City of Las Cruces
PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 19 **Resolution#** 10-084 **Council District:** 1

For Meeting of SEPTEMBER 8, 2009
(Adoption Date)

TITLE: **A RESOLUTION TO APPEAL THE CONDITIONS ATTACHED TO 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 SCHOOLS. THE SUBJECT PROPERTY IS ZONED R-1A (SINGLE-FAMILY MEDIUM DENSITY). SUBMITTED BY DAN SCHNEIDER FOR THE LAS CRUCES CATHOLIC SCHOOL (A1695 A).**

PURPOSE(S) OF ACTION: Reversal of two of the three conditions attached to the approval of the Planning and Zoning Commission (P&Z) decision on 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:** 528-3049	
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.

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, Las Cruces Catholic School, filed an appeal on July 15, 2009, seeking the reversal of two of the three conditions attached to the Planning and Zoning Commission's (P&Z) decision, rendered on June 30, 2009. Specifically, the appellant is seeking reversal of Condition (1), and Condition (3) as cited above. If the two conditions are reversed, then: 1) enrollment at the high school will not be limited to a maximum of 50 students; and, 2) the applicant will not be required to apply for a Planned Unit Development (PUD) for any subsequent school related expansions. It should be noted that the variance approval will remain in effect should the conditions be modified or deleted by action of the City Council.

The applicant asserts 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 provision of RLUIPA: SECTION 2 PROTECTION OF LAND USE AS RELIGIOUS EXERCISE; SECTION 3 EXCLUSIONS AND LIMITS; AND, SECTION 5 RULES OF CONSTRUCTION.

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.

Staff Response to the Appeal Elements

1) 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.

2) 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.

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 various 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) portable 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) foot 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, particularly on N. Miranda Street, and at intersections along N. Miranda Street as it crosses local streets in the area. 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 accommodate12 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 Members of the Neighborhood

The appellants for this case, an Ad hoc association of neighbors in close proximity to 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 P&Z's decision, rendered on June 30, 2009. At that meeting the P&Z conditionally approve 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). More discussion regarding this appeal is found in the companion CAES packet for appeal A1695A-1.

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"- Las Cruces Catholic School appeal letter received on July 15, 2009 (reference material)
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 regarding 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" - Ad hoc neighbors appeal letter received on July 15, 2009
13. Attachment "G" Vicinity Map

OPTIONS / ALTERNATIVES:

1. Vote YES to approve the Resolution. This action will remove Conditions (1) and Condition (3) attached to the variance approval granted by the Planning and Zoning Commissions on June 30, 2009 This action will preserve the variance, 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 be permitted and installed at the property located at 1321 N. Miranda Street.

2. Vote No to deny the Resolution. This action affirms the Planning and Zoning Commission's 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 with all three (3) conditions placed upon the approval by the P&Z: 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 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 Section38-53 (D) of the 2001 Zoning Code, as amended, regarding screening (buffering) for schools adjacent to residential zoning districts; and, 3) the high school is limited to fifty- (50) students.

3. Modify the resolution with additional conditions, modified P&Z approval conditions, or removal of P&Z approval conditions as deemed necessary. Staff will prepare a substitute resolution with additional and/or amended conditions.

4. Table/postpone the resolution and direct staff according.

RESOLUTION NO. 10-084

A RESOLUTION TO APPEAL THE CONDITIONS ATTACHED TO 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 SCHOOLS. THE SUBJECT PROPERTY IS ZONED R-1A (SINGLE-FAMILY MEDIUM DENSITY). SUBMITTED BY DAN SCHNEIDER FOR THE LAS CRUCES CATHOLIC SCHOOL (A1695 A).

The City Council is informed that:

WHEREAS, Las Cruces Catholic School the appellant, has submitted an appeal to reverse two of the three conditions attached to the conditional 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; and

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

WHEREAS, The appellant has appealed the following conditions regarding the variance approval:

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

WHEREAS, The appellant's appeal is limited to reversing two of the three conditions imposed by the Planning and Zoning Commission on June 30, 2009 and not the actual variance approval.

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

(I)

THAT the Planning and Zoning Commission on June 30, 2009, approved the subject variance with the following conditions:

1) The approval of this variance is limited to the expansion of nine (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 following conditions imposed on the variance by the Planning and Zoning Commission on June 30, 2009 are hereby reversed.

- The approval of this variance is limited to the expansion of nine (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.
- The high school is limited to fifty- (50) students

(III)

THAT granting this removal of the two variance conditions is in accordance with Section 38-10, Criteria for Decisions, of the Las Cruces 2001 Zoning Code, as amended.

(IV)

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

DONE AND APPROVED this_____ day of _____ 2009.

APPROVED:

(SEAL)

_____
Mayor

ATTEST:

_____
City Clerk

VOTE:
Mayor Miyagishima: ____
Councillor Silva: ____
Councillor Connor: ____
Councillor Archuleta: ____
Councillor Small: ____
Councillor Jones: ____
Councillor Thomas: ____

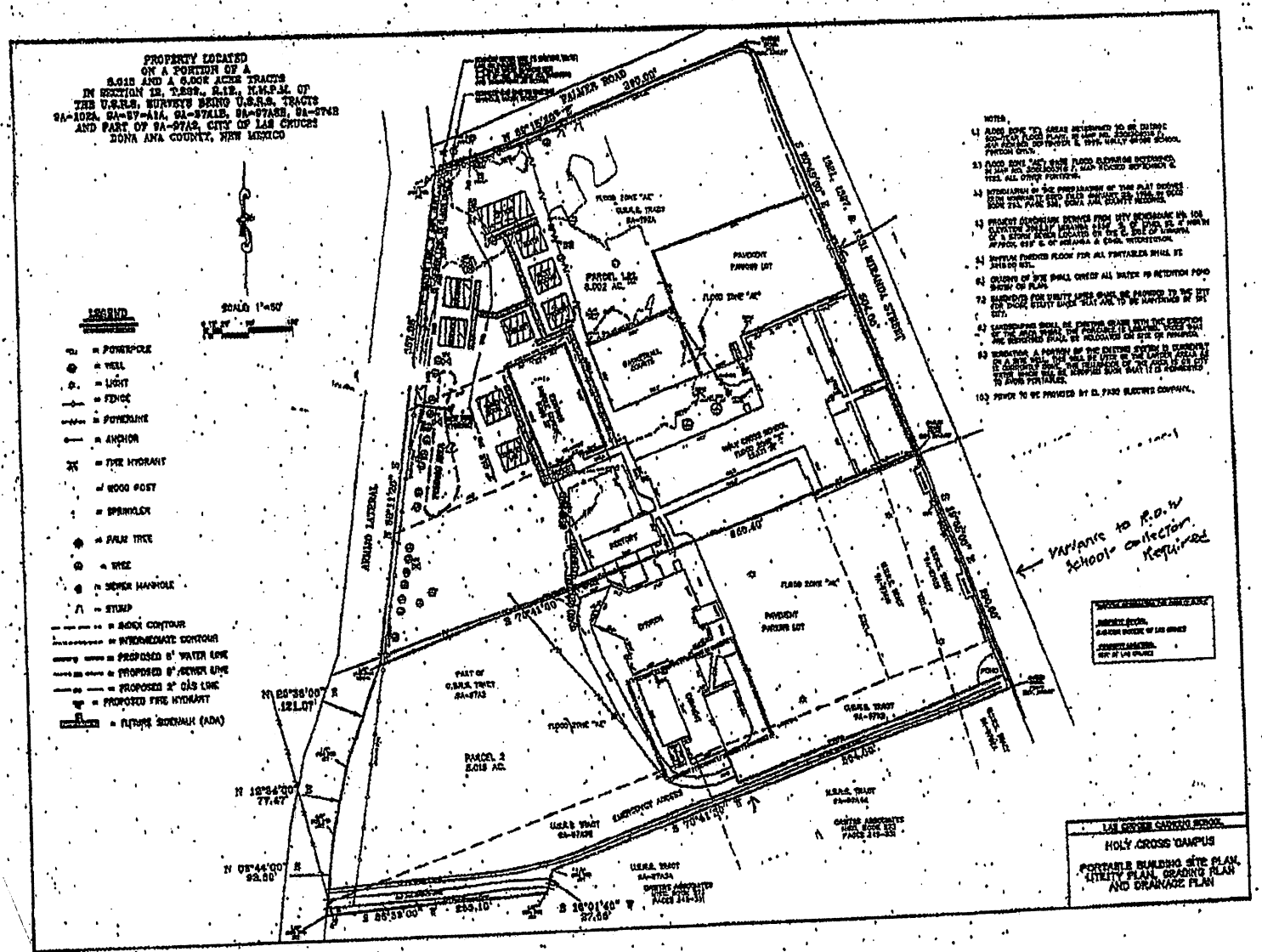
Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

Exhibit "A"

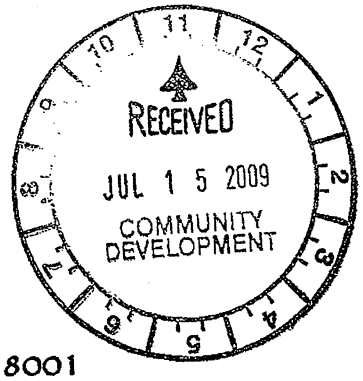

PROPERTY LOCATED
ON A PORTION OF A
5.015 AND A 6.002 ACRE TRACTS
IN SECTION 12, T.23S., R.1E., N.M.P.M. OF
THE U.S.R.S. SURVEYS BEING U.S.R.S. TRACTS
9A-102A, 9A-87-A1A, 9A-87A1B, 9A-87A8B, 9A-87A8
AND PART OF 9A-97A2, CITY OF LAS CRUCES
DONA ANA COUNTY, NEW MEXICO
LEGEND
= POWERPOLE
= WELL
= LIGHT
= FENCE
= POWERLINE
= ANCHOR
= FIRE HYDRANT
= WOOD POST
= SPRINKLER
= PALM TREE
= TREE
= SEWER MANHOLE
= STUMP
= INDEX CONTOUR
= INTERMEDIATE CONTOUR
= PROPOSED 8" WATER LINE
= PROPOSED 8" SEWER LINE
= PROPOSED 2" GAS LINE
= PROPOSED FIRE HYDRANT
= FUTURE SIDEWALK (ADA)
SCALE 1"=50'
PALMER ROAD
ARMIJO LATERAL
PARCEL 1
6.002 AC.
PARCEL 2
5.015 AC.
PAVEMENT PARKING LOT
FLOOD ZONE "AE"
EMERGENCY ACCESS
Variance to R.O.W School collection required
LAS CRUCES CATHOLIC SCHOOL
HOLY CROSS CAMPUS
PORTABLE BUILDING SITE PLAN, UTILITY PLAN, GRADING PLAN AND DRAINAGE PLAN

Appeal letter
Exhibit "B" A-1695 A

645

LAS CRUCES CATHOLIC SCHOOL
Established 1927

RECEIVED
JUL 15 2009
COMMUNITY DEVELOPMENT



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

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

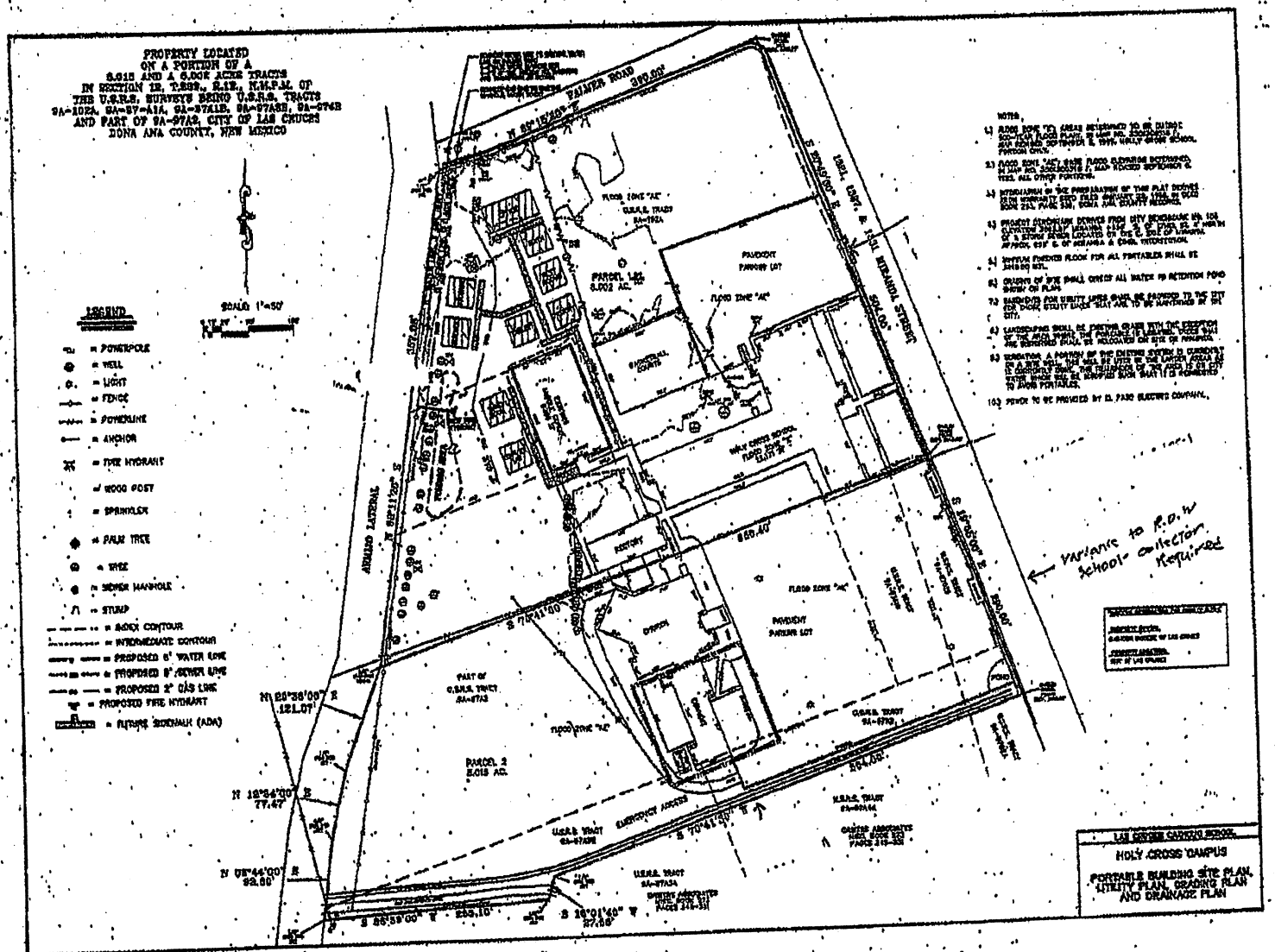

PROPERTY LOCATED
ON A PORTION OF A
8.015 AND A 6.00± ACRE TRACTS
IN SECTION 12, T.23S., R.1E., N.M.P.M. OF
THE U.S.R.S. SURVEYS BEING U.S.R.S. TRACTS
9A-102A, 9A-97-A1A, 9A-97A1B, 9A-97A2B, 9A-97A2
AND PART OF 9A-97A2, CITY OF LAS CRUCES
DONA ANA COUNTY, NEW MEXICO
LEGEND
= POWERPOLE
= WELL
= LIGHT
= 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 SIDEWALK (ADA)
SCALE: 1"=50'
PALMER ROAD
ARMIJO LATERAL
PARCEL 1
8.002 AC.
PARCEL 2
8.015 AC.
PAVEMENT PARKING LOT
FLOOD ZONE "AE"
HOLY CROSS SCHOOL
FLOOD ZONE "X"
PAVEMENT PARKING LOT
PART OF U.S.R.S. TRACT 9A-97A2
EMERGENCY ACCESS
U.S.R.S. TRACT 9A-97A2
U.S.R.S. TRACT 9A-97A3A
U.S.R.S. TRACT 9A-97A3
U.S.R.S. TRACT 9A-97A4
POND
Variance to R.O.W. School collector required
LAS CRUCES CATHOLIC SCHOOL
HOLY CROSS CAMPUS
PORTABLE BUILDING SITE PLAN, UTILITY PLAN, GRADING PLAN AND DRAINAGE PLAN

EXHIBIT 651 "C"

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 worshipers 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:

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

Attachment "A"

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:

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

RECOMMEDNATION (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: kirkclifton@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 ½" 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

Revised 4/30/08

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.

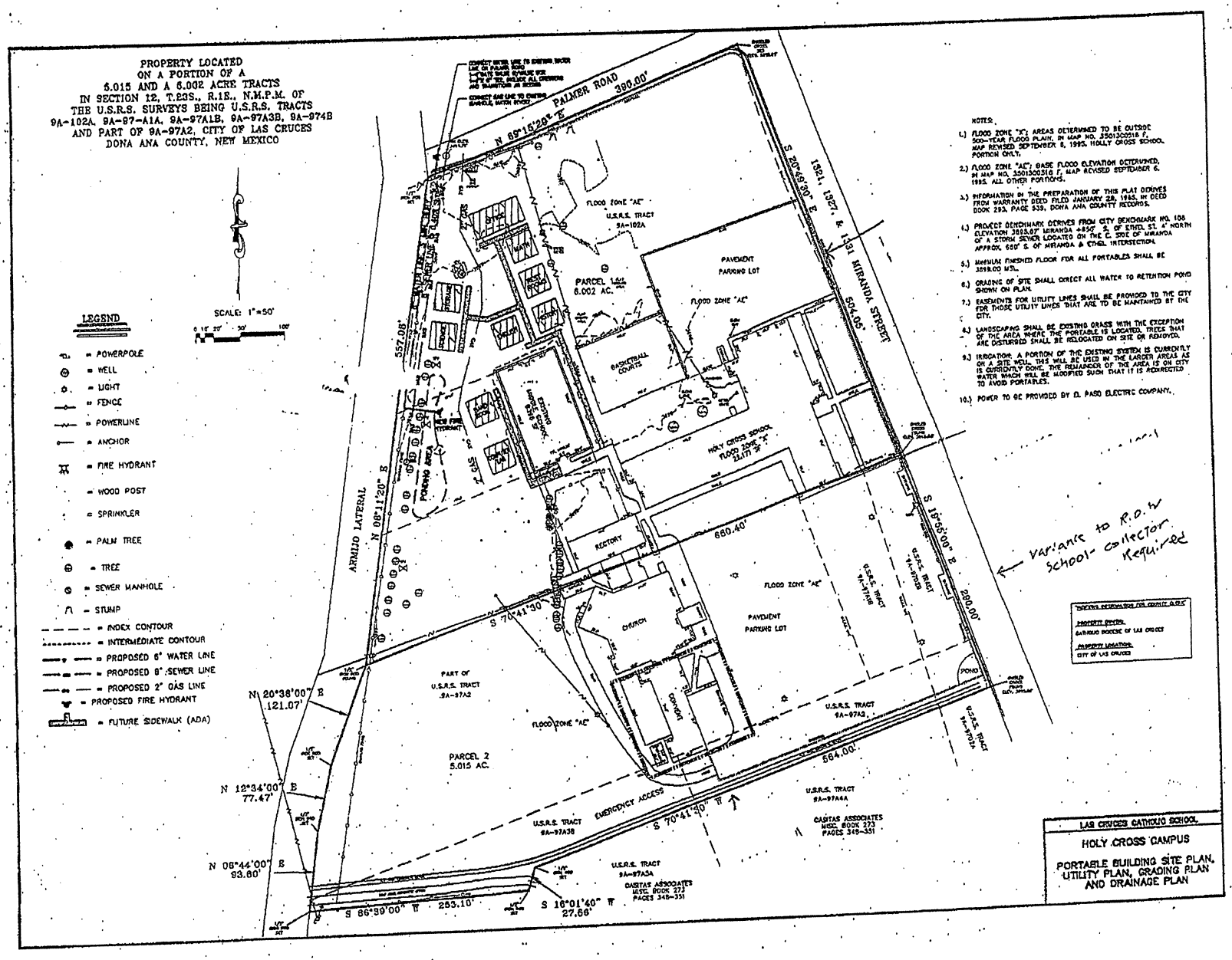
L.C.C.S. HAS BEEN LOCATED AT THIS SITE SINCE 1962. SINCE THAT TIME THE ZONING REGULATIONS HAVE CHANGED REQUIRING SCHOOLS BE LOCATED ON COLLECTOR DESIGNATED ROADWAYS. IN AN EFFORT TO ADDRESS SPACE NEEDS FOR THE EXISTING SCHOOL AND HIGH SCHOOL, PORTABLES WERE PURCHASED. THE CITY WILL NOT PERMIT (BUILDING) 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 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-974B
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 SIDEWALK (ADA)
SCALE: 1"=50'
PALMER ROAD
390.00'
N 69°15'29" E
S 20°49'30" E
1321, 1327, & 1331 MIRANDA STREET
504.05'
557.08'
ARMIJO LATERAL
N 08°11'20" E
S 70°41'30"
660.40'
S 19°55'00" E
290.00'
564.00'
S 70°41'30" W
N 20°38'00" E
121.07'
N 12°34'00" E
77.47'
N 06°44'00" E
93.60'
S 86°39'00" W
253.10'
S 16°01'40" W
27.66'
FLOOD ZONE "AE"
U.S.R.S. TRACT
9A-102A
PARCEL 1
6.002 AC.
PAVEMENT
PARKING LOT
BASKETBALL
COURTS
HOLY CROSS SCHOOL
FLOOD ZONE "X"
RECTORY
CHURCH
CONVENT
PART OF
U.S.R.S. TRACT
9A-97A2
PARCEL 2
5.015 AC.
EMERGENCY ACCESS
U.S.R.S. TRACT
9A-97A3B
U.S.R.S. TRACT
9A-97A3A
CASITAS ASSOCIATES
MISC. BOOK 273
PAGES 348-351
U.S.R.S. TRACT
9A-97A4A
U.S.R.S. TRACT
9A-97A2
POND
Variance to R.O.W
School- collector
Required
NOTES:
1.) FLOOD ZONE "X": AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAIN, IN MAP NO. 3501300518 F, MAP REVISED SEPTEMBER 6, 1995. HOLLY CROSS SCHOOL PORTION ONLY.
2.) FLOOD ZONE "AE": BASE FLOOD ELEVATION DETERMINED, IN MAP NO. 3501300518 F, MAP REVISED SEPTEMBER 6, 1995. ALL OTHER PORTIONS.
3.) INFORMATION IN THE PREPARATION OF THIS PLAT DERIVES FROM WARRANTY DEED FILED JANUARY 28, 1985, IN DEED BOOK 293, PAGE 539, DONA ANA COUNTY RECORDS.
4.) PROJECT BENCHMARK DERIVES FROM CITY BENCHMARK NO. 108 ELEVATION 3895.07' MIRANDA +850' S. OF ETHEL ST. 4' NORTH OF A STORM SEWER LOCATED ON THE E. SIDE OF MIRANDA APPROX. 650' S. OF MIRANDA & ETHEL INTERSECTION.
5.) MINIMUM FINISHED FLOOR FOR ALL PORTABLES SHALL BE 3898.00 MSL.
6.) GRADING OF SITE SHALL DIRECT ALL WATER TO RETENTION POND SHOWN ON PLAN.
7.) EASEMENTS 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 PORTABLE IS LOCATED. TREES THAT ARE DISTURBED SHALL BE RELOCATED ON SITE OR REMOVED.
9.) IRRIGATION: A PORTION OF THE EXISTING SYSTEM IS CURRENTLY ON A SITE WELL. THIS WILL BE USED IN THE LARGER AREAS AS IS CURRENTLY DONE. THE REMAINDER OF THE AREA IS ON CITY WATER WHICH WILL BE MODIFIED SUCH THAT IT IS REDIRECTED TO AVOID PORTABLES.
10.) POWER TO BE PROVIDED BY EL PASO ELECTRIC COMPANY.
LAS CRUCES CATHOLIC SCHOOL
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. hat 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 Exulatation 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,

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

JERRY B. PAZ NEW MEXICO 10521 5/11/09 REGISTERED PROFESSIONAL ENGINEER

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 meting 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:

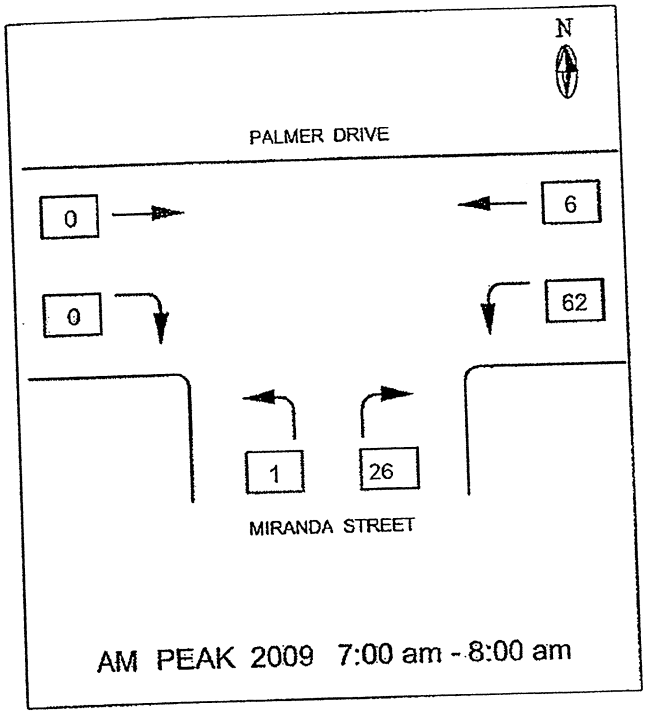
Peak hour traffic counts for the three intersections counted can be found on Figure 2 through Figure 4. Raw data obtained in the field used to generate Figure 2 through Figure 4 can be found in Appendix A. Given that the future land use is totally consistent with the existing land use, traffic projections 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:

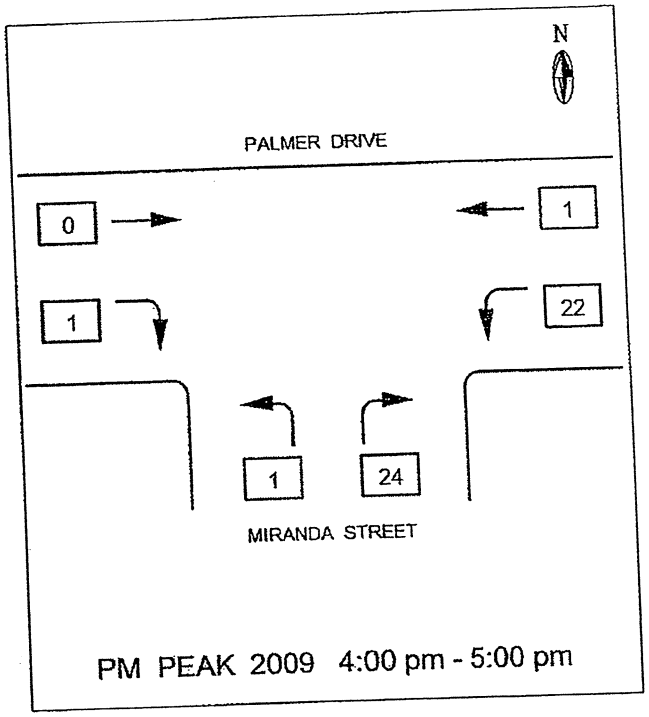
- Holy Cross Church is expected to grow approximately 30% over the next 20 years, including the JPII Center;
- Holy Cross School is expected to grow up to 50% over the next 20 years. Down from a 1997 peak enrollment of 345 students, the current student enrollment is 295 students. The maximum number of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

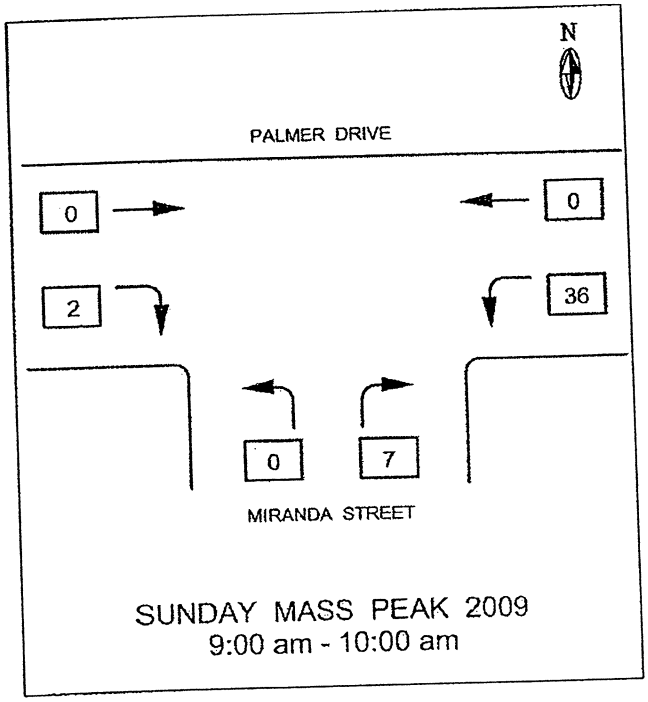
Level of Service (LOS) computations were performed at the three intersections for those peak hours during the AM, PM hours. In addition, LOS computations were performed for a 20-year planning period through 2029. These computations can be found in Appendix B. A Summary of these computations is as follows:

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	-







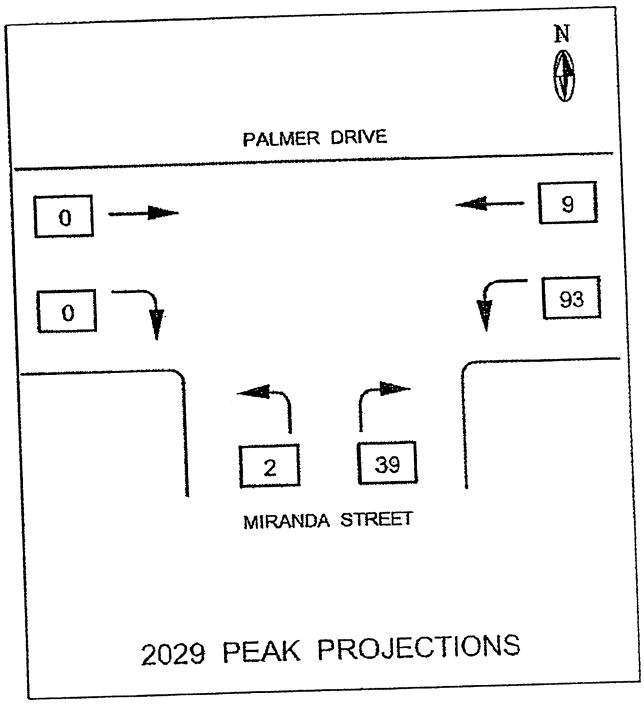
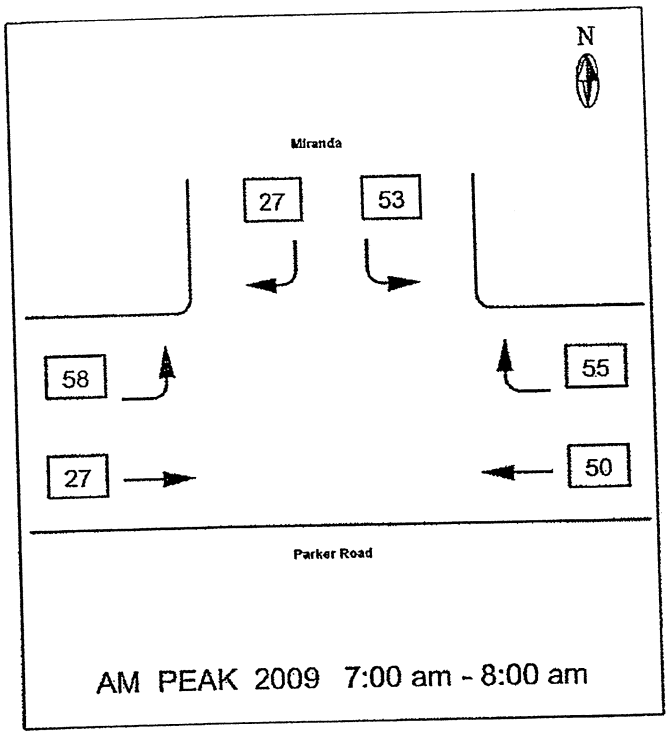
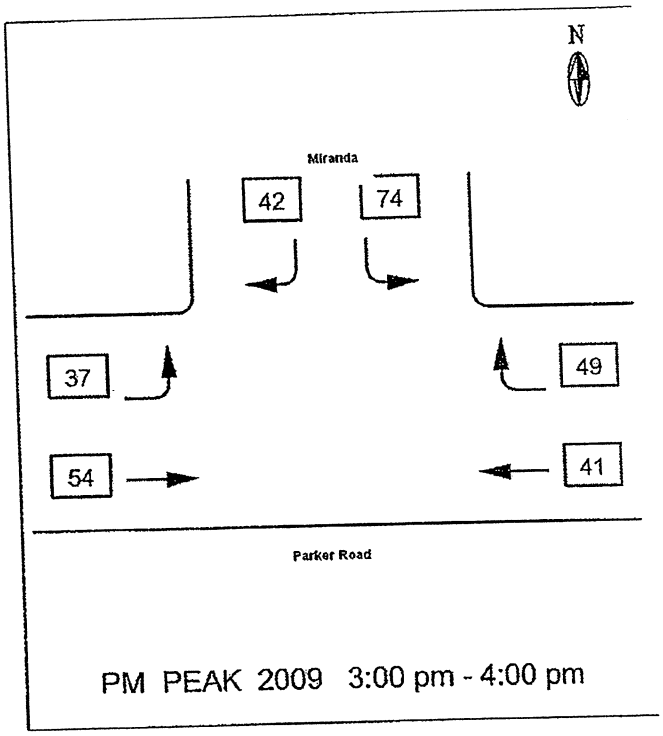
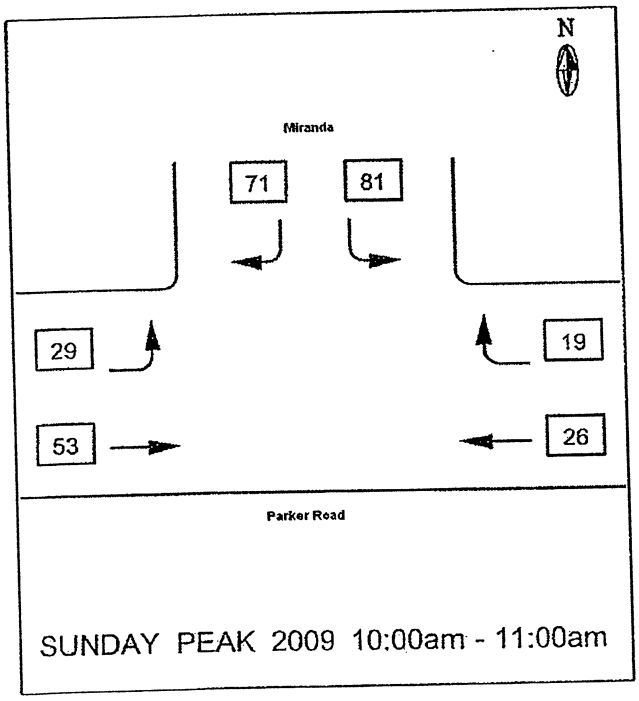


Figure 2 - Palmer Road & Miranda Street Intersection







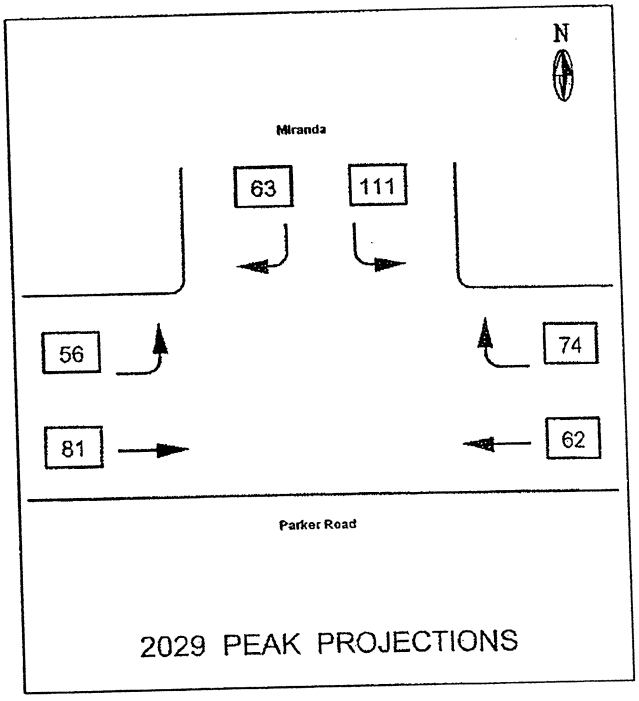
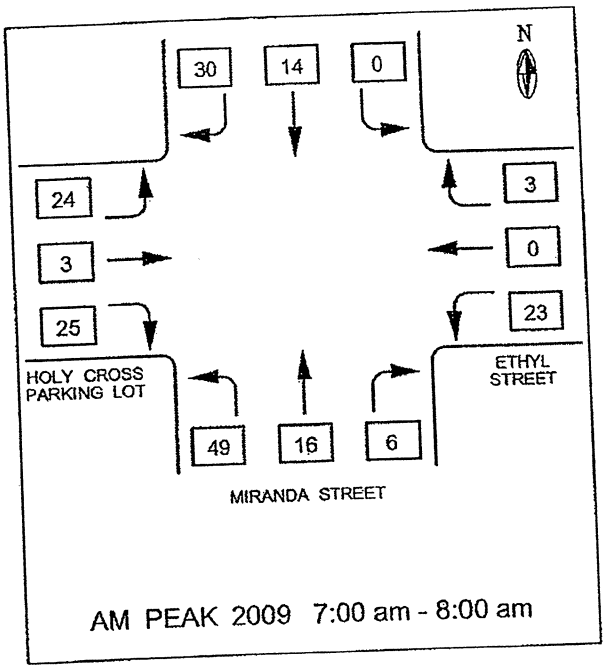
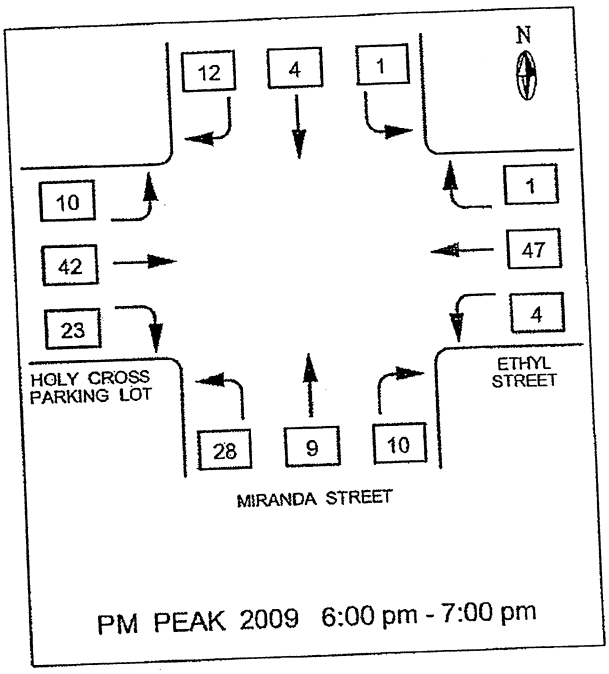
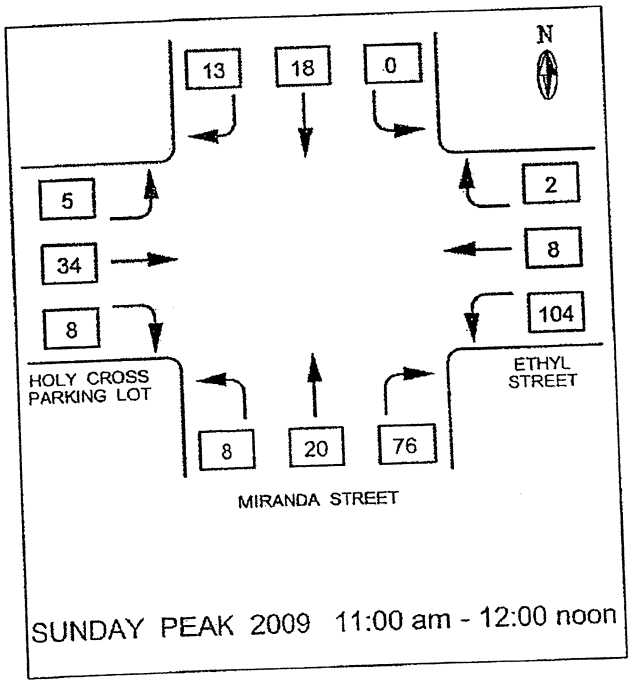


Figure 3 - Parker Road & Miranda Street Intersection







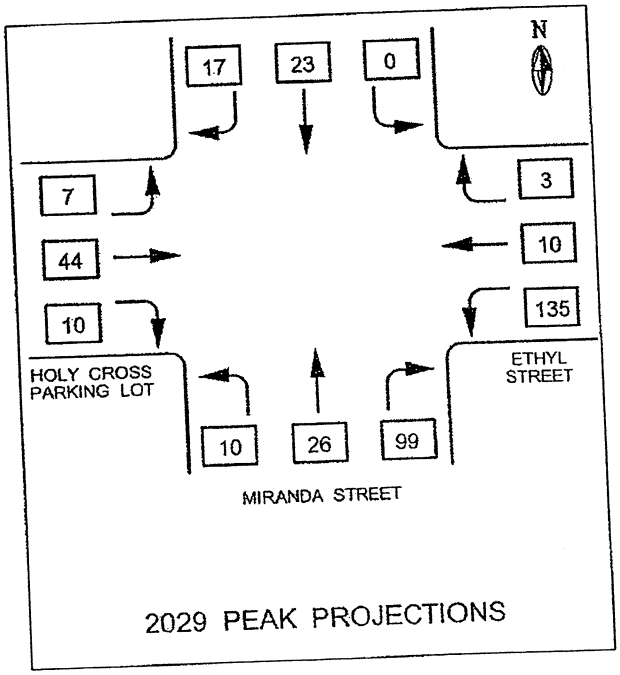


Figure 4 - Ethyl Avenue & Miranda Street Intersection

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

	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	2029 Estimate (1.3 Factor)
1	0	13	7	10	16	16	9	9
2	0	4	0	0	1	0	0	0
3	25	3	36	10	18	11	8	47
4	0	3	0	2	0	0	0	0
5	0	0	0	0	1	0	0	0
6	0	1	2	0	0	0	0	3
	25	24	45	22	36	27	17	59

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

	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	2029 Estimate (1.5 Factor)
1	1	26	11	42	8	12	13	39
2	0	1	1	1	0	0	0	2
3	1	62	23	8	2	7	9	93
4	0	6	0	0	0	0	1	9
5	0	0	1	0	0	0	0	0
6	0	0	0	0	1	0	0	0
	2	95	36	51	11	19	23	143

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	2029 Estimate (1.3 Factor)
1	7	15	23	24	10	13	5	6	31
2	0	0	1	1	0	3	0	1	1
3	10	20	22	22	11	11	2	3	29
4	0	0	1	1	0	1	0	1	1
5	3	3	1	0	0	1	0	0	0
6	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

	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	2029 Estimate (1.3 Factor)
1	2	6	25	26	16	35	39	34
2	4	17	31	53	48	53	58	69
3	21	6	50	19	40	10	40	25
4	37	9	67	29	49	14	22	38
5	3	29	42	81	46	50	57	105
6	3	26	33	71	41	16	33	92
7	70	93	248	279	240	178	249	363

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

	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	2029 Estimate (1.5 Factor)
1	2	50	14	19	16	17	29	75
2	5	27	32	36	34	32	56	41
3	7	55	27	16	17	20	24	83
4	2	58	20	7	11	14	25	87
5	4	53	48	16	12	27	29	80
6	2	27	22	5	10	18	17	41
7	22	270	163	99	100	128	180	405

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	2029 Estimate (1.5 Factor)
1	21	56	41	36	22	29	19	10	62
2	37	59	54	63	39	44	28	19	81
3	14	49	49	35	26	32	19	6	74
4	10	21	37	42	12	33	14	9	56
5	13	22	74	48	37	26	18	19	111
6	10	19	42	48	38	20	21	23	93
7	105	226	297	272	174	184	119	86	426

Ethyl/Miranda
Mass Sunday
3/15/2009

	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	2029 Estimate (1.3 Factor)
1	2	2	43	11	76	38	33	99
2	0	3	14	7	20	11	20	26
3	1	0	15	6	8	0	3	10
4	45	17	101	13	104	19	47	135
5	0	0	29	8	8	2	3	10
6	0	2	8	1	34	10	4	44
7	0	0	5	1	8	3	2	10
8	0	1	0	1	2	0	0	3
9	0	0	1	0	5	3	6	7
10	0	1	0	1	0	2	1	0
11	22	3	20	5	18	7	5	23
12	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

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

3/10-11/2009

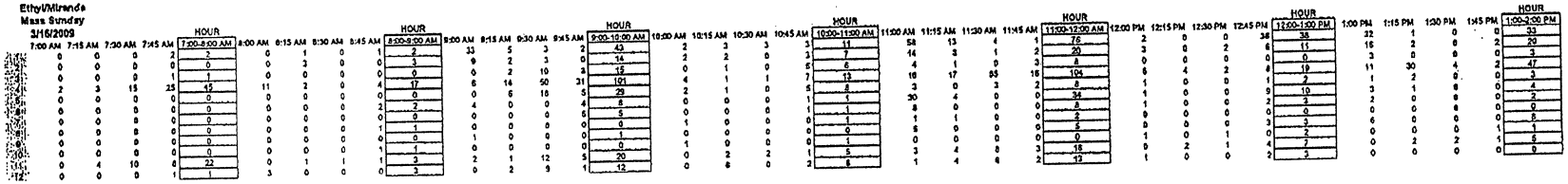
	1:00-2:00 PM	2:00-3:00 PM	3:00-4:00 PM	4:00-5:00 PM	5:00-6:00 PM	6:00-7:00 PM	7:00-8:00 PM	8:00-9:00 PM	2029 Estimate (1.3 Factor)
1	7	3	0	1	7	10	6	2	13
2	0	4	14	6	8	9	5	4	12
3	0	21	29	28	0	28	21	16	36
4	9	0	0	1	11	4	4	1	5
5	0	17	9	16	0	47	12	11	61
6	0	16	20	22	3	42	23	29	55
7	1	7	31	21	0	23	17	30	30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

M	HOUR 8:00-9:00 AM	9:00 AM	9:15 AM	9:30 AM	9:45 AM	HOUR 9:00-10:00 AM	10:00 AM	10:15 AM	10:30 AM	10:45 AM	HOUR 10:00-11:00 AM	11:00 AM	11:15 AM	11:30 AM	11:45 AM	HOUR 11:00-12:00 AM	12:00 PM	12:15 PM	12:30 PM	12:45 PM	HOUR 12:00-1:00 PM	1:00 PM	1:15 PM	1:30 PM	1:45 PM	HOUR 1:00-2:00 PM
0	6	2	4	9	10	25	2	6	8	10	26	6	2	2	6	16	6	14	6	9	35	3	16	6	14	39
7	17	8	8	7	8	31	5	12	10	26	53	17	9	13	9	48	12	18	12	13	53	19	11	12	16	58
0	6	8	14	23	5	50	1	2	3	13	19	10	8	13	9	40	3	2	2	3	10	12	23	3	2	40
4	9	6	29	26	6	67	0	1	3	25	29	16	7	18	8	49	7	1	2	4	14	1	13	7	1	22
2	29	18	11	11	2	42	0	2	5	74	81	38	3	2	3	46	9	2	4	35	50	41	5	9	2	57
1	26	17	4	12	0	33	2	2	5	62	71	33	4	2	2	41	1	3	2	10	16	24	6	1	3	33

