

City of Las Cruces
PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 18 Resolution# 10-083 Council District: 1

For Meeting of September 8, 2009

(Adoption Date)

TITLE: A RESOLUTION TO APPEAL THE APPROVAL DECISION OF THE PLANNING AND ZONING COMMISSION FOR A THIRTY-FIVE (35) FOOT VARIANCE FROM THE EIGHTY-FIVE (85) FOOT RIGHT-OF-WAY REQUIREMENT ALLOWING FOR THE PLACEMENT OF NINE PORTABLE BUILDINGS AT A PRIVATE SCHOOL LOCATED AT 1321 N. MIRANDA STREET. THE SUBJECT PROPERTY CONSISTS OF 11.07 +/- ACRES THAT IS SHARED WITH HOLY CROSS CATHOLIC CHURCH AND LAS CRUCES CATHOLIC SCHOOL. THE SUBJECT PROPERTY IS ZONED R-1A (SINGLE-FAMILY MEDIUM DENSITY). SUBMITTED BY AN AD HOC ASSOCIATION OF NEIGHBORS NEARBY TO THE ARMIJO LATERAL AND THE OLD VALENCIA PROPERTY (A1695 A-1).

PURPOSE(S) OF ACTION: Reversal of the Planning and Zoning Commission (P&Z) decision from June 30, 2009, granting conditional approval for a thirty-five (35) foot variance from the eighty-five (85) foot Right-of-Way requirement for a private school expansion. The variance authorizes the school to be accessed from North Miranda Street, an existing roadway built within fifty (50) to fifty-five (55) feet of dedicated Right-of-Way, having up to thirty-five (35) feet less Right-of-Way width than Collector status as required by the 2001 Zoning Code, as amended. The variance approval will facilitate the permitting and placement of nine (9) portable buildings having a combined gross floor of 8,400 square feet on the subject properties.

Name of Drafter: Gary Hembree		Department: Community Development		Phone: 528-3120	
Department	Signature	Phone	Department	Signature	Phone
Community Development		528-3066	Budget		541-2107
			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

P&Z Action

On June 30, 2009, P&Z heard variance case A1695, and by a vote of 5-2-0, approved the variance to the minimum Right-of-Way access to a school as required by the 2001 Zoning Code, as amended; N. Miranda Street, the primary access for Las Cruces Catholic School, has an existing Right-of-Way of fifty (50) to fifty-five (55) feet, up to thirty-five (35) less than the eighty-five feet (85) required by the current zoning code. The P&Z attached three conditions to this variance approval:

- 1) The approval of this variance is limited to the expansion of 9 portable buildings having a combined gross floor area of 8,400 square feet. Any future expansion of the school site or church shall require the submittal and approval of a zone change to Planned Unit Development (PUD) as outlined within the 2001 Zoning Code, as amended.
- 2) The applicants are required prior to the issuance of a building permit to submit a landscape (buffering) plan that will require administrative approval by staff. The applicant will be required to create a strong impression of visual separation. In the event administrative approval is not granted the applicant will be required to comply with Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended, regarding screening (buffering) for schools adjacent to residential zoning districts.
- 3) The high school is limited to fifty (50) students.

In summary, the conditions placed upon this variance by the P&Z are in response to the following concerns expressed by the Commission (see Attachment "C" for verbatim transcripts of the June 30, 2009 meeting). These are addressed in the order of the conditions as presented:

- 1) The Commission was concerned that future expansion of the school or church facility would need to be done in a manner sensitive to the concerns of the neighborhood, and by requiring a Planned Unit Development (PUD) for any further expansion, a systematic facilities expansion plan would need to be developed, vetted before the neighborhood, and incorporated into a PUD specific to the needs and constraints of the site and surrounding neighborhood.
- 2) The Commission endorsed this condition as recommended by staff to ensure that those portions of the subject property that border residential districts are adequately buffered from the activities of the church and private school, consistent with the requirements of the 2001 Zoning Code, as amended.
- 3) The Commission was concerned about the growth of the high school and the affects that may have on the surrounding neighborhood, including increased traffic. Further, it was the general consensus of the Commission that future growth beyond 50 students would be better accommodated at a new school site, given the location and constraints of the current school campus.

The P&Z's June 30, 2009 action was subsequent to the original May 26, 2009 hearing of this case by the P&Z; at the May 26, 2009 meeting, the case was tabled to the June 23, 2009 P&Z meeting to allow staff to provide the Commissioners the full text of the Traffic Impact Analysis (TIA) prepared in support of this variance by the applicant. The June 23, 2009 meeting was cancelled due to lack of quorum and was rescheduled as a new business item for a special meeting of the P&Z on June 30, 2009. *(A more detailed discussion of the proceedings of the P&Z Commission with respect to this case is provided in the attached Appendix).*

The Appeal

The appellants for this case, an Ad hoc association of neighbors in close proximity to the private school, generally those residents near the Armijo Lateral and the old Valencia property, filed an appeal on July 15, 2009, seeking the reversal of the Planning and Zoning Commissions' (P&Z) decision, rendered on June 30, 2009. At that meeting the P&Z conditionally approved a thirty-five (35) foot variance from the eighty-five (85) foot Right-of-Way requirement in order to allow a planned expansion of a private school.

If the P&Z decision is reversed by City Council, the private school will be required to remove the nine (9) portable buildings from 1321 N. Miranda Street. The three (3) permitted and installed portable buildings will remain as they are permitted under the one time 10% square footage expansion allowed for non-conforming uses (discussed in more detail later in this report). Should the City Council endorse the P&Z decision and deny the appeal, the school will be allowed to permit and install the remaining nine (9) portable buildings to be used for classrooms and related activities.

The appellants' appeal is based on (but not limited to-taken verbatim from appeal letter): 1) Denial of due process by City staff and the P&Z Commissioners regarding the variance case; 2) Interference with and circumvention of U.S. Postal Service Regulations by an unnamed party; 3) Failure to clearly identify or articulate the exact variance request by an unnamed party; 4) Failure to provide an adequate site plan as required by zoning regulations by an unnamed party; 5) Failure of the applicant to prove a reasonable "hardship" and explore possible alternatives regarding the variance request; 6) Failure to adequately design, execute and describe a traffic study by City staff; 7) A history of expansion in the number and types of uses of the property such that the actions occasioning Case A1695 may be described as "encroachment" by the Applicant and the Owner of the property upon surrounding residential neighborhood; and, 8) A continuing history of unacceptable behavior on the part of the applicant (Las Cruces Catholic Schools) and the property owner (Arch Diocese of Las Cruces).

Staff Response to the Appeal Elements

- 1) Staff and the P&Z followed all pertinent City of Las Cruces codes requirements and adhered to typical procedural guidelines for this variance case, including, but not necessarily limited to: addressing information requests from concerned citizens, following notice requirements, providing access to City records, and, accepting public input into the P&Z's meeting record through written and verbal testimony.
- 2) As concerns the interference with and the circumvention of U.S. Postal Service Regulations, letters to the P&Z Commissioners regarding the case were marked for delivery to the Community Development Department; it is customary for staff to open such letters and copy for the record any contents before delivery by staff to the Commissioners. In one instance, comment letters from a neighborhood resident were addressed to each Commissioner using the Community Development Department's mailing address; it appears that a single Commissioner's letter was opened and copied and the other letters remained unopened. This was an error on the part of staff.
- 3) The variance is, and has always been, a numerical deviation from the required Right-of-Way necessary for access to a school. This is articulated in the public notice, the notices

mailed to surrounding properties, and in the staff report(s) to the P&Z. There may have been some confusion regarding the first notice to property owners in the area for the May 26, 2009 P&Z hearing; the notice was revised for the June 30, 2009 P&Z hearing, as this item was considered a "new business" item and, accordingly, the subsequent notice was revised to clarify and to reinforce the basis of the variance being considered.

- 4) A site plan, indicating placement of the proposed portable buildings, is required prior to the issuance of installation permits, but not necessarily with variances of this type.
- 5) The applicant stated the context of the hardship faced by the school relative to the change in zoning requirements, and, specifically the imposed requirement of access to the school by a Collector status roadway or higher with the adoption of the 2001 Zoning Code, as amended. Determining the condition of hardship, based upon evidence presented, is at the discretion of the P&Z, consistent with the provisions of the 2001 Zoning Code, as amended.
- 6) The Traffic Impact Report, prepared by a registered professional engineer, using industry standard practices, was subsequently reviewed and approved by the City's Traffic Engineer.
- 7) The subject school and church maintain full compliance with City codes and ordinances until such time as the 2001 Zoning Code, as amended, was adopted and required the minimum of eighty-five feet of Right-of-Way access to the school. Upon adoption of the 2001 Zoning Code, as amended, the school became an existing non-conforming use due to the fifty (50) to fifty-five (55) foot Right-of-Way for N. Miranda Street.
- 8) The subject school and church have operated at the site for many years. There have been, according to testimony presented to the P&Z, ongoing issues of concern regarding the relationship between the church/school and the surrounding neighborhood; however, the justification for granting of the subject variance is specific to the provisions of the 2001 Zoning Code, as amended, and the application of these provisions by the P&Z in determining their decision.

Site Context/History

Please note that this is a summary of the case background information related to the school's expansion history, zoning compliance, and site assessment. Additional information is provided in the attached Appendix.

The private school (Las Cruces Catholic School) has been operating at the subject site at 1321 N. Miranda Street since 1962 and was an allowed land use within residential areas pursuant to the (then current) 1955 Zoning Code. The school maintained compliance with updated 1981 Zoning Code requirements through several site improvements, expansions and building modifications that were permitted under Special Use Permits granted for the site. However, with the adoption of the 2001 Zoning Code, as amended, the private school became an existing non-conforming use as the private school is accessed by N. Miranda Street that is less than Collector status (minimum of 85 feet of Right-of-Way). N. Miranda Street has a Right-of-Way that varies from fifty (50) to fifty-five (55) feet. (See Appendix for additional detail regarding expansion and zoning history for the subject site).

In early January 2009, Las Cruces Catholic School placed twelve (12) portable buildings having a combined gross floor area of 11,760 square feet on the western portion of the subject properties. The placement of the twelve (12) portable buildings was prior to the issuance of any building permits or zoning approval. The private school is considered to be a non-conforming land use pursuant to Article 6, Section 38-53 (Conditional Uses) of the 2001 Zoning Code, as amended, that requires schools to be located on a roadways having a minimum Right-of-Way of 85 feet (dimensions of a Collector).

The 2001 Zoning Code, as amended, Article VII Section 38-73, allows for non-conforming non-residential development (i.e. private school) to be allowed a one time expansion up to 10% of the total gross floor area of all buildings on the property. According to the Dona Ana County Tax Assessor Records the subject properties have a combined gross floor area of 39,110 square feet. Therefore, Las Cruces Catholic School applied for a one time non-conforming exception to allow the permitting of three (3) of the twelve (12) portable buildings on the subject properties. The three (3) portables buildings that have the ability to be permitted have a combined gross floor area of 3,360 square feet.

On April 03, 2009 Las Cruces Catholic School applied for a thirty-five (35) variance from the eight-five (85) foot minimum Right-of-Way requirement. The granting of the variance would facilitate the continued placement and issuance of building permits for the remaining nine (9) portable buildings.

Traffic Impact Analysis (TIA)

Neighborhood residents that opposed the variance stated that traffic in the area had increased over the past ten (10) years creating congestion in the neighborhood, particular on N. Miranda Street, and at intersections along N. Miranda Street as it crosses local streets in the area. primarily at the intersections, but also along N. Miranda Street. Furthermore, some of the traffic concerns were associated to special events and/or religious events occurring at Holy Cross Catholic Church.

The applicant submitted a traffic impact analysis (TIA) for the private school and the church. Holy Cross Catholic Church serves 1600 registered families having anticipated growth of 30% over the next 20 years. Las Cruces Catholic School has a current enrollment of approximately 300 students. The installation of the 12 portable buildings would accommodate the growing schools population including up to eighty additional (80) students in the future.

The City's Traffic Engineer reviewed and approved the applicant's Traffic Impact Analysis (TIA) that demonstrates that Miranda Street works sufficiently, Level of Service (LOS) A, which is the best LOS possible. Level of Service A implies very reasonable access, very few delays and maneuvering through traffic should be reasonable. The TIA shows that the intersections in the surrounding area will operate at a sufficient LOS during peak times, even forecasted out till 2029.

The following are verbatim excerpts from the Traffic Impact Analysis provided by the applicant, prepared by a licensed professional engineer, and approved by the City's Traffic Engineer on May 13, 2009. Page citations are given for each excerpt from Traffic Report, Holy Cross Church and Holy Cross School, April 3, 2009, REVISED May 11, 2009. Prepared by Jerry B. Paz, P.E.

“The Holy Cross Campus is part of the broader LCCS, incorporated as a private non-profit corporation. Holy Cross school offers pre-K, kindergarten, elementary grades, and middle school grades. In 2007, Holy Cross added a 9th grade that started with 3 students. In 2008, those students moved up to 10th grade and the 9th grade class saw six additional students enrolled. Holy Cross School includes approximately 295 total student population that utilizes the two existing school buildings.” (Page 2)

“Normal school hours are between 8:00 AM and 3:00 PM Monday through Friday. The school allows parents to drop off children between 7:00 AM and 6:00 PM if needed. The school calendar is identical to Las Cruces Public Schools, with holidays off for Christmas (1 month) and summer vacation (3 months).” (Page 2)

“The Las Cruces Catholic School continues to grow 1% to 3% every year. The growth has been addition to high school students that were added over the past two years. The expansion of the site to accommodate 12 portable buildings will allow for the high school and Pre-K to be expanded.” (Page 3)

“The addition of the high school students is only a temporary situation for the campus. With the small enrollment at present, it makes economic sense to utilize the existing facilities as well as the same faculty and staff as the middle school. By sharing resources, the tuition is affordable for the few students who currently attend. As such time that the high school reaches 60 to 80 students, it will necessitate the relocation of the high school to a permanent location.” (Page 3)

“The site has its peak hour during Sunday masses. Under normal circumstances, this is not a problem at the surrounding City traffic grid is underutilized during Sunday traffic. However, since Holy Cross is on a residential street surrounded by residential streets, it should be checked to verify the surrounding streets to accommodate traffic during the Sunday masses. The school is more likely to have an impact on surrounding streets, as its 8:00 AM opening school bell is similar to normal AM peak hour traffic.” (Page 5, Existing Traffic Patterns as an introduction to the Methodology section).

“Based on traffic evaluation contained herein, there does not appear to be any significant impact to the operation and function of any local residential streets evaluated. In most instances, the demand was significantly less than the capacity of the streets. The Ethel/Miranda intersection was the only Street that is expected to expand capacity issues, and only after 20 years concert of growth projects are factored in, but they still function above the LOS C required by the city of Las Cruces. The existing use of the property will not change, and the analysis addresses the natural growth these facilities are expected to encounter.” (Page 12, Conclusion)

New Information Reviewed Subsequent to P&Z Action:

Based on testimony from a school official and substantiated by the traffic impact analysis (background section), and by the appeal letter submitted by the Las Cruces Catholic School, the private school is currently operating a pre-K program. The 2001 Zoning Code as amended, Article V

Section 38-49.1 requires childcare center, nursery or similar uses shall be in accord with state licensing requirements. Care of 13 or more children is prohibited in certain residential zoning districts. Las Cruces Catholic School is currently zoned R-1a (Single-Family Medium Density). Child care exceeding 13 children requires a zoning designation of R-3 (Multi-Dwelling Medium Density). Las Cruces Catholic School submitted a response (email) on August 05, 2009 that read that the existing pre-K program is a normal function of a private school, and is similar in capacity to a function occurring in public schools. Furthermore, the email asserts that the pre-K program is a grandfathered use on the property. Staff will be conducting a further investigation regarding the zoning related issued of the pre-k program at Las Cruces Catholic School prior to City Council meeting on September 8, 2009.

Appeal by the Applicant

A separate appeal was filed by the Las Cruces Catholic School on July 15, 2009. The appeal letter reads that the points of contention for Las Cruces Catholic School are regarding Conditions (1) and (3). The appellant states that Condition (1) requiring any future expansion of the private school or church to be required to submit a Planned Unit Development (PUD) may potentially violate provisions set forth within the *Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)*. Specifically, the applicant asserts that this condition violates the following provisions of RLUIPA: SECTION 2 PROTECTION OF LAND USE AS RELIGIOUS EXERCISE, SECTION 3 EXCLUSIONS AND LIMITS AND SECTION 4 RULES OF CONSTRUCTION. The City Attorney's Office has reviewed the appeal letter and has determined, based upon the facts presented for the case, that the decision of the P&Z does not violate RLUIPA. A representative from the City's legal staff will be present at the September 8, 2009 City Council meeting to elaborate and to answer any questions raised in the hearing. The appellant states that Condition (3), limiting the high school enrollment to fifty (50) students would not control the overall student population at the private school. "In other words, if we increase the number of students to 400, and the number of high school students is 50, we could have 350 Pre-K elementary, and middle school students, and 100 high school students with the total number of students still equating 450. The overall impact remains the same". The appellant's appeal is limited to the aforementioned conditions imposed by the P&Z on June 30, 2009 and not the actual variance approval. More discussion regarding this appeal is found in the companion CAES packet for appeal A1695A.

It should be noted that granting the neighborhood appeal, which addresses the variance granted in its entirety, will essentially make the applicant's appeal mute, as the applicant's appeal requests modification to the conditions placed upon the variance approved by the P&Z Commission.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
N/A	N/A	N/A

1. Resolution
2. Exhibit "A"- Site Plan
3. Exhibit "B"- Ad hoc neighbors appeal letter received on July 15, 2009
4. Exhibit "C"- Appendix

5. Exhibit "D- Findings and Comprehensive Plan Analysis.
6. Attachment "A"- Staff Report to the Planning and Zoning Commission for Case A1695
7. Attachment "B"- Minutes from the May 26, 2009 Planning and Zoning Commission
8. Attachment "C"- Minutes from the June 30, 2009 Planning and Zoning Commission
9. Attachment "D"- Memorandum from Las Cruces Catholic School pre-K program
10. Attachment "D-1"- Response to Attachment "D" from Joe Ruprecht
11. Attachment "E"- Materials/correspondence attachments to ad hoc appeal letter case A1695 A-1
12. Attachment "F"- Las Cruces Catholic School appeal letter received on July 15, 2009 (reference material)
13. Attachment "G" Vicinity Map

OPTIONS / ALTERNATIVES:

1. Vote YES to approve the Resolution. This action reverses the Planning and Zoning Commissions' decision for conditional approval. This action will deny the variance for a thirty-five (35) foot departure from the eighty-five (85) foot Right-of-Way requirement. The nine portable buildings having a combined gross floor area of 8400 square feet will be required to be removed from the property located at 1321 N. Miranda Street. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion 10%) are not affected in any manner by reversing the decision of the Planning and Zoning Commission. The City Council by taking this action will eliminate the need for additional consideration of the Las Cruces Catholic School appeal.
2. Vote No to deny the Resolution. This action affirms the Planning and Zoning Commissions' decision for conditional approval. This action will approve the variance for a thirty-five (35) foot departure from the eighty-five (85) foot Right-of-Way requirement. The nine portable buildings, having a combined gross floor area of 8400 square feet will be allowed to remain on the property located at 1321 N. Miranda Street. The existing school buildings/church buildings and three portable buildings (administrative approval non-conforming use expansion 10%) are not affected in any manner by upholding the decision of the Planning and Zoning Commission.
3. Modify the resolution with additional conditions as deemed necessary, or eliminate conditions based on the companion appeal. Staff will prepare a substitute resolution with additional and/or amended conditions as appropriate.
4. Table/postpone the resolution and direct staff according.

RESOLUTION NO. 10-083

A RESOLUTION TO APPEAL THE APPROVAL DECISION OF THE PLANNING AND ZONING COMMISSION FOR A THIRTY-FIVE (35) FOOT VARIANCE FROM THE EIGHTY-FIVE (85) FOOT RIGHT-OF-WAY REQUIREMENT ALLOWING FOR THE PLACEMENT OF NINE PORTABLE BUILDINGS AT A PRIVATE SCHOOL LOCATED AT 1321 N. MIRANDA STREET. THE SUBJECT PROPERTY CONSISTS OF 11.07 +/- ACRES THAT IS SHARED WITH HOLY CROSS CATHOLIC CHURCH AND LAS CRUCES CATHOLIC SCHOOL. THE SUBJECT PROPERTY IS ZONED R-1A (SINGLE-FAMILY MEDIUM DENSITY). SUBMITTED BY AN AD HOC ASSOCIATION OF NEIGHBORS NEARBY TO THE ARMIJO LATERAL AND THE OLD VALENCIA PROPERTY (A1695 A-1).

The City Council is informed that:

WHEREAS, An Ad hoc association of neighbors nearby to the Armijo Lateral and the old Valencia property, have submitted an appeal to reverse the Planning and Zoning Commission decision for conditional approval for a thirty-five (35) foot variance from the eighty-five (85) foot Right-of-Way requirement for a planned expansion of a private school located at 1321 N. Miranda Street; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on June 30, 2009, recommended the variance be conditionally approved by a vote of 5-2-0.

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

(I)

THAT the conditions to the subject variance as stipulated by the Planning and Zoning Commission are as follows:

1) The approval of this variance is limited to the expansion of 9 portable buildings having a combined gross floor area of 8,400 square feet. Any future expansion of the school site or church shall require the submittal and approval of a zone change to Planned Unit Development (PUD) as outlined within the 2001 Zoning Code, as amended.

2) The applicants are required prior to the issuance of a building permit to submit a landscape (buffering) plan that will require administrative approval by staff. The applicant will be required to create a strong impression of visual separation. In the event administrative approval is not granted the applicant will be required to comply with Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended, regarding screening (buffering) for schools adjacent to residential zoning districts.

3) The high school is limited to fifty (50) students.

(II)

THAT the conditional approval for the variance granted by the Planning and Zoning Commission is hereby reversed.

(III)

THAT said reversal of this variance is in accordance with Section 38-10, Criteria for Decisions, of the Las Cruces 2001 Zoning Code, as amended and based on stipulated findings identified during discussion and made part of this Resolution.

(IV)

THAT the property owner and/or tenant is hereby required to remove the nine (9) portable buildings having a combined gross floor area of 8,400 square feet and thus remain compliant as a non-conforming use.

(V)

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

DONE AND APPROVED this _____ day of _____ 2009.

APPROVED:

(SEAL)

Mayor

ATTEST:

City Clerk

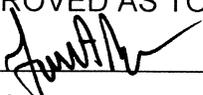
VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Archuleta: _____
Councillor Small: _____
Councillor Jones: _____
Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

Mr. Ken Miyagishima, Mayor
Mr. Terrence Moore, City Manager
Mr. Robert Garza, Assistant City Manager
Mr. Charles Scholz, Chair Planning & Zoning Commission
Mr. James White, Zoning Administrator



July 13, 2009

Dear Sirs:

This is a letter of appeal to the Las Cruces City Council of the Planning and Zoning Commission's approval of Variance Request A1695 at a meeting on June 30, 2009.

On May 26, 2009 Case A1695 was heard and discussed for approximately two and a half hours and was tabled by a vote of 4-0 (with one recusal). The case was scheduled as "Old Business" for a meeting on June 30. It was moved to "New Business" after the Commission convened and was heard and discussed for more than three hours before approval with conditions on a vote of 5-2 (full Commission voting).

This appeal is predicated on several issues:

- 1) Denial of due process as evidenced by:
 - a. Substantive differences between Case A1695 as presented to surrounding property owners in the mailing dated May 8th in advance of the May 26th meeting and Case A1695 as presented to same in the mailing dated June 5th in advance of the June 30th meeting
 - b. Substantial procedural inconsistencies on the part of the Zoning Administrator including refusal to include written responses to the June 5th mailing in the informational packet sent to Commissioners in advance of the June 30th meeting, and refusal to include a detailed neighborhood petition containing more than 240 signatures in that same packet
 - c. Substantial procedural inconsistencies on the part of the Planning and Zoning Commission and certain of the Commissioners
- 2) Interference with and circumvention of U. S. Postal Service Regulations
- 3) Failure to clearly identify or articulate the exact variance request
- 4) Failure to provide an adequate site plan as required by zoning regulations
- 5) Failure of the Applicant:
 - a. To prove "hardship", as legally required
 - b. To present alternatives considered, as legally required
 - c. To demonstrate that of alternatives, the request represents the option with the least impact on surrounding properties, as legally required
- 6) Failure to adequately design, execute, present and describe a traffic study conducted by City staff, instead relying on a one-day pro bono study conducted by volunteers from the school or church on behalf of the school
- 7) A history of expansion in the number and types of uses of the property in question such that the actions occasioning Case A1695 may be described as

“encroachment” by the Applicant and the Owner of the property upon the surrounding residential neighborhood

- 8) A continuing history of bad behavior on the part of the Applicant and/or Owner of the property, including:
 - a. A history of this property as nonconforming since 1981 with no demonstrated attempts to mitigate its nonconforming status, as required by law
 - b. Operation of a pre-school or pre-kindergarten program with more than 50 children on property zoned R-1a, in violation of legal limits on the size of such a program to no more than 12 children
 - c. Operation of a high school program since August 2007 on property zoned R-1a without approval for conditional use, in violation of zoning regulations
 - d. Failure of the Applicant to seek permitting for storage or installation of 12 portable buildings on the property in advance of delivery spanning December 20, 2008 through February 14, 2009
 - e. Presence of approximately 80 linear feet of uncontained construction trash on the western side of the property, the north-most portion of which has been present for more than two years
 - f. Failure of the Applicant and/or Owner of the property to ask for and pass Final Inspections on several previous permitted building projects, including the Middle School building containing six classrooms

Before offering support for these points, we want to make explicit two things underlying the whole of our appeal. First, as citizens of Las Cruces and of this great state we are proponents of education, not opponents. We also love children, and many of us have served in educational settings. Many of us are also parents. It is the unfortunate nature of our judicial, or in this case quasi-judicial, system that parties who disagree become cast as adversaries. Similarly, we are not against the Holy Cross Campus, Holy Cross Church, or the Diocese of Las Cruces. We are not agents of the devil or heathens. In fact, some of us are quite active in various churches, and we all respect the value systems and strengths of the many diverse faiths in our community. But again, in this setting we are unfortunately cast as adversaries.

In assembling this letter of appeal we have been aware of the need to be inclusive of information, to provide as many specifics as possible to support our position that City Council should reverse the decision made by the Planning and Zoning Commission. Of course, this makes for a long letter with many attachments. With hopes of simplifying the process of review, we have chosen to now put forward a single elaborated point that might help to focus the case. For those who want to see all of the nuts and bolts that we have assembled, this letter will resume with the articulation of the eight areas outlined above after presentation of our focusing argument. We are most grateful to two new and good friends of the neighborhood for their assistance with this point.

A focus on basic information will probably help to clarify a now complicated situation. With this as a guidepost, please refer to Attachments A, B, C, and D1, D2. These are respectively, the current Zoning Code's definitions and specifications regarding numerical and use variances, the current Code's prohibitions regarding preschools and kindergartens in residential zoning districts, the City's initial entry of Case A1695 with paperwork as filed by Mr. Dan Schneider, Chair of the LCCS Board, apparently on April 6, 2009, and Mr. White's Fact Sheets dated May 8th and June 5th and mailed certified to property owners (also part of the packets for the Commissioners' packets in advance of the May 26th and June 30th Commission meetings).

1) Attachment A is highlighted to show that, *Use variances, which are non-numerical, as well as numerical variances to the provisions of this Code, may be granted by the planning and zoning commission only in accordance with the infill development process (IDP).*

The property involved in this variance does not comprise an infill area. The property has been in continuous and productive use since at least 1962 by the Applicant's own account of history. Therefore nothing described or proposed in A1695 can legitimately be described as part of an IDP.

2) Attachment B is highlighted to show that, pertaining to a Child Care Center, Nursery, or Similar Use, including preschool and kindergarten, *Care of thirteen (13) or more children at one time is prohibited in the residential zones listed.* The residential zones listed include R-1a, the zoning district designation of the property in question. The chart from the current Code accompanies Attachment B and is clear in this prohibition.

By its own statement during the June 30th Commission meeting the Applicant most recently had 57 children in the preschool program and intends to soon have 72 children in this program. A parent who used this program during spring 2009 has described 16 to 20 children as routinely present at one time. These figures clearly exceed the allowed number of children for R-1a zoning.

On a different note, the high school program begun by the Applicant in 2007 is allowed in an R-1a zone, but no permitting of the City for such use seems to have been sought. Possible conditional use is shown in the chart with Attachment B.

3) Page 3 of Attachment C, the Development Statement from the Applicant, states *Type of variance(s) proposed: Variance to Sec. 38-33 D (Variance to allow existing school to be located on a minor local), with the Required standard: School shall be located on a collector roadway (85' of R.O.W.)*

The Applicant requested a numerical variance of 30 to 35 feet from the required 85 foot right-of-way based on the known right-of-way of this section of Miranda Street as 50 to 55 feet. The "yellow sign" postings on the property confirm this as the advertised version of the variance (Photo available). These signs were still up

during morning of July 15, 2009. See item 1 above: A numerical variance **cannot** be granted in this situation.

4) Fact Sheets prepared by the Zoning Administrator for the May 26th and June 30th Planning and Zoning Commission meetings (Attachments D1 and D2) differ from each other in what seem to be significant ways. These were part of certified mailings to nearby property owners to provide due notice of A1695 as an action being contemplated by the City. The Appellants assert that differences in the two Fact Sheets regarding A1695 confound the issues of width of right-of-way, presence of the school, expansion of the school's land use through portable buildings, and expansion of the school's programs by addition of a high school component.

In reading the Fact Sheets and gauging their effect we are applying the reasonable person standard. It is our assertion that when shown these two items a reasonable person would be unsure whether they in fact describe the same contemplated action. As possible proof of this standard, the current Planning and Zoning Commissioner with the most extensive prior experience with planning and zoning issues, Mr. Ray Shipley, asked during both the May and June meetings about the request and whether it was perhaps two distinct requests. Responses by City staff did not seem to clarify this to any great extent as shown for example in a portion of the minutes from June 30th (Attachment E highlighted).

The principles of due process or due notice are intended to safeguard rights while providing for fairness. It would seem that clarity would be essential, yet it is not evident in either of the Fact Sheets. Does either meet the legal standard that the notice of an action should "reasonably" convey the required information? We assert that the differences between the two mailings only compound the confusion.

The Official Notification of Decision from the Planning and Zoning Commission dated July 01, 2009 (Attachment F) regarding A1695 continues the confound and mixes numerical and use elements in Sections 2 and 3. Be that as it may, see 1 above, **neither** a use variance nor a numerical variance **can** be granted unless part of an infill development process.

The single elaborated point that we now hope to make is that:

Given the above information, and believing that all parties and staff members involved thus far in preparing, submitting, accepting, promulgating, publishing, analyzing, discussing, and initially deciding Case A1695, ALL of those people, ourselves included, have acted in good faith and have attempted to deal well and truly with a complicated situation. However, there is some sort of ghost in the machine such that what has looked complicated is in reality simple. By definition the variance as proposed in any of its forms thus far cannot be adopted because the current Zoning Code will not allow it to be.

Therefore we ask that City Council fully rescind approval of A1695.

Being reasonable people and believing ourselves to be good neighbors, we would like to uncomplicate this situation as soon as is practicable. As we stated above, we wish no harm to the Applicant or Owner. We simply desire to preserve our quality of life and protect our neighbors, particularly some of our aged or less able neighbors, and our neighborhood from the perceived encroachment of the Applicant and Owner. If this can be accomplished through a means other than a meeting of the City Council, we would gladly entertain some form of negotiation to equitably resolve the central and subsidiary issues laid out in this letter and its attachments

We now present the following articulation of the items on Pages 1 and 2 for your review:

1) Denial of due process:

- a. Substantive differences exist between Case A1695 as presented to surrounding property owners in the mailing dated May 8th in advance of the May 26th meeting and Case A1695 as presented to same in the mailing dated June 5th in advance of the June 30th meeting.

Differences in the two mailings regarding A1695 confound the issues of width of right-of-way, presence of the school, expansion of the school's land use through portable buildings, and expansion of the school's programs by addition of a high school component.

Attachment 1 is a copy of the May 8th mailing. Attachment 2 is a copy of the June 5th mailing. In particular compare the "Fact Sheets" prepared by City staff. Variance Request A1695 has changed in substance between May 8th and June 5th.

The principle of due process is intended to safeguard rights while providing for fairness. It would seem that clarity would be essential, yet it is not evident in either of these documents. Does either meet the legal standard that the notice of an action should "reasonably" convey the required information? The differences between the two mailings only compound the confusion.

- b. Substantial procedural inconsistencies on the part of the Zoning Administrator are most clearly detailed in an email from Deborah Dennis to Mr. White.

Attachment 3 is a copy of Ms. Dennis's email with Mr. White's response incorporating advice from Jared Abrams as counsel for the City.

Procedural inconsistencies introduced by Mr. White served to undermine fairness at both the verbal and written levels of public participation. Particularly glaring was his refusal to include any new information from surrounding property owners or input from affected neighbors in the informational packet distributed to Commissioners for consideration in advance of the June 30th meeting, despite both the City and the Applicant having that opportunity. This was against the precedent he himself set in composing the packet for the May 26th meeting.

These acts effectively disenfranchised the voices and carefully considered opinions of over 240 adults who discussed this variance request with neighborhood representatives and chose to sign a petition asking that request A1695 be tabled until such time that the Applicant and/or Owner submits a Planned Unit Development (PUD) for City review. This petition appears here as Attachment 4.

- c. Substantial procedural inconsistencies on the part of the Planning and Zoning Commission include events during both meetings. The approved minutes of the May 26th meeting and the draft minutes of the June 30th meeting have been excerpted to show:
 - i. On May 26th Mr. Iserman was recused by the Chair based on prior communication and verbally assented to recusal (Attachment 5a highlighted). However, rather than leave the proceeding or joining the public, Mr. Iserman remained on the dais in violation of the specifics of the City Ethics Code. On June 30th Mr. Iserman did not and was not recused with no explanation despite a specific Point of Information from the floor (Attachment 5b highlighted).
 - ii. On May 26th Mr. Bustos and Mr. Evans were not present. After the tabling of A1695 and just before the next order of business, Mr. Abrams advised the Commission of the effect those absences would have on the June meeting (Attachment 6 highlighted). No mention of this issue was made at the June 30th meeting, and both gentlemen were present and voted although Mr. Bustos's participation was minimal.
 - iii. On May 26th A1695 was tabled (Attachment 7a highlighted). In the Meeting Agenda posted at the City Office Center, A1695 was shown as Old Business implying a continuation of the earlier process. Also, in the letter dated June 5th and sent certified to property owners, the Fact Sheet noted this as a tabled item to be considered at a "special" session (Attachment 7b highlighted). And yet, A1695 was never moved from the

table. Instead it was inexplicably moved to New Business behind another lengthy presentation (Attachment 7c highlighted).

- iv. Despite strict time limits of three minutes per speaker during public participation at each meeting and reasonable time allotted for presentations by City staff, the Applicant's multiple representatives were allowed virtually unlimited time as reflected in the transcripts.

2) Interference with and circumvention of U. S. Postal Service Regulations:

On June 17th Leslie Thornberry sent individually addressed letters to each of the Commissioners using the U. S. Postal Service in response to the certified letter dated June 5th regarding A1695. She did not send anything to Mr. White. Subsequently, Mr. White copied Ms. Thornberry's letter addressed to Mr. Bustos to Deborah Dennis via email (Attachment 8a). However, the draft transcript of the June 30th meeting indicates that Mr. Bustos stated that he had received no communication regarding A1695 prior to the evening of the meeting (Attachment 8b highlighted).

This means that Mr. White appropriated mail properly addressed to another individual, failed to timely show that mail to the addressee, and further promulgated the distribution of that mail to a party unauthorized by either the sender or the intended recipient. These are federal offenses and also seem to violate the City Ethics Code.

3) Failure to clearly identify or articulate the exact variance request:

As noted above, the mailed notices regarding A1695 were confusing as to the exact variance request. This was amplified by the "yellow sign" notices posted at the property for public display, the most recent of which states only that the signage is a notice of "A request for a variance that requires schools to be located on a roadway having minimum Right-of-Way of 85 feet for LCCS" with no mention of building expansion or changes in usage (Photo available). The confusion has been so great that the Commissioner with the most extensive prior experience with planning and zoning issues, Mr. Shipley, asked during both the May and June meetings about the request and whether it was perhaps two distinct requests. Responses by City staff did not seem to clarify this to any great extent (Attachments 9a and 9b highlighted).

Similarly, a reasonable person listening to the proceedings on June 30th might easily be moved to ask, "What did they vote for?"

4) Failure to provide an adequate site plan as required by zoning regulations:

The diagram provided by the Applicant lacks several key elements as enumerated in the current Zoning Code (Attachment 10a highlighted). Also, two different versions of this diagram have been shown without explanation, one with 12 portable buildings in use, and a later diagram with 3 of those buildings deleted (Attachments 10b and 10c respectively). Further, since the diagram provided by the applicant has been copied and/or reduced multiple times, the version projected during Commission meetings has been unreadable as to specifics including composition and intended use of a new road indicated as running parallel to the Armijo Lateral, along with intended uses of each of the portable buildings. Similarly, these specifics were lacking in presentations by the City and the Applicant.

Close inspection of the original diagrams would cause a reasonable person to question the potential for dirt and air pollution generated by use of the new access road whether it is intended for emergency or more frequent use. Also, the use of a portable building for bathroom space or for a chemistry lab seems to be unprecedented in current local use according to a source with the Las Cruces Public Schools. Either use would cause a reasonable person to have great concerns for sanitation and for public safety.

If an adequate site plan had been presented during the May and June meetings, the Commissioners and members of the interested public might have been able to raise these and other concerns about the impact of any such development on surrounding properties and on property values.

5) Failure of the Applicant:

- a. To prove “hardship”, as legally required (Attachment 11a highlighted).

The Applicant has repeatedly represented their current problem as lack of adequate building space for instruction. However, in April 2009 the Zoning Administrator granted a “one-time expansion” for use of 3 portable buildings, totaling 3,360 square feet, an 11.1 per cent increase over the existing school size of 30,567 square feet (22,171 square foot main building + 8,396 square foot middle school) cited in the School’s Application for Variance. A reasonable person would likely view this expansion as a modest increase in space that, in itself, should ease crowding and afford the Applicant some new options for handling normal growth.

On the other hand, addition of 9 other portables totaling 8,400 square feet would give the school a total square footage increase of more than 38 per cent above the current school area [(3,360 above + 8,400 additional)/ 30,567 existing = 38.5%]. Requiring an immediate 38 per cent increase in space with no significant increase anticipated in upcoming enrollment, bespeaks a dire lack of space, such that a reasonable person would have to

question how the school has been able to meet state instructional standards during recent school terms.

It is questionable whether the current situation rises to the level of “hardship” as construed in zoning law, since it is the Applicant’s actions alone that seem to have caused this problem within a nonconforming use of an R-1a property on a minor local roadway. That is, the School has made choices to continue adding programs and students despite its lack of space and despite its inability to rectify its lack of zoning compliance at its current site. A reasonable person would likely conclude that the school has simply outgrown its present location through its own success, much as a family that prospers in number outgrows a house.

In that case the Commission would not usually be asked for a variance, but if asked, the Commission would most likely deny the request and suggest that the family make a plan to move to a more amenable location. This might be especially true if a large number of the family’s neighbors actively opposed the variance and formally protested against its very nature for being an encroachment on the surrounding properties and the quality of life in a long-established area. Many people would likely view that Commission’s actions as reasonable and just. As Mr. Greg Bloom stated during the June 30th Commission meeting, protection trumps expansion, or at least it most probably should in a neutral world (Attachment 11b).

- b. To present alternatives considered, as legally required (Attachment 11a again).

The minutes of the two Planning & Zoning Commission meetings fail to disclose any alternatives presented by the Applicant, with the possible exception of a note at the bottom of a two page document distributed by the Applicant on June 30th suggesting that the School might consider not using all 12 of the portable buildings. This suggestion was not noted during the June 30th Commission meeting. Representatives of the School did not respond to our inquiry about this item during a sit-down of Neighbors and School Board members on July 7th.

- c. To demonstrate that of alternatives, the request represents the option with the least impact on surrounding properties, as legally required (Attachment 11a again).

With no alternatives presented, an Applicant cannot select one as least in any aspect. Failure in this regard would lead a reasonable person to view the Applicant as only wanting what it wants, and presuming that such can be imposed upon its neighbors with no attention to negotiation that could respect the rights of all parties involved. This item in itself flies in the face

of the stated purpose for zoning and planning actions as providing for an orderly and respectful means of growth in a community.

The letter by Ms. Thornberry (already noted as Attachment 9a) quite well articulates our concerns with these aspects of the Applicant's pleading. In the terms noted in that letter and immediately above, a reasonable person would conclude that the Applicant has failed to substantially prove up its request for variance.

- 6) Failure to adequately design, execute, present and describe a traffic study conducted by City staff instead relying on a one-day pro bono study conducted by volunteers from the school or church on behalf of the school:

In our consideration of the City's Traffic Impact Analysis (TIA), we have two main points. The study was done with only one set of counters, which were in place on Miranda, Palmer, and Ethel sequentially for a week at a time. This method harbors two limitations that can make interpretation of data collected unreliable and can render the study invalid. First, when traffic on each street is measured during a separate week, the traffic load reported cannot be a true composite of any one time period. Perhaps more importantly in this case, by the time any of these counters were placed, several meetings had already been held and the traffic study had been announced. The counters are relatively obvious to someone using a residential street because they are directly in a driver's line of sight and sit elevated from the pavement. On residential streets, traveled at posted speeds, these counters do not blend in. Therefore, once the counters are spotted in a sequential study anyone can deliberately avoid the street currently being studied. If enough drivers do this, the counts will be lowballed. A study done under direction of Mr. Jerry Paz also has limitations, but it was done with simultaneous counting at locations near the City study, and the counts are noticeably higher in the Paz study as reported to the neighborhood at a May 13th meeting.

An additional note, through personal observation of residents on Miranda, Palmer, and Ethel the City counters were not at the locations shown on an aerial view supplied by the Traffic Department (Attachment 12a). The actual locations are noted on Attachment 12b and were noticeably closer to the Applicant's Location. Also, a contractor's truck was parked alongside the counter at 444 Palmer for several days and the width of the truck diverted traffic to the middle of the street instead of passing over the counter. In a conversation with Ms. Deb Dennis and the May 13th meeting with the neighborhood, staff also indicated that at least one of the counters had malfunctioned in such a way that one or more days of data were unusable. Taken in the aggregate, these elements seriously question the credibility of the City's study and the numbers they are fond of calling "objective".

In the minutes from each of the Commission meetings, Mr. Dan Soriano, City Traffic Engineer, was repeatedly asked to reference and explain the TIA. Instead of doing so, he insisted on referencing the study performed for the Applicant and/or Owner at the direction of Mr. Paz, an engineer and school parent. The worst of these interactions was perhaps in an interchange during the June 30th meeting (Attachment 12c highlighted). In addition, Mr. Soriano's statements during the Commission meetings contradict statements he made in a presentation of his department's study during the meeting with the neighborhood on May 13th (Attachment 12d). At that meeting he acknowledged several limitations in the TIA, and he also commented that the most reliable finding might be the average rate of speed measured during the study, i.e., 32 mph in an area that is well posted as 25 mph and contains speed bumps on two of the three streets. In his presentations to the Commission, Mr. Soriano neglected to mention this finding despite being directly asked about speed issues in the neighborhood.

A reasonable person might conclude that the City's study is inadequate and unreliable and should not be a factor in considering Variance Request A1695. Similarly, a reasonable person might view the presentation of the City traffic study as inconsistent and unhelpful.

In consultation with an individual more familiar with traffic issues that we are, we learned of a standard applied in residential settings by the Institute of Transportation Engineers (ITE). That figure seems to be the Dwelling Units Trips per Day, which is currently appraised at 9.57 trips per day per dwelling unit. Use of this benchmark might better allow consideration of traffic related to the 70 units in the Casitas Apartments and baseline traffic generated by the actual residents of the neighborhood. This or a similar recognized standard could be incorporated in a new traffic study, perhaps in a hybridized form with the City's other methods, to arrive at a more credible estimate of the traffic situation in our neighborhood.

- 7) A history of expansion in the number and types of uses of the property in question such that the actions occasioning Case A1695 may be described as "encroachment" by the Applicant and the Owner of the property upon the surrounding residential neighborhood:

With some difficulty we have been compiling an approximate timeline of developments on the property located on Miranda Street and variously referenced as 1321 N. Miranda, 1327 N. Miranda, or 1331 N. Miranda. Another factor in tracing some of these transactions is that the property was originally passed from the Valencia family to the Diocese of El Paso, Texas. The Diocese of Las Cruces did not come into being until a later time.

A version of this timeline handed to the Commissioners during the June 30th meeting is included here as Attachment 13a. We have accessed additional

information since then that points to several projects in the late 1990's that though small, had the effect of increasing the usable square footage of the Owner's buildings. It seems that these projects were done with Building Permits but outside of Special Use Permits that would have been applicable at the time. If that was the case, it be a complicating factor in the legitimacy of the SUP amendment granted in 1998 for the Middle School.

According to Black's Law Dictionary, to encroach is *to enter by gradual steps or stealth into the possessions or rights of another*. As long-time residents of the surrounding neighborhood, we have not previously contested actions by the Applicant or Owner to enlarge the use of the property. However, the appearance of the portable buildings with no permitting or prior notice represented a tipping point for us. The effect of the Applicant's action was to take the goodwill of the neighborhood for granted and to proceed with the largest expansion program to date. We are aware of the Development Plan for the campus (Attachment 14) and its inclusion of another substantial building project (the 14,000 square foot John Paul II Family Life Center) planned to break ground as soon as 2011. A church flyer shows that monies for this project are already significantly pledged and in hand. The Development Plan also forecasts the need for a new indoor sports building within a few years. Little if any attention is being paid to the parking requirements for a Development Plan of this scope.

The Owner's history of seeking Special Use Permits (SUPs) for one project after another has contributed to the gradual steps through which this enterprise has come to encroach on the quality of life in the neighborhood. Requiring that the Owner devise and submit a Planned Unit Development (PUD) for City review now rather than at some time in the future seems to be a reasonable step to forestall the continuation of this pattern.

Creating a PUD now would better legitimize the actions listed in the Owner's Development Plan and would be a show of good faith on the part of the Owner and Applicant to make real their stated intentions to be better neighbors in the future.

- 8) And finally, in our listing of problems with the granting of this Variance Request even with conditions, we briefly note a continuing history of bad behavior on the part of the Applicant and/or Owner of the property, including:
 - a. A history of this property as nonconforming since 1981 with no demonstrated attempts to mitigate its nonconforming status, as required by law (Attachment 15 highlighted).

Although the Miranda Street situation has been difficult for some time, until spring of 2009, no attempts however minor seem to have been undertaken by the Applicant or Owner to lessen the effects of their

presence on a right-of-way that is only 60 per cent as wide as required by regulations. Such efforts are now promised and include changes in student drop-off and pick-up, changes in parking lot markings, and use of trained parking personnel for special high intensity events.

- b. Operation of a pre-school or pre-kindergarten program with more than 50 children on property zoned R-1a in violation of legal limits on the size of such a program to no more than 12 children (Attachment 16).

We have not located any attempt to address this violation despite the likelihood that this situation has existed for a number of years. The Holy Cross property is zoned R-1a and as such cannot even be conditioned to include a pre-school or pre-k of this size.

- c. Operation of a high school program since August 2007 on property zoned R-1a without approval for such conditional use, in violation of zoning regulations (also Attachment 16).

During the June 30th meeting, the Applicant represented that they are not building a high school on the property. However they are collecting tuition from high school level students who are pursuing high school level studies under their supervision and on their property. This constitutes operating a high school by definition of the State of New Mexico. Continued operation of that program would seem to require a conditional use permit.

- d. Failure of the Applicant to seek permitting for storage or installation of 12 portable buildings on the property in advance of delivery spanning December 20, 2008 through February 14, 2009.

A reasonable person would see the parallel with a homeowner who has jumped ahead with a construction project before acquiring the necessary permit. In this case, the size of the error is such that it is hard to understand the great patience of the Community Development and Codes Departments, other than through conceptualizing this as a granting of grace. Would that these agencies might show similar mercy for other much smaller infractions by residents of the surrounding neighborhood.

- e. Presence of approximately 80 linear feet of uncontained construction trash on the western side of the property, the north-most portion of which has been present for more than two years (Photo available).

Since Building Permits have already been pulled for installation of the 3 portable buildings noted as granted by Mr. White, we expect that this nuisance will be removed or contained immediately in the interests of

dust abatement, trash containment, child safety, and neighborhood aesthetics.

- f. Failure of the Applicant and/or Owner of the property to ask for and pass Final Inspections on several previous permitted building projects including the Middle School building containing six classrooms.

The original permit for this project appears to stem from 1998. A related fire and smoke alarm system was separately approved in 1999 and would have been inspected at about the time the building itself was completed. However, the actual building permit file seems to only exist within a Special Use Permit file that contains no specific final inspections. Due to the records system in use at the City, several files related to the permitting and building project history of this property can no longer be found.

However, the file coding system in use employs a lettering system that reveals which projects have open permits (BP designations) and which have had final inspections and are completed (CO designations). Attachment 17 lists several projects that have apparently neither passed final inspection nor been entered as complete. Again since many of us as business people and homeowners have had to hew to the letter of applicable building codes, sometimes having Occupancy Permits held up for protracted periods over seemingly minor or subjective details, as reasonable people we can only infer that this is another demonstration of grace favoring our fair neighbors, the Applicant and Owner.

Therefore and whereas we have enumerated a variety of discrepancies and internal inconsistencies revealed in the procedural aspects of Variance Request A1695 to date. We have highlighted serious problems with the handling of this case that, when looked at cumulatively, would have a reasonable person doubting that due process has been served. The Appellants further claim that our rights to equal protection under the law have been compromised by the actions and events listed herein. We have not been effectively served or heard by persons or agencies that are intended to protect our rights and interests as citizens, residents, taxpayers, and property owners. The growth of the enterprises of the Applicant or Owner should not appear to come at the expense of an established and pre-existing neighborhood, a number of whose long-time homeowners are elderly or infirm.

As to the merits of Case A1695 as presented by the Applicant, we say that they have failed to demonstrate "hardship" in the required and generally accepted legal meaning applied to zoning cases. Black's Law Dictionary defines "hardship" as *privation, suffering, or adversity*, with the connotation in zoning that *a zoning ordinance or restriction as applied to a particular property is unduly oppressive*. In most instances without meeting this standard their case would fail and the request would be denied.

However, in this great state we have an ever longer history of going our own way and of being creative when faced with obstacles. As Lew Wallace, an early territorial governor, is famously quoted as saying, "Everything based on experience elsewhere fails in New Mexico".

It is with this in mind that we have endeavored to reveal other significant shortcomings in the pleadings of the Applicant. We have highlighted a number of problems with their past behavior and have raised questions about their current uses of the property. We believe that there are certain legal issues that need resolution before the City grants any requests by the Applicant and/or Owner. These include operating an impermissably large pre-school or pre-kindergarten program on an R-1a zoned property, operating a high school program on an R-1a zoned property without a conditional use permit, and failing to have the appropriate certificates from the State Construction Industries Division for any portable buildings that are stored or in use on the property. Granting Request A1695 without the resolution of these and any other extant legal issues would amount to the City's rewarding or condoning of the Applicant's less than forthcoming approach to being a part of this neighborhood.

In order to make the whole of this situation better we believe it is essential that the City require the Applicant to put together a Planned Unit Development (PUD). The Zoning Administrator also recognizes this as a necessity since he recommended a PUD as a condition for approval of A1695 (Attachment 18 highlighted). We differ in our sense of timing however. We believe that now is the time for a PUD, not some time in the future. Most enterprises do their planning first and then their fundraising, but the Applicant seems to routinely do this backwards. For all the upset that the sudden appearance of the portable buildings has caused in the neighborhood, we know that this has also upset many parishioners and perhaps some LCCS parents. They hadn't been informed about the plans for the School or the Church, much less been involved in the planning. The Owner and the Applicant can fix this by doing the PUD now and presenting it publicly for the information of their constituents and of the neighborhood.

Our final appeal in this letter is to summarize by saying:

- 1) That this issue has brought many of us in the neighborhood together in new and stronger ways. For that we are grateful, despite the effort and expense involved in pursuit of this action. We are currently forming a neighborhood association.
- 2) As citizens, residents, voters, taxpayers, and property owners we deserve and expect better consideration of our quality of life. Again, protection trumps expansion, and we need and request the assistance of our city in this respect.
- 3) Approval of this variance likely would set a precedent within a situation that is already unique in Las Cruces. The unique feature already existing is the proximity of Alameda Elementary School to the Holy Cross Campus, with both relying on narrow, and in some places dead-end streets in this older neighborhood for access and egress. The new precedent would be the number of portable buildings allowed on a single campus with no plan for their removal in favor of a permanent and more aesthetically acceptable structure. Visual inspection of more than half of

the current elementary and middle school campuses listed and shown on the 2009 City Map distributed by our Chamber of Commerce during the past few days revealed that the norm for portable classrooms on any single campus probably ranges from 4 to 6 portables, usually clustered closely together. An outlier in this regard is Valley View Elementary, one of the oldest schools in use, with 11 portable buildings currently sited, again in close proximity to each other. Given the problems we have described in this letter, we believe that A1695 is a poor case with which to set precedent.

We appeal to the City Council as a group of reasonable people to carefully take the measure of this case.

We very sincerely appreciate your attention and we hope for your assistance.

Thank you,

Jo Ruprecht

On behalf of and with the assistance of a presently *ad hoc* association of neighbors nearby to the Armijo Lateral and the old Valencia property. This includes and is certainly not limited to: Deb Dennis, Leslie Thornberry, Julie Woody, Katya Rodriguez, Greg Bloom, Melissa Thornberry, Greg Gendahl, Linda and Mabel Duran, Mary Beaty, James Caulfield, Nancy Fleming, Frank Fleming, and Jim and Claudia Billings.

APPENDIX

Additional Background Information Regarding the Appeals of Case A1695

Planning Commission Deliberations

The original variance (A1695) was scheduled for a May 26, 2009 Planning and Zoning Commission (P&Z) public hearing. Some of the P&Z Commissioners on May 26, 2009, requested clarification on what the actual variance request entailed. There was discussion by P&Z that the variance was attributed to the square footage and/or the portable buildings themselves. Staff clarified that the actual variance request is for a thirty-five (35) foot variance from the eighty-five (85) foot Right-of-Way consequently, allowing for the placement of nine (9) portables having a combined gross floor area of 8,400 square feet on the subject properties. Access to a school requires a collector roadway having a Right-of-Way width of eighty-five (85) feet, hence the need for a variance to allow for a deviation to width parameters.

The variance case was originally heard by the P&Z on May 26, 2009. The P&Z heard approximately 4 hours of testimony concerning issues addressing: 1) Area residents' concerns with increased traffic generation on Miranda Street and the surrounding road networks; 2) The methodology associated with the City's review of the applicant's Traffic Impact Analysis; 3) Statements by parents, students and teachers associated with Las Cruces Catholic Schools voicing support for the variance request in order to alleviate square footage concerns for the private school.

Staff believes that the concerns raised in the original May 26, 2009 hearing are adequately addressed by the Traffic Impact Analysis (TIA) prepared by the applicant, and subsequently approved by the City's Traffic Engineer. The statements of supports of the variance, on behalf of Las Cruces Catholic School, are noted and have no technical bearing on this variance case.

The P&Z voted 5-0-0 to postponed action on the variance until the next scheduled meeting on June 23, 2009 and requested for the entire traffic impact analysis report including the data collected by the City's Traffic Engineering Department be included in the subsequent packet for June 23, 2009. In early June 2009, staff was informed that the scheduled meeting for July 23, 2009 would require cancellation based on quorum requirements (The P&Z Commission By-Laws requires a minimum of four members present prior to consideration of any case). As a result, the variance case was rescheduled for a special meeting held on June 30, 2009. Staff was required to re-advertise and mail certified return receipt letters to 112 property owners on or about June 05, 2009.

This case by being re-advertised was considered as a "new business" item. New testimony and/or additional correspondence could now be submitted for the June 30, 2009 special meeting. Staff received approximately nine letters from early June to late June 2009 all letters and materials received were submitted to the P&Z on June 30,

2009. The appellants on June 30, 2009 also submitted into the P&Z record a petition consisting of approximately 245 signatures (not all the signatures are from the surrounding area). The petition requested for a postponement of the variance case until such time as Las Cruces Catholic School and Holy Cross is brought into compliance with the 2001 Zoning Code, as amended. The petition also requested for Las Cruces Catholic School and Holy Cross Catholic Church to submit a Planned Unit Development (PUD) for review and approval by the City of Las Cruces.

The P&Z on June 30, 2009 heard approximately 3 hours of testimony regarding this case. Some of the items addressed included: 1) A Planned Unit Development (PUD) should be required based on the assumption that a gymnasium and other expansion projects are forthcoming; 2) The traffic counters placed along Miranda Street were not placed in close proximity to the Las Casitas Apartment complex; therefore traffic counts along N. Miranda Street may have been under counted; and, 3) Parents and students associated with Las Cruces Catholic Schools voiced support for the variance request in order to address space needs at the private school.

Site Context/History

Las Cruces Catholic School was relocated to the current site at 1321 N. Miranda Street in 1962. The school was a permissible land use under the 1955 Zoning Code. In 1963, parishioners of Holy Cross Church began conducting services in the school's gymnasium. The adoption of the 1981 Zoning Code required schools and/or religious institutions to obtain a special use permit through the Planning and Zoning Commission. In accordance with section 6.4 (Special Use Permits) under the 1981 zoning code all schools were required to be located on a Collector or higher roadway. A Collector roadway is defined as having a minimum Right-of-Way of 85 feet.

In 1981 the Diocese of El Paso was granted a special use permit to allow expansion to a non-conforming building on the subject properties. The building expansion was to relocate worshippers from the school's gymnasium to separate church building. A second special use permit was issued in 1995 for a columbarium that also had a revised circulation plan for the southern parking and additional on-site landscaping. In 1998 Las Cruces Catholic School was granted a third special use permit allowing for the construction of a middle school consisting of six additional classrooms, offices, bathrooms, storage and maintenance areas.

The school has operated as an existing non-conforming use under the 2001 Zoning Code, as amended, up until present. The proposed expansion triggered the need to address the current Zoning Codes requirement that schools be located on a Collector status roadway or higher (pursuant to the Metropolitan Planning Organization Thoroughfare Plan), with a minimum of eighty-five (85) feet of Right-of-Way.

Site Assessment

The subject properties have direct access from a Local roadway (N. Miranda Street) having a varying Right-of-Way of fifty- (50) to fifty-five- (55) feet. Access east of the subject property can be achieved from two Local roadways, Palmer Road and Ethel Avenue. These roadways traverse a residential neighborhood connecting to Alameda Boulevard classified by the Metropolitan Planning Organization (MPO) as a Minor Arterial roadway. North Miranda Street, south of the property connects to Parker Road classified as a Collector status roadway. Parker Road connects west to Valley Drive (Principal Arterial) and east to Alameda Boulevard. The closest bicycle lanes are located approximately 1,100 linear feet west along Alameda Boulevard a trail system is located adjacent to the western boundary of the property (Armijo Lateral). The closest bus stop is located on Alameda Boulevard (Route 50).

The adjacent properties to the east and north are single-family residences that are zoned R-1a (Single-Family Medium Density). The property to the south is an apartment complex (Las Casitas) that is zoned R-3 (Multi-Dwelling Medium Density). The subject properties are bordered to the west by the Armijo Lateral and various large area parcels that are zoned R-1a (Single-Family Medium Density).

The private school's primary parking lot is located on the northern portion of the subject properties having direct access from N. Miranda Street. The parking lot is bordered to the north and west by the school's playground. There is no visible landscaping present along the northern and eastern boundaries. Satellite or overflow parking is available from the parking area located south of the school also utilized by the religious institution. The southern parking area has no visible buffering (screening) with the exception of a 2 to 4 foot rock wall located on the eastern and western property boundaries. The applicant will be required to provide a landscaping plan in conjunction with the southern parking lot. The 2001 zoning code, as amended, requires schools (grades K to 8) to provide 2 to 3 parking stalls per classroom while schools (grades nine through 12) are required one parking stall per employee, and one parking stall for every 3 to 5 seats in the primary assembly hall. Las Cruces Catholic Schools has 34 full-time employees, five parent volunteers; and 300 students. A total of 39 parking stalls are required for employees and volunteers; when the student enrollment is considered, the total amount of parking required is a range from 98 to 133 parking stalls. The current parking situation is adequate for compliance with the 2001 Zoning Code for schools provided a church related function is not occurring simultaneously with scheduled school activities. The school is also required to provide four bicycle stalls per classroom.

Neighborhood Traffic Concerns

There was a neighborhood meeting conducted on February 20, 2009, attended by various City staff members. The City's traffic engineer analyzed traffic on surrounding local roadways including N. Miranda, Ethel, and Palmer Streets and approved the Traffic Impact Analysis. The findings of the City's traffic counts, including the comprehensive traffic impact analysis generated by the applicant and approved by the

City's Traffic Engineer were discussed at a follow-up neighborhood meeting on May 13, 2009. The City will continue with an advisory traffic committee made up neighborhood residents and City personnel to continue to monitor traffic issues and to explore ways to mitigate the neighborhood's concerns on an on-going basis.

EXHIBIT "D" FINDINGS AND COMPREHENSIVE PLAN ANALYSIS

1. The subject property is located at 1321 N. Miranda Street encompassing approximately 11.07 +/- acres.
2. The subject property is zoned R-1a (Single-Family Medium Density).
3. The private school (Las Cruces Catholic Schools) was relocated to the current site at 1321 N. Miranda Street in 1962. The private school was in full compliance with the zoning code (1955 Zoning Code) at that time.
4. The adoption of the 1981 Zoning Code required schools and/or religious institutions to obtain a special use permit through the Planning and Zoning Commission (P&Z).
5. In 1998 Las Cruces Catholic Schools was issued an amendment to a special use permit to allow an expansion for the Las Cruces Catholic School. The amendment was issued under the authority of the Planning and Zoning Commission.
6. The 2001 Zoning Code, as amended, eliminated the requirement for churches and/or schools to obtain a special use permit provided that the conditions pursuant to Article VI Section 38-53 (Conditional Uses) are met.
7. Based on the criteria for the placement of a private school adopted with the 2001 Zoning Code, as amended; the property is considered to be non-conforming related to as it is located on a local roadway that has a varying Right-of-Way between fifty (50) and fifty-five (55) feet and that it does not meet the separation and landscaping requirements between land uses/zones.
8. The applicant, Las Cruces Catholic Schools, is requesting a variance from the minimum Right-of-Way requirement of eighty-five (85) feet for a varying Right-of-Way segment of 50- to 55-feet along a local roadway (N. Miranda Street). The variance is for a 30- to 35-foot deviation to the 85-foot requirement of a collector status roadway.
9. The variance request will facilitate an expansion for the school site for nine portable buildings having a combined gross floor area of 8,400 square feet.

10. Based on the site assessment conducted by the applicant's agent, the private school uses approximately 38,216 square feet for various school related uses.
11. Staff has received 13 letters opposing the variance request.
12. Adjacent land use and zoning include:

	<u>Zoning</u>	<u>Land Use</u>
North	R-1a	Single-Family Residences
South	R-3	Apartment Complex
East	R-1a	Single-Family Residences
West	R-1a	Single-Family Residences


City of Las Cruces®

TO: Planning and Zoning Commission

PREPARED BY: James A. White, AICP, Planner 

DATE: June 30, 2009

SUBJECT: 1321 N. Miranda Street (A1695)

RECOMMENDATION: Approval with conditions

Case A1695: A request for a variance from Article VI, Section 38-53 (D) of the 2001 Zoning Code, as amended, that requires schools to be located on a roadway having a minimum Right-of-Way of eighty-five (85) feet, therefore classified as a Collector status roadway. Las Cruces Catholic School is requesting a variance to allow for a proposed expansion of the school site by 8,400 square feet or nine (9) portable buildings. The school campus is located on a portion of N. Miranda Street having a varying Right-of-Way between fifty (50) and fifty-five (55) feet classified as a Local roadway. The subject property is located at 1321 N. Miranda Street on an 11.07 +/- acre parcel that is shared with Holy Cross Catholic Church zoned R-1a (Single-Family Medium Density). Submitted by Dan Schneider for the Las Cruces Catholic School.

REVISED INFORMATION

On May 26, 2009, the Planning and Zoning Commission (P&Z) by a vote of 4-0-1 (two Commissioners absent and one abstention) postponed action on said case. The P&Z requested for staff to provide a copy of the entire traffic impact analysis including the data collected by the City's Traffic Engineer. The information as requested has been attached into the P&Z packet.

The Planning and Zoning Commission options regarding this case are as follows:

1. Vote **Yes** to approve the variance with conditions. This action affirms staffs' recommendation for conditional approval. The nine portable buildings, having a combined gross floor area of 8,400 square feet, will be allowed to remain on the property located at 1321 N. Miranda Street. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by approving this variance request.

Provided for additional reference are the conditions outlined in staffs' recommendation: 1) The approval of this variance is limited to the additional (yet to be permitted) portable buildings having a combined gross floor area of 8,400 square feet; any future expansion of the school site or church shall require approval of a planned unit development as outlined within the 2001 Zoning Code, as amended;

- and, 2) The applicant will be required to submit a landscape (buffering) plan that will require administrative approval by staff. The applicant will be required to create a strong impression of spatial separation. In the event administrative approval is not granted the applicant will be required to comply with Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended regarding screening (buffering) for schools adjacent to residential zoning districts. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by approving this variance request.
2. Vote **No** to deny the variance application. This action will require the nine portable buildings having a combined gross floor area of 8,400 square feet to be removed from the property located at 1321 N. Miranda Street. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by denying this variance request.
 3. **Modify** the variance request with additional conditions.
 4. **Table/Postpone** this variance request and direct staff accordingly.

BACKGROUND

The 2001 Zoning Code, as amended, allows for schools to be located within any residential or commercial zoning district provided that the conditions pursuant to Article VI Section 38-53 (Conditional Uses) are met. The conditions require: 1) schools to be located on a roadway having a minimum Right-of-Way of eighty-five (85) feet (dimension for a Collector); and, 2) structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences.

The applicant, Las Cruces Catholic Schools, is requesting a variance from the minimum Right-of-Way requirement of eighty-five (85) feet for a varying Right-of-Way segment of fifty (50) to fifty-five (55) feet along N. Miranda Street. Thus the variance is for a thirty to thirty-five foot deviation to the eight-five foot requirement. The variance request will facilitate an expansion for the school site involving the placement of nine portable buildings having a combined gross floor area of 8,400 square feet. The subject property encompasses 11.07 +/- acres located at 1321 N. Miranda Street and is zoned R-1a (Single-Family Medium Density).

ZONING HISTORY (1962- 2000)

The private school (Las Cruces Catholic Schools) was relocated to the current site at 1321 N. Miranda Street in 1962. The original site contained 15.37 +/- acres located both on the western and eastern sides of the Armijo Lateral. The 1955 Zoning Code permitted the placement of elementary, middle or high schools without conditions within the R-1 (Single-Family Dwelling District) zoning district. Therefore, the private school was constructed in

full compliance with the zoning code at the time. In 1963, parishioners of Holy Cross Church began conducting services in the school's gymnasium.

The adoption of the 1969 Zoning Code created the initial condition for schools located within the R-1 (Single-Family Dwelling District) zoning district. Elementary and middle schools were permitted on any residential roadway within the R-1 (Single-Family Dwelling District) zoning district; however high schools were required to be located on arterial streets as identified within the corresponding general City plan. The private school did not have a high school component; therefore the school was in compliance with the 1969 Zoning Code. The school remained in zoning compliance until the introduction of the 1981 Zoning Code.

The adoption of the 1981 Zoning Code required schools and/or religious institutions to obtain a special use permit through the Planning and Zoning Commission (P&Z). Section 6.4 (Special Use Permits) of the 1981 Zoning Code required schools to be located on a Collector or higher designated roadway and have a minimum site area of two acres. Religious institutions were required to have adequate off-street parking, buffering along residential property lines, and located on a Collector or higher designated roadway.

In 1981 the Diocese of El Paso was granted a special use permit to allow a one time exception to enlarge a non-conforming building. The non-conforming status was based on N. Miranda Street being classified as a Local roadway having a varying Right-of-Way of fifty (50) to fifty-five (55) feet. The building expansion was to relocate the parishioners from the school's gymnasium into a separate church building. Additional zoning related history attributed to the religious institution includes a special use permit issued in 1995 for a columbarium. The columbarium special use permit was conditioned requiring any future expansion on the site to require an amendment to the special use permit and approval by the P&Z.

In 1998, Las Cruces Catholic Schools was issued an amendment to the special use permit to allow for the expansion of the Las Cruces Catholic School. The expansion was to allow the addition of six classrooms, an office, bathrooms and storage and maintenance areas. In addition, the 1995 special use permit also revised the southern parking area circulation system and landscaping.

SITE ASSESSMENT

The 2001 Zoning Code, as amended, eliminated the requirement for churches and/or schools to obtain a special use permit provided that the conditions pursuant to Article VI Section 38-53 (Conditional Uses) are met. These conditions are identified in the Background Section.

The subject property has direct access from a Local roadway (N. Miranda Street) having a varying Right-of-Way of fifty (50) to fifty-five (55) feet. Access east of the property can be achieved from two Local roadways, Palmer Road and Ethel Avenue. These roadways traverse a residential neighborhood connecting to Alameda Boulevard classified by the Metropolitan Planning Organization (MPO) as a Minor Arterial roadway. North Miranda Street, south of the property connects to Parker Road classified as a Collector roadway.

Parker Road connects west to Valley Drive (Principal Arterial) and east to Alameda Boulevard.

The subject property contains a religious institution (Holy Cross Catholic Church) and a private school (Las Cruces Catholic Schools) having a combined gross floor area of 39,110 square feet. Based on the criteria for the placement of a private school adopted with the 2001 Zoning Code, as amended; the property is considered to be non-conforming related to as it is located on a local roadway that has a varying Right-of-Way between fifty (50) and fifty-five (55) feet and that it does not meet the separation and landscaping requirements between land uses/zones.

Based on the site assessment conducted by the applicant's agent, the private school utilizes approximately 38,216 square feet for various school related uses. In early January 2009, Las Cruces Catholic Schools purchased 12 portable buildings to address the needs of the private school. The 12 portable buildings have a combined gross floor area of 12,221.60 square feet. The 12 portable buildings are currently on the property located on the western portion of the property adjacent to the Armijo Lateral.

The 2001 Zoning Code, as amended, Article VII Section 38-74 (4) allows for non-conforming structures to be remodeled anytime, but expanded, or altered, one time up to ten percent of the gross floor area of all buildings on the property. Based on the Dona Ana County Tax Assessor records, the religious institution and school have a combined gross floor area of 39,110 square feet; thus, allowing for a one time expansion of 3,910 square feet. The City has issued a permit for the installation of three of the portable buildings having a combined gross floor area of 3,360 square feet. The remaining nine portable buildings have a combined gross floor area of 8,400 square feet and will require approval of this variance prior to building permit issuance.

The adjacent properties to the east and north are single-family residences that are zoned R-1a (Single-Family Medium Density). The R-1a (Single-Family Medium Density) zoning district allows for single-family residential home sites by right and private schools and/or churches by conditional use (see Background section). The property to the south is an apartment complex that is zoned R-3 (Multi-Dwelling Medium Density). The subject property is bordered to the west by the Armijo Lateral and various large area parcels that are zoned R-1a (Single-Family Medium Density).

The private school's primary parking lot is located on the northern portion of the property having direct access from N. Miranda Street. The parking lot is bordered to the north and west by the school's playground. There is no visible landscaping (screening) present along the northern and eastern boundary of the parking lot as required by the 2001 Zoning Code, as amended. Satellite or overflow parking is available from the parking area located south of the school that is also used by the church. The southern parking area has no visible buffering (screening) with the exception of a two to four-foot rock wall located on the eastern and southern property boundaries.

The 2001 Zoning Code, as amended, Article VI Section 38-53 (Conditional Uses) requires school buildings and/or parking areas within 25 feet from a residential zoning district to

provide an opaque buffer consisting of landscape and walls or fences. An opaque screen will require a solid buffer from the ground to the height of at least six feet with intermittent visual openings from the solid portion to a height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. Staff believes that the required buffering would be rather difficult to achieve and suggests that the applicant submit an amended landscaping / irrigation plan for review and comment by City staff. The landscaping plan should indicate a spatial separation between the private school and surrounding residential zoned properties.

Presently, the east side of N. Miranda Street (adjacent to residential homes) has prohibited on-street parking. Therefore, the majority of adjacent on-street parking is limited to the west side of N. Miranda Street and requires the school and religious institution to contain parking on-site.

The 2001 Zoning Code, as amended, requires schools (grades K-8) to provide two to three parking stalls per classroom while schools (grades 9-12) are required to provide one parking stall per employee and one parking stall for every three to five seats in the primary assembly hall. Las Cruces Catholic School is predominately enrolled with students within the elementary school and middle school grades, but a few students are now enrolled in grades 9 and 10.

Therefore, the stricter of the two parking standards will apply requiring compliance with the parking for schools in grades 9 to 12. Las Cruces Catholic Schools has 34 full time employees and five parent volunteers. Accordingly thirty-nine parking stalls are required for employees; when the student enrollment is considered, the total amount of parking is approximately 98 to 133 parking stalls. The current parking is adequate for compliance with parking provisions for grades 9 to 12, provided that church related functions are not occurring simultaneous with school activities. The school will also be required to provide four bicycle parking stalls per classroom in conjunction with the required parking stalls.

The closest bicycle lanes are located approximately 1,100 feet west along Alameda Boulevard and a trail system is located adjacent to the western boundary of the property (Armijo Lateral). There are no bus stops in the immediate area.

There was a neighborhood meeting conducted on February 20, 2009, attended by various City staff members. The City's Traffic Engineer analyzed traffic on surrounding local roadways. The findings of the City's traffic analysis, including the comprehensive traffic impact analysis submitted by the applicant, were discussed at a follow-up neighborhood meeting on May 13, 2009. (See attached technical reports)

TECHNICAL REPORT

The applicant submitted a traffic impact analysis (TIA) for the private school and the church. Holy Cross Catholic Church serves 1,600 registered families having an anticipated growth of 30% over the next 20 years. Las Cruces Catholic Schools has a current enrollment of approximately 300 students. The installation of the 12 portable buildings would

accommodate the growing school population including up to 80 high school students in the future.

Based on the traffic evaluation, there does not appear to be any significant impact to the operation and function of any local street evaluated. The Ethel/Miranda intersection was the only street that is expected to experience a capacity concern but only after a 20-year conservative growth projection is factored in. In addition to the 20-year conservative growth projection, the intersection will still function above a level of service (LOS) C as required by CLC Development Codes. The TIA considered that the existing use of the property will not change as well as accounted for the natural growth these facilities are expected to encounter within the coming years. The TIA was reviewed and approved by the City Traffic Engineer on May 13, 2009, in accordance with CLC Development Codes.

FINDINGS

1. The subject property is located at 1321 N. Miranda Street encompassing approximately 11.07 +/- acres.
2. The subject property is zoned R-1a (Single-Family Medium Density).
3. The private school (Las Cruces Catholic Schools) was relocated to the current site at 1321 N. Miranda Street in 1962. The private school was in full compliance with the zoning code (1955 Zoning Code) at that time.
4. The adoption of the 1981 Zoning Code required schools and/or religious institutions to obtain a special use permit through the Planning and Zoning Commission (P&Z).
5. In 1998 Las Cruces Catholic Schools was issued an amendment to a special use permit to allow an expansion for the Las Cruces Catholic School. The amendment was issued under the authority of the Planning and Zoning Commission.
6. The 2001 Zoning Code, as amended, eliminated the requirement for churches and/or schools to obtain a special use permit provided that the conditions pursuant to Article VI Section 38-53 (Conditional Uses) are met.
7. Based on the criteria for the placement of a private school adopted with the 2001 Zoning Code, as amended; the property is considered to be non-conforming related to as it is located on a local roadway that has a varying Right-of-Way between fifty (50) and fifty-five (55) feet and that it does not meet the separation and landscaping requirements between land uses/zones.
8. The applicant, Las Cruces Catholic Schools, is requesting a variance from the minimum Right-of-Way requirement of eighty-five (85) feet for a varying Right-of-Way segment of 50- to 55-feet along a local roadway (N. Miranda Street). The variance is for a 30- to 35-foot deviation to the 85-foot requirement of a collector status roadway.

9. The variance request will facilitate an expansion for the school site for nine portable buildings having a combined gross floor area of 8,400 square feet.
10. Based on the site assessment conducted by the applicant's agent, the private school uses approximately 38,216 square feet for various school related uses.
11. Staff has received 13 letters opposing the variance request.
12. Adjacent land use and zoning include:

	<u>Zoning</u>	<u>Land Use</u>
North	R-1a	Single-Family Residences
South	R-3	Apartment Complex
East	R-1a	Single-Family Residences
West	R-1a	Single-Family Residences

RECOMMENDATION (A1695)

Staff has reviewed this variance based on the preceding findings and information contained in the packet and recommends **conditional approval** for the variance request.

- The approval of this variance is limited to the expansion and installation of nine portable buildings having a combined gross floor area of 8,400 square feet. Any future expansion of the school site or church shall require the submittal and approval of a zone change to Planned Unit Development (PUD) as outlined within the 2001 Zoning Code, as amended.
- The applicant is required prior to the issuance of a building permit to submit a landscape (buffering) plan that will require administrative approval by staff. The applicant will be required to create a strong impression of spatial separation. In the event administrative approval is not granted the applicant will be required to comply with Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended regarding screening (buffering) for schools adjacent to residential zoning districts.

OPTIONS

The Planning and Zoning Commission options regarding this case are as follows:

1. Vote **Yes** to approve the variance with conditions. This action affirms staffs' recommendation for conditional approval. The nine (9) portables buildings having a combined gross floor area of 8,400 square feet will be allowed to remain on the property located at 1321 N. Miranda Street. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by approving this variance request.

Provided for additional reference are the conditions outlined in staffs' recommendation: 1) The approval of this variance is limited to the additional (yet to be permitted) portable buildings having a combined gross floor area of 8,400 square feet; any future expansion of the school site or church shall require approval of a planned unit development as outlined within the 2001 Zoning Code, as amended; and, 2) The applicant will be required to submit a landscape (buffering) plan that will require administrative approval by staff. The applicant will be required to create a strong impression of spatial separation. In the event administrative approval is not granted the applicant will be required to comply with Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended regarding screening (buffering) for schools adjacent to residential zoning districts. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by approving this variance request.

2. Vote **No** to deny the variance application. This action will require the nine (9) portable buildings having a combined gross floor area of 8,400 square feet to be removed from the property located at 1321 N. Miranda Street. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by denying this variance request.
3. **Modify** the variance request with additional conditions.
4. **Table/Postpone** this variance request and direct staff accordingly.

Note: Decisions must be based on "findings". The findings presented in this document can be used to support **Approval** decisions only. Other findings may be based on the Comprehensive Plan, Zoning Code, or other City plans and policies.

ATTACHMENTS

1. Development Statement (application)
2. Site-plan
3. Narrative (history & project overview)
4. Traffic impact analysis (applicant)
5. Traffic counts (CLC)
6. Neighborhood correspondence
7. Vicinity Map

DEVELOPMENT STATEMENT For Variance Applications

Please print legibly or type

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 of Las Cruces responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission or City Council may condition approval of the proposal at a public hearing where the public will be provided an opportunity to comment.

Applicant Information:

Applicant's Name: LAS CRUCES CATHOLIC SCHOOL, ATTN: DAN SCHNEIDER, BOARD PRESIDENT

Contact Phone Number: 526-2517 OR KIRK CLIFTON, BOARD MEMBER

Contact email address: Kirk.Clifton@gmail.com

Website Address (if applicable): _____

Proposal Information:

Location of subject property: 1331 N. MIRANDA STREET
(In addition to description, attach a map. The map should be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area.)

Current zoning of property: R-1a Acreage of subject property: 11.07± ACRES

Type of variance(s) proposed: VARIANCE TO SEC. 38-33d (VARIANCE TO ALLOW EXISTING SCHOOL TO BE LOCATED ON A MINOR LOCAL)

Required standard (for example, 15 foot rear yard setback):
SCHOOL SHALL BE LOCATED ON A COLLECTOR ROADWAY (85' OF R.O.W.)

Request (for example, 12 foot rear yard setback):

EXISTING SCHOOL HAS BEEN LOCATED ON A MINOR LOCAL CONSISTING OF 50' (R.O.W. IS 55' IN MOST PLACES) - 25' VARIANCE TO REQUIRED R.O.W. WIDTH

Reason for requesting variance (hardship):

L.C.C.S. HAS OPERATED A SCHOOL AT THIS LOCATION SINCE 1962. RECENTLY, IN AN EFFORT TO ADDRESS THE CURRENT SCHOOLS POPULATION AS WELL AS THE NEED FOR MORE SPACE. FOR THE HIGH SCHOOL, WE RECENTLY PURCHASE 12 PORTABLES. BECAUSE OF THE INCREASED SQUARE FOOTAGE, WE ARE BEING ASKED BY THE CITY TO OBTAIN A VARIANCE. UNDER THE CURRENT CODE, WE ARE ALLOWED A 10% INCREASE W/O A VARIANCE. THE PROPOSAL WILL INCLUDE 9 PORTABLE STRUCTURES

Proposed square footage and height of structures to be built (if applicable): (Use separate sheet if necessary.) 8400# TOTAL (9 PORTABLES) HEIGHT = 12'6"

Will any special landscaping, architectural or site design features be implemented in the proposal (for example, rock walls, landscaped medians or entryways, or architectural themes)? If so, please describe and attach rendering available LANDSCAPING AND PONDING WILL BE PROVIDED AS REQUIRED BY EXISTING CITY OF LAS CRUCES CODES

Attachments

- Please attach the following: (*indicates optional item)
location map
detailed site plan
*proposed building elevations
*renderings or architectural or site design features
*other pertinent information

Variance Fees

Revised through adoption of Resolution 00-360

Process	Fee
Single Family Residential Homeowner	\$75.00
All other Variance Applications	\$175.00 ✓
Appeal to City Council	\$200.00

VARIANCE REQUEST JUSTIFICATION STATEMENT

Please provide information on the following issues. This information shall serve as justification for your variance request to the Planning and Zoning Commission. Please note that the Planning and Zoning Commission will thoroughly review the information provided and consider it when making a decision. If the information you provide is unreadable or unclear, it will not be accepted by the Community Development Department (CDD). Additional sheets of paper may be attached.

1. Please explain the nature of your variance request, including the specific numerical request.

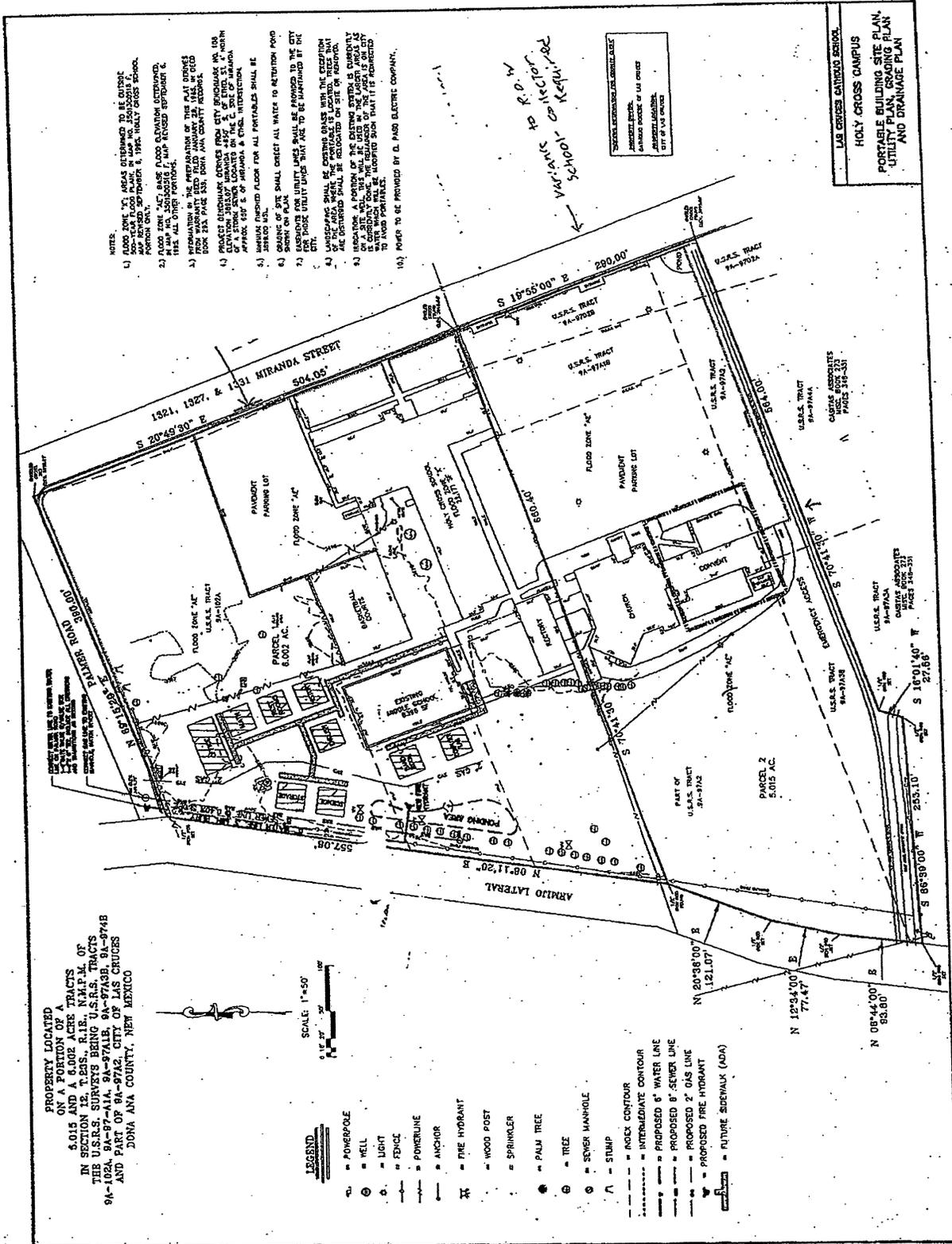
VARIANCE TO ALLOW THE EXISTING LAS CRUCES CATHOLIC SCHOOL ON A MINOR LOCAL ROADWAY (50' ROW) IN LIEU OF THE REQUIRED COLLECTOR ROADWAY (85' ROW) FOR SCHOOLS - SEC. 38-33d, LAS CRUCES ZONING CODE, AS AMENDED.

2. Please explain what physical constraint(s) exists on your property that makes it impossible for you to follow the regulations as written. Attach additional sheet(s) if necessary.

L.C.C.S. HAS BEEN LOCATED AT THIS SITE SINCE 1962. SINCE THAT TIME THE ZONING REGULATIONS HAVE CHANGED REQUIRING SCHOOLS BE LOCATED ON COLLECTOR DESIGNATED ROADWAYS. IN AN EFFORT TO ADDRESS SPACE NEEDS FOR THE EXISTING SCHOOL AND HIGH SCHOOL, PORTABLES WERE PURCHASED. THE CITY WILL NOT PERMIT (BUILDING) THESE UNTIL SUCH TIME AS A VARIANCE IS OBTAINED TO ADDRESS CONFORMITY

The Planning and Zoning Commission is a seven member, City Council appointed, volunteer board whose job entails making decisions on variance requests and staff interpretations on appeal. A variance is a variation in the numerical requirements of the Zoning Code. A staff interpretation appeal occurs when an applicant disagrees with an interpretation of the regulations made by CDD staff. In that case, the applicant may appeal staff's decision to the Planning and Zoning Commission. All decisions of the Planning and Zoning Commission are based on the following criteria:

- a) The general harmony your request has with the intent and purpose of the Zoning Code, which is to encourage the most appropriate use of land and to promote the health, safety, and general welfare of the community.
- b) The effect of your request to adjoining properties. A variance will not be granted if adjoining properties are adversely affected.
- c) The impact your request will have on the supply of light and air to adjacent properties, the increase of danger of fire, the endangerment to public safety and the impact on established property values. Variances shall not be granted if any of the aforementioned are increased or negatively impacted.



PROPERTY LOCATED ON A PORTION OF A 5.015 AND A 6.002 ACRES TRACTS IN SECTION 12, T.28S., R.1E., N.M.P.M. OF THE U.S.R.S. SURVEYS BEING U.S.R.S. TRACTS 9A-102A, 9A-87-A1A, 9A-97ALB, 9A-97AB, 9A-97AB AND DONA ANA COUNTY, NEW MEXICO

- NOTES:
- 1) FLOOD ZONE "A" AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAIN IN YEAR 2050 (FLOOD PLAIN MAP, PROJECT 4, 1994, TULSA, CROSS SECTION, PARISH ONLY).
 - 2) FLOOD ZONE "A" BASE FLOOD ELEVATION DETERMINED BY TULSA COUNTY ENGINEERING DEPARTMENT, 1100 N. W. 10TH AVENUE, TULSA, OKLA. 74103.
 - 3) FLOOD ZONE "A" BASE FLOOD ELEVATION DETERMINED BY TULSA COUNTY ENGINEERING DEPARTMENT, 1100 N. W. 10TH AVENUE, TULSA, OKLA. 74103.
 - 4) PROJECT ALIGNMENT CORRECTED AND SET BY SURVEYOR IN 1984 FROM WARRANTY DEED FILED JANUARY 22, 1984 IN PUBLIC RECORDS, BOOK 224, PAGE 238, DONA ANA COUNTY, NEW MEXICO.
 - 5) PROJECT ALIGNMENT CORRECTED AND SET BY SURVEYOR IN 1984 FROM WARRANTY DEED FILED JANUARY 22, 1984 IN PUBLIC RECORDS, BOOK 224, PAGE 238, DONA ANA COUNTY, NEW MEXICO.
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 - 12) PROJECT ALIGNMENT CORRECTED AND SET BY SURVEYOR IN 1984 FROM WARRANTY DEED FILED JANUARY 22, 1984 IN PUBLIC RECORDS, BOOK 224, PAGE 238, DONA ANA COUNTY, NEW MEXICO.
 - 13) POWER TO BE PROVIDED BY G. PAUL ELECTRIC COMPANY.

VISITORS TO SCHOOL REQUIRED

STANDARD CONSTRUCTION MATERIALS
 APPROVED SPECIFICATIONS
 APPROVED PRODUCTS OF U.S. ORIGIN
 APPROVED MANUFACTURERS
 CITY OF LAS CRUCES

LAS CRUCES CATHEDRAL SCHOOLS
 HOLY CROSS CAMPUS
 PORTABLE BUILDING SITE PLAN,
 UTILITY PLAN, GRADING PLAN
 AND DRAINAGE PLAN

April 3, 2009

Mr. James White, AICP
Zoning Administrator
City of Las Cruces
P.O. Box 20000
Las Cruces, NM 88004

RE: Variance for the Existing Las Cruces Catholic School (LCCS)

Dear Mr. White;

Respectfully, you will find a variance request attached for your review and Planning and Zoning Commission consideration. As we have previously discussed, The Las Cruces Catholic School is in need of additional square footage to address the issues of the current school population as well as the high school. LCCS has been operating at this site for 47 years (since 1962).

The school recently purchased 12 portable structures to address these needs. Unfortunately, the Zoning Code has since changed and now requires schools to be located on a Collector roadway. LCCS is located on North Miranda Drive, which is classified as a minor local roadway. Although, this street segment functions like a Collector road, the existing right of way is 50' (55' in some places). As staff has indicated, we are permitted pursuant to the 2001 Las Cruces Zoning Code (as amended) to increase the use (or size) up to 10% before a variance would be required. The square footage of the campus includes the following:

- Main School Building: 22,171 square feet
- Middle School Building: 8,396 square feet
- Main Church Campus: 7,649 square feet

The total campus size is: 38,216 square feet

Based on these numbers, we are permitted to increase the size up to 3,821.6 square feet before a variance will be required. At this point, we will be submitting a building permit for the placement of 3 portable structures or 3,360 square feet. This will essentially include two 28'x30' portables and one 28'x60' portable.

Because of the non-conformity, staff has requested LCCS submit a variance request to address the Collector road issue. The additional expansion will allow our school to be located on a minor local roadway with an expansion of 9 portable structures or 8400 square feet. As a note, it is my understanding the City and the Las Cruces Public Schools has now taken an initiative to "imbed" schools within neighborhoods. Our school continues to achieve this while hoping to be the best possible neighbor we can be.

Below is a brief history of LCCS:

St. Genevieve's Parish, then located on what is now the Downtown Mall, broke ground for the first parochial school in Las Cruces on May 3, 1927. That first three-room school was just north of the Church and was used for primary grades. The school was dedicated September 14, 1927, on the feast of the Exultation of the Holy Cross. The first 8th grade class of eight students graduated in 1933.

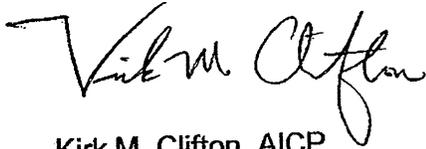
By 1958, there were 300 students attending Holy Cross School. Immaculate Heart of Mary School was founded in 1957 partly to relieve the overcrowding at Holy Cross. For a few years and until a new school could be built, some Holy Cross students attended Immaculate Heart. In 1962, Holy Cross School moved to its new and present facility on North Miranda Street. For many years, the combined enrollments of the two schools remained fairly constant at just over 300 students.

Since the mid 1980's, there was discussion of consolidating the two schools in order to promote growth, unity of purpose, and better utilization of resources. In 1995, a single administrative team consisting of one principal and an assistant principal was hired to administer the two schools and facilitate their consolidation. In January 1996, the two school boards merged under one constitution. The two schools then became the Las Cruces Area Catholic School with two sites, Holy Cross Campus and Immaculate Heart of Mary Campus. In the spring of 2001, the Las Cruces Area Catholic School was reorganized as Las Cruces Catholic School under the governance of a Board of Directors. In 2001 all 300 students were moved to Holy Cross Campus. In the few years following this move, the student population dipped as low as 170, but since 2006, the student population has been growing steadily and is back to 300 students.

Today in Las Cruces and throughout the country, there is increased interest in schools that are free to prepare students spiritually and morally and that have environments and traditions that can better promote academic excellence. Catholic schools have always opened their doors to students of all faiths who share this holistic educational philosophy. Today more than 12% of the approximately 330 students in the Las Cruces Catholic School are not of the Catholic Faith.

I look forward to working with you on this project. If you should have any questions, please feel free to call my anytime.

Thank you,

A handwritten signature in black ink that reads "Kirk M. Clifton". The signature is written in a cursive style with a large initial 'K' and a long, sweeping underline.

Kirk M. Clifton, AICP
Board Member, Las Cruces Catholic School

File
COPY
5-13-09

TRAFFIC REPORT

**HOLY CROSS CHURCH
AND
HOLY CROSS SCHOOL**

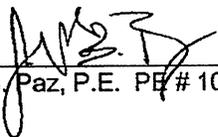
Las Cruces, Dona Ana County, New Mexico

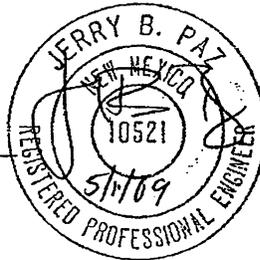
April 3, 2009
REVISED MAY 11, 2009

Prepared by:

Jerry B. Paz, P.E.
575.644.3517

The technical data and material in this report were prepared by or under the direction of the undersigned whose seal as a Registered Professional Engineer, licensed to practice as such in the State of New Mexico is affixed below.


Jerry B. Paz, P.E. PE # 10521



HOLY CROSS CHURCH AND HOLY CROSS SCHOOL TRAFFIC EVALUATION

I. INTRODUCTION

The purpose of this Traffic Analysis is to determine the impact Holy Cross Church and Holy Cross School have on the surrounding neighborhood streets. Both facilities share the same site, but are in fact two distinct legal entities. Holy Cross Church is under the jurisdiction of the Diocese of Las Cruces, and Holy Cross School is an independent private non-profit corporation under Las Cruces Catholic Schools (LCCS). Figure 1 provides an aerial view of the subject property. It is important to recognize that both of these uses are existing permitted uses. They are experience growth issues that warrant the need for expanded space, and/or upgraded space.



Figure 1 – Holy Cross Church & School Site

Brief History

In 1969, the Diocese of Las Cruces established Holy Cross Parish and School at the current site. The initial facility constructed in 1970 was what is now Holy School, with the current cafeteria/gym serving as the church sanctuary. In around 1981, the current church structure was constructed on the same site and the school remained with a shared use of the cafeteria/gym with the church. The church's use of the school facilities remained for ministries and activities outside of school hours. In 1998, a new Middle School was added to the site to accommodate the growing population.

Existing Holy Cross Church Use

Holy Cross Church serves the Roman Catholic community in the urban center of Las Cruces. The Church offers daily mass (Catholic worship service) at 12:15 noon (less than 50 people normally attend), Saturday evening mass at 6:00 pm, and four Sunday masses between 8:00 am in the morning and 1:00 pm in the afternoon. Religious education classes are offered on Sunday mornings and Wednesday evenings for elementary and middle school aged children (for children who do not attend the school). Youth confirmation (Life Teen) classes are also offered Sunday afternoons.

The church currently has 25 committees that meet on the site a minimum of once a month (Adult Formation, Knights of Columbus, prayer groups, choir, Boy Scouts...). In addition, there are over 32 registered ministries that service the church itself, or the broader needs of the Las Cruces community (homebound ministry, Eucharistic ministry, ushers, El Caldito soup kitchen...). Approximately 400 volunteers and or committee members utilize the church facilities outside of normal mass hours.

The existing church facilities, nor a part of the school, include the following:

1. Church Sanctuary;
2. Church offices, library, meeting room, and reception building (formerly the living quarters of the parish priest);
3. Columbarium;
4. Providence House, used for church ministries meeting space (formerly the living quarters of religious nuns).

Existing Holy Cross School Use

The Holy Cross Campus is part of the broader LCCS, incorporated as a private non-profit corporation. Holy Cross School offers pre-K, Kindergarten, Elementary grades, and Middle School grades. In 2007, Holy Cross added a 9th grade class that started with 3 students. In 2008, those students moved up to 10th grade and the 9th grade class saw six additional students enrolled. Holy Cross School includes approximately 295 total student population that utilizes the two existing school buildings.

