

City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 17 Ordinance/Resolution# 2727

For Meeting of September 15, 2014
(Ordinance First Reading Date)

For Meeting of October 6, 2014
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2, COMMERCIAL MEDIUM INTENSITY DISTRICT, TO PUD (PUD-14-01) FOR PROPERTIES LOCATED AT 3731 DEL REY BLVD. (PARCELS 02-25264 AND 02-25265). SUBMITTED BY THE ARBORS AT DEL REY ASSISTED LIVING FACILITY ON BEHALF OF GRANITE CIRCLE INVESTORS/NORTH HAVEN GROUP, PROPERTY OWNERS.

PURPOSE(S) OF ACTION:

Zone change.

COUNCIL DISTRICT: 5		
<u>Drafter/Staff Contact:</u> Susana Montana, Planner	<u>Department/Section:</u> Community Development/Building and Development Services	<u>Phone:</u> 528-3207
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

This Planned Unit Development (PUD) is being requested by the owner/operators of The Arbors at Del Rey assisted living facility because they wish to add an animal care element to their therapy programs for the residents of their facility in addition to bringing the nonconforming property into compliance. The facility was constructed in 1997 and was permitted as a nursing home under the 1981 C-2, General Commercial zoning regulations. In 2001, the City adopted revised Zoning Code regulations in which a new land use category called assisted living facility was introduced and neither nursing homes nor assisted living facilities are now allowed in the C-2 Districts. The facility is therefore deemed a legal nonconforming use. The facility lies on a 2.49 acre parcel and abuts a similar 2.49 acre parcel under the same ownership. The current C-2 District allows a maximum lot size of one acre. The two parcels are therefore deemed legal noncomplying lots. The care of animals is not allowed in the C-2 District. The request for the care of small animals as part of the residents' therapy triggered the rezoning effort as a Planned Unit Development to (1) allow the care of the animals as an accessory use to the assisted living facility's therapy program; (2) to allow nursing homes and assisted living facilities as principal

permitted uses; (3) to allow the 2.49 acre size of the two subject parcels; and (4) to adopt other current C-2 development standards. If the PUD is approved, the applicant would submit a building permit for the animal enclosures, as applicable. The design of the enclosures and the care of the animals must meet the standards of Chapter 7 of the LCMC for the care of animals as well as satisfy the Building Code, and local, state and federal stormwater quality regulations.

On June 24, 2014, the Planning and Zoning Commission held a duly noticed public hearing to consider the PUD request. Several neighbors of the rezoning site submitted comment letters and/or spoke at the hearing expressing concern with the potential noise related to the care of roosters and peacocks at the facility. Some also expressed concern with flies and odors that may emanate from the animal enclosures. Commissioners expressed concern with the design of the animal enclosures to assure proper shade. The Commissioners asked for more detail on the types of animals sought by the Applicants and the types of permits required by the Las Cruces Municipal Code (LCMC) for the care of those animals. The Commission voted unanimously, 5 to 0 (Commissioner Alvarado absent and one seat vacant), to table the case to the July 22, 2014 hearing.

In preparation for the July 22, 2014 hearing, staff, including five Codes officers, met with the applicants at the facility and reviewed the facility, the proposed animal enclosure areas, discussed the LCMC Chapter 7 Animal Care Code requirements and the type of animals that would be well suited for the residents of the facility. The applicants invited the neighbors who had sent comment letters and who had commented at the June 24th Commission meeting to an "open house" at the facility to discuss the proposed animal care program; none of the invitees chose to attend. The applicants revised their application to eliminate roosters and peacocks from the animal care program and provided staff with a site plan of the proposed animal enclosure area along with images of examples of animal enclosures for the type of animals proposed for the facility. Staff prepared a memorandum to the Commission for the July 22, 2014 Commission meeting with those details and with details on how the applicant proposes to meet the LCMC Chapter 7 requirements for the care of animals. A copy of this memo was sent to the commenting neighbors of the facility; no further comment was received from these neighbors.

At the July 22nd Commission hearing, a family member of one of the residents of the facility expressed his support of the proposed animal care program; no other public comments were received. The applicant presented a slide show giving greater details of the proposed animal care as an element of the residents' therapy. After discussion, the Commission voted unanimously, 5 to 0 (Commissioner Beard absent and one seat vacant), to recommend approval of the PUD to the City Council.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Rezoning Site Map.
3. Exhibit "B", Planned Unit Development Land Uses and Development Standards.
4. Exhibit "C", Findings for Approval.
5. Attachment "A", June 24, 2014 Staff Report to the Planning and Zoning Commission.
6. Attachment "B", Public Comments to the Planning and Zoning Commission.

7. Attachment "C", July 22, 2014 Staff Memo to the Planning and Zoning Commission.
8. Attachment "D", Draft Minutes of the June 24, 2014 and July 22, 2014 Planning and Zoning Commission Meeting.

SOURCE OF FUNDING:

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

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

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

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Planned Unit Development Ordinance. The two parcels would be designated a Planned Unit Development zone and would allow a nursing home and an assisted living facility with care of animals as an accessory use; would allow the 2.49 acre lot sizes; and would adopt the 2001 Zoning Code C-2 land uses and development standards.
2. Vote "No"; this will reverse the recommendation of the Planning and Zoning Commission for approval of the Planned Unit Development and the property would remain nonconforming with the 2001 Zoning Code, as amended. The animal care program would not be allowed.
3. Vote to "Amend"; this would allow the City Council to modify the Ordinance by placing a condition or conditions to the approval of the Planned Unit Development Ordinance.
4. Vote to "Table"; this would allow the City Council to table/postpone action on the Ordinance and direct staff accordingly.

REFERENCE INFORMATION:

1. N/A

COUNCIL BILL NO. 15-007
ORDINANCE NO. 2727

AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2, COMMERCIAL MEDIUM INTENSITY DISTRICT, TO PUD (PUD-14-01) FOR PROPERTIES LOCATED AT 3731 DEL REY BLVD. (PARCELS 02-25264 AND 02-25265). SUBMITTED BY THE ARBORS AT DEL REY ASSISTED LIVING FACILITY ON BEHALF OF GRANITE CIRCLE INVESTORS/NORTH HAVEN GROUP, PROPERTY OWNERS.

The City Council is informed that:

WHEREAS, the owner and operator of The Arbors at Del Rey, an assisted living facility seeks to add an animal care therapy program to their operation; and

WHEREAS, the property and uses are nonconforming because the property was legally developed in 1997 under the provisions of the 1981 Zoning Code and the current C-2, Commercial Medium Intensity zoning designation for the two parcels does not allow assisted living facilities or nursing homes, does not allow animal care, and does not allow parcels larger than 1 acre in size and; therefore, the expansion of The Arbor's therapy program to include the care of small animals for its residents enjoyment is not permitted; and

WHEREAS, a Planned Unit Development (PUD) rezoning application was submitted by the applicant which would: (1) allow the assisted living facility as an allowable use on the subject properties; (2) allow the care of small farm animals as an accessory use to the assisted living facility's therapy programs; (3) permit lot sizes over 1 acre; and (4) allow the other land uses and development standards of the C-2, Commercial Medium Intensity, Zoning District, from the 2001 Zoning Code, as amended; and

WHEREAS, the Planning and Zoning Commission, after conducting a duly-noticed public hearing on July 22, 2014, unanimously recommended approval of the Planned Unit Development zoning designation by a 5 to 0 vote (Commissioner Beard

absent and one Commission seat vacant).

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

(I)

THAT the 4.98 acre land area consisting of Parcels 02-25264 and 02-25265, more particularly shown in Exhibit "A," attached hereto and made part of this Ordinance, is hereby zoned PUD (Planned Unit Development) allowing the land uses and development standards noted in Exhibit "B," attached hereto and made part of this Ordinance.

(II)

THAT the zoning is based on findings contained in Exhibit "C," 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 _____ 20__.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

City Attorney

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Smith: _____

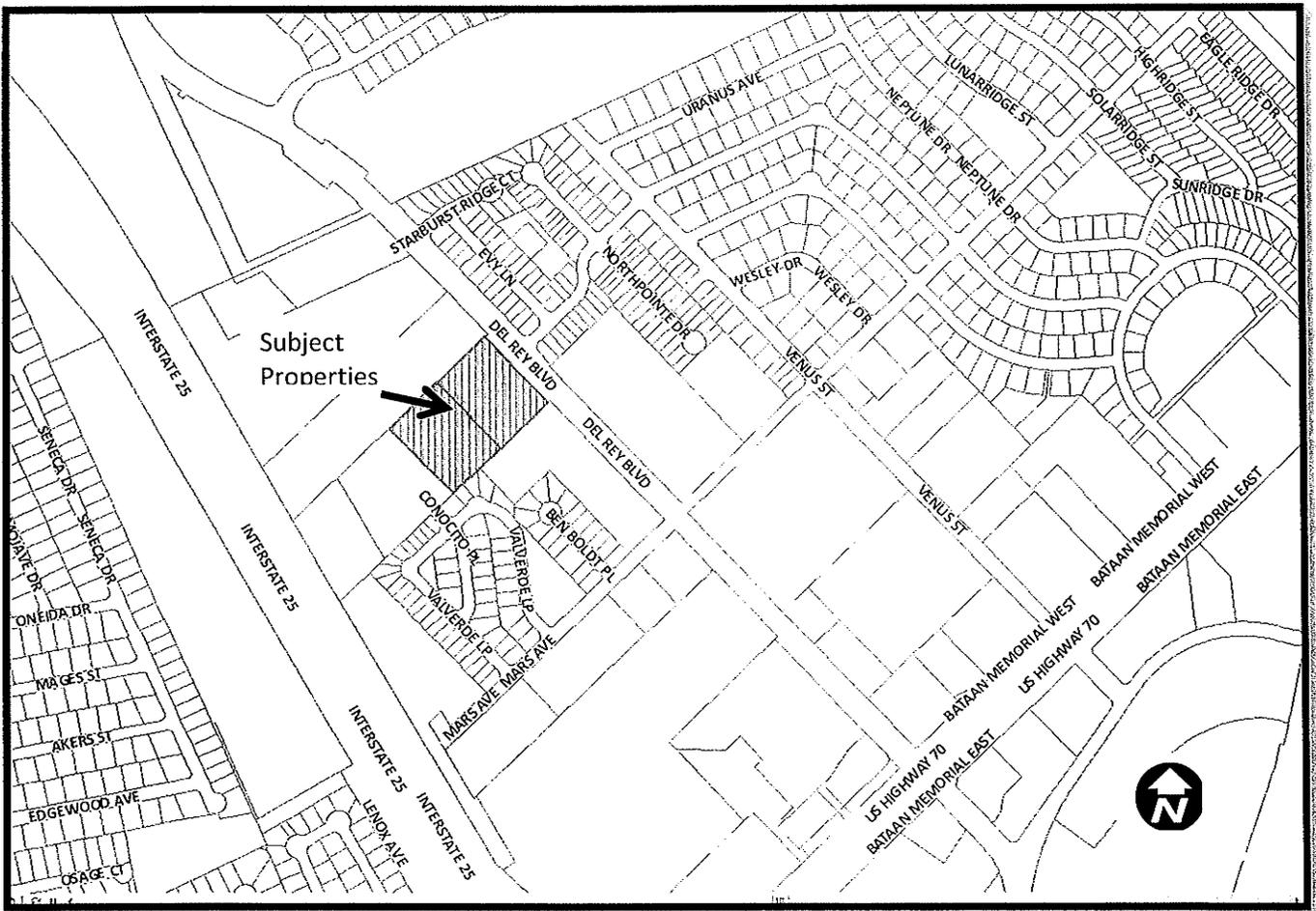
Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Levatino: _____

PUD-14-01; 3731 Del Rey Blvd.
Parcels 02-25264 and 02-25265
Planned Unit Development
Location Map



Case No. PUD-14-01; PUD C-2 Land Uses and Development StandardsLand Uses

In addition to the 2001 Zoning Code, as amended, land uses for C-2 Districts, the following additional land uses shall be permitted as-of-right.

Family child care home (5-6 children)
Group child care home (7-12 children)
Child care center or preschool
Nursing or convalescent home (Assisted Living Facility)
Residence

Development Standards

In addition to the 2001 Zoning Code, as amended, development standards for C-2 Districts, the 2.49-acre lot size shall be permitted as-of-right.

PUD-14-01, The Arbors at Del Rey
Planned Unit Development

Findings for Approval

1. Based on the information presented in the City's June 24, 2014 staff report, the July 22, 2014 staff memo, the staff and Applicant's presentation at the July 22, 2014 hearing, public comments in writing and presented at the hearing, and discussion among the Commissioners, the Commission determined that the revised proposal would meet all applicable codes and plans, and the proposed PUD would meet the following relevant criteria of Section 38-49 of the 2001 Zoning Code, as amended:

a. The proposed construction and use of the PUD will not be detrimental to the health, safety, or welfare of the community or adjacent neighborhood;

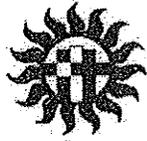
b. The PUD conforms to the intent, goals, objectives, policies, and standards of all City plans and codes;

c. The 2001 Zoning Code C-2 uses and the addition of the assisted living facility and the accessory animal care activities are appropriate to the character of the adjacent neighborhood and would have a positive aesthetic effect on the neighborhood in which the PUD would be located; and

d. The Applicant would conform to all applicable Las Cruces Municipal Code, Chapter 7 requirements for the care of animals.

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

2. Based upon the Commission's review of the proposal against all applicable codes and plans, the proposed PUD would satisfy relevant City Comprehensive Plan goals and policies as well as would positively address the 2001 Zoning Code purposes and intent statements and Planning and Zoning Commission Decision Criteria.



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Planning & Zoning
Commission
Staff Report

Meeting Date: June 24, 2014

Drafted by: Susana Montana, Planner

CASE #	PUD-14-01	PROJECT NAME:	The Arbors at Del Rey Concept Plan and Final Site Plan
APPLICANT/ REPRESENTATIVE:	Gregory Spradlin, RN, Director of Nursing at The Arbors at Del Rey	PROPERTY OWNER:	Granite Circle Investors/North haven Group
LOCATION:	3731 Del Rey Blvd.; Parcels 02-25264 and 02-25265	COUNCIL DISTRICT:	5 (Sorg)
SIZE:	2.49 acres each for a total 4.98 acres	EXISTING ZONING/ OVERLAY:	C-2 C— General Commercial District, Conditional
REQUEST/ APPLICATION TYPE:	Request for a Planned Unit Development (PUD) to allow the existing nursing home/assisted living facility to remain as a principal permitted use; to allow the raising of small animals as an accessory use to the assisted living facility use; to allow 2.49-acre lot size as-of-right in the PUD designation for the property; and to allow other 2001 Zoning Code C-2 District development standards and land uses to apply.		
EXISTING USE(S):	Nursing home (assisted living facility).		
PROPOSED USE(S):	Assisted living facility with the raising of animals as an accessory use.		
STAFF RECOMMENDATION:	Approval based on the findings found in Section 3 below.		

TABLE 1: CASE CHRONOLOGY

Date	Action
5/1/14	Application submitted to Development Services
5/1/14	Case sent out for review to all reviewing departments
5/14/14	All comments returned by all reviewing departments
5/14/14	Staff reviews and recommends approval of the zone change
6/8/14	Newspaper advertisement
6/9/14	Public notice letter mailed to neighboring property owners
6/9/14	Sign posted on property
6/24/14	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The existing assisted living facility on the property was constructed in 1997 (Attachments 1, 2 and 4). It was permitted as a nursing home under the 1981 Zoning Code, which allowed nursing or convalescent homes as a principal use in the C-2, General Commercial District. The 1981 Zoning Code did not have a land use category called "Assisted Living Facility" or a maximum lot size for properties within the C-2 Districts. The subject property includes both abutting 2.49-acre parcels under the same ownership, for a total of 4.98 acres.

With the adoption of the 2001 Zoning Code, nursing homes were no longer permitted in the C-2 Districts and the facility became a legal, nonconforming use. A new land use category called "Assisted Living Facility" was created by the 2001 Zoning Code and is allowed by right in the R-4 District and is a conditional use in the R-2 and R-3 Multi-Family Residential Districts with the condition that they be located on a collector or higher designated roadway. Del Rey is listed as a Principal Arterial on the MPO Thoroughfare Plan. The 2001 Zoning Code also limits lot size within the C-2 Districts to one acre. This made the subject properties, at 2.49-acres each, legal, noncomplying lots.

This application for the Planned Unit Development (PUD) includes both the required Concept Plan and the Final Site Plan, pursuant to Section 38-49 of the 2001 Zoning Code, as amended. The purpose of the proposed PUD designation of the property is to bring the existing lot size and the assisted living land use into conformity with the new PUD zoning designation and to allow the raising of small animals as an adjunct or accessory use to the assisted living facility. The PUD would allow other 2001 Zoning Code C-2, Commercial Medium-Intensity District, land uses as shown in Attachment 7 and would also apply the C-2 development standards to this property, excluding the maximum lot size.

The animal care program would include the raising and care of rabbits, chickens, ducks, miniature goats and peacocks. An approximately 600 square foot area for the animal care facility would be established on the west side of the outdoor garden area of the Site as shown on the site plan in Attachments 4 and 5. If the PUD is granted, the Applicant would submit a building permit application for the animal enclosure which would be reviewed by applicable City Agencies. The animal care program must meet local, state and federal stormwater quality regulations and an animal waste management plan would be submitted with the permit application for City review and approval. It must also meet the standards of Chapter 7 of the Las Cruces Municipal Code which regulates the care of animals.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Zoning Code Standard	Existing Site Characteristics	Existing 2001 Zoning Code C-2 District Standards	Proposed PUD (Modified 2001 C-2 Zoning) Standards	Current Legal Nonconforming (1981 C-2) Standards
Lot Area Maximum	2.49- acres	1 acre	10,000 sf minimum 2.49-acres maximum	5,000 sf minimum No maximum
Structure Height	1 story	45'	45'	60'
Setbacks				
Front	89'	15'	15'	15'
Side	North side= 15' South side=232'	5' or 0	5' or 0	5' or 0
Rear	67'	15'	15'	15'

TABLE 3: SPECIAL CHARACTERISTICS

Characteristic	Applies to Project?	Explanation
EBID facilities	No	N/A
Medians/ parkways landscaping	No	N/A

TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

Location	Existing Use	Zoning Designation
Subject Property	Assisted living facility	C-2C: The condition of this rezoning, by Ordinance 1021 adopted in 1988, is that the abutting road is improved to City Standards: this condition has been met.
North	Medical center	C-2C: The condition of this rezoning, by Ordinance 1021, adopted in 1988, is that the abutting road is improved to City Standards: this condition has been met.
South	Vacant land	C-3C/R-4C: The condition of this rezoning, by Ordinance 2454 in 2008, limits the commercial use to mini-storage units.
East	Single-family homes	R-3, Medium-density Single-Family Residential District developed by the Northpoint subdivision
West	Vacant land	C-2C: The condition of this rezoning, by Ordinance 1021 adopted in 1988, is that the abutting road is improved to City Standards: this condition has been met.

TABLE 5: PARCEL LAND USE HISTORY

Number	Status
Permit	Building permit No. 97-15659; new construction of the nursing home
Ordinance	Ordinance No. 1021 in 1988 changing the zoning from R-3 to C-2C with the condition that the Applicant for building permits for the property contribute a pro-rata share of the cost of improvements of adjacent dedicated collector and/or arterial streets. This condition has been met.

SECTION 2: REVIEWING DEPARTMENT/AGENCY RECOMMENDATIONS

For specific comments and/or conditions, see Attachment 8.

Department Name	Approval (Yes/No)	Conditions (Yes/No)
CLC Development Services	Yes	No
CLC Long-Range Planning	Yes	No
CLC CD Engineering Services	Yes	Yes; care of animal waste must meet stormwater quality ordinance and for any additional impervious areas stormwater must be retained on-site.
CLC Traffic	Yes	No
CLC Stormwater Management	Yes	Yes; must meet federal and local stormwater pollution control ordinances.
CLC Fire & Emergency Services	Yes	No
CLC Utilities	Yes	No

SECTION 3: STAFF ANALYSIS AND CONCLUSION

The Planning and Zoning Commission is obligated to analyze Planned Unit Development applications 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 in the City's Zoning Code regarding Planned Unit Developments; (4) relevant Criteria for Decisions by the Planning and Zoning Commission in the Las Cruces Municipal Code; and (5) relevant New Mexico State case law. Please refer to the *Analysis* and *Conclusion* sections below for an evaluation of the proposed rezoning against the relevant policies, purpose statements and decision criteria noted below.

Relevant Planned Unit Development Criteria

Sec. 38-49. PUD - Planned Unit Development Purposes.

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

- (1) Comply with Growth Management Policy as established in the Land Use Element, other applicable elements and all companion documents to the Comprehensive Plan.
- (2) Produce more flexibility in development than would result from a strict application of this Code.
- (3) Permit design flexibility that will encourage a more creative approach to the

development of land and that will result in more efficient and aesthetically desirable alternatives to the housing and other development needs of the community.

- (4) Permit flexibility in land use, density, placement of buildings, arrangement of open space, circulation facilities, and off-street parking areas, and maximize the potential of individual sites under development.
- (5) Promote the infill of vacant land.
- (6) Create developments that balance the benefits to the community with the developer's interests.

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

- a. The proposed construction and use of the PUD will not be detrimental to the health, safety, or welfare of the community or adjacent neighborhood;
- b. There is or will be adequate sewage capacity, roadway capacity, energy supply, and potable water supply to serve the PUD at the time a certificate of occupancy or letter of acceptance, as applicable, is to be issued;
- c. The PUD conforms to the intent, goals, objectives, policies, and standards of all City plans and codes;
- d. The uses proposed, including their density and intensity, are appropriate to the character of the neighborhood and will have a positive aesthetic effect on the neighborhood in which the PUD will be located; and
- e. The proposed uses will not subject surrounding properties and pedestrians to significant hazardous traffic conditions.

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.

Applicable Comprehensive Plan Elements & Policies:

Raising of animals/companion animals

Chapter 4 Healthy Community

Subsection: WIDE-RANGING COMMUNITY FACILITIES & SERVICES

Goal 7: Provide a balance of community, social and cultural services that meet the needs of all segments of the community.

Policies:

- 7.4 Support programs and education for the safe and healthy quality of life for companion animals.
- 7.12 Use Council meetings as a way to showcase companion animal adoptions.
- 7.13 Include companion animal amenities in public places.

Senior services

Chapter 4 Healthy Community

Subsection: WIDE-RANGING COMMUNITY FACILITIES & SERVICES

Goal 7: Provide a balance of community, social and cultural services that meet the needs of all segments of the community.

Policies:

- 7.10 Expand and continue to support programs directed at Las Cruces' citizens to provide strong, positive influences when feasible.
- c. Provide and augment the Para-transit (demand response/dial a ride programs for those eligible for special transportation assistance) program to assist our seniors with travel arrangements for daily living activities.
 - g. Expand senior citizen's facilities and activities when feasible.

Chapter 8 Operational Support

Subsection: ACTIVE COOPERATION & ENGAGEMENT

GOAL 47: Coordination and cooperate with providers of community services.

Policies:

- 47.4 Continue to investigate increased outreach to and cooperative arrangements with various segments of the community, including: the Spanish-speaking community, youth, public schools, higher education, senior citizens, and the business community.

Planned Unit Developments

Chapter 4 Healthy Community

Subsection: BALANCED DEVELOPMENT

GOAL 2: Create a variety of development choices for individuals and families of all socioeconomic levels.

Policies:

- 2.1 Utilize PUD and Infill development regulations to address:
- a. Provisions for design standard flexibility as a means of offering suitable opportunities for successful affordable housing creation.
 - b. Incentives such as density bonuses, streamlined development reviews, and waivers to or payment from other City sources of applicable development impact fees as a means to support and enhance development opportunities, especially those which primarily propose affordable housing for the target groups.
 - c. Methods of mitigating potential impacts to adjacent properties through application of design strategies aimed at increasing overall neighborhood compatibility.
 - d. Require that Master Plan, Concept Plan and other similar development documents clearly identify proposed locations of affordable housing, in context with surrounding land uses in a manner consistent with the Growth Management section of this Comprehensive Plan.

Developers are encouraged to take additional efforts such as disseminating the subject land use information in marketing brochures and other similar sources of information to ensure area residents are aware of proposed phasing/build-out.

Chapter 8 Operational Support

Subsection: RESPONSIVE PROCESSES

GOAL 49: Establish procedural and development requirements.

Policies:

49.11 Use the PUD's flexibility to create unique, quality developments that provide a meaningful benefit to the community.

- a. Consider incentives like reduced setbacks, increased building height, additional density, and other deviations from typical requirements as a way to encourage developments that provide a meaningful benefit to the community.
- b. Support deviations from typical requirements when the development provides a community benefit as illustrated below.
 - i. Distinctiveness and excellence in design and landscaping
 - ii. Preservation of major arroyos
 - iii. Preservation of important cultural resources-archaeological sites
 - iv. Affordable housing and/or subsidized housing
 - v. Architectural variety
 - vi. Clustering of buildings
 - vii. Alternative transportation facilities
 - viii. Increased landscaping, including higher quality landscaping deeper vegetative buffers; or increased planting along roadways, in open spaces and recreational areas, and along the perimeter of the project
 - ix. Use of greenways or landscaped corridors linking various uses.
 - x. Screening of or rear placement of parking areas
 - xi. Extension, connection or creation of multimodal and/or trail networks
 - xii. Traffic mitigation measures
 - xiii. Community center or day care center
 - xiv. Active or passive recreational areas
 - xv. Public access to community facilities
 - xvi. Recreational facilities for owners/residents
 - xvii. Advancement of City policy or plan
 - xviii. Other public benefit as deemed by plan or policy

Analysis:

This application is for a PUD Concept Plan and Final Site Plan, combined, because the property is already partially developed with an assisted living facility that was approved in 1988 under the 1981 Zoning Code which allowed nursing homes in the C-2 District. This PUD would achieve three objectives: (1) It would bring the assisted living facility into conformity by allowing this use in the PUD District; (2) it would allow the raising of small animals as an accessory use to the assisted living facility; and (3) it would change the allowable, conditional, and special uses of the property from the 1981 C-2 uses to the 2001 Zoning Code C-2 uses which would bring the property in conformity with current C-2 land uses. All three objectives would support the current land use and would satisfy the goals and policies of the City's Comprehensive Plan. The PUD approach is needed because the 2001 C-2 District land uses do not include assisted living facilities or animal raising. The Applicant seeks to establish the animal care and raising as an important therapeutic adjunct to the care and well-being of their elder residents. The purpose of the PUD zoning is to allow this flexibility when it would meet the PUD criteria and objectives which this PUD request would achieve.

The location of the animal raising facility on the property would not impact any adjacent neighbors or potential future commercial neighbors on the adjacent vacant lots (see Attachment 4). The neighboring use to the north is a commercial medical center and the land to the west and south is vacant. The fenced outdoor garden and lounge areas of the assisted living facility would screen views of the animal care facility from the street. There would be no increased traffic associated with the animal care facility and no expansion of the assisted living facility. Noise and odors from land uses of the property would be contained on the premises. This would positively address Zoning Code purposes and intent statements, PUD criteria, Planning and Zoning Commission Decision Criteria.

The changed conditions warranting the zone change include the need for additional therapeutic treatments and care for the assisted living facility residents such as the care of small animals, as well as the change in the 2001 Zoning Code C-2 zoning land uses which no longer allows nursing homes/ assisted living facilities. This addresses relevant New Mexico Case Law regarding rezoning decisions.

Conclusion:

As noted above, the proposed rezoning to Planned Unit Development for this single property would not constitute a spot zoning because it would bring the 1981 Zoning Code C-2 zoned property into conformity with the current 2001 Zoning Code C-2, General Commercial land uses. The PUD would allow the current land use, the assisted living facility, and would allow the new therapy program called "Eden Alternative" which features the care of small animals by the elder residents. No off-site impacts would be discerned by the additional land uses proposed by the Applicant and allowed by the PUD.

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the PUD based on the findings listed below:

FINDINGS FOR APPROVAL

1. Based upon City Staff's review of the proposal against all applicable codes and plans, the proposed PUD meets the following criteria of Section 38-49 of the 2001 Zoning Code, as amended:
 - a. The proposed construction and use of the PUD will not be detrimental to the health, safety, or welfare of the community or adjacent neighborhood;
 - b. There is or will be adequate sewage capacity, roadway capacity, energy supply, and potable water supply to serve the PUD at the time a certificate of occupancy or letter of acceptance, as applicable, is to be issued;
 - c. The PUD conforms to the intent, goals, objectives, policies, and standards of all City plans and codes;
 - d. The 2001 Zoning Code C-2 uses and the addition of the assisted living facility and the accessory animal care activities are appropriate to the character of the adjacent commercial neighborhood and will have a positive aesthetic effect on the neighborhood in which the PUD will be located; and
 - e. The proposed uses will not subject surrounding properties and pedestrians to significant hazardous traffic conditions.
2. Based upon City Staff's review of the proposal against all applicable codes and plans, the proposed PUD would satisfy relevant City Comprehensive Plan goals

and policies as well as would positively address the 2001 Zoning Code purposes and intent statements and Planning and Zoning Commission Decision Criteria.

