

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 from 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 took 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. Prior to the filing of an application for approval of an infill development process subdivision proposal, the subdivider shall meet with the development review committee (DRC) to discuss the proposal and the planning objectives to be accomplished with the submittal. For purposes of the pre-application process, a written application or fee is not required, nor does this pre-application procedure require formal approval. The DRC shall discuss the proposal with the subdivider or the subdivider's representative and shall indicate changes, if any, that will be required prior to the submittal process.

(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.

I. 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) six 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 community development department at least fifteen (15) nine 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. or certified mail, if necessary to comply with state law requirements for cases regarding zoning matters, to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 5200 feet of the area of the proposed subdivision, inexcluding 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 to said property owners shall be mailed at least fifteen (15) ten 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 from 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.

A-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 took place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented. 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. Conceptual plans shall be submitted to the DRC for review, comments and recommendations. The DRC shall review the conceptual plans within nine calendar days to determine whether it is consistent with the intents and purposes set forth in sections 37-3 and 37-141 of this chapter. A written report shall 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.

Note: The conceptual plan is not required if following the infill development process.

(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)

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)~~six~~ 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 ~~community development department~~ at least fifteen (15)~~nine~~ 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 5200 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 neighborhood 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, to said property owners shall be mailed at least fifteen (15)~~nine~~ 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.

4.5. 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.

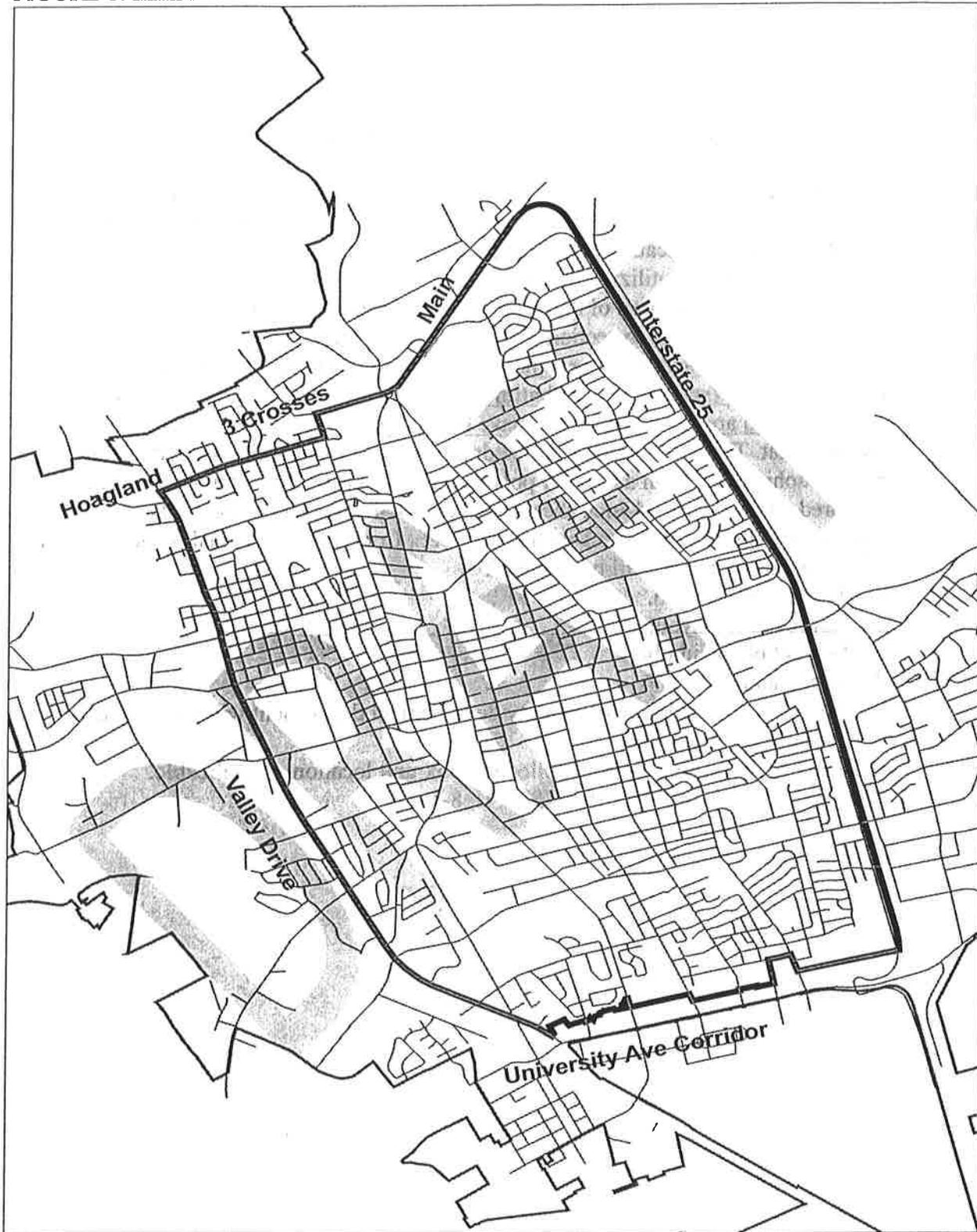
5.6. Address plat. The address plat shall be drawn with permanent ink or produced by a photographic process on a linen or polyester (Mylar) film. The address plat shall be prepared on 18-inch × 24-inch sheets at a scale that adequately represents the information (preferred scale: 1 inch = 100 feet). 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.

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 took 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. 37-1787. 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. 37-1798. 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. 37-18079. 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.*

- 7.8. 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. 37-1810--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 replating 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.

E. 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 took 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. 37-2098--37-235. Reserved.

**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 took 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. 37-2387. 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) ~~our~~ 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) ~~eight~~ 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 and within all lands abutting the area proposed to be vacated. 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 areasaid property owners shall be mailed at least fifteen (15) ~~nine~~ 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.
 - 6-7. 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. Prior to the submittal of a petition for annexation, the property owner 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. 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.

A. 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 took 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) ~~six~~ 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) ~~nine~~ 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 ($\geq 100'$ - $\leq 500'$) 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. Notice on all proposed annexations shall be sent by certified mail, to comply with state law requirements for zoning matters, to all property owners (as shown on the records of the county assessor) within the proposed area of annexation and within 200 feet of the area of the proposed annexation, excluding 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 certified mail. Notice to said property owners shall be mailed at least ten 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 public hearing.~~

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.
 - 8.9. 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.

**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

- 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 gradation 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.

**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.

**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)

nobody on the Commission..." "...is that 'if' nobody on the Commission..." and the next line, line 39, the very end of the line, we need a comma after "matter." "...If the public has any interest in discussing this matter 'comma' we just vote on it without discussion."

Shiple: We need a small "w" there, I guess.

Crane: Pardon me? Yeah, a lower case "w" on the "we;" page 4, line 39 and this occurs in another place so I'll bring it up in a minute, "r-o-l-e" should be "r-o-l-l." Yes, that's also on page 36, line 42; and finally, page 15, line 36 the number "12" is repeated. You could cut out one of them. It says, "12 more 12 Tuesday afternoon..." I'll entertain a motion that the minutes as amended be accepted.

Scholz: So moved.

Shiple: Second.

Crane: Mr. Scholz moves and Mr. Shiple seconds. All in favor, "aye."

All except Scholz and Ferrary: Aye.

Crane: Any against? Ms. Ferrary is abstaining.

Scholz: I'm also abstaining. I wasn't at the meeting.

Crane: Okay, Mr. Scholz is abstaining.

Scholz: Thank you.

IV. POSTPONEMENTS – NONE

Crane: So we move onto the Postponements, which is still "none."

V. CONSENT AGENDA

← START

Crane: Next we have the Consent Agenda and, for the benefit of those who haven't been here before perhaps, the way this works is that unless some member of the Commission or City employee or somebody with the public wishes to have any aspects of any one of these three items discussed we will just vote on them without discussion as a group, let's say just as a group of cases.

- 1. Case ZCA-13-01:** A request to amend various sections of the 2001 Las Cruces Zoning Code, as amended. The amendments primarily 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

1 normalized and methods of notification and procedures for same involving
 2 neighborhoods and neighborhood groups/associations are being defined and/or
 3 modified. Submitted by the City of Las Cruces.

4
 5 **2. Case SA-13-01:** A request to amend various sections of the 2006 Las Cruces
 6 Subdivision Code, as amended. The amendments specifically seek to change
 7 various provisions related to the public notification process for the various
 8 subdivision cases processed by the City pursuant to the code. Notification deadlines
 9 are proposed to be normalized and methods of notification and procedures for same
 10 involving neighborhood and neighborhood groups/associations are being defined
 11 and/or modified. Submitted by the City of Las Cruces.

12
 13 **3. Case S-13-003:** Application of Sonoma Ranch North LLC for a Preliminary Plat
 14 known as Sonoma Ranch North Tract 2C Lots 1 and 2. The 6.158-acre portion of
 15 the 107-acre Tract C would be divided into two lots: A 3.366-acre Lot 1 and a 2.792-
 16 acre Lot 2. The property is located on the south side of Northrise Drive east of
 17 Sonoma Ranch Boulevard, Parcel No. 02-36081 and 02-36083, and lies within an R-
 18 3 (Median-density Multi-Family) zoning district and would be developed into
 19 apartments. Council District 6 (Councillor Thomas).

20
 21 Crane: Any member of the Commission wish to address any of these? Mr.
 22 Shipley.

23
 24 Shipley: Yes, case 3; S-13-003.

25
 26 Crane: You would like to address that? Okay, we'll move that to New Business,
 27 first item. Any member of the City Planning discussion? Any member of
 28 the public? No, okay... Ms. Harrison-Rogers, do I have to have a motion
 29 to get that moved to the New Business? No. Okay. We'll take up case S-
 30 13-003 on New Business and we'll vote on ZCA-13-01 and SA-13-01 as
 31 part of the Consent Agenda. May I have a motion to approve the Consent
 32 Agenda?

33
 34 Scholz: So moved.

35
 36 Crane: Commissioner Scholz moves.

37
 38 Shipley: Second.

39
 40 Crane: Seconded by Commissioner Shipley. All in favor, aye?

41
 42 All: Aye

43
 44 Crane: Any opposed? It passes 6-0.

← BNC

45
 46 **VI. OLD BUSINESS**

47
 48 **1. Case No. Z2859.** Application of The Burris Brothers, LLC to rezone property

PLANNING AND ZONING COMMISSION
WORK SESSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
March 19, 2013 at 6:00 p.m.

BOARD MEMBERS PRESENT:

Godfrey Crane, Chairman
 William Stowe, Vice Chair
 Charles Beard, Secretary
 Charles Scholz, Member
 Ray Shipley, Member
 Joanne Ferrary, Member

BOARD MEMBERS ABSENT:

Donald Bustos, Member

STAFF PRESENT:

Vincent Banegas, Deputy Director, CLC
 Becky Baum, Recording Secretary, RC Creations, LLC

I. CALL TO ORDER (6:00)

Crane: Good evening. It being six o'clock this work session is called to order. In the absence of the public I guess we will not have to identify ourselves except I should formally welcome our new Commissioner, Joanne Ferrary, who now completes our little Board. And how do you want to run this? You're going to make a presentation, I imagine?

Banegas: I do have a presentation that'll kind of walk you through the amendments that are before you under consideration and some history behind that.

Crane: First we should ...

Scholz: We need to approve the minutes.

II. APPROVAL OF WORK SESSION MINUTES

1. February 19, 2013

Crane: ... approve the minutes, as I was about to say. Thank you. Actually, I saw your arm wave peripherally and I thought I've done something wrong already. First we will approve the minutes of the last work session, which

- 1 was February 19th. Any Commissioner have any points to make on this?
2 Mr. Shipley.
3
- 4 Shipley: I'm looking. If somebody else wants to go first I've got to come to it 'cause
5 I wrote it down at home but I don't have my page yet.
6
- 7 Crane: Well, I have ... Anybody else before the Chair steps in? Page 15, line 16,
8 I think what I said was, "City Council should say no, developers will be
9 fine", not "fined". I've no problem with fining developers. They have to do
10 something bad first. I think I said "fine." I have two more: page 26, line 17
11 and Mr. Michaud's remarks; I've a feeling he said "I'm using a context
12 based approach", but I'm not convinced of that. But "contact" doesn't
13 seem to make much sense there.
14
- 15 Scholz: I think you're right, Mr. Chairman. I think it is "context."
16
- 17 Crane: All right. And finally, page 33, line 44. I think we should delete the "e" from
18 "Santa Clause". This really made me upset. Mr. Shipley, you find your
19 stuff?
20
- 21 Shipley: I think the word that I wanted to change, I think it said "tome" and I couldn't
22 figure out what that was, but I think it was sets the tone, but I haven't
23 found it in my ... I didn't have my notes from home. I did it at home.
24
- 25 Scholz: You weren't thinking of Marisa Tomei.
26
- 27 Shipley: Tomei, no. I thought it would be easy to find when I got here. I'll get to
28 you later.
29
- 30 Crane: Okay, shall we vote to accept the minutes?
31
- 32 Shipley: I move to approve the minutes as amended.
33
- 34 Scholz: Second.
35
- 36 Crane: Second was Mr. Scholz, was it? Those in favor aye.
37
- 38 All: Aye.
39
- 40 Crane: Any against? And Ms. Ferrary's probably going to abstain.
41
- 42 Ferrary: Yes.
43
- 44 Crane: And when I see the red light up here I know you want to speak and I'll
45 recognize you or whoever else in turn. Thank you.
46

1 **III. NEW BUSINESS**

- 2
- 3 1. **Case ZCA-13-01:** A request to amend various sections of the 2001 Las
 4 Cruces Zoning Code, as amended. The amendments specifically seek to
 5 change various provisions related to the public notification process for the
 6 various cases processed by the City pursuant to the code. Notification
 7 deadlines are proposed to be normalized and methods of notification and
 8 procedures for same involving neighborhoods and neighborhood
 9 groups/associations are being defined and/or modified. Submitted by the City
 10 of Las Cruces.
- 11
- 12 2. **Case SA-13-01:** A request to amend various sections of the Las Cruces
 13 Subdivision Code, as amended. The amendments specifically seek to change
 14 various provisions related to the public notification process for the various
 15 subdivision cases processed by the City pursuant to the code. Notification
 16 deadlines are proposed to be normalized and methods of notification and
 17 procedures for same involving neighborhood and neighborhood
 18 groups/associations are being defined and/or modified. Submitted by the City
 19 of Las Cruces.

20

21 Crane: Okay sir, Mr. Weir, right?

22

23 Banegas: Mr. Chairman, Members of the Commission, Vincent Banegas for the
 24 record. I'll be presenting the cases that are going to be before you for
 25 formal action at your April regular meeting. Tonight, however, we thought
 26 it'd be very prudent to give you a first blush, if you will, of the proposed
 27 amendments to the Zoning Code and the Subdivision Code. Before I go
 28 over that I thought it'd even be more beneficial to kind of walk you through
 29 some the history behind these amendments and what conversations have
 30 been held with not only staff, Planning and Zoning Commission, but also
 31 City Council. So with that, let me start my presentation.

32 The issue at hand is, of course, public notification and examining
 33 some of the procedures that we could consider for public notification
 34 improvement in terms of our processes. With that a very brief history:
 35 back in February 2012 some of you might recall that at a regular meeting
 36 there was some discussion over ways in which we can improve our
 37 notification and at that time it was recommended that staff consider a 21-
 38 day threshold for sign posting, for mail out notice, for newspaper
 39 advertisement, etc.

40 We took that under consideration and discussed that quite
 41 thoroughly at the staff level and obviously it caught some momentum
 42 because on March 19, 2012 that same year at a City Council work session
 43 City Council wanted staff to present information regarding notification
 44 measures in use and kind of give a background as to where they came
 45 from and how they compared to what other regulations or statutes might
 46 be in place that govern that. So to that end staff gave a presentation that

1 compared State Statute provisions for all the types of things that we
2 examine: subdivision related, zoning related, variance related, those types
3 of things that come before this Body and sometimes before City Council,
4 either for final approval or on appeal.

5 We gave a summary or cursory overview of those standards and
6 we discussed some opportunities for some improvement to those
7 Standards. It was at that time pursuant to a work session packet that was
8 distributed to Council that we also include an excerpt of the minutes from
9 this Body from the February meeting that talked about that 21-day
10 threshold. Following that discussion presentation, staff was directed to
11 look at the issues a little bit more thoroughly and examine them more
12 closely to see what specific elements can be adjusted in order to make the
13 public notification process a little bit more successful in casting a broader
14 notification net for all the citizens that we ultimately impact with the issues
15 that we discuss and/or approve.

16 At a September 2012 City Council work session follow-up up there
17 were two documents that were presented to the Council. I believe those
18 were included in your packet or at least I hope they were. One was called
19 the Public Notification and Participation Report, an Analysis of Option for a
20 More Informed Community. That document took a look at everything we
21 had in place at the present time, looked at other communities in terms of
22 what they used for public notification measures, examined ways at which
23 we can either incorporate some of those measures or modify the ones we
24 had on the books presently to see how to improve the process. Then it
25 gave a recommendation as to what elements and how they might be
26 adjusted in terms of what we could look at for incorporation into our
27 notification processes.

28 The idea of that report was to identify the plethora of options
29 available for each of the departments throughout the city to consider the
30 menu items, if you will, I consider that kind of a "menu listing" of options,
31 consider what options might benefit their operations within their respective
32 departments and pull together a departmental policy, if you will, on
33 notification measures that they could incorporate into their activities. Parks
34 and Rec for instance, obviously in the location of public parks they might
35 consider selecting some of the menu options from that report and
36 improving some of their notification processes, some of the street crews,
37 as an example, when they repave might also do the same.

38 Taking the lead on that, the second document that was included in
39 your packet was called a Citizen Notification Policy Manual for the City of
40 Las Cruces Community Development Department. That report or that
41 document intended policy manual is pulling from that first report the menu
42 items that we feel can be incorporated into a successful notification
43 procedure for the things that Community Development carries out in
44 concert with the Planning and Zoning Commission and City Council and
45 all the plans and cases that we bring forward at one point or another.
46 Some of the elements that are discussed in that document are strictly

1 policy. It's going to be very difficult to incorporate them into an ordinance
2 form but nonetheless, the intent is to take that policy manual up to City
3 Council for approval as a policy document and via resolution procedures.

4 Other elements that are included in that document are definitely
5 intended for implementation via our ordinances and, to that extent, the two
6 Ordinances that are here this evening, those being the Zoning Code, the
7 2001 Zoning Code as Amended, and also the 2006 Subdivision Code as
8 amended. That is also one of the documents that is subject to amendment
9 in order to incorporate those provisions.

10 Right now, just to kind of briefly bring you up to speed, many of you
11 are aware, some of you are not, we deal with development cases in one
12 form or another. Dealing with annexations, zoning, Special Use Permits,
13 Planned Unit Developments, the list is very large and we also deal with
14 long range planning projects. In fact right now we're getting ready to bring
15 you some information regarding our update of the Comprehensive Plan
16 and along with that there're neighborhood plans, there're the community
17 blueprint type plans and other regional or sector plans that we may bring
18 forward and definitely impact the community. We have public notice
19 processes for those as well.

20 The two types of notice that we carry out in the department, it's kind
21 of a two-tier approach. The primary, of course, is agenda posting, the
22 typical. We have newspaper advertisements about the cases that going
23 forward to this Body and also to City Council. The City Clerk handles
24 much of that. We have mail out letters that also go out to property owners
25 in the affected area.

26 Secondly, we have the website, which I should note that prior to
27 the movement towards the new City website, our old website had a
28 webpage dedicated solely to development activity. Any cases that were
29 brought forward or submitted to the City Community Development
30 Department we would list on that webpage and try to keep a status or a
31 rolling status check on where it sat and whether it received approval,
32 denial, or those things of that nature. With the new website we recognize
33 that there have been some limitations as to what we can and cannot post.
34 There's been a lot of behind the scenes work trying to get the website up
35 and running, certainly to the extent that it once was, if not better and so
36 we're still working on that. But we see the website as a use not only for
37 existing but for the future wherein we can inform the public about cases
38 that come before the City for consideration and ultimate approval.

39 We also have a Notification Association Policy that was also
40 included in your packet and that is an approved policy that is in place
41 today. It is a policy and, to the extent where it identifies the
42 responsibilities of the City, we do carry out those actions. However, in
43 terms of the responsibility for neighborhood associations and developers,
44 we definitely strongly encourage the participation as listed in that policy.
45 But in many instances we don't have the leverage to require notification,
46 say, of the developer to the neighborhood association in order to inform

1 about proposals, be that subdivision related, zoning related, or what have
2 you so therein lies some of the weakness with that policy.

3 Just to compare and kind of show you what we showed City
4 Council: we have the State Statutes on the left. I just chose the three
5 columns, Subdivision, Zoning, and Variance, and to that end this column
6 defines some of the features that are required or the elements that are
7 required for notice as it relates to the actions on the far left side. So for
8 agenda posting, as an example, when we're dealing with subdivisions in
9 accordance with state statutes, the Municipal Body determines what is
10 reasonable and same for zoning and same for variance. Our mail out
11 deadline for subdivisions is five days prior and the State Statutes are very
12 quiet on zoning and variance related matters and so on down the list. So
13 you can see that there are a lot of open-ended issues related to State
14 Statutes as it ties to notification. When you compare the City of Las
15 Cruces Standards in almost every point... well, I will say on every point we
16 either meet or greatly exceed the Standards of the notification thresholds
17 that the State requires.

18 Some of the concerns that we have with them, however, is there's a
19 lot of variation in some of the thresholds themselves, timing, as an
20 example. If you're dealing with subdivisions you can deal with six days
21 prior to the hearing, nine days prior to the hearing depending on what type
22 of action or notification action you're carrying out; and then if you jump
23 across activities, say over to zoning, you could be dealing with 10 days or
24 15 days, so there're multiple thresholds that are included in today's
25 notification procedures. There's also distance variation. We have 200 feet
26 whereby we notify property owners within proximity to a subject parcel
27 that's going through development proposal type action and that excludes
28 rights-of-way. But we also have a 300-foot notification distance for
29 neighborhood associations pursuant to that policy that I previously
30 mentioned, so there's some variation there.

31 When the matter went before City Council, obviously there were
32 some notification concerns that were raised to the individual Councilors. I
33 know you all probably have heard them. I know staff has heard them from
34 time to time and we kept hearing that our current processes weren't
35 reaching enough people. We weren't casting wide enough net, if you will,
36 and our notification distances were too short. Sometimes we would have
37 property owners right across the street from someone else who received
38 notice yet they did not and that could very well be the distance just didn't
39 quite get there. There's always somebody who's left out of the notice,
40 someone who's within it. So, we heard about that. Our methods were not
41 entirely inclusive.

42 We have a set number of methods that were in use and we've been
43 using those for quite some time but we never branched out and took a
44 look at other options. Some of the processes like certified mail became a
45 burden to some property owners because if you're not there to receive
46 your certified mail you might receive a note from the Post Office or from

1 the mail carrier that says you need to go to the Northrise office and pick up
2 your certified. It'll be there when you're good and ready to pick that up. So
3 it becomes a burden for the property owners to make time and do just
4 that; not to mention with certified mail we have received our fair share of
5 complaints regarding the cost of that. It is the cost of doing business but
6 last I checked, and I think it's still the same, I believe it's \$5.75 per letter to
7 send certified mail out. Yeah, that's a hit. And we would get a lot of those
8 and depending on the case and depending when we're taking matters to
9 the P & Z and City Council, we would have many envelopes returned
10 unclaimed. So, it's quite a hit in more ways than one.

11 We had limited use of technology that was readily available and so
12 we just needed to examine new methods that were also mentioned and, of
13 course, with all these different processes being considered, we also have
14 to consider the ease of application. We have to consider the practicality of
15 the methods, you know. Does it cause excessive time constraints on the
16 developer, on the citizens that are notified, on staff for carrying out the
17 review? Is it easy for staff to carry out these notification procedures or is it
18 a substantial burden in which to meet these thresholds? Those things
19 have to be considered.

20 Safety and liability: we once had a group of Boy Scouts commit to
21 helping our department distribute some little door hangers, I guess they
22 were called, and they were helping us with some readdressing efforts out
23 on the East Mesa. The first day they went out there we had the little door
24 hangers made up and they went out doing the civic duty for their civic pin,
25 I believe or badge, and unfortunately one of the kids got bitten by a dog.
26 Needless to say that was the last time that they went out. The next day
27 the flyers were brought back and they were no longer interested in
28 assisting. That happened to be a Boy Scout but it could easily have been
29 City staff or what have you doing the same thing that has that same thing
30 happen to them.

31 We've also talked about signs, larger signs and posting them on
32 private property. We've talked about from time to time the fact that if we
33 put larger signs on property that requires more digging, posthole diggers,
34 or something like that. We could encounter drip irrigation lines or sprinkler
35 lines or some other type of line that we would sever or puncture or
36 rupture in some way, shape, or form and that's a liability to the City as
37 well. So those types of things we've got to keep in mind as we examine
38 these methods and how to improve our notification measures.

39 Costs: I've mentioned some of that with the certified. Also there
40 was a discussion at City Council that there was a perception by the public
41 that there's a substantial amount of protest with the cases that we deal
42 with and, therefore, that requires an extended or a more deliberate need
43 to look into the notification process. When we looked into that I realized
44 that this isn't hyper-current. It's going through July, the end of July of last
45 year and I suspect the numbers will change a little bit but the point
46 probably will not. But out of that time period we looked at the number of

1 cases that were submitted and there were 171 that got submitted to the
 2 City for consideration. Of those, 84 of those were either administratively
 3 approved, dropped by the applicant and at that time awaiting P & Z.
 4 Eighty-seven cases were acted on by a decision making body. So 87 of
 5 those 171 were actually acted on and when we looked further at those
 6 based on the minutes, we found that 30 of those cases or 34%, there was
 7 no protest; 47 of those cases, individuals who spoke at the meetings were
 8 merely seeking clarification on what was being heard; 6 of those cases
 9 there were concerns raises or considerations requested by the public,
 10 maybe a mitigation issue that you all could act on as a condition for
 11 approval, that kind of thing. They weren't really protesting. They were
 12 more just kind of informing the Commission of "if you do this," "could you
 13 please consider," that kind of thing. Four cases had strong protests. You
 14 know, we dealt with a cell tower up in Sonoma Ranch region that had
 15 substantial protest. So I'm not saying it doesn't exist, it just ... the
 16 numbers were so low for those type of cases. That was one of the points.

17
 18 Crane: May I interrupt for a moment? This is the results of the public discussion
 19 at the public Planning and Zoning meeting or other meetings as well?

20
 21 Banegas: This was part of the discussion at the City Council work session when we
 22 raised the issues of public notification in general.

23
 24 Crane: Okay, thank you.

25
 26 Banegas: So to that end we were again asked to look into notification methodologies
 27 and we did so. We looked at the region, looked at other communities in
 28 New Mexico, some in Texas, Arizona, and Colorado and took a look at
 29 their codes, their notification methods and we found several nuances that
 30 many were very much like what we had in place and there was some
 31 deviation.

32 Notification boundaries: keep in mind we had that 200 foot less
 33 excluding rights-of-way and we found that some of the boundaries that
 34 these other communities had were higher and some were lower. Some
 35 communities notified not only the property owner of record but also
 36 tenants. I think that would present some problems for us, but nonetheless
 37 that's what we found. Some communities required mandatory
 38 neighborhood meetings period and some under certain conditions or
 39 circumstances and it was kind of a case-by-case review of the case at
 40 hand. Notification timing was more standardized across the board but no
 41 one was higher than the 15-day threshold. We do have 15 days in place
 42 today for some of the zoning issues, as you recall, on that table, but others
 43 are less than that.

44 Then there was some discussion about applicant responsibilities in
 45 those various communities in terms of costs, you know. How do we ...? If
 46 you're going to do other types of activities for public notice that all comes

1 with a cost, so how do we share that cost? So, you know, it outlined in the
2 various instances that the applicant picked up some of the cost and the
3 City picked up other costs and then the applicant was responsible for
4 certain activities in terms of the posting and the City was responsible for
5 other parts, so those were kind of the nuances we found.

6 So based on that, the report that I previously mentioned was
7 prepared and we looked at the issues, concerns, and viable methods and
8 associated costs and all that and that was the menu item that I presented
9 or discussed just a minute ago where we selected out the options that
10 could be considered and it identified some of the changes that might need
11 to be made to those options in order to make them work for the City. As I
12 indicated, it prompted the departments in the City to pick and choose what
13 might work for their department operationally and then to adopt the policy.