Normal school hours are between 8:00 am and 3:00 pm Monday through Friday. The school allows parents to drop off children between 7:00 am and 6:00 pm if needed. The school calendar is identical to the Las Cruces Public Schools, with holidays off for Christmas vacation (1 month) and summer vacation (3 months).

Proposed Holy Cross Church Use

Holy Cross Church proposes to construct the John Paul II (JPII) Family Life Center to replace the existing Providence house (convent). The existing Providence house was once a residence that was converted to meeting space for the various ministries over the past 20 years. The Providence house was not designed to accommodate the gatherings of groups that currently use the space. As such, the JPII center is designed to better accommodate existing groups. The JPII center is not a community center. It is simply the replacement of existing buildings that do not serve their purpose well. It also allows

for the growth of the parish ministries, with is the objective of most Christian churches. Expansion of the church worship space may also occur in the future. However, the sum total of all church expansion activities will only add approximately 30% more members over the next 20 years.

Proposed Holy Cross School Use

The Holy Cross School continues to grow 1% to 3% every year. This growth has been in addition to the high school students that were added over the past two years. The expansion of the site to accommodate 12 new portable buildings will allow the high school and pre-K to be expanded. The school has purchased these portable buildings, which were formerly owned by the College of Santa Fe. This expansion is a natural result of Holy Cross School providing a very high level and rigorous Catholic education that meets the needs of the community.

The addition of the high school students is only a temporary situation for the campus. With the small enrollment at present, it makes economic sense to utilize the existing facilities as well as the same faculty and staff as the middle school. By sharing resources, the tuition is affordable for the few students who currently attend. At such time that the high school reaches 60 to 80 students, it will necessitate the relocation of the high school to a permanent location. A larger enrollment would allow the high school to support the higher overhead it takes to run a high school, and allow for reasonable tuition costs. At no time is it anticipated that the total school enrollment will be more than 50% over its current enrollment, with either a mix of elementary, middle school or high school students.

In the distant future, the school may choose to install a gymnasium, as the current gymnasium is not regulation size. Again, there would be no change in the existing use that is already occurring on the property

Summary of Property Use

Holy Cross Church

1. This site has been continuously used as a church and school since 1970.
2. As the church and school have grown over the years, expanded space has been construction to accommodate those same activities.
3. In the early 1980's, the church constructed a new chapel that serves the current 1,600 registered families that worship there.
4. The church has existing offices and meeting space that were formerly living quarters for religious (priests and nuns). This space is inadequate for current needs.
5. The John Paul II Family Life Center is not a community center, but a replacement of the existing office and meeting space that is inadequate for the existing and growing church community.
6. The overall growth of the church community is expected to be approximately 30% over the next 20 years.

Holy Cross School

1. Holy Cross School is a part of Las Cruces Catholic Schools, a separate non-profit organization and not legally a part of Holy Cross Church and/or the Diocese of Las Cruces (with the exception of ecclesiastical obedience).
2. The school currently has nearly 300 students between pre-K and 10th grade.
3. The School currently uses buildings that were originally constructed in 1970 and the expanded middle school in 1998.
4. Holy Cross School has purchased 12 portable buildings to be installed at the school campus to accommodate the growing school population including up to 80 high school students in the future.
5. The school may someday construct a regulation size gymnasium at this site.

Joint Church and School Use

- The church hours that see appreciable traffic are evenings for the various ministries and weekends during the masses.
- Church ministries generally do not meet during the masses with two exceptions. The first exception is those ministries that are part of the mass liturgy itself (greeters, readers, ushers, choir..). The second are the religious education classes offered Sunday mornings (Sunday school) for children who do not attend the school.
- The school hours of operation are weekdays in the morning through the mid afternoon.

Conclusion: The joint use of church and school traffic are complimentary in that neither are meeting and/or creating traffic demands on surrounding streets at the same time.

II. TRAFFIC DEMAND

The unique nature of this site is that both Holy Cross Church and Holy Cross School both share the same property. While both facilities generate traffic, neither facility experiences peak travel demand at the same time. In order to document the existing condition at the site, it was necessary to conduct traffic counts outside of normal conditions.

Existing Traffic Patterns

Most facilities are evaluated for their impact on surrounding streets during the AM and PM peak hours. This is based on a normal business or residential development where the travel demand is most severe for people traveling to and from work, with 8:00 am and 5:00 pm around the peak hour.

This site has its peak hour during Sunday masses. Under normal circumstances, this is not a problem as the surrounding City traffic grid is underutilized during Sunday traffic. However, since Holy Cross is on a residential street surrounded by residential streets, it should be checked to verify if the surround streets could accommodate this traffic during the Sunday masses. The school is more likely to have an impact on surrounding streets as its 8:00 am opening school bell is similar to the normal AM peak hour traffic.

Methodology

The Holy Cross Church and School site fronts Miranda Street and has three entrances from Parker Road, Ethyl Avenue, and Palmer Road. These three streets naturally disperse traffic, such that neither street receives all of the vehicles that have Holy Cross as its destination. Thus, this analysis evaluates the existing traffic patterns for the following intersections:

- Parker Road / Miranda Street Intersection
- Ethyl Avenue / Miranda Street Intersection
- Palmer Road / Miranda Street Intersection

The existing hourly counts were conducted by hand, with data recorded in 15-minute increments. Given the unique nature of the site, it was determined to evaluate the following periods of the day:

- For weekday traffic activity, traffic was monitored between 6:00 am in the morning and 9:00 pm in the evening. This unusual time period is above and beyond the normal peak hours. The purpose of this time period was to capture not only the normal AM/PM peak, but to also capture the evening traffic that utilize the site for religious education classes, choir practices, boy scouts and other ministries that meet in the evening.

- For Sunday masses, traffic was monitored between 7:00 am in the morning to 2:00 pm in the afternoon to capture the 8:00 am mass, the 9:30 am mass, the 11:45 am mass, and the 1:00 pm mass.

This methodology was reviewed by the City of Las Cruces Traffic Engineering department and determined to be more than reasonable. It was also intended to capture off-peak hours to satisfy the public from the surrounding neighborhood of the full impact this facility would have on the surrounding streets.

The City Traffic Engineering Department is collecting its own traffic volume counts using tube counters, but those were not available at the time this report was prepared.

Existing Traffic Counts & Traffic Projections:

Peak hour traffic counts for the three intersections counted can be found on Figure 2 through Figure 4. Raw data obtained in the field used to generate Figure 2 through Figure 4 can be found in Appendix A. Given that the future land use is totally consistent with the existing land use, traffic projections for future demand was based on the expected growth of both the church and school communities. Given the plans each of the entities have, the following 20-year growth projections were used:

- Holy Cross Church is expected to grow approximately 30% over the next 20 years, including the JPII Center;
- Holy Cross School is expected to grow up to 50% over the next 20 years. Down from a 1997 peak enrollment of 345 students, the current student enrollment is 295 students. The maximum number of total students (all grades) is never expected to grow to over 450 students.

Level of Service (LOS) computations were performed at the three intersections for those peak hours during the AM, PM hours. In addition, LOS computations were performed for a 20-year planning period through 2029. These computations can be found in Appendix B. A Summary of these computations is as follows:

Table 1: Level of Service (LOS)

Intersection	2009		2029	
	AM	PM	PEAK	SUN
Palmer - Miranda	A	A	A	-
Ethyl - Miranda	A/A	A/A	B/B	B/B
Parker - Miranda	A	A	A	-

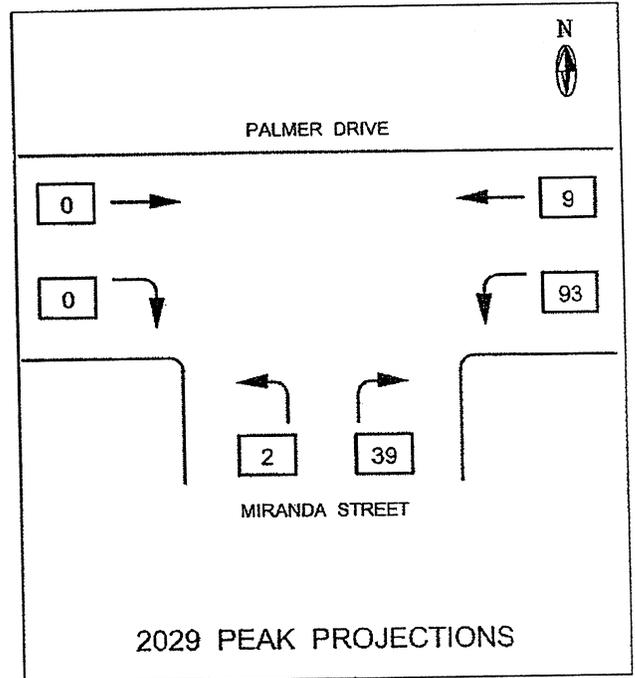
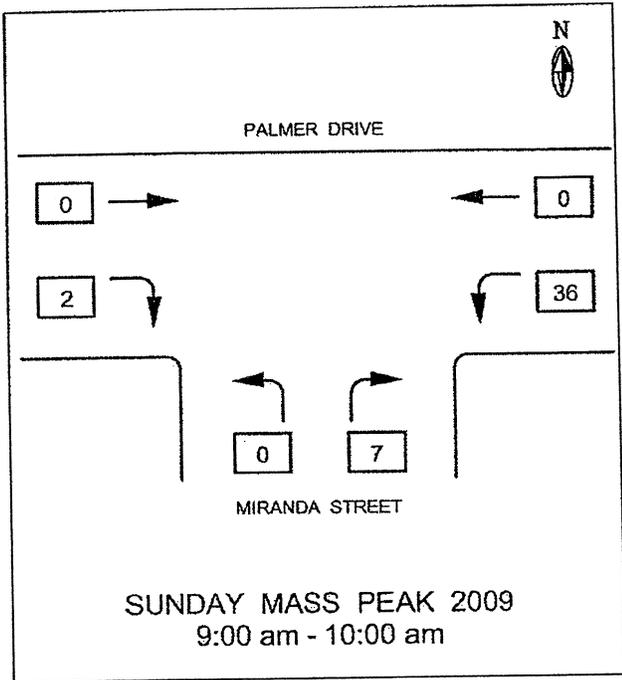
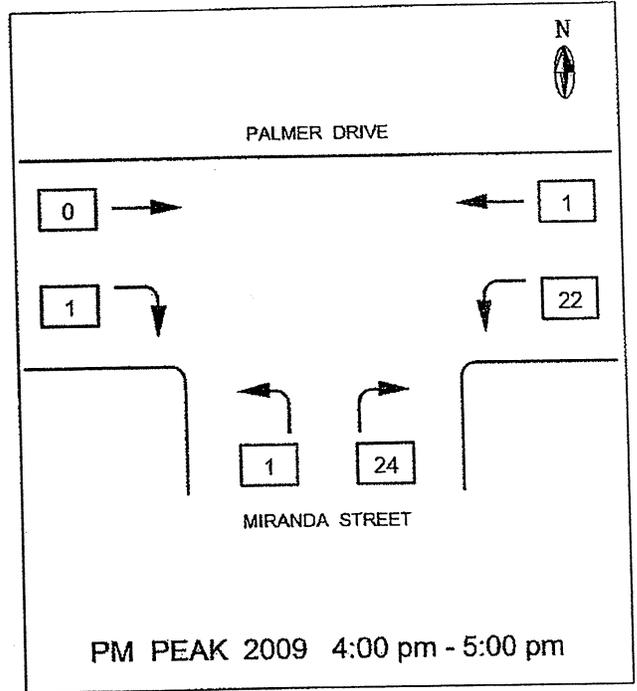
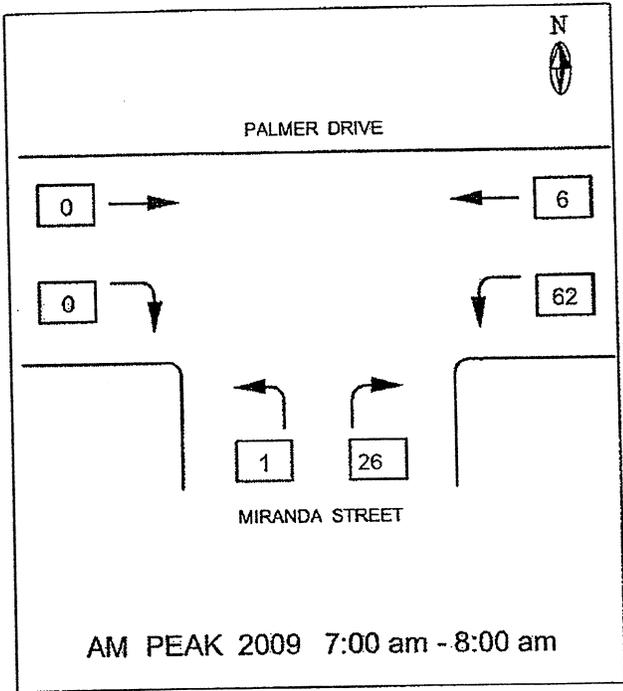


Figure 2 - Palmer Road & Miranda Street Intersection

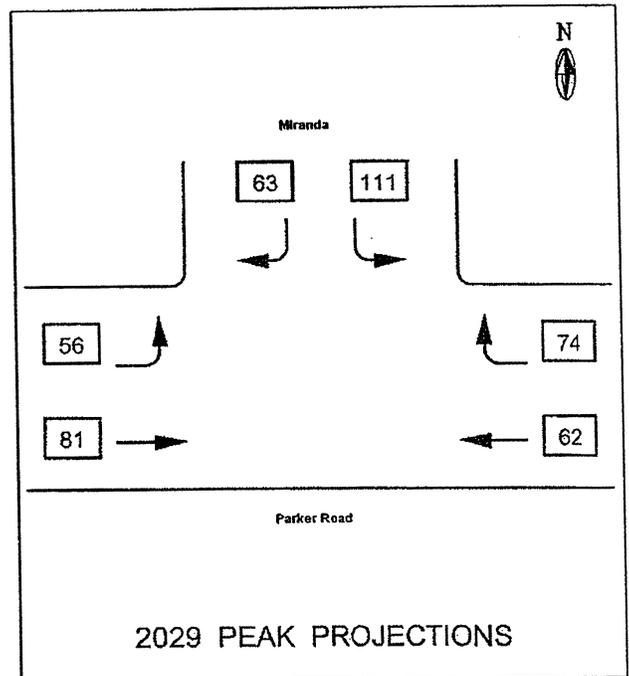
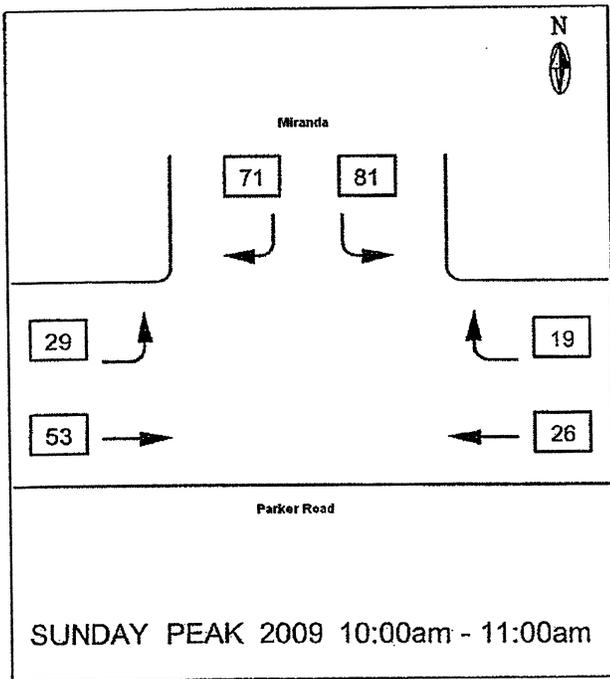
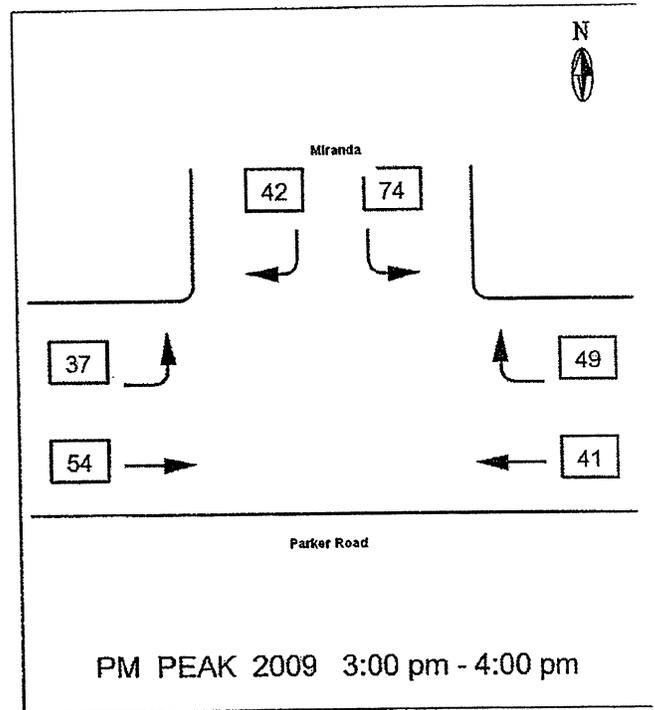
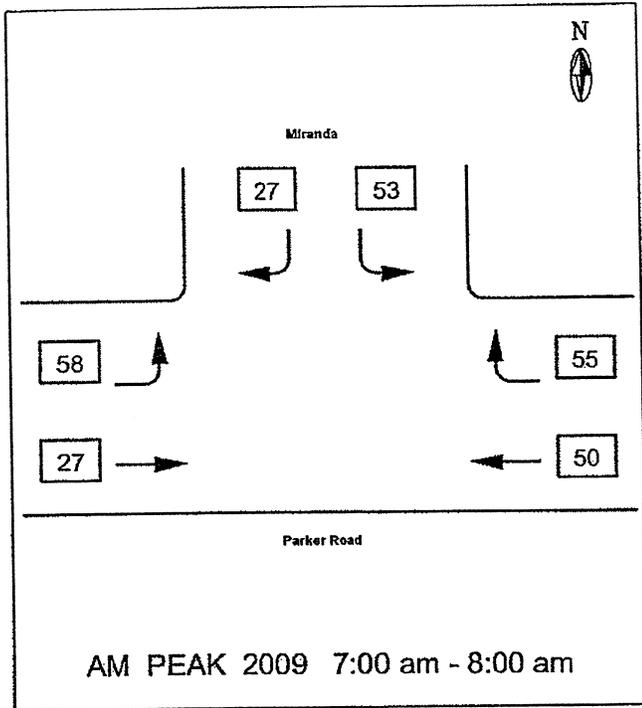


Figure 3 - Parker Road & Miranda Street Intersection

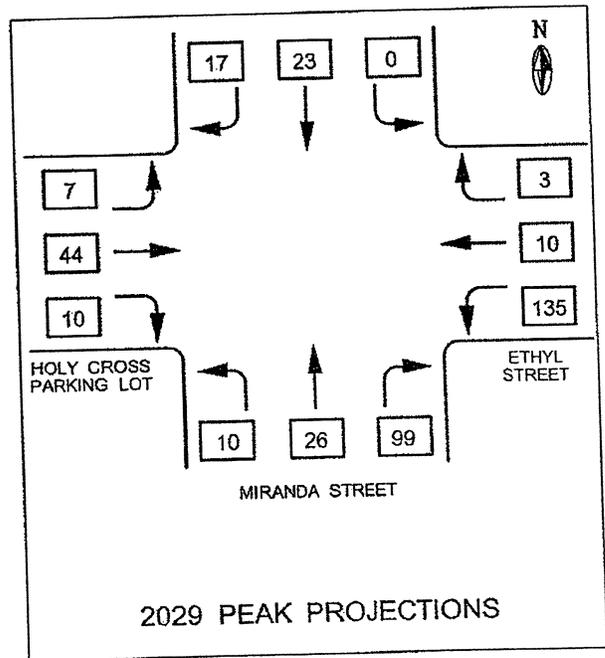
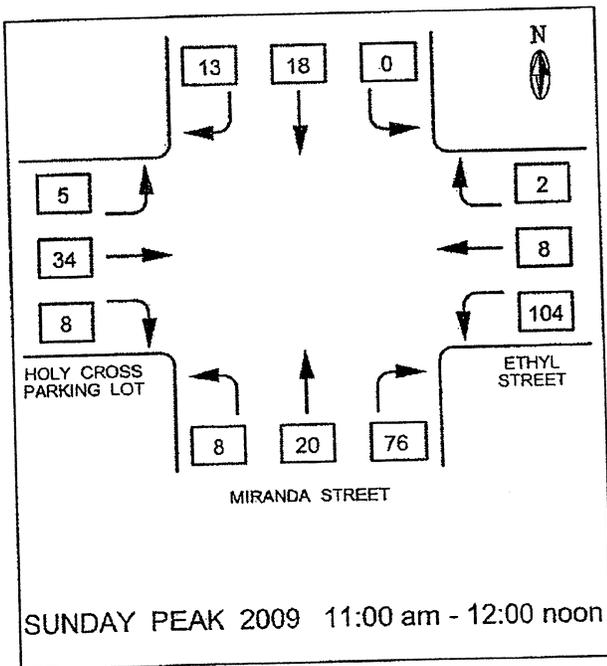
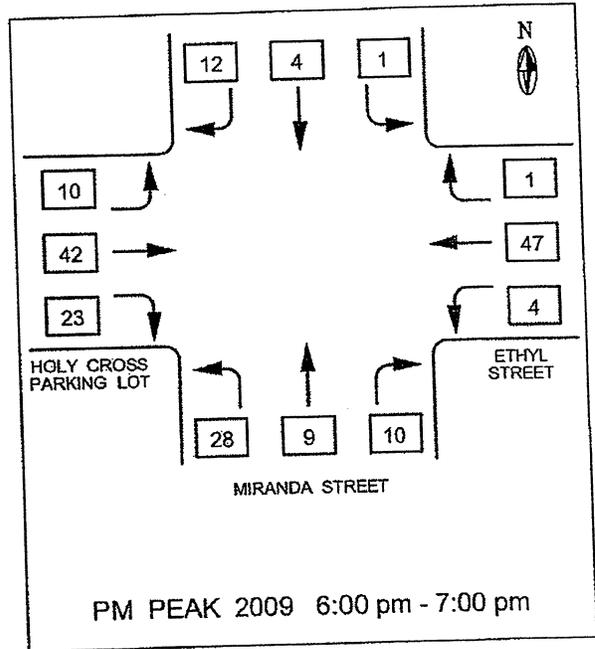
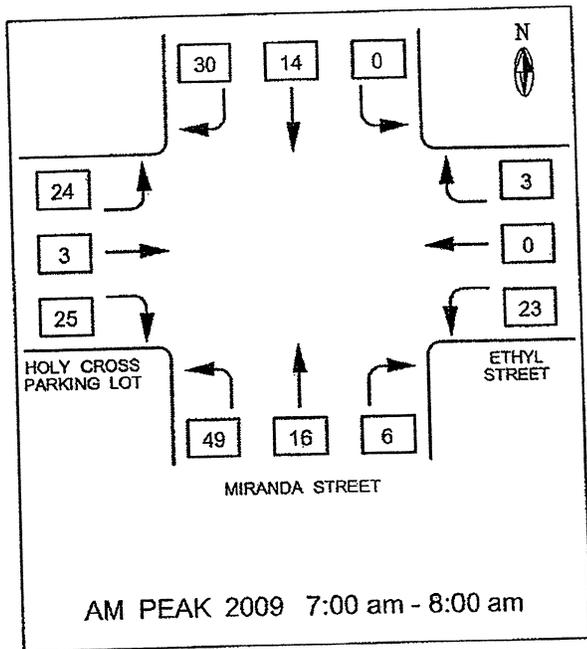


Figure 4 - Ethyl Avenue & Miranda Street Intersection

Based on a review of the data the following observations can be made:

- Palmer Road is the best functioning roadway of the three evaluated for both current and future traffic demand. It functions at an LOS A for both current year and for the Year 2029. This could be attributed to the width of the street, with naturally cause drivers to avoid this corridor.
- Parker Road functions as a collector street between Alameda and Valley Drive. This corridor had the most traffic of all those evaluated. It functions at an LOS A for both current year and for Year 2029. Parker Road was the only street that saw the peak hour during weekday traffic.
- Ethyl Avenue is also a heavily used street similar to Parker Road. Ethyl functions at an LOS A for the current year and LOS B (PM and Sunday) for Year 2029, well above the LOS C required by the City of Las Cruces. Ethyl receives its peak traffic flow on a Sunday morning, so the impact to the adjacent collector and arterial streets would be negligible. The traffic impact on Ethyl during weekday traffic is well below the street capacity.
- Miranda Street recorded the higher traffic volumes than either Ethyl or Palmer. With Holy Cross Church and School on Miranda as a destination, Miranda operates as a “mini-collector,” funneling traffic from Parker, Palmer, and Ethyl. Miranda Street operates below capacity for the current traffic volumes. This shows that the growth of the Holy Cross Church and Holy Cross School is limited to the growth percentages anticipated without any other traffic mitigation measures taken.

III. CONCLUSION

Based on the traffic evaluation contained herein, there does not appear to be any significant impact to the operation and function of any local residential street evaluated. In most instances, the demand was significantly less than the capacity of the streets. The Ethyl/Miranda intersection was the only street that is expected to experience capacity issues, and only after the 20-year conservative growth projects are factored in, but they still function above the LOS C required by the City of Las Cruces. The existing use of the property will not change, and this analysis addresses the natural growth these facilities are expected to encounter.

The City may wish to limit the growth of these facilities to those listed in this report. However, that approach should not be required, as the facility itself will limit its own growth if the traffic impedes its ability to service the community. As an example, once there are sufficient students (60 to 80 students) within the high school to begin a new campus, the school will seek a permanent site for a new Catholic high school.

MITIGATION MEASURES:

Some mitigation measures could be taken by either the City, the church, and/or the school to help to alleviate traffic issues at the site:

- Restrict on-street parking on Miranda in front of the school to 15 minutes.
- Move the drop-off zone to the southern parking lot, which has a longer stacking lane potential.
- Stagger hours of school operation for the high school students.
- Install speed humps on Miranda for traffic calming.
- Post school zone on Miranda to limit speed to 15 mph.

The applicant is open to discuss any and all of these suggestions as a part of its operation.

APPENDIX A

**Palmer/Miranda
Mass Sunday
3/15/2009**

							2029 Estimate (1.3 Factor)
7:00-8:00 AM	8:00-9:00 AM	9:00-10:00 AM	10:00-11:00 AM	11:00-12:00 AM	12:00-1:00 PM	1:00-2:00 PM	
0	13	7	10	16	16	9	9
0	4	0	0	1	0	0	0
25	3	36	10	18	11	8	47
0	3	0	2	0	0	0	0
0	0	0	0	1	0	0	0
0	1	2	0	0	0	0	0
25	24	45	22	36	27	17	59

**Palmer/Miranda
School Day/CCD Night
3/10-11/2009**

							2029 Estimate (1.5 Factor)
6:00-7:00 AM	7:00-8:00 AM	8:00-9:00 AM	9:00-10:00 AM	10:00-11:00 AM	11:00-12:00 AM	12:00-1:00 PM	
1	26	11	42	8	12	13	39
0	1	1	1	0	0	0	2
1	62	23	8	2	7	9	93
0	6	0	0	0	0	1	9
0	0	1	0	0	0	0	0
0	0	0	0	1	0	0	0
2	95	36	51	11	19	23	143

3/10-11/2009

								2029 Estimate (1.3 Factor)
1:00-2:00 PM	2:00-3:00 PM	3:00-4:00 PM	4:00-5:00 PM	5:00-6:00 PM	6:00-7:00 PM	7:00-8:00 PM	8:00-9:00 PM	
7	15	23	24	10	13	5	6	31
0	0	1	1	0	3	0	1	1
10	20	22	22	11	11	2	3	29
0	0	1	1	0	1	0	1	1
3	3	1	0	0	1	0	0	0
0	1	0	1	1	0	0	1	1
20	39	48	49	22	29	7	12	64

**Parker/Miranda
Mass Sunday
3/15/2009**

							2009 Estimate (1.3 Factor)
7:00-8:00 AM	8:00-9:00 AM	9:00-10:00 AM	10:00-11:00 AM	11:00-12:00 AM	12:00-1:00 PM	1:00-2:00 PM	
2	6	25	26	16	35	39	34
4	17	31	53	48	53	58	69
21	6	50	19	40	10	40	25
37	9	67	29	49	14	22	38
3	29	42	81	46	50	57	105
3	26	33	71	41	16	33	92
70	93	248	279	240	178	249	363

**Parker/Miranda
School Day/CCD Night
3/10-11/2009**

							2009 Estimate (1.5 Factor)
6:00-7:00 AM	7:00-8:00 AM	8:00-9:00 AM	9:00-10:00 AM	10:00-11:00 AM	11:00-12:00 AM	12:00-1:00 PM	
2	60	14	19	16	17	29	75
5	27	32	36	34	32	56	41
7	55	27	16	17	20	24	83
2	58	20	7	11	14	25	87
4	53	48	16	12	27	29	80
2	27	22	5	10	18	17	41
22	270	163	99	100	128	180	405

3/10-11/2009

								2009 Estimate (1.5 Factor)
1:00-2:00 PM	2:00-3:00 PM	3:00-4:00 PM	4:00-5:00 PM	5:00-6:00 PM	6:00-7:00 PM	7:00-8:00 PM	8:00-9:00 PM	
21	56	41	36	22	29	19	10	62
37	59	54	63	39	44	28	19	81
14	49	49	35	26	32	19	6	74
10	21	37	42	12	33	14	9	56
13	22	74	48	37	26	18	19	101
10	19	42	48	38	20	21	23	63
105	226	297	272	174	184	119	86	426

Ethyl/Miranda
Mass Sunday
3/15/2009

							2029 Estimate (1.3 Factor)
7:00-8:00 AM	8:00-9:00 AM	9:00-10:00 AM	10:00-11:00 AM	11:00-12:00 AM	12:00-1:00 PM	1:00-2:00 PM	
2	2	43	11	76	38	33	99
0	3	14	7	20	11	20	26
1	0	15	6	8	0	3	10
45	17	101	13	104	19	47	135
0	0	29	8	8	2	3	10
0	2	8	1	34	10	4	44
0	0	5	1	8	3	2	10
0	1	0	1	2	0	0	3
0	0	1	0	5	3	6	7
0	1	0	1	0	2	1	0
22	3	20	5	18	7	5	23
1	3	12	8	13	3	0	17
71	32	248	62	296	98	124	385

Ethyl/Miranda
School Day/CCD Night
3/10-11/2009

							2029 Estimate (1.5 Factor)
6:00-7:00 AM	7:00-8:00 AM	8:00-9:00 AM	9:00-10:00 AM	10:00-11:00 AM	11:00-12:00 AM	12:00-1:00 PM	
0	6	6	0	0	8	13	9
0	16	10	1	1	5	16	24
3	49	15	11	15	5	0	74
6	23	9	1	0	14	12	35
0	0	2	5	1	4	0	0
1	3	2	8	8	8	0	5
0	25	12	2	11	3	0	38
1	3	2	0	1	2	0	5
0	24	12	0	2	0	0	36
0	0	0	0	0	1	0	0
0	14	5	1	1	1	3	21
2	30	4	0	0	0	0	45
13	193	79	29	40	51	44	290

								2029 Estimate (1.3 Factor)
3/10-11/2009								
1:00-2:00 PM	2:00-3:00 PM	3:00-4:00 PM	4:00-5:00 PM	5:00-6:00 PM	6:00-7:00 PM	7:00-8:00 PM	8:00-9:00 PM	
7	3	0	1	7	10	6	2	13
0	4	14	6	8	9	5	4	12
0	21	29	28	0	28	21	16	36
9	0	0	1	11	4	4	1	5
0	17	9	16	0	47	12	11	61
0	16	20	22	3	42	23	29	55
1	7	31	21	0	23	17	30	30
0	9	13	6	1	1	1	0	1
0	25	16	14	0	10	10	5	13
0	1	5	5	0	1	1	0	1
0	1	23	9	3	4	4	3	5
0	1	28	7	0	12	5	4	16
17	105	188	136	33	191	109	105	248

HOUR	8:00 AM	8:15 AM	8:30 AM	8:45 AM	9:00 AM	9:15 AM	9:30 AM	9:45 AM	10:00 AM	10:15 AM	10:30 AM	10:45 AM	11:00 AM	11:15 AM	11:30 AM	11:45 AM	12:00 AM	12:15 PM	12:30 PM	12:45 PM	1:00 PM	1:15 PM	1:30 PM	1:45 PM	2:00 PM
1	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50
2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50	
3	6	12	18	24	30	36	42	48	54	60	66	72	78	84	90	96	102	108	114	120	126	132	138	144	
4	8	16	24	32	40	48	56	64	72	80	88	96	104	112	120	128	136	144	152	160	168	176	184	192	
5	10	20	30	40	50	60	70	80	90	100	110	120	130	140	150	160	170	180	190	200	210	220	230	240	
6	12	24	36	48	60	72	84	96	108	120	132	144	156	168	180	192	204	216	228	240	252	264	276	288	
7	14	28	42	56	70	84	98	112	126	140	154	168	182	196	210	224	238	252	266	280	294	308	322	336	
8	16	32	48	64	80	96	112	128	144	160	176	192	208	224	240	256	272	288	304	320	336	352	368	384	
9	18	36	54	72	90	108	126	144	162	180	198	216	234	252	270	288	306	324	342	360	378	396	414	432	
10	20	40	60	80	100	120	140	160	180	200	220	240	260	280	300	320	340	360	380	400	420	440	460	480	
11	22	44	66	88	110	132	154	176	198	220	242	264	286	308	330	352	374	396	418	440	462	484	506	528	
12	24	48	72	96	120	144	168	192	216	240	264	288	312	336	360	384	408	432	456	480	504	528	552	576	
13	26	52	78	104	130	156	182	208	234	260	286	312	338	364	390	416	442	468	494	520	546	572	598	624	
14	28	56	84	112	140	168	196	224	252	280	308	336	364	392	420	448	476	504	532	560	588	616	644	672	
15	30	60	90	120	150	180	210	240	270	300	330	360	390	420	450	480	510	540	570	600	630	660	690	720	
16	32	64	96	128	160	192	224	256	288	320	352	384	416	448	480	512	544	576	608	640	672	704	736	768	
17	34	68	102	136	170	204	238	272	306	340	374	408	442	476	510	544	578	612	646	680	714	748	782	816	
18	36	72	108	144	180	216	252	288	324	360	396	432	468	504	540	576	612	648	684	720	756	792	828	864	
19	38	76	114	152	190	230	268	306	344	382	420	458	496	534	572	610	648	686	724	762	800	838	876	914	
20	40	80	120	160	200	240	280	320	360	400	440	480	520	560	600	640	680	720	760	800	840	880	920	960	
21	42	84	126	168	210	252	294	336	378	420	462	504	546	588	630	672	714	756	798	840	882	924	966	1008	
22	44	88	132	176	220	264	306	348	390	432	474	516	558	600	642	684	726	768	810	852	894	936	978	1020	
23	46	92	138	184	230	276	318	360	402	444	486	528	570	612	654	696	738	780	822	864	906	948	990	1032	
24	48	96	144	192	240	288	330	372	414	456	498	540	582	624	666	708	750	792	834	876	918	960	1002	1044	
25	50	100	150	200	250	300	350	400	450	500	550	600	650	700	750	800	850	900	950	1000	1050	1100	1150	1200	

HOUR	3:00 PM	3:15 PM	3:30 PM	3:45 PM	4:00 PM	4:15 PM	4:30 PM	4:45 PM	5:00 PM	5:15 PM	5:30 PM	5:45 PM	6:00 PM	6:15 PM	6:30 PM	6:45 PM	7:00 PM	7:15 PM	7:30 PM	7:45 PM	8:00 PM	8:15 PM	8:30 PM	8:45 PM
1	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
2	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
3	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
4	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
5	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
6	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
7	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
8	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
9	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
10	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
11	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
13	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
14	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
15	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
16	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
17	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
18	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
19	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
20	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
21	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
22	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
23	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
24	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
25	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12

APPENDIX B

ALL-WAY STOP CONTROL ANALYSIS									
General Information					Site Information				
Analyst	DW				Intersection				
Agency/Co.					Jurisdiction				
Date Performed	5/9/2009				Analysis Year	2009			
Analysis Time Period	AM peak7-8								
Project ID <i>Parker- Miranda AMPeak 2009</i>									
East/West Street: <i>Parker</i>					North/South Street: <i>Miranda</i>				
Volume Adjustments and Site Characteristics									
Approach	Eastbound					Westbound			
Movement	L	T	R	L	T	R			
Volume	58	27	0	0	50	55			
%Thrus Left Lane	50					50			
Approach	Northbound					Southbound			
Movement	L	T	R	L	T	R			
Volume	0	0	0	53	0	27			
%Thrus Left Lane	50					50			
	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Configuration	LTR		LTR		LR		LTR		
PHF	1.00		1.00		1.00		1.00		
Flow Rate	85		105		0		80		
% Heavy Vehicles	0		0		0		0		
No. Lanes	1		1		1		1		
Geometry Group	1		1		1		1		
Duration, T	1.00								
Saturation Headway Adjustment Worksheet									
Prop. Left-Turns	0.7		0.0		0.0		0.7		
Prop. Right-Turns	0.0		0.5		0.0		0.3		
Prop. Heavy Vehicle									
hLT-adj	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
hRT-adj	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
hHV-adj	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7
hadj, computed	4.32		4.32		4.32		4.32		4.32
Departure Headway and Service Time									
hd, initial value	3.20		3.20		3.20		3.20		
x, initial	0.08		0.09		0.00		0.07		
hd, final value	4.32		4.32		4.32		4.32		
x, final value	0.10		0.11		0.00		0.09		
Move-up time, m	2.0		2.0		2.0		2.0		
Service Time	2.3		2.3		2.3		2.3		
Capacity and Level of Service									
	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Capacity	335		355		0		330		
Delay	7.81		7.34		7.39		7.68		
LOS	A		A		A		A		
Approach: Delay	7.81		7.34		7.39		7.68		
LOS	A		A		A		A		
Intersection Delay	7.59								
Intersection LOS	A								

All-Way Stop Control

ALL-WAY STOP CONTROL ANALYSIS									
General Information					Site Information				
Analyst	DW				Intersection				
Agency/Co.					Jurisdiction				
Date Performed	5/9/2009				Analysis Year	2009			
Analysis Time Period	PM peak 3-4								
Project ID Parker- Miranda _ PMPeak 2009 _					North/South Street: Miranda				
East/West Street: Parker									
Volume Adjustments and Site Characteristics									
Approach	Eastbound					Westbound			
	L	T	R	L	T	R			
Movement							41	49	
Volume	37	54	0	50					
%Thrus Left Lane	50								
Approach	Northbound					Southbound			
	L	T	R	L	T	R			
Movement				74	0	42			
Volume	0	0	0	50					
%Thrus Left Lane	50								
Configuration	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Configuration	LTR		LTR		LR		LTR		
PHF	1.00		1.00		1.00		1.00		
Flow Rate	91		90		0		116		
% Heavy Vehicles	0		0		0		0		
No. Lanes	1		1		1		1		
Geometry Group	1		1		1		1		
Duration, T	1.00								
Saturation Headway Adjustment Worksheet									
Prop. Left-Turns	0.4		0.0		0.0		0.6		
Prop. Right-Turns	0.0		0.5		0.0		0.4		
Prop. Heavy Vehicle									
hLT-adj	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
hRT-adj	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
hHV-adj	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7
hadj, computed	4.33		4.33		4.33		4.33		
Departure Headway and Service Time									
hd, initial value	3.20		3.20		3.20		3.20		
x, initial	0.08		0.08		0.00		0.10		
hd, final value	4.33		4.33		4.33		4.33		
x, final value	0.11		0.10		0.00		0.14		
Move-up time, m	2.0		2.0		2.0		2.0		
Service Time	2.3		2.3		2.3		2.3		
Capacity and Level of Service									
Capacity	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Capacity	341		340		0		366		
Delay	7.86		7.36		7.42		7.86		
LOS	A		A		A		A		
Approach: Delay	7.86		7.36		7.42		7.86		
LOS	A		A		A		A		
Intersection Delay	7.71								
Intersection LOS	A								

All-Way Stop Control

ALL-WAY STOP CONTROL ANALYSIS									
General Information					Site Information				
Analyst	DW				Intersection				
Agency/Co.					Jurisdiction				
Date Performed	5/9/2009				Analysis Year	2029			
Analysis Time Period	peak PM								
Project ID Parker- Miranda _ PM Peak 2029									
East/West Street: Parker					North/South Street: Miranda				
Volume Adjustments and Site Characteristics									
Approach	Eastbound					Westbound			
Movement	L	T	R	L	T	R			
Volume	56	81	0	0	62	74			
%Thrus Left Lane	50				50				
Approach	Northbound					Southbound			
Movement	L	T	R	L	T	R			
Volume	0	0	0	111	0	63			
%Thrus Left Lane	50				50				
	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Configuration	LTR		LTR		LR		LTR		
PHF	1.00		1.00		1.00		1.00		
Flow Rate	137		136		0		174		
% Heavy Vehicles	0		0		0		0		
No. Lanes	1		1		1		1		
Geometry Group	1		1		1		1		
Duration, T	1.00								
Saturation Headway Adjustment Worksheet									
Prop. Left-Turns	0.4		0.0		0.0		0.6		
Prop. Right-Turns	0.0		0.5		0.0		0.4		
Prop. Heavy Vehicle									
hLT-adj	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
hRT-adj	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
hHV-adj	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7
hadj, computed	4.54		4.54		4.54		4.54		
Departure Headway and Service Time									
hd, initial value	3.20		3.20		3.20		3.20		
x, initial	0.12		0.12		0.00		0.15		
hd, final value	4.54		4.54		4.54		4.54		
x, final value	0.17		0.16		0.00		0.21		
Move-up time, m	2.0		2.0		2.0		2.0		
Service Time	2.5		2.5		2.5		2.5		
Capacity and Level of Service									
	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Capacity	387		386		0		424		
Delay	8.49		7.91		7.73		8.64		
LOS	A		A		A		A		
Approach: Delay	8.49		7.91		7.73		8.64		
LOS	A		A		A		A		
Intersection Delay	8.37								
Intersection LOS	A								

09

ALL-WAY STOP CONTROL ANALYSIS									
General Information					Site Information				
Analyst	DW				Intersection				
Agency/Co.					Jurisdiction				
Date Performed	5/9/2009				Analysis Year	2009			
Analysis Time Period	AM Peak 7-8								
Project ID <i>Palmer - Miranda - AM Peak 2009</i>									
East/West Street: <i>Palmer</i>					North/South Street: <i>Miranda</i>				
Volume Adjustments and Site Characteristics									
Approach	Eastbound					Westbound			
Movement	L	T	R	L	T	R			
Volume	0	0	0	62	6	0			
%Thrus Left Lane	50				50				
Approach	Northbound					Southbound			
Movement	L	T	R	L	T	R			
Volume	1	0	26	0	0	0			
%Thrus Left Lane	50				50				
	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Configuration	LTR		LTR		LTR		LTR		
PHF	1.00		1.00		1.00		1.00		
Flow Rate	0		68		27		0		
% Heavy Vehicles	0		0		0		0		
No. Lanes	1		1		1		1		
Geometry Group	1		1		1		1		
Duration, T	1.00								
Saturation Headway Adjustment Worksheet									
Prop. Left-Turns	0.0	0.9		0.0		0.0			
Prop. Right-Turns	0.0	0.0		1.0		0.0			
Prop. Heavy Vehicle									
hLT-adj	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	
hRT-adj	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	
hHV-adj	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7	
hadj, computed	4.02	4.02		4.02		4.02		4.02	
Departure Headway and Service Time									
hd, initial value	3.20	3.20		3.20		3.20		3.20	
xs, initial	0.00	0.06		0.02		0.00			
hd, final value	4.02	4.02		4.02		4.02		4.02	
xs, final value	0.00	0.08		0.03		0.00			
Move-up time, m	2.0		2.0		2.0		2.0		
Service Time	2.0	2.0		2.0		2.0			
Capacity and Level of Service									
	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Capacity	0		318		277		0		
Delay	7.02		7.48		6.57		7.07		
LOS	A		A		A		A		
Approach: Delay	7.02		7.48		6.57		7.07		
LOS	A		A		A		A		
Intersection Delay	7.22								
Intersection LOS	A								

D. 1 2009

ALL-WAY STOP CONTROL ANALYSIS									
General Information					Site Information				
Analyst	DW				Intersection				
Agency/Co.					Jurisdiction				
Date Performed	5/9/2009				Analysis Year	2009			
Analysis Time Period	PM Peak 4-5								
Project ID Palmer - Miranda _ PM Peak 2009 _									
East/West Street: Palmer					North/South Street: Miranda				
Volume Adjustments and Site Characteristics									
Approach	Eastbound					Westbound			
Movement	L	T	R	L	T	R			
Volume	0	0	1	22	1	0			
%Thrus Left Lane	50			50					
Approach	Northbound					Southbound			
Movement	L	T	R	L	T	R			
Volume	1	0	24	0	0	0			
%Thrus Left Lane	50			50					
	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Configuration	LTR		LTR		LTR		LTR		
PHF	1.00		1.00		1.00		1.00		
Flow Rate	1		23		25		0		
% Heavy Vehicles	0		0		0		0		
No. Lanes	1		1		1		1		
Geometry Group	1		1		1		1		
Duration, T	1.00								
Saturation Headway Adjustment Worksheet									
Prop. Left-Turns	0.0		1.0		0.0		0.0		
Prop. Right-Turns	1.0		0.0		1.0		0.0		
Prop. Heavy Vehicle									
hLT-adj	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	
hRT-adj	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	
hHV-adj	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7	
hadj, computed	3.37		3.37		3.37		3.37		
Departure Headway and Service Time									
hd, initial value	3.20		3.20		3.20		3.20		
x, initial	0.00		0.02		0.02		0.00		
hd, final value	3.37		3.37		3.37		3.37		
x, final value	0.00		0.03		0.02		0.00		
Move-up time, m	2.0		2.0		2.0		2.0		
Service Time	1.4		1.4		1.4		1.4		
Capacity and Level of Service									
	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Capacity	251		273		275		0		
Delay	6.37		7.25		6.47		6.97		
LOS	A		A		A		A		
Approach: Delay	6.37		7.25		6.47		6.97		
LOS	A		A		A		A		
Intersection Delay	6.83								
Intersection LOS	A								

ALL-WAY STOP CONTROL ANALYSIS									
General Information					Site Information				
Analyst	DW				Intersection				
Agency/Co.					Jurisdiction				
Date Performed	5/9/2009				Analysis Year	2029			
Analysis Time Period	peak AM								
Project ID Palmer - Miranda _ AM Peak 2029 _									
East/West Street: Palmer					North/South Street: Miranda				
Volume Adjustments and Site Characteristics									
Approach	Eastbound					Westbound			
	Movement	L	T	R		L	T	R	
	Volume	0	0	0		93	9	0	
%Thrus Left Lane	50				50				
Approach	Northbound				Southbound				
	Movement	L	T	R	L	T	R		
	Volume	2	0	39	0	0	0		
%Thrus Left Lane	50			50					
Configuration	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Configuration	LTR		LTR		LTR		LTR		
PHF	1.00		1.00		1.00		1.00		
Flow Rate	0		102		41		0		
% Heavy Vehicles	0		0		0		0		
No. Lanes	1		1		1		1		
Geometry Group	1		1		1		1		
Duration, T	1.00								
Saturation Headway Adjustment Worksheet									
Prop. Left-Turns	0.0		0.9		0.0		0.0		
Prop. Right-Turns	0.0		0.0		1.0		0.0		
Prop. Heavy Vehicle									
hLT-adj	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
hRT-adj	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6	-0.6
hHV-adj	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7
hadj, computed	4.08		4.08		4.08		4.08		
Departure Headway and Service Time									
hd, initial value	3.20		3.20		3.20		3.20		
x, initial	0.00		0.09		0.04		0.00		
hd, final value	4.08		4.08		4.08		4.08		
x, final value	0.00		0.12		0.04		0.00		
Move-up time, m	2.0		2.0		2.0		2.0		
Service Time	2.1		2.1		2.1		2.1		
Capacity and Level of Service									
Capacity	Eastbound		Westbound		Northbound		Southbound		
	L1	L2	L1	L2	L1	L2	L1	L2	
Capacity	0		352		291		0		
Delay	7.08		7.72		6.72		7.16		
LOS	A		A		A		A		
Approach: Delay	7.08		7.72		6.72		7.16		
LOS	A		A		A		A		
Intersection Delay	7.43								
Intersection LOS	A								

5/11/2009 / Miranda AM Peak

TWO-WAY STOP CONTROL SUMMARY								
General Information				Site Information				
Analyst	DW			Intersection				
Agency/Co.				Jurisdiction				
Date Performed	5/11/2009			Analysis Year				
Analysis Time Period	AM Peak							
Project Description <i>Ethyl Miranda AM 2009</i>								
East/West Street: <i>Ethyl</i>				North/South Street: <i>Miranda</i>				
Intersection Orientation: <i>North-South</i>				Study Period (hrs): <i>1.00</i>				
Vehicle Volumes and Adjustments								
Major Street	Northbound			Southbound				
Movement	1	2	3	4	5	6		
	L	T	R	L	T	R		
Volume	49	16	6	0	14	30		
Peak-Hour Factor, PHF	1.00	1.00	1.00	1.00	1.00	1.00		
Hourly Flow Rate, HFR	49	16	6	0	14	30		
Percent Heavy Vehicles	0	--	--	0	--	--		
Median Type	Undivided							
RT Channelized			0			0		
Lanes	0	1	0	0	1	0		
Configuration	LTR			LTR				
Upstream Signal		0			0			
Minor Street	Westbound			Eastbound				
Movement	7	8	9	10	11	12		
	L	T	R	L	T	R		
Volume	23	0	3	24	3	25		
Peak-Hour Factor, PHF	1.00	1.00	1.00	1.00	1.00	1.00		
Hourly Flow Rate, HFR	23	0	3	24	3	25		
Percent Heavy Vehicles	0	0	0	0	0	0		
Percent Grade (%)	0			0				
Flared Approach		N			N			
Storage		0			0			
RT Channelized			0			0		
Lanes	0	1	0	0	1	0		
Configuration		LTR			LTR			
Delay, Queue Length, and Level of Service								
Approach	NB	SB	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	LTR	LTR	LTR			LTR		
v (vph)	49	0	26			52		
C (m) (vph)	1577	1607	794			900		
v/c	0.03	0.00	0.03			0.06		
95% queue length	0.10	0.00	0.10			0.18		
Control Delay	7.4	7.2	9.7			9.2		
LOS	A	A	A			A		
Approach Delay	--	--	9.7			9.2		
Approach LOS	--	--	A			A		

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5/11/2009 Miranda PM Peak 2009

TWO-WAY STOP CONTROL SUMMARY								
General Information				Site Information				
Analyst	DW			Intersection				
Agency/Co.				Jurisdiction				
Date Performed	5/11/2009			Analysis Year	2009			
Analysis Time Period	PM Peak							
Project Description Ethyl_Miranda_PM_2009								
East/West Street: Ethyl				North/South Street: Miranda				
Intersection Orientation: North-South				Study Period (hrs): 1.00				
Vehicle Volumes and Adjustments								
Major Street	Northbound			Southbound				
Movement	1	2	3	4	5	6		
	L	T	R	L	T	R		
Volume	28	9	10	1	4	12		
Peak-Hour Factor, PHF	1.00	1.00	1.00	1.00	1.00	1.00		
Hourly Flow Rate, HFR	28	9	10	1	4	12		
Percent Heavy Vehicles	0	--	--	0	--	--		
Median Type	Undivided							
RT Channelized			0			0		
Lanes	0	1	0	0	1	0		
Configuration	LTR			LTR				
Upstream Signal		0			0			
Minor Street	Westbound			Eastbound				
Movement	7	8	9	10	11	12		
	L	T	R	L	T	R		
Volume	4	47	1	10	42	23		
Peak-Hour Factor, PHF	1.00	1.00	1.00	1.00	1.00	1.00		
Hourly Flow Rate, HFR	4	47	1	10	42	23		
Percent Heavy Vehicles	0	0	0	0	0	0		
Percent Grade (%)	0			0				
Flared Approach		N			N			
Storage		0			0			
RT Channelized			0			0		
Lanes	0	1	0	0	1	0		
Configuration		LTR			LTR			
Delay, Queue Length, and Level of Service								
Approach	NB	SB	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	LTR	LTR	LTR			LTR		
v (vph)	28	1	52			75		
C (m) (vph)	1615	1611	796			867		
v/c	0.02	0.00	0.07			0.09		
95% queue length	0.05	0.00	0.21			0.28		
Control Delay	7.3	7.2	9.8			9.5		
LOS	A	A	A			A		
Approach Delay	--	--	9.8			9.5		
Approach LOS	--	--	A			A		

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Two-Way Stop Control

TWO-WAY STOP CONTROL SUMMARY							
General Information				Site Information			
Analyst	DW			Intersection			
Agency/Co.				Jurisdiction			
Date Performed	5/11/2009			Analysis Year	2029		
Analysis Time Period	PM Peak						
Project Description: Ethyl Miranda PM 2029							
East/West Street: Ethyl				North/South Street: Miranda			
Intersection Orientation: North-South				Study Period (hrs): 1.00			
Vehicle Volumes and Adjustments							
Major Street	Northbound			Southbound			
Movement	1	2	3	4	5	6	
	L	T	R	L	T	R	
Volume	42	14	15	2	6	18	
Peak-Hour Factor, PHF	1.00	1.00	1.00	1.00	1.00	1.00	
Hourly Flow Rate, HFR	42	14	15	2	6	18	
Percent Heavy Vehicles	0	--	--	0	--	--	
Median Type	Undivided						
RT Channelized			0			0	
Lanes	0	1	0	0	1	0	
Configuration	LTR			LTR			
Upstream Signal		0			0		
Minor Street	Westbound			Eastbound			
Movement	7	8	9	10	11	12	
	L	T	R	L	T	R	
Volume	6	71	2	15	63	35	
Peak-Hour Factor, PHF	1.00	1.00	1.00	1.00	1.00	1.00	
Hourly Flow Rate, HFR	6	71	2	15	63	35	
Percent Heavy Vehicles	0	0	0	0	0	0	
Percent Grade (%)	0			0			
Flared Approach		N			N		
Storage		0			0		
RT Channelized			0			0	
Lanes	0	1	0	0	1	0	
Configuration	LTR			LTR			
Delay, Queue Length, and Level of Service							
Approach	NB	SB	Westbound			Eastbound	
Movement	1	4	7	8	9	10	11
Lane Configuration	LTR	LTR	LTR			LTR	
v (vph)	42	2	79			113	
C (m) (vph)	1604	1597	742			818	
v/c	0.03	0.00	0.11			0.14	
95% queue length	0.08	0.00	0.36			0.48	
Control Delay	7.3	7.3	10.4			10.1	
LOS	A	A	B			B	
Approach Delay	--	--	10.4			10.1	
Approach LOS	--	--	B			B	

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Ethyl Miranda

19

TWO-WAY STOP CONTROL SUMMARY							
General Information				Site Information			
Analyst	DW			Intersection			
Agency/Co.				Jurisdiction			
Date Performed	5/11/2009			Analysis Year	2029		
Analysis Time Period	Sunday Peak						
Project Description <i>Ethyl Miranda Sunday 2029</i>							
East/West Street: <i>Ethyl</i>				North/South Street: <i>Miranda</i>			
Intersection Orientation: <i>North-South</i>				Study Period (hrs): <i>1.00</i>			
Vehicle Volumes and Adjustments							
Major Street	Northbound			Southbound			
Movement	1	2	3	4	5	6	
	L	T	R	L	T	R	
Volume	10	26	99	0	23	17	
Peak-Hour Factor, PHF	1.00	1.00	1.00	1.00	1.00	1.00	
Hourly Flow Rate, HFR	10	26	99	0	23	17	
Percent Heavy Vehicles	0	--	--	0	--	--	
Median Type	Undivided						
RT Channelized			0			0	
Lanes	0	1	0	0	1	0	
Configuration	LTR			LTR			
Upstream Signal		0			0		
Minor Street	Westbound			Eastbound			
Movement	7	8	9	10	11	12	
	L	T	R	L	T	R	
Volume	135	10	3	7	44	10	
Peak-Hour Factor, PHF	1.00	1.00	1.00	1.00	1.00	1.00	
Hourly Flow Rate, HFR	135	10	3	7	44	10	
Percent Heavy Vehicles	0	0	0	0	0	0	
Percent Grade (%)	0			0			
Flared Approach		N			N		
Storage		0			0		
RT Channelized			0			0	
Lanes	0	1	0	0	1	0	
Configuration		LTR			LTR		
Delay, Queue Length, and Level of Service							
Approach	NB	SB	Westbound			Eastbound	
Movement	1	4	7	8	9	10	11
Lane Configuration	LTR	LTR		LTR			LTR
v (vph)	10	0		148			61
C (m) (vph)	1583	1474		770			767
v/c	0.01	0.00		0.19			0.08
95% queue length	0.02	0.00		0.71			0.26
Control Delay	7.3	7.4		10.8			10.1
LOS	A	A		B			B
Approach Delay	--	--		10.8			10.1
Approach LOS	--	--		B			B

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James White

From: Dan Soriano
Sent: Wednesday, May 27, 2009 10:32 AM
To: James White
Cc: Cheryl Rodriguez; David Weir; Mike Johnson
Subject: Holy Cross Study volume data

Attachments: holy cross graphs_5-27-09.ppt; holy cross map.jpg



holy cross
raphs_5-27-09.ppt .



holy cross map.jpg
(952 KB)



To: James White, Planner
Community Development

From: Dan Soriano, PE
Traffic Engineering

Subj: Traffic Data for Holy Cross School Analysis
Palmer Road, Ethyl Road, Miranda Street

Date: May 27, 2009

Per the request of the Board of the Planning and Zoning Commission at last night's meeting, please find attached the information compiled by our office related to the data collection and analysis on the streets adjacent to Holy Cross School.

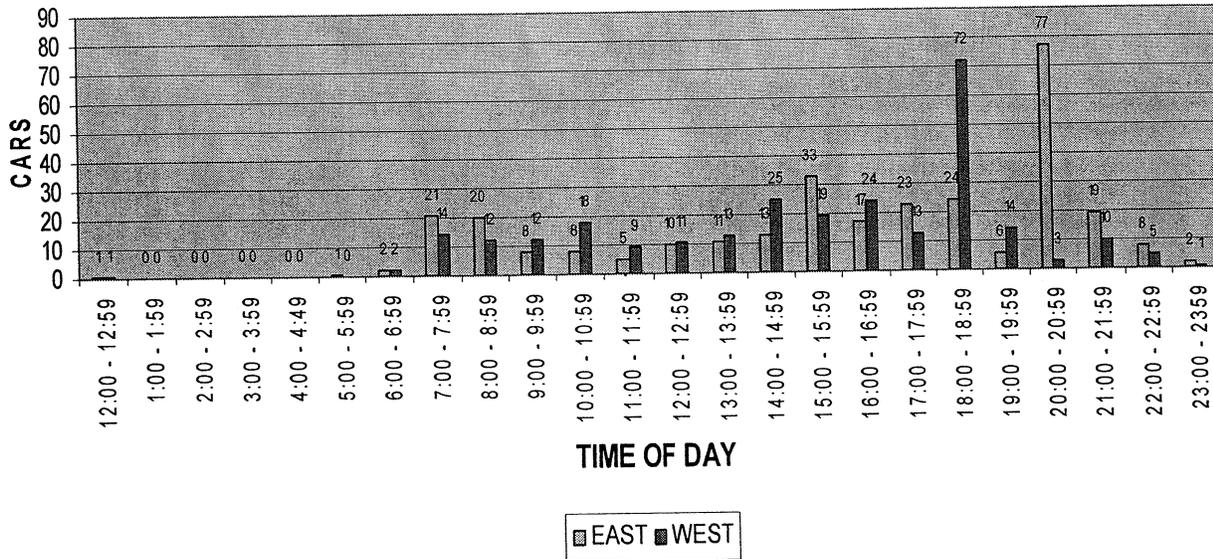
We used this data primarily to determine traffic volumes and speeds along these roadways namely Palmer Road, Ethyl Avenue, and Miranda Street as well as verify with Molzen Corbin's data presented in their prepared Traffic Impact Analysis.

We did find that the data did correlate well with the volume data represented in the report prepared by the school's engineer.

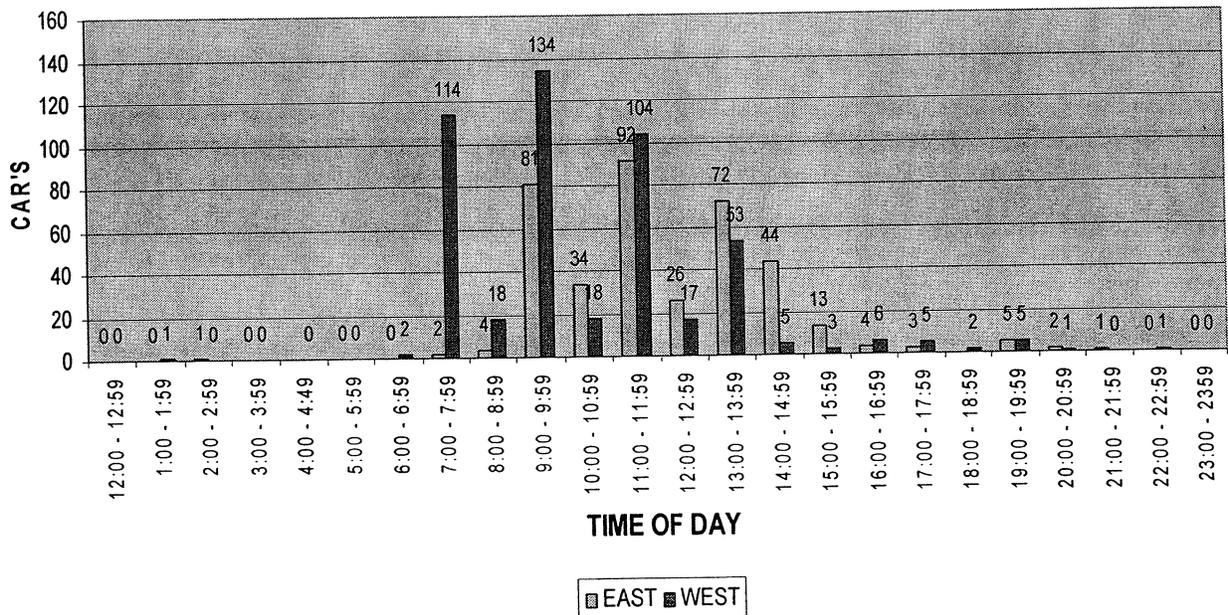
Please contact me with any questions related to the submitted information.

ETHEL

ETHEL - THURSDAY, APRIL 9, 2009

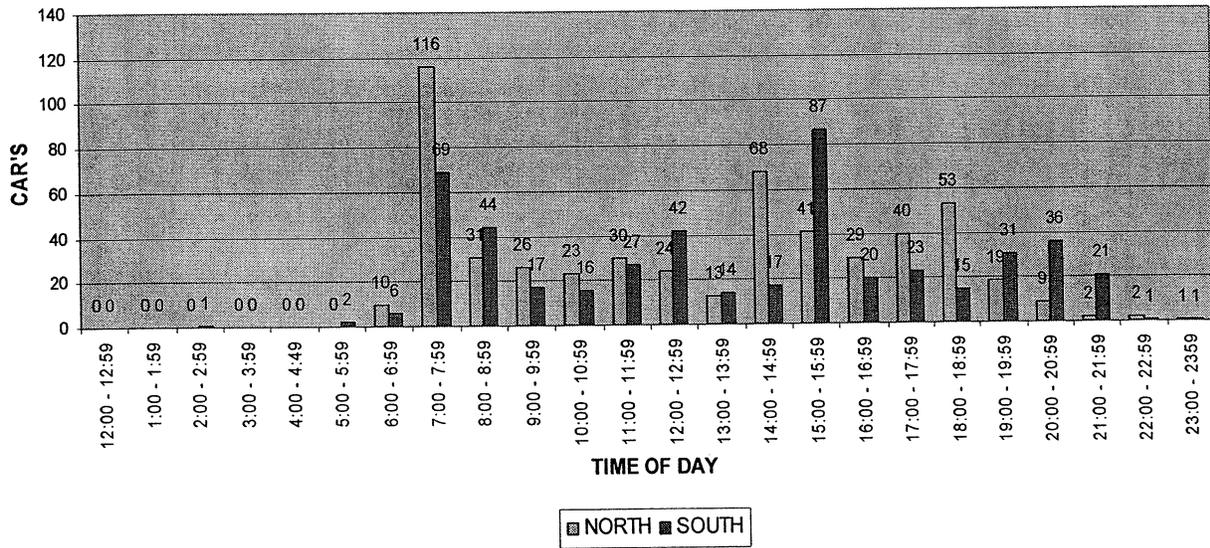


ETHEL - SUNDAY, APRIL 12, 2009

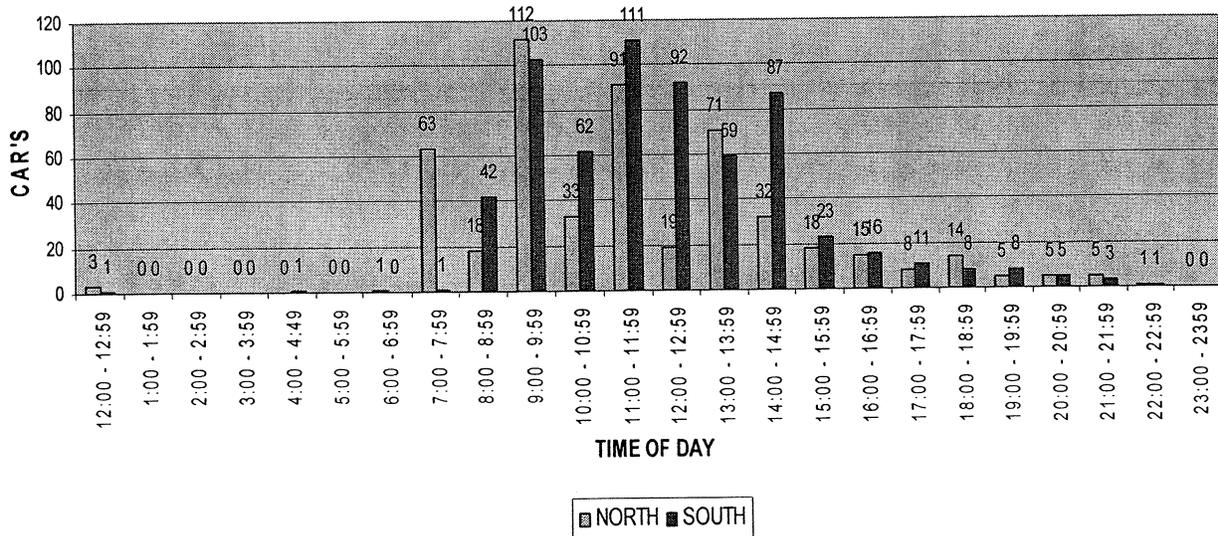


MIRANDA

MIRANDA - THURSDAY, FEBRUARY 26, 2009

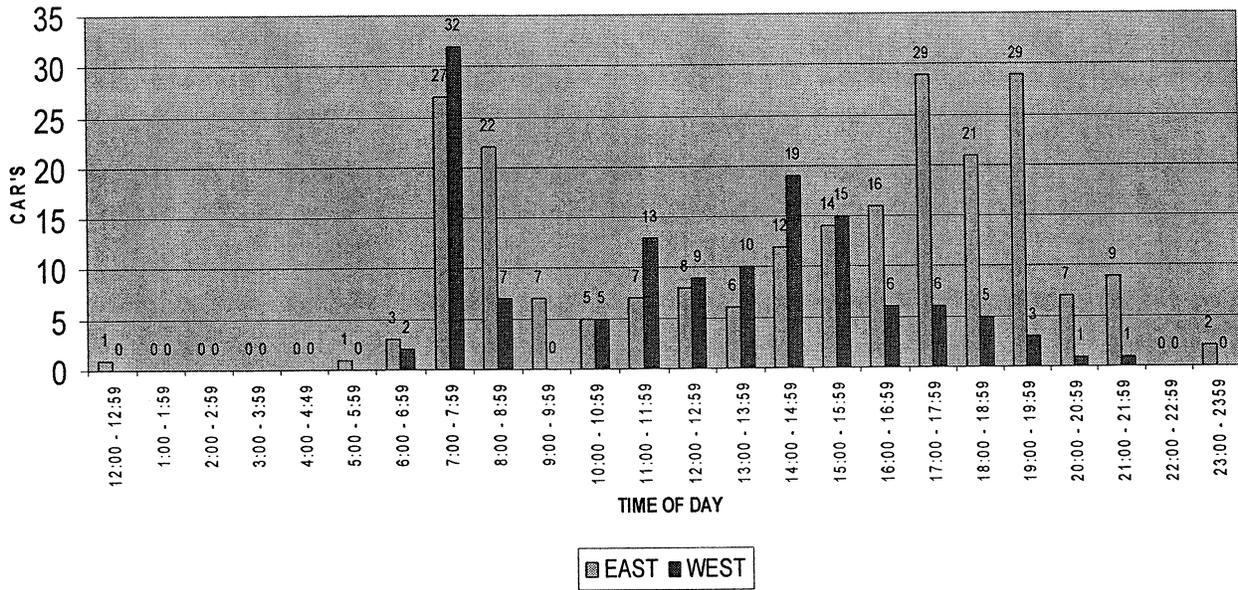


MIRANDA - SUNDAY, MARCH 1, 2009

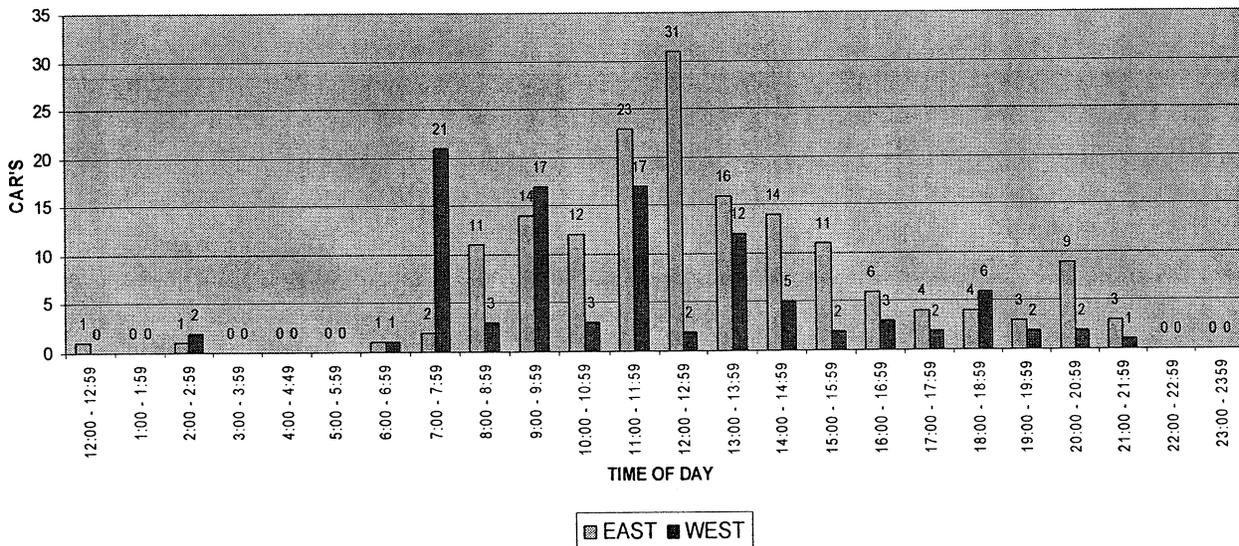


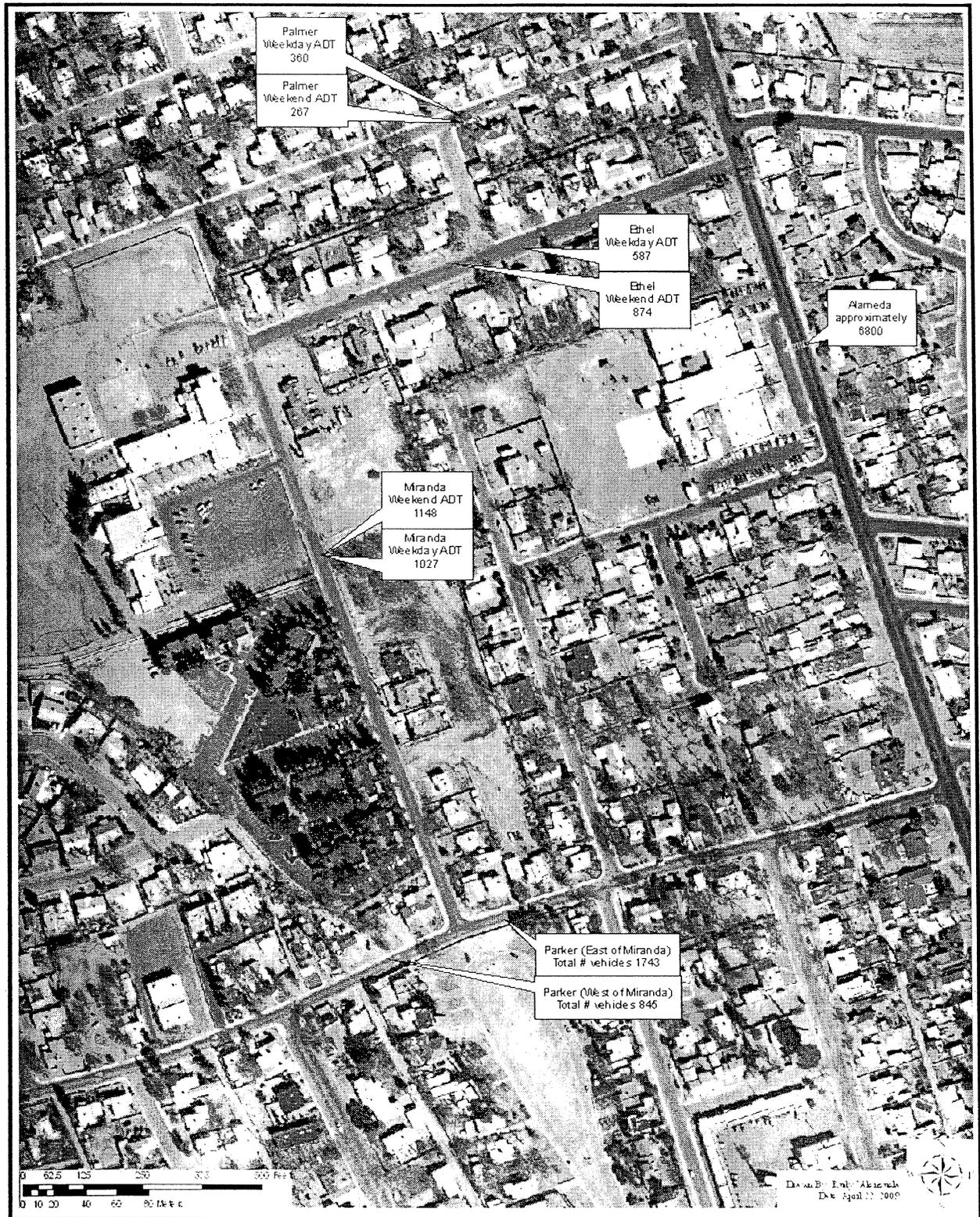
PALMER

PALMER - THURSDAY, MARCH 19, 2009



PALMER - SUNDAY, MARCH 22, 2009





from: Jo Ruprecht, 635-5594 cell 6
ruprecht@nmsu.com

May 18, 2009

RE: CASE # A 1695

Holy Cross Campus Expansion

Dear Mr. White:

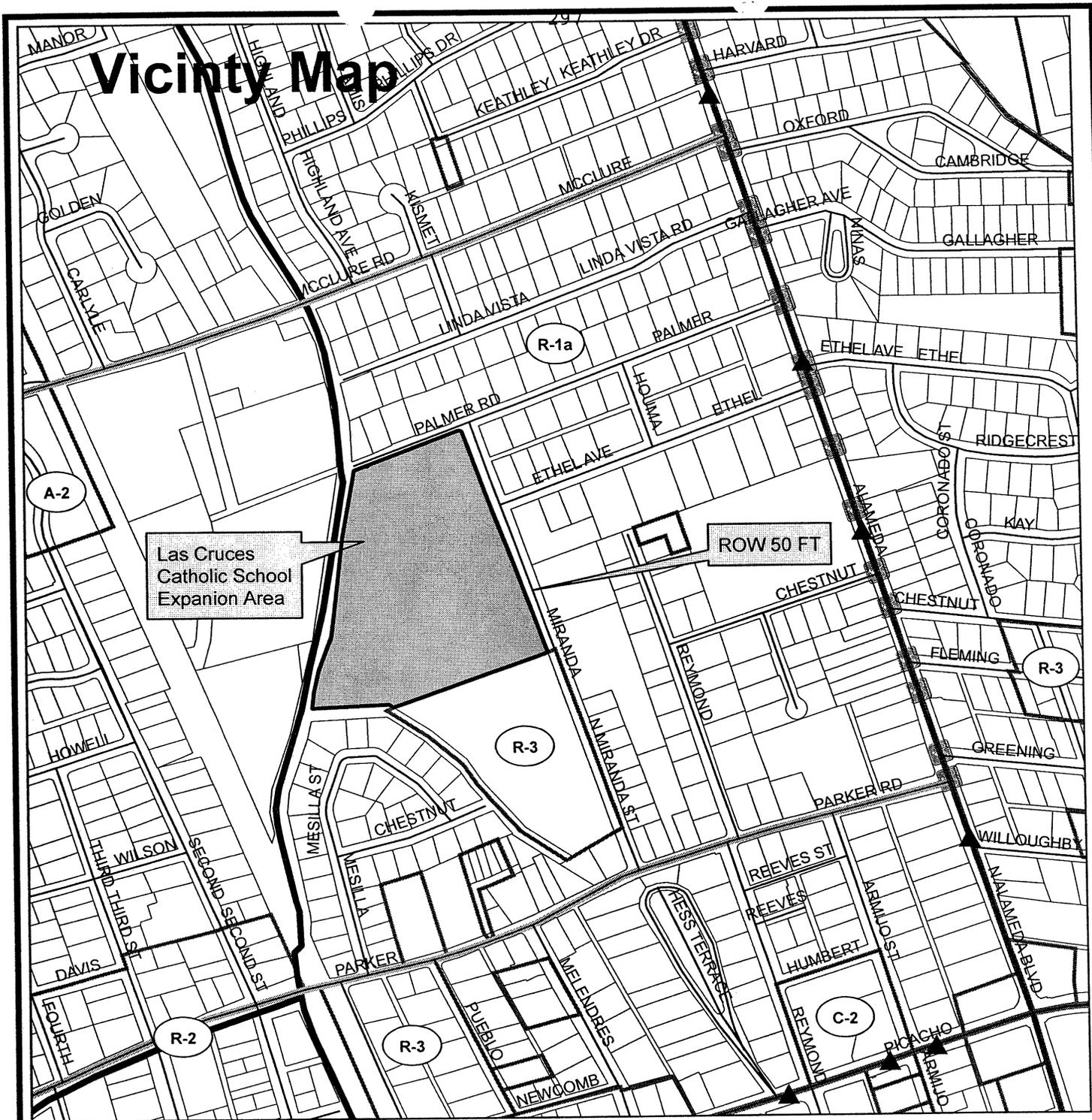
I am a neighbor of this property, living on Palmer. I have lived in Las Cruces since 1985. While this does not qualify me as a native, it does mean I have seen much of the growth here in the past 25 years.

Since 1980 the church and school have been in a situation described as "nonconforming use" because of changes in local zoning and codes. In my understanding this means that these entities and their 1980 uses of the property on Miranda have been "grandfathered in". As I understand this situation, it connotes a privilege, not a right.

For nearly 30 years the church and school have been allowed to be our neighbors, BUT, they have not been good neighbors. Time after time they have nibbled into the goodwill of the neighborhood by making (and being granted) expansion of their uses of the Miranda property. Now, in a May 2009 meeting to discuss recent traffic studies, we hear that they project 30% growth in the church, 50% growth in the school over the next 20 years. To this, and to the idea of 12 portable buildings added to the property with no approval whatsoever, I say "enough is enough". They have not been considerate of us in the past, we need not trust them with the future of our neighborhood.

When one is "grandfathered in" the usual caveat is that one is not subsequently allowed to make significant changes to the situation. The footprint changes, increases in traffic and safety concerns all denote significant change AND MERIT WITHDRAWAL of the GRANDFATHERED STATUS and IMPOSITION of ALL CURRENT ZONING + CODES.

Vicinity Map



MAP CREATED FOR: JWHITE (A1695)

ADDRESS: 1321 N. Miranda Street

OWNERS: Holy Cross Parish

DATE: 5/18/2009 3:02:07 PM

ZONING: R-1a



Community Development Department
 575 S Alameda Blvd.
 Las Cruces, NM 88001
 (505) 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 Community Development Department at (505) 528-3043.

James White

From: Chuck Brink [chuck_brink@yahoo.com]
Sent: Saturday, May 16, 2009 7:42 PM
To: James White
Subject: Case A1695 1321 N. Miranda

Follow Up Flag: Follow up
Flag Status: Red

Dear Sir:

This note is to express my concern over the requested variance for the Las Cruces Catholic School. 415 Palmer Rd. has been my family home since 1952, so I have seen the Church and school develop from the very beginning. And I believe we have all been good neighbors and will continue to be so, but I think I share an opinion with everyone in the neighborhood that the Church and school have reached a maximum capacity for that location. We have contended with increased traffic for years, particularly, of course, during church and school times. I strongly encourage you and the members of the Planning and Zoning Commission to adhere to the original restrictions and deny the request for variance. Without reiterating the arguments, I agree with the positions taken by the committee opposing the variance. I believe their points are valid and should offer legitimate reasons for the denial. Thank you for your consideration.

Respectfully,

Charles A. Brink

James White

From: hansen [hansenart@comcast.net]
Sent: Saturday, May 16, 2009 8:04 PM
To: James White
Subject: Holy Cross Expansion Variance
Follow Up Flag: Follow up
Flag Status: Red

Dear Mr. White,

I am sharply opposed to the proposed variance requested for the Holy Cross School expansion.

- 1) Such a variance would be in opposition to the city policy of attempting to maintain and enhance the character of the neighborhood.
- 2) While of some temporary benefit to Holy Cross, it would clearly be of no benefit to the city. It is my opinion that rows of portable buildings, as structures, cannot be differentiated from doublewides, (and are somewhat less charming)
- 3) It would be a different matter if the school were willing to commit to actually building to accommodate their needs.
- 4) Planning and zoning laws, as you well know, exist for good reason and absent some benefit to the city and community. I see no justification for choosing to ignore them.

Respectfully,
Stephen Hansen

316 Parker Road
Las Cruces, 88005

5/18/2009

James White

From: Eddie Gamboa [EGamboa@swatlc.com]
Sent: Sunday, May 17, 2009 8:54 AM
To: James White
Subject: Variance #1695
Follow Up Flag: Follow up
Flag Status: Red

Mr. White, I, as a homeowner on Palmer Road am very much against the issuance of this variance and expansion of the school to include portable buildings for a high school. Since Palmer was torn apart and storm drains installed and repaved, the road was severely narrowed to the point of two vehicles being parked on the side of the road causes a "one car at a time" traffic problem. The traffic on our street is horrible, on school mornings, after schools, before and after church services and bingo nights. On my way to work in the mornings, I have to sometimes stay on the sidewalk as up to 6-10 vehicles are turning off of Alameda and speeding up the street to get the children to school. It is a dangerous situation for the residents of the area. I feel that by granting the variance and allowing the Church to have a high school will increase the traffic problem as it is at a maximum situation.

I have at the time the street was redone a few years ago, requested a couple of engineers from the City departments to have the sidewalk in front of my property changed over to a second driveway so that I can park my vehicle on my property and get it out of the street, but it has gotten me nowhere. They stated they would get back to me but that did not happen. My vehicle has been hit by passing cars once before and I do not want this to happen again with all the traffic and narrow street.

To summarize the above, I am definitely against the issuance of the variance. Thank You very much for your time.

Eddie Gamboa
General Manager/Escrow Officer
Southwestern Abstract & Title Co.
P.O. Box 695, Las Cruces, NM 88004
1125 S. Main Street, Las Cruces, NM 88005
(575) 523-8561 (Tel)
(575) 526-8390 (Fax)

5/18/2009

05/17/09

Mr. James White, Planner
Community Development, City Office Center, 575 S. Alameda

RE: Pending Development Application #A1695

Please consider this letter as a request for denial of the above variance application based on the following:

In the variance justification statement under:

2.a. ...“which is to encourage the most appropriate use of land and to promote the health, **safety, and general welfare of the community.**”

This is a safety concern to all elementary school children that walk and ride bikes to the public school located within 2 blocks of this requested expansion. The city traffic engineers stated in a meeting, with the current size of this facility, there are problematic traffic issues within this neighborhood. Adding young high school drivers to the mix of a neighborhood, with children walking/biking to the local schools will increase safety hazards to these children and neighborhood residents.

2.c. ...”Variances shall not be granted if any of the aforementioned are increased or negatively impacted.”

My opinion, there are other areas open to growth within Las Cruces without having to over-saturate a residential community not capable of handling the growth. Especially when the growth would negatively impact residential quality of life.

Thank you,

Terri Munson, 410 Palmer Rd., resident

James White

From: tphipps@zianet.com
Sent: Sunday, May 17, 2009 5:23 PM
To: James White
Subject: Traffic study

Follow Up Flag: Follow up
Flag Status: Red

Dear Mr. White:

I am concerned that the traffic study for Miranda, Ethel and Palmer streets does not meet the standard that your office is capable of. Perhaps more extensive collection of data may be more revealing. I live in the neighborhood and was surprised to see limited use of the counters when doing research for the Holy Cross variance request. Consider the possibility of re-studying the traffic counts. More data collection can only do the dept good.

Sincerely Tim Reed

Planning & Zoning Commission
 Re: 1321 N. Miranda Street
 Case # A1695
 May 26, 2009

Dear Sirs:

As the immediate neighbor of Holy Cross Catholic School & Church on the corner of Ethel and Miranda, I have some concerns about the variance being proposed. The addition of 12 portable classrooms to add a high school to the current campus is of grave concern.

1. During December of 2008 12 large portable classrooms with a capacity of thirty students each, were placed on the School/Church campus. City approval was not sought nor variance applied for. I visited with city officials during February in the City County Building on Alameda, and was told that they were aware of the situation (from other concerned neighbors perhaps?) and were working on it.
2. Due to people's concerns, a neighborhood meeting was held on February 20, 2009 in the school cafeteria and the planned expansion was outlined. Questions were raised about traffic and safety issues, parking, land usage, space for the expansion, density of use, and projections of number of students. In addition, the Church also plans to build a new building and expand the area for worship services. All of this on a piece of land that isn't expanding nor is the infrastructure expanding. The roads, sewer, water, and gas pipes were put in place some years ago, and I question whether they are built to handle this major addition.
3. Traffic studies have been done by city engineers and with projected growth, I am told the corner of Ethel and Miranda would be down graded from an "A" to a "B", due to volume of cars. Keeping in mind that this is a residential area which currently experiences numerous high volume traffic times each day including evenings and weekends, and the traffic is not spread out during the day but comes at peak times – like the morning. The addition of more traffic increases my safety concerns.
4. Safety has been my concern for many years. In mid afternoon of January 1996 a driver coming north on Miranda lost control and came across my front lawn, taking off the pillar of the front porch, with the car stopping in my living room causing extensive structural damage. Fortunately no one was hurt, but months of cleanup and hard work ensued. This happened about 15 minutes before the School let out. My awareness for myself and the students was definitely heightened. Also about 10 years ago during the summer program, I went to the School concerned about parents dropping off their children on the east side of Miranda and the children running across the street to the School. I have witnessed more than one child almost being hit. I also called the City traffic and asked them to put up no parking signs on the east side of Miranda and install 15

mile an hour school signs etc. I was told they would check into it. Nothing was done. After the recent February meeting the curb on the east side of Miranda was painted yellow with No Parking stenciled on it.

5. The proposed expansion of the Church with a new building and additional worship space will also affect the neighborhood and must be considered in the overall plan. What additional space will be added? Where will the parking be? Currently Sunday parking often flows out onto the streets and in front of my house. Is there a limit to the number of people who can be accommodated here? Can emergency vehicles get to the Church during peak times? Although Church drivers are presumed to be adults, they also need to be encouraged to drive safely, park in designated areas, and respect the neighborhood (don't park across my driveway).
6. I have always enjoyed living in this neighborhood built in the 1940' and 1950's. and have enjoyed having the School and Church as my next door neighbor. But I do not look forward to having a high school directly across from my house. I am told the number of students will be limited. But who is to monitor this? The School does not seem to be following city codes and ordinances now and those 12 portables at 30 students each could possibly house 360 additional students. I believe the approval of this variance could greatly change the livability of my neighborhood. High school students have the reputation of being poor drivers and consideration of a parking lot for them and the proximity of elementary children is also of concern.
7. I believe the city ordinances codes and zoning are designed to protect people and neighborhoods. They make our city growth orderly and neighborhoods livable. Can these 12 buildings be brought on any property, programs planned for their use, students recruited and physical plans drawn up without City approval?
8. It is my understanding that the Catholic Schools are not currently using the Immaculate Heart of Mary School Building located on Idaho and Espina Ave, both major traffic arteries. Would this not be a more appropriate place for a new high school? It would undoubtedly have to be remodeled, but the infrastructure would seem to be ready for it and it could be a good use for an empty building in the heart of town.

I am certainly sympathetic to the School, I have worked with the Las Cruces Public Schools for over 20 years, and I love children. But I do not believe such an expansion of any school in a residential neighborhood would be welcomed. As an older established neighborhood this area was not constructed to handle the issues this variance presents for the neighbors, or for the City in handling the infrastructure changes. I also believe the City needs to consider the overall growth being planned for both the Church and the School. Although they are separate entities, they utilize the same

parking, the same roads, the same facilities, and same grounds. From a neighborhood point of view, I can't separate the two.

Thank you for your consideration.

Julie Woody
452 W. Ethel

James White

From: Tauna [taucole@live.com]
Sent: Sunday, May 17, 2009 10:08 PM
To: James White
Subject: Holy Cross School Expansion
Follow Up Flag: Follow up
Flag Status: Red

Dear Mr. White: We live just down the street from the church/school and have had serious concerns about the proposed variances, especially with the increase in school and church population. Our family feels that there really just is not enough land at the current site to accommodate more students and parishioners. For us the central problem concerns more traffic. As it is, there are times when our street is flooded with traffic. One of my deep concerns is the innate behavior of the drivers rushing their kids to and from school, to and from church services, and too many of the church/school patrons ignore our requests to drive safely. I understand that the principle spoke with parents and possibly e-mailed parents c/o this issue. The traffic problems of speeding down our street remain. We put up signs in our yard, we show up at meetings, but it doesn't seem to help. More traffic will increase this type of unlawful driving. One day there will be an accident because of negligent driving from parents rushing to and from school, or parishioners rushing to and from church. This neighborhood is older than the school, many of us have lived here before the school opened in 1963. If the school needs to grow, wonderful, but how about researching property at another location that could better meet expansion now and later. You are trying to force a square peg in a round hole! With this type of overcrowded situation just down the street, how will our property values fare? There is also a possible option of creating a one way street out of Palmer; this will further create congestion and dangerous safety issues on Ethel and Miranda! Take for instance the idea that this type of situation will be blooming only several doors down from your residence. Please take a walk in those shoes and be mindful. Thank you very much for listening.

5/18/2009

May 16, 2009

To: James White
Community Development
City Office Center

From: Linda Meyer
410 Palmer Road
Las Cruces, NM

Re: 1321 N. Miranda Street #A1695

A variance to allow Las Cruces Catholic Schools to expand and operate using a minor local traffic street (Miranda 50' ROW) should be DECLINED for the safety of the children in the neighborhood and the children attending school.

- It is a 35' difference between Miranda Street ROW (50') and the allowable for "Collectors"; Article VI. Section 38-53 (D) of the 2001 Zoning Code. as amended. The Metropolitan Planning Organization also states 85' ROW around schools which includes parking, 2 bike lanes and 3 traffic lanes. This variance to allow a school to expand/operate off a minor local street goes against everything the City of Las Cruces is working towards to ensure a safe environment for our children at school, including getting to and from school. If we start allowing schools to open up in the middle of neighborhoods that do not support the required roadways, we will be endangering our children both in the adjoining neighborhoods and at school.
- Mr. Paz (page 6 of his traffic report dated April 3, 2009) has a false projection of Palmer Road being the best functioning roadway of the 3 studied (Miranda, Ethyl and Palmer Rd.) for future traffic demands. Palmer Road has a 29' ROW per Mr. Dan Soriano at the May 13 meeting at LCCS. There are homes with parking on both sides of the roadway and 2-way traffic. To allow a substantial increase in automobile traffic on this street is unacceptable. There would not be sufficient room for any emergency vehicles to pass in case of an emergency and children on bicycles or pedestrian traffic would definitely be at risk.

James White

From: Carrie Hamblen [carrie_hamblen@yahoo.com]
Sent: Monday, May 18, 2009 12:27 PM
To: James White
Subject: Comments regarding 1321 N. Miranda Street variance request

Dear James White,

I live at 440 Linda Vista Road and I am concerned about the variance that Holy Cross School has requested.

Granting this variance would be a very negative thing for this area. Not only will it increase the level of traffic on Alameda, Ethel and Parker, but it will also drain on the already compromised electrical service to this area, decrease the water pressure and place a burden on the surrounding residents. All of the high schools in this city are located on a major street, not on a residential street. That is for good reason as the traffic on a major street is usually two lanes for each direction, not the standard two lane street in a residential area. The traffic that will be created will prohibit people on the streets affected from easily leaving their homes in the morning and arriving in the afternoon. Plus, Holy Cross School already owns property at the corner of Espina and Idaho, two major streets that can accommodate a high school without compromising the flow of traffic and impeding residential life. Furthermore, Holy Cross School already has had the mentioned Portable buildings on site for the last several months and they are now seeking a variance? I am not confident that the school and the Board of Directors will lawfully follow the regulations that the rest of the citizens and business of Las Cruces required to follow when seeking similar changes and modifications. Therefore, I am against granting the variance to Holy Cross School for their expansion.

Thank you for your time and consideration.

Sincerely,

Carrie Hamblen

5/18/2009

James White

From: Char Ullman [charullman@gmail.com]
Sent: Monday, May 18, 2009 1:33 PM
To: James White
Subject: Comments regarding 1329 N. Miranda Street Variance Request

Dear Mr. White,

As a resident at 440 Linda Vista Road, I am concerned about the variance that has been requested by nearby Holy Cross School. I think the expansion of the school and the church would have a negative impact on our neighborhood for three primary reasons.

1. Water and Electric Service

Our electric power goes out frequently in the West Alameda neighborhood, and as someone who frequently works from home electronically, I am concerned that the addition of a high school and a much larger church to the grid would reduce the effectiveness of our electricity delivery. Our water pressure is already low, and the addition of the high school and a larger church would compromise water service for our neighborhood, as well.

2. Traffic

High schools are virtually always on major streets, which more easily accommodate the high levels of traffic they produce in the morning and the afternoon. The traffic that a high school would create would block the residents of the affected streets into their homes and create a snarl of traffic on Alameda in both north and south directions.

3. General Congestion

Another reason that high schools are usually situated on major streets is their proximity to restaurants and convenience stores.

Because the proposed high school would be in a residential neighborhood, students and faculty would be going out for lunch, both on foot, on bicycles, and in cars. This will congest the neighborhood throughout the day, and wreak havoc on not only Alameda, but also on Picacho and on Main.

And finally, I am concerned about the fact that Holy Cross did not go through the proper channels before purchasing and using portable classrooms on their property. This act leads me to believe that they are not behaving as good citizens. For that reason, I urge the city to request a 20-year plan from them, so that the city can more easily safeguard the public good. For all of these reasons, I am against granting a variance to the Holy Cross School/Church complex.

Sincerely,

Char Ullman

5/18/2009

James White

From: Nicole Martinez [nicolee12000@yahoo.com]
Sent: Monday, May 18, 2009 1:54 PM
To: James White
Subject: Comments regarding 1321 N. Miranda Street variance request

Dear James White,
I live at 438 Linda Vista Road and I am concerned about the variance that Holy Cross School has requested. Granting this variance would be a very negative thing for this area. Not only will it increase the level of traffic on Alameda, Ethel and Parker, but it will also drain on the already compromised electrical service to this area, decrease the water pressure and place a burden on the surrounding residents. All of the high schools in this city are located on a major street, not on a residential street. That is for good reason as the traffic on a major street is usually two lanes for each direction, not the standard two lane street in a residential area. The traffic that will be created will prohibit people on the streets affected from easily leaving their homes in the morning and arriving in the afternoon. Plus, Holy Cross School already owns property at the corner of Espina and Idaho, two major streets that can accommodate a high school without compromising the flow of traffic and impeding residential life. Furthermore, Holy Cross School already has had the mentioned Portable buildings on site for the last several months and they are now seeking a variance? I am not confident that the school and the Board of Directors will lawfully follow the regulations that the rest of the citizens and business of Las Cruces required to follow when seeking similar changes and modifications. Therefore, I am against granting the variance to Holy Cross School for their expansion.
Thank you for your time and consideration.
Sincerely,
Nicole Martinez

5/18/2009

James White

From: Greg Gendall [lggendall@q.com]
Sent: Monday, May 18, 2009 4:00 PM
To: James White
Subject: Holy Cross School Variance.

Planning and Zoning Commission:

I reside at 1107 NO Reymond St and own property at 506 & 508 Parker Road and 1120 & 1140 Miranda. I am writing to register my opposition to this variance at several levels. Although the city Traffic Engineers did a study, at their recent public input meeting they admitted to the study being flawed or at least lacking in several areas. In particular they failed to take into account the traffic count and impact on traffic on Parker Road at school opening and school closing. At those times Reymond Street and Miranda are a nightmare with speeding traffic and parents. Nowhere in their study did they acknowledge the increased flow on Parker where these streets empty. This same question should be asked about Alameda. We have a small neighborhood with 2 schools that have grown over the years and nowhere has anyone said what the limits of that growth should be in either school..

However, the more infuriating issue to me is that the school arrogantly brought the portable classrooms in without discussion without announcement, without permission and with the obvious assumption that everybody would acquiesce because it was a church school. This shows a level of arrogance and total disregard for the neighborhood and for City codes and regulations that is mind boggling. As a property owner and real estate investor with over three quarter's of an acre on Miranda street , may I assume I will be afforded the same blind eye and complete cooperation of the city in granting variances that the church has enjoyed.?

