City of Las Cruces®

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Council Action and Executive Summary

Item # 11 Ordinance/Resolution# 2695

For Meeting of October 7, 2013 (Ordinance First Reading Date)

For Meeting of October 21, 2013 (Adoption Date)

Please check box that applies to this item:

☒QUASI JUDICIAL ☐LEGISLATIVE ☐ADMINISTRATIVE

TITLE: AN ORDINANCE APPROVING A ZONE CHANGE FOR A 0.23 ACRE PORTION OF A 1.98 ACRE PARCEL 02-14428 LOCATED AT 2969 CLAUDE DOVE DRIVE FROM R-2 (MULTI-DWELLING LOW DENSITY RESIDENTIAL) TO R-3 (MULTI-DWELLING MEDIUM DENSITY RESIDENTIAL). SUBMITTED BY THE PROPERTY OWNER, 2969 CLAUDE DOVE-TEKE LLC.

PURPOSE(S) OF ACTION:

Zone change.

COUNCIL DISTRICT: 2		
Drafter/Staff Contact: Susana Montana, Planner	**Department/Section:** Community Development/ Building and Development Services	**Phone:** 528-3207
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The property has two zoning designations: R-2 and R-3. The owners of the property would like the property to have one zoning designation, that of the R-3. The R-2 portion of the property is occupied by a 4-plex apartment building; this would be allowed with the R-3 designation.

On August 27, 2013, the Planning and Zoning Commission held a public hearing to consider the rezoning request. One member of the public representing the Casa Loma Condominium Association, located across the street from the subject property, commented on the existing traffic congestion on Claude Dove Drive at Telshor Blvd. in the 8 a.m. and 5 p.m. hours. City agencies have reviewed the rezoning request against all applicable regulations and plans and recommend approval with the proviso that any new development or increase in intensity of use on the property may require a Traffic Impact Analysis (TIA) approved by the City's Traffic Engineer prior to approval of such development.

Based on findings in the staff report, the Commission voted unanimously, 6 to 0, to recommend approval of the proposed rezoning (one Commissioner absent).

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Parcel Map.
3. Exhibit "B", Findings.
4. Attachment "A", Staff Report to the Planning and Zoning Commission.
5. Attachment "B", Draft Minutes from the August 27, 2013 Planning and Zoning Commission Meeting.

SOURCE OF FUNDING:

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

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

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

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this would affirm the Planning and Zoning Commission's recommendation for approval of the rezoning Ordinance. The subject 0.23 acre portion of Parcel 02-14428 would be rezoned from R-2 to R-3.
2. Vote "No"; this would reverse the recommendation by the Planning and Zoning Commission for approval of the rezoning Ordinance. The current R-2 zoning for the 0.23 acre portion of the property would remain.

3. Vote to "Amend"; this would allow the City Council to modify the Ordinance by adding a condition or limitation to the rezoning Ordinance.
4. Vote to "Table"; this would allow the City Council to table/postpone action on the Ordinance and direct staff accordingly.

REFERENCE INFORMATION:

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

1. N/A

COUNCIL BILL NO. 14-010
ORDINANCE NO. 2695

AN ORDINANCE APPROVING A ZONE CHANGE FOR A 0.23 ACRE PORTION OF A 1.98 ACRE PARCEL 02-14428 LOCATED AT 2969 CLAUDE DOVE DRIVE FROM R-2 (MULTI-DWELLING LOW DENSITY RESIDENTIAL) TO R-3 (MULTI-DWELLING MEDIUM DENSITY RESIDENTIAL). SUBMITTED BY THE PROPERTY OWNER, 2969 CLAUDE DOVE-TEKE LLC.

The City Council is informed that:

WHEREAS, the 2969 Claude Dove - TEKE LLC, owner of the 1.98 acre Parcel 02-14428 located at 2969 Claude Dove Drive, shown in Exhibit "A," attached hereto, seeks to change the zoning of a 0.23 acre portion of the property from R-2 (Multi-Dwelling Low Density Residential) to R-3 (Multi-Dwelling Medium Density Residential); and

WHEREAS, the remaining 1.75 acres of the same parcel are zoned R-3 and the property owner seeks to have one zoning designation for the entire property; and

WHEREAS, the apartment building currently residing on the portion of the property that is currently zoned R-2 and is proposed to be rezoned to the R-3 designation would be allowed as a principal permitted use in the R-3 zone; and

WHEREAS, the Planning and Zoning Commission, after conducting a duly-noticed public hearing on August 27, 2013, recommended that said zone change request be approved by a 6 to 0 vote (Commissioner Stowe absent).

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

(I)

THAT the 0.23 acre portion of Parcel 02-14428 located at 2969 Claude Dove Drive currently lying with an R-2 Zoning District, more particularly described in Exhibit

"A," attached hereto and made part of this Ordinance, is hereby zoned R-3 (Multi-Dwelling Medium Density Residential).

(II)

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

(III)

THAT the zoning of said property shall be shown accordingly on the City Zoning Atlas.

(IV)

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

DONE AND APPROVED this _____ day of _____2013.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

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

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

Exhibit "A"

Legal description of the 0.1942-acre portion of Parcel 02-14428 currently zoned R-2 and to be rezoned to R-3 designation

A 0.1942 acre Tract of land situated within the corporate limits of the City of Las Cruces, Dona Ana County, New Mexico, being part of Lot 4 and Lot 5 in Block 1, Majestic Hills Subdivision No. 1, plat filed July 28, 1972 in plat record 11, pages 14-15 and being more particularly described as follows;

BEGINNING at a mark set along the North line of Claude Dove Drive for the Southeast corner of the Tract herein described, WHENCE, the Southwest corner of Lot 5. Block 1 of said Majestic Hills Subdivision No. 1 bears, S.77°34'00"W., a distance of 23.83 feet;

THENCE, from the point of beginning, along the North line of Claude Dove Drive S.77°34'00"W., a distance of 82.03 feet to a ½" iron rod set for the Southwest corner of this tract;

THENCE, leaving Claude Dove Drive, N.14°00'00"W., a distance of 103.32 feet to a ½" iron rod set for the Northwest corner of this tract;

THENCE, N.77°34'00"E., a distance of 82.03 feet to a mark set for the Northeast corner of this tract;

THENCE, S.14°00'00"E., a distance of 103.33 feet to the point of beginning, enclosing 0.1942 acres of land more or less. Subject to all easements, patents, restrictions or reservations of record.

Field Notes by Ted G. Scanlon, PS License No. 9433 for BORDERLAND ENGINEERS & SURVEYORS LLC., September 2013.

Case No. Z2865; Parcel 02-14428, 2969 Claude Dove Drive
Rezoning from R-2 and R-3 designation to wholly R-3 designation

Findings for Approval

1. The rezoning of the property from both R-2 and R-3 to wholly R-3 would meet the Purpose and Intent of the 2001 Zoning Code as specified in Section 38-2, would positively address the Planning Commission's Decision Criteria, pursuant to Section 2-382 of the Las Cruces Municipal Code, and would positively address rezoning criteria of New Mexico case law;
2. The rezoning to R-3 would be consistent with the applicable goals and objectives of the 1999 Comprehensive Plan; and
3. City agencies have reviewed the rezoning request against all applicable regulations and plans and recommend approval.

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Planning & Zoning Commission Staff Report

Meeting Date: August 27, 2013
Drafted by: Susana Montana, Planner SM

CASE #	Z2865	**PROJECT NAME:**	2969 Claude Dove R-2 to R-3
APPLICANT/ REPRESENTATIVE:	Chris Scanlon, Borderland Engineers	**PROPERTY OWNER:**	2969 Claude Dove-Teke LLC.
LOCATION:	2969 Claude Dove Drive	**COUNCIL DISTRICT:**	District 3 (Olga Pedroza)
SIZE:	1.98 acres	**EXISTING ZONING/ OVERLAY:**	R-2 (Multi-Dwelling, Low Density Residential) and R-3 (Multi-Dwelling Medium Density Residential) Districts
REQUEST/ APPLICATION TYPE:	Zone change from both R-2 and R-3 to wholly R-3 designation.		
EXISTING USE(S):	Assisted living facility; day care center; 4-unit apartment building; and an indoor swimming pool.		
PROPOSED USE(S):	Assisted living facility and day care center.		
STAFF RECOMMENDATION:	Approval based on the 3 findings found in Section 3 below.		

Table 1: Case Chronology

Date	Action
7/11/13	Application submitted to Development Services
7/15/13	Case sent out for review to all reviewing departments
7/22/13	All comments returned by all reviewing departments
7/26/13	Staff reviews and recommends approval of the zone change
9/8/13	Newspaper advertisement
9/13/13	Public notice letter mailed to neighboring property owners
9/13/13	Sign posted on property
9/24/13	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The subject property, Parcel 02-14428, has two zoning designations: R-2 and R-3. Only a small portion of the property at the southwest corner is zoned R-2 and that portion is occupied by a 4-unit apartment building. The bulk of the property is zoned R-3 and is occupied by an assisted living facility, an indoor swimming pool, and a day care center. The owners seek to replace the R-2 designation with the R-3 designation that encompasses the rest of the property.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing R-2 Zoning Code Requirements	Existing R-3 Zoning Code Requirements	Existing Parcel Characteristics
Max # of DU/parcel	N/A	N/A	4
Max Density (DU/ac.)	15	20	4
Lot Area	5,000 sf	5,000 sf	1.98 acres
Lot Width	50'	50'	230'
Lot Depth	50'	50'	425'
Structure Height	35'	35'	Assisted living building= 1 story at 12 ft; indoor pool= 1 story at 13.5 ft.; day care facility= 1 story13.5 ft; and apartment building= 2 stories at 21.9 ft.
Setbacks			
Front	20'	20'	23'
Side	7'	7'	Ranges from 0 to 31'
Rear	7'	7'	0'

TABLE 3: SPECIAL CHARACTERISTICS

Characteristic	Applies to Project?	Explanation
EBID facilities	No	
Medians/ parkways landscaping	None	

TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

Location	Existing Use	Zoning Designation
Subject Property	Assisted living facility; Indoor swimming pool; Day care center; and 4 apartment units	R-2 and R-3
North	Townhomes	R-4 (Multi-Dwelling High Density & Limited Retail and Office) with one parcel zoned O-1 (Office, Neighborhood)
South	Single-family homes	R-2 and R-3
East	Hillrise Elementary School	R-1a (Single-Family Medium Density Residential)

West	Apartments	R-3

TABLE 5: PARCEL LAND USE HISTORY

Number	Status
Permit	Miscellaneous electrical and plumbing permits
Ordinance	N/A
Resolution	N/A

SECTION 2: REVIEWING DEPARTMENT/AGENCY RECOMMENDATIONS

For specific comments and/or conditions, see Attachment 4.

Department Name	Approval (Yes/ No)	Conditions (Yes/No)
CLC Development Services	Yes	No
CLC Long-Range Planning	Yes	No
Metropolitan Planning Organization (MPO)	Yes	No
CLC CD Engineering Services	Yes	No
CLC Traffic	Yes	No, but an advisory that a Traffic Impact Analysis (TIA) may be required with construction plans if expansion of the current uses are proposed.
CLC Surveyor	Yes	No
CLC Land Management	Yes	No
CLC Parks	Yes	No
CLC Fire & Emergency Services	Yes	No
CLC Utilities	Yes	No

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS

Decision Criteria:

Although the City's Zoning Code does not outline criteria specific to the evaluation of a rezoning application, the Planning and Zoning Commission is obligated to analyze projects and make decisions utilizing: (1) Relevant policies noted in the City of Las Cruces Comprehensive Plan; (2) relevant Purposes and Intent statements in the City's Zoning Code; (3) relevant Criteria for Decisions by the Planning and Zoning Commission in the Las Cruces Municipal Code; and (4) relevant New Mexico State case law. Refer to the *Analysis* and *Conclusion* sections below for an evaluation of the proposed project against the relevant policies, purpose statements and decision criteria noted below.

Applicable Comprehensive Plan Elements & Policies:

The following polices from the 1999 Comprehensive Plan are relevant to the current proposal:

Land Use Element Goal 1: Create an interconnected and supportive system of land use policy for the City.

Policies

3.1. An urban residential use shall be so designated where these uses occur at a density of greater than two dwelling units per acre. A rural residential use shall be so designated where these uses occur at a density of less than or equal to two dwelling units per acre.

3.4. High density uses shall be encouraged to concentrate in and around transportation and communication corridors, thereby supporting a mixed distribution of uses. Lower and rural density residential uses shall be located away from such corridors.

3.5. All residential development shall address the following urban design criteria: compatibility to the adjacent neighborhood in terms of architectural design, height/density, and the provision of landscaping. Architectural and landscaping design standards for residential uses shall be established in the Comprehensive Plan Urban Design Element.

3.10. High density residential uses shall be located and designed to minimize traffic flow through adjacent neighborhoods and should locate on or near existing or future planned transit routes.

Community Services Element Goal 2: Provide a balance of services meeting the needs of all segments of the City's population.

Policies

1.3. Community services should locate near public transportation when feasible.

1.5. To the extent possible, community service facilities should be grouped together as a means of maximizing usage.

6.3. As new and existing human services of various types evolve and/or expand, which may include child care and adult day care, Las Cruces should work with these industries to facilitate and support their needs by lending assistance in areas involving siting, funding, transportation, and possible lease agreements.

6.7. Provide an increasing number of services for our senior citizens to help meet the needs that this growing population required.

6.7.e. Expand senior citizens' facilities and activities when feasible.

Relevant Zoning Code Purpose and Intent Statements [Article I, Section 38-2.]

The Purpose and Intent Statements relevant to the proposal are:

- Ensure that all development is in accordance with this Code and the Las Cruces Comprehensive Plan and its elements, which are designed to:
    - Mitigate congestion in the streets and public ways.
    - Prevent overcrowding of land.
    - Avoid undue concentration of population.
    - Control and abate the unsightly use of buildings or land.

- Give reasonable consideration to the character of each zoning district and its peculiar suitability for particular uses.
- Ensure that development proposals are sensitive to the character of existing neighborhoods.
- Conserve the value of buildings and land.
- Mitigate conflicts among neighbors.

Planning and Zoning Commission Criteria for Decisions [LCMC Section 2-382]

In addition to a review of the Comprehensive Plan, future land use plan, and other applicable plans and codes, the Planning and Zoning Commission must review and determine whether the request would:

1. Impair an adequate supply of light and air to adjacent property or otherwise adversely adjoining properties.
2. Unreasonably increase the traffic in public streets.
3. Increase the danger of fire or endanger the public safety.
4. Deter the orderly and phased growth and development of the community.
5. Unreasonably impair established property values within the surrounding area.
6. In any other respect impair the public health, safety or general welfare of the city.
7. Constitute a spot zone and, therefore, adversely affect adjacent property values. The term "spot zoning" means the singling out of a lot or small area for a zoning change which is out of harmony with the comprehensive plan and surrounding land uses to secure special benefits for a particular property owner without regard for the rights of adjacent landowners.
8. Be in harmony with the purpose and intent of the zoning code, sign code, design standards and other companion codes.

Case Law Rezoning Criteria Considerations

Based on case law (Miller v. Albuquerque, Davis v. Albuquerque, & Albuquerque Commons Partnership v. Albuquerque), the following criteria should be considered for rezoning applications. The existing zoning is inappropriate and should be changed because

1. There was an error when the existing zone map pattern was created; or
2. Changed neighborhood or community conditions justify the change; or
3. A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan, even though (1) or (2) above do not apply, because
    a. there is a public need for a change of the kind in question, and
    b. that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

Analysis:

The Applicant is seeking a zone change because the single parcel has two zoning designations: R-2 and R-3. Although both the R-2 and R-3 zoning designations would allow the land uses that exist on the property, the Applicants would like the property to have a single zoning designation of R-3.

The larger R-3 zoned area of the parcel (approx. 1.77 acres) is currently used as an assisted living center, indoor swimming pool, and a day care center. The smaller R-2 piece of the parcel (approx. 0.23 acres) is used as a 4-unit apartment building. The assisted living center is a conditional use in the R-3 District, with the condition being that the center be located on a collector or higher roadway. Although

Claude Dove is a minor local roadway, the assisted living center began operating at this location since 1996, prior to the adoption of the 2001 Zoning Code which established this roadway condition for assisted living. At some time in the future, the owners may seek to expand either the day care center or the assisted living center and eliminate the swimming pool and apartments. Should the owners seek to expand the assisted living center, they would need to seek and justify a variance from the right-of-way width for the required road classification (collector or higher roadway) of Section 38-33A of the City's 2001 Zoning Code, as amended.

The day care center has been operating at this address since 1984 and the assisted living center has been at this location since 1996. The swimming pool has been at this location since 1984 and the apartment building has been at this location since 1985. All these land uses are in character with the surround land uses and policies outlined in the 1999 Comprehensive Plan.

Surrounding zoning is a mix of R-3, R-2 and R-1a residential districts ranging from low to high densities. The zone change would be consistent with the R-3 zoning to the west and would be compatible with the R-4 zoning to the north. The lower-density R-1a residentially- zoned property immediately to the east of the Site is occupied by an elementary school and the school's playing field and outfield abuts the Site.

Route 30 transit stops are located along Telshor Blvd at Claude Dove Drive, less than 700 feet from the Site which is within easy access.

