

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 31Ordinance/Resolution# 2743For Meeting of December 1, 2014
(Ordinance First Reading Date)For Meeting of December 15, 2014
(Adoption Date)

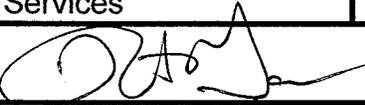
Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: AN ORDINANCE APPROVING A ZONE CHANGE FROM UR (URBAN RANCH) TO EE (SINGLE FAMILY EQUESTRIAN ESTATE & AGRICULTURE) FOR A 2.34 ACRE PARCEL 02-18631 LOCATED AT 4860 DUNN DRIVE. SUBMITTED BY THE PROPERTY OWNER, ERICA LEE. (Z2881)

PURPOSE(S) OF ACTION:

Zone change.

COUNCIL DISTRICT: 6		
<u>Drafter/Staff Contact:</u> Susana Montana, Planner	<u>Department/Section:</u> Community Development/Building and Development Services	<u>Phone:</u> 528-3207
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The subject parcel is zoned UR (Urban Ranch) which is a rural single-family residential zoning designation from the 1981 Zoning Code which was not carried forward to the 2001 Zoning Code. The owner seeks to build a single family home on the property. The property is deemed a legal nonconforming lot due to its obsolete zoning designation and cannot be developed without rezoning it to a suitable 2001 Zoning Code designation. The most similar 2001 Zoning Code designation is the EE (Single Family Equestrian Estate & Agriculture) designation which would allow the construction of a single family home. There are EE designated properties abutting the subject property to the south. The property lies within the East Mesa Community Blueprint plan area which suggests that properties zoned UR should be rezoned to a comparable 2001 Zoning Code designation which, in this case, would be the EE zone.

The Planning and Zoning Commission considered the rezoning request on October 28, 2014 at a duly-noticed public hearing. There were no protests to the rezoning request and the Commission voted 6 to 0 (one Commissioner absent) to recommend approval of the rezoning to the City Council.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Rezoning Site Map.
3. Exhibit "B", Findings for Approval.
4. Attachment "A", Staff report to the Planning and Zoning Commission.
5. Attachment "B", Draft Minutes from the October 28, 2014 Planning and Zoning Commission meeting.

SOURCE OF FUNDING:

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

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

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

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will affirm the Planning and Zoning Commission's recommendation for approval of the rezoning Ordinance. The subject 2.34 acre property would be rezoned from UR to EE.
2. Vote "No"; this will reverse the recommendation by the Planning and Zoning Commission for approval of the rezoning Ordinance. The current UR zoning for the 2.34 acre property would remain.
3. Vote to "Amend"; this will allow the City Council to modify the Ordinance by placing a condition or limitation to the rezoning Ordinance.

4. Vote to "Table"; this will allow the City Council to postpone action on the Ordinance and direct staff accordingly.

REFERENCE INFORMATION:

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

1. N/A

COUNCIL BILL NO. 15-024
ORDINANCE NO. 2743

AN ORDINANCE APPROVING A ZONE CHANGE FROM UR (URBAN RANCH) TO EE (SINGLE FAMILY EQUESTRIAN ESTATE & AGRICULTURE) FOR A 2.34 ACRE PARCEL 02-18631 LOCATED AT 4860 DUNN DRIVE. SUBMITTED BY THE PROPERTY OWNER, ERICA LEE. (Z2881)

The City Council is informed that:

WHEREAS, the property owner seeks to rezone the 2.34 acre subject property, Parcel 02-18631, located at 4860 Dunn Drive from the UR (Urban Ranch) designation to an EE (Single Family Equestrian Estate & Agriculture) designation for the purpose of building a single-family home; and

WHEREAS, the Planning and Zoning Commission, after conducting a duly-noticed public hearing on October 28, 2014, recommended that said zone change request be approved by a 6 to 0 vote (one Commissioner absent).

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

(I)

THAT the 2.34 acre Parcel 02-18631, shown in Exhibit "A," attached hereto and made part of this Ordinance, is hereby zoned EE (Single Family Equestrian Estate & Agriculture).

(II)

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

(III)

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

(IV)

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

DONE AND APPROVED this _____ day of _____ 20__.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Levatino: _____

APPROVED AS TO FORM:

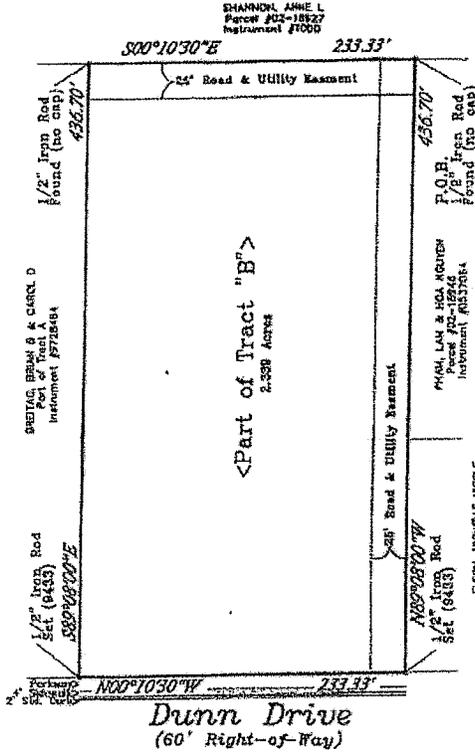


City Attorney

PLAT OF SURVEY

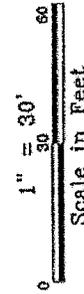
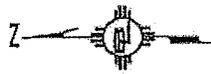
Parcel 02-18631

PART OF TRACT "B"
 SOKOLL SUMMARY SUBDIVISION NO. 1
 PLAT FILED JANUARY 16, 1985, IN
 PLAT BOOK 13, PAGE 370, OF
 THE DONA ANA COUNTY RECORDS
 NORTHEAST OF LAS CRUCES
 DONA ANA COUNTY
 NEW MEXICO



PROPERTY IS IN AN "X" DESIGNATED ZONE.
 IS SUBJECT TO THE FLOOD INSURANCE RATE MAP
 AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY
 EFFECTIVE SEPTEMBER 27, 1991.

Surveyor	S. Peale
REG. NO.	A.O., E.R., C.S.
EXPIRES	13-08-0108
DATE	APRIL 1, 2013



TERENCE G. SCANLON
 REGISTERED LAND SURVEYOR
 NO. 9433
 STATE OF NEW MEXICO

April 1, 2013
 DATE OF SURVEY
 TERRY G. SCANLON - PS NO. 9433
 2540 TELSOR BLVD SUITE 5, LAS CRUCES, NEW MEXICO 88101

NOTES:
 THE BARS OF SCALING IN THE WEST NEARBY AGRI. TECH. OFFICE
 ALL EXISTING SURVEY MONUMENTS ARE TO BE PRESERVED UNLESS OTHERWISE NOTED.
 1/2" EACH ROD WILL YELLOW PLATE OR LAMINATED MAPS WILL SET AT PROPERTY
 CORNER OR AT VOID NEARBY.

INSTRUMENT OF RECORD:
 WARRANTY DEED FILED
 June 18, 2008, 141/10001, 10817442
 OF THE DONA ANA COUNTY RECORDS

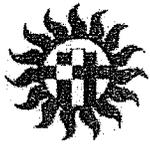
THIS IS A BOUNDARY SURVEY PLAT
 PREPARED FOR THE TRACTS
 OF LAND DESCRIBED IN THE
 DIVISION ON SUBDIVISION AS
 DEFINED IN THE NEW MEXICO
 STATUTES.

TERENCE G. SCANLON
 ENGINEER AND SURVEYOR LLC
 2540 N. TELSOR BLVD., STE. 5
 LAS CRUCES, NEW MEXICO 88101
 Phone: (505) 528-1448
 Fax: (505) 528-0920

Exhibit "B"

Case No. Z2881 Findings for Approval

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



City of Las Cruces

PEOPLE HELPING PEOPLE

Planning & Zoning Commission Staff Report

Meeting Date: October 28, 2014

Drafted by: Susana Montana, Planner *SM*

CASE # Z2881 **PROJECT NAME:** 4860 Dunn Drive
Rezoning

**APPLICANT/
REPRESENTATIVE:** Erica Lee **PROPERTY
OWNER:** Erica Lee

LOCATION: 4860 Dunn Drive **COUNCIL** 6 (Levatino)
(Parcel 02-18631) **DISTRICT:**

SIZE: 2.34 acres **EXISTING ZONING/
OVERLAY:** UR (Urban Ranch)

**REQUEST/
APPLICATION TYPE:** Rezoning application to change the zoning designation from the 1981 UR designation to the abutting EE (Equestrian Estates) designation in order to build a single-family home on the property.

EXISTING USE(S): Vacant parcel

PROPOSED USE(S): Single-family dwelling

**STAFF
RECOMMENDATION:** Approval based on the findings noted below in Section 3

TABLE 1: CASE CHRONOLOGY

Date	Action
9/24/2014	Application submitted to Development Services
9/25/2014	Case sent out for review to all reviewing departments
10/9/2014	All comments returned by all reviewing departments
10/9/2014	Staff reviews and recommends approval of the zone change
11/2/2014	Newspaper advertisement
11/3/2014	Public notice letter mailed to neighboring property owners
11/3/2014	Sign posted on property
11/18/2014	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The Applicant seeks approval of a rezoning of the subject property from the 1981 Zoning Code designation of UR (Urban Ranch) to the 2001 Zoning Code, as amended, designation of EE (Single family Equestrian Estate & Agriculture).

The property was subdivided in 1985 as the "Sokoll Summary Subdivision Number One" which split a 5-acre parcel into two lots. Road and utility easements were carried forward to each of the two new lots.

The subject parcel lies within the Ease Mesa area which was annexed into the City in 1985. With the annexation of County land into the City, the properties therein were designated a City zoning district that was most similar to the previous County zoning designation. The 2.34 acre subject parcel was given the Urban Ranch designation upon annexation into the City.

In 2001, the City amended its Zoning Code. This amendment did not carry forward the 1981 Urban Ranch zoning district. The property owner at that time chose not to rezone the property to a comparable 2001 zoning designation and, therefore, the property is now deemed a legal nonconforming lot (NCU) pursuant to Section 38-72.A of the 2001 Zoning Code and "may continue in the manner and to the extent that it existed or was being used at the time of the amendment of this Code". Because the Parcel is vacant and the construction of a single-family home will change its use, it cannot be built upon without a rezoning to a suitable 2001 Zoning Code designation.

The Applicant purchased the property in November of 2013 and seeks a building permit to construct a single-family residence on the vacant property. The Applicant is seeking a rezoning to an EE (Equestrian Estate) designation which is most similar to the 1981 UR (Urban Ranch) designation as noted below.

The purpose of the 1981 Urban Ranch zone was to "provide small ranch and farm areas within the City in order to meet the demand for those whose lifestyle includes raising and keeping of large and small animals in a semi-rural atmosphere."

The 2001 Equestrian Estate zone "is intended as a low density residential district of single-family site-built/manufactured housing on large lots specifically designed for farming and/or the raising and keeping of animals such as horses, mules, cows, pigs, sheep, goats, and fowl in a rural atmosphere. Limited commercial activity is permitted. The maximum density of this district is one (1) dwelling unit per acre."

The development standards of the 1981 UR and the 2001 EE zones are similar as noted below in Table 2.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing RU zone	Proposed EE zone
Max # of DU/parcel	1	1
Max Density (DU/ac.)	1	1
Min Lot Area	1 acre	1 acre
Lot Width	100'	100'
Lot Depth	Not stated	100'
Structure Height	35'	35'
Front	25'	25'
Side	15'	15'
Rear	15'	15'
Vehicular	2 spaces per DU	2 spaces per DU

TABLE 3: SPECIAL CHARACTERISTICS

Characteristic	Applies to Project?	Explanation
Ebid facilities	No	
Medians/ parkways landscaping	No	

TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

Location	Existing Use	Zoning Designation
Subject Property	Vacant	UR (Urban Ranch)
North	Vacant lot	UR
South	Single-family residence & Vacant lot	EE (Single family Equestrian Estate & Agriculture)
East	Single-family residence	REM-C (Single family Residential Estate, Mobile-Conditional)
West	Single-family residence	UR

TABLE 5: PARCEL LAND USE HISTORY

Number	Status
Subdivision	1985 a 5-acre parcel was split into 2 lots as the <u>Sokoll Summary Subdivision Number One</u>
Ordinance	Ordinance 664, 1986 East Mesa/South of US 70 annexation

SECTION 2: REVIEWING DEPARTMENT/AGENCY RECOMMENDATIONS

Department Name	Approval (Yes/ No)	Conditions (Yes/No)
Metropolitan Planning Organization (MPO)	Yes	No. Comment: Dunn Drive is currently built to a minor local road standard with a 50 to 60 feet wide right-of-way (ROW); it is designated on the MPO Thoroughfare Plan as a minor arterial road requiring a 100 foot right-of-way. Therefore, an additional 20' would be required of the property owner at the time of issuance of a building permit.
CLC Development Services/Planning	Yes	No. Comment: It is noted that an additional 20' ROW or road easement will be required at the time of permit issuance of a building permit for the house.
CLC Long-Range Planning	Yes	No
CLC CD Engineering Services	Yes	No. Comment: The cleared area needs erosion control measures; historic runoff from upstream must be allowed to pass through the property; the land slopes from east to west at approximately 1.5 %; on-lot ponding is required to retain the increased runoff from new buildings, concrete areas, etc.

		*This is a requirement of the City's Design Standards and will be addressed at the time of site development.
CLC Traffic	No comment	
CLC Land Management/ROW	Yes	No
CLC Facilities/Parks	Yes	No
CLC Utilities	Yes	No. Comments: The sewer system does not extend to this property; the City does not provide water to the property; the City gas system does not extend to this property
CLC Fire & Emergency Services	Yes	No

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS

Decision Criteria:

The Planning and Zoning Commission shall review each request in relation to the goals, objectives and policies of the comprehensive plan, plan elements, other applicable plans, and the purpose and intent of this Code, Section 38-2 and determine whether the request is consistent or inconsistent with stated criteria. The Las Cruces Municipal Code Section 2-382 specifies the Planning and Zoning Commission shall determine whether a proposal will:

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.

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

As mentioned above, Section 38.2 of the City of Las Cruces 2001 Zoning Code, as amended, identifies the Purposes and Intent of the Zoning regulations and should also be utilized as part of the decision criteria. The relevant purpose and intent statements to the proposed rezoning 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.

Case Law Rezoning Criteria Considerations

In addition to those decision criteria required by the City of Las Cruces Municipal and Zoning Codes, there are also measures based on case law to consider when evaluating rezoning requests which include the following:

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

East Mesa Community Blueprint

The subject property lies within the East Mesa community which is the subject of an area plan, called the East Mesa Community Blueprint, which was adopted by the City in 2013 as an Element of the City's Comprehensive Plan. This Blueprint is a policy guide for future planning and development efforts in the area. It seeks to preserve the rural atmosphere of the community and seeks to rezone the nonconforming UR designations to the EE zoning designation.

Goal 1: Maintain the existing rural community character by protecting the aesthetic and environmental quality of the planning area, its surrounding and its views.

Action No. 1 of the Blueprint states: "Convert the defunct zoning designation of Urban Ranch to a comparable current zoning district."

Healthy Community

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

Policy 2.6: Provide various lot sizes for single-family residential developments to promote a variety of lifestyles.

Operational Support

Policy 49.7: Require zoning actions to be in general conformance with this Comprehensive Plan.

Analysis:

The proposed single-family home on the 2.34 acre parcel would reflect the semi-rural character which is sought by residents of the East Mesa community as expressed in the East Mesa Blueprint plan. This residential development would be similar in size and scale as existing homes in the vicinity; particularly those of the adjacent properties zoned EE.

Dunn Drive is noted on Map 2: Future Trails Network within the Blueprint as a "proposed multi-purpose path". Dunn Drive is also noted in the Mesilla Valley Metropolitan Planning Organization's (MPO) Major Thoroughfare Plan as a minor arterial roadway although it is currently developed to a minor local road standard with a paved travel lane in each direction and curb, gutter and sidewalk on each side and streetlights on the west side of a 60 foot right-of-way (ROW). A minor arterial roadway "multi-use path option" requires a 100 foot ROW to provide, on each side, a parkway, streetlights, sidewalk, curb and gutter, a 14 wide foot shared use travel lane, a 12 foot wide driving lane, another curb and gutter. There would be a 20 foot median with left turn lane in the middle of the ROW. Future development of this roadway is required at the time of lot development and is not triggered by the zone change.

Conclusion:

Rezoning the subject parcel to the EE zone would positively address Action No. 1 of the East Mesa Blueprint which states: "*Convert the defunct zoning designation of Urban Ranch to a comparable current zoning district.*" The EE zone designation would best reflect the neighboring character and scale of semi-rural residential development, would bring the property into conformity with the 2001 Zoning Code, and would allow the owner to build a single-family home on the Site.

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed rezoning based on the following findings.

FINDINGS FOR APPROVAL

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

ATTACHMENTS

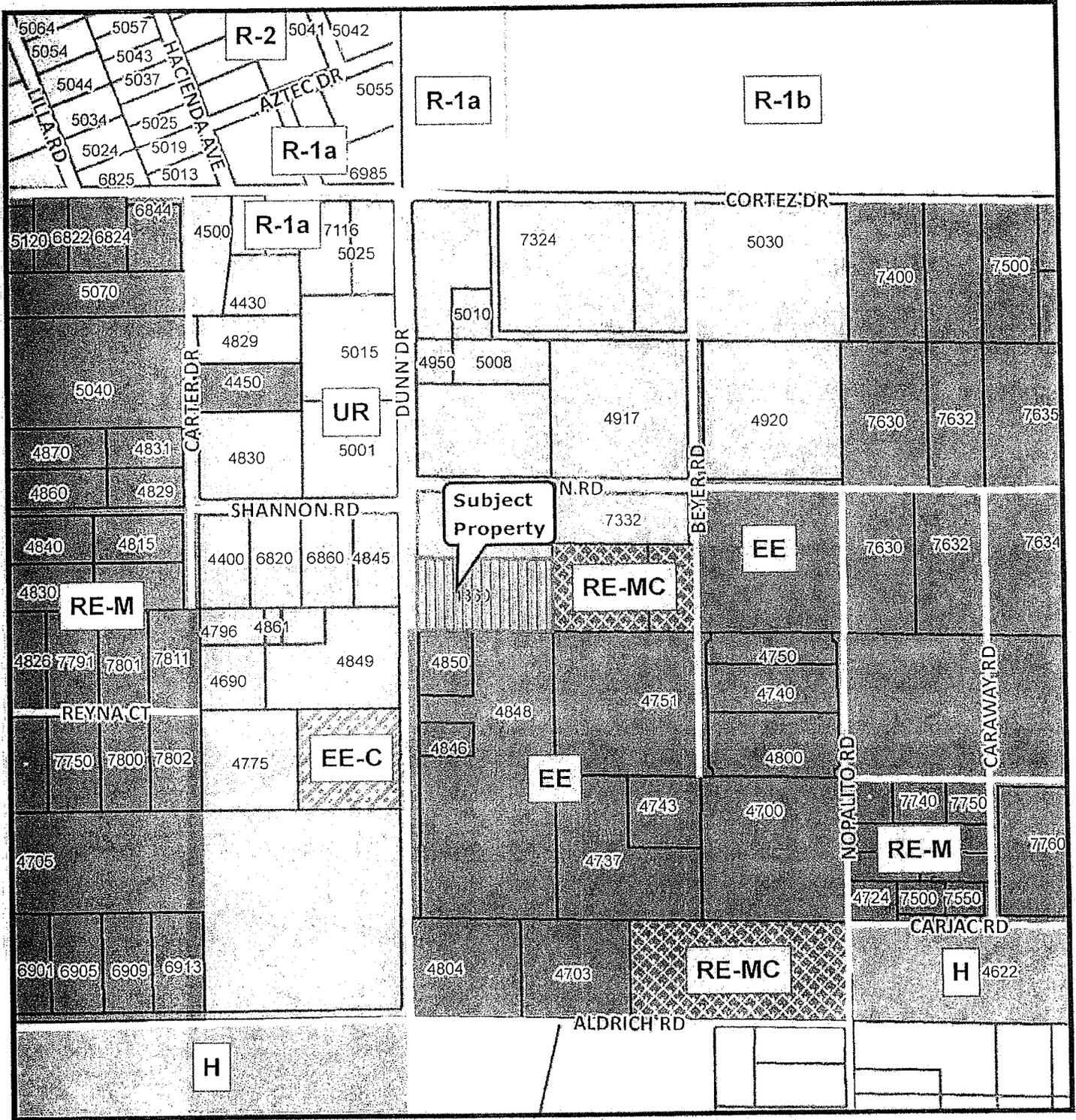
1. Location Map
2. Zoning Map
3. Site Plan
4. Application/ Development Statement
5. Support letter

ZONING: Urban Ranch
OWNER: Erica Lee

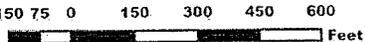
833 Zoning Map

PARCEL: 02-18631

DATE: 10/7/14



Z2881; 4860 Dunn Drive
Rezoning from UR, Urban Ranch (1981 Zoning Code)
to EE, Single-family Equestrian Estate & Agriculture



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.