I am given to understand that nowhere in the record is there any master plan, for the church or the school. I would like someone at the public meeting of the 26th to be able to address this question as to why the school and church have never provide a plan for what they plan to do in the middle of a residential neighborhood. It was obvious that there are many who will choose to play the guilt card against those who oppose this expansion. I am not against the church. I am not against either school in this neighborhood. I am against the expansion of either school unless you can legislate a way to stop all of those parents who choose to bring their children no school, one per car at a time, and clog every surrounding neighborhood street.

Further I would point out that their is a basic fallacy in this whole process. The diocese has other options. Immaculate Heart School, at the corner of Espina and Idaho, both larger streets than any in this neighborhood, sits empty. It is obvious that this then is not a needs based variance but one of convenience and budgetary restrictions. What this appears to come down to is the school and it's parents prefer to be at Holy Cross because it is more convenient and because it will save the school and church money, at the expense of the neighborhood, the streets and the city services.

Again this to me shows an amazing level of arrogance on the part of the school that their convenience and budgetary constraints are so important that there needed to be no concern for neighborhood.

Greg Gendall
1107 NO. Reymond

5/18/2009

From: Jo Ruprecht 635-5594 cell
ruprecht@nmsu.com

May 18, 2009

re: CASE # A 1695

Holy Cross Campus Expansion

Dear Mr. White:

I am a neighbor of this property, living on Palmer. I have lived in Las Cruces since 1985. While this does not qualify me as a native, it does mean I have seen much of the growth here in the past 25 years.

Since 1980 the church and school have been in a situation described as "nonconforming use" because of changes in local zoning and codes. In my understanding this means that these entities and their 1980 uses of the property on Miranda have been "grandfathered in." As I understand this situation, it connotes a privilege, not a right.

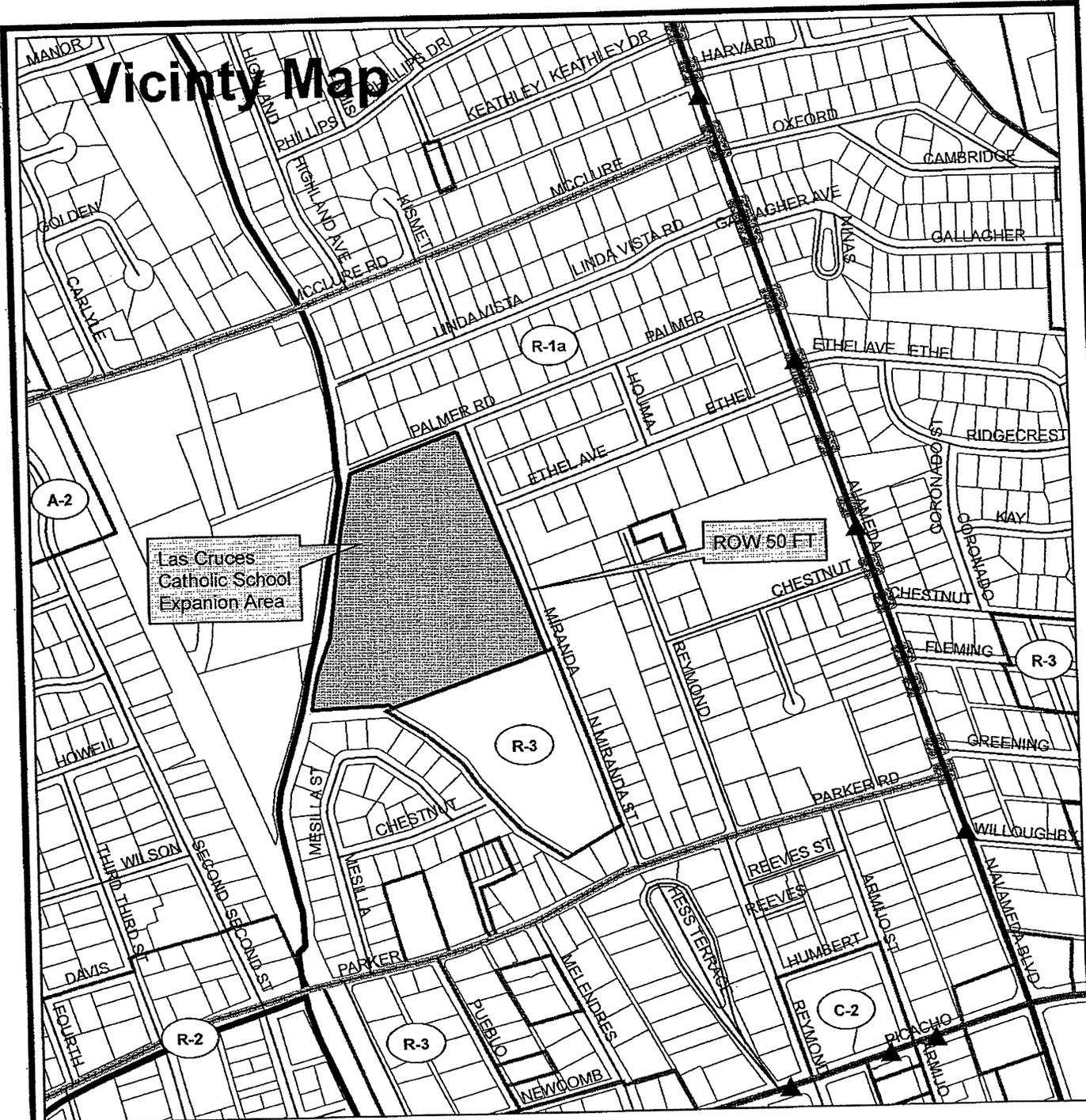
For nearly 30 years the church and school have been allowed to be our neighbors. But, they have not been good neighbors. Time after time they have nibbled into the goodwill of the neighborhood by making (and being granted) expansion of their uses of the Miranda property. Now, in a May 2009 meeting to discuss recent traffic studies, we hear that they project 30% growth in the church, 50% growth in the school over the next 20 years. To this, and to the idea of 12 portable buildings added to the property with no approval whatsoever, I say "enough is enough". They have not been considerate of us in the past, we need not trust them with the future of our neighborhood.

When one is "grandfathered in" the usual caveat is that one is not subsequently allowed to make significant changes to the situation. The footprint changes, increases in traffic and safety concerns all denote significant change AND MERIT WITHDRAWAL of the GRANDFATHERED STATUS and IMPOSITION of ALL CURRENT ZONING + CODES.

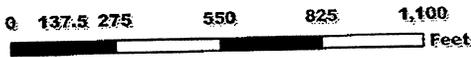
**Approximate Chronology of Holy Cross Campus Developments
as Gathered from Public Records and Information from Various
Holy Cross Documents**

1962	School is built for elementary students	
(?)	Convent with housing is built for nuns	
1981	Separate church building permitted as a "one-time exception" to enlarge nonconforming building	County assessor's documents suggest 7,149 square foot addition
1995	Columbarium for cremations is permitted	"Conditioned" that any further campus expansion would require an amendment to the 1995 special use permit and approval by the Planning & Zoning Commission
1998	The middle school is permitted	1995 permit is amended allowing new building with 6 classrooms north of existing elementary school, estimated addition is in excess of 7,500 square feet
2007	High school students enrolled for 2007-2008 year	Classes begin with no apparent permit or hearing
2007 - 2008	Original 1910 Palmer House located at northwest corner of the property is demolished	The building may have been eligible for National Register Status
December 2008 - February 2009	Twelve portable buildings brought onto southwest area of campus with no prior permitting or hearing	Unclear whether conveyance of buildings to site was legal; no notice given to residents along Ethel Avenue regarding clearance issues
April 2009	Three portable buildings permitted per "one time" 10 percent square footage increase	Additional square footage of approximately 3,360 square feet
Tonight May 26, 2009	Variance request for 9 additional portable buildings	Comprising another increase of 8,400 square feet
Anticipated 2011- 2013	Ground-breaking for the John Paul II Family Life Center Sanctuary also to be enlarged by approximately 100 seats	Two stories totaling 14,000 square feet and requiring demolition of the original convent building on the southern area of the site
Approximately 2014	Ground-breaking for indoor sports facility	Unknown square footage, requires demolition of existing outdoor sports area

Vicinity Map



MAP CREATED FOR: JWHITE (A1695)
ADDRESS: 1321 N. Miranda Street
OWNERS: Holy Cross Parish
DATE: 5/18/2009 3:02:07 PM
ZONING: R-1a



Community Development Department
575 S Alameda Blvd.
Las Cruces, NM 88004
(505) 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 Community Development Department at (505) 528-3043.

Michael J. Gilman

◆◆◆
535 LINDA VISTA RD ◆ LAS CRUCES, N.M. 88005
Phone 524-3543
642 - 7555

June 18, 2009

DEAR JAMES WHITE :

I AM IN OPPOSITION TO THE PENDING DEVELOPMENT CASE # A 1695.

ANY TRAFFIC ON THE IRRIGATION DITCH AT THE END OF MY STREET WILL

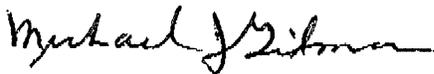
LEAD TO A HEALTH HAZARD FOR THE RESIDENTS ON LINDA VISTA.

THE WINDS. USUALLY PREVAIL FROM THE WEST AND ANY VEHICLE EMISSIONS
WILL BLOW INTO MY BEDROOM WINDOW AND THROUGH MY HOUSE , AT LEAST FOR
MY HOUSE , 530 LINDA VISTA , AND MORE DWELLINGS DOWN THE STREET.

IF THE SCHOOL DOES TRY TO USE THE IRRIGATION DITCH AS A " ROAD " , AND I
HAVE ANY INCREASE IN HEALTH PROBLEMS , I WILL BE FORCE TO EXECUTE LEGAL
ACTION AGAINST THE SCHOOL AND TORT CLAIM AND LAWSUIT AGAINST THE CITY
OF LAS CRUCES FOR ALLOWING MY HEALTH TO BE PLACED IN JEOPARDY.

THANK YOU.

SINCERELY,



MICHAEL J GILMAN

Ref: Variance Case A1695

June 20, 2009

P&Z Commission Staff:

Please accept this letter of information as my belief on the reasons for the denial of this variance requested by this private business.

CONVENIENCE or HARDSHIP?

Convenience for a private business

Hardship for residents of an R1a neighborhood

Every residential home in the neighborhood of this variance request was built before the existence of this private business entity entering this neighborhood in about 1962. This private business is a newcomer to an already existing residential neighborhood. This is not about how much traffic this neighborhood can handle, it's about locating a high school in a residential neighborhood and a variance, if allowed, that will place hardship on the pre-existing neighborhood and quality of life for the residents.

This business has another location at 865 East Idaho in Las Cruces. In 2001, this business was out of compliance at that location and chose to merge 2 locations for convenience to the 1331 N. Miranda location and had to obtain a variance at that time for the Miranda location. The business location at 865 E. Idaho would not be facing this variance request as the roadways there maintain the right-of-way requirement, and it is not in an R1 neighborhood. Again, is this convenience or hardship?

At this time, the Miranda location is in non-conformance of codes as 12 modular/portable buildings were brought in, non-state certified (as per CID-Construction Industry Division-Santa Fe), to expand the current location. Had the neighbors not seen these buildings, I believe this expansion would have happened without anyone's knowledge. This reasoning as there are already high school students enrolled in a PK-8 variances location. Which means this business has been in non-conformance of city code for 2 years. The neighbors were told by this private business, they were expanding to a high school. How can a high school be placed in an R1 neighborhood? Aren't there codes the city and all private schools follow where a high school can be located in Las Cruces? Why not continue as is, no city entity has issued any reprimands for:

A. Non-state certified modulars- per CID (Santa Fe) sitting on a business site- since Dec of 2008

B. Non-compliant to city codes as to high school students enrolled in a PK-8 zoned location.

I am a private business owner also in Las Cruces, with a business license. My business is mobile. I spoke to Mr. Dan Soriano at one of these meetings with this theoretical scenario. I have plenty of property at my home in this residential neighborhood. I want to bring in a modular building on my property and expand my business to include a private high school to be housed in this modular building. Mr. Sorentino responded, "The codes won't allow it". Codes won't allow me, a private business owner to expand

to a high school, on my own property, yet another private business in the same area can? Will this variance request approval set **precedence** wherein high schools and schools can be located within the city?

I feel the truth behind this request has been hidden; other options that are available to this business have not been stated, like the previous merged location on Idaho, or other growth opportunities within Las Cruces. It's been easy for this business to keep asking for more from the city and the neighborhood so why should they seek alternative avenues? This neighborhood's residents must pay in quality of living that their roadways need to be changed (one-way) to fit this business' need and not theirs. Convenience for the business, Hardship for the residents.

Codes in Las Cruces for placement of a high school, I would hope to believe, are there to make sure safety of residents and children are taken into consideration. Young, inexperienced drivers need a little more room to make quick decisions. No one has taken into account the children that walk to Alameda Elementary School that is located 2 blocks away from this private business. Changing start times doesn't mean anything to a child walking to school late, not paying attention or the high school child running late, driving, rushing to get there sooner. An accident is eminent for our children.

Don't high schools usually entail sports teams, bands, and other competitive activities? I see no offer of additional parking; more building is planned on this property but no additional parking. Actually, this variance would open this business to expand to a high school, as they are only currently permitted for K-8, AND, opens the door that by the time the first seniors graduate from this high school, this variance allows inclusion of college/university/commercial to be located on this property. I can't believe that any person, who would look deep in their heart, could really feel allowing this variance is the "Right" thing to do to a residential community within Las Cruces.

Children will be proud of their school no matter where the school is located. I feel the safety of the Alameda Elementary children is not being considered. As a member of the Las Cruces Breakfast Optimist Club, I work a lot with many of the children in this town and outskirts. I have done bike repairs and safety at Weed and Seed, cookouts for Jardin de los Ninos, All Star Baseball volunteer, and still do many family and children functions. I'm all for the children of this community. I'm not for a residential location of a high school placement that endangers children and residents when Las Cruces has plenty of opportunity for growth.

Thank you allowing my opinion,



Terri Munson
410 Palmer Rd.
Las Cruces, NM 88005

ALL LAS CRUCES, NM PRIVATE SCHOOLS FOUND

Modify Your Search

Public Las Cruces Schools						
Districts	Elementary	Middle	High	Charter	Private	View All
(1)	(19)	(11)	(6)	(0)	(6)	(30)

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Your Search Results: Back | 1 | Next

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View My Saved Schools

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Select This School 1301 Hoagland, Las Cruces, NM 88005

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Approximate Median Home Value \$144,200
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Select This School 1331 N Miranda, Las Cruces, NM 88011

Type Private School
Level PK-8
Approximate Median Home Value \$276,400
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- Las Cruces Catholic/ihm Campus**
Select This School 865 East Idaho, Las Cruces, NM 88001

Type Private School
Level PK-5
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- Mesilla Valley Christian School**
Select This School 3850 Stern Drive, Las Cruces, NM 88001

Type Private School
Level KG-12
Approximate Median Home Value \$144,200
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- Noah's Ark Learning Center**
Select This School 1605 S Valley, Las Cruces, NM 88005

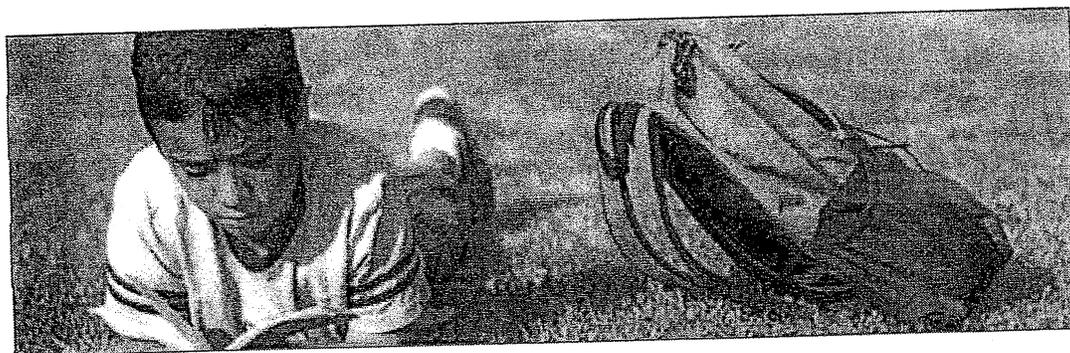
Type Private School
Level PK-KG
Approximate Median Home Value \$221,600
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LAS CRUCES CATHOLIC/HOLY CROSS QUICK REPORT

Overview	Teachers/Students	Programs/Classes	Extracurricular	Sports	Community
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LAS CRUCES CATHOLIC/HOLY CROSS QUICK REPORT

The Las Cruces Catholic/holy Cross Quick Report provides a limited view of the information currently available. By simply clicking on the corresponding tabs below, you have access to a brief overview of the Las Cruces Catholic/holy Cross's academic performance, student body, academic programs, extracurricular activities, and sports. If at anytime you would like more information than is provided in our Quick Report, feel free to **order Las Cruces Catholic/holy Cross Premium Report** which further expands on the information already provided in the Quick Report and includes additional helpful measurements and statistics.

LAS CRUCES CATHOLIC/HOLY CROSS

1331 N Miranda, Las Cruces, NM 88011

Grades: PK-8
Type: Private
Private

[Save to My Schools](#)

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ACADEMIC PERFORMANCE

Available only in Las Cruces Catholic/holy Cross Premium Report

EARNED ACADEMIC SCHOOL AWARDS (what's this?)

Available only in Las Cruces Catholic/holy Cross Premium Report

For more Detailed School Information, [Order Las Cruces Catholic/holy Cross Premium Report](#).

 Interested in learning more about Premium Reports?
[Download a Sample Premium Report.](#)

New Student Registration



Dear Prospective Parents of Las Cruces Catholic School:

We are pleased that you are considering Las Cruces Catholic School for your child's education. We at the LCCS are very proud of the religious and academic programs. The faculty and staff of LCCS strive to serve the needs of the families by providing a rigorous academic and spiritually enriched environment for the students. LCCS is accredited by the NM Public Education Department and Advanc-Ed (NCA).

The LCCS Board announced the following registration and financial information for the 2009 - 2010 school year. NEW FAMILIES will begin registering on April 3, 2008 during open house. Registration packets can be picked up on Monday, March 17, 2008 but will not be accepted until April 3rd. Please make sure that all registration documents are complete before packets are turned in. If you are in need of financial assistance, please ask for a scholarship/tuition assistance packet along with the registration documents.

2009 - 2010 TUITION for PreK-8th Grade

*	First Child	\$ 4,200 (Annually)	\$ 420 (Monthly)
*	Second Child	\$ 3,600 (Annually)	\$ 360 (Monthly)
*	Third Child	\$ 3,300 (Annually)	\$ 330 (Monthly)
*	Fourth Child	\$ 3,100 (Annually)	\$ 310 (Monthly)

2009-2010 TUITION for 9th and 10th Grade

*	High School Tuition	\$4,500 (Annually)	\$450 (Monthly)
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School tuition may be paid in full, semi-annually, quarterly or monthly installments over a ten (10) month period. Monthly tuition is paid through "FACTS ~ Tuition Management Plan". The Tuition Contract is to be filled out at the time of registration.

The registration fee is \$300 for new students and \$150 for currently enrolled students. THIS FEE IS NON-REFUNDABLE and must be paid at the time of registration.

Again, WELCOME TO LCCS! If you have any questions or you would like to schedule a visit, please do not hesitate to call me at (505) 526-2517.

Sincerely,
Dr. Karen Trujillo

June 17, 2009

Mr. Donald Bustos
 Secretary
 District 3
 Planning and Zoning Commission
 P.O. Box 20000
 Las Cruces, NM 88004

Dear Mr. Bustos:

Holy Cross School has requested a variance in order to start a high school and allow for an additional expansion of 8,400 square feet. The truth is that they have already created a high school at that location, have recruited students for next fall, and have brought 12 portables onto the property all without fulfilling the zoning requirements. The school and the church became nonconforming in 1981 when the zoning codes changed. The school has requested various special use permits since that time to expand their school to include pre-kindergarten, kindergarten, elementary, and middle school (1998) and the combining with the parochial school from Immaculate Heart. Each time the school expands, they are given yet *another one time expansion* permit. The addition of the high school requires that the school be situated on a road which is 80-feet wide—Miranda is not; hence the request for yet another variance.

- *Unique hardship.* A variance may be applied for when *a unique hardship is demonstrated*. The creation of yet another level of education and increase in student population is not a unique hardship. In actuality it is a step up in economic development by bringing in more money to the school. It is not unique nor a hardship.
- *Cannot serve as a convenience to the applicant.* The regulations states that a variance may not be granted “if only to serve as a convenience to the applicant.” The addition of a new high school, of more square footage to property and/or enlargement of the student population where even the school says that their elementary and middle school students do not have enough room for the students to receive a good education, is probably not the best solution and absolutely serves as a convenience to the applicant.
- *Curtail substantial investment in nonconformities.* Article VII says that the “regulations are intended to curtail substantial investment in nonconformities . . .”; yet the school intends to incur substantial investment in the 12 portables that have been already been illegally brought onto the property to further expand the school and to begin the high school.
- *Adversely affect surrounding properties.* Section 38-71 under Article VII indicates that the granting of a variance should not adversely impact the surrounding properties. For many years the residents of North Alameda have been adversely impacted by the traffic that is created by

Mr. Donald Bustos
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June 17, 2009

having two schools within two blocks of each other (Alameda Elementary on the East and Holy Cross on the West). The current amount of traffic and lack of proper parking which the neighborhood tolerates will only increase with the addition of still another level of education and the addition of square footage.

- *Alternatives.* The school is required by the regulations to give alternatives that may work. The Planning and Zoning Commission has suggested alternatives to the straight granting of this variance, i.e., can the "property be brought closer into compliance." Although the school has set forth absolutely no real alternatives that would bring the property closer into compliance, the following suggestions have been made: (a) widen Miranda the additional 25 to 30 feet, which would knock out walls and perhaps whole residences; (b) make Palmer Road a one-way street and/or make it illegal to park at the curb of that street. **Why is it that the residents of this area would once again be asked to take on even more hardship in order to ensure the comfort of Holy Cross?**

A better alternative would be to build or create the high school near one of the other churches where the school and the feeder streets would conform to the zoning requirements. It doesn't make sense that the school would want to lay out a lot of money to bring the portables up to required standards further saturating the grounds of the church, school, and surrounding neighborhood.

I respectfully request that the Planning and Zoning Commission deny the variance request of Holy Cross for addition of a high school and the expansion of the school through the portables or additional buildings. In addition, I request that the school be required (1) to bring the buildings presently on the property up to standards and (2) to submit a master plan showing their future plans for the property. Thank you for your consideration in this matter.

Sincerely,



L. E. Thornberry
330 Palmer Road
Las Cruces, NM 88005
(575) 525-1285

Mr. Donald Bustos
Page 2
June 17, 2009

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Sincerely,



L. E. Thornberry
330 Palmer Road
Las Cruces, NM 88005
(575) 525-1285



Harry Avery
1155 N Miranda St. Apt. H1
Las Cruces NM 88005-2066

Dear Mr White,

At the meeting Tues, May 26th, suggestions were made about the widening of Miranda st and changing some streets to one-way, to solve traffic problems from Holy Cross.

Those arent solutions. They are accomodations for Holy Cross and problems for residents. We want to stop the increase in traffic, not adjust to it. The real solution is for Holy Cross to stop the expansion of all their services and programs at the Miranda site. There must be a vacant lot or building someplace in Las Cruces where an Annex can be established with a middle school, meeting rooms and a Chapel. They could also have a High School, Bingo and other events. This area cant handle more traffic without negative effects.

Sincerely,

Harry B. Avery

Letter RE Holy Cross Request for Zoning Variance

When we were looking to buy a home in Las Cruces, we visited the Alameda area. As we drove through the neighborhood our path was blocked by a sleeping dog, lying in the middle of the road. Of course we stopped our car. Some people were talking on the sidewalk, and they laughed and directed us to drive around him. That was when I decided to live in Alameda, a place that apparently honors sleeping dogs more than cars. In particular, we chose Linda Vista Road because it was a dead end, with walking and bicycling on the irrigation ditch, protected from traffic. We visited the street daily, hoping for a home to go up for sale, and I literally saw the realtor putting up the sign. We bought our home before it was ever advertised. Now my wife Katya and I sometimes sit in our backyard for hours and hear pretty much only the birds. I do not think there are many city neighborhoods in the country where that is true. My wife has said that if we win the lottery we will move to ... our current home.

Now, when I hear of planned developments in our neighborhood, I think of a Joni Mitchell song with the line "you don't know what you've got till it's gone—they paved paradise, put up a parking lot." I love Las Cruces, especially our Alameda area, and think it needs to be protected.

So I was unhappy when early this year a new loudspeaker system was installed at Holy Cross School, and we had to listen to their announcements and activities numerous times a day. These are sometimes so loud they can sometimes be heard indoors even with the windows closed.

Now I am told that Holy Cross has already started a pre-school, started a high-school, and also added 12 portable buildings, all of which violated zoning laws. It further plans to expand student enrollment 50%, build a 2-story community event center, build an indoor sports stadium, and add an access road that will perhaps cover over the irrigation ditch and make our dead-end street into an access road. Even if only some of these things happen, I believe that the proposed changes to the zoning laws will have an adverse impact on the neighborhood. For these reasons I am opposed to changing the zoning laws. I think such changes to the law would be especially bad if they are made without a full statement of planned developments and a debate about their impacts.

I do understand that Holy Cross wants to expand their church and school, and that all of their proposed educational, community, cultural, and athletic developments are good and valuable things. I also realize that when residents hear of these ambitious plans, we have a reasonable fear for the neighborhood that we love so much. Finally, even though these values may sometimes collide, and even if they are necessarily opposed (a thing that has, by the way, not been proven), I hope that I am still able to remember that everyone has good intentions.

Sincerely,

James Caufield
511 Linda Vista Road
Las Cruces, NM 88005

James White

From: S NEVILLE [sneville001@msn.com]
Sent: Thursday, June 11, 2009 2:39 PM
To: James White
Subject: Case #A1695

Mr. White,

Given the summary and background of this Case #A1695, I urge our City leaders to act now to table action on Holy Cross School Variance Request Case No. A1695-PZ until such time that Holy Cross School:

- (1) Is brought into compliance with the 2001 Zoning Code and is no longer in violation of the Code; and,
- (2) Provides a Planned Unit Development (PUD) for review and approval by the City of Las Cruces that, at least, includes all developments identified in the *Development Plan: Las Cruces Catholic School Holy Cross Campus and Holy Cross Parish Church* provided the City on February 20, 2009

Thank you,

Suzanne Neville Staley (North Alameda resident)

331 Linda Vista Rd.
Las Cruces, NM. 88005
sneville001@msn.com



Lauren found her dream laptop. [Find the PC that's right for you.](#)

Chairman Charles Scholz,
Planning and Zoning Commission
Las Cruces, NM

June 28, 2009

Dear Mr. Scholz,

I am writing from North Carolina where my mother and I are getting ready to celebrate her 88th birthday. Please accept this in lieu of my attendance at the June 30th meeting of the Planning & Zoning Commission.

In a meeting on May 20th to discuss traffic studies in this neighborhood Monsignor Anderson apologized for not being a very good neighbor over the past 25 years he has been at Holy Cross Parish. Despite his confession, he offered no specifics of how he or Holy Cross could have done better in the past or how they will do better in the future.

For years we have accepted the church and even joked about "the Christian 500" on Sunday mornings and when school is in session. But in the past couple of years the situation has become less and less tolerable, less safe too.

For example, the Palmer house was let go to the point that it was a breeding place for rats and squirrels that were crossing over into neighboring homes. Even since the demolition of that building, Holy Cross lets the weeds grow in that area until well past when we as private homeowners would be cited for Codes violations, sometimes two feet tall. These are safety issues related to public health and to fire danger.

Last summer we watched with amazement during irrigation season when the Holy Cross property was repeatedly allowed to flood over from its southwest corner at the Armijo lateral clear through to the corner at Palmer & Miranda. In one case the flooding was so bad that water was flowing through long stretches of their rock walls and draining throughout the neighborhood for several days. Since no one lives on the property, the response to problems like this is always slow.

At the moment the Planning & Zoning Commission has some leverage, because you have something Holy Cross wants – approval over those portable buildings. If you give your approval with no conditions, you will lose that leverage and our neighborhood will lose an opportunity to slow down the church's encroachment on our lives. Please help us now, not later as suggested by Mr. White. Please demand a Planned Unit Development from the Catholic diocese of Las Cruces before granting any more favors including this variance.

Sincerely,

Deborah M. Dennis

Deborah M. Dennis
420 Palmer Road
Las Cruces, NM 88005

June 17, 2009

Mr. Donald Bustos
 Secretary
 District 3
 Planning and Zoning Commission
 P.O. Box 20000
 Las Cruces, NM 88004

Dear Mr. Bustos:

Holy Cross School has requested a variance in order to start a high school and allow for an additional expansion of 8,400 square feet. The truth is that they have already created a high school at that location, have recruited students for next fall, and have brought 12 portables onto the property all without fulfilling the zoning requirements. The school and the church became nonconforming in 1981 when the zoning codes changed. The school has requested various special use permits since that time to expand their school to include pre-kindergarten, kindergarten, elementary, and middle school (1998) and the combining with the parochial school from Immaculate Heart. Each time the school expands, they are given yet *another one time expansion* permit. The addition of the high school requires that the school be situated on a road which is 80-feet wide—Miranda is not; hence the request for yet another variance.

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- *Adversely affect surrounding properties.* Section 38-71 under Article VII indicates that the granting of a variance should not adversely impact the surrounding properties. For many years the residents of North Alameda have been adversely impacted by the traffic that is created by

Mr. White:

June 22, 2009

I am sending this communication to you per our conversation in your office on Friday, June 12, 2009. My understanding is that I am to provide you with a list of procedural questions as they may relate to the Planning & Zoning Commission meeting on Tuesday, June 30th at which case #A1695, Holy Cross School Variance Request, will be heard after having been tabled by a 4-0 vote of the P & Z Commission on Tuesday, May 26th. You, in turn, will submit my questions to the City's legal counsel, Mr. Jerry Abrams, for his interpretation. Then, as you told me, we, the residents of the North Alameda area proximate to Holy Cross, are to have Mr. Abrams's "pages" with us at the June 30th meeting so that we may comply with his interpretation.

My first two questions are:

- 1) How is it that a city founded in 1850 does not seem to have a written set of procedures or a written protocol for the conduct of hearings before a commission as central as Planning & Zoning?
- 2) Will each of the parties (the City, the Requestor, and the Neighbors) receive Mr. Abrams's interpretations and be bound by them for the duration of proceedings?

Based on my experience with Case #A1695 so far, I have the distinct impression that you and/or the City are making up the "rules" as you go, and as a consequence I am skeptical about the fairness of the hearings. In specific, I asked you for procedural guidance in advance of the May 26th meeting and instead of being given or referred to a written document, you instructed me verbally that you as Zoning Administrator for the City would make a 10 minute presentation, followed by a 10 minute presentation by an Agent of Holy Cross, followed by the opportunity for a representative of the Neighborhood to make a 10 minute presentation summarizing our concerns. You indicated that the process would then allow for up to four 3 minute prepared statements each on a specific concern from additional residents. Based on your guidance, a group of us met several times to educate ourselves as to the issues involved and to plan our remarks.

We appeared at the meeting expecting an orderly sequence of events within which our statements could be fairly made and heard. Instead, you presented for at least 15 minutes, various representatives of the Requestor presented for at least 50 minutes, and then the Chair called for a break to be followed by comments open to the public. When I approached the Chair to ask about the opportunity for my 10 minute presentation on behalf of the Neighbors, I received an emphatic "No" with the indication that like any other member of the public in attendance I could make a statement of up to 3 minutes. In response I explained that in advance of the meeting you, as Zoning Administrator representing the City and its procedures, had said that we would be able to make a prepared, organized 10 minute presentation on footing similar to that of the City and the Requestor. The response I received from the Chair was, "No one talked to me."

I hurriedly tried to condense my prepared statement and Mr. Scholz as Chair was kind enough to allow me to lead off the public comments. Our other prepared statements became interspersed with impromptu remarks by a variety of individuals through a long evening. Overall, this was far different from the process you had led us to expect. The actual process diluted the impact of the research and work put in by our group of Neighbors and undercut our substantial concerns about the proposed variance and its impacts.

Letter to Mr. James White
 June 22, 2009
 Page Two

On the afternoon of Friday June 12th I came to you again, this time to question your handling of new correspondence from Neighbors as regards the packet of information you as Zoning Administrator were charged with preparing for the P & Z Commissioners in advance of the June 30th meeting. At that point you had already sealed and distributed the packet with no new statements from Neighbors despite having received new written comments from at least three individuals subsequent to the May meeting. When I questioned this action in comparison with the process you employed in advance of the May 26th meeting, you stated that these letters could be read into the record at the time of the upcoming hearing. Again, this is far from equal footing, since the packet you have distributed contains new information from both the City and the Requestor which the commissioners will have an opportunity to review and consider in advance of the meeting. Also, since this second packet was sealed well ahead of the timeline you used in sealing the initial packet, this lends itself to the appearance of an ad hoc or "made up" process that might be described as arbitrary or capricious.

Further, I informed you on June 12th that a resident who is an attorney had told me that the packet should be open for residents to make new submissions because the packet was open to amendment by either or both the City and the Requestor before the June hearing. You then called Mr. Abrams to ask his opinion. While I admittedly heard only one side of the conversation, I had the clear impression that you were quite concerned about the possible reaction from Mr. Kirk Clifton as Agent of Holy Cross if residents were to be allowed to add material to the packet. Any concern for precedent or fairness seemed to be secondary at best. I'm not sure if the situation became clearer to me or more clouded when I learned that Mr. Clifton's day job as a representative of a very powerful local developer, Mr. Philip Philippou, brings him into city hearings frequently. At the conclusion of your phone call with Mr. Abrams you said that your "interpretation" of the situation was correct, that no new public comments would be included or acknowledged until the hearing itself.

What I must call your attention to is that your decisions and actions as a single individual are resulting in conditions through which area residents who have reason to be concerned and who have a right to be heard are not being heard in a fair, coherent manner. Whether this is intentional or incidental is irrelevant; the impact on the process is the same. Without an administrative structure that guides the Variance Request process toward fairness and consistency, it is easy to see the hearing itself as a matter of show whose results are a foregone conclusion.

Returning to your request that I put our procedural questions in writing to you for Mr. Abrams, I must further ask:

3) Since two commissioners who were not in attendance at the May meeting may be in attendance on June 30th, can we expect that they will have viewed the recording of the first meeting?

4) You have altered your May recommendation regarding this variance request by dropping a condition regarding a Planned Unit Development. Judging by the Fact Sheet page of the certified letter sent by the City to residents in June, you or Holy Cross seem to have altered

the request itself, shifting focus to Right of Way rather than square footage of the portable buildings. Where and how in the process of the hearing will we as effected residents be allowed to similarly modify or add to our piece of things? For instance, at what point in the proceedings will we be allowed to read the letters noted above into the record?

5) We will be submitting a petition to the Commissioners and we need to know the mechanism for doing so. We had planned to deliver this to you for inclusion in the packet and had anticipated a submission deadline of June 22nd, similar to the deadline you used for the May packet. Your sealing the packet before June 12th precluded this.

6) Will our input again be limited to 3 minute bits or will we be allowed to actually make a presentation of some substance? Since the first meeting we have done significant research relevant to this variance request and we deserve the opportunity to present this succinctly to the Commission on behalf of our Neighborhood.

7) Given that either Holy Cross or the Neighbors are likely to appeal the decision of the Planning & Zoning Commission to the City Council, we are aware of how to file an appeal. However, similar to the present situation, we have not located a written set of procedures or a protocol for such an appeal hearing. Where might we find same?

We most earnestly hope that you and Mr. Abrams will be able to provide answers to these questions. We hope to be allowed to adequately present our position and our ideas to the Commissioners despite being closed out of the pre-meeting information packet.

As longtime residents of this area not only do we have strong feelings about what happens in our Neighborhood, but we also have ideas about how to make this situation better for all concerned. We are Stakeholders in this matter at least as much as are the City and Holy Cross, most simply put because we as residents will live with the consequences of the Commission's decisions day in and day out.

I appreciate your attention to this letter and look forward to your response.

Sincerely,

Deborah Dennis
420 Palmer Rd.
Las Cruces, NM 88005

City of Las Cruces
 Planning & Zoning Commissioners

Dear Sirs,

Thank you for your time and patience during the Planning & Zoning meeting of May 26th in regard to A1695 with Holy Cross.

As the owner of the Ethel & Miranda corner I am perhaps the most affected by this variance. I would like to clarify a few things:

I am not complaining about the 'noise.' It is not an issue to me.

I am not against the school. I work at an elementary school, and I understand the importance of education plus I enjoy children and the sounds of a playground

I also know how parents drive, especially when they are late in the morning. (I have done many hours of 'crosswalk duty' helping children safely cross the street while wielding a very large STOP sign to keep from being hit by parents who are running late, or are not mindful of a school zone.

I am worried about the safety of the children, adults & neighbors. And the changes this entails for me and my neighborhood

My concerns are:

1. Are we adding 50% more students or 'just adding space'?
 - a. In the meetings at Holy Cross on February 20th and May 13th we were told the school was planning on increasing the population by 50 % from 295 to 450. At the P & Z there was a plea in the end for more space, not additional students. Which is it? I find it hard to believe that 12 portables are needed if no additional students are coming. Keeping in mind that these portables can handle a class of 30 students, why would 12 be purchased if they weren't going to be utilized?
2. Will a new gymnasium be built?
 - a. 'Dr. Trujillo's presentation in February included a gym being build. Where will that go, what kinds of a variance will that need?
3. How did this 'hardship' come about?
 - a. The 'hardship' here seems to be self-generated. Holy Cross has actively promoted this expansion, and sought buildings and students with the knowledge that they weren't zoned for it. If they had decided to expand their program elsewhere (Immaculate Heart of Mary?) (purchased new land with adequate infrastructure available) they would have some of the infrastructure necessary in place and not need a variance. Other public schools in town are 'capped' in number due to the existing facility and space.
4. Is there a cap or upper limit on Holy Cross and if so, what is it?
 - a. And what is that number based upon? One of the zoning ordinances on the screen at the last meeting noted that no high school would be build on a road less than 85 feet. Why has that been ignored? Why do the public schools cap enrollment at schools? What is their criteria?
5. When is the church 30% expansion taking place?

- a. In February plans were discussed to build a new 14,000 ft. Life Center and expanded worship space. I don't begin to understand City codes, but will we be back before Planning & Zoning in a few years when they are ready to do this 30% expansion? Will there be another variance sought?
- 6. Separating Church & School
 - a. As a neighbor, I can't separate these entities. To me it is Holy Cross Campus. Whether it is use of parking, facilities, or grounds they are one and the same. So do we count the sq. footage of the Church along with the school to get the 10% figure on this variance? And when the new life center and additional worship space are built do we include the school (& portables) in the new 10% figure?
- 7. What does 'one time only' mean?
 - a. There have been variances in the past – based upon the width of Miranda, A1695 is third? or forth? What about the gym? Will the Church in a year or two be asking for another variance for their expansion? Is here a limit?
- 8. Down graded to a "B"?
 - a. Apparently my corner is the only one the traffic engineers are projecting in the future to be downgraded from an A to a B. As a person who always enjoyed excellent grades in school, I would prefer to keep my 4.0 status and remain an A intersection. I am concerned for my safety too.
- 9. How about a master plan?
 - a. I believe any plan should include the school, church, portables, gym, traffic, sewer, water, electricity hook ups, etc. Holy Cross growth has been piecemeal at best. Who in the City requests such a plan? Who would review it before any more expansion is done? I would hope that before any more variances (note the plural) are granted, everyone – including the neighbors & the City and the Church (!) need to know the 'big picture. That would go a long way in making Holy Cross be a good neighbor.
- 10. Case A1695 is limited in scope.
 - a. I do understand that case A1695 only deals with approving 8 portables. That is the only issue you have been called upon to deal with at this time. But there is a larger issue here to me and my neighbors.. How do I as a property owner deal with this larger issue? Holy Cross has given very conflicting information, perhaps because they are not certain of their future direction. But this is important to me as a property owner. With Miranda Street being so narrow, and safety being a big issue, I believe thought and detailed planning are needed not only for Holy Cross's sake, but for my sake also.

Again, I want to thank you for all your efforts to learn about this issue, and to ask pertinent questions in order to make a reasoned decision. Your time and consideration are appreciated.

Sincerely,

Julie Woody

452 W. Ethel

Approximate Chronology of Holy Cross Campus Developments as Gathered from Public Records and Information from Various Holy Cross Documents

1962	School is built for elementary students	
(?)	Convent with housing is built for nuns	
1981	Separate church building permitted as a "one-time exception" to enlarge nonconforming building	County assessor's documents suggest 7,149 square foot addition
1995	Columbarium for cremations is permitted	"Conditioned" that any further campus expansion would require an amendment to the 1995 special use permit and approval by the Planning & Zoning Commission
1998	The middle school is permitted	1995 permit is amended allowing new building with 6 classrooms north of existing elementary school, estimated addition is in excess of 7,500 square feet
2007	High school students enrolled for 2007-2008 year	Classes begin with no apparent permit or hearing
2007 - 2008	Original 1910 Palmer House located at northwest corner of the property is demolished	The building may have been eligible for National Register Status
December 2008 - February 2009	Twelve portable buildings brought onto southwest area of campus with no prior permitting or hearing	Unclear whether conveyance of buildings to site was legal; no notice given to residents along Ethel Avenue regarding clearance issues
April 2009	Three portable buildings permitted per "one time" 10 percent square footage increase	Additional square footage of approximately 3,360 square feet
Tonight May 26, 2009	Variance request for 9 additional portable buildings	Comprising another increase of 8,400 square feet
Anticipated 2011- 2013	Ground-breaking for the John Paul II Family Life Center Sanctuary also to be enlarged by approximately 100 seats	Two stories totaling 14,000 square feet and requiring demolition of the original convent building on the southern area of the site
Approximately 2014	Ground-breaking for indoor sports facility	Unknown square footage, requires demolition of existing outdoor sports area

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ALL COMMISSIONERS MEMBERS - AYE.

Scholz: Those opposed same sign, and abstentions. All right. Those two are postponed until June 23rd. Thank you Commissioner Shipley for asking. Okay, can we hear from the staff on Case A1695 please?

START

~~8~~ White: For the record, James White, Community Development Department. The first case this evening is Case A1695, is a request for a variance from the required right-of-way of 85-feet to 50-feet for a proposed private school expansion at 1321 N. Miranda Street.

Here's a vicinity map. The subject property is roughly 11 acres in size and is located in this area here. Other identifying points if you notice actually on the western boundary there is the Armijo Lateral which runs here. Thoroughfares in the general area, you have McClure which is located here. On the southern boundary, you have Parker which is located here. You have local residential streets such as Miranda which is located in this area north and south, and east and west you have Palmer and Ethel. You also have another thoroughfare located here which is called Alameda.

First thing staff looked at was various distances from the actual proximity to Las Cruces Public Schools. Ethel Avenue to Alameda is roughly 1,136 linear feet. What we're speaking about is Ethel's located here, and Ethel actually traverses and go out to Alameda. You have Palmer to Parker which now we're looking going north to south. Palmer is located here, and Parker is located here on the southern boundary, it is roughly 1,598-feet, or roughly a third of a mile. You have Parker to Alameda which we're speaking about this road from here, from Miranda back out to Alameda that's roughly 1,100 linear feet. And if you want to go further west you have Parker to Valley. We're talking about this intersection going back out here to Valley Drive which is out in this area which is roughly 3,261 linear feet.

Another issue we probably should address very briefly is that you have a potential, you have right here, you have the Armijo Lateral and if you can get a parallel crossing it'll be from EBID, that's Elephant Butte Irrigation District. It's conceivable you have about 900 linear feet that you could in theory have some kind of road connection back out to McClure.

First thing let's go back into the zoning history of the property. The private school began operation at 1321 N. Miranda in 1962. It was allowable under 1955 Zoning Code. In 1955, the Zoning Code allowed private or public schools within the R-1 Zoning District by right; it was not a conditional use. Parishioners of the Holy Cross School began conducting services in the school gymnasium circa 1963. The first indications of conditional zoning regarding schools in residential zoning districts occurred in 1969. The 1969 Zoning Code allowed for schools to be located on local roadways, such as Miranda, Ethel, or Palmer, provided

1 there was not a high school component. At that juncture in time in 1969,
2 there was only an elementary school component, so it was in compliance
3 with the zoning criteria of 1969 Zoning Code.

4 Conditional zoning on the property actually started in 1981. When
5 we adopted the 1981 Zoning Code, it required schools and churches to
6 obtain a special use permit via a public hearing process. So in theory at
7 that juncture in time between 1981 and 2001 an applicant would have
8 been required to do a special use permit. The subject property in 1981
9 became nonconforming based upon Miranda being a local roadway. So
10 what actually occurred at that time, there was an SUP in 1981. In 1981,
11 SUP was actually for the church itself. It was to allow the parishioners to
12 actually have a building built so they wouldn't actually have to worship in
13 the actual gymnasium. In 1995, special use permit was for a columbarium
14 and in 1998 special use permit was actually for a middle school that was
15 placed on the property.

16 Staff actually tracked the building permitting history. There was
17 some confusion regarding addresses. The physical address the City has
18 for the property is 1321 N. Miranda. The actual address on the building is
19 1331 N. Miranda. And I believe the actual religious institution is using
20 1327 N. Miranda. Based upon the permitting for the school site, there was
21 a commercial new addition that was permitted in 1999 and also in 1998,
22 that was in relation to the middle school expansion that transpired on the
23 property. There was also an over-the-counter building permit issued for a
24 fence in 2000, and the school site was also issued two building permits in
25 the 1980's. That is the history regarding the school.

26 Now to go into specifics of the case we're speaking of this evening.
27 The property is actually two distinct properties, roughly 11.07 acres all
28 located east of the Armijo Lateral. It is currently zoned R-1a which is
29 single-family medium density. The properties currently contain a religious
30 institution and private school. And based upon the 2001 Zoning Code
31 which is currently adopted, it's a conditional use in the R-1a Zoning
32 District. Here's an excerpt from the 2001 Zoning Code which pretty much
33 stipulates that section 38-33(D), public or private schools or parochial
34 schools are required to be located on a collector or higher designated
35 roadway. What construes a collector roadway in the city of Las Cruces is
36 right-of-way width of 85-feet. The current right-of-way width on N. Miranda
37 which is the ingress and access point for the property is roughly 50 to 55-
38 feet. There are also a couple other conditionals regarding landscaping,
39 buffering, etc. on the property.

40 Case specifics as alluded to earlier, private school has ingress and
41 egress from N. Miranda Street which has an approximate right-of-way of
42 50-feet. School sites are required to have 85-foot of right-of-way, also
43 known as a collector. The expansion of the private school includes 12
44 portable buildings having a combined area of 12,221 square feet. The
45 gross floor area combined, this is the current based upon Doña Ana
46 County Tax Assessor records, both religious institution and church has

1 roughly 39,000 square foot of combined gross floor area. In the 2001
2 Zoning Code, there is a passageway regarding nonconforming expansion.
3 And in that section, it pretty much allows a onetime 10% expansion for any
4 location that's nonconforming. In this case, based upon the current
5 existing gross floor area of 39,110 square feet, the applicant is allowed a
6 one-time expansion of 3,900 square feet roughly.

7 The applicant has applied for and was issued a building permit for
8 four nonconforming portable buildings having a total area of 3,360 square
9 feet that has been permitted by the City of Las Cruces. The variance
10 request will allow for the remaining eight portable buildings to remain on
11 the property having a combined area of 8,400 square feet. So this
12 evening what the discussion is, for the variance to allow eight portable
13 buildings to remain on the property having 8,400 combined square feet.

14 Plat of survey, don't know how clear this is. Predominantly what
15 you have here is that you have in this area here you have the middle
16 school expansion that occurred circa 1998. You have other school related
17 activities that occur here. In this area here, you have the predominant
18 religious institution here. If you notice here the ingress and egress is off of
19 N. Miranda which is located here. You have two distinct parking lots, one
20 on the southern boundary of the property, and one on the northern
21 boundary of the property that is used in concert with the religious
22 institution and also with the school. On this boundary here to the west,
23 you have the Armijo Lateral. On the southern boundary in this area here
24 you have an R-3 zoned apartment complex called Las Casitas. And
25 predominantly as you start moving to the east of N. Miranda Street it is
26 predominantly residential development here back out to Alameda.

27 What you also have in respect to this property is there is also in
28 respect of the actual parking lot here, is you have an easement that runs,
29 parallels the southern property boundary located in this area here. And in
30 this area, in this general area here is where you're actually looking at the
31 portables that have actually been placed on the property, in this area here.
32 If you look at the MPO Thoroughfare Plan this is a little bit different than
33 what you usually see here at P&Z, but what I've actually did here is that
34 you'll notice this little icon here, this identifies different schools in the
35 general area and of course the school in question this evening is here.
36 You also have an elementary school that's sited directly adjacent to
37 Alameda Boulevard which is located here. The diamonds which are kind
38 of hard to distinguish are other religious institutions in the area. Of course,
39 the one in question is here. There's another one located here. Another
40 one's located here.

41 These are a little bit outdated traffic counts, but this is actually, what
42 we have from MPO regarding traffic counts between 2000 and 2005
43 regarding the general area. So if you notice here what we actually have
44 here is that you're looking at N. Alameda having a traffic count of 9,691
45 located here. Other thoroughfares in the area such as McClure has 2,320,

1 and Parker has 1,743. And of course, the area in question is right here.
2 There is also some park land across the street.

3 Here's an aerial view, specifically we're discussing the actual
4 property in question this evening. As alluded to earlier, there are two
5 distinct parking lots, one on the northern periphery which is located here
6 which is composed mostly of the traffic generated by the school site which
7 is located here. You have the playground which is in this area here. And
8 then you have a larger parking area which is on the southern periphery of
9 the property here that is utilized in conjunction with the religious institution
10 and also by the school as well. The general area here, the vacant portion
11 you see on the actual western boundary of the property is the general
12 area where the modular buildings or portable buildings have been placed
13 on the property. Site photos of the portable buildings as alluded to earlier,
14 they are on the property currently. There are currently 12 of them. As
15 stipulated earlier the easement to actually get back into this area is
16 located here. This is actually the southern property boundary here with
17 the actual apartment complex. Here is the larger of two parking lots here.

18 Criteria for decisions, when we look at variances, there are three
19 criteria that the 2001 Zoning Code looks at. Number one is a physical
20 hardship relative to the property, i.e. to property, constraints of right-of-
21 way, taking reducing development flexibility, etc. in question. The second
22 is the potential for spurring economic development in a neighborhood or
23 City wide level if requests for allowances are granted. And number three
24 is a monetary consideration, not as a whole but relative to the options
25 available to meet the applicants stated objectives when such options
26 cause considerable monetary hardship under strict application of the code
27 provisions.

28 Staff recommendation for this case which is also known as 1695 is
29 approval with conditions. The conditions are; number one the approval of
30 this variance is limited to the additional portable buildings having a
31 combined gross floor area of 8,400 square feet. Any future expansion of
32 the school site or church shall require approval of the Planned Unit
33 Development as outlined within the 2001 Zoning Code. Predominantly
34 what a Planned Unit Development is, is you'll be doing a campus wide
35 master plan for any expansion on the property. So staff felt that any future
36 expansion regardless if it's based upon the religious institution or the
37 school would require to go through a campus wide master plan or Planned
38 Unit Development. The second condition is based on the conditional
39 zoning in the 2001 Zoning Code regarding schools. The applicant will be
40 required to submit a landscape, screen or buffer plan that will require
41 administrative approval by staff. The applicant will be required to create a
42 strong impression of separation. In the event administrative approval is
43 not granted, the applicant will be required to comply with Article VI,
44 Section 38-53 of the 2001 Zoning Code as amended regarding screening
45 for schools adjacent to residential zoning districts. If you went through the
46 actual packet, the issue really is, is that any parking area or structures of

- 1 the school site is required that it's 25-feet or less from a residential zoning
2 district, not a structure, but a zoning district, requires an opaque buffer.
3 So in theory what that would require is that on the western periphery
4 where the Armijo Lateral is, they'll be required to put a fully opaque buffer.
5 They'll also be required to put a fully opaque buffer on the southern
6 boundary adjacent to the apartment complex. And also, in respect on the
7 eastern boundary where the parking lot resides for the school site, they'll
8 be required to put an opaque buffer there. So staff would also evaluate
9 with the City landscape architect, evaluating the plan to see if they place
10 draught tolerant plants, shrubbery, those kinds of issues to try give some
11 kind of spacial separation between the various residential land uses and
12 the current existing school site. That will end staff presentation. I'll be
13 glad to stand for any questions this board may have this evening.
- 14
- 15 Scholz: Okay gentlemen, questions for Mr. White. Yes, Commissioner Crane.
- 16
- 17 Crane: You mentioned I believe that four of the 12 portables have already
18 essentially been approved. They are not an issue because of the 10%
19 expansion that was allowed, is that correct?
- 20
- 21 White: Chair Scholz, Commissioner Crane that is correct.
- 22
- 23 Crane: So the 8,400 square feet as part of your conditions, does that represent
24 the other eight portables, or does that include the four?
- 25
- 26 White: Chair Scholz, Commissioner Crane, the request is for 8,400 combined
27 square feet. The actual portables have 12,200 square feet. What we're
28 looking at this evening is for 8,400 square feet or eight portable buildings.
- 29
- 30 Crane: Thank you.
- 31
- 32 Scholz: Commissioner Shipley, you have a questioning look on your face.
- 33
- 34 Shipley: The eight portables are 8,400 square feet is the way I understood it?
- 35
- 36 White: Chair Scholz, Commissioner Shipley that is correct.
- 37
- 38 Shipley: Okay.
- 39
- 40 Scholz: Okay, other questions gentlemen? Okay, I have a couple of them. Are
41 we asking for two variances here?
- 42
- 43 White: No. The only variance for consideration this evening is going to be with
44 respect to the right-of-way width of 50 to 55-feet parallel Miranda Street.
- 45
- 46 Scholz: Okay.

1
2 White: Okay. Let me put it in other terms.
3
4 Scholz: Please.
5
6 White: The 2001 Zoning Code requires a school to have a minimum of 85-feet or
7 collector status roadway.
8
9 Scholz: Right.
10
11 White: Based upon the current designation of the roadway only having 50 to 55-
12 feet, the variance is for the additional 35-feet of right-of-way which is
13 required upon the conditional section of the code.
14
15 Scholz: Yes, I understand that. But it seems to me they're also asking for a
16 variance to add 8,400 square feet of portable buildings.
17
18 White: No. Chair Scholz, the best way to answer the question is that it's a
19 permissible right in the R-1a Zoning District schools. So in theory what
20 transpires is if the P&Z Commission grants a variance for the additional
21 right-of-way requirement, then it is approved based upon the Zoning
22 District of the property. The portables only become in question based
23 upon the right-of-way. So the variance we're hearing this evening is, is
24 there substantial right-of-way for the expansion? The variance is for the
25 right-of-way and not the actual school portable buildings themselves.
26
27 Scholz: But you told us a few minutes ago that they were only allowed a one-time
28 10% expansion. And they've already done that.
29
30 White: No, they have not.
31
32 Scholz: They haven't. Okay.
33
34 White: No.
35
36 Scholz: But that would be four portables.
37
38 White: Chair Scholz what's transpired is that when you look in the 1981 Zoning
39 Code we have various Zoning Codes applied. The 1981 Zoning required
40 a special use permit. So when those SUPs are granted those buildings
41 that are on the property at that time were in compliance with the zoning.
42 When we adopted the 2001 Zoning Code, there has not been activity
43 since the 2001 Zoning Code until they put 12 portable buildings on the
44 property currently. So based upon that, it is a onetime expansion from the
45 2001 Zoning Code.
46

- 1 Scholz: Well, I'm still puzzled because the one time expansion is 10% of the
2 existing property which would be, what, 3,900 square feet.
3
- 4 White: That is correct. What's transpired is they're limited to 3,900 square feet.
5 So what actually occurred is that they were permitted four of the buildings
6 which did not exceed the 3,900 square foot combined.
7
- 8 Scholz: Right.
9
- 10 White: So that we issued four building permits for a combined area of roughly
11 3,200 square feet. Any additional buildings that exceeded that had to go
12 through the variance process regarding the right-of-way criteria.
13
- 14 Scholz: Okay. Commissioner Shipley.
15
- 16 Shipley: So I agree, what's happened here is there's 8,400 square feet that's not on
17 a variance. You can't give them building permits for that until it comes
18 back and we approve a variance on that, because they have ...
19 theoretically if you've issued them building permits for four buildings,
20 they've used their 10% right-of-way under the 2001 code. So anything
21 that goes into ... so they still are lacking a variance for additional buildings
22 on that property the way I see.
23
- 24 White: Commissioner Scholz, Commissioner Shipley, that is correct.
25
- 26 Shipley: Okay.
27
- 28 Scholz: Okay, my second question was, does the placement of the portables cut
29 down on the parking? You said they were placed in the parking lot in the
30 lower like, what is it southwest corner of the property? Because as I read
31 the packet, there was some concern about total parking spaces there.
32
- 33 White: This aerial's actually pretty accurate with the exception of the portable
34 buildings currently on the property. The portable buildings are going in
35 this area here. It's a dirt area and has not been improved.
36
- 37 Scholz: Okay.
38
- 39 White: In respect to the parking criteria that I evaluated in the actual packet, we're
40 speaking about the number of parking stalls required for a high school.
41 And based upon the criteria in the actual packet I believe it is in
42 compliance for the actual school site and/or the religious institution so long
43 as activities don't occur simultaneously.
44
- 45 Scholz: Okay. So we're talking about the parking lot that's north of the building
46 and one south of the building.

1
2 White: That is true.
3
4 Scholz: So the land behind the buildings is not used for parking.
5
6 White: That is correct.
7
8 Scholz: Okay. You said there was an easement there, is that a road?
9
10 White: Parking lot one is located here with 65 parking stalls. Parking lot two is
11 located here. There is an easement located right in this area here. It's
12 actually a private easement. There's a driveway that's actually been
13 placed in by the Las Cruces Catholic Schools located here. You can kind
14 of see it; it winds around here and it kind of winds out to roughly the Armijo
15 Lateral location.
16
17 Scholz: And that's not part of the parking?
18
19 White: No. It's an easement to actually access the rear portion of the property.
20
21 Scholz: My final question was, are the MPO traffic counts that you gave us; 2000
22 to 2005, is there nothing more current there?
23
24 White: There is. There has been a Traffic Impact Analysis done by both the
25 applicant and also been evaluated by Dan Soriano, the City Traffic
26 Engineer. And they will discuss those issues and those findings in those
27 traffic studies later because it went further than what we had here. Those
28 traffic studies also evaluated the local street segments in there such as N.
29 Miranda, Palmer, Ethel, and some of these local roadways that are not
30 identified within these traffic counts here from between 2000 and 2005.
31
32 Scholz: And what were the counts you gave us, is that per day? Is that trips per
33 day?
34
35 White: That is correct.
36
37 Scholz: Thank you. Okay, may we hear from the applicant please?
38
39 Crane: Mr. Chairman, if I may?
40
41 Scholz: I'm sorry, another question. Commissioner Crane.
42
43 Crane: At present, let's back up, before the four portables question was brought
44 up, the four that they are permitted we think under this 10% expansion,
45 what was the status of the school with respect to the fact that the school is

- 1 required to be on an 85-foot right-of-way and it is in fact on a 55, is that ...
2 could they have maintained that status indefinitely without interference?
3
- 4 White: Chair Scholz, Commissioner Crane, the answer is yes they could have.
5 What triggered this variance is the expansion of 8,400 square feet.
6
- 7 Crane: All right. And so they require a variance even if they don't get the 8,000
8 square feet that you've put in. Why has the City added the 8,000 square
9 feet as a condition or as I think a limit, isn't it?
- 10
11 White: Commissioner Scholz, Commissioner Crane I think the best way to
12 answer this question is, the school is currently in compliance. If there was
13 no planned expansion of the property, there are no requirements for any
14 kind of variance, they have been permitted through the SUP process and
15 everything is actually legal as of today. What is triggering the variance is
16 the addition of the 8,400 square feet. So based upon the expansion or the
17 planned expansion of 8,400 square feet, it is triggering a variance of a
18 right-of-way based upon the 2001 Zoning Code that stipulates the
19 hierarchy of roads and what the right-of-way requirements are for N.
20 Miranda Street. So if there was no planned expansion, status quo, there
21 is no requirement for a variance or any other application to be submitted to
22 the City of Las Cruces.
23
- 24 Crane: No expansion beyond the four.
- 25
26 White: That is correct.
- 27
28 Crane: Okay. So the key issue here is whether N. Miranda can handle the traffic
29 that will be generated by this expansion.
- 30
31 White: Chair Scholz, Commissioner Crane, that's one of the questions that needs
32 to be addressed this evening.
33
- 34 Crane: Thank you.
- 35
36 Scholz: Commissioner Shipley.
- 37
38 Shipley: Mr. White is there any means to increase the size of Miranda Street to 85-
39 feet, and if so can you show me where that would take place?
- 40
41 White: Chair Scholz, Commissioner Shipley, I will defer that question to our City
42 Traffic Engineer.
43
- 44 Scholz: Okay. Could we hear from the City Traffic Engineer?
45

- 1 Soriano: Good evening Commissioners. Dan Soriano, Traffic Engineer for the City
2 of Las Cruces. If I understand the question you're asking Commissioner
3 Shipley whether there is a need to expand or there are plans to?
4
- 5 Shipley: No. I'm curious is can that street be expanded to meet a thoroughfare
6 requirement that's required for all schools?
7
- 8 Soriano: Mr. Chair, Commissioner Shipley, that would probably require a
9 considerable amount of property take since we're at about 55 I believe foot
10 right-of-way now, we're looking at additional 30-feet. I know along the
11 west side we have the apartment complex south of the church, and so
12 they're built pretty much up to the right-of-way. So without considerable
13 right-of-way property takes, would that happen? Now, Miranda's not
14 considered a collector on the MPO Thoroughfare Plan. It's simply a local
15 street. So it fits those parameters as far as existing right-of-way. But to
16 answer your question, I mean it would certainly take a considerable
17 amount of right-of-way acquisition to have that accomplished. No plans
18 for that to happen.
19
- 20 Scholz: Okay, another question.
21
- 22 Shipley: Yes, my question would be; nowhere in this packet did we see ... you
23 know it says that at some places it's 50 to 55-feet. So we don't know what
24 we're talking about here. We're doing this you know kind of what I call off
25 the cuff which I don't like to do. So what I'm trying to visualize is, I'm
26 thinking about the safety of the children that are there. I'm thinking about
27 the fire department, the police department, other people that live in that
28 neighborhood and how they're going to be impacted if at a critical time
29 such as drop off in the morning or evening, if there were to be someone
30 with a heart attack or a fire, how would these people be able to respond.
31 Would they be able to protect the children in the school as well as the
32 residents of the neighborhood? So that's why I asked the question about
33 could this street be enlarged to meet the requirements that the code has?
34 And so I don't know if there is only one section of the street that's 50 or 55
35 feet and it might be you know two houses wide or whatever and the rest of
36 the street is larger. What does the street actually look like?
37
- 38 Soriano: Mr. Chair, Commissioner Shipley, to be honest with you I don't know
39 exactly where those right-of-way changes are at, but the Traffic Impact
40 Analysis that was prepared by the engineer on behalf of the school did
41 demonstrate that this roadway would work sufficiently, level service A
42 actually, which is the best level of service possible, during the peak critical
43 times. So that implies that you should have very reasonable access, very
44 few delays, maneuvering through existing traffic should be reasonable.
45 This is a typical school area; it gets busy for about 15, 20 minutes and
46 then disappears. That's typically how the typical day works. At time of the

1 beginning of school and at time when it ends. So there are quite a few
2 other locations similar to this around the City that behave in the same way.
3 But the TIA has shown us, has demonstrated to us that these intersections
4 in the surrounding area will operate at a sufficient level of service during
5 the peak times, even forecasted out into the future in the year 2029 when
6 they considered full build out of the school and the church. So that made
7 us feel confident that there would not be those access issues. You really
8 have four access areas, or three access areas in and out of that school
9 area; being Ethel, Palmer, and Miranda, so there are several ways in and
10 out of that area should that become an issue.

11
12 Shipley: Thank you.

13
14 Scholz: Commissioner Crane.

15
16 Crane: I regret that we have no data, considering this seems to be coming down
17 to a traffic issue on what the flow is on N. Miranda at present at peak
18 hours and what is estimated to be the maximum expansion that's
19 (*inaudible*) for on the part of the school goes into effect. Do you have any
20 data? We know what it is on the larger streets surround there.

21
22 Soriano: Mr. Chair, Commissioner Crane, I'd like to defer that to the consultant that
23 did the work on the TIA. They did collect that data. We have some data
24 that we collected as well. We've met with the neighborhood twice now
25 and talked to them more or less on an operational standpoint. Things that
26 we can do for them right now, regardless of what happens on the school
27 site. So we do have some traffic data, but there were several hand counts
28 that were taken at the surrounding intersections around the school, and so
29 there is some data that was collected, traffic data, and so when the
30 consultant comes up to talk about the traffic report, they can give some of
31 that information.

32
33 Crane: Thank you.

34
35 Scholz: I'm puzzled by the report that was in the packet. It doesn't have any
36 findings, all it does is give a brief survey of the area and the history of the
37 school which is was interesting, and then it has conclusion. The joint use
38 of the church and school traffic are complimentary in that neither are
39 meeting or creating traffic demands on the surrounding streets at the
40 same time. But there ought to be hard data here. We don't have any
41 traffic counts. We don't have any you know estimated trips. I'm
42 wondering why those things were missing from our packet. I think if we
43 had that information we'd be able to make a ... better able to make a
44 decision.
45

1 Soriano: Mr. Chair, if you look to the ... I'm not sure how much of the report you
2 have, but the report I have has some raw data tables.
3
4 Scholz: No, we don't have any raw data tables.
5
6 Soriano: Okay.
7
8 Scholz: All we have is, as I said, we have an interesting history, and then a
9 conclusion and I wouldn't call those findings which is what we like to base
10 our decisions on.
11
12 Soriano: Obviously, sir you have a different report than what I have. My report has
13 raw data ...
14
15 Scholz: Did any of you get raw data in your report, gentlemen? No, I didn't think
16 so. Well I'd certainly like to see that and I'm sure people in the audience
17 would like to see that as well.
18
19 Soriano: Again, we'd like to defer to the consultant that did the majority of the work
20 on the traffic report.
21
22 Scholz: Is this Mr. Paz?
23
24 Soriano: Yes.
25
26 Scholz: Mr. Paz, yes I have a number of questions for you. Please come to the
27 microphone.
28
29 Paz: Mr. Chairman, members of the Commission.
30
31 Scholz: Excuse me. Mr. Paz, are you a traffic engineer?
32
33 Paz: I am a traffic engineer.
34
35 Scholz: Okay.
36
37 Paz: Registered professional engineer.
38
39 Scholz: Yes, I saw that. Okay. Thank you.
40
41 Paz: In New Mexico. I am a vice president of Molzen-Corbin and Associates
42 Consultant firm, and a father of two children. So yes, and your question
43 Mr. Chairman?
44
45 Scholz: Well my question is, this is not a traffic analysis. What this is, is a report
46 on you know, on attendance at the site. In fact, it doesn't even give us

- 1 that. It doesn't tell us how many people attend church for example. We
2 know that there are about 300 students in the school, and I was told there
3 were like 39 faculty members and so on, so I can understand you know
4 traffic of that sort, but I really don't have anything like traffic accounts or
5 estimated trips. And I would assume as a traffic engineer you have
6 provided us with that information.
7
- 8 Paz: I apologize for the information that was or was not included in your packet,
9 but we did conduct intersection counts at Palmer, Parker, and Ethel that
10 intersect Miranda Street. We had counts that not only included early
11 morning counts, we counted traffic all through the day, looked at not only
12 a.m. peak, p.m. peak required by City standards, but we went the extra
13 mile by looking at evening traffic because there are evening ministries that
14 occur at the site.
15
- 16 Scholz: Right.
17
- 18 Paz: And we also counted traffic on Sunday masses. We did level of service
19 calculations at each of these intersections and determined the level of
20 service for each of them. All of that data, all of the raw counts, and all of
21 the level of service calculations we have in our traffic report within the
22 appendices. So I do apologize if you don't have the current information,
23 but we do have that data that's available. I would say that ...
24
- 25 Scholz: I would certainly love to see it. I'm sure the gentlemen on the Commission
26 would love to see it as well. I don't think we can really make a sensible
27 decision because this is obviously a traffic problem, or at least it's
28 perceived as that.
29
- 30 Paz: I can ...
31
- 32 Scholz: When can we get this data?
33
- 34 Clifton: Mr. Chair, members of the Commission.
35
- 36 Scholz: Excuse me Mr. Clifton, I'll defer to the staff. Staff, when can we get this
37 data from the traffic people?
38
- 39 White: Mr. Chair, it's a portion of the presentation you're going to see from the
40 agent of the applicant, a portion is the traffic study with the raw data facts
41 in it.
42
- 43 Scholz: Okay. Go ahead Mr. Clifton, sorry.
44
- 45 Clifton: Mr. Chairman, members of the Commission, my name is Kirk Clifton, I'm a
46 board member with the Las Cruces Catholic School. And I guess I'm kind

- 1 that. It doesn't tell us how many people attend church for example. We
 2 know that there are about 300 students in the school, and I was told there
 3 were like 39 faculty members and so on, so I can understand you know
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 13 mile by looking at evening traffic because there are evening ministries that
 14 occur at the site.
 15
- 16 Scholz: Right.
 17
- 18 Paz: And we also counted traffic on Sunday masses. We did level of service
 19 calculations at each of these intersections and determined the level of
 20 service for each of them. All of that data, all of the raw counts, and all of
 21 the level of service calculations we have in our traffic report within the
 22 appendices. So I do apologize if you don't have the current information,
 23 but we do have that data that's available. I would say that ...
 24
- 25 Scholz: I would certainly love to see it. I'm sure the gentlemen on the Commission
 26 would love to see it as well. I don't think we can really make a sensible
 27 decision because this is obviously a traffic problem, or at least it's
 28 perceived as that.
 29
- 30 Paz: I can ...
 31
- 32 Scholz: When can we get this data?
 33
- 34 Clifton: Mr. Chair, members of the Commission.
 35
- 36 Scholz: Excuse me Mr. Clifton, I'll defer to the staff. Staff, when can we get this
 37 data from the traffic people?
 38
- 39 White: Mr. Chair, it's a portion of the presentation you're going to see from the
 40 agent of the applicant, a portion is the traffic study with the raw data facts
 41 in it.
 42
- 43 Scholz: Okay. Go ahead Mr. Clifton, sorry.
 44
- 45 Clifton: Mr. Chairman, members of the Commission, my name is Kirk Clifton, I'm a
 46 board member with the Las Cruces Catholic School. And I guess I'm kind

1 of in a conundrum here. I'm not sure if we should just jump through the
 2 presentation straight to traffic just to start answering questions, and if we
 3 do, do that, I would like to be given the opportunity to go back from the
 4 beginning of our presentation to present our case if that would please the
 5 Commission.

6
 7 Scholz: No, go straight through.

8
 9 Clifton: From the beginning, sir?

10
 11 Scholz: Please.

12
 13 Clifton: Okay. I apologize if I repeat some of staff's presentation. He gave a
 14 thorough presentation, but for a matter of the record, I do need to get our
 15 information on the record as well just for any future hearings that may
 16 occur. The property as stated is located on Miranda Street. Aerial photo
 17 indicates the school, and actually this aerial photo was presumably taken
 18 during a school day so what you're actually seeing here is what the
 19 parking would typically look like during an average school day. Some site
 20 photos, these were taken today in fact, and as you can see where the
 21 portables are presently placed in storage in this location, they are not
 22 visible from the street view at Ethel. I'm sorry Ethel and Miranda, Miranda
 23 and the corner of Palmer and Miranda.

24
 25 Scholz: Mr. White, would you help him out there?

26
 27 Clifton: While I have the opportunity during my presentation, I'll introduce the
 28 school principal, Dr. Karen Trujillo will have information for you as well.
 29 Mr. Jerry Paz, a licensed professional engineer with Molzen-Corbin and if
 30 we have time in our 10 minutes, Mr. Dan Schneider, the present board
 31 president. Thank you.

32 Again, this is our proposed site plan. It was a requirement of the
 33 variance, and what we're indicating here is essentially the proposed
 34 placement of the additional nine portables. In fact, to clarify that briefly,
 35 James discussed the 10% expansion that we're allowed under the present
 36 zoning regulations. That would equate to 3,900 square feet
 37 approximately. And why I say nine portables, what we're actually
 38 proposing and probably within a matter of a week or two, we'll be
 39 submitting a building permit for only three portables, but one of them is a
 40 larger portable, 28 by 60, and two smaller ones, 28 by 30. So, we're not
 41 here to discuss a variance for the square footage, the number of
 42 portables, we're strictly here based on the right-of-way width only. And I
 43 think there was a statement made earlier and so that I think, I want
 44 everybody to understand we ... it is my understanding we will not be back
 45 before this board for a variance for the additional square footage.
 46 Essentially, as long as we build this site out and can continue to fit the

1 parking that's required and the drainage and the landscaping, the
2 additional square footage is not the issue. The issue is the collector
3 roadway, 85-feet that a school's required to be on. And essentially we're a
4 nonconforming use and have been ever since the 2001 Zoning Code was
5 implemented, or 1981 according to staff.

6 A little bit of the school history just to give the Commission a
7 background of why we're here tonight and what's going on with the school.
8 Originally St. Genevieve's parish then located on what is now the
9 Downtown Mall, broke ground for the first parochial school in Las Cruces
10 on May 3rd, 1927. The first eighth grade class graduated of eight
11 students in 1933. By 1958 there were 300 students attending what was
12 called Holy Cross School. Immaculate Heart of Mary School was founded
13 in 1957 partially to relieve the overcrowding that was at the St.
14 Genevieve's school or Holy Cross School. In 1962, Holy Cross School
15 moved to its new and present facility on N. Miranda. That was 1962.
16 We've been operating at that location for over 40 years. Las Cruces
17 Catholic School has been operating for 47 years. And in 2001, a single
18 board of directors was created and Immaculate Heart students were all
19 moved over to Holy Cross. Primarily because the facilities at Immaculate
20 were in fact dilapidated and it was just a safer environment for the
21 students to be educated in.

22 And at this point I will turn over the presentation to Dr. Karen
23 Trujillo. She's on the ground. She sees what goes on there every day
24 and she can answer any questions you might have as well. Thank you.

25
26 Trujillo:

27 The other thing that happened in 2001, the school became a separate
28 entity from the dioceses of Las Cruces and also from Holy Cross parish,
29 so Las Cruces Catholic School does operate as an incorporated nonprofit
30 organization. We do have our own school board and like I said, we
31 operate independently. Fund raising financially and otherwise, we are
32 solely responsible for ourselves and we lease and use the land from the
33 church. We currently have pre-kindergarten students through 10th grade.
34 As stated earlier, we have about 295 students at Las Cruces Catholic
35 School. And the high school portion of our school has 12 students right
36 now; we have 11 students at the high school level registered for 2009-
2010.

37 Historically when the two schools combined the current location
38 housed up to 350 students, by using church offices, church classroom,
39 storage spaces, the library that we currently have was used as
40 classrooms. So they were all crammed in there. So there was no extra
41 special ... everything was used as classroom space. Right now what
42 we're asking for is, even at 300 students, our computer lab is currently
43 housed in the library. We have our aftercare program which is currently
44 housed in the library. We have our band room that practices in the
45 church, so another classroom that's using a room in the middle school that
46 was intended for a work room for the teachers, and another classroom

1 that's being conducted in basically an office space. My old office is
 2 actually used as a classroom. So I think there's a misconception as to
 3 what we're using the square footage for, what the potential use of the
 4 square footage is for. In our initial report to the City the additional
 5 portables, only four of them are used for high school classrooms, one of
 6 them being a chemistry or science lab because we currently don't have
 7 one and don't have the facility for one, but we do have a need for one. All
 8 of the other portables will be used for things that we are currently doing,
 9 so it's not necessarily that we're expanding the use, we're just trying to
 10 spread our wings because the students ... we have a ton of parents and
 11 staff here that can attest to that as well, that we're just in a place now
 12 where if we want to offer a quality education in the year 2009 we need
 13 space for fine arts. We need space for technology. We have a video
 14 production class and all of these wonderful things that are going on and no
 15 room to actually conduct them.

16 If you look at this right here, again just to clear up another ... these
 17 are very, very generous enrollment predictions. Current year, very first
 18 table, very first line, you see 295 students, that's our current count. Our
 19 projection for next year is 328. And why I say that's generous, we
 20 currently have 270 students enrolled for next year. Economy, all sorts of
 21 other factors to take into consideration. Will we reach 328? We may or
 22 may not, but that does not decrease our need for additional space. If you
 23 notice as well, we only ... we have reference there until 11, possibly 12
 24 high school students next year and it just goes up very modestly. If you
 25 look at the year 2013-2014, that's when the number of high school
 26 students would reach 45. At that point in the 2014-2015, they would no
 27 longer be at that site. The high school students being where they are now
 28 is only for financial reasons. We just ... it's not viable to move 11 students
 29 and an entire staff and a separate administration and secretarial to a
 30 separate location. So we're just trying to take advantage of staff that's
 31 doing multiple duties, myself doing multiple duties, secretarial, etc. So if
 32 you look out I think the issues getting clouded with ... this is not a high
 33 school expansion, it's just a school need.

34
 35 Scholz: Okay gentlemen, you have some questions for this lady? Yes,
 36 Commissioner Crane.

37
 38 Crane: So the 432 is a total at worst case if I may use that.

39
 40 Trujillo: Yes.

41
 42 Crane: If the high school stayed on your campus, but in fact they're going to be
 43 backed out.
 44

- 1 Trujillo: Right. So if you notice here, it's 447 for the last year that they're present
2 and then if you look at maximum capacity for elementary or preschool,
3 excuse me up to eighth grade, then it would be 432.
4
- 5 Crane: Yeah I missed that. Okay, so looking at it numerically right now you have
6 about 300 students.
7
- 8 Trujillo: Yes, sir.
9
- 10 Crane: Ten years out you will have about 400.
11
- 12 Trujillo: Yes, sir.
13
- 14 Crane: The question if it's solely traffic, comes down to can Miranda reasonably
15 accommodate another one-third increase in traffic at peak hours of the
16 day assuming one car per student or whatever?
17
- 18 Trujillo: And what we're going to do, I think that'll be addressed in the traffic study.
19 The other thing to realize is that of our 11 students that are registered for
20 next year, six of them are sibling pairs, who their parents would be going
21 to the school site anyway because they have younger brothers and sisters
22 that are either in middle or elementary school. So just because we add
23 high school students doesn't necessarily mean you're adding to the traffic
24 because we do have multiple families that have multiple children.
25
- 26 Crane: Thank you.
27
- 28 Scholz: Other questions for this woman? No? Okay.
29
- 30 Clifton: Okay, if I may continue, then we'll jump right into traffic. I should be brief.
31 Again, this is a variance as outlined in Article II, Section 38-2 in the 2001
32 Zoning Code. And I believe ... you know a lot of times I've been to many
33 P&Z meetings where you hear variance cases that they don't necessarily
34 have a physical hardship. It might be they built a porch too close to the
35 setback and didn't realize they need a building permit, a multitude of
36 situations. But in this situation, we truly have a legitimate physical
37 hardship in that our school was located at this site and has been located
38 at this site for over 47 years, well prior to any of the zoning codes that
39 were in place today that now require schools to be on collector status
40 roadways. So, essentially that is the physical hardship. That's why we're
41 asking for a variance to the right-of-way of 35 feet. And as our traffic
42 engineer will point out, he can demonstrate that even assuming at 150%
43 build out which will never happen. It'll never happen, but that's a worst
44 case scenario, that it still can maintain a level of service of A along this
45 roadway. And I'll let our engineer get involved in that because I'm not a
46 licensed PE. With that said, variance details include, as stated, the Las

1 Cruces Catholic School has been legally operating for over 47 years at
2 this site. Prior to the present Zoning Code which requires schools to be
3 located on collector roadways, City staff had requested that LCCS submit
4 a variance to address this nonconformity issue relating to the placement of
5 the nine additional portables. There is a numerical deviation to the Zoning
6 Code regarding the right-of-way width. That is a demonstrable physical
7 hardship. Miranda is classified as a local road. The right-of-way varies
8 between 50 and 55-feet, one of those strange situations as development
9 occurred, not necessarily there was a consistent amount of right-of-way
10 dedicated to the City of Las Cruces. So just to play it safe we asked for
11 35-feet, assuming it was 50 all the way through, again, the physical
12 hardship. Granting of the variance would allow the placement of these
13 nine additional portables to address the existing student population. The
14 high school as we are anticipating presently will not exceed 60 students
15 over the next several years. By the time it exceeds 60 students, we'll
16 hopefully be off campus and into a new high school facility somewhere on
17 the East Mesa, though as these are called portables they are portable,
18 they are you know a temporary use, but we will continue the need for most
19 of them as Dr. Trujillo stated, to utilize as band rooms, labs, etc. There
20 are presently 11 high school students enrolled for the next school year.

21 There have been two neighborhood meetings held, sponsored by
22 the City of Las Cruces, the most recent meeting was on May 13th and was
23 conducted by the City of Las Cruces Traffic Engineering Department. We
24 have agreed to stagger our school start time from Alameda Elementary in
25 hopes that that would relieve some congestion in the area. We would
26 anticipate starting maybe 15 to 20 minutes later than what Alameda
27 Elementary presently starts at. We will further ensure that all students be
28 picked up and dropped off on site; that there is no drop off on the street.
29 And all the parents are here tonight, so I think they have a pretty good
30 understanding of what's going on. Additionally, we'll provide congestion
31 monitors. You see this at all the public schools where there are teachers,
32 staff, out in the parking lot directing traffic. I think that'll help with the flow
33 of traffic, get people moving in and out of the site much quicker, and if
34 anybody's getting dropped off on the street hopefully they're going to get
35 yelled at by one of our monitors.

36 And additionally, we have agreed to all of staff's conditions with the
37 exception of the PUD. I would take exception to agreeing to that. I feel
38 that any expansion by the church itself as a parish or church related uses
39 is an allowed use by right and I by no means would want to infringe on any
40 future use that the church may have. They do have future plans, no
41 secret for what's called a Pope John Paul II center which is essentially
42 tearing down a portion of the old church, and adding a new facility. And
43 again, that's for existing parishioners. And with that I will let our traffic
44 engineer answer any questions. Yes, sir
45

- 1 Scholz: Before you leave Mr. Clifton. Questions for this gentleman? Yes,
2 Commissioner Crane.
3
- 4 Crane: Can you back up a page please? And another page. I don't understand
5 your third bullet. Numerical deviation to the Zoning Code regarding the
6 right-of-way width constitutes a physical hardship. I don't understand the
7 beginning of that, let alone the end.
8
- 9 Clifton: Well essentially what I'm trying to point out there is that the physical
10 hardship is the right-of-way width. Physically you cannot get 35 additional
11 feet in there unless there were severe right-of-way takes or imminent
12 domain initiated by the City of Las Cruces. So the existing right-of-way
13 width is the physical constraint or the physical hardship.
14
- 15 Crane: Okay. Thank you.
16
- 17 Scholz: Commissioner Shipley.
18
- 19 Shipley: I would just say that I kind of disagree with that in light of the code, is the
20 rules by which we build a city by, and the code is what we're talking about
21 here. Whenever the code changes, there is a certain period of time that
22 everybody that's affected by that code has an opportunity to come up to
23 code or to create ... request a variance or do that kind of thing. And
24 because this code has been in effect since 2001, which are eight plus
25 years, that code's been there that way. So I don't see it as a physical
26 hardship. It may be a personal hardship to you and your organization, but
27 it's not a physical hardship as such. The code is the code and that's what
28 we ... and that was developed. There were public meetings held and it
29 was what we run the City by. And you know that's just like rules that you
30 have in your school that say you line up at a certain time, you walk in a
31 certain way, you conduct yourself, that's what we deal with here, and
32 that's what we're doing.
33 The reason I asked about the existing right-of-way is because if it
34 were relatively easy to increase the size of the street to do this, that would
35 take away a part of the problem. What we're really concerned about is not
36 necessarily because it's 50 or 55-feet, we're concerned about safety for
37 the people that are going to be there; the children in the school, the people
38 that work in the school, the residents that are there. I mean if one of your
39 neighbors has a heart attack and the ambulance can't get there to get
40 them and they die because of that, that's something that we have to look
41 at. And we don't take that lightly, and that's what we're trying to say. So, I
42 just want you to fully understand, we want you to do with your property
43 what you should be able to do, but the code is written so that it says that
44 at 8,400 feet, if you add another 8,400 feet you have to get a variance.
45 That's not your choice. That's what the code says and that's what you

1 have to follow. And that's ... you know we can't just turn our back on that
2 and say, no we don't agree with that. So, that's kind of where we're at.
3
4 Scholz: I had one question for you. Your principal said that the movement of the
5 high school would be triggered by about 45 student enrollment and you
6 said about 60. Are we talking about a window here?
7
8 Trujillo: (SPEAKING, NOT AT PODIUM).
9
10 Scholz: Would you speak into the microphone please?
11
12 Trujillo: We look at the difference between right here ...
13
14 Scholz: Directly to the microphone. There we go.
15
16 Trujillo: We have 45 students, that's the last year that they would be on site. The
17 following year that would go up to 55 students. So that's where the
18 difference is.
19
20 Scholz: Okay.
21
22 Trujillo: So the very last year we're looking at probably hopefully having 45
23 students and 50 is generally when we did our financial analysis, 50
24 seemed to be the operating number where they could be self sufficient.
25
26 Scholz: The trigger. Yeah. Okay. Thank you very much. That clears it up.
27
28 Clifton: Mr. Chair, Commissioner Shipley, I certainly appreciate your comments
29 and I can appreciate the difficult position you have every once a month
30 making a decision here in front of a crowd like this. But you know
31 unfortunately this is a unique situation where we've been here for very,
32 very, very long time, well before you know these ideas were thought out,
33 when the codes were originally written, and you know the fact of the
34 matter is the school's here, the school's going to stay here. We've always
35 been here. You know the number of students is going to fluctuate over
36 time, but you know the high school's been in operation. Nothing is
37 essentially going to change. You know I think there was a big fear several
38 months ago when the neighbors heard high school. Well it's not like Las
39 Cruces High were you've got over 1,000 students and a graduating senior
40 high class of 500, it by no means is that big. We're a small endeavor just
41 trying to make a difference in the community. Thank you.
42
43 Scholz: Okay and you're going to bring back your traffic engineer?
44
45 Clifton: Yes, sir.
46

1 Scholz: Okay.

2
3 Paz: Okay, again my name is Jerry Paz for the record. Mr. Chairman,
4 members of the Commission. We took turning movement counts at
5 Palmer and Miranda, Ethel/ Miranda, and Parker/ Miranda. We took 15
6 minute increments. We took counts in 15 minute increments from 6:00 in
7 the morning to 9:00 at night. Again, the City standard is a.m. and p.m.
8 peak which is generally from 7:00 in the morning until 6:00 at night. And
9 so we went above and beyond that because we wanted to be very
10 comprehensive, given all the ministries that occur at the site. In addition,
11 we took traffic counts on Sundays to record what occurs in the masses.
12 Normally that's not occurring because the adjoining collector streets and
13 arterial streets don't have any traffic on Sundays, but given the local
14 nature of this institution, we took that added step to make sure that you
15 had that information. Miranda Street itself is 33-feet from the face to face
16 of curb of driving area, within its 50 to 55-foot of right-of-way. So that was
17 a factor that went into our level of service calculations. And then we
18 looked and we gazed into the future what type of growth that both the
19 church and the school might experience. And Dr. Trujillo discussed the
20 school plans, but also the church is growing. They are both vibrant
21 communities. They're both growing. And we wanted to make sure that in
22 the projection that we not only counted today, but looked into the future.

23 On Miranda Street and I do apologize that these diagrams are not
24 in your report because ... but I would like to go on the record, I do see that
25 your traffic engineer does have a copy, and I would like to enter that into
26 the record. I wish I had brought five copies or seven copies tonight with
27 me, and had assumed that that would have been provided. But I would
28 like to make sure that does get into the record for tonight's meeting.
29 Palmer Street, we took traffic counts at Palmer Street, it was 28-feet 6-
30 inches from face of curb to face of curb, which is the driving width. And
31 we measured during the morning traffic, Palmer Street it experienced its
32 worst traffic condition from all the times we counted including Sunday
33 masses. And it still operated in today's level of service A. We looked at
34 the 2029 projects, again for that a.m. peak and found that the level of
35 service was also A. And if you look at some of the turning movements we
36 had 62 cars that came down Palmer Street and made the right hand turn
37 during the worst time period which was basically I think 8:00, 7:00 a.m. to
38 8:00 a.m. hour.

39
40 Shipley: That'd be a left turn?

41
42 Paz: Yes, it was a left turn.

43
44 Shipley: Thank you.

45

1 Paz: Yes, 62 cars, worst case scenario. So Palmer Street was the best of all
 2 the intersections. It was the street with the least amount of traffic. I'd also
 3 like to state your traffic engineering department did set two counters that
 4 we didn't have available initially, but as they became available we
 5 correlated with this and you can ask your traffic engineer with our data and
 6 it was very consistent with what we counted by hand. Of course, they did
 7 24 hour counts and we just did the hour counts and 15 minute increments,
 8 but there was some correlation that occurred. Ethel and Miranda Street,
 9 we modeled Ethel/Holy Cross parking lot as a kind of a four-way
 10 intersection in and out of that. And so we looked at Ethel, which itself is
 11 the widest of all the streets that enter into the facility. It has a 39-foot 6-
 12 inch face to face of curb, so it's just about 40-foot wide. It's the widest of
 13 all the streets. Again, for current traffic, 2009 traffic, the largest turning
 14 movement again was 104 cars in the a.m. peak which made a left hand
 15 turn onto Miranda Street. And it still in that situation operated a level of
 16 service A which was the worst case between the 11:00 a.m. and 12:00
 17 noon on the Sunday.

18 We looked at the traffic for the 2029 projects and our growth for that
 19 church and school facility, and that left a level of service B for the p.m.
 20 peak. The City traffic requires a minimum level of service of C, so we
 21 exceeded that minimum requirement for the growth here. I would also
 22 like to go on record as stating that we were very conservative in our
 23 growth projections; not only did we look at the worst case for the school,
 24 the worst case for the church, but we also growth-ed up all the
 25 background traffic, which is again I don't think you see that in other traffic
 26 engineer reports. We looked at the background traffic, even though
 27 there's not a lot of vacant lots that could expand for development, we
 28 wanted to go above and beyond what the City requirement was and make
 29 sure that there was no doubt that this would operate at a very functional
 30 level of service, which is B for both the p.m. peak which was the evening,
 31 probably when the school got out, and then also on the Sunday traffic, it
 32 operated at a level of service B, worst case for the projected here.

33 On Parker/Miranda, Parker Street is 29-foot 6-inches from the face
 34 of curb to face of curb. It's a newly constructed street that was built by the
 35 City of Las Cruces within the last 10 years. Parker functions as a collector
 36 between Valley and Alameda. The level of service at that intersection was
 37 A for both the current traffic and also the 2029 projects, although operated
 38 at a level of service A. And at this time we'll stand for questions.

39
 40 Scholz: I'm sure we'll have a lot. Commissioner Crane.

41
 42 Crane: You showed peak traffic on a weekday for Palmer and Miranda and for
 43 Parker and Miranda, you showed peak traffic Sunday for Ethel and
 44 Miranda. What's the Ethel and Miranda traffic like peak times on a
 45 weekday? A lot lower or what?
 46

- 1 Paz: Again, we have it all in the report. All the a.m., p.m. peaks and the
 2 Sunday peaks in the report. But we were showing the worst case
 3 scenarios of all of those intersections. And so on Ethel it just happened to
 4 be the Sunday traffic was the worst, much worse than the a.m. or p.m.
 5 peak. But for the a.m. traffic, it was operating at a level of service A and
 6 then also for the p.m. peak, for the 2029 project it was operating on a level
 7 of service B.
 8
- 9 Crane: So ...
- 10
 11 Paz: So every other alternative or scenario a.m., p.m. peak for any of the other
 12 intersections is less than what you see here.
 13
- 14 Crane: To get the 2029 you simply extrapolated with both the rate you're
 15 expecting, right?
 16
- 17 Paz: Correct. And again, I think that was above and beyond the trip generation
 18 that's normally done, because we had actual student data and actual
 19 population data that we could growth out.
 20
- 21 Crane: Yeah. I appreciate that. So, turning ... the worst case at Palmer and
 22 Miranda was the west bound making a left turn down Miranda was 62 ...
 23
- 24 Paz: Current traffic, yes.
 25
- 26 Crane: An hour. Average of one a minute.
 27
- 28 Paz: In one hour.
 29
- 30 Crane: What is it if you take a smaller time right at the peak, could you give a
 31 scientific wild ass guess?
 32
- 33 Paz: We have the traffic counters with us today and also ... but I have the raw
 34 data in my portfolio, but if you look at about a third of them, half of them ...
 35
- 36 AUDIENCE MEMBER SPEAKING, NOT AT PODIUM.
 37
- 38 Trujillo: The worst count at that intersection between 7:45 and 8:00 was 36 cars.
 39
- 40 Crane: Okay, so ...
 41
- 42 Trujillo: That was at its worse peak in the morning.
 43
- 44 Crane: So it's a rate of about 2 a minute. Thank you.
 45
- 46 Trujillo: At that ... for that 10, for that 15-minute time span, yes sir.

1
2 Crane: Thank you.
3
4 Scholz: Okay, other questions. Commissioner Beard.
5
6 Beard: None of these streets are ... have no parking on them?
7
8 Paz: Within the last two weeks the City of Las Cruces painted the east side of
9 Miranda Street with some yellow no parking zones. And that had been
10 discussed at the neighborhood meetings and the City was very proactive
11 in doing that and the school and church supported that activity. In fact,
12 some of our recommendations also went further as to limit the time
13 duration like to 15 minutes in front of the school to also perhaps improve
14 the situation on Miranda.
15
16 Beard: Like on Palmer, do residents park on both sides of that street?
17
18 Paz: Yes. Residents park on both sides of Ethel, Palmer, and Miranda at
19 certain times. You don't find parking on either side of Parker Street that
20 frequent, and probably because it's a little busier and you know just for the
21 safety of their vehicles on their driveway.
22
23 Scholz: Okay, other questions? I just had one, the parking that you mentioned,
24 the parking restriction you mentioned is just opposite the school, isn't it?
25 It's not the full length of Miranda?
26
27 Paz: Correct. Fronting the school.
28
29 Scholz: Right. How long a piece is that, what about 200 feet?
30
31 Paz: About 200 to 250 feet, just in front of the school.
32
33 Scholz: All right. Any other questions for the traffic engineer?
34
35 Shipley: Mr. Chair.
36
37 Scholz: Commissioner Shipley.
38
39 Shipley: I guess the question I have, what is the total traffic at the three
40 intersections? You know in other words feeding the school per day? We
41 look at trips. In other words, how many people go into the school during a
42 day, not just in a one-hour period, but you know do you have 500 trips a
43 day, or 600 trips a day?
44
45 Paz: I think when you look at the total number of trips is probably 500 to 600.
46

- 1 Shipley: Can you go back and look at your report and add your numbers up and tell
2 me what that is?
3
- 4 Paz: We didn't, except for the intersection of Ethel; we didn't look at trips
5 directly into the driveways that service the school. If you look at the aerial
6 photograph, the church has the larger parking lot on the south, and the
7 school has the smaller parking lot on the north. And what we found is that
8 the church operationally ... well the church does not operate during school
9 hours. Churches are usually operating in the evening or on the weekends.
10 School is not in session during church hours, so when you look at the
11 aerial photograph it shows very few cars in the parking lot, it's because
12 they're very complimentary uses. They're never concurrently going on at
13 the same time, with the exception of the funeral once a year of some
14 prominent catholic or something that would occur during the school hours
15 a mass service that would generate some traffic, but those are not ... you
16 know even the ITE manuals don't require that you look at anomalies that
17 occur.
18
- 19 Shipley: There would be teacher/parent meetings in the evenings too, wouldn't
20 there?
21
- 22 Paz: There are close to 60 ministries that occur at the church, so there's boy
23 scouts, there's squire groups, there's you know three, four choirs for the
24 various masses that are occurring. There are some in Spanish. There
25 are prayer meetings. There are liturgy meetings. There are bible studies.
26 So there are parent/teacher conferences. There are boy scouts, girl
27 scouts, so it's a very robust community that is existing at that site. But
28 what we found and that's why we went to the extent of counting beyond
29 the standard hours that the City requires, because we wanted to
30 document that very existence. There is bingo, Monday's and Tuesday's.
31 There is religious education on Wednesday's. There's scout night on
32 Thursday nights. So there are again a lot of activities that are going on.
33 Generally, Friday is the only time that Catholics take off.
34
- 35 Scholz: I did have one more question. Does the majority of traffic that comes to
36 the school and the church site come from Alameda? Because you are
37 documenting most of those intersections excepting Parker which goes all
38 the way through.
39
- 40 Paz: The majority of counts were coming from both Parker and Alameda were
41 about consistent in their usage, although Parker did digress to a level of
42 service B, but there were a number of cars that came from Alameda. I
43 would say most of the traffic originates from the Alameda side versus the
44 Valley Drive.
45

1 Scholz: Okay, that's what I was talking about. Yes. Okay. Thank you. Any other
2 questions for this gentleman? All right, I'm going to say that we take a 10-
3 minute break here and then we'll open it to public discussion. And I have
4 some concerns about that, but we'll deal with those at that time. All right.
5 We'll see you in 10 minutes. Thank you.
6

7 TEN MINUTE RECESS.
8

9 Scholz: Can I have your attention please? If you take your seats, we'll begin. We
10 also allow public comment on these issues and I am sure there will be
11 considerable tonight. So I would like the following ground rules to be
12 observed. First of all, when you come up to the microphone I want you to
13 identify yourself, that is tell us your name, but also tell us your relation to
14 this project. Are you a school board member, are you a neighborhood
15 person, do you have children at the school, okay? Give us some idea of
16 where you're coming from here. Secondly, I would like you to speak
17 directly into the microphone. A lot of people are afraid of microphones, I'm
18 not sure why because we use them all the time, but speak directly into the
19 microphone, otherwise this woman over here will not be able to transcribe
20 what you're saying, okay. We'll need that for the record. And third, I'd like
21 to limit you to ... I'm going to limit you to three minutes. Now a lot of you
22 can say a lot of things in three minutes, I know I can, that's because I'm a
23 teacher. But, I'm assuming that you can be concise and you can tell us
24 what's on your mind about this particular issue in three minutes. All right?
25 I would also remind you that if you're saying the same thing as the
26 preceding people, you might just say I agree with the preceding people,
27 I'm you know of the same mind or whatever, and that will save us a little
28 time. All right. So, who would like to be first? Yes, ma'am, go ahead.
29 And by the way, Commissioner Beard is going to hold the timer on this.
30 Three minutes is for your presentation, if we ask you questions obviously
31 we extend that.
32

33 Dennis: Actually what I would like to do is ...
34

35 Scholz: Yes, please give us your name.
36

37 Dennis: I'm sorry sir. I'd like to get to ... I need to get to a graphic. Here it is, I'm
38 sorry. Good evening.
39

40 Scholz: Okay, you're going to have to speak into the microphone and tell us your
41 name and your connection to this project.
42

43 Dennis: Good evening. My name is Deborah Dennis. I'm a resident of Palmer
44 Road. I have resided in my house at 420 Palmer for 30 years. And I had
45 become concerned with the proposed expansion, so I began trying to
46 educate myself and I came across this particular part of the Zoning

1 Ordinance which seems to apply to Holy Cross property since it has been
2 identified as a nonconforming property since the adoption of the 1981
3 Zoning Ordinance. Given the language of these regulations, the City goal
4 seems to be to bring conforming properties into conformity while
5 protecting surrounding areas, yet past Planning and Zoning Commissions
6 have voted on three separate occasions to allow not minor additions, but
7 entirely new construction for what now is a nonconforming church, a
8 nonconforming middle school, and a nonconforming columbarium, all of
9 which have required this same variance of 35 feet, instead of being on a
10 collector road of 85. Is this not allowing a nonconforming property to grow
11 into an even larger and still nonconforming entity? Is 28 years not
12 sufficient time for Holy Cross to work with the City to bring the property
13 into compliance with City ordinances? Why are we even here discussing
14 a variance application to create a high school that will exacerbate the
15 existing nonconforming property status yet again? Holy Cross presented
16 us with a development plan on February 20th that identifies the immediate
17 expansion of existing grades and the creation of a high school. The
18 construction ground breaking between 2011-2013 for a new two story,
19 14,000 square foot family life center and the construction of a new indoor
20 sports gymnasium by 2015. On May 13th, Holy Cross acknowledged their
21 goal to grow the school by 50% with a cap of 430 students and to grow the
22 parish by 30% from the current 1,800 families to 2,300. What will it take
23 before the City finally enforces its 2001 Zoning Ordinance and actually
24 moves to protect the neighboring properties? The case presented by Holy
25 Cross does not hold up to scrutiny as a hardship case. The space
26 constraints they speak of have been entirely created by Holy Cross
27 officials. They have aggressively advised, recruited, and marketed the
28 school via radio, newspaper, and electronic media for the explicit purpose
29 of increasing enrollments in all grade levels and creating new high school
30 grades that have not existed before.