Conclusion:

The requested zone change to replace the small R-2 zone with the R-3 zone would make the zoning of the Site internally consistent. This change would be compatible with surrounding zoning designations and would, therefore, be consistent with relevant Zoning Code Purpose and Intent Statements. The zoning change would positively address relevant Comprehensive Plan policies and Planning and Zoning Commission Criteria for Decisions. Because the R-3 zoning designation would make the property's zoning internally consistent, it would address relevant New Mexico case law as well.

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the rezoning request, without conditions, based on the following findings:

FINDINGS FOR APPROVAL

1. The rezoning of the property from both R-2 and R-3 to wholly R-3 would meet the Purpose and Intent of the 2001 Zoning Code as specified in Section 38-2, would positively address the Planning Commission's Decision Criteria, pursuant to Section 2-382 of the Las Cruces Municipal Code, and would positively address rezoning criteria of New Mexico case law;
2. The rezoning to R-3 would be consistent with the applicable goals and objectives of the 1999 Comprehensive Plan; and
3. City agencies have reviewed the rezoning request against all applicable regulations and plans and recommend approval.

ATTACHMENTS

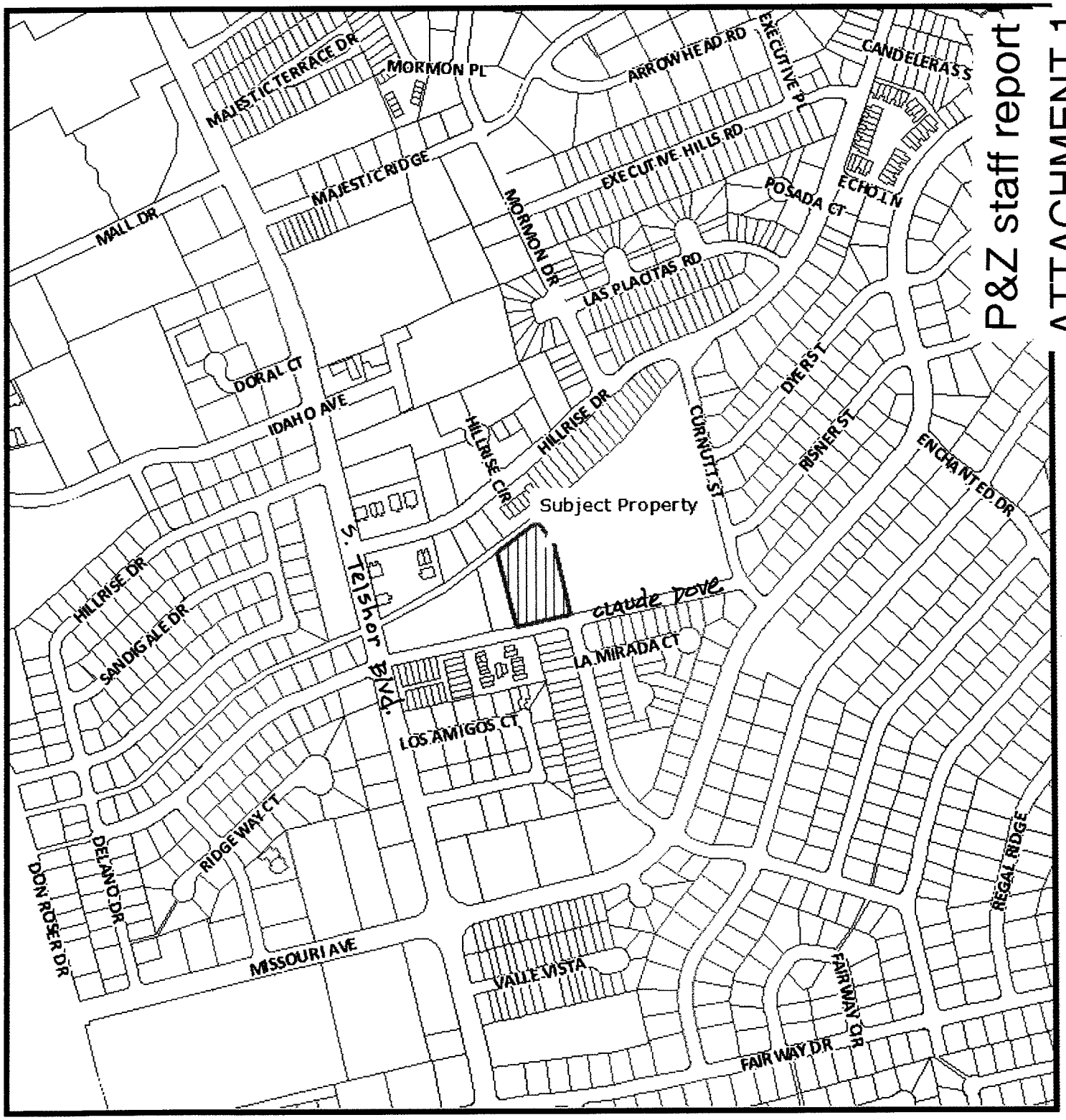
1. Vicinity Map
2. Zoning Map
3. Application/Development Statement
4. Reviewing Department/Agency Comments

ZONING: R-2 and R-3
OWNER: 2969 Claude Dove-Teke LLC

Location Vicinity Map

PARCEL: 02-14428
DATE: 07/23/13

P&Z staff report
ATTACHMENT 1



Z2865:
2969 Claude Dove Rezoning R-2 to R-3

15075 0 150 300 450 600 750 900 Feet

Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

Legend

This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.

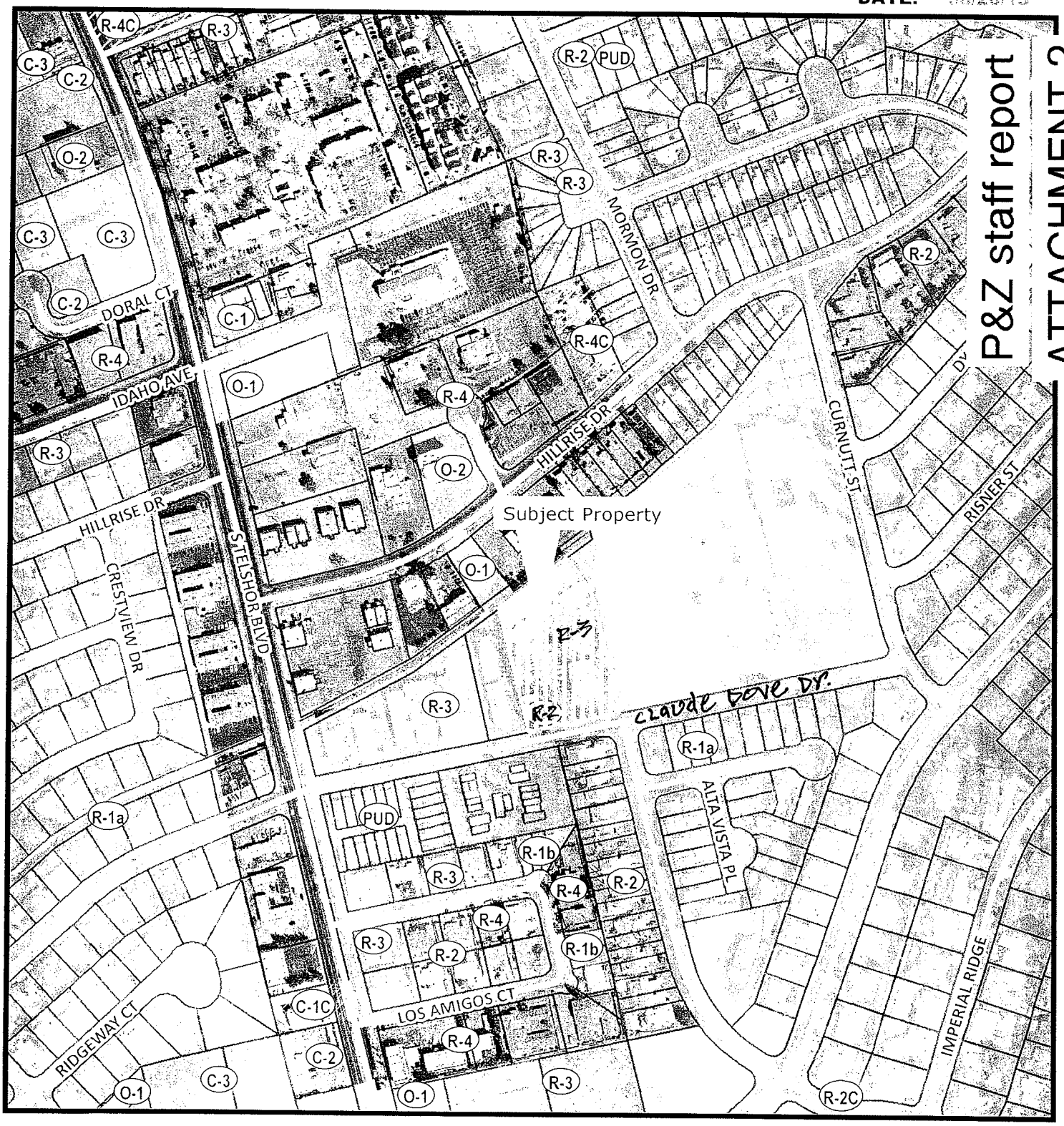
ZONING: R-2 and R-3
OWNER: [illegible]

Zone Map

PARCEL: 02-14428
DATE: [illegible]

P&Z staff report

ATTACHMENT 2



Z2865

2969 Claude Dove Rezoning R-2 to R-3

Legend
- City Parcel
- DAC_2010.ecw
- RGB
  - Red Band_1
  - Green Band_2
  - Blue Band_3

150 75 0 150 300 450 Feet

Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

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P&Z staff report
ATTACHMENT 3

City of Las Cruces
PEOPLE HELPING PEOPLE

CITY OF LAS CRUCES DEVELOPMENT APPLICATION

700 N. Main Street, Suite 1100 or PO Box 20000, Las Cruces, New Mexico 88004
(575) 528-3043 (Voice) (575) 528-3155 (FAX) 1-800-659-8331 (TTY)

A preapplication meeting is required prior to the filing of an application at which the subdivider shall submit a concept plan of the proposed development to the community development staff for review.
Community Development staff will not accept incomplete applications.

The City of Las Cruces does not discriminate on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, or disability in the provision of services. **The City of Las Cruces will make reasonable accommodation for a qualified individual who wishes to attend this meeting. Please notify the City Community Development Department at least 48 hours before the meeting by calling (575) 528-3043 (voice) or 1-800-659-8331 (TTY) if accommodation is necessary.** This document can be made available in alternative formats by calling the same numbers listed above.

(Case # Z2865)

SUBJECT PROPERTY ADDRESS: 2969 CLAUDE DOVE

PROPERTY TAX ID# 02140091354974 34 **PARCEL ID#** 02-14428

PROPERTY OWNER(S) of record: 2969 CLAUDE DOVE - TEKE LLC

Address: 44 BRASS HORSE ROAD City SANTA FE State NM Zip 87508

Phone: Home(___) ___ Work(___) ___ Mobile(505) 660-9357 Fax(___) ___

APPLICANT/CONTACT PERSON: If different from owner, additional space provided on the back.

Name: CHRIS SCANLON Title/Company: BORDERLAND ENGINEERS

Address: 2540 N. TELSHOR STE. B City LAS CRUCES State NM Zip 88011

Phone: Home(___) ___ Work(575) 522-1443 Mobile(___) ___ Fax(575) 522-9958

email address: CSCANLON@ZIANET.COM

Check and complete all boxes that apply:

	PLANNING AND ZONING COMMISSION				
X	Zoning	From R2-C to R3			Master Plan
	Variance	From ___ to ___			Preliminary Plat
	Special Use Permit (SUP)				Final Plat
	New	Renewal/Time Ext.		Amendment	Replat
	Planned Unit Development (PUD)				Alternate Summary
	1. Concept Approval				Infill Sub. Conceptual Plan
	2. Final Site Plan Approval				Vacation Subdivision
	3. Amendment				Annexation Petition/Plat/Initial Zoning Req. ___
	4. Renewal / Time Extension				
	West Mesa Ind. Park				University District
	Infill Development Requests(s):				South Mesquite
APPEAL TO:		PLANNING & ZONING COMMISSION			CITY COUNCIL

SIGNATURE(S): By signing the application, you hereby acknowledge that **ALL** the information submitted on and with this application is true and correct to the best of your knowledge. No application will be accepted without the original signature of the owner(s) of record of the described property. If more than one owner, **ALL** owners must sign the application.

Owner(s):

Would the property owner like to receive a copy of all correspondence sent to the applicant?

Property Owner Please Initial: Yes GH No _____

Grey Handy, Managing Member Date 7/9/13

Property Owner 1

_____ Date _____

Property Owner 2

_____ Date _____

Applicant/Representatives(s), if different from owner:

NOTE: The Owner, Applicant or legal representative must attend all public hearings.

ADDITIONAL APPLICANTS / CONTACT PERSONS, if different from owner:

Property Owner 1: GREY HANDY

Name: MANAGING MEMBER Title/Company: _____

Address: 44 BENNS HORSE RD City SANTA FE State NM Zip 87011

Phone-Home (____) _____ Work(____) _____ Mobile(505) 660-9357 Fax(____) _____

Property Owner 2:

Name: _____ Title/Company: _____

Address: _____ City _____ State ____ Zip _____

Phone-Home (____) _____ Work(____) _____ Mobile(____) _____ Fax(____) _____

Applicant/Representative:

Name: BORDERLAND ENGINEERS Title/Company: _____

Address: 2540 N. TELSHOR STE B City LAS CRUCES State NM Zip 88011

Phone-Home (____) _____ Work(575) 522-1443 Mobile(____) _____ Fax(____) _____

**********STAFF USE ONLY**********

Accepted by:	CU	Fee Paid:	$ 600	Date Fee Paid	7/11/13
Receipt No.	# 5126710	Check Number	# 2272	Case Number	Z2865
Submittal Date	7/11/13	Submittal Complete		Assigned to:	SM

SUPPLEMENTAL SUBDIVISION APPLICATION INFORMATION

To be placed on an agenda for a Planning and Zoning Commission meeting, all review comments must be addressed. THE APPLICANT(S) OR THEIR REPRESENTATIVE MUST ATTEND THE PLANNING AND ZONING COMMISSION MEETING.

Submitted herewith is the following material for: MAJESTIC HILLS SUB NO. 1
Name of Subdivision

Gross Area of Subdivision 0.990 Acres Property located within X Zone(s)

Number of Lots EXIST PART OF LOT 4 & ALL OF LOT 5 (if Replat list existing and proposed number of lots)

Dwelling Units / Acre N/A Acres for Residential N/A

Acres for Streets N/A Acres for Other N/A

Request for Waiver(s) (Written justification is required):

The legal description for the total area in this plat is as shown in Deed Book INSTRUMENT NO. 0910174 Page(s) _____, filed on the 16th day of APRIL, 2009.

Applicant's Surveyor: BORDERLAND ENGINEERS & SURVEYORS LLC 2540 N. TELSHOR STE B 522-1443
Name Address Phone No.
TED G. SCANLON
PE./ P.S

Applicant's Engineer: SAME
Name Address Phone No.

DEVELOPMENT STATEMENT for **City Subdivision/Zoning Applications**

Please note: The following information is provided by the applicant for information purposes only. The applicant is not bound to the details contained in the development statement, nor is the City responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission may condition approval of the proposal at a public hearing where the public will be provided an opportunity to comment.

Applicant Information BORDERLAND ENGINEERS. FOR MR. GREY HANDY MANAGING MEMBER

Name of Applicant: 2969 CLAUDE DOVE - TEKE LLC.

Contact Person: CHRIS SCANLON

Contact Phone Number: 575-522-1443

Contact e-mail Address: CSCANLON@ZIANET.COM

Web site address (if applicable): N/A

Proposal Information

Name of Proposal: ZONE CHANGE FROM R2-C to R3

Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)

NONE

Location of Subject Property 2969 CLAUDE DOVE LC NM

(In addition to description, attach map. Map must be at least 8 ½" x 11" in size and clearly show the relation of the subject property to the surrounding area)

Acreage of Subject Property: 0.990

Detailed description of **current** use of property. Include type and number of buildings:

CHILD CARE CENTER & ASSISTED LIVING FACILITY

Detailed description of **Intended** use of property. (Use separate sheet if necessary):

SAME

Zoning of Subject Property: R2-C

Proposed Zoning (If applicable): R3

Proposed number of lots —, to be developed in — phase (s).

Proposed square footage range of homes to be built from — to —

Proposed square footage and height of structures to be built (if applicable):

—

Anticipated hours of operation (if proposal involves non-residential uses):

24 HOURS / DAY

Anticipated traffic generation N/A trips per day.

Anticipated development schedule: work will commence on or about N/A

and will take N/A to complete.

How will stormwater runoff be addressed (on-lot ponding, detention facility, etc.)?

