# City of Las Cruces®

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## Council Action and Executive Summary

Item # 8 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 | | |
|---|---|---|
| **Drafter/Staff Contact:** Susana Montana, Planner | **Department/Section:** Community Development/Building and Development Services | **Phone:** 528-3207 |
| **City Manager Signature:** | | |

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

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

**BUDGET NARRATIVE**

| |
|---|
| N/A |

**FUND EXPENDITURE SUMMARY:**

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

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will approve the 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: _____

Exhibit "A"

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

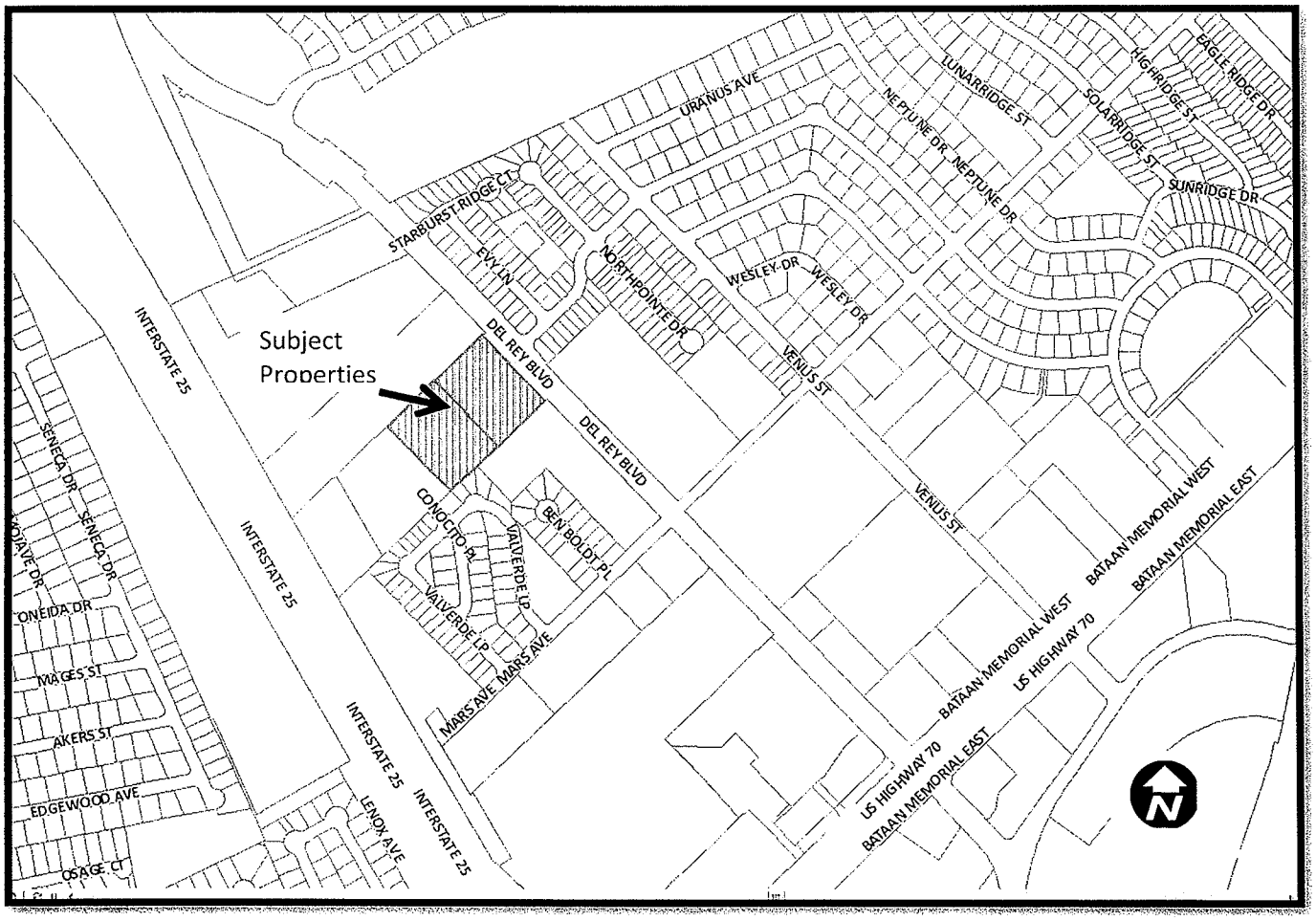

Exhibit "B"

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

### Land 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.

Exhibit "C"

# 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.

Attachment "A"

**City of Las Cruces®**
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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 feet 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**

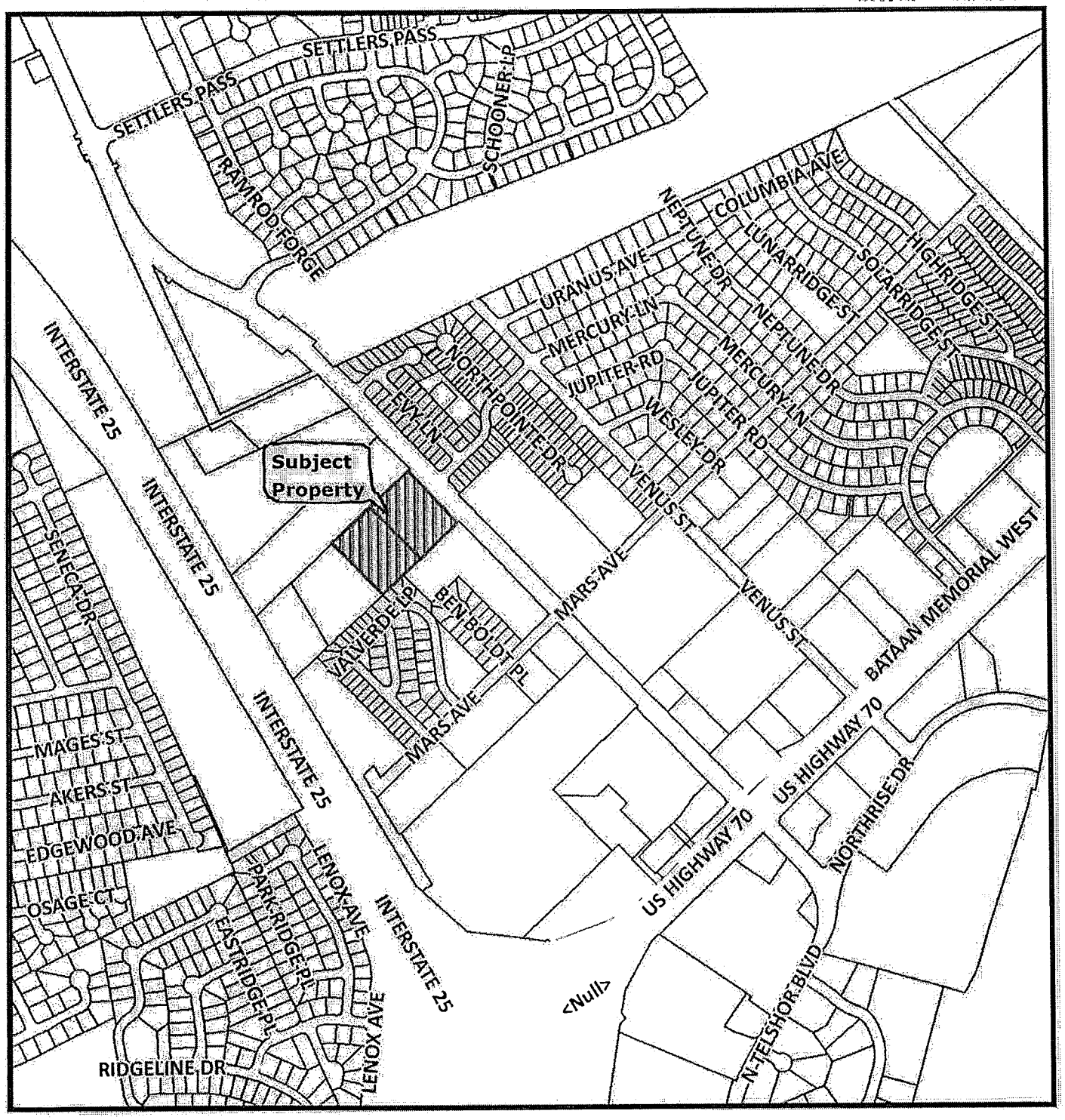
1. Location Map
2. Aerial Vicinity Map
3. Zoning Map
4. Aerial Site Map
5. Site Plan
6. Development Statement and proposed PUD land uses
7. Comparison of 1981 and 2001 C-2 land uses
8. Reviewing Department/Agency Comments

# Attachment 1

**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

15075 0 150 300 450 600 750 9001,050 1,200 Feet

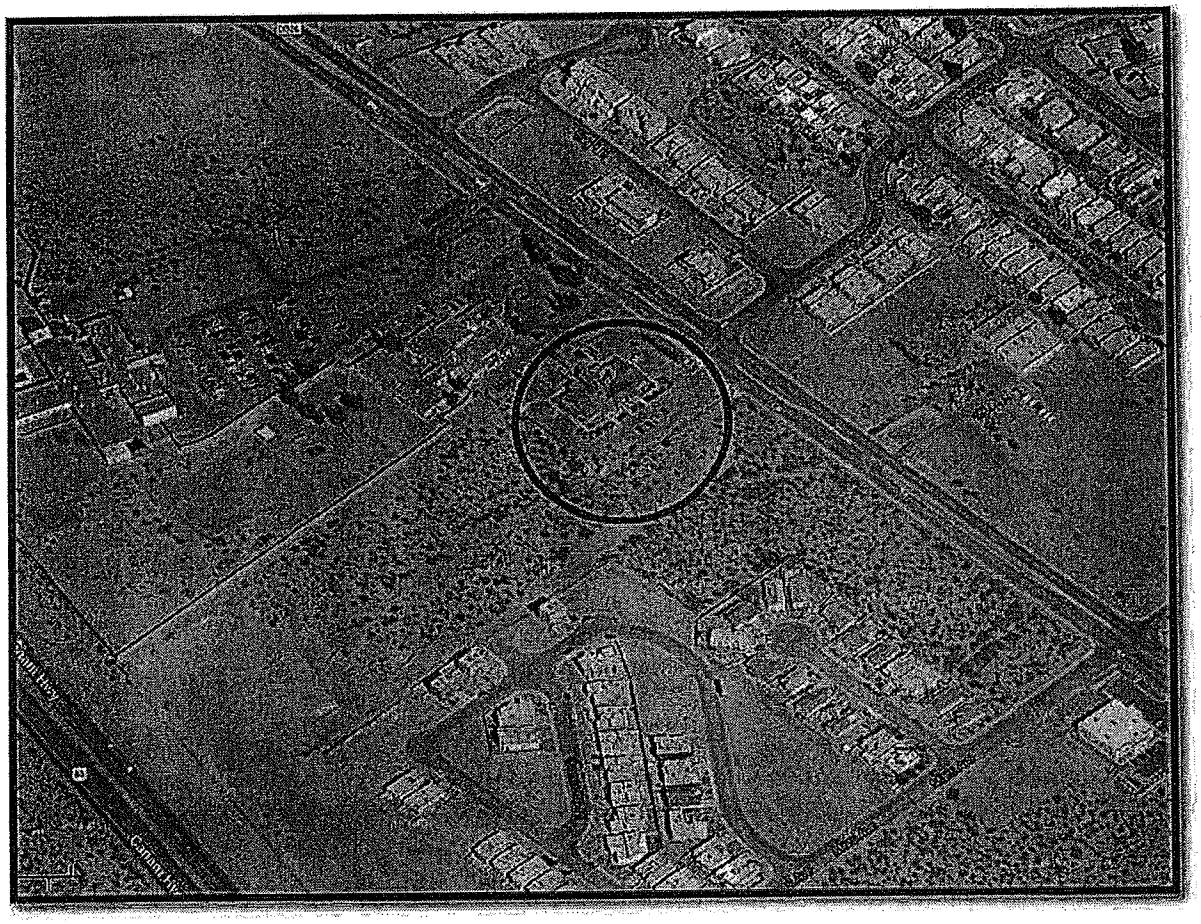
**Community Development Department**
**700 N Main St**
**Las Cruces, NM 88001**
**(575) 528-3222**

**Legend**

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

Attachment 2

# Aerial Vicinity Map

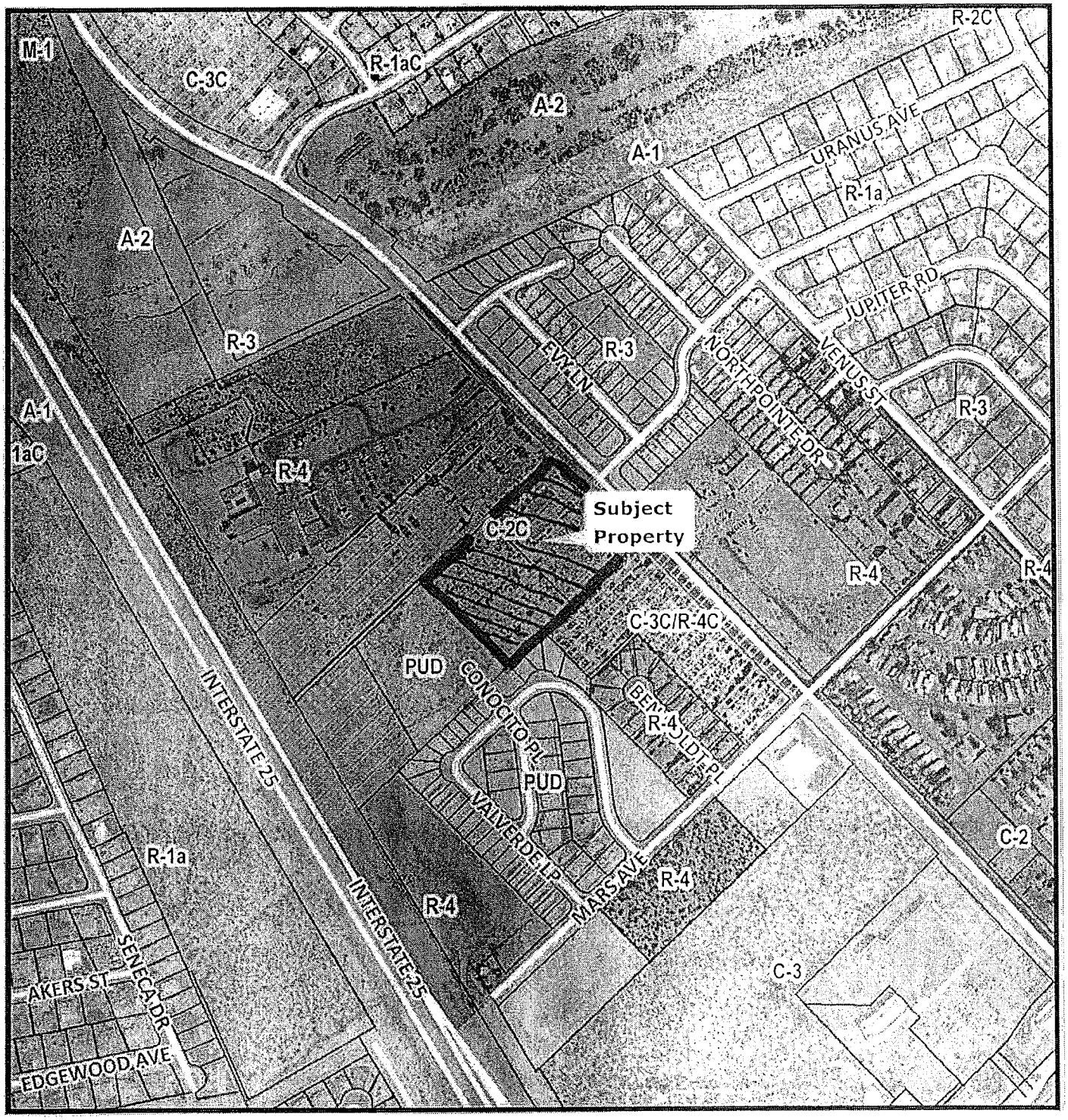


# Attachment 3

**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

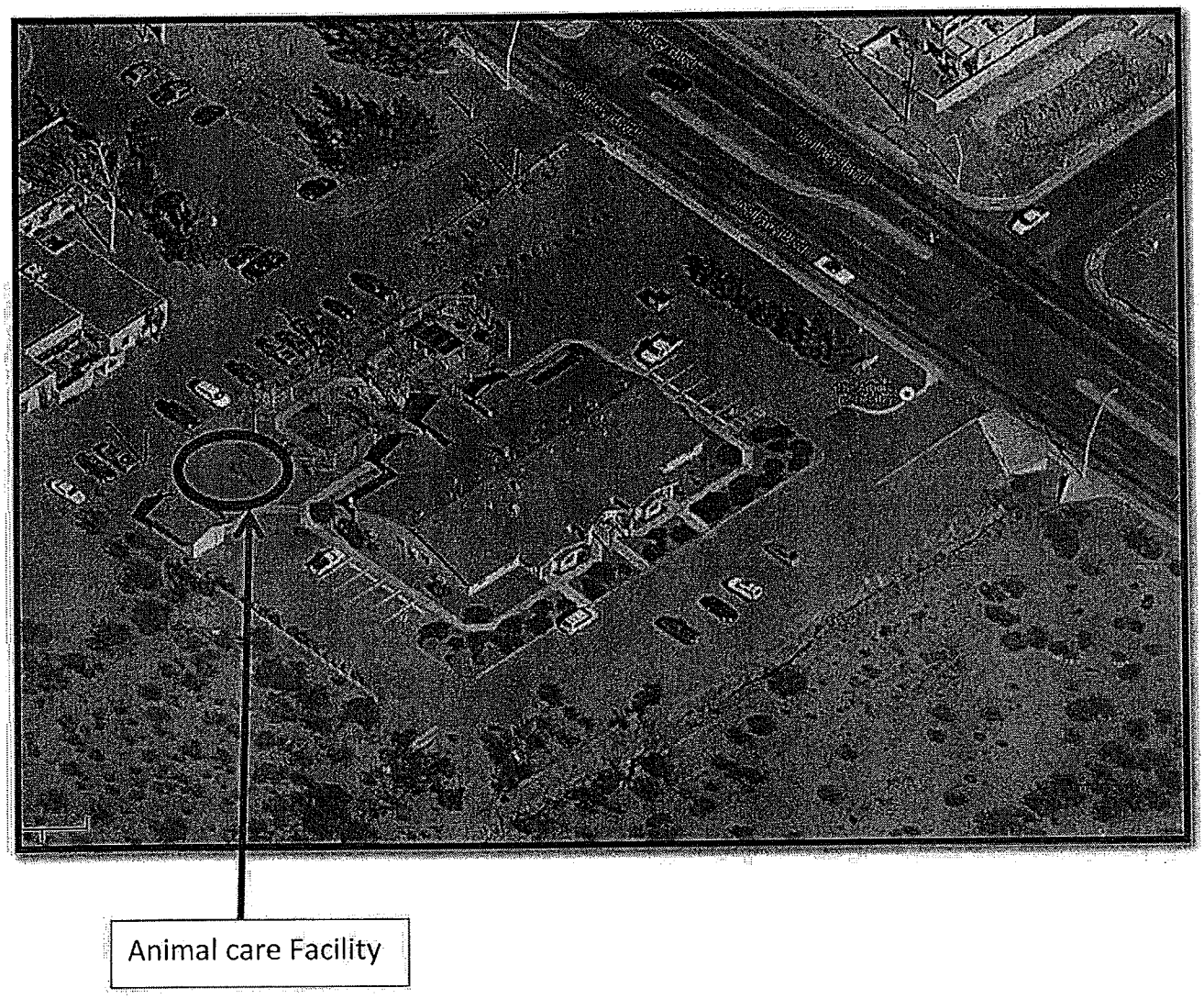
150 75 0 150 300 450 600 Feet

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

*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.*

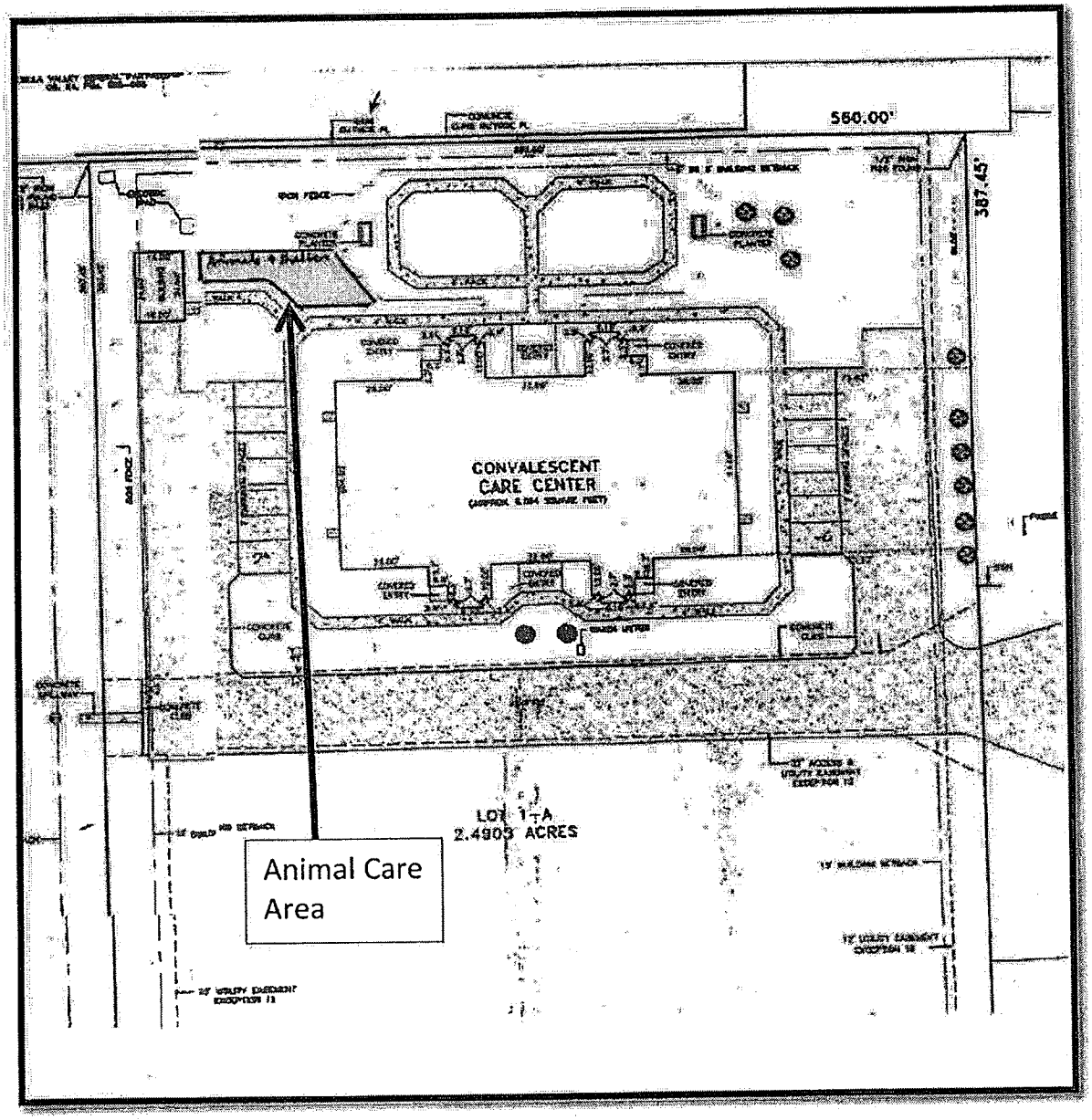
Attachment 4

# Aerial Site Map



Attachment 5

# Site Plan



Attachment 6

# 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 43560

Phone: Home( ) Work(419) 244-6514 Ext. 112 Mobile( ) Fax(419) 243-0221

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

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

**Owner(s):**

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

**Property Owner Please Initial: Yes** X* **No** _____

Granite Circle Investors / Northhaven 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: 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

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

| | | | | | |
|---|---|---|---|---|---|
| Accepted by: | AO | Fee Paid: | $615.- | Date Fee Paid | 5/1/14 |
| Receipt No. | # 6547878 | Check Number | # Visa | Case Number | PUD-14-01 |
| Submittal Date | 5/1/14 | Submittal Complete | | Assigned to: | SM |

# 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 Arbors of Del Rey

Michael E. Manzanares
NOTARY PUBLIC Michael E Manzanares

My Commission Expires:
August 23rd 2015

NOTARY PUBLIC

# 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 ½" 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, i.e. 2 - goats, peacocks, ducks, chickens, and rabbits. Refer to enclosed pictures of Sierra Vista in Santa Fe. Property is not being changed. Adding 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

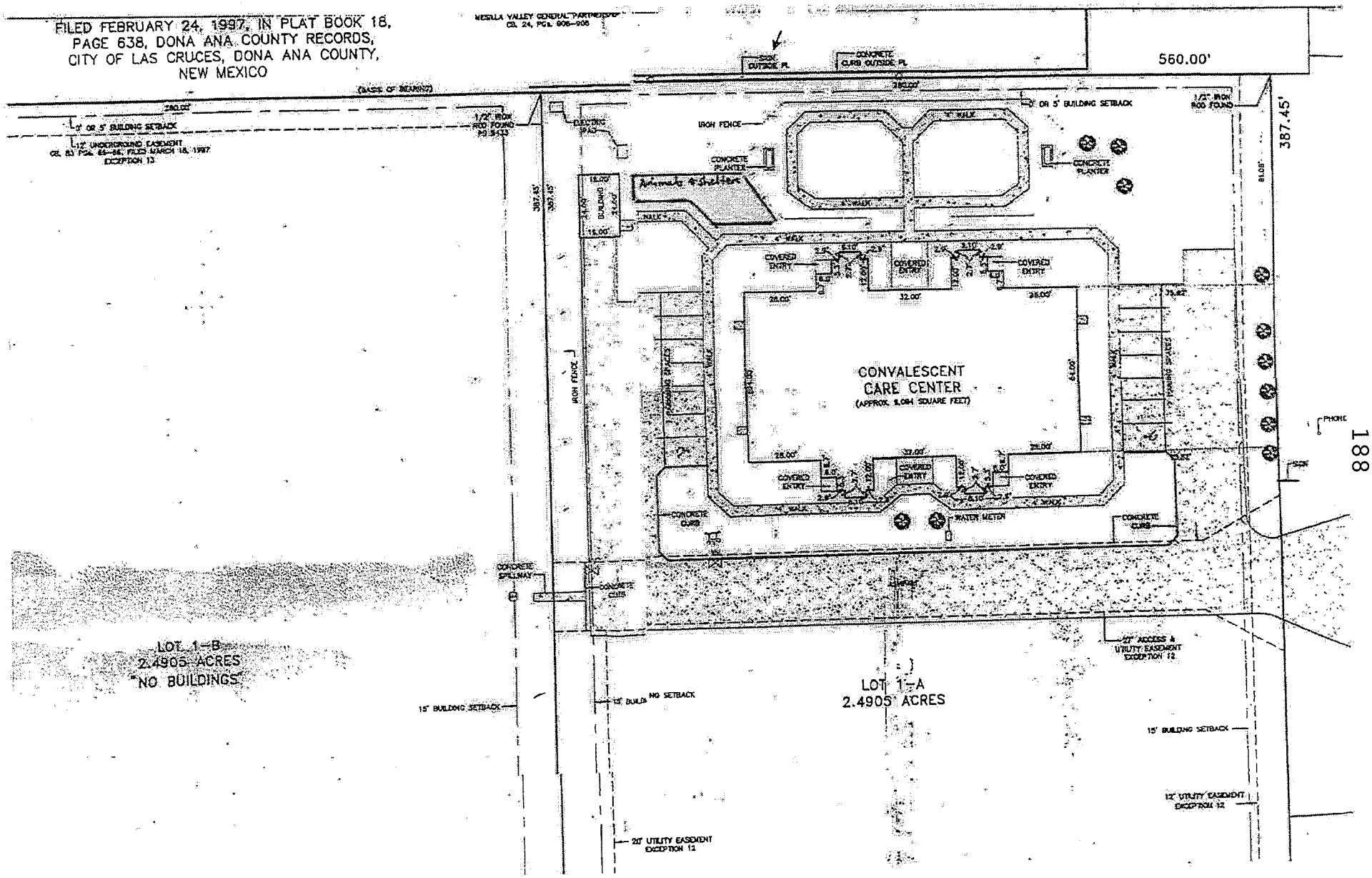
Subdivision Plat (If applicable)

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




188

# Arbors of Del Rey

Assisted Living Community

1 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

3731 Del Rey Boulevard
Las Cruces, NM 88012

www.vistaliving.com
Email: arborsofdelrey@vistaliving.com

Phone: 575-382-5200
Fax: 575-373-0379

# 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

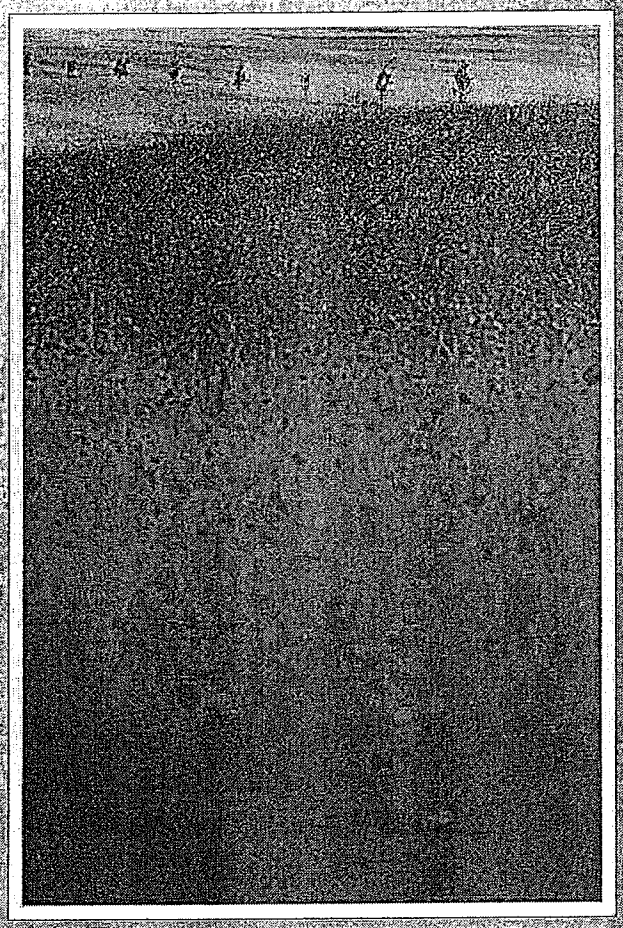
- The Eden Alternative is an international not-for-profit organization based on the core belief that aging is a continued stage of growth and development, rather than a period of decline. The Eden Alternative's principle-based philosophy is a powerful tool guiding organizations through the journey of 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.

14500 Ranch Road 12, Suite 1 Wimberley, TX 78676 (512) 847-6061 Fax (512) 847-6191
www.edenalt.org

- 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.

# # #

EDEN
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:

1

*The Eden Alternative Principle #*

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

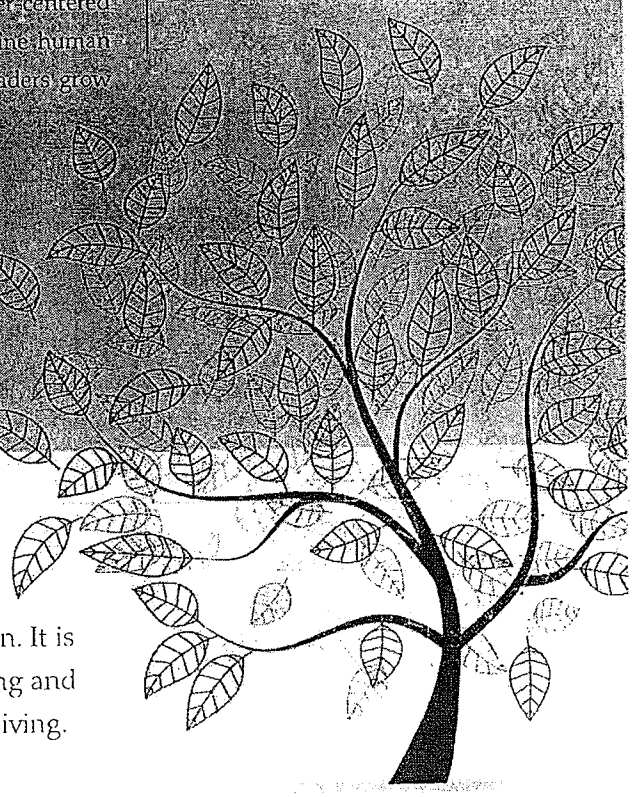
## The Eden Alternative is Culture Change...

"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 #*

2

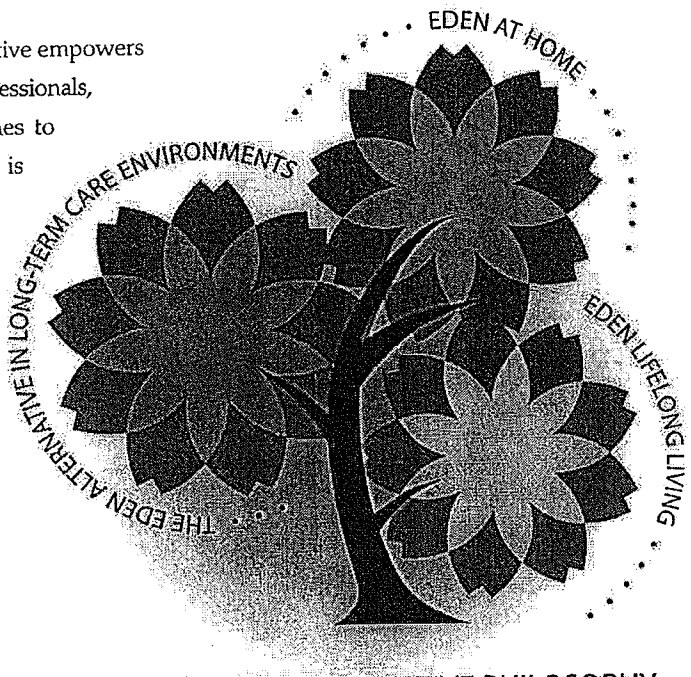
An Elder-centered community commits to creating a Human Habitat where life revolves around close and continuing contact with plants, animals, and children. It is these relationships that provide the young and old alike with a pathway to a life worth living.

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.



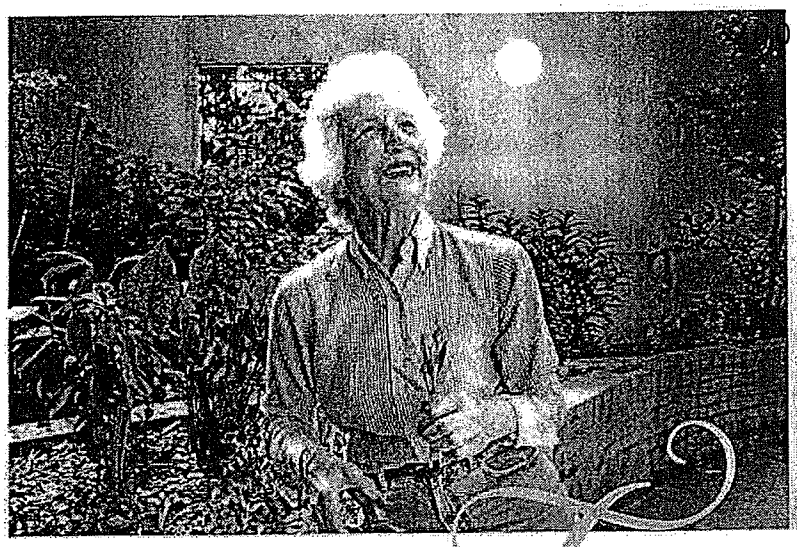

THE EDEN ALTERNATIVE PHILOSOPHY

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 #*

3

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 Kelso, 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 LifeLong 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.

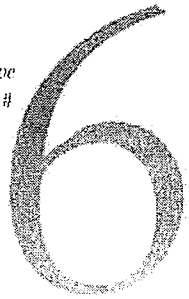
While society tends to describe the needs of these individuals in terms of "disability," the Eden Alternative Philosophy builds on strengths. This principle-based philosophy focuses on the unique ways our "different abilities" hold the promise of possibility and what we each have to offer our communities. 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!

*"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 Principle #*




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

## 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 #*

7

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.

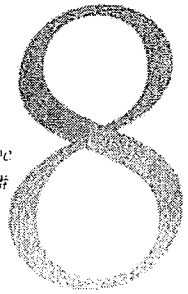
### Consultation Services...

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 Registy 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 is part of the journey, and is to be enjoyed as much as the destination!"*

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 Eden Alternative Principle #*

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.

*"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 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 60%
- 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:

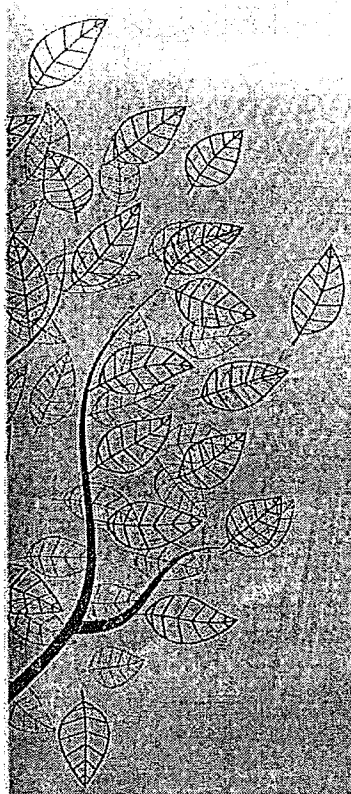
- 2 in 3 participating care partners said the training received was still extremely or very useful over time
- 8 in 10 participating care partners felt they had changed their outlook on giving and receiving care
- Over 1/2 of the participants experienced positive changes in relationships with Elder care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

*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.

EDEN ALTERNATIVE®

*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 |

Attachment 8

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 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**.

---

WATER AVAILABILITY & CAPACITY:*

Water Provider:

CLC ✓

Other _____

CLC Water System capable of handling increased usage:

Yes ✓

No ____

Comment _____

No water rights issues - F.O. 5/6/2014

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: Mel Montoya Date: May 8, 2014

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

Additional comments:

**PUD-14-01 The Arbors at Del Rey PUD** **May 8, 2014**
**Advanced Planning Comments (C McCall)**

**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 polices 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

**City of Las Cruces**
PEOPLE HELPING PEOPLE

PUD Case Review Sheet

MAY 0 1 2014

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 X 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.***

DEPARMENTAL RECOMMENDATION & OTHER COMMENTS:

Recommendation: X Approval _____ Denial

Comments:

Reviewer: MP 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 ✓ | No ____ | N/A ____ |
| Adequate curb cut | Yes ✓ | No ____ | N/A ____ |
| Intersection sight problems | Yes ____ | No ✓ | N/A ____ |
| Off-street parking problems | Yes ____ | No ✓ | N/A ____ |

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 X when (timeframe)? _____

Is a TIA required? Yes _____ No X

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 Espinoza Date: 5/5/14

# 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: Natashia Billy

Reviewer contact no. 528-3496

① Must meet stormwater quality ordiance (~~as~~ animal waste etc.)

