# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 17 Ordinance/Resolution# 2755

For Meeting of May 4, 2015 (Ordinance First Reading Date)

For Meeting of May 18, 2015 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☒ LEGISLATIVE ☐ ADMINISTRATIVE

**TITLE:** AN ORDINANCE REPEALING AND REPLACING SECTION 36-3 DEFINITIONS AND ENACTING A NEW SECTION 36-120 OF THE LAS CRUCES MUNICIPAL CODE, ENTITLED "CONSOLIDATED DEVELOPMENT/BUILDER IDENTIFICATION SIGNS AND DEVELOPMENT DIRECTIONAL SIGNS". SUBMITTED BY SIERRA NORTE DEVELOPMENT, INC., CASE NO. SCA-14-01.

**PURPOSE(S) OF ACTION:**

Amend Sign Code.

| COUNCIL DISTRICT: ALL | | |
|---|---|---|
| **Drafter/Staff Contact:** Robert Kyle | **Department/Section:** Community Development/Building & Development Services | **Phone:** 528-3106 |
| **City Manager Signature:** | | |

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

The proposed Sign Code amendment, submitted by Sierra Norte Development, Inc., will establish regulations for a new category of temporary signage related to development and builder advertisement and way-finding. The proposal creates "consolidated developer/builder identification signage" and "development directional signage". The purpose of the consolidated/builder identification sign is to allow for off-premise advertising of an active development or phase of development (other than on a billboard) that also includes the names of the homebuilders associated with the development. As proposed, the signs would be limited to two per development or phase of development and be allowed on private property within ½ mile from the entrance to the development. The signs would be a maximum size of 64 square feet with a maximum height of 9 feet. The Sign Code currently allows for "neighborhood" signs (Sec 36-89 LCMC) to be placed within ½ mile of the neighborhood they pertain to, but are limited to 4 square feet and 3 feet in height and cannot contain any advertising of the builders, etc.

This portion of the proposal basically codifies a collaborative sign "pilot project" that staff started in 2012 after discussions with members of the development community. One benefit of this sign type is it incorporates advertising the active builders into the development sign and eliminates the common practice of numerous illegal off-premise signs placed by builders around the entrance to a development wherein they are constructing homes.

In addition to the consolidated developer/builder identification sign the applicant is proposing development directional signage. These signs, as proposed, would be permitted to be placed within City right-of-way, excluding medians, clear site triangles and American Association of State Highway and Transportation Officials (AASHTO) site lines. There would be a maximum of four signs per active development allowed within 4 miles of the development(s) with a cap of one sign per ¼ mile. The signs allowed would be limited to 12 square feet with a maximum height of 3 feet and would only have the name of the development(s) and directional information with no other advertising content. If multiple developments qualify for signs within the same segments they would have to coordinate and use the same sign(s).
Will
The existing Sign Code generally prohibits signs within the right-of-way, Sec. 36-11(d) "No sign shall be constructed within any public right-of-way or sidewalk, nor shall any portion of any sign extend onto or over a public right-of-way or sidewalk unless a specific exception is provided for in this chapter." There are exceptions provided for adopt a median signs and certain community wide events and sponsorship/donated by provisions. Staff has expressed concerns about allowing signs in the right-of-way for reasons of liability, added confusion for motorists and potential sign clutter. To address those concerns, the applicant has provided language that would require the City to be indemnified against any claims, that developers/developments share signs and that the signs would comply with the Manual on Uniform Traffic Control Devices (MUTCD) as well as AASHTO standards. In addition, staff will have the authority to review all requests and determine appropriateness of placement. If approved, staff will closely monitor this provision and seek to amend the code to repeal the provisions if they become problematic.

The proposal was reviewed by the Planning and Zoning Commission at a work session on January 20, 2015 and then action was taken at a February 24, 2015 Planning and Zoning Commission regular meeting. The Planning and Zoning Commission recommended approval of the amendment by a vote of 6-0 (one Commissioner was absent).

**SUPPORT INFORMATION:**

1. Ordinance.
2. Exhibit "A", Proposed amendments in approved format.
3. Attachment "A", Proposed amendments in legislative format.
4. Attachment "B", Planning and Zoning Commission Staff Report.
5. Attachment "C", Planning and Zoning Commission minutes from the January 20, 2015.

**SOURCE OF FUNDING:**

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

**BUDGET NARRATIVE**

N/A

**FUND EXPENDITURE SUMMARY:**

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

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will approve the proposed amendments to Chapter 36, Signs, of the Las Cruces Municipal Code.
2. Vote "No"; this will result in the Sign Code not being amended. Consolidated developer/builder identification signs and development directional signs would not be permitted.
3. Vote to "Amend"; this would allow the City Council to amend the ordinance to address any concerns they may have.
4. Vote to "Table"; this would allow the City Council to table/postpone action on the ordinance and direct staff accordingly.

**REFERENCE INFORMATION:**

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

1. N/A

**COUNCIL BILL NO.** 15-036
**ORDINANCE NO.** 2755

**AN ORDINANCE REPEALING AND REPLACING SECTION 36-3 DEFINITIONS AND ENACTING A NEW SECTION 36-120 OF THE LAS CRUCES MUNICIPAL CODE, ENTITLED "CONSOLIDATED DEVELOPMENT/BUILDER IDENTIFICATION SIGNS AND DEVELOPMENT DIRECTIONAL SIGNS". SUBMITTED BY SIERRA NORTE DEVELOPMENT, INC., CASE NO. SCA-14-01.**

The City Council is informed that:

**WHEREAS,** Sierra Norte Development, Inc., has submitted a sign code amendment to establish regulations for consolidated developer/builder identification signage and development directional signage for developers and builders in active developments; and

**WHEREAS,** such signage would be considered a new category of temporary signage within the Sign Code, Chapter 36, of the Las Cruces Municipal Code; and

**WHEREAS,** the Planning and Zoning Commission, after conducting a public hearing on February 24, 2015, recommended that said amendment be approved by a vote of 6-0-0, (one Commissioner absent).

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

**(I)**

**THAT** Section 36-3 Definitions is hereby repealed and replaced and a new section 36-120 is hereby enacted to Chapter 36 of the Las Cruces Municipal Code as shown on attached Exhibit "A", attached hereto and made part of this ordinance.

**(II)**

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

**DONE AND APPROVED** this _____ day of _____, 20__.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: ____
Councillor Silva: ____
Councillor Smith: ____
Councillor Pedroza: ____
Councillor Small: ____
Councillor Sorg: ____
Councillor Levatino: ____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

# Chapter 36 - SIGNS

## ARTICLE I. - IN GENERAL

### Sec. 36-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning (See appendix 2 for examples and illustrations):

Abandoned sign means an on- or off-premises sign that no longer directs, promotes, or advertises a bona fide business, lessee, owner, product, or activity conducted or product or service available on the premises where such sign is displayed.

Accessory use sign means any sign that is printed on or included in the design of any object which cannot be construed as being a building or freestanding sign (i.e., vending machines, menu signs, ATM machines, etc.).

Active Development means a subdivision or a phase of development of at least 10 acres in which homebuilding is occurring and at least 25 percent of the original number of developed residential lots do not contain a house that has been completed or is under construction. Advertising means the action of calling something to the attention of the public by verbal or visual presentation.

Athletic field means a wide stretch of open land used for outdoor games such as baseball, football and soccer.

Attached sign means any sign which is fastened to, connected to, or painted on and wholly or partially supported by a building.

Awning means a hood or cover which projects from the wall of a building and is composed of rigid or nonrigid materials.

Awning sign means a sign which is fastened to or painted on an awning.

Banner means a sign composed of lightweight, flexible material on which letters, symbols or pictures are painted or printed.

Bench sign means any sign affixed to or painted on a functional bench.

Billboard means an off-premises sign directing attention to a business, activity, commodity, service, entertainment, or communication, none of which may be conducted, sold or offered on the premises where the billboard is located.

Bonus means an allowance for additional sign area as an incentive to reduce the legal height permitted, or to remove nonconforming signs.

Business/service center means a group of two or more businesses planned, constructed, owned and managed independently or as a total entity which share access, parking or landscaping.

Canopy or marquee means a permanent, roof-like shelter extending from part or all of a building or independent of a building.

Canopy sign means a sign attached to or painted on a canopy.

Clear sight triangle means a triangular area of unobstructed vision at street intersections and at entrances/exits, permitting a vehicle driver to see approaching vehicles to the right or left. Refer to article VI, division 3 of the City of Las Cruces Design Standards.

Codes means any other applicable city, state or federal codes.

Collector street means a street which collects traffic from local streets and connects with major and minor arterials.

Consolidated Development/Builder Identification Signage means any sign that contains the name of an Active Development and the builders therein, that identifies the development as a whole (rather than an individual property), and that is permitted in accordance with the conditions set forth in this Code.

Construction/renovation sign means any temporary sign erected on the premises where construction/renovation is taking place and indicating the names of the architects, engineers, landscape architects, financial institutions, contractors or similar artisans, and the owners, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

Copy means the verbal, visual or pictorial portion of any sign.

Corporate pertains to any organization incorporated pursuant to law.

Decorations means any display which calls attention to a community-organized event or to a state or national holiday.

Development Directional Signage means any sign providing directions to an Active Development that is permitted in accordance with the conditions set forth in this Code.

Development identification sign means a permanent sign installed or constructed at the entrance/exit to a residential or commercial development to identify the development name and logo only.

Directional sign means any sign erected for the convenience of the public, such as the directing traffic movement, parking or identifying restrooms, public telephones, walkways and other similar features or facilities, and bearing no advertising message, excluding those erected by the United States Department of Transportation and the state highway and transportation department.

Flag/decorative means any rectangular display constructed of lightweight material having no logo or advertising message printed or painted on it.

Freestanding sign means any sign attached to or supported from the ground, and not attached to a building.

Garage sale sign. See "Private sale or event sign".

Gate entrance sign means any sign installed or constructed over the entrance to the premises in specific zoning districts as described in this chapter.

Government sign means any sign erected by any city, county, state or federal agency or its designee, setting forth information pursuant to law.

Ground sign means any sign which is attached to either the ground or to a footing set flush with the ground.

House or building sign or nameplate means a sign limited to identifying the street name, building or property number, and the name of the owner or occupant of the building or property.

Illuminated sign means any sign which is lighted internally, externally or by lights directed towards the sign by any light source.

Information sign means any sign whose purpose is to indicate the business, hours of operation or similar identification information.

Legal notice means any sign required by law or pursuant to a court order.

Local street means a street designed to provide access to abutting property and local streets, and to discourage through traffic.

Logo means an identifying symbol used for advertising purposes.

Maintenance means the total upkeep of a sign, structurally and electrically, in terms of safety, and cosmetically, in terms of visual attractiveness.

Major arterial means a street with access control, channelized intersections, restrictive parking, and which distributes and collects traffic to and from minor arterials.

Marquee or canopy. See Canopy.

Marquee sign means a sign attached to, mounted on or painted on a marquee.

Minor arterial means a street with signals at important intersections and stop signs on side streets and which collects and distributes traffic to and from collector streets.

Model complex sign means any sign located on a complex site, limited in time until the complex ceases to be a model complex.

Mural means a picture or graphic illustration applied directly to a wall of a building or structure which does not advertise or promote a particular business, service or product.

National, state and corporate flags means any rectangular display constructed of lightweight material used to identify a nation, state or corporation.

Neighborhood sign means a sign erected for the convenience of the public, directing traffic to and/or identifying specific neighborhoods and bearing no logo, tagline or advertising message,

Nonconforming sign means any sign legally erected and permitted in compliance with codes at the time it was erected and permitted, but which does not conform to current codes or this chapter.

Off-premises sign means a sign which advertises or directs attention to a business, product, service or activity which is not available on the premises where the sign is located.

On-premises sign means a sign which advertises or directs attention to a business, product, service or activity which is available on the premises where the sign is located.

Pennant means a display made of a lightweight material which tapers to a point, having no logo or advertising message printed on it.

Point-of-sale sign means any sign which is located or attached directly to the product to be sold.

Pole sign means any sign whose primary means of support is one or more poles set into a concrete footing, located at or below ground level.

Political sign means a sign pertaining to any national, state or local election and/or caucus.

Portable sign means a freestanding sign not permanently affixed, anchored or secured to the ground or a building, which may be rolled or moved about.

Private sale or event sign means a temporary sign advertising private sales of personal property at garage, yard or estate sales and the like; private fundraising events, such as a nonprofit carwash, or food/clothing drive, etc.