EXISTING PONDING

Will any special landscaping, architectural or site design features be implemented into the proposal (for example, rock walls, landscaped medians or entryways, entrance signage, architectural themes, decorative lighting)? If so, please describe and attach rendering (rendering optional). NONE

Is the developer/owner proposing the construction of any new bus stops or bus shelters? Yes ___ No X Explain: ___

Is there existing landscaping on the property? YES

Are there existing buffers on the property? NO

Is there existing parking on the property? Yes X No ___

If yes, is it paved? Yes X No ___

How many spaces? 30 ± How many accessible? 5

Attachments

Please attach the following: (* *indicates optional item*)

Location map

Subdivision Plat (If applicable)

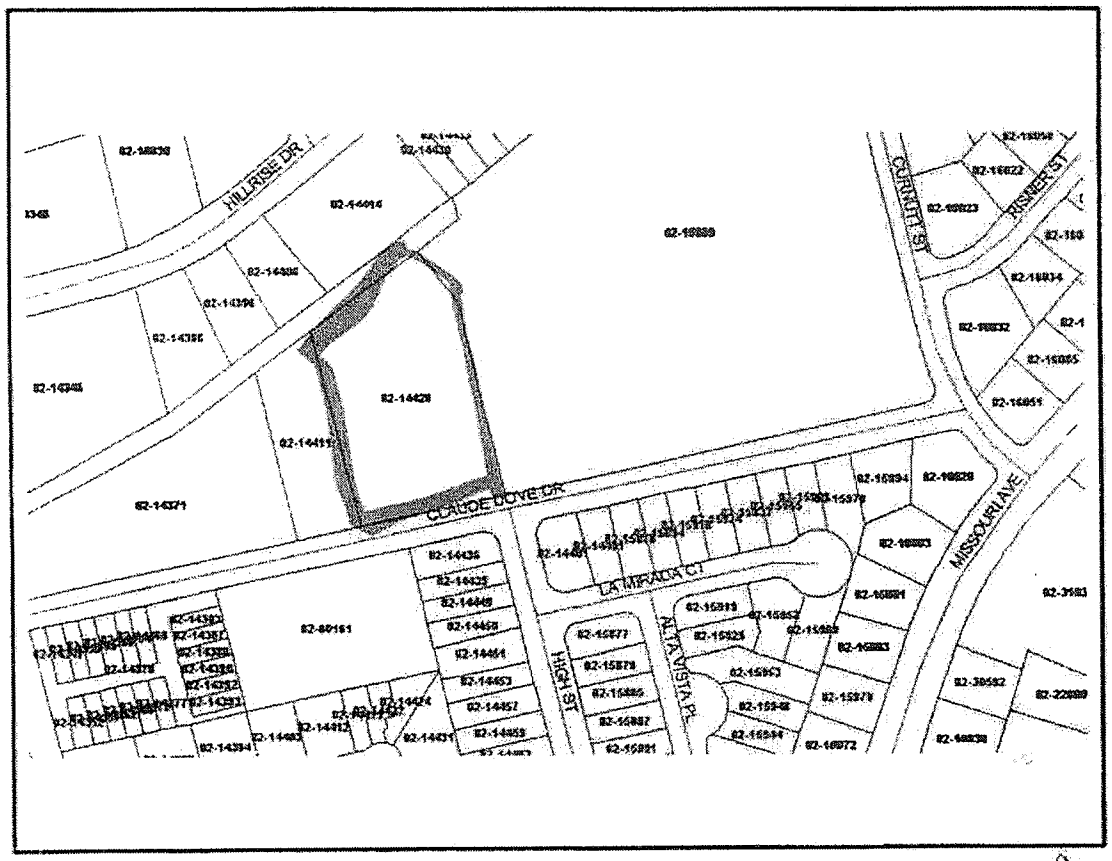
Proposed building elevations

*renderings of architectural or site design features

*other pertinent information

ESRI ArcExplorer 2.0

Map Title



dacroads (ST_NAME)

current (ID)

N

Wednesday, Jul 3 2013

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ATTACHMENT 4 P&Z staff report

Rezoning Case Review Sheet

TRAFFIC ENGINEERING:

Case #: Z2865 Date: July 15, 2013

Request: 2969 Claude Dove Rezoning R-2 to R-3

This property, Parcel 02-14428, has two zoning designations: R-2 and R-3. Only a small portio property at the southwest corner is zoned R-2 and that portion is occupied by a 4-plex apartment buildi bulk of the property is zoned R-3 and is occupied by an assisted living facility and a day care cent owners wish to demolish the 4-plex, as well as a swimming pool, and expand either the day care or assisted living facility. The day care center is an allowable use in the R-3 District but the assisted living is a conditional use in the R-3 District which requires access from a collector or higher designation roadway per Section 38-33A of the Zoning Code. If the owners seek to expand the assisted living facility they will need to seek and justify a variance from the collector roadway designation, as Clause Dove is a minor local street. For now, the owners simply seek to replace the R-2 designation with the R-3 designation that encompasses the rest of the property. Please return comments to Susana by **Monday, July 22, 2013**

SITE ACCESSIBILITY: *

	Yes	No	N/A
Adequate deriving aisle	✓		
Adequate curb cut	✓	✓	
Intersection sight problems		✓	
Off-street parking problems		✓	

ON-STREET PARKING IMPACTS:

None ____ Low ✓ Medium ____ High ____

Explain: _____

FUTURE INTERSECTION IMPROVEMENTS:

es ____ If yes, what intersection? _____

No ✓ when (timeframe)? _____

Is a TIA required? Yes ✓ No _____ POSSIBLE

If yes, please provide findings: TIA will be needed when additional improvements are in the construction phase.

Any new improvements, at either the time of subdivision or building permit, will require conformance to either the City of Las Cruces Curb Cut Ordinance #1250, the City of Las Cruces Design Standards, or the City of Las Cruces Zoning Code (2001, as amended).

DEPARTMENTAL RECOMMENDATION & OTHER COMMENTS:

Recommendation: _____ Approval _____ Denial

Comments:

Reviewer: Kamila Espinoza Date: 7/19/13

City of Las Cruces
PEOPLE HELPING PEOPLE

Rezoning Case Review Sheet

CLC Utilities Services

Case #: Z2865 Date: July 15, 2013

Request: 2969 Claude Dove Rezoning R-2 to R-3

This property, Parcel 02-14428, has two zoning designations: R-2 and R-3. Only a small portion of the property at the southwest corner is zoned R-2 and that portion is occupied by a 4-plex apartment building. The bulk of the property is zoned R-3 and is occupied by an assisted living facility and a day care center. The owners wish to demolish the 4-plex, as well as a swimming pool, and expand either the day care or the assisted living facility. The day care center is an allowable use in the R-3 District but the assisted living is a conditional use in the R-3 District which requires access from a collector or higher designation roadway per Section 38-33A of the Zoning Code. If the owners seek to expand the assisted living facility they will need to seek and justify a variance from the collector roadway designation, as Clause Dove is a minor local street. For now, the owners simply seek to replace the R-2 designation with the R-3 designation that encompasses the rest of the property. Please return comments to Susana by **Monday, July 22, 2013**

WATER AVAILABILITY & CAPACITY:*

Water Provider:

CLC ✓

Other _____

CLC Water System capable of handling increased usage:

Yes ✓

No ____

Comment If the fire flow requirement increases, system improvements may be needed.

WASTEWATER AVAILABILITY & CAPACITY:*

Wastewater service type:

CLC Sewer: ✓

On-lot septic ____

CLC Wastewater service capable of handling increased usage:

Yes ✓

No ____

Comment _____

NATURAL GAS AVAILABILITY & CAPACITY*

Natural Gas Provider

City of Las Cruces ✓

Rio Grande ____

No water right issues - F.O. 7/17/2013

CLC Gas System capable of handling increased usage:

Yes ✓

No ____

Comment _____

To receive City utility service to this property, the responsible property owner/applicant/subdivider is responsible for (1) the acquisition of all necessary water, sewer, and gas easements, (2) the construction of all necessary utility lines, and (3) compliance with all applicable City of Las Cruces requirements.

DEPARTMENTAL RECOMMENDATIONS & OTHER COMMENTS:

Recommendation: ✓ Approval ____ Denial

_____ Approval with conditions:

Reviewer: John Reid Date: 07/22/13

Contact Information: _____

Additional comments:

City of Las Cruces®

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Rezoning Case Review Sheet

SURVEYOR:

Case #: Z2865 Date: July 15, 2013

Request: 2969 Claude Dove Rezoning R-2 to R-3

This property, Parcel 02-14428, has two zoning designations: R-2 and R-3. Only a small portion of the property at the southwest corner is zoned R-2 and that portion is occupied by a 4-plex apartment building. The bulk of the property is zoned R-3 and is occupied by an assisted living facility and a day care center. The owners wish to demolish the 4-plex, as well as a swimming pool, and expand either the day care or the assisted living facility. The day care center is an allowable use in the R-3 District but the assisted living is a conditional use in the R-3 District which requires access from a collector or higher designation roadway per Section 38-33A of the Zoning Code. If the owners seek to expand the assisted living facility they will need to seek and justify a variance from the collector roadway designation, as Clause Dove is a minor local street. For now, the owners simply seek to replace the R-2 designation with the R-3 designation that encompasses the rest of the property. Please return comments to Susana by **Monday, July 22, 2013**.

COMMENTS:

RECEIVE

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LAND MANAGEM

RECOMMENDATION: yes **APPROVAL** _____ **DENIAL**

Reviewer: Angela Arrigo **Date:** 7/23/2013

City of Las Cruces®
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Rezoning Case Review Sheet

To: Engineering Services

Case #: Z2865 Date: July 15, 2013

Request: 2969 Claude Dove Rezoning R-2 to R-3

This property, Parcel 02-14428, has two zoning designations: R-2 and R-3. Only a small portion of the property at the southwest corner is zoned R-2 and that portion is occupied by a 4-plex apartment building. The bulk of the property is zoned R-3 and is occupied by an assisted living facility and a day care center. The owners wish to demolish the 4-plex, as well as a swimming pool, and expand either the day care or the assisted living facility. The day care center is an allowable use in the R-3 District but the assisted living is a conditional use in the R-3 District which requires access from a collector or higher designation roadway per Section 38-33A of the Zoning Code. If the owners seek to expand the assisted living facility they will need to seek and justify a variance from the collector roadway designation, as Clause Dove is a minor local street. For now, the owners simply seek to replace the R-2 designation with the R-3 designation that encompasses the rest of the property. Please return comments to Susana by **Monday, July 22, 2013**.

FLOOD ZONE DESIGNATION:

Zone A	(Flood elevation needed)	✓ 6232F
Zone AE	(Flood elevation known)	____
Zone AH	(Flood 1' – 3' ponding)	____
Zone AO	(Flood 1' – 3' – steep slopes)	____
Zone A99	(100-year flood)	____
Zone X		✓ 6232F
Zone X(500)	(500 Yr. flood zone)	____
Zone D	(Unknown flood determination)	____

DEVELOPMENT IMPROVEMENTS:

Drainage Calculation needed	YES ✓	NO ____	N/A ____
Drainage Study needed	YES ✓	NO ____	N/A ____
Other drainage Impr. needed	YES ✓	NO ____	
Sidewalk extension needed	YES ____	NO ✓	
Curb & gutter extension needed	YES ____	NO ✓	
Paving extension needed	YES ____	NO ✓	
NMDOT permit needed	YES ____	NO ✓	

DEPARTMENTAL RECOMMENDATION & OTHER COMMENTS:

Conditions

Recommendation: ✓ Approval ____ Denial

Reviewer: Natasha Billy Date: 528-3496

City of Las Cruces
PEOPLE HELPING PEOPLE

MPO REZOINING REVIEW COMMENTS

Case #: Z2865 Date: July 15, 2013

Request: 2969 Claude Dove Rezoning R-2 to R-3

This property, Parcel 02-14428, has two zoning designations: R-2 and R-3. Only a small portion of the property at the southwest corner is zoned R-2 and that portion is occupied by a 4-plex apartment building. The bulk of the property is zoned R-3 and is occupied by an assisted living facility and a day care center. The owners wish to demolish the 4-plex, as well as a swimming pool, and expand either the day care or the assisted living facility. The day care center is an allowable use in the R-3 District but the assisted living is a conditional use in the R-3 District which requires access from a collector or higher designation roadway per Section 38-33A of the Zoning Code. If the owners seek to expand the assisted living facility they will need to seek and justify a variance from the collector roadway designation, as Clause Dove is a minor local street. For now, the owners simply seek to replace the R-2 designation with the R-3 designation that encompasses the rest of the property. Please return comments to Susana by **Monday, July 22, 2013**

MPO Thoroughfare	Dist. to Thor.	Functional Class	MTP Class	ROW Required	Dist. to Transit	AADT (year)	Current Bike Fac.	Planned Bike Fac.
Telshor	590'		Prince Art	120'	Adjacent to Transit Route 30	20458 (2010)	Lanes	

Recommended Conditions of Approval

Additional Comments

Reviewer: Andrew Wray Date: 7/22/13

ZONE CHANGE REVIEW

DATE: June 15, 2013

REVIEW: #1
CASE NO.: Z2865

TO:

___ CURRENT PLANNING
___ ENGINEERING SERVICES
_X_ LAND MANAGEMENT
___ SURVEYOR
___ CITY UTILITIES
___ MPO

___ COUNTY PLANNING
___ COUNTY ENGINEERING
___ COUNTY FLOOD COMMISSION
___ COUNTY FIRE
___ NM ENVIRONMENTAL
___ EBID
___ OTHER (GIS)

FROM: Susanna Montana, Planner

SUBJECT: Claude Dove Rezoning from R-2 to R-3

Please review and return to the Community Development Department no later than April 29, 2013

APPROVED AS IS: YES

APPROVED WITH CONDITIONS: YES, *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 7/18/2013

REVIEWER NAME: Michael Q. Hernandez
REVIEWER CONTACT NO.528-3124

COMMENTS:

****PLEASE PROVIDE ALL REDLINES FROM THE PREVIOUS REVIEW****

City of Las Cruces
PEOPLE HELPING PEOPLE

Rezoning Case Review Sheet

FIRE PREVENTION & EMERGENCY SERVICES:

Case #: Z2865 Date: July 15, 2013

Request: 2969 Claude Dove Rezoning R-2 to R-3

This property, Parcel 02-14428, has two zoning designations: R-2 and R-3. Only a small portion of the property at the southwest corner is zoned R-2 and that portion is occupied by a 4-plex apartment building. The bulk of the property is zoned R-3 and is occupied by an assisted living facility and a day care center. The owners wish to demolish the 4-plex, as well as a swimming pool, and expand either the day care or the assisted living facility. The day care center is an allowable use in the R-3 District but the assisted living is a conditional use in the R-3 District which requires access from a collector or higher designation roadway per Section 38-33A of the Zoning Code. If the owners seek to expand the assisted living facility they will need to seek and justify a variance from the collector roadway designation, as Clause Dove is a minor local street. For now, the owners simply seek to replace the R-2 designation with the R-3 designation that encompasses the rest of the property. Please return comments to Susana by **Monday, July 22, 2013**

ACCESSIBILITY ISSUES: * CONCERN

	Low	Medium	High
Building Accessibility	X		
Secondary Site/Lot Accessibility	X		
Fireflow/Hydrant Accessibility	X		

Type of Building Occupancy: R

Closest fire department that will service this property:

Name Station 4

Address/ Location

Distance from subject property (miles) .5

Adequate capacity to accommodate proposal? Yes X No

Explain: Addition of Fire Sprinklers will likely be required by Code.

Any new improvements, at either the time of subdivision or building permit, will require conformance with City of Las Cruces Design Standards, Subdivision Code, Building Code, and/or Fire Code.

DEPARMENTAL RECOMMENDATION & OTHER COMMENTS:

Recommendation: Conditional X Approval ____ Denial

Comments:

Reviewer: MM Date: 7/18/13

City of Las Cruces®
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Rezoning Case Review Sheet

PARKS:

Case #: Z2865 Date: July 15, 2013

Request: 2969 Claude Dove Rezoning R-2 to R-3

This property, Parcel 02-14428, has two zoning designations: R-2 and R-3. Only a small portion of the property at the southwest corner is zoned R-2 and that portion is occupied by a 4-plex apartment building. The bulk of the property is zoned R-3 and is occupied by an assisted living facility and a day care center. The owners wish to demolish the 4-plex, as well as a swimming pool, and expand either the day care or the assisted living facility. The day care center is an allowable use in the R-3 District but the assisted living is a conditional use in the R-3 District which requires access from a collector or higher designation roadway per Section 38-33A of the Zoning Code. If the owners seek to expand the assisted living facility they will need to seek and justify a variance from the collector roadway designation, as Clause Dove is a minor local street. For now, the owners simply seek to replace the R-2 designation with the R-3 designation that encompasses the rest of the property. Please return comments to Susana by **Monday, July 22, 2013**.

Please note that the assisted living land use is deemed a commercial land use.

Are park impact fees going to be assessed for the proposed development?
Yes _____ No X

If no, why?
No dwelling units proposed

COMMENTS:

RECOMMENDATION: _____ **APPROVAL** _____ **DENIAL**

Reviewer: [signature] Date: 7/16/2013

Attachment "B"

PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
August 27, 2013 at 6:00 p.m.

