structures, and Other Vertical Structures

~~C-3 Land Uses shall follow C-2 standards.~~

(8) C-3 COMMERCIAL HIGH INTENSITY: C-3 districts are not allowed in the SMO unless pre-existing at the time of adoption of this Ordinance (Ordinance 2200, May 24, 2005). Uses that are pre-existing at the time of adoption of this Amendment and are no longer permitted by right shall be considered legally non-conforming and shall follow the provisions of Sections 38.70-76 of the 2001 Zoning Code, as amended.

~~D~~**F.** SPECIAL USES (All Zoning Districts). A Special Use is a use that is not permitted by right in a zoning district. A Special Use requires review for recommendation by the ~~Design Review Board~~**DRB** to the Planning and Zoning Commission to determine impacts on the surrounding area. The procedures for approval may be found in Section 38-54A of the **2001 Zoning Code, as amended**~~LCMC~~.

Antenna, Towers, Communication Structures, and Other Vertical Structures (South

Mesquite zone: C-2): Any antenna, towers, communication structures, and other vertical structures must be unobtrusive and screened from view with respect and deference to the unique character of this district. Collocation is encouraged and must be done so that the structure, antenna, etc., is incorporated as a part of the design to the structure to which it is attached/placed.

Cemetery or Similar Uses (South Mesquite zones: ~~A-2,~~ R-1, R-2, R-3, R-4). Any cemetery site shall contain at least five (5) acres and shall be located on a major local or higher designated roadway. A columbarium shall be located on a major local or higher designated roadway with the lot size meeting the zoning district minimum lot size.

Community Buildings (South Mesquite zones: R-1, R-2, R-3, R-4).

Gross Floor Area: Exceeding Three Thousand (3,000) Square Feet (South Mesquite Zone: C-1): The maximum gross area per business may exceed three thousand (3,000) square feet in a South Mesquite C-1 District provided it can be shown that the increase in size will not be inconsistent with the purpose of the South Mesquite C-1 District and will not create traffic congestion. Businesses shall not exceed six thousand (6,000) square feet of gross floor area.

Halfway House (South Mesquite zones: R-1, R-2, R-3, R-4, O-1, C-1, C-2).

Hospital and Overnight Clinic (South Mesquite zones: R-4, C-1).

Institution: Public, Educational, Religious, and Philanthropic (South Mesquite zones: R4, O-1, C-1).

Nursing Home/Assisted Living Facility (South Mesquite zones: R-1, R-2). Must be located on a collector or higher designated roadway.

School - Public, Private, Parochial (South Mesquite Zones: R-1, R-2, R-3, R-4, O-2): Elementary, Middle or High Schools shall be located on a collector or higher designated roadway. Commercial, Trade or Technical Schools, College or University shall be located on a minor arterial or higher designated roadway. All sites shall have a minimum of one (1) acre. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Swimming Pool - Public or Commercial (All South Mesquite Residential "R" Districts and South Mesquite O-1): A protective fence or wall no less than six (6) feet in height shall be provided which completely encloses the pool area, and the pool shall be no closer than twenty-five (25) feet from any property line. Approval from the electric utility is required to ensure safety (see Section 38-60 of the **2001 Zoning Code, as amended**~~LCMC~~).

~~E~~**G.** PARKING REQUIREMENTS. The following exceptions to the parking requirements found in Sections 38-33 and 38-58 of the **2001 Zoning Code, as amended**~~LCMC~~ shall be used in the ~~South Mesquite Neighborhood District~~**SMO**:

1 Buildings within the ~~South Mesquite Neighborhood District~~**SMO** constructed prior to 1955 shall not be required to provide off-street parking.

2 Buildings within the ~~South Mesquite Neighborhood District~~**SMO** constructed after 1955 shall be eligible to use the historic district parking requirements found in Section 38-58 of the 2001 **Zoning Code, as amended**~~LCMC, as amended~~.

3 The City Traffic Engineer **or a designee** shall determine which streets will be prohibited from use for on-street parking.

F. NON-CONFORMING USES, STRUCTURES, AND PROPERTY. Many people refer to ~~non-conforming uses as the "Grandfather Clause." If a use, structure, etc., was established legally under the previous code, it is considered a legal non-conforming use. Zoning Districts noted in the 1981 Zoning Code and eliminated in subsequent Zoning Code amendments shall follow Section 38-70 through 76 of the LCMC.)~~

~~Those legal non-conforming uses that do exist shall comply with the nonconforming use provisions found in Section 38-70 of the LCMC with the following exception:~~

H. NON-CONFORMING USES, STRUCTURES, AND PROPERTY. Many people refer to non-conforming uses as the "Grandfather Clause." If a use, structure, etc., was established legally under the previous code, it is considered a legal non-conforming use. Except for the following, requirements stated in Sections 38.70-76 of the 2001 Zoning Code, as amended shall apply.

~~(a~~**1.**~~)~~ If a non-conforming use becomes and remains vacant, a two (2) year time limit shall be placed on reestablishing the non-conforming use at that location.

~~G~~**I.** DESIGN REVIEW. PURPOSE: To ensure quality property development and renovation **and to protect the historic character of the neighborhood**, the following requirements regulating urban design are established in this Overlay Zone District.

~~a.~~**1.** Establishment of the South Mesquite Design Review Board **(DRB)**. A design review board shall consist of four professionals ~~who are~~**in historic preservation, history, architecture, interior design,** ~~in the~~ banking, finance, ~~and~~ construction ~~industries~~ **or similar associated professions.** ~~architects and interior designers, historians, historic preservationists, and similar associated professions.~~ Three additional members shall own property and/or live within the South Mesquite Street Overlay Zone District boundaries. **Procedures shall follow those found for Non-standard Boards and Committees in Chapter 2 of the LCMC.**

2. Duties of the South Mesquite Design Review Board. **Members of the Board shall state the factual basis and the findings of their vote.**

a. Applicability of Design Standards. ~~The South Mesquite Design Review Board~~ **The DRB** shall review and have final authority on:

i. **the design of the exterior of** a new structure(s) **in Area 2;**

ii. ~~and/or~~ **the design of the exterior of** any one time or cumulative addition to the existing structure(s) in Area 2**;**

iii. or **the design of the exterior of an addition to a significant or contributing structure in Area 1; and/or**

~~a.~~**iv. the alteration of** ~~for~~ **the exterior appearance of** any significant or contributing structure ~~s listed on the historic register, (state or national)~~ in Area 1.

~~Design Criteria. In Area 2, Board shall review and have final authority on design criteria.~~

b. Infill**. Infill projects requiring review by the DRB pursuant to the SMO will require longer processing than the Infill process noted in Section 3840 of the 2001 Zoning Code, as amended.**

c. Planned Unit Development (PUD). ~~Board~~ **The DRB** shall be ~~the~~ a recommending body to **the** Planning and Zoning Commission.

b. Infill. In Area 2, Board shall be recommending body to Planning and ~~Zoning Commission.~~

c. Planned Unit Development (PUD). Board shall be recommending body to ~~Planning and Zoning Commission.~~

Subdivisions. Board shall be recommending body to Planning and Zoning ~~Commission.~~

d. Variances. For Area 2, ~~Board~~ **the DRB** shall be ~~the~~ **a** recommending body to **the** Planning and Zoning Commission.

e. Special Use Permits. For Area 2, ~~Board~~ **the DRB** shall be **a** recommending body to **the** Planning and Zoning Commission.

f. Zone Changes. For Area 1 and Area 2, ~~Board~~ **the DRB** shall be **a** recommending body to **the** Planning and Zoning Commission.

g. Land Use. It is possible to request an additional land use not already noted within the permitted use lists on a specific parcel within the SMO. Each request will be considered on a case-by-case basis. These requests will be processed per the rezoning process noted in Section 38-10 of the 2001 Zoning Code, as amended and this section.

h. Cases not listed above shall go before the DRB if design issues related to the historic integrity of the neighborhood are involved or at the discretion of the Department Director or designee.

i. State- or Federally-funded projects requiring review by the State Historic Preservation Officer (SHPO) are exempt from review by the DRB. In New Mexico, state-funded includes funding by municipalities.

~~The South Mesquite Design Review Board shall also hear any appeals based on any decisions made by staff, such as, required front setback distance.~~

~~Members of the Board shall state the factual basis and the findings of their~~ vote.

g. **3. Projects other than those requiring approval by the DRB shall be reviewed for compliance to design standards by Community Development staff and are required to meet all other applicable City Codes.**

4. 3. **Design Guidelines.** SOUTH MESQUITE DESIGN REVIEW BOARD REVIEW STANDARDS. **Specific design criteria shall be used by staff and the DRB to determine the appropriateness of construction and rehabilitation projects, and to determine whether the request is consistent or inconsistent with existing development.**

a. Applicable development must ultimately utilize architectural styles, methods, and materials that are visually compatible with the original structure, surrounding structures (especially where new construction is proposed), and the overall character of the historic district. This should not be interpreted as a requirement to mimic existing styles or construction materials, but as a means for these types of projects to result in a visually compatible transition between old and new structures within the general neighborhood and/or on a single parcel of land.

b. In addition to the standards stated herein, staff and the DRB ~~he south Mesquite Design Review Board~~ shall review projects based upon ***The Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring and Reconstructing Historic Buildings*, and *The New Mexico Historic Building Inventory Manual, 1980*. These resources are available for public review in the Community Development Department or on the City's website.**

The Secretary of the Interior's Standards for the Treatment of Historic Properties ~~along with their technical assistance guide,~~ *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* ~~and determine whether the request is consistent or inconsistent with existing development.~~

~~Applicable development must ultimately utilize architectural styles, methods, and~~ materials that are visually compatible with the original structure, ~~surrounding structures (especially where new construction is proposed), and~~ the overall character of the historic district. This should not be interpreted ~~as a requirement to mimic existing styles or construction materials, but as a means for these types of projects to result in a visually compatible transition between old and new structures within the general neighborhood and/or on a single parcel of land. Design criteria shall be used by the South Mesquite Design Review Board and by Community Development Department staff.~~

~~New structures and/or any one time or cumulative addition to the existing primary structure(s) in Area 2 or for any significant or contributing structures listed on the historic register, (state or national) in Area 1 requires review and approval by the South Mesquite Design Review Board (the Board). Projects other than those stated above, such as accessory structures, are required to meet all other applicable City Codes.~~

45. Additional Review Criteria**Design Standards**. Additional components that must be given specific attention include the following criteria:

a. Maintain~~ing~~ a visual balance and rhythm between walls, doors, and windows along any given street segment to uphold the District's unique look and character.

i. Doors/entryways must be located on the primary streetside façade.

ii. Windows must be compatible with neighboring buildings in terms of placement, size, and shape.

iii. Roof materials and style must promote compatibility throughout the subject property's street segment.

b. To assure ~~the~~ **that** primary structure(s) maintain the principal focus, attached and detached garages **or carports** shall be set back a minimum of ten (10) feet back from the primary structure(s) and primary streetside façade.

c. New development and remodeling projects shall utilize adobe, brick, stone, lime plaster, ~~or~~ stucco**, wood or other natural materials on all exterior facades**~~ on all exterior façades~~.

d. Fences **and walls** shall be of a ~~compatible~~ material **compatible with the structure and/or neighborhood;**~~,~~ chain link is prohibited.

e.~~d~~. New development should reflect a style consistent with those ~~found in the Mesquite Historic District Neighborhood Design Plan and those~~ noted in *The New Mexico Historic Building Inventory Manual, ~~1980~~**2001**.*.

~~e.New development must be constructed at a human scale.~~

~~f.~~**f.** New development and remodeling projects shall create a landscape design, whether for ~~a~~ commercial or residential projects, that ~~are~~ **is** compatible with the subject property's street segment.

~~g.~~**g. Commercial** ~~D~~dumpsters are required to be screened from any streetside façade. **(Applies to all projects except single family residential.)**

2. 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 South Mesquite Overlay District. Each request will be considered on a case-bycase basis. These requests will be processed per Section 38-10.D.3.~~

J. ~~I~~. Submittal and Review Process**SUBMITTAL AND REVIEW PROCESS**. The following submittal and review procedures are established ~~for all new development~~ to protect

persons and property in the South Mesquite Overlay Zone District. **Applications shall be obtained from the Community Development Department, Building Permit Section.**

a.. Subdivisions. For submittal and review of subdivisions within the ~~District, refer to Article V, Chapter 37 of the LCMC pertaining to infill subdivision procedure. In Area 1, Community Development Department staff shall review subdivision applications. In Area 2, the South Mesquite~~ Design Review Board will review subdivision applications for ~~recommendation to the Planning and Zoning Commission.~~

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

~~c~~**2.** **The applicant shall submit at minimum, one copy of all application materials for new development and additions 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.**

~~d~~**3.** **If the submittal is for a new structure(s) and/or any one time or cumulative addition to the existing structure(s) in Area 2 or for any significant or contributing structures listed on the historic register, (state or national) in Area 1, the applicants shall meet with the** ~~South Mesquite Design Review Board~~**DRB** at a public hearing for a formal decision by the Board regarding the proposed project. Public hearing procedures and notice requirements will follow that of the Planning and Zoning Commission found in Section 38-10.D.3 of the ~~2001~~ **2001 Zoning Code, as amended.**~~LCMC, as amended~~.

4. The minimum submittal requirements for development proposals shall include the following information **that is relevant to the proposal**:

~~1.~~**a.**A statement of objectives to be achieved by the development, inclusive of a description of the character and anticipated use of the proposed development.

~~2.~~**b.** A scaled site plan that includes the following:
i. Property boundaries
ii. Location of all structures
iii. Age of structures
iv. Setbacks
v. Parking layout, if applicable

vi. Ingress/egress access points
vii. Areas proposed for landscaping
viii. Surfacing material for impervious surfaces
ix. Storm water ponding areas
x. Dumpster location(s)

xi. Location of service and loading area(s)
xii. Freestanding and attached sign locations where applicable

xiii. North arrow
~~xiii.~~**xiv.** Any other information which conveys how the proposal will meet development requirements.

~~3.~~**c.**Scaled landscaping plan shall include:
i. Location, size, and common name of all landscaping
ii. A complete irrigation plan shall be included, clearly identifying how the landscape will be sustained.

~~4.~~**d.** Scaled elevations shall include: i Each directional view of all structures clearly identifying exterior building materials and treatments**, i.e. label each view**. ii Location and treatment of all fenestrations and other building openings. iii Building ornamentation. iv Roof design and roof surfacing material.

v Difference between existing and new construction, if applicable.

~~5.~~**e.Color** ~~A~~**a**rchitectural/artistic renderings shall: i Reflect all aspects/views of exterior buildings. ii Demonstrate the use of building materials through the drawings **and**

list them in legend.