31
32 Scholz: Ms. Dennis, your three minutes are up.

33
34 Dennis: Thank you.

35
36 Scholz: Yes, the lady in black here. Yes, go ahead. Thank you. Our timer just
37 mentioned that he will ring the bell 15 seconds before.

38
39 Thornberry: Oh, she still has 15 seconds.

40
41 Scholz: No. She had her three minutes. He's just changed the rules on me.

42
43 Thornberry: Okay. Good evening. It's a pleasure to be here. My name is Leslie
44 Thornberry and I have been a resident of this neighborhood since 1951.
45 Don't try to count that. And my mother and sister still live in the
46 neighborhood. Our neighborhood is unique in that we are trapped

1 between two schools, Alameda Elementary to the east and Holy Cross to
2 the west. During certain hours, not only residents of this neighborhood,
3 but town's people have trouble moving north or south on Alameda and
4 Miranda. Alameda has been in the neighborhood since the 1920's with a
5 capped enrollment of about 450 students. Their school property leased
6 plenty of land and buffering. Alameda Elementary is working with the City
7 on Safe Routes to School Program and is busing about one-half of their
8 students. Holy Cross School is a more recent addition to this
9 neighborhood, but the projected growth of Holy Cross will match or
10 exceed Alameda enrollment within the next few years, further trapping our
11 neighborhood between the two schools. Until very recently Holy Cross
12 has done nothing to help or relieve traffic, or to help residents or the
13 children and their families become safer. We are very confused. We
14 were told that the diocese owns the property on Miranda and simply rents
15 the land to the school for a dollar per year. Both church and school enjoy
16 certain perks from this arrangement. As designated on the map given to
17 us, the church is on the south, the school is in the north. They are two
18 entities, or are they? When applying for variances and other permits,
19 sometimes the land is all one unit, other times only the church or only the
20 school is cited, depending on what they want. One minute they are
21 building a fine family life center for church events which will create even
22 more traffic and parking problems. However, during the last meeting we
23 were told that a good portion of that center is really for storage. We have
24 now had four meetings. The first map designated that after completion of
25 the family life center the new work center will be built. Then we were told
26 that the sports center was tabled. Then it's back on the table. Now it's off
27 again. The 12 portables are situated not only on the property designated
28 as school property, but also on church property. Several of these
29 portables sit directly over an area that was designated on a previous map
30 as additional parking. It seems that Holy Cross is like Oliver, it always
31 wants more. Their master plan, if there really is one, changes from week
32 to week. Thank you very much.

33
34 Scholz: Thank you. Yes, sir.

35
36 Smallage: Commissioner Scholz, distinguished members of the Commission. My
37 name is Sam Smallage.

38
39 Scholz: Would you pick the microphone up a little bit Mr. Smallage. Thank you.

40
41 Smallage: Thank you. My name is Sam Smallage. I live on Phillips Drive. I am a
42 parent representing one percent of Las Cruces Catholic School enrollment
43 with three children in the school. I consider myself a neighborhood family
44 because my children walk to school, when they're on time anyway.
45 Sometimes I have to drive them. Child safety is utmost in my mind
46 because my children walk to school. And I am far more concerned about

1 their walking along Alameda than when they turn to come down Palmer. It
 2 is congested at times during the 15 or 20 minutes prior to school, but they
 3 have done well in walking to school this year, thankfully. I would also
 4 state that this expansion that we're talking about, and I'm in no way really
 5 informed about the full ... I may be speaking out a little bit here, but how I
 6 see it is, this expansion is in square footage, and not necessarily a rapid
 7 or definitive, definite expansion in numbers of enrollment. This is
 8 addressing ... this expansion is addressing an already crowded school
 9 and allowing for more space for the students that are currently there. So
 10 this doesn't necessarily equate to an increase in traffic on the roads.
 11 Thank you very much.

12
 13 Scholz: Thank you sir. Okay, this woman down here had her hand up. Go ahead.

14
 15 Woody: Thank you. Good evening, my name is Julie Woody. I've lived for over 30
 16 years at 452 W. Ethel, on the corner of Ethel and Miranda, directly across
 17 from Holy Cross campus. I've worried about Holy Cross traffic for many
 18 years, especially since my house was hit by a car in 1996. I've known of
 19 pets who were hit by cars, fender benders, children running through traffic,
 20 screeching brakes. I witnessed a child inches away from being hit during
 21 the summer school of 10 years ago. I talked to the people in the school
 22 office and called the City, but nothing changed. And in the past 10 years
 23 traffic has only gotten worse. The traffic count tells us numbers, but they
 24 don't tell us about the congestion I experience on my corner. Holy Cross
 25 has many events that you've heard about: Sunday services, school, bingo
 26 nights, summer camp, funerals, weddings, enrichment classes, all kinds of
 27 happenings. And the traffic has not spread out during the day; it comes at
 28 peak times, morning, noon, and night. And the traffic jams affect me and
 29 my neighbors. Last month we had a number of Sundays that were high
 30 use, Palm Sunday, Good Friday, Easter Sunday, and on April 18th we had
 31 a Saturday flea market that's pictured here in the parking lot. The curb on
 32 the east side of Miranda is painted yellow with no parking on April 15th.
 33 Three days later, there was this flea market and you will note from the sign
 34 how well they parked. Although yellow striping was done, it didn't solve
 35 our bigger problem. During Mondays and Tuesdays bingo, I can count on
 36 cars parked in front of my house and the house across the street. At the
 37 last count I understood that there were about 180 parking spaces
 38 available of which was deemed adequate. Out of 180, 14 are
 39 handicapped; two are for clergy, leaving about 164 spaces for cars. If
 40 parking's adequate, I wouldn't have cars in front of my house each week.
 41 The history of getting variances all on a street being inadequate width has
 42 compounded the problem. The problem has never been fixed. No one
 43 has gotten that street into compliance. And to add another variation,
 44 adding more children and cars to an already inadequate infrastructure
 45 seems to me to be a recipe for impending disaster. The City codes
 46 already state Miranda's too narrow. How can we pretend that adding

1 more children and more traffic whether it's by a church expansion of 36, or
2 30% or by a school expansion of several hundred children, how can we
3 pretend that that does not add to traffic and the situation worse. Thank
4 you.
5
6 Scholz: Okay.
7
8 Crane: Mr. Chairman.
9
10 Scholz: Yes.
11
12 Crane: May I ask this person a question?
13
14 Scholz: Yes, you can.
15
16 Crane: You took these photographs ma'am?
17
18 Woody: The neighborhood people and I took these photographs.
19
20 Crane: Can you identify the time of day, day of the week, and what streets we're
21 looking at?
22
23 Woody: Yes, this first one that you're looking at is on a Sunday and it is from the
24 direct corner of Ethel and Miranda. In the front you see that there is, at
25 the bottom there is white striping which is going across, the school is on
26 the right and the west side is on the left. Oh, I apologize. It is the flea
27 market.
28
29 Crane: All these are the flea market?
30
31 Woody: Saturday.
32
33 Crane: All these are taken of the flea market occasion, right?
34
35 Woody: No.
36
37 Crane: Yes or no?
38
39 SOMEONE IN THE AUDIENCE SPEAKING, NOT AT PODIUM.
40
41 Scholz: Okay. Thank you. Does that answer your question Mr. Crane?
42
43 Crane: More or less, yes, thank you.
44
45 Scholz: Thank you very much. Thank you ma'am. The gentleman with the red
46 shirt.

1
2 Woody: Thank you.
3
4 Avery: My name is Harry Avery. I live next to Holy Cross Church at 1155 N.
5 Miranda. Everybody supports the fire department, but nobody wants a fire
6 station right in the middle of their residential neighborhood because it's the
7 wrong place for it. And our neighborhood is the wrong place for anything
8 that's going to create more traffic and more noise. And there are a lot of
9 both. About three or four months ago, the church had a biker funeral; we
10 had 35 or 40 motorcycles all through our neighborhood up there.
11 Sometimes the school or the church have a musical event and sometimes
12 we can hear the music from that about a block away. So it also gets pretty
13 noisy. Some cars speed up and down Miranda Street because there are
14 no speed bumps. Some of the cars have stereos in them. Some cars
15 have no mufflers. So it does get pretty noisy. So the last thing we need in
16 our neighborhood is anything that's going to create more noise and more
17 traffic. It lowers the property values and it lowers the quality of life for all
18 the people in that neighborhood. And while I've heard a lot of talk about
19 hardship here, I haven't heard any talk about the hardship for the people
20 that live in the neighborhood. And these are the people that are affected
21 by this, that live there 24 hours a day, seven days a week. So maybe that
22 issue should be addressed. And I would suggest if you people are not
23 familiar with our neighborhood, maybe you should spend a little time up
24 there and see for yourself what the streets are like, how wide they are.
25 There's no point in widening Miranda Street unless you also want to widen
26 Parker Road and Palmer Street because they would have to be widened
27 in addition, because they're just as narrow, if not narrower. Thank you.
28
29 Scholz: Thank you sir. Yes, this woman down here.
30
31 Copeland: Good evening. My name is Melissa Copeland. I live at 455 W. Ethel
32 Avenue. I am just about directly across the street from Julie Woody and
33 from Holy Cross School and Church. And my navigating the space from
34 my chair to this podium is sort of analogous to my getting home some
35 times. I've lived in my home for 21 years, and traffic has always been an
36 issue at sometimes during the day where I live. It's not ... it's always been
37 tolerable before and after school. The one time that it has always been a
38 problem has been if I should happen to be on my way home when church
39 is over and then God have mercy on me if I'm trying to pull into my
40 driveway and people are leaving church because they're in a hurry. But
41 it's always been something that I could live with. But over time as they
42 added the middle school, and there became more traffic, then the parking
43 does become an issue. And lately it's been so bad, like the pictures that
44 you saw a few minutes ago, and it isn't just when there's a flea market. I
45 have many, many times seen Miranda Street like it did in those pictures
46 that Julie Woody showed you. Traffic is essentially one way on Miranda

1 Street because there are large vehicles parked on both sides of the street
2 and traffic has to stop at one end to allow the cars to go through from the
3 other end. That doesn't just happen once a month, it happens on a
4 weekly basis. About a month ago, for the first time, when I came home in
5 the evening I wasn't even able to pull into my driveway. There were cars
6 blocking my driveway.

7
8 Scholz: Okay.

9
10 Copeland: I beg you to not grant this variance. Thank you.

11
12 Scholz: Thank you ma'am. Yes, ma'am.

13
14 Avalos: Hello, my name is Candice Avalos. My grandmother, Linda Duran, lives at
15 the very end of Palmer Road. And I am here speaking on her behalf
16 because she had surgery this morning and was not able to attend. Holy
17 Cross has been a big part of our family's lives. My grandmother has lived
18 there since 1952. That's 10 years before your church. My grandmother
19 and my grandfather have ... they have supported this church. Father
20 Anderson has been there at many of our baptisms, our weddings. We are
21 asking for some help. We're asking for our church to be good neighbors.
22 I feel that everyone that lives in that neighborhood keeps an eye on that
23 church. We make sure that there's no vandalism. We make sure that
24 we're good neighbors. Recently we had an issue with the original Palmer
25 House which sat directly across from my grandmother's house. We spoke
26 with Father Anderson because the squirrels that had mated and lived in
27 that house had started to come to my grandmother's house. Again, she is
28 79 years old. She lives there with my 44-year-old disabled aunt. It's just
29 the two of them now and they need the church to be good neighbors. My
30 concern is that in what I've been shown most of this traffic, if this is
31 granted, will come directly in front of my grandmother's house. And when
32 I visit her on a daily basis, I have to back up my car, which is a Cadillac
33 three times to turn around and go back down Palmer. How are we going
34 to get the traffic in and out of there? And how were a fire fighter or an
35 ambulance going to get to my grandmother if she needs help? I heard a
36 lot of snickers when, or mumblings or whatever you'd like to call them
37 when the picture about Easter Sunday was shown. Kind of like yeah,
38 there are always a lot of people there on Easter Sunday. People turn to
39 their church in times of need. Right now, our society is in a big time of
40 need. There's going to be a lot more people going to church seeking
41 whatever it is they're there to seek, and I am asking that you guys realize
42 that this is a direct impact, a direct hardship for the people that live there.
43 You know how many of you would want this in your front yard or in your
44 grandmother's front yard? I'm just asking you to please be good
45 neighbors and really think about all aspects of it, not just what's yours.
46

- 1 Scholz: Thank you very much. Question from Commissioner Beard.
2
- 3 Beard: You say you want the church to be a good neighbor for you. What do you
4 recommend the church do?
5
- 6 Avalos: Well, when they first built that building they anticipated so many students,
7 and then it got bigger, so they built more. And it got bigger. They're
8 building again because they're anticipating more students. Maybe they
9 find a different facility. Maybe make this just the elementary school site. I
10 mean, there's only so much land there. And there's only so big that you
11 can stretch your boundaries.
12
- 13 Beard: Okay.
14
- 15 Avalos: I just feel like they're stepping on our side of the road now, and that's
16 unfortunate.
17
- 18 Scholz: Thank you. Gentleman in the green shirt.
19
- 20 Rodriguez: My name is Sara Rodriguez. I am going to be in the second grade. I have
21 been at Holy Cross for four years. My brother will be in preschool next
22 year. He needs a classroom so he can learn too. I need to have a
23 classroom for my music class. I love my music. Please allow my school
24 to have more classrooms. Thank you very much.
25
- 26 Rodriguez: Thank you Commissioners (PARENT OF SARA RODRIGUEZ).
27
- 28 Scholz: Thank you. Okay, gentleman in the back with the beard.
29
- 30 Gendal: Mr. Chairman, Commission, my name is Greg Gendal. I live at 1107 N.
31 Reymond Street. I have property on Parker. I also have properties on
32 Miranda Street. You have I believe I forwarded an e-mail to Mr. White so
33 I'm sure you have a copy of that or I would hope that you have a copy of
34 that in my packet. I'm not going to go over those issues. We are
35 inundated by parents bringing their children to school. I'm not against the
36 Holy Cross school. I'm not against the elementary school. And I'm not
37 against the church. I'm not against Alameda school. What I'm against is
38 mother's in SUV's speeding up and down our streets, hitting speed bumps
39 on Parker with no concern for the people that live there. We have had a
40 total of six mirrors ripped off of pickups on our street by people driving
41 through those streets. I want to ... since this is a traffic issue; I want to
42 just talk about the traffic solely. With all due respect to Mr. Soriano, I think
43 10 minutes is not even remotely realistic about the impact on that
44 neighborhood in the morning and in the afternoon. If all of those cars can
45 get in and out of there in 10 minutes, I would like Mr. Soriano to take me
46 by the hand and show me the day it's done. Secondly, we're talking about

1 a street on Miranda I believe of 50 or 55 feet depending on where you
2 measure it. When the numbers by the traffic folks were put up on the
3 screen justifying all this. If you give them a variance from 55 to 85, great.
4 The reality is that Ethel, Palmer, Parker, and I'm not sure what the width of
5 Alameda is, but I would be surprised if it's much more than 50 or 55 feet.
6 All of a sudden you've created a funnel from the widest street in this
7 neighborhood down to all the narrowest streets in the neighborhood. And
8 the final issue was, when the City ... I questioned the City at the last
9 meeting that they had on the traffic and I asked, okay fine you've got the
10 numbers for Miranda, you've got the numbers for Ethel, the intersections,
11 what about Parker because that's where they drain onto. I would
12 challenge you to count the number of cars coming out of Reymond onto
13 Parker at the beginning and ending school each day and then add that to
14 the number of cars coming down off of Miranda onto Parker at the
15 beginning and end of each day and then figure that out.

16
17 Scholz: Okay, you're time is up sir. Thank you. Yes, the gentleman in the back.

18
19 Franco: Good evening. My name is Joe Franco and I'm currently going to be in
20 the 12th grade at Las Cruces High School. I went to Holy Cross off and
21 on for a long time, back when it was ICHEM. And there are just a couple
22 of things I was noticing as I'm listening to all this and I actually learned in
23 school that there's this thing called rhetoric triangle. There are logos,
24 ethos, and pathos. Logos and ethos happen to be what we saw in the first
25 part, numbers, the statistics which happen to be most powerful. And right
26 now we're witnessing a lot of pathos, the emotional appeals. We have the
27 emotional appeals of the elderly who live on the street and then by the
28 same token we have the emotional appeal of the young child who comes
29 up and gives his presentation. But a lot of the ... I don't know how to say
30 it, the arguments presented, there are rebuttals to it. Music, talk about
31 music, hearing the musical programs. I think there's one concert a year at
32 the school. Whereas I have gone with my friends and we've played in
33 bands like garage bands, different neighborhoods around the City. That
34 doesn't happen. Noise, as far as kids driving down the road, bumping
35 their music, I'm pretty sure these little eighth graders, maybe high
36 schoolers, 10 of them, they're not going to cause that big of a disturbance,
37 I personally don't think. A lot of this evidence you can see some of it might
38 be somewhat prejudice. Granted there might be over a 1,000 families
39 enrolled at Holy Cross, but if you ask Monsignor over there, how many of
40 these Catholics are active, honestly. Also, if I may, a lot of the support
41 we're asking for pardon the catholic school if they haven't been able to pay
42 attention to coding rules, but they pay. They're completely individually; I
43 forget what Dr. Trujillo said. They pay for their books. I think tuition is
44 something around \$4,000 a year. Granted, that might draw some of the
45 most prestigious families in, but by the same token, there are others who
46 want that education for their families and they can't afford it, so it's helped.

1 But the catholic school is in a financial bind and they have to pay for their
2 own books, their own teachers, their own everything pretty much. So if
3 there's a slight mischance on the zoning codes, I'm sorry for that. Also,
4 they've tried to ... as you can see by the lines, by painting the sidewalks
5 yellow, they've tried to comply to the neighbors requests, but there is no ...
6 police isn't being enforced. There's speed bumps could be enforced.
7 There is not a safety zone as you see in front of many middle schools and
8 elementary schools, which I've actually gotten a ticket after speeding
9 through. There's not one of them there. So if maybe the City would help
10 enforce this, it'd do good. Thank you.

11
12 Scholz: Okay. Your time is up. Yes, the lady in the back with the grey sweater.

13
14 Hamblin: Thank you Commissioners, I appreciate your time. My name is Carrie
15 Hamblin and I'm here as a resident of this area that we're talking about.
16 Although I haven't lived on Palmer or Ethel or Miranda, I am a new
17 resident, a new homeowner on Linda Vista and I am also impacted by this.
18 I think it's safe to say that all of the residents that have spoken here before
19 you today want these beautiful children and Sara Rodriguez and her little
20 brother to have the education that they deserve. Nobody is disagreeing
21 with that. I think the problems here are first of all and foremost traffic
22 which has been talked about a great deal. Those streets cannot handle
23 the traffic that would be imposed by this. The thing that I'm concerned
24 about is the misrepresentation of what's happening by the Las Cruces
25 Catholic Schools. The thing that concerns me the most are the nine
26 buildings that are already on the campus that were there without approval.
27 We talked about good neighbors. I think good neighbors make sure that
28 everybody knows what's going on and when a building is brought onto a
29 property, nine buildings brought onto a property, that to me does not make
30 a good neighbor. The piecemeal placement of classrooms and offices,
31 yes the school is growing. These children want great schools, well to me
32 that demonstrates that the board of directors of the Las Cruces Catholic
33 Schools and the administrators there have not thought out, they are doing
34 a disservice to the parents and the children of this school by not having a
35 long-term plan for how the school will grow. And that concerns me
36 because if this is how this is going to go, this only renders to me more
37 problems. I think it is a disservice. I think the school needs to have a
38 long-term plan for the growth. I think it's great that the school is growing. I
39 think it's great that the children are allowed to have a quality education,
40 but I'm very concerned about the lack of plan for the school although it has
41 been in existence for allegedly 40 years. I'm concerned about why the
42 Las Cruces Catholic schools are allowed to ignore permits and procedures
43 that those of us in the community, should we add on to our home, or
44 should we make an amendment to our house in some manner or another,
45 have to follow guidelines and procedures. I'm concerned that that has not
46 been enforced for the Las Cruces Catholic Schools. That bothers me as a

1 But the catholic school is in a financial bind and they have to pay for their
2 own books, their own teachers, their own everything pretty much. So if
3 there's a slight mischance on the zoning codes, I'm sorry for that. Also,
4 they've tried to ... as you can see by the lines, by painting the sidewalks
5 yellow, they've tried to comply to the neighbors requests, but there is no ...
6 police isn't being enforced. There's speed bumps could be enforced.
7 There is not a safety zone as you see in front of many middle schools and
8 elementary schools, which I've actually gotten a ticket after speeding
9 through. There's not one of them there. So if maybe the City would help
10 enforce this, it'd do good. Thank you.

11
12 Scholz: Okay. Your time is up. Yes, the lady in the back with the grey sweater.

13
14 Hamblin: Thank you Commissioners, I appreciate your time. My name is Carrie
15 Hamblin and I'm here as a resident of this area that we're talking about.
16 Although I haven't lived on Palmer or Ethel or Miranda, I am a new
17 resident, a new homeowner on Linda Vista and I am also impacted by this.
18 I think it's safe to say that all of the residents that have spoken here before
19 you today want these beautiful children and Sara Rodriguez and her little
20 brother to have the education that they deserve. Nobody is disagreeing
21 with that. I think the problems here are first of all and foremost traffic
22 which has been talked about a great deal. Those streets cannot handle
23 the traffic that would be imposed by this. The thing that I'm concerned
24 about is the misrepresentation of what's happening by the Las Cruces
25 Catholic Schools. The thing that concerns me the most are the nine
26 buildings that are already on the campus that were there without approval.
27 We talked about good neighbors. I think good neighbors make sure that
28 everybody knows what's going on and when a building is brought onto a
29 property, nine buildings brought onto a property, that to me does not make
30 a good neighbor. The piecemeal placement of classrooms and offices,
31 yes the school is growing. These children want great schools, well to me
32 that demonstrates that the board of directors of the Las Cruces Catholic
33 Schools and the administrators there have not thought out, they are doing
34 a disservice to the parents and the children of this school by not having a
35 long-term plan for how the school will grow. And that concerns me
36 because if this is how this is going to go, this only renders to me more
37 problems. I think it is a disservice. I think the school needs to have a
38 long-term plan for the growth. I think it's great that the school is growing. I
39 think it's great that the children are allowed to have a quality education,
40 but I'm very concerned about the lack of plan for the school although it has
41 been in existence for allegedly 40 years. I'm concerned about why the
42 Las Cruces Catholic schools are allowed to ignore permits and procedures
43 that those of us in the community, should we add on to our home, or
44 should we make an amendment to our house in some manner or another,
45 have to follow guidelines and procedures. I'm concerned that that has not
46 been enforced for the Las Cruces Catholic Schools. That bothers me as a

1 resident. And finally, the safety of our children. These are our children
 2 too. These are members of our community although my partner and I do
 3 not have children; we are just as concerned about their education and
 4 their well being. And seeing the pictures there, even if it is just Easter
 5 Sunday or the day of a flea market, the fact that the streets are too small
 6 for any emergency vehicle to get through, all it takes is one fatality for us
 7 to recognize that this is a problem. And that the variances and the
 8 expansions of the street are not likely and I think that it's very important
 9 that the Las Cruces Catholic Schools think about their future plans. So I
 10 urge you to continue your thoughtful discussion on this. And I thank you
 11 for your time.

12
 13 Scholz: Thank you very much. Yes, woman with the maroon top there. I'm getting
 14 new glasses next week.

15
 16 Cregan: Hello, my name is Shannon Cregan. I am one of the two juniors currently
 17 enrolled for next year. And as the uniform, it is my uniform that I wear
 18 every day and I can testify to that because I have no clothes for summer
 19 vacation. A few things I've heard as I've been listening is that one of them
 20 was about the loud noise. Well as Joe Franco pointed out, none of the
 21 eighth graders can drive so none of the car noises are coming from them.
 22 And I am the first generation of kids that can drive and I still have my
 23 permit. I do ... none of them, I can testify there are only four of us that
 24 have our permits, don't drive, and we don't listen to our music that loudly,
 25 and we don't have cars to do it. Secondly, as to the expansion of our
 26 school, it's not so much for new students, but to help the old students.
 27 When we can, we're going to expand and move. We're not going to stay
 28 there forever, and just till we can support ourselves. This school means
 29 so much to me. I've been there since kindergarten and I really would like
 30 to stay. I understand all the traffic that's happening and I also understand
 31 that it's not completely the parents and students that are there. Some of it
 32 is the residential section. I have, as a new driver I'm very cautious and I
 33 have experienced some of these things, not only all over town, when
 34 you're ... and getting onto the highway or someone goes speeding in front
 35 of you through a stop sign, but just trying to get out of that school is
 36 sometimes a hazard, but it's not always because of the parents. The
 37 parents, especially those of the little kids, they're very cautious because
 38 they don't want to hit their kid or anyone else's kid. They don't want to hit
 39 cats. They don't want to hit dogs, especially when the little kids can see
 40 that. They're very cautious and it's not fun to go over speed bumps fast,
 41 but also as Joe pointed out, it is a good idea that if maybe we need a little
 42 bit of help with this. Maybe the school could help more. Maybe the
 43 residents could offer to help monitor the traffic too. I just want to find a
 44 solution for this, because I really don't want to lose my home. Thank you.

45
 46 Scholz: Thank you. Yes, this lady down here. Yes ma'am.

- 1
2 Rupert: I too am dealing with the glasses question. Mr. Shipley, I like your
3 thinking. Good evening, my name is Jo Rupert and I reside on Palmar
4 Road. My purpose is to speak to safety issues and to summarize our
5 request as neighbors to this Commission. Safety must be our bottom line.
6 At a minimum, safety means not only traffic safety but also pedestrian
7 safety and safe access for emergency services including fire trucks,
8 paramedics, and police personnel. As residents, we have no desire
9 whatsoever for the risk or the responsibility of allowing unsafe conditions
10 within our neighborhood. Our residents, friends, and school children at
11 Alameda Elementary and at Holy Cross all depend on this neighborhood
12 being a safe and livable place. Alameda Elementary is cooperating with
13 the City on the Safe Routes to School Program, which actually
14 encourages children to walk or bike to their neighborhood schools. This is
15 happening at the same time that Holy Cross is implementing a
16 development plan that predictably increases the vehicular traffic
17 throughout the neighborhood. It should be noted that by and large Holy
18 Cross students live more than a mile from the school and are driven one
19 by one into and out of the neighborhood. Much of the Holy Cross traffic
20 uses Palmer and Ethel for access, despite the right-of-way road geometry
21 for each of these minor local streets being even more problematic in terms
22 of safety than is Miranda itself. Only now when Holy Cross sees some
23 possibility of the neighbors acting together to delay or deny their desired
24 expansion, has the church or school done anything to begin to address
25 the hazardous situations that we have attempted to point out for years.
26 These efforts at this point seem like window dressing and amount to too
27 little too late. Until now, Holy Cross has done nothing to address the
28 adherent dangers of having the church, the school, and their many events
29 including those 60 organizations that Mr. Paz mentioned, using a street
30 that is less than 60% as wide as required by Zoning Standards since
31 1981. In fact, after months of actively and publically advertising and
32 enrolling prospective high school students, Holy Cross now comes before
33 you to ask for yet another favor and another expansion of their uses for
34 the Miranda Street property. Please, as residents of this neighborhood
35 and good friends and neighbors to our long time and in many cases
36 elderly residents including Ms. Duran, who may not be able to come
37 before the Commission in person today, please, we ask that you deny this
38 variance request. We must finally say no to Holy Cross. They have not
39 demonstrated hardship. They have also not discussed any alternatives
40 that they have considered for their developments.
- 41
42 Scholz: Okay.
- 43
44 Rupert: Thank you.
- 45
46 Scholz: Your time is up. Thank you. Yes, woman in the back.

1
 2 Limon: My name is Connie Limon. I am a parent of two children currently there
 3 and also a high school teacher there at Holy Cross high school. We ...
 4 what we're talking about is we're ... I'm teaching in a little storage room.
 5 We don't have any space. I was talking to one of my other teachers and I
 6 felt like ... when I was growing up in a small one bedroom house with all
 7 my five brothers and sisters sleeping on one bed, that's how I felt. Just
 8 not having any space. We're not looking ... our numbers are down, right
 9 Dr. Trujillo, this year. Our numbers are not at 300, 270. Our numbers are
 10 not increasing. All we're asking for is just more room. What I see the
 11 pictures, those are not during our school time. This is a separate time you
 12 know. The church, the mass, it's not ... it doesn't have anything to do with
 13 our school time. During our school time all we're looking for is just more
 14 space with the current students we have and we are down numbers also.
 15 So, I want my children to be in a small environment, that's why I have
 16 them there. I have my students there because of the religious education.
 17 I have my students there because they can get that one-on-one. I want it
 18 to be ... continue to be a small entity. So, as a teacher there, I can do
 19 more with my students because there are less of them. I have been a
 20 teacher in the public schools for eight years. I'm making not even half of
 21 what I could be making in the public schools, but being in that situation we
 22 can do more with what we have in a little environment. All we're asking for
 23 is just space. We're not asking for more. If it does, God willing it does
 24 grow, we can move to another ... we've already talked about that. But
 25 what we're looking at right now is just more space. So I don't have to
 26 teach a class in a storage room. So I don't have to teach a class you
 27 know in an office. We want to give the best possible education to our
 28 students with the best possible situation environment. Thank you.

29
 30 Scholz: Okay. Thank. Yes, lady down front here.

31
 32 Cannon: My name is Estella Cannon. I'm a school board member and I'm also ... I
 33 also have a child at Las Cruces Catholic School. I just want to reiterate
 34 that I disagree with a lot of that's been said. The Las Cruces Catholic
 35 School has helped the members. We don't have a lot of our programs
 36 held at the school. We moved our Christmas program to the Immaculate
 37 Heart of Mary and we had it at the church there. And if you shut down the
 38 school, you're going to have to shut down all the other churches because
 39 it's going ... there's a lot of traffic at every single church and at the
 40 neighborhoods in those church areas also. You're complaining about is
 41 the amount of traffic at your Sunday church and at your Saturday services
 42 and the programs that are going on during the weekends. So you're still
 43 going to have your flea market going on and your confirmations and your
 44 baptisms, and your heavy traffic programs during the weekends, and that's
 45 what's causing your neighborhood problems. We're going to move our
 46 programs to Immaculate Heart which is where we have our busy time, and

1 you have the school program there and those neighbors haven't
 2 complained to the church at that ... haven't complained to Father Shine for
 3 us there, so we have worked with the neighbors and we've moved a lot of
 4 our programs to that church over there. So we've done our best to relieve
 5 some of the congestion during the week for that. Thank you.

6
 7 Scholz: Thank you. I saw a hand over here. Yes, ma'am.

8
 9 Sisneros: Good evening Commissioners. My name is Michele Sisneros. I am
 10 actually a 1993 graduate of Holy Cross Catholic School, and I now have
 11 my children, my oldest is in fourth grade and I do have a preschooler that
 12 will be there next year. Like many have said, this isn't an expansion of
 13 increasing enrollment. As you saw in the numbers enrollment is down.
 14 The economy is down. Cost of tuition is rising, so a lot of these families
 15 will not be returning to Holy Cross because of that. It is a sacrifice to send
 16 our kids to school there. And the whole issue here is giving our students
 17 more opportunities. When I was in school, there weren't computer labs.
 18 We need computer labs. We need to keep our kids up to date with cutting
 19 edge technology. The labs, the video projection that's there, those all are
 20 new additions that weren't there when I was there. That these students
 21 are interested in, in making a more round about education for these kids to
 22 make the world a better place. So I hope you take all of our suggestions
 23 and really see that this is for the future of our children and giving them the
 24 cutting edge technology and the cutting edge education that they deserve.
 25 We do make sacrifices to send our kids to the school and they do deserve
 26 the expansion and the more classroom space and the more
 27 technologically advanced opportunities that sometimes public schools
 28 have that we don't because we do pay for everything that we have at Holy
 29 Cross. Thank you.

30
 31 Scholz: Okay. Thank you. Yes, this gentleman down here.

32
 33 Olgas: My name's Johnny Olgas. I'm a youth minister for Holy Cross Catholic
 34 Church. I've only been here for one year. Lived here for six and then
 35 came back. I have two children at Holy Cross, a five-year-old little boy,
 36 and an eight-year-old little girl. I have yet to have any trouble getting
 37 myself in and out of Holy Cross and I am there periodically throughout all
 38 times of the day, since most of my youth are high school age that I
 39 minister to. We don't have our meetings until after 4:00 in the afternoon.
 40 So I can testify for the traffic load which in a majority is very, very small in
 41 comparison when I'm there in the evening time. Now, as fault point of
 42 case for the loss of enrollment and whatnot that has been discussed
 43 earlier, and for the further and expansion for these buildings, I can testify
 44 that we are in a shortage of room for all of our different ministries as well
 45 as for the education process of our students. That being said, we've
 46 talked about safety. We've talked about traffic. We've talked about all the

1 different things that our kids go through on an average day, and if you
 2 wish our children to be truly safe and in an environment that is comforting,
 3 then you give them more room. It only seems the smaller the room, the
 4 more viable the emergency that could occur in a smaller confined space.
 5 You give them bigger room, you have more access. You have more
 6 access points, they can escape. That's what I'm saying. Now, that being
 7 said, since I didn't articulate myself and put it all on paper, with the church
 8 activities that we have, if we have more room we can spread out our
 9 events, so that way we don't all have to conjugate on Thursday or
 10 conjugate on Wednesday, or conjugate on Sunday or Saturday, simply
 11 because that's the only time that room is available to each of the different
 12 organizations that utilize the building as a whole. When the expansion,
 13 these buildings that are being in question are placed down, then that
 14 opens up more room for all of our ministries in order to be spread out and
 15 use them at different times of the day on different dates, does that make
 16 sense? So that will help in theory to alleviate some of this stuff. Now I
 17 have sat out, I'm a smoker, I have sat outside and I have watched cars
 18 zoom by down Miranda that do not turn into the church. Where they go, I
 19 don't know. But they take the same liberties that you have said that we
 20 take. I don't take those liberties. I am very cautious when I bring my
 21 children to and from school, and I am sure that if these parents that are
 22 here love their children, they do and will do the same. Thank you and God
 23 bless.

24
 25 Scholz: Thank you. Okay, gentleman with the striped shirt at the back.

26
 27 Cregan: Good evening, my name is Ed Cregan. I wear a whole host of hats. I've
 28 been a parishioner at Holy Cross since 1964. I am currently serving on
 29 the school board. My daughter is at school there. I attend church there. I
 30 have listened to everything that's going on back and forth. I work as an
 31 engineer for the Department of the Army at White Sands Missile Range.
 32 What we're dealing with is merely, if it is possible to accommodate the
 33 traffic concerns on the existing structure. It doesn't look feasible that we
 34 can create an additional roadway into there. It doesn't look like we can
 35 magically get a bus or a railroad runner that's going to come in and bring
 36 people in and out of here. Can we accommodate the load that they're
 37 expecting? The portables in question are not for an increase in people,
 38 they're for an increase in usable space for the people that are there. The
 39 traffic study done by a professional engineer with expertise in the area so
 40 that we're maintaining an A standard with what's going on right now, in
 41 terms of safety, fire access, and all of those kind of parameters that are
 42 important to the traffic. Even projected at the worst case scenario he
 43 could come up with, expanded out more than 10 years into the future, one
 44 of the streets was downgraded to a B. I would say judging by the growth
 45 that the City is going through as a whole, that these are excellent
 46 standards that we're maintaining. Yes, they're inconvenient if you're

1 involved in them. You see parents that are going to be tardy when they're
2 sitting there waiting for traffic that is going somewhere else and they're
3 sitting there waiting and the sweat starts to run down their head because
4 this might be the third or fourth tardy for the semester. We deal with it.
5 You see people doing the same thing when they're trying to get in for a
6 funeral or a wedding. People are anxious. But just paying attention to the
7 traffic that's going on there and utilizing what we already have in place, the
8 studies show we can maintain some of the highest levels of service in the
9 City. I would contend that there are many places in the City that suffer
10 substantially more complicated problems than what we're discussing here.
11 These issues may be personal, but they're not of an excessive magnitude.
12 If you've ever tried to go to the Aggie, New Mexico State Aggie/UTEP
13 game, you know what I'm talking about. Traffic can stop to make that turn
14 on I-25 four miles down toward El Paso. Thank you.

15
16 Scholz: Thank you sir. And the gentleman, yes you, you're looking at me right
17 now. Go ahead. Trying to see your costume and I couldn't.

18
19 Schneider: Quite an arm workout back there.

20
21 Scholz: There you go.

22
23 Schneider: My name is Dan Schneider. I'm the president of the Las Cruces Catholic
24 School board. I'm the guy that's responsible for bringing these portables
25 onto the campus. I have a vested interest in the school. I've been
26 involved there as a parent and as a board member for over 10 years. Our
27 family's been involved there for over 25 years. And I'm a property owner
28 in the area. I'm a business owner in the area. So I have a vested interest
29 as well. At Holy Cross, what we're trying to do is build a program of
30 excellence. What we're trying to do is form the minds and the hearts of
31 young people that have been entrusted to us by many of the parents that
32 are here today. In addition, we provide a safe and private alternative to
33 the public schools with whom we've always had a very positive working
34 relationship. Now there's a notion being put forth that we're wanting to
35 expand and open a catholic high school on this campus. I wish to clarify
36 that the catholic high school exists already with a modest student
37 population of roughly 11 students. We have every right and freedom
38 under the laws of the State of New Mexico to whom we are accredited to
39 operate our school from kinder through 12th grade. And we have the
40 existing facilities and resources to do so. In fact, if our current secondary
41 population triples in size, we will still be under what our enrollment was
42 just five or six years ago. The portable classrooms which we now own will
43 allow us to enhance the quality of our programs and foster a greater
44 educational experience by providing separate facilities for science and
45 computer labs, as well as extracurricular activities such as band and
46 robotics. These programs already exist, but are limited in scope due to

1 classroom space limitations. I do wish to remind you that we are not
 2 funded publically like the public school system. In fact, most of our
 3 children come from working class families who make a tremendous
 4 sacrifice to provide the best education possible for their children. What we
 5 are asking the City of Las Cruces is to allow us by means of our own
 6 private funds, and on our own privately owned property already zoned for
 7 educational use, to enhance our program of educational excellence that
 8 has produced some of the finest young men and women in our
 9 community. These portable classrooms which are common to every,
 10 nearly every public education facility in this City will greatly assist our
 11 efforts to do so. There's an old political adage that says my freedom ends
 12 where your rights begin. If you examine the testimony evidence presented
 13 today, you will see that is precisely what is happening here. We should be
 14 free to provide for our children through this modest expansion. What we
 15 are asking for is not reasonable; to disallow this would ... you would be
 16 catering to the false claims of rights by the voices of a few who do not
 17 speak for the good of the many. Thank you.

18
 19 Scholz: Okay. Thank you.

20
 21 AUDIENCE MEMBER SPEAKING, NOT AT PODIUM.

22
 23 Scholz: No, I'm sorry, not until everyone has spoken. Okay, hold on. Yes, the
 24 gentleman with the Nike shirt. I assume you're not going to give us a
 25 commercial here. Thank you.

26
 27 Esmerly: Hello. My name is Esau Esmerly. I am a sophomore at Holy Cross. I
 28 want to ask of you, when there is traffic at the church area, how many are
 29 actually from the community of the school? Right now we desperately
 30 need space. We are trying to reap the benefits of high school, though we
 31 are having difficulties due to the limited space. Most courses that students
 32 want to take are hard to enroll in since we don't have enough space, so
 33 we have to take them on-line, where we gain no experience whatsoever.
 34 We are not going to be surprised if most students leave this area due to
 35 the limited space. The education we have gotten was top notch and I
 36 cannot imagine what it would be like if we get more space, so thank you.

37
 38 Scholz: Thank you sir. I saw a hand up down here. Yes, ma'am.

39
 40 Meyer: Hello, my name is Linda Meyer. I live on Palmer Road. I'd like for the
 41 committee here to deny the variance and possibly get some work done on
 42 Miranda Street as it sits today. It is a minor local residential traffic street
 43 and currently there is one sidewalk on the west side of Miranda that is not
 44 ADA compliant. There's a power pole right in the middle of it right in front
 45 of Holy Cross Church. And to me this is something that needs to be
 46 addressed before any expansion of any kind. Currently at 50-foot right-of-

1 way, to take that and give the 35-foot variance would inhibit the addition of
2 another sidewalk on the east side of the street. That's pedestrian traffic.
3 Also, if possible, I'd like to get this put into record; it's a chronological
4 developments of Holy Cross.

5
6 Scholz: We do have a copy of that. Thank you very much.

7
8 Meyer: Okay. One other thing I noticed on the application is the fact that the
9 owner of the property, it's actually the lessee asking for all this variance.
10 And I don't know if that's a normal thing or not. That's it. Thank you.

11
12 Scholz: Thank you. Go ahead, gentleman in the maroon shirt.

13
14 Kerns: Thank you. I am Brendon Kerns. I am the other junior at Holy Cross. The
15 other one. We spend our, well roughly our day in the small classroom that
16 Ms. Limon teaches in. It's a classroom that wasn't designed to hold as
17 many people as it does. I've been in the religion class, we have the entire
18 high school there, and we're fitting ... we had 13 at that time. We've lost
19 many of them to go to public school and to go elsewhere. Also, I am an
20 avid, I am a band geek. And for our band, we have to go into the church
21 because there is no room for us at the school or anywhere other than at
22 the church. I have seen times ... I have witnessed times ... I have taken
23 part in times where we have to have been moved because someone died
24 and had a funeral. Yes. So, and as people are saying, we just need the
25 space. And also, the traffic problem probably won't happen because if we
26 have the space more people will be coming in at larger times which will
27 make it less of a problem for the traffic. Because, as Johnny said, I am
28 one of Johnny's youth that he administers too, and ... yeah, can't you tell?
29 So, I had to have shown up and then while I'm showing up I haven't seen
30 that many cars coming by, going past, and if I have, they haven't been
31 stopping at the church. Where they're going, I also don't know. I wish I
32 did. I also have been driving down leaving the ministry events; I've seen
33 cars parked there. Obviously, by the time we're gone there's nothing at
34 the church and there's nothing at the school. So where are these cars
35 coming from? My best guess is that it has to be from the residents
36 themselves. And also, this variance won't have anything to do with the
37 traffic other than alleviate it because we aren't expecting a big enrollment.
38 If you look at the graph ... if you look at the enrollment for the high school,
39 for my grade the class of 2011, we're not going to expect any increase in
40 enrollment. So it's just going to be the two of us. We need the space.

41
42 Scholz: We've been going for an hour now and I think we've probably heard all
43 points of view. If there is someone who has new information or different
44 information they would like to bring to this, I'd be glad to hear them and we
45 can allow another two or three hours you know as long as your stomachs
46 will hold out, but I would suggest that if you don't have new information to

1 give us, that you, you know hang on to what you have. Yes, ma'am, you
2 have new information? Okay.

3
4 Abrams: While we're on the subject, I might suggest that you actually prohibit
5 speakers from bringing up the same information, because otherwise we're
6 going to be here all night. Once again, so that everybody understands
7 this, you folks function like a court. This is not an election; therefore it
8 doesn't make any difference how many people bring up a problem. It
9 doesn't matter how many people say there's too much traffic, how many
10 people say there's too little. All we needed to know was a potential traffic
11 problem. So you have the right to cut people off if they are cumulative in
12 their testimony. You also have the right to cut people off if they are
13 speaking to matters that aren't relevant here. So maybe something that
14 we want to think about for the remainder of the evening. Otherwise, we
15 may be here all night.

16
17 Scholz: Thank you Jared. That was a legal opinion. Yes, ma'am, you have some
18 new information?

19
20 Everhart: My name is Terriane Everhart and I'm a parent. My son is in first grade
21 and I hopefully will have my younger son there in a couple of years. I just
22 wanted to bring up, I'm hearing everybody speak and if there are issues
23 and there are crimes being done on these streets and there's fast driving,
24 there's poor driving, I just would like to ask that maybe we all look at as a
25 neighborhood and from the school and the church and we look at involving
26 the City of Las Cruces and our police force because I think that is what
27 they are there for. I mean I choose to send my child to this school
28 because I think the education is outstanding, but I still pay my property
29 taxes and I still participate in this community. So what I ask for, instead of
30 being punished because our City, our police officers may not be patrolling
31 that area, I ask that maybe as a whole we work together to create a pot
32 project of some sort where we are working on this. Where we're keeping
33 the speed limits down and we're watching how everyone's driving, if that
34 truly is the issue. I don't think by asking for more rooms for our kids to
35 receive a proper education is the problem. I think what the problem is, is
36 that we're not having, we don't have people out there enforcing these
37 rules. That's what my concern is.

38
39 Scholz: Okay. Thank you very much. Okay, new information? All right.

40
41 Letterman: Good evening. My name is Pat Letterman. I'm the director of religious
42 education at Holy Cross Church and I came here to show support and did
43 not intend to stand up and speak. But there are a couple of things that
44 have come to mind as I listen to everybody and I certainly can understand
45 people in the neighborhood who want to protect their own properties and I
46 hear the pain in your voice. I also have heard and experienced the same

1 from parents. Having been a parent of catholic school students years ago
2 in New York, I know that the catholic school actually brought up the value
3 of the property in the neighborhood, and so I'd like you to take that into
4 consideration too. That the school is doing a service to the community,
5 and it does have some positive impact on the neighborhood too that may
6 also weigh in, in this debate. I also want to speak on behalf of the
7 religious education program. We have several hundred children who
8 attend our program and I haven't heard that ministry or that activity
9 mentioned here tonight. But we try as I know the school tries to alleviate
10 the traffic problems because it's our children who are at risk. So I have
11 seen and we do practice a program where there are staggered classes. I
12 am very often there during the day and I see that many, many of the
13 catholic school parents do come into the parking lot, use that to park, so
14 they are not necessarily waiting on the street, but they are in there. They
15 go into the school to pick up their children. I think that we're all open to
16 other suggestions that you might have like that, but I think that you can
17 also be assured that the children are being raised to respect themselves
18 and to respect others and that includes you. Thank you.

19
20 Scholz: Thank you. Okay, gentleman with the looks like a Hawaiian shirt back
21 there. I used to have a shirt just like that.

22
23 Montalimo: So, my name is Gabe Montalimo I'm an employee of the church. I'm here
24 to clarify certain things. The church does support the neighborhood.

25
26 Scholz: Excuse me, the church supports the what?

27
28 Montalimo: The neighborhood.

29
30 Scholz: Okay.

31
32 Montalimo: When years ago we had a lady that she complained about the squirrels.
33 The church went through expand the idea of removing a building. And at
34 the cost of the church, we removed that building. We lost a lot of storage,
35 because that storage that we were using then we lost it. Also, for the ...
36 on Easter Sunday (*inaudible*) making sure that we had security so no one
37 would park on his side. So I just want to clarify that, yes the church does
38 support the neighborhood one way or another.

39
40 Scholz: Okay. Thank you. Yes, gentleman in the back with the blue, what is that
41 ... yeah, it's grey. Thank you.

42
43 Murphy: My name is Paul Murphy. I own the house on 954 Armijo Street. I've only
44 owned it for a couple of years but I think Armijo Street is one thing that has
45 not been mentioned tonight at all. As the gentleman talked about on
46 Reymond Street, there are people who go west or east on Picacho.

1
2 Scholz: Excuse me. Mr. Murphy, you're going to have to speak closer to the
3 microphone.
4
5 Murphy: There are people who travel east or west on Picacho and turn to get to
6 Parker they go through Reymond Street or Armijo Street. So I just ask
7 that you consider that too. There was no traffic investigation of the traffic
8 on the corners of Armijo and Parker, or Reymond and Parker. And I also
9 ask that you ... the traffic report you got, or the one that we've heard
10 tonight, the fullest one, was provided by an engineer hired by the church.
11 And you didn't seem to get the report done by the City, so I ask that you
12 go over the report that was done by the City before you vote. Thank you.
13
14 Scholz: Thank you. Okay, new information sir?
15
16 Anderson: Monsignor John Anderson. I'm the pastor of Holy Cross Catholic Church
17 and have been for the past 25 years. New information, I confess here as I
18 did at the public meeting a few weeks ago that we are not good neighbors.
19 We could improve. We will improve. That's a commitment I make
20 publically for as long as the Bishop allows me to serve there in the parish.
21 We recognize we could do better. For your safety's sake, know that the
22 vehicles such as the ambulance and the fire trucks can make it down
23 those streets under any circumstances. And I can site you the year and
24 the Christmas, and the Easter masses when we have been filled to the
25 max and those skillful drivers do make it onto the property and do take the
26 person from the church. And it happens nearly every Christmas and every
27 Easter, when we're filled with a maximum of 2,000 people. The
28 exceptions are not the rule. Thank you.
29
30 Scholz: Thank you. Okay, new information ma'am? Yes, the one who is looking
31 directly at me.
32
33 Molina: My name is Helen Molina. And we own property on Reymond and we did
34 sell a home on Palmer. And Palmer is no different today than it was 5, 10,
35 20 years ago. The street was narrow. People parked on both sides of the
36 street. The traffic was pretty much the same. The only difference is that
37 now there are a lot of new residents on Palmer and they have not grown
38 up with the church. As far as Reymond, I disagree with the gentleman
39 that said he owned property on Reymond and that the suburbans were
40 rushing around. Reymond does not open up to Miranda and Reymond
41 does not open up to Ethel between Miranda and Alameda. A lot of that
42 traffic that some of these residents, especially a lot of your newer ones in
43 the area are complaining about, are not necessarily traffic due to Holy
44 Cross Church or School. It's due to other schools. A lot of Mayfield traffic,
45 a lot of other traffic going around. It's not necessarily school traffic. And

- 1 we have been in the area since 1962, so we've seen it all and we're still
2 there. Thank you.
- 3
- 4 Scholz: Thank you. Okay, yes, the lady with the orange shirt, orange top there.
5 New information you're going to give us?
- 6
- 7 Ledesma: I just want to state a fact. Usually I'm running late to pick up my child.
- 8
- 9 Scholz: Yes, would you identify yourself, please.
- 10
- 11 Ledesma: My name is Lorenza Ledesma. And I live near Zia Middle School, so I
12 have to drive my child to school. And what I'm saying ... most parents, it's
13 been my observation that they usually park to pick up their kids after
14 school about maybe the most 10 minutes before school ends at 3:00. And
15 by the time I ... I'm always running late, so by the time I get there about
16 3:10 to 3:17 p.m. there's hardly any traffic. Everybody's picked up their
17 kids. In fact, I know that by 3:05 most of the cars are gone. Thank you.
- 18
- 19 Scholz: Thank you very much. Okay, you have new information ma'am? In the
20 green shirt, new information? Okay.
- 21
- 22 Polacios: I didn't want to speak, but I've just been listening. My name's Rita
23 Polacios. I'm an EA at Las Cruces Catholic School for about four years
24 now. And I just want to give you guys kind of a roundabout ... a lot of
25 these families have more than one kid. The Solar's for instance right here,
26 they have six kids going to that school. Nolan's family right here has three
27 kids going to that school. Dr. Trujillo, our principal, has three children
28 going to that school. Our music teacher Ms. Kolosseus has three children
29 going to that school. Mr. Drake over here has three children going to that
30 school. Who else have I left out here? They have three kids going to that
31 school.
- 32
- 33 Scholz: Okay, and your point is?
- 34
- 35 Polacios: My point is, is it's not 400 cars going into the parking lot. You've got these
36 families that are dropping off three, four, six kids at one time and picking
37 them up at one time. So it's not a matter of 400 kids or 300 kids and 300
38 cars. Thank you.
- 39
- 40 Scholz: Okay, thank you very much. Okay, I'm going to call a stop to the public
41 participation. I think we've heard probably every point of view and every
42 fact or factoid that could be given to us, and so I'm going to close this to
43 public participation. And gentlemen, what is your pleasure?
- 44
- 45 Shipley: Mr. Chairman, if I may?
- 46

1 Scholz: Yes, Commissioner Shipley.

2
3 Shipley: I asked Mr. White to give me a copy of the report, the traffic report that
4 was prepared and I just ... and Mr. White I need you to verify that my math
5 skills are still intact. I just kind of ... it has trips ... and Mr. Paz you can
6 confirm this as well. But it has ... it looks like it has trips for example on
7 03/15/2009 for Sunday mass, it's from 7:00 a.m. until 2:00 p.m. 196 trips.
8 This is at Palmer and Miranda. For the school day from March the 10th
9 and 11th from 6:00 a.m. to 12:00 p.m. 237 trips; from 11:00 to ... let's see
10 that's 1:00 p.m. so that's 1:00 p.m., it stops at 1:00 p.m. and 1:00 p.m. to
11 8:00 p.m. or 9:00 p.m. that night it's 226 trips. So that's about 450. Parker
12 and Miranda on Sunday mass was 1,357 trips that day; 962 from Parker
13 and Miranda on 03/10 and 11 from 6:00 to 1:00 and then from 1:00 to 9:00
14 p.m. is 1,383. So there's significantly more traffic up and down this area
15 that you've recorded that wasn't highlighted in your report. And I think that
16 there was a suggestion that we take a look at what the City has done with
17 regard to a traffic report and I don't see anything in our report that does
18 that, and I would be so inclined to look at that. I think you know what
19 we're really looking at; I mean one of the first things that I thought about
20 was that not only this school but all the schools in the area, carpooling is
21 not really something that you know you all as a board can mandate. You
22 can probably set up things where students are driven to a pickup point and
23 maybe a small shuttle bus takes people in. That's a ... not necessarily a
24 doable thing, but it's a thing that you can think about.

25 When you talk about planning folks, I'm going to kind of deviate
26 here and take some liberty, but you're looking at me like I'm nuts, but the
27 point I'm trying to make is this, if you have a street that's only so wide and
28 you have so many people that live on that street, when you look at
29 planning you try to say what can we do to alleviate the problem you know
30 and it may not seem like it's a doable thing at first, but the point is by
31 working together we can come up with solutions. Now people have said
32 you can have the police enforce the speed zones, you can put up speed
33 control devices; you can put up speed bumps and things of that nature.
34 And yes, that's all part of that. There was a mention about what is the
35 school board doing to look at when is it time for the school to move, if you
36 need more space and more facilities, you know when does that have to
37 take place? So this problem, what we're looking at today, is not going to
38 be solved by this group of panelists here, this Commission. What we're
39 going to try to do is to come up with something so we can make an
40 intelligent decision that's for the good of everybody here; the neighbors,
41 the school, the children, and that.

42 And the other thing I would say is you know it's about 8:30 right
43 now and these young men and young ladies have been sitting here on the
44 floor and they've been very good all night long. You should be very proud
45 of them. Their behavior has been exemplary and I would say that if I were

- 1 some of your parents I would think it would be time to get them home and
2 get them ready for bed because they've got a school day tomorrow.
3
- 4 Scholz: No, school ended. Commissioner Shipley, school ended last week on
5 Wednesday.
6
- 7 Shipley: Okay. Well you can see that I don't have any kids in school. But, the
8 thing that I'm really concerned about is number one, we don't want to
9 make a decision using partial information and information that may not ...
10 that we may not either understand or may be skewed. So, I think that this
11 is a subject that we need to get all the details and the facts together and
12 be presented to us.
13
- 14 Scholz: You're suggesting that we need this traffic report in our packet?
15
- 16 Shipley: Absolutely.
17
- 18 Scholz: Yes, with all the details. Yes, I would certainly second that.
19 Commissioner Crane, your thoughts.
20
- 21 Crane: I find this a rather difficult issue. First, I think we have the privilege up
22 here of looking at this much more narrowly than most of the people who've
23 given their views are looking at it. We are confined to this issue of
24 whether the school should be allowed to increase the size of its total
25 classroom area in view of the fact that it's not situated on an 85-foot right-
26 of-way. I'm sure I can speak for the other Commissioners, certainly for
27 myself when I say that I'm not the least upset at the plans to expand the
28 school or church. I'm as interested in quality education as anybody. My
29 children went, I have difficulty at this point in saying how many years they
30 spent at private and how many years at catholic school and how many
31 years at episcopal schools, but they went to a mix. The 85-foot question
32 which is what we have to address, is established, I imagine, the 85-foot
33 requirement for the road is a matter of safety and good traffic flow. The
34 matter of what happens on Sunday's and on other occasions when there's
35 not a regularly scheduled meeting at the school, doesn't even come before
36 us. Nobody has made any complaint here about the impact on local traffic
37 of the proposed expansion or hopeful expansion of the church parish, for
38 good reason, because that's not before this Commission.
39 To me the question is one of whether the predicted expansion of
40 the school is going to make an intolerable impact on traffic on Miranda
41 Street and the surrounding streets. And my inclination at the moment in
42 the absence of the data that Mr. Shipley is looking for, is that it probably
43 can be tolerated, but of course I don't live in that neighborhood.
44
- 45 Scholz: Commissioner Beard, your thoughts.
46

- 1 Beard: If they weren't adding the nine portables, we wouldn't be here tonight,
2 right?
3
- 4 Scholz: That's right.
5
- 6 Beard: And the school would grow, the church would grow, and we wouldn't have
7 an issue. It's only being brought to light and we're getting concerned
8 about possible expansion of the school, which it's going to happen. All
9 they're asking for is for space. They're not asking for a big growth. So I'm
10 wondering that what they're asking for isn't reasonable. If the church can
11 work out some other possible things, I was thinking of carpooling. I don't
12 know if there are other ways that the church can work in reducing the
13 traffic jam so that the neighbors are not impacted. And I would think that if
14 we put some good minds to the effort that we could actually solve that, or
15 make the problem a little bit better. So to me it's ... if they're not putting in
16 the more portables, then they wouldn't be here and they would be
17 increasing ... they would be doing exactly what they're doing right now. I
18 really don't see the issue to tell you the truth. I mean there is an issue, but
19 it's only being brought to light because they want more space.
20
- 21 Scholz: Well, I'd really like to see those traffic documents and I think we were kind
22 of blindsided by that information. When I read the description in the
23 packet, I came to the conclusion it wasn't a traffic analysis at all and in fact
24 it wasn't. It was sort of a preface to the traffic analysis. I'd like to see
25 those counts. I saw things on the screen and I'm sure they've made some
26 impact, but I'd really like to see the documents. And so I would ask for a
27 motion to postpone this until the June 23rd meeting to make a decision on
28 this.
29
- 30 White: Chair Scholz, can I interrupt briefly?
31
- 32 Scholz: Yes, Mr. White.
33
- 34 White: Clarification purposes. I think the first thing we evaluate in a Traffic Impact
35 Analysis, usually in P&Z packets we put in the conclusion or some exerts.
36 Usually the raw data, we usually allow that to ... this Traffic Impact
37 Analysis was actually conducted by the Las Cruces Catholic Schools. It
38 was reviewed by Dan Soriano. And what we usually bring forward to the
39 P&Z Commission would be the recommendations from the City Traffic
40 Engineer, approval or denial. And then we'd also bring him in to do some
41 testimony regarding the actual application.
42
- 43 Scholz: Mr. White, if I can interrupt you. I understand your point of view and I
44 understand why you perhaps eliminated some of those things or left some
45 of those things out from the packet, my concern is that every Traffic
46 Analysis I've seen from the City says oh there's no problem. I recall the

1 one on ... a couple of years ago on Fairacres when the City was
2 considering a large build on a piece of land which is adjacent to the airport
3 annexation, but is not served by any roads in the City, and they said, oh
4 yeah it wouldn't be a problem. Commissioner Beard went and looked at
5 the road and counted the number of, what was it empty home sites and
6 discovered that in fact the Traffic Analysis that he conducted, admittedly
7 raw counts you know of trips and so on, was about four times what the
8 City had estimated. So frankly unless I see the data, I don't trust the
9 conclusions. I'm not a you know, well I know statistics. I can figure things
10 out. I can't claim to be a traffic engineer or a statistician, but I can
11 certainly read analyses and I didn't find them in our packet. And so I
12 would move to postpone this until we have that data, until we can digest it
13 and then make an informed decision. That's my proposal. Mr. Shipley.

14
15 Shipley: There's one other thing I'd like to say. You know as part of this, you know
16 we're looking at streets that are very narrow. Do we ... have we got traffic
17 involved in looking at possibly making these one-way streets, so that you
18 have certain flows in and flows out, and thereby you know eliminating
19 some of the problems. When you double ... I mean you've got two
20 schools within a few blocks of each other, why don't we look at maybe
21 changing the neighborhood ... the traffic patterns in the neighborhood so
22 by we can control that, we can control the speed and do those kinds of
23 things.

24
25 Soriano: Mr. Chair, Commissioner Shipley, that's kind of the approach we're taking
26 now. In fact, after the conclusion of our last neighborhood meeting on
27 May 13th, we talked about forming a traffic committee apprised of school
28 officials, church officials, members of the neighborhood, to come together
29 and try to solve these problems together. To try to jointly ... because we
30 think there's room for improvement. We can see from an operation
31 standpoint as it exists now, there are problems and there are issues that
32 we think we can address. So, our commitment at that meeting was to
33 develop a traffic committee and we at Traffic Engineering would be more
34 or less the liaison between the neighborhood and the school and church,
35 to start working towards these things. Palmer, you're right, Palmer is a
36 fairly narrow roadway. It's probably the narrowest one I've ever seen with
37 two way traffic in the City. Typically, those are one-way streets. But we
38 also have to understand that people live on that street too and we want to
39 work jointly. We understand these people have to make these trips in and
40 out of the neighborhood daily, not us. So that's why we tried to heavily
41 involve the neighborhood and that's what we're going to do from this point
42 on as operations, is bring a traffic committee together to try to resolve
43 some of the problems that we can resolve now, regardless of what
44 happens with this expansion of the school.

45

- 1 Scholz: Well I think that's an excellent idea Mr. Soriano and I would like to see that
2 happen in the next month or so. Do you think that's possible?
3
- 4 Soriano: Mr. Chair, yes sir, absolutely. We've talked to Ms. Dennis, she's one of
5 our ... kind of been our key people with the residential side of the
6 neighborhood and we can certainly start talking, and we've talked to
7 Monsignor about some involvement there. We will be probably looking at
8 Mr. Clifton from the school to help us with this. We really have our key
9 people in place and we can certainly start talking during the summer time
10 in preparation for the school start in August or September, whenever it
11 might start. Back on the data that you were mentioning, we did ... we at
12 the City did in fact do some spot counts with hoses basically to get a total
13 count and that was basically our check of the data that we were getting
14 from the ... in the TIA. We scrutinize these reports. We make sure that
15 there's some validation to this information that we receive. So as Mr. Paz
16 is preparing his part of the report, we were doing traffic counts on the
17 streets to make sure there was some cross check here. We found that in
18 most cases it was really close correlation to what the traffic he was picking
19 up and the traffic we were picking up, and that's why we felt comfortable
20 with the reporting that he was giving us in the report. And we'd be happy
21 to pass that on to the Commission and let you look at that.
22
- 23 Scholz: Thank you. I'd really like to see that. Okay, some other comments
24 gentlemen? Commissioner Crane.
25
- 26 Crane: Personally, I feel ready to vote on the variance but if my fellow
27 Commissioners want more data that would not be a good idea to say no
28 they shan't have it. So I personally wouldn't be upset to know some more
29 details about the traffic, forget Sunday, just the school traffic, peak
30 morning, peak afternoon at Ethel and Miranda. What's coming out of the
31 parking lot, what's going into the parking lot, which way is the traffic
32 coming in from and which way is it going out? By the minute might be a
33 little bit of a challenge, but by 5 minute increments, if that could be
34 provided for our next meeting I would be prepared to see this question
35 postponed.
36
- 37 Scholz: Okay. Commissioner Shipley.
38
- 39 Shipley: So I move to postpone I guess this is Case A1695, and I would move that
40 we postpone it till date certain which is June 23rd.
41
- 42 Scholz: Okay. Is there a second for that?
43
- 44 Crane: Seconded.
45

1 Scholz: Okay, it's been moved and seconded. I'll call the roll. Commissioner
2 Shipley.
3
4 Shipley: Aye.
5
6 Scholz: Commissioner Crane.
7
8 Crane: Aye.
9
10 Scholz: Commissioner Beard.
11
12 Beard: Aye.
13
14 Scholz: And the Chair votes aye. So we are postponing our decision on this until
15 the next meeting which will be June 23rd. Yes, Mr. Clifton?
16
17 Clifton: Mr. Chairman, members of the Commission, could you please specifically
18 clarify what it is exactly that you're asking us to bring back? Because we
19 can't do counts, school's out.
20
21 Shipley: No, we understand that.
22
23 Scholz: No. We understand. We'd like the data Mr. Clifton.
24
25 Shipley: You've already collected the data.
26
27 Clifton: Okay. So what you're asking from us then is just essentially a copy of Mr.
28 Paz' traffic report so that you as Commissioners can study the
29 documentation.
30
31 Scholz: Right and Mr. Soriano said he would also give us the verifications from the
32 City's hoses and things like that. And I would ask you to begin working on
33 a traffic committee. Because clearly traffic is the sticking point here. You
34 know the neighbors are very upset. I wrote down most of the arguments
35 of pro and con and basically the people who supported this said, you know
36 we support the church, we support the school, we would like to see it
37 grow, we need the additional space. The people who were against it said,
38 you know they're parking in front of my house, there's too much traffic, you
39 know I can't drive down the street, you know that's the sort of thing we
40 were hearing.
41
42 Clifton: Okay.
43
44 Scholz: So I think this has to be resolved with the neighborhood. And it may not
45 be something you can do by the next time we hear this, but if you make an

1 attempt to do this in good faith, it seems to me that we'll feel better about
2 it.
3

4 Clifton: Well, I believe those attempts have been made, but that's neither here nor
5 there. So we will gladly provide that documentation. But I would ask as a
6 matter of housekeeping that the next meeting we limit it in scope to only
7 the traffic study since that's what we're being postponed on. And that's my
8 understanding is the only reason we're coming back and we're being
9 delayed by another month, is for the traffic study so that you may further
10 discuss what you review in the new documentation. Is that correct?
11

12 Shipley: I'm not saying no, that's not ... that's not the end of it as far as I'm
13 concerned. I'm saying that I'm not prepared to make a decision based
14 upon the information I've been given so far.
15

16 Clifton: And that's fine. We just need to know if we need to have the same
17 attendance present in June or not, I mean ... we want to make it as easy
18 as ...
19

20 Scholz: That's obviously up to you Mr. Clifton.
21

22 Clifton: Okay, thank you.
23

24 Crane: Mr. Chairman.
25

26 Scholz: Yes, Mr. Crane.
27

28 Crane: I'm not sure that the church or the school is going to be the source of the
29 data we want, isn't it the City that has the traffic counts?
30

31 White: Can I interject very briefly? I was talking to Dan Soriano, the City Traffic
32 Engineer, and I want to see if this is fine with the P&Z Commission. We'll
33 attach the Traffic Impact Analysis in its entirety with like a letter or findings
34 report from Dan Soriano regarding the traffic study.
35

36 Scholz: That'd be great.
37

38 White: And include that with the actual packet you receive this month.
39

40 Scholz: That'd be very helpful.
41

42 Shipley: I've got yours. So do you need yours back?
43

44 White: Yes, I do.
45

46 Shipley: Okay. Can you make me a copy of this?

1
2 White: Yes.
3
4 Shipley: Okay, I'll come pick it up tomorrow.
5
6 White: And then for the general public, what I would do is I will create a .pdf of it
7 and I'll place it on our City web site.
8
9 Scholz: Excellent.
10
11 Crane: Mr. White if I may?
12
13 Scholz: Yes, go ahead.
14
15 Crane: (*inaudible*) that's on my little mind in your study, the traffic at that
16 intersection, the parking lot, Miranda and Ethel? It seems that we don't
17 lack macro data, we lack micro data. We don't know what's happening
18 right at the parking lot which seems to me to be the crucial spot.
19
20 Scholz: Mr. Paz.
21
22 Paz: Mr. Chairman, Commissioner Crane, our Traffic Analysis does have the
23 turning movements into the parking lot on Ethel and Miranda. So I think
24 that as you peruse through the information, you'll find what you need. I
25 will make myself available for this body to review any documentation data,
26 just kind of as background to myself, most, 80% of my work is done for
27 either the City, County, New Mexico Department of Transportation. Most
28 of my clients are governmental clients. I do very little development work.
29 That's not the business that we are in. We do mostly municipal and state
30 work, and our background has always been from a governmental
31 perspective. And if you visit with your Traffic Engineer, I think you'll look at
32 the analysis that we did was above and beyond what City requires and I
33 think you'll find that it was very comprehensive in scope. We did the 15
34 minute increments because that's what the Institute of Traffic Engineers
35 requires as the standard of measure. And now that school's out that's
36 probably the best data we're going to get. But I would find that to be a
37 very useful bit of information and I will make myself available to you at any
38 time for workshop or any other time to review the data that we collected.
39 But it is not ... it is totally consistent with the engineering standards. And it
40 was reviewed in cohort with the Traffic Engineering Department, the
41 protocol that we set out, we established before we did the counting, and
42 so I felt like you know we took every measure and went above and beyond
43 the City standard to do that. Because, again most of my client ... the City
44 is my biggest ... one of my biggest clients so that's the type of work we do,
45 is municipal and governmental work. So I think you'll find it to ... at high
46 level.

1
2 Scholz: Before you go, Commissioner Beard had a question.
3
4 Crane: And I do too.
5
6 Scholz: And Commissioner Crane. Go ahead.
7
8 Beard: Actually, it's not directed to Mr. Paz, but, if the numbers are 1,300 per day,
9 or 1,700 cars per day at a corner, doesn't mean anything to me. What it
10 means is are the residents complaining about the traffic and if the traffic is
11 going to increase, what are we going to do about it? So if we're going to
12 delay the meeting, I think that we ought to have the panel, the residents
13 and the church get together, and the City, to see what we can do to
14 improve the situation. The numbers don't ... are not going to change my
15 mind. I mean they don't mean that much to me.
16
17 Shipley: I think that's a good suggestion.
18
19 Scholz: Well I think Mr. Soriano said they were ... he was already going to try to
20 facilitate that.
21
22 Beard: Because I would like to have some solutions you know. Are we going to
23 make a one-way street? Are we going to only have parking on one side of
24 the street? Are the residents going to be happy with that?
25
26 Soriano: Mr. Chair, Commissioner Beard, we really don't have ... we haven't met
27 yet. So we really haven't come up with any concrete solutions. There
28 have been talks about how narrow Palmer is and whether it should be
29 allowed to continue to have two-way traffic. I think from what I've heard
30 the residents are not going to want to do that, just from the initial response
31 I was getting from them when we talked during the meetings. But again,
32 we haven't really got together to really drum up some ideas and solutions.
33 So we certainly want to move to that end. That's the whole reason why
34 we want to form the traffic committee. We understand what the issues are
35 now in this neighborhood a little closer, and so we want to work together
36 and I think if there's just a little bit of coordination from across each side of
37 the street, we can make this work a little better. So that's what we're
38 committed to do operation. Again, aside from what happens in the
39 decision of the variance, we're still going to keep working on traffic issues
40 in this neighborhood.
41
42 Scholz: Okay, Mr. Crane you had another comment.
43
44 Crane: Yes, Mr. Paz your presentation was very good and your graphics were
45 excellent and you showed to my mind the key point is what happens at
46 that intersection of the parking lot Ethel and N. Miranda. You showed us

1 Sunday data. As far as I'm concerned, Sunday's data's off the board.
2 We're talking about what happens if the school expands. So do you have
3 perhaps not reduced right now, but do you have raw data on that
4 intersection for a school day?
5

6 Paz: Yes, we looked at the worse of every situation. That's what I posted up,
7 which happened to be for that intersection was a Sunday. But other
8 intersections you'll find were either in the a.m. or the p.m. and we looked
9 at every intersection separately. We looked at the worst case in each
10 instance. And we did ... again we did the peak hour, so the numbers that
11 Commissioner Shipley, that you did review, are the ... you looked at the
12 cumulative amount of traffic, but what we look at is the worst case. The
13 worst time of day, the morning drop off period. What's happening in the
14 morning drop off period? What happens in the school when they pick up
15 afterwards? So we're looking at the worst case is, which is the a.m., the
16 p.m. peaks. We went the extra step of looking at the Sunday peaks
17 because there was a concern in the neighborhood and we wanted to look
18 at that data and gather as much information. We went from 6 a.m. in the
19 morning; we went to 9:00 at night to cover all the ministries that are
20 occurring on the site. You'll find that ... and then we plotted the worst
21 case scenario for the hourly situations. Because you can have a lot of
22 traffic but if they're dispersed throughout the day, it's not as big of a
23 condition. It's when they hit during that peak hour is what we're trying to
24 mitigate, and look at the level of service, and even in those worst case
25 situations, peak hour, it was either A or B.
26

27 Scholz: Right. Gentlemen I'm going to call a halt to this. We have two more cases
28 that we have to consider. I want to thank everyone who has participated
29 in the audience, everyone who spoke tonight. I really appreciate your
30 coming up, being clear and concise and following the time limits. Thank
31 you very much.
32

33 Abrams: Commissioners, can I make a quick comment before we move onto the
34 next case?
35

36 Scholz: Yes, our legal Council, sir.
37

38 Abrams: Jared Abrams, City legal. Just because I may forget this next time, I
39 would argue that anyone who wasn't present for this meeting would have
40 to recuse themselves from the next meeting on this item because we've
41 heard almost all of the evidence.
42

43 Scholz: Yes.
44

45 Abrams: And I'll probably forget that, so if you try to remember. The other thing is,
46 if some of you don't show up, that might create a situation in which we

1 don't have a quorum because if two other people don't show up, that are
 2 here tonight, then there will only be three people that are eligible to vote.
 3 We have that problem as well if we have some no-shows.
 4

5 Shipley: We understand.

6
 7 Abrams: Just letting you know.

8 END
 9 Scholz: Thank you Jared. I'll talk to you afterwards.
 10

11 2. **Case A1694:** A request for a variance from the maximum allowed height of a
 12 freestanding sign for a property located at 4820 Mesa Grande Avenue. For
 13 properties zoned to allow freestanding signage, when the percentage of
 14 office, commercial, or industrial zoning is less than 60 percent of the total
 15 street frontage for that street segment, the maximum height of a freestanding
 16 sign shall be 12 feet. The applicant is requesting to install a 30-foot tall
 17 freestanding sign on a street segment that only allows a 12 foot tall
 18 freestanding sign. The subject property is zoned C-3C (Commercial High
 19 Intensity-Conditional) and encompasses 1.25 acres +/- Submitted by
 20 property owner O'Reilly Automotive, Inc.
 21

22 Scholz: Okay, our next is, Mr. Ochoa. This is ... no, I'm sorry; Mr. White is
 23 supposed to be up next isn't he? Am I missing one here? Oh, here we
 24 go. This is A1694. Mr. Ochoa.
 25

26 Ochoa: Good evening gentlemen. Adam Ochoa from Community Development
 27 for the record. Case A1694 is a request for a variance from the maximum
 28 allowed height of a free standing sign for a property located at 4820 Mesa
 29 Grande. It was submitted by property owner O'Reilly Automotive, Inc.
 30 First let's look at the code requirements here, under Article II, section 36-
 31 46 B1 it's the regulations for a free standing signage in the C-2, C-3, M-T,
 32 and M-1/M-2, and M-3 zoning districts. Basically, states under there that
 33 locations which permit free standing signs are determined a zoning district
 34 along specific segments of the streets. When the percentage of office,
 35 commercial, or industrial zoning equals or exceeds 60% of the total street
 36 frontage for that segment, all criteria governing free standing signs will
 37 apply. When the percentage is less than 60%, the maximum height of a
 38 free standing sign shall be 12-feet, and that's basically what we're going
 39 into today.

40 Case specifics, the property is zoned C-3C commercial high
 41 intensity conditional. The subject property is a current location of an
 42 automotive supply store. The applicant is requesting a variance to allow
 43 the installation of an illuminated 30-foot tall elevated pole sign. The
 44 subject property is located on a street segment that is only 50% give or
 45 take of office, commercial, or industrial zoning, limiting the maximum
 46 height of the sign to 12-feet. If the street criteria were met, if the street

1
2 Scholz: Okay, it's been moved and seconded. I'll call the roll. Commissioner Shipley.

3
4 Shipley: I vote nay, conditions, findings, and discussion.

5
6 Scholz: Commissioner Crane.

7
8 Crane: Aye, findings and discussions.

9
10 Scholz: Commissioner Iserman.

11
12 Iserman: Aye, findings and discussions.

13
14 Scholz: Commissioner Evans.

15
16 Evans: Aye, findings and discussion.

17
18 Scholz: Commissioner Bustos.

19
20 Bustos: Aye, findings and discussion.

21
22 Scholz: Commissioner Beard.

23
24 Beard: Aye, findings and discussions.

25
26 ~~Scholz:~~ And the Chair votes aye, so it passes 6-1. All right, thank you again, Mr.
27 *Stark* Banegas, for that very interesting presentation and very thorough, too.

28
29 2. **Case A1695:** A request for a variance from Article VI, Section 38-53 (D) of the 2001
30 Zoning Code, as amended, that requires schools to be located on a roadway having
31 a minimum right-of-way of 85 feet being classified as a Collector status roadway.
32 Las Cruces Catholic School is requesting a variance to allow for a proposed
33 expansion of the school site by 8,400 square feet or eight portable buildings. The
34 school campus is located on a portion of N. Miranda Street having a varying right-of-
35 way between 50 and 55 feet classified as a local roadway. The subject property is
36 located at 1321 N. Miranda Street on a 11.07 +/- acre parcel that is shared with Holy
37 Cross Catholic Church zoned R-1a (Single-Family Medium Density). Submitted by
38 Dan Schneider for the Las Cruces Catholic School.

39
40 Scholz: Okay, our next case up is the second case under new business. It's Case A1695
41 and I want to remind you that we are not just continuing the discussion of this
42 case. What we are doing is starting from the beginning. In effect we're rehearing
43 it. And there are a couple of things I want to mention here before Mr. White gives
44 his presentation. We were asked for disclosure and I'll disclose that I received e-
45 mails from Doug Bagwell regarding traffic, two e-mails from Debra Dennis, one
46 regarding procedures, the other regarding code compliance, and an e-mail from
47 Kathy Hernandez regarding traffic. I should remind people that if they want to
48 send information to us, they should send it to the Community Development Office
49 so everyone gets copied on this instead of simply sending it to me or any one of
50 the other Commissioners. I'm going to ask the other Commissioners if they have

1 received any e-mails or communication from any of the parties in this particular
2 application. Commissioner Beard.
3
4 Beard: No.
5
6 Scholz: Commissioner Bustos.
7
8 Bustos: No.
9
10 Scholz: Commissioner Evans.
11
12 Evans: No.
13
14 Scholz: Commissioner Iserman.
15
16 Iserman: Just this thing that we got this evening.
17
18 Scholz: Well, yes, we all got a copy of that. Right. Commissioner Crane.
19
20 Crane: None.
21
22 Scholz: And Commissioner Shipley.
23
24 Shipley: None.
25
26 Scholz: Thank you.
27
28 AUDIENCE MEMBER TALKING, NOT AT PODIUM.
29
30 Scholz: Excuse me. Ms. Rodriguez.
31
32 Rodriguez: Mr. Chairman, I also need to disclose for the record that I need to recuse myself
33 as I am the Administrator for this section that over sees the development
34 application but my daughter also attends Holy Cross.
35
36 Scholz: Okay. Good. Yes, ma'am, you are? You'll have to speak to the microphone,
37 please.
38
39 Ruprect: My name is Jo Ruprect.
40
41 Scholz: Yes, and what is your point of personal privilege?
42
43 Ruprect: It is as I understand Robert's Rules of Order it is a point of procedure which takes
44 precedence under Robert's Rules of Order.
45
46 Scholz: And what is your point of procedure, ma'am?
47
48 Ruprect: Similar to how meetings of the Las Cruces City Council begin, I wish to have
49 each Commissioner state for the record whether the Commissioner does or does
50 not have a personal or professional conflict of interest with regard to Case A1695

1 that now comes before the Commission and involves Holy Cross School and the
2 Catholic Church.
3
4 Scholz: All right, I'll be glad to oblige.
5
6 Ruprect: Thank you, sir.
7
8 Scholz: Commissioner Shipley.
9
10 Shipley: Nay.
11
12 Scholz: Commissioner Crane.
13
14 Crane: None at all.
15
16 Scholz: Commissioner Iserman.
17
18 Iserman: Nay.
19
20 Scholz: Commissioner Evans.
21
22 Evans: Nay.
23
24 Scholz: Commissioner Bustos.
25
26 Bustos: No.
27
28 Scholz: Commissioner Beard.
29
30 Beard: Would that include knowing people there?
31
32 Scholz: I don't know.
33
34 Beard: I know one family that goes there. None other though.
35
36 Scholz: Okay. And I would say no for myself.
37
38 Ruprect: I must again arise. I arise on a point of information which takes precedence
39 under Robert's Rules of Order. At the past meeting Mr. Iserman was recused by
40 the chair and verbally affirmed that recusal. This is reflected at the top of the
41 minutes from the May 26th meeting that have already been accepted by this
42 Body on page four, lines one through 12. As a point of information I wish to
43 inquire what might have changed in the past month such that the gentleman
44 would no longer possibly be prejudiced in this case?
45
46 Scholz: Yes, what has changed is that we're rehearing this case. It's starting from the
47 beginning. So we're starting with what I assume is a clean slate. Okay?
48
49 Ruprect: In respect to the Chair though, in that passage on page four, lines one through
50 12 of the minutes, there is a comment that Mr. Iserman had discussed the case

1 or been approached by someone in advance of the meeting and that that was the
2 reason for the refusal.

3
4 Scholz: That's right. Yes. Thank you. Okay, Mr. White.

5
6 White: For the record, James White, Community Development Department. The second
7 case this evening is A1695. It's a request for a variance from the required right-
8 of-way of 85-feet to a varying right-of-way of 50 to 55-feet for proposed private
9 school expansion of 8,400 square feet located at 1321 North Miranda.
10 *(inaudible)* there it stipulates that it's a 35-foot departure from the 85-foot
11 requirement. That is what the variance entails this evening.

12 Here's a vicinity map. 1321 North Miranda is located here. There are
13 actually three addresses on the property. The official City address is 1321 North
14 Miranda. I believe there is also a 1327 and 1331 North Miranda. This is the
15 actual North Miranda, which is located here. It's between Palmer on the north
16 and Parker to the south. It has a varying right-of-way of 50 to 55-feet. To the
17 south you have R-3 which is Las Casitas, an apartment complex. You have the
18 Armijo Lateral to the west which is located here. And you also have some
19 residential local roadways such as Palmer, which is located here, Ethel, which is
20 located here. And if you notice these east/ west routes actually connect back to
21 Alameda Boulevard located here. Here are some distances from the respective
22 site to the adjacent thoroughfare. You have Palmer to Alameda Boulevard is
23 roughly about 1,100 linear feet. You have Ethel to Alameda, which is this road
24 here, is roughly about a similar distance. You have Palmer to Parker, what we're
25 speaking now, is actually the actual width of North Miranda there, which is
26 roughly 1,600 linear feet. And then you have the Armijo Lateral back out to
27 McClure, which is roughly about 615 linear feet.

28 Zoning criteria: In the 2001 Zoning Code Section 38-33D stipulates that
29 elementary, middle schools, or high schools shall be located on a Collector or
30 higher designated roadway. What has to actually, as interpreted is: a Collector
31 requires a minimum of 85-feet of right-of-way. If you also notice, it also stipulates
32 that structures or parking located within 25-feet of residential zoning districts
33 have to provide an opaque buffer consisting of landscaping and walls or fences.
34 And then the third criteria is regarding dumpsters.

35 Background information: What I'm going to do this evening is actually I'm
36 going to go back and discuss the entire zoning process since 1962 and go
37 through various zoning codes. But before we go into that we've actually got to go
38 over some case specifics, some background information. As stipulated
39 previously, the current property is roughly ... it's two distinct properties having a
40 combined acreage of 11.7 acres. The property is zoned R-1a which is Single-
41 Family Medium Density. The properties contain a religious institution and private
42 school. And as stipulated earlier as we're getting into the Zoning Code on the
43 record is the conditional use within the R-1a Zoning District. The egress is from
44 North Miranda having an approximate right-of-way of 50-feet. School sites
45 require 85-foot right-of-way. The expansion is for a private school including nine
46 portable buildings having a combined area of 8,400 square feet. The gross floor
47 area combined is roughly 39,000 square feet. The nonconforming expansion
48 permitted up to 10% under the 2001 Zoning Code. What that actually allows is
49 for a one-time 10% nonconforming expansion. So what's actually occurred is
50 that three of the portable buildings have been permitted, which the total
51 combined area of those three portable buildings, is roughly 3,300 square feet.

1 The variance on the table this evening is for the remaining nine portables having
2 a combined gross floor area of roughly 8,400 square feet.

3 Now to go into the zoning history: What actually occurred is a private
4 school began operation in 1962. It was allowable land use under the 1955
5 Zoning Code. Parishioners of the Holy Cross began conducting services in the
6 school gymnasium circa 1963. Here's an excerpt of the 1955 Zoning Code and it
7 may be kind of difficult to read so I'll read it to you. This is the actual R-1 Zoning
8 District for the 1955 Zoning Code and sub-item three says, "elementary schools,
9 high schools, not including arts, music, dancing, secretarial schools, are
10 permitted use in the R-1 Zoning District." So when the school was actually
11 erected in 1962 it was permissible use under the R-1 Zoning District. Going on
12 through the era and time period, 1969 the Zoning Code allowed for schools to be
13 located on Local roadways, provided there was not a high school component.
14 This is the first time you actually see conditional zoning placed on the property or
15 conditional uses. And here's the copy of the 1969 Zoning Code. Again we're
16 looking at section 9, R-1 Zoning, which is Single-Family Residential, and this is
17 kind of wordy but it stipulates that elementary schools are permitted. High
18 schools are only permitted on Arterial streets as shown in the City's General
19 Plan. In the more modern area since we adopted the 1981 Zoning Code, the
20 1981 Zoning Code requires schools or churches to obtain a Special Use Permit.
21 The property has a history of three SUPs being issued. In 1981 there was a
22 permit issue regarding an expansion for the religious institution. In 1995 there
23 was one done for a columbarium and in 1998 there was a Special Use Permit for
24 the middle school.

25 Here's a copy of the 1981 Zoning Code and under section 6.4 it speaks
26 out which special uses are enumerated. And under sub-item 33, is what we're
27 speaking about, it says, "schools, public, all district except M-1 and M-2 such
28 uses shall require proper location and shall be located on an Arterial or Collector
29 Street as shown on the Future Land Use Plan." That was under the 1981 Zoning
30 Code. So now since we're getting into the more current area what I did is I did a
31 comparison between the 1981 Zoning Code and 2001 Zoning Code since it
32 seems most of the development activity for the school occurred in the 1980's,
33 1990's. In the 1981 Zoning Code a public hearing process was required and
34 required a Special Use Permit. In the 2001 Zoning Code there is no public
35 hearing process required but there is conditional uses as stipulated earlier. The
36 road network: same in 1981 and 2001, required a Collector or greater, or 85-feet
37 of right-of-way, up to a 120-feet for a Principal Arterial. Buffering: 1981 not
38 required ... it did require landscaping in concert with the 1981 Zoning Code. In
39 the 2001 Zoning Code it stipulates that opaque buffering which includes
40 landscaping or walls is required for any parking area or building 25-feet from
41 residential zoning district.

42 Staff also looked at the building permitting history regarding the property
43 and as stipulated earlier there has been ... there are three different addresses
44 used for the property: 1331 North Miranda, and if you notice these two building
45 permits here in 1999 and 1988 correlate with the middle school being actually
46 placed on the property. In 2000 there was a fence placed on the property that
47 was done over-the-counter. And also two permits issued in the 1980's, which I
48 was unable to get records for.

49 Here's a plat of survey as submitted regarding the actual subject property.
50 The modulars that we're speaking about or portable buildings we're speaking
51 about this evening will be located in this general area here on the western

1 boundary of the Armijo Lateral. You have the current middle school and
 2 elementary school and playground located in this area here on the northern
 3 portion of the property. And on the northern boundary you have Palmer Road
 4 which is located here. And of course, the right-of-way issue we're here for this
 5 evening is from North Miranda which is located here.

6 MPO Thoroughfare Plan: just showing you some of the actual
 7 thoroughfares in the area. I'll start with the brown line here. Usually what the
 8 brown lines identify in Thoroughfare Plans is a trail system. So, on the western
 9 boundary you have a trail system and from a thoroughfare respective we have
 10 McClure which is located here and we have Parker which is located here which
 11 are both identified as Collectors. And then you have North Alameda which is
 12 located to the actual east which is classified as a Principal Arterial.

13 Aerial view of the subject property: again, if you've been out to the site the
 14 portable buildings are located in this general area here. There is a ... I would call
 15 it an easement or driveway located here, directly adjacent to the apartment
 16 complex that's on the southern boundary. The majority of uses surrounding the
 17 property to the east are going to be residential, as you notice here, single-family
 18 residential lots. Here are some site photos which were also taken on a cloudy
 19 day. If you notice these are the portables that are currently on the property.
 20 Here's the southern boundary which I was speaking about earlier regarding the
 21 driveway. Here's the southern parking lot for the ... I believe it's used by the
 22 congregation, also maybe by the school.

23 Staff recommendation for Case A1695 is approval with conditions. The
 24 first condition is: approval of this variance is limited to the additional portable
 25 buildings having a combined gross floor area of 8,400. Any future expansion of
 26 the school site or church shall require approval of a Planned Unit Development
 27 as outlined within the 2001 Zoning Code as amended. Condition number two:
 28 the applicant is required prior to the issuance of a building permit to submit a
 29 landscape buffering plan. The plan will be reviewed and possibly administratively
 30 approved by Staff. The applicant will be required to create a strong impression of
 31 separation. In the event that administrative approval is not granted, the applicant
 32 will be required to comply with Article VI section 38-53 or what you actually saw
 33 with the second slide this evening.

34 In regards to the options that the Planning and Zoning Commission has
 35 this evening, I want to go through a few of them. If the Planning and Zoning
 36 Commission votes yes to approve the variance with conditions therefore allowing
 37 for a 35-foot deviation from the 85-foot minimum right-of-way requirement. The
 38 next passageway actually talks about what actually occurs or what this action
 39 does. The nine portable buildings having a combined gross floor area of 8,400
 40 square feet will be allowed to remain on the property. The existing school
 41 buildings and three portable buildings, which was done via administrative
 42 approval, is not affected in any manner by approving this variance. The variance
 43 is only relegated to the nine portable buildings that we're speaking about this
 44 evening. If the P&Z votes no to deny the variance, this action will require the
 45 nine portable buildings having a combined gross floor area of 8,400 square feet
 46 to be removed. The existing school building and the three portable buildings will
 47 not be affected. Other options are to modify the request and add additional
 48 conditions or the P&Z can table or postpone action of this variance request and
 49 direct staff accordingly.