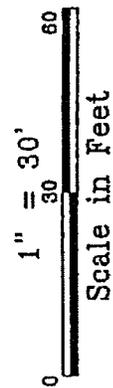
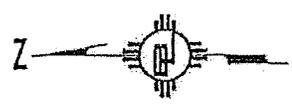
PLAT OF SURVEY

Parcel 02-18671

PART OF TRACT "B"
SOKOLL SUMMARY SUBDIVISION NO. 1
PLAT FILED JANUARY 16, 1985, IN
PLAT BOOK 13, PAGE 370, OF
THE DONA ANA COUNTY RECORDS
NORTHEAST OF LAS CRUCES
DONA ANA COUNTY
NEW MEXICO

PROPERTY IS IN AN "X" DESIGNATED ZONE;
 AS SHOWN ON THE FLOOD INSURANCE RATE MAP
 COMMUNITY PANEL NO. 3501300550 E,
 EFFECTIVE SEPTEMBER 27, 1991.

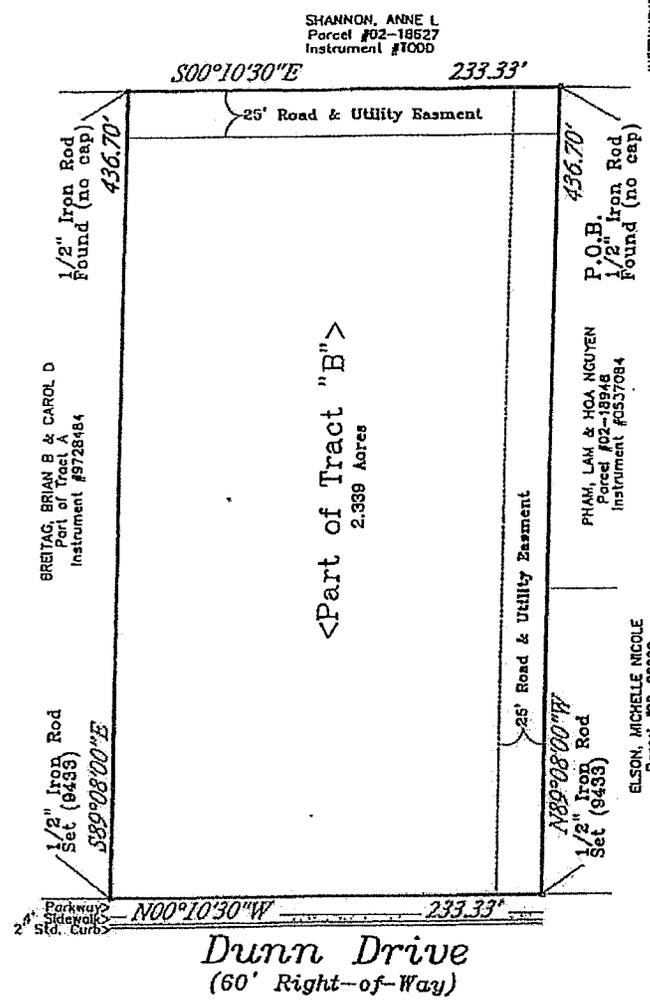
CREATED BY	S. Peale
FILED BY	A.O., E.R., c.s.
JOB NO.	13-03-0108
DATE	April 1, 2013



SURVEYOR'S CERTIFICATE

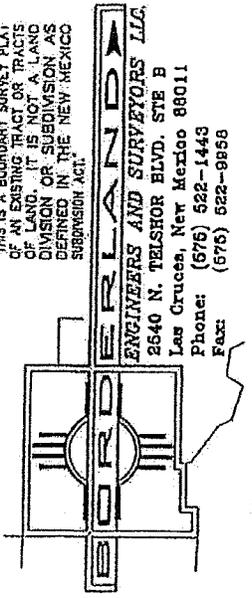
THIS IS TO CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, THAT THIS PLAT WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY MADE BY ME, OR UNDER MY DIRECTION AND THAT IT IS TRUE AND CORRECT, MEETING THE MINIMUM REQUIREMENTS OF THE STANDARDS FOR LAND SURVEYS IN NEW MEXICO AS ADOPTED BY THE NEW MEXICO STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS, TO THE BEST OF MY KNOWLEDGE AND BELIEF.

April 1, 2013
 DATE OF SURVEY
 TED G. SCANLON - PS NO. 9433
 2540 YELSHER BLVD SUITE B, LAS CRUCES, NEW MEXICO 88011



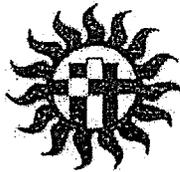
INSTRUMENT OF RECORD:
 WARRANTY DEED FILED
 June 16, 2008, Instrument #0817442
 OF THE DONA ANA COUNTY RECORDS

"THIS IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS OF LAND. IT IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT."



NOTES:
 THE BASIS OF BEARING IS THE WEST BOUNDARY ALONG DUNN DRIVE.
 ALL EASEMENTS SHOWN HEREON ARE PER THE FILED SUBDIVISION PLAT AS NOTED HEREON.
 BEARINGS AND DISTANCES MATCH THAT OF RECORD, UNLESS OTHERWISE NOTED.
 1/2" IRON RODS WITH YELLOW PLASTIC CAP LABELED NHP5 9433 SET AT PROPERTY CORNERS OR AS NOTED HEREON.

ENGINEERS AND SURVEYORS LLC.
 2540 N. YELSHOR BLVD, STE B
 LAS CRUCES, NEW MEXICO 88011
 Phone: (575) 522-1443
 Fax: (575) 522-9956



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 # Z-2881)

SUBJECT PROPERTY ADDRESS: 4860 Dunn Drive

PROPERTY TAX ID# 4-013-130-074-093 PARCEL ID# 02-18681

PROPERTY OWNER(S) of record: Erica Lee

Address: P.O. Box 684 City Las Cruces State NM Zip 88004

Phone: Home() Work() Mobile (575) 621-8700 Fax()

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

Name: _____ Title/Company: _____

Address: _____ City _____ State _____ Zip _____

Phone: Home() Work() Mobile() Fax()

email address: _____

Check and complete all boxes that apply:

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

_____ Date _____

Property Owner 1

_____ Date _____

Property Owner 2

_____ Date _____

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

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

ADDITIONAL APPLICANTS / CONTACT PERSONS, if different from owner:

Property Owner 1:

Name: Erica Lee Title/Company: _____
 Address: P.O. Box 684 City Las Cruces State NM Zip 88004
 Phone-Home () _____ Work() _____ Mobile(575) 621-8700 Fax() _____

Property Owner 2:

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

Applicant/Representative:

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

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

Accepted by:	<u>LU</u>	Fee Paid:	<u>\$ 0.00</u>	Date Fee Paid	<u>9/24/14</u>
Receipt No.	<u># 72163236</u>	Check Number	<u># Cash</u>	Case Number	<u>22881</u>
Submittal Date	<u>9/24/14</u>	Submittal Complete		Assigned to:	<u>SM</u>

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: Erica Lee

Contact Person: Brian Lee

Contact Phone Number: 575-621-8700, 575-680-0045

Contact e-mail Address: N/A gaelica@comcast.net

Web site address (if applicable): N/A

Proposal Information

Name of Proposal: _____

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

Location of Subject Property 4860 Dunn Drive

(In addition to description, attach map. Map must be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area)

Acreage of Subject Property: 2.34 ac

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

Detailed description of **intended** use of property. (Use separate sheet if necessary):
Single home with workshop

Zoning of Subject Property: N/A

Proposed Zoning (If applicable): _____

Proposed number of lots 1, to be developed in 1 phase (s).

Proposed square footage range of homes to be built from _____ to 3000

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

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

Anticipated traffic generation daily/residential trips per day.

Anticipated development schedule: work will commence on or about _____ and will take _____ 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). _____

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

Is there existing landscaping on the property? No

Are there existing buffers on the property? No

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

If yes, is it paved? Yes ___ No ___

How many spaces? _____ How many accessible? _____

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

**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.

Erica Lee
Name (Print)

Erica Lee
Signature

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

The foregoing instrument was acknowledged before me this 22 day of September, 2014, by Erica Lee

Suzella Aragon
NOTARY PUBLIC

My Commission Expires:
Aug. 28, 2015



Susana Montana

From: Roseann Thompson <rethomps@ad.nmsu.edu>
Sent: Tuesday, October 14, 2014 7:58 AM
To: Susana Montana
Cc: LC EastMesa (Google Sites) (lceastmesa@gmail.com)
Subject: 4860 Dunn Road zoning

October 14, 2014

Susana Montana, Planner
 Community Development Department

RE: Case Z2881

We understand that the zoning for the 2.34 acre property located at 4860 Dunn Road is currently zoned Urban Ranch (UR) and that an Ordinance to change the zoning from UR to Single-Family Equestrian Estate & Agriculture (EE) is proposed. We are located in the nearby vicinity of the property. **We fully support the change to EE without conditions.** Unfortunately we are unable to attend the meeting to be held Tuesday October 28, 2014.

Should you wish to contact us, we can be reached at 646-3557.

Sincerely,

Roseann & Eric Thompson
 Property owners of 7630 Shannon Road, Las Cruces, NM 88011

 Roseann Thompson, MS, MPA
 Research Scientist
 Institute for Energy & the Environment
 PO Box 30001 MSC WERC
 Physical: 1060 Frenger Mall, Engineering Complex III, Suite 300 South
 Las Cruces, NM 88003-8001
 575-646-7854
 1-800-523-5996
 fax: 575-646-5474
<http://www.werc.net>

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1 **II. CONFLICT OF INTEREST** - *At the opening of each meeting, the chairperson*
 2 *shall ask if any member on the Commission or City staff has any known conflict*
 3 *of interest with any item on the agenda.*
 4

5 Crane: Conflict of interest. Does any member of the Commission or anybody in
 6 the Community Development Department have any conflict of interest with
 7 any item on today's agenda? Seeing no one indicates so, we will
 8 continue.
 9

10 **III. APPROVAL OF MINUTES**
 11

12 1. September 23, 2014 - Regular Meeting
 13

14 Crane: We will go to the approval of the minutes and then I have a brief
 15 announcement about a small change to the agenda which I think the
 16 audience will appreciate. Any Commissioner have any comments on the
 17 minutes for our meeting of September 23rd? Commissioner Stowe.
 18

19 Stowe: Yes Mr. Chair, on page 5, line 15, the word "the" is put in the text twice.
 20 Page 7, line 16, that's the one, no there's another. Page 9, line 1, the
 21 word "more" is twice in the text. Same page, page 9, line 7, the last word
 22 on the line should be "because." And page 17, line 35 the word "trigger" is
 23 misspelled, it should be "triggering" instead of "trigging." And finally on
 24 page 5, line 15 the word should be "formally" not "formerly."
 25

26 Baum: I need him to repeat page 7, line 16 again please.
 27

28 Crane: Would you repeat page 7, line ...
 29

30 Baum: Sixteen:
 31

32 Crane: Sixteen, your comment on that Commissioner?
 33

34 Stowe: Yes. Sixteen, the word "the" is ...
 35

36 Crane: Oh, the second word "the" you want to take out.
 37

38 Stowe: Yes.
 39

40 Crane: Did you get that madam secretary?
 41

42 Baum: Yes. Thank you.
 43

44 Stowe: That's it.
 45

46 Crane: Thank you. Commissioner Ferrary.

- 1
2 Ferrary: On page 9, line 5, it should be "because" instead of just "cause."
3
4 Baum: That's what was said. You can't change that cause that's was said,
5 verbatim.
6
7 Crane: Our recording secretary says it was verbatim and that's what she heard.
8
9 Ferrary: Okay. In case, instead of announcing because. Okay.
10
11 Crane: Anything else? Okay I have just one, page 2, line 37 where I said
12 something inaudible, I'm pretty sure that was the word "corrections", am I
13 allowed to put that in?
14
15 Baum: Certainly.
16
17 Crane: Okay. Any other comments? Then I'll entertain a motion that the minutes
18 for the 23rd of September meeting as corrected be accepted.
19
20 Stowe: So moved.
21
22 Beard: Second.
23
24 Crane: Moved by Mr. Stowe, seconded by Mr. Beard. All in favor, aye.
25
26 ALL: Aye.
27
28 Crane: Opposed? Abstentions? None. Okay then it passes six/nothing.
29 Ms. Harrison-Rogers of the Community Development Department
30 pointed out that on the agenda tonight under old business we have one
31 relatively long item, PA-14-01 review of the Arroyo Management Plan
32 followed by one relatively short item. And she made the excellent
33 suggestion that we reverse these so that those of you who've come for
34 case IDP-14-07, application of Gabriel Ortiz regarding an Infill
35 Development Proposal would not have to wait through the Arroyo
36 Management Proposal. So we will reverse those two, so after we're
37 through with the consent agenda we'll go right into IDP-14-07 and then
38 PA-14-01.
39

40 IV. CONSENT AGENDA

- 41
42 1. **Case IDP-14-08:** An Infill Development Proposal by Sandra Espiritu,
43 property owner, for variances to allow the conversion of a vacant dwelling
44 unit to a business office. The property, Parcel 02-10381, is located at 1424
45 E. Lohman Avenue and lies within a C-2 (Commercial Medium Intensity)

1 zone as well as the City's Infill Development Overlay District. Council District
2 3 (Pedroza).

- 3
4 2. **Case Z2881:** Application by Erica Lee, property owner, for a zone change to
5 a 2.34 acre Parcel 02-18631 located at 4860 Dunn Drive from UR (Urban
6 Ranch from the 1981 Zoning Code) designation to EE (Single-Family
7 Equestrian Estate & Agriculture) designation in order to build a single-family
8 home on the property. Council District 6 (Levatino).

9
10 Crane: So next is the consent agenda for those who may not know how this is
11 done. There are two items on there tonight; IDP-14-08 and Z2881, and
12 these are both cases that the Community Development Department
13 figured were probably not controversial and wouldn't require any debate,
14 so they put them into the consent agenda on which we vote without
15 debate all the items in one lump that are in that agenda, you see there's
16 two of them here. However, if there's any member of the public or any
17 Commissioner who would like to discuss either of these two proposals,
18 we'll pull them out and put them in new business. Is there anybody who
19 wishes to debate either of those two items on the consent agenda?
20 Seeing no one. We will continue with the consent agenda. I'll entertain a
21 motion that the two items; IDP-14-08 and Z2881 be approved.

22
23 Clifton: So moved.

24
25 Crane: Moved by Commissioner Clifton.

26
27 Gordon: Second.

28
29 Crane: Seconded by Commissioner Gordon. All in favor aye.

30
31 ALL: Aye.

32
33 Crane: Opposed? None. And abstentions? None. It passes six/nothing. Thank
34 you.

35
36 **V. OLD BUSINESS - NONE**

- 37
38 1. **Case IDP-14-07:** Application of Gabriel Ortiz on behalf of George Ortiz,
39 property owner, for an Infill Development Proposal. The proposal would
40 allow the construction of a single-family dwelling unit (with consideration for
41 the possible construction of additional dwelling units on the property in the
42 future) on a 0.14-acre tract. The property is zoned R-4 (Multi-Dwelling High
43 Density), which otherwise would not allow such a unit. It is addressed as 821
44 Fir Avenue. Parcel ID# 02-05078; Council District 1 (Silva).

- 1 Crane: We'll now continue to the first matter of old business, Case IDP-14-07,
2 application of Gabriel Ortiz on behalf of George Ortiz for some relief from
3 requirements for an Infill Development Proposal he has. And Mr. Guza is
4 going to address us.
5
- 6 Guza: Thank you Mr. Chair.
7
- 8 Crane: I have to swear you in. Mr. Guza do you swear or affirm that the
9 testimony you are about to give is the truth and nothing but the truth under
10 penalty of law?
11
- 12 Guza: I do.
13
- 14 Crane: Please continue.
15
- 16 Guza: So the first case before you this evening is IDP-14-07, an Infill Request
17 Development Proposal at 821 Fir Avenue. The property is located on Fir
18 Avenue on the north side, east of Virginia Street and west of Solano. The
19 subject property is zoned R-4. It is currently undeveloped, vacant,
20 undeveloped. And the proposal from the applicant is to allow for a single-
21 family dwelling land use and the consideration for a possible construction
22 of an additional dwelling unit or units on the property in the future.
23 Staff recommends approval of the IDP proposal based on findings
24 found in the staff report. Public comment was sent, 56 letters, 14 certified
25 letters, one comment was received just requesting clarification.
26 Your options are to vote "yes" and approve the request as
27 recommended by staff; to vote "yes" and approve the request with
28 conditions; to vote "no" and to deny the request; or to table or postpone
29 and give staff further direction. And again an aerial view of the subject
30 property. And I can stand for any questions.
31
- 32 Crane: Thank you Mr. Guza. Anybody have any questions for Mr. Guza?
33 Commissioner Beard.
34
- 35 Beard: The public comments or concerns, what ... could you give us an idea of
36 what they were pro/con and what ...
37
- 38 Guza: There was one, one response and they just wanted to know a little bit
39 about why it needed to go through a process to build a single-family home
40 and I explained that in an R-4 district single-family homes are not
41 permitted normally, so Infill Development Proposal could allow that use on
42 the subject property. They were not for or against it, they just wanted
43 more information. Thank you Commissioner.
44
- 45 Crane: Any other Commissioner have a comment? I'm a little puzzled Mr. Guza,
46 did you show that there were 56 comments?

1
2 Guza: Fifty-six, no 56 letters sent out, as in that was the total number sent out.
3 One response.
4
5 Crane: I'm feeling better now. Thank you. Anyone else? Okay, thank you Mr.
6 Guza. Does the applicant wish to speak to us or his representative? The
7 Ortiz family here?
8
9 Guza: The representative for the applicant said he doesn't have anything to add.
10 He can answer questions if ...
11
12 Crane: Okay Commissioners, any body have any questions for Mr. Ortiz? No,
13 okay. Thank you. Commissioners we seem to have little to debate.
14 Anyone want to make any comments before I call for a motion? And then
15 I will entertain a motion that item IDP-14-07 be approved. May I have a
16 mover?
17
18 Beard: I move that IDP-14-07 be approved.
19
20 Crane: Moved by Mr. Beard. And a second?
21
22 Stowe: Second.
23
24 Crane: Seconded by Commissioner Stowe. Any discussion before we vote? All
25 right let's take a roll call starting with Mr. Beard and remind you to say why
26 you're voting.
27
28 Beard: Aye based on discussions and findings.
29
30 Crane: Ms. Ferrary.
31
32 Ferrary: Aye based on site visit and findings.
33
34 Crane: Commissioner Stowe.
35
36 Stowe: Aye based on findings and discussion.
37
38 Crane: Commissioner Gordon.
39
40 Gordon: Based on findings, site visit, and discussion I approve.
41
42 Crane: And Commissioner Clifton:
43
44 Clifton: Aye based on findings, staff presentation, and the compliance with the
45 2001 Zoning Code as amended.
46

1 Crane: And the Chair votes aye based on findings, discussion, and site visit. The
2 matter passes six/nothing. Thank you all.

3
4 Guza: Thank you Commissioner.

5
6 2. **Case PA-14-01:** Review of and action on the Arroyo Management Plan,
7 prepared and presented by the City of Las Cruces Community Development
8 Department.

9
10 Crane: Next item on our agenda and under old business is Case PA-14-01,
11 review of and action on the Arroyo Management Plan. Carol McCall is
12 here to tell us.