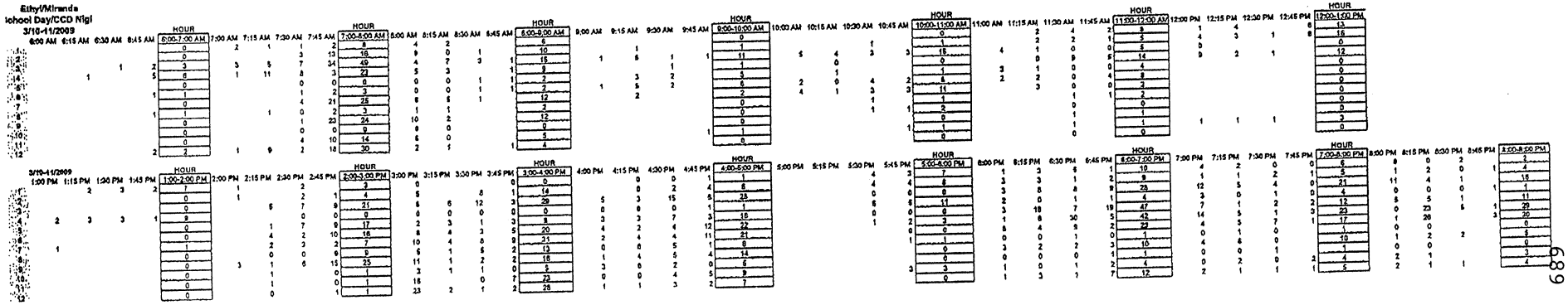
M	HOUR 7:00-8:00 AM	8:00 AM	8:15 AM	8:30 AM	8:45 AM	HOUR 8:00-9:00 AM	9:00 AM	9:15 AM	9:30 AM	9:45 AM	HOUR 9:00-10:00 AM	10:00 AM	10:15 AM	10:30 AM	10:45 AM	HOUR 10:00-11:00 AM	11:00 AM	11:15 AM	11:30 AM	11:45 AM	HOUR 11:00-12:00 AM	12:00 PM	12:15 PM	12:30 PM	12:45 PM	HOUR 12:00-1:00 PM
4	50	6	0	4	4	14	6	2	2	9	19	2	3	5	6	16	6	5	4	2	17	11	5	5	8	29
6	27	17	8	4	5	32	5	11	5	15	36	8	8	8	10	34	4	4	14	10	32	20	16	13	7	56
7	55	11	9	4	3	27	5	3	4	4	16	6	3	6	2	17	6	4	7	3	20	12	5	3	4	24
9	58	16	2	1	2	20	0	2	2	3	7	2	2	6	1	11	3	3	0	8	14	8	7	3	7	25
3	53	32	3	6	7	48	2	4	6	4	16	2	2	4	4	12	9	2	14	2	27	7	3	4	15	29
2	27	17	2	1	2	22	0	3	0	2	5	2	3	2	3	10	1	4	7	6	18	2	1	1	13	17

M	HOUR 2:00-3:00 PM	3:00 PM	3:15 PM	3:30 PM	3:45 PM	HOUR 3:00-4:00 PM	4:00 PM	4:15 PM	4:30 PM	4:45 PM	HOUR 4:00-5:00 PM	5:00 PM	5:15 PM	5:30 PM	5:45 PM	HOUR 5:00-6:00 PM	6:00 PM	6:15 PM	6:30 PM	6:45 PM	HOUR 6:00-7:00 PM	7:00 PM	7:15 PM	7:30 PM	7:45 PM	HOUR 7:00-8:00 PM	8:00 PM	8:15 PM	8:30 PM	8:45 PM	HOUR 8:00-9:00 PM
7	58	12	6	12	12	41	6	7	6	17	36	5	3	5	9	22	6	7	8	6	29	3	8	3	6	19	0	5	3	2	10
3	59	12	9	13	20	54	15	17	13	18	63	10	8	10	11	39	6	16	13	9	44	9	8	2	9	28	1	10	4	4	19
5	49	20	7	13	9	49	6	4	12	13	35	6	3	6	11	26	7	9	5	11	33	7	1	5	6	19	2	3	1	0	6
9	21	16	8	10	3	37	5	6	19	12	42	2	1	2	7	12	5	7	10	11	33	8	3	1	2	14	5	4	0	0	9
2	22	41	11	9	13	74	7	9	13	19	48	14	7	14	2	37	5	7	10	11	33	6	5	5	2	18	2	14	0	3	19
1	19	24	9	4	6	42	7	9	10	22	48	15	8	15	0	38	6	3	8	3	20	8	4	6	1	21	1	21	0	1	23
																0						10									

Ethyl/Miranda
Mass Sunday
3/15/2009

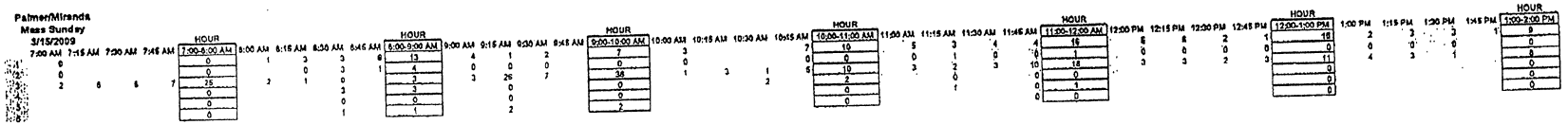


Ethyl/Miranda
School Day/CCD Nigl
3/10-11/2009

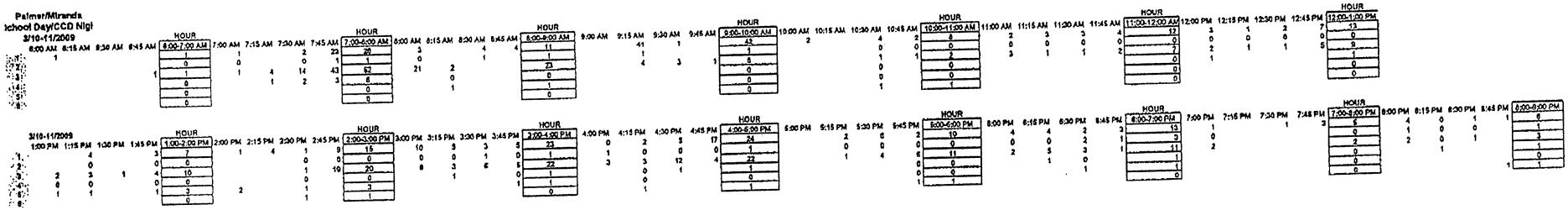


Shaded area indicates adjustments made

Palmer/Miranda
Mass Sunday
3/15/2009



Palmer/Miranda
School Day/CCD Nigl
3/10-11/2009



Shaded area indicates adjustments made

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 *Parker- Miranda _ AMPeak 2009 _*

East/West Street: *Parker* | North/South Street: *Miranda*

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
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	4.32		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							

HCS2000™ Copyright © 2003 University of Florida, All Rights Reserved Version 4.1d

ALL-WAY STOP CONTROL ANALYSIS

General Information

Analyst	DW
Agency/Co.	
Date Performed	5/9/2009
Analysis Time Period	PM peak 3-4

Site Information

Intersection	
Jurisdiction	
Analysis Year	2009

Project ID *Parker- Miranda _ PMPeak 2009 _*

East/West Street: *Parker* North/South Street: *Miranda*

Volume Adjustments and Site Characteristics

Approach	Eastbound			Westbound		
Movement	L	T	R	L	T	R
Volume	37	54	0	0	41	49
%Thrus Left Lane	50			50		

Approach	Northbound			Southbound		
Movement	L	T	R	L	T	R
Volume	0	0	0	74	0	42
%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	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
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	4.33		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

	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							

HCS2000™ Copyright © 2003 University of Florida, All Rights Reserved Version 4.1d

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
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	4.54		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							

HCS2000™

Copyright © 2003 University of Florida, All Rights Reserved

Version 4.1d

'09

ALL-WAY STOP CONTROL ANALYSIS

General Information

Analyst	DW
Agency/Co.	
Date Performed	5/9/2009
Analysis Time Period	AM Peak 7-8

Site Information

Intersection	
Jurisdiction	
Analysis Year	2009

Project ID *Palmer - Miranda _ AM 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	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	

Departure Headway and Service Time

hd, initial value	3.20		3.20		3.20		3.20	
x, initial	0.00		0.06		0.02		0.00	
hd, final value	4.02		4.02		4.02		4.02	
x, 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							

HCS2000™ Copyright © 2003 University of Florida, All Rights Reserved Version 4.1d

ALL-WAY STOP CONTROL ANALYSIS

General Information

Analyst	DW
Agency/Co.	
Date Performed	5/9/2009
Analysis Time Period	PM Peak 4-5

Site Information

Intersection	
Jurisdiction	
Analysis Year	2009

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							

HCS2000™ Copyright © 2003 University of Florida, All Rights Reserved Version 4.1d

ALL-WAY STOP CONTROL ANALYSIS

General Information

Analyst	DW
Agency/Co.	
Date Performed	5/9/2009
Analysis Time Period	peak AM

Site Information

Intersection	
Jurisdiction	
Analysis Year	2029

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		

	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
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	4.08		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

	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							

HCS2000™ Copyright © 2003 University of Florida, All Rights Reserved Version 4.1d

Ethyl / 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	Ethyl_Miranda_AM_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	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		

Rights Reserved
HCS2000™ Version 4.1d
Copyright © 2003 University of Florida, All Rights Reserved
Version 4.1d

Ethyl / 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		

Rights Reserved

HCS2000™ Version 4.1d

Copyright © 2003 University of Florida, All Rights Reserved

Version 4.1d

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
Intersection Orientation:	North-South
North/South Street:	Miranda
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	12
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		

Rights Reserved
HCS2000™ Version 4.1d
Copyright © 2003 University of Florida, All Rights Reserved
Version 4.1d

Ethyl [illegible] '9

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 Ethyl_Miranda_Sunday_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	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	12
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		

Rights Reserved
HCS2000™ Version 4.1d
Copyright © 2003 University of Florida, All Rights Reserved
Version 4.1d

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)

City of Las Cruces®
PEOPLE HELPING PEOPLE

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

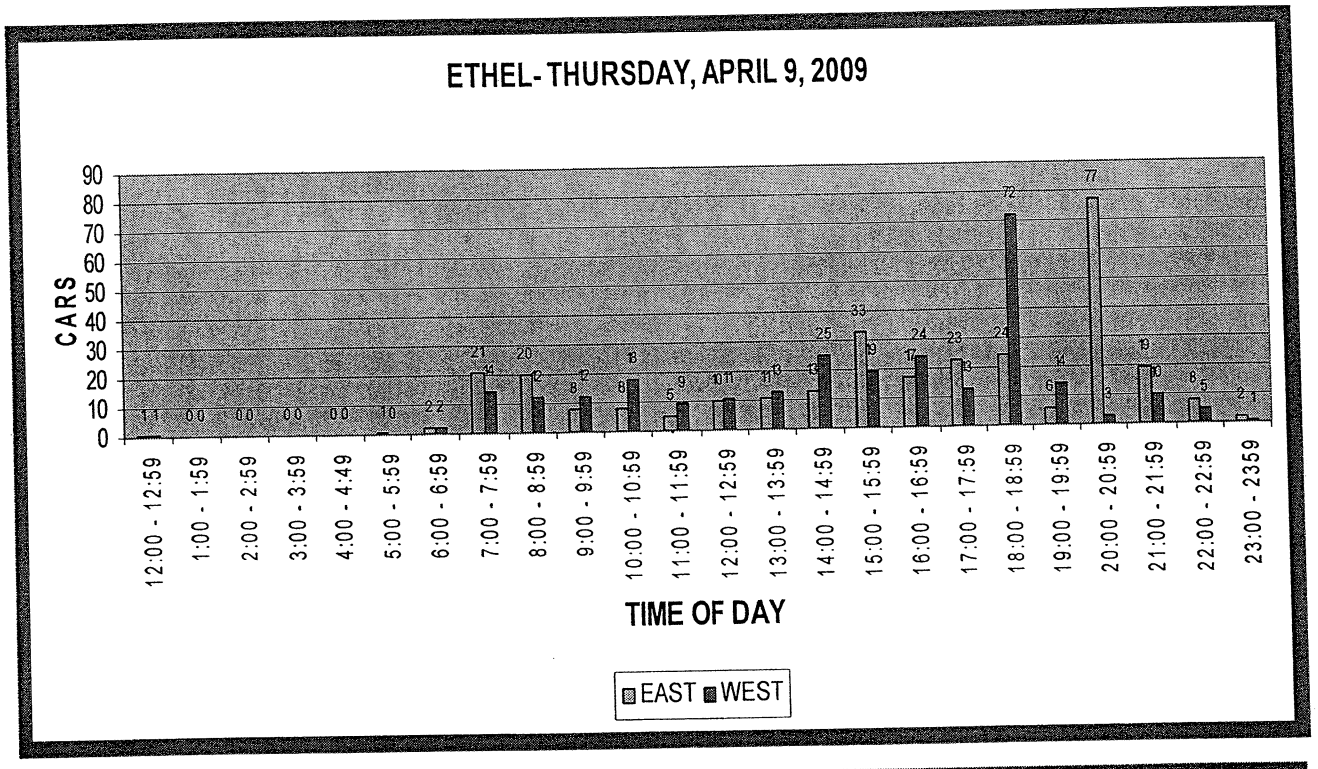
Per the request of the Board of the Planning and Zoning Commission at last night's meeting, please find attached the information compiled by our office related to the data collection and analysis on the streets adjacent to Holy Cross School.

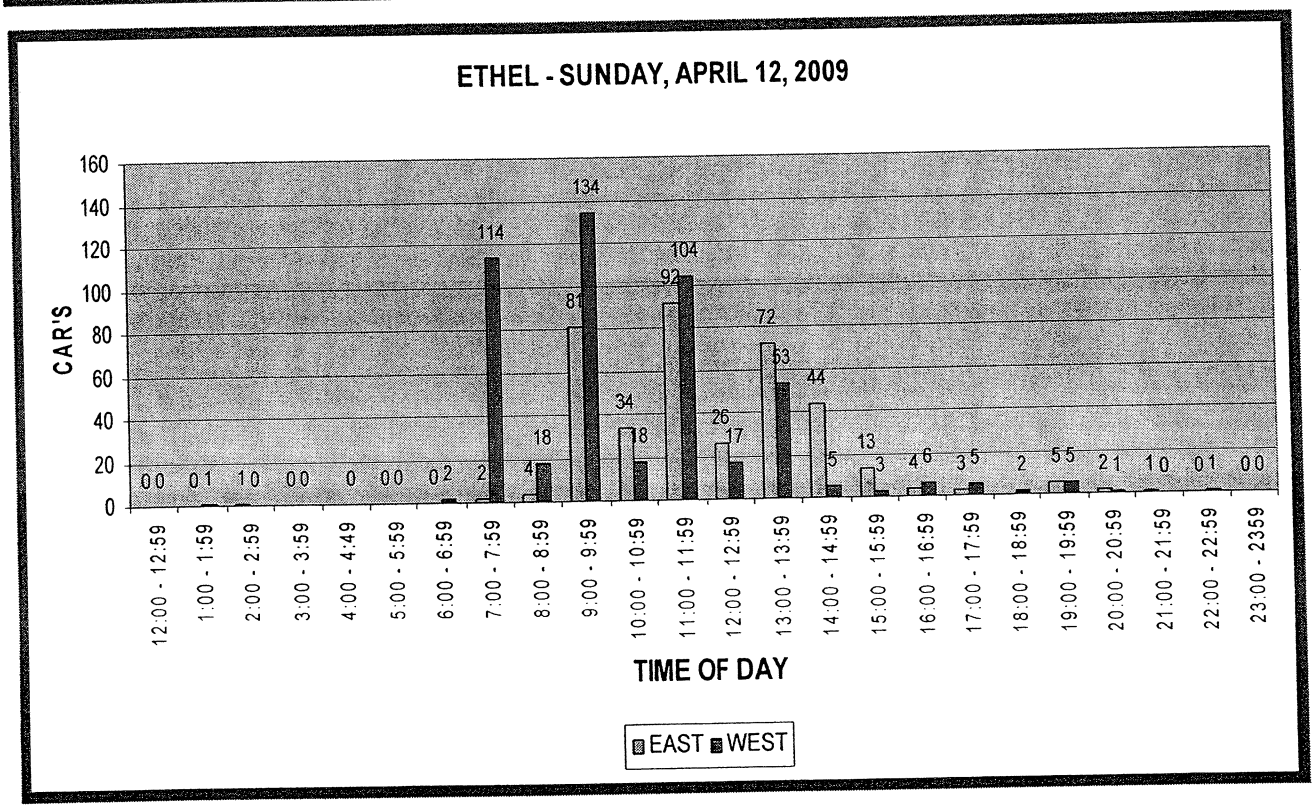
We used this data primarily to determine traffic volumes and speeds along these roadways namely Palmer Road, Ethyl Avenue, and Miranda Street as well as verify with Molzen Corbin's data presented in their prepared Traffic Impact Analysis.

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

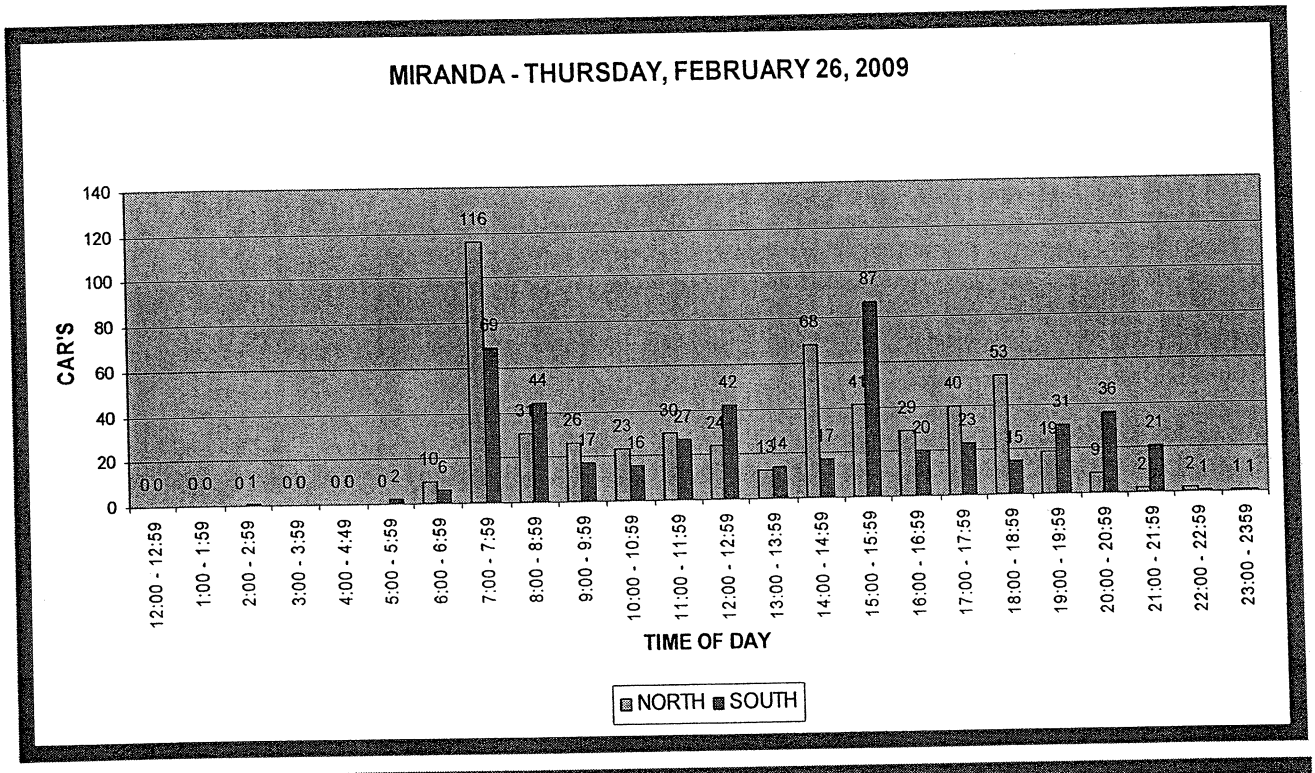
Please contact me with any questions related to the submitted information.

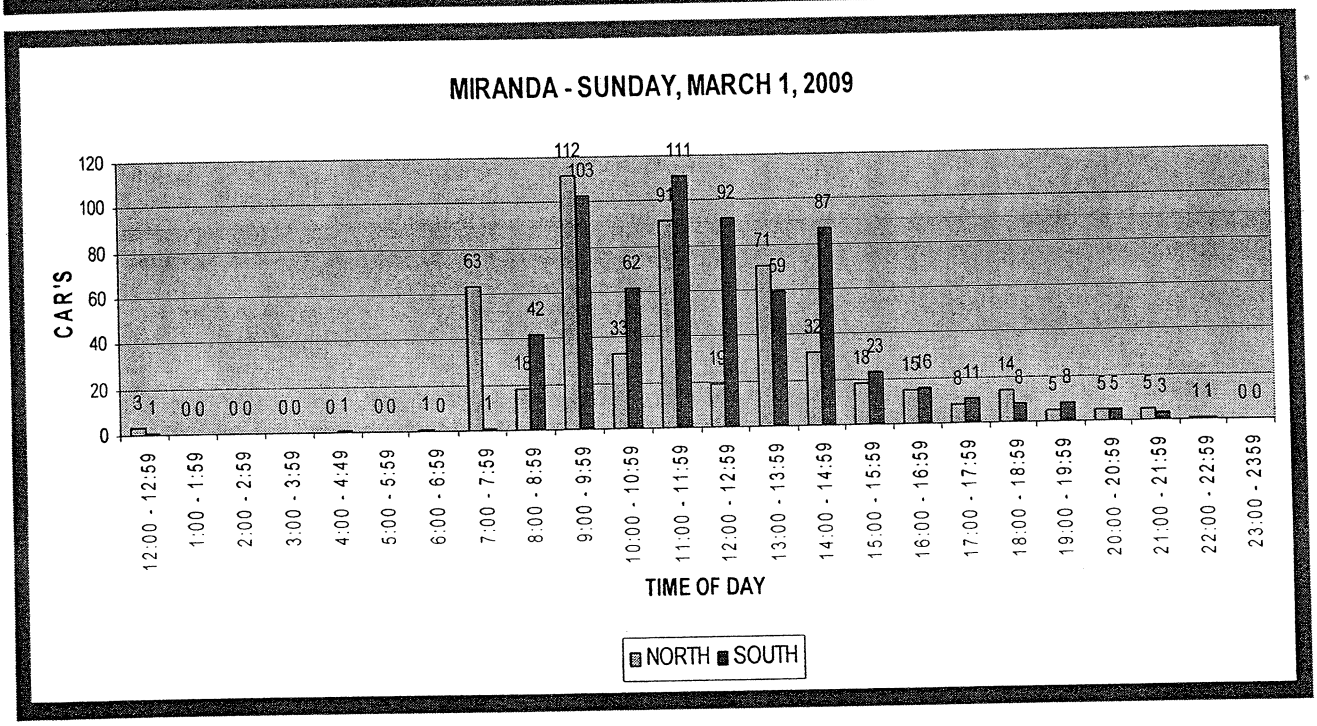
ETHEL


ETHEL- THURSDAY, APRIL 9, 2009
CARS
TIME OF DAY
EAST
WEST
12:00 - 12:59
1:00 - 1:59
2:00 - 2:59
3:00 - 3:59
4:00 - 4:49
5:00 - 5:59
6:00 - 6:59
7:00 - 7:59
8:00 - 8:59
9:00 - 9:59
10:00 - 10:59
11:00 - 11:59
12:00 - 12:59
13:00 - 13:59
14:00 - 14:59
15:00 - 15:59
16:00 - 16:59
17:00 - 17:59
18:00 - 18:59
19:00 - 19:59
20:00 - 20:59
21:00 - 21:59
22:00 - 22:59
23:00 - 2359

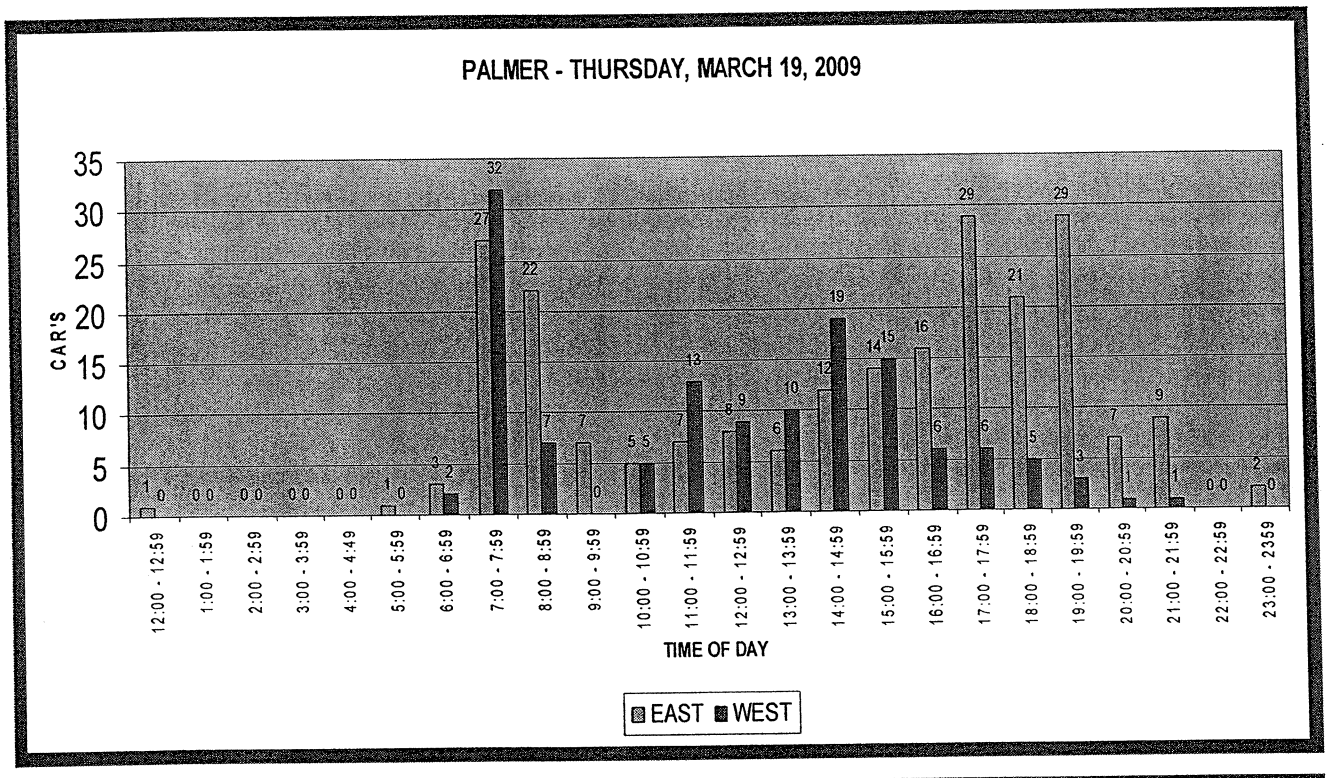

ETHEL - SUNDAY, APRIL 12, 2009
CAR'S
TIME OF DAY
EAST
WEST
12:00 - 12:59
1:00 - 1:59
2:00 - 2:59
3:00 - 3:59
4:00 - 4:49
5:00 - 5:59
6:00 - 6:59
7:00 - 7:59
8:00 - 8:59
9:00 - 9:59
10:00 - 10:59
11:00 - 11:59
12:00 - 12:59
13:00 - 13:59
14:00 - 14:59
15:00 - 15:59
16:00 - 16:59
17:00 - 17:59
18:00 - 18:59
19:00 - 19:59
20:00 - 20:59
21:00 - 21:59
22:00 - 22:59
23:00 - 2359

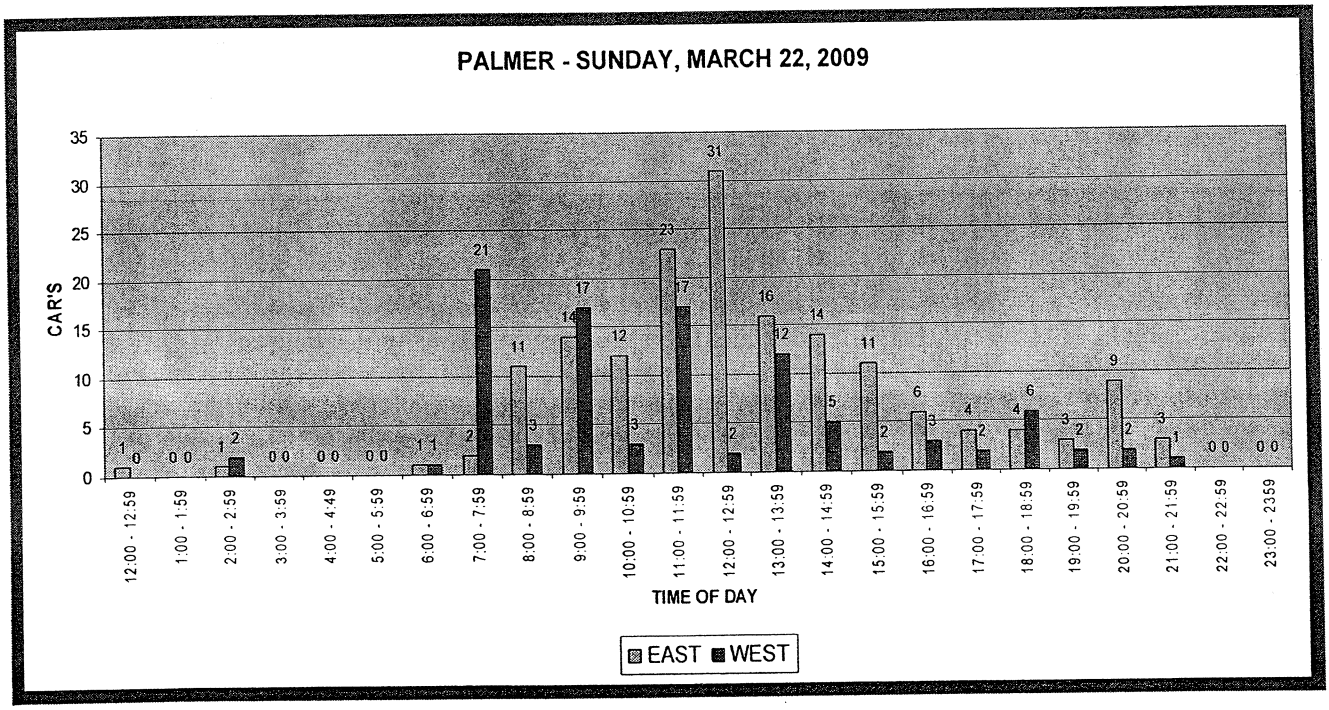
MIRANDA


MIRANDA - THURSDAY, FEBRUARY 26, 2009
CAR'S
TIME OF DAY
NORTH
SOUTH
12:00 - 12:59
1:00 - 1:59
2:00 - 2:59
3:00 - 3:59
4:00 - 4:49
5:00 - 5:59
6:00 - 6:59
7:00 - 7:59
8:00 - 8:59
9:00 - 9:59
10:00 - 10:59
11:00 - 11:59
12:00 - 12:59
13:00 - 13:59
14:00 - 14:59
15:00 - 15:59
16:00 - 16:59
17:00 - 17:59
18:00 - 18:59
19:00 - 19:59
20:00 - 20:59
21:00 - 21:59
22:00 - 22:59
23:00 - 2359

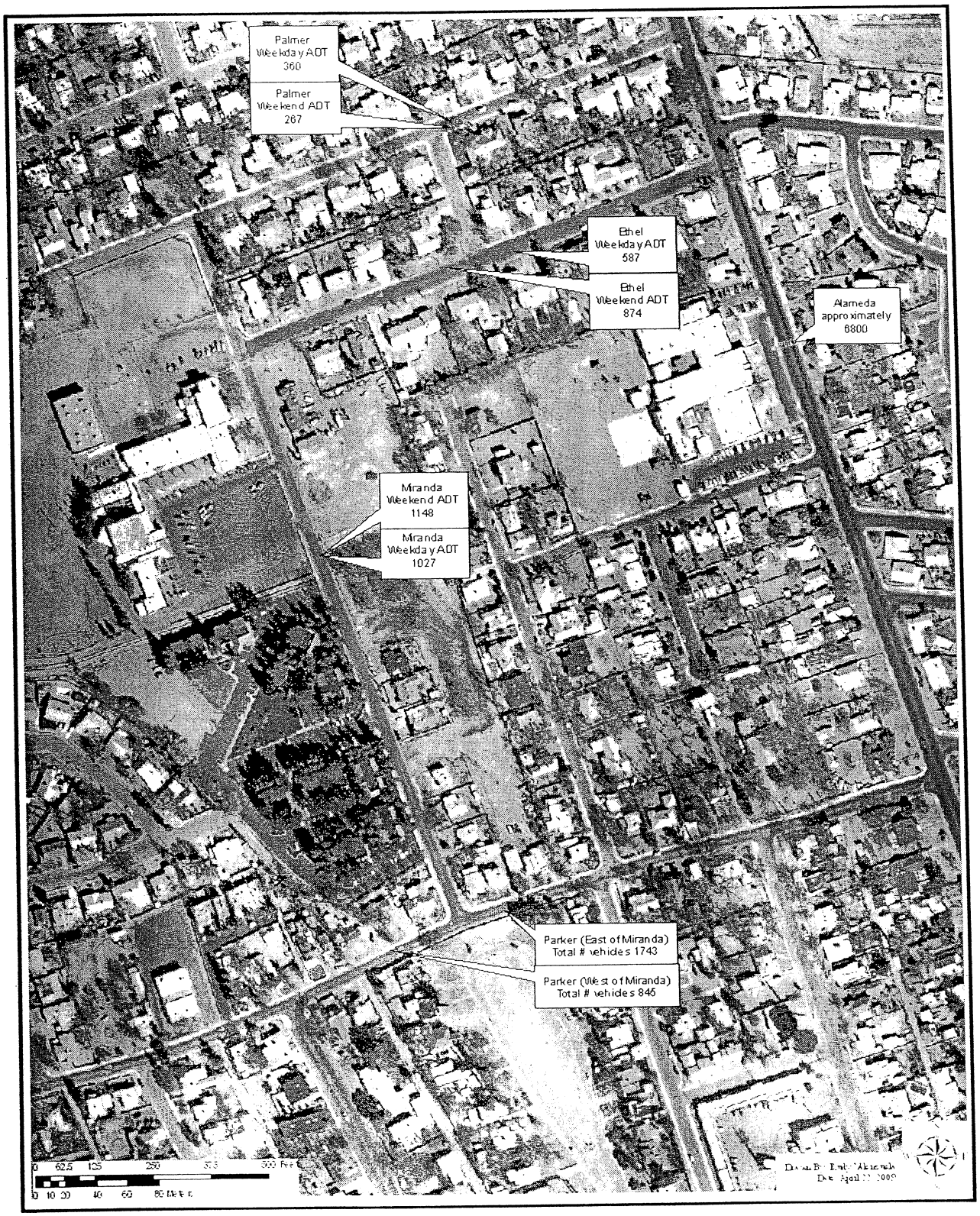

MIRANDA - SUNDAY, MARCH 1, 2009
CAR'S
TIME OF DAY
NORTH
SOUTH
12:00 - 12:59
1:00 - 1:59
2:00 - 2:59
3:00 - 3:59
4:00 - 4:49
5:00 - 5:59
6:00 - 6:59
7:00 - 7:59
8:00 - 8:59
9:00 - 9:59
10:00 - 10:59
11:00 - 11:59
12:00 - 12:59
13:00 - 13:59
14:00 - 14:59
15:00 - 15:59
16:00 - 16:59
17:00 - 17:59
18:00 - 18:59
19:00 - 19:59
20:00 - 20:59
21:00 - 21:59
22:00 - 22:59
23:00 - 2359

PALMER


PALMER - THURSDAY, MARCH 19, 2009
CAR'S
TIME OF DAY
EAST
WEST
12:00 - 12:59
1:00 - 1:59
2:00 - 2:59
3:00 - 3:59
4:00 - 4:49
5:00 - 5:59
6:00 - 6:59
7:00 - 7:59
8:00 - 8:59
9:00 - 9:59
10:00 - 10:59
11:00 - 11:59
12:00 - 12:59
13:00 - 13:59
14:00 - 14:59
15:00 - 15:59
16:00 - 16:59
17:00 - 17:59
18:00 - 18:59
19:00 - 19:59
20:00 - 20:59
21:00 - 21:59
22:00 - 22:59
23:00 - 2359


PALMER - SUNDAY, MARCH 22, 2009
CAR'S
TIME OF DAY
EAST
WEST
12:00 - 12:59
1:00 - 1:59
2:00 - 2:59
3:00 - 3:59
4:00 - 4:49
5:00 - 5:59
6:00 - 6:59
7:00 - 7:59
8:00 - 8:59
9:00 - 9:59
10:00 - 10:59
11:00 - 11:59
12:00 - 12:59
13:00 - 13:59
14:00 - 14:59
15:00 - 15:59
16:00 - 16:59
17:00 - 17:59
18:00 - 18:59
19:00 - 19:59
20:00 - 20:59
21:00 - 21:59
22:00 - 22:59
23:00 - 2359

706


Palmer
Weekday ADT
360
Palmer
Weekend ADT
267
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 846

from: Jo Ruprecht . 635-5594 cell
ruprecht@nmsu.com 707

May 18, 2009

re: CASE # A 1695
Holy Cross Campus Expansion

Dear Mr. White:

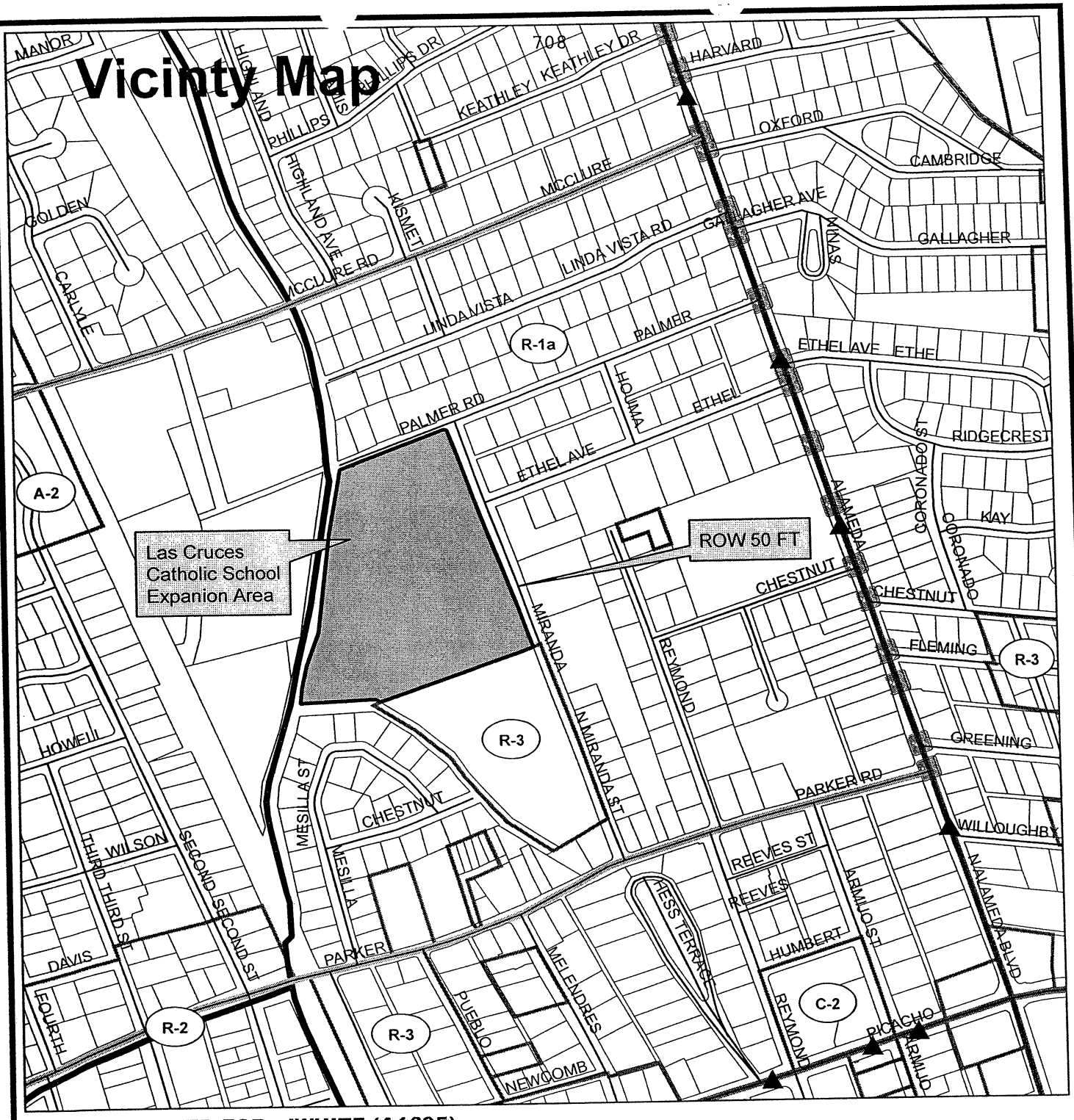
I am a neighbor of this property, living on Palmer. I have lived in Las Cruces since 1985. While this does not qualify me as a native, it does mean I have seen much of the growth here in the past 25 years.

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 GRANFATHERED STATUS and IMPOSITION of ALL CURRENT ZONING + CODES.

Vicinty 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

0 137.5 275 550 825 1,100 Feet

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 arguements, I agree with the positions taken by the committee opposing the variance. I believe their points are valid and should offer legimate 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

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 severly 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 increast 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)

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.

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.

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

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

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

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

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.

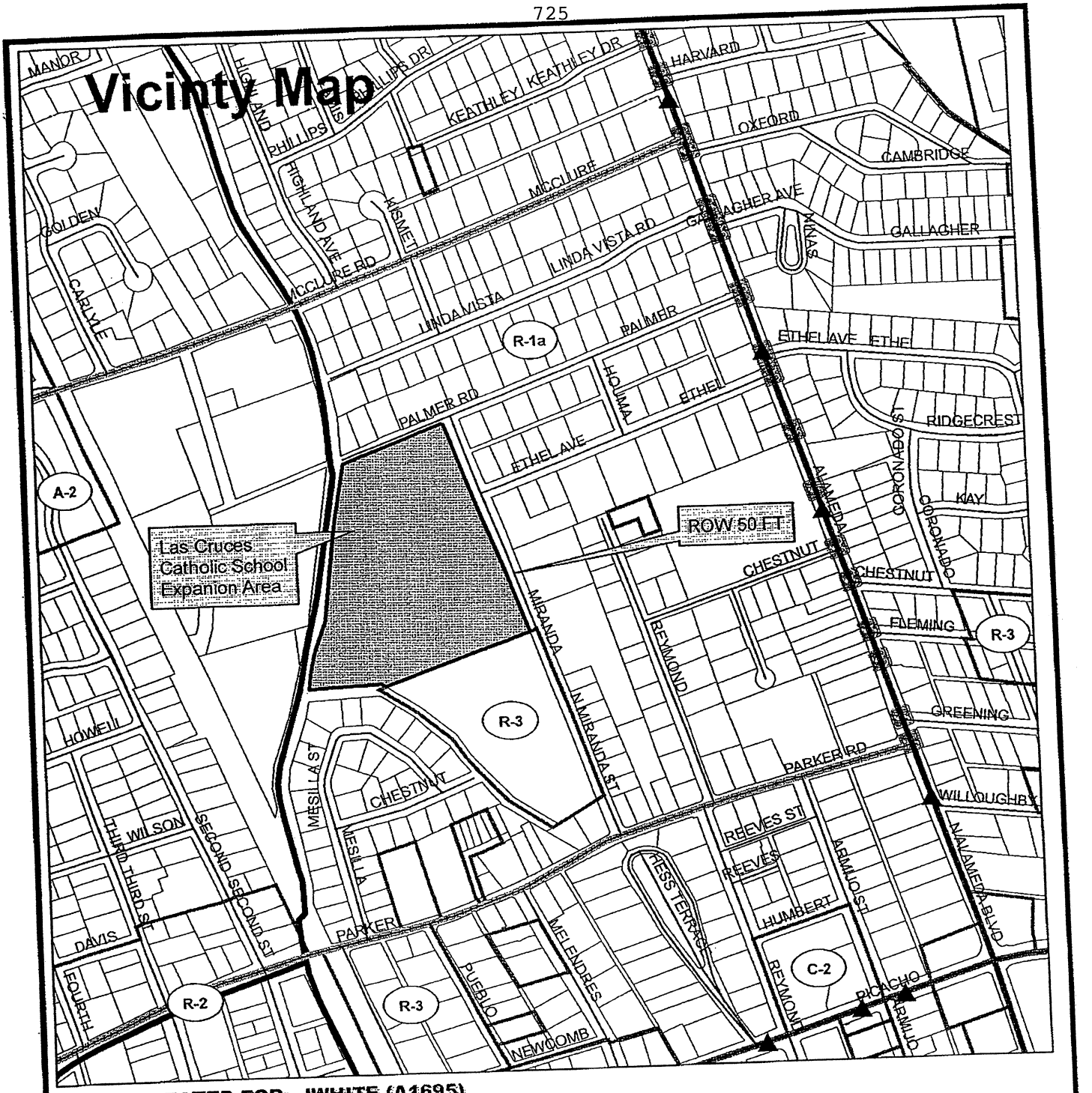
Since 1980 the church and school have been in a situation described as "nonconforming use" because of changes in local zoning and codes. In my understanding this means that these entities and their 1980 uses of the property on Miranda have been "grandfathered in". As I understand this situation, it connotes 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 GRANFATHERED 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



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

0 137.5 275 550 825 1,100 Feet

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.

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 DEVELPOPMENT ..... 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 BEDROON WINDOW AND THRUGH MY HOUSE , AT LEAST FOR

MY HOUSE , 530 LINDA VISTA , AND MORE DWELLIGS 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

MICHAEL J GILMAN

FROM : MIKE_GILMAN FAX NO. : - Jun. 18 2009 09:00PM P1

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. 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)

You May Order Up To 5 Premium Reports at No Charge

Your Search Results: Back | 1 | Next

⊞Show Map

(+) Add to My Schools

View My Saved Schools

☐ Select This School

Agapeland Christian
1301 Hoagland, Las Cruces, NM 88005
Type Private School
Level PK-KG
Approximate Median Home Value $221,600
Order Premium Report

View Quick Report | Ask An Expert | Order Premium Report | Show in Map

☐ Select This School

Colleges Heights Kindergarten
1210 Wofford, Las Cruces, NM 88001
Type Private School
Level PK-KG
Approximate Median Home Value $144,200
Order Premium Report

View Quick Report | Ask An Expert | Order Premium Report | Show in Map

☐ Select This School

Las Cruces Catholic/holy Cross
1331 N Miranda, Las Cruces, NM 88011
Type Private School
Level PK-8
Approximate Median Home Value $276,400
Order Premium Report

View Quick Report | Ask An Expert | Order Premium Report | Show in Map

☐ Select This School

Las Cruces Catholic/ihm Campus
865 East Idaho, Las Cruces, NM 88001
Type Private School
Level PK-5
Approximate Median Home Value $144,200
Order Premium Report

View Quick Report | Ask An Expert | Order Premium Report | Show in Map

☐ Select This School

Mesilla Valley Christian School
3850 Stern Drive, Las Cruces, NM 88001
Type Private School
Level KG-12
Approximate Median Home Value $144,200
Order Premium Report

View Quick Report | Ask An Expert | Order Premium Report | Show in Map

☐ Select This School

Noah's Ark Learning Center
1605 S Valley, Las Cruces, NM 88005
Type Private School
Level PK-KG
Approximate Median Home Value $221,600
Order Premium Report

View Quick 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

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)

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

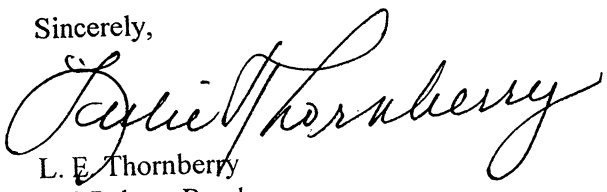
having two schools within two blocks of each other (Alameda Elementary on the East and Holy Cross on the West). The current amount of traffic and lack of proper parking which the neighborhood tolerates will only increase with the addition of still another level of education and the addition of square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

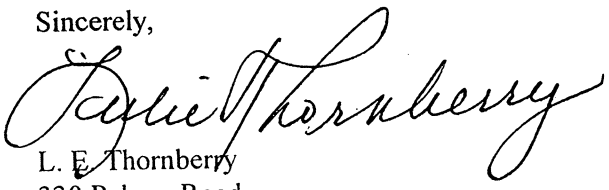
having two schools within two blocks of each other (Alameda Elementary on the East and Holy Cross on the West). The current amount of traffic and lack of proper parking which the neighborhood tolerates will only increase with the addition of still another level of education and the addition of square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

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 can't 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.

June 28, 2009

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

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.

- *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. 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.

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

Attachment 11 B11

MEETING OF THE PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
May 26, 2009 at 6:00 p.m.

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 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.

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?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Staff recommendation for this case which is also known as 1695 is approval with conditions. The conditions are; number one the approval of this variance is limited to the additional 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 the Planned Unit Development as outlined within the 2001 Zoning Code. Predominantly what a Planned Unit Development is, is you'll be doing a campus wide master plan for any expansion on the property. So staff felt that any future expansion regardless if it's based upon the religious institution or the school would require to go through a campus wide master plan or Planned Unit Development. The second condition is based on the conditional zoning in the 2001 Zoning Code regarding schools. The applicant will be required to submit a landscape, screen or buffer plan that will require administrative approval by staff. The applicant will be required to create a strong impression of separation. In the event administrative approval is not granted, the applicant will be required to comply with Article VI, Section 38-53 of the 2001 Zoning Code as amended regarding screening for schools adjacent to residential zoning districts. If you went through the actual packet, the issue really is, is that any parking area or structures of

the school site is required that it's 25-feet or less from a residential zoning district, not a structure, but a zoning district, requires an opaque buffer. So in theory what that would require is that on the western periphery where the Armijo Lateral is, they'll be required to put a fully opaque buffer. They'll also be required to put a fully opaque buffer on the southern boundary adjacent to the apartment complex. And also, in respect on the eastern boundary where the parking lot resides for the school site, they'll be required to put an opaque buffer there. So staff would also evaluate with the City landscape architect, evaluating the plan to see if they place draught tolerant plants, shrubbery, those kinds of issues to try give some kind of spacial separation between the various residential land uses and the current existing school site. That will end staff presentation. I'll be glad to stand for any questions this board may have this evening.