~~Applications for development in Area 2 shall be obtained from the Community Development Department, Building Permit Section.~~

~~3~~**5**. Signs. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with **the Sign Code** ~~Section~~ **(Chapter** 36 of the LCMC**)**.

46. Variances. A variance shall be defined as a variation in the numerical requirements of the **2001 Zoning Code, as amended**~~2001 LCMC, 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~~**Sign Code**.

5. Appeals. In the South Mesquite Overlay Zone District, any applications for ~~development must be approved by the City in order for a building permit or sign permit to be issued.~~

~~If an application is denied by the City staff or South Mesquite Design Review Board based on an interpretation of the South Mesquite Neighborhood Plan and this Division, and an agreement of interpretation cannot be reached and all other procedures established by this Division have been exhausted, the applicant may file for an appeal, in writing, to the City Council within 15 days of the City Staff's or Board's denial decision.~~

~~The appeal will be processed to the City Council to be considered at the next available public hearing in accordance with notice requirements of Section 38-71 of the LCMC.~~

~~Any aggrieved person who is affected by a decision of an administrative official, commission, committee, or board in the enforcement of the South Mesquite Overlay Zone District and this Division may appeal such decision to the City Council in accordance with Section 38-14of the LCMC.~~

~~Any person aggrieved by a determination of the City Council may appeal to the district court within 30 days after the determination made by City Council, in accordance with Section 38-14 of the LCMC.~~

~~A request that is denied by the Board and/or City Council shall not be resubmitted or reconsidered for a period of one (1) year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six (6) months after such denial decision. Special use permits or planned unit developments processed through the Infill Development Process that are denied by the Board and/or the Planning and Zoning Commission may be modified and resubmitted at any time following action by the Board or the Planning and Zoning Commission.~~

K~~I~~. DEMOLITION. PURPOSE: To preserve the character of **the South Mesquite Historic District** ~~,Area 2 or for any significant or contributing structures listed on the historic register, (state or national) in Area 1 of the South Mesquite Overlay Zone District;~~ this ordinance creates a sixty (60) day demolition permit process that will allow time for interested parties to explore alternatives to the demolition of historic structures. ~~Demolition in Area 1 for all other structures shall follow the current Las Cruces Building Code~~

1. Property owners intending to demolish ~~a~~**any** structure located within Area 2 or ~~for~~ any significant or contributing structures listed on the historic register~~, (state or national)~~ in Area 1 must adhere to the following 60-calendar day process.

   ~~i.~~**a.** Demolition permit - Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. During the 60-day demolition permit process, Community Development Department staff will review the application for compliance with the ~~LCMC~~**Las Cruces Building Code (Chapter 30 of the LCMC)**.

   ~~ii.Posting – Notice of the intent to demolish shall be posted in a conspicuous place on the property for a 60-day period.~~

~~iii.~~**b. The Community Development Department will issue the sign that is to be posted. The applicant is responsible for posting the sign in a visible location on the property** and ensuring that it is in place for the entire 60day period.

~~iv.~~**c.** 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. (Code compliance comments regarding the proposed demolition may be resolved within the 60-day time period.)

~~v.~~**d.** Compliance with the procedure set out in this Section **may be waived by the City Manager or designee if it is determined that** ~~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~~ **a hazard to the** health, safety, and welfare **of the public**.

e. The applicant may withdraw the permit application at any time.

2. Demolition in Area 1 for structures not noted above shall follow the Building Code.

L. APPEALS. In the South Mesquite Overlay Zone District, any applications for development must be approved by the City in order for a building permit or sign permit to be issued. If required by this Section, review and approval by the DRB must precede issuance of a permit.

1 **If an application is denied by the City staff or South Mesquite Design Review Board based on an interpretation of the South Mesquite Neighborhood Plan and this Section, and an agreement of interpretation cannot be reached and all other procedures established by this Section have been exhausted, the applicant may file for an appeal.**

2 **The appeal will be processed to the City Council in accordance with Section 3813 of the 2001 Zoning Code, as amended.**

3 **Any person aggrieved by a determination of the City Council may appeal to the district court within 30 days after the determination made by City Council, in accordance with Section 38-14 of the 2001 Zoning Code, as amended.**

4 **A request that is denied by the Board and/or City Council shall not be resubmitted or reconsidered for a period of one (1) year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six (6) months after such denial decision. Special use permits or planned unit developments processed through the Infill Development Process that are denied by the Board and/or the Planning and Zoning Commission may be modified and resubmitted at any time following action by the Board or the Planning and Zoning Commission.**

M~~K~~. ENFORCEMENT OF OVERLAY ZONE DISTRICT. Provisions to enforce this Section shall be consistent with the Enforcement Provisions of ~~Article II~~**Section 38-16** of the **2001 Zoning Code, as amended**~~LCMC~~.

PAGES V-~~230233~~**229 THROUGH V-244 DELIBERATELY LEFT BLANK**

CAES/RESOLUTION/ORDINANCE REVIEW FORM

Senior Planner (if applicable) _____ Date: _____

Comments:

Section Manager:_____ Date:_____

Comments:

David Weir:_____ Date:_____

Comments:

Attachment "B"

City of Las Cruces

TO: Planning and Zoning Commission

PREPARED BY: Carol McCall, AICP, Planner

SUBJECT: Administrative Changes to South Mesquite Neighborhood Overlay Zone District

DATE: January 15, 2013

RECOMMENDATION: Approval

Case ZCA-12-01: A motion to recommend approval of an ordinance to amend the Municipal Code, Article V, Section 38-49.2 South Mesquite Neighborhood Overlay Zone District to enact text changes which clarify existing provisions, standards, procedures, purposes and intent of the Overlay District and which are non-substantive in nature. Submitted by the Community Development Department.

BACKGROUND

The South Mesquite Neighborhood Overlay Zone District was adopted on May 24, 2005. The Overlay created boundaries for this special zoning district that loosely follow boundaries for the state and national Mesquite Historic Districts that were created in the late 1970's. The Overlay contains provisions for land uses, development standards, design standards, parking, signs, landscaping and demolition. The Overlay also created the South Mesquite Design Review Board (DRB), the administrative body that approves or disapproves proposed changes to exterior design elements on historic structures and some new construction, alterations and additions on non-historic structures.

Since the Overlay's adoption, the DRB has reviewed dozens of proposals. Often, the board has found it difficult to interpret the regulations in the Overlay. The text is inaccurate in places, the design standards are sometimes vague and there are many loopholes, making approval or disapproval of a project difficult. Additionally, these problems provide enough ambiguity that decisions by the DRB could easily be overturned upon appeal. Other inaccuracies are simply clerical errors that were overlooked in the original editing process.

For example:

- Subsection G.1 Establishment of the South Mesquite Design Review Board states that the board "shall review and have final authority on any new structure(s) and/or any one time or cumulative addition to the existing primary structure(s) in Area 2 or for any significant or contributing structures listed on the historic register, (state or national) in Area 1." It is not clear from this text exactly what the board is supposed to review.

- Setback requirements are given for garages but not carports, a popular and less expensive alternative to garages.

- The Overlay references "A-2" zoning districts which are no longer valid.
- The Overlay references the 1981 Zoning Code even though it was repealed in 2001 and is no longer in effect.
- Two sections are labeled as Section D while there is no section labeled Section H.

Community Development staff has submitted a proposal for amendments to the South Mesquite Neighborhood Overlay Zone District that clarifies existing provisions, standards, procedures, purposes and intent of the Overlay Zone District without changing the content or meaning of the language of the Overlay. At their meeting on December 20, 2012, the South Mesquite Design Review Board voted unanimously (7-0) to recommend approval of the proposed amendments.

This case is being presented by Community Development staff at this Planning and Zoning Commission work session for discussion. At the Commission's regular meeting on January 22, 2013, staff will present the proposal for consideration of a recommendation of approval to the City Council.

FINDINGS

The City's Comprehensive Plan supports special zoning districts for its historic neighborhoods as a way of addressing issues unique to these areas:

Land Use Policies:

1.4.2. Overlay zones shall be created in the historic districts as a means of providing flexible standards to address historical considerations.

1.4.3. Specific land use and urban design policy for local historic districts shall be established in fourth level planning documents. Issues addressed will include, but not be limited to: permitted land uses, setbacks, lot size, accessory buildings, and design issues. This policy shall be reflected in the Zoning Code where appropriate.

1.5.5. Special Districts, such as the Central Business District, University Avenue Corridor, Historic and any future overlay zone shall be evaluated for appropriate uses in accordance with low, medium, high, and regional commercial land use policy.

3.1.2. Within the designated Planning Areas, the City shall establish Sector, Neighborhood and Corridor Overlay Zones where deemed needed. Overlay zones will provide the means of allowing the flexibility that is needed to create special land use and urban design policies exclusively designed to preserve and enhance the unique characteristics of our historic districts.

Urban Design Policies

2.6.2. Neighborhood/District overlay zones should be created for those areas that come under an historic district designation to establish specific guidelines concerning new development and redevelopment. Each overlay zone should be written in the form of a neighborhood/district plan and shall address such issues as permitted land uses and architectural requirements.

2.6.3. Development or redevelopment should be required to be compatible with the character of that historic district.

3.9.3. New development or redevelopment should be required to utilize local and/or regional architectural styles and design elements in the downtown area, historic districts, gateways and designated corridors which are compatible with existing structures.

3.9.5. Encourage the development of neighborhood/district plans and/or overlay zones.

Economic Development Policies

3.5.2. The City should establish an overlay district/zone or similar mechanism for the purpose of creating guidelines for the enhancement, development, or redevelopment of properties within existing historic districts. Items which should be considered include, but may not be limited to:

a. Determination of local district boundaries for the respective districts and the mechanism for property selection allowing boundary expansion if appropriate.
b. Consistency with Federal and State laws regarding historic district designation criteria.
c. Establishment of various incentives for the preservation/maintenance of historically significant properties.
d. Establishment of various incentives for the development or redevelopment of properties in a manner which closely relates to the historical significance of the district to which they pertain.
e. Creation of regulations which offer flexibility in meeting applicable development standards, yet allow consistency and compatibility with historic district design criteria.
f. Identification of financial resources which may be used to assist in the renovation and upkeep of qualifying properties.

The 2005 Mesquite Neighborhood Plan also contains policies which support the proposed Overlay amendment:

Zoning/Land Use:

Objective 2 (North Mesquite): Use the 1981 Las Cruces Zoning Code, as amended, in the North Mesquite area as a basis for establishing an overlay district.

Policy: 2.1. Establish zoning designations based on the 1981 Las Cruces Zoning Code, as amended, for the North Mesquite area.

Objective 3 (South Mesquite): Establish zoning regulations and development standards that take into consideration the commercial/residential neighborhood and historic character of the South Mesquite area.

Urban Design:

Policy 4.7 Consider the creation of Design Review Board (DRB) to ensure that the policies listed throughout this Objective are met. A Design Review Board should consist of professionals, such as those in the banking, finance and construction industries, architects and interior designers, historians/historic preservationists, etc., as well as area residents.

The 2007 Mesquite Historic District Neighborhood Design Plan contains policies which support the proposed Overlay amendment:

Historic District Policies

B.1.8. Integrate urban design standards into all properties that contain office, commercial and residential uses.

B.1.9. Establish an Urban Design Review Board to review new projects and exterior alterations to ensure the policies listed in this objective are carried out.

B.1.10. Implement an historic overlay zoning district.

In addition, "One Valley, One Vision 2040," the adopted regional comprehensive plan, states as a goal in its Community Character, Design & Historic Preservation Element: "Identify, preserve, and enhance the historic and cultural resources of Doña Ana County."

RECOMMENDATION

Staff finds the proposed South Mesquite Neighborhood Overlay Zone District amendment to be in keeping with the intent of the Overlay and the policies expressed in the 1999 Comprehensive Plan, the 2005 Mesquite Neighborhood Plan, the 2007 Mesquite Historic District Neighborhood Design Plan and the One Valley, One Vision 2040 regional plan, and recommends approval.

OPTIONS

1. Recommend approval of the proposed amendment to the City Council.
2. Modify the proposed amendment and recommend approval to the City Council.
3. Recommend denial of the proposed amendment to the City Council.
4. Make no recommendation and direct staff accordingly.

Attachments:

1. Draft South Mesquite Neighborhood Overlay Zone District, 12/20/2012
2. Draft South Mesquite Neighborhood Overlay Zone District, 12/20/2012 (Tracked Changes)
3. Comments by DRB Member Heather Barrett
4. South Mesquite Design Review Board Meeting Minutes (Draft) December 20, 2012
5. South Mesquite Design Review Board Work Session Minutes (Final) November 15, 2012

Comments by Heather Barrett
SMO Administrative Changes, Nov 2012

V-196

C. Definitions

Contributing: "any building, structure, object, or site..." – You might want to add site to list. These are the categories you'll find in SR/NR wording, and I've actually used the term for landscape features such as parks in nominations.

Demolition: Wording is awkward. "An act that destroys or removes <u>in whole or in part of</u> the exterior..." Suggestion: An act that destroys the entire exterior or a portion of a building... "

V-197

Exterior Appearance: the type and texture of signs, or maybe just signage?

V-198

Primary Structure: Do you need "in this document?" This phrase appears in several places.

[NOTE: I recommend it. "Primary Structure" here refers to use not size, i.e. a primary structure vs. an accessory structure. There are various other situations referred to in the Zoning Code in which differentiation between primary and accessory are addressed, development standards for example. So I wanted to make it clear that in the SMO, we are talking specifically about use. cm]

Significant: Again add "any building, structure, object, or site." You might want to mention that in some older nominations the two terms – significant and contributing – were used to "rank" buildings, but in newer nominations, the status of a resource is either contributing or non-contributing. "Significant" is no longer used as a separate term.

Structure: Wording is awkward. "That which is built or constructed, an edifice or building of any kind, or <u>any place of work artificially built up or composed of parts joined together in some definite manner –</u> Maybe the underlined section is not necessary?

V-201

I would like to have a discussion on the "14 feet to contain no more than one story in Area 2." Maybe discussions are for later if this review is only administrative

changes, but at some point, I would like further clarification on several issues that have come up for me when reviewing cases. It seems that if we're all together on Thursday without a case that it might be a good time.

V-203

Accessory Uses and Structures: Add space between 38-51 and of?

V-225

Section I, #2: I would suggest deleting the word construction after exterior in each one. Just use word exterior – I think it reads better.

V-226

g. Should it be Section 38-10 of the 2001 Zoning Code as amended in this section?

V-228

#5, a. District's unique look... Insert apostrophe

V-229

#4, b: Add "Insert North arrow" – this is not always done, and it frustrates me!

#4, d: Again, it might be beneficial to reiterate under "i" Each directional view of all structures clearly identifying exterior building materials and treatments (Label views).