ATTACHMENTS

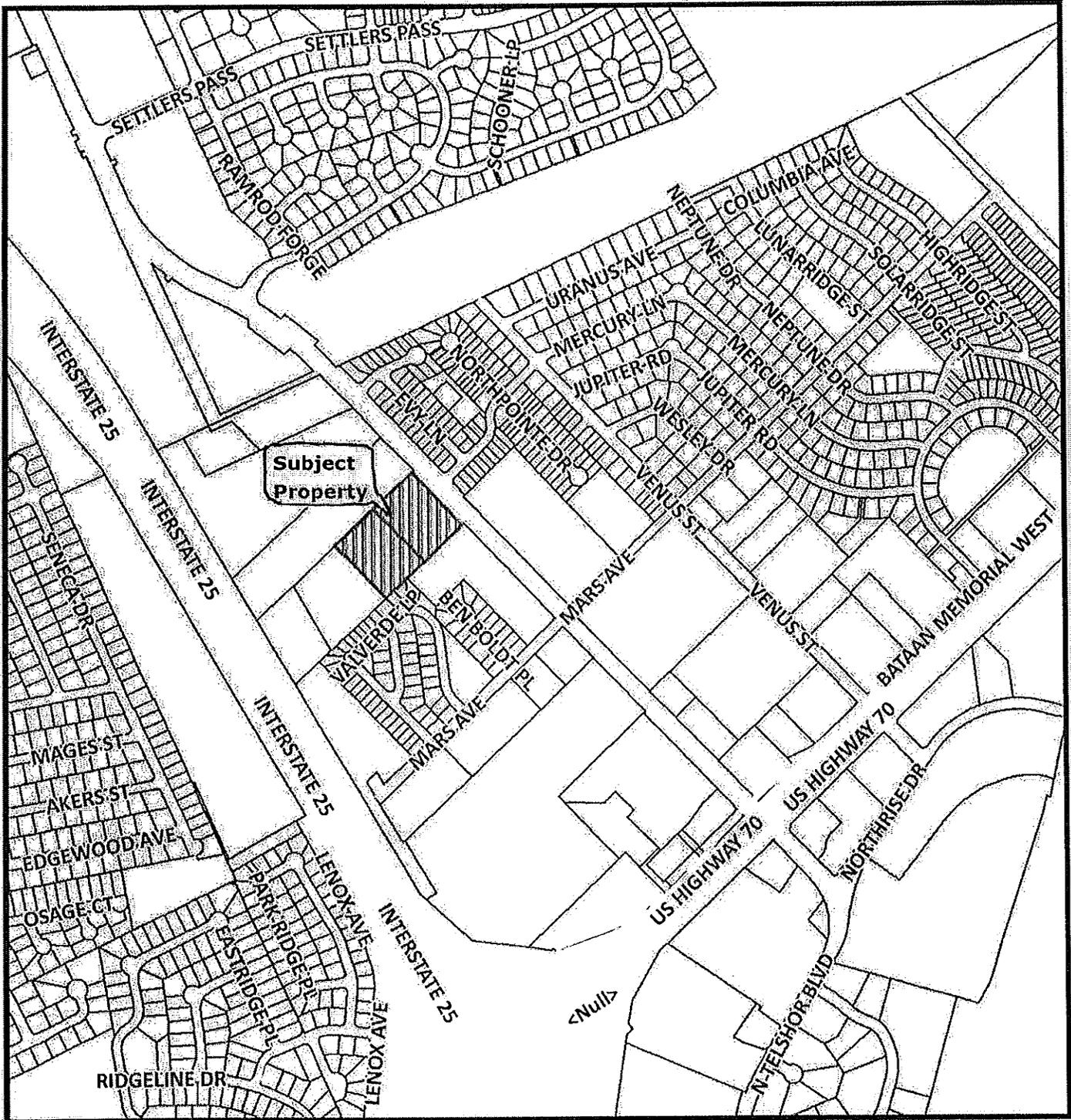
1. Location Map
2. Aerial Vicinity Map
3. Zoning Map
4. Aerial Site Map
5. Site Plan
6. Development Statement and proposed PUD land uses
7. Comparison of 1981 and 2001 C-2 land uses
8. Reviewing Department/Agency Comments

ZONING: C-2C
OWNER: Granite Circle/Northhaven Group

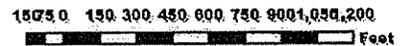
Location Vicinity Map

PARCEL: 02-25264 & 02-25265

DATE: 06/2/14



PUD-14-01; The Arbors at Del Rey
PUD Concept Plan & Final Site Plan

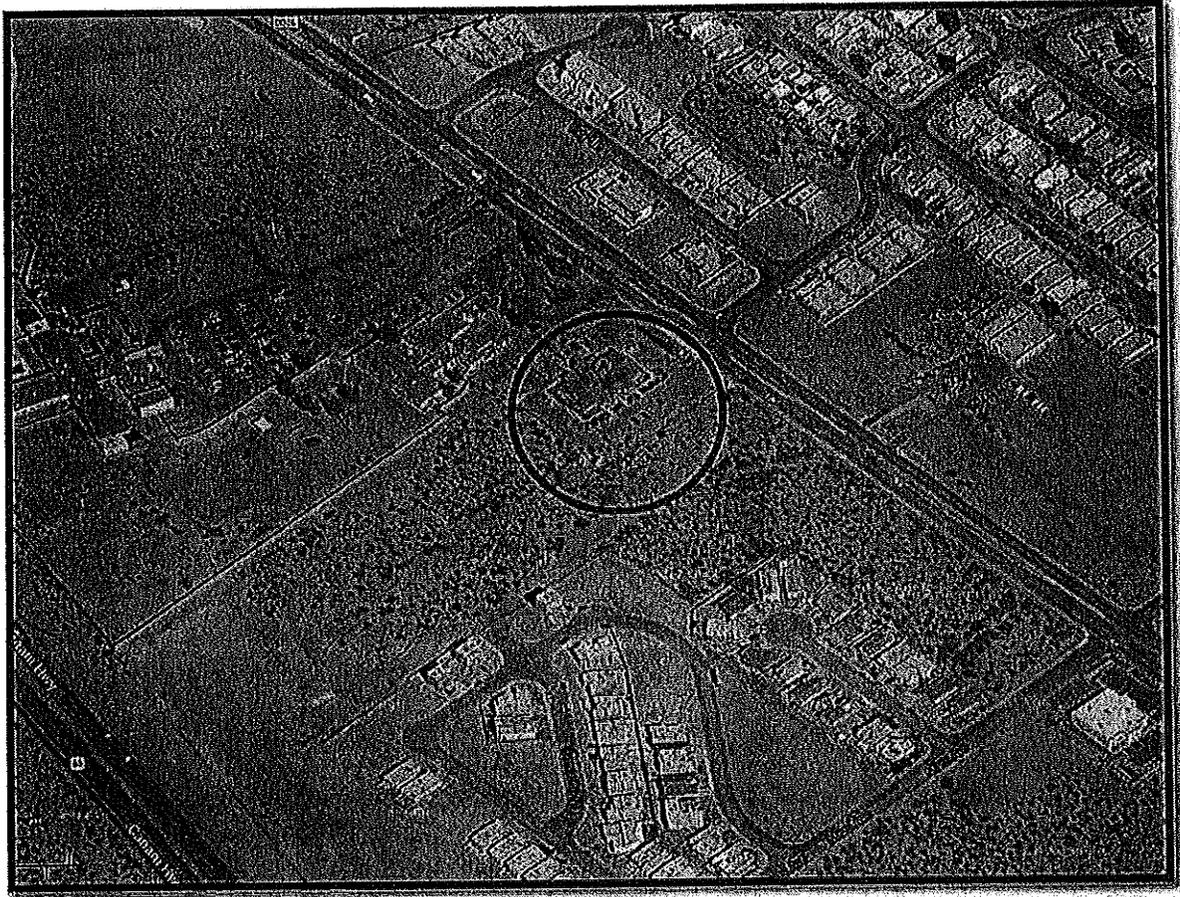


Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

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.

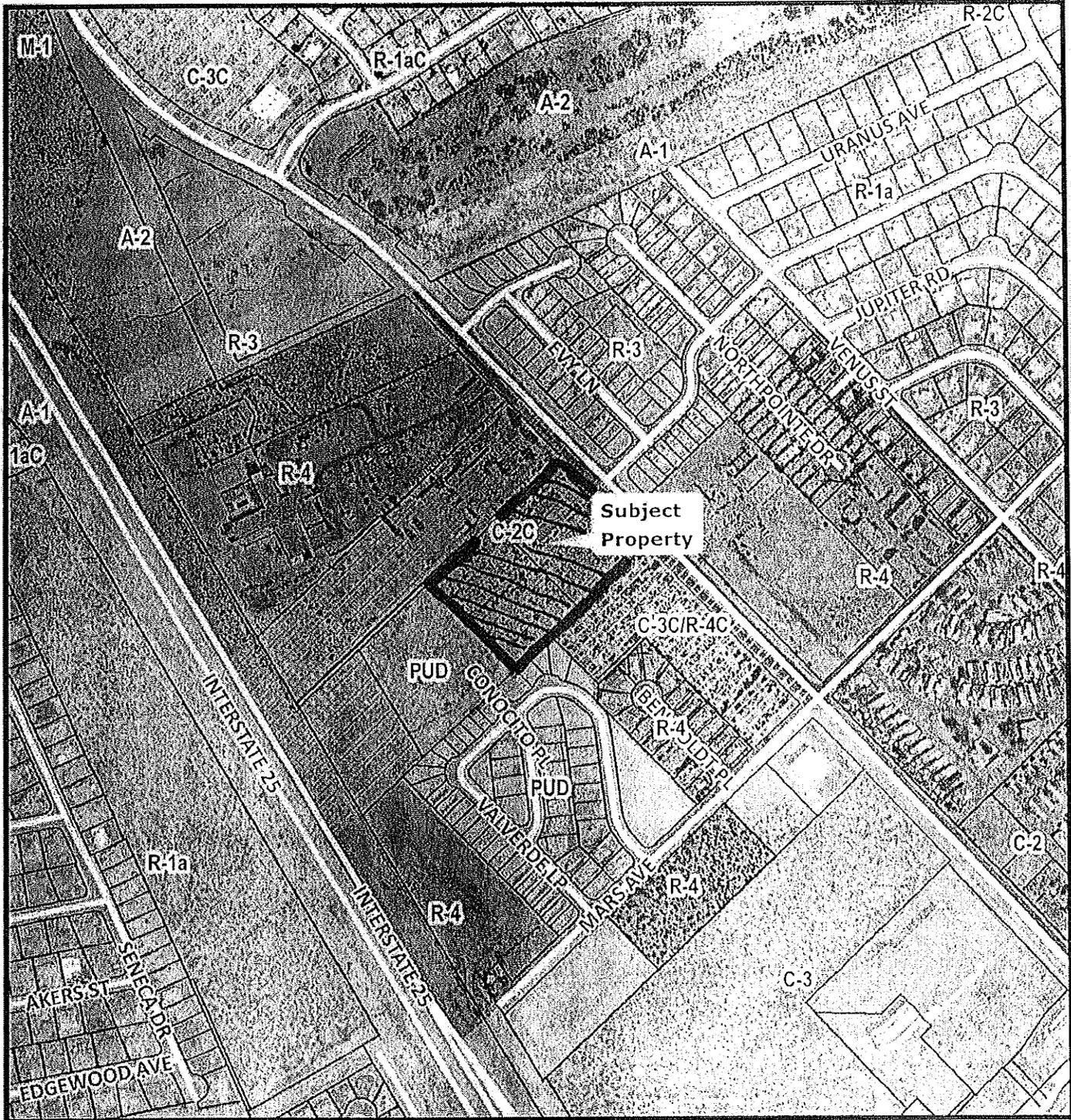
Aerial Vicinity Map



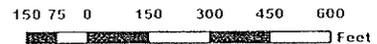
ZONING: C-2C
OWNER: Granite Circle/Northhaven Group

Zoning Map

PARCEL: 02-25265
DATE: 05/14/14



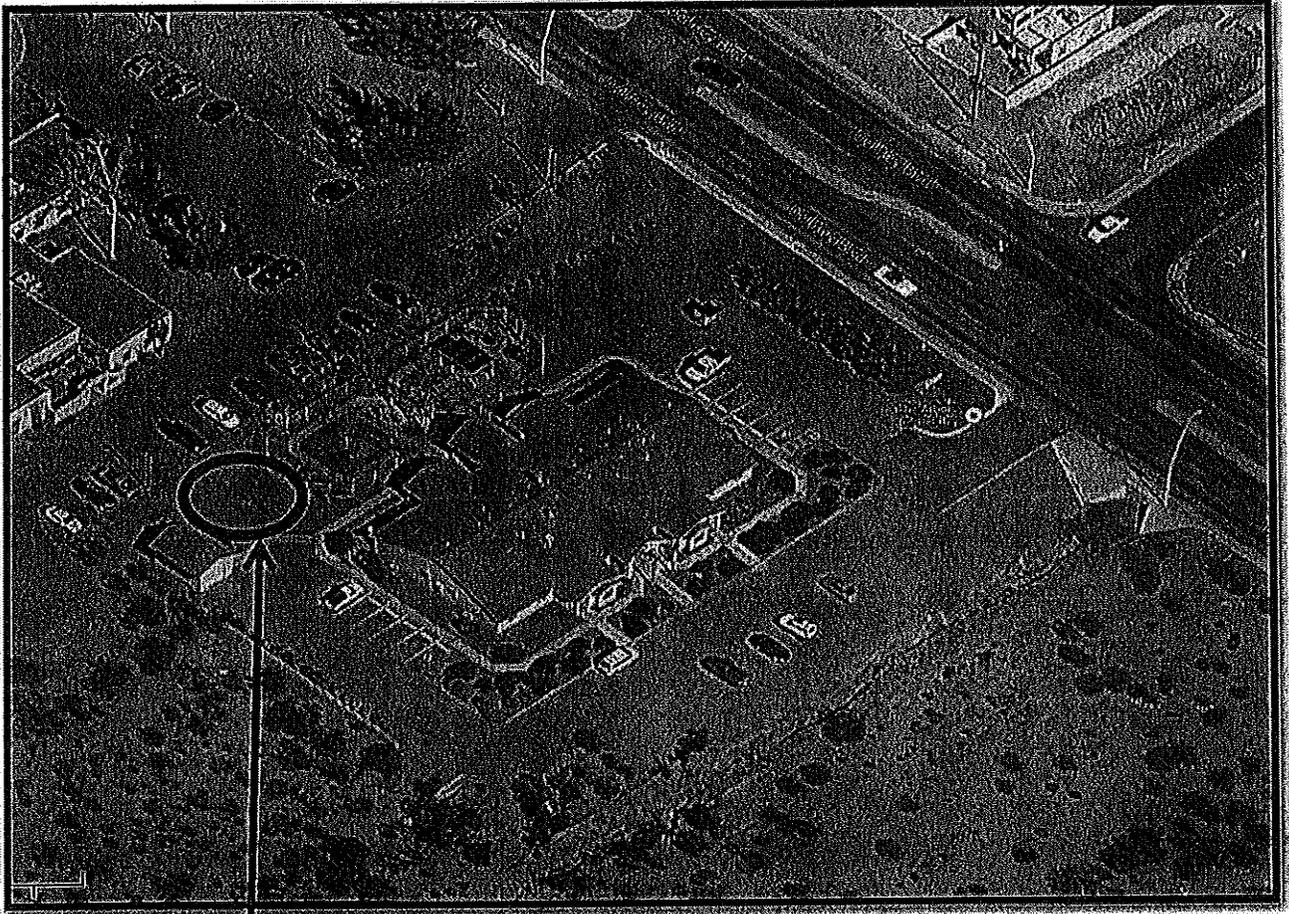
PUD-14-01; The Arbors at Del Rey PUD Concept Plan & Final Site Plan



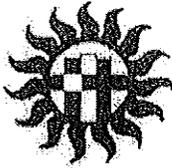
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Aerial Site Map



Animal care Facility



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 # PUD-14-01)

SUBJECT PROPERTY ADDRESS: 3731 Del Rey Blvd Las Cruces NM 88012 02-25264

PROPERTY TAX ID# 31-1538571 4-007-132-444-090 PARCEL ID# 02-25265

PROPERTY OWNER(S) of record: Granite Circle Investors / Northhaven Group

Address: 5648 Main Street, Floor 2 City Sylvania State OH Zip 4356

Phone: Home() Work (419) 244-6514 Mobile() Fax (419) 243-0221

APPLICANT/CONTACT PERSON: If different from owner, ^{EXT. 112} additional space provided on the back.

Name: Gregory Spradlin Title/Company: RN, Arbors of Del Rey

Address: 3731 Del Rey Blvd. City Las Cruces State NM Zip 88012

Phone: Home() Work (575) 382-5200 Mobile() Fax (575) 373-0379

email address: gspradlin@vistaliving.com

Check and complete all boxes that apply:

PLANNING AND ZONING COMMISSION				
<input type="checkbox"/>	Zoning	From _____ to _____		Master Plan
<input type="checkbox"/>	Variance	From _____ to _____		Preliminary Plat
<input type="checkbox"/>	Special Use Permit (SUP)			Final Plat
<input type="checkbox"/>	New	Renewal/Time Ext:	Amendment	Replat
<input checked="" type="checkbox"/>	Planned Unit Development (PUD)			Alternate Summary
<input checked="" type="checkbox"/>	1. Concept Approval			Infill Sub. Conceptual Plan
<input type="checkbox"/>	2. Final Site Plan Approval			Vacation Subdivision
<input type="checkbox"/>	3. Amendment			Annexation Petition/Plat/Initial Zoning Req. _____
<input type="checkbox"/>	4. Renewal / Time Extension			
<input type="checkbox"/>	West Mesa Ind. Park			University District
<input type="checkbox"/>	Infill Development Request(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 X No _____

Granite Circle Investors / Northham Group Date 30 April 2014

Property Owner 1 [Signature] Date 4-30-14

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:

Name: Luis Trevizo Title/Company: Administrator, Arbors of Del Rey
 Address: 3731 Del Rey Blvd City Las Cruces State NM Zip 88012
 Phone-Home () Work (575) 382-5200 Mobile () Fax (575) 373-0379

Property Owner 2:

Name: _____ Title/Company: _____
 Address: _____ City _____ State _____ Zip _____
 Phone-Home () Work () Mobile () Fax ()

Applicant/Representative:

Name: Gregory Spradlin Title/Company: RM; Arbors of Del Rey
 Address: 3731 Del Rey Blvd. City Las Cruces State NM Zip 88012
 Phone-Home () Work (575) 382-5200 Mobile () Fax (575) 373-0379

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

Accepted by:	<u>AO</u>	Fee Paid:	<u>\$ 605.-</u>	Date Fee Paid	<u>5/1/14</u>
Receipt No.	<u># 60547278</u>	Check Number	<u># 1152</u>	Case Number	<u>PDD-1401</u>
Submittal Date	<u>5/1/14</u>	Submittal Complete		Assigned to:	<u>SM</u>

**AFFIDAVIT
PLANNING AND ZONING COMMISSION**

COMES NOW the undersigned and states under oath as follows:

1. That the undersigned an applicant for a zone change, initial zoning, Zoning Code amendment, Special Use Permit, Planned Unit Development, Subdivision or site plan approval.
2. That in connection with said application, the undersigned has submitted various information, including but not limited to, a legal description of the property.
3. That information submitted is true and accurate as of the date of signing of this Affidavit.

Gregory Spradlin
Name (Print)

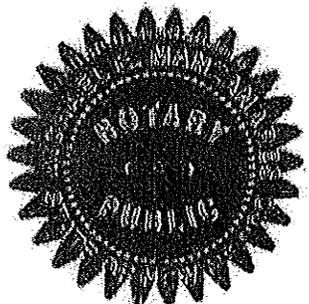
Gregory Spradlin
Signature

STATE OF NEW MEXICO)
) ss
COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me this 23rd day of April, 2014, by Gregory Spradlin - Rep For Actions of Del Rey

Michael E. Manzanas
NOTARY PUBLIC Michael E. Manzanas

My Commission Expires:
August 23rd 2015



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

Name of Applicant: Arbors of Del Rey
 Contact Person: Gregory Spradlin
 Contact Phone Number: 575-382-5200
 Contact e-mail Address: gspradlin@vistaliving.com
 Web site address (if applicable): www.vistaliving.com/sierra-vista

Proposal Information

Name of Proposal: Arbors of Del Rey - PUD
 Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)
Assisted Living Facility with use of keeping of animals, keeping commercial zoning. Chapter 7
 Location of Subject Property 3731 Del Rey Blvd Las Cruces NM 88012.
 (In addition to description, attach map. Map must be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area)
 Acreage of Subject Property: _____

Detailed description of current use of property. Include type and number of buildings:
One main building - Arbors of Del Rey (Assisted Living Dementia/Alzheimer Facility) with 24 bed capacity.

Detailed description of intended use of property. (Use separate sheet if necessary):
"Eden Alternative" - incorporating the use of animals with the elders diagnosed with Alzheimer's/Dementia. Housing only few animals, ie. 2 goats, peacocks, ducks, chickens, and rabbits. Refer to enclosed pictures of Sierra Vista in San Diego. Property is not being changed. Allowing housing for animals photos are similar to what we want to build.

Zoning of Subject Property: C-2c
 Proposed Zoning (If applicable): PUD
 Proposed number of lots N/A, to be developed in N/A phase (s).
 Proposed square footage range of homes to be built from N/A to N/A

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

Will follow building requirements and Chapter 7 requirements.

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

Anticipated traffic generation _____ trips per day.

Anticipated development schedule: work will commence on or about 6 months

and will take 2-3 weeks to complete.

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

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). Animal shelters. Use existing garden area.

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; Garden area

Are there existing buffers on the property? N/A.

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

If yes, is it paved? Yes X No ___

How many spaces? 12 (Marked) How many accessible? 2 - Handicap parking areas.

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

FILED FEBRUARY 24, 1997, IN PLAT BOOK 18,
PAGE 638, DONA ANA COUNTY RECORDS,
CITY OF LAS CRUCES, DONA ANA COUNTY,
NEW MEXICO

NEBULA VALLEY CENTRAL PARKING
CL. 24, PLS. 800-400

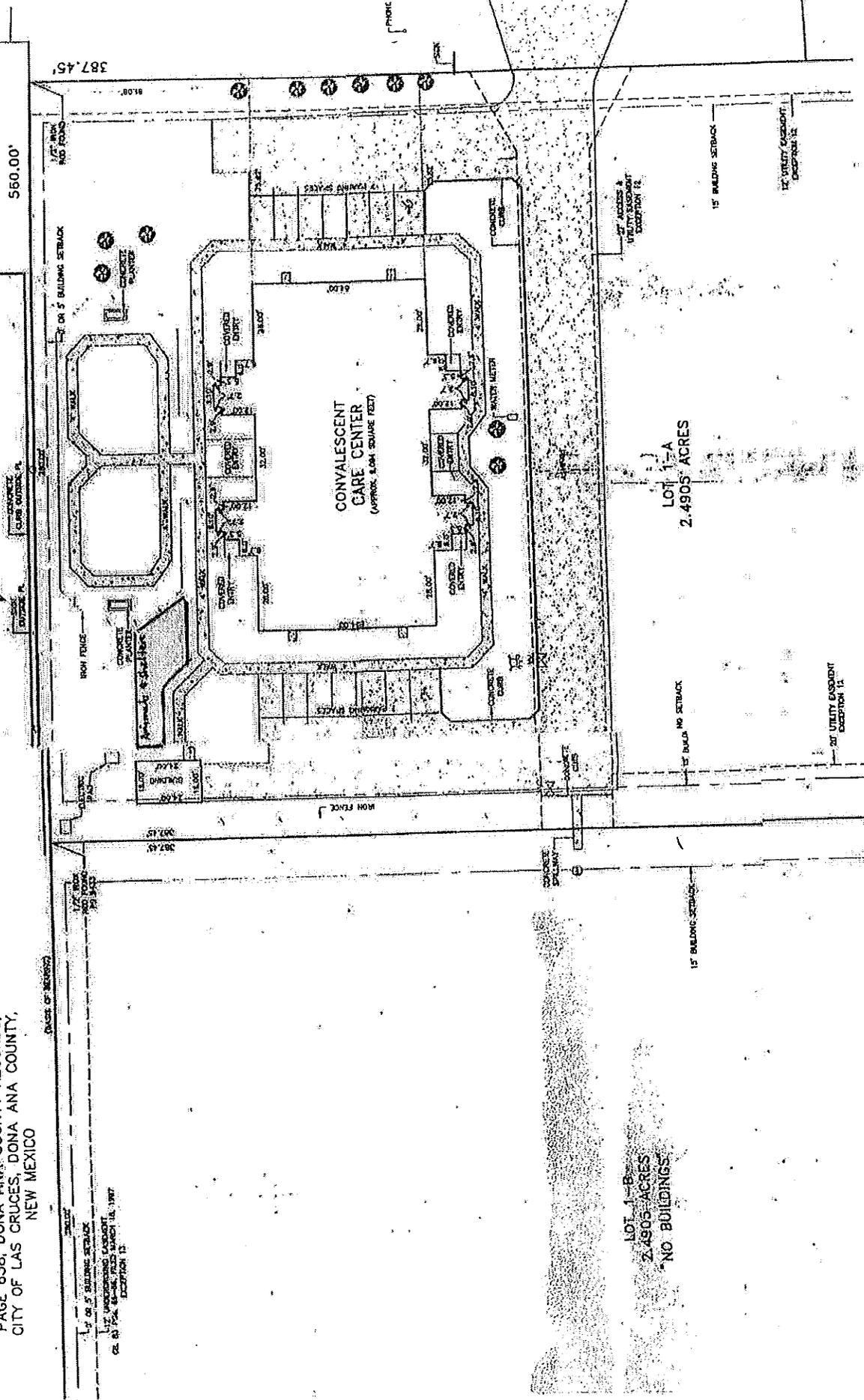
PLANS OF 28/00002

15' BUILDING SETBACK
EXCEPTION 11
CL. 23, PLS. 800-400

15' BUILDING SETBACK
EXCEPTION 11
CL. 23, PLS. 800-400

15' BUILDING SETBACK
EXCEPTION 11
CL. 23, PLS. 800-400

15' BUILDING SETBACK
EXCEPTION 11
CL. 23, PLS. 800-400



LOT 1-B
2.4905 ACRES
NO BUILDINGS

LOT 1-A
2.4905 ACRES

560.00'

387.45'

15' OR 5' BUILDING SETBACK

15' BUILD NO SETBACK

15' BUILDING SETBACK

15' ACCESS & UTILITY EASEMENT EXCEPTION 11

15' BUILDING SETBACK

15' UTILITY EASEMENT EXCEPTION 11

15' BUILD NO SETBACK

15' UTILITY EASEMENT EXCEPTION 11

15' BUILDING SETBACK

Arbors of Del Rey

Assisted Living Community



May 2014

TO: City of Las Cruces, Community Development Department

FROM: Arbors Of Del Rey

EDEN ALTERNATIVE Community Benefits

As an Eden Associate, Las Cruces will be the second site in the State of New Mexico. Our sister home in Santa Fe has brought significant publicity to their town through the media to include a special which was broadcasted on the Today Show. With Las Cruces as the second site in New Mexico, this will enhance the potential for continued growth within the retirement community. Here at the Arbors, we currently have a variety of moms, dads, brothers, and sisters as elders within our home. Some have been brought here from areas throughout the United States to be closer to their loved ones. We also have siblings which live outside New Mexico and have sought out this facility for their parent. Just by "word of mouth" throughout other states will bring the potential of future resident's looking for a great retirement community and is also able to provide care of those diagnosed with Alzheimer's/Dementia. Most importantly, the Eden Alternative is all about the interactions/care for the elders here at the Arbors, stepping away from the concept of "Institutional Care" and bringing about change in the way elders are cared for with Alzheimer's/Dementia.