14 I also mentioned just a minute ago that the Community
15 Development did just that and so we selected from the report, we modified
16 some of the existing practices and we incorporated some of the new
17 methods that were examined as part of our strategy for an improved
18 notification method. Part of that policy does talk about cost and we are
19 looking via the proposal to consider cost recovery on the mail outs, on the
20 newspaper ad, and on signs. If you look at the grand total, because of the
21 methods at which we're seeking to utilize mail out provisions etc., the
22 costs aren't going to go up that significantly for anyone. We're trying to
23 keep the cost low. That's why we're looking at strict state statutes which I'll
24 go over in a minute in terms of mail out and that will help on the certified
25 mail cost. So because of their cost savings there, newspaper ad, etc,
26 they're only paying their pro-rata share of the ad, those types of things.
27 We don't anticipate a huge hit with any of the proposals that we're bringing
28 forward. Those additional cost recovery fees, I should mention, will be in
29 addition to the standard set fee that they already pay.

30 So, more about our method, our chosen departmental strategy, it's
31 a five-step method. We do as I indicated: seek to modify the existing
32 process. All our agenda, newspaper, sign posting, and letter mail out will
33 now meet as proposed: a 15 day, calendar day threshold. There's not
34 going to be any of the 6, 9, 10. It's all 15. The mail out notice to the
35 neighborhood associations will now follow a 500-foot boundary period. It's
36 no longer going to be the 300 feet. We're going to the 500.

37 The staff determination on early notice and potential for early
38 meeting need pre-submittal is being incorporated into the proposal. What
39 that means, and I'll go into that in more detail, but basically at a pre-
40 application meeting that City staff already holds weekly, developers or
41 anyone, any applicant can come before the staff at this meeting, present
42 their proposal with enough information and specificity to allow us to
43 determine whether or not we think it's going to cause concern with the
44 neighborhood.

45 If that determination is made, based on some criteria that I'll go
46 over here in a minute, then we are going to ask the developer to go seek

After synthesizing public input, the team should evaluate the entire public involvement process to identify lessons learned. This exercise will help the team determine which activities were most successful in meeting the goals. If the process and the results align with the expected outcomes and goals, the lessons learned can provide guidance for similar success in the future. If there is a disparity between outcomes and expectations or if goals were not met, then the city should consider how future attempts at similar involvement could be modified. Furthermore, even if outcomes are not what were expected, sharing this fact can build public trust by demonstrating that the city values honest, transparent communication and not just results.

7. Share the Results

As with all aspects of the public involvement plan, the performance evaluation should be well documented. By writing documents that describe the processes, the results, and the evaluation of those results and processes, the city creates a public record for each initiative. This public record helps staff look back on the process and understand the effort involved, the benefits realized, and the lessons learned. The documents also allow all members of the community to share in the project's success and facilitates public dialogue about the results of public involvement processes. The city can keep two-way communication open after sharing the results to give the public avenues to comment on these results. Comments regarding the results can steer decision-making, gauge public sentiment, and develop buy-in from stakeholder groups, other city departments, and the public.

Tailoring the Public Involvement Plan to a Project

To tailor this plan to a specific project, the team needs to determine what level of involvement is needed and set the goals accordingly. The goals outlined for the plan will drive the outreach and participation tools described in Section IV. Outreach requires identifying target audiences and specific strategies to reach these audiences. In participation, the techniques will change depending on the type and level of participation needed to develop the input the project needs. The Public Participation Spectrum (Figure 1) can be used to determine the level and type of involvement for the project. The spectrum can be used as a sliding scale of public involvement that starts with basic involvement that simply informs and goes up to empowering the public to make decisions. A particular project will fall somewhere on this scale, and the team can “slide” the outreach and participation activities to meet the needs of the project or initiative.

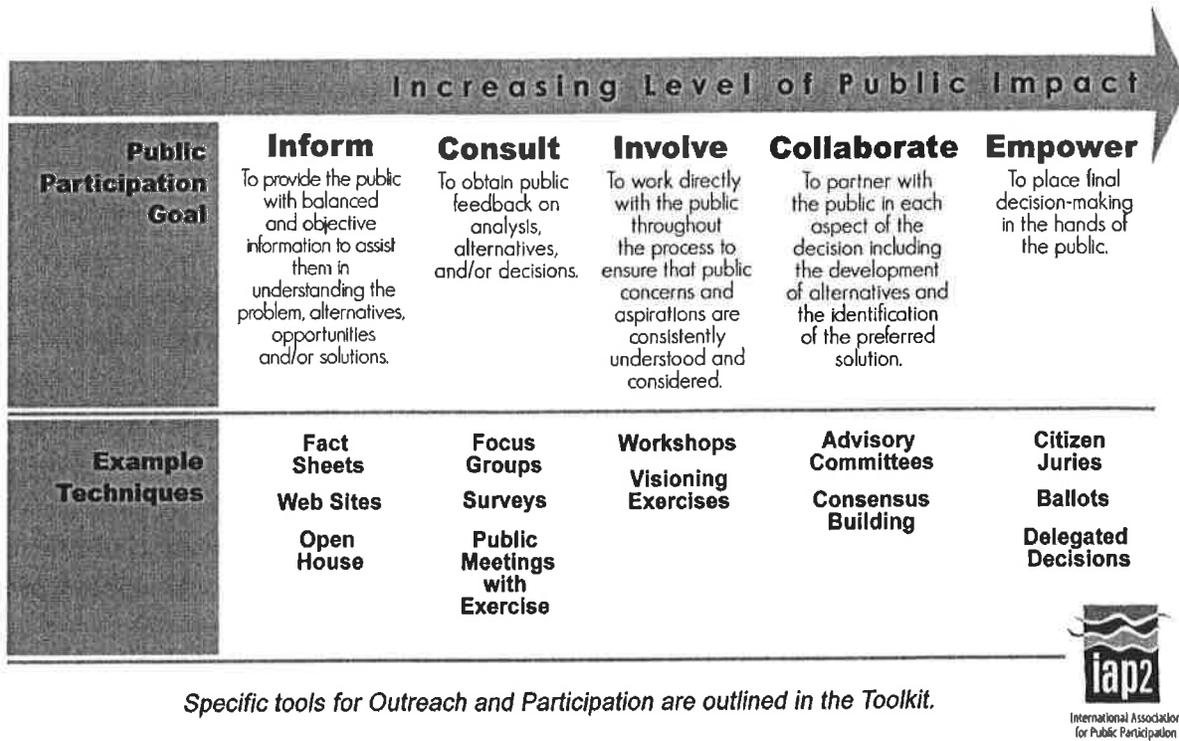


Figure 1. International Association of Public Participation (IAP2) Public Participation Spectrum (<http://www.iap2.org/>)

Summary

This public involvement plan process provides specific methods to reach out to and involve the public in municipal actions. This engagement allows interested parties to learn about and influence decisions that affect their community. Decision-makers can use the public involvement process to gauge public sentiment and gather helpful input for current and proposed policies and projects. The community has a better chance of reaching equitable outcomes when all parties are involved, informed, and included in decision-making. By using this tool for decision-making, a community can make decisions that balance economic vitality, equity among citizens, and environmental stewardship. By honestly and earnestly seeking to incorporate public aspirations, advice, concerns, and considerations, the city of Las Cruces creates a great opportunity to move forward in the best interest of all community members.

IV. TOOLKIT

1. Introduction

The toolkit contains outreach and participation tools the city could use in their involvement process. Like any tool used to repair or build something, the tools described in this section are designed to be used in concert with one another to accomplish the goals and objectives established for a particular public involvement effort. The toolkit includes:

- **Outreach tools** to inform and engage all segments of the population, including those who may be affected by an initiative, the general population, and those who have traditionally been underrepresented.
- **Participation tools** to create and document useful input.

Certain tools will prove widely useful and could be used frequently on multiple projects or on iterative efforts. Other, more specialized tools may not get used as often but are available in this toolkit should they be needed. As work moves forward, new tools may be needed to perform a specific function. These tools can be added to the toolkit using the New Tool Worksheet in Appendix B.

Upon completion of any public outreach or involvement effort, city staff should write a summary memo that documents and analyzes comments received. The memo should also document the tools used and the success of those tools in achieving the effort's goals. Lessons learned will help with subsequent outreach and involvement activities. To assist in evaluation efforts, the team can use the Evaluation Worksheet in Appendix B.

Finally, staff availability is crucial to the success of any outreach and participation efforts. As noted in Section III, a cross-departmental project team should be established at the beginning of any effort. On that team should be a primary staff contact who responds to public inquiries and forwards correspondence to the appropriate project team member for timely response.

2. Outreach Tools

Outreach tools help connect staff and elected officials with audiences to develop awareness of and participation in the project under consideration. These tools also provide basic project information and direct interested parties to additional resources that give more information. In general, implementing as many of these tools as possible will provide more information to the community about a project and the opportunities to become involved. Outreach should be two-pronged—focused outreach to specific residents and stakeholders whose input is needed for an

inclusive involvement and more general outreach to reach a broader audience. Focused outreach involves city staff going out into the community—reaching the businesses, religious institutions, schools, and social clubs of those residents who have, for any number of reasons, not been engaged in city planning and policy efforts. Involvement strategies to reach a broader audience include more traditional media campaigns (e.g., flyers, posters, websites, or radio spots) but also social media such as Facebook and Twitter. Although the “more is better” approach may be tempered by time and budget constraints, the city should go straight to the people to involve them.

A. Project Announcement

A project announcement is a simple, one-page description of the effort that the city is undertaking. It tells readers who is involved, what the project is, where and when it is happening, and how the process will work. It is developed in print and digital formats and released to the public, businesses, institutions, agencies, and members of the community who are targeted for outreach. The announcement should be translated into the predominant languages of the community. In print format, the announcement may take the form of a flyer, bulk mail piece, or poster. The digital format can be an image file or a PDF that is uploaded to a relevant website, used in social media, or sent by e-newsletter. Costs may be higher if the city uses professional graphic design, certain distribution methods, or multiple distribution methods.

B. Partnerships with Community-Based Organizations

Community-based organizations (CBOs) are groups that serve a broad range of community interests. Organizations include senior centers; civic groups; business organizations; churches and other faith-based organizations; service clubs; schools that provide English as a second language programs; service providers for youths, families, and persons with disabilities; and many others.

Community-based organizations provide the opportunity to connect with specific audiences and are an integral part of identifying and reaching out to underrepresented groups. The city can reach out to specific organizations to provide these groups with project information and encourage them to become involved. Should these groups have specific needs that might affect the involvement process, the city should clearly outline strategies to meet those needs. For example, organizations that represent people whose first language is not English should be invited to participate in exercises where they can receive information and provide input in the language with which they are most comfortable. Often, the organization can provide the venue and opportunity to meet with the group and perform a participation tool exercise, such as a coffee circle (described in the Participation Tools section).

C. School Partnerships

School administrations can publish information in school websites or newsletters or send email to distribution lists to engage students and their parents. Outreach activities can also be integrated into school curricula to inform students about a project through activities such as learning games and field trips. In high school, educators can create modules for classes and clubs involved in activities such as photography, computer science, art, civics, or creative writing. For instance, if the city of Las Cruces is undertaking a planning effort for a particular neighborhood, students of the local school could undertake a history project documenting the neighborhood. Or a multimedia class could produce short films documenting a “day in the life” of neighborhood residents.

D. Project Website

A project-specific website gives detailed and extensive information and allows for two-way communication. It should complement, not replace, other outreach and involvement efforts, since many people do not have access to the Internet or do not use it frequently. The website can stand alone or could be integrated into the city’s existing website. If possible, the city should use an intuitive URL, such as [www.\[project name\].org](http://www.[project name].org) or [www.\[city name\].gov/\[project name\]](http://www.[city name].gov/[project name]). Websites should be easy to access and to navigate and have translations available in Spanish or other appropriate languages.

E. Social Media

Social media and social networking websites include Facebook, Twitter, YouTube, and blogs. For any initiative, the city could create a social media strategy and invite target audiences (identified using city email lists or previously interested groups) to participate. It is important to choose the social media and networking platforms that have the best chance of reaching the intended audience. If the medium allows for public commenting, the project team should moderate those comments to ensure content is appropriate.

F. Electronic Newsletters

Email newsletters quickly and easily disseminate information to contact lists. While e-newsletters can be inexpensive if sent electronically through a listserv, an e-newsletter service may provide a more attractive-looking and engaging newsletter, but at an increased cost.

G. Media Campaign

A comprehensive regional media campaign often is the primary source of outreach to the broader community. A media campaign might include press releases, public service announcements, press conferences, feature articles, or interviews, depending on the nature of the project and the resources available. To ensure media exposure, the city could buy advertisements but should do so strategically to keep costs low. Keeping a consistent media message across all channels requires generating and distributing talking points to project team members.

3. Participation Tools

Participation tools are designed to create a meaningful dialogue between city staff and the community. Each participation tool is a structured activity that allows participants to learn about the project, ask questions, and provide comments. The input that is generated in participation activities can be used for analysis, and create buy-in for a project. Similar to outreach tools, participation tools can be used in combination with one another to elicit input from target audiences through multiple avenues, which is especially useful when participation is desired from several different groups in a community.

The first set of participation tools described in this section focus on face-to-face meetings, with a particular emphasis on city staff going to places where a particular population already gathers. This effort pays off by demonstrating that city staff is committed to hearing the concerns of those groups who do not participate in more conventional public processes such as larger community meeting and workshops. These tools include ones that help participants create a vision for their community. Several of the visioning tools use pictures to tell a story. Using images is not only more fun for participants, but also more inclusive and equitable in that it relies less on words to express ideas and concerns. This technique is most helpful when working with community members who might not speak or read English well or with children and young people who find images more exciting than words.

The project website and social media described in the outreach section remain pertinent to participation efforts. A project-specific website can be used to disseminate information and gather comments. Additionally, social media websites can allow people to create and exchange content about a specific topic. Again, a major caveat is that not everyone has access to or the ability to use the Internet, so online tools should complement, nor replace, face-to-face participation tools.

A. Meeting with the Public

The term “meeting with the public” is used deliberately to differentiate from “public meeting.” Meeting with the public means actively going into the community, talking with community members about a particular city initiative, and most importantly, *listening* to their concerns. Though potentially staff intensive, the time committed to informal meetings can build a significant amount of trust with the community. Feedback is likely to be more candid since staff is on the residents’ “turf,” and people can discuss their concerns in conversation rather than having to speak in front of a large group, which many people find intimidating. Furthermore, community members may feel more engaged in the process and thus be more willing to attend larger, traditional-format community meetings and workshops.

Meetings with Community-Based Organization – As described in Section III, community-based organizations include senior centers, civic groups, business organizations, churches, service clubs, and others. Community-based organizations often host meetings that provide an opportunity for city staff to discuss particular city initiatives and projects. Meeting with groups at their regularly scheduled meeting times and in their format demonstrates a willingness to work with the group to listen and understand their position.

Coffee Circles – A coffee circle is a small meeting with a specific group, generally in an informal setting such as a person’s home, a business, or a community center. To generate conversation, the facilitator can start by asking engaging questions such as “What was it like here when you were growing up?” or “Where is your favorite place in town to spend time, and why?” Once the conversation is flowing, the facilitator can get into the specifics of the project.

World Café – A world café is a specialized technique using a leaderless dialogue that simulates café-style conversation, where small groups engage in conversation to explore a given topic. To set up the meeting space, tables are placed around the room, each one accommodating four to six people. A host is stationed at each table to listen, take notes, and facilitate discussion, not to lead the group discussion. Each group should discuss the topic, listen to each other’s viewpoints, and share their views. Participants switch tables periodically, while each host remains, allowing ideas to move around the room.

See: <http://www.ilo.org/public/english/support/lib/knowledgesharing/meetings.htm>

B. Public Meetings

More conventional meeting formats are described below. At all meetings, staff should provide sign-in sheets and comment cards. In addition to comment cards, participants could be asked to

fill out a card at the beginning of the meeting stating their concerns and motivation for attending the meeting. This is their “declarative statement.” These cards could be posted on a bulletin board so others can read them. At the conclusion of the meeting, participants would be asked to revisit the cards and fill out the other side with “what they heard” and if their opinion on issues has changed. This before-and-after response will help city staff gauge how effective their messaging has been and where there is room for improvement.

Community Meeting – The community meeting is a structured meeting with an agenda during which the project team conveys information, listens to comments, and answers questions. It may include a formal presentation, a question-and-answer session, and an informal discussion period.

Open House Meeting – An open house meeting provides more opportunities for the project team and public to interact informally. An open house uses information stations staffed by project team members, allowing the public to talk with those involved in the project to learn more and provide input. This type of format is useful to gather input from participants who may not feel comfortable speaking in front of a group. It is good practice to have two team members at each station so one can focus on speaking with participants while the other records input.

Workshop – Workshops engage the public in interactive exercises to develop ideas and input. Workshops provide a venue for discussions of goals and alternatives, as well as creative problem-solving. Activities chosen for a workshop depend on the demographics of the group and what kinds of responses the staff hopes to elicit.

Design Charrette – A charrette, as best described by the National Charrette Institute, is a collaborative design event that lasts a minimum of 4-days. A multidisciplinary charrette team, consisting of consultants and sponsor staff, produces the plan. Stakeholders—those being anyone who can approve, promote or block the project as well as anyone directly affected by the outcomes—are involved through a series of short feedback loops or meetings. Most stakeholders attend two or three feedback meetings at critical decision-making points during the charrette. These feedback loops provide the charrette team with the information necessary to create a feasible plan. Just as importantly, they allow the stakeholders to become co-authors of the plan so that they are more likely to support and implement it. Charrettes takes place in a charrette studio situated on or near the project site. The charrette team first conducts an open public meeting to solicit the values, vision, and needs of the stakeholders. The team then breaks off to create alternative plans or scenarios, which are presented in a second public meeting usually a day or two later. The team then synthesizes the best aspects of the alternatives into a preferred plan that is developed in detail and tested for economic, design and political feasibility. The charrette concludes with a comprehensive presentation at a final public meeting.

See: <http://www.charretteinstitute.org/>

Expert Panels – An expert panel is a public meeting that mimics the “Meet the Press” format. A panel of media representatives or a facilitator interviews experts to show an issue from different perspectives. A neutral facilitator ensures a balanced discussion. The public can be involved in a question-and answer-session following the panel.

Focus Groups – Focus groups are a message-testing forum with selected members of a target audience. Testers show these individuals messages and interview them to gauge their reaction to those messages.

Fishbowl – A fishbowl is a small group of people, generally between five to eight individuals, seated in a circle, having a conversation in full view of a larger audience. The fishbowl is most often an open discussion, with public officials, decision-makers, or stakeholders taking “permanent” chairs at the table, with several chairs open to members of the audience who want to sit down and discuss an issue. Audience members can move to the central table as issues are discussed and when the discussion moves to another issue, that individual returns to the audience, opening a chair for someone else. This format allows the public to participate in a conversation that can answer questions and aid in understanding the decision-making process, especially where controversial or “hot button” issues are concerned. While significant moderation is not needed, a facilitator may help the discussion progress smoothly.

See: <http://www.ilo.org/public/english/support/lib/knowledgesharing/meetings.htm>

Webinar – A webinar is a meeting that is presented online. Currently, technology allows for public meeting “webcasting,” or broadcasting via the Internet, and two-way electronic communication. While webcasting can be relatively simple, participatory techniques are difficult to implement in a webinar format. As technology improves, webinars may emerge as an increasingly useful tool.

C. Visioning

Visioning exercises can take several forms and can be incorporated into the meeting formats previously listed. Visioning tools can be used to solicit public ideas in the initial stages or to help shape components of the project as it evolves. At each stage, if the results of the visioning process are shared with the public for ongoing feedback, the public is reassured that their input shapes the community vision to the greatest degree possible. Visioning performed early and throughout the life of the project helps ensure that the public vision is realized as the project moves through the municipal decision-making process towards implementation. Material gathered can be synthesized in various ways, which will depend largely on the anticipated use of

the input when the exercise is designed. All input should be treated equally and collected in such a way that the public involvement process moves forward and is informed by this input. The input should include a detailed explanation of the visioning exercise that aided its development.

Shared Perspectives – A shared perspective exercise uses a photograph or image of an existing condition and an overlay sheet of trace paper on which an artist can draw. The artist or another member of the team talks with a participant about the particular issues illustrated in the photos and elicits ideas about what the participant would like to see there instead. The artist captures these ideas immediately and draws them on the trace paper on top of the photograph in front of the participant. In essence, the artist is serving as the hands for the participant. This type of activity generates a lot of excitement, and participants can be invited to do their own drawings if they want. The result is a rich set of images that can be categorized according to common visions that emerge and discussed afterwards in a meeting of all participants.

Mapping Exercise – A mapping exercise uses a map or aerial photograph to help develop input regarding a specific geographic area, location, or corridor. The input can be free flowing and cover a range of topics, or it can be targeted to gather input on a specific topic, idea, or issue. In cases where a discussion of alternatives is part of the process, two alternative maps can be used to develop input. Mapping exercises can be performed in various ways. One way involves printing large maps and encouraging the public to draw or write their ideas on the maps themselves. This input can then be scanned, photographed, or catalogued. A facilitator is present to explain the map, answer questions, guide input gathering, and keep the discussion focused. Some participants may have difficulty reading maps at first, so it is helpful to have printed eye-level photographs of places depicted in the map to help participants get their bearings. Another method is to ask participants to draw their own maps based on their knowledge of the area of interest. These maps, though likely crudely drawn, can be valuable in highlighting how the participant experiences the area.

Photovoice – Photovoice is a participation tool developed at the University of Michigan. The underlying principles are that that images teach, and pictures can influence policy. It is a facilitated process where participants use photographs to explain how they perceive their current circumstances and also explain what they like and do not like. Pictures can be collected through a variety of means; participants can bring their own photos to a workshop event or upload photos to the project website prior to an event for city staff to print. Another method is distributing disposable digital cameras before the event; staff can download the images at the meeting and print the photos on site. Alternatively, staff could distribute cameras at the event and take participants on a tour of a project area, allowing them to note their likes and dislikes with pictures rather than words. The “comments” gathered through Photovoice are images that are assembled by participants (with assistance from a facilitator) into collages. These images can be

presented as a public art display to generate community awareness of issues, to create a collage or educational tool, or to generate a lively discussion.

See: <http://heb.sagepub.com/content/24/3/369.short>

Visual Preference Survey – In a visual preference survey, participants look at two pictures of a similar place or element—e.g. a street with on-street parking versus a street without parking, or an stream with a pathway along it versus one without a path that looks more natural. Participants are then asked to select which image they prefer. Surveys can be taken on computers or using display boards and a ballot sheet. Public feedback developed through the visual preference survey is most helpful in determining public opinion related design aesthetics.

Computer Simulations – Computer simulations are an increasingly useful visioning tool in helping the public understand choices, see possible future scenarios, or see how their input may be used. At a basic level, a computer simulation is similar to the shared perspective exercise in showing simple before-and-after representations of how a project might look when complete based on participant comments. Simulations are developed by a professional graphic designer or architectural renderer and can be time-intensive, depending upon the desired quality of the final image. The most basic image looks like a photographic collage. This exercise therefore is best suited to a multi-day charrette where participants can see the image or images evolve over the course of the event. Typically, the designer will take these images back to his or her office to create a more realistic image.

Keypad Polling – Keypad polling is where participants use handheld remote devices that allow them to vote on polling questions at a public meeting. The exercise is included in the visioning section because the results of the polling are shown immediately on a screen. The facilitator uses the outcomes to guide discussion. Polling is anonymous so those who do not feel comfortable publicly voicing their opinions can still share their thoughts.

D. Tours and Audits

Tours are facilitated group excursions that help participants familiarize themselves with a project area. Audits are similar but involve developing inventories to provide quantifiable data regarding the typical public experience. Both activities have city staff, designers, officials, and community participants walking through their community to identify issues that affect the public. Although participants may feel that they are already familiar with the study area, a facilitated tour or audit helps them see the area with a new perspective. Walking tours are most helpful when a study area is relatively compact or when a workshop's goal is assessing the pedestrian experience of a street or neighborhood. For large study areas, vans or buses may be needed.

E. Simulation Games

Simulation games are exercises that lay out a set of real or hypothetical conditions and ask participants to simulate a decision based on those conditions. While these games may be resource intensive to develop and test, simulation can be an effective participatory technique.

Budget Exercise – The budget exercise is a method to develop a vision while working with budgetary constraints. The exercise gives participants hypothetical amount of money and asks them to choose how to spend the money. This exercise encourages people to prioritize wants and needs in a scenario that mimics what decision-makers face. The budget exercise can be performed in various ways, generally dictated by the meeting and the initiative. When possible, budgetary constraints and alternatives or choices should mimic the applicable scenario facing decision-makers. The budget exercise can use a worksheet, or a Monopoly-style game, representing budget dollars. The budgets created in this exercise will help project organizers better understand public priorities and spending concerns. These conclusions should be documented for later reference to substantiate decisions that might be made about the project.

Wikipanning — Wikipanning offers an integrated approach using technologies that are increasingly available to the public. Using the Wikipanning tools, residents are invited to log into their community's project website and then are led through a series of activities throughout the project life. These activities include a mix of project-specific, multimedia learning sessions, online chats, message boards, surveys, and podcasts offering walking tours through the project's principal sites. Although some sessions, like chats, would occur in real-time, most activities can be arranged around participants' schedules.

See: <http://www.wikipanning.org/index.php?P=virtualcharrette>

V. Appendices

Appendix A – EPA’s Smart Growth Implementation Assistance (SGIA) Program

Appendix B – Picturing El Paseo Photobook

Appendix C– Worksheets

- Evaluation Worksheet
- New Tool Worksheet

Appendix A

EPA's Smart Growth Implementation Assistance Program (SGIA)

Communities around the country want to foster economic growth, protect environmental resources, and plan for development. In many cases they need additional tools, resources or information to achieve these goals. In response to this need the Environmental Protection Agency's Office of Sustainable Communities launched the Smart Growth Implementation Assistance Program in 2005 to provide technical assistance through contractor services to selected communities. EPA assembles teams of specialized consultants, bringing together expertise that meets a particular community's needs. While working with community participants to understand their aspiration for development, the teams bring experience from working in other parts of the country to provide best practices for consideration by the assisted community. The goal of the program is to help participating communities attain their goals, while also producing a resource (such as a report or set of guidelines) that can be useful to a broad range of communities facing similar challenges.

The Smart Growth Implementation Assistance Program is designed to help communities achieve growth that supports economic, community and environmental goals. People in communities around the country are frustrated by development that gives them no choice about driving long distances between where they live, work and shop; that require costly expenditures to extend sewers, roads and public services to support new development; that uses up natural areas and farmland for development while land and buildings lie empty in already developed areas; and that makes it difficult for working people to rent or buy a home because of development that focuses only on one or two costly housing types. Smart growth strategies create new neighborhoods and maintain existing ones that are attractive, convenient, safe and healthy. They foster design that encourages social, civic and physical activity. They protect the environment while stimulating economic growth. Most of all, they create more choices for residents, workers, visitors, children, families, single people, and older adults—choices in where to live, how to get around, and how to interact with the people around them. When communities undertake this kind of planning, they preserve the best of the past while creating a bright future for generations to come.

More information about the program, including information on how to apply and links to reports from past recipients can be found at <http://www.epa.gov/smartgrowth/sgia.htm>.