Product identification sign means any sign used to identify the supplier/contractor of the construction product being used.

Prohibited sign means any sign not expressly permitted within this chapter, or any sign which is specifically prohibited in this chapter, as provided in section 36-10.

Promotional display, commercial means special advertising for grand openings, anniversaries, special or seasonal events, and which are for a limited time, in addition to the legal signage permitted.

Promotional display, residential means special advertising using pennants, flags, streamers, banners, open house signs and other similar signs, the duration of an open house or similar showing.

Public area means any bus bench, bus shelter, landscaped median, trail, park, or arroyo duly recognized by the city.

Real estate broker identification sign means a sign used at a broker's residence for identification purposes as prescribed by state law.

Real estate directional sign means a sign which advertises or directs attention to real property not available on the premises where the sign is located.

Real estate sign means a sign intended to advertise the financing, development, sale, transfer, lease, exchange or rent of real property.

Roof sign means any sign which is attached to the roof of a building or structure.

Setback means the distance required from the property line or from other buildings/structures or businesses.

Shopping center means a group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site,

provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

Sign means any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, attachment or placing of a structure or object on any land, or on any other structure, or produced by painting on, posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface.

Sign administrator means a city employee so designated to administer and enforce the terms and conditions of this chapter, the codes, and all other provisions of laws pertaining to signs.

Special use sign means any sign intended for use by establishments requiring a special use permit pursuant to chapter 38.

Streamers means a display made of light, flexible material, consisting of long, narrow, wavy strips having no logo or advertising message printed or painted on it.

Street segment means the length of a roadway located between intersections of two collector or higher classified roadways based upon the Las Cruces Metropolitan Planning Organization designation.

Structural requirements means the safety standards that apply to those signs governed by the requirements in the building code and other companion documents.

Temperature/time/date sign means any sign with the purpose of displaying the temperature, time, date and logo/name.

Temporary sign means any sign intended for a limited period of display.

Total front footage means the total length of a property fronting on any side of a public street, or the total length of a building on which a sign is allowed.

Trademark/label/name means identification applied or attached to each permitted sign to designate the manufacturer and installer.

Unlawful sign means any sign ever erected which does not have a valid permit or, after erection, did not comply with all applicable provisions of the permit under which it was constructed and erected, or did not comply with all provisions of codes, or which does or did not meet the necessary requirements to be considered nonconforming.

Unlicensed commercial sign means any sign erected by an individual, group, organization or club for fundraising or other monetary gain.

Unsafe sign means any sign identified by the sign administrator as being improperly constructed and installed, erected or secured, thereby subject to falling or creating a safety hazard, with supported findings.

Variance means an authorization granted to a property owner to depart from the numerical requirements of the zoning regulations (as applied here, this chapter).

Vehicle sign means a sign painted on or attached to either a vehicle or to a trailer designed to be pulled behind a motorized vehicle, which relates to a business, activity, use, service or product.

Wall sign means any sign affixed flush to or painted upon the wall of any building.

Window sign means any sign that is applied or attached to the exterior or interior of a window or a window frame.

Sec. 36-120. – Consolidated Development/Builder Identification Signs and Development Directional Signs.

(a) Location

(1) Consolidated Development/Builder Identification Signage shall be allowed on private property within 0.5 mile of the entrance an Active Development with the written permission of the owner of the property, upon application to the City by one or more developers or builders, and upon approval by the City. A maximum of 2 such signs for each phase of an Active Development shall be allowed, with a maximum of 1 sign per block. No signs shall be allowed within the clear-sight triangle.

(2) Development Directional Signage shall be allowed within City rights-of-way of arterial and collector roadways within 2 miles of an Active Development upon application to the City by one or more developers or builders and upon approval by the City. A maximum of 4 such signs for an Active Development shall be allowed, with a maximum of 1 sign per ¼ mile. If 2 or more Active Developments want to be included on Directional Signage along the same roadway(s), those Active Developments shall be required to propose a single set of signage that pertains to those Active Developments. No signs shall be allowed within a median or the clear-sight triangle.

(b) Design.

(1) The content on Consolidated Development/Builder Identification Signage shall be limited to the name of the Active Development (or phase thereof), the name(s) of builders in the Active Development (or phase thereof), words and/or symbols indicating the direction of the Active Development (or phase thereof), a phone number, and a website address.

(2) The content on Development Directional Signage shall be limited to the name(s) of the Active Development(s) (or phase(s) thereof) and words and/or symbols indicating the direction(s) to the Active Development(s) (or phase(s) thereof).

(c) Size.

(1) The maximum size of Consolidated Development/Builder Identification Signage shall be 64 square feet, with a maximum height of 9 feet.

(2) The maximum size of Development Directional Signage shall be 12 square feet, with a maximum height of 3 feet.

(d) Duration. The initial permit for signage in this Section shall be for a term of 2 years and shall be subject to approval by the City. Renewal permits for up to 3 2-year terms

shall be available as long as the permit pertains to signage for an Active Development, and such renewal shall be subject to approval by the City.

(e) Maintenance. The applicant(s) for signage in this Section shall be solely responsible for maintenance of the signage in good condition, for prompt repair of any damage to the signage, and for installation of the signage in a location approved by the City. If the City notifies the applicant(s) of the need for maintenance and/or repair of signage, or relocation or removal of signage, and the required remedial action is not taken within 2 weeks, the permit(s) for all said signage shall become void, and all said signage shall be removed by the applicant(s) upon notification by the City.

(f) Indemnification. For Development Directional Signage in City rights-of-way, each applicant shall agree to indemnify, defend, and hold harmless the City, its employees, and its elected officials from and against any loss, expense, liability, or claim made for property damage or personal injury arising from the presence of such signage on City property. Such indemnification shall include conditions set by the City.

(g) Safety. All signage permitted in accordance with this Section shall abide by City regulations and requirements for traffic safety, shall be placed in areas outside the AASHTO (American Association of State Highway and Transportation Officials) sight distance limits, and shall not constitute a traffic hazard as determined by the City. Any sign within City right-of-way shall meet MUTCD (Manual on Uniform Traffic Control Devices) standards and shall not conflict with MUTCD signs.

(h) Master-Planned Communities and Planned Unit Developments. A developer of a multi-phase Master-Planned Community or Planned Unit Development that is 20 acres or larger shall have the ability to propose a Signage Plan as part of the approval process of a Master Plan or Concept Plan (or amendment thereof). Such a Signage Plan can vary from the provisions of this Section and shall be subject to approval by the City.

Chapter 36 - SIGNS

ARTICLE I. - IN GENERAL

Sec. 36-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning (See appendix 2 for examples and illustrations):

Abandoned sign means an on- or off-premises sign that no longer directs, promotes, or advertises a bona fide business, lessee, owner, product, or activity conducted or product or service available on the premises where such sign is displayed.

Accessory use sign means any sign that is printed on or included in the design of any object which cannot be construed as being a building or freestanding sign (i.e., vending machines, menu signs, ATM machines, etc.).

Active Development means a subdivision or a phase of development of at least 10 acres in which homebuilding is occurring and at least 25 percent of the original number of developed residential lots do not contain a house that has been completed or is under construction.

Advertising means the action of calling something to the attention of the public by verbal or visual presentation.

Athletic field means a wide stretch of open land used for outdoor games such as baseball, football and soccer.

Attached sign means any sign which is fastened to, connected to, or painted on and wholly or partially supported by a building.

Awning means a hood or cover which projects from the wall of a building and is composed of rigid or nonrigid materials.

Awning sign means a sign which is fastened to or painted on an awning.

Banner means a sign composed of lightweight, flexible material on which letters, symbols or pictures are painted or printed.

Bench sign means any sign affixed to or painted on a functional bench.

Billboard means an off-premises sign directing attention to a business, activity, commodity, service, entertainment, or communication, none of which may be conducted, sold or offered on the premises where the billboard is located.

Bonus means an allowance for additional sign area as an incentive to reduce the legal height permitted, or to remove nonconforming signs.

Business/service center means a group of two or more businesses planned, constructed, owned and managed independently or as a total entity which share access, parking or landscaping.

Canopy or marquee means a permanent, roof-like shelter extending from part or all of a building or independent of a building.

Canopy sign means a sign attached to or painted on a canopy.

Clear sight triangle means a triangular area of unobstructed vision at street intersections and at entrances/exits, permitting a vehicle driver to see approaching vehicles to the right or left. Refer to article VI, division 3 of the City of Las Cruces Design Standards.

Codes means any other applicable city, state or federal codes.

Collector street means a street which collects traffic from local streets and connects with major and minor arterials.

Consolidated Development/Builder Identification Signage means any sign that contains the name of an Active Development and the builders therein, that identifies the development as a whole (rather than an individual property), and that is permitted in accordance with the conditions set forth in this Code.

Construction/renovation sign means any temporary sign erected on the premises where construction/renovation is taking place and indicating the names of the architects, engineers, landscape architects, financial institutions, contractors or similar artisans, and the owners, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

Copy means the verbal, visual or pictorial portion of any sign.

Corporate pertains to any organization incorporated pursuant to law.

Decorations means any display which calls attention to a community-organized event or to a state or national holiday.

Development Directional Signage means any sign providing directions to an Active Development that is permitted in accordance with the conditions set forth in this Code.

Development identification sign means a permanent sign installed or constructed at the entrance/exit to a residential or commercial development to identify the development name and logo only.

Directional sign means any sign erected for the convenience of the public, such as the directing traffic movement, parking or identifying restrooms, public telephones, walkways and other similar features or facilities, and bearing no advertising message, excluding those erected by the United States Department of Transportation and the state highway and transportation department.

Flag/decorative means any rectangular display constructed of lightweight material having no logo or advertising message printed or painted on it.

Freestanding sign means any sign attached to or supported from the ground, and not attached to a building.

Garage sale sign. See "Private sale or event sign".

Gate entrance sign means any sign installed or constructed over the entrance to the premises in specific zoning districts as described in this chapter.

Government sign means any sign erected by any city, county, state or federal agency or its designee, setting forth information pursuant to law.

Ground sign means any sign which is attached to either the ground or to a footing set flush with the ground.

House or building sign or nameplate means a sign limited to identifying the street name, building or property number, and the name of the owner or occupant of the building or property.

Illuminated sign means any sign which is lighted internally, externally or by lights directed towards the sign by any light source.

Information sign means any sign whose purpose is to indicate the business, hours of operation or similar identification information.

Legal notice means any sign required by law or pursuant to a court order.

Local street means a street designed to provide access to abutting property and local streets, and to discourage through traffic.

Logo means an identifying symbol used for advertising purposes.

Maintenance means the total upkeep of a sign, structurally and electrically, in terms of safety, and cosmetically, in terms of visual attractiveness.

Major arterial means a street with access control, channelized intersections, restrictive parking, and which distributes and collects traffic to and from minor arterials.

Marquee or canopy. See Canopy.

Marquee sign means a sign attached to, mounted on or painted on a marquee.

Minor arterial means a street with signals at important intersections and stop signs on side streets and which collects and distributes traffic to and from collector streets.

Model complex sign means any sign located on a complex site, limited in time until the complex ceases to be a model complex.

Mural means a picture or graphic illustration applied directly to a wall of a building or structure which does not advertise or promote a particular business, service or product.

National, state and corporate flags means any rectangular display constructed of lightweight material used to identify a nation, state or corporation.

Neighborhood sign means a sign erected for the convenience of the public, directing traffic to and/or identifying specific neighborhoods and bearing no logo, tagline or advertising message,

Nonconforming sign means any sign legally erected and permitted in compliance with codes at the time it was erected and permitted, but which does not conform to current codes or this chapter.

Off-premises sign means a sign which advertises or directs attention to a business, product, service or activity which is not available on the premises where the sign is located.

On-premises sign means a sign which advertises or directs attention to a business, product, service or activity which is available on the premises where the sign is located.

Pennant means a display made of a lightweight material which tapers to a point, having no logo or advertising message printed on it.

Point-of-sale sign means any sign which is located or attached directly to the product to be sold.

Pole sign means any sign whose primary means of support is one or more poles set into a concrete footing, located at or below ground level.

Political sign means a sign pertaining to any national, state or local election and/or caucus.

Portable sign means a freestanding sign not permanently affixed, anchored or secured to the ground or a building, which may be rolled or moved about.

Private sale or event sign means a temporary sign advertising private sales of personal property at garage, yard or estate sales and the like; private fundraising events, such as a nonprofit carwash, or food/clothing drive, etc.