② 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 ___x__ 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: _____

City of Las Cruces®
PEOPLE HELPING PEOPLE

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: X Approval ____ Denial

Comments:

Reviewer: Susana Date: 5/8/14

Attachment "B"

# 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
**Biorestoration 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 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,

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 or 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

Attachment "C"

**City of Las Cruces**
**Community Development**
**Memorandum**

To: Planning and Zoning Commission

From: Susana Montana, Planner – SM

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

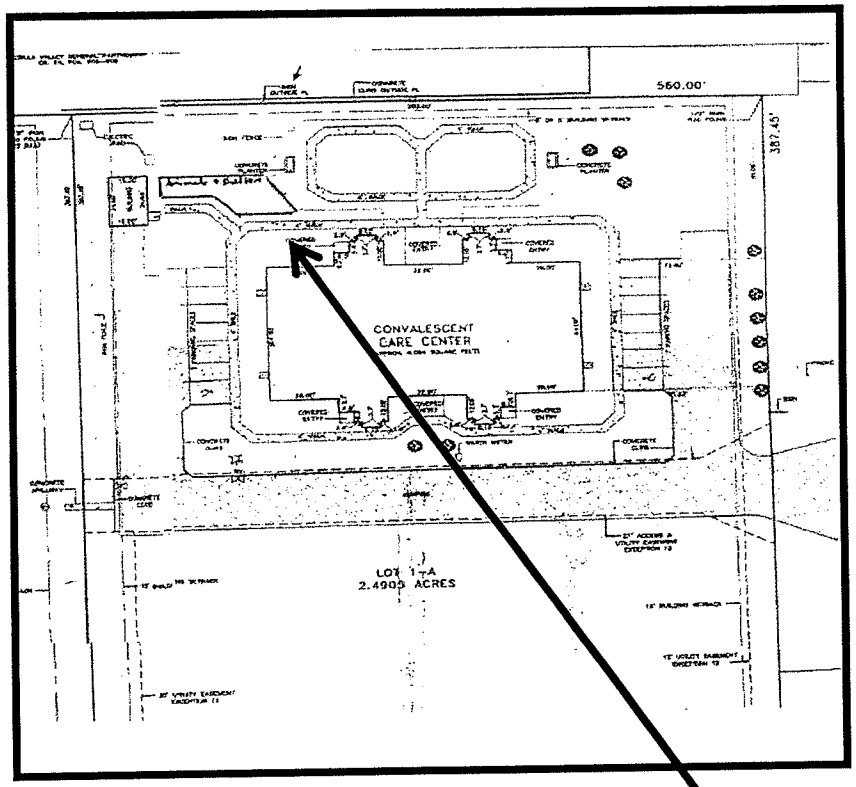
    e. The Applicant will conform to all applicable Las Cruces Municipal Code, Chapter 7, requirements for the care of small animals.

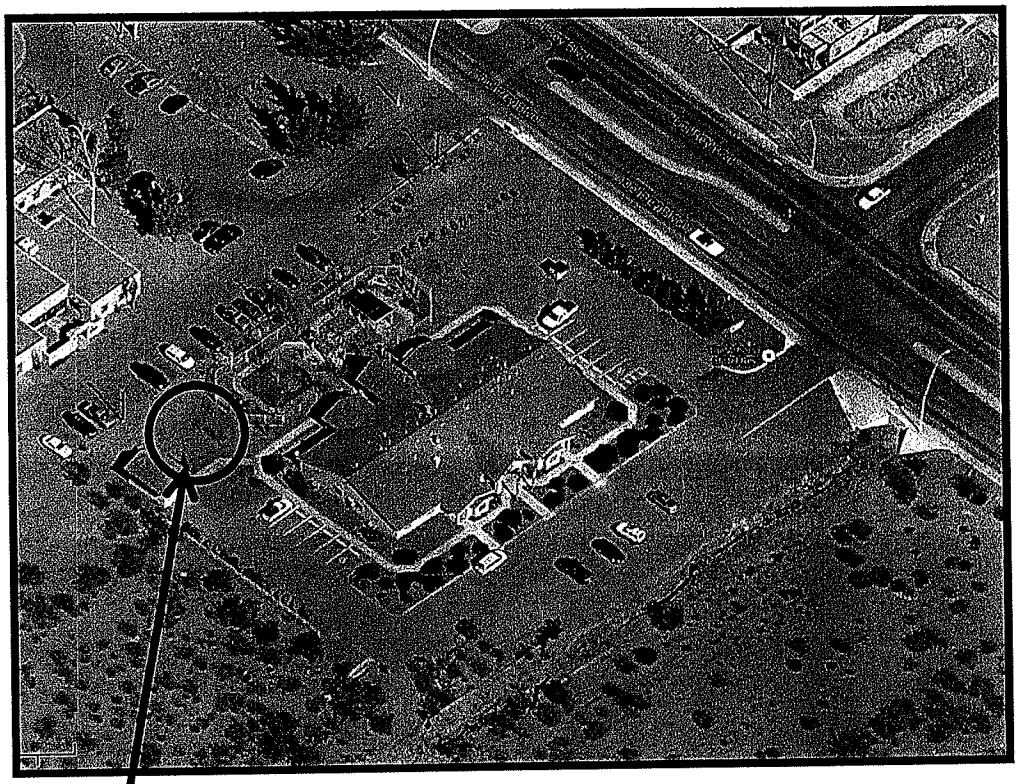
    f. The Applicant will not include roosters or peacocks in the animals cared for on the property.

    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.

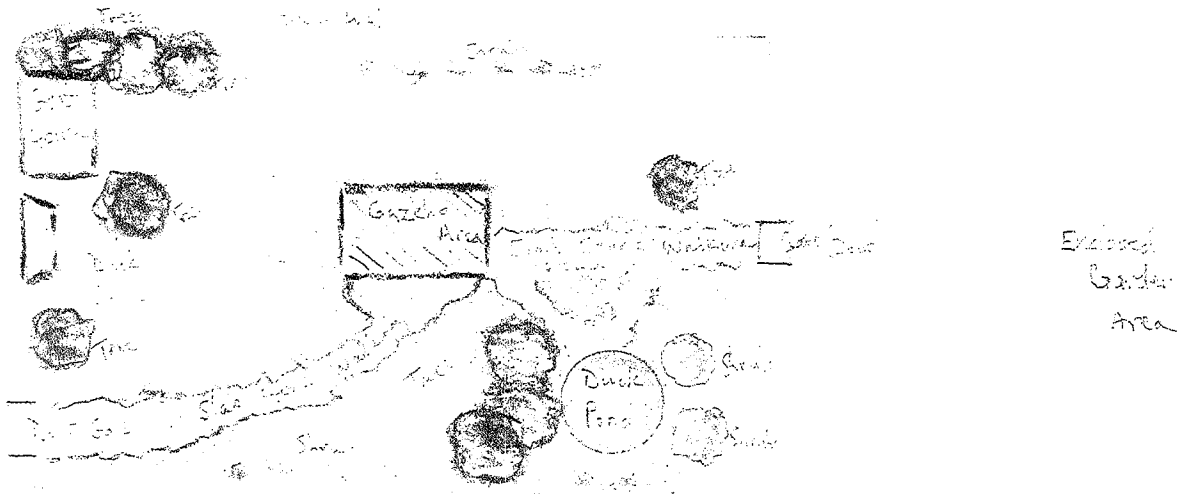
Attachments



Animal enclosure area

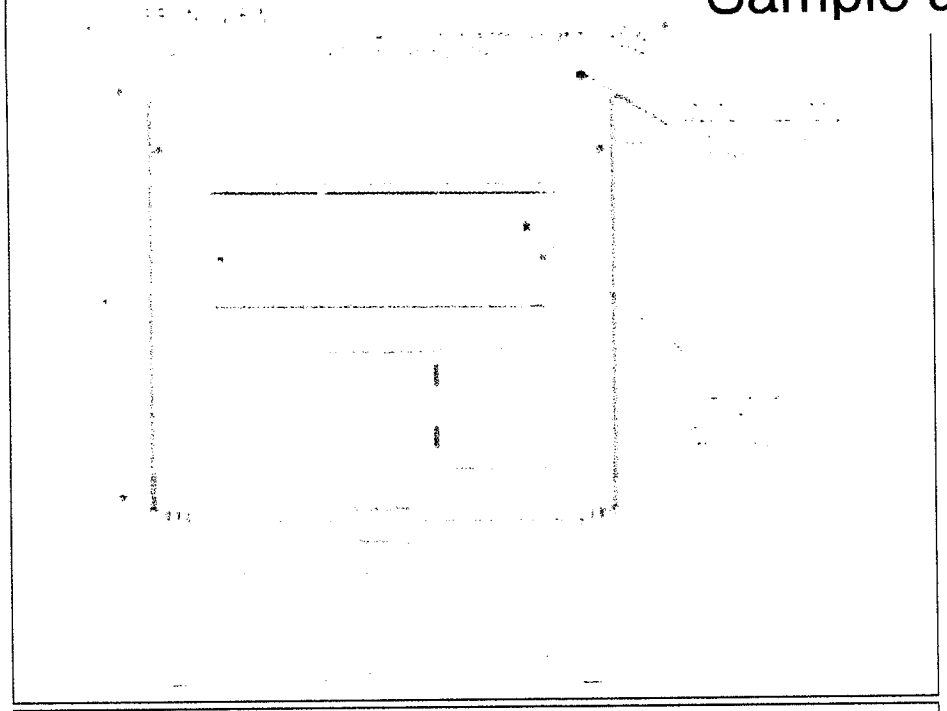
# Proposed animal area

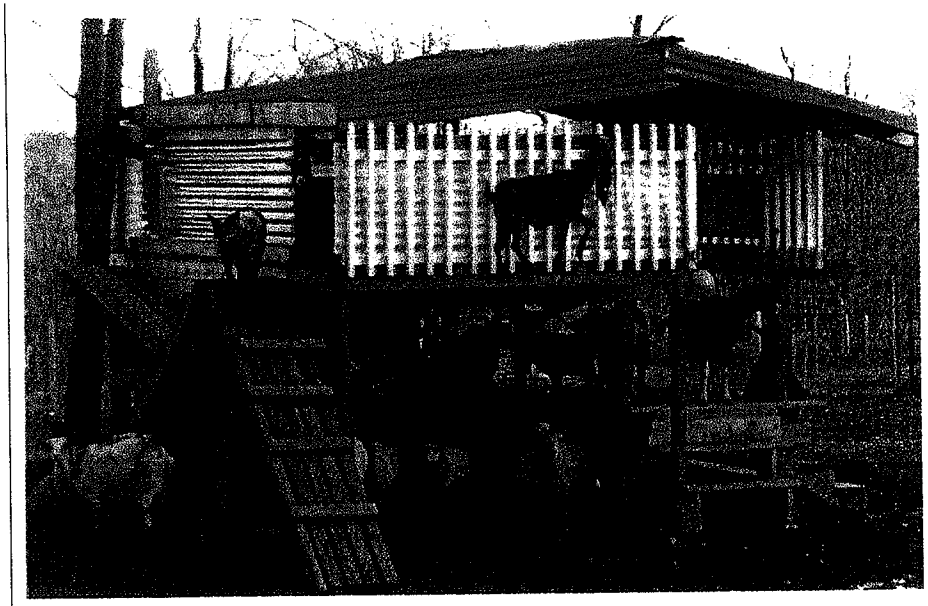


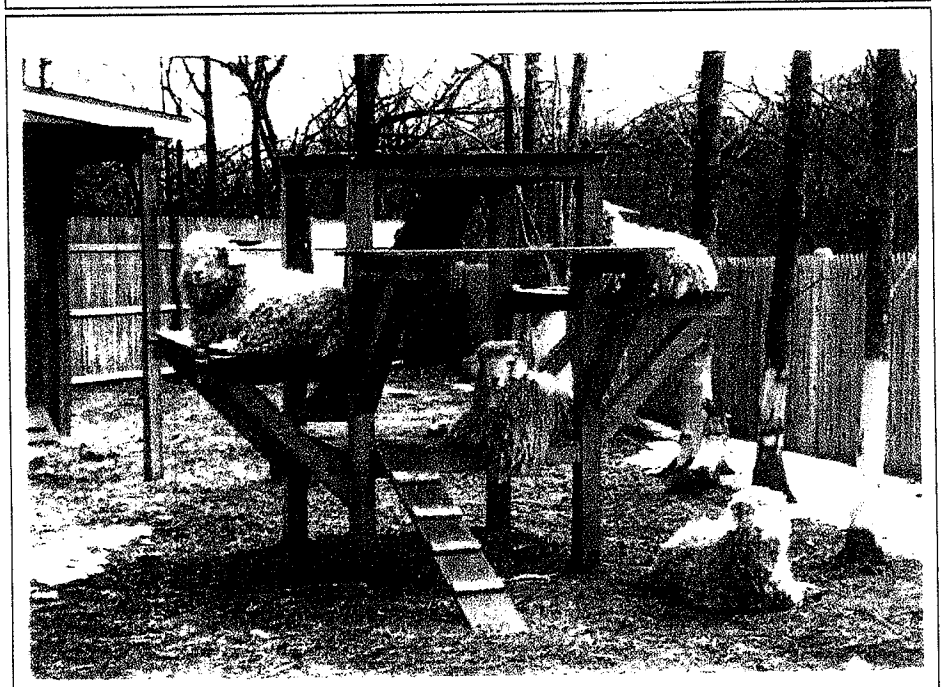
Proposed animal area

Proposed animal area

# Sample animal shelters







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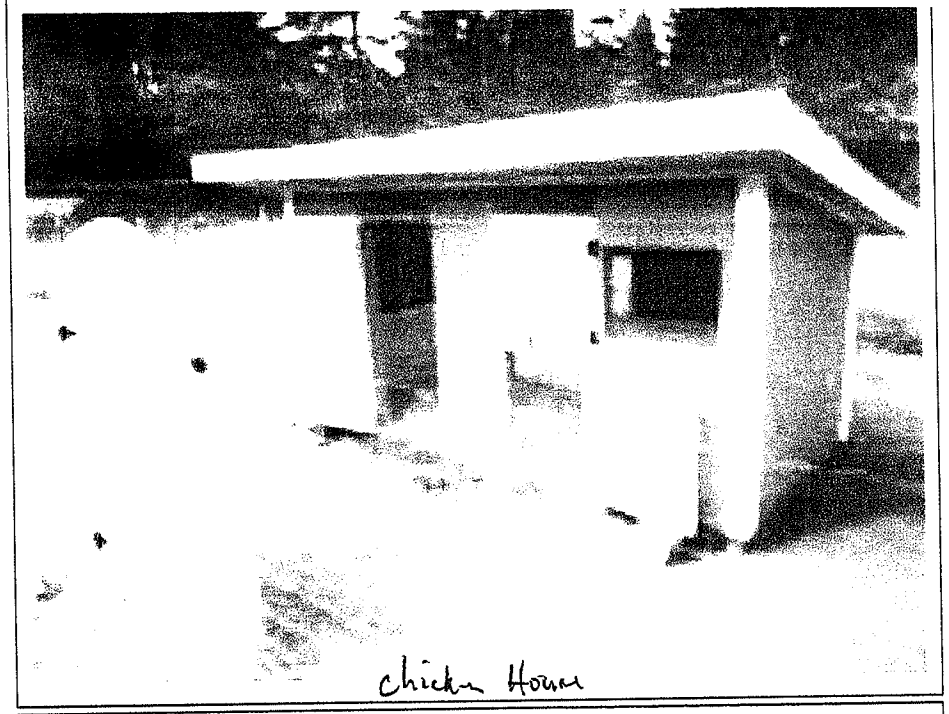


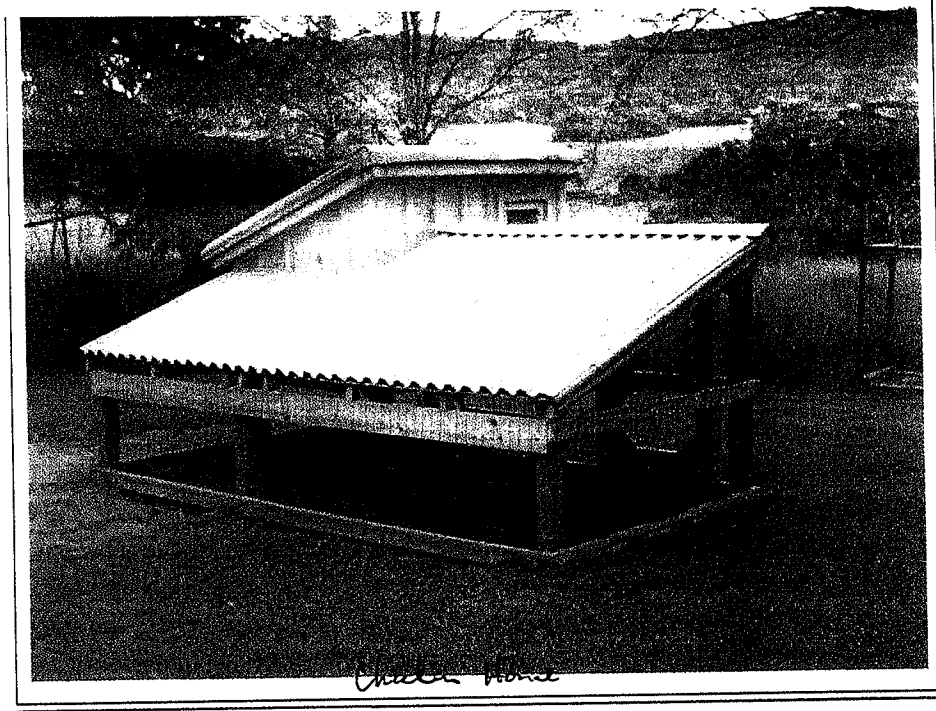

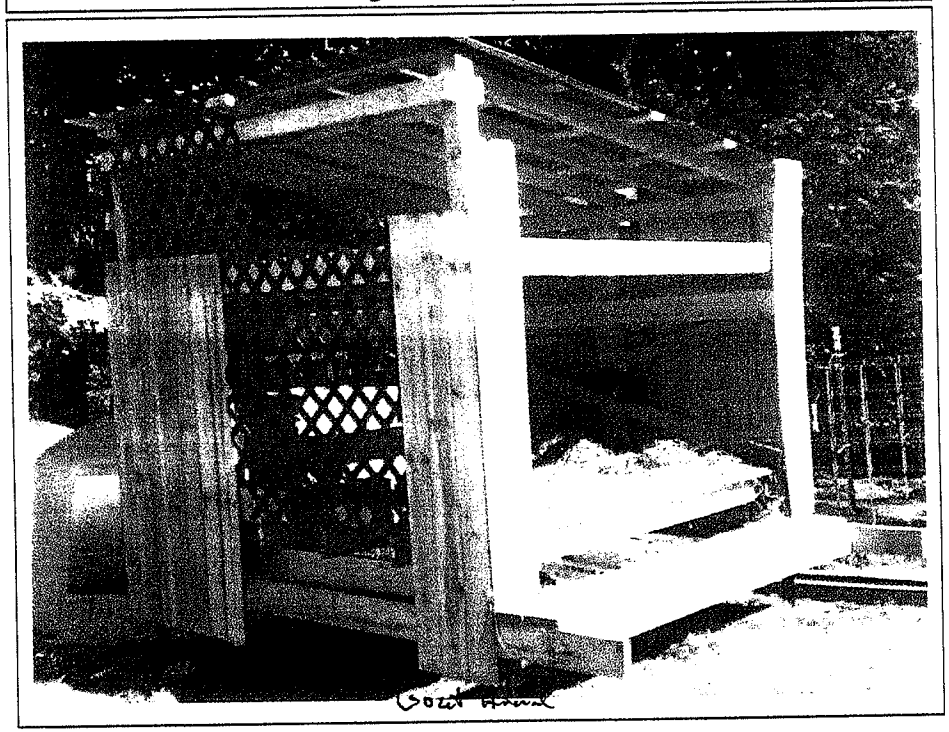

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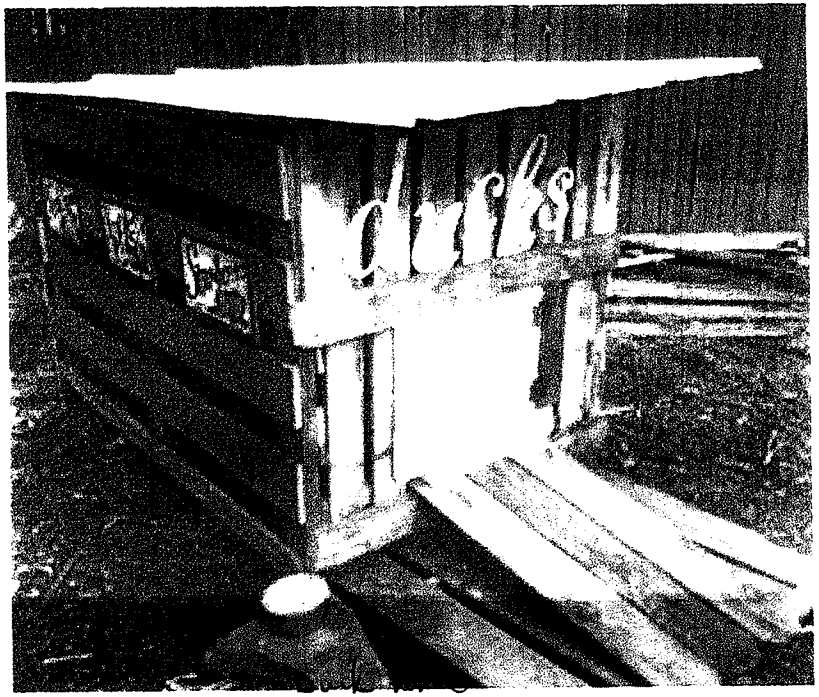
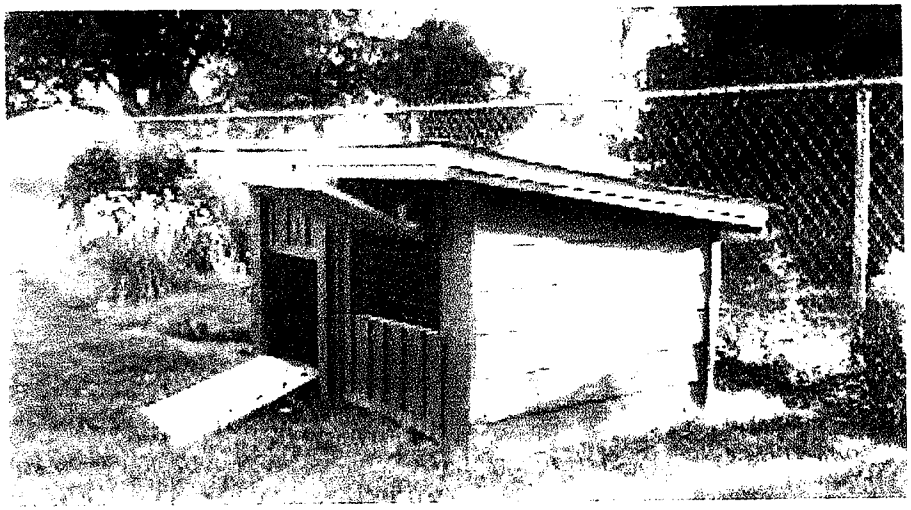
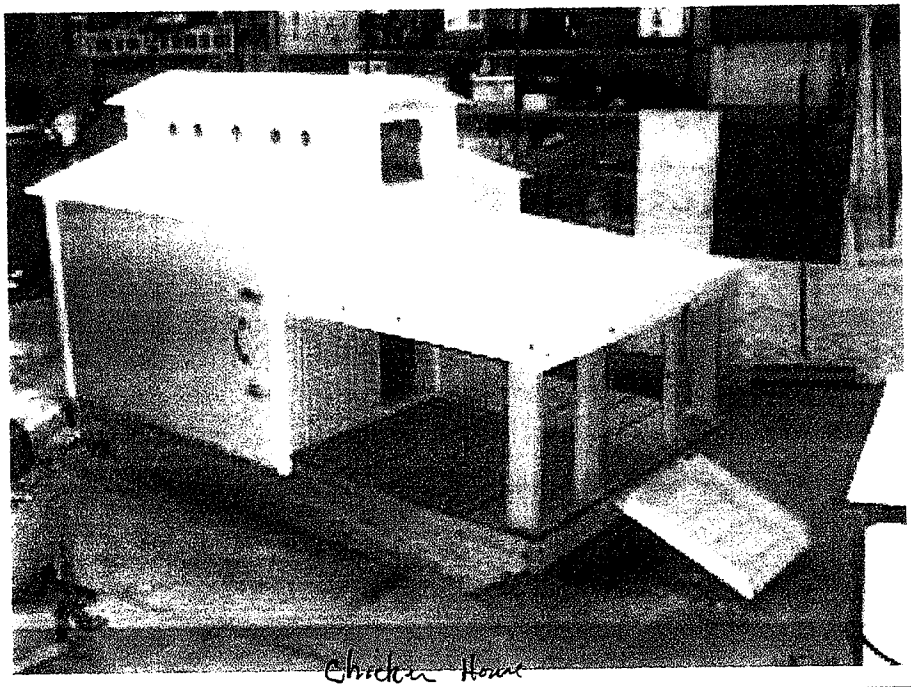




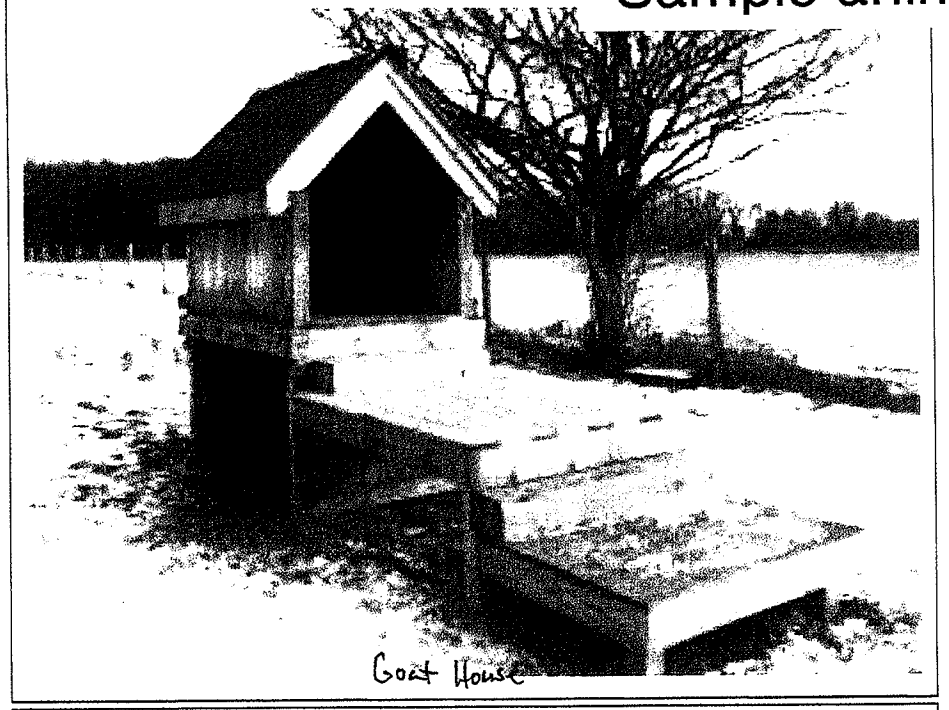
Chicken House

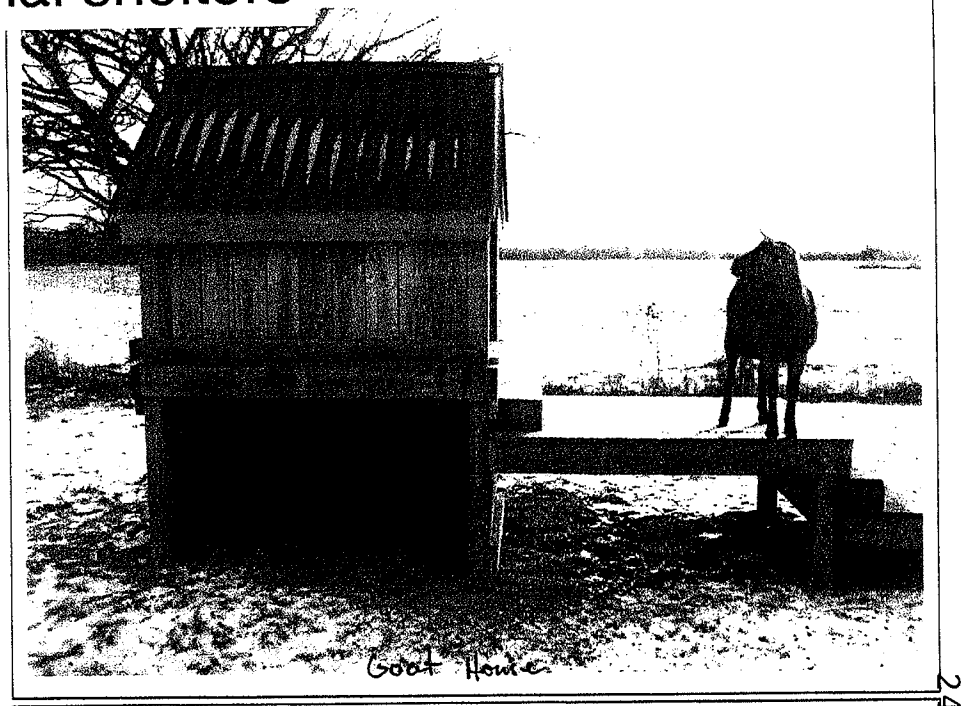


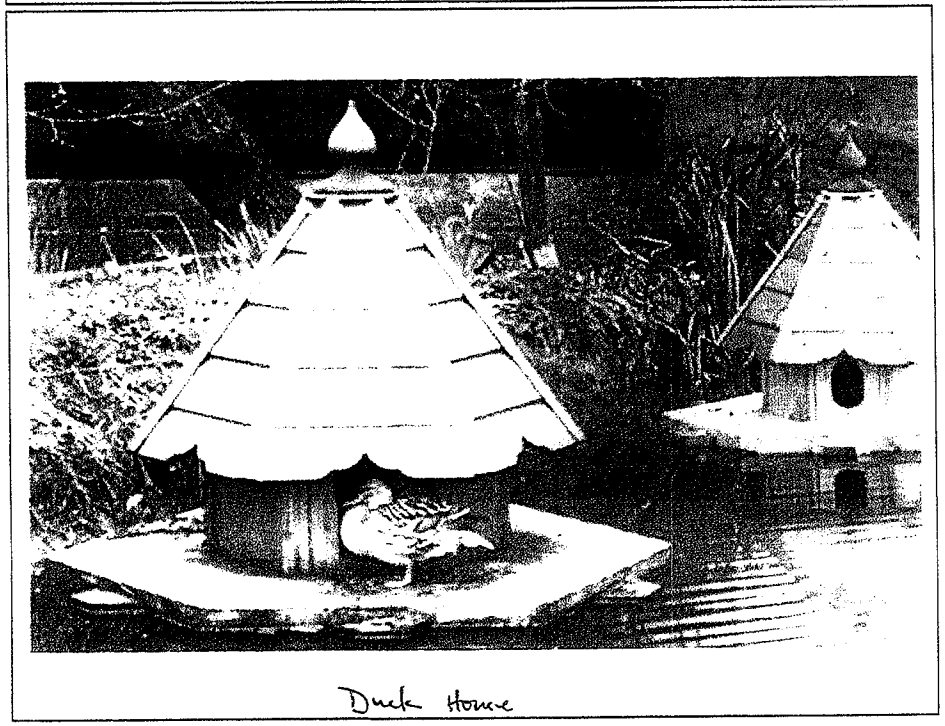
Chicken House

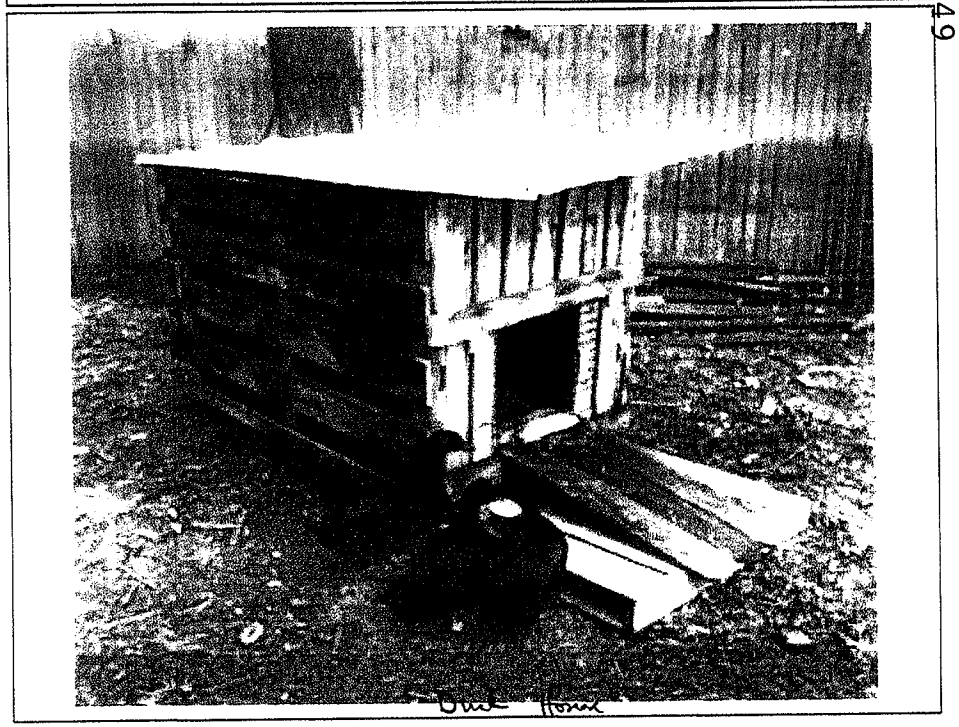
Chicken House

# Sample animal shelters



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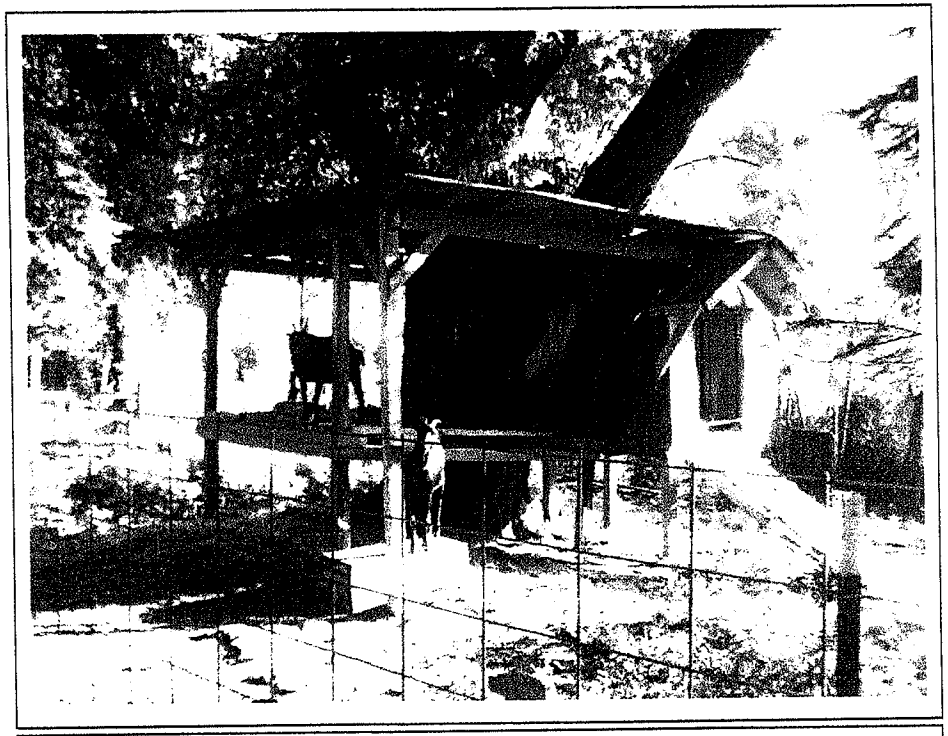

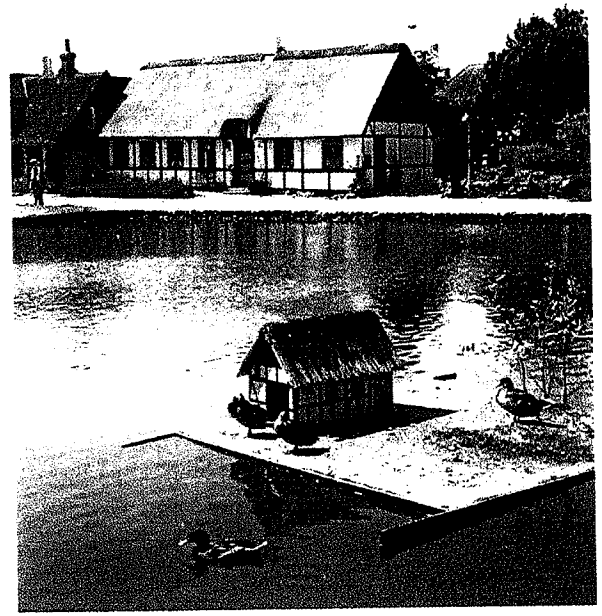

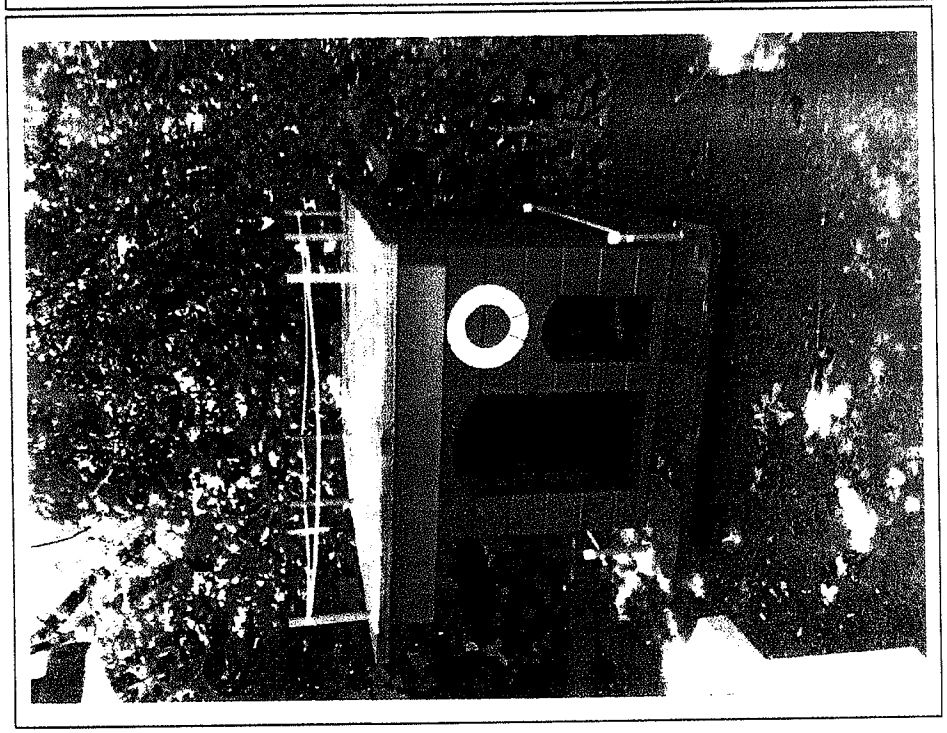

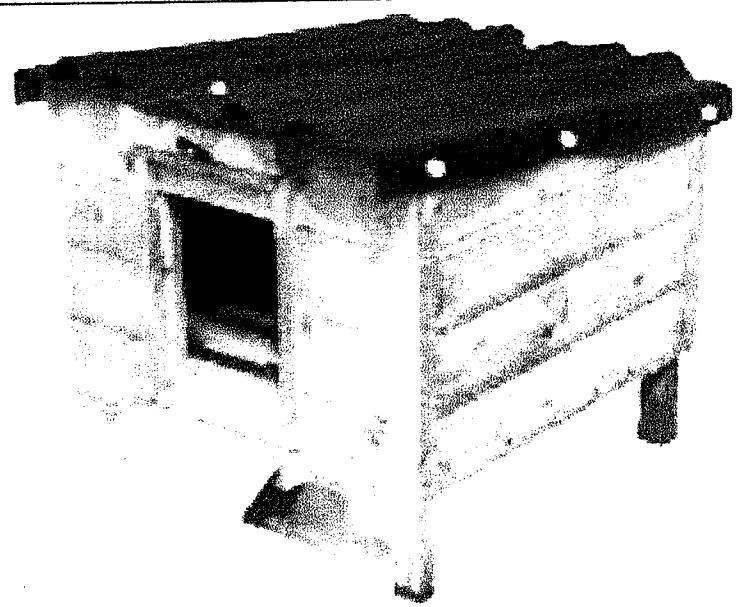

Attachment "D"

**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?

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

## III. APPROVAL OF MINUTES

1. May 27, 2014 - Regular Meeting

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

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

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

Stowe: Second.

