City of Las Cruces®

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Council Action and Executive Summary

Item # 12 **Ordinance/Resolution#** 2686

For Meeting of July 15, 2013 (Ordinance First Reading Date) **For Meeting of** August 5, 2013 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☒ LEGISLATIVE ☐ ADMINISTRATIVE

TITLE: AN ORDINANCE REPEALING AND REPLACING THE 2006 LAS CRUCES SUBDIVISION CODE, AS AMENDED FOR INCORPORATION OF NEW AND REVISED PROVISIONS RELATED TO PUBLIC NOTIFICATION. SUBMITTED BY THE CITY OF LAS CRUCES (CASE SA-13-01).

PURPOSE(S) OF ACTION:

Increase public notification requirements in the 2006 Las Cruces Subdivision Code.

COUNCIL DISTRICT: All		
Drafter/Staff Contact: Vincent M. Banegas	**Department/Section:** Community Development/ Administration	**Phone:** 528-3064
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

During the first quarter of 2012, the Planning and Zoning Commission, along with the City Council, requested examination of and potential amendment to increase public notification requirements for planning and development related cases. In response to this request, two City Council work sessions were held on March 26 and September 24, 2012. After much discussion, consensus was reached on proposed amendments that will:

1. Make agenda posting, newspaper advertisement, property sign posting, neighborhood group notification and mail-out letter notification all a minimum 15 calendar day notification period.
2. Reduce certified mail for mail-out notice while increasing the use of standard first class mail; consistent with State Statues.
3. Increase the mail-out notification boundary from a 200 foot requirement to a new 500 foot standard.
4. Increase the notification boundary identified in the City's Neighborhood Association Information and Notification Policy from 200 feet to 500 feet, to also include other types of neighborhood groups.
5. Require development pre-application meetings for determination of need for earlier public notification.

6. Establish content for early notification letter and specifically require the extension of an opportunity to discuss the proposal to noticed group(s)/area residents.

As a follow-up to the consensus reached at City Council on these issues and the unanimous recommendation for approval by the Planning and Zoning Commission at their April 23, 2013 Regular Meeting, this CAES packet specifically identifies all related amendments and supporting material to the 2006 Las Cruces Subdivision Code, as amended. Key documents contained herein include the proposed amendments for Council action identified as Exhibit "A." The same information in legislative format or "text change" format is part of the staff packet for the Planning and Zoning Commission meeting of April 23, 2013, listed as Attachment "A" for this CAES.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Proposed 2013 Las Cruces Subdivision Code.
3. Exhibit "B", Findings.
4. Attachment "A", April 23, 2013, Planning and Zoning Commission Staff Report for Case SA-13-01 (Zoning and Subdivision Codes in legislative format).
5. Attachment "B", Approved Minutes, April 23, 2013, Planning and Zoning Commission Regular Public Hearing.
6. Attachment "C", Approved Minutes, March 19, 2013 Planning and Zoning Commission Work Session.
7. Attachment "D", Packet and Minutes from September 24, 2012 City Council Work Session.
8. Attachment "E", Packet and Minutes from March 26, 2012 City Council Work Session.

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 approve the proposed repeal and replacement of the 2006 Las Cruces Subdivision Code, as amended implementing a more robust public notification process in the new 2013 Las Cruces Subdivision Code.
2. Vote "No"; this will not approve the proposed repeal and replacement of the 2006 Las Cruces Subdivision Code, as amended, and will keep the existing provisions in place.
3. Vote to "Amend"; this could allow Council to modify the Ordinance as deemed appropriate. The Council could alter specific provisions for inclusion in an approval action.
4. Vote to "Table"; this could allow Council to table/postpone the Ordinance and direct staff accordingly.

REFERENCE INFORMATION:

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

1. N/A

COUNCIL BILL NO. 14-001
ORDINANCE NO. 2686

AN ORDINANCE REPEALING AND REPLACING THE 2006 LAS CRUCES SUBDIVISION CODE, AS AMENDED FOR INCORPORATION OF NEW AND REVISED PROVISIONS RELATED TO PUBLIC NOTIFICATION. SUBMITTED BY THE CITY OF LAS CRUCES (CASE SA-13-01).

The City Council is informed that:

WHEREAS, the City of Las Cruces is seeking to improve its public notification processes for planning and development related cases; and

WHEREAS, the City Council following two work sessions on March 26, 2012 and September 24, 2012, provided input and direction on how improvement can be achieved based on staff research and presentation of ideas; and

WHEREAS, the proposed changes increase opportunities for involvement on related cases through early notification and more direct involvement of neighborhood groups and/or residents of the noticed area; and

WHEREAS, the increased notice provisions place equitable responsibility on all stakeholders (City, applicant and neighborhood group/residents of noticed area) to the extent possible.

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

(I)

THAT changes outlined pursuant to Exhibit "A," attached hereto and made part of this Ordinance, are hereby approved.

(II)

THAT said action is based on the findings contained in Exhibit "B," attached hereto and made part of this Ordinance.

(III)

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

DONE AND APPROVED this_____ day of _____ 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

Exhibit 'A'

CITY OF LAS CRUCES

SUBDIVISION CODE

(Chapter 37, Las Cruces Municipal Code)

DRAFT

Adopted: March 27, 2006

Printed: April 2006

CITY OF LAS CRUCES
SUBDIVISION CODE

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ARTICLE I: GENERAL PROVISIONS

Sec. 37-1. Introduction.

This chapter applies to anyone wishing to divide a parcel of land into two or more parts or to eliminate or adjust lot lines between two or more existing parcels. The required information and the steps to be taken vary and depend on certain characteristics of the proposal, such as the desired number of lots, the intended use of each, the location and legal description. The following information will help determine the process and the requirements necessary for dividing the property.

Why subdivide? People subdivide land for many reasons, the most common being for resale. For example, you may wish to sell a portion of your land to another person. Other reasons for subdividing land might include such transactions as long-term leasing or the mortgaging of a portion of a lot. In order to accomplish any of these, it is necessary to follow the procedures outlined in this chapter.

What is a subdivision? Just as there are many reasons for subdividing land, there are also many ways to subdivide. Some subdivisions consist of just one to two lots and can utilize the alternate summary process. Others consist of hundreds of lots to be developed in phases of a few lots at a time and must follow the processes as illustrated by this chapter's procedures for master plans, preliminary plats, and final plats. A subdivision proposal may contain multiple lots but also may change the uses of the property as well. When a subdivision is proposed in the central part of the city to utilize existing roads and utilities, it may be possible to use the infill subdivision process. Often subdivisions propose to change something about property that has already been subdivided; this would be considered a replat, as defined in this chapter's section on replats.

Subdivisions come in a variety of shapes, sizes, uses and locations. Many require the construction of streets, sidewalks or other improvements to serve the lots created; while some utilize existing infrastructure. Therefore, this chapter provides four basic processes to suit the wide variety of possibilities involved in subdividing land; the alternate summary process, Replat, infill subdivision process and major subdivision process.

One or two lots. The alternate summary process (article VI) and replat (article VI and VII) are followed when a subdivision of land consists of no more than two lots. While larger subdivisions consisting of three lots or more are required to be approved by the planning and zoning commission at a public hearing, the alternate summary process is intended to streamline the processing of small subdivisions by allowing them to be approved administratively.

In the central part of the city. The infill subdivision process (article V) is designed to make desirable the development of vacant land in the central part of the city. The boundary of the infill area is generally bordered by Interstate 25, University Avenue, Valley Drive, and North Main Street. All subdivision proposals within this boundary would be considered infill subdivisions. There are two methods of processing subdivisions within the infill area. One is the infill development process, an expedited procedure which allows variances, special use permits, and other land use issues to be addressed. The second method is the infill subdivision method, also an

expedited method for subdivision-related cases only and for properties which do not qualify to use the infill development process. See article V, infill subdivision process, for more details regarding these two processes. Subdivision proposals in the infill area consisting of just one or two lots may follow the alternate summary process.

Major subdivisions. A subdivision that does not meet the criteria under the alternate summary process, Replat procedures or infill subdivision process is considered a major subdivision. This name is somewhat deceiving in that a major subdivision may range from just three lots to a multi-phased development consisting of hundreds of lots. The typical major subdivision is required to follow both the preliminary plat (article III) and final plat (article IV) procedures. More complex proposals, such as phased development, development with multiple land uses and large developments (over 40 lots), will be required to follow the master plan (article II) process in addition to the preliminary and final platting processes. The master plan is also required when a property owner with property outside the city wishes to annex his/her property into the city limits.

City subdivision process. No matter which type of subdivision you may be proposing, the basic process is the same. The subdivision plat must be prepared by a surveyor licensed to practice in the state. The subdivision plat and related materials will be submitted to the city community development department. The city's subdivision administrator will review the materials and, if complete, accept the submittal for formal staff review. The proposal is distributed to various city departments and other governmental agencies for review and comment. These comments, if applicable, are returned to the consulting surveyor to be addressed. Once all comments have been addressed, the subdivision administrator will schedule the proposal for approval consideration by the appropriate body. Depending on the type of subdivision, the approval consideration may come from the subdivision administrator, the development review committee, or the planning and zoning commission.

Once the final plat is approved, you can proceed to construct any required improvement necessary to allow the plat to be filed in the county courthouse. It is possible to provide a form of financial security to cover the cost of the required improvements in order to file the plat before completing roads and utilities. The city's subdivision administrator will oversee the proposal from the time it is submitted until the plat is filed and/or all improvements are constructed.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-2. The title of this document.
This chapter shall be known and shall be cited as the "Subdivision Code" of the City of Las Cruces, New Mexico.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-3. The purpose of this chapter.
The purpose and intent of this chapter are to promote the health, safety, convenience and general welfare of the citizens of the city through the implementation of a readable and understandable set of subdivision regulations outlining the processing of subdivision applications. More specifically, provisions of this chapter are designed to achieve the following objectives in newly-subdivided areas:

- Ensure orderly, efficient and integrated development within the city pursuant to guidelines established by the elements of the city comprehensive plan and all other applicable city policies, rules and regulations.
- Promote proper street location, width and design in order to facilitate vehicle circulation and to minimize adverse growth impacts in accordance with the metropolitan planning organization (MPO) transportation plan, the transportation element of the comprehensive plan and city design standards.
- Provide for the protection and preservation of natural resources and the promotion of natural beauty within the city.
- Provide for adequate air circulation, lighting, public open spaces, utility services, traffic movement, drainage and public facilities.
- Ensure that proposed development is suitable for a given parcel of land, based on its location and environmental characteristics.
- Strive for a customer service approach to subdivision application processing.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-4. The city authority to require subdivision regulations.

A. This chapter is created and adopted pursuant to the authority set forth in NMSA § 3-19-6, as amended, and shall be applicable to all property within the corporate limits of the city, except for state and federal land being used for public purposes.

B. The city council, the planning and zoning commission, the development review committee (DRC) and the subdivision administrator (SA) are the review and/or approval bodies for this chapter to regulate the subdividing of land within the corporate limits of the city.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-5. Severability.
If any article, section, paragraph, sentence, phrase or part of this chapter is declared unconstitutional or otherwise invalid, the remaining portions shall not be affected.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-6. Interpretation and conflict.

A. *Minimum requirements.* The provisions of this chapter shall be considered to be the minimum requirements to meet the purpose expressed in section 37-3 of the Code; nothing herein prohibits the review/approval bodies from imposing greater requirements to ensure the promotion of health, safety and welfare of the citizens of the city and to achieve the goals and objectives of the comprehensive plan.

B. *Local conflict.* Where the provisions of any local ordinance or regulation impose greater

restrictions than those of this chapter, the provisions of such document shall prevail.

C. *Federal and state conflict.* Any provisions of U.S. or state law that impose a greater duty, standard or requirement than those contained herein shall supersede the provisions of this chapter.

D. *Conflict within this chapter.* When two or more provisions of this chapter are in conflict, the most restrictive provision shall apply.

E. *Interpretation of meaning.* The subdivision administrator shall interpret the meaning of the provisions of this chapter. Disagreement with an interpretation may be appealed to the development review committee. The decisions of that committee may be appealed to the planning and zoning commission, and the commission decision may be appealed to the city council.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-7. Repeal.

All subdivision regulations of the city effective prior to the adoption of this chapter are hereby repealed. Such repeals shall not affect nor prevent the prosecution or punishment of any person for the violation of any regulations repealed for an offense committed prior to the repeal.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-8. Changes and amendments.

This chapter may be changed and amended by the city council. Such changes or amendments shall not become effective until after a public hearing has been held on the amendments by the planning and zoning commission and recommendations from the commission have been forwarded to the city council.

A. Notice Requirements:

1. Agenda - The agenda for Planning and Zoning Commission meetings shall be available no later than fifteen (15) calendar days prior to the meeting.

2. Notice - Notice regarding the time and place for the Planning and Zoning Commission public hearing shall be published at least fifteen (15) calendar days prior to the meeting. in a newspaper of general circulation in the City.

3. Notice of the City Council public hearing regarding proposed changes and agenda availability shall follow the City Clerk time frames and processes.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-9. Penalties.

A. *Penalty for use of unapproved or unrecorded plat.* Any owner, or agent of the owner, of any land located within the city who transfers or sells such land prior to approval and recording of the necessary plat with the county clerk, as required in this chapter, shall be deemed guilty of a misdemeanor, and upon conviction shall be penalized in the manner

prescribed by law. The description of the land by metes and bounds in the instrument of transferring of land shall not exempt parties to the transaction from such penalties.

B. *Penalty for improper recording.* Any person who records with the county clerk any plat in violation of this chapter shall be deemed guilty of a violation of this chapter and of state law, and upon conviction shall be punished by a fine of not less than $100.00. Also, all city-provided utilities and services may be withheld or withdrawn from the property until such time as this chapter is complied with. (Ord. No. 1798, § I, 6-19-00)

Sec. 37-10. Fees.

A. A fee is required to offset the costs associated with processing and reviewing the subdivision application, excluding subdivisions processed through the infill development process.

B. All fees related to this chapter shall be adopted by resolution of the city council.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-11. Processing subdivision applications.

A. Following all prerequisite steps identified for the application types that are listed elsewhere in this code, subdivision applications including submittal materials and fees are to be submitted to the community development department. The subdivision administrator will review the submittal and, if accepted, the submittal will be processed for review. When the review process is completed, the subdivision administrator will schedule the submittal for consideration by the appropriate review/approval officials or bodies and follow the submittal through to final action.

B. Notice of decision. Upon making a recommendation to the city council or taking final action on matters for which the planning and zoning commission has been granted final authority, the community development department shall promptly:
   1. Prepare a written decision that includes an order and a statement of the factual and legal basis for the order:
      a. Recommending the granting or denying of relief; or
      b. Granting or denying relief.
   2. File the written decision with the city clerk.
   3. Send by certified mail, to all parties whose rights will be determined by the decision, a document containing original signatures that includes a copy of the written decision of the planning and zoning commission. Also, this document shall state the requirements for filing an appeal.
   4. Send by regular mail, or otherwise provide a copy of the document that includes a copy of the written decision of the planning and zoning commission to every person who has filed a written request with the community development department for notice of the decision.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-12. Review/approval bodies.

The city council, the planning and zoning commission, the development review committee

(DRC) and the subdivision administrator (SA) are the review/approval bodies of this chapter. Depending on the type of subdivision application submitted, any of the four review/approval bodies may be the one to grant final approval of the subdivision submittal.

A. *Subdivision administrator.* The subdivision administrator is a representative of the city whose objective it is to simplify the subdivision process for the applicant, while at the same time addressing all concerns related to the proposal on behalf of the city. The SA is the source of information for the general public, the development community and the staff regarding the subdivision process and its requirements. The SA shall facilitate the processing of all subdivision submittals from preapplication meetings to final acceptance of subdivision improvements.

1. *Authority of the subdivision administrator.* The SA shall have the authority to waive or add submittal requirements in cases in which it is determined that the additional information is necessary to accomplish the objectives of this code. Waiver of engineering/utilities-related submittal requirements shall require the concurrence of the public works director or the utilities director, as appropriate. The SA shall justify, in writing, his/her request for additional submittal requirements.

   The SA shall have the authority to determine the applicability of comments returned by the reviewing staff and to override such comments if it is determined that the comments do not apply to the type of submittal under consideration or that it is inconsistent with city policy, rules and/or regulations. The SA may, with concurrence from the development review committee, approve subdivisions processed through the alternate summary procedure.

2. *Responsibilities of subdivision administrator.*
   a. Address questions from the general public/developers/consultants and staff related to all areas of subdividing/developing land.
   b. Ensure that all notification measures are carried out pursuant to applicable provisions either codified (Subdivision Code) or within approved policy.
   c. Accept or reject submittals.
   d. Facilitate communication between reviewers and developers/subdividers/consultants.
   e. Resolve issues/problems arising from a staff review of a subdivision.
   f. Schedule meetings and prepare agendas for the development review committee.
   g. Prepare staff recommendations and reports for cases requiring planning and zoning commission approval.
   h. Monitor the progression of construction activities in subdivision improvements and associated performance guarantees or similar agreements through final inspections and acceptances of subdivisions.
   i. Identify, as staff liaison to the development review committee, the subdivisions that are required to be reviewed by the development review committee.

B. *Development review committee.* The development review committee (DRC) is a formal group of representatives employed by the city or its representatives empowered to act on

behalf of their respective departments on subdivision development related applications.

1. Membership of the development review committee shall consist of at least one representative from each of the following:
   a. Public works department;
   b. Community development department;
   c. Utilities department;
   d. Fire department;
   e. Facilities department;
2. The purposes of the development review committee are:
   a. To identify and address major issues that may affect a proposal, and to provide general oversight of the reviews of subdivision- and development-related proposals;
   b. To resolve conflicting comments, recommendations, and design differences between reviewing departments and subdividers/developers regarding planning-related issues that have been appealed from the decision of the subdivision administrator.
   c. To make recommendations to the planning and zoning commission for approval, conditional approval, denial or postponement of master plans, preliminary plats and final plats.
3. Authority and procedure of the development review committee. The development review committee shall have final authority for approval of infill concept plans, alternate summaries, and replats that do not increase the number of lots in an existing subdivision. The development review committee's decision shall be final unless it is overruled by appeal to the director or directors responsible for the area of disagreement and/or further appealed to the planning and zoning commission or city council.

   The development review committee shall meet at the same time each week as needed to review subdivision application submittals, potential submittals or other development-related issues that may require DRC review. The notice of the DRC meeting shall appear in the public meeting schedule. The subdivision administrator shall set the agenda for DRC meetings and abide by all notification requirements pursuant to approved policy. Minutes will be taken during DRC meetings and will become available to interested parties in the form of staff review comments.

C. *Planning and zoning commission.* The planning and zoning commission is a seven-member board appointed by the city council.

1. Authority of the planning and zoning commission:
   a. Final authority on master plans, preliminary plats and, as appropriate, final plats and on all issues referred to the Commission by the development review committee.
   b. Recommendation to city council on amendments to this chapter.
   c. The commission may recommend that any subdivision proposal be reviewed by the city council.
   d. All other authority is granted to the commission in accordance with section 38-66 of the city municipal code, and ordinance no. 1267.

2. A notice of the decision of the planning and zoning commission shall be provided in accordance with section 37-11(b).

D. *City council.* The city council is a seven member board of elected officials that is the governing body of the city.
   1. Authority of the city council. The city council, as it pertains to this chapter, has the authority to:
      a. Resolve appeals of decisions made by the planning and zoning commission and the development review committee.
      b. Grant final approval of amendments to this chapter.
      c. Grant approval of any development proposal in which the planned unit development process is used or any proposal in which a planning-related waiver greater than 15 percent of the required standard is requested.
   2. A notice of the decision of the city council shall be provided in accordance with section 37-11(b).

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-13. Procedures for appealing decisions of the staff, the development review committee and the planning and zoning commission.

A. *Basis for appeals.* Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the community development department within 15 calendar days after the decision and all other procedures established by this chapter have been exhausted. The appeal shall state all issues to be considered.

B. *How decisions are appealed.* The city council, the planning and zoning commission, the development review committee, the public works director and the utilities director are responsible for hearing appeals at designated stages of the subdivision process.

C. *Appeal of staff decisions.* Staff decisions may be appealed at any time during the subdivision application process. Appeals of staff decisions may fall under one of two categories, engineering/utility issues and planning related issues. The subdivision administrator shall determine whether the appeal should be to an engineering/utility issue or to a planning-related issue, and shall notify the appropriate body to review the appeal.
   1. *Appeal of engineering opinions.* Engineering/utility related opinions are related, but not limited to: design specifications for roadways, grading, drainage, utilities, or other issues determined by the subdivision administrator and/or the public works director to be engineering-related.

      Appeals of staff decisions regarding engineering/utility-related issues are resolved by the public works director or the utilities director, respectively. The appeal may be submitted at any time during the subdivision application process. Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for a review of the appeal. The meeting shall include the

applicant, public works director and/or the utilities director, as appropriate and the staff member whose decision is being appealed. Upon review of the appeal, the public works director or the utilities director shall render a decision within three business days of the meeting.

2. *Appeal of planning related issues.* Planning related issues are issues related to, but not limited to: lot configuration, street network, right-of-way requirements, land use, density, phasing of development, suitability of location, or other issues determined by the subdivision administrator to be planning-related.

   Appeals of staff decisions regarding planning related issues are resolved by a committee of at least three of the following: the community development director, facilities director, public works director, utilities director and fire chief. The appeal may be submitted at any time during the subdivision application process.

   Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for review of the appeal. The meeting shall include at least three department directors, the DRC and the staff member whose decision is being appealed. Upon review of the appeal the directors shall render a decision on the appeal at the meeting.

D. *Appeal of engineering/utility decisions of the public works director or the utilities director.*

1. Appeals of the public works director or the utilities director's decision regarding engineering or utility related issues are resolved by arbitration. The appeal shall be submitted to the subdivision administrator within 15 calendar days of the decision of the public works director or the utilities director.
2. Arbitration defined. Arbitration is the final appeal process used to resolve only engineering or utility related issues that have been reviewed and acted on by the development review committee, public works director or the utilities director.
3. Arbitration procedure. When an appeal alleges that there is fault in a decision made by either the public works director or the utilities director with regard to an engineering- or utility-related issue, the appeal shall be resolved by an arbitration committee. The appellant shall submit the appeal in writing to the subdivision administrator within 15 calendar days of the decision of either the public works director or the utilities director. The arbitration committee shall review the engineering or utilities related issue under question and any pertinent information within 30 calendar days of the appeal submittal. The appellant shall be responsible for all costs associated with the arbitration board.
4. Arbitration committee. The arbitration committee shall consist of three engineers licensed to practice in the state who are not associated with the city, but are familiar with its development standards. The city shall choose one engineer, the applicant shall choose the second engineer, and the two chosen engineers shall choose the third.