Product identification sign means any sign used to identify the supplier/contractor of the construction product being used.

Prohibited sign means any sign not expressly permitted within this chapter, or any sign which is specifically prohibited in this chapter, as provided in section 36-10.

Promotional display, commercial means special advertising for grand openings, anniversaries, special or seasonal events, and which are for a limited time, in addition to the legal signage permitted.

Promotional display, residential means special advertising using pennants, flags, streamers, banners, open house signs and other similar signs, the duration of an open house or similar showing.

Public area means any bus bench, bus shelter, landscaped median, trail, park, or arroyo duly recognized by the city.

Real estate broker identification sign means a sign used at a broker's residence for identification purposes as prescribed by state law.

Real estate directional sign means a sign which advertises or directs attention to real property not available on the premises where the sign is located.

Real estate sign means a sign intended to advertise the financing, development, sale, transfer, lease, exchange or rent of real property.

Roof sign means any sign which is attached to the roof of a building or structure.

Setback means the distance required from the property line or from other buildings/structures or businesses.

Shopping center means a group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

Sign means any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, attachment or placing of a structure or object on any land, or on any other structure, or produced by painting on, posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface.

Sign administrator means a city employee so designated to administer and enforce the terms and conditions of this chapter, the codes, and all other provisions of laws pertaining to signs.

Special use sign means any sign intended for use by establishments requiring a special use permit pursuant to chapter 38.

Streamers means a display made of light, flexible material, consisting of long, narrow, wavy strips having no logo or advertising message printed or painted on it.

Street segment means the length of a roadway located between intersections of two collector or higher classified roadways based upon the Las Cruces Metropolitan Planning Organization designation.

Structural requirements means the safety standards that apply to those signs governed by the requirements in the building code and other companion documents.

Temperature/time/date sign means any sign with the purpose of displaying the temperature, time, date and logo/name.

Temporary sign means any sign intended for a limited period of display.

Total front footage means the total length of a property fronting on any side of a public street, or the total length of a building on which a sign is allowed.

Trademark/label/name means identification applied or attached to each permitted sign to designate the manufacturer and installer.

Unlawful sign means any sign ever erected which does not have a valid permit or, after erection, did not comply with all applicable provisions of the permit under which it was constructed and erected, or did not comply with all provisions of codes, or which does or did not meet the necessary requirements to be considered nonconforming.

Unlicensed commercial sign means any sign erected by an individual, group, organization or club for fundraising or other monetary gain.

Unsafe sign means any sign identified by the sign administrator as being improperly constructed and installed, erected or secured, thereby subject to falling or creating a safety hazard, with supported findings.

Variance means an authorization granted to a property owner to depart from the numerical requirements of the zoning regulations (as applied here, this chapter).

Vehicle sign means a sign painted on or attached to either a vehicle or to a trailer designed to be pulled behind a motorized vehicle, which relates to a business, activity, use, service or product.

Wall sign means any sign affixed flush to or painted upon the wall of any building.

Window sign means any sign that is applied or attached to the exterior or interior of a window or a window frame.

Sec. 36-120. – Consolidated Development/Builder Identification Signs and Development Directional Signs.

(a) Location

(1) Consolidated Development/Builder Identification Signage shall be allowed on private property within 0.5 mile of the entrance an Active Development with the written permission of the owner of the property, upon application to the City by one or more developers or builders, and upon approval by the City. A maximum of 2 such signs for each phase of an Active Development shall be allowed, with a maximum of 1 sign per block. No signs shall be allowed within the clear-sight triangle.

(2) Development Directional Signage shall be allowed within City rights-of-way of arterial and collector roadways within 2 miles of an Active Development upon application to the City by one or more developers or builders and upon approval by the City. A maximum of 4 such signs for an Active Development shall be allowed, with a maximum of 1 sign per ¼ mile. If 2 or more Active Developments want to be included on Directional Signage along the same roadway(s), those Active Developments shall be required to propose a single set of signage that pertains to those Active Developments. No signs shall be allowed within a median or the clear-sight triangle.

(b) Design.

(1) The content on Consolidated Development/Builder Identification Signage shall be limited to the name of the Active Development (or phase thereof), the name(s) of builders in the Active Development (or phase thereof), words and/or symbols indicating the direction of the Active Development (or phase thereof), a phone number, and a website address.

(2) The content on Development Directional Signage shall be limited to the name(s) of the Active Development(s) (or phase(s) thereof) and words and/or symbols indicating the direction(s) to the Active Development(s) (or phase(s) thereof).

(c) Size.

(1) The maximum size of Consolidated Development/Builder Identification Signage shall be 64 square feet, with a maximum height of 9 feet.

(2) The maximum size of Development Directional Signage shall be 12 square feet, with a maximum height of 3 feet.

(d) Duration. The initial permit for signage in this Section shall be for a term of 2 years and shall be subject to approval by the City. Renewal permits for up to 3 2-year terms

shall be available as long as the permit pertains to signage for an Active Development, and such renewal shall be subject to approval by the City.

(e) Maintenance. The applicant(s) for signage in this Section shall be solely responsible for maintenance of the signage in good condition, for prompt repair of any damage to the signage, and for installation of the signage in a location approved by the City. If the City notifies the applicant(s) of the need for maintenance and/or repair of signage, or relocation or removal of signage, and the required remedial action is not taken within 2 weeks, the permit(s) for all said signage shall become void, and all said signage shall be removed by the applicant(s) upon notification by the City.

(f) Indemnification. For Development Directional Signage in City rights-of-way, each applicant shall agree to indemnify, defend, and hold harmless the City, its employees, and its elected officials from and against any loss, expense, liability, or claim made for property damage or personal injury arising from the presence of such signage on City property. Such indemnification shall include conditions set by the City.

(g) Safety. All signage permitted in accordance with this Section shall abide by City regulations and requirements for traffic safety, shall be placed in areas outside the AASHTO (American Association of State Highway and Transportation Officials) sight distance limits, and shall not constitute a traffic hazard as determined by the City. Any sign within City right-of-way shall meet MUTCD (Manual on Uniform Traffic Control Devices) standards and shall not conflict with MUTCD signs.

(h) Master-Planned Communities and Planned Unit Developments. A developer of a multi-phase Master-Planned Community or Planned Unit Development that is 20 acres or larger shall have the ability to propose a Signage Plan as part of the approval process of a Master Plan or Concept Plan (or amendment thereof). Such a Signage Plan can vary from the provisions of this Section and shall be subject to approval by the City.

SIERRA NORTE DEVELOPMENT, INC.
3590 W. Picacho Avenue
Las Cruces, NM 88007
(575) 496-7115

December 26, 2014

Mr. Robert Kyle
Building & Development Services Administrator
City of Las Cruces
Community Development Department
PO Box 20000
Las Cruces, NM 88004

Dear Mr. Kyle,

Thank you for conducting a preliminary staff review of Sierra Norte Development's proposed amendment to the City Sign Code. We would like to continue the process of seeking approval of the proposed amendment and look forward to participating in the Planning & Zoning Commission work session on January 20. Please consider this letter as our application to proceed with this matter, and kindly let me know if I need to complete a form to accompany this request.

Our latest revision of the proposed amendment follows this letter.

Very truly yours,

John Moscato
Vice President

City of Las Cruces®

TO: Planning and Zoning Commission

FROM: Robert Kyle, Building & Development Services Administrator RK

DATE: February 17, 2015

SUBJECT: Proposed Sign Code amendment

RECOMMENDATION: Approval

**Case SCA-14-01:** A request to amend Section 36-3 Definitions and Article IV Temporary Signs of Chapter 36 (Sign Code) of the Las Cruces Municipal Code (LCMC). The request seeks to create regulations for Consolidated Developer/Builder Identification Signage and Development Directional Signage for Developers and Builders in Active Developments. Submitted by Sierra Norte Development, Inc.

**Background**

Staff has received a request to amend the Sign Code (Chapter 36, LCMC) to allow for Consolidated Developer/Builder Identification Signage and Development Directional Signage. This represents a new category of off-premise temporary signage which focuses on advertising active developments/subdivisions and associated builder(s) as well as provides for directional signage to the development(s) in a manner which is not currently permitted by the Sign Code.

The proposal codifies a pilot project, which city staff put in place in 2012, that permits advertisement of a development, off-premise, as well as includes the home builders associated with the subdivision. The positive aspect of this type of sign is that individual builders can be advertised off-site instead of only lots they currently own or are building on. This has helped reduce illegal signs and sign clutter in the locations we have permitted.

In addition to the consolidated developer/builder identification sign, the proposal also includes provisions for development directional signs. These signs are intended to provide only the name of the development(s) and the directions to said development and are limited to 4 per active development. The applicant is proposing that these signs, which would be allowed to be placed up to 2 miles from the development would also be permitted to be located within city right-of-way, excluding medians and clear-sight triangles, of collector and arterial roadways.

Since the Planning and Zoning Commission Work Session in January, the applicant has made a couple of changes to the proposed ordinance. One was to reduce the distance from development

from 2.5 to 2 miles for directional signs as well as to require that multiple developments in the same area would have to coordinate with each other to share the directional signs to help mitigate conflicting placement and sign clutter issues. Lastly, the applicant has changed the definition of "Active Development" to mean a subdivision or phase of a subdivision that is at least 10 acres in size. This provision would further limit the number of potential instances where the sign code amendment would be applicable.

Included in the packet is a matrix showing similar sign provisions of several other jurisdictions. As can be seen by the matrix most of the jurisdictions do make provisions for the use of off-site subdivision directional signs.

**Recommendation**

Staff supports the proposal conceptually, but does have concerns with some of the placement provisions, specifically placement of signs within the public right-of-way. Currently, no private signs are allowed within rights-of-way with the exception of certain community-wide events, i.e. Showcase of Homes, and holiday signs on street light poles which are very limited in timeframe.

The proposal does provide an indemnification clause which would benefit and protect the city in case of accident or property damage due to the signs being in the right-of-way, but in general staff does not support the signs being allowed within the right-of-way.

If the amendment is ultimately approved, staff will monitor the placement of signs in the right-of-way to determine if any hazards, complaints or negative issues arise from such placement. The administration of the provisions will be adjusted to try to mitigate those issues or an amendment to the code will be forwarded by the City to address the provisions.

**Attachments**
Applicant's request letter
Proposed Amendment Language
Draft Planning & Zoning Commission Minutes – January work session

| Jurisdiction | Offsite Signs Permitted | Allowed within Public Right-of-Way | Number Allowed | Distance from Subject Property | Length of Sign Placement |
|---|---|---|---|---|---|
| Mesa, AZ | Yes (Subdivision directional signs) | NO | Max of 2 per recorded subdivision | Unspecified. Appears to be determined at time of Use Permit issuance | Two (2) years or until last lot is sold (whichever occurs first) |
| Gilbert, AZ | Builder's Sign Package | NO. Must be on unimproved lots or parcels | 4 | Unspecified (must be 50' apart regardless of sign ownership) | 3 years from date of issuance |
| Gwinnett County, GA | Yes (Subdivision directional signs) | NO | 4 per intersection with no more than one per corner | No greater than 2 miles or two intersections from development | Beginning of project to 10 days following sale of final property |
| Queen Creek, AZ | Yes (Subdivision directional signs) | NO | 10 off-site directional signs | Within 2-mile radius from subdivision | 6:00 pm on Friday until 5:00 am on Monday |
| Albuquerque, NM | Yes (directional and identification) | YES (arterial & collector roadways) | 4 | Unspecified (must be 500 feet from another sign board) | One year with multiple one year extensions |
| El Paso, TX | Yes (Subdivision directional signs) | NO | Up to 8. Depends on size of subd. | | Once plat is filed to last sale to end user but permitted annually |
| Phoenix, AZ | Yes (Subdivision directional signs) | NO. Must be on unimproved lots or parcels | 2 | Within 1 mile of subject property | 3 years or 10 days following last lot sale (whichever is first) |
| Las Cruces proposal | Yes (directional and identification | YES | 2 for Identification, 4 for directional | ½ mi for Identification, 2 mi. for directional | Maximum of 8 years provided is used for Active Development |
| Las Cruces current | Yes (Neighborhood) | NO | 1 | Within ½ mile | n/a |

# City Sign Code

[Proposed new section in Article IV, Temporary Signs]

**Sec. 36-__. Consolidated Developer/Builder Identification Signage and Development Directional Signage for Developers and Builders in Active Developments.**

(A) *Definitions.*

(1) "Consolidated Development/Builder Identification Signage" shall refer to any sign that contains the name of an Active Development and the builders therein, that identifies the development as a whole (rather than an individual property), and that is permitted in accordance with the conditions set forth in this Section.