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

ALL: Aye.

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

## IV. CONSENT AGENDA

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

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

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

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

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

Stowe: So moved.

Crane: Moved by Mr. Stowe.

Beard: Second.

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

ALL: Aye.

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

## V. OLD BUSINESS - NONE

## VI. NEW BUSINESS

Crane: We have a postponement Mr. Ochoa.

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

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

Ochoa: No sir, that's it.

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

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

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

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

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

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

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

Ochoa: I do sir.

Crane: Thank you.

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

Crane: I think rather than read the whole thing as you mentioned to me before the meeting that almost all of their objections are in fact already taken care of and there was only one that was not, so we could perhaps confine ourselves to that.

Ochoa: We could definitely do that Mr. Chairman. The members from the public essentially had no issues with the proposed potential Veteran's Affairs Medical facility on the property, but are adjacent property owners of residential lots and essentially were asking for a couple of requirements or conditions to be placed on the proposed zone change. The first thing being ... asking the Planning and Zoning Commission to require the facility to be limited to a single story and to include sufficient setbacks to the existing residential homes on the adjacent residential lots. And additionally they also requested to require the applicant to provide a sound wall and mature trees along the adjacent residentially zoned properties to the west to assure some type of I guess buffer if you will between the subject property and, excuse me, the residential lots. Now those ... the first condition that they're asking for, that's something that they're asking for that's outside of the bounds of the zoning code of course, but the second item about sound wall/landscape area, that is already kind of a requirement required by code. If this property gets developed for a nonresidential use, commercial, or the VA facility, they are required to provide a buffer yard adjacent to that residentially zoned property, anywhere from a 15-foot semi-opaque buffer yard or a 10-foot opaque buffer yard which is anywhere between about a six-foot tall opaque wall and then landscaping behind it or a four-foot tall landscape ... opaque wall with landscaping behind it. So, that is kind of taken into effect and the setbacks are required to be met there as well with that.

Crane: So the sound wall and mature trees requirement is there already, they will have to do that. The single story cannot be required, or could we require it?

Ochoa: That's something that the Planning and Zoning Commission may require or ask the property owner, the applicant, to possibly take into consideration. It's definitely up to you sir.

Crane: And includes sufficient setbacks to the existing residential homes and lots. Sufficient is not specified here.

Ochoa: No sir.

Crane: Is there any elbowroom to change that? Ms. Harrison-Rogers, your light's on.

H-Rogers: Yes sir. Mr. Chair, members of the Commission, I was just ... I was going to wait until you were done with your statement, but did want to specify just for reference the height limits in terms of what's allowed in various zones so that you had a reference point for that since they were asking for a single story, I was just going to point that out for you. For the type of zoning that's being requested, it's 60-feet, however for residential, typical single-family residual it's 35-feet as a maximum height.

Crane: Okay. Thank you.

Ochoa: And, sorry sir, to answer your question about the setbacks, since that buffer yard is required they cannot build within that buffer yard area. They can't even put parking in that buffer yard area. It has to be actual dedicated kind of left alone space if you will between the property line and where they can commence to start developing of the building or parking area for the facility sir.

Crane: Okay. Is there any representative of Mr. and Mrs. Test present? All right, nobody indicates they're a representative.

Ochoa: Mr. Chairman. I also just wanted to add, the existing zoning on the property now is still C-3C/R-4C, so technically if this zone change to add additional uses was not permitted they could still develop a potentially 60-foot tall building, or the maximum building height in the existing zoning on the property is 60-feet in height.

Crane: They could.

Ochoa: Yes sir.

Crane: They're permitted to do it, so I'm trying to phrase this in a way that we could vote on. I can't regard this as a ... this is simply a public comment is it not? And if the zoning permits two stories then the people who are making this note to us are really unable to force it single. Correct?

Ochoa: Mr. Chairman, it is basically a public comment that is ... they're requesting for you to take that into consideration.

Crane: In that case if we have no further input from ... Commissioners you have any questions on this for Mr. Ochoa? No. And nobody from Community Development ... yes, Ms. Ferrary.

Ferrary: I haven't been able to locate their plans for the building size. Is that included in this request?

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

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

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

Ferrary: Okay. Thank you.

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

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

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

Bulsterbaum: I do.

Crane: Carry on please.

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

Ferrary: Thank you for answering that.

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

Winham: Good evening. My name is Steve Winham. I live there on Valverde Loop, close by.

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

Winham: Yes.

Crane: Thank you.

Winham: A couple of questions I have ... after we had looked at the notice is; one is I can foresee there being a need for a traffic light being put in there at Mars and Del Rey with the activity that would be created between ... with the VA clinic, not knowing exactly how much activity would be there but I would suspect it would be rather significant, so I think that would be something that would need to be considered.

Crane: Mr. Ochoa do you ... is there a traffic study involved in this at this point?

Ochoa: Mr. Chairman our traffic engineering department did review the proposed zone change. They did recommend approval for the proposed zone change with the conditions that essentially in the future when development does happen a TIA or traffic impact analysis would be required of the property, when development happens and potential changes to you know, to the road, adding decel. lanes and acceleration lanes, or possibly adding lights there at that intersection. That's what the traffic impact analysis would determine for traffic engineering sir.

Crane: Okay. Thank you, so that's in hand. Does that answer your question sir?

Winham: Yes, and I guess one of the second questions would be included as to the ... where the entrance would be ... entrance and exit, would it be off of Del Rey or off of Mars?

Crane: Can you illuminate Mr. Ochoa?

Ochoa: Mr. Chairman at this time that has not been determined as of yet. Unfortunately it's in such a preliminary phase they don't know where exactly that entrance or exit would be on the property sir.

Crane: Thank you.

Winham: Just a comment follow-up on that, is ... as a citizen or person that lives there on Valverde I would highly recommend ... I think all the residents that live there, that it would be placed ... the entrance would be on Del

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

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

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

Crane: Thank you.

Beard: Second.

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

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

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

Ferrary: Okay, I just wanted to confirm that.

Crane: Am I correct Mr. Ochoa?

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

that condition forward. Essentially that's typically how it works by adding additional conditions like that sir.

Crane: Thank you. Ms. Ferrary do you want to suggest an amendment as ... an additional condition as an amendment?

Ochoa: Mr. Chairman, pardon me for interrupting sir but there's already a motion set forward by Commissioner Clifton and it's been seconded so it does need to be voted on sir.

Crane: Surely we can vote on amendments to that before we vote on the motion.

Ochoa: No sir. Since it's already been seconded we cannot.

Beard: Couldn't we have a discussion?

Crane: Well we can discuss.

Ochoa: I believe a discussion can be made or can be done but that motion still needs to be voted up sir.

Crane: Very well, so those of us who would perhaps like to see an additional condition put there should vote against the motion as it stands and then we can entertain a new motion with the additional condition. Very well, let's take a vocal vote on Z2873. Mr. Clifton.

Clifton: Aye.

Crane: And could you say why sir.

Clifton: Aye based on staff presentation, case packet materials, applicant presentation, the fact that the case meets zoning code article one, section 38-2d, Comprehensive Plan 2040, sustainable growth goal 32, policy 32.3 and section 38-2 of the 2001 Zoning Code as amended.

Crane: Thank you. Commissioner Stowe.

Stowe: Nay, based on discussions this evening.

Crane: Okay. Commissioner Ferrary.

Ferrary: Nay, based on site, visit, discussions, and findings.

Crane: Commissioner Beard. Thank you.

Beard: Yes, based on conditions and discussions.

Crane: The chair votes aye based on findings, discussion, and site visit. So the motion passes three votes to two. Thank you all.

Beard: Could we even discuss a little bit about her objection? I mean I would like to ...

Crane: I think we're allowed to do that.

Clifton: Mr. Chair.

Crane: Mr. Clifton, yes.

Clifton: Could we get conformance from legal before we proceed discussing a case that's been voted on?

Cabello: I don't think ... since this has already been voted on, it's not on the consent to have new findings that were not on there. I don't think this could be discussed again right now.

Crane: Thank you. So that matter is closed.

2. **Case S-13-030W:** Application of Western Lands Surveying on behalf of Jose A and Martha C Gamboa, property owners, to waive 100% of the road improvement requirements for Saromi Lane and Cortez Drive, a proposed collector roadway. The proposed waiver is associated with improvements required for a proposed alternate summary subdivision known as Gamboa Acres Subdivision on a 5.01 +/- acre tract located on the southwest corner of Cortez Drive and Saromi Lane; 7486 Cortez Drive; Parcel ID# 02-25523. Proposed Use: Two (2) new rural single-family residential lots; Council District 6 (Levatino). **POSTPONED UNTIL JULY 22ND PLANNING AND ZONING MEETING.**

3. **Case PUD-14-01:** Application of The Arbors at Del Rey located at 3731 Del Rey Boulevard, Parcel numbers 02-25264 and 02-25265, to rezone two lots totaling 4.98 +/- acres from C-2C (Commercial Medium Intensity, Conditional) to Planned Unit Development (PUD) in order to: (1) allow an existing nursing home/assisted living facility as a principal permitted use; (2) allow the raising of small animals as an accessory use to the assisted living facility use; (3) allow the existing 2.49-acre lot size as-of-right; and (4) allow other 2001 Zoning Code C-2 District development standards and land uses to apply with the PUD. Council District 5 (Sorg)

Crane: We will proceed, since Case S-13-030W is postponed, to Case PUD-14-01, application of the Arbors at Del Rey located at 3731 Del Rey Boulevard to rezone two lots from commercial C-2C to ... conditional ... to

planned unit development. And you've all got the details in front of you. You're going to present Ms. Montana?

Montana: Yes, thank you Mr. Chair, Commissioners. If you'll give me a moment to get my mouse working so I could switch.

Crane: You know it's a principle that no animals are hurt during Planning and Zoning meetings.

Montana: Come here. Come here. Come here. Okay. Thank you Commission. What you have before you is a request to rezone a property at 3731 Del Rey Boulevard and ... there we go. Right now the property is zoned C-2 but it's a 1981 designation of the C-2. The property was built or developed in 1996 under the 1981 Zoning Code. At the time that zoning code allowed a nursing home to be built on the property and it was built with permits. In 2001 the zoning code changed and no longer allowed nursing homes in the C-2 district. I remembered I need to take an oath of office. Not an oath of office but an oath that I'm telling the truth tonight.

Crane: Of course you do. Do you swear or affirm Ms. Montana that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Montana: I do. Thank you.

Crane: We could of course say that all members of Community Development are continually under oath.

Montana: Automatically. Yes. So, now the existing nursing home wishes to add a program, a therapeutic program to the existing nursing home which is now called assisted living facility. However, because it's a legal nonconforming use the current C-2 zoning doesn't allow a nursing home or assisted living facility. It isn't allowed to do that, so for that reason they're seeking a rezoning and in this case it's ... we're calling it an application for a planned unit development because we want to add a specific land use which is the nursing home or assisted living facility and we're adding the raising of animals as an accessory use to that principle use at the assisted living facility. And in addition, the C-2 ... the current C-2 zoning does not allow more than one acre per lot. So the current lots each, there's two lots, they each are about 2.49 acres, so they exceed that maximum lot size. So for that reason we're approaching this as a planned unit development. The property is located right off of Del Rey Boulevard, north of Mars. And I will show you in later slides what the land uses are adjacent to it, but it's mixed commercial, institutional, and residential.

These are the two parcels that are subject to the PUD. This parcel is half developed with the nursing home and the next parcel under the

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

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

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

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

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

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

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

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

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

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

Beard: Okay. Thank you.

Crane: Mr. Clifton.

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

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

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

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

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

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

Trevizo: Jointly.

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

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

Crane: All right. And you sir?

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

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

Trevizo: Yes.

Spradlin: Yes.

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

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

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

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

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

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

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

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

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

Crane: Thank you. Mr. Beard.

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

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

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

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

Beard: Well that's good, but I think we would ... the audience or the president and the commission would like to see that.

Trevizo: Okay. And the other thing Commissioner is that the proposed site up there, that's one. The other alternative is on the opposite side of the property which gives us more space which does bring us a little closer to the road but again I think that you know it's debatable as to whether it still gets a little too close to other properties or other people that's concerned about this. But if that was going to be a challenge and this is too small, we have space on the other side which is much larger to work with.

Beard: Thank you.

Crane: Commissioner Ferrary.

Ferrary: Does the Eden Alternative have guidelines for the care of the animals or would you be conducive to working with Animal Protection of New Mexico?

Trevizo: Part one ...

Crane: Excuse me a minute. I have a hand up, Ms. Rogers, is this point or order?

H-Rogers: It's not a point of order. I ... Mr. Chair, members of the Commission, we can wait until Commissioner Ferrary was done. I just wanted to provide some additional information about the care of animals, the sizing of their enclosures, number of those things.

Crane: Okay, I'll recognize you in a minute. Thank you.

H-Rogers: Thank you.

Crane: Continue Ms. Ferrary.

Ferrary: That was my question. Just if they would be agreeable to those things, but it sounds like they ...

Crane: I too am ... have questions about the size and the number of occupants at this facility. Go ahead Ms. Harrison-Rogers.

H-Rogers: Mr. Chair, members of the Commission, I do want to specify that although our zoning can dictate whether or not certain types of animals are allowed within city limits, the Municipal Code, Chapter seven, is what dictates the minimum size of their enclosures, how they're cared for, and a number of other items regarding the shade structures that are provided, the size of

the parcel, the density of the animals on that particular parcel how that's broken down. If you'd like some information regarding that I do know that we ... I don't have a copy of the full Municipal Code here, since that is outside our purview, that's a code enforcement issue, but I might check with legal to see if they have their Chapter seven Municipal Code and I can give you some details on that if you'd like me to get that organized for you.

Crane: Thank you. Let me ask the applicants if they are familiar with this code that you presumably have to obey in the care of your animals?

Trevizo: I am not familiar with the particulars but we are willing to conform to whatever guidelines are set forth.

Crane: Commissioner Beard.

Beard: I raise homing pigeons in the city limits. There's seven of us. In order to get ... we had to get a permit and be inspected. We had to join a society for that species so that we were up to date as to the care and the medicines required for those particular ... in my case for homing pigeons. I would think that that would be done on each species of animal that you had and your facility would have to be inspected for each species of animal or bird that you have. And I'm not certain that we should be passing something that we don't know ... I don't know, for if this is the right order ... whether they should get a permit first or whether we should allow them to do it without a permit.

Crane: We're looking at a zoning question. Ms. Harrison-Rogers can you elucidate.

H-Rogers: Yes. Mr. Chair, members of the Commission, again Chapter seven of the Municipal Code regarding animals dictates what requires a special permit and what does not. Typically there are certain types of animals; chickens, even in some districts equine, swine, and of course we're not going there with this particular case, but depending upon the zoning district, there are some animals that are allowed without requiring a special use permit. In certain areas of the city if you're not zoned appropriately you can get a special permit for bird rehabilitation for example is one, but it does require certain permits and inspections, but that's something that's dictated by the Municipal Code. It's also somewhat dictated by the zone that you're in, it's sort of two fold. The zoning code speaks to parts of it but then the care of that and special permits is found within the Municipal Code, Chapter seven regarding animals.

Crane: Thank you. Do you happen to know gentlemen what code or rules they have to follow up in Santa Fe?

Trevizo: Santa Fe ... you know one of the things that my regional or my boss up there who runs Sierra Vista is ... we talk about how different Las Cruces and Santa Fe is. You know ...

Crane: We're more sophisticated down here.

Trevizo: Yeah. I agree.

Crane: Thank you.

Trevizo: So they kind of ... they're not as restricted up there, so they didn't face these challenges. This is ... you know this is ... this is new for us, we're asked you know to move forward and join this movement which we're committed on doing ... you know, in some conversations with ... up in Sierra Vista they're kind of dumbfounded because really why so much red tape and you know, they didn't find these challenges so I don't have a reference or that history for them to kind of guide me through the process. Don't know if that's the answer you're looking for but they're kind of not restricted to many rules. I don't know if they're kind of living in the wild wild west up there but, again they're successful up there. No one's complained about it and again it's ... it's a great program.

Crane: I'm surprised to find as gentrified a place as Santa Fe is so relaxed but I'm personally a little, more than a little concerned about the fuzziness of this proposal. I'd like to know how many square feet this enclosure is. I'd like to know how many of each animal you're planning to get, and I am concerned that roosters can be noisy in the morning, evidentially you've considered the feelings of your residents. I agree with Mr.

Beard: Beard.

Crane: Beard, peacocks are noisy. I camped some place with peacocks once and I couldn't believe the noise in the morning. Charming but noisy and I can't see big animals like that, big birds like that being in a small enclosure with chickens and rabbits, particularly if they're all scurrying around. It seems to me a little more thinking out needs to be done or at least some research on what they're doing in Santa Fe. And I don't know where that place is within the city limits of Santa Fe, whether it's close in as you are to residential areas, but in any event that's not particularly relevant for what we're doing here. Commissioners, any other questions for these folks. Mr. Clifton.

Clifton: I do have a question for staff. Did animal control review this? I mean I understand that there's other elements of animal control laws that fall into the Municipal Code, but it's not uncommon in the past that the staff has

imposed conditions on an applicant outside the zoning code and ... cause I know as a dog owner if my dog's barking too much I get a visit from codes enforcement and a citation to magistrate court.

Crane: Ms. Harrison-Rogers you want to say something at some point?

Montana: Mr. Chair, Commissioners ...

Crane: Ms. Montana's speaking.

Montana: Yes.

Crane: Put your mike on ma'am.

Montana: I think it is. Can you hear me? We did not submit this for review to animal control or the police department. Usually they get involved if there's a complaint and there had not been a complaint. The applicant came in proactively to seek this ... to seek this permit.

Crane: Thank you. Sir. On the mike please.

Spradlin: When I did start this whole process I did call animal control and spoke with ... I didn't bring his name but the supervisor in that section and he actually referred me to here.

Crane: Thank you. Mr. Beard.

Beard: Did you ask if ... it used to be ducks you couldn't have in the city. Did you ask him about ducks?

Spradlin: He actually spoke of different exotic birds and things like that that you had to work with as far as code number seven that you were talking about in those laws and things like that. And that's ... in our application I did put that in there that we would abide by that as well in the type of animals that we would be having.

Crane: Thank you. Mr. Clifton ... Mr. Harrison-Rogers.

H-Rogers: Mr. Chair, members of the Commission, our legal staff was able to bring down the Municipal Code that speaks to the keeping of small animals which is what we're discussing this evening, so if you would like me to provide additional information about the size limitations, the types of animals, I would be glad to provide that for you.

Crane: Thank you. Mr. Clifton.

Clifton: Thank you Mr. Chair. Staff didn't really answer my question, I mean it's not uncommon that in situations like this, it's not typical that you see an applicant come in with a request for peacocks, that it would've been sent to the code enforcement department just as a courtesy review. It would've been good feedback for the Commission to know that somebody at the city's on top of this and quite frankly I agree, I don't ... I don't feel comfortable at all with the animal issue, it's too loose, there's really no specific conditions.

Crane: Thank you. Mr. Beard.

Beard: I think the Commission deserves to know exactly what it is that they can have, what they want to have, and how many. And then secondly I think that the neighbors also require that information so that they can better judge whether they want it in their neighborhood or not.

Crane: Any other Commissioners have questions for the applicants? Thank you gentlemen.

Trevizo: On last thing, just for the record, there's been a lot of talk about rooster and all kinds of things, it's going to be ... and we're going to look at the type of species of chicken, it's not going to be just any kind of chicken, we're going to look to see ... we have a couple and my boss couldn't tell me what breed, so we're going to refer back to the maintenance person who bought the chickens a couple of years ago, but, two chickens, two ducks, a miniature goat, and a peacock. Now to the peacock, up in Santa Fe that bird, they crow and they crow in the springtime. They crow because they want to mate, they're seeking a mate. If there's not a mate they're relatively quiet. And when they do crow they crow because they've been startled or scared. That's our experience and that's coming from the staff up in Santa Fe in regards to that. I know there's some ... there's a lot of things and things are moving quite quickly but if we get the parameters and the conditions as far as the size ... we will work with that. That's not a problem. We have the space for it, as you can see from the property that we own. Secondly, if we can ask for a postponement or you know a review down the road and I will be more than happy to then provide not only pictures of Sierra Vista but a more thought out plan, you know drawn out with structures and size, and the such.

Crane: Thank you sir and let me point out that chicken is generic, we're concerned here with hens or roosters. Now two hens would not be a problem as far as I'm concerned, two roosters would be a hell of a problem, and one of each probably a problem. I like your suggestion of getting us some detail. Any other Commissioner? Yes, Mr. Beard.

Beard: I think what you're trying to do is great okay, I just don't know that we have the plan down so that we can really say yeah or nay. We may want to table it for additional information. I would personally like to hear from the audience to see what their concerns are first.

Crane: Does any other Commissioner need to talk to the applicants? Thank you gentlemen. Members of the public.

Trevizo: Thank you.

Crane: Thank you. Hands up please, I'd just like to get a feeling how many people want to address this question. One, two, that's it? Three, okay. Okay. Let me see the hands again so I can call on one of you; gentleman in the blue shirt. Please identify yourself and I'll swear you in.

Burgos: My name is Juan Burgos.

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

Burgos: Yes sir I do.

Crane: Thank you.

Burgos: Well I'm not necessarily against their proposal you know, I actually find that very interesting and beneficial for the people they're taking care of. My biggest concern is if you guys approve this change what kind of benefits they're going to get in the near future to increase the amount of animals and the type of animals that they can bring into the property. That's my only concern. In the other hand is if there's any kind of clause that you can somehow recommend to limit the number and the type of animals they're going to have into the facility.

Crane: Thank you sir. We'll take it into account. Gentleman, you sir, in the brown shirt. Give us your name again please, but we'll consider you still under oath, all right.

Winham: Yes. Steve Winham.

Crane: Go ahead.

Winham: You have a letter that my wife and I submitted, I would just I guess refer you to that letter for our thoughts on the matter.

Crane: Were you supportive or against?

Winham: Against.

Crane: Okay.

Winham: And for some of the same reasons that've been discussed; the noise level, the possible sanitation issues. I realize maybe some people would say it's ... our property is not that close to it, but especially with the peacock issue, I've been around them as well. You can hear them for a great distance if they do crow, so I would just refer you to the letter that we issued or sent.

Crane: Thank you sir. There was somebody in the back, lady in the back.

Aguilar: Hello. I'm Christin Aguilar. And I'm here representing Las Mia Food Center.

Crane: Ms. Aguilar, do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Aguilar: Yes I do.

Crane: Go ahead please.

Aguilar: We would just like to express our support for this, recognizing fully that this has nothing to do with raising animals for food, but just general community health and wellbeing, documented benefits of animal interaction. I would advocate for people having a garden even if they weren't going to eat the food which I can't imagine, but you never know. So, and just to reiterate that there are a lot of municipalities throughout the nation, I have a background in food studies and anthropology and am fairly familiar with animals allowed in other city limits like Santa Fe and Albuquerque, though I don't know the specific details about all of their codes and zoning. El Paso as well allows chickens and roosters. According to their codes departments they get less than one call regarding even their roosters per every 100 calls for nuisance regarding roosters and chickens. So there are a lot of different ways to mitigate those and just to reiterate that that's always a completely viable option you know, making sure that the goats of a certain size are spade or neutered to control odor, certain species for example. So, we just wanted to voice our support for such programs that really work to support community health in innovative ways. Thank you all.

Crane: Thank you. Any other member of the public wish to contribute on this? Then I'll close it to public discussion. Commissioners? I did hear some talk which I thought was rather good about getting more clarification before we move any further on this.

Beard: I'm certainly for that actually. I think it needs to be looked at a little bit closer. The ... I hadn't even thought about the goats being neutered in order ... and I don't what benefits that provides but ... and the chickens we might specify that the chickens be only female type chickens. And the peacocks, my ... the thing on peacocks, I don't know whether it was a crow, but it was at nighttime and they cried like a screaming woman and that's what they sounded like.

Crane: I agree.

Beard: But anyway I thought there might be rabbits that would be included. I think rabbits would be a very nice thing to have in this particular thing. I mean it'd be a ... I don't know whether this is going to be a petting zoo or not you know, we didn't talk about that. I think it would be kind of nice where you can actually go in and put their hands on the animals and actually feed the animals. I don't know what the city allows in that particular area. I do know that they were very strict on me when I got my permit and I was very happy to do everything that they requested. It's not a hard thing to do, but you have to do certain things. It's ... one of them is the knowledge of the animal that you're taking care of; are you taking care of it correctly, are you giving it the right food, the medications, are there diseases going around for that like mine on a homing pigeon, but anyway, I do think that there's more information required and maybe we should ask the applicant if it would be alright to ... if they would object to having it tabled and providing this type of information.

Crane: I hear you. Let me hear from the other Commissioners. Ms. Ferrary.

Ferrary: I agree with Commissioner Beard that it's ... sounds like a great program and good for the residents and maybe they encourage people to come and visit them, especially young children more often. I thought we could rely on Municipal Codes but we're not real sure exactly how they apply to all the animals that they're trying to attain and have, of whether or not they really could have them or not. So possibly tabling until we can check all these things out would be a good thing.

Crane: Commissioner Stowe.

Stowe: I'm of a like mind; number of animals, specific breeds, types, and leaning toward the smaller animals.

Crane: Thank you. I agree with my colleagues. I have many many questions about the enclosure; how high is it, will people be able to lean over in to it or will it be much higher. What about admission to the enclosure? What about supervision of the residents who might ... residents or their guests

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

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

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

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

Crane: Seconded by ...

Ferrary: I second it.

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

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

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

Beard: Good, I would like that.

Montana: Okay.

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

Beard: Okay, I am saying yes or no?

Crane: Yep.

Beard: Oh, I see. I vote for the table, yes based on discussions.

Crane: Ms. Ferrary.

Ferrary: I vote yes to postpone.

Crane: Mr. Stowe.

Stowe: I vote yes.

Crane: And Mr. Clifton.

Clifton: Yes.

Crane: And the Chair votes yes. So we will vote five/nothing to postpone this until 22nd of July. Thank you.

4. **Case Z2875:** Application of the City of Las Cruces to rezone approximately 50 acres of a 300 acre parcel of vacant land owned by the U.S. Bureau of Land Management (BLM) from H-Holding to C-3C-High Intensity Commercial Conditional to accommodate new construction of a City-owned and operated East Mesa Public Safety and Recreation Complex providing a police station, a fire station and trails on land leased to the City by the BLM. Location is 100 N. Sonoma Ranch Boulevard; Parcel 02-39551. District 6 (Levatino)

Crane: The next item on the agenda is application Z2875. Application of the City of Las Cruces to rezone approximately 50 acres of land owned by the BLM from H-Holding to C-3C high intensity commercial conditional. And Ms. Montana has the floor.

Montana: Thank you Mr. Chair, Commissioners. As you say this is a request for rezoning of property that is currently under the ownership of the Bureau of Land Management and it's designated H-Holding. Holding is a zoning designation for property that is undeveloped and at the time it was designated there were no plans for development. The property is located off of Sonoma Ranch Boulevard, one would access it from Lohman or ... winding across from, or down from 70. So it's right at the bottom really of North Sonoma Ranch Boulevard. This is a close up. The larger property owned by the Bureau of Land Management is about 350 acres and this would be a 50-acre piece of that. The city would lease this property from the BLM. As you can see this is a zoning map. I'm showing residential zoning around it, a small pocket of commercial, planned unit development which is also developed in residential use. So this would be the East Mesa Public Safety and Recreation complex.

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

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

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

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

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

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

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

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

Crane: Please identify yourself sir.

Hamm: Bill Hamm.

Crane: Can you speak on the mike pease?

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

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

Hamm: Yes sir.

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

Hamm: The city is entering into what's called a recreation and public purposes act lease with the Bureau of Land Management for this parcel. That conveys ... does not convey, it leases long-term to the city at a nominal rate for public purpose uses only. As part of that process we asked to be specifically advised the BLM that the ... what our intentions were, that the property was unzoned or zoned H. We needed to rezone it to accomplish the project. They did provide in writing to my office that they do not basically get involved or otherwise sign any applications for rezones on any of their properties. That's a policy that goes all the way to Washington, DC evidentially, so that's where they're at.

Crane: Thank you sir. Did that answer your question Mr. Clifton?

Clifton: Mr. Chair, Mr. Hamm good evening.

Hamm: Good evening, Kirk. How you doing?

Clifton: I'm doing good. Thank you. Yourself?

Hamm: Yes sir.

Clifton: Good. Do you have an executed lease from the BLM yet?

Hamm: We do not. It's due probably looking like about August.

Clifton: Would that be before the City Council takes final action?

Hamm: Probably about the same time.

Clifton: An executed lease in essence would act as authorization. Obviously they signed it, but the concern I have though is again whether a private citizen came in with a development request, how they would be treated conversely to how the city's proceeding with this application.

Hamm: Yeah, I'm not sure. The R and PP process that we're following right now would not be available to the private sector. It's government specific, so what their policy is in terms of how they handle the private ... private sector end of things I am not privy to. I do not know.

Clifton: Okay. Thank you.

Hamm: Yes sir.

Crane: Any other questions of Mr. Hamm? Thank you sir.

Hamm: Yes, sir. Thank you.

Crane: Is the applicant here please? That was he. I was glad to get the opportunity to introduce you. Okay, well we've asked our questions of you, so thank you. Ms. Montana do you have something to add?

Montana: No, I'm available to answer any questions that I can.

Crane: Any other questions for Ms. Montana? Mr. Clifton.

Clifton: Just for the benefit of the public and the Commission, can you guys give us some kind of an idea what we're going to see here. What's it's going to be like, is there going to be a lot of traffic, was there a TIA, is there going to be noise, smoke, what's going to happen to the mountain right there? I mean it's awfully close to the residents and I just ... you know I'm concerned for the public and any potential disturbances it may cause. And would just like a little more clarification on what is going to occur there, that way the neighbors have an idea, they live there.

Crane: Who is this gentleman? Can you identify yourself sir?

Mendez: Yes sir. Good evening Commissioner. My name is Tomas Mendez, architect for the City of Las Cruces.

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

Mendez: I do.

Crane: Go ahead please sir.

Mendez: To address Commissioner Clifton's questions, this area in here is the only parcel or the only portion of the entire site that is going to be disturbed with the inclusion of this service road, and you can barely make out a turnaround right there, traffic circle, to allow emergency vehicles to get in and out, as well as to allow traffic that may get in here to again exit back onto Sonoma Ranch. If I may, I'd like to switch presentations. Okay. Yes, on your drive. Is it here?

This is the same site plan with the superimposition of the floor plan showing what it looks like, more or less to scale. I'd like to mention and conferring with Cathy Mathews, the city's landscape architect, at present these trails are not funded, they're not in our present ... in our next year's fiscal budget but we do show them to illustrate to the Commission the intent of the development. These boxes here, these three parcels are potential building sites, each approximately two acres which is comparable to this area down here to show future sites. There is no specific designated function for those areas at present.

This is a mass study that we showed at the public meeting that we had up at the East Campus, or the Dona Ana Community College campus, and this is a massing study, the building design has not been finalized. We will hopefully begin the preparation of construction documents within the next two to three weeks, but this is a brief or a massing study. This roadway here that I'm highlighting with the cursor would be Sonoma Ranch Boulevard. This is the service driveway showing that roundabout back over here. This is an entrance to the public parking lot and this would be the in and out for the fire department vehicles. This graphic by the way was prepared by Williams Design Group, Gary Williams is the project architect, he is in fact in the audience if you have more specific questions, but at this point this is a preliminary massing study. This shows the two story of the building here, one story of the fire station apparatus bay over here. Does that answer your question Mr. Clifton?

Clifton: More or less. Thank you.

Mendez: Thank you.

Crane: Thank you sir. Anybody else have any questions for Mr. Mendez? Thank you. Members of public wish to address this issue? Okay I see one, two, three, four, five. Okay, are you coming up as a couple? Two people sitting next to each other. All right, come up please. Please identify yourselves and I'll swear you in. Is the mike on Ms. Montana?

D. Overhiser: Dorothy Overhiser.

Crane: Thank you. And ...

C. Overhiser: Charles Overhiser.

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

D. Overhiser: Yes.

C. Overhiser: I do.

Crane: Continue.

C. Overhiser: I'll start. Over two years ago there was a project to take 300 acres with ... from BFL, BML, what is it?

D. Overhiser: BLM.

C. Overhiser: Yeah, that group and you know the city was going to ... going to take it. And this was part of the ... part of the whole thing. And it was six months ago or so that you know we got a notice, a public notice on the whole thing and we sent in our comments about it and so forth. And I see no connection what so ever talked about with that. So I don't know what this is all about. But anyway this 50 acres is part of that 300, so I don't know ... is this going totally separate. Is that dead? I don't know. Is there any answers to that? Secondly is it the ... with that they were talking about a public safety building and some issues there and that's all they were talking about, but now we have 50 acres carved out and we have a generic code change that's going to be applied and in the plans some buildings set out here and there. I'm very concerned that we're you know just opening up the gate for something here because what gets started is going to be the future. And making the zoning change, I heard earlier that I believe the zoning change allows 60-foot buildings. Also I heard earlier on a project that a land or a buffer zone you cannot do anything, even build parking lots. In this previous project they're talking about a 500-foot buffer and now I see or hear that it's only going to be 150-feet. In addition to this, is apparently there was a public hearing on this? I never got notified. I live in the area. Apparently it was just organizations and not just independent citizens living in the group. So there's a public hearing, six people showed up and the only people that were notified were organizations, not independent people living in that area. I'm not a member of any organization that has a group there, even if I was a member, if I wasn't on the board I never would've heard about it. So I think this is got very little public information out here about it and I'm very confused about what's going on here. I'd like a few answers.

Crane: Well you're in the right place sir. Ms. Montana can you address some of Mr. Overhiser's problems or Mr. Hamm?

Hamm: In terms of the lease, the notification that the gentleman is speaking about I believe would've been the notification, the notice of reality action that the BLM publishes in the federal register. That's a national database publication where the BLM notifies the public at large of their intentions of what they ... their intensions are for land holdings throughout the country. That would pertain to R&PP leases which this 350 acres total, that parcel, this 50 acres is part of 350 acres total, that would pertain to R&PP as well as disposals into the private sector, things of that nature. So that's the notification that is likely, it's about six months ago. And this application here on the 50 acres is specifically for the Public Safety facility campus. The remaining acreage is there ... at this time it's planned for, conceptually for recreational uses, but there are no plans for the next 10, 20 years for that component. The plan of development that was submitted to the BLM which is required as part of their application, city's application with them, requires a timeframe and timeframes into the future that shows

a phasing approach; of what is imminent now is only the campus ... the safety facility. The remainder of it is pure speculation at this point, but it's obviously dependent on funding, etc. I'm not sure if I addressed the question totally.

Crane: Thank you sir. The Overhiser's, how does that help you? Does that answer some of your questions at least?

C. Overhiser: Not at all. We've been very very concerned about this issue and we read our mail and our e-mails very carefully. This meeting at the Dona Ana Community College campus, I don't understand, was that open to the public or not?

Crane: Ms. Montana.

Montana: Mr. Chair, Commissioners, of course that meeting was open to the public but the neighborhood associations within the 500-feet radius of the boundary of the 50 acres were the only ones that are required by code to be invited and therefore those are the organizations that were invited.

C. Overhiser: We live on Calle Belleza. This is going to impact us greatly and we never received notification. And you also said you got no disconcerting or negative ...

Montana: Comments.

C. Overhiser: Input from any of the residents and my husband and I did send an e-mail probably four months ago when we were asked, do we have any input?

Crane: Ms. Overhiser you have to be recognized by the chair before you speak. Okay.

C. Overhiser: I'm sorry.

Crane: Ms. Montana, you're looking for some answers there?

Montana: Yes, I am. The ... I'm looking for the list of neighborhood associations.

C. Overhiser: May I speak?

Crane: Mr. Overhiser.

C. Overhiser: Yes, where we live there is no neighborhood association. There's ...

Crane: What we ...

C. Overhiser: We don't pay dues. We don't have an organization. We don't have one.

Crane: What, out of interest, what main street do you live near, Sonoma Ranch?

C. Overhiser: Sonoma Ranch. We're just off from Sonoma Ranch.

Crane: Okay.

C. Overhiser: Calle Belleza.

D. Overhiser: May I speak?

Crane: Yes ma'am.

C. Overhiser: We would be greatly impacted by this. I mean you're talking about building this 150 feet from our home when we have been told prior it was going to be 500 or a minimum of 500 feet, now it's down to 150, this is going to be in our backyard. And my husband and I ... I have to say this because it's ... it's ... I have become a New Mexican. We lived in California for 23 years. We lived across from the Pacific Ocean. California's a beautiful state but we fell in love with New Mexico. It is a land of enchantment and the Organ Mountains are exquisite. We see hikers back there. We're not so greedy as to say nobody else should enjoy this view, nobody else should you know avail themselves of the beauty New Mexico offers, but there's a lot of other area there than to put this 150 feet from our homes. And it's not only our home, this place is the home to pyrrhuloxia and roadrunners and jackrabbits and desert cottontail. I have embraced what New Mexico has to offer so much, when I go out in my backyard jackrabbits come into the arroyo because they know I'm going to give them cold water. I feed the birds. I will spend a thousand dollars a year feeding the birds back there because I just get so much pleasure from them. It's just ... it's beautiful. It's a gorgeous area and I don't understand why this has to be placed so close to the residential homes when there's so much land there.

Crane: We hear you ma'am. Okay. Thank you. Ms. Montana, do you have an answer?

Montana: Yes Mr. Chair, Commissioners. The neighborhood organizations that were notified were the Capistrano Estates and the Mission Espada North. They are the ones that lie within the 500-foot radius.

Crane: Thank you.

C. Overhiser: Mr. Chairman.

Crane: Yes sir.

C. Overhiser: I don't know what the rules and regulations are but I would say just two organizations? And having that be a public hearing is very very small amount of people.