Scholz: Okay gentlemen, questions for Mr. White. Yes, Commissioner Crane.

Crane: You mentioned I believe that four of the 12 portables have already essentially been approved. They are not an issue because of the 10% expansion that was allowed, is that correct?

White: Chair Scholz, Commissioner Crane that is correct.

Crane: So the 8,400 square feet as part of your conditions, does that represent the other eight portables, or does that include the four?

White: Chair Scholz, Commissioner Crane, the request is for 8,400 combined square feet. The actual portables have 12,200 square feet. What we're looking at this evening is for 8,400 square feet or eight portable buildings.

Crane: Thank you.

Scholz: Commissioner Shipley, you have a questioning look on your face.

Shipley: The eight portables are 8,400 square feet is the way I understood it?

White: Chair Scholz, Commissioner Shipley that is correct.

Shipley: Okay.

Scholz: Okay, other questions gentlemen? Okay, I have a couple of them. Are we asking for two variances here?

White: No. The only variance for consideration this evening is going to be with respect to the right-of-way width of 50 to 55-feet parallel Miranda Street.

Scholz: Okay.

White: Okay. Let me put it in other terms.

Scholz: Please.

White: The 2001 Zoning Code requires a school to have a minimum of 85-feet or collector status roadway.

Scholz: Right.

White: Based upon the current designation of the roadway only having 50 to 55-feet, the variance is for the additional 35-feet of right-of-way which is required upon the conditional section of the code.

Scholz: Yes, I understand that. But it seems to me they're also asking for a variance to add 8,400 square feet of portable buildings.

White: No. Chair Scholz, the best way to answer the question is that it's a permissible right in the R-1a Zoning District schools. So in theory what transpires is if the P&Z Commission grants a variance for the additional right-of-way requirement, then it is approved based upon the Zoning District of the property. The portables only become in question based upon the right-of-way. So the variance we're hearing this evening is, is there substantial right-of-way for the expansion? The variance is for the right-of-way and not the actual school portable buildings themselves.

Scholz: But you told us a few minutes ago that they were only allowed a one-time 10% expansion. And they've already done that.

White: No, they have not.

Scholz: They haven't. Okay.

White: No.

Scholz: But that would be four portables.

White: Chair Scholz what's transpired is that when you look in the 1981 Zoning Code we have various Zoning Codes applied. The 1981 Zoning required a special use permit. So when those SUPs are granted those buildings that are on the property at that time were in compliance with the zoning. When we adopted the 2001 Zoning Code, there has not been activity since the 2001 Zoning Code until they put 12 portable buildings on the property currently. So based upon that, it is a onetime expansion from the 2001 Zoning Code.

Scholz: Well, I'm still puzzled because the one time expansion is 10% of the existing property which would be, what, 3,900 square feet.

White: That is correct. What's transpired is they're limited to 3,900 square feet. So what actually occurred is that they were permitted four of the buildings which did not exceed the 3,900 square foot combined.

Scholz: Right.

White: So that we issued four building permits for a combined area of roughly 3,200 square feet. Any additional buildings that exceeded that had to go through the variance process regarding the right-of-way criteria.

Scholz: Okay. Commissioner Shipley.

Shipley: So I agree, what's happened here is there's 8,400 square feet that's not on a variance. You can't give them building permits for that until it comes back and we approve a variance on that, because they have ... theoretically if you've issued them building permits for four buildings, they've used their 10% right-of-way under the 2001 code. So anything that goes into ... so they still are lacking a variance for additional buildings on that property the way I see.

White: Commissioner Scholz, Commissioner Shipley, that is correct.

Shipley: Okay.

Scholz: Okay, my second question was, does the placement of the portables cut down on the parking? You said they were placed in the parking lot in the lower like, what is it southwest corner of the property? Because as I read the packet, there was some concern about total parking spaces there.

White: This aerial's actually pretty accurate with the exception of the portable buildings currently on the property. The portable buildings are going in this area here. It's a dirt area and has not been improved.

Scholz: Okay.

White: In respect to the parking criteria that I evaluated in the actual packet, we're speaking about the number of parking stalls required for a high school. And based upon the criteria in the actual packet I believe it is in compliance for the actual school site and/or the religious institution so long as activities don't occur simultaneously.

Scholz: Okay. So we're talking about the parking lot that's north of the building and one south of the building.

White: That is true.

Scholz: So the land behind the buildings is not used for parking.

White: That is correct.

Scholz: Okay. You said there was an easement there, is that a road?

White: Parking lot one is located here with 65 parking stalls. Parking lot two is located here. There is an easement located right in this area here. It's actually a private easement. There's a driveway that's actually been placed in by the Las Cruces Catholic Schools located here. You can kind of see it; it winds around here and it kind of winds out to roughly the Armijo Lateral location.

Scholz: And that's not part of the parking?

White: No. It's an easement to actually access the rear portion of the property.

Scholz: My final question was, are the MPO traffic counts that you gave us; 2000 to 2005, is there nothing more current there?

White: There is. There has been a Traffic Impact Analysis done by both the applicant and also been evaluated by Dan Soriano, the City Traffic Engineer. And they will discuss those issues and those findings in those traffic studies later because it went further than what we had here. Those traffic studies also evaluated the local street segments in there such as N. Miranda, Palmer, Ethel, and some of these local roadways that are not identified within these traffic counts here from between 2000 and 2005.

Scholz: And what were the counts you gave us, is that per day? Is that trips per day?

White: That is correct.

Scholz: Thank you. Okay, may we hear from the applicant please?

Crane: Mr. Chairman, if I may?

Scholz: I'm sorry, another question. Commissioner Crane.

Crane: At present, let's back up, before the four portables question was brought up, the four that they are permitted we think under this 10% expansion, what was the status of the school with respect to the fact that the school is

required to be on an 85-foot right-of-way and it is in fact on a 55, is that ... could they have maintained that status indefinitely without interference?

White: Chair Scholz, Commissioner Crane, the answer is yes they could have. What triggered this variance is the expansion of 8,400 square feet.

Crane: All right. And so they require a variance even if they don't get the 8,000 square feet that you've put in. Why has the City added the 8,000 square feet as a condition or as I think a limit, isn't it?

White: Commissioner Scholz, Commissioner Crane I think the best way to answer this question is, the school is currently in compliance. If there was no planned expansion of the property, there are no requirements for any kind of variance, they have been permitted through the SUP process and everything is actually legal as of today. What is triggering the variance is the addition of the 8,400 square feet. So based upon the expansion or the planned expansion of 8,400 square feet, it is triggering a variance of a right-of-way based upon the 2001 Zoning Code that stipulates the hierarchy of roads and what the right-of-way requirements are for N. Miranda Street. So if there was no planned expansion, status quo, there is no requirement for a variance or any other application to be submitted to the City of Las Cruces.

Crane: No expansion beyond the four.

White: That is correct.

Crane: Okay. So the key issue here is whether N. Miranda can handle the traffic that will be generated by this expansion.

White: Chair Scholz, Commissioner Crane, that's one of the questions that needs to be addressed this evening.

Crane: Thank you.

Scholz: Commissioner Shipley.

Shipley: Mr. White is there any means to increase the size of Miranda Street to 85-feet, and if so can you show me where that would take place?

White: Chair Scholz, Commissioner Shipley, I will defer that question to our City Traffic Engineer.

Scholz: Okay. Could we hear from the City Traffic Engineer?

Soriano: Good evening Commissioners. Dan Soriano, Traffic Engineer for the City of Las Cruces. If I understand the question you're asking Commissioner Shipley whether there is a need to expand or there are plans to?

Shipley: No. I'm curious is can that street be expanded to meet a thoroughfare requirement that's required for all schools?

Soriano: Mr. Chair, Commissioner Shipley, that would probably require a considerable amount of property take since we're at about 55 I believe foot right-of-way now, we're looking at additional 30-feet. I know along the west side we have the apartment complex south of the church, and so they're built pretty much up to the right-of-way. So without considerable right-of-way property takes, would that happen? Now, Miranda's not considered a collector on the MPO Thoroughfare Plan. It's simply a local street. So it fits those parameters as far as existing right-of-way. But to answer your question, I mean it would certainly take a considerable amount of right-of-way acquisition to have that accomplished. No plans for that to happen.

Scholz: Okay, another question.

Shipley: Yes, my question would be; nowhere in this packet did we see ... you know it says that at some places it's 50 to 55-feet. So we don't know what we're talking about here. We're doing this you know kind of what I call off the cuff which I don't like to do. So what I'm trying to visualize is, I'm thinking about the safety of the children that are there. I'm thinking about the fire department, the police department, other people that live in that neighborhood and how they're going to be impacted if at a critical time such as drop off in the morning or evening, if there were to be someone with a heart attack or a fire, how would these people be able to respond. Would they be able to protect the children in the school as well as the residents of the neighborhood? So that's why I asked the question about could this street be enlarged to meet the requirements that the code has? And so I don't know if there is only one section of the street that's 50 or 55 feet and it might be you know two houses wide or whatever and the rest of the street is larger. What does the street actually look like?

Soriano: Mr. Chair, Commissioner Shipley, to be honest with you I don't know exactly where those right-of-way changes are at, but the Traffic Impact Analysis that was prepared by the engineer on behalf of the school did demonstrate that this roadway would work sufficiently, level service A actually, which is the best level of service possible, during the peak critical times. So that implies that you should have very reasonable access, very few delays, maneuvering through existing traffic should be reasonable. This is a typical school area; it gets busy for about 15, 20 minutes and then disappears. That's typically how the typical day works. At time of the

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

Shipley: Thank you.

Scholz: Commissioner Crane.

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

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

Crane: Thank you.

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

Soriano: Mr. Chair, if you look to the ... I'm not sure how much of the report you have, but the report I have has some raw data tables.

Scholz: No, we don't have any raw data tables.

Soriano: Okay.

Scholz: All we have is, as I said, we have an interesting history, and then a conclusion and I wouldn't call those findings which is what we like to base our decisions on.

Soriano: Obviously, sir you have a different report than what I have. My report has raw data ...

Scholz: Did any of you get raw data in your report, gentlemen? No, I didn't think so. Well I'd certainly like to see that and I'm sure people in the audience would like to see that as well.

Soriano: Again, we'd like to defer to the consultant that did the majority of the work on the traffic report.

Scholz: Is this Mr. Paz?

Soriano: Yes.

Scholz: Mr. Paz, yes I have a number of questions for you. Please come to the microphone.

Paz: Mr. Chairman, members of the Commission.

Scholz: Excuse me. Mr. Paz, are you a traffic engineer?

Paz: I am a traffic engineer.

Scholz: Okay.

Paz: Registered professional engineer.

Scholz: Yes, I saw that. Okay. Thank you.

Paz: In New Mexico. I am a vice president of Molzen-Corbin and Associates Consultant firm, and a father of two children. So yes, and your question Mr. Chairman?

Scholz: Well my question is, this is not a traffic analysis. What this is, is a report on you know, on attendance at the site. In fact, it doesn't even give us

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

Scholz: No, go straight through.

Clifton: From the beginning, sir?

Scholz: Please.

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

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

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

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

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

A little bit of the school history just to give the Commission a background of why we're here tonight and what's going on with the school. Originally 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 3rd, 1927. The first eighth grade class graduated of eight students in 1933. By 1958 there were 300 students attending what was called Holy Cross School. Immaculate Heart of Mary School was founded in 1957 partially to relieve the overcrowding that was at the St. Genevieve's school or Holy Cross School. In 1962, Holy Cross School moved to its new and present facility on N. Miranda. That was 1962. We've been operating at that location for over 40 years. Las Cruces Catholic School has been operating for 47 years. And in 2001, a single board of directors was created and Immaculate Heart students were all moved over to Holy Cross. Primarily because the facilities at Immaculate were in fact dilapidated and it was just a safer environment for the students to be educated in.

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

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

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

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

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

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

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

Trujillo: Yes.

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

Trujillo: Right. So if you notice here, it's 447 for the last year that they're present and then if you look at maximum capacity for elementary or preschool, excuse me up to eighth grade, then it would be 432.

Crane: Yeah I missed that. Okay, so looking at it numerically right now you have about 300 students.

Trujillo: Yes, sir.

Crane: Ten years out you will have about 400.

Trujillo: Yes, sir.

Crane: The question if it's solely traffic, comes down to can Miranda reasonably accommodate another one-third increase in traffic at peak hours of the day assuming one car per student or whatever?

Trujillo: And what we're going to do, I think that'll be addressed in the traffic study. The other thing to realize is that of our 11 students that are registered for next year, six of them are sibling pairs, who their parents would be going to the school site anyway because they have younger brothers and sisters that are either in middle or elementary school. So just because we add high school students doesn't necessarily mean you're adding to the traffic because we do have multiple families that have multiple children.

Crane: Thank you.

Scholz: Other questions for this woman? No? Okay.

Clifton: Okay, if I may continue, then we'll jump right into traffic. I should be brief. Again, this is a variance as outlined in Article II, Section 38-2 in the 2001 Zoning Code. And I believe ... you know a lot of times I've been to many P&Z meetings where you hear variance cases that they don't necessarily have a physical hardship. It might be they built a porch too close to the setback and didn't realize they need a building permit, a multitude of situations. But in this situation, we truly have a legitimate physical hardship in that our school was located at this site and has been located at this site for over 47 years, well prior to any of the zoning codes that were in place today that now require schools to be on collector status roadways. So, essentially that is the physical hardship. That's why we're asking for a variance to the right-of-way of 35 feet. And as our traffic engineer will point out, he can demonstrate that even assuming at 150% build out which will never happen. It'll never happen, but that's a worst case scenario, that it still can maintain a level of service of A along this roadway. And I'll let our engineer get involved in that because I'm not a licensed PE. With that said, variance details include, as stated, the Las

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

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

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

Scholz: Before you leave Mr. Clifton. Questions for this gentleman? Yes, Commissioner Crane.

Crane: Can you back up a page please? And another page. I don't understand your third bullet. Numerical deviation to the Zoning Code regarding the right-of-way width constitutes a physical hardship. I don't understand the beginning of that, let alone the end.

Clifton: Well essentially what I'm trying to point out there is that the physical hardship is the right-of-way width. Physically you cannot get 35 additional feet in there unless there were severe right-of-way takes or imminent domain initiated by the City of Las Cruces. So the existing right-of-way width is the physical constraint or the physical hardship.

Crane: Okay. Thank you.

Scholz: Commissioner Shipley.

Shipley: I would just say that I kind of disagree with that in light of the code, is the rules by which we build a city by, and the code is what we're talking about here. Whenever the code changes, there is a certain period of time that everybody that's affected by that code has an opportunity to come up to code or to create ... request a variance or do that kind of thing. And because this code has been in effect since 2001, which are eight plus years, that code's been there that way. So I don't see it as a physical hardship. It may be a personal hardship to you and your organization, but it's not a physical hardship as such. The code is the code and that's what we ... and that was developed. There were public meetings held and it was what we run the City by. And you know that's just like rules that you have in your school that say you line up at a certain time, you walk in a certain way, you conduct yourself, that's what we deal with here, and that's what we're doing.

The reason I asked about the existing right-of-way is because if it were relatively easy to increase the size of the street to do this, that would take away a part of the problem. What we're really concerned about is not necessarily because it's 50 or 55-feet, we're concerned about safety for the people that are going to be there; the children in the school, the people that work in the school, the residents that are there. I mean if one of your neighbors has a heart attack and the ambulance can't get there to get them and they die because of that, that's something that we have to look at. And we don't take that lightly, and that's what we're trying to say. So, I just want you to fully understand, we want you to do with your property what you should be able to do, but the code is written so that it says that at 8,400 feet, if you add another 8,400 feet you have to get a variance. That's not your choice. That's what the code says and that's what you

have to follow. And that's ... you know we can't just turn our back on that and say, no we don't agree with that. So, that's kind of where we're at.

Scholz: I had one question for you. Your principal said that the movement of the high school would be triggered by about 45 student enrollment and you said about 60. Are we talking about a window here?

Trujillo: (SPEAKING, NOT AT PODIUM).

Scholz: Would you speak into the microphone please?

Trujillo: We look at the difference between right here ...

Scholz: Directly to the microphone. There we go.

Trujillo: We have 45 students, that's the last year that they would be on site. The following year that would go up to 55 students. So that's where the difference is.

Scholz: Okay.

Trujillo: So the very last year we're looking at probably hopefully having 45 students and 50 is generally when we did our financial analysis, 50 seemed to be the operating number where they could be self sufficient.

Scholz: The trigger. Yeah. Okay. Thank you very much. That clears it up.

Clifton: Mr. Chair, Commissioner Shipley, I certainly appreciate your comments and I can appreciate the difficult position you have every once a month making a decision here in front of a crowd like this. But you know unfortunately this is a unique situation where we've been here for very, very, very long time, well before you know these ideas were thought out, when the codes were originally written, and you know the fact of the matter is the school's here, the school's going to stay here. We've always been here. You know the number of students is going to fluctuate over time, but you know the high school's been in operation. Nothing is essentially going to change. You know I think there was a big fear several months ago when the neighbors heard high school. Well it's not like Las Cruces High were you've got over 1,000 students and a graduating senior high class of 500, it by no means is that big. We're a small endeavor just trying to make a difference in the community. Thank you.

Scholz: Okay and you're going to bring back your traffic engineer?

Clifton: Yes, sir.

Scholz: Okay.

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

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

Shipley: That'd be a left turn?

Paz: Yes, it was a left turn.

Shipley: Thank you.

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

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

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

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

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

Paz: Again, we have it all in the report. All the a.m., p.m. peaks and the Sunday peaks in the report. But we were showing the worst case scenarios of all of those intersections. And so on Ethel it just happened to be the Sunday traffic was the worst, much worse than the a.m. or p.m. peak. But for the a.m. traffic, it was operating at a level of service A and then also for the p.m. peak, for the 2029 project it was operating on a level of service B.

Crane: So ...

Paz: So every other alternative or scenario a.m., p.m. peak for any of the other intersections is less than what you see here.

Crane: To get the 2029 you simply extrapolated with both the rate you're expecting, right?

Paz: Correct. And again, I think that was above and beyond the trip generation that's normally done, because we had actual student data and actual population data that we could growth out.

Crane: Yeah. I appreciate that. So, turning ... the worst case at Palmer and Miranda was the west bound making a left turn down Miranda was 62 ...

Paz: Current traffic, yes.

Crane: An hour. Average of one a minute.

Paz: In one hour.

Crane: What is it if you take a smaller time right at the peak, could you give a scientific wild ass guess?

Paz: We have the traffic counters with us today and also ... but I have the raw data in my portfolio, but if you look at about a third of them, half of them ...

AUDIENCE MEMBER SPEAKING, NOT AT PODIUM.

Trujillo: The worst count at that intersection between 7:45 and 8:00 was 36 cars.

Crane: Okay, so ...

Trujillo: That was at its worse peak in the morning.

Crane: So it's a rate of about 2 a minute. Thank you.

Trujillo: At that ... for that 10, for that 15-minute time span, yes sir.

Crane: Thank you.

Scholz: Okay, other questions. Commissioner Beard.

Beard: None of these streets are ... have no parking on them?

Paz: Within the last two weeks the City of Las Cruces painted the east side of Miranda Street with some yellow no parking zones. And that had been discussed at the neighborhood meetings and the City was very proactive in doing that and the school and church supported that activity. In fact, some of our recommendations also went further as to limit the time duration like to 15 minutes in front of the school to also perhaps improve the situation on Miranda.

Beard: Like on Palmer, do residents park on both sides of that street?

Paz: Yes. Residents park on both sides of Ethel, Palmer, and Miranda at certain times. You don't find parking on either side of Parker Street that frequent, and probably because it's a little busier and you know just for the safety of their vehicles on their driveway.

Scholz: Okay, other questions? I just had one, the parking that you mentioned, the parking restriction you mentioned is just opposite the school, isn't it? It's not the full length of Miranda?

Paz: Correct. Fronting the school.

Scholz: Right. How long a piece is that, what about 200 feet?

Paz: About 200 to 250 feet, just in front of the school.

Scholz: All right. Any other questions for the traffic engineer?

Shipley: Mr. Chair.

Scholz: Commissioner Shipley.

Shipley: I guess the question I have, what is the total traffic at the three intersections? You know in other words feeding the school per day? We look at trips. In other words, how many people go into the school during a day, not just in a one-hour period, but you know do you have 500 trips a day, or 600 trips a day?

Paz: I think when you look at the total number of trips is probably 500 to 600.

Shipley: Can you go back and look at your report and add your numbers up and tell me what that is?

Paz: We didn't, except for the intersection of Ethel; we didn't look at trips directly into the driveways that service the school. If you look at the aerial photograph, the church has the larger parking lot on the south, and the school has the smaller parking lot on the north. And what we found is that the church operationally ... well the church does not operate during school hours. Churches are usually operating in the evening or on the weekends. School is not in session during church hours, so when you look at the aerial photograph it shows very few cars in the parking lot, it's because they're very complimentary uses. They're never concurrently going on at the same time, with the exception of the funeral once a year of some prominent catholic or something that would occur during the school hours a mass service that would generate some traffic, but those are not ... you know even the ITE manuals don't require that you look at anomalies that occur.

Shipley: There would be teacher/parent meetings in the evenings too, wouldn't there?

Paz: There are close to 60 ministries that occur at the church, so there's boy scouts, there's squire groups, there's you know three, four choirs for the various masses that are occurring. There are some in Spanish. There are prayer meetings. There are liturgy meetings. There are bible studies. So there are parent/teacher conferences. There are boy scouts, girl scouts, so it's a very robust community that is existing at that site. But what we found and that's why we went to the extent of counting beyond the standard hours that the City requires, because we wanted to document that very existence. There is bingo, Monday's and Tuesday's. There is religious education on Wednesday's. There's scout night on Thursday nights. So there are again a lot of activities that are going on. Generally, Friday is the only time that Catholics take off.

Scholz: I did have one more question. Does the majority of traffic that comes to the school and the church site come from Alameda? Because you are documenting most of those intersections excepting Parker which goes all the way through.

Paz: The majority of counts were coming from both Parker and Alameda were about consistent in their usage, although Parker did digress to a level of service B, but there were a number of cars that came from Alameda. I would say most of the traffic originates from the Alameda side versus the Valley Drive.

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

TEN MINUTE RECESS.

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

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

Scholz: Yes, please give us your name.

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

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

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

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

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

Dennis: Thank you.

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

Thornberry: Oh, she still has 15 seconds.

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

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

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

Scholz: Thank you. Yes, sir.

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

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

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

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

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

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

more children and more traffic whether it's by a church expansion of 36, or 30% or by a school expansion of several hundred children, how can we pretend that that does not add to traffic and the situation worse. Thank you.

Scholz: Okay.

Crane: Mr. Chairman.

Scholz: Yes.

Crane: May I ask this person a question?

Scholz: Yes, you can.

Crane: You took these photographs ma'am?

Woody: The neighborhood people and I took these photographs.

Crane: Can you identify the time of day, day of the week, and what streets we're looking at?

Woody: Yes, this first one that you're looking at is on a Sunday and it is from the direct corner of Ethel and Miranda. In the front you see that there is, at the bottom there is white striping which is going across, the school is on the right and the west side is on the left. Oh, I apologize. It is the flea market.

Crane: All these are the flea market?

Woody: Saturday.

Crane: All these are taken of the flea market occasion, right?

Woody: No.

Crane: Yes or no?

SOMEONE IN THE AUDIENCE SPEAKING, NOT AT PODIUM.

Scholz: Okay. Thank you. Does that answer your question Mr. Crane?

Crane: More or less, yes, thank you.

Scholz: Thank you very much. Thank you ma'am. The gentleman with the red shirt.

Woody: Thank you.

Avery: My name is Harry Avery. I live next to Holy Cross Church at 1155 N. Miranda. Everybody supports the fire department, but nobody wants a fire station right in the middle of their residential neighborhood because it's the wrong place for it. And our neighborhood is the wrong place for anything that's going to create more traffic and more noise. And there are a lot of both. About three or four months ago, the church had a biker funeral; we had 35 or 40 motorcycles all through our neighborhood up there. Sometimes the school or the church have a musical event and sometimes we can hear the music from that about a block away. So it also gets pretty noisy. Some cars speed up and down Miranda Street because there are no speed bumps. Some of the cars have stereos in them. Some cars have no mufflers. So it does get pretty noisy. So the last thing we need in our neighborhood is anything that's going to create more noise and more traffic. It lowers the property values and it lowers the quality of life for all the people in that neighborhood. And while I've heard a lot of talk about hardship here, I haven't heard any talk about the hardship for the people that live in the neighborhood. And these are the people that are affected by this, that live there 24 hours a day, seven days a week. So maybe that issue should be addressed. And I would suggest if you people are not familiar with our neighborhood, maybe you should spend a little time up there and see for yourself what the streets are like, how wide they are. There's no point in widening Miranda Street unless you also want to widen Parker Road and Palmer Street because they would have to be widened in addition, because they're just as narrow, if not narrower. Thank you.

Scholz: Thank you sir. Yes, this woman down here.

Copeland: Good evening. My name is Melissa Copeland. I live at 455 W. Ethel Avenue. I am just about directly across the street from Julie Woody and from Holy Cross School and Church. And my navigating the space from my chair to this podium is sort of analogous to my getting home some times. I've lived in my home for 21 years, and traffic has always been an issue at sometimes during the day where I live. It's not ... it's always been tolerable before and after school. The one time that it has always been a problem has been if I should happen to be on my way home when church is over and then God have mercy on me if I'm trying to pull into my driveway and people are leaving church because they're in a hurry. But it's always been something that I could live with. But over time as they added the middle school, and there became more traffic, then the parking does become an issue. And lately it's been so bad, like the pictures that you saw a few minutes ago, and it isn't just when there's a flea market. I have many, many times seen Miranda Street like it did in those pictures that Julie Woody showed you. Traffic is essentially one way on Miranda

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

Scholz: Okay.

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

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

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

Scholz: Thank you very much. Question from Commissioner Beard.

Beard: You say you want the church to be a good neighbor for you. What do you recommend the church do?

Avalos: Well, when they first built that building they anticipated so many students, and then it got bigger, so they built more. And it got bigger. They're building again because they're anticipating more students. Maybe they find a different facility. Maybe make this just the elementary school site. I mean, there's only so much land there. And there's only so big that you can stretch your boundaries.

Beard: Okay.

Avalos: I just feel like they're stepping on our side of the road now, and that's unfortunate.

Scholz: Thank you. Gentleman in the green shirt.

Rodriguez: My name is Sara Rodriguez. I am going to be in the second grade. I have been at Holy Cross for four years. My brother will be in preschool next year. He needs a classroom so he can learn too. I need to have a classroom for my music class. I love my music. Please allow my school to have more classrooms. Thank you very much.

Rodriguez: Thank you Commissioners (PARENT OF SARA RODRIGUEZ).

Scholz: Thank you. Okay, gentleman in the back with the beard.

Gendal: Mr. Chairman, Commission, my name is Greg Gendal. I live at 1107 N. Reymond Street. I have property on Parker. I also have properties on Miranda Street. You have I believe I forwarded an e-mail to Mr. White so I'm sure you have a copy of that or I would hope that you have a copy of that in my packet. I'm not going to go over those issues. We are inundated by parents bringing their children to school. I'm not against the Holy Cross school. I'm not against the elementary school. And I'm not against the church. I'm not against Alameda school. What I'm against is mother's in SUV's speeding up and down our streets, hitting speed bumps on Parker with no concern for the people that live there. We have had a total of six mirrors ripped off of pickups on our street by people driving through those streets. I want to ... since this is a traffic issue; I want to just talk about the traffic solely. With all due respect to Mr. Soriano, I think 10 minutes is not even remotely realistic about the impact on that neighborhood in the morning and in the afternoon. If all of those cars can get in and out of there in 10 minutes, I would like Mr. Soriano to take me by the hand and show me the day it's done. Secondly, we're talking about

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

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

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

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

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

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

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

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

Scholz: Okay.

Rupert: Thank you.

Scholz: Your time is up. Thank you. Yes, woman in the back.

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

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

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

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

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

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

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

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

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

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

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

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

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

Schneider: Quite an arm workout back there.

Scholz: There you go.

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

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

Scholz: Okay. Thank you.

AUDIENCE MEMBER SPEAKING, NOT AT PODIUM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Scholz: Excuse me, the church supports the what?

Montalimo: The neighborhood.

Scholz: Okay.

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

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

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

Scholz: Excuse me. Mr. Murphy, you're going to have to speak closer to the microphone.

Murphy: There are people who travel east or west on Picacho and turn to get to Parker they go through Reymond Street or Armijo Street. So I just ask that you consider that too. There was no traffic investigation of the traffic on the corners of Armijo and Parker, or Reymond and Parker. And I also ask that you ... the traffic report you got, or the one that we've heard tonight, the fullest one, was provided by an engineer hired by the church. And you didn't seem to get the report done by the City, so I ask that you go over the report that was done by the City before you vote. Thank you.

Scholz: Thank you. Okay, new information sir?

Anderson: Monsignor John Anderson. I'm the pastor of Holy Cross Catholic Church and have been for the past 25 years. New information, I confess here as I did at the public meeting a few weeks ago that we are not good neighbors. We could improve. We will improve. That's a commitment I make publically for as long as the Bishop allows me to serve there in the parish. We recognize we could do better. For your safety's sake, know that the vehicles such as the ambulance and the fire trucks can make it down those streets under any circumstances. And I can site you the year and the Christmas, and the Easter masses when we have been filled to the max and those skillful drivers do make it onto the property and do take the person from the church. And it happens nearly every Christmas and every Easter, when we're filled with a maximum of 2,000 people. The exceptions are not the rule. Thank you.

Scholz: Thank you. Okay, new information ma'am? Yes, the one who is looking directly at me.

Molina: My name is Helen Molina. And we own property on Reymond and we did sell a home on Palmer. And Palmer is no different today than it was 5, 10, 20 years ago. The street was narrow. People parked on both sides of the street. The traffic was pretty much the same. The only difference is that now there are a lot of new residents on Palmer and they have not grown up with the church. As far as Reymond, I disagree with the gentleman that said he owned property on Reymond and that the suburbans were rushing around. Reymond does not open up to Miranda and Reymond does not open up to Ethel between Miranda and Alameda. A lot of that traffic that some of these residents, especially a lot of your newer ones in the area are complaining about, are not necessarily traffic due to Holy Cross Church or School. It's due to other schools. A lot of Mayfield traffic, a lot of other traffic going around. It's not necessarily school traffic. And

we have been in the area since 1962, so we've seen it all and we're still there. Thank you.

Scholz: Thank you. Okay, yes, the lady with the orange shirt, orange top there. New information you're going to give us?

Ledesma: I just want to state a fact. Usually I'm running late to pick up my child.

Scholz: Yes, would you identify yourself, please.

Ledesma: My name is Lorenza Ledesma. And I live near Zia Middle School, so I have to drive my child to school. And what I'm saying ... most parents, it's been my observation that they usually park to pick up their kids after school about maybe the most 10 minutes before school ends at 3:00. And by the time I ... I'm always running late, so by the time I get there about 3:10 to 3:17 p.m. there's hardly any traffic. Everybody's picked up their kids. In fact, I know that by 3:05 most of the cars are gone. Thank you.

Scholz: Thank you very much. Okay, you have new information ma'am? In the green shirt, new information? Okay.

Polacios: I didn't want to speak, but I've just been listening. My name's Rita Polacios. I'm an EA at Las Cruces Catholic School for about four years now. And I just want to give you guys kind of a roundabout ... a lot of these families have more than one kid. The Solar's for instance right here, they have six kids going to that school. Nolan's family right here has three kids going to that school. Dr. Trujillo, our principal, has three children going to that school. Our music teacher Ms. Kolosseus has three children going to that school. Mr. Drake over here has three children going to that school. Who else have I left out here? They have three kids going to that school.

Scholz: Okay, and your point is?

Polacios: My point is, is it's not 400 cars going into the parking lot. You've got these families that are dropping off three, four, six kids at one time and picking them up at one time. So it's not a matter of 400 kids or 300 kids and 300 cars. Thank you.

Scholz: Okay, thank you very much. Okay, I'm going to call a stop to the public participation. I think we've heard probably every point of view and every fact or factoid that could be given to us, and so I'm going to close this to public participation. And gentlemen, what is your pleasure?

Shipley: Mr. Chairman, if I may?

Scholz: Yes, Commissioner Shipley.

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

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

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

some of your parents I would think it would be time to get them home and get them ready for bed because they've got a school day tomorrow.

Scholz: No, school ended. Commissioner Shipley, school ended last week on Wednesday.

Shipley: Okay. Well you can see that I don't have any kids in school. But, the thing that I'm really concerned about is number one, we don't want to make a decision using partial information and information that may not ... that we may not either understand or may be skewed. So, I think that this is a subject that we need to get all the details and the facts together and be presented to us.

Scholz: You're suggesting that we need this traffic report in our packet?

Shipley: Absolutely.

Scholz: Yes, with all the details. Yes, I would certainly second that. Commissioner Crane, your thoughts.

Crane: I find this a rather difficult issue. First, I think we have the privilege up here of looking at this much more narrowly than most of the people who've given their views are looking at it. We are confined to this issue of whether the school should be allowed to increase the size of its total classroom area in view of the fact that it's not situated on an 85-foot right-of-way. I'm sure I can speak for the other Commissioners, certainly for myself when I say that I'm not the least upset at the plans to expand the school or church. I'm as interested in quality education as anybody. My children went, I have difficulty at this point in saying how many years they spent at private and how many years at catholic school and how many years at episcopal schools, but they went to a mix. The 85-foot question which is what we have to address, is established, I imagine, the 85-foot requirement for the road is a matter of safety and good traffic flow. The matter of what happens on Sunday's and on other occasions when there's not a regularly scheduled meeting at the school, doesn't even come before us. Nobody has made any complaint here about the impact on local traffic of the proposed expansion or hopeful expansion of the church parish, for good reason, because that's not before this Commission.

To me the question is one of whether the predicted expansion of the school is going to make an intolerable impact on traffic on Miranda Street and the surrounding streets. And my inclination at the moment in the absence of the data that Mr. Shipley is looking for, is that it probably can be tolerated, but of course I don't live in that neighborhood.

Scholz: Commissioner Beard, your thoughts.

Beard: If they weren't adding the nine portables, we wouldn't be here tonight, right?

Scholz: That's right.

Beard: And the school would grow, the church would grow, and we wouldn't have an issue. It's only being brought to light and we're getting concerned about possible expansion of the school, which it's going to happen. All they're asking for is for space. They're not asking for a big growth. So I'm wondering that what they're asking for isn't reasonable. If the church can work out some other possible things, I was thinking of carpooling. I don't know if there are other ways that the church can work in reducing the traffic jam so that the neighbors are not impacted. And I would think that if we put some good minds to the effort that we could actually solve that, or make the problem a little bit better. So to me it's ... if they're not putting in the more portables, then they wouldn't be here and they would be increasing ... they would be doing exactly what they're doing right now. I really don't see the issue to tell you the truth. I mean there is an issue, but it's only being brought to light because they want more space.

Scholz: Well, I'd really like to see those traffic documents and I think we were kind of blindsided by that information. When I read the description in the packet, I came to the conclusion it wasn't a traffic analysis at all and in fact it wasn't. It was sort of a preface to the traffic analysis. I'd like to see those counts. I saw things on the screen and I'm sure they've made some impact, but I'd really like to see the documents. And so I would ask for a motion to postpone this until the June 23rd meeting to make a decision on this.

White: Chair Scholz, can I interrupt briefly?

Scholz: Yes, Mr. White.

White: Clarification purposes. I think the first thing we evaluate in a Traffic Impact Analysis, usually in P&Z packets we put in the conclusion or some exerts. Usually the raw data, we usually allow that to ... this Traffic Impact Analysis was actually conducted by the Las Cruces Catholic Schools. It was reviewed by Dan Soriano. And what we usually bring forward to the P&Z Commission would be the recommendations from the City Traffic Engineer, approval or denial. And then we'd also bring him in to do some testimony regarding the actual application.

Scholz: Mr. White, if I can interrupt you. I understand your point of view and I understand why you perhaps eliminated some of those things or left some of those things out from the packet, my concern is that every Traffic Analysis I've seen from the City says oh there's no problem. I recall the

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

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

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

Scholz: Well I think that's an excellent idea Mr. Soriano and I would like to see that happen in the next month or so. Do you think that's possible?

Soriano: Mr. Chair, yes sir, absolutely. We've talked to Ms. Dennis, she's one of our ... kind of been our key people with the residential side of the neighborhood and we can certainly start talking, and we've talked to Monsignor about some involvement there. We will be probably looking at Mr. Clifton from the school to help us with this. We really have our key people in place and we can certainly start talking during the summer time in preparation for the school start in August or September, whenever it might start. Back on the data that you were mentioning, we did ... we at the City did in fact do some spot counts with hoses basically to get a total count and that was basically our check of the data that we were getting from the ... in the TIA. We scrutinize these reports. We make sure that there's some validation to this information that we receive. So as Mr. Paz is preparing his part of the report, we were doing traffic counts on the streets to make sure there was some cross check here. We found that in most cases it was really close correlation to what the traffic he was picking up and the traffic we were picking up, and that's why we felt comfortable with the reporting that he was giving us in the report. And we'd be happy to pass that on to the Commission and let you look at that.

Scholz: Thank you. I'd really like to see that. Okay, some other comments gentlemen? Commissioner Crane.

Crane: Personally, I feel ready to vote on the variance but if my fellow Commissioners want more data that would not be a good idea to say no they shan't have it. So I personally wouldn't be upset to know some more details about the traffic, forget Sunday, just the school traffic, peak morning, peak afternoon at Ethel and Miranda. What's coming out of the parking lot, what's going into the parking lot, which way is the traffic coming in from and which way is it going out? By the minute might be a little bit of a challenge, but by 5 minute increments, if that could be provided for our next meeting I would be prepared to see this question postponed.

Scholz: Okay. Commissioner Shipley.

Shipley: So I move to postpone I guess this is Case A1695, and I would move that we postpone it till date certain which is June 23rd.

Scholz: Okay. Is there a second for that?

Crane: Seconded.

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

Shipley: Aye.

Scholz: Commissioner Crane.

Crane: Aye.

Scholz: Commissioner Beard.

Beard: Aye.

Scholz: And the Chair votes aye. So we are postponing our decision on this until the next meeting which will be June 23rd. Yes, Mr. Clifton?

Clifton: Mr. Chairman, members of the Commission, could you please specifically clarify what it is exactly that you're asking us to bring back? Because we can't do counts, school's out.

Shipley: No, we understand that.

Scholz: No. We understand. We'd like the data Mr. Clifton.

Shipley: You've already collected the data.

Clifton: Okay. So what you're asking from us then is just essentially a copy of Mr. Paz' traffic report so that you as Commissioners can study the documentation.

Scholz: Right and Mr. Soriano said he would also give us the verifications from the City's hoses and things like that. And I would ask you to begin working on a traffic committee. Because clearly traffic is the sticking point here. You know the neighbors are very upset. I wrote down most of the arguments of pro and con and basically the people who supported this said, you know we support the church, we support the school, we would like to see it grow, we need the additional space. The people who were against it said, you know they're parking in front of my house, there's too much traffic, you know I can't drive down the street, you know that's the sort of thing we were hearing.

Clifton: Okay.

Scholz: So I think this has to be resolved with the neighborhood. And it may not be something you can do by the next time we hear this, but if you make an

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

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

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

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

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

Clifton: Okay, thank you.

Crane: Mr. Chairman.

Scholz: Yes, Mr. Crane.

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

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

Scholz: That'd be great.

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

Scholz: That'd be very helpful.

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

White: Yes, I do.

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

White: Yes.

Shipley: Okay, I'll come pick it up tomorrow.

White: And then for the general public, what I would do is I will create a .pdf of it and I'll place it on our City web site.

Scholz: Excellent.

Crane: Mr. White if I may?

Scholz: Yes, go ahead.

Crane: (*inaudible*) that's on my little mind in your study, the traffic at that intersection, the parking lot, Miranda and Ethel? It seems that we don't lack macro data, we lack micro data. We don't know what's happening right at the parking lot which seems to me to be the crucial spot.

Scholz: Mr. Paz.

Paz: Mr. Chairman, Commissioner Crane, our Traffic Analysis does have the turning movements into the parking lot on Ethel and Miranda. So I think that as you peruse through the information, you'll find what you need. I will make myself available for this body to review any documentation data, just kind of as background to myself, most, 80% of my work is done for either the City, County, New Mexico Department of Transportation. Most of my clients are governmental clients. I do very little development work. That's not the business that we are in. We do mostly municipal and state work, and our background has always been from a governmental perspective. And if you visit with your Traffic Engineer, I think you'll look at the analysis that we did was above and beyond what City requires and I think you'll find that it was very comprehensive in scope. We did the 15 minute increments because that's what the Institute of Traffic Engineers requires as the standard of measure. And now that school's out that's probably the best data we're going to get. But I would find that to be a very useful bit of information and I will make myself available to you at any time for workshop or any other time to review the data that we collected. But it is not ... it is totally consistent with the engineering standards. And it was reviewed in cohort with the Traffic Engineering Department, the protocol that we set out, we established before we did the counting, and so I felt like you know we took every measure and went above and beyond the City standard to do that. Because, again most of my client ... the City is my biggest ... one of my biggest clients so that's the type of work we do, is municipal and governmental work. So I think you'll find it to ... at high level.

Scholz: Before you go, Commissioner Beard had a question.

Crane: And I do too.

Scholz: And Commissioner Crane. Go ahead.

Beard: Actually, it's not directed to Mr. Paz, but, if the numbers are 1,300 per day, or 1,700 cars per day at a corner, doesn't mean anything to me. What it means is are the residents complaining about the traffic and if the traffic is going to increase, what are we going to do about it? So if we're going to delay the meeting, I think that we ought to have the panel, the residents and the church get together, and the City, to see what we can do to improve the situation. The numbers don't ... are not going to change my mind. I mean they don't mean that much to me.

Shipley: I think that's a good suggestion.

Scholz: Well I think Mr. Soriano said they were ... he was already going to try to facilitate that.

Beard: Because I would like to have some solutions you know. Are we going to make a one-way street? Are we going to only have parking on one side of the street? Are the residents going to be happy with that?

Soriano: Mr. Chair, Commissioner Beard, we really don't have ... we haven't met yet. So we really haven't come up with any concrete solutions. There have been talks about how narrow Palmer is and whether it should be allowed to continue to have two-way traffic. I think from what I've heard the residents are not going to want to do that, just from the initial response I was getting from them when we talked during the meetings. But again, we haven't really got together to really drum up some ideas and solutions. So we certainly want to move to that end. That's the whole reason why we want to form the traffic committee. We understand what the issues are now in this neighborhood a little closer, and so we want to work together and I think if there's just a little bit of coordination from across each side of the street, we can make this work a little better. So that's what we're committed to do operation. Again, aside from what happens in the decision of the variance, we're still going to keep working on traffic issues in this neighborhood.

Scholz: Okay, Mr. Crane you had another comment.

Crane: Yes, Mr. Paz you're presentation was very good and your graphics were excellent and you showed to my mind the key point is what happens at that intersection of the parking lot Ethel and N. Miranda. You showed us

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

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

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

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

Scholz: Yes, our legal Council, sir.

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

Scholz: Yes.

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

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

Shipley: We understand.

Abrams: Just letting you know.

END

Scholz: Thank you Jared. I'll talk to you afterwards.

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

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

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

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

Attachment "C"

SPECIAL MEETING OF PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
June 30, 2009 at 6:00 p.m.

BOARD MEMBERS PRESENT:
Charles Scholz, Chairman
Godfrey Crane, Vice Chair
Donald Bustos, Secretary
Charles Beard, Member
Ray Shipley, Member
Clayton Iserman, Member
Shawn Evans, Member

BOARD MEMBERS ABSENT:

STAFF PRESENT:
Vincent Banegas, Planning and MPO Administrator
Cheryl Rodriguez, Development Services Administrator
Gary Hembree, Senior Planner
James White, Planner
Robert Gonzales, Las Cruces Fire
Jared Abrams, CLC Legal Staff
Dan Soriano, CLC
Becky Eich, Recording Secretary

I. CALL TO ORDER 6:00

Scholz: Good evening and welcome to the Planning and Zoning Commission meeting for June 30, 2009. This by the way is a special meeting. It is substituting for the meeting of the previous Tuesday, which we couldn't carry out because we didn't have a quorum. You're going to say something, Gary.

Hembree: Chairman, Commissioners, this is technically, since we have re-advertised the first item which is Case A1695, it should be reflected as new business and I request that the agenda be reordered accordingly.

Scholz: So worded.

Hembree: In addition, also discuss conflict of interest as well.

Scholz: I will do that before we discuss the particulars of the case.

Hembree: Okay. Thank you.

Scholz: Thank you. Okay, before we start I want to introduce the members of the Commission. On my far right, Commissioner Shipley, he is the mayor's appointee. Next to him is Commissioner Crane, that's District 4, Commissioner Iserman, District 1, Commissioner Evans, District 5, Commissioner Bustos

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

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

Scholz: Commissioner Crane.

Crane: Aye, findings and discussions.

Scholz: Commissioner Iserman.

Iserman: Aye, findings and discussions.

Scholz: Commissioner Evans.

Evans: Aye, findings and discussion.

Scholz: Commissioner Bustos.

Bustos: Aye, findings and discussion.

Scholz: Commissioner Beard.

Beard: Aye, findings and discussions.

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

Start

2. **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 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 portable buildings. The school campus is located on a portion of N. Miranda Street having a varying right-of-way between 50 and 55 feet classified as a local roadway. The subject property is located at 1321 N. Miranda Street on a 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.

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

received any e-mails or communication from any of the parties in this particular application. Commissioner Beard.

Beard: No.

Scholz: Commissioner Bustos.

Bustos: No.

Scholz: Commissioner Evans.

Evans: No.

Scholz: Commissioner Iserman.

Iserman: Just this thing that we got this evening.

Scholz: Well, yes, we all got a copy of that. Right. Commissioner Crane.

Crane: None.

Scholz: And Commissioner Shipley.

Shipley: None.

Scholz: Thank you.

AUDIENCE MEMBER TALKING, NOT AT PODIUM.

Scholz: Excuse me. Ms. Rodriguez.

Rodriguez: Mr. Chairman, I also need to disclose for the record that I need to recuse myself as I am the Administrator for this section that over sees the development application but my daughter also attends Holy Cross.

Scholz: Okay. Good. Yes, ma'am, you are? You'll have to speak to the microphone, please.

Ruprect: My name is Jo Ruprect.

Scholz: Yes, and what is your point of personal privilege?

Ruprect: It is as I understand Robert's Rules of Order it is a point of procedure which takes precedence under Robert's Rules of Order.

Scholz: And what is your point of procedure, ma'am?

Ruprect: Similar to how meetings of the Las Cruces City Council begin, I wish to have each Commissioner state for the record whether the Commissioner does or does not have a personal or professional conflict of interest with regard to Case A1695

that now comes before the Commission and involves Holy Cross School and the Catholic Church.

Scholz: All right, I'll be glad to oblige.

Ruprect: Thank you, sir.

Scholz: Commissioner Shipley.

Shipley: Nay.

Scholz: Commissioner Crane.

Crane: None at all.

Scholz: Commissioner Iserman.

Iserman: Nay.

Scholz: Commissioner Evans.

Evans: Nay.

Scholz: Commissioner Bustos.

Bustos: No.

Scholz: Commissioner Beard.

Beard: Would that include knowing people there?

Scholz: I don't know.

Beard: I know one family that goes there. None other though.

Scholz: Okay. And I would say no for myself.

Ruprect: I must again arise. I arise on a point of information which takes precedence under Robert's Rules of Order. At the past meeting Mr. Iserman was recused by the chair and verbally affirmed that recusal. This is reflected at the top of the minutes from the May 26th meeting that have already been accepted by this Body on page four, lines one through 12. As a point of information I wish to inquire what might have changed in the past month such that the gentleman would no longer possibly be prejudiced in this case?

Scholz: Yes, what has changed is that we're rehearing this case. It's starting from the beginning. So we're starting with what I assume is a clean slate. Okay?

Ruprect: In respect to the Chair though, in that passage on page four, lines one through 12 of the minutes, there is a comment that Mr. Iserman had discussed the case

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Staff recommendation for Case A1695 is approval with conditions. The first condition is: approval of this variance is limited to the additional portable buildings having a combined gross floor area of 8,400. 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. Condition number two: the applicant is required prior to the issuance of a building permit to submit a landscape buffering plan. The plan will be reviewed and possibly administratively approved by Staff. The applicant will be required to create a strong impression of separation. In the event that administrative approval is not granted, the applicant will be required to comply with Article VI section 38-53 or what you actually saw with the second slide this evening.