BOARD MEMBERS PRESENT:
Godfrey Crane, Chairman
Charles Beard, Secretary
Charles Scholz, Member
Ray Shipley, Member
Joanne Ferrary, Member
Ruben Alvarado, Member

BOARD MEMBERS ABSENT:
William Stowe, Vice Chair

STAFF PRESENT:
Adam Ochoa CLC, Planner
Susana Montana, CLC, Planner
Ezekiel Guza, CLC, Associate Planner
Robert Cabello, CLC, Legal Department
Bonnie Ennis, CLC, Recording Secretary

DRAFT

I. CALL TO ORDER (6:00)

Crane: Good evening, ladies and gentlemen. It's six o'clock and this meeting of the Planning and Zoning Commission of the City of Las Cruces is called to order. We'll start, as we usually do, by introducing the Commissioners you see before you starting at my far right: Commissioner Shipley, who represents District 6 and coming in here in the colorful jacket is Commissioner Ferrary, who is not late. She was here earlier but she went to get something in her cup and she represents District 5; and Charles Scholz is the Mayor's appointee; and our new member, Ruben Alvarado, who has had many years' experience on boards and commissions for the City of Las Cruces and the surrounding area. He is representing District 3; and Charles Beard, our Secretary, is representing District 2. I'm Godfrey Crane, the Chair, and I represent District 4.

II. CONFLICT OF INTEREST

At the opening of each meeting, the chairperson shall ask if any member on the Commission or City staff has any known conflict of interest with any item on the agenda.

Crane: We start next with the reading and approval of the minutes of our last meeting, July 23rd. Any Commissioner have a point? Yes, Mr. Shipley.

Shipley: According to the agenda I think it's Conflict of Interest.

Crane: Oh, yes. You're quite right. I'm so new at this. Yes, we should go to ask if any Commissioner or any member of the City Community Planning Department here has a conflict or interest with any item before us tonight.

III. APPROVAL OF MINUTES

1. July 23, 2013 – Regular Meeting

Crane: Does anybody have a comment on the minutes? Commissioner Scholz.

Scholz: Yes, my name is spelled correctly throughout the minutes except at the top. I thought that was odd so I'd like that corrected.

Crane: Okay, Bonnie is exculpated. She says she didn't do it. *(All laughing)* Well, I've got a gripe, too. My name is misspelled but not up there. Page 1, line 32, I need an "f" in my first name. Are you responsible for that?

Ennis: *(Inaudible)*

Crane: Thank you. Don't let it happen again. *(Laughing)* Page 5, line 3, I was asking Mr. Ochoa how we pronounce that name, and he said "Geeta" and I said, "hard 'G'," where it says "R.G." So we need it to be "hard 'G'." "Geeta." So I have anybody else? Thank you, Mr. Scholz, your light's on. All right, I'll entertain a motion that the minutes be accepted as amended.

Scholz: So moved.

Beard: Second.

Crane: Mr. Scholz motioned … and Mr. Beard is seconding it, I believe. All in favor say aye.

All except Alvarado and Ferrary: Aye.

Alvarado: Abstain.

Ferrary: Abstain.

Crane: Mr. Alvarado and Ms. Ferrary abstain. Any against? No. Thank you.

DRAFT

IV. POSTPONEMENTS – NONE

V. CONSENT AGENDA

Crane: Now we proceed to the consent agenda. The way this works, for those who are not familiar with it, is that these items and there are five of them, are ones that the City Community Development Department feels are routine and uncontroversial and so they are grouped together here and we usually vote on them without discussion as a block. However, the rule is that if any Commissioner, Community Development person or any member of the public wishes to discuss any of these then we take them off the consent agenda and put them into the new business. Does anybody wish to remove anything from the consent agenda? Yes, sir, which item? Okay. Number 2. That's the Claude Dove property? Okay, sir, we'll take that off and make it the first item of new business. And somebody wants to take off Number 1?

Ochoa: Number one. Yes, sir.

Crane: Okay. That will be the second item of new business.

1. **Case S-13-011/IDP-13-01:** Application of Moy Surveying Inc. on behalf of Terry Lee & Velia Guethe, property owners, for a replat known as Parker Place 2nd Amended Subdivision, Replat No. 2 on a 0.226 ± acre lot located on the southwest corner of Wilson Avenue and Second Street; Parcel ID# 02-01305. Proposed Use: Subdividing one (1) existing residential lot into two (2) residential lots. Accompanying the proposed replat is an Infill Development Process (IDP) variance request to the minimum 5,000 square foot lot size requirement of the subject property's R-1a (Single-Family Medium Density) zoning designation. Lot 1A encompasses 4,910 square feet, 90 square feet less than the minimum lot size requirement and Lot 1B encompasses 4,869 square feet, 131 square feet less than the minimum lot size requirement; Council District 4 (Councillor Small).

2. **Case Z2865:** Application by Claude Dove-Teke LLC to rezone a 0.23-acre portion of the 1.98-acre Parcel 02-14428, located at 2969 Claude Dove Drive, from R-2 (Multi-Dwelling Medium Density Residential) to R-3 (Multi-Dwelling High Density Residential). The property is currently zoned R-3 and R-2 and the rezoning would allow the property to have the single zoning designation of R-3. District 3 (Councillor Pedroza).

3. **Case ZCA-13-2:** A request to amend Section 38-43.J.9 of the 2001 Las Cruces Zoning Code, as amended, by adding subsection (i) including provisions related to the use of A-frame signs on public property within the Central Business District (CBD). Submitted by the City of Las Cruces. Council District 1 (Councillor Silva).

DRAFT

4. **Case ZCA-13-3:** A request to amend Sections 36-3 Definitions and 36-9.b.1 Permits of the 2006 Las Cruces Sign Code, as amended, by adding a definition and provisions related to the use of A-frame signs in the City of Las Cruces (City). Submitted by the City of Las Cruces. All Council Districts.

5. **Case ZCA-13-4:** A request to amend Section 38-43.J of the 2001 Las Cruces Zoning Code, as amended, by adding subsection 13 including provisions related to the use of sidewalk displays on public property on Main Street between the roundabout at 700 N Main Street and Bowman Ave. at 250 S. Main Street, approximately 7 blocks. Submitted by the City of Las Cruces. Council District 1 (Councillor Silva).

Crane: Anything else? In that case we will vote on items 3, 4 and 5, cases ZCA-13-2, 3 and 4 as items of the consent agenda. May I have a motion to that ...?

Shipley: Move to approve consent items 3, 4 and 5.

Crane: Mr. Shipley moves that these items be approved.

Scholz: Seconded by Scholz. All in favor, aye.

All: Aye.

Crane: Any opposed? It passes 6 – 0. Thank you.

VI. OLD BUSINESS - NONE

VII. NEW BUSINESS

Crane: Item 1 in the consent agenda now moved to new business. Case Z2865: Application by Claude Dove-Teke LLC to rezone a 0.23-acre portion of the 1.98-acre Parcel 02-14428, located at 2969 Claude Dove Drive. Mr. Ochoa.

Ochoa: Yes, sir, Commissioner Crane. First, just a quick announcement: we have been advised by Legal now. Whenever we do have somebody from the public or the applicant stepping up to ask a question or make a statement or so forth into the minutes, that we take their oath, just a quick, "Do you promise to tell the truth, the whole truth and nothing but the truth under penalty of law?"

Crane: I see; and who administers this oath?

Ochoa: You will, sir, please.

DRAFT

Crane: I see and I don't invoke any deities? Just the law?

Cabello: "Under the penalty of law," which means perjury.

Crane: Okay.

Ochoa: That's just *(Inaudible – two people speaking at the same time)*

Crane: I'll wing it. You'll correct me if I'm wrong.

Ochoa: Yes, sir.

Crane: Okay. Thank you. And that would be in addition, member of the public, to saying your name, identifying yourself. Okay, Ms. Montana.

Montana: Okay, thank you, Mr. Chairman, Commissioners. For the record, Susana Montana, Community Development staff. What you have before you is a request to rezone a portion of the parcel located at 2969 Claude Dove Drive from R-2 to R-3. The property has two zoning designations. The R-2, which is Multi-Dwelling, Low Density Residential, and R-3, which is Multi-Swelling, Medium Density Residential; so these two designations are on one parcel. The R-2 portion of the property has a 4-plex apartment building. The R-3 portion of the property has a day care center, an assisted living facility and an indoor swimming pool.

The applicant, the owners of the property, would like to remove the R-2 so that the property is entirely R-3, one zoning designation. The 4-plex apartment, which has the R-2 now and if you approved it, would become R-3; it is permitted in the R-3, as allowable use in the R-3 District. I'll show you the property: Telshor Boulevard, South Telshor, Claude Dove Drive. This is the property: the assisted living facility is in the rear; the indoor swimming pool here; the day care center; associated parking and here's the 4-plex. Faintly you can see that this property is zoned R-2 and rest of the property is zoned R-3.

This is the land use again: the assisted living facility, indoor pool, day care center, the 4-plex apartment; drainage; drainage; parking and surrounded by the ball field or the play field of, I believe it's Hillcrest School; and offices behind it; apartments here and; townhomes and some single-family homes to the south. Just quickly, the 4-plex, day care, the indoor swimming pool, the parking and beyond that is the assisted living facility.

Because the applicant would like one zoning designation and the R-3 would allow the 4-flex. It was, as a principle permitted use, it was thought that it would be most appropriate to change the R-2 to R-3.

The R-3 designation would comply or be consistent with the Comprehensive Plan policies, the Planning Commission Decision Criteria,

DRAFT

and Zoning Code purpose and intent statements, and relevant New Mexico state laws. City agencies have reviewed this request and recommend approval and staff recommends approval without conditions.

Your options tonight, Commissioners, are to: 1) vote yes to recommend approval to the City Council to replace the R-2 with the R-3 designation; 2) to vote no to deny the rezoning and the R-2 designation would remain; 3) to vote to modify the application by recommending or placing a condition of approval on the request, and: 4) last, to postpone your consideration to seek further information from staff. That concludes my presentation. I'm happy to answer any questions you may have.

Crane: Thank you, Ms. Montano. Any questions?

Scholz: Charles Scholz. I just have one comment. It's Hillrise Elementary not "School."

Montana: I'm sorry. Hillrise.

Crane: Mr. Shipley.

Shipley: Ms. Montana, thank you very much for the presentation. I note it's R-2c. Is that correct?

Montana: No. It's just R-2.

Shipley: Okay. In the application it says "R-2c" several places.

Montana: It's simply R-2.

Shipley: Okay, and the adjoining property to the, I guess to the west...no, to the east.

Montana: To the east is the schoolyard.

Shipley: Okay, and to the west is R-3.

Montana: Yes.

Shipley: Okay.

Montana: Yes. R-3.

Shipley: Okay. Thank you.

Crane: Anyone else? All right. Thank you, Ms. Montana. Any member of the public wish to address this issue? Come up and identify yourself, please,

DRAFT

sir, and be sworn in.

Rivera: Do I have to take...

Crane: Tell us who you are first, please.

Rivera: My name is Floyd Rivera and I live at 2930 Claude Dove, Unit number 5.

Crane: Do you solemnly swear to tell the truth, the whole truth and nothing but the truth in accordance with the law?

Rivera: I do.

Crane: Thank you. Continue.

Rivera: Yes. Like I said, I am... I live in Unit 5 of the Casa Loma Condominium Complex and in the Complex there are seventeen units and a large percentage of the units are occupied by owners. A few of the units are rentals. We all received the notice from the City and had a chance to... let me back off a little bit...I am also president of the Casa Loma Condominium Association. I had a chance to talk to some of the owners and they share the same concern that I have when I first got the letter and if you look at the aerial view of the area... as you can see, Telshor Boulevard... Okay?... and then we have Claude Dove. Okay. We have a number of townhomes right in this area right here. Okay? And then we have four large buildings, apartment buildings and each of these buildings contain from fifty to close to a hundred units each. Okay? And then across is the Casa Loma Condominium Complex and we have seventeen units there... and then right here that's a...I believe that's a ... that's another apartment building. Okay. Now the property that is requesting the rezoning is, of course, right in here. Okay. And then up the street we have homes, private homes on each side of High Street.

Now the point that I want to make is that it's very high density already, very high density, and Claude Dove gets, traffic-wise, it gets very, very heavy, especially in the morning, at noon and in the evening; and then, of course, parents that have their children at Hillrise Elementary School, and this is the playground for that school, a lot of them travel up and down Claude Dove Street and the, of course, we have the parents that drop off and pick up their kids at the day care center. So what we have is a situation where it's extremely high density with respect to people that live in the area and, of course, you know nowadays most everybody has two cars and that's our biggest concern.

The other question I guess I would have: it was not clear to us from reading the application or the description of the application why this request is being made... okay?... and the concern here is that... and I don't know what the owners plan to do for the future... okay?... but many

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of the owners of the Complex, of our Complex that I talk to are concerned that the owners of this property could, in the future, just remove any of these buildings... okay?... and build some more apartment buildings, you know, with the R-3 zoning in place... and that would even add more residents to the area... and so that's basically what our concerns... are and if you have any questions for me.

Crane: Thank you, Mr. Rivera. Anyone have a question? Mr. Scholz.

Scholz: Yes, I have a question. I was at that site the other day looking at it, you know, and it was about ten o'clock in the morning and I was the only car on the street. I understand the high density. I vote at Hillrise because I live in the neighborhood and so, you know, at four o'clock in the afternoon or eight o'clock in the morning it's busy but I can't see that it's busy, you know....

(Commissioner Scholz and Mr. Rivera speaking at the same time – Cannot transcribe)

Scholz: Frankly, I don't see that a rezoning would change the traffic pattern or the density. I don't know what these people intend to do either and, of course, obviously if they intend to build a new building then they will have to get a permit to build the building, that sort of thing. So I think this is beside the point, sir.

Rivera: Can anybody tell me or if the owners are here, why the request is being made?

Crane: Ms. Montana? Can you tell us what is permissible? What consequences there can be with this?

Montana: Mr. Chair. For the record, Susana Montana. The applicant's representative is here to explain what their future plans are but I just want to note that in the reviewing of this rezoning request, the City's Traffic Engineers determined that the TIA, the Traffic Impact Analysis, the Traffic Study, may be required for any new development that would occur, any new building permit that would occur on this property. So that is an assumed requirement or a condition of the zoning.

Rivera: So what you're saying is that in the future if the owners of the property were to, let's say, to decide to remove some of the current buildings and build high-density apartment buildings that the Traffic Department would have to study that? And at that point, I guess if they decided they could recommend to Council that the request not be approved. Is that what you said?

Montana: The Traffic Engineer would analyze this TIA and he would decide whether

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or not to permit that level of intensity. This is a Minor Local road so he could say, "No," to the development or he could say, "Scale it down," in order to satisfy the City's Road Construction Standards or Design Standards.

Rivera: Okay. See Claude Dove is a two-lane street and the other thing that you need to know is that the residents in that area, you know, especially the people that live in these townhomes here and also the Casa Loma Complex are a lot of senior citizens and they like to walk in the morning. They like to walk even at noon and they walk in the evening and they walk with their pets and that's good. But, again, the concern is the traffic and, yes, Mr. Scholz, at ten o'clock, you know. It... the traffic is very light but I wish you could be there at five o'clock or at eight o'clock in the morning. It is heavy, very heavy, and anyways but that basically expresses my concern and the concern of the owners that I talked to.

Crane: Thank you, Mr. Rivera and we understand your point. Commissioner Beard has a question for you.

Beard: No, I was going to say I would like to request the applicant to *(inaudible)*

Crane: Is the applicant or representative here? If you'll stand aside a minute, Mr. Rivera, we'll see what Mr. Scanlon has to say. You'll have to identify yourself, sir.

Scanlon: Thank you, Mr. Chairman, Members of the Commission. My name is Ted Scanlon.

Crane: And I have to ask you if you solemnly swear...

Scanlon: Do you have to swear at me?

Crane: (L*aughing)* ... with you... to tell the truth during this presentation under penalty of law.

Scanlon: I do.

Crane: Thank you.

Scanlon: The property in question is part of an overall tract. It's a little piece right here that's in gray. If you look at it, it's a little spot of R-2 zoning that's surrounded by R-3 and the owners of the properties understand and, under our advice, realize that the City of Las Cruces discourages spot zoning or split zoning on properties that are of a singular tract. Keeping it all in perspective, the size of the R-2 is only 0.23 acres. Going from R-2 to R-3 would allow a density increase of ten units per acre. That would

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translate to an additional two residential units if the property were to be redeveloped into apartments or something like that. Understanding also that the business of the owners of the property is operating day care centers and assisted living centers and those types of facilities I don't think that they would have any impending plans to tear that facility down and build apartment units or anything such as that on it and they haven't indicated to me that they have any impending plans to do any development on the property. But they wanted to clean it up because if they ever decided to sell it or if they ever did decide to expand the assisted living facility in some way that they wouldn't have to spend a lot of time going through this process at that time. It would already be done.

Crane: Thank you, Mr. Scanlon. Does that answer your question, Mr. Rivera?

Rivera: *(Inaudible – away from microphone)*

Crane: Thank you. Commissioners, any questions for Mr. Scanlon? Thank you, Mr. Scanlon. So, I will entertain a motion that case Z2865, the rezoning, be approved.

Scholz: So moved.

Crane: Mr. Scholz moves.

Shipley: Second.

Crane: And Mr. Shipley seconds. This is by role call. Mr. Shipley.

Shipley: Aye, findings, discussion and site visit.

Crane: Ms. Ferrary.

Ferrary: Aye due to discussions and site visit.

Crane: Mr. Scholz.

Scholz: Aye, findings, discussion and site visit.

Crane: Mr. Alvarado.

Alvarado: I don't have anything for discussion.

Crane: Okay. But are you prepared to vote or do you want to abstain?

Alvarado: Yes, I'm prepared to vote.