V-231

Demolition: To preserve the character of the South Mesquite Historic District...

This is another section that I think needs further discussion.

V-197

Exterior Appearance:

Add fenestration pattern and replace "appurtenant elements" with something like significant design features or character-defining features (i.e. corbelled posts, exposed vigas, tiles, canales, etc.)

Historic Integrity:

Replace "the property's historic or prehistoric period" with "the property's period of significance"

V-226

Under "i" - Insert State or Federally-funded projects – you could also note that in New Mexico "State" includes local municipalities

V-228

Under "e" - Delete the "a" before commercial or residential projects

SOUTH MESQUITE DESIGN REVIEW BOARD
December 20, 2012

Following are the summary minutes from the South Mesquite Design Review Board meeting held on Thursday, December 20, 2012, at 6:00 p.m., in Conference Room 2007A of the City Hall, 700 N. Main, Las Cruces, New Mexico.

MEMBERS PRESENT: Moises Morales (Chairperson)
David Chavez
Heather Barrett
Josh Mauldin
Faith Hutson
Robert Williams

MEMBERS ABSENT: Teresa Renn

STAFF PRESENT: Susana Montana (Community Development)
Carol McCall (Community Development)
Katherine Rogers (Community Development)
Diana Garcia-Parra (Recording Secretary)

OTHER'S PRESENT: Gloria Torres
Ramon Luna
Paul Mach
Frank Belyan
Patrick Vigil

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I. CALL TO ORDER

Moises Morales called the meeting to order at 6:00 p.m.

II. APPROVAL OF MINUTES – November 15, 2012

David Chavez motioned to approve the minutes of November 15, 2012.

Robert Williams seconded.

All in favor. None opposed. Motion carried.

III. SMO-12-03: A request for approval of new construction of a single-family detached home and detached garage on a vacant lot located at 430 E. May Avenue in Area 2. The property is not listed as significant or contributory in any local, state or federal historic inventory. The property is zoned C-2 (Commercial, Medium Intensity) in the South Mesquite

Mr. Mack stated that the traffic from May heads east, one-way and there is a house on the west side of the property that is very close, so if you're driving or walking by, you're probably not even going to see them.

Mr. Morales stated that issue is something that can be easily fixed.

Mr. Morales then opened it up to the *public*.

Ray Luna stated he lives across the street from the proposed house. He feels the further they are from May Street, the better. He suggested a wall on the eastside because of the amount of traffic, the people and their dogs. He does like the design of the proposed house.

Robert Williams motioned to approve SMO-12-03 as presented.

David Chavez seconded.

All in favor. None opposed. Motion carried.

IV. ZCA-12-01: A motion to recommend approval of an ordinance to the Planning and Zoning Commission: An ordinance to amend the Municipal Code, Article V, Section 38-49.2 South Mesquite Neighborhood Overlay Zone District to enact text changes which clarify existing provisions, standards, procedures, purposes and intent of the overlay district and which are non-substantive in nature. Submitted by the Community Development Department.

Carol McCall gave a brief overview of ZCA-12-01. She stated these were the proposed administrative changes for the South Mesquite overlay. The overlay is used by the Design Review Board and Community Development staff to administer the design standards and requirements that are unique to the overlay. Some problems with the overlay were:

- Text is inaccurate at times
- Map doesn't have enough streets on it
- The design standards are vague leaving a lot of loopholes

Therefore, staff came up with administrative changes that can be made without changing the content. All changes discussed at the work session have been made, which are:

- Changing the map and coloring the original town site, with street names included
- Taking the word "construction" out
- Clarifying language so meaning is more clear

Ms. McCall also advised that Susana Montana had uncovered the original Mesquite Neighborhood Plan adopted in 2005, which addressed both north and

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south mesquite. In that plan, the policy said "consider the creation of a design review board (DRB) to ensure..." Ms. McCall has changed the SMDRB abbreviation to DRB. However, it doesn't matter how it's noted, it is up to the board.

Ms. McCall stated that the options tonight were:

1. Recommend approval to the Planning and Zoning Commission (P&Z).
2. Propose changes to the overlay and recommend approval to the P&Z.
3. Recommend a non-approval of the proposal to the P&Z.
4. Or make no recommendation and direct staff accordingly.

David Chavez agrees with all changes discussed. He asked for verification on the process; document presented to P&Z and a pre-cursor to the next document, or will they do it in steps.

Ms. Montana advised they would do it in steps. They have a Strategic Plan and this is a task to be completed this year.

Ms. Hutson asked if this was stuff that was already initiated in the process and needs closure of some sort. The proposed changes were recommended on tweaking the wording and don't actually change the overlay and doesn't prohibit the board from moving forward with new overlay proposed changes in January, correct?

Ms. Montana advised that was correct.

Ms. McCall advised that P&Z would then make a recommendation for approval or denial to the City Council. The City Council would then vote on it and it would presumably be adopted. This would then be the version of the overlay that staff and the board would be working on to make design standard changes. She also stated the substantive changes to the design standards would involve at least one public meeting and a lot of work sessions with the board, so the process could take anywhere from six months to a year to complete.

Mr. Morales commented that he was good with just keeping the reference to "DRB" instead of "SMDRB."

Ms. Barrett pointed out that the work "site" got left out under contributing in the definitions. It was added under significant, but not under planning and contributing.

Ms. Montana so noted and would correct.

Ms. Barrett also questioned page 226, under G, "as amended in this section" or "and this section."

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Ms. McCall stated that the official name of the 2000 Zoning Code is 2001 Zoning Code, as amended "and" this section.

Mr. Williams stated that in his review, he noticed that on V203, Above Ground Storage Tanks, "right-or-way" should be "right-of-way" and is throughout the document.

Heather Barrett motioned to approve the proposed amendment with changes as stated.

Robert Williams seconded.

All in favor. None opposed. Motion carried.

V. DISCUSSION OF OTHER ITEMS

Two new members, Josh Mauldin and Robert Williams, introduced themselves and gave a little bit of their background.

Ms. McCall advised that Councillor Silva invited the Board to a City Council meeting to present to Council what kinds of changes the Board would like to make to the overlay. The meeting would probably be in February.

Mr. Morales advised they can put this on the agenda for the next meeting to begin discussion. He also would like "election of officers" as an item on the next agenda

VI. ADJOURNMENT

Moises Morales adjourned the meeting at 6:52 p.m.

_____

Chairperson Date

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SOUTH MESQUITE DESIGN REVIEW BOARD
Work Session

Following are the APPROVED minutes of the South Mesquite Design Review Board meeting held November 15, 2012 in 2007-A at 6:00 p.m. at City Hall, 700 N. Main Street, Las Cruces, NM 88001.

BOARD MEMBERS PRESENT: Moises Morales - Chair
Teresa Renn
David Chavez
Heather Barrett
Faith Hudson

STAFF PRESENT: Carol McCall, CLC Planner
Susana Montana, CLC Planner
Becky Baum, RC Creations, LLC, Recording Secretary

PUBLIC PRESENT: Nancy Akbari

I. Call to Order

Morales: We are calling this Board to order, November 15th, 2012 about 10 after 6:00, South Mesquite Design Review Board. Sorry I'm a little out of it, just driving in here right now.

II. Approval of Minutes – April 19, 2012

Morales: Once again we start off with approval of the minutes

Hudson: They were sent electronically.

Chavez: Electronically.

McCall: Because they were supposed to be approved last time

Morales: Yeah, got cancelled. I usually get a copy of the minutes. So then; therefore, does anybody object to the approval of the minutes, any amendments or anything?

Chavez: So moved to approve the minutes.

Renn: Second.

Morales: Second, all right. All those in favor of approving the minutes as is say aye.

All: Aye.

Morales: All those not in favor say nay. Everybody is aye. So it passes. Do you have anything you need to update us with before we just get into the meat of things here?

McCall: Ask Susana.

Montana: Well I'm new. Yes. I'm a planner with the City Community Development Department. I've been with the City about six months. I most recently came from Bisbee, Arizona. I've worked in Alaska. I worked in California, as a matter of fact, I spent 20 years with the City of San Francisco planning department. I retired from there in the year 2000 and I did a lot of historic research and legislation for historic preservation. I'm familiar with the criteria for identifying landmarks and significant buildings, contributory buildings and that sort of thing. I love living in the historic district and I do live just a block away.

Morales: Welcome to the neighborhood.

Montana: Thank you. So I'm really thrilled to be part of this Board and I'll be your planner, your day-to-day contact with the Community Development Department. Carol will also remain working with the legislative part, but I'll be doing the permits and that sort of thing. So please feel free to contact me, my business cards are on that table whenever you have daily questions about something.

Morales: Awesome. That is very nice, pleasure to meet you, real quickly so no more Adam Ochoa?

Montana: Adam will continue with some of the other Boards, University District in particular, but I get to do South Mesquite.

Morales: Okay, well welcome, look forward to working with you.

Montana: Thank you.

III. Review of the proposed amendments to the South Mesquite Neighborhood Overlay Zone District

Morales: I've read some of your amendments.

Montana: I'd just like to mention one thing about the next agenda item and that is this is a work effort that's included in our department's strategic plan and so we are moving forward as fast we can to finish it and I think we had to do ... get to the Planning Commission sometime early in 2013.

McCall: January hopefully.

Montana: So although some of you think that it might be a little late or you might think it's a little outdated now because you're proposing something that has substantive changes, what we're looking for tonight are just sort of clerical fixes, tweakings, we call them.

Morales: Wording or whatever.

Montana: Yeah but we still need to do it and carry it forward to Commission and Council so we really appreciate if you would you know work with us and take time to give us

comments tonight so that we can move this forward. Hopefully next time we put together a strategic plan we can have the substantive changes included in that work effort. So with that I'd like to turn this over to Carol who's got a slide show to help walk you through this. There's also a handout of each of these slides, so if you have any comments about any of the slides, maybe just put a check mark next to that page because we'd like to go through the whole series, there's only what, 16, and then we'll go back and go through each slide with your comments. The slides are numbered so you can put a check next to the one you want to talk about.

McCall: Thank you Susana and thank you everybody. First I just want to give you a little history of the South Mesquite Overlay. It was adopted in 2005.

McCall: It was adopted in 2005 along with the North Mesquite Overlay. In the preparation of the Overlay the North Mesquite neighbors and South Mesquite neighbors worked together and then at one point they separated, the North Mesquite wanted to do things a little bit differently than the South Mesquite neighbors and so they decided to have their own overlay. But they did come forward to council at the same time. The overlay created the South Mesquite Design Review Board and created the boundaries for the South Mesquite Overlay, and it includes regulations for land use, development standards, design standards, parking, signage, landscaping, and demolition. At the time the neighborhood voted to use the 1981 Zoning Code and I will read what the overlay says: By the way of neighborhood participation it was decided to closely follow the zoning designation and permitted land uses of the City's former 1981 Zoning Code as amended with some modifications.

Now according to Lauris Gallegos, the 2001 Zoning Code had just recently been adopted and a lot of people weren't familiar with it and so that's why they chose to stick with the '81 Code. According to Lauris it was more because they weren't sure what they were getting into with the 2001 Code and they were used to the 1981 Code.

Morales: As far as your background, do you know if there was a big change between the two?

McCall: Not a huge change. Some zoning designations were eliminated and changed and I think for the purposes of the overlay that was probably the biggest one, some development standards changed.

Chavez: I think there were also parking issues.

McCall: Parking.

Chavez: But I think there was a parking issue also because we're set up to where you can park on the street in front of businesses and they're not required to actually supply parking lot per se and so I think that was the concern in the 2001 Zoning Code because they thought they were losing that.

Morales: Okay.

Chavez: Cause there's not a lot of lots to park for business.

Morales: So it was with reason that they did and they hesitated because of these new changes and they weren't familiar with, but there were significant changes to set off a red flag.

McCall: Impacted them.

Morales: Okay.

McCall: Now the State and federal historic districts had already been created. The historic districts were created in the '70s and the most recent survey at that time was in the mid '90s, so the red and blue, I'm sorry, the purple and blue area, this is the smaller federal and the purple is the state and you can see that the state goes up into the North Mesquite Overlay as well. So that's sort of how the districts compare to the boundaries of the South Mesquite Overlay.

So the South Mesquite Overlay was written and then the Design Review Board came together and started using it to decide cases and over the years it became apparent that there were some problems. Design standards were vague, so it was hard to really determine how to decide one way or the other. The text was inaccurate in places. The map was a little hard to read. And in my original e-mail I had said that the boundaries were not correct, but in fact they are and I apologize for that, and then there are a lot of loopholes in the language, so I'll give you some examples of all of these and what we're hoping that these administrative changes will do is correct all of this stuff and without changing the content or the meaning of the overlay, make it easier and more meaningful to administer, close the loopholes, that sort of thing.

Here's an example of some clerical changes and I am not going to go through all of the changes in the document, I just wanted to give you an example of the sorts of things that we're dealing with. One, there is reference to the Las Cruces Municipal Code, but consistently through the Zoning Code which is where this overlay lives on a day-to-day basis, the reference is always to the 2001 Zoning Code as amended. So anytime the Las Cruces Municipal Code shows up, I changed it to 2001 Zoning Code as amended. I just abbreviated South Mesquite Design Review Board, instead of using the words Design Review Board and again when we go back through this and you guys tell me what you think, I'm certainly open to changing some of this back if you don't like it. There happens to be two section D, so I removed the second section D and made it an E and then there wasn't a section H so we add a section H, and then some subsections are just listed as paragraphs or sentences with spaces afterward and they're not given subheadings, sub-labels, like a little "a" or a 1 or a 2 or something. So we added those. So that's an example of the clerical changes. This is an example of what we'd like to do to the map. It has all of the streets labeled. There were some other suggestions, perhaps shading the original town site. In this one you can sort of see that the parcel lines are a lot lighter that makes it easier to read the boundaries and the streets, but you can still see the parcels if you want to identify you know just on this map a certain location. So if any of you have any suggestions for how the map could be changed we'll talk about that too. So and then it corrects some errors. I was going to look up where in the overlay the flexible development standard process is referenced, but in the review of this draft staff looked at that part and said, well it isn't a flex standard, it would be a waiver, the process of going forward to approve this

particular thing, so I deleted flexible development standard and put in waiver. A-2 zoning is a product of the 1981 Code, it no longer exists, and so I removed reference to it.

Morales: Real quickly, wavier is just a terminology thing, right? So it'd be sort of like an exemption?

Chavez: A variance?

McCall: Yeah, or a variance. Yeah, it's just another process.

Morales: Okay and why didn't we use variance since that's the term now, we don't want to confuse them or ...?

McCall: Well they're two different things?

Morales: Are they?