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

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

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

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

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

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

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

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

Iserman: Well, does that include on Parker?

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

Iserman: Parker.

White: The property has no ...

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

White: Palmer.

Scholz: That's Palmer, yes.

Iserman: Whatever.

White: Chair Scholz, Commissioner Iserman, if you've been out to the property, the northern boundary is actually the playground for the Las Cruces Catholic Schools. So since there's no parking structure, there's no parking area or structure on the northern boundary they're not required to have the landscape buffering.

Iserman: One more question if I may.

Scholz: Yes, go ahead.

Iserman: Along those lines, the homes that are on that ... just across the street from there with the playground on the side, doesn't that intrude upon their privacy?

White: Commissioner Scholz, Commissioner Iserman. When we evaluate zoning cases, usually I go by the spirit and intent of the Code. So in respect to it you can discuss it with the applicants here this evening, but from the Code it doesn't require any kind of buffering or landscaping separation.

Iserman: Thank you.

Scholz: Other questions? Commissioner Evans.

Evans: Yeah, Mr. White, does that situation exist currently on other schools, at other schools? I mean it seems to me that I've seen this situation pretty often or very often at some of the other schools.

White: Chair Scholz, Commissioner Evans, the answer is absolutely. It occurs somewhat frequently with churches and schools because how the Code is written it specifies zoning districts, not structures. So based upon the current wording in the Code, it does make it sometimes difficult to conform to the requirement of an opaque buffer, which is actually opaque from I believe it's from ground level to a minimum height of six feet.

Scholz: Okay. Other questions?

Crane: I have a couple.

Scholtz: Commissioner Crane.

Crane: Would this be an appropriate time to raise traffic questions? Details about traffic studies?

Scholz: Well, I'm going to ask Dan Soriano to come and speak to us on the traffic issues as part of the staff presentation and I was waiting for Mr. White or our questions.

Crane: No questions, Mr. White.

Scholz: Commissioner Shipley.

Shipley: Mr. White, in your presentation I'm having difficulty understanding the numbers. You initially stated that you had 12,221.60 square feet. This is on page... I guess it's the fourth page back and it says you're going to add 8,400 square feet, which is 3,820.6 square feet, but yet in your presentation you state that there is 3,360 is what they added instead of 3,910. And so there's ... with 8,400 that's 11,760, so there's 460 square feet that's gone somewhere and you're now saying there are nine portables, where once before we were talking about four portables were there and eight were going to be installed for 8,400. So, is there ... has there been a change that's not reflected in your report?

White: Chair Scholz, Commissioner Shipley, no, what the confusion was, well, this is actually a new public hearing, was we actually ... the issue was regarding square footage. What were permitted were three portables. The square footage as indicated in the packet is accurate, so if there is a discrepancy between what shown on the screen and the packet, the packet is 100% accurate. In respect to there hasn't been any change in overall square footage of the request.

Scholz: Commissioner Shipley, does that answer your question?

Shipley: I'll have to think about it and try to do the numbers again.

Scholz: Okay. I have a calculator if you needed one.

Shipley: I have one here, too.

Scholz: Wonderful. Okay. Other questions? Okay, I have two, Mr. White. Does the approval of this variance mean that the school is now in compliance with the 2001 Code?

White: Chair Scholz, if the Planning and Zoning Commission grants a variance as stipulated earlier, the property would be in compliance provided that they provide a landscaping plan to the City for administrative review.

Scholz: Right, yes, I'm assuming that they comply with the conditions.

White: That is correct.

Scholz: Okay. And that means that from now on they'll have to follow the provisions of the Code, is that correct?

White: Well, Commissioner Scholz, if you notice based upon how Staff conditioned this property, this is actually stipulated that this is only ... this is not a blanket variance. When sometimes you hear a blanket variance, if you gave a blanket variance to a right-of-way section, in theory you could keep on expanding. By having the conditions that Staff is proposing in the record, it's stipulating that it would grant the variance for the portables, but any future expansion would have to be evaluated through the Planning and Zoning Commission and subsequently City Council.

Scholz: Thank you. Okay, can we hear from the City Traffic Engineer please?

Soriano: Good evening, Commissioners. Dan Soriano, City of Las Cruces Traffic Engineer. Basically our office has reviewed the Traffic Impact Analysis that was prepared and at the last session I believe the Commission was given additional information as far as the raw data, things like that to take a look at and then I came before you during the work session about two weeks ago to talk about overall processes with Traffic Impact Analysis. We did review the TIA on the first review. We did go through a second iteration with Mr. Paz from Molzen Corbin. We are satisfied with the results. Basically, the TIA is demonstrating that the roadways as they function from the motorist standpoint will work at acceptable levels of service. The assumptions are that the school was going to increase by 30% over the next 20 years ... I'm sorry, the church is going to increase by 30% over the next 20 years, the school is going to increase by 50% over the next 20 years, and those forecasts were included in the analysis. So a horizon year analysis was also done as part of the TIA and also demonstrated satisfactory levels of service. Again, this simply demonstrates that from the motorist's perspective the motorists will see reasonable driving conditions as they run through these areas going to the school and out, and it really takes everything from the motorist's perspective, curbs in basically. And the City has approved the TIA and the version that's in your packet. With that, I'll stand for any questions.

Scholz: Okay, questions for this gentleman. Commissioner Crane.

Crane: Do you have available to put up on the screen the diagrams and the data tables that you gave the Commissioners?

Soriano: Mr. Chair, Commissioner Crane, no, sir, it's not included in the presentation.

Crane: I see. Well, it seemed ... I've gone very carefully over the data both in the diagrammatic form and in the table for Ethel and Miranda because it seemed to me that's the critical intersection. That's where one of the two parking lots (*inaudible*) into North Miranda and across the intersection is Ethel. It seemed to me if we could look at the worst case of traffic at that particular point when school meets in the morning and quits in the afternoon, we could get some idea of whether the traffic is going to be in supportive along Miranda. Unfortunately, there's a grave discrepancy which I can't possibly describe to you without using my laser pointer and my magnifying glass on the data you gave me.

Scholz: Go for it.

Crane: No, sir. ...Which makes it hard to come to any firm conclusions about the traffic at that particular point. Fundamentally the designations of ... in the rows that you have on your table, one through 12 for that particular intersection indicate directions of traffic and they change their meaning as you run across the table. The key data of the ones, of the traffic out of the parking lot, north up Miranda and down Miranda and across the Ethel at the a.m. peak time 24, 3, and 25 cars. I'm looking at figure 4. You try to apply that to the afternoon peak, the numbers do not jive with what's in the table, and I went back and tried to figure out what your designations were, what one through 12 meant in the a.m. period and what

one through 12 meant in the p.m. period and there's two cases at least ... no let me see, one, two, three, four cases in which these designations have changed, which makes your table virtually useless. Now I don't want to bore everybody to tears, least of all myself, but I'll be happy to show you what's worrying me. I'm a scientist. I'm used to bad data and less used to good data.

Soriano: Mr. Chair, Commissioner Crane. That is not our data. That is not from the City. That was prepared by the consultant. I'd like to defer that to Mr. Paz. Maybe he can explain a little better how the orientation of those tables are established. Maybe he has answers to those questions a little better than I could.

Scholz: Well, he'll get his chance when the applicant speaks, but ...

Soriano: I can't answer that data sir.

Scholz: Excuse me, Commissioner Crane, Mr. Soriano, if you've approved that data or the City has approved that data, then, you know, why can't you vouch for it?

Soriano: The orientation... basically we did a verification count by hose count in the area. We set hoses in the area to establish what the volumes were as Mr. Paz was collecting his data. And basically, on that basis we did find that there was a very close correlation to that data. We did not take movement counts as Mr. Paz did. So, we basically went on the basis that for the 24 hour count that we took which was an entire one day count, it was a very close correlation with the data that he produced in his tables, as far as a total goes. So the totals actually match up very well. We can't verify the turning movements because we didn't take turning movements, we took total counts. Therefore, we basically looked at the totals and made sure the totals were in close correlation with the data what we had received. We basically did this. We did a concurrent count, if you will, to make sure there was some validity to the data that we were getting from Mr. Paz in his report. And we found that through looking at the total data that there was very, very close correlation with the information he was getting us, therefore felt satisfied with the data that we were receiving in this report. As far as how the tables were established and by the movements ... as far as how the movements were labeled, we did not have direct involvement with that. We made a comparison to the total data alone, the totals for the counts that were given at the intersections.

Scholz: Okay. Mr. Crane, another question you had or follow-up?

Crane: Not exactly, but let me just make the comment then I'll drop the point because there is a way that this could be made intelligible to the Commission or the public without the data displayed. And I think I probably have what I need to come to a decision, but I would be interested in meeting privately if they wished or Mr. Soriano and Mr. Paz to show them what's on my mind. Perhaps I misunderstood everything, but I don't want to take up the Commissions time on this any further.

Scholz: Okay. Other questions? Commissioner Shipley.

Shipley: Mr. Soriano, you did the count on May 9th at Ethel ... excuse, Palmer and Miranda?

Soriano: Mr. Chair, Commissioner Shipley, the total one day count we did, that data that was provided to you.

Shipley: On May the 9th?

Soriano: As I recall. I don't have the data in front of me.

Shipley: That's what your data says. Okay, and then you did two days later you did Ethel and Miranda.

Soriano: We did it over a series of about three or four weeks, yes, sir.

Shipley: Okay, that's the 9th, that's the 11th, and then there was data in here ... whose data is this?

Soriano: That is the City's data. That's basically speed data that we picked up from the count and speed data that we picked up with our counters.

Shipley: When you say speed data you're looking at the number of cars, is that correct? Time of day?

Soriano: Mr. Chair, Commissioner Shipley, yes, sir. What it basically does is demonstrate for given hours throughout the given days that you show on the graphs, shows what the speed ranges were and the number of cars that were in those speed ranges.

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 says 116 and 69. But there's nothing on the chart that shows me, that says whether it's going north or south. That's all it shows me. So to me that's just a traffic count. That's not speed.

Soriano: I'm sorry. Commissioner Shipley, we did have speed data and I guess that didn't make into the packet. You're right; these graphs are simply hourly counts. The directions are the barred graphs, as you see there are two colored bar graphs, that distinguishes the differences in the direction. We also did the same thing similarly for speed and I thought that was the data you were looking at.

Shipley: No, I was just trying to make sure I understood the chart because there wasn't really any ... the only thing I could figure out was it was just a number count.

Soriano: Again, this was our verification data. We did counts as the TIA was being prepared and put together. We prepared these graphs from the data that we collected and we were not only able to show hour by hour counts by direction, we were also able to come up with a speed data by direction.

Scholz: Okay, other questions? Commissioner Iserman, you had your hand up.

Iserman: Yes, Mr. Soriano, this'll be easier. On one of those charts that you were just talking about was April 9th, 2009, I'm just curious can anybody tell me you know

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

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

Iserman: And then I have one more question.

Soriano: Yes, sir.

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

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

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

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

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

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

Scholz: Commissioner Evans.

Iserman: Thank you, Dan.

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

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

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

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

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

Evans: Right.

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

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

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

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

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

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

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

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

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

Soriano: In 2029, the same demonstration is shown. Based on those assumed growth rates that Mr. Paz had put into the analysis, still showing, I think, one movement at one intersection. I think it's at the Parker intersection, moves to a level of service B, which is still acceptable. We're still not seeing from a standpoint of the roadway functioning, it's still showing that it's functioning acceptably in 2029, even with the growth.

Beard: Thank you.

Scholz: Other questions gentlemen? Okay, I have a couple of questions of my own. Mr. Soriano, the primary surveys of traffic on the streets affected by Holy Cross School appear to be from the east. That is we're talking about access on Palmer and Parker and Ethel. Do the majority of the people live in that area? I should say do the majority of the people come from that direction?

Soriano: Commissioner Scholz, from what we've seen, it seems like the majority of the enrollment is actually bussed in or they're driven in, transported in to the site. And they're coming from a variety of areas, locations. Of course, now if they come from the west, they are generally going to come up Parker and turn up to Miranda. So that's why Parker was taken a look at and analyzed and it does take into account some of the eastbound traffic.

Scholz: I don't see any analysis on Parker. I see it on Miranda and Palmer and Ethel.

Soriano: There is an analysis that was done at Parker and Miranda by Mr. Paz. It should be part of your table data.

Scholz: Okay, but you didn't do any counts on Parker?

Soriano: We did. We did, as the City we did do some counts, plus the MPO, our Metropolitan Planning Organization has done counts on Parker. So we based, we did do ...

Scholz: Parker's not an Arterial is it?

Soriano: Parker is a Collector, a Collector street.

Scholz: Okay.

Soriano: It's designated as a Major Thoroughfare in the City. Yes, sir. It's designated to carry traffic just as McClure is, just as Hoagland is. They're designated collectors in this area to bring traffic basically from east to west between Alameda and Valley.

Scholz: Okay. Thank you. My second question was, do you consider when you're talking about traffic congestion, do you consider parking? Because I noticed that I think it's Palmer which is what a minimum 29-feet wide. When we had our work session a couple of weeks ago you mentioned that parking lanes were generally six to eight feet wide, and I'm taking that to mean that that's a relative width. So if we consider the average of that say 7-feet, that would take 14-feet out of that

29-foot width, which would give us what, 15-feet. Is that wide enough for two traffic lanes?

Soriano: Commissioner Scholz, typically, no. You're not going to get two cars to pass one and other safely on a road that wide.

Scholz: Okay, but we allow parking on both sides of that road there.

Soriano: Mr. Scholz, that is correct. And those are some of the things we're going to talk with the neighborhood on when we deal as a traffic committee.

Scholz: Well, it seems to me that's a potential hazard. I can imagine people, you know, trying to dodge, you know ... I've been on that street a couple of times. I've never seen it parked full on both sides, so I can imagine people dodging each other, but still, that seems to me it'd be a traffic hazard, and one that exists right now.

Soriano: That's right. As it exists right now it is potentially a problem for traffic to maneuver by one and another in a two way direction with cars parked on it. We recognize that. We have made some suggestions to the neighborhood in some of our previous meetings as to how we might want to try to handle that. But again we're going to try to resolve that issue with the traffic committee. Because we do recognize ... you're absolutely right. It's an issue that's not desirable as far as trying to move two-way traffic and still allow parked cars on either side of the roadway. There's really not sufficient width.

Scholz: Okay, thank you. Any other questions? Commissioner Shipley.

Shipley: Mr. Soriano, a normal traffic lane is what width again?

Soriano: Commissioner Shipley, ideally we try to shoot for 12 feet.

Shipley: That's what I thought.

Soriano: But we will ... you know there are road diet issues that are coming up now and they're saying that if you narrow down to maybe 10 feet you're not losing that much capacity. So I'd have to say anywhere between 11 and 12 feet is what we ...

Shipley: So travel lanes should be between 10 and 12 feet?

Soriano: Yes, sir.

Shipley: Okay. Not seven feet.

Soriano: No.

Shipley: Okay.

Soriano: No, we agree that Palmer is a narrow street and to allow traffic to park on both sides and still allow two-way traffic is an issue that we will have to deal with as a traffic committee.

Scholz: Thank you, Mr. Soriano. Okay. All right, may we hear from the applicant, please?

Clifton: Good evening, Mr. Chair, members of the Commission, Staff. Thank you. For the record, my name is Kirk Clifton. I am a board member for the Las Cruces Catholic School. And as part of our presentation you'll also hear from Dr. Karen Trujillo, the school principle and Mr. Dan Schneider, the board president. Just real quick, again, I think we pretty much know where the location of the church is by now, Miranda adjacent to the intersections of Ethel and Palmer. And as a point of clarification I would like to point out, this is an older aerial photo. Since this photo was taken this house has been ironically enough demolished and this is now the playground of the school. And right now we're merely storing the portables in this section right here. But if approved, I'm not making any assumptions, but if we were to be approved, our intention and I'll show you development plan would be to place the portables in this area. Right now the three portables that we have been permitted for are generally located in this area. This is our middle school and this is primarily our pre-K, kinder, and elementary school functions. We also utilize much of the area, parish as well.

Some site photos: as you can see this was looking from the intersection, I believe, of Palmer and Miranda to the west, southwest. This was taken actually when the portables were on site and from this angle you really can't see the portables. These are behind the parish structure which is located here. Here's a site plan as I previously mentioned. This is what we would anticipate the design of the expansion of the school to look like with the portables primarily to the west, northwest corner of the property. And again, the three portables that we're permitted for are not shown on this plan. It's a separate development plan from what this would be considered.

And at this point, what I'd like to do is turn it over to Dr. Trujillo to talk about the school history and some of the details of the school, the needs that we face as a school, and then I'll jump back in and discuss with you the merits of the variance. Thank you.

Trujillo: For the record, Chairperson Scholz, and members of the Commission, my name is Karen Trujillo and I'm currently the acting administrator at Las Cruces Catholic School and have been for the past three years. So some historical documentation about the school, similar to what Mr. White presented to you earlier; St. Genevieve's parish was the first location of Holy Cross Catholic School which was instituted in 1927. The first eighth grade class of Las Cruces Catholic School which was then known as Holy Cross graduated in 1933 and by 1958 the school at the St. Genevieve's site, which was downtown, grew to over 300 students and that's when Immaculate Heart of Mary opened their school site in 1957. In 1962, Holy Cross School moved to the current site and has been operating there for the past 47 years. And up until 2000, Holy Cross School and Immaculate Heart of Mary operated as two separate entities. In 2001, they joined under a single board of directors and consolidated to be known as Las Cruces Catholic School which is what we are known as currently.

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

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

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

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

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

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

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

Scholz: Okay, are you through with your presentation?

Trujillo: I'm through with my part.

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

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

Trujillo: Right.

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

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

Evans: Okay, thank you.

Scholz: Commissioner Beard.

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

Trujillo: Commissioner Beard and Chairman, in the out years the total number we're looking at between 432 and at a maximum of 450, but we're realistically 432 with 20 students in each classroom, pre-K through 8th grade. There would be on year right here let's say just for arguments purposes at 2013-14 before the high school students are moved off site, that maximum number right there would be 447. But after the high school students are removed from the campus and it becomes again pre-K through 8th, we're looking at about 432.

Beard: Okay.

Trujillo: That's a sustainable number.

Beard: Okay.

Scholz: Commissioner Crane.

Crane: Do I understand then that the green highlighted figures there are not included in this 432 at the bottom?

Trujillo: Yes, sir. They are not included in that 432 at the bottom.

Crane: Okay, now you're asking us to accept that you will move the high school out after 2014 but you're really not in the position to make that assertion because you're doing so depends on whether it's ... such a move would be economically viable, right? So you could in fact have those people on the campus. So if we want to be very conservative we should add the 20 for each grade into that 432.

Trujillo: No, because I do think right here if we're looking at ... and that's why we're kind of looking at the leeway between 432 and 450, but once we do hit a number and that comfortable number for a high school to be sustainable on its own financially and operationally and otherwise, it would be between 50 and 60 students. So what happens whenever that occurs? Whether that's in 2014 or 2015, that's yet to be determined.

Crane: Okay, another point is you're looking at getting permission to have eight or nine portables in each which could have 30 students in it. But you are planning to distribute those students if the portables fill up between all the number of different grades?

Trujillo: I'm sorry to be so ... Commissioner Crane, and Chairman Scholz, right now if you look at the use of the portables, I'm going to go ahead and go to some of the previous, only four of them ... the three that have already been approved eventually will be used as preschool classrooms, and when we say three buildings, it's three buildings but its four classrooms. Actual classroom space will only be used by four portables. The rest of them will be aftercare, band room, office, locker space, and the chemistry lab is included in this one as well. So actual, you know, free standing classrooms where there are kids in them all day would be the four.

Crane: So that would be if you packed them in there would be 120 kids?

Trujillo: A 120 kids into?

Crane: Four classrooms, 30 apiece, or is 30 too high?

Trujillo: No. Yeah, 30 is definitely too high. I mean we're looking at ... I mean at the high school level right now we have classes of two and five. So, you know, right now, but if you go back and you look over here, let's see, right here we're looking at once we get to even 20 students in each grade level, you know, I don't anticipate that it's going to be more than 20 ever at this site.

Crane: Thank you.

Scholz: Okay, Commissioner Beard.

Beard: The 432, how many staff and administrative increase what would you have at that time over the 46?

Trujillo: At that point, okay, see now I have to count, see that's not very fair. The 46 right now includes two classrooms up through second grade, so those would be two classrooms up through ... an additional probably five to six staff members. It really is not very much because you're looking ... this coming year the 46 staff members includes three preschool classrooms fully staffed; two kindergarten, two first grade, and two second grade. So the additional staff would be an additional third grade teacher, fourth grade teacher, and fifth grade teacher. Because middle school staff right now is serving both middle and high school and a lot of people are part time, so they come and go at different times of the day.

Beard: Thank you.

Scholz: Okay, other questions? Commissioner Shipley.

Shipley: Excuse me, Dr. Trujillo, I guess on page three of your presentation it has in there that you're saying that you're not going to move the high school until reaches 60 to 80 students, yet earlier you told us it was 45. Forty-five to 50 was the viable number, so ...

Trujillo: I think right now we're looking at ... I'm sorry Commissioner Shipley and Chairman Scholz, we're looking at 50 as kind of that break point. So anywhere, I know at some points it's between ... in the past between 45 and 60, but in general we're looking at 50 as kind of being the viable number.

Shipley: I guess I'm just questioning the inconsistency because 45 to 50 are acceptable and I think that's reasonable. But when you say 60 to 80 in your presentation ...

Trujillo: Where was it that said 60 to 80?

Shipley: Page three.

Trujillo: Slide three?

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

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

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

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

Scholz: Well, of course.

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

Scholz: Okay.

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

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

Trujillo: For programs and presentations, yes, sir.

Scholz: Good, okay. Thank you.

Trujillo: And we will continue to do so.

Scholz: All right. Any other questions? Yes.

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

Trujillo: Yes, sir.

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

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

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

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

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

Evans: Okay, thank you.

Scholz: All right. Thank you very much.

Trujillo: Thank you.

Scholz: Mr. Clifton.

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

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

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

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

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

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

Scholz: Sure.

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

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

Clifton: A very good question, Mr. Chair.

Shipley: Here comes the answer.

Scholz: And someone has answer for it.

Clifton: 550 seats in the parish.

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

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

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

Scholz: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Schneider: Yes, there was a merger.

Scholz: Well, you suggested there that they were separate entities. I thought they're all one.

Schneider: The churches are separate entities.

Scholz: Oh, the churches are separate. Okay.

Schneider: The schools were separately incorporated around the same time.

Scholz: Thank you very much. Okay, on five B we were told that all the drop offs would be done in the parking lot. And you point out how dangerous this to have a public parking lot with drop offs. I'm confused here.

Schneider: No, offsite parking. It was suggested by some of the residents that we should do offsite parking and bus our students over but that is not financially feasible and we feel that that is not a safe condition for our students as well; to drop them off at an offsite location and then bus them over to the property.

Scholz: Oh, I see. You're talking about a public parking lot as an offsite location.

Schneider: A public parking lot that somewhere that we have no direct control of.

Scholz: Fine. Thank you.

Schneider: As a legal corporation.

Scholz: Right, obviously you don't. And on nine A you say that there's plenty of room on Miranda for what was it, for fire department and things like that. Isn't parking allowed on both sides of Miranda right now?

Schneider: Yes, parking's allowed on both sides of Miranda. If you park on both sides of Miranda the bullet point is trying to make, Mr. Commissioner, is that according to the fire marshall you still have proper clearance for any fire vehicles to go up Miranda, even if both sides of the street are completely full.

Scholz: Okay. Thank you very much. Other questions for this gentleman? Okay. Can we hear from Mr. Paz?

Paz: Good evening, Mr. Chairman, members of the Commission. My name is Jerry Paz and I'm a registered professional engineer, licensed in the state of New Mexico. My background is in traffic and transportation. I've been involved in the planning, design, and construction of over $150 million of public roadway facilities, interstate, highways, local roads, interchanges, so I've got that background in this field.

Scholz: And you were hired by the dioceses to make this study, is that correct?

Paz: Yes. I was contracted by the school, Las Cruces Catholic School to prepare this investigation.

Scholz: Right. Do you have any other connection with the school, Mr. Paz?

Paz: Yes, I do. I have ...

Scholz: Since we're doing disclosures today.

Paz: Two sons that attend the school.

Scholz: Thank you.

Paz: And this work was pro bono to the school.

Scholz: Okay. Thank you very much.

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

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

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

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

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

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

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

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

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

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

Shipley: It says in here that it was done on 03/15 for mass.

Paz: Yes.

Shipley: And it was done on 03/10 and 11 for Palmer and Miranda school days, CCD, and night. And that's ... evidentially that's one day isn't it? Is it 03/10 or is it 03/11?

Paz: It's both. We did some in the morning and some in the evening.

Shipley: And then you combined them in the same category? In other words from 6:00 to 7:00 a.m. on which day, 03/10 or 03/11, did you do a traffic count?

Paz: Which figure are you looking at, sir?

Shipley: I'm looking at a count of two on ... in Appendix A the first page. It has Palmer and Miranda mass Sunday in the morning where it says 03/15/2009.

Paz: Yes.

Shipley: Starting at 7:00 going to 2:00 p.m.

Paz: Yes.

Shipley: Okay. And then in the next column down or the next row down it has Palmer and Miranda school day, CCD night, shows 03/10-11/2009.

Paz Yes.

Shipley: So you did one basically day.

Paz We did the morning on one day and the afternoon on another day.

Shipley: Well, I mean, if this is, you know if I were ... I'm not a statistician but if I were a statistician, you don't have enough data here to be specific. I mean you pick one day and then you want to infer what's going to happen in 2029. You know if you did you know three weeks of data or a month's worth of data, then you might have something that could average out and make a bell curve and correlate. You give me, you know, standing count corner on the corner and count cars one day and say that's what happens every day that may not be true. This may be either greatly exaggerated or greatly under exaggerated. So what I'm saying is, you know, garbage in is garbage out. I don't know if I want to believe this or not. And no disrespect to you, and what you're trying to do for your school, I appreciate that. I'm just trying to say when we're trying to make a decision we want to make sure that we're making a good sound decision. And if you're not giving us accurate data, we're just kind of wishing in one hand and hoping in the other.

Evans: Mr. Chairman.

Paz: Mr. Chairman, Commissioner Shipley, if I may reply?

Scholz: Yes, Commissioner Evans.

Evans: I'm a little concerned that, you know, I would hate to get into the role of designing by committee. You know he's a professional engineer. The City Staff has reviewed it, you know, based on their standard and national policies. I guess this is more of a question for City Staff, if they feel comfortable with the data that's been presented to them, and the fashion that's it been presented to them to make a professional evaluation from the City.

Paz: Mr. Chairman, Commissioner Shipley, what we do is ... everything we did is in accordance with the procedures that the City outlined for us and our initial conference with them. There are restrictions on when you count cars. You don't count cars on weekends. You don't count cars during a major event. You don't

count cars on Mondays. You don't count cars on Fridays. Statistically this is a process that has been developed when obtaining data and we complied with all the guidelines that are in place for when and times for that. And again, our hours of counting were above and beyond that which is required by the standards. So I would just say that we followed acceptable engineering standards and that we went above and beyond that.

Scholz: Okay. Commissioner Crane.

Crane: You're right, Mr. Paz, I do have problems with the data on that intersection, but I think if you're interested we should discuss it privately. It's too detailed to go into here. I have another question. You showed a minute ago that Miranda was 33-feet curb to curb. What does a traffic engineer consider the width of the parked car to be?

Paz: A car is six-feet wide.

Crane: Six feet. Okay.

Paz: A parking lane as Mr. Soriano had indicated, is generally nine feet wide.

Crane: Okay, if they park both sides of Miranda that's 12 feet of cars, deducted from 33, is 21 feet, which is one foot over what the City requires to drive a fire truck through. Thank you.

Paz: I would also say that on Miranda Street across from the church the City did stripe it yellow to eliminate on street parking on the east side of the street.

Scholz: Okay, Commissioner Beard, did you have a question?

Beard: I understand Mr. Shipley's concern. The way that you're counting the cars, do you have a standard deviation that goes along with that or a sigma that you can put with that number?

Paz: Again, what we tried to do is pick a day that's representative. Okay, we don't pick a summer day. We don't pick a weekend. We don't pick holidays. We don't pick days where there's an unusual event occurring, for instance the funeral of a prominent Catholic that happens to be at 10:00 on a school day. You pick what is normally considered a representative day. And it's one day...

Beard: I understand that. And I'm not saying it's unacceptable at all. But is there a standard deviation to it? I mean is this number like 100 plus or minus 10?

Paz: I couldn't give you the standard deviation on the methodology that it's intended to project.

Beard: Okay.

Crane: Mr. Chairman.

Beard: I've got another question.

Scholz: Go ahead, Mr. Beard.

Crane: You can't do standard deviation on one data point.

Paz: But the methodology was ...

Crane: Calculate a standard deviation.

Beard: Based on his method that comes up with a particular sigma which obviously is acceptable. My other questions...

Scholz: Go ahead, Mr. Beard.

Beard: I've been doing some math on students versus family, staff, and how many cars there are driving in and out. And what I've come up with is there is about 55% of the traffic is related to the school. Is that a good approximation?

Paz: Again, that was one of the things that we looked at from the onset because we growthed up even the background data. And you can say that the infill within the community is pretty much filled. But again, we were conservative in our projects for the 2029 year by even growthing up the background data. So, yes, I would think that it would be somewhere on that level that most of the cars are used for the church and school. There is a large apartment complex there in the residential area. But we looked at from a conservative standpoint to growth up all of the traffic, not only the church and school use, but also the background. We felt like those projections were very conservative.

Beard: Okay. So you kind of agree that 55%, close to that is, at least in the school days, is related to the school. And based on the number going to 432 students and extrapolating that the family out of that, that's a 143 increase, or 42% increase in traffic in 2029.

Paz: And that's why we went the 50%, Commissioner Beard, is we looked at a 2029 50% growth over current day cars and we looked at for the church and their plans for a 30% increase because it is a very large church community but their uses are different. And I would also mention that the church and school are very complementary with very, very few exceptions in that church is not in session when school is. So when you look at typical school day the parking lots empty because most of the parking was developed for the church. When you look on a typical mass, on a Sunday mass, there's no school in session. So the uses are not concurrent but they are complimentary.

Scholz: Okay. Any other questions for this gentleman? All right. Where is Mr. Clifton? Is that the end of the applicant's presentation? I'm sorry, Commissioner Crane.

Crane: I'm suggesting a brief time out.

Scholz: A time out. A time out of what?

Crane: An adjournment for a few minutes.

Scholz: Was that the end of the applicant's presentation?

Clifton: Mr. Chairman, it is.

Scholz: It was. Okay. We'll take a 10-minute break and then we'll be back here at 25 minutes to 9:00.

TEN MINUTE RECESS.

Scholz: All right, we're going to reconvene if you'd take your seats, please. One of the important parts of our hearings for applications and so on is the public input. And what I'd like to do not to cut anyone off, but to streamline the process a little bit is I'd like to follow the three minute rule. That is I want you to come up, state your name, state your affiliation, that is whether you are a neighborhood person, whether you are a school board member, whether you are a student, whatever, and then you'll be limited to three minutes and Commissioner Beard is going to use the magic timer. This is a rather primitive tool but it makes a wonderful sound when it runs out. If we have questions, we want to ask you, of course that could stretch the time. Commissioner Beard just told me that after the ding you have 15 seconds to wrap it up. Now if you've already sent a letter to the Commission, and I think some of you have, I wish you would summarize your arguments and not just read the letter to us. I would appreciate that. All right, who would like to go first? Yes, sir, with the nice looking shirt and striped tie.

Bloom: We're commenting on the clothes.

Scholz: Well, we were doing style earlier, you know I figured that's appropriate. And besides I got new glasses so I can see people again.

Bloom: My name's Greg Bloom. I live at 1160 N. Miranda, about one half block from Holy Cross. Mr. Chairman, Commissioners, let me begin by thanking you for your attention to this issue and the time you're devoting to us. Our neighborhood has a number of issues I would like to touch on this evening including the zoning process itself, this variance request, the related traffic study, traffic considerations, and more. Again, we'd like to take a moment to remind the community 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 testament to the success of Holy Cross educators, administrators, parents, and students. As you know a central tenet of this nation is we have universal education for our children so that the U.S. 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 could make the Planning and Zoning Board largely irrelevant in the future. Granting this variance would set the precedent denying landowners the ability to grow, in and of itself is a hardship. Let me repeat that, granting this variance would set the precedent that denying landowners the ability to grow as a hardship. Indeed if you grant this variance and, I'm saying this half jokingly, the logical next step for us as homeowners would be to request a variance for our

own properties that would allow us to expand our houses, maybe out to our lot lines, build upwards perhaps, add multiple units, perhaps add a business of some sort thereby our rent and increase the values of our properties.

What we're getting at here seriously is that our City's Ordinances are set up to protect landowners from the designs and ambitions of others that seek projects that harm their neighbor's quality of life, negatively impact their property values. In this system, our system, protection trumps expansion. Variances should not be granted because a business owner or home owner needs to grow again, again, and again. If the landowners avoided virtually impacting their neighbors through continual growth, instead look for new property that can adequately accommodate their needs. An 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, and properly bring in portable buildings, at a subsequent 14,000 square foot life center, etc., etc. The question is we see it as hasn't Holy Cross outgrown its property? Isn't it time perhaps to put the pre-K at another school, use another church maybe to hold the high school, move bingo nights, flea markets to a different church or facility, or perhaps seek new land that could accommodate all these multiple uses in places that are designed for this without impacting homeowners.

In closing, let me thank you for opposing this variance. I want to thank you for upholding the protections that are important to all of us as Las Cruces homeowners, and just rapidly I just want to take issue with a few of the things that Mr. Schneider said in his presentation. That the school has followed all the rules, well 12 portables were brought in also we don't see how pre-K is allowed for more than 12 students in an R-1a. And finally the neighborhood is peaceful. I've talked to six of my eight neighbors and four of the households are opposed and only one is supportive of this. Thank you.

Scholz: Thank you. Yes ma'am, with the maroon top there.

Woody: I'm glad I wore clothing that was amenable to the Commissioners. Mr. Chairman and Commissioners, right now you are getting some booklets that we prepared.

Scholz: I'm sorry, you didn't identify yourself.

Woody: I'm Julie Woody. I'm on the B intersection, right on the corner of Miranda and Ethel for year 2029. The booklets that we are giving to you, it was our understanding that the information that we were gathering that we wanted to give to you in letters and what not, that this was not an open meeting and we could not present it to you, unless we brought tonight. And I understand some of the letters were given this afternoon, but Mr. White had not given them before, even though some of them were given quite a ways back. This begins with a petition. It has about 245 names on it from people that are neighbors, people that that live there, property owners, and friends and family of those neighbors who are requesting that you withhold the approval of this variance, looking at calling for ... asking for a plan of development, a PUD, before we grant this, so we can see what the total affect of the growth is going to be.

Next, you will notice there's a timeline of developments, there's nine letters in there that I think you've just received this afternoon. And you'll note that Mr. White's approval of the three portable buildings in April marks the third or fourth one-time expansion use since '81. There are several points that I'd like to

make. Mr. White said tonight that there are two distinct properties here. But the 10% increase already granted on the three portables takes in the church property as well as the school property. The properties are interchangeable. Also, the neighborhood doesn't distinguish the traffic between is it church traffic, is it for church, is it for school, who is it for? The impact on the neighborhood it clearly comes from all. Allowing the 12 portables to stay expands the school by 38% square footage. The last meeting we had Mr. Schneider claimed that it a modest increase in space. I think 38% is a pretty large increase of space.

In Mr. White's recommendation that this Commission pass the variance with the condition that the property owner do a PUD, we the neighbors are asking you please let's do the PUD now. We need it now. We know that the life center's coming. They're getting funds for it all along. We know that there's a gymnasium going to be built. Let's take a look at the overall development now. Why wait? With the indoor sports building that's going to be built, there are specific traffic and parking for that, as well as with the other items. In looking at this, make no doubt, that the extension of this is affecting our neighborhood. The church seems unconcerned about the larger neighborhood and community that they are in. They have seemed unconcerned about the City Codes and variances that they need to establish and go by. We are very concerned. Please at least let's do that PUD now. Thank you.

Scholz: Thank you. Someone else? Yes, the lady in the back.

Meyer: Good evening. My name is Linda Meyer. I live on Palmer Road. And I'm here on behalf of Ms. Linda Duran who's in the audience. I'm reading what she has written here. She lives at the end of Palmer Road where it stops at the Armijo ditch. I live in this place since before the school and the church were built, back when this was a cotton field with a farm house across from our house. I wasn't at the last meeting because I'd just had cataract surgery, so thank you for letting me speak tonight. Last time I watched on TV at home.

I want to say something about hardship. For many years we haven't complained about the school or the church. This time they went too far. They have these big plans for the school and for this life center and they've never said anything to us. We had to start raising a lot of questions with the City before Dr. Trujillo or anyone decided to meet with us and show us their plan. It's pretty bad when someone thinks they can put all of their traffic in front of my house without even talking to me about it. Hardship is me with their traffic. Worse still would be me needing to get emergency help for me or my daughter, Mable, with school or church traffic keeping an ambulance or fire truck from reaching our home. When I look at the drawings showing where they want to put all of these portable building, I know I would be seeing them right outside my front door and I would hear the announcements over the loud speakers even more than I do now. That's hardship and no one's even talking about how long those ugly buildings would stay there. Maybe they'd just let them sit there like the one sitting at Immaculate Heart. Thank you.

Scholz: Thank you. Someone else? Yes, sir.

Avery: Thank you. My name is Harry Avery. I live at 1155 N. Miranda which is right next to Holy Cross Church. If you approve this variance you will be rewarding the school for violating the zoning codes. And I don't think that's the purpose of

the Zoning Commission. I believe it would be exactly the wrong thing to do legally, morally, and ethically. The church and the school have already sent the wrong message to the students. Don't give it your stamp of approval. That's all I have to say. Thank you.

Scholz: Thank you sir. Someone else? Yes, sir.

Billings: My name is Jim Billings. And I live at 421 Parker. And I can attest to the church's growth over the years. I've been there for 15 years and we've noticed a significant amount of traffic increase.

I've been asked to read a letter from another resident who couldn't be here and this is it. From Deb Dennis: I'm 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 and 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 on how he or Holy Cross could have done better in the past or how they will do better in the future.

For years we've 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 which is the north part of that property that we see in the aerial photographs, but is now gone, was let go to the point that it was breeding place for rats and squirrels that were crossing over into neighboring homes. Even since the demolition of that building, Holy Cross lets weeds grow in the 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 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 Arnijo Lateral clear through to the corner at Palmer and Miranda. In one case, the flooding was so bad that water was flowing through long stretches of the rock walls and draining throughout the neighborhood for several days. Since no one lives on the property, response to problems like this is always slow. At the moment the Planning and 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'll 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 dioceses of Las Cruces before granting any favors, including this variance. Thank you.

Scholz: Thank you sir. Someone else? Yes, ma'am. Yes, you just raised your hand. Come on down.

Thornberry: Good evening, my name is Leslie Thornberry, and I'm a very long time resident of the Palmer Road area. I was going to ... I had this prepared thing all ready, but seeing as how this is a new meeting, because I was so confused since the first time that we received a notice of this meeting that it said one thing completely and then all of a sudden I received the second letter and it was on

something else completely different. First of all, it was on the road then it was on the portable buildings that were brought on and the expansion of those buildings.

During the last meeting that I was here, I noticed that everybody was very, very interested in traffic, which I think is one of the very biggest things that we're talking about here, is the traffic patterns. Traffic is unbearable now. I don't care if you're going 15, 20 years into the future and all of that. It is unbearable now. There are times I cannot drive out of my driveway. I try to get to ... I used to teach an 8:30 class out of the Community College and there were many times if I wasn't out of my driveway by 7:15 at least, I could not get out of my driveway, and then onto Alameda because of Alameda Elementary, which also shares our area. Okay.

I am going to talk about the traffic study. I probably wasn't. This is not what I was going to talk about. But I'm very upset about it because when the counters were put in, they were put in at the very end of Palmer Road, right almost next to the corner; the same thing on Ethel. On Miranda they were placed where they were away from Las Casitas apartments, away from those people who lived at the end of Miranda. So the only people that they were actually counting were the people that were going in and out of Holy Cross. They were never counting anybody within the neighborhood. They acted like nobody else even goes into the neighborhood except people to and from the church. There are others of us that go in and out and make trips back and forth during the day. There are other people that have nothing to do with the church, that have nothing to do with the neighborhood that are in our neighborhoods every single day that add to this congestion.

Another thing I'd like to say is that there have been ... I don't know how many things the church has said about (*inaudible*) they'd like to change, but the things that they are asking ... that have been said like making Palmer one way, like not letting us park on the curb, all of these different things, maybe widening Miranda to where we take out houses and walls and everything. Why does the residents of this area have to suffer just to make things okay for them to put in more schools, I mean room, more square footage, and all of this kind of thing? I thank you very much.

Scholz: Your time is up. Thank you. Yes, sir, in the back.

Biad: Thank you. My name is Don Biad. I'm a parent of one of the students.

Scholz: Give me your name again, sir.

Biad: Don Biad.

Scholz: Thank you.

Biad: I'm a parent of one of the students, a couple of kids at Holy Cross. And I think that there are a number of issues that have been raised tonight but it seems to me that the one that's most predominant is the traffic issue. It seems to me that Holy Cross has done its own internal analysis as well as the analysis done by the City. I think that clearly some of the residents have some issues, but I don't know that if you look at the whole entirety of everything I don't think it's enough that should persuade the Commission to vote against it. Yes, the school wants to grow in what it's doing but in what its current plans are simply is to allow more

space to do and do some of the things that the school is trying to do to accommodate the existing number of students. And I think it seems to me maybe biased as a parent of one of the students, but the school has taken into consideration future growth of the school. It has to be something that you want to do in order to survive and I think that they've done a good job in explaining where they want to go in the event they're able to continue the high school and the enlargement of the school. Really, that's what this issue is about: is about can we provide more for the existing students that are there and not double the size of the school? I don't think anyone's talking about that. I think it's about trying to provide a better environment for the existing kids so that down the road as the school wants to grow, we can go ahead and go through with the plans that they ... it seems to me clearly laid out tonight.

Scholz: Thank you, sir. Someone else. Yes, ma'am.

Ruprect: There's a young gentleman who helped me set up a slide and it's disappeared now. My name is Jo Ruprect. I live on Palmer Road. And Leslie Thornberry has said some of the things I would have said about traffic, but I do want to come back to some aerials and to make some corrections in fact. In Mr. White's presentation he has repeatedly shown you the area ... this is oriented with the north towards the top of the screen, Mr. White has referred to the portables in the future being at the south end of the property. If you look at ... I'm very tired. I'm sorry. If you look at the plan that was originally presented to you with all 12 portables on the site, you can see that this is a long string of portables. It's not a compact group and it really is a large addition in space to this property, regardless of whether you count the property as being only the school or the school and the church combined. If you follow through on the timeline that we've provided for you, you'll also see that if they add on the John Paul life Center as they plan to and as they're already more than half way towards fund raising for towards the funds, you'll see that they're actually boosting up the square footage significantly with each of these last couple of developments, and that's before they even get to the indoor gymnasium project that would go on top of the existing basketball courts.

And this is part of why we're emphasizing the need for a PUD is because they obviously have these projects. They obviously want them a great deal. We want to still have some control over what's happening in our neighborhood though you as the relevant body to help them to stick with the guidelines for presenting their plans.

This next slide is a direct comment on Mr. Soriano's traffic study and also on Mr. Paz's traffic study. Mr. Soriano has shown you this image before with the traffic counts that he says his department took, but he has misplaced the locations of the counters and this is by direct observation from the residents. The counters on Palmer Road, as Leslie mentioned, were not placed near about two-thirds of the houses on Palmer Road and instead were placed across from 444, Ted Sanchez's place. On Ethel it's similar. On Miranda again, as Leslie mentioned, it cuts out the property at Casitas, the apartments. In talking with somebody who knows a great deal more about traffic than I do, they brought up a term and that is "dwelling unit average trips per day" which helps us compensate for the weaknesses of where these counters are placed. The other thing is that we've been in correspondence with the Fairbanks group that has some motion before the City Council because of a traffic study that seems to over count for

them and somehow magically the Traffic Department was able to count every street in their study and only one at a time with us. Thank you.

Scholz: You're time is up ma'am. Someone else? Yes, sir.

Rodriguez: Good evening, Chairman. My name is Reese Rodriguez. I'm a parent. This is my daughter Sarah. She is a second grader at Holy Cross. I just want to touch on a couple of points and ask the Commission to stay focused on some of these things, specifically the variance. The variance as presented before you, which specifically touches on not Easter Sunday, not the annual garage sale that the church holds. Those are church activities. Those are separate from what the school is doing. The church is not party to this variance and it is very important to stay focused on those things.

Second, I want to touch on the traffic study. I think that it is important to stay focused on the peak times for the school, the days where school is held and the times where there is more traffic because of the school. Not on Sunday. Not certainly on Easter Sunday.

Third, I would ask the Commissioners to please listen to your professionals, your traffic engineer, your City planner. They have reviewed and have evaluated the studies and certainly the numbers speak for themselves. I think as far as traffic engineer, you know cars amount to numbers and he came up with a total which is something that would be acceptable. I think it's very important to stay focused on that; to get away from the school activities, to focus on the garage sale. To focus on I think on the last session in May they even presented an aerial view of the annual garage sale. I didn't even know there was an annual garage sale at Holy Cross, but apparently there is, which was overwhelming. I hope that that information, that presentation does not change your minds or influence your decision today because that should not have even been considered. It is not school activities. Thank you.

Scholz: Thank you. Someone else. Yes, ma'am.

Scott: My name is Jessica Scott. I live at 321 Palmer. And I am heartbroken that this is causing such trouble on my block. Holy Cross has been very community-wise. I'm not Catholic and I've attended over 100 events at Holy Cross in the last 10 years. I'm grateful that they're there. It's a prestigious school and I have many friends and people who are dear to me whose children go there. And so I'm heartbroken to tell you that the traffic problem is legitimate. I would like to ask a question because I didn't understand this as it was being presented. I'm not sure. Is a building being proposed going up besides the 12 portables?

Scholz: No, the variance is for the 12 portables, or actually for eight of the 12 portables.

Scott: I don't think Mr. Schneider would lie about that. So I just want to say I'd like for there to be a way for Holy Cross to stay as it is. I'm concerned about an 8% growth per year. I think that's a problem. I'm not sure that I read the projected studies correctly, but I counted somewhere about 140 students over the 10 years just swelling in the ranks of kindergarten through middle school. I think this is a problem. Thank you.

Scholz: Thank you. Someone else? Yes, I'll take the lady in the back in the black there.

Cregin: Hello, my name is Shannon Cregin. I am 16-years-old. I'm a junior at Holy Cross. I'm not exactly sure how to go on about this. I don't have a report or presentation prepared. I'm just going by my gut which is a little biased because I've been going to Holy Cross since I was in kindergarten. And to my knowledge this is about the traffic problems that are created on these streets. And as they commented before we have suggested making them one way. And I'm not sure if anyone has ever explained why, but this is why. When they park on the curb, when you go down that street turning off Alameda, you get there and it basically is a one way street. It's not wide enough for two cars because of the cars parked on the both sides of the curb. It's not always that bad. They're not always parked directly and together, but you do have to pass each other one at a time, sometimes waiting as much as halfway down the road for another car to get past you.

To my knowledge as they said they had to bring it up to the City before they were recognized, the neighbors, to my knowledge they never confronted the school office. They never tried to talk, to my knowledge, but I know that it would be addressed because this is as big problem for the school as it is for anyone else. We may not live on the street, but we do care about our neighbors. We have to. As Catholics it the thing to do. Not all of the students are Catholics, but we have to care. That's what the school teaches us. Care about others opinions, never put them down. And just to end it, I would like to clarify that Catholics, they are Christians, but Christians aren't Catholics. Thank you.

Scholz: Yes, the lady in the green top there.

Ferrales: My name is Lupe Ferrales and I am the secretary at Las Cruces Catholic School. And I'm speaking on behalf of my almost 300 angels that I have seen grown from preschool to high school. Shannon has been one of them. And I beg of you to take into consideration all these little angels that someday will probably be taking care of all of us. Thank you.

Scholz: Thank you. Yes, sir.

Soular: Commissioner. My name is Chris Soular. I am one of the instructors. I volunteer and parent at Las Cruces Catholic School. I bring five children with me every day, so that's not many cars, that just one vehicle. And I also share, we do video production. I teach video production and our production department has been very successful and as a matter of fact we won first place in the City of Las Cruces Video PSA contest, two of our students, won first and second place.

Scholz: Congratulations.