   Action from the arbitration committee shall be in the form of approval or disapproval. Action from the arbitration committee shall be final unless appealed to the state board of registration for professional engineers and surveyors or to a court of competent

jurisdiction.

E. *Appeal of planning related decisions of the department directors.*
   1. Appeal of a planning related decision of the department directors is resolved by the planning and zoning commission. Appeals shall be submitted in writing to the subdivision administrator within 15 calendar days of the development review committee's decision.
   2. Authority of the planning and zoning commission. The planning and zoning commission, by a majority vote of a quorum of the commission, may, after all other procedures established by this chapter have been exhausted, reverse or affirm any order, requirement, decision, or determination of the development review committee, or make any change in an order, requirement, decision, or determination of the planning related decision at a public hearing.

F. *Appeal of decisions of the planning and zoning commission.*
   1. Appeal of a decision of the planning and zoning commission is resolved by the city council. Appeals shall be submitted in writing with the appropriate fees to the subdivision administrator within 15 calendar days of the planning and zoning commission's decision.
   2. Authority of the city council. The city council, by a majority vote of all its members, may, after all other procedures established by this chapter have been exhausted, reverse or affirm any order, requirement, decision or determination of the planning and zoning commission, or make any change in an order, requirement, decision, or determination of the planning and zoning commission. The decision of the city council may be appealed to district court.

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G. *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, board, or authority from whom the appeal is taken certifies that, by reason of facts, a stay would cause imminent peril of life and property.

H. *Appellant responsibility in appeals.* All appellants under this section are required to submit in writing to the community development department a detailed statement of the grounds of their appeal, no later than 15 calendar days after the decision is appealed. The written appeal shall state specifically the objections of the decision and the reasons for the appeal.

I. *Notice.* Notice on all appeals of decisions of the Planning and Zoning Commission shall:

1. Be sent by regular mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within no less than five hundred (500) feet of the subject property. This distance may include streets, alleys, channels, canals, railroads, and all other public rights-of-way. Notice shall be mailed at least fifteen (15) calendar days prior to the required public hearing.
2. Require regular, non-certified, first class mail to be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property if staff has determined that such notice was warranted. Notice shall be mailed at least fifteen (15) calendar days prior to the required public hearing.
3. Require notice of the time and place of the public hearing be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the City.
4. In the event that notification signs were issued for the case now under appeal, the property owner and/or original applicant shall ensure that all signs previously erected for notice purposes remain up until a decision on the appeal is rendered. Modification to and/or replacement of said signs shall be authorized and directed by staff to ensure appropriate information regarding the appeal venue is displayed.
5. The SA shall execute an affidavit verifying the list of persons to whom notice was mailed.

J. Fees shall be assessed to the appellant person or persons in order to cover the costs of such appeal. Such fees shall be as prescribed in the fee schedule as adopted and amended.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-14. Definitions.

Block. An area of land within a subdivision, generally bounded by highways, streets (other than alleys), natural boundaries, or the exterior boundaries of the subdivision.

Building setback. The right angle distance from a point on the street right-of-way to the closest point of any building structure.

City. The City of Las Cruces, New Mexico.

City council. The governing body of the city.

Collector. A street designed to carry moderate to large volumes of traffic (generally a minimum ADT of 5,000 vehicles), primarily from local streets to arterials. Collectors may provide some direct access to individual properties, usually large residential developments and mid-size commercial/industrial/office developments. The length of a major collector seldom exceeds one mile.

Contiguous property. Parcels of property that are in contact or touching.

Cul-de-sac. A minor street with only one outlet and culminated by a turn-around. Refer to section 32-36 of the city municipal code.

Development review committee (DRC). A formal group of representatives employed by the city that meets at the same time each week to review subdivisions or subdivision related proposals and to resolve conflicting comments, recommendations or design differences between city reviewing departments, subdivision administrator, and/or developers/subdividers. The development review committee's decision shall be final unless overruled by a committee of department directors, the planning and zoning commission or city council (See appeals section 37-13).
The development review committee shall consist of at least one representative from each of the following:

- Public works department;
- Community development department;
- Facilities department;
- Utilities department;
- Fire department;

DRC members or their designee shall have the authority to make nonpolicy decisions on behalf of their respective departments and the city.

Drainage plan. A plan indicating an on-site drainage proposal, the passage of stormwaters through the development and safe discharge of runoff onto adjacent lands or into storm drainage facilities. Also, a comprehensive analysis of:

- The existing storm drainage conditions of a proposed development; and
- The disposal of the increased runoff that is generated by the proposed development.

Dwelling. A building or unit thereof designed and used exclusively for residential occupancy.

Easement. The right, liberty, advantage or privilege that one individual (or entity) has in lands of another, either express or imputed (utility, grant or necessity).

Engineer. A person engaged in the practice of engineering and qualified to so practice as attested by his/her legal registration as a professional engineer in the state.

Engineering utility related issues. Issues related to but not limited to: design specifications for roadways, grading, drainage, utilities, or other issues determined by the subdivision

administrator and/or the public works director or the utilities director to be engineering-utility-related.

Improvements. Includes infrastructures such as streets, curbs, gutters, sidewalks, fire hydrants, storm drainage facilities, bike paths, trails, and water, sewer, and gas systems or parts thereof.

Lot. A portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, for development. It also is a tract of land described by metes and bounds and as shown on the records in the county assessor's office.

Major arterial. A street having the primary purpose of carrying large volumes of traffic, and that does not usually provide direct access to individual properties. Major arterials are designed to provide cross city travel, and generally carry a minimum ADT of 10,000 vehicles.
Major local. A street whose primary purpose it is to provide direct access to individual properties, primarily in small to mid-size residential developments, and to individual commercial/industrial/office lots. The length of a major local seldom exceeds one-half mile.

May. When a requirement in these regulations uses the word "may" instead of "shall," the requirement will be necessary only if directed by the development review committee, the planning and zoning commission or city council.

Minor arterial. A street having the primary purpose of carrying moderate to large volumes of traffic and that does not usually provide direct access to individual properties. Minor arterials are designed to provide partial "cross-city" travel, and generally carry a minimum ADT of 5,000 vehicles.

Minor local. A street having the primary purpose of providing direct access to individual residential lots. The lengths of minor locals seldom exceed one-half mile.

Outlot. A parcel of ground or tract of land within a platted subdivision, to be used for purposes other than residential. An example of an outlot is a tract of land designated for open space or a retention pond.

Performance bond. A surety bond made out to the city in an amount equal to the estimated full cost if the improvements, said cost being estimated by the city engineer, surety bonds being legally sufficient to ensure the city that the said improvements will be constructed in accordance with these regulations.

Planned unit development (P.U.D.). A development process whereby the intent and purpose is to promote design and development standard flexibility in cases where strict application of the zoning ordinance would inhibit the overall goals and objectives of the city.

Planning related issues. Issues related to but not limited to: lot configuration, street network, right-of-way requirements, land use, density, phasing of development, suitability of location, other issues determined by the subdivision administrator to be planning-related.

Planning and zoning commission. The officially appointed planning and zoning commission of the city. The planning and zoning commission shall have final authority in the review of subdivision proposals requiring commission action. The commission shall also act as an advisory board with regard to amendments to this code.

Plat or *replat.* A map, chart, survey, or plan, certified by a land surveyor, that contains a description of subdivided plat or resubdivided replat land with ties to permanent survey monuments.

Shall. The word "shall" is mandatory and not permissive.

Street. A public way, other than an alley, that has been dedicated, or reserved by plat and which affords he principal means of access to abutting property.

Subdivider. An owner or an owner's agent who undertakes the subdivision of land as set forth in the respective regulations.

Subdivision. Subdivision for the purpose of approval by the municipal planning authority means: for the area of land within the corporate boundaries of the city, the division of land into two or more parts by platting or by metes and bounds description into tracts or lots for any purpose.

Surveyor. A person who is engaged in the practice of surveying and is qualified to so practice as attested by his/her legal registration as a professional surveyor in the state.

Tract. See outlot.

Vacation. To void a portion of a previously-filed subdivision plat application or to void the filed plat in its entirety.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-15--37-40. Reserved.

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ARTICLE II.
MASTER PLAN

Sec. 37-41. The purpose of master planning.

A. The purpose of the master planning process is to advance the goals and objectives of the city's comprehensive plan and to address a variety of environmental and social issues in an area being proposed for future development. A master plan is considered part of the planning process in which the proposal is viewed as a conceptual tool reflecting the ideas and thoughts for future development. The master plan process is designed to achieve the following objectives:

- To achieve the goals, objectives and policies of the city comprehensive plan and the objectives of other city policies.
- To ensure compliance with the growth management section of the land use element of the city comprehensive plan.
- To ensure compliance with the metropolitan planning organization's transportation plan.
- To guide future land development and transportation patterns.
- To provide for an efficient process in determining fiscal impacts, neighborhood concerns, the coordination of city capital improvements, and the identification and protection of significant natural features.
- To ensure that all adopted city plans, rules and regulations are followed. To ensure that proposed development is suitable and appropriate for a given parcel of land, based on its location and its environmental characteristics.

B. This chapter recognizes change in design criteria and the need for flexibility in land development. The master plan process permits changes that conform with the intent to provide health, safety, convenience and general welfare to the citizens of the city. Approved master plans shall be used as a general guide to land development with successive steps established for specific plans that shall be consistent with the adopted master plan.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-42. When a master plan is required.

A. A master plan shall be required when any of the following criteria apply:
   1. A development is to be divided into various phases.
   2. A development application is proposing multiple land uses.
   3. A request for annexation is made.
   4. An application is for the single development of 40 or more lots.
   5. When a commercial, office or industrial development application is proposing to utilize the alternate summary procedure more than once.

B. For smaller residential developments consisting of no more than two phases on ten or fewer acres, with 39 or fewer lots, a master plan may be omitted at the discretion of the DRC.

C. The subdivider is responsible for including on the master plan all contiguous property

owned, legally controlled by, or of any development and/or financial interest to said subdivider.

D. A preliminary plat may be submitted simultaneously with the master plan. A final plat may not be submitted at the same time as the master plan or the preliminary plat. Subdivision applications submitted through the planned unit development (P.U.D.) process will not be required to meet the requirements in this article. (Ord. No. 1798, § I, 6-19-00)

Sec. 37-43. Preapplication meeting.

A. Any proposed master plan causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

   b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

   c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development

on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

    a. A detailed description (to the extent possible) of what is being pursued in terms of development
    b. Information as to how the developer, applicant, or representative for the development action may be contacted

c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur
d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully
e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.
f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

B. Conceptual plans shall be presented to the first available development review committee meeting for review and comment. The development review committee shall discuss with the developer, or the developer's representative, the proposed conceptual plan and shall indicate any changes that will be required for the formal submittal of the proposal.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-44. Submittal of a master plan application.

A. The master plan and supplemental material shall be submitted to the community development department no later than 25 calendar days prior to the day of the next regular meeting of the planning and zoning commission for approval consideration. Any master plan requesting three or more planning-related variances (excluding administrative variances) shall be processed via the planned unit development process as outlined in the city zoning code.

B. Upon submittal, the community development department shall issue a receipt. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, and the master plan submittal contains all necessary items as per section 37-46 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed master plan shall not be accepted for review by the subdivision administrator if incomplete or substantially inaccurate. All items required on a master plan must be present for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to

correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information will be needed in order to accomplish the objectives of this chapter. Examples of possible additional requirements and/or information could include, but are not limited to, a neighborhood group and/or noticed area meeting, traffic impact analysis, environmental analysis, detailed drainage analysis, etc. Any request for additional submittal requirements shall be justified, in writing, by the requesting entity.

D. Master plans will be processed by the subdivision administrator to the applicable city departments and other governmental agencies for review, comments, and recommendations. Each department shall have five business days to complete the review. Written reports, containing comments and recommendations shall be returned to the subdivision administrator.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the master plan requirements and forward any comments to the subdivider or the subdivider's representative for completion. Master plans applications that are commented upon shall be returned, amended, resubmitted and reviewed until the provisions set forth in the regulations are met.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-45. Review and consideration of a master plan application.

A. Master plans shall be submitted to the development review committee for review, comments and recommendations. The development review committee shall review the master plan to determine whether it is consistent with the intents and purposes set forth in sections 37-3 and 37-41 of this chapter. The development review committee shall provide the planning and zoning commission with a report containing a recommendation that the master plan be either approved, conditionally approved, postponed or disapproved. The report shall include the reason(s) for the recommendation.

B. Public notice:
   1. Agenda. The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15) calendar days prior to the public hearing.
   2. Posting. Notice of the proposed development shall be posted in conspicuous places on the property by the property owner, applicant or representative at least fifteen (15) calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and

Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.

3. *Notice.* Notice on all proposed master plans shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 500 feet of the area of the proposed subdivision, including streets, alleys, channels, canals and other public rights-of-way. The community development department is responsible for the list of property owners and the preparation of mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice for purposes herein shall be mailed at least fifteen (15) calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The planning and zoning commission shall review the master plan, report, comments and recommendations received from the development review committee, subdivision administrator and presentations from the applicant or the applicant's representative and from any interested citizens. Action from the planning and zoning commission shall be in the form of approval, conditional approval, postponement, or disapproval. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions acted on by the planning and zoning commission at the public hearing shall be furnished to all appropriate parties in accordance with section 37-11(b).

D. It is the requirement of the planning and zoning commission that no master plan shall be reviewed unless either the applicant or the applicant's representative is present at the public hearing. If neither party is present at the public hearing, the master plan will be postponed until the next regular planning and zoning commission meeting.

E. Upon approval of the master plan by the planning and zoning commission, the developer may submit to the community development department any zoning applications, preliminary plats or final plats as necessary and applicable, that reflect the objectives of the approved master plan.

F. The approval of the master plan shall be effective for a period of five years, as described on the approval action form. If, at the expiration of the five-year period, no single preliminary plat, building permit, or any other development application, in conformance with the approved master plan, has been submitted and approved, the master plan shall expire. Such action does not necessarily have to encompass the entire master-planned area in order for said master plan to remain active. The developer may submit a request for extension of approval prior to the expiration date, if desired. The request will be

reviewed by the planning and zoning commission for consideration. Please note: Approval of a master plan does not prohibit the utilities department from revising any utility requirements based on projected needs or growth around the master-planned area.

G. Any substantial change to the master plan will require resubmittal of the plan in its entirety and may trigger the need for a neighborhood group and/or noticed area meeting to be determined by and at the discretion of the subdivision administrator. Minor modifications or changes shall be reviewed and considered by the subdivision administrator. Substantial changes to the master plan are subject to a regular public hearing with the same requirements as an original application. Substantial changes shall include, but are not limited to:
   1. Any change in land use or use intensity;
   2. Modifications of vehicular traffic circulation on arterials, collectors and/or major local designated streets;
   3. Increase in residential density;
   4. Any extension of time limits beyond 20 percent;
   5. Any change in the master plan that is determined by the subdivision administrator to be substantial.

H. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been attempted. Refer to section 37-13, "procedures for appealing decisions of staff," the development review committee and the planning and zoning commission' for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

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Sec. 37-46. Master plan submittal requirements.

A. An application for approval of a master plan shall include the following information:
   1. Name of master plan.
   2. Detailed area/vicinity map clearly showing the surrounding area and the proposal's relationship to existing road networks, and existing natural and/or man-made features that may impact the development or may be impacted by the development. Detail must be sufficient so that the subject property can be located in the field using the map.
   3. North arrow, date of preparation, written and graphic scale.
   4. A general legal description that shall include:
      a. Approximate survey ties;
      b. Approximate acreage.
   5. Name and address of the consultant preparing the master plan.
   6. Name and address of the developer.
   7. Boundary lines of the master plan, with approximate lengths of lines.
   8. Proposed land use, by parcel or phase. Residential parcels shall provide gross density range.
   9. Present zoning and proposed zoning (if applicable).
   10. Contours--20-foot intervals. In instances whereby 20-foot intervals are not appropriate or applicable, contours may be provided at an appropriate interval that adequately presents the elevation differences of the land as determined by the community development department director.
   11. Adjacent land use and zoning district identification.
   12. Thoroughfare system: Proposed approximate location, length, width and point of intersection of all major transportation systems, which may include bikeways, trails and any other transportation lines. Identify existing and proposed classification of roads as per city design standards and based on the current city MPO transportation plan.
   13. Significant natural features, such as arroyos and approximate 100-year floodplains.
   14. Adjacent roads and other transportation routes identified by functional classification.
   15. Easements.
   16. Tabular information:
      a. Land use of each phase or parcel.
      b. Approximate acreage for each parcel or phase.
      c. Total number of residential dwelling units, minimum and maximum range.
      d. Dwelling units per acre for each parcel or phase.
      e. Approximate acreage proposed for open space, private and public facilities, and right-of-way.
      f. Approximate additional population to be generated by development, based on census data.
      g. Approximate additional traffic estimated to be generated by development, utilizing ITE trip generation information, as amended.
   17. Approval block signifying the final approved master plan to be signed by the subdivision administrator upon approval by the planning and zoning commission and compliance with all conditions.
   18. Conceptual utilities plan. The conceptual utilities plan shall contain enough

information to provide a general outline of the proposed utility-routing plans for the development, including locations and sizes of existing and proposed utilities to be provided to the development. Actual size and location of utilities to be determined at time of development and subject to change based on utility needs of the surrounding area.

19. Conceptual drainage plan. The conceptual drainage plan shall contain enough information to provide a general understanding of how drainage issues will be addressed by the development.
20. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.
21. Supplemental material:
    a. Application:
        i. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) for the subject property, as recorded in the county clerk's office.
        ii. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
    b. Submittal fee.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-47--37-75. Reserved.

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ARTICLE III.
PRELIMINARY PLAT

Sec. 37-76. The purpose of preliminary platting.
The purpose of the preliminary platting process is to establish quality site design that promotes the compatibility of development with physical and cultural issues within the city. The preliminary plat process is designed to achieve the following objectives:

- To provide for an efficient process for establishing streets that have the capacity to adequately handle anticipated traffic flow and that are in harmony with the MPO's transportation plan and the transportation element of the comprehensive plan.
- To promote site design that encourages sound, economical, and compatible development and that creates a healthy living environment in the city.
- To allow for design flexibility and imagination.
- To provide for subdivided lots with adequate configuration, area and appropriate design for the purpose for which they are to be used and to address housing, marketing and economic development trends that support the policies within the housing element of the comprehensive plan.
- To minimize traffic and drainage hazards through proper site design.
- To promote efficient design to mitigate impacts to community infrastructure.
- To assure that all adopted city plans, rules and regulations, and the development master plan, if applicable, are followed.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-77. When a preliminary plat is required.
A preliminary plat conforming to this chapter shall be required for all subdivisions except those processed through the replat, alternate summary or infill subdivision process. A preliminary plat may be submitted simultaneously with a master plan. Subdivisions that are processed through the P.U.D. process do not have to receive preliminary plat approval.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-78. Preapplication procedure.

A. Any proposed preliminary plat causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

   1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to

whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary

that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey

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development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

B. If necessary, the conceptual preliminary plat(s) shall be referred to the first available development review committee meeting for review and comment. The subdivision administrator and/or the development review committee shall review all conceptual plans and discuss with the subdivider or the subdivider's representative the changes, if any, that will be required for the submittal process.

(Ord. No. 1798, § I, 6-19-00)

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Sec. 37-79. Submittal of a preliminary plat application.

A. The preliminary plat application and relevant supplemental material shall be submitted to the community development department for approval consideration no later than 25 calendar days prior to the day of the regular meeting of the planning and zoning commission.

B. Upon submittal, the community development department shall issue a receipt for submittal. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all required items have been submitted, and the preliminary plat submittal contains all required items as per section 37-81 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed preliminary plat submittal shall not be accepted for review if incomplete or substantially inaccurate. All items required on a preliminary plat must be present for acceptance. In cases in which a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator, the development review committee or the planning or zoning commission shall have the authority to waive or add submittal requirements in cases in which it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this chapter. Examples of possible additional requirements and/or information could include, but is not limited to, a neighborhood group and/or noticed area meeting, traffic impact analysis, environmental analysis, detailed drainage analysis, etc. Any request for additional submittal requirements shall be justified, in writing, by the requesting entity.

D. Preliminary plats will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days to complete the review. Written reports, with their comments and recommendations, shall be forwarded to the subdivision administrator.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the preliminary plat requirements and forward any comments to the subdivider or the subdivider's representative for completion. Preliminary plat applications that receive comments shall be resubmitted and reviewed until the provisions set forth in the regulations are met and all outstanding comments are addressed.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-80. Review and consideration of a preliminary plat.

A. Following staff review, the development review committee shall evaluate the preliminary plat and staff comments to determine if they are consistent with the intent and purpose set forth in sections 37-3 and 37-76 of this chapter. The preliminary plat shall be scheduled for a public hearing for planning and zoning commission consideration. The development review committee shall provide the planning and zoning commission with a written report containing a recommendation that the preliminary plat be approved, conditionally approved, postponed or disapproved. The development review committee shall state the

reason(s) for their recommendation regarding the preliminary plat to the planning and zoning commission.

B. Public notice requirements: The following shall be required for all preliminary plats scheduled for planning and zoning commission review:
   1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15) calendar days prior to the public hearing.
   2. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property by the property owner, applicant or representative at least fifteen (15) calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
   3. *Notice.* Notice on all proposed preliminary plats shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 500 feet of the area of the proposed subdivision, including streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. The community development department is responsible for the list of property owners and preparation of the mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice, for purposes herein shall be mailed at least fifteen (15) calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The planning and zoning commission shall review the preliminary plat application, the report, any comments, and recommendations from the development review committee, the presentation from the subdivider or the subdivider's representative and from any interested citizens at a public hearing. The intent of the planning and zoning commission review is to allow for public input in the development process and to serve as a land-planning process. Review of the proposal shall consist of planning related issues such as site plan compliance to the city's comprehensive plan and all development- or growth management-related policies. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. Action shall be in the form of an approval, conditional approval, postponement, or disapproval. A copy of the notice of decision that

includes any changes or conditions from the planning and zoning commission as done at the public hearing shall be furnished to all appropriate parties in accordance with Sec. 37-11(b).