(2) "Development Directional Signage" shall refer to any sign providing directions to an Active Development that is permitted in accordance with the conditions set forth in this Section.

(3) "Active Development" shall refer to a subdivision or a phase of development of at least 10 acres in which homebuilding is occurring and in which at least 25 percent of the original number of developed residential lots do not contain a house that has been completed or is under construction.

(B) *Conditions.*

(1) *Location.*

(a) Consolidated Development/Builder Identification Signage shall be allowed on private property within 0.5 mile of the entrance an Active Development with the written permission of the owner of the property, upon application to the City by one or more developers or builders, and upon approval by the City. A maximum of 2 such signs for each phase of an Active Development shall be allowed, with a maximum of 1 sign per block. No signs shall be allowed within the clear-sight triangle.

(b) Development Directional Signage shall be allowed within City rights-of-way of arterial and collector roadways within 2 miles of an Active Development upon application to the City by one or more developers or builders and upon approval by the City. A maximum of 4 such signs for an Active Development shall be allowed, with a maximum of 1 sign per ¼ mile.

If 2 or more Active Developments want to be included on Directional Signage along the same roadway(s), those Active Developments shall be required to propose a single set of signage that pertains to those Active Developments. No signs shall be allowed within a median or the clear-sight triangle.

(2) *Design.*

(a) The content on Consolidated Development/Builder Identification Signage shall be limited to the name of the Active Development (or phase thereof), the name(s) of builders in the Active Development (or phase thereof), words and/or symbols indicating the direction of the Active Development (or phase thereof), a phone number, and a website address.

(b) The content on Development Directional Signage shall be limited to the name(s) of the Active Development(s) (or phase(s) thereof) and words and/or symbols indicating the direction(s) to the Active Development(s) (or phase(s) thereof).

(3) *Size.*

(a) The maximum size of Consolidated Development/Builder Identification Signage shall be 64 square feet, with a maximum height of 9 feet.

(b) The maximum size of Development Directional Signage shall be 12 square feet, with a maximum height of 3 feet.

(4) *Duration.* The initial permit for signage in this Section shall be for a term of 2 years and shall be subject to approval by the City. Renewal permits for up to 3 2-year terms shall be available as long as the permit pertains to signage for an Active Development, and such renewal shall be subject to approval by the City.

(5) *Maintenance.* The applicant(s) for signage in this Section shall be solely responsible for maintenance of the signage in good condition, for prompt repair of any damage to the signage, and for installation of the signage in a location approved by the City. If the City notifies the applicant(s) of the need for maintenance and/or repair of signage, or relocation or removal of signage, and the required remedial action is not taken within 2 weeks, the permit(s) for all said signage shall become void, and all said signage shall be removed by the applicant(s) upon notification by the City.

(6) *Indemnification.* For Development Directional Signage in City rights-of-way, each applicant shall agree to indemnify, defend, and hold

harmless the City, its employees, and its elected officials from and against any loss, expense, liability, or claim made for property damage or personal injury arising from the presence of such signage on City property. Such indemnification shall include conditions set by the City.

(7) *Safety.* All signage permitted in accordance with this Section shall abide by City regulations and requirements for traffic safety, shall be placed in areas outside the AASHTO (American Association of State Highway and Transportation Officials) sight distance limits, and shall not constitute a traffic hazard as determined by the City. Any sign within City right-of-way shall meet MUTCD (Manual on Uniform Traffic Control Devices) standards and shall not conflict with MUTCD signs.

(8) *Master-Planned Communities and Planned Unit Developments.* A developer of a multi-phase Master-Planned Community or Planned Unit Development that is 20 acres or larger shall have the ability to propose a Signage Plan as part of the approval process of a Master Plan or Concept Plan (or amendment thereof). Such a Signage Plan can vary from the provisions of this Section and shall be subject to approval by the City.

# PLANNING AND ZONING WORK SESSION
# FOR THE
# CITY OF LAS CRUCES
## City Council Chambers
## January 20, 2015 at 6:00 p.m.

**BOARD MEMBERS PRESENT:**

Godfrey Crane, Chairman
William Stowe, Vice-Chair
Charles Beard, Secretary
Joanne Ferrary, Member
Ruben Alvarado, Member
Harvey Gordon, Member

**BOARD MEMBERS ABSENT:**

Kirk Clifton, Member

**STAFF PRESENT:**

Robert Kyle, Administrator/Chief Building Official
Srijana Basnyat, Senior Planner
Marc South, Planner
Becky Baum, Recording Secretary, RC Creations, LLC

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

Crane: Good evening ladies and gentlemen, being six o'clock I'll call this Planning and Zoning Commission work session to order. Although we don't have any members of the public as the term is usually used, I will ask the Commissioners to introduce themselves. First we have Commissioner Gordon who is District?

Gordon: Mayor's appointee.

Crane: Oh, Mayor's appointee, yeah of course. And then Commissioner Stowe who is District 1. And Commissioner Ferrary you, I remember now you are District 5.

Ferrary: Yes.

Crane: And Mr. Alvarado is District 3. Mr. Beard who is left, District 2 and I'm Crane, the Chairman, District 4.

## II. APPROVAL OF WORK SESSION MINUTES

A. May 20, 2014

Crane: Our first matter of business is to approve the minutes of the work session last May 20th, and I'm sure you all remember very clearly what we said then. Commissioners, anybody have any comments on the minutes you have for the 20th of May meeting? Commissioner Beard.

Beard: A very minor one, on page 13, line 15, "gis" I would think, I think I'd make those three words all capitalized.

Crane: Anything else? That's the only one. Mr. Beard?

Beard: That's it.

Crane: Okay. Any other Commissioner have any point? In that case I'll entertain a motion that the minutes be approved as modified.

Beard: So moved.

Crane: Moved by Mr. Beard.

Ferrary: Second.

Crane: Seconded by Ms. Ferrary. All in favor "Aye."

All: Aye.

Crane: Opposed. And Mr. Alvarado's is abstaining and Mr. Gordon you weren't with us at that time were you? No, so that's four for, and two abstentions. Thank you.

## III. NEW BUSINESS

A. **Case SCA-14-01:** A request to amend Section 36-3 Definitions and Article IV Temporary Signs of Chapter 36 (Sign Code) of the Las Cruces Municipal Code (LCMC). The request seeks to create regulations for Consolidated Developer/Builder Identification Signage and Development Directional Signage for Developers and Builders in Active Developments. Submitted by Sierra Norte Development, Inc.

Crane: The next item on our agenda, new business three B is Case SCA-14-01, a request to amend definitions and article IV regarding temporary signs of

Chapter 36 of the sign, municipal sign code. The gentleman presenting this is Mr. Weir.

Kyle: Good evening Commissioners. Actually Robert Kyle, Building and Development Services Administrator for the Community Development Department.

Crane: I beg your pardon. But you do look like him.

Kyle: I haven't been here for a long time, so I ...

Crane: It's okay.

Kyle: Understand. This evening we wanted to introduce the Commission to a proposed sign code amendment that staff is entertaining. This was a citizen or a private sector initiated amendment. The City did not propose this. We were approached some time ago last year, 2013 actually in, in discussions about amending the zoning code to address signage for the development and building community. We, we currently have provisions related to real estate signs, development ID signs, etc, but didn't quite go as far and cover some of the areas that interested parties within those industries wanted to see done. So over the course of the last year or so we have worked, staff has worked with the, the industry and the applicant of this request to review some of the provisions of the code and see if what they would like to see incorporated into the City's zoning code, sign code, could be accommodated. And so what we have before you this evening is the culmination of that work to date and it's, it's, it's only three pages worth, worth of change, but they're, they're quite distinct and some of them significant in what is being proposed. And, and at this time, and I'll have him come and make a presentation, but I want to introduce John Moscato of Sierra Norte Development. He is the, I guess the applicant in this particular process and again we have worked with Mr. Moscato for some time now in, in working on this proposed amendment. I'll go over very very briefly and then I want to let Mr. Moscato have an opportunity to explain where they're coming from, from and industry and why they're proposing what they are. But it is actually what this is proposing is the creation of a new temporary sign category which is being called Consolidated Development and Builder Identification signs. And this is an effort to allow a development that's currently under construction or homes are being built within this development to advertise that particular subdivision or development and include the builder, so it'll be kind of your typical XYZ subdivision homes from the whatever thousands, homes brought to you by builder A, B, C, and D, incorporated on one larger sign. Presently our signs that, that you can have neighborhood signs which advertise a particular development, they do not incorporate that builder's advertisement as well; that's considered off premise advertising so while

you see lots of them out there in areas, those are not legal in accordance with the City sign code.

We implemented as kind of a pilot program this concept back in 2013 and I think there's probably three locations in town where there are signs that have been put up that are advertising a specific subdivision as well as the builders who are offering homes within that, and it, it has benefited some. We've seen a reduction of what we would refer to sign clutter with different builders and entities putting their signs out around it. So there has been some positive aspects to it, and, and again what this does is, is kind of coalesce that pilot program into actual codified regulation.

The other aspect of the proposal is to allow for development directional signage, and these would be smaller signs which would indicate the name of the subdivision and maybe have an arrow or, or some directional component to get you to a particular development. Presently we don't have anything like that outside of the neighborhood sign. And as being proposed this would be allowed much further from the, the active subdivision. It's being proposed that these signs would be allowed up to two and a half miles away from where a development is to help get the general public oriented into the direction of the proposal. A key component of this portion of the request however is that these signs be allowed in City's right-of-way along collector and arterial roadways. Presently there are no signs other than governmental signs and some very exclusive community-wide event sorts of signs that are allowed in public right-of-way. Private signs are, are typically not allowed and that's a, a significant component to this proposal, that those would be allowed within the City's right-of-way which opens up a host of, of potential issues but those are things that, that staff and the applicant are working through together. If you read my cover memo as part of this proposal I also mention that there was an issue related to opening the door to all business segments. I have had a chance to talk with, with our council and we feel that as proposed and because this was a, a citizen initiated proposal, it would not automatically do that. We feel that at least out of the gate we could limit it to those development and builder signs specifically. If another segment of the private sector wanted to come in with an amendment of their own, they certainly could do that and then we would take it through the same process that, that Mr. Moscato's proposal has been through.

At this point basically we just wanted to, it's getting down kind of to the point where it's time for the policy makers to weigh in and provide some direction on, on if this is an amendment that they want to see and that's kind of why it's before you this evening. We've, we've dealt with it for several months and wanted the Planning and Zoning Commission to have an opportunity to review it and if they have any questions we certainly can take those into account before bringing it forward for a specific recommendation to the City Council and that would be the next

step. Planning and Zoning Commission recommendation and then on to City Council ultimately for adoption or not. With that I would like to give Mr. Moscato an opportunity to explain perhaps the background, the rationale behind this proposal and then after that I think both of us would be happy to try to answer any questions.

Crane: Mr. Kyle before you free up Mr. Moscato, you're not expecting a vote from us tonight?

Kyle: Absolutely not. This is a work session. This is information, direction only. If, if you have thoughts or comments that you want staff and Mr. Moscato to, to, to take back, think about, and potentially incorporate, that's direction we would take, but no, at a work session you actually cannot take action.

Crane: But later it will have to come before Planning and Zoning Commission before it goes up to the City Council?

Kyle: That is correct. Unless there's significant changes that have to occur, we would probably be seeking a recommendation at the February Planning and Zoning Commission meeting.

Crane: Okay.

Kyle: Unless we receive direction otherwise.

Crane: So deliver Mr. Moscato please.

Moscato: Thank you Mr. Kyle and good evening.

Crane: Welcome.

Moscato: Chairman and Commissioners. John Moscato with Sierra Norte Development Inc. We are the developers of the Metro Verde master planned community which is about 2,200 acres, a couple of miles north of Highway 70, off the Sonoma Ranch Boulevard exit. In looking at this proposal I suggest two questions that would be good to examine; one would be is it needed? Is this revision or amendment needed? And secondly what would be the impact or impacts if the revision or amendment were passed. To answer the first question we are on the front line every day dealing with customers, realtors, builders, and we hear all too often from people "Well we didn't know you were here." And that's after we've been there three years, developed a couple hundred lots, there's a hundred homes already built. We have three billboards in the corridor along Telshor and Highway 70. We advertise in the Sun News, the Real Estate Guide, the Chamber of Commerce annual publication, the Convention and Visitors Bureau annual publication, we have websites.