Soular: And I share our video production with two other teachers. I share with two other teachers our video (*inaudible*) which we're really cramped. That students we do class were sitting on the floor, were sitting on their desks. It's very, very awkward to do our program, but yet we do it because the kids are very tolerable. So what we're really asking here is for eight portables and it's almost like ... it's not for growth, it's for adding, we're like adding a bathroom. We need more bathrooms for the kids that we have. So we need to just move these kids out of where we're cramped in spaces and move them and spread them out because people can't

be living or even doing instruction in cramped quarters like that. But the school makes a big effort to find good teachers and run programs that are magnet ... to the magnet capabilities. But in order to keep this going we need this additional space just to spread out, just to move our arms because right now we are banging arms and the size of the school is there. It's going to be there, and it's continuing on at that rate, but it's not really a place where we can continue on because we are just cramped. And that's what we're talking about: eight portables, 8,400 square feet. We need to spread our wings out. We need to add a bathroom so that way the kids have places to go. Okay, so we're asking just to get those eight portables so we can move. I don't really ... looking at the history, we haven't really grown as far as student-wise. It goes up and down a little bit, but it does not ... it's not going to really go, I mean they have these statistics and all these things, but it's going to stay at a pretty much level rate. It'll go a little bit because people will see that the programs have more room and we can be a little more intensive in our education. But I think we have a very good school. It's okay. The engineers have approved the traffic flow and said the streets can handle it and I think we need to look at that and go with that and let this process go and approve it. Thank you.

Scholz: Thank you. Yes, sir.

Kerns: Hello. I am Brendon Kerns. I am, well, I'm the other junior. Okay I'm a band geek and from my band room we use one thing, the church. The church is ... if the church isn't available for a funeral or something like that, what do we have to do, we have to go outside and I don't like that. And then there is another matter of a classroom that I spend effectively all of my day in aside from band class and that's ... and the dimensions of that room are a generous 12 feet by 18 feet.

And, well, if you want to talk about the traffic, on Saturday on Palmer Street there was a party or something like that and then there were cars parked on both sides of Palmer making it very hard for me to get from the church back to my home which is nowhere near this. And all of this talk about the portables increasing the traffic, I don't know. I don't think this is field of dreams where it's not going to necessarily be if we build it they will come. I'd like it if it was because, well, being one of two juniors I just would like someone else. And I'd also really like it to have my own campus or rather a campus for the high school. I'm pretty sure that if everyone here were to donate $2,000 we could get it done. Now I don't know if you want to do that, but the next best thing we have are to bring in these portables. Thank you. And we need the space.

Scholz: Thank you. Okay, this gentleman over here had his hand up first.

Chavez: My name is Fred Chavez and I just had one question for the Planning and Zoning: is there anything on the timetable for redoing Ethel Street, you know repaving it and making the sidewalks compliant? Because that what was done to Palmer Road and it made it so much narrow and I believe that would add to the traffic congestion.

Scholz: I don't know. That's something we'd have to ask Community Development people. We're not in charge of that. Mr. White. (*inaudible* - Mr. White speaking from the audience) Well, that was a copout wasn't it? Shifting the blame. So we

don't know. I'll hold your question in abeyance, Mr. Chavez, and we'll get back to you.

Chavez: Thank you.

Scholz: Yes, sir.

Anderson: Good evening. My name is John Anderson. I am the pastor at Holy Cross Catholic Church. And I thank you gentlemen for listening this evening and I thank all of our neighbors, especially those who have brought challenging ideas to us this evening. I'm committed with our staff to meeting with the people of the Community Development and Traffic to do the best that we can to be good neighbors. Yes, we do need room. Yes, we've come to you in the past 25 years and asked for your permission to make modest changes, the columbarium, adding the mid school, as we've grown. I predict that we will continue to grow. I also predict that we will someday move to a new location years after I'm dead but because of the enthusiastic community that we have of parents and they will become grandparents. They will want their children to go to a Catholic school. I doubt that we'll always be at the site which used to be a cotton field in a quiet little neighborhood. So if anybody tonight would like to give us a few nice acres out in the desert somewhere, we'd be glad to consider moving. B ut in the meanwhile, we're where we are, grace of God. We are growing. With your permission, we'll come to you each time. We'll try to be better about communicating this to the neighbors. We're growing. And we bless and thank God for it and we're glad that you're a part of it.

Scholz: Thank you. Yes, ma'am.

Jones: My name is Lucretia Jones. I live at 441 Linda Vista Road. I'm a homeowner. Regardless of other sentiments expressed to you tonight, I do not feel that I'm insignificant in this process. I live in the neighborhood as well. The traffic is a concern. To me a great concern is the fact that there's not a plan for development. I work for Department of Health. We can't develop and evolve without a published plan of development. I can't add onto my house without your approval.

The other thing that concerns me that I haven't heard anyone mention is the rest of the infrastructure, the electric grid that goes down periodically during the day on the rare occasions that I'm home. My neighbors are more concerned who do work in their homes. The sewer system, the water system. I haven't heard any discussion of this infrastructure and we're all impacted by it. I understand that you all do not have the authority over EBID but the thought of paving that much used public walkway is another consideration that is horrifying to those of us in the neighborhood who feel we are significant. I thank you for your professionalism. I thank you for the consideration that you are giving those of us who are neighbors.

Scholz: Thank you, ma'am. Yes, sir.

Sandoval: My name is Richard Sandoval. I live on Howell Avenue which is right around the corner from Parker. And I've never found that the traffic has been bad at all through there because I take my granddaughter daily to school. In the morning I

can leave from Howell at seven minutes before, get her there in time for school. Drop her off and leave and I was able to go to work too. Now, in the afternoons, I pick her up at exactly at 3:00 and I'm out of there by 3:05. I've never seen traffic back up or anything like that. So I don't know where ... maybe it's because I'm coming from Howell which is on the west side through Parker, but it was never a problem for me. Thank you very much.

Scholz: Okay. Thank you, sir. Yes, ma'am, in the green top in the back. Did you have your hand up? Okay.

Daniels: Thank you. My name is Linda Daniels. I live at 1155 N. Miranda. And I have a question. I've heard other residents of the neighborhood tonight mention letters. Are these letters that have gone out to residents to inform us of what the council is considering or...? That's my question.

Scholz: Yes, and, Mr. White, why don't you speak to this. These letters would come from the Community Development Department.

Daniels: I live right next door to it and I've never received a letter. That's my question.

White: Chair Scholz, the answer to the question, we do is call a buffer area. The buffer area regarding this property, I believe, is about 220 feet from the surrounding property. And I believe we mailed out roughly about 100 certified letters regarding the property. So if there are property owners in the surrounding area who are outside the radius that is correct, they would not actually be sent a certified letter.

Daniels: TALKING, NOT AT PODIUM.

Scholz: Yes, go ahead.

Daniels: I live in Las Casitas. I'm not a property owner. That's an apartment complex right next door to the church and school.

Scholz: Right.

Daniels: I've had difficulty except for what I read in the paper, keeping myself informed. So if it's possible for non-property owners, although right next door to the school, to receive these informational letters I would appreciate it.

Scholz: Okay. Mr. White.

White: Chair Scholz, to answer that question, when we do property research it's conducted ... we get the information from the Doña Ana County property of records. So letters only go out to property owners of record. The issue really would be is that we would not know who actually is leasing each one of the apartments, so there is no ... we can actually have a figure of how to actually send letters to those property owners. Standard practice is we use the area of notification. We use the radius and we send out to the property owners of record.

Scholz: So who would have gotten ... who in Las Casitas would have gotten the notice? The owner of Las Casitas?

White: That is correct.

Scholz: Okay, who is the owner of Las Casitas?

White: I have the property records here so if you bear with me one moment.

Scholz: Good.

Shipley: Chairman Scholz. Mr. Chair. While he's looking up, could I also say there is a sign posted on the property that says when the public meeting is going to take place. And that sign is you drive by you should be able to see that and then there's a phone number at the bottom of that so that any time there's an action there should be a yellow sign out there with a phone number so you can call and say what's going on with this. Even though you didn't get a notice, there is a notice in the public right-of-way.

Scholz: Okay, who owns the property, Mr. White?

White: Chair Scholz, the property owner of record is Casitas Associates and they're located out of Albuquerque, New Mexico.

Scholz: Albuquerque, New Mexico. That's a long ways away, isn't it? Do you have any other questions, ma'am?

Daniels: My request would be I don't know even how many units there are in Las Casitas. I've never counted. But there are a number of people that live there and it is directly adjacent to the school and church. And I have no complaints. I've lived there since 2005. I have no complaints about the church or the school. I am concerned about the traffic patterns and I would very much like to be kept as abreast as possible of what's going on. A sign, that's great. I also am employed. And even though there's no property owner of record I guess that could interface or would interface from Albuquerque, there are a lot of people there that are affected and I would request that the Council figure out a way to keep us as informed as the homeowners in the neighborhood. Thank you.

Scholz: I think it's a good idea. I think the Community Development people should be able to work on that.

White: Can I make a response very briefly?

Scholz: Certainly.

White: For any specific case there are three tiers of notification: one tier is a certified letter for variances that go out to the surrounding property owners. The second tier, as alluded to by Commissioner Shipley, is regarding we posted two signs at locations on the vicinity of N. Miranda for property owners or individuals who live and reside in the area to evaluate. And the third tier is we also know that we actually publish in the Las Cruces Sun News in the legal section every month the

agenda for the Planning and Zoning Commission in its entirety is advertised in the Sun News for the entire public to actually evaluate and review any of the cases.

Scholz: Thank you for your clarification, Mr. White.

White: And the website as well. On the City website we actually integrated a new portion called Development Applications, and the entire case packet and all information is available there as well.

Scholz: Right, and that's a relatively new thing. All right, looking at the time it's almost 25 after 9:00. Is there anyone with new information? Hold on just a moment. Did you have new information, sir, I can't quite see you? All right, go ahead.

Cannon: My name is Craig Cannon and I am a parent at the school and I do drive there almost daily. My wife and I take turns. And I have to say that while I understand their ... some concerns about traffic, I think that a lot of those concerns could be relieved by not parking side by side in the street. I think that the school provides an excellent choice. We have problems inherent to any large middle school and high school that many of us do not want our children growing through. And I think that Holy Cross gives our kids an excellent chance to have small class sizes, have parents that are involved, and it's an excellent educational opportunity and I think it should be allowed to grow. I think there are ways that their concerns can be met. I also think that if you think about it, refusing to let the school grow is not going to keep the church from growing. It's not going to change the Easter Sunday issues. It's not going to change the Christmas mass issues. Its moving the bingo night isn't going to affect the school's traffic patterns. And I just think that the school be allowed to grow. Thank you.

Scholz: Thank you. Yes, ma'am, you had a question.

Ruprect: TALKING BUT NOT AT PODIUM.

Scholz: I'm sorry. I'll allow questions, but I don't want people to comment who until everyone who hasn't spoken have spoken. Okay. You had a procedural question, ma'am.

Ruprect: It's a point of information based on the transcript from the previous session and it's directed to Mr. White. I noticed a number of very careful wordings around the 1998 or '99 documents relevant to the middle school. There's never a statement saying that the middle school was built in 1998 or built in 1999. Leslie Thornberry and I have been doing research through the Permit Division of the City, although through the County Assessor's office. We have been handed files that show us a sprinkler system or the construction of a gathering room that was made out of a breezeway. We've been shown the original school building plan. But we have not been able in six weeks of requests to get a folder that shows us the middle school plan with the permitting date, the construction date, or the special use permit conditions that might have been in effect at the time that that was acted upon by P&Z.

Scholz: Okay.

Ruprect: It concerns us in the sense that the implication from Mr. White's statements in the transcript and in his presentation of the variance request, the implication is that his office has actually seen those, but if they've accessed them and seen them it seems if anything it should have been quicker for those to be turned over so that we could look at them when, in fact, it's taken longer and we still haven't seen them. Thank you.

Scholz: Mr. White, would you like to speak to that?

White: Chair Scholz, I'll try to address that question. In regards to the building permitting, I also pulled all the information regarding the building permitting for N. Miranda, 1321, 1327, and 1331 respectively. The information provided by staff earlier regarding the building permitting history was the ones we located in 1998, 1999, and 2000. Those are available to anybody that wants to come in and inspect them. Regarding the special use permit applications, I do have all three of those files in the office. Any person that wants to come in and evaluate in those files can feel free to come in and look at those files as well.

Scholz: Okay. Thank you. Mr. Chavez, you're still here, right? Could you repeat your question for Mr. Banegas since he's the one who has the deep thoughts today? Would you come up to the mike and repeat your question? Mr. Banegas was out of the room when you asked it. And as I recall Mr. White deferred to him. Oh, was it to Mr. Soriano? I'm sorry.

Chavez: My question was: are there any plans to redo Ethel Street as far as paving and making it sidewalk compliant? Because that was what was done to Palmer Road, which made it more narrow and that's the problem we have now on that bottle neck. Do they have plans to do that to Ethel Street?

Soriano: As far as I know there are no immediate plans for doing any work on Ethel and I don't handle the sidewalk or the repave program, so that's is something I'm going to have to look at and then we can get back to you and let you know what there is. We choose ... there are different locations chosen throughout every year, every fiscal year as far as what is being chosen for repaving, or rehab, additional sidewalks, etc. So, that could change from year to year based on our pavement evaluation program. Basically, I don't know actually if Ethel is on schedule to have anything done. I know not this year.

Chavez: SPEAKING NOT A MICROPHONE.

Soriano: Again, it's based on pavement evaluation and how they rate the pavement and the condition of the asphalt as to whether it's going to be worked on or not. After the meeting I could certainly get your name and phone number and make the contact back with you as far as any programmed work on that street.

Scholz: Mr. Chavez, you have to speak into the microphone so we can hear you.

Chavez: Would it considerably narrow the street as far as width, you know from curb to curb? If that makes that sidewalk compliant like they did that to Palmer Road?

Soriano: If I remember, Ethel has curb and gutter in place now, correct? More than likely what would happen is the sidewalk would be placed behind the existing curb and gutter, therefore the width would not change.

Scholz: All right. Anyone else with new information on this? All right ma'am, you had one other question, was it? A comment, all right I'll let you make your comment and then we're going to close it for public discussion.

Scott: Okay, I just wanted to make the comment.

Scholz: Get close, please, and give us your name again please.

Scott: My name is Jessica Scott.

Scholz: Thank you.

Scott: I live right in the middle of Palmer and the houses were built at a time much decades from today. I have an enormous driveway that fits exactly one car. It won't fit two side by side. It won't fit one back behind the other. And many of the driveways on the street ... we're a three car family. I have a son in college. We've got two cars in front of our house all the time just 'cause that's where we are. And I bought the house, it does have a garage; it doesn't fit a car. I didn't see that when I bought it, but...

Scholz: There you are. Okay. All right we're going to close this for public discussion. And gentlemen, yes, Mr. Evans.

Evans: Yes, Mr. Chairman, before you do that, I actually have one more question for the Traffic Engineer.

Scholz: We can always ask questions of the Traffic Engineer. That's fair game tonight.

Evans: I don't recall us touching on this, but I grew up in Las Cruces and you know at that time a long time ago there was never any portables at any of the schools. Now there are portables everywhere. And I've even noticed some in the last couple of years that have gone up, but yet they haven't come before our Committee. So, what is the process? I mean there's obviously a process for approving those portables given the increase in population which would drive the portable expansion, what process is in place to do that? And is it your department which would do the traffic analysis for the increase in population and traffic flow?

Soriano: Mr. Chair, Commissioner Evans, typically since it does involve school areas, not in this case, but public school areas, that's usually handled at the state level, the CID, they're the ones that permit additional portable buildings. So it really does not ... it somewhat circumvents at least our process with the City. I don't know if Mr. White had anything else to add to it ... but basically Construction Industries Division from the state of New Mexico oversees any additions onto the state properties such as those that are schools.

Evans: So, correct me if I'm hearing you wrong, but the state will actually come in and do a traffic analysis?

Soriano: Mr. Chair, Commissioner Evans, I don't know. I don't know if they actually do traffic analysis or not. And these are some of the things that we're actually trying to work with on the state now. You know I've been a Traffic Engineer for eight years and before that I was in the Planning Department so I saw quite a few things that came about when state permits were issued and somewhat circumvented the City process. We're trying to work closer with the public schools so that we can establish better communication and they're doing a much better job on their part as well as far as communicating with the City and allowing us to oversee some of the potential traffic impacts that could be evolving from some of these expansions. But, the permitting itself is handled at the state level. Whether there's a traffic analysis, I can't answer definitely one way or the other.

Evans: Well, I would question if you've been working this for eight years that you would ... and you aren't aware of it, then I would say it's probably not going on.

Soriano: I have never seen ... nothing has been submitted to use for review.

Evans: And my question is you know I want to treat apples and apples the same.

Soriano: Commissioner Evans, this is a little different in fact in that it is a private school.

Evans: Right, I understand.

Soriano: So it is going through the City process and we are now involved in the oversight. And, therefore, we are asking for a traffic analysis so that we can look at impacts to the streets. So, it's hard to compare this situation to any other public school situation because, you're right, portables are going up left and right annually it seems like. Schools are expanding by these portable buildings. I think the process at that level needs some refining. I would agree with that, but this particular case is different in that it's a private school going through City process and we are asking for traffic.

Evans: Sure. I understand.

Scholz: Mr. Paz, do you have an answer for us.

Paz: Public schools in the state of New Mexico are exempt from City ordinances, drainage, traffic. They don't have to come before this Body or the City Council for streets, for anything. The Las Cruces Public Schools has chosen to be neighborly, to try to coordinate issues with the City, but they are exempt from all City Ordinances.

Scholz: Thank you.

Evans: Thank you.

Scholz: Okay. Commissioner Beard.

Beard: Isn't it true that most of the City schools that are having these portables added are actually on Collectors? In this situation we are on a 33-foot wide street.

Paz: You've got Hillrise Elementary. There are schools ...

Evans: There are a lot of schools within R-1a areas, not just ... I agree with you a lot of them are Collector streets, but it seems to me that there are a lot of portables out there to compensate for the increase in population that we've had over the last 10 years.

Scholz: Okay. We've closed this to public discussion. Gentlemen, what is your ... yes, Commissioner Crane.

Crane: I'd like to make a few points. Las Cruces Catholic Schools has not done anything illegal in my view over its decades of existence, but it has pushed the envelope several times. Perhaps on the principal it's easier to get forgiveness than permission. In fact, Monsignor Anderson was good enough to tell us that they had not been good neighbors a couple of times. I've considerable sympathy for the people in the neighborhood, the streets are narrow. I have driven around there some and particularly on Palmer there are problems.

But I think this Commission is obliged to see this issue narrowly as a matter of judging on the variance requested which is for the eight or nine portables to be permitted and the high school to be permitted on the right-of-way of 50, 55-feet rather than 85 required. And that comes down to a question of traffic in my view. And the key intersection is the one that I dream about now and probably will for some time, Ethel and Miranda. All right, I did not hear the word compulsive but I know it's going through the minds of my fellow Commissioners. My look at the data, even though there are difficulties with it, seems to me to show that there was 15 minutes of the day at 7:45 to 8:00 in the morning, and 3:00 to 3:15 in the afternoon. Cars come out of the parking lot at the rate of three a minute in the morning and two a minute in the afternoon during that 15 minute period. It doesn't seem to me that that is a terrible burden on the traffic on Miranda Street. That's the total of cars regardless of whether they're going across the intersection to Ethel or north up Miranda, or south down Miranda. My inclination is, therefore, to approve the variance with the added stipulation in addition to the two conditions that the staff has recommended: that the high school be disbanded or moved by the summer of 2014. That is currently my inclination. It's not necessarily my vote. I have to hear what others have to say.

Scholz: Okay, are you making that in the form a motion?

Shipley: No, no, it's discussion.

Crane: No, at this point we're still in discussion I think unless no one else ...

Scholz: Yes, we're still in discussion, right. But if you're adding a condition then of course you'll have to make a motion.

Crane: All right. Well let me make the motion then we'll have something specific to discuss.

Shipley: I think we should discuss before the motion. I think there are some other things because I wanted to say the same thing. When I quickly looked at this book there are 240 signatures in here of people that live in neighborhood that are interested in seeing a Planned Unit Development from the school and the church. And I say "and the church" because if they're going to change what they do in the church it affects the neighborhood as well. So that's something that we ought to think about as we look at that. Now that's, you know in this ... in Mr. White's presentation he did state that if there is any other development in the future, that they would have to come in with a Planned Unit Development.

Scholz: It's up on the screen right now. Yes, as a matter of fact.

Shipley: So I agree with that. So, I think that's one point (*inaudible*) or not. I think there's confusion to me with what is the ... what are we approving here. Initially it says: Case A1695 is a request for a variance from Article VI section 38-53D of the 2001 Zoning Code, as amended, that requires schools to be located on a roadway having a minimum right-of-way. When I go down to look at what the recommendation is, it doesn't mention that. It only mentions the approval of this variance is limited to the expansion and installation of nine portable buildings having a combined gross area of 8,400 square feet. So where did the variance for the roadway go? It's not in here. So to me this is not a correct or accurate representation of what we're supposed to be doing. If we're doing a variance for the roadway and then we're doing a variance for the expansion, there should be two separate votes on this particular item. And I don't see that in here.

Scholz: Mr. White, would you care to comment?

White: I think the confusion is you're looking at two different issues. The variance is to right-of-way. The issues regarding the square footage is a condition that's proposed by Staff. So let's look at this slide again. If you look at this slide, it says if you vote yes to approve the variance with conditions therefore allowing for a 35-foot deviation from the 85-foot minimum right-of-way requirement. That is what the actual vote is upon. What we're speaking about earlier was the conditions that were imposed by Staff which is kind of lengthy so what I did is I placed it on a separate slide. Therefore, you have these two conditions that Staff recommends be attached to the approval of the variance request.

Scholz: In other words, what's happening with the variance request is that it legitimizes the school. The school no longer has to get a variance to operate, right? In other words, even though it's not on a Collector or on an Arterial or you know a major road, it can ignore that right, because we've granted them this variance.

Shipley: Then I would kind of concur with your recommendation to add an additional condition that says when the population of the school gets to 50 students, the high school; it has to go somewhere else. Because that was part of their plan that they predicted and whereas it says in there documents they would like to go to 60 or 80. Well, you know how much is enough? If we want to be concise then let's put it in as a condition that they have to live with. They can plan for it, and as they develop their Planned Unit Development, they know whether they need you know another 14,000 square feet, or 1,400 square feet?

Iserman: Thousand.

Shipley: 14,000 square feet. You know where's that going to go. What's going to go in there and how's that going to affect traffic.

Evans: Chairman Scholz.

Scholz: Commissioner Evans.

Evans: I believe that that's already addressed in that any other additional will have to come before this Committee. And furthermore I think that the ... you know when we start talking numbers of growth projections that's accounted for in the traffic studies. So I mean I'm not sure if we're confusing the issue by talking about growth of the school and growth and traffic studies and projections out to 2029, 2030. And I think it's addressed in the traffic study. So I don't know about putting limitations on it. We already have a limitation of them per square footage and additional development.

Shipley: What I guess I don't see is that if they're saying 60 to 80 students, high school students; 60 to 80 high school students most of them will drive a car and operate to come to school. They won't have their parents dropping them off.

Evans: I agree with that.

Shipley: So then you've got to look at which was not shown here or displayed, the increase in parking and do they have enough. And do they have approximately 200 spaces or will they have 200 spaces after they put the additions on.

Evans: We can defer this back to the Traffic Engineer and look at the assumptions that he put in place as to how that growth was projected out to 2029. But I want to clarify one more thing, that you know again I hate to start designing by committee. You know these are professionals. They're professional engineers. This is what they do for a living. I hope they don't come into my work place and listen two hours of presentation and assume that I can design or do their job for them. So I think it's a professional engineer, it's staffed by the City and their recommendation is that those thoroughfares are adequately ... you have to excuse my verbiage, but they're adequate to support traffic growth and projections out to 2029.

Scholz: Commissioner Beard.

Evans: Could I hear a response to that?

Scholz: Excuse Mr. Soriano. Yes, we've heard from the Traffic Engineers. I think what you're saying is what they are saying. I agree.

Evans: Okay.

Scholz: Commissioner Beard.

Beard: I realize that the Traffic Engineers in the study show that they can handle the traffic and they can handle the projection in an adequate manner and I don't know what adequate is. However, you have nine people and whole bunch of signatures beyond that that are complaining about the traffic now and I do believe that the traffic is going to get worse with the nine portables. So you have on one side that they say it's all right and then the people are saying it isn't all right.

Evans: I guess one is backed by analytical and science and the other one is perspective. Now I'm not trying to say ... well, I am saying that you should be able to look at projected growth and come up with a good number. I don't believe perspectives are adequate in this situation. Now I do understand quality of life issues. Across, you know, the street where I live that's a big huge 10 acre empty lot. It's zoned commercial. I would hate to see that that piece of property developed, you know, because it would infringe upon my quality of life issues right now. We also have a lot of BLM proposals converting, you know, land swaps. A developer comes in, does a land swap with BLM which is adjacent to, you know, existing communities. The developer comes in and puts up communities which the existing residents, you know, aren't really pleased with. So I am familiar with quality of life issues. Unfortunately, the City's growing and the infrastructure, I feel, needs to grow along with it.

Scholz: Okay, other comments? Commissioner Iserman.

Iserman: Really what I think I'm listening to here is a growing animosity between the church, the school, and the owners. When you get animosity going things don't usually get better. It's everybody's just upset all the time. Everybody's angry. You know the principle of the school is angry. The homeowners are angry. And I don't know where that goes. You know where does it end? I'm just seeing an awful lot of that of animosity here amongst all these people.

Scholz: Okay.

Crane: It ends with civility, we hope.

Iserman: We hope.

Crane: Because regardless of what decision is made a number of people are going to be bent out of shape. It's unavoidable in any society.

Scholz: All right. Any other comments? Yes, go ahead, Commissioner Beard.

Beard: I guess I would like to emphasize that the City has made a recommendation based on conditions. And I think they don't take into consideration and correct me if I'm wrong, Mr. White, they don't take into consideration the input from concerned people that are being affected by this particular change. And I think that we as a group have to listen to the people and make a decision based on people's input as well as the City's recommendation.

Scholz: Anything else? All right, did you want to amend the process, Mr. Crane?

Crane: Well, I'll make a motion that the variance be approved with the City's two conditions plus the one I mentioned.

Scholz: All right, you'll have to create that condition as an amendment.

Crane: Right.

Scholz: So why don't you state that condition.

Crane: All right, do I need to read the City's conditions.

Scholz: No.

White: Can I interject very briefly? I'd recommend prior to you making a motion if you're going to add a condition that you canvas the actual applicant to discuss that additional condition. So the issue be: can you came to kind of an agreement regarding that condition before we go into a motion?

Scholz: Why do you suggest that, Mr. White?

White: Based upon a conversation with the applicant I think they have an alternate proposal that may actually be very similar to what you're speaking about. So you may want to evaluate that scenario with the applicant.

Shipley: Why don't they tell us what it is?

Crane: Mr. Chairman, isn't this coming a little late?

Scholz: I'm sorry. Yeah isn't this coming a little late? If we had had an alternate proposal you know brought to us at the beginning of this meeting, I think we would've ... perhaps our attitude would have changed. Perhaps the response of the audience would have changed. What's going on here?

White: No. For clarification, the issue really is, is the same exact issue regarding ... one issue was regarding your trying to put a specific year on the high school being relocated.

Scholz: Well, we haven't heard the amendment yet, Mr. White.

White: But there's also some additional information you may want to hear from the applicant regarding that is what I'm speaking about.

Crane: Mr. Chairman, it's too late for additional information.

Scholz: Well, I think it is, too, and frankly I think we have the ability or we have the leeway to make an amendment to add a condition to this. And if they don't agree with the condition they can always appeal it. You know that. Yes, Commissioner Shipley.

Shipley: Mr. Crane, if I may I just would say the reason I picked a number is because the school said that at that number they were comfortable to move. Now it really

doesn't matter if that's 2015 or 2018, what it really matters is when you get at that critical point, that's the point that it should deviate and that should go away, which would affect the school. If they're going to, you know, and maybe there is a ceiling that they can't go over for students; in other words because of the impact on traffic. But I think the point I was trying to make as opposed to try and tie it to a specific date, is tie to a number of students in the high school. And that way when they got to 50 let's say that's sufficient for them to go out and find a separate location to put the high school and reduce 50 off of their current enrollment and then obviously it's going to grow up to that again. But at some point in time there's got to be a max ceiling that they can't you know.

Crane: Well, I see your point Mr. Shipley, but the problem is that that 50 is not going to necessarily be followed the next year by 55 or 60, the number could be predicted to go down and the school could say, "Yeah, we hit 50 this year, but next year we're not going to have 50, so we don't want to move." And I think it's appropriate to have a firm time, though I do see your point; that they move since they've been telling us that their projections are that they will be at that point by 2014 and I think we have to give some consideration to the neighbors' concerns about the expansion going on open ended.

Scholz: Would you propose an amendment then, please; that is propose an additional condition?

Crane: So you want strictly the additional condition?

Scholz: Yes, sir.

Crane: All right. I move that the condition be added to those that are already in the Staff's suggestion that the high school be dissolved or moved by the summer of 2014.

Scholz: Okay, is there a second to that amendment.

Evans: I'm sorry ...

Scholz: If we're going to discuss you'll have to second it.

Evans: I ...

Scholz: I'm waiting for a second. If there's no second it will die. Okay, it dies for want of a second.

Evans: I would like to recommend a condition.

Scholz: All right.

Evans: And that is once the high school student population reaches 50, that they either need to cap it there, or relocate to an alternate location if they wish to continue growth. I didn't say that very eloquently.

Crane: You don't mean growth, you mean operation.

Evans: Excuse?

Crane: You're going to cap it at 50. They can't continue growth.

Evans: Right.

Crane: So you want to say if they want to continue operation. They've got to move or they cap it 50.

Evans: Right the ...

Beard: But that will only be part of the problem. The rest of the school may grow significantly.

Evans: And that was really in my mind was projected to grow regardless. So we're talking about the additional 50 high school students.

Crane: Yes, the variance problem is because it's a high school, not because it's an elementary or middle school.

Evans: Right.

Scholz: So, are you moving that?

Evans: Yes.

Scholz: All right. Would you read your motion please?

Evans: I recommend a motion that when and if the student population exceeds 50 students ...

Scholz: The high school student population.

Evans: The high school exceeds 50 students that ... well, let me start all over.

Scholz: You're doing fine.

Evans: So I propose a recommendation that when and if the high school student population exceeds 50 students that Las Cruces Catholic Schools will seek ...

Scholz: Will relocate.

Evans: Will relocate.

Scholz: The high school.

White: Can I interject just to make it a little more concise?

Scholz: Certainly.

White: It will work just saying that the high school is limited to 50 students.

Evans: Clear as a bell. Picture's worth a thousand words.

Crane: Good picture, Mr. White.

Evans: High school limited ... that's why we have Staff ... to 50 students.

Crane: You know I learned in training a little while ago that there are some planning and ...

Scholz: Excuse me, there's a motion on the floor.

Crane: I beg your pardon.

Scholz: Is there a second?

Shipley: There's a second.

Scholz: Okay, it's been moved and seconded. All in favor say aye.

Beard: Is this just for the motion?

Scholz: I'm sorry, we need discussion don't we? Yes, for the motion.

Beard: No, I don't have a discussion.

Scholz: You don't have a discussion. I'm sorry, I thought you did. I didn't want to rush this. Discussion on this motion? Any discussion? Okay, all in favor say aye.

ALL COMMITTEE MEMBERS - AYE.

Scholz: Those opposed same sign.

Iserman: Nay.

Scholz: And the motion ... any abstentions? Okay, so the motion passes 6-1. So that will be another condition.

Shipley: Five to two.

Scholz: Two nays. Thank you. Five to two. Okay, now we're back to the original. Is there a motion to approve this with conditions?

Crane: I so move.

Scholz: Okay, it's been moved. Is there a second?

Evans: Second.

Scholz: It's been moved and seconded that we approve this with conditions. And we have to read the conditions. Let me find them. The conditions are ... I've lost my place.

Shipley: Should be in the front.

Bustos: I've got them here.

Crane: Sixth page from the top.

White: They're actually located on the first page as well. I went ahead and put it on the first page for you.

Scholz: I don't see them on the first page.

White: Do you just want me to read them? I have them right here.

Shipley: I can do it if you want.

Scholz: Yes, go ahead and read them please.

Shipley: I move that the Planning Commission approve the variance with conditions. The variance is a variance from Article VI section 38-53 subparagraph D of the 2001 Zoning Code as amended that requires the schools to be located on a roadway having a minimum right-of-way of 85 feet and therefore classified as a collector status roadway. And the condition one was that 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 a Planned Unit Development as outlined within the 2001 Zoning Code, as amended. Secondly, 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 spacial 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.

Scholz: And the third condition.

Shipley: And the third condition would be that the high school will be limited to 50 students and they would have to either move or whatever.

Scholz: No, it just says limited to the 50 students. That the condition. Okay, did we have a second on that?

Evans: Second.

Scholz: Yes, it was moved and seconded. Okay, I'll call the roll. Commissioner Shipley.

Shipley: Aye findings, site visit, and discussion.

Scholz: Commissioner Crane.

Crane: Aye findings, site visit, and discussion.

Scholz: Commissioner Iserman.

Iserman: Nay findings, site visit, discussions.

Scholz: Commissioner Evans.

Evans: Aye findings and discussion.

Scholz: Commissioner Bustos.

Bustos: Aye findings, discussion, and site visit.

Scholz: Commissioner Beard.

Beard: Aye findings, discussion, and site visit.

Scholz: And the Chair votes nay. So the variance has been approved 5-2.

VIII. OTHER BUSINESS

Scholz: Staff, is there any other business in front of us today?

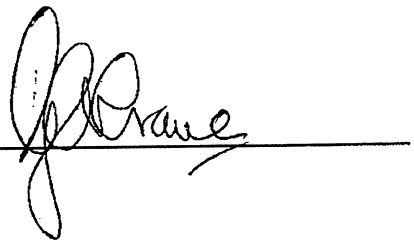
White: None.

IX. PUBLIC PARTICIPATION

X. STAFF COMMENT

XI. ADJOURNMENT 10:01

Scholz: I declare this session over. It's 10:01.



Chairperson

Attachment "D"

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 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

ATTACHMENT "D-1"

August 14, 2009

Dear Mr. White:

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.

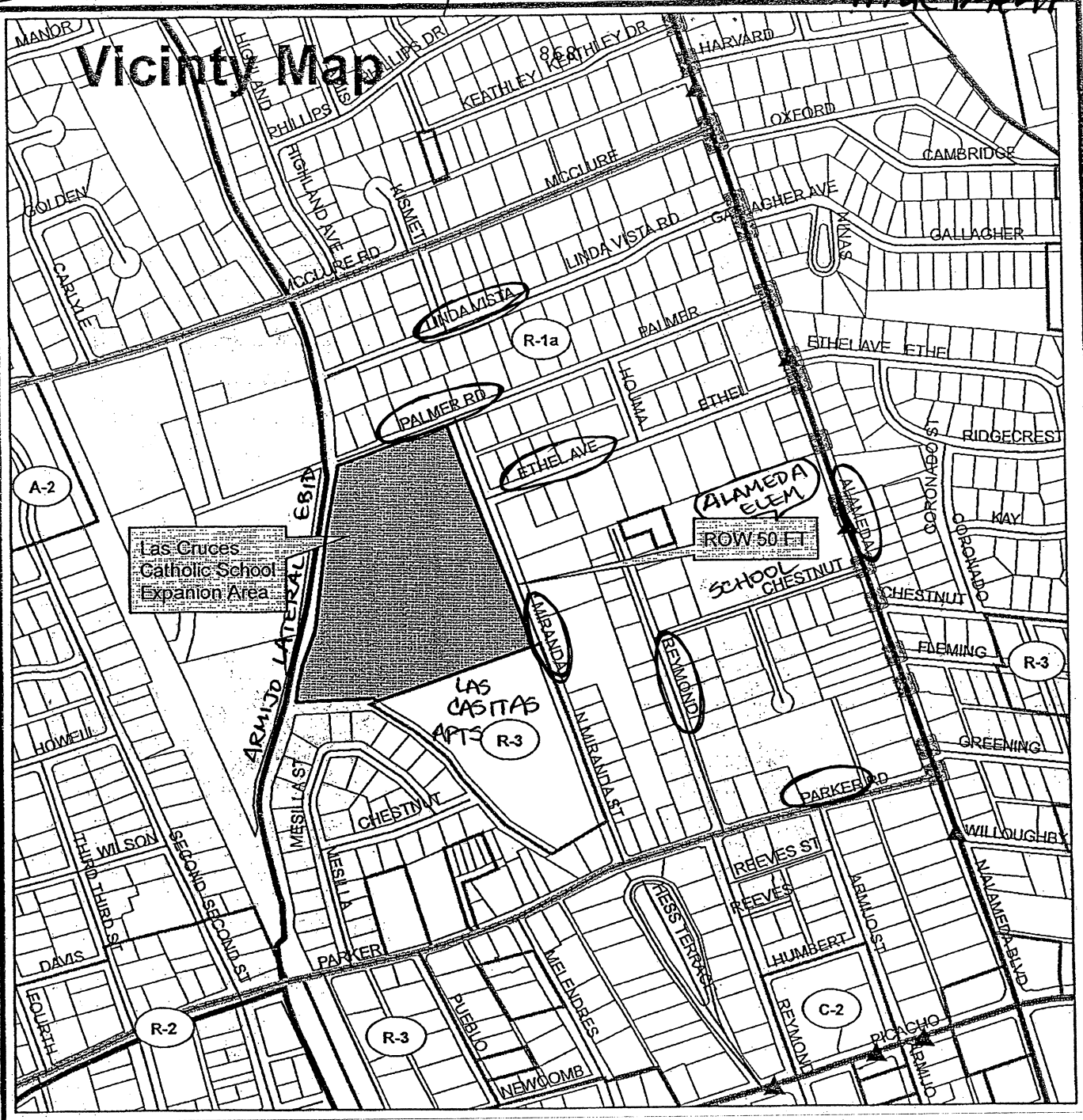
In sum, Mr. Clifton's comments are interesting but seem to lack support. I hope that our research provides you with some additional perspective for viewing Mr. Clifton's statements and for considering the situation involving A1695 and LCCS.

Thank you for your attention.

Jo Ruprecht, on behalf of the neighborhood group

Attachment "E" 11

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

0 137.5 275 550 825 1,100 Feet

Community Development Department
575 S Alameda Blvd.
Las Cruces, NM 88001
(505) 528-3222

RECEIVED
JUL 16 2009
COMMUNITY DEVELOPMENT

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.

CASE A1695 APPEAL by NEIGHBORS 869

RECEIVED
JUL 17 2009
COMMUNITY DEVELOPMENT

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

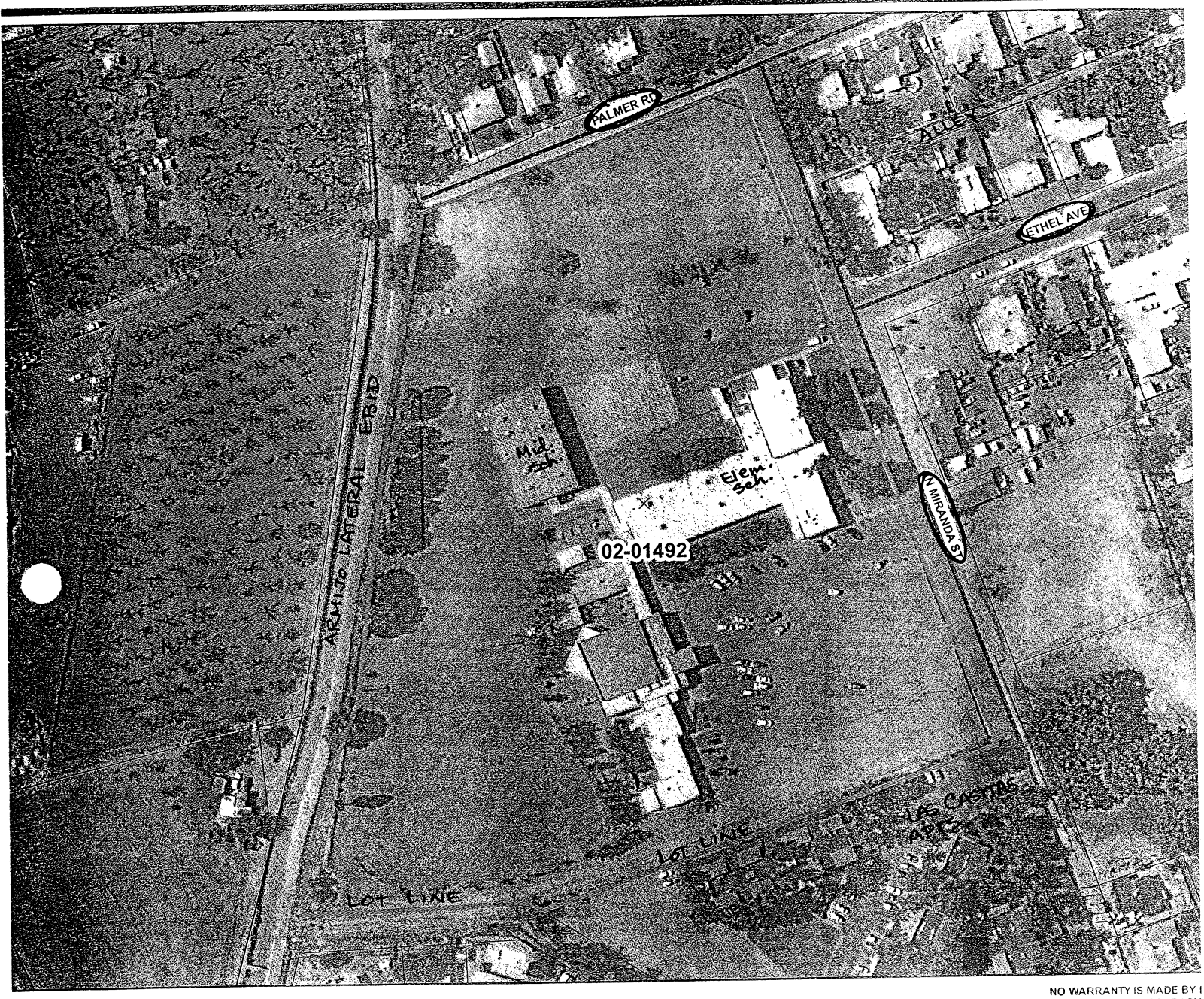
ATTACHMENTS:

A) Zoning Code Art. II. Sec.38-10 (pages II-8, II-9) highlighted at 2.
B) Zoning Code Art. V. Sec. 38-49.1 (page V-171) highlighted at top
Art. IV. Sec. 38-33D (pages IV-53, IV-54 chart) 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 form May packet for Commissioners
D) Fact Sheet from June packet for Commissioners
E) Page 73 Draft Minutes of June P & Z meeting highlighted at Line 41, Shipley and continuing on Page 74
F) Official Notification of Decision re: A1695 June 30

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 P & Z Minutes highlighted at top, Iserman
Page 18 Draft June P & Z Minutes highlighted at Ruprect (sic)
6) Page 1 May P & Z Minutes highlighted at Call to Order
Page 61 May P & Z Minutes highlighted at Abrams, continued to Page 62
7) Page 56 May P & Z Minutes highlighted at midpage Scholz, cont'd to Page 57
Fact Sheet from June certified mailing highlighted at "On May 26, 2009…"
Page 1 Draft June P & Z Minutes highlighted at Hembree
Page 16 Draft June P & Z Minutes highlighted at top Scholz
Page 18 Draft June P & Z Minutes highlighted at midpage Scholz
8) Email from James White with Thornberry letter to Bustos as attachment
Page 16 Draft June P & Z Minutes highlighted at Scholz, Bustos
9) Page 9 May P & Z Minutes highlighted at midpage, cont'd to Page 10
Page 73 Draft June P & Z Minutes highlighted at Shipley, cont'd to Page 74
10) Zoning Code Art. II. Sec. 38-10 (page II-2) highlighted at bottom line , 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

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)
17) Community Development memos re: building permit files for projects at 1327 and 1331 N. Miranda Street, no items listed for 1321 N. Miranda
18 ~~17~~) Zoning Administrator Recommendation re: A1695 presented at June P & Z meeting, highlighted at bottom page 1
19 ~~18~~) Letters received by Community Development for May meeting (13 negative), distributed with Commissioners' packets approx. one week before meeting
20 ~~19~~) Letters received by Community Development for June meeting (9 negative), distributed to Commissioners immediately before meeting

Overview of land uses



Doña Ana County
Office of the Assessor
845 N. Motel Blvd.
Las Cruces, New Mexico 88007
Phone (505) 647-7400, or toll free: 877-827-7200
Web site: www.donaanacounty.org

GARY PEREZ
County Assessor

ANDY SEGOVIA
Chief Deputy Assessor

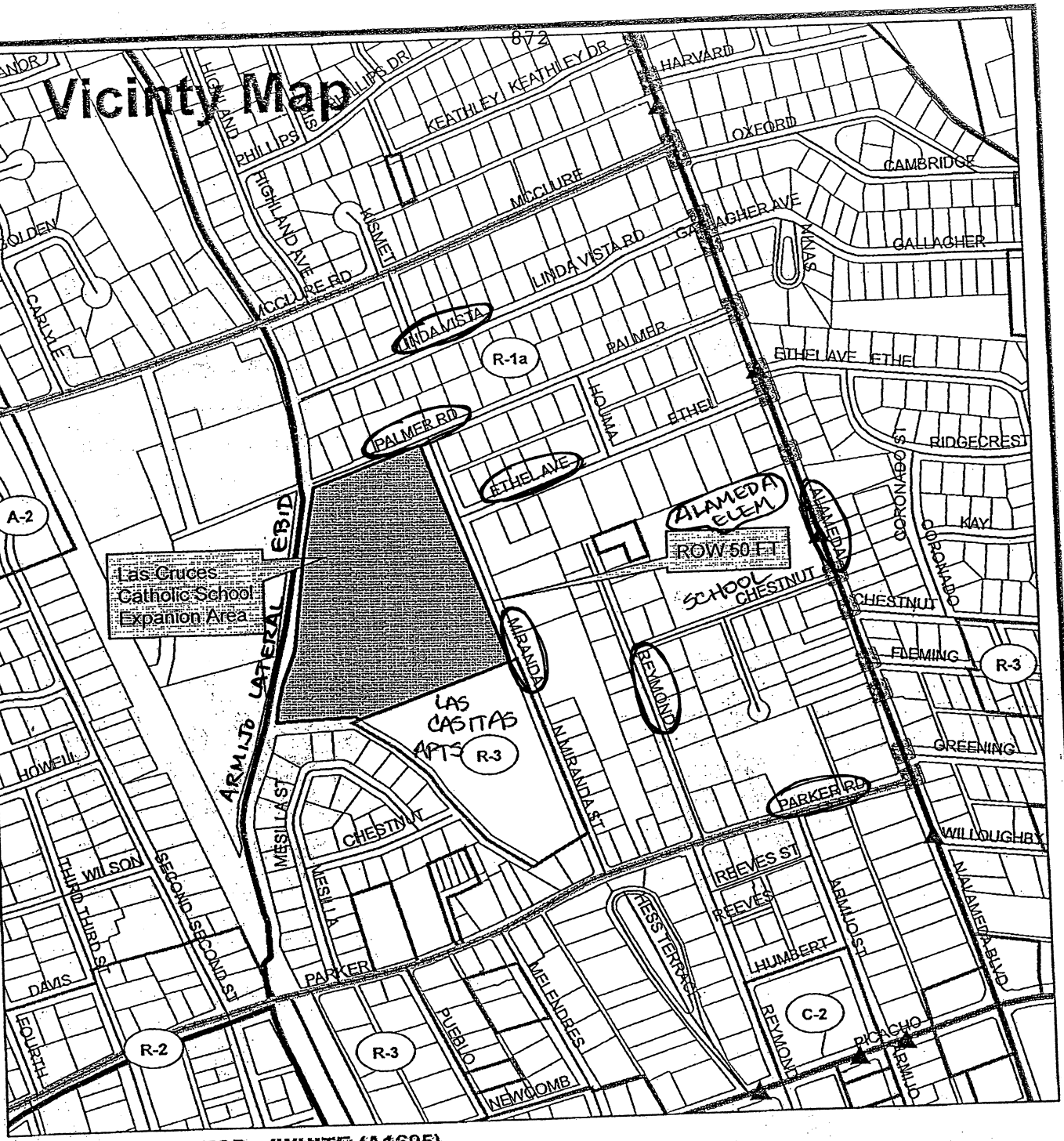
N W E S

0 75 150 300 Feet

NO WARRANTY IS MADE BY I
COUNTY AS TO THE ACCURACY,
OR COMPLETENESS OF THE
FOR INDIVIDUAL USE OR AGGR
WITH OTHER DATA. ORIGINAL
COMPILED FROM VARIOUS S
SPATIAL INFORMATION MAY
NATIONAL MAP ACCURACY S
THIS INFORMATION MAY BE
WITHOUT NOTIFICATI

RECEIVED
JUL 16 2009
COMMUNITY DEVELOPMENT

Vicinity Map



MAP CREATED FOR: JWHITE (A1695)

ADDRESS: 1321 N. Miranda Street

OWNERS: Holy Cross Parish

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

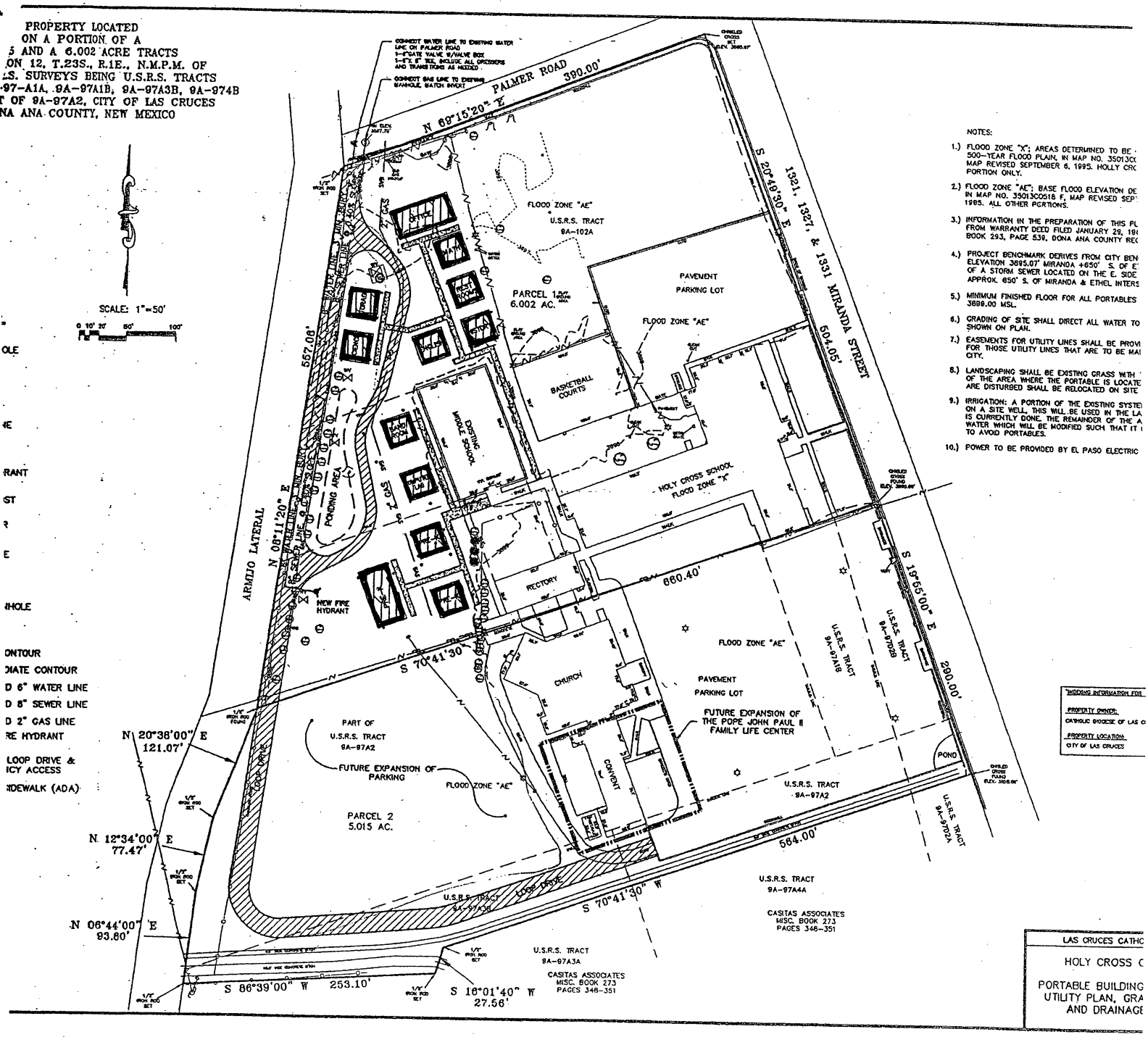
ZONING: R-1a

0 137.5 275 550 825 1,100 Feet

N

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.