D. It is the requirement of the planning and zoning commission that no preliminary plat shall be reviewed unless either the applicant or the applicant's representative is present at the planning and zoning commission meeting. If the applicant or the applicant's representative is not present at the public hearing, the preliminary plat application hearing will be postponed until the next regular planning and zoning commission meeting.

E. Approval of a preliminary plat shall not constitute approval of the final plat, but shall signify the general acceptability of the proposed subdivision. Preliminary plat approval shall constitute permission to prepare and submit the final plat application and construction drawings of all improvements for the proposed subdivision. Final platting shall not be considered until preliminary plat approval is complete.

F. Preliminary plat approval shall be effective for no more than two years from the date of approval as described on the approval action form. If a final plat application has not been submitted for approval as required by the provisions of this chapter, the preliminary plat shall expire, and a new preliminary plat application must be submitted for approval by the planning and zoning commission. The developer may submit a request for a one year extension of approval, prior to the expiration date, if desired. The request will be reviewed by the development review committee. All plat extensions shall be automatically conditioned to require compliance with all city codes, regulations, and specifications in place at the time of development of the plat in question.

G. Any substantial change to the preliminary plat application will require resubmittal of the plat in its entirety and may trigger the need for a neighborhood group and/or noticed area meeting to be determined by and at the discretion of the subdivision administrator. Minor modifications or changes shall be considered by the subdivision administrator.

H. Substantial changes to the preliminary plat application will be subject to a planning and zoning commission public hearing, with the same requirements as an original application. Substantial changes shall include but are not limited to:
   1. Any proposed change in land use or use intensity;
   2. Anticipated (or proposed) modifications of vehicular traffic circulation on arterials, collectors and/or major local designated streets;
   3. An anticipated increase in residential density;
   4. Any extension of time limits beyond 20 percent;
   5. Any change in the preliminary plat that is determined by the subdivision administrator to be substantial.

I. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or of any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered

to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been exhausted. Refer to section 37-13, "procedures for appealing decisions of the staff, the development review committee and the planning and zoning commission," for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

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Sec. 37-81. Preliminary plat submittal requirements.

A. *Preliminary plat requirements.* The preliminary plat shall be at a scale that adequately represents the information. The preliminary plat shall be prepared on 18-inch × 24-inch sheets of paper. Copies provided shall be legible, with no limit to the number of sheets used. The plat shall show existing conditions and all proposals, including the following:

1. Name of proposed subdivision;
2. Total acreage of subdivision, to nearest one-tenth of an acre;
3. Date of preparation, north arrow, written and graphic scale;
4. Detailed area/vicinity map clearly showing surrounding area and the proposal's relationship to existing road networks, and existing natural and/or man-made features that may impact the development. Detail must be sufficient for the subject property to be located in the field using the map;
5. Name and address of subdivider;
6. Name and address of the person, corporation or organization preparing the preliminary plat;
7. An accurate and complete boundary survey of the land to be subdivided. Plat boundary lines shall be shown, giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the plat shall provide sufficient data to enable the reestablishment of curves on the ground. Include the location and description of all monuments set or found. Data for each curve shall include:
   a. Central angle and arc length;
   b. Radius;
   c. Chord bearing and length;
8. A statement of ownership, signed by the legal owner, and the equitable owner if applicable, on the final approved preliminary plat;
9. Zoning or proposed zoning shall be shown with boundaries given as streets, highways, or property lines. Special use permit information shall be included if applicable.
10. Number to identify each lot, plus the acreage of each lot and tract;
11. Proposed lot lines and public rights-of-way lines; rights-of-way and street widths; rights-of-way for public services or utilities with identification of any limitations thereof;
12. Proof that all lots in any subdivision meet the requirements of the city zoning code and that each lot shall be dimensioned in such a manner that setbacks, as required by the code, shall be met for any structure or building that may be on or will be constructed on the lot. No platted lot within a subdivision shall contain less square footage than that required by the city zoning code.
13. Approximate locations, dimensions, areas, and purposes of tracts proposed to be reserved for the public;
14. Sites and approximate area(s) for any multi-family dwellings or nonresidential uses;
15. Existing conditions of the proposed preliminary plat, including the information indicated next, if applicable. Separate sheets may be used, if necessary, to convey the information.
    a. Present site designation or subdivision name;
    b. Easements on-site: Location, width and purpose of each;

c. Public rights-of-way on and within 150 feet of the site: name, width, and classification of each;
d. Utilities on and adjacent to the site: Locations and size of each water well, water reservoir, water line, sanitary and storm drain; locations of all irrigation channels and drains; locations of gas lines, fire hydrants, electric and telephone poles, and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the directions, distances, and sizes of the nearest lines;
e. Existing topography:
   i. For land with average slopes of less than five percent, show contour lines at intervals of not more than two feet;
   ii. For land with average slopes exceeding five percent, show contour lines at intervals of not more than five feet;
f. Existing storm drainage facilities on and adjacent to the site;
g. Conditions on adjacent land significantly affecting design of the subdivision: approximate directions and gradients of ground slopes, character and location of development, access points from adjacent points and building types;

16. Approval block signifying the final approved preliminary plat, to be signed by the subdivision administrator upon approval by the planning and zoning commission and resolution of all outstanding staff comments;
17. Master utility plan, which shall contain a general outline of the proposed utility routing plans for the development, to include, but not be limited to, the following information:
    a. Existing and proposed utility locations;
    b. Sizes of existing and proposed utilities and system loads;
    c. Locations of proposed connections to existing utilities;
    d. Proposed off-site improvements necessary to connect to existing utilities;

    The master utility plan may be submitted with the final plat or construction drawings with the consent of the utilities department director. Written approval for this allowance must be submitted with the preliminary plat submittal.
18. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

B. Supplemental material to be submitted with the preliminary plat:
1. Application:
   a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate, or all persons having a specific power of attorney) for the subject property as recorded in the county clerk's office.
   b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
2. Submittal fee.
3. Variance requests (if applicable).
4. Master drainage study:

a. The purpose of the master drainage study is to identify major drainage ways, ponding areas, locations of culverts, bridges, open channels and drainage basins that are contributory to the proposed study area. In addition, the ability of downstream drainage facilities to pass the developed runoff from the proposed development must be analyzed in the master drainage study.
b. The master drainage study shall contain a general outline of the proposed drainage routing plans for the development.
c. The report shall include, but not be limited to, the following information and calculations:
   i. Calculation for peak flow from all offsite tributary drainage areas.
   ii. Calculations for peak flow within the proposed development for all drainage basins larger than 20 acres.
   iii. Preliminary analysis of 100-year floodplain and major drainage ways.
   iv. Closed sub-basin analysis of 100-year floodplain and major drainage ways.
   v. Discussion and analysis of downstream drainage facilities.
   vi. Discussion of anticipated drainage problems within the proposed development and possible solutions.
   vii. Report shall be typed on 8 1/2-inch × 11-inch paper.
d. Drawings for the master drainage study shall include, but not be limited to, the following:
   i. Any and all floodplains and flood ways must be identified. A copy of applicable F.E.M.A. floodplain map is required indicating limits of current study.
   ii. Existing topography:
      1) For land that slopes less than approximately five percent, show contour lines at intervals of not more than two feet.
      2) For land that slopes more than five percent, show contour lines at intervals of not more than five feet.
      3) Location and size of existing and proposed open channels, storm drains, retention/detention areas, and other drainage structures.
      4) Identification of all drainage basins in the development.
      5) Location of all streets in/adjacent to the proposed development.
      6) Identification of all drainage basins tributary to the proposed development.
      7) Basin maps may be scaled as small as 1 inch = 2,000 feet. Orthophoto maps at scale of 1 inch = 200 feet are preferred. (Use the most appropriate scale available)
e. Inlet and storm drain size calculations are not required with the master drainage study; therefore, the number of sub-basins analyzed in the report shall be held to the smallest practical amount.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-82--37-110. Reserved.

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ARTICLE IV.
FINAL PLAT

Sec. 37-111. The purpose of final platting.
Within two years after the approval of a preliminary plat, the subdivider must submit the final plat. The final plat is the subdivision instrument that is prepared for recording in the office of the county clerk. The final plat process ensures that the recordable plat is in complete compliance with plans approved earlier in the preliminary plat process. If the approved preliminary plat contains more than one phase, a final plat must be submitted every two years thereafter until all phases are complete. The submittal of such additional phases shall constitute a continuance of preliminary plat approval status. A final plat shall not be submitted until preliminary plat approval, if applicable, is complete.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-112. Preapplication procedure for plats following final plat processes consistent with Article V – Infill Subdivision Process, Section 37-176 (a) regarding alternate summary subdivision creating not more than two (2) lots, Section 37-176 (c) regarding creation of not more than two (2) lots of a previously filed subdivision, Section 37-207 (b) regarding an increase of the number of lots within a previously platted subdivision and Section 37-207 (d) regarding final plats reflecting vacation requests, and Article VIII – Vacation Plats.

A. Any proposed final plat identified in Sec. 37-112 causing need for public notification, review and approval by the Planning and Zoning Commission or City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development

   b. Information as to how the developer, applicant, or representative for the development action may be contacted

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

Sec. 37-113. Submittal of a final plat application.

A. The final plat and supplemental material shall be submitted to the community development department no later than 25 calendar days prior to the day of the regular meeting of the planning and zoning commission for approval consideration if applicable.

B. Upon submittal, the community development department shall issue a receipt for the submittal. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted and the final plat submittal contains all necessary items as per section 37-114 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed final plat shall not be accepted for review if incomplete or substantially inaccurate. All items required on a final plat must be present for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator or the development review committee shall have the authority to waive or add submittal requirements if it is determined that the additional additional items and resulting information is necessary to accomplish the objectives of this Code. Additional requirements may include a neighborhood group and/or noticed area meeting (see Section 37-112). Any request for additional submittal requirements shall be justified, in writing, by the requesting entity.

D. Final plats will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days to complete the review. Written reports, with their recommendations, shall be forwarded to the subdivision administrator. The development review committee shall review the final plat to determine whether it is consistent with the intent and purpose set forth in sections 37-1 and 37-111 of this chapter. For final plats requiring planning and zoning commission approval, a written report shall be provided to the planning and zoning commission with a recommendation that the final plat be either approved, conditionally approved, postponed, or disapproved. The development review committee shall state the reasons for their recommendation on the final plat in the report to the planning and zoning commission.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

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Sec. 37-113. Approval of final plats.

A. Administrative approval of final plats. Final plats that are consistent with, and that conform to, an approved preliminary plat shall be approved administratively, unless determined by the subdivision administrator via pre-application for plats subject to Section 37-112 or the DRC that the planning and zoning commission review is necessary, or as otherwise provided by this chapter e.g., replats or waivers to planning-related issues. A final plat that deviates from the approved preliminary plat shall be rejected by the subdivision administrator and either modified to comply with the preliminary plat or suspended in lieu of an amended preliminary plat.

B. Planning and zoning commission approval of final plats. Final plats requiring planning and zoning commission approval shall be advertised in accordance with the following before consideration at a public hearing:
   1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15) calendar days prior to the public hearing.
   2. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property by the property owner, applicant or representative at least fifteen (15) calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved (e.g. appeals), , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
   3. *Notice.* Notice on all proposed final plats requiring planning and zoning commission review shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 500 feet of the area of the proposed subdivision, including streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. The community development department is responsible for the list of property owners and for the preparation of mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice for purposes herein, shall be mailed at least fifteen (15) calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The planning and zoning commission shall review the final plat, report, comments and

recommendations from the development review committee, presentation from the subdivider or subdivider's representative and from any interested citizens at a public hearing as applicable. If the proposed final plat is complete and devoid of any issues, said final plat shall be placed on the consent agenda for planning and zoning commission approval. final plats that are in full compliance with this chapter and an approved preliminary plat, if applicable, as determined by the subdivision administrator, shall not be removed from the consent agenda except by a majority vote of the membership of the commission. Action from the planning and zoning commission on final plats not on the consent agenda shall be in the form of an approval, conditional approval, postponement, or disapproval. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions from the planning and zoning commission as done at the public hearing shall be furnished to all appropriate parties in accordance with section 37-11(b). All approvals by the planning and zoning commission are conditioned upon final review and approval of outstanding staff comments.

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D. It is the requirement of the planning and zoning commission that no final plat shall be reviewed unless either the applicant or the applicant's representative is present at the planning and zoning commission meeting. If the applicant is not present at the public hearing, the final plat will be tabled until the next regular planning and zoning commission meeting.

E. Upon approval of the final plat, the subdivider may submit applications for construction permits and/or a form of security for the filing of the plat application. The final plat shall not be filed until all construction improvements have been completed, approved and accepted by the city, or until a form of security has been established and approved. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after final plat approval. The subdivision administrator shall be responsible for filing the final plat with the applicant and/or their representative at the county clerk and recorder's office.

F. Final plat approval shall be effective for no more than three years from the date of approval. If the subdivision improvements have not been completed or a form of security established and approved, the final plat shall be resubmitted for final plat approval. The developer may submit a request for extension of approval prior to the expiration date, if desired. The request will be reviewed by the development review committee for consideration. All plat extensions shall be automatically conditioned to require compliance with all city codes, regulations and specifications in place at the time of development of the plat in question.

G. No changes, revisions, erasures, or modifications shall be made on the final plat. No final plat shall be filed and recorded prior to the satisfaction of all requirements and conditions. Any substantial change to a final plat subject to Section 37-112 may trigger the need for a neighborhood group(s) and/or noticed area meeting to be determined by and at the discretion of the subdivision administrator.

H. Appeals Any person, department, committee, commission, board or bureau affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or of any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been exhausted. Refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission," for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-115. Final plat submittal requirements.

A. Final plat requirements. The final plat shall be drawn with permanent ink or produced by a photographic process on a linen or polyester (Mylar) film. The final plat shall be prepared on 18-inch × 24-inch sheets at a scale that adequately represents the information. Copies provided shall be legible.

B. If more than one sheet is used, all sheets must be indexed and contain an index map

showing the relationship of the sheet to the whole. Each sheet shall show north arrow, name of subdivision, date of survey, written and graphic scale. The following information shall be shown on the plat:

1. Name of subdivision.
2. Total acreage of subdivision to nearest one-tenth of acre.
3. Date of preparation, north arrow, written and graphic scale.
4. Detailed area/vicinity map clearly showing surrounding area and the proposal's relationship to existing road networks and existing natural or man-made features that may impact the development. Detail must be sufficient so that the subject property can be located in the field using the map.
5. Signed statements by the subdivider dedicating public rights-of-way, and granting all required easements for public use. Also include a statement that the subdivision is planned with the free consent of and in accordance with, the desire of the undersigned owner of the land, acknowledged in a manner required for acknowledgment of deeds. For consistency on all plats, the dedication statement shall read as follows:

   DEDICATION

   THE TRACT HEREON IS TO BE KNOWN AS _____ SUBDIVISION.

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

   THE SUBDIVISION HAS BEEN DEDICATED IN ACCORDANCE WITH THE WISHES OF THE UNDERSIGNED OWNER(S) OF THE LAND SHOWN HEREON.

6. Name and address of subdivider.
7. Name and address of the person, corporation or organization preparing the final plat.
8. Certification block for planning and zoning commission chairman and secretary.
9. Certification block(s) by authorized representatives from respective utility companies(cable, telephone company and electric company, etc.).
10. Certification and seal by a registered licensed surveyor of the state in accordance with the laws of the state, certifying the accuracy of the survey and the plat, and that the surveyor prepared or supervised preparation of the plat.
11. An accurate and complete boundary survey of the land to be subdivided. Plat boundary lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the plat shall provide sufficient data to enable the reestablishment of curves on the ground. Curve data shall

include:

a. Central angle and arc length;
b. Radius;
c. Chord bearing and length;

12. Location and description of all monuments set or found within the plat area. Subdivisions shall be tied into and referenced to the state plane coordinate system if within one-half mile of a traverse station established in conformity with the state plane coordinate system, with reference made on the final plat.
13. Bearings and lengths for all lot lines and rights-of-way lines existing or proposed. Lines to be eliminated shall be designated and identified by dashed lines. Names of streets, rights-of-way widths of all streets, commercial alleys, green ways, bikeways, trails and other transportation links shall be so designated.
14. Number to identify each lot.
15. Acreage of each lot.
16. Letter to identify each block.
17. Location, dimensions and purpose of all easements, existing or proposed, and any limitations thereof.
18. Adjacent land ownership within 100 feet. Note subdivision and/or owner's names and filing information: book, page and date.
19. Outlots or tracts designated by letter, with disposition indicated in the Note section. Location of land intended to be converted or reserved for public use or reserved in the deeds for the use of all property owners in the proposed subdivision shall be so identified. The purpose of each outlot and the responsibility for maintenance of all tracts shall be noted.
20. Locations, dimensions, and purposes of all necessary easements for water rights in relation to irrigation.
21. Ponding icon. For lots utilizing on-lot ponding, an icon shall be placed on the lot in the approximate location of the proposed ponding area. A note referencing the ponding icon shall also be present on the plat and reflect the purpose and the lot owner's responsibility for maintaining the ponding area.
22. A note placed on the plat stating: "Subdivider responsible for utility stub-outs and for providing any and all easements necessary to provide utility service to lots contained herein."
23. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

C. Supplemental material to submit with the final plat:

1. Application:
   a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) for the subject property as recorded in the county clerk's office.
   b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time the application is submitted.

2. Submittal fee.
3. Documentation from the county assessor's office that the current year's property taxes are paid and that no taxes are owed on the property.
4. Appropriate documentation shall be submitted to show proof of water service and approval of sewage disposal. (Applicable if the subdivision will not be utilizing city services.)
5. Address plat. The address plat shall be drawn with permanent black ink or produced by a photographic process on a linen or polyester (Mylar) film. The address plat shall be prepared on 18-inch × 24-inch sheets at a scale that adequately represents the information. Copies provided shall be legible. The following information shall be required:
   a. Title of subdivision;
   b. Approved lot layout;
   c. Lot and block numbers;
   d. Street name;
   e. Street address for each lot. (Community development department will provide the addresses.)
   f. Neighborhood delivery and collection box unit location (NDCBU), if applicable.
6. A traverse closure sheet (computer printout) for the exterior boundaries of the entire tract and for each parcel within the tract, except any parcels that are true rectangles.
7. Filing fee shall be required of the applicant at time of plat filing.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-116--37-140. Reserved.

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ARTICLE V
INFILL SUBDIVISION PROCESS

Sec. 37-141. The purpose of infill subdividing.
The purpose of the infill subdivision process is to implement the infill policy plan regarding the subdivision of land by providing an efficient process to encourage the development of vacant or underutilized properties within the central part of the City and to utilize existing infrastructure in a more cost-effective manner.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 2519, 5-26-09)

Sec. 37-142. Usage.

A. The infill subdivision process is designed to make it more desirable to develop vacant or underutilized land in the central part of the City, as well as to streamline the processing of subdivisions through two procedures: the infill development process (IDP) and the infill subdivision method (ISM). Both procedures provide an expedited review and processing schedule.
B. The infill development process option allows the applicant to submit a single application, in which the Planning and Zoning Commission may consider not only the proposed subdivision, but additional development aspects of the property such as variances, changes of land use, special use permits, etc. Consult section 38-48 of the Municipal Code, for specific procedures and options. The IDP option shall only be available on qualified infill properties within the defined infill area. See figure 1 for delineation of the Infill Area.
C. To qualify for use of the infill development process, the property must meet the definition of an infill parcel as set forth in Section 38-48 of the Municipal Code. Subdivision proposals not meeting the qualifications of the infill development process, but located within the infill area may follow the provisions of the infill subdivision method.
D. The infill subdivision method is an expedited procedure for subdivisions located in the infill areas. The ISM allows for an administrative approval of a concept plan in lieu of the full master plan process for proposals that would ordinarily require master plan approval. Once the concept plan has been approved, the developer may skip the preliminary platting process and proceed to the final plat process. The infill subdivision method is for subdivision proposals only. Any necessary variances, zone changes, special use permits, etc., would require separate action. Subdivision proposals in the Infill Area that consist of just one or two lots may potentially follow the alternate summary procedure.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02; Ord. No. 2519, 5-26-09)

Sec. 37-143. Procedure for the infill development process.

A. Pre-application procedure for IDP. Any proposed IDP causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting of the Development Review Committee (DRC), scheduled by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff representing the DRC an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the

representative regarding procedural nuance, necessary changes prior to formal submittal, or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. The DRC, with lead guidance form the Community Development Department representative, shall upon consideration of the information received during the pre-application meeting, instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

    a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

    b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

    c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. DRC determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council upon appeal or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or

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beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented

B. For purposes of the pre-application process, a written application or fee is not required, nor does this pre-application procedure require formal approval.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-144. Submittal of an infill development process application.

A. The application indicating the type of action being requested, along with the necessary support information may be submitted to the community development department at any time. The submittal shall be reviewed by the appropriate staff within eight business hours, and if all required items have been submitted, the application shall be accepted for review. If a submittal is found to be incomplete, the applicant shall correct the deficiencies and resubmit the application. The proposal will then be scheduled for review by the planning and zoning commission at a public hearing on the first Tuesday following the public notice period.

B. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this chapter. Additional requirements may include a neighborhood group and/or noticed area meeting.Any request for additional submittal requirements shall be justified in writing by the requesting entity.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-145. Approval of infill subdivisions under the infill development process.

A. Following staff review, a written report shall be provided to the planning and zoning commission with a recommendation that the proposal be approved, conditionally approved, postponed, or disapproved. The development review committee shall state reasons for their recommendation on the proposal to the Planning and Zoning Commission.

1. Public notice requirements for the IDP:

a. *Agenda.* The agenda for the planning and zoning commission public hearing shall

be made available no later than fifteen (15) calendar days prior to the public hearing.

b. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property site by the property owner, applicant or representative at least fifteen (15) calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.

c. *Notice.* Notice on all proposed subdivisions shall be sent by regular, non-certified, first class mail for subdivision related matters. If zoning related issues are part of the IDP request, notice for those items shall follow Article II, Section 38-10, E. to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 500 feet of the area of the proposed subdivision, including streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. The community development department is responsible for the list of property owners and the preparation of the mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice for purposes herein shall be mailed at least fifteen (15) calendar days prior to the public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the city at least 15 calendar days prior to the meeting.