Sincerely,

Gregory Spradlin, RN

Director of Nursing

Attachment 6

Z2875 PUD Land Uses

Allowed as-of-right
Accounting, auditing & bookkeeping
Architectural, engineering, planning & surveying
Animal hospital and clinic
Arcade/Game Room
Arts and Crafts Studio
Automobile Parking Lot
Auto/truck parts store
Auto/truck wash/wax/detailing
Auto/Truck/Trailer rental
Bakery
Banking and Financial Institution
Bar, Pub, Tavern (no dancing)
Barber shop and Beauty parlor
Batting Cages
Bicycle Sales and Service
Bowling alley
Building material sales
Business Service Establishment
Café, cafeteria, coffee shop, restaurant
Carpet/Window treatments
Car wash
Catering
Child care center or preschool
Cleaning & Maid Services
Clothing Store and Apparel Shop
Coffee Shop and Café
Community and Public Building
Consulting
Convenience store
Counseling Services
Country Club
Credit reporting and collection services
Crematorium
Delicatessen, produce/Meat Market
Department Store
Desktop publishing & graphic design
Dressmaking Shop
Drycleaning and steamcleaning

Electrical Shop
Equipment rental
Firewood sales
Florist
Food store
Funeral home, mortuary (including crematorium)
Furniture store
Garden supply
Gasoline station
Glass cutting and finishing
Golf course
Greenhouses, non-commercial
Gymnasium
Hardware store
Health/Exercise Club/Gymnasium/Sports Instruction
Home furnishings
Hospital or overnight clinic
Hotel and motel
Household appliance sales, service and repair
Institutions, public and quasi-public
Insurance
Laboratory (medical and dental)
Laundry
Legal services
Lessons (art, music, dance, and the like)
Library/Museum
Liquor store
Lumber store
Mailing & stenographic services
Medical center
Miniature golf course
Mini-storage units
Motion picture production
Motion picture theater
Motorcycle sales and service
Newspaper establishment, including distribution office
Newsstand
Noncommercial research organization
Nursing or convalescent home (Assisted Living Facility)
Office (business and professional)
Paint sales
Parking garage
Pawn shop
Pet shop

Pharmacy
Photographic studio and supply store
Plant nursery
Plant nursery
Pool and billiard room
Printing and engraving shop
Private club or lodge
Public park, playground, recreational use
Racetrack, Mini (e.g. go-carts)
Radio, television, music store
Radio, TV station
Real estate
Repair shop, small items
Restaurant
Shoe repair
Show and sales room for business products
Skating rink
Specialty foods (bakeries, confectionaries, etc.)
Specialty store (books, music, toys, sports equip, stationary, etc.)
Sporting goods store
Tailoring
Tavern, no dancing
Taxicab stand
Tax preparation
Telegraph and messenger service
Telephone & Communication Center
Tire sales and service
Upholstery shop
Variety store
Video tape rental/sales
Zoo/Botanical Park
Land Use, Conditional
Above-ground storage tanks for flammable and combustible liquids
Above-ground storage tanks for liquid petroleum (LP) gas
Auto & Camper Sales and Service
Storage/display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)
Amusement park or enterprise
Antenna, towers, communication structures, and other vertical structures
Assembly of arts and crafts
Auto/truck repair and sales
Bed & Breakfast Establishment
Bank drive-up windows

Child care center, nursery or similar use
Christmas tree sales
Church
Columbarium (without funeral home/mortuary)
Construction yard or building (temporary)
Contractors Office
Cottage industry—retail or service
Firewood sales
Furniture assembly (accessory use)
Heavy equipment repair (accessory use)
Large equipment sales, repair & service (non-vehicular)
Home occupation
Kennel/cattery, private residential
Kennel/cattery commercial
Mini-storage units
Park
Petroleum/propane sales
Public Utility Installation, Public/Private
Residence
Seasonal sales—non-temporary (fireworks, ag products, snow cone stand, etc.)
School (public, private, or trade)
Storage of RVs and motor vehicle appurtenances
Storage of wrecked or dismantled vehicles and parts (accessory use)
Storage outside of buildings of materials, equipment, and supplies not for sale
Storage, warehousing accessory to Office, Retail, Service or Industry
Swimming pools
Telemarketing/Mail order/Call Center
Television and radio towers and all other free standing towers (public and private uses)
Temporary uses
Welding (accessory use)
Land Uses—Special Use Permit Required
Airport and heliport
Antenna, towers, communication structures, and other vertical structures
Heavy equipment repair and service
Kennel (commercial)
Paint shop (spraying, mixing)
Racetrack



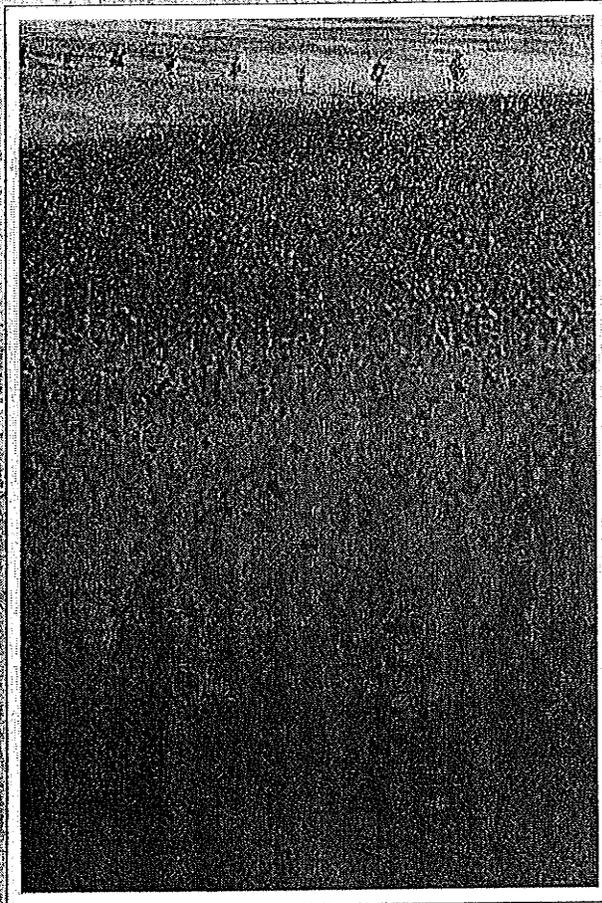
THE EDEN ALTERNATIVE® - FACT SHEET

- The Eden Alternative is an international not-for-profit organization based on the core belief that aging is a continued stage of growth and development, rather than a period of decline. The Eden Alternative's principle-based philosophy is a powerful tool guiding organizations through the journey of culture change.
- The mission of the Eden Alternative is to improve the well being of Elders and those who care for them by transforming the communities in which they live and work. The vision is to eliminate loneliness, helplessness and boredom.
- Founded in 1994 by Dr. William Thomas, a Harvard-educated physician and board-certified geriatrician, the Eden Alternative is governed by a national all-volunteer board and led by CEO, Chris Perna and Executive Director, Carol Ende.
- The Eden Alternative has trained over 23,000 Eden Associates and has over 200 registered homes in the United States, Canada, Europe and Australia. With presence in Eastern and Western Canada, Australia, New Zealand, Japan, Denmark, Switzerland and England, International Eden Alternative Regional Coordinators are bringing the Eden Alternative Philosophy and Principles across the world.
- The Eden Alternative provides transformative education and expert support to people from around the world that are using the Eden Alternative Philosophy through workshops, consultations, networking and books written by Dr. Thomas and the Eden Registry.
- The Eden Registry is an international support network dedicated to advancing culture change in their states and countries. Each organization's journey is unique and the Eden Alternative does not have a programmed approach for all homes to follow; the homes on the Eden Registry are made publicly available as role models for other organizations seeking transformative culture change.

- Studies show that implementation of the Eden Alternative is a powerful tool for improving quality of life and quality of care for those living in nursing homes. In homes that have adopted Eden Alternative as an organizational-wide philosophy, there is often improved staff satisfaction and retention and significant decreases in the overuse of medications and restraints.
- The mission of the Eden Alternative extends past the walls of the nursing home offering support for the entire continuum of care. As an initiative of the Eden Alternative, *Eden at Home* captures the essence and successes of the Eden Alternative's Ten Principles as they apply to improving quality of life for Elders living at home and their care partners. With an eye for changing the culture of care in our communities, *Eden at Home* emphasizes building creative and collaborative care partner teams empowered by concepts central to person-directed care.
- In 2009, the non-profit Seaton Foundation partnered with the Eden Alternative to establish *Eden LifeLong Living* to promote well-being and a better quality of life for individuals with cognitive disabilities and the staff who support them. *Eden LifeLong Living* is based on the belief that individuals with cognitive disabilities can have a good quality of life and continue to grow and learn within a supportive living environment.



ALTERNATIVE®



IT CAN BE DIFFERENT!





DR. BILL THOMAS, CO-FOUNDER OF THE EDEN ALTERNATIVE® WILL NEVER FORGET THE WORDS OF AN ELDER, OR THE BEAUTIFUL BLUE EYES THAT STARED UP AT HIM, AS SHE REACHED UP TO DRAW HIM NEAR AND WHISPER, "DOCTOR, I AM SO LONELY."

A Harvard-educated physician and Board Certified Geriatrician, Dr. Thomas searched his medical texts and found nothing to heal loneliness. This inspired him to watch and listen to life in the nursing home where he worked. Over time, he witnessed that the institutional model of care breeds three deadly plagues of the human spirit: Loneliness, Helplessness, and Boredom.

And so he began to think about a different kind of world. He envisioned a care environment where people could live and thrive, not just wait to die. Working together, with his wife, Judith Meyers-Thomas, this vision of a Human Habitat began to unfold and change the lives of Elders and their care partners across the country and beyond.

AND SO BEGAN THE STORY OF THE EDEN ALTERNATIVE...

The philosophy
and work of
The Eden Alternative
is guided by
The Ten Principles:

*The Eden
Alternative
Principles*

The three plagues of loneliness,
helplessness, and boredom
account for the bulk of suffering
among our Elders.

THE EDEN ALTERNATIVE IS CULTURE CHANGE...

"Culture change" is the common name for a global initiative focused on transforming care, as we know it, for Elders and other individuals living with frailty and different physical, developmental, intellectual, and psychological abilities. It advocates for a shift from institutional models of care to person-directed values and practices that put the person first. Person-directed care is structured around the unique needs, preferences, and desires of the individual in question. Through this approach, decisions and actions around care honor the voices and choices of care recipients and those working most closely with them. Core person-directed values include choice, dignity, respect, self-determination and purposeful living.

Culture change values drive the transformation of both long and short-term living environments, as well as home and community-based settings. The transformation process involves changes in personal growth, the development of relationships, organizational practices, and physical environments at all levels and in all workforce models. The ultimate goal of culture change is better outcomes and quality of life for all involved in the giving and receiving of care.

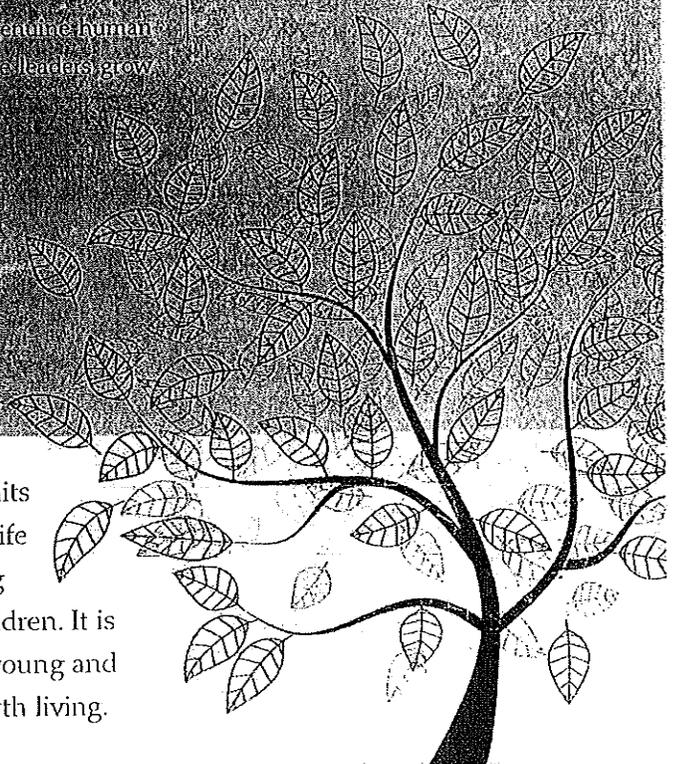
As a comprehensive culture change model, the Eden Alternative focuses on creating Elder-centered communities — wherever Elders live — that thrive on close and continuing relationships, meaningful interactions, opportunities to give as well as receive, and a rich and diverse daily life. Elder-centered communities are places where treatment is the servant of genuine human caring, Elders are the daily decision-makers, and where wise leaders grow other leaders.

The Eden Alternative recognizes that promoting person-directed care means offering a philosophy based on guiding principles.

Principle-based approaches offer both a shared language and direction, while providing the flexibility to respond to unique needs and circumstances. When it comes to person-directed care, step-wise approaches simply don't deliver, as they do not take into consideration how different and unique every individual is.

The Eden
Alternative
Principle #

An Elder-centered community commits to creating a Human Habitat where life revolves around close and continuing contact with plants, animals, and children. It is these relationships that provide the young and old alike with a pathway to a life worth living.

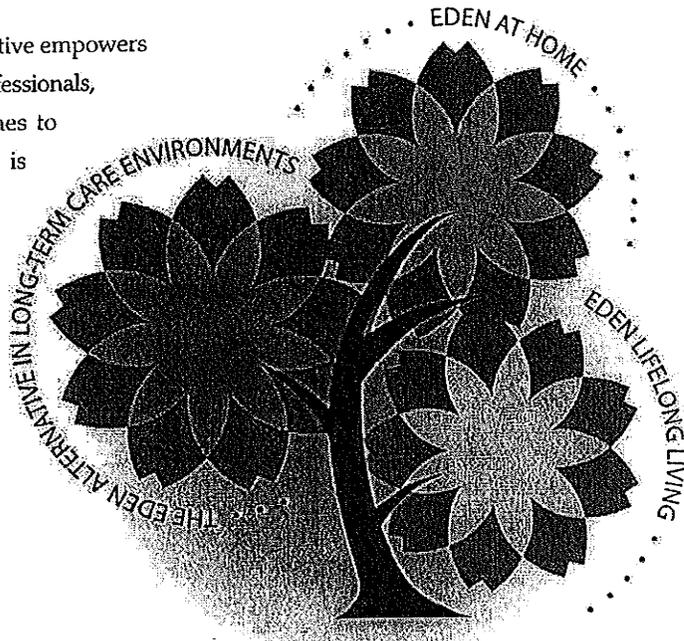


WHEREVER ELDERS LIVE...

The Eden Alternative is an international not-for-profit organization dedicated to transforming care environments into habitats for human beings that promote quality of life for all involved. Our philosophy is a powerful tool for creating well-being for Elders, wherever they live, and those who collaborate with them as care partners. Research has shown this leads to improved quality of care and higher rates of satisfaction for everyone involved, while also benefitting the bottom line of provider organizations.

As a principle-based philosophy, The Eden Alternative empowers care partners, whether they are family members, professionals, or volunteers, to transform institutional approaches to care into the creation of communities where life is worth living.

We firmly believe that culture change unfolds one relationship at a time, and that deep change can only take root when the entire continuum of care is involved. A highly adaptable philosophy, The Eden Alternative currently offers three different applications of its Principles and Practices that acknowledge and support the unique needs of various care environments, ranging from the nursing home to the family homestead.



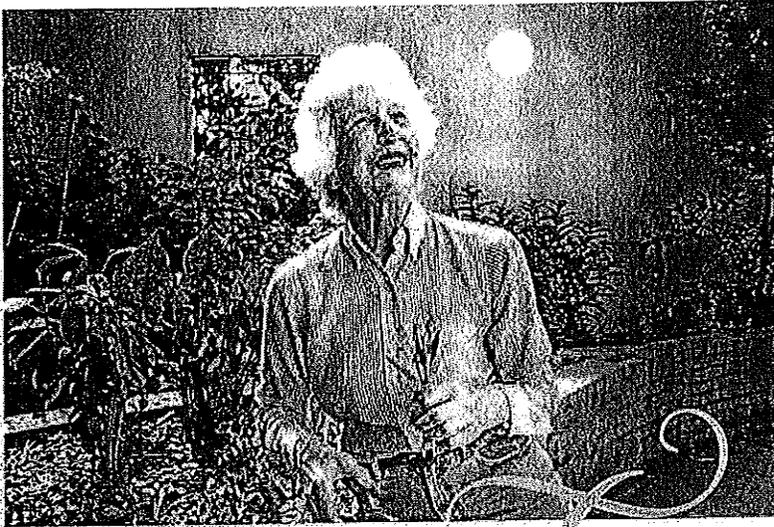
THE EDEN ALTERNATIVE PHILOSOPHY

The Eden Alternative is well-known for its original mission to transform the organizational culture of nursing homes and other institutional settings. Going strong for more than twenty years, we have over 25,000 Certified Eden Associates worldwide committed to inspiring change in the organizations where they work.

Based on the belief that care is part of a continuum, regardless of where it is provided, we have created Eden at Home to apply the Eden Alternative's Ten Principles to home and community-based care. And finally, in partnership with the Seaton Foundation, Eden LifeLong Living promotes quality of life and well-being for individuals living with developmental, intellectual, and psychological challenges.

The Eden
Alternative
Principle #1

Loving companionship is the antidote to loneliness. Elders deserve easy access to human and animal companionship.



"At Mission Health Services, we are dedicated to creating a vibrant living experience for Elders using the Eden Alternative Philosophy. All of the care communities in our Utah-based non-profit organization are Eden Registry Members and more than 250 employees are Certified Eden Associates. We attribute excellent resident and family satisfaction ratings, low staff turnover (14% in 2010), and cultivated Elder-choice to our commitment to The Eden Alternative."

*Gary Kelsa, President & Chairman
Mission Health Services, Salt Lake City, Utah*

THE EDEN ALTERNATIVE: TRANSFORMING LONG-TERM CARE ENVIRONMENTS...

In the early 1990s, Dr. Bill Thomas received a grant from the State of New York to pilot his vision for breathing new life into nursing homes. Originally called "The Dementia Project," this grant-funded initiative was his first opportunity to translate the Ten Principles into meaningful action. For three years, Bill and Jude Thomas worked side by side to fine tune the Eden Alternative Philosophy. Their efforts laid the foundation for the development of Certified Eden Associate Training, as a means for sharing this inspiring approach to care with other nursing homes. As demand grew for Certified Eden Associate Training, the Thomases realized that their mission to eliminate the plagues of loneliness, helplessness, and boredom could be achieved on a much broader scale.

What began as a set of principles has grown into a powerful model for ongoing growth and development. Today, The Eden Alternative continues to grow a robust circle of support in the U.S. and abroad that includes thousands of Certified Eden Associates, hundreds of Eden Registry Members, and an extensive cadre of Eden Mentors and Educators. This dedicated community works together toward meaningful culture change in institutional settings through continuing education and a commitment to maximizing quality of life for Elders and their care partners.

Implementation of The Eden Alternative impacts the physical environment, organizational structure, and psycho-social interactions of the home. Individual Principles highlight and guide different aspects of the culture change journey. In establishing goals for personal and organizational growth, organizations must consider how to best live out each Principle for the benefit of the Elders and their care partners, as well as the home as a whole.

The departmentalized, task-orientation of institutional models has created a culture in long-term care that is characterized by pessimism and cynicism. By moving away from top-down bureaucratic approaches to

management and moving decision-making closer to the Elders, Edenizing organizations are creating a vibrant, empowered existence for the Elders they serve and the people who work closely with them.

*The Eden
Alternative
Principle #*

4

An Elder-centered community creates opportunity to give as well as receive care. This is the antidote to helplessness.

EDEN AT HOME:

APPLYING THE TEN PRINCIPLES TO HOME & COMMUNITY-BASED CARE...

Several years ago we began to notice that more and more people were asking what The Eden Alternative could offer people living in the larger community. Given the growing aging population and consumer preference to receive care in the home, we recognized a powerful need for creative grassroots solutions at the community level. So began Eden at Home.

Eden at Home applies the power of the Eden Alternative's Ten Principles to improving quality of life for Elder(s) living at home and their care partners. By our definition, care partners include family, friends, neighbors, volunteers, home health professionals, and the Elders themselves. Eden at Home (EAH) emphasizes building collaborative care partner teams empowered by concepts central to person-directed care. It promotes a culture of meaningful care in our communities that does not see the needs of caregivers as separate from the needs of care receivers, but rather advocates for the well being of the whole care partnership. Working together, empowered care partner teams help to ensure the independence, dignity, and continued growth and development of all involved by eliminating loneliness, helplessness, and boredom for all care partners on the team.

Currently, three initiatives fall under the umbrella of Eden at Home. Based on a trainer certification model, the **Eden At Home** curriculum conveys the nuts and bolts of translating the Eden Alternative Principles to home and community-based care. Certified Eden at Home Trainers function as both facilitators of Care Partner Workshops and as change agents within their organizations, which may include non-profit, faith-based, or home health organizations, adult day services, hospices, and independent living communities. Eden at Home Care Partner Workshops can bring different stakeholders to learn together, creating a shared language between members of the entire care partner team.

Embracing Elderhood builds intergenerational relationships by pairing Elder Storytellers with Recording Partners, ages 16 and older. Together, they create the Storyteller's legacy, which is part life story and part gift to the world, as wisdom gained from a life fully lived.

Eden Apprentices are young people, ages 11 to 18 who are introduced to the Eden Alternative Principles. Living by example, these young change agents will play a crucial role in shifting the culture of care and perspectives on aging in our communities.



"Wind Crest, an Erickson Living independent living community, attributes our improvement in resident satisfaction to implementing Eden at Home. Wind Crest scored in the top 10% of 250 continuing care retirement communities surveyed nationwide in 2010. The Eden Alternative Philosophy supports our mission and culture, creating a richer, more meaningful experience."

Craig Erickson,
Executive Director
Wind Crest
Highlands Ranch, Colorado

"Hawaii-based Project Dana is an interfaith, compassionate care program that offers volunteer support to Elders living with frailty and disability. With a volunteer corps of 20 Certified Trainers — most of them Elders — we have delivered Eden at Home Care Partner Workshops to 336 care partners on the islands of Kauai, Maui, Hawaii and Oahu with high satisfaction ratings."

Rose Nakamura,
Administrator
Project Dana, Hawaii

The Eden
Alternative
Principle #

5

An Elder-centered community imbues daily life with variety and spontaneity by creating an environment in which unexpected and unpredictable interactions and happenings can take place. This is the antidote to boredom.



EDEN LIFE LONG LIVING:
CREATING QUALITY OF LIFE FOR
THOSE LIVING WITH DEVELOPMENTAL,
INTELLECTUAL, AND PSYCHOLOGICAL
CHALLENGES

In early 2006, David Seaton heard an interview with Dr. Bill Thomas on National Public Radio about transforming long-term care in America. As Dr. Thomas explained the philosophy behind The Eden Alternative, he became intrigued. Seaton, who had owned and directed residential care programs in Central Texas since the 1980s for individuals of any age living with brain injury as well as developmental, intellectual, and psychological challenges, held similar beliefs that long-term

care should be about supporting continued growth and well-being, rather than accepting stasis and decline.

While society tends to describe the needs of these individuals in terms of "disability," the Eden Alternative Philosophy builds on strengths. This principle-based philosophy focuses on the unique ways our "different abilities" hold the promise of possibility and what we each have to offer our communities. Loneliness, helplessness, and boredom can plague anyone's life. Meaning, empowerment, and growth are essential parts of living. The Ten Principles of the Eden Alternative can foster transformation in residential care settings by overcoming the plagues and helping everyone to experience well-being through a life worth living.

Following a successful 2008 Demonstration Project of the concept's applicability, the Seaton Foundation partnered with The Eden Alternative in 2009 to establish Eden LifeLong Living (ELL). When environments offer opportunities for growth along with a sense of community, belonging, and purpose, everyone wins!

The Eden
Alternative
Principle #

6

Meaningless activity corrodes the human spirit. The opportunity to do things that we find meaningful is essential to human health.

"Eden LifeLong Living's partnership with The Eden Alternative has proven invaluable in expanding culture change initiatives to include individuals living with differing abilities. The Principles and Philosophy of The Eden Alternative provide a great framework to help transform long-term care settings for younger individuals, who live with different developmental, intellectual, and psychological challenges. Eden LifeLong Living expands The Eden Alternative's commitment to providing a continuum of opportunities, focused on making long-term care a better place to work and live for all individuals."

David Seaton, Founder
Eden LifeLong Living, San Marcos, Texas

THE EDEN ALTERNATIVE:

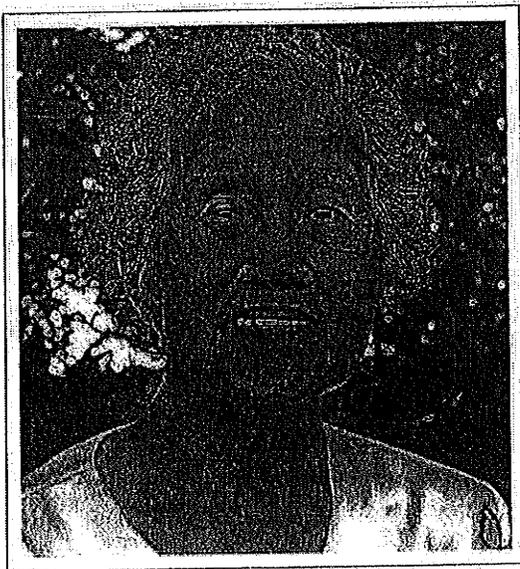
THE INTERNATIONAL JOURNEY...

In August 2010, the Australian edition of *Aged InSite Magazine* listed The Eden Alternative as one of the top ten most influential innovations in aged care. As a person-directed care philosophy, The Eden Alternative is relevant to many cultures across the globe.

We have developed an exceptional team of International Eden Alternative Regional Coordinators dedicated to sharing the Ten Principles with people around the world.

Currently, we have Regional Coordinators in Eastern and Western Canada, Japan, Australia, New Zealand, the United Kingdom, Germany, Denmark, Sweden, the Faroe Islands, Iceland, and the Netherlands. As the world ages, the demand for innovative care solutions will continue to spread across the globe.

In the spirit of person-directed practice, Regional Coordinators work closely with the Eden Alternative Home Office to ensure that our educational offerings and materials speak to the unique needs and customs of the cultures they represent. Through a licensing agreement, Regional Coordinators are encouraged to grow The Eden Alternative in a manner that inspires change and best supports their country's distinctive system of care services.



"The Eden Alternative has been practiced throughout Scandinavia and Northern Europe for the past ten years. Seven countries are overseen by International Regional Coordinators and implementation is sustained by nearly 3,000 Certified Eden Associates. All resources produced, including training materials, are translated into the appropriate language and used universally. Europe has a single Register of Associates enabling movement of employment across countries. In the last 12 months alone, new International Regional Coordinators have joined us from the Netherlands, Sweden, Germany and Iceland and interest is growing in Hungary, the Czech Republic and Italy!"

*June Burgess (on behalf of Eden Alternative Europe)
International Regional Coordinator
The Eden Alternative United Kingdom & Ireland*

*The Eden
Alternative
Principle #*

Medical treatment
should be the servant of
genuine human caring,
never its master.

"Human life should never be separated from human growth."

GROW & LEARN WITH US...

Education is at the core of everything we do. The ultimate goal of The Eden Alternative is to inspire and empower care partner teams to achieve successful application of person-directed practices across the continuum of care. It is said that education is the antidote to fear. As we face the reality of a health care system that is ill-prepared to meet the needs of a growing aging population, improving the quality of care is a responsibility we all must share. As care professionals and community citizens, we need practical tools and meaningful approaches to care that empower each of us to become part of the solution.

Recognizing that different people learn in different ways, we offer a wide variety of educational opportunities. Our offerings are designed to help organizations and individuals revolutionize the culture of aging and care in their organizations and in their wider communities.

Eden Path to Mastery™ Guides

As a new service, we are introducing our Eden Path to Mastery Guides, a team of qualified facilitators prepared to offer firsthand support via The Eden Alternative's Path to Mastery and the portfolio of educational offerings that support it.

Eden Path to Mastery Guides will share with leadership teams actual hands-on experience in transforming long-term care organizations with The Eden Alternative.

Interactive Training...

At The Eden Alternative, we understand that to open minds, you must open hearts first. We offer an assortment of participatory training experiences that honor this natural evolutionary process. Our Open Hearts Series features our foundational offerings, which inspire participants to reframe perceptions and develop a solid understanding of the Ten Principles. Our Open Minds Series takes the learning deeper, by providing a powerful opportunity to refine awareness and strengthen specific skills needed to effect change.

Webinar Education...

Our webinar series is a user-friendly way to reach large numbers of people at an affordable price. We offer both free and fee-based events, including topics such as leadership, staff stability, meaningful engagement, surplus safety, teamwork, and best practices in person-directed care.

The Eden Alternative International Conference...

We host a bi-annual International Conference that attracts people from around the world to share stories and learn new skills designed to support the Eden Alternative journey. Participants have the opportunity to connect and build relationships that expand an already extensive international support network.

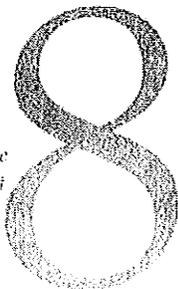
Consultation Services...

Our team of consultants covers issues ranging from pre-design consultation, sharing The Eden Alternative with those living with dementia, dining services, and the business case for The Eden Alternative.

Products, Materials, and Ongoing Support...

We offer a variety of educational materials through our Eden Alternative Store, including our Paradigm Buster Series, DVDs, and books by Dr. Bill Thomas and other culture change leaders affiliated with The Eden Alternative. We also provide an array of other ongoing support options that include a peer-to-peer support network; bi-weekly newsletter; webinar conversations with Co-founder Dr. Bill Thomas; research and data; a participatory, information-rich blogstream through ChangingAging.org; and the opportunity to connect through state coalitions for culture change.

The Eden
Alternative
Principle #



An Elder-centered community honors its Elders by de-emphasizing top-down bureaucratic authority, seeking instead to place the maximum possible decision-making authority into the hands of the Elders or into the hands of those closest to them.

THE EDEN ALTERNATIVE REGISTRY...

For more than ten years now, members of the Eden Registry have been implementing our Philosophy and Principles. Joining the Eden Registry highlights your organization as one that is stepping up to create a life worth living. Today, there are hundreds of Eden Registry Members nationwide. Their best practices frame a clearinghouse of information, techniques, and support they can both learn from and share with other organizations on a culture change journey.

Culture change via The Eden Alternative is a never-ending process and requires a strong commitment from leadership to drive the changes over time. The Eden Registry serves as an honor society for organizations across the entire continuum of care committed to building inspired Human Habitats.

The benefits of belonging to the Eden Registry include:

- ⇒ Use of our name and logo in your advertising;
- ⇒ A subscription to "The Vine," a best-practices newsletter;
- ⇒ Participation in a powerful peer support network;
- ⇒ Quarterly teleconferences, some featuring Dr. Thomas;
- ⇒ Discounts through our value-added partnerships;
- ⇒ Access to an array of free resources and tools;
- ⇒ Ability to assess progress on measures related to Registry peers;
- ⇒ A link to your organization on our website; and
- ⇒ Continuing education through the Path to Mastery™.

The Path to Mastery™ includes tools and resources designed to set up Registry Members for success, while providing a method to track progress along the way.



The word "path" refers to how the creation of a Human Habitat is a never-ending journey. The word "mastery" reflects the ongoing growth that organizations experience with the Eden Alternative Philosophy. The Path to Mastery has four Milestones, each filled with numerous outcome steps related to personal, organizational and physical transformation. Progress is taken in small steps over time, and new skills are mastered and incorporated into the whole of the organization before the next steps are taken.

In early 2012, the Eden Registry will continue to grow, and expand its offerings to the entire care continuum by reaching out to organizations that support home and community-based care.



"The path is part of the journey, and is to be enjoyed as much as the destination!"

The Eden
Alternative
Principle #1

Creating an Elder-centered community is a never-ending process. Human growth must never be separated from human life.

WE OFFER RESULTS

In today's economy, leaders must make hard choices regarding how, when, and where to apply resources. Access to evidence-based research and data is crucial to informed decision-making. In response, we have formed the Eden Alternative International Research Committee to coordinate and disseminate research related to the impact of The Eden Alternative on the lives of individuals in a variety of care environments.

The Texas Long Term Care Institute conducted a two-year study of The Eden Alternative across six homes and yielded the following results:

- ⇒ 60% decrease in Behavioral Incidents
- ⇒ 57% decrease in Pressure Sores
- ⇒ 48% decrease in Staff Absenteeism
- ⇒ 25% decrease in Bedfast Residents
- ⇒ 18% decrease in Restraints
- ⇒ 11% increase in Census

A study performed by Elmhurst Extended Care, an Eden Registry Member in Rhode Island, revealed these additional benefits of implementing The Eden Alternative:

- ⇒ Turnover decreased from 46% to 4%
- ⇒ Agency nursing hours reduced to 0
- ⇒ Overtime decreased by more than 50%
- ⇒ Employee injuries reduced by 63%
- ⇒ Fundraising increased by more than 50%

A two-year pilot project of Eden at Home in partnership with AARP revealed the following outcomes six months after 247 care partners experienced the Eden at Home Care Partner Workshop:

- ⇒ 2 in 3 participating care partners said the training received was still extremely or very useful over time
- ⇒ 8 in 10 participating care partners felt they had changed their outlook on giving and receiving care
- ⇒ Over 1/2 of the participants experienced positive changes in relationships with elder care partners
- ⇒ 7 in 10 participants reported positive changes in relationships with other care partners (family, friends, volunteers, and/or professional support)



Can we show that The Eden Alternative exerts a measurable impact?