PROPERTY LOCATED
ON A PORTION OF A
5 AND A 6.002 ACRE TRACTS
ON 12, T.23S., R.1E., N.M.P.M. OF
LS. SURVEYS BEING U.S.R.S. TRACTS
97-A1A, 9A-97A1B, 9A-97A3B, 9A-974B
T OF 9A-97A2, CITY OF LAS CRUCES
NA ANA COUNTY, NEW MEXICO
SCALE: 1"=50'
PALMER ROAD
N 69°15'20" E
390.00'
S 20°49'30" E
1321, 1327, & 1331 MIRANDA STREET
504.05'
567.08'
N 08°11'20" E
ARMIJO LATERAL
PARCEL 1
6.002 AC.
FLOOD ZONE "AE"
U.S.R.S. TRACT
9A-102A
PAVEMENT
PARKING LOT
BASKETBALL
COURTS
EXISTING
MIDDLE SCHOOL
PONDING AREA
HOLY CROSS SCHOOL
FLOOD ZONE "X"
RECTORY
660.40'
S 19°55'00" E
290.00'
NEW FIRE
HYDRANT
S 70°41'30" E
CHURCH
PAVEMENT
PARKING LOT
FUTURE EXPANSION OF
THE POPE JOHN PAUL II
FAMILY LIFE CENTER
U.S.R.S. TRACT
9A-97A1B
U.S.R.S. TRACT
9A-97D2B
POND
PART OF
U.S.R.S. TRACT
9A-97A2
FUTURE EXPANSION OF
PARKING
FLOOD ZONE "AE"
CONVENT
U.S.R.S. TRACT
9A-97A2
564.00'
PARCEL 2
5.015 AC.
N 20°36'00" E
121.07'
N 12°34'00" E
77.47'
N 06°44'00" E
93.80'
LOOP DRIVE
U.S.R.S. TRACT
9A-97A4A
CASITAS ASSOCIATES
MISC. BOOK 273
PAGES 348-351
U.S.R.S. TRACT
9A-97A3A
CASITAS ASSOCIATES
MISC. BOOK 273
PAGES 348-351
S 86°39'00" W
253.10'
S 16°01'40" W
27.56'
NOTES:
1.) FLOOD ZONE "X"; AREAS DETERMINED TO BE
500-YEAR FLOOD PLAIN, IN MAP NO. 35013C
MAP REVISED SEPTEMBER 8, 1995. HOLLY CRO
PORTION ONLY.
2.) FLOOD ZONE "AE"; BASE FLOOD ELEVATION DE
IN MAP NO. 35013C0518 F, MAP REVISED SEP
1995. ALL OTHER PORTIONS.
3.) INFORMATION IN THE PREPARATION OF THIS PL
FROM WARRANTY DEED FILED JANUARY 29, 19
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 INTERS
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 PROVI
FOR THOSE UTILITY LINES THAT ARE TO BE MA
CITY.
8.) LANDSCAPING SHALL BE EXISTING GRASS WITH
OF THE AREA WHERE THE PORTABLE IS LOCATE
ARE DISTURBED SHALL BE RELOCATED ON SITE
9.) IRRIGATION: A PORTION OF THE EXISTING SYSTE
ON A SITE WELL. THIS WILL BE USED IN THE LA
IS CURRENTLY DONE. THE REMAINDER OF THE A
WATER WHICH WILL BE MODIFIED SUCH THAT IT
TO AVOID PORTABLES.
10.) POWER TO BE PROVIDED BY EL PASO ELECTRIC
"MISSING INFORMATION FOR
PROPERTY OWNER:
CATHOLIC DIOCESE OF LAS C
PROPERTY LOCATION:
CITY OF LAS CRUCES
LAS CRUCES CATHC
HOLY CROSS C
PORTABLE BUILDING
UTILITY PLAN, GRA
AND DRAINAGE

A

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.

B

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
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	EE	RE	REM	R1c	R1a	R1b	R1cM	R1aM	R1bM	R2	R3	R4		O1	O2	C1	C2	C3	MT	M1M2	M3	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	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	C	C	C										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	A	A										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	A	A												
Child Care Center or Preschool (CCC) (13 or more children)											A	A		A	A	A	A	A	C	C	C			
Community Buildings-Uses	C	C	C	C	C	C	C	C	C	C	C	A			A	A	A	A	A	A	A	1 APS/800-1200 sq. ft. of GFA	1 BPS/5000 sq. ft. of GFA	See Section 38-53
Convention Center/Exhibition Hall															A			A	A	A		1 APS/3-5 maximum occupancy	1 BPS/75 maximum occupancy	
Detention Facility																			A	A	A	2 APS/Employee on maximum shift	0.4 BPS/Employee on maximum shift	
Hospital																		A	A			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												C	A			A	A	A	A	A	A	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.
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	See Section 38-53
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

LAND USES	GENERAL ZONING DISTRICTS																					AUTO PARKING	BICYCLE PARKING	LAND USE NOTES
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	EE	RE	REM	R1c	R1a	R1b	R1cM	R1aM	R1bM	R2	R3	R4		O1	O2	C1	C2	C3	MT	M1M2	M3	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	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															C	C	C	C	C	C		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															C	C	C	C	C	C	C	1 APS/1-2 Employees + 1 APS/2-4 Students	1 BPS/20 Employees + 1 BPS/10 Students	See Section 38-53

880

Applicant [illegible] 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: 1331 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	X	Zoning Code		Sign Code		Other
Code Interpretations		Zoning Code		Sign Code		Other
APPEAL TO		Planning and Zoning Commission		City Council		

When were zoning reqs changed for schools on 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 Schneider Date 6/5/09

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 Dat		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

OFFICIAL SEAL
CHRISTOPHER C PRADO
Notary Public
State of New Mexico
My Comm. 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: KirkClifton@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 ½" 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 SCHOOL'S 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

Purchased 12 use 9

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

D

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 9 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~~ 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.

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

Case: A1695

June

- **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.

- You or your representative, are invited to attend these meetings to express your opinion about the request.

- 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 (505) 528-3043 (voice) or (505) 528-3016 (TTY). This document can be made available in alternative formats by calling the same numbers listed above.

E

time, Ethel and Miranda. All right, I did not hear the word compulsive but I know it's going through the minds of my fellow Commissioners. My look at the data even though there are difficulties with it, seems to me to show that there was 15 minutes of the day at 7:45 to 8:00 in the morning, and 3:00 to 3:15 in the afternoon. Cars come out of the parking lot at the rate of three a minute in the morning and two a minute in the afternoon during that 15 minute period. It doesn't seem to me that that is a terrible burden on the traffic on Miranda Street. That's the total of cars regardless of whether they're going across the intersection to Ethel or north up Miranda, or south down Miranda. My inclination is therefore to approve the variance with the added stipulation in addition to the two conditions that the staff has recommended, that the high school be disbanded or moved by the summer of 2014. That is currently my inclination, it's not necessarily my vote. I have to hear what others have to say.

Scholz: Okay, are you making that in the form a motion?

Shipley: No, no, it's discussion.

Crane: No, at this point we're still in discussion I think unless no one else ...

Scholz: Yes, we're still in discussion, right. But if you're adding a condition then of course you'll have to make a motion.

Crane: All right. Well let me make the motion then we'll have something specific to discuss.

Shipley: I think we should discuss before the motion. I think there are some other things because I wanted to say the same thing. When I quickly looked at this book there are 240 signatures in here of people that live in neighborhood that are interested in seeing a Planned Unit Development from the school and the church. And I say "and the church" because if they're going to change what they do in the church it affects the neighborhood as well. So that's something that we ought to think about as we look at that. Now that's, you know in this ... in Mr. White's presentation he did state that if there is any other development in the future, that they would have to come in with a Planned Unit Development.

Scholz: It's up on the screen right now. Yes, as a matter of fact.

Shipley: So I agree with that. So, I think that's one point (*inaudible*) or not. I think there's confusion to me with what is the ... what are we approving here. Initially it says Case A1695 is a request for a variance from Article VI section 38-53D of the 2001 Zoning Code, as amended, that requires schools to be located on a roadway having a minimum right-of-way. When I go down to look at what the recommendation is, it doesn't mention

that. It only mentions the approval of this variance is limited to the expansion and installation of nine portable buildings having a combined gross area of 8,400 square feet. So where did the variance for the roadway go? It's not in here. So to me this is not a correct or accurate representation of what we're supposed to be doing. If we're doing a variance for the roadway and then we're doing a variance for the expansion, there should be two separate votes on this particular item. And I don't see that in here.

Scholz: Mr. White, would you care to comment?

White: I think the confusion is you're looking at two different issues. The variance is to right-of-way. The issues regarding the square footage is a condition that's proposed by staff. So let's look at this slide again. If you look at this slide, is says if you vote yes to approve the variance with conditions therefore allowing for a 35-foot deviation from the 85-foot minimum right-of-way requirement. That is what the actual vote is upon. What we're speaking about earlier was the conditions that were imposed by staff which is kind of lengthy so what I did is I placed it on a separate slide therefore you have these two conditions that staff recommends be attached to the approval of the variance request.

Scholz: In other words, what's happening with the variance request is that it legitimizes the school. The school no longer has to get a variance to operate, right? In other words, even though it's not on a collector or on an arterial or you know a major road, it can ignore that right, because we've granted them this variance.

Shipley: Then I would kind of concur with your recommendation to add an additional condition that says when the population of the school gets to 50 students the high school, it has to go somewhere else. Because that was part of their plan that they predicted and whereas it says in there documents they would like to go to 60 or 80. Well you know how much is enough? If we want to be concise then let's put it in as a condition that they have to live with. They can plan for it, and as they develop their Planned Unit Development, they know whether they need you know another 14,000 square feet, or 1,400 square feet?

Iserman: Thousand.

Shipley: 14,000 square feet. You know where's that going to go. What's going to go in there and how's that going to affect traffic.

Evans: Chairman Scholz.

Scholz: Commissioner Evans.

F

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

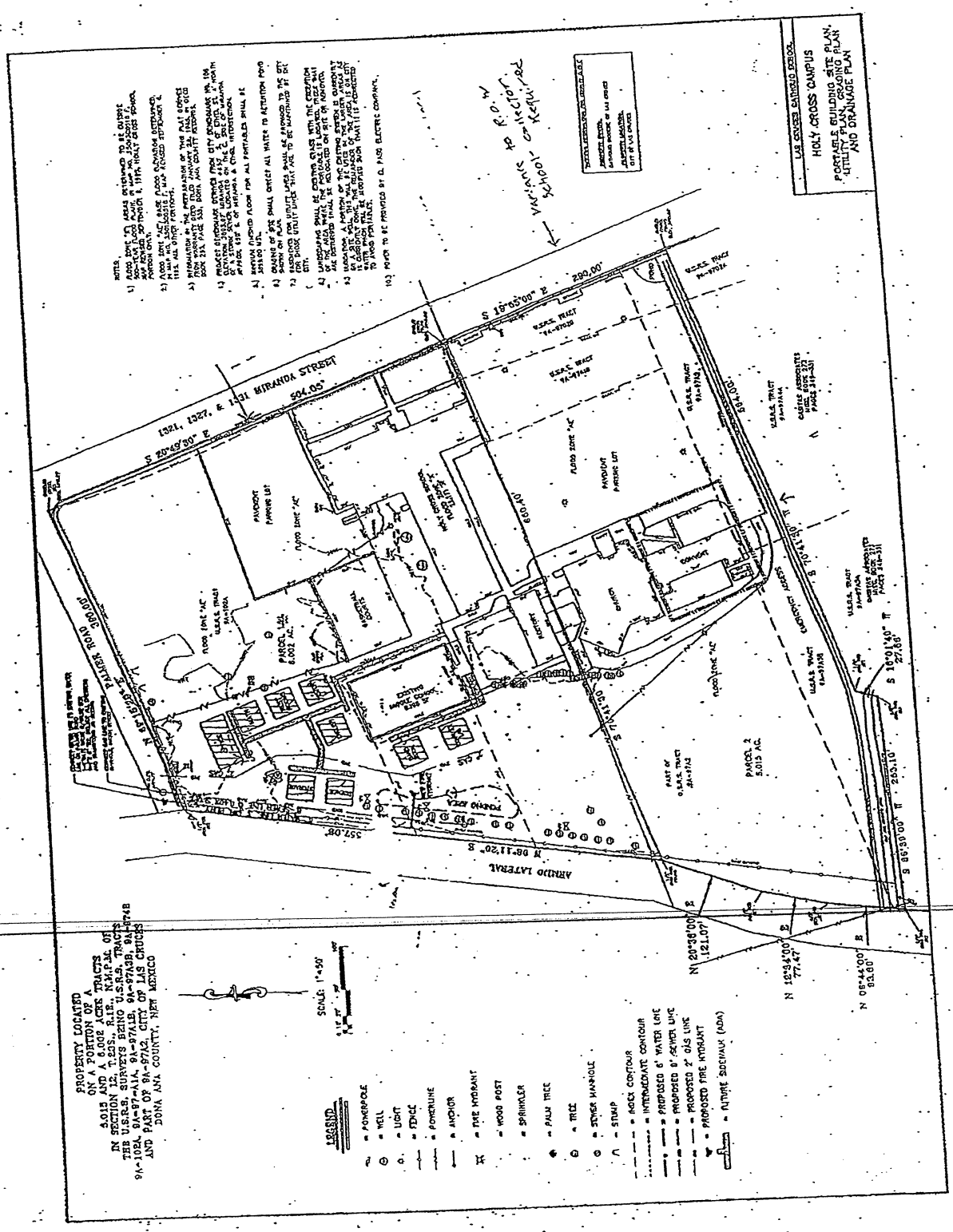
Any person, or any department, commission, board of the City that is affected by a decision of an administrative official, commission, committee, or board in the

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


LAS CRUCES CATHOLIC SCHOOLS
HOLY CROSS CAMPUS
PORTABLE BUILDING SITE PLAN,
UTILITY PLAN,
GRADING PLAN
AND DRAINAGE PLAN
PROPERTY LOCATED
ON A PORTION OF A
4.015 AND A 6.002 ACRE TRACTS
IN SECTION 12, T.22S., R.1E., N.M.P.M. OF
THE U.S.R.R. SURVEYS BEING U.S.R.R. TRACTS
9A-108A, 9A-97-A1A, 9A-97A1B, 9A-97A3B, 9A-97A4B
AND PART OF 9A-97A2, CITY OF LAS CRUCES
DONA ANA COUNTY, NEW MEXICO
LEGEND
SCALE: 1"=50'
1321, 1327, & 1331 MIRANDA STREET
S 20°49'30" E
504.05'
S 19°05'00" E
290.00'
PALMERAS ROAD
260.00'
N 68°11'20" E
357.08'
ARROYO LATERAL
S 71°44'30" E
680.00'
S 10°44'30" W
294.00'
S 10°01'40" W
27.06'
S 85°30'00" W
255.10'
N 20°36'00" E
121.07'
N 12°24'00" E
77.47'
N 05°44'00" E
93.00'
VARIANCE TO R.O.W.
SCHOOL CONNECTOR
REQUIRED
PARKING LOT
FLOOD ZONE "AE"
PARCEL 1A
6.002 AC.
PARCEL 2
5.015 AC.
EXISTING BUILDING
EXISTING WOOD SHED
EXISTING CONCRETE
EXISTING ASPHALT
EXISTING GRAVEL
EXISTING CHAIN LINK FENCE
EXISTING WOOD FENCE
EXISTING WOOD POST
EXISTING SPRINKLER
EXISTING PALM TREE
EXISTING TREE
EXISTING SEWER MANHOLE
EXISTING STUMP
EXISTING ROCK CONTOUR
EXISTING INTERMEDIATE CONTOUR
PROPOSED 6" WATER LINE
PROPOSED 8" SEWER LINE
PROPOSED 2" GAS LINE
PROPOSED FIRE HYDRANT
FUTURE SIDEWALK (ADA)
U.S.R.R. TRACT 9A-97A1A
U.S.R.R. TRACT 9A-97A1B
U.S.R.R. TRACT 9A-97A3B
U.S.R.R. TRACT 9A-97A4B
U.S.R.R. TRACT 9A-108A
GARCIA ASSOCIATES
DEEDS BOOK 222
PAGES 349-351
PART OF U.S.R.R. TRACT 9A-97A2
NOTES:
1) FLOOD ZONE "AE" AREAS DETERMINED TO BE OUTSIDE 500 YEAR FLOOD PLAIN IN ACCORDANCE WITH FEMA FLOOD INSURANCE RATE MAP REVISED TO PRESENT. PORTION OF "AE" ZONE FLOOD DESIGNATION DETERMINED BY "AE" BASE FLOOD ELEVATION DETERMINED BY FEMA. ALSO, ALL EXCAVATION IS NOT REVISED BEYOND R.O.W. LINES. ALL OTHER PORTIONS.
2) ELEVATIONS ON THIS PLAN ARE BASED ON DATUM OF THE MAP SHOWN FROM CITY BENCHMARK NO. 158 (BRASS CAP SET IN TOP OF CURB AT THE S.E. CORNER OF PALMERAS & 22nd INTERSECTION) AS PER CITY OF LAS CRUCES ORDINANCE NO. 1844, AS AMENDED.
3) ELEVATION OF THE FINISHED FLOOR OF THE MAIN BUILDING SHALL BE 3396.0 FEET ABOVE MEAN SEA LEVEL AS PER FLOOD INSURANCE RATE MAP (FIRM) PANEL NO. 350056 0001 B, DATED JANUARY 24, 1983, AS REVISED SEPTEMBER 4, 1985, AND AS AMENDED BY LETTER OF MAP AMENDMENT (LOMA) DATED JANUARY 24, 1986.
4) ELEVATION OF THE FINISHED FLOOR OF THE PORTABLE BUILDING SHALL BE 3396.0 FEET ABOVE MEAN SEA LEVEL AS PER FLOOD INSURANCE RATE MAP (FIRM) PANEL NO. 350056 0001 B, DATED JANUARY 24, 1983, AS REVISED SEPTEMBER 4, 1985, AND AS AMENDED BY LETTER OF MAP AMENDMENT (LOMA) DATED JANUARY 24, 1986.
5) REMAINDER OF THE PROPERTY SHALL BE RAISED ABOVE THE 500 YEAR FLOOD PLAIN AS PER FLOOD INSURANCE RATE MAP (FIRM) PANEL NO. 350056 0001 B, DATED JANUARY 24, 1983, AS REVISED SEPTEMBER 4, 1985, AND AS AMENDED BY LETTER OF MAP AMENDMENT (LOMA) DATED JANUARY 24, 1986.
6) PROPOSED STORMWATER DRAINS FROM CITY BENCHMARK NO. 158 (BRASS CAP SET IN TOP OF CURB AT THE S.E. CORNER OF PALMERAS & 22nd INTERSECTION) DISCHARGE AT THE S.E. CORNER OF A STORM WATER RETENTION & DETENTION BASIN AT A CFS. INTERSECTION.
7) ALL BUILDINGS SHALL BE CONSTRUCTED WITH FINISHED FLOOR ELEVATIONS AT OR ABOVE THE 100 YEAR FLOOD PLAIN.
8) SERVICE LINES SHALL BE PLACED UNDERGROUND.
9) ENTRANCE OF SITE SHALL CONFORM ALL WATER TO RETENTION POND.
10) SIGNAGE AND LANDSCAPING SHALL BE APPROVED BY THE CITY PRIOR TO ISSUANCE OF BUILDING PERMIT.
11) PARKING FOR DISABLED SHALL BE AS PER CITY ORDINANCE.
12) LANDSCAPING SHALL BE COMPLETED WITH THE CONSTRUCTION OF THE PORTABLE BUILDING AND SHALL BE MAINTAINED BY THE OWNER.
13) ALL EXISTING TREES SHALL BE RETAINED WHERE POSSIBLE.
14) ALL EXISTING SEPTIC SYSTEMS SHALL BE ABANDONED IN ACCORDANCE WITH THE REGULATIONS OF THE NEW MEXICO ENVIRONMENT DEPARTMENT.
15) ALL UTILITIES SHALL BE UNDERGROUND.
16) WATER TO BE PROVIDED BY EL PASO ELECTRIC COMPANY.

1

City of Las Cruces®

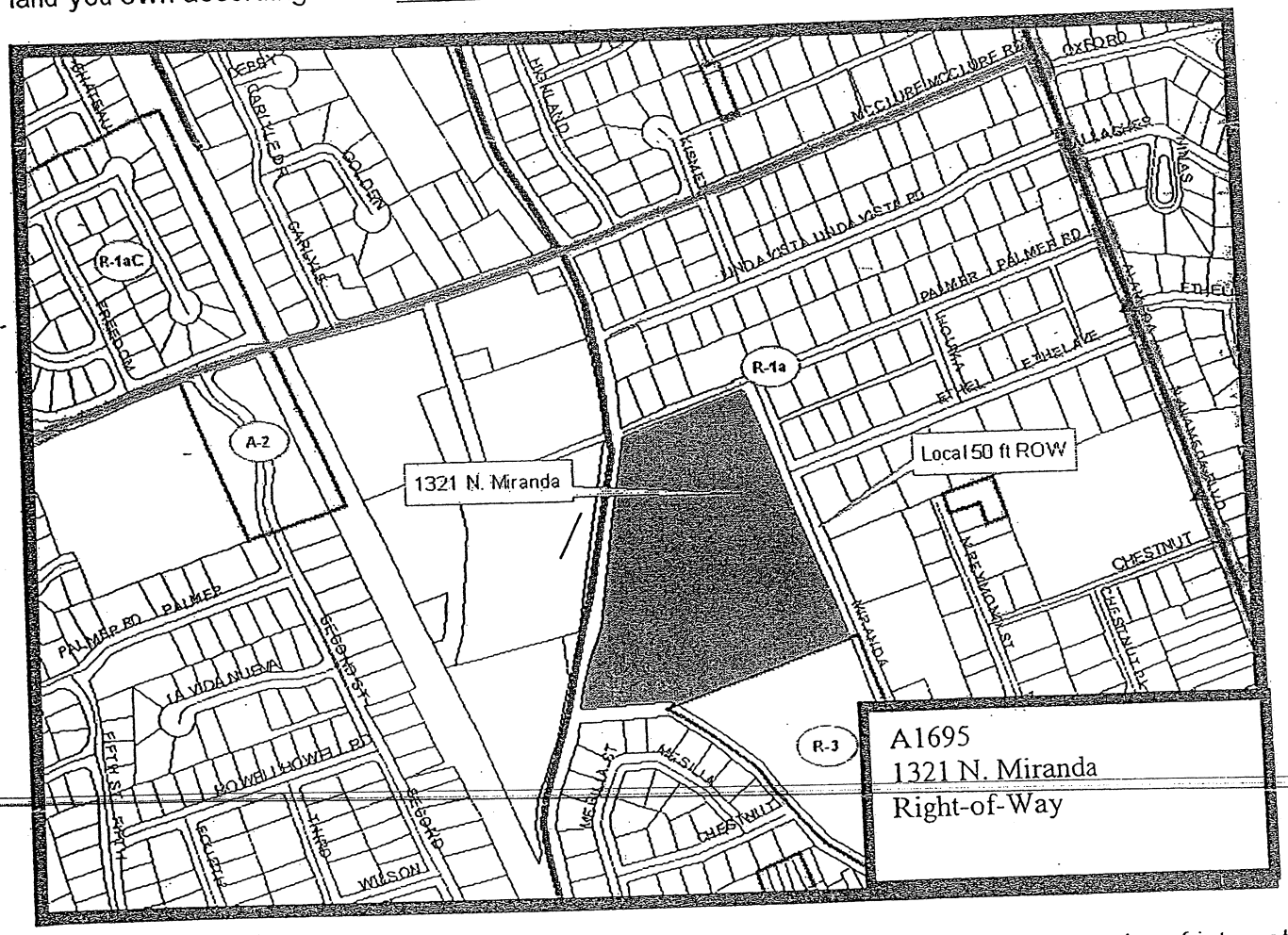
Public Notice

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, AICP
Planner

FACT SHEET

899

MAY

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.
- 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.

MAY

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: KirkClifton@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 ½" 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

MAY

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

MAY

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.

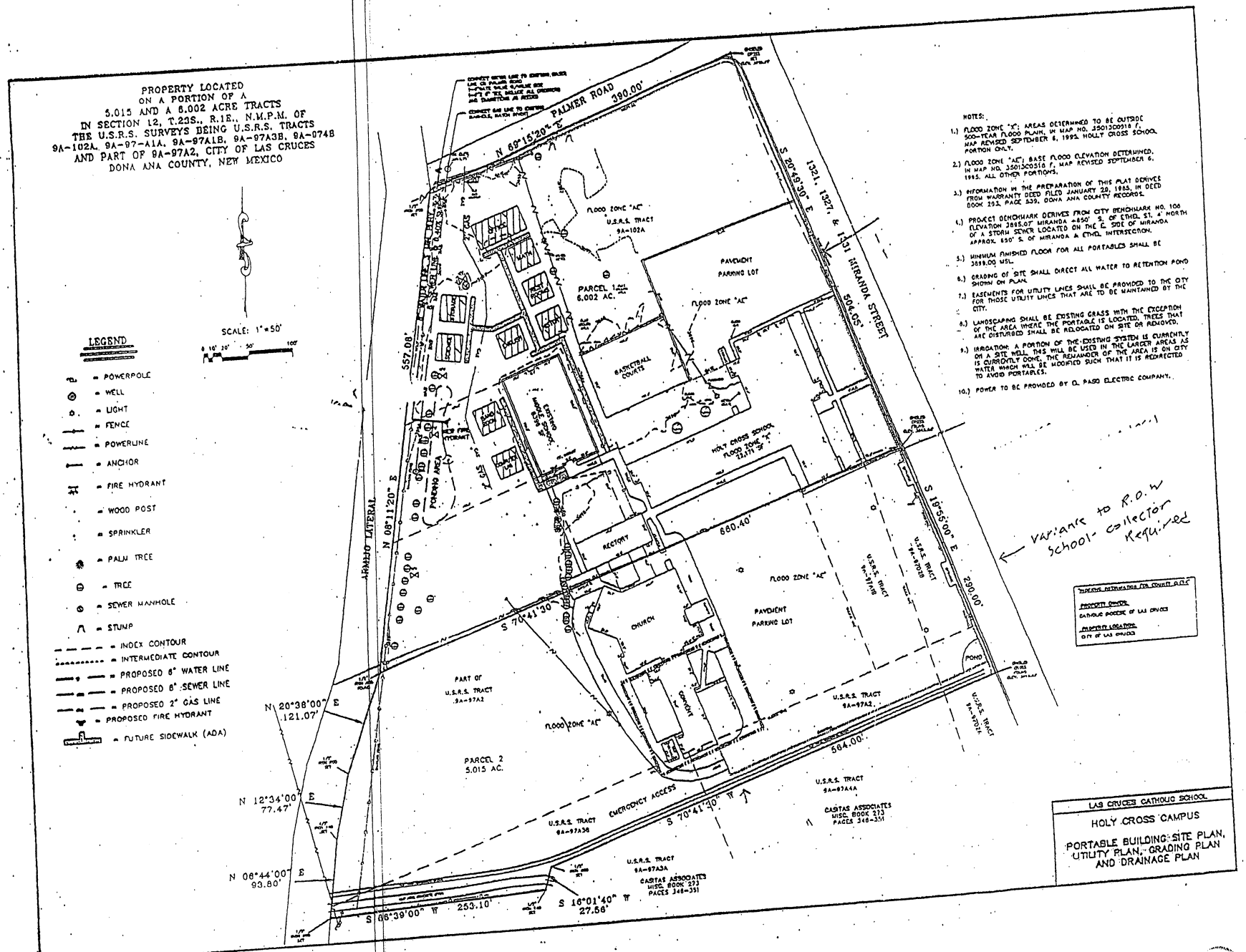
L.C.C.S. HAS BEEN LOCATED AT THIS SITE SINCE 1962. SINCE THAT TIME THE ZONING REGULATIONS HAVE CHANGED REQUIRING SCHOOLS BE LOCATED ON COLLECTOR DESIGNATED ROADWAYS. IN AN EFFORT TO ADDRESS SPACE NEEDS FOR THE EXISTING SCHOOL AND HIGH SCHOOL, PORTABLES WERE PURCHASED. THE CITY WILL NOT PERMIT (BUILDING)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



← variance to R.O.W school - collector Required

903

MAY

2

City of Las Cruces®

Public Notice

Re-Scheduled Public Hearing

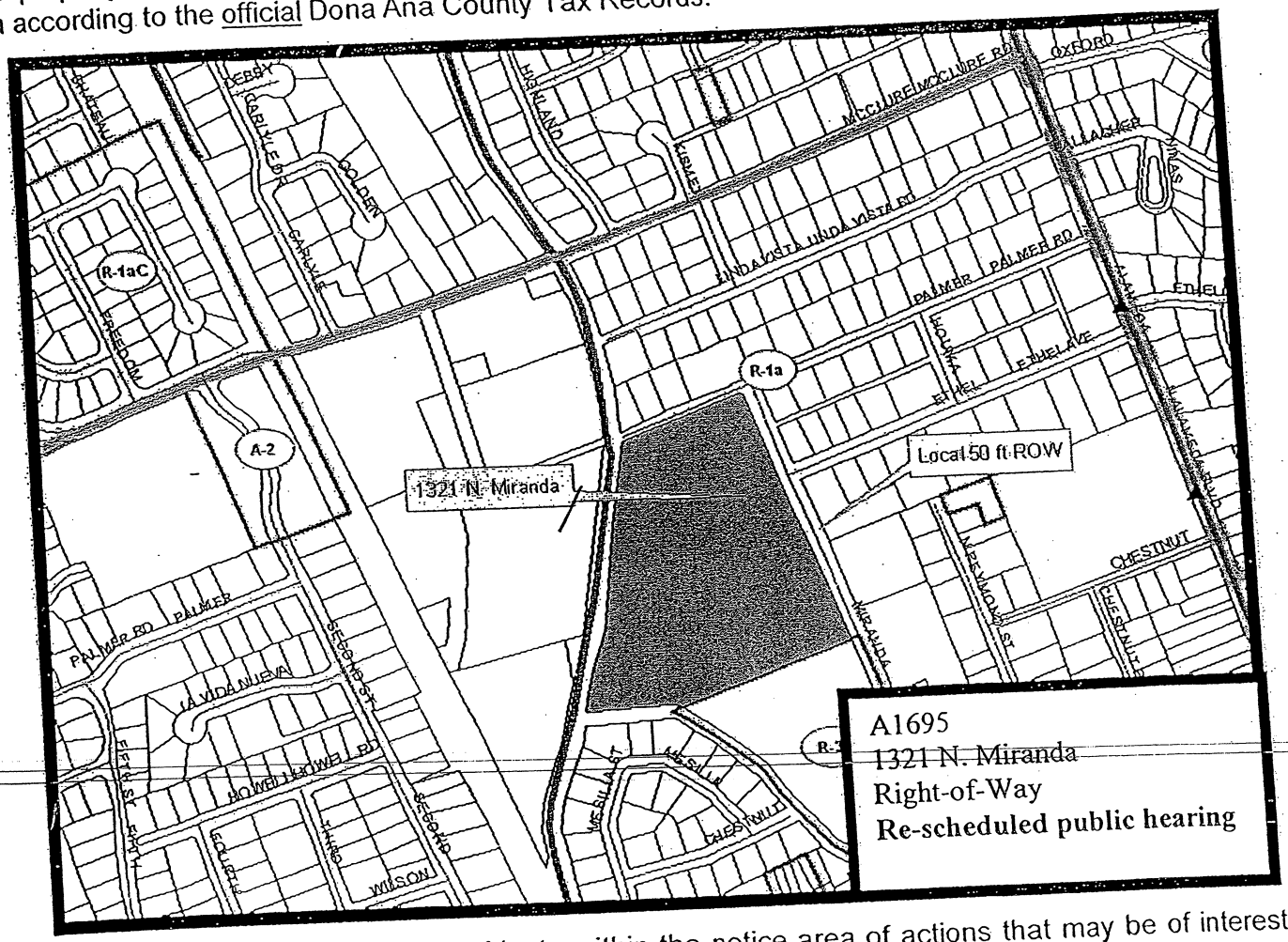
New Hearing Date is June 30, 2009

Certified Mail

June 05, 2009

Dear Property Owner:

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, AICP
Planner

P.O. BOX 20000 . LAS CRUCES . NEW MEXICO . 88004-9002 | 505.541.2000

AN EQUAL OPPORTUNITY EMPLOYER

JUNE

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: KirkClifton@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 ½" 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

907

JUNE

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.

JUNE

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.

JUNE

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,

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

3

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

commission is backtracking on this. I do not know whether the commission will allow supplementation of the record at this point. If it does, letters could be read into the record or, if there are many, the commissioners could break and review them.

5) You are free to attempt to submit a petition to the commissioners through Mr. White. The commission is free to disregard it if it elects not to receive new submissions.

6) Again, the answer is it at the discretion of the commission. It may or may not allow new testimony.

7) The City Council also uses Robert's Rules. They are available in any bookstore. Lastly, my answers may seem vague. I am not being evasive. Rather, Mr. White and I only offer advice to the commission. We cannot control it nor predict what it will do.

8)

From: James White
Sent: Monday, June 22, 2009 3:12 PM
To: Jared Abrams
Cc: David Weir; Cheryl Rodriguez
Subject: FW: Procedural Questions regarding P&Z meeting June 30, 2009

Jared,

Provided are procedural questions from Ms. Dennis (resident N. Alameda). As directed from our previous conversation any letters/e-mails received after May 26, 2009 were not to be included into the case packet with the only exception being the traffic information as requested by P&Z. I am still receiving letters one was received today. I informed Ms. Dennis that she or any other area resident could on June 30, 2009 request for the subsequent letters/e-mails to be entered into record, if so granted by the P&Z Commission. I have kept an unofficial file with all the letters in case there are allowed into record.

On a separate note I suggested for Ms. Dennis to submit any questions regarding the procedural aspects of the P&Z Commission so an appropriate response can be returned. There already had been a P&Z Commissioner granting procedural advise to an area resident.

From: ddennis@humansystemsresearch.org [mailto:ddennis@humansystemsresearch.org]
Sent: Monday, June 22, 2009 12:52 PM
To: James White
Cc: Mayor; Miguel G. Silva; cscholz@zianet.com; Terrence R. Moore
Subject: Procedural Questions regarding P&Z meeting June 30, 2009

Mr. White,

Per you 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.

4

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.

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
CLIFFORD PELTON		5725 ROBLEDO RD LAS CRUCES 88012	6/5/09
Julie Woody	Julie Woody	452 W. ETHEL Las Cruces, 88005	6/5/09
Lucia C. Wilcox	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	Jo Ingle	1610 Neleigh Dr	6/03/09
STAN Edliger	Stan Edliger	1610 Neleigh Dr.	6/8/09
Eloy Flores	Eloy R Flores	405 W Ethel	6/8/09
Nellie Flores	Nellie Flores	405 W Ethel	6/8/09
DORIS Payne	Doris Payne	515 W. Ethel	6/8/09
Jason Conner		448 W. Ethel	6/8/09
Melissa Copeland	Melissa Copeland	455 W Ethel Ave, Las Cruces	6-8-09
JOHN MOORE	John Moore	444 W. ETHEL.	

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
Stephen Smith	Stephen Smith	441 Ethel	5-9-09
Althea Brown	Althea Brown	420 W. Ethel	6-9-09
Tauna Cole Dorn	Tauna Cole Dorn	330 W. Ethel	6.9.09
Raul Dorn	Raul Dorn	330 W. Ethel	6·9·09
Javier Cerny	Javier Cerny	328 W Ethel	6:9·09
Gina Cerny	Gina Cerny	328 W Ethel	6:9-09
Tobias Siegel	Tobias Siegel	324 W. Ethel	6-09-09
Minerva Siegel	Minerva Siegel	324 W Ethel	6-09-09
Judy Licht	Judy Licht	10917 N. Valley	6-27-09
Betsy Cahill	Betsy Cahill	703 N Reymond	6-27-09
Eve Adams	Eve M. Adams	703 N Reymond St.	6-27-09
Nancy Cahill	Nancy Cahill	782 W. COURT	6-27-09

920

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
Florence Schrader	Florence Schrader	105 W. Ethel	15 June 09
Louise O'Donnell	Louise O'Donnell	107 W. Ethel	6-16-09
Theresa McNaughton	Theresa McNaughton	119 Ethel	6/16/09
JOAQUIN TELLEZ	Joaquin Tellez	207 W. ETHEL	6/16/09
Gloria M Gonzales	Gloria Gonzales	209 ETHEL	6+6 09
Priscilla Washington	Priscilla Washington	216 w. Ethel	6.16.09
MARY LOU YEGA	Mary Yega	118 W. Ethel Ave	6-16-09
GARY TRUELOVE	Gary Truelove	110 W. ETHEL	6-16-09
Martina Ortner	Martina Ortner	438 Court	6/27/09
Mary A McCarthy	Mary Ann McCarthy	6125 Rowley Ct	6/27/09
Tom Smith	Tom Smith	2205 E Idaho Ave	6/27/09
Jeff Stevens	Jeff Stevens	162 Red Deer Ct	6/27/09

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
Vickie Aldrich	Vickie Aldrich	310 Palmer Rd	6/6
Tim Reed	Tim Reed	310 Palmer	6/6
Eugene Hernandez	Eugene Hernandez	326 Palmer Rd	6/6/09
Kathy Hernandez	Kathy Hernandez	326 Palmer Rd LC	6-6-2009
Leslie Thornberry	Leslie Thornberry	330 Palmer Rd	6-6-09
B. Thornberry	Bettie Thornberry	311 Palmer Rd.	6-7-09
Rita Fernandez	Rita A 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		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

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
Rev. Vickie S. Avery	Rev. Vickie S. Avery	435 Palmer Rd. Las Cruces, NM 88005	6/6/09
Louis # Freitas		430 Palmer Rd LAS Cruces NM 88005	6/6/09
Sarah & Tim Herndon		512 PALMER LC.	6/6/09
Toni Cross		514 Palmer LC 88005	6/6/09
David Berrotarán		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 Morton	Misty Morton	518 Palmer Rd. LC 88005	6/7/09
Jesse Morton	Jesse Morton	518 Palmer Rd. LC 88005	6/7/09
Evlinda L. Duran	Evlinda L. Duran	526 Palmer Rd 88005	6/7/09
JOVIAN T. MARHAM	Jovian T. Markham	516 PALMER RD LC. 88005	

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
Timothy Hernandez		572 Palmer Rd LC NM 88005	6/7/9
Ted Sanchez		444 Palmer LC NM 88005	6.7.9
Gilbert Adame		1305 Mesilla St 88005	6-7-09
Stephanie Yeager		2973 Onate Rd LC, NM 88007	6-7-09
Terry L. Thomas		1325 N. Mesilla St.	6-7-09
Nina Garnez		1235 n mesilla st	6/7/09
Ruby Martinez		1235 n. mesilla st.	6-7-09
[illegible]		1225 N. Mesilla St.	6/7/09
Nicole Garcia		1215 N Mesilla St.	6/7/09
Catherine Mosser		1307 Park Drive	6/7/09
Tammy Schurr		1307 Park Dr LC NM 88005	6/7/09
DORIS KNIGHT		5202 VICTORIO TRL LC NM 88012	6/21/09

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
TERRI MUNSON		410 Palmer Rd 88005	06-07-09
Linda Meyer		410 Palmer Rd 88005	6-7-09
Tina Shelley		306 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 H. Payne		315 W. ETHEL 88005	6-8-09
Tanya Cereceres		1351 N. Alameda	6/9/09
Salina Parra		1345 N. Alameda BLVD	6/9/09
Trent McCormick		1345 N. Alameda BLVD	6-9-09
MIKE Parra		" "	6-9-09
Sofia Mendiola		" "	6-9-09
Jennifer Martinez		1345 N Alameda Blvd	6-9-09

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
HARRY AVERY	Harry B Avery	1155 N. Miranda H-1	6-6
B. Jean Apgar	B. Jean Apgar	1155 N. Miranda H-2	6-6
Gale Casey	Gale Casey	1155 N. Miranda D-5	6-6
Virginia Enkel	VIRGINIA Enkel	1155 N. Miranda E2	6-6-09
Robert J Adam		1155 N Miranda G 5	6 JUNE 09
Barbara Ballou	BARBARA BALLOU	1155 N. Miranda E 2	6-6-09
Patricia Riordan	Patricia A. Riordan	1155 N. Miranda F5	6-6-09
Nancy Shiver	Nancy L. Shiver	1155 N. MIRANDA G4	6-6-09
Kathleen Hankins	Kathleen R. Hankins	1155 N miranda F1	6-8-09
BRAD HANKINS	Brad R Hankins	1155 N MIRANDA F1	6-8-09
Mike Solliday	Michael Solliday	1155 N. Miranda J6	6-8-09
ROBERT YOST	Robert Yost	1155 N. Miranda J 7	6/8/09

926

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
Tom Casey	Tom Casey	1155 N. Miranda ST D-5	6/8/09
Evelyn Rocha	[illegible]	1155 N. Miranda Street C2	6/08/09
Eric Wallis	[illegible]	1155 N. MIRANDA C2	6/8/09
Don J. Morrison	[illegible]	" G8	6/8/09
Cindy Brooks	[illegible]	1155 N. MIRANDA #G6	6/8/09
Gene Vary	[illegible]	" " K 4	6/8/09
Milton Duran	[illegible]	" " H-4	6/8/09
Elsie Jackobsky	Elsie Jackobsky	1155 N MIRANDA J2	6-9
Caryll Patrick	Caryll Patrick	1155 N Miranda K2	6/9/09
Amanda Smith	[illegible]	1155 N. MIRANDA G3	6/9/09
Michael S. Yaceko	[illegible]	1155 N. Miranda G3	6/9/09
Thomas Newton	[illegible]	1155 N. MIRANDA D-3	6-9-09

927

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
Paul X. Ruiz	Paul X. Ruiz	1155 N. MIRANDA APT D-2	6.6.09
Charlene Embree (Betty)	Betty Charlene Embree	1155 N. Miranda apt C5	6-9-09
Joe Godwin	Joe Godwin	1155N. MirandaSt. A6	6.9.09
VICKI Nance	Vicki Nance	1155 N. Miranda St. B-8	6-9-09
DAVID VALENTINE	David Valentine	1155 N. Miranda Apt B-8	6-9-09
NANCY ANDERSON	Nancy Anderson	" " B-6	6/9/09
Charlotte Kovacic	Charlotte Kovacic	1155 N MIRANDA A-H	6/9/09
W. C. JOHNSTON	W. C. Johnston	1155 N. MIRANDA B3	6/9/09
Heather Stewart	Heather Stewart	1155 N. Miranda Apt. K5	6-9-09
Paul Hinde	Paul Hinde	" " " " K5	6-9-09
Doris Sparks	Doris Sparks	1155 N. Miranda St. Apt E1	6-10-09
DONALD SPARKS	Donald Sparks	1155 N MIRANDA APT E-1	06/10/09

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
MELISSA THORNBERRY	Melissa Thornberry	1064 Hess Terrace LCNM	6-9-09
David Andrade	David Andrade	1006 Pueblo St. #2	6-9-09
Peggy Torres	Peggy Torres	4080 Winters St.	6-9-09
Elva dela Cruz	Elva dela Cruz	3123 Hillrise Dr.	6-9-09
Elvia Romero	Elvia Romero	6655 Vista de Oro	6-9-09
Ann Gluck	Ann Gluck	1040 Hess Terrace	6-9-09
Ichinosuke Ando	Ichinosuke Ando	1065 Hess Terrace	6-19-09
Harold Smith	Harold Smith	"	"
Mary Beaty	Mary E Beaty	1045 Hess Terrace	6-9-90
Bruce Hartman	Bruce Hartman	1043 Hess Terrace	6-4-09
Alice Cox	Alice Cox	1017 N. Arroyo	6/10/09
Kathryn Holmes	Kathryn Holmes	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 San Mar		1348 N. Alameda BLVD	6/11/09
Vanessa Figo		1348 N. Alameda Blvd	6-11-09
Arnold Howard		1200 N Alameda Blvd	6-11-09
Scott Sack		1112 N Alameda Blvd	6-11-09
Greg Worley		1104 N. Alameda	6/4/2009
Claessen Raynda		1100 N. Alameda	6/11/2009
Claessen Jerry		" "	6/11/2009
Corbett William		2010 Payne Ct, Las Cruces, NM 88001	6/14/2009
Gayle Law		1812 Salinas, LC NM	6/14/09
Shannon Law		1812 Salinas, LC, NM	6/14/09
Shirley Ipsen		5201 Nona Trail LC NM	6/21/09 ~~6/21/02~~
Betty Rosse		5201 Nona Trail LC NM	6/21/02

930

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
SUZANNE NEVILLE-STALEY	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 SPENCER		305 Linda Vista Rd Las Cruces New Mexico	6-8-09
CHRIS BARNEY		305 LINDA VISTA RD. LC, NM 88005	6/8/09
Sonia Bailey	Sonia Bailey	322 Linda Vista Rd Las Cruces NM 88005	6/8/09
Justin Norsworthy		329 Linda Vista Rd. LC NM 88005	6/8/09
Darcy Norsworthy	Darcy Norsworthy	329 Linda Vista Rd LC NM 88005	6/8/09
Evan Bailey	Evan Bailey	322 Linda Vista Rd LC NM 88005	6/8/09
Michael Stowe		504 Linda Vista Rd. LC, NM 88005	6/9/09
Isadora Stowe		504 Linda Vista Rd. LC, NM 88005	6/9/09
Mike Gilman		535 Linda Vista Rd LC, NM 88005	6/9/09
Diane Gilman	Diane Gilman	535 Linda Vista Rd LC NM 88005	6/9/09