We do everything we can to get the word out but what we hear consistently from builders and realtors that people who man the model homes and open houses is we're just a little too far off the beaten track for casual interested parties to find us. So, so that's the genesis of, of our request. And as Mr. Kyle pointed out we've been in discussions with staff for over a year fine-tuning this proposal. It was much much broader than this to begin with. This is a much narrowed down version of what we had originally proposed. But, but I think from, from our prospective it's, it's a needed improvement in getting the general public interested parties, whether they're first time home buyers or people from out of town looking to, to move here to get them directed to the area.

In terms of the impact, we think the impact would be minimal, as Mr. Kyle pointed out some of the test projects where these identification signs have been installed actually have served to reduce sign clutter. I think there'd be much less of a tendency for builders and realtors to run out on a Saturday morning, stick a whole bunch of open house signs and builder signs up hoping that there's no compliance officer looking to remove them before they have to put them back in their car on, on Sunday evening.

There is a provision right now in the sign code, it's at section 36.41, it's under on-premises signs, not off-premises signs, and that, that's one of the problems we, we see with the sign code is a lot of the, the signs that might be beneficial for this business or other businesses are under the category of on-premises signs rather than off-premises signs. Well our feeling is once you're on the premises the need for a sign is greatly diminished. What you need a sign for is to direct people from off the premises to on the premises. And so that's what our goal is here. There is a provision in, in this on-premises category for a development identification sign to be placed in public right-of-way provided prior approval has been granted by the City Manager or official designee. So really we've taking a provision that's already in the sign code but we think is really in the wrong place in the sign code and not serving a really useful purpose. And, and tweaking that, maybe a little more than tweaking it, and allowing a development identification sign on private property. We wouldn't ask for that larger sign to be in public right-of-way but our proposal for a development identification sign would be only on private property either on-premises or off-premises would be, it would be larger, it would be 64 square feet as opposed to the 32 square feet now allowed, but it wouldn't be in the right-of-way. In Metro Verde we have 12 builders building there now. We may get several more so you can if, if we want to list just the name of the development and just list the builders and I think that's, you know that, that maybe advertising, to me that's more just identification. It's just, it's just information.

As Mr. Kyle pointed out one of the key provisions in what we are proposing is the category of directional signs. Now those we are asking for the possibility of having those in public right-of-way similar to these

development identification signs that are already allowed in public right-of-way. They would be much much smaller. They would be only 12 square feet. There would only be four of them allowed per phase of development. They would be at least a quarter mile apart, so I, I don't think under any stretch of the term you could call that sign clutter, these are relatively small unobtrusive signs, I think that they kind of blend right into the park. We wouldn't be asking to put them in medians. We wouldn't be asking to put them in the clear sight triangle. We would follow all of the, the traffic safety codes, the signs have to be constructed in a certain way, placed in a certain way, and on top of all of that what we have proposed would still be subject even though it would be in the sign code and the temporary sign category, they would still be subject to approval by whatever personnel in the City is designated to approve them. So there's lots of checks and balances. If somebody thinks well that's just, that sign's not appropriate in that location, well it just doesn't go in that location because you need, you need the approval to, to do it. So hope I've explained why we are asking for this revision or amendment to the sign code and given you some reasons why it would really be a minimal impact as far as anyone in the community, really no visual clutter or sign clutter but, but serving what we think is a useful purpose for businesses that are, are really key to a lot of the growth in the community, when you add up the, the development, the builders, all of the ancillary industries in that developer/builder segment of the economy, this is just you know a, a little bit of help that we're asking for to be able to direct people to a new development that may be just by the nature of where things are developing, it's going to be a little off the beaten track. So thank you very much and I'd be happy to answer any questions.

Crane: Thank you Mr. Moscato. I see one Commissioner already, Commissioner Beard.

Beard: Mr. Kyle did you say that legal has not come back with their opinion on whether other people might complain about the, these people being separated out?

Kyle: Legal did come back. I, I was able to discuss with them today and we feel that as proposed coming from a specific segment that it would not automatically open the door to us having to allow that. If, if again, if another segment of the private sector wanted to come in with their own amendment to allow similar signs then staff would take that under advisement and, and through the same scrutiny that we did this particular proposal before bringing it forward for application. It, it may open the, it may set the precedent of entertaining such legislation but it would not ... what we were afraid of is we might run into an equal protection issue where we can't just say it's okay for development, consolidated builder and development signs, that if this gets approved basically any off-site

advertising's going to be allowed and as long as it meets you know the size and location requirements called out in the amendment they're good to go. It is our opinion as of today that no that would not be the case so.

Beard: My, my concern would be the advertising of course. A, if, if the, if the signs could provide the information that's, that's what we're trying to get to the lost person without advertising the person, the, the industry that, that's developing these pieces of property. Just for instance not using a name of a contractor.

Kyle: We're, on the directional signs, the development directional signs which are the smaller ones that Mr. Moscato indicated and would be located in the right-of-way, those do not include the, the builder information. It simply would be, in his particular case Metro Verde Phase two or something with an arrow. It's, it's going, it's going to advertise the development but not the builders associated, etc. So a little more limited.

Beard: Okay. Another question. When I was reading this I, and I heard you say this also, clear sight triangle, could you explain exactly what that is?

Kyle: Mr. Chairman and Commissioner Beard the clear sight triangle is a dimensional area at an intersection where we do not allow anything above four feet to be placed because you want to have sight lines so that when you're sitting there trying to pull out you can see far enough down the road that you're not going to you know pull out right in front of somebody. And it's a prescribed measurement outlined in the City's Design Standards, the clear sight triangle, and it's, it's based on street classification and street you're intersecting with etc. But it's basically it's a clear zone where we don't allow anything that's too high to obstruct vision so you can see those *(inaudible)*.

Beard: Okay, okay. I didn't understand the triangle part of that. That's violated everywhere in this town. You pull out of a bank, there's a big ol' bush and you can't see left.

Kyle: Land, landscaping is very problematic. They're supposed to keep it maintained so it's not taller than three feet but, and you're right a lot of things do occur, a lot of temporary signs get put up on, on corners etc. that, that do violate it. When we, when codes enforcement finds those they you know do their best to, to remedy that situation. But it is a prescribed component within the City's sign code. It's defined in the City's traffic standards which are part of the design standards. And then there's some, there's some other components that we may be looking at as we actually come forward with a recommendation on this that we use a different standard as opposed to just the City's clear sight triangle, that we use the AASHTO sight distance guidelines and when we come forward

we'll explain what those are and the distances. Largely it's just a different way of establishing the same thing.

Beard: Thank you.

Crane: I think this is going to open up Pandora's box. While it's true that the real estate development business does deal in very large chunks of value added, houses from $150,000 to $350,000 and so on, and that it's no easy matter to sell somebody one of those houses, perhaps you deserve some special consideration. But when I decide that I, I notice that you're doing this and naturally this is going to get publicized, and I want to open my new pizzeria I'm going to get a little grouchy that I can't put up a sign eight by eight or maybe somewhat smaller and say there's a new pizzeria a mile down Amador. So I think you might expect not so much from Mr. Moscato and the developers but the City might expect quite a flurry of interest in being treated equally. I mean I understand why realtors, pardon me, developers are really a special case, but my pocket isn't involved. And if it were I might not see so clearly. So that could be down the road. Otherwise I don't think I see any difficulties with what's being suggested. And we shall see some examples, shall we not, montages showing what it would look like various places around the City, perhaps Sierra Verde's own signs. Any other Commissioner? Commissioner Beard. Commissioner Stowe.

Stowe: It seems clear that the applicant is responsible for installing the sign, maintaining the sign, and removing the sign, temporary sign at the appropriate time. Is that true?

Kyle: Mr. Chairman, Commissioner Stowe, as proposed, yes, the applicant is. The City however does have the right, especially if it's located within obviously the City right-of-way to mitigate any issues that might be associated with it. There's maintenance language that's been provided in, in the draft to try to provide some mechanisms for the City to regulate if, if things do you know start to, to run down etc. So I believe that, that, that part is covered. And Commissioner Crane, staff doesn't disagree with you and, and that's the *(inaudible)* concern that we have. And, and Mr. Moscato knows that and we've tried to spend the last year or so trying to figure out how to address that, it, it's a hard question but that kind of ... it got us to where we are tonight. It, it's time to come forward and let the policy makers make some of those decisions so.

Stowe: Thank you.

Crane: Thank you. Commissioner Gordon.

Gordon: It is conceivable that there will be numerous builders that could be building in any one particular area and then it will become, if you talk about not having sign clutter it's, it's possible that you'll have leap frogging. As you go down the street you'll have one developer and a little sign that shows where that's to, the next guy, and the next guy, and the next guy. I, I don't know if this creates a problem where you say you don't want to have clutter but in your case and where you're located I don't think, is there anybody else out there besides you Mr. Moscato?

Moscato: Right now we, we're really the only active major development in that, in that whole area. And I think when you look around town and, and who knows, maybe it'll change as time goes on if the real estate market ever turns around again, but right now I don't, I think you can count on the fingers of one hand the number of major developments around the whole City that would, that would probably ...

Gordon: I, I think, not to interrupt you, but I think that if you think about Sonoma Ranch Boulevard down towards 70, *(inaudible)* the whole area there has a plethora of, of developers who are building homes and even on the other side of 70 out near Red Hawk, now you have a lot of, of builders who are vying for the buying public.

Moscato: But, but the proposal as, as presented now is limited to developer signage, so this wouldn't allow individual builders to install four directional signs and two development identification signs. Its, its developer driven and, and for the development identification signs we would simply list the builders on the, on, on, on the sign. And that's, that's allowed under the current sign code but we think in the wrong place. It's allowed on-premises, would rather have it, have the choice of having it on-premises or off-premises, not in City right-of-way, only private property.

Gordon: Don't, don't you think someone who is a builder who is certainly not one of your stature and has as many units that he can build, maybe he only owns just half a dozen lots in a particular area, not contiguous to one another, but he might consider himself to be excluded from this because you're keeping him out by saying he's not a developer. What will be the definition of a developer then?

Moscato: Where there's a, there's a specific process for development that's separate from home building. We, we acquire raw land. We go through the whole development approval process. We go through the expense of building all of the infrastructure, the water, sewer, gas, electric, telephone, cable, roads, curb and gutter, street signs, mailboxes, everything. Builders purchase one of our lots to, to build homes. So there's, and, and those individual builders are included in our proposal to the extent that we

would include their names on, on a panel under a, an overall development spot.

Gordon: Suppose I went out and bought an, an area of land, I had it, I came before the City and I, and I proposed to them that I'm going to build, I want to, I want to subdivide this into so many lots and therefore would that, that I'm going to turn around to, to a builder and say "Okay I want you to be my builder." I may go to two or three builders and say "You people will be my builders." Am I a developer?

Moscato: You would be a developer at that point.

Gordon: I'm just trying to think about, somebody's going to come forth and say "Hey listen, you're, you're, you're keeping me out of the loop here. I want to have the same right to put a sign up saying where I've got two lots or three lots that I'm planning on building some homes. I consider myself to be a developer. I'm not building a hundred or two hundred, I don't have the size and capacity of what you have but yet again I think I'm a developer and you're excluding me.

Moscato: Well I think that's the nature of, of the regulation. Some people are, there's, there's lots of exclusions in, in the sign code as it is now, that you go through the, the list of, of definitions and you'll see there's 30, 40 different signs that fall under different categories. In the particular case that we're proposing if you meet certain criteria of number of, of acres developed, so, so it has to be a fairly large size to warrant consideration under this proposal.

Gordon: Mr. Kyle is there a definition of what a developer is in the code?

Kyle: Mr. Chairman not in the sign code. You may define it in the subdivision code. But Mr. Moscato basically hit it on the head, you own a piece of property and you want to subdivide it, put in the necessary infrastructure etc., you are a developer. For that particular portion. And you're right it could be two lots or it could be two thousand lots.

Gordon: Yeah.

Kyle: But I, I'm not sure that it necessarily changes the, the fact that if, if you meet those requirements that are outlined and can meet those, you know those locational and those distance requirements, you can have your sign.

Gordon: I, I don't want you to get me wrong here. I'm all in favor of doing anything that we possibly can do in this City to encourage development; build homes, get people to live here. It's good for the economy. It's good for the City. It's good for the people. It's just that I want everybody to have

the same opportunities and, and the same treatment not to be left out because of their size.