Yes. Our research has led us to hypothesize the existence of an Eden Alternative Effect.

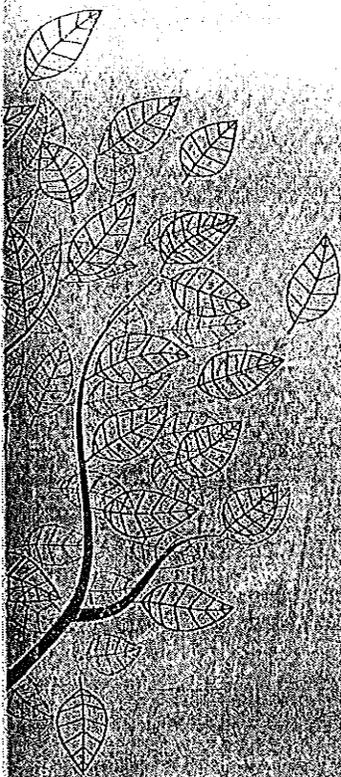
— Dr. Bill Thomas

The Eden
Alternative
Principle #

10

Wise leadership is the lifeblood of any struggle against the three plagues. For it, there can be no substitute.

EDEN
ALTERNATIVE®



WELCOME TO THE STORY...

*The Eden Alternative
Mission*

To improve the well-being
of Elders and their care
partners by transforming
the communities in which
they live and work.



ALTERNATIVES

It Can Be Different

The Eden Alternative, Inc.
P.O. Box 18369
Rochester, New York 14618

(585) 461-3951
fax: (585) 244-9114

opm@edenalt.org
www.edenalt.org

Attachment 7

Z2875 Comparison of PUD Land Uses with 1981 C-2 Land Uses

Land Uses	1981 C-2 Uses	2001 C-2 Uses
Permitted as-of-right		
Accounting, auditing & bookkeeping	Yes (see Office)	Yes
Architectural, engineering, planning & surveying	Y	Y
Animal hospital and clinic	Yes	Y
Arcade/Game Room	No	Y
Arts and Crafts Studio	Y	Y
Automobile Parking Lot	Y	Y
Auto & Camper Sales and Service	Y	No (see conditional)
Auto/truck parts store	Y	Y
Auto/Truck/Trailer rental	Y, see Retail	Y
Bakery	Y	Y
Banking and Financial Institution	Y	Y
Bar, Pub, Tavern (no dancing)	Y	Y
Barber shop and Beauty parlor	Y	Y
Batting Cages	See parks-Y	Y
Bed & Breakfast establishment	No	Conditional
Bicycle Sales and Service	Y	
Bowling alley	Y	Y
Building material sales	Y see Retail	Y
Bus Terminal	Y	No
Business Service Establishment	Y	
Café, cafeteria, coffee shop, restaurant	Y	Y
Carpet/Window treatments	Y see Retail	Y
Car wash	SUP	Y
Catering	Y	Y
Child care center or preschool	No	Y
Cigarette and Cigar Stand	Y	No
Cleaning & Maid Services	Not stated	Y
Clothing Store and Apparel Shop	Y	Y
Coffee Shop and Café	Y	Y
Columbarium	Y	Y, Conditional
Community and Public Building	Y	Y
Consulting	Y see Office	Y
Convenience store	Y, see Retail	Y
Convention or Exhibition Hall	Y	No

Land Use	Permitted as-of-right	1981 C-2	2001 C-2
Counseling Services		Y see Office	Y
Country Club		Y	Y
Credit reporting and collection services		Y see Office	Y
Crematorium		No	Y
Dance Hall or Music Academy		Y	No
Delicatessen, produce/Meat Market		Y, see Food Store	Y
Department Store		Y	Y
Desktop publishing & graphic design		Y see Office	Y
Dressmaking Shop		Y	Y
Drugstore		Y	Y
Drycleaning and steamcleaning		Y	Y
Electrical Shop		Y	Y
Equipment rental		Y, see Retail	Y
Firewood sales		Y	Y
Florist		Y	Y
Food store		Y	Y
Fraternity		Y	No
Frozen food locker		Y	No
Funeral home, mortuary (including crematorium)		Y	Y
Furniture store		Y see Retail	Y
Garden supply		Y see Retail	Y
Gasoline station		Y	Y
Glass cutting and finishing		Y	Y
Golf course		Y	Y
Greenhouses		No	Non-commercial only
Gymnasium		Y	Y
Hardware store		Y	Y
Health/Exercise Club/Gymnasium/Sports Instruction		See Gymnasium	Y
Heavy equipment sales		Y	Conditional
Home furnishings		Y see Retail	Y
Hospital or overnight clinic		Y	Y
Hotel and motel		Y	Y
Household appliance sales, service and repair		Y	Y
Institutions, public and quasi-public		Y	Y
Insurance		Y see Office	Y
Laboratory (medical and dental)		Y	Y
Laundry		Y	Y
Legal services		Y see Office	Y
Lessons (art, music, dance, and the like)		Y	

Land Use Permitted as-of-right	1981 C-2	2001 C-2
Library/Museum	No	Y
Liquor store	Y	Y
Lumber store	Y	Y
Mailing & stenographic services	Y see Office	Y
Medical center	Y	Y
Microwave radio relay structure	Y	Conditional
Miniature golf course	Y	Y
Mini-storage units	Y, Conditional	Y
Motion picture production	No	Y
Motion picture theater	Y	Y
Motorcycle sales and service	Y	Y
Newspaper establishment, including distribution office	Y	Y
Newsstand	Y	Y
Noncommercial research organization	Y see Office	Y
Nursing or convalescent home (Assisted Living Facility)	Y	PUD Yes
Office (business and professional)	Y	Y
Paint sales	Y	Y
Parking garage	Y	Y
Pawn shop	Y see Retail	Y
Pet shop	Y	Y
Pharmacy	Y	Y
Photographic studio and supply store	Y	Y
Plant nursery	Y	Y
Plumbing and heating shop	Y	Conditional use
Plant nursery	Y	Y
Plumbing and heating shop	Y	No
Pool and billiard room	Y	Y
Printing and engraving shop	Y	No
Private club or lodge	Y	Y
Public park, playground, recreational use	Y	Y
Racetrack, Mini (e.g. go-carts)	See special uses	Y
Radio, television, music store	Y	No
Radio, TV station	No	Y
Railroad depot	Y	No
Real estate	Y see Office	Y
Repair shop, small items	Y	Y
Residence	Y	Conditional
Restaurant	Y	Y (See Café)

Land Use	Permitted as-of-right	1981 C-2	2001 C-2
Shoe repair		YY	Y
Show and sales room for business products		Y	Y
Skating rink		Y	Y
Sorority		Y	No
Specialty foods (bakeries, confectionaries, etc.)		Y see Food Store	Y
Specialty store (books, music, toys, sports equip, stationary, etc.)		Y see Retail	Y
Sporting goods store		Y	Y
Steamcleaning establishment		Y	Y, see dry cleaning
Tailoring		Y	Y
Tavern, no dancing		Y	Y
Tavern, with dancing		Y	No
Taxicab stand		Y	Y
Tax preparation		Y see Office	Y
Telegraph and messenger service		Y	Y
Telephone & Communication Center		Not stated	Y
Tire sales and service		Y	Y
Upholstery shop		Y	Y
Variety store		Y	Y
Video tape rental/sales		Yes see Retail	Y
Zoo/Botanical Park		No	Y
Permitted Uses With Conditions			
Land Use, Conditional		1981 C-2	2001 C-2
Above-ground storage tanks for flammable and combustible liquids		Y	Y
Above-ground storage tanks for liquid petroleum (LP) gas		Y	Y
Storage/display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)		Y	Y
Amusement park or enterprise		Y	Y, temporary
Antenna, towers, communication structures, and other vertical structures		No	Y
Assembly of arts and crafts		Y	Y see Art Studio
Auto/truck repair and sales		See as-of-right	Y
Bank drive-up windows		Y	Y
Child care center, nursery or similar use		Y	Allowable use

Land Use, Conditional	1981 C-2	2001 C-2
Christmas tree sales	Y	Y
Church	Y	Y
Construction yard or building (temporary)	Y	Y
Contractors Office	Y	Y
Cottage industry—retail or service	No	Y
Drive-in theater	Y	No
Firewood sales	Y	Y
Flea market	Y	No
Furniture assembly (accessory use)	Y	Y as Cottage Industry
Heavy equipment repair (accessory use)	Y	Y
Large equipment sales, repair & service (non-vehicular)	No	Y
Home for the handicapped, disabled, retarded, or retired	Y	No
Home occupation	No	Y
Kennel/cattery, private residential	No	Y
Kennel/cattery commercial	No	Y
Mini-storage units	Y	Y
Park	No	Y
Petroleum/propane sales	No	Y
Public Utility Installation, Public/Private	Special Use	Y
Seasonal sales—non-temporary (fireworks, ag products, snow cone stand, etc.)	See Retail sales	Y
School (public, private, or trade)	Y	Y
Storage of RVs and motor vehicle appurtenances	No	Y
Storage of wrecked or dismantled vehicles and parts (accessory use)	Y	
Storage outside of buildings of materials, equipment, and supplies not for sale	Y, Conditional	Y
Storage, warehousing accessory to Office, Retail, Service or Industry	Y, Conditional	Y
Swimming pools	Y	Y
Telemarketing/Mail order/Call Center	Not stated	Y
Television and radio towers and all other free standing towers (public and private uses)	Y	Y
Temporary uses	No	Y, non-seasonal
Welding (accessory use)	Y	Y
Wrecker services	Y	No

Special Uses		
Land Uses—Special Use Permit Required	1981 C-2	2001 C-2
Adult bookstore/video store	Y	No
Adult amusement establishment	Y	No
Airport and heliport	Y	Y
Antenna, towers, communication structures, and other vertical structures	Y, Conditional	Y
Body shop	Y	No
Bus garage	Y	No
Halfway house or quasi-institutional house	Y	No
Heavy equipment repair and service	Y	Y
Kennel (commercial)	Y	Y
Paint shop (spraying, mixing)	Y	Y
Racetrack	Y	See allowable uses
Stadium: baseball, football, soccer or track	Y	No
Planned Unit Development (PUD)	Y	Y
Mobile home park	Y	No
Public utility installation, substation, and water well	Y	Conditional
Auto washing establishment	Y	Y, as-of-right
Recycling purchase center	Y	No



City of Las Cruces
PEOPLE HELPING PEOPLE
PUD Case Review Sheet

Date: May 1, 2014

TO: CLC Utilities Services

FROM: Susana Montana, Planner

Case No. **PUD-14-01; The Arbors at Del Rey Planned Unit Development**

PARCEL ID Nos. 02-25265

Tax ID No. 4-007-132-444-090

Project Description: The purpose of this PUD application is to allow the raising of animals in the existing C-2C zoning district where the Arbors at Del Rey assisted living facility is located. The operators want the residents of the home to experience care and comfort from small animals such as chickens, ducks and bunnies and miniature goats. The C-2 zoning does not allow animal raising. The animals are part of a therapeutic program called Eden Alternative which the Applicant's seek to establish at the assisted living facility.

Note that the 1988 C-2C zoning had a condition that road improvements are required; has this condition been met?

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by **Thursday, May 8, 2014.**

WATER AVAILABILITY & CAPACITY:*

Water Provider:

CLC

Other _____

CLC Water System capable of handling increased usage:

Yes

No _____

Comment _____

No water rights issues F.D. 5/5/2014

Case No. PUD-14-01; The Arbors at Del Rey Planned Unit Development

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

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: Melinda Montoya

Date: May 8, 2014

Contact Information: 528-3525 mmontoya@las-cruces.org

Additional comments:

Conclusions

This is a request for a PUD that would allow the raising of small animals. The parcel is currently zoned C-2, which does not allow such a use. The raising of animals would be related to an Alzheimer's care facility and would be part of the residents' daily therapy. As noted in policies 7.4 and 7.10 below, the City supports programs and services for senior citizens and persons with disabilities. Also, these animals would also serve as 'companion animals' to some degree, another service the City encourages.

The public benefit provided in exchange for the use variance in the PUD is that the community in general will have a senior facility that offers this unique addition to their therapeutic care. Overall, staff is supportive of the project.

The following policies from Comprehensive Plan 2040 are relevant to the current proposal:

RAISING OF ANIMALS/COMPANION ANIMALS

Chapter 4 Healthy Community

Subsection: WIDE-RANGING COMMUNITY FACILITIES & SERVICES

Goal 7: Provide a balance of community, social and cultural services that meet the needs of all segments of the community.

Policies:

- 7.4 Support programs and education for the safe and healthy quality of life for companion animals.
- 7.12 Use Council meetings as a way to showcase companion animal adoptions.
- 7.13 Include companion animal amenities in public places.

SENIOR SERVICES

Chapter 4 Healthy Community

Subsection: WIDE-RANGING COMMUNITY FACILITIES & SERVICES

Goal 7: Provide a balance of community, social and cultural services that meet the needs of all segments of the community.

Policies:

- 7.10 Expand and continue to support programs directed at Las Cruces' citizens to provide strong, positive influences when feasible.
 - c. Provide and augment the Para-transit (demand response/dial a ride programs for those eligible for special transportation assistance) program to assist our seniors with travel arrangements for daily living activities.
 - g. Expand senior citizen's facilities and activities when feasible.

Chapter 8 Operational Support

Subsection: ACTIVE COOPERATION & ENGAGEMENT

GOAL 47: Coordination and cooperate with providers of community services.

Policies:

- 47.4 Continue to investigate increased outreach to and cooperative arrangements with various segments of the community, including: the Spanish-speaking community, youth, public schools, higher education, senior citizens, and the business community.

PLANNED UNIT DEVELOPMENTS

Chapter 4 Healthy Community

Subsection: BALANCED DEVELOPMENT

GOAL 2: Create a variety of development choices for individuals and families of all socioeconomic levels.

Policies:

2.1 Utilize PUD and Infill development regulations to address:

- a. Provisions for design standard flexibility as a means of offering suitable opportunities for successful affordable housing creation.
- b..Incentives such as density bonuses, streamlined development reviews, and waivers to or payment from other City sources of applicable development impact fees as a means to support and enhance development opportunities, especially those which primarily propose affordable housing for the target groups.
- c. .Methods of mitigating potential impacts to adjacent properties through application of design strategies aimed at increasing overall neighborhood compatibility.
- d..Require that Master Plan, Concept Plan and other similar development documents clearly identify proposed locations of affordable housing, in context with surrounding land uses in a manner consistent with the Growth Management section of this Comprehensive Plan.

Developers are encouraged to take additional efforts such as disseminating the subject land use information in marketing brochures and other similar sources of information to ensure area residents are aware of proposed phasing/build-out.

Chapter 8 Operational Support

Subsection: RESPONSIVE PROCESSES

GOAL 49: Establish procedural and development requirements.

Policies:

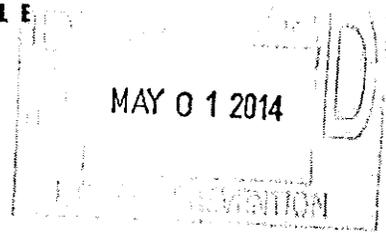
49.11 Use the PUD's flexibility to create unique, quality developments that provide a meaningful benefit to the community.

- a. Consider incentives like reduced setbacks, increased building height, additional density, and other deviations from typical requirements as a way to encourage developments that provide a meaningful benefit to the community.
- b. Support deviations from typical requirements when the development provides a community benefit as illustrated below.
 - i. Distinctiveness and excellence in design and landscaping
 - ii. Preservation of major arroyos
 - iii. Preservation of important cultural resources-archaeological sites
 - iv. Affordable housing and/or subsidized housing
 - v. Architectural variety
 - vi. Clustering of buildings
 - vii. Alternative transportation facilities
 - viii. Increased landscaping, including higher quality landscaping deeper vegetative

- buffers; or increased planting along roadways, in open spaces and recreational areas, and along the perimeter of the project
- ix. Use of greenways or landscaped corridors linking various uses.
 - x. Screening of or rear placement of parking areas
 - xi. Extension, connection or creation of multimodal and/or trail networks
 - xii. Traffic mitigation measures
 - xiii. Community center or day care center
 - xiv. Active or passive recreational areas
 - xv. Public access to community facilities
 - xvi. Recreational facilities for owners/residents
 - xvii. Advancement of City policy or plan
 - xviii. Other public benefit as deemed by plan or policy



PUD Case Review Sheet



Date: May 1, 2014

TO: FIRE PREVENTION & EMERGENCY SERVICES:

FROM: Susana Montana, Planner

Case No. PUD-14-01; The Arbors at Del Rey Planned Unit Development

PARCEL ID Nos. 02-25265

Tax ID No. 4-007-132-444-090

Project Description: The purpose of this PUD application is to allow the raising of animals in the existing C-2C zoning district where the Arbors at Del Rey assisted living facility is located. The operators want the residents of the home to experience care of and comfort from small animals such as chickens, ducks and bunnies and miniature goats. The C-2 zoning does not allow animal raising. The animals are part of a therapeutic program called Eden Alternative which the Applicant's seek to establish at the assisted living facility.

Note that the 1988 C-2C zoning had a condition that road improvements are required; has this condition been met?

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by Thursday, May 8, 2014.

ACCESSIBILITY ISSUES: *

CONCERN

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

Type of Building Occupancy: I

Closest fire department that will service this property:

Name Station 6

Address/ Location 2750 Northrise

Distance from subject property (miles) 1

Case No. PUD-14-01; The Arbors at Del Rey Planned Unit Development

Adequate capacity to accommodate proposal? Yes No

Explain: _____

**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.*

DEPARTMENTAL RECOMMENDATION & OTHER COMMENTS:

Recommendation: Approval Denial
Comments:

Reviewer: MMR

Date: 5/7/14

RECEIVED

MAY 02 2014

TRAFFIC



City of Las Cruces
PEOPLE HELPING PEOPLE

Traffic Engineering PUD Case Review Sheet

Date: May 1, 2014

TO: TRAFFIC ENGINEERING

FROM: Susana Montana, Planner

Case No. PUD-14-01; The Arbors at Del Rey Planned Unit Development

PARCEL ID Nos. 02-25265

Tax ID No. 4-007-132-444-090

Project Description: The purpose of this PUD application is to allow the raising of animals in the existing C-2C zoning district where the Arbors at Del Rey assisted living facility is located. The operators want the residents of the home to experience care of and comfort from small animals such as chickens, ducks and bunnies and miniature goats. The C-2 zoning does not allow animal raising. The animals are part of a therapeutic program called Eden Alternative which the Applicant's seek to establish at the assisted living facility.

Note that the 1988 C-2C zoning had a condition that road improvements are required; has this condition been met?

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by **Thursday, May 8, 2014**. Thank you.

SITE ACCESSIBILITY: *

Adequate deriving aisle	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Adequate curb cut	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Intersection sight problems	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Off-street parking problems	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>

ON-STREET PARKING IMPACTS:

None Low Medium High

Explain: _____

Case No. PUD-14-01; The Arbors at Del Rey Planned Unit Development

FUTURE INTERSECTION IMPROVEMENTS:

Yes _____ If yes, what intersection? _____
No when (timeframe)? _____

Is a TIA required? Yes _____ No

If yes, please provide findings: _____

**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).*

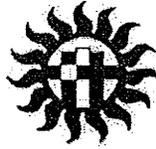
DEPARTMENTAL RECOMMENDATION & OTHER COMMENTS:

Recommendation: Approval _____ Denial _____

Comments:

Reviewer: Karmela Espinosa

Date: 5/5/11



City of Las Cruces®

PEOPLE HELPING PEOPLE

Engineering PUD Case Review Sheet

Date: May 1, 2014

TO: CLC Engineering /Drainage Division

FROM: Susana Montana, Planner

Case No. PUD-14-01; The Arbors at Del Rey Planned Unit Development

PARCEL ID Nos. 02-25265

Tax ID No. 4-007-132-444-090

Project Description: The purpose of this PUD application is to allow the raising of animals in the existing C-2C zoning district where the Arbors at Del Rey assisted living facility is located. The operators want the residents of the home to experience care of and comfort from small animals such as chickens, ducks and bunnies and miniature goats. The C-2 zoning does not allow animal raising. The animals are part of a therapeutic program called Eden Alternative which the Applicant's seek to establish at the assisted living facility.

Note that the 1988 C-2C zoning had a condition that road improvements are required; has this condition been met?

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by Thursday, May 8, 2014. Thank you.

Approved AS IS: Yes No

Approved with conditions (as stated in Comments on page 2): Yes

Date: 5/2/14

Reviewer: Natasha Bally

Reviewer contact no. 528-3496

- ① Must meet stormwater quality ordinance (for animal waste etc.)
- ② ^{area} Any additional impervious areas must be retained



City of Las Cruces
PEOPLE HELPING PEOPLE

Stormwater Engineering PUD Case Review Sheet

Date: May 5, 2014

TO: Peter Bennett, Stormwater Engineering

FROM: Susana Montana, Planner

Case No. **PUD-14-01; The Arbors at Del Rey Planned Unit Development**

PARCEL ID Nos. 02-25265

Tax ID No. 4-007-132-444-090

Project Description: The purpose of this PUD application is to allow the raising of animals in the existing C-2C zoning district where the Arbors at Del Rey assisted living facility is located. The operators want the residents of the home to experience care of and comfort from small animals such as chickens, ducks and bunnies and miniature goats. The C-2 zoning does not allow animal raising. The animals are part of a therapeutic program called Eden Alternative which the Applicant's seek to establish at the assisted living facility.

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by **Monday May 12, 2014**. Thank you.

Recommendation: Approval Denial

Comments: In order to be compliant with EPA and local stormwater pollution ordinances it would be prudent for the center to submit a stormwater pollution plan or agreement to the city that depicts how animal wastes will be managed and controlled on site. The plan should include how the animals will be contained or housed and best management practices for proper animal waste disposal. Under our current stormwater ordinance the center would be prohibited from using pressure washers and must contain all wastes and washwater on site. Wastes must be collected and disposed of properly.

Reviewer: _____

Date: _____



Current Planning PUD Case Review Sheet

Date: May 1, 2014

TO: Current Planning

FROM: Susana Montana, Planner

Case No. PUD-14-01; The Arbors at Del Rey Planned Unit Development

PARCEL ID Nos. 02-25265

Tax ID No. 4-007-132-444-090

Project Description: The purpose of this PUD application is to allow the raising of animals in the existing C-2C zoning district where the Arbors at Del Rey assisted living facility is located. The operators want the residents of the home to experience care of and comfort from small animals such as chickens, ducks and bunnies and miniature goats. The C-2 zoning does not allow animal raising. The animals are part of a therapeutic program called Eden Alternative which the Applicant's seek to establish at the assisted living facility.

Note that the 1988 C-2C zoning had a condition that road improvements are required; has this condition been met?

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by **Thursday, May 8, 2014**. Thank you.

Recommendation: Approval Denial

Comments:

Reviewer: SMONTANA

Date: 5/8/14

PUD-14-01
The Arbors at Del Rey

Public Comment
(received after your packets were delivered)

Susana Montana

From: malucero64@gmail.com on behalf of ME Lucero <endofite@gmail.com>
Sent: Tuesday, June 24, 2014 2:01 PM
To: Susana Montana
Subject: Concerns regarding Case PUD-14-01

Greetings Susana,

I am writing to express support for the keeping of small animals as described in the above case.

As a researcher and internationally published expert on questions of food security, I am concerned about the loss of access to safe, nutritious food in our community.

You may read some of my work on the subject at <http://www.endofite.com/food-security.html>

Allowing people to keep chickens and other small animals in town is an important step towards reversal of a mounting crisis in food security. We cannot sustain our communities without such allowances.

I am working to educate the public about the dimensions of food insecurity that are contributing to chronic illness and disability in our community through a series available at anymeeting.com/endofite. I invite you to participate in one of these presentations so that, as a leader, you can address the issue more holistically. I welcome phone calls or meetings if you would like more details about these concerns.

Sincerely,

Mary Lucero, PhD
endofite@gmail.com
End-O-Fite Enterprises LLC
Bio restoration for Food Security, Health, and Nutrition
www.endofite.com
Phone: 575-649-3955

Register for upcoming webinars presenting solutions to food security, health, nutrition, and local development.



June 24, 2014

I am writing in regards to the **Planning and Zoning Commission Case PUD-14-01**, rezoning application for the Arbors at Del Rey. *I would like to express my full support of the zoning change to allow the raising of small animals and livestock on the property.*

As a **community member** fully invested in making Las Cruces a place where healthy communities can grow and thrive, I know it is imperative to encourage and support activities that have multiple documented benefits to mental and physical health and positively contribute to the quality of life in the city. Small animals and livestock such as chickens and other fowl, rabbits, small pigs, and goats, are part and parcel of a culture of urban agriculture. The documented benefits of urban agriculture are numerous and well documented. A compilation of the documented benefits or urban ag can be found at:

<http://asi.ucdavis.edu/sarep/sfs/UA%20At%20a%20Glance-%20Golden%20Reduced%2011-13.pdf>

Concerns such as noise and odor issues caused by small fowl and livestock are generally completely unfounded and based on emotion rather than fact. Hundreds of cities and towns across the nation allow small animals on private property with common sense nuisance mitigation (e.g. cleanliness, limits on number of animals, no roosters, etc.) – and nuisance calls regarding these animals are absolutely negligible compared to all nuisance calls. The multitude of positive health, social, and economic impacts of urban farming and animals far outweigh any unlikely negative impacts.

Sincerely,

Carol Winkler
1511 N Roadrunner Parkway
Las Cruces, NM 88011

23Jun14

Susanna Montana
Las Cruces City Hall
700 N. Main Street
Las Cruces, NM 88001

Dear Ms. Montana,

Re Planning and Zoning Commission Case PUD-14-01, I am a voter and I support the zoning change to allow raising small animals on the property.

Sincerely,

John Charbonnet
196 Happy Trails North
Las Cruces, NM 88005

Susana Montana

From: Jon <jonsimmons@hotmail.com>
Sent: Monday, June 23, 2014 11:33 PM
To: Susana Montana
Subject: PUD-14-01

June 23rd, 2014

RE: Planning and Zoning Commission Case PUD-14-01

Dear Ms. Montana,

As director of SeedShare and a board member of MVM Farm, I work with the public, your constituents, regarding issues in our food system. I see the effects of people working in a garden or handling animals. Teen age kids have told me that gardening "saved my life". These experiences have shown me how important this connection is, and how valuable plants and animals are to the members of our community. The therapeutic value is reason enough, but there are many more.

Some people have an irrational fear that a few chickens in the yard are going to create a nuisance in the neighborhood. The fact is fowl have been allowed in every other city I have lived in (Richmond VA, Santa Fe) and there has never been a problem with them.

I ask you to support the zoning change to allow Arbors of Del Rey to build this fantastic facility, including the small animals as stated in their request.

Respectfully,

Jon Simmons
450 Linda Vista Rd
Las Cruces, NM 88005
575-640-4288
jonsimmons@hotmail.com

June 23, 14

Susanna Montana
Las Cruces City Hall
700 N. Main Street
Las Cruces, NM 88001

Dear Ms. Montana,

I am writing in regards to the **Planning and Zoning Commission Case PUD-14-01**, rezoning application for the Arbors at Del Rey. *I would like to express my full support of the zoning change to allow the raising of small animals and livestock on the property.*

As a member of this community, I am fully invested in making Las Cruces a place where healthy communities can grow and thrive, We know it is imperative to encourage and support activities that have multiple documented benefits to mental and physical health and positively contribute to the quality of life in the city. Small animals and livestock such as chickens and other fowl, rabbits, small pigs, and goats, are part and parcel of a culture of urban agriculture. The documented benefits of urban agriculture are numerous and well documented. A compilation of the documented benefits of urban ag can be found at:

<http://asi.ucdavis.edu/sarep/sfs/UA%20At%20a%20Glance-%20Golden%20Reduced%2011-13.pdf>

Concerns such as noise and odor issues caused by small fowl and livestock are generally completely unfounded and based on emotion rather than fact. Hundreds of cities and towns across the nation allow small animals on private property with common sense nuisance mitigation (e.g. cleanliness, limits on number of animals, no roosters, etc.) – and nuisance calls regarding these animals are absolutely negligible compared to all nuisance calls. The multitude of positive health, social, and economic impacts of urban farming and animals far outweigh any unlikely negative impacts.

Sincerely,

Brenda Johnston

June 23, 2014

Susanna Montana
Las Cruces City Hall
700 N. Main Street
Las Cruces, NM 88001

Dear Ms. Montana,

I am writing in regards to the **Planning and Zoning Commission Case PUD-14-01**, rezoning application for the Arbors at Del Rey. ***I would like to express my full support of the zoning change to allow the raising of small animals and livestock on the property.***

As a Las Cruces resident and Food Policy Council member fully invested in making Las Cruces and Dona Ana County a place where healthy communities can grow and thrive, I believe that if our community is truly dedicated to the idea of locally produced food, environmental sustainability, and food choices that promote the health and well-being of our community members, then the time has come for city council to allow citizens to keep small numbers of small animals and livestock such as chickens and other fowl, rabbits, small pigs, and goats, for food production.

The urban agriculture movement, including small livestock grown at home, is a part of a growing effort in U.S. cities to solve some very serious problems with our food system. Solutions to these problems exist in the form of local farms, farmers' markets, community gardens and backyard livestock. In recent years, many of us have begun to realize that maintaining a close connection to our food supply is a positive choice -- a way to a healthier and more ecologically sustainable lifestyle. Farmers' markets, including the one in downtown Las Cruces, have since experienced a huge revival, people are gardening more, and communities across the country are changing decades-old laws forbidding the keeping of small livestock.