13
14 McCall: Thank you Commissioner Crane and Commissioners. This is Plan
15 Amendment 14-01 to consider and recommend the Arroyo Management
16 Plan. I was here in June and reviewed the Plan with all of you and you
17 voted to table the discussion or postpone in lieu of more public
18 engagement and further revisions of the Plan. So what I will present
19 tonight is a summary of the events and activities that have occurred since
20 that date. Just for review, this is the study area. It encompasses the City
21 limits and the ETZ. And I want to review a couple of regulations and plans
22 in the past that are relevant to this project, not all of them, they are
23 reviewed in the Plan itself and in Appendix 2, but I thought that these were
24 very interesting in that they, they were very insightful and provided a lot of
25 forethought I thought for, for the events of the Arroyo Plan now. The 1956
26 Subdivision Regulations which were the first subdivision regulations called
27 for open drainage channels to be used for protection against flood control
28 and allowing a width of about 20 feet of an easement for erosion control.
29 And the subdivision regs pointed out that natural watercourses can be an
30 attractive asset to the subdivision as well as to the community and could
31 improve and beautify the watercourses. So that was something that was
32 built into the 1956 regulations, and then as I mentioned in June, the 1963
33 Enabling legislation passed by the State of New Mexico gave the City of
34 Las Cruces the authority to establish a Las Cruces Metropolitan Arroyo
35 Flood Control Authority. It was never established however, but the
36 legislation is on the books. And then in 1992 the Stormwater
37 Management Policy Plan, in addition to many other policies in that
38 document, calls for promoting the aesthetics and multiuse activities
39 through the use of natural arroyos. And this is the first mention in the
40 literature of linear park systems, something that the Arroyo Plan calls for.
41 Another policy calls for encouraging the preservation of open space
42 corridors along the major arroyos on the East Mesa, and preserving and
43 utilizing the major tributaries that feed the major arroyos. And I will talk
44 more about the major stems of the arroyos later when we get into the
45 buffer discussion. And lastly it says encourage the facilitation of a regional
46 stormwater management program. And this, this again is something that

1 the Plan calls for as we had discussed with Las Cruces growing in every
2 direction, there does seem to be a need for a plan that integrates all of the
3 other policies and goals of the previous plans that have been adopted,
4 such as the Parks and Rec. Master Plan, the Transportation Plan, and this
5 policy Plan, and then there is also another Stormwater Policy Plan that
6 was adopted in, in 2003 I believe, or 2005. And then lastly this Plan calls
7 for the utilization and enforcement of best management practices, and
8 again this is something that the Arroyo Plan calls for and is, is central to
9 the implementation of the Plan.

10 As part of the public engagement, there were some comments
11 about the Plan purpose and it was suggested to include; encourage
12 responsible and profitable development, so this was included in addition to
13 the other purposes that we've discussed; improving stormwater
14 management, flood control, and drainage functions, and protecting
15 arroyos in their natural state which then leads to protecting vegetation and
16 wildlife habitat, protecting private property from flood damage, protecting
17 utility installation and maintenance, and providing additional recreational
18 opportunities.

19 For your review, the challenges that ... issues, challenges, and
20 opportunities that the Plan discuss, discusses relate to increases in
21 impervious surfaces due to development, erosion and sedimentation,
22 slopes on the West Mesa which are very different from the East Mesa and
23 require a different type of planning effort. And the flood control dam
24 effectiveness which as I mentioned the dams were built at various times
25 through the previous century, as early as 1939 and going up until 1972,
26 and they're in various states of repair at the moment with discussion on a
27 region-wide basis and involving quite a few different agencies as to how
28 best that can be addressed.

29 Vulnerable utilities and infrastructure; as we've seen this is an
30 example, a manhole that has the, the terrain around it has eroded and left
31 it exposed. Climate change and erratic, the possibility of erratic rain
32 storms and intensity of storms is likely to increase with further growth and
33 development in both directions we will likely see destruction of vegetation
34 and habitat and a reduction in wildlife corridors. And there has been a lot
35 of public engagement expressing the desire for additional trails and other
36 recreational amenities that utilize the arroyos.

37 The goals, policies, and actions for the most part have remained
38 the same in terms of themes, land use, environment, community facilities,
39 utilities, and stormwater management. Goal one which I'll just mention
40 briefly because it's a new goal as one of the differences between the June
41 24th version of the Plan and this Plan is that Goal number one has
42 changed and now reads "Take a proactive approach to watershed
43 management." It takes into account existing drainage conditions as well
44 as conditions affected by future development. And the other goals have
45 stayed the same; to improve the safety of the flood control dams and
46 improve road-crossing infrastructure.

1 In the environment section protect and maintain natural vegetation
2 and manage arroyos to retain wildlife corridors. In community facilities
3 which is primarily the recreation and amenities component, minimize
4 impacts created by development, create a plan for continuous system of
5 regional parks which is an extension of the MPO Trail Plan, and create
6 design guidelines for trails and trail crossings which are also mentioned in
7 the MPO Trail Plan. And in utilities and stormwater management; create
8 safe and effective engineering standards, minimize soil and slope
9 instability, and improve the safety and efficiency of utility installations. In
10 the implementation chapter, the actions in the implementation section will
11 carry out the policy or goal listed in the Plan and just as examples, I don't
12 believe that this exact wording is in the Plan itself. Amend Chapter 32
13 Development Standards to implement Plan policies, those that apply that
14 is. Consider a City development pilot project that addresses, adheres to
15 the goals and policies of the Plan to demonstrate the Plan's
16 implementation and build a new trail. That's just an example of how the
17 policies could be implemented.

18 This is just a review of the stakeholder engagement that has been
19 carried out overall before and after the previous meeting. We had two
20 general meetings, two conservation stakeholder meetings, three
21 engineering meetings which included a joint meeting with development
22 stakeholders, and then three additional development stakeholder
23 meetings, a meeting in discussion with the Paso del Norte Watershed
24 Council, and the Elephant Butte Irrigation District, as well as the
25 International Boundary and Water Commission Rio Grande Citizens
26 forum. And then as a result of all of these meetings I received quite a few
27 e-mails which are in your packet, well in your ... the digital component of
28 your packet. And then lastly the P&Z discussions that we had, the work
29 session on May 20th and the public hearing on June 24th.

30 So what I would like to do is summarize the stakeholder comments
31 and the, the changes to the plan, and then if you like after my presentation
32 I'm prepared to go back over the changes to the Plan policies in detail if
33 you desire.

34 So in general people wanted to see improvement to flood
35 managements that affect roads, especially on the East Mesa and roads
36 that are unpaved. There was a, sort of a general feeling that people did
37 not want development to be as close to the arroyos as in the past. People
38 appreciate the open space and natural environment experience. Trails
39 and amenities are important, but not at the expense of the flood control
40 function. And natural drainage function is preferred rather than a, a
41 concrete arroyo. In the conservation stakeholder group it was felt that
42 pockets of vegetation outside the 100-year flood zone should be included
43 when we're talking about buffers or easements. Utility installations should
44 be improved to reduce erosion, and as part of the future modeling efforts,
45 recruit a wildlife biologist to discuss wildlife corridors and habitat. In the
46 development stakeholders there was a sentiment that the Plan is

1 redundant, that there are other plans that address different components of
2 this Plan, so they did not think that this Plan was needed. It was felt that
3 the Plan will add regulation and cost. And that the maintenance of arroyos
4 is costly and burdensome, this is the sentiment of a number of different
5 people but specifically private property owners that actually have land in
6 the arroyo.

7 It was the ... during one of the stakeholder meetings that someone
8 suggested creating the pilot project using the Arroyo Plan Policies and
9 they did think that buffers were okay for public arroyos, but not necessarily
10 privately owned arroyos. And in engineering there was a strong sense
11 that regional and watershed approach was a good idea, that the Storm
12 Drain Master Plan and the Design Standards which is Chapter 32 of the
13 Municipal Code should be updated. That the buffers are okay for arroyos
14 that are not yet developed, both public and private, but that new models
15 are needed in order to do the modeling to determine what those buffers
16 might be. And that the flood control dams and how they are managed and
17 maintained and repaired are an important part of a broad watershed
18 approach to stormwater management, because what happens at the dams
19 and how they are repaired will impact downstream development.

20 And very briefly a review of some of the discussion from this
21 meeting, this body's meeting on the 24th of June, the plan is guiding policy
22 only, not regulation and that is true. The buffer explanation is vague and
23 there was a request to strengthen that in the next revision. The distinction
24 should be made about what affects existing development, undeveloped
25 private land, and public land. And again that is something that is improved
26 I hope, in the current version of the Plan. And a sense that it was unclear
27 from the text when the Plan Policies would apply. So I will address these
28 in the course of the rest of my presentation but if you do have any
29 questions following about any of these, I'd be glad to answer them.

30 There was also additional input from the New Mexico State Land
31 Office and the Bureau of Land Management and they are in, in full in your
32 stakeholder packet but I did, I did just want to excerpt this component from
33 the Land Office e-mail that I received. There was a discussion of the
34 buffers or easements and they thought that a range of 50 to 100 feet could
35 be accommodated without losing any development potential. And what
36 this would mean is that when there is the possibility for an area to be sold
37 for development that includes arroyos, a distance to be determined at that
38 time would be dedicated to the City along with the arroyo, and then
39 beyond that point the land would be sold for development. So in this way
40 developers aren't purchasing land that they can't build on. The buffer is
41 built into the dedication that goes to the City or that if they choose to retain
42 it in their own for their own purposes. And then similarly the Bureau of
43 Land Management passed along this e-mail which I just received a couple
44 of days ago and they agree like a lot of the other stakeholder groups that
45 it's the implementation, the devil is in the detail I suppose, the
46 implementation will be challenging. And the draft Tri-County Resource

1 Management Plan that they've been working on for the last few years,
2 they do reference the 100-year flood zone as being where the
3 conservation easement would begin and end and, but then they, they
4 don't rule out the idea of additional buffers depending on whether there's a
5 need, but it would be determined on a case-by-case basis following the
6 modeling and the discussion between the BLM and the City.

7 I included this map because there was a request on, on the part of
8 the developers to explain how much land we're talking about actually in
9 terms of public versus private and developed versus undeveloped. And I
10 wasn't able to get exact numbers in terms of public and private and
11 developed and undeveloped but I thought this map would give you a pretty
12 good indication. The brown area is all privately owned land. The purple is
13 New Mexico land, the Land Office. And the blue is BLM land. And these
14 red areas represent the arroyos, the pink lines represent a 150-foot buffer
15 around all of the arroyos, and the green lines indicate all of the property
16 that fit that description where there is a boundary within a 150-feet of the
17 arroyo. So I did a little arithmetic and there is over 30,000 acres all
18 together of land that's within that 150-foot buffer. Of that, over 22,000 are
19 publically owned and that includes, even though only BLM and the State
20 Land is represented, are represented here, that includes the City, NMSU,
21 Dona Ana County, the school system, U.S. Fish and Wildlife, and all of
22 the other public agencies that have public land in the County. So that
23 leaves about 8,500 acres of private land just within 150-feet of an arroyo
24 boundary. And on this map although you can't see it real well, these black
25 lines indicate parcels and so you can tell from the green, where it's mostly
26 green to where it's mostly black what is undeveloped and what is
27 developed. And these are the, the three major arroyos within the City
28 limits; the Alameda, the North and South forks of the Las Cruces Arroyo,
29 and the Sand Hill Arroyo. I also included the Moreno Arroyos because
30 they're ... it's in, within the City limits and the Tortugas Arroyo is partly
31 within the City limits. So as you can see there, there is a substantial
32 amount of undeveloped land that would probably for future development
33 purposes be modeled to determine whether an additional easement or
34 buffer might be called for, and I do want to stress again that a buffer is just
35 one of the ways that this could be handled for additional erosion control or
36 for the identification of a linear park or open space corridor, but it is not the
37 only way. So we can come back to this map if you like, if you have any
38 questions about it.

39 So in general I want to call out the Plan revisions that were made
40 between June 24th and the current revision. I will say that it went, actually
41 went through two revisions; there was a revision in September that was
42 posted on the web and I had additional meetings with the developers and
43 the engineers and EBID and IBWC Rio Grande Citizens Forum, based on
44 that revision, and then there was a further revision dated October 28th, so
45 this is the second one between that time. The policies were reduced from
46 75 to 60. The actions were reduced from 57 to 38. The arroyo modeling

1 section was greatly expanded; it was originally within the body of Chapter
2 4 and I briefly thought it would be a good idea to take it out but now I don't
3 think it is a good idea, so I will be proposing at the end of my presentation
4 reinserting it into Chapter 4. The buffer explanation is clarified somewhat,
5 there isn't a lot, a lot of detail but the plan does point out that it would be
6 for undeveloped arroyos and on a case-by-case basis. And as I said, it's
7 only one way to manage erosion, but not necessarily the only way. There
8 was a request to move, to remove policies that begin with "Enforce"
9 because it was pointed out that that means that the policy or the code
10 already exists and it would be redundant to include it in this plan, so I did
11 that everywhere I could find, find it. There are one or two policies that call
12 for a strengthening the enforcement of, but I left those in. And then there
13 were many many minor revisions made throughout the document to
14 change the policies from passive voice to active voice to improve the
15 readability of the text and the narrative and to correct typos and things like
16 that.

17 Two different organizations pointed out that some of my information
18 on vegetation types was incorrect and I used riparian where it wasn't
19 appropriate to do so and in some places grasslands, grasses or other
20 types of vegetation that should be used and not shrubs, so I made those
21 kinds of corrections.

22 In the further explanation of the buffers, I did call out that the State
23 Land Office and the BLM would be involved in any cases to do the arroyo
24 modeling and look at buffer distances. There is, was one small change in
25 a paragraph moving it from one section to another section on low impact
26 development and green infrastructure. And then I found out that, whoops,
27 I found out that at the moment there are a lot of green infrastructure
28 practices that are not allowed by the City because they're, they're not
29 allowed in the code and so I referenced from time to time that they were
30 required or that they were used, they were mandatory and that was
31 incorrect, so I fixed that. And I also added small pieces of text, a sentence
32 or a paragraph here or there to describe the role of agriculture and explain
33 the concerns about canals and the, the irrigation canals and ditches during
34 floods. And the reason that this is an issue is because all of the flood
35 water, all the runoff has to go to the river, that's its ultimate goal and it
36 uses the irrigation canals and ditches to do that. In an intense flood event
37 when there is a lot of water all at once those canals and ditches overflow
38 and so even within the City of Las Cruces in developed areas those
39 canals can overflow and cause flooding in various neighborhoods
40 throughout the City. So how Elephant Butte Irrigation District is involved
41 and how those canals are managed is very central to the overall broader
42 approach to storm water management that this plan attempts to take. And
43 so there were some points added to the plan to talk about this. And in the
44 introduction to Chapter 5 which is the goals and policies chapter, there is a
45 further explanation, again another attempt to strengthen the description
46 and the explanation of the buffers and it does call out that the Arroyo Plan

1 is only guiding policy, it's not regulation and that any regulations that are in
2 place at the time of development are the ones that the developer follows,
3 not the, not the Arroyo Plan or any other adopted plan for that reason, it's
4 only guiding policy.

5 As I mentioned before I did change Goal one from manage growth
6 and development in such a way to make sure that the full potential of
7 arroyo systems as a community asset is realized. For the most part, this
8 is the entire purpose of the plan, and I realize that what was missing in the
9 goals is the concept of taking a broader proactive approach to stormwater
10 management and flood control. And so Goal one changes to reflect that;
11 take a proactive approach to watershed management that takes into
12 account existing drainage conditions as well as conditions affected by
13 future development.

14 And then in Chapter 5 there were various small revisions to the
15 introduction of that chapter, the actions were revised to delete
16 redundancies and this had to do with also deleting policies that were
17 redundant with policies in other plans and there's a long list of potential
18 funding sources for some of the policies and activities that the Arroyo Plan
19 calls for and so those were moved from Goal six to Goal one. And then
20 there was a resource page added at the end of the document and the
21 number of appendices was, were reduced from 10 to four. Those
22 appendices were things like, best management practices, descriptions and
23 examples of low impact development and green infrastructure, some of
24 the stormwater management statutes that are required by the EPA. And
25 what I did instead of just listing those out as lengthy appendices I put
26 where those could be found on the resource page. So we're left with the
27 maps, the detailed maps of each arroyo, the planning background which is
28 a compilation of all of the goals and policies from past plans, a description
29 and explanation of the flood control dams, who owns them and what their
30 class, their flood control capability class is. And then the fourth one at the,
31 at the moment is an explanation of arroyo modeling which I am proposing
32 to put back into the body of the document.

33 Now I would ... I want to talk in a little bit more detail about the
34 arroyo modeling itself. This caused a lot of concerns at the last meeting
35 and from then until now I enlisted the assistance of two technical writers
36 and a couple of consulting firms which provided the illustrations for this
37 and I think that it actually describes it pretty well, I hope that you will
38 agree. The Army Corps of Engineers has a resource called the
39 Hydrological, Hydrology, I have it written down ... Hydrologic Engineering
40 Center, and their HMS modeling which is Hydrologic Modeling
41 System looks at the processes of any kind of dendritic system which is
42 what an arroyo is, it just means different stems and tributaries of the
43 drainage way. And then the RAS model, stands for River Analysis
44 System, and that looks at the flow of the stormwater itself, the runoff itself,
45 and the sediment load within ... that's being carried by the runoff. What,
46 one thing that changed in, in the text is that I spelled out that the buffers or

1 the modeling actually would be limited to the main tributaries of the major
2 arroyos, and this is an important difference because there, there are very
3 few main tributaries. They're the ones that reach a certain volume of
4 runoff in a given period of time and these are the ones as it turns out in the
5 Stormwater Policy Management plan in 1992, it was the main stems of the
6 major arroyos that that plan calls out for protecting as open space. So,
7 various points along the major tributaries would be modeled and I have
8 some illustrations that will indicate, that will show that. And that ultimately
9 will tell us or give us a better more accurate indication of what the flood
10 zone is. At the moment the flood zones are based on FEMA maps that
11 were done quite some time ago and they're in the process of being
12 updated but they have not been approved or adopted yet. But, the
13 modeling takes much more current data and determines a flood zone
14 based on the model which again is not real life but it's a close proximity
15 than simply looking at the map and comes up with a flood zone that may
16 or may not look like the one that's on the map. And the other thing that,
17 that the plan suggests is that the modeling extend east beyond the flood
18 control dams which is where the current modelling data stop. So since the
19 City is growing and has already extended in some places east of the flood
20 control dams, this is also an important consideration. So I hope that you
21 will be able to see these, they are in Appendix 4 of the plan.

22 This is just a section of the Sand Hill Arroyo and what the engineers
23 did was measure several points along the main tributaries of the Sand Hill
24 Arroyo and put them into the HEC/HMS modeling system and came up
25 with these peak flow rates at different times; flow rates and volumes of
26 stormwater at different locations of interest along the arroyo. From that
27 information they look at the cross sections of the arroyos and put those
28 into the HEC RAS model which looks at the flow and the sediment,
29 sedimentation of the runoff itself. So these are places along the arroyo
30 where, where cross sections were taken and here's a close up, going this
31 way, this is an example of ... this is just two of the cross sections. So if
32 you were to continue, if you were looking up stream and you were looking
33 downstream along the Sand Hill Arroyo, at any one of these points you
34 would see something that looks like this and if you go a little bit further you
35 would see something that looks like this, and a little bit further it might be
36 higher or lower just depending on what the, the geography and other
37 factors of the arroyo are. This blue, turquoise blue line is the flood zone.
38 And that is what it looks like when it's mapped one section, all of these
39 little hatch marks are these cross sections and this is just a little piece right
40 in here that I (*inaudible*). The red line represents the existing or the old
41 100-year flood zone. The blue line represents the new flood zone based
42 on the modeling that was done. And the turquoise line represents the 500-
43 year flood zone based on the modeling that was done. And the thing that,
44 that I think is really important here is that there will be cases, there will be
45 situations along any, any of these points on the main stem of a major
46 arroyo where what you thought was in the flood zone isn't, which means

1 where you thought you could not build you could. At the same time there
 2 are going to be places that you thought were not in the flood zone and it
 3 turns out they are going to be in the flood zone. So as I said it is on a
 4 case-by-case basis. It's technical, there's a lot of engineering and lot of
 5 computer work to be done on, on every point that is modeled, but I think
 6 that at least when I saw these illustrations and was walked through it step
 7 by step, it made a lot more sense to me. And we can come back to this in
 8 just a moment unless you have some questions at this time? Okay.