McCall: Yeah and I will clarify that and make sure that a waiver is the thing we're supposed to use and reference the process where it's found, just to confirm that. Okay, as far as the zoning that in the '81 Code and not the 2001 Code, just this specific reference to A-2. In some cases there was already land use on the property and so whatever the land use was, the zoning was given the closest thing to that land use. If there was not a land use on the property, it was vacant, and it had been zoned M-2, then it was either given an EE which is equestrian estates, or RE which is residential estates, or REM which is residential estates for mobile homes/manufactured homes, and so it sort of just depended. But that's just one example of the zoning and I don't think there are any others actually, and then it removes reference to the 1981 Code because the '81 Code was repealed. It's no longer in effect. To refer to it is kind of like ... you can't refer to it. It's not there anymore. But as I pointed out in my e-mail removing reference to the '81 Code didn't change the content of the overlay because the development standards which were in the '81 Code are still in the overlay, and the permitted land uses that were from the '81 Code are still in the overlay.

Morales: We're just keeping up to date.

McCall: Right, the content is the same for now since we're just making changes that don't affect the meaning or the content. But we're removing ... and this is something that we're doing sort of department-wide, removing reference to documents that no longer exist.

Morales: Just phased it out, just staying with the current.

McCall: Yeah, okay and then I think something that's probably of greatest importance to everyone is that it closes loopholes that would potentially all property owners to do things that you don't want them to do but because it doesn't say so in the overlay, it was your intent when it was written but it's not specifically in there. So a property owner could appeal and would win essentially. So these are just some examples. Some people don't build a garage, they build a carport, so I added carports. A lot of houses in the neighborhood are wood or other natural

materials, and so if we didn't have this language in, those residences essentially become non-conforming and we don't like to create a non-conforming structure where we don't have to. It kind of legalizes what's there and then I added walls because it's very possible that somebody could come in and want to build a tire wall or a wall with concrete and pop bottles and that might fly, but it might not, so you put it in there then you're covered one way or the other.

And then I changed around some of the sections; permitted uses used to be under a section called the Development Standards and Permitted Uses and I separated those out because permitted uses is just as important as development standards and I thought it should be given its own place in the sun so to speak. The design review section was also rearranged and the language made a little more concise so that the Design Review Board, it says exactly what the Design Review Board is supposed to be reviewing and I'll get to that in a minute and then I gave appeals its own section because anybody can appeal any part of the overlay, not just design and it was previously under design. So here is what I did sort in graphic form, you'll see in the current overlay Development Standards and Permitted Uses which included development standards, landscape requirements, permitted uses, and special uses. And what I did was separate out development standards, permitted uses, and special uses. Now maybe special uses should be under permitted uses, in which case it could be a subsection. Maybe landscaping should have its own section rather than being a subsection, you know certainly we can change that and then down here, appeals which was a subsection of the submittal review process becomes its own section. So those are the only changes to the content. Everything else is still there and pretty much in the same order. In the design review, design standards section I did rearrange the subsections. The establishment of the South Mesquite Design Review Board is the same. The duties of the South Mesquite Design Review Board are the same, described a little differently however, and then here I put subsection three which is a sentence that explains that regardless of what the case is, if it fits the criteria for review, it will be reviewed, if not by the South Mesquite Board then by staff. Before there's no reference to anybody, staff isn't designated so if it's a case that the Design Review Board doesn't have to review, essentially somebody could come in and say well it doesn't have to be reviewed for design standards then. So this makes sure that it gets reviewed by somebody essentially.

And then under design standards, is where the current overlay references the Secretary of Interior standards, and even though the title of the document is Secretary of the Interior Standards for Historic Preservation, they're actually recommendations. It says should or shouldn't or recommended, not recommended. So I found the terms ... to me standards means regulations. Standards means definitive. So I changed that to be criteria or guidelines would be another good word to use and then under additional review criteria which is where we currently have the few specifics that are regulations, I changed that to design standards and then land use and zone change requests are up here in a previous section I think some place and not in design review.

And here is the current text, I will explain why I changed and listed out what the board is responsible for reviewing and I know that when we go into the substantive changes we'll be talking about what the board reviews and doesn't and be making some changes there. But because we're not changing any of the meaning I had to stick with what we intended. So the current language reads "The South Mesquite Design Review Board shall review and have final authority

on any new structure or any one time or cumulative addition to the existing primary structure in Area 2 or for any significant or contributing structures listed on the historic register in Area 1." It doesn't say anything about design. Does it mean you're going to be reviewing the electrical system? Does it mean you're going to be reviewing you know where the concrete pad gets laid? No idea. So I think they're listed out as sub-letters. The design of the exterior construction of a new structure in Area 2 and Heather has suggested that we get rid of the word construction which I think is a good idea. So it'll read "The design of the exterior of a new structure in Area 2." The design of the exterior of any one-time or cumulative addition to the existing structure in Area 2, the alteration of the exterior of appearance of any structure in Area 2.

Now the way the current overlay reads now, that's any structure, not just a historic structure, any structure that's in Area 2 and then in Area 1 we are only currently reviewing significant or contributing structures, so the design of the exterior of an addition to a significant or contributing structure or the alteration of the exterior appearance of any significant or contributing structure in Area 1. Currently the design duties do not call for reviewing a new construction in Area 1, so that's why there is nothing down here listed for that and that's all I have. What will happen is this is a work session and I will take your comments and suggestions back and do another revision and then on the 20th, December 20th, at the next regular meeting where there will be a case by the way, that will be when I ask you to make a recommendation to the Planning and Zoning Commission for approval of the particular (inaudible) that will amend the zoning code.

Barrett: When do the substantive changes, I mean are we talking months down the road?

McCall: We can start any time.

Barrett: Okay.

McCall: You all have the same draft that Las Esparanzas had from last October and I can send that out again and then Las Esparanzas has another document.

Montana: Heather and the rest of the group, December's kind of a busy month for us. We do have a case and what I'd like to do is take a look at what you sent in terms of the substantive changes, compare it to the current code, maybe do a strike-through, underline, redline that sort of thing just to get an idea of the magnitude of changes and then get back to the group in a work session, so maybe January would be better.

Barrett: I mean I don't disagree.

Hudson: I also agree with that.

Chavez: I agree.

Hudson: It's a busy time and I think everybody needs a chance to really look through the document. It's familiar for us but not for you guys at all.

Montana: So what I'd like to do is make that example of the differences send that to you and maybe give you a month to you know review it.

Chavez: That's fair.

Montana: And then we could discuss what kind of changes.

Akbari: Let me just say that this draft, you'll see brand new language. It was done by review of the Albuquerque statute which of course they have experience in lots of places and Carol's. And it was meant as Carol had said in her e-mail once to simplify. I did reorganize the reading of the statute, so for instance it'll be new. The purpose section of Albuquerque's was in my opinion just better because I felt it gave certain people in the Council or whatever a better view of the benefits of this statute.

Montana: So we'll talk about it in January.

Akbari: But that's where it came from.

Montana: Good.

Chavez: And the January one would be a work session? We have a work session?

Montana: Unless there's a case.

McCall: For December, December is a regular meeting and there is a case and so since there is a case to approve and there would be the administrative changes to approve, and the full board as it exists now is here, how many of you are going to be here? Because we'll have to have four in order to have a quorum.

Montana: December 20th.

Morales: Visually everybody on the Council is raising their hand.

McCall: Great.

Akbari: I'm public.

Morales: We have a full Board now so I thought that she was (inaudible).

McCall: We don't have a full.

Morales: So we are still short.

McCall: I would like to go back to the administrative changes and talk about any suggestions you have and Heather did send out some changes which I agree with all them, some of them were little like punctuation and spaces and stuff but I don't know if you want to talk about that or not.

Barrett: I actually did not bring them. So unless there are questions, I don't think I necessarily need to go over them.

McCall: Okay.

Barrett: I do have some other ones as well, but how are you going to want to do this, because I mean some of this may be easier for us to write it and send to you.

McCall: Well actually in theory everyone should have already looked at it and had comments and changes. So, I would just say whoever wants to start or we can go, does anybody have a change, anything to say about page one or page two. You know I don't know how you want to … I don't care.

Montana: I have a … I'm curious and I'd like to ask the Board, in slide number 13 where we talked about clarifying what gets reviewed by the Board and the new language would say that any building would be, in Area 1, any new construction in Area 1, excuse me, Area 2, would be reviewed by the Board. And my question is, do you want just primary buildings or just buildings that are viewed from the street or do you want sheds in the back, you know how far do you want to review?

Barrett: I think we should review outbuildings as well.

Montana: So all buildings on a property.

Barrett: I think so.

Montana: Okay.

Barrett: Unless a minor shed or you know something that would have never been picked up in a register nomination. Something like a garage or a substantial secondary structure I think needs to be reviewed.

Chavez: I agree also because in some cases the secondary structure is actually seen from the street. So my understanding is that anything that's seen from the street needs to comply.

Montana: But that's different, from what Heather was suggesting, which is everything, every primary and secondary building.

Barrett: That is my opinion.

Hudson: And I agree with Heather. An example of that was on Las Cruces where they were trying to build behind the house a lean-to of tin and it was really hideous looking. So, yes I think it should be all.

Morales: It's awesome to see you guys are so ready to jump in, but let's try to stay a little organized, why don't we start off with the slide show that we just saw and we do as mentioned before we go one slide at a time instead of starting off on slide number 13. I think everything's very valuable. Let's just go one slide at a time and then we can progress to the end there. How about that? So we'll start off with I guess … slide number two's the only one that's got some real meat in it. Does anybody got any issues with slide one or slide two? No. My first suggestion comes in on slide number six and it was just kind of piggy backing off

Carol McCall and I do suggest that I think it'd look a lot better if we did so some type of highlight. Highlight the original town site and the overlay as well, just cause it does look a lot more organized in the way that you layered the information, what you want to show is more personal, but I what I do like about the original map is that it did have that shading and it popped out and it was a lot easier to see.

McCall: Okay.

Morales: The two separations. So that's the only suggestion I'd make there, add some highlighting or you know color.

McCall: Okay, anybody else, any others?

Morales: Coming to slide number seven.

McCall: I do have a question.

Morales: Okay.

McCall: Regarding the map, I don't know actually whether this would be an administrative change but do you think that the historic districts either need to be on this map or that there should be a separate map of the historic districts?

Barrett: I'm thinking separate for clarity sake.

McCall: But do you think there should be one?

Barrett: I do.

Chavez: I agree.

Montana: I have a question. This goes in the zoning code and does the overlay really reference those two historic districts? I don't recall where ...

McCall: It references Area 1 and Area 2.

Montana: Yeah, but not the state or the national historic districts.

McCall: That's a good point.

Montana: So it would be confusing to have something in there that isn't referenced in the actual overlay language. It makes more sense to have it in the plan which exists, but to have it in the zoning code and it's not used or referenced, it is superfluous.

Chavez: Maybe we should have it labeled.

Hudson: Maybe this is not even the time to bring it up, but under the document that we sent, we reworded boundaries to state historic and ...

Chavez: Federal.

Hudson: Federal and State rather than Area 1 and Area 2.

Montana: Oh.

Hudson: So maybe this would be something to consider for the future and not bring up at this point in time, because if everybody likes the idea in the future this would be a moot point at this point.

Montana: So this would be superfluous then, alright.

Morales: Alright, is that all the comments on the map which was slide number six. Okay, slide number seven. You had mentioned Carol about the A-2 zoning being removed and as far as like the land usage that it was (inaudible) at the time when it was designated by how that land was being used. We've had a case just recently in the past on the offices here on Campo where they had that issue that he had been getting taxed by the taxation bureau for having a commercial building but all this time it was residential and so he had to come before our board to get that zoning change. I don't want to keep running into this over and over so it seems to me like maybe they didn't do their due diligence originally so that's why we have some of these issues now. Are we going off of this old information? Are we going to run into this problem again? Where do we get our new information as far as zoning?

McCall: No. Zoning is not something that's covered by using the '81 code.

Morales: Right.

McCall: The language here which I have up on the board, this is the current overlay. It was decided to closely follow, I guess it is, zoning designations and permitted land uses of the city's former 1981 Code. I think he's fine because in the list of permitted uses residential is permitted by right in a commercial zone.

Morales: Okay.

McCall: So that was really ... that would've been you know ...

Morales: This is when you're going in the other direction from residential to commercial that it becomes an issue.

McCall: Okay, he had residential?

Morales: What it was is it was residential and we had to ... he came before us to get it changed to commercial, even though he had already been paying tax for many years for having a commercial building.

McCall: Was it a commercial building?

Morales: It wasn't zoned at the time commercial, it was zoned residential.

McCall: Yeah, but was it being used as a commercial building?

Morales: Yeah, for many years. So the issue came up, I was like okay well are we going off of the taxation, you know how they recognize it or I guess that's what I'm trying to clarify here or is that something we do need to put a spotlight on?

McCall: Actually I'm not sure why it came before.

Chavez: My understanding he was paying 18 years of taxes on a commercial building on his property but it turns out that the city did not recognize the fact that he was paying commercial tax, but the county was charging him commercial tax. So the problem was 18 years of ... and he brought his records that he was paying commercial, but it was the city that when he went to get a permit for something on his building to change it they said well, no you're residential.

McCall: Okay, I think Moises your question is what you have to look at is the content of the overlay. So right now if you look up on the board on the wall I'm looking at R-1 which is single-family residential, so all we have to do is look and see if that particular commercial use that he was referring to is allowed in that R-1 district. It doesn't look like there are very many commercial uses that are allowed, now here's R-2, because I don't know whether it was R-1 or R-2 or R-3 even. Here are the uses. So, if he actually had a commercial use that's not on the list that's approved for residential zoning, then he's not in compliance.

Morales: Right, therefore he had to come before to get his zoning changes.

McCall: Yeah, so I think rather that as long as you refer to the content of the overlay you'll be okay. I think that's what you're asking, right?

Morales: Well I guess in the end it'll all work its way out in the wash I guess as these problems come before the board we'll figure out whether we need to do a zoning change or whether they're already in compliance. But I was just ... it became an issue in the one, it just seemed like the right hand didn't know what the left hand was doing and it created confusion for everybody in several departments. So that's the only reason I brought it up is that popped in my head when we were going over this.

Chavez: The problem was also that Leslie Skaggs, the property owner did some research that on Campo the same street that his property was on, there were several businesses already on Campo so you know since he was paying commercial property tax and the other businesses on Campo he figured that Campo was a commercial lane to create businesses cause there are a lot of businesses on Campo, on the east side of the street. So, it was confusing because for one, some people already had a commercial license on Campo but then he had been paying taxes for 18 years on commercial. It was a mess. But it all worked out in his favor.