B. The planning and zoning commission shall review the proposal, report, comments and recommendations received from the development review committee, the presentation from the subdivider or the subdivider's representative, and comments from any interested citizens, at a public hearing scheduled as needed, in accordance with section 38-1605 of the municipal code. Action from the planning and zoning commission shall be in the form of an approval, conditional approval, postponement or disapproval. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions from the planning and zoning commission as done at the public hearing shall be furnished to all appropriate parties in accordance with section 37-11(b).

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-146. Preapplication procedure for the infill subdivision method.

A. The subdivider that is following the infill subdivision method shall, prior to the filing of an application for approval of a final plat, submit a conceptual plan of the proposed development for formal review. Upon receipt of the submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, and the conceptual plan submittal contains all necessary items as per section 37-144 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed conceptual plan shall not be accepted for review if incomplete. All items required on a conceptual plan must be present for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline, if applicable.

B. Any proposed ISM causing need for public notification, review and approval by the Planning and Zoning Commission shall first have a concept plan reviewed at a meeting of the Development Review Committee (DRC) that is to be scheduled within nine (9) calendar days of acceptance by the Community Development staff (note: a conceptual plan is not required if following the infill development process). The purpose of the review is to determine whether it is consistent with the intents and purposes set forth in sections 37-3 and 37-141 of this chapter and to gauge whether early notification is warranted. A written report shall ultimately be provided to the subdivider indicating any changes that may be needed or potential concerns that may arise during the final plat and construction drawing review process. Upon completion of the review, the DRC will provide a recommendation on the proposal for the Planning and Zoning Commission. Due to this process, a representative for the proposed development action shall attend the DRC meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff representing the DRC an opportunity to gauge and determine neighborhood and/or community impacts and development related issues.

1. Neighborhood group and/or noticed area determination. The DRC, with lead guidance form the Community Development Department representative, shall upon consideration of the information received during the pre-application meeting, instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

    a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

    b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. DRC determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council upon appeal or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-147. Submittal of an infill subdivision method application.

A. Following a concept plan review by the DRC, if required, the final plat and supplemental material shall be submitted to the community development department. Upon submittal, the subdivision administrator shall have eight hours to review the submittal for completeness. If all of the required items have been submitted, and the final plat submittal contains all necessary items per section 37-147, the submittal will be accepted for review. A proposed final plat shall not be accepted for review if incomplete or

substantially inaccurate.

B. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this chapter. Additional requirements may include a neighborhood group and/or noticed area meeting. Any request for additional submittal requirements shall be justified in writing by the requesting entity.

C. Final plats shall be processed to the development review committee and other governmental agencies, if applicable, for review, comments and recommendations. The development review committee shall review the final plat to determine if it is consistent with the intent and purpose set forth in sections 37-3 and 37-141 of this chapter.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

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Sec. 37-148. Approval of infill subdivisions under the infill subdivision method.

A. Following staff review, a written report shall be provided to the Planning and Zoning Commission with a recommendation that the final plat be approved, conditionally approved, postponed, or disapproved. The development review committee shall inform the planning and zoning commission of the reasons for their recommendation on the final plat.

B. Public notice requirements for the infill subdivision method:

1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15) calendar days prior to the public hearing.
2. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property site by the property owner, applicant or representative at least fifteen (15) calendar days prior to the Planning and Zoning Commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
3. *Notice.* Notice on all proposed subdivisions shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 500 feet of the area of the proposed subdivision, excluding streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. Regular, non-certified, first class mail shall also be sent to all recognized niehgborhood groups within five hundred (500) feet of the subject property. The community development department is responsible for the list of property owners and preparation of regular mail. Notice for purposes herein, shall be mailed at least fifteen (15) calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The Planning and Zoning Commission shall review the final plat, report, comments and recommendations from the development review committee, presentation from the applicant or the applicant's representative and from any interested citizens. Action from the Planning and Zoning Commission shall be in the form of an approval, conditional approval, postponement, or disapproval. Action from the Planning and Zoning Commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions from the Planning and Zoning Commission, as approved at the public hearing, shall be furnished to all appropriate

parties in accordance with section 37-11(b). All approvals by the Planning and Zoning Commission are conditioned upon final review and approval of outstanding staff comments.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-149. Additional approval requirements for the infill development process or infill subdivision method.

A. It is a requirement of the Planning and Zoning Commission that no infill development process or infill subdivision method proposal shall be reviewed unless either the subdivider or the subdivider's representative is present at the Planning and Zoning Commission meeting. If the applicant or representative is not present at the public hearing, the proposal shall be tabled until the next available Planning and Zoning Commission meeting.

B. Upon final approval of the infill development process or the infill subdivision method proposal, the subdivider may submit applications for construction permits and/or a form of security for the filing of the plat. The final plat shall not be filed until all construction improvements have been completed by the developer and approved by the city or a form of security has been established and approved. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after final plat approval. The subdivision administrator shall be responsible for filing the final plat at the county clerk and recorder's office.

C. Final plat approval shall be effective for no more than three years from the date of approval. If the subdivision improvements have not been completed or a form of security established and approved, the final plat shall be resubmitted for final plat approval. Prior to the expiration date, the developer may submit a request for extension, if desired. The request will be reviewed by the development review committee for consideration. All plat extensions shall be automatically conditioned to required compliance with all city codes, regulations and specifications in place at the time of development of the plat in question.

D. No changes, revisions, erasures, or modifications shall be made on the final plat. No final plat shall be filed and recorded prior to the satisfaction of all requirements and conditions.

E. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been exhausted. For details on the appeal process, refer to section 37-13, "procedures for appealing decisions if staff, the development review committee and the planning and zoning commission."

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-150. Infill subdivision submittal requirements for the infill development process or infill subdivision method.

A. Conceptual plan requirements. Preapplication procedure for infill subdivisions utilizing the ISM requires the submittal of a conceptual plan, which shall be prepared in accordance with the master plan requirements stated in section 37-46.

B. Final plat and supplemental material requirements. After review of the conceptual plan, if required, the subdivider shall submit the following for final plat approval.
   1. Application for final plat:
      a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) of the subject property as recorded in the county clerk's office.
      b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
   2. Submittal fee, unless utilizing the IDP.
   3. Filing fee shall be required of the applicant at the time of plat filing.
   4. A final plat conforming to section 37-114 of this chapter.
   5. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.
   6. Address plat. The address plat shall be drawn with permanent ink or produced by a photographic process on a linen or polyester (Mylar) film. The address plat shall be prepared on 18-inch × 24-inch sheets at a scale that adequately represents the information (preferred scale: 1 inch = 100 feet). Copies provided shall be legible. The following information shall be required:
      a. Title of subdivision.
      b. Approved lot layout.
      c. Lot and block numbers.
      d. Street name.
      e. Address for each lot. (Community development department will provide the addresses.)
      f. Neighborhood delivery and collection box unit location, if applicable.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-151--37-175. Reserved.

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FIGURE 1: Infill Area

ARTICLE VI.
ALTERNATE SUMMARY PROCESS

Sec. 37-176. The purpose of the alternate summary process.

A. When a subdivision consists of no more than two parcels of land or is a replat of a previously-filed subdivision application that does not increase the total number of lots, the subdivision administrator may review and approve the subdivision, including subdivisions that propose to dedicate a right-of-way.

B. The subdivision administrator may also approve replats that decrease the number of lots of contiguous parcels in a previously-filed subdivision, provided that street dedications and utility easements are not being proposed to be vacated by the action.

C. The subdivision administrator shall have the authority to determine whether a replat of a previously-approved subdivision or a subdivision of two parcels shall be approved by summary procedure or be brought before the planning and zoning commission. The determination shall be final unless overruled by the development review committee, the city planning and zoning commission or city council action. (See section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission")

D. The alternate summary procedure shall be used only once on any one property unless the property has been master-planned for creating commercial, office or industrial subdivisions and the streets within those subdivisions have been dedicated and accepted by the city, including previously-platted lots (See article II: Master Plan). If the streets within a subdivision have not been dedicated and accepted by the city, the subdivider must follow the master plan procedures of this chapter before utilizing the alternate summary procedure more than once (See article II: Master Plan).

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-177. Pre-application procedure for final plats submitted under Sec. 37-176 (a) (increase of no more than two lots) or Sec. 37-176 (c) (creation of two parcels from a previously approved subdivision).

A. Any proposed final plat under Sec. 37-176 (a) (increase of no more than two lots) or Sec. 37-176 (c) (creation of two parcels from a previously approved subdivision) causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related

discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

   b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

   c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be

notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:
   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

Sec. 37-178. Preapplication procedure - general.

A. Prior to the filing of an application for approval of a final plat, the subdivider shall submit to the community development department a conceptual plan of the proposed development. A written application or fee is not required, nor does the preapplication procedure require formal approval.

B. The conceptual plan shall be processed to the subdivision administrator. The subdivision administrator shall discuss with the applicant or the applicant's representative the proposed final plat and shall indicate changes, if any, that will be required for the submittal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-179. Submittal procedure for the alternate summary process.

A. The final plat and supplemental material processed through the alternate summary procedure shall be submitted to the community development department any time during normal working hours. Upon receipt of the submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all the required items have been submitted, and the final plat submittal contains all of the necessary items as per section 37-114, the subdivision administrator shall accept the submittal for review. A proposed final plat shall not be accepted for review if incomplete or substantially inaccurate. All items required on a final plat must be presented for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline, if applicable.

B. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements in cases where it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this code. Additional requirements may include a neighborhood group and/or noticed area meeting. Any requests for additional submittal requirements shall be justified in writing by the requesting entity.

C. Final plats will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days to complete the review. Written reports, with their comments and recommendations, shall be forwarded to the subdivision administrator.

D. Whenever comments received by the city departments are in conflict, or the subdivider is in disagreement with the comments, the subdivision administrator shall be the authority to determine and resolve non-engineering or utility comment(s). The subdivision administrator may defer this authority to the development review committee. The development review committee decisions shall be final unless overruled by appeal to department directors, the planning and zoning commission, arbitration or city council, as applicable.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the final plat requirements and shall forward any comments to the subdivider or the subdivider's representative for revision and completion. Final plats or replats that receive comments shall be resubmitted and reviewed until the provisions set forth in this chapter are met. At that time, the final plat or replat shall be approved, and notice of decision shall be furnished to the applicant and the applicant's representative in accordance with section 37-11(b).

F. Upon final approval of the final plat or replat, the applicant may submit applications for construction permits and/or a form of security for the filing of the plat. The final plat or replat shall not be filed until all construction improvements have been completed and approved by the city, or a form of security has been established and approved. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after final plat or replat approval. The subdivision administrator and the applicant or their representative shall be responsible for filing the final plat or replat at the office of the county clerk.

G. Final plat approval shall be effective for no more than three years from the date of approval as described on the approval action form. If the subdivision improvements have not begun or a form of security established and approved, the final plat shall be resubmitted for approval. The subdivider may submit a request for extension of approval prior to the expiration date, if desired. The request will be reviewed by the subdivision administrator for consideration. All plat application extensions shall be automatically conditioned to require compliance with all city codes, regulations and specifications in place at the time of development of the plat in question.

H. An applicant who proposes a subdivision for the purpose of mortgage, which is processed through the alternate summary procedure, is required to submit a plat of survey and a legal description with a note that clearly states that the subdivision is for mortgage purposes only and does not allow for the conveyance of the property in question. Upon submittal, the subdivision administrator shall transmit a letter to the property owner stating that the subdivision created is for mortgage purposes only and does not grant the authority to sell the divided parcel as shown on the plat of survey. If the property owner desires to sell the divided parcel by mortgage, he/she is responsible for meeting all requirements, as stated in this chapter. Once the property owner provides a written response to the subdivision administrator's letter that said property owner understands the conditions of the subdivision by mortgage and is not dividing said parcel for the purpose of sale, the subdivision administrator will approve the plat of survey.

I. Appeals. Any person, department, committee, commission, board or bureau affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter, or by any other adopted resolution, rule, or regulation, may appeal the decision. The appeal must be initiated in writing and delivered to the community development department within 15 calendar days after all other procedures established by this chapter have been exhausted. Refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission," for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-180. Alternate summary process submittal requirements.

A. Subdivisions that follow the alternate summary process shall conform to the following requirements:
   1. *Application.*
      a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate and all persons having a specific power of attorney) of the subject property, as recorded in the county clerk's office.
      b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
   2. *Submittal fee.*
   3. Documentation from the county assessor's office that the current year's property taxes are paid and that no taxes are owed on the property.
   4. A final plat conforming to section 37-114 of this code.
   5. Releases by affected utility companies for replats submitted for approval by the alternate summary procedure.
   6. Address plat. The address plat shall be drawn using permanent black ink or produced by a photographic process on a linen or polyester (Mylar) film. The address plat shall be prepared on 18-inch x 24-inch sheets at a scale that adequately represents the information (preferred scale: 1 inch = 100 feet). Copies provided shall be legible. The following information shall be required:
      a. Title of subdivision;
      b. Approved lot layout;
      c. Lot and block numbers;
      d. Street name;
      e. Address of each lot (Community development department will provide the addresses).
      f. Neighborhood delivery and collection box unit location, if applicable.
   7. Filing fee at time of plat filing.
   8. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-181--37-205. Reserved.

ARTICLE VII.
REPLATS

Sec. 37-206. Replat--Defined.
A replat occurs when changes take place on a previously-filed subdivision plat. The process to follow when replatting a subdivision of lots within a subdivision varies and depends on the type(s) of changes being made.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-207. Process to follow when replatting.

A. A replat of a previously-filed subdivision that does not increase the total number of lots (moving or removing existing lot lines) may follow the procedures established in article VI, alternate summary procedure.

B. Replats that increase the total number of lots of a previously-filed subdivision shall follow procedures appropriate to those given in Final Plats.

C. Replats proposing waivers to this chapter and/or design standards shall follow the appropriate procedures regardless of whether said waiver(s) were approved with the original subdivision plat.

D. Replats and vacation plats may be submitted simultaneously and as one plat, if deemed appropriate by the subdivision administrator (Refer to Vacations). The application shall be processed to the city council for consideration when all requirements of this chapter have been met.

E. Appeals. Any person, department, committee, commission, board or bureau affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter, or of any other adopted resolution, rule or regulation, may appeal the decision. The appeal must be initiated in writing and delivered to the city community development department within 15 calendar days after all other procedures established by this chapter have been exhausted. For details on the appeal process, refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission."

Sec. 37-208. Pre-application procedure for final plats submitted under Sec. 37-207 (b) (increase of lots of a previously filed subdivision or Sec. 37-207 (d) (vacation plats).

A. Any proposed final plat under Sec. 37-207 (b) (increase of lots of a previously filed subdivision or Sec. 37-207 (d) (vacation plats) causing need for public notification, review and approval by the Planning and Zoning Commission or City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion,

information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

    a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

    b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

    c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community

Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:
   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.Sec. 37-208.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-209--37-235. Reserved.

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ARTICLE VIII.
VACATION PLATS

Sec. 37-236. Purpose of vacation platting.

A. The vacation process is to be followed when a request is made to rescind all or part of a recorded subdivision plat of land that has been legally dedicated. A vacation petitioner shall file a vacation plat on any land being vacated that is recorded in the county clerk's office, unless determined by the subdivision administrator that such action is not required. If a vacation plat is not required, a plat of survey that is clear and concise in displaying the proposed vacation shall be submitted, in lieu of said plat,.

B. Vacation plats shall be prepared as a final plat in accordance with section 37-114 of this chapter. Said plat shall be prepared by, and have the seal of, a state registered land surveyor.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-237. Preapplication procedure for vacation plats.

A. Any proposed vacation plat causing need for public notification, review and approval by the City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed platting action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

   b. Potential land use conflicts resulting from potential sale of vacated property to adjacent property owners.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is the loss of pedestrian access as a result of vacated right of way.

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:
   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

b. Information as to how the developer, applicant, or representative for the development action may be contacted.

c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

Sec. 37-238. Submittal process for vacation plats.

A. The vacation plat and supplemental material shall be submitted to the community development department no later than 35 calendar days prior to the day of the regular meeting of the city council for approval consideration.

B. Upon receipt of submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, and the vacation plat submittal contains all necessary items, the subdivision administrator shall accept the submittal for review. A proposed vacation plat shall not be accepted for review if incomplete or substantially inaccurate. All items required on a vacation plat must be present for acceptance. If the submittal is found to be incomplete, the applicant shall have

eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator or the development review committee shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this code. Additional requirements may include a neighborhood group and/or noticed area meeting. Any request for additional submittal requirements shall be justified in writing by the requesting entity.

(Ord. No. 1929, §§ I, II, 3-3-03)

Sec. 37-238. Vacation plat approval process.

A. Vacation plats shall be submitted to the development review committee for review, comments and recommendations. The development review committee shall review the vacation plat to determine whether it is consistent with the intents and purposes set forth in this chapter.

B. A written report shall be provided to the city council with a recommendation that the vacation plat be either approved, denied or modified. The development review committee shall state reasons for their recommendation to the city council.

C. Public notice requirements:
   1. *Agenda.* The agenda of the city council meetings shall be made available no later than fifteen (15) calendar days prior to the meeting.
   2. *Notice.* Notice of the time and place of the city council meeting shall be published in a newspaper of general circulation in the city at least fifteen (15) calendar days prior to the meeting. Notice on all proposed vacations shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within 500 feet of the proposed vacated right-of-way. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within 500 feet of the proposed vacated right-of way. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice to neighborhood group(s) and/or noticed area shall be mailed at least fifteen (15) calendar days prior to the meeting.

D. The city council shall review the vacation plat or request, comments and recommendations from the development review committee, the presentation from the petitioner or the petitioner's representative and from any interested citizens. Action from the city council shall be in the form of approval, denial, or modification. Action from the city council shall be recorded in the minutes of the meeting. An affirmative vote by four members of the city council is required for approval of a vacation plat or request. A copy of the city council notice of decision that includes any changes or conditions, as done at the public hearing, shall be furnished to all of the parties stated above in accordance with section 37-11(b).

E. It is the requirement of the city council that no vacation plat or request shall be reviewed

unless either the petitioner or the petitioner's representative is present at the city council meeting. If the applicant is not present at the public hearing, the vacation plat or request will be tabled until the next regular city council meeting.

F. No changes, revisions, erasures or modifications shall be made on the vacation plat after approval by the city council. No vacation plat shall be filed and recorded prior to the satisfaction of all requirements and conditions of this chapter. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after vacation plat approval. The subdivision administrator shall be responsible for filing the vacation plat at the county clerk's and records office.

G. Appeals. The decision of the city council may be appealed to district court. The appeal must be filed within 30 calendar days of the decision of the city council. See section 37-13 for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-239. Vacation plat submittal requirements.

A. The following information shall be required.
   1. Application.
      a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) of the subject property, as recorded in the county clerk's office.
      b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
   2. Submittal fee.
   3. Filing fee at time of plat filing.
   4. Vacation plat (conforming to the provisions set forth in section 37-114), with the exception that signature blocks for the mayor and the city clerk be added in lieu of that of the city planning and zoning commission. In addition, all existing utilities and utility easements shall be shown on the plat.
   5. A petition signed and notarized by property owners in situations whereby access would be affected.
   6. A statement of vacation signed and notarized by the property owners.
   7. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

(Ord. No. 1798, § I, 6-19-00)

Secs. 37-240--37-265. Reserved.

ARTICLE IX.
ANNEXATIONS

Sec. 37-266. Purpose of annexation.
The purpose of an annexation is to redesignate property outside the city as being within the city limits, thereafter. Annexations can be used to maintain a unified urban area and to promote orderly growth utilizing city services.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-267. When an annexation plat is required.
An annexation plat conforming to this chapter shall be required for all annexation requests. A master plan identifying the purpose for which the property is intended to be used, and an initial zoning request, are also required. (Ord. No. 1798, § I, 6-19-00)

Sec. 37-268. Preapplication procedure.

A. Any proposed annexation causing need for public notification, review and approval by the Planning and Zoning Commission and City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. The applicant shall submit to the community development department a conceptual plan of the proposed development/annexation. A written application or fee is not required, nor does this preapplication procedure require planning and zoning commission approval. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

   b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

B. The subdivision administrator and the zoning administrator shall review all conceptual annexation requests and discuss with the petitioner(s) and/or the petitioners' representative any changes that will be required for the submittal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-269. Submittal of an annexation request.

A. The annexation petition, initial zoning request, master plan and annexation plat shall be submitted to the community development department no later than 48 calendar days prior to the day of the regular meeting of the planning and zoning commission for approval consideration.

B. Upon receipt of a submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, the subdivision administrator shall accept the submittal for review. A proposed annexation shall not be accepted for review if the annexation plat, the master plan and the zoning application are incomplete or substantially inaccurate. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this code. Required information may include, but is not limited to, a neighborhood groups and/or noticed area meeting, traffic impact analysis, environmental analysis or other documentation or information necessary to meet the objectives of this chapter. Any request for additional submittal requirements shall be justified in writing by the requesting entity.

D. Annexation requests will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days in which to complete the review. Written reports with their recommendations shall be forwarded to the subdivision administrator.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the annexation requirements and shall forward any comments to the applicant or the applicant's representative for completion. Annexation requests that receive comments shall be resubmitted and reviewed until the provisions set forth in this chapter are met.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-270. Review and consideration of an annexation request.

A. Following initial staff review and review of the initial zoning request, the annexation request shall be forwarded to the development review committee for review, comment and recommendation. The development review committee shall review the annexation master plan in accordance with section 37-45 of this chapter. Following development review committee review, the master plan, and the annexation and initial zoning request, shall be scheduled for a public hearing for planning and zoning commission consideration. A written report shall be provided to the planning and zoning commission from the development review committee recommending that the master plan and the annexation and initial zoning request be either approved, conditionally approved,

postponed or disapproved. The development review committee shall state the reasons for their recommendation concerning the annexation and initial zoning request submitted to the planning and zoning commission.