These practices are part and parcel of a culture of urban agriculture, the benefits of which are numerous and well documented. A compilation of the documented benefits of urban ag can be found at: <http://asi.ucdavis.edu/sarep/sfs/UA%20At%20a%20Glance-%20Golden%20Reduced%2011-13.pdf>

Council can help bring these benefits to fruition by embracing the idea of "local food" as a way to transform Las Cruces into a city where truly sustainable, affordable, nutritious and delicious food is available to all residents. By allowing for small numbers of responsibly raised urban livestock, council will follow the successful example of other progressive U.S. cities (some examples include Cleveland, Boston, Seattle, Detroit, Santa Fe, and El Paso) by strengthening our region's food security while ensuring a new source of healthy food for not only Las Cruces residents but also all Dona Ana County's families. Concerns about related sanitation and noise can be addressed through municipal regulations, just as they are for dogs, cats and neighborhood parties.

Sincerely,

Debra Sands-Miller

Las Cruces Resident and Food Policy Council member

June 23, 2014

We at La Semilla Food Center are writing in regards to the **Planning and Zoning Commission Case PUD-14-01**, rezoning application for the Arbors at Del Rey. *We would like to express my full support of the zoning change to allow the raising of small animals and livestock on the property.*

As a community organization fully invested in making Las Cruces a place where healthy communities can grow and thrive, we know it is imperative to encourage and support activities that have multiple documented benefits to mental and physical health and positively contribute to the quality of life in the city. Small animals and livestock such as chickens and other fowl, rabbits, small pigs, and goats, are part and parcel of a culture of urban agriculture. The benefits of urban agriculture are numerous and well documented, including:

Health Impacts

- Increased food access and security
- Increased fruit and vegetable consumption
- Increased food and health literacy
- Positively affects general well-being (mental health and physical activity)

Economic Impacts

- Job creation, training, and business incubation
- Market expansion for farmers
- Economic savings on food
- Savings for municipal agencies
- Increased home values

Social Impacts

- Increasing public safety and reducing blight
- Access to land
- Community development and building social capital
- Cross-generational and cultural integration
- Education and youth development opportunities

A complete list of the documented benefits can be found at:
<http://asi.ucdavis.edu/sarep/sfs/UA%20At%20a%20Glance-%20Golden%20Reduced%2011-13.pdf>

These are some of the reasons that cities across the Country are, on a daily basis, enacting ordinances that explicitly encourage residents to grow, produce, and eat healthy foods (some examples include Cleveland, Boston, Seattle, Detroit, Santa Fe, and El Paso). We encourage the City to seriously consider passage of such important zoning changes, especially in light of Dona Ana county having an 18 percent food insecurity rate, 30 percent rate of obesity, and an 8 percent rate of diabetes. In fact, one-third of premature deaths and 11 of the top 15 causes of death in the U.S. are diet-related. Supporting residents who feel it is important to take control of their own diet knowing where their food is produced and how it is produced is also an economic driver and is a

verifiable approach to therapy. In many of the aforementioned cities, countless jobs have been created and lives transformed through efforts such as this. In fact, one of the rapidly growing segments in development is agri-hoods or agricultural centered neighborhoods that provide the noted benefits, greenspace, and community engagement. Allowing the proposed zoning change for small animals makes sense for public health, our economy, and building a vibrant City.

We understand that some residents may have apprehension and concern over such a proposed land use. Many such apprehensions relate to a sense of fear from perceived noise or odor issues. While there may be an issue from time to time (like is bound to happen with anything), such fears are unfounded and not based on the facts. In fact, in a phone conversation with the City of El Paso's sustainability department it was noted that noise and nuisance complaints related to chickens (which are permitted in El Paso) are, for all intents and purposes, non-existent, especially compared with those related to dogs and feral cats. Hundreds of cities and towns across the nation allow small animals on private property with common sense nuisance mitigation (standards of cleanliness, limits on number of animals, distance from neighboring property etc.).

We fully support the rezoning considerations proposed and the incredible health, economic, and community benefits derived from such initiatives.

Sincerely,

Krysten Aguilar, Food Planning and Policy Coordinator

La Semilla Food Center

--

Krysten L. Aguilar
Food Planning and Policy Coordinator
La Semilla Food Center
www.lasemillafoodcenter.org

(575) 639-0493
krystenaguilar@gmail.com or
krysten@lasemillafoodcenter.org

June 23, 2014

I am writing as a Las Cruces resident in regards to the **Planning and Zoning Commission Case PUD-14-01**, rezoning application for the Arbors at Del Rey. I would like to express my full support of this important therapeutic and community project.

As a community member fully invested in making Las Cruces a place where healthy communities can grow and thrive, I know it is imperative to encourage and support activities that have multiple documented benefits to mental and physical health and positively contribute to the quality of life in the city. Small animals and livestock such as chickens and other fowl, rabbits, small pigs, and goats, are part and parcel to a culture of urban agriculture and vibrant community. Simply put, food is the stuff of life – and food comes from plants and animals – the same ones up for consideration in the proposed zoning change.

Given my expertise in food, agriculture, and local food systems, I can attest to the magnitude of benefits brought by such projects. Towns and cities across the Country are, on a daily basis, enacting ordinances that explicitly encourage residents to grow, produce, and eat healthy foods while the federal government, in the latest Farm Bill, has made significant funding available to advance such efforts through USDA's Local Foods Promotion Program, Community Food Projects Program, and healthy food outlet incentives – why? Because more and more we are all becoming cognizant of the importance food plays in physical, mental, and emotional health – and of the incredible health, education, and life benefits brought by interacting with plants, animals, and each other. I fully support the Arbors at Del Rey's proposal and ask the Planning and Zoning Commission to pass this, and any other similar zoning changes that can only benefit the residents of Las Cruces. Allowing the proposed zoning change for small animals makes sense for public health, our economy, and building a vibrant City. I can only imagine that this particular project would bring extraordinary benefits to the Arbors at Del Rey residents and the greater Las Cruces community.

I understand that some residents may have apprehension and concern over such a proposed land use. In my experience, such apprehensions relate to either a sense of fear from perceived noise or odor issues. While there may be an issue from time to time (like is bound to happen with anything), such fears are unfounded and not based on the facts nor the experience of municipalities that have allowed such projects or enacted Urban Agriculture provisions. Hundreds of cities and towns across the nation allow small animals on private property with common sense nuisance mitigation (standards of cleanliness, limits on number of animals, distance from neighboring property etc.). I fully support the rezoning considerations proposed and the incredible health, economic, and community benefits derived from such initiatives.

Sincerely,

Aaron Sharratt, 422 E May, Las Cruces, NM 88001

Susana Montana

From: Steve/Suzie Winham <sswinham@gmail.com>
Sent: Friday, June 20, 2014 3:44 PM
To: Susana Montana
Subject: PUD-14-01, The Arbors at Del Rey rezoning

Dear Ms. Montana

Thank you for providing us with the staff report on the Case PUD-14-01. We are in agreement with the existing assisted living facility to remain as a principle permitted use. However, we do NOT support the proposal to allow the raising of small farm animals on the property. Our single family residential home at 3432 Valverde Loop is in very close proximity to the subject property. Having lived on a farm during our youth, we are both very familiar with the responsibilities required for the care of animals, including the sanitation(disposal of excrement), noise, odors, and feeding of the animals. We are very apprehensive about the noise level, especially of the peacocks. We are also apprehensive about the odors and subsequent pests including flies, fleas, ticks, and other types of insects which may cause diseases and illnesses. We are also concerned about the housing of the animals as to what kind of construction will be used to keep them contained. The report stated that the section for the animals would not be visible from the street, but it would be visible and audible from our property.

We oppose having farm animals located next to our neighborhood which is zoned as residential. We would have not purchased the property if we had known that farm animals would be placed nearby. Therefore, our property value will be adversely affected if farm animals are in close proximity to the property. The residents of the assisted living facility are there because they are no longer able to care for themselves and require constant assistance. It seems improbable that they could properly care for even small farm animals. The ultimate responsibility would always remain with The Arbors at Del Rey for the maintenance of the facilities and care of the animals. Will a specific employee be assigned to these duties?

The Arbors at Del Rey might consider an alternative such as the planting and care of a community garden. For the above reasons we oppose the allowing of small animals as an accessory use to The Arbors.

Thank you.

Stephen and Rita Sue Winham

s

RE: PUD-14-01; The Arbors at Del Rey
June 19, 2014

Dear Ms. Montana.

Thank you for sending us the staff report on the Case PUD-14-01. While we are in agreement with bringing the existing assisted living facility as a permitted use we do NOT support the proposal to allow raising of small animals (farm animals) on the property. Our single family residential lots are adjacent to the subject property and we are in the process of selling them to a local single family home builder.

Our own research concludes the "Eden Alternative" appears to be a management style where the residents and staff jointly make decisions about their care, their activities, and their overall plan for operation. We feel the Eden Alternative has merit and are hopeful it will be successful. However, the raising of farm animals is not a specific requirement in order to adopt the Eden Alternative.

The residents of the assisted living facility are there for one primary reason: they need assistance. While the idea of having the residents see and interact with farm animals may be appealing to some, their care, responsibility, and the need for ongoing animal maintenance is not desirable to adjacent residents. The Arbors at Del Rey should consider, if not already allowed, letting the residents have small dogs and cats.

For the above reasons we oppose the allowing of small animals as an accessory use to The Arbors.

Thank you kindly,

Donald and Diane Test, Trustees of
The Donald and Diane Test Revocable Trust



City of Las Cruces
Community Development
Memorandum

To: Planning and Zoning Commission
From: Susana Montana, Planner - 
Subject: PUD-14-01; The Arbors at Del Rey
Date: 7/14/2014

M-14-153

At the June 24, 2014 Commission meeting the Commission tabled the discussion of the proposed Planned Unit Development (PUD) application by The Arbors at Del Rey assisted living facility instructing staff to provide more information on the applicant's proposal to care for animals at the facility. In particular, the Commission asked the applicant to specify the type of animals sought as part of the PUD rezoning; the number of each species; and the type of enclosures or shade structures to provide for the animals.

The applicant has narrowed down the species to two chickens with no roosters; two ducks and one miniature goat. The facility already cares for a rabbit which is allowed by the Las Cruces Municipal Code (LCMC) as a pet. Attached is a schematic illustration of the animal enclosure area proposed to be located next to the existing fenced garden/patio area as well as examples of animal enclosures the applicant would provide within the fenced animal area.

The LCMC Chapter 7 establishes standards and regulations for the care of animals in the City. Section 7-227 establishes a "density" standard for the care of small animals such as rabbits, poultry, goats, sheep, miniature horses, and the like. Note that this is not an *enclosure* size requirement per animal, rather it is a *property* size requirement where animals are cared for.

This Section states: "(1) *The following minimum square footage and maximum number of small animals are allowable: one-half acre or more. The minimum square footage of an open lot area, not including a dwelling unit, shall be 2,000 square feet for each animal, provided the total number of animals shall not exceed 100, regardless of lot size. For animals not mentioned in this section, the density per acre limitation shall be determined by the planning department after consultation with relevant agencies.*"

For the requested two chickens, two ducks and one miniature goat this density standard would require 5,000 square feet (sf) of "open area" on the property. The property has

216,928 square feet of land (4.98 acres) on the two subject parcels. The assisted living facility encompasses 8,960 square feet of land and the garage encompasses 375 square feet of land for a combined 9,335 square feet of buildings. The remaining 200,000+ square feet of land area would remain undeveloped. Therefore, the project and property satisfy the City's density standard for the five requested animals.

Chapter 7 also establishes setback requirements for the animal enclosures which the applicant would meet:

"(2) No such animal shall be kept closer than 35 feet to an adjoining dwelling."

The animal enclosure would be placed approximately 50 feet from the assisted living facility's rear door. It is noted that the facility is a commercial land use.

"(3) Keeping of such animals shall not be permitted in the required front, side and street side yard setbacks."

The animal enclosure would be located in the rear yard of the facility.

"(4) All small animals shall be provided with adequate enclosures to contain them within the boundaries of the owner's property."

The animal enclosure would be fenced.

"(5) No animal dwelling unit shall be kept closer than 100 feet to a water well."

The facility is served by City water and there are no wells on the property or within 100 feet of the proposed animal enclosure.

"(6) All premises and facilities upon which animals, poultry, or fowl are permitted to be kept shall be maintained in a clean, orderly, and sanitary condition at all times. All manure shall be removed or spread, as not to constitute a nuisance, at least once each week, and all premises and facilities shall be treated weekly with biologically, ecologically, and environmentally approved pesticides for the control of odors, insects, and rodents, which in any way can be considered a clear and present nuisance or detriment to the health, safety, comfort, welfare, peace and tranquility of the general public."

Care of the animal waste must meet Federal, State and local stormwater quality ordinances as well as this Chapter 7 provision. The applicant would dispose of animal waste regularly, as it appears on the premises, and would place the material in a secure container on the property until it is picked up by a composting user (such as a community garden organization) or the solid waste disposal service.

"(7) All areas adjacent to any pen, coop, stable, stall, barn, corral, grazing or workout or training areas, or other building structures and areas where animals are kept and maintained, shall be graded to drain away from such facilities so as to prevent ponding and insect harborage."

As noted above, care of the animal waste must meet Federal, State and local

stormwater quality ordinances as well as this Chapter 7 provision.

“(8) The keeping and maintenance of small animals as provided for in this section, shall comply with all regulations and provisions of the city health and sanitation laws.”

The applicant states that the animals would be cared for as “family members” of staff and residents of the facility and this care would meet and exceed all City health and sanitation laws.

Sec. 7-16. Animal waste.

“The owner or keeper of domestic animals, such as dogs, cats or any small household animal, permitted within the city limits or any licensed rehabilitator shall maintain a watertight and fly tight receptacle for manure from such animals which shall be emptied frequently and in such a manner so as to prevent a nuisance or health hazard. Such receptacles shall be securely covered at all times except when opened to deposit manure. No manure will be allowed to accumulate except in such receptacles.”

The applicant states that he would meet this requirement.

Sec. 7-5. Care and maintenance.

“(a) All animals must be treated, captured, caged or otherwise dealt with in a humane manner. It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody, as owner or otherwise, with shade, care or shelter, clean/fresh food and drink in a spill-proof receptacle of appropriate size. A shelter shall be shaded during hot weather months. Any animal habitually kept outside shall be provided with a structurally sound enclosure, consisting of a minimum of a three-sided enclosure, with a waterproof roof, large enough or appropriate for the species maintained. No owner or responsible person shall fail to provide his animal with veterinary or humane care and treatment when needed to prevent suffering.

(b) All captive amphibians and reptiles will be contained in escape-proof enclosures, which will allow the animal to have adequate lighting, thermal conditions and shelter. Clean, fresh water will be available as required by the species in question. The enclosures should be large enough to allow normal behaviors to occur.”

The applicant believes that the attached examples of chicken, animal and miniature goat enclosures would meet and exceed this standard and the applicant states that he would provide a comfortable, spacious, shaded and secure enclosure for the animals. It would be designed in such a way as to provide access to the enclosure by the elder residents and comfortable surroundings for residents to sit and enjoy the animals as part of their living experience and therapy.

CONCLUSION

The PUD would allow the current land use, the assisted living facility, and would allow the new therapy program called “Eden Alternative” which features the care of small animals by the elder residents. No off-site impacts would be discerned by the additional land uses proposed by the Applicant and allowed by the PUD.

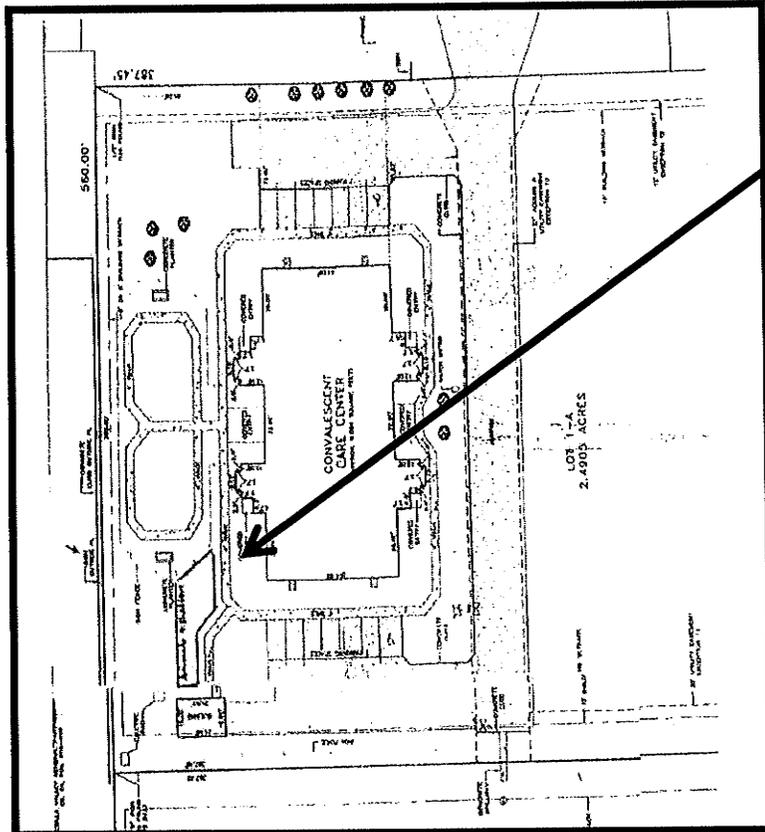
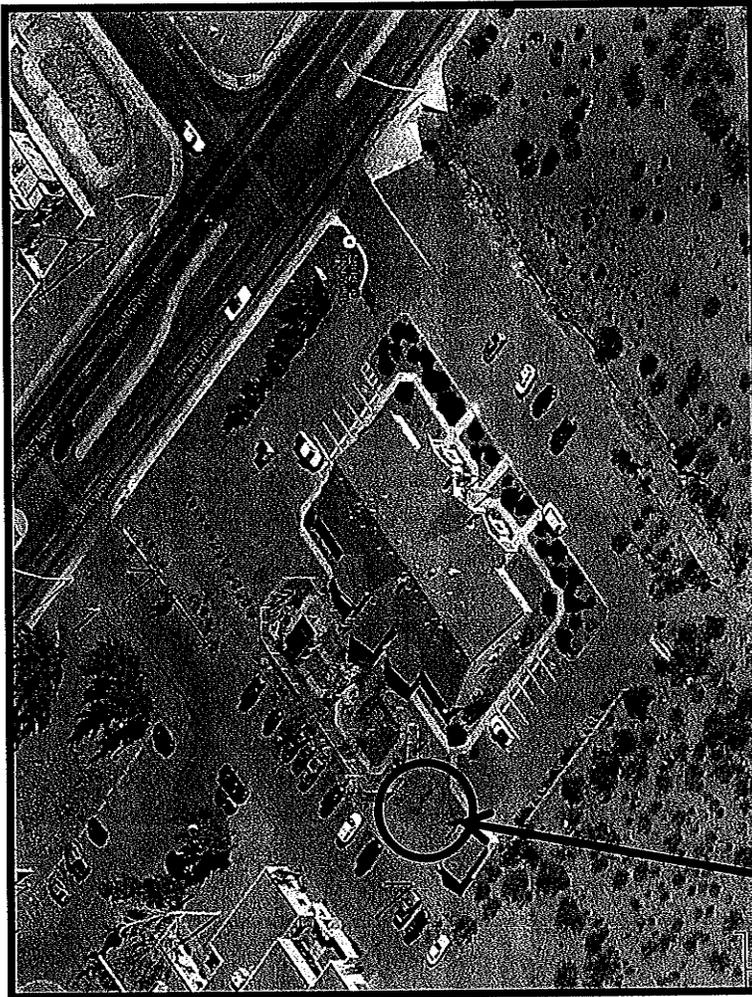
STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the PUD, including the care of small animals as an accessory use to the Assisted Living Facility on the property, based on the findings listed below:

FINDINGS FOR APPROVAL

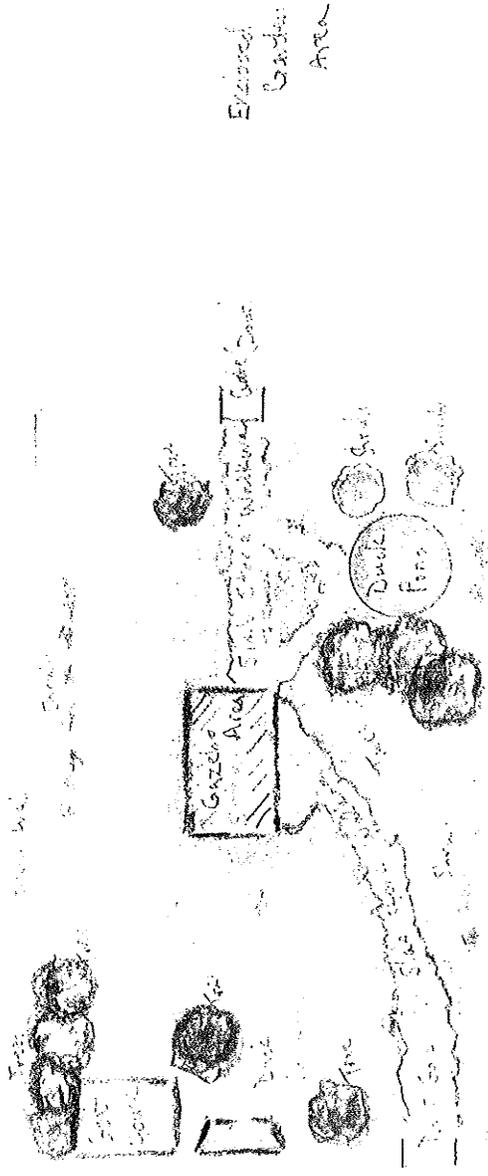
1. Based upon City Staff's review of the proposal against all applicable codes and plans, the proposed PUD meets the following criteria of Section 38-49 of the 2001 Zoning Code, as amended:
 - a. The proposed construction and use of the PUD will not be detrimental to the health, safety, or welfare of the community or adjacent neighborhood;
 - b. There is or will be adequate sewage capacity, roadway capacity, energy supply, and potable water supply to serve the PUD at the time a certificate of occupancy or letter of acceptance, as applicable, is to be issued;
 - c. The PUD conforms to the intent, goals, objectives, policies, and standards of all City plans and codes;
 - d. The 2001 Zoning Code C-2 uses and the addition of the assisted living facility and the accessory animal care activities are appropriate to the character of the adjacent commercial neighborhood and will have a positive aesthetic effect on the neighborhood in which the PUD will be located; and
 - e. The Applicant will conform to all applicable Las Cruces Municipal Code, Chapter 7, requirements for the care of small animals.
 - f. The Applicant will not include roosters or peacocks in the animals cared for on the property.
 - g. The proposed uses will not subject surrounding properties and pedestrians to significant hazardous traffic conditions.
2. Based upon City Staff's review of the proposal against all applicable codes and plans, the proposed PUD would satisfy relevant City Comprehensive Plan goals and policies as well as would positively address the 2001 Zoning Code purposes and intent statements and Planning and Zoning Commission Decision Criteria.

Attachments



Animal enclosure area

Proposed animal area



Station

Algebra

Algebra

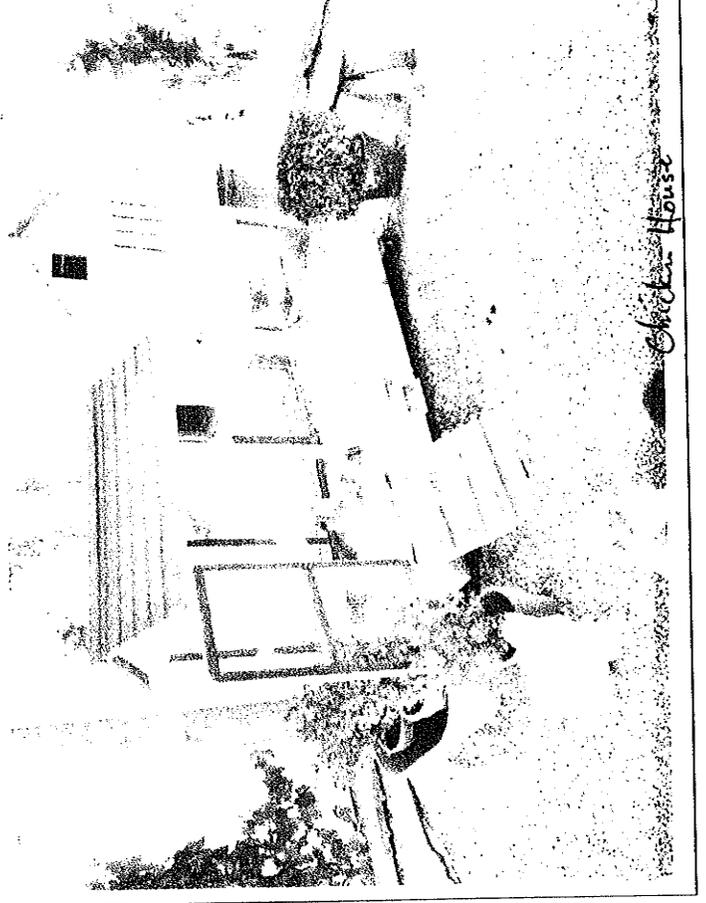
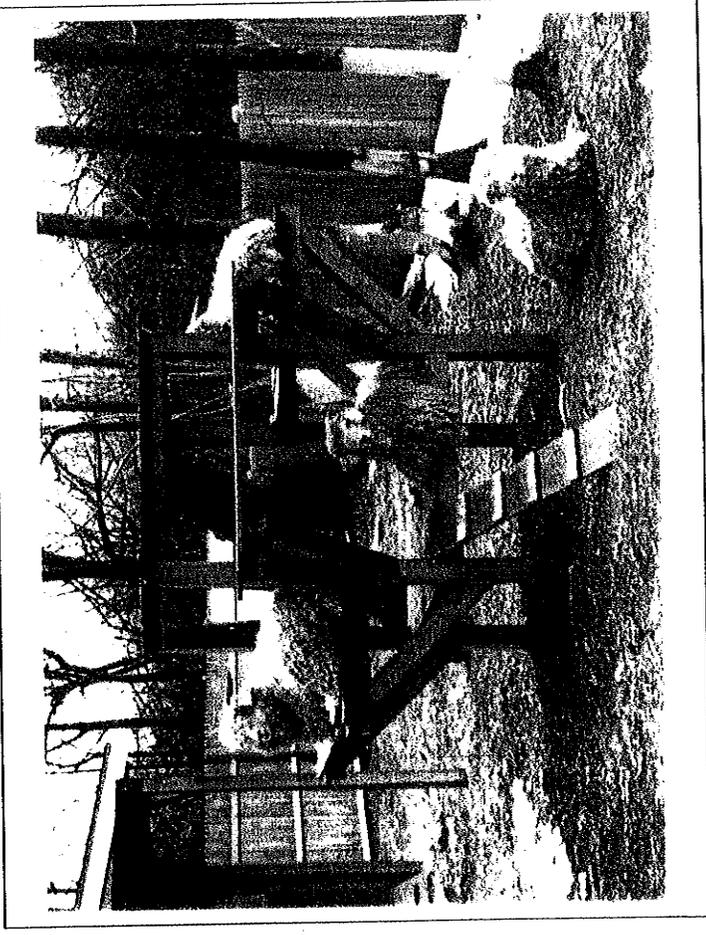
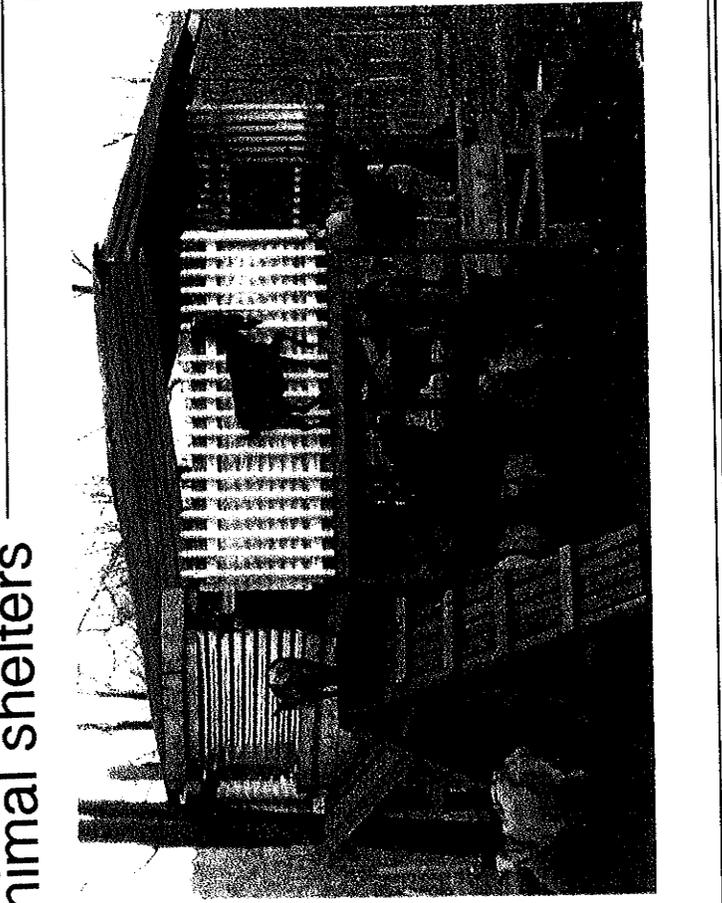
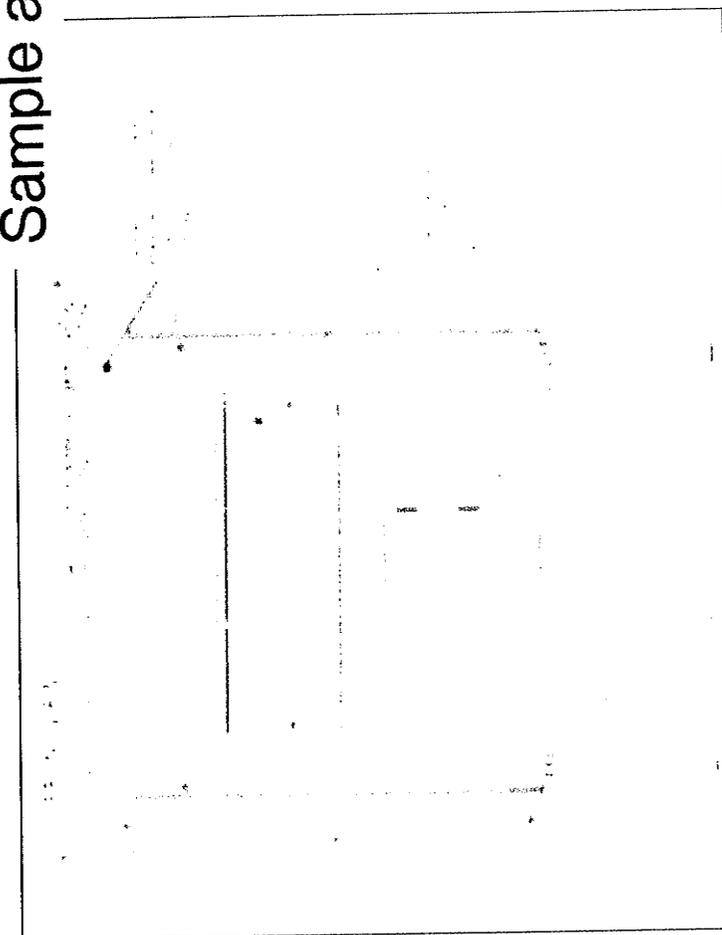