Morales: Yes it did, any other comments on slide seven? All right let's move on to slide number eight. No comments. I do have one. Most of my comments are going to be referenced back to past cases. If I was a little bit more organized maybe I could call the case number but I'll just try to remind you guys as much as possible, when it comes to the fencing, we had a case when we had first started,

they were going to do a daycare right off Campo, like a block off. It never panned out apparently, but one of the things that did kind of make the board look bad I guess is we started getting in depth on the fencing as far as security fencing because it was a daycare and you know we don't want people staring and taking pictures of these children. And we spent you know a good amount of time talking about it.

Renn: I recall.

Morales: And in the end we were told by I think by staff that we were over reaching our boundaries and that we're only supposed to be looking at the exterior of the building, fencing had nothing to do with it and then we kind of got a little more in depth in that as far as well you know fencing does have to ... and this is where it first started coming out with the no chain link fences. From what I understood at the time and today is if you have a chain link fence they're grandfathered in. They can't touch it. Now they take it down, temporarily because they're doing construction or something and they need to get a truck in there, they're allowed to put it back up cause it's just temporary.

McCall: The same fence.

Morales: Now if they take that fence down and they want to put a new fence, a new chain link fence, then that's not prohibited and then they fall under you know whatever materials ...

McCall: No, it is prohibited.

Morales: That is prohibited, I'm sorry if I said that wrong. That is prohibited and then they would now fall under our new materials in which we dictate you know you can either do a rock wall, or blah, blah, blah, but you can't do a chain link fence. Is that part of our authority now? We're allowed to talk about fencing. Because at the time it was kind of up in the air, like no you can't talk about that, but yet at the same time we talked about it.

McCall: As I recall there was an existing chain link fence and they were proposing, they wanted to put up another chain link fence, right?

Morales: Well this case as far as the daycare, they were taking down the chain link fence and they're going to put a wrought iron fence in the back to separate from the back property, the adjacent property.

McCall: Right.

Morales: But a wrought iron fence that could still see through and that's when we all started talking, well okay you close the wrought iron fence make it to where you can't see through it, put some type of covering or can you do a rock wall. And she said well I can't afford the rock wall and we just got really in depth in fences and in the end I was told like well you know you kind of over stepping your boundaries. You can't even talk about that.

McCall: I think that that was because you were concerned about people seeing the children.

Morales: Right.

McCall: Which is really not your responsibility.

Morales: Right.

McCall: So I think that may have been where the comment ... I don't know who made that comment but I think that's why.

Morales: Okay.

McCall: I mean I don't know ... I don't remember whether the person who was presenting the case was concerned about it. As I recall they were going to put a second fence inside or maybe that was (inaudible).

Morales: Mid property along the back. Either way they're closing in a certain area.

McCall: Yeah. I don't know that this ...

Morales: Okay, I just brought that up for curiosity sake.

McCall: You know that's going to come up. You're looking at the design of a building and the building's going to be a brothel, well big deal.

Morales: Right.

McCall: Then you have to be dealing about something else. Permitted land uses and it's not on the list so it can't be there.

Morales: And like I said the reason I just brought it up is you know a few occasions where I felt like you know the public's looking at us like you know we're coming to you for answers and you guys don't really got your stuff together either, which is why we've been pushing a lot for these meetings so we can all be on the same page and be unified and so that you know we are doing something worthwhile.

Chavez: I believe that one case that we did have was on the corner of Court and San Pedro where they wanted to put a fence between the two condos and that became a mess because since the fence did not face a street and was not really bordering the actual property, it was ... remember? And then finally ... I mean I was ... they finally decided you all voted, yes you can have a fence between the two condos because it's two separate properties if I'm not mistaken, but you know fencing, it is an issue.

Morales: What I recall of that case was it came down to the money thing about the chain link fence. That we didn't want the chain link fence and I had made a comment like you know as far as durability chain link fences lasts a long time, its secure, and it's cheap. Now it's not very aesthetically pleasing so we had spoken about okay well as far as these fencing codes, what if we follow that on the front ...

anything that's facing the street that the public will see, and I think from what we had said that we can review the minutes that chain link fence would be allowed in backyards where people can't see it from the front in cases like if people needed a dog run, we can't ask them to put ... I mean chain link fence is cheap and it does a good job for a dog run, security fencing for swimming pools. So we brought up a couple of issues where chain link fence I guess would be ideal as far as budget-wise and for safety in the backyard, like I said dogs or safety fences for swimming pools, but it would be somewhere where they're not visible from the street. Now, of course, if you have a corner lot then you're kind of more under the spot light you know, don't really get the choice cause people see you from both sides. Are we correct here in what I'm saying?

Chavez: And the other side of the coin too was a question of materials, because for some reason or another, the comment was that we could not use wood fencing and so later on I think somebody came in with a bunch of photographs in a block radius with all these places with wood fences.

Morales: All deteriorated.

Chavez: All deteriorated, but they were wood fences. Well, so the guy said well how about if I put a wood fence and that conversation I remember was lengthy because, it goes well it's not on the list to put wood fences. And I think now we have it on there. So I think it was a thing is that we didn't put all the list of all the materials at the time and it did pass for wood.

Morales: Right.

Chavez: Cause it is there now but it was a controversy because he says it's not on the list.

Morales: What about this whole like I had mentioned about dog runs, safety fences, in the back. Is that in the literature right now?

McCall: I think that those things can be addressed when we start looking at the substantive changes.

Morales: Okay.

McCall: Because then you can spell out if you want chain link to be okay for the back that faces an alley if you wanted it to be for a swimming pool or if they want to put a dog run or something like that, then you can clarify that.

Morales: Okay.

McCall: And have you know a little sub ... you know each one, we can lay it out a lot of different ways but for now because that isn't clarified, we kind of have to stick with ... if there's some way that you think that we can work with what we have here, and I don't know that there is.

Morales: Okay, that's the only comment I had as far as that slide.

McCall: Okay.

Morales: Moving on to slide number nine. Changes structure, no body? Okay, slide number ten, the contents slide where she reorganized. The only comment I had about that was landscaping. I guess it hasn't really come up a lot you know as far as some of our meetings but is that something that we should foresee? Is it another criteria that we should be looking at we haven't really talked about that much?

McCall: The landscaping criteria would be the same regardless whether it's a major letter or a subsection. The overlay has a few loopholes related to landscaping, typically single-family residential and duplexes, right, duplexes?

Montana: Typically do not require.

McCall: Do not require a landscaping requirement and there's some language that's going to have change regarding that.

Morales: I know as far as code when it comes to landscaping more if towards commercial and not really residential which we mostly do, are residential. Residentially they mainly just ask you for designated area for ponding for your runoff water. But you're right as far as designated how much (inaudible) your grass cover you've got to have, they don't designate that unless you're commercial.

McCall: Since I only used a few of the changes as examples, I would like to go specifically to the landscaping section because there are some changes made there. That way we can look right at them.

Montana: Currently the landscaping is required of both residential and non-residential. It's required of single-family or multi-family residential and there may be, and it requires a five-foot landscaping in front which may reflect a pattern, existing pattern, but it may not. So that's why you would want to grant a waiver, if there was no pattern or there are vacant lots, so it can be a little troublesome.

Barrett: In response to that, I was thinking there are a lot of houses with zero lot lines.

Montana: Yes.

Barrett: So this isn't applicable to that particular situation.

Montana: Well you do the substantive changes then you can clarify (inaudible) patterns established or reinforced and that sort of thing.

McCall: Here is, it's going to be hard to see I'm afraid but kind of gives you a little bit better idea. This is the current overlay. A landscaping buffer a minimum of five-feet excluding sidewalks shall be provided and maintained along all street frontages. In addition, all areas not devoid of buildings, structures, paved drives, and walkways shall be covered with one of the above materials. And you know that in the event a buffer is not possible, flex development standards may be considered. That might be where the waiver comes in.

Montana: That's where it is.

McCall: Here we go. So, anyway what I did was ... these are sort of specific to the overlay but anything ... you know without referring to chapter 32, actually this should be ... yes it is chapter 32 of the Las Cruces Municipal Code, the Design Standards ... without referring to something more specific, then they wouldn't have to really do anything. So that's really the only change that was made and then I deleted this one sentence - the entire lot width shall be landscaped with the exception of approved driveways, because it actually means the same thing as the text up here. So I just deleted it because it was redundant, okay.

Chavez: The other, on item E on slide 10 on the new purpose that was submitted we do have the parking requirements because there's so little about parking, what we did add was parking materials because a case of Leslie Skantz the way it states now is that if he wanted to do something to his parking lot he is required to pave it in concrete and by doing some research with Santa Fe and looking at what they have in a lot of historic districts there, they have no paving. It is crush-fine or brick pavers or stone pavers and so we're hoping that that can be added on parking requirements number E on slide 10 because it adds value to the properties, it eliminates runoff for one thing and it just adds quality of a historic neighborhood with crush-fine or stone pavers instead of seeing a sea of concrete or asphalt.

Morales: I think also would entice people to want to do something with a lot of those dirt lots, if they're not going to have to go with the expensive route of laying concrete and asphalt. If we gave them this option of crusher-fine which is really cost effective, I think we might see a lot of these dirt lots turn into some oases.

Chavez: This would eliminate a lot of runoff into streets with concrete and asphalt because that is a problem with the City, is that when we have these heavy rains the streets become rivers and this way with crush-fine and brick pavers the water has a tendency of actually soaking back into the aquifer or into the ground and we have less runoff.

Montana: Could I ask that we defer that until the substantive?

Chavez: Of course I thought I'd just bring that up because E.

Montana: Excellent idea. I've just got to get traffic engineer to buy into that.

Chavez: We'll take him out for margaritas.

Montana: Alright, we have a new traffic engineer you know.

Renn: Question on the landscaping requirements. I'm on page V202, number two B, a waiver may be considered on a case-by-case basis. Do you have any examples of when a waiver would be considered? Or are we just going to take it as it is and say on a case-by-case basis?

McCall: Well in the event a buffer is not possible, that would be like if there is zero lot line. There is no five-feet or no ... a lot of properties back in the day were built on the side property line or the back property line and so there may not be any room.

That's one place where a waiver might be considered. I actually don't know of any others.

Renn: Okay.

Montana: Well this would be the case where there's a C-2 zoning and a R-4 zoning or an R-2 zoning just happen to be right next to each other would a buffer would normally be required, but they were built in 1930 and ...

Renn: There's no room.

Montana: Yeah.

Renn: Okay.

Montana: So you could, it could, sometimes it's hard to provide evidence that it's a legal non-conforming. So in that case then we'd do with the waiver.

Renn: Alright, thank you.

Morales: Alright, moving onto the next slide, slide number 11, suggestions or comments? Alright, slide number 12, slide number 13.

Hudson: Hold on. Hold on. I do have one comment on slide 11. I just couldn't get to it fast enough.

Morales: Okay.

Hudson: I think criteria should be replaced with guidelines. That's pretty standard nationally when you're talking about either standards or guidelines and that would just make the wording consistent all the way around with anything.

Barrett: I agree, in national register circles criteria means something different as well, so I think guidelines would be better.

Morales: Okay.

McCall: I changed it.

Morales: All right that was a quick one. So we're up to slide number 13 now. Okay, questions or comments?

Hudson: I agree with Heather that we should take out construction on both the first two bullets and just have exterior of new or exterior of any.

Barrett: And the fourth.

Hudson: Also the fourth as well.

Morales: Okay.

Montana: And you all agree you want the board to review any structure, not just street facing or (inaudible)?

Morales: Yes.

Chavez: Yes, I agree.

Montana: Okay.

Morales: I had another suggestion, well not a suggestion but another comment. Right now does it not read that if anybody in Area 1 wants to add more than 20 percent new construction to the building and they do have to come before the review board? Has that been taken out or ...?

McCall: I think that that is referenced later on because there's like a cumulative or 20 percent.

Morales: The existing square footage or their adding more than 20 percent of their existing square footage then they have to come before us.

McCall: Yeah.

Morales: Of course any new construction should come before us; I don't know if that was in there, it used to be.

McCall: It's in there, but it's in a different place.

Morales: Okay.

Chavez: Cause we did have a case referring to that which was Daniel Flores, property on Organ Street, at the back, he was adding just a little bit more property on his back. And we denied the porch.

Morales: Exactly. Exactly right.

McCall: Moises, I will make sure. I'll go back through it and find out, look for that and make sure that it's in there someplace.

Morales: Okay now a couple of things that I would like to bring up as far as this and just update me I guess, I don't know what's going on cause I dealt with Adam Ochoa on these ones so I was hoping he would be here today. You're going to be my new contact person so I'll direct these towards you, but we have the Baptist church that's right here off of Hadley and ...

Chavez: Oh, San Pedro.

Morales: It's been remodeled twice already. Never came before us.

Chavez: Yeah, you're right.

Morales: Okay, no we've got the other church that's being remodeled off of is that San Pablo and maybe Mountain, it's the old mission church that's been there for a long time, adobe church. They're remodeling it. They put up a chain link fence all the way around that property and they're doing remodeling, never came before us either and that's a (inaudible) dwelling.

Chavez: What building? What corner? Is it Lucero and Tornillo?

Morales: It might be.

Chavez: That's the Phillips Chapel.

Montana: That's Phillips Chapel.

Morales: Phillips Chapel.

Chavez: Phillips Chapel and it's been in the process of being restored for three years.

Barrett: For three years.

Chavez: And the University, what is it, the Dona Ana Community College was the one that helped put that fence up for the restoration process so nobody would actually enter the property to steal or damage the structure any more.

Barrett: Moises, it's temporary.

Chavez: It's temporary.

Barrett: It will come down when construction is complete.

Morales: Okay.

Chavez: And we'll follow the ordinance because I believe it's a month, either 30 days or 60 days after all the construction, everything's done, the fence comes out and my understanding is that they're hoping to raise enough funds to put a wrought iron fence which does comply to the ordinance, our ordinance.

Morales: And I kind of figured it was a security fence and stuff, but just the fact that a lot of these, it seems like the commercial projects seem to just slag right by us and I was wondering, are we not allowed to ...

MANY PEOPLE SPEAKING AT THE SAME TIME.

Hudson: This was City approved. We did get the permit for it. The permit is currently standing which was just renewed yesterday. Inspector comes out about every six months to make sure that that permit is still in order. So it's just ...

MANY PEOPLE SPEAKING AT THE SAME TIME.

Hudson: Saturday, during a workday. Come over.

McCall: Two points, the other church you're referencing I think is called the Second Baptist Church, its right here across the street.

Morales: Yes, ma'am.

McCall: That was reviewed because I remember being at that meeting and the thing I remember about it is on the addition that they wanted to add the board conditioned the approval on having some overhangs on the windows on the addition. Do you remember being at that meeting?

Morales: Do you recall, I don't think I missed but maybe one or two meetings in all the years on this board?

McCall: It might've been that one.