50 Very briefly, decision: the P&Z Commission has final authority on this
 51 case since it is a variance related case. Any person affected by the decision may

1 appeal a decision to the City Council. Such appeal must be initiated in writing
2 within 15 calendar days of this decision. That will end staff presentation. I'll be
3 glad to stand for any questions or comments this board may have this evening.
4

5 Scholz: Thank you. Questions for Mr. White? Commissioner Iserman.
6

7 Iserman: I might have a couple, I'm not sure. Now amongst all this stuff the City says
8 they're going to have to ... somebody's going to have to hold the feet to the fire
9 about landscaping, you know the buffering around the school. Now that has
10 been addressed before by ...
11

12 Scholz: Would you get closer to the microphone, please, Commissioner Iserman.
13

14 Iserman: That's been addressed before by the City and previous things that they wanted
15 done and nobody held their feet to the fire to get it done. And I also see where
16 Staff, City Staff is saying it's very difficult for them to do those buffers and I'm just
17 wondering why, other than money.
18

19 White: Chair Scholz, Commissioner Iserman, to answer your question, the landscaping
20 opaque buffering actually was adopted with the 2001 Zoning Code and if you'll
21 notice through the building permitting history, all the building permitting with the
22 exception of the fence, was done through the 1981 Zoning Code when the
23 landscape buffering was not a requirement, although opaque buffering. In
24 respect to your question regarding the hardship with landscape buffering, how
25 the Code currently reads now, it stipulates that structures are parking areas. So
26 in theory if the portable buildings are located in this area here and you have
27 residential zoned property on the western side of the Armijo Lateral, they'd be
28 required to put an opaque buffer adjacent to a Lateral. So that may be some
29 difficulties and hardship with that. As stipulated as well, there is a Las Casitas
30 apartments to the south. Currently it's just a chain link fence, so of course you
31 could do some kind of visual separation between the parking areas and the Las
32 Casitas apartments. There is also a secondary parking area that's primarily
33 utilized by the school that's located in this area here, which if you notice is
34 actually directly adjacent to R-1a Zone. Zoning actually starts at the center line
35 of streets, not at the actual property line. So based upon that, more than likely
36 they'll have to do some kind of spacial separations adjacent to the parking areas
37 located in this area as well.
38

39 Iserman: Well, does that include on Parker?
40

41 White: Chair Scholz, Commissioner Iserman, the answer is no because the area
42 adjacent to ... I'm sorry, you said Palmer or Parker?
43

44 Iserman: Parker.
45

46 White: The property has no ...
47

48 Iserman: Did I say that right? It's the street on the north side.
49

50 White: Palmer.
51

1 Scholz: That's Palmer, yes.
2
3 Iserman: Whatever.
4
5 White: Chair Scholz, Commissioner Iserman, if you've been out to the property, the
6 northern boundary is actually the playground for the Las Cruces Catholic
7 Schools. So since there's no parking structure, there's no parking area or
8 structure on the northern boundary they're not required to have the landscape
9 buffering.
10
11 Iserman: One more question if I may.
12
13 Scholz: Yes, go ahead.
14
15 Iserman: Along those lines, the homes that are on that ... just across the street from there
16 with the playground on the side, doesn't that intrude upon their privacy?
17
18 White: Commissioner Scholz, Commissioner Iserman. When we evaluate zoning cases,
19 usually I go by the spirit and intent of the Code. So in respect to it you can
20 discuss it with the applicants here this evening, but from the Code it doesn't
21 require any kind of buffering or landscaping separation.
22
23 Iserman: Thank you.
24
25 Scholz: Other questions? Commissioner Evans.
26
27 Evans: Yeah, Mr. White, does that situation exist currently on other schools, at other
28 schools? I mean it seems to me that I've seen this situation pretty often or very
29 often at some of the other schools.
30
31 White: Chair Scholz, Commissioner Evans, the answer is absolutely. It occurs
32 somewhat frequently with churches and schools because how the Code is written
33 it specifies zoning districts, not structures. So based upon the current wording in
34 the Code, it does make it sometimes difficult to conform to the requirement of an
35 opaque buffer, which is actually opaque from I believe it's from ground level to a
36 minimum height of six feet.
37
38 Scholz: Okay. Other questions?
39
40 Crane: I have a couple.
41
42 Scholtz: Commissioner Crane.
43
44 Crane: Would this be an appropriate time to raise traffic questions? Details about traffic
45 studies?
46
47 Scholz: Well, I'm going to ask Dan Soriano to come and speak to us on the traffic issues
48 as part of the staff presentation and I was waiting for Mr. White or our questions.
49
50 Crane: No questions, Mr. White.
51

1 Scholz: Commissioner Shipley.
2
3 Shipley: Mr. White, in your presentation I'm having difficulty understanding the numbers.
4 You initially stated that you had 12,221.60 square feet. This is on page... I guess
5 it's the fourth page back and it says you're going to add 8,400 square feet, which
6 is 3,820.6 square feet, but yet in your presentation you state that there is 3,360 is
7 what they added instead of 3,910. And so there's ... with 8,400 that's 11,760, so
8 there's 460 square feet that's gone somewhere and you're now saying there are
9 nine portables, where once before we were talking about four portables were
10 there and eight were going to be installed for 8,400. So, is there ... has there
11 been a change that's not reflected in your report?
12
13 White: Chair Scholz, Commissioner Shipley, no, what the confusion was, well, this is
14 actually a new public hearing, was we actually ... the issue was regarding square
15 footage. What were permitted were three portables. The square footage as
16 indicated in the packet is accurate, so if there is a discrepancy between what
17 shown on the screen and the packet, the packet is 100% accurate. In respect to
18 there hasn't been any change in overall square footage of the request.
19
20 Scholz: Commissioner Shipley, does that answer your question?
21
22 Shipley: I'll have to think about it and try to do the numbers again.
23
24 Scholz: Okay. I have a calculator if you needed one.
25
26 Shipley: I have one here, too.
27
28 Scholz: Wonderful. Okay. Other questions? Okay, I have two, Mr. White. Does the
29 approval of this variance mean that the school is now in compliance with the
30 2001 Code?
31
32 White: Chair Scholz, if the Planning and Zoning Commission grants a variance as
33 stipulated earlier, the property would be in compliance provided that they provide
34 a landscaping plan to the City for administrative review.
35
36 Scholz: Right, yes, I'm assuming that they comply with the conditions.
37
38 White: That is correct.
39
40 Scholz: Okay. And that means that from now on they'll have to follow the provisions of
41 the Code, is that correct?
42
43 White: Well, Commissioner Scholz, if you notice based upon how Staff conditioned this
44 property, this is actually stipulated that this is only ... this is not a blanket
45 variance. When sometimes you hear a blanket variance, if you gave a blanket
46 variance to a right-of-way section, in theory you could keep on expanding. By
47 having the conditions that Staff is proposing in the record, it's stipulating that it
48 would grant the variance for the portables, but any future expansion would have
49 to be evaluated through the Planning and Zoning Commission and subsequently
50 City Council.
51

- 1 Scholz: Thank you. Okay, can we hear from the City Traffic Engineer please?
2
- 3 Soriano: Good evening, Commissioners. Dan Soriano, City of Las Cruces Traffic
4 Engineer. Basically our office has reviewed the Traffic Impact Analysis that was
5 prepared and at the last session I believe the Commission was given additional
6 information as far as the raw data, things like that to take a look at and then I
7 came before you during the work session about two weeks ago to talk about
8 overall processes with Traffic Impact Analysis. We did review the TIA on the first
9 review. We did go through a second iteration with Mr. Paz from Molzen Corbin.
10 We are satisfied with the results. Basically, the TIA is demonstrating that the
11 roadways as they function from the motorist standpoint will work at acceptable
12 levels of service. The assumptions are that the school was going to increase by
13 30% over the next 20 years ... I'm sorry, the church is going to increase by 30%
14 over the next 20 years, the school is going to increase by 50% over the next 20
15 years, and those forecasts were included in the analysis. So a horizon year
16 analysis was also done as part of the TIA and also demonstrated satisfactory
17 levels of service. Again, this simply demonstrates that from the motorist's
18 perspective the motorists will see reasonable driving conditions as they run
19 through these areas going to the school and out, and it really takes everything
20 from the motorist's perspective, curbs in basically. And the City has approved
21 the TIA and the version that's in your packet. With that, I'll stand for any
22 questions.
23
- 24 Scholz: Okay, questions for this gentleman. Commissioner Crane.
- 25
- 26 Crane: Do you have available to put up on the screen the diagrams and the data tables
27 that you gave the Commissioners?
28
- 29 Soriano: Mr. Chair, Commissioner Crane, no, sir, it's not included in the presentation.
30
- 31 Crane: I see. Well, it seemed ... I've gone very carefully over the data both in the
32 diagrammatic form and in the table for Ethel and Miranda because it seemed to
33 me that's the critical intersection. That's where one of the two parking lots
34 (*inaudible*) into North Miranda and across the intersection is Ethel. It seemed to
35 me if we could look at the worst case of traffic at that particular point when school
36 meets in the morning and quits in the afternoon, we could get some idea of
37 whether the traffic is going to be in supportive along Miranda. Unfortunately,
38 there's a grave discrepancy which I can't possibly describe to you without using
39 my laser pointer and my magnifying glass on the data you gave me.
40
- 41 Scholz: Go for it.
- 42
- 43 Crane: No, sir. ...Which makes it hard to come to any firm conclusions about the traffic
44 at that particular point. Fundamentally the designations of ... in the rows that you
45 have on your table, one through 12 for that particular intersection indicate
46 directions of traffic and they change their meaning as you run across the table.
47 The key data of the ones, of the traffic out of the parking lot, north up Miranda
48 and down Miranda and across the Ethel at the a.m. peak time 24, 3, and 25 cars.
49 I'm looking at figure 4. You try to apply that to the afternoon peak, the numbers
50 do not jive with what's in the table, and I went back and tried to figure out what
51 your designations were, what one through 12 meant in the a.m. period and what

1 one through 12 meant in the p.m. period and there's two cases at least ... no let
2 me see, one, two, three, four cases in which these designations have changed,
3 which makes your table virtually useless. Now I don't want to bore everybody to
4 tears, least of all myself, but I'll be happy to show you what's worrying me. I'm a
5 scientist. I'm used to bad data and less used to good data.
6
7 Soriano: Mr. Chair, Commissioner Crane. That is not our data. That is not from the City.
8 That was prepared by the consultant. I'd like to defer that to Mr. Paz. Maybe he
9 can explain a little better how the orientation of those tables are established.
10 Maybe he has answers to those questions a little better than I could.
11
12 Scholz: Well, he'll get his chance when the applicant speaks, but ...
13
14 Soriano: I can't answer that data sir.
15
16 Scholz: Excuse me, Commissioner Crane, Mr. Soriano, if you've approved that data or
17 the City has approved that data, then, you know, why can't you vouch for it?
18
19 Soriano: The orientation... basically we did a verification count by hose count in the area.
20 We set hoses in the area to establish what the volumes were as Mr. Paz was
21 collecting his data. And basically, on that basis we did find that there was a very
22 close correlation to that data. We did not take movement counts as Mr. Paz did.
23 So, we basically went on the basis that for the 24 hour count that we took which
24 was an entire one day count, it was a very close correlation with the data that he
25 produced in his tables, as far as a total goes. So the totals actually match up
26 very well. We can't verify the turning movements because we didn't take turning
27 movements, we took total counts. Therefore, we basically looked at the totals
28 and made sure the totals were in close correlation with the data what we had
29 received. We basically did this. We did a concurrent count, if you will, to make
30 sure there was some validity to the data that we were getting from Mr. Paz in his
31 report. And we found that through looking at the total data that there was very,
32 very close correlation with the information he was getting us, therefore felt
33 satisfied with the data that we were receiving in this report. As far as how the
34 tables were established and by the movements ... as far as how the movements
35 were labeled, we did not have direct involvement with that. We made a
36 comparison to the total data alone, the totals for the counts that were given at the
37 intersections.
38
39 Scholz: Okay. Mr. Crane, another question you had or follow-up?
40
41 Crane: Not exactly, but let me just make the comment then I'll drop the point because
42 there is a way that this could be made intelligible to the Commission or the public
43 without the data displayed. And I think I probably have what I need to come to a
44 decision, but I would be interested in meeting privately if they wished or Mr.
45 Soriano and Mr. Paz to show them what's on my mind. Perhaps I misunderstood
46 everything, but I don't want to take up the Commissions time on this any further.
47
48 Scholz: Okay. Other questions? Commissioner Shipley.
49
50 Shipley: Mr. Soriano, you did the count on May 9th at Ethel ... excuse, Palmer and
51 Miranda?

1
2 Soriano: Mr. Chair, Commissioner Shipley, the total one day count we did, that data that
3 was provided to you.
4
5 Shipley: On May the 9th?
6
7 Soriano: As I recall. I don't have the data in front of me.
8
9 Shipley: That's what your data says. Okay, and then you did two days later you did Ethel
10 and Miranda.
11
12 Soriano: We did it over a series of about three or four weeks, yes, sir.
13
14 Shipley: Okay, that's the 9th, that's the 11th, and then there was data in here ... whose
15 data is this?
16
17 Soriano: That is the City's data. That's basically speed data that we picked up from the
18 count and speed data that we picked up with our counters.
19
20 Shipley: When you say speed data you're looking at the number of cars, is that correct?
21 Time of day?
22
23 Soriano: Mr. Chair, Commissioner Shipley, yes, sir. What it basically does is demonstrate
24 for given hours throughout the given days that you show on the graphs, shows
25 what the speed ranges were and the number of cars that were in those speed
26 ranges.
27
28 Shipley: All this has is, it just has the time, 12:00 to 12:59 or let's take 7:00 to 7:59 and it
29 says 116 and 69. But there's nothing on the chart that shows me, that says
30 whether it's going north or south. That's all it shows me. So to me that's just a
31 traffic count. That's not speed.
32
33 Soriano: I'm sorry. Commissioner Shipley, we did have speed data and I guess that didn't
34 make into the packet. You're right; these graphs are simply hourly counts. The
35 directions are the barred graphs, as you see there are two colored bar graphs,
36 that distinguishes the differences in the direction. We also did the same thing
37 similarly for speed and I thought that was the data you were looking at.
38
39 Shipley: No, I was just trying to make sure I understood the chart because there wasn't
40 really any ... the only thing I could figure out was it was just a number count.
41
42 Soriano: Again, this was our verification data. We did counts as the TIA was being
43 prepared and put together. We prepared these graphs from the data that we
44 collected and we were not only able to show hour by hour counts by direction, we
45 were also able to come up with a speed data by direction.
46
47 Scholz: Okay, other questions? Commissioner Iserman, you had your hand up.
48
49 Iserman: Yes, Mr. Soriano, this'll be easier. On one of those charts that you were just
50 talking about was April 9th, 2009, I'm just curious can anybody tell me you know

1 that's the day before Good Friday, and were the children in school all that day or
2 not?

3
4 Soriano: I hear yes. We made sure that it was typical days that we counted. In fact, we
5 did try to incorporate Ash Wednesday, we had a little problem with our counters
6 so we weren't able to collect that data, but we were trying to get as much typical
7 situations; we counted over the weekends, tried to pick up any peaks, things that
8 were going on during the Sunday services and that sort of thing. So we were
9 trying to look at typical situations which is really what you try to do for a traffic
10 study, you're trying to look at typical situations. And so we tried to make sure
11 that school was in session, that there was nothing atypical about what was going
12 on in the area at the time we collected the data.

13
14 Iserman: And then I have one more question.

15
16 Soriano: Yes, sir.

17
18 Iserman: Thank you very much. Traffic counts withstanding, they are what they are, the
19 way I see it. You say they're fine, they're probably fine. But my question is not
20 traffic count, as much as it is towards safety. I'm more concerned about ... I see
21 on Palmer and Parker, on those two streets, somewhere along the line it has
22 been necessary to install speed bumps. So I just interpolate from that that
23 there's a speeding problem or has been. That doesn't ... you know that's just
24 something totally different than a traffic count to be considered.

25
26 Soriano: Mr. Chair, Commissioner Iserman, we did look at speed data. We did collect
27 speed data. It's not represented in your data here, but as part of our study which
28 was really ... it was a validation towards what was being collected for the TIA, but
29 it also just gave us an idea of what was happening in that area. We met with the
30 neighborhood initially, I think sometime late February, and we heard the
31 concerns and so we initiated traffic counts and speed collection data just to see
32 what the magnitude of the problems were. You're right, there are speed humps
33 on Palmer, Ethel, Parker, I think everyone short of Miranda. So that does
34 indicate that at one time we probably did have some speeding problems and
35 hopefully that's been at least somewhat mitigated with the speed humps in place.

36 We do recognize that there are still some issues outstanding in that area
37 and we've already gone as far as establishing a traffic committee for the area so
38 that we can work on issues around the school. There are issues out there
39 regardless of what happens with this variance. Whether the school's allowed to
40 expand or not, there are still issues in the neighborhood that we'd like to work
41 with them and help to try to address. And we've already been in contact with
42 some of the neighbors. We've been in contact with the school and the church to
43 try to put together a traffic committee and in fact I think we're meeting a week
44 from tomorrow, our first time to sit down and to try to hash out what some of the
45 issues are that we can try to work on. So, it is an area that does have some
46 issues regarding traffic and potential safety. We do have a school zone in front
47 of the school. There is a crosswalk area. So we do have some of the necessary
48 signage in place, but we also know there are some other things that we need to
49 work on around special events, things like that that are happening in the area,
50 too.

1 So to answer your question, we did look at speed. Speed was also
 2 included in our analysis. The way we collect our data is we actually set a module
 3 down on the roadway and it's taped down to hold it down, and it collects volumes
 4 and speed. So we're able to actually collect both at the same time. It's not
 5 necessarily hoses I referred to before. So we're able to collect that data as well
 6 and it gives us an idea of the magnitude of the speed problem out there. I've
 7 been out to watch that area a few times and I have seen a couple of people
 8 running through that area quicker than they should be, especially at times when
 9 kids are walking to the school and that sort of thing. So, now who those people
 10 are, I don't know. I just see them passing through there as I was watching the
 11 area. So, we need to encompass all those issues, believe me, we will consider
 12 everything when we sit down and work with the neighborhood on things to
 13 remedy the area and try and make it a little more of a ... improve the livability
 14 through that area as well.

15
 16 Iserman: Because I do see in that neighborhood ... I mean I live in that neighborhood, you
 17 have Alameda Elementary School, I think that's what it's called. That's probably
 18 three blocks south of my house, something like that, and in mornings, well, I think
 19 you guys all know Alameda's kind of a mess in the mornings and the City has
 20 done everything they can. I mean they're bussing half those students. And then
 21 probably another third of them walk because I see them every day. And then, of
 22 course, over in the area towards the Catholic Church there are a lot of those
 23 students are walking to the Catholic Church and they're also walking, some, and
 24 they're also walking to Alameda Elementary. And then you have more traffic and
 25 if it's moving fast it gets kind of scary.

26
 27 Soriano: Mr. Chair, Commissioner Iserman, those comments are well taken, and those are
 28 the sorts of things that we need to start looking at with the neighborhood. We
 29 recognize there are two schools out there. We know we're really kind of dealing
 30 with one issue right now tonight, but what we're going to do, as an operations
 31 group anyway, is encompass the whole area and try to see what other things we
 32 can do to try to resolve traffic issues. I think it's going to be very important to
 33 have the school, church, and neighborhood sitting with us as we try to make
 34 these decisions together. So, we're making those attempts. And again that's
 35 regardless of what happens with the variance request. We're still planning to
 36 work on these traffic issues that exist now.

37
 38 Scholz: Commissioner Evans.

39
 40 Iserman: Thank you, Dan.

41
 42 Evans: Yes, you know again we're just talking about one school here, but just to put this
 43 in context, Washington Elementary School, you know, a lot of parking, a lot of
 44 portables; same thing Loma Heights. There is R-1a right next to it. Is this an
 45 isolated problem or this really a systemic problem throughout, you know, a lot of
 46 the schools? I mean personally I don't see a difference in what you're saying in
 47 the problems that this place or that this school is having than the other schools in
 48 the City.

49
 50 Soriano: Mr. Chair, Commissioner Evans, I'd have to answer that with kind of a yes or no.
 51 Yes and no I should say. Yes, it's typical in that we're seeing a lot of traffic move

1 into a school area at one time. That's typical of a school. You get this crunch for
2 about 20 minutes, then it goes away. And then it comes back in the afternoon
3 and crunches, and then it goes away. And that is typical for school areas
4 throughout the City, no matter where they're at. Know in that the school is
5 completely fronted by really local streets. Really no major street fronts this road.
6 Everyone has to come in to a Collector street, or a local street to get to the
7 school or church. So, it has its uniqueness about it, but also it has its ordinary
8 type character as well.
9

10 Evans: Right, and even that statement has pros and cons in the sense that if they are,
11 you know, small roads then the velocities would be less and it would be safer as
12 opposed, you know, where you have a four lane, like Loma Heights or
13 Washington Elementary.
14

15 Soriano: Well Mr. Chair, Commissioner Evans, there is some advantages to having
16 congestion; generally your speeds will be slower. I mean this road's only going
17 to carry so much traffic, but typically your speeds will then drop.
18

19 Evans: Right.
20

21 Soriano: So, I mean that ... there's some advantage there versus vehicles that are moving
22 up and down Solano at a fast rate of speed as kids are trying to cross that road
23 as well.
24

25 Evans: Right, and there's actually an elementary school there also.
26

27 Soriano: Yes. So, from that standpoint there are some advantages to having a congested
28 area for a certain time, your speeds will generally decrease.
29

30 Scholz: Okay, other questions? Yes, Commissioner Beard.
31

32 Beard: I'm interested in if you have a certain volume, I don't know what that does at the
33 corner, does the traffic back up at any of these particular corners significantly?
34

35 Soriano: Mr. Chair, Commissioner Beard, back up from one to another or is that what
36 you're saying?
37

38 Beard: Well, waiting to make a turn or to get onto another thoroughfare.
39

40 Soriano: From our observation we have not seen excessive delay. Generally people can
41 get out pretty quickly, especially what we noticed, and the analysis really
42 demonstrates that as well that based on the volumes that you have on the major
43 streets versus the minor streets, there's relatively little delay. People don't have
44 to wait long periods of time, therefore the backup is minimal. The Sunday
45 service issue is a classic example. That happens when really there is no other
46 traffic out on the street, so it's almost like they have the road to themselves in a
47 way. So the analysis demonstrates that that these are operating satisfactorily
48 and that there are no excessive delays or cueing or stacking.
49

50 Beard: Okay, that's today. What about in '29?
51

- 1 Soriano: In 2029, the same demonstration is shown. Based on those assumed growth
2 rates that Mr. Paz had put into the analysis, still showing, I think, one movement
3 at one intersection. I think it's at the Parker intersection, moves to a level of
4 service B, which is still acceptable. We're still not seeing from a standpoint of the
5 roadway functioning, it's still showing that it's functioning acceptably in 2029,
6 even with the growth.
7
- 8 Beard: Thank you.
9
- 10 Scholz: Other questions gentlemen? Okay, I have a couple of questions of my own. Mr.
11 Soriano, the primary surveys of traffic on the streets affected by Holy Cross
12 School appear to be from the east. That is we're talking about access on Palmer
13 and Parker and Ethel. Do the majority of the people live in that area? I should
14 say do the majority of the people come from that direction?
15
- 16 Soriano: Commissioner Scholz, from what we've seen, it seems like the majority of the
17 enrollment is actually bussed in or they're driven in, transported in to the site.
18 And they're coming from a variety of areas, locations. Of course, now if they
19 come from the west, they are generally going to come up Parker and turn up to
20 Miranda. So that's why Parker was taken a look at and analyzed and it does take
21 into account some of the eastbound traffic.
22
- 23 Scholz: I don't see any analysis on Parker. I see it on Miranda and Palmer and Ethel.
24
- 25 Soriano: There is an analysis that was done at Parker and Miranda by Mr. Paz. It should
26 be part of your table data.
27
- 28 Scholz: Okay, but you didn't do any counts on Parker?
29
- 30 Soriano: We did. We did, as the City we did do some counts, plus the MPO, our
31 Metropolitan Planning Organization has done counts on Parker. So we based,
32 we did do ...
33
- 34 Scholz: Parker's not an Arterial is it?
35
- 36 Soriano: Parker is a Collector, a Collector street.
37
- 38 Scholz: Okay.
39
- 40 Soriano: It's designated as a Major Thoroughfare in the City. Yes, sir. It's designated to
41 carry traffic just as McClure is, just as Hoagland is. They're designated collectors
42 in this area to bring traffic basically from east to west between Alameda and
43 Valley.
44
- 45 Scholz: Okay. Thank you. My second question was, do you consider when you're
46 talking about traffic congestion, do you consider parking? Because I noticed that
47 I think it's Palmer which is what a minimum 29-foot wide. When we had our work
48 session a couple of weeks ago you mentioned that parking lanes were generally
49 six to eight feet wide, and I'm taking that to mean that that's a relative width. So
50 if we consider the average of that say 7-feet, that would take 14-feet out of that

1 29-foot width, which would give us what, 15-feet. Is that wide enough for two
2 traffic lanes?
3
4 Soriano: Commissioner Scholz, typically, no. You're not going to get two cars to pass one
5 and other safely on a road that wide.
6
7 Scholz: Okay, but we allow parking on both sides of that road there.
8
9 Soriano: Mr. Scholz, that is correct. And those are some of the things we're going to talk
10 with the neighborhood on when we deal as a traffic committee.
11
12 Scholz: Well, it seems to me that's a potential hazard. I can imagine people, you know,
13 trying to dodge, you know ... I've been on that street a couple of times. I've
14 never seen it parked full on both sides, so I can imagine people dodging each
15 other, but still, that seems to me it'd be a traffic hazard, and one that exists right
16 now.
17
18 Soriano: That's right. As it exists right now it is potentially a problem for traffic to
19 maneuver by one and another in a two way direction with cars parked on it. We
20 recognize that. We have made some suggestions to the neighborhood in some
21 of our previous meetings as to how we might want to try to handle that. But
22 again we're going to try to resolve that issue with the traffic committee. Because
23 we do recognize ... you're absolutely right. It's an issue that's not desirable as
24 far as trying to move two-way traffic and still allow parked cars on either side of
25 the roadway. There's really not sufficient width.
26
27 Scholz: Okay, thank you. Any other questions? Commissioner Shipley.
28
29 Shipley: Mr. Soriano, a normal traffic lane is what width again?
30
31 Soriano: Commissioner Shipley, ideally we try to shoot for 12 feet.
32
33 Shipley: That's what I thought.
34
35 Soriano: But we will ... you know there are road diet issues that are coming up now and
36 they're saying that if you narrow down to maybe 10 feet you're not losing that
37 much capacity. So I'd have to say anywhere between 11 and 12 feet is what we
38 ...
39
40 Shipley: So travel lanes should be between 10 and 12 feet?
41
42 Soriano: Yes, sir.
43
44 Shipley: Okay. Not seven feet.
45
46 Soriano: No.
47
48 Shipley: Okay.
49

- 1 Soriano: No, we agree that Palmer is a narrow street and to allow traffic to park on both
2 sides and still allow two-way traffic is an issue that we will have to deal with as a
3 traffic committee.
4
- 5 Scholz: Thank you, Mr. Soriano. Okay. All right, may we hear from the applicant,
6 please?
7
- 8 Clifton: Good evening, Mr. Chair, members of the Commission, Staff. Thank you. For
9 the record, my name is Kirk Clifton. I am a board member for the Las Cruces
10 Catholic School. And as part of our presentation you'll also hear from Dr. Karen
11 Trujillo, the school principle and Mr. Dan Schneider, the board president. Just
12 real quick, again, I think we pretty much know where the location of the church is
13 by now, Miranda adjacent to the intersections of Ethel and Palmer. And as a
14 point of clarification I would like to point out, this is an older aerial photo. Since
15 this photo was taken this house has been ironically enough demolished and this
16 is now the playground of the school. And right now we're merely storing the
17 portables in this section right here. But if approved, I'm not making any
18 assumptions, but if we were to be approved, our intention and I'll show you
19 development plan would be to place the portables in this area. Right now the
20 three portables that we have been permitted for are generally located in this
21 area. This is our middle school and this is primarily our pre-K, kinder, and
22 elementary school functions. We also utilize much of the area, parish as well.
23 Some site photos: as you can see this was looking from the intersection, I
24 believe, of Palmer and Miranda to the west, southwest. This was taken actually
25 when the portables were on site and from this angle you really can't see the
26 portables. These are behind the parish structure which is located here. Here's a
27 site plan as I previously mentioned. This is what we would anticipate the design
28 of the expansion of the school to look like with the portables primarily to the west,
29 northwest corner of the property. And again, the three portables that we're
30 permitted for are not shown on this plan. It's a separate development plan from
31 what this would be considered.
32 And at this point, what I'd like to do is turn it over to Dr. Trujillo to talk
33 about the school history and some of the details of the school, the needs that we
34 face as a school, and then I'll jump back in and discuss with you the merits of the
35 variance. Thank you.
36
- 37 Trujillo: For the record, Chairperson Scholz, and members of the Commission, my name
38 is Karen Trujillo and I'm currently the acting administrator at Las Cruces Catholic
39 School and have been for the past three years. So some historical
40 documentation about the school, similar to what Mr. White presented to you
41 earlier; St. Genevieve's parish was the first location of Holy Cross Catholic
42 School which was instituted in 1927. The first eighth grade class of Las Cruces
43 Catholic School which was then known as Holy Cross graduated in 1933 and by
44 1958 the school at the St. Genevieve's site, which was downtown, grew to over
45 300 students and that's when Immaculate Heart of Mary opened their school site
46 in 1957. In 1962, Holy Cross School moved to the current site and has been
47 operating there for the past 47 years. And up until 2000, Holy Cross School and
48 Immaculate Heart of Mary operated as two separate entities. In 2001, they
49 joined under a single board of directors and consolidated to be known as Las
50 Cruces Catholic School which is what we are known as currently.

1 During that same time, LCCS consolidated into its own private non-profit
2 organization separate from the dioceses, and that's just a point of clarification for
3 the Board and for the City. Again, talking about how long we've been at the Holy
4 Cross site, but presently we serve students from pre-kindergarten, so age three
5 through 10th grade this past year, and we are an accredited school, pre-K
6 through 12 and we do have a state license to preschool program as well. We
7 have been operating with high school students on campus. However, that has
8 been very minimal numbers up to this point; the largest number of high school
9 students we've had is 12. We currently have 11 students registered for the 2009-
10 2010 school year.

11 It was never the intention of LCCS for Holy Cross to be a permanent
12 location for a high school. However, with 10, 11, 12, even 25 students
13 establishing a high school on a separate location is just not financially feasible.
14 In order to do that we would need to have an enrollment of 50 to 60 high school
15 students for them to become operationally feasible on a separate location. The
16 estimated time that this would occur would be in 2014 or 2015. So we have
17 between ... projection between five and six years from now. And the reason for
18 that is that we've decided that we're adding one grade at a time. You can't just
19 okay we're opening a high school and we're going to do it nine through 12 and 50
20 people are going to come. So we've just kind of tried to maintain the students
21 that we currently have and adding one grade level at a time. So that explains
22 why there were up to 10th grade last year and we have two juniors which will be
23 on campus this coming year.

24 This past school year we had approximately 295 students and I went
25 back and counted the actual number of families, that's 232 families, taking into
26 consideration siblings and sibling pairs, and 46 staff members, between both the
27 school and the church. And this is important to note because the 232 families
28 that are represented by the students, those are people who come in drop of their
29 children and leave. They don't come into the site, park all day and stay and then
30 leave. The only ones that come and, you know, stay on site on any given day
31 would be the staff members. Assuming the current rate of growth which up to
32 this point had been between 20 and 25 students per year, the maximum capacity
33 of the site would be reached in 2015 which as you notice would coincide with the
34 high school students being moved off campus. And we would continue to
35 operate LCCS at Holy Cross as a pre-K through 8th grade campus after that
36 time.

37 The goal is to have two classrooms of students at each grade level. And
38 assuming the same student family ratio, this would represent approximately 339
39 families. Historically Holy Cross or Las Cruces Catholic School did have up to
40 350 students enrolled in a single school year and one of the arguments that
41 comes up that as well, if you've had 350 students there with the space you have
42 now, why can't you do that again? At that time, the library was serving as three
43 classrooms; there were classrooms or spaces in the church that were serving as
44 classrooms; and as a result programs suffered. And people leave, you know if
45 you're not providing a quality program and kids are crammed into a place, then
46 people are going to say, "Well, I can get this type of education for free down the
47 road. I'm not going to pay for this." So as a result that enrollment dropped from
48 350 all the way down to at one point 189 and we've been building ever since.

49 If you look at the use of the portables, really the temporary use of them ...
50 only four of them would be temporarily used for high school classrooms. Right
51 now we're looking for extra room for our aftercare program which also serves not

1 only our students, but students from all over Las Cruces including Alameda
 2 Elementary; currently running a summer program that serves students from all
 3 over Las Cruces. A band room which is currently practicing in the church, but on
 4 any given day when there's a funeral or an activity going on in the church they
 5 don't have a place to be. A sufficient chemistry or science lab, we do have a
 6 science lab in our middle school, but in order to have a chemistry, physics class,
 7 you do need to have special accommodations for, you know, a gas input, water
 8 running, all of those things. And then office and locker space for middle and high
 9 school students. Like again using all of the space that we have, our computer
 10 lab is currently in the library, so also offering space for that as well.

11 If you look at our projections for enrollment, if you look at the highlighted
 12 area, that basically represents when high school students would be moved off
 13 site to a separate location. And looking at if we're at a maximum capacity with
 14 two classrooms at each grade level, it would maintain between 432 and at a
 15 maximum of 450 students which would be comfortable at the site with the ability
 16 to provide quality instruction and programs. However, I would like to also note
 17 that our current registration for the 2009-2010 school year we're probably right at
 18 280. Will we reach that 328? No, probably not. We'll probably end up right at
 19 300, where we were at this past year due to the economy and lots of other
 20 things. We're not able to open a fourth preschool classroom, so all of that, you
 21 know, again these are very generous projections. So based on that, we're
 22 looking at really pushing out the maximum growth instead of 2014-15 to probably
 23 more like 2016-17.

24
 25 Scholz: Okay, are you through with your presentation?

26
 27 Trujillo: I'm through with my part.

28
 29 Scholz: Good, yes, well, I want you to stand for questions so we don't have to keep
 30 people popping back and forth. Yes, Commissioner Evans.

31
 32 Evans: Yes, Chairman Scholz, you know earlier you had stated that you were looking at
 33 a five to six years, you know, that you would be in those facilities and then you
 34 would be moving on to another location.

35
 36 Trujillo: Right.

37
 38 Evans: So I notice in your graph that you had out to, you know, you're looking at 10
 39 years.

40
 41 Trujillo: Well right here the highlighted area, the high school students, that would be
 42 when they were off site. So here when we have 20, 10, 15, and 10, those
 43 students would at that point be located at a different place. So the 432 number
 44 only represents students pre-K to 8th grade.

45
 46 Evans: Okay, thank you.

47
 48 Scholz: Commissioner Beard.

49
 50 Beard: What would be the total number in the out years?
 51

- 1 Trujillo: Commissioner Beard and Chairman, in the out years the total number we're
2 looking at between 432 and at a maximum of 450, but we're realistically 432 with
3 20 students in each classroom, pre-K through 8th grade. There would be on
4 year right here let's say just for arguments purposes at 2013-14 before the high
5 school students are moved off site, that maximum number right there would be
6 447. But after the high school students are removed from the campus and it
7 becomes again pre-K through 8th, we're looking at about 432.
8
- 9 Beard: Okay.
- 10 Trujillo: That's a sustainable number.
- 11 Beard: Okay.
- 12 Scholz: Commissioner Crane.
- 13 Crane: Do I understand then that the green highlighted figures there are not included in
14 this 432 at the bottom?
15
- 16 Trujillo: Yes, sir. They are not included in that 432 at the bottom.
- 17 Crane: Okay, now you're asking us to accept that you will move the high school out after
18 2014 but you're really not in the position to make that assertion because you're
19 doing so depends on whether it's ... such a move would be economically viable,
20 right? So you could in fact have those people on the campus. So if we want to
21 be very conservative we should add the 20 for each grade into that 432.
22
- 23 Trujillo: No, because I do think right here if we're looking at ... and that's why we're kind
24 of looking at the leeway between 432 and 450, but once we do hit a number and
25 that comfortable number for a high school to be sustainable on its own financially
26 and operationally and otherwise, it would be between 50 and 60 students. So
27 what happens whenever that occurs? Whether that's in 2014 or 2015, that's yet
28 to be determined.
29
- 30 Crane: Okay, another point is you're looking at getting permission to have eight or nine
31 portables in each which could have 30 students in it. But you are planning to
32 distribute those students if the portables fill up between all the number of different
33 grades?
34
- 35 Trujillo: I'm sorry to be so ... Commissioner Crane, and Chairman Scholz, right now if you
36 look at the use of the portables, I'm going to go ahead and go to some of the
37 previous, only four of them ... the three that have already been approved
38 eventually will be used as preschool classrooms, and when we say three
39 buildings, it's three buildings but its four classrooms. Actual classroom space will
40 only be used by four portables. The rest of them will be aftercare, band room,
41 office, locker space, and the chemistry lab is included in this one as well. So
42 actual, you know, free standing classrooms where there are kids in them all day
43 would be the four.
44
- 45 Crane: So that would be if you packed them in there would be 120 kids?
46
47
48
49
50
51

1 Trujillo: A 120 kids into?
2
3 Crane: Four classrooms, 30 apiece, or is 30 too high?
4
5 Trujillo: No. Yeah, 30 is definitely too high. I mean we're looking at ... I mean at the high
6 school level right now we have classes of two and five. So, you know, right now,
7 but if you go back and you look over here, let's see, right here we're looking at
8 once we get to even 20 students in each grade level, you know, I don't anticipate
9 that it's going to be more than 20 ever at this site.
10
11 Crane: Thank you.
12
13 Scholz: Okay, Commissioner Beard.
14
15 Beard: The 432, how many staff and administrative increase what would you have at
16 that time over the 46?
17
18 Trujillo: At that point, okay, see now I have to count, see that's not very fair. The 46 right
19 now includes two classrooms up through second grade, so those would be two
20 classrooms up through ... an additional probably five to six staff members. It
21 really is not very much because you're looking ... this coming year the 46 staff
22 members includes three preschool classrooms fully staffed; two kindergarten,
23 two first grade, and two second grade. So the additional staff would be an
24 additional third grade teacher, fourth grade teacher, and fifth grade teacher.
25 Because middle school staff right now is serving both middle and high school and
26 a lot of people are part time, so they come and go at different times of the day.
27
28 Beard: Thank you.
29
30 Scholz: Okay, other questions? Commissioner Shipley.
31
32 Shipley: Excuse me, Dr. Trujillo, I guess on page three of your presentation it has in there
33 that you're saying that you're not going to move the high school until reaches 60
34 to 80 students, yet earlier you told us it was 45. Forty-five to 50 was the viable
35 number, so ...
36
37 Trujillo: I think right now we're looking at ... I'm sorry Commissioner Shipley and
38 Chairman Scholz, we're looking at 50 as kind of that break point. So anywhere, I
39 know at some points it's between ... in the past between 45 and 60, but in
40 general we're looking at 50 as kind of being the viable number.
41
42 Shipley: I guess I'm just questioning the inconsistency because 45 to 50 are acceptable
43 and I think that's reasonable. But when you say 60 to 80 in your presentation ...
44
45 Trujillo: Where was it that said 60 to 80?
46
47 Shipley: Page three.
48
49 Trujillo: Slide three?
50

1 Shipley: Page three under Holy Cross Church and Holy Cross traffic evaluation it's got 60
2 to 80. Maybe that was just because ...
3

4 Trujillo: And that could have been ... generally we're looking at 50 to 60. I would
5 disregard the 60 to 80.
6

7 Scholz: Okay. Another question? All right, I have two. You said that the school is
8 currently using the church. How is that done?
9

10 Trujillo: The church right now, well we use the church because we go to church on
11 Wednesday morning.
12

13 Scholz: Well, of course.
14

15 Trujillo: The church, the band program right now is using the church as a classroom. In
16 the past our afterschool enrichment programs have also been using the church,
17 the gathering space, the liturgy room, but they cannot serve as classroom space
18 because they're not ... there are no windows, they're not large enough, but right
19 now it is being used daily by the band program and we do have of our 300
20 students, we have 55 students that are currently participate in the band program,
21 so that's 5th grade all the way through high school.
22

23 Scholz: Okay.
24

25 Trujillo: And this next year that'll go up to probably 70 to 75 students.
26

27 Scholz: Do you use your sanctuary for programs then too?
28

29 Trujillo: For programs and presentations, yes, sir.
30

31 Scholz: Good, okay. Thank you.
32

33 Trujillo: And we will continue to do so.
34

35 Scholz: All right. Any other questions? Yes.
36

37 Evans: Going back to your projections. It was 430 projection out to what was that, 2013,
38 and that's with the zoning change and getting the additional facilities.
39

40 Trujillo: Yes, sir.
41

42 Evans: Assuming that, you know, hypothetically, if this variance wasn't approved, would
43 you have capacity within your given facilities to expand?
44

45 Trujillo: No. Not to a place where we would have two classrooms at each grade level.
46 And then you become, you know ... I think that the misunderstanding is that our
47 rate of growth is happening at the top, like at the high school level, but really our
48 growth is happening from the bottom level. So, we've got, you know two
49 kindergarten classes, two first, two second, then at what point do you say, Okay,
50 well, never mind. You can't come back next year even though you've been here
51 for three years" kind of situation. Could we make do? Probably for a year or two,

1 but in five or six years down the road you either cut programs significantly, you
 2 can say, "Well, okay, we can't have a band. We can't have a computer room any
 3 more. We can't have aftercare because we have to utilize all of those spaces as
 4 classrooms," but then you end up in the original issue of then you don't offer
 5 quality programs and then you lose enrollment and then you don't need the
 6 space anymore because you don't have the kids, the students.

7
 8 Evans: Right, just for clarification, your personnel could increase to the 430 if you cut out
 9 some of the programs and then, you know, you would still have the same
 10 population attending that church in 2013.

11
 12 Trujillo: Potentially, yes. We could still ... yes. Without any additional space could we
 13 make do? Yes, we could. And the growth would still happen.

14
 15 Evans: Okay, thank you.

16
 17 Scholz: All right. Thank you very much.

18
 19 Trujillo: Thank you.

20
 21 Scholz: Mr. Clifton.

22
 23 Clifton: Thank you, Mr. Chair, thank you, Dr. Trujillo. Article II section 38-10 of the 2001
 24 Las Cruces Zoning Code as amended, states under section J criteria for
 25 decisions: The variance shall be the minimum necessary for relief in order to
 26 accomplish the stated objectives of the applicants request for demonstrable
 27 hardship. Hardships are not considered personal or monetary. In addition to the
 28 criteria already referenced decisions may consider 1) a physical hardship relative
 29 to the property; for example topographic constraints or right-of-way takes
 30 resulting in reduced development flexibility etc. in question. The variance of our
 31 specific request, why we're here tonight, the Las Cruces Catholic School has
 32 been legally operating for 47 years, since 1962 at this site, well prior to the
 33 present Zoning Code which requires schools be located on Collector roadways,
 34 even prior to the 1981 Zoning Code where that first showed up requiring these
 35 types of school facilities be located on that type of facility. City staff requested
 36 LCCS submit a variance to address this conformity issue relating to the
 37 placement of nine additional portables.

38 There is a numerical deviation to the Zoning Code regarding the right-of-
 39 way width which could be considered or is considered a physical hardship.
 40 Miranda is presently classified as a Local road. The right-of-way width actually
 41 varies 50 to 55 feet. It's really kind of inconsistent along that entire stretch due to
 42 probably previous development activities, construction of the apartments, and
 43 some City property directly across from the parish. Las Cruces Catholic School
 44 is seeking a 35-foot deviation from the required right-of-way width, again a
 45 physical hardship. Granting of the variance would allow the placement of these
 46 nine additional portables to address the existing student population. The high
 47 school not to exceed 60 plus students over the next several years. This is *not*
 48 to be the permanent location of the high school as Dr. Trujillo previously stated.
 49 There are presently 11 high school students enrolled in the upcoming school
 50 year.

1 This slide is actually a little bit out of date because I guess we could add a
 2 Planning and Zoning Commission hearing, but there have been two
 3 neighborhood meetings, Planning and Zoning Commission meeting. Mr. Soriano
 4 did state that I believe we're going to have some neighborhood traffic committee
 5 meeting I believe next week. The most recent meeting with the public was
 6 conducted by the City of Las Cruces Traffic Engineering Department and was
 7 held back on May 13th of 2009. Las Cruces Catholic School has agreed to
 8 stagger school start times from that of Alameda Elementary. And again, we'll
 9 ensure that all the students will be picked up and dropped off on the site. And
 10 again, we'll provide congestion monitors in the morning and the afternoon to
 11 ensure that parents aren't on the streets dropping off students; that they continue
 12 into the parking lot, drop off the students, and exit as rapidly as possible. This is
 13 a very similar occurrence with many elementaries, in fact, one I can particularly
 14 think of Highland Elementary where this very activity occurs. They have teachers
 15 in the parking lot directing traffic quite affectively actually.

16 And LCCS will comply to the City staff's recommendation of the
 17 landscape buffer. And at this point I would like to turn it over to the board
 18 president, Mr. Dan Schneider. And lastly, Jerry Paz our professional engineer
 19 will be.

20
 21 Scholz: Yes, we certainly want to hear from the engineer. Could you stand for questions
 22 just a moment? I'm sure there are some. No, okay. I just had one. How many
 23 parking spaces are on the premises?
 24

25 Clifton: If you could give me a moment, let me confer with Dr. Trujillo.

26
 27 Scholz: Sure.

28
 29 Clifton: Mr. Chairman, Commissioners, approximately 180 to 200 existing parking stalls.
 30 There is actually the main parking area for the parish that the school utilizes
 31 during the day.
 32

33 Scholz: Yes, I don't see much separation between the two frankly. How many seats are
 34 there in the sanctuary, do you know?
 35

36 Clifton: A very good question, Mr. Chair.

37
 38 Shipley: Here comes the answer.

39
 40 Scholz: And someone has answer for it.

41
 42 Clifton: 550 seats in the parish.
 43

44 Scholz: Thank you very much. Okay, my other question was about the aftercare program
 45 and perhaps I should have asked Dr. Trujillo that, what are the hours and what
 46 are the numbers on the aftercare program?
 47

48 Trujillo: That's okay, Chairman Scholz, the aftercare program is open until, we actually
 49 open at 7:00 in the morning, so for pre-care, before school starts and it operates
 50 until 6:00 in the evening, when it closes. And as far as numbers of students,
 51 during the school year there's probably between 90 and 120 students on any

1 given day. Because some students are full time, that are there all, you know,
 2 every day after school and then some that are just there part time. So that tends
 3 to alleviate the traffic in the afternoon because those students stay and are not
 4 picked up by their parents until they get off from work. So that pickup time in the
 5 afternoon, by 3:07 the parking lot is empty of all of the parents picking up their
 6 children and the rest of the children are there for aftercare, after school activities.
 7

8 Scholz: Thank you.
 9

10 Schneider: Mr. Chair, Commission, and Staff, my name is Dan Schneider. I'm the present of
 11 Las Cruces Catholic School Board. I have a couple of slides to go through with
 12 you, go over with you. In the public commentary and the local press we've had
 13 some comments and you will hear some of the following comments tonight as
 14 well as last sessions'. The first is that Holy Cross church and school have been
 15 given special treatment by the City of Las Cruces. That fact is Holy Cross
 16 Church has followed the rules and laws of the City in applying for permits and
 17 expansion throughout their existence since 1962. At this time Holy Cross Church
 18 and School are legal nonconforming entities since the rule change in 2001.

19 Number two: LCCS is building a high school on a Non-Collector road
 20 which is illegal. LCCS is not building a high school. High school students are
 21 being educated at the current site until there are a sufficient number of students
 22 to be self supporting entity at another site in the future. Regardless of the
 23 presence of high school students, which is now at 11, the portable classrooms
 24 will simply enhance our current programs. I need to make that very clear. The
 25 portables will simply enhance our current programs.

26 Number three, LCCS is aggressively advertising for expansion and
 27 increase enrollment. This is not necessarily true. LCCS must advertise as a
 28 private institution to maintain enrollment, ensure a measured growth. Due to the
 29 fact that we are privately funded, it is necessary that we have sufficient number
 30 of students to meet our operational costs. The fact is here in three B our
 31 advertising budget is currently around \$10,000 which is less than 1% of our
 32 operational costs.

33 Another objection: why doesn't LCCS move some or all students over to
 34 IHM, Immaculate Heart of Mary or some other campus? First LCCS has
 35 explored this as an option but financial and operational constraints make this
 36 impossible at this time. Second, LCCS and IHM as a reminder are two
 37 completely and entirely separate corporate entities.

38 Number five: why doesn't LCCS bus their students or have parents drop
 39 off students at the parking lot and drive them in? LCCS serves students
 40 throughout Doña Ana County. We get students from Anthony, White Sands,
 41 Hatch, and bussing is not necessarily feasible or even possible for a private
 42 school financially.

43 Number five B: a designated drop off in a public parking lot would not be
 44 responsible or safe for our students and for our accountability.

45 And letter C: LCCS encourages carpooling from our parents and most of
 46 our parents do in fact carpool their students.

47 Why did the school purchase portables and move them to the site without
 48 permitting from the City? The portables were not being used ... are not being
 49 used and we are in the process of securing permit for this project. The CID
 50 typically gives up to one year for schools to stage portables while securing their
 51 local permitting.

1 Number seven: Holy Cross Church and Las Cruces Catholic Schools
2 should have a master plan instead of doing these things in pieces. The response
3 is Holy Cross and LCCS do have established plans for the future that are
4 contingent upon funding, authorization from the City, and the generosity of the
5 church and the school community. However, at this time it is not feasible to seek
6 permitting and variance approvals for buildings that might take place five years
7 from now.

8 Number eight: the entire neighborhood is upset with Holy Cross and
9 LCCS. As you read the letters and listen to the commentary, please make note
10 that many of the residents are from Palmer, Ethel, and Miranda, are involved.
11 These are residents directly affected by the church and school, yet you will hear
12 commentary and read letters from residents from Reymond, Linda Vista, and
13 other neighborhoods which are not directly affected from a traffic perspective by
14 this variance in any way. Many if not most of the residents live in a mutually
15 respectful relationship with the church and the school.

16 Number nine: the traffic is unbearable and parents and parishioners are
17 dangerous. This traffic is a safety issue because of the narrow streets.

18 Nine A: the fire department emergency vehicles need 20-feet of
19 unobstructed clearance to reach the church and school. If the vehicles are
20 parked on one side of a 50-foot roadway, there is ample clearance. The parents
21 of our students drive in and out during two 15 minute periods of the day,
22 otherwise there is minimal to no church or school related traffic in any of the
23 affected roadways during the week. The buildings under consideration will
24 enhance the programs and not in and of themselves increase current traffic or
25 enrollment again. We're using them to increase, enhance our program. And I
26 would also refer you to the City's TIS findings. In addition, for the parking, we're
27 going to move the parking drop off to the church campus or the church parking
28 lot which is significantly larger to minimize any back up that's occurring right now.

29 Number ten: when are Holy Cross and LCCS going to move? We need
30 to be clear that Holy Cross and Las Cruces Catholic School are not moving nor
31 do we intend to move. We will continue our use of the property to which the
32 portable buildings will enhance our programs and allow us to continue to offer
33 opportunities to our students similar to those in the public schools, such as band,
34 technology, state of the art science labs, etc. As a school, there is always a need
35 to update current facilities in order to maintain quality programs to serve our
36 community. Even with the expansion, the goal for LCCS is to have two
37 classrooms at each grade level and a maximum number of 450 students. Using
38 our current projections, this will or could occur between 2015 and 2018.
39 However, due to the economy we have experienced a decrease in enrollment for
40 the next school year instead of the projected 8% growth. The traffic study
41 presented by the engineer and confirmed by the City Traffic Engineer clearly
42 shows that even if Holy Cross Church and Las Cruces Catholic School grows
43 significantly they will still be in compliance concerning traffic, as far out as 2029.

44
45 Scholz: Thank you, Mr. Schneider. Would you stand for questions please? Okay,
46 questions for this gentleman? I have three. On point four B, I thought that Las
47 Cruces Catholic Schools was a merger of Holy Cross and Immaculate Heart of
48 Mary. That's the impression I got. Isn't that true?

49
50 Schneider: Yes, there was a merger.
51

- 1 Scholz: Well, you suggested there that they were separate entities. I thought they're all
2 one.
3
- 4 Schneider: The churches are separate entities.
5
- 6 Scholz: Oh, the churches are separate. Okay.
7
- 8 Schneider: The schools were separately incorporated around the same time.
9
- 10 Scholz: Thank you very much. Okay, on five B we were told that all the drop offs would
11 be done in the parking lot. And you point out how dangerous this to have a
12 public parking lot with drop offs. I'm confused here.
13
- 14 Schneider: No, offsite parking. It was suggested by some of the residents that we should do
15 offsite parking and bus our students over but that is not financially feasible and
16 we feel that that is not a safe condition for our students as well; to drop them off
17 at an offsite location and then bus them over to the property.
18
- 19 Scholz: Oh, I see. You're talking about a public parking lot as an offsite location.
20
- 21 Schneider: A public parking lot that somewhere that we have no direct control of.
22
- 23 Scholz: Fine. Thank you.
24
- 25 Schneider: As a legal corporation.
26
- 27 Scholz: Right, obviously you don't. And on nine A you say that there's plenty of room on
28 Miranda for what was it, for fire department and things like that. Isn't parking
29 allowed on both sides of Miranda right now?
30
- 31 Schneider: Yes, parking's allowed on both sides of Miranda. If you park on both sides of
32 Miranda the bullet point is trying to make, Mr. Commissioner, is that according to
33 the fire marshal you still have proper clearance for any fire vehicles to go up
34 Miranda, even if both sides of the street are completely full.
35
- 36 Scholz: Okay. Thank you very much. Other questions for this gentleman? Okay. Can
37 we hear from Mr. Paz?
38
- 39 Paz: Good evening, Mr. Chairman, members of the Commission. My name is Jerry
40 Paz and I'm a registered professional engineer, licensed in the state of New
41 Mexico. My background is in traffic and transportation. I've been involved in the
42 planning, design, and construction of over \$150 million of public roadway
43 facilities, interstate, highways, local roads, interchanges, so I've got that
44 background in this field.
45
- 46 Scholz: And you were hired by the dioceses to make this study, is that correct?
47
- 48 Paz: Yes. I was contracted by the school, Las Cruces Catholic School to prepare this
49 investigation.
50
- 51 Scholz: Right. Do you have any other connection with the school, Mr. Paz?

1
2 Paz: Yes, I do. I have ...
3
4 Scholz: Since we're doing disclosures today.
5
6 Paz: Two sons that attend the school.
7
8 Scholz: Thank you.
9
10 Paz: And this work was pro bono to the school.
11
12 Scholz: Okay. Thank you very much.

13
14 Paz: Again, this traffic study was reviewed and approved by the City. Mr. Soriano
15 doesn't, in my experience, rubber stamp any reports. He goes through it; didn't
16 approve it the first time. We made some corrections, adjustments, and added
17 information that he requested and negotiated that in his approval through the
18 process. Again, Parker Road is classified by Las Cruces MPO as the nearest
19 Collector street.

20 Some points I wanted to make with respect to the traffic analysis and
21 again we sat down prior to the commencement of this study with Mr. Soriano and
22 tried to scope what type of investigation we would do. And we looked at Miranda
23 as the road that fronts it and impacts to all intersections that are affected on
24 Miranda, which included Palmer, Ethel, and Parker. Miranda itself is 33 feet wide
25 from face of curb to face of curb. We looked at the incremental counting times,
26 projections, and what we did was look at a community at Holy Cross both church
27 and school. We didn't limit the scope of our investigation simply to the school,
28 what the school plans are, what the events that are occurring at the school itself.
29 We looked at it as a campus. So we included estimates and projections for the
30 church as well. So that we would have what we believe is more of a
31 comprehensive approach to this and disclose what impacts those would have in
32 the future. We believe that the way we growth up the projections both 50% from
33 the school and 30% from the church, it reflects a robust and growing community.
34 You see many churches that are dwindling in size, but this church ... you see
35 other Catholic churches that get smaller in size and enrollment, but this particular
36 church for whatever reason has been very robust. It's growing. It's a vibrant
37 place. And I think that our projections reflected that nature of this particular
38 institution.

39 To that end, we looked at above and beyond what the typical TIAs review.
40 The typical TIAs look at a.m. and p.m. peak. And we probably could have
41 submitted a report that looked at that. It would comply with all of the City
42 standards, but we went above and beyond that. We looked at early morning
43 hours because we wanted to capture the drop off hours. We looked at all the
44 way into the evenings because there are religious education classes, there are
45 choir groups, there is bingo, there are scouts, there are a lot of activities that are
46 occurring in the evening hours. So we went beyond just the a.m. and p.m. peak
47 and we went early morning, we went late into the evening, so that we made sure
48 that the data that we obtained and captured was more comprehensive than is
49 normally required.

50 In addition, we looked at Sundays. We looked at the times of the masses
51 to capture what is occurring on Sundays and you'll find that there were some

1 peaks that occurred within that network on Sundays, rather than the a.m. and
 2 p.m. peak that we would not have seen had we followed the normal City TIA
 3 process. So we felt like this investigation was above and beyond what you would
 4 normally see in any other report, both in its review of the church and the
 5 extended hours that we counted. To that end, Palmer and Miranda Streets:
 6 Palmer itself is the street where there are a number of residents here. It's 28-foot
 7 6-inches face to face of curb. And when we looked at the worst case scenario of
 8 a.m., p.m., Sundays, we found that it functioned at a level of service A both for
 9 the 2029 year and also for the ... for the current year 2009 and also for the
 10 projected 2029 worse case scenarios. Again the turning movements for both
 11 worse case scenarios, the a.m. peak and the p.m. peak are the diagrams are
 12 shown there. And both had a level of service of A.

13 The Palmer Street of all three intersections evaluated had the lowest
 14 traffic volumes identified. Ethel and Miranda and, I think, Commissioner Crane,
 15 this is where you had questions on, Ethel is the widest of all the streets that were
 16 evaluated. Again, it was 39-foot 6-inches from the face of curb. And for the
 17 current year, 2029, this occurrence had a level of service A for the a.m. peak and
 18 a level of service A for the p.m. peak. We also looked at ... when we looked at
 19 the future projections, we looked at Ethel and Miranda Streets and the worst
 20 combination actually did occur during a Sunday mass. So it didn't occur during
 21 the school hours, which is kind of interesting, because Ethel is the street that
 22 fronts and directly center on the school property. But the worst traffic occurred
 23 during a Sunday mass and then the projections that were growthed up from that
 24 also reflected the Sunday mass counting.

25 On Parker and Miranda Street: Parker is also 29-foot 6-inches from the
 26 face of curb to face of curb. Parker is functionally classified as a Collector
 27 between Valley Drive and Alameda. This intersection had a level of service A for
 28 both the a.m. peak and the p.m. peak. The p.m. was the worst case of the two
 29 and then it had a level of service A for the 2029 year projections. And I also
 30 stand ready for questions.

31
 32 Scholz: Okay, questions for Mr. Paz? Commissioner Shipley.

33
 34 Shipley: Mr. Paz, thank you for your presentation. I just want to clarify a couple of things.
 35 You did a traffic count on one day?

36
 37 Paz: The traffic count was actually spread out over three days.

38
 39 Shipley: It says in here that it was done on 03/15 for mass.

40
 41 Paz: Yes.

42
 43 Shipley: And it was done on 03/10 and 11 for Palmer and Miranda school days, CCD, and
 44 night. And that's ... evidentially that's one day isn't it? Is it 03/10 or is it 03/11?

45
 46 Paz: It's both. We did some in the morning and some in the evening.

47
 48 Shipley: And then you combined them in the same category? In other words from 6:00 to
 49 7:00 a.m. on which day, 03/10 or 03/11, did you do a traffic count?

50
 51 Paz: Which figure are you looking at, sir?

- 1
2 Shipley: I'm looking at a count of two on ... in Appendix A the first page. It has Palmer
3 and Miranda mass Sunday in the morning where it says 03/15/2009.
4
5 Paz: Yes.
6
7 Shipley: Starting at 7:00 going to 2:00 p.m.
8
9 Paz: Yes.
10
11 Shipley: Okay. And then in the next column down or the next row down it has Palmer and
12 Miranda school day, CCD night, shows 03/10-11/2009.
13
14 Paz: Yes.
15
16 Shipley: So you did one basically day.
17
18 Paz: We did the morning on one day and the afternoon on another day.
19
20 Shipley: Well, I mean, if this is, you know if I were ... I'm not a statistician but if I were a
21 statistician, you don't have enough data here to be specific. I mean you pick one
22 day and then you want to infer what's going to happen in 2029. You know if you
23 did you know three weeks of data or a month's worth of data, then you might
24 have something that could average out and make a bell curve and correlate.
25 You give me, you know, standing count corner on the corner and count cars one
26 day and say that's what happens every day that may not be true. This may be
27 either greatly exaggerated or greatly under exaggerated. So what I'm saying is,
28 you know, garbage in is garbage out. I don't know if I want to believe this or not.
29 And no disrespect to you, and what you're trying to do for your school, I
30 appreciate that. I'm just trying to say when we're trying to make a decision we
31 want to make sure that we're making a good sound decision. And if you're not
32 giving us accurate data, we're just kind of wishing in one hand and hoping in the
33 other.
34
35 Evans: Mr. Chairman.
36
37 Paz: Mr. Chairman, Commissioner Shipley, if I may reply?
38
39 Scholz: Yes, Commissioner Evans.
40
41 Evans: I'm a little concerned that, you know, I would hate to get into the role of designing
42 by committee. You know he's a professional engineer. The City Staff has
43 reviewed it, you know, based on their standard and national policies. I guess this
44 is more of a question for City Staff, if they feel comfortable with the data that's
45 been presented to them, and the fashion that's it been presented to them to
46 make a professional evaluation from the City.
47
48 Paz: Mr. Chairman, Commissioner Shipley, what we do is ... everything we did is in
49 accordance with the procedures that the City outlined for us and our initial
50 conference with them. There are restrictions on when you count cars. You don't
51 count cars on weekends. You don't count cars during a major event. You don't

- 1 count cars on Mondays. You don't count cars on Fridays. Statistically this is a
2 process that has been developed when obtaining data and we complied with all
3 the guidelines that are in place for when and times for that. And again, our hours
4 of counting were above and beyond that which is required by the standards. So I
5 would just say that we followed acceptable engineering standards and that we
6 went above and beyond that.
7
- 8 Scholz: Okay. Commissioner Crane.
- 9
- 10 Crane: You're right, Mr. Paz, I do have problems with the data on that intersection, but I
11 think if you're interested we should discuss it privately. It's too detailed to go into
12 here. I have another question. You showed a minute ago that Miranda was 33-
13 feet curb to curb. What does a traffic engineer consider the width of the parked
14 car to be?
15
- 16 Paz: A car is six-feet wide.
- 17
- 18 Crane: Six feet. Okay.
- 19
- 20 Paz: A parking lane as Mr. Soriano had indicated, is generally nine feet wide.
- 21
- 22 Crane: Okay, if they park both sides of Miranda that's 12 feet of cars, deducted from 33,
23 is 21 feet, which is one foot over what the City requires to drive a fire truck
24 through. Thank you.
25
- 26 Paz: I would also say that on Miranda Street across from the church the City did stripe
27 it yellow to eliminate on street parking on the east side of the street.
28
- 29 Scholz: Okay, Commissioner Beard, did you have a question?
30
- 31 Beard: I understand Mr. Shipley's concern. The way that you're counting the cars, do
32 you have a standard deviation that goes along with that or a sigma that you can
33 put with that number?
34
- 35 Paz: Again, what we tried to do is pick a day that's representative. Okay, we don't
36 pick a summer day. We don't pick a weekend. We don't pick holidays. We don't
37 pick days where there's an unusual event occurring, for instance the funeral of a
38 prominent Catholic that happens to be at 10:00 on a school day. You pick what
39 is normally considered a representative day. And it's one day...
40
- 41 Beard: I understand that. And I'm not saying it's unacceptable at all. But is there a
42 standard deviation to it? I mean is this number like 100 plus or minus 10?
43
- 44 Paz: I couldn't give you the standard deviation on the methodology that it's intended to
45 project.
46
- 47 Beard: Okay.
- 48
- 49 Crane: Mr. Chairman.
- 50
- 51 Beard: I've got another question.

1
2 Scholz: Go ahead, Mr. Beard.
3
4 Crane: You can't do standard deviation on one data point.
5
6 Paz: But the methodology was ...
7
8 Crane: Calculate a standard deviation.
9
10 Beard: Based on his method that comes up with a particular sigma which obviously is
11 acceptable. My other questions...
12
13 Scholz: Go ahead, Mr. Beard.
14
15 Beard: I've been doing some math on students versus family, staff, and how many cars
16 there are driving in and out. And what I've come up with is there is about 55% of
17 the traffic is related to the school. Is that a good approximation?
18
19 Paz: Again, that was one of the things that we looked at from the onset because we
20 growthed up even the background data. And you can say that the infill within the
21 community is pretty much filled. But again, we were conservative in our projects
22 for the 2029 year by even growthing up the background data. So, yes, I would
23 think that it would be somewhere on that level that most of the cars are used for
24 the church and school. There is a large apartment complex there in the
25 residential area. But we looked at from a conservative standpoint to growth up
26 all of the traffic, not only the church and school use, but also the background.
27 We felt like those projections were very conservative.
28
29 Beard: Okay. So you kind of agree that 55%, close to that is, at least in the school days,
30 is related to the school. And based on the number going to 432 students and
31 extrapolating that the family out of that, that's a 143 increase, or 42% increase in
32 traffic in 2029.
33
34 Paz: And that's why we went the 50%, Commissioner Beard, is we looked at a 2029
35 50% growth over current day cars and we looked at for the church and their
36 plans for a 30% increase because it is a very large church community but their
37 uses are different. And I would also mention that the church and school are very
38 complementary with very, very few exceptions in that church is not in session
39 when school is. So when you look at typical school day the parking lots empty
40 because most of the parking was developed for the church. When you look on a
41 typical mass, on a Sunday mass, there's no school in session. So the uses are
42 not concurrent but they are complimentary.
43
44 Scholz: Okay. Any other questions for this gentleman? All right. Where is Mr. Clifton?
45 Is that the end of the applicant's presentation? I'm sorry, Commissioner Crane.
46
47 Crane: I'm suggesting a brief time out.
48
49 Scholz: A time out. A time out of what?
50
51 Crane: An adjournment for a few minutes.

1
2 Scholz: Was that the end of the applicant's presentation?
3
4 Clifton: Mr. Chairman, it is.
5
6 Scholz: It was. Okay. We'll take a 10-minute break and then we'll be back here at 25
7 minutes to 9:00.
8
9 TEN MINUTE RECESS.
10
11 Scholz: All right, we're going to reconvene if you'd take your seats, please. One of the
12 important parts of our hearings for applications and so on is the public input. And
13 what I'd like to do not to cut anyone off, but to streamline the process a little bit is
14 I'd like to follow the three minute rule. That is I want you to come up, state your
15 name, state your affiliation, that is whether you are a neighborhood person,
16 whether you are a school board member, whether you are a student, whatever,
17 and then you'll be limited to three minutes and Commissioner Beard is going to
18 use the magic timer. This is a rather primitive tool but it makes a wonderful
19 sound when it runs out. If we have questions, we want to ask you, of course that
20 could stretch the time. Commissioner Beard just told me that after the ding you
21 have 15 seconds to wrap it up. Now if you've already sent a letter to the
22 Commission, and I think some of you have, I wish you would summarize your
23 arguments and not just read the letter to us. I would appreciate that. All right,
24 who would like to go first? Yes, sir, with the nice looking shirt and striped tie.
25
26 Bloom: We're commenting on the clothes.
27
28 Scholz: Well, we were doing style earlier, you know I figured that's appropriate. And
29 besides I got new glasses so I can see people again.
30
31 Bloom: My name's Greg Bloom. I live at 1160 N. Miranda, about one half block from
32 Holy Cross. Mr. Chairman, Commissioners, let me begin by thanking you for
33 your attention to this issue and the time you're devoting to us. Our neighborhood
34 has a number of issues I would like to touch on this evening including the zoning
35 process itself, this variance request, the related traffic study, traffic
36 considerations, and more. Again, we'd like to take a moment to remind the
37 community that we support education and value the contributions that Las
38 Cruces Catholic Schools make to our community. Indeed the well spoken
39 children that addressed this forum a month ago are testament to the success of
40 Holy Cross educators, administrators, parents, and students. As you know a
41 central tenet of this nation is we have universal education for our children so that
42 the U.S. may enjoy the benefits of an educated citizenry. Ours is a nation of
43 rules and laws, laws that demand careful attention and application from those
44 that are entrusted to uphold and obey them.
45 One aspect of the case before you is that a decision to grant this variance
46 could make the Planning and Zoning Board largely irrelevant in the future.
47 Granting this variance would set the precedent denying landowners the ability to
48 grow, in and of itself is a hardship. Let me repeat that, granting this variance
49 would set the precedent that denying landowners the ability to grow as a
50 hardship. Indeed if you grant this variance and, I'm saying this half jokingly, the
51 logical next step for us as homeowners would be to request a variance for our

1 own properties that would allow us to expand our houses, maybe out to our lot
2 lines, build upwards perhaps, add multiple units, perhaps add a business of
3 some sort thereby our rent and increase the values of our properties.

4 What we're getting at here seriously is that our City's Ordinances are set
5 up to protect landowners from the designs and ambitions of others that seek
6 projects that harm their neighbor's quality of life, negatively impact their property
7 values. In this system, our system, protection trumps expansion. Variances
8 should not be granted because a business owner or home owner needs to grow
9 again, again, and again. If the landowners avoided virtually impacting their
10 neighbors through continual growth, instead look for new property that can
11 adequately accommodate their needs. An opinion of many of us gathered here
12 today, the question is not should the school and church be allowed to add a
13 preschool, add a high school, and properly bring in portable buildings, at a
14 subsequent 14,000 square foot life center, etc., etc. The question is we see it as
15 hasn't Holy Cross outgrown its property? Isn't it time perhaps to put the pre-K at
16 another school, use another church maybe to hold the high school, move bingo
17 nights, flea markets to a different church or facility, or perhaps seek new land that
18 could accommodate all these multiple uses in places that are designed for this
19 without impacting homeowners.

20 In closing, let me thank you for opposing this variance. I want to thank
21 you for upholding the protections that are important to all of us as Las Cruces
22 homeowners, and just rapidly I just want to take issue with a few of the things
23 that Mr. Schneider said in his presentation. That the school has followed all the
24 rules, well 12 portables were brought in also we don't see how pre-K is allowed
25 for more than 12 students in an R-1a. And finally the neighborhood is peaceful.
26 I've talked to six of my eight neighbors and four of the households are opposed
27 and only one is supportive of this. Thank you.

28
29 Scholz: Thank you. Yes ma'am, with the maroon top there.

30
31 Woody: I'm glad I wore clothing that was amenable to the Commissioners. Mr. Chairman
32 and Commissioners, right now you are getting some booklets that we prepared.

33
34 Scholz: I'm sorry, you didn't identify yourself.

35
36 Woody: I'm Julie Woody. I'm on the B intersection, right on the corner of Miranda and
37 Ethel for year 2029. The booklets that we are giving to you, it was our
38 understanding that the information that we were gathering that we wanted to give
39 to you in letters and what not, that this was not an open meeting and we could
40 not present it to you, unless we brought tonight. And I understand some of the
41 letters were given this afternoon, but Mr. White had not given them before, even
42 though some of them were given quite a ways back. This begins with a petition.
43 It has about 245 names on it from people that are neighbors, people that that live
44 there, property owners, and friends and family of those neighbors who are
45 requesting that you withhold the approval of this variance, looking at calling for ...
46 asking for a plan of development, a PUD, before we grant this, so we can see
47 what the total affect of the growth is going to be.

48 Next, you will notice there's a timeline of developments, there's nine
49 letters in there that I think you've just received this afternoon. And you'll note that
50 Mr. White's approval of the three portable buildings in April marks the third or
51 fourth one-time expansion use since '81. There are several points that I'd like to

1 make. Mr. White said tonight that there are two distinct properties here. But the
2 10% increase already granted on the three portables takes in the church property
3 as well as the school property. The properties are interchangeable. Also, the
4 neighborhood doesn't distinguish the traffic between is it church traffic, is it for
5 church, is it for school, who is it for? The impact on the neighborhood it clearly
6 comes from all. Allowing the 12 portables to stay expands the school by 38%
7 square footage. The last meeting we had Mr. Schneider claimed that it a modest
8 increase in space. I think 38% is a pretty large increase of space.

9 In Mr. White's recommendation that this Commission pass the variance
10 with the condition that the property owner do a PUD, we the neighbors are asking
11 you please let's do the PUD now. We need it now. We know that the life
12 center's coming. They're getting funds for it all along. We know that there's a
13 gymnasium going to be built. Let's take a look at the overall development now.
14 Why wait? With the indoor sports building that's going to be built, there are
15 specific traffic and parking for that, as well as with the other items. In looking at
16 this, make no doubt, that the extension of this is affecting our neighborhood. The
17 church seems unconcerned about the larger neighborhood and community that
18 they are in. They have seemed unconcerned about the City Codes and
19 variances that they need to establish and go by. We are very concerned. Please
20 at least let's do that PUD now. Thank you.

21
22 Scholz: Thank you. Someone else? Yes, the lady in the back.

23
24 Meyer: Good evening. My name is Linda Meyer. I live on Palmer Road. And I'm here
25 on behalf of Ms. Linda Duran who's in the audience. I'm reading what she has
26 written here. She lives at the end of Palmer Road where it stops at the Armijo
27 ditch. I live in this place since before the school and the church were built, back
28 when this was a cotton field with a farm house across from our house. I wasn't at
29 the last meeting because I'd just had cataract surgery, so thank you for letting me
30 speak tonight. Last time I watched on TV at home.

31 I want to say something about hardship. For many years we haven't
32 complained about the school or the church. This time they went too far. They
33 have these big plans for the school and for this life center and they've never said
34 anything to us. We had to start raising a lot of questions with the City before Dr.
35 Trujillo or anyone decided to meet with us and show us their plan. It's pretty bad
36 when someone thinks they can put all of their traffic in front of my house without
37 even talking to me about it. Hardship is me with their traffic. Worse still would be
38 me needing to get emergency help for me or my daughter, Mable, with school or
39 church traffic keeping an ambulance or fire truck from reaching our home. When
40 I look at the drawings showing where they want to put all of these portable
41 building, I know I would be seeing them right outside my front door and I would
42 hear the announcements over the loud speakers even more than I do now.
43 That's hardship and no one's even talking about how long those ugly buildings
44 would stay there. Maybe they'd just let them sit there like the one sitting at
45 Immaculate Heart. Thank you.

46
47 Scholz: Thank you. Someone else? Yes, sir.

48
49 Avery: Thank you. My name is Harry Avery. I live at 1155 N. Miranda which is right
50 next to Holy Cross Church. If you approve this variance you will be rewarding
51 the school for violating the zoning codes. And I don't think that's the purpose of

1 the Zoning Commission. I believe it would be exactly the wrong thing to do
2 legally, morally, and ethically. The church and the school have already sent the
3 wrong message to the students. Don't give it your stamp of approval. That's all I
4 have to say. Thank you.

5
6 Scholz: Thank you sir. Someone else? Yes, sir.

7
8 Billings: My name is Jim Billings. And I live at 421 Parker. And I can attest to the
9 church's growth over the years. I've been there for 15 years and we've noticed a
10 significant amount of traffic increase.

11 I've been asked to read a letter from another resident who couldn't be
12 here and this is it. From Deb Dennis: I'm writing from North Carolina where my
13 mother and I are getting ready to celebrate her 88th birthday. Please accept this
14 in lieu of my attendance at the June 30th meeting of the Planning and Zoning
15 Commission. In a meeting on May 20th to discuss traffic studies in this
16 neighborhood, Monsignor Anderson apologized for not being a very good
17 neighbor over the past 25 years he has been at Holy Cross parish. Despite his
18 confession, he offered no specifics on how he or Holy Cross could have done
19 better in the past or how they will do better in the future.

20 For years we've accepted the church and even joked about the Christian
21 500 on Sunday mornings and when school is in session. But in the past couple
22 of years the situation has become less and less tolerable, less safe too. For
23 example, the Palmer house which is the north part of that property that we see in
24 the aerial photographs, but is now gone, was let go to the point that it was
25 breeding place for rats and squirrels that were crossing over into neighboring
26 homes. Even since the demolition of that building, Holy Cross lets weeds grow in
27 the area until well past when we as private homeowners would be cited for codes
28 violations, sometimes two feet tall.

29 These are safety issues related to public health and fire danger. Last
30 summer we watched with amazement during irrigation season when the Holy
31 Cross property was repeatedly allowed to flood over from its southwest corner at
32 the Armijo Lateral clear through to the corner at Palmer and Miranda. In one
33 case, the flooding was so bad that water was flowing through long stretches of
34 the rock walls and draining throughout the neighborhood for several days. Since
35 no one lives on the property, response to problems like this is always slow. At
36 the moment the Planning and Zoning Commission has some leverage because
37 you have something Holy Cross wants: approval over those portable buildings. If
38 you give your approval with no conditions, you'll lose that leverage and our
39 neighborhood will lose an opportunity to slow down the church's encroachment
40 on our lives. Please help us now, not later as suggested by Mr. White. Please
41 demand a Planned Unit Development from the dioceses of Las Cruces before
42 granting any favors, including this variance. Thank you.

43
44 Scholz: Thank you sir. Someone else? Yes, ma'am. Yes, you just raised your hand.
45 Come on down.

46
47 Thornberry: Good evening, my name is Leslie Thornberry, and I'm a very long time resident
48 of the Palmer Road area. I was going to ... I had this prepared thing all ready,
49 but seeing as how this is a new meeting, because I was so confused since the
50 first time that we received a notice of this meeting that it said one thing
51 completely and then all of a sudden I received the second letter and it was on

1 something else completely different. First of all, it was on the road then it was on
2 the portable buildings that were brought on and the expansion of those buildings.

3 During the last meeting that I was here, I noticed that everybody was
4 very, very interested in traffic, which I think is one of the very biggest things that
5 we're talking about here, is the traffic patterns. Traffic is unbearable now. I don't
6 care if you're going 15, 20 years into the future and all of that. It is unbearable
7 now. There are times I cannot drive out of my driveway. I try to get to ... I used
8 to teach an 8:30 class out of the Community College and there were many times
9 if I wasn't out of my driveway by 7:15 at least, I could not get out of my driveway,
10 and then onto Alameda because of Alameda Elementary, which also shares our
11 area. Okay.

12 I am going to talk about the traffic study. I probably wasn't. This is not
13 what I was going to talk about. But I'm very upset about it because when the
14 counters were put in, they were put in at the very end of Palmer Road, right
15 almost next to the corner; the same thing on Ethel. On Miranda they were placed
16 where they were away from Las Casitas apartments, away from those people
17 who lived at the end of Miranda. So the only people that they were actually
18 counting were the people that were going in and out of Holy Cross. They were
19 never counting anybody within the neighborhood. They acted like nobody else
20 even goes into the neighborhood except people to and from the church. There
21 are others of us that go in and out and make trips back and forth during the day.
22 There are other people that have nothing to do with the church, that have nothing
23 to do with the neighborhood that are in our neighborhoods every single day that
24 add to this congestion.

25 Another thing I'd like to say is that there have been ... I don't know how
26 many things the church has said about (*inaudible*) they'd like to change, but the
27 things that they are asking ... that have been said like making Palmer one way,
28 like not letting us park on the curb, all of these different things, maybe widening
29 Miranda to where we take out houses and walls and everything. Why does the
30 residents of this area have to suffer just to make things okay for them to put in
31 more schools, I mean room, more square footage, and all of this kind of thing? I
32 thank you very much.

33
34 Scholz: Your time is up. Thank you. Yes, sir, in the back.

35
36 Biad: Thank you. My name is Don Biad. I'm a parent of one of the students.

37
38 Scholz: Give me your name again, sir.

39
40 Biad: Don Biad.

41
42 Scholz: Thank you.

43
44 Biad: I'm a parent of one of the students, a couple of kids at Holy Cross. And I think
45 that there are a number of issues that have been raised tonight but it seems to
46 me that the one that's most predominant is the traffic issue. It seems to me that
47 Holy Cross has done its own internal analysis as well as the analysis done by the
48 City. I think that clearly some of the residents have some issues, but I don't know
49 that if you look at the whole entirety of everything I don't think it's enough that
50 should persuade the Commission to vote against it. Yes, the school wants to
51 grow in what it's doing but in what its current plans are simply is to allow more

1 space to do and do some of the things that the school is trying to do to
 2 accommodate the existing number of students. And I think it seems to me
 3 maybe biased as a parent of one of the students, but the school has taken into
 4 consideration future growth of the school. It has to be something that you want
 5 to do in order to survive and I think that they've done a good job in explaining
 6 where they want to go in the event they're able to continue the high school and
 7 the enlargement of the school. Really, that's what this issue is about: is about
 8 can we provide more for the existing students that are there and not double the
 9 size of the school? I don't think anyone's talking about that. I think it's about
 10 trying to provide a better environment for the existing kids so that down the road
 11 as the school wants to grow, we can go ahead and go through with the plans that
 12 they ... it seems to me clearly laid out tonight.

13
 14 Scholz: Thank you, sir. Someone else. Yes, ma'am.

15
 16 Ruprect: There's a young gentleman who helped me set up a slide and it's disappeared
 17 now. My name is Jo Ruprect. I live on Palmer Road. And Leslie Thornberry has
 18 said some of the things I would have said about traffic, but I do want to come
 19 back to some aerials and to make some corrections in fact. In Mr. White's
 20 presentation he has repeatedly shown you the area ... this is oriented with the
 21 north towards the top of the screen, Mr. White has referred to the portables in the
 22 future being at the south end of the property. If you look at ... I'm very tired. I'm
 23 sorry. If you look at the plan that was originally presented to you with all 12
 24 portables on the site, you can see that this is a long string of portables. It's not a
 25 compact group and it really is a large addition in space to this property,
 26 regardless of whether you count the property as being only the school or the
 27 school and the church combined. If you follow through on the timeline that we've
 28 provided for you, you'll also see that if they add on the John Paul life Center as
 29 they plan to and as they're already more than half way towards fund raising for
 30 towards the funds, you'll see that they're actually boosting up the square footage
 31 significantly with each of these last couple of developments, and that's before
 32 they even get to the indoor gymnasium project that would go on top of the
 33 existing basketball courts.

34 And this is part of why we're emphasizing the need for a PUD is because
 35 they obviously have these projects. They obviously want them a great deal. We
 36 want to still have some control over what's happening in our neighborhood
 37 though you as the relevant body to help them to stick with the guidelines for
 38 presenting their plans.

39 This next slide is a direct comment on Mr. Soriano's traffic study and also
 40 on Mr. Paz's traffic study. Mr. Soriano has shown you this image before with the
 41 traffic counts that he says his department took, but he has misplaced the
 42 locations of the counters and this is by direct observation from the residents. The
 43 counters on Palmer Road, as Leslie mentioned, were not placed near about two-
 44 thirds of the houses on Palmer Road and instead were placed across from 444,
 45 Ted Sanchez's place. On Ethel it's similar. On Miranda again, as Leslie
 46 mentioned, it cuts out the property at Casitas, the apartments. In talking with
 47 somebody who knows a great deal more about traffic than I do, they brought up a
 48 term and that is "dwelling unit average trips per day" which helps us compensate
 49 for the weaknesses of where these counters are placed. The other thing is that
 50 we've been in correspondence with the Fairbanks group that has some motion
 51 before the City Council because of a traffic study that seems to over count for

- 1 them and somehow magically the Traffic Department was able to count every
 2 street in their study and only one at a time with us. Thank you.
 3
- 4 Scholz: You're time is up ma'am. Someone else? Yes, sir.
 5
- 6 Rodriguez: Good evening, Chairman. My name is Reese Rodriguez. I'm a parent. This is
 7 my daughter Sarah. She is a second grader at Holy Cross. I just want to touch
 8 on a couple of points and ask the Commission to stay focused on some of these
 9 things, specifically the variance. The variance as presented before you, which
 10 specifically touches on not Easter Sunday, not the annual garage sale that the
 11 church holds. Those are church activities. Those are separate from what the
 12 school is doing. The church is not party to this variance and it is very important
 13 to stay focused on those things.
 14 Second, I want to touch on the traffic study. I think that it is important to
 15 stay focused on the peak times for the school, the days where school is held and
 16 the times where there is more traffic because of the school. Not on Sunday. Not
 17 certainly on Easter Sunday.
 18 Third, I would ask the Commissioners to please listen to your
 19 professionals, your traffic engineer, your City planner. They have reviewed and
 20 have evaluated the studies and certainly the numbers speak for themselves. I
 21 think as far as traffic engineer, you know cars amount to numbers and he came
 22 up with a total which is something that would be acceptable. I think it's very
 23 important to stay focused on that; to get away from the school activities, to focus
 24 on the garage sale. To focus on I think on the last session in May they even
 25 presented an aerial view of the annual garage sale. I didn't even know there was
 26 an annual garage sale at Holy Cross, but apparently there is, which was
 27 overwhelming. I hope that that information, that presentation does not change
 28 your minds or influence your decision today because that should not have even
 29 been considered. It is not school activities. Thank you.
 30
- 31 Scholz: Thank you. Someone else. Yes, ma'am.
 32
- 33 Scott: My name is Jessica Scott. I live at 321 Palmer. And I am heartbroken that this is
 34 causing such trouble on my block. Holy Cross has been very community-wise.
 35 I'm not Catholic and I've attended over 100 events at Holy Cross in the last 10
 36 years. I'm grateful that they're there. It's a prestigious school and I have many
 37 friends and people who are dear to me whose children go there. And so I'm
 38 heartbroken to tell you that the traffic problem is legitimate. I would like to ask a
 39 question because I didn't understand this as it was being presented. I'm not
 40 sure. Is a building being proposed going up besides the 12 portables?
 41
- 42 Scholz: No, the variance is for the 12 portables, or actually for eight of the 12 portables.
 43
- 44 Scott: I don't think Mr. Schneider would lie about that. So I just want to say I'd like for
 45 there to be a way for Holy Cross to stay as it is. I'm concerned about an 8%
 46 growth per year. I think that's a problem. I'm not sure that I read the projected
 47 studies correctly, but I counted somewhere about 140 students over the 10 years
 48 just swelling in the ranks of kindergarten through middle school. I think this is a
 49 problem. Thank you.
 50
- 51 Scholz: Thank you. Someone else? Yes, I'll take the lady in the back in the black there.

- 1
2 Cregin: Hello, my name is Shannon Cregin. I am 16-years-old. I'm a junior at Holy
3 Cross. I'm not exactly sure how to go on about this. I don't have a report or
4 presentation prepared. I'm just going by my gut which is a little biased because
5 I've been going to Holy Cross since I was in kindergarten. And to my knowledge
6 this is about the traffic problems that are created on these streets. And as they
7 commented before we have suggested making them one way. And I'm not sure
8 if anyone has ever explained why, but this is why. When they park on the curb,
9 when you go down that street turning off Alameda, you get there and it basically
10 is a one way street. It's not wide enough for two cars because of the cars parked
11 on the both sides of the curb. It's not always that bad. They're not always
12 parked directly and together, but you do have to pass each other one at a time,
13 sometimes waiting as much as halfway down the road for another car to get past
14 you.
15 To my knowledge as they said they had to bring it up to the City before
16 they were recognized, the neighbors, to my knowledge they never confronted the
17 school office. They never tried to talk, to my knowledge, but I know that it would
18 be addressed because this is as big problem for the school as it is for anyone
19 else. We may not live on the street, but we do care about our neighbors. We
20 have to. As Catholics it the thing to do. Not all of the students are Catholics, but
21 we have to care. That's what the school teaches us. Care about others
22 opinions, never put them down. And just to end it, I would like to clarify that
23 Catholics, they are Christians, but Christians aren't Catholics. Thank you.
24
25 Scholz: Yes, the lady in the green top there.
26
27 Ferrales: My name is Lupe Ferrales and I am the secretary at Las Cruces Catholic School.
28 And I'm speaking on behalf of my almost 300 angels that I have seen grown from
29 preschool to high school. Shannon has been one of them. And I beg of you to
30 take into consideration all these little angels that someday will probably be taking
31 care of all of us. Thank you.
32
33 Scholz: Thank you. Yes, sir.
34
35 Soular: Commissioner. My name is Chris Soular. I am one of the instructors. I
36 volunteer and parent at Las Cruces Catholic School. I bring five children with me
37 every day, so that's not many cars, that just one vehicle. And I also share, we do
38 video production. I teach video production and our production department has
39 been very successful and as a matter of fact we won first place in the City of Las
40 Cruces Video PSA contest, two of our students, won first and second place.
41
42 Scholz: Congratulations.
43
44 Soular: And I share our video production with two other teachers. I share with two other
45 teachers our video (*inaudible*) which we're really cramped. That students we do
46 class were sitting on the floor, were sitting on their desks. It's very, very awkward
47 to do our program, but yet we do it because the kids are very tolerable. So what
48 we're really asking here is for eight portables and it's almost like ... it's not for
49 growth, it's for adding, we're like adding a bathroom. We need more bathrooms
50 for the kids that we have. So we need to just move these kids out of where we're
51 cramped in spaces and move them and spread them out because people can't

1 be living or even doing instruction in cramped quarters like that. But the school
 2 makes a big effort to find good teachers and run programs that are magnet ... to
 3 the magnet capabilities. But in order to keep this going we need this additional
 4 space just to spread out, just to move our arms because right now we are
 5 banging arms and the size of the school is there. It's going to be there, and it's
 6 continuing on at that rate, but it's not really a place where we can continue on
 7 because we are just cramped. And that's what we're talking about: eight
 8 portables, 8,400 square feet. We need to spread our wings out. We need to add
 9 a bathroom so that way the kids have places to go. Okay, so we're asking just to
 10 get those eight portables so we can move. I don't really ... looking at the history,
 11 we haven't really grown as far as student-wise. It goes up and down a little bit,
 12 but it does not ... it's not going to really go, I mean they have these statistics and
 13 all these things, but it's going to stay at a pretty much level rate. It'll go a little bit
 14 because people will see that the programs have more room and we can be a little
 15 more intensive in our education. But I think we have a very good school. It's
 16 okay. The engineers have approved the traffic flow and said the streets can
 17 handle it and I think we need to look at that and go with that and let this process
 18 go and approve it. Thank you.

19
 20 Scholz: Thank you. Yes, sir.

21
 22 Kerns: Hello. I am Brendon Kerns. I am, well, I'm the other junior. Okay I'm a band
 23 geek and from my band room we use one thing, the church. The church is ... if
 24 the church isn't available for a funeral or something like that, what do we have to
 25 do, we have to go outside and I don't like that. And then there is another matter
 26 of a classroom that I spend effectively all of my day in aside from band class and
 27 that's ... and the dimensions of that room are a generous 12 feet by 18 feet.

28 And, well, if you want to talk about the traffic, on Saturday on Palmer
 29 Street there was a party or something like that and then there were cars parked
 30 on both sides of Palmer making it very hard for me to get from the church back to
 31 my home which is nowhere near this. And all of this talk about the portables
 32 increasing the traffic, I don't know. I don't think this is field of dreams where it's
 33 not going to necessarily be if we build it they will come. I'd like it if it was
 34 because, well, being one of two juniors I just would like someone else. And I'd
 35 also really like it to have my own campus or rather a campus for the high school.
 36 I'm pretty sure that if everyone here were to donate \$2,000 we could get it done.
 37 Now I don't know if you want to do that, but the next best thing we have are to
 38 bring in these portables. Thank you. And we need the space.

39
 40 Scholz: Thank you. Okay, this gentleman over here had his hand up first.

41
 42 Chavez: My name is Fred Chavez and I just had one question for the Planning and
 43 Zoning: is there anything on the timetable for redoing Ethel Street, you know
 44 repaving it and making the sidewalks compliant? Because that what was done to
 45 Palmer Road and it made it so much narrow and I believe that would add to the
 46 traffic congestion.