9 As I mentioned, I would like to return that section of the document
 10 which describes the modeling and the buffers in greater detail to Chapter
 11 4, and I would also like to change a paragraph in the soils description
 12 under Chapter 3, the regional characterization. This particular text which
 13 does describe clay soils and sandy soils and how they, what they might be
 14 suited for, is accurate, but it doesn't really relate to the arroyos or
 15 stormwater management or flood control and so the technical writer and I
 16 came up with some new language that does directly relate to the arroyos
 17 and what the Plan is trying to accomplish and would read "Very claylike
 18 soils have a high water holding capacity and do not promote infiltration or
 19 movement into the ground water. Conversely very sandy soils provide a
 20 porous environment which provides better infiltration but is, but are more
 21 susceptible to erosion. Generally clay soils are better suited for
 22 development foundations and sandy soils are well suited for stormwater
 23 management projects requiring infiltration. The level of the water table is
 24 also a factor for infrastructure placement and design. A high water table is
 25 not suitable for subsurface installations such as utilities and erosion must
 26 be accounted and managed for. Soil type analysis is an important step in
 27 the design and placement of any infrastructure in our desert environment."

28 There may be other revisions based on discussion here tonight and
 29 then as I mentioned if you would like to go through the policy changes in
 30 detail I am prepared to do that. Your options tonight would be to
 31 recommend adopting the Arroyo Management Plan; recommending,
 32 recommend adopting the Plan with the conditions which would include the
 33 two future revisions that I proposed; recommend not adopting the plan. If
 34 either of those, any of those three were, was chosen the tentative City
 35 Council date is November 17th, and your last option, table or postpone the
 36 recommendation and direct staff accordingly. I'll stand for questions.
 37 Thank you.

38
 39 Crane: Thank you Carol. Any Commissioner have a question or comment for Ms.
 40 McCall? Commissioner Clifton.

41
 42 Clifton: Thank you Mr. Chair. Thank you Carol. Just really kind of fundamental
 43 question here, you're talking about some revisions that are going to be
 44 incorporated into this document, but I don't see where they've actually
 45 been made, such as the Chapter 4 revisions you want to put back in. So
 46 is it safe to say that the document that we have before us tonight does not

- 1 reflect your suggested revisions, nor did the document that went out for
2 public consumption reflect those revisions either?
3
- 4 McCall: Mr. Chair, Commissioner Clifton the, the two revisions that I'm proposing
5 are not in the document that you have. These are changes that I
6 considered after I posted it on the web and after I put your packet
7 together, that's correct. Everything else that was mentioned is in the
8 document that you have.
9
- 10 Clifton: With that said Carol, staff, and our City Legal, you know as a
11 Commissioner I'm personally not real comfortable taking action on an
12 incomplete document. I, I know it wasn't the intent but it's almost kind of
13 misleading in a way and I, I would prefer to have the entire document in
14 one piece before we make a recommendation before it go to Council,
15 cause I mean, what, how, how do we know what gets put in there, what
16 doesn't get put in there. It's just a little bit loose for my comfort zone and I
17 have an issue with making any type of decision other than postponement
18 until we can get a complete document. Thank you.
19
- 20 McCall: Mr. Chair, Commissioner Clifton. You would also be able to if you choose
21 to make a recommendation tonight to recommend adopting the plan as it
22 stands, the October 28th revision that you have, and I would go forward to
23 present those proposed revisions to the City Council along with any other
24 revisions that you suggest.
25
- 26 Crane: So you're suggesting we vote on what we have in front of us literally
27 without those two latter day modifications that you mentioned, but you
28 would put them in when it went to the City Council?
29
- 30 McCall: Mr. Chair.
31
- 32 Crane: Do I understand you correctly?
33
- 34 McCall: Mr. Chair, Commissioners. You would have that option. You could
35 recommend adopting the Plan as it stands or if you choose to go ahead
36 and, and consider the provisions that I'm proposing you could also do that.
37
- 38 Crane: I think it'd be more rational and helpful to the Council if we ask you to put
39 those in, trusted you to do it without our further review and with those
40 made vote on, vote on whether we should forward it with those made does
41 that sound good to you Commissioner Clifton?
42
- 43 Clifton: Mr. Chair, staff, I, I'm still not comfortable. I mean to me it's no different
44 than a master plan being presented to us by a developer and the
45 developer stating that well it's incomplete but we're going to have some
46 revisions at the Council level. There's no way this body would ever

1 approve a master plan in that nature or that status. I've never seen it and
2 I don't think we'll ever see that and quite frankly you know missing
3 elements, I just think it's more of a solid recommendation to the Council if
4 we have a complete document that went to the public that was complete.
5 I don't know if the stakeholders are aware of these changes, either side of
6 the fence. It, it's irrelevant quite frankly, it's more of a notification issue for
7 me and (*inaudible*).

8
9 McCall: Mr. Chair.

10
11 Crane: Okay.

12
13 McCall: If I may. Mr. Chair, Commissioner Clifton, I, I would just like to point out
14 that what I'm proposing doesn't constitute, doesn't mean that anything is
15 missing from the Plan or that the Plan is incomplete in any way, the Plan
16 is complete and if those revisions that I'm proposing are not made, it
17 would not diminish the Plan that much.

18
19 Crane: Commissioner Ferrary you have a comment.

20
21 Ferrary: Yes Mr. Chair, if we were to have suggestions or revisions ourselves to
22 this plan and they were voted on and adopted just as Carol's suggestions
23 were, it's possible to have that so we wouldn't have it complete as we vote
24 on it. So I don't understand why with these revisions she's proposing that
25 we couldn't accept them just as we would our own.

26
27 Crane: You repeat that please.

28
29 Ferrary: Well if we made changes and we voted on them tonight they wouldn't all
30 be here and we would still be able to vote on them and they go on to the
31 City Council. Carol's changes aren't any different than ours might be as
32 long as we accept them and vote on them as additional conditions.

33
34 Crane: You think we're in the position to put in, put in her suggestions in our own
35 wording? Is that what you're suggesting?

36
37 Ferrary: No, I'm saying we should be able to accept them as conditions and vote
38 on them just as if we were to insert conditions also and vote on them.

39
40 Crane: Which is the situation Mr. Clifton is not very comfortable with as I
41 understand it. You want to see it perfected by Ms. McCall before we vote
42 on it, is that correct?

43
44 Clifton: Yes Mr. Chair, I mean I, I'm fully aware that we can make
45 recommendations on top of what Carol presents to us tonight but we act in
46 somewhat of a quasi judicial body and that's much different than a staff

1 person suggesting changes be made at the ninth hour before it goes
2 forward to City Council. I mean it's, to me it's simply a matter of disclosure
3 and I don't believe that we, you know we have full disclosure here. I don't
4 know who may have not come to the meeting tonight based on this initial
5 document. You know the Chapter 4 that's referenced for additional input
6 into the document, that's a pretty significant change. I mean, I mean we're
7 talking probably one of the most critical elements of this document. And I
8 mean that's, that's a pretty big deal.
9

10 Crane: Okay I understand. Any other Commissioner have a point?
11 Commissioner Gordon, you're next.
12

13 Gordon: Carol in reading this document it's, it's quite voluminous and it's, it's
14 lengthy in its form, and scattered throughout the document you talk about
15 buffering and I have a, just a question, basically clarification. What
16 happens when an arroyo is designated as such and a buffer is created
17 whatever that number of feet will be determined on either side of the
18 buffer? Then commercial or residential construction is permitted, all right.
19 Because commercial and residential construction is created a lot of times
20 it will change drainage, the route of drainage, the way water flows down
21 hills or through neighborhoods because of the way streets or, or houses
22 are built or whatever. With the change in the current, and if there
23 becomes a change in the current arroyo boundaries that have been
24 designated and the buffer has been created, what happens if flooding
25 occurs because it doesn't go in the area that was expected to go to start
26 with, who becomes, and once it's been determined that building has been
27 allowed and flooding is now occurred, who becomes responsible for the
28 fact that there is now perhaps a new arroyo created by flooding and I've
29 seen it happen, who's responsible for flood control, for mitigation? Is it the
30 City, is it the residents, is it the developer? I don't know. I wasn't able to
31 find that in the document.
32

33 McCall: Mr. Chair, Commissioner Gordon, the issue of flooding and who is, who is
34 responsible for making repairs or mitigating that flooding is, is indeed an
35 issue. In the beginning the property owner is, and I don't know the legal
36 ramifications of how that's determined, how they determine what may
37 have caused the flooding. If there were some mistakes made during
38 engineering or if was just a natural thing that happened. If it's something
39 in the, in the drainage study that could be pointed to, those things would
40 have to be determined. I will tell you though that the City on a number of
41 occasions has had to repair damage due to flooding because no one else
42 was there to do it. The private property owner didn't feel responsible for it
43 because it was outside his property boundary and was in the arroyo itself,
44 but the developer and builder were no longer involved and so it fell to the
45 City.
46

1 Gordon: But isn't the creation of the buffer zone giving a feeling of comfort either to
2 someone who plans to build a house or put in a business strip close to an
3 arroyo, perhaps maybe 50, 100 feet behind his property and then
4 suddenly boom, we get a tremendous storm and we've had them this
5 year. And it's possible that water flow could now change and that feeling
6 of comfort is now gone and the City has said according to this plan, we've
7 created a buffer that you should be protected. It doesn't specifically say in
8 here, they talked about 100 feet and other methods of determining what
9 that buffer is, but there's no, I don't think I read or perhaps I missed the
10 specific plan to create this zone. I would think that if I was planning to do
11 something I would want to make sure that I would be protected, I don't
12 think it's going to happen tomorrow, maybe it'll take 50 years, but it may
13 happen.
14

15 McCall: Mr. Chair, Commissioner Gordon. That's correct, it could happen. We, in
16 the, in one of the public meetings that we had, one of the stakeholder
17 meetings subsequent to the last Planning and Zoning hearing, that issue
18 did come up. First I will say that a buffer wouldn't necessarily be
19 designated in every situation. A drainage study would be done and if it
20 looked like additional erosion control might be called for, then a buffer
21 would be one solution. But the buffer does add a layer of protection but it
22 isn't a be all and end all. If you're, if you have a house that is built up to
23 the 100-year flood zone and there's a storm that washes away or
24 undercuts, the erosion undercuts that bank, then some property will be
25 damaged. If there's a 20-foot or even a 10-foot or however, 50-foot
26 easement there, there is added protection but as you said it may be 50
27 years but eventually that arroyo will continue to erode. That's very true.
28 That happens now without any additional erosion control and it would
29 happen regardless of what we put there.
30

31 Gordon: So then what you're saying is that this is an unwritten part of this
32 document as to be specific?
33

34 McCall: Mr. Chair, Commissioner Gordon. The Plan itself isn't intended to have
35 specifics. It's intended as a guiding document to provide a direction so
36 that, it actually calls for the creation of the database, the modeling system
37 that would identify buffers. This is something that currently there is no
38 funding for and we don't know how long it would be before there is funding
39 for it, but it isn't something that would happen immediately and it, it's, by
40 the time all the data are collected and the models are actually up and
41 running could take several years. And in the meantime any development
42 that occurs adjacent to development would follow codes that are in place
43 at the time.
44

45 Gordon: Thank you.
46

1 McCall: Did that answer your question?

2
3 Gordon: I think so. It's just that I have this, this uneasy feeling in a sense that
4 we're talking about something that doesn't have an answer and you're
5 making it part of a document that you want me to approve and it's not
6 specific.

7
8 Crane: Commissioner Beard.

9
10 Beard: Thank you. Several points, I agree with you Commissioner that, that
11 whatever we agree upon as far as conditions will go forward to the next
12 level and they will have the document, or have the wordage anyway. But
13 I, I tend to favor Commissioner Clifton's point - I would like to have the
14 entire document in front of me. Somebody comes to me and says what
15 was the document that you just passed, I don't know. I'd have to go back
16 and read the minutes in order to figure out what that document is. So I'd
17 kind of like having some of those maps that were not in, in our package in
18 front of me whether I use them ever again but I would like to have them.

19 I would like to take a look also at a slide, I think it's 33. Yes. I
20 have, I have a little bit of a problem with, with this. This says "Generally
21 clay soils are better suited for development foundations and sandy soils
22 are well suited for stormwater management projects requiring filtration." I
23 thought it was just the other way around. When I built my house it's on
24 clay cause I'm out there in the river basin and in order to keep my house
25 from floating we had to put pillars down to the sand in order to stabilize the
26 house. That's contrary to what I'm reading right here. I agree that, that
27 clay soils are better for erosion possibly than sandy soils, but for building
28 foundations, development foundations, I believe the sand is better than
29 clay. And I might get some opinions from the contractors that are sitting in
30 the audience too on that particular subject. So I kind of, I, I personally
31 disagree with that wording there.

32
33 McCall: Mr. Chair, Commissioner Beard. I'm ... the reason that sandy soils would
34 not work for foundations is exactly because water seeps down through
35 them and because they're so much more susceptible to erosion. If you're
36 sitting on clay and you build your foundation on clay water will not seep
37 down, it'll just sit on top. So this is a different kind of example but I, earlier
38 this summer I experienced in the pecan orchards a lot of farmers who
39 have a layer of clay soil above their sandy soil, went to the trouble of
40 digging up their orchards in between every row to pull the sand up and mix
41 the sand and the clay because the water was not going down through the
42 soil and reaching the roots.

43
44 Beard: I can, I can agree with that. But I think as a foundation it's, I think that the
45 sand is better than the clay.
46

1 Crane: I'd like to interrupt, we have a, at least two engineers wagging their heads
2 this way or that. Sir later you're going to speak, right? I'd just like to
3 suggest that the ... we address this issue when you come up and talk. I
4 know what you're going to say that, impermeability is one thing and
5 absorbing water and going up and down is another. So let's not try to
6 solve the problem just at this moment. I know what you mean too.
7
8 Beard: Okay, I would like to have that addressed later on.
9
10 Crane: Yeah, we will. I'll make sure we do it.
11
12 Beard: Okay, my third, oh excuse me.
13
14 McCall: I'm sorry. If you like one of the engineers who helped me put together the
15 arroyo modeling section is here and he may be able to address that. Mr.
16 Scanlon also offered to but
17
18 Beard: Okay. Okay. Good. As long as we don't drop it.
19
20 Crane: Yes, we won't drop it. Can that person speak when we come to the public
21 input, would that suit you? Okay. Thank you.
22
23 McCall: Mr. Chair, may I make one more comment.
24
25 Crane: Yes.
26
27 McCall: I want to point out and, and stress that the appendices are part of the
28 document. Just because I'm proposing that the Appendix 4 that is the
29 description or the detailing of the arroyo modeling be put back into the
30 body of the Chapter 4 of the Plan, but even if it isn't, it will be adopted as
31 ... or if the Plan is adopted the appendices are part of the Plan. So
32 because it isn't in the body of the document doesn't mean that the
33 document is incomplete in that way.
34
35 Beard: Okay. I've got a third point here though.
36
37 Crane: Go ahead.
38
39 Beard: I'm looking at Goals nine, ten, and eleven. I think this sort of goes along
40 with your, your concern and it's part of my concern too. When you look at
41 these goals it says "create," "minimize," and "improve." Who does that? If
42 you look at Goal 11 it says "Improve the safety and efficiency of utility
43 installations." Excuse me. Well that's, if the City's going to be putting in
44 the utilities and we know who's got to do that, but if you go over here and
45 create safe and effective engineering standards for flood control, or you
46 minimize soil and slope instability." Who's doing that? I mean it looks like

1 it's out there for anybody to do or not to do. I don't know if it's, who it's
2 really applying to.

3
4 McCall: Mr. Chair, Commissioner Beard. That's a good question. The City is
5 ultimately responsible for, for implementing the plan and carrying out the
6 policies, so it would be the City. Create safe and effective engineering
7 standards for flood control and conveyance indicates that the design
8 standards and other codes that there, there is a Stormwater Management
9 ordinance and there are design standards and there's a subdivision code
10 that those codes and other applicable codes would be amended and that
11 would have, that would take place by the City, by the Design Standards
12 Review Committee. Goal 10 is actually an extension of that. The soils
13 and erosion, sedimentation and water runoff is a separate category under
14 stormwater management and again that would be carried out through lots
15 of different policies; education and outreach, amendments to the
16 development codes, strengthening compliance with federal mandates, and
17 those are all policies within the, the goals themselves. And for utility
18 installation, that is both public and private, so the policies would eventually
19 reach through some changes in code or educational outreach, the private
20 sector as well as the City and any other public organization, public
21 agency.

22
23 Beard: So the ... to me on both nine and ten that could, that would be like if the
24 contractor is doing something the City's going to oversee that he actually
25 creates safe and minimizes these two types of things? I mean it, it
26 sounds, and it actually goes beyond the City because you're including this
27 in the ETZ aren't you? How the ETZ, is that affected here?

28
29 McCall: Mr. Chair, Commissioner Beard. The City only has jurisdiction over the
30 arroyos and flood control dams that are within the City limits. And the
31 reason that the entire study area is shown on the map is because the
32 arroyos extend into the ETZ. And any kind of drainage study that's going
33 to be done will be impacted by what happens that's up stream. So
34 specifically and the plan does call this out, we're talking about within the
35 City limits and only what the City has jurisdiction over.

36
37 Beard: Okay. But this is really more for the contractor isn't it?

38
39 McCall: Mr. Chair, Commissioner Beard. As I said before, the Plan is only guiding
40 policy it's not code. It's not a regulation. So anything that the City puts in
41 effect that relates to the Plan would be put in effect in order to carry out
42 this goal. It's, it's, the over arching goal that everything in the Plan is
43 attempting to do; erosion, sedimentation, and stormwater runoff is just
44 one, you know component of the bigger picture.

45
46 Beard: I can see that it's a plan, I just don't know who the plan's for.

1
2 McCall: Mr. Chair, Commissioner Beard. It's for everyone in the community.
3
4 Beard: Okay.
5
6 McCall: And the City is the caretaker of the community.
7
8 Beard: Okay. Okay I'll take that. Yeah.
9
10 Crane: It'll be for the City to implement if it chooses.
11
12 McCall: Mr. Chair that's correct.
13
14 Crane: Mr. Clifton.
15
16 Clifton: Just a few more points Carol. I know historically the City has oversaw
17 construction projects in particular a sewer line such as in the North Fork
18 Arroyo and that didn't work out too well. So I, I just wonder you know is
19 the government going to take care of us or who's going to take care of us,
20 I'm not sure. I'm not sure what this document does. There's not a very
21 good track record and it's, it's proven and I think Mr. Binns touched on it
22 previous to this. You talk about modeling to be done by a consultant that'll
23 dictate where the flood zone is. I thought FEMA did that. You know I
24 have a hard time every time an individual comes in with a project that, oh
25 let's run it through our model and we'll determine where your boundaries
26 are. I understand that's going to take years to get the funding and what
27 not, but you know I, I'm just again I'm curious, how is this going to work
28 assuming we, let's just say hypothetically we approved it tonight it
29 immediately goes to Council, it appears on November 17th. What
30 happens in December with an application that comes in and you have a
31 policy document, we understand that it's not an ordinance, but you know
32 in everyone of these packets tonight it references a policy document that
33 indicates approval or denial of the project. And I've, I've brought this up
34 multiple times before and I'll continue to bring it up, it, it is going to
35 formulate a recommendation. It is going to influence a decision. It will be
36 utilized much like the Comprehensive Plan to approve or deny a case.
37 And you know I'm not ... quite frankly it's just additional regulation that I
38 don't think we need and I don't know but I think you stated there's 8,500
39 acres of privately held arroyo systems by individuals. Can you go to that
40 slide?
41
42 McCall: Mr. Chair, Commissioner Clifton. That's correct, but keep in mind that
43 that's also within the developed part of the City including the urban center.
44 The arroyo boundaries don't stop at the flood control dams or at
45 undeveloped properties. So I wasn't able to determine the areas that
46 we're talking about, the major arroyos and the main stems of the arroyos,

1 how much of that acreage we're talking about, but in the entire City over
2 8,000 acres is privately owned. So that also includes the West Mesa.

3
4 Clifton: Well just generally speaking then, I'm not sure what undeveloped land
5 goes for these days, but assuming it was \$10,000 per acre, you're looking
6 at 85 million dollars in reparations to private citizens. I don't know if the
7 City has a line item on the budget for 85 million dollars but that's a lot of
8 money.

9
10 McCall: Mr. Chair, Commissioner Clifton. I don't understand, I don't understand
11 what that refers to.