B. Public notice requirements: The items indicated below shall be required for all annexation requests scheduled for planning and zoning commission action.
   1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15) calendar days prior to the public hearing.
   2. *Posting.* The community development department shall post a notice of the proposed annexation and initial zoning in a conspicuous place on the property at least fifteen (15) calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
   3. *Notice.* Notice of the Planning and Zoning Commission public hearing shall be sent by certified mail to all property owners when one city block or less is under consideration for the activities listed, (except zone change-related cases, see Section 38-10B2b, where notice shall be sent by regular, non-certified, first class mail), as shown by the records of the County Assessor, within at least one hundred (100) feet of the subject property of the proposed request, excluding streets, alleys, channels, canals, railroads, and all other public rights-of-way. Thereafter, regular, non-certified, first class mail shall be sent to those properties that fall within a distance greater than one hundred (100) feet and no less than five hundred (500) feet of the subject property. The secondary distance of (>= 100' - <= 500') may include streets, alleys, channels, canals, railroads, and all other public rights-of-way.. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice shall be mailed at least fifteen (15) calendar days prior to the required public hearing. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the City.

C. The planning and zoning commission shall review the master plan, the annexation and initial zoning request report, comments, and recommendations received from the development review committee, as well as the presentation from the applicant and/or the applicant's representative, and from any interested citizens at a public hearing. The intent of the planning and zoning commission review is to allow for public input in the development process and to serve as a land-planning process. Review of the proposal

shall consist of zoning-related issues including, but not limited to, compliance with the comprehensive plan. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. The annexation request shall be heard as one case, but separate action shall be taken on the master plan, the annexation plat and the initial zoning request. Action on the annexation plat and the initial zoning request will be in the form of a recommendation to the city council that the proposals be approved, conditionally approved, or disapproved.

D. It is the requirement of the planning and zoning commission that no annexation request shall be reviewed unless either the applicant or the applicant's representative is present at the public hearing. If neither is present at the public hearing, the request will be postponed until the next regular planning and zoning commission meeting.

E. Following action by the planning and zoning commission, the annexation request and the initial zoning request shall be forwarded to the city council for final action. The annexation request and the initial zoning request will be scheduled for the next available regular city council meeting once staff has received the minutes of the planning and zoning commission public hearing, and all public notice requirements of this chapter are met. A copy of the notice of decisions that include any changes or conditions the planning and zoning commission and city council made at public hearings shall be provided to all appropriate parties in accordance with section 37-11(b).

F. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter, or of any other adopted resolution, rule, or regulation, may appeal the decision. The appeal must be initiated in writing and delivered to the community development department within 15 calendar days after all other procedures established by this chapter have been exhausted. For details on the appeal process, refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission."

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-271. Annexation request submittal requirements.

A. A request for annexation shall include the following:
   1. Application (to include annexation, initial zoning and master plan):
      a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) of the subject property as recorded in the county clerk's office.
      b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time the application is submitted.
   2. Submittal fee.
   3. Petition. The petition shall contain the following information:
      a. Date;
      b. Description of property (certified by N.M.P.L.S.);

c. Acknowledgment by each property owner;
d. Name of each property owner;
e. Address of each property owner;
f. Notarized signature of each property owner;

4. Annexation plat. Conforming to the provisions set forth in section 37-114, the plat must also contain certification blocks for the mayor and the city clerk, as well as for recording information (book and page) for the annexation ordinance. An annexation plat must include all adjacent public rights-of-way.

   The plat shall, by note, reference all agreements related to water rights, and future payments, and must include the city council resolution number associated with the agreement.
5. Initial zoning request (see 1981 Las Cruces zoning code, as amended).
6. Master plan, conforming to the provisions set forth in section 37-46.
7. Letter of acknowledgment from the property owner(s) that the conveyance of water rights or payment in lieu of said rights shall be required at the time of development; and, adherence to the city's water rights ordinance, as amended.
8. Filing fee at time of plat and ordinance filing.
9. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

(Ord. No. 1798, § I, 6-19-00)

Secs. 37-272--37-297. Reserved.

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ARTICLE X.
GUARANTEE OF IMPROVEMENTS

Sec. 37-298. Subdivision improvement requirements.

A. After final plat approval, the subdivider shall submit construction drawings to the community development department for review and approval for construction permits. Review of the construction drawings may transpire at any time after the submittal of the final plat. However, construction permits shall not be issued without appropriate approval of the final plat.

B. Designs for subdivisions within the corporate limits of the city shall conform to the provisions set forth in the city design standards, (chapter 32, LCMC).

C. Waivers to the design standards are discouraged and will be considered only if the subdivision application is processed through the planned unit development (P.U.D.) procedure, or whenever the subdivider has provided sound evidence in writing substantiating the need for a waiver to said standards.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-299. Application procedure.

A. The construction drawings and supplemental material shall be submitted to the community development department. Upon submittal, the community development department shall review the submittal for completeness. If all of the required items have been submitted, the community development department shall issue a receipt for same.

B. Construction drawings and supplemental material will be processed by the applicable city departments and other governmental agencies for review, comments and recommendations. Written reports, with their comments and recommendations, shall be forwarded to the community development department within ten business days for the first review and within five business days for each subsequent review.

C. The community development department shall forward any comments to the subdivider or the subdivider's representative for completion. Construction drawings and supplemental material that receive comments shall be resubmitted and reviewed until the provisions set forth in this chapter are met. At that time, the construction drawings shall be approved, the construction approval block signed by the appropriate authorities and a construction permit issued (if the final plat has received approval from the appropriate authority).

D. Conflict. Whenever comments received by the city departments are in conflict, or whenever the subdivider is in disagreement with the comment(s), the subdivision administrator will determine the appropriate procedure to be followed in order to resolve said conflict or disagreement. Conflicts or disagreements may be resolved by following the applicable appeal procedure.

E. Appeals.
   1. Appeals of staff decisions regarding nonutility engineering concerns with the construction drawings are resolved by the public works director. The appeal may be submitted at any time during the construction drawing review process. Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for review of the appeal. The meeting shall include the applicant, the development review committee, and the staff member whose decision is being appealed. After a review of the appeal, the public works director shall render a decision within three business days of the meeting.
   2. Appeals of staff decisions regarding utility concerns with the construction drawings are resolved by the utilities department director. The appeal may be submitted at any time during the construction drawing review process. Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for review of the appeal. The meeting shall include the applicant, the utilities director, the DRC and the staff member whose decision is being appealed. Upon review of the appeal, the utilities director shall render a decision within three business days of the meeting.
   3. Appeals to the decision of either the public works director or the utilities director regarding the construction drawings are resolved by arbitration. See section 37-13(d), "appeal of public works director or the utilities director."

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-300. Construction drawing submittal requirements.

A. Subdivision requirements:
   1. Application;
   2. Submittal fee;
   3. A final plat conforming to section 37-114 of this chapter;
   4. Geotechnical soils investigation report. A complete geotechnical soils investigation and corresponding report may be required if the soil conditions are unknown, unreliable, or otherwise unusual. This requirement must be met when working in soils that are graded "expansive" or "very fine."

      Any geotechnical soils investigation must include, at a minimum, representative sampling and testing for:
      a. Soil classification (USCS);
      b. Sieve analysis;
      c. Structural design factors (R value and/or CBR value);
      d. Other parameters may be required, including but not limited to:
         i. Soil percolation tests (permeability);
         ii. Soil boring logs;
         iii. Water table elevations;
   5. Pavement design. A complete pavement design may be required for collectors, arterials, industrial parks/developments, or other areas subject to unusual traffic loadings. This requirement must be met whenever the soil to be worked in has been graded as "expansive" or "very fine." Pavement designs must include, at a minimum:
      a. Depth and type of subgrade preparation;

b. Depth and type of base course needed;
c. Depth and type of asphalt pavement needed: Note--Asphalt mix formula to be required from contractors.

6. Final drainage study. The final drainage study shall be a detailed report and analysis of the drainage in the proposed development. It shall include detailed calculations for all potential runoff within the proposed development, and detailed calculations supporting the design of all drainage structures within the development.

   Construction plans for all drainage structures, and grading plans for all street grades where applicable, shall also be considered as part of the final drainage study.

   Drawings and calculations comprising the final drainage study shall include, but not be limited to, the following information:

   a. Existing and proposed contours for proposed development. (Contour interval based on N.G.S. Datum--two-foot contour interval minimum.) Proposed development with relatively flat surfaces (e.g., river valley subdivisions) shall contain spot elevations or one-foot contour intervals.
   b. Location(s) and elevation(s) of city or U.S.G.S benchmark(s). All elevations shall be based on N.G.S. Datum.
   c. Property lines.
   d. Streets, R.O.W. limits, names and grades.
   e. Existing drainage facilities and structures, including existing irrigation ditches, roadside ditches, drainage ways, gutter flow directions, and culverts.

      All pertinent information such as size, slope, elevations and locations of existing drainage ways shall be included in order to facilitate review and approval of drainage plans.
   f. Overall drainage area boundaries and drainage sub-area boundaries.
   g. Proposed types of curbs and gutters and gutter flow directions, including crosspans (intersections).
   h. Proposed storm drains, open drainage ways and right-of-way requirements, including proposed inlets, manholes, culverts, erosion control and energy dissipation devices, and any other appurtenances necessary for drainage control.
   i. Proposed inflow and outfall point(s) for runoff from the study area.
   j. Routing and accumulative flows at various critical points for the initial (ten-year) and major (100-year) storm runoff.
   k. Minimum finished-floor elevation and ground-site elevations at all critical building locations for protection from major storm runoff.
   l. A 1-inch = 100-foot (preferable) scale map of the proposed development that shows the following information:
      i. Locations and sizes of all drainage structures;
      ii. General flow patterns within the development;
      iii. Minimum finished-floor or building-pad elevation of each building site;
      iv. 100-year flood level in all streets in which the curb would be overtopped during the 100-year storm;
      v. All drainage basins within the development (Note: The number of basins

should be limited to the smallest practical number.)

m. All floodplains and floodways within the proposed development. A copy of the current F.E.M.A. Floodplain Map is required showing project limits.
n. All drawings on 24-inch × 36-inch sheets.
o. Plan details. The following details shall be indicated on the drainage plans.
    i. Title block (lower right-hand corner preferred);
    ii. Scale;
    iii. Date and revisions;
    iv. Name and address of professional engineer (and firm);
    v. Professional engineer's seal;
    vi. Drawing number (sheet n/n);
    vii. Legend;
    viii. Approval block for appropriate reviewing departments and agencies;
p. Construction drawings. Construction drawings shall be prepared by a registered professional engineer licensed in the state. All drawings shall be on 24-inch × 36-inch sheets and shall show the following information:

Plan:

- North arrow;
- Property lines;
- Street names and easements (with locations and width dimensions);
- Existing utility lines, locations and depths (or heights):
    - Water;
    - Gas;
    - Storm drains;
    - Irrigation canals;
    - Sanitary sewers;
    - All existing and proposed public and private utilities.

Profile:

- Vertical and horizontal grids with scales identified;
- Ground surface grade (dashed line) and proposed grade (solid line);
- Existing utility lines where crossed;
- Benchmarks (N.G.S. Datum);

Proposed construction:

- *Pipes and culverts:*
    - Plan showing stationing;
    - Profile showing elevations at even stationing (at 50-foot intervals)
    - Size and length pipe, pipe composition (if applicable) and distances between manholes;
    - Slope of pipe;
    - Inlet and outlet details of all manholes and inlets, and connections to existing drainage systems (if applicable);
    - Manhole details, including station numbers, and invert and top elevations;
    - Typical bedding details for pipe for all bedding situations encountered on

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project;

- *Open channels:*
  - Plan showing stationing;
  - Profile indicating elevations of invert of channel, top of lining (if any), and adjacent ground grade;
  - Profile showing elevations at even stationing (at 50-foot intervals);
  - Typical cross sections;
  - Construction notes;
  - Lining details;
  - Rip-rap and bedding details, with graduation requirements for same;
  - Details of all inflow and outflow structures and drop structures (includes subgrade and foundation design details);
- *Technical specifications:* Technical specifications shall be included on any drainage project permitted for construction within the city. Specifications shall meet the minimum guidelines for construction as outlined in the city standard specifications for roadway construction and design standards as amended. Additional specifications for construction shall be included, to the point at which there exists a clear understanding of the nature and quality of work to be performed on the project. Additional technical specifications for projects that will become city property or that will be involved in the city storm drainage maintenance program, may be required.

q. Street plan and profiles. The plan and profiles shall be prepared on 24-inch × 36-inch sheets by a registered professional engineer, licensed in the state. The scale of all plans and profiles shall be 1:5 vertical, 1:50 horizontal unless a grid break would result. In such cases, the scale may be 1:10 vertical, 1:100 horizontal. A grid shall be required in all cases.

Plan. The following information shall be indicated on the plans:

- Title block (lower right-hand corner preferred);
- Horizontal/vertical scale;
- Date and revisions;
- Name of professional engineer (and firm);
- Professional engineer's seal;
- Drawing number (sheet n/n);
- Legend;
- Construction approval block for appropriate reviewing departments and agencies;
- Street name;
- North arrow;
- Match lines with stationing and "see sheets" called out;
- Limits of construction;
- Centerline stationing;
- Stations at street intersections, curb returns and property lines;
- Sizes and locations of all utilities (existing and proposed) (stub-outs not

required);
- Rights-of-way widths;
- Adjacent block and lot numbers;
- Fire hydrant locations;
- Water and gas lines and valve locations;
- Sidewalk and wheelchair ramp locations;
- Curve centerline data;
- Stationing and locations or crown transition;
- Back-of-curb radius (P.C., P.T. and midpoint stations), or sidewalk if no curbing is required, if applicable;
- Curb/gutter locations, if applicable;
- Top-of-curb elevations, or of sidewalk if no curbing is required, and stations at each front lot corner;
- Drainage flow arrows at crosspans and nontypical intersections;
- Driveway locations and stations (if applicable);
- Proposed top-of-pavement spot elevations at and across from all intersections (at flowline extensions);
- A local benchmark based on N.G.S. datum, with description, location and elevation;
- Manhole locations;
- "No parking" sign locations (if applicable)

Profiles. The following information shall be indicated on the profiles:
- Proposed and existing grades 100 feet beyond limits of construction;
- Even stationing (at 50-foot intervals) and elevations on all profiles of top-of-curb, right and left, street centerline required if in a nontypical section;
- Stationing and elevation of the vertical point of intersection on all vertical curves, including, PVT, PVI, PVC, and K value;
- Top-of-curb elevations (or top-of-sidewalk elevations if no curbing is required at each lot corner);
- Sanitary and storm sewer pipe invert elevations;
- Slopes of sewer lines;
- Stationing of manholes;
- Pipeline locations, sizes and depths noted;
- Limits of construction;
- Grid at scale of 1:5 Vertical and 1:50 horizontal; scale can be 1:10 vertical and 1:100 horizontal if size will require a page break;

r. Grading plans. The plans shall be prepared by a registered professional engineer licensed in the state. The following information shall be required:
- Street names;
- Block and lot numbers;
- North arrow;
- Written and graphic scales;

- Existing contours based on project "as-builts," not plans, at 2-foot intervals (100 feet beyond project boundary if adjacent land is undeveloped and the property line of the adjacent land is developed). Proposed development with relatively flat surfaces (e.g., river valley subdivisions) shall provide spot elevations, or one-foot contour intervals;
- Retaining wall locations (and note if walls will be built at time of roadway construction) (See city design standards, chapter 32, LCMC);
- Top-of-curb elevations, or sidewalk if no curbing is required at each lot corner
- Pad elevations or finished floor elevations (for each lot);
- Spot elevations (minimum of six per lot showing high points and low points) or a typical lot detail if the proposed development has a relatively flat surface (e.g., river valley subdivision);
- Pond elevations: Top, bottom and dimension from property lines (if applicable);
- Barrow ditch elevations (if applicable);
- Drainage channel elevations (if applicable);
- Drainage flow arrows (and note if roof area will drain to ponding area);
- Retention/detention, basin, location and elevation;
- A project benchmark based on N.G.S. datum with description, location and elevation.
- Note: All grading, including lot grading, shall be done at time of roadway construction and to be maintained by subdivider.
- General notes for grading and construction, etc.;
- Off-site grading or slope grading limits (if applicable);
- All grading must comply with chapter 70 of the Uniform Building Code or an approved alternative. Alternative design may only be approved by the public works director.

  If grading will be performed on the land of an adjacent property owner(s), or construction vehicles may need to access the property, a copy of a letter must be provided to the city, signed by the adjacent property owner(s), stating that they understand the nature of the work and do not oppose the modification to their property and/or that they will allow temporary access to their property by the contractor;
- Show existing utilities.

s. Utility master plan. The Utility master plan shall include all phases of development and be prepared by a registered professional engineer, licensed in the state. The following information shall be required: If utilities are not in the standard location, i.e., street right-of-way, then preapproval is required by the utilities department.
   - Utilities for existing development: Size and type of pipe (existing and proposed), including underground electrical, telephone, cable TV, etc.;
   - Lot and block numbers;
   - Street names;
   - North arrow, written and graphic scale: Scale shall be no greater than 1-inch =

60-feet;
- Utility stubouts;
- Street light pad and conduit locations;
- Wire utility boxes;
- Fire hydrant locations;
- Water and gas valve locations;
- A local benchmark based on N.G.S. datum, with description, location and elevation;
- Manhole locations.

t. Detail sheet, to be prepared by a registered professional engineer licensed in the state. The following information shall be required, if applicable:
- Roadway construction notes and general notes;
- Utility construction notes;
- Manhole details;
- Typical utility stubout to lot detail;
- Street intersection detail (if applicable);
- Typical street cross-section(s) (including paving composition);
- Curb and gutter detail;
- Wheelchair ramp detail;
- Retaining wall detail, cut-off wall detail and all fencing details (if applicable);
- Drainage structure details;
- Light base details;
- Typical lot layout;
- Any other construction detail which may be needed for clarification purposes;
- Water and gas valve and line detail.

B. The subdivider of any approved subdivision shall be responsible for completing roads, drainage and utility improvements necessary for filing the final plat. Construction improvements shall include 100 percent coverage of all road, drainage and utility improvements within the subdivision and 50 percent coverage of roads adjacent to the subdivision. The subdivider shall be responsible for any necessary off-site utility extensions required to provide service, unless such extensions are already part of the utility capital improvement program.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-301. Installation and acceptance of improvements.

The improvements, both public and private, required with the approved subdivision application shall be constructed, installed and approved into the city's maintenance program (if applicable) prior to the filing of an approved final plat or provisions made to secure the completion of improvements. The subdivider may secure the improvements by furnishing a performance bond, an irrevocable letter of credit, a cashier's check, an escrow account, or other acceptable collateral and a guarantee of performance to the city in favor of the city, to secure actual construction of the improvements within a period of 34 months after the approval of the final plat. If the improvements have not been constructed in accordance with the approved plans and

specifications within the time frame prescribed by this chapter, the city may withdraw adequate monies from the securities to complete the construction of the subdivision.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-302. Guarantee of performance.

A. The community development department shall not file the final plat until all required improvements have been inspected and approved by the city, or until provisions are made to secure the completion of improvements. If the improvements are not completed by the completion date, the subdivision shall revert to preliminary plat status unless the final plat has received an approval extension.

B. A form of security, a guarantee of performance and a bid from the contractor may have to be filed with the city. The amount of such security must cover the projected cost of all required improvements agreed to by the subdivision administrator. The amount shall be based on the projected costs that the city would incur at the time improvements are scheduled for completion. Any of the following types of security shall be filed with the subdivision administrator:
   1. Performance bond: A surety bond acceptable to the city to cover estimated costs of improvements.
   2. Escrow account: An account established with a financial institution in the amount of the projected costs of improvements.
   3. Irrevocable stand-by letter of credit: Irrevocable authority to draw a draft for the projected cost of improvements.
   4. Cashiers check: An amount of security acceptable to the city to cover estimated costs of improvements.
   5. Any other form of security approved by the subdivision administrator and legal staff.
   6. An applicant subdividing a large tract of land as deemed appropriate by the development review committee, may with the approval of the subdivision administrator and the legal staff, submit a final plat for approval without providing any form of security if it is noted on the final plat that:
      a. The city has not accepted the dedications identified on the plat; and
      b. The applicant and future owners shall notify prospective purchasers in writing that the purchaser will be responsible for providing the necessary improvements and/or security.

The city shall not issue any building permits within the subdivision until such time security in form of those listed in 37-302(b)(1--5) has been provided to the city.

All forms of security and agreements shall be reviewed and approved by the subdivision administrator, and approved as to form by the attorney's office.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 1866, § I, 5-7-01; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-303. Release of collateral.

If the developer wishes to provide a form of security, the following procedure for release of collateral shall apply:

As improvements are completed, the subdivider may apply to the subdivision administrator for a

release of part or all of the collateral deposited. Application for partial release shall include the contractor's invoice, showing the items and percentages of completion being billed. The subdivision administrator shall forward the request to the appropriate inspectors to verify that the work being billed has been completed. Upon inspection and approval by the city, the subdivision administrator may release said collateral. If the subdivision administrator determines that any of such improvements are not constructed in compliance with specifications, the city shall be entitled to withhold collateral sufficient to ensure such compliance. If the city determines that the subdivider will not construct any or all of the improvements in accordance with all of the specifications, the city may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications. The subdivision administrator shall withhold 10% of any collateral for specific improvements until such time as the final approved record drawings are submitted to the subdivision administrator and the improvements are accepted by the city.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-304. Extension of guarantee of performance.

A. The subdivider may request an extension of the guarantee of performance with the city via a written request explaining the extension proposal and the reasons for said request. The subdivision administrator shall review the subdivider's request to determine whether the guarantee of performance and the security will be extended. If approved, the subdivider shall be responsible to furnish a revised guarantee of performance and a form of security that adequately secures the completion of improvements prior to the expiration date of the guarantee of performance contract.

B. Guarantee of performance extensions shall only be granted once, for a one-year period, if there has been substantial progress made in the construction of the improvements. Substantial progress, in this sense, means 50 percent completion, the extent to be determined by the subdivision administrator.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-305. Acceptance of improvements.

A. The subdivider may request the city to approve and accept the roadway, utility, and drainage improvements. For preliminary acceptance of utility improvements, and prior to connection to the city's utility system, the subdivider shall be required to submit utility blueline drawings for review and approval by city engineers. Such drawings shall be submitted to the utilities department projects administrator.