47
 48 Scholz: I don't know. That's something we'd have to ask Community Development
 49 people. We're not in charge of that. Mr. White. (*inaudible* - Mr. White speaking
 50 from the audience) Well, that was a copout wasn't it? Shifting the blame. So we

1 don't know. I'll hold your question in abeyance, Mr. Chavez, and we'll get back to
2 you.
3
4 Chavez: Thank you.
5
6 Scholz: Yes, sir.
7
8 Anderson: Good evening. My name is John Anderson. I am the pastor at Holy Cross
9 Catholic Church. And I thank you gentlemen for listening this evening and I
10 thank all of our neighbors, especially those who have brought challenging ideas
11 to us this evening. I'm committed with our staff to meeting with the people of the
12 Community Development and Traffic to do the best that we can to be good
13 neighbors. Yes, we do need room. Yes, we've come to you in the past 25 years
14 and asked for your permission to make modest changes, the columbarium,
15 adding the mid school, as we've grown. I predict that we will continue to grow. I
16 also predict that we will someday move to a new location years after I'm dead but
17 because of the enthusiastic community that we have of parents and they will
18 become grandparents. They will want their children to go to a Catholic school. I
19 doubt that we'll always be at the site which used to be a cotton field in a quiet
20 little neighborhood. So if anybody tonight would like to give us a few nice acres
21 out in the desert somewhere, we'd be glad to consider moving. But in the
22 meanwhile, we're where we are, grace of God. We are growing. With your
23 permission, we'll come to you each time. We'll try to be better about
24 communicating this to the neighbors. We're growing. And we bless and thank
25 God for it and we're glad that you're a part of it.
26
27 Scholz: Thank you. Yes, ma'am.
28
29 Jones: My name is Lucretia Jones. I live at 441 Linda Vista Road. I'm a homeowner.
30 Regardless of other sentiments expressed to you tonight, I do not feel that I'm
31 insignificant in this process. I live in the neighborhood as well. The traffic is a
32 concern. To me a great concern is the fact that there's not a plan for
33 development. I work for Department of Health. We can't develop and evolve
34 without a published plan of development. I can't add onto my house without your
35 approval.
36 The other thing that concerns me that I haven't heard anyone mention is
37 the rest of the infrastructure, the electric grid that goes down periodically during
38 the day on the rare occasions that I'm home. My neighbors are more concerned
39 who do work in their homes. The sewer system, the water system. I haven't
40 heard any discussion of this infrastructure and we're all impacted by it. I
41 understand that you all do not have the authority over EBID but the thought of
42 paving that much used public walkway is another consideration that is horrifying
43 to those of us in the neighborhood who feel we are significant. I thank you for
44 your professionalism. I thank you for the consideration that you are giving those
45 of us who are neighbors.
46
47 Scholz: Thank you, ma'am. Yes, sir.
48
49 Sandoval: My name is Richard Sandoval. I live on Howell Avenue which is right around the
50 corner from Parker. And I've never found that the traffic has been bad at all
51 through there because I take my granddaughter daily to school. In the morning I

1 can leave from Howell at seven minutes before, get her there in time for school.
2 Drop her off and leave and I was able to go to work too. Now, in the afternoons, I
3 pick her up at exactly at 3:00 and I'm out of there by 3:05. I've never seen traffic
4 back up or anything like that. So I don't know where ... maybe it's because I'm
5 coming from Howell which is on the west side through Parker, but it was never a
6 problem for me. Thank you very much.
7
8 Scholz: Okay. Thank you, sir. Yes, ma'am, in the green top in the back. Did you have
9 your hand up? Okay.
10
11 Daniels: Thank you. My name is Linda Daniels. I live at 1155 N. Miranda. And I have a
12 question. I've heard other residents of the neighborhood tonight mention letters.
13 Are these letters that have gone out to residents to inform us of what the council
14 is considering or...? That's my question.
15
16 Scholz: Yes, and, Mr. White, why don't you speak to this. These letters would come from
17 the Community Development Department.
18
19 Daniels: I live right next door to it and I've never received a letter. That's my question.
20
21 White: Chair Scholz, the answer to the question, we do is call a buffer area. The buffer
22 area regarding this property, I believe, is about 220 feet from the surrounding
23 property. And I believe we mailed out roughly about 100 certified letters
24 regarding the property. So if there are property owners in the surrounding area
25 who are outside the radius that is correct, they would not actually be sent a
26 certified letter.
27
28 Daniels: TALKING, NOT AT PODIUM.
29
30 Scholz: Yes, go ahead.
31
32 Daniels: I live in Las Casitas. I'm not a property owner. That's an apartment complex
33 right next door to the church and school.
34
35 Scholz: Right.
36
37 Daniels: I've had difficulty except for what I read in the paper, keeping myself informed.
38 So if it's possible for non-property owners, although right next door to the school,
39 to receive these informational letters I would appreciate it.
40
41 Scholz: Okay. Mr. White.
42
43 White: Chair Scholz, to answer that question, when we do property research it's
44 conducted ... we get the information from the Doña Ana County property of
45 records. So letters only go out to property owners of record. The issue really
46 would be is that we would not know who actually is leasing each one of the
47 apartments, so there is no ... we can actually have a figure of how to actually
48 send letters to those property owners. Standard practice is we use the area of
49 notification. We use the radius and we send out to the property owners of
50 record.
51

1 Scholz: So who would have gotten ... who in Las Casitas would have gotten the notice?
2 The owner of Las Casitas?
3
4 White: That is correct.
5
6 Scholz: Okay, who is the owner of Las Casitas?
7
8 White: I have the property records here so if you bear with me one moment.
9
10 Scholz: Good.
11
12 Shipley: Chairman Scholz. Mr. Chair. While he's looking up, could I also say there is a
13 sign posted on the property that says when the public meeting is going to take
14 place. And that sign is you drive by you should be able to see that and then
15 there's a phone number at the bottom of that so that any time there's an action
16 there should be a yellow sign out there with a phone number so you can call and
17 say what's going on with this. Even though you didn't get a notice, there is a
18 notice in the public right-of-way.
19
20 Scholz: Okay, who owns the property, Mr. White?
21
22 White: Chair Scholz, the property owner of record is Casitas Associates and they're
23 located out of Albuquerque, New Mexico.
24
25 Scholz: Albuquerque, New Mexico. That's a long ways away, isn't it? Do you have any
26 other questions, ma'am?
27
28 Daniels: My request would be I don't know even how many units there are in Las Casitas.
29 I've never counted. But there are a number of people that live there and it is
30 directly adjacent to the school and church. And I have no complaints. I've lived
31 there since 2005. I have no complaints about the church or the school. I am
32 concerned about the traffic patterns and I would very much like to be kept as
33 abreast as possible of what's going on. A sign, that's great. I also am employed.
34 And even though there's no property owner of record I guess that could interface
35 or would interface from Albuquerque, there are a lot of people there that are
36 affected and I would request that the Council figure out a way to keep us as
37 informed as the homeowners in the neighborhood. Thank you.
38
39 Scholz: I think it's a good idea. I think the Community Development people should be
40 able to work on that.
41
42 White: Can I make a response very briefly?
43
44 Scholz: Certainly.
45
46 White: For any specific case there are three tiers of notification: one tier is a certified
47 letter for variances that go out to the surrounding property owners. The second
48 tier, as alluded to by Commissioner Shipley, is regarding we posted two signs at
49 locations on the vicinity of N. Miranda for property owners or individuals who live
50 and reside in the area to evaluate. And the third tier is we also know that we
51 actually publish in the Las Cruces Sun News in the legal section every month the

1 agenda for the Planning and Zoning Commission in its entirety is advertised in
2 the Sun News for the entire public to actually evaluate and review any of the
3 cases.
4

5 Scholz: Thank you for your clarification, Mr. White.
6

7 White: And the website as well. On the City website we actually integrated a new
8 portion called Development Applications, and the entire case packet and all
9 information is available there as well.
10

11 Scholz: Right, and that's a relatively new thing. All right, looking at the time it's almost 25
12 after 9:00. Is there anyone with new information? Hold on just a moment. Did
13 you have new information, sir, I can't quite see you? All right, go ahead.
14

15 Cannon: My name is Craig Cannon and I am a parent at the school and I do drive there
16 almost daily. My wife and I take turns. And I have to say that while I understand
17 their ... some concerns about traffic, I think that a lot of those concerns could be
18 relieved by not parking side by side in the street. I think that the school provides
19 an excellent choice. We have problems inherent to any large middle school and
20 high school that many of us do not want our children growing through. And I
21 think that Holy Cross gives our kids an excellent chance to have small class
22 sizes, have parents that are involved, and it's an excellent educational
23 opportunity and I think it should be allowed to grow. I think there are ways that
24 their concerns can be met. I also think that if you think about it, refusing to let the
25 school grow is not going to keep the church from growing. It's not going to
26 change the Easter Sunday issues. It's not going to change the Christmas mass
27 issues. Its moving the bingo night isn't going to affect the school's traffic
28 patterns. And I just think that the school be allowed to grow. Thank you.
29

30 Scholz: Thank you. Yes, ma'am, you had a question.
31

32 Ruprect: TALKING BUT NOT AT PODIUM.
33

34 Scholz: I'm sorry. I'll allow questions, but I don't want people to comment who until
35 everyone who hasn't spoken have spoken. Okay. You had a procedural
36 question, ma'am.
37

38 Ruprect: It's a point of information based on the transcript from the previous session and
39 it's directed to Mr. White. I noticed a number of very careful wordings around the
40 1998 or '99 documents relevant to the middle school. There's never a statement
41 saying that the middle school was built in 1998 or built in 1999. Leslie
42 Thornberry and I have been doing research through the Permit Division of the
43 City, although through the County Assessor's office. We have been handed files
44 that show us a sprinkler system or the construction of a gathering room that was
45 made out of a breezeway. We've been shown the original school building plan.
46 But we have not been able in six weeks of requests to get a folder that shows us
47 the middle school plan with the permitting date, the construction date, or the
48 special use permit conditions that might have been in effect at the time that that
49 was acted upon by P&Z.
50

51 Scholz: Okay.

1
2 Ruprect: It concerns us in the sense that the implication from Mr. White's statements in the
3 transcript and in his presentation of the variance request, the implication is that
4 his office has actually seen those, but if they've accessed them and seen them it
5 seems if anything it should have been quicker for those to be turned over so that
6 we could look at them when, in fact, it's taken longer and we still haven't seen
7 them. Thank you.
8
9 Scholz: Mr. White, would you like to speak to that?
10
11 White: Chair Scholz, I'll try to address that question. In regards to the building
12 permitting, I also pulled all the information regarding the building permitting for N.
13 Miranda, 1321, 1327, and 1331 respectively. The information provided by staff
14 earlier regarding the building permitting history was the ones we located in 1998,
15 1999, and 2000. Those are available to anybody that wants to come in and
16 inspect them. Regarding the special use permit applications, I do have all three
17 of those files in the office. Any person that wants to come in and evaluate in
18 those files can feel free to come in and look at those files as well.
19
20 Scholz: Okay. Thank you. Mr. Chavez, you're still here, right? Could you repeat your
21 question for Mr. Banegas since he's the one who has the deep thoughts today?
22 Would you come up to the mike and repeat your question? Mr. Banegas was out
23 of the room when you asked it. And as I recall Mr. White deferred to him. Oh,
24 was it to Mr. Soriano? I'm sorry.
25
26 Chavez: My question was: are there any plans to redo Ethel Street as far as paving and
27 making it sidewalk compliant? Because that was what was done to Palmer
28 Road, which made it more narrow and that's the problem we have now on that
29 bottle neck. Do they have plans to do that to Ethel Street?
30
31 Soriano: As far as I know there are no immediate plans for doing any work on Ethel and I
32 don't handle the sidewalk or the repave program, so that's is something I'm going
33 to have to look at and then we can get back to you and let you know what there
34 is. We choose ... there are different locations chosen throughout every year,
35 every fiscal year as far as what is being chosen for repaving, or rehab, additional
36 sidewalks, etc. So, that could change from year to year based on our pavement
37 evaluation program. Basically, I don't know actually if Ethel is on schedule to
38 have anything done. I know not this year.
39
40 Chavez: SPEAKING NOT A MICROPHONE.
41
42 Soriano: Again, it's based on pavement evaluation and how they rate the pavement and
43 the condition of the asphalt as to whether it's going to be worked on or not. After
44 the meeting I could certainly get your name and phone number and make the
45 contact back with you as far as any programmed work on that street.
46
47 Scholz: Mr. Chavez, you have to speak into the microphone so we can hear you.
48
49 Chavez: Would it considerably narrow the street as far as width, you know from curb to
50 curb? If that makes that sidewalk compliant like they did that to Palmer Road?
51

- 1 Soriano: If I remember, Ethel has curb and gutter in place now, correct? More than likely
2 what would happen is the sidewalk would be placed behind the existing curb and
3 gutter, therefore the width would not change.
4
- 5 Scholz: All right. Anyone else with new information on this? All right ma'am, you had
6 one other question, was it? A comment, all right I'll let you make your comment
7 and then we're going to close it for public discussion.
8
- 9 Scott: Okay, I just wanted to make the comment.
- 10
- 11 Scholz: Get close, please, and give us your name again please.
- 12
- 13 Scott: My name is Jessica Scott.
- 14
- 15 Scholz: Thank you.
- 16
- 17 Scott: I live right in the middle of Palmer and the houses were built at a time much
18 decades from today. I have an enormous driveway that fits exactly one car. It
19 won't fit two side by side. It won't fit one back behind the other. And many of the
20 driveways on the street ... we're a three car family. I have a son in college.
21 We've got two cars in front of our house all the time just 'cause that's where we
22 are. And I bought the house, it does have a garage; it doesn't fit a car. I didn't
23 see that when I bought it, but...
24
- 25 Scholz: There you are. Okay. All right we're going to close this for public discussion.
26 And gentlemen, yes, Mr. Evans.
- 27
- 28 Evans: Yes, Mr. Chairman, before you do that, I actually have one more question for the
29 Traffic Engineer.
- 30
- 31 Scholz: We can always ask questions of the Traffic Engineer. That's fair game tonight.
- 32
- 33 Evans: I don't recall us touching on this, but I grew up in Las Cruces and you know at
34 that time a long time ago there was never any portables at any of the schools.
35 Now there are portables everywhere. And I've even noticed some in the last
36 couple of years that have gone up, but yet they haven't come before our
37 Committee. So, what is the process? I mean there's obviously a process for
38 approving those portables given the increase in population which would drive the
39 portable expansion, what process is in place to do that? And is it your
40 department which would do the traffic analysis for the increase in population and
41 traffic flow?
42
- 43 Soriano: Mr. Chair, Commissioner Evans, typically since it does involve school areas, not
44 in this case, but public school areas, that's usually handled at the state level, the
45 CID, they're the ones that permit additional portable buildings. So it really does
46 not ... it somewhat circumvents at least our process with the City. I don't know if
47 Mr. White had anything else to add to it ... but basically Construction Industries
48 Division from the state of New Mexico oversees any additions onto the state
49 properties such as those that are schools.
50

1 Evans: So, correct me if I'm hearing you wrong, but the state will actually come in and do
2 a traffic analysis?
3

4 Soriano: Mr. Chair, Commissioner Evans, I don't know. I don't know if they actually do
5 traffic analysis or not. And these are some of the things that we're actually trying
6 to work with on the state now. You know I've been a Traffic Engineer for eight
7 years and before that I was in the Planning Department so I saw quite a few
8 things that came about when state permits were issued and somewhat
9 circumvented the City process. We're trying to work closer with the public
10 schools so that we can establish better communication and they're doing a much
11 better job on their part as well as far as communicating with the City and allowing
12 us to oversee some of the potential traffic impacts that could be evolving from
13 some of these expansions. But, the permitting itself is handled at the state level.
14 Whether there's a traffic analysis, I can't answer definitely one way or the other.
15

16 Evans: Well, I would question if you've been working this for eight years that you would
17 ... and you aren't aware of it, then I would say it's probably not going on.
18

19 Soriano: I have never seen ... nothing has been submitted to use for review.
20

21 Evans: And my question is you know I want to treat apples and apples the same.
22

23 Soriano: Commissioner Evans, this is a little different in fact in that it is a private school.
24

25 Evans: Right, I understand.
26

27 Soriano: So it is going through the City process and we are now involved in the oversight.
28 And, therefore, we are asking for a traffic analysis so that we can look at impacts
29 to the streets. So, it's hard to compare this situation to any other public school
30 situation because, you're right, portables are going up left and right annually it
31 seems like. Schools are expanding by these portable buildings. I think the
32 process at that level needs some refining. I would agree with that, but this
33 particular case is different in that it's a private school going through City process
34 and we are asking for traffic.
35

36 Evans: Sure. I understand.
37

38 Scholz: Mr. Paz, do you have an answer for us.
39

40 Paz: Public schools in the state of New Mexico are exempt from City ordinances,
41 drainage, traffic. They don't have to come before this Body or the City Council
42 for streets, for anything. The Las Cruces Public Schools has chosen to be
43 neighborly, to try to coordinate issues with the City, but they are exempt from all
44 City Ordinances.
45

46 Scholz: Thank you.
47

48 Evans: Thank you.
49

50 Scholz: Okay. Commissioner Beard.
51

- 1 Beard: Isn't it true that most of the City schools that are having these portables added
2 are actually on Collectors? In this situation we are on a 33-foot wide street.
3
- 4 Paz: You've got Hillrise Elementary. There are schools ...
5
- 6 Evans: There are a lot of schools within R-1a areas, not just ... I agree with you a lot of
7 them are Collector streets, but it seems to me that there are a lot of portables out
8 there to compensate for the increase in population that we've had over the last
9 10 years.
10
- 11 Scholz: Okay. We've closed this to public discussion. Gentlemen, what is your ... yes,
12 Commissioner Crane.
13
- 14 Crane: I'd like to make a few points. Las Cruces Catholic Schools has not done anything
15 illegal in my view over its decades of existence, but it has pushed the envelope
16 several times. Perhaps on the principal it's easier to get forgiveness than
17 permission. In fact, Monsignor Anderson was good enough to tell us that they
18 had not been good neighbors a couple of times. I've considerable sympathy for
19 the people in the neighborhood, the streets are narrow. I have driven around
20 there some and particularly on Palmer there are problems.
21 But I think this Commission is obliged to see this issue narrowly as a
22 matter of judging on the variance requested which is for the eight or nine
23 portables to be permitted and the high school to be permitted on the right-of-way
24 of 50, 55-feet rather than 85 required. And that comes down to a question of
25 traffic in my view. And the key intersection is the one that I dream about now and
26 probably will for some time, Ethel and Miranda. All right, I did not hear the word
27 compulsive but I know it's going through the minds of my fellow Commissioners.
28 My look at the data, even though there are difficulties with it, seems to me to
29 show that there was 15 minutes of the day at 7:45 to 8:00 in the morning, and
30 3:00 to 3:15 in the afternoon. Cars come out of the parking lot at the rate of three
31 a minute in the morning and two a minute in the afternoon during that 15 minute
32 period. It doesn't seem to me that that is a terrible burden on the traffic on
33 Miranda Street. That's the total of cars regardless of whether they're going
34 across the intersection to Ethel or north up Miranda, or south down Miranda. My
35 inclination is, therefore, to approve the variance with the added stipulation in
36 addition to the two conditions that the staff has recommended: that the high
37 school be disbanded or moved by the summer of 2014. That is currently my
38 inclination. It's not necessarily my vote. I have to hear what others have to say.
39
- 40 Scholz: Okay, are you making that in the form a motion?
41
- 42 Shipley: No, no, it's discussion.
43
- 44 Crane: No, at this point we're still in discussion I think unless no one else ...
45
- 46 Scholz: Yes, we're still in discussion, right. But if you're adding a condition then of course
47 you'll have to make a motion.
48
- 49 Crane: All right. Well let me make the motion then we'll have something specific to
50 discuss.
51

- 1 Shipley: I think we should discuss before the motion. I think there are some other things
 2 because I wanted to say the same thing. When I quickly looked at this book
 3 there are 240 signatures in here of people that live in neighborhood that are
 4 interested in seeing a Planned Unit Development from the school and the church.
 5 And I say "and the church" because if they're going to change what they do in the
 6 church it affects the neighborhood as well. So that's something that we ought to
 7 think about as we look at that. Now that's, you know in this ... in Mr. White's
 8 presentation he did state that if there is any other development in the future, that
 9 they would have to come in with a Planned Unit Development.
- 10 Scholz: It's up on the screen right now. Yes, as a matter of fact.
- 11 Shipley: So I agree with that. So, I think that's one point (*inaudible*) or not. I think there's
 12 confusion to me with what is the ... what are we approving here. Initially it says:
 13 Case A1695 is a request for a variance from Article VI section 38-53D of the
 14 2001 Zoning Code, as amended, that requires schools to be located on a
 15 roadway having a minimum right-of-way. When I go down to look at what the
 16 recommendation is, it doesn't mention that. It only mentions the approval of this
 17 variance is limited to the expansion and installation of nine portable buildings
 18 having a combined gross area of 8,400 square feet. So where did the variance
 19 for the roadway go? It's not in here. So to me this is not a correct or accurate
 20 representation of what we're supposed to be doing. If we're doing a variance for
 21 the roadway and then we're doing a variance for the expansion, there should be
 22 two separate votes on this particular item. And I don't see that in here.
- 23 Scholz: Mr. White, would you care to comment?
- 24 White: I think the confusion is you're looking at two different issues. The variance is to
 25 right-of-way. The issues regarding the square footage is a condition that's
 26 proposed by Staff. So let's look at this slide again. If you look at this slide, it
 27 says if you vote yes to approve the variance with conditions therefore allowing for
 28 a 35-foot deviation from the 85-foot minimum right-of-way requirement. That is
 29 what the actual vote is upon. What we're speaking about earlier was the
 30 conditions that were imposed by Staff which is kind of lengthy so what I did is I
 31 placed it on a separate slide. Therefore, you have these two conditions that Staff
 32 recommends be attached to the approval of the variance request.
- 33 Scholz: In other words, what's happening with the variance request is that it legitimizes
 34 the school. The school no longer has to get a variance to operate, right? In
 35 other words, even though it's not on a Collector or on an Arterial or you know a
 36 major road, it can ignore that right, because we've granted them this variance.
- 37 Shipley: Then I would kind of concur with your recommendation to add an additional
 38 condition that says when the population of the school gets to 50 students, the
 39 high school; it has to go somewhere else. Because that was part of their plan
 40 that they predicted and whereas it says in there documents they would like to go
 41 to 60 or 80. Well, you know how much is enough? If we want to be concise then
 42 let's put it in as a condition that they have to live with. They can plan for it, and
 43 as they develop their Planned Unit Development, they know whether they need
 44 you know another 14,000 square feet, or 1,400 square feet?
- 45
46
47
48
49
50
51

1 Iserman: Thousand.
2
3 Shipley: 14,000 square feet. You know where's that going to go. What's going to go in
4 there and how's that going to affect traffic.
5
6 Evans: Chairman Scholz.
7
8 Scholz: Commissioner Evans.
9
10 Evans: I believe that that's already addressed in that any other additional will have to
11 come before this Committee. And furthermore I think that the ... you know when
12 we start talking numbers of growth projections that's accounted for in the traffic
13 studies. So I mean I'm not sure if we're confusing the issue by talking about
14 growth of the school and growth and traffic studies and projections out to 2029,
15 2030. And I think it's addressed in the traffic study. So I don't know about
16 putting limitations on it. We already have a limitation of them per square footage
17 and additional development.
18
19 Shipley: What I guess I don't see is that if they're saying 60 to 80 students, high school
20 students; 60 to 80 high school students most of them will drive a car and operate
21 to come to school. They won't have their parents dropping them off.
22
23 Evans: I agree with that.
24
25 Shipley: So then you've got to look at which was not shown here or displayed, the
26 increase in parking and do they have enough. And do they have approximately
27 200 spaces or will they have 200 spaces after they put the additions on.
28
29 Evans: We can defer this back to the Traffic Engineer and look at the assumptions that
30 he put in place as to how that growth was projected out to 2029. But I want to
31 clarify one more thing, that you know again I hate to start designing by
32 committee. You know these are professionals. They're professional engineers.
33 This is what they do for a living. I hope they don't come into my work place and
34 listen two hours of presentation and assume that I can design or do their job for
35 them. So I think it's a professional engineer, it's staffed by the City and their
36 recommendation is that those thoroughfares are adequately ... you have to
37 excuse my verbiage, but they're adequate to support traffic growth and
38 projections out to 2029.
39
40 Scholz: Commissioner Beard.
41
42 Evans: Could I hear a response to that?
43
44 Scholz: Excuse Mr. Soriano. Yes, we've heard from the Traffic Engineers. I think what
45 you're saying is what they are saying. I agree.
46
47 Evans: Okay.
48
49 Scholz: Commissioner Beard.
50

- 1 Beard: I realize that the Traffic Engineers in the study show that they can handle the
2 traffic and they can handle the projection in an adequate manner and I don't
3 know what adequate is. However, you have nine people and whole bunch of
4 signatures beyond that that are complaining about the traffic now and I do
5 believe that the traffic is going to get worse with the nine portables. So you have
6 on one side that they say it's all right and then the people are saying it isn't all
7 right.
8
- 9 Evans: I guess one is backed by analytical and science and the other one is perspective.
10 Now I'm not trying to say ... well, I am saying that you should be able to look at
11 projected growth and come up with a good number. I don't believe perspectives
12 are adequate in this situation. Now I do understand quality of life issues. Across,
13 you know, the street where I live that's a big huge 10 acre empty lot. It's zoned
14 commercial. I would hate to see that that piece of property developed, you know,
15 because it would infringe upon my quality of life issues right now. We also have
16 a lot of BLM proposals converting, you know, land swaps. A developer comes in,
17 does a land swap with BLM which is adjacent to, you know, existing
18 communities. The developer comes in and puts up communities which the
19 existing residents, you know, aren't really pleased with. So I am familiar with
20 quality of life issues. Unfortunately, the City's growing and the infrastructure, I
21 feel, needs to grow along with it.
22
- 23 Scholz: Okay, other comments? Commissioner Iserman.
24
- 25 Iserman: Really what I think I'm listening to here is a growing animosity between the
26 church, the school, and the owners. When you get animosity going things don't
27 usually get better. It's everybody's just upset all the time. Everybody's angry.
28 You know the principle of the school is angry. The homeowners are angry. And
29 I don't know where that goes. You know where does it end? I'm just seeing an
30 awful lot of that of animosity here amongst all these people.
31
- 32 Scholz: Okay.
33
- 34 Crane: It ends with civility, we hope.
35
- 36 Iserman: We hope.
37
- 38 Crane: Because regardless of what decision is made a number of people are going to be
39 bent out of shape. It's unavoidable in any society.
40
- 41 Scholz: All right. Any other comments? Yes, go ahead, Commissioner Beard.
42
- 43 Beard: I guess I would like to emphasize that the City has made a recommendation
44 based on conditions. And I think they don't take into consideration and correct
45 me if I'm wrong, Mr. White, they don't take into consideration the input from
46 concerned people that are being affected by this particular change. And I think
47 that we as a group have to listen to the people and make a decision based on
48 people's input as well as the City's recommendation.
49
- 50 Scholz: Anything else? All right, did you want to amend the process, Mr. Crane?
51

- 1 Crane: Well, I'll make a motion that the variance be approved with the City's two
2 conditions plus the one I mentioned.
3
- 4 Scholz: All right, you'll have to create that condition as an amendment.
5
- 6 Crane: Right.
7
- 8 Scholz: So why don't you state that condition.
9
- 10 Crane: All right, do I need to read the City's conditions.
11
- 12 Scholz: No.
13
- 14 White: Can I interject very briefly? I'd recommend prior to you making a motion if you're
15 going to add a condition that you canvas the actual applicant to discuss that
16 additional condition. So the issue be: can you come to kind of an agreement
17 regarding that condition before we go into a motion?
18
- 19 Scholz: Why do you suggest that, Mr. White?
20
- 21 White: Based upon a conversation with the applicant I think they have an alternate
22 proposal that may actually be very similar to what you're speaking about. So you
23 may want to evaluate that scenario with the applicant.
24
- 25 Shipley: Why don't they tell us what it is?
26
- 27 Crane: Mr. Chairman, isn't this coming a little late?
28
- 29 Scholz: I'm sorry. Yeah isn't this coming a little late? If we had had an alternate proposal
30 you know brought to us at the beginning of this meeting, I think we would've ...
31 perhaps our attitude would have changed. Perhaps the response of the
32 audience would have changed. What's going on here?
33
- 34 White: No. For clarification, the issue really is, is the same exact issue regarding ... one
35 issue was regarding your trying to put a specific year on the high school being
36 relocated.
37
- 38 Scholz: Well, we haven't heard the amendment yet, Mr. White.
39
- 40 White: But there's also some additional information you may want to hear from the
41 applicant regarding that is what I'm speaking about.
42
- 43 Crane: Mr. Chairman, it's too late for additional information.
44
- 45 Scholz: Well, I think it is, too, and frankly I think we have the ability or we have the
46 leeway to make an amendment to add a condition to this. And if they don't agree
47 with the condition they can always appeal it. You know that. Yes, Commissioner
48 Shipley.
49
- 50 Shipley: Mr. Crane, if I may I just would say the reason I picked a number is because the
51 school said that at that number they were comfortable to move. Now it really

1 doesn't matter if that's 2015 or 2018, what it really matters is when you get at that
2 critical point, that's the point that it should deviate and that should go away, which
3 would affect the school. If they're going to, you know, and maybe there is a
4 ceiling that they can't go over for students; in other words because of the impact
5 on traffic. But I think the point I was trying to make as opposed to try and tie it to
6 a specific date, is tie to a number of students in the high school. And that way
7 when they got to 50 let's say that's sufficient for them to go out and find a
8 separate location to put the high school and reduce 50 off of their current
9 enrollment and then obviously it's going to grow up to that again. But at some
10 point in time there's got to be a max ceiling that they can't you know.

11
12 Crane: Well, I see your point Mr. Shipley, but the problem is that that 50 is not going to
13 necessarily be followed the next year by 55 or 60, the number could be predicted
14 to go down and the school could say, "Yeah, we hit 50 this year, but next year
15 we're not going to have 50, so we don't want to move." And I think it's
16 appropriate to have a firm time, though I do see your point; that they move since
17 they've been telling us that their projections are that they will be at that point by
18 2014 and I think we have to give some consideration to the neighbors' concerns
19 about the expansion going on open ended.

20
21 Scholz: Would you propose an amendment then, please; that is propose an additional
22 condition?

23
24 Crane: So you want strictly the additional condition?

25
26 Scholz: Yes, sir.

27
28 Crane: All right. I move that the condition be added to those that are already in the
29 Staff's suggestion that the high school be dissolved or moved by the summer of
30 2014.

31
32 Scholz: Okay, is there a second to that amendment.

33
34 Evans: I'm sorry ...

35
36 Scholz: If we're going to discuss you'll have to second it.

37
38 Evans: I ...

39
40 Scholz: I'm waiting for a second. If there's no second it will die. Okay, it dies for want of
41 a second.

42
43 Evans: I would like to recommend a condition.

44
45 Scholz: All right.

46
47 Evans: And that is once the high school student population reaches 50, that they either
48 need to cap it there, or relocate to an alternate location if they wish to continue
49 growth. I didn't say that very eloquently.

50
51 Crane: You don't mean growth, you mean operation.

1
2 Evans: Excuse?
3
4 Crane: You're going to cap it at 50. They can't continue growth.
5
6 Evans: Right.
7
8 Crane: So you want to say if they want to continue operation. They've got to move or
9 they cap it 50.
10
11 Evans: Right the ...
12
13 Beard: But that will only be part of the problem. The rest of the school may grow
14 significantly.
15
16 Evans: And that was really in my mind was projected to grow regardless. So we're
17 talking about the additional 50 high school students.
18
19 Crane: Yes, the variance problem is because it's a high school, not because it's an
20 elementary or middle school.
21
22 Evans: Right.
23
24 Scholz: So, are you moving that?
25
26 Evans: Yes.
27
28 Scholz: All right. Would you read your motion please?
29
30 Evans: I recommend a motion that when and if the student population exceeds 50
31 students ...
32
33 Scholz: The high school student population.
34
35 Evans: The high school exceeds 50 students that ... well, let me start all over.
36
37 Scholz: You're doing fine.
38
39 Evans: So I propose a recommendation that when and if the high school student
40 population exceeds 50 students that Las Cruces Catholic Schools will seek ...
41
42 Scholz: Will relocate.
43
44 Evans: Will relocate.
45
46 Scholz: The high school.
47
48 White: Can I interject just to make it a little more concise?
49
50 Scholz: Certainly.
51

1 White: It will work just saying that the high school is limited to 50 students.
2
3 Evans: Clear as a bell. Picture's worth a thousand words.
4
5 Crane: Good picture, Mr. White.
6
7 Evans: High school limited ... that's why we have Staff ... to 50 students.
8
9 Crane: You know I learned in training a little while ago that there are some planning and
10 ...
11
12 Scholz: Excuse me, there's a motion on the floor.
13
14 Crane: I beg your pardon.
15
16 Scholz: Is there a second?
17
18 Shipley: There's a second.
19
20 Scholz: Okay, it's been moved and seconded. All in favor say aye.
21
22 Beard: Is this just for the motion?
23
24 Scholz: I'm sorry, we need discussion don't we? Yes, for the motion.
25
26 Beard: No, I don't have a discussion.
27
28 Scholz: You don't have a discussion. I'm sorry, I thought you did. I didn't want to rush
29 this. Discussion on this motion? Any discussion? Okay, all in favor say aye.
30
31 ALL COMMITTEE MEMBERS - AYE.
32
33 Scholz: Those opposed same sign.
34
35 Iserman: Nay.
36
37 Scholz: And the motion ... any abstentions? Okay, so the motion passes 6-1. So that
38 will be another condition.
39
40 Shipley: Five to two.
41
42 Scholz: Two nays. Thank you. Five to two. Okay, now we're back to the original. Is
43 there a motion to approve this with conditions?
44
45 Crane: I so move.
46
47 Scholz: Okay, it's been moved. Is there a second?
48
49 Evans: Second.
50

- 1 Scholz: It's been moved and seconded that we approve this with conditions. And we
 2 have to read the conditions. Let me find them. The conditions are ... I've lost my
 3 place.
 4
- 5 Shipley: Should be in the front.
 6
- 7 Bustos: I've got them here.
 8
- 9 Crane: Sixth page from the top.
 10
- 11 White: They're actually located on the first page as well. I went ahead and put it on the
 12 first page for you.
 13
- 14 Scholz: I don't see them on the first page.
 15
- 16 White: Do you just want me to read them? I have them right here.
 17
- 18 Shipley: I can do it if you want.
 19
- 20 Scholz: Yes, go ahead and read them please.
 21
- 22 Shipley: I move that the Planning Commission approve the variance with conditions. The
 23 variance is a variance from Article VI section 38-53 subparagraph D of the 2001
 24 Zoning Code as amended that requires the schools to be located on a roadway
 25 having a minimum right-of-way of 85 feet and therefore classified as a collector
 26 status roadway. And the condition one was that the approval of this variance is
 27 limited to the expansion and installation of nine portable buildings having a
 28 combined gross floor area of 8,400 square feet. Any future expansion of the
 29 school site or church shall require the submittal and approval of a zone change to
 30 a Planned Unit Development as outlined within the 2001 Zoning Code, as
 31 amended. Secondly, the applicant is required prior to the issuance of a building
 32 permit to submit a landscape buffering plan that will require administrative
 33 approval by staff. The applicant will be required to create a strong impression of
 34 spacial separation. In the event administrative approval is not granted, the
 35 applicant will be required to comply with Article VI section 38-53 D of the 2001
 36 Zoning Code as amended regarding screening, buffering, for schools adjacent to
 37 residential zoning districts.
 38
- 39 Scholz: And the third condition.
 40
- 41 Shipley: And the third condition would be that the high school will be limited to 50 students
 42 and they would have to either move or whatever.
 43
- 44 Scholz: No, it just says limited to the 50 students. That the condition. Okay, did we have
 45 a second on that?
 46
- 47 Evans: Second.
 48
- 49 Scholz: Yes, it was moved and seconded. Okay, I'll call the roll. Commissioner Shipley.
 50
- 51 Shipley: Aye findings, site visit, and discussion.

1
 2 Scholz: Commissioner Crane.
 3
 4 Crane: Aye findings, site visit, and discussion.
 5
 6 Scholz: Commissioner Iserman.
 7
 8 Iserman: Nay findings, site visit, discussions.
 9
 10 Scholz: Commissioner Evans.
 11
 12 Evans: Aye findings and discussion.
 13
 14 Scholz: Commissioner Bustos.
 15
 16 Bustos: Aye findings, discussion, and site visit.
 17
 18 Scholz: Commissioner Beard.
 19
 20 Beard: Aye findings, discussion, and site visit.
 21
 22 Scholz: And the Chair votes nay. So the variance has been approved 5-2.

23
24 **VIII. OTHER BUSINESS**

25
 26 Scholz: Staff, is there any other business in front of us today?
 27
 28 White: None.
 29

30 **IX. PUBLIC PARTICIPATION**

31
32 **X. STAFF COMMENT**

33
34 **XI. ADJOURNMENT 10:01**

35
36 Scholz: I declare this session over. It's 10:01.
37

38
 39
 40
 41
 42
 43
 44

Chairperson 

James White

From: Kirk Clifton [kirkclifton@gmail.com]
Sent: Wednesday, August 05, 2009 11:08 AM
To: James White
Cc: danschneider1021@msn.com
Subject: Las Cruces Catholic School

James,

It has come to my attention that the neighbors who have appealed our variance for LCCS have raised an issue concerning the Pre-K program. In an effort to undermine our operation of LCCS they have falsely claimed that it is operating illegally and not zoned for this use. First of all, we have had some form of a Pre-K program for many years - it is grandfathered in. But beyond that, this is a normal function of a Private school. In fact, most public schools (elementary level) have a Pre-K program or what is often called a D.D. Pre program. For the neighbors to allege this is an illegal operation is completely outrageous. This is part of the function of a Public/Private school and is allowed by right in the R-1a zoning district - not to mention it is grandfathered in.

If you should have any question please let me know. Could you please let me and Mr. Dan Schneider (danschneider1021@msn.com) know what the Council dates are?

Thank you,

Kirk Clifton, Board Member
LCCS

Dear Mr. White:

August 14, 2009

Thank you for forwarding Mr. Clifton's email. As a Board Member for LCCS Mr. Clifton makes a number of statements and claims regarding the LCCS preschool enterprise that I would like to address.

- 1) We are not attempting to undermine anything. We are asking that LCCS and Holy Cross Parish recognize and operate within city regulations and state laws. We are asking that our city and city staff monitor compliance and enforce those regulations and laws uniformly.
- 2) The property on North Miranda (variously referred to as 1321, 1327, 1331) is zoned R-1a, and has been zoned such since the establishment of the school as an elementary school. However, according to the current zoning code, no entity is allowed to operate a preschool with attendance of more than 12 children at any time in this zone. Conditional use for this purpose is not allowed. (See Art. IV. Sec. 38-33D, Art. VI. Sec. 38-53.)
- 3) If Mr. Clifton believes that the LCCS program is in a "grandfather" situation, that's all well and good. However, saying that doesn't make it so. He would need to present a verifiable history of the program including records such as date of establishment, annual enrollment and attendance figures, and relevant certification and accreditation materials. Such a history of the LCCS preschool could then be compared with a history of relevant zoning codes in order to assess precedence or grandfathering.
- 4) Further, if it were possible to support a claim that the LCCS preschool program has at some point held grandfather status, there would still be the question of current status. That is, an enterprise that is grandfathered holds that status generally only as long as it remains at a size or usage similar to when it became grandfathered. If it grows significantly or evolves to include new usages, it is no longer the entity that was grandfathered, and its claim to status as "grandfathered" is forfeited. (See Art. VII. Sec.38-70, Art. VII. Sec. 38-72A and B1.)

Since Dr. Trujillo has publicly stated the intent of LCCS to grow the preschool program from an enrollment of 54 to 72 within the next year or two, we must question when the program will have outgrown any grandfathering it might have enjoyed in the past. Where is the ceiling to this enterprise?

- 5) Contrary to Mr. Clifton's claim, we are not being outrageous, simply thorough. And in that thoroughness we can note the following:
 - a. Nowhere in the 2001 Zoning Code have we seen the phrase "allowed by right". This idea is over-reaching (perhaps "outrageous"?) particularly in Mr. Clifton's usage, suggesting that a nonresidential enterprise of any kind somehow has an innate "right" to operate in a singularly residential zone.

- b. Preschool is by state definition separate from K-12 schooling and it is separately licensed. Similarly, preschool is separately addressed in the Zoning Code per Art. IV. Sec. 38-33D, and is not at all linked to K-12.
 - c. LCCS in its appeal to City Council claims special status based on its church affiliation. This makes Mr. Clifton's reference to "most public schools" irrelevant or inappropriate. Therefore we are offering direct comparisons here only with other parochial or faith-based enterprises.
 - d. Although Mr. Clifton uses the term "pre-K program" repeatedly, the LCCS website uses the broader term "preschool" instead. In New Mexico the term "pre-K program" has been defined since 2007 as a state-wide and state-sponsored collaboration between the Public Education Department and the Children, Youth, and Families Department (NMAC 6.30.9.6 and 6.30.9.7G, NMAC 8.18.2.6 and 8.18.2.7F). According to August 2009 listings, LCCS is not one of the nine area schools participating.
- 6) Using the current DEX (Qwest) book yellow page listings for "Schools – Academic – Preschool & Kindergarten" we called a number of other parochial or faith-based preschools and found a mix of situations:
- a. College Heights Kindergarten, 1210 Wofford Dr., zoned R-1a (est. 1968)
– preschool and Kindergarten, approx. total enrollment 95
 - b. Cornerstone Christian Academy, 5301 Cortez Dr., zoned R-1a (current?)
– no preschool, only K-12, approx. total enrollment 36
 - c. Living Hope Montessori, 515 Foster Rd., zoned R-3
– preschool only, approx. enrollment 64
 - d. Mesilla Valley Christian School, 3850 Stern Dr., unzoned
– no preschool, only K-12, approx. total enrollment 470
 - e. Mission Lutheran School, 2752 Roadrunner Pkwy., zoned PUD
– preschool and K-5, approx. total enrollment 75
 - f. Noah's Ark Learning Center, 5605 Bataan Memorial West, zoned C-3c
– preschool only, approx. enrollment 90

(LCCS Immaculate Heart now offers only catechism classes, although it is still listed as a parochial school on the 2009 Chamber of Commerce map.)

Therefore, rather than the unitary picture suggested by Mr. Clifton with preschool coupled with later schooling, the picture is rather more diverse with many options for parents, students, and programs. And, in fact, the other two parochial schools in the Las Cruces area that offer K-12 programs, Cornerstone Christian Academy and Mesilla Valley Christian, do not offer preschool programs at all.

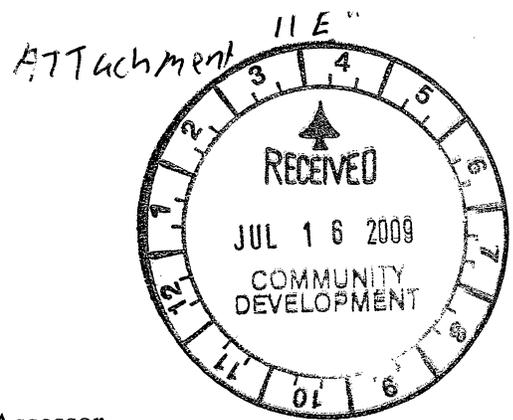
- 7) LCCS and Holy Cross Parish have been nonconforming under both the 1981 and 2001 Zoning Codes because of their location on a minor local roadway rather than a collector roadway. Additionally, LCCS has been operating a high school program at

this location for two years without seeking a conditional use permit as required by Art. IV. Sec 38-33D. Perhaps it is time for the lessee and the owner to prove their claims of status by following the steps in Art. VII. Sec. 38-74B to obtain Certificates related to their nonconformities. Nowhere in the current process have such Certificates been presented by the applicant or owner or referred to by city staff. In specific, Art. VII. Sec. 38-72B4 makes it clear that the burden of proof in establishing the legality of nonconformities is with the owner. In the narratives presented with Variance Request A1695 representatives of LCCS have offered inconsistent histories of the school and its development, differing even in the date of establishment. In fact, the County Assessor's records show nonresidential development on this property beginning in 1950. Perhaps Mr. Clifton or Mr. Schneider could task someone to do the research necessary to provide a comprehensive and accurate history of LCCS enterprises.

In sum, Mr. Clifton's comments are interesting but seem to lack support. I hope that our research provides you with some additional perspective for viewing Mr. Clifton's statements and for considering the situation involving A1695 and LCCS.

Thank you for your attention.

Jo Ruprecht, on behalf of the neighborhood group



CASE A1695 APPEAL by NEIGHBORS 07/09

TABLE OF CONTENTS for ATTACHMENTS

Frontispiece: Overview of land uses (3 pages)

- 1) Recent Aerial View from Dona Ana County Assessor
- 2) Vicinity Map with Alameda Elementary School, Las Casitas Apts., and Neighborhood Streets highlighted
- 3) Diagram of Holy Cross Campus with Proposed Locations of 12 Portable Buildings highlighted

ATTACHMENTS:

- A) Zoning Code Art. II. Sec.38-10 highlighted at 2.
 - B) Zoning Code Art. V. Sec. 38-49.1 highlighted at top
Art. IV. Sec. 38-33D highlighted at Child Care Center and at School (9-12)
 - C) Copy of initial LCCS filing of Variance Application highlighted at
Type of variance proposed and Required standard
 - C) Fact Sheet from May Commissioners' packet
 - D) Fact Sheet from June Commissioners' packet
 - E) Pages 73 from Draft Minutes of June meeting highlighted at Line 41, Shipley and continuing on Page 74
 - F) Official Notification of Decision
- 1) Copy of May 8 certified mailing
 - 2) Copy of June 5 certified mailing
 - 3) Deb Dennis letter to James White with email response including Abrams
 - 4) Petition circulated by neighbors in area, signed by over 240 adults
 - 5) Page 4 May Minutes highlighted at top, Iserman
Page 18 Draft June Minutes highlighted at Ruprect (sic)
 - 6) Page 1 May Minutes highlighted at Call to Order
Page 61 May Minutes highlighted at Abrams, continued to Page 62
 - 7) Page 56 May Minutes highlighted at midpage Scholz, continued to Page 57
Fact Sheet from June certified mailing highlighted at "On May 26, 2009..."
Page 1 Draft June Minutes highlighted at Hembree
Page 16 Draft June Minutes highlighted at top Scholz
Page 18 Draft June Minutes highlighted at midpage Scholz
 - 8) Email from James White with Thornberry letter to Bustos as attachment
Page 16 Draft June Minutes highlighted at Scholz, Bustos
 - 9) Page 9 May Minutes highlighted at midpage, continued to Page 10
Page 73 Draft June Minutes highlighted at Shipley, continued to Page 74
 - 10) Zoning Code II-2. highlighted at bottom line, continued to II-3 esp. c, g, l, n
Diagram with locations for 12 portable buildings highlighted
Diagram with locations for 9 portable buildings highlighted

- 11) Zoning Code Art. II. Sec. 38-10, highlighted at bottom page II-8, cont'd to II-9
Greg Bloom statement at June 30 meeting
- 12) Aerial of traffic counter placement from Traffic Department
Corrected Aerial based on resident observations during sequential traffic study
Page 25 Draft June P & Z Minutes highlighted at midpage through Page 29
Handout from Traffic Department at May 13 neighborhood meeting
- 13) Approximate Chronology of HCC Developments presented at June P & Z mtg.
Page 6 May P & Z Minutes highlighted at line 16
- 14) LCCS Development Plan presented as powerpoint and handout at February 26
meeting for parents and prospective high school students
- 15) Zoning Code Art. VII. Sec. 38-70 through 38-72 (pages VII-1, VII-2)
- 16) Zoning Code Art. IV. Sec. 38-33D (page IV-53 chart) highlighted at R-1a Zone
Zoning Code Art. VI. Sec. 38-53 (page VI-17) highlighted at Child Care Center
or Preschool
Zoning Code Art. IV. Sec. 38-33D (page IV-54) highlighted at R-1a Zone
Zoning Code Art. VI. Sec. 38-53 (page VI-19) highlighted at Schools (K-12)
Community Development memos re: building permit files for projects at 1327
and 1331 N. Miranda Street, no items listed for 1321 N. Miranda
- 17) Zoning Administrator Recommendation re: A1695 presented at June P & Z
meeting, highlighted at bottom page 1
- 18) Letters received by Community Development for May meeting (13 negative),
distributed with Commissioners' packets approx. one week before meeting
- 19) Letters received by Community Development for June meeting (9 negative),
distributed to Commissioners immediately before meeting

CASE A1695 APPEAL by NEIGHBORS



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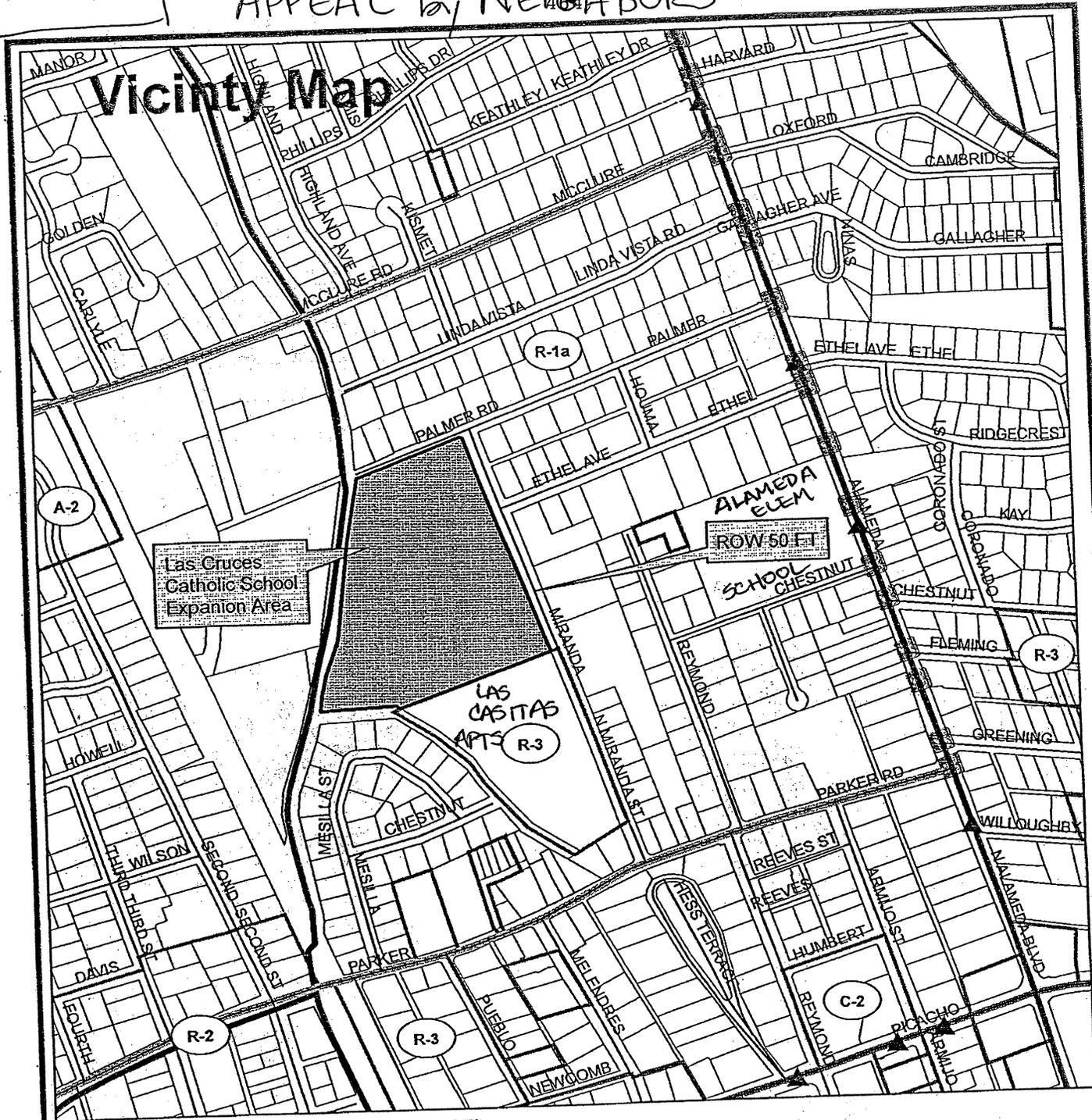
ATTACHMENTS:

- A) Zoning Code Art. II. Sec.38-10 (pages II-8, II-9) highlighted at 2.
 - B) Zoning Code Art. V. Sec. 38-49.1 (page V-171) highlighted at top
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continued to page II-3 with highlighting at items c, g, l, and n
Diagram with locations for 12 portable buildings highlighted
Diagram with locations for 9 portable buildings highlighted

A1695

APPEAL by NEIGHBORS

ATTACHMENTS



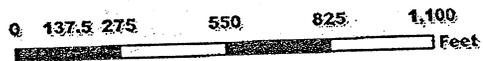
MAP CREATED FOR: JWHITE (A1695)

ADDRESS: 1321 N. Miranda Street

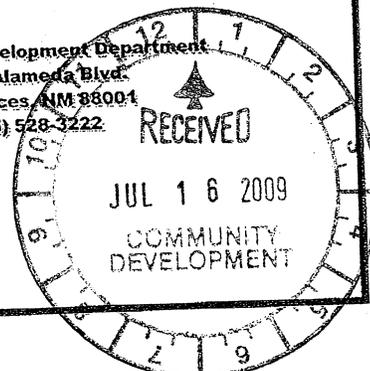
OWNERS: Holy Cross Parish

DATE: 5/18/2009 3:02:07 PM

ZONING: R-1a

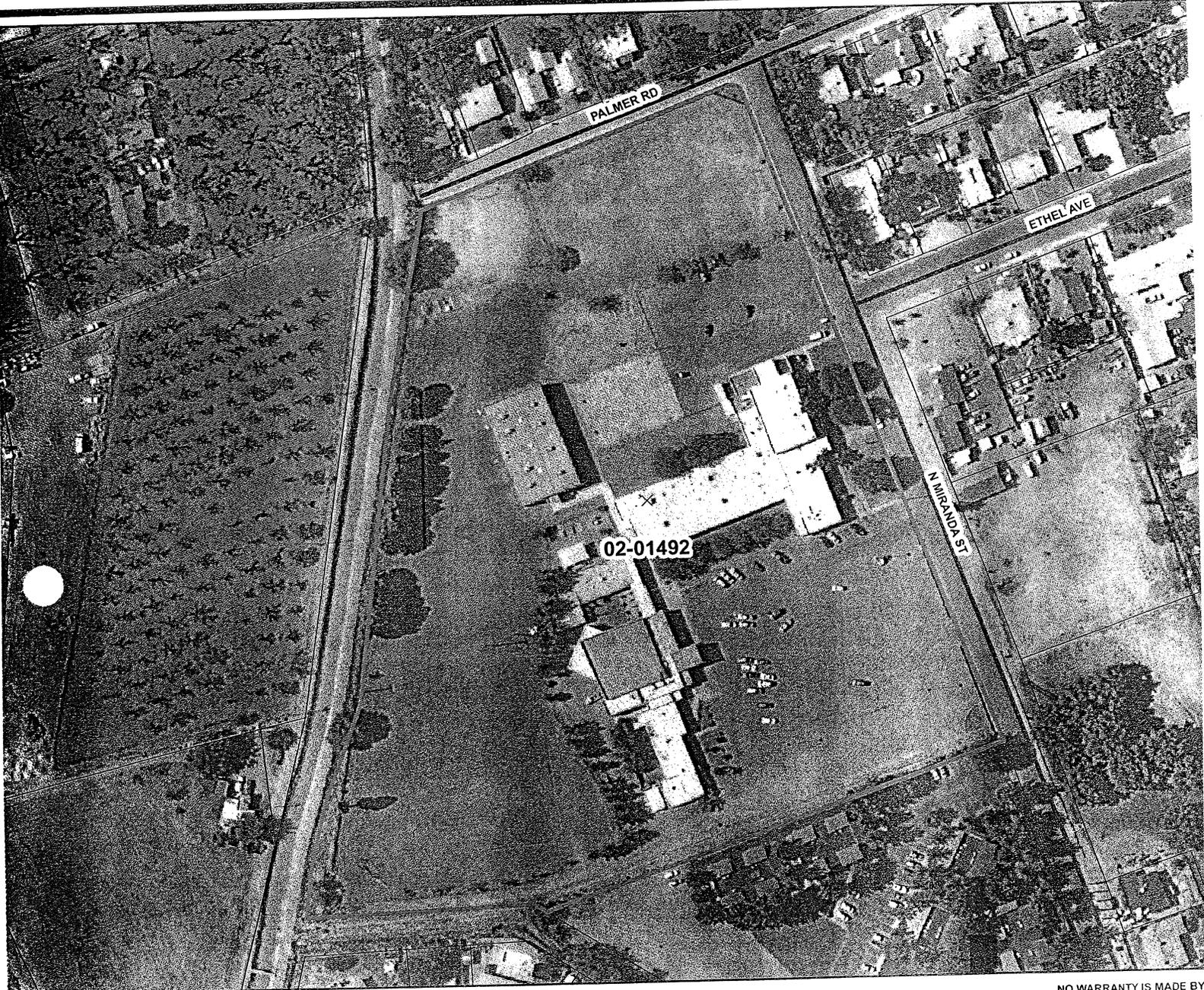


Community Development Department
 575 S Alameda Blvd.
 Las Cruces, NM 88004
 (505) 528-3222



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 Community Development Department at (505) 528-3043.

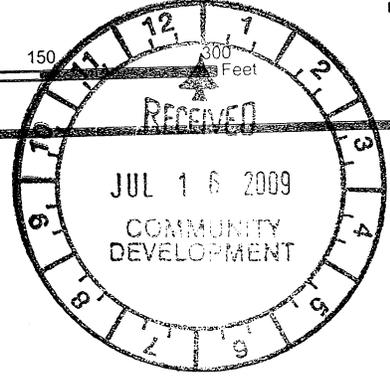
Overview of land & uses



Doña Ana County
Office of the Assessor
845 N. Motel Blvd.
Las Cruces, New Mexico 88007
Phone (505) 647-7460, or toll free: 877-827-7100
Web site: www.donaacounty.org

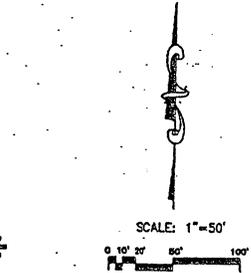
GARY PEREZ
County Assessor

ANDY SEGURA
Chief Deputy Assessor



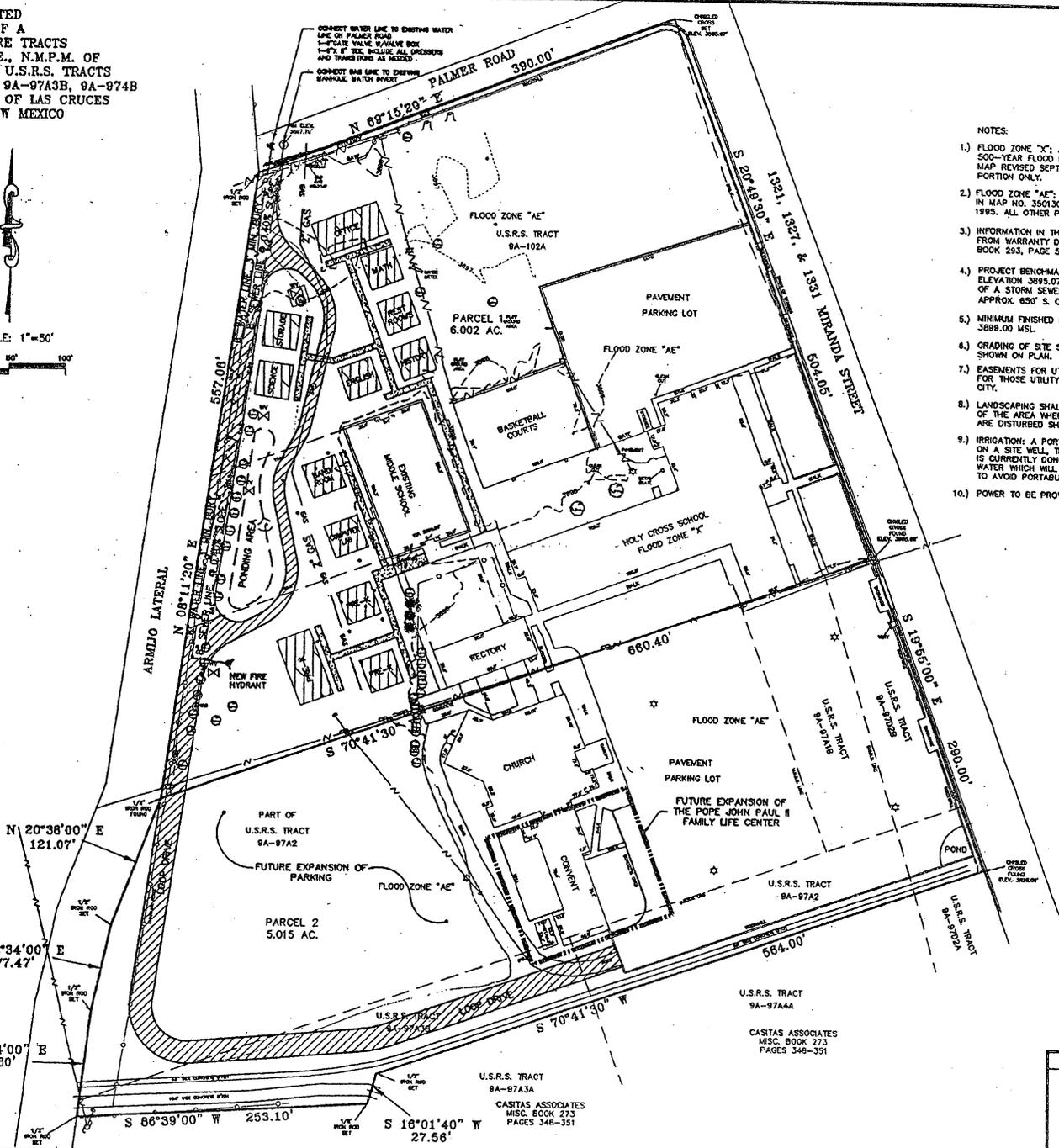
NO WARRANTY IS MADE BY COUNTY AS TO THE ACCURACY OR COMPLETENESS OF THIS INFORMATION. ORIGINAL SPATIAL INFORMATION MAY VARY FROM NATIONAL MAP ACCURACY. THIS INFORMATION MAY BE USED WITHOUT NOTIFICATION.

PROPERTY LOCATED ON A PORTION OF PARCELS 1 AND 2 OF A 6.002 ACRE TRACTS ON 12, T.23S., R.1E., N.M.P.M. OF U.S. SURVEYS BEING U.S.R.S. TRACTS 9A-97A1A, 9A-97A1B, 9A-97A3B, 9A-97A4B, 9A-97A2, CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO



SCALE: 1"=50'
0 50 100'

- POLE
- LINE
- DRANT
- OST
- ER
- EE
- WHOLE
- CONTOUR
- EDIATE CONTOUR
- ED 6" WATER LINE
- ED 8" SEWER LINE
- ED 2" GAS LINE
- IRE HYDRANT
- LOOP DRIVE & CONC. ACCESS
- SIDEWALK (ADA)



- NOTES:
- 1.) FLOOD ZONE "X"; AREAS DETERMINED TO BE 500-YEAR FLOOD PLAIN, IN MAP NO. 3501300 MAP REVISED SEPTEMBER 6, 1995, HOLLY CRC PORTION ONLY.
 - 2.) FLOOD ZONE "AE"; BASE FLOOD ELEVATION DE IN MAP NO. 3501300S18 F, MAP REVISED SEP 1995, ALL OTHER PORTIONS.
 - 3.) INFORMATION IN THE PREPARATION OF THIS PL FROM WARRANTY DEED FILED JANUARY 29, 1981 BOOK 293, PAGE 539, DONA ANA COUNTY REC.
 - 4.) PROJECT BENCHMARK DERIVES FROM CITY BEN ELEVATION 3895.07' MIRANDA +650' S. OF E. OF A STORM SEWER LOCATED ON THE E. SIDE APPROX. 650' S. OF MIRANDA & ETHEL INTER.
 - 5.) MINIMUM FINISHED FLOOR FOR ALL PORTABLES 3899.00' MSL.
 - 6.) GRADING OF SITE SHALL DIRECT ALL WATER TO SHOWN ON PLAN.
 - 7.) EASEMENTS FOR UTILITY LINES SHALL BE PROVIDED FOR THOSE UTILITY LINES THAT ARE TO BE MAINTAINED BY THE CITY.
 - 8.) LANDSCAPING SHALL BE EXISTING GRASS WITHIN THE AREAS WHERE THE PORTABLE IS LOCATED. AREAS DISTURBED SHALL BE RELOCATED ON SITE.
 - 9.) IRRIGATION: A PORTION OF THE EXISTING SYSTEM ON A SITE WELL. THIS WILL BE USED IN THE AREA CURRENTLY DONE. THE REMAINDER OF THE SYSTEM WHICH WILL BE MODIFIED SUCH THAT IT WILL NOT BE USED TO IRRIGATE PORTABLES.
 - 10.) POWER TO BE PROVIDED BY EL PASO ELECTRIC

THIS INFORMATION FILED FOR THE RECORD OF THE CITY OF LAS CRUCES

LAS CRUCES CATHOLIC
HOLY CROSS CATHOLIC
PORTABLE BUILDING
UTILITY PLAN, GRADING
AND DRAINAGE

CASITAS ASSOCIATES
MISC. BOOK 273
PAGES 348-351

U.S.R.S. TRACT
9A-97A3A
CASITAS ASSOCIATES
MISC. BOOK 273
PAGES 348-351

- I. VARIANCES. The Planning and Zoning Commission and the Public Works Director or designee (See Sec. 38-10I.1) are authorized to grant variances.
1. A variance shall be defined as a variation in the numerical requirements of this Code, the Sign Code, or the Design Standards (landscaping). Numerical variances to the clear sight triangle requirements shall be considered, reviewed, denied, or approved by the Public Works Director or designee, as per Article III of Chapter 26.
 2. A variance proposal to be acted on by the Planning and Zoning Commission may either be part of a request for rezoning, initial zoning, special use permit or planned unit development, or be submitted independent of such proposals and heard based on the individual merits of the request. Use variances, which are non-numerical, as well as numerical variances to the provisions of this Code, may be granted by the Planning and Zoning Commission only in accordance with the Infill Development Process (IDP), Sec. 38-48. Administrative decisions on or interpretations of the Zoning Code or the Sign Code by staff may be affirmed, reversed, or modified pursuant to this section and appealed to the City Council in accord with Sec. 38-13, except as provided in Sec. 38-4D.
 3. In the event of a denial decision by the Planning and Zoning Commission and/or City Council, there shall be no reapplication for the exact same variance, which was properly advertised and acted on, for a period of one (1) year after the date of the decision of the Planning and Zoning Commission and/or City Council. A modified variance request processed through the IDP, Sec. 38-48, may be resubmitted at any time following action by the Planning and Zoning Commission.
 4. A variance shall be automatically revoked if a building permit, sign permit or business registration/license for the approved variance has not been obtained within one (1) year. Upon a formal request from the property owner, the Community Development Director or designee may grant a one (1) time, one (1) year extension as deemed appropriate.

J. CRITERIA FOR DECISIONS.

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, Sec. 38-2 and 36-1 of the Sign Code, when appropriate, and determine whether the request is consistent or inconsistent with stated criteria. Members of the Planning and Zoning Commission shall state the factual basis and the findings for their vote.

Furthermore, granting any variance shall not merely serve as a convenience to the applicant, but the variance shall be the minimum necessary for relief in order to accomplish the stated objective(s) of the applicant's request or demonstrable hardship. Hardships are not considered personal or monetary. In addition to criteria already referenced, decisions may consider:

1. A physical hardship relative to the property (i.e., topographic constraints or right-of-way takes resulting reduced development flexibility, etc.) in question.
2. The potential for spurring economic development at a neighborhood or city-wide level if requested allowances are granted.
3. Monetary considerations not as a whole, but relative to options available to meet the applicant's stated objectives when such options cause considerable monetary hardship under strict application of code provisions.

K. NOTICE OF DECISION.

Upon making a recommendation to the City Council or taking final action on matters for which the Planning and Zoning Commission has been granted final authority, the Community Development Department shall promptly

1. Prepare a written decision that includes an order stating the factual basis and the findings of the Planning and Zoning Commission which support the order
 - a. Recommending the granting or denying of relief, or
 - b. Granting or denying relief;
2. File the written decision with the City Clerk's Office;
3. Send by certified mail a document with appropriate signatures that includes a copy of the written decision of the Planning and Zoning Commission to all parties whose rights are adjudged by the decision and that contains the requirements for filing an appeal;
4. Send by regular mail, or otherwise provide, a copy of the document that includes a copy of the written decision of the Planning and Zoning Commission to every person who has filed a written request with the Community Development Department for notice of the decision.

L. APPEAL TO CITY COUNCIL.

Decisions of the Planning and Zoning Commission may be appealed to the City Council in accord with the provisions of Sec. 38-13.

M. RESUBMITTAL OF REQUEST.

A request denied by the Planning and Zoning Commission and/or the City Council shall not be resubmitted or reconsidered for a period of one (1) year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six (6) months after such denial decision. Special use permits or planned unit developments processed through the IDP that are denied by the Planning and Zoning Commission may be modified and resubmitted at any time following action by the Planning and Zoning Commission.

Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Care of thirteen (13) or more children at one time is prohibited in the residential zoning districts listed. Refer to Section 38-52 of the Las Cruces Municipal Code, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for.

Christmas Tree Sales. Temporary, not prior to November 15, provided lots are cleaned and removed by December 31.

Construction Yard or Building (Temporary). Such yard or building shall be removed upon completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence five (5) feet in height. However, there shall be no fence or wall more than three (3) feet in total height above street-curb level located within thirty (30) feet of a street intersection. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the Uniform Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.

Contractor-type yards (e.g. associated with Cooling, Heating, Plumbing, and Sheet metal shops). Yards shall be maintained in a neat and orderly fashion and enclosed by a solid wall or fence a minimum of six (6) feet in height (clear-site-triangle requirements must be met).

Cottage Industry. A cottage industry is defined as any manufacturing, compounding, and/or assembly process, including food preparation, which is subordinate to a primary use of retail sales or service. This use is not to be confused with or treated as a home occupation. Cottage Industry land use listings may be found in Section 38-33I of the Las Cruces Municipal Code. Cottage industries are limited to 5,000 square feet of retail sales space or retail sales space limited to 49% of the total building square footage, whichever is less. Cottage industry may only occur within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on site only, and shall not pose any significant adverse impact to adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet, may be used in the conduct of the cottage industry.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
Sec. 38-33D INSTITUTIONAL LAND USES																			
School (9-12) Public, Private, Parochial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/Employee + 1 APS/3-5 seats in primary assembly hall	4 BPS/Classroom	See Section 38-53
School, College or University																	1 APS/1-2 Employees + 1 APS/3-5 Students	1 BPS/20 Employees + 1 BPS/4 Students	See Section 38-53
School, Commercial, Trade or Technical																	1 APS/1-2 Employees + 1 APS/2-4 Students	1 BPS/20 Employees + 1 BPS/10 Students	See Section 38-53

Applicant Dan Schneider (3)
 Contact Kirk Clifton AICP SW

CITY OF LAS CRUCES VARIANCE APPLICATION

575 S. Alameda Boulevard or PO Box 20000, Las Cruces, New Mexico 88004
 (575) 528-3043 (Voice) (575) 528-3155 (FAX) (575) 528-3016 (TTY)

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 528-3043 (voice) or 528-3157 (TTY) if accommodation is necessary. This document can be made available in alternative formats by calling the same numbers list above.

(Case # A1695)

SUBJECT PROPERTY ADDRESS: 1321 N. Miranda Street

PROPERTY TAX ID# 4-006-134-383-358 PARCEL ID# 02-01492

PROPERTY OWNER(S) of record: Holy Cross Parish, Inc. - Las Cruces Catholic School(Lessee)

Address: 1331 N. Miranda Street City Las Cruces State NM Zip 88001

Phone-Home (575) 526-2517 Work() Mobile() Fax(575) 524-0544

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

Name: Dan Schneider Title/Company: Board President, Las Cruces Catholic School

Address: 1331 N. Miranda Street City: Las Cruces State: NM Zip: 88001

Phone-Home () Work(575) 526-2517 Mobile() Fax(575) 524-0544

Check and complete all boxes that apply:

PLANNING AND ZONING COMMISSION			
Numerical Variance	<input checked="" type="checkbox"/>	Zoning Code	Sign Code <input type="checkbox"/> Other <input type="checkbox"/>
Code Interpretations	<input type="checkbox"/>	Zoning Code	Sign Code <input type="checkbox"/> Other <input type="checkbox"/>
APPEAL TO	<input type="checkbox"/> Planning and Zoning Commission	<input type="checkbox"/> City Council	

When were zoning req changed for Schools or major

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): David R Schweder Date 6/3/89

Applicant(s), if different from owner: _____ Date _____

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

CONTACT PERSON, if different from owner:

Name: Kirk M. Clifton, AICP Title/Company: City and Regional Land Use Consultants, LLC
 Address: _____ City: _____ State: _____ Zip _____
 Phone-Home () _____ Work(575) 571-2464 Mobile() _____ Fax() _____

Name: _____ Title/Company: _____
 Address: _____ City _____ State _____ Zip _____
 Phone-Home () _____ Work(505) _____ Mobile(505) _____ Fax() _____

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

Accepted by		Fee Paid:	\$	Date Fee Paid	
Receipt No.	#	Check Number	#	Case Number	
Tentative Meeting Date		Submittal Complete		Planner	

**AFFIDAVIT
PLANNING AND ZONING COMMISSION**

COMES NOW the undersigned and states under oath as follows:

1. That he/she is the Property Owner/Applicant for a request to be submitted to the Planning and Zoning Commission.
2. That the undersigned has submitted with the application a legal description of the property.
3. That said description and application information submitted is true and accurate to the best of my knowledge at the time the application was signed.

Daniel R Schneider
Name (Print)

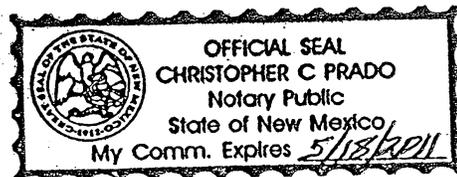
Daniel R Schneider
Signature

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

The foregoing instrument was acknowledged before me this 6th day of April,
2009, by Daniel R. Schneider

Christopher C. Prado
NOTARY PUBLIC

My Commission Expires:
5/18/2011



4/30/08

DEVELOPMENT STATEMENT For Variance Applications

Please print legibly or type

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 of Las Cruces responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission or City Council may condition approval of the proposal at a public hearing where the public will be provided an opportunity to comment.

Applicant Information:

Applicant's Name: LAS CRUCES CATHOLIC SCHOOL, ATTN: DAN SCHNEIDER, BOARD PRESIDENT

Contact Phone Number: 526-2517 OR KIRK CLIFTON, BOARD MEMBER

Contact email address: Kirk.Clifton@gmail.com

Website Address (if applicable): _____

Proposal Information:

Location of subject property: 1331 N. MIRANDA STREET
(In addition to description, attach a map. The map should be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area.)

Current zoning of property: R-1a Acreage of subject property: 11.07± ACRES

Type of variance(s) proposed: VARIANCE TO SEC. 38-33d (VARIANCE TO ALLOW EXISTING SCHOOL TO BE LOCATED ON A MINOR LOCAL)

Required standard (for example, 15 foot rear yard setback): SCHOOL SHALL BE LOCATED ON A COLLECTOR ROADWAY (85' OF R.O.W.)

Request (for example, 12 foot rear yard setback): EXISTING SCHOOL HAS BEEN LOCATED ON A MINOR LOCAL CONSISTING OF 50' (R.O.W. IS 55' IN MOST PLACES) - 25' VARIANCE TO REQUIRED R.O.W. WIDTH

Reason for requesting variance (hardship): L.C.C.S. HAS OPERATED A SCHOOL AT THIS LOCATION SINCE 1962. RECENTLY, IN AN EFFORT TO ADDRESS THE CURRENT SCHOOLS POPULATION AS WELL AS THE NEED FOR MORE SPACE, FOR THE HIGH SCHOOL, WE RECENTLY PURCHASE 12 PORTABLES, BECAUSE OF THE INCREASED SQUARE FOOTAGE, WE ARE BEING ASKED BY THE CITY TO OBTAIN A VARIANCE. UNDER THE CURRENT CODE, WE ARE ALLOWED A 10% INCREASE W/O A VARIANCE. THE PROPOSAL WILL INCLUDE 9 PORTABLE STRUCTURES

*APPROVED
12/29/09*

Proposed square footage and height of structures to be built (if applicable): (Use separate sheet if necessary.) 8400# TOTAL (9 PORTABLES) HEIGHT = 12'6"

Will any special landscaping, architectural or site design features be implemented in the proposal (for example, rock walls, landscaped medians or entryways, or architectural themes)? If so, please describe and attach rendering available LANDSCAPING AND PONDING WILL

BE PROVIDED AS REQUIRED BY EXISTING CITY OF LAS CRUCES CODES

Attachments

Please attach the following: (*indicates optional item)

- location map
- detailed site plan
- *proposed building elevations
- *renderings or architectural or site design features
- *other pertinent information

Variance Fees

Revised through adoption of Resolution 00-360

Process	Fee
Single Family Residential Homeowner	\$75.00
All other Variance Applications	\$175.00 ✓
Appeal to City Council	\$200.00

FACT SHEET

Case: A1695

May

- **Applicant:** Las Cruces Catholic School
- **Current Use:** Religious Campus (private school & religious institution)
- **Proposed Use:** Expansion of private school to include ~~8~~ ⁷ portable buildings having a combined gross floor area of 8,400 +/- square feet
- **Existing Zoning:** R-1a (Single-Family Medium Density)

Applicant Proposal

Case A1695: A request for a variance from Article VI, Section 38-53 (D) of the 2001 Zoning Code, as amended, that requires schools to be located on a roadway having a minimum Right-of-Way of eighty-five (85) feet being classified as a Collector status roadway. Las Cruces Catholic School is requesting a variance to allow for a proposed expansion of the school site by 8,400 square feet or ~~eight~~ ^{eight} (8) portable buildings. The school campus is located on a portion of N. Miranda Street having a varying Right-of-Way between fifty (50) and fifty-five (55) feet classified as a Local roadway. The subject property is located at 1321 N. Miranda Street on an 11.07 +/- acre parcel that is shared with Holy Cross Catholic Church zoned R-1a (Single-Family Medium Density). Submitted by Dan Schneider for the Las Cruces Catholic School.

Review Process and Meeting Dates

- This case is scheduled for public hearing by the Planning and Zoning Commission on **Tuesday, May 26, 2009 at 6:00 p.m.**, in the City Council Chambers, Las Cruces City Hall located at 200 N. Church Street, Las Cruces, New Mexico.
- The Planning & Zoning Commission will listen to information regarding the variance request and render a final decision. The decision by the Planning & Zoning Commission can be appealed to the City Council. Please contact James White at (575) 528-3120 to ascertain the exact City Council meeting date.
- You or your representative, are invited to attend these meetings to express your opinion about the request. City staff welcomes written comments and ask that you submit these as promptly as possible upon receipt of this notice to the Community Development Department. Doing so allows City staff to provide your comments in the packets that go to each Planning and Zoning Commission member and, ultimately, each City Councilor. Comments may also be provided to the Commission at the scheduled meeting.

The City of Las Cruces does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the provision of services. The City of Las Cruces will make reasonable accommodation for a **qualified individual with a disability** that wishes to attend this public meeting. Please notify the City Community Development Department at least 48 hours before the meeting by call (575) 528-3043 (voice) or (575) 528-3016 (TTY). This document can be made available in alternative formats by calling the same numbers listed above.

FACT SHEET

June

Case: A1695

- **Applicant:** Las Cruces Catholic School (property owned by Holy Cross Parish, Inc.)
 - **Current Use:** Religious Campus (private school & religious institution)
 - **Variance Request:** A variance request to the right-of-way requirements for a school (K-12, Public, Private, Parochial/College or University/Commercial) to be located on a collector or higher designated roadway. The school is located on a minor local roadway that has varying right-of-way between 50 and 55-feet. A collector roadway has a minimum right-of-way requirement of 85-feet. Therefore, the numerical variance request is for a deviation of 35-feet to the right-of-way requirements for a collector roadway.
-
- **Zoning Status:** The subject property is considered to be legal non-conforming under the 2001 Zoning Code, as amended. As a legal non-conforming property, the existing building(s) on the property may be remodeled anytime, but expansion or alteration of existing buildings may be granted one time up to ten (10) percent of the gross floor area of all buildings on the property. The applicant is seeking to come into compliance with the 2001 Zoning Code, as amended to allow expansion of the buildings with 12 portable buildings. By right, the applicant is allowed to place three out of the 12 portable buildings on the subject property. The applicant is seeking the variance request to come into compliance with the 2001 Zoning Code, as amended, thus allowing for the installation of the remaining nine portable buildings.
 - **Existing Zoning:** R-1a (Single-Family Medium Density)
 - **Case Materials:** www.las-cruces.org/cd/DRC/city/A1695_PZ.pdf (including entire case packet and traffic impact analysis)
 - On May 26, 2009, the Planning and Zoning Commission voted 4-0 (two Commissioners absent, one Commissioner abstention) to table consideration of the variance request to the following Planning & Zoning Commission meeting scheduled for Tuesday, June 23, 2009. The Planning & Zoning Commission is unable to reconvene on Tuesday, June 23, 2009. Therefore, City staff has scheduled a special Planning and Zoning Commission meeting for **Tuesday, June 30, 2009 at 6:00 p.m.**, in the City Council Chambers, Las Cruces City Hall located at 200 N. Church Street, Las Cruces, New Mexico.
 - The P&Z Commission will listen to information regarding this case and make a final decision regarding this case. This decision may be appealed to the City Council for further consideration.
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1 time, Ethel and Miranda. All right, I did not hear the word compulsive but I
 2 know it's going through the minds of my fellow Commissioners. My look at
 3 the data even though there are difficulties with it, seems to me to show
 4 that there was 15 minutes of the day at 7:45 to 8:00 in the morning, and
 5 3:00 to 3:15 in the afternoon. Cars come out of the parking lot at the rate
 6 of three a minute in the morning and two a minute in the afternoon during
 7 that 15 minute period. It doesn't seem to me that that is a terrible burden
 8 on the traffic on Miranda Street. That's the total of cars regardless of
 9 whether they're going across the intersection to Ethel or north up Miranda,
 10 or south down Miranda. My inclination is therefore to approve the
 11 variance with the added stipulation in addition to the two conditions that
 12 the staff has recommended, that the high school be disbanded or moved
 13 by the summer of 2014. That is currently my inclination, it's not
 14 necessarily my vote. I have to hear what others have to say.

15 Scholz: Okay, are you making that in the form a motion?

16 Shipley: No, no, it's discussion.

17 Crane: No, at this point we're still in discussion I think unless no one else ...

18 Scholz: Yes, we're still in discussion, right. But if you're adding a condition then of
 19 course you'll have to make a motion.

20 Crane: All right. Well let me make the motion then we'll have something specific
 21 to discuss.

22 Shipley: I think we should discuss before the motion. I think there are some other
 23 things because I wanted to say the same thing. When I quickly looked at
 24 this book there are 240 signatures in here of people that live in
 25 neighborhood that are interested in seeing a Planned Unit Development
 26 from the school and the church. And I say "and the church" because if
 27 they're going to change what they do in the church it affects the
 28 neighborhood as well. So that's something that we ought to think about as
 29 we look at that. Now that's, you know in this ... in Mr. White's presentation
 30 he did state that if there is any other development in the future, that they
 31 would have to come in with a Planned Unit Development.

32 Scholz: It's up on the screen right now. Yes, as a matter of fact.

33 Shipley: So I agree with that. So, I think that's one point (*inaudible*) or not. I think
 34 there's confusion to me with what is the ... what are we approving here.
 35 Initially it says Case A1695 is a request for a variance from Article VI
 36 section 38-53D of the 2001 Zoning Code, as amended, that requires
 37 schools to be located on a roadway having a minimum right-of-way.
 38 When I go down to look at what the recommendation is, it doesn't mention
 39
 40
 41
 42
 43
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 45
 46

1 that. It only mentions the approval of this variance is limited to the
 2 expansion and installation of nine portable buildings having a combined
 3 gross area of 8,400 square feet. So where did the variance for the
 4 roadway go? It's not in here. So to me this is not a correct or accurate
 5 representation of what we're supposed to be doing. If we're doing a
 6 variance for the roadway and then we're doing a variance for the
 7 expansion, there should be two separate votes on this particular item.
 8 And I don't see that in here.

9
 10 Scholz: Mr. White, would you care to comment?

11
 12 White: I think the confusion is you're looking at two different issues. The variance
 13 is to right-of-way. The issues regarding the square footage is a condition
 14 that's proposed by staff. So let's look at this slide again. If you look at this
 15 slide, it says if you vote yes to approve the variance with conditions
 16 therefore allowing for a 35-foot deviation from the 85-foot minimum right-
 17 of-way requirement. That is what the actual vote is upon. What we're
 18 speaking about earlier was the conditions that were imposed by staff
 19 which is kind of lengthy so what I did is I placed it on a separate slide
 20 therefore you have these two conditions that staff recommends be
 21 attached to the approval of the variance request.

22
 23 Scholz: In other words, what's happening with the variance request is that it
 24 legitimizes the school. The school no longer has to get a variance to
 25 operate, right? In other words, even though it's not on a collector or on an
 26 arterial or you know a major road, it can ignore that right, because we've
 27 granted them this variance.

28
 29 Shipley: Then I would kind of concur with your recommendation to add an
 30 additional condition that says when the population of the school gets to 50
 31 students, the high school, it has to go somewhere else. Because that was
 32 part of their plan that they predicted and whereas it says in there
 33 documents they would like to go to 60 or 80. Well you know how much is
 34 enough? If we want to be concise then let's put it in as a condition that
 35 they have to live with. They can plan for it, and as they develop their
 36 Planned Unit Development, they know whether they need you know
 37 another 14,000 square feet, or 1,400 square feet?

38
 39 Iserman: Thousand.

40
 41 Shipley: 14,000 square feet. You know where's that going to go. What's going to
 42 go in there and how's that going to affect traffic.

43
 44 Evans: Chairman Scholz.

45
 46 Scholz: Commissioner Evans.



**PLANNING AND ZONING COMMISSION
OFFICIAL NOTIFICATION OF DECISION**

July 01, 2009

CASE A1695: A request for a variance from Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended, that requires schools to be located on a roadway having a minimum Right-Of-Way of eighty-five (85) feet, therefore classified as a Collector status roadway. The variance will grant a thirty-five (35) foot departure from the eight-five (85) foot Right-of-Way requirement. The applicant, Las Cruces Catholic Schools, is proposing to expand the existing school site by 8,400 square feet (9 portable buildings). The subject property is located at 1321 N. Miranda Street on an 11.07 +/- acre parcel/s that is shared with Holy Cross Catholic Church and is zoned R-1a (Single-Family Medium Density). Submitted by Dan Schneider for Las Cruces Catholic School.

DECISION

On June, 30, 2009, the Planning and Zoning Commission (P&Z) voted to conditionally approve Case A1695 by a vote of 5-2-0. The conditions are as follows:

- 1) The approval of this variance is limited to the expansion of the portable buildings having a combined gross floor area of 8,400 square feet. Any future expansion of the school site or church shall require the submittal and approval of a zone change to Planned Unit Development (PUD) as outlined within the 2001 Zoning Code, as amended.
- 2) The applicant is required prior to the issuance of a building permit to submit a landscape (buffering) plan that will require administrative approval by staff. The applicant will be required to create a strong impression of spatial separation. In the event administrative approval is not granted the applicant will be required to comply with Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended, regarding screening (buffering) for schools adjacent to residential zoning districts.

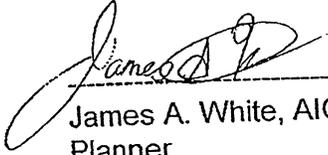
- 3) The high school is limited to a maximum of fifty (50) students.

GROUND FOR APPEAL TO CITY COUNCIL

Any person, or any department, commission, board of the City that is affected by a decision of an administrative official, commission, committee, or board in the

administration or enforcement of this Code... may appeal such decision to the City Council. Such appeal must be initiated in writing within fifteen (15) calendar days after the decision and after all other procedures established by this code have been established.

APPEAL DEADLINE: July 15, 2009 (5:00 pm)



James A. White, AICP
Planner

cc: File



City of Las Cruces

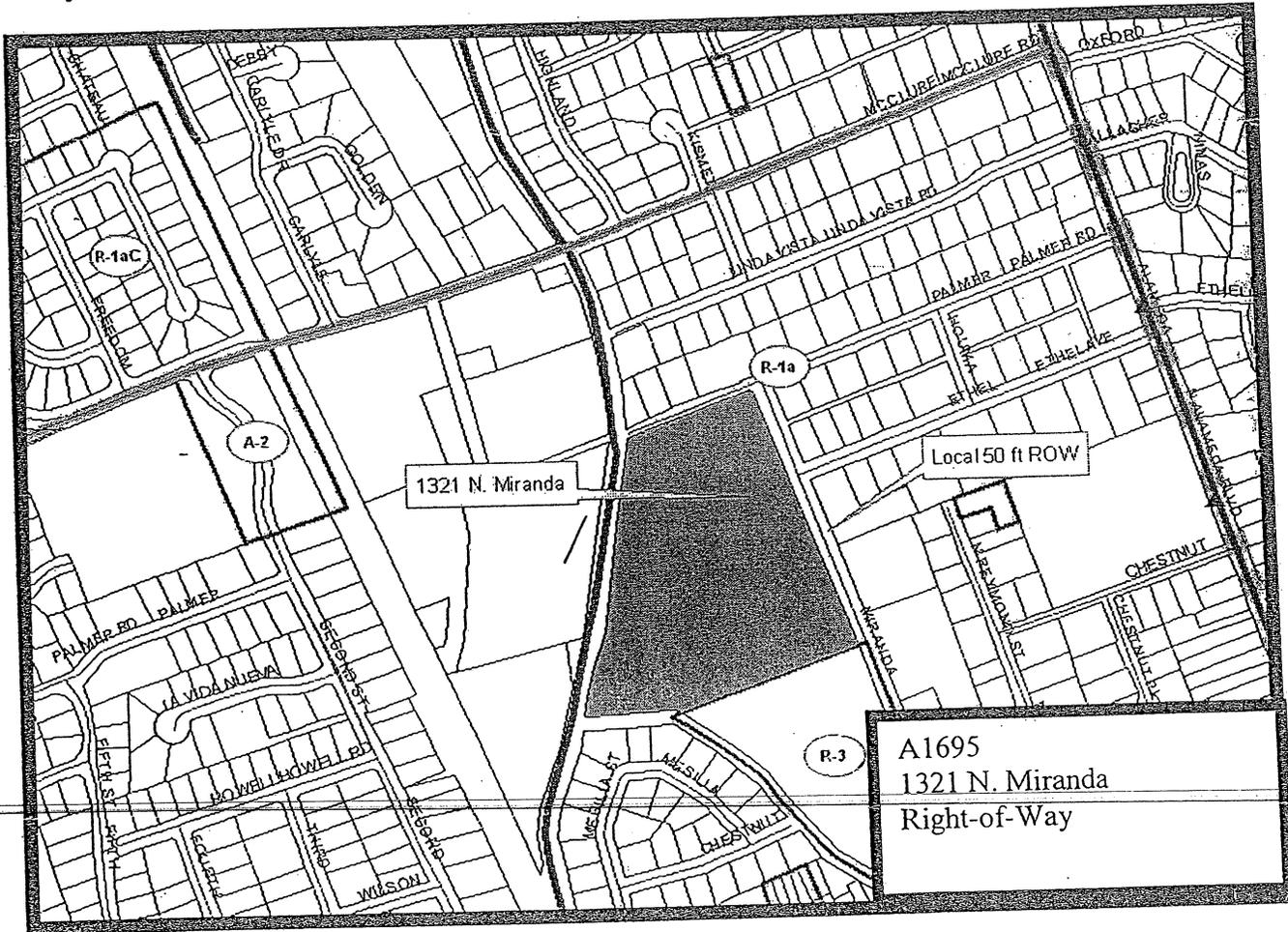
Public Notice

Via Certified Mail

May 08, 2009

Dear Property Owner:

The City of Las Cruces Community Development Department has received an application for a variance for a property located at 1321 N. Miranda Street. The variance request is in close proximity to land you own according to the official Dona Ana County Tax Records.



In that the City's goal is to inform residents within the notice area of actions that may be of interest to them, this notice is being made available to you. For more detailed information about the proposed case including the process and timing of review and possible actions that may take place by the P&Z Commission or the City Council, please see the attached Fact Sheet.

Sincerely,

James A. White
 James A. White, AICP
 Planner

FACT SHEET

Case: A1695

- **Applicant:** Las Cruces Catholic School
- **Current Use:** Religious Campus (private school & religious institution)
- **Proposed Use:** Expansion of private school to include 8 portable buildings having a combined gross floor area of 8,400 +/- square feet
- **Existing Zoning:** R-1a (Single-Family Medium Density)

Applicant Proposal

Case A1695: A request for a variance from Article VI, Section 38-53 (D) of the 2001 Zoning Code, as amended, that requires schools to be located on a roadway having a minimum Right-of-Way of eighty-five (85) feet being classified as a Collector status roadway. Las Cruces Catholic School is requesting a variance to allow for a proposed expansion of the school site by 8,400 square feet or eight (8) portable buildings. The school campus is located on a portion of N. Miranda Street having a varying Right-of-Way between fifty (50) and fifty-five (55) feet classified as a Local roadway. The subject property is located at 1321 N. Miranda Street on an 11.07 +/- acre parcel that is shared with Holy Cross Catholic Church zoned R-1a (Single-Family Medium Density). Submitted by Dan Schneider for the Las Cruces Catholic School.

Review Process and Meeting Dates

- This case is scheduled for public hearing by the Planning and Zoning Commission on **Tuesday, May 26, 2009 at 6:00 p.m.**, in the City Council Chambers, Las Cruces City Hall located at 200 N. Church Street, Las Cruces, New Mexico.
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DEVELOPMENT STATEMENT For Variance Applications

Please print legibly or type

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 of Las Cruces responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission or City Council may condition approval of the proposal at a public hearing where the public will be provided an opportunity to comment.

Applicant Information:

Applicant's Name: LAS CRUCES CATHOLIC SCHOOL, ATTN: DAN SCHNEIDER, BOARD PRESIDENT

Contact Phone Number: 526-2517 OR KIRK CLIFTON, BOARD MEMBER

Contact email address: Kirk.Clifton@gmail.com

Website Address (if applicable): _____

Proposal Information:

Location of subject property: 1331 N. MIRANDA STREET
(In addition to description, attach a map. The map should be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area.)

Current zoning of property: R-1a Acreage of subject property: 11.07± ACRES

Type of variance(s) proposed: VARIANCE TO SEC. 38-33d (VARIANCE TO ALLOW EXISTING SCHOOL TO BE LOCATED ON A MINOR LOCAL)

Required standard (for example, 15 foot rear yard setback):
SCHOOL SHALL BE LOCATED ON A COLLECTOR ROADWAY (85' OF R.O.W.)

Request (for example, 12 foot rear yard setback):

EXISTING SCHOOL HAS BEEN LOCATED ON A MINOR LOCAL CONSISTING OF 50+ (R.O.W. IS 55' IN MOST PLACES) - 25' VARIANCE TO REQUIRED R.O.W. WIDTH

Reason for requesting variance (hardship):

L.C.C.S. HAS OPERATED A SCHOOL AT THIS LOCATION SINCE 1962. RECENTLY, IN AN EFFORT TO ADDRESS THE CURRENT SCHOOLS POPULATION AS WELL AS THE NEED FOR MORE SPACE FOR THE HIGH SCHOOL, WE RECENTLY PURCHASE 12 PORTABLES. BECAUSE OF THE INCREASED SQUARE FOOTAGE, WE ARE BEING ASKED BY THE CITY TO OBTAIN A VARIANCE. UNDER THE CURRENT CODE, WE ARE ALLOWED A 10% INCREASE W/O A VARIANCE. THE PROPOSAL WILL INCLUDE 9 PORTABLE STRUCTURES

Proposed square footage and height of structures to be built (if applicable): (Use separate sheet if necessary.) 8400 # TOTAL (9 PORTABLES) HEIGHT = 12'6"

Will any special landscaping, architectural or site design features be implemented in the proposal (for example, rock walls, landscaped medians or entryways, or architectural themes)? If so, please describe and attach rendering available LANDSCAPING AND PAVING WILL BE PROVIDED AS REQUIRED BY EXISTING CITY OF LAS CRUCES CODES

Attachments

Please attach the following: (*indicates optional item)

- location map
- detailed site plan
- *proposed building elevations
- *renderings or architectural or site design features
- *other pertinent information

Variance Fees

Revised through adoption of Resolution 00-360

Process	Fee
Single Family Residential Homeowner	\$75.00
All other Variance Applications	\$175.00 ✓
Appeal to City Council	\$200.00

VARIANCE REQUEST JUSTIFICATION STATEMENT

Please provide information on the following issues. This information shall serve as justification for your variance request to the Planning and Zoning Commission. Please note that the Planning and Zoning Commission will thoroughly review the information provided and consider it when making a decision. If the information you provide is unreadable or unclear, it will not be accepted by the Community Development Department (CDD). Additional sheets of paper may be attached.

1. Please explain the nature of your variance request, including the specific numerical request.

VARIANCE TO ALLOW THE EXISTING LAS CRUCES CATHOLIC SCHOOL
ON A MINOR LOCAL ROADWAY (50' ROW) IN LIEU OF THE REQUIRED
COLLECTOR ROADWAY (85' ROW) FOR SCHOOLS - SEC. 38-33d, LAS CRUCES
ZONING CODE, AS AMENDED.

2. Please explain what physical constraint(s) exists on your property that makes it impossible for you to follow the regulations as written. Attach additional sheet(s) if necessary.

L.C.C.S. HAS BEEN LOCATED AT THIS SITE SINCE 1962. SINCE
THAT TIME THE ZONING REGULATIONS HAVE CHANGED REQUIRING
SCHOOLS BE LOCATED ON COLLECTOR DESIGNATED ROADWAYS.
IN AN EFFORT TO ADDRESS SPACE NEEDS FOR THE EXISTING
SCHOOL AND HIGH SCHOOL, PORTABLES WERE PURCHASED. THE
CITY WILL NOT PERMIT (BUILDING) THESE UNTIL SUCH TIME AS
A VARIANCE IS OBTAINED TO ADDRESS CONFORMITY

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- b) The effect of your request to adjoining properties. A variance will not be granted if adjoining properties are adversely affected.
- c) The impact your request will have on the supply of light and air to adjacent properties, the increase of danger of fire, the endangerment to public safety and the impact on established property values. Variances shall not be granted if any of the aforementioned are increased or negatively impacted.



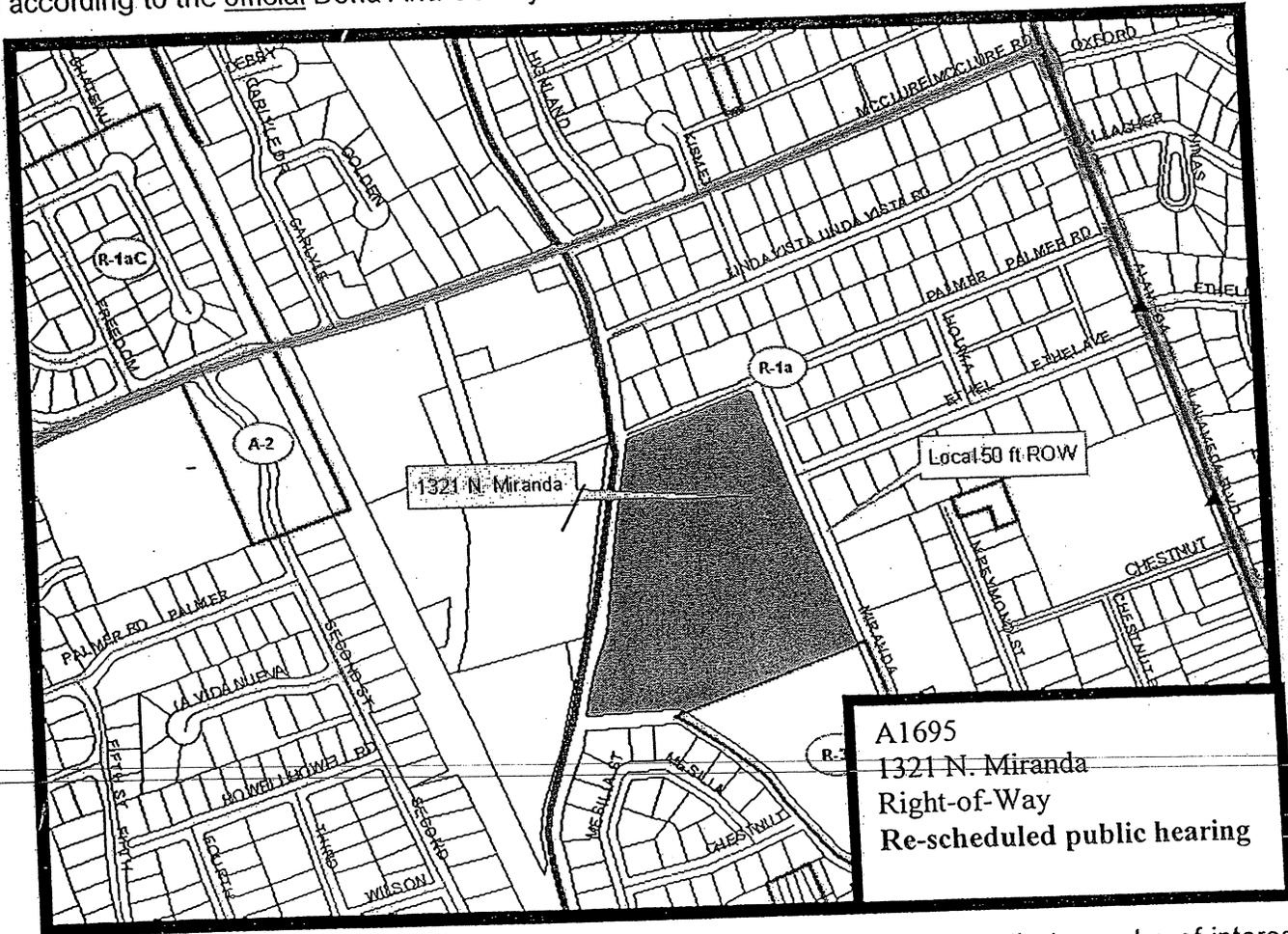
City of Las Cruces®

Public Notice
Re-Scheduled Public Hearing
New Hearing Date is June 30, 2009

Certified Mail
June 05, 2009

Dear Property Owner:

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Sincerely,

James A. White
 James A. White, AICP
 Planner

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- c) The impact your request will have on the supply of light and air to adjacent properties, the increase of danger of fire, the endangerment to public safety and the impact on established property values. Variances shall not be granted if any of the aforementioned are increased or negatively impacted.

April 3, 2009

Mr. James White, AICP
Zoning Administrator
City of Las Cruces
P.O. Box 20000
Las Cruces, NM 88004

RE: Variance for the Existing Las Cruces Catholic School (LCCS)

Dear Mr. White;

Respectfully, you will find a variance request attached for your review and Planning and Zoning Commission consideration. As we have previously discussed, The Las Cruces Catholic School is in need of additional square footage to address the issues of the current school population as well as the high school. LCCS has been operating at this site for 47 years (since 1962).

The school recently purchased 12 portable structures to address these needs. Unfortunately, the Zoning Code has since changed and now requires schools to be located on a Collector roadway. LCCS is located on North Miranda Drive, which is classified as a minor local roadway. Although, this street segment functions like a Collector road, the existing right of way is 50' (55' in some places). As staff has indicated, we are permitted pursuant to the 2001 Las Cruces Zoning Code (as amended) to increase the use (or size) up to 10% before a variance would be required. The square footage of the campus includes the following:

- Main School Building: 22,171 square feet
- Middle School Building: 8,396 square feet
- Main Church Campus: 7,649 square feet

The total campus size is: 38,216 square feet

Based on these numbers, we are permitted to increase the size up to 3,821.6 square feet before a variance will be required. At this point, we will be submitting a building permit for the placement of 3 portable structures or 3,360 square feet. This will essentially include two 28'x30' portables and one 28'x60' portable.

I look forward to working with you on this project. If you should have any questions, please feel free to call my anytime.

Thank you,

A handwritten signature in black ink that reads "Kirk M. Clifton". The signature is written in a cursive style with a large, sweeping initial "K".

Kirk M. Clifton, AICP
Board Member, Las Cruces Catholic School

June 22, 2009 *final draft*

Mr. White:

I am sending this communication to you per our conversation in your office on Friday, June 12, 2009. My understanding is that I am to provide you with a list of procedural questions as they may relate to the Planning & Zoning Commission meeting on Tuesday, June 30th at which case #A1695, Holy Cross School Variance Request, will be heard after having been tabled by a 4-0 vote of the P & Z Commission on Tuesday, May 26th. You, in turn, will submit my questions to the City's legal counsel, Mr. Jerry Abrams, for his interpretation. Then, as you told me, we, the residents of the North Alameda area proximate to Holy Cross, are to have Mr. Abrams's "pages" with us at the June 30th meeting so that we may comply with his interpretation.

My first two questions are:

- 1) How is it that a city founded in 1850 does not seem to have a written set of procedures or a written protocol for the conduct of hearings before a commission as central as Planning & Zoning?
- 2) Will each of the parties (the City, the Requestor, and the Neighbors) receive Mr. Abrams's interpretations and be bound by them for the duration of proceedings?

Based on my experience with Case #A1695 so far, I have the distinct impression that you and/or the City are making up the "rules" as you go, and as a consequence I am skeptical about the fairness of the hearings. In specific, I asked you for procedural guidance in advance of the May 26th meeting and instead of being given or referred to a written document, you instructed me verbally that you as Zoning Administrator for the City would make a 10 minute presentation, followed by a 10 minute presentation by an Agent of Holy Cross, followed by the opportunity for a representative of the Neighborhood to make a 10 minute presentation summarizing our concerns. You indicated that the process would then allow for up to four 3 minute prepared statements each on a specific concern from additional residents. Based on your guidance, a group of us met several times to educate ourselves as to the issues involved and to plan our remarks.

We appeared at the meeting expecting an orderly sequence of events within which our statements could be fairly made and heard. Instead, you presented for at least 15 minutes, various representatives of the Requestor presented for at least 50 minutes, and then the Chair called for a break to be followed by comments open to the public. When I approached the Chair to ask about the opportunity for my 10 minute presentation on behalf of the Neighbors, I received an emphatic "No" with the indication that like any other member of the public in attendance I could make a statement of up to 3 minutes. In response I explained that in advance of the meeting you, as Zoning Administrator representing the City and its procedures, had said that we would be able to make a prepared, organized 10 minute presentation on footing similar to that of the City and the Requestor. The response I received from the Chair was, "No one talked to me."

I hurriedly tried to condense my prepared statement and Mr. Scholz as Chair was kind enough to allow me to lead off the public comments. Our other prepared statements became interspersed with impromptu remarks by a variety of individuals through a long evening. Overall, this was far different from the process you had led us to expect. The actual process diluted the impact of the research and work put in by our group of Neighbors and undercut our substantial concerns about the proposed variance and its impacts.

On the afternoon of Friday June 12th I came to you again, this time to question your handling of new correspondence from Neighbors as regards the packet of information you as Zoning Administrator were charged with preparing for the P & Z Commissioners in advance of the June 30th meeting. At that point you had already sealed and distributed the packet with no new statements from Neighbors despite having received new written comments from at least three individuals subsequent to the May meeting. When I questioned this action in comparison with the process you employed in advance of the May 26th meeting, you stated that these letters could be read into the record at the time of the upcoming hearing. Again, this is far from equal footing, since the packet you have distributed contains new information from both the City and the Requestor which the commissioners will have an opportunity to review and consider in advance of the meeting. Also, since this second packet was sealed well ahead of the timeline you used in sealing the initial packet, this lends itself to the appearance of an ad hoc or "made up" process that might be described as arbitrary or capricious.

Further, I informed you on June 12th that a resident who is an attorney had told me that the packet should be open for residents to make new submissions because the packet was open to amendment by either or both the City and the Requestor before the June hearing. You then called Mr. Abrams to ask his opinion. While I admittedly heard only one side of the conversation, I had the clear impression that you were quite concerned about the possible reaction from Mr. Kirk Clifton as Agent of Holy Cross if residents were to be allowed to add material to the packet. Any concern for precedent or fairness seemed to be secondary at best. I'm not sure if the situation became clearer to me or more clouded when I learned that Mr. Clifton's day job as a representative of a very powerful local developer, Mr. Philip Philippou, brings him into city hearings frequently. At the conclusion of your phone call with Mr. Abrams you said that your "interpretation" of the situation was correct, that no new public comments would be included or acknowledged until the hearing itself.

What I must call your attention to is that your decisions and actions as a single individual are resulting in conditions through which area residents who have reason to be concerned and who have a right to be heard are not being heard in a fair, coherent manner. Whether this is intentional or incidental is irrelevant; the impact on the process is the same. Without an administrative structure that guides the Variance Request process toward fairness and consistency, it is easy to see the hearing itself as a matter of show whose results are a foregone conclusion.