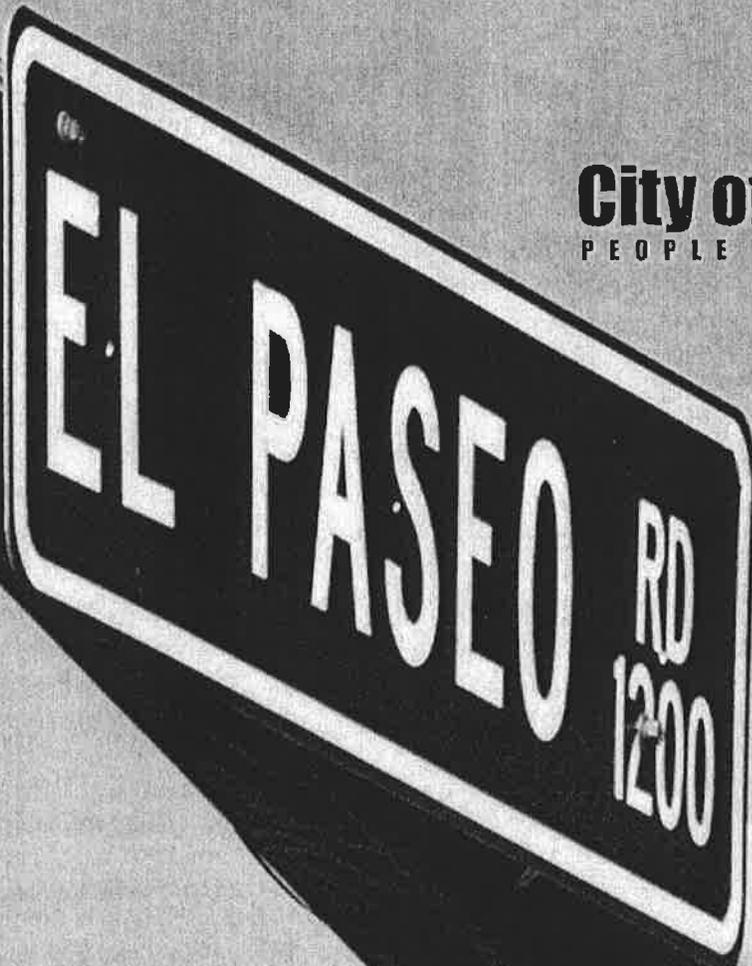
PHOTOBOOK

Visioning Workshop #1

October 1 & October 2, 2010



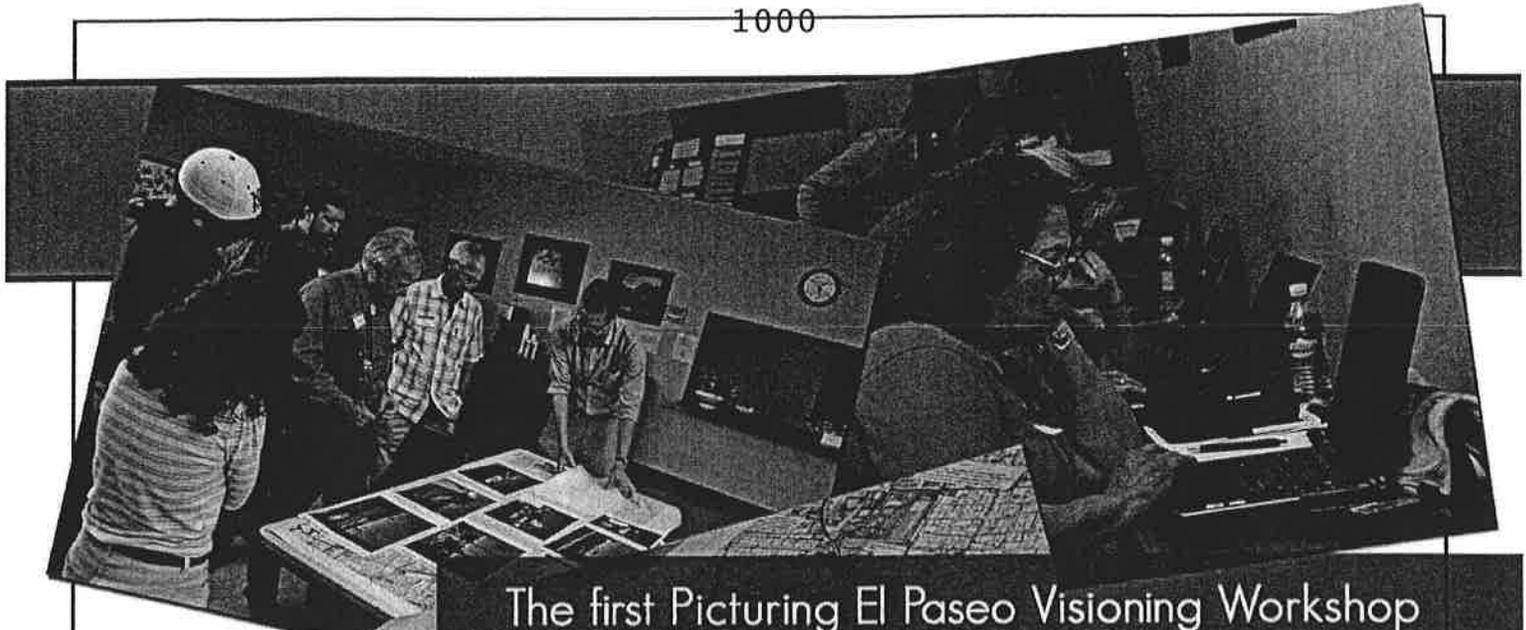
City of Las Cruces
PEOPLE HELPING PEOPLE



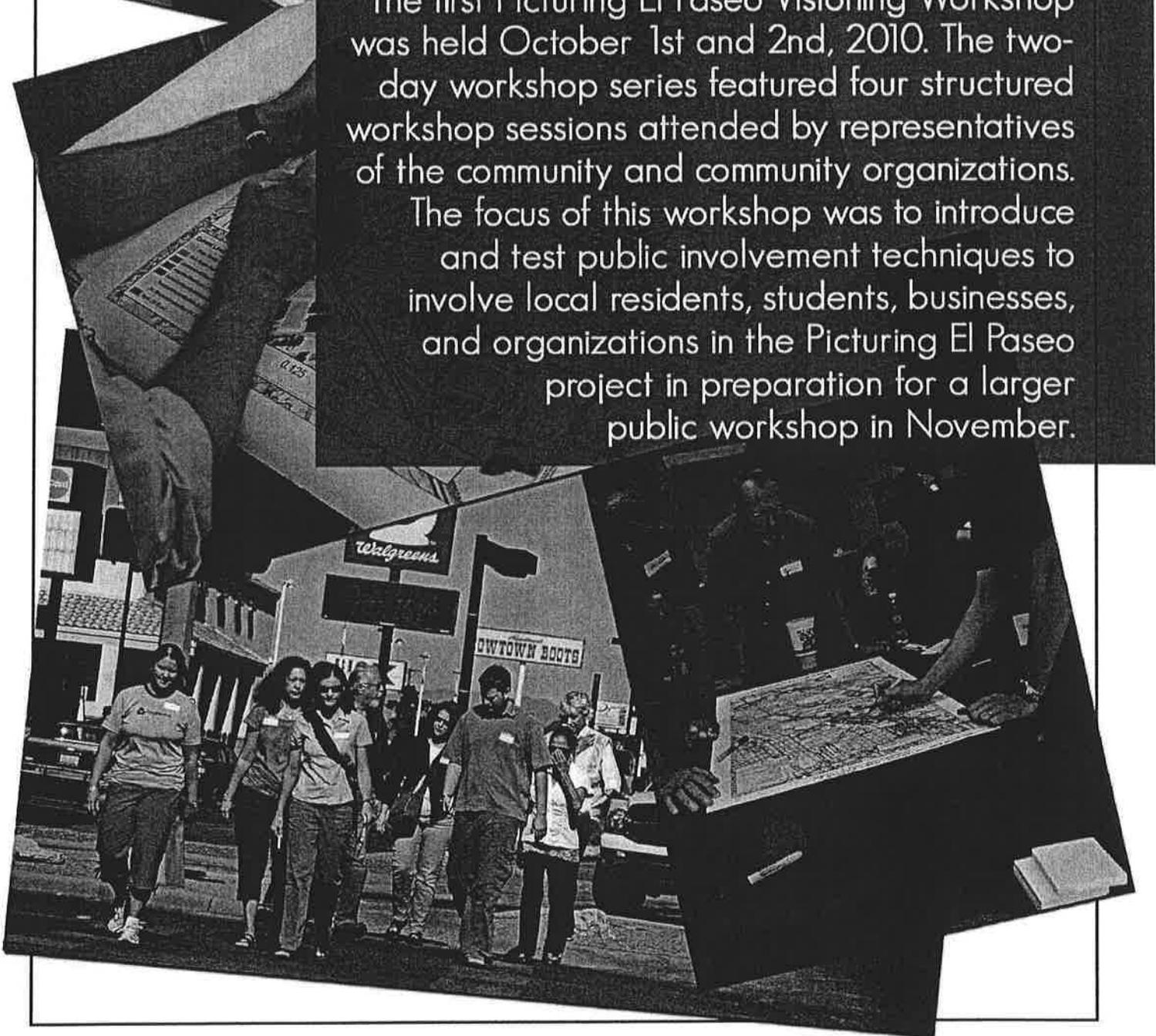
PICTURING

el Paseo

sharing your vision for the corridor



The first Picturing El Paseo Visioning Workshop was held October 1st and 2nd, 2010. The two-day workshop series featured four structured workshop sessions attended by representatives of the community and community organizations. The focus of this workshop was to introduce and test public involvement techniques to involve local residents, students, businesses, and organizations in the Picturing El Paseo project in preparation for a larger public workshop in November.



Green Infrastructure

Your Thoughts for El Paseo?
Does it Fit Here?
How?

The Visioning Workshop began with a brief presentation on green infrastructure to give all participants ideas about how water conservation, heat island effect mitigation, and other green infrastructure components could be considered in their vision of El Paseo.

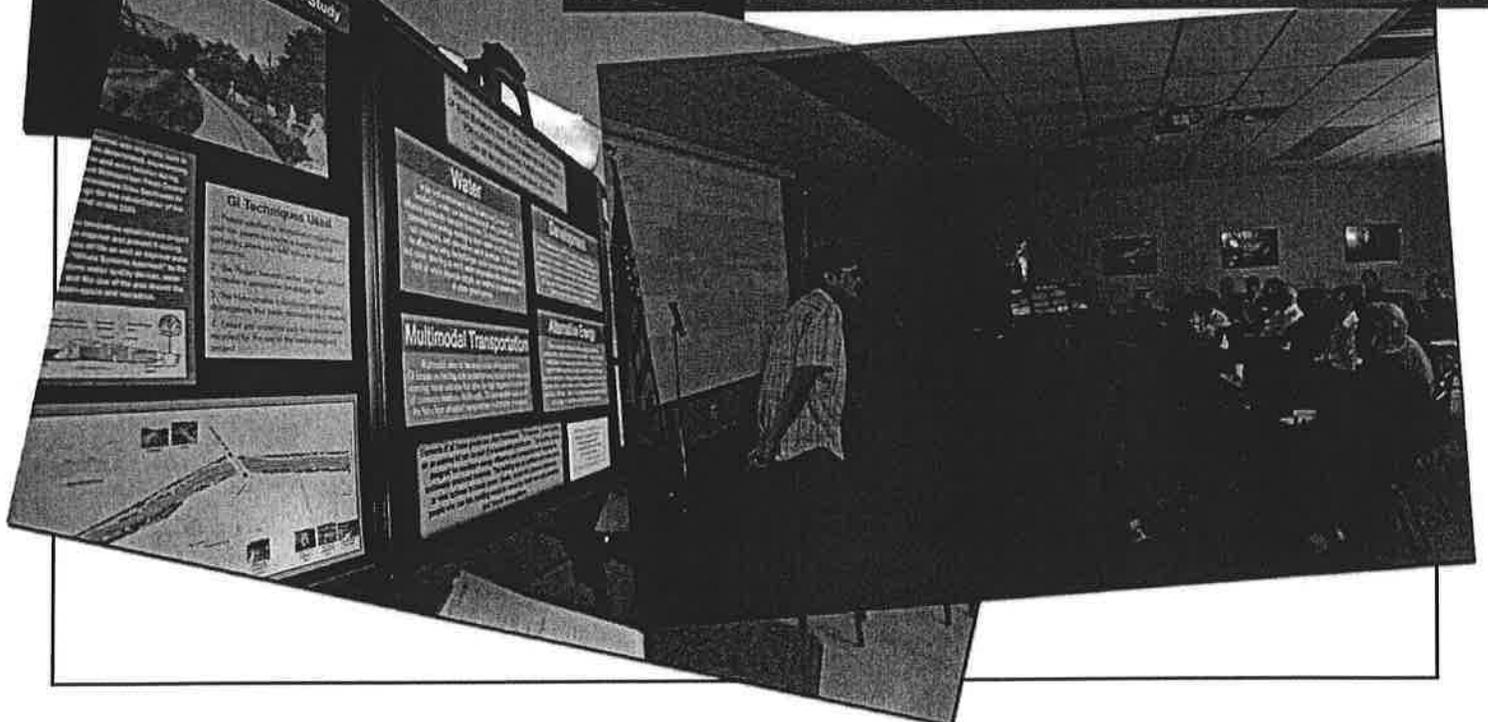
Desert Parkway: Case Study

GI Techniques Used

Water

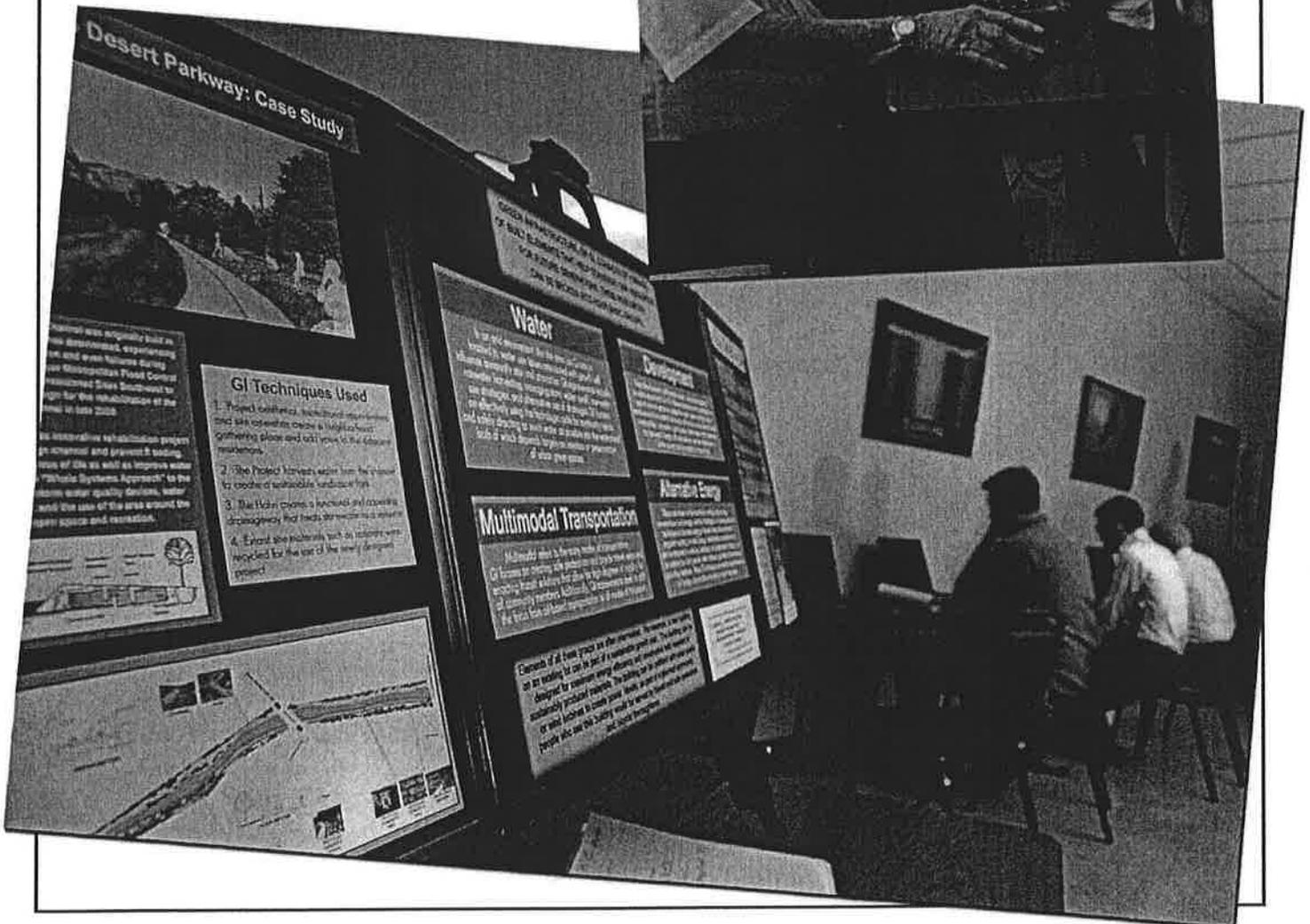
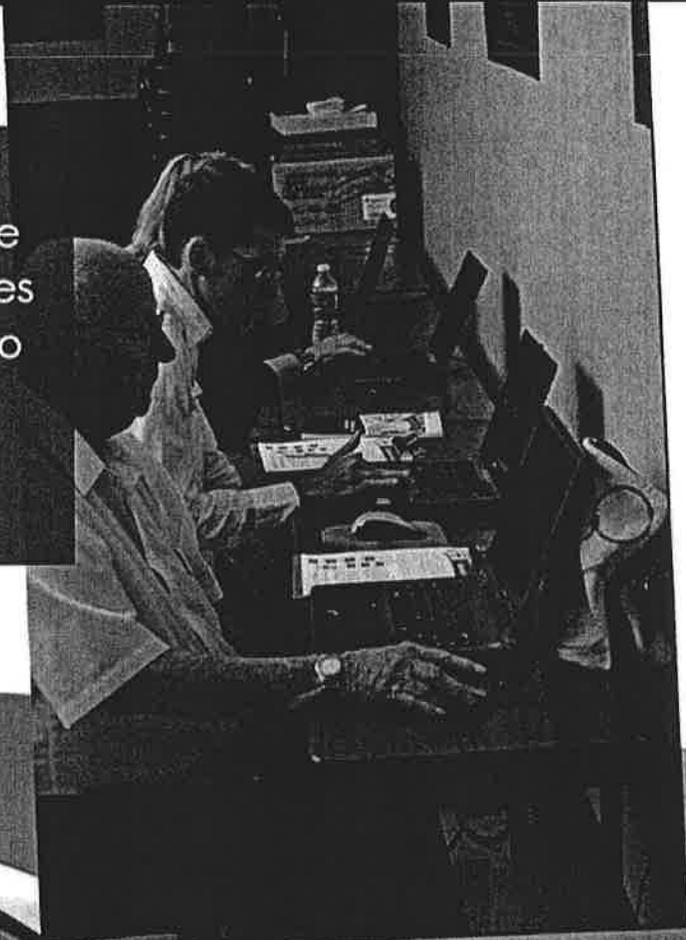
Multimodal Transportation

Renewable Energy

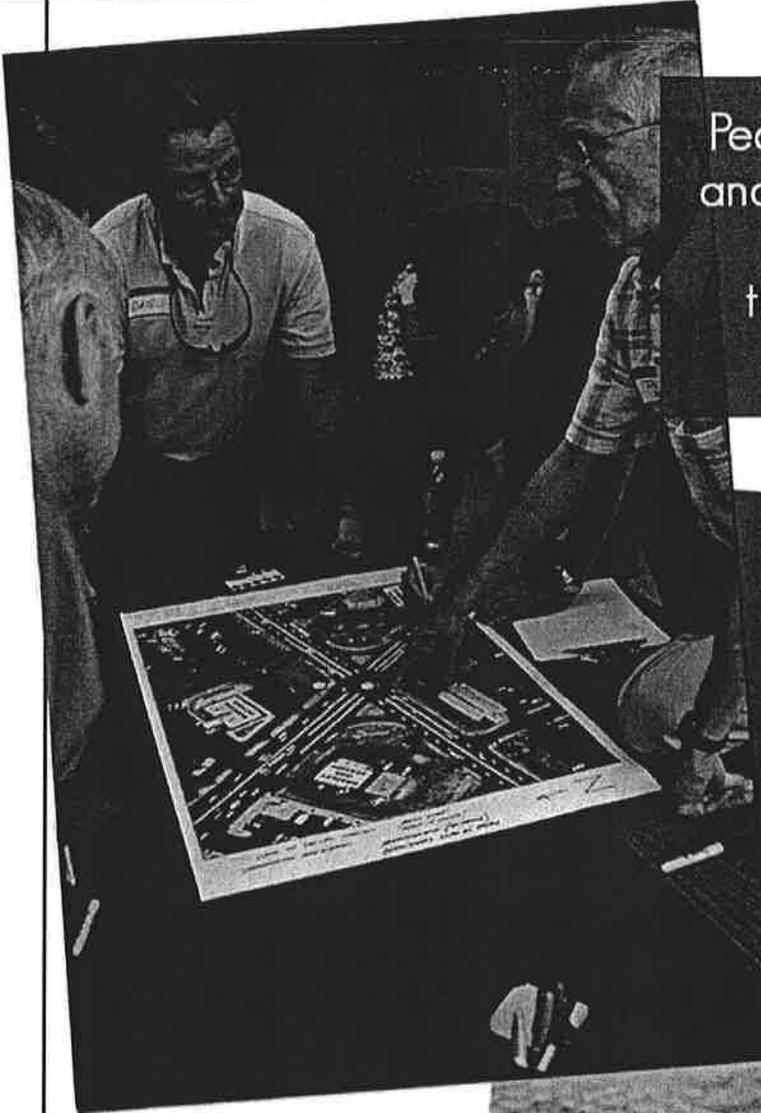


Visual Preference Survey

More green infrastructure information was made available on display boards, and attendees took a visual preference survey to determine what kind of landscaping is appropriate for the El Paseo Corridor.



Mapping

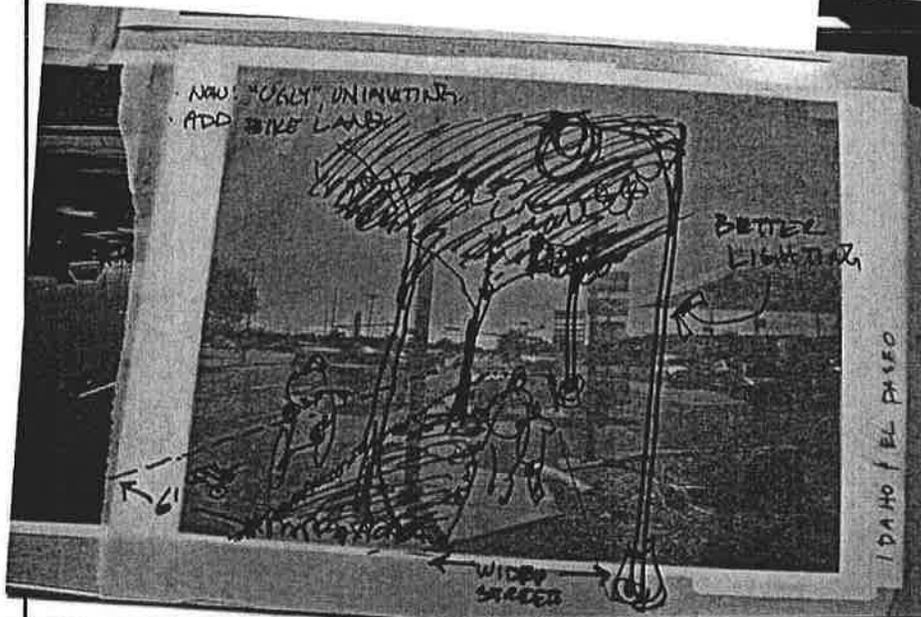


People were encouraged to write and draw on maps of the corridor area to spark problem-solving thought processes and generate ideas through discussion.



Results of these mapping sessions can help focus the Picturing El Paseo vision within the corridor or shape how the vision is carried out.

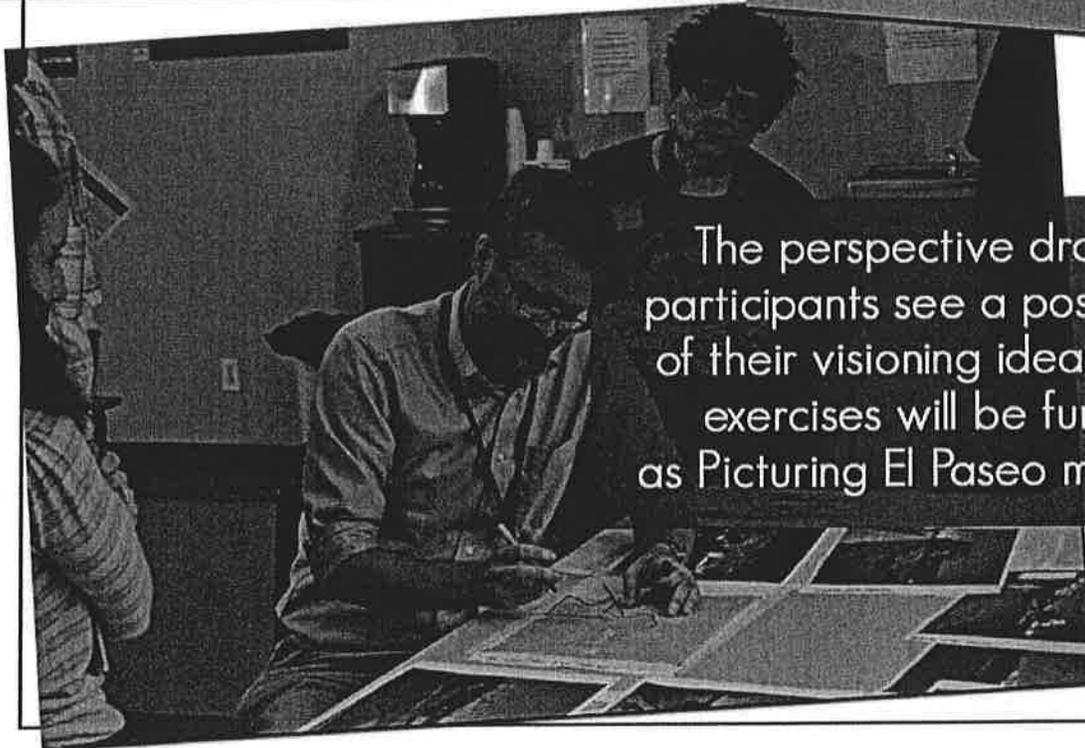
Shared Perspectives



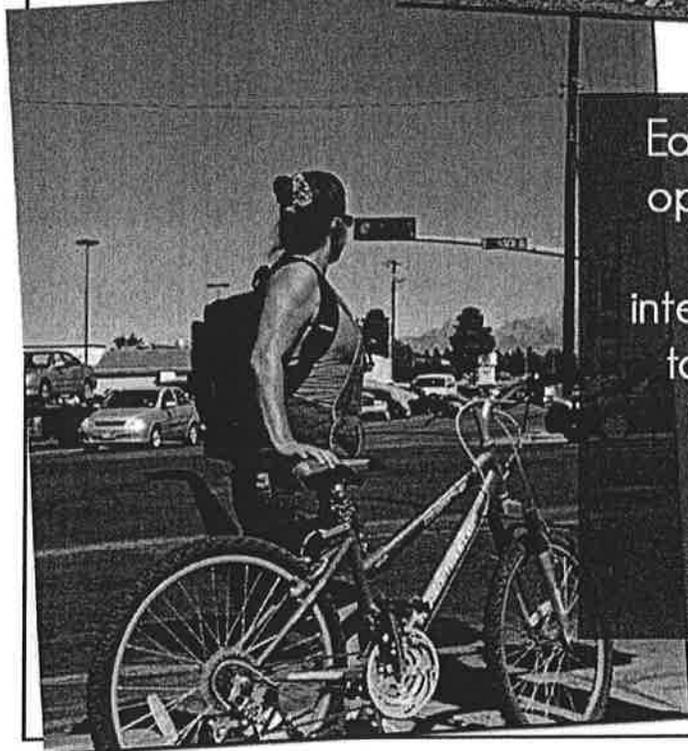
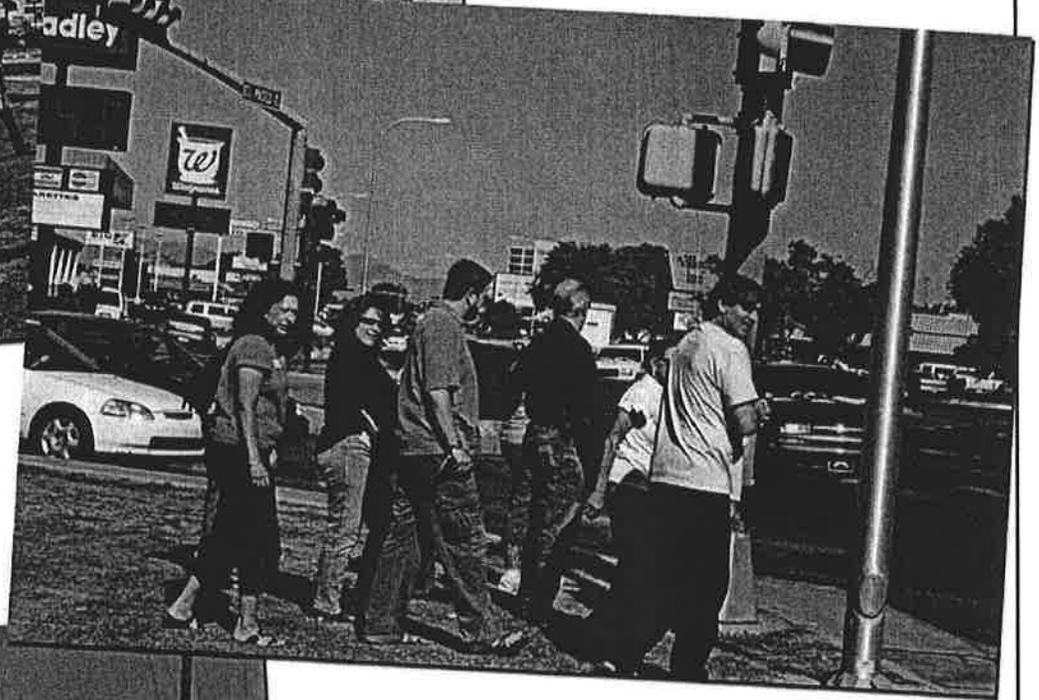
As part of the mapping exercise, perspective drawings were created by a project team member. These drawings were overlaid on photographs of the El Paseo corridor.



The perspective drawings helped participants see a possible outcome of their visioning ideas. These visual exercises will be further explored as Picturing El Paseo moves forward.