Crane: Well we are in another one now.

C. Overhiser: Yes, we are. And also is that I heard that you know the sign had been put up and there'd been nothing. The first time I saw that sign was this weekend. I don't know how long it's been there, but maybe I haven't seen it.

Crane: Ms. Montana how long's the sign been up, any idea?

Montana: Yes. It was posted June 6th and the letters went out June 6th, and there was a display add in the ... both the Bulletin and the Sun News announcing the neighborhood meeting at the Dona Ana Community College, you remember what dates? About a week or a week and a half before that meeting.

Crane: That was the meeting to which the neighborhood associations were invited.

Montana: Yes. That meeting was held May 28th.

Crane: So that was publicized by other means than simply getting in touch with the neighborhood associations?

Montana: That's correct.

Crane: Okay. That help you sir?

D. Overhiser: May I speak?

Crane: Yes ma'am.

D. Overhiser: We were told. We signed up when we first heard about this and we're very concerned to be on any e-mails, any correspondence through the U.S. Postal Service, anything that transpired. Putting it in the newspaper, I mean to me that's ...

Crane: But I think Ms. Montana said there was a mailing. But did I understand you right?

Montana: Yes, we mailed to owners of property within the 500-foot radius as well.

Did you receive the letter?

C. Overhiser: For this meeting.

Montana: For this meeting.

D. Overhiser: For this meeting, yes. Not for the Dona Ana Community.

Montana: Yes.

D. Overhiser: Where you said there were no objections and that everybody was fine, there were no e-mails. We also sent an e-mail with our objection, was that never received?

Montana: Not ...

C. Overhiser: That was the other ...

Crane: Well let me point out that we're in the process of continuous public hearings. Now this happens to be somewhat different format from the original one, but here you are, saying your piece, so I think you're covered.

D. Overhiser: Okay.

Crane: Now what gets done about it, we don't know yet.

D. Overhiser: Okay.

Crane: But we here you.

D. Overhiser: And Mr. Clifton I appreciate your request to find out about the noise and everything else. I don't believe that was addressed in terms of the noise level or anything. One of the beauties of New Mexico is the fact that it is so serene, it is so peaceful, it is so tranquil, that right now we can go out in our backyard and just you know admire nature. I don't think that was addressed at all.

Crane: Thank you.

D. Overhiser: And we're not the only ones. People do walk around there on the cliff and ... and I'd also like to know about the 500-foot buffer zone. What happened to that?

Crane: I hope our neighbors will come and see us. I hope they're here now as this is their opportunity.

D. Overhiser: Okay. Thank you.

Crane: Thank you. There were some other … yes sir.

C. Overhiser: Yes, just to close. Is it … with this code change you know there's a whole lot of issues but this code change, I'm very concerned about making a general code change that would allow things like antennas and so forth just to flap up, 60-foot buildings and so forth. I would like to make sure that we you know just don't let it run rampant, that we have some control over it other than just within this code. And also, right now it sounds like the only need is maybe two, three acres of that, but to go and get this whole code change for 50 acres at this point seems like it's just kind of … okay we'll take care of it and then we can just build anything that we want, whenever we want. Thanks.

Crane: Mr. Beard do you have a comment for Mr. Overhiser?

Beard: The issue before us is the road improvement isn't it? And that's it.

Crane: I don't it's … no the issue before us is the zone change.

Beard: Huh?

Crane: It's the zone change.

Beard: I don't see in here where it says zone change.

Crane: Rezone approximately 50 acres to C-3C.

Beard: Oh, okay. Okay. I got you.

Crane: Mr. Beard apologizes.

Beard: Yes.

Crane: Okay, other members of the public. I saw some hands, the gentleman in the grey shirt on the left. Please identify yourself.

Smith: My name is Timothy Smith.

Crane: And Mr. Smith do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Smith: I do.

Crane: Go ahead please.

Smith: I own property on Tres Ninos which buts against the proposed lot. While I certainly appreciate the fact that we would have a public safety building so close to this part of town for emergencies, I have a couple of concerns; one is that the ... my primary concern is really that 150-foot buffer. Although you contacted people within a 500-foot radius because they may be affected by it, the fact that we're putting this building 150-feet away from them seems to crunch that space down considerably in terms of how much effect it's going to have. I'm primarily nervous about the idea of the sound. We're going to be having fire trucks and police cars, so that 150-foot buffer may be okay in terms of visuals, although I'm not sold on that, but just the idea of the sound itself carrying over through all hours of the night seems to be pretty close to where housing is. Since it is such a large acreage I don't know why some of the proposed future spaces for public buildings aren't utilized instead to create a buffer that is greater than that 150-feet from, for example my backyard. I also am curious about whether or not there will be a speed limit change, right now just about a block away there's a hospital zone for Memorial Medical Center which slows down traffic quite a bit, going up Lohman right as Lohman turns in ... or crosses Sonoma Ranch. I assume that because this would be a public safety building that there would be another speed zone then almost immediately following that one which I think because Sonoma Ranch is such a busy intersection kind of adds more stress to just people's daily commute.

In general I also know that the trails aren't in discussion necessarily but they were presented to us as homeowners as part of the future plan or what that might look like and many of those trails butt up much closer to backyards than even this public safety building does. So I'm very concerned that the buffer is not enough for sound, that the traffic slowing down is already problematic and will just get compounded, and again I'm not really sure why we don't take advantage of that full 50 acreage and just move the building deeper into that location.

Crane: Thank you sir. Any other member of the public? Gentleman in the blue shirt, who I think is Mr. Binns.

E. Binns: Yes sir.

Crane: Mr. Binns do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

E. Binns: I do.

Crane: All right, please.

E. Binns: I sat back there as a taxpayer observing what's going on as well as monitoring the proposed project, and I have a couple of items of concern. The first item is that I would like to send a message to the right people to give our esteemed and my friend architect the privilege of designing a building that looks like New Mexico. This thing doesn't look like New Mexico building. It looks almost as bad as our bus depot over there which I'm ashamed of. I'm responsible to design buildings that look like the southwest and when I bring in design facilities why they always try to ... put an arch over here, let's put some tile over here. I'd like to see them give him the latitude to do what he's capable of doing, of designing a building that looks like New Mexico and the southwest. I know he'd appreciate that. And he can't say that but I can. The other one, we have an item on the agenda here shortly that we'll get to sooner or later which if all sit down and shut up and that's the arroyo subject. I'm extremely disappointed that the negotiations for the leasing of this land did not include the arroyo next to it, so that the city could set an example of how to handle and how to develop and arroyo in a proper manner. But in looking at the layout, they went close to the arroyo boundary but the city did not incorporate the arroyo in their lease agreement and I'd like to see if you can expand that so the city acquires the arroyo so that they can use that as an example and understand how to maintain it and what kind of costs might even be involved and it would be a good starting point for our arroyo system to take advantage of inexpensive land and also to set an example. So just a couple of points I'd like to make and one of them is the arroyo subject and the other is let's get a building that we're proud of, something that looks like New Mexico. Thank you.

Crane: Thank you Mr. Binns. Any other member of the public? Gentleman in the red shirt. Let me interject while he gets here, that for those who are uncomfortable, I'll be calling a break right after we deal with this matter. Yes sir.

Chavira: Thank you Mr. Chairman. My name is Steve Chavira.

Crane: Mr. Chavira do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Chavira: I do so affirm.

Crane: Go ahead please.

Chavira: Mr. Chairman thank you for giving me the opportunity to come up here and speak. I am the chief executive officer of the Las Cruces Home Builders Association and simply for the record all I would like to do is ... I see another opportunity where the city is looking at a policy change or changes to codes or ordinances without much input from the constituency

groups that are involved, whose life will make a difference here. In this situation we have residents who are very close to the project and who apparently have not had much input or any input at all in what is going on and what will be ... they'll be forced to live with in very short order. I would ... I would urge this Commission to recommend to the City Council and to the city staff that issues like this be taken with every effort possible to try to involve the constituency groups that are ... that the input is necessary that is needed, and that we all work together to make sure that this community is ... that we work to make sure that our quality of life is good and strong, that ... for people that move to Las Cruces for the reasons that they've cited, that they continue to like living here and we have a community that is comfortable to live in. I would also agree with Mr. Binns that if Mr. Mendez had the opportunity to design something that was more in keeping with the architecture or the feel of our community, we probably may not have that ... the picture that we see up there, but a more ... different picture. But just for the record I'd like to say, let's involve everybody, let's work harder to make sure that we get all the people involved who need to be involved. And once you try to get them out there, try again and make sure we get them. Thank you Chair.

Crane: Thank you sir. Gentleman in the blue shirt.

Cedebaca: Mr. Chairman.

Crane: Give us your name please sir.

Cedebaca: Richard Cedebaca.

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

Cedebaca: I do.

Crane: Go ahead please.

Cedebaca: I just want to state for the record, I am a homeowner adjacent to this property and I do walk these trails every day with my dog. My primary concern is; one, the size of the rezoning parcel with such ill-defined uses. I observed earlier this evening the detail required for a chicken coop for instance and with the city having no real defined plans within the next I heard 10 to 20 years, why request rezoning such a large parcel of land? The intended uses I have a problem with, one being in the list of acceptable uses is storage yards, antennas, and so on. And so my primary concern with that is that yes they'll get the go ahead to build the building and there's not adequate funding to build any more buildings but there's adequate funding to put up a fence and make it a big storage yard

or there's adequate funding to put up a big tower and you know make that be the regional Commissioner. center for the City of Las Cruces. And I think such a large change and such a small meaning and with ill-defined notices, I for one received just a notice for tonight. I hadn't received any other previous notices. I did receive a notice from the BLM when the application was made to them, but nothing from the city itself until this notice for this evening. So I was unable to prepare my comments in writing, but I wanted to make sure I stated it for the record here my concerns.

Crane: Glad you came sir. Thank you. Anyone else? Lady in the white shirt. You have two people, are you going to speak as one, or separately.

Ulibarri: He's going to listen.

Crane: Okay.

MALE: I'm just here for support.

Crane: Identify yourself ma'am.

Ulibarri: My name is Sabrina Ulibarri and I live at 1013 Calle Griega. It am too sorry, I'm not very well prepared.

Crane: That's okay. Do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Ulibarri: I do.

Crane: Thank you. Go ahead.

Ulibarri: Okay I heard about this meeting tonight and I thought this was where everyone was going to talk about yes or no, but looking at the presentation it seems like it's already in the making to me, and I'm hoping that's not the case, you know cause when I moved to this area it was nice and quiet, that's why I moved there. I liked it. It was tranquil. It's like an old time neighborhood, you have kids playing in the street, you have kids riding their bikes, families running, and then with you bringing this with the noise from the sirens, the lights, I'm concerned about you know fire trucks flying down the streets, kids in those streets. It's not a very well mix. And as far as they made a very good presentation you know as far as the animals there, it's quiet, it's serene, you can go out at night, and you're not concerned about any noise, any lights. I would hope that they could find a different place to put this.

Crane: Okay. Thank you. Any other member of the public? Then we'll close this

to further discussion. Commissioners? Commissioner Clifton.

Clifton: This is certainly an interesting case, I guess the shoe's on the other foot. I see a lot of issues with this but at the end of the day the end users the fire and police department and I really feel bad for them because quite frankly they've been in negotiations with many people; the city, private developers for a number of years to build this facility and it's nice to see it coming to fruition, but I think given this information that we have it's really penalizing them as the user of the facility. There was at one time it was going to be about a mile east of here and then at another time it was going to be even further than here. And I do support it, and I probably will support it, but I'm just not comfortable with the level of work the city has done because I know if Mr. Binns for example came in with a proposal like this it would probably get denied. There is no TIA, there is no descriptions of use, no height issues, is there going to be a communications tower? What's going to occur there? How much noise, smoke? Are they going to improve ... is the city going to improve Sonoma Ranch? There's a stretch of Sonoma Ranch that's unimproved right there. This is going to increase traffic. It's going to impact the neighborhood. And to me it's an equity issue and the fact that it started off with no applicant signing an application, that's concerning in itself although an executed lease would have been nice to see to verify that authorization, but it's an equity issue for me and I don't ... what's good for the goose is good for the gander. And I don't really see a lot of equity here in this. Again I fully support this use. I think we need it. I think the fire and police department need it. But I do think that the city does need to do a better job in recognizing their needs and obtaining those needs for them.

Crane: Commissioner Beard.

Beard: I agree. I would like to see how this 50 acre parcel fits in with the other 350 or I guess it'd be the other 300, but the total being 350. What is the proposed use for the other 300 acres? How does that meld in aesthetically, what not with the proposed 50 acres, and why would this 50 acres have to be at this particular location as opposed to somewhere else in the 350 acres?

Crane: I'd like to comment that, yes that will be quite a radical change in the environment for the residents because there will be sirens at all hours of the day and night and no doubt communication antennas. I wonder whether as somebody else mentioned that the 50 acre ... within that 50 acre area the police and fire building could not be moved somewhat further up the future Camino Coyote Road that we have on our plan here, just to get a little bit further away from the houses. Right now it seems to be situated right on Sonoma Ranch. I realize that quick access to a major highway is important, but I'm not sure that delay of getting vehicles out

there would be very great if the exit from the area were just a little bit further to the east in this 50-acre parcel. Any other comments? Commissioner Ferrary.

Ferrary: When I went for a site visit this afternoon the ... there was a huge mounding behind the homes that would run along what seemed like the edge of the 50 acres. And I also wonder if even though it's ... would ... has a possibility of being 60-foot high building, they're planning on no more than two story and just part of the building, that I would be because of the undulations of the land, if it would be almost down below their sight. So I know a lot of people were objecting, but I'm wondering if actually this won't be an impediment to their views.

Crane: Anyone else? While it seems to me at the moment we're here to address the zoning change and nothing else, but presumably sometime in the future we will get to address the exact design and location of property ... Mr. Clifton's indicating no. What are ... what's your view?

Clifton: Mr. Chair, members of the Commission, we're providing a recommendation to the Las Cruces City Council. From that point we're done. The only time we would see this again before us, if there was a modification to the improved zoning change or if there was a preliminary plat that the P&Z would have to approve.

Crane: I see. Well do I hear a motion that this ... let me get the correct number for it, application Z2875 be approved? Anybody want to move? Mr. Clifton will ...

Clifton: Before we move forward I ... you know this is a fire and emergency issue and it's a needed issue. It's a needed facility and we've ... it's been on the table for several years. I don't know if the fire department, hate to put you on the spot to Deputy Chief Mims, but if you're all prepared to address this at all. I mean again I really feel like you've been put in a bad position here and it would be nice to hear everybody in the room talk about the need and is this an end all site, you know when will it happen, etc.

Crane: Mr. Mendez.

Mendez: Commissioner Crane, may I address the Commission?

Crane: Go ahead.

Mendez: Thank you very much. I assume that I'm still under oath. I would like to move forward ... back to this drawing. As Commissioner Ferrary mentioned this area is a bowl; there is a high hill here, there is a crest here, there is a crest there, and there's another crest in this area. We

specifically located this part of the site to allow us and to allow the fire department quick access onto Sonoma Ranch. Yes, Commissioner Crane, the distance, the travel distance further in would not be long, but it could in fact sometime be a matter of life and death. We don't know that. So we chose to put it up here to allow quick and easy egress. The police department is further back, again because they don't respond as quickly as the fire department would have to. Again this area is ... this area in here is in a bowl, an actual bowl that's out there that we're taking advantage of. I would like to quickly comment on Mr. Binns comments. I appreciate his comments and as a matter of fact that is precisely one of the reasons why the city chose to pursue the entire 350 acres so that we could capture as much of the north fork of the Las Cruces Arroyo as possible and a portion of the south fork of the Las Cruces Arroyo, specifically for the points that he raised in his comments. So I would like to assure him that we tried to get as much of that land for the city to manage it for flood control, for biological resources, for cultural resources, as possible. So we did put a lot of thought into that. The area to the north ... excuse me to the south of us is not accessible. We cannot get that land under our R&PP lease act purposes or privileges. It is in private hands. So we think we ... we're trying to blend as many needs and functions as possible. I would also like to add, Commissioner Crane, that this is not the end all, this is a step in the process to get us to ... get us the necessary authority to construct on this property. We will be taking this to the neighborhood specifically on the project. This is a zoning hearing. It is not about the building yet. We will take that ... we, staff, myself, Cathy Mathews, Deputy Chief Mims, Deputy Chief Martin, we will take this to the citizens who live in that area for additional input and for a review of the drawings and plans as they continue to develop. So again this ... this ... part of the process has its own trajectory, separate and distinct from our developing the project. Thank you very much Commissioner Crane.

Crane: Thank you sir. Commissioners. I would like to hear a motion that this be approved. You don't have to vote for it but I have to have a motion.

Clifton: I'd like to make a motion that Case Z2875 submitted by the City of Las Cruces be approved. And may I add a condition?

Crane: Yes, go ahead.

Clifton: The City of Las Cruces submit a traffic impact analysis prior to any plans going to the construction industries division for review to be reviewed by an outside the state ... I don't ... what I'm getting at is I don't know who would review it cause it's a city application, but that would need to be resolved. And I would also condition it as such, Sonoma Ranch Boulevard be improved 100% adjacent to this site as there will be a traffic increase. And three, additional public hearings be held with the

stakeholders including all the residents within a 500-foot boundary.

Crane: Is there a second for that?

Beard: I second it.

Crane: Mr. Beard seconds. Let's do a roll call starting with Mr. Clifton.

Clifton: Aye.

Crane: Based on ...?

Clifton: Aye based on presentation by city staff, case packet information, and various aspect of the city comprehensive plan as referenced in the case material.

Crane: Thank you. Mr. Stowe.

Stowe: Aye based on discussions.

Crane: Ms. Ferrary.

Ferrary: Aye based on discussions, findings, and site visit.

Crane: Commissioner Beard.

Beard: Aye based on findings, conditions, and discussions and site visit.

Crane: And the Chair votes aye based on findings, discussions, and site visit. The item passes five for, and none against. Thank you. It's now about eight minutes now after eight, I'd like to call a break for ten minutes. We will ... let's say we will reconvene at 8:20, we will continue with our agenda. Thank you.

**PER THE CHAIRMAN, TOOK A TEN-MINUTE RECESS.**

5. **Case PA-14-01:** Review of and action on the Arroyo Management Plan, a citywide policy document prepared and presented by the City of Las Cruces Community Development Department.

Crane: It's 8:23, ladies and gentlemen we'll reconvene. We're now on case PA-14-01, review of and action on the Arroyo Management Plan. Ms. McCall, you have the floor.

McCall: Thank you. Do I ... I don't need to do the swearing in or anything?

Crane: Oh.

McCall: Am I supposed to do that?

Crane: It can't do any harm. Let's do it or we will have to watch you repeat this. Do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

McCall: I do.

Crane: Go ahead please.

McCall: Thank you. This is Case PA-14-01, a review and action on the Arroyo Management Plan. You would be making a recommendation or not making a recommendation to the City Council for adoption. I was here a month ago for the Planning and Zoning work session and at that time I went through the contents of the plan and during the discussion we talked about some ... the major things we talked about; definition of detention and retention ponds and the differences between the two, some concerns about utilities in the arroyos, and some ... how to address privately owned arroyos and how the arroyo plan would impact private property owners. And then I also went over public input. And so this time I want to focus specifically on just some revisions to the plan and your concerns, and addressing some of the public input. So I'll go very quickly through the contents of the plan just as a review and for those in the audience who were not at the work session. The plan has six chapters, introduction, definitions, regional characterization which is like a snapshot or a portrait of the area, and then description and discussion of some of the issues and problems that we're facing right now and some possible ways that they can be addressed. The goals and policies, and then administration and implementation which talks about how we actually carry out the policies and the plan, and then appendices.

This is the study area. One of the things I did in the revision following the work session was change the map, so this is slightly different, it includes the Organ Mountain Desert Peaks National Monument boundaries and just has clearer labeling and that sort of thing.

The purpose of the plan as we've discussed is primarily flood control and improved drainage functions and to protect arroyos in their natural state to the greatest extent possible and in doing so we hope that we can protect native vegetation and wildlife habitat and protect private property from flood damage, address utility installation, and improve stormwater quality, and increase protected open space, and perhaps add trails and trail connectivity and other recreational opportunities.

The regional characterization chapter just physically describes our area and then there is a discussion of the flood control dams and the current stormwater management and drainage practices that the city

operates under. Utilities and how they're installed and maintained in the arroyos, and then what our current parks and open space inventory is as it relates to the arroyos.

The issues and challenges that we are dealing with include some related to development, watershed issues, addressing flood control and stormwater management at a watershed level, a more regional level, and then addressing specifically stormwater management, erosion, sedimentation, and slopes, that sort of thing through design standards. Again utilities and infrastructure. There is a section on the dam ... or the flood control dams and we discussed last time the reality that the City of Las Cruces really has very little to do with control of the dams, they're governed by larger entities, although we are a participating partner. And so later on I'll discuss how that was addressed in the revision of the plan.

Weather and climate variability and how that is likely to impact thunderstorms and flood ... floods in the area. Vegetation and habitat, wildlife, parks and open space, and the economy and quality of life. Issues and challenges section pretty much mirrors the regional characterization section. And then the goals, policies, and actions address the issues and challenges that are discussed in the previous chapter.

The land use section has three goals, they're primarily intended to look at big picture situations regarding land use, not necessarily focused problems that may be addressed by design standards. The environment originally in the March 1st draft had one goal and it said protect and maintain natural habitat and wildlife connectivity within arroyo systems to the greatest extent possible and mitigate damage that may result from development. And that was divided into two goals so that vegetation and wildlife could be addressed individually.

Community facilities didn't change. This primarily addresses passive recreation and trails. And utility and stormwater management is directed towards sound engineering standards and minimizing soil and slope instability, erosion, and addressing the utility installation and maintenance.

Implementation primarily involves amending chapter 32 which is the design standards and other related codes to reflect the plan policies. And then a lot of it really has to do with securing funding for, in a minute I'll describe the arroyo characterization model, and funding to update the storm drain master plan which was done in 2006. And then because vegetation play such a large part in habitat, wildlife, and also in characterizing the arroyos and where the boundaries of the arroyos go, there would have to be some work done to map vegetation outside the 100 year flood zones and map wildlife corridors.

I talked about the arroyo characterization model and that is I think the most important part of this plan or the most important thing that this plan suggests. There's currently a hydrology model in use when doing drainage studies and other types of data analyses regarding flood control

and it is based on the Army Corps of Engineers model, HEC, HMS, and RAS stands for hydrologic engineering center which is the Army Corps of Engineers database and center for this sort of information. Hydrologic modeling system which is designed to simulate hydrologic processes of watersheds, and then RAS is river analysis system which looks at flow rates, sedimentation transport, and that kind of thing. So, the model would start with that but because it would be used for a lot of other things, it would also include data related to the topography of the arroyos and surrounding terrain, drainage areas on a larger scale, a watershed level, soils, vegetation, presence of wildlife, other development in the area or other open spaces in the area, and existing infrastructure and land uses. The purpose of the model in addition to being used for drainage studies and other analyses related to flood control, would be to determine the buffers and as I described in the work sessions, the plan does propose a buffer beyond the 100-year flood zone within which there would be no development. It could possibly be used for open space or I guess you could call it a lower level of development, for example parking lots, or things of that nature that don't necessarily involve a larger amount of infrastructure. And then the characterization model more or less describes the arroyo and this would be useful for example in the case we just heard about the safety complex, how the arroyos could be incorporated into developments, into park systems. There would be a lot of different references or uses for it. The thing I want to say about the buffer, I think in the earlier draft of the plan it wasn't really clear where the buffers would be applied or how they would be applied. And so I do want to state that part of the reason for the arroyo characterization model is that it would tell us which arroyos would require a buffer, and if it did require a buffer how wide it might need to be. The ... I hope that the language and the revision make ... clears that up a little bit. It isn't intended to be a blanket buffer that all arroyos would have a certain distance within which there would be no development. It would just identify places on any given arroyo where it may be suitable due to erosion factors or other things of that nature.

And then the appendices just provide a lot of background information. Certainly most of it is available other places, but it's kind of a consolidated place where people can go to get information. And a lot of this information is also referenced in the body of the plan where there is the source and the website noted where people can learn more. And then from last month to this month I did not have any additional stakeholder or public meetings. I did receive quite a few e-mails and those are included in your packet. And then primarily the public input is ... I have to find my notes, sorry. There were concerns about building too close to the arroyos, people thought it was very important to educate residents, developers, and planners etc. on planned policies and what it might imply for private property owners. Develop more incentives and less regulations, make it more of a positive thing, a carrot rather than a club sort of thing. Analyze

policies across city departments, this is something that does happen from time to time. There are policies in certain plans that may not be in other plans, in other departments, or ordinances that affect one department and one discipline but not necessarily others.

Green infrastructure and low impact development were brought up quite a bit as ways to reduce the amount of runoff that actually enters the arroyo; for example the use of rain barrels or cisterns on the property. Tighten, review, and enforcement of current regulations. Plan policies should only address those arroyos which are in public ownership because private landowners already bought the property under certain assumptions and this is certainly true. I think this is something that ... that is a concern whenever there ... our ordinances are updated and so we would have to look at how this would impact private property owners and specifically property owners who have ... who own portions of arroyos. And then along with that the suggestion was made to create buffers for arroyos that have not yet been developed and of course we can't really make buffers for arroyos that have been developed or have development immediately adjacent to them, but it sort of goes hand-in-hand with the idea that it would impact arroyos that are in public ownership rather than private ownership. And then there was the sentiment that current regulations already address the issues raised in the plan and so the arroyo plan isn't needed. And another related thing has to do with funding and a financial investment. Arroyos that are privately owned as part of development, the landowner, the property owner, has the right to build as they've been expected to be able to do so. So the argument was made that if the city wants to manage the arroyos in a certain way then they should acquire those arroyos by whatever means necessary, if it's not conveyed by the BLM or the State Land Office, then the land should be purchased by the city. And then hand-in-hand with that again is acquiring and maintaining the arroyos would also be expensive and Commissioner Clifton brought this up last time that the city does have to anticipate funding and how it would be acquired for maintenance.

And as I said earlier the flood control dams are an issue that is really larger than the city, so the city is a partner and would certainly be involved in support any regional storm water management effort, but I did revise the text a little bit and the goals and policies to get rid of the implication that the city would be taking this on or would be responsible for upgrade of the flood control dams.

The concerns primarily related to environment have to do with protecting vegetation and wildlife habitat, the sentiment that those areas should be mapped and that in determining buffers habitat specialist should be brought in as part of the team. On the maps that various people filled out on our map exercise at our public meetings, they pointed out sites of interest, sites that they felt should be protected, areas where trails are already in existence and where people walk a lot, places where there's a lot of illegal dumping already. And the notion that the arroyo boundaries

should not be specifically related or identified by the 100-year flood zone, but that it should be looked at on a larger scale and include stands of native vegetation which indicate a history of flooding or water flow in those areas even though it may not be in the flood zone boundary. And community facilities input primarily relates to parks and ... trails following the MPO trail plan and there was a comment that the plan should focus primarily on flood control and minimize amenities since those are addressed in the trail plan; the parks and rec. master plan and the MPO trail pain. Oh and I should add also there were comments about putting trails directly behind private property and in the comments I received distances weren't really discussed, so that would be another thing I think for further public input; I was just thinking about this during the previous case and in the abstract I thought 25 feet might be appropriate, but I measured and that isn't even as far as this distance of where you are, and I'm not really sure that private property owners would feel comfortable with that distance, so that is something to be determined.

And then utilities and stormwater management primarily concerning flood control techniques and having a more comprehensive hydrologic analysis of the East Mesa which goes back to the arroyo characterization model and addressing utilities in the arroyos and ways to minimize erosion for that ... for those. There was also a discussion about the arroyos within the city limits or the developed areas maybe using, like not necessarily leaving those in a natural state but a naturalistic state; using pervious concrete or other structures that would help modify the flow into the arroyos while maintaining a naturalistic appearance. And there did seem to be some confusion at public meetings about utilities and how they operate and why they're in the arroyos so I think that calls for just greater education and awareness.

And then the idea of revegetation following construction which is a very difficult thing to do, I ... in reading the federal permits I discovered that there is already a regulation on the books that the construction company or the developer or whoever is responsible for the construction has three years to revegetate to 70% of what the original vegetation was. And so that is something that's already required, it isn't anything that the arroyo plan is calling for that's new.

As a review, the other governmental entities have looked at the plan, the City of Las Cruces, the Flood Commission, the Land Office, the BLM, Bureau of Reclamation and Elephant Butte, and then some of the comments that were made at the work session last month, the lack of data behind the statements regarding quality of life and economic development, and the lack of data to substantiate climate change issues. The sense that the process is being rushed. And there was some confusion about or concern about how private property owners would have to follow the plan as I mentioned earlier and that is something that I hope is clarified to some extent, but possibly could use some further clarification. FEMA boundaries that reference to the flood zones and the proposed flood

zones have been removed from the plan because there was some concern about discussing these issues since the city does not have authority over them. And then as I said concerns about utilities in the arroyos and erosion problems. Oh, I got ahead of myself. So are the things that I primarily changed in the plan, they aren't radical changes, but I hope that the language was modified to an extent that it clarifies a lot of the confusion and adds information that was asked for. I did add data to support the quality of life issue including reports and research on indirect benefits of open space, but can't necessarily be quantified in dollars. And I kind of beefed up the information regarding vegetation and vegetative species in the regional characterization. So, with that I'll close and open it up for discussion. Your options tonight would be to vote to recommend to the City Council that the plan be adopted, to vote no and not recommend adoption to the City Council; vote yes with conditions which could include further revisions in the plan or other actions or modifications that you think are appropriate; or vote to postpone the recommendation and I would welcome further direction. Thank you.

Crane: Thank you Ms. McCall. Any Commissioner have questions for Ms. McCall? Commissioner Ferrary.

Ferrary: Well I don't have a question I just want to say that I think after the last work session you went back and accommodated all of the different suggestions and this is I think just a wonderful plan and you should be commended on it. It's very good.

McCall: Thank you.

Crane: Mr. Clifton.

Clifton: Mr. Chair, Carol, you did in fact address a lot of the comments that I had, thank you. I do still have some specific questions or concerns rather; the first being what is the buffer distance going to be?

McCall: Mr. Chair, Commissioner Clifton. I don't know. That would depend on the characterization model and then the characterization of each individual arroyo. And it may even be ... I'll go back to the map ... it's very possible that different sections of the same arroyo would have different buffers. It would depend on surrounding existing development, proposed development that's already on the books and is already vested so it would follow the regulations that it was adopted under. It would depend on upstream flows; one of the recommendations that was made by the engineering stakeholders group is that the current hydrology model that's in use stops at the flood control dams, but the recommendation was made as part of the update and expansion of the model to go up stream which would give us more data related to how upstream flows would impact

development and adds to the idea of looking at it more on a regional scale. So, it would just depend.

Clifton: So I'm trying to understand at what point a process of a development application will this issue come up. I mean the plans can go to City Council presumably, presumably to the August meeting and at that point if it were to be adopted then you can in turn start codifying it so to speak and filtering it into the appropriate codes via ordinance, but during that time if development applications or even after that time when development applications come in, what's going to happen to them when they go through the grinder mill here at the city. Are they going to get held up because they are adjacent to an arroyo and you have to run the characterization model? You don't quite know yet what the buffer's going to be. Are you going to wait till it's codified in the design standards? And that leads into the next question, do you guys ... does staff have a handle on what portions of this plan will be codified and where will they be placed in the various ordinances throughout the city?

McCall: Mr. Chair, Commissioner Clifton, if and when the arroyo plan is adopted regardless of anything else, any development proposal that comes in would fall under purview of the current regulations until those regulations are amended. There is a committee already, an interdepartmental committee working on updating and revising the design standards to address road crossings, landscape standards, I believe there will be a section added to chapter 32 of the Municipal Code on arroyos rather than incorporating the various aspects like road crossing or erosion control into those smaller sections of the chapter. So, until the design standards are updated, any development proposal that comes in would follow the current design standards. The model will take some time because as I said first of all we have to find funding for it and to be honest I don't know how long a study of this type would take. I would think that it would be approximately equivalent to the time it took to do the storm drain master plan in 2006 and I honestly don't know how long that was, but I could foresee it taking a year.

Clifton: So with that said, this is a policy document much like the comprehensive plan and the concern I have is getting a case recommendation from staff under the findings of fact that utilizes aspect of a comprehensive plan of policy document that plays into a recommendation of an application, whether it's zoning or subdivision, and the concern I have is this will be on a shelf, utilized to formulate that recommendation without it being codified and that's a concern. I mean it's an awfully grey area and I think it would be awfully uncomfortable for members of the community that invest money in developments and real estate.

McCall: Mr. Chair, Commissioner Clifton, I completely understand your concern. I

do the comprehensive plan reviews for the development proposals and it's been my experience, I can't say this for sure with current planning, but in the absence of a regulation then plan policy is referred to. So, if the situation arises in which it's not already addressed by code, then staff and appointed and elected officials would have to follow some sort of guidance and so it would be a policy. But, it's been my experience that if there's a code in place then that's what it would follow even though it may run counter to what the policy says. And I guess I would add to that the situation that anybody would be in would be the same whether it's the comprehensive plan, or the storm drain master plan, or the stormwater management plan, the parks and rec. master plan, everybody faces the same situation when there's a proposal of any kind that goes for approval. If it's not already on the books they would run into that problem regardless of what plan it is, it's not just the arroyo plan.

Clifton: And I think that's what makes me uncomfortable. I think it's a slippery slope. You know if it's not being addressed ... a code is the law. A policy is an opinion. You know you make the policy an ordinance and it's law. And until so if an individual comes in to develop a project, you know what assurances do they have that it's not going to be a taking ... I think it's really creating a legal issue for the city and an uncomfortable position for the Planning and Zoning Commission in the future if that were to occur. I'm not saying it will occur, I don't even know if it will or it may, but I think in this room we've all seen a little bit of everything so it wouldn't surprise me. Thank you.

Crane: Any other Commissioner have any questions? Commissioner Ferrary.

Ferrary: Well my understanding is that this is a management plan and it's in the process of being adopted, and as you've explained that if something happens until this is codified then it would just be a suggestion and tried to be followed as a model and what we're working towards. So, I think this is a good thing to go ahead and approve.

Crane: Thank you. Anyone else? Thank you Carol. So, Commissioners may I have a ...

Beard: You might have some public input.

Crane: Quite right Commissioner Beard. Input from the public. There were three people I believe at the beginning of the meeting indicated they had ... they wanted to address this. I notice those people still here. Mr. Binns or have you said it all? You want to come up. Anybody else so I can get some idea of how many? Okay. Mr. Beard, our secretary will give you three minutes apiece, is that satisfactory? Can you do that?

E. Binns: I think I'm here. I swear to tell the truth.

Crane: Okay. I didn't swear you in yet, did I?

E. Binns: Let me turn my hearing aid up a little louder.

Crane: I didn't ... I didn't swear you in earlier?

Baum: Yes.

Crane: I did?

Baum: Yes you did.

Crane: You're still sworn in.

E. Binns: Good.

Crane: Go ahead.

E. Binns: First of all Carol did a fantastic job of trying to analyze the various aspect of this arroyo ordinance. Her analysis has generated more questions than answers, unfortunately, and I hate to see something come along like Obamacare that's on four pages that passed the first go around and then 700 pages that are written after the fact that nobody knows what they say until someone tries to make them work. And I don't want to see something going that direction cause this is a very complicated issue. And the Planning and Zoning Commission has an obligation to analyze these types of things from several levels. And probably the most important level is safety and welfare of the community. This is something that has not been addressed in all of these studies. The arroyo system that may go in has got to have some means of protecting the public there and keeping it in a safe order. The fire department's got to have access to these things in some form or fashion. The police department's got to have access, and they've got to have personnel to handle this additional load of this public property. And at this time those entities are stressed financially taking care of the streets and the normal public without an additional burden of trying to take care of the safety in miles and miles of arroyos.

In addition to the safety and the welfare, we have an issue of the maintenance of them, i.e. taking care of the trash issues. I have real estate scattered in numbers of places around the town and I have codes enforcement contact me and says, Eddie you got a truckload of trash over here so-and-so, you need to go clean it up. Well the same thing's going to happen in arroyos that end up in this and there's going to be trash dumped and it's going to be a trash maintenance problem that takes place. The park system isn't in any position to take on additional park

financial loading in taking care of trails and such here, so you've got a problem from the parks standpoint of them taking care of it.

The second major issue on this thing is the funding of it, because this type of program is heavily city oriented. The staff identified that there was over 6,000 parcels in arroyos that are owned by 6,000 different individuals and in trying to acquire those properties it's going to be a major problem to find the financial resources to buy the land, because it is private land. A lot of people think the arroyos public, but they're not, they're on the tax rolls. My own real estate on the tax rolls that has arroyos going through it has the same tax value as the piece of land on top of the hill, so that the value of the real estate is a major issue. The city did a series of appraisals of real estate to acquire land and in those appraisals that value of the land adjacent to the arroyos was the same as the land there, so value's a big problem.

Crane: Are you about through sir?

E. Binns: I'm getting a little closer.

Crane: Please get a lot closer.

E. Binns: Okay. We'll try to push it on up a little bit. The ... your maintenance, your money, and ... I can foresee and I have the fear that the arroyo issue in a future date will be placed on a developer to dedicate the land in order for him to have the privilege of developing the land adjacent to it. This is what happened with parks. This is what happened with major arterials through the years, that if a developer wanted to develop, then he was squeezed and forced to do that, and I can see this moving in that direction at some future date and that's not a reasonable property right for the city to take away from people.

At this time there are so many unanswered questions that I would be very hard pressed to see this thing issued to recommend to the city without some answers coming in. The boundaries of the flood control require a survey and the survey is done by taking the cross section of the arroyo to calculate the volume flow and then identify the outside boundaries. This is a very complicated effect and to identify the 100-year flood, to the 500-year flood or whatever, it's going to take extensive surveys to identify the real estate that you're speaking of and are going to try to acquire. So that's a major problem. FEMA has maps but they move, arroyos move, arroyos may be at one place this year and next year they may be at the other side, so that they do move around. They're not static. So it does become a major problem in trying to identify and from a property right standpoint an individual has a responsibility to take the water in one side of his property and take it out the other side of his property. And what he does in between if he channelizes or whatever he has a property right and he has the privilege to do whatever he feels is his

right to do. So this is something that I can see is being taking away from the property owner, it's moving in that direction, and I'd like a lot more questions answered, a lot more studies done before this thing moves forward. Thank you.

Crane: Thank you. Who's next? The gentleman in the red shirt. Please identify yourself sir.

Moscato: John Moscato. Good evening Commissioners.

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

Moscato: Yes.

Crane: Go ahead please.

Moscato: Thank you. I'd like to suggest that the first test that the Commission should impose on a proposal like this is whether it's really necessary. And if you look at what's currently on the books in terms of drainage requirements, subdivision, construction requirements, there is plenty on the books already. I'm a developer. I was at a pre-submittal meeting with city staff this morning for instance and our engineer in connection with a project developing totally flat land, no arroyo involved at all, had to present a drainage plan the size of the Las Cruces telephone book. It's incredible if you haven't seen what's required of developers already to develop their property with respect to drainage, I think you'd be surprised to see the burdens and the hurdles that we have to overcome already, but even if you were to think that some kind of arroyo plan is needed, I think you should ask yourself is one of this magnitude really needed. This has 75 separate policy recommendations, it has 57 separate actions recommended. I think that's a prescription for over regulation which is simply going to stifle economic development. It's going to raise cost of development. It's going to raise the cost to the city to manage to supervise, to impose its various mandates in connection with all these policies and all these proposed actions. As Commissioner Clifton mentioned, this is a classic slippery slope. We're going to go from policy to regulations to extra costs, you know just one last example; there's a proposal here to try to incentivize single loaded streets along arroyos, well, I'm not sure how you can successfully incentivize a recommendation which would effectively double the cost of development. If you're only developing one side of the street, you have half the lots to develop, but you have the same costs of infrastructure. So I think on so many levels this is unneeded. If anything is needed it's certainly not of this magnitude. Thank you.