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Crane: Okay. You vote how? The way we do it, sir, is that you have to say why you are voting the way you are and if you're voting to approve something that the City recommends approval you say that it is based on the findings we have here and the discussion and the site visit if you made one. So go ahead.

Alvarado: Based on the discussion and staff recommendations I vote aye.

Crane: Thank you. Commissioner Beard.

Beard: Yes, discussions and site visit.

Crane: And the Chair votes aye based on findings, discussing and site visit. So this passes 6 – 0. Thank you.

Case S-13-011/IDP-13-01: Application of Moy Surveying Inc. on behalf of Terry Lee & Velia Guethe, property owners, for a replat known as Parker Place 2nd Amended Subdivision, Replat No. 2 on a 0.226 ± acre lot located on the southwest corner of Wilson Avenue and Second Street; Parcel ID# 02-01305. Proposed Use: Subdividing one (1) existing residential lot into two (2) residential lots. Accompanying the proposed replat is an Infill Development Process (IDP) variance request to the minimum 5,000 square foot lot size requirement of the subject property's R-1a (Single-Family Medium Density) zoning designation. Lot 1A encompasses 4,910 square feet, 90 square feet less than the minimum lot size requirement and Lot 1B encompasses 4,869 square feet, 131 square feet less than the minimum lot size requirement; Council District 4 (Councillor Small).

Crane: Next item, also from the consent agenda is item number one on that, case S-13-11, also known as IDP-13-01 and I think Mr. Ochoa is going to talk.

Ochoa: Thank you, sir. Adam Ochoa, Development Services for the record. Mr. Chairman, if I might ask the member from the public if they might state what question they might have, if I could possibly answer that question and not have to do a full presentation. But if the Commission would like, I can do a full presentation but if it's just a quick question I can possibly answer that for the *(Inaudible)*.

Crane: My feeling is that insomuch as this was a consent agenda item there may not be a great deal to discuss. Does any Commissioner object to our just asking the members of the public to come up? Okay, one or both of you, please, and identify yourself.

O'Connor: Hello, gentlemen. My name is Carol O'Connor. I live on the corner of Second and Wilson across the street from the property described.

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Crane: Okay. Do you solemnly swear that the statement you are about to make is the truth under penalty of law?

O'Connor: Absolutely.

Crane: Thank you. Please continue.

O'Connor: We object, my neighbors and I, and unfortunately they were not able to make the meeting. We're against splitting the property. The minimum of 5,000 square feet at the beginning of when this property was put into progress was to keep the neighborhood uniform and I believe it should stay that way. I think that adding more mobile homes to our area is seriously going to decrease the value of our homes. It may not be the top neighborhood in Las Cruces but it is our neighborhood. Since Picacho was closed off through traffic Second Street has suffered enormously with an overburden of traffic. There is a very long stretch between Parker and Leflore and teenagers seem to think that it's a raceway. It just would not be good for the neighborhood. For there to have someone put up a nice home is one thing but to split it up is just going to add to congestion in the neighborhood and the neighborhood really can't support that any longer.

Crane: Thank you, ma'am. I think we understand. Does anybody have a question for Ms. O'Connor? Mr. Scholz.

Scholz: Yeah. How big is your lot, ma'am?

O'Connor: We have, I believe, a little more than a third-of-an-acre.

Scholz: Okay. That's kind of unusual for that neighborhood. When I cruised through there the other day I looked at lot size and most of them were, I would say, a quarter-of-an-acre and smaller.

O'Connor: Yeah. Mine must, just by looking at it, it's got to be a little bigger from the rest. I wish I had brought that information with me. If there is someone I can call tomorrow morning with the information I would be very happy to do so.

Scholz: Well, the reason I ask is because, you know, a lot size of a quarter or even less than that, you know, a tenth of an acre now is normal for developing; and your concern was mobile homes. I didn't see anything in this application that there would be a mobile home on this site.

O'Connor: We didn't see evidence of it either when it happened on Fifth Street or when it happened on Second Street in the few lots that it has been. Not to be rude, but if we wanted to live in a mobile home community we would be doing so but when we looked for a home we looked for a home in a solid

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home community.

Scholz: Um-hmm. Thank you.

Crane: Thank you. Don't go away. Mr. Ochoa, can you help in any way here?

Ochoa: The subject property is zoned R-1a, Single-Family, Medium-Density so mobile homes are not permitted on this property by right. Whatever type of development would happen on this property, kind of shown here on this improvement plat, would essentially have to be either a site built home or a manufactured home following all State regulations and State Statutes as well. Unfortunately, that is a State requirement: manufactured homes are seen the same as a site built home so from State Statute the city would have to permit manufactured homes on the property. But, of course, because of the size of the lot, the setback requirements and so forth, from what staff could see what they could fit on that lot is a small site built home, kind of custom built to fit into that lot.

Crane: Thank you, Mr. Ochoa. Does that help, Ms. O'Connor?

(Ms. O'Connor nodded and walked away.)

Crane: Is the applicant here? Yes, sir. State your name, please, sir.

Magallañez: My name is Henry Magallañez and I'm with Moy Surveying, representing the applicant.

Crane: Raise your hand. Do you solemnly swear that the information you give us in your statement will be the truth under penalty of law?

Magallañez: Yes, I do.

Crane: Thank you. Please spell me your name.

Magallañez: Pardon me?

Crane: Spell me your name.

Magallañez: Henry, H-e-n-r-y, Magallañez, M-a-g-a-l-l-a-n-e-z

Crane: Thank you.

Magallañez: Again, as Mr. Ochoa said, there is no mobile homes permitted under the zoning regulations and these are, in talking to the applicant, to be small little homes. This probably an Infill type request in that the lot has been vacant for a while and we want to be able to maximize his benefit on this

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and split it up and put two small homes on it. Each of the accesses... one is off of Wilson Street and the other one's off of Second so density's real minimum in terms of what will be allowed there. We do meet the Zoning Regulations in terms of setback requirements and, like I said, we have met with the City of Las Cruces and met the Regulations in terms of, you know, placement requirements that they have had. Based on the requirements in terms of taking off the easements and stuff like this, this is where the lot size was diminished because of they take the net acres instead of the gross acres. It's kind of put us a little bit below the 5,000 square feet. Other than that I would entertain any questions from the Commission.

Crane: Thank you, sir. Commissioner Shipley.

Shipley: Henry, I thank you very much for your information. When I look at this I look at the service line easement which runs along the back of the property and that's a sewer, I guess, easement across Lot 1A... from 1A to 1B, excuse me, out to Second Street.

Magallañez: Um-hmm.

Shipley: And the setback looks like... is it a 10-foot setback on the back part there? In other words, the drawing I'm looking at shows the dwelling unit right up to the setback.

Magallañez: This is 20-feet here... on this side here. I don't know if you can see my arrow. The minimum setback would be here on the side and I believe that was a minimum of 7-feet.

Shipley: Okay. So you've got 20-feet there. That's on the south side of the house and I was just concerned. When I looked in this particular submittal it had only 10-feet and I was concerned about the fact that if somebody put a deck on the back of the property and to shade so they could sit outside and barbeque or whatever they would encroach in the setback and, therefore, we would probably require a variance. So, I don't know. Adam, is that going to be a problem with the way it's laid out now?

Ochoa: Mr. Chairman, Commissioner Shipley, if I may step in. I apologize, the improvement plats that you have in your packet, sir, do not show the correct setbacks on there. They do show about the size of home that would be permitted on the two lots. That's why they were still put in there but if you look on your screen that improvement plat does show... the applicant actually sent that to me a couple days ago updating the actual required setbacks and showing roughly the same size home with those setbacks being met as well, sir. Again, they would be able to, of course, put a shade structure outside if the lot was properly designed when the

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home was initially built, sir.

Shipley: The second thing is: on 1B the orientation of the house has the garage facing Wilson Avenue. So it's going to be a turn-in garage off of Second and is that going to put the entrance or the driveway entrance too close to the corner?

Magallañez: In 1B the access was from Second Street?

Shipley: Sir, I see that but I'm saying it's gonna be... the way the house is laid out on the lot you've got a turn-in garage. The garage is facing... it looks like...is it a straight pull in? I'm sorry. I'm looking at these two homes that look like they're designed the same.

Ochoa: Mr. Chairman, Commissioner Shipley, if you look at the replat itself, the document itself, it does show that the Traffic Engineering Department did require them to have an actual called out access point to that lot, 1B, which is located to the southeast corner of that lot closer to the property line and farther away from the intersection. The home shown on the improvement plat is just a rough idea of what might fit on that property. If anything needs to change they would have to change to meet those setback requirements, sir. But if that house is actually flipped, if you will, with the garage facing Second Street it looks as if it will still meet that setback, sir, and meet the 25-foot setback on Second Street.

Magallañez: Again, the drawing's only a template of a house that would basically fit there. It's not the final design or anything of that sort so when we do have to meet the requirements for the access off of Second and off of Wilson; so however the house will be configured will be meeting the requirements set forth by the City.

Shipley: I appreciate the input because we're basically looking at something and trying to infer from what we're given how it's going to work in the neighborhood and that's why we ask these questions that are probably not... you know, they're already worked out but to us, we don't have enough information to know that. So just bear with us on those kinds of things.

Magallañez: Sure.

Shipley: Thank you.

Magallañez: Thank you.

Crane: Thank you, Mr. Magallañez.

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Magallañez: Thank you, gentlemen, ladies.

Crane: Commissioners, will somebody move that this… Yes, Mr. Shipley.

Shipley: Is that the only person *(Inaudible)*

Crane: Ms. O'Connor, do you have some more remarks?

O'Connor: Yes, I do.

Crane: Okay.

O'Connor: After seeing the suggested layout the house that would be directly on the corner of Wilson and Second, that garage would be backing up directly into my driveway. If they could reconsider how that would figure that would be better. Otherwise his driveway is going to back into my driveway. They're going to meet in the middle of the street.

Crane: I don't follow. Could you, Mr. Ochoa, bring up that picture?

Ochoa: Again, Mr. Chairman, if I may interject here. As I stated earlier the Lot 1B that you are speaking about, they were required by our Traffic Engineer to actually call out their required access point. They are not going to be allowed Lot 1B to Wilson Avenue. It will be off of Second Street farther away from the intersection. That is where their access point would have to be for that lot ma'am.

O'Connor: It's (Inaudible). Thank you.

Crane: Thank you. Any further comments? Commissioners, I'll entertain a motion that this…

Shipley: Mr. Chairman, I move to approve case S-13-011/IDP-13-01.

Crane: And…

Scholz: Second.

Crane: Seconded by Mr. Scholz. We'll take the role and this time we'll start with Mr. Beard.

Beard: Aye, findings and site visit.

Crane: Mr. Alvarado?

Alvarado: Based on the recommendations of staff and the discussion here I vote yes

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to approve.

Crane: Thank you. Mr. Scholz.

Scholz: Aye, findings and site visit.

Crane: Ms. Ferrary.

Ferrary: Aye for findings and discussion.

Crane: And Mr. Shipley.

Shipley: Aye, findings, discussion and site visit.

Crane: And the Chair votes aye based on findings, discussion and site visit and it passes 6 – 0. Thank you.

1. **Case A1719:** Application of Brewer Oil Company to vary nine (9) feet from the minimum required 27-foot wide back-up/driving aisle. The applicant is proposing to provide an 18-foot wide back-up/driving aisle for a new ADA-accessible parking area on the subject property. The subject property encompasses 0.454 ± acres, is zoned M-1/M-2 (Industrial Standard) and is located on the east side of North Compress Road, 900 ± feet north of its intersection with West Amador Avenue; a.k.a. 202 N. Compress Road; Parcel ID#: 02-02475; Proposed Use: Commercial warehouse storing bulk commercial lubricants. Council District 4 (Councillor Small).

Crane: Our next item is the original first item of new business, Case A1719: Application of Brewer Oil Company for a variation of the minimum required back-up/driving aisle for an ADA-accessible ramp on some construction I have in my .... Mr. Ochoa.

Ochoa: Thank you, Mr. Chairman, the third case tonight is Case A1719. This is a request to vary from the minimum required driving and back-up with requirement for a commercial parking area proposed for property located at 202 North Compress Road.

Shown here on the vicinity map, highlighted with the stripes, the subject property is located on the east side of Compress Road here, right west of what is the railroad there, just to give you a rough idea of where we're speaking about. Looking a little closer here, the property is zoned M-1/M-2 in an area which is nothing but M-1/M-2 or aka Industrial Standard.

The code requirement you're looking at tonight under the 2001 Zoning Code is Article 6, Section 38-58D, which stipulates and regulates the size of parking stalls and driving aisles for commercial parking lots or parking areas. The applicant is proposing to install a 90 degree parking

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stall, so that is what we're looking at. A 90 degree parking stall is required to provide the width of two-way aisle to be a minimum of 27-feet, so that is the variance that they are requesting tonight.

As stated before, the subject property is located on the east side of North Compress Road, roughly 900-feet north of its intersection with West Amador Avenue. The subject property encompasses a little under half-an-acre in size and is zoned Industrial Standard or M1/M2. The subject property is currently an existing vacant commercial warehouse.

The applicant, which owned the property to the north, which I'll show you on the next slide, are looking to move into this warehouse and do a little revamping of the building and utilize the warehouse for storing bulk commercial lubricants and fuel and running a commercial business out of there. Minimum requirements do require the applicant to provide one ADA compliant parking stall for the property. To meet the ADA access requirement from the actual ADA parking stall into the building the applicant is seeking to install the ADA parking stall on an existing loading dock of the warehouse. The new driving area that would be created on this dock is required to have a minimum 27-foot wide driving/back-up aisle. They are proposing to vary 9-feet from that requirement, essentially making that two-way driving aisle 18-feet or 18.8-feet; just that we rounded down to make it a round number of 9-feet of a variance.

Shown here in the aerial you can see a little better where that warehouse is that we were speaking about and the actual docking area that the applicant is proposing for the parking area. Shown again here, this is their existing warehouse, an old unsafe warehouse they will be moving out of and demolishing soon, I believe, and moving into this warehouse where they are remodeling certain aspects of it. Again, because all they need to do is provide a minimum of parking on there they are only required to provide one ADA parking stall for the commercial business and they are proposing to locate it here on the existing dock of that building. Shown here again, kind from the street view of what that area would look like.

Moving on this is what they are proposing that it would look like having the minimum 9-foot wide, 19-foot deep ADA parking stall, of course, accessible parking stall, with the required lined loading and unloading zone adjacent to it. But, of course, the only issue we are looking at tonight for the variance is to the minimum driving aisle width; that two-way driving aisle width, of course, it is showing that it is going down but, of course, they would have to access this parking stall as well so it is a two-way driving aisle, 9-feet minus the minimum required by Code.

Your criteria tonight, ladies and gentlemen, for variances to, I guess, base your decision on would be: one, is a physical hardship relative to the property, some type of topographical constraints or right-of-way take resulting in reduction of the actual developable area. It would be one way to take a look at approving this variance. Another one is the

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potential for spurring economic development at a neighborhood or city-wide level if requested allowances are granted and third, lastly but not seen as a whole, is the monetary consideration where it's relative to the options available to meet the applicant's stated objective when such options cause considerable monetary hardship under the strict application of the Code; in other words, if it is so expensive for the applicant to follow the Code that is another possibility to approve this by.

While staff has no major issues with the proposed variance it is the standard that is required by Code that that 20-some-foot driving aisle is required. Staff, unfortunately, cannot find a basis for granting the variance based upon tonight, which is why we're here tonight; but based on the criteria outlined in Section 38-10J of the 2001 Zoning Code. With that, staff does recommend denial based on the findings stipulated in your staff reports.

Your options tonight, ladies and gentlemen, are: 1) to approve the variance request; 2) to approve the variance request with conditions determined appropriate by the Planning and Zoning Commission; 3) deny the variance request as recommended by staff, or 4) table/postpone.

Just as an addition to this, we did receive a couple of phone calls from adjacent property owners. I received letters and they saw no issue with the variance considering: one, stating that, "They are not doing anything to the building so what's the big deal?" That's exactly what he stated; and the second simply stating that it's a welcome redevelopment to the area that he has invested in his property. That is the end of my presentation. If you have any questions, I stand for questions and the applicant is here as well. I believe they have a presentation as well for you, sir.

Crane: Thank you, Mr. Ochoa. I'm at fault here for not having outlined to the public what the process is before you've seen it or handling new business items as opposed to consent agenda items. As you've seen, Community Development makes a presentation on a particular matter then we ask questions of that person and then we open up to the public for public input and we can ask the public for some question and...Mr. Scholz.

Scholz: I think the applicant comes second, doesn't he, sir?

Crane: Yes, I thought I'd left something out. Yes, the applicant comes second and makes a presentation. We ask questions if we have them then finally, the public. When there's no further public input then we close discussion and decide what we are going to do. Okay, that having been said, does anybody have any questions of Mr. Ochoa? I have one: it would be legal and not counter to federal ADA legislation for us to approve this if we chose?

Ochoa: Mr. Chairman, yes, sir, that is correct.

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Crane: Okay. Thank you.

Ochoa: If I may embellish, the ADA requirement is not what's in question today. It's the City requirement for that minimum 27-foot wide driving aisle. If they get the variance approved for that their parking area would be fine, sir.

Crane: Uh-huh. And we're talking about the width of the ramp. Right?

Ochoa: Yes, sir, the driving aisle, sir.

Crane: Thank you. Commissioner Ferrary.