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
Monica Sanchez	Monica Sanchez	465 Linda Vista LC NM 88005	6-8-09
Robert Terrazas		222 Raymond LC NM 88005	6-8-09
Alfredo Silva	Alfredo Silva	199 W. Madrid Apt 42 LC NM 88001	6-8-09
Sandra Rivera	Sandra Rivera	124 McClure Rd 88005	6/8/09
Jon Simmons		450 LINDA VISTA 88005	6-8-09
Nora Simmons		450 Linda Vista 88005	6-8-09
Jim Chavez		445 LINDA VISTA 88005	6-8-09
Reyes Torres		442 Linda Vista L 88005	6/8/09
CLARA ARMIJO	Clara Armijo	442 LINDA VISTA RD 88005	6-8-09
	Sherie Hamblen	440 LINDA VISTA RD 88005	6/8/09
Chas Ullman		440 Linda Vista Rd 88005	6/8/09
Brittany Black	Brittany Black	434 Linda Vista Rd 88005	6/8/09

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
Susan Klima	Susan Klima	518 Linda Vista L.C. N.M. 88005	6-10-09
Angela Acosta	BS	455 Linda Vista Las Cruces NM 88005	6/10/09
Stephen TASHIRO	Stephen Tashiro	449 LINDA VISTA LAS CRUCES NM 88005	6/10/09
Linda Wolfe	Linda Wolfe	431 Linda Vista Las Cruces NM 88005	6/10/09
DAVID J. DAY	David J. Day	341 Linda Vista Las Cruces.	6/10/09
MARIA MATTEUCCI	Maria Matteucci	338 LINDA VISTA LAS CRUCES	6/10/09
David Protextor	David Protextor	334 Linda Vista Rd LsCrcs	6/11/09
Maria Protextor	Maria Protextor	334 Linda Vista L.C. NM 8800[illegible]	6/11/09
PAULA SANDOVAL	Paula Sandoval	1315 N. Miranda	6/29/09
STEPHEN HANSEN	Stephen Hansen	316 PARKER RD L.C. 88005	6/30/09
Chuck Brink	per phone conversation (505) 321-1705	415 Palmer Rd. LC 88005	6/30/09
Janey Brink	per phone conversation (505) 321-1705	415 Palmer Rd. LC 88005	6/30/09

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
Lucretia A. Jones	Lucretia Jones	441 Linda Vista Road, LC, NM 88005	6/12/09
Linda Salgado	Linda Salgado	510 Linda Vista Rd, LC 88005	6/11/09
Joseph Valdez		421 Linda Vista Rd LC 88005	6/11/09
Michelle Valdez	Michelle L Valdez	421 Linda Vista LC, NM 88005	6/11/09
Katya Gonzalez	Katya Gonzalez	511 Linda Vista Rd LC, NM 88005	6/29/09
James Caufield	James D. Caufield	511 Linda Vista Rd, LC, NM 88005	6/29/09
Greg Bloom		1160 N. MIRANDA, LC, NM, 88005	6/29/09
AMBER ARROYOS		1170 N. MIRANDA LC, NM 88005	6·29·09
CARMEN PRESTON	Carmen Preston	600 Parker Rd, LC, NM 88005	6-29-09
KENNETH PRESTON		600 Parker Rd 88005	6/29/09
JIM BILLINGS		421 PARKER RD 88005	6/29/09
Claudia Billings	Claudia Billings	421 Parker Rd 88005	6/29/09

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
Gregory L Gendall		1107 N Reymond LCNM 88005	6/14/09
Quida Touchon	Quida Touchon	1200 N. Reymond LC 88005	6/14/09
Kate Walsh	Kate Walsh	424 Parker Rd, LC, 88005	6/14/09
LEOLA PETTES	Leola Pettes	499 West Chestnut St 88005	6/14/09
Susan Wells	S Wells	498 W Chestnut Ave 88005	6/14/09
Gloria Morales	Gloria Morales	1333 N. Reymond 88005	6-14-09
LUIS MORALES		" " "	"
Daniel Villa		420 W. Parker Rd	6/14/09
Linda Gendall		1107 N. Reymond St	6/14/09
Patricia Pedersen		4152 Council Oak, LC NM	6/14/09
Shelley Mudell		521 Brownlee LC 88005	6/27/09
VICKI GAUBECA		221 W GREENING, LC 88005	6/27/09

935

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
EDWARD GAMBOA	Edward Gamboa	320 Palmer Road, LCNM 88005	6/7/09
CHRISTINE GAMBOA	Christine Gamboa	"	"
Adrienne Sanchez	Adrienne Sanchez	320 Palmer Rd. LCNM 88005	6/7/09
Chris Angel	Chris Angel	1817 Anita LCNM	6.7.09
Beth Lopez	Beth Lopez	3811 Azalea LC. NM 88005	6-8-09
Gabe Lopez	G	3811 Azalea LasCruces, NM 88005	6-8-09
Veronica Myers	Veronica Myers	1125 S. Main	6-8-09
Eleanor Sanchez	Eleanor Sanchez	1114 Jett	6.8.09
~~Christina Perez~~ Christina Perez	Christina Perez	2010 Yale Ct. LCNM 88005	6-8-09
Paula Garcia	Paula M Garcia	802 Inca Dale, LC, NM	6-8-09
Amanda Villegas	Amanda Villegas	1978 Poplar Ave. LC NM	6-8-09
Miriam Ries	Miriam Ries	4152 Council Oak Rd., Las Cruces	6-27-09

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
Erlinda P. Duran	Erlinda P Duran	526 Palmer Rd	6/10
Mable H Duran	Mable H Duran	526 Palmer Rd	6/11
Kerry Palma-Szalay	Kerry Palma-Szalay	2345 Rosedale	6/15
MARTHA DURAN	[illegible]	526 Palmer Rd	6/18
WILLIE P. AVALOS	Willie P. Avalos	526 Palmer Rd	6/18
CANDACE L AVALOS	Candace L Avalos	1505 CAMINO DEL REX	6.19
Willie D Avalos	Willie D Avalos	1505 CAMINO DEL REX	6.19
Abbie Rodriguez	Abbie Rodriguez	6601 Mesa Dr L.C. N Mex	6-19
Polo Gutierrez	[illegible]	2135 Payne St Apt #201	6-21
JeFF Avalos	[illegible]	1766 Palo Verde	6-21
Alisha Terrazas	[illegible]	5615 Redwolf, Ln	6-22.09
Ida Martinez	Ida Martinez	516 E Bowman Las Cruces 88001	6/22/09

937

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
Isidro Ramos	Isidro Ramos	6655 Vista de Oro LC NM	6/10/09
LINDA DOUGLAS	Linda Douglas	916 Lark Place, Las Cruces, NM	6/10/09
ROBERT FLORES	Robert Flores	2416 ACOMA ST., LCNM 88007	6-10-09
Ryan Shultis	Ryan Shultis	1030 N. Arrijo	6/10/09
Amanda Jaffe	Amanda Jaffe	1006 Arrijo	6/10/09
Nancy Shelley	Nancy A. Shelley	1010 N. Arrijo	6-10-09
Chris Shelley	Chris Shelley	1010 N. Arrijo	6/10/09
STEVE FLEMING	Steve Fleming	175 MEADOR DR LAS CRUCES 88007	6-20-09
EDWARD HAINES	Edward Haines	1635 West Las Cruces Ave, LCNM 88005	6/13/09
ANTONIA BARELA	Antonia Barela	2175 S. TORNILLO ST	6/15/09
Darlene Bernal	Darlene Bernal	2720 Scenic Circle, Las Cruces, NM 88011	6/15/09
Susan Lindeman	Susan Lindeman	5159 Emerald St. LC, NM 88012	6-20-09

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
Kristal Armendariz		1217 N Alameda	Jun 9'09
Roger Aguas		1137 Alameda	Jun 9'09
Edward C Bailey	EDWARD C BAILEY	1415 N. ALAMEDA BLVD	"
Rebecca Ann Bailey	Rebecca A Bailey	1415 N Alameda Blvd	"
Avona E Noyes	Avona E Noyes	1415 N Alameda Blvd.	..
Veronica Slade		202 N. Miranda St.	6-27-9
Judy Long	Judy Long	614 W. Bowman Ave	6-27-09
DAN HARPER		614 W. BOWMAN AVE	6/27/09
KEVIN D. ANDREW		2205 E. IDAHO AVENUE.	6/28/09

939

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
Adela Rodriguez	Adela Rodriguez	1120 N. Raymond L.C	6/4-09
Eylilo Rodriguez	Eufilio Rodriguez	1120 N. Raymond L.C	6/4-09
Nancy Cano	Nancy Cano	1220 N. Raymond LC	6-15-09
Joel Cano	Joel Cano	1220 N. Raymond LC	6-15-09
Jeremy Cano		1220 N. Raymond LC	6-15-09
April Cano	April Cano	1220 N. Raymond LC, NM	6-15-09

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
John Pollard		1155 N. Miranda, LC	6/10/09
Martha Lozano	Martha Lozano	1160 N. Miranda, LC NM 88	6/10/09
FRANK CROGHAN	Frank Croghan	1155 N. Miranda LC NM 88	6-10-09
jonathan Mayhes	Jonathan Mayhes	1155 N. Miranda LC NM 88	6-10-09
Shannon Thames	Shi	1155 N Miranda LC NM 88	6-11-09
Matt CAMMARATA	M.	318 Linda Vista NM 88005	6/9/09
SAL ~~CAMMARATA~~ DiGIOVANNA	S Digiovanna	318 Linda Vista N.M 88005	6/9/09
AMELIA CAMMARATA	A Cammarata	318 Linda Vista LC N.M 88005	6/9/09
Janet Diaz		525 Linda Vista LC NM 88005	6/9/09

original transferred from damaged page (4 signatures)

5

we close public discussion and the Commissioners talk about this. I have two items I want to clear up before we start looking at this case. First of all, I would like Commissioner Iserman to recuse himself. Is that all right Commissioner Iserman?

Iserman: Yes, it is.

Scholz: Thank you very much. He's going to recuse himself on this case. He did talk to at least one of the parties involved in the case, and as our rule is we don't allow Commissioners to discuss the case before it's brought to the public because we don't want to prejudice one way or the other, and so Commissioner Iserman is recusing himself. Ms. Rodriguez, you also had something to say about this?

Rodriguez: Yes, Mr. Chairman, I too will be recusing myself from this case because my daughter attends Holy Cross.

Scholz: Thank you very much. Okay. All right.

Shipley: I have a question before we start.

Scholz: Certainly Commissioner Shipley.

Shipley: Do we need a motion on the old to postpone the previous case, the A1693? In other words, there may be people here tonight that came to participate in that case.

Scholz: Mr. White, give us your wisdom.

White: Chair Scholz I advise we postpone both cases to June 23rd, so we don't have to actually renotify the public.

Scholz: Okay.

Shipley: So we do need a motion on both cases.

Scholz: Would you move that? Yes.

Shipley: So I move that we postpone both Case Z2786 and Case A1693 until June 23rd.

Scholz: Is there a second?

Iserman: I'll second it.

Scholz: Okay, it's been moved and seconded. All in favor say aye.

Scholz: Commissioner Bustos.

Bustos: No.

Scholz: Commissioner Beard.

Beard: Would that include knowing people there?

Scholz: I don't know.

Beard: I know one family that goes there. None other though.

Scholz: Okay. And I would say no for myself.

Ruprect: I must again arise. I arise on a point of information which takes precedence under Robert's Rules of Order, at the past meeting Mr. Iserman was recused by the chair and verbally affirmed that recusal. This is reflected at the top of the minutes from the May 26th meeting that have already been accepted by this body, on page four, lines one through 12. As a point of information, I wish to inquire what might have changed in the past month such that the gentleman would no longer possibly be prejudiced in this case?

Scholz: Yes, what has changed is that we're rehearing this case. It's starting from the beginning. So we're starting with what I assume is a clean slate. Okay?

Ruprect: In respect to the chair though, in that passage on page four, lines one through 12 of the minutes, there is a comment that Mr. Iserman had discussed the case or been approached by someone in advance of the meeting and that that was the reason for the recusal.

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

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

Here's a vicinity map, 1321 N. Miranda is located here. There are actually three addresses on the property. The official City address is 1321 N. Miranda. I believe there is also a 1327 and 1331 N. Miranda. This is the actual N. Miranda which is located here. It's between Palmer on the north and Parker to the south. It has a varying right-of-way of 50 to 55-

6

MEETING OF THE PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
May 26, 2009 at 6:00 p.m.

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.

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

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

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

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

Scholz: Yes, our legal Council, sir.

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

Scholz: Yes.

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

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

Shipley: We understand.

Abrams: Just letting you know.

Scholz: Thank you Jared. I'll talk to you afterwards.

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

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

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

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

7

Scholz: Well I think that's an excellent idea Mr. Soriano and I would like to see that happen in the next month or so. Do you think that's possible?

Soriano: Mr. Chair, yes sir, absolutely. We've talked to Ms. Dennis, she's one of our ... kind of been our key people with the residential side of the neighborhood and we can certainly start talking, and we've talked to Monsignor about some involvement there. We will be probably looking at Mr. Clifton from the school to help us with this. We really have our key people in place and we can certainly start talking during the summer time in preparation for the school start in August or September, whenever it might start. Back on the data that you were mentioning, we did ... we at the City did in fact do some spot counts with hoses basically to get a total count and that was basically our check of the data that we were getting from the ... in the TIA. We scrutinize these reports. We make sure that there's some validation to this information that we receive. So as Mr. Paz is preparing his part of the report, we were doing traffic counts on the streets to make sure there was some cross check here. We found that in most cases it was really close correlation to what the traffic he was picking up and the traffic we were picking up, and that's why we felt comfortable with the reporting that he was giving us in the report. And we'd be happy to pass that on to the Commission and let you look at that.

Scholz: Thank you. I'd really like to see that. Okay, some other comments gentlemen? Commissioner Crane.

Crane: Personally, I feel ready to vote on the variance but if my fellow Commissioners want more data that would not be a good idea to say no they shan't have it. So I personally wouldn't be upset to know some more details about the traffic, forget Sunday, just the school traffic, peak morning, peak afternoon at Ethel and Miranda. What's coming out of the parking lot, what's going into the parking lot, which way is the traffic coming in from and which way is it going out? By the minute might be a little bit of a challenge, but by 5 minute increments, if that could be provided for our next meeting I would be prepared to see this question postponed.

Scholz: Okay. Commissioner Shipley.

Shipley: So I move to postpone I guess this is Case A1695, and I would move that we postpone it till date certain which is June 23rd.

Scholz: Okay. Is there a second for that?

Crane: Seconded.

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

Shipley: Aye.

Scholz: Commissioner Crane.

Crane: Aye.

Scholz: Commissioner Beard.

Beard: Aye.

Scholz: And the Chair votes aye. So we are postponing our decision on this until the next meeting which will be June 23rd. Yes, Mr. Clifton?

Clifton: Mr. Chairman, members of the Commission, could you please specifically clarify what it is exactly that you're asking us to bring back? Because we can't do counts, school's out.

Shipley: No, we understand that.

Scholz: No. We understand. We'd like the data Mr. Clifton.

Shipley: You've already collected the data.

Clifton: Okay. So what you're asking from us then is just essentially a copy of Mr. Paz' traffic report so that you as Commissioners can study the documentation.

Scholz: Right and Mr. Soriano said he would also give us the verifications from the City's hoses and things like that. And I would ask you to begin working on a traffic committee. Because clearly traffic is the sticking point here. You know the neighbors are very upset. I wrote down most of the arguments of pro and con and basically the people who supported this said, you know we support the church, we support the school, we would like to see it grow, we need the additional space. The people who were against it said, you know they're parking in front of my house, there's too much traffic, you know I can't drive down the street, you know that's the sort of thing we were hearing.

Clifton: Okay.

Scholz: So I think this has to be resolved with the neighborhood. And it may not be something you can do by the next time we hear this, but if you make an

FACT SHEET

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.

- You or your representative, are invited to attend these meetings to express your opinion about the request.

- 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 (505) 528-3043 (voice) or (505) 528-3016 (TTY). This document can be made available in alternative formats by calling the same numbers listed above.

SPECIAL MEETING OF PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
June 30, 2009 at 6:00 p.m.

BOARD MEMBERS PRESENT:

Charles Scholz, Chairman
Godfrey Crane, Vice Chair
Donald Bustos, Secretary
Charles Beard, Member
Ray Shipley, Member
Clayton Iserman, Member
Shawn Evans, Member

BOARD MEMBERS ABSENT:

STAFF PRESENT:

Vincent Banegas, Planning and MPO Administrator
Cheryl Rodriguez, Development Services Administrator
Gary Hembree, Senior Planner
James White, Planner
Robert Gonzales, Las Cruces Fire
Jared Abrams, CLC Legal Staff
Dan Soriano, CLC
Becky Eich, Recording Secretary

DRAFT

I. CALL TO ORDER 6:00

Scholz: Good evening, and welcome to the Planning and Zoning Commission meeting for June 30, 2009. This by the way is a special meeting. It is substituting for the meeting of the previous Tuesday, which we couldn't carry out because we didn't have a quorum. You're going to say something Gary.

Hembree: Chairman, Commissioners, this is technically, since we have re-advertised the first item which is Case A1695, it should be reflected as new business and I request that the agenda be reordered accordingly.

Scholz: So worded.

Hembree: In addition, also discuss conflict of interest as well.

Scholz: I will do that before we discuss the particulars of the case.

Hembree: Okay. Thank you.

N. Miranda Street having a varying right-of-way between 50 and 55 feet classified as a local roadway. The subject property is located at 1321 N. Miranda Street on a 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.

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

Beard: No.

Scholz: Commissioner Bustos.

Bustos: No.

Scholz: Commissioner Evans.

Evans: No.

Scholz: Commissioner Iserman.

Iserman: Just this thing that we got this evening.

Scholz: Well yes, we all got a copy of that. Right. Commissioner Crane.

Crane: None.

Scholz: And Commissioner Shipley.

Shipley: None.

Scholz: Thank you.

READ

Scholz: Commissioner Bustos.

Bustos: No.

Scholz: Commissioner Beard.

Beard: Would that include knowing people there?

Scholz: I don't know.

Beard: I know one family that goes there. None other though.

Scholz: Okay. And I would say no for myself.

Ruprect: I must again arise. I arise on a point of information which takes precedence under Robert's Rules of Order, at the past meeting Mr. Iserman was recused by the chair and verbally affirmed that recusal. This is reflected at the top of the minutes from the May 26th meeting that have already been accepted by this body, on page four, lines one through 12. As a point of information I wish to inquire what might have changed in the past month such that the gentleman would no longer possibly be prejudiced in this case?

Scholz: Yes, what has changed is that we're rehearing this case. It's starting from the beginning. So we're starting with what I assume is a clean slate. Okay?

Ruprect: In respect to the chair though, in that passage on page four, lines one through 12 of the minutes, there is a comment that Mr. Iserman had discussed the case or been approached by someone in advance of the meeting and that that was the reason for the recusal.

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

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

Here's a vicinity map, 1321 N. Miranda is located here. There are actually three addresses on the property. The official City address is 1321 N. Miranda. I believe there is also a 1327 and 1331 N. Miranda. This is the actual N. Miranda which is located here. It's between Palmer on the north and Parker to the south. It has a varying right-of-way of 50 to 55-

8

Subject	[FWD: letters received]
From	ddennis@humansystemsresearch.org
Date	Wednesday, June 24, 2009 8:41 am
To	ruprecht@nmsu.edu

------- 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.

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

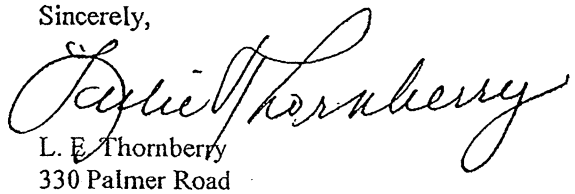
having two schools within two blocks of each other (Alameda Elementary on the East and Holy Cross on the West). The current amount of traffic and lack of proper parking which the neighborhood tolerates will only increase with the addition of still another level of education and the addition of square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

N. Miranda Street having a varying right-of-way between 50 and 55 feet classified as a local roadway. The subject property is located at 1321 N. Miranda Street on a 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.

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

Beard: No.

Scholz: Commissioner Bustos.

Bustos: No.

Scholz: Commissioner Evans.

Evans: No.

Scholz: Commissioner Iserman.

Iserman: Just this thing that we got this evening.

Scholz: Well yes, we all got a copy of that. Right. Commissioner Crane.

Crane: None.

Scholz: And Commissioner Shipley.

Shipley: None.

Scholz: Thank you.

DRAFT

the school site is required that it's 25-feet or less from a residential zoning district, not a structure, but a zoning district, requires an opaque buffer. So in theory what that would require is that on the western periphery where the Armijo Lateral is, they'll be required to put a fully opaque buffer. They'll also be required to put a fully opaque buffer on the southern boundary adjacent to the apartment complex. And also, in respect on the eastern boundary where the parking lot resides for the school site, they'll be required to put an opaque buffer there. So staff would also evaluate with the City landscape architect, evaluating the plan to see if they place draught tolerant plants, shrubbery, those kinds of issues to try give some kind of spacial separation between the various residential land uses and the current existing school site. That will end staff presentation. I'll be glad to stand for any questions this board may have this evening.

Scholz: Okay gentlemen, questions for Mr. White. Yes, Commissioner Crane.

Crane: You mentioned I believe that four of the 12 portables have already essentially been approved. They are not an issue because of the 10% expansion that was allowed, is that correct?

White: Chair Scholz, Commissioner Crane that is correct.

Crane: So the 8,400 square feet as part of your conditions, does that represent the other eight portables, or does that include the four?

White: Chair Scholz, Commissioner Crane, the request is for 8,400 combined square feet. The actual portables have 12,200 square feet. What we're looking at this evening is for 8,400 square feet or eight portable buildings.

Crane: Thank you.

Scholz: Commissioner Shipley, you have a questioning look on your face.

Shipley: The eight portables are 8,400 square feet is the way I understood it?

White: Chair Scholz, Commissioner Shipley that is correct.

Shipley: Okay.

Scholz: Okay, other questions gentlemen? Okay, I have a couple of them. Are we asking for two variances here?

White: No. The only variance for consideration this evening is going to be with respect to the right-of-way width of 50 to 55-feet parallel Miranda Street.

Scholz: Okay.

White: Okay. Let me put it in other terms.

Scholz: Please.

White: The 2001 Zoning Code requires a school to have a minimum of 85-feet or collector status roadway.

Scholz: Right.

White: Based upon the current designation of the roadway only having 50 to 55-feet, the variance is for the additional 35-feet of right-of-way which is required upon the conditional section of the code.

Scholz: Yes, I understand that. But it seems to me they're also asking for a variance to add 8,400 square feet of portable buildings.

White: No. Chair Scholz, the best way to answer the question is that it's a permissible right in the R-1a Zoning District schools. So in theory what transpires is if the P&Z Commission grants a variance for the additional right-of-way requirement, then it is approved based upon the Zoning District of the property. The portables only become in question based upon the right-of-way. So the variance we're hearing this evening is, is there substantial right-of-way for the expansion? The variance is for the right-of-way and not the actual school portable buildings themselves.

Scholz: But you told us a few minutes ago that they were only allowed a one-time 10% expansion. And they've already done that.

White: No, they have not.

Scholz: They haven't. Okay.

White: No.

Scholz: But that would be four portables.

White: Chair Scholz what's transpired is that when you look in the 1981 Zoning Code we have various Zoning Codes applied. The 1981 Zoning required a special use permit. So when those SUPs are granted those buildings that are on the property at that time were in compliance with the zoning. When we adopted the 2001 Zoning Code, there has not been activity since the 2001 Zoning Code until they put 12 portable buildings on the property currently. So based upon that, it is a onetime expansion from the 2001 Zoning Code.

time, Ethel and Miranda. All right, I did not hear the word compulsive but I know it's going through the minds of my fellow Commissioners. My look at the data even though there are difficulties with it, seems to me to show that there was 15 minutes of the day at 7:45 to 8:00 in the morning, and 3:00 to 3:15 in the afternoon. Cars come out of the parking lot at the rate of three a minute in the morning and two a minute in the afternoon during that 15 minute period. It doesn't seem to me that that is a terrible burden on the traffic on Miranda Street. That's the total of cars regardless of whether they're going across the intersection to Ethel or north up Miranda, or south down Miranda. My inclination is therefore to approve the variance with the added stipulation in addition to the two conditions that the staff has recommended, that the high school be disbanded or moved by the summer of 2014. That is currently my inclination, it's not necessarily my vote. I have to hear what others have to say.

Scholz: Okay, are you making that in the form a motion?

Shipley: No, no, it's discussion.

Crane: No, at this point we're still in discussion I think unless no one else ...

Scholz: Yes, we're still in discussion, right. But if you're adding a condition then of course you'll have to make a motion.

Crane: All right. Well let me make the motion then we'll have something specific to discuss.

Shipley: I think we should discuss before the motion. I think there are some other things because I wanted to say the same thing. When I quickly looked at this book there are 240 signatures in here of people that live in neighborhood that are interested in seeing a Planned Unit Development from the school and the church. And I say "and the church" because if they're going to change what they do in the church it affects the neighborhood as well. So that's something that we ought to think about as we look at that. Now that's, you know in this ... in Mr. White's presentation he did state that if there is any other development in the future, that they would have to come in with a Planned Unit Development.

Scholz: It's up on the screen right now. Yes, as a matter of fact.

Shipley: So I agree with that. So, I think that's one point (*inaudible*) or not. I think there's confusion to me with what is the ... what are we approving here. Initially it says Case A1695 is a request for a variance from Article VI section 38-53D of the 2001 Zoning Code, as amended, that requires schools to be located on a roadway having a minimum right-of-way. When I go down to look at what the recommendation is, it doesn't mention

that. It only mentions the approval of this variance is limited to the expansion and installation of nine portable buildings having a combined gross area of 8,400 square feet. So where did the variance for the roadway go? It's not in here. So to me this is not a correct or accurate representation of what we're supposed to be doing. If we're doing a variance for the roadway and then we're doing a variance for the expansion, there should be two separate votes on this particular item. And I don't see that in here.

Scholz: Mr. White, would you care to comment?

White: I think the confusion is you're looking at two different issues. The variance is to right-of-way. The issues regarding the square footage is a condition that's proposed by staff. So let's look at this slide again. If you look at this slide, is says if you vote yes to approve the variance with conditions therefore allowing for a 35-foot deviation from the 85-foot minimum right-of-way requirement. That is what the actual vote is upon. What we're speaking about earlier was the conditions that were imposed by staff which is kind of lengthy so what I did is I placed it on a separate slide therefore you have these two conditions that staff recommends be attached to the approval of the variance request.

Scholz: In other words, what's happening with the variance request is that it legitimizes the school. The school no longer has to get a variance to operate, right? In other words, even though it's not on a collector or on an arterial or you know a major road, it can ignore that right, because we've granted them this variance.

Shipley: Then I would kind of concur with your recommendation to add an additional condition that says when the population of the school gets to 50 students, the high school, it has to go somewhere else. Because that was part of their plan that they predicted and whereas it says in there documents they would like to go to 60 or 80. Well you know how much is enough? If we want to be concise then let's put it in as a condition that they have to live with. They can plan for it, and as they develop their Planned Unit Development, they know whether they need you know another 14,000 square feet, or 1,400 square feet?

Iserman: Thousand.

Shipley: 14,000 square feet. You know where's that going to go. What's going to go in there and how's that going to affect traffic.

Evans: Chairman Scholz.

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.

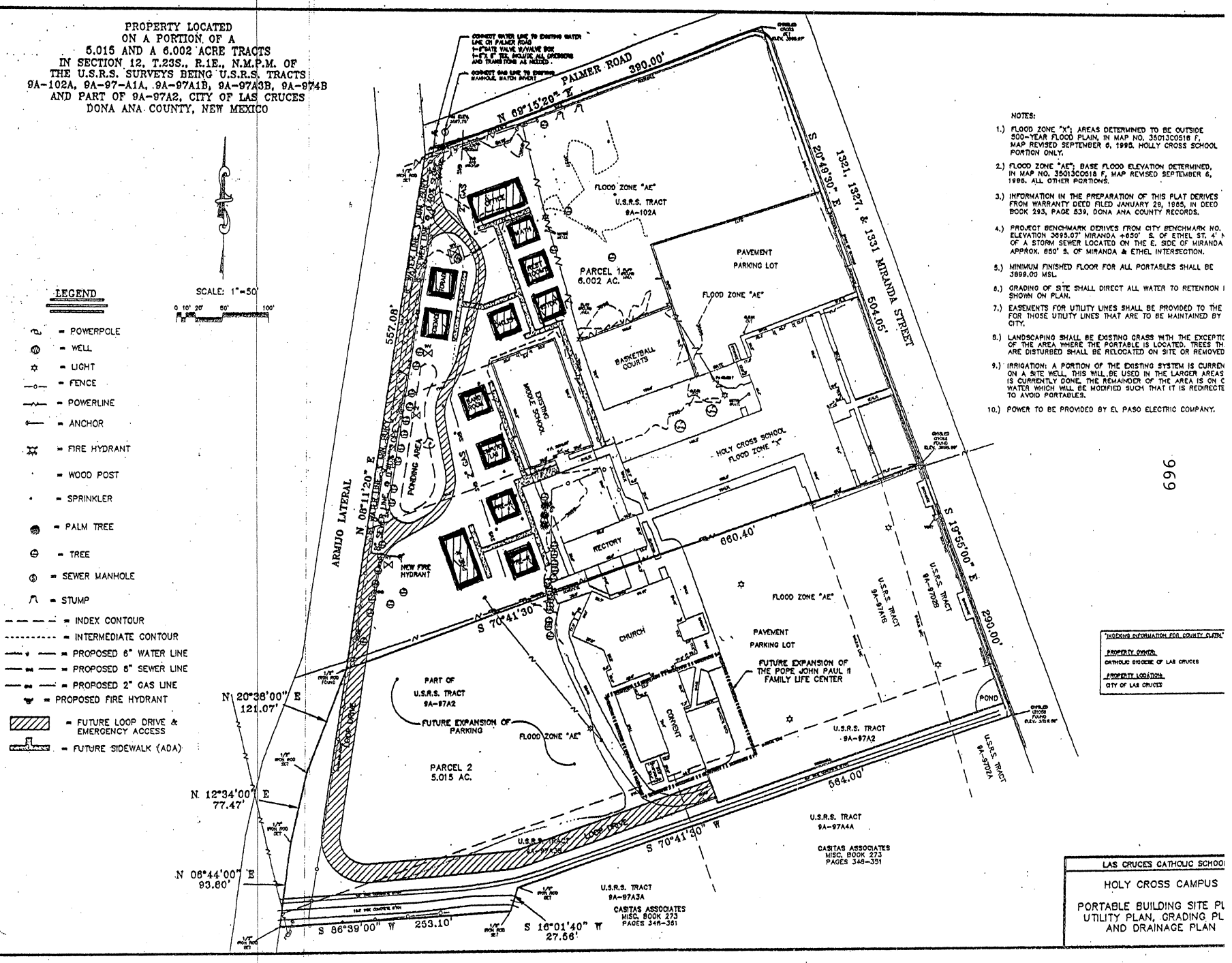
(3) Sign location, materials, color, size, shape, and lighting.

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

PROPERTY LOCATED
ON A 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-97AB
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 LOOP DRIVE & EMERGENCY ACCESS
- = FUTURE SIDEWALK (ADA)

NOTES:

1.) FLOOD ZONE "X": AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAIN, IN MAP NO. 35013C0516 F, MAP REVISED SEPTEMBER 6, 1996. HOLLY CROSS SCHOOL PORTION ONLY.

2.) FLOOD ZONE "AE": BASE FLOOD ELEVATION DETERMINED, IN MAP NO. 35013C0516 F, MAP REVISED SEPTEMBER 6, 1996. ALL OTHER PORTIONS.

3.) INFORMATION IN THE PREPARATION OF THIS PLAT DERIVES FROM WARRANTY DEED FILED JANUARY 29, 1965, IN DEED BOOK 293, PAGE 539, DONA ANA COUNTY RECORDS.

4.) PROJECT BENCHMARK DERIVES FROM CITY BENCHMARK NO. ELEVATION 3695.07' MIRANDA +650' S. OF ETHEL ST. A' OF A STORM SEWER LOCATED ON THE E. SIDE OF MIRANDA APPROX. 650' S. OF MIRANDA & ETHEL INTERSECTION.

5.) MINIMUM FINISHED FLOOR FOR ALL PORTABLES SHALL BE 3899.00 MSL.

6.) GRADING OF SITE SHALL DIRECT ALL WATER TO RETENTION SHOWN ON PLAN.

7.) EASEMENTS FOR UTILITY LINES SHALL BE PROVIDED TO THE FOR THOSE UTILITY LINES THAT ARE TO BE MAINTAINED BY CITY.

8.) LANDSCAPING SHALL BE EXISTING GRASS WITH THE EXCEPTI OF THE AREA WHERE THE PORTABLE IS LOCATED. TREES TH ARE DISTURBED SHALL BE RELOCATED ON SITE OR REMOVED

9.) IRRIGATION: A PORTION OF THE EXISTING SYSTEM IS CURREN ON A SITE WELL. THIS WILL BE USED IN THE LARGER AREAS IS CURRENTLY DONE. THE REMAINDER OF THE AREA IS ON C WATER WHICH WILL BE MODIFIED SUCH THAT IT IS REDIRECTE TO AVOID PORTABLES.

10.) POWER TO BE PROVIDED BY EL PASO ELECTRIC COMPANY.

"INDEXING INFORMATION FOR COUNTY CLERK"

PROPERTY OWNER:
CATHOLIC DIOCESE OF LAS CRUCES

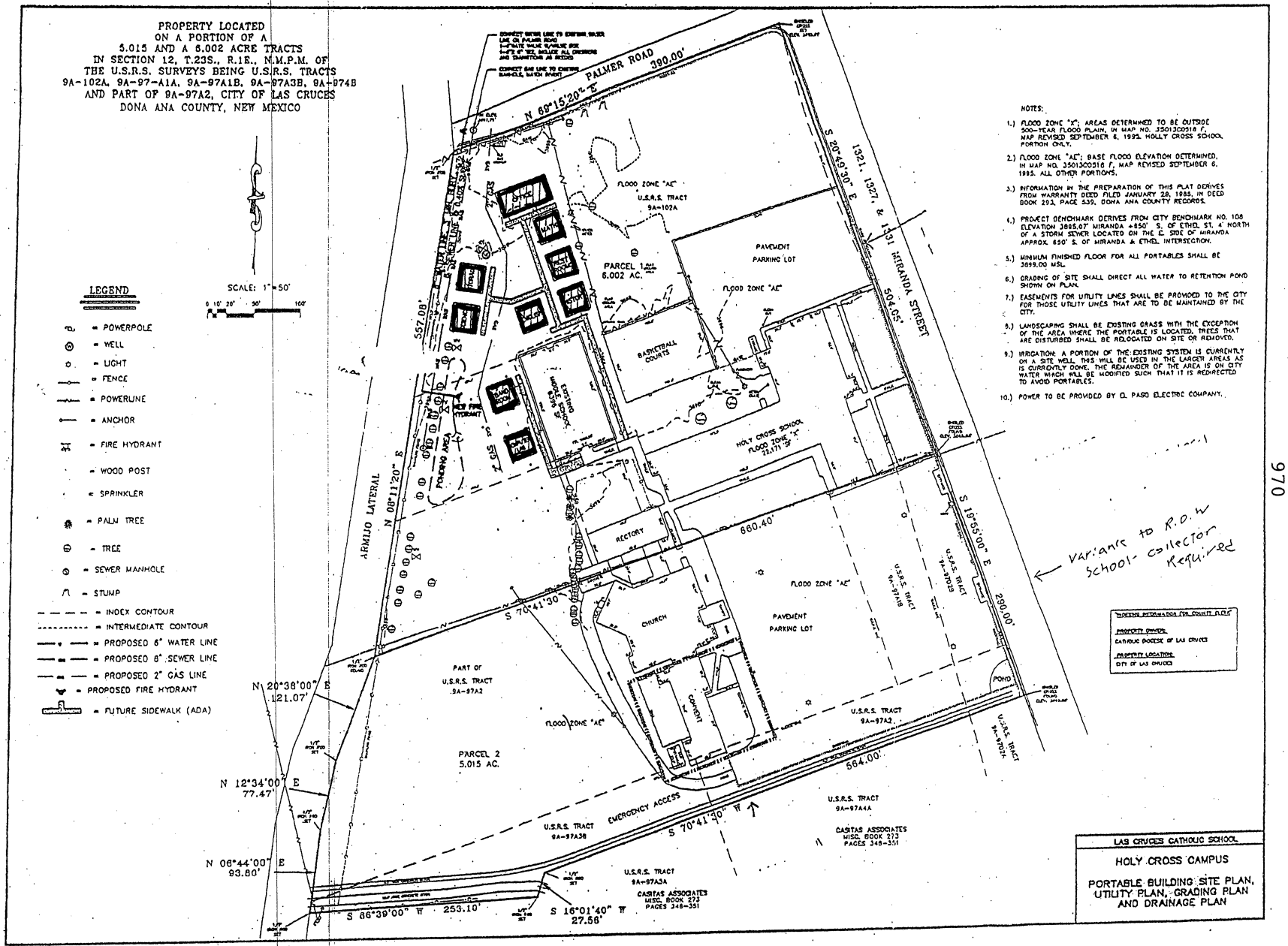
PROPERTY LOCATION:
CITY OF LAS CRUCES

LAS CRUCES CATHOLIC SCHOOL

HOLY CROSS CAMPUS

PORTABLE BUILDING SITE PL
UTILITY PLAN, GRADING PL
AND DRAINAGE PLAN

PROPERTY LOCATED
ON A 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-97AB
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 SIDEWALK (ADA)

SCALE: 1" = 50'
0 10' 20' 50' 100'

NOTES:

1.) FLOOD ZONE "X": AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAIN, IN MAP NO. 35013C0516 F, MAP REVISED SEPTEMBER 6, 1995. HOLLY CROSS SCHOOL PORTION ONLY.

2.) FLOOD ZONE "AE": BASE FLOOD ELEVATION DETERMINED, IN MAP NO. 35013C0516 F, MAP REVISED SEPTEMBER 6, 1995. ALL OTHER PORTIONS.

3.) INFORMATION IN THE PREPARATION OF THIS PLAT DERIVES FROM WARRANTY DEED FILED JANUARY 28, 1985, IN DEED BOOK 293, PAGE 539, DONA ANA COUNTY RECORDS.

4.) PROJECT BENCHMARK DERIVES FROM CITY BENCHMARK NO. 108 ELEVATION 3895.07' MIRANDA +650' S. OF ETHEL ST. & NORTH OF A STORM SEWER LOCATED ON THE E. SIDE OF MIRANDA APPROX. 650' S. OF MIRANDA & ETHEL INTERSECTION.

5.) MINIMUM FINISHED FLOOR FOR ALL PORTABLES SHALL BE 3899.00 MSL.

6.) GRADING OF SITE SHALL DIRECT ALL WATER TO RETENTION POND SHOWN ON PLAN.

7.) EASEMENTS 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 PORTABLE IS LOCATED. TREES THAT ARE DISTURBED SHALL BE RELOCATED ON SITE OR REMOVED.

9.) IRRIGATION: A PORTION OF THE EXISTING SYSTEM IS CURRENTLY ON A SITE WELL. THIS WILL BE USED IN THE LARGER AREAS AS IS CURRENTLY DONE. THE REMAINDER OF THE AREA IS ON CITY WATER WHICH WILL BE MODIFIED SUCH THAT IT IS REDIRECTED TO AVOID PORTABLES.

10.) POWER TO BE PROVIDED BY EL PASO ELECTRIC COMPANY.

Variance to R.O.W School - collector Required

LAS CRUCES CATHOLIC SCHOOL

HOLY CROSS CAMPUS

PORTABLE BUILDING SITE PLAN, UTILITY PLAN, GRADING PLAN AND DRAINAGE PLAN

970

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.

June Statement

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.

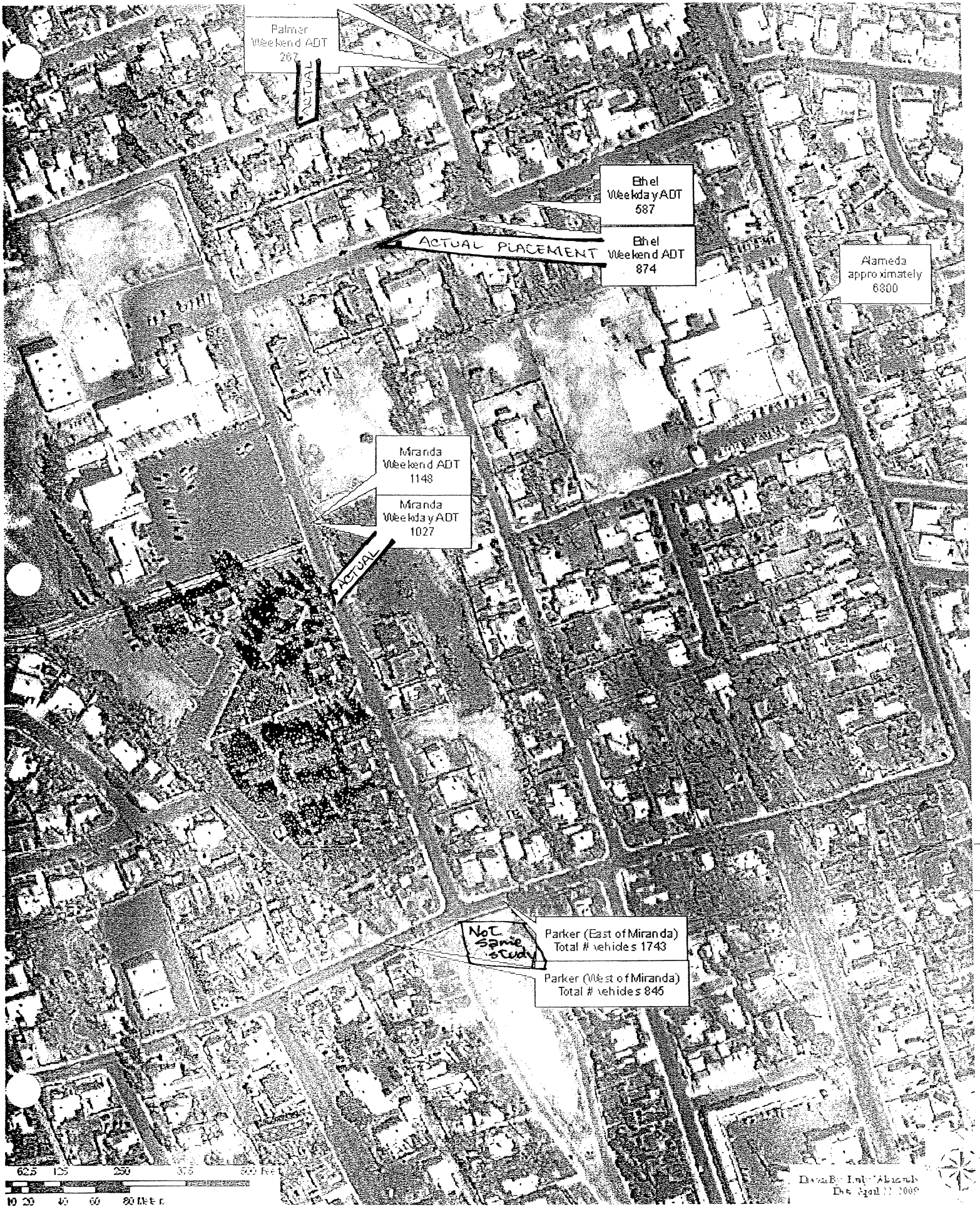
Variances should not be granted because a business owner or homeowner needs to grow. Instead landowners should avoid adversely impacting their neighbors through continual growth and look for new property that can accommodate their needs.

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
Weekend ADT
267
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
625 125 250 375 500 Feet
0 20 40 60 80 Meters


Palmer
Weekend ADT
267
ACTUAL
97
Ethel
Weekday ADT
587
ACTUAL PLACEMENT
Ethel
Weekend ADT
874
Alameda
approximately
6800
Miranda
Weekend ADT
1148
Miranda
Weekday ADT
1027
ACTUAL
Not
same
study
Parker (East of Miranda)
Total # Vehicles 1743
Parker (West of Miranda)
Total # Vehicles 845
62.5
125
250
375
500 Feet
10
20
40
60
80 Meters

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 (not done)

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)

Scholz: Wonderful. Okay. Other questions? Okay, I have two Mr. White. Does the approval of this variance mean that the school is now in compliance with the 2001 Code?

White: Chair Scholz if the Planning and Zoning Commission grants a variance as stipulated earlier, the property would be in compliance provided that they provide a landscaping plan to the City for administrative review.

Scholz: Right, yes, I'm assuming that they comply with the conditions.

White: That is correct.

Scholz: Okay. And that means that from now on they'll have to follow the provisions of the code, is that correct?

White: Well Commissioner Scholz, if you notice based upon how staff conditioned this property, this is actually stipulated that this is only ... this is not a blanket variance. When sometime you hear a blanket variance. If you gave a blanket variance to a right-of-way section, in theory you could keep on expanding. By having the conditions that staff is proposing in the record, it's stipulating that it would grant the variance for the portables, but any future expansion would have to be evaluated through the Planning and Zoning Commission and subsequently City Council.

Scholz: Thank you. Okay, can we hear from the City Traffic Engineer please?

Soriano: Good evening Commissioners. Dan Soriano, City of Las Cruces Traffic Engineer. Basically our office has reviewed the Traffic Impact Analysis that was prepared and at the last session I believe the Commission was given additional information as far as the raw data, things like that to take a look at and then I came before you during the work session about two weeks ago to talk about overall processes with Traffic Impact Analysis. We did review the TIA on the first review. We did go through a second iteration with Mr. Paz. We are satisfied with the results. Basically, the TIA is demonstrating the roadways as they function from the motorist standpoint will work at acceptable levels of service. The assumptions are that the school was going to increase by 30% over the next 20 years ... I'm sorry, the church is going to increase by 30% over the next 20 years, the school is going to increase by 50% over the next 20 years, and those forecasts were included in the analysis. So a horizon year analysis was also done as part of the TIA, and also demonstrated satisfactory levels of service. Again, this simply demonstrates that from the motorist's perspective the motorists will see reasonably driving conditions as they run through these areas going to the school and out, and it really takes everything from the motorist's perspective, curbs in basically. And the City

has approved the TIA and the version that's in your packet. With that, I'll stand for any questions.

Scholz: Okay, questions for this gentleman. Commissioner Crane.

Crane: Do you have available to put up on the screen the diagrams and the data tables that you gave the Commissioners?

Soriano: Mr. Chair, Commissioner Crane, no, sir, it's not included in the presentation.

Crane: I see. Well, it seemed ... I've gone very carefully over the data both in the diagrammatic form and in the table for Ethel and Miranda because it seemed to me that's the critical intersection. That's where one of the two parking lots (*inaudible*) into N. Miranda and across the intersection is Ethel. It seemed to me that we could look at the worst case of traffic at that particular point when school meets in the morning and quits in the afternoon, we could get some idea of whether the traffic is going to be in supportive along Miranda. Unfortunately, there's a grave discrepancy which I can't possibly describe to you without using my laser pointer and my magnifying glass on the data you gave me.

Scholz: Go for it.

Crane: No, sir. Which makes it hard to come to any firm conclusions about the traffic at that particular point. Fundamentally the designations of ... in the rows that you have on your table, one through 12 for that particular intersection indicate directions of traffic and they change their meaning as you run across the table. The key data, one of the traffic out of the parking lot, north up Miranda and down Miranda, and across the Ethel at the a.m. peak time 24, 3, and 25 cars. I'm looking at figure 4. You try to apply that to the afternoon peak, the numbers do not jive with what's in the table, and I went back and tried to figure out what your designations were, what one through 12 meant in the a.m. period and what one through 12 meant in the p.m. period and there are two cases at least ... no let me see, one, two, three, four cases in which these designations have changed which makes your table virtually useless. Now I don't want to bore everybody to tears, least of all myself, but I'll be happy to show you what's worrying me. I'm a scientist. I'm used to bad data. Less used to good data.

Soriano: Mr. Chair, Commissioner Crane. That is not our data. That is not from the City. That was prepared by the consultant. I'd like to defer that to Mr. Paz, maybe he can explain a little better how the orientation of those tables are established. Maybe he has answers to those questions a little better than I could.

Scholz: Well, he'll get his chance when the applicant speaks, but ...

Soriano: I can't answer that data sir.

Scholz: Excuse me, Commissioner Crane, Mr. Soriano if you've approved that data or the City has approved that data, then you know why can't you vouch for it?