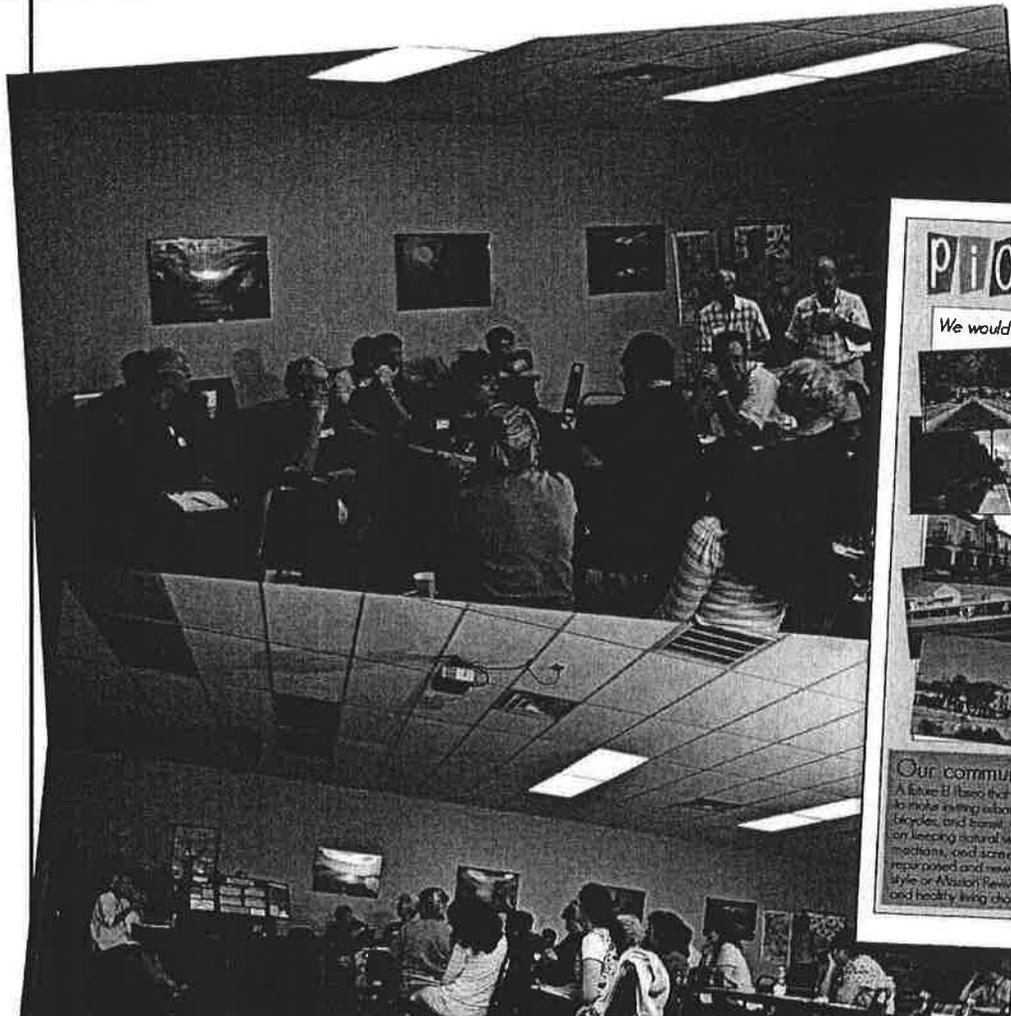


Site Tour



Each workshop session provided the opportunity for people to visit the El Paseo Road and Idaho Avenue intersection. Participants who wanted to get the feel for the walkability of the roadway were encouraged to safely walk along and across the street and record their feelings of comfort and safety.

Feedback Session



PICTURING el Paseo

We would like to see more...

And less...

Our community working Vision Statement foresees:
 A El Paso that is landscaped with native plants to increase oxygen and create shade to make walking more appealing. The urban space is designed to be accessible to pedestrians, bicycles, and transit, while minimizing through traffic. An emphasis should be placed on keeping natural views and preserving the built environment by using sidewalks, planting medians, and screening of structures. Vacant buildings should be repaired and new buildings should be constructed in a modern style or Mission Revival style. Safety, recreational opportunities, and healthy living choices should be enhanced when possible.

City of Las Cruces
 COMMUNITY DEVELOPMENT DEPARTMENT

www.picturingelpaseo.org

Each session included a feedback session, which was recorded for further, more detailed study. Participants learned about the Picturing El Paseo Photovoice exercise and were encouraged to give feedback about how photos can be used to create a community-based snapshot of the El Paseo corridor to effectively guide decision makers and redevelopment. This feedback is currently being used to refine public involvement techniques as Picturing El Paseo moves forward.

EVALUATION WORKSHEET

Project Name:

Public involvement goals:

Did the plans meet the goals? Yes No

Please explain how:

Expected outcomes:

Did the project meet outcomes? Yes No

Please explain how:

What lessons learned can be used on future projects?

NEW TOOL WORKSHEET

Tool Name: _____

Tool overview and application:

Comment gathering:

Key points for using this tool:

Tool benefits:

Project(s) where tool has been used:

Citizen Notification Policy Manual

For the

City of Las Cruces

**Community Development
Department**

March 6, 2013

DRAFT

Purpose:

The purpose of this policy manual is to establish efficient and effective measures for the notification of area residents on matters either initiated by or processed by the City of Las Cruces Community Development Department in accordance with rules and regulations as applicable. Varied notification measures although not guaranteeing 100% public notification are intended to cast the widest practicable notification net in order to reach the greatest number of interested stakeholders and thus, provide for a more informed community. Doing so raises awareness of impending issues and may increase input and participation on the various community related matters. Program areas to which these notification measures are to be applied include, but may not be limited to:

“Long-range” planning

- Neighborhood Plans

- Community Blueprints

- Regional Plans

- Comprehensive Plans

- Consolidated Plans

- Area Plans

- Topic Specific Plans (arroyo, access management, etc.)

Current Planning

- Annexations

- Master Plans/Concept Plans

- Initial Zoning/Rezoning

- Variances

- Preliminary Plats/Final Site Plans

- Final Plats (for which Planning and Zoning Commission review is applicable)

- Planned Unit Developments

- Special Use Permits

Flexible Standards

Overlay ordinance development

Ordinance creation

Ordinance amendments

Project/Permit Design Review (specific boards/committees – SMDRB, UD-DRC, WMSPC)

Metropolitan Planning Organization Activities

Transportation Plan

Transportation Improvement Plan

Unified Planning and Work Program

Safe Routes to School Plan

Study Areas

Miscellaneous meetings

Public Input Meetings

Informational Meeting

South Mesquite Design Review Board

University District – Citizen’s Design Review Committee

West Mesa Strategic Planning Committee

Planning and Zoning Commission Work Sessions

Planning and Zoning Commission Regular Meetings

Metropolitan Planning Organization Policy Committee Meetings

Technical Advisory Committee Meetings

Bicycle and Pedestrian Facilities Committee Meetings

Health and Human Services Advisory Committee

Extra-Territorial Zoning Authority Meetings (as applicable)

Extra-Territorial Zoning Commission Meetings (as applicable)

Departmental Methods of Notification

Within a staff-generated report entitled *Public Notification and Participation Report and Analysis of Options for a More Informed Community* hereinafter referred as “the report”, numerous methodologies of providing notification to the general public were examined. It was recommended that of those identified, each department was to select the various methods that could be utilized for the purpose of providing notification on the various activities the department was responsible for. From that report, various methodologies are drawn and are to be utilized to the extent possible for the specific activities identified. Under certain circumstances, amendment of ordinances will have to be completed in order to carry out the method as intended and as such, staff will need to propose the amendment at the earliest opportunity possible.

Some of the methodologies suggest new processes that have not been used to any large extent, if at all, and thus will require the creation of applications that are intended to fulfill the requirement. Examples where this is necessary include Facebook and the Community Development Web page (new web site environment).

Finally, one method (requiring recognized neighborhood association, watch group or neighborhood organization meeting) may be used sparingly, and only when development theoretically creates a significant impact to the neighboring community. Instances where this is likely involve annexation requests (with all parts under review), stand-alone master plans and concept plans or other development proposals that will be known to create significant protest and/or impacts to the surrounding areas. Significant impacts as deemed by staff may include, but not be limited to, proposed development that is likely to pose significant traffic impacts due to limited roadway access, significant traffic congestion on a roadway that may be subject to decreased operational design capacity as a result of the proposed development, land use conflicts in terms of what is proposed to what exists in the area, potential imposition on known neighborhood concerns, etc.

Staff intends to document how successful all methods are in order to determine necessary adjustments to make implementation more meaningful. Said adjustments will only be considered once enough data (cost/benefit and efficacy) is available to make an informed decision.

The methods to be applied include:

- Modified current practice as outlined by existing State law and/or local ordinance.

As outlined in the report, variance, subdivision and zoning related cases share both similarities and differences in the various notification processes required by ordinance. These cases typically go before the Las Cruces Planning and Zoning

Commission (P&Z), but other committees, boards and commissions have development proposals, plans and general planning related matters to address as well. In that granting additional time for meeting notification on all business items may help citizens with the notification process, staff will amend any and all existing provisions to meet a minimum fifteen (15) calendar day agenda posting, newspaper advertisement, sign posting (as applicable), notification letter (as applicable), staff notification of recognized neighborhood association, organization or watch group pursuant to approved policy, and newspaper advertisement standard. Doing so also benefits staff in that the stated time frames in which to carry out these tasks becomes normalized to one standard as opposed to the many as it now exists.

Modification is also being made to any and all required certified letter mail out provisions. Said adjustment requires first class mail in lieu of any provision that otherwise requires certified mail use unless State law stipulates a minimum certified mail standard. For example, zoning cases require a recommendation from the P&Z before being forwarded to City Council for final approval. Presently, first class mail is always used as a means to notify the public within the notification boundary of the P&Z hearing date, time and location. Upon reaching City Council however, certified mailing is then used to apprise these citizens of the pending City Council hearing. The new standard which will apply is to follow strict State law mail out notification requirements. For instance, if one block or less is being rezoned, the subject properties and those properties within 100' would receive certified mail. From that first 100' distance up to a revised notification boundary of 500' (200' was the past standard), first class mail would then be used. Subdivision processing pursuant to State Statutes and local ordinance does not have a certified mailing requirement and thus, is exempt from the certified mail-out provision herein stated. Variance cases although presently requiring certified notification will now require only first class mailings. Furthermore, the old standard for the minimum number of unique property owners notified (15) is eliminated due to the notification boundary increase.

Sign posting on the subject property has also changed. Rather than have staff post the applicable notification sign on the property as it has been done in the past, staff shall prepare sign(s) for the applicant to post on the subject property prior to the 15 day threshold. If two signs are necessary to address recommending and final authority reviewing entities, both will be prepared and provided to the applicant. The posting(s) shall be in concert with all applicable standards for safety and visibility and it shall be the responsibility of the property owner to ensure that continuous posting of the applicable sign occurs from the 15-day threshold for sign posting through the applicable meeting date to which it

pertains. If two separate postings are required, the same expectation will be applied. An affidavit of posting shall be completed and submitted back to the Community Development Department advising of the applicant's understanding of compliance requirements and the ability to comply with posting parameters. Cases involving both Planning and Zoning Commission review and City Council action, for instance, shall require continuous posting of the first sign through to action taken by the Planning and Zoning Commission. The second sign will be posted on the day following the Planning and Zoning action date through to the City Council meeting date in that City Council provides a final decision on the matter. Those cases that only require one entity's review and consideration will require posting through that applicable meeting date. Following the meeting by which final action is provided, the applicant shall dispose of or recycle the sign in the appropriate manner. Signs used shall be 48"X48" in size. If lots have multiple street frontages, one sign per frontage shall be posted. If the property is significantly large and has lengthy frontage(s), multiple signs may be required for posting. Community Development staff shall make a determination at the time of sign issuance.

The final two modifications that are applicable involve the neighborhood association notification provisions. Due to the various organized aspects of neighborhood groups, the policy will be amended to include reference to Neighborhood Associations, Neighborhood Organizations, and Neighborhood Watch groups. The policy will be amended by title as the Identified Neighborhood Group Information and Notification Policy and throughout the document, all active neighborhood groups regardless of type that comply with said policy, shall be the focus of the policy's content. The distance threshold referenced as to when notification is required will be 500 feet (consistent with the new letter notification boundary). The need for the applicant to notify a neighborhood group shall remain consistent with the established policy. In addition to said policy, the applicant, should a development proposal be deemed significant (staff to determine significance), shall not only notify the affected group(s), but also avail themselves at the discretion of the group(s) to present proposal parameters at a meeting mutually agreed upon and hosted by the group prior to formal case submittal to the City. Staff shall provide contact information on neighborhood groups affected. Only after said meeting will the applicant be able to submit the proposal for formal review and consideration. The submittal among other required elements will contain a copy of the notice provided by the applicant and the minutes (summary or verbatim), if applicable (assumes the group agreed to said interaction), that clearly demonstrate discussion of the proposal and any and all issues or concerns, either for or against the proposal.

In the event there are no recognized neighborhood groups within the threshold, the City, upon determining the significance of the proposal, may elect to have the applicant notify the "neighborhood" and avail themselves of possible meetings in which to discuss related matters. For purposes of this provision, neighborhood shall be those properties (property owners) within a 500' radius around the subject property being developed. Submittal of the development application shall be the same in this instance as for a recognized neighborhood group.

Substantial deviation between what was presented and/or discussed with the neighborhood or neighborhood group(s) and what gets submitted may require another meeting with the association unless said deviation is an attempt to clearly address concerns or issues raised by the neighborhood group or neighborhood. This modification will not preclude any reviewing entity from thereafter requiring postponement of a case subject to the applicant holding a meeting with stakeholders whether registered as a group pursuant to the policy or not.

As a means to pay for the increased notification costs associated with signs, newspaper advertisement, and letter mail-out, staff will be collecting additional fees for cost recovery of these processes over and above the standard fee for the subject development process. These fees will be based on actual cost recovery for the materials and services provided and may fluctuate based on charges incurred at the time of processing. Cost summary information will be made available as applicable. Fees will be collected prior to the respective scheduled meeting. Failure to provide payment may subject the case to postponement action.

- Development and Planning Project Web Page

With the new web environment established by the City, the old web format for announcing incoming development proposals and planning projects has to be modified to fit accepted protocol. Inasmuch as this venue offers substantial opportunities to inform the general public about development application submittals and planning projects early in the process, a new web page format must be completed expeditiously. The web page at minimum should convey the following: name of the development or project; name of the applicant or project lead; contact information as applicable; general location; date of submittal to the City; identification of the project type (i.e. zone change, variance, flexible standard, master plan, etc.); projected hearing date (subject to change) for the respective committee, board or commission; indication whether stated

committee, board or commission is a recommending body or whether it has final authority; status indicator (i.e. in review, approved, denied, withdrawn, etc.); and finally a PDF or similar file attachment that displays a scan of the application received and any and all site plans, elevations, surveys and the like that were part of the submitted proposal. Long term, staff should strive to have the page graphically oriented and be more interactive for the user. Potentially, staff should consider embellishments like having a geographically integrated map showing areas or districts of the city that convey only those proposals within a specific district or boundary. Potentially, citizens could define a set distance around their residence to determine if any proposals are nearby.

As milestones are reached, the status of the proposal/project will be updated. For instance if the Planning and Zoning Commission heard the case and recommended approval up to City Council, the Status field should reflect "Recommended Approval to City Council" or similar disposition. Doing so not only indicates how the reviewing entity (board, committee or commission) voted, but also conveys where the application or matter is being directed to next. Upon completion of all review and consideration steps, information regarding the specific item will be left on the page for no longer than one month so that the page primarily reflects current activities while providing a small window on which to view past actions on cases and issues. Posting of submittal information and/or status updates shall take place not later than five (5) business days following acceptance of the submittal application or the latest action taken by a reviewing body. Fees for this process are part of standard fee presently collected.

- Facebook

Staff shall seek permission from the City Manager's office to establish Facebook as an ongoing method for public notification of development submittals, planning activities and upcoming meetings. Upon approval, staff will investigate the best method for establishing the department as an entity by which to disseminate development and planning related information in the Facebook environment. Conceivably, the department can establish a Facebook page for itself (see how-to ideas at <http://www.techipedia.com/2011/build-facebook-page/>) and provide announcements and brief information regarding development submittals (including both tentative and actual meeting dates for the subject cases), general meetings, projects or general planning activities. Staff may have to moderate the page as appropriate and take prompt, appropriate action on individuals that misuse the page as it is intended. The timing of meeting announcements is to be in accordance with the fifteen (15) calendar day notice prior to the intended meeting date. Any development submittal announcements shall be posted within five (5) business days of acceptance of submittal. Fees for this process are part of standard fee presently collected.

- Las Cruces Notification System (formerly CityWatch)

With the recent launch of the Las Cruces Notification System, community members may sign up and receive community level notices regarding public meetings and/or public messages. Staff will ensure that the LCNS will be used to announce, at minimum, upcoming meetings for all commission, committee and board-related entities that review, recommend and/or approve Community Development-related cases, plans or proposals. In preparing and sending the message, staff will provide a reasonable degree of information in the context of the notice (e.g. agenda) so that case nuances can be provided as clearly and accurately as possible. Timing of any and all notices will be in concert with established protocol once said protocol is created. Staff will try and align the announcements with the 15 calendar day threshold established elsewhere. Fees for this process are part of standard fee presently collected.

- CLC-TV

In working alongside the Public Information Office, staff will develop a template that can be used on static bulletin boards during daily CLC-TV programming to display any and all development-related activity submitted for review and consideration. Every attempt will be made to post information similar to that identified in the department web page process, less status updates, but including both tentative and actual meeting date information. Any and all information will follow the protocol and usage parameters set forth for the CLC-TV static bulletin format. Said posting shall be prepared on a weekly basis as submittals are brought forward and shall be dated so that the most recent submittal activity is shown first and the oldest, last. A rolling four (4) week's-worth of activity shall be displayed so that the information does not get overly burdensome to post and maintain. Posting of information, although carried out weekly, will not be posted later than 5 business days from receipt of submittal. Fees for this process are part of standard fee presently collected.

Notification Summary Table

Notification Action	Responsibility (CLC/Applicant)	Minimum Timing	Costs	Miscellaneous Issues
Signs	<u>CLC</u> – Prepare & provide <u>Appl.</u> - Post	15 Calendar Days	Additional Cost – Cost Recovery	1 sign for recommending mtg. 1 sign for final action mtg. 1 sign per frontage Signs as appropriate for lengthy frontage.
Agenda Post	CLC	15 Calendar Days	Part of Standard fee	Agenda and Newspaper Adv. can occur simultaneously.
Newspaper Advertisement	CLC	15 Calendar Days	Additional Cost – Cost Recovery	Agenda and Newspaper Adv. can occur simultaneously
Notification Letters	CLC	15 Calendar Days	Additional Cost – Cost Recovery	500' notification boundary <u>Recommending bodies</u> – 1 st class <u>Final Action bodies</u> – certified 100'; 1 st class thereafter. Subdivisions and variance excluded from certified req.
Neighborhood/Group Notification	<u>CLC/Apppl.</u> – initial notice <u>Appl.</u> – Mtg. if reqd. CLC	N.L.T. 5 business days after submittal. Prior to submittal for Mtg.	Part of Standard Fee	500' notification boundary
Website Posting	CLC	N.L.T. 5 business days after submittal or status change	Part of Standard Fee	Announce mtgs., submittals, case updates, new projects, project updates
Facebook Posting	CLC	<u>Mtg.</u> – 15 Calendar Days <u>Submittal</u> – 5 Business Days	Part of Standard Fee	Announce mtgs., submittals and new projects.
CLC-TV Posting	CLC	N.L.T. 5 business days after submittal	Part of Standard Fee	Announce mtgs. and submittals.
LC Notification System Broadcast	CLC	15 Calendar Days	Part of Standard Fee	Announce meetings to include agenda.

Notification Methods Outline by General Departmental Section and Process/Activity Type

The following tables presented by general departmental divisions identify processes and/or activities that shall require the associated notification methods as listed. Due to the nature of certain projects and related meetings, particularly those associated with large-scale plan development or general public hearings, staff has the discretion on a case-by-case basis of applying only relevant portions of the stipulated processes identified. Notification letters, as an example, are not relevant in the presentation of general issues at a public input meeting or to property owners during the development of a comprehensive plan and as such, would be omitted from the defined processes.

For Metropolitan Planning Organization (MPO) notification methods, the MPO's Public Participation Plan defines the processes and steps necessary to undertake appropriate notification of stakeholders. Where said plan is absent of discussion related to notification avenues presented herein, MPO staff shall determine the appropriate measures that can be added to those already implemented. For instance, the use of social media for MPO purposes alone should be considered as a means to further inform the public. Notification of neighborhood groups/organizations as appropriate and the use of CLC-TV for posting of project or meeting information should also be considered. Additionally, to increase the amount of time by which stakeholders are informed about work flow or proposed MPO efforts, agenda posting, newspaper notices and any notification letter mail-out should seek a fifteen (15) calendar day minimum as opposed to the ten (10) calendar day window that presently exists.

Current Planning Notification Process

Case Process	Staff Notification Action	Applicant Action	General Notes
Pre-Application Meeting	Determine Neighborhood/Meeting Need	Hold Neighborhood Meeting*	*If required, applicant will hold the meeting before submittal
Submittal	Website	Neighborhood/Group Notification	No later than five (5) business days after submittal
	Facebook		
	CLC-TV		
	Neighborhood/Group Notification Letters		
Review	Website	N/A	Update no later than five (5) business days after each resubmittal
UDDRC, SMDRB, WMSPC*	Website	N/A	Update minimum of fifteen (15) calendar days before meeting
	Facebook		
	CLC-TV		
	Agenda	N/A	Minimum of fifteen (15) calendar days before meeting
	Prepare/Notify Applicant of sign req.	Post sign(s)	
	Neighborhood/Group Notification Letters	Ensure payment of any outstanding notification fees	
	Newspaper		
Website	N/A	Update no later than five (5) business days after meeting	
DRC*	Website	N/A	Update minimum of fifteen (15) calendar days before meeting
	Facebook		
	CLC-TV		
	Website	N/A	Update no later than five (5) business days after meeting
Planning and Zoning Commission, ETZA, ETZC	Website	N/A	Update minimum of fifteen (15) calendar days before meeting
	Facebook		
	CLC-TV		
	LC Notification System Broadcast	N/A	Minimum of fifteen (15) calendar days before meeting
	Agenda		
	Prepare/Notify Applicant of sign req.	Post Sign(s)	
	Neighborhood/Group Notification Letters	Ensure payment of any outstanding notification fees	
	Newspaper		
Website	N/A	Update no later than five (5) business days after meeting	
City Council First Read*	Website	N/A	Update minimum of fifteen (15) calendar days before meeting
	Facebook		
	CLC-TV		
	LC Notification System Broadcast	N/A	Minimum of fifteen (15) calendar days before meeting
	Council Action Executive Summary	N/A	*Determined by City Clerk Calendar (ordinances only)
City Council Action	Prepare/Notify Applicant of sign req.	Post Sign(s)	Minimum of fifteen (15) calendar days before meeting
	Neighborhood/Group Notification Letters	Ensure payment of any outstanding notification fees	
	Website	N/A	Update no later than five (5) business days after meeting

Advanced Planning Notification Process (Staff as Applicant – Area, Neighborhood, Community Blueprint, Overlay Plan Development)

Case Process	Staff Notification Action	Applicant Action	General Notes
Initial neighborhood meeting (discussion of issues)	Website*	See Staff Notification Action	Minimum fifteen (15) calendar days before meeting.
	Facebook		
	CLC-TV		*Assumes meeting announcement action.
	LC Notification System Broadcast		
	Neighborhood/Group notification letters		
	Website		Update no later than five (5) business days after meeting as may be applicable
Follow-up neighborhood meeting(s) leading up to presentation of formal proposal	Website*	See Staff Notification Action	Minimum fifteen (15) calendar days before meeting.
	Facebook		
	CLC-TV		*Assumes meeting announcement action.
	LC Notification System Broadcast		
	Neighborhood/Group notification letters		
	Website		Update no later than five (5) business days after meeting as may be applicable
UDDRC, SMDRB, WMSPC* (Subordinate Board Recommendation Meeting if necessary)	Website*	See Staff Notification Action	Update/post minimum of fifteen (15) calendar days before meeting.
	Facebook		
	CLC-TV		*Update aspect assumes meeting announcement action.
	Agenda		
	Newspaper		
	Neighborhood/Group Notification Letters		
	LC Notification System Broadcast		
	Website		Update no later than five (5) business days after meeting
Planning and Zoning Commission Work Session	Website*	See Staff Notification Action	Update/post minimum of fifteen (15) calendar days before meeting.
	Facebook		
	CLC-TV		*Update aspect assumes meeting announcement action.
	Agenda		
	Newspaper		
	Neighborhood/Group Notification Letters		
	LC Notification System Broadcast		
	Website		Update no later than five (5) business days after meeting
Planning and Zoning Commission Recommendation to CC	Website*	See Staff Notification Action	Update/post minimum of fifteen (15) calendar days before meeting.
	Facebook		
	CLC-TV		*Update aspect assumes meeting announcement action.
	Agenda		
	Newspaper		
	Neighborhood/Group Notification Letters		
	LC Notification System Broadcast		
	Website		Update no later than five (5) business days after meeting
City Council Action	Neighborhood/Group Notification Letters		Minimum of fifteen (15) calendar days before meeting
	Website		Update no later than five (5) business days after meeting

Advanced Planning Notification Process (Staff as Applicant – Regional Plan, Comprehensive Plan Development)

Case Process	Staff Notification Action	Applicant Action	General Notes
Initial Kick-off meeting (Introduction and discussion of process and issues)	Website*	See Staff Notification Action	Minimum fifteen (15) calendar days before meeting.
	Facebook		
	CLC-TV		*Assumes meeting announcement action.
	Neighborhood/Group notification letters		
	LC Notification System Broadcast		
	Website		
Follow-up community meeting(s) leading up to presentation of formal proposal	Website*	See Staff Notification Action	Minimum fifteen (15) calendar days before meeting.
	Facebook		
	CLC-TV		*Assumes meeting announcement action.
	Neighborhood/Group notification letters		
	LC Notification System Broadcast		
	Website		
Planning and Zoning Commission Work Session	Website*	See Staff Notification Action	Update/post minimum of fifteen (15) calendar days before meeting.
	Facebook		
	CLC-TV		*Update aspect assumes meeting announcement action.
	Agenda		
	Newspaper		
	Neighborhood/Group Notification Letters		
	LC Notification System Broadcast		
	Website		
Planning and Zoning Commission Recommendation to CC	Website*	See Staff Notification Action	Update/post minimum of fifteen (15) calendar days before meeting.
	Facebook		
	CLC-TV		*Update aspect assumes meeting announcement action.
	Agenda		
	Newspaper		
	Neighborhood/Group Notification Letters		
	LC Notification System Broadcast		
	Website		
City Council Action	Notification Letters		Minimum of fifteen (15) calendar days before meeting
	Website		Update no later than five (5) business days after meeting

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**WORK SESSION
SUMMARY & DIRECTION SHEET**

1
2
3

4 The following is a brief summary of the Agenda items discussed at the Work Session, with
5 appropriate direction given to the responsible staff person by the City Council. The required follow-
6 up actions are to be taken by those responsible officials.

7

8 The City Council of the City of Las Cruces, New Mexico, held a Work Session on Monday,
9 September 24, 2012, at 1:00 p.m., at the City Council Chambers, City Hall.

10

11	THOSE PRESENT:	Mayor Miyagishima (Absent)
12		Councillor Miguel Silva, District 1 (Arrived at 1:09)
13		Councillor Greg Smith, District 2
14		Councillor Olga Pedroza, District 3
15		Councillor Nathan Small, District 4
16		Councillor Gill Sorg, District 5
17		Councillor Sharon Thomas, District 6

18

19

20	OTHERS PRESENT:	Robert Garza, City Manager
21		Pete Connelly, City Attorney
22		Esther Martinez, City Clerk

23

24

25 **Mayor Miyagishima called the meeting to order.**

26

27 **Mayor Miyagishima presented the Pet of the Week.**

28

29 **Mayor Pro-Tem Thomas:** The cat wasn't too comfortable with the microphone. Since this is a
30 Work Session, we don't have any proclamations, but I do want to remind everybody that we're
31 ending the Tough Enough to Wear Pink Campaign this week. It culminates this coming Saturday
32 at the football game. We have at least 4 out of 5 of us who managed to get the pink memo. Only
33 Councillor Small doesn't have any pink.

34

35 **Councillor Small:** Thank you very much, Mayor Pro-Tem for pointing that out. Sometimes drawing
36 that attention is a very good thing. I will say thank you to Councillor Smith. He did offer his pink
37 tie, but I think it looks better matched with the attire that he does have on, and also I did want to, in
38 the spirit of important community efforts, I did also want to remind folks that tomorrow evening, the
39 25th, over at the Port Avenue, there is going to be the Vida de Las Cruces. A number of initiatives,
40 including the Community of Hope for homeless Veterans and also the Animal Services. Animal
41 issues are being supported through the proceeds of this. It is tomorrow evening. I know that's

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1 something that is also very important to folks but not to take away and certainly to take my lumps
2 for not having for at least not having my pink ribbon today.