Proposed animal area

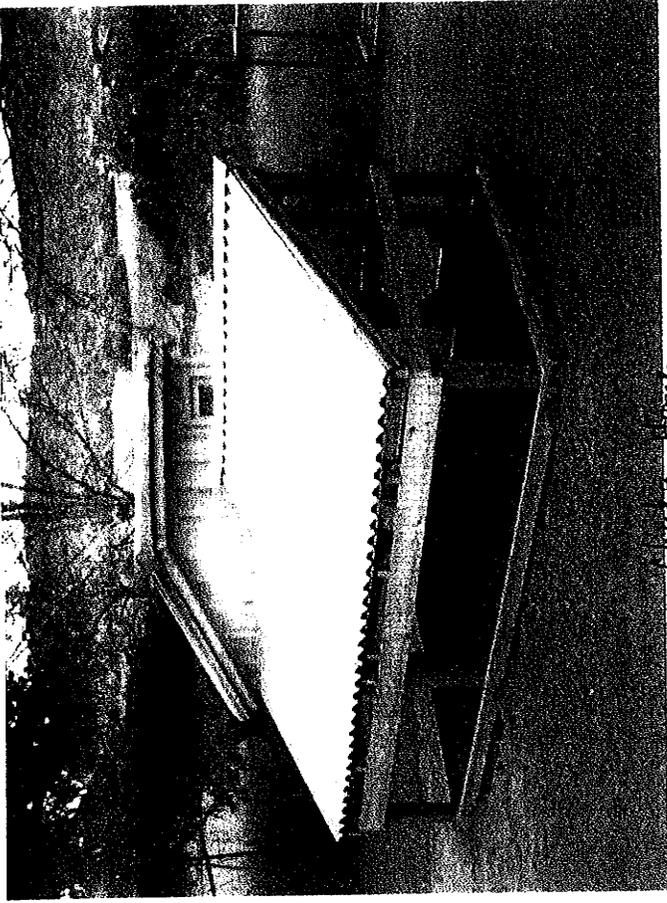


Proposed animal area

Sample animal shelters



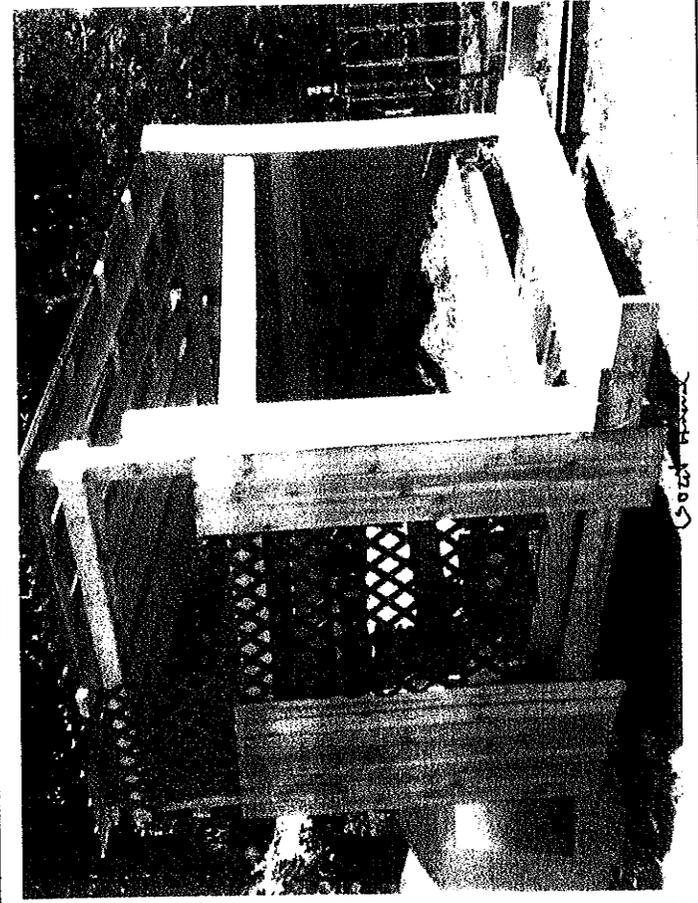
Sample animal shelters



Disaster Home

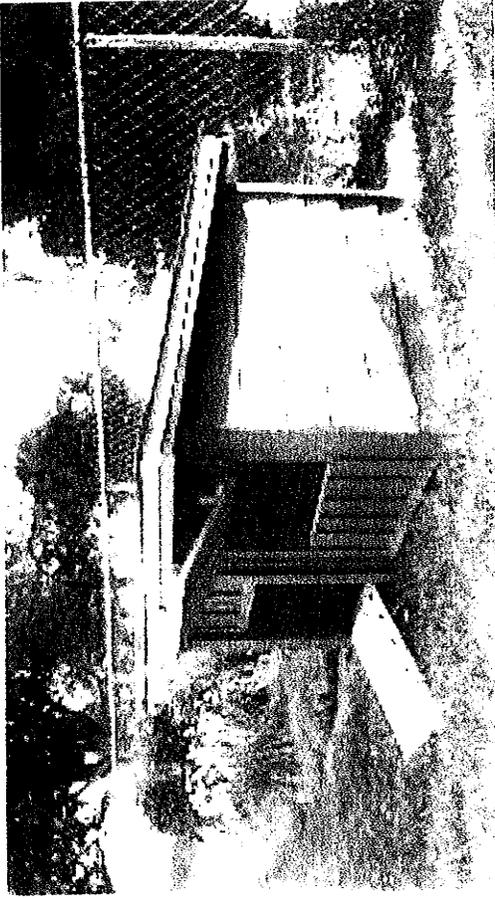


Chicken House

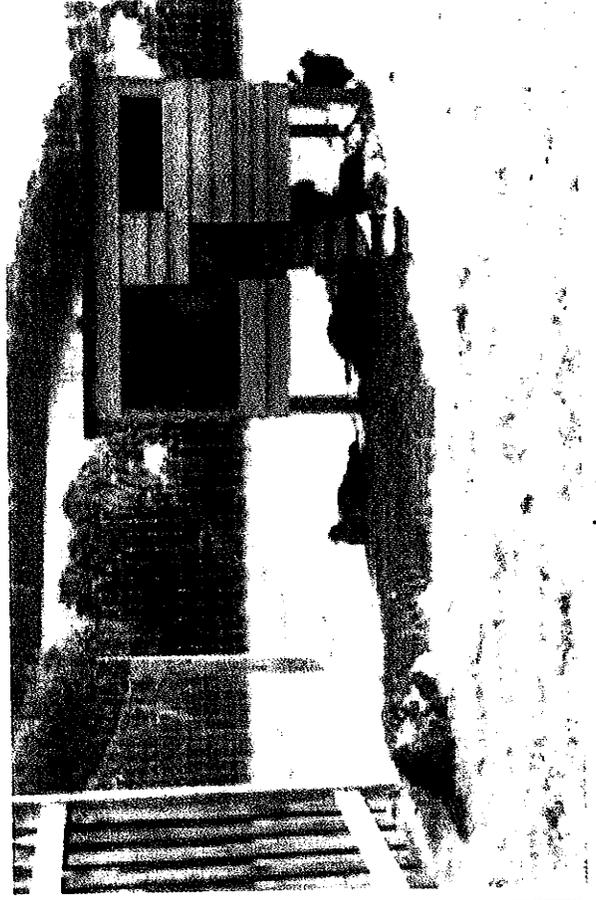


Goat House

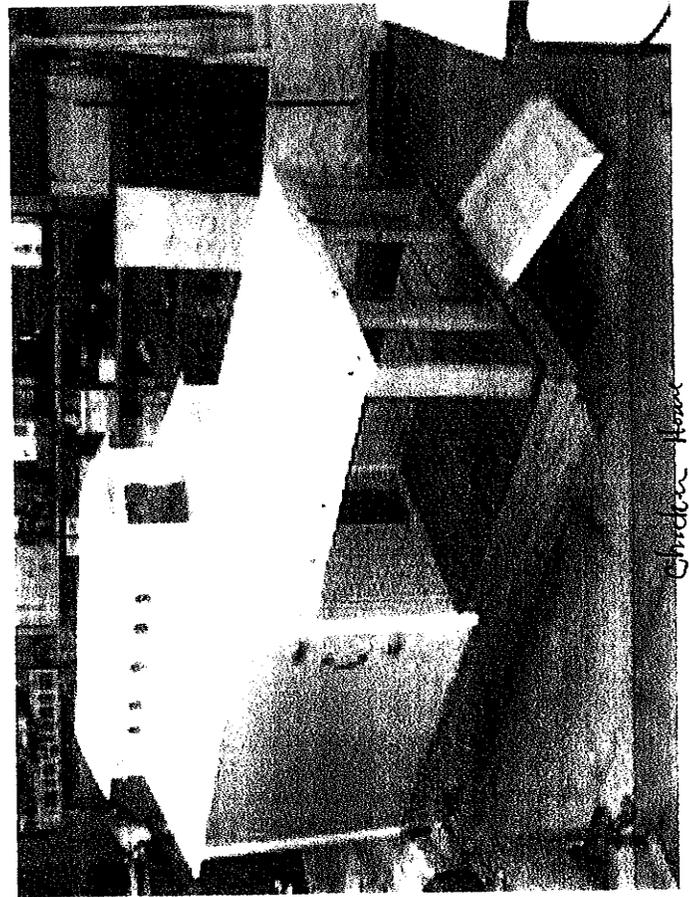
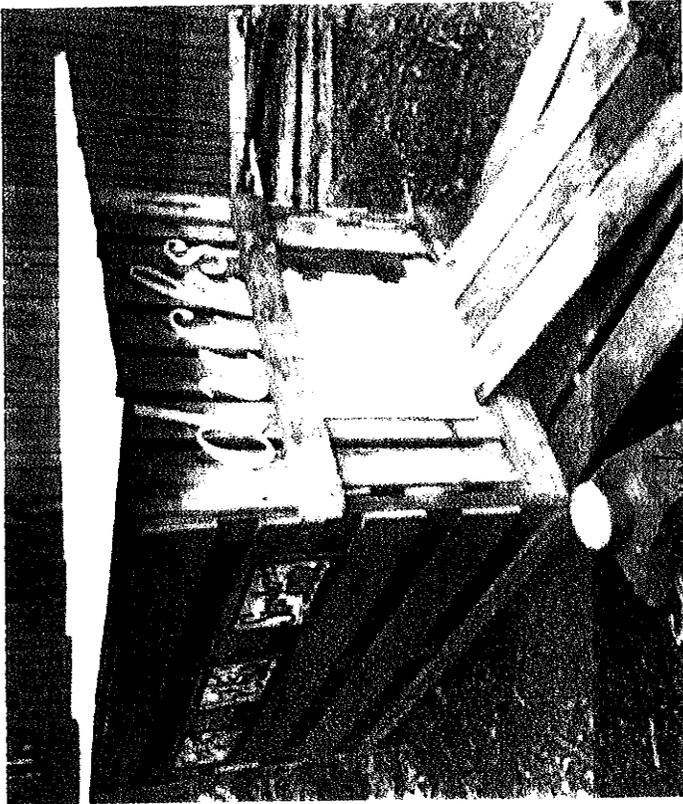
Sample animal shelters



Chicken House

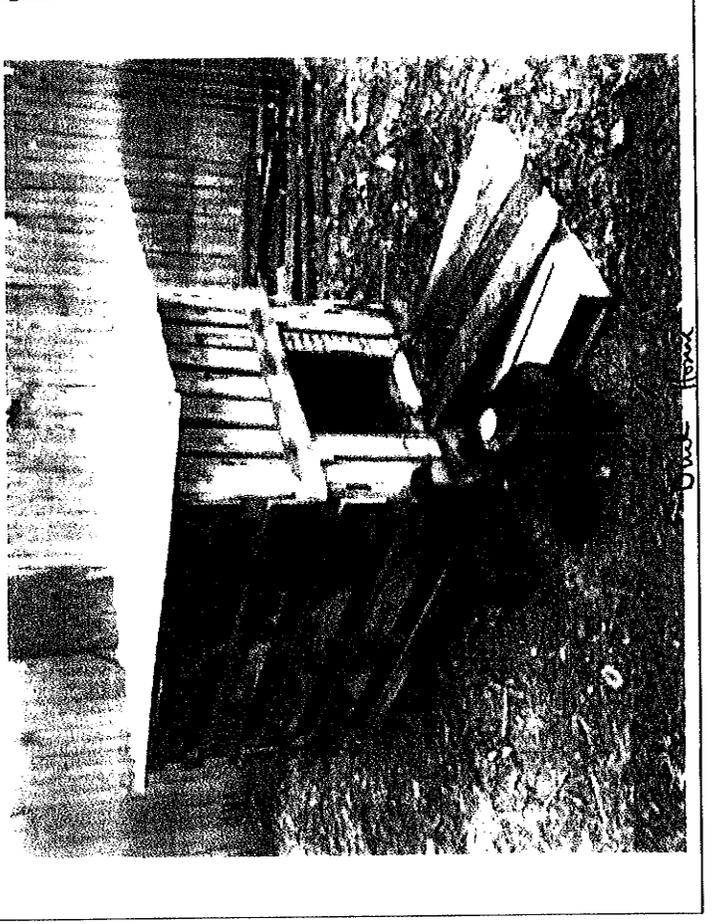
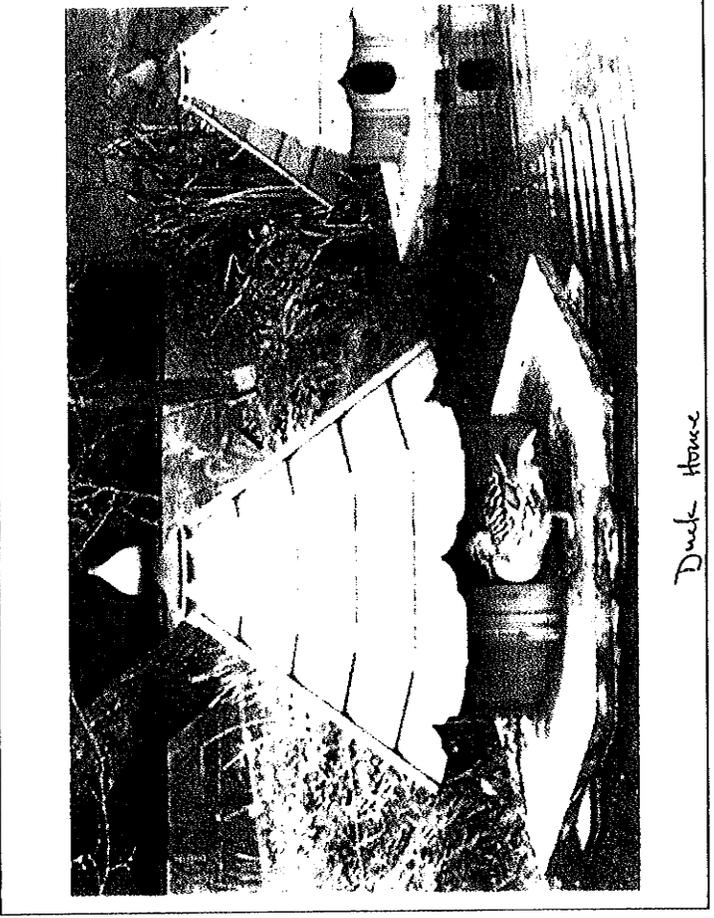
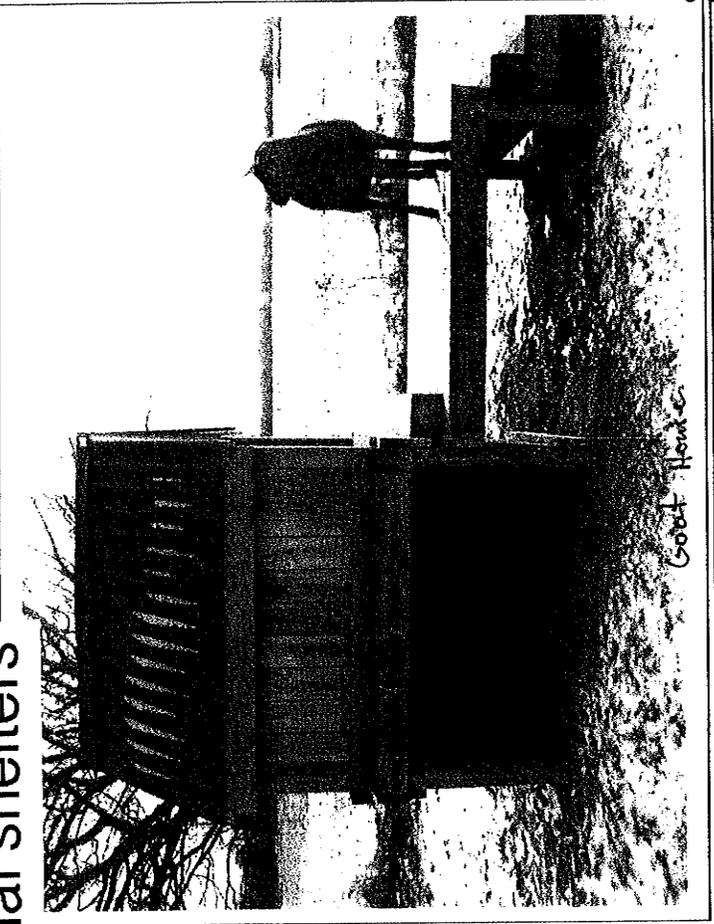
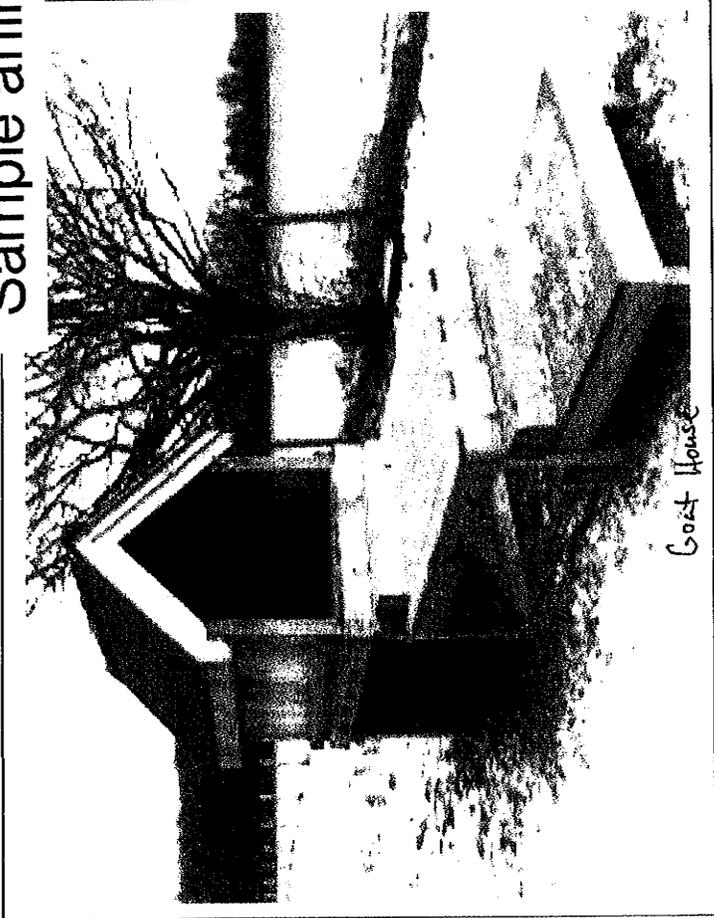


Chicken House

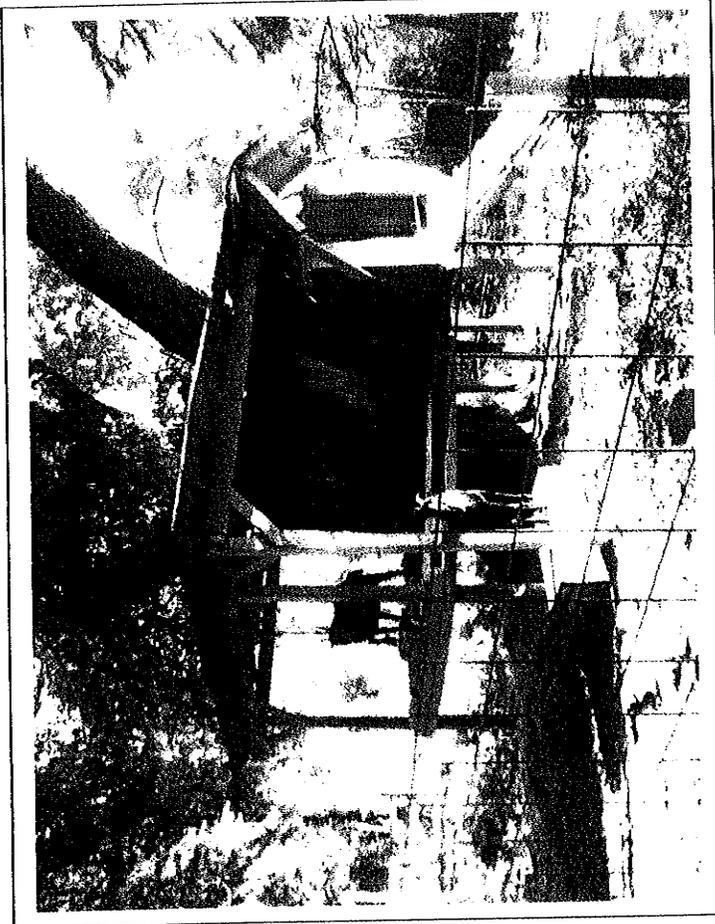
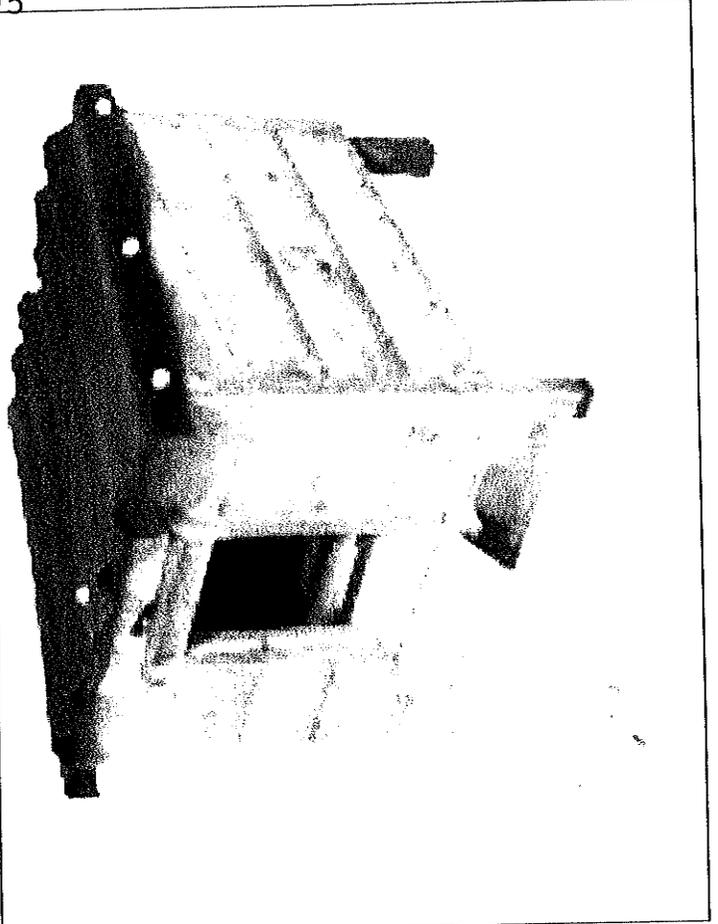
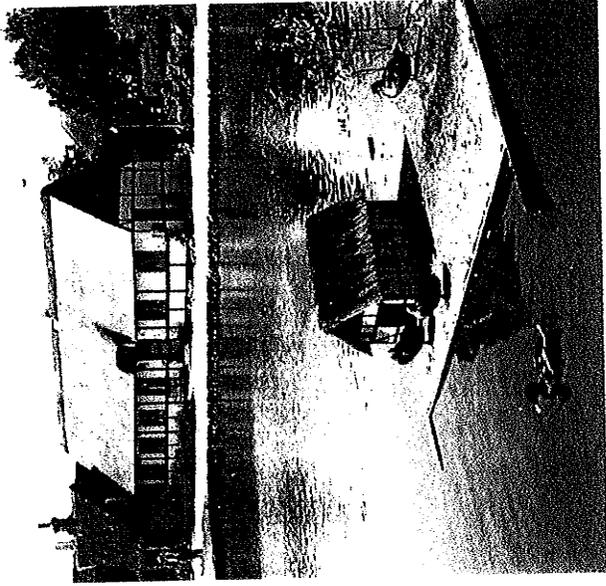


Chicken House

Sample animal shelters



Sample animal shelters



PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
DRAFT June 24, 2014 at 6:00 p.m.

BOARD MEMBERS PRESENT:

- Godfrey Crane, Chairman
- William Stowe, Vice-Chair
- Charles Beard, Secretary
- Joanne Ferrary, Member
- Kirk Clifton, Member

BOARD MEMBERS ABSENT:

- Ruben Alvarado, Member

STAFF PRESENT:

- Katherine Harrison- Rogers, Senior Planner, CLC
- Adam Ochoa, Planner, CLC
- Susana Montana, Planner, CLC
- Ted Sweetser, CLC Fire Department
- Robert Cabello, CLC Legal Staff
- Shannon Martin, CLC Police
- Becky Baum, Recording Secretary, RC Creations, LLC

I. CALL TO ORDER (6:00)

Crane: Good evening ladies and gentlemen. Welcome to the Planning and Zoning Commission meeting for the 24th of June. We'll start as we usually do by introducing the Commissioners present. My far right is Commissioner Clifton, representing District 6, and to his left Commissioner Stowe who represents District 1 and is also our Vice Chairman. And Commissioner Ferrary for District 5. Commissioner Beard for District 2, he's also our secretary. I'm Godfrey Crane, the Chairman, I represent District 4. And we have at present no Mayor's appointee.

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: Now we ask if any Commissioner or anybody in Community Development Department has a conflict in interest in regard to any item on tonight's agenda? No one so indicates. So we will proceed. We have two items on the consent agenda tonight Z2873. You signaling me Mr. Ochoa?

1 Ochoa: Yes sir, I believe we skipped the approval of the minutes.
2

3 **III. APPROVAL OF MINUTES**

4 1. May 27, 2014 - Regular Meeting
5

6 Crane: Oh I beg your pardon and it says right in front of me, approval of minutes.
7 We go onto the approval of the minutes for the last meeting, May 27th.
8 Commissioners does anyone have any points to make about last
9 meeting's minutes? Mr. Clifton you're reaching for your button but your
10 light is not on so that means you're satisfied?
11

12 Clifton: I'll make a motion to approve the minutes.
13

14 Crane: All right, that's accepted. And is there any second.
15

16 Stowe: Second.
17

18 Crane: Seconded by Mr. Stowe. All in favor aye.
19

20 ALL: Aye.
21

22 Crane: Against, nay. And any abstentions? Then the minutes are accepted by
23 vote of five for, zero against. Thank you.
24

25 **IV. CONSENT AGENDA**
26

27 1. **Case Z2873: MOVED TO FIRST ITEM OF NEW BUSINESS**
28

- 29 2. **Case Z2874:** Application of Laura Stull Kaczmarek & Nancy Abeyta on
30 behalf of Ann F. Stull, property owner, to rezone two lots encompassing 6.06
31 +/- acres from M-1/M-2 (Industrial Standard) to C-3 (Commercial High
32 Intensity), located on the southwest corner of Nevada Avenue and Triviz
33 Drive; 960 S. Triviz Drive; Parcel ID# 02-22084 and 02-31034. Proposed
34 Use: Storage unit facility and truck/trailer rentals; Council District 3 (Pedroza)
35

36 Crane: The two items on the consent agenda are Z2873 and Z2874. These are
37 matters that the Community Development Department has judged are
38 probably noncontroversial and therefore they are put together in a group
39 called consent agenda. There is no debate on them and we vote on them
40 as one group, just up or down. However, if anybody on the Commission,
41 any Community Planning person, or anybody, maybe member of the
42 public wishes to discuss either of these matters or both, we will take them
43 off this agenda and put them onto the new business agenda. Does
44 anybody want to move it?

45 I have a point to make about Z2873. We've received a letter from a
46 couple called Test, Donald and Diane who are adjacent property owners

1 to this and they have some concerns. And so I'm going to pull this from
 2 the consent agenda and put it as the first item on new business, over the
 3 page if you have the agenda with you. Any objection to ... anybody want
 4 to discuss Z2874? Nobody so indicates, so that will be the consent
 5 agenda item. May I hear a motion that the consent agenda Case Z2874
 6 only be affirmed?
 7

8 Stowe: So moved.

9
 10 Crane: Moved by Mr. Stowe.

11
 12 Beard: Second.

13
 14 Crane: Seconded by Mr. Beard. All in favor aye.

15
 16 ALL: Aye.

17
 18 Crane: Any against? It passes five/zero. So Z2874 passes.
 19

20 **V. OLD BUSINESS - NONE**

21
 22 **VI. NEW BUSINESS**

23
 24 Crane: We have a postponement Mr. Ochoa.