Kyle: I'm not sure it's a size issue as much as a timing issue. If, if for example Sierra Norte or Metro Verde comes in and they develop a subdivision and they get their signs up first it's an opportunity that, that they were able to take advantage of, and I came in after the fact, well I want my sign on that corner. You can't have it on that corner because Metro Verde sign is already there. That's, that's no different than if you wanted to build a billboard, you know we have very stringent requirements on billboards and if you're leasing it for a year that's an opportunity cost that, that business B did not get to take advantage of.

Gordon: Yes but if I, if I wanted to take, if I wanted to take the next billboard down the street a hundred yards away and put my advertising up, there's nothing to stop me from doing that. I mean I'm, I'm, I'm renting space on a public billboard that's owned by someone. I just can't go put a billboard up unless I get permission to do so. But, I don't, I just don't think that, in other words what would be the rule. Let's say for example you have your development and you're going down 70 and you get off, there's a sign that says, people can read a sign that says the development is, get off at exit so-and-so. And you get off and turn and in another *(inaudible)* there's another sign that says at the next corner make a right. I would assume this is what, what would happen. And when you got down there if, if on the other side of the street from where you're doing it there's another person who's going to do a development, he's already been excluded from using that corner? Is that right or wrong? Would he have to be so many feet away before he could put up his directional sign?

Kyle: He, he may be prohibited from using that corner but not the corner across the street. The, the provision also allows for if you have developers who could get together on one of these signs. Plus we're talking about you're within, the development ID signs can only be within a half a mile of the proposal. Now the directional signs that say Metro Verde arrow, yeah those if approved up to two and a half miles and you, you are limited in the number you get and those placements. So if developer B wants to come in as long as they deal with their number and deal with that placement I think there's in theory right-of-way for all.

Gordon: But that's what I mean. On corner A there's a sign. And he puts up another sign two and half miles down the road. Now let's say for example I'm going to have a development from point A can I go one mile down, put up my sign and then go two and a half miles down and put up another one of my signs or am I restricted from two and half miles from where he put his sign. I mean ...

Kyle: Two and half miles from your development.

Gordon: I'm right across the street from him.

Kyle: Then you get the same two and half miles he does.

Gordon: Do I get the same corner?

Moscato: The way the proposal is ...

Crane: Mr. Moscato is speaking.

Moscato: The way the proposal is written there has to be at least a quarter mile distance between signs.

Gordon: That's what I'm just saying, so all right, I can go from point A, a quarter of a mile put my sign and then you, you'd still be limited to how far you could put up your second sign and I would be limited to how ... it would be a leap frog effect. It would be over your sign, you'd be over mine, until we got to where we were building. I, I have no problem with that, it's just that you talk about signs along the roadway, if there's enough builders you're going to have lots of signs.

Moscato: Well you can have a maximum of four signs per mile and these signs are just maximum three by four, so they're not very big, not very obtrusive.

Gordon: But they can't be next to one another.

Moscato: Quarter mile apart.

Gordon: I didn't ask that. They can't be, I can't put my sign right next to yours on a corner.

Moscato: Not if there has, not if they have to be a quarter mile apart.

Gordon: Okay.

Kyle: Mr. Chairman, Robert Kyle, that actually may be something we need to, to think about because as, as written one could probably interpreted that that means Mr. Moscato's signs can't be more than a quarter mile apart, but does that prohibit development B from putting one, as long as he meets those same location requirements right next to his, and you're, you're right, that's an issue that, that we probably do need to think about in terms of, of how it does get applied. And again it's an interpretation issue probably at this point but it probably does need to be clarified because you're right, we still don't want to get to the point where we have ...

Gordon: Ten signs on one corner.

Kyle: Ten signs right next door to each other, yeah.

Gordon: Yeah. I can see that too.

Crane: Does that help you Mr. Gordon? You okay? Thank you.

Kyle: And, and, if I could add one, and that situation of having ten signs on one corner is exactly the situation that has occurred in areas over the years until the compliance officers come and rap people on the knuckles and say you have to move them. So I really think what we're proposing would serve to avoid that situation rather than cause it to happen.

Crane: Thank you. Commissioner Ferrary.

Ferrary: My understanding is that we are trying to make it so that people who are interested in building a home or buying a home would go to the development and then that development would list all the different builders rather than all the builders competing to have their own sign.

Kyle: That's correct.

Ferrary: So unless there's a lot of developments in the same area, but you have 2,200 acres that's, and temporary is probably not a really good word for this because it's probably going to be a long time that, unless you're doing different developments within that 2,200 acres that you would be advertising. But I don't see builders wanting to have their signs you know every quarter of a mile or two and half miles out. It would mostly be the development that encompasses all the builders.

Moscato: Right.

Ferrary: And is this common in other areas like Tucson or Phoenix where they have you know I think we notice some in Goodyear just outside of Phoenix area that you know where there's lots of open land that they give people and idea of how to get to that area.

Moscato: You're exactly correct. In, in fact Kimball Hakes who is the, one of the partners in Hakes brothers has attended some of these meetings about this sign code revision and has provided examples of directional signs and development identification signs that he's seen throughout communities in Arizona. In fact when we come before you again, if we come before you again, we'll provide sample, samples of signs that are actually in other communities and also show photos of the area of our development and

leading to the development and, and superimpose little directional signs or larger identification signs in those photos, so you can see what it would look like in terms of the streetscape.

Ferrary: That's great. Thank you.

Crane: Mr. Beard.

Kyle: Mr. Chairman if I can just add on to that ...

Crane: Mr. Kyle.

Kyle: Staff has reviewed and, and has looked at a number of other sign codes that we found I had access to, to ascertain how, how are other jurisdictions addressing this etc. and so part of the, the formal presentation staff packet coming forward eventually will be a matrix of those jurisdictions we've looked at and kind of how many signs do they allow, you know how far away, can they be in the right-of-way, etc. So we'll give you a little bit of, of a sample size of, of the information we've been able to find.

Crane: Commissioner Beard.

Beard: I want to put in my two cents that I support putting in some type of signage directing people to these new developments. I would like the advertising out of it such as there are signs that direct you to the mall but they don't tell you that JC Penney's is there, okay. You get the, you get to the mall and then you find out who those people are that are selling the products. I would like to keep it in that type of, of scenario. The, and also the signs that go up are probably going to be along the main, a main road where there are other signs, so that's got to be thought out as to how congested are the signs that you put your sign next to. Does it take away from businesses that are directly right there or are you going to put these signs somewhere where there's, it's not going to deter people from looking at other people's signs that are, that are more prominently placed.

Moscato: Commissioner Beard you make two very good points and just to follow through on your, your first point, I think in our case the development would be analogous to the mall, so it would just, the directional signs would say, Metro Verde and there'd be an arrow. So you wouldn't have all the builders listed there. It would be a very simple, unobtrusive small sign. In terms of interfering with existing signs, we would certainly take that into account, whoever is charged at the City with approving the installation of one of these signs in a specific location, I'm sure would also take that into account. And if we were proposing to put our sign three feet in front of an,

I'm sure they'd say no that's not appropriate, you need to move it here. So I think we could, we could take both those into consideration.

Beard: Thank you.

Crane: Mr. Gordon.

Gordon: I'm sorry.

Crane: Any other Commissioner have any questions for Mr. Moscato or Mr Kyle? In that case thank you both gentlemen.

## IV. ADJOURNMENT (7:10)

Crane: And as I look at my agenda which I've been writing on the back of, our next matter is adjournment. So unless either of you have any ... do you have some closing remarks Mr. Kyle?

Kyle: I would just like to point out for the benefit of the Commission we have provided you your staff packets for next week's regular Commission meeting and then as you're aware there's some plats sitting there for you. With that, thank you for your time.

Crane: Thank you. We stand adjourned at 7:10. Thank you all.

_____

Chairperson

# PLANNING AND ZONING COMMISSION
# FOR THE
# CITY OF LAS CRUCES
## City Council Chambers
## February 24, 2015 at 6:00 p.m.

**BOARD MEMBERS PRESENT:**

Godfrey Crane, Chairman
William Stowe, Vice-Chair
Charles Beard, Secretary
Joanne Ferrary, Member
Ruben Alvarado, Member
Harvey Gordon, Member

**BOARD MEMBERS ABSENT:**

Kirk Clifton, Member

**STAFF PRESENT:**

Robert Kyle, Build and Development Administrator, CLC
Adam Ochoa, Planner, CLC
Lorenzo Vigil, Planning Technician, Sr., CLC
Mark Dubbin, CLC Fire Department
Pete Connelly, CLC Deputy City Attorney

Becky Baum, Recording Secretary, RC Creations, LLC

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

Crane: Good evening ladies and gentlemen. In spite of what it says on the screens in front of you this is not the City Council. We are much better, we are not politicians. Sorry Nathan. Oh, this is better. Welcome to the Planning and Zoning Commissioner meeting for the 24th of February, 2015. I'll start as we usually do by introducing the Commissioners present. On my far right is Commissioner Gordon who is the Mayor's appointee. Then Commissioner Stowe who represents District 1. Commissioner Ferrary, Council District 5. Commissioner Alvarado, Council District 3. Commissioner Beard who is also our secretary, Council District 2. And I should've mentioned that Commissioner Stowe is our Vice Chairman. I'm Godfrey Crane the Chairman and I represent District 4.

## II. CONFLICT OF INTEREST

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

opposed votes and then I go on to say "Okay that's six to one Mr. Stowe." It can't be "six to one," Mr. Stowe abstained and there were only six Commissioners present. So that should be "five to one."

And page 16, line 42, this is not something I said but I'm pretty sure Ms. Sutton meant, line 42, even for the "food bank" rather than the "foot bank." And on page 32 Mr. Clifton on line 11, "properties right across the street on Amador." *(says stress instead of street)*. And page 46 I have two and that's it; line 13 "peaking" the way I'm using that would be "peeking." And line 36 "site" the way I'm using it would be "cite." Any other Commissioner got any adjustments to the minutes? In that case I'll entertain a motion that the minutes be accepted as amended.

Beard: So moved.

Gordon: I move that we accept the minutes as amended.

Crane: That is you are moving Mr. Gordon?

Gordon: Yes I said I, I move to accept.

Crane: You move. Okay. Seconded.

Beard: Second.

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

ALL: Aye. (Mr. Alvarado abstains.)

Crane: Opposed? And Mr. Alvarado abstains so it's five, zero, one vote to accept the minutes. Thank you.

## IV. CONSENT AGENDA - NONE

Crane: We have nothing on the consent agenda so I needn't explain what that is.

## V. OLD BUSINESS - NONE

Crane: We have no old business.

## VI. NEW BUSINESS

1. **Case SCA-14-01:** A request to amend Section 36-3 Definitions and Article IV Temporary Signs of Chapter 36 (Sign Code) of the Las Cruces Municipal Code (LCMC). The request seeks to create regulations for Consolidated Developer/Builder Identification Signage and Development Directional

Signage for Developers and Builders in Active Developments. Submitted by Sierra Norte Development, Inc.

Crane: So we launch into new business. Mr. Ochoa's going to tell us about Case SCA-14-01 regarding amendments of the signs section of the municipal code. No it's going to be Mr. Clear.

Kyle: Kyle.

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

Kyle: I do.

Crane: Thank you.

Kyle: Right now I am looking for my presentation.

Crane: Couldn't hear you very well is your mic on? Okay.

Kyle: Mr. Chairman I loaded my presentation in this directory earlier today and it does not appear to be here at this particular moment. With that in mind, if it's acceptable to the applicant, I would let them make their presentation while I run back to my desk and see if can get it reloaded.

Crane: The applicant accept that?

Moscato: Good evening Mr. Chairman and Commissioners. My name is John Moscato, Sierra Norte Landholdings.

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

Moscato: I do.

Crane: Go ahead please.

Moscato: Thank you. We're here tonight to request amending the sections of the sign code relating to definitions and temporary signs. When you think about how development occurs it's usually from the core of the City outwards. So it, it usually happens that new development occurs in outlying areas, areas that people might not be familiar with, areas where they, they haven't driven before. And, and we look at this amendment as a way to supplement other activities and ways that we direct people to new developments. I know speaking for myself we develop in the Metro Verde area and we have multiple billboards, we have advertisements in

newspapers, we advertise in magazines, but there's really no substitute for that final assistance that you give people who are just driving around to get to a new area. And that's really what these, these amendments try to achieve. And I have a brief presentation.