Ferrary: Yes, I'm still somewhat confused by... the van would go right next to the ramp that's existing if this was approved as it is and then the person would have enough room to exit their vehicle and then they would have to approach the building by ramp that's already there?

Ochoa: Mr. Chairman, Commissioner Ferrary, what they are proposing here is this is the actual parking stall with the curb stop; so the people would park here, use this area as their loading/unloading area so this is flat still, it's just painted and they would access the building here. There's actually a door here, I believe, where they can access that building, have direct ADA access to that building on top of the dock itself.

Ferrary: How would the person get to that level? Because when I by it looked by it looked like it was kind of elevated.

Ochoa: That is correct. The person would essentially drive up this ramp, park up here right next to what would be that striped loading and unloading zone and there is a door here. You can't see it from my photo or from the aerial but there is a door up here on the ramp that they would have access to that.

Ferrary: So they would be parking on a ramp?

Ochoa: The parking would be accessed from the ramp on the loading dock. Right here in this area is where the parking would be. The ramp would be essentially their driving aisle to get to that parking area.

Ferrary: So they would be on an elevated parking. You can't exit a van that's on a ramp.

Ochoa: It's all elevated. The entire parking area is elevated...

Ferrary: Okay.

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Ochoa: ... and it's next to the door that's also elevated at level with that loading dock there.

Ferrary: Okay. Now I understand. Thank you.

Ferrary: Yes, ma'am.

Crane: Any other questions of Mr. Ochoa? Is the applicant present? Come up and identify yourself, please, sir, and be sworn in.

Lamberth: My name is Jay Lamberth and I am the Vice-President and Chief Financial Officer for Brewer Oil Company.

Crane: Mr. Lamberth, do you solemnly swear that the statement you are about make is the truth under penalty of law?

Lamberth: I do so help me God.

Crane: Thank you.

Lamberth: I am going to start by thanking you for this opportunity. I feel like my job today is going to be to explain our business maybe a little better than we could on a form and give you some examples of what we foresee and our solution. I want to start by commending this beautiful city. It's been a couple of years since I was in Las Cruces and my wife and I drove up this afternoon and it's obvious that you guys are doing a fantastic job and I totally understand Mr. Ochoa and his staff in their assessment of where we are right now today with this and that's what I am going to try to address. My job is gonna be to try to explain our business a little bit better to help you guys make a decision.

As they pointed out in their assessment of this, there's two problem areas: one is that the proposed branch does not meet the requirement for a hardship and the second one is that the staff has issues allowing parking on the dock considering the dock will be utilized by the business and that's totally understandable. I can imagine an Auto Zone or something like that where people are going all the time. That would not be a good solution. So, based on that, if you'll bear with me I'm going to give you a little information about Brewer Oil Company and what we're about and I think it may make some difference.

We've been a New Mexico Corporation since 1973. We have three commercial warehouse operations similar to this one. We have one in Artesia, New Mexico, another one in Albuquerque and they're all very similar operations and similar in size. We also have 37 retail convenience stores scattered throughout the state. We employ 487 people all in New Mexico. A hundred percent of our business is New Mexico.

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In Las Cruces we pay $13 million of wages every year. The local multiplier effect... now all I'm doing here is giving you an idea of kind of the volume of what we're talking about. That $13 million based on conservative economic estimates will generate about $65 million worth of economy for Las Cruces. We have $110 million worth of commercial sales statewide every year and that doesn't include the convenience stores. That's just our warehouse operation. We estimate conservatively that less than 1,000th of 1% of our customers at these commercial facilities are disabled customers. Now I'm not belittling that at all. We want to make it as easy for customers to do business and do it safely, but at the same time the traffic is going to be at a minimum.

This is that same drawing that Mr. Ochoa showed you earlier and this is on page 12 of the application that we sent. As you can see, the ramp, the existing ramp is here and the access would be at this level and then there's an overhead door at this level. I'm gonna show you guys in a little bit why we don't consider that to be a problem and it has to do with our operation and the way we conduct our business.

This is not as pretty a picture as Mr. Ochoa had but this shows the area where the proposed... this is Plan B, an alternative ramp would be involved and, as you can see, that is definitely...it is not a monetary hardship but it would be an operational hardship to have to navigate that with delivery trucks and that kind of thing. That's page 10 of your application.

Now this is a little bit different photograph but it's similar to the one that Mr. Ochoa had and a couple of things I wanted to point out about our proposed... This is the existing ramp. This is a loading dock and typically we have very little walk-in business at these facilities. It's a commercial warehouse. Our drivers are loading their trucks early in the morning. They come in at seven o'clock, most of them. They load oil in the truck and they're out on deliveries all day and we obviously have a couple of folks that are staying with the warehouse to unload products coming in and that kind of thing. But it's not really intended to be a walk-in kind of thing at all. It's a facility for us to make deliveries to our customers. We keep the doors open and we're installing a total of seven cameras so that we can monitor not only the warehouse and the ramp area but we also have a fuel area off to the left hand side that you can't really see and we're going to monitor that from this same building.

Our deliveries are about every couple of weeks. We'll have a delivery semi back up to this dock. They're not going to be up on the ramp. They're going to be backed up to this dock area right here so that ramp and everything would still be open at that point and probably 95% of our vehicles that we're loading for deliveries are going to utilize the dock as well. We have very few that are backing up onto the ramp, maybe a small pickup or something if we have a salesman that needed to deliver a couple of cases to a customer real quickly they might back their pickup up there and throw them in but that doesn't happen very often. So my point

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is: the type of our business is a little different and I hope that we're not thinking of it as being a commercial thing where customers are coming and going all day long. It doesn't really happen that way.

Now, I hope this doesn't bore you and I did a little bit of research myself and looked at the website for the federal ADA website and there are several questions and answers on there that really kind of struck home for me and I'm gonna run through these real quickly but I don't expect... I know this is probably stuff that you guys already are aware of and very familiar with but the limitations that they talk about for barrier removal and the barrier in this case is the sufficient ADA parking: how do we mitigate that? Basically, to me it says it needs to be 'readily achievable.' "Readily achievable" means without much difficulty or expense: examples of modifications that are listed: simple ramping of the few steps, installation of grab bars where there's no reinforcement or routine reinforcement required, lowering of telephones, that kind of thing, which we understand and we totally support that.

We even considered installing some type of an elevator and if that can be done... it'll just say, is readily achievable but it's unlikely in most cases and that's kind of the conclusion we came up with. The barrier removal is not readily achievable, what kinds of alternative steps are required? Alternatives... I thought this was interesting. Alternatives include such measures as in-store assistance or for removing articles from inaccessible shelves, home delivery of groceries, dry cleaning, that kind of thing meeting people at the door. But those are alternatives and I know you guys are very familiar with this. You deal with it all the time. The alternative steps must be taken... again, readily achievable alternative steps must be undertaken.

So what I'm hoping to show here again, this commercial warehouse facility we deal with oil and we don't sell it by the quart. It's sold by case so a case of oil, as you know it's a little bigger than a bread box. It's kind of bulky. It's square and it weighs 22 ½ pounds. We also sell 5 gallon pails of oil, which is a big bucket, kind of like a feed bucket and it's 37 ½ pounds. We sell 55 gallon drums of oil at 412 ½ pounds and then we also sell what we call a tote. It's a 330 gallon tote of oil and it's a little over a ton. Now obviously our personnel have to be very adept and trained at handling these kinds of volumes in this kind of way. In fact, one of the owners told me the other day, he said he handled so much oil when he was younger in drums he was surprised he had all of his fingers. But that's the kind of environment we have there and so consequently, what I'm saying is: our customers don't go back in the warehouse and they're not carting out barrels of oil and cases of oil. We do all of that for them. In fact, we load every case, pail, drum and tote of oil into all of our customers' vehicles, not just disabled folks. We do them all and there's a lot of reasons for that. We want to make sure that it's done safely and we have people that are trained to deal with that.

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Given that, what do we do if a disabled person comes up and wants to buy some oil for their car? We have six locations... basically it says: "customers purchasing 1 to 6 quarts of oil can choose from one of five convenient locations in Las Cruces" and they all have ADA accessibility. So in the event that there's a misunderstanding and someone needs to buy some oil for an oil change we can send them to one of five places to get that done and we're going to have everybody trained to do that.

I think, if we really think this through, the hardship would be trying to determine some kind of alternative, like a 40-foot long ramp or something of that nature when I don't think our customers are going to be utilizing that at all. If they do it's going to be tiny, tiny. We're gonna have the cameras. We'll know when someone pulls into a handicap area and we can help them and the dock... yeah, we're going to use it in our business all right but it's going to be at 7 in the morning and late in the afternoon. It's not going to be during the day when customers are typically coming by to buy their oil.

What I would propose to you tonight is rethink this, let's approve it and we will put an ADA parking ... let me back up here... and this just occurred to me this evening. I'd be more than happy to put ADA parking right here. I'll have a camera trained on that area and our personnel inside the office will see when anybody pulls in ADA parking and they will immediately go out and assist them right there on the spot. More than likely we're going to send them to another location for their 6 quarts of oil but if not, we'll be able to help them from that standpoint. I think that solution is safer for the disabled person and it certainly mitigates any kind of hardship that we would have of some kind of an alternative there. Any questions?

Crane: Any questions for Mr. Lamberth? Commissioner Shipley.

Shipley: Thank you very much for your presentation and leaving that picture you have right there I've got a couple comments.

Lamberth: All righty.

Shipley: Number one: I think your last suggestion is probably a very good suggestion. I would go one step further and put a phone or something out there so that in the event that somebody's back in the warehouse and not up there where the camera is, is the phone can ring and they can get access that way.

Lamberth: If I might interject real quick while it's still on my mind: all of our convenience stores at the gas pumps, we have a button for that very thing. If a disabled person needs help they push the button and we come out and help them and I had already thought about doing something of that nature just as an extra step.

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Shipley: Okay. That was just one suggestion. But the other thing is looking at the picture you provided here, you've got a truck up there that's using the dock the way you've got it laid out now; in other words, the drive up, the right hand turn, the parking and that. That's parking on your loading dock and you've got a forklift up there loading totes into a truck or out of a truck that's not accessible so you have just eliminated your one handicap parking place, which is in violation of the ADA requirement.

Lamberth: True.

Shipley: Second thing is: that truck is a pretty good size truck. It's pulled in, now it has to back down and you've got no ramp, you've got no protection over there so you've got an accident waiting to happen if it jars and falls over on its right side going back down that ramp.

Lamberth: This particular picture was a prior owner and that's his truck.

Shipley: I understand. You're inheriting this...

Lamberth: Yes, I am.

Shipley: ... facility and, therefore, what you see here is an accident waiting to happen and your insurance rates are waiting to go that direction.

Lamberth: Believe me, they're telling us step by step what needs to be done. Yes, they are.

Shipley: I understand. The loading dock area, I think, is not a good place for that ramp; in other words, I personally don't think that this is a solution. I think your other point might be a solution but I'm not a technician that can tell you that that's ADA compliant because if somebody needs to get into the building, you know, they may be on crutches.

Lamberth: Um-hmm.

Shipley: They may have had an operation or they may have sprained an ankle or whatever and they can't traverse the steps that go there. That's why ADA says that all buildings where customers can go, whether it's commercial or retail or whatever, has to be ADA compliant. That's why we put curb cuts in now with all that stuff.

Lamberth: Right.

Shipley: It's not about how many people. If there's one we have to prepare for that.

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Lamberth: Okay.

Shipley: So, in my opinion, the 90 degree turn at the top of the ramp the parking is a no go because that's a loading dock there. That's a working area. That's what that building is meant to be and I would, in most cases, get rid of that ramp and make it a full loading dock so that people pull up there and you get something to put it in. That's not safe as I see it. But I do think, though, the suggestion about putting the ADA accessible parking space lower and helping them, having somebody come may be a solution. But I think that's a question for Legal and some other folks to see about that. That's not for us to decide right now. Thank you, though, for your presentation.

Lamberth: Thank you.

Shipley: Anyone else? Commissioner Ferrary.

Ferrary: I also have concerns like if they were to have to drive in as first proposed and what if they were in an extended pickup truck and not able to maneuver their exit and turn around. But then also your idea of having someone just pull up and then, you know, a phone or something to make sure that someone came out, I don't think that's to the idea of what ADA accommodations are because a person would not be able to go and choose what products they wanted to buy. And then also how would they make payment? You would have to take their credit card or make different accommodations in that way also. So I am not sure how this is all going to work.

Lamberth: Well, that's a very good concern. Believe me, we've thought a lot about that but we don't allow any customers in the warehouse to begin with, I mean, they don't go in and pick out their oil like they would at an Auto Zone or someplace like that. This is really a facility to store commercial products out of the elements and we have a sales counter where someone can come in and buy a case of oil or even a drum of oil and it may be somebody we don't even know; but they're not typically walking around the warehouse and looking at things. It's a little bit different environment, ma'am.

Ferrary: But they still would not then have access to your counter.

Lamberth: In that case of having someone come and help them, no, they wouldn't.

Ferrary: Thank you.

Crane: I have a couple of points from what Commissioner Ferrary brought up: isn't this rather parallel to what you mentioned at a gas pump where you

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can push a button to have somebody come out and serve you? If you had a button on stand there suitably protected from other traffic, an individual could drive up, push the button for service.

Lamberth: Yes.

Crane: We also have that at ATMs. It's not quite the same thing as seeing the stuff lined up as in an ATM screen or at a gas pump but I think it meets the need; though, of course, it may not be exactly what ADA requires. I have q question about where this ramp expansion would go that you say would cost you $15 to $20 thousand to build to meet the City's requirements. Would it be a widening of the one that's up there?

Lamberth: Actually, what we had determined was in front of this area here where the door is that it would have to be 4-feet high to access this door and then it would come out approximately 40-feet in front of the building here and the parking would be across this way and then the ramp would either be kind of a switchback affair or something that went around the perimeter to allow... Nevertheless, it's about a 40-foot long....

Crane: It would be not a ramp for vehicle, a street vehicle. It would be a ramp for wheelchair.

Lamberth: Yes. Yes.

Crane: I see. I'll also have the comment that to have three-point turn that you think people making after they've parked up where that truck is, that box truck in the picture, it's a little tricky to make and I'm sure that some people that are disabled do not have quite the control of a vehicle for making maneuvers like that, but those are suppressed with older faculties have. I like the idea of, if the City would accept it, and I was just about to ask Mr. Ochoa what the City thinks of your Plan B, or Plan C, to have a parking place and a place where somebody can come down and wait on them. Mr. Ochoa, can you (Inaudible)? Would that be acceptable to the City?

Ochoa: Mr. Chairman, the reason they are wanting to put the ADA accessible parking stall up on the ramp is to meet the required ADA access to the building. In other words, it's nice and flat. It's not at a 2 degree angle. It's less than 2 degrees of an angle in order for somebody in a wheelchair or who is disabled can actually access the building. That is why it is supposed to be up there. That is a minimum requirement for access for an ADA parking stall into a building. So, unfortunately, staff doesn't think what the applicant is proposing is a bad idea. It's simply that an option that was brought up in the past that staff cannot approve or accept from a Building Code standpoint that doesn't meet those ADA requirements, sir.

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Crane: Thank you. Mr. Scholz.

Scholz: If seems to me we're overthinking this, you know, we're trying to… it's kind of like the speculation that people have brought to us before and they say, "Well, what if this happens and what if that happens?" and, you know, "Can we control for this?" I don't see the problem here. I think the ramp should stay as it was as I think the design should stay as it is and I think we should approve the variance. I think what we're doing is interfering with this man's business. I think he's told us that a minority of a minority would have this access problem and if those people have that problem I suspect if they can get the van up to the loading dock where it is they should be able to maneuver and get it back out again. I don't see that's going to be a problem.

Lamberth: Now, too, by the way, I failed to mention that but navigating that backing up into the… We keep that door open and this picture shows it open. If we're helping folks load their oil to begin with, helping then navigate that backing up and pulling out straight is not going to be a problem and our people would be trained to do that.

Scholz: And I noted also that there is a new handrail that's going to be on that ramp…

Lamberth: Yes.

Scholz: … a guardrail, yeah, so people won't be likely to fall off of it. So I don't see that this is a problem. I really think we're spending not only too much time on this but we're speculating on the problems instead of looking at a simple solution, which I see is right before us.

Crane: Thank you. Any other questions for Mr. Lamberth? Thank you, Mr. Lamberth.

Lamberth: Thank you.

Crane: Any member of the public wish to make a comment on this matter? All right, then we are closed for discussion and the matter before us is whether the variance of A1719 should be granted. Mr. Scholz has made his views known.

Scholz: I so move.

Crane: All right. Is there a second?

Beard: Second.

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Crane: Seconded by Mr. Beard. I want to add my points. I tend to agree with Mr. Scholz that this can be handled. I appreciate the Brewer Company as not some hugely rich outfit from a nationwide chain that's trying to get out of a small financial jam but rather as something which is an indigenous New Mexico corporation and there aren't enough of them and we can cut them a break here, I think, frankly. In spite of what I said it being a little difficult to negotiate up there if Mr. Lamberth says that his help will be out there helping a person to back up and get down the ramp fine; and it is a factor that I think that we have to practically concede that if his 1,000th of 1% of his customers who call there are disabled we could practically put a forklift under the truck and roll it up there. But that's facetious, I suppose, but... Does anybody else have a comment before we vote? Mr. Alvarado.