25
 26 Ochoa: Yes, sir. Thank you Mr. Chairman. Under new business it is item number
 27 two, case S-13-030W. It's a request for a waiver to road improvements for
 28 a proposed subdivision known as Gamboa Acres Subdivision. The
 29 property owner was unable to make tonight's meeting unfortunately and is
 30 asking to be postponed date specific to the July 22nd Planning and Zoning
 31 Commission Meeting.
 32

33 Crane: Okay, July 22nd. All right. Thank you. Anything else before we get into
 34 the new business Mr. Ochoa? No, okay.
 35

36 Ochoa: No sir, that's it.
 37

38 Crane: Tonight's meeting could be longer than usual. With that in mind, I am
 39 thinking of taking a suggestion from Community Development and moving
 40 case PA-14-01 which concerns the Arroyo Management Plan to the end of
 41 the new business, but I don't want to do that if that's going to be more
 42 disruptive than leaving it where it is. May I see a show of hands from the
 43 public as to who has come with the objective of speaking to the Arroyo
 44 Management Plan? Hands up. I see one, two, three people. Okay, so I
 45 take it that the rest of you are here for the other business. And since there
 46 are only the three, we'll ask you to wait until the end of the business, the

1 three other cases so we don't have to have the public sit through the
 2 discussion of the Arroyo Management Plan which they're probably not
 3 familiar with. Does any Commissioner have any objection to that? So
 4 Case PA-14-01 goes to number five on the list.
 5

6 **1. Case PA-14-01: MOVED TO THE LAST ITEM OF NEW BUSINESS.**
 7

8 **Case Z2873:** Application of Kary Bulsterbaum on behalf of Shared Equity
 9 Holdings, LLC, property owner, for a zone change from C-3C/R-4C
 10 (Commercial High Intensity-Conditional/Multi-Dwelling High Density &
 11 Limited Retail and Office-Conditional) to C-3C/R-4C in order to add
 12 additional permitted uses to a 4.4 +/- acre lot located on the northwest corner
 13 of Mars Avenue and Del Rey Boulevard; Parcel ID# 02-03267;. Proposed
 14 Use: Multi-dwelling high density uses and limited office and commercial
 15 uses: Council District 5 (Sorg)
 16

17 Crane: We'll now discuss Case Z2873 in the normal way. The way we do this is
 18 that first of all Mr. Ochoa tonight will give a presentation on this and then
 19 Commissioners may have questions of him. Then we ask the applicant, if
 20 present, to come up and tell us about the application, and we may ask the
 21 applicant questions. And finally we invite members of the public to come
 22 up and speak to the matter. Typically we don't time people's
 23 presentations unless there are quite a lot of people, in which case we'll
 24 specifically limit you to three minutes, but I suspect there aren't too many
 25 people interested in this particular case. After all the members of the
 26 public have spoken, we close the matter to discussion and the
 27 Commissioners will discuss it among themselves and then vote. So, Mr.
 28 Ochoa shall one of us put into the record this comment on the, from
 29 Donald and Diane Test or are they present? Yes, Ms. Montana?
 30

31 Montana: The oath. We have to give the oath.
 32

33 Crane: Oh yes. To Mr. Ochoa. I beg your pardon. Mr. Ochoa do you swear or
 34 affirm that the testimony you are about to give is the truth and nothing but
 35 the truth under penalty of law?
 36

37 Ochoa: I do sir.
 38

39 Crane: Thank you.
 40

41 Ochoa: For your question about the public ... the letter we got from the public
 42 there sir. What we can do, I can do a quick presentation, kind of touch
 43 base on it and then if you like you could read it into the minutes if you like
 44 sir or I could read it into the minutes. It's definitely up to you sir. Or if you
 45 could just ...
 46

- 1 Crane: I think rather than read the whole thing as you mentioned to me before the
2 meeting that almost all of their objections are in fact already taken care of
3 and there was only one that was not, so we could perhaps confine
4 ourselves to that.
5
- 6 Ochoa: We could definitely do that Mr. Chairman. The members from the public
7 essentially had no issues with the proposed potential Veteran's Affairs
8 Medical facility on the property, but are adjacent property owners of
9 residential lots and essentially were asking for a couple of requirements or
10 conditions to be placed on the proposed zone change. The first thing
11 being ... asking the Planning and Zoning Commission to require the
12 facility to be limited to a single story and to include sufficient setbacks to
13 the existing residential homes on the adjacent residential lots. And
14 additionally they also requested to require the applicant to provide a sound
15 wall and mature trees along the adjacent residentially zoned properties to
16 the west to assure some type of I guess buffer if you will between the
17 subject property and, excuse me, the residential lots. Now those ... the
18 first condition that they're asking for, that's something that they're asking
19 for that's outside of the bounds of the zoning code of course, but the
20 second item about sound wall/landscape area, that is already kind of a
21 requirement required by code. If this property gets developed for a
22 nonresidential use, commercial, or the VA facility, they are required to
23 provide a buffer yard adjacent to that residentially zoned property,
24 anywhere from a 15-foot semi-opaque buffer yard or a 10-foot opaque
25 buffer yard which is anywhere between about a six-foot tall opaque wall
26 and then landscaping behind it or a four-foot tall landscape ... opaque wall
27 with landscaping behind it. So, that is kind of taken into effect and the
28 setbacks are required to be met there as well with that.
29
- 30 Crane: So the sound wall and mature trees requirement is there already, they will
31 have to do that. The single story cannot be required, or could we require
32 it?
33
- 34 Ochoa: That's something that the Planning and Zoning Commission may require
35 or ask the property owner, the applicant, to possibly take into
36 consideration. It's definitely up to you sir.
37
- 38 Crane: And includes sufficient setbacks to the existing residential homes and lots.
39 Sufficient is not specified here.
40
- 41 Ochoa: No sir.
42
- 43 Crane: Is there any elbowroom to change that? Ms. Harrison-Rogers, your light's
44 on.
45

- 1 H-Rogers: Yes sir. Mr. Chair, members of the Commission, I was just ... I was going
2 to wait until you were done with your statement, but did want to specify
3 just for reference the height limits in terms of what's allowed in various
4 zones so that you had a reference point for that since they were asking for
5 a single story, I was just going to point that out for you. For the type of
6 zoning that's being requested, it's 60-feet, however for residential, typical
7 single-family residual it's 35-feet as a maximum height.
8
- 9 Crane: Okay. Thank you.
- 10
- 11 Ochoa: And, sorry sir, to answer your question about the setbacks, since that
12 buffer yard is required they cannot build within that buffer yard area. They
13 can't even put parking in that buffer yard area. It has to be actual
14 dedicated kind of left alone space if you will between the property line and
15 where they can commence to start developing of the building or parking
16 area for the facility sir.
17
- 18 Crane: Okay. Is there any representative of Mr. and Mrs. Test present? All right,
19 nobody indicates they're a representative.
20
- 21 Ochoa: Mr. Chairman. I also just wanted to add, the existing zoning on the
22 property now is still C-3C/R-4C, so technically if this zone change to add
23 additional uses was not permitted they could still develop a potentially 60-
24 foot tall building, or the maximum building height in the existing zoning on
25 the property is 60-feet in height.
26
- 27 Crane: They could.
- 28
- 29 Ochoa: Yes sir.
- 30
- 31 Crane: They're permitted to do it, so I'm trying to phrase this in a way that we
32 could vote on. I can't regard this as a ... this is simply a public comment is
33 it not? And if the zoning permits two stories then the people who are
34 making this note to us are really unable to force it single. Correct?
35
- 36 Ochoa: Mr. Chairman, it is basically a public comment that is ... they're requesting
37 for you to take that into consideration.
38
- 39 Crane: In that case if we have no further input from ... Commissioners you have
40 any questions on this for Mr. Ochoa? No. And nobody from Community
41 Development ... yes, Ms. Ferrary.
42
- 43 Ferrary: I haven't been able to locate their plans for the building size. Is that
44 included in this request?
45

1 Ochoa: Mr. Chairman, Commissioner Ferrary, there is a narrative by the
2 applicant's representative in there. Mr. Kary Bulsterbaum kind of
3 explaining what they're looking at potentially building with the VA facility,
4 and I believe he could possibly touch a little ... give more example of what
5 they're looking at building, but there are no actual specific building plans
6 as of now ma'am.
7

8 Ferrary: And they ... do they ... is there a request for how tall the building will be?
9

10 Ochoa: Mr. Chairman, Commissioner Ferrary, no there is not a request for the
11 height of the building.
12

13 Ferrary: Okay. Thank you.
14

15 Crane: So, let me swear you in. Perhaps you should state your name first.
16

17 Bulsterbaum: My name is Kary Bulsterbaum. I'm a commercial real estate broker here
18 in town.
19

20 Crane: Okay. Do you swear or affirm that the testimony you are about to give is
21 the truth and nothing but the truth under penalty of law?
22

23 Bulsterbaum: I do.
24

25 Crane: Carry on please.
26

27 Bulsterbaum: I guess first of all just to answer your question Commissioner Ferrary,
28 sorry. The ... this may be subject to change, especially in lieu of all the
29 politics that's going on. All I can tell you is it's a potential site for the VA
30 clinic, not a guarantee that it may be located there. The specs as of this
31 moment would be approximately just over 10,000 square foot facility,
32 somewhere in the neighborhood of I believe 11,000 plus or minus. To my
33 knowledge the ... this could be subject to change. Most of these VA
34 clinics just due to the nature they don't want a lot of second story space
35 and elevator space and things like that. The likelihood that this would just
36 be a single story facility is pretty high. I don't see this going another level
37 if you will, and I can't say that with certainty element. It sounds likes the
38 zone codes already covered, they certainly don't want that changed if that
39 were to happen, but I would say the probability of this being a single story
40 would be pretty probable I guess would be the point.
41

42 Ferrary: Thank you for answering that.
43

44 Crane: Anybody else have any questions for Mr. Bulsterbaum? Any members ...
45 thank you sir. Any member of the public wish to address this question?
46 Yes, sir. Please come up, identify yourself. Say your name please.

1
2 Winham: Good evening. My name is Steve Winham. I live there on Valverde Loop,
3 close by.
4
5 Crane: Do you swear or affirm that the testimony you are about to give is the truth
6 and nothing but the truth under penalty of law?
7
8 Winham: Yes.
9
10 Crane: Thank you.
11
12 Winham: A couple of questions I have ... after we had looked at the notice is; one is
13 I can foresee there being a need for a traffic light being put in there at
14 Mars and Del Rey with the activity that would be created between ... with
15 the VA clinic, not knowing exactly how much activity would be there but I
16 would suspect it would be rather significant, so I think that would be
17 something that would need to be considered.
18
19 Crane: Mr. Ochoa do you ... is there a traffic study involved in this at this point?
20
21 Ochoa: Mr. Chairman our traffic engineering department did review the proposed
22 zone change. They did recommend approval for the proposed zone
23 change with the conditions that essentially in the future when development
24 does happen a TIA or traffic impact analysis would be required of the
25 property, when development happens and potential changes to you know,
26 to the road, adding decel. lanes and acceleration lanes, or possibly adding
27 lights there at that intersection. That's what the traffic impact analysis
28 would determine for traffic engineering sir.
29
30 Crane: Okay. Thank you, so that's in hand. Does that answer your question sir?
31
32 Winham: Yes, and I guess one of the second questions would be included as to the
33 ... where the entrance would be ... entrance and exit, would it be off of Del
34 Rey or off of Mars?
35
36 Crane: Can you illuminate Mr. Ochoa?
37
38 Ochoa: Mr. Chairman at this time that has not been determined as of yet.
39 Unfortunately it's in such a preliminary phase they don't know where
40 exactly that entrance or exit would be on the property sir.
41
42 Crane: Thank you.
43
44 Winham: Just a comment follow-up on that, is ... as a citizen or person that lives
45 there on Valverde I would highly recommend ... I think all the residents
46 that live there, that it would be placed ... the entrance would be on Del

1 Rey rather than on Mars which is the street that goes to the housing there
2 which would create a lot of congestion. So the other comment I have is I
3 would support the building being only one story if that's enforceable.
4 Thank you.
5

6 Crane: Thank you sir. Any other member of the public wish to address this
7 matter? Then I'll close this to public discussion. Commissioners. Let me
8 hear a motion that Z2873 be approved. The change of zoning from C-
9 3C/R-4C conditional to C-3C/R-4C. Somebody ... Mr. Clifton.
10

11 Clifton: I make a motion we approve Case Z2873 as recommended with
12 conditions by staff. Condition one, a minimum of 10 dwelling units per
13 acre and a minimum of 40 dwelling units per acre shall be permitted on
14 the subject property. Two, all newly constructed utilities be placed
15 underground. Three, the C3 commercial high intensity uses on the
16 subject property shall be limited to those specified in the attachment,
17 attachment number five. And four, chain link fencing adjacent to Del Rey
18 Boulevard will only be permitted in conjunction with mini storage units. If
19 chain link fencing is utilized, a broken landscape buffer shall be
20 established along the entire property boundary adjacent to Del Rey
21 Boulevard with the fence placed behind said landscape. A broken
22 landscape buffer requires trees and shrubs to be located so that their
23 outmost limbs touch the time of maturity.
24

25 Crane: Thank you.
26

27 Beard: Second.
28

29 Crane: Seconded by Mr. Beard. Any discussion? Then we'll do a roll call vote
30 starting with ... did you want to say something Ms. Ferrary?
31

32 Ferrary: Yes. The question, was it finalized whether or not we could enforce a
33 single story or not?
34

35 Crane: My impression was from what Mr. Ochoa said was we could not enforce it
36 but Mr. Bulsterbaum did say that it was very unlikely that it would go
37 beyond a single story.
38

39 Ferrary: Okay, I just wanted to confirm that.
40

41 Crane: Am I correct Mr. Ochoa?
42

43 Ochoa: Mr. Crane you definitely are allowed to limit the height of a building with a
44 condition, of course that condition would be something you'd have to vote
45 on and the applicant would have to be agreeable to that condition to move

1 that condition forward. Essentially that's typically how it works by adding
2 additional conditions like that sir.
3
4 Crane: Thank you. Ms. Ferrary do you want to suggest an amendment as ... an
5 additional condition as an amendment?
6
7 Ochoa: Mr. Chairman, pardon me for interrupting sir but there's already a motion
8 set forward by Commissioner Clifton and it's been seconded so it does
9 need to be voted on sir.
10
11 Crane: Surely we can vote on amendments to that before we vote on the motion.
12
13 Ochoa: No sir. Since it's already been seconded we cannot.
14
15 Beard: Couldn't we have a discussion?
16
17 Crane: Well we can discuss.
18
19 Ochoa: I believe a discussion can be made or can be done but that motion still
20 needs to be voted up sir.
21
22 Crane: Very well, so those of us who would perhaps like to see an additional
23 condition put there should vote against the motion as it stands and then
24 we can entertain a new motion with the additional condition. Very well,
25 let's take a vocal vote on Z2873. Mr. Clifton.
26
27 Clifton: Aye.
28
29 Crane: And could you say why sir.
30
31 Clifton: Aye based on staff presentation, case packet materials, applicant
32 presentation, the fact that the case meets zoning code article one, section
33 38-2d, Comprehensive Plan 2040, sustainable growth goal 32, policy 32.3
34 and section 38-2 of the 2001 Zoning Code as amended.
35
36 Crane: Thank you. Commissioner Stowe.
37
38 Stowe: Nay, based on discussions this evening.
39
40 Crane: Okay. Commissioner Ferrary.
41
42 Ferrary: Nay, based on site, visit, discussions, and findings.
43
44 Crane: Commissioner Beard. Thank you.
45
46 Beard: Yes, based on conditions and discussions.

- 1
2 Crane: The chair votes aye based on findings, discussion, and site visit. So the
3 motion passes three votes to two. Thank you all.
4
5 Beard: Could we even discuss a little bit about her objection? I mean I would like
6 to ...
7
8 Crane: I think we're allowed to do that.
9
10 Clifton: Mr. Chair.
11
12 Crane: Mr. Clifton, yes.
13
14 Clifton: Could we get conformance from legal before we proceed discussing a
15 case that's been voted on?
16
17 Cabello: I don't think ... since this has already been voted on, it's not on the
18 consent to have new findings that were not on there. I don't think this
19 could be discussed again right now.
20
21 Crane: Thank you. So that matter is closed.
22
23 2. **Case S-13-030W:** Application of Western Lands Surveying on behalf of Jose
24 A and Martha C Gamboa, property owners, to waive 100% of the road
25 improvement requirements for Saromi Lane and Cortez Drive, a proposed
26 collector roadway. The proposed waiver is associated with improvements
27 required for a proposed alternate summary subdivision known as Gamboa
28 Acres Subdivision on a 5.01 +/- acre tract located on the southwest corner of
29 Cortez Drive and Saromi Lane; 7486 Cortez Drive; Parcel ID# 02-25523.
30 Proposed Use: Two (2) new rural single-family residential lots; Council
31 District 6 (Levatino). **POSTPONED UNTIL JULY 22ND PLANNING AND**
32 **ZONING MEETING.**
33
34 3. **Case PUD-14-01:** Application of The Arbors at Del Rey located at 3731 Del
35 Rey Boulevard, Parcel numbers 02-25264 and 02-25265, to rezone two lots
36 totaling 4.98 +/- acres from C-2C (Commercial Medium Intensity, Conditional)
37 to Planned Unit Development (PUD) in order to: (1) allow an existing nursing
38 home/assisted living facility as a principal permitted use; (2) allow the raising
39 of small animals as an accessory use to the assisted living facility use; (3)
40 allow the existing 2.49-acre lot size as-of-right; and (4) allow other 2001
41 Zoning Code C-2 District development standards and land uses to apply with
42 the PUD. Council District 5 (Sorg)
43
44 Crane: We will proceed, since Case S-13-030W is postponed, to Case PUD-14-
45 01, application of the Arbors at Del Rey located at 3731 Del Rey
46 Boulevard to rezone two lots from commercial C-2C to ... conditional ... to

1 planned unit development. And you've all got the details in front of you.
2 You're going to present Ms. Montana?
3
4 Montana: Yes, thank you Mr. Chair, Commissioners. If you'll give me a moment to
5 get my mouse working so I could switch.
6
7 Crane: You know it's a principle that no animals are hurt during Planning and
8 Zoning meetings.
9
10 Montana: Come here. Come here. Come here. Okay. Thank you Commission.
11 What you have before you is a request to rezone a property at 3731 Del
12 Rey Boulevard and ... there we go. Right now the property is zoned C-2
13 but it's a 1981 designation of the C-2. The property was built or
14 developed in 1996 under the 1981 Zoning Code. At the time that zoning
15 code allowed a nursing home to be built on the property and it was built
16 with permits. In 2001 the zoning code changed and no longer allowed
17 nursing homes in the C-2 district. I remembered I need to take an oath of
18 office. Not an oath of office but an oath that I'm telling the truth tonight.
19
20 Crane: Of course you do. Do you swear or affirm Ms. Montana that the testimony
21 you are about to give is the truth and nothing but the truth under penalty of
22 law?
23
24 Montana: I do. Thank you.
25
26 Crane: We could of course say that all members of Community Development are
27 continually under oath.
28
29 Montana: Automatically. Yes. So, now the existing nursing home wishes to add a
30 program, a therapeutic program to the existing nursing home which is now
31 called assisted living facility. However, because it's a legal nonconforming
32 use the current C-2 zoning doesn't allow a nursing home or assisted living
33 facility. It isn't allowed to do that, so for that reason they're seeking a
34 rezoning and in this case it's ... we're calling it an application for a planned
35 unit development because we want to add a specific land use which is the
36 nursing home or assisted living facility and we're adding the raising of
37 animals as an accessory use to that principle use at the assisted living
38 facility. And in addition, the C-2 ... the current C-2 zoning does not allow
39 more than one acre per lot. So the current lots each, there's two lots, they
40 each are about 2.49 acres, so they exceed that maximum lot size. So for
41 that reason we're approaching this as a planned unit development. The
42 property is located right off of Del Rey Boulevard, north of Mars. And I will
43 show you in later slides what the land uses are adjacent to it, but it's
44 mixed commercial, institutional, and residential.
45 These are the two parcels that are subject to the PUD. This parcel
46 is half developed with the nursing home and the next parcel under the

1 same ownership is vacant. So half of this parcel is vacant as well.
2 There's medical facilities here and residential ... single-family residential
3 here, and you just heard a case for this property here which may or may
4 not be the Veteran's Administration clinic. This is the subject parcel with
5 the nursing home and there is existing outdoor, enclosed or fenced,
6 outdoor patio area, resting area for the residents. These are elder
7 residents. And this is the area where the animal care program would be
8 located. And I have a few more slides of that. Again the nursing home,
9 the outdoor resting area, garden area, and the animal care area. And this
10 is the enclosed garden area and this would be where the animal care
11 facilities would be located. And I want to go back to show you the
12 distance between where the animal care facility would be and the nearest
13 homes, is quite some distance. The animal care facility would be located
14 behind the outdoor garden so it would not be visible from the street, from
15 the public street, and it's quite some distance to these residential homes.
16 And I have a later slide that shows you where some of the protests are
17 located, where the homes are located.

18 So we would be legalizing an existing use and allowing an
19 accessory use, the animal care, as an additional therapy program for the
20 elder residents. It would make both properties, bring them into jurisdiction
21 of the 2001 Zoning Code with the exception it would allow the nursing
22 home or assisted living facilities and the animal care as accessory. And it
23 would legalize the lot size. Now there have been protests from adjacent
24 property owners in a later slide I'll show you where those homes are
25 located relative to the property. And yesterday and today I received
26 additional letters of both support and protest in this packet. It was too late
27 to put into your packet which you received last week, so some of the
28 protester from property owners nearby and some of the supporters are
29 from organizations that support the care of animals, but mostly they
30 support, oh what's called food security, growing of food, raising of animals,
31 mainly for food. The applicants are not going to be raising these animals
32 for food, they're going to be caring for them for therapy for the elder
33 residents, for comforting, companionship, and cuddling so to speak for the
34 residents, not for food.

35 This is a slide showing the animal care ... location of the animal
36 care facility and one of the protesting property owners, and another
37 protesting property owners, and a third. Staff believes that the animal
38 care facility is quite some distance from these residential properties and
39 noise from the animals would not be discerned at these residential
40 properties. This property to the north is a medical care facility, it's not a
41 residence, so we don't believe that the project ... the animal care portion
42 of the project would be a nuisance to adjacent property owners. Now
43 there is some controversy so to speak about roosters. I don't know if the
44 applicants are planning to have a rooster. They want to have a pair of
45 chickens, a pair of ducks, and some other small animals. They can speak
46 to you, they're here tonight of course, as to whether or not they'd have

1 roosters. I don't think the sound, the crowing of roosters in the morning
 2 would be discerned by these residents, maybe to these residents here,
 3 and I don't know if you want to limit the care of animals or condition them
 4 such that they don't have a rooster. That's something that we could
 5 discuss tonight. As I mentioned, we don't believe that any noise or odor
 6 emanating from the animal care portion of this PUD would be a nuisance
 7 or a distraction to neighboring residents and therefore staff is
 8 recommending approval without conditions.

9 So your options of course tonight Commissioners are to; vote yes
 10 to recommend to the City Council this PUD; to vote no to deny it,
 11 recommend denial to the ... of the PUD to City Council; to vote to modify
 12 by adding a condition; or to table this for further discussion. I'm happy to
 13 answer any questions you may have.

14
 15 Crane: Thank you Ms. Montana. Commissioners? Commissioner Beard.

16
 17 Beard: I noticed that in the application it didn't state which animals and I would
 18 not like to approve an open ended statement of animals and not know just
 19 which animals we're talking about, so I would like to have a list of the
 20 animals that would be put ... possibly be put into this area, into this permit
 21 before we vote on it.

22
 23 Montana: Commissioner Beard. The applicant is here to sort of speak into or read
 24 into the record what animals they would propose. We've had a back and
 25 forth discussion via e-mail as to which animals they would bring to this
 26 location and so they are here tonight and I think they're prepared to make
 27 a statement as to what animals and how many of each they would bring to
 28 the facility.

29
 30 Beard: Okay. What I was looking at was their application which it didn't have that
 31 in there. And the Chairman just pointed out on page 210 that there is a list
 32 of animals. I don't know if that's part of the condition.

33
 34 Montana: That list of animals were suggestions. I think tonight they will make a firm
 35 statement as to which animals they would like to bring to the facility and
 36 how many of each.

37
 38 Beard: Okay. Thank you.

39
 40 Crane: Mr. Clifton.

41
 42 Clifton: Mr. Chair I think I know where Commissioner Beard was going with this
 43 and if the Commission does vote to authorize animals on site, I do think
 44 we do need a list of how many and what exactly are they. I don't know if
 45 you've ever heard a peacock, but they're pretty loud.
 46

1 Crane: Thank you. Ms. Montana is this going to be a totally enclosed facility as to
2 say a building, or a building combined with an outdoor ranging area?
3

4 Montana: Mr. Chair, Commissioners, this is an open-air enclosed facility, so they will
5 have coops and little cages and benches for the elders to be within the
6 enclosed area, but it's not an ... totally enclosed ... it's fenced. When I
7 say enclosed I mean fenced.
8

9 Crane: So odors, flying insects, and so on would not necessarily be confined to
10 the premises?
11

12 Montana: Well to the degree that they're attracted to the premises, they're confined,
13 but not necessarily roof enclosed with walls.
14

15 Crane: All right. Thank you. Any other Commissioners have questions for Ms.
16 Montana? Thank you. Is the applicant present? Please come up, give us
17 your name. Are you gentlemen going to speak jointly or separately?
18

19 Trevizo: Jointly.
20

21 Crane: Jointly. All right. Very well. Each give your name please, you first sir.
22

23 Trevizo: My name is Tony Trevizo. I'm the executive director for the Arbors of Del
24 Rey.
25

26 Crane: All right. And you sir?
27

28 Spradlin: And my name is Gregory Spradlin. I'm the registered nurse at the Arbors
29 of Del Rey.
30

31 Crane: Thank you. Gentlemen do you swear or affirm that the testimony you are
32 about to give is the truth and nothing but the truth under penalty of law?
33

34 Trevizo: Yes.
35

36 Spradlin: Yes.
37

38 Crane: Thank you. Okay, who wants to go first?
39

40 Trevizo: Okay, the reason that we're planning not only to kind of bring us back to
41 you know today's modern zoning, the reason we're asking for this
42 application and for the animals specifically is that we're trying to achieve
43 or actually we're trying to partake in a national movement, it's a different
44 way of approach in providing care for our elders and it's called the Eden
45 Alternative. I'm not sure if you folks had a chance to kind of do a little
46 research on that but the premise behind that is just reconnecting our

1 elderly with animals, people, and children. I mention children because in
2 many cases a lot of times you find that people are reluctant to bring their
3 children to places like nursing homes and assisted facilities because it's
4 just not ... it doesn't seem to be appropriate place for them, even though
5 you know mom, grandpa, cousin, uncle, whoever the relationship may be
6 is in that place. Having animals at our location, part of the therapeutic
7 program is to encourage not only family members but the community at
8 large, from schools to even the daycare across the street from us.
9 They've come and visited us, many a times come over and spend time
10 with our elders and outside and enjoy our ... we have a couple of rabbits
11 already in a nice hutch in the backyard and so we find that that's a positive
12 thing.

13 I know we were just talking, and I asked Greg, I thought he put that
14 in there to answer your question as far as the types of animals, and I'm
15 going to let you answer that.

16
17 Spradlin: Yeah, what we're looking at is having like a couple of ducks, couple of
18 chickens, a small miniature goat, and a peacock if possible, along with the
19 two rabbits that we have, the cockatiels inside, and we also have a couple
20 of turtles inside. So that's basically what we're looking at as far as the
21 number of animals and types of animals that we'd like to have.

22
23 Crane: Thank you. Commissioners, any questions for these gentlemen?
24 Commissioner Ferrary.

25
26 Ferrary: How will the animals be provided conditions from the heat and the cold, if
27 they're just going to be out in the open air?

28
29 Trevizo: Yes, well we are ... what we're doing is just trying to mirror a model that
30 we have in Sierra Vista up in Santa Fe. We are owners, we own two
31 properties, this one here, the Arbors, and Sierra Vista in Santa Fe. They
32 to this day are the only assisted living home in the state of New Mexico
33 that has achieved the Eden Alternative. We're very proud of that. It
34 brought a lot of recognition to the state of New Mexico when they were
35 featured on the USA Today. And it made quite an impact because to this
36 day, not from the business standpoint, but it's really generated a lot of
37 interest, people have literally moved from different parts of the country to
38 Santa Fe to get their loved ones in that particular facility. Not to get off on
39 your ... you know get away from the question but, we have that
40 experience. We've had those animals at Sierra Vista now for over 12
41 years and from our experience and what we have there again to kind of
42 model what they have is we will have an open enclosed structure. We
43 have dens if you will for like the goat, protecting ... right now currently on
44 the property we have kind of ... it's kind of like the volcanic rock. That's
45 going to be taken out and replaced with probably two or three inches of
46 earth. That will address the heat from the rocks. So we're going to make

1 the ground appropriate for the animals, but there will be overhangs and
2 there will be cover for the animals. Probably some of the climate
3 differences between Santa Fe and us obviously is the heat, but then again
4 they have you know harsher winters than we do. And you know it's ...
5 these are very resilient animals. I personally have ... I have ducks on my
6 property and they quack and I can't hear them and they're like 80 yards
7 away from my window and I ... as far as the noise is concerned. And you
8 know in the wintertime they ... they're very resilient you know. When you
9 get really harsh conditions ... I have no problem, not that I've ... not that
10 we've experienced it up in Santa Fe, but our number one concern is that
11 you know good care of those animals. If we've got to bring them indoors
12 somewhere temporarily, take them to my property and house them there
13 until the weather gets better, we will. You know we're committed to this.
14 You know, not only do we care for elders but we're going to care for
15 animals just as much because they're going to be our pets. You know we
16 love our dogs and we love our cats, and we'll do anything for our dogs and
17 cats. That's the same thing that we're going to do for your animals.

18
19 Crane: Thank you. Mr. Beard.

20
21 Beard: Excuse me. How large is the facility in Santa Fe in comparison to what
22 you're doing here?