12
13 Clifton: The point is there has to be compensation, just true fair market value
14 compensation for individuals that won't be able to utilize their land within
15 the buffer areas.

16
17 McCall: Mr. Chair, Commissioner Clifton. That's not what the Plan calls for. If you
18 look at the map on any aerial within the City limits you will see that most of
19 that acreage is developed already. The buffers that we're talking about or
20 any particular easement where there may not be any development is only
21 for land that is not yet developed. And in addition as I pointed out before,
22 the Plan doesn't say that a person's land cannot be developed on, it
23 merely suggests that a buffer for added erosion control is one of many
24 possibilities. So if that's not clear in the Plan then that could be a
25 suggestion, a change that, that the Commission suggests, but it doesn't
26 say in the Plan that that's what would happen and I do want to point that
27 out.

28
29 Clifton: But, but it, nonetheless it's still a buffer. It's still a line item through the
30 review process. It'll be utilized in a recommendation. A buffer is a buffer, I
31 mean when I hear that, that is an area in which you cannot do something;
32 a landscape buffer. It's a certain width that you can't do anything but
33 landscaping. So it's unclear how will an individual get compensated by
34 being forced to have a buffer through whatever ordinance will come out of
35 this policy document. You know we haven't talked about that. And we
36 don't need to go into the numbers tonight, but you know Commissioner
37 Beard's point, you know I've been around construction development for 20
38 years and I have never heard of somebody wanting to build on clay. You
39 just don't do that. There's a process called liquefaction.

40
41 Crane: Excuse me Commissioner that's going to be taken care of shortly.

42
43 Clifton: Just for the record consider Legends West. I think you're familiar with
44 what happened at Legends West.

45

- 1 McCall: Mister, Mr. Chair, Commissioner Clifton, excuse me. I do want to point out
2 again that the Plan isn't going to force anybody to do anything. As has
3 been stated and as all of you know, in the absence of code, a policy
4 document can be used to make a decision but it's not binding and it can
5 be appealed. So unless the policy runs counter to code that's already
6 existing and would create a conflict by using the policy document as a
7 reason to vote for something rather than the code, if those two conflict, the
8 code is binding and the policy is not.
9
- 10 Crane: Commissioner Ferrary.
- 11
12 Ferrary: I think that as a guiding plan this is a wonderful document and as you said
13 it is something that code can be derived from and it does also keep in
14 mind that as land sales are made that they are compensated for buffer
15 zones. If the land were going to be sold to a developer and that would set
16 up the future of having the arroyos protected and also the homeowners
17 that might be in that area as well as wildlife. And I think this document is
18 wonderful and that it shouldn't be delayed any longer.
19
- 20 Crane: I have a question regarding the buffer zone. Considering that this applies
21 only at the moment, can only apply to undeveloped land correct? In
22 relation to the centerline of the arroyo as it stands at this moment, where
23 is this measurement made, this let's say 100 feet to grab a number; from
24 the centerline of the arroyo, from the bank of the arroyo before it drops
25 down to the bed? Where is the measurement taken from, or is it the
26 whole width of the arroyo?
27
- 28 McCall: Mr. Chair, Commissioners. I will let Mr. Ruybalid and Mr. Scanlon address
29 that because I don't know how the flood zones are determined. If I may
30 though, I, Commissioner Clifton asked a question that I didn't, that I didn't
31 respond to regarding the FEMA flood zones. And, but it's also just to say
32 that the model that I showed you, the illustrations that I showed you are
33 from an actual study that was done of the Sand Hill Arroyo that was
34 commissioned by the City. So the FEMA flood zones are indeed in place,
35 but any, any modeling that's done that's more current will be more
36 accurate. So, and beyond that Mr. Ruybalid can answer that question,
37 he's the one that provided the illustrations for me.
38
- 39 Crane: Another further point and as I often do it's a tiny one, but when you come
40 up with your final version to buck to the City Council at whatever point, the
41 pagination of your chapters is off slightly in the contents page, table of
42 contents, and on page 79 your conclusions should be called Chapter 7 to
43 be consistent with the others. Basically I'm only capable of making small
44 points. Okay, any Commissioner have any other questions for Ms. McCall
45 at this moment? All right then we'll ... thank you and ...
46

1 McCall: May I Mr. Chair?
2
3 Crane: Yes, by all means.
4
5 McCall: If I may suggest an option having to do with the proposed changes. If
6 you're uncomfortable with the change in text regarding the soils, you could
7 also choose to leave the plan as it is in that regard.
8
9 Crane: Yeah. Thank you. We understand. So now we open this to members of
10 the public. And it's not clear to me whether everybody present in the room
11 is ... wants to speak to this issue, so I see two hands up, may I see hand
12 up for everybody who'd like to speak to this. I see one, two, three, four.
13 Okay. Thank you. Now I know you're an engineer Mr. Scanlon, right?
14 Hang on a minute sir. Are there any developers here that wish to address
15 us? Okay two. Last time we had some presentations with developers and
16 we asked since we had a number of people speaking to limit it to three
17 minutes and I don't remember how long it was but it wasn't three minutes.
18 Please gentlemen make your points as succinctly as possible. If you
19 merely wish to endorse something that somebody else has said, maybe
20 one of the Commissioners or member of the public, just do that, we'll
21 register it. Can you all do this in three minutes? Anybody have a problem
22 with three minutes? One, two, three, four, five. Good. Thank you. Allow
23 our secretary to ... yes sir.
24
25 Beard: They were shaking their heads no.
26
27 Crane: No I saw nods up. Okay. If you have ...
28
29 Beard: Give them five. Okay three.
30
31 Crane: If you have problem with three minutes please put up your hand. See
32 they're all going like this.
33
34 Beard: Sorry.
35
36 Crane: So, I will ask our doughty secretary here to time you and who'd like to be
37 first? Mr. Scanlon would like to be first. Come on up. Oh and we've got
38 to make room for your engineer, right? Yes, who can appear as far as I'm
39 concerned at any point.
40
41 Scanlon: Thank you Mr. Chair.
42
43 Crane: Tell us who you are for the record and ...
44
45 Scanlon: My name is Ted Scanlon and my address is 2540 North Telshor
46 Boulevard in Las Cruces.

1
2 Crane: Mr. Scanlon do you swear or affirm that the testimony you are about to
3 give is the truth and nothing but the truth under penalty of law?
4
5 Scanlon: I do.
6
7 Crane: Thank you, go on please.
8
9 Scanlon: Okay. Real quickly to clarify the, the, the confusion over the soil types.
10 Clay soils are what are called high PI soils. High PI soils is the, means
11 that they have a high plasticity index. The higher the plasticity index the
12 more potential they, the soils have to shrink and swell based upon their
13 moisture content. When the soil shrink and swell based upon the moisture
14 content you get a condition in the building foundations called differential
15 settlement. Differential settlement in a building foundation can cause the
16 foundations to crack and break apart and, and damage the structure. So
17 granular soils are more suitable for building foundations than clay soils,
18 period.
19
20 Crane: Thank you.
21
22 Scanlon: Okay. The other issues that I have are with respect to the buffer areas, in
23 particular I would like it defined like you, you mentioned where the
24 measurement is made from; is it from the centerline of the thread of the
25 stream? Is it from the edge of the 100-year floodplain out? Is it from the
26 edge of the 500-year floodplain out? If that's not clearly defined over, over
27 time the, the administrators that are doing this are going to try to make the
28 strictest and most stringent possible, I'll guarantee you because that's
29 what always happens over time. So I think that that needs to be defined,
30 exactly where that buffer is. Then there needs to be some manner of
31 compensation for the loss of that buffer land. If the person has paid for
32 that land under the anticipation of being able to develop it and is all of a
33 sudden told he cannot develop it because it's in this arroyo buffer, then he
34 needs to be compensated for it somehow, either monetarily, or through
35 density credit which means that he could achieve the same number of
36 units on the remaining land that he could have put on the remaining land
37 plus the buffer. So some method of compensation for the loss of that
38 property needs to be made. That's all I have. Any questions?
39
40 Crane: Thank you Mr. Scanlon.
41
42 Scanlon: Thank you.
43
44 Crane: And you made it under three minutes, right?
45
46 Beard: Two and a half.

1
2 Crane: Okay, next please, don't be shy. Everybody will get heard. You're
3 number three sir. Please tell us who you are.
4
5 Curry: Paul Curry.
6
7 Crane: Paul Curry. Mr. Curry do you swear or affirm that the testimony you are
8 about to give is the truth and nothing but the truth under penalty of law?
9
10 Curry: Yes I do. Well the first statement is to back up what Mr. Scanlon said
11 regarding the plasticity index. All the buildings we've ever built, all the
12 engineers and architects require us to over excavate out all the clay and
13 bring in granular soil to build on. It's common knowledge throughout the
14 construction industry that you don't build a building on a clay soil. If you
15 do you're going to have trouble with the foundation.
16 Then the next statement I'd like to make is regard to the 150-foot
17 buffer for the arroyos. If you're doing a large lot subdivision where you
18 have one or two or three or four acre lots it's not an issue but when you're
19 doing lot, small lot subdivisions 150-feet is a substantial cost taking of a
20 very experience piece of property from a homeowner for a home or
21 landowner or developer that's not going to be reimbursed. So if you want
22 150-foot, is it from the center or is it from the edge? Cause when you ...
23 150-feet is a lot of land and you take that from the edge of the arroyo and
24 you go up the side of a hill or back away from it, it's a substantial hardship
25 on the people who are going to buy the ultimate property that's developed,
26 it just raises the price and the cost for the general public in the end.
27 Thank you.
28
29 Crane: Thank you Mr. Curry. Gentleman in the light jacket there. Tell us who you
30 are sir.
31
32 Hughs: Good evening. My name is Ed Hughs. I live at 5530 Remington Road.
33
34 Crane: Mr. Hughs do you swear or affirm that the testimony you are about to give
35 is the truth and nothing but the truth under penalty of law?
36
37 Hughs: I do.
38
39 Crane: Go ahead please.
40
41 Hughs: First of all I'd like to just to compliment Carol McCall and her staff on
42 putting together a very readable document on a very difficult topic. I think
43 they've done an excellent job and conducted a lot of hearings in doing
44 this. I also want to say that I think it's really important that local
45 government use existing arroyos as a natural drainage structures that they
46 are. I think the document does a good job of pointing out issues that have

1 been caused in the past due to the certain practices that, that we would
2 like to change. A couple, there are about three, three issues I want to
3 address real quickly, one of them is on page two, it's the purpose of the
4 Arroyo Management Plan, bullet number two, it says "Allow maintenance
5 of historic flows and arroyos." I'm not quite sure what that means. It
6 seems like require or some stronger language would be, would be
7 important there. That's bullet point two on page two.

8 Then on page 40, and Carol has done a, a pretty good job, a good
9 job of discussion modeling and discussing modeling and the needs that
10 we need for more current models and data which I would very much agree
11 with, having dealt with modeling in my professional career. They're only
12 as good as the data you have and many of these models are developed
13 for not our soil types or areas, so I think we very much need much better
14 data to implement these models at all.

15 But the third item I would like to address which I think is the most
16 important and I think this really has the power to really undo all that is
17 stated in the document is on page 77 under goal nine, and it's the action
18 "Participate in the creation of a regional stormwater utility - an organization
19 complete with its own revenue source that collects, treats, and disposes of
20 stormwater." Stormwater management, it really as the document talks
21 about really is to management, manage the ...

22
23 Crane: Excuse me Mr. Hughs.

24 Hughs: Yes sir.

25
26 Crane: Did you say page 77?

27
28 Hughs: I did, yes sir. At least on my copy.

29
30 Crane: Okay.

31
32 Hughs: I hope this doesn't count against my three minutes.

33
34 Crane: Is that the first item in the first box on the ...

35
36 Hughs: First action item, yes sir. "Participate in the creation of a regional
37 stormwater utility."

38
39 Crane: Okay. Yep, thank you.

40
41 Hughs: We on the same page? Okay, good. Stormwater management really
42 does not, does not mean to manage all arroyo flows as we've talked about
43 up stream in the ETZ as well as within the City limits. So my question
44 really is, is what power explicitly would the flood control authority have in
45 any stormwater project management, what rights to downstream owners
46

1 have on retaining this historic flow? It seems to me that this is a very
2 open-ended power and that this would override any, any private owner's
3 concern downstream. So I think the powers need to be very specifically
4 laid out and any power to interrupt any flow upstream should be clearly
5 delineated and detailed in such a document as this. So I think this, this
6 one item to me has a, has a real significant impact on the, on the whole
7 document. Plus I, I, I just was interested in, in Mr. Scanlon and Mr.
8 Curry's comment about, about the easements and it certainly would take
9 ... 150-feet is quite a, quite a distance. But am I not mistaken in the
10 document and this is a question to Carol, that most of this, the buffer as it
11 applies to land that is not purchased would be the, delineated prior to
12 purchase and the, and the values, values compensated for at that point?
13 Cause a lot of this is public land at this point. One other, one minor
14 comment if I have a second, there were a lot of stakeholder meetings that,
15 that the public, and there were public hearings that we were part of, a lot
16 of stakeholder meetings and I, I would like some further public input after
17 some of those stakeholder meetings which I, I suppose this is it. Thank
18 you very much for hearing me. Mr. Chairman, Members of the
19 Commission. Thanks.

20
21 Crane: Thank you Mr. Hughes. Gentleman standing up. Tell us who you are sir.

22
23 Moscato: John Moscato, 4935 Ocotillo Road.

24
25 Crane: McCarter.

26
27 Moscato: Moscato.

28
29 Crane: Moscato. Mr. Moscato do you swear or affirm that the testimony you are
30 about to give is the truth and nothing but the truth under penalty of law?

31
32 Moscato: Yes.

33
34 Crane: Go ahead please.

35
36 Moscato: Although Carol has made an attempt to improve the plan, I still think there
37 are lots of defects that haven't been cured since the original version. For
38 instance, there's no clarity as to what land will actually be affected by the
39 plan and the ordinances that flow from it. There's discussion of three
40 arroyos. There's a map of more than a dozen arroyos. There's mention
41 that additional arroyos may need to be managed later on in the plan so
42 from a private property owner's prospective there is no clarity whatsoever
43 on the basic question of what land that I own will be affected by this. As to
44 the buffer, there's no specificity as far as how that buffer will be
45 implemented, how it will be forced upon private property owners, how they
46 might be compensated. None of those questions is answered here. I

1 think we're going down a slippery slope when you propose approving a
2 plan that the purpose of which is future implementation of, of ordinances.
3 In the meantime staff inevitably will use the plan as the basis for review
4 comments and limiting private property rights. I don't think there's any
5 doubt about that.

6 I also want to point out one item that I thought was very interesting
7 in the, in the conclusion, I'll just read a sentence of two here. This is the
8 conclusion to, to the plan. It says "As development has increased, arroyos
9 have been rerouted, channelized, and dammed to prevent or mitigate
10 flood damage. In some cases these actions were the only alternatives to
11 protect downstream property." Well I think that's pretty amazing
12 admission in this document because the very rerouting channelization and
13 damming that is admitted here to have been necessary to mitigate flood
14 damage and to be the only alternatives to prevent, to protect downstream
15 property are the very processes that would be prohibited by this plan. So
16 there's no, there's no reality in terms of how this matches up to the, the
17 challenges of development. It, it's just, it's a lot of feel good provisions,
18 plans, policies, goals, but in the end it's just going to have a negative
19 impact on private property owners and we simply don't know what, what
20 the eventual impact's going to be. I think until that kind of clarity is
21 included, Carol mentioned that one of the stakeholder meetings that it
22 would cost upwards of \$100,000 to fully model each major arroyo.
23 Where's that funding coming from? If it's so important that this plan be put
24 forward at this time, why shouldn't the modeling be done up front so
25 everybody; the property owners, the Commission, the Council, everyone
26 involved, the general public, they know exactly which property will be
27 effected by this plan and the, and the ordinances that inevitably will, will
28 stem from it. Thank you.

29
30 Crane: Thank you Mr. Moscato. Anyone else? Gentleman in the white shirt. Tell
31 us who you are sir.

32
33 Chavira: My name is Steven Chavira.

34
35 Crane: Mr. Chavira do you swear or affirm that the testimony you are about to
36 give is the truth and nothing but the truth under penalty of law?

37
38 Chavira: I do.

39
40 Crane: Continue please.

41
42 Chavira: Mr. Chairman, thank you for giving me this opportunity to speak. I speak
43 today on behalf of the Las Cruces Home Builders Association as their
44 Chief Executive Officer. And I want to support all the commentary that
45 has been made before me. This plan that you see before you is a, is, as
46 Commissioner Clifton aptly stated is an incomplete plan and the, the

1 slippery slope that is being introduced to you all tonight is one that I think
 2 you all should carefully consider as you make your judgements tonight in
 3 your proceedings. This plan is ... although Ms. McCall has done a lot of
 4 hard work and really put a lot of effort into this, it's clearly demonstrated by
 5 all of the, the slides that we saw that the, the plan is very very broad and
 6 it's, it's still even with all the changes and the pages and pages of changes
 7 that have been proposed, it's still a very vague plan. It is, I think would be
 8 in, in the community's best interest and this Commission's best interest to,
 9 to, to exercise your option to not let this go forward. Certainly in the
 10 vagueness that it's, that it's showing right now. I think that as we look at
 11 this plan and start to, start to really put it all together we realize that you
 12 know the private owner rights, the property rights of the owners is really
 13 what's at stake here. Looking forward at what we've got to, what is being
 14 proposed in a policy document will just create a whole lot of opportunity for
 15 ... as it begins, as the development begins to happen, as the progress
 16 begins to go, as this plan moves forward, there's a lot of problems that are
 17 going to be occurring because of, of this plan moving forward as it is right
 18 now. I would agree with Commissioner Clifton that it would not be prudent
 19 to put a, an incomplete document forward and you know certainly take a
 20 look at that as you go forward. Make the right decision.

21
 22 Crane: Thank you. Ms. McCall did you have an engineer you wanted to bring in?
 23 Okay. Tell us who you are please.

24
 25 Ruybalid: My name is Jonah Ruybalid.

26
 27 Crane: Rubles.

28
 29 Ruybalid: Ruybalid.

30
 31 Crane: Rubales.

32
 33 Ruybalid: Ruybalid. It's, it's a tricky one.

34
 35 Crane: Okay. I got it. Mr. Rubales do you swear or affirm that the testimony you
 36 are about to give is the truth and nothing but the truth under penalty of
 37 law?

38
 39 Ruybalid: I do.

40
 41 Crane: Go ahead please.

42
 43 Ruybalid: Okay. So I had talked to Carol just about the buffer zones and just to
 44 provide a way that they could be developed. Then when we had
 45 discussed these buffer zones we hadn't discussed a, a set distance
 46 whether it be from the centerline or the outside edge of the arroyo. We

1 had just talked about how to develop these buffer zones with HEC/HMS or
2 HEC RAS. And so those buffer zones would be based on the output from
3 HEC RAS. And so that you could determine them based on the 100-year
4 storm, 500-year storm, whichever that you preferred, but they would be
5 what was delineated on a map. Okay, so HEC/HMS would be utilized to
6 determine flow rates and volumes that would be put into HEC RAS and
7 then that would give a, I guess you could say flood zone based on
8 whichever storm you used and then that would be delineated on a map
9 and then that could be used as the buffer zone if you wanted to. It
10 wouldn't be necessarily 150-feet from the centerline or 300-feet or
11 anything like that.

12
13 Crane: So it remains to be established just what a, how a buffer zone would
14 defined?

15
16 Ruybalid: Can you repeat that?

17
18 Crane: It remains to be established. You haven't got a firm definition of that at the
19 moment.

20
21 Ruybalid: Correct.

22
23 Crane: Okay.

24
25 Ruybalid: It'd have to be determined based on some further modeling.

26
27 Crane: Thank you.

28
29 Ruybalid: Yes.

30
31 Crane: Anyone else wish to speak to this issue? All right then I'll close it to further
32 public participation. Commissioners? Commissioner Ferrary.

33
34 Ferrary: Ms. McCall is the modeling, further modeling to determine where the
35 buffers zone would start or end, is that dependent on what or where that
36 arroyo is? I mean it's future modeling so it's not anything that you can
37 determine now is it, or if you define that now then it would just be used for
38 future modeling.