Returning to your request that I put our procedural questions in writing to you for Mr. Abrams, I must further ask:

- 3) Since two commissioners who were not in attendance at the May meeting may be in attendance on June 30th, can we expect that they will have viewed the recording of the first meeting?
- 4) You have altered your May recommendation regarding this variance request by dropping a condition regarding a Planned Unit Development. Judging by the Fact Sheet page of the certified letter sent by the City to residents in June, you or Holy Cross seem to have altered the request itself, shifting focus to Right of Way rather than square footage of the portable buildings. Where and how in the process of the hearing will we as effected residents be allowed to similarly modify or add to our piece of things? For instance, at what point in the proceedings will we be allowed to read the letters noted above into the record?
- 5) We will be submitting a petition to the Commissioners and we need to know the mechanism for doing so. We had planned to deliver this to you for inclusion in the packet and had anticipated a submission deadline of June 22nd, similar to the deadline you used for the May packet. Your sealing the packet before June 12th precluded this.
- 6) Will our input again be limited to 3 minute bits or will we be allowed to actually make a presentation of some substance? Since the first meeting we have done significant research relevant to this variance request and we deserve the opportunity to present this succinctly to the Commission on behalf of our Neighborhood.
- 7) Given that either Holy Cross or the Neighbors are likely to appeal the decision of the Planning & Zoning Commission to the City Council, we are aware of how to file an appeal. However, similar to the present situation, we have not located a written set of procedures or a protocol for such an appeal hearing. Where might we find same?

We most earnestly hope that you and Mr. Abrams will be able to provide answers to these questions. We hope to be allowed to adequately present our position and our ideas to the Commissioners despite being closed out of the pre-meeting information packet.

As longtime residents of this area not only do we have strong feelings about what happens in our Neighborhood, but we also have ideas about how to make this situation better for all concerned. We are Stakeholders in this matter at least as much as are the City and Holy Cross, most simply put because we as residents will live with the consequences of the Commission's decisions day in and day out.

I appreciate your attention to this letter and look forward to your response.

Sincerely,

Deborah Dennis

Subject [FWD: FW: Procedural Questions regarding P&Z meeting June 30, 2009]
From ddennis@humansystemsresearch.org
Date Wednesday, June 24, 2009 8:40 am
To ruprecht@nmsu.edu

----- Original Message -----

Subject: FW: Procedural Questions regarding P&Z meeting June 30, 2009
From: "James White" <jwhite@las-cruces.org>
Date: Tue, June 23, 2009 7:55 am
To: <ddennis@humansystemsresearch.org>

Info as requested

From: Jared Abrams
Sent: Monday, June 22, 2009 3:52 PM
To: James White
Subject: RE: Procedural Questions regarding P&Z meeting June 30, 2009

Responses to questions:

- 1) Like many quasi-judicial bodies, the Planning and Zoning Commission uses Robert's Rules of Order instead of drafting its own rules of procedure. Robert's Rules cover the basics but more complex issues sometimes require studying case law (cases written by courts). This matter has required some research into case law.
- 2) Anyone who is interested may read Robert's Rules. At the next meeting there may be some discussion of case law. This will be done publicly so all will be aware.
- 3) My interpretation of the law is that those commissioners who were absent may do one of two things: They must recuse themselves or be able to state that they have read the minutes of the last meeting and feel that they can judge the matter impartially.
- 4) The first part of this question is a planning issue. I cannot answer it. As to whether interested persons will be able to supplement the record, that is something the commission will have to decide. My understanding was that at the last meeting, the decision was to limit the next meeting to one issue. According to Mr. White, there is some possibility that the

Mr. White,

Per your direction to me, please find attached a list of procedural questions to which the residents of North Alameda would like a response before the June 30th meeting of the Planning and Zoning Commission.

Thank you for your prompt attention to this matter.

Deb Dennis
420 Palmer Road
Las Cruces, NM 88005
(575) 635-5593

----- Original Message -----

Subject: letters received

From: "James White" <jwhite@las-cruces.org>

Date: Fri, June 19, 2009 8:06 am

To:
<ddennis@humansystemsresearch.org>

Ms. Dennis,

Provided are letters received regarding LCCS. I have also received 7 copies of the letter from L.E. Thornberry (same letter) that has been personalized to the individual P&Z Commissioners.

Petition to Table Action on Variance Request Case No. A1695_PZ

Petition summary and background: Holy Cross School took delivery on 12 portable buildings (12,222 sq. ft) between mid-December 2008 and February 14, 2009. They are currently stored on Holy Cross Church property at 1331 N. Miranda Street in violation of Article IV, Section 38-33H of the 2001 Zoning Code. Holy Cross School issued a Development Plan on February 20, 2009 that indicates plans to grow the school by 50% from 295 students to 440 using the 12 portable buildings. Within 5 years, the School plans to request another variance for an indoor sports gymnasium. The Development Plan reveals that Holy Cross Church plans to break ground in 2011 on a 2-story, 14,000 sq. ft. Family Life Center and grow its parish by 30% from the current 1,800 families to 2,300 families.

Holy Cross Church and School have demonstrated a pattern of requesting one special use permit or variance after another. Combined the Church and School have received three separate special use permits freeing their developments of a church in 1981, the construction of a columbarium in 1995, and the construction of a middle school in 1998 from the requirement that each be located on a roadway having a minimum Right-of-Way of 85 feet and designation of Collector status. Despite counsel from the City Zoning Administrator to provide a Planned Unit Development (PUD) that includes a master plan and a final site plan for City review and approval, members of the Catholic Diocese refuse to provide one and have indicated they prefer to continue their strategy of requesting one variance at a time.

In April 2009, the City of Las Cruces granted Holy Cross School a one time expansion of 10% or 3,910 sq. ft under Article VII, Section 38-74 (4) of the 2001 Zoning Code and issued a permit for 3 portable buildings having a combined area of 3,360 sq. ft. On April 6, 2009, Holy Cross School filed a request for variance from the requirement that schools be located on a roadway having a minimum Right-of-Way of 85 feet, a Collector status roadway. Holy Cross School is seeking a variance to allow for an expansion of 30% of the school site by an additional 8,400 sq. ft or 9 portable buildings. The Planning and Zoning Commission heard the case on May 26, 2009 and tabled action until Holy Cross School and the City provide a traffic analysis.

Currently, Holy Cross School is in violation of the 2001 Zoning Code because:

- 1) the School has not provided the required opaque buffer consisting of landscaping and walls or fences per Article VI, Section 38-53 as noted by the Zoning Administrator;
- 2) the School operates a Pre-K program that is prohibited in the residential zone of R-1a, per Article IV, Sec. 38-33D; and,
- 3) the School failed to obtain a variance to operate a high school in a residential R-1a zone before it began registering high school students in 2007.

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Printed Name	Signature	Address	Date
CLIFFORD PELTON		5721 RIVERVIEW RD LAS CRUCES 88912	6/5/09
Julie Woody		452 W. Ethel Las Cruces, 88005	6/5/09
Lucia C. Wilcox		119 Ethel Las Cruces, NM 88005	06-07-09
Chris Ramsey	CHRIS RAMSEY	344 PHILLIPS LC NM 88005	6/9/9
Jo Ingle		1610 Neleigh Dr	6/03/09
Stan Ediger		1610 Neleigh Dr	6/8/09
Eloy Flores		405 W Ethel	6/5/09
Nellie Flores		405 W Ethel	6/8/09
Doris Payne		315 W. Ethel	6/8/09
Jason Gunn		448 W. Ethel	6/8/09
Melissa Copeland		455 W Ethel Ave, Las Cruces	6.8.09
JOHN MOORE		444 W. ETHEL.	6-8-09

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Printed Name	Signature	Address	Date
Stephan Smith	<i>[Signature]</i>	441 Ethel	8-9-09
A-Thee Brown	<i>[Signature]</i>	320 W. Ethel	6-9-09
Tanna Cole Dorn	<i>[Signature]</i>	370 W. Ethel	6-9-09
Raul Dorn	<i>[Signature]</i>	330 W. Ethel	6-9-09
JAVIER CERNA	<i>[Signature]</i>	328 W Ethel	6-9-09
Gina Cerna	<i>[Signature]</i>	328 W Ethel	6-9-09
Tulus Siegel	<i>[Signature]</i>	324 W Ethel	6-09-09
Minerva Siegel	<i>[Signature]</i>	324 W Ethel	6-09-09
Judy Licht	<i>[Signature]</i>	10917 N. Valley	6-27-09
Betsy Cabill	<i>[Signature]</i>	703 N Raymond St	6-27-09
Eve Adams	<i>[Signature]</i>	703 N Raymond St	6-27-09
Nancy Castile	<i>[Signature]</i>	702 W COURT	6-27-09

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Printed Name	Signature	Address	Date
Florence Schreder	<i>Florence Schreder</i>	105 W. Ethel	6 June 09
Louise O'Connell	<i>Louise O'Connell</i>	107 W. Ethel	6-16-09
<i>Address: 119 W. Ethel</i>	<i>[Signature]</i>	119 Ethel	6/16/09
<i>207 W. Ethel</i>	<i>[Signature]</i>	207 W. ETHEL	6/16/09
<i>209 W. Ethel</i>	<i>[Signature]</i>	209 W. ETHEL	6-16-09
<i>216 W. Ethel</i>	<i>[Signature]</i>	216 W. Ethel	6-16-09
<i>Priscilla Washington</i>	<i>[Signature]</i>	118 W. Ethel Ave	6-16-09
MARY Lou Yogan	<i>[Signature]</i>	110 W. ETHEL	6-16-09
GARY TRUELOVE	<i>[Signature]</i>	438 Court	6/27/09
Martina D'Arco	<i>[Signature]</i>	6125 Rowles CC	6/27/09
Mary A McCarthy	<i>[Signature]</i>	2205 G Idaho Ave	6/27/09
Tom Smith	<i>[Signature]</i>	162 Red Deer Ct	6/27/09
Jeff Stevens	<i>[Signature]</i>		

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Printed Name	Signature	Address	Date
Vickie Aldrich	Vickie Aldrich	310 Palmer Rd	6/6
Tim Reed	Tim Reed	310 Palmer	6/6 09
Eugene Hernandez	Eugene Hernandez	326 Palmer Rd	6/6
Kathy Hernandez	Kathy Hernandez	326 Palmer Rd	6-6-2009
Leslie Thornberry	Leslie Thornberry	330 Palmer Rd	6-6-09
B. Thornberry	Bette Thornberry	311 Palmer Rd.	6-7-09
Rita Fernandez	Rita Fernandez	311 Palmer Rd	6-7-09
Ana Chavez	Ana Chavez	324 Palmer Rd	7 June-09
Fred Chavez	Fred Chavez	324 Palmer Rd	7 June-09
Todd Scott	Todd Scott	321 Palmer Rd	6/7/09
Jessica Scott	Jessica Scott	321 Palmer Rd	6/7/09
Bernadette Valdes	Bernadette Valdes	425 Palmer Rd.	6/16/09

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Printed Name	Signature	Address	Date
Rev. Vickie S. Avery	Rev. Vickie S. Avery	435 Palmer Rd, Las Cruces, NM 88005	6/6/09
LEON & FRED	[Signature]	430 Palmer Del Las Cruces NM 88005	6/6/09
SARAH TIM	[Signature]	512 PALMER RD.	6/6/09
TONI GROSS	[Signature]	514 Palmer L.C. 88005	6/6/09
David Berroterain	[Signature]	449 Palmer Rd. 88005	6-6-09
Deborah Dennis	Deborah Dennis	420 Palmer Rd, LC 88005	6-6-09
Jo Ruprecht	Jo Ruprecht	420 Palmer Rd. LC 88005	06/06/09
J. FRANK FLEMING	J. Frank Fleming	460 PALMER RD. L.C. 88005	06/07/09
Misty Norton	Misty Norton	518 Palmer Rd. LC 88005	6/7/09
Jesse Norton	Jesse Norton	518 Palmer Rd. LC 88005	6/7/09
ELINOR P. BURAN	Elinor P. Buran	526 Palmer Rd 88005	6/7/09
SOVIAN T. MAMHAM	Sovian T. Mamham	516 PALMER RD LC 88005	6/7/09

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Printed Name	Signature	Address	Date
Timothy Hardin		572 Palmer Rd LC NM 88005	6/7/09
Ted Sanchez		444 PALMER C-88005	6-7-09
Gilbert Adams		1305 Mesilla St 88005	6-7-09
Stephanie Leary		2973 Orator Rd LC NM 88007	6-7-09
Terry L. Thomas		1325 N. Mesilla St	6-7-09
Nura Garcia		1235 N Mesilla St	6-7-09
Ruby Martinez		1225 N. Mesilla St.	6/7/09
Jennifer Williams		1215 N Mesilla St.	6/7/09
Nicole Garcia		1307 Park Drive	6/7/09
Catherine Mussen		1307 Park Dr LC NM 88005	6/7/09
Tammy Schurr		5202 Victoria Tel LC NM 88012	6/21/09
DORIS KNIGHT			

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Printed Name	Signature	Address	Date
TERRE MUNSON		410 Palmer Rd 88005	6-6-09
Linda Meyer		410 Palmer Rd 88005	6-7-09
LINA SHELLEY		304 W. Ethel 88005	6-7-09
Kirk Zivkovich		310 W. Ethel 88005	6-8-09
Pride Zivkovich		310 W Ethel 88005	6-8-09
William K. Payne		315 W. Ethel 88005	6-8-09
Tanya Cerecoves		1351 N. Alameda	6/9/09
Salma Parra		1345 N. Alameda Blvd	6/9/09
Trent McCormick		1345 N. Alameda Blvd	6-9-09
MIKE Parra		" "	6-9-09
Sofia Vandiola		" "	6-9-09
Jennifer Martinez		1345 N Alameda Blvd	6-9-09

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Printed Name	Signature	Address	Date
HARRY AVERY	Harry B Avery	1155 N. Miranda	6-6
B. Jean Appgar	B. Jean Appgar	1155 N. Miranda H-2	6-6
Gale Casey	Gale Casey	1155 N. Miranda D-5	6-6
Uquima Embel	VIRGINIA EMBEL	1155 N. Miranda E-2	6-6-09
Robert J Adam	[Signature]	1155 N. Miranda G-5	6 JUN 09
Barbara Ballou	BARBARA BALLOU	1155 N. Miranda E-2	6-6-09
Patricia Rieder	Patricia A. Rieder	1155 N. Miranda F-5	6-6-09
Nancy Stimpel	Daryl Stimpel	1155 N. Miranda G-4	6-6-09
Kathleen Hankins	Kathleen R. Hankins	1155 N. Miranda F-1	6-8-09
BRAD HANKINS	Brad Hankins	1155 N. Miranda F-1	6-8-09
Mike Soliday	Michael Soliday	1155 N. Miranda J-6	6-8-09
ROBERT YOST	Robert Yost	1155 N. Miranda J-7	6/8/09

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Printed Name	Signature	Address	Date
Tom Cadey	<i>Tom Cadey</i>	1155 N. MIRANDA ST #5	6/8/09
Evelyn Rocha	<i>Evelyn Rocha</i>	1155 N. Miranda Street C2	6/8/09
IRENE VALEZ	<i>Irene Valdez</i>	1155 N. MIRANDA C2	6/8/09
Don J. Morales	<i>Don J. Morales</i>	11 68	6/8/09
CINDY BRADSHAW	<i>Cindy Bradshaw</i>	1155 N. MIRANDA #66	6/8/09
Lene Viny	<i>Lene Viny</i>	11 11 K 4	6/8/09
MILTON DARRAN	<i>Milton Darran</i>	11 11 H-4	6/8/09
ELISE JACKSON	<i>Elise Jackson</i>	1155 72 MIRANDA J2	6-9
Caryll Patrick	<i>Caryll Patrick</i>	1155 N. Miranda K2	6/9/09
AMANDA SMITH	<i>Amanda Smith</i>	1155 N. MIRANDA 63	6/9/09
Michael S. Yaceko	<i>Michael S. Yaceko</i>	1155 N. Miranda 63	6/9/09
THOMAS NEWTON	<i>Thomas Newton</i>	1155 N. MIRANDA D-3	6-9-09

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Printed Name	Signature	Address	Date
PAUL R. SMITH	<i>[Signature]</i>	1155 N. MIRANDA APT D-2	6-9-09
BETTY CHARLENE EMBRE	<i>[Signature]</i>	1155 N. MIRANDA apt C-5	6-9-09
JOE GODWIN	<i>[Signature]</i>	1155 N. MIRANDA ST. A-6	6-9-09
VICKI NANCE	<i>[Signature]</i>	1155 N. MIRANDA ST. B-8	6-9-09
DAVID NANCE	<i>[Signature]</i>	1155 N. MIRANDA ST. B-8	6-9-09
NANCY ANDERSON	<i>[Signature]</i>	" " B-6	6/9/09
SHARLOTTE KOVACIC	<i>[Signature]</i>	1155 N MIRANDA A-H	6/9/09
M. C. JOHNSTON	<i>[Signature]</i>	1155 N. MIRANDA. B-3	6/9/09
Heather Stewart	<i>[Signature]</i>	1155 N. MIRANDA Apt. K5	6-9-09
Paul Hulse	<i>[Signature]</i>	" " " " K5	6-9-09
Doris Sparks	<i>[Signature]</i>	1155 N. MIRANDA ST. Apt E-1	6-10-09
Donald Sparks	<i>[Signature]</i>	1155 N. MIRANDA APT E-1	6/10/09

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Printed Name	Signature	Address	Date
MELISSA THORNTON	<i>Melissa Thornton</i>	1069 Hess Terrace, El Paso	6-9-09
David Andrade	<i>David Andrade</i>	1006 Peck St. #2	6-9-09
REGGY JIMES	<i>Reggy Jimes</i>	4080 Winter's St.	6-9-09
Ewa delacruz	<i>Ewa delacruz</i>	3123 Hillside Dr.	6-9-09
ELVIA ROMERO	<i>Elvia Romero</i>	6655 VISTA DE ORO	6-9-09
Ann Glick	<i>Ann Glick</i>	1040 Hess Terrace	6-9-09
Schinosuke Ando	<i>Schinosuke Ando</i>	1065 Hess Terrace	6-19-09
Harold Queth	<i>Harold Queth</i>	"	"
Mary Beatty	<i>Mary Beatty</i>	1045 Hess Terrace	6-9-09
Bruce Anderson	<i>Bruce Anderson</i>	1043 Hess Terrace	6-4-09
Alice Cox	<i>Alice Cox</i>	1017 N. Arroyo	6/10/09
Kathryn Holmes	<i>Kathryn Holmes</i>	1001 N. Arroyo	6-10-09

Petition to Table Action on Variance Request Case No. A1695_PZ

Action petitioned for: Given the summary and background provided on the back of this signature page, we, the undersigned residents of North Alameda, urge our City leaders to act now to table action on Holy Cross School Variance Request Case No. A1695-PZ until such time that Holy Cross School:

- (1) Is brought into compliance with the 2001 Zoning Code and is no longer in violation of the Code; and,
- (2) Provides a Planned Unit Development (PUD) for review and approval by the City of Las Cruces that, at least, includes all developments identified in the *Development Plan: Las Cruces Catholic School Holy Cross Campus and Holy Cross Parish Church* provided the City on February 20, 2009

Printed Name	Signature	Address	Date
Fernando SanMans	[Signature]	1348 N. Alameda Blvd	6/11/09
Vnessa Filgo	[Signature]	1348 N. Alameda Blvd	6-11-09
Annal Howard	[Signature]	1200 Alameda Blvd	6-11-09
Scott Jack	[Signature]	1112 N Alameda Blvd	6-11-09
Greg Worley	[Signature]	1104 N. Alameda	6/11/2009
Clacessen Rayba	[Signature]	1100 N. Alameda	6/11/2009
Clacessen Jerry	[Signature]	" "	6/11/2009
Corbett William	[Signature]	2010 Payne Ct, Las Cruces, NM 88001	6/14/2009
Gayle Law	[Signature]	1812 Salinas, LC, NM	6/14/09
Shannon Law	[Signature]	1812 Salinas, LC, NM	6/14/09
Shirley Epses	[Signature]	5201 Yuma Trail LC, NM	6/21/09
Betty Rosse	[Signature]	5201 Yuma Trail LC, NM	6/21/09

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Printed Name	Signature	Address	Date
SUZANNE NEVILLE-STALEY		331 Linda Vista Rd, Las Cruces, NM 88005	6/8/09
Tim Staley		331 LINDA VISTA RD LAS CRUCES	6-8-09
TRAY SPENDER		305 Linda Vista Rd, Las Cruces, NM 88005	6/8/09
CHRIS BARBOY		305 Linda Vista Rd, Las Cruces, NM 88005	6/8/09
Senia Bailey		322 Linda Vista Rd, Las Cruces, NM 88005	6/8/09
Justin Norsworthy		329 Linda Vista Rd, Las Cruces, NM 88005	6/8/09
Darcy Norsworthy		322 Linda Vista Rd, Las Cruces, NM 88005	6/8/09
Evan Bailey		504 Linda Vista Rd, Las Cruces, NM 88005	6/9/09
Michael Stowe		504 Linda Vista Rd, Las Cruces, NM 88005	6/9/09
Isadora Stowe		535 Linda Vista Rd, Las Cruces, NM 88005	6/9/09
Mike Gilman		535 Linda Vista Rd, Las Cruces, NM 88005	6/9/09
Diane Gilman		535 Linda Vista Rd, Las Cruces, NM 88005	6/9/09

MEETING OF THE PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
May 26, 2009 at 6:00 p.m.

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BOARD MEMBERS PRESENT:
Charles Scholz, Chairman
Godfrey Crane, Vice Chair
Charles Beard, Member
Ray Shipley, Member
Clayton Iserman, Member

BOARD MEMBERS ABSENT:
Shawn Evans, Member
Donald Bustos, Secretary

STAFF PRESENT:
David Weir, Community Development Director
Cheryl Rodriguez, Development Services Administrator
Gary Hembree, Senior Planner
James White, Planner
Adam Ochoa, Associate Planner
Robert Gonzales, Las Cruces Fire
Jared Abrams, CLC Legal Staff
Becky Eich, Recording Secretary

I. CALL TO ORDER 6:00

Scholz: Good evening, and welcome to the Planning and Zoning Commission meeting for Tuesday, May 26th, 2009. I'm Charlie Scholz, Chair of the Planning and Zoning Commission. Before we begin our deliberations I want to introduce the members of the Commission; on my far right is Commissioner Shipley, he is the mayor's appointment. Next to him is Commissioner Crane and he represents Council District 4. Next to him, Commissioner Iserman who represents Council District 1. We're missing Commissioners Evans and Bustos tonight. Commissioner Beard, who represents District 2 is here, and I represent Council District 6.

II. APPROVAL OF WORK SESSION MINUTES - April 28, 2009

Scholz: Our first order of business is always the approval of the minutes of the previous meeting. Any additions or corrections to those minutes, gentlemen? Commissioner Crane.

1 Sunday data. As far as I'm concerned, Sunday's data's off the board.
 2 We're talking about what happens if the school expands. So do you have
 3 perhaps not reduced right now, but do you have raw data on that
 4 intersection for a school day?

5
 6 Paz: Yes, we looked at the worse of every situation. That's what I posted up,
 7 which happened to be for that intersection was a Sunday. But other
 8 intersections you'll find were either in the a.m. or the p.m. and we looked
 9 at every intersection separately. We looked at the worst case in each
 10 instance. And we did ... again we did the peak hour, so the numbers that
 11 Commissioner Shipley, that you did review, are the ... you looked at the
 12 cumulative amount of traffic, but what we look at is the worst case. The
 13 worst time of day, the morning drop off period. What's happening in the
 14 morning drop off period? What happens in the school when they pick up
 15 afterwards? So we're looking at the worst case is, which is the a.m., the
 16 p.m. peaks. We went the extra step of looking at the Sunday peaks
 17 because there was a concern in the neighborhood and we wanted to look
 18 at that data and gather as much information. We went from 6 a.m. in the
 19 morning; we went to 9:00 at night to cover all the ministries that are
 20 occurring on the site. You'll find that ... and then we plotted the worst
 21 case scenario for the hourly situations. Because you can have a lot of
 22 traffic but if they're dispersed throughout the day, it's not as big of a
 23 condition. It's when they hit during that peak hour is what we're trying to
 24 mitigate, and look at the level of service, and even in those worst case
 25 situations, peak hour, it was either A or B.

26
 27 Scholz: Right. Gentlemen I'm going to call a halt to this. We have two more cases
 28 that we have to consider. I want to thank everyone who has participated
 29 in the audience, everyone who spoke tonight. I really appreciate your
 30 coming up, being clear and concise and following the time limits. Thank
 31 you very much.

32
 33 Abrams: Commissioners, can I make a quick comment before we move onto the
 34 next case?

35
 36 Scholz: Yes, our legal Council, sir.

37
 38 Abrams: Jared Abrams, City legal. Just because I may forget this next time, I
 39 would argue that anyone who wasn't present for this meeting would have
 40 to recuse themselves from the next meeting on this item because we've
 41 heard almost all of the evidence.

42
 43 Scholz: Yes.

44
 45 Abrams: And I'll probably forget that, so if you try to remember. The other thing is,
 46 if some of you don't show up, that might create a situation in which we

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1 don't have a quorum because if two other people don't show up, that are
 2 here tonight, then there will only be three people that are eligible to vote.
 3 We have that problem as well if we have some no-shows.
 4

5 Shipley: We understand.

6
 7 Abrams: Just letting you know.

8
 9 Scholz: Thank you Jared. I'll talk to you afterwards.

- 10
 11 2. **Case A1694:** A request for a variance from the maximum allowed height of a
 12 freestanding sign for a property located at 4820 Mesa Grande Avenue. For
 13 properties zoned to allow freestanding signage, when the percentage of
 14 office, commercial, or industrial zoning is less than 60 percent of the total
 15 street frontage for that street segment, the maximum height of a freestanding
 16 sign shall be 12 feet. The applicant is requesting to install a 30-foot tall
 17 freestanding sign on a street segment that only allows a 12 foot tall
 18 freestanding sign. The subject property is zoned C-3C (Commercial High
 19 Intensity-Conditional) and encompasses 1.25 acres +/- Submitted by
 20 property owner O'Reilly Automotive, Inc.

21
 22 Scholz: Okay, our next is, Mr. Ochoa. This is ... no, I'm sorry; Mr. White is
 23 supposed to be up next isn't he? Am I missing one here? Oh, here we
 24 go. This is A1694. Mr. Ochoa.

25
 26 Ochoa: Good evening gentlemen. Adam Ochoa from Community Development
 27 for the record. Case A1694 is a request for a variance from the maximum
 28 allowed height of a free standing sign for a property located at 4820 Mesa
 29 Grande. It was submitted by property owner O'Reilly Automotive, Inc.
 30 First let's look at the code requirements here, under Article II, section 36-
 31 46 B1 it's the regulations for a free standing signage in the C-2, C-3, M-T,
 32 and M-1/M-2, and M-3 zoning districts. Basically, states under there that
 33 locations which permit free standing signs are determined a zoning district
 34 along specific segments of the streets. When the percentage of office,
 35 commercial, or industrial zoning equals or exceeds 60% of the total street
 36 frontage for that segment, all criteria governing free standing signs will
 37 apply. When the percentage is less than 60%, the maximum height of a
 38 free standing sign shall be 12-feet, and that's basically what we're going
 39 into today.

40 Case specifics, the property is zoned C-3C commercial high
 41 intensity conditional. The subject property is a current location of an
 42 automotive supply store. The applicant is requesting a variance to allow
 43 the installation of an illuminated 30-foot tall elevated pole sign. The
 44 subject property is located on a street segment that is only 50% give or
 45 take of office, commercial, or industrial zoning; limiting the maximum
 46 height of the sign to 12-feet. If the street criteria were met, if the street

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 2 here tonight, then there will only be three people that are eligible to vote.
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 43 the installation of an illuminated 30-foot tall elevated pole sign. The
 44 subject property is located on a street segment that is only 50% give or
 45 take of office, commercial, or industrial zoning, limiting the maximum
 46 height of the sign to 12-feet. If the street criteria were met, if the street

- 1 the school site is required that it's 25-feet or less from a residential zoning
 2 district, not a structure, but a zoning district, requires an opaque buffer.
 3 So in theory what that would require is that on the western periphery
 4 where the Armijo Lateral is, they'll be required to put a fully opaque buffer.
 5 They'll also be required to put a fully opaque buffer on the southern
 6 boundary adjacent to the apartment complex. And also, in respect on the
 7 eastern boundary where the parking lot resides for the school site, they'll
 8 be required to put an opaque buffer there. So staff would also evaluate
 9 with the City landscape architect, evaluating the plan to see if they place
 10 draught tolerant plants, shrubbery, those kinds of issues to try give some
 11 kind of spacial separation between the various residential land uses and
 12 the current existing school site. That will end staff presentation. I'll be
 13 glad to stand for any questions this board may have this evening.
 14
- 15 Scholz: Okay gentlemen, questions for Mr. White. Yes, Commissioner Crane.
 16
- 17 Crane: You mentioned I believe that four of the 12 portables have already
 18 essentially been approved. They are not an issue because of the 10%
 19 expansion that was allowed, is that correct?
 20
- 21 White: Chair Scholz, Commissioner Crane that is correct.
 22
- 23 Crane: So the 8,400 square feet as part of your conditions, does that represent
 24 the other eight portables, or does that include the four?
 25
- 26 White: Chair Scholz, Commissioner Crane, the request is for 8,400 combined
 27 square feet. The actual portables have 12,200 square feet. What we're
 28 looking at this evening is for 8,400 square feet or eight portable buildings.
 29
- 30 Crane: Thank you.
 31
- 32 Scholz: Commissioner Shipley, you have a questioning look on your face.
 33
- 34 Shipley: The eight portables are 8,400 square feet is the way I understood it?
 35
- 36 White: Chair Scholz, Commissioner Shipley that is correct.
 37
- 38 Shipley: Okay.
 39
- 40 Scholz: Okay, other questions gentlemen? Okay, I have a couple of them. Are
 41 we asking for two variances here?
 42
- 43 White: No. The only variance for consideration this evening is going to be with
 44 respect to the right-of-way width of 50 to 55-feet parallel Miranda Street.
 45
- 46 Scholz: Okay.

- 1
2 White: Okay. Let me put it in other terms.
3
4 Scholz: Please.
5
6 White: The 2001 Zoning Code requires a school to have a minimum of 85-feet or
7 collector status roadway.
8
9 Scholz: Right.
10
11 White: Based upon the current designation of the roadway only having 50 to 55-
12 feet, the variance is for the additional 35-feet of right-of-way which is
13 required upon the conditional section of the code.
14
15 Scholz: Yes, I understand that. But it seems to me they're also asking for a
16 variance to add 8,400 square feet of portable buildings.
17
18 White: No. Chair Scholz, the best way to answer the question is that it's a
19 permissible right in the R-1a Zoning District schools. So in theory what
20 transpires is if the P&Z Commission grants a variance for the additional
21 right-of-way requirement, then it is approved based upon the Zoning
22 District of the property. The portables only become in question based
23 upon the right-of-way. So the variance we're hearing this evening is, is
24 there substantial right-of-way for the expansion? The variance is for the
25 right-of-way and not the actual school portable buildings themselves.
26
27 Scholz: But you told us a few minutes ago that they were only allowed a one-time
28 10% expansion. And they've already done that.
29
30 White: No, they have not.
31
32 Scholz: They haven't. Okay.
33
34 White: No.
35
36 Scholz: But that would be four portables.
37
38 White: Chair Scholz what's transpired is that when you look in the 1981 Zoning
39 Code we have various Zoning Codes applied. The 1981 Zoning required
40 a special use permit. So when those SUPs are granted those buildings
41 that are on the property at that time were in compliance with the zoning.
42 When we adopted the 2001 Zoning Code, there has not been activity
43 since the 2001 Zoning Code until they put 12 portable buildings on the
44 property currently. So based upon that, it is a onetime expansion from the
45 2001 Zoning Code.
46

1 time, Ethel and Miranda. All right, I did not hear the word compulsive but I
 2 know it's going through the minds of my fellow Commissioners. My look at
 3 the data even though there are difficulties with it, seems to me to show
 4 that there was 15 minutes of the day at 7:45 to 8:00 in the morning, and
 5 3:00 to 3:15 in the afternoon. Cars come out of the parking lot at the rate
 6 of three a minute in the morning and two a minute in the afternoon during
 7 that 15 minute period. It doesn't seem to me that that is a terrible burden
 8 on the traffic on Miranda Street. That's the total of cars regardless of
 9 whether they're going across the intersection to Ethel or north up Miranda,
 10 or south down Miranda. My inclination is therefore to approve the
 11 variance with the added stipulation in addition to the two conditions that
 12 the staff has recommended, that the high school be disbanded or moved
 13 by the summer of 2014. That is currently my inclination, it's not
 14 necessarily my vote. I have to hear what others have to say.

15
 16 Scholz: Okay, are you making that in the form a motion?

17
 18 Shipley: No, no, it's discussion.

19
 20 Crane: No, at this point we're still in discussion I think unless no one else ...

21
 22 Scholz: Yes, we're still in discussion, right. But if you're adding a condition then of
 23 course you'll have to make a motion.

24
 25 Crane: All right. Well let me make the motion then we'll have something specific
 26 to discuss.

27
 28 Shipley: I think we should discuss before the motion. I think there are some other
 29 things because I wanted to say the same thing. When I quickly looked at
 30 this book there are 240 signatures in here of people that live in
 31 neighborhood that are interested in seeing a Planned Unit Development
 32 from the school and the church. And I say "and the church" because if
 33 they're going to change what they do in the church it affects the
 34 neighborhood as well. So that's something that we ought to think about as
 35 we look at that. Now that's, you know in this ... in Mr. White's presentation
 36 he did state that if there is any other development in the future, that they
 37 would have to come in with a Planned Unit Development.

38
 39 Scholz: It's up on the screen right now. Yes, as a matter of fact.

40
 41 Shipley: So I agree with that. So, I think that's one point (*inaudible*) or not. I think
 42 there's confusion to me with what is the ... what are we approving here.
 43 Initially it says Case A1695 is a request for a variance from Article VI
 44 section 38-53D of the 2001 Zoning Code, as amended, that requires
 45 schools to be located on a roadway having a minimum right-of-way.
 46 When I go down to look at what the recommendation is, it doesn't mention

1 that. It only mentions the approval of this variance is limited to the
 2 expansion and installation of nine portable buildings having a combined
 3 gross area of 8,400 square feet. So where did the variance for the
 4 roadway go? It's not in here. So to me this is not a correct or accurate
 5 representation of what we're supposed to be doing. If we're doing a
 6 variance for the roadway and then we're doing a variance for the
 7 expansion, there should be two separate votes on this particular item.
 8 And I don't see that in here.
 9

10 Scholz: Mr. White, would you care to comment?

11
 12 White: I think the confusion is you're looking at two different issues. The variance
 13 is to right-of-way. The issues regarding the square footage is a condition
 14 that's proposed by staff. So let's look at this slide again. If you look at this
 15 slide, it says if you vote yes to approve the variance with conditions
 16 therefore allowing for a 35-foot deviation from the 85-foot minimum right-
 17 of-way requirement. That is what the actual vote is upon. What we're
 18 speaking about earlier was the conditions that were imposed by staff
 19 which is kind of lengthy so what I did is I placed it on a separate slide
 20 therefore you have these two conditions that staff recommends be
 21 attached to the approval of the variance request.
 22

23 Scholz: In other words, what's happening with the variance request is that it
 24 legitimizes the school. The school no longer has to get a variance to
 25 operate, right? In other words, even though it's not on a collector or on an
 26 arterial or you know a major road, it can ignore that right, because we've
 27 granted them this variance.
 28

29 Shipley: Then I would kind of concur with your recommendation to add an
 30 additional condition that says when the population of the school gets to 50
 31 students, the high school, it has to go somewhere else. Because that was
 32 part of their plan that they predicted and whereas it says in there
 33 documents they would like to go to 60 or 80. Well you know how much is
 34 enough? If we want to be concise then let's put it in as a condition that
 35 they have to live with. They can plan for it, and as they develop their
 36 Planned Unit Development, they know whether they need you know
 37 another 14,000 square feet, or 1,400 square feet?
 38

39 Iserman: Thousand.

40
 41 Shipley: 14,000 square feet. You know where's that going to go. What's going to
 42 go in there and how's that going to affect traffic.
 43

44 Evans: Chairman Scholz.

45
 46 Scholz: Commissioner Evans.

geographical section of the City. Before adopting the Comprehensive Plan or any section of amendment of the Plan, the Commission shall hold at least one public hearing. The Comprehensive Plan or any section thereof shall be adopted by a majority of all members of the Commission. A copy of the Plan or of any section or amendment thereof adopted by the Commission shall be sent to the City Council for consideration. Until adopted by the City Council, the Plan shall constitute only the recommendation of the Planning and Zoning Commission.

- b. The Planning and Zoning Commission shall recommend to the City Council approval, denial or modification of all requests for Zoning Code amendments, Sign Code amendments, zone changes, annexations (a master plan that is part of an annexation request), initial zonings, the Concept Plan (and Final Site Plans if submitted with the Concept Plan) of Planned Unit Developments, and associated variances. As noted in Sec. 38-10B.1.b, the Planning and Zoning Commission shall take final action on all requests regarding Infill Parcels.
- c. When the Planning and Zoning Commission recommends denial of any matter on which the City Council takes final action, an appeal to City Council is not required.
- d. Community Development Department staff may make a recommendation, if applicable, on any matter to come before the Planning and Zoning Commission.

C. APPLICATION PROCEDURES.

Planning and Zoning Commission. Application for all zoning district changes, annexations, initial zonings, special use permits, planned unit developments, Sec. 38-10 variances, and Zoning Code and Sign Code text amendments shall be submitted to the Community Development Department. The submittal requirements for the above-listed requests include, but are not limited to, the following:

- a. Zoning District Changes, Annexations (Refer to Chapter 37, Article IX: Annexations, of the Subdivision Code), Initial Zoning and Sec. 38-10 variances:
 - 1) Official Zoning application and Development Statement,
 - 2) Submittal fee,
 - 3) Notarized affidavit,
 - 4) Copy of property's survey and legal description:
An accurate and complete boundary survey shall be made of the land to be developed. Property lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property. The location and description of all monuments set or found shall be included where applicable.
 - 5) Copy of site plan, if applicable:

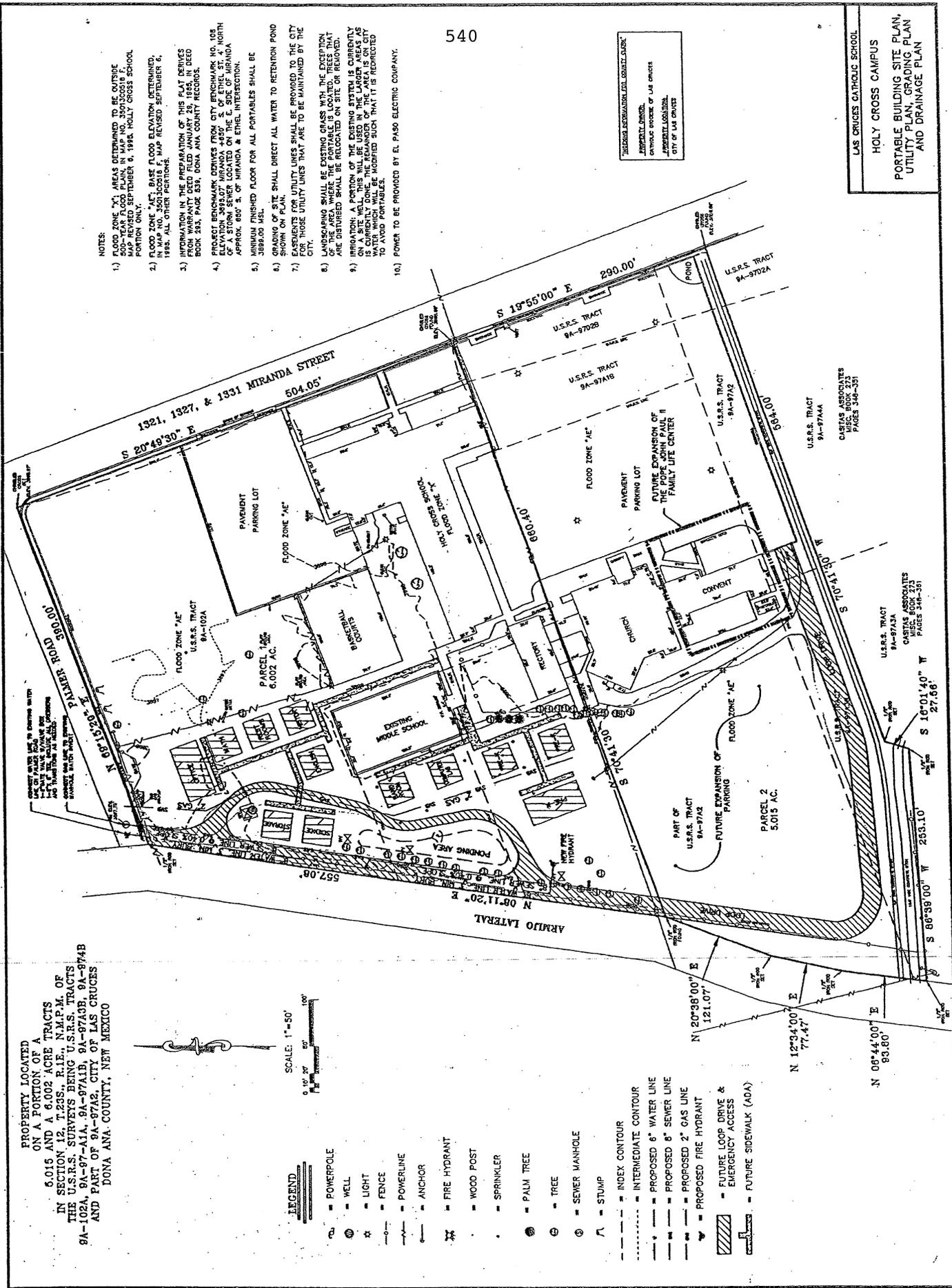
The site plan shall be at a scale that adequately represents the information as determined by the Community Development Director or designee. The plans shall be prepared on sheets of paper that are at least 8 1/2" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The plans shall indicate the following:

- a) Title of site plan.
- b) Total acreage of site.
- c) Date of preparation, north arrow, written and graphic scale.
- d) Identification of site by lot, block, subdivision, if applicable.
- e) Name and address of property owner.
- f) Name and address of applicant, if applicable.
- g) Name and address of consulting firm or representative, if applicable.
- h) Location and type of all land uses.
- i) All site improvements with all setbacks indicated.
- j) Dimensions of all buildings.
- k) Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way.
- l) A landscaping plan, to include the location, size, common name, and biological name of all landscaping materials.
- m) Where applicable, pedestrian and bicycle circulation system, and its relation to surrounding circulation.
- n) Where applicable, location and arrangement of all open space, common recreational space, and private open space.
- o) Architectural renderings or artistic drawings. The drawings shall be prepared on sheets of paper that are at least 8 1/2" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The drawings shall illustrate the following:
 - (1) All new development illustrating all exterior building materials and colors.
 - (2) All new development illustrating relationships to neighboring uses, including site lighting.
 - (3) Sign location, materials, color, size, shape, and lighting.
- p) A drainage facilities plan, environmental impact statement and/or other items not listed above may be required by the Community Development Director or designee, the Planning and Zoning Commission, or the City Council.
- q) Application materials which are illegible and/or otherwise of a low quality will not be accepted.
- r) A portion of the submittal requirements may not be required in all cases. Upon receipt of a written request justifying the deletion of required information, the Community

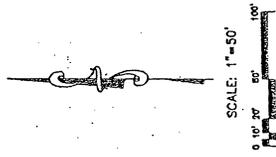
LAS CRUCES CATHOLIC SCHOOL
 HOLY CROSS CAMPUS
 PORTABLE BUILDING SITE PLAN,
 UTILITY PLAN, GRADING PLAN
 AND DRAINAGE PLAN

- NOTES:
- 1.) FLOOD ZONE "X", AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAIN, IN MAP NO. 3507300016 F, DATED SEPTEMBER 9, 1974, POLY-CROSS SCHOOL PORTION ONLY.
 - 2.) FLOOD ZONE "X", BASE FLOOD ELEVATION DETERMINED, IN MAP NO. 3507300016 F, MAP REVISED SEPTEMBER 6, 1985, ALL OTHER PORTIONS.
 - 3.) INFORMATION IN THE PREPARATION OF THIS PLAN DERIVES FROM WARRANTY DEED FILED JANUARY 25, 1935, IN DEED BOOK 293, PAGE 539, DONA ANA COUNTY RECORDS.
 - 4.) PROJECT BENCHMARK DERIVES FROM CITY BENCHMARK NO. 105, ELEVATION 3993.07 MIRANDA +859.52, 5' OF THE U.S. HIGHWAY, APPROX. 680' S. OF MIRANDA & ETHEL INTERSECTION.
 - 5.) APPROXIMATE FINISHED FLOOR FOR ALL PORTABLES SHALL BE 5.00 FEET MSL.
 - 6.) SLOPING OF SITE SHALL DIRECT ALL WATER TO RETENTION POND SHOWN ON PLAN.
 - 7.) REQUESTS FOR UTILITY LINES SHALL BE PROVIDED TO THE CITY FOR THOSE UTILITY LINES THAT ARE TO BE MAINTAINED BY THE CITY.
 - 8.) LANDSCAPING SHALL BE EXISTING GRASS WITH THE EXCEPTION OF THE AREA WHERE THE PROPOSED PORTABLES ARE TO BE LOCATED. AREAS DISBURSED SHALL BE REVEGETATED AND SITE OR REVEGETATED.
 - 9.) IRRIGATION SYSTEMS SHALL BE PROVIDED IN THE LARGER AREAS AS CURRENTLY DONE. THE REMAINDER OF THE AREA IS ON CITY WATER WHICH WILL BE MODIFIED SUCH THAT IT IS REDIRECTED TO AVOID FLOODING.
 - 10.) POWER TO BE PROVIDED BY EL PASO ELECTRIC COMPANY.

TRACED AS DESCRIBED IN LOCAL CONTROL CASE
 METEOROLOGICAL
 CIVILIAN BUREAU OF LAS CRUCES
 APPROXIMATE LOCATION
 CITY OF LAS CRUCES



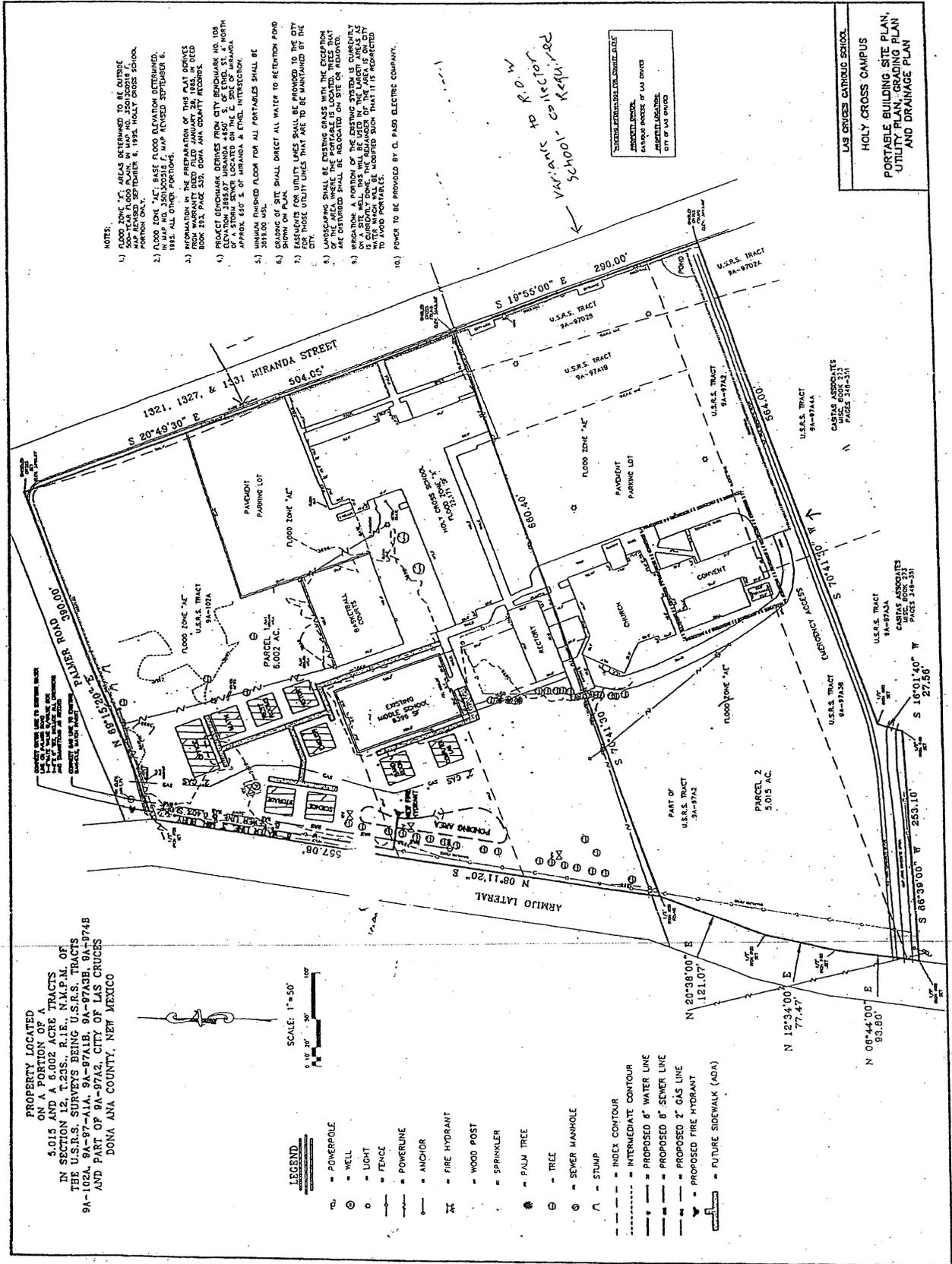
PROPERTY LOCATED
 ON A PORTION OF A
 6.015 AND A 6.002 ACRE TRACTS
 IN SECTION 12, T.23S., R.1E., N.M.P.M. OF
 THE U.S.R.S. SURVEYS BEING U.S.R.S. TRACTS
 9A-102A, 9A-97-A1A, 9A-97A1B, 9A-97A3B, 9A-97A4B
 AND PART OF 9A-97A2, CITY OF LAS CRUCES
 DONA ANA COUNTY, NEW MEXICO



- LEGEND
- POWERPOLE
 - WELL
 - ⊙ LIGHT
 - ⊙ FENCE
 - POWERLINE
 - ANCHOR
 - ⊙ FIRE HYDRANT
 - WOOD POST
 - ⊙ SPRINKLER
 - ⊙ PALM TREE
 - ⊙ TREE
 - ⊙ SEWER MANHOLE
 - STUMP
 - INDEX CONTOUR
 - INTERMEDIATE CONTOUR
 - PROPOSED 6" WATER LINE
 - PROPOSED 8" SEWER LINE
 - PROPOSED 2" GAS LINE
 - PROPOSED FIRE HYDRANT
 - FUTURE LOOP DRIVE & EMERGENCY ACCESS
 - FUTURE SIDEWALK (ADA)

U.S.S. TRACT
 9A-97A4A
 CASTAS ASSOCIATES
 MISC. BOOK 273
 PAGES 340-351

U.S.S. TRACT
 9A-97A3A
 CASTAS ASSOCIATES
 MISC. BOOK 240
 PAGES 340-351



- NOTE:**
- 1.) FLOOD ZONE "A" AREAS DETERMINED TO BE OUTSIDE THE FLOOD ZONE "A" MAP REVISED SEPTEMBER 8, 1974, HOLY CROSS SCHOOL PORTION ONLY.
 - 2.) FLOOD ZONE "A" BASE FLOOD ELEVATION DETERMINED BY THE U.S. ARMY CORPS OF ENGINEERS, MAP REVISED SEPTEMBER 8, 1974, ALL OTHER PORTIONS.
 - 3.) INFORMATION IN THE PREPARATION OF THIS PLAN DERIVES FROM WARRANT DEED FILED JANUARY 22, 1955, IN DEED BOOK 231, PAGE 537, DONA ANA COUNTY RECORDS.
 - 4.) PROJECT BENCHMARK DERIVES FROM CITY BENCHMARK NO. 108 OF THE U.S. ARMY CORPS OF ENGINEERS, LOCATED ON THE E. SIDE OF MIRANDA STREET APPROX. 650' E. OF MIRANDA & CIVIL INTERSECTION.
 - 5.) MINIMUM FINISHED FLOOR FOR ALL PORTABLES SHALL BE 3895.00 USL.
 - 6.) GRADING OF SITE SHALL DIRECT ALL WATER TO RETENTION POND SHOWN ON PLAN. GRADIENT LINES SHALL BE PROVIDED TO THE CITY FOR THOSE UTILITY LINES THAT ARE TO BE MAINTAINED BY THE CITY.
 - 7.) LANDSCAPING SHALL BE EXISTING GRASS WITH THE EXCEPT THAT ARE DISTURBED SHALL BE RELOCATED ON SITE OR ADJACENT.
 - 8.) IRRIGATION: A PORTION OF THE EXISTING SYSTEM IS CURRENTLY ON A SITE WELL. THIS WELL IS LOCATED ON THE AREA IS ON CITY WATER WHICH WILL BE ABANDONED SUCH THAT IT IS REDIRECTED TO AVOID PORTABLES.
 - 10.) POWER TO BE PROVIDED BY D. PASE ELECTRIC COMPANY.

PROPERTY LOCATED ON PORTION OF A 5.015 AND A 6.002 ACRE TRACTS IN SECTION 12, T.23S., R.1E., N.M.P.M. OF THE U.S.R.S. SURVEYS BEING U.S.R.S. TRACTS 9A-102A, 9A-97-A1A, 9A-97A1B, 9A-97A3B, 9A-97A4B AND PART OF 9A-97A2, CITY OF LAS CRUCES DONA ANA COUNTY, NEW MEXICO

SCALE: 1" = 50'

LEGEND

- POWERPOLE
- WELL
- LIGHT
- FENCE
- POWERLINE
- ANCHOR
- FIRE HYDRANT
- WOOD POST
- SPRINKLER
- PALM TREE
- TREE
- SEWER MANHOLE
- STUMP
- INDEX CONTOUR
- INTERMEDIATE CONTOUR
- PROPOSED 6" WATER LINE
- PROPOSED 8" SEWER LINE
- PROPOSED 2" GAS LINE
- PROPOSED FIRE HYDRANT
- FUTURE SIDEWALK (ADA)

VARIABLES TO R.O.W. SCHOOL - COLLEGE

TRUCKS EXTERMINATING COMPANY
 PROJECT OWNER
 CONTRACTOR
 ARCHITECT
 CITY OF LAS CRUCES

LAS CRUCES CATHOLIC SCHOOL
 HOLY CROSS CAMPUS
 PORTABLE BUILDING SITE PLAN,
 UTILITY PLAN, GRADING PLAN
 AND DRAINAGE PLAN

- I. VARIANCES. The Planning and Zoning Commission and the Public Works Director or designee (See Sec. 38-10I.1) are authorized to grant variances.
1. A variance shall be defined as a variation in the numerical requirements of this Code, the Sign Code, or the Design Standards (landscaping). Numerical variances to the clear sight triangle requirements shall be considered, reviewed, denied, or approved by the Public Works Director or designee, as per Article III of Chapter 26.
 2. A variance proposal to be acted on by the Planning and Zoning Commission may either be part of a request for rezoning, initial zoning, special use permit or planned unit development, or be submitted independent of such proposals and heard based on the individual merits of the request. Use variances, which are non-numerical, as well as numerical variances to the provisions of this Code, may be granted by the Planning and Zoning Commission only in accordance with the Infill Development Process (IDP), Sec. 38-48. Administrative decisions on or interpretations of the Zoning Code or the Sign Code by staff may be affirmed, reversed, or modified pursuant to this section and appealed to the City Council in accord with Sec. 38-13, except as provided in Sec. 38-4D.
 3. In the event of a denial decision by the Planning and Zoning Commission and/or City Council, there shall be no reapplication for the exact same variance, which was properly advertised and acted on, for a period of one (1) year after the date of the decision of the Planning and Zoning Commission and/or City Council. A modified variance request processed through the IDP, Sec. 38-48, may be resubmitted at any time following action by the Planning and Zoning Commission.
 4. A variance shall be automatically revoked if a building permit, sign permit or business registration/license for the approved variance has not been obtained within one (1) year. Upon a formal request from the property owner, the Community Development Director or designee may grant a one (1) time, one (1) year extension as deemed appropriate.

J. CRITERIA FOR DECISIONS.

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, Sec. 38-2 and 36-1 of the Sign Code, when appropriate, and determine whether the request is consistent or inconsistent with stated criteria. Members of the Planning and Zoning Commission shall state the factual basis and the findings for their vote.

Furthermore, granting any variance shall not merely serve as a convenience to the applicant, but the variance shall be the minimum necessary for relief in order to accomplish the stated objective(s) of the applicant's request or demonstrable hardship. Hardships are not considered personal or monetary. In addition to criteria already referenced, decisions may consider:

1. A physical hardship relative to the property (i.e., topographic constraints or right-of-way takes resulting reduced development flexibility, etc.) in question.
2. The potential for spurring economic development at a neighborhood or city-wide level if requested allowances are granted.
3. Monetary considerations not as a whole, but relative to options available to meet the applicant's stated objectives when such options cause considerable monetary hardship under strict application of code provisions.

K. NOTICE OF DECISION.

Upon making a recommendation to the City Council or taking final action on matters for which the Planning and Zoning Commission has been granted final authority, the Community Development Department shall promptly

1. Prepare a written decision that includes an order stating the factual basis and the findings of the Planning and Zoning Commission which support the order
 - a. Recommending the granting or denying of relief, or
 - b. Granting or denying relief;
2. File the written decision with the City Clerk's Office;
3. Send by certified mail a document with appropriate signatures that includes a copy of the written decision of the Planning and Zoning Commission to all parties whose rights are adjudged by the decision and that contains the requirements for filing an appeal;
4. Send by regular mail, or otherwise provide, a copy of the document that includes a copy of the written decision of the Planning and Zoning Commission to every person who has filed a written request with the Community Development Department for notice of the decision.

L. APPEAL TO CITY COUNCIL.

Decisions of the Planning and Zoning Commission may be appealed to the City Council in accord with the provisions of Sec. 38-13.

M. RESUBMITTAL OF REQUEST.

A request denied by the Planning and Zoning Commission and/or the City Council shall not be resubmitted or reconsidered for a period of one (1) year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six (6) months after such denial decision. Special use permits or planned unit developments processed through the IDP that are denied by the Planning and Zoning Commission may be modified and resubmitted at any time following action by the Planning and Zoning Commission.

We would like to take a moment to remind this board that we support education and value the contributions that Las Cruces Catholic Schools make to our community. Indeed the well-spoken children that addressed this forum a month ago are a testament to the success of Holy Cross' educators, administrators, parents and students.

As you know, a central tenant of this nation is that we should have universal education for our children so that the United States may enjoy the benefits of an educated citizenry. Ours is a nation of rules and laws, laws that demand careful attention and application from those that are entrusted to uphold and obey them.

One aspect of the case before you is that a decision to grant this variance would seemingly make the Planning and Zoning Board irrelevant in the future. Granting this variance would set the precedent that denying landowners the ability to grow is a hardship. Let me repeat that, granting this variance would set the precedent that denying landowners the ability to grow is a hardship.

Indeed, if you grant this variance, wouldn't the logical next move for us as homeowners be to request a variance for our own properties that would allow us to expand our houses out to our lot lines, build upward many stories, add multiple units and thereby earn rent and increase the value of our properties?

What we are getting at here is that our city's ordinances are set up to protect landowners from the designs and ambitions of others. Protection trumps expansion.

Variations should not be granted because a business owner or homeowner needs to grow. Instead landowners should avoid adversely impacting their neighbors through continual growth and look for new property that can accommodate their needs.

In the opinion of many of us gathered here today, the question is not "Should the school and church be allowed to add a preschool, add a high school, improperly bring in portable buildings, add a subsequent adult education center, etc, etc.?" The question as we see it is, "Hasn't Holy Cross outgrown its property?" Isn't it time perhaps to put the pre-K at another school? Use another church to hold the high school? Move bingo nights to a different church or school facility? Or, perhaps, seek new land that could accommodate all of these multiple uses in places that are designed for this?

Thank you for voting against this variance. Thank you for upholding the protections that are important to all Las Cruces homeowners.

Greg Bloom

Palmer
Weekday ADT
360

Palmer
Weekend ADT
267

547

Ethel
Weekday ADT
587

Ethel
Weekend ADT
874

Alameda
approximately
6800

Miranda
Weekend ADT
1148

Miranda
Weekday ADT
1027

Parker (East of Miranda)
Total # vehicles 1743

Parker (West of Miranda)
Total # vehicles 845



Palmer
Weekday ADT
360

Palmer
Weekend ADT
267

548

ACTUAL

Ethel
Weekday ADT
587

Ethel
Weekend ADT
874

ACTUAL PLACEMENT

Alameda
approximately
6800

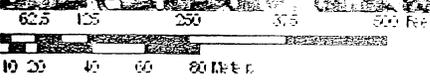
Miranda
Weekend ADT
1148

Miranda
Weekday ADT
1027

ACTUAL

Parker (East of Miranda)
Total # vehicles 1743

Parker (West of Miranda)
Total # vehicles 845



Zoning Classifications

549

Holy Cross Church and School And Alameda Elementary School	R1a
Residential Streets of Palmer Ethel and Miranda	R2c
Las Casitas Apartments	R3

Activities and Functions Of Holy Cross Catholic Church and School

Church Mass: Daily Monday thru Saturday with 4 masses on Sunday
Confession: Saturday at 4:00 pm
Funerals: As scheduled
Weddings: As scheduled
Quincineras: As scheduled
Columbarium: Open to all

Child Care: Year round
Elementary School
Middle School
Grades 9 and 10 of High School
Summer Camp

Meetings: 20+ organizations meet weekly
Bingo: Monday and Tuesday nights
Fundraisers: Examples include Enchilada dinners, Movies, Parking lot rummage sales

Current CLC Traffic Study Schedule

Miranda Street: Wednesday, February 25 beginning at 7:00 am until Monday, March 2 at 8:00 am
Palmer Street: Thursday, March 12 through Monday, March 16
Ethel Street: Thursday, March 19 through Monday, March 23
Parker Street: Thursday, April 2 through Monday, April 6

Concern: Current schedule never counts Bingo traffic on Monday and Tuesday nights.
On Monday, March 2, Bingo accounted for 137 vehicles. They were parked:
On the street (18)
North parking lot (59)
South parking lot (60)

1
2 Scholz: Wonderful. Okay. Other questions? Okay, I have two Mr. White. Does
3 the approval of this variance mean that the school is now in compliance
4 with the 2001 Code?
5
6 White: Chair Scholz if the Planning and Zoning Commission grants a variance as
7 stipulated earlier, the property would be in compliance provided that they
8 provide a landscaping plan to the City for administrative review.
9
10 Scholz: Right, yes, I'm assuming that they comply with the conditions.
11
12 White: That is correct.
13
14 Scholz: Okay. And that means that from now on they'll have to follow the
15 provisions of the code, is that correct?
16
17 White: Well Commissioner Scholz, if you notice based upon how staff conditioned
18 this property, this is actually stipulated that this is only ... this is not a
19 blanket variance. When sometime you hear a blanket variance. If you
20 gave a blanket variance to a right-of-way section, in theory you could keep
21 on expanding. By having the conditions that staff is proposing in the
22 record, it's stipulating that it would grant the variance for the portables, but
23 any future expansion would have to be evaluated through the Planning
24 and Zoning Commission and subsequently City Council.
25
26 Scholz: Thank you. Okay, can we hear from the City Traffic Engineer please?
27
28 Soriano: Good evening Commissioners. Dan Soriano, City of Las Cruces Traffic
29 Engineer. Basically our office has reviewed the Traffic Impact Analysis
30 that was prepared and at the last session I believe the Commission was
31 given additional information as far as the raw data, things like that to take
32 a look at and then I came before you during the work session about two
33 weeks ago to talk about overall processes with Traffic Impact Analysis.
34 We did review the TIA on the first review. We did go through a second
35 iteration with Mr. Paz. We are satisfied with the results. Basically, the TIA
36 is demonstrating the roadways as they function from the motorist
37 standpoint will work at acceptable levels of service. The assumptions are
38 that the school was going to increase by 30% over the next 20 years ...
39 I'm sorry, the church is going to increase by 30% over the next 20 years,
40 the school is going to increase by 50% over the next 20 years, and those
41 forecasts were included in the analysis. So a horizon year analysis was
42 also done as part of the TIA, and also demonstrated satisfactory levels of
43 service. Again, this simply demonstrates that from the motorist's
44 perspective the motorists will see reasonably driving conditions as they
45 run through these areas going to the school and out, and it really takes
46 everything from the motorist's perspective, curbs in basically. And the City

1 has approved the TIA and the version that's in your packet. With that, I'll
2 stand for any questions.
3

4 Scholz: Okay, questions for this gentleman. Commissioner Crane.
5

6 Crane: Do you have available to put up on the screen the diagrams and the data
7 tables that you gave the Commissioners?
8

9 Soriano: Mr. Chair, Commissioner Crane, no, sir, it's not included in the
10 presentation.
11

12 Crane: I see. Well, it seemed ... I've gone very carefully over the data both in the
13 diagrammatic form and in the table for Ethel and Miranda because it
14 seemed to me that's the critical intersection. That's where one of the two
15 parking lots (*inaudible*) into N. Miranda and across the intersection is
16 Ethel. It seemed to me that we could look at the worst case of traffic at
17 that particular point when school meets in the morning and quits in the
18 afternoon, we could get some idea of whether the traffic is going to be in
19 supportive along Miranda. Unfortunately, there's a grave discrepancy
20 which I can't possibly describe to you without using my laser pointer and
21 my magnifying glass on the data you gave me.
22

23 Scholz: Go for it.
24

25 Crane: No, sir. Which makes it hard to come to any firm conclusions about the
26 traffic at that particular point. Fundamentally the designations of ... in the
27 rows that you have on your table, one through 12 for that particular
28 intersection indicate directions of traffic and they change their meaning as
29 you run across the table. The key data, one of the traffic out of the
30 parking lot, north up Miranda and down Miranda, and across the Ethel at
31 the a.m. peak time 24, 3, and 25 cars. I'm looking at figure 4. You try to
32 apply that to the afternoon peak, the numbers do not jive with what's in the
33 table, and I went back and tried to figure out what your designations were,
34 what one through 12 meant in the a.m. period and what one through 12
35 meant in the p.m. period and there are two cases at least ... no let me
36 see, one, two, three, four cases in which these designations have
37 changed, which makes your table virtually useless. Now I don't want to
38 bore everybody to tears, least of all myself, but I'll be happy to show you
39 what's worrying me. I'm a scientist. I'm used to bad data. Less used to
40 good data.
41

42 Soriano: Mr. Chair, Commissioner Crane. That is not our data. That is not from the
43 City. That was prepared by the consultant. I'd like to defer that to Mr.
44 Paz, maybe he can explain a little better how the orientation of those
45 tables are established. Maybe he has answers to those questions a little
46 better than I could.

1
2 Scholz: Well, he'll get his chance when the applicant speaks, but ...
3
4 Soriano: I can't answer that data sir.
5
6 Scholz: Excuse me, Commissioner Crane, Mr. Soriano if you've approved that
7 data or the City has approved that data, then you know why can't you
8 vouch for it?
9
10 Soriano: The orientation, basically we did a verification count by hose count in the
11 area. We set hoses in the area to establish what the volumes were as Mr.
12 Paz was collecting his data. And basically, on that basis we did find that
13 there was a very close correlation to that data. We did not take movement
14 counts as Mr. Paz did. So, we basically went on the basis that for the 24
15 hour count that we took which was an entire one day count, it was a very
16 close correlation with the data that he produced in his tables, as far as a
17 total goes. So the totals actually match up very well. We can't verify the
18 turning movements because we didn't take turning movements, we took
19 total counts. Therefore, we basically looked at the totals and made sure
20 the totals were in close correlation with the data what we had received.
21 We basically did this ... we did a concurrent count if you will to make sure
22 there was some validity to the data that we were getting from Mr. Paz in
23 his report. And we found that through looking at the total data that there
24 was very, very close correlation with the information he was getting us,
25 therefore felt satisfied with the data that we were receiving in this report.
26 As far as how the tables were established, and by the movements ... as
27 far as how the movements were labeled, we did not have direct
28 involvement with that. We made a comparison to the total data alone, the
29 totals for the counts that were given at the intersections.
30
31 Scholz: Okay. Mr. Crane, another question you had, or follow-up?
32
33 Crane: Not exactly, but let me just make the comment then I'll drop the point
34 because there is a way that this could be made intelligible to the
35 Commission or the public without the data displayed. And I think I
36 probably have what I need to come to a decision, but I would be interested
37 in meeting privately if they wished or Mr. Soriano and Mr. Paz to show
38 them what's on my mind. Perhaps I misunderstood everything, but I don't
39 want to take up the Commissions time on this any further.
40
41 Scholz: Okay. Other questions? Commissioner Shipley.
42
43 Shipley: Mr. Soriano, you did the count on May 9th at Ethel ... excuse, Palmer and
44 Miranda?
45

1 Soriano: Mr. Chair, Commissioner Shipley, the total one day count we did, that data
2 that was provided to you.
3

4 Shipley: On May the 9th?
5

6 Soriano: As I recall. I don't have the data in front of me.
7

8 Shipley: That's what your data says. Okay, and then you did two days later, you
9 did Ethel and Miranda.
10

11 Soriano: We did it over a series of about three or four weeks, yes, sir.
12

13 Shipley: Okay, that's the 9th, that's the 11th, and then there was data in here ...
14 whose data is this?
15

16 Soriano: That is the City's data. That's basically speed data that we picked up from
17 the count and speed data that we picked up with our counters.
18

19 Shipley: When you say speed data you're looking at the number of cars, is that
20 correct? Time of day?
21

22 Soriano: Mr. Chair, Commissioner Shipley, yes, sir. What it basically does is
23 demonstrate for given hours throughout the given days that you show on
24 the graphs, shows what the speed ranges were and the number of cars
25 that were in those speed ranges.
26

27 Shipley: All this has is, it just has the time. 12:00 to 12:59 or let's take 7:00 to 7:59
28 and it says 116 and 69. But there's nothing on the chart that shows me,
29 that says whether it's going north or south. That's all it shows me. So to
30 me that's just a traffic count. That's not speed.
31

32 Soriano: I'm sorry. Commissioner Shipley, we did have speed data and I guess
33 that didn't make into the packet. You're right, these graphs are simply
34 hourly counts. The directions are the barred graphs, as you see there are
35 two colored bar graphs, that distinguishes the differences in the direction.
36 We also did the same thing similarly for speed and I thought that was the
37 data you were looking at.
38

39 Shipley: No, I was just trying to make sure I understood the chart because there
40 wasn't really any ... the only thing I could figure out was it was just a
41 number count.
42

43 Soriano: Again, this was our verification data. We did counts as the TIA was being
44 prepared and put together. We prepared these graphs from the data that
45 we collected and we were not only able to show hour by hour counts by
46 direction, we were also able to come up with a speed data by direction.

1
2 Scholz: Okay, other questions? Commissioner Iserman, you had your hand up.
3
4 Iserman: Yes, Mr. Soriano, this'll be easier. On one of those charts that you were
5 just talking about was April 9th, 2009, I'm just curious can anybody tell me
6 you know that's the day before Good Friday, and were the children in
7 school all that day or not?
8
9 Soriano: I hear yes. We made sure that it was typical days that we counted. In
10 fact, we did try to incorporate Ash Wednesday, we had a little problem
11 with our counters so we weren't able to collect that data, but we were
12 trying to get as much typical situations; we counted over the weekends,
13 tried to pick up any peaks, things that were going on during the Sunday
14 services and that sort of thing. So we were trying to look at typical
15 situations which is really what you try to do for a traffic study, you're trying
16 to look at typical situations. And so we tried to make sure that school was
17 in session, that there was nothing atypical about what was going on in the
18 area at the time we collected the data.
19
20 Iserman: And then I have one more question.
21
22 Soriano: Yes, sir.
23
24 Iserman: Thank you very much. Traffic counts withstanding, they are what they are,
25 the way I see it. You say they're fine, they're probably fine. But my
26 question is not traffic count, as much as it is towards safety. I'm more
27 concerned about . . . I see on Palmer and Parker, on those two streets,
28 somewhere along the line it has been necessary to install speed bumps.
29 So I just interpolate from that that there's a speeding problem or has been.
30 That doesn't . . . you know that's just something totally different than a
31 traffic count to be considered.
32
33 Soriano: Mr. Chair, Commissioner Iserman, we did look at speed data. We did
34 collect speed data. It's not represented in your data here, but as part of
35 our study which was really . . . it was a validation towards what was being
36 collected for the TIA, but it also just gave us an idea of what was
37 happening in that area. We met with the neighborhood initially I think
38 sometime late February, and we heard the concerns and so we initiated
39 traffic counts and speed collection data just to see what the magnitude of
40 the problems were. You're right there are speed humps on Palmer, Ethel,
41 Parker, I think everyone short of Miranda. So that does indicate that at
42 one time we probably did have some speeding problems and hopefully
43 that's been at least somewhat mitigated with the speed humps in place.
44 We do recognize that there are still some issues outstanding in that area
45 and we've already gone as far as establishing a traffic committee for the
46 area so that we can work on issues around the school. There are issues



**City of Las Cruces Public Works/Traffic Engineering
Follow-up Meeting Regarding
Holy Cross School/surrounding neighborhood Traffic Counts.**

AGENDA

Follow up Meeting for Holy Cross School May 13, 2009, at 6:00 p.m. at Holy Cross School 1331 Miranda, Las Cruces, New Mexico.

1. TRAFFIC STAFF TO PRESENT TRAFFIC COUNT DATA

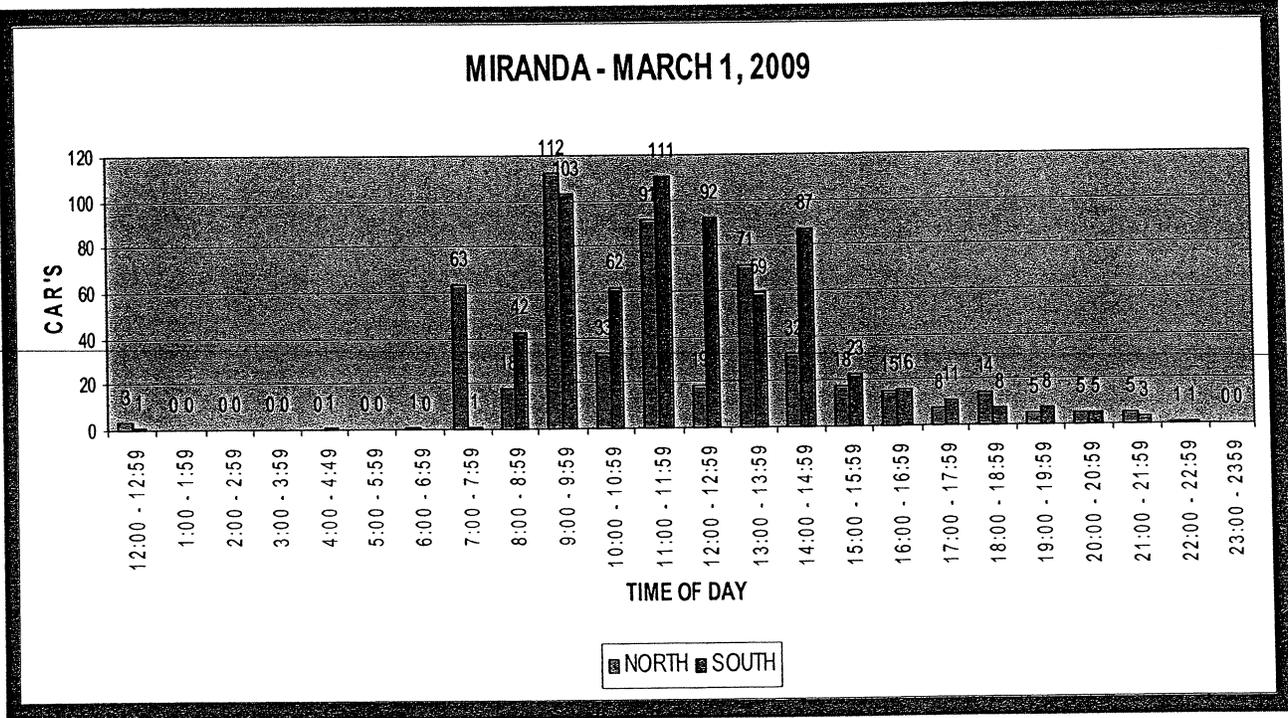
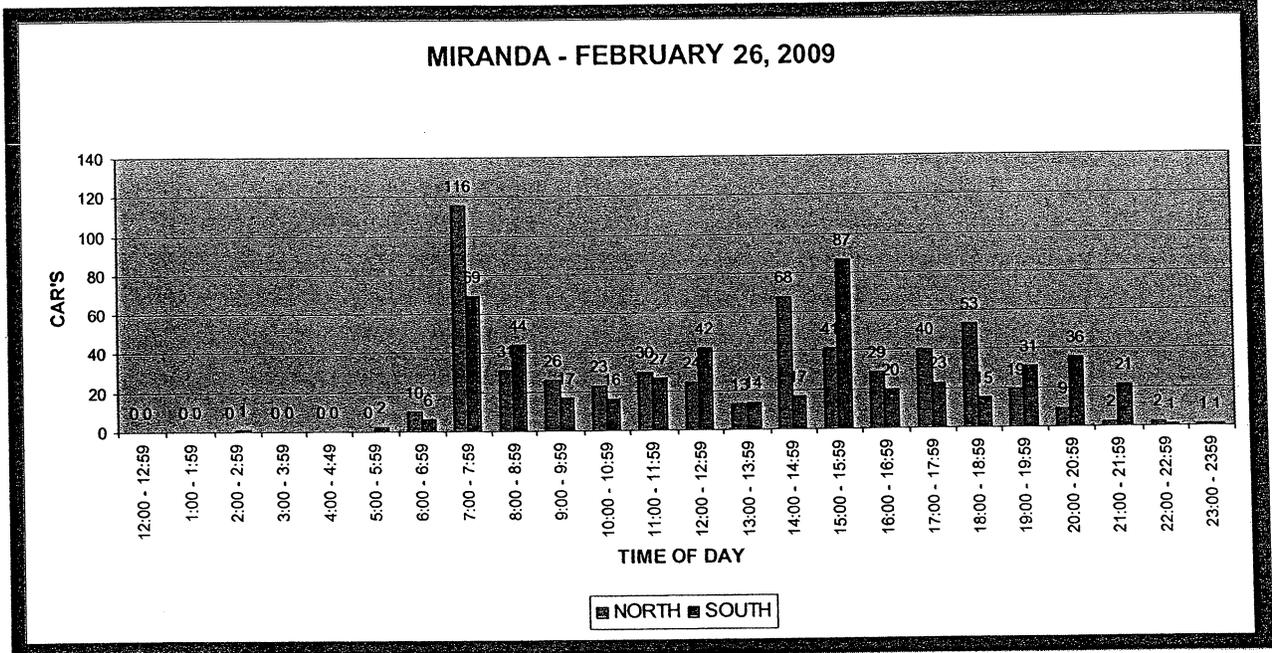
- *Palmer Road*
- *Ethel Avenue*
- *Miranda Street*
- *Parker Road*

2. MOLZEN- CORBIN TO PRESENT TRAFFIC COUNT DATA ON BEHALF Holy Cross Church and Las Cruces Catholic School

3. PUBLIC COMMENTS & QUESTION

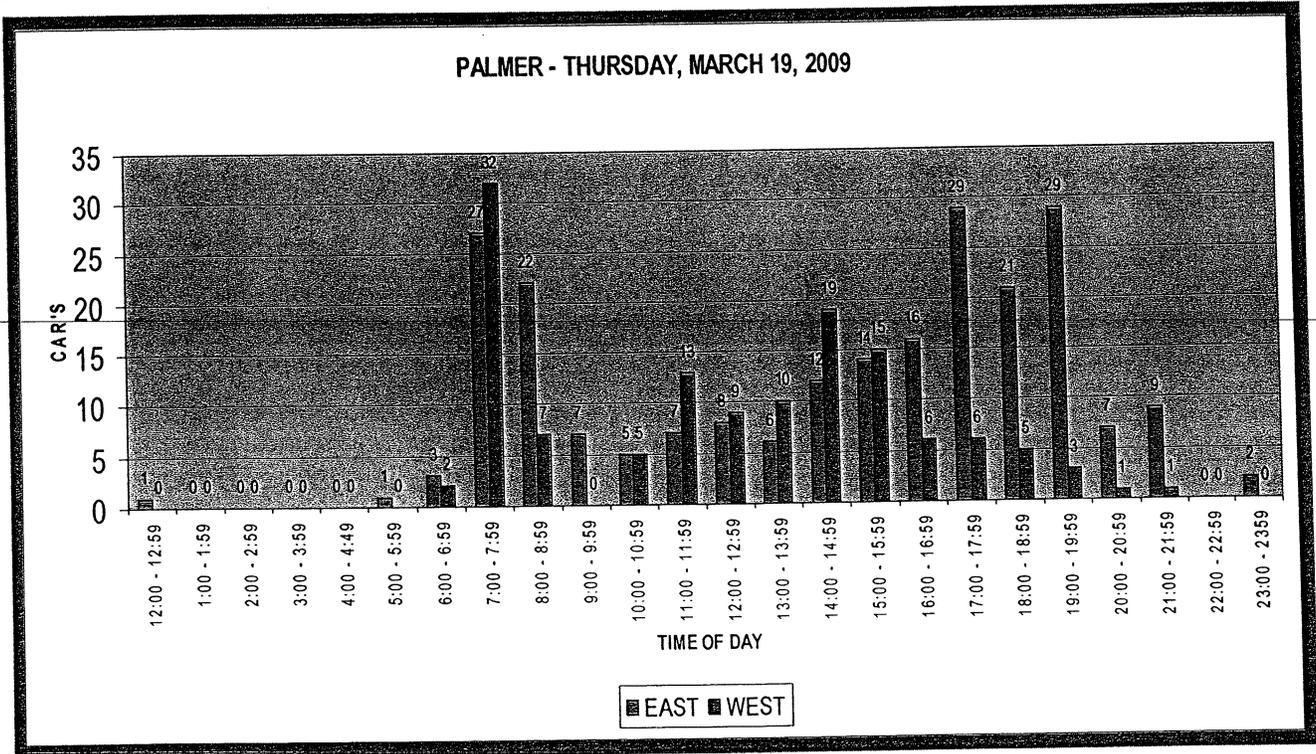
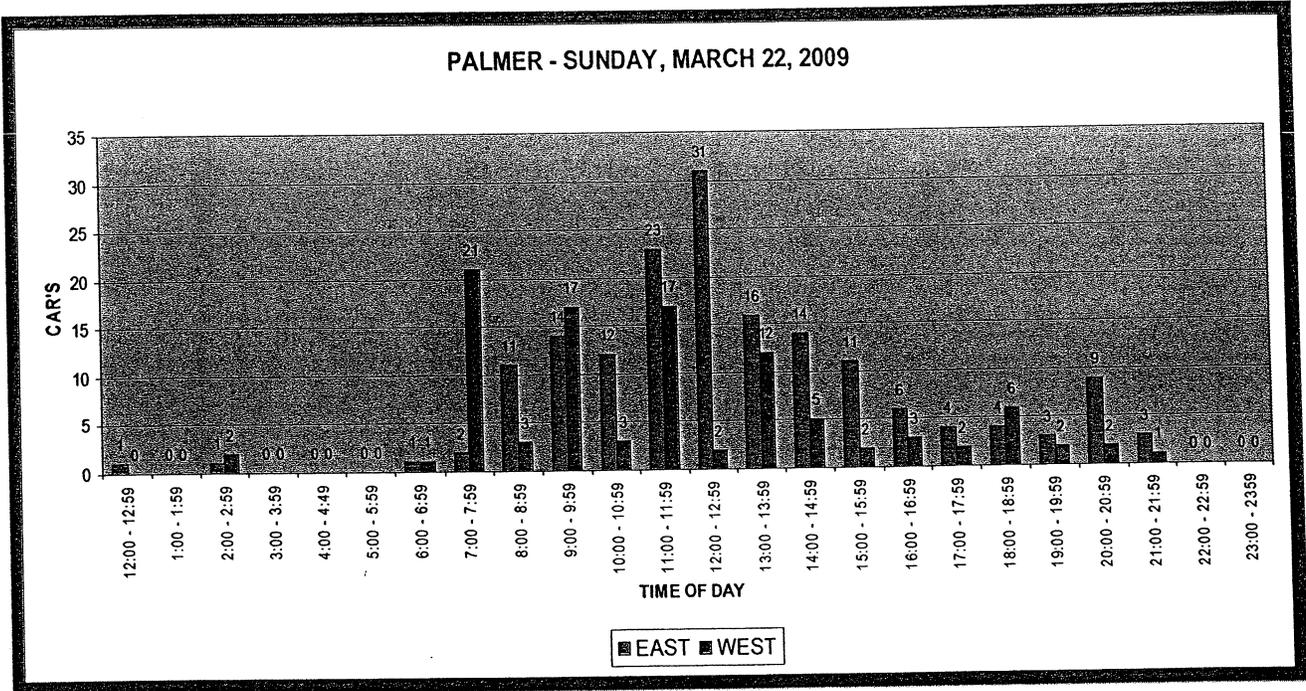
MIRANDA

7148



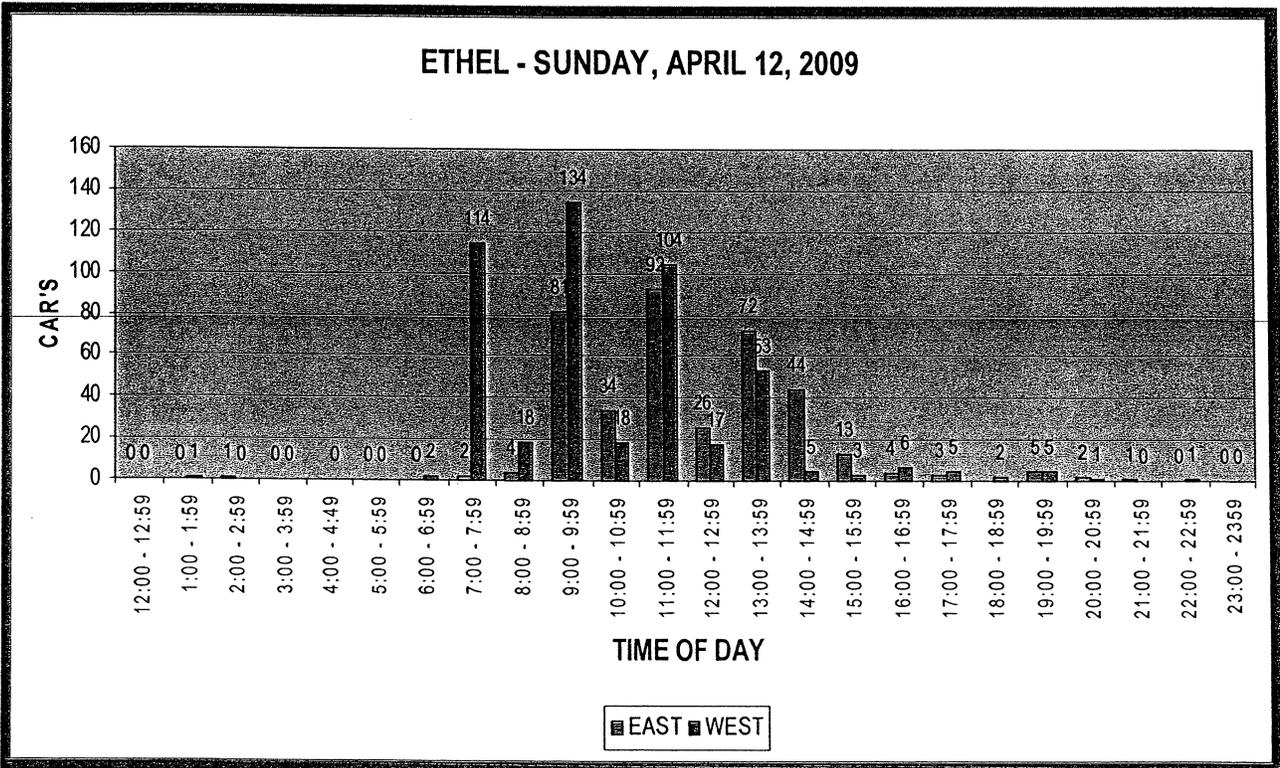
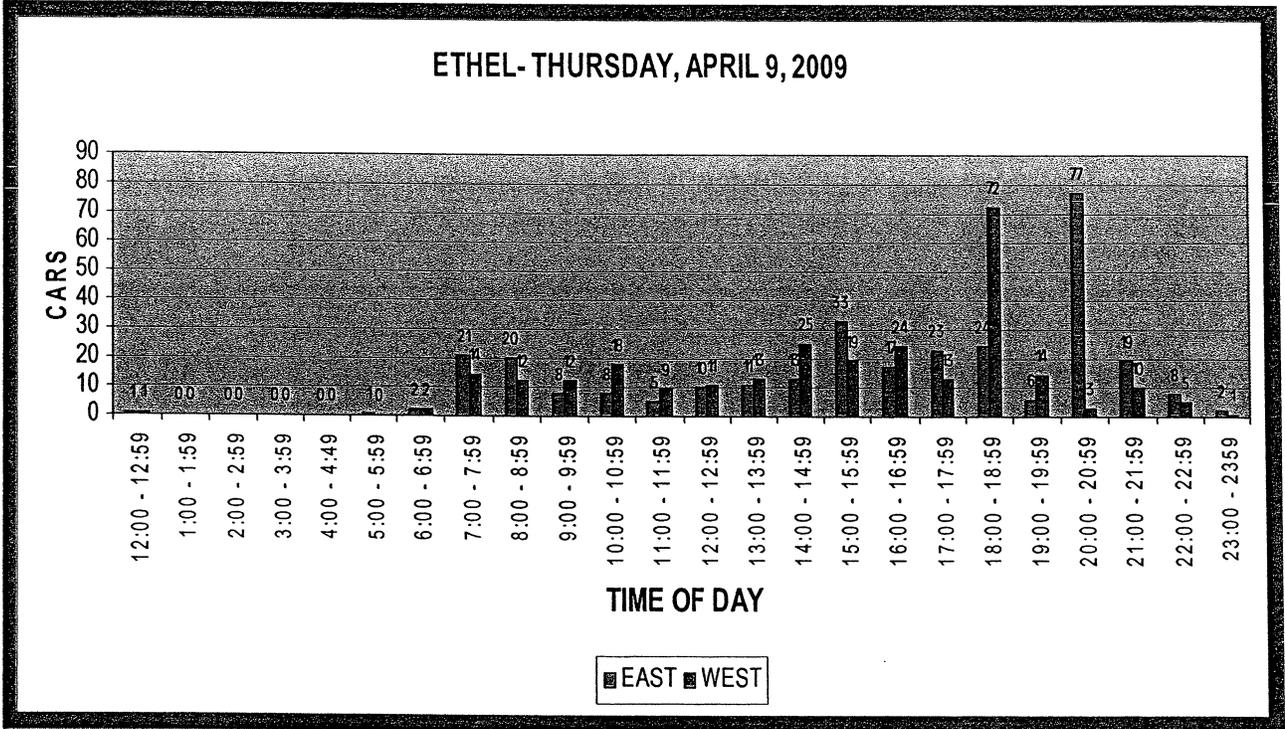
1097

PALMER



ETHEL

587



874

**Approximate Chronology of Holy Cross Campus Developments
as Gathered from Public Records and Information from Various
Holy Cross Documents**

1962	School is built for elementary students	
(?)	Convent with housing is built for nuns	
1981	Separate church building permitted as a "one-time exception" to enlarge nonconforming building	County assessor's documents suggest 7,149 square foot addition
1995	Columbarium for cremations is permitted	"Conditioned" that any further campus expansion would require an amendment to the 1995 special use permit and approval by the Planning & Zoning Commission
(?)	New middle school is permitted (Date of building is not yet found.)	1995 permit is amended allowing new building (8,396 square feet)
2001	Immaculate Heart of Mary students move to LCCS (Holy Cross School)	
2007	High school students enrolled for 2007-2008 year	Classes begin with no apparent permit or hearing
December 2008 - February 2009	Twelve portable buildings brought onto southwest area of campus with no prior permitting or hearing	Unclear whether conveyance of portables to site was legal; no notice to residents along Ethel regarding clearance issues
April 2009	Main School - 22,121 square feet Middle School - 8,396 square feet Main Church - 7,649 square feet	Total campus - 38,216 square feet
April 2009	Three portable buildings permitted per "one time" 10 percent square footage increase	Additional square footage of approximately 3,360 square feet
May 2009	Variance request for 9 additional portable buildings	Comprising another increase of 8,400 square feet Total campus - 49,976 square feet
Anticipated 2011- 2013	Ground-breaking for the John Paul II Family Life Center Sanctuary also to be enlarged by approximately 100 seats	Two stories totaling 14,000 square feet Total campus - 63,976 square feet
Approximately 2014	Ground-breaking for indoor sports facility	Unknown square footage, requires demolition of existing outdoor sports area

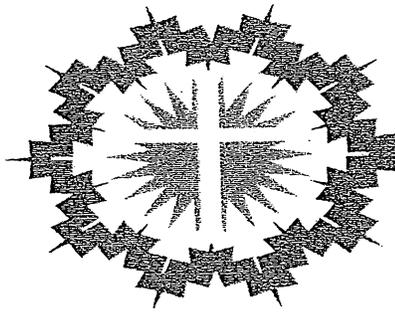
1 there was not a high school component. At that juncture in time in 1969,
2 there was only an elementary school component, so it was in compliance
3 with the zoning criteria of 1969 Zoning Code.

4 Conditional zoning on the property actually started in 1981. When
5 we adopted the 1981 Zoning Code, it required schools and churches to
6 obtain a special use permit via a public hearing process. So in theory at
7 that juncture in time between 1981 and 2001 an applicant would have
8 been required to do a special use permit. The subject property in 1981
9 became nonconforming based upon Miranda being a local roadway. So
10 what actually occurred at that time, there was an SUP in 1981. In 1981,
11 SUP was actually for the church itself. It was to allow the parishioners to
12 actually have a building built so they wouldn't actually have to worship in
13 the actual gymnasium. In 1995, special use permit was for a columbarium
14 and in 1998 special use permit was actually for a middle school that was
15 placed on the property.

16 Staff actually tracked the building permitting history. There was
17 some confusion regarding addresses. The physical address the City has
18 for the property is 1321 N. Miranda. The actual address on the building is
19 1331 N. Miranda. And I believe the actual religious institution is using
20 1327 N. Miranda. Based upon the permitting for the school site, there was
21 a commercial new addition that was permitted in 1999 and also in 1998,
22 that was in relation to the middle school expansion that transpired on the
23 property. There was also an over-the-counter building permit issued for a
24 fence in 2000, and the school site was also issued two building permits in
25 the 1980's. That is the history regarding the school.

26 Now to go into specifics of the case we're speaking of this evening.
27 The property is actually two distinct properties, roughly 11.07 acres all
28 located east of the Armijo Lateral. It is currently zoned R-1a which is
29 single-family medium density. The properties currently contain a religious
30 institution and private school. And based upon the 2001 Zoning Code
31 which is currently adopted, it's a conditional use in the R-1a Zoning
32 District. Here's an excerpt from the 2001 Zoning Code which pretty much
33 stipulates that section 38-33(D), public or private schools or parochial
34 schools are required to be located on a collector or higher designated
35 roadway. What construes a collector roadway in the city of Las Cruces is
36 right-of-way width of 85-feet. The current right-of-way width on N. Miranda
37 which is the ingress and access point for the property is roughly 50 to 55-
38 feet. There are also a couple other conditionals regarding landscaping,
39 buffering, etc. on the property.

40 Case specifics as alluded to earlier, private school has ingress and
41 egress from N. Miranda Street which has an approximate right-of-way of
42 50-feet. School sites are required to have 85-foot of right-of-way, also
43 known as a collector. The expansion of the private school includes 12
44 portable buildings having a combined area of 12,221 square feet. The
45 gross floor area combined, this is the current based upon Doña Ana
46 County Tax Assessor records, both religious institution and church has



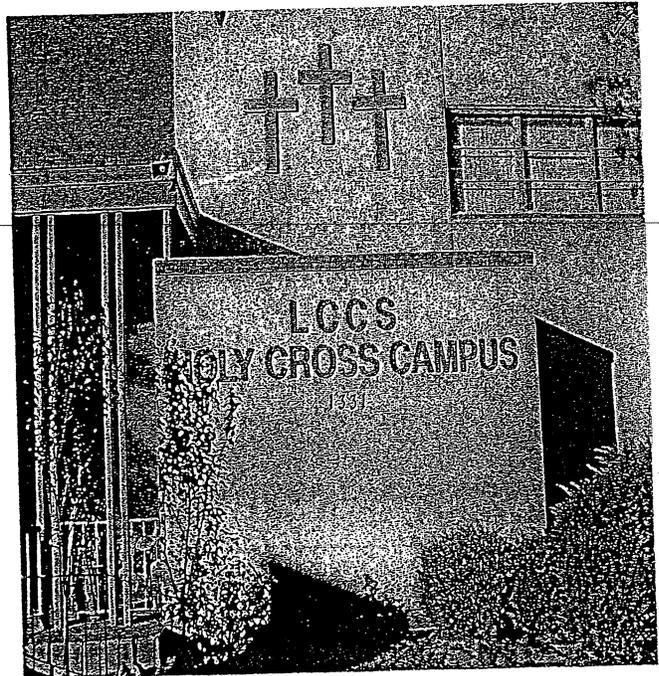
LAS CRUCES
CATHOLIC
SCHOOL
†Established 1927†

DEVELOPMENT PLAN

LAS CRUCES CATHOLIC SCHOOL HOLY CROSS CAMPUS AND HOLY CROSS PARISH CHURCH

Las Cruces Catholic School
1331 N. Miranda
Las Cruces, NM 88005

Phone: (505) 526-2517
Fax: (505) 524-0544

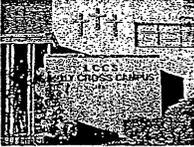


DEVELOPMENT PLAN

**LAS CRUCES CATHOLIC SCHOOL
HOLY CROSS CAMPUS
AND
HOLY CROSS PARISH CHURCH**



Las Cruces Catholic School
1331 N. Miranda
Las Cruces, NM 88005
Phone: (505) 526-2517
Fax: (505) 524-0544



CHURCH & SCHOOL

- Church and School share the same site
- Church is home to 1800 families
- School is home to 295 students grades prek-10th

Holy Cross Church

- Church has daily mass at 12:10.
- Church has Saturday mass at 5:30.
- Church has four masses on Sunday starting at 8:00am and finishing at 2:00 pm.
- Bingo is held on Monday and Tuesday night each week.
- Religious Education is taught on Sunday morning and on Wednesday night.