Morales: That might've been one (inaudible).

McCall: The church is a predominately black church.

Morales: Yes, ma'am.

McCall: And I think it was Lundeen.

Morales: Lundeen is an architect.

McCall: Lundeen was the one who presented the case and the church members were in the audience. So maybe you weren't there.

Chavez: But I do remember that case that since they have a paved parking lot and it's considered commercial for the chapel, for the church ...

Morales: The one adjacent to it?

Chavez: Across the stress is the parking lot, that one of the comments that the board is that it needed to be landscaped and there's no landscaping at all and no (inaudible) ...

Morales: To date.

Chavez: To date, and I think one of the recommendations from the Board was if you have this paved parking lot you need to place some trees in it. It hasn't happened.

Morales: Well that's going to come around in the enforcement part.

Chavez: But you know it's a past case and the problem is I think we've all discussed this is that we approve a case but we never hear about it after the fact, to see if it's done, we assume it's done, but I think we fixed it on this end where they have to have it done before a certificate of occupancy can be issued.

McCall: And then the other thing, we talked about commercial buildings, you're not reviewing commercial buildings, I think that that is partly an issue of awareness.

They may not know that there are design standards that they have to follow. That's one reason. Another reason would be they know but they don't want to follow them and so they don't pull a building permit to begin with. So there have been cases where that's happened and if somebody doesn't pull a building permit and then it's found out about. They're fined for one thing. Then they have to come back to you guys and you have to make the decision whether you're going to ask them to tear down what they have constructed or not and that happens. So, there are a lot of situations that you are being put in, you know, but I think it's either they don't know that they have to do it or they know and they're not following the rules.

Chavez: See the concern with that church is, I don't know when the parking lot was put in, if we were already established as a Board since 2005 because the parking lot looks pretty new. The other concern is they own historic buildings just across the street south of the chapel, of their church, I'm sorry. And they are historic and my understanding is that when that parking lot gets too full they're going to (inaudible) those buildings.

McCall: A member of the church ... well this was two years ago. A member of the church came in to talk to me about uses, what were the allowed uses and what would they have to do because they wanted to rehabilitate those buildings and turn it into a daycare.

Chavez: That building caught on fire but it's boarded up. It was the lady that lives next door.

McCall: Across the, whatever.

Chavez: Right next door.

McCall: To the south across the street, the series of buildings that are boarded up now. Okay, anything else on page 13.

Morales: Moving on, slide 14.

Barrett: I structured my comments a little differently. I actually have things outlined in the text.

McCall: Okay.

Barrett: And I could go through those quickly if that'll work. And some of this is just little tweaks of words. I mean if you want me to e-mail that to you rather than going over it.

McCall: I have that.

Barrett: Yeah, but these are new.

McCall: Oh, okay, great. Yeah, you can e-mail it to me.

Barrett: Let me just do that.

McCall: Just the main ones. Are there main ones or things that you think the Board might want to weigh in on?

Barrett: On D197, I'll just do some of the more major ones; go over some of the more major ones. On exterior appearance, I'm thinking somewhere in there the fenestration might need to be added. And instead of the last phrase could we do something like significant design features instead of the elements.

Hudson: You don't want to say (inaudible).

Barrett: No, I don't. I'm thinking that you know that needs some clarification.

Hudson: I for one don't know what that means.

Barrett: An appendage.

McCall: Exterior remodeling, is that the one?

Barrett: Exterior appearance.

Hudson: Appearance.

McCall: Okay, one up, get rid of this.

Hudson: Do you want to say including facades, fenestration, is that what you're looking at?

Barrett: Yes.

Hudson: Okay.

McCall: And then you had a comment about signage, that this should say signage?

Barrett: Yes.

Montana: Fenestration typically is pleural already, so I don't think you need the "S".

Barrett: Right, just fenestration.

McCall: Okay, is that all?

Barrett: And then significant design features instead of the elements.

Montana: Well (inaudible) is sometimes or very specific to roof top air conditioning, swamp coolers, and that sort of thing. So would significant design features include that sort of thing?

Barrett: I'm thinking more of like character defining features.

Morales: So instead of eliminating (inaudible) we just add fenestrations.

Montana: Well she doesn't like that word.

Barrett: No, change it to significant design features is the same.

McCall: I think I need some examples.

Barrett: It would be say corbeling or you know different.

Chavez: The architectural elements of the structure.

Barrett: Yeah.

McCall: Okay. You guys will get this again you know that. Wrote on it December.

Barrett: Under historic integrity, I'm wondering if instead of the properties historic and prehistoric period, use period of significance which is typical language.

McCall: Okay.

Barrett: On page V225 under the establishment of the South Mesquite Design Review Board I continue to have problems with just banking and finance being professionals. Maybe this is content.

McCall: I'll explain it now, but yeah, under content, because in my first draft of the design standards changes. I actually took that out. But the reason it's in there is because mortgages, what a bank will loan money for or won't loan money for is sometimes significant and so it may help to have either someone in the audience who's an expert or someone on the board who's an expert. For example, banks will not loan money for a house that does not have a furnace, you know stuff like that.

Barrett: Yeah.

McCall: So that's why it's in there.

Barrett: Okay.

Morales: Carol, I don't recall a case where we actually needed an expert in this field, do you?

McCall: No.

Morales: In the years that we've had this.

McCall: However ...

Morales: Therefore, would it be nice to make take it out and that could be like a special case, if we do need somebody maybe we can make preparations for that case to bring a professional in instead of having a permanent reservation for this.

McCall: You can bring that up when it's time to do the other changes. Keep in mind really even though it's been seven years since the overlay was passed, you are a novice board. You don't have a lot of cases every month, so you know I think one year maybe there were four, you know, so just because you haven't doesn't mean you won't.

Morales: Right.

McCall: So keep that in mind.

Barrett: On 226 on I I'm thinking you say state or federally funded projects cause that was ...

McCall: Yes. Good catch.

Barrett: On 228 and this is a simple deleting of an "a" on E, whether for commercial or residential projects. Delete the "a", and then lastly, and I think this is more content than can be discussed later is the whole demolition issue and notifying the Board, that can wait till later.

Hudson: Heather, we're working on that as well. That'll be part of the new content that comes in, as well as to address your question, Moises, about maybe redesigning the Board as far as who sits on it professionally, so that is also been drafted.

Morales: Just to (inaudible) a little further into the whole demolition situation, recently in passing by this house that just got knocked down this past Sunday on my way to Church I see a pickup truck out there just a couple of guys just throwing adobe bricks in the back of the truck and not professional whatsoever, can you give me an update on what's going on here? I saw them knocking down like sledgehammers and boards and just kind of knocked stuff down.

Chavez: Are you talking about ...

MANY PEOPLE SPEAKING AT THE SAME TIME.

Morales: The one that burned.

Barrett: 605.

McCall: You got an e-mail or you will be getting an e-mail in the morning.

Morales: In the morning?

McCall: Yeah. It's ready to go. I didn't push the send button, I pushed save. So you'll be getting it in the morning.

Morales: The whole lowdown on what the situation is on that property there? Okay, and then so this is going to set like some type of precedence for future demo I'm taking it or ...?

McCall: Yeah, we made some changes.

Morales: I would think that's within our realm, right?

McCall: Yes, in a nutshell because no public money was used for the demolition SHPO was not made aware of it and ...

Morales: Flew under the radar because it was privately funded?

McCall: Right and because it had burned and your e-mail will include pictures of the fire, after the fire, because it had burned the fire department and I'm not going to make a call one way or the other whether they were right, but the fire department felt that it was unsafe and so the sign had gone up ...

Morales: It was condemned.

McCall: And then it was approved for immediate demolition and Adam didn't know that and so the sign didn't come down and what we agreed on is that even situations in which it's not necessary to inform SHPO, or ask their permission, that we will inform them for informational purposes which will also give them that time to you know if they have an interest in the building to weigh in on it.

Morales: All right.

McCall: So you'll get that in the morning.

Morales: Thank you.

Barrett: So this can come up later if we have follow-up questions about all this.

McCall: Yes.

Barrett: I mean is it better to wait per content-wise to discuss this.

McCall: Yes.

Barrett: Okay.

McCall: Okay, anything else?

Morales: Pertaining to this as far as having a little bit of housecleaning, yes.

McCall: Okay, so anybody else have comments on ... I'll make the changes, the other changes that Heather suggested and that's what you'll get back and it should be okay for December then.

Morales: A couple of comments Heather, wow, can I have you proofread my papers, very impressive. Thanks for your attention to detail. I guess as far as housecleaning. I sat in this chair on this Board, I was kind of like a default and what I had mentioned a couple of meetings already is I would like to know how we're doing as far as I guess Carol McCall as far as filling the vacant spots in the Board and then that way we can have a full Board and then we can put this to vote and get

all this little housecleaning stuff as far as which professional should be on board, I like that idea. We talk about that and you know is this as strong as it can be. Is the Board representing the public the way we should be? I think the one professional and I think it's gotten very professional in a lot of our new Board members, that I mean I guess it gives us you know people respect what we're saying here. We're not just a bunch of people who have time on their hands and want to show up and give people a hard time you know. But we've got some professionals (inaudible) and I like where this Board is going so; therefore, I would really, if you guys know anybody, let's get these vacancies filled and let's get the ball rolling and turn the page on this Board and for brighter days and do something for our neighborhood. We need two more I believe.

McCall: There are candidates. We're waiting for them to submit their paperwork. So I'm thinking by January or February there should be a full Board.

Morales: How did the cookie crumble as far as we had this issue like some of the older members and as far as we're not supposed to be on the Board anymore? We need to ...

McCall: You're fine.

Morales: I turned in the paperwork and did all that and ...

McCall: The copy that I sent around, I'll put your new dates in.

Morales: Okay, so is there anything new there. Joe is now officially no longer with us.

McCall: He resigned. Robert Cummins resigned. And Corrine resigned.

Morales: Oh wow, that's surprising. Okay then. I just wanted an update on where we're going with that, what openings we have. And these openings that are here, they're for what I mean, just ...

McCall: One professional and one residential.

Morales: And professional can be an engineer ...

McCall: Whatever's on our list.

Morales: Whatever's on that list, alright, okay, wow, let's cross our fingers we get a full board this coming year and get things going right, the new year. That's all I have to say, just little housecleaning stuff like that. So are we done, we like to close out this case.

Montana: If I may then just summarize for December 20th we will have one case, new construction, single-family dwelling and then the administrative board action for the administrative changes to the zoning code.

Chavez: For this document.

Montana: Yes, for this document. Right, clean up.

Morales: So we'll approve that and then in January we'll ...

Montana: Yeah.

Morales: Go really in depth and we'll have a lot more changes to that.

IV. Discussion of other items – No discussion items.

V. Adjournment

Meeting adjourned at 7:40 p.m.

Morales: Okay, so does anybody want to make a motion to conclude this study session?

Barrett: I make a motion to wrap up ...

Morales: Okay, all in favor please say aye.

ALL AYE.

Morales: Passed. Thank you for your time.

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Chairperson

PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
January 22, 2013 at 6:00 p.m.

BOARD MEMBERS PRESENT:
Charles Scholz, Chairman
Godfrey Crane, Vice Chair
Ray Shipley, Member
William Stowe, Member
Charles Beard, Secretary

BOARD MEMBERS ABSENT:
Donald Bustos, Member

STAFF PRESENT:
Katherine Harrison-Rogers, Senior Planner, CLC
Adam Ochoa, Planner, CLC
Carol McCall, Planner, CLC
Susana Montana, Planner, CLC
Mark Dubbin, CLC Fire Department
Rusty Babington, CLC Legal Staff
Becky Baum, Recording Secretary, RC Creations, LLC

DRAFT

I. CALL TO ORDER (6:05)

Scholz: Good evening and welcome to the Planning and Zoning Commission for Tuesday, January 22, 2013. We are beginning a little late today because we had a computer glitch; but I understand it's been worked on and it's working. Is that right? Wonderful! I'm Charles Scholz. I'm the Chair of the Commission.

II. CONFLICT OF INTEREST

At the opening of each meeting, the chairperson shall ask if any member on the Commission or City staff has any known conflict of interest with any item on the agenda.

Scholz: Before we begin we have a couple of housekeeping items. One of them is a Conflict of Interest Statement. Gentlemen, any conflicts of interest with the things we're going to discuss today? No. Okay. Staff, any conflicts? Evidentially not. All right.

Then I want to introduce the members of the Commission. On my far right is Commissioner Shipley. He represents Council District 6. Next to him is Commissioner Crane who is our Vice Chair at the moment and representing Council District 4. Next to him is Commissioner Stowe,

Commissioner Beard?

Beard: Am I voting?

Scholz: Oh, we need a motion. Yes. Sorry about that. Someone move to approve. Commissioner Stowe.

Stowe: Mr. Chairman, I move to approve Case No. SUP-12-06.

Scholz: Thank you. Is there a second?

Crane: Seconded.

Scholz: Okay. Stowe moved and Crane seconded. All right, I'll call the roll. Commissioner Beard.

Beard: Aye, based on findings, discussions.

Scholz: Commissioner Stowe.

Stowe: Aye, based on findings, site visit, and discussions.

Scholz: Commissioner Crane.

Crane: Aye, findings and discussion.

Scholz: Yes, Commissioner Shipley.

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

Scholz: Thank you, and the Chair votes no for findings, discussion, and site visit. So it passes five to one.

Crane: Four to one sir.

Scholz: I beg your pardon?

Crane: Four to one.

Scholz: Four to one. Thank you very much. We're only five here.

Crane: I think we need a new Chairman, frankly.

Scholz: Well, you can certainly elect one today.

6. **ZCA-12-01:** An ordinance to amend the Municipal Code, Article V, Section

DRAFT

38-49.2 South Mesquite Neighborhood Overlay Zone District to enact text changes which clarify existing provisions, standards, procedures, purposes and intent of the Overlay District and which are non-substantive in nature. Submitted by the Community Development Department.

Scholz: Okay, that brings us to our second item of new business and I've lost my ... oh here it is, here we go. This is ZCA-12-01, an Ordinance to amend the Municipal Code and, Ms. McCall, you're up.

McCall: Thank you, Mr. Chair, Commissioners. First of all I will just review ... you heard my presentation last week regarding this issue and so I want to just review the main points of that presentation and also summarize some of the discussion that was given last week over the administrative changes to the South Mesquite Overlay.

The Overlay was created in 2005, along with the North Mesquite Overlay. It created the South Mesquite Design Review Board that was tasked with looking at design-related cases on primarily historic buildings in the Original Town Site and the surrounding areas. It created the boundaries of the South Mesquite Overlay and, in addition, to design standards. It addresses specific land uses, development standards, parking, landscaping, and demolition. The content at the moment is loosely based on the 1981 Zoning Code. One of the changes that we are proposing through this amendment is to remove the reference to the 1981 Zoning Code, since it was repealed in 2001, but maintain the content and the meaning of the text that's in the Overlay itself. So even though the reference to the '81 Code would be taken away, the content that was in the 1981 Code carries through at this point, at any rate, to the Overlay in the 2001 Zoning Code.