39
40 McCall: Mr. Chair, Commissioner Ferrary. It isn't something that would be
41 determined now, in fact as this example points out it would be, it would be
42 done later on as, as development occurs or as there is a need to
43 determine whether there would be a buffer required or wherever there
44 might need to be a drainage study that, that this modeling could help
45 inform. That's all.

46

- 1 Ferrary: So it means then that something like that can't be concrete. It is
2 something that changes with time and also the arroyo that you're
3 modeling.
4
- 5 McCall: Mr. Chair, Commissioner Ferrary. That's correct. And for the purposes of
6 this plan it also isn't necessary.
7
- 8 Ferrary: Thank you.
9
- 10 Crane: Anyone else?
11
- 12 McCall: Mr. Chair may I make, make a couple of corrections?
13
- 14 Crane: Go ahead please.
15
- 16 McCall: A couple of the speakers referred to a 150-foot buffer and I ... there isn't
17 anything in the plan that discusses any kind of distance.
18
- 19 Crane: I only saw 50 and 100, correct?
20
- 21 McCall: No. Those refer to, well there's the 100-year flood zone. There is
22 reference to a possible easement distance of 50-100 feet in reference to
23 the input that was provided by the State Land Office. And that's the only
24 mention of any concrete distance. And again, as they point out it would be
25 determined in the process of dedicating the arroyos to the City.
26
- 27 Crane: Thank you. Mr. Clifton.
28
- 29 Clifton: One last question Carol, just ... can you walk me through what happens
30 30 days after this is adopted by City Council? Mr. Scanlon comes in with a
31 development project that is adjacent to one of these arroyos, what
32 happens? I mean what happens to the application, the review process, is
33 there going to be an argument between the City and the development
34 engineer versus the HEC RAS study? What I want to know is what the
35 process is going to be, has that been discussed?
36
- 37 McCall: Mr. Chair, Commissioner Clifton. You had a similar question at the last
38 meeting and the process is the same as any development proposal; it
39 would go through the review process by all of the reviewing parties and all
40 of the departments and then it would come to this body and then if
41 applicable it would go to the City Council.
42
- 43 Clifton: Well I understand, and that's extremely general and really kind of blows
44 over the actual process. But I, I think everybody in this room knows that
45 once it hits that office over there we're going to have a staff packet with
46 recommendations based on that policy document much like the

- 1 Comprehensive Plan. And I, I am really struggling with how is that going
2 to play into the recommendation, has that been discussed at the staff
3 level, what happens? I mean it really seems like you're putting the cart
4 before the horse and I, I don't know ... having been on the reviewing side
5 of this I understand that a comprehensive plan, you're going to use it for or
6 against whatever the staff decides. And so once that comes in front of us
7 it's going to put, well some of us in a pickle on a decision.
8
- 9 McCall: Mr. Chair, Commissioner Clifton. I was going to call on Mr. Ochoa to ...
- 10
- 11 Crane: He's on his way.
- 12
- 13 McCall: Detail the, to detail the, the current planning application process. I'm not a
14 current planner and I don't have a lot of experience in that, so I'll put him
15 on the spot.
16
- 17 Clifton: Well to save time Carol I don't know that we need to hear that. What I
18 want to know is situational. When ... cause it's going to happen, it will
19 happen. It's not a matter it might or it may, it will happen. I can guarantee
20 you it will happen. There's a lot of arroyos here. There's a lot of private
21 land adjacent to these arroyos. You've heard these gentlemen speak of
22 that. I want to know specifically what happens to that development
23 application that's adjacent to the arroyo prior to the implementation of any
24 ordinances, when you just have this policy document.
25
- 26 McCall: Mr. Chair, Commissioner Clifton. Again I'll call on Mr. Ochoa to answer
27 that.
28
- 29 Crane: Mr. Ochoa you may have missed the beginning of Mr. Clifton's question, it
30 was a very practical one; suppose Mr. Scanlon comes in with a proposal
31 for some development that abuts an arroyo, what would be the process at
32 the point ... I presume Mr. Clifton you're saying that the City, we have
33 approved and the City Council's approved, correct?
34
- 35 Clifton: Yes, what I, you know typically what I'm assuming still happens is it goes
36 to the Development Review Committee which we get the minutes in our
37 packets, and then in that committee meeting they will discuss, well okay
38 we have the arroyo, the buffer, what are we going to do with the buffer?
39 Well there's going to be a contentious disagreement between the
40 developer and the City yet there's no policy document to directly impact
41 that recommendation, so the recommendation's going to be just simply
42 based on policy. Has been thought through?
43
- 44 Ochoa: Mr. Chairman, Commissioner Clifton. I would, I would just guess that this,
45 whatever new submittal that comes in I'm guessing to be something very
46 initial being an annexation or master plan sort of thing, would be submitted

1 to the City for review. And that review process would take place going to
2 all different varieties of departments at the City for review. That policy, the
3 Arroyo Policy of course will be looked at from a long range planning
4 perspective, from a planning perspective whether what they're proposing
5 in their development, if there are supporting factors within that, in that
6 policy just like the comprehensive plan if you will, maybe Transportation
7 2040, the El Paseo Corridor, Blueprint Plan, all different policy documents
8 out there to see if there's ways we could support the proposal that is being
9 set forward before us. And then with that as you've seen numerous staff
10 reports, there would be some findings either for support or denial of the
11 proposed project that is before you.

12
13 Crane: That help Mr. Clifton?

14
15 Clifton: Well I, I think it just demonstrates the problem is all it does and that's all I
16 wanted to get to the surface is just that, that it is a problem. It's a
17 superfluous document that you cannot tie an individual's denial or
18 recommendation then bring it to us to struggle with competing interests in
19 a buffer, wherever that buffer may be, without a codified ordinance
20 substantiating that recommendation. I, I just see a cascading effect of
21 confusion if this thing's adopted as is.

22
23 Crane: Ms. Ferrary.

24
25 Ferrary: My understanding is that this is a guide and for planning, future planning.
26 If the codes aren't already enacted or they would work with just current
27 codes to make approval or denials, these would be adopted slowly and
28 implemented, not something that would probably affect what is happening
29 in direct applications but in future sales of public land to private, I would
30 see most of that. And I think that you're assuming that this would make
31 dramatic changes right away when it is just for policy, future policy
32 planning.

33
34 Clifton: Mr. Chair, I, I understand what you're saying but I respectfully disagree as
35 demonstrated with one previous case tonight, staff recommendation
36 based on findings for approval. One of those findings is based on the City
37 Comprehensive Plan Economic Development, Mixed Use and Infill
38 Development Goals and Objectives and Policies. Okay, in a court of law
39 they're going to ask you what were your findings for the basis of your
40 approval or denial of this project? Okay, the findings in effect establish
41 your recommendation, correct?

42
43 Ochoa: That is correct.

44
45 Clifton: So within that findings effect the staff is utilizing the policy document and
46 that's my point. Nothing more. That you are in fact using a policy-guiding

1 document to formulate a recommendation. And without a codified
2 ordinance ...
3
4 Crane: I think we see your point sir. Did you have something else to say Carol? I
5 mean I'm not forcing you, but if you have something.
6
7 McCall: Mr. Chair, Commissioners. I did just confer with Mr. Ochoa and when
8 there is code in place staff is obligated to recommend approval of the
9 proposal. So if staff came before this body or the City Council with a
10 development proposal and it fulfilled the obligations of the codes that are
11 in place, staff would be recommending approval regardless of what the
12 policy documents say. And this is hypothetical of course.
13
14 Basyat: Mr. Chair if I may ... Mr. Chair.
15
16 Crane: Yes ma'am.
17
18 Basyat: If I may address Commissioner Clifton's ...
19
20 Crane: You're not on the mike ma'am. Perhaps you should come up here.
21
22 Beard: And get the name.
23
24 Crane: And we need your name and (*inaudible*).
25
26 Basyat: Srijana Basyat. I'm the Senior Planner with Community Development, the
27 City of Las Cruces.
28
29 Crane: And I'll swear you in. Do you swear or affirm that the testimony you are
30 about to give is the truth and nothing but the truth under penalty of law?
31
32 Basyat: I do.
33
34 Crane: Go on please.
35
36 Basyat: I just wanted to point out that Commissioner Clifton's concern as to, in the
37 situation where you have policy and you don't have code. Okay, I don't
38 want to paraphrase Commissioner, I will just address his concern. The
39 reason you have policy, the reason you need a guiding document before
40 you can have code is that you need that policy support to actually create
41 regulations. So you can't actually have the regulations in place before you
42 have the policy, which is why the Arroyo Plan would come before any sort
43 of codified regulations on buffer distances or specifics.
44
45 Crane: Let me ask something to clarify. As I understand it and what you said a
46 few moments ago Ms. McCall, that if there's regulation in place, zoning

1 regulations in place they take precedence in making a decision over
2 anything else. Mr. Clifton's bringing up is I think, let me paraphrase him
3 and he'll correct me if I'm wrong, that if zoning regulations are in place but
4 the questions arise that Mr. Scanlon's project brings up, they're not
5 covered by zoning regulations, and the only document that exists faintly
6 relevant to that is the Arroyo Plan, what legal, what influence does that
7 plan have subtly and unofficially or unsubtly and completely officially on
8 the decisions or recommendations of the Community Development
9 Department?

10
11 McCall: Mr. Chair, Commissioners. In the absence of code a decision maker
12 would look to policy to inform the decision, but the decision maker or
13 decision making body would not be obligated to follow the policy if he or
14 she chose to vote a different way because the policy is not binding. In
15 addition for example, if the decision making body did use the policy to
16 inform their decision and, and voted appropriately, because it isn't binding,
17 because it isn't code, well either way actually the applicant would have the
18 opportunity to appeal that decision. There's always that opportunity.

19
20 Crane: Thank you. Mr. Scanlon did I state your question correctly?

21
22 Clifton: Mr. Clifton.

23
24 Crane: *(inaudible)*. Sorry Mr. Scanlon.

25
26 Clifton: I have a little more hair, sorry.

27
28 Crane: Of course.

29
30 Clifton: You know I don't know that it was such a more of a question than a
31 comment. I mean I understand the order of policy and, and ordinance but
32 nonetheless as I referenced the policy still being used to formulate a
33 recommendation that does have an impact, positive or negative on a
34 property owner and I think that just ... you know that needs to be
35 discussed.

36
37 Crane: Okay.

38
39 Clifton: Thank you.

40
41 Crane: So Commissioners.

42
43 McCall: Mr. Chair.

44
45 Crane: Yes ma'am.

46

- 1 McCall: I'm sorry. May I make a, a couple of additional comments?
2
- 3 Crane: Go ahead.
4
- 5 McCall: Just based on some of the public comment I, I want to point out some
6 places in the Plan that more specifically describe an opportunity or an
7 option to use a buffer and the cost to the property owner and to the City.
8 And you know what, I, I apologize but when I printed this document out
9 there are no page numbers. But if a buffer is found to be needed for
10 erosion control purposes in privately owned areas, eliminating
11 developable land could come at a high cost to the City. Incentives play a
12 major role in encouraging private landowners to participate in these
13 strategies. For instance it may be practical to use buffers for access to
14 utility infrastructure where necessary. And I, I point this out because as I
15 described before, a buffer or an easement is only one option. If it's
16 determined to be a case in which some additional acreage or distance is
17 needed. Another could be to create a conservation easement that is tax
18 deductible. Another would be to use the acreage for your park credit or to,
19 as the speaker pointed out to have density bonuses in exchange for that
20 property. So there are a number of ways that it could be carried out
21 without the, the property owner necessarily losing his land all together or
22 needing to be paid out right for it. In addition one of the speakers called
23 out in the conclusion the, the history in which arroyos have been rerouted,
24 channelized, or dammed to prevent or mitigate flood damage. There isn't
25 any place in, in the document where it says that these things would be
26 prohibited if this, this plan were adopted. And I just wanted to point that
27 out. In addition, this version of the document is on-line and will remain on-
28 line if you were to recommend or not recommend adoption and it went
29 forward to the City Council, this is an, it's an additional one month public
30 input period in which people would have an opportunity to respond and
31 come to the, to the City Council meeting and make their opinions known.
32 Thank you.
33
- 34 Crane: Thank you. So Commissioners let's come to a vote on this and we have
35 to vote on it in a positive sense. In other words we will, the motion which I
36 hope to hear in a minute will be that this Case PA-14-01 be accepted.
37 May I hear a motion to that effect?
38
- 39 Ferrary: I'd like to move that we adopt Case PA-14-01.
40
- 41 Crane: Thank you. Moved by Commissioner Ferrary. May I have a second?
42
- 43 Beard: I would like to hear some discussion.
44
- 45 Crane: Well we'll have a motion and then we can discuss it. That's the way it's
46 done.

1
2 Beard: Okay.
3
4 Crane: I think.
5
6 Beard: I'll second it.
7
8 Crane: So you're seconding. All right, seconded by Mr. Beard. Let me say at this
9 point so we don't have to repeat ourselves, from members of the public
10 and from many Commissioners there have been a number of points which
11 generally have trended in the direction of saying that this is not the best
12 possible final plan we could come up with to send up to the City Council
13 because there's a number of things that we all agree, I think Ms. McCall
14 would agree need some attention. In fact you brought up a couple of
15 those points yourself, so it's something to bear in mind when we come to
16 our decision on how to vote, that if you feel that there is something ... that
17 more polishing needs to be done to bring up a final copy that's worth
18 sending up to the City Council without any ifs, ands, and buts, then we
19 should vote against this. And Ms. McCall has full notes I'm sure and
20 access to the minutes and we're putting a heavy burden on her if we make
21 this extend but we've got to do the best job we can. So that in mind,
22 would anybody else have any points to make? Yes, Ms. Ferrary.
23
24 Ferrary: My understanding is that if we do approve this any of those improvements
25 can be made at the City Council level in the suggestions that Ms. McCall
26 had or the City Council.
27
28 Crane: At the, at the City, City Council level did you say?
29
30 Ferrary: Yes, when they go to approve it.
31
32 Crane: But that would mean that we have no opportunity to look at them again
33 and make sure that every little thing that was brought up is implemented
34 would it not? So I (*inaudible*) your point is, okay. Do have a comment on
35 that?
36
37 McCall: If you don't mind, Mr. Chair, if you didn't chose that option you would also
38 be free, there seems to be an issue with the, the soils component; one
39 option would be to recommend that the plan be left alone so that that
40 change is not made or that that statement be corrected to read accurately.
41 So as I, as I ...
42
43 Crane: It's going to make for ...
44

- 1 McCall: The way the motion is phrased right now, you would be voting on the plan
2 as it is without any further changes. But you can propose that those
3 changes be made and then they would be presented to the City Council.
4
- 5 Crane: Quite. And there was a point of which I was going to suggest, this would
6 be about an hour ago, that we do that, with your two suggestions and
7 maybe a correction regarding the, the wording on the soil because you
8 (*inaudible*) completely wrong in that but it, well you're both right, let's put it
9 that way, but it needs to be modified. However, we went to I think quite a
10 number of other points, the buffer, the size of the buffer and some other
11 things if I am wrong tell me. And it's got to the point of which we would
12 find it very hard to specify in a motion exactly what needs to be fixed or
13 not. Now if any of my fellow Commissioners feel that they can frame a
14 motion in a way that would encompass all the requirements people have
15 brought up, so be it.
16
- 17 McCall: Mr. Chair.
18
- 19 Crane: Right now we have a motion on the floor. Since I was talking to her I'm
20 going to let her answer if she wishes. No, nothing.
21
- 22 McCall: I apologize.
23
- 24 Crane: Mr. Beard.
25
- 26 McCall: No, I do, I do have, Mr. Chair, Commissioners, you said that one of the,
27 one of the things that was proposed to be changed is the buffer distance,
28 but what I want to point out is that there isn't a buffer distance in the plan
29 and there probably never would be because it's case-by-case. It would
30 depend on the development proposal or the dedication of arroyos to the
31 City by the State Land Office or by the BLM. So in this document there
32 cannot, there just would not be a buffer distance stated.
33
- 34 Crane: But would there be a definition of what constitutes a buffer zone. I mean
35 where you measure it from is absolutely crucial. Regardless of size are
36 you measuring from the center of the current ...
37
- 38 McCall: Right.
39
- 40 Crane: Arroyo tract or ...
41
- 42 McCall: That could, that could be added.
43
- 44 Crane: Okay.
45
- 46 McCall: That could be added. That could be clarified.

1
2 Crane: Commissioner Beard.
3
4 Beard: Well there's going to be a whole bunch of changes made. If we approve
5 this, if we approve this without making any recommendations we're ...
6 you're still going to be making a bunch of changes to this document, true?
7
8 McCall: Mr. Chair, Commissioner Beard. I would only make the changes that you
9 include in your conditions.
10
11 Beard: But we've gone past that phase.
12
13 McCall: And as, by my count it would be the arroyo modeling, correcting the soils
14 statement, and making the point that the ... clarifying where the buffer
15 would be measured from.
16
17 Beard: Okay.
18
19 Crane: And the two points that you brought up.
20
21 McCall: Those, I included those.
22
23 Crane: Yeah, okay.
24
25 Beard: Okay.
26
27 Ochoa: Mr. Chairman if I may interject please? I apologize.
28
29 Crane: Mr. Ochoa.
30
31 Ochoa: What could happen since there is a motion and a second on the floor, I
32 spoke with legal and a, a, an amendment can be made to that motion to
33 add those conditions at this time.
34
35 Beard: Okay.
36
37 Crane: Well is everybody on the Commission quite sure that those points that
38 Carol just listed are the, cover everything that was brought up?
39
40 Beard: But, but she gave two alternatives to that soil foundation and I would like
41 you to keep the modified one in there and then modify so that it is correct.
42
43 McCall: Chair, Commissioner Beard. I understand what you mean and I can do
44 that.
45
46 Beard: Okay.