B. Upon completion of the development, the subdivider may make a written request to the subdivision administrator for final acceptance of all subdivision improvements. Along with the written request, the city shall require the submission of one set of Mylar record drawings (as-builts), a computer-aided drawing file on a 3.5-inch computer diskette or recordable CD, or other format accepted by the city, and a detailed material listing. The city shall inspect said improvements to determine whether the infrastructure is acceptable and whether it conforms to the approved final plat and construction drawings. The computer-aided drawing file on computer diskette or CD may be waived by the development review committee. Granting a waiver shall not serve as a convenience to the

applicant, but the waiver shall be the minimum necessary for relief due to some demonstrable hardship, and shall be granted only in cases where reasonable alternative means are not available to resolve the issue(s).

C. The computer-aided drawing file to be submitted shall be labeled with the contractor's name, the engineer's name, the subdivision name, the subdivision location, and the final inspection date. The computer-aided drawing file shall be the file used to generate the final record drawings (hard copy). The computer-aided drawing file shall depict the final Mylar as-builts with the rights-of-way and the subdivision tied to the state plane coordinates. The computer file drawing shall be in AutoCAD Version 11 or later, or in a similar 100 percent compatible and transferable file. Prior to submittal of the digital record drawings, the project engineer shall enter into a digital file agreement with the city. The purpose of the digital file agreement is to protect the project engineer from liability in the event that the drawings become altered in any manner not approved by the city and the project engineer.

D. Said Mylar drawings shall be signed and sealed by a registered engineer of the state. The Mylar drawings made from the design drawings based on the contractors' as-builts and the computer-aided drawing file shall provide the following information for city review:
   1. *Grade changes.* Reflect all changes in grading from the approved plan and profile sheets, including but not limited to curb elevations, property line elevations, drop inlets, curb return elevations, tops of manholes, and inverts.
   2. *Street alignment changes.* Designate any alignment change within a street right-of-way that deviates from that shown on the approved plan and the profile sheets.
   3. *Detail sheet changes.* Reflect any change in street cross sections, retaining walls or other general details that have been altered from the approved construction drawings.
   4. *Utility changes.* Designate all utility changes that deviate from the approved plan and profile sheets.

E. Additionally, a detailed material listing shall be required. The materials listing must be a tabular listing that includes, wherever appropriate, mains (sewer mains must include depth), valves, manholes, fire hydrants, number of service lines and number of drainage inlets. These materials must be represented in the listing by the standard measure or by the unit installed, e.g., linear foot, number of each. The listing must be separated by utility function for potable water, wastewater, storm drainage and gas. The listing must include:
   1. Developer's name;
   2. Subdivision name and location;
   3. Date of final inspection;
   4. Quantity and unit of materials installed (e.g., 250 linear feet, eight each);
   5. Material description, including size or dimensions (e.g., 4-inch PVC main).

F. The subdivision administrator, upon receipt of a written report of recommendation for acceptance and from:
   1. The public works director that all improvements have been installed in accordance with the plans, as approved, and are in conformity with the requirements of this

chapter; and

2. The utilities director that all utility improvements have been installed in accordance with the plans, as approved, and that they are in conformance with the requirements of this chapter;

May formally accept said public improvements for city maintenance. The subdivision administrator will notify the subdivider within ten business days after his/her request as to whether the improvements will be accepted for city maintenance. The subdivision will be accepted only with the concurrence of the subdivision administrator, public works department director and the utilities department director. Upon acceptance, the subdivider shall guarantee improvements for one year.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-306--37-331. Reserved.

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ARTICLE XI.
WAIVER OF REGULATIONS

Sec. 37-332. Waivers.
In the case of a particular proposed subdivision, whenever it can be shown that strict compliance with the requirements of this chapter would result in a substantial hardship to the subdivider because of exceptional topographic, soil or other surface or sub-surface conditions, or that such conditions would result in inhibiting the objectives of this code, the planning and zoning commission may vary, modify, or waive nonengineering-related requirements up to 15 percent of the required standard. Furthermore, any proposal containing three or more planning-related waivers shall be processed via the planned unit development process. The subdivision administrator may waive submittal requirements of this chapter. A waiver of engineering submittal requirements shall require the concurrence of the public works director. The public works director and the utilities director may vary, modify or waive engineering-related requirements as applicable and appropriate. No variance or waiver shall be allowed when such waiver is requested because the goals and objectives of the drainage section of the city's design standards are not being met. For example: A waiver shall not be granted if the developer is designing a drainage system that transfers problems from one location to another, that does not provide protection against regularly-occurring damage, or that creates major property damage or loss of life from runoff expected in a major storm event. Also, no waiver shall grant any variation or modification contrary to the mandatory requirements of state law.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-333. Waiver procedure.

A. Whenever the subdivider desires to request a waiver or variance from any nonengineering-related requirements of this chapter, the subdivider shall submit, in writing, the request for waiver at the time of master plan submittal or preliminary plat submittal, or at the time that a replat or an alternate summary processed subdivision is submitted. The request for waiver shall include, in detail, the reasons for supporting such a request.

B. The subdivision administrator shall schedule the requested waiver to be reviewed by the development review committee. The development review committee shall review the waiver request and recommend to the planning and zoning commission to approve, disapprove, or modify the waiver request.

C. The planning and zoning commission shall review the recommendations of the development review committee and approve, disapprove, or modify the waiver request. Any waiver requests greater than 15 percent of the required standard shall be forwarded to the city council with a recommendation by the planning and zoning commission that the waiver be either approved or denied. Any proposal requesting three or more planning-related waivers shall be processed via the planned unit development procedures and shall require city council approval.

D. When a proposal with waiver(s) requiring city council approval is submitted, the planning and zoning commission will review the proposal and provide a recommendation for approval or denial to the city council. The case will be forwarded to the city council for action.

E. The city council shall review the proposal and recommendations from the planning and zoning commission. Action by the city council shall be in the form of approval, denial, or modification. Action by the city council shall be recorded in the minutes of the meeting. An affirmative vote by four members of the city council is required for approval of a proposal. A copy of the city council notice of decision that includes any changes or conditions, as done at the public hearing, shall be furnished to all of the parties stated above in accordance with section 37-11(b).

F. Specifications or supplementary data required by this chapter for a master plan, a preliminary plat or a final plat may be waived whenever such specifications or data are determined by the planning and zoning commission to be unnecessary for the consideration of the plat.

Whenever the subdivider desires to request a waiver or variance from any engineering/utility requirements of this chapter, the subdivider may submit, in writing, to the subdivision administrator, the request for waiver at any time during the subdivision process. It is recommended that engineering-related waivers be submitted as early in the process as possible to avoid unnecessary delays. The request for waiver shall include, in detail, the reasons for supporting such a request.

The subdivision administrator shall submit the requested waiver to either the public works director or the utilities director, as applicable. Upon receipt of the request, the public works director or the utilities director shall meet with the development review committee at the next scheduled meeting to discuss the waiver request(s). The public works director or the utilities director, after consultation with the DRC, shall render a decision on the waiver or variance request within three business days.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-334--37-359. Reserved.

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ARTICLE XII.
CONSTRUCTION STANDARDS

Sec. 37-360. General provisions.

A. Construction of all subdivisions (public and private improvements) within the corporate limits of the city shall conform to all applicable sections of the documents listed below. The regulations, policies and provisions governing the construction of required improvements include, but are not limited to, the following documents, as amended:
   1. City comprehensive plan;
   2. City zoning code (chapter 38, LCMC);
   3. City design standards (chapter 32, LCMC);
   4. MPO transportation plan;
   5. Stormwater management policy plan;
   6. Bicycle facilities and systems master plan;
   7. City standard specifications for road construction;
   8. Building code (chapter 30, LCMC);
   9. City standard specifications for water, sewer, and gas utilities;
   10. Any and all other rules, regulation, and policies adopted by the city governing construction standards.

(Ord. No. 1798, § I, 6-19-00)

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Exhibit "B"

FINDINGS OF FACT:

1. The Public Involvement Plan and Toolkit for Las Cruces, dated June 2011 was prepared for the Picturing El Paseo project as part of EPA's Smart Growth Implementation Assistance Program. This toolkit identified many outreach and implementation tools to garner a more informed and interactive community. Several of the tools found in the toolkit are implemented either directly or indirectly through departmental policy or the subject draft proposals. Emphasis is in notification of stakeholders so that a more robust participatory environment can result.

2. State Law requiring notification of various planning and development related actions have been in place locally since the New Mexico Session Laws of 1927. Municipalities within New Mexico Must continue to meet at least the minimum standards for notification pursuant to State Statutes.

3. Las Cruces has implemented notification procedures since adoption of the 1930 Las Cruces Zoning Code.

4. The Metropolitan Planning Organization adopted a Public Participation Plan in September of 2008. Said plan also identifies tools and techniques to carry out public notification and engagement.

5. Recent planning initiatives such as Vision 2040, the Camino Real Regional Plan and the Joint Land Use Study all strongly consider measures to inform and engage stakeholders with the respective planning efforts.

6. City Council strongly encourages public participation which requires as a first step, notification of the public as necessary.

7. Two City Council work sessions have been held to solicit commentary and feedback on ways of improving public notification. Those suggestions and information presented by staff are included within the draft proposals.

ATTACHMENT "A"

City of Las Cruces

Community Development
Interoffice Memorandum

TO: Planning and Zoning Commission

FROM: Vincent M. Banegas - Deputy Director, Community Development Department

DATE: April 15, 2013

SUBJECT: Proposed Amendments to 2001 Las Cruces Zoning Code, as amended and the 2006 Las Cruces Subdivision Code, as amended regarding public notification provisions and minor administrative clean up.

M-13-103

Case ZCA-13-01: A request to amend various sections of the 2001 Las Cruces Zoning Code, as amended. The amendments specifically seek to change various provisions related to the public notification process for the various cases processed by the City pursuant to the code. Notification deadlines are proposed to be normalized and methods of notification and procedures for same involving neighborhoods and neighborhood groups/associations are being defined and/or modified. Submitted by the City of Las Cruces.

Case SA-13-01: A request to amend various sections of the 2006 Las Cruces Subdivision Code, as amended. The amendments specifically seek to change various provisions related to the public notification process for the various subdivision cases processed by the City pursuant to the code. Notification deadlines are proposed to be normalized and methods of notification and procedures for same involving neighborhood and neighborhood groups/associations are being defined and/or modified. Submitted by the City of Las Cruces.

SUPPORT INFORMATION:

- Exhibit "A" - Proposed legislative format draft – various sections 2001 Las Cruces Zoning Code, as amended
- Exhibit "B" - Proposed legislative format draft – 2006 Las Cruces Subdivision Code, as amended

DISCUSSION/BACKGROUND:

The two cases under consideration via this packet reflect the results of substantial discussion regarding improvement of the public notification processes within existing planning and development environments. One draft reflects proposed amendments to the 2001 Las Cruces Zoning Code, as amended and the other, proposed amendments to 2006 Las Cruces Subdivision Code, as amended. Both proposals reflect new emerging public notification policy that has been considered and asked for by the City Council. On two separate occasions, the City Council during scheduled work sessions, has heard information regarding both the current practice involving and potential changes to the City's public notification provisions. At the March 26, 2012 work session, staff presented information on all provisions outlined within the current zoning and subdivision codes regarding public notification when cases, plans and/or amendments are prepared for consideration and action by the various recommending and decision making bodies. The provisions in use were also compared to the existing State Statute provisions to reflect how the City is not only meeting statute requirements, but in many regards, exceeding them. It goes without saying that attached to the City Council packet were excerpts from the Planning and Zoning Commission meeting of February 28, 2012 wherein the Commission provided some recommendations on how to improve the public notification process. The recommendation, as you may recall, was to increase the notification threshold for mail out notice, agenda posting, newspaper advertisement, and sign posting on property to a blanket 21 day timeframe. Many questions were raised during the council work session leaving a clear understanding by staff that a more thorough investigation of potential changes for notification improvement was necessary.

As a result of that meeting, staff examined several issues regarding CLC public notification processes. Ultimately, a report entitled *Public Notification and Participation Report and Analysis of Options for a More Informed Community* was generated. This report examined and analyzed various methodologies and strategies for notification and discussed issues pertinent to each and how they might be adjusted to better serve the notification needs for the City. The methods examined both traditional and contemporary methods discussing pros and cons and how they might be adjusted to fit the City's needs. Ultimately, the report was intended to be used by the entire city organization, with each department selecting the methods that could be implemented for their respective operational structure.

To that end, a second draft document which is included in your packet, entitled *Citizen Notification Policy Manual for the CLC Community Development Department*, was prepared. This document is intended to go before the City Council for adoption via resolution and serve as the policy document from which the proposed ordinance changes are drawn. The report examines both traditional and contemporary notification methods and proposes specific changes to the current notification strategies in place for

the activities the department is charged with. Many of the strategies can be incorporated in ordinance form, hence the draft ordinance proposals included via this packet. Some strategies, are better left as policy direction and will be used (assumes approval by City Council) as a means to extend current practices thereby casting a broader notification net to the citizens our actions tend to affect.

On September 24, 2012, the two documents previously mentioned were submitted to Council for discussion. After discussion, Council seemed to reach agreement that the methods proposed should be codified as applicable. To that end, the two draft ordinance changes (zoning and subdivision codes) were prepared and presented at the March 19, 2013 Planning and Commission work session. Upon review and consideration, the Commission felt comfortable with proposed changes and as such, the drafts are now coming to the Commission for final recommendation consideration. Following this action both drafts will go before the City Council for action.

Applicable draft ordinance language is provided in track change format indicating the changes necessary to effect new and modified policy. Language to be added is reflected in underlined text and that which is subject to deletion is reflected in ~~struck~~ text. The margins also provide an indication of where changes are taking place.

STAFF RECOMMENDATION:

Staff recommends approval of the two cases.

FINDINGS OF FACT:

1. The Public Involvement Plan and Toolkit for Las Cruces, dated June 2011 was prepared for the Picturing El Paseo project as part of EPA's Smart Growth Implementation Assistance Program. This toolkit identified many outreach and implementation tools to garner a more informed and interactive community. Several of the tools found in the toolkit are implemented either directly or indirectly through departmental policy or the subject draft proposals. Emphasis is in notification of stakeholders so that a more robust participatory environment can result.

2. State Law requiring notification of various planning and development related actions have been in place locally since the New Mexico Session Laws of 1927. Municipalities within New Mexico Must continue to meet at least the minimum standards for notification pursuant to State Statutes.

3. Las Cruces has implemented notification procedures since adoption of the 1930 Las Cruces Zoning Code.

4. The Metropolitan Planning Organization adopted a Public Participation Plan in September of 2008. Said plan also identifies tools and techniques to carry out public notification and engagement.

5. Recent planning initiatives such as Vision 2040, the Camino Real Regional Plan and the Joint Land Use Study all strongly consider measures to inform and engage stakeholders with the respective planning efforts.

6. City Council strongly encourages public participation which requires as a first step, notification of the public as necessary.

7. Two City Council work sessions have been held to solicit commentary and feedback on ways of improving public notification. Those suggestions and information presented by staff are included within the draft proposals.

Exhibit 'A' (pt. 1) – P&Z

ARTICLE II. ADMINISTRATION OF THE ZONING CODE

Sec. 38-10. Planning and Zoning Commission

A. CREATED. A Planning and Zoning Commission is created by the City Council with the adoption of this Code. The Planning and Zoning Commission shall review the planning, zoning and platting of the City, investigate any related problems and make recommendations to the City Council.

B. DUTIES.

1. FINAL ACTION. The Planning and Zoning Commission shall take final action on the following:
   a. All Special Use Permits, Master Plans (except as part of an annexation request), Subdivisions (except Alternate Summary Plats and Final Plats as defined in the City's Subdivision Code and subdivisions requesting three or more waivers to planning-related issues), and Final Site Plans of Planned Unit Developments (unless the Final Site Plan is submitted with the Concept Plan),
   b. Within the Infill Areas, all Infill development proposals, and associated variances,
   c. All variances on property whether stand alone or that require a Special Use Permit or where a Planned Unit Development is proposed,
   d. All challenges to administrative decisions or interpretations of the Zoning Code, Sign Code, or Landscape provisions of the City Design Standards,
   e. Appeals of design-related interpretation disagreements between the City staff and the University Avenue Corridor Citizens' Design Review Committee,
   f. Appeals of City staff decisions on matters associated with the Avenida de Mesilla Gateway Overlay Zone District,
   g. Appeals of City staff decisions on matters associated with the Lohman Avenue Overlay District, and
   h. All matters submitted pursuant to Section 3-19-11 NMSA.

   Any decision of the Planning and Zoning Commission may be appealed to the City Council in accord with Section 38-13.

2. ———RECOMMENDATION TO CITY COUNCIL.

   a. The Planning and Zoning Commission, with the assistance of City staff and interested persons, shall recommend the Comprehensive Plan to the City Council. In discharging this duty, the Commission shall consult with and coordinate the planning activities of departments and agencies of the City to assist in the development of the Comprehensive Plan. In its planning activities, the Commission shall take due cognizance of the planning activities of adjacent units of government and other affected public agencies. The Commission shall periodically review the plan and recommend

amendments whenever necessary. The Plan may be prepared and adopted in sections, each of which relates to a major subject of the Plan or to a major geographical section of the City. Before adopting the Comprehensive Plan or any section of amendment of the Plan, the Commission shall hold at least one public hearing. The Comprehensive Plan or any section thereof shall be adopted by a majority of all members of the Commission. A copy of the Plan or of any section or amendment thereof adopted by the Commission shall be sent to the City Council for consideration. Until adopted by the City Council, the Plan shall constitute only the recommendation of the Planning and Zoning Commission.

b. The Planning and Zoning Commission shall recommend to the City Council approval, denial or modification of all requests for Zoning Code amendments, Sign Code amendments, zone changes, annexations (a master plan that is part of an annexation request), initial zonings, the Concept Plan (and Final Site Plans if submitted with the Concept Plan) of Planned Unit Developments, and associated variances. As noted in Sec. 38-10B.1.b, the Planning and Zoning Commission shall take final action on all requests regarding Infill Parcels.

c. When the Planning and Zoning Commission recommends denial of any matter on which the City Council takes final action, an appeal to City Council is not required.

d. Community Development Department staff may make a recommendation, if applicable, on any matter to come before the Planning and Zoning Commission.

C. PRE-APPLICATION PROCEDURES.

1. Development Proposal-- -Initial Discussion (Annexations, Zone Changes, Variances, Planned Unit Developments and Special Use Permits). Any proposed development related action (as listed herein) causing need for public notification, review and approval by a recognized board, committee, commission or council (excludes design or building permit submittals that may require design review committee consideration) shall first be required to have said proposal reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

(a) Neighborhood group and/or noticed area (property owners within the notification distance) notification determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as

to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

(i) Development that is likely to cause significant traffic impacts due to limited roadway access or potentially a decrease in level of service based on the subject roadway's design.

(ii) Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential.

(iii) Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is development consistency with surrounding development styles as they may relate to setback standards, architectural style, etc. An example of a concern not congruent to the criterion is disapproving development on vacant property due to the elimination of "open space" said vacant property provides or development of vacant property because one's view may be compromised.

(b) Early Notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group/noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing concerns raised at said meeting shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood entities prior to consideration by any formal reviewing body.

(c) Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the

outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Early notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. Any party requesting a meeting pursuant to item (d) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

(d) Early notification form and content. All required early notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

(i) a detailed description of what is being pursued in terms of development
(ii) information as to how the developer, applicant, or representative for the development action may be contacted
(iii) a statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur
(iv) an open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully
(v) A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.
(vi) Community Development staff contact information for any related correspondence or general inquiry.

2. Neighborhood group/noticed area meeting. It shall be the responsibility of the applicant or representative for the proposal to conduct the meeting and supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

DC. APPLICATION PROCEDURES.

Planning and Zoning Commission. Application for all zoning district changes, annexations, initial zonings, special use permits, planned unit developments, Sec. 38-10 variances, and Zoning Code and Sign Code text amendments shall be submitted to the Community Development Department. The submittal requirements for the above-listed requests include, but are not limited to, the following:

a. Zoning District Changes, Annexations (Refer to Chapter 37, Article IX: Annexations, of the Subdivision Code), Initial Zoning and Sec. 38-10 variances:

1) Official Zoning application and Development Statement,
2) Submittal fee,
3) Notarized affidavit,
4) Copy of property's survey and legal description:
An accurate and complete boundary survey shall be made of the land to be developed. Property lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property. The location and description of all monuments set or found shall be included where applicable.
5) Copy of site plan, if applicable:
The site plan shall be at a scale that adequately represents the information as determined by the Community Development Director or designee. The plans shall be prepared on sheets of paper that are at least 8 1/2" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The plans shall indicate the following:

a) Title of site plan.
b) Total acreage of site.
c) Date of preparation, north arrow, written and graphic scale.
d) Identification of site by lot, block, subdivision, if applicable.
e) Name and address of property owner.
f) Name and address of applicant, if applicable.
g) Name and address of consulting firm or representative, if applicable.
h) Location and type of all land uses.
i) All site improvements with all setbacks indicated.
j) Dimensions of all buildings.
k) Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way.
l) A landscaping plan, to include the location, size, common name, and biological name of all landscaping materials.

m) Where applicable, pedestrian and bicycle circulation system, and its relation to surrounding circulation.

n) Where applicable, location and arrangement of all open space, common recreational space, and private open space.

o) Architectural renderings or artistic drawings. The drawings shall be prepared on sheets of paper that are at least 8 1/2" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The drawings shall illustrate the following:

(1) All new development illustrating all exterior building materials and colors.

(2) All new development illustrating relationships to neighboring uses, including site lighting.

(3) Sign location, materials, color, size, shape, and lighting.

p) A drainage facilities plan, environmental impact statement and/or other items not listed above may be required by the Community Development Director or designee, the Planning and Zoning Commission, or the City Council.

q) Application materials which are illegible and/or otherwise of a low quality will not be accepted.

r) A portion of the submittal requirements may not be required in all cases. Upon receipt of a written request justifying the deletion of required information, the Community Development Director or designee may waive any submittal requirement. The Planning and Zoning Commission may require additional information before acting on a request. The City Council may require additional information before acting on an appeal.

6) Description and justification of requested variances,

7) Request and justification to waive submittal requirements, and

8) An application that meets the following conditions:

a) The application shall be signed by all property owners of record (including all trustees of an estate or all persons that have a specific "power of attorney" for the subject property as recorded in the Dona Ana County Clerk's Office.) Persons who have an equitable interest in the subject property, but no legal title, shall not be deemed the "owners of record" of said property for purposes of this Code.

b) Any pending litigation or any Final Order entered by any Court of Law regarding the ownership of the subject property shall be disclosed by the applicant at the time the application is submitted.

c) The Community Development Director or designee may reject any application if the ownership of the subject property is not clearly established.