Crane: Thank you sir. Someone else? Please tell us who you are.

Bower: Max Bower. Red Mesa Development and also ...

Crane: Mr. Bower do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Bower: Yes.

Crane: Go ahead please.

Bower: Just to really reiterate what John just said, the proposed ordinance in its current form, the preliminaries, the full potential of arroyos as a community asset was thrown around a lot in there and the plan admittedly discloses that it is unable to quantify the value of this community asset and I have the answer right here, if you want to put it in there. The proposed plan as John pointed out, specifically the buffers will have a very ... it'll have a very negative impact on private property affected by the ordinance. And example, as he's saying, if you have a piece of private property, an arroyo runs through some of it or half of it, again based on tonight's presentation and discussion the proposed buffer of 25 feet is inadequate, it's probably grossly inadequate, in some cases it essentially just doubled the cost of infrastructure because now you have an arroyo, it's in the private land, you create a buffer, you've still got to get a road through there. Half the land is now essentially off the market and ... not to mention you just trampled the private property owners rights pretty significantly right there.

But ... but also from just another angle to this is probably the benefit to the city from a revenue standpoint. The unintended consequence of this is that you're essentially removing property from the market so that the city at some later date can't benefit from revenue from impact fees, building permits, so on and so forth, you're actually strangling revenue to the city by going with something like this. But I do appreciate the time that staff's put in for it. That's not an easy subject to tackle and you know we all want to ... we all want a beautiful community I do commend them for where they're going with it, but there's just a lot of pitfalls that need to be addressed before I believe it should go any further. Thank you.

Crane: Thank you Mr. Bower. Gentleman in the red shirt that we've heard from before but please remind us of your name.

Chavira: Yes, Mr. Chairman, my name is Steve Chavira.

Crane: You're still sworn in, okay.

Chavira: Yes sir. Thank you so much. Mr. Chairman, members of the Commission

I would thank you again for giving me this opportunity to speak to you. I do ... I would like to congratulate Carol on a great job putting the presentation together. She's been very fastidious in looking at all the questions and all the issues and meeting with the groups, and I think she's probably done the best job I've seen of anybody bringing the constituent groups together and to meet on this policy issue. I would like to raise a couple of quick points, but first of all I have a point of order that I would like to just bring up for the record. I'm not sure why you decided to time the public input on this part of the session when you didn't do it for the rest of the evening. I think this is a much more important issue than you know whether we're bringing chickens to the neighborhood or not and I really don't ... I think we probably could've had less talk on chickens, a little more talk from Mr. Binns, but that's obviously your decision Mr. Chairman.

Crane: We're all wiser after the event. Yeah.

Chavira: Right. I would like to say that ... to Commissioner Ferrary's point you know it's a great plan and it's a policy plan and you know approve it as ... push it forward and help facilitate more discussion. I would say not to approve it just for the sake of approving it. This is ... this is a policy discussion that's right, but as you know that when things start getting approved and start pushing forward they turn into ... they turn into laws, they turn into ordinances, they turn into changes that affect a whole lot of things down the road. I urge you to open this up, let's have more discussion. As Carol said, that it would take a long time to really start to quantify exactly what's going to be going into this when we start to really delve into it and look at it. I'd love to see Carol's first day when she decided to tackle this project and all those sleepless nights I'm sure she had looking at the breadth and the scope of this project and looking at what is all involved here. And I'm sure she realizes that those days are not over, especially depending on what goes on here today. Let's take the time to work this plan. Let's look at it. Let's not push it forward to Council and start the ball rolling or start the water flowing as it is, no pun intended, but let's look at it and let's really figure out what is going to be involved in here. We do have an economic impact for our community, for our ... for the business community, our city in general, and looking at this policy is important that we take the time and be as equally fastidious as Carol has been to make sure that we look at it all from ... from all areas of the spectrum. That's my recommendation. I think that I would want to mirror the comments that Mr. Moscato, Mr. Binns, and Mr. Bower have made, those are not only comments of three people but of a large group of people that they represent. Take the time.

Crane: Thank you sir. I think we've heard from four fifths of the people and the gentleman in the grey shirt is going to make it unanimous. And you are?

D. Binns: Hi, I'm David Binns. Binns Limited *(inaudible)*.

Crane: Mr. Binns do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

D. Binns: Yes I do.

Crane: Go ahead sir.

D. Binns: It's kind of interesting that I don't see anybody in the audience that's here to affirm this decision. Everyone here is pretty much against it and there's a reason why. There's too much grey area. The buffer zones are not described here. If this passed on to the city, the city's going to say okay here's the buffer zone and they're going to put a number up there or they're just going to do it case by case according to however they want. There's no studies here that says okay this buffer zone is going to be here, here, and here, and I think we need to evaluate this plan a lot more. One of the things Carol was talking about putting parking lots you know for low density. Parking lots don't work in arroyos. That's kind of against what she was after, the natural aesthetics of the plan. Something else to take into consideration, basically they're trying to keep channelization away from this plan. The Rio Grande River was channelized. It used to meander all up and down the valley. It was channelized for a reason, so people could put farms in, people could put development in. The same thing with arroyos, they can be channelized in a certain manner that the wildlife can still run up and down, we have the aesthetics of an arroyo, but we don't have to let it meander you know one quarter mile one way, on quarter mile the other way, it can be channelized in a smart way but we don't need 400 or 500 foot buffer zones in places. I think when they start looking at different arroyos you're going to have a buffer zone that they might want for 500 feet which is getting pretty ridiculous on a real estate. If the city wants to buy that 500 feet, well that's great, but they don't have the money to do it right now, something to keep in mind. It gets back into an economic portion of the city what they can afford, what they can't afford on private land. And again you're taking the rights of property owners in your own hands right now. And this is something that's going to affect me and my children with different lands all over the city. You guys will be down the road, move away, what not and I'm going to have to deal with this, my children will have to deal with this with different lands all around the city. So I would like to recommend if you could not to pass this and not to let it go forward anymore. Thank you.

Crane: Thank you Mr. Binns. We've heard from everybody. So, Commissioners? Ms. Ferrary, let's let you go and then Mr. Clifton.

Ferrary: Thank you Commissioner Crane. I disagree with all of the naysayers. I

think this is a typical response that we have too much regulation, that these are going to cause us all kinds of problems, we need more discussion. I think the discussion has been at ad nauseam and there will still be more discussion when the City Council goes to approve it. I think there has been great compromise with a lot of the suggestions and improvements to the plan. These are planning measures that will provide a future for Las Cruces to have the protections from the damages by arroyos and not being able to flow. And it will also provide a vision for our community and that will provide you know how Las Cruces will grow in a really great way.

Crane: Thank you. Commissioner Clifton.

Clifton: Thank you Mr. Chair. First of all thank you Mr. Moscato, I have to echo your comments. And at last month's meeting I followed along that same line, that you know what point does the regulation and over regulation stop and that is the upmost concern especially considering the fact that we don't know what this is going to look like and I still believe it's going to hold up projects and lock up land until it's decided how the city will treat that once this is adopted, if it's adopted. And a question to Carol, not to keep beating this to death, but you have a captive audience right now, is there something you could possibly do to set up something that we know about, you have Mr. Binns, Mr. Moscato here, Mr. Chavira. You've had multiple meetings but it still sounds like ... I don't know if the two sides will ever agree but at least come back to us with something that shows that there were some negotiations and this is as far as we can get. And I'm not getting that and that's really what I was requesting last month and it doesn't appear that that's happened and you've got them here tonight and maybe you can work something out with them. Thank you.

Crane: Carol.

McCall: Mr. Chair, Commissioner Clifton, I'd be glad to meet with all of the stakeholder groups more as well as have an additional public meeting.

Crane: That help? Mr. Clifton.

Clifton: I think it will. I mean based on the ... action we commence with, I mean I don't agree that we should take action tonight, you have five individuals in the audience, adamant, passionate about this issue and I think it would be out of respect that at least we pursue you know one more attempt at a meeting before we take action on this and then we can put it to bed.

Crane: Mr. Beard.

Beard: I didn't comment last ... or when you finished because I have so many

questions in my mind and I didn't know where to go. It's like are we going to start planning habitat in the arroyos. You know a plan says that you're going to do something and so we come up with these ideas, but we don't say that we're going to put bushes or trees in this arroyo on this particular type or we're not going to do it on another type. It's a very comprehensive subject and I just didn't know myself, is this really a plan that tells people what to do or is this a plan that sort of make ... puts things really up in the air as to what they should be doing? I think postponing it would be a good idea, having more meetings. But I really don't ... I think this thing really ... this is ... you really have to go deep ... I mean a buffer zone, just that buffer zone alone, what is the buffer zone going to be for different situations. That's a very hard subject to cover. People should know what it is and maybe we address those things as they come up, I don't know. We need the inputs from our developers probably more than anybody else. I can't decide that. So I'm really up in the air as to what I would do and if I don't know what I want to do then I don't want to pass it. So that's my ... where I stand. I think you did a fantastic job though based on the situation.

Crane: Let me play for time a little bit here by saying yes, this is an enormously broad and deep task that you've been given Carol and you've done a bang up job. It goes against my grain to say this but I have substantial sympathy for the points made by the five speakers tonight. It still seems to me as it did after the work session that we're probably going to have to write off those sections of arroyo which are at present in developed areas. I don't see how we could retroact if we go back and recommend accept as a general policy but certainly not as a matter of regulation. The people go back and remake the arroyos in the way that we might all like to see them be done. Clear distinction should therefore be made between plans for existing developed arroyos or arroyos that are in developed areas and those that are in what you call developable areas in which all negotiations regarding the land and the cost of it and so on could be done with the idea in mind that the arroyos would belong to the city and the city can dictate how the channels are supposed to be handled. Then the realtors, the developers, would know where they are, where their land begins and they wouldn't have to be worried about having any of their property taken from them.

Another major section is what I think reflects some of the concerns of my colleagues, this is all very vague and necessarily so, it's impossible to make a plan at this point that has regulation in it. I don't think you had any regulation. This is more a concept plan of what it would be nice to do to preserve the quality of the arroyos for the benefit of everybody in the future. If we send this up to the City Council I hope they'd read it and think about it and ask questions and maybe get some modifications made, but it still wouldn't be quite regulation. I don't think ... correct me if I'm wrong Carol ... that you have anything in there which stipulates anything as

opposed to recommending, is that right?

McCall: Mr. Chair, Commissioners, to my knowledge I don't.

Crane: Yeah. Thank you. So I think this is a question for planning ... for Community Development. If we pass this, send it up to City Council, City Council says great plan, at what point and by whom are regulations going to be written to implement the plan? The City Council has this with a stamp on it saying okay. What happens next?

McCall: Mr. Chair, Commissioners, if it were to be adopted, then steps would be taken to look at the policies that are in the plan and determine whether there is already a regulation or something in an ordinance that addresses it and if not, how it should be addressed in ordinance form. And I honestly can't say how quickly that would happen. I mentioned earlier that there is an interdepartmental committee working on amendments to chapter 32 of the Municipal Code already, the design standards, which will be changed ... I think the title is going to be changed to Development Standards. So, some of these things are already ... oh, some of these things are already being addressed.

**LIGHTS WENT DOWN FOR A MOMENT.**

Crane: *(inaudible)* some cosmic source.

McCall: Simultaneous to this process.

Crane: Okay, so as I understand it, there will be opportunities in the future for the issues to be addressed, the issue of regulation. I mean Community Development if it comes up with regulations as you state, in the absence of anything current. Those regulations have to be voted on by Planning and Zoning, City Council, who?

McCall: Mr. Chair, Commissioners, yes. There would be public comment and any changes to the Municipal Code as I believe would come to this body and then go to the City Council, after public input.

Crane: Okay. Thank you. Anyone else have questions for Ms. McCall? Mr. Clifton.

Clifton: Again, that's just my very concern. This gets adopted and it's so loose we don't know what will happen and Mr. Binns comes in with a development application next to an arroyo, in all likelihood I think most of us in this room know exactly what's going to happen. We all ... we all know what's going to happen, even if it hasn't been codified yet you have a policy document that has been adopted by the City Council that is still a guiding document

formulating your recommendations and I echo once again Mr. Beard's comments, this is just so broad. And you have your stakeholders right here. I think we can get at least a couple meetings in before we take any type of action. I mean I am not prepared to ... well I'm prepared to act on it tonight but I'd prefer to see some consensus building amongst the staff and the individuals in this room.

Crane: Let me ask you for clarification. What do you see happening when Mr. Binns comes to the council and says I've got this new piece of property I want to develop that straddles an arroyo, what do you see happening?

Clifton: That we don't know. I mean it won't ... if he has a project at the staff level it probably won't even reach this body until they resolve the arroyo issue based on the policy document. In terms of what would I envision if they ... if we give them some time to meet, at least an opportunity to build some consensus and if not they can at least come back and say, we couldn't reach an agreement, this is ... it is what it is.

Beard: The City has comment.

Crane: Yes Ms. Harrison-Rogers.

H-Rogers: Just a point of clarification, I would like to point out if there was private property and let's assume that it was zoned multi-family or commercial and they came in simply for a building permit underneath the auspices of that particular zone, this policy document would not halt that project. They would only be obligated to construct to our minimum standards, which is outlined in our design standards as they currently sit. So, a project of that type wouldn't be delayed because of this policy document. But Commissioner Clifton it is accurate that perhaps the policy document could influence projects that came before this Board, such as a zone change, a planned unit development, things of that nature.

Crane: Thank you. Mr. Stowe did you have your light on?

Stowe: Just a comment that as I understand it at the end of the day there's no funding to implement this plan.

McCall: Mr. Chair, Commissioner Stowe, that's correct at this time, there is not.

Stowe: That's kind of strike two. Thank you.

Crane: You have indicated that you are prepared to meet with this group of people behind you representing essentially the building industry to see if you can iron out some questions.

McCall: Mr. Chair, Commissioners, I would be glad to. In fact, in listening to the gentlemen state their case and articulate their concerns, it's ... it is clear to me that the language in the plan could be improved because there is some misunderstanding between what I've written and what I think it says and what they're reading.

Crane: Is there any parallel but opposite group of people that you could meet with, not necessarily the same time, but to give some balance here, cause these are very articulate and energetic gentlemen, and have somebody from the grassroots who might have a different view that you could get with?

McCall: Mr. Chair, Commissioners ...

Crane: If it hasn't already been done I'm assuming.

McCall: I would actually schedule additional meetings with all three stakeholder groups; engineers, conservationists, and the developers, and I would have an additional public meeting.

Crane: Thank you. Mr. Clifton.

Clifton: I'd like to make a motion that Case PA-14-01 be postponed indefinitely. That's just simply non-date specific, we can't pin a date to it.

Crane: You really mean indefinitely or to ... until Ms. McCall has had these meetings that she has spoken of? Indefinitely sounds like you shot it in the head.

Clifton: I will rephrase my motion. I would like to recommend postponement until such time as staff has had the opportunity to meet with the necessary stakeholders regarding Case PA-14-01.

Crane: Is there a second for that?

Beard: Comment. Discussion.

Crane: Let's get a second first.

Beard: Last time I seconded I didn't get a discussion.

Crane: You're too shy. Okay. Mr. Stowe are you going to second?

Stowe: I second the motion.

Crane: Okay, now Mr. Beard.

Beard: Should we include what we want to hear in this postponement? I mean for postponement we're going to have an input, are there things that we ... that we want to definitely hear somebody say something on, like on the buffer zone. We've got to address the buffer zone. Do we actually want to put in a criteria for the various buffer zones or do we ... do we want recommendations that ... that these types of things will be decided later on? What I'm trying to say is, this is a ... the buffer zones happen to be an important subject, how do we want ... how do we want that to be addressed back to us? Do we want definitive numbers or do we not care? Do we ... can we live without the numbers? Do we want to plant trees in all of the arroyos, I mean or put bushes in all of them? Just to have more discussion and then come back, what I'm trying to say is, I answered many government proposals, those were plans and in there we said exactly what we were going to do. The government then decided which contractor they were going to pick. This plan doesn't really come down to saying this is exactly what we're going to do, yeah or nay on it. It has a lot of recommendations but it doesn't have any ... I don't think, policies. Do we want the policies to be addressed in here? I don't know if I'm getting my thoughts across or not, but what do we expect out of ... in the next meeting?

Crane: Ms. Ferrary.

Ferrary: I don't think we can define those things. This is a management plan. This is something that you know the policies are going to be reviewed and then presented later on even after the plan has been adopted. I think this is a stall tactic and I commend Carol for having the patience to do more.

Crane: Mr. Clifton.

Clifton: Mr. Chair ...

Crane: If you're going ... are you going to address Mr. Beard's point?

Clifton: Yes.

Crane: Okay.

Clifton: I was going to touch on that just a bit. I think it's ... staff can correct me if I'm wrong, I think it's ... even though we postpone, I think it's well within the Commissions purview to recommend certain items that you may want to see before we take action at the next meeting. Maybe another work session next month would be appropriate, I don't know. But I think it's well within your right to ask for certain items. I don't know that we can drill down to the specific width as that would be more of the technical issue

addressed in the *(inaudible)* ordinance, but I think you can.

Crane: Commissioner Beard.

Beard: I agree. I was just trying ... what are we expecting differently next time than what we got this time?

Crane: I don't think we are in a ... at a point yet where we should try to get very specific. There've been all kinds of concerns expressed tonight by all kinds of people and they're all in the record, whether Carol and the others will have access to the record, I don't know. But in any event do you have access to the recordings, I mean excluding what Becky's going to come up with, the minutes?

McCall: Mr. Chair, Commissioners, yes I have ... I do have access to the minutes.

Crane: Okay. So you know what at least some of the points of contention are and if you can work something out with the industry and separately no doubt with the conservation and engineers groups, I think we'd all profit from whatever you can come up with. Specifics at this point I don't know, like numbers defining buffer zones and so on, I don't think we're ready for it. Is it ... the questions more like is it feasible to even have the concept of buffer zones?

Beard: Right. Exactly right. Right. And there was one ... one comment made that we have too many regulations already, well what's the alternate proposal then? I don't know that that is.

Crane: Okay, so we have a motion that this ... essentially this be postponed until *(inaudible)* until Ms. McCall has made adjustments to her plan based on meetings with these three stakeholder groups, does that summarize it nicely Mr. Clifton?

Clifton: Yes Mr. Chair.

Crane: Okay. So, we have a second for that. Are we ready to vote? I think we are. Okay, stating with you Mr. Beard.

Beard: Yes based on discussions.

Crane: Yes, Ms. Ferrary.

Ferrary: No based on discussions.

Crane: Mr. Stowe.

Stowe: Yes based on discussions.

Crane: Mr. Clifton.

Clifton: Yes based on discussion.

Crane: The Chair votes yes. So the measure passes four to one and we will readdress this in the future. Thank you.

McCall: Thank you very much.

**VII. OTHER BUSINESS - NONE**

Crane: As the sole representative of your department here is there ... I beg your pardon. Are there any more matters of business?

H-Rogers: None this evening.

Crane: Okay.

**VIII. PUBLIC PARTICIPATION**

**IX. STAFF ANNOUNCEMENTS**

**X. ADJOURNMENT (9:37)**

Crane: In that case we are adjourned at about 9:36. Thank you all.

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Chairperson

# PLANNING AND ZONING COMMISSION
# FOR THE
# CITY OF LAS CRUCES
## City Council Chambers
## DRAFT July 22, 2014 at 6:00 p.m.

**BOARD MEMBERS PRESENT:**

Godfrey Crane, Chairman
William Stowe, Vice-Chair
Joanne Ferrary, Member
Ruben Alvarado, Member
Kirk Clifton, Member

**BOARD MEMBERS ABSENT:**

Charles Beard, Secretary

**STAFF PRESENT:**

Katherine Harrison- Rogers, Senior Planner, CLC
Susana Montana, Planner, CLC
Mark Dubbin, CLC Fire Department (departed 9:50)
Robert Cabello, CLC Legal Staff
Becky Baum, Recording Secretary, RC Creations, LLC

## I. CALL TO ORDER (6:00 p.m.)

Crane: Good evening ladies and gentlemen. Welcome to the meeting of the Planning and Zoning Commission for Tuesday July 22nd. Let me start as we usually do by introducing my fellow Commissioners; starting at my far right, Commissioner Clifton represents District 6, then Commissioner Stowe who is also our Vice Chairman, District 1; Commissioner Ferrary District 5; Commissioner Alvarado, District 3. I'm Godfrey Crane the Chair and I represent District 4. We presently have one vacancy on the Commission.

## II. CONFLICT OF INTEREST - *At the opening of each meeting, the chairperson shall ask if any member on the Commission or City staff has any known conflict of interest with any item on the agenda.*

Crane: The next thing is to ask if any member of the Commission or any City person present has any conflict of interest of anything on tonight's agenda. Ms. Ferrary.

Ferrary: Commissioner Crane I have a conflict as I am a member of the Las Cruces Country Club, so I would like to recuse myself when we get to the second item of new business, Case IDP-14-04.

Crane: Okay. Thank you. So noted. Anyone else? No one else. Thank you.

## III. APPROVAL OF MINUTES

## IV.

1. June 24, 2014 - Regular Meeting

Crane: Next we go to the approval of the minutes for the last meeting. Commissioners does anyone have any points to make about them? If not I have a few, mostly picky. Page 18, line 23, "Ms. Rogers, is this a point of order". And page 20, line 28, that word second from the end of the line is "evidently". Page 21, line 37, "Ms. Harrison-Rogers". Page 37, Line 30, "But we hear you" H E A R. Finally page 67, line 37, "starting with you Mr. Beard". Any other Commissioner? Commissioner Ferrary.

Ferrary: On page 10, line 42, there is not a comma between site and visit. And on page 25, line 30 should be "it sounds". And line 31, they'll instead of just they. And then on page 44, line 5; "the" should be eliminated. And also on line 7, it and then take out would. And line 9, insert "it". **PAGE 25, 31, 44 LINE 5 AND LINE 7 ARE CORRECTIONS TO WHAT SHE SAID VERBATIM IN THE JUNE MEETING.**

Crane: Thank you, any other Commissioner have some points to make about the minutes? In that case I'll entertain a motion that the minutes as corrected be agreed to, be accepted.

Stowe: So moved.

Crane: Moved by Mr. Stowe. Seconded?

Ferrary: I'll second.

Crane: Seconded by Ms. Ferrary. All in favor aye.

ALL: AYE.

Crane: Against? Extensions? Passes five/zero. Thank you.

## V. CONSENT AGENDA

1. **Case S-14-020:** An application of Raci Management Company, Inc., property owner, for a replat known as Ameriwest Subdivision No. 3, Replat No. 6 on a 5.00 +/- acre commercial lot zoned C-3 (Commercial High Intensity) and located on the east side of Telshor Boulevard, 0.53 +/- miles north of its intersection with Spruce Avenue; Parcel ID# 02-31275. Proposed Use: Two (2) new commercial lots; Council District 6 (Levatino).

Crane: Now we pass the consent agenda. Let me explain for those of you who may not know how we handle this. Items on the consent agenda are put there by the Community Planning Department in the belief that they are not particularly contentious items and therefore there probably will be no need for debate on them. However, if any member of the public, any Commissioner, or any member of Community Development Department actually wants to debate any item on the consent agenda we will remove it from the consent agenda and put it into new business, otherwise we simply take an up or down vote on the whole consent agenda which today includes only one item, Case S-14-020. So is there anybody who wishes to debate that particular matter? No one so indicates, so we will vote on the consent agenda. May I have a motion to that effect?

Clifton: So moved.

Crane: Moved by Mr. Clifton.

Alvarado: Second.

Crane: Seconded by Mr. Alvarado. All in favor aye.

ALL: AYE.

Crane: Opposed? The case passes five to zero. Thank you.

## VI. OLD BUSINESS - NONE

1. **Case S-13-030W:** An application of Western Lands Surveying on behalf of Jose A & Martha C. Gamboa, property owners to waive 100% of the road improvement requirements for Saromi Lane and Cortez Drive, a proposed collector roadway. The proposed waiver is associated with improvements required for a proposed alternate summary subdivision known as Gamboa Acres Subdivision on a 5.01 +/- acre tract located on the southwest corner of Cortez Drive and Saromi Lane; 7486 Cortez Drive; Parcel ID# 02-25523. Proposed Use: Two (2) new rural single-family residential lots; Council District 6 (Levatino).

Crane: Now we pass to the regular agenda which is two sections; old business we have a couple of items, and new business, three items. And the regular agenda is handled this way; a member of the Community Development Department will come up and give us a presentation on each item in turn. The Commission may have questions of that person. When our questions are over we ask the applicant to come up or the applicant's representative speak to us if that person wishes. We may have questions of that person. Finally, we ask interested Members of the public to come up and say their piece. We may have some questions of

them. When the public has had its say, then we close the matter to further debate and we, the Commissioners, will discuss the matter among ourselves and take a vote. Before each of the regular items I will ask for a show of hands on how many Members of the public wish to speak and if it's quite a large number I'll ask our ... I'll ask Mr. Alvarado here to operate our machine for timing people, typically we give three minutes per person. If there's only a scattering of people then we probably will dispense with that. So, Ms. Harrison-Rogers starts off and this is the Case S-13-030W, in old business. Go ahead please.

H-Rogers: Thank you. Chairman, Members of the Commission. This particular case is associated with the Gamboa Acres subdivision. This is specifically a waiver request to the road improvements. The particular property is located at the corner of Cortez Drive and Saromi Lane. It is zoned EE which is single-family equestrian estate and agriculture. It encompasses a little over five acres and has one existing single-family home. They're proposing to split it into two lots, a little over three acres, a little over one acre for the other. This is part of the alternate summary subdivision process. That particular actual subdivision is administrative and isn't actually a matter before the Commission this evening. It is for reference compliant with the zoning code. The only thing that is a little different is that they are requesting a waiver from the road improvements that are required as part of the regulations.

Here's a picture of the plat, you can see the layout of those two lots. You have Cortez and Saromi right here, and of course a flag lot for the smaller of the two parcels, and of course the remaining lot right here. Now Cortez Drive specially is a collector roadway. Currently it's 25-feet, it is paved. They ... as part of the subdivision process they're required to provide a right-of-way dedication for Cortez Drive, that's one-half of a collector which is 85-feet, approximately 42.5 feet in this case. They're also required to construct half of the collector which is also 42.5 feet, that includes sidewalk, curb, gutter, all of those sorts of things that make a city street. They're also required as part of the process to construct a minor local roadway from the edge of the subdivision, that would be the western boundary all the way to the nearest paved road, which is Dunn. The applicant is proposing specifically for Cortez Drive to dedicate the right-of-way, they are going to do that; however, they would like 100% of the required road improvements waived.

Now onto Saromi Lane. This is designated as a local roadway. It is currently an unimproved dirt road. Again they're responsible for dedicating half of the required 50-foot segment which is 25-feet, and they're also responsible for constructing that 25-feet to local road standards. The applicant again is requesting a waiver of 100% of those road improvements but will dedicate the additional right-of-way for Saromi Lane. For your reference, here's the minor local road, of course they would be required to construct half of that for Saromi. And then here's the

collector and of course they would be required to build half of that for Cortez, if this waiver were not granted. This is a good idea of what they're supposed to construct. You can see with the red line here, this is a minor local roadway all the way to Dunn and then of course from the edge of the subdivision to this edge of the subdivision they would be required to do that half of a collector along Cortez, and then from this point to this point in the yellow as you can see it'd be half of the road cross section for a local road, that's 25-feet. You can see that this is the paved roadway along Cortez looking west and this is Saromi, you can see again that that's just a dirt road looking south.

The applicant's particular rationale, mind you this is ... this is specifically from the applicant, is that the proposed subdivision isn't done to sell off the land, rather it's for family. Additionally it's been designed to prevent additional traffic onto the unimproved Saromi Lane and restrict access to the existing paved Cortez. And the proposed subdivision is within the East Mesa Community Planning Blueprint, where roadway standards and designs are desired to protect the rural environment of the area. And the required road improvements would not accomplish this. And of course that being the applicant's rationale, they can speak more to that and they do have a presentation this evening to talk about that for you.

Staff looked at the hardships expressed by the applicant and unfortunately Article 6, section 37-33 of the City of Las Cruces Code states that the hardship must be due to an exceptional topographic, soil, or other surface or subsurface condition and those conditions would result in the inhibiting of the objectives of the code. Upon review of this, there isn't any sort of hardship related to the topography or subsurface conditions of this particular parcel; it's simply a monetary issue. Therefore staff is stating that this particular waiver is not justified. The DRC did look at this particular project on May 21st, they also have recommended denial to this Commission of the waiver citing that there are some concern for just the proliferation of these types of waivers and ultimately what it does to the road system down the line in the future as a number of these occur.

Staff recommends denial for the proposed waiver based on the findings outlined in the staff report. And of course the Planning and Zoning Commission is a recommending body for the proposed waiver to City Council. And your options tonight are to vote yes to the waiver, vote yes to approve it with conditions, or vote no to deny the waiver, or table and postpone the request. With that I'm open to any questions or we can go ahead and turn that over to the applicant who has a presentation prepared for this Commission.

Crane: Commissioners, any questions for Ms. Harrison-Rogers? Commissioner Stowe.

Stowe: Do you have a cost on the ... how much it would cost the applicant?

H-Rogers: I currently do not have a cost, but the applicant may be able to speak a little bit more to that, however, just knowing the general costs of these things it would be in the several tens of thousands of dollars.

Stowe: And we're saying that's not a hardship?

H-Rogers: Unfortunately our code does not site monetary reasons as a hardship. Generally topographic and soil conditions that might prevent it.

Crane: Commissioner Stowe you through?

Stowe: Thank you.

Crane: Commissioner Ferrary.

Ferrary: Is there a timeline when if they ... if we denied this and they were forced to pay for that, it doesn't make much sense for them to have to make those improvements until the rest of the road is ready, is that right?

H-Rogers: Mr. Chair, Members of the Commission, Commissioner Ferrary, there is a mechanism by which the City will take a fee in lieu of improvements and generally in situations like this you're correct, the City does not want to see these piecemeal segments of roadway. Rather they would take the fee in lieu and then keep the monies so that when the time comes they can improve the whole segment of roadway in a more logical sequence.

Ferrary: Is there a time when they would have to have that into the City's hands?

H-Rogers: Mr. Chair, Commissioner Ferrary, yes, indeed there is ... basically they would have to do that prior to filing the subdivision. The subdivision couldn't be filed until we actually had those fees in place. The other mechanism if they were to build it would be a surety, a financial surety of some sort like a bond or an escrow account or a letter of credit and basically an agreement with the City, a guarantee of improvements; that those improvements would be done within a certain timeframe. That allows them to record the plat but then they have to build that within I believe its three years.

Ferrary: Thank you.

H-Rogers: You're welcome.

Crane: I think Commissioner Alvarado's light was on first.

Alvarado: Who paved Cortez? Did the City pave Cortez or was that there before?

H-Rogers: I actually don't know the answer to that question. That's something that I could look into for you. I'm under the assumption though just knowing that most of those lots are not part of a previously filed subdivision, that that was most likely the City that did that, just based on the area itself. That would've been either a City or county project before it was brought into the city.

Alvarado: Because a lot of those roads were paved by the county before they were annexed into the city.

H-Rogers: Correct.

Alvarado: Thank you.

Crane: Commissioner Clifton.

Clifton: Mr. Chair, Katherine question, could you go back to the aerial photo for me? Okay, I couldn't ... perhaps I missed it in the packet and I can't read the plat but how much right-of-way did they have to dedicate as part of the subdivision plat for Cortez?

H-Rogers: So along the entire frontage of the parcels themselves it is going to be a 42.5-foot wide strip along those parcels.

Clifton: So they dedicated ... they're dedicating 42 ...

H-Rogers: They will dedicate that, yes sir.

Clifton: Okay. Then across the street is owned by the State of New Mexico, the state land office, did they review this project?

H-Rogers: The state land office, Members of the Commission, Mr. Chair, the state land office is always given copies of any sort of land use permits or subdivisions that go through on any lands that are adjacent or may be influenced by the development.

Clifton: And the reason I ask, the state land office just doesn't go out and openly pave roads just to pave roads. It could be a hundred years before they pave Cortez. It just ... it does seem a little bit of a burden on the property owner to have already accumulated 42.5-feet of their property and further assess them road improvements adjacent to that when who knows when Cortez is going to get built. It's already paved. Were there any other negotiations attempted with the applicant in terms of what would you be willing to do? They're giving up a lot of property.

H-Rogers: Correct. Mr. Chair, Members of the Commission, Commissioner Clifton, during the process we always talk about the ability to fee in lieu or maybe some other alternatives such as development agreement with City Council to do some sort of alternative. In this particular case their preference was to waive 100% of the road improvements.

Crane: Ms. Harrison-Rogers let me make sure I understand this, they have to dedicate 42.5-feet on Cortez as half of the collector road and put gutter, sidewalk there and curb, and that extends all the way down to Dunn? Why do they have to do all the way down to Dunn? Am I right?

H-Rogers: Mr. Chair, members of the Commission, it's two part; in front of the subdivision they have to dedicate the 42.5 foot road section and then construct the half section of a collector which is the curb, gutter, sidewalk. And then from the western edge or the end of that particular subdivision to the nearest paved road that's accepted by the City which is Dunn, they would have to improve that to a minor local, the entire length of this roadway, so that means essentially 50-foot cross section. And then the Saromi Lane is a half local improved at this point with 25-foot dedicated along the subdivision boundaries.

Crane: So they are required to make the red highlighted part of Cortez up to a minor local standards which is a 25-foot, did you say dedication?

H-Rogers: It's ... they don't have to dedicate, Mr. Chair, Members of the Commission, they don't have to dedicate any land cause of course they don't own, but they do have to improve it. Let me show you what the cross section looks like so you have a good sense. It's actually 50-feet and this is what it looks like.

Crane: Okay now if you could save me a little trouble digging here, is there any conflict between what they would do as bringing Cortez up to a minor local and what Cortez would look like as a collector? In other words are they doing something that has to be ripped out before Cortez can be brought up to its collector form?

H-Rogers: Ultimately it ... Mr. Chair, Members of the Commission, ultimately that's an engineering call at the time of construction. If it can be used they will use the pavement but often times things may have to be altered significantly, but ultimately that's at the time of construction. So if it was to be constructed as a minor local for a length of the way all the way to Dunn and then it would transition into the 42.5-foot of half a collector, potentially they could utilize this but I'm not certain of that, it's really an engineering question that I'm not capable of answering at this point.

Crane: Well looking a little closer at these diagrams I see that half a minor local is an 11-foot driving lane and a 5.5-foot parking lane. And half a collector is a two-foot C&C, and a 12-foot driving lane and another 12-foot driving lane. These are incompatible. So if this is done as the City requires we will have right outside the north side of this lot half of a collector build to the standards you just showed us and then when we transition from the green arrow to the red arrow we will go to a different standard, which will not be a collector, which is a waste of time and money if anybody had that much time and money. We have a problem here, or am I imaging this?

H-Rogers: Chairman Crane and Members of the Commission, indeed there would be a transition. This essentially would be built to a full local, the red segment here and then this would be built to a half collector, this segment here. The little yellow over here would be a half local, it's a bit confusing. But indeed they would be of different standards, there would be a transition point between the two and generally as I explained to Commissioner Ferrary, in circumstances like these the City actually does prefer a fee in lieu as opposed to the actual full construction so that those monies can be set aside so that it can be built in a more uniform way in the future.

Crane: I make the point that I think when we've had this kind of thing come up before there's been a fee in lieu as an acceptable way all around for getting out of this very strange situation. I mean its unconscionable that put in another house on a flag lot in that block that somebody would have to build half a mile of road, half of half a mile of road, for which the other people benefit. It hardly seems fair and is ... financially I imagine is completely out of reach. Thank you. Any other questions for Ms. Harrison-Rogers? Commissioner Ferrary.

Ferrary: I was ... Ms. Rogers, I was wondering the fee in lieu, is that for the total amount to take that down to Dunn Road that would be required?

H-Rogers: Mr. Chair, Members of the Commission, Commissioner Ferrary, yes indeed. Essentially what would happen is their engineer would have to provide us an estimate and then that's what that fee in lieu would be based upon and it would be for the entire ... all of these improvements that you see up on the screen right now.

Crane: Anyone else? Mr. Stowe.

Stowe: It was mentioned of a rural road. How does that impact these standards?

H-Rogers: So what was mentioned by Members of the Commission, Commissioner Stowe what was mentioned by the applicant and their rationale had to do with the East Mesa Blueprint which was planning initiative that I think you are all familiar with as many of you or most of you sitting on the

Commission tonight did review that and recommend that for approval. In that particular policy document that was formulated essentially by the residents that live out there along with City staff, one of the things that they desired was a rural atmosphere including the possibility of perhaps creating different types of road standards in the future for that particular neighborhood. Currently our road standards don't have ... we do not have a rural category for our road standards.

Stowe: Why not?

H-Rogers: Members of the Commission, Commissioner Stowe, that's something that we haven't been directed to do by City Council. We are revising our design standards but we still haven't contemplated a rural road design in those standards as we have not been directed by Council to prioritize that. However, it is a possibility in the future if they so choose.

Stowe: Thank you.

H-Rogers: You're welcome.

Crane: Commissioner Clifton.

Clifton: Mr. Chair, Katherine, I thought a minor local was 37-feet back of curb, back of curb improved.

H-Rogers: Members ...

Clifton: Where I'm going with that is for Saromi cause it indicates a 25-foot road section would be required.

H-Rogers: Correct. Commissioner ... excuse me, Chairman Crane and Members of the Commission, when we say the 50-feet, it's the full minor local section that we have here. That includes sidewalks as well as any improvements, curb, gutter. The ... I believe that the pavement itself is the 37-feet that you were speaking to, but the full 50-feet is incorporating of course the sidewalks and the curb and gutter and I believe that that's where the discrepancy takes place.

Clifton: But the sidewalk would not actually be constructed until time of building construction, correct?

H-Rogers: Generally it is not, you are correct.

Clifton: So, unless something changed I thought the design standards used to read that there were 100% requirements for minor locals adjacent and to the subject property.

H-Rogers: I believe that the information that we have is with the current standards; one has to do with adjacent to and the other has to do with the closest paved roadway. I may be wrong and we'll have to double-check that, but to the best of my knowledge these are the standards by which we are ... we are working.

Clifton: I ... I just look across the street and it looks like those properties have been subdivided. I realize it's an EE zone, they're probably two-acre lots roughly, I mean the likelihood of Saromi being further improved is probably as likely as Cortez I would guesstimate based on the current land use situation.

H-Rogers: Members of the Commission, Commissioner Clifton, these are designated as large lots, you are correct and Saromi Lane is not part of our MPO Thoroughfare Plan for any major type of roadway expansion. It's just considered a local road, so I think you have come to a good assumption.

Clifton: Thank you.