1
2 Ferrary: I'd like to amend.
3
4 Crane: Commissioner, actually I think Commissioner Clifton had his light on his
5 first and then it's you Commissioner Ferrary.
6
7 Clifton: If I could point out something procedurally Mr. Chair, yes we do in fact
8 have a motion but I, I believe Commissioner Beard was kind of, I don't
9 know how to say it, he had to make a second so we could continue the
10 conversation, but I know where he was going and, and I believe you were
11 hesitant because you know you, like me you're not very comfortable with
12 the document incomplete in the nature that it is. But now that we have a
13 motion and second that kind of rules out a, a motion for postponement
14 which should've been a viable motion as well cause that was the third of
15 the three that was presented, so I mean if it gets denied or approved,
16 either way it moves forward with or without our input.
17
18 McCall: Commissioners.
19
20 Crane: Yes Carol.
21
22 McCall: If the motion that's on the floor at the moment is voted down then you can
23 make a new motion to postpone.
24
25 Crane: Yes.
26
27 McCall: So it, it doesn't, it doesn't necessarily eliminate that option.
28
29 Crane: Yeah, we can, Mr. Cabello. We can, can we not, vote the, this motion
30 down and then readdress the issue with the conditions, correct?
31
32 Cabello: Correct.
33
34 Crane: Yes. So we don't have to tangle ourselves up here. So ...
35
36 Beard: I would still like to make another point too.
37
38 Crane: Go ahead.
39
40 Beard: I'm hoping, I would like to get this to the City Council. I would like to get
41 their opinions and maybe they'll send it back to us with some objectives
42 that we can go by. Right now we're sort of operating all by ourselves and
43 we don't know what the City's thinking or the City Council's thinking. So I
44 would certainly like to get an opinion from the City Council and get this
45 thing to them with our ideas in it.
46

1 Crane: Well City Council is not thinking anything because we haven't given them
2 anything to think about.
3
4 Beard: Right.
5
6 Crane: Now we've got to send them something and I don't know if they can send
7 it back to us for another ...
8
9 Beard: Yeah they can.
10
11 Crane: They can?
12
13 Beard: Yeah.
14
15 Crane: All right, well ...
16
17 Ochoa: Mr. Chair.
18
19 Beard: The, remember the Horizon thing, they sent it back to us twice.
20
21 Crane: The which one? Oh yeah.
22
23 Beard: The Horizon Tower.
24
25 Ochoa: Mr. Chairman, yes sir for clarification, this is Adam Ochoa again, sorry.
26 Yes, the City Council can choose to remand this back to P&Z if they
27 choose to.
28
29 Crane: Mr. Clifton, your light's gone out. Are you ... you want to talk about ...
30
31 Clifton: Well that is correct, but will they? I mean that's *(inaudible)*.
32
33 Crane: Well it's their business. Mr. Gordon.
34
35 Gordon: Carol perhaps you could, one other item, you did touch upon it for several
36 solutions to the cost of taking land. I don't want to use that word taking
37 land, but the land that is lost to a buffer. You may want to consider doing
38 some investigation and perhaps putting in some suggestions and following
39 up with it, whoever has to make those decisions tax-wise, cost to the City
40 as part of your presentation.
41
42 McCall: Mr. Chair, Commissioner Gordon. Thank you. I'll do that.
43
44 Crane: Mr. Beard.
45

- 1 Beard: If we approve this could you give us even though it's been approved,
2 could you send us a copy, a complete copy just for the heck of it?
3
- 4 McCall: Mr. Chair, Commissioner Beard. Yes I can.
5
- 6 Beard: Thank you.
7
- 8 McCall: And not just for the heck of it, but for the real of it.
9
- 10 Crane: What's your definition of a complete copy?
11
- 12 Beard: With the changes that she's going to provide to ... whatever goes to the
13 City Council I would like to have a copy of it.
14
- 15 Crane: Oh, okay.
16
- 17 McCall: Mister.
18
- 19 Crane: You realize if there's any confusion or misunderstandings between us and
20 her about the materials to be put in, it's escaped from us and we never get
21 to fix it, don't you?
22
- 23 Beard: Well we'll have the minutes. I mean we can always refer to the minutes.
24
- 25 Crane: But it's escaped from us. It's gone up to the City Council.
26
- 27 Beard: Yes it has, it has.
28
- 29 McCall: Mr. Chair.
30
- 31 Crane: You're prepared ... yes ma'am.
32
- 33 McCall: I'm sorry. If I may, as I understand it the procedure is that this, the
34 October 28th draft would go to City Council. And what I would do is attach
35 the proposed changes and indicate where they're inserted and then go
36 through that at the City Council meeting. If, Mr. Ochoa can probably
37 confirm this but it's my understanding that the material that you see is the
38 same material that Council would see. So there would not be another
39 complete revision made, but the revisions would move forward with the
40 existing document, is that correct? Or is it possible for me to amend the
41 plan and take another revision forward to City Council.
42
- 43 Crane: For the record Ms. McCall is asking Mr. Ochoa. Go ahead.
44

1 Ochoa: I believe it can. I believe you can actually modify that with the, with the
2 conditions as, as stipulated by the P&Z as long as those are done you
3 know as the P&Z instructed if you will.
4
5 McCall: Thank you.
6
7 Crane: All right our motion stands that the plan as presented to us be approved
8 unless the people who moved and seconded that wish to rescind the
9 motion and make a substitute. Who was it who moved?
10
11 Ferrary: I did.
12
13 Crane: Okay, how do you feel about that?
14
15 Ferrary: I would like to rescind the motion, the first one and make a motion that we
16 adopt Case PA-14-01 with the conditions that we've spoken about and do
17 I need to point them out?
18
19 Crane: You had better read them to us, yes, at least in outline form.
20
21 Ferrary: Okay. I have that we would include the conditions of the modeling and
22 also the changes to the soil ...
23
24 Crane: Statement.
25
26 Ferrary: Right or the you know, yes. And then also information about the buffer
27 zone. And the distance, yes.
28
29 Crane: Just those three items?
30
31 Ferrary: Was there one more?
32
33 McCall: Mr. Chair those are the only ones that I recall.
34
35 Crane: Okay. Mr. Beard you had your light on.
36
37 Beard: When she was hesitating about the soil I was going to say modify, what is
38 it the presentation number 33, slide number 33, so that it is more correct
39 as far as erosion goes. Okay.
40
41 Crane: Okay. That's four. Any other Commissioner have a point to make? Mr.
42 Gordon.
43
44 Gordon: I think there was one additional point about the fact of, of making some
45 clarification determination of the value of the land that perhaps might've
46 been lost in the buffer.

1
2 Crane: Yes, we covered the definition of a buffer zone. Okay. So does that make
3 a fifth one or was that present in yours Ms. Ferrary?
4
5 Ferrary: I think that was present in mine with the buffer description and also
6 compensations already kind of described it.
7
8 Crane: Yeah, right, right. Okay, so may I have a second to that?
9
10 McCall: Mr. Chair.
11
12 Crane: Ms. McCall.
13
14 McCall: If I may, Ms. Basyat reminded me that the motion regarding the buffer the,
15 as I recall the question was how and where the buffer is measured from, is
16 that correct?
17
18 Crane: Well the definition in my view, was that ...
19
20 McCall: Okay, that would be included in the definition. I just want to make sure
21 I've got them.
22
23 Ferrary: If that's possible cause ...
24
25 McCall: Okay.
26
27 Ferrary: The modeling changes and ...
28
29 McCall: Right.
30
31 Ferrary: I don't know how that would actually be defined.
32
33 McCall: No that, that, that would be included in the definition, so yeah.
34
35 Crane: All right may I have a second for the new motion.
36
37 Stowe: I second the motion.
38
39 Crane: Seconded by Mr. Stowe. Let's start with a roll call vote from this end. Did
40 we start here before, I can't remember. Mr. Beard.
41
42 Beard: I approve based on discussions and the plan that's been presented before
43 us.
44
45 Crane: Ms. Ferrary.
46

1 Ferrary: I vote aye for discussion and findings.

2
3 Crane: Mr. Stowe.

4
5 Stowe: I vote aye based on discussions, presentation.

6
7 Crane: Mr. Gordon.

8
9 Gordon: I vote aye based on discussion and the amendments that were made to
10 the plan.

11
12 Crane: Mr. Clifton.

13
14 Clifton: I vote no based on a, an incomplete document being submitted to the
15 Planning and Zoning Commission for consideration and furthermore as
16 the perception of improper notification to the public with this incomplete
17 document.

18
19 Crane: Chair votes aye based on findings and discussion. So we pass the
20 measure five to one, will go to City Council. Thank you all.

21
22 McCall: Thank you.

23
24 Crane: Yes, and you did very well. Before we continue may I see whether the
25 remaining members of the public are here for the next item of new
26 business, PUD-14-02? I was going to call a comfort break but I think I'm
27 going to call that anyway. Let's meet again at, I think we make it 25
28 minutes to nine, okay? That gives us about seven minutes. We're in
29 recess.

30
31 BREAK TAKEN 8:28 THROUGH 8:38.

32
33 Crane: Okay ladies and gentlemen it's time to restart the meeting in spite of the
34 fact we're short one Commissioner for a moment, but I think we, she left
35 her purse so she's not going far.

36
37 **VI. NEW BUSINESS**

38
39 1. **Case PUD-14-02:** Application of Las Cruces Investment Group, LLC,
40 property owner, for a Concept Plan Amendment for a Planned Unit
41 Development (PUD) known as the High Range PUD. The proposed
42 amendment is to increase the maximum density permitted for multi-family
43 development from 16 dwelling units per acre to 24 dwelling units per acre and
44 to permit the use of off-premise development identification signs for the 6.29
45 +/- acre undeveloped western portion of the original Parcel 1 of the High
46 Range PUD. The subject property is located east of the Las Cruces Dam

1 and west of the Golden Mesa Retirement Facility with access to Roadrunner
 2 Parkway through the Golden Mesa Retirement Facility; Parcel ID# 02-13611.
 3 Proposed Use: A new multi-family apartment complex; Council District 6
 4 (Levatino).

5
 6 Crane: Okay Mr. Ochoa you're going to address us on PUD-14-02, correct?

7
 8 Ochoa: Mr. Chairman that is correct. Your next and final case is PUD-14-02, it is
 9 a proposed concept plan amendment for an existing Planned Unit
 10 Development or PUD known as the High Range PUD.

11 Shown here on the location/vicinity map, highlighted here in the
 12 stripes, subject property's located here directly east of what is the Las
 13 Cruces Dam, west of this property here which would be the Golden Mesa
 14 Retirement Facility. As you can see it is located in a PUD. That PUD is
 15 zone in the High Range PUD area

16 Just a little kind of history and kind of current conditions of the
 17 property. This is actually the western most portion of the original parcel
 18 one of the High Range PUD which was approved back in December 1980.
 19 That PUD set in place a couple of standards, what's permitted, single-
 20 family use, multifamily use, office, and commercial uses and it set
 21 densities as well. That's the extent to what that PUD went to, essentially
 22 everything else fell into City standards from there. The subject property is
 23 now currently Lot 1 of the Las Cruces Retirement Resident Subdivision
 24 which was subdivided back in June 1999. This parcel, 6.29 acre parcel
 25 was actually supposed to be the second phase of the existing retirement
 26 center directly east of it.

27 The subject property is currently vacant and undeveloped and just
 28 for clarification and just for an information standpoint this property does
 29 not have actual frontage along any right-of-way. The closest frontage, the
 30 closest right-of-way to it would be the, Roadrunner Parkway, it actually
 31 has access to Roadrunner Parkway through 27-foot wide access
 32 easements that run through that eastern lot of the Golden Mesa
 33 Retirement facility.

34 Shown here in the aerial, the vacant property showing those two
 35 easements that run to the subject property there through the Golden Mesa
 36 Retirement Center to Roadrunner Parkway.

37 Now for the proposal, the developer is seeking now to develop the
 38 property for a new multifamily apartment complex. Currently the PUD has
 39 a limit to the maximum density of dwelling units on the property to 16
 40 dwelling units per acre allowing approximately about 100 dwelling units on
 41 the property. This amendment will increase the maximum density
 42 permitted to 24 dwelling units per property which is roughly, which is
 43 roughly about 150 dwelling units but the applicant is actually seeking to
 44 develop this apartment complex with 120 dwelling units. Included in this
 45 amendment the applicant seeking the approval to use what, what is
 46 defined as an off premise development identification sign for the new

1 apartment complex. The applicant has created his own standards for
2 these signs for him to be able to utilize. These types of signs are actually
3 not currently permitted under the current City of Las Cruces Sign Codes,
4 so with this amendment they are allowing themselves the capability to be
5 seen or found from public right-of-way on Roadrunner Parkway by placing
6 their development ID signs relatively in the same area where the Golden
7 Mesa Retirement facility has their signs now. Although their development
8 standards for the property shall follow R-3 multifamily medium density
9 zoning requirements, not including density of course since that is one of
10 their, their amendments and the Las Cruces Design Standards.

11 Here is a conceptual view of what that property would look like.
12 Property with buildings around the parking and driving aisles of the subject
13 property. Here are those PUD notes which stipulate not only the off
14 premise development identification signs, what they are, what they're
15 going to be used for and some standards maximum number, maximum
16 height, maximum size, where they'll be located, elimination requirements,
17 and so forth like that. Along with this when this PUD amendment went
18 through review there were a couple of departments who still had some
19 outstanding issues that were more directed towards the development of
20 the property. With that the applicant has added a, a couple of additional
21 notes to the PUD stipulating that a comprehensive drainage analysis shall
22 be required at the time of construction permitting and a traffic impact
23 analysis shall be required at the time of construction permitting, there we
24 go. I lost that word right there. But that's essentially been taken care of,
25 the concerns of those two departments in the City.

26 With this amendment code does require that the applicant provide a
27 public benefit for the City to not only ... to essentially help the balance of
28 the benefits to the community and to balance that out with the actual
29 interests of the applicant. The applicant has agreed to landscape the
30 median on Roadrunner Parkway that is found between the two entry
31 points of Golden Mesa Retirement facility. This landscaping requirement
32 of the median is typically required of new, new developments anyway, but
33 since this property actually, for properties adjacent to that right-of-way but
34 since this property does, is not actually physically adjacent to it, they are
35 volunteering as a benefit to actually landscape that median. That median
36 shall be required to be landscaped at the time of construction of the new
37 apartment complex. The proposed High Range PUD Concept Plan
38 Amendment is consistent with the goals and policies of Comprehensive
39 Plan 2040, the intent of the 2001 Zoning Code, and the standards of other
40 plans and codes of the City.

41 On October 1st, 2014 the DRC did review the proposed
42 amendment. They do review these types of items from an infrastructure,
43 utilities, and improvement requirements standpoint. After some minor
44 discussion at the DRC meeting, DRC did recommend approval without
45 conditions for the proposed High Range PUD Concept Plan and staff also
46 does recommend approval of the proposed concept plan amendment with

1 no conditions based on the findings found within your staff reports. With
2 that ladies and gentlemen your options are 1) to vote "yes" recommend, to
3 vote "yes" and approve the PUD as recommended by staff, Case PUD-14-
4 02; vote "yes" with conditions as deemed appropriate by the P&Z and
5 added to this PUD; vote "no" for Case PUD-14-02; or 4) vote to table and
6 postpone and direct staff and the applicant accordingly. The P&Z is a
7 recommending body for this Concept Plan Amendment to City Council.
8 Just for the record, staff did, well two points for the record, this
9 development did require or staff felt it met the requirements for early
10 notification requirements to adjacent property owners. The applicant went
11 ahead and did contact adjacent property owners letting them know about
12 the proposal and so forth like that so they did meet that early notification
13 requirement before coming forward to the Planning and Zoning
14 Commission. Additionally, though I would like to add that staff did receive
15 one phone call from a resident actually from within the Golden Mesa
16 facility and he did have a number of concerns with the new proposal and I
17 believe he is here tonight to state his concerns. I believe there are other
18 people here from the public who are willing to state their concerns as well,
19 but the applicant and his representative are here to answer any questions
20 you might have as well. And I stand for questions.

21
22 Crane: Thank you Mr. Ochoa. Questions for Mr. Ochoa Commissioners?
23 Commissioner Beard I think you had your light on first.

24
25 Beard: The sign, that went right over my head. What kind of a sign, I mean, how,
26 is that going to deviate greatly from what the code is on the sign, signage
27 or?

28
29 Ochoa: Mr. Chairman, Commissioner Beard. The difference being in the City of
30 Las Cruces currently under the sign code you are not allowed to advertise
31 your or to advertise something that's located on your property on a
32 different piece of property. The only real ones that are allowed to do that
33 are real estate signs, directional real estate signs and billboards
34 essentially. So since this type of sign that they're proposing is not defined,
35 excuse me, by our code, the amendment is to allow them to do so to allow
36 the sign on the adjacent property where the access points are.

37
38 Beard: Okay. And it would still meet all the codes then otherwise?

39
40 Ochoa: Mr. Chairman, Commissioner Beard. They actually set their own
41 standards and their own code for their signs since the City Sign Code
42 does not have regulations to regulate those signs, they set up their own
43 standards and their own signs in their notes.

44
45 Beard: So are we going to get to know what it is?
46

1 Ochoa: Yes sir, if you look at it under the PUD notes number six, that stipulates
2 essentially everything that is required of a sign when staff, City staff
3 reviews sign permits. We look at placement, we look at setbacks, we look
4 at maximum height, we look at maximum square footage, and we also
5 look at illumination as well. All those have been covered by the standards
6 as well as them setting their own standards by having to, they actually
7 have a, a, a sign agreement in place with the property owners of the
8 Golden Mesa Retirement facility for them to be able to place their signs on
9 their property so they'll have to follow those requirements as well on top of
10 the standards that were developed for them by the PUD Amendment.

11
12 Beard: And, and they have identified an approved property owner to put that sign
13 on?

14
15 Ochoa: I apologize, I didn't get that.

16
17 Beard: Well it's not on their property, right?

18
19 Ochoa: Mr. Chairman that is correct. Mr. Chairman, Commissioner Beard, that is
20 correct. The sign, that's what I'm saying, the, the sign, the agreement with
21 the adjacent property owner is to place their signs on their, on the ...

22
23 Beard: And they have agreed.

24
25 Ochoa: The adjacent property owner's property.

26
27 Beard: They know about it. Okay.

28
29 Crane: Commissioner Gordon.

30
31 Gordon: Adam I have several thoughts and concerns about this petition. Number
32 one, this is a simple request that perhaps could be made to the developer
33 in terms of landscaping the median. According to the aerial photo it shows
34 that you're only going to landscape the median that runs basically from the
35 point of egress from the Golden Mesa home down to some point that
36 doesn't quite extend the length of the property. There is a cut through and
37 then there's another median that starts, I don't know how much further
38 down before another cut through where there's an office building located
39 to the side of the property, but perhaps in order to make some continuity
40 and some beauty in front of Golden Mesa to continue the landscaping
41 down further. That you would have to discuss with the developer. I don't,
42 I'm not demanding it but I think it would look nice. That's number one.

43
44 Number two, I walked this property. I did a site visit and I'm just
45 wondering if there is going to be any type of buffer between the rear of
46 Golden Mesa and the front of the proposed apartments? Right now
there's nothing, there's just a slope of land. Are they planning to put up

1 some kind of trees, some kind of division of the property between Golden
2 Mesa and the proposed apartments? That would be my second question.

3 And my last question is, what I'm really very concerned about is the
4 amount of traffic that this proposed apartment house is going to generate.
5 Golden Mesa has a lot of ... basically all elderly citizens who are living
6 there, it's a retirement. I think it's an assisted retirement living facility and
7 I'm sure that a lot of people will perhaps when the weather's nice go out
8 for a walk and with the amount of traffic that's going to be going out either
9 one of these two easements which are just two roadways that go, that exit
10 the community, as to whether or not there's going to be some type of
11 traffic flow device, perhaps maybe speed bumps or road bumps,
12 something to slow down traffic from anybody coming out of the apartments
13 and exiting out through Golden Mesa to make sure that they're going slow
14 enough to avoid possibly hitting someone. So I don't know how that could
15 possibly be done but I think that is a primary concern that I have is the
16 amount of traffic. I know that here in New Mexico and in Las Cruces it is
17 the way of doing business here is that you do your traffic study when you
18 put in your building, request for building. I don't know how much traffic
19 this is going to generate. If it's going to be split, is it going to be the way
20 the traffic's going to be directed out from the apartments to exit both of
21 these easements or is there only going to be one easement, I can't quite
22 understand between the two. Oh, I'm sorry. Between the two whether or
23 not there is ... both roadways are being used or just one. It says an
24 easement not easements plural. So that, those three items I think are, are
25 what I'm looking to get some kind of an answer to.

26
27 Ochoa: Mr. Chairman, Commissioner Gordon. Those first three points that you
28 brought up I'll let the applicant's representative touch base on those for
29 you. As for the access easement, it, it is singular because it's actually one
30 complete loop, it's a 27-foot loop that runs essentially from this entry point
31 all the way down into the subject property and then loops back out to this
32 access point here. So it's two access points and one big loop of an
33 access easement. So essentially residents at that new apartment
34 complex would have the capability of utilizing both exits and entrances on
35 Golden Mesa, on the Golden Mesa facilities retirement, retirement
36 facilities property, there we go.

37
38 Gordon: How about the division between the two properties? If that roadway's
39 going to cut across the property line there will be no way to divide these
40 two properties with maybe landscaping, trees, or something to give some
41 privacy to both parties.

42
43 Ochoa: Mr. Chairman, Commissioner Gordon. The only things, the only item that
44 is actually being cut through the Golden Mesa would be the actual road here.
45 There will still be, just going back to the conceptual, it would be the roads.
46 The other areas would be open for development and the applicant could

1 potentially answer any questions that might, you might have when it
2 comes to that. Just to let you know they are required to landscape the
3 subject property a minimum of 15% of the entire site minus the building
4 gross floor area. So they would have to provide 15% landscaping and
5 then the required number of trees, shrubs, and so on and so forth like that
6 and some of that could potentially be utilized as a buffer. I don't know
7 whether they have any plans for any walls or fences as of now, but I'll
8 leave that up to the applicants to answer those questions for you sir.

9
10 Gordon: Again, has there, hasn't been any thought given to speed control?

11
12 Ochoa: Again Mr. Chairman, Commissioner Gordon, I believe the applicant can
13 answer that for you.

14
15 Gordon: Okay. Thank you.

16
17 Crane: Commissioner Ferrary.

18
19 Ferrary: I have the same concerns. My mother-in-law used to live at Golden Mesa
20 and there are a lot of people who like to walk outside to get exercise, there
21 is a lot of people in those casitas that are outside of the main building area
22 that have to cross over for each of their meals. And if we have, and this
23 isn't just a flat, this goes up a huge hill and people, just even the traffic for,
24 that's not very much because most people don't drive that live there, but
25 even the traffic of visitors and people coming up and down and in and out
26 of that area that's down at the bottom of the hill, can be really difficult and
27 you have to be really careful. So if we have 120 to 150 possible residents
28 back here who are probably of a younger set and going in and out quite a
29 bit, I can see them also instead of going to the south exit where you have
30 to go south and there's not a cut out to be able to go north, they're going
31 to be going from the southern end through the parking area where it's very
32 narrow, no sidewalks, and then up and out of that big hill again. So there
33 can be congestion coming from both sides where it forks and then goes
34 out to Roadrunner that you know I just can't see how we can approve this
35 without a traffic analysis.