9) Copy of notification letter to neighborhood group and/or noticed area and copy of minutes (summary or verbatim) from meeting pursuant to Section 38-10 C. 1. (d) (v).

b. Special Use Permits and Sec. 38-10 variances: See Sec. 38-54. Also refer to C.a.9. above if applicable.

c. ~~c.~~ Planned Unit Developments and Sec. 38-10 variances: See Sec. 38-49~~55~~. Also refer to C.a.9. above if applicable.

d. Infill Development proposals excluding building permit development pursuant to Section 38-48. Also refer to C.a.9. above as applicable.

e. University District proposals excluding building permit development pursuant to Section 38-44. Also refer to C.a.9. above as applicable.

f. Avenida de Mesilla Gateway Zone Overlay District excluding building permit development pursuant to Section 38-44. Also refer to C.a.9. above as applicable.

g. Airport Overlay Zone District excluding building permit development pursuant to Section 38-46. Also refer to C.a.9. above as applicable.

h. Lohman Avenue Overlay Zone District excluding building permit development pursuant to Section 38-47. Also refer to C.a.9. above as applicable.

i. North Mesquite Neighborhood Overlay Zone District excluding building permit development pursuant to Section 38-49.1. Also refer to C.a.9. above as applicable.

j. South Mesquite Neighborhood Overlay Zone District excluding building permit development pursuant to Section 38-49.2. Also refer to C.a.9. above as applicable.

k. Alameda Depot Neighborhood Overlay Zone District excluding building permit development pursuant to Section 38-49.3. Also refer to C.a.9. above as applicable.

~~d~~l. Zoning Code and Sign Code Text Amendments: Submit fee and a draft of the proposed code text amendment to the Community Development Department. The Community Development Director or designee may require that a proposed text amendment to the Comprehensive Plan, affected Plan element or other affected plans be submitted with the code text amendment.

Submittal requirements may be waived by the Community Development Director or designee. The staff may require more information before processing a request. The

Planning and Zoning Commission and/or the City Council may require additional information and/or require a neighborhood group and/or noticed area meeting at any point in the consideration of the proposal before the affected body before acting on a request and/or appeal.

E~~D~~. PUBLIC HEARING AND NOTICE REQUIREMENTS.

1. Public Hearing - The Planning and Zoning Commission shall conduct a public hearing at a regular or special meeting on the following:
   a. Proposed amendment to the Comprehensive Plan, Plan element, other plans required to be reviewed,
   b. Proposed amendment to the Zoning Code and Sign Code,
   c. Zoning district change, with or without conditions,
   d. Special Use Permit,
   e. Planned Unit Development,
   f. Annexation and Initial zoning,
   h. Variances (See Sec. 38-10G), and
   i. Infill Development Proposals.

2. Agenda - The agenda for Planning and Zoning Commission meetings shall be available no later than fifteen (15)~~six (6)~~ calendar days prior to any meeting.

3. Posting - Notice of the public hearing about a request shall be posted in conspicuous places on the property by the property owner, applicant or representative ~~Community Development Department staff~~ at least fifteen~~ten (10)~~(15) calendar days prior to the Planning and Zoning Commission meeting. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the initial reviewing entity and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.

4. Notice –
   a. Notice of the Planning and Zoning Commission public hearing shall be sent by certified mail to all property owners when one city block or less is under consideration for the activities listed, (except zone change-related cases that are recommended to City Council and subdivision related cases, see Section 38-10B2b, where notice shall be sent by regular, non-certified, first class mail), as shown by the records of the County Assessor, within at least ~~two~~ one hundred (~~2~~100) feet of the subject property of the proposed request, excluding streets, alleys, channels, canals, railroads, and all other public

rights-of-way. Thereafter, regular, non-certified, first class mail shall be sent to those properties that fall within a distance greater than one hundred (100) feet and no less than five hundred (500) feet of the subject property. The secondary distance of (>= 100' - <= 500') may include streets, alleys, channels, canals, railroads, and all other public rights-of-way.~~A minimum of fifteen (15) property owners shall be notified even if there are fewer than fifteen within the mandatory 200 foot radius~~. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice shall be mailed at least ~~ten~~fifteen (1~~0~~5) calendar days prior to the required public hearing. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the City.

b. Notice of the City Council public hearing regarding zone change-related ~~cases,~~cases see Section 38-10B2b, shall be sent by certified and/or regular, first class, non-certified mail as outlined ~~and shall comply with the other requirements of~~ in paragraph E4a.

F~~E~~. SPECIAL NOTIFICATION. The Community Development Department shall provide notification, by certified mail, to the Town of Mesilla of all cases presented to the Planning and Zoning Commission. Notification shall be required for only those cases south and west of Interstate Highway 10, north of Union Avenue and east of Motel Boulevard (N.M. State Highway 292). For notification area, see Figure 1: Town of Mesilla Special Notification Area Map at the end of this Article.

G~~F~~. ANNEXATION AND INITIAL ZONING.

A petition for annexation shall include an annexation plat, master plan and initial zoning request. Annexation plat, master plan and initial zoning shall be heard as one case, but separate action shall be taken on the annexation plat, master plan and initial zoning. The City Council shall take final action on the annexation plat, master plan and the initial zoning request after the Planning and Zoning Commission provides a timely recommendation. For detailed information about annexation, refer to Chapter 37, Article IX: Annexations, of the Subdivision Code.

~~G.~~ H——ZONING DISTRICT CHANGES WITHOUT CONDITIONS (Unconditional Zoning).

A zoning district change or rezoning is a change in classification of property. When approved by the City Council and the thirty (30) calendar day appeal period has expired, the zoning district change shall be recorded and shown on the appropriate zoning district map within the "Official Zoning District Atlas." Approved initial zoning shall be shown on the appropriate zoning district map within the Official Zoning District Atlas. Special Use Permits shall not be considered a zoning district change. No condition that restricts the use of land beyond that otherwise provided by district provisions shall be concurrently imposed with the approval of a zoning district change, except as outlined in Sec. 38-10H. However, a variance may be recommended by the Planning and Zoning Commission and granted by the City Council as part of a zoning district change request.

~~H.~~ ZONING DISTRICT CHANGES WITH CONDITIONS (Conditional Zoning).

1. AUTHORIZATION. Zoning district changes may be approved subject to one or more conditions that restrict the use of land beyond that otherwise provided by the district. Variances may be recommended by the Planning and Zoning Commission and granted by the City Council as part of conditional zoning consideration.

2. PURPOSE AND INTENT. A rezoning subject to a condition is to be used only in circumstances where the proposed change of district is appropriate to allow certain uses which are in accordance with the Comprehensive Plan, and which are not incompatible with the surrounding neighborhood.

3. SCOPE. It shall be unlawful to utilize, sell, or lease property rezoned with conditions without first providing to any prospective buyer or lessee a disclosure statement stipulating the conditions and the time limitation prescribed, if any, and without filing a copy of said disclosure with the office of the Doña Ana County Clerk. A condition attached to a zoning district change shall be consistent with the goals, objectives and policies of the Comprehensive Plan, Plan elements or other plans adopted by the City Council and may

   a. Limit the use of property affected so that one or more of the uses which would otherwise be permitted in the district being adopted shall not be permitted in the specific district as conditioned, and/or
   b. Require compliance with such design standards or time limitations relating to the construction, placement and size of buildings, landscaping, streets, roadways, pathways, utilities, drainage ways, and other site design features as may be necessary to protect the community from the impact of future development.

4. LIMITATION ON USING CONDITIONAL ZONING. Any use or structure that requires a Special Use Permit under Sec. 38-54 shall not be permitted by using conditional zoning.

5. INITIATION OF CONDITIONAL ZONING. Conditional Zoning may be initiated by the Community Development Director or designee, the Planning and Zoning Commission, City Council, or by the applicant. Requests shall specify those uses, site design features, time limitations, or other conditions for the conditional zoning.

6. PLANNING AND ZONING COMMISSION ACTIONS. The Planning and Zoning Commission shall follow procedures specified in this Section when acting on proposed zoning district changes with conditions. The Planning and Zoning Commission may consider and take action on all aspects of the proposed conditions and limitations. The substance of all proposals, site plans, and other pertinent information with regard to conditional zoning shall be made a permanent part of the action recommending approval of said conditional zoning.

7. AMENDMENT OF OFFICIAL ZONING DISTRICT ATLAS. The Official Zoning District Atlas shall be amended as necessary to reflect the existence of zoning changes with conditions. Areas affected by conditions shall be identified by the use of the suffix "C" and shall be clearly distinguished from areas in like zoning district that are not subject to special limiting conditions. The action creating a district subject to conditions and a copy of all conditions shall be available in the Community Development Department as a supplement to the Official Zoning District Atlas.

8. CONDITIONAL ZONING CONTROL. Conditions attached to a zoning district change shall govern over any less restrictive zoning regulations unless specifically provided otherwise. All other regulations not specifically affected by a condition shall apply in the same manner as if the property were not subject to conditions.

9. REVOCATION OF CONDITIONAL ZONING DESIGNATION. A conditional zoning designation shall be revoked and revert to the previous zoning district designation if the designated property is not used or developed in accordance with the conditions and all other applicable regulations within two (2) years from the date of City Council approval. Upon a formal request from the property owner, the Community Development Director or designee may grant a one (1) time, one (1) year extension as deemed appropriate. When the only conditions placed upon a zoning designation are prohibitions (such as No billboards allowed or No medical offices allowed), the conditions shall run with the land and shall not be subject to the two (2) year development window previously stated. Futhermore, these prohibitive conditions shall only be removed if~~until the property is either used in a fashion contrary to the stated prohibition or~~ a re-zoning action causes the condition to be removed. If compliance with ~~used contrary to~~ the "non-prohibitive" conditions are not made whole, the property shall revert back to the prior designation unless the Community Development Director or designee certifies~~d~~ in writing that remedial action can bring about compliance with approved conditions in a timely fashion. Reversion shall cause the use of the property to follow appropriate zoning requirements as applicable. When conditions speak to performance criteria (i.e. requirement for opaque screen along north property line or height limitations

established, etc.) upon development, conversion of property or expectation thereof, the two (2) year revocation period shall apply.

J~~I~~. VARIANCES. The Planning and Zoning Commission and the Public Works Director or designee (See Sec. 38-10I.1) are authorized to grant variances.

1. A variance shall be defined as a variation in the numerical requirements of this Code, the Sign Code, or the Design Standards (landscaping). 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.

2. A variance proposal to be acted on by the Planning and Zoning Commission may either be part of a request for rezoning, initial zoning, special use permit or planned unit development, or be submitted independent of such proposals and heard based on the individual merits of the request. Use variances, which are non-numerical, as well as numerical variances to the provisions of this Code, may be granted by the Planning and Zoning Commission only in accordance with the Infill Development Process (IDP), Sec. 38-48. Administrative decisions on or interpretations of the Zoning Code or the Sign Code by staff may be affirmed, reversed, or modified pursuant to this section and appealed to the City Council in accord with Sec. 38-13, except as provided in Sec. 38-4D.

3. In the event of a denial decision by the Planning and Zoning Commission and/or City Council, there shall be no reapplication for the exact same variance, which was properly advertised and acted on, for a period of one (1) year after the date of the decision of the Planning and Zoning Commission and/or City Council. A modified variance request processed through the IDP, Sec. 38-48, may be resubmitted at any time following action by the Planning and Zoning Commission.

4. A variance shall be automatically revoked if a building permit, sign permit or business registration/license for the approved variance has not been obtained within one (1) year. Upon a formal request from the property owner, the Community Development Director or designee may grant a one (1) time, one (1) year extension as deemed appropriate.

K~~J~~. CRITERIA FOR DECISIONS.

The Planning and Zoning Commission shall review each request in relation to the goals, objectives and policies of the Comprehensive Plan, Plan elements, other applicable plans, and the purpose and intent of this Code, Sec. 38-2 and 36-1 of the Sign Code, when appropriate, and determine whether the request is consistent or inconsistent with stated criteria. Members of the Planning and Zoning Commission shall state the factual basis and the findings for their vote.

Furthermore, granting any variance shall not merely serve as a convenience to the applicant, but the variance shall be the minimum necessary for relief in order to accomplish the stated objective(s) of the applicant's request or demonstrable hardship. Hardships are not considered personal or monetary. In addition to criteria already referenced, decisions may consider:

1. A physical hardship relative to the property (i.e., topographic constraints or right-of-way takes resulting reduced development flexibility, etc.) in question.

2. The potential for spurring economic development at a neighborhood or city-wide level if requested allowances are granted.

3. Monetary considerations not as a whole, but relative to options available to meet the applicant's stated objectives when such options cause considerable monetary hardship under strict application of code provisions.

| ~~L~~K. NOTICE OF DECISION.

Upon making a recommendation to the City Council or taking final action on matters for which the Planning and Zoning Commission has been granted final authority, the Community Development Department shall promptly

1. Prepare a written decision that includes an order stating the factual basis and the findings of the Planning and Zoning Commission which support the order
   a. Recommending the granting or denying of relief, or
   b. Granting or denying relief;
2. File the written decision with the City Clerk's Office;
3. Send by certified mail a document with appropriate signatures that includes a copy of the written decision of the Planning and Zoning Commission to all parties whose rights are adjudged by the decision and that contains the requirements for filing an appeal;
4. Send by regular mail, or otherwise provide, a copy of the document that includes a copy of the written decision of the Planning and Zoning Commission to every person who has filed a written request with the Community Development Department for notice of the decision.

| ~~L~~M. APPEAL TO CITY COUNCIL.

Decisions of the Planning and Zoning Commission may be appealed to the City Council in accord with the provisions of Sec. 38-13.

| N~~M~~. RESUBMITTAL OF REQUEST.

A request denied by the Planning and Zoning Commission and/or the 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 IDP that are denied by the Planning and Zoning Commission may be modified and resubmitted at any time following action by the Planning and Zoning Commission.

Sec. 38-11. Reserved

Sec. 38-12. Reserved

Sec. 38-13. City Council

A. FINAL ACTION. After recommendation from Community Development Department staff, if applicable, and the Planning and Zoning Commission, the City Council shall take final action on the following:

1. Comprehensive Plan, Plan elements, other plans sent from the Planning and Zoning Commission and all amendments,
2. Zoning district change requests,
3. Initial zoning requests,
4. Concept Plan and Final Site Plans submitted with the Concept Plan of Planned Unit Developments (subdivisions requesting three or more waivers to planning-related issues become planned unit developments),
5. Associated variances with A.2 through A.4 above,
6. Zoning Code and Sign Code amendments, and
7. Appeals of decisions of the Planning and Zoning Commission.

B. CHANGING AND RECONSIDERATION OF PETITIONED ZONING PROPOSALS. A zoning district change or initial zoning request may be amended by the City Council to be more restrictive. Such amendment and reconsideration shall not require readvertisement or notice to surrounding property owners if considered by the City Council at the original (first) Public Hearing. Subsequent public hearings shall require readvertisement and notice to surrounding property owners unless the hearing is continued or the request is postponed to a specific date.

C. GROUNDS FOR APPEAL TO CITY COUNCIL. Any person, or any department, commission, board or bureau of the City that is affected by a decision of an administrative official, commission, committee, or board in the administration or enforcement of this Code, or any other resolution, rule or regulation adopted pursuant to Sections 3-21-1 through 3-21-12 and 3-21A New Mexico State Statutes Annotated, 1978 Compilation, may appeal such decision to the City Council. Such appeal must be initiated in writing within fifteen (15) calendar days after the decision and after all other procedures established by this Code have been exhausted. Any person that is a party to an appeal may request a "Battershell" due process proceeding in place of the automatic standard due process.

D. STAY OF PROCEEDINGS. An appeal shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, committee, or board from whom the appeal is taken certifies that by reason of facts a stay would cause imminent peril of life and property. Upon certification, the proceedings shall not be stayed except by order of District Court after notice to the official, commission, committee, or board from whom the appeal is taken.

E. APPELLANT RESPONSIBILITY IN APPEALS. All appellants under this Section are required to submit to the Community Development Department a detailed written statement of the grounds of their appeal, including findings, no later than fifteen (15) calendar days after the decision is filed with the City Clerk's Office. The appeal shall state all issues to be considered. Only the issues stated shall be considered during the applicable proceeding.

F. APPEAL NOTICE. Notice on all appeals, except Zoning and Sign Code amendments and interpretations, on decisions of the Planning and Zoning Commission shall be sent in complete accordance with Section 38-10, E. 4. a. With the exception of subdivision related matters, the specified exclusion referencing Section 38-10 B. 2. b. shall not apply for appeals under this section.~~by certified mail to all property owners, as shown on the records of the County Assessor, within two hundred (200) feet of the area of the proposed change, excluding streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. A minimum of fifteen (15) property owners shall be notified even if there are fewer than fifteen within the mandatory 200 foot radius. Notice to said property owners shall be mailed at least ten (10) calendar days prior to the meeting. Notice of the time and place of the meeting shall be published in a newspaper of general circulation in the City at least fifteen (15) calendar days prior to the meeting.~~ Notice of the time and place of the appeal shall be posted in conspicuous places on the property by Community Development Department staff at least ~~ten~~ fifteen (1~~0~~5) calendar days prior to the appeal public hearing.

G. AUTHORITY OF THE CITY COUNCIL. When an appeal alleges that there is error in any order, requirement, decision or determination by an administrative official, commission, committee, or board in the enforcement of this ordinance, or any other resolution, rule or regulation adopted pursuant to the above stated State Statutes, the City Council, by a majority vote of all its members may, after all other procedures established by the provisions of this Code have been exhausted, reverse or affirm any order, requirement, decision or determination of an administrative official, commission, committee or board; or make any change in an order, requirement, decision, or determination of an administrative official, commission, board, or committee.

Members of the Planning and Zoning Commission shall not participate in any way in an appeal before the City Council of any decision of their Commission. The minutes of each Commission meeting are the public record that indicates each Commission member's participation. This restriction applies to members of other groups or committees, e.g., University Avenue Corridor Citizens' Design Review Committee, when the group or committee is required to make a recommendation to the Planning and Zoning Commission.

H. NOTICE OF DECISION. Upon City Council making any final decision, the Community Development Department shall promptly

1. Prepare a written decision that includes an order stating the factual basis and the findings of the City Council which support the order;
2. File the written decision with the City Clerk's Office;

3. Send by certified mail a document with appropriate signatures that includes a copy of the written decision of the City Council to all parties to the appeal submitted to the City Council, including persons who had filed a formal protest as an aggrieved person, and that contains the requirements for filing an appeal;
4. Send by regular mail, or otherwise provide, a copy of the document that includes a copy of the written decision of the City Council to every person who has filed a written request with the City Clerk for notice of the decision.

I. AMENDMENT, REPEAL, AND REVIEW OF THE ZONING CODE.

1. The City Council, after a public hearing and after a recommendation from the Planning and Zoning Commission, may amend, supplement, or repeal any portion or all of this Code.
2. There shall be a continuous evaluation of the provisions of this Code, and amendments shall be submitted to the City Council as deemed necessary.

Sec. 38-14. Appeal to District Court

Any person dissatisfied with an order or determination of the Planning and Zoning Commission, after review of the order or determination by City Council; may commence an appeal in District Court pursuant to the provisions of Section 12-8A-1 NMSA 1978, as amended, and Section 39-3-1.1 NMSA 1998, as amended.

Any person aggrieved by a determination of the City Council may appeal to the District Court within thirty (30) calendar days after the final decision of the City Council has been filed with the City Clerk's Office.

Sec. 38-15. Violations of the Zoning Code

A. VIOLATIONS. It shall be a violation of this Code for any person, firm, or corporation to neglect, refuse to comply with, or resist the enforcement of any provision of this Code or any requirement pursuant thereto, or in any way use, change, or construct a building or structure in non-conformance with zoning approval. Each day that such violation exists shall constitute a separate offense. Any violation herein described is governed by the provisions of the Las Cruces Municipal Code and its subsequent amendments.

B. PENALTIES. The Las Cruces Municipal Court shall impose the penalties for each day the violation of this Code exists. In addition to fines, the Las Cruces Municipal Court may grant injunctive relief in accordance with the provisions of the Las Cruces Municipal Code and its amendments.

C. OTHER REMEDIES. Nothing herein shall limit the City from seeking other remedies at law or equity to enforce the Zoning Code. Violations of this Code shall be brought into compliance, abated, removed, and/or pursued in the applicable court of law. In all such cases that the Court rules to allow non-conformance with this Code, there shall be a pro forma action by the Planning and Zoning Commission permitting such non-conformance. Such action shall be consistent with the Court's ruling, and thereafter said non-

conformance shall be considered legal non-conforming and be subject to the provisions thereof.

Sec. 38-16. Enforcement Provisions

A. DUTY TO ENFORCE. The official(s) designated by the City Manager shall enforce this Code.

B. BUILDING PERMITS AND PLANS. No building or structure, except those exempted by the City's Building Code, shall be erected, enlarged, or structurally altered until a building permit has been issued and zoning approval of all plans has been granted by the Community Development Director or designee.

C. CERTIFICATE OF OCCUPANCY. Certificate of Occupancy approving a structure or use of land shall be required for all of the following prior to occupancy:
1. Occupancy and use of a building hereafter erected or structurally altered;
2. Change in use of an existing building to a use of a different classification;
3. Occupancy and use of vacant land;
4. Change in the use of land to use of a different zoning district classification;
5. Change in the use of a non-conforming use, including the alteration or expansion of a non-conforming use or structure.

D. LEGAL DOCUMENTS TO INSURE COMPLIANCE. The Community Development Director or designee may require affidavits, disclosure statements, deed restrictions, or other legal documents to assure compliance with the provisions of this Code. Such documents may be approved for use in specific cases by the City Attorney.

Sec. 38-17. Fees

All fees relating to this Code shall be adopted by resolution of the City Council.

Sec. 38-18 -- 38-19. Reserved.

Figure 1: Town of Mesilla Special Notification Area, see page 14

Exhibit 'A' pt. 2 – P&Z

Sec. 38-49. PUD - Planned Unit Development

A. PURPOSES.

The purposes of planned unit developments (PUD) are to:

(1) Comply with Growth Management Policy as established in the Land Use Element, other applicable elements and all companion documents to the Comprehensive Plan.

(2) Produce more flexibility in development than would result from a strict application of this Code.