Crane: Any other Commissioner? Thank you Ms. Harrison-Rogers. Is the applicant here or the applicant's representative? Are both of you gentlemen going to speak?

Gutierrez: No. I'm going to be speaking for the applicant. I'm Anthony Gutierrez.

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

Gutierrez: Yes sir I do.

Crane: Thank you. Continue.

Gutierrez: I'm just going to go through a quick presentation and try to shed some light on what our side of this whole thing is. Basically what we had here in the beginning, you've already seen some pictures of the plat, but basically we first submitted this plat with four lots, it was originally a four-lot split out of one. And then we reduced it and the intent just right off is to give this parcel as a gift to his daughter. The only thing I would point out is that Saromi Lane is basically the county boundary, so this is adjacent immediately to the county boundary right now. Some of you were asking about questions of the plat, this might ... this one might be a little more legible, but shows clearly what we're dedicating as far as right-of-way.

We took some more pictures and with these pictures up I'd like also to clarify for the Commission and the public that the improvements will not just be adjacent to the property. We'll be improving, if this waiver isn't

granted, all the way down basically to the highway, to Highway 70. And just the ... a quick note on how the land resides adjacent to that property right now. Right now you have the state to the north, we'd have to acquire or have an agreement with them to improve their share of that right-of-way as well as four other parcels to the west. We'd have to acquire that right-of-way which is not acquired at this point. There aren't easements or ... you know there's not dedicated property. It's not in the City's hands right now for us to do those improvements, as well as all the topographical surveying and mapping that would have to be done in order to do the engineering estimate to provide a fee in lieu of. That's one of the reasons why we choose this route first, to try and get a full waiver.

And these pictures show I believe a little more detail on what the existing section looks like out there. But just to make that clear that just the half of those improvements adjacent to his property would be cost intensive, improving all of Cortez all the way down to the highway would be even much greater. If you consider all the drainage requirements and all the infrastructure that you'd have to put in. This is the waiver request letter, I'm sure it was included in your packet. This what we want to get to is East Mesa Community Blueprint, now participants in this blueprint were the community like City staff had previously stated, as well as City staff. And with the blueprint like this in place we feel confident that the community surrounding this area is in approval of keeping things the way they are or improving them according to this blueprint. Right now City design standards do not accommodate this blueprint whatsoever. If we were to entertain a fee in lieu of we'd want to conform to this blueprint, and those design standards simply don't exist. When you read through this packet we've got some ... some of these paragraphs highlighted for you. Current City standards are for general application throughout the city and may not be best suited for the context and/or users in the planning area. The fact that many of the roads and trails in this area are not completely developed or not yet built presents the opportunity to establish new rural and equestrian design standards for roadways and trails located here and in similar rural areas in the city.

Right here you can see some pictures of what they intend to see. They've got some points under their goals which I think are important to note. Ensure future infrastructure design and development that take into consideration the surroundings and the community's desires as identified by this blueprint. I mean this is just a unique case where we have something that is presented by the community and I believe that this subdivision in no way impacts the goals of this blueprint. And we think that improving the area according to the design standards now that we have in place would definitely be in contradiction to this blueprint. And again just some highlights here, I won't read this one. Well maybe I will, this points to a ... on the next page here what this layout looks like. But one is you can see the location by the red square of where the property is

now and where a proposed park is to be put in place and all of the different trails that they would like to see happen.

So basically we'd like a waiver from improving both Cortez Drive and Saromi Lane within the limits of the proposed alternate summary subdivision. We'd like a full waiver from the design standards completely and would like to leave it as is while we still dedicate the property so that in future when these design standards are created and made part of the code that the property's there to use. I think it's ... it's easy to say at this point that we're probably giving more property than will be necessary for those design standards, but that it will be available. It's not available in the four parcels adjacent. We are requesting approval of the flag lot configuration as proposed in the said alternate summary subdivision and the benefits are the City of Las Cruces will be able to honor the wishes of the residents in the East Mesa Community Blueprint area, and the objectives of the community blueprint. Density in this area will remain lower than the current zoning of the parent tract which is true if you look at this on an aerial view it's not increasing the density any more than the surrounding neighborhood. I just want to put emphasis on the fact that this isn't for financial gain. I believe that is something to consider. It may not be in the code but in this hearing we have a large part of the community, I don't think they are here to hear this case, but it's important for people to understand that sometimes these situations are created simply by just overlooking something when we're creating these codes. We don't always anticipate these types of situations and that's why you all are here. So we're asking for your serious consideration of this waiver and that you would grant it so that we can stay in compliance with this blueprint. Thank you.

Crane: Thank you sir. Commissioners, any questions for Mr. Gutierrez? Mr. Stowe.

Stowe: Mr. Gutierrez.

Gutierrez: Yes sir.

Stowe: About how long would it take in your estimation, in your opinion for development to take place near you at this property?

Gutierrez: Which development ... are you referring to development of the roadway improvements or just of the lot itself?

Stowe: The ... is it BLM that's across the way?

Gutierrez: It's State of New Mexico right now.

Stowe: State of New Mexico.

Gutierrez: Yes.

Stowe: In one opinion that might take a century.

Gutierrez: Yes. Yes I mean in my experience just dealing with ... I was involved with acquisition of right-of-way on Elks Drive when that was improved and that took some serious time. We had to prepare any legal descriptions and deal with property owners, and that process was very intensive. Just dealing with one property, just one, is a serious issue. We'd have to deal with four adjacent to the west and then the State of New Mexico ...

Stowe: Right.

Gutierrez: Before we could even approach you know that issue. So it's a big deal.

Stowe: Ten years might be a feasible estimation.

Gutierrez: A good estimate. Yes. That's correct.

Stowe: Thank you.

Crane: Any other Commissioner have questions? Okay, thank you gentlemen. Please sit down, and any member of the public wish to address this issue? No one so indicates, so we'll close this to further discussion. Commissioners, your wish?

Clifton: Mr. Chair, members of the Commission.

Crane: Mr. Clifton.

Clifton: Although the letter of the law does require these road improvements I would argue that the applicant is giving up over 30,000 square feet of property to the City through their dedication. That's approximately just under three-quarters of an acre. In an R-1a zoning district you could get on a regular standard street almost 10 lots out of that, that's a lot of dirt they're giving to the City for half of a collector and half of a minor local that probably won't have the traffic on it. And I think there's a reasonable trade for property and improvements and with that I'll vote when we're prepared to.

Crane: Are you figuring that as running ... that property running all the way down to Dunn Road or just what's on the edges of this lot?

Clifton: Mr. Chair it was just a rough calculation on the adjacent edges of this lot in particular.

Crane: Okay.

Clifton: The northern boundary, the 42.5-feet was just under 20,000 square feet and Saromi was about 10,000 square feet.

Crane: Okay. Thank you. Comments from anyone else? I'm disappointed that while the applicant has every right to bring up the fact to give a flag lot and build a home for a family member is going to cost immense amounts of money because of this road build out that's required, that he has not offered a fee in lieu of this road work or said that he would be glad to sit down with the City and work out something. This is what has been done before in this kind of situation which is even before this Commission, more than once in the six years or so I've been on it. Any other comments by members?

Ferrary: The representative for the Gamboa family mentioned about Elks Drive being you know kind of a patch work you know long, and I can see how that is going to probably happen with this road even though it's not quite as long to Dunn, but the responsibility of making those improvements in front of other property owners and since this isn't really a development that could share that amongst other you know lots being sold with homes, there isn't a builder that could afford that kind of development, but I agree that probably some type of consideration for partial, like just maybe what the improvements would cost in front and on the side of the lot might be something to consider.

Crane: Thank you. Anyone else? In that case Mr. Clifton would you like to make a motion, possibly with the condition regarding fee in lieu of, which might make it easier for some of us to vote for the waiver.

Clifton: Thank you Mr. Chair. I suspect I can craft a motion from that. I would like to make a motion to approve a waiver request for Case S-13-030W, conditioned that the applicant provide payment in lieu of road improvements equal to the amount required by the City subdivision standards.

Crane: Thank you, is there a second for that?

Stowe: Second.

Crane: Seconded by Mr. Stowe. Any further discussion? Mr. Alvarado.

Alvarado: Yes I'd like to ... do we have any idea at all how much the in lieu amount is going to be? Does anybody have any ideas, $10, $10,000?

Crane: Ms. Harrison-Rogers can you help us, or anyone else with the City?

H-Rogers: Mr. Chair, Members of the Commission as ... as I am not an engineer and I don't typically do the cost estimates, I'm not certain. We do have a general number that sometimes we can throw out, but it's going to be in the tens of thousands of dollars. I would also like to remind the Commission that a fee in lieu is something ... a waiver's not required if a fee in lieu is paid. Just so that you're aware. That a fee in lieu is something that we will accept in lieu of the road improvements. It does meet our standards and a waiver is not necessarily required as part of that process.

Crane: Then how would we work that into a motion?

H-Rogers: Mr. Chair, Members of the Commission, I did hear from some of the Commission members, that perhaps there was some interest in only applying that fee in lieu to the areas immediately adjacent to the subdivision as opposed to the entire lengthy of the road all the way to Dunn, that of course would be a waiver from the required standards, in which case you could suggest that a fee in lieu for the remainder be a condition.

Crane: I see, okay, Mr. Clifton does that ... was that intentioned? You had the fee ... we would waive the requirement for the edges of the lot and then take a fee in lieu for the extension down to Dunn, or were you ... had in mind a fee in lieu of any roadwork at all?

Clifton: Mr. Chair, Commissioners, what I was struggling with was just what was discussed and Ms. Rogers is absolutely correct in that if they did a payment in lieu of road improvements for what was required, they would not need a waiver. But with that said, as I sit here and think about that I have to worry about how the City staff over time will track that payment and when and how it will be applied. Twenty years from now the time value, monies can be much different than it is now, so I would respectfully rescind my initial request and I would recommend denial of waiver request S-13-030W.

Crane: While we'll have to have a motion that it be approved and then if necessary vote it down. And you wish to put aside the matter of payment in lieu.

Clifton: That would be me my motion Mr Chair.

Crane: All right. So that's moved and Mr. ... who will second this? I will second it if it's ... Ms. Ferrary you do it, it looks better on paper.

Ferrary: I'll second that.

Crane: All right. Thank you. Let's do a roll call vote starting with Mr. Clifton.

Clifton: Aye.

Crane: And you should ...

Clifton: Based on staff presentation and the relevant articles of the subdivision code and design standards.

Crane: You realize you are voting for the waiver?

Clifton: I believe I was voting for the motion which was to deny the waiver.

Crane: We have to have the motion phrased positively, so your motion would be to approve the waiver.

Clifton: Mr. Chair I vote no.

Crane: Right. And you have to give your reasons.

Clifton: Based on staff presentation, applicant's presentation, and the applicable code section from the subdivision regulations and the design standards.

Crane: Thank you. Mr. Stowe.

Stowe: I vote aye based on discussions this evening.

Crane: Ms. Ferrary.

Ferrary: I vote nay for site visit, discussion, and findings.

Crane: Mr. Alvarado.

Alvarado: I vote yes based on discussions, site visit, and presentation.

Crane: And the Chair votes nay based on findings, discussion, and site visit. So the motion fails two votes to three. Thank you.

2. **Case PUD-14-01:** An application of The Arbors at Del Rey located at 3731 Del Rey Blvd, Parcel numbers 02-25264 and 02-25265, to rezone 2 lots totalling 4.98 +/- acres from C-2C (Commercial Medium Intensity, Conditional) to Planned Unit Development (PUD) in order to : (1) allow an existing nursing home/assisted living facility as a principal permitted use; (2) allow the raising of small animals as an accessory use to the assisted living

facility use: (3) allow the existing 2.49-acre lot size as-of-right; and (4) allow other 2001 Zoning Code C-2 District development standards and land uses to apply within the PUD. Council District 5 (Sorg).

Crane: We proceed to the next item of old business, Case PUD-14-01, regarding an application of Arbors of Del Rey to rezone two lots. This is a continuation of discussion we had in our last meeting you may remember. Ms. Montana you have the floor.

Montana: Thank you Mr. Chair. If you don't mind, I expect some testimony for this case, so could you take the oath?

Crane: I'm sorry. Do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Montana: Yes I do. Thank you.

Crane: Thank you.

Montana: Commissioners. You have a memo, an update of this case that was heard last month. You asked at that time that the applicant provide more information as to the species of animals that they would like to have at the assisted living facility, the number per species, and generally how they would care for and provide shade for, and enclosures for those animals. I believe in the staff report they did describe, we did describe how they would address that. I would like to mention that the animals they have requested are two chickens, no roosters, two ducks, and a miniature goat. Now if this Commission ... if you recommend to City Council the approval of the PUD it would allow the nursing home is a principal permitted use because the current C-2 zoning does not. It would allow the larger lot size because C-2 ... current C-2 only allows up to one acre and this is nearly five acres. And it would allow the caring of animals as an accessory use. If the Council approves the PUD, the land uses, the applicant still needs to meet Chapter 7 of the Las Cruces Municipal Code. And Chapter 7 does have a special use permit required for chickens. The special use permit is granted by the director of codes, the police department, and to qualify for the special use permit the facility, the operators would have to participate with ... I'm sorry. Could you ... the applicant would have to participate with Future Farmers of America or 4-H programs to qualify for the chickens, or Chapter 7 would have to be amended very narrowly to allow assisted living facilities as an accessory use to have the chickens. So we recognize that if this goes forward, this PUD goes forward, it does allow for the chickens as a land use but the applicant still needs to meet Chapter 7 with regard to the chickens. So with that I would ... I hope that's clarified. I will move forward.

As you know this is the property location and right now the two parcels are owned by the same company. There is one facility, the assisted living facility and they have an outdoor enclosure. Now the residents of this facility have particular medical and therapeutic needs and they need to have an enclosed outdoor area. The applicant will explain that later when they come up to give their presentation, but they do need ... the residents do need to be in an enclosed area. So the animals would be an extension of that enclosed area, so the fence would be enlarged and the animals would be kept here. The applicant met with our codes department, actually five members of the codes staff did come to the facility, took a look at the residence, got an idea of the care that they need and what kinds of species of animals would be compatible with their age and their disability, their level of disability, and the applicant responded to that by redesigning their program, the kinds of animals and the passive kinds of animals that would ... that would work well with this ... this population, and they'll explain that later. Again this is the area where the animals would be located. This would be an extension of the current enclosed area, fenced area here, and this is their proposed design, theoretical design for the animal enclosures, where they would be kept; a little pond for the ducks; the chickens, the goats. These are just examples of some of the enclosures they could provide for the chickens, the goat, and the ducks with the pond. Again codes did meet with the applicant, took a look at the facility, the proposed enclosure area, did some ... made some recommendations for the kinds of animals that would work well with their population, and then how to protect the animals from the wildlife that surrounds the property. And the applicant is aware that they would still have to meet Chapter 7 requirements for the enclosures, for the care, for the sanitation, and the medical care of the animals.

Staff does not believe that any noise or odor or pests generated by these animals will affect any off-site properties, would not affect the hospital immediately north of the property or any of the housing across the street or a minimum 300-feet south and west of this site. So with that staff is recommending approval of the PUD based on the findings and the staff report and reiterated in the memo to you, and the limitation of the animals to two chickens, no rooster, two ducks, and one miniature goat. Your options of course are; to vote yes to recommend approval of the PUD to the City Council; to vote no to deny it; vote to modify it by recommending new conditions of approval or conditions of approval to Council; or to postpone as you did last month. I wanted to go quickly though this. I'm happy to answer any questions you have, but the applicant is here with a slide show that he would like to present.

Crane: Thank you Ms. Montana. Any questions? Commissioner Alvarado your light's on.

Alvarado: Sorry.

Crane: Any questions Commissioners? Then thank you. We'll hear from the applicant.

Spradlin: Yes, my name is Gregory Spradlin.

Crane: And ...? You going to speak too sir?

Trevizo: Yes sir. I'm Tony Trevizo.

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

Spradlin: Yes we do.

Trevizo: Yes sir.

Crane: I remember you two gentlemen from a month ago and I imagine my fellow Commissioners do, so if you could tell us new things that might speed things up rather than repeat what you told us before. I think we're all convinced that it's a great idea to have this therapeutic purposes for your clients, but tell us what's new.

Spradlin: Tell you what's new?

Crane: Yes.

Spradlin: Well this presentation, basically we put together just to enhance the information that you already have, give you an idea of what we do at the Arbors of Del Rey and why we want to accomplish what we're trying to take care of here tonight. So here we have the Arbors of Del Rey is a 24-bed, it's just a dementia/Alzheimer's assisted living facility. And we have a portion of the staff and family members present. Up in Santa Fe our sister unit, Sierra Vista community is also an Eden Alternative facility. And here we have, you can see in their back portion of their facility one of the elders and one of the miniature goats and it's Billy and Bill. To give you an idea of a couple of miniature goats that they have and the elders they do interact with the animals and their farming area. Prior to placement of the animals there at Sierra Vista the elders did work with the staff in building the appropriate housing for them and also the areas that they would be housed in. Here we have one of the roaming little creatures for the elders, her name is Laverne and it's ... she kind of roams around in one of the yards for the elders when they're out back. They have actually Polish hens at Sierra Vista and that's what we would like to have here at the Arbors.

Here at the Arbors our motto is "we laugh, we cook, we dance". Here we have one of the elders, we actually have an art studio and several of them actually participate in doing their own paintings, and to the right bottom corner is actually the finished product of the painting that he created. We also play music. We have piped in music throughout the facility, ongoing throughout the day and also here we have Randy Granger, he comes in from time to time to play his Indian flute music for the elders.

Trevizo: He volunteers his time.

Spradlin: Yes, he does volunteer when he comes in to play. We did bring in a couple of ducklings and here we have a son of one of the staff members to see the interactions that the elders would have with these baby ducklings and they were met with such love and compassion by the elders and with them. They now reside at Tony's house.

We cook is another one of our mottos. We do have granite counter tops around our kitchen and it's low enough for the elders that can sit and participate in preparing some of the meals, cutting up the vegetables, and those that may even be in wheelchairs are easily accessible to the counter tops as well. We dance. We do have folks that come in and participate with dancing. We do have groups, as you see there on the left and also on the right. They actually come in and dance with the elders that are able to get up and participate. And they seem to really enjoy themselves playing the music that they dance to. Therapaws comes in from time to time throughout the week and the interactions with the elders are just outstanding.

Dr. Schumacher would be the veterinary service clinic that we would use if approved, and to provide our services for the animals. And also I wanted to mention that Pat Howard, the FFA person at Las Cruces High School will be involved with our facility in training of the staff on caring for the animals and working with building the shelters for them and working with us throughout the year in the care of the animals. And then have just photos of elders that have interacted with different types of animals. I want to mention that Dr. Bill Thomas is the founder of the Eden Alternative and I want to play a short little video, three-minute video if I may, but one comment that he made was companionship is the crucial missing link in long-term care settings and also dementia/Alzheimer's settings. We do have ... he did mention that the elders tend to, with interactions with the animals live longer and require less medications. If I may play the video?

Crane: Yes, go ahead.

VIDEO FROM YOUTUBE PLAYED FOR THE COMMISSION AND AUDIENCE.

Trevizo: I would like to ...

Crane: Mr. Trevizo.

Trevizo: Yes sir. And what we're trying to do is trying to make that different in our own way as Sierra Vista has done, but I just want to just kind of cap things off by saying that 90% of our management team and 60% of our elders and our owners have also been around and raises animals in our youth or to out adulthood like myself. We are not approaching this quality of life approach for our elders through negligence by not willing to commit to the responsibilities and care of animals including the sanitation of and disposal of the excrement. We are professionals and ... who will not expose our unique pets to disease or illness as Greg has indicated, you know we partner up ... we're partnering with those people specifically for the hens to meet the state guidelines. But nothing will stop us from extending the same compassionate and quality care to their pets. We are pleased to have majority support of our commitment from our residents and their families and the healthcare community at large for how we intend to change the culture of how society cares for their elders.

Our opponents the last time we were here implied that we were discussing again to say roosters, pigs, horses, and bison, we are not. We are merely expecting to have no more than six small manageable pets. We also would have not purchased our property had we known someone would not be considerate of how seriously we take our responsibility in caring for the aging and the sick. We are making a public statement that our goal is to deinstitutionalize the institutional model with the Arbors of Del Rey being the catalyst and the journey of change in Southern New Mexico. Land of the aggies where our middle name is agriculture. We want to eliminate hopelessness and boredom and give hope and quality to the quality that's left for our elders. The Winhams in particular, one of our opponents, was accurate, our elders cannot care for themselves or for the animals, but that doesn't mean that their lives don't have meaning. They can still be connecting to living things, great food, great music, excellent nursing care, and fun. The elders are not entirely 100% responsible for the care and the cleanliness of their pets, the staff is. But if we can put a smile on the elders face for that day, that moment, it's worth it for us. If the elder can help or watch them eat, that's worth it for us, especially for them. Unfortunately our opponents and we did send out invitation to come out and visit our place so we can entertain any questions and kind of show them the area of proposed that we do this, and unfortunately no one came to our facility, to our invitation. We already have gardens that our elders and their families and our staff love and enjoy. We are blessed with salsa gardens, grape vines, fruit trees, and yes the elders nourish those. We remain steadfast with this international movement of culture change. What a sad day would be if an elder, an ill elder is denied part or is denied a pet while the rest of us get to enjoy ours. Thank you.

Crane: Thank you gentlemen. Hold it there a minute. Any Commissioner have questions for these gentlemen? It seems not, so thank you. Any member of the public wish to speak to this? One person, yes sir. Please come up. Give us your name please and I'll swear you in.

Garza: Yes my name is Ray Garza and I reside at 254 Mule Deer Drive.

Crane: Mr. Garcia do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Garza: I do.

Crane: Please carry on.

Garza: I would like to speak in support of this zoning change proposed by the Arbors at Del Rey, or PUD-14-01. My wife Dorothy resides at the Arbors. She's been there since the first of July, just this month. And I would like to share with the panel, with the council, the reason that I recently relocated my wife from where she was at another in-facility or assisted living facility to the Arbors. Specifically on June 22nd I almost lost my wife due to heat exhaustion. She wandered away from the facility where she was living at the time and she suffered some severe heat exhaustion. Luckily a person that observed her and she was passed out by the street in the sun, a very hot day on that Sunday, and they called the police, they responded, and immediately took her to the emergency room at the Memorial hospital. Her clothes were drenched from perspiration. Her body temperature had reached 104 degrees, so we almost lost her. They informed me that a few more minutes and possibly she would not have recovered. Now, the reason I'm telling you this is because people with dementia, dementia patients as my wife, they need a secure and safe residence in which to live. They also can really appreciate and benefit from any activities that enhances their life, their daily lives. This is very important. These people have regressed in age to a time when they were younger and that's the reality, but they also live in the present time. They experience things that are positive to them which is very beneficial and they can also experience negative environments that can be also very detrimental. If they're sitting alone staring at the wall all day long we can imagine what that does to a person. So, they can really benefit from activities that they can interact with. They need things to see, to touch, and to talk with and to interact with. I believe that small animals such are being proposed by this proposal would be of great benefit. And they would experience this on a daily basis continuously because even though they have regressed in age they live at the present moment and in five minutes they lose what they have experienced, so they would be experiencing this over and over again on a daily basis and it could be very positive or it could be also

detrimental, negative. So, I can give you an example as far as the effect that animals can have on these patients, my wife for example she hardly knows me as her husband any more at this stage that she's at, but she lights up when I take her home for a short visit and she experiences our two little dogs and she talks to them and pets them and she laughs and she has a terrific time. And that's why I support this initiative. I think that it's a great thing that the Arbors is proposing. Unselfishly they are willing and committing resources, space to take care of these animals and to simply enhance the life of these residents. I think it's very commendable and I fully support it. Thank you very much.

Crane: Thank you Mr. Garza. Any other member of the public? Then we'll close this to further discussion. Commissioners? Commissioner Ferrary.

Ferrary: I have a question for Ms. Montana. I'm not sure if you were giving us a hint that if the chickens were to be allowed because they're not a 4-H or group like that, that there would have to be an exception from Chapter 7, is that something we include or they have to go through another process?

Montana: Mr. Chair, Commissioner Ferrary, when codes did a site visit they suggested that both the zoning go forward to allow the animal use including the chickens but that also Chapter 7 be amended to very narrowly allow the chickens for an assisted living facility caring for Alzheimer's and dementia patients up to two chickens, no rooster. That kind of narrow amendment to Chapter 7, that could go forward either simultaneous with the PUD or a little bit after but codes would feel more comfortable if that were included in Chapter 7.

Crane: But it's not within our power to do that is it?

Montana: No. That would be separate. The City Attorney actually is working on some amendments with Ms. Harrison-Rogers and that will go forward as a separate piece of legislation.

Crane: Thank you. Any other Commissioner have any questions of anyone? All right, I'll entertain a motion that Case PUD-14-01, this application for zoning change be approved.

Stowe: So moved.

Crane: Moved by Mr. Stowe. Do I have a second?

Clifton: Second.

Crane: Seconded by Mr. Clifton. I'll do a roll call vote starting with Mr. Alvarado.

Alvarado: I vote aye based on findings, discussion, and site visit.

Crane: Ms. Ferrary.

Ferrary: I vote aye, discussion, site visit, and discussion.

Crane: Mr. Stowe.

Stowe: Aye based on findings and discussion.

Crane: Mr. Clifton.

Clifton: Aye based on staff presentation, applicant's presentation, and findings one A-G and number two.

Crane: And the Chair votes aye based on findings, discussion, and site visit. This motion passes five/nothing. Thank you.

## VII. NEW BUSINESS

1. **Case A1725:** A variance application of Jesus J & Crystal M. Tapia, property owners, to reduce the minimum required 15-foot secondary front yard setback by 15-feet, resulting in a 0-foot setback. The applicants constructed an attached, unpermitted open-air porch 0 feet from the property line and seek to keep the porch as it currently exists on the property. The subject property encompasses 0.16 +/- acres, is zoned C-2 (Commercial Medium Intensity) and is located on the northeast corner of Organ Avenue and Santa Fe Street; a.k.a. 1330 E. Organ Avenue; Parcel ID# 02-10105. Council District 1 (Silva).

Crane: We now proceed to new business, Case A1725, a variance application by Jesus and Crystal Tapia to reduce minimum required 15-foot secondary front yard setback by 15-feet resulting in zero-foot setback. This concerns the property at 1330 East Organ Avenue. Who is going to present?

H-Rogers: Katherine Harrison-Rogers.

Crane: You were camouflaged there. You know I didn't ... I didn't swear you in before so we're going to do it now, okay? Do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

H-Rogers: I do.

Crane: Please carry on.

H-Rogers: All right. Let me go back really quick. So this particular case is a request for a variance from the minimum required 15-foot secondary front yard setback for a property that's located at 1330 East Organ Avenue. Here's a zoning map, you can get an idea of the vicinity where Solano Drive is, Ridgetop, and Organ Avenue. This particular property is zoned C-2, so it is nonconforming. The required setbacks for C-2 in the front are 15, the second front because this has two streets fronting it, it's a corner lot, is also 15. The side is five, and the rear is also 15. The property is 0.16 of an acre. Currently there is a single-family residence on the property; it's been there for quite a long time. Again because of the zoning it's considered non-confirming, but they're allowed to continue the use of that property as a single-family home and do modifications and alterations and additions to the home. They again are requesting this particular setback due to the construction of an open-air porch. That porch was constructed without a permit. It is attached to the existing dwelling. There was some history behind that and now we're trying to move forward for a solution with the applicant.

As you can see the porch actually consists of sort of two components, there is this pergola component as well as the porch; they are attached so they are considered one structure. The porch or the entire structure itself goes all the way to the lot line. As you can see it's ... it's constructed right here. There were several ... people in the neighborhood were in support of this variance. You can see by this map that we have one phone call in support and the stars indicate a petition of support that was given to us by the applicant in regard to the variance for this structure so that it could remain.

Now the criteria for decisions on variances is a little bit more strict in terms of hardship, of course the Planning and Zoning Commission does review the goals and objectives and policies of the Comprehensive Plan and all applicable plans in relation to the request. They also look at the purpose and intent of the code. And of course this Commission for ... specifically for variances looks at the hardship criteria outlined in the code; (1) is it a physical hardship relative to the property, so for example are there some topographic constraints, are there some strange easements, right-of-way takes that create problems in terms of developing it normally. Is there a potential that the variance if granted would spur economic development in a neighborhood or city-wide level? In this case that's not really applicable simply because it's a single-family home and we're not dealing with perhaps a business of some sort that requires a variance to spur economic development. And then very last are monetary considerations, not as a whole, but relative to the options to meet the applicant's objectives under the application of the code provisions. Basically if the code requires something is it just going to be too expensive to do it that way or are there some other alternatives that a variance could assist in accomplishing?

Although staff saw no significant health, safety, or welfare issues associated with the proposed variance, the variance itself does not meet the stated criteria and those hardship criteria listed under the 2001 Zoning Code as amended. Based on that, in particular strict interpretation of that, staff does recommend denial based on the findings that were outlined in the staff report. Of course, the Planning Commission has several options this evening; you are final authority on any sort of vote on this variance. You can approve the variance request, approve the request with conditions, deny the variance request, or table or postpone. And with that I would be glad to entertain any questions or turn it over to the applicants, they are here tonight.

Crane: Thank you Ms. Rogers. Ms. Ferrary.

Ferrary: I do have a question, although I accidentally left my light on. I notice that there was a comment that someone made that the roof or pergola might be close enough to the fence where it might need drain spouts or drainage, I can't really tell from the pictures, did you all notice that?

H-Rogers: Mr. Chairman, Members of the Commissioner, Commissioner Ferrary, our engineering department did review this as did our building department in terms of how the structure drains and I believe that ... and I will have to double check the notes, but I do believe that the issues have been satisfied in regard to that. If you notice, you can see that it's really ... the structure itself isn't completely parallel to the property line, it is at somewhat of an angle and so because of that you know the drainage concerns aren't quite as significant. But they were looked at by our engineering department.

Crane: Commissioner Clifton.

Clifton: Mr. Chair, Katherine, the C-2 zoning district, because this is a corner lot has a secondary side setback of 15.

H-Rogers: Correct.

Clifton: So I'm looking ... could you go to the aerial for me?

H-Rogers: Absolutely. Let me do that.

Clifton: Okay, so Santa Fe Street, are you assuming that to be the front setback, side setback?

H-Rogers: We're considering East Organ as the front and then I believe this is Santa Fe Street, this is the secondary side setback and the structure is built within this area right here.

Clifton: Okay. And so based on the drawing, only a corner of that structure touches ... actually it may or may not be the property line but at least the fence line.

H-Rogers: That is correct.

Clifton: So, were you able to ever obtain an actual survey of this? Cause it may actually be off the property line and not right up against it.

H-Rogers: Commissioner ... Members of the Commission, Commissioner Clifton, we have not obtained a survey from the applicant but they may be able to speak a little bit more to that. I do know that if I recall our building department has inspected the property and typically as part of that inspection if they can locate the corners they will. I'm not quite sure if that drawing was based on that information or not, but the applicant is here and may be able to speak to that a little bit further, but we have not obtained a survey for reference.

Clifton: And typically in a commercial zoning district you can have a zero side setback, correct?

H-Rogers: In some instances yes, that's correct.

Clifton: Thank you.

Crane: Commissioner Alvarado.

Alvarado: When was the porch built, do you know?

H-Rogers: Commissioner Alvarado, Members of the Commission, that porch was recently built. It was ... it was ... there is some history behind it. The applicant did come in and apply for a building permit for a reroof and I think there was some misunderstanding as to that and ultimately when it was constructed, when the inspectors did go out they realized that it was an addition of a porch rather than just a reroof and essentially that's what set the ball rolling towards obtaining a variance and being here tonight.

Alvarado: Did they ever get a permit for the porch or what finally happened?

H-Rogers: They did submit the appropriate building permit documentation; however, as part of the process a variance is required in order to legitimize the location of that.

Alvarado: Thank you.

Crane: Anyone else? Thank you Ms. Rogers. Is the applicant here? Please come up. Are you both going to speak?

C. Tapia: Yes sir.

Crane: Okay, well in that case this is the Tapia family, do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

C. Tapia: Yes sir.

Crane: Carry on please.

C. Tapia: As you can see from the pictures, the top, the geographical location of that actual plot and the home structure that we inherited from his father, one is of a concern in regard to the ability to continue building on. So the picture, the angle of the fence you're seeing now, the bottom right picture, it appears to be straight, correct? It is actually with a significant angle. So reason being the angle of the structure of the pergola that you're seeing attached, the smaller pergola, correct? The concern there, that what I'm understanding being is the overhang. The top right picture as you can see appears to be potentially past our property line. It has been clarified that it is not. It is within our property and the area outside of the wall to the sidewalk which is four-feet 11-inches has been discovered to be a parkway. The last 16 years of my residency there I have maintained that area, my husband, lifelong in the home has maintained it. We were unaware at the time that that was not our property and so upon building in October we did begin the structure, we got a notice and we did receive from codes that we needed a permit. The following day we did follow-up down with the permits department and clarify, paid for, and received permit. They came out to look at the structure and saw it was not a reroof, but the permit clearly states a pergola. So my concern being and confusion here is that we are within our property line but we at zero variance and our request being to have the five-foot variance as a side yard. I heard it was stated a few minutes ago, secondary side yard, not a secondary front. I do understand side yards are five-foot variance. We did get permission from the City of Las Cruces utilities to utilize that four-feet 11-inches as a variance. The permits department declined that, so we'd like all of you to please take that into consideration. And our zero variance request.

Crane: Thank you. Do you have anything to say Mr. Tapia?

J. Tapia: I just wanted to add that you know this is my home from birth, still today. My father built the home and surrounding homes around this area. And

this ... this area needs a ... improvements you know and I think we add that to this area. And it does inspire our neighbors.

Crane: Thank you. Commissioners any questions for the Tapias? I have ... I have some observations. First, congratulations on the appearance of your property, it's by far the nicest one I've seen around that area. I'm concerned with how a permit was pulled for a roof and got converted into the construction of a porch and pergola. You're saying the City made a mistake? The City, what does the permit say?

C. Tapia: As I can see here your honor, yes sir, it appears to be a mistake. It states here a reroof and the total amount of what it costs, but the plans that we submitted with this definitely showed as a full pergola. So I think there was confusion maybe from the beginning from the permits department. But since that time when we submitted for permit there's been significant financial and physical changes in our lives which has created many hardships as well that we can discuss as an option.

Crane: So in the application that you made did you mention the words pergola ...

C. Tapia: Yes.

Crane: And porch.

C. Tapia: Yes.

Crane: And you did not mention the word roof?

J. Tapia: No.

C. Tapia: No mention of roof sir.

Crane: Okay. Thank you. Any other Commissioner? Thank you. Any members of the public wish to address this? I don't think we need to hear at the moment unless my Commissioners do about hardship.

C. Tapia: They're fairly significant at this point. I would appreciate all of you to listen briefly. My husband is no longer employed; he's on disability due to multiple accidents at his work. His income has been cut into 1/100th of what it was. I am now supplying all financial means to the home. I also suffer with epilepsy and migraines and therefore the purpose of the savings while my husband was working to build this was so I could enjoy my yard. My husband now cannot lift his right arm and lift over 20 lbs. due to his fused back. So at this point financially and medically we really don't have options to do much further at this time.

Crane: Thank you.

C. Tapia: I hope you appreciate that.

Crane: Before we ask for members of the public can the City representatives throw any light on how an application with plans for a pergola and porch got approved as a reroof? Are these young people victims of bureaucratic error, if I may use the term?

H-Rogers: Commissioner Crane, Members of the Commission, although I don't directly review those types of permits, generally the way the permitting system is we have different types of permits for different things so a reroof would be a particular type of permit, and addition to a home would be another type of permit, things of that nature. So, they are separated into permit types. And I'm not certain as to how the error occurred but ultimately my understanding of the history behind this is when it was reviewed at that level it was essentially reviewed as a reroof and that was issued and the mistake was caught when the inspector went out there. It was unknown whether or not it was reroofing and existing pergola or an existing porch, it was just simply a reroof permit and the inspector went to check the roof and ultimately found that there was an entire new structure at the site. There may have just simply been a misunderstanding about how the paperwork needed to be filled out, I'm not entirely certain. I can't speak to that.

Crane: As it stands the Tapias seem to have been victims of actually no malevolence but, they have been victims. They're doing their best and thought they had permission and found out they didn't. Is that a fair statement?

H-Rogers: That may be accurate. I ... it may be accurate.

Crane: Thank you. Thanks Ms. Rogers. Any member of the public wish to address this? Yes sir. Tell us your name please sir.

Perez: I'm Gilbert Perez. I live on 185 North Virginia, one block from Mr. and Mrs. Tapia.

Crane: Mr. Perez do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Perez: Yes I do.

Crane: Please carry on.

Perez: I'm here in support of Mr. and Mrs. Tapia. As I mentioned I live one block from them on the corner of Virginia and ... the southwest corner of Virginia and Organ Street. I saw the work that they were doing; I think they've done a beautiful job on their property. The property that ... surrounding property, most of those houses were built in 1959 and earlier and a lot of them don't even have any setbacks, so I see no problem in this house having no setback if that is what is required. I think that they ... they are very good neighbors. We have a good neighborhood where everybody supports each other and so I'm here to support them in their request for a variance.

Crane: Thank you sir. Any other member of the public? Yes sir.

Jimenez: My name is Philip Jimenez. We live on Virginia; we're one block away from them. We live off of Ridgetop.

Crane: Mr. Jimenez do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Jimenez: I do.

Crane: Go ahead please.

Jimenez: Okay, I think the improvements that he's done to the property has been a great asset to the whole surrounding neighborhoods. There's other pieces of properties that are in that area that don't look half as nice as what theirs do. Sorry my voice is squeaky, but I think it did ...

Crane: So is mine. I'm with you.

Jimenez: I think it did a big improvement for that area. I think if anything it's going to increase the value of the properties that are in that area because it's I think enhanced other neighborhoods ... the people around the neighborhoods to do more for their yards to try to keep up with what they did to theirs. But I think that if anything it's increased the value.

Crane: Thank you sir.

Jimenez: And we have no objections to that property the way it is.

Crane: Okay. Thank you. Anyone else? In that case I will close this to further public discussion. The lady in red. You're going to talk to us? Tell us who you are please.

Carbajal: I am in support of the ...

Crane: May I have your name?

Carbajal: Maria Carbajal.

Crane: Carbajal?

Carbajal: Maria Carbajal.

Crane: Carbajal.

Carbajal: Yes sir.

Crane: Go ahead.

Carbajal: And I am in support of this property the way it's been designed. I did a site visit and I wish people would take pride the way this man did. He ... it's beautiful, relaxing, promoting positive. And then I did a site ... I went outside the property to see the corners, if there's any thing that would impair the sight of the cars, nothing. If people would take pride and work on their homes like that and ... wow, the other neighbors what I saw was mostly an eyesore. I did not like it. I wish they would take pride in designing and making their home a real home not just a house. So, I am in support that they get the variance approved.

Crane: Thank you Ms. Carbajal.

Carbajal: Thank you.

Crane: Anyone else? Gentleman on his way down here. Tell us who you are sir.

Torrez: My name is Angel Torrez. I was brought up ...

Crane: Mr. Torrez ... I should've done this with Ms. Carbajal. Do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Torrez: I do sir.

Crane: Go ahead please.