Alvarado: I also agree with Mr. Scholz. I think that they're making an extraordinary effort to comply with ADA and I think they'll do everything to accommodate their customers who need accommodation.

Crane: Thank you. If there's no other comments let's start the role starting with Mr. Shipley this time.

Ochoa: If I may interject, sir, please?

Crane: Yes, sir.

Ochoa: Just as kind of a reminder, staff is recommending denial so in your staff report there are findings based for denial. If you do vote to approve this you have to state what your findings are for approval, just like in the past, sir.

Crane: Yes, thank you. Mr. Shipley

Shipley: If you vote this you are voting for the denial? If you're voting against it you're voting...

Crane: No, sir. I don't think...

Ochoa: Mr. Chair, Commissioner Shipley. We vote everything in the positive so if you agree with the variance you would be voting to approve it. That would approve it; or you deny it or to keep denial as staff is recommending.

Crane: Yeah. The motion is that we approve the variance application. Mr. Shipley.

Shipley: I vote nay based on findings, discussion and site visit.

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Crane: Commissioner Ferrary.

Ferrary: I vote nay with recommendations and discussions.

Crane: Mr. Scholz.

Scholz: I vote aye because of discussions and site visit.

Crane: Mr. Alvarado.

Alvarado: I vote yes because of the discussion and the findings.

Crane: Mr. Beard.

Beard: I vote no based on findings, discussion and site visit.

Crane: And the Chair votes aye based on discussion and site visit. So we are tied in which event...

Ochoa: The variance fails, sir.

Crane: Yes, fails. Okay. Thank you.

2. **Case PUD-11-04**: Application of Borderland Engineers and Surveyors, LLC on behalf of IFLC, LLC, property owner, for a Final Site Plan for a Planned Unit Development (PUD) known as Villa Amador. The Villa Amador PUD was originally approved in 2010, encompasses 53.382 ± acres and is generally located south of Amador Avenue, West of Valley Drive and northeast of Burn Lake. Parcel ID# 02-02145, 02-02579, 02-02580, 02-02603, 02-02605, 02-02607, 02-02609, 02-18091 and 02-22499; Proposed Use: A mixed-use development entailing a phase with 179 single-family residential lots and a phase allowing industrial development. Council District 4 (Councillor Small).

Crane: Next, ladies and gentlemen, case PUD-11-04: application of Borderland Engineers and Surveyors on the Villa Amador. Who is going to present for the City? This yours, Mr. Ochoa? Okay. First, tell us: is this "Villa" *(Italian pronunciation)* or "Villa" *(Spanish pronunciation)*. I worry about these things.

Ochoa: It is in Spanish, sir. It is Villa, sir.

Crane: Villa Amador *(Spanish pronunciation)*. Thank you.

Ochoa: The next cast tonight, gentlemen, is case PUD-11-04. It is a request for approval for a final site plan for a Planned Unit Development or PUD

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known as Villa Amador, which I am sure most of you remember the history behind some of this.

Just looking at the subject area, looking at it here in the vicinity map in the striped or hashed area and made up of approximately nine existing parcels located generally south of Amador Avenue, west of Valley Drive and relatively north and northeast of what's Burn Lake and Interstate 10, to give you a rough idea of where we're looking at.

Looking at the zoning map here, the subject property is zoned PUD, Planned Unit Development, because of that previously approved concept plan for the Villa Amador. This final site plan is just essentially moving that concept plan forward to the next step, if you will, in an area primarily industrial to the north, commercial to the east and, of course, the Burn Lake facilities to the south and west.

Here's a little bit of background of the Villa Amador PUD: the actual concept plan itself was originally approved back in November of 2010 by City Council. The Villa Amador PUD then was amended under Amendment No. 1 and approved back in August 2012. Those changes were to: 1) change the 10-foot landscape buffer tract into an easement, where it was at a different area than it was proposed to go in that PUD area, and; 2) is the changes is to what were supposed to be private roads within the residential area were changed to actual public roads, which would be following City Standards and dedicated to the City.

Showing here on the map what that final site plan looks like and going a little more into depth as to what is going on there. The subject property currently is mostly vacant or undeveloped and, with some existing industrial uses and buildings on one of the lots along Pioneer Place, this one here, actually. The subject property encompasses approximately 53.382 acres.

The proposed final site plan is proposing three separate phases: Phase 1, 2 and 3. Phases 1 and 2 are the proposed industrial development. As I said, there is the existing industrial here and then proposed industrial here in this area. With the PUD process if any lots are wished to be cut out of those areas they'd be allowed to do so utilizing the Alternate Summary process, which would be an administrative replat, essentially.

Phase 3 will, the eastern section, is the single-family development, which is proposing approximately 179 lots. Those 179 lots proposed are under the density requirements called out by the PUD by a fair amount actually. Their density's relatively low compared to what was initially proposed and, of course, with public roads being built out throughout that development with access off of not only Valley Drive but also Pioneer Place to Amador with two access points to that residential area. This area will actually be sub-phased in five sub-phases to be: Sub-Phase 1, Sub-Phase 2, 3, 4 and 5. All requirements of the Villa Amador Concept Plan, Amendment No. 1 of the Concept Plan, the 2001 Zoning Code, the

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Subdivision Code and the City of Las Cruces Design Standards shall be required to be followed by the proposed final site plan.

Here, showing the aerial, again the vast majority of the area is vacant with that one lot currently being used for industrial uses. On August 7, 2013 the Development Review Committee, or DRC, reviewed the proposed final site plan.

Discussion took place at the meeting about the remaining issues and comments from reviewing parties for the final site plan. Our Engineering Services Section and the Traffic Engineering Section stated the different issues that still needed to be addressed from a drainage, traffic and street related standpoint; but, of course, these issues, being more from a construction side of things or final plat side of things, which can be ironed out separately. With that both sections had no issues at all on this case to move forward with the condition that all outstanding issues be resolved prior to the finalization of the final site plan. Parks and Recreation also stated at the meeting that the applicant would be assessed park impact fees for the residential development or would have to provide park improvements with the development. That would be determined with future negotiations with the developer at a future time.

With that the DRC recommended approval with the conditions as stated by the Engineering Services Section and Traffic Section for the proposed Villa Amador PUD final site plan. And with that, staff does recommend approval with conditions for the final site plan based on findings presented in the staff report: that condition being all outstanding issues from the Engineering Services and Traffic reviewing parties shall be addressed prior to the finalization of the Final Site Plan with the City.

The Planning and Zoning Commission does have final authority to take final action on final site plans regarding this case, of course.

With that, ladies and gentlemen, you options tonight are: 1) to vote yes to approve the Final Site Plan as recommended by staff with that one condition; 2) to vote yes to approve the Final Site Plan with additional conditions deemed appropriate by the Commission; 3) to vote no to deny the Final Site Plan or; 4) to table/postpone and direct staff accordingly.

I just want to let the Commission know we did get a number of phone calls from neighbors that did receive public notice from staff: a couple of people just wanted to know what was going on, if this was finally moving forward, a couple of people still against the proposed PUD and we actually had one phone call and somebody come in actually supporting the proposed PUD. With that, the applicant is here and has a presentation ready as well, if you would like to hear that from him and I stand for questions.

Crane: Thank you, Mr. Ochoa. Do I have any questions for Mr. Ochoa? Commissioner Scholz.

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Scholz: Yes. I was wondering why there's no connection with Roundtree. I noticed Roundtree was blocked off. Couldn't Roundtree be used as an exit as well?

Ochoa: Mr. Chairman, Commissioner Scholz, I'm going to leave to the applicant to answer that question for you, sir.

Scholz: Okay. Well, is Roundtree a city street?

Ochoa: Yes, sir. Yes, it is a city street. As to its maintenance I'm not sure exactly how it works out. We have had issues in the past with a subdivision in that area for Roundtree so that might not be a viable place for a connection to Villa Amador, but also remember statements from the past that Roundtree actually runs into that "no block" zone on Amador…

Scholz: Yes.

Ochoa: … so that would be an access issue that the applicant, I believe, is trying to avoid and why they're not proposing two access points, which if might remember, the initial proposal was just one access point off of Villa Amador *(Mr. Ochoa and Commissioner Scholz speaking at the same time – cannot transcribe)*

Scholz: Oh, yes. I remember.

Ochoa: … to Valley. For Villa Amador it is now both off of Valley and Pioneer Place.

Scholz: Okay. Well, the reason I asked is because it looks logical to do that now, and there were, as I recall in the initial… either it was last August or maybe it was even the year before when we talked about this as a community. Someone asked the question of: why Roundtree wasn't being used as access. Okay.

Crane: I remember that discussion and I think a knock on Roundtree was that it hits Amador so darn close to that busy corner that you really wouldn't want to throw any more traffic onto Amador at that point.

Scholz: Yeah. That may well be. Okay. Thank you.

Crane: Anyone else for Mr. Ochoa. Mr. Shipley.

Shipley: A couple of questions, Mr. Ochoa; a very good presentation. In the first page there, the Applicant/Representative, it says the property owners are IFLC. Who is IFLC?

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Ochoa: That is Mr. ....

Shipley: What does IFLC stand for? Does it have a name?

Scanlon: *(Inaudible from the audience)*

Shipley: Okay. You could...

Ochoa: Industrial Facilities Las Cruces.

Shipley: Pardon?

Ochoa: Industrial Facilities Las Cruces, I believe is what he said, sir.

Shipley: Could we not put...if we got a thing, instead of putting up initials, can we not put up the name and the initials in the parentheses?

Ochoa: That is the way it comes out in Doña Ana County records, sir, by the initials is the way it comes out, sir.

Crane: I'm sure we'll get a full explanation from the applicant at the appropriate time.

Ochoa: Yes, sir.

Crane: Anyone else? Thank you, Mr. Ochoa. Is the applicant or his representative here?

Shipley: One last question.

Crane: Oh. Yes, Mr. Shipley.

Shipley: Excuse me, Mr. Ochoa, just for clarification: in the sheet we've got a diagram basically that lays out the homes and it shows the lot size and the houses and it shows the 10-foot setback at the rear. Is there a 10-foot setback plus a 10-foot buffer?

Ochoa: Mr. Chairman, Commissioner Shipley, yes. On some of the residential lots in the development, like adjacent to, I believe, to the south and adjacent to the industrial areas, there is a proposed 10-foot wide landscaped easement that is required back there. So there'll be a 10-foot "no build" zone, essentially, and then a 10-foot setback from there, sir, as the plan shows, essentially.

Shipley: That brings up the same issue before because of the south facing and the western houses are going to have to have some kind of cover on the back

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for patios and is it going to go into that easement. You know we're going to have variance problems, again; in other words, we're designing something here. Should we not build something on the back of there to preclude that from being a problem and getting it on the plat now?

Ochoa: Mr. Chairman, Commissioner Shipley, that 10-foot wide landscape buffer, they wouldn't be able to build into it. The typical residential lot shown on the final site plan is kind of the worst-case scenario. That is a home that would meet all setbacks at what points and so forth. Not all homes are built to that. A lot of people are actually starting to do that now and that's why you have seen such a dramatic decrease in variances now. People are actually stopping building all the way to those setbacks and allowing for future development, sir, or build outs on the lot. But if there are, they would still have to follow those setback requirements of ten feet, sir.

Shipley: I'm just trying to preclude the problem which comes with the people who say, "No one ever told me," and then they build it and then they come in for their variance and we deny it and then they have to tear it down.

Ochoa: Yes, sir.

Shipley: So why not eliminate that possibility in this phase?

Ochoa: By what, sir? I'm sorry?

Shipley: Either by having something built there on the house that shows that . . . how far they can go into that setback so that it's on the plan so that anybody that buys a lot there knows that they can't build into that area.

Crane: Commissioner Ferrary?

Ferrary: I have a concern with having all of this commercial development around a small section of residential homes and I'm trying to find . . . I know something was mentioned about, you know, having a park. Is there some kind of common area to make the aesthetics of the area in and of itself better than everything surrounding it?

Ochoa: Mr. Chairman, Commissioner Ferrary, I will let the applicant answer that question. I believe they do have some type of open space and some type of trail system possibly proposed from Villa Amador to the Burn Lake facility. They may be able to answer that a little bit better for you, ma'am.

Crane: Anything else, Mr. Ochoa? Thank you.

Ochoa: Thank you.

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Crane: Can we hear from the applicant, please? Mr. Scanlon, you're still sworn in, aren't you?

Scanlon: Yes, sir. Thank you. Mr. Chairman, Commissioners. My presentation is going to be really brief because as usual, Adam has done an excellent job, I think, a very concise job, a very complete job of explaining this. The Villa Amador PUD, for those of you who may not be familiar with the PUD process, the new Commissioners: the PUD process is a two-step process. We have what is called the concept plan, which we have already gotten approval of the concept plan a couple years ago and then an amendment to it last year; and then the second step in order to complete the Planned Unit Development process is the final site plan and that's where we are tonight. This final site plan is exactly in compliance with the concept plan that was previously approved and so the two go hand-in-hand as one provides a certain level of information then the final site plan provides a more detailed level of information to you.

The concept plan was approved by Council Bill No. 11-016, Ordinance 2596 and we have approximately 24.5 acres in the PUD to be industrial or approximately 28.3 to be a single-family detached site built or manufactured housing. The final site plan follows the outline of the approved concept plan and the concept plan amendment exactly. This is just a picture of it on the existing zoning map. It shows the zoning within the immediate area.

This is a drawing that Adam showed that shows the phasing of the property. The Phase 1 is this industrial area that's got an existing commercial operation on it; about 18 acres of additional industrial land over in this area. Then the residential area will be phased into approximately five Phases of construction and platting as it is developed.

Access will be from this access point on Valley Drive and also on Pioneer Place. We've designed this subdivision in this area and will have signage and so forth that will prohibit the trucks and stuff from within the industrial area cutting through the residential area to get to Valley Drive. We'll prohibit that. They'll be required to go to Amador and not through the residential area. We've also laid out the streets in such a way within the immediate area right here that it makes it real difficult to negotiate a big truck through there.

There will be no access to Roundtree Place because, and this was a requirement of the City, because of the proximity of the intersection of Roundtree and Amador to the Amador/Valley intersection. It would be in the queue of the "red" at that intersection all the time and people just wouldn't be able to get out. It's just too close to the intersection of Valley to allow any additional traffic from this development onto Roundtree. This shows the lot layout and what we would expect the final subdivision plats to look like.

That's it for me. I don't really have anything to add to Adam's presentation other than just to reiterate that the proposed development

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complies with all of the City requirements and we've gone through extensive reviews and that we have no issue with the conditions that were requested because the items that were asked for by Engineering and Traffic are things that we have to provide anyway during the construction plan part of the process so we don't have any issues with that; that's no problems with the conditions. With that we ask that you approve the Villa Amador final site plan. Thank you.

Crane: Thank you, Mr. Scanlon. Questions for Mr. Scanlon? Commissioner Ferrary.

Ferrary: Yes. So you didn't point out that there is a common or park area within this development.

Scanlon: There is not a common area or a park, per se, within this development because we are next to one of the largest parks in the city of Las Cruces, the Burn Lake Recreational Facility which the City has master plans to develop into a real recreation area with equipment and playing fields and those types of things. We have an agreement with the City to participate with them in the development of some drainage facilities within the Burn Lake area. This agreement will be formalized and finalized and filed before we do the final platting and construction plans. We also have an agreement with the City to provide some park infrastructure or improvements within the Burn Lake area in lieu of park fees or paying of park fees, in which that money will be used in order to improve the Burn Lake area; but being next to one of the largest parks in the city and the park that's destined to be a really nice facility we thought it was redundant to do a little park within the development.

Ferrary: How would the community access going over there?

Scanlon: We have agreed to provide pedestrian access to and from this development into the Burn Lake area through a system of trails.

Ferrary: So it's not really platted on here now but it would be.

Scanlon: Yeah, they are actually shown on the various drawings where the trail areas would be and where the pedestrian access would be to and from Burn Lake into the development. Typically, in the area that I'm highlighting right now is where pedestrian access would be. There'd also be a trail system that's part of the City's trail system along the Lateral, the existing Lateral that I'm kind of tracing right now that would get over into that area also.

Ferrary: Okay. Thank you.

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Scanlon: Um-hmm.

Crane: Commissioner Beard.

Beard: I know that the last time this came up we were talking about the access of Tierra Plano Street onto Valley Drive and I noticed that you have put that additional lane, which we had talked about. . . .

Scanlon: Yes.

Beard: . . . that goes in there and I'm certainly happy about that. There are three other accesses off of that exit lane. Could you identify what those are?

Scanlon: In this area here?

Beard: Yes. If you go down Valley there's three more entrances, it looks like entrances. There's arrows going in and out.

Scanlon: Oh, yes. There's going to be driveways into the Farm Bureau and driveways into Caliche's because what we're going to do is we're going to build new medians in Valley Drive and channelize that traffic. Right now it's just got a continuous left turn lane and it has no real defined driveways into, particularly into Caliche's. It's just kind of a "free-for-all" and since we're gonna have to be building a new deceleration lane or slowing lane along here we'll have to have new curb and gutter and sidewalk and so we'll do a drive pad to get into Caliche's and a new drive pad to get into the Farm Bureau property and we'll also be providing access from our new access street into both of those properties from that street as well.

Beard: Okay. The one that's furthest south, what is that one?

Scanlon: This is in the Farm Bureau.

Beard: Okay. Thank you.