EXISTING SITE USE (cont...)

Church has 20 organizations that use the site:
 Knights of Columbus, Prayer Groups, Choir,
 Boy Scouts, Athletic teams, Etc.
 Groups range from 10 to 100 people
 There are numerous volunteers that use the
 facility and the grounds

Las Cruces Catholic School

Las Cruces Catholic School grades
 Prek-10 is on the same site as church
 CCS Operates on the same schedule as LCPS
 Current enrollment is 295 students
 CCS has 35 full or part time employees and
 parent volunteers that are at the school daily

FUTURE CHURCH NEEDS

ST. JOHN'S CROSS PARISH is planning on building the Pope John-
 Paul II Family Life Center
 THE FAMILY LIFE CENTER will replace the old convent
 presently being used for meeting space
 THE FAMILY LIFE CENTER will consist of 14,000 CHURCH
 SANCTUARY will be expanded by approximately 100 new seats
 PROJECTED GROUNDBREAKING IN 2011-2013
 ADDITIONAL PARKING in the rear of the church is part of the
 plan

What is the JPII Center going to be used for?

- Meeting space to accommodate groups being served by the church-Knights of Columbus, prayer groups, choir, boyscouts etc.
- Library
- Expansion of Church to accommodate current parishioners who worship in gathering space.

FUTURE SCHOOL NEEDS

CCS has purchased 12 portable buildings these buildings will be used for preschool and high school classrooms
 High school currently has 12 students when the high school reaches 60-80 students it will be moved off site to a permanent location. This is projected for 2015.
 A gymnasium may be added for indoor sports within the next 5 years.

What will the portables be used for?

- Preschool classrooms. (3)
- Classrooms for teachers who are currently sharing space. (4)
- Band room (1)
- Office Space (1)
- Computer Lab (1)
- Bathrooms (1)
- Storage (1)

Impact of Future Church/School Plans

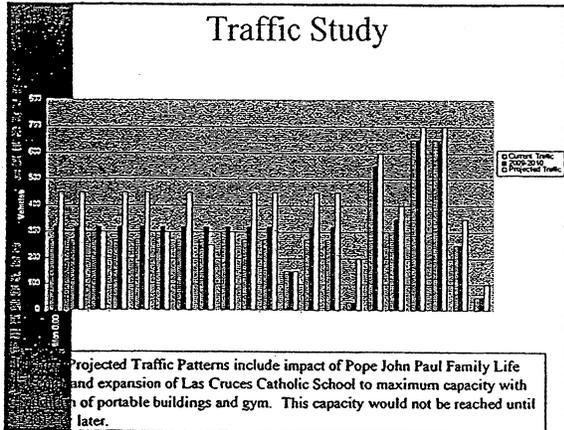
Church and School are complimentary
Masses take place at different times than when school is in session
Church groups and volunteers also use the facility after hours when school has been dismissed and church is not in session.

Neighborhood Concerns

- Increased Traffic at Holy Cross/LCCS
- Parking on side streets, especially Miranda.
- Driving speed limits in neighborhood
- Water/Irrigation issues
- Neighborhood information sharing

Traffic Issues

- Holy Cross Church impacts the neighborhood primarily on weekends (especially during Sunday mass)
- LCCS Traffic primarily impacts the neighborhood from 7:45-8:10 AM and 2:55-3:10 PM which is at the beginning and end of school. The school year is 182 days long.
- During the summer, drop off and pick up take place throughout the morning and afternoon but the highest traffic time is probably 7:45 to 8:30. The maximum number of students ever enrolled in the summer is 180 students.



- ### Parking on Miranda
- Possible Solutions:
 - ◆ No Parking Zone on East end of Miranda
 - ◆ 15 Minute parking zone in front of school
 - ◆ Additional parking behind church (Part of long range plan)
 - ◆ Making changes to pick up/drop off procedures (Part of long range plan)

- ### Speed Limits
- Possible Solutions
 - ◆ Posting a school zone in front of school.
 - ◆ Adding speed bumps to Miranda St.
 - ◆ Reinforcing safety with all parents and parishioners on a regular basis in memos, announcements and meetings.

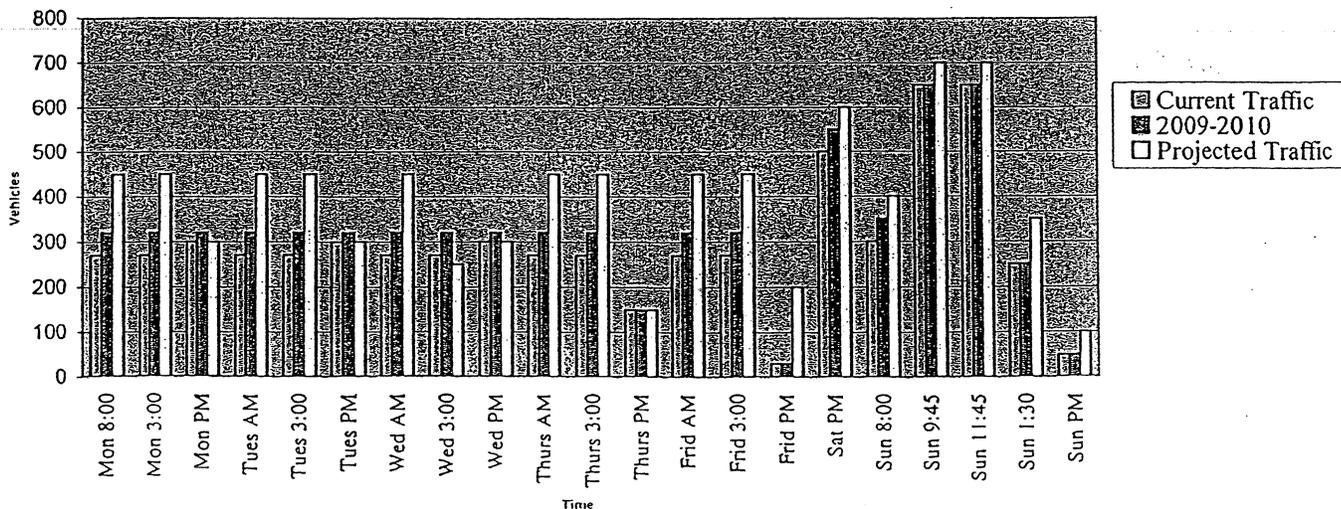
Water/Irrigation Issues

- Holy Cross Church will be repairing irrigation gate.

Information Sharing

- How can this be done in the future to meet everyone's needs?

Traffic Patterns for Holy Cross and Las Cruces Catholic School



Note: Projected Traffic Patterns include impact of Pope John Paul Family Life Center and expansion of Las Cruces Catholic School to maximum capacity with addition of restable buildings and gym. This capacity would not be reached until 2015 or later.

ARTICLE VII. NONCONFORMING USES, STRUCTURES AND PROPERTY

Sec. 38-70. Introduction

Within the zoning districts established by this Code, there are existing land uses, structures, sizes of lots, setback dimensions of structures or site design features which were lawful before this Code was adopted, but which are prohibited, regulated or restricted under the terms of this Code or future amendments. These are considered nonconformities and this Article explains and establishes the regulation of nonconformities.

Many people refer to this Section as the "Grandfather Clause." If a use, structure, etc. was established legally under the previous code, it is "grandfathered in" (legal nonconforming). This Article defines what can be done with a property that has a "grandfathered" feature and when the "grandfather" status is forfeited. These regulations are intended to curtail substantial investment in nonconformities and to bring about the eventual improvement or elimination of nonconformities in order to implement the goals, objectives and policies of the City of Las Cruces Comprehensive Plan. Ultimately, these regulations are intended to protect the health, safety and welfare of the general public.

Sec. 38-71. Purpose

- A. Limit the number and extent of nonconformities which conflict with the intent of this Code by restricting enlargement, re-establishment after abandonment, alteration or restoration after destruction.
- B. Eliminate nonconforming uses eventually or provide for their alteration to conform to the provisions of this Code.
- C. Permit improvements and minor additions to nonconforming structures or structures containing nonconforming uses to be considered in order to prevent these structures from becoming blighted and having detrimental impacts on the surrounding neighborhood, provided that such improvements or additions:
 - 1. Do not adversely impact surrounding property,
 - 2. Do not increase in the degree of nonconformity with respect to the development standards for the zone in which the property is located, and
 - 3. Do not substantially increase the life of the nonconforming structure above the normal anticipated life span for the structure.
- D. Allow for the reconstruction of existing residential structures that are involuntarily destroyed, e.g., fire.
- E. Secure the public health, safety and welfare by eliminating nonconformities that do not substantially promote these concerns.

Sec. 38-72 Definitions**A. Nonconforming - Generally:**

The adoption of this Code and subsequent rezoning of all property within the City to conform to this Code may create nonconforming land uses, structures, lots, parcels or tracts of land and site design features. If at the time of rezoning of any lot, parcel, or tract or a subsequent amendment to this Code, any land use, structure, lot, parcel or tract of land or site design feature which was lawful when initially established or constructed and continued to be lawful, but does not comply with the provisions of this or any other applicable code, shall be considered nonconforming and may continue in the manner and to the extent that it existed or was being used at the time rezoning or amendment of this Code. This Article describes when nonconformities must come into compliance with this Code.

B. Nonconforming - Specifically:

1. A nonconforming use occurs when a use is not allowed, not allowed with conditions, or not allowed with a special use permit in the zoning district in which the property is located.
2. A nonconforming structure is a structure that does not meet setback, height, or other development standards of the zoning district in which the structure is located. Nonconforming structures include, but are not limited to, walls, fences and mobile homes.
3. A nonconforming lot, parcel or tract of land is a piece of property that does not meet the minimum area, width or depth requirement of the zoning district in which it is located.
4. A nonconforming site design feature, e.g., parking lots, landscaping, drainage, curb cuts, lighting and similar features, is a feature that does not meet the requirements of this and any other applicable code.

C. Other Definitions for the Purpose of this Section:

1. Vacant land is defined as property that has not been occupied by a use, by structures or persons or for which no business registration, license, etc. has been obtained for the property. A property is also considered vacant if it previously had been occupied, but has not been occupied by a use, structures, persons or a business registration, license, etc., has not been issued for twelve (12) months or more. This does not include buildings used for residential purposes vacated because of involuntary damage, e.g., fire.
2. Change in land use is defined as an increase or decrease in the intensity of the land use. Intensity is determined by the number of car parking stalls required for a particular use as found in Section 38-33. A nonconforming use may be changed to a less restrictive conforming use, i.e., a use that is allowed in the zoning district and that requires fewer parking stalls. A nonconforming use may be changed to a more restrictive conforming use, i.e., a use that is allowed in the zoning district and that requires more parking stalls, only if the additional parking stalls are provided along

LAND USES	GENERAL ZONING DISTRICTS																AUTO PARKING	BICYCLE PARKING	LAND USE NOTES	
	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R				
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
Sec. 38-33D INSTITUTIONAL LAND USES																				
Cemetery/Columbarium	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	1 APS/3-5 seats in assembly area	1 BPS/2000 sq. ft. of GFA	C: See Section 38-53 S; See Section 38-54
Family Child Care Home (FH) (5-6 children)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	FH/GH: See section 38-52D CCC: 1 APS/300-400 sq. ft. of GFA	1 BPS/7000 sq. ft. of GFA	See section 38-52D C; See section 38-53 S; See section 38-54
Group Child Care Home (CH) (7-12 children)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S			
Child Care Center or Preschool (CCC) (13 or more children)																				
Community Buildings-Uses	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/800-1200 sq. ft. of GFA	1 BPS/5000 sq. ft. of GFA	See Section 38-53
Convention Center/Exhibition Hall																		1 APS/3-5 maximum occupancy	1 BPS/75 maximum occupancy	
Detention Facility																		2 APS/Employee on maximum shift	0.4 BPS/Employee on maximum shift	
Hospital																		1 APS/1.5-2.5 Beds + 1 APS/Employee on maximum shift + 1 APS/Doctor	1 BPS/40 Beds + 1 BPS/20 Employees on maximum shift + 1 BPS/20 Doctors	
Library/Museum																		1 APS/400-600 sq. ft. of GFA	1 BPS/1000 sq. ft. of GFA	C: Use shall be located on a collector or higher designated roadway. See Section 38-53
Religious Institution/Columbarium	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/3-5 seats in primary assembly room	1 BPS/40 Seats in primary assembly room	
School (K-8) Public, Private, Parochial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	2-3 APS/Classroom	6 BPS/Classroom	See Section 38-53

Sec. 38-33A Apartment (R-4). The residential uses identified may be used; however, in their use the minimum density threshold shall be met.

Sec. 38-33F Bank, Bonding & Financial Institution/Facility (Drive Thru including ATM & other electronic banking drive thru) (O-2, C-2, and C-3). Stacking lanes shall be provided and designed to insure that no bank or ATM traffic backs into the street giving access to the bank. Banks or ATMs shall have access to a major local or higher designated roadway. For stacking lane requirements, see Section 38-58.

Sec. 38-33A Bed and Breakfast (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, R-3, R-4, O-1, O-2, C-1 and C-2). This land use shall have direct access to at least a major local-designated roadway. In the EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, R-3, O-1 and C-1 zoning districts, the number of rooms is limited to eight (8). In the R-4, O-2 and C-2 zoning districts, the number of rooms is limited to fifteen (15). In application of Matrix 1, overall design of buildings and/or site design shall be consistent with the residential neighborhood, architecturally compatible with existing buildings or be architecturally compatible with building types normally found in the zoning district in which it is located. All parking shall be screened from view along any street.

Sec. 38-33D Cemetery/Columbarium (R-2, R-3, R-4). Any cemetery site shall contain at least five (5) acres and shall be located on a major local or higher designated roadway. A Columbarium shall be located on a major local or higher designated roadway with the lot size meeting the zoning district minimum lot size.

Sec. 38-33D Child Care or Preschool (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, MT, M1/M2 and M-3). Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten and similar uses shall be in accord with State licensing requirements. Care of thirteen (13) or more children at one time is prohibited in the residential zoning districts listed. When provided in industrial zoning districts, Child Care Center shall be accessory to industrial uses and shall be within buildings of one of the industrial uses served. See Section 38-52, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for.

Sec. 38-33D Community Buildings - Uses: Public or Private (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, R-3, and OS-R). These uses shall be located on a collector or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Sec. 38-33I Construction Yard or Building(s) (Temporary) (All zoning districts). Such yard or building(s), including a mobile home or recreational vehicle for a temporary residence or construction office, or any other facilities or arrangement approved by the Community Development Director or designee shall be removed upon completion of construction and in compliance with the Chapter 30 of the Municipal Code. Construction yards and buildings or any other facilities shall be

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
Sec. 38-33D INSTITUTIONAL LAND USES																		
School (9-12) Public, Private, Parochial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/Employee + 1 APS/3-5 seats in primary assembly hall	4 BPS/Classroom	See Section 38-53
School, College or University																1 APS/1-2 Employees + 1 APS/3-5 Students	1 BPS/20 Employees + 1 BPS/4 Students	See Section 38-53
School, Commercial, Trade or Technical																1 APS/1-2 Employees + 1 APS/2-4 Students	1 BPS/20 Employees + 1 BPS/10 Students	See Section 38-53

itself in cases such as transformers. A wall or fence may be up to ten (10) feet high.

Sec. 38-33D Religious Institutions (Over Ten (10) Persons)/Columbarium (All zoning districts except Industrial). Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Sec. 38-33D Schools (K-12) Public, Private, Parochial/College or University/ Commercial, Trade or Technical (For zoning districts, see page Section 38-33D). Elementary, Middle or High Schools shall be located on a collector or higher designated roadway. Commercial, Trade or Technical Schools, College or University shall be located on a minor arterial or higher designated roadway. All sites shall have a minimum of one (1) acre. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Sec. 38-33E Swimming Pool, Commercial or Public (All zoning districts except O-1, C-1 and M-3). A protective fence or wall no less than six (6) feet in height, measured from the highest abutting property, shall be provided which completely encloses the pool area, and the pool shall be no closer than twenty-five (25) feet from any property line. Approval from the electric utility is required to ensure safety. (See Section 38-60)

Tina Barker

From: James White
Sent: Tuesday, May 26, 2009 4:12 PM
To: Tina Barker
Subject: RE: N. Miranda

thanks

From: Tina Barker
Sent: Tuesday, May 26, 2009 4:07 PM
To: James White
Subject: N. Miranda

James,

The first words are what type of permit, next comes the permit number and then the box number.

1327 N. Miranda
 Comm/Alt - 96-10884 - CO 95/6-5
 Comm/Alt - 97-20267 - BP97-9
 Comm/Add - 96-15118 - BP96-8
 Comm/Add - 96-13876 - BP96-8
 Comm/Demo - 02-DE1-00024 - BP02-10
 Comm/Alt - 02-CB1-00154 - BP02-10
 Alarm - 02-CB1-00157 - CO03-17
 Fire Sprinkler - 04-CB1-6706 - BP04-8
 Fire Sprinkler - 025-CB1-00162 - CO03-17
 Four permits that are in the 1980's

1331 N. Miranda
 Comm/New - 99-03092 - BP99-9
 Comm/Add - 98-05398 - Co99-11
 Fence - 00-OTC-01694 - BO00-10
 Two permits that are in the 1980's

I hope this helps for now till I can get the files.

Thanks,

Tina L. Barker
 Permit Technician
 City of Las Cruces - Comm. Dev.
 Email - tinab@las-cruces.org
 Voice - 575-528-3061; Fax - 575-528-3155

Tina Barker

From: Tina Barker
Sent: Monday, June 08, 2009 3:38 PM
To: 'ihsf@zianet.com'
Subject: Files

Good Afternoon,

I need a few files please.

1327 N. Miranda		
96-10884	Comm/Alt	CO95/96-5
96-15118	Comm/Add	BP96-8
02-DE1-00024	Comm/Demo	BP02-10
02-CB1-00154	Comm/Alt	BP02-10
96-13876	Comm/Add	BP96-8

1331 N. Miranda		
00-OTC-01694	Fence	BP00-10

Please give me a call when I can pick up the files.

Thanks a bunch,

Tina L. Barker
Permit Technician
City of Las Cruces - Comm. Dev.
Email - tinab@las-cruces.org
Voice - 575-528-3061; Fax - 575-528-3155

Community Development - Permits & Inspections - Building/Reroof

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- Regional Land Management: A Community Response**

EXTERNAL LINKS

- [Las Cruces Downtown Partnership](#)

Building/Reroof Inspections

1. **Foundation/Concrete Slab Inspection** - To be made after excavation for footings are complete and any required reinforcing steel is in place; and after all rough-in plumbing or electrical equipment, and other equipment items (if applicable) are in place and approved, but before any concrete is placed.

2. **Frame Inspection** - To be made after the roof, all framing, fire blocking and bracing are in place and all pipes, chimneys, and vents are complete and the rough electrical, plumbing, and heating wires, pipes and ducts are in place, inspected, and approved.

If the building or structure is utilizing a plaster facing, a lath inspection shall be required. Lath installation shall be started not necessarily completed prior to requesting a frame inspection.

3. **Insulation Inspection** - To be made after the frame inspection has been completed and approved.

4. **Final Inspection** - There shall be a final inspection and approval of all buildings and structures when complete and ready for occupancy and use. Final inspection is to be made after finish grading, completion of paved parking/landscape/drainage, final approval from electrical, mechanical/plumbing, fire prevention, and the building is completed and ready for occupancy.

Approval Required

Work shall not be done beyond the point indicated in each successive inspection without first obtaining approval. The building, electrical, and mechanical/plumbing inspectors, upon notification, shall make the requested inspections and shall either indicate that portion of the construction is satisfactory as completed or shall notify the permittee or his agent with a correction notice of any code/ordinance violations of the City.

Any portions which do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the inspector.

Any change in construction that is not consistent with the approved plans shall require resubmittal of revised plans/construction drawings and approval by the City. Inspections approval shall not be conducted until such time that revised plans/construction drawings are approved by the City.

Inspection Record Card

Work requiring a permit shall not be commenced until the permittee or his agent has posted or otherwise made available an inspection record card that will conveniently allow the inspectors to make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permittee until final approval has been granted by the appropriate inspectors.

Reinspections

A reinspection fee may be assessed for each inspection or reinspection when such portion of work is not complete, when corrections called for are not made, or when the building is not accessible.

This subsection is not to be interpreted as requiring reinspection fees for the first time a job is rejected for failure to comply with the requirements of this Code, but for controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the permit card is not properly posted on the work site, the approved plans are not readily available to the inspector during the inspection process, or for deviating from plans requiring the approval of the Building Official or any other department.

To obtain a reinspection, the permittee shall pay the reinspection fee in accordance with the fee schedule adopted by the City.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

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Contact Us

Front Desk
Community Development
Department
P O Box 20000
Las Cruces NM 88004
(575) 528-3222



TO: Planning and Zoning Commission

PREPARED BY: James A. White, AICP, Planner 

DATE: June 30, 2009

SUBJECT: 1321 N. Miranda Street (A1695)

RECOMMENDATION: Approval with conditions

Case A1695: A request for a variance from Article VI, Section 38-53 (D) of the 2001 Zoning Code, as amended, that requires schools to be located on a roadway having a minimum Right-of-Way of eighty-five (85) feet, therefore classified as a Collector status roadway. Las Cruces Catholic School is requesting a variance to allow for a proposed expansion of the school site by 8,400 square feet or nine (9) portable buildings. The school campus is located on a portion of N. Miranda Street having a varying Right-of-Way between fifty (50) and fifty-five (55) feet classified as a Local roadway. The subject property is located at 1321 N. Miranda Street on an 11.07 +/- acre parcel that is shared with Holy Cross Catholic Church zoned R-1a (Single-Family Medium Density). Submitted by Dan Schneider for the Las Cruces Catholic School.

REVISED INFORMATION

On May 26, 2009, the Planning and Zoning Commission (P&Z) by a vote of 4-0-1 (two Commissioners absent and one abstention) postponed action on said case. The P&Z requested for staff to provide a copy of the entire traffic impact analysis including the data collected by the City's Traffic Engineer. The information as requested has been attached into the P&Z packet.

The Planning and Zoning Commission options regarding this case are as follows:

1. Vote **Yes** to approve the variance with conditions. This action affirms staffs' recommendation for conditional approval. The nine portable buildings, having a combined gross floor area of 8,400 square feet, will be allowed to remain on the property located at 1321 N. Miranda Street. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by approving this variance request.

Provided for additional reference are the conditions outlined in staffs' recommendation: 1) The approval of this variance is limited to the additional (yet to be permitted) portable buildings having a combined gross floor area of 8,400 square feet; any future expansion of the school site or church shall require approval of a planned unit development as outlined within the 2001 Zoning Code, as amended;

and, 2) The applicant will be required to submit a landscape (buffering) plan that will require administrative approval by staff. The applicant will be required to create a strong impression of spatial separation. In the event administrative approval is not granted the applicant will be required to comply with Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended regarding screening (buffering) for schools adjacent to residential zoning districts. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by approving this variance request.

2. Vote **No** to deny the variance application. This action will require the nine portable buildings having a combined gross floor area of 8,400 square feet to be removed from the property located at 1321 N. Miranda Street. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by denying this variance request.
3. **Modify** the variance request with additional conditions.
4. **Table/Postpone** this variance request and direct staff accordingly.

BACKGROUND

The 2001 Zoning Code, as amended, allows for schools to be located within any residential or commercial zoning district provided that the conditions pursuant to Article VI Section 38-53 (Conditional Uses) are met. The conditions require: 1) schools to be located on a roadway having a minimum Right-of-Way of eighty-five (85) feet (dimension for a Collector); and, 2) structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences.

The applicant, Las Cruces Catholic Schools, is requesting a variance from the minimum Right-of-Way requirement of eighty-five (85) feet for a varying Right-of-Way segment of fifty (50) to fifty-five (55) feet along N. Miranda Street. Thus the variance is for a thirty to thirty-five foot deviation to the eight-five foot requirement. The variance request will facilitate an expansion for the school site involving the placement of nine portable buildings having a combined gross floor area of 8,400 square feet. The subject property encompasses 11.07 +/- acres located at 1321 N. Miranda Street and is zoned R-1a (Single-Family Medium Density).

ZONING HISTORY (1962- 2000)

The private school (Las Cruces Catholic Schools) was relocated to the current site at 1321 N. Miranda Street in 1962. The original site contained 15.37 +/- acres located both on the western and eastern sides of the Armijo Lateral. The 1955 Zoning Code permitted the placement of elementary, middle or high schools without conditions within the R-1 (Single-Family Dwelling District) zoning district. Therefore, the private school was constructed in

full compliance with the zoning code at the time. In 1963, parishioners of Holy Cross Church began conducting services in the school's gymnasium.

The adoption of the 1969 Zoning Code created the initial condition for schools located within the R-1 (Single-Family Dwelling District) zoning district. Elementary and middle schools were permitted on any residential roadway within the R-1 (Single-Family Dwelling District) zoning district; however high schools were required to be located on arterial streets as identified within the corresponding general City plan. The private school did not have a high school component; therefore the school was in compliance with the 1969 Zoning Code. The school remained in zoning compliance until the introduction of the 1981 Zoning Code.

The adoption of the 1981 Zoning Code required schools and/or religious institutions to obtain a special use permit through the Planning and Zoning Commission (P&Z). Section 6.4 (Special Use Permits) of the 1981 Zoning Code required schools to be located on a Collector or higher designated roadway and have a minimum site area of two acres. Religious institutions were required to have adequate off-street parking, buffering along residential property lines, and located on a Collector or higher designated roadway.

In 1981 the Diocese of El Paso was granted a special use permit to allow a one time exception to enlarge a non-conforming building. The non-conforming status was based on N. Miranda Street being classified as a Local roadway having a varying Right-of-Way of fifty (50) to fifty-five (55) feet. The building expansion was to relocate the parishioners from the school's gymnasium into a separate church building. Additional zoning related history attributed to the religious institution includes a special use permit issued in 1995 for a columbarium. The columbarium special use permit was conditioned requiring any future expansion on the site to require an amendment to the special use permit and approval by the P&Z.

In 1998, Las Cruces Catholic Schools was issued an amendment to the special use permit to allow for the expansion of the Las Cruces Catholic School. The expansion was to allow the addition of six classrooms, an office, bathrooms and storage and maintenance areas. In addition, the 1995 special use permit also revised the southern parking area circulation system and landscaping.

SITE ASSESSMENT

The 2001 Zoning Code, as amended, eliminated the requirement for churches and/or schools to obtain a special use permit provided that the conditions pursuant to Article VI Section 38-53 (Conditional Uses) are met. These conditions are identified in the Background Section.

The subject property has direct access from a Local roadway (N. Miranda Street) having a varying Right-of-Way of fifty (50) to fifty-five (55) feet. Access east of the property can be achieved from two Local roadways, Palmer Road and Ethel Avenue. These roadways traverse a residential neighborhood connecting to Alameda Boulevard classified by the Metropolitan Planning Organization (MPO) as a Minor Arterial roadway. North Miranda Street, south of the property connects to Parker Road classified as a Collector roadway.

Parker Road connects west to Valley Drive (Principal Arterial) and east to Alameda Boulevard.

The subject property contains a religious institution (Holy Cross Catholic Church) and a private school (Las Cruces Catholic Schools) having a combined gross floor area of 39,110 square feet. Based on the criteria for the placement of a private school adopted with the 2001 Zoning Code, as amended; the property is considered to be non-conforming related to as it is located on a local roadway that has a varying Right-of-Way between fifty (50) and fifty-five (55) feet and that it does not meet the separation and landscaping requirements between land uses/zones.

Based on the site assessment conducted by the applicant's agent, the private school utilizes approximately 38,216 square feet for various school related uses. In early January 2009, Las Cruces Catholic Schools purchased 12 portable buildings to address the needs of the private school. The 12 portable buildings have a combined gross floor area of 12,221.60 square feet. The 12 portable buildings are currently on the property located on the western portion of the property adjacent to the Armijo Lateral.

The 2001 Zoning Code, as amended, Article VII Section 38-74 (4) allows for non-conforming structures to be remodeled anytime, but expanded, or altered, one time up to ten percent of the gross floor area of all buildings on the property. Based on the Dona Ana County Tax Assessor records, the religious institution and school have a combined gross floor area of 39,110 square feet; thus, allowing for a one time expansion of 3,910 square feet. The City has issued a permit for the installation of three of the portable buildings having a combined gross floor area of 3,360 square feet. The remaining nine portable buildings have a combined gross floor area of 8,400 square feet and will require approval of this variance prior to building permit issuance.

The adjacent properties to the east and north are single-family residences that are zoned R-1a (Single-Family Medium Density). The R-1a (Single-Family Medium Density) zoning district allows for single-family residential home sites by right and private schools and/or churches by conditional use (see Background section). The property to the south is an apartment complex that is zoned R-3 (Multi-Dwelling Medium Density). The subject property is bordered to the west by the Armijo Lateral and various large area parcels that are zoned R-1a (Single-Family Medium Density).

The private school's primary parking lot is located on the northern portion of the property having direct access from N. Miranda Street. The parking lot is bordered to the north and west by the school's playground. There is no visible landscaping (screening) present along the northern and eastern boundary of the parking lot as required by the 2001 Zoning Code, as amended. Satellite or overflow parking is available from the parking area located south of the school that is also used by the church. The southern parking area has no visible buffering (screening) with the exception of a two to four-foot rock wall located on the eastern and southern property boundaries.

The 2001 Zoning Code, as amended, Article VI Section 38-53 (Conditional Uses) requires school buildings and/or parking areas within 25 feet from a residential zoning district to

provide an opaque buffer consisting of landscape and walls or fences. An opaque screen will require a solid buffer from the ground to the height of at least six feet with intermittent visual openings from the solid portion to a height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. Staff believes that the required buffering would be rather difficult to achieve and suggests that the applicant submit an amended landscaping / irrigation plan for review and comment by City staff. The landscaping plan should indicate a spatial separation between the private school and surrounding residential zoned properties.

Presently, the east side of N. Miranda Street (adjacent to residential homes) has prohibited on-street parking. Therefore, the majority of adjacent on-street parking is limited to the west side of N. Miranda Street and requires the school and religious institution to contain parking on-site.

The 2001 Zoning Code, as amended, requires schools (grades K-8) to provide two to three parking stalls per classroom while schools (grades 9-12) are required to provide one parking stall per employee and one parking stall for every three to five seats in the primary assembly hall. Las Cruces Catholic School is predominately enrolled with students within the elementary school and middle school grades, but a few students are now enrolled in grades 9 and 10.

Therefore, the stricter of the two parking standards will apply requiring compliance with the parking for schools in grades 9 to 12. Las Cruces Catholic Schools has 34 full time employees and five parent volunteers. Accordingly thirty-nine parking stalls are required for employees; when the student enrollment is considered, the total amount of parking is approximately 98 to 133 parking stalls. The current parking is adequate for compliance with parking provisions for grades 9 to 12, provided that church related functions are not occurring simultaneous with school activities. The school will also be required to provide four bicycle parking stalls per classroom in conjunction with the required parking stalls.

The closest bicycle lanes are located approximately 1,100 feet west along Alameda Boulevard and a trail system is located adjacent to the western boundary of the property (Armijo Lateral). There are no bus stops in the immediate area.

There was a neighborhood meeting conducted on February 20, 2009, attended by various City staff members. The City's Traffic Engineer analyzed traffic on surrounding local roadways. The findings of the City's traffic analysis, including the comprehensive traffic impact analysis submitted by the applicant, were discussed at a follow-up neighborhood meeting on May 13, 2009. (See attached technical reports)

TECHNICAL REPORT

The applicant submitted a traffic impact analysis (TIA) for the private school and the church. Holy Cross Catholic Church serves 1,600 registered families having an anticipated growth of 30% over the next 20 years. Las Cruces Catholic Schools has a current enrollment of approximately 300 students. The installation of the 12 portable buildings would

accommodate the growing school population including up to 80 high school students in the future.

Based on the traffic evaluation, there does not appear to be any significant impact to the operation and function of any local street evaluated. The Ethel/Miranda intersection was the only street that is expected to experience a capacity concern but only after a 20-year conservative growth projection is factored in. In addition to the 20-year conservative growth projection, the intersection will still function above a level of service (LOS) C as required by CLC Development Codes. The TIA considered that the existing use of the property will not change as well as accounted for the natural growth these facilities are expected to encounter within the coming years. The TIA was reviewed and approved by the City Traffic Engineer on May 13, 2009, in accordance with CLC Development Codes.

FINDINGS

1. The subject property is located at 1321 N. Miranda Street encompassing approximately 11.07 +/- acres.
2. The subject property is zoned R-1a (Single-Family Medium Density).
3. The private school (Las Cruces Catholic Schools) was relocated to the current site at 1321 N. Miranda Street in 1962. The private school was in full compliance with the zoning code (1955 Zoning Code) at that time.
4. The adoption of the 1981 Zoning Code required schools and/or religious institutions to obtain a special use permit through the Planning and Zoning Commission (P&Z).
5. In 1998 Las Cruces Catholic Schools was issued an amendment to a special use permit to allow an expansion for the Las Cruces Catholic School. The amendment was issued under the authority of the Planning and Zoning Commission.
6. The 2001 Zoning Code, as amended, eliminated the requirement for churches and/or schools to obtain a special use permit provided that the conditions pursuant to Article VI Section 38-53 (Conditional Uses) are met.
7. Based on the criteria for the placement of a private school adopted with the 2001 Zoning Code, as amended; ~~the property is considered to be non-conforming-related~~ to as it is located on a local roadway that has a varying Right-of-Way between fifty (50) and fifty-five (55) feet and that it does not meet the separation and landscaping requirements between land uses/zones.
8. The applicant, Las Cruces Catholic Schools, is requesting a variance from the minimum Right-of-Way requirement of eighty-five (85) feet for a varying Right-of-Way segment of 50- to 55-feet along a local roadway (N. Miranda Street). The variance is for a 30- to 35-foot deviation to the 85-foot requirement of a collector status roadway.

9. The variance request will facilitate an expansion for the school site for nine portable buildings having a combined gross floor area of 8,400 square feet.
10. Based on the site assessment conducted by the applicant's agent, the private school uses approximately 38,216 square feet for various school related uses.
11. Staff has received 13 letters opposing the variance request.
12. Adjacent land use and zoning include:

	<u>Zoning</u>	<u>Land Use</u>
North	R-1a	Single-Family Residences
South	R-3	Apartment Complex
East	R-1a	Single-Family Residences
West	R-1a	Single-Family Residences

RECOMMENDATION (A1695)

Staff has reviewed this variance based on the preceding findings and information contained in the packet and recommends **conditional approval** for the variance request.

- The approval of this variance is limited to the expansion and installation of nine portable buildings having a combined gross floor area of 8,400 square feet. Any future expansion of the school site or church shall require the submittal and approval of a zone change to Planned Unit Development (PUD) as outlined within the 2001 Zoning Code, as amended.
- The applicant is required prior to the issuance of a building permit to submit a landscape (buffering) plan that will require administrative approval by staff. The applicant will be required to create a strong impression of spatial separation. In the event administrative approval is not granted the applicant will be required to comply with Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended regarding screening (buffering) for schools adjacent to residential zoning districts.

OPTIONS

The Planning and Zoning Commission options regarding this case are as follows:

1. Vote **Yes** to approve the variance with conditions. This action affirms staffs' recommendation for conditional approval. The nine (9) portables buildings having a combined gross floor area of 8,400 square feet will be allowed to remain on the property located at 1321 N. Miranda Street. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by approving this variance request.

Provided for additional reference are the conditions outlined in staffs' recommendation: 1) The approval of this variance is limited to the additional (yet to be permitted) portable buildings having a combined gross floor area of 8,400 square feet; any future expansion of the school site or church shall require approval of a planned unit development as outlined within the 2001 Zoning Code, as amended; and, 2) The applicant will be required to submit a landscape (buffering) plan that will require administrative approval by staff. The applicant will be required to create a strong impression of spatial separation. In the event administrative approval is not granted the applicant will be required to comply with Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended regarding screening (buffering) for schools adjacent to residential zoning districts. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by approving this variance request.

2. **Vote No** to deny the variance application. This action will require the nine (9) portable buildings having a combined gross floor area of 8,400 square feet to be removed from the property located at 1321 N. Miranda Street. The existing school buildings and three portable buildings (administrative approval non-conforming use expansion of 10%) having a combined gross floor area of 42,310 +/- square feet is not affected in any manner by denying this variance request.
3. **Modify** the variance request with additional conditions.
4. **Table/Postpone** this variance request and direct staff accordingly.

Note: Decisions must be based on "findings". The findings presented in this document can be used to support **Approval** decisions only. Other findings may be based on the Comprehensive Plan, Zoning Code, or other City plans and policies.

ATTACHMENTS

1. Development Statement (application)
2. Site-plan
3. Narrative (history & project overview)
4. Traffic impact analysis (applicant)
5. Traffic counts (CLC)
6. Neighborhood correspondence
7. Vicinity Map

James White

From: Chuck Brink [chuck_brink@yahoo.com]
Sent: Saturday, May 16, 2009 7:42 PM
To: James White
Subject: Case A1695 1321 N. Miranda

Follow Up Flag: Follow up
Flag Status: Red

Dear Sir:

This note is to express my concern over the requested variance for the Las Cruces Catholic School. 415 Palmer Rd. has been my family home since 1952, so I have seen the Church and school develop from the very beginning. And I believe we have all been good neighbors and will continue to be so, but I think I share an opinion with everyone in the neighborhood that the Church and school have reached a maximum capacity for that location. We have contended with increased traffic for years, particularly, of course, during church and school times. I strongly encourage you and the members of the Planning and Zoning Commission to adhere to the original restrictions and deny the request for variance. Without reiterating the arguments, I agree with the positions taken by the committee opposing the variance. I believe their points are valid and should offer legitimate reasons for the denial. Thank you for your consideration.

Respectfully,

Charles A. Brink

James White

From: Tauna [taucole@live.com]
Sent: Sunday, May 17, 2009 10:08 PM
To: James White
Subject: Holy Cross School Expansion
Follow Up Flag: Follow up
Flag Status: Red

Dear Mr. White: We live just down the street from the church/school and have had serious concerns about the proposed variances, especially with the increase in school and church population. Our family feels that there really just is not enough land at the current site to accommodate more students and parishioners. For us the central problem concerns more traffic. As it is, there are times when our street is flooded with traffic. One of my deep concerns is the innate behavior of the drivers rushing their kids to and from school, to and from church services, and too many of the church/school patrons ignore our requests to drive safely. I understand that the principle spoke with parents and possibly e-mailed parents c/o this issue. The traffic problems of speeding down our street remain. We put up signs in our yard, we show up at meetings, but it doesn't seem to help. More traffic will increase this type of unlawful driving. One day there will be an accident because of negligent driving from parents rushing to and from school, or parishioners rushing to and from church. This neighborhood is older than the school, many of us have lived here before the school opened in 1963. If the school needs to grow, wonderful, but how about researching property at another location that could better meet expansion now and later. You are trying to force a square peg in a round hole! With this type of overcrowded situation just down the street, how will our property values fare? There is also a possible option of creating a one way street out of Palmer; this will further create congestion and dangerous safety issues on Ethel and Miranda! Take for instance the idea that this type of situation will be blooming only several doors down from your residence. Please take a walk in those shoes and be mindful. Thank you very much for listening.

5/18/2009

James White

From: Eddie Gamboa [EGamboa@swatlc.com]
Sent: Sunday, May 17, 2009 8:54 AM
To: James White
Subject: Variance #1695
Follow Up Flag: Follow up
Flag Status: Red

Mr. White, I, as a homeowner on Palmer Road am very much against the issuance of this variance and expansion of the school to include portable buildings for a high school. Since Palmer was torn apart and storm drains installed and repaved, the road was severely narrowed to the point of two vehicles being parked on the side of the road causes a "one car at a time" traffic problem. The traffic on our street is horrible, on school mornings, after schools, before and after church services and bingo nights. On my way to work in the mornings, I have to sometimes stay on the sidewalk as up to 6-10 vehicles are turning off of Alameda and speeding up the street to get the children to school. It is a dangerous situation for the residents of the area. I feel that by granting the variance and allowing the Church to have a high school will increase the traffic problem as it is at a maximum situation.

I have at the time the street was redone a few years ago, requested a couple of engineers from the City departments to have the sidewalk in front of my property changed over to a second driveway so that I can park my vehicle on my property and get it out of the street, but it has gotten me nowhere. They stated they would get back to me but that did not happen. My vehicle has been hit by passing cars once before and I do not want this to happen again with all the traffic and narrow street.

To summarize the above, I am definitely against the issuance of the variance. Thank You very much for your time.

Eddie Gamboa
General Manager/Escrow Officer
Southwestern Abstract & Title Co.
P.O. Box 695, Las Cruces, NM 88004
1125 S. Main Street, Las Cruces, NM 88005
(575) 523-8561 (Tel)
(575) 526-8390 (Fax)

5/18/2009

James White

From: Greg Gendall [lggendall@q.com]
Sent: Monday, May 18, 2009 4:00 PM
To: James White
Subject: Holy Cross School Variance.

Planning and Zoning Commission:

I reside at 1107 NO Reymond St and own property at 506 & 508 Parker Road and 1120 & 1140 Miranda. I am writing to register my opposition to this variance at several levels. Although the city Traffic Engineers did a study, at their recent public input meeting they admitted to the study being flawed or at least lacking in several areas. In particular they failed to take into account the traffic count and impact on traffic on Parker Road at school opening and school closing. At those times Reymond Street and Miranda are a nightmare with speeding traffic and parents. Nowhere in their study did they acknowledge the increased flow on Parker where these streets empty. This same question should be asked about Alameda. We have a small neighborhood with 2 schools that have grown over the years and nowhere has anyone said what the limits of that growth should be in either school..

However, the more infuriating issue to me is that the school arrogantly brought the portable classrooms in without discussion without announcement, without permission and with the obvious assumption that everybody would acquiesce because it was a church school. This shows a level of arrogance and total disregard for the neighborhood and for City codes and regulations that is mind boggling. As a property owner and real estate investor with over three quarter's of an acre on Miranda street , may I assume I will be afforded the same blind eye and complete cooperation of the city in granting variances that the church has enjoyed.?

I am given to understand that nowhere in the record is there any master plan, for the church or the school. I would like someone at the public meeting of the 26th to be able to address this question as to why the school and church have never provide a plan for what they plan to do in the middle of a residential neighborhood. It was obvious that there are many who will choose to play the guilt card against those who oppose this expansion. I am not against the church. I am not against either school in this neighborhood. I am against the expansion of either school unless you can legislate a way to stop all of those parents who choose to bring their children no school, one per car at a time, and clog every surrounding neighborhood street.

Further I would point out that their is a basic fallacy in this whole process. The diocese has other options. Immaculate Heart School, at the corner of Espina and Idaho, both larger streets than any in this neighborhood, sits empty. It is obvious that this then is not a needs based variance but one of convenience and budgetary restrictions. What this appears to come down to is the school and it's parents prefer to be at Holy Cross because it is more convenient and because it will save the school and church money, at the expense of the neighborhood, the streets and the city services.

Again this to me shows an amazing level of arrogance on the part of the school that their convenience and budgetary constraints are so important that there needed to be no concern for neighborhood.

Greg Gendall
1107 NO. Reymond

5/18/2009

James White

From: hansen [hansenart@comcast.net]
Sent: Saturday, May 16, 2009 8:04 PM
To: James White
Subject: Holy Cross Expansion Variance
Follow Up Flag: Follow up
Flag Status: Red

Dear Mr. White,

I am sharply opposed to the proposed variance requested for the Holy Cross School expansion.

- 1) Such a variance would be in opposition to the city policy of attempting to maintain and enhance the character of the neighborhood.
- 2) While of some temporary benefit to Holy Cross, it would clearly be of no benefit to the city. It is my opinion that rows of portable buildings, as structures, cannot be differentiated from doublewides, (and are somewhat less charming)
- 3) It would be a different matter if the school were willing to commit to actually building to accommodate their needs.
- 4) Planning and zoning laws, as you well know, exist for good reason and absent some benefit to the city and community, I see no justification for choosing to ignore them.

Respectfully,
Stephen Hansen

316 Parker Road
Las Cruces, 88005

5/18/2009

29

James White

From: Carrie Hamblen [carrie_hamblen@yahoo.com]
Sent: Monday, May 18, 2009 12:27 PM
To: James White
Subject: Comments regarding 1321 N. Miranda Street variance request

Dear James White,

I live at 440 Linda Vista Road and I am concerned about the variance that Holy Cross School has requested.

Granting this variance would be a very negative thing for this area. Not only will it increase the level of traffic on Alameda, Ethel and Parker, but it will also drain on the already compromised electrical service to this area, decrease the water pressure and place a burden on the surrounding residents. All of the high schools in this city are located on a major street, not on a residential street. That is for good reason as the traffic on a major street is usually two lanes for each direction, not the standard two lane street in a residential area. The traffic that will be created will prohibit people on the streets affected from easily leaving their homes in the morning and arriving in the afternoon. Plus, Holy Cross School already owns property at the corner of Espina and Idaho, two major streets that can accommodate a high school without compromising the flow of traffic and impeding residential life. Furthermore, Holy Cross School already has had the mentioned Portable buildings on site for the last several months and they are now seeking a variance? I am not confident that the school and the Board of Directors will lawfully follow the regulations that the rest of the citizens and business of Las Cruces required to follow when seeking similar changes and modifications. Therefore, I am against granting the variance to Holy Cross School for their expansion.

Thank you for your time and consideration.

Sincerely,

Carrie Hamblen

5/18/2009

James White

From: thipps@zianet.com
Sent: Sunday, May 17, 2009 5:23 PM
To: James White
Subject: Traffic study

Follow Up Flag: Follow up
Flag Status: Red

Dear Mr. White:

I am concerned that the traffic study for Miranda, Ethel and Palmer streets does not meet the standard that your office is capable of. Perhaps more extensive collection of data may be more revealing. I live in the neighborhood and was surprised to see limited use of the counters when doing research for the Holy Cross variance request. Consider the possibility of re-studying the traffic counts. More data collection can only do the dept good.

Sincerely Tim Reed

James White

From: Nicole Martinez [nicolee12000@yahoo.com]
Sent: Monday, May 18, 2009 1:54 PM
To: James White
Subject: Comments regarding 1321 N. Miranda Street variance request

Dear James White,

I live at 438 Linda Vista Road and I am concerned about the variance that Holy Cross School has requested.

Granting this variance would be a very negative thing for this area. Not only will it increase the level of traffic on Alameda, Ethel and Parker, but it will also drain on the already compromised electrical service to this area, decrease the water pressure and place a burden on the surrounding residents. All of the high schools in this city are located on a major street, not on a residential street. That is for good reason as the traffic on a major street is usually two lanes for each direction, not the standard two lane street in a residential area. The traffic that will be created will prohibit people on the streets affected from easily leaving their homes in the morning and arriving in the afternoon. Plus, Holy Cross School already owns property at the corner of Espina and Idaho, two major streets that can accommodate a high school without compromising the flow of traffic and impeding residential life. Furthermore, Holy Cross School already has had the mentioned Portable buildings on site for the last several months and they are now seeking a variance? I am not confident that the school and the Board of Directors will lawfully follow the regulations that the rest of the citizens and business of Las Cruces required to follow when seeking similar changes and modifications. Therefore, I am against granting the variance to Holy Cross School for their expansion.

Thank you for your time and consideration.

Sincerely,

Nicole Martinez

5/18/2009

May 16, 2009

To: James White
Community Development
City Office Center

From: Linda Meyer
410 Palmer Road
Las Cruces, NM

Re: 1321 N. Miranda Street #A1695

A variance to allow Las Cruces Catholic Schools to expand and operate using a minor local traffic street (Miranda 50'ROW) should be DECLINED for the safety of the children in the neighborhood and the children attending school.

- It is a 35' difference between Miranda Street ROW (50') and the allowable for "Collectors"; Article VI. Section 38-53 (D) of the 2001 Zoning Code. as amended. The Metropolitan Planning Organization also states 85' ROW around schools which includes parking, 2 bike lanes and 3 traffic lanes. This variance to allow a school to expand/operate off a minor local street goes against everything the City of Las Cruces is working towards to ensure a safe environment for our children at school, including getting to and from school. If we start allowing schools to open up in the middle of neighborhoods that do not support the required roadways, we will be endangering our children both in the adjoining neighborhoods and at school.
- Mr. Paz (page 6 of his traffic report dated April 3, 2009) has a false projection of Palmer Road being the best functioning roadway of the 3 studied (Miranda, Ethyl and Palmer Rd.) for future traffic demands. Palmer Road has a 29' ROW per Mr. Dan Soriano at the May13 meeting at LCCS. There are homes with parking on both sides of the roadway and 2-way traffic. To allow a substantial increase in automobile traffic on this street is unacceptable. There would not be sufficient room for any emergency vehicles to pass incase of an emergency and children on bicycles or pedestrian traffic would definitely be at risk.

(22)

05/17/09

Mr. James White, Planner
Community Development, City Office Center, 575 S. Alameda

RE: Pending Development Application #A1695

Please consider this letter as a request for denial of the above variance application based on the following:

In the variance justification statement under:

2.a. ... "which is to encourage the most appropriate use of land and to promote the health, **safety, and general welfare of the community.**"

This is a safety concern to all elementary school children that walk and ride bikes to the public school located within 2 blocks of this requested expansion. The city traffic engineers stated in a meeting, with the current size of this facility, there are problematic traffic issues within this neighborhood. Adding young high school drivers to the mix of a neighborhood, with children walking/biking to the local schools will increase safety hazards to these children and neighborhood residents.

2.c. ... "Variances shall not be granted if any of the aforementioned are increased or negatively impacted."

My opinion, there are other areas open to growth within Las Cruces without having to over-saturate a residential community not capable of handling the growth. Especially when the growth would negatively impact residential quality of life.

Thank you,

Terri Munson, 410 Palmer Rd., resident

from: Jo Ruprecht 635-5594 cell 02
ruprecht@nmsu.com

May 18, 2009

re: CASE # A 1695

Holy Cross Campus Expansion

Dear Mr. White:

I am a neighbor of this property, living on Palmer. I have lived in Las Cruces since 1985. While this does not qualify me as a native, it does mean I have seen much of the growth here in the past 25 years.

Since 1980 the church and school have been in a situation described as "nonconforming use" because of changes in local zoning and codes. In my understanding this means that these entities and their 1980 uses of the property on Miranda have been "grandfathered in." As I understand this situation, it connotes a privilege, not a right.

For nearly 30 years the church and school have been allowed to be our neighbors. But, they have not been good neighbors. Time after time they have nibbled into the goodwill of the neighborhood by making (and being granted) expansion of their uses of the Miranda property. Now, in a May 2009 meeting to discuss recent traffic studies, we hear that they project 30% growth in the church, 50% growth in the school over the next 20 years. To this, and to the idea of 12 portable buildings added to the property with no approval whatsoever, I say "enough is enough". They have not been considerate of us in the past, we need not trust them with the future of our neighborhood.

When one is "grandfathered in" the usual caveat is that one is not subsequently allowed to make significant changes to the situation. The footprint changes, increases in traffic and safety concerns all denote significant change AND MERIT WITHDRAWAL of the GRANDFATHERED STATUS and IMPOSITION of ALL CURRENT ZONING + CODES.

James White

From: Char Ullman [charullman@gmail.com]
Sent: Monday, May 18, 2009 1:33 PM
To: James White
Subject: Comments regarding 1329 N. Miranda Street Variance Request

Dear Mr. White,

As a resident at 440 Linda Vista Road, I am concerned about the variance that has been requested by nearby Holy Cross School. I think the expansion of the school and the church would have a negative impact on our neighborhood for three primary reasons.

1. Water and Electric Service

Our electric power goes out frequently in the West Alameda neighborhood, and as someone who frequently works from home electronically, I am concerned that the addition of a high school and a much larger church to the grid would reduce the effectiveness of our electricity delivery. Our water pressure is already low, and the addition of the high school and a larger church would compromise water service for our neighborhood, as well.

2. Traffic

High schools are virtually always on major streets, which more easily accommodate the high levels of traffic they produce in the morning and the afternoon. The traffic that a high school would create would block the residents of the affected streets into their homes and create a snarl of traffic on Alameda in both north and south directions.

3. General Congestion

Another reason that high schools are usually situated on major streets is their proximity to restaurants and convenience stores.

Because the proposed high school would be in a residential neighborhood, students and faculty would be going out for lunch, both on foot, on bicycles, and in cars. This will congest the neighborhood throughout the day, and wreak havoc on not only Alameda, but also on Picacho and on Main.

And finally, I am concerned about the fact that Holy Cross did not go through the proper channels before purchasing and using portable classrooms on their property. This act leads me to believe that they are not behaving as good citizens. For that reason, I urge the city to request a 20-year plan from them, so that the city can more easily safeguard the public good. For all of these reasons, I am against granting a variance to the Holy Cross School/Church complex.

Sincerely,

Char Ullman

5/18/2009

Planning & Zoning Commission
 Re: 1321 N. Miranda Street
 Case # A1695
 May 26, 2009

Dear Sirs:

As the immediate neighbor of Holy Cross Catholic School & Church on the corner of Ethel and Miranda, I have some concerns about the variance being proposed. The addition of 12 portable classrooms to add a high school to the current campus is of grave concern.

1. During December of 2008 12 large portable classrooms with a capacity of thirty students each, were placed on the School/Church campus. City approval was not sought nor variance applied for. I visited with city officials during February in the City County Building on Alameda, and was told that they were aware of the situation (from other concerned neighbors perhaps?) and were working on it.
2. Due to people's concerns, a neighborhood meeting was held on February 20, 2009 in the school cafeteria and the planned expansion was outlined. Questions were raised about traffic and safety issues, parking, land usage, space for the expansion, density of use, and projections of number of students. In addition, the Church also plans to build a new building and expand the area for worship services. All of this on a piece of land that isn't expanding nor is the infrastructure expanding. The roads, sewer, water, and gas pipes were put in place some years ago, and I question whether they are built to handle this major addition.
3. Traffic studies have been done by city engineers and with projected growth, I am told the corner of Ethel and Miranda would be down graded from an "A" to a "B", due to volume of cars. Keeping in mind that this is a residential area which currently experiences numerous high volume traffic times each day including evenings and weekends, and the traffic is not spread out during the day but comes at peak times – like the morning. The addition of more traffic increases my safety concerns.
4. Safety has been my concern for many years. In mid afternoon of January 1996 a driver coming north on Miranda lost control and came across my front lawn, taking off the pillar of the front porch, with the car stopping in my living room causing extensive structural damage. Fortunately no one was hurt, but months of cleanup and hard work ensued. This happened about 15 minutes before the School let out. My awareness for myself and the students was definitely heightened. Also about 10 years ago during the summer program, I went to the School concerned about parents dropping off their children on the east side of Miranda and the children running across the street to the School. I have witnessed more than one child almost being hit. I also called the City traffic and asked them to put up no parking signs on the east side of Miranda and install 15

mile an hour school signs etc. I was told they would check into it. Nothing was done. After the recent February meeting the curb on the east side of Miranda was painted yellow with No Parking stenciled on it.

5. The proposed expansion of the Church with a new building and additional worship space will also affect the neighborhood and must be considered in the overall plan. What additional space will be added? Where will the parking be? Currently Sunday parking often flows out onto the streets and in front of my house. Is there a limit to the number of people who can be accommodated here? Can emergency vehicles get to the Church during peak times? Although Church drivers are presumed to be adults, they also need to be encouraged to drive safely, park in designated areas, and respect the neighborhood (don't park across my driveway).
6. I have always enjoyed living in this neighborhood built in the 1940' and 1950's. and have enjoyed having the School and Church as my next door neighbor. But I do not look forward to having a high school directly across from my house. I am told the number of students will be limited. But who is to monitor this? The School does not seem to be following city codes and ordinances now and those 12 portables at 30 students each could possibly house 360 additional students. I believe the approval of this variance could greatly change the livability of my neighborhood. High school students have the reputation of being poor drivers and consideration of a parking lot for them and the proximity of elementary children is also of concern.
7. I believe the city ordinances codes and zoning are designed to protect people and neighborhoods. They make our city growth orderly and neighborhoods livable. Can these 12 buildings be brought on any property, programs planned for their use, students recruited and physical plans drawn up without City approval?
8. It is my understanding that the Catholic Schools are not currently using the Immaculate Heart of Mary School Building located on Idaho and Espina Ave, both major traffic arteries. Would this not be a more appropriate place for a new high school? It would undoubtedly have to be remodeled, but the infrastructure would seem to be ready for it and it could be a good use for an empty building in the heart of town.

I am certainly sympathetic to the School, I have worked with the Las Cruces Public Schools for over 20 years, and I love children. But I do not believe such an expansion of any school in a residential neighborhood would be welcomed. As an older established neighborhood this area was not constructed to handle the issues this variance presents for the neighbors, or for the City in handling the infrastructure changes. I also believe the City needs to consider the overall growth being planned for both the Church and the School. Although they are separate entities, they utilize the same

(4)

parking, the same roads, the same facilities, and same grounds. From a neighborhood point of view, I can't separate the two.

Thank you for your consideration.

Julie Woody
452 W. Ethel



Harry Avery
1155 N Miranda St. Apt. H1
Las Cruces NM 88003-2066

June

Dear Mr White,

At the meeting Tues, May 26th, suggestions were made about the widening of Miranda st and changing some streets to one-way, to solve traffic problems from Holy Cross.

Those arent solutions. They are accomodations for Holy Cross and problems for residents. We want to stop the increase in traffic, not adjust to it. The real solution is for Holy Cross to stop the expansion of all their services and programs at the Miranda site. There must be a vacant lot or building someplace in Las Cruces where an Annex can be established with a middle school, meeting rooms and a Chapel. They could also have a High school, Bingo and other events. This area cant handle more traffic without negative effects.

Sincerely,

Harry B. Avery

Letter RE Holy Cross Request for Zoning Variance

When we were looking to buy a home in Las Cruces, we visited the Alameda area. As we drove through the neighborhood our path was blocked by a sleeping dog, lying in the middle of the road. Of course we stopped our car. Some people were talking on the sidewalk, and they laughed and directed us to drive around him. That was when I decided to live in Alameda, a place that apparently honors sleeping dogs more than cars. In particular, we chose Linda Vista Road because it was a dead end, with walking and bicycling on the irrigation ditch, protected from traffic. We visited the street daily, hoping for a home to go up for sale, and I literally saw the realtor putting up the sign. We bought our home before it was ever advertised. Now my wife Katya and I sometimes sit in our backyard for hours and hear pretty much only the birds. I do not think there are many city neighborhoods in the country where that is true. My wife has said that if we win the lottery we will move to ... our current home.

Now, when I hear of planned developments in our neighborhood, I think of a Joni Mitchell song with the line "you don't know what you've got till it's gone—they paved paradise, put up a parking lot." I love Las Cruces, especially our Alameda area, and think it needs to be protected.

So I was unhappy when early this year a new loudspeaker system was installed at Holy Cross School, and we had to listen to their announcements and activities numerous times a day. These are sometimes so loud they can sometimes be heard indoors even with the windows closed.

Now I am told that Holy Cross has already started a pre-school, started a high-school, and also added 12 portable buildings, all of which violated zoning laws. It further plans to expand student enrollment 50%, build a 2-story community event center, build an indoor sports stadium, and add an access road that will perhaps cover over the irrigation ditch and make our dead-end street into an access road. Even if only some of these things happen, I believe that the proposed changes to the zoning laws will have an adverse impact on the neighborhood. For these reasons I am opposed to changing the zoning laws. I think such changes to the law would be especially bad if they are made without a full statement of planned developments and a debate about their impacts.

I do understand that Holy Cross wants to expand their church and school, and that all of their proposed educational, community, cultural, and athletic developments are good and valuable things. I also realize that when residents hear of these ambitious plans, we have a reasonable fear for the neighborhood that we love so much. Finally, even though these values may sometimes collide, and even if they are necessarily opposed (a thing that has, by the way, not been proven), I hope that I am still able to remember that everyone has good intentions.

Sincerely,

James Caufield
511 Linda Vista Road
Las Cruces, NM 88005

Chairman Charles Scholz,
Planning and Zoning Commission
Las Cruces, NM

June 28, 2009

Dear Mr. Scholz,

I am writing from North Carolina where my mother and I are getting ready to celebrate her 88th birthday. Please accept this in lieu of my attendance at the June 30th meeting of the Planning & Zoning Commission.

In a meeting on May 20th to discuss traffic studies in this neighborhood Monsignor Anderson apologized for not being a very good neighbor over the past 25 years he has been at Holy Cross Parish. Despite his confession, he offered no specifics of how he or Holy Cross could have done better in the past or how they will do better in the future.

For years we have accepted the church and even joked about "the Christian 500" on Sunday mornings and when school is in session. But in the past couple of years the situation has become less and less tolerable, less safe too.

For example, the Palmer house was let go to the point that it was a breeding place for rats and squirrels that were crossing over into neighboring homes. Even since the demolition of that building, Holy Cross lets the weeds grow in that area until well past when we as private homeowners would be cited for Codes violations, sometimes two feet tall. These are safety issues related to public health and to fire danger.

Last summer we watched with amazement during irrigation season when the Holy Cross property was repeatedly allowed to flood over from its southwest corner at the Armijo lateral clear through to the corner at Palmer & Miranda. In one case the flooding was so bad that water was flowing through long stretches of their rock walls and draining throughout the neighborhood for several days. Since no one lives on the property, the response to problems like this is always slow.

At the moment the Planning & Zoning Commission has some leverage, because you have something Holy Cross wants – approval over those portable buildings. If you give your approval with no conditions, you will lose that leverage and our neighborhood will lose an opportunity to slow down the church's encroachment on our lives. Please help us now, not later as suggested by Mr. White. Please demand a Planned Unit Development from the Catholic diocese of Las Cruces before granting any more favors including this variance.

Sincerely,

Deborah M. Dennis

Deborah M. Dennis
420 Palmer Road
Las Cruces, NM 88005

Michael J. Gilman



535 LINDA VISTA RD ◆ LAS CRUCES, N.M. 88005
Phone 524-3543
642 - 7555

June 18, 2009

DEAR JAMES WHITE :

I AM IN OPPOSITION TO THE PENDING DEVELOPMENT CASE # A 1695.

ANY TRAFFIC ON THE IRRIGATION DITCH AT THE END OF MY STREET WILL

LEAD TO A HEALTH HAZARD FOR THE RESIDENTS ON LINDA VISTA.

THE WINDS. USUALLY PREVAIL FROM THE WEST AND ANY VEHICLE EMISSIONS

WILL BLOW INTO MY BEDROOM WINDOW AND THROUGH MY HOUSE , AT LEAST FOR

MY HOUSE , 530 LINDA VISTA , AND MORE DWELLINGS DOWN THE STREET.

IF THE SCHOOL DOES TRY TO USE THE IRRIGATION DITCH AS A " ROAD " , AND I

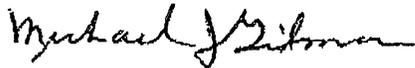
HAVE ANY INCREASE IN HEALTH PROBLEMS , I WILL BE FORCE TO EXECUTE LEGAL

ACTION AGAINST THE SCHOOL AND TORT CLAIM AND LAWSUIT AGAINST THE CITY

OF LAS CRUCES FOR ALLOWING MY HEALTH TO BE PLACED IN JEOPARDY.

THANK YOU.

SINCERELY,



MICHAEL J GILMAN

June 23, 2009

Dear Mr. White,

As residents of Linda Vista Rd. we are writing to request that the Holy Cross Variance, as currently presented, be denied. Our reasons are as follows:

Holy Cross has not followed the correct legal procedures in the presentation of their variance request.

- A variance request requires that one show hardship. In 2001, Holy Cross moved 300 students from Immaculate Heart (legally zoned for K-12) to Holy Cross. They have aggressively recruited students for all grade levels and have recently added high school grades. Thus, they have created their own hardship.
- A variance request is required to present other options that have been considered and say why those options are not viable. Holy Cross has not done this. It should be noted that Immaculate Heart is legally zoned for K-12 and could accommodate the projected numbers of students.
- A variance request requires that one prove that the request will not have an adverse impact on neighboring properties. They claim to have done this through their traffic report. However, the traffic report is flawed. (See below.) Thus, they have not adequately considered the impact on neighbors, or on students attending Holy Cross and Alameda Elementary.
- Additionally, they have nowhere considered the issues of traffic and loudspeaker noise. Nearby residents must listen daily to repeated announcements, bells, and prayer in addition to regular episodes of loud music. This past year the school acquired a new loudspeaker system. This "growth" has already exacerbated the noise problem.
- Finally, as Holy Cross is not the owner of the property in question, it is not clear why they are even allowed to present this request.

The school has violated zoning laws.

- Several of the school's actions violate the zoning code and are thus illegal: (1) They have not put in place the legally required opaque buffer and screening. (2) For several years they have operated a high school and a pre-kindergarten in a neighborhood not legally zoned for such. (3) They illegally placed portable classrooms on the property.

The traffic analysis presented at the May 26 zoning meeting is flawed.

- The traffic analysis presented by Holy Cross projects future growth and concludes that the neighborhood would not be negatively impacted by the growth of the school and church. However, the analysis counts only traffic into the church and school. It does not measure local traffic; thus it does not present a full count. Additionally, some of the counts are lower than a 2006 traffic analysis prepared by the city.

Statements made by Holy Cross about intended development are inconsistent. We do not know what they actually want to do.

- On February 20 at a meeting of neighborhood residents, the school principal presented a site map with a road that opened on the end of Palmer. The proposed road ran parallel to the irrigation ditch and then circled back to Palmer. She stated that this road would be a gravel road with a break-away fence to allow entrance for emergency vehicles in the case of an emergency. She stated that there would never be more than a handful of high school students. Portables were only to create more space for the students currently there.
- One week later on February 26 at a school recruitment meeting for grades 9 through 12, the principal used the same map and stated that the indicated road would be an entrance for parents to drop off their children and for HS students to park. She also stated that the school planned to grow by 50%.
- The map does not have a name, date, or an engineer stamp as required by zoning laws.
- An option currently under discussion, but not indicated on the map, is the building of a road over the irrigation ditch. The ditch would be covered and road would be run from Holy Cross out to McClure. As residents of Linda Vista, we are opposed not only to the noise and traffic air pollution this would create on our street. It would damage the character of the neighborhood.
- Holy Cross has repeatedly reassured the community that it will not be negatively affected by development. However, until an accurate and legally binding plan is presented, it is not possible to determine the impact of future development.

Holy Cross has shown a lack of concern for its neighbors, and an unwillingness or inability to follow established legal procedure. Given this history, the current variance request should be tabled until Holy Cross comes into compliance with existing zoning laws and presents a legally binding development plan. Otherwise the concerns of the surrounding community will be left to the good-will of an institution that has not always been a forthright and good neighbor, and that has disregarded zoning regulations on several occasions.

Respectfully,

Katya Gonzalez
James Caufield

511 Linda Vista Rd.

Ref: Variance Case A1695

June 20, 2009

P&Z Commission Staff:

Please accept this letter of information as my belief on the reasons for the denial of this variance requested by this private business.

CONVENIENCE or HARDSHIP?

Convenience for a private business

Hardship for residents of an R1a neighborhood

Every residential home in the neighborhood of this variance request was built before the existence of this private business entity entering this neighborhood in about 1962. This private business is a newcomer to an already existing residential neighborhood. This is not about how much traffic this neighborhood can handle, it's about locating a high school in a residential neighborhood and a variance, if allowed, that will place hardship on the pre-existing neighborhood and quality of life for the residents.

This business has another location at 865 East Idaho in Las Cruces. In 2001, this business was out of compliance at that location and chose to merge 2 locations for convenience to the 1331 N. Miranda location and had to obtain a variance at that time for the Miranda location. The business location at 865 E. Idaho would not be facing this variance request as the roadways there maintain the right-of-way requirement, and it is not in an R1 neighborhood. Again, is this convenience or hardship?

At this time, the Miranda location is in non-conformance of codes as 12 modular/portable buildings were brought in, non-state certified (as per CID-Construction Industry Division-Santa Fe), to expand the current location. Had the neighbors not seen these buildings, I believe this expansion would have happened without anyone's knowledge. This reasoning as there are already high school students enrolled in a PK-8 varianced location. Which means this business has been in non-conformance of city code for 2 years. The neighbors were told by this private business, they were expanding to a high school. How can a high school be placed in an R1 neighborhood? Aren't there codes the city and all private schools follow where a high school can be located in Las Cruces? Why not continue as is, no city entity has issued any reprimands for:

A. Non-state certified modulars- per CID (Santa Fe) sitting on a business site- since Dec of 2008

B. Non-compliant to city codes as to high school students enrolled in a PK-8 zoned location.

I am a private business owner also in Las Cruces, with a business license. My business is mobile. I spoke to Mr. Dan Soriano at one of these meetings with this theoretical scenario. I have plenty of property at my home in this residential neighborhood. I want to bring in a modular building on my property and expand my business to include a private high school to be housed in this modular building. Mr. Sorrentino responded, "The codes won't allow it". Codes won't allow me, a private business owner to expand

to a high school, on my own property, yet another private business in the same area can? Will this variance request approval set **precedence** wherein high schools and schools can be located within the city?

I feel the truth behind this request has been hidden; other options that are available to this business have not been stated, like the previous merged location on Idaho, or other growth opportunities within Las Cruces. It's been easy for this business to keep asking for more from the city and the neighborhood so why should they seek alternative avenues? This neighborhood's residents must pay in quality of living that their roadways need to be changed (one-way) to fit this business' need and not theirs. Convenience for the business, Hardship for the residents.

Codes in Las Cruces for placement of a high school, I would hope to believe, are there to make sure safety of residents and children are taken into consideration. Young, inexperienced drivers need a little more room to make quick decisions. No one has taken into account the children that walk to Alameda Elementary School that is located 2 blocks away from this private business. Changing start times doesn't mean anything to a child walking to school late, not paying attention or the high school child running late, driving, rushing to get there sooner. An accident is eminent for our children.

Don't high schools usually entail sports teams, bands, and other competitive activities? I see no offer of additional parking; more building is planned on this property but no additional parking. Actually, this variance would open this business to expand to a high school, as they are only currently permitted for K-8, AND, opens the door that by the time the first seniors graduate from this high school, this variance allows inclusion of college/university/commercial to be located on this property. I can't believe that any person, who would look deep in their heart, could really feel allowing this variance is the "Right" thing to do to a residential community within Las Cruces.

Children will be proud of their school no matter where the school is located. I feel the safety of the Alameda Elementary children is not being considered. As a member of the Las Cruces Breakfast Optimist Club, I work a lot with many of the children in this town and outskirts. I have done bike repairs and safety at Weed and Seed, cookouts for Jardin de los Ninos, All Star Baseball volunteer, and still do many family and children functions. I'm all for the children of this community. I'm not for a residential location of a high school placement that endangers children and residents when Las Cruces has plenty of opportunity for growth.

Thank you allowing my opinion,



Terri Munson
410 Palmer Rd.
Las Cruces, NM 88005

ALL LAS CRUCES, NM PRIVATE SCHOOLS FOUND

Modify Your Search

Public Las Cruces Schools

Districts	Elementary	Middle	High	Charter	Private	View All
(1)	(19)	(11)	(6)	(0)	(6)	(30)

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Show Map

(+) Add to My Schools

View My Saved Schools

<input type="checkbox"/>	Agapeland Christian 1301 Hoagland, Las Cruces, NM 88005	View Quick Report
Select This School	Type Private School Level PK-KG Approximate Median Home Value \$221,600 Order Premium Report	Ask An Expert
		Order Premium Report
		Show in Map
<input type="checkbox"/>	Colleges Heights Kindergarten 1210 Wofford, Las Cruces, NM 88001	View Quick Report
Select This School	Type Private School Level PK-KG Approximate Median Home Value \$144,200 Order Premium Report	Ask An Expert
		Order Premium Report
		Show in Map
<input type="checkbox"/>	Las Cruces Catholic/holy Cross 1331 N Miranda, Las Cruces, NM 88011	View Quick Report
Select This School	Type Private School Level PK-8 Approximate Median Home Value \$276,400 Order Premium Report	Ask An Expert
		Order Premium Report
		Show in Map
<input type="checkbox"/>	Las Cruces Catholic/ihm Campus 865 East Idaho, Las Cruces, NM 88001	View Quick Report
Select This School	Type Private School Level PK-5 Approximate Median Home Value \$144,200 Order Premium Report	Ask An Expert
		Order Premium Report
		Show in Map
<input type="checkbox"/>	Mesilla Valley Christian School 3850 Stern Drive, Las Cruces, NM 88001	View Quick Report
Select This School	Type Private School Level KG-12 Approximate Median Home Value \$144,200 Order Premium Report	Ask An Expert
		Order Premium Report
		Show in Map
<input type="checkbox"/>	Noah's Ark Learning Center 1605 S Valley, Las Cruces, NM 88005	View Quick Report
Select This School	Type Private School Level PK-KG Approximate Median Home Value \$221,600 Order Premium Report	Ask An Expert
		Order Premium Report
		Show in Map



LAS CRUCES CATHOLIC/HOLY CROSS QUICK REPORT

Overview	Teachers/Students	Programs/Classes	Extracurricular	Sports	Community
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LAS CRUCES CATHOLIC/HOLY CROSS QUICK REPORT

The Las Cruces Catholic/holy Cross Quick Report provides a limited view of the information currently available. By simply clicking on the corresponding tabs below, you have access to a brief overview of the Las Cruces Catholic/holy Cross's academic performance, student body, academic programs, extracurricular activities, and sports. If at anytime you would like more information than is provided in our Quick Report, feel free to [order Las Cruces Catholic/holy Cross Premium Report](#) which further expands on the information already provided in the Quick Report and includes additional helpful measurements and statistics.

LAS CRUCES CATHOLIC/HOLY CROSS

1331 N Miranda, Las Cruces, NM 88011

Grades: PK-8
 Type: Private
 Private

- [Save to My Schools](#)
- [Ask An Expert](#)
- [Order Premium Report](#)

ACADEMIC PERFORMANCE

[Available only in Las Cruces Catholic/holy Cross Premium Report](#)

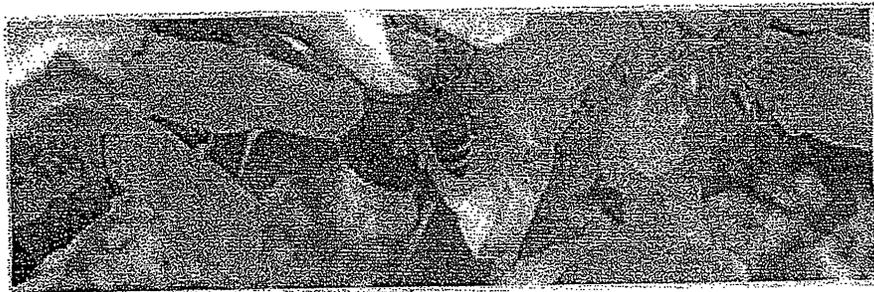
EARNED ACADEMIC SCHOOL AWARDS (what's this?)

[Available only in Las Cruces Catholic/holy Cross Premium Report](#)

For more Detailed School Information, [Order Las Cruces Catholic/holy Cross Premium Report](#).

 Interested in learning more about Premium Reports?
[Download a Sample Premium Report.](#)

New Student Registration



Dear Prospective Parents of Las Cruces Catholic School:

We are pleased that you are considering Las Cruces Catholic School for your child's education. We at the LCCS are very proud of the religious and academic programs. The faculty and staff of LCCS strive to serve the needs of the families by providing a rigorous academic and spiritually enriched environment for the students. LCCS is accredited by the NM Public Education Department and Advanc-Ed (NCA).

The LCCS Board announced the following registration and financial information for the 2009 - 2010 school year. NEW FAMILIES will begin registering on April 3, 2008 during open house. Registration packets can be picked up on Monday, March 17, 2008 but will not be accepted until April 3rd. Please make sure that all registration documents are complete before packets are turned in. If you are in need of financial assistance, please ask for a scholarship/tuition assistance packet along with the registration documents.

2009 - 2010 TUITION for PreK-8th Grade

*	First Child	\$ 4,200 (Annually)	\$ 420 (Monthly)
*	Second Child	\$ 3,600 (Annually)	\$ 360 (Monthly)
*	Third Child	\$ 3,300 (Annually)	\$ 330 (Monthly)
*	Fourth Child	\$ 3,100 (Annually)	\$ 310 (Monthly)

2009-2010 TUITION for 9th and 10th Grade

*	High School Tuition	\$4,500 (Annually)	\$450 (Monthly)
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School tuition may be paid in full, semi-annually, quarterly or monthly installments over a ten (10) month period. Monthly tuition is paid through "FACTS ~ Tuition Management Plan". The Tuition Contract is to be filled out at the time of registration.

The registration fee is \$300 for new students and \$150 for currently enrolled students. THIS FEE IS NON-REFUNDABLE and must be paid at the time of registration.

Again, WELCOME TO LCCS! If you have any questions or you would like to schedule a visit, please do not hesitate to call me at (505) 526-2517.

Sincerely,
Dr. Karen Trujillo

Subject: FW: Case #A1695
From: "James White" <jwhite@las-cruces.org>
Date: Thu, Jun 11, 2009 3:51 pm
To: <ddennis@humansystemsresearch.org>

FYI

From: S NEVILLE [mailto:sneville001@msn.com]
Sent: Thursday, June 11, 2009 2:39 PM
To: James White
Subject: Case #A1695

Mr. White,

Given the summary and background of this Case #A1695, I urge our City leaders to act now to table action on Holy Cross School Variance Request Case No. A1695-PZ until such time that Holy Cross School:

- (1) Is brought into compliance with the 2001 Zoning Code and is no longer in violation of the Code; and,
- (2) Provides a Planned Unit Development (PUD) for review and approval by the City of Las Cruces that, at least, includes all developments identified in the *Development Plan: Las Cruces Catholic School Holy Cross Campus and Holy Cross Parish Church* provided the City on February 20, 2009

Thank you,

Suzanne Neville Staley (North Alameda resident)

331 Linda Vista Rd.
Las Cruces, NM. 88005
sneville001@msn.com

Lauren found her dream laptop. [Find the PC that's right for you.](#)

Subject: Letter received

From: "James White" <jwhite@las-cruces.org>

Date: Tue, Jun 09, 2009 3:10 pm

To: <ddennis@humansystemsresearch.org>

For your records

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June 17, 2009

Mr. Donald Bustos
 Secretary
 District 3
 Planning and Zoning Commission
 P.O. Box 20000
 Las Cruces, NM 88004

Dear Mr. Bustos:

Holy Cross School has requested a variance in order to start a high school and allow for an additional expansion of 8,400 square feet. The truth is that they have already created a high school at that location, have recruited students for next fall, and have brought 12 portables onto the property all without fulfilling the zoning requirements. The school and the church became nonconforming in 1981 when the zoning codes changed. The school has requested various special use permits since that time to expand their school to include pre-kindergarten, kindergarten, elementary, and middle school (1998) and the combining with the parochial school from Immaculate Heart. Each time the school expands, they are given yet *another one time expansion* permit. The addition of the high school requires that the school be situated on a road which is 80-feet wide—Miranda is not; hence the request for yet another variance.

- *Unique hardship.* A variance may be applied for when *a unique hardship is demonstrated*. The creation of yet another level of education and increase in student population is not a unique hardship. In actuality it is a step up in economic development by bringing in more money to the school. It is not unique nor a hardship.
- *Cannot serve as a convenience to the applicant.* The regulations states that a variance may not be granted “if only to serve as a convenience to the applicant.” The addition of a new high school, of more square footage to property and/or enlargement of the student population where even the school says that their elementary and middle school students do not have enough room for the students to receive a good education, is probably not the best solution and absolutely serves as a convenience to the applicant.
- *Curtail substantial investment in nonconformities.* Article VII says that the “regulations are intended to curtail substantial investment in nonconformities . . .”; yet the school intends to incur substantial investment in the 12 portables that have been already been illegally brought onto the property to further expand the school and to begin the high school.
- *Adversely affect surrounding properties.* Section 38-71 under Article VII indicates that the granting of a variance should not adversely impact the surrounding properties. For many years the residents of North Alameda have been adversely impacted by the traffic that is created by

Mr. Donald Bustos

Page 2

June 17, 2009

having two schools within two blocks of each other (Alameda Elementary on the East and Holy Cross on the West). The current amount of traffic and lack of proper parking which the neighborhood tolerates will only increase with the addition of still another level of education and the addition of square footage.

- *Alternatives.* The school is required by the regulations to give alternatives that may work. The Planning and Zoning Commission has suggested alternatives to the straight granting of this variance, i.e., can the "property be brought closer into compliance." Although the school has set forth absolutely no real alternatives that would bring the property closer into compliance, the following suggestions have been made: (a) widen Miranda the additional 25 to 30 feet, which would knock out walls and perhaps whole residences; (b) make Palmer Road a one-way street and/or make it illegal to park at the curb of that street. **Why is it that the residents of this area would once again be asked to take on even more hardship in order to ensure the comfort of Holy Cross?**

A better alternative would be to build or create the high school near one of the other churches where the school and the feeder streets would conform to the zoning requirements. It doesn't make sense that the school would want to lay out a lot of money to bring the portables up to required standards further saturating the grounds of the church, school, and surrounding neighborhood.

I respectfully request that the Planning and Zoning Commission deny the variance request of Holy Cross for addition of a high school and the expansion of the school through the portables or additional buildings. In addition, I request that the school be required (1) to bring the buildings presently on the property up to standards and (2) to submit a master plan showing their future plans for the property. Thank you for your consideration in this matter.

Sincerely,



L. E. Thornberry
330 Palmer Road
Las Cruces, NM 88005
(575) 525-1285

City of Las Cruces
 Planning & Zoning Commissioners

Dear Sirs,

Thank you for your time and patience during the Planning & Zoning meeting of May 26th in regard to A1695 with Holy Cross.

As the owner of the Ethel & Miranda corner I am perhaps the most affected by this variance. I would like to clarify a few things:

I am not complaining about the 'noise.' It is not an issue to me.

I am not against the school. I work at an elementary school, and I understand the importance of education plus I enjoy children and the sounds of a playground

I also know how parents drive, especially when they are late in the morning. (I have done many hours of 'crosswalk duty' helping children safely cross the street while wielding a very large STOP sign to keep from being hit by parents who are running late, or are not mindful of a school zone.

I am worried about the safety of the children, adults & neighbors. And the changes this entails for me and my neighborhood

My concerns are:

1. Are we adding 50% more students or 'just adding space?
 - a. In the meetings at Holy Cross on February 20th and May 13th we were told the school was planning on increasing the population by 50 % from 295 to 450. At the P & Z there was a plea in the end for more space, not additional students. Which is it? I find it hard to believe that 12 portables are needed if no additional students are coming. Keeping in mind that these portables can handle a class of 30 students, why would 12 be purchased if they weren't going to be utilized?
2. Will a new gymnasium be built?
 - a. Dr. Trujillo's presentation in February included a gym being build. Where will that go, what kinds of a variance will that need?
3. How did this 'hardship' come about?
 - a. The 'hardship' here seems to be self-generated. Holy Cross has actively promoted this expansion, and sought buildings and students with the knowledge that they weren't zoned for it. If they had decided to expand their program elsewhere (Immaculate Heart of Mary?) (purchased new land with adequate infrastructure available) they would have some of the infrastructure necessary in place and not need a variance. Other public schools in town are 'capped' in number due to the existing facility and space.
4. Is there a cap or upper limit on Holy Cross and if so, what is it?
 - a. And what is that number based upon? One of the zoning ordinances on the screen at the last meeting noted that no high school would be build on a road less than 85 feet. Why has that been ignored? Why do the public schools cap enrollment at schools? What is their criteria?
5. When is the church 30% expansion taking place?

- a. In February plans were discussed to build a new 14,000 ft. Life Center and expanded worship space. I don't begin to understand City codes, but will we be back before Planning & Zoning in a few years when they are ready to do this 30% expansion? Will there be another variance sought?
6. Separating Church & School
 - a. As a neighbor, I can't separate these entities. To me it is Holy Cross Campus. Whether it is use of parking, facilities, or grounds they are one and the same. So do we count the sq. footage of the Church along with the school to get the 10% figure on this variance? And when the new life center and additional worship space are built do we include the school (& portables) in the new 10% figure?
7. What does 'one time only' mean?
 - a. There have been variances in the past – based upon the width of Miranda, A1695 is third? or forth? What about the gym? Will the Church in a year or two be asking for another variance for their expansion? Is here a limit?
8. Down graded to a "B"?
 - a. Apparently my corner is the only one the traffic engineers are projecting in the future to be downgraded from an A to a B. As a person who always enjoyed excellent grades in school, I would prefer to keep my 4.0 status and remain an A intersection. I am concerned for my safety too.
9. How about a master plan?
 - a. I believe any plan should include the school, church, portables, gym, traffic, sewer, water, electricity hook ups, etc. Holy Cross growth has been piecemeal at best. Who in the City requests such a plan? Who would review it before any more expansion is done? I would hope that before any more variances (note the plural) are granted, everyone – including the neighbors & the City and the Church (!) need to know the 'big picture. That would go a long way in making Holy Cross be a good neighbor.
10. Case A1695 is limited in scope.
 - a. I do understand that case A1695 only deals with approving 8 portables. That is the only issue you have been called upon to deal with at this time. But there is a larger issue here to me and my neighbors.. How do I as a property owner deal with this larger issue? Holy Cross has given very conflicting information, perhaps because they are not certain of their future direction. But this is important to me as a property owner. With Miranda Street being so narrow, and safety being a big issue, I believe thought and detailed planning are needed not only for Holy Cross's sake, but for my sake also.

Again, I want to thank you for all your efforts to learn about this issue, and to ask pertinent questions in order to make a reasoned decision. Your time and consideration are appreciated.

Sincerely,

Julie Woody

My name is Leslie Thornberry and I am a long-time resident of Palmer Road.

I AM SO CONFUSED. I have been to every meeting since this variance request has come up and the portables have "appeared." Every time I attend a meeting, everything is different, i.e., the first P&Z meeting was regarding a request that a school be located on a nonconforming street. This meeting says that the variance is for the expansion of the remaining 8 or 9 portables. Is this the same meeting or another meeting entirely?

Another point of confusion. The school has told us how crowded that they are and how many problems they are having in just making do. There just isn't enough space. So they decide to add a high school.

Someone decided that they needed the 12 portables so desperately that they couldn't wait to get the required state licenses before bringing them down from Santa Fe. Then without the proper permits, or permission from the city, they have been "stored" at Holy Cross illegally ever since. Residents in our neighborhoods would not be allowed to do this, so it seems a little odd.

Mr. White gave approval for three of the buildings and just last Friday, June 26, LCCS pulled building permits for those three. In fact, someone was digging the utilities for those buildings more than a month ago according to one neighbor. It seems a little backwards to do utilities before permits, but then. . . .

On the "plan" that we have been shown, those 3 portables are probably for the pre-K program. That's a pretty popular program because someone told us that during the last semester Holy Cross had between 16 and 20 students in pre-K, but again, that can't be right because the zoning is R1a and no one in that zoning is supposed to have more than 12 children in pre-K--not a business, a school--no one. That's in Article VI-17, Section 38-3D of the 2001 Zoning Regulations, and it seems pretty clear.

Dr. Trujillo told the Sun News "Part of the fear and concern from the neighborhood residents comes from the perception that the school is looking to open a high school on the property . . . I think that this is the one misunderstandings . . .". Make no mistakes--the high school is already alive and well at LCCS whether Dr. Trujillo says 45, 50 or 60 students and Mr. Paz says 80.

Please deny this variance. Thank you for your time

ATTACHMENT "F"



1331 N. Miranda Street, Las Cruces, NM 88001

July 13, 2009

Mr. James White, AICP
Zoning Administrator
City of Las Cruces
575 S. Alameda Blvd.
Las Cruces, NM 88001

RE: Appeal to City Council of Variance Case A1695, Las Cruces Catholic School

Dear Mr. White;

The School Board of the Las Cruces Catholic School hereby officially appeals the Conditions set forth on the approval of Variance Case A1695 by the Las Cruces Planning and Zoning Commission on June 30, 2009. The Conditions are as follows:

1. The approval of this variance is limited to the expansion of the portable buildings having a combined gross floor area of 8,400 square feet. Any future expansion of the school site or church shall require the submittal and approval of a zone change to Planned Unit Development (PUD) as outlined within the 2001 Zoning Code, as amended.
2. The high school is limited to a maximum fifty (50) students.

We feel the approval of the variance is sound and justified as it clearly complies with Article II, Section 38-10 of the 2001 Las Cruces Zoning Code, as amended. However, there are serious concerns of the aforementioned Conditions. The following are points of contention concerning the aforementioned Conditions:

Condition #1 (PUD Requirement):

- We feel that this Condition may potentially violate provisions set forth within the *"Religious Land Use and Institutionalized Persons Act of 2000"*. Both Las Cruces Catholic School and Holy Cross Parish have been legally operating and pre-date the last several zoning ordinances. Specifically:

"SEC. 2. PROTECTION OF LAND USE AS RELIGIOUS EXERCISE.**(a) SUBSTANTIAL BURDENS-**

(1) GENERAL RULE- No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

- (A)** is in furtherance of a compelling governmental interest; and
- (B)** is the least restrictive means of furthering that compelling governmental interest."

"(3) EXCLUSIONS AND LIMITS- No government shall impose or implement a land use regulation that—

- (A)** totally excludes religious assemblies from a jurisdiction; or
- (B)** unreasonably limits religious assemblies, institutions, or structures within a jurisdiction."

"SEC. 5. RULES OF CONSTRUCTION.

(a) RELIGIOUS BELIEF UNAFFECTED- Nothing in this Act shall be construed to authorize any government to burden any religious belief.

(b) RELIGIOUS EXERCISE NOT REGULATED- Nothing in this Act shall create any basis for restricting or burdening religious exercise or for claims against a religious organization including any religiously affiliated school or university, not acting under color of law."

- It is unjust to include the Parish in this issue.
- The square footage and portables had absolutely nothing to do with the variance request. The variance request was simply a numerical deviation from the code regarding the access from a collector roadway – 85' R.O.W. vs. 50' R.O.W (a 35' numerical deviation that was approved by the Planning and Zoning Commission).
- In our mind, square footage is square footage. It should not matter whether it is from a portable or construction on-site; the net impact is the same.

Condition #2 (Numerical Cap on high school):

- Unfortunately, Las Cruces Catholic School was given no other choice than to accept this condition as part of the approval of the variance. We fully realize that variances shall not be based on financial hardship, but the fact of the matter is that a high school with only 50 students creates (at best) a break even situation financially. In order to have a successful high school, the maximum number of students will need to exceed fifty.
- In reality, this condition makes no sense considering the fact that our Pre-K, elementary, and middle school may continue to grow from a student population perspective. In other words, if we increase the number of students to 400, and the number of high school students is 50, we then have a total number of students of 450. With that said (as an example), we could have 350 Pre-K, elementary, and middle school students, and 100 high school students with the total number of students still equaling 450. The overall impact remains the same.
- Again, the variance request was for a numerical deviation from the required R.O.W., not the total number of students.
- Las Cruces Catholic School will continue to operate at this location whether or not this variance or its conditions are in place. Capping the number of high school students at 50 achieves nothing.

Again, this is only an appeal of the aforementioned conditions and not the actual approval. I sincerely appreciate all the work and effort you and the City staff has put into this project. We look forward to working with you on the appeal to the Las Cruces City Council. If you should need any additional information, please feel free to contact myself or Board Member Kirk Clifton at 571-2464. Thank you in advance for your assistance.

Sincerely,



Dan Schneider, President
Las Cruces Catholic School



City of Las Cruces®

**PLANNING AND ZONING COMMISSION
OFFICIAL NOTIFICATION OF DECISION**

July 01, 2009

CASE A1695: A request for a variance from Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended, that requires schools to be located on a roadway having a minimum Right-Of-Way of eighty-five (85) feet, therefore classified as a Collector status roadway. The variance will grant a thirty-five (35) foot departure from the eight-five (85) foot Right-of-Way requirement. The applicant, Las Cruces Catholic Schools, is proposing to expand the existing school site by 8,400 square feet (9 portable buildings). The subject property is located at 1321 N. Miranda Street on an 11.07 +/- acre parcel/s that is shared with Holy Cross Catholic Church and is zoned R-1a (Single-Family Medium Density). Submitted by Dan Schneider for Las Cruces Catholic School.

DECISION

On June, 30, 2009, the Planning and Zoning Commission (P&Z) voted to conditionally approve Case A1695 by a vote of 5-2-0. The conditions are as follows:

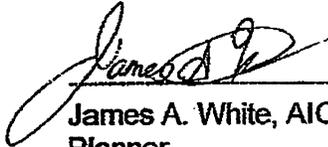
- 1) The approval of this variance is limited to the expansion of the portable buildings having a combined gross floor area of 8,400 square feet. Any future expansion of the school site or church shall require the submittal and approval of a zone change to Planned Unit Development (PUD) as outlined within the 2001 Zoning Code, as amended.
- 2) The applicant is required prior to the issuance of a building permit to submit a landscape (buffering) plan that will require administrative approval by staff. The applicant will be required to create a strong impression of spatial separation. In the event administrative approval is not granted the applicant will be required to comply with Article VI Section 38-53 (D) of the 2001 Zoning Code, as amended, regarding screening (buffering) for schools adjacent to residential zoning districts.
- 3) The high school is limited to a maximum of fifty (50) students.

GROUNDS FOR APPEAL TO CITY COUNCIL

Any person, or any department, commission, board of the City that is affected by a decision of an administrative official, commission, committee, or board in the

administration or enforcement of this Code... may appeal such decision to the City Council. Such appeal must be initiated in writing within fifteen (15) calendar days after the decision and after all other procedures established by this code have been established.

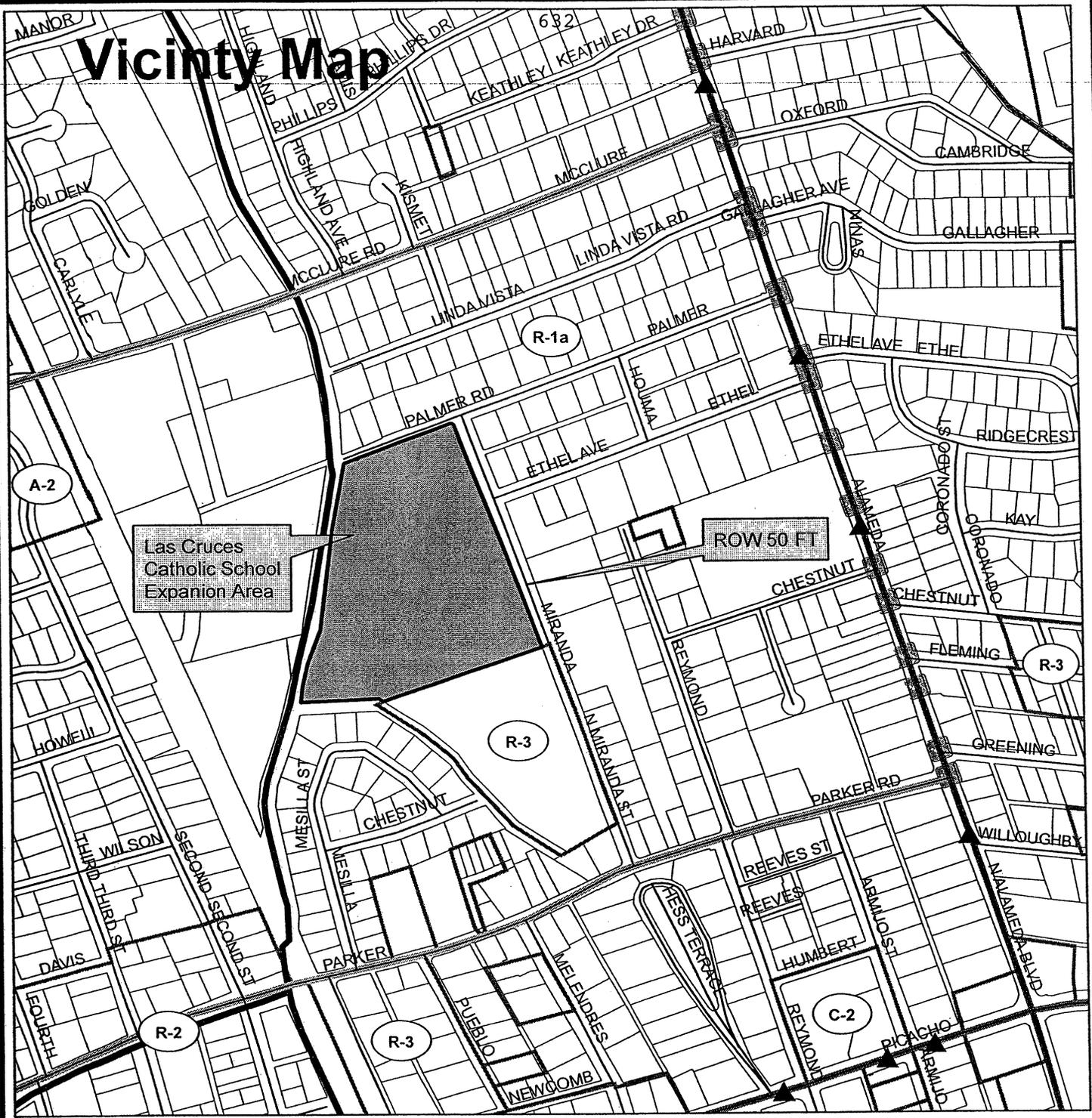
APPEAL DEADLINE: July 15, 2009 (5:00 pm)



James A. White, AICP
Planner

cc: File

Vicinity Map



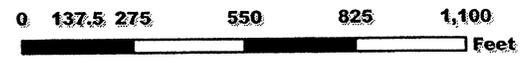
MAP CREATED FOR: JWHITE (A1695)

ADDRESS: 1321 N. Miranda Street

OWNERS: Holy Cross Parish

DATE: 5/18/2009 3:02:07 PM

ZONING: R-1a



Community Development Department
 575 S Alameda Blvd.
 Las Cruces, NM 88001
 (505) 528-3222

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