Torrez: I have lived in the east side in the neighboring area where Mr. and Mrs. Tapia live and I have seen their home and I have seen the improvement that they have done to the property and I think this enhances the area, the neighborhood. And I think was their specific goal to help the neighborhood and I think they've accomplished that. Mr. Tapia is disabled right now and he needs an area to ... to decompress, you know after a

day or whatever. Mrs. Tapia has a very stressful job working with veterans and I don't know the exact number of how many veterans she has saved because of her job and it's a highly stressful profession that she has. And I think she needs an area like this to decompress after a very stressful and trying time. And I'm in complete support of what they've done. And as far as I know it doesn't ... there's no obstructions to the public, there's no safety obstructions. They did a beautiful job. I commend them for that.

Crane: Thank you Mr. Torrez. As no other members of the public wish to speak to this, I'll close this to further discussion. Commissioners? Mr. Clifton.

Clifton: Mr. Chair. Thank you. Mr. Chair, Members of the Commission, actually I ... you know, I look at the variance constraints and actually I would argue that to an extent this was even though on a micro scale, it was to an extent economic development. Somebody did the work, somebody got paid, somebody paid taxes on it, it got put back into the economy. Without an actual bona fide survey in front of me, not only do we not know where the property line, staff doesn't know where the property line is. This is part of in or near the original townsite of the City of Las Cruces when it was platted almost over a century ago. Organ was widened at some point. As you can see there's new curb and gutter in the photos here. The wall stops at the edge of an extremely wide parkway, there could be more distance that's actually there that we don't know about. With that said, I would argue that there is a physical hardship and I would have no support ... no problems supporting this variance request. Thank you.

Crane: Any other Commissioner? In that case I'll ... Mr. Stowe.

Stowe: Perhaps I need to direct this to staff. Is this area of the city included in any blueprint where?

H-Rogers: Members of the Commission, Commissioner Stowe this ...

Crane: For the record, Ms. Rogers.

H-Rogers: Yes, this is Ms. Rogers. This particular property is not within a blueprint or with one of the overlays that, it's just outside those historic, a couple of those historic overlays. It's very very close, but it's not actually in it.

Stowe: The word overlay escaped me. That was ... I thought there was a reason we could back up our decision by referring to an overlay but it's just outside. Thank you.

Crane: Mr. Clifton.

Clifton: Mr. Chair, Commissioner Stowe, were you perhaps thinking of the infill zone, infill area? This would fall within the infill area, correct?

Crane: Ms. Rogers indicates it does. Okay.

Stowe: If it works ... I'm of the same mind as you; this seems to be a worthy issue.

Crane: Ms. Ferrary you're leaning forward, but you weren't going to push your button. Okay. Then I'll entertain a motion that Case A1725 variance application be approved. Do we have a mover?

Clifton: I'd like to make a motion that Case A1725 be approved.

Crane: Seconded by Ms. Ferrary I think.

Ferrary: Yes, I second that.

Crane: I'll take a roll call starting with Mr. Clifton.

Clifton: Aye base on ...

Crane: Based on?

Clifton: Findings, site photos, applicant and staff discussion.

Crane: Mr. Stowe.

Stowe: Aye based on discussions and photos. Thank you.

Crane: Ms. Ferrary.

Ferrary: Aye based on discussions, staff comments and discussion.

Crane: Mr. Alvarado.

Alvarado: I vote aye based on site visit, discussion, and presentation.

Crane: The Chair votes aye based on findings, discussion, and site visit. The measure passes five/nothing. Thank you.

At this point since we have a couple more items which probably will be fairly lengthy I'm going to call a 10-minute recess until let's make it five minutes to eight so we can all get more comfortable. Thank you.

**RECESS OF APPROXIMATELY 15 MINUTES.**

2. **Case IDP-14-04:** A Final Plat application for the subdivision of a 110 +/- acre parcel (02-03647) located at 2700 N. Main Street which is the former Las Cruces Country Club property. The Final Plat divides the property into 9 lots and 5 Tracts to accommodate development of the Park Ridge Medical Center which would provide a hospital, medical offices, and residential rehabilitation and long-term care facilities and development would occur in 3 phases. The property lies within the Infill Development Overlay District. Submitted by the Las Cruces County Club Inc.; developer is Park Ridge Properties LLC; engineering representative is Zia Engineering. Council District 1 (Silva).

Crane: Please take your seats ladies and gentlemen. Forgive me for letting our little break go on a couple of minutes. You'll remember that Commissioner Ferrary recused herself from item two of the new business, Case IDP-14-04, a final plat application for subdivision up at the old Las Cruces Country Club. Ms. Ferrary is sitting in the hall right now. She may have to leave if this goes on a little while but there is a quorum of Commissioners here so we can have a legal meeting. Ms. Montana you have the floor, and you're still under oath.

Montana: Thank you. Yes I am.

Crane: Okay.

Montana: Thank you. Mr. Chair, Commission. I want to bring your attention to some handouts that were placed in front of your chair on the dais; one is a packet of public comments that were received since we delivered the staff report to you last week, post packet comments to the commission I called it. And they are comments that were e-mailed to me for you. Second, there is some new information which would constitute a replacement to the attachment seven that was included in your packet and that is a stapled sheet one with an e-mail from Willie Roman, our traffic engineer and it explains the conditions of approval for his approval of the traffic impact analysis and he refers to the mitigation and that is the new attachment seven for your staff report. Copies of this are in the front by the door of the chambers and with that I will begin my presentation.

Now I'm doing a very short presentation because the applicant will be presenting slides to you explaining the project in detail and the Country Club Neighborhood Association has asked for time to present two slide shows to you as well if you are in agreement to extending their time. So my time will be very short. Just for the record the property is parcel 02-03647, the address is 2700 North Main Street. This is the former Las Cruces Country Club golf course and clubhouse. On August 19th, 2013 the City Council rezoned 30-some-odd acres of the 110-acre parcel for a medical center. They rezoned it from R-1a single-family residential to R-4C limited land uses for assisted living. So the R-4 land uses are limited to rehabilitation, residential rehabilitation, assisted living facilities, and

accessory uses to that use. Part of the property was zoned C-3 high intensity commercial, again limited to hospital, medical offices, and associated or accessory uses to that principal use. One condition of the rezoning was that a traffic impact analysis, we'll call TIA, be approved by the City's traffic engineer prior to the issuance of the first building permit or subdivision application. The traffic engineer did approve that TIA with the conditions the applicant must satisfy the mitigation measures identified in the TIA. And so therefore you are free to consider the final plat application for approval, approval with conditions, or denial tonight. That's why we've calendared the final plat before you tonight.

The property lies within the infill development overlay district and there are special provisions in the subdivision code for properties lying within the infill district; one is that a concept plan is submitted for review, and the concept plan will identify the lots to be included within the subdivision and the phasing of those lots. The applicant did submit this concept plan; it was reviewed by the City's Development Review Committee and was recommended ... it was approved by the DRC with the condition that the traffic engineer approve the TIA. So, the applicant submitted the final plat, it can be approved today or approved by the ... approved with conditions and if it is then the applicant will submit cost estimate for the public improvements, the roads, the utilities, the drainage for all the public areas. When the City approves of that cost estimate the applicant can submit a surety, a financial surety, a bond, a letter of credit, for those improvements. At that point once we know the improvements will be made, the applicant can record, can file the final plat with the county deputy clerk or county clerk. Once the final plat is filed or recorded, then the property owner can sell the lots. The applicant tonight will describe to you the phasing of the development of the lots and the phasing of the building of those public improvements, so that will come later on in the applicant's presentation tonight. I just wanted to give you a little overview of tonight's steps and the next steps.

This is an image of the concept plan that was approved by the Development Review Committee on June 4th, it shows the nine lots within the medical center rezoning area and there are five tracts. The largest tract is the undeveloped, tract C is the undeveloped area, the 73-acre remaining R-1a land of the 110-acre former County Club site. There is a tract ... excuse me, for open space areas right below the power line right-of-way. There is a tract for cul-de-sac so to speak, it's actually a modified hammerhead turn around and we'll explain the purpose of that. There is a tract for sort of a regional drainage facility for continued stormwater flows from the streets and public areas. The individual lots will have on-lot ponding, so they will take care of their own drainage, but for the public areas there is this drainage facility.

The final plat again shows the details and I apologize for the busyness of this slide but you did have ... I did submit with your packet full size sheets of the final plat. Again the nine lots, the five tracts, the first

phase of development will be ... is proposed to be the hospital, the doctors offices associated with that hospital, and a residential rehabilitation or assisted living facility, 32 bed facility here. So with this first phase will be the development of all the public improvements. And again the applicant and his engineers will explain those in detail. The applicant has committed to the mitigation measures that are shown in the new, the revised attachment seven and those mitigation measures are expected to avoid or reduce to a level of insignificance or to ameliorate potential adverse traffic impacts associated with the development, with the phase one subdivision. Again those mitigation measures were identified in the traffic impact analysis. City agency reviewers have approved the final plat including the City's traffic engineer who's approved it based on the applicant's commitment to implement those mitigation measures. This traffic engineer has approved the TIA, again conditioned on the implementation of those mitigation measures. NMDOT has been a partner in the design of this final plat, particularly how the new road, the new main road into the subdivision from North Main connects to North Main and connects to or is not able to connect to Camino Del Rex. Camino Del Rex is too close to the intersection at North Main; the existing intersection does not meet the City's design standards in terms of distance to the intersection and doesn't meet NMDOT's standards as well, so NMDOT and the City's traffic engineer and the applicant agreed on a reconfiguration of that intersection whereby Camino Del Rex would terminate or dead end before it gets to the new intersection and there would be a modified hammerhead turnaround which we'll show you in a later slide. Traffic for residents living on Camino Del Rex would be rerouted and looped into the subdivision, the medical center subdivision and then find the correct lane to either go through the light, turn right, or turn left. And again the engineer has a slide that will show you how that will be accomplished. But with that redesign, NMDOT has agreed that the final plat is acceptable. They will not actually approve the final plat until they review construction drawings, detailed construction drawings of that intersection and those construction drawings cannot be developed until the step ... until the final plat is approved by this Commission, so there's a little Catch-22 so to speak. However, they have no further comments on the TIA and they did participate in the redesign of Main and Camino Del Rex and the new extension of Camino Real.

On July 9th the DRC recommended to this Commission approval or conditional approval of the final plat, again the condition being that the City's traffic engineer approve the TIA or conditionally approve the TIA and Mr. Roman has conditionally approved the TIA and you have his memo.

Your options tonight commission is to approve the final plat with the conditions recommended by staff and that is that the applicant commit to the mitigation measures; to vote to approve the final plat with some amended conditions that you may choose; to vote to deny the final plat; or

as always, to postpone this decision pending further information from staff and/or the applicant. With that I'm happy to answer any questions. Again the applicant has a much more detailed slide show with all the mitigation measures and new traffic configurations shown.

Crane: Thank you Ms. Montana. Any Commissioner have questions of Ms. Montana at this point? Thank you. The applicant present or the applicant's representative? Tell us who you are sir.

Pofahl: My name is Bob Pofahl.

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

Pofahl: I do.

Crane: Carry on please.

Pofahl: Well Mr. Chairman, Commissioners, thank you for letting us make our presentation this evening. As our planner Ms. Montana stated, we're talking about this 34 acres, it's the orange shaded area that's a portion of the 110-acre County Club property. On the northwest or the west side is U.S. Highway 70 or Main Street as most of us know it, Solano to the south/southwest, and then Madrid over on this side, and the existing neighborhood. The total development that we're talking about now is the 34-acre area, again right here in this shaded area. This is the plat map showing the parcels, again we ... the 34 acres subdivision that we're platting tonight includes these nine lots and five tracts. Tract A will be part of a open space park area that will be dedicated to the City as will tract B, and tract C is all of this area, the balance, the 78, 73 acres which will be for future development. Tract D again as was stated earlier is a regional ponding area to handle drainage off of the streets. Tract E is a small area here that's part of the cul-de-sac, hammerhead cul-de-sac that will be at the end of Camino Del Rex.

This again talks about the land uses and shows the open space that'll be dedicated to the City here in the green. The medical center/ hospital will be this portion that's in the blue, lot five. The lighter blue areas, lots one, two, six, seven, eight, and nine will all be office buildings, and then the lot three and four are the assisted living and rehab center. Again tract D is that regional pond area and then here is C which is the future ... future development. That future development area has a PUD that is in process that is walking through the process with the City at this time.

The phasing of the development is as stated here we'll take this in phases of the hospital, the first medical office building, and the assisted living would be phase one on the nine lots, the 34-acre area. Then the

rehab portion of this would be done at the same time the park areas would be developed and then the third phase would be the office buildings here, ancillary office buildings around that. And then again the future development area and tract D.

As it was stated, the traffic impact study was performed and this was to cover the phase one area and an updated one will be done when the additional 77 acres is done. Based on the results of the traffic analysis list of required mitigations was determined in order to maintain acceptable level of service in the roads within the area of influence. This area of influence was determined through discussions with the traffic engineer, NMDOT, and many meetings in many months of discussions. This list will show you here the items, it's ... I don't want to get in too much detail for you but the first three items here are basically the timing, reengineering of timing of the lights, and we have agreed to pay for the ... either the City or the City's private contractor to retime those lights. The next item has to do with the turn lanes and the improvements on Main Street and Camino Real at the intersection where we're handling the turn lanes coming in and out of the property. These individual costs are lists; the southbound left turns and the westbound right turns, this has to do with curb and gutter, sidewalks. In some cases we're acquiring additional right-of-way in order to create the stacking lanes and I'll have a drawing for that to show you that in just a second. The new traffic signal would be constructed and so that entire intersection would be pretty well redone. The widening of the intersection, additional paving, striping, and a new manhole that the City felt was necessary you know just to maintain the proper service. Again this is additional traffic lights that need to be reprogramed and timed. And this item here, the traffic calming was something that the City engineer wanted us to commit a certain number of funds, there's an additional $28,000 for the future that we've set aside and agreed to should the City engineer think there's additional traffic calming needed in the neighborhood. Then the hammerhead and the cul-de-sac that will be done and I'll show that to you on a drawing. The additional improvements in curb and gutter for that. And then this last item is one of the last off-site items, kind of on the edge of the site, we've agreed to ... the 19 townhomes today are on septic service. We've agreed at our cost to remove the septic tanks, put a new sewer line in, and provide a 40-foot landscape easement where that sewer line would run and I'll show you that in just a moment. The requirements according to City standards would be that we would pay the $424,000, we've agreed to expend a total of $939,000, about a million dollars for off-sites to make the necessary improvements.

This drawing here shows you the existing townhomes, they're here, that are on Camino Del Rex. This hashed area shows the 40-foot combination landscape, sanitary sewer easement, and ponding drainage area that we've agreed to put in. And again we'll be going down and decommissioning and paying the impact fees to hook up all 19 of these

homes onto sanitary sewer. Again here's this Tract D that's the part of the cul-de-sac hammerhead for the Camino Del Rex Street. This shows it in more detail where both the City engineer along with the New Mexico DOT and the MPO all felt that this was a better solution and a safer solution cause even today the traffic begins to stack up here and we will show you how that traffic will be handled. So this allows this traffic here to have a turnaround area. We would provide an Opticom and siren activated gate here which was request of the fire department that should they need a secondary access to come through. We will pay the cost of that gate. And the owners association for the 34 acres will pay the cost of maintaining that gate.

This demonstrates the modified traffic route in and out instead of coming here like this and the turn that was talked about, the traffic engineers felt this was a better more viable way to make this right turn and have stacking lanes for traffic that would be going you know out of the subdivision and turning left as well as the traffic coming in. It would've been difficult even today to turn across this ... you know these ... immediate left turn onto the Camino Del Rex. So this is the new proposed traffic route.

This is the new intersection that will be built at Main Street and the entrance to the property on Camino Real. Some of those improvements include the right turn lanes that would be added, left turn lanes as well as additional paved and curb and gutter area expanding this entire intersection to allow traffic to turn right down Camino Real. Additional right-of-way will be purchased along Camino Real which will allow for a right hand turn and additional stacking of cars that are turning right, allowing cars to both come straight or to make the left hand turn here. Eventually the state plans to expand the lanes here so in working with them we created a turn lane here and allowed a paved area that will be striped that would allow for the additional expansion in the future, so the new improvements would not need to be torn up someday when the NMDOT makes their additional improvements. Again, we'll have the ... four lanes were requested here so that we could have the left turn, straight, or right turn here and allow sufficient stacking that was determined from the traffic impact analysis prepared by Zia Engineering.

The traffic calming which has been a major request from our traffic ... the City traffic engineer, these are the areas where he would like to take those funds we committed to, to study how they begin to mitigate any potential traffic. The study doesn't say that it's going to be a huge consideration, but they wanted to make sure that they had functions to do anything necessary to make sure that future traffic and flows would be calmed here to keep the speeds down as has been requested by the residents in the neighborhood. That would be on San Acacio, Arlington, Fairfax, Camino Del Rex, and Desert Drive which runs parallel with the east boundary of the property, that street is not ... there's a row of homes that actually back up to the property here.

Again this is the plat and the map, the survey that you were given, pretty detailed but it shows you that it has been completed. That lays out all of the lots, the tracts here and then is the survey all tied off with the City surveyor as far as the balance of the 77 acres. And with that we would entertain any questions if you have any questions for me.

Crane: Thank you Mr. Pofahl. Commissioners? Apparently not.

Pofahl: I did want to add just one closing comment, the ... each parcel will have to come back to the City for individual construction permits as well so right now what we're talking about tonight is the plat and the subdivision. Any special requirements by each of the lot owners or the entities that would be building on these lots would still come before the City in the future. Tonight was just the issues on the plat only and on the subdivision.

Crane: Thank you sir.

Pofahl: Thank you.

Crane: Now Mr. Pofahl a couple of Commissioners have thought of things to say. Mr. Clifton.

Clifton: Thank you Mr. Chair, you should've stopped when you had the opportunity, just don't know actually ... a couple of questions really directed at staff and just to clarify for the Commission and the audience. The zoning is done. At this point we're just here to discuss the platting. The land use, the issues, those have all been resolved. The only issue now is the actual subdivision of the property, is that accurate?

Montana: Yes Mr. Chair, Commissioners. The zoning is adopted and the conditions of the rezoning are being met; first condition being limiting the uses to the medical center and accessory uses; second being the TIA; and the third being ... here we go ... the second access road which is the new loop road to Camino Del Rex, so that would be accomplished through this final plat.

Clifton: Okay, so ... thank you. That essentially confirms my point that we're not here to talk about land use, we're not here to talk about the proposed uses on each parcel. At this point it's just the subdivision, the subdivision of the property, and to an extent the layout that may affect or benefit the public interest. The secondary question to staff, wouldn't a final drainage report be required anyway when they submit the construction plans?

Montana: Mr. Chair, Commissioner Clifton, yes that is correct, so it does not need to be a condition of approval of the final plat, however our Community Development engineer did request that it be placed as a condition.

Clifton: Not speaking for the Commission, but rather than muddying the waters on conditions and when we make motions I think it's a lot cleaner for us if there's already a City requirement. I don't know that we need to reiterate it and tell Mr. Pofahl, you have to submit a drainage report when we all know he has to submit a drainage report, just like to clarify that point. Thank you.

Crane: Commissioner Stowe.

Stowe: I was just curious, what conditions do you think will need to be in force for the development of tract C, the bulk of the land?

Pofahl: The balance of the land?

Stowe: Balance. The majority of the land.

Pofahl: Right now that PUD is in process and I think secondary access is being worked on with the City and the state and the design of that is in process at this time.

Stowe: Okay. Thank you.

Crane: Any other question for Mr. Pofahl? Thank you sir.

Pofahl: Thank you.

Crane: Now I suspect that most of the people in the audience right now are interested in this particular issue. May I see a show of hands as to how many people would like to address the Commission? Okay, please hold them up. I'm seeing one, two, three, four, five, six, seven, eight, nine. Thank you. Now does that include the neighborhood association people who want to speak? Okay. So with that number of people we'll limit the individuals to three minutes each. As to the neighborhood association people, I understand you've asked for 20 minutes, is that correct? Is that 20 minutes give or take a bit or is it a solid 20? How many of you wish to talk? Just one of you? Two people, 20 minutes between you? Do I understand you represent a large number of people? Can you make that statement? I think we've been here before, that it turned out that you actually had a good deal of opposition in the room and you perhaps didn't represent as many people as you thought you did, in which case come up and make your case please. Tell me why I should give you 10 minutes each when others get three.

Potter: I'm the founder of the County Club Neighborhood Association. Currently we represent 50 households. We can only count one membership per

household, so that may be multiple people.

Crane: Okay. Ma'am. Are you representing the same organization?

Booker: Yes, I'm the president and it is the official registered neighborhood association. We were duly elected, I was duly ... I wasn't duly elected, but I took the place of the president that was elected when he resigned, I was the secretary membership, treasurer.

Crane: Are you asking for 10 minutes each?

Booker: Yes sir.

Crane: Okay. In the interests, unless any my fellow Commissioners have objections, in the interest of giving everybody a chance to speak, 10 minutes each to you folks and three minutes to individual members of the public, one of whom is signaling he doesn't like that. But you represent only one person, right sir?

RESPONDING BUT NOT AT THE MICROPHONE.

Crane: Well let's let it stand. I think we will get by. Identify yourself please ma'am. Tell us who you are and then I'll swear you in.

Booker: Yes, my name is Eva Booker. I'm the president of the Country Club Neighborhood Association, and ...

Crane: Ms. Booker do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Booker: Yes I do.

Crane: Please continue.

Booker: Yes I did want to point out as you mentioned we do have a diversity of membership. Some of our memberships want to see the property remain open space with no development, some of our members support Park Ridge 100%, no qualms of any kind, some members support Park Ridge but do have some concerns, and some members support development of the Country Club property but not the Park Ridge plan itself.

The Country Club Neighborhood Association is in favor of development. We don't want an abandoned golf course as the gateway to our neighborhood and our membership voted last June unanimously in favor of sustainable development of the Country Club property that is safe and consistent with the neighborhood character. We've also worked with three developers since 2006 to do that. Just to repeat, Planning and

Zoning conditionally approved the rezoning of the 30 acres on June 25th in a three to two vote. The City Council conditionally approved the rezoning on August 19th in a six to one vote, and one of the conditions of both those bodies was an approval of a traffic impact analysis by the City's traffic engineer with the first building permit or subdivision application which is why we're here. The first TIA was submitted in January which showed this second access and that was not approved initially, there were a number of significant comments. The second TIA was submitted in May and that was also not approved. And this third TIA was approved conditionally today.

Okay, the main point I want to make today, I'm going to try to focus on this, is that the TIA actually only covers the first phase of the three phases of development that Mr. Pofahl discussed and that is only three lots, lot three, lot five, and lot nine. So all the traffic information is based on activity resulting from development of only those three lots. The TIA itself admits that the two proposed access points that are currently included in this final plat do not provide sufficient capacity to convey the traffic generated by full build out. When we say full build out they were referring to the medical subdivision of the 30 acres, not the 110 acres, so even just talking about the part that has already been rezoned conditionally based on approval of a traffic impact analysis which should cover the whole 30 acres.

The subdivision concept plan for the 110 acres was filed in January. The June 4th Development Review Committee approved the concept plan, again on the condition of an approved TIA, so you can see the theme here. The subdivision final plat was filed in April, again for the total 110 acres which is what you're ruling on today, a total of 110-acre final plat. July 9th the Development Review Committee approved that final plat, again on the condition that the TIA would be approved prior to your consideration. Now the final plat is scheduled for consideration ... was scheduled for consideration even before the TIA was approved.

Again the conditional rezoning covered both 30.745 acres that was rezoned. The subdivision concept plan and final plat covered the 110.276 acres and the TIA that has been approved today only covers the development of actually 17.052 acres for lots three, five, and nine. The TIA at a minimum should cover the 30.745 acres to meet the conditions of rezoning and ideally for the final plat which is what your consideration which should cover the 110 acres. Oops, sorry about that.

I'd also like to point out that section 32-407 requires that a TIA include all future traffic volume on a 10-year forecast horizon. That's all I have.

Crane: Thank you Ms. Booker.

Booker: If you have any questions for me?

Crane: Not perhaps at the moment, perhaps later.

Potter: My name is Connie Potter. And I am with the infrastructure committee of the Country Club Neighborhood Association.

Crane: Ms. Potter do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Potter: I do.

Crane: Carry on please. And you have 10 minutes.

Potter: The Country Club Neighborhood Association has significant concerns about the traffic plan; the volume, the routing, the intrusion of nonresidents, and I will say the lack of a thorough and approved TIA for the full and complete build out of this property. We're going to have to live with this for as long as I'm breathing and it definitely has some work.

Traffic volume, the main ingress and egress is U.S. 70 as you know. This adds currently estimates of 8,000 car trips a day. The healthcare scheduling is not the same as retail peak time so I'm not sure what kind of peak times for staff etc., visitors to come and go, but as you see this is military time, hope you can read it. It goes up to 10:00 to midnight. Emergency vehicles will traverse Country Club streets 24/7. I have been told by Joaquin Graham, that they will not circumvent our neighborhood, if that's the easiest way to get to this hospital. U.S. 70 volume is 37,000 which is the same as a very infamous New York ... New Jersey Bridge. When it was blocked down to one lane traffic was blocked for almost eight hours. Avoidance route for all traffic that doesn't want to go on U.S. 70 is through the Country Club streets. Park Ridge adds 22% volume to our surrounding roadways. U.S. 70 is already the deadliest route in the city. Improvements were not planned for this development. We're undergoing improvements right now, but these were planned years ago, before this development was ever considered, so there ... they are absolutely inadequate and will have to be relooked at. Traffic will divert through the Country Club neighborhood particularly during the construction time to exceed allowable local street capacity which is 2,500 car trips a day. Requiring Country Club residents to traverse the development adds time, inconvenience, and to a degree some risk. The second entrance location within County Club neighborhood is unsafe. It's within 100-feet of Desert Drive, so you'll be making a left hand turn off of Desert Drive onto Camino Del Rex when another car that can't see you is making a right hand turn to come out of the development. It makes no sense. It adds nonresidential traffic through our local streets, endangers pedestrians, children, pets, and seniors. The County Club already has significant number of nonresidents using streets to bypass U.S. 70, that's well known and has been admitted by traffic engineering. Emergency

vehicles will use our streets. We're already near local street capacity. Camino Del Rex is 1,400, Desert Drive is 1,300, it doesn't take much to push that up to 2,500. The infrastructure is inadequate for that volume increase. And we're going to be the most adversely affected by the development; traffic and noise, home values. There is excellent documentation about residential backing up onto commercial development; on the perimeter particularly and within a half-mile radius, home values decline. Safety and inconvenience; we have virtually no calming measures at this time. Speed bumps were removed from South Desert Drive in June and speeding has occurred since then. Stop sign on Desert Drive and Mariposa is readily ignored. The developer's gift of $21,000 for traffic mitigation and calming measures is unrealistic. One serious mitigation effort would cost that much easily. The City plans to study traffic issues instead of being proactive. We're concerned that we're getting into a major development without plans in place and actions in place to mitigate this traffic. There was no study or planning on County Club streets, Desert Drive, or onto Madrid for mitigation.

Our input has been routinely ignored. The second road placement for one thing was something that no one really wanted; to have to traverse the development to go to the store. Egress from County Club to U.S. 70, the problems with traffic mitigation measures. And again, there's going to be more than 8,000 car trips out there. The project lacks professional planning and progressive proactive measures to protect our existing neighborhood as required by codes. We recommend that they realign the second entrance with an arterial as required by code. Subdivisions shouldn't be going out into minor residential streets. Where in the city does that happen? Increase the barriers to traversing County Club. Limit fire and EMS traffic to the hospital to arterials. Open Camino Del Rex to U.S. 70 for residential traffic and if you need to use transponders do it. They do such things in gated communities. Invest appropriately in traffic calming measures.

**STARTED SOUND OF HELICOPTER, SEVERELY LIMITED UNDERSTANDING OF SPOKEN WORDS.**

We are going to have a helipad if the project gets its way. Helicopter and air medical crashes occur 10 times more than fixed wing. We just had one north of us, killed three people.

**HELICOPTER NOISE DISCONTINUED.**

FAA has a final say over pad. The noise from a helicopter is 110 decibels, hearing damage occurs at only 80. Structural damage to surrounding homes and buildings is 110 decibels. And this flight path would be over totally unsafe areas; freeway, homes, park, school, trees, high-tension power lines. As a flight nurse I'm telling you it's crazy. There also is evidence that we have protected wildlife on that property.

Burrowing owls are protected. There's evidence of their existence. It's been reported to officials in the City and to the owners. No study's been done to assure their protection although NMSU has full capacity and expertise in this area. Dr. Desmond is awaiting a call.

So, complete the studies before approving massive projects; traffic, wildlife, impact on surrounding neighborhood as required by code and statute. Thank you.

Crane: Thank you Ms. Potter. Commissioners, questions for Ms. Potter? Commissioner Alvarado.

Alvarado: I have a question. Where do your numbers come from? How did you arrive at 8,000 cars?

Potter: They were out of Park Ridge documents.

Alvarado: Their own documents?

Potter: Their own documents.

Alvarado: Okay.

Potter: I have a box full of them.

Alvarado: Okay. Thank you.

Crane: No other questions at present. Thank you Ms. Potter. Let me ask at this point, yes Ms. Montana? Okay. Mr. Pofahl, it might serve every bodies purposes if you had an opportunity to rebut at the moment if you're prepared to, before I call on the public and I don't want to wait until sometime from now and then get you to *(inaudible)*.

Pofahl: Call on our consulting engineers who worked on that traffic impact study if I could?

Crane: There seems to be some pretty substantive issues were brought up.

Pofahl: Right.

Crane: In that connections.

Pofahl: I'd like to introduce Eddie Martinez from Zia Engineering.

Crane: Mr. Martinez I'm going to swear you in. Do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Martinez: I do.

Crane: Carry on please.

Martinez: Okay I didn't get all the issues that were brought up.

Crane: Well, the thing that sticks in my mind is ... trigger your memory ... is that Ms. Potter and Ms. Booker pointed out that the TIA seems only to cover, and the plat, seems only to cover the currently planned level of development, not the traffic that will be expected in the future when the whole 110 acres is finished, and therefore are we looking at some structure ... some highway arrangements which will have to be redone in the future? Do I have that roughly right Ms. Potter? Yeah, okay, so see what you can do with that.

Martinez: Okay, regarding the phasing and the status of the project as a whole, the ... in order to create this 30-some acres we have to do a subdivision of the entire 110 acres to parcel out the 30 some acres. The TIA therefore covers the 30-some acres and we do identify the number of vehicles not only associated with the initial phase one of that 30-some acres but the entire 30-some acres as well as include a table of the ... what we understand the potential anticipated level of development will be for the entire 110 acres. The detailed modeling that's been done is specific to the parcels that are anticipated to be developed at this stage which is the assisted living, the hospital, and the medical complex. What we ... we are anticipating a ... as part of the next phase of development a tie to Solano and Madrid of the collector road, which by the way there was a question or a comment about the ... that this should be an arterial. What we are showing is a collector road and the collector road actually is specified by the MPO plan. So what we're putting in is what's specified by MPO for that collector.

The reason why we have not done the more detailed analysis of the 110 acres or even beyond this phase one is because that would entail needing that tie to Solano/Madrid. The tie to Solano/Madrid requires that we work out agreements with the City of Las Cruces for what we'll be doing is putting that tie through where the entrance to Apodaca Park currently is. We're working with the state land office ... well not the stand land office, but state parks as well as the City in working out that agreement, because funding was provided by state parks for some improvements to Apodaca and so as a result modifications to Apodaca require the agreement with state parks. So that's in process. Until that's worked out, we can't really count on that second access point. So since we can't count on that second access point we are limited to doing just this level of development at this stage. So that's the reason why the TIA is limited only to what we're asking for at this stage. Does that explain?

Crane: I think I see what you're getting at sir. When the rest of it's developed there will be a further egress from the whole 110 acres that will be down towards Solano and Madrid.

Martinez: Correct.

Crane: To drain off some of the traffic.

Martinez: Correct. And that would ... at that stage will be a more detailed analysis of the entire 110 acres. That'll be done as part of the PUD.

Crane: Okay. Thank you. Any Commissioner have a question for Mr. Martinez? Thank you sir.

Martinez: If I may, regarding the analysis ... the TIA did cover analysis of the neighborhood roadways. That analysis showed that the roadways are currently not anywhere near capacity and that speed at this stage is not an issue within the Country Club area. It was I think something like 66% or somewhere around there; 66% of the traffic right now is going below 25 mile per hour speed limit. Now, in the future, yes, are adding some additional traffic, but even with that additional traffic those roadways are not ... will not be near capacity.

Crane: Thank you. Ms. Potter, you'd like to have a minute to talk to Mr. Martinez answer, okay. Come up. Stand by sir.

Potter: I want to specifically address any roadways or any attachments to Apodaca Park. That land is protected under land and water conservation trust funds and anything done to it has to ... even one square foot ... has to be approved up to the Secretary of the Interior. So all this "will happen" is absolute conjecture.

Crane: Mr. Martinez.

Martinez: Actually that is incorrect as far as I understand. The approval is actually through the state parks as representatives of whatever their funding source is. So the approval is the state parks, not the Secretary of the Interior.

Crane: Thank you. Maybe we'll call that a standoff for the moment. Okay, let's get to ... thank you Mr. Martinez. Let's get to members of the public. Okay, if you would all ... you've got three minutes each, just line up in any order you care to. Identify yourselves. Ms. Harrison-Rogers, do I have to swear them in?

H-Rogers: Mr. Chair, Members of the Commission, the answer is yes, you do have to swear everyone in.

Crane: Okay. So come up sir. And Mr. Alvarado do you know how to operate the magic box here? Does anybody? All right, in that case we'll just keep it simple. I'll ask Mr. Alvarado to keep a rough check on your three-minute limit and maybe to give you a signal at 2:30, something like, okay? He has a modern device to take care of time. Go ahead sir. Your name.

Stevens: I'm John Stevens.

Crane: Mr. Stevens, okay, do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Stevens: I do.

Crane: Go ahead please.

Stevens: My wife and I live at 820 Camino Del Rex that would be in one of those townhouses that they pointed out before. We bought the property 14 years ago. The reasons we bought the property would be the open view out the back and the mountain view. And that's going to change to a view of a 40-foot barrier and then office buildings, two-story office buildings. We're not really happy about that. I'd like to read a short statement here. "Preserve and respect scenic views, sights and corridors in a manner that reasonably compensates, provides incentives, maintains similar existing property rights, or in another similar manner that balances the public and property owner interest." Now I didn't write that. I got that right from the City. And that's what the City said that's how this property should be developed, rezoned, and it's nothing like this at all. We proposed a small park that would be a barrier between the townhouses and the proposed development out there, commercial office buildings. We asked for approximately 2.7 acres and the answer came back from the developer, their investors can't afford to give up 2.7 acres of open space-green space. Very unhappy about that. The traffic's going to be horrendous and in my 81 years I've found that this deal about broadening tax bases and lowering our taxes, that doesn't happen. The bigger the city, the higher the taxes. That's it. Thank you.

Crane: Thank you Mr. Stevens. Next please.

King: Richard King.

Crane: Mr. King do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

King: I do.

Crane: Carry on please.

King: My basic concern is two at this point; with the TIA study which has somewhat been expressed on North Main Street between Solano and Elks Drive, as currently to get out there on there is ... is quite difficult right now with the traffic flow. Secondly, with the proposed road that is being cut in coming out Camino Del Rex, basically what's going on now is that people are seeking to bypass the intersection at Elks Road and North Main Street and they're coming down San Acacio, dropping down to Camino Del Rex to get back on Highway 70. All you're basically doing with this road is rerouting the traffic to go back into the sub ... into the new development area, but you've still got to get back out on Highway 70. Now that's not considering the fact that during the construction phase of the hospital and this first phase there's going to be a lot of trucks, concrete trucks, and equipment coming in and out of there which is going to influence the traffic flow once again, and so those are my two basic concerns with this. There has to be further development when it comes to access and exiting of this particular, even the first phase of it, that it's a nightmare now and it's only going to get worse, not unless there's a different plan presented. Thank you.

Crane: Thank you Mr. King. While I'm waiting for the next speaker to come up, Mr. Pofahl could you keep some kind of track of the points that're being made so you can rebut at the end? Okay. Yes, sir.

Caldwell: My name is Robert Caldwell. I am the president of the Board of Directors for Las Cruces Country Club.

Crane: Mr. Caldwell do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Caldwell: I do.

Crane: Carry on please.

Caldwell: I represent probably about 135, 140, 150 members. We are also neighbors of the Country Club Neighborhood Association. As you can see if you take a look at all this, at one time all the way to Madrid, all the way over to Main Street on ... even to the north side of Main Street where you have the Three Crosses Mall, was at one time all part of Las Cruces Country Club when it was way out there in the boonies. Well we've had people move into our neighborhood and happily so. What we had to do was move out of this neighborhood, try to move to another neighborhood. So we're trying to do that. This Park Ridge Medical Center subdivision, or

Medical Center is a start of trying to get this area to look presentable, to be a nice area for families to enjoy themselves which is what 110 acres did for a hundred ... almost a hundred years, 88 years or something like that, 1928, actually prior to that. It was a center for this community to gather. It was a center for families to enjoy anniversaries, all sorts of things like that, and we as a Country Club if you will, a group of people, that all live here, have worked here, are a part of the community, are a part of the economic value to this community.

Alvarado: Two minutes.

Caldwell: Really want to stress that it can't stay like it is. It needs to be developed. And we think Park Ridge is heading in the right direction by starting this. Just want to say that we are in favor of it. We hope that you also are in favor of it. We think it's a great project. Of course we have some advantages and some benefits coming from it, but it also will benefit the community when we purchase another facility where the community can come and join us and play golf, eat at our facility, do community involved things such as putting on tournaments for the Dioceses of Las Cruces for tournaments for the public schools, a facility for the public schools.

Alvarado: Three minutes.

Caldwell: To come in and utilize our facility. So there's a lot of advantages that are being missed and have been missed for the last two or three years that we would like to continue. So, thank you for your time Commissioners. Thank you very much.

Crane: Thank you Mr. Caldwell. Next please.

Boyd: My name is James Boyd of 2121 Calle de Suenos.

Crane: Mr. Boyd do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Boyd: I so affirm.

Crane: Go ahead please.

Boyd: I would like to thank the Commission for hearing from the public. I would like to say that I agree with Ms. Booker and Ms. Potter's assessment. The current Park Ridge Development ... and I mainly would just like to say that I do hope that if this is approved it is approved with conditions that a TIA is submitted for the additional ... cause right now what's covered is one-fifth of the total amount of the acreage and I hope that it is approved with the condition that a further TIA is submitted for the total tract of the land. And

in addition to that that the protected species of the burrowed owl is considered in that report as well. Thank you for your time.

Crane: Thank you Mr. Boyd. Next please.

Colon: My name is Carlos Colon.

Crane: Mr. Colon do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Colon: I do.

Crane: Go ahead please.

Colon: I'm going to refer to the TIA and if this is truth then the gentlemen over there from Zia is incorrect in when he says the TIA is referring to the 30 acres, if you go to page eight it mentions phase one, the phasing and time of development, the chart, table one on page five, phased one, lot three, lot five, and lot nine. Not the 30 acres that he refers to that this TIA is about. So you are wrong sir. Thank you.

Crane: Thank you. I'll get a clarification on that in a minute. Ma'am.

Haynie: Hi, Billie Haynie.

Crane: Ms. Haynie do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Haynie: I do.

Crane: Continue please.