As you can see there are two specific types of signage that we're requesting; one we call consolidated developer/builder identification signs and the other development directional signs. I'll briefly describe each one; the identification signs are signs that are located only on private property, or proposed to be located only on private property, limited to half a mile from the entrance of a development with a, just a maximum of two signs per phase. The size would be 64 square feet maximum which would be an eight by eight sign. And the content is very limited. It would just have the name of the development, a list of the builders, directional symbols or words so an arrow or the word straight ahead, phone number, and a website.

The directional signs we're asking to be allowed to be located either on private property or public right-of-way. These would take people from your major traffic corridors and direct them to these new developments in somewhat outlying areas. So over that two-mile stretch we would be proposing a maximum of four signs per development, so roughly one sign every half mile. Maximum size, much smaller than the other type of sign, these would just be 12 square feet. And to address one of the comments that was made in the work session we attended last month, with included a, a new idea here that developments in the same area will share signs. One of the Commissioners raised the issue of well what if there's two or three developments would each development be allowed to have four signs in the same corridor, so if you have two developments you might have eight signs, three developments 12 signs. As you can see from the samples that, that follow here, it's very easy to accommodate multiple development names on a single sign. And the, the content is more limited than the larger sign, all we would propose to be included on these signs would be the name of the development and directional symbol or words.

I wanted to go through just a few of the current sign code provisions so you can see that there, there are signs somewhat close to the types we're proposing here that are allowed with special permission under the current sign code. So really what we're after is, is just more predictability in which signs can or cannot be allowed. One of the things businesses like is, is to have predictability so we know what we can do and what we can't do and so we can make plans accordingly. So there are neighborhood signs allowed. You can see here the wording is directing traffic to and/or identifying specific neighborhoods. Neighborhood signs here as the development identification signs we're proposing are allowed on private property. Placement here key wording is no temporary or permanent signs shall be placed on public property with the exception of signs lawfully permitted. So what we're asking for in, in the cases of these two signs we're requesting be allowed under the sign code is that they be

lawfully permitted. And here there is, with development identification signs, permanent which is different from the temporary ones we're proposing, the, the wording specifically says may be placed in public right-of-way provided prior approval has been granted by City Manager or official designee. And really that, a lot of that wording is, is mirrored in what we're proposing in our brief amendment. There's, there's ample provisions in what we're proposing for the official designee to approve or deny certain signs. If, if the City official feels that a location isn't appropriate or a sign is inappropriate there's ample protection for the City to say no. Also there's always the possibility that City staff if they think that the system that we're proposing just isn't working for one reason or another, staff could always come back and ask you to rescind these amendments. So not only are the signs themselves permanent but I think you can consider that, there's, there's lots of protection here to prevent proliferation of signs or, or other factors that, that may be problematic.

This is just an, an example in our particular development going toward the Metro Verde development where different signs might occur. The scale here is, might be a little deceptive, it's actually about four miles from end to end so you see four symbols showing directional signs, two symbols showing identification sign locations. We just did some Photoshopping, this is an actual area off Sonoma Ranch Boulevard north where we're showing what a directional sign would look like for a single development. And here's an example of what a directional sign directing people one way for one development, another direction to another development. The exact locations may not be correct, this is more just for, for show than for actual accuracy.

Again, this is, this is by Sonoma Ranch Boulevard as you approach Highway 70 heading north, you can see here two developments, both in the same direction. And this is an example of an identification sign where you would have the name of the development and a list of, of builders. That's, that's the extent of my presentation. I think the Commissioners asked a lot of good questions the last time we were here for a work session on this topic. I'd be happy to answer any questions you have now or later after Mr. Kyle makes his presentation.

Crane: Thank you Mr. Moscato. Hold it there a minute if you would while I catch up on something I forgot. Normally I explain to the public how we handle new business and I completely omitted to do it. As you saw a moment ago Mr. Kyle stood, as normally happens, as a member of the Community Planning Department to make an introductory exposition on the first item on the agenda, SCA-14-01. Typically we, Commissioners might have some questions of him. Then we ask the applicant, in this case Mr. Moscato to come up, give a presentation, again we may have some questions. Finally we open up the matter to members of the public from the floor. You get to come up for three minutes, speak in the mic, identify yourselves please and I have to swear you in as I did Mr. Moscato and Mr.

Kyle, and make your presentation and we'll listen. We may have some questions for you. When all of the members of the public have finished speaking we will close the matter to further debate and the Commissioners will discuss between themselves here on open mic and we'll take a vote. So Mr. Kyle did you manage to rescue your presentation?

Beard: May I ask him a question?

Crane: Certainly. Mr. Moscato we will get to questions for you in a minute. I want to give Mr. Kyle a chance to kick off.

Kyle: Mr. Chairman, Commissioners. Thank you. I apologize for that little mistake. Don't know what happened to it but was able to find it and get it loaded. Before you this evening is a request to amend the City's sign code in regards to development signage. Hopefully this won't be too repetitious from what Mr. Moscato just told you. This, typically staff brings forth amendments to codes. It's a City initiated or a City directed activity. In this particular instance this was a request that was submitted to the City by the private sector to accommodate a specific need that that portion of, of the private sector felt needed to be addressed. And what this amendment proposes to do is to create essentially two distinct classifications of, of temporary signage that we, as Mr. Moscato indicated, we kind of have some signs that sort of accomplish what's being proposed tonight but none of them address it as fully and completely as what is being proposed.

The, the first sign type that's being proposed is a consolidated developer and builder identification signage. And if you recall at your January work session we discussed this particular requirement or this request we had indicated in the past that, that you can have a sign that's advertising the, the subdivision that's out there where the development that's occurring. And typically what we'd have then is a lot of signs being placed by builders, real estate agents, etc. who may be conducting business within that particular development. What this typically led to is a lot of sign clutter where you'd have a, you know X, Y, Z subdivision and then maybe three or four or more smaller little signs all vying to be seen, all of which were, with the exception of the actual real estate agent signs, were not allowed under our sign code. So back in 2012 staff from direction from the City Manager's office worked with a couple of developers to allow a consolidated type sign that would advertise the development as well as the builders that were associated with that particular development, and we did that as a pilot project starting in 2012. This proposal largely codifies what we have just been doing, it's kind of a policy statement. As indicated, the consolidated developer and builder sign advertises or, or identifies the development and those builders who

may be associated with that particular development, who's conducting business building homes within there etc.

As proposed by the applicant they are suggesting that two signs per active development or phase of development be permitted and that they be permitted within a half of mile of the entrance to the, the actual development that is occurring. And they're proposing a maximum of size of 64 square feet. What we have presently been allowing is a 32 square foot sign which - and I've got some pictures of some of those existing ones to show you - are arguably the 32 square feet may be a bit small and so the 64 square feet that's being proposed may be more appropriate. Now we do allow those, currently you can have a development ID sign within a half a mile of the development, so this isn't really any different than some existing provisions we already have. But what it does is it helps clean up some of the clutter that we've noticed in the past when you've got this conglomeration of, of people vying to kind of advertise. And in the case of a homebuilder who's advertising in that manner where they're, they've got their sign up at the entrance to a subdivision, that's actually prohibited by the sign code because that's off-site advertising. It doesn't constitute a billboard because it's not big enough and we have, we certainly have very specific regulations to billboards, it's just an illegal sign. In this particular case the provisions are being made to allow that builder to advertise, to associate themselves with the particular development.

The next sign that's being proposed under this is the development directional sign. And as Mr. Moscato's presentation showed you it's a small sign. He's proposing 12 square feet that would direct you to the particular development. Name and direction only, no other advertising per se would be allowed on those particular signs. In this proposal he's allowing, or proposing that those be allowed within two miles of the development in question with a spacing of one sign per quarter mile. He, he is proposing that the signs be allowed within City right-of-way, this is an area that staff does have concerns with in regards to any private signage within the right-of-way, but through this amendment and through our, our working with Mr. Moscato over several months of, of this particular proposal, I think there are safeguards to address concerns that we have. One of which is there is an indemnification clause within the ordinance that the, the applicant, the person seeking the sign will have to indemnify the City against any and all claims for damage or anything else that may occur because of that private sign within the public right-of-way. And in regards to traffic safety, which is one of the reasons staff doesn't want a lot of signs which, within the right-of-way, we don't want to add additional confusion or clutter for the driver, for the driving public. In discussions with the City's Transportation Engineer we felt that if it were going to go forward with a provision allowing the signs in the right-of-way that we would want it to comply with the Manual and Uniform Traffic Control Devices, which is the MUTCD and AASHTO guidance in regards to sight, distance, etc. AASHTO, I don't know if Mr. Moscato described it is the

American Association of State Highway and Transportation officials. So two national standard documents that, that identify the appropriate placement of, of signage etc in right-of-way; tells us how to install traffic lights, stop lights, etc., and also has provisions for, for what signs can't look like and can't be confused with an actual official traffic control sign.

And, then, then the applicant is also providing a, a provision or a statement that would allow a developer or applicant who's dealing with a larger scale Planned Unit Development or master plan development in excess of 20 acres to propose a sign plan which could alter or, or be different than what this particular proposal suggests and that would be approved as part of the approval of that PUD or that master plan. So it would be scrutinized by the appropriate bodies as it's proposed, as it comes forward to the Planning and Zoning Commission and potentially to the City Council.

In considering this request, and I apologize that the text on this may be very hard to, to read on some of the smaller screens and I don't intend to go through it all, but in, in looking at this request staff did go, try to go out and see what other jurisdictions allow. We're certainly not the only place with a sign code and we wanted to see how this issue is being treated in, in other jurisdictions. There was no real rhyme or reason to the jurisdiction that were chosen other than the fact that I could readily find their sign code on line and get a copy of it and review it. You will see though that, that the majority of them are taken from the Arizona, we have Albuquerque, El Paso's included, and then we have a couple of outliers in Georgia. To summarize what this table is showing, is most jurisdictions do have provisions for off-site signs for development. And it's either directional or actual identification signs. The closest example, well with the exception of, of El Paso which just recently approved theirs, was Albuquerque. Albuquerque does allow for directional as well as identification signs. They are the only jurisdiction I could find that does have provisions for these signs being placed in the right-of-way. And they have some provisions on what the sign has to look like, it's maximum size, and that has to be approved through the mayor's office. The other jurisdictions are identified on here we did not see the signs were typically allowed within the public right-of-way. The number allowed within the jurisdictions is anywhere from two to four, etc, so what's being proposed here in, in this amendment seems to be in line with, with what other jurisdictions allow. I don't really see anything you know out of, out of the ordinary per se with the particular proposal.

And again, as far as distance from the development, some of them specified it, some were just very general, but the, the numbers were anywhere from two miles, one mile, or by approved special use permit that would indicate where they were going to be. And then the length of placement was anywhere from a couple of years from when the sign's issued to whenever the development finally is built out. As being proposed the, the proposal before you this evening has a provision that

the initial permit approval for any of these signs is for a period of two years with an optional or the option of three, two-year renewals. So if my math is right it's basically a maximum of eight years would be your maximum amount of time that, that these particular signs would, would exist, provided that what they're directing you to or, or identifying is an active development. And as Mr. Moscato did indicate during the January meeting there were some issues of, of what is a development. Who, who would this be applicable to etc. Mr. Moscato did resubmit the request and, and he identified what an active development was, in this particular case as opposed to just being any development that's, that's ongoing. He identified it within his proposal as a minimum of 10 acres and in which at least 25% of the, of the lots haven't been built on, or are vacant at this particular time. So that limits, kind of gets us away from anybody and everybody, I'm doing a one lot subdivision I get to have these signs. So we're not going to get a, a massive proliferation of these particular signs, as well as the fact that he has provided the provisions that if multiple developments, developers would be allowed to use this type of signage within, especially the directional signage, you know within that two mile, they have to coordinate, they have to work together and they have to utilize the same sign. Again we think that that is, is beneficial in addressing the potential for proliferation and, and just sign littering essentially along the rights-of-way.

Here are just several photos, again these are the pilot project signs that we approved. The first one, this is located up off Del Rey Boulevard. You can see this one's 32 square foot. You got the name of the development, the, the homes and lots are available, the parks getting ready to come and, and some and, and some price point data. And then along here you see the actual builders that are associated with that development. The picture on the right is just the same sign, just taken from a little bit further back for some context. This particular sign is for Metro Verde, it, it's Mr. Moscato's existing development. This sign is 64 square feet. Again advertising the name of the development and the particular builders that are associated with that development. This particular sign was not actually part of the, of the pilot project, it was done as part of Mr. Moscato's PUD and, and we had worked with him over the course of that to make some changes and agreed that we would allow the sign to stay in place until such time as this particular matter was, was addressed. But again it's, it's a good example of what is being proposed.