3

4 **Mayor Pro-Tem Thomas:** Thanks. I think the tie would have clashed with your shirt so we'll
5 accept green. I just want to read a short blurb from the Tough Enough to Wear Pink website. "The
6 money we raise is invested in the Cowboys for Cancer Research Endowment. Thanks to the
7 generous part of our sponsors, community philanthropists, and countless community members who
8 represent the money that we raised to aid in New Mexico funding cancer research in New Mexico
9 State University and the University of New Mexico. Together with our major sponsors, local health
10 care providers, raising breast cancer awareness through education in one of the poorest counties in
11 the United States. As a result of our efforts, more than 300 free mammograms were made each year
12 available to Doña Ana County women who might not otherwise have had access to this life saving
13 procedure. So we especially want to thank Laura Kaniff, Pat Sisbarro, Magella Boston, and Mary
14 Henson who are the co-chairs of the Tough Enough to Wear Pink and go out to the football game
15 next weekend. Okay, we only have 1 item on our agenda and I believe Vincent Banegas is going to
16 give us a report.

17

18 **1. Public Notification Process for Zoning and Development Applications.**

19

20 **Vincent Banegas:** Good afternoon, Mayor Pro-Tem, City Councillors. My name is Vincent
21 Banegas. I am Deputy Director for the Community Development Department and I'll be talking to
22 you today about all things public notice at least, where we've been, where we are in regards to this
23 issue. We have visited this particular matter before in a previous Work Session and at that time we
24 were examining opportunities by which we could improve our public notice measures that are
25 undertaken for a great many things that we do and at that time we went back and examined some
26 opportunities and took a closer look, drilled down into them to see what type of issues are tied to
27 those cost resources, those type of things and as a result I'll be speaking to you on some reports and
28 some issues and some proposals that staff has come up with to address the concern.

29

30 The Community Development Department currently has notification practices for all of its
31 development related cases, annexations as you all know, zoning, subdivisions, and variances. Those
32 are the typical development type cases for which the staff within Community Development carries
33 out public notification for. Other items include planning projects, neighborhood plans, corridor
34 plans, and of course more recently our community blueprint planning effort or endeavor. We also
35 carry out notification processes with those as well. Comprehensive planning is not listed but that
36 is certainly one that we take a little different angle on since it is so broad but that is certainly
37 included in the planning activity. The types of notice that we provide at the present is kind of a 2
38 tier approach, primarily agenda posting, newspaper ads, particularly the legal section of the
39 newspaper identifies the meeting that that particular case is subject to consideration within. We do
40 letters to mail out to property owners within the vicinity of a subject development proposal and then
41 secondarily we have website information that gets posted on the Community Development website
42 or web page rather, and we attempt to identify not only the type of case but information about the

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1 applicant and what the case involves, etc. There is currently some adjustment being made to that
2 web page in particular to make it more user friendly if you will for staff to post the information on
3 so as we continue to enhance that we will get that running here in relative short order with much
4 better success. And then there's also the Neighborhood Association Notification Policy. That was
5 included in your packet of information. It's the smallest of the documents that was included and it
6 stipulates when neighborhood associations get notified both by City Staff, by developer, and it talks
7 about the issues that are subject to that policy regarding the sharing of information, that sort of thing
8 about the subject proposal.

9

10 Just to kind of give you a real brief overview, minimum notification requirements that we partake
11 in are drawn from the New Mexico State Statute. You will notice that across the top of this
12 particular slide, we have 3 of the key development processes that we undertake. Those are
13 subdivision, zoning, and variance and you'll notice that across the left hand column, all those kinds
14 of activities, notification activities that we typically engage in, the State Statutes are really generic
15 if you will or nonexistent as to what the provisions or stipulations are for notification. As compared
16 to the City of Las Cruces on the right hand side of that slide, we have the same information across
17 the top, the steps that we take across the left hand column, and you'll notice that we fill in a great
18 many of those cells that are neutral about the processes and we identified timing. We identified
19 distance thresholds for notification and who gets notified and that type of thing. So that's....

20

21 **Mayor Pro-Tem Thomas:** Do you mind if Councillor Sorg asks you a quick question?

22

23 **Vincent Banegas:** Sure.

24

25 **Councillor Sorg:** On those charts there, what do you mean by agenda posting? What does that look
26 like?

27

28 **Vincent Banegas:** The agenda posting is actually the meeting agenda. It stipulates time, place,
29 purpose of the meeting and it also has all the case....

30

31 **Councillor Sorg:** The agenda I understand. The posting part I don't.

32

33 **Vincent Banegas:** The posting, we post not only in the newspaper, we advertise in the newspaper.
34 We also post it here at City Hall and other places where citizens are likely to be.

35

36 **Councillor Sorg:** On the website?

37

38 **Vincent Banegas:** Well, that gets posted as well through the website, yes.

39

40 **Councillor Sorg:** Okay, thank you. You will notice that on the City of Las Cruces side, we have
41 enhanced, compared to the statute side, a lot of notification procedures and some of the concerns that
42 have been raised with that is there is no normalization if you will on some of the key features of that.

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1 I have circled some various....the number of days prior to the public hearing that exists. Sometimes
2 they differ by process type. For instance, along the subdivision column, you have both 6 days and
3 9 days mentioned and in the zoning you have 10 days and 15 days mentioned so there is variation
4 across the processes and with an individual processes as well. Distance thresholds are also different.
5 We have a 200 foot notification boundary identified for mail distribution to the property owners but
6 we also have a 300 foot distance requirement for the Neighborhood Association Policy that I
7 referenced. So again some differences on which to keep tabs on and not mess up.

8

9 Some of the notification concerns that we've heard along the way for a great number of years is that
10 we simply do not reach enough people. Maybe we've heard that the notification distances that we
11 follow are too short, they shouldn't be expanded. We've also heard that the methods that we
12 implement are not all inclusive and we've also heard that in certain instances it becomes a burden
13 to the property owner and the example I cite is the certified mail criteria that we implement. If the
14 property owner is not present at home to receive the certified mail or letter and sign for it, I believe
15 there is another attempt made by the post office and if that fails then they get a notice saying pick
16 up your certified envelope at the post office and so it becomes a bit of a burden to some property
17 owners because they have to take the time to go and seek out that letter. There has also been
18 complaints about the limited use of modern technology to get the word out and so new methods are
19 being considered and we're trying to implement those as well. Other relevant concerns regarding
20 notification. We have to consider ease of application. We have to consider practicality. In certain
21 instances if we make timing thresholds, for instance too excessive, we could impact an applicant's
22 time frame for development and rather than going to a meeting say next month, it could be pushed
23 back 2 months and so we have to keep that in consideration. Resources, both monetary and staff,
24 have to be considered with these processes and safety and liability are also matters that have to be
25 kept in mind and by that we're talking about the potential for on site activity, dogs that kind of thing.
26 That could play a factor or in certain instances we talked about larger notification signage on the
27 subject property and what that could bring with it and in essence the bigger the sign, the more likely
28 we're going to be hitting things on private property such as drip irrigation, sprinkler lines, those type
29 of things that we could damage and so we have to keep those matters in mind as we consider other
30 options. Cost and cost recovery: That kind of speaks to the resources. We have set fees for all of
31 our processes at present. The question becomes with new methodologies being considered for
32 notification, are those costs that we currently collect, are they enough? Do we need to look at cost
33 recovery in certain instances? And then the variability of the processes. They are different processes
34 all together. Some of them bring out more interest from property owners and citizens in general and
35 then others not too much and in many instances they don't have problems with a great many things
36 that we do. The perception regarding that issue is that there are often times substantial protest or
37 would be substantial protest with some of the cases we take forward and to address that, staff took
38 a look at roughly 2 ½ years of case history and found that 171 cases were submitted. Of those, 84
39 were not acted on or not addressed pursuant to these numbers because they were either handled
40 administratively pursuant to our codes, they were dropped by the applicant and no longer pursued,
41 or simply they were waiting P&Z consideration. Now of those 171, we have 87 cases that were
42 considered by a decision making body and of those 87, 30 of them received absolutely no protest

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5

1 whatsoever. On 47 of those, there was minimal discussion and most of that if not all of that was just
2 to seek clarification on what was being considered. Maybe they had confusion over what the special
3 use permit really pertained to or what the zone change meant or what the zoning designation would
4 include in terms of uses, that kind of thing and often times what we found is once that clarification
5 was given, there was no concern. There was no further discussion and certainly no protest. Six of
6 those cases we did find where concerns were raised and at the request of property owners or those
7 making the statements, they asked the decision making bodies to consider conditions for instance
8 to address their concerns and in many instances those concerns or conditions were placed in any of
9 the actions that were rendered, and then of course 4 or roughly 5% of those 87 cases received strong
10 protest so I think you'll see out of 2 ½ years worth of time and case history that not very many
11 strongly protested cases are being addressed by our decision making bodies.

12

13 So, here we are. We recognize that our notification methodology could be bolstered and improved.
14 We have no problem admitting that. The steps that were undertaken to examine what we could do
15 was to kind of take a look at other communities within the region. I mentioned this at the last Work
16 Session wherein we looked at 7 other communities, some of them in state, some of them out of state,
17 but everywhere from here in New Mexico to Arizona, even California and Colorado, some of those
18 communities were looked at in terms of what they did for their notification on the same processes
19 that they carry out just like we do. Some of the nuances that we found: Notification boundaries for
20 one, some of them were higher than our existing boundary and some of them were lower. We have
21 a 200 foot notification boundary for mail out presently and we saw some 300. We saw some 100,
22 and so it just varied. Some entities or cities notify both property owners and tenants and some on
23 a case by case basis picked one or the other and so that varied. Neighborhood meetings, sometimes
24 they were mandatory and sometimes they weren't even addressed at all. There was case by case
25 review and assignment of the notification techniques by those communities based on staff perceived
26 impacts so if someone brought in a proposal and staff felt that it would bring significant concern to
27 a neighborhood, then they require a neighborhood meeting or an association meeting and then those
28 that were generally felt to be minor in nature. They did not. Notification timing was more
29 standardized, which is one of the things that I would propose that we consider but in no instance did
30 it exceed our 15 day standard that we have in place now at least for zoning matters, and the applicant
31 responsibilities in many instances were far greater than what we have in our codes today. For
32 instance, doing the neighborhood meeting was all on the applicant, proving that the meeting took
33 place was on the applicant, posting signs was on the applicant, etc. So, definitely different nuances
34 were seen and some similarities.

35

36 So, staff based on that information did some reporting and some writing, and I've never been known
37 for brevity, but the document, the largest document that was included in your packet, is some 32
38 pages of information that took a look at some of the issues that we have to consider with notification,
39 took a look at some methods that might be considered for inclusion in notification procedure and
40 some of the pros and cons associated with each one and at the end it has a recommendation as to
41 what we do with the information that was contained there then. So that's what that report addresses.
42 It's intended to be a Citywide report, not just Community Development and it's also intended to kind

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1 of provide a menu option if you will of methodologies that could be chosen to fit a variety of needs
2 and adjust it to fit specific concerns or issues that any one department in the City might have. It
3 considers and encourages these departments to take a look at those items and try to incorporate them
4 in their notification and policies that exist today and as part of that, Community Development staff
5 rather decided to take the lead on that and we have attempted to draft up some policy that seeks to
6 incorporate some of those same ideas into an ongoing notification procedure and that is the next
7 document that is in draft form and it is called the Citizen Notification Policy Manual for the
8 Community Development Department and what it does is it selects from the manual. It identifies
9 all the steps for all the processes we carry out, subdivision variances, annexations, plan, creation, that
10 kind of thing, and it also looks at the existing process for notification and discusses ways to improve
11 it and tweak it so that it is more inclusive in terms of getting the word out and so it's talked about
12 in there as well and it seeks to have this policy document proved by resolution as a matter of practice
13 for community development and if we go with those policies and if we go with those standards that
14 are contained and discussed therein, then there will be a need to amend other policy documents but
15 also our ordinances, primarily the zoning code is an example where notification measures are
16 specifically identified distance thresholds a number of days prior to public hearing, that kind of thing.
17 We need to make sure that it would be consistent with the policy if we so agree that that's the way
18 to go, and finally in that policy manual, the draft manual, we talk about some cost recovery on 3
19 elements that are discussed. The mail out is one of them. The newspaper ad is another and signs
20 are a third. So those costs associated with those types of activities for notification would be fees in
21 addition to the standard fee already charged. It wouldn't be substantial, but it is an attempt to get
22 cost recovery given the recommendations that I'll go into here shortly. Since we're increasing our
23 activities, we're increasing distances by which we're going to contact property owners. Fees
24 obviously need to cover those costs because the current fees do not anticipate those changes.

25

26 So in our policy recommendation, we're looking to do a 5 step notification effort if you will for all
27 planning and development related activities. The existing process is what the first section talks to
28 and that's the modified notification process. Again we're looking at standardizing the number of
29 calendar days before a public hearing to 15 so to all agenda postings, newspaper ads, sign postings
30 on the property. That would all follow a standard 15 counted day threshold and it is the maximum
31 that we currently have, which gives more time for individuals to know about specific meetings and
32 specific cases on those meetings. The mail notice to the Neighborhood Association is currently 300
33 feet, and the policy, which is also included in your packet is called an Identified Neighborhood
34 Association Information and Notification Policy. Presently it stipulates that there's a 300 foot
35 notification boundary for those neighborhood associations. We're looking to increase that to 500
36 feet. The staff determination on when applicants should be required to have a meeting with the
37 Neighborhood Association will be made at pre-application timing when an applicant actually comes
38 forward to get with staff and make their pitch for their proposal and kind of see what kind of
39 feedback staff will provide. At that point in time, which is very early in the process, if staff feels that
40 the matter is or will be of great concern to the neighborhood or will have significant impact on a
41 Neighborhood Association, that type of thing, we will request the applicant not only contact them
42 pursuant to that policy, which is a requirement regardless, but seek a meeting with them to convey

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1 face-to-face what their proposal means, what it includes, and that type of thing and if the meeting
2 is held, it's got to be agreed to a time and place by the Neighborhood Association and the applicant,
3 but if it is held, then they will have to submit not only the letter that they submitted notifying them
4 of the case, but minutes of that case and that will all be looked at at the time of submittal if they do
5 not have that. Staff will follow up and see what happened, and that could delay their acceptance of
6 the submittal. So we're looking at getting more interaction early on with the Neighborhood
7 Association through that measure. The process that I just described does not remove any authority
8 the Planning and Zoning Commission has or this body, City Council, has in postponing a case
9 pending the applicant getting with the neighborhood and discussing the matter further. You would
10 still have that authority, the previous issue I described is just one that staff will implement when we
11 feel it's necessary to do so. In either case, staff would be in attendance at these meetings to monitor
12 them. We would be able to answer any technical questions of our codes, but we would not take lead
13 in the discussion. We would not present the matter to the Neighborhood Association or on behalf
14 of the applicant. It would be those 2 entities discussing the issues and hammering out the concerns,
15 but we would be there to monitor them. Sign posting responsibility is now being proposed to go by
16 the way of the applicant and we would still provide the signs and the standards in which to erect
17 those signs, but then the applicant would have to post them 15 calendar days prior to the public
18 hearing and then ensure that those signs stay up through the approval stage. So, if approval stage
19 ends with Planning and Zoning Commission, they need to make sure that it's consistently displayed
20 through that time period. They may receive in the case of a zoning change application, a second sign
21 to address the discussion at the City Council level and so the day after P&Z, they would have to
22 remove that one and post a City Council sign to convey new information regarding when it comes
23 to this body and again they would have to ensure that it remains up throughout the hearing and
24 through the determination stage of that case. Notification boundary: Much like the Neighborhood
25 Association Notification Boundary, those 2 will be equal. I am looking to increase the boundary
26 from the current 200 foot distance excluding right away. That's what it is now and I'm looking to
27 have that match the Neighborhood Association 500 foot boundary so again we have normalization
28 of that distance so it will increase, and finally notification via the letters that are sent out will follow
29 the State statute provisions so we will be talking certified and first class letters, and we will discuss
30 what that really means here in a minute but suffice it to say that a certified mail out will be lessened.
31 The reliance on that will be lessened for many of the activities so we're likely to have people get
32 letters early on without any burden to them to go pick them up at the post office. We're going to
33 minimize the certified aspect and increase the first class distribution aspect and again all that would
34 follow State statutes. The second step, although there is many steps in that first grouping, but the
35 second step is to further develop the planning project web page and so any of the development
36 proposals that come in for review and consideration we would post on our web page, Community
37 Development web page, indicating that the name of the project, the applicant, the contact
38 information and any other bullets that you see there, we would try to project the hearing date that the
39 subject case would be going to in terms of the review body, what the status is of the case at any point
40 in time, whether it's been staff reviewed or whether it's been P&Z approved or denied, and that you
41 know it will be subject to City Council consideration. We will also indicate whether the reviewing
42 body that it goes to is a final decision making body or is it just a recommending body so people have

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1 a better understanding that there's another crack at it if you will if it is indeed recommending and
2 not final authority, and then PDF attachments as applicable are intended to be included on each
3 element that gets posted on the web page so people can download site plans, elevations, what have
4 you, to get a better feel for what is being considered. Other steps: Social media. The Community
5 Development Department this is kind of new to us, but we would be seeking permission to utilize
6 Facebook as a measure for improved notification. We received conditional approval for the El Paseo
7 Project as some of you may recall, the picturing El Paseo. We did utilize Facebook to kind of keep
8 the community informed as to where we were with that project so we have a little bit of experience
9 with that but we will be kind of venturing into new territory with what we're intending to do and
10 that's create a Community Development Facebook page. The idea there is we would not only
11 announce meetings, but we would announce development submittal items and there are some posting
12 deadlines that we would try to meet in getting the word out on those items and they will follow in
13 many ways what is also being considered elsewhere in the proposal. We also seek to utilize the
14 newly announced Las Cruces Notification System. We would be announcing public meetings and
15 we intend to include agenda items as part of that announcement so again people who opt in to that
16 notification system and sign up for it would get notices from Community Development with
17 assistance from PIO on P&Z meetings, what cases are on those meetings, that kind of thing. So,
18 hopefully we get the word out a little bit better in that fashion as well and then finally, our own City
19 of Las Cruces TV has static bulleting boards whereby much like the intended web posting of our
20 development activity within the Community Development web page, we would identify those same
21 submittal items that have come in and relay the same or similar information as what would go on our
22 web site and we're looking to keep it relevant and current and display only 1 month's worth of
23 information so that people can quickly look and see what's come in and not get burdened with older
24 listings that maybe are 2 months and that sort of thing old and hopefully another opportunity by
25 which to get the word out.

26

27 So of those things that I can show graphically in terms of what it means. I've devised this little slide
28 to illustrate at least some of the notification procedures that allow me to do so graphically and I've
29 selected this area. It's just a random area, random selection. There's nothing that I'm aware of that
30 is actually taking place so I've pinpointed this parcel, which was cross hatched in red and the
31 assumption here is that they are going through a zone change. Just making this up, this happens to
32 be east of North Roadrunner, which is on the bottom corner of this slide. Sonoma Ranch is on the
33 upper right corner of the slide and Sonoma Springs is here. This is to give you a point of reference,
34 but the property that is cross hatched in red is the one that I've chosen to illustrate the changes that
35 are being recommended. Right now the gray area that you see around that parcel represents a current
36 notification standard, our distance, our 200 foot standard. Technically it is 200 feet less or excluding
37 rights away so if you add 50 feet, which is our typical right away width, it's really 250 feet. So, that
38 is what we currently have in place today. What we're proposing is a much broader 500 foot radius
39 around that subject parcel and so you'll see the net impact of notification slightly more than doubles,
40 37 under the old method or the current method and 81 under the proposed method so significant
41 increase in getting the word out to neighbors. In terms of the practice of mail out, both for certified
42 and first class mail, here's the net result of that. The area shown in red line, red boundary around

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1 the subject property, because we are only doing a theoretical zone change for one parcel, the State
2 Statute says 1 block or less. We only have to do certified mail outs at the appropriate time and in
3 this case would be at City Council consideration time, certified for these property owners that are
4 touched and within the red boundary. Beyond that, from the red boundary out to the fringe of the
5 green, we would be dealing with first class mail out only. So as opposed to all these individuals
6 getting certified, only those in here get certified and beyond that first class so again trying to get the
7 word out, trying to have less burden on property ownership, may not be home to receive their
8 certified. That's the idea with this. So in terms of the numbers, P&Z with the existing process.
9 We don't do certified, but we do first class mail out and that's 81. At City Council as opposed to the
10 current method of 85 certified, we would not carry out any first class mail out, but what is being
11 proposed in a similar situation is the existing for P&Z but here at the numbers for City Council so
12 again you'll see that. Only 19 of the property owners are getting certified in 62 first class. Here's
13 a graphical representation of what it means for neighborhood associations that are recognized and
14 registered through the City of Las Cruces. That policy that I referenced previously seeks to have
15 them do, but this line that is cross hatched shows you the notification, the 300 foot notification
16 boundary as is currently stipulated. These blue lines here, here, and up in here, those are all
17 neighborhood association boundaries so you can see 2 for sure. Here's the beginning of a third. This
18 happens to be 3 of them within the vicinity. Currently under the present practice, only this
19 neighborhood association would be contacted because the property falls within it or certainly within
20 the distance for it. As proposed, it would meet the 500 foot threshold just like our mail out letters
21 and we now are impacting 2 neighborhood associations as opposed to the 1. This little guy here,
22 which goes further east and takes another property is outside the notification threshold, but that's
23 likely to happen no matter what number you choose. So that is a representation of what some of
24 those adjustments that are being pursued and requested via our policy manual will have for
25 notification measures, and that concludes my presentation. Councillors, I would be happy to answer
26 any questions you might have.

27

28 **Mayor Pro-Tem Thomas:** Thank you for that presentation. I know you've done a lot of work. I
29 read the big fat report too. So, could you go back a couple of slides here? So, currently we do not
30 send certified letters at the P&Z level, right? There's no notification at P&Z level.

31

32 **Vincent Banegas:** Mayor Pro-Tem and Councillors, at the P&Z level there are only first class mail.

33

34 **Mayor Pro-Tem Thomas:** Only first class. Okay.

35

36 **Vincent Banegas:** Correct.

37

38 **Mayor Pro-Tem Thomas:** But you do notify first class. Okay, so that's an 81.

39

40 **Vincent Banegas:** For this particular instance, the assumption being the zone change application.

41

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1 **Mayor Pro-Tem Thomas:** So on this one you're saying under our current policy, there would be
2 81 first class letters sent at the P&Z level and then at the City Council level there would be 81
3 certified.

4

5 **Vincent Banegas:** That's correct.

6

7 **Mayor Pro-Tem Thomas:** And then it remains the same for P&Z but it changes for City Council.

8

9 **Vincent Banegas:** That's correct.

10

11 **Mayor Pro-Tem Thomas:** Okay. Councillor Sorg?

12

13 **Councillor Sorg:** Madam Chair, as I read this number of parcels notified, up above it says existing
14 37. Wouldn't the existing first class mailing be 37 under existing?

15

16 **Vincent Banegas:** Yeah. The existing process, that's the boundary. The current boundary that is
17 referenced here on the 200 foot is this boundary here and so the existing is 37 within the current
18 boundary, but the green area, which is the proposed 500 foot is where we get to the 81.

19

20 **Councillor Sorg:** Correct.

21

22 **Vincent Banegas:** These other numbers here are reflecting if we go to the proposed 500 foot
23 distance and so that's where those numbers are coming in.

24

25 **Councillor Sorg:** So would you agree that the existing mailings for P&Z with what we have now
26 would only be 37, not 81?

27

28 **Vincent Banegas:** This second chart, the certified versus first class, it all assumes the 500 foot
29 notification boundaries so all of those 81 parcels affected that are shown in the green get notified
30 first class.

31

32 **Mayor Pro-Tem Thomas:** So, existing means existing in terms of what the letter policy is. It's to
33 change the area.

34

35 **Vincent Banegas:** That's correct. Certified first class policy aspect.

36

37 **Mayor Pro-Tem Thomas:** Okay. Yes, Mr. Garza?

38

39 **Robert Garza:** Thank you, Madam Chair. I just wanted to ask Vince for clarification. The number
40 19 versus the 37 is because you're recommending that we reduce the area where we send certified
41 second table.

42

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1 **Robert Garza:** That's correct. Mayor Pro-Tem, Mr. Garza, the 1962 follows exactly what State
2 Statutes mandate. We would be reducing that area.

3

4 **Mayor Pro-Tem Thomas:** Okay. I had another question. You talked about neighborhood
5 associations and in my District, other Councillors can comment on what their Districts are like, I
6 have mostly Homeowner Associations and they are not easily registered with the City. I have
7 convinced some of them to register as neighborhood associations because eventually they will have
8 to take over the HOAs and they need to have some sort of framework to do that because there is no
9 State Legislation for that, and then more and more I have watch groups signing up and I think, I don't
10 know how long ago it was when we had that masters class that came and they did a little study on
11 neighborhood organizations and so I think we started looking at neighborhood organizations as all
12 3 kinds of groups. They were watch groups. They were neighborhood associations and they were
13 homeowner associations, but we called them all neighborhood organizations so at least in my district
14 it would be helpful if we started talking about using all of those groups as a way of a communication
15 system because it's not just mostly neighborhood associations, but I don't know about other
16 Councillors, what is prevalent in their Districts. I'm guessing maybe watch groups more than.
17 Councillor Sorg?

18

19 **Councillor Sorg:** Yeah, you are correct. I have 2 registered neighborhood associations in my
20 District. One of them is pretty much nonexistent anymore. The only way you could contact the
21 person in charge of it, I don't know what their title is but it was by phone, and she said she doesn't
22 even know. I think she might have the leaving, moving to another place, but I do have one
23 neighborhood watch, which would be very useful to have on this list, but could somebody send me
24 a method or how does one neighborhood register with the City? What is the procedure?

25

26 **Vincent Banegas:** Mayor Pro-Tem, Councillor Sorg, the policy, Paul McCall is very familiar with
27 those steps, but the policy that is contained in your packet does talk to the responsibilities of their
28 neighborhood associations and if they notify Carol in this case of the fact that they are organized and
29 they have a set boundary, if they relay that information onto us and they follow at present anyway
30 the guidelines that are contained in here, they can easily become registered with us and included in
31 our database and just for clarification, the idea or the reason that this policy exists is we're trying to
32 number 1 keep tabs, not tabs, we're trying to recognize the duly appointed, duly organized groups
33 and membership, the key membership because those are the individuals, the chairperson, co-chair,
34 whatever or each entity. We're trying to keep contact with them. Those individuals would be the
35 ones, based on our database that they supply us with, all the goodies, all the information. Those are
36 the individuals that we would make contact with and then they in turn would notify their respective
37 members. That's the idea behind this notification policy for neighborhood associations. I would
38 imagine that Mayor Pro-Tem's comment regarding watch groups and other groups, as long as they
39 operate in a similar vein, there is no reason. As long as we know who to contact, that's the key I
40 think.

41

42 **Councillor Sorg:** That's what I emphasize with everybody is just to have one person that....

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1

2 **Vincent Banegas:** Correct.

3

4 **Councillor Sorg:** Okay. Thank you very much, Vincent.

5

6 **Mayor Pro-Tem Thomas:** And for Mr. Garza, we are still looking at hiring a Neighborhood
7 Relations Coordinator?

8

9 **Robert Garza:** Madam Chair, yes we are. We are in the process of finalizing the job description.
10 We will be posting it and hiring a full time person who will be working out of the Council, the
11 Manager's Office, right across from your office. They will be focusing full time on interacting with
12 neighborhoods and starting to build those lists and get the word out.

13

14 **Mayor Pro-Tem Thomas:** And so that person could undertake putting together all 3 types of
15 organizations. That would be okay? It's up to the neighborhood how they want to organize or
16 operate.

17

18 **Robert Garza:** Yes, Madam Chair. This person would be able to focus on that. All the
19 neighborhood organizations of varieties that are out there, being able to have a master list of all of
20 them regardless of what they call themselves, groups of people who want to know what we're doing.
21 So, yeah. That would be what they do.

22

23 **Mayor Pro-Tem Thomas:** Other comments from Council? Councillor Pedroza and then Councillor
24 Smith.

25

26 **Councillor Pedroza:** Thank you very much, Mayor Pro-Tem. I think that the idea of neighborhood
27 associations, organizations, watch, whatever is very, very good and I look forward to being able to
28 work with the coordinator once we have members. My question has more to do with.....I take it
29 you're saying certified mail is more of a hindrance than a help. Is that correct?

30

31 **Vincent Banegas:** Mayor Pro-Tem, Councillor Pedroza, yes and often times we hear complaints
32 about that.