Crane: Mr. Scholz?

Scholz: Well, that was my question, too, or one of my questions anyway, about the access and I think that makes a great deal of sense and I'm glad to see that we figured that out because that seemed to be a sticking point the last time we talked about this.

Scanlon: It was. We finally got all the details ironed out on that.

Scholz: That's good. I'm also happy to see that you're making these city streets and, you know, full width and things like that.

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Scanlon: I think it makes more sense.

Scholz: I think it does, too, and I think it would facilitate traffic flow within the complex. I just had one kind of offbeat question: do you play guitar?

Scanlon: I do.

Scholz: Is that why we have a Les Paul Street? *(All laughing)*

Scanlon: That was one of my employees, I believe.

Scholz: Okay. Thank you.

Crane: Since we're on the matter of street names I have a peeve. Mr. Scanlon, you did not choose street names?

Scanlon: I did not personally.

Crane: Mr. Ochoa, what do you think of "*Tierra Plano*" as a native speaker of Spanish? I have a peeve about real estate Spanish and it isn't confined to Las Cruces since I've seen it in California. I'm not a native speaker of Spanish but it bugs me. Now does the City look at street names and approve them? I mean, you couldn't call something "Doggy Do Street," could you?

Ochoa: Mr. Chairman, yes, sir. We do look at street names. I believe Traffic takes care of that issue as well as addressing takes a look at that issue. There are different requirements that they have to follow and nobody's brought that up as an issue, sir.

Crane: Do they have to follow grammatical convention? "*Tierra*" is feminine and "*Plano*" is masculine. It should be "*Tierra Plana.*"

Ochoa: Right. Tierra Plana.

Crane: Huh? Right. Does anybody care but me? This city is 65% Hispanic. Somebody must care apart from me. Do you care?

Scanlon: I do care and this action tonight does not name these streets. Those streets will be named later on during the final plat process and at that time I will take a real hard look at all of those names and I'm a Spanish speaker so I'll make sure that any Spanish names are grammatically correct.

Crane: I'm heartened to hear it. Thank you, Mr. Scanlon. Any member of the public wish to address that? Yes, ma'am, in the back, please come up.

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Ma'am, can you come up or do you need a mike? Okay. You're influence doesn't extend to California, does it, Mr. Scanlon? (All laughing)

Siebert: Hi, thank you for listening. Jude Siebert. I live at 1906, which is really West Brown Road, off the dead end and I would just love to be able to see it on your plan, please.

Crane: Could you take care of that, please, and while he's doing that, Ms. Siebert would you . . . Do you solemnly swear that the statement you make will be the truth under penalty of law?

Seibert: Yes, I do.

Crane: Thank you.

Seibert: *(Speaking aside with Adam Ochoa – inaudible)* Okay. Thank you.

Ochoa: I believe she just needed to see where her property was in the location of Brown Road, sir.

Crane: Sorry?

Ochoa: Mr. Chair, she was just wondering where her property was ....

Crane: No, I see it on the map. It's on sheet 4. It abuts Lots 16, 17 and 18?

Ochoa: Yes, sir.

Crane: Okay. Yes, sir? I know you from my hiking days but you won't get special treatment.

Scholberg: Eric Scholberg. I live on Brown Road near this subdivision. I will agree to speak the truth.

Crane: Do you swear that the statement you'll give is the truth under penalty of law?

Scholberg: Yes.

Crane: Thank you.

Scholberg: I had actually two things to say: one, to I'm not sure if it's done often enough, but to thank Mr. Ochoa for all the work he's done the last several years helping those of us who live near where this is being built understand all the nuances and changes as they're taking place. I'd also like to thank the developers and the planners. Over the time I know

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they've made a number of changes in response to some of the comments we've made and it's certainly a much better plan than it was the first time we heard about it almost three years ago. Like I think many of my neighbors, it'd be nice if the neighborhood never changed much at all but we know that it will.

I have three specific questions, though, based on a couple of things in the notes that were being presented. One had to do with the already discussed access to Valley Avenue and I know because Valley Avenue is a State highway, any changes, you talked about deceleration lanes, new turnouts would have to be approved by the State and I wondered if those meetings have been held yet and, if not, what the plan is to do that and if the State says, "No, you're not going to do this," what happens to any approvals we give to this plan right now?

Crane: Thank you.

Ochoa: Mr. Chairman, I can actually answer that question right now. The NMDOT did review this final site plan and they did approve it conditionally stating that they will require additional access permits and so forth during the actual final platting of this area. But they have been in the loop and the applicant has been in contact with them and Traffic Engineering as to what Valley Drive will essentially look like when it's all said and done.

Crane: Did that help, Mr. Scholberg?

Scholberg: Thank you. And another thing, this road access into Valley Drive, whatever its final name is, does cross the Porter Lateral, which will require the access from EBID and I don't know if discussions have been held yet with EBID. One of the concerns of the residents was gating off the Lateral in some way so that automobile traffic wouldn't drive up and down, which is currently slated at some time to be a hiking trail through the city but it currently is possible to drive a vehicle and we'd like to make sure that's closed off and in this I saw only mention of closing off somehow the development itself from the Porter Lateral. I don't know if EBID has been in the discussions, if we have a real plan for those gates or what even the timing is for doing that.

Crane: Can you help with that, Mr. Ochoa?

Ochoa: Yes, sir. If I may answer that question: it looks like the Porter Lateral gates and so forth will be installed with Sub-Phase 1 of Phase 3 so when the residential area comes into effect and that access point to Valley Drive is constructed that is when that gate will be placed on Porter Later to block actual vehicular access to the Lateral and, yes, EBID has been in the mix with this one since the beginning, since the concept plan, I believe, sir.

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Scholberg: Okay. My only concern is that those be EBID gates not put up by the developer so that those of us who need access to the Lateral when we water will be able to get onto it but other people won't be driving up and down. All right, and the third thing I just wanted to say is I'm happy to see in the final plan there is finally access to the residential development from Amador Avenue and Villa Amador won't only be accessed by Valley.

Crane: Thank you, Mr. Scholberg. Any other members of the public? We are closed to discussion. Commissioners?

Scholz: I move approval of PUD-11-04.

Crane: May I have a second?

Shipley: Second.

Crane: Seconded by … Oh, yes…

Scholz: Let me read the conditions.

Crane: … conditions and I believe you have to read it, the condition.

Scholz: The condition is: all outstanding issues from the Engineering Services and Traffic reviewing parties shall be addressed prior to the finalization of the final site plan.

Crane: Thank you and I believe Commissioner Shipley seconded. Commissioner Beard.

Beard: Yes based on site visit, discussion and … and the discussion.

Crane: Commissioner Alvarado.

Alvarado: Based on findings and discussion I vote yes.

Crane: Commissioner Scholz.

Scholz: Aye for findings, discussion and site visit.

Crane: Commissioner Ferrary.

Ferrary: Aye for findings, discussion and site visit.

Crane: Commissioner Shipley.

Shipley: Aye findings, discussion and site visit.

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Crane: And the Chair votes aye, findings, discussion and site visit. The motion passes 6-0. Thank you.

3. **Case Z2864:** Application of Lawrence T. Alderete on behalf of Santos B. Alderete, property owners, to rezone from UR (Urban Ranch from the 1981 Zoning Code) to REM (Single-Family Residential Estate Mobile) a 1.60 ± acre lot located approximately 222 ± feet west of the intersection of Weaver Trail and Del Rey Boulevard; a.k.a. 4684 Weaver Trail; Parcel ID# 02-21764. Proposed Use: Single-family residential mobile home; Council District 5 (Councillor Sorg).

Crane: And finally, case Z2864: applicant of Lawrence Alderete for a rezone from Urban Ranch to Single-Family Residential Estate Mobile for property at Weaver Trail. Mr. Ochoa, you going to talk?

Ochoa: Yes, sir. Last case we have tonight, ladies and gentlemen, is case Z2864. It is a request for a zone change from UR, which is Urban Ranch from the 1981 Zoning Code, to REM, Single-Family Residential Estate Mobile, which is current with today's Code. The subject property is located as shown here on the vicinity map in the hash marks again, located relatively west of Del Rey Boulevard and Weaver Trail where Weaver Trail dead ends into Del Rey Boulevard and east of what is Interstate 25.

Shown here on the zoning map you can see this is essentially right on the northern fringe of what is the City of Las Cruces' city limits considering this line is the city limits; so this is city and that is county there. As you can see the area is mostly zoned for Holding and Urban Ranch, a lot of other non-conforming Urban Ranch zoning designations, essentially a rural single-family type of development in this area.

Here in the aerial map you can actually see the lot with a mobile home, shed and a garage. That mobile home is no longer there, which is what essentially led to this zone change now. Before I continue with the case specifics; just a little history on this: this property was annexed into the city with a mobile home existing on that property off of Weaver Trail. That mobile home was then removed a couple of years ago by the property owner and the applicant is now trying to place another mobile home on the property to reside on that lot but since the non-conformity went away on that property, which is what is the UR zoning designation, the zone change is not required.

The property is located roughly 222 ½ feet west of the intersection of Weaver Trail or the dead end of Weaver Trail into Del Rey Boulevard. As I said, the property is currently zoned UR, Urban Ranch from the 1981 Zoning Code, and encompasses approximately 1.6 acres. There's no primary structure, just one garage and one shed on that property. As I stated, the applicant is proposing to install a mobile home on that subject property but the proposed zone change to REM, Single-Family Residential

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Estate Mobile, would make installation of that mobile home legal, essentially. The existing UR designation no longer exists so that REM, the new proposed REM zoning designation, would bring the property into compliance with today's Codes and Regulations. The property is in an area with other properties either zoned the same, there are a couple of REM zoned properties out there, and properties that are being utilized as the applicant is proposing to utilize his property as well with a mobile home; plus, again, this property is located in the northern fringe of the city of Las Cruces where rural residential uses and this proposed zoning designation are definitely encouraged by the 1999 Comprehensive Plan.

A couple things did come up when this case went under review; one being that the northern portion of that subject property is actually currently zoned A-1, which is a Flood Control District zoning designation from the 1981 Zoning Code. This area of the property is not actually part of the proposed zone change. That property will remain Flood Control. We will administratively change that old A-1 zoning designation to the current 2001 zoning designation of FC or Flood Control Zoning District. That'll be taken care of by staff so that area will still continue to have the arroyo running through there and designated for Flood Control.

During the review of the proposed zone change, the City of Las Cruces Fire Department did state a couple of concerns with the proposed zone change and actually recommended denial. They stated that the Las Cruces Fire Department cannot approve the addition of an additional dwelling on that property and stated that the roadway access and fire flow are unacceptable and improvements have to be made before they can recommend approval for this. Development Services staff definitely recognizes those concerns by the Las Cruces Fire Department but staff notes that this is the legal lot of record and we did verify with our Legal Department given the prior use of the lot, including the placement of a previous mobile on that property, Development Services staff believes that preventing the owner the use of that property with the placement of a new mobile on that property may actually constitute some sort of taking and is not warranted at this time for this property.

Here is a rough site plan that the applicant has proposed where the trailer would be going, that existing shed and garage on the property and, of course, that 30-foot arroyo running to the north. That area will now be zoned FC or Flood Control.

With that staff has reviewed the proposed zone change and recommends approval without conditions based on the findings presented in your staff report. Of course, the Planning and Zoning is a recommending Body to City Council for zone change cases so your recommendation will be moved on to City Council for this proposed zone change.

With that, ladies and gentlemen, you options tonight are: 1) to vote yes to approve the request as recommended by staff for case Z2864; 2) to vote yes to approve the request with conditions deemed appropriate; 3) to

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vote no to deny the request, and; 4) table/postpone and direct staff accordingly. Again, staff did receive a couple of phone calls from interested property owners just wanting to know what was going on, if they were going to be required to seek a zone change as the applicant had to; but nobody had any issues with the proposed zone change.

Crane: Thank you, Mr. Ochoa. Commissioners? Commissioner Beard.

Beard: Didn't we have something like this before, just not too recently, where a trailer had been removed and then they wanted to put another mobile home back on there?

Ochoa: Mr. Chairman, Commissioner Beard, that is correct. That was actually a variance to put two mobile homes on one lot, which the non-conformity expired on it so then they had to get a variance to allow two mobile homes on a single-family lot. This is here is not a variance. It's actually bringing the property into compliance with today's codes and allowing the mobile home to be placed on the property, sir.

Beard: Okay. Thank you. In addition, obviously there was a septic tank there before. Will they have connected to the city water or sewer?

Ochoa: Mr. Chairman, Commissioner Beard, staff did contact the Utility Department, kind of asking that as well. They did say they're not connected to the city sewer and the septic system is permitted but if they did not get reapproved, if you will, for that septic tank then they would have to be required to hook up to city sewer if NMED would not approve that new septic system, the licensing.

Beard: Thank you.

Crane: Commissioner Scholz.

Scholz: Yeah, I had a question and a comment. The question is: isn't there a mobile home there already? When I visited the site the other day there was.

Ochoa: Mr. Chairman, Commissioner Scholz, the applicant did ask staff or actually my administrator to store the mobile home on the property because he did purchase it already with the understanding that if his zone change was denied he would have to remove it. The mobile home is not hooked up to anything and has not been permitted yet or anything like that. It's just simply being stored on there with the possibility that the zone change will be approved.

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Scholz: Well, I can understand the Fire Department's concern because, of course, it's just dirt roads out there and not only are they not very well graded, but they don't appear to be of standard width and I think it would be impossible to or to at least easily access fire equipment over there. So I can see that as a concern. That was my comment.

Crane: Any other Commissioner? Any member of the public?

Ochoa: The applicant is here as well if you have any questions.

Crane: Does the applicant want to talk to us?

(Applicant speaking from audience – inaudible)

Crane: Say your name, please.

Alderete: Lawrence Alderete.

Crane: And do you solemnly swear that the information you give us will be the truth under penalty of law.

Alderete: Yes.

Crane: Thank you.

Alderete: Yes, thank you. Did you have a question for me?

Crane: Do you want to say anything yourself?

Alderete: Not really, I mean, there's really nothing to say. I'm just going to live there. That's all I'm going to do.

Crane: Okay. Anybody have any questions of Mr. Alderete? Well, thank you. I'm sorry it cost you a trip. In that case, Commissioners, we are closed to... yes, somebody in the back.

Hernandez: My name is Norma Hernandez. I'm a resident there also. My only concern is ....

Crane: Excuse me. I'll have to swear you in. Do you solemnly swear that the information you give us will be the truth under penalty of law?

Hernandez: Yes.

Crane: Thank you.

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Hernandez: My only concern is, is how is this going to affect the rest of us around there if we are already a UR, how is it going to affect us to turn it into a … what is it? REM.

Crane: Mr. Ochoa, can you help out?

Ochoa: I think I can try to answer that question. Basically your property will remain unchanged with that UR Zoning District. You don't have to do anything as long as you continue to use it as you are because the zoning designation you have on your property, it's kind of grandfathered in: you're legal non-conforming. The reason he's getting a zone change just for his property is because, like I said, the UR zoning doesn't exist anymore. In order for him to put a mobile home on there now he needs to get that zone change. So in the future if you ever… to expand your residence like by more than 50% or you remove your residence for more than a year they you'd have to get a zone change as well to whatever zoning designation you'd need in order to do what you need to do out there, ma'am. But it should not affect you. The zone change will not affect your property at all.

Hernandez: That was my only concern.

Crane: That help? Okay. Thank you. Any other member of the public? Then we're closed to further discussion. Commissioners? Mr. Shipley.

Shipley: I move to approve case number Z2864.

Scholz: Second.

Crane: Seconded by Mr. Scholz. No further discussion… then let's start with Mr. Shipley. How do you vote, sir?

Shipley: Aye, findings, discussion and a long site visit.

Crane: A long one? Did you get bogged down?

Shipley: Many trails.

Crane: Oh. Okay. Commissioner Ferrary.

Ferrary: Aye, according to findings and discussion.

Crane: Mr. Scholz.

Scholz: Aye, findings, discussion and equally long site visit since I couldn't find the property initially.

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Crane: Commissioner Alvarado.

Alvarado: Yes, based on the findings and discussion.

Crane: Mr. Beard.

Beard: Aye, based on findings and discussions.

Crane: And the Chair votes aye, based on findings, discussion and a brief site visit because he was afraid his Focus would get bogged down. So this passes 6-0. Thank you.

VIII. OTHER BUSINESS –NONE

Crane: Any other business, Mr. Ochoa?

Ochoa: There is no other business, Mr. Chairman. It looks like he's gone but we did get a new Associate Planner. I don't know if you saw the guy in a tie sitting down here earlier. That is Ezekiel, our new Associate Planner. We're hoping to bring him up to you sometime soon with a case.

Crane: Well, he clearly lacks stamina if he's leaving us. *(All laughing)*

Ochoa: There's no other discussion than that, sir.

IX. PUBLIC PARTICIPATION

Crane: Any further public participation? Yes, sir.

X. STAFF ANNOUNCEMENTS

Ochoa: I did want to mention as well, sir, we have commenced the new advertisement requirements and the public notice requirements that went into effect with Mr. Banegas' changes so those new changes are now in effect so please bear with us if any potential things need to be postponed and so forth because of those requirements for public notice.

Crane: Thank you.

XI. ADJOURNMENT (8:14)

Crane: Having no further business we are adjourned at 8:14. Thank you.

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Chairperson

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