And then this is the, the most recent one that we approved, this is off of Sonoma Ranch Boulevard and I want to say Sedona Hills. This is for Mission Santa Clara division, again its 32 square feet which as you can see even at this scale it is kind of difficult to read. We're identifying the name of the subdivision and the associated builders within the particular development.

With that staff has worked with Mr. Moscato for a period of time on this particular development. It's changed significantly from when it was

originally proposed. And at this point in time staff is recommending approval of the, of the requested amendment. I will again stress that staff does have concerns with signs being placed within the public rights-of-way but with the provisions that have been included we think it can be managed. We will very closely monitor any feedback etc. from signs that are being placed in, within the City's right-of-way and as Mr. Moscato stated if staff believes that they in fact are, are being problematic and we can document that I would see very much so that staff would come in and, and propose a repeal of those provisions, maybe not the entire ordinance, but certainly the provisions related to signs within the public right-of-way. At, at that point we would work with him to, to place them in, on private property, in fact we don't have any problem with that. At this particular point our real concern would be with the signs in the right-of-way, but again provisions have been made that we can very closely monitor, we can determine if where they're being proposed seems appropriate based on AASHTO, the MUTCD, and address any concerns that, that we have. And if we're not satisfied with it we can deny the permit request and then Mr. Moscato can, can or any applicants using this particular sign has their due process rights of appeal. I would remind the Commission that, that before them this evening they're a recommending body and the final authority of this amendment rests with the City Council. And with that I would be happy to answer any questions.

Crane: Thank you Mr. Kyle. We will get back to asking questions of Mr. Moscato, but Commissioners any questions of Mr. Kyle? Commissioner Gordon.

Gordon: I notice in your presentation that you gave examples of signs that were 64 square feet. There are a lot of different ways to measure 64 square feet; you can have a sign that would be ridiculous, it could be 32 feet high and two feet wide. But we're just talking, I notice in your, in your example that you had what looked like 16 foot wide and four foot high. Are, are you setting a, is that, like this looks like an eight by eight?

Kyle: That's correct.

Gordon: Okay. Are you setting a limit for the height of the sign in, in allowing the 64 square feet?

Kyle: Mr. Chairman, Commissioner Gordon. Within the ordinance the applicant has placed a limit that the maximum height is nine feet.

Gordon: How high?

Kyle: Nine feet on, on the consolidated builder and development sign. On the directional signs which are being proposed for the right-of-way the maximum height is three feet.

Gordon: Okay. If, if a sign is to be placed in someone's, on someone's private property that ... let's say for example this particular place where this sign is, has been placed there is no room of course to place another one and Mr. Moscato wanted to place another sign and the only place that he could find to do it would be on private property, not necessarily in the City right-of-way. Who has to guarantee liability in a situation like that?

Kyle: Well the, the, Mr. Chairman, Commissioner Gordon. The property owner in question has to grant permission. In, in that particular case I would believe the applicant of the sign and the property owner would have to negotiate who's going to be responsible for that. In the case of the signs being proposed for the City right-of-way, obviously the code's very clear, the applicant, the sign permittee is responsible for maintenance, removal, etc. The City's being indemnified but I believe if it's going to be placed on private property that would be between the applicant and the property owner to determine those limits.

Gordon: So I would assume that prior to placing the signs the applicant would have to come to the City and with some type of a, of a diagram to show exactly where the signs are going to be placed.

Kyle: That is correct. Mr. Chairman, Commissioner Gordon. They, they would have to get a permit for these types of signs and as part of that sign approval permit we get a site plan; where it's being proposed, identification, setbacks, what the sign looks like, you know the dimensions and everything else. On the case where it's being proposed on somebody else's property, we also get that property owner's permission so they have to provide us a letter or document etc. saying yes we are allowing this sign to be placed on our property.

Gordon: All right then. And just one last item, so I understand your maximum life of eight years, you're saying that the applicant will be granted a two-year time limit in which case he has to come back and ask for another two years and so forth?

Kyle: That is correct. As being proposed the initial permit issuance is for a period of two years and then they, then the applicant needs to come back and ask for a renewal and, and has been proposed it's a two year, a three two-year renewal periods. But that, staff is not obligated to approve that renewal. Again if we have issues that the sign hasn't been maintained or we've had complaints etc., I think staff would definitely have the authority to, to not approve it.

Gordon: All right. Thank you.

Crane: Commissioner Beard did you have a question?

Beard: Yes, and a lot of them got answered. A lot of the signs are going to occur at the corner where there might be a stop sign and you say that there's a nine foot height limit, could that interfere, would you have a setback from the road on that sign that would be close to a stop sign?

Kyle: Mr. Chairman, Commissioner Beard. To be clear, the, the development, the consolidated development sign which is again the example shown on the screen, that's the sign with the maximum height of nine feet. The directional signs which are more likely to be closer to your stop sign situation, those are going to be a maximum of three feet high. While it was not addressed in the particular amendment, I think we'd fall back on the other provisions of the sign code, so if you came in with this particular sign we would hold the setback requirements of the zone. We would treat this no different than any other sign permit that's coming in, it's just we're allowing, it's, it's, the message is being basically authorized here.

Beard: Thank you. I do have another question. Clear triangle came up in the work session, on your second to last slide, that one right there, when would that interfere with the clear triangle? How, could you explain that to me?

Kyle: Mr. Chairman, Commissioner Beard. It wouldn't. Part of the, part of the placement, especially when you're dealing with the corner is you have to identify what the clear sight triangle is and, and we, as part of the approval the sign should not be located, would not be permitted to be located within that clear sight triangle.

Beard: Doesn't that come close to interfering with ... it doesn't?

Kyle: It, in this particular instance it might and it might be something that we want to have the, the City's Traffic Engineer look at. Specifically the sign's been up for a while and to my knowledge we haven't received any complaints. But, but part of that review again of that sign permit is to ensure that it is within the appropriate setbacks, out side of the clear sight triangle. That's one of the reasons that we did want to make sure within the proposal for the signs that are being located within the right-of-way, it's only within parkways, it only on major thoroughfares, it's not going to be on your local streets and it's not going to be allowed in your, your center medians necessarily, it's just within the parkway. And the Traffic Engineer was, in addition to the clear sight triangle requirements, he was very keen on having the AASHTO requirements because that goes beyond just the clear sight triangle. Now we're getting into sight distance issues, and so if, if we're dealing with the road that's got a lot of, of curvature or, or vertical curves, hills, that sort of thing, the Traffic Engineer can analyze that to see

if, okay it's, it's not right adjacent to the street but where it's being located and because we have a curve etc., could it be a, a traffic safety hazard and so again that language has been included in the, in the proposal so staff does have I believe a, a significant amount of, of authority to scrutinize any of these application requests under this particular proposal.

Beard: Okay. I can see where this would probably not be a problem cause there's a stop there and the car that's going to the right would be able to obviously be able to see that car. If there was no stop sign the distance from that curb back, is that supposed to be 30 feet clear distance, clear view?

Kyle: I, Mr. Beard the clear sight triangles are different based on the road classifications and, and speeds. I could not tell you specifically what this one is off the top of my head. I would assume hopefully that when we approve this particular permit to allow placement of the sign that that was analyzed and made sure that it was, that it did meet the requirements. But yes just looking at it again remember I'm shooting at an angle etc. so it's a little, at least in this picture it can look a little skewed, a little more so than if you're actually driving on the road. But, but you are correct, when they are very close to a corner like that sight distance can be impacted and if you don't have a controlled intersection like this you're right, there, there is an increased chance for, for hazard and that's one of the things we want to make sure that we're addressing.

Beard: Okay. Thank you.

Crane: Commissioner Ferrary.

Ferrary: On this photo this sign is a 32-foot but it could be approved for a 64-foot sign?

Kyle: This sign was approved again under the, under our pilot program where we were just allowing 32 square feet maximum. As proposed, yes 64 square feet in this particular instance would be allowed.

Ferrary: And is that blocking, if there are people walking along in that right-of-way cause I know on Sonoma Ranch road that there are a lot of people who walk in that area, would that block it?

Kyle: It shouldn't. It, it, it's outside, in this particular case it is not located within the right-of-way, that is fully on private property. You don't have completed sidewalk along that section because that, that particular portion hasn't been developed, but as you can see even here with the curve you have your, your *(inaudible)* as here, it's well outside of the line that the

sidewalk would exist. So I, I don't, at least the existing sign, no, I, I don't think it would impact a pedestrian.

Ferrary: But if we approve this it would then be allowed to be closer to the street in the right-of-way.

Kyle: No.

Ferrary: No.

Kyle: No, not this sign. This is, this is an example of kind of your consolidated development and builders. This is only allowed on private property and again would have to respect the setbacks. The only sign that's being proposed to be allowed in the right-of-way is that smaller three by four directional sign and it would not, again we're not going to let it encroach into a, into the walking path of a sidewalk of ADA requirements and everything else. It may be up to the edge of that sidewalk if we approve it in that particular manner. But it would be, we would make sure that it did not inhibit that travel-way for pedestrians.

Ferrary: Well if this sign was within the half of mile of the development it could be the 64-foot then, couldn't it?

Kyle: That is correct.

Ferrary: Okay.

Kyle: They could be basically double the size you see.

Ferrary: And in the right-of-way ...

Kyle: No.

Ferrary: No. Not in the right-of-way.

Kyle: This, this sign example would not be allowed in the right-of-way in any circumstance. This one is only private property. It's only the directional sign, the small little, in this particular case Mission Santa Clara arrow that would be allowed in the right-of-way and it's capped at 12 square feet and a maximum of height of three feet.

Ferrary: So the two identification signs that could be the 64 are not allowed in the right-of-way?

Kyle: That is correct.

Ferrary: Okay. So Albuquerque I'm looking at the chart, they are the only other city that's represented as your examples that allows it to be, the signs to be in the arterial and collector roadways, is that what we also would be allowing?

Kyle: As proposed it's only allowed in your major thoroughfares which are your collector and arterial roadways.

Ferrary: Okay. Great. Thank you.

Crane: Commissioner Gordon.

Gordon: I just have one other thought. Can you take me back to your other example of the 64 square foot sign? That one right there. Can you tell me where that's located?

Kyle: That is located at the intersection of Engler and Sonoma Ranch. Redhawk. Engler and Redhawk.

Gordon: Is that in the right-of-way?

Kyle: No.

Gordon: Okay it's on private property?

Kyle: Yes.

Gordon: Okay, my question then is ...

Kyle: Well actually it's on public property. I believe that belongs to the State Land Office.

Gordon: It is not on public property. It is on private property. Okay.

Kyle: It is not within the right-of-way.

Gordon: Okay. How many signs can you put there?

Kyle: As proposed under the ordinance you would be allowed two signs within the half, within a half mile of the entrance of development or phase. In this particular instance the, you have this, this one sign. I don't think it would do Mr. Moscato or, or any other applicant who's dealing on a large development scale to put more than one there.

Gordon: I'm not talking about Mr. Moscato as per se himself. What happens if another developer wants to put up a sign?

Kyle: Then ...

Gordon: How many are allowed?

Kyle: There's no limit provided it's a different development.

Gordon: So you could have a clutter of half a dozen of these things in that corner.

Kyle: Conceivably.

Gordon: All right.

Crane: Commissioner Ferrary.

Ferrary: Along that line, builders cannot not individually unless they have more than 10 acres and then they would be considered a developer, but builders cannot have their own sign, they have to coordinate with the whole project, is that right?

Kyle: If, if the builder is the developer, if, if for instance Kyle construction, I do not own a construction company, but if I go out and buy 100 acres of land and I do a subdivision as that development I'm, I am the developer. I may be a builder, the sole builder or one of the many within that, same thing would be allowed. We're identifying the development and the builders associated with it. He's not going to be able to come out and just put a 64 square foot Kyle construction and that'd be the only thing, cause what we're looking at is to identify the development.

Ferrary: So each individual builder cannot have a 64-foot sign?

Kyle: No that's, and that's the point of this particular proposal is to give those builders an opportunity to get some off-site advertising which they now cannot do, associated and affiliated with a particular development. Now if I own a lot within a subdivision and I'm the builder, you know often time's builders will buy a block of lots and build spec homes or custom homes for a developer. They can put