33

34 **Councillor Pedroza:** Okay. However, I wonder if the purpose behind certified mail is not being
35 overlooked or ignored and as I recall certified mail is simply because if you in fact send out a notice
36 and you want to be sure that the person receives that notice, then that's what you use the certified
37 mail for and you learn a lot with the use of certified mail because I remember hearing people in the
38 audience on those occasions when we've had a lot of resistance to a change. They said that certified
39 mail had to be returned because those people have moved 5 years ago, 2 years ago, last week or
40 whatever and I think that we indeed would learn that with continued use of certified mail. I don't
41 know what the solution is but I wouldn't be too quick to get rid of the certified mail all together. I
42 think that it really serves a purpose in.....I mean, you've been very, very creative about how to do

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1 things. I would ask you to continue being creative because we shouldn't lose the uses that certified
2 mail can give us.

3

4 **Mayor Pro-Tem Thomas:** Thank you for that. Councillor Smith?

5

6 **Councillor Smith:** Thank you, Madam Chair and thank you, Mr. Banegas. I believe you have taken
7 what we've shared with you before and worked with that. I will point out that when we were talking
8 about the costs of the certified mail and the results, that's where the conversation about people
9 walking the neighborhoods came in so I'm sorry about the Boy Scout who got bitten in the 1990s,
10 but I think we do need to come back to what is effectively going to get the word out because we do
11 in good conscience want people to participate and don't want to end up with the situations where
12 they're coming back later and saying "I didn't get notified" and so in that vein let me offer a couple
13 of other things. Maybe instead of people walking the neighborhoods, if we had that commitment
14 and we know we're trying to save money and be effective. We have the capacity perhaps with some
15 of our new technology and information to actually call people and from the standpoint of local calls
16 I know I'm going to use myself as an example. I have gotten local calls where I basically don't
17 respond very well. I'm not saying I'm nasty but well, it's a local call. I generally don't listen very
18 long into the message. I have also gotten some of the certified mail letters before and often times
19 by the time I've managed to get to the post office to pick it up, it's hard to schedule one and actually
20 be there, and so I would suggest that maybe one we look at the notification boards that you put up
21 on the sites are sort of a golden rod yellow or something like that. Perhaps the envelopes that go out
22 to notify people are a similar color to catch people's attention and in addition to that maybe there is
23 this baseline and I think some of what you provided us in the packet you talked about, having some
24 flexibility and a toolbox of things that you could use. So I would suggest we have a baseline and
25 then you know it's always dicey using judgement and trying to figure out which of the cases are
26 going to be the ones you really want to do that with, but to use to the best of your ability and
27 judgement those situations where you think you know what? People in this community are going
28 to really be concerned about this. Maybe we go the extra mile for some of these. Additionally
29 perhaps we might use signs like in the example you use here, maybe an additional sign could be put
30 on City property on the entrance off of Sonoma Springs, to that neighborhood so that maybe there
31 could be 2 or 3 additional signs because somebody might live back up to the property but may never
32 drive in front of it and may have thrown away the certified letter or whatever and simply not gotten
33 the notification. If they had seen going into their neighborhood that there was going to be something
34 happening, that that might perk them up. I believe you know we do want to be sure that we're doing
35 our due diligence, that we're doing what the State requires and beyond obviously but also if we make
36 those extra efforts, we're giving the neighbors and the interested community folks the opportunity
37 to give their input, to be part of the process. I also look forward to the time when we are using some
38 of the charrette process and some of these things, but having that opportunity or looking for those
39 ways, even with a sense of humor, to find that extra little thing that is going to jog people's minds
40 and go oh, that's what's going on and it is a block from my house or whatever. So again thank you
41 for your efforts and thank you for taking into consideration the additional ideas. Thank you, Madam
42 Chair.

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1

2 **Mayor Pro-Tem Thomas:** Thank you, Councillor Smith. I wanted to ask you going back to
3 something Councillor Smith said about how you decide whether or not this is an issue that is going
4 to get a lot of neighborhood attention. Do you have this public participation spectrum in the packet
5 that was put together as part of the toolkit for El Paseo? I quite like that. Do you see that as useful?
6 I mean it kind of lays out when you need to have meetings and when you don't need to have
7 meetings and some things probably don't actually call for meetings. Do you plan to use that or I
8 know you included it in the packet but you didn't talk about it?

9

10 **Vincent Banegas:** Mayor Pro-Tem, City Councillors, the appendix if you will of the El Paseo, the
11 toolkit that came from the El Paseo Project, Picturing El Paseo, when I was preparing these reports,
12 the toolkit is intended to, as I read it and as I experienced the creation of it, to engage the public, to
13 get them to participate in the planning process, whatever it happens to be. We're talking about
14 charrettes for instance and other methodologies to get input, actual input on what is being studied,
15 what is being considered. To me that is the next step of what I've talked about here is just getting
16 the word out, notifying people that there is a project, notifying people that there is a pending
17 development, that kind of thing. So, I wanted to tie it in with the toolkit because that's definitely
18 something that on a case-by-case basis we will examine you know those methodologies for inclusion
19 in our processes so that we can get better participation from the public and input from the public.
20 So we do anticipate using that, but again I just wanted to clarify that this is notification and that is
21 participation and engagement.

22

23 **Mayor Pro-Tem Thomas:** Their first level is inform and so I mean it includes fact sheets and web
24 sites and open houses and then it moves up from there. I suppose if we start out with things on the
25 website and we have Facebook and we get a lot of response, then we might want to move to some
26 of these other levels in the toolkit, and then I want to bring up the clause again to that Councillor
27 Smith brought up. I use those quite a bit. You know, once I discovered that is cost 1/10th as much
28 for me to notify people by doing robocalls as to sending them a letter, even if it is just a first class
29 letter. So, we talked about that a little bit, so you want to say something about that, about the use
30 of robocalls.

31

32 **Vincent Banegas:** Yes, Mayor Pro-Tem, City Councillors. When I was looking into robocalls,
33 you're right. You're absolutely right. It is cheap. It is 3 cents per call and I thought that was pretty
34 incredible given the outcome if you will of at least notifying individuals. The issue that we saw,
35 however, is at least in my mind we would be trying to or attempting to notify individuals. For
36 instance, in the green area on this slide and I talked with Dynamic Interactive. They were a company
37 that has provided robocall services to the City of Las Cruces for at least based on the agent that I
38 talked with and the lowest geographic area or the smallest geographic area that they could isolate for
39 robocall campaigns is by zip code according to what I was told and that's what was reported in the
40 document and so what we would be doing is notifying a significant number of people for say a
41 special use permit regarding a daycare or something like that and so I started to press them for what
42 it would take to get a smaller geographic area to tie it to truly a neighborhood relevance if you will

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1 and they were saying it would be very difficult for them to do that perhaps if we had resources, we
2 could probably do that and so in my mind maybe we could tie, if it's even possible to do, account
3 records within the City's database to our GIS System and try to query out within a given distance 500
4 feet or more, query out only those records that pertain or fall within that boundary that we set and
5 so we haven't investigated that fully, but we do know that in many instances, numbers may or may
6 not be provided, phone numbers may or may not be provided and so that could very well be
7 problematic. That's why I did not include that as part of the CD Policy.

8

9 **Mayor Pro-Tem Thomas:** Well, maybe it's the problem also of people relying much more on cell
10 phones and not having land lines so that's an issue as well, but I know that we've done it by
11 precincts by using the County records so I guess if you could get a little more information about that,
12 that would be useful or you might want to talk to the SPARC Lab over at New Mexico State in the
13 Geography Department because they do this kind of work all the time. They might know other
14 databases that might actually be useful, something we haven't thought of. So, I'm hearing here that
15 we seem to like the fact that we are going to try to have a more robust policy here and I think that
16 maybe we would want to hear a little more about certified letters so the expense probably is the
17 problem with those if I can find other methods, maybe find out a little bit more about robocalls, but
18 other than that we want to make sure that staff takes away. Councillor Silva?

19

20 **Councillor Silva:** Yeah, thank you Mayor Pro-Tem. Thank you, Vince and staff. You guys did a
21 great job. I know it's not easy and working with the public is always the challenge so you know
22 thanks for all the good work. I appreciate Mr. Garza for bringing this forward. I'm looking at a
23 couple of things and I'm going to be looking at I believe your recommendations on page number 30,
24 Vince.

25

26 **Vince Banegas:** Okay.

27

28 **Councillor Silva:** The first one, and this is one that I've been advocating ever since I came on board
29 in 2007, is the sign use. I still think that our sign should be much larger. If you've ever driven
30 down, and what brought it to my attention, was I've driven in other cities, Santa Fe most notably.
31 I do believe they use, I'm not mistaken if it's a 4 x 8, but a minimal I think it's like a 3 x 5 foot, not
32 inches, 3 x 5 sign. I think that the sign should be much larger than what we have. I think ours is just
33 an 18 x 24 inch sign. I have advocated for this to be an ETZ area because I feel even in the ETZ area
34 when you leave a lot of the vacant lots, they are not as unkept as the City in some cases and so it gets
35 hidden easily behind debris and weeds and so forth, and so even in the City I really think a much
36 larger sign, in particular for zone changes and so forth, should be something that we should consider
37 and maybe we could get some examples, but I know the Santa Fe, maybe you could check with them
38 and see their sign size, maybe we could do a comparison of the 2, maybe Albuquerque or some other
39 cities and see what size of sign they use. Having a much larger sign, I see like on the page here
40 where we say well, we'll expand the messages. I think if you have a large sign there and people see
41 it, we'll get some responses you know because it's pretty evident and a lot of times mail just gets
42 stuff away or whatever, but I think larger signs, robocalls, I'm not a fan of robocalls. I turn my off,

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1 but I think a large sign will make a difference when someone says something is happening in my
2 neighborhood and if they cared they would notify us. Another thing too, and I know you sort of
3 touched upon it, but what would be the indicators to host a community meeting such as the one that
4 we had last week. I mean I know you say we want to work with the neighborhood associations and
5 so forth. This past Saturday, while I was walking at the Farmer's Market, many people that live up
6 in that neighborhood who are not apart of the association, they were not pleased with the decision
7 that this Council made in regards to shutting that street down and making a cul-de-sac. I mean their
8 words were you're shutting down my street and nobody ever came and asked us. This was a decision
9 that we made up here in the dieses without getting additional public comment other than I'm
10 assuming they are members of the association, but in this case I was taking the lead of the Councillor
11 of that area that she had been in touch and so forth, so for me it sounded like that was the general
12 feel. A lot of persons came up to me this week and saying that the association didn't even represent
13 most of the persons who lived in that area who exit off that area so what would be the indicators or
14 a process like that and that's a pretty radical change to cut that street off as a cul-de-sac. Would you
15 suggest that we go back to the general public or at least a neighborhood and get additional feedback
16 from the neighborhood.

17

18 **Vincent Banegas:** Mayor Pro-Tem, Councillor Silva, the criteria that would be used at least in my
19 mind to determine whether or not a meeting should be held with a neighborhood organization is
20 things such as the acreage of the proposal. Intensity, density of proposed development, access. I
21 mean maybe there is one roadway leading into a particular area and yet the density at which they're
22 proposing the development would significantly increase traffic, congestion or otherwise. Those type
23 of things are definitely factors. Also case history. I know staff we have various staff members who
24 are new, but various ones that are not new and they know through case dealings in the past what are
25 trigger points if you will for neighborhoods and so utilizing that information or that background and
26 that history sometimes will give us a feel for whether or not they should have a meeting with
27 neighborhood organizations to discuss the matter at hand.

28

29 **Councillor Silva:** So right now, we don't have a policy. It's just a matter of staff making a
30 recommendation based on experience.

31

32 **Vincent Banegas:** We have the Neighborhood Association Policy that I referenced. That is in place.
33 That has been in place for quite some time. That is the identified Neighborhood Association
34 Information and Notification Policy and it stipulates what role the City has, what role the developer
35 has, and what role the Neighborhood Association, in this case, has to conform to this policy and
36 facilitate engagement and discussion of development.

37

38 **Councillor Silva:** And the reason I bring this forth, and I think it's a great time to have this
39 conversation, it seems like a lot of time could have been saved if at the very beginning of the process
40 of the developer going in and re-zoning that property, if they would have hosted a meeting from the
41 very beginning or been much more engaged with the neighborhood. I think we could have easily
42 taken a month off of that time frame or at least maybe the time frame would have been a little

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1 smoother, but it wasn't until...and that wasn't the only incident. There have been many incidents
2 since I have been up here in the dieses where we've had the neighborhood come up here. We've had
3 the developer and the Council directing the project or the developer, whomever, to go back and host
4 those community meetings before we take action and that's what I'm saying. What would be those
5 indicators that all of that can happen beforehand and not just based on feel or history and everything,
6 that we actually have some indicators built in place to host a meeting and not just with the
7 Neighborhood Association but with the neighborhood at large.

8

9 **Vincent Banegas:** Councillor Silva, the indicator, and I kind of touched on a few, we could certainly
10 enhance any of the policy that currently exists to illustrate if you will some key triggers to require
11 a neighborhood meeting. The problem with setting them all in stone is you limits staff's ability to
12 go look at things on a case by case basis because sometimes cases that theoretically we may require
13 a meeting due to the complexity or some of the issues that may be germane to the proposal. Maybe
14 those are items that the neighborhood really doesn't have any issue with and if you require it in any
15 or all instances by singling out all the bullets that trigger a meeting, we may be forcing additional
16 time and additional actions on a developer or applicant when really there's no issue going back to
17 the slide where we talked about protests and the number of cases and that kind of thing so I think
18 staff would propose that we keep it open and we give a flavor for what may trigger the need for a
19 meeting, but we leave it open and at the discretion of both staff or any body, P&Z or otherwise, to
20 require meetings when they are needed.

21

22 **Councillor Silva:** Mr. Banegas, I understand you're talking about putting it in stone and some of the
23 triggers not being there. I think a great example would be traffic flow. A project is not required to
24 give us a TIA, traffic impact assessment, until much further down the process. One of the major
25 arguments last week that we heard was traffic, traffic, traffic. I'm totally aware of that and I totally
26 believe that traffic should always be taken into account. I've had discussions with staff that you
27 know should be brought up further into the process for discussion, but how it's evolved in this
28 discussion, I understand what you're saying. Traffic, we can't say in stone that X amount of cars are
29 going to come in because we don't know until the TIA is done much further down the road. Maybe
30 in the process any suggestion would be if you have these triggers or whatever you want to call them,
31 these indicators I think is a better term, if we were to have these indicators, staff would document
32 them and say look, we identify these things. We suggest or recommend to you the developer go have
33 a couple of meetings prior to coming to P&Z or the Council, and at least when we do the
34 presentation, staff could easily stand up and say we made that recommendation. Unfortunately, it
35 didn't happen because I think sometimes as a Councillor, we get the black eye because we're saying
36 no, no, no. We're not going to pass this yet because you need to go back out and you know they say
37 you guys are anti-development or anti-growth because you're slowing things down and I think a lot
38 of that could be resolved or dealt with much sooner and in a much more proactive manner if we dealt
39 with community participation, community input, community involvement much sooner and like I
40 said I can understand where you really don't want to have your hands tied and because there are
41 certain things. Traffic is a perfect example you can't say. I mean they don't even know what they're
42 going to build there yet or they had a general idea, but there have been projects as you know that are

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1 changing a commercial from C1 to C2. We don't know what's going to be built in, but we at least
2 have a general idea because of the way the zoning is written. So, maybe again the suggestion was
3 where staff recognizes these indicators, makes a recommendation to the developer in paper form.
4 Maybe you already do and I just overlooked it. Easily you could stand up and say we did make that
5 recommendation and we can take it from there. Thank you.

6

7 **Vince Banegas:** Mayor Pro-Tem, Councillor Silva. In the past, it has been a great number of years
8 in fact where staff has been made aware of a proposal that is either going to be submitted or has been
9 submitted in discussions with the developer, the applicant, the staff has made consistently when it
10 seems like there's going to be trouble brewing, has made strong recommendations to the applicant
11 to go host or hold a neighborhood meeting, and try to iron out, you know share the information and
12 iron out any differences early exactly as you talk about so that it isn't as controversial and it isn't as
13 problematic through the approval process. So that is something that we routinely do and continue
14 to do.

15

16 **Councillor Silva:** Thank you.

17

18 **Mayor Pro-Tem Thomas:** Councillor Small?

19

20 **Councillor Small:** Thank you very much, Madam Chair and thank you, Vince and to the staff for
21 bringing back I think a very comprehensive set of proposals and kind of props to really move the
22 discussion forward. As I reflect on this, I'm actually reminded of something Robert said after going
23 to the recent Municipal League meetings here describing the pipe and how it consistently kind of
24 through years and years and years can get twisted back on itself and this is the pipe from which
25 development kind of flows from idea to actuality and I think as we look at this our focus is on public
26 input, as well as it should be. We also and it was voiced probably in the back of all of our minds,
27 continuing to ensure a fair, efficient, and most of all mutually beneficial process for development
28 applicants in the City and I think from my own perspective it is really worth continuing to ask
29 ourselves if there are ways that we can look at simplifying, streamlining or changing, and I think this
30 is a lot of what you're suggesting, to again make sure things flow in a smooth way but in a way that
31 has ample opportunity not only for public comment, but for public input, which I think we all agree
32 are really 2 different things and as Councillor Smith mentioned, charrettes really I think are the
33 optimal kind of opportunity to gain that input because even if it's not acted upon I think we always
34 feel better when we've had a chance to give our thoughts about an area instead of just commenting
35 upon one proposal or another. So, as I reflect on that, it seems to me that adding too many additional
36 triggers and boxes and things really that we have to I guess be clear and take time, we have to be
37 careful of that, not necessarily opposed to it but very careful and that we should look for these kind
38 of mutually beneficial ways that not only help the process flow forward, but add kind of value at it
39 and I think we would agree that value added in this case certainly represents input from members of
40 a given community, that they have the chance to talk about what they want to see for an area, what
41 they want as a proposal. You know a whole wide range of things. Then it's positive even if all that
42 input is enacted upon, it's there in the record. It's a good thing. So I'm just wondering and it wasn't

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1 necessarily spelled out in here. I don't have a problem and probably endorsed a lot of the specific
2 things folks are talking about, but is there a way to go to some sort of a, especially for zone change,
3 request but possibly for other requests where you have where just everybody accepts a default
4 community meetings. Perhaps it's a chance for folks, not only the development team presenting to
5 a neighborhood, but you know take the scenario where no one shows up from the neighborhood.
6 There's no public input, which as your figures suggest, it's more often than not the case, far more
7 often than not the case, that there is less public interest in development than more. Exceptions
8 certainly stand out with us and resonate as well as they should but it's not the norm, but if you're
9 able to provide some sort of service or benefit for the proponents of that development, that is
10 whether there are folks that review it or perhaps even an alternative pathway into kind of the
11 sustainable building code that offers a smoother, cleaner route for those who choose to work more
12 collaboratively and closer with the neighborhood. I just think exploring those, maybe it turns out
13 that really isn't a viable option. I would certainly feel more comfortable if those are more fully
14 explored and perhaps you all have explored them and you just haven't....that hasn't been the subject
15 of today's presentation as much as some of the other concrete measures but again speaking from my
16 own personal preference, seeing those charrettes and that input and that dialogue, and the chance for
17 real interaction to happen or at least that opportunity to happen, I would love if perhaps that's
18 brought back a little bit more and if there's ways again not adding a new twist in the pipe that makes
19 it even longer and that does all these other things, looking at if we add a little balance this one way,
20 then maybe let's add a little bit more weight to the other side of the balance that smooths out that
21 process, perhaps remove something from that path, but I guess those would be my sentiments and
22 I think they follow quite closely on what Councillor Silva and others, but especially Councillor Silva,
23 has expressed. Thank you.

24

25 **Mayor Pro-Tem Thomas:** Councillor Small, are you suggesting that if an applicant included
26 meetings and working with the community, then there would be some incentive to do that based on
27 how the process went. Do you think it should be a little more feasible?

28

29 **Councillor Small:** I don't have the...yes, I don't think that's.....if we all agree that that's a positive
30 outcome, if we agree that that can be materially beneficial to the neighborhood, the public, and to
31 the developer, then it follows that we should find ways to perhaps incentivize that.

32

33 **Mayor Pro-Tem Thomas:** Did you want to say something, Brian Denmark?

34

35 **Brian Denmark:** Thank you, Madam Chair. Just a few points of clarity and clarification. Staff's
36 recommendations if accepted by the Council would require an amendment to both the zoning code
37 and the subdivision code at least in it's current form. So, the rules that are in place today, Vince
38 went over those rules and one of the provisions we don't have in our current code is the ability to
39 make an applicant conduct a neighborhood meeting and so staff is making that recommendation.
40 However, as Mr. Banegas indicated, less than 10% of all the cases are controversial and so we don't
41 want to burden smaller applicants that are not professionals. They come in. They have a simple
42 zone change request. They don't understand the rules and the provisions, and we certainly don't

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1 want to burden them with additional requirements that are not only costly but timely for no intended
2 benefit or purpose. So, staff's recommendation is not only to give the staff the authority to require
3 an applicant to go through that process but also the Planning and Zoning Commission as well as
4 Council, and so these 10% or less cases, staff will have the ability to require that. The Commission
5 would if they feel it's necessary and the same with the Council, and we feel that we really need
6 discretion because most of the cases are not controversial. Most of the cases are on consent when
7 it comes before City Council and you're not even aware of them and the reason is because you only
8 remember those difficult ones, and staff is experienced and professional enough to know what most
9 of those problematic cases are. In the case of Indian Hollow, they already have a history and in view
10 of that would have been a problem, but if they had the authority, they would have made the applicant
11 go through that process so that's one issue that we have to keep in mind. We think it's really
12 important though that there's a lot of flexibility and discretion when we come to this and it's
13 important that staff participate because as is in the last case, it was a challenging meeting between
14 the Neighborhood Association and the applicant seeking his own change request and it's really
15 important that staff is there as a neutral party to help monitor the meeting and control the information
16 flow so that whatever information is gathered out of that meeting, it does come before City Council
17 and you have a breadth of information to be able to make a decision on, so we at the staff level feels
18 it's really important that we have that discretion and that flexibility as we address these projects
19 because to add to that there's different ways of holding neighborhood meetings. There might be a
20 case where a charrette for example is appropriate, but charrettes are really more of a design input
21 process. It's not a process that would be typically beneficial for a zone change request where we're
22 talking land uses and neighborhood impacts and compliance to policy and things of that nature. So
23 again, I just want to reiterate that what we're recommending would require further consideration by
24 the Council in the form of an ordinance or amendment to the zoning code and the subdivision code,
25 and we strongly believe that we need that flexibility and that discretion to be able to address cases
26 depending on the nature of that particular case. Thank you.

27

28 **Mayor Pro-Tem Thomas:** Did you want to respond to that, Councillor Small?

29

30 **Councillor Small:** Thank you, Mayor Pro-Tem and thank you, Mr. Denmark. Certainly looking at
31 the numbers, that approach I think you can't argue that it makes sense when you have the small
32 minority of cases that are bringing that. I do so that I would be comfortable proceeding forward with
33 that. I'm not sure that ultimately because of course changes would be at least at minimum I guess
34 2 months off if additional information can surface. I guess there's 2 concerns perhaps in my mind
35 that come to bear there. One is that perhaps a lot of it is really predicated on past issues and there
36 could be future issues that don't have any precedent. Now the point, and I think we all have to trust
37 a great deal day to day, rightly so as you pointed out is staff professionalism so you know do we
38 make a bad bet doing that, we make a good bet and we're going to be right almost all the time and
39 perhaps all of the time. So that one isn't as much of an issue as the neighborhood input and the
40 dialogue. I think it still is very worthwhile if we see those as positive things moving forward to think
41 about ways that we can be part of an effort to promote those and whether that's an alternative route
42 or whether that is any other kinds of incentives, it still seems to me that that's a worthwhile

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1 acknowledging based on the numbers we're seeing today it's like what's being proposed is pretty
2 reasonable. Thank you.

3

4 **Mayor Pro-Tem Thomas:** Thank you, Councillor Small. Maybe as we move forward and do more
5 of these blueprints, you know that could be more of a place where we actually have more of a
6 charrette or input or working together on them. Our comprehensive plan does talk about sector
7 planning and we might maybe someday get around to doing that where we actually would look at
8 various parts of the City and bring people together to kind of do an overall plan for that particular
9 part of the City so Councillor Sorg, you had something to add?

10

11 **Councillor Sorg:** Thank you, Madam Chair for that comment. I appreciate that too. I was listening
12 and I appreciate all the comments that have been made and I'd like to comment on a couple of things
13 I've heard. I would concur with Councillor Silva on the signage. It wasn't too long ago that I saw
14 a notification sign. I noticed it was a notification sign, but I couldn't read it all because it was
15 covered by, I think it was weeds. It just didn't show up, so a larger sign maybe is something we
16 ought to look into and I was recalling as the conversation had been going on here my own
17 neighborhood back in the early or middle part of last decade, there was a neighborhood meeting
18 called at our neighborhood elementary school. Our neighborhood did not have an association back
19 then, nor does it now, but still there was about half a dozen to 10 people from our neighborhood who
20 came to this meeting. It was for a new development right next to our street that we lived on or we
21 do live on and it worked quite well. The developer there came and explained what he wanted to do
22 and it worked quite well. I had a question here that I wrote down very early in your presentation and
23 I'd like to present that, and that is in some cases, can some cases be identified first before you
24 proceed too far into this process and extra notification be done? In other words, due to the case
25 history that you know about, you know how to handle some of these better than some pass through
26 no problem, but then some lead controversial. Those are the ones you want to target with the
27 neighborhood meetings and so forth, and I would like you to have that flexibility for sure. I have a
28 problem with my neighborhoods. They aren't listed in the neighborhood associations in the City.
29 I'm going to have to work on that. Thank you, Madam Chair.

30

31 **Mayor Pro-Tem Thomas:** Thank you, Councillor Sorg. Councillor Pedroza?

32

33 **Councillor Pedroza:** Thank you, Madam Chair. Just one last comment from me and that is that I
34 think it is important to give discretion because as far as I can tell the numbers that you showed us
35 I can't remember if it was 10% or less where the ones that were a lot of controversy and I'm sure that
36 in dealing with a different applications and so on, you know where there's going to be controversy
37 and where there is not, and I would trust that if you made a mistake, you would very quickly learn
38 that so that it's not something that I would want to stay away from a very rigid ordinance that either
39 requires neighborhood meetings all the time or never requires them because then there is no
40 discretion and we have a bit of a problem, and I'm sure that you guys, staff, have broad shoulders
41 enough to say well, we thought there was not any controversy and wow, look at this. The room is
42 full but we can handle it now so I would go with that and I think that there are other values to having

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1 neighborhood associations and organizations so that is the community engagement. So whenever
2 possible, whenever it seems in your experience that either it's going to be controversial or this is an
3 opportunity for the community to engage in community, then you would be free to do that and I
4 would want to do that. I also because my view of my District at this point is that although some of
5 the young people are very in tune with the social media and so on, maybe their parents are not and
6 I don't know if their cell phones are recorded at the County or whether it's only the land lines, but
7 I do like the idea of robocalls and they can be made as tailored to the community, as polite and not
8 too long and so forth so that people can receive notification of things and if we can get their phone
9 numbers from the County, well I think that that would be a very wise use of 3 cents per call. Okay,
10 thank you.

11

12 **Mayor Pro-Tem Thomas:** Councillor Smith?

13

14 **Councillor Smith:** Thank you, Madam Chair. I would again also voice my support for the
15 discretion and the flexibility. I think that's essential to what you all do. I also think that if we know
16 there is recourse in case, despite our best judgement, something goes array, then people know there's
17 an alternative so that we're not feeling like we got stuck in a situation. So yeah, that sounds good
18 to me. Thank you very much, Madam Chair. Thank you, Mr. Banegas.

19

20 **Mayor Pro-Tem Thomas:** Thank you, Councillor Smith. Anyone else? Mr. Garza, do you have
21 what you need you think?

22

23 **Robert Garza:** Madam Chair, I do believe we have sufficient feedback from you all so we can
24 proceed with the amendments Mr. Denmark referenced and thank you, Mr. Banegas for a
25 comprehensive review.

26

27 **Vincent Banegas:** You're welcome.

28

29 **Mayor Pro-Tem Thomas:** Yes, thank you for all your work. I learned a lot from reading all your
30 research so that I think concludes our business. I entertain a motion to adjourn. Move by Councillor
31 Sorg. Second by Councillor Smith. All those in favor? Meeting is adjourned at 2:35 p.m. and we
32 have agenda setting next.