It's used by the South Mesquite Design Review Board and the Community Development staff to primarily look at design- related applications and we're talking about the exteriors of the buildings, not the interiors for the most part. Typically, across the country historic preservation ordinances look at the exteriors of the structures and even more specifically, primarily to the street façade side and to a lesser extent the rear or side of the buildings. The Overlay is also used by Community Development staff looking at the same issues but issues that may not be listed as going to the South Mesquite Design Review Board.

What we found over the years is that it's difficult to interpret the Overlay sometimes because the text is inaccurate, there are a number of typos, the design standards are vague, and so it puts the staff and the Design Review Board in a bind sometimes when they have to interpret what is written on the page. It also creates some loopholes so that what is written on the page can be gotten around and the example that I used last week was the reference to design and development standards for garages. Carports aren't referenced but carports are a popular alternative to garages so if someone wanted to put a carport in, there are no design

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standards that specifically address that and although the application might be denied for valid reasons, under appeal it could be gotten around simply because the text does not include the word "carport."

What we found is that in reviewing the document is that a lot of these problems can be changed without changing the content or meaning of the document. There are some things that continue to be a problem and the South Mesquite Design Review Board, in addition to staff, have begun to address some of those more content related issues, specifically to design standards so that when an application does come in they can be ... Board members or staff can look specifically at the page and make a determination and not have to make an interpretation.

This is a map of the Overlay. This small area is the Original Town Site. In the Overlay this is referred to Area 2 and the boundaries of the Overlay are this larger area in black. The North Mesquite Overlay goes from Picacho/Spruce north; but the Original Town Site is completely contained within the South Mesquite Overlay. This is important because the South Mesquite Overlay contains design standards and the North Mesquite Overlay does not and it was primarily the South Mesquite neighbors who were very concerned about maintaining the historic integrity of the neighborhood, primarily because the Original Town Site is where it is. The North Mesquite neighbors were less concerned about that and so after the 2005 Mesquite Neighborhood Plan was adopted, which addressed provisions in both the North and South Mesquite Neighborhoods, the two groups essentially parted ways and that's why the two Overlays are different.

In the discussion last week the one thing that we went over, as I said, is that we wanted to remove reference to the 1981 Code because it was repealed in 2001. We did not address changes to the North Mesquite Overlay but we will be looking at these in subsequent reviews when we start looking at more content-based changes. The 1981 Zoning Code is still referenced in the North Mesquite Overlay, but at this time we didn't want to address that primarily because we thought it would require a longer discussion on the part of the neighbors in the North Mesquite area. They felt much more strongly that the 1981 Zoning Code needed to be referenced and so we thought that in the future, in the near future, in the process of making substantive changes to the South Mesquite Overlay we would look at that, too, and have a public meeting in which the neighbors in the North Mesquite area would be invited and we could discuss the 1981 Code and whether they still felt as strongly about it as they did then.

We did not have a public meeting about the administrative changes. There were several rounds of review with Community Development staff and with the membership of Las Esperanzas, the neighborhood association. In addition, the Design Review Board meetings and the Planning and Zoning Commission meetings are public input opportunities and we thought that if there people who had serious problems with the administrative changes which we did not expect, that

they would be addressed either through these meetings or because we'll be going through future revisions that they can be addressed at that time. Their concerns would not be ignored, in other words.

As I said, we will be continuing the amendment process this year to address the content and meaning, primarily of design standards, but also issues related to the Demolition section of the Overlay and Land Use section of the Overlay. One last thing that was pointed out to me was that in correcting a typo that was consistent through the document I created another typo and that's in the term "rights- -of way" which shows up several times under the Permitted Uses section, and so that will need to be corrected.

In addition, every time we change one section of the Municipal Code it leads to other changes that need to be made in other sections of the Municipal Code, and so, as part of this process we'll be going through the Zoning Code and the Subdivision Code and the Building Code; probably not Subdivision Code, but the Building Code and other sections of the Development Code itself just to make sure that any reference to the South Mesquite Overlay that were changed in the Overlay itself are changed in other parts of the document.

In addition, in the Boards and Committees section of the Municipal Code the duties of the South Mesquite Design Review Board are repeated in that section in the Non-Standard Board section. Because we've slightly changed the wording in the Overlay, it will have to be changed there. So we'll be combing through all of the other documents just to make sure that everything is addressed in all of them. One other nice thing about continuing this update process is that if we catch anything it'll give us another opportunity to find it again and correct it at that time.

As I said, we're starting the South Mesquite Overlay amendments to address content and meaning now. We started last week in the Design Review Board meetings and we'll be continuing through June and it's likely longer depending on how many public meetings we have, but we expect at some point this summer to come back with a draft to review with the Planning and Zoning Commission. Your options here tonight would be: to recommend approval of the proposed amendment to the City Council; to modify the proposed amendment in any way you see fit and recommend approval; to recommend denial of the proposed amendment or to make no recommendation and direct staff accordingly. I'd be glad to answer any more questions that you might have.

Scholz: All right. Questions, gentlemen? Yes, Commissioner Shipley.

Shipley: I just ... as I went through this again, I reread it again and there's one thing that I noticed since we spent quite a bit of time recently on child care: I noticed that there's no child care in the O-1 section. All other sections have child care as a condition of right. For example on V-204, 207, 209, 215, 218 they're all there but when you get to V-212, page 212, there's no

reference to child care. It's been left out. There is a residential use in an O-1 neighborhood, in an O-1 zone. There could be a child care there so I think that needs to be added.

And there was another question I had about the ... we talked about the International Fire Code limiting two and half years and younger up to five people for childcare and that was never mentioned in here; but I went to staff this morning and asked that question and just for the Commission's benefit I was told that since that is a fire law, the International Fire law, that you don't have to have that listed as a condition.

Dubbin: That's correct.

Shipley: Okay, I thought we missed that so I just wanted to let the Commission know that on research we found out we don't have to do that. But we do need to have in the O-1 section. We do need to have child care in there, as well.

McCall: Mr. Chair, Commissioner Shipley, we will be looking at land uses in the continued process of updating the amendment and I'll make sure that this is brought up. I'm not sure it's possible that in the 1981 Code that's the way it was listed and so that's the way the land uses got copied and pasted into this document but I'll make sure that we address it.

Shipley: Well, just for your record it's on V-212, page 212.

McCall: Okay. Thank you.

Scholz: All right, anything else? Okay, thank you, Ms. McCall. You are the presenter and also the applicant as it turns out, right? Okay. Let me ask: is there anyone from the public wishes to speak to this? Yes, sir, would you come up and state your name, please.

Binns: My name is Eddie Binns and I'm a taxpayer along with the rest of you. I just happened to be here for some other activity and this came up, I'm a property owner in this area, I believe, of some 85 - 90 apartments and it looks with an Overlay we're going to have another tier of government committees to review if I want to remodel or do something in this region. We've got enough review bodies and enough regulations and stuff on the record already without compounding more reviews. I'd ask you to think real seriously about putting another committee together to try to decide what ought to take place in some of these areas. There may be parts of the Mesquite area that's historical but there are some other parts on the south end that are not hundred-year-old structures but are included in that Overlay and if the situation is, maybe we back that boundary up so it doesn't include my property, so if I want to do some remodel or do some

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clean up I don't have to go through three or four committees to get the things done. But try to keep things as simple as possible. I have a hard time understanding myself sometimes and people that aren't in the business and don't deal with the City and such. I know they're totally confused if they want to come in and do a carport or something like that and have to do an appeal to get it where it's not permitted. Keep things simple, please.

Scholz: All right, thank you, Mr. Binns. Anyone else from the public wish to speak to this? Okay, I'm going to close it for public discussion. Gentlemen? Discussion? No? Okay, I only have one comment and that is for Mr. Binns' concern: this has been in effect since 2005, Mr. Binns, so we're not adding another layer of bureaucracy here. It already exists. Okay. If there's ... oh, another comment. Mr. Shipley.

Shipley: I just want to make a question: do I need to put that in as a condition that the O-1 be listed or looked at prior to approval? I mean, if we're going to recommend it should be correct before we make that recommendation.

Scholz: Ms. McCall.

McCall: Mr. Chair, Commissioner Shipley, what I would suggest, since it is not strictly an administrative change but a change in content, that we change it in the next round where we're addressing content and meeting the more substantive changes to the Overlay. However, it's possible that it is simply an oversight in the transferring of text and I would be glad to look into that. I don't see a problem either way.

Shipley: Well, I think the easiest way to do it is, we'll just make it a condition that you need to research it and if it's supposed to be in there that it's included in there and that'll be the only condition that we have, basically.

McCall: Okay.

Scholz: All right, anything else? Okay, I'll entertain a motion to approve ZCA-12-01.

Shipley: Mr. Chairman.

Scholz: Yes.

Shipley: I move to approve Case ZCA-12-01 with one condition, that on the O-1 on page V-212 the O-1, I believe it is ... South Mesquite O-1 Permitted Uses should ... excuse me, 1B, permitted uses with condition should also have the paragraph regarding child care.

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Scholz: Commissioner Shipley, on V-210 at the bottom of the page, it says, "child care center, nursery or similar use."

Shipley: Yeah, but that's on an R-4 area on 210.

Scholz: Oh, sorry.

Shipley: Okay. So that paragraph should be in there, the child care, nursery, or similar use, paragraph should be in there; but it should be on page V-211. It actually should be on V-212 because it's not, it's under Permitted Uses with conditions and should come after construction yard or building.

Scholz: Okay. I don't read it that way. I read that it is all under R-4 and what's the problem?

Crane: Chairman, I think the problem is that there are more than one "V-211," for example, in this package. There are at least two of them and I think Mr. Shipley and I are looking at different ones.

McCall: Mr. Chairman.

Scholz: Yes, Ms. McCall.

McCall: The page numbers are different in the track changes version and the clean version. That might be the confusion. There is an O-1 section.

Crane: Which group do you recommend we look at, Ms. McCall?

Scholz: Well we have the track change section or copy, don't we? Yes.

McCall: There's an O-1 section that explains the purpose of O-1 and then there are Permitted Uses and Permitted Uses with Conditions and I believe that that's the section that Commissioner Shipley is referring to. On the track changes version it's V-212 and V-213.

Scholz: Yes, there we go. Okay. All right, so you moved the acceptance of this or excuse me, the approval of this with that condition. Thank you. Is there a second?

Stowe: I second the motion.

Scholz: Okay, Stowe seconds. I'll call the roll. Commissioner Stowe.

Stowe: Aye, based on site visit, recommendations, and findings.

Scholz: Okay, Commissioner Crane.

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Crane: Aye, findings and discussion.

Scholz: Commissioner Beard.

Beard: Aye, findings and discussions.

Scholz: Commissioner Shipley.

Shipley: Aye, findings and discussion.

Scholz: And the Chair votes aye for findings, discussions, and site visit. Thank you very much, Ms. McCall.

McCall: Thank you.

Scholz: All right, seeing that it's 7:30 and we've been at this for an hour and a half, I'm going to call a 10-minute recess, we will resume at 20 minutes to eight.

7. **Case No. IDP-12-01:** Application for a Planned Unit Development (PUD) Concept Plan, using the Infill Development Process (IDP), to allow residential use on a 4-acre portion of a 26-acre parcel located at 1053 Hayner Avenue, Parcel ID #s, 02-02403 and 02-26348, in an M-2, Industrial Zoning District. The Applicant, Calcot Ltd., is seeking the residential land use authorization in order to quality for tax credit funding to construct 80 rental housing units, 60 of which would be affordable to low-income households. Council District 4 (Nathan Small).

Scholz: All right, our next issue is Case No. IDP-12-01, an application for a Planned Unit Development. Ms. Montana, you're carrying all the weight today.

Montana: No, no. Just a couple.

Scholz: Okay.

Montana: Thank you. For the record, Susana Montana. Mr Chair, Commissioners, you have before you an application for a Planned Unit Development Concept Plan. This Concept Plan would allow residential use in an Industrial District. It would request the addition of residential use at an R-3 density on a 3.6 to four acre parcel portion of two parcels, parcels 02-02403 and parcel 02-26348. These portions of the two parcels are part of a larger 26-acre property that is a former cotton warehouse and I'll show you in subsequent slides what condition that property is in. So what they're doing is, they're asking to build apartments on this industrial land but they want to continue to have all the permitted uses that the M-2

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PLANNING AND ZONING COMMISSION
WORK SESSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
January 15, 2013 at 6:00 p.m.

BOARD MEMBERS PRESENT:

Charles Scholz, Chairman
Godfrey Crane, Vice Chair
Ray Shipley, Member
William Stowe, Member

BOARD MEMBERS ABSENT:

Donald Bustos, Member
Charles Beard, Secretary

STAFF PRESENT:

Susana Montana, Planner, CLC
Carol McCall, Planner, CLC
Paul Michaud, Senior Planner, CLC

Becky Baum, Recording Secretary, RC Creations, LLC

I. CALL TO ORDER (6:00)

Scholz: Good evening and welcome to the work session for the Planning and Zoning Commission, Tuesday, January 15th, 2013. I might remind the people in the audience that this is a work session and so we don't allow people from the public to comment on it. It's just for the information to make us a little smarter, I think, and today we're going to hear from two of our people from the Community Development.

II. APPROVAL OF WORK SESSION MINUTES - NONE

Scholz: I see we have no approval of work session minutes. I'm not sure why that is, possibly because no one knows where it is, but that's all right.

III. NEW BUSINESS

1. **ZCA-12-01:** Discussion of a recommendation to the City Council to adopt an ordinance to amend the Municipal Code, Article V, Section 38-49.2 South Mesquite Neighborhood Overlay Zone District to enact text changes which clarify existing provisions, standards, procedures, purposes, and intent of the overlay district and which are non-substantive in nature. Submitted by the Community Development Department.

Scholz: So our new business, our first piece of new business, is ZCA-12-01, discussion of a recommendation to the City Council to adopt an Ordinance to amend the Municipal Code and Ms. McCall is going to give us a presentation on it. Nice to see you again, Ms. McCall.

McCall: Mr. Chairman, Commissioners. Thank you. It's nice to see all of you, too.

Scholz: Commissioner Crane.

Crane: I have left my package at home. In fact I couldn't find it in the move. Does anybody have an extra? I have the minutes, pardon me, the agenda.

Scholz: But you don't have the SMO as we say here.

Crane: This has never happened before, to me.