36
37 Crane: Yes I had a similar reaction myself thinking of 120 apartments, 240 cars
38 trying to get out of there during let's say an hour and a half rush hour with
39 people who are not used to having traffic of any significance running
40 between the small apartment houses, the casitas and the main building,
41 walking across that street with this, that density of traffic flow. I realize this
42 may be early times to bring it up but it looks to me to be a potential
43 problem. Perhaps we can hear from the applicant later about this. Any
44 other questions for Mr. Ochoa. Mr. Clifton.

45

1 Clifton: Mr. Chair, Mr. Ochoa, during the review process and at the DRC level was
2 it ever discussed, I think that's Copper Ridge (*Quail Ridge Apartments*) to
3 the northwest, was it every discussed to share access with them. Cause I
4 actually remember this project when it came in through the City and that,
5 yeah that was clearly Phase 2 of the retirement and that's why it was
6 subdivided at the time for future plans. And at the time I don't think it was
7 anticipated that an apartment complex would go in there. But were there
8 discussions for shared access through that additional multifamily area?
9

10 Ochoa: Mr. Chairman, Commissioner Clifton. No, that wasn't. That's something
11 we can definitely discuss with the applicant and the applicant's
12 representative now, whether that is a viable access point for them and if
13 that's something they could potentially look into as well.
14

15 Crane: Any other Commissioner have questions for Mr. Ochoa? In that case
16 thank you sir. I, to the public, I may have forgotten to bring up the process
17 we have for our debates and you've probably seen what it is from the
18 discussion about the Arroyo Plan, but as you see the Community
19 Development gives it's presentation, we ask questions, then we open it up
20 to the applicant and we may ask questions of the applicant and then finally
21 we open it up to the public, if the public wishes to speak. And we may
22 have questions of them. And when everybody's had their say, we close
23 the matter to further discussion and we take a vote. Does the applicant
24 wish to address the Commission? Mr. Scanlon. Let's consider that you're
25 still sworn in, unless of course you've done something bad in the
26 meantime.
27

28 Scanlon: Thank you Mr. Chairman, Members of the Commission. I don't have a
29 whole lot to add to Adam's presentation. As you can see the, the property
30 was intended to be Phase 2 of Golden Mesa. Golden Mesa is not going to
31 do Phase 2 so they offered the property for sale and my client purchased
32 it. You can tell by looking at the apartment complex next door relative to
33 the density of development on Golden Mesa, there is operationally a
34 considerable difference between the density requirement for a, an
35 assisted living center and an apartment project to make them work
36 correctly. We do have two points of access into the property, here and
37 here and we will provide a loop situation where there'll be complete cross
38 flow of traffic. We will work and approach with Golden Mesa at the time of
39 design methods whereby we might be able to calm the flow of traffic within
40 the property. Now on, in ours we have designed it so that it's not like City
41 streets. It's like driving through a parking lot, so you go, you've got to be
42 really slow in, in this area. But as I mentioned we, we do have easements
43 from Golden Mesa for both the roads and for the signs.
44

45 To answer the question about the signs, the, we're going to comply
46 with all of the, all of the Sign Code requirements except for the provision
that, that the sign be on premise. And so we, we agreed to that during

1 the, during the staff review and the, and the DRC meetings. I don't know if
2 there is a possibility to get access in to this area for another, for another
3 point of access through this development. We would, we could approach
4 these people and ask if they would be amenable to that. They may or
5 may not be, we don't know. The character of this development is going to
6 be very similar to theirs, probably less dense though, that's pretty high-
7 density development in that area. And as we were asked by the City staff
8 to, for public benefit to landscape the median, we've agreed to do that.
9 There will be planting and there will be trees planted between Golden
10 Mesa and the apartment project as part of our landscaping for the project.
11 So were there any other questions that I have failed to answer?
12

13 Gordon: Landscaping in the median.

14 Crane: Commissioners?

15 Gordon: The landscaping of the median.

16 Scanlon: I'm sorry.

17 Crane: Commissioner Gordon.

18 Gordon: The landscaping of the median, I'm sorry.

19 Scanlon: Yes. Yes we've agreed to landscape the median in front of the, the, in
20 front of the, the Golden Mesa, between the two access points. Here and
21 here I guess. There's a long median in there I think it's some 300-foot
22 long.
23

24 Crane: Any other Commissioner have question for Mr. Scanlon? Mr. Clifton.

25 Clifton: Mr. Chair, Ted, did you guys, have you guys thought about possibly gating
26 both entrances into this? I mean that would certainly slow traffic down and
27 their, the other complexes have gates.
28

29 Scanlon: That's a possibility. Certainly we would discuss that. For sure. The, the
30 problem, it's a balancing act when you come to trying to keep traffic slow
31 and still not inhibit the ability for emergency responders to enter and exit
32 the property's too, so we will sit down in the design of this thing and, and
33 meet with the planners, with the traffic engineering, and with fire to make
34 certain that what we have designed is going to work for everybody. So it's
35 a normal course of business when you do a project like this so.
36

37 Crane: Commissioner Ferrary.
38
39
40
41
42
43
44
45

1 Ferrary: I think the idea of having like speed bumps or something that would slow
2 traffic would be not good for the ambulances that arrive there quite often.
3
4 Scanlon: They, they get in there a lot.
5
6 Ferrary: Right and having gated ...
7
8 Scanlon: And the fire trucks.
9
10 Ferrary: I don't think they do much either.
11
12 Scanlon: The fire trucks always proceed or arrive at the same time as the
13 ambulances, so there's a lot of fire trucks in and out of there.
14
15 Ferrary: Right.
16
17 Scanlon: But we'll work with fire and make sure that we have some, a design that
18 will satisfy their ability to respond not only to the Golden Mesa facility but
19 to the apartments and come up with a design that'll work for everyone.
20
21 Clifton: And actually when I was ...
22
23 Crane: Commissioner Clifton.
24
25 Clifton: When I was talking about the gates I meant on the actual property line, not
26 at the entrance into the facility. I mean it's, it's blocked now, essentially
27 there's no access in there. So that we would be inconsequential to the
28 facility for fire and emergency access if it was gated at the property line.
29
30 Scanlon: You're talking about ...
31
32 Clifton: Yes, exactly.
33
34 Scanlon: Here and over here.
35
36 Clifton: Yeah. Exactly.
37
38 Scanlon: Okay.
39
40 Clifton: And then one last question, has your client met with any of the residents of
41 Golden Mesa, cause I'm sure there's a lot of people in there that had
42 assumed there was Phase 2 going in there and so they're probably
43 surprise ...
44
45 Scanlon: We sent out an early notification. And what an early notification is, is an
46 invitation for any interested parties on adjoining properties to request from

1 us a public meeting or a public information meeting, anything like that and
2 we got no such request. We got no responses to our early notification on
3 this project.
4
5 Crane: Commissioner Ferrary.
6
7 Ferrary: Did that notification go to the Golden Mesa managers or to all their
8 residents?
9
10 Scanlon: I'm not sure. My client sent the notification out so I'm not sure how it, how
11 that, that works when you have a facility like this.
12
13 Crane: Mr. Ochoa.
14
15 Ochoa: Mr. Chairman, Commissioner Ferrary. Just to answer that question for
16 you. By code what's required for early notification is to notify the property
17 owners within 500-feet of that subject property. So the property owners
18 were made aware of it.
19
20 UNKNOWN: *(inaudible) (person not at the mike)*.
21
22 Ochoa: Correct.
23
24 Crane: Question about the gating. It seems like a good idea except it's not going
25 to slow down traffic going through the Golden Mesa Property is it?
26
27 Scanlon: No but I, I think we can find some methods. We, we, we're going to
28 seriously work with the Golden Mesa people and, and with the City staff
29 and see if there's some, some methods that we can use to delineate those
30 *(inaudible)*.
31
32 Crane: I think speed bumps, they can be a hazard to people walking. I know a
33 couple of people have taken a tumble on them even if you paint them
34 yellow. I think traffic's got to be something addressed sooner rather than
35 later.
36
37 Scanlon: There are some pretty creative ways of, of calming traffic so to speak in, in
38 areas like this that, that we'll certainly entertain.
39
40 Crane: Commissioner Ferrary.
41
42 Ferrary: I think it's not so much how fast they're going, but the volume that is of
43 great concern. Because you know there, with that many homes and at
44 least probably two people per unit that, that's quite a bit of traffic going in a
45 very close, they're not wide streets there's no sidewalks, and there are
46 people who are out walking a lot.

1
2 Scanlon: Sure. Well we'll, we'll work on those issues, there's always solutions.
3
4 Crane: Anything else from Mr. Scanlon? Okay thank you Mr. Scanlon.
5
6 Scanlon: Thank you.
7
8 Crane: May I see a show of hands from the number of members from the public
9 who would like to speak? One. Only one. Very well. Two. Okay. Can
10 you do it in three minutes?
11
12 Aldridge: I'd probably take five.
13
14 Crane: Okay five. Okay. Tell us who you are please.
15
16 Aldridge: My name is John Aldridge.
17
18 Crane: Mr. Aldridge do you swear or affirm that the testimony you are about to
19 give is the truth and nothing but the truth under penalty of law?
20
21 Aldridge: Yes sir.
22
23 Crane: Go ahead please.
24
25 Aldridge: All right I'm a resident of Golden Mesa and first of all from what my ... I
26 come here with two of my fellow residents and they are not physically able
27 to maneuver the steps or else they may want to talk too. One of them told
28 me that this has been gone through about eight to ten years ago and that
29 the City denied the request for expansion of that property. That's on a
30 historical basis. In January of this year I heard that something was going
31 to be built back there and Golden Mesa people told me and it was the
32 rumor floating around that it was an upscale retirement community. It's
33 not. We, we formed a small committee and called all around everywhere
34 and nobody knew anything about a proposed building, however there
35 were trucks there with the developers name on it, that's what, that's what
36 alerted us in the first place. In, then in fact it got to the point where, we
37 were told that because this upscale community was going to have a lot of
38 good facilities we would be able to use their gym and use their clubhouse
39 and all this sort of stuff. But then it kind of just, just faded. I, I noticed the
40 sign on the, on the street this morning. I was told about it oh maybe three
41 or four days ago but it's hard for me to get up to that's, that portion of the,
42 of the property. And the big problem is that in Golden Mesa those of us
43 who live there. I'm one of the younger, younger people. I'm 76 years old
44 and I'm rather mobile. A lot of the people there are over 80 years old. A
45 lot of them are very infirm, they have walkers. I've got a walker myself
46 which I don't use too often but only in long distances. And a lot of people

1 are in the electric scooters and chairs and they use the parking lot to get
2 from their cottage ... I live in one of the cottages, to get from their cottage
3 to meals and a lot of the foot traffic is the people going to meals and a lot
4 of those are infirm. We've got a lot of people who have got very bad
5 eyesight, they're blind or at least almost legally blind. There are other
6 ones who have hearing problems. There are other ones who are in the
7 first stages of dementia, they don't exactly, you know they know, you can
8 talk to them but they're not quite all there and they may not look left and
9 right when crossing a street. I, to my mind if there's 120 units with two
10 cars in each unit, maybe a motorcycle or two and I can just picture one of
11 my, my friends being, walking over to, to dinner and being cracked up by
12 a, by a car or a motorcycle. The, the street as was mentioned are quite
13 narrow anyway. I don't, I, I agree with people say that speed bumps won't
14 help, in fact they'll hinder for the poor people why are trying to maneuver
15 their electric, their electric wheelchairs. I cannot see how, all I can, all I
16 can vision is a, a, mass conglomeration of, of, of cars at eight o'clock in
17 the morning, during the morning rush hour and at the evening rush hour.
18 It's hard enough to get onto Roadrunner Parkway now because that's
19 becoming a heck of a lot more, I mean a lot more traffic. And that I think is
20 just about it sir. And I would like to invite you know any of, any of the
21 Commissioners to come out and take a look and let me walk them around
22 the, the facility and show them the, the widths of the road, introduce them
23 to some of our, our, our residents because when we're talking about
24 Golden Mesa we're not talking about a regular facility, we're talking a
25 people who are older and we just don't have the capacity that younger
26 people have to, to adjust and especially traffic. I mean I, I really really
27 believe that someone would, would get killed and you know they talk
28 about grandma under the bus. This is really, really dangerous.

29
30 Crane: Thank you Mr. Aldridge.

31
32 Aldridge: Thank you.

33
34 Crane: Somebody else? The lady in red.

35
36 Ochoa: Mr. Chairman if I may interject. I do have a wireless microphone so if we
37 do have a ... members of the public who can't walk up to the podium, I
38 can certainly make this available to them.

39
40 Crane: Did you hear that members of the public? Mr. Ochoa has a wireless mike
41 if somebody'd like to use it. Tell us who you are please.

42
43 Krauth: My name is Sara Krauth and I live at Golden Mesa and have for about 11
44 years now. The point that I ...

45
46 Crane: Let me ...

1
2 Krauth: I swear to tell the truth forever. Is that long enough?
3
4 Crane: Call, we'll call that a yes. Thank you.
5
6 Krauth: Okay. The point I want to make is we said that this, this was investigated
7 several years ago when another company wanted to buy the property and
8 they did. We came to the City Council at that time. I was on that, on that
9 board that presented it. We also found that the two streets that you are
10 eluding to, entrance and exit, they are not 50-feet wide, they are not a
11 standard street for the City of Las Cruces residential area, although you're
12 expecting to put additional traffic through that street with people like my
13 husband that recently died being partially blind, driving his scooter across
14 that street with people coming and going. I implore you to consider what
15 you're doing and I'm sorry if Mr. Curry is invested, but, money in that, but
16 that was a done deal years ago and he shouldn't bring it up now.
17
18 Crane: Thank you ma'am. Anybody else from the public? Are you on your way
19 down her ma'am? Tell us who you are.
20
21 Stryker: My name is Sherri Stryker. I am the manager of Golden Mesa.
22
23 Crane: Could you speak a little more into the mike please?
24
25 Stryker: My name is Sherri Stryker. I am the manager of Golden Mesa.
26
27 Crane: Ms. Stryker do you swear or affirm that the testimony you are about to
28 give is the truth and nothing but the truth under penalty of law?
29
30 Stryker: I do.
31
32 Crane: Go on please.
33
34 Stryker: First I want to let Mr. Curry and them know that I did call and asked them
35 to come out and speak to our residents. I was told by a representative at
36 his office they had nothing to tell us yet. And when they did they would
37 call us. We've not heard from them. Sorry (*turned to Mr. Curry and said*
38 *Sorry*). I am concerned for my residents. I'm also concerned for my
39 business. I have been told by 50 of my residents they will move if this
40 happens. They're concerned for their safety. They have a right to be.
41 Please consider it. I know a few of you have been out there, so you know
42 what it's like. I'm sorry Representative Ferrary was just there speaking
43 with one of our residents who is blind. He walks around the entire
44 community. He goes swimming. He's on the backside of that community
45 where they're going to be building. They're not building 50-feet away from
46 us, they're building at the back end of our pool. So it is a concern for us,

1 we're concerned for our residents' safety and we want them to make sure
2 they're going to be taken care of them the way we do. Thank you.
3
4 Crane: Thank you Ms. Stryker. All right, anybody else from the public? In that
5 case I will close the meeting to further input from the public.
6 Commissioners any comment before we take a vote? In that case ...
7 Commissioner Ferrary go ahead.
8
9 Ferrary: I think it's critical that we consider if we approve this, in the Development
10 Review Committee that there is also an insinuation that if they could
11 manage their ... architect could design it where they could get in 150 they
12 would do so, so if we even assume that they were just going to go to 120
13 there's a possibility of 30 more units and I'm concerned that even you
14 know at 100 units which they can build without the PUD that it would still
15 be very dangerous for this citizens or the residents at Golden Mesa.
16
17 Crane: Thank you. Commissioner Gordon.
18
19 Gordon: I would like to make a motion to table this until we get further information.
20
21 Crane: Pending what sir? Table it till?
22
23 Gordon: Further information. Further information.
24
25 Crane: As to what exactly?
26
27 Gordon: Traffic, some of the things that they're planning doing that will help to take
28 care of our concerns as to what we brought up this evening.
29
30 Crane: Is there a second to Mr. Gordon's motion to table this matter?
31
32 Ferrary: I table. I mean I second.
33
34 Crane: Seconded by Ms. Ferrary. Any discussion?
35
36 Ferrary: I would like to just, in tabling that, getting more information besides a
37 traffic analysis, if there could be an alternative roadway so that it would not
38 impede with the residents.
39
40 Crane: I will make the comment as a, as a Commissioner that I think there's a
41 very ... that means that Community Development wants to go home.
42 There's a great incompatibility between this 120-apartment development
43 for general population people. I see that, I see that these are ... I could be
44 there, my children could be there, any body, any member of the
45 community who can rent apartments could be living there. An
46 incompatibility between your average citizen and the needs of the people

1 who are going to be, have priority on these small streets with the hills and
2 the curves and the walkers that must be addressed before this goes
3 forward. Anyone else want to comment before we vote? Commissioner
4 Ferrary.
5
6 Ferrary: I forgot about mentioning the lighting. There is no lighting along the, the
7 streets either.
8
9 Crane: Good point. Okay. So lighting is also an issue. So, as to roll call vote
10 starting with Mr. Clifton.
11
12 Clifton: I vote aye.
13
14 Crane: Mr. Gordon.
15
16 Gordon: I vote aye.
17
18 Crane: Mr. Stowe.
19
20 Stowe: Aye, aye based on findings and discussion.
21
22 Crane: I'm sorry was that an "Aye" sir?
23
24 Stowe: Aye.
25
26 Crane: Ms. Ferrary.
27
28 Ferrary: I vote aye for a site visit, discussions, and findings.
29
30 Crane: Mr. Beard.
31
32 Beard: I vote aye. I just ... Golden Mesa has to agree upon what's going to
33 happen here. I don't know, I'm not sure that we understand that. And this
34 new development can't come into this and start using somebody else's
35 property without having an agreement. So I'm not sure ... I think we
36 should know what that agreement is. And so I vote aye.
37
38 Crane: *(inaudible)* They apparently have an easement but that stands from the
39 previous arrangements, nevertheless ...
40
41 Beard: Right, we didn't, didn't hear that.
42
43 Crane: That's part of the package. And Chair votes aye for findings, discussion,
44 and site visit. I guess I will rescind the word findings, but just discussion
45 and site visit. So that was six to zero. Thank you.
46

1 Ochoa: Mr. Chairman.

2

3 Crane: Mr. Ochoa.

4

5 Ochoa: Sorry to interject. The applicant does want to know and for point of
6 clarification also, will this, is this being tabled to a date specific or just
7 indefinitely sir?

8

9 Crane: I think it will have to depend on the applicants getting back in touch with
10 Community Development when he has something, someway to meet our
11 needs. Thank you.

12

13 **VII. OTHER BUSINESS - NONE**

14

15 Crane: Any other business Mr. Ochoa?

16

17 Ochoa: Mr. Chairman, no there is no other business tonight.

18

19 **VIII. PUBLIC PARTICIPATION**

20

21 Crane: Any further public participation?

22

23 **IX. STAFF ANNOUNCEMENTS**

24

25 1. National Community Planning Month Proclamation

26

27 Crane: Staff announcements. You're congratulating us on being Community
28 Planners?

29

30 Ochoa: Yes sir. You all believe, I believe you all received a copy of the, the
31 proclamation made by City Council for a National Community Planning
32 Month, just to give you all kind of a heads up and a pat on the back, you
33 are part of it as well and the staff wanted to thank you all for your roles
34 that you play assisting us in this process and look forward to many more
35 cases like those we had tonight to continue those processes. Thank you.

36

37 Crane: No 10% off at Denny's or anything?

38

39 Ochoa: It's not that big unfortunately sir.

40

41 Crane: But this is frame-able?

42

43 Ochoa: It sure is.

44

45 Crane: Okay.

46

1 Ochoa: Ours is.

2

3 Crane: Thank you.

4

5 **X. ADJOURNMENT**

6

7 Crane: In that case meeting is adjourned at 9:26.

8

9

10

11

12

13 _____
Chairperson

14

15

DRAFT