33

34 **Meeting Adjourned at 2:35 p.m.**

1048



City of Las Cruces
Community Development
Memorandum

To: Robert Garza, City Manager

From:  Vincent M. Banegas, Community Development Deputy Director

Subject: Public Notification/Participation Work Session Discussion

Date: March 19, 2012 File No.: M-12-068

As per the stated agenda item to be discussed at the March 26, 2012, City Council Work Session, staff has researched and developed a spreadsheet that illustrates public notification strategies required by the NM State Statutes, the City of Las Cruces and by seven communities in and around New Mexico. This is to facilitate the identification of alternative methods that could be implemented for informing the public about development taking place in Las Cruces. Often, research similar to this seeks to find "best practices" in order to gauge how our efforts should be adjusted for better handling of related matters. However, based on staff research conducted to date, staff has not found reference to any notification/participation "best practice", but feels that each community has implemented a practice of notifying the public regarding development matters that seemingly works best for that community.

In summarizing the research, there are some methods that seemingly could improve our current methods of providing notice to the general public. Some of these items talk to amending the variety of notification timeframes in our current development codes to just one timeframe regardless of case type, using the highest timeframe of 15 days as the single threshold or 21 days as the Planning and Zoning Commission recommended, and re-implementing in some fashion the department's use of the City website as a source of information for new case submittals and updating said information throughout the review/approval processes. If you recall, the latter item was used extensively in the previous website, but was temporarily discontinued due to formatting and other reasons related to the new website the City has launched. Other items up for discussion could include requiring neighborhood engagement via a neighborhood meeting and establishing minimum notice requirements for this effort prior to the first public hearing. Also, increasing notification distance thresholds from the current 200 foot distance can be considered. These and other options can be addressed at the work session.

As discussion takes place on this matter, it is very important to note the impacts that will result not only to the general public, but also to the developer/applicant and the City. Generally speaking, a typical zone change case today can take approximately 3 to 4 months from submittal through to approval by the City Council. This assumes that

comments are addressed promptly by the applicant and that no delays such as a postponement takes place to further off-set the timeframe identified. In essence, increasing notice timeframes will at minimum push back consideration of each case by the respective bodies or require pushing up the deadline for submittal to a time frame that allows set procedures to take place. Monetary impacts regarding the timing of case consideration will be realized by the applicant. Other impacts involving monetary implications may be realized if notification thresholds are increased beyond the 200 foot threshold. This will become an issue particularly for zoning related matters where certified notification is a requirement. At \$5.75 per letter, the cost for mailed notices would certainly increase on a per case basis particularly when these cases take place in more densely developed parts of the City. Options exist on how to defray costs for the City, but ultimately, somebody bears these costs and as such this should be an issue considered as improvement in our notification procedures.

At the work session, staff will be prepared to walk the Council through our development types that require notice and public engagement and the research conducted regarding notification practices in New Mexico and in other states. A powerpoint presentation will be available to facilitate this discussion. In the interim, should you have any questions regarding this matter, please advise.

cc: David Weir, Community Development Director *DW*
Brian Denmark, Assistant City Manager/COO
Mark Winson, Assistant City Manager/CAO

NM State Statutes

CLC

Subdivision

Agenda Posting Deadline	Reasonable notice defined by body	6 days
Mail Deadline (before public hearing)	5 days	9 days
Mail Notification Distance	None	200' excl ROW
Mail Notification Parties	Applicant/Owners	Applicant/Owners
Newspaper Publication Deadline	None	9 days
Sign Posting Deadline	None	9 days
Sign Size Requirements	None	None; use 18"X24"
Sign Location Requirements	None	Conspicuous locations
Other Notification Requirements; misc	Regular Mail	Regular Mail

Zoning

Agenda Posting Deadline	Reasonable notice defined by body	6 calendar days
Mail Deadline	None	10 calendar days
Mail Notification Distance	100' excl ROW	200' excl ROW
Mail Notification Parties	Property Owners	Property Owners
Newspaper Publication Deadline	15 days	15 calendar days
Sign Posting Deadline	None	10 calendar days
Sign Size Requirements	None	None; use 18"X24"
Sign Location Requirements	None	Conspicuous locations
Other Notification Requirements; misc	1 block or less, certified mail; if greater than 1 block, 1st class mail	Mail notification requires 15 min prop. Owners. Regular mail for P&Z and certified for CC.

Variance

Agenda Posting Deadline	Reasonable notice defined by body	6 calendar days
Mail Deadline	None	10 calendar days
Mail Notification Distance	None	200' excl ROW
Mail Notification Parties	None	Property Owners
Newspaper Publication Deadline	None	15 calendar days
Sign Posting Deadline	None	10 calendar days
Sign Size Requirements	None	None; use 18"X24"
Sign Location Requirements	None	Conspicuous locations
Other Notification Requirements; misc	None	mail notification requires 15 min prop. Owners. Regular mail for P&Z and certified for CC.

City of Albuquerque, NM

City of Santa Fe, NM

City of Colorado Springs, CO.

Population - 418K

None specified
 15 days
 None specified
 Neighborhood Assoc.
 None specified
 None specified
 None specified
 Certified mail to NA rep.

15 calendar days
 15 calendar days
 300'
 Property Owner and NA
 15 calendar days
 15 calendar days
 None specified
 None specified
 Tenant mailing if owner address
 different than physical address.
 Process same for all land dev. Cases.

None specified
 10 days
 150', 500', 1,000' determined by Manager
 Prop. Owners and NA
 NLT 10 days; NMT 30 days
 min. 10 days after preapp, formal submittal, and P&Z or CC
 None specified
 None specified
 Nhd. mtgs. may occur at pre-app, internal rev., or final stage. All
 public notice is case by case based on impact.

None specified
 15 days
 100'
 Property owners; NA
 15 days
 15 days
 None specified
 Director specified
 Notification lot size
 dependent. Some notice by
 City, some by Appl.

None specified
 10 days
 150', 500', 1,000' determined by Manager
 Prop. Owners and NA
 NLT 10 days; NMT 30 days
 min. 10 days after preapp, formal submittal, and P&Z or CC
 None specified
 None specified
 Nhd mtgs. may occur at pre-app, internal rev., or final stage. All
 public notice is case by case based on impact.

None specified
 15 days
 100'
 Property owners; NA
 15 days
 15 days
 None specified
 Director specified
 Notification lot size
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None specified
 10 days
 150', 500', 1,000' determined by Manager
 Prop. Owners and NA
 NLT 10 days; NMT 30 days
 min. 10 days after preapp, formal submittal, and P&Z or CC
 None specified
 None specified
 Nhd mtgs. may occur at pre-app, internal rev., or final stage. All
 public notice is case by case based on impact.

City of El Paso, TX

City of Tempe, AZ

City of Buckeye, AZ

Santa Cruz Co., CA

Pop. - 262,382 +-

Pop. - 51,000 +-

None Specified
10 calendar days
200'
Property Owners
15 calendar days
None Specified
None Specified
None Specified

None Specified
15 days
300'
Property Owners, Tenants and NA
15 days
15 days
16 sq. ft.; SFD cases 6 sq. ft.
None Specified
Same process for all public hearing cases

None Specified
10 calendar days
300'; increase by 50' for min. 10 parcels
Property Owners/NA
10 calendar days
10 calendar days
2'LX2'WX4'H
Adjacent to ea. Roadway
7 levels of review with first 5 admin. and last 2 invol. P&Z and CC. Same process for all cases.

Regular mail

None Specified
Prior to Submittal
None Specified
Neighborhood Assoc.
None Specified
15 days
3'LX2'WX5'H
None Specified
Sign Req. for 1ac. Or > picture showing posting

None Specified
None Specified

*Planning and Zoning Commission meeting 2/28/12 excerpt***I. OTHER BUSINESS – NONE**

Scholz: That concludes our regular business but we have another piece of business. Commissioner Shipley, you brought something to me at the beginning of the meeting, actually before we started the meeting. Would you please introduce that?

Shipley: Mr. Kyle gave us a notice in here regarding a question we had at the last meeting regarding the...actually it was basically two things; was that the notification period for notices and the mailing period for notices...in other words, currently it's either nine or ten days. And the second part of that was, was there a requirement of about 200-feet that people who lived within or businesses that were within 200-feet were considered sent notices or required to be noticed? And I felt like that since you got this feedback and a recommendation that the feedback was that the staff would like to hold off amending our current procedures until direction is obtained from this work session as it may result in additional changes in code amendments brought forth, which is the work session we are talking about is with the City Council. And I felt like that we ought to talk about this tonight, give our recommendations to the Council, so that when they are doing their work session they can see what basically we have come up with and, therefore, maybe some of the things that we think are important they might feel that same way. So I thought this would be a good topic for, I guess, under Other Business at this time.

Kyle: Very well. Mr. Chairman, Commission, as we got to the Staff Announcements I was going to ask for exactly that. If the Commission does want to make a formal statement as a Commission certainly we can do that tonight or you can provide a response to staff which we would forward to the City Council as staff makes their presentation at the March 26th work session. I was also going to advise the Commission that if the Commission membership wants to attend that session they would certainly be allowed to that. I just need to know if four or more of you were going to attend to please let me have notice so that we could do a potential quorum notice so we're covered that way. Otherwise, yes, I think it's completely appropriate for the Commission to discuss the issue and to have a recommendation or issue they would like to see forwarded or at least provided to City Council we will be happy to do that.

Scholz: All right. Commissioner Shipley?

Shipley: Well, again, I kind of went back and looked at the thing and there was a great disparity between that. One example was tonight that we had notice

for the child care center and the notice was published in the newspaper eleven days prior to today's meeting and the notices were mailed to the homeowners adjacent living within the 200-feet the same time. It would seem that everything that we do is done pretty much a month, month-and-a-half in advance. In other words, the agenda for the next meeting has been pretty much set up and you know what's coming next month and the next month after that. There may be some additions or something else that's minor that's added to that but it would seem that the 21-day notice period would be plenty of time for mail. In other words, it takes three to five days to put it out. If it goes locally it's generally three to five days before you get a piece of mail out here and then that gives the people that are getting that mail, you know, fifteen or sixteen days' time, and it's not all work days, that's just calendar days; it gives them time to be able to respond or to go investigate or call Community Development or whatever they need to do. And, in my opinion, their 21-day period for notification is more than adequate. I initially looked at fifteen days but if you're given five days, you know...let's say the worst case is five days for mail to get to somebody, especially if they don't live in this area and there are a lot of homeowners that have investment properties here that may be affected that may live someplace else and so they've got to make time to make arrangements and time to get information and then to write a letter or write a letter or do whatever they need to do. So, my thought was 21-days. If somebody else would like to discuss that and...that was it.

I also looked at the 200-feet and, again, it say's 200-feet but there was a clause in there that says there must be a minimum of...what? Fifteen people that have to be notified within...so if there are only five people that live within 200-feet then they have to go out to 300-feet to get ten more people...or 400-feet or 500-feet or whatever that is. So I don't think that is as big a problem as the mailing time.

Kyle: Mr. Chairman, if I may, I would also point out that that 200-feet excludes all public rights-of-way, channels, etc. so very often our mailing boundaries are beyond that 200-feet, especially when you get into compact neighborhood like the variance we were in, lots of streets involved and so you tend to move that. But you are correct: there needs to be fifteen property owners minimum. So, you know, certain cases, especially when you are on the periphery of town, etc. you can end up with quite a large notification boundary.

Scholz: So, Commissioner Shipley, are you suggesting that we make this recommendation to City Council or a...go ahead...

Shipley: What I was suggesting it's been...that's my thoughts. If anybody has any thoughts more or less, whatever, would be a good time to discuss it and then I...but I so think we need to tell them what we think works best and I know that one of goals of the City Council has always been, you know,

participation from the people, the residents of the city...

Scholz: Certainly.

ShIPLEY: ...and, in my opinion, you must give them enough time so that they can participate and be informed. So I just thought it would be a good topic of discussion and then maybe we could decide tonight if everybody's in agreement or...because it's coming up pretty quick.

Scholz: All right. Other discussion? Yes, Commissioner Stowe.

Stowe: I see the need for more time for notification and I think 21-days is good. Thank you.

Scholz: Okay. I keep thinking that this problem will diminish simply because of the electronic notification. I don't know if that's true or not. I keep hoping that it will be true. I tell my students, for instance, that I've posted things on the web and so they can retrieve them; but they don't always do that, you know, and they're the younger, supposedly hipper group who are going to be more attuned to electronic things. Yes, Commissioner Crane.

Crane: Are you saying, Mr. Chairman, that the public should look on the City web site to see what's there that might be regarding their neighborhood?

Scholz: Well, that's certainly a possibility and I have had two City Councillors who have web distribution lists or I should say, email distribution lists, in which they distribute things like the minutes of the Council, the Manager's newsletter, you know, things like that; and so I get direct messages from these folks. Perhaps we could ask for email addresses...I don't know how we could do that, though, get email addresses of people in the surrounding areas to send them a message saying that...

Crane: I see that as quite a problem.

Scholz: Yeah, I think it would be.

Crane: I think the City has to be proactive in this. We cannot reasonably expect the people in a neighborhood to keep abreast of these developments on a routine basis.

Scholz: No, probably not and I know people don't see the signs either. We've had a number of people complain that, you know, "I never saw a sign," and I drive by and the sign's posted right there. They can't miss it.

Crane: I didn't see one at 1309 Arizona today.

Scholz: Oh, yeah. It was there.

Crane: Yellow sign?

Scholz: I'm pretty sure it was there.

Crane: I didn't see it.

Beard: I saw the Arizona one but I didn't see the other one.

Scholz: Oh, well, I saw both of them this morning, but any way. *C'est la vie*. Yes Commissioner Shipley.

Shipley: I would just say that the mail is the excepted form of communication on, especially, legal matters; and you can't assume that everybody has email access because the majority of the citizens of this community have, you know, the median income is less than \$30,000. So they may have a computer but they're not watching the government channel. They're other things with that and I would think that, you know, when you get a letter as a property owner then they take notice and a lot of them just throw those away as well.

Scholz: Oh, I'm not suggesting that we discard the mail thing I'm just saying that I think eventually this problem may solve itself...but not today. All right, any other discussion on this? Well, gentlemen, do you want to recommend then to the City Council or to the Community Development Department that we make this 21 days? Is that going to be our recommendation? All those in favor say aye.

All: Aye.

Scholz: Okay, those opposed same sign. That'll be our recommendation. Thank you, Mr. Shipley, for bringing it up. Mr. Kyle?

Kyle: Mr. Chairman, Commission, just for clarification: that would be applicable to subdivisions as well as zone requests, etc. that require notice...

Shipley: I think 21-days is just...make it a blanket 21-days and then there's no question and everybody on the staff knows that they've got to mail and your papers' got to be out 21-days in advance with that so people can have time to respond. And that's the real goal is to say, you know, "We want you to have the opportunity to participate so we're going to make the effort to get it out that time."

Scholz: What?

Kyle: And again, just based on something you just said: you're saying 21-days notice for mailing or publishing as well?

Shiple: Do the same.

Kyle: Both?

Shiple: Publish as well. Yeah.

Scholz: Okay. Anything else?

Shiple: I think the fact that you asked effective when but I think that's what the City Council is going to decide and we're basically recommending to the City Council that that be the time frame that we're talking about as far as notification, both mail and newspaper, etc.

Scholz: Right.

DRAFT



City of Las Cruces

Identified Neighborhood Association Information and Notification Policy

BACKGROUND

Providing information and notification of proposed development to Las Cruces neighborhood associations promotes improved communications between neighborhood associations and city government.

Early identification and resolution of potential conflicts involving neighborhoods and the private sector can be of utmost value to all concerned.

Due to the potential impact of new development and redevelopment, it may be useful if developers coordinate major proposals and plans with neighborhood associations as early as practical in the application process.

The purpose of this policy is to meet the needs specified above, while not limiting the rights of any other person, including non-registered neighborhood groups, to input directly into the city's decision-making processes.

DEFINITIONS

Identified Neighborhood Association - any organized group of fifteen or more dwelling units, business entities, or combination thereof that own or occupy real property within a specified geographic area of the City. An identified neighborhood association shall have at least three officers, adopted by-laws, and membership open to all residents, land owners, and business owners within their boundaries. Being a Neighborhood Association does not in itself require that the group secure a business registration or license.

Geographic Area - the land area within association boundaries.

Development Application - a submittal package for a zone change, variance, special use permit, master plan, preliminary plat, or annexation.

CRITERIA FOR DESIGNATION AS AN IDENTIFIED NEIGHBORHOOD ASSOCIATION

In order to be designated as an Identified Neighborhood Association:

- A. The Identified Neighborhood Association shall complete an application form. The City shall be furnished with names, addresses and available phone numbers of current neighborhood association officers and/or board members and with a description of the association's geographic boundaries. The boundaries of the neighborhood association shall be reasonable; boundaries are recommended to include an area of the city not more than one square mile and not less than 15 acres or 4 blocks. No new neighborhood association shall be designated which has within its boundaries a geographic area already defined within the boundaries of an existing, previously recognized Identified Neighborhood Association.
- B. The association shall file with the City a current copy of their bylaws. Bylaws shall not discriminate on the basis of race, color, religion, sex, familial status, or national origin. Bylaws shall additionally and otherwise conform to the Constitution and laws of the United States and State of New Mexico. Any stated purpose or primary objective of the association shall be reasonably related to land use and development and/or community and neighborhood issues.

RESPONSIBILITIES OF IDENTIFIED NEIGHBORHOOD ASSOCIATIONS

Make full membership open to all persons residing within its boundaries and to all persons and legal entities owning property or having a place of business within its boundaries.

Hold at least one meeting per year for which it makes a reasonable attempt to give written notice to every land owner, household and place of business within the association's boundaries; mail, delivered handbills, or a number of prominent signs are examples of adequate notice. No election shall be held at a meeting of an association unless the meeting is so advertised.

By interaction with their members, residents, and the city, strive to uphold good planning, protect the environment, and promote the community welfare. Communication should be fostered between the Identified Neighborhood Association and city government on plans, proposals, and activities affecting their area.

Attempt to inform members and other eligible participants in their neighborhood of issues for discussion. Strive to provide actual or constructive notice to members and other eligible participants in their neighborhood of planning and land use issues that they receive notice of, and that will affect their area.

Establish an orderly and democratic means for making representative decisions.

Establish and follow a clear method for accurately reporting the neighborhood's position to the City. When a neighborhood association presents its official position on an issue to the city, it shall identify whether the decision was reached by the board, a poll of the general membership, or by a vote at a general membership meeting, and shall report the vote for and against the position.

Comply with its bylaw provisions.

Notify the City of general membership meetings at least two weeks in advance, when possible.

Officers of Identified Neighborhood Associations shall update the City regarding membership, contact information for all board members, association boundaries, and other information annually or as may be necessary.

RESPONSIBILITIES OF THE CITY

Mail notice of development applications which would cover areas within, contiguous to, or within 300 feet of an association's boundaries to Identified Neighborhood Associations; notification shall be made when the application is filed. Identified Neighborhood Associations shall be notified of new plans and plan amendments upon initiation of such a project by city departments and within five business days of application filed by others. The City shall mail such associations notice concerning all subsequent public hearings concerning such proposals, except hearings which have been deferred to a specific time announced at the prior hearing.

Supply all Identified Neighborhood Associations with a current list of all city government agencies, their department heads, and corresponding phone numbers and contacts.

Supply the public and city officials with the names and addresses of the two designated recipients of notices, as most recently specified by each Identified Neighborhood Association.

Designate a liaison between each Identified Neighborhood Association and the city.

Provide for the sharing of information with Identified Neighborhood Associations by furnishing, upon request, available pertinent information.

Response within seven days of receipt of any correspondence received from an Identified Neighborhood Association that requests an answer, definition, or status of any city project within their boundaries.

Encourage individuals to cooperate with their existing neighborhood association but shall not restrict individual communications.

RESPONSIBILITIES OF DEVELOPMENT AND REDEVELOPMENT APPLICANTS

Applicants for development approval, within 5 days of filing the application, shall make a reasonable attempt to give written or personal notification of their proposal to any Identified Neighborhood Association which covers, abuts, or is within 300 feet of the site of their plans. Such notice shall contain the following information:

1. A detailed description what is being applied for;
2. A method by which the applicant can be contacted;
3. A statement as to the application's projected impact on the land comprising the geographic boundary of the neighborhood.

Certified letters, return receipt requested, mailed to the two designated neighborhood association representatives on file with the City constitutes a reasonable attempt to notify an association. Failure by an applicant to show proof of either notification in person or a reasonable attempt to give written notification of its proposal to such designated association representatives shall be grounds for an Identified Neighborhood Association to request deferral of a hearing.

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**WORK SESSION
SUMMARY & DIRECTION SHEET**

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The Following is a brief summary of the Agenda items discussed at the Work Session, with appropriate direction given to the responsible staff person by the City Council. The required follow-up actions are to be taken by those responsible officials.

The City Council of the City of Las Cruces, New Mexico, held a Work Session on Monday, March 26, 2012 at 1:00 p.m., at the City Council Chambers, City Hall.

THOSE PRESENT: Councillor Miguel Silva, District 1, arrived at 1:14 p.m.
Councillor Gregory Smith, District 2,
Councillor Olga Pedroza, District 3
Councillor Nathan Small, District 4
Councillor Gill Sorg, District 5
Councillor Sharon Thomas, District 6

OTHERS PRESENT: Robert Garza, City Manager
Harry (Pete) Connelly, City Attorney
Esther Martinez, City Clerk

Mayor Pro-Tem Thomas called the meeting to order.

Mayor Pro-Tem Thomas presented the Pet of the Week.

1. Public Participation Ordinance.

Mayor Pro-Tem Thomas: Okay. We have two items for today's Work Session. The first one is on Public Participation at looking at Ordinances. And, the second one on the Future Use of City-Owned Facilities. So, I guess we have Vincent Banegas and David Weir for the first presentation

Vincent Banegas, Deputy Director of Community Development: Good Afternoon Councillors, Vincent Banegas, Deputy Director of the Community Development Department here to present information regarding the public notice processes in place within the City and also in an attempt to solicit some direction on how we may tweak those processes currently in place in order to potentially cast a broader net for issues involving development or planning and to, otherwise, improve on those procedures that we have.

The current practices within the City, particularly within the Community Development Department really focus on many of the development and up front planning issues that we partake in. The three

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1 areas that really talk to the time frames and the methodology, etc., that are common to all are
2 identified on that slide involving zoning or re-zoning of property. The subdivision of property and
3 of course, any variances that take place whenever there are issues regarding development standards
4 and the need to deviate from them. In terms of the types of notification that are part of those
5 processes, we have some primary issues that we deal with on a monthly basis in preparation for
6 those items moving forward to the Planning and Zoning Commission, etc., and those are the posting
7 of the meeting agenda that identifies each and every case that is going forward. There's the
8 newspaper notification that allows the general public throughout the city and beyond to know what
9 is being presented at any particular meeting. And, also letters are mailed out that specifically target
10 property owners in this instance, at least in the current writing of the ordinances, alert property
11 owners to specific development proposals being proposed in the immediate vicinity. Another one
12 that isn't listed and it certainly involves posting of signs on the individual property or the subject
13 property where development is being proposed. And, that is, depending on how you view it, either
14 a primary or secondary method for notices, but, nonetheless, one that is required presently.

15
16 We also had in the recent past with the current, with the old website, I should say, a method by which
17 we would identify any and all projects or proposals that came in, be that, re-zoning, subdivision,
18 variances, things of that nature. And, we had a web page where we would identify those and indicate
19 when the target date for the Planning and Zoning Commission was and then we would update that
20 when we would hit that meeting and then onward to City Council. We would keep the general
21 public apprised through that web page on where that particular matter stood. With the current
22 website, we're still looking at reimplementing that but due to the new parameters, we're having to
23 kind of reorganize and think through a new methodology in which to do that.

24
25 But, there is also neighborhood notification, neighborhood association notification that is currently
26 established as policy. It does identify the parameters for neighborhood associations, how they're to
27 exist, they're to function and the requirements that they have to abide by in order to be considered
28 a legitimate neighborhood association in the eyes of the City. But, it also identifies the efforts that
29 the City must take in order to provide adequate notification to them on things involving
30 development. Things of that nature and also, responsibilities of the developer or applicant and what
31 they must do in order to abide by that policy. Now, as you know, policy isn't ordinance, it's not law,
32 but it is something that we always push well in advance of taking these individual cases through the
33 Planning and Zoning Commission and upward through any other body.

34
35 The City of Las Cruces.....in fact, I got a call last week regarding our notification requirements and
36 where they stem from. And, to answer that New Mexico State Statutes establish to some extent
37 minimum thresholds that municipalities such as us need to abide by. Now, when I say minimum,
38 as you can see on the left side of the screen, they're very vague, they're very general and then we
39 opted back, whenever they came to be in our zoning codes, as an example, opted to tighten those
40 down and add a greater degree of notification through the various processes that we have. Just
41 picking on a few as an example, subdivisions under the state statutes, basically, for agenda posting,
42 they say whatever's deemed reasonable by the entity, such as the City. So, if we wanted to establish

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1 a three-day period, they would allow that. In our case, we opted for six days prior to the public
2 hearing to post that Agenda, so we exceed that, well exceed that threshold. Mail deadline for
3 subdivision five days prior to the hearing, we opted to go with nine days. Distance notification, they
4 don't even identify any specific distance. We utilize a 200 foot boundary and for ETZ cases, we do
5 a 300 foot boundary. Again, opting to define exactly how we are to excel in the notification of
6 individuals for cases.

7

8 The list goes on. Zoning and Variances, at least on the City side are very similar. In fact, the numbers
9 are identical. But, if you look on the State Statutes very weak in terms of the variance thresholds.
10 There simply aren't any identified in the statutes and there are limited zoning variables. The mail
11 distance is identified as 100. We more, well, we double that distance in our zoning code. And,
12 property owners, we include the neighborhood association the City does, as a matter of practice. The
13 dates for newspaper publication are the same and sign posting, State Statutes are silent, but we opt
14 for a 10-day period prior to the hearing, in which to meet standard.

15

16 A unique thing related to the State Statutes in terms of zoning, is the mail notification. The mail out.
17 Statutes say if you're dealing with an area affected by a zoning case that's less than one block, you
18 send it out certified mail but if it's larger than that first-class mail would suffice. With the City's
19 processes, since we go to two bodies, one being the Planning and Zoning Commission and the other
20 City Council. The first effort with P & Z is all by first-class mail and then second effort through this
21 body, City Council, is all certified and we seek out minimum 15 unique property owners and we can
22 extend well beyond the 200 foot boundary in which to accomplish that mission, if you will.

23

24 We took a look, which is included in a packet of information that was sent earlier at various other
25 communities. I highlighted the ones that are identified on this slide just to give an example of what
26 other communities in New Mexico do. Also, our neighbor to the south, El Paso, took a look at what
27 they did and also in Tempe, Arizona, and a community a little smaller than ourselves in Buckeye,
28 Arizona and, also, Colorado Springs, Colorado, the city of, and Santa Cruz County, California. And,
29 suffice it to say that a lot of similarity exists in terms of numbers that are used in our methodology
30 for notification. We did find some differences. For instance, there is a flat mail notification distance
31 that was defined in a few of them and they were with or without an increase. In some instances, they
32 were less than our threshold and in some instances they were more than our threshold. Three
33 hundred feet for example. Some went into, what I call, notification bands, which, if you didn't find
34 the minimum requisite number of property owners to notify, you increase that notification band from
35 150 feet, for instance, to 500, 500 to 1000, etc., until you hit that threshold.

36

37 Some communities notify not only property owners but tenants. Particularly, if the address for the
38 owner was different than the subject property that was otherwise being notified. If the
39 tenant/ownership didn't match, each party received notification for a development request. Some
40 offered notification to both tenant and owners automatically. It didn't matter if the addresses
41 differed. And, neighborhood association notification, in some instances, were mandatory. It wasn't
42 a policy and they were definitely an issue or it was an issue that was codified into some of the

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1 regulations that they followed. Neighborhood association notification prior to submittal and/or
2 neighborhood meetings were sometimes required up front before submittal and some times before
3 the public hearing, before the planning body, such as, the Planning and Zoning Commission. Those
4 were some of the nuances that we found. But, again, a lot of similarity in what we currently do.

5
6 Timing of notice was another area. Sometimes there was a flat notice period that may have equaled
7 ours or presented a 15-day period, in which to meet certain notification requirements that I've gone
8 over previously. And, I want to note that our own Planning and Zoning Commission talked to some
9 extent about notification in general for zoning cases and subdivision cases, and they felt comfortable
10 with recommending a 21-day notice for signs for mail-out and for newspaper notification. So,
11 definitely an increase from what we currently have. We had, I mentioned the neighborhood meeting
12 prior to submittal, and there was some discussion in some of the ordinances that I read, indicating
13 that the developer or applicant would have to prove that they notified the neighborhood association
14 and the neighbors regarding their development proposal and often times that was through an affidavit
15 that they would prepare or listing of certified addresses, mail-out notice that got created for them to
16 distribute the certified letters. So, they not only said you had to do this but they outlined the
17 parameters by which it was done.

18
19 Other discussion, within the ordinance that I saw, talked to emails that were provided by citizens.
20 Kind of kept in a broadcast type system. Much like the City Manager's Newsletter as an example.
21 The list can grow as more people are interested in hearing more about development in this case. And,
22 then there was also some mention of List Serve, which is definitely a more formalized kind of email
23 system to notify property owners, whether you live adjacent to a subject proposal or not. If you were
24 interested in finding more about a development certainly the List Serve was an ideal form for some
25 communities to use.