23
24 Trevizo: The facility is actually almost the same size. We're licensed for 24, they're
25 licensed for 24. Now the structure itself is almost like, kind of call it the
26 pentagon because it has a large courtyard in the center of the home, so
27 yes, do they have a bigger footprint, they do, but as far as the square
28 footage, they're probably about 3,000 square foot larger than we are, but
29 the number of residents is ... it's the same. We're licensed for the same.

30
31 Beard: I was thinking about the area that would be away from the neighbors for
32 smell, feather, or noise. In the area that you show that I see on the map, it
33 doesn't look very large for all of the numbers of animals that you're talking
34 about; peacocks take a large area. I mean you just don't put them in a
35 small area, and they make a lot of noise by the way. And the ducks
36 require probably a pond, so I just didn't think that from what I was looking
37 at that there was a large enough area for all of these animals that you're
38 talking about. Have you ... I mean do you have ... obviously you've
39 thought about it but it would be nice to see a plan as to how big of an area
40 you have for each one of these animals.

41
42 Trevizo: Again, you know everything that we've done and we're looking to mirror
43 what we currently have at Sierra Vista and the space that we're looking to
44 use is exact space that they have in Santa Fe now. Are the rules a little
45 different in Santa Fe? I'm not sure as far as the size and containment. I
46 do know that it works. It's in existence and we just look to model that.

1
2 Beard: Well that's good, but I think we would ... the audience or the president and
3 the commission would like to see that.
4
5 Trevizo: Okay. And the other thing Commissioner is that the proposed site up
6 there, that's one. The other alternative is on the opposite side of the
7 property which gives us more space which does bring us a little closer to
8 the road but again I think that you know it's debatable as to whether it still
9 gets a little too close to other properties or other people that's concerned
10 about this. But if that was going to be a challenge and this is too small, we
11 have space on the other side which is much larger to work with.
12
13 Beard: Thank you.
14
15 Crane: Commissioner Ferrary.
16
17 Ferrary: Does the Eden Alternative have guidelines for the care of the animals or
18 would you be conducive to working with Animal Protection of New
19 Mexico?
20
21 Trevizo: Part one ...
22
23 Crane: Excuse me a minute. I have a hand up, Ms. Rogers, is this point or order?
24
25 H-Rogers: It's not a point of order. I ... Mr. Chair, members of the Commission, we
26 can wait until Commissioner Ferrary was done. I just wanted to provide
27 some additional information about the care of animals, the sizing of their
28 enclosures, number of those things.
29
30 Crane: Okay, I'll recognize you in a minute. Thank you.
31
32 H-Rogers: Thank you.
33
34 Crane: Continue Ms. Ferrary.
35
36 Ferrary: That was my question. Just if they would be agreeable to those things,
37 but it sounds like they ...
38
39 Crane: I too am ... have questions about the size and the number of occupants at
40 this facility. Go ahead Ms. Harrison-Rogers.
41
42 H-Rogers: Mr. Chair, members of the Commission, I do want to specify that although
43 our zoning can dictate whether or not certain types of animals are allowed
44 within city limits, the Municipal Code, Chapter seven, is what dictates the
45 minimum size of their enclosures, how they're cared for, and a number of
46 other items regarding the shade structures that are provided, the size of

- 1 the parcel, the density of the animals on that particular parcel how that's
2 broken down. If you'd like some information regarding that I do know that
3 we ... I don't have a copy of the full Municipal Code here, since that is
4 outside our purview, that's a code enforcement issue, but I might check
5 with legal to see if they have their Chapter seven Municipal Code and I
6 can give you some details on that if you'd like me to get that organized for
7 you.
8
- 9 Crane: Thank you. Let me ask the applicants if they are familiar with this code
10 that you presumably have to obey in the care of your animals?
11
- 12 Trevizo: I am not familiar with the particulars but we are willing to conform to
13 whatever guidelines are set forth.
14
- 15 Crane: Commissioner Beard.
16
- 17 Beard: I raise homing pigeons in the city limits. There's seven of us. In order to
18 get ... we had to get a permit and be inspected. We had to join a society
19 for that species so that we were up to date as to the care and the
20 medicines required for those particular ... in my case for homing pigeons.
21 I would think that that would be done on each species of animal that you
22 had and your facility would have to be inspected for each species of
23 animal or bird that you have. And I'm not certain that we should be
24 passing something that we don't know ... I don't know, for if this is the
25 right order ... whether they should get a permit first or whether we should
26 allow them to do it without a permit.
27
- 28 Crane: We're looking at a zoning question. Ms. Harrison-Rogers can you
29 elucidate.
30
- 31 H-Rogers: Yes. Mr. Chair, members of the Commission, again Chapter seven of the
32 Municipal Code regarding animals dictates what requires a special permit
33 and what does not. Typically there are certain types of animals; chickens,
34 even in some districts equine, swine, and of course we're not going there
35 with this particular case, but depending upon the zoning district, there are
36 some animals that are allowed without requiring a special use permit. In
37 certain areas of the city if you're not zoned appropriately you can get a
38 special permit for bird rehabilitation for example is one, but it does require
39 certain permits and inspections, but that's something that's dictated by the
40 Municipal Code. It's also somewhat dictated by the zone that you're in, it's
41 sort of two fold. The zoning code speaks to parts of it but then the care of
42 that and special permits is found within the Municipal Code, Chapter
43 seven regarding animals.
44
- 45 Crane: Thank you. Do you happen to know gentlemen what code or rules they
46 have to follow up in Santa Fe?

1
2 Trevizo: Santa Fe ... you know one of the things that my regional or my boss up
3 there who runs Sierra Vista is ... we talk about how different Las Cruces
4 and Santa Fe is. You know ...
5
6 Crane: We're more sophisticated down here.
7
8 Trevizo: Yeah. I agree.
9
10 Crane: Thank you.
11
12 Trevizo: So they kind of ... they're not as restricted up there, so they didn't face
13 these challenges. This is ... you know this is ... this is new for us, we're
14 asked you know to move forward and join this movement which we're
15 committed on doing ... you know, in some conversations with ... up in
16 Sierra Vista they're kind of dumbfounded because really why so much red
17 tape and you know, they didn't find these challenges so I don't have a
18 reference or that history for them to kind of guide me through the process.
19 Don't know if that's the answer you're looking for but they're kind of not
20 restricted to many rules. I don't know if they're kind of living in the wild
21 wild west up there but, again they're successful up there. No one's
22 complained about it and again it's ... it's a great program.
23
24 Crane: I'm surprised to find as gentrified a place as Santa Fe is so relaxed but I'm
25 personally a little, more than a little concerned about the fuzziness of this
26 proposal. I'd like to know how many square feet this enclosure is. I'd like
27 to know how many of each animal you're planning to get, and I am
28 concerned that roosters can be noisy in the morning, essentially you've
29 considered the feelings of your residents. I agree with Mr.
30
31 Beard: Beard.
32
33 Crane: Beard, peacocks are noisy. I camped some place with peacocks once
34 and I couldn't believe the noise in the morning. Charming but noisy and I
35 can't see big animals like that, big birds like that being in a small enclosure
36 with chickens and rabbits, particularly if they're all scurrying around. It
37 seems to me a little more thinking out needs to be done or at least some
38 research on what they're doing in Santa Fe. And I don't know where that
39 place is within the city limits of Santa Fe, whether it's close in as you are
40 to residential areas, but in any event that's not particularly relevant for
41 what we're doing here. Commissioners, any other questions for these
42 folks. Mr. Clifton.
43
44 Clifton: I do have a question for staff. Did animal control review this? I mean I
45 understand that there's other elements of animal control laws that fall into
46 the Municipal Code, but it's not uncommon in the past that the staff has

1 imposed conditions on an applicant outside the zoning code and ... cause
2 I know as a dog owner if my dog's barking too much I get a visit from
3 codes enforcement and a citation to magistrate court.
4
5 Crane: Ms. Harrison-Rogers you want to say something at some point?
6
7 Montana: Mr. Chair, Commissioners ...
8
9 Crane: Ms. Montana's speaking.
10
11 Montana: Yes.
12
13 Crane: Put your mike on ma'am.
14
15 Montana: I think it is. Can you hear me? We did not submit this for review to animal
16 control or the police department. Usually they get involved if there's a
17 complaint and there had not been a complaint. The applicant came in
18 proactively to seek this ... to seek this permit.
19
20 Crane: Thank you. Sir. On the mike please.
21
22 Spradlin: When I did start this whole process I did call animal control and spoke with
23 ... I didn't bring his name but the supervisor in that section and he actually
24 referred me to here.
25
26 Crane: Thank you. Mr. Beard.
27
28 Beard: Did you ask if ... it used to be ducks you couldn't have in the city. Did you
29 ask him about ducks?
30
31 Spradlin: He actually spoke of different exotic birds and things like that that you had
32 to work with as far as code number seven that you were talking about in
33 those laws and things like that. And that's ... in our application I did put
34 that in there that we would abide by that as well in the type of animals that
35 we would be having.
36
37 Crane: Thank you. Mr. Clifton ... Mr. Harrison-Rogers.
38
39 H-Rogers: Mr. Chair, members of the Commission, our legal staff was able to bring
40 down the Municipal Code that speaks to the keeping of small animals
41 which is what we're discussing this evening, so if you would like me to
42 provide additional information about the size limitations, the types of
43 animals, I would be glad to provide that for you.
44
45 Crane: Thank you. Mr. Clifton.
46

- 1 Clifton: Thank you Mr. Chair. Staff didn't really answer my question, I mean it's
2 not uncommon that in situations like this, it's not typical that you see an
3 applicant come in with a request for peacocks, that it would've been sent
4 to the code enforcement department just as a courtesy review. It would've
5 been good feedback for the Commission to know that somebody at the
6 city's on top of this and quite frankly I agree, I don't ... I don't feel
7 comfortable at all with the animal issue, it's too loose, there's really no
8 specific conditions.
9
- 10 Crane: Thank you. Mr. Beard.
- 11
- 12 Beard: I think the Commission deserves to know exactly what it is that they can
13 have, what they want to have, and how many. And then secondly I think
14 that the neighbors also require that information so that they can better
15 judge whether they want it in their neighborhood or not.
16
- 17 Crane: Any other Commissioners have questions for the applicants? Thank you
18 gentlemen.
19
- 20 Trevizo: On last thing, just for the record, there's been a lot of talk about rooster
21 and all kinds of things, it's going to be ... and we're going to look at the
22 type of species of chicken, it's not going to be just any kind of chicken,
23 we're going to look to see ... we have a couple and my boss couldn't tell
24 me what breed, so we're going to refer back to the maintenance person
25 who bought the chickens a couple of years ago, but, two chickens, two
26 ducks, a miniature goat, and a peacock. Now to the peacock, up in Santa
27 Fe that bird, they crow and they crow in the springtime. They crow
28 because they want to mate, they're seeking a mate. If there's not a mate
29 they're relatively quiet. And when they do crow they crow because they've
30 been startled or scared. That's our experience and that's coming from the
31 staff up in Santa Fe in regards to that. I know there's some ... there's a lot
32 of things and things are moving quite quickly but if we get the parameters
33 and the conditions as far as the size ... we will work with that. That's not a
34 problem. We have the space for it, as you can see from the property that
35 we own. Secondly, if we can ask for a postponement or you know a
36 review down the road and I will be more than happy to then provide not
37 only pictures of Sierra Vista but a more thought out plan, you know drawn
38 out with structures and size, and the such.
39
- 40 Crane: Thank you sir and let me point out that chicken is generic, we're
41 concerned here with hens or roosters. Now two hens would not be a
42 problem as far as I'm concerned, two roosters would be a hell of a
43 problem, and one of each probably a problem. I like your suggestion of
44 getting us some detail. Any other Commissioner? Yes, Mr. Beard.
45

1 Beard: I think what you're trying to do is great okay, I just don't know that we have
2 the plan down so that we can really say yeah or nay. We may want to
3 table it for additional information. I would personally like to hear from the
4 audience to see what their concerns are first.
5
6 Crane: Does any other Commissioner need to talk to the applicants? Thank you
7 gentlemen. Members of the public.
8
9 Trevizo: Thank you.
10
11 Crane: Thank you. Hands up please, I'd just like to get a feeling how many
12 people want to address this question. One, two, that's it? Three, okay.
13 Okay. Let me see the hands again so I can call on one of you; gentleman
14 in the blue shirt. Please identify yourself and I'll swear you in.
15
16 Burgos: My name is Juan Burgos.
17
18 Crane: Do you swear or affirm that the testimony you are about to give is the truth
19 and nothing but the truth under penalty of law?
20
21 Burgos: Yes sir I do.
22
23 Crane: Thank you.
24
25 Burgos: Well I'm not necessarily against their proposal you know, I actually find
26 that very interesting and beneficial for the people they're taking care of.
27 My biggest concern is if you guys approve this change what kind of
28 benefits they're going to get in the near future to increase the amount of
29 animals and the type of animals that they can bring into the property.
30 That's my only concern. In the other hand is if there's any kind of clause
31 that you can somehow recommend to limit the number and the type of
32 animals they're going to have into the facility.
33
34 Crane: Thank you sir. We'll take it into account. Gentleman, you sir, in the brown
35 shirt. Give us your name again please, but we'll consider you still under
36 oath, all right.
37
38 Winham: Yes. Steve Winham.
39
40 Crane: Go ahead.
41
42 Winham: You have a letter that my wife and I submitted, I would just I guess refer
43 you to that letter for our thoughts on the matter.
44
45 Crane: Were you supportive or against?
46

1 Winham: Against.
2
3 Crane: Okay.
4
5 Winham: And for some of the same reasons that've been discussed; the noise level,
6 the possible sanitation issues. I realize maybe some people would say it's
7 ... our property is not that close to it, but especially with the peacock
8 issue, I've been around them as well. You can hear them for a great
9 distance if they do crow, so I would just refer you to the letter that we
10 issued or sent.
11
12 Crane: Thank you sir. There was somebody in the back, lady in the back.
13
14 Aguilar: Hello. I'm Christin Aguilar. And I'm here representing Las Mia Food
15 Center.
16
17 Crane: Ms. Aguilar, do you swear or affirm that the testimony you are about to
18 give is the truth and nothing but the truth under penalty of law?
19
20 Aguilar: Yes I do.
21
22 Crane: Go ahead please.
23
24 Aguilar: We would just like to express our support for this, recognizing fully that
25 this has nothing to do with raising animals for food, but just general
26 community health and wellbeing, documented benefits of animal
27 interaction. I would advocate for people having a garden even if they
28 weren't going to eat the food which I can't imagine, but you never know.
29 So, and just to reiterate that there are a lot of municipalities throughout the
30 nation, I have a background in food studies and anthropology and am
31 fairly familiar with animals allowed in other city limits like Santa Fe and
32 Albuquerque, though I don't know the specific details about all of their
33 codes and zoning. El Paso as well allows chickens and roosters.
34 According to their codes departments they get less than one call regarding
35 even their roosters per every 100 calls for nuisance regarding roosters
36 and chickens. So there are a lot of different ways to mitigate those and
37 just to reiterate that that's always a completely viable option you know,
38 making sure that the goats of a certain size are spade or neutered to
39 control odor, certain species for example. So, we just wanted to voice our
40 support for such programs that really work to support community health in
41 innovative ways. Thank you all.
42
43 Crane: Thank you. Any other member of the public wish to contribute on this?
44 Then I'll close it to public discussion. Commissioners? I did hear some
45 talk which I thought was rather good about getting more clarification
46 before we move any further on this.

- 1
2 Beard: I'm certainly for that actually. I think it needs to be looked at a little bit
3 closer. The ... I hadn't even thought about the goats being neutered in
4 order ... and I don't what benefits that provides but ... and the chickens
5 we might specify that the chickens be only female type chickens. And the
6 peacocks, my ... the thing on peacocks, I don't know whether it was a
7 crow, but it was at nighttime and they cried like a screaming woman and
8 that's what they sounded like.
9
- 10 Crane: I agree.
- 11
12 Beard: But anyway I thought there might be rabbits that would be included. I
13 think rabbits would be a very nice thing to have in this particular thing. I
14 mean it'd be a ... I don't know whether this is going to be a petting zoo or
15 not you know, we didn't talk about that. I think it would be kind of nice
16 where you can actually go in and put their hands on the animals and
17 actually feed the animals. I don't know what the city allows in that
18 particular area. I do know that they were very strict on me when I got my
19 permit and I was very happy to do everything that they requested. It's not
20 a hard thing to do, but you have to do certain things. It's ... one of them is
21 the knowledge of the animal that you're taking care of; are you taking care
22 of it correctly, are you giving it the right food, the medications, are there
23 diseases going around for that like mine on a homing pigeon, but anyway,
24 I do think that there's more information required and maybe we should ask
25 the applicant if it would be alright to ... if they would object to having it
26 tabled and providing this type of information.
27
- 28 Crane: I hear you. Let me hear from the other Commissioners. Ms. Ferrary.
- 29
30 Ferrary: I agree with Commissioner Beard that it's ... sounds like a great program
31 and good for the residents and maybe they encourage people to come
32 and visit them, especially young children more often. I thought we could
33 rely on Municipal Codes but we're not real sure exactly how they apply to
34 all the animals that they're trying to attain and have, of whether or not they
35 really could have them or not. So possibly tabling until we can check all
36 these things out would be a good thing.
37
- 38 Crane: Commissioner Stowe.
- 39
40 Stowe: I'm of a like mind; number of animals, specific breeds, types, and leaning
41 toward the smaller animals.
42
- 43 Crane: Thank you. I agree with my colleagues. I have many many questions
44 about the enclosure; how high is it, will people be able to lean over in to it
45 or will it be much higher. What about admission to the enclosure? What
46 about supervision of the residents who might ... residents or their guests

1 who might want to go in there? What indeed are the feeding methods? I
2 would like to see dimensions, plans of where the hutches and coops and
3 what have you are going to be. I think peacocks are very problematical,
4 roosters probably would not be a good idea, hens are good, they get
5 around in a flock without any roosters and they don't seem to feel any
6 pain. Rabbits are good, and a miniature goat, as long as it doesn't butt
7 you are good. What about the issue of children being in there? I would
8 like to see details and the applicants did volunteer photographs of the
9 situation in Santa Fe, I'd like to see that too. So I agree with my
10 colleagues that if you are agreeable we'd like to table the matter until you
11 can come in with some more information. Are you clear as to what we
12 seem to be concerned about? The applicants are indicating clear. Yes
13 ma'am, Ms. Montana.

14

15 Montana: Mr. Chair, Commissioners, I believe we can get this information available
16 for the July 22nd Commission hearing. So if we could postpone this to
17 date certain of July 22nd then we wouldn't need to re-advertise everything.
18

19 Crane: I think that would be a good idea. Mr. Clifton.

20

21 Clifton: I make a motion we postpone this case ... what is it ... PUD-14-01 to the
22 July 22nd, 2014 Planning and Zoning meeting.
23

24 Crane: Seconded by ...

25

26 Ferrary: I second it.

27

28 Crane: Ms. Ferrary. Any discussion? Mr. Beard.

29

30 Beard: Could we have a city animal control person here for that meeting?
31

32 Montana: Certainly. But as part of the packet to you I will have all the chapter seven
33 regulations related to the animals that they select in the packet for you, but
34 I can also ask one of our codes people in charge of the animals to attend
35 that meeting.
36

37 Beard: Good, I would like that.

38

39 Montana: Okay.

40

41 Crane: Okay, we'll ... we'll do a roll call vote, but of course we don't have to give
42 reasons for our decision, we'll start with Mr. Beard. We have a motion.
43 Mr. Clifton's motion that this be postponed to the 22nd.
44

45 Beard: Okay, I am saying yes or no?
46

- 1 Crane: Yep.
- 2
- 3 Beard: Oh, I see. I vote for the table, yes based on discussions.
- 4
- 5 Crane: Ms. Ferrary.
- 6
- 7 Ferrary: I vote yes to postpone.
- 8
- 9 Crane: Mr. Stowe.
- 10
- 11 Stowe: I vote yes.
- 12
- 13 Crane: And Mr. Clifton.
- 14
- 15 Clifton: Yes.
- 16
- 17 Crane: And the Chair votes yes. So we will vote five/nothing to postpone this until
18 22nd of July. Thank you.
- 19
- 20 4. **Case Z2875:** Application of the City of Las Cruces to rezone approximately
21 50 acres of a 300 acre parcel of vacant land owned by the U.S. Bureau of
22 Land Management (BLM) from H-Holding to C-3C-High Intensity Commercial
23 Conditional to accommodate new construction of a City-owned and operated
24 East Mesa Public Safety and Recreation Complex providing a police station,
25 a fire station and trails on land leased to the City by the BLM. Location is 100
26 N. Sonoma Ranch Boulevard; Parcel 02-39551. District 6 (Levatino)
- 27
- 28 Crane: The next item on the agenda is application Z2875. Application of the City
29 of Las Cruces to rezone approximately 50 acres of land owned by the
30 BLM from H-Holding to C-3C high intensity commercial conditional. And
31 Ms. Montana has the floor.
- 32
- 33 Montana: Thank you Mr. Chair, Commissioners. As you say this is a request for
34 rezoning of property that is currently under the ownership of the Bureau of
35 Land Management and it's designated H-Holding. Holding is a zoning
36 designation for property that is undeveloped and at the time it was
37 designated there were no plans for development. The property is located
38 off of Sonoma Ranch Boulevard, one would access it from Lohman or ...
39 winding across from, or down from 70. So it's right at the bottom really of
40 North Sonoma Ranch Boulevard. This is a close up. The larger property
41 owned by the Bureau of Land Management is about 350 acres and this
42 would be a 50-acre piece of that. The city would lease this property from
43 the BLM. As you can see this is a zoning map. I'm showing residential
44 zoning around it, a small pocket of commercial, planned unit development
45 which is also developed in residential use. So this would be the East
46 Mesa Public Safety and Recreation complex.

1 Usually at a rezoning stage we don't have site plans but in the next
 2 slide I will show you a conceptual site plan to give you and members of
 3 the public an idea of what would be developed in phases, and the first
 4 phase would be the public safety complex. This is the conceptual site
 5 plan, access from Sonoma Ranch Boulevard. This is the phase one, it
 6 would be about a two-story building which would house police and fire and
 7 some associated city agencies, parking, public access parking, and
 8 parking for the police and fire vehicles. Again this would be for the East
 9 Mesa community ... servicing the East Mesa Community. In the future
 10 there is land available in this 50 acres for an extension of a service road,
 11 some other city agency development, but mainly it would remain
 12 undeveloped for passive or trail recreation activities. I want to bring out a
 13 point to you, this area here would remain undeveloped and it's about I
 14 believe about 150-foot distance from the property line and then residential
 15 development here. So that's a good-sized buffer from the building or the
 16 site of the Public Safety complex and the closest residential development.

17 It is undeveloped. There are some service roads for BLM on the
 18 property but mainly it's native desert. The city would lease the land, about
 19 50 acres, again for police, fire, and some public trails. In order to achieve
 20 that the zoning is required because the holding designation does not allow
 21 development. They selected the C-3 zoning, there is limited C-3 and it's
 22 very limited land uses to the public safety, institutional, recreational uses,
 23 because the property is 50 acres, and C-3 zoning does not have a
 24 maximum lot size, whereas C-2, a lower intensity commercial does have a
 25 maximum lot size. So that's why the C-3 was selected. The applicant, the
 26 city did conduct an early notification meeting. They notified a registered
 27 neighborhood association within a 500-foot radius of the site. They invited
 28 them to a neighborhood meeting. It was held at the Dona Ana County
 29 College campus and it was attended by about half a dozen people. Most
 30 of the concerns expressed were possibly blockage of views, views of the
 31 mountains to the east, and also they wanted to be assured that people
 32 using the trail would have a ... parking on the property as a trail head such
 33 that those trail users would not park on their residential streets. We
 34 mailed notice to owners of property within the 500-foot radius as well and
 35 of course posted a big yellow sign on the property, and we received no
 36 comment as a result of that public notice. Based on the findings
 37 presented in the staff report, staff is recommending approval or
 38 recommending that the Commission recommend approval to City Council.
 39 And I'm happy to answer any questions you may have. The applicant of
 40 course is here.

41
 42 Crane: Thank you Ms. Montana. Commissioners, any questions for Ms.
 43 Montana? Mr. Clifton.

44
 45 Clifton: Just a few questions and I just think we need to get it on the record to
 46 clear it, typically with a zoning application whether you're the city or a

1 private developer you're required to submit an affidavit of zoning and a
2 signed application by the property owner. Now I understand it's
3 unreasonable to have ... the president or congress sign an application
4 directly for this one zone change request, but in the past I have seen
5 letters authorizing an applicant on take down of a lease on a BLM piece to
6 proceed with a zone change, not in support or denial or whatever, but just
7 authorizing on behalf of the property owner, the U.S. Government. And I
8 would just like clarification as to why that's not in here and if this is in fact
9 authorized by the U.S. Government and then I will have some follow-up
10 questions. Thank you.

11
12 Montana: Mr. Chairman, Commissioner Clifton, that was raised during the
13 application process. William Hamm, the director of our Land Management
14 Department is in negotiation with BLM and asked them if they would sign
15 such the affidavit, they declined. They're in negotiation about the lease
16 but it's their practice not to sign such a thing, but they of course are
17 participant, or well aware of the rezoning request by the city.

18
19 Clifton: Mr. Chair, staff, if a private landowner came in, a developer with a similar
20 zoning application on BLM land, would staff request an application signed
21 by the BLM, an affidavit, or would you allow them to further pursue their
22 proposal?

23
24 Montana: Mr. Chair, Commissioner, I can't answer that. However, the applicant is
25 here. Cathy Mathews and Tomas Mendez are here and they can answer
26 that on the part of their negotiations with BLM and I may have to defer to
27 the city attorney in terms of what I ... would we want a private applicant
28 who is seeking to rezone BLM land to have BLM sign that application ...
29 that affidavit, I'm not sure. Oh, Mr. Hamm is here. About your negotiation
30 with BLM.

31
32 Crane: Please identify yourself sir.

33
34 Hamm: Bill Hamm.

35
36 Crane: Can you speak on the mike please?

37
38 Hamm: Bill Hamm, City Real Estate Manager, City of Las Cruces.

39
40 Crane: Okay, Mr. Hamm do you swear or affirm that the testimony you are about
41 to give is the truth and nothing but the truth under penalty of law?

42
43 Hamm: Yes sir.

44
45 Crane: Go ahead please. Can you answer the question?
46

1 Hamm: The city is entering into what's called a recreation and public purposes act
2 lease with the Bureau of Land Management for this parcel. That conveys
3 ... does not convey, it leases long-term to the city at a nominal rate for
4 public purpose uses only. As part of that process we asked to be
5 specifically advised the BLM that the ... what our intentions were, that the
6 property was unzoned or zoned H. We needed to rezone it to accomplish
7 the project. They did provide in writing to my office that they do not
8 basically get involved or otherwise sign any applications for rezones on
9 any of their properties. That's a policy that goes all the way to
10 Washington, DC evidentially, so that's where they're at.
11
12 Crane: Thank you sir. Did that answer your question Mr. Clifton?
13
14 Clifton: Mr. Chair, Mr. Hamm good evening.
15
16 Hamm: Good evening, Kirk. How you doing?
17
18 Clifton: I'm doing good. Thank you. Yourself?
19
20 Hamm: Yes sir.
21
22 Clifton: Good. Do you have an executed lease from the BLM yet?
23
24 Hamm: We do not. It's due probably looking like about August.
25
26 Clifton: Would that be before the City Council takes final action?
27
28 Hamm: Probably about the same time.
29
30 Clifton: An executed lease in essence would act as authorization. Obviously they
31 signed it, but the concern I have though is again whether a private citizen
32 came in with a development request, how they would be treated
33 conversely to how the city's proceeding with this application.
34
35 Hamm: Yeah, I'm not sure. The R and PP process that we're following right now
36 would not be available to the private sector. It's government specific, so
37 what their policy is in terms of how they handle the private ... private
38 sector end of things I am not privy to. I do not know.
39
40 Clifton: Okay. Thank you.
41
42 Hamm: Yes sir.
43
44 Crane: Any other questions of Mr. Hamm? Thank you sir.
45
46 Hamm: Yes, sir. Thank you.

1
2 Crane: Is the applicant here please? That was he. I was glad to get the
3 opportunity to introduce you. Okay, well we've asked our questions of
4 you, so thank you. Ms. Montana do you have something to add?
5
6 Montana: No, I'm available to answer any questions that I can.
7
8 Crane: Any other questions for Ms. Montana? Mr. Clifton.
9
10 Clifton: Just for the benefit of the public and the Commission, can you guys give
11 us some kind of an idea what we're going to see here. What's it's going to
12 be like, is there going to be a lot of traffic, was there a TIA, is there going
13 to be noise, smoke, what's going to happen to the mountain right there? I
14 mean it's awfully close to the residents and I just ... you know I'm
15 concerned for the public and any potential disturbances it may cause.
16 And would just like a little more clarification on what is going to occur
17 there, that way the neighbors have an idea, they live there.
18
19 Crane: Who is this gentleman? Can you identify yourself sir?
20
21 Mendez: Yes sir. Good evening Commissioner. My name is Tomas Mendez,
22 architect for the City of Las Cruces.
23
24 Crane: Okay. Mr. Mendez do you swear or affirm that the testimony you are
25 about to give is the truth and nothing but the truth under penalty of law?
26
27 Mendez: I do.
28
29 Crane: Go ahead please sir.
30
31 Mendez: To address Commissioner Clifton's questions, this area in here is the only
32 parcel or the only portion of the entire site that is going to be disturbed
33 with the inclusion of this service road, and you can barely make out a
34 turnaround right there, traffic circle, to allow emergency vehicles to get in
35 and out, as well as to allow traffic that may get in here to again exit back
36 onto Sonoma Ranch. If I may, I'd like to switch presentations. Okay.
37 Yes, on your drive. Is it here?
38 This is the same site plan with the superimposition of the floor plan
39 showing what it looks like, more or less to scale. I'd like to mention and
40 conferring with Cathy Mathews, the city's landscape architect, at present
41 these trails are not funded, they're not in our present ... in our next year's
42 fiscal budget but we do show them to illustrate to the Commission the
43 intent of the development. These boxes here, these three parcels are
44 potential building sites, each approximately two acres which is comparable
45 to this area down here to show future sites. There is no specific
46 designated function for those areas at present.