(3) Permit design flexibility that will encourage a more creative approach to the development of land and that will result in more efficient and aesthetically desirable alternatives to the housing and other development needs of the community.

(4) Permit flexibility in land use, density, placement of buildings, arrangement of open space, circulation facilities, and off-street parking areas, and maximize the potential of individual sites under development.

(5) Promote the infill of vacant land.

(6) Create developments that balance the benefits to the community with the developer's interests.

B. GENERAL PROVISIONS.

(1) The PUD process shall be required for those proposed developments that are to be subdivided and multi-phased and that request three (3) or more deviations to planning-related minimum development standards, e.g., setbacks. An applicant whose proposed development is not required to follow the PUD process may request to use the PUD process.

(2) The Infill Development Process (IDP) described in Section 38-48 authorizes the Planning and Zoning Commission to take final action on PUD's. However, proposed development in Infill Areas is not required to use the PUD process, but may use the Infill Development Process.

(3) Proposed deviations to engineering standards, e.g., street construction standards, will be acted on by the Public Works Department Director or designee with appeal to the Engineering Review Committee. However, the PUD process shall not be used if only deviations to engineering standards are proposed.

(4) A developer shall not be granted a deviation to planning-related minimum standards (private incentive) without providing a public benefit to the City/community. The Land Use Element of the City's Comprehensive Plan provides guidance in determining appropriate public benefits in relation to private incentives. One or more public benefits are to be provided for each private incentive. For example, the private incentive request to reduce the amount of open space below the standard shall result in an equivalent amount of recreation equipment being provided or a combination of benefits that relate to the private incentive requested.

(5) A PUD may be used to correct any legal nonconforming situation. However, a PUD shall not be used to make an illegal situation legal.

(6) All contiguous property owned or legally controlled by the developer shall be included within the PUD.

C. SPECIFIC PROVISIONS.

A Planned Unit Development shall meet minimum development standards. The existing development standards, e.g., Zoning Code requirements, shall be met, or minimum development standards, as proposed by the applicant, and approved as part of the PUD, shall be met. The applicant shall clearly describe the PUD in terms of all of the following specific provisions. In addition, the Community Development Director or designee may recommend conditions and the Planning and Zoning Commission or the City Council may impose conditions and require compliance with such other standards as deemed necessary.

(1) Land Use. A PUD may contain any land use or combination of land uses.

(2) Location. A PUD may be located anywhere within the City except within the University Avenue Corridor Plan Overlay Zone District. However, the PUD process shall not be used to circumvent the requirements of any overlay zoning district.

(3) Size. There is no acreage minimum or maximum.

(4) Density. There is no minimum or maximum number of dwelling units per acre.

(5) Intensity. There is no minimum or maximum square footage requirement for nonresidential uses.

(6) Off-Site Roadway and Intersection Improvements. Contributions to or the provision of off-site roadway and intersection improvements shall be required based on the proportionate share of the PUD's impact on off-site roadway segments and intersections. Off-site roadway and intersection improvements necessary in whole or in part because of the PUD's impacts shall be provided according to the improvements schedule outlined in the required traffic impact analysis called for in the Transportation Element of the Comprehensive Plan (Policy 1.5 of Goal 7, Growth Management, of the Transportation Element of the Comprehensive Plan). Furthermore, improvements shall be consistent with Growth Management policy of the Land Use Element.

(7) Architecture. PUD architecture shall be compatible with and enhance the existing architecture on adjacent property.

(8) Design. The City may alter the design of the proposed PUD to insure the public health, safety, and welfare.

(9) Context. The City may alter the proposed PUD to insure compatibility with existing and potential land uses adjacent to the proposed PUD.

(10) Antennas, Towers, Communication Structures, and Other Vertical Structures. See Section 38-59.

(11) Height. See Section 38-31D and Section 38-32D.

(12) Landscaping. See Chapter 32 of the Municipal Code.

(13) Mobile Home Parks/Recreational Vehicle Parks. See Section 38-57.

(14) Open Space. See Chapter 32 of the Municipal Code.

(15) Off-Street Parking. See Section 38-58.

(16) Roadway Access. See Chapter 26, Article III, Access and Median Cuts. The proposed PUD shall be accessed by at least one paved roadway (meeting the City of Las Cruces Standard Specifications for Road Construction) within the minimum right-of-way for the roadway width having the capacity necessary to serve the first phase of the PUD. Additional access may be required before other phases of the PUD are allowed to proceed.

(17) Setbacks/Bufferyards/Screens. (See Matrix 1 at the end of this section)

(18) Signage. See Chapter 36 of the Municipal Code.

(19) Walls and Fences. See Section 38-60.

(20) Accessory Uses and Structures. See Section 38-51.

(21) Private Incentives/Public Benefits. For each private incentive (deviation to existing Municipal Code planning-related minimum standards listed above) requested, one or more public benefits shall be provided. For example, a private incentive request to reduce the amount of open space below the standard shall result in an equivalent amount of recreation equipment being provided or a combination of benefits that relate to the private incentive requested.

D. REVIEW PROCEDURES.

(a) Authorization. A Planned Unit Development (PUD) is a zoning district change and is not permitted by right in any zoning district. The procedures and requirements in this Article shall govern the development of a PUD.

For each PUD, there shall be a Pre-Application Conference, Concept Plan, one or more Final Site Plans and, if required, one or more Final Plats. The following table summarizes actions to be taken on a PUD:

	Staff	P & Z	City Council
Pre-App. Conf.	R		
Concept Plan	R	R (FA*)	FA (A*)
Final Site Plan	R	FA (R**)	A (FA**)
Final Plat***	FA	A	A

Recommendation (R), Final Action (FA), and Appeal (A)

* The Planning and Zoning Commission is authorized to take final action using the Infill Development Process within Infill Areas.

** The City Council shall take final action on final site plans when one or more is submitted along with the Concept Plan.

*** A Final Plat may not be required in every case.

(b) Pre-Application Conference. Any proposed PUD shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. The pre-application process shall be subject to the provisions provided for in Section 38-10 C.~~Before an application for a PUD may be submitted, the applicant shall meet with the City Community Development Department staff to review the proposed project.~~ This meeting does not require a written application or fee. ~~Based on the information made available before or at the pre-application conference by the applicant, the staff shall review the development proposal and advise the applicant concerning the compatibility of the proposal with the intent, goals, objectives, policies and standards of all City plans and codes.~~ The results of this meeting shall not obligate the Planning and Zoning Commission or City Council.

(c) Concept Plan Review.

(1) Concept Plan Application

The Concept Plan is similar to, and replaces, a subdivision master plan in that it is intended to serve as a tool that can assist in identifying the appropriateness of a proposed development within the context of its surroundings. The Concept Plan forms the basis for approval of the PUD.

The Concept Plan and supplemental material shall be submitted to the Community Development Department no later than sixty (60) calendar days prior

to the date of the regular meeting of the Planning and Zoning Commission. The staff shall review the submittal for completeness. If all the required items have been submitted as per Section 38-49E, the Community Development Department shall issue a receipt for submittal. A Concept Plan and supplemental material shall not be accepted for review if incomplete. All items required on a Concept Plan must be present for acceptance unless accompanied by a written request justifying the deletion of required information. The Community Development Director or designee may waive any submittal requirement. However, after reviewing the Concept Plan, the Community Development Director or designee, the Planning and Zoning Commission and/or the City Council may require additional items and resulting information in addition to the submittal requirements as per Section 38-49E. Additional items and/or information requested by staff may include, but not be limited to, the need for early notification to a neighborhood group(s) and/or defined noticed area. ~~other information in addition to the submittal requirements as per Section 38-49E.~~ Additional ~~information~~ requests~~requested~~ by staff shall be justified in writing.

A written staff report with recommendations shall be provided to the Planning and Zoning Commission along with the Concept Plan. The report shall recommend that the Concept Plan be approved, conditionally approved, disapproved, or postponed.

(2) Concept Plan Public Hearing(s)

Public hearing and notice requirements shall be in accord with provisions of Section 38-10. The applicant or applicant's representative shall be present at the public hearing for the proposal to be considered. If the applicant or representative is not at the public hearing, the Concept Plan shall be postponed until the next regular Planning and Zoning Commission meeting or City Council meeting.

The Planning and Zoning Commission shall review the Concept Plan, staff report, applicant presentation, and information submitted by interested citizens. Action by the Planning and Zoning Commission shall be a recommendation to the City Council for approval, conditional approval, or disapproval. The Planning and Zoning Commission is authorized to take final action on a PUD using the Infill Development Process within Infill Areas. An Official Notification of Decision that describes the decision of the Planning and Zoning Commission and/or City Council shall be furnished to the applicant in compliance with State law.

The Concept Plan may be approved only if it includes the following findings:

a. The proposed construction and use of the PUD will not be detrimental to the health, safety, or welfare of the community or adjacent neighborhood;
b. There is or will be adequate sewage capacity, roadway capacity, energy supply, and potable water supply to serve the PUD at the time a certificate of occupancy or letter of acceptance, as applicable, is to be issued;
c. The PUD conforms to the intent, goals, objectives, policies, and standards of all City plans and codes;

d. The uses proposed, including their density and intensity, are appropriate to the character of the neighborhood and will have a positive aesthetic effect on the neighborhood in which the PUD will be located; and

e. The proposed uses will not subject surrounding properties and pedestrians to significant hazardous traffic conditions.

Final approval may be granted subject to compliance with such conditions required by the Planning and Zoning Commission and/or the City Council. The conditions that the Planning and Zoning Commission and/or City Council find necessary shall be made part of the terms under which the PUD is granted. The Planning and Zoning Commission and/or the City Council may require such conditions to be included as covenants or deed restrictions in any subsequent conveyances of PUD property. Such covenants and deed restrictions shall be properly recorded with the Dona Ana County Clerk. Furthermore, the Planning and Zoning Commission and/or City Council may require that all or part of any utility corridor, roadway, walkway, bike facility, park, playground, or other public area shown on the Concept Plan be dedicated for public use as an easement, right-of-way, or other conveyance.

If the Concept Plan is approved or conditionally approved by the Planning and Zoning Commission and/or the City Council, the PUD shall be shown on the Official Zoning District Map as PUD replacing the existing zoning districts.

(3) Concept Plan Effective Period

The approval of the Concept Plan shall be effective for a period of five (5) years. If a Final Site Plan for all or part of the area has not been approved by the Planning and Zoning Commission and/or City Council by the expiration of the five (5) year period, the Concept Plan approval shall expire. The zoning of the property shall automatically revert to the underlying zoning districts that existed for the property at the time the Concept Plan was approved. Prior to the expiration date, the staff may approve a request for an extension of time of up to two (2) years. After the first time extension, the Planning and Zoning Commission and/or City Council shall consider any other time extension request. When at least one Final Site Plan has been approved, the Concept Plan shall remain effective until amended.

(4) Concept Plan Amendment

Any substantial change proposed that would affect the approved Concept Plan shall require re-submittal of the Concept Plan in its entirety. Minor changes are those changes that are not substantial and may be approved by the staff; however, staff may determine that any proposed change should be reviewed by the Planning and Zoning Commission and City Council. Substantial changes to the Concept Plan are subject to the same requirements as the original application. Substantial changes shall include but are not limited to:

a. Any change that would increase the intensity of the land uses;

b. Fifteen (15) percent cumulative increase in vehicular traffic to any roadway segment or intersection;
c. Fifteen (15) percent cumulative increase in residential density;
d. Fifteen (15) percent cumulative increase in nonresidential square footage;
e. Any change in private incentives and public benefits;
f. Increase in size of property;
g. Any reduction in screening, bufferyards and setbacks at the PUD property line;
h. Fifteen (15) percent cumulative increase in the buildable area for structures including signs; and
i. Fifteen (15) percent cumulative reduction in open space.

(d) Final Site Plan Review.

(1) Final Site Plan Application, Public Hearing and Effective Period

A Final Site Plan shall substitute for a subdivision preliminary plat when an applicant must otherwise comply with the subdivision requirements. Upon approval of the Concept Plan, the applicant may submit a Final Site Plan for part or all of the land area covered by a Concept Plan for Planning and Zoning Commission consideration. However, an applicant may submit a Final Site Plan along with the Concept Plan. One or more final site plans submitted with the Concept Plan shall be submitted along with the Concept Plan to the City Council for final consideration. Subsequent final site plans shall be submitted to the City Council for final consideration.

The Final Site Plan and supplemental material shall be submitted to the Community Development Department no later than sixty (60) calendar days prior to the date of the regular meeting of the Planning and Zoning Commission. The staff shall review the submittal for completeness. If all the required items have been submitted as per Section 38-49E, the Community Development Department shall issue a receipt for submittal. A Final Site Plan and supplemental material shall not be accepted for review if incomplete. All items required on a Final Site Plan must be present for acceptance unless accompanied by a written request justifying the deletion of required information. The staff may waive any submittal requirement. However, after reviewing the Final Site Plan, the Planning and Zoning Commission and or the City Council may require additional items and resulting~~other~~ information in addition to the submittal requirements as per Section 38-49E. Additional items and/or information requested by staff may include, but not be limited to, the need for early notification to a neighborhood group(s) and/or defined noticed area. Additional requests shall be justified in writing.

A written staff report with recommendations about the Final Site Plan shall be provided to the Planning and Zoning Commission along with the Final Site Plan. The report shall recommend that the Final Site Plan be approved, conditionally approved, disapproved, or postponed.

The review procedures for the Final Site Plan shall be the same as for the Concept Plan except that:

a. The Planning and Zoning Commission shall take final action instead of the City Council unless a Final Site Plan has been submitted along with the Concept Plan. One or more final site plans submitted with the Concept Plan shall be submitted along with the Concept Plan to the City Council for final consideration. Subsequent final site plans shall be submitted to the City Council for final consideration.
b. No findings are required except that the Final Site Plan conforms to the Concept Plan.
c. A Final Site Plan shall be effective for two (2) years from the date of approval. When at least one Final Plat or at least one Building Permit has been approved, the Final Site Plan shall be effective until amended.

Approval of a Final Site Plan shall not constitute approval of a Final Plat when a Final Plat is required. Such approval shall constitute the permission to prepare and submit a Final Plat for part or all of the land area covered by the Final Site Plan and construction drawings of all improvements for the Final Site Plan land area. Final platting shall not be considered until a Final Site Plan is approved. If a Final Plat is not required, an approved Final Site Plan shall allow for a building permit to be issued that is in compliance with Chapter 30, Buildings and Building Regulations. Notation on documents shall clearly indicate that the project receiving the building permit is part of a PUD and is subject to the approved Concept Plan and approved Final Site Plan.

In granting approval of a Final Site Plan, the Planning and Zoning Commission shall require adequate guarantees of compliance with all conditions of approval. Such guarantees may include, but are not limited to, performance bonds, lien agreements, or escrow deposits in an amount sufficient to ensure compliance. Moreover, the construction of a PUD following approval of a Final Site Plan shall be in accordance with the Concept Plan and Final Site Plan conditions. Failure to comply with such conditions and standards shall be deemed a violation of this Code.

(2) Final Site Plan Amendment

Any substantial change proposed that would affect the approved Final Site Plan shall require re-submittal of the Final Site Plan in its entirety. Minor changes are those changes that are not substantial and may be approved by the staff; however, staff may determine that any proposed change should be reviewed by the Planning and Zoning Commission and City Council. Substantial changes are subject to the same requirements as the original application. Substantial changes shall include but are not limited to:

a. Increased drainage impact;
b. Change in location and size of utilities and easements;

c. Change in required, specific landscape features such as buffers, screens and setbacks at the PUD property line;
d. Change in proposed roadways above major local class;
e. Change in structure location, including signs, by more than five (5) feet; and
f. Change in architectural style or character.

(e) Final Plat Review and Contents.

If required, the Final Plat(s) review procedures and contents shall comply with Article IV of Chapter 37, the City's Subdivision Code.

E. SUBMITTAL REQUIREMENTS.

(a) Concept Plan Submittal Requirements. A request for review of a Concept Plan shall include the following information:

(1) Official Application and Development Statement
(2) Submittal Fee
(3) Waiver request and justification to delete submittal information, if applicable.
(4) Descriptions of deviations to planning-related development standards and the public benefits to be provided.
(5) Association by-laws (may be submitted with each Final Site Plan.)
(6) Concept Plan. The following information shall be provided on the Concept Plan and supporting maps and drawings:
   a. Name of Concept Plan.
   b. Name, address and telephone number(s) of property owner(s), developer(s) and consultant(s) preparing the Concept Plan.
   c. Detailed area map showing the surrounding area within a half mile and the PUD in relationship to adjacent parcels, existing roadways, and natural or man made features that may impact or be impacted by the PUD.
   d. North arrow, date of preparation, and written and graphic scale.
   e. Legal description.
   f. Boundary lines of Concept Plan area with approximate length of lines and boundary lines of phases.
   g. For each lot, parcel, or tract, list proposed land uses and acreage and show building area boundaries within which each structure will be located:
      1. Maximum number of dwelling units and maximum density.
      2. Maximum square footage of nonresidential uses.
   h. Proposed screening and bufferyard/setback distances along the PUD property line.
   i. Existing land uses and zoning on adjacent lots, parcels, or tracts.
   j. Name of adjacent subdivisions (including the filing date, book and page numbers), property owners, and zoning. If not subdivided, name of property owner.
   k. Twenty foot (20) contour intervals minimum or as appropriate.

l. Proposed alignment of roadways and how they relate to the Metropolitan Planning Organization (MPO) Transportation Plan and the Transportation Element of the Comprehensive Plan and the impacts created on the area road network, neighborhood, and other land uses. Impact data shall include the anticipated traffic volume generated by the proposed development, identification of the affected road network, and the additional traffic volumes associated for each road. If required, provide a Traffic Impact Study, including a roadway improvement schedule, consistent with the requirements of the Transportation Element of the Comprehensive Plan (Policy 1.5 of Goal 7, Growth Management, of the Transportation Element) and based on the latest recommendations from the Institute of Traffic Engineers. Thoroughfare System: Identification of adjacent roadways and other transportation lines by functional classification; proposed location, length, width of all roadways, bikeways, trails, walkways, and any other transportation lines. Identify existing and proposed classification of roadways as per City of Las Cruces Design Standards and based on the current Las Cruces MPO Transportation Plan and the Transportation Element of the Comprehensive Plan.

m. Location and sizes of existing and proposed utilities.

n. Significant natural features, such as arroyos and 100-year flood plains.

o. All easements.

p. Tabular Information:

1. Land uses of each lot, parcel, or tract.
2. Total acreage of the PUD, acreage for each land use, and acreage of each land use by phase.
3. Maximum number of dwelling units and maximum density by phase.
4. Total square footage of nonresidential uses by phase.
5. Total acreage for open space, private and public facilities, and right-of-way.
6. Maximum height of proposed structures for each lot, parcel or tract.

q. Approval block signifying the final approved Concept Plan to be signed by the Zoning Administrator upon approval by the City Council and resolution of all outstanding staff comments.

(7) Other Impact Studies, if required by the Planning and Zoning Commission, are to be submitted prior to City Council consideration:

a. Impacts on any public facilities outside the PUD area. Impact data shall include expected population generated by the proposed development, identification of public facilities, e.g., utilities, parks, that are anticipated for use by said population and level of capacity of said utilized public facilities.

b. Impacts on air quality, specifically solid particulates known as PM10. (Small airborne particulates, particulate matter less than or equal to 10 microns in diameter, are an important health concern because they are far more likely than larger particles to be inhaled deep into the lungs. This particulate matter is a respiratory irritant, can aggravate asthma and other lung diseases, and act as a medium of transport that allows the body to

absorb heavy metals through oxidation. These small, suspended particulates also play some role in obscuring light, thus degrading visibility.) Impact data shall include identification of proposed uses that generate air pollution substances into the environment and the projected impact.

c. Impacts on views and noise to adjacent property. Impact data shall include identification of proposed uses that generate excessive noise, anticipated maximum height for proposed structures, identification of existing physical features that are viewed from the PUD and adjacent properties, and how these views will be altered by the PUD. Proposals to mitigate impacts shall be provided.

d. Geological and Soils Hazards: Report on the Geologic and Soils Hazards in relation to slope conditions, drainage problems and suitability for septic system use, if applicable, as identified by the Soil Survey of Dona Ana County Area, New Mexico. This report shall also include either an aerial photograph or a map with existing contours at an appropriate interval to establish accurate ground contour of the PUD area.

(8) Copy of early notification letter to neighborhood group(s) and/or defined noticed area and copy of minuts (summary or verbatim) from any required meeting pursuant to Section 38-10 C. 1. (d) (v).

(b) Final Site Plan Submittal Requirements. A request for review of a Final Site Plan (FSP) shall include the following information:

(1) Official Application and Development Statement

(2) Submittal Fee

(3) Waiver request and justification to delete submittal information if applicable.

(4) Master Drainage Study consistent with Section 37-81of the Subdivision Code and Article III, Drainage, of the City Design Standards.

(5) Master Utilities Report and Plan consistent with Section 37-81 of the Subdivision Code.

(6) A Final Site Plan. A FSP shall be at a scale that adequately represents the required information. A FSP shall be prepared on 18" x 24" sheets of paper. Copies shall be legible with no limit to the number of sheets provided. A FSP and supporting maps and drawings shall show existing conditions and all proposals, including the following:

a. Name of the FSP.

b. Total acreage of the FSP area to the nearest 1/10 of an acre.

c. Date of preparation, north arrow, written and graphic scale.

d. Vicinity Map to locate the FSP within the Concept Plan area. The Vicinity Map shall show relationship to existing major roadways.

e. Name and address of applicant.

f. Name and address of the person, corporation, or organization preparing the FSP.

g. Number to identify each lot. Letter of the alphabet to identify each tract or parcel.

h. Proposed lot lines and right-of-way lines; rights-of-way and street widths; rights-of-way and easement widths for public services or utilities and any limitations thereof.

i. Dimensions, acreage, and purposes of tracts or parcels.

j. Sites and acreage for any multi-family dwellings or nonresidential uses.

k. Dimension of all buildings, setbacks, bufferyards, parking, walkways, lighting, signs, landscaping, walls, fences, open space, and recreation areas.

l. Architectural elevation drawings of all buildings, signs, and other structures.

(7) Copy of early notification letter to neighborhood group(s) and/or defined noticed area and copy of minuts (summary or verbatim) from any required meeting pursuant to Section 38-10 C. 1. (d) (v).