26
27 Some of the issues that certainly pertain to any changes in our notification processes, as it relates to
28 mailings for one. We can increase the distance from what we currently have. Say to 300 even 400
29 feet or beyond. But, what we typically find is there is kind of a set limit if you will. There's
30 individuals that are very interested in what is being proposed adjacent to their property and
31 sometimes there's individuals that do not want to learn more about it. And, so, participation may
32 not necessarily increase simply because the distance for notification, at least in the letters increases.
33 The proof to that is in some cases where we send out certified letters as an example, some of those
34 come back undelivered, unclaimed and that's primarily as I see it, or as I understand it, an instance
35 where an attempt is made to deliver that certified mail or letter and, if no one is home to sign for then
36 I think another attempt is made but in the case of someone who works in the day often times, that
37 letter is housed at the post office and some notice is sent to the property saying you have certified
38 letter to pick and please pick up between certain hours. And, in certain instances, it's just
39 problematic for someone to go and pick that up. So, low and behold, we get some letters returned
40 to us, unopened, unclaimed and those letters, obviously, if we do increase distances, etc., have cost
41 associated with them. We have \$5.75 per certified letter. That is the cost we incur per letter. And,

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1 then, of course, the P & Z processing, getting cases to them, it's first class, and it's \$.44. At least,
2 the last time I checked with the fees associated with postal regulations.

3

4 Potential case delays also comes up as an issue. Depending on the notification options that we take
5 to help us increase notification for our development proposals, we may be seeing a delay in the
6 taking of the case to the Planning and Zoning Commission because there's a set number of activities
7 that has to take place prior to the target date. So, if someone wants to go to a P & Z meeting in May,
8 if we chose a 21-day notice as an example, that either means it's crunch time immediately upon
9 submittal prior to newspaper notification, sign posting, etc., or we simply push back the case a month
10 in order to accommodate the handling of those activities in an efficient manner without increasing
11 the risk of error. Or, the developer or applicant really has to target the subject date, plan ahead and
12 recognize that there's going to be certain thresholds or milestones that need to taken into
13 consideration so they can hit a target date. So, there's potential delays, nonetheless, that could come
14 as a result of modifying some of the existing parameters.

15

16 The applicant/developer costs are also part of that equation. If they are seeing a delay in the hearing
17 of their case, that could mean dollars lost for them. In terms of a business, from the business
18 perspective and the developer perspective, they know that better than most. They deal with that on
19 a daily basis and they're always informing staff, for instance, whenever certain delays may be
20 considered as part of their proposal that it is money out of their pocket and that is a concern for them.
21 But, also, on the flip side, on the layperson, if you will, the common individual who owns property,
22 who also wants to process a variance request. They may be, not be savvy to the processes and
23 assume that their target date is fast approaching only to be told that it's a month off and/or the cost
24 for doing business for that case to be prepared and presented is going to cost a little bit more. So,
25 that all factors into this issue.

26

27 The fees and cost recovery, I want to note that there was an internal analysis of the case costs back
28 in 2006. The last time we updated our development fees was in 2000. In 2006, we looked at all our
29 processes, be that ETZ subdivisions, city subdivision, everything. Took a look at all of the reviewing
30 entities. What they put into time wise. Some of the hard costs. The certified mail out and the
31 newspaper costs, etc., and added all of that up and come in with some recommendations on what we
32 could look at for an increase on those respective fees. We probably need to do that again, because
33 with any adjustment to our processes, any changes to notification parameters that could all have a
34 price tag that we don't currently account for. So, I would caution everyone that perhaps it's time to
35 take another look at the fees that are charged and the processes that are currently taken for the review
36 of these cases and see if we can adjust those one way or the other.

37

38 Some of the options that I think can be set on the table and some of the drawbacks to those, I've
39 tried to kind of identify in this fashion is to set some, the same notification threshold for all
40 development activity. In other words, if we choose 15 days, so be it. Let's apply it to subdivisions,
41 variances, and zoning and even our plans. Plan development ordinance amendment, that kind of
42 thing. That would have little to no impact. 21-day increases, I talked about that already, would have

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1 a little bit more significant impact and whatever we do, staff would recommend agenda posting
2 thresholds that are identified remain the same because that allows us to react to instances where a
3 certain case might have to be postponed or delayed due to lack of information coming back to staff
4 to address a concern or comment. Increase the notification distance. We could certainly do that. It
5 does not guarantee improved participation as I outlined. We could add tenants as notification parties
6 within any of our development processes. That too increases case costs but, nonetheless, it does not
7 guarantee increased participation.

8

9 We can investigate the use of List Serve or social media or it was brought to our attention that even
10 RoboCalls could be utilized to cast a broader net and be a little more efficient in how we get the
11 word out regarding a case. I didn't come across anything in the research that I conducted regarding
12 RoboCalls but in looking at some of the information that is online regarding that it is certainly an
13 option. And, it appears as if that any municipality such as us, a political division, would be exempt
14 to an extent anyway to the FCC Do Not Call List criteria. So, definitely an option to consider.
15 Social media, Facebook or something like that, could be examined as a means to provide information
16 regarding our cases. I don't know exactly how that would work but it's something that could be
17 considered. The drawback to that is obviously a lot of this would be new for us and we would need
18 to investigate more fully the potential use and the liabilities therein. We can increase fees or examine
19 steps to have the applicant take on more of the notification role. If we do require meetings with the
20 neighborhood up front as an example, that would be entirely on the applicant and/or developer. They
21 would have to prove that they carried out certain items during that process but that would be on their
22 dime, not the City's. The City could provide certain bits of information, property ownership, for
23 instance, that type of thing to help facilitate that but we could apply much of that burden on the
24 applicant themselves.

25

26 Obviously, this type of approach certainly with the increase of fees might be unpopular with the
27 development community and/or the applicants. Even back in 2006, when we looked at some of the
28 costs, fees and potential increases, there was always a desire to try and help the typical property
29 owner with some of the cost increases that were being considered and maybe, reduce those to a
30 reasonable level. Increase them but reduce them so that it's not total cost recovery but on the
31 business side leave them for cost recovery or close to. So, those are some of the options and
32 drawbacks that I have. And, that concludes my presentation Councillors and I would be happy to
33 answer any questions you might have.

34

35 **Mayor Pro-Tem Thomas:** Thank you for that presentation. Before we go on, I just have one thing
36 to add, I got an email from someone asking if we couldn't, in term of notification look at what he
37 called the Traffic Shed. So, if it's the, the development is over here and however, we expect most
38 of the traffic, the areas that are going to be impacted the most by traffic going to and from that and
39 if that couldn't be a consideration, as well, when you look at who to notify. Councillors. Yes,
40 Councillor Smith.

41

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1 **Councillor Smith:** Thank Madam Mayor Pro-Tem. I did have a couple of questions and thank you
2 Mr. Banegas. One, I'm sure we would hear a lot and probably with good reason, if we started talking
3 about increasing the fees. But, I have a question regarding if we were asking the applicants to take
4 on the burden of notifying the people in the area, how would we guarantee that, that was done up to
5 the standards that we're saying would need to be done. What kind of monitoring would we have in
6 that instance.

7

8 **Vincent Banegas:** Mayor Pro-Tem, Councillor Smith, one of the methods that I think I found most
9 referenced is the use of the certified ledger, if you will. The certificate of certification for the mail
10 out. It identifies all of the property owners that we could provide them, as an example, and it shows
11 the number for the receipt that is actually attached to the letter and we could have them show us up
12 front before, within 10 days after submittal, or even before a public hearing that, that was indeed
13 handled.

14

15 **Councillor Smith:** Thank you Mr. Banegas. A couple of other questions. Then, with some of the
16 different programs that you described in some of the other cities, the band, the notification band, I
17 didn't notice in there but, perhaps, it was sort of built in, the possibility that you might have a
18 minimum notification band and from there, you might use your discretion. These people look at this
19 neighborhood or these people actively are...somehow...you would have some sense of what goes on
20 in the community. Because, we often times hear from people saying, you're notification went out
21 to people 300 feet away from the house, or whatever was going on, I don't live much farther beyond
22 that and I would like to be included. So, I think that would be something that I would like to say.
23 If we could build in some flexibility that allows us to use that kind of discretion.

24

25 Another question I had is on the certified letters and that sort of thing that we're sending out, do we
26 have a total, I realize one year to the next, it could be radically different but do we have a sense of
27 what that tends to average for us?

28

29 **Vincent Banegas:** Mayor Pro-Tem, Councillor Smith, I do not on a yearly basis. But, on a case by
30 case basis, obviously, it varies whether you're in the urban core, for instance, smaller lots. But, in
31 taking a look at some of the cases that I pulled for this very purpose, it ranges between 30
32 downwards to about 16. Obviously, with a minimum of 15 pursuant to our code. So, it varies greatly
33 depending on the location of the property of the subject proposal.

34

35 **Councillor Smith:** Thank you Mr. Banegas and Thank you Mayor Pro-Tem. One last question then.
36 One thing I think we might want to look at is how expensive it might be to actually have our people
37 go out, knock on doors, compared to the price of doing all the registered letters. It might actually
38 be cost effective to actually have some feet on the ground. And, that way, we would also be more
39 likely to be able to guarantee we actually have had somebody see face to face, that somebody got the
40 message. Nothing is going to be 100% but I think a cost comparison there might be helpful. Thank
41 you very much.

42

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1 **Mayor Pro-Tem Thomas:** I have a question. Did you find in most cases that the same requirements
2 applied whether it was a single residence, or a big building, or a whole subdivision or were there
3 diff.....

4

5 **Vincent Banegas:** Mayor Pro-Tem, my research showed that the standards that were established by
6 each community, with one exception, I think it was the City of Colorado Springs, Colorado, they put
7 and very much like Councillor Smith was talking about the oness on the project manager, the
8 planning manager, if you will, to determine the extent of impact. And, it didn't matter whether
9 subdivision, zoning, annexation, it did not matter, they could define the notification band. But, other
10 than that, it was a set list of parameters. So many feet. So many days, etc.

11

12 **Mayor Pro-Tem Thomas:** And, can you say a little more about these notification bands. How those
13 get set up and determined.

14

15 **Vincent Banegas:** Yes. In the community of the City of Colorado Springs what their code talked
16 about was establishing some specific bands. I think it starts at 150 feet and there is a 500 foot band
17 and a 1000 foot, if I'm not mistaken. And, those bands are determined at the time of application
18 submittal depending on the issue, depending on the size of the development and likelihood for
19 impacts to adjoining properties. At that time, the planning manager makes a determination, right out
20 of the gate, what the requirements shall be. If they feel it's going to have a significant impact, they
21 would choose the largest band. There was no specific, in this instance, it will be this but it was case
22 by case, determination by the City for that notification.

23

24 **Mayor Pro-Tem Thomas:** Thank you. Councillor Pedroza and then Councillor Sorg.

25

26 **Councillor Pedroza:** Thank you Madam Chair. What you just finished saying right now does seem
27 to me to make a lot of sense. In other words, not trying to fit everybody into exactly the same band,
28 notification band but rather giving Planning and Zoning some amount of discretion. And, saying if
29 it's for this, which will impact greatly, we'll have a larger notification band and if it's just something
30 that's only going to impact a small number of people, using a little bit of common sense. I was very
31 struck with you're response. My question, I read the minutes from the Planning and Zoning
32 Committee and they seem to really, really be interested in increasing the notification to 21 days. Do
33 you have any information as to why? It just seemed like a very, very strong recommendation. Why
34 did they want to go to 21 days?

35

36 **Vincent Banegas:** Mayor Pro-Tem, Councillor Pedroza, the Planning and Zoning Commission for
37 a number of years has always juggled the issue because they hear very similar complaints from the
38 constituents as you do on various development activity that gets brought to them. Many times, the
39 public is a little upset that their neighbor received one and they live across the street, they did not.
40 And, they are there anyway to protest or support. So, they have always talked about how best to
41 approach notification, what would work and what would not work. In this case with the 21 day
42 threshold that they recommended, they were merely interested in increasing the time period above

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1 and beyond. For instance, the 15 day, if we look at the current maximum, increasing the duration by
2 which someone could possibly hear about the case, that would not otherwise be notified and then
3 examine the issues behind it and then provide some form of input one way or the other. So, 21 was
4 a number that they felt was appropriate.

5

6 **Councillor Pedroza:** Do you personally have an opinion about increasing it to 21 days? What would
7 you tell us about that?

8

9 **Vincent Banegas:** Mayor Pro-Tem, Councillor Pedroza, 21 days to me, I can certainly understand
10 where they are coming from in terms of increasing the duration before public hearing actually hits.
11 It does have an impact in some of the operations. So, I would be a little cautious about increasing
12 it to a flat 21 days. But, it is something that could be consider by this body. And, whether it's 21, 20
13 or leave it at 15 whatever that is certainly acceptable to me.

14

15 **Councillor Pedroza:** Thank you. You also seem to leave without a....if there were to be a fee
16 increase, do you have any idea what that increase would be or what you would recommend?

17

18 **Vincent Banegas:** Mayor Pro-Tem, Councillor Pedroza, based on my recollection of the fee
19 information that was presented. Again, this is a little dated. It was 2006, I believe. Re-zoning, cases
20 involving re-zoning, after we looked at all of the parties that reviewed it, their time, allocation for
21 it and all the other hard costs, actually our current fee of \$600 was just a little bit shy. I think the
22 number came in at \$700 for re-zoning. Variances increased. I cannot recall what that magic number
23 was but they did increase and the attempt was for the typical property owner, you or myself or
24 anyone else who wishes to pursue that, the idea was to increase that a little bit but not full cost
25 recovery. Businesses and those who simply didn't even inquire, didn't pull a permit, they would
26 bear the full cost of the cost recovery fee that was identified. So, those things went up. Subdivisions
27 went up, particularly, on the larger planning functions, such as the Master Plan Process, which
28 involves a lot of give and take with the developer and analysis of information and also planned unit
29 development concept plans, which is very similar to a Master Plan. Those fees went up significantly.

30

31 **Councillor Pedroza:** Thank you. In terms of comments, I think it would probably be very useful
32 to include tenants, as well as owners in notification because, although the owners certainly have a
33 monetary, financial interest in it, the tenants are the one who live near there and will be impacted by
34 other kinds of changes, traffic or whatever. I think that the RoboCalls should certainly be looked at.
35 And, finally, I think if by traffic shed, we're talking about some sort of analysis of who in the area,
36 not just by physical, straight physical distance but by the configuration of the streets, etc., is going
37 to be most impacted that, that also would be a very good thing to look at in terms of who should be
38 notified. Thank you.

39

40 **Mayor Pro-Tem Thomas:** Thank you Councillor Pedroza. Councillor Sorg.

41

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1 **Councillor Sorg:** Thank you Mayor Pro-Tem. Although, it hasn't been very much, I have had some
2 residents that said, why didn't I get a notice for this zone change or whatever. So, that's my interest
3 right now. You mentioned the website use to have these notices on it. How soon are we going to get
4 it back on the website?

5

6 **Vincent Banegas:** Mayor Pro-Tem, Councillor Sorg, we had a member of our Community
7 Development Staff, he is, unfortunately, re-cooperating but he was one of the ones who was trained
8 in the design of the existing website and was one of the ones that could change a lot of the content
9 and was working on getting us back on track with the information that I discussed in terms of
10 presentation of cases and so forth on that web page. So, we're looking at either re-allocating the work
11 to someone else who was trained on that or hopefully, upon his return getting him back in the saddle
12 and getting that back online within a couple of months of his return. I have no specific date for you
13 because of the personnel.

14

15 **Councillor Sorg:** Okay. I'm interested in increase notification effectiveness but without increasing
16 our costs. This is just an idea. You tell me why it won't work. I think that's the best approach we
17 should have for this. Given our postal system the way it is, how about replacing that certified letter
18 with two first class letters. First and second notice. It is my nature and I think I'm fairly typical. We
19 can miss a letter once in a while but it's harder to miss two letters.

20

21 **Vincent Banegas:** Yes. Mayor Pro-Tem, Councillor Sorg. Presently, we do go through four re-
22 zoning (inaudible). Basically, anything that would require not only Planning and Zoning Commission
23 recommendation or decision but even on a decision that gets appealed to this body or a zone change
24 that comes forward to this body, we have to notify for P & Z that's through first-class mail and we
25 have to notify through certified as written currently for City Council. We cannot require only first-
26 class mail because of the State Statute that all be it has some limitation. It says that if it's less than
27 a block you have to send it certified. If it's greater than a block notification, you can send it first-
28 class. So, you have to take a look at that. We're going to be stuck notifying certain individuals with
29 certified mail no matter what on re-zoning matter. So, there's limitations to how far we can just
30 apply first-class mail out threshold or criteria.

31

32 **Councillor Sorg:** So, that's State Statute.

33

34 **Vincent Banegas:** That's State Statute. Correct.

35

36 **Councillor Sorg:** Okay, that's a good reason. I do like targeting residents or even businesses that
37 will likely be affected by a zone change or a variance that might be outside the 200 ft. area. And, that
38 takes a little bit more study of the area but I think it can be determined pretty easily who would be
39 affected there. I'm just kind of curious, I noticed on the chart here, we have a little bit more time for
40 notifying for zoning and variance changes but subdivision, not as much. What is the rational for that?

41

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1 **Vincent Banegas:** If memory serves, the provisions that we currently follow were certainly
2 implemented in the '81 zoning code and also the corresponding subdivision code so it's been in use
3 for the extent of my employment here with the City. But, subdivision processes are kind of here's
4 the checklist of items that need to be adhered to with the proposed subdivision. You checked them
5 off. Your zoning is in place already. Everything else is in place. It's just a matter of meeting the
6 criteria and you're good to go and I think that was the rational of not necessarily requiring a larger,
7 up front period of time in which to be notified for subdivisions. Zoning on the other hand, has a little
8 bit more issues to deal with, certainly, Special Use Permits.

9

10 **Councillor Sorg:** Okay, I can see that.

11

12 **Vincent Banegas:** So, that was kind of the rational to the best of my knowledge.

13

14 **Councillor Sorg:** Okay. Thank you very much and thank you Mayor Pro-Tem. I'm done.

15

16 **Mayor Pro-Tem Thomas:** Thank you Councillor Sorg. Councillor Small.

17

18 **Councillor Small:** Thank you Madam Chair. Thank you Mr. Banegas. One thing, just kind of an
19 observation, in terms of our outreach and especially, in terms of meetings, I think it's important, a
20 while back at a public meeting, I was approached by a woman who had children. And, her input,
21 which has kind of really stayed with me, is the lack of child care really discourages participation at
22 a lot of different City functions. I think as far as a point at this stage where we're just putting a lot
23 of things into the mixer and then moving forward to a policy, that would be a very important point
24 that I would communicate. You know, when you talk about impacts and folks who are in the
25 community, building the community, going to be in the community, these families with children are
26 a huge part of it but it makes it very difficult often to participate whether it's in a neighborhood
27 meeting or especially coming down to City Hall for one of the public meetings.

28

29 Second, you mentioned kind of beginning to look at Facebook, and Twitter and some of the social
30 media. I make no claim to being an expert but I do think, you know, if we observe society right now,
31 there's a trend away from reliance upon the traditional mail and increasing reliance upon multi-
32 media, and web-based notification and news and just interaction. And, I think it is very important
33 for us to start leaning more heavily in that direction and to not keep both feet planted too firmly in
34 traditional mail because it's just not the way people increasingly communicate, do business, interact
35 with the world. The....excuse me...(phone rings), perhaps, that is case in point. On the 14 day versus
36 the 21 day, I think your comments are well taken as far as some of the concerns that the 21 day
37 notification process brings into bearing. And, I would add just another which is, again, in a very
38 information saturated world, 21 days, there's a huge space to kind of lose touch with the meaning.
39 If there is only that 21 day notification without follow-up, then you end up, I think, perhaps, losing
40 more folks because it's not nearly as timely. And, it seems to me that the two week threshold kind
41 of balances both worlds where it gives folks enough time to plan but isn't too long to where it just
42 completely slips off of the radar. I appreciate a lot of the different comments that have been made.

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1 Looking at what the cost would be for personal notification, whether that's going around putting a
2 notice on doorways, or knocking on doors and having brief conversations or a leaflet to pass out. It
3 might end up being more cost effective especially in denser neighborhoods. So, I think it's
4 something to really look into. Because, regardless of all the social media, there's nothing that cuts
5 through like that face to face conversation. In terms of the, just also the emphases on the somewhat
6 negative interaction that people want to be notified simply to complain. I'd also provide an
7 alternative perspective. In a lot of areas, in-fill development can bring it's share of concerns and
8 headaches perhaps. But, it also, and many times, and I've seen this in a number of areas in District
9 4, it can really be positive and exciting for folks who look upon the building of a new store or the
10 re-doing of a road or anything development wise there in a positive fashion. And, so I think, just on
11 the front end, we need to acknowledge and plan that people can be very positive. They can help,
12 perhaps, make projects better but notifying them and their participation won't just lead to more
13 negative input on development projects. In fact, it can often times be very positive.

14

15 And, I guess, finally, I guess, I would suggest some of the issues like a traffic shed and others are
16 very important and good to consider. As you move forward in the development of this, it would be
17 good to kind of categorize things because if there ends up being an issue that is much longer term
18 or can be interpreted as subjective in nature, as if an impact, if a business, or a residence or a
19 community is impacted more by one project than another and there is room for interpretation within
20 that, I would hate for that to bog down this whole process. So, by not separating things out but just
21 keeping them on separate tracks or areas I think is good because, you know, we have a lot of
22 development that, as thing potentially pick up, that will be coming and it's in our interest to move
23 forward where we can whether it's RoboCalls or social media or things as quickly as we can.

24

25 And, then the last thing, on child care, there is a continuum and a spectrum there. You know, on one
26 end, there is nothing for children to do. They're brought and you're kicked out if your baby cries. On
27 the other end is a full service day care. I would suggest that what we're going to end up finding that
28 works is going to be somewhere between those two poles. So, whether that's people on-site who do
29 the child care or whether that's just coloring books, crayons and materials that can help take that
30 child's attention and make it easier to be in a meeting for 30 minutes or an hour and a half. I think
31 there is a lot of opportunity there. And, those are my comments. Thank you Madam Mayor.

32

33 **Mayor Pro-Tem Thomas:** Thank you Councillor Small. Councillor Silva.

34

35 **Councillor Silva:** Thank you Madam Chair. Just a really quick question for Robert. Robert part of
36 our packet here, Identified Neighborhood Association Policy, is this in place now.

37

38 **Robert Garza:** Mr. Chairman, Councillor Silva. Yes, I believe it is.

39

40 **Councillor Silva:** Okay. Yeah, cause for some reason, I guess, I thought the majority, I mean
41 today's Agenda is titled Public Participation Ordinance and I thought we were going to focus more
42 on this and how we were developing an ordinance and most of this discussion is focused on
43 development and so forth. If I'm looking at this policy, again, I thought it was going to be on how

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1 do we improve this policy and when we start talking about 21-Day Ordinance and feet on the ground
2 and all this other stuff, to me it seems like we're micro-managing. And, to me, the purpose of this
3 Council is to set policy and how do we create policy. I was more interested in how do we improve
4 participation and how do we improve, as you say here, in the policy it says, "Promotes improved
5 communications between neighborhood associations and city government." And, I think I would add
6 to that, "and, the private business sector." And, I think that is something that we really need to focus
7 on more overall. These other items that have been discussed earlier, I really think those need to be
8 addressed by the development community, residents, public businesses and other stakeholders. Let
9 them come to us and tell us what's reasonable and what's not reasonable. For us to come up here
10 and determine 20 days, 21 days, 100 days, I think we would be....well, at least, I would be speaking
11 out of context because I really don't think I have a good feel of that. I think Councillor Small hit it
12 on the head, 21 days may be just a little too long. I know in Las Cruces, RSVP means nothing in this
13 community. I think everybody would agree with that or most people. But, when we start getting into
14 details like that, you know again, I think we're starting to micro-manage rather than set policy. I do
15 like your comments and so forth in regards to using Web-Based initiatives. I think we're moving that
16 way and we should move that way.

17

18 And, my only other suggestion was, if we're trying to really communicate with the public, the
19 traditional mail, I think maybe we should be much more specialized and focused and maybe use
20 some of these mail service businesses that are in town and most of us have used them during our
21 campaign. They know how to target households, which households to target and if there's other
22 items that need to be added, such as Councillor Small was referring to, child care and stuff like that,
23 I think those are good things that we should be looking at. The bigger picture in regards to how do
24 we increase public participation. And, that's what I was really hoping that we would hit today more
25 so than hitting on details in regards to what might be proper and what might not be proper in regards
26 to, you know, today, we have only focused on the development. I think there are other things that
27 should be addressed, as well. I will give you a good example, I know that Las Esperanzas for the
28 longest time, they wanted to be notified in regard to any possible demolition or anything in the area.
29 It took them a long time for us to finally get over that hump and notify them on a regular basis. Or,
30 when somebody comes in and builds in the historic area that there is a Historic Ordinance Overlay.
31 Lot of times, our staff does not even inform the person that something...that there is an overlay in
32 that area and, so, they proceed to build without regard to the overly. So, I think those are the things
33 I'd rather like to see you all address in regards to how do we increase the public participation
34 between...or increase...or improve communication between neighborhoods, associations, city
35 government and the private business sector. Thank you Mr. Mayor. Thank you Madam Chair.

36

37 **Mayor Pro-Tem Thomas:** Thank you Councillor Silva and thank you for your comments. You
38 know, that's one of my projects is to have better communication and really look at how we can set
39 up neighborhood associations so that we have an in-place system that works both ways, that we can
40 use it to get information to people in the community and they can use it when they want to make sure
41 we get information. So, I very much support that. Maybe, Robert can say a couple of words of
42 whether or not it looks like there is going to be a possibility anytime soon that....cause it seems to

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1 me, if we had somebody who was doing this kind of communication thing, it would help numerous
2 departments and all kinds of projects, if we could just get a better communication system set up.

3

4 **Robert Garza:** Madam Chair, the idea of having somebody in this role full-time, you all have talked
5 about a Community Relations Office, Community Relations function, a full-time function. We have,
6 currently, what we would consider a part-time Community Relations Operation that Rob Caldwell
7 is doing for us. Really to get to this next level, we need a full-time person do these sorts of things
8 and that is something we plan to bring forward to you as part of our budget recommendation this
9 year. It may mean reducing a staff person or a function in another area to offset that but we have
10 some ideas on how that could happen. The main jest of what we wanted to find from you today, I
11 think we've achieved that. We've heard your ideas, your thoughts. Councillor Small brought up child
12 care and that's something Brian Denmark and I have talked about a lot regarding public meetings
13 when we invite people. We have a recreation staff who often work with children and youth and can
14 plan those sorts of events to let the parents know bring your kids, we will have some event for them
15 to engage in, etc. So, I think there are a lot of things we can do. We just wanted to make sure that
16 we were heading down the right path and covering all the appropriate topics.

17

18 **Mayor Pro-Tem Thomas:** Thank you Mr. Garza. So, to kind of sum up. There was a lot of
19 emphasis up here about increasing communication effectiveness in different ways. You know,
20 whether it's getting more neighborhood associations or whether it's using social media, but we all
21 seem to be concerned about that. There's this thing about the 15 days and the 21 days. It seems like
22 people are sort of okay with 15. I'm not so happy with this distance being 200 ft. or 300 ft. I really
23 think other people are saying too that it needs to more tailored to the particular project, so it includes
24 traffic sheds and those kinds of things. Bands. I don't know about the bands. I would like to see a
25 little bit more about how that works. The RoboCalls. And, somebody mentioned, you know, all of
26 us when we run for office, we have walk lists and phone calls, we do RoboCalls and we've talked
27 about this before. It costs about 1/10 as much to do a RoboCall than it does to send a regular letter,
28 so it's very inexpensive. And, if RoboCalls then notify people that they can get information on the
29 Website, or it's available at the library, or at City Hall, then that would be a way to increase the
30 communication and then point people to where they can find the documents, so I would like to see
31 more of that. I really think our website has to....it should have all the pending cases. Anybody should
32 be able to go anytime to the website and kind of find out what's going on. I think we might take a
33 bit of a look at sectors. We do have, in the Comp Plan, the City is divided into sectors. Now, new
34 sectors have emerged since that Comp Plan was written but it's kind of hard to say 100 ft., 200 ft.,
35 500 ft. We have all these geographical things that...these people are only 100 ft. apart but this one
36 is in this subdivision and that one is in that subdivision. So, that doesn't really make any sense. So,
37 maybe a Project Manager who makes those determinations with some guidelines that we can all talk
38 about. So, I think that was it. I think those were the kind of things, I heard. Is there anyone from the
39 audience who would like to make a comment? No. Well, thank you very much.

40

41 **2. Future Use of City Owned Facilities (Municipal Court, Museums, Old City Hall).**

42