Soriano: The orientation, basically we did a verification count by hose count in the area. We set hoses in the area to establish what the volumes were as Mr. Paz was collecting his data. And basically, on that basis we did find that there was a very close correlation to that data. We did not take movement counts as Mr. Paz did. So, we basically went on the basis that for the 24 hour count that we took which was an entire one day count, it was a very close correlation with the data that he produced in his tables, as far as a total goes. So the totals actually match up very well. We can't verify the turning movements because we didn't take turning movements, we took total counts. Therefore, we basically looked at the totals and made sure the totals were in close correlation with the data what we had received. We basically did this ... we did a concurrent count if you will to make sure there was some validity to the data that we were getting from Mr. Paz in his report. And we found that through looking at the total data that there was very, very close correlation with the information he was getting us, therefore felt satisfied with the data that we were receiving in this report. As far as how the tables were established, and by the movements ... as far as how the movements were labeled, we did not have direct involvement with that. We made a comparison to the total data alone, the totals for the counts that were given at the intersections.

Scholz: Okay. Mr. Crane, another question you had, or follow-up?

Crane: Not exactly, but let me just make the comment then I'll drop the point because there is a way that this could be made intelligible to the Commission or the public without the data displayed. And I think I probably have what I need to come to a decision, but I would be interested in meeting privately if they wished or Mr. Soriano and Mr. Paz to show them what's on my mind. Perhaps I misunderstood everything, but I don't want to take up the Commissions time on this any further.

Scholz: Okay. Other questions? Commissioner Shipley.

Shipley: Mr. Soriano, you did the count on May 9th at Ethel ... excuse, Palmer and Miranda?

Soriano: Mr. Chair, Commissioner Shipley, the total one day count we did, that data that was provided to you.

Shipley: On May the 9th?

Soriano: As I recall. I don't have the data in front of me.

Shipley: That's what your data says. Okay, and then you did two days later, you did Ethel and Miranda.

Soriano: We did it over a series of about three or four weeks, yes, sir.

Shipley: Okay, that's the 9th, that's the 11th, and then there was data in here ... whose data is this?

Soriano: That is the City's data. That's basically speed data that we picked up from the count and speed data that we picked up with our counters.

Shipley: When you say speed data you're looking at the number of cars, is that correct? Time of day?

Soriano: Mr. Chair, Commissioner Shipley, yes, sir. What it basically does is demonstrate for given hours throughout the given days that you show on the graphs, shows what the speed ranges were and the number of cars that were in those speed ranges.

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 says 116 and 69. But there's nothing on the chart that shows me, that says whether it's going north or south. That's all it shows me. So to me that's just a traffic count. That's not speed.

Soriano: I'm sorry. Commissioner Shipley, we did have speed data and I guess that didn't make into the packet. You're right, these graphs are simply hourly counts. The directions are the barred graphs, as you see there are two colored bar graphs, that distinguishes the differences in the direction. We also did the same thing similarly for speed and I thought that was the data you were looking at.

Shipley: No, I was just trying to make sure I understood the chart because there wasn't really any ... the only thing I could figure out was it was just a number count.

Soriano: Again, this was our verification data. We did counts as the TIA was being prepared and put together. We prepared these graphs from the data that we collected and we were not only able to show hour by hour counts by direction, we were also able to come up with a speed data by direction.

Scholz: Okay, other questions? Commissioner Iserman, you had your hand up.

Iserman: Yes, Mr. Soriano, this'll be easier. On one of those charts that you were just talking about was April 9th, 2009, I'm just curious can anybody tell me you know that's the day before Good Friday, and were the children in school all that day or not?

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

Iserman: And then I have one more question.

Soriano: Yes, sir.

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

Soriano: Mr. Chair, Commissioner Iserman, we did look at speed data. We did collect speed data. It's not represented in your data here, but as part of our study which was really ... it was a validation towards what was being collected for the TIA, but it also just gave us an idea of what was happening in that area. We met with the neighborhood initially I think sometime late February, and we heard the concerns and so we initiated traffic counts and speed collection data just to see what the magnitude of the problems were. You're right there are speed humps on Palmer, Ethel, Parker, I think everyone short of Miranda. So that does indicate that at one time we probably did have some speeding problems and hopefully that's been at least somewhat mitigated with the speed humps in place. We do recognize that there are still some issues outstanding in that area and we've already gone as far as establishing a traffic committee for the area so that we can work on issues around the school. There are issues

City of Las Cruces
PEOPLE HELPING PEOPLE

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.

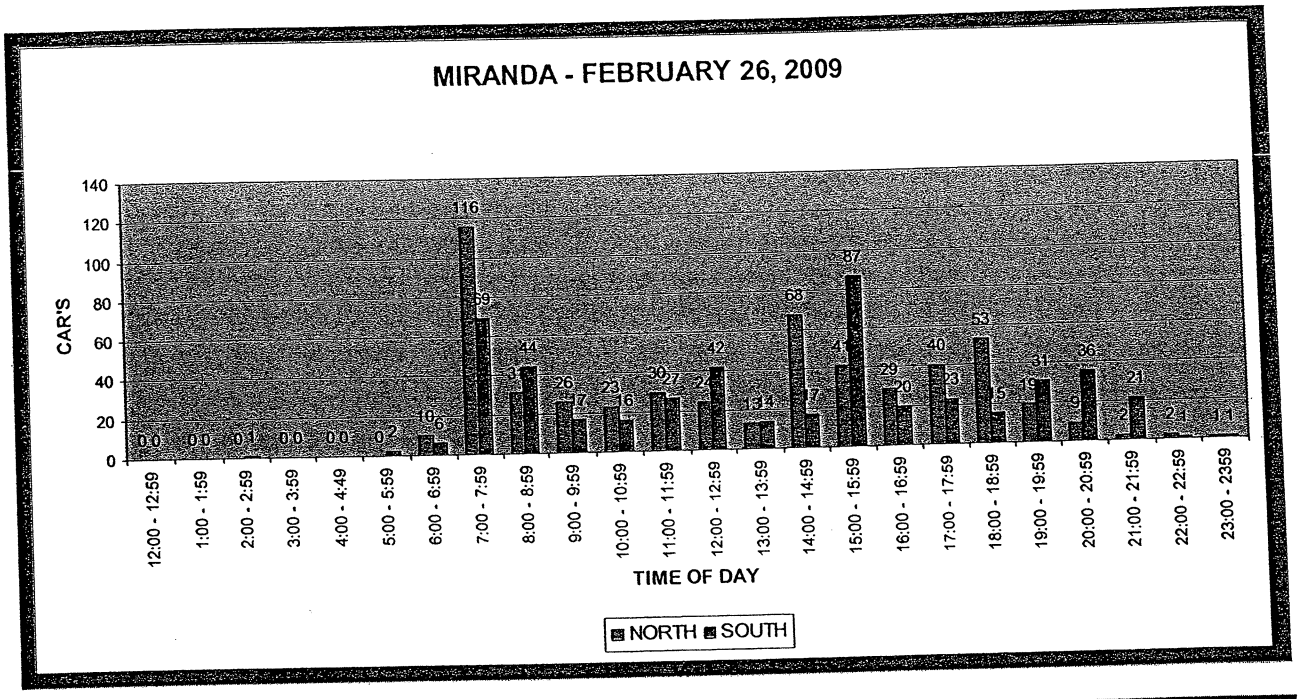
1. ***TRAFFIC STAFF TO PRESENT TRAFFIC COUNT DATA***
   - *Palmer Road*
   - *Ethel Avenue*
   - *Miranda Street*
   - *Parker Road*

2. ***MOLZEN- CORBIN TO PRESENT TRAFFIC COUNT DATA ON BEHALF*** **Holy Cross Church and Las Cruces Catholic School**

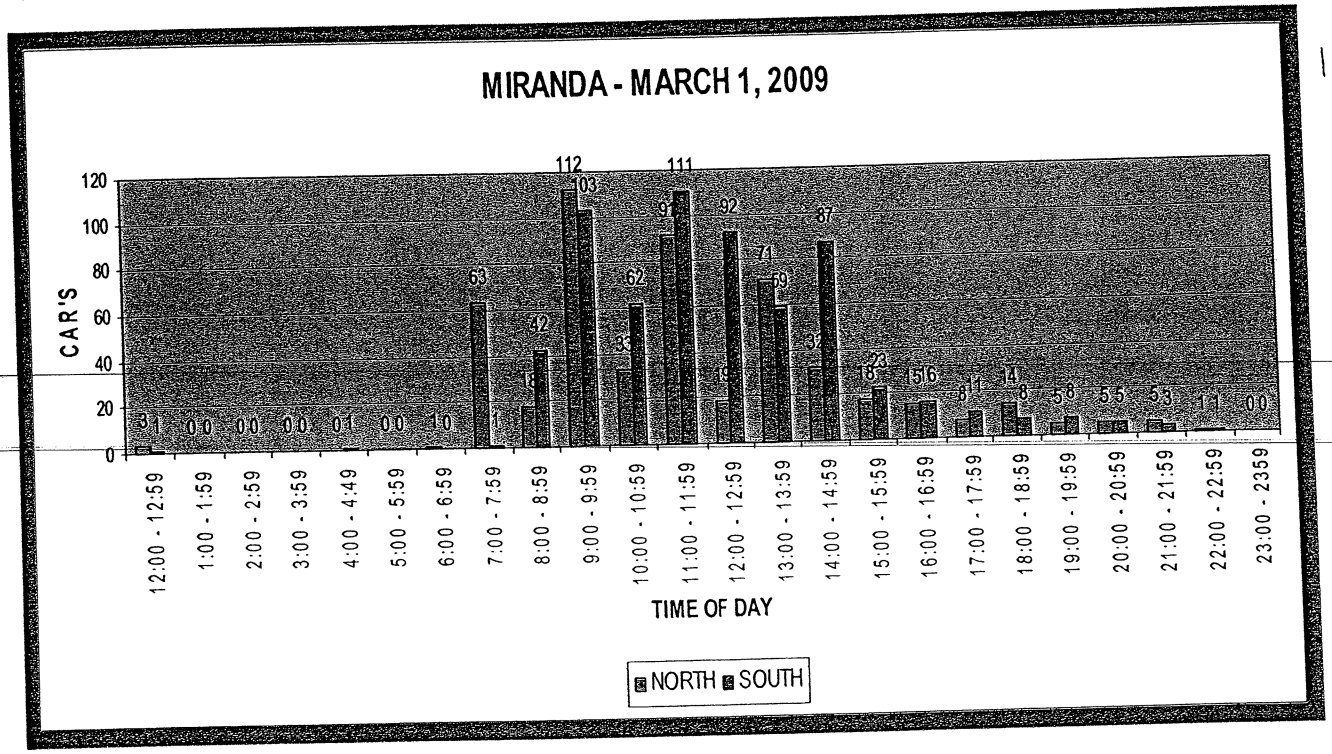
3. ***PUBLIC COMMENTS & QUESTION***

MIRANDA

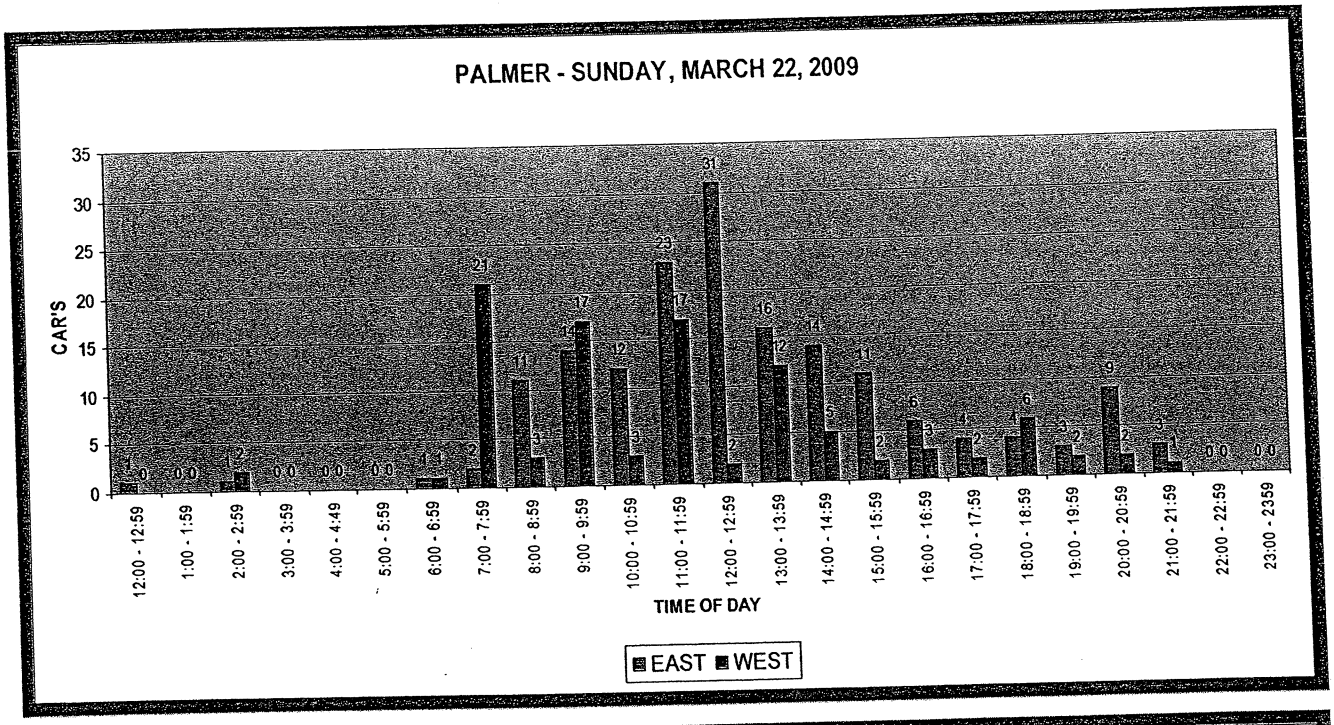
1148

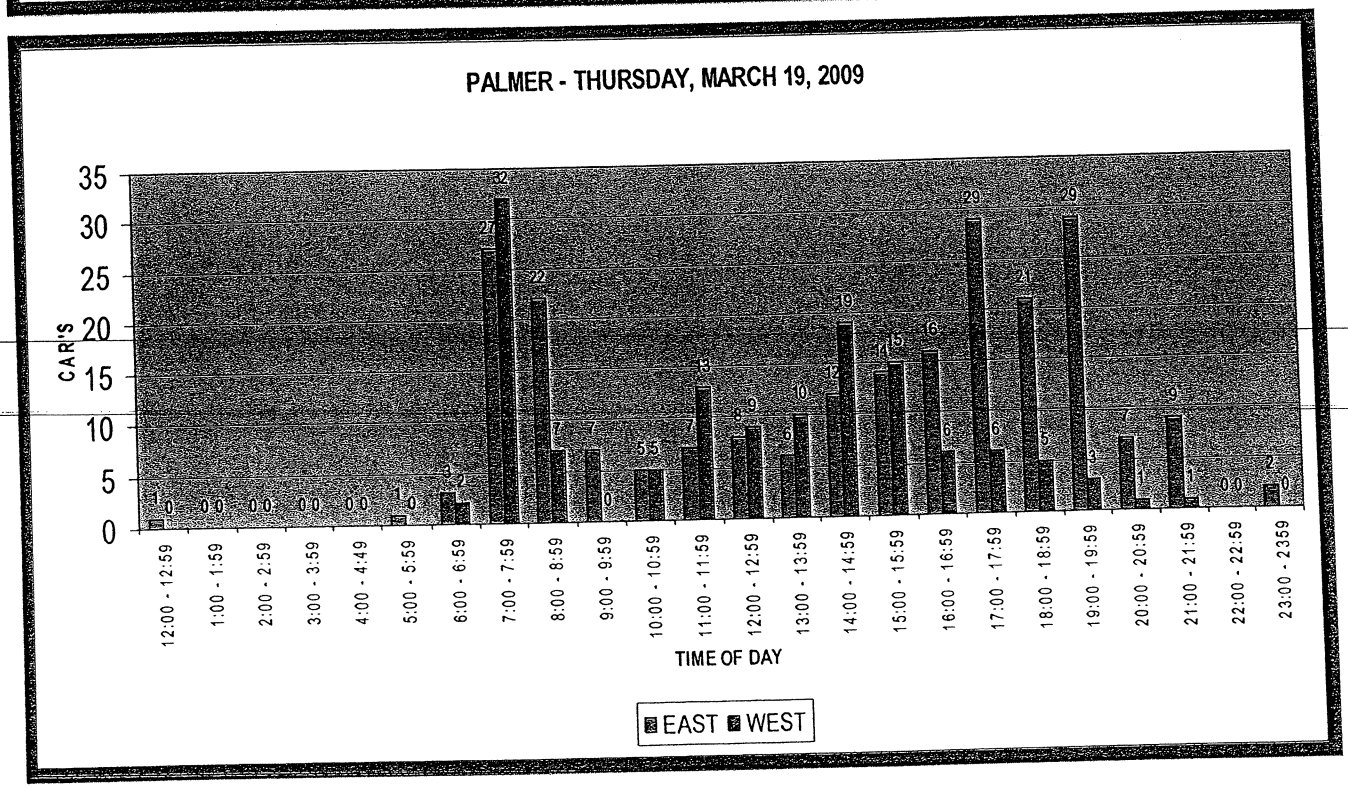


1047



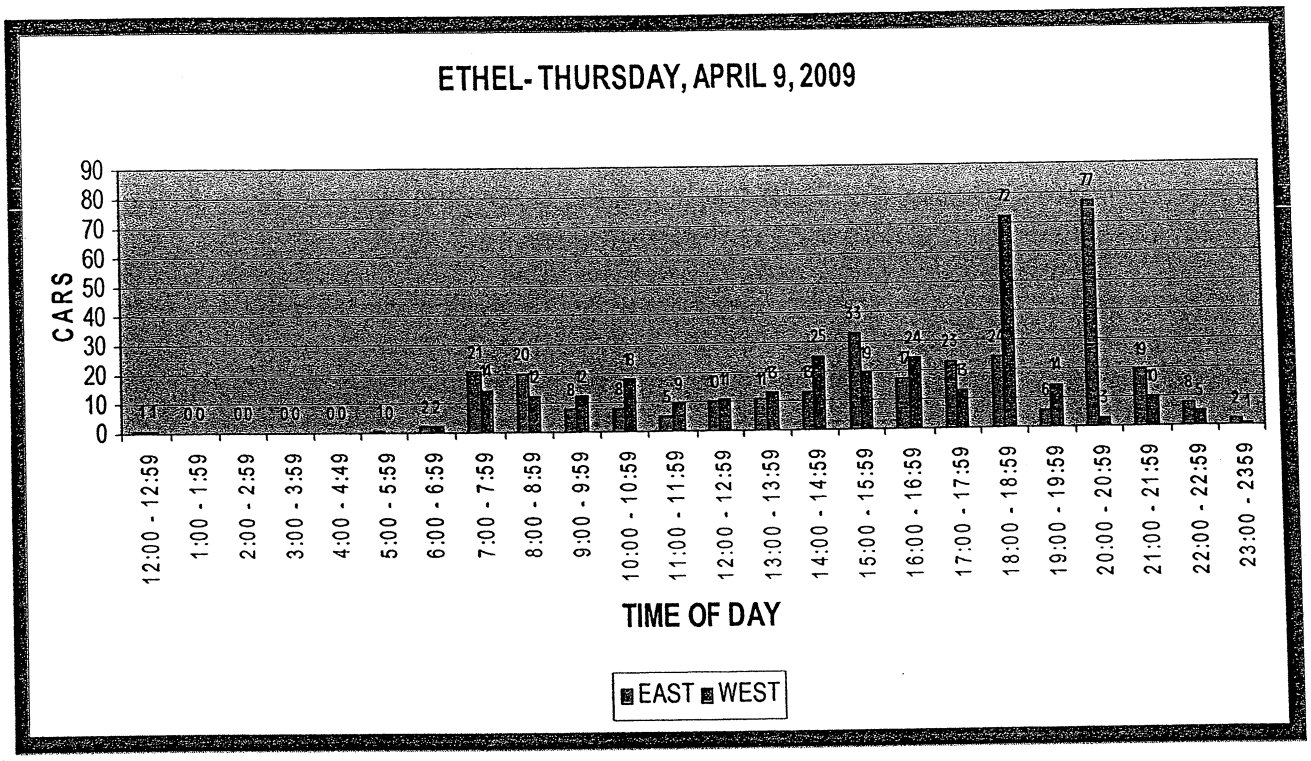
PALMER


PALMER - SUNDAY, MARCH 22, 2009
CAR'S
TIME OF DAY
EAST WEST

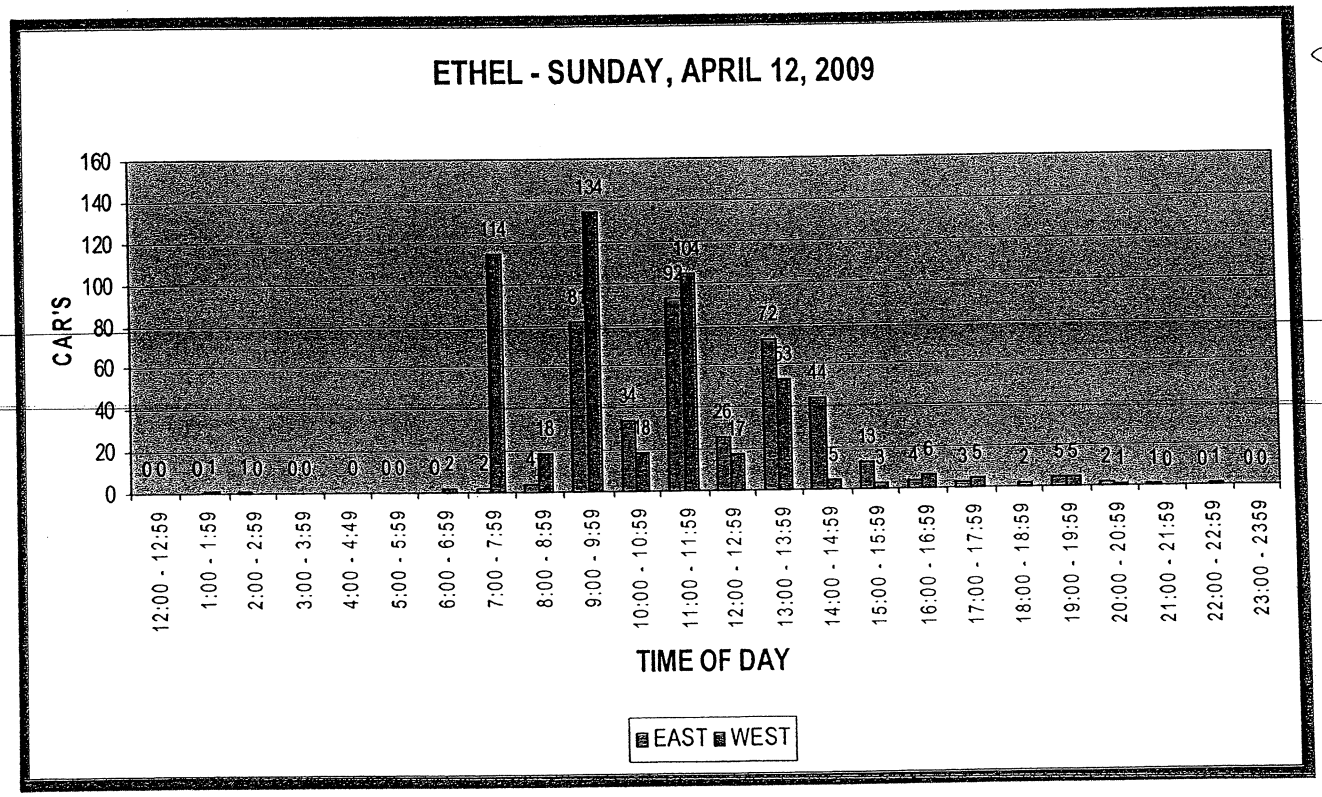

PALMER - THURSDAY, MARCH 19, 2009
CAR'S
TIME OF DAY
EAST WEST

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

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

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

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

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

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

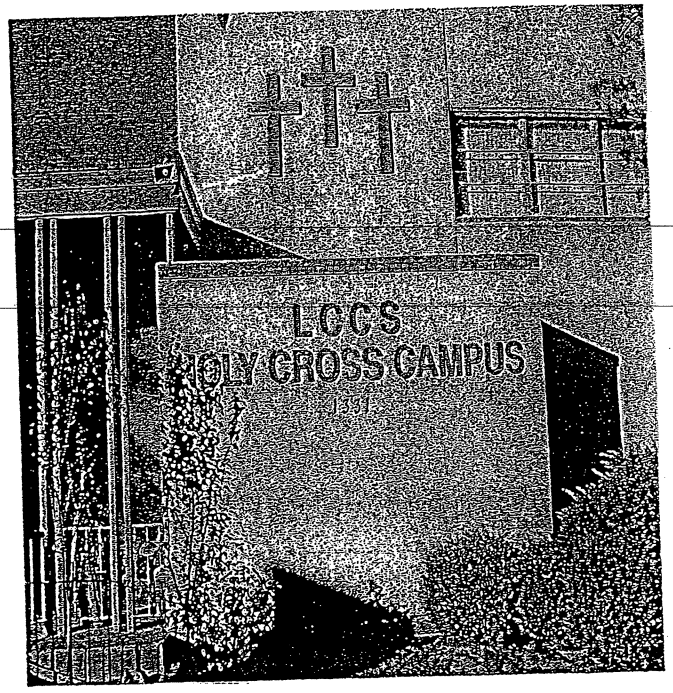
LAS CRUCES CATHOLIC SCHOOL
Established 1927

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

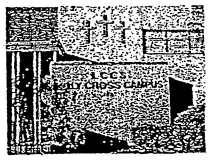


DEVELOPMENT PLAN

LAS CRUCES CATHOLIC SCHOOL
HOLY CROSS CAMPUS
AND
HOLY CROSS PARISH CHURCH

ruces Catholic School
1331 N. Miranda
Cruces, NM 88005

one: (505) 526-2517
ax: (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 as 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
- LCCS Operates on the same schedule as LCPS
- Current enrollment is 295 students
- LCCS has 35 full or part time employees and parent volunteers that are at the school daily

FUTURE CHURCH NEEDS

- HOLY CROSS PARISH is planning on building the Pope John-Paul II Family Life Center
- THE FAMILY LIFE CENTER will replace the old convent currently 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
- ADDITONAL 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

hese buildings will be used for preschool and gh school classrooms

gh school currently has 12 students

hen the high school reaches 60-80 students it ll be moved off site to a permanent location. his is projected for 2015.

gymnasium may be added for indoor sports thin 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.

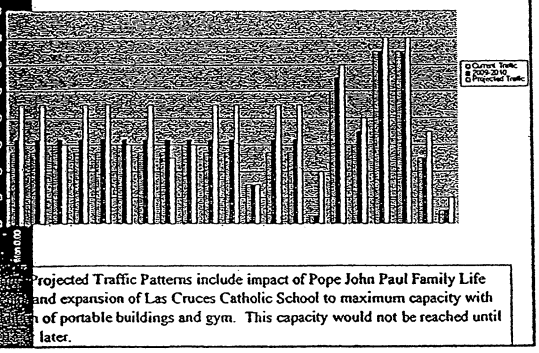
Neighborhood Concerns

- 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.

Traffic Study



rojected Traffic Patterns include impact of Pope John Paul Family Life
nd expansion of Las Cruces Catholic School to maximum capacity with
of portable buildings and gym. This capacity would not be reached until
later.

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.

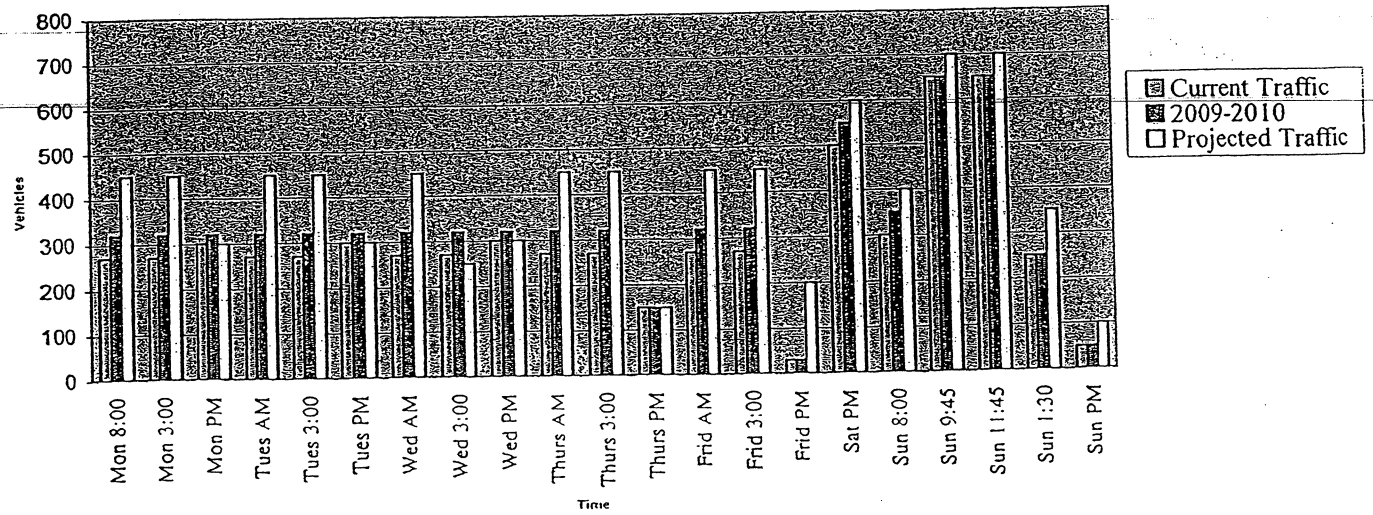
Water/Irrigation Issues

- Holy Cross Church will be repairing irrigation gate.

Information Sharing

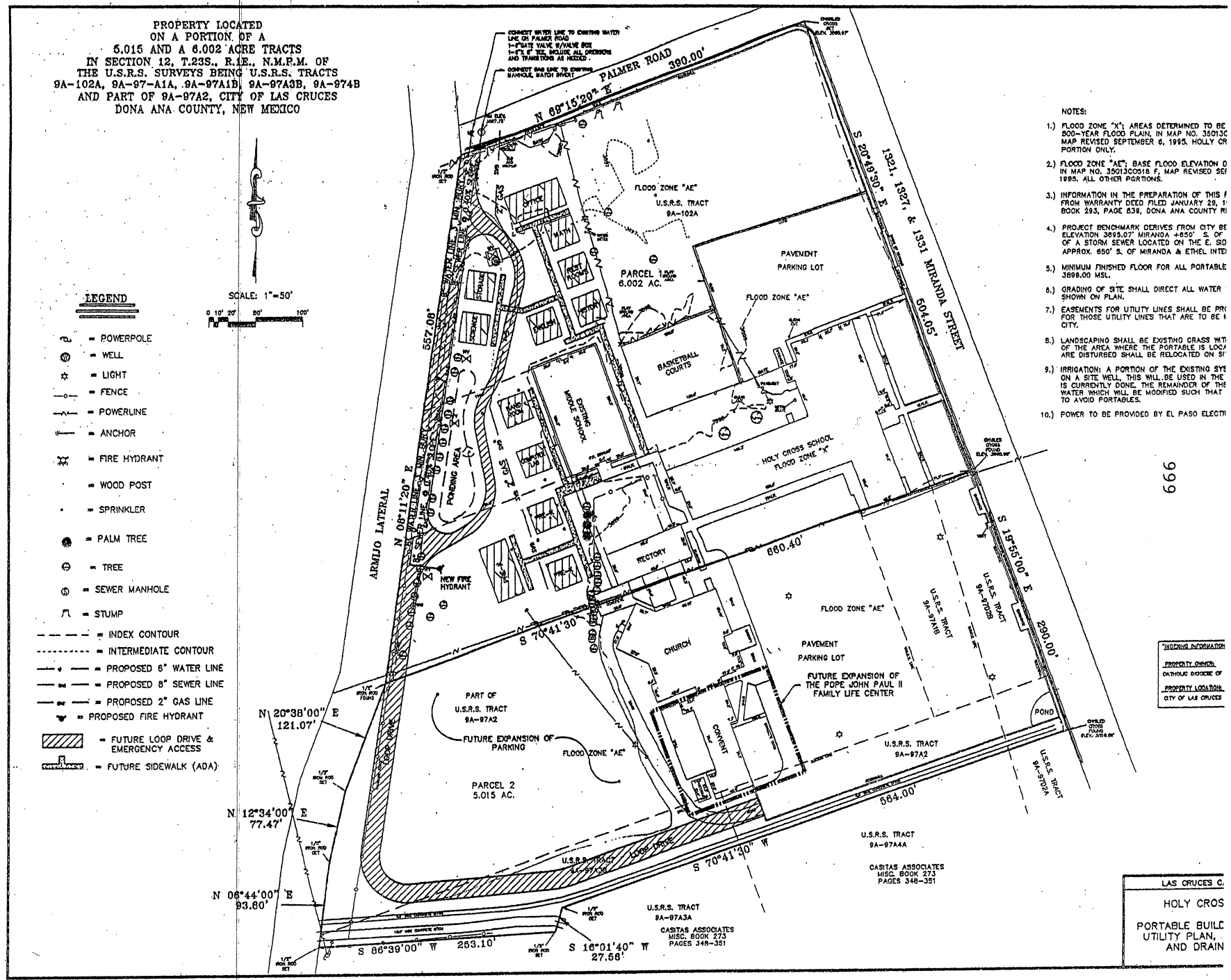
- How can this be done in the future to meet everyone's needs?

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 portable buildings and gym. This capacity would not be reached until 2015 or later

PROPERTY LOCATED
ON A 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-974B
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 LOOP DRIVE & EMERGENCY ACCESS
- = FUTURE SIDEWALK (ADA)

NOTES:

1.) FLOOD ZONE "X"; AREAS DETERMINED TO BE 500-YEAR FLOOD PLAIN, IN MAP NO. 35013C MAP REVISED SEPTEMBER 6, 1995. HOLLY CR PORTION ONLY.

2.) FLOOD ZONE "AE"; BASE FLOOD ELEVATION D IN MAP NO. 35013C0518 F, MAP REVISED SEF 1995. ALL OTHER PORTIONS.

3.) INFORMATION IN THE PREPARATION OF THIS F FROM WARRANTY DEED FILED JANUARY 29, 1 BOOK 293, PAGE 539, DONA ANA COUNTY RI

4.) PROJECT BENCHMARK DERIVES FROM CITY BE ELEVATION 3895.07' MIRANDA 4-650' S. OF OF A STORM SEWER LOCATED ON THE E. SID APPROX. 650' S. OF MIRANDA & ETHEL INTEI

5.) MINIMUM FINISHED FLOOR FOR ALL PORTABLE 3898.00 MSL.

6.) GRADING OF SITE SHALL DIRECT ALL WATER SHOWN ON PLAN.

7.) EASEMENTS FOR UTILITY LINES SHALL BE PRO FOR THOSE UTILITY LINES THAT ARE TO BE M CITY.

8.) LANDSCAPING SHALL BE EXISTING GRASS WIT OF THE AREA WHERE THE PORTABLE IS LOCA ARE DISTURBED SHALL BE RELOCATED ON SI

9.) IRRIGATION: A PORTION OF THE EXISTING SYS ON A SITE WELL, THIS WILL BE USED IN THE IS CURRENTLY DONE. THE REMAINDER OF THE WATER WHICH WILL BE MODIFIED SUCH THAT TO AVOID PORTABLES.

10.) POWER TO BE PROVIDED BY EL PASO ELECTR

"INDEXING INFORMATION"
PROPERTY OWNER:
CATHOLIC DIOCESE OF
PROPERTY LOCATION:
CITY OF LAS CRUCES

LAS CRUCES C
HOLY CROS
PORTABLE BUILD
UTILITY PLAN,
AND DRAIN

999

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
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	EE	RE	REM	R1c	R1a	R1b	R1cM	R1aM	R1bM	R2	R3	R4		O1	O2	C1	C2	C3	MT	M1M2	M3	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	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	C	C	C										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	A	A										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	A	A												
Child Care Center or Preschool (CCC) (13 or more children)											A	A		A	A	A	A	A	C	C	C			
Community Buildings-Uses	C	C	C	C	C	C	C	C	C	C	C	A			A	A	A	A	A	A	A	1 APS/800-1200 sq. ft. of GFA	1 BPS/5000 sq. ft. of GFA	See Section 38-53
Convention Center/Exhibition Hall															A			A	A	A		1 APS/3-5 maximum occupancy	1 BPS/75 maximum occupancy	
Detention Facility																			A	A	A	2 APS/Employee on maximum shift	0.4 BPS/Employee on maximum shift	
Hospital																	A	A				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											C	A			A	A	A	A	A	A		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.
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	See Section 38-53
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
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	EE	RE	REM	R1c	R1a	R1b	R1cM	R1aM	R1bM	R2	R3	R4		O1	O2	C1	C2	C3	MT	M1M2	M3	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	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															C	C	C	C	C	C		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															C	C	C	C	C	C	C	1 APS/1-2 Employees + 1 APS/2-4 Students	1 BPS/20 Employees + 1 BPS/10 Students	See Section 38-53

1006

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 1009

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

5/27/2009

Tina Barker

From: Tina Barker
Sent: Monday, June 08, 2009 3:38 PM
To: 'ihsf@zianet.com'
Subject: Files

still searching

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

QUICK LINKS

CD Home
- Our Staff
- Meetings
- Annual Reports
- City Streets Map
- Forms
- Fees
- Frequently Asked Questions
- Your Feedback

Development Services
- Development Review Process
- Ordinances & Regulations
- Planning & Zoning Commission
- Zoning
- Subdivisions
- Extra-Territorial Zone (ETZ)
- Signs
- Zoning Atlas

Planning
- Comprehensive Planning
- Special Districts
- Neighborhood Associations
- Census Information

Las Cruces Metropolitan Planning Organization (MPO)

Business License & Registration
- Business Registration - Monthly Reports

Permits & Inspections
- Building/Reroof
- Electrical
- Mechanical/Plumbing
- Other Inspections
- Permits - Monthly Reports

Neighborhood Services
- CDBG
- HOME
- Home Rehabilitation
- Home Buyer Education
- Juvenile Citation Program
- Rent and Income Limits
- Reports

Economic Development & Revitalization
- Business Development
- Main Street Downtown
- Farmers' and Crafts Market
- Adopt-A-Median Program

Rio Grande Corridor Project Comprehensive Plan

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.

For Your Convenience

Building/Reroof Home

Permit Application

Fees

Inspection Process

Building Inspections

Certificate of Occupancy or Completion

Contact Us

Front Desk
Community Development Department
P O Box 20000
Las Cruces NM 88004
(575) 528-3222

10

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:

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

RECOMMEDNATION (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

MAY 19

James White

1022

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 arguements, I agree with the positions taken by the committee opposing the variance. I believe their points are valid and should offer legimate 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.

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 severly 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 increast 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)

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

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

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

James White 1020

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

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

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.

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

ruprecht@nmsu.com

May 18, 2009

1032

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 GRANFATHERED 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

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

20

Las Cruces NM 88005-2000

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 can't 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

1040

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 DEVELPOPMENT ..... 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 THRUGH MY HOUSE , AT LEAST FOR MY HOUSE , 530 LINDA VISTA , AND MORE DWELLIGS 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

MICHAEL J GILMAN

FROM : MIKE_GILMAN FAX NO. : - Jun. 18 2009 09:00PM P1

June 23, 2009

1042

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. 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

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)

You May Order Up To 5 Premium Reports at No Charge

Your Search Results: Back | 1 | Next

⊞Show Map

(+) Add to My Schools

View My Saved Schools

☐ Select This School

Agapeland Christian
1301 Hoagland, Las Cruces, NM 88005

Type Private School
Level PK-KG
Approximate Median Home Value $221,600
Order Premium Report

View Quick Report | Ask An Expert | Order Premium Report | Show in Map

---

☐ Select This School

Colleges Heights Kindergarten
1210 Wofford, Las Cruces, NM 88001

Type Private School
Level PK-KG
Approximate Median Home Value $144,200
Order Premium Report

View Quick Report | Ask An Expert | Order Premium Report | Show in Map

---

☐ Select This School

Las Cruces Catholic/holy Cross
1331 N Miranda, Las Cruces, NM 88011

Type Private School
Level PK-8
Approximate Median Home Value $276,400
Order Premium Report

View Quick Report | Ask An Expert | Order Premium Report | Show in Map

---

☐ Select This School

Las Cruces Catholic/ihm Campus
865 East Idaho, Las Cruces, NM 88001

Type Private School
Level PK-5
Approximate Median Home Value $144,200
Order Premium Report

View Quick Report | Ask An Expert | Order Premium Report | Show in Map

---

☐ Select This School

Mesilla Valley Christian School
3850 Stern Drive, Las Cruces, NM 88001

Type Private School
Level KG-12
Approximate Median Home Value $144,200
Order Premium Report

View Quick Report | Ask An Expert | Order Premium Report | Show in Map

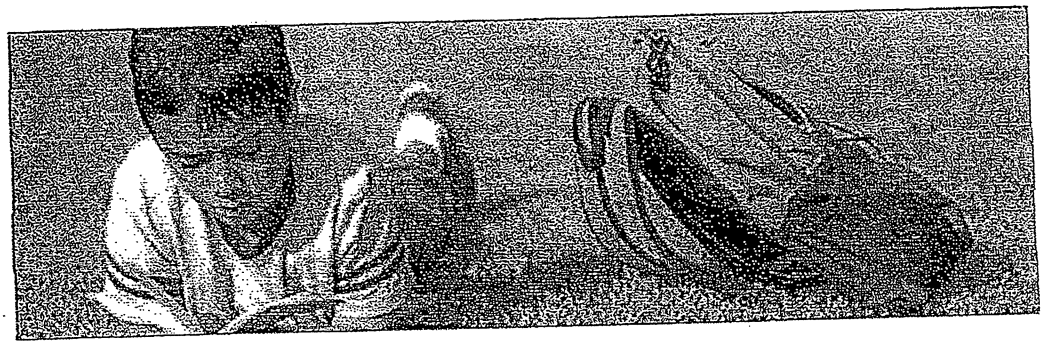
---

☐ Select This School

Noah's Ark Learning Center
1605 S Valley, Las Cruces, NM 88005

Type Private School
Level PK-KG
Approximate Median Home Value $221,600
Order Premium Report

View Quick 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

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

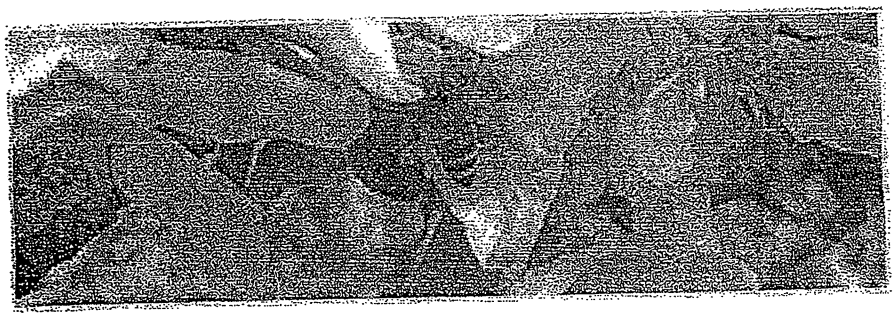
EARNED ACADEMIC SCHOOL AWARDS (what's this?)

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.

ew 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 ssistance 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)

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> 1049
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.

Copyright © 2003-2009. All rights reserved.

Subject: Letter received
From: "James White" <jwhite@las-cruces.org>
Date: Tue, Jun 09, 2009 3:10 pm
To: <ddennis@humansystemsresearch.org>

1050

For your records

Copyright © 2003-2009. All rights reserved.

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

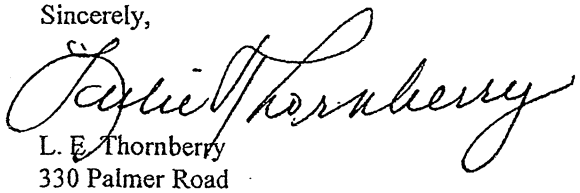
having two schools within two blocks of each other (Alameda Elementary on the East and Holy Cross on the West). The current amount of traffic and lack of proper parking which the neighborhood tolerates will only increase with the addition of still another level of education and the addition of square 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 do not 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 a 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.

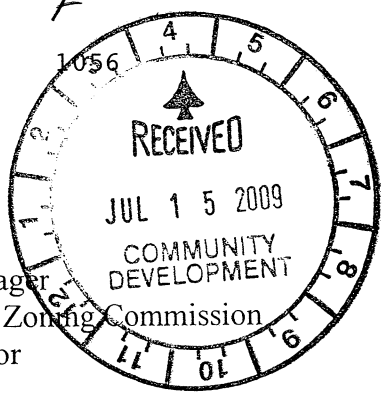
Mr. White gave approval for three of the buildings and just last Friday, June 26, LCCS pulled building permits for those three. In fact, someone was digging the utilities for those buildings more than a month ago according to one neighbor. It seems a little backwards to do utilities before permits, but 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"



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 he 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.

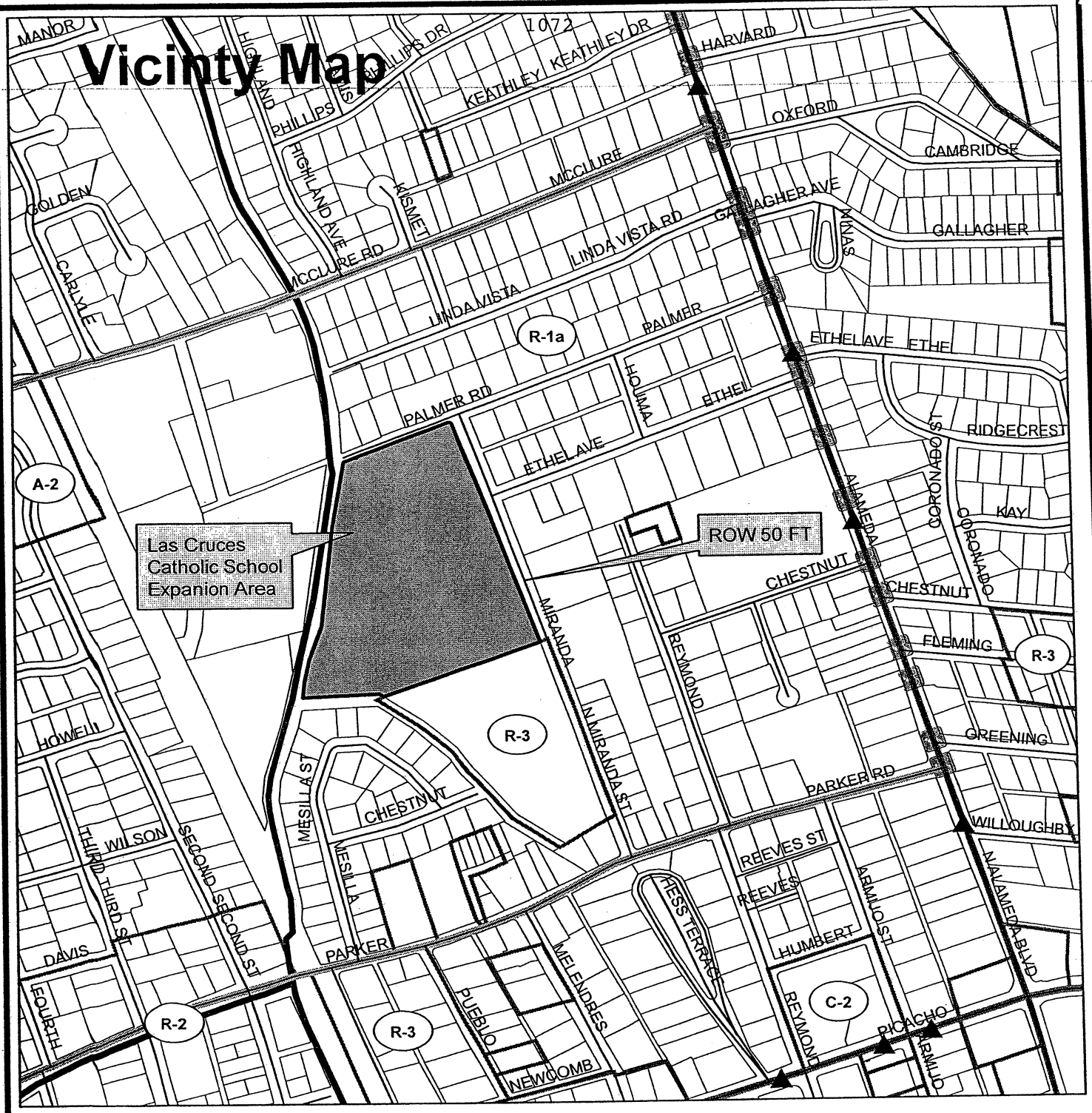
Thank you,

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 Gonzalez, Terri Munson Greg Bloom, Nancy Fleming, Jim Billings Melissa Thornberry, Greg Gendall, Linda and Mabel Duran, Mary Beaty, Linda Meyer, James Caulfield, Frank Fleming, and Claudia Billings.

ATTachment "G"

Vicinty 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

0 137.5 275 550 825 1,100 Feet

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.