Haynie: I'd like to thank you all for accepting my comments today. I want to give my full support to Park Ridge. We're talking about 30 acres, mainly today, I'm very ... got a lot of confidence in our City staff, in the engineers that approved the TIA today, and I hope that you all vote to push this forward and approve it. Thank you.

Crane: Thank you. Next please.

Larsen: My name is Phil Larsen.

Crane: Mr. Larsen do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Larsen: I do.

Crane: Please continue.

Larsen: Well first off I did turn thumbs down on the 10 minutes. The reason being that the management of the Neighborhood Association is totally disassociated with the neighborhood, but that being said I have a home at 800 Camino Del Rex, don't live there now, but did. And I think this project is going to be a very positive thing for the community. Okay. Thank you.

Crane: Thank you Mr. Larsen.

Aguilar: Hello my Commissioners. My name is Angelica Aguilar. I live at Country ...1423 Country Club and I just ...

Crane: Ms. Aguilar do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Aguilar: I do.

Crane: Thank you. Pull the mike a little towards you. Thank you.

Aguilar: Okay. I really disappoint with this because when I ... when I was little I grew up around this time ... this area and I always wished to have a house in the County Club you know so I make my dream came true you know. And the first thing that I like to living there is cause it's so ... you know it was a lot of peace around there and I see a lot of grown up people, respectable and all that you know. And like you see I think most of the peoples you know still living in there and I think it's what we ... you know hear about peace and that noise is not that much traffic and that, so I disappointed about this project. First because it's in the middle ... this Country Club you know is in the middle of our very beautiful city, so why do you guys ruin this you know if we ... for my opinion we should to keep this as a grandfather you know to keep this you know as a beautiful still and it's in the middle of you know everything. We don't need this kind of hospital ... hospital I think ... hospitals I think supposed to be out of city you know like Mountain View and all those *(inaudible)* you know. What we need and what I think we need in areas like an amusement park or park for families you know to really *(inaudible)* and keep kids you know ... keeping them from doing a bad things you know. Not for grow up you know in a healthy you know development you know, having reunions in park and all that. So I don't think it's ... it's a good idea to have a hospital in ... around there for my decision you know. We need more things you know in this part you know and ...

Alvarado: Two minutes.

Crane: Thank you ma'am.

Jensen: Hello. My name is Claudia Jensen. I own one of the townhouses right there on the golf course.

Crane: Ms. Jensen do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Jensen: Yes sir.

Crane: Carry on please.

C. Jensen: I want first let you know that I fully support Park Ridge. I think it'd be a very good thing for the entire community, not just there around the golf course but the entire city. Second, I have lived on that street, Camino Del Rex, and right now I realize that there are a lot of people who live there are very concerned about the traffic there. And that the fact that this new loop won't really change the traffic there. And I don't totally agree with that because the way they come off of Highway 70 right now and they come down Camino Del Rex, it's a straight shot right into the middle of the subdivision. They got like a bat our of "you know", and with the way they're going to have to reroute it that will automatically have to slow them down because they can't go fast and stop and make turns. So I think that will actually slow the traffic down a little bit. Yes, we still probably will have a little more traffic going through but I don't think it's going to be as high impact as some of the people believe and I also think that we're not going to go back into planning and rezoning and make this a park again, so, I just want to let everybody know that I do approve this and I think that we should give our ... the people who know what they're doing when they're making these studies, to let them finish getting their studies and I realize they're not done with the studies because they're going to have to redo when they do the rest of the subdivision, that is not a question right now I don't believe, I think that is a given that they're going to have to redo that. What we want to do right now is just that some ... small subdivision that they're starting with those three lots so that they can *(inaudible)*.

Alvarado: Two minutes.

C. Jensen: And so I'd like to support that they ... that you approve the plat as they're planning. Thank you.

Crane: Thank you Ms. Jensen.

R. Jensen: My name is Rick Jensen and I live at 850 Camino Del Rex, one of the townhouses that's been talked about so much.

Crane: Mr. Jensen do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

R. Jensen: I do.

Crane: Go ahead please.

R. Jensen: Considering that we are approving the plat of the 30-plus acres, I think that's got to be the highest and the best use of this land as presented, as I've seen, in this infill area. I think the idea that a park would have replaced that at some point in time in the past is ludicrous, the City's already said that. And we have to find alternatives and rather than live in that past I suggest that choosing the highest and the best use benefits me as an adjacent landowner. And I can support that by looking at the value assessment of my property over the past few years in the deplorable state of the Country Club. I don't mean to denigrate the Country Club at all, I am a member and I intend to support it as best I can and we believe this is in that best interest. Furthermore, I believe the choices are very appropriate in any and all of our lives and having a hospital there is a very good choice for me. I would like to see that done. I would like to see the ability to have more than two hospitals in this town and so this is an excellent opportunity. Needless to say I'm in support of passing this plat. Thank you.

Crane: Thank you Mr. Jensen.

Rose: Good evening. My name is Nell Rose.

Crane: Ms. Rose do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Rose: I do.

Crane: Go ahead please.

Rose: Thank you for hearing me tonight. I just want to let you know I am a member of Las Cruces County Club. I moved here in '09 and I live on Country Club Circle which is right off Camino Del Rex, so I know a little bit of what you know everybody's trying to say, but the reason I moved there was because of the Country Club. Well with the condition of it right now it's just kind of an eyesore. I drive by it every day. And it needs to be developed and that's what we're trying to do here. It's for the betterment of the city, it's for ... the location is excellent for this kind of subdivision that they're trying to put in there, the developers that they're trying to put there, and I don't live that far from there. I would love to see a hospital there. I don't ... I'm not sure why people are so against that. You know

the older we get the more we need medical services closer. The other two hospitals are far away from us, far away from that end of town, the north side of town and with that I totally am in support of Park Ridge subdivision. Thank you.

Crane: Thank you ma'am.

Mitchener: My name is Becky Mitchener.

Crane: Ms. Mitchener do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Mitchener: I do sir.

Crane: Go ahead please.

Mitchener: My husband and live at 900 Camino Del Rex. We live in one of the townhomes. When we purchased that particular property it very shortly went into this ... the steady decline that we've seen since. Everyday I look out my sliding glass door and see it worse and worse and worse. I think if we don't embrace this very innovative infill project we will all lose as citizens of this community and I know that as a property owner I ... in my opinion I actually have no value in that property at this point with the unknown that's involved, so I would just encourage you to go forward with this. My husband and I are 40-year residents of Las Cruces and we have invested ourselves from young people to where we are now in this community and we feel that this is the highest and best use for this particular parcel.

Crane: Thank you. Yes sir.

Robb: My name is Jay Robb. I'm the owner and operator of the Heritage Assistive Living.

Crane: Mr. Robb do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Robb: Yes I do.

Crane: Go ahead please.

Robb: I happen to be involved in some of the development, at least five of those 30 acres which will consist of an assisted living for 50 of the residents that will live in that area. About 12 years ago when I built the Heritage Assisted Living or expanded it in the Heritage Farm subdivision off of Farney and El Paseo and there was great concern by the local residents

in that area that by adding additional beds or additional homes that was going to significantly affect the traffic that was coming in to a single-family home subdivision. The truth of the matter is the majority of the folks that we care for are no longer driving; they are completely dependent on those that care for them. Since the time there was concern in the neighborhood, I've had multiple neighbors come up and wish that we had more of those homes. Many of the homes have since turned into rental properties with students and so forth which has created much more of a trouble and problem for the neighborhood. Second point is what I am very excited about with this community is not only just with the hospital but with added medical services that this will be a centralized beautiful home-like environment that will give elderly folks that are no longer able to care for themselves a place to live close by to receive medical services and really to truly have a very high and strong quality of life. When you consider the doctors offices, the hospital, the rehab center, and then with the addition of other family type residences there for spouses that want to be close by to their loved ones and retail, you can't ask for a better opportunity and a place for people to plan ...

Alvarado: Two minutes.

Robb: To live. And so I hope that you will support this project. Thank you.

Crane: Thank you Mr. Robb. Thank you.

Smith: Good evening. My name is Tammy Smith.

Crane: Ms. Smith do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Smith: Yes I do.

Crane: Go ahead please.

Smith: I've lived here since about 1957. I'm here tonight to speak not only on my own behalf but a substantial number of people who I spoke to before the meeting tonight. We were among those who had hoped that we could convince the City the value of saving this property. Huge piece of property as a park for this area a chance we'll never have again as I'm sure you all know. There's probably nothing wrong with this development. I don't see anything wrong from the little bit we know about it, but it is in my opinion a bad location. It's going to generate a lot of traffic on an area which is already heavily trafficked. I realize that the people who live in the area, in the Country Club area are going to be probably the most severely impacted. It might ... as each one of you ... how would you like to have your street closed off after you had lived in a neighborhood for quite a

number of years. That's going to happen if this project goes through. But the majority of Las Crucians will also be impacted by the traffic that this development is going to produce. All of you I'm sure drive North Main on the way to Alamogordo or on the way to Lowe's, or the departments ... the department stores that are building up around there. So traffic is just normally going to increase as more commercial development takes place along Highway 70. We really don't need to add any more to it. I hope you will give serious consideration to the ramifications if this project is approved and I hope that you can maybe encourage the developer to consider building elsewhere. There's a lot of land around Las Cruces you know. Thank you.

Crane: Thank you. Sir. Tell me your name please.

Maese: My name is Hector Maese.

Crane: Mr. Maese do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Maese: I do sir.

Crane: Go ahead please. Pull the mike up a little. Thank you.

Maese: I have lived on the north side of the County Club at 920 Camino Del Rex for 20 years. I am a member of Las Cruces Country Club as well. Thank you all for your service to our city. I will be brief. I endorse the proposal of the development. Circumstances and continuing efforts of the Las Cruces Country Club and Park Ridge development have brought us to this moment in time. Most of us, if not all of us can agree that timing is everything. And also agree that there is no progress without change. The Las Cruces Country Club property has sat vacant for almost three years. I believe that the timing and the possibilities of change favor the Park Ridge proposal that is to move forward with this upscale development that will serve our city and surrounding communities. I hope you support it. Thank you.

Crane: Thank you sir.

Boudreau: Good evening Mr. Chairman and fellow Commissioners. My name is Silvia Boudreau and I live ... okay.

Crane: Ms. Boudreau do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Boudreau: Yes I do.

Crane: Go ahead; you were going to tell us where you live, right?

Boudreau: I live on 1565 San Acacio Street. My house was one of two in 1964 when I had it built for our family. My kids caught lizards, horny toads, chased rabbits in all that area. I still live there; have very nice neighbors that have lived there too for about that long. I walk two dogs in the mornings. I walk all over the area. There's not a home I couldn't run to if I needed to, it's a very nice friendly neighborhood. You wave to people even if you don't know them, probably like some of the neighborhoods you live in. What you are proposing or what you are contemplating now is a traffic situation from Triviz on San Acacio it's already a speedway. From Arlington from Triviz it's already a speedway. EMT vehicles are going to use that even though you would prefer they wouldn't, if they're on Triviz they're going to use one of those streets down into the hospital, so I guess the project that Mr. Pofahl is proposing is alright I suppose. It's probably a done deal, but my question is I want you to consider the traffic situation very seriously and also we don't need Medevac helicopters overhead and those power lines in that beautiful neighborhood where you can walk something like probably what you have. Thank you.

Crane: Thank you ma'am. Sir. You're going to talk?

Burchiaga: Good evening. My name's Jason Burchiaga.

Crane: Mr. Burchiaga do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Burchiaga: I do.

Crane: Go ahead please.

Burchiaga: My comment is just a simple comment on the traffic; everybody's concerned for the traffic. I understand the City has already approved the zoning and the planned building, but simply for the traffic if the ... the building of the 33 acres was just moved to that westerly corner where the three crosses currently stand, that would alleviate a lot of the traffic going through the neighborhoods that is going to be made. So that's all I have.

Crane: Thank you.

Burchiaga: Thank you.

Crane: Well I thought it was a bad sign but it was followed immediately by a good sign. Go ahead.

Jaramillo: My name is Ray Jaramillo.

Crane: Mr. Jaramillo do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Jaramillo: I do sir.

Crane: Go ahead please.

Jaramillo: I am the director of Alpha School. It is a childcare center located on 1205 East Madrid Avenue. We are ... our property line is adjacent to the Las Cruces Country Club near the old hole number seven, par number five, right there we used to be able to look out and see some of that stuff. I have been the director there for 20 years and so feel a part of this community and although I don't live there it has become a very important part of my life there. I just want to let you guys know that I ... we are in full support of this development and we urge you to this evening ... I would urge you that a lot of the things that have said ... that have been said in opposition to this proposal has nothing to do with what we're here ... what you guys are here to do tonight. I think a lot of it ... I would hope that we don't get caught up in a lot of the helicopter noises, the hooting for owls, and although they are important things to consider, I don't believe that is our job and your job tonight. I think that I hope we can stay focused on what we have to do tonight and like I said we stand in full support of this and I have brought this up with our preschoolers, or three, four, and five-year-olds and the majority of them also support this so thank you very much.

Crane: I'm sure Mr. Pofahl is very encouraged. All right, thank you all. If there's no further input I will close this ... oh I beg your pardon, yes you did have your hand up. Come up please.

Stevens: Just to correct something said by Mr. Jensen, that's all I want to do. He said he lives at 850 Camino Del Rex, I think he should say the past tense; he used to live at 850. That's all I have to say.

Crane: Thank you sir. Okay. So we'll close this to further input except I did ask Mr. Pofahl, can you come up and give such rebuttal that you want, extremely briefly please, it's getting late.

Pofahl: Yes.

Crane: Okay. Go ahead.

Pofahl: Mr. Chairman, Commissioners. Regarding the Park Ridge ... the parks and so forth, I want to say we will be donating when we develop the entire plan that we've already discussed with the City, adding over seven and a

half acres to the existing Apodaca Park plus adding substantial improvements to the park. In addition to that additional open space, a linear park will be added along the power lines that varies from 200 to 300 feet with walking trails connecting into the existing outfall water channel park area. This is designed as a mixed use development with lots of open space. It's a pedestrian friendly walkable community. We worked with the MPO, trails, and bikeways, groups and so we believe the mix of uses here will be an advantage. The other thing that these mixed use developments do in the urban core where there's dense population, they provide services that keep people from having to go to the outside of the city. This stops urban sprawl when we redevelop these infill sites like this that allow people not to have to leave their neighborhood. This is designed for people to be able to walk into this community for services.

In addition, the City and state traffic engineers have spent extensive time with our engineers, hours and days walking through this with very professional groups to look at every angle of this development. They've even had our engineers go back to the drawing board many times. And so the mitigation and the over million dollars that we're spending just in phase one is what was recommended by both the state engineers and the City engineers. And then kind of in closing in addition to what Eddie's going to add would be the project will be a state of the art medical and retirement community. We believe it's going to be with ample open space and again a walkable community. We think it's going to be valuable for this neighborhood. We have an aging city, this is an aging neighborhood and we think this level of service is ... these are ... a small hospital and it's a small community served hospital and retirement village.

Crane: Thank you sir. Mr. Martinez.

Martinez: Eddie Martinez. Several of the comments were related to zoning which as Mr. Clifton indicated zoning is not a point of discussion for tonight, this is solely as *(inaudible)*.

Crane: True.

Martinez: Anyway, regarding the concerns that the TIA once again only addresses 17 acres, specifically on table two on page 10 of the study we identify four phases of the project that includes the daily trips generated and the intensity for the entire 110 acres. Also in appendix A, table one in appendix A we identify once again in detail the generation of the traffic for the entire 110 acres. So therefore it was analyzed ... as I said we did analyze, we did look at that. The modeling as we indicate because at this stage without that second access point the modeling is specific to this phase one. Regarding the burrowing owl, that is something that we Zia, we have people internally that can do those studies. We did that for the Spaceport America project and if it's deemed necessary we can analyze

that and have monitors during construction.

In general regarding whether or not this site is appropriate, etc., I will remind everybody that this is already zoned R-1a, except for the portion that's been rezoned at his point in time. If it was all residential and you went in with you know six to eight lots per acre, the impacts in regards to traffic would actually be worse than what's being generated by this project *(inaudible)* what's being proposed for the entire 110 acres. So, as I said, I mean this is actually a lesser impact in regards to traffic than if it was all fully developed as residential.

Regarding the Medevac helipad etc., that's not something that's ..., we have submitted on or is a point of discussion for tonight. If that is going to be submitted in the future that would require a special use permit from this Board as well as FAA approval. That's all I have.

Crane: Thank you sir. Now this is closed to further discussion from the ... further input from the public. Commissioners? Mr. Clifton.

Clifton: Mr. Chair, Members of the Commission. I can appreciate the public's comments and concerns and opposition to this project but as I brought up earlier unfortunately we're here at the subdivision stage. The land use discussion's over. That's been dealt with and I think we've probably beaten that quite enough tonight. Staff, could you go to a zoning map for me on the presentation please? If you recall the majority of the project such as where the hospital and other office type uses are going to be located has been rezoned to C-3 conditional. As many of you know on the Commission under the C-3 zoning district you don't have to subdivide that property to place these uses. As is, the developer could come in, build the pad sites, and simply lease the properties for the use, the end user, the hospital, whoever may be. So the subdivisions a mere formality to clear title, transactions, etc. So whether they subdivide it or not the land use is going to happen. That's not what we're here to vote on again. It's a subdivision. It's gone through the process. You know I've seen opposition in the past actually hire a consulting engineer to do a TIA to possibly counter the TIA of record. It looks like a TIA of record has cleared Mr. Roman's review process as of today. And quite frankly I think at this point really we're left with a subdivision, there's really nothing else to discuss. And the City staff has asked for a Rolls Royce in improvements from Mr. Pofahl and quite frankly he's delivered. And to your credit but also in the future that could also have consequences to other developers that come in with additional applications in the city, so, thank you but you know there ... there could be issues. With that I have no further comments.

Crane: Thank you. Any other Commissioner have anything to say before we proceed to a vote? Then I'll entertain a motion that the final plat application be accepted.

Montana: Mr. Chair.

Crane: Ma'am.

Montana: If I may, Susana right here.

Crane: Yes Ms. Montana.

Montana: If the Commission would like to follow the conditions recommended by staff, condition number two references an attachment seven, I would like it to be known that we are referring to the amended attachment seven as of this date. Thank you.

Crane: Thank you. So do I hear a motion that IDP-14-04 ... go ahead Mr. Clifton.

Clifton: Mr. Chair I'll make an attempt at this. I would like to recommend approval of Case IDP-14-04 with one condition, the applicant, developer, and/or any subsequent developer as applicable shall satisfy the mitigation measures listed in amended attachment seven as well as any on or off-site mitigation measures deemed by the City to be necessary to mitigate potential adverse impacts of the development to the site and surroundings that may be identified during the review of the public improvement construction drawings. And that would be the end of my conditions, simply because condition one as written in the packet is redundant, I don't believe ... I'm not going to include that in my motion. Thank you.

Crane: All right. Thank you. Let's have a second.

Stowe: I second the motion.

Crane: Mr. Stowe seconds. We'll do a roll call vote. I forget where I started last time so, you remember Mr. Alvarado? I like to take it into alternating directions, you want to go first? Commissioner Alvarado.

Alvarado: I vote yes based on the presentations here today, the public input, and staff recommendations and my site visit. I frequently drive by the Country Club and it's in a deplorable state. I think something needs to be done with that property. I personally would rather have seen a big park. I have a son that lives in Colorado and they have an awesome park right downtown, but since there was no money for the City to buy the property, I think we have to go with the development of it rather than see it go to waste like it's doing right now.

Crane: Commissioner Stowe.

Stowe: Aye based on findings and discussion.

Crane: Commissioner Clifton.

Clifton: I vote aye based on findings specific to the compliance with the City subdivision regulations and zoning code, staff, and applicant's presentation.

Crane: Thank you. And the Chair votes aye based on findings, discussion, and site visit. Thank you. Measure passes four/nothing.

3. **Case IDP-14-05:** A variance application to (1) reduce the front setback from the required 11 feet to 10 feet; (2) reduce the off-street parking requirement from 2 spaces to 1; (3) reduce the lot depth from 70 feet to 62 feet; and (4) allow a 10 foot setback from the front property line for an attached garage rather than the required 25 feet setback. The property is vacant and is located at 913 N. Tornillo Street (Parcel 02-04853). The Applicant, Steven Klingler, seeks to build a single-family home with an attached garage. Council District 1 (Silva).

Crane: We conclude this evening with Case IDP-14-04, a variance application concerning some property at 913 North Tornillo Street. Ms. Montana.

Montana: Yes, thank you Mr. Chair, Commissioners. What you have before you is a request for what we're calling an infill development project. This property lies within the Infill Development Overlay district and they're requesting four variances. Now in the infill development overlay district you can ask for four variances without it becoming automatically a planned unit development. That is why we're bringing this to ... these four variances to you today. The property lies within the North Mesquite Overlay Zoning District; again the Infill Development Overlay District, and it's zoned R-2, medium density residential district. The site is vacant and has been for perhaps 30 years. The applicant seeks to build a 2,755 square foot single family home on a 4,915 square foot lot. Again this shows, this slide shows the property on Tornillo and within the North Mesquite District. Again it's a vacant lot ...

Crane: Excuse me that was an infill district?

Montana: It's in the Infill Development Overlay District.

Crane: Thank you.

Montana: And the North Mesquite Overlay District. Of course because it's vacant and it's not designated as significant or contributory to the historic district, but there are older adobe buildings to the north and the south and in the

area in the neighborhood, so this block does have historic abode structures. Across the street is a community center, it's called the Weed & Seed Community Center that focuses on activities for youth, particularly teenagers. There are apartments here, attached duplex, triplex, apartments, apartments, and single-family homes here and here. Right on this corner is the Dona Ana County Community College satellite campus which provides classrooms, computer education programs there.

There are four variance requests; one is to reduce the front setback from 11-feet to 10-feet. The second is to reduce the off street parking requirement from two for a single-family home to one. The third is to reduce the lot depth from the required 70-feet in the North Mesquite District to 65 feet. And lastly to reduce the garage setback from 25-feet from the front property line to 10-feet.

This is a site plan. It's a little odd shaped. It's not entirely square. This property was subject or is part of the original townsite subdivision in 1853 and at that time it was platted this way, a little odd shaped. The applicant wishes to build the home with a 10-foot changed setback rather than the 11-foot. The 11-foot setback was calculated based on the average of the existing setbacks for the older adobe homes to ... on the same side of the street on the same block, so those on the north and the south. So the average of those produced the 11-foot required setback. The garage setback is shown as 10-feet but it's supposed to be 25-feet and this is a city-wide standard. The North Mesquite Overlay does not have its own garage setback requirement so it defers to the city-wide requirement of 25-feet. The property boasts this larger house on this ... 4,900 square foot lot and there'd be a large garage although it's a one-car garage, or one-truck garage as you can see from the site plan, from the floor plan. The applicant wants this rear porch and for that reason the garage, he choose not to extend the garage back to allow the 25-foot driveway here. You can see this single truck garage and storage area, may be a laundry area and the front façade here.

Based on the staff report as you can see we describe the variance criteria for each of the requested variances and based on that criteria staff is recommending approval of the reduced lot depth, again because the subdivision or the lot was platted in 1853. No fault of the current owner and so we find that it does meet the hardship requirement and the criteria of the section 38-10.K of the zoning code and so staff is recommending approval of that variance request. However, reducing the setback from 11 to 10 we feel is not necessary because the rear setback requirement is only five feet and they're providing six feet, so if he moves the house back to satisfy that five-foot rear setback, he's got his 11-feet in the front, so staff is recommending denial.

Third, to reduce the off-street parking requirement from two to one, the applicant we believe has sufficient room on the lot to provide the two-car garage, he choses not to do that. There is a substantial on-street parking congestion on his street because of the Weed & Seed operation

across the street and the Dona Ana County's satellite campus. People during the day and in the evening park on the street and there's really not ... can't guarantee that a second car owned by the family or the owner would be able to park on the street. So staff is recommending denial.

Third the garage setback from the property line. We believe this is a serious safety hazard because of the significant pedestrian traffic. A vehicle has to swing into the driveway because of the cars that are parked on the street, has to swing into the driveway and the applicant insists on a garage with a garage door rather than a carport, so while the garage door is opening he has to block the sidewalk. He just ... you know, a 10-foot driveway cannot accommodate even the subcompact vehicle which we measured to be at least 16-feet, so a truck would have to block the sidewalk and we just ... we can't recommend, so we recommend denial of that.

Your options tonight Commission is to approve all four variance requests; to approve one or more; to deny all four; or to deny one or more. And in your staff report I've outlined several options for you if you choose to vote individually for the variance requests or if you want to either approve all or deny all. And that can be found on page 14 of the staff report. And with that I'm happy to answer any questions you may have.

Crane: Thank you.

Montana: The applicant is here with a presentation if you like.

Crane: Thank you Ms. Montana. Any questions for Ms. Montana? Mr. Clifton.

Clifton: Mr. Chair, quick question, did you discuss with staff whether they were willing to move, shift that over a foot so that would eliminate the need for that variance at all, was that on the table during this process?

Montana: If who would move ...

Clifton: If the applicant.

Montana: We ... yes. We asked the applicant to submit an application for a flexible development standard waiver which is administrative waiver that we could grant. The applicant insisted he wanted this design on this part of the property and he didn't want to go for flexible development standard waiver. He didn't want to reduce the size of the house. He didn't want to have an open carport or an open garage. He wanted to move forward to your ... to this Commission with this request. He said if he is not granted these variances that he would either sell the property and go somewhere else, or he would build a two-story house, which he could meet all the requirements if he built up rather than out.

Clifton: Well I think that simply trying to make this easier than the level of complexity that it has reached. I mean, it's a foot, I don't ... you know, I don't know that it's that big of a problem considering the other issues and it is a dwelling they have designed specific to this lot. I do find it interesting versus the last variance case, you stated the subdivision was platted in 1853 so that is in essence a topographical constraint or falls in that hardship, but you know that was the point I made on the other ... the previous variance cases, it's an old subdivision, you know and Weed & Seed, they weren't there in 1853, I think they probably encumbered this gentleman's parking, so that probably needs to be taken into consideration.

Montana: Again the applicant is here if you would like to ... and see the presentation.

Crane: Any further questions for Ms. Montana? Okay, let's hear from the applicant or his representative.

Pompeo: Good evening Mr. Chairman, Paul Pompeo.

Crane: Mr. Pompeo do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Pompeo: Yes I do.

Crane: Go ahead please.

Pompeo: Good evening Mr. Chairman and Commissioners. Before I get started with my presentation after discussing it with the project contractor and reference Mr. Clifton to your point, it looks like we can just move that building one foot to the back, making the rear setback five-feet, so for the purposes of this discussion, we're going to take that variance request off the table. So we'll be limited to just the three variance requests.

Crane: Let me make sure we all know which one that is of the four; that's the number one, reduce the front setback from the required 11 to 10-feet.

Pompeo: Yes Mr. Chairman, so the final site plan would show an 11-foot setback in conformance with staff's measurements.

Crane: Okay, so you're dropping the number one. Okay. All right, please go ahead.

Pompeo: Thank you Mr. Chairman. Once again here's a vicinity map showing the location of the project at 913 Tornillo Street. Here's more of a close up view. Once again the property now sits vacant in its current condition.

Once again here's the proposed site plan, the garage located here, the subject of the variance from 10-foot to 25-foot with the dwelling once again shown as an odd shaped lot there fronting Tornillo. Once again there's ... I want to make sure we're correct on the square footages, there's ... the total structure size is 2,975 square feet of total structure foot print, of that 2,016 is heated space, so that doesn't include the garage, and obviously the porch. It is a single story building, and from the elevations that we provided which I believe staff provided to you in the staff report, is the intent to do adobe construction consistent with the other buildings in this neighborhood.

Once again variance number one on my presentation has to do with the lot depth. Now this first point Mr. Chairman and Commissioners is a point I'm going to reiterate in all of my variance ... the justification for our variance requests, that is the property lies within the City of Las Cruces infill zone. This concept seeks to take vacant underutilized land tracks, promote development via flexible standards to the zoning code. The lot has existed in its current shape or size for decades. And once again from the aerial photography you'll notice that there's development all the way around this property, so expanding the tract is not possible.

Reduction of the *(inaudible)*, we've already taken that one off the table. Reduction of the required off-street parking. Skipping over the infill zone which is ... we've already spoken of, allows property owner to build a single-story residential home with applicable square footage meeting modern home standards of heated space. What we're trying to say by that is, sure you can take a building and shove it on this property and make it conform to the shape and the size but we are trying to meet modern standards of the appropriateness of room size, the number of rooms, and the you know kitchens and dining rooms and bedrooms and baths and things of that nature that you would find more in a modern type floor plan for a home. Single-car garage matches numerous home sites ... or single-car garage matches numerous home sites in the surrounding neighborhood and I have photographs to show of that. There is only one single individual that's going to be occupying this house with one single vehicle at this time, so once again that goes to not needing that second space.

Now the garage setback, once again the infill zone, the flexibility. Once again by allowing the setback, moving the garage forward that allows more square footage for a modern type footprint of a home of which the applicant desires. The setbacks of garages once again meets numerous home sites in the surrounding neighborhood with limited garage setback. And I think this is an important point, we're not advocating that this 10-foot setback for a garage in anyway, shape, or form is going to serve as a driveway. This is just the pathway from the street into the garage, and the issues of cars parking on the street or pedestrians on the sidewalk is immaterial when we compare it whether it's 10-foot long, or 25-foot long, it's a pathway into the garage. So in either case those issues ...

if you believe that those issues exist, they exist in either case. Once again here's a shot of Tornillo Street, you'll notice the buildings that are very close to the front setback lines. But one of the things I want you to notice from these pictures and I'll go the second one of Tornillo Street, you do not see two-story structures in this neighborhood, although they would be allowed. We believe that granting these variances, allowing the property to stay at one-story rather than two more fits into the character of this neighborhood, which is something that the property owner is trying to achieve. And once again this is a typical garage but there's others in this neighborhood, you can see that this garage is approximately six-foot back off the property line and it's also a one-car garage. These type of buildings exist in this neighborhood. We believe by our application based on architecture, based on the layout, based on the choice of adobe construction, that this building by granting this variance it's very well within this neighborhood.

The last point that I would like to make Mr. Chairman and Commissioners goes to the issue of flexible standards. On page three of 16 of your packet, in paragraph two it says "since the North Mesquite Overlay District does not specify a garage setback then basically the garage setback is set to that that's city-wide". You've been shown numerous pictures of the architecture, the front setbacks, all the other structures in this neighborhood and not allowing that flexibility to get down to these smaller setbacks does not allow structures without this variance request to meet the character of the neighborhood. So with that we are respectively submitting these variance requests. And I'd be happy to answer any questions that you might have.

Crane: Thank you Mr. Pompeo. Excuse me. Commissioners, any question for Mr. Pompeo? Ms. Ferrary.

Ferrary: My concern is for just having that 10-foot setback and as Ms. Montana pointed out going in and out of the driveway even though you're calling it a pathway, also blocking the sidewalks you get into that pathway to park in the garage. I'm concerned about safety and even with some of the other buildings that you're showing, how do they you know avoid pedestrians or even other vehicles?

Pompeo: Mr. Chairman, Commissioner, what we're ... the builder's here to answer any specific questions you might have about the building, but you know we're fully intent on installing a garage door opener in this garage. It's our intent, just like I do when I drive home, when you drive down the street as you're approaching your house to get the garage door open, the garage door goes up, you drive into your driveway. That's why we don't believe that there is a difference between having the setback at 10, at having the setback at 25. You still have to traverse through the parked cars on the street. You still have to traverse over the sidewalk as you make your way

into the garage. The issues with conflicts of pedestrians or parked cars exists in either condition and we don't see a difference in either one. Although they may be of concerns, they exist whether the garage is at 10-feet or the garage is at 25-feet.

Ferrary: Well except that you have more area to you know make your way from the turn into the driveway and wait for the garage door to open or to pull out and see people. I think that's probably the intent of having it longer.

Pompeo: Yes, Commissioner, but once again in our practical analysis of this we just don't see a tangible difference between the two. The developers are ahead of me and this is from the South Mesquite, by the way, so we're not in the South Mesquite. On page V-224 "to assure the primary structure's maintained principal focus attached and detached garages or carports shall be setback at a minimum of 10-feet back from the primary structure and primary street site façade". So, if this project or if this property had been located in the South Mesquite District which you saw from staff's presentation is only a block away, it's allowed in there, pursuant to the South Overlay Zone. So, the City has contemplated this and the City allows it in some areas of the city. So once again we just ... we don't see that ... although we recognize that there may be some concerns we don't believe that ... we believe we've overcome the burden of those.

Crane: Mr. Clifton.

Clifton: Yeah, I'm not too sure about the garage door opening issue. I mean it's a garage door, it opens, it closes, you pull in, I don't know that many people pull right up to the front of the door to wait for it to open, so I don't know that cueing would necessarily be a problem. And eventually it's going to get full of stuff anyways and you will be parking on the street so. Just a speculation not a fact. You know with that said, I ... the zoning code under R-1a allows a setback of 15-feet for garages in just a typical residential neighborhood that are side loaded, so you know there is to an extent precedents on a shorter, narrower setback and I really think this is in the character of the neighborhood. I mean if you drive around this neighborhood just about every house has these minimal setbacks, these minimal entrances into their garages and anything other than what's being constructed here would be out of character such as the newer uses that are institutional in the neighborhood. Those are out of character and they have thusly created a parking situation for the people that actually live there. So I don't know that we should be penalizing the property owner for the parking situation and that probably shouldn't even be discussed at this point because they are institutional issues. And in favor of the variances, I do see an economic impact here, the City will collect gross receipts taxes, people will be employed to construct this house, City fees, impact fees, building permit fees, park fees, they've gone up as we all know quite

extensively over the last two years, three years, so there will be a lot of positive economic impact, with this just one house. So, I think the return on the variance is well worth the request. The only question I do have Mr. Pompeo is do you have adequate ponding on the site?

Pompeo: Yes.

Clifton: Thank you.

Crane: Any other questions for Mr. Pompeo?

Montana: Mr. Chair may I make a clarification?

Crane: Ms. Montana.

Montana: Section 38-62 of the zoning code does require for single-family R-1a districts, does require the 25-foot setback for garages, with the exception of the side loaded garage, then it may be only 20-feet, but I think you're referring to a side ... a secondary frontage setback of 15-feet, but for a garage it would have to be 25-feet. That's city-wide.

Clifton: Or a side loaded garage can be in the reduced setback?

Montana: Yes, 20.

Crane: Can someone explain to me what a side loaded garage is?

Montana: If you enter the driveway and then turn into the garage so that the side of the garage faces the front street, that would be side loaded.

Crane: Okay. Thank you. Any questions for Mr. Pompeo? Ms. Ferrary.

Ferrary: I think there was brought up a need for a second parking. Is there a way to accommodate that?

Pompeo: Based on the floor plan that we have and the desired use of the property, we've basically maxed out that ... with the building footprint that we have and there's just no way to add an additional parking space to the garage without eating up the heated floor space that's in the house and then that would take away ... it's kind of a rolling ball, if we add for the garage, then we take away from the bottom ... from the first floor and then we'd have to go to a second floor which then puts the house out of character for the neighborhood. So working backwards on that three step process, we believe that granting the variance, having the one car spot, and leaving the footprint as it is as a single-story building more has the structure meet

and fit into the neighborhood rather than to create that second space but then have to go to a two-story building.

Crane: All right. Thank you Mr. Pompeo. Does ... you are presenting the applicant, so we are through with you. Is there any input from the public? Ma'am.

Ayres: My name is Diana Ayres.

Crane: Ms. Aryes do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Ayres: It is.

Crane: Carry on please.

Ayres: I have an art studio on ... at 922 North Mesquite which does not back onto this property but we can see it from the studio. We intend to live in this house within the next few years. It's now a studio but we will live there. This is the very sort of development that we want in that neighborhood. He's designed it well and I think you'll find that in the next few years there will be many more people our age who are interested in moving into the city rather than out. And I think this is a very good idea, it's well designed, it looks good. I think the garage entryway is a quibble because there aren't mobs of people walking up and down the street. It's not a problem. I think ... I fully support it. Thank you.

Crane: Thank you ma'am. So since there's virtually nobody left and Mr. Ayres is not going to speak, we'll close this to further discussion and Commissioners, we have to ... let's make up our minds how we're going to handle this. It seems to me that it's almost essential to take this item by item, voting on each one separately, otherwise we're going to get in a massive tangle if we try to permutate them various ways and item number one, reduce the front setback from the required 11 to 10-feet, Mr. Pompeo has told us that that's taken care of by simply shifting the house by a foot. So, may I hear a motion that the variance to reduce the off-site parking requirement from two spaces to one be approved? This is for IDP-14-05 for the record. Somebody has to move it or we can't go anywhere.

Clifton: I make a motion the Planning and Zoning Commission approve IDP-14-05 variance request, reduce the off-street parking requirement from two spaces to one.

Crane: Do I have a second?

Alvarado: Second.

Crane: Seconded by Mr. Alvarado. Discussion. Let's keep it simple and proceed to the vote. Mr. Clifton you go first.

Clifton: Aye.

Crane: Aye. Mr. Stowe.

Stowe: Aye.

Crane: Ms. Ferrary.

Ferrary: Aye.

Crane: Mr. Alvarado.

Alvarado: Aye.

Crane: And the Chair votes aye. So that passes five/none, that's item number two, the off-street parking requirement. Item number three is to reduce the lot depth from 70 to 62 feet. Let me hear a motion to that effect. Mr. Clifton, it's all falling on your shoulders, but you're younger than the rest of us perhaps. Go ahead, say your thing.

Clifton: Mr. Chairman, Members of the Commissioner, I make a motion to approve the reduction of the lot depth from 70 to 62-feet for Case IDP-14-05.

Crane: Thank you. A seconder?

Stowe: Second.

Crane: Seconded by Mr. Stowe. Mr. Alvarado how do you vote?

Alvarado: Aye.

Crane: Ms. Ferrary.

Ferrary: Aye.

Crane: Mr. Stowe.

Stowe: Aye.

Crane: Mr Clifton.

Clifton: Aye.

Crane: The chair votes aye. Passes five/nothing. And finally item number four to allow a 10-foot setback from the front property line for an attached garage rather than the required 20-feet setback. Do I hear a motion to that effect? Let's give somebody else ... oh go ahead.

Clifton: Sure. Mr. Chair, Members of the Commission, I motion that we approve variance request to allow a 10-foot setback from the front property line for an attached garage rather then the required 25-foot setback for Case IDP-14-05.

Crane: Seconded by Ms. Ferrary.

Ferrary: I second it.

Crane: And we'll start ... where'd I start last time? Mr. Alvarado, all right.

Alvarado: Aye.

Crane: Ms. Ferrary.

Ferrary: I vote aye.

Crane: Mr. Stowe.

Stowe: Aye.

Crane: Mr. Clifton.

Clifton: Aye.

Crane: The Chair votes aye. Then all three of the remaining requested variances are approved by votes of five to nothing. Thank you.

## VIII. OTHER BUSINESS - NONE

Crane: Any other business Ms. Montana.

Montana: No Mr. Chair.

## IX. PUBLIC PARTICIPATION

Crane: Okay. Public participation, virtually no public, therefore probably no participation.

## X. STAFF ANNOUNCEMENTS

Crane: Staff announcements? None.

## XI. ADJOURNMENT

Crane: In that case we are adjourned at the hour of 10:10 p.m.. Thank you.

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Chairperson