Scholz: No it hasn't. As a matter of fact I commented to Commissioner Crane that his sense of loyalty and duty and that sort of thing made me believe that even though he hadn't responded to his mail or his phone, he was going to be here tonight, and there he is.

Crane: Oh, I like to turn up even if I have nothing to say.

Scholz: Okay, we're through with our levity now. We'll listen to Ms. McCall make a presentation.

McCall: Okay, thank you, Commissioner Scholz and members of the Commission. The South Mesquite Overlay was created or adopted in 2005. It was adopted in 2005 along with the North Mesquite Overlay and it, among other things, created the South Mesquite Design Review Board. It created boundaries for the South Mesquite Overlay and it created regulations for land uses, development standards, permitted uses, parking, signs, landscaping, and demolition.

I just wanted to point out the boundaries of the overlay. They are shown in black. The northern boundary is right here and it roughly follows the boundaries of the state and federal historic districts. The state district does go into the North Mesquite Overlay shown here in purple. The South Mesquite Overlay is used by the South Mesquite Design Review Board as well as Community Development staff to determine the appropriateness of design related applications. Primarily, we're dealing with the exteriors of historic structures in the South Mesquite Overlay, although it does also deal with development standards from time to time: variances, infill, special use permits, that sort of thing.

When the Overlay was written we really had no experience in

design standards for Historic Districts and it was one of the first overlays to have a design review board. The other one is the University District. So no one could really anticipate how well the Overlay would function and, as it turns out in the last few years, what we have discovered is that it doesn't function very well. So we decided to do two sets of amendments: the first being administrative changes that could be done fairly quickly and would close some of the loopholes in the language, make it a little bit easier to administer, and sort of make some of the definitions a little more concise. These were things that could be done without actually changing the content or the meaning of the Overlay and would give us some time while we were working on longer range, content related issues to tighten the Overlay up just a little bit.

So what I will do is just give you some examples of some of the things that we changed. This is by no means a comprehensive list. Some things were just related to clerical errors. We found a few typos and we corrected those for example. Consistently the term "rights-of-way" was actually listed as "right-or-way," so we corrected that. There were two section "Ds" in the document and there was no section "F" in the document, so we corrected that. We changed some of the abbreviations referring to the 2001 Zoning Code as Amended instead of the Las Cruces Municipal Code, and just abbreviating the Design Review Board to DRB.

Then we changed the map. The original map, as you can see, doesn't have very many streets on it, just a small handful and it's relatively difficult to find your way around the Overlay just on the basis of this map. So we updated the map and labeled all the streets. We also labeled Area 1 and Area 2. Area 2 is the original town site and that roughly follows the Federal Historic Districts with some slight variations. Originally the Overlay didn't have an Area 1 and I'm not exactly sure why the original town site was called Area 2, but that was how it has historically been. So we just added Area 1 being the area within the Overlay, but outside the original town site. Then we also corrected some errors: the 1981 Zoning Code is referred to, and as you know, it was repealed in 2001 and is no longer in effect. There's also reference to A-2 zoning which was part of the 1981 Code and is no longer a valid zoning district, so we removed it.

Then we closed some of the loopholes and again, I'll just give you a couple of examples: in the one item regarding garages, it doesn't mention carports and since carports are a relatively inexpensive and popular alternative to garages, we wanted to make sure that they had the same development standards. We also included the words "wood or other natural materials" to the types of materials that could be used in new construction and remodeling projects since there already are structures in the neighborhood that are made of wood or other natural materials that are not adobe, brick, stone, lime, plaster, or stucco. So we wanted to make sure that we had a comprehensive list. With fences we included walls because fences are often times controversial depending on how they're constructed and what they're made of and we wanted to make

sure that we're consistent again with the development standards.

We also changed the basic outline of the overlay, the table of contents, if you will. Permitted Uses, instead of being listed under Development Standard, Permitted Uses is given its own section. The Design Review Section is rearranged: there are Design Criteria and Design Standards. Those are distinct design criteria being suggestions or recommendations that are taken from the Secretary of the Interior's Guidelines for Historic Preservation. Then we have very specific standards such as window types, roofs, façade, that sort of thing so we changed a little bit of the nomenclature to make it match what we really work with on the ground. We gave the Appeals section portion its own section because it was listed under the Design Review Section, which made it specific to that section and we wanted it to apply universally to the entire Overlay.

The one, I suppose, main change we made is, in the original text it describes what the South Mesquite Design Review Board is supposed to do but it doesn't really. If you read the text it says, "The Design Review Board shall review and have final authority on any new structure and/or any one time or cumulative addition to the existing primary structures in Area 2 or for any significant or contributing structures listed on the historic register in Area 1." That's pretty wide open. It doesn't tell you anything about what the Review Board actually is supposed to address. So we itemized those things to address the exterior design of all new construction in Area 2, that's the original town site, and the design of exterior construction on additions in Area 2, and the design of exterior additions or alterations to historic structures in Area 1. There are quite a few historic structures in Area 1, but as you get farther away from the original town site there are fewer and fewer of those.

What we would like to suggest is that we have a discussion tonight and I'll answer any questions you may have and make any changes that you would recommend to the Overlay, in addition to what's already been done, and then we'd like to come back next week to present this to the Commission for recommendation to Council. If you prefer or would like further discussion on the changes that you would like to propose and take a little bit more time, we would be glad to come back in February.

As I mentioned, this is the beginning of a longer updating process and later this week the South Mesquite Design Review Board is meeting and we will be starting the process of really investigating the Overlay, looking at the Design Standards in much more detail and getting input from the Board since they're the ones that have to administer the Design Standards primarily, and getting exactly what they would like to see changed in the document. We'll have input from the neighborhood association, which is Las Esperanzas, and it will involve Susana Montana and I, as well as internal staff review through the ZRT process. With that I'll conclude and I would be glad to answer any questions.

Scholz: All right. Thank you very much for your presentation. Questions? Commissioner Shipley.

Shipley: I did notice in there that you made reference that the South Mesquite and the North Mesquite split over differences of, I guess, design considerations. However, that was done, what 2005,—when that happened? Has there been any meeting of the minds since then where this could be consolidated and we could have one set of Standards that pretty much covers all of that?

McCall: Mr. Chair, Commissioner Shipley, no there has not. We actually get very few issues related to the North Mesquite Overlay. Their original concern is that they did not want design standards to dictate construction, renovation, or alternations, additions to the structures in the North Mesquite area. They did feel strongly that they wanted to adhere to the 1981 Zoning Code in terms of Development Standards and permitted uses. So, across the board what we're trying to do is find references to the 1981 Code itself and get rid of those even though we may leave the content intact. So in the North Mesquite Overlay, for now, there is a long list of permitted uses and those are based on the 1981 Code. Those will stay the same.

The South Mesquite Overlay: what we will eventually recommend is that we eliminate the list of permitted uses and simply reference the uses in the 2001 Zoning Code. It was more important to the North Mesquite neighborhood than to the South Mesquite neighborhood to follow the 1981 Code. So I think that will probably come out through the public input process. We're expecting to have at least one public meeting and then, of course, the South Mesquite Design Review Board meetings will be open to the public. So there were a few people in the North Mesquite area that felt strongly at the time. It's possible that now that they see how the South Mesquite Overlay functions and how the North Mesquite Overlay functions, that they may not have the same issues that they did then, so we'll have to visit those issues as we progress with the content changes. Does that answer your question?

Shipley: Yes, but it seems that you know we're trying to deal with, you know, a Code that's been, you know, abolished, basically. The 1981 Code's been repealed and we're under that so, you know, even though they want a different set of Design Standards I understand that, but they still need to comply with the Code because we still can't do things, you know, that same way. So I was just wondering why we weren't addressing that now. Have you looked at both sets of Code and is there that much difference?

McCall: Actually the North Mesquite Overlay does not have Design Standards. It's just the Development Standards and the Permitted Uses so we haven't looked at it yet. I had originally thought that changes that were made to

the South Mesquite Overlay that were consistent with portions of the North Mesquite Overlay could be addressed at the same time. I had originally intended to take out the reference to the 1981 Code in the North Mesquite Overlay and I was advised by the senior staff in our department to wait on that because it was the North Mesquite neighborhood that felt more strongly about adhering to the 1981 Code and they thought that that specific issue might require a public meeting. With the administrative changes we didn't have a public meeting. We went to the DRB. We, well, did an internal review through ZRT and then we went to the Design Review Board and through that Las Esperanzas had their input.

So, I don't really know at this point what kind of conflicts there will be with the changes, but what I would like to see is consistent changes in the North Mesquite Overlay and the South Mesquite Overlay. Another reason for that is that eventually we will be looking at the issue of a citywide Preservation Ordinance at some point in the future, how near or far I have no idea. But all of the overlays that govern individual neighborhoods will have to be in line with any kind of citywide umbrella Ordinance.

Shipley: Thank you.

Scholz: All right. Commissioner Crane, comments, questions?

Crane: No sir.

Scholz: Commissioner Stowe.

Stowe: No.

Scholz: Okay I just had one and I was curious why ... I can understand the street map changes and things like that; why weren't some of these references to the original Code, you know, caught when this Overlay was written or created? I wasn't here, of course, and I don't know if you were.

McCall: Mr. Chairman, I was not. I came into the process after the Overlay had already been adopted and worked with it as it was presented and it was actually my first experience with historic districts and so I've learned as I've gone along. A lot of these things came to my attention before they came to the attention of the Board and so we just decided it was time to start looking at it in more detail.

Scholz: Well, I think it's a good clean up and I was looking through and I found a couple of, you know, minor typos and things like that. But the only one that came to my attention was the use of, and it's on page V205, it says "rights-of-way, rights-of-way," and I think that occurs several times and, you know, it's just one of those. So a close reading obviously will take that

out.

McCall: Thank you. In my correction I made a mistake so I'll make sure that that's taken care of.

Scholz: All right. All right, gentlemen, anything else? Yes, Commissioner Shipley.

Shipley: I wanted to say first of all, Carol, that I really like the fact that you did the red line presentation to show us what had been stricken because I read what it was at first and then looked for that red line and that really helped clarify 'cause then you could flip back and forth and examine it. The one thing you said tonight, though, is that have the South Mesquite residents not been involved in this? You said there were no public meetings. Have they looked at this other than the Design Review Board?

McCall: No. We had ZRT, several rounds of ZRT input, staff input and then we had a work session at the DRB, which is open to the public, and then a month later the vote. Las Esperanzas was the principal party involved in the drafting of the original Overlay and there are now ... well, there are two members of Las Esperanzas on the Board, although one of them is in the professional category as an adobe restorationist and the other one is a resident. But both of them have been involved in looking at the Overlay in a lot of detail to see what kinds of changes need to be made and the kinds of changes that the neighborhood association would like to see. So we will be looking at those as part of the content based changes in the future.

To be honest I was a little surprised when we presented the administrative changes and got no input from Las Esperanzas in terms of additional things that they wanted to see changed. I did expect some resistance in removing the reference to the 1981 Code, and they were perfectly happy with that. So, based on the reaction that I got from Las Esperanzas, I decided not to go to public meeting and primarily because it was an administrative; most of the changes were clerical and administrative. If there had been anything that I thought was content based, I certainly would've, but there were a lot of suggestions that were made to this specific document over the course of the months that we worked on it and I was really careful to put anything content related aside because I knew that it would be controversial and would require much more detailed discussion.

Shipley: But I guess I'm just concerned, you know, that's why we did the Overlay so that the residents there could be involved in that and that was their charter and if they weren't involved, you know, through the public meeting process then we're not really giving them the transparency that we ought to be giving them and I would be concerned with that.

Scholz: Well, Commissioner, of course we're going to have a public meeting on

next Tuesday to discuss this document; that is, you know, to say yea or nay about it and at that time I expect there will be people from the public who will want to testify about it. Personally, I would rather see a finished document done administratively and then presented to the public rather than asking the public for changes because most people don't have the interest or the expertise, you know, to even suggest things like this and I think that's what Ms. McCall discovered. Anything else? All right. Thank you very much.

McCall: Thank you.

Scholz: We'll see you next week.

2. **Comprehensive Plan Update**

Scholz: All right next up is a comprehensive plan update by Mr. Michaud.

Michaud: Good evening, Mr. Chairman, members of the Commission. For the record, Paul Michaud, Senior Planner with the City and I'm going to be giving you an update of kind of where the staff is on the revisions to the Comprehensive Plan. As you are aware, our present Comprehensive Plan is from 1999 and that's the plan that we're working under today. We did present to Council in October, as your staff packet states, regarding where we think we're going forward with the revision process and, in essence, the presentation that I'm going to be giving you tonight kind of follows the same presentation format that we gave to Council back in October with a few little additional updates since we've obviously moved a little bit further in the process.

Just going over some of this is obviously refresher for you since you do work with the Comprehensive Plan as you get projects through the staff reports, through current planning. But what is the purpose of a Comprehensive Plan? There are several purposes: one is to set policy related to the use and physical development within the City limits; a second to serve as a guide on financing and capital improvements which really falls mostly to the Council and the executive section of the City; to foster coordinated and harmonious development. That language really pulls directly from the City Municipal Code as well as New Mexico State Statute and, of course, Comprehensive Plan is to look long range at various growth and development patterns.

Looking at State and Municipal Code: first looking at the State Statute for New Mexico Comprehensive Plan as it exists today is not mandatory. They are mandatory in certain states but not in our state. But if you do do a Comprehensive Plan it would need to confoirm to your zoning ordinance. There is some proposed legislation that's being pushed by the American Planning Association to make changes to the state statutes but those changes really are very minor; they're very

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COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of April 1. 2013
(Ordinance First Reading Date)

For Meeting of May 6, 2013
(Adoption Date)

TITLE:

AN ORDINANCE TO AMEND THE MUNICIPAL CODE, ARTICLE V, SECTION 38-49.2 SOUTH MESQUITE NEIGHBORHOOD OVERLAY ZONE DISTRICT TO ENACT TEXT CHANGES WHICH CLARIFY EXISTING PROVISIONS, STANDARDS, PROCEDURES, PURPOSES AND INTENT OF THE OVERLAY DISTRICT AND WHICH ARE NON-SUBSTANTIVE IN NATURE. SUBMITTED BY THE COMMUNITY DEVELOPMENT DEPARTMENT, CASE ZCA-12-01.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes ☐ No ☒

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	[signature]	528-3209	3/13/13
Department Director	[signature]	X-3067	3-13-13
Other			
Assistant City Manager /CAO	[signature]	2078	3/13/13
Management & Budget Manager	[signature]	2107	3/13/13
Assistant City Manager/COO	[signature] For BD	2550	3/14/13
City Attorney	[signature]	2128	3/19/13
City Clerk	Esther Martinez-Carrillo	X2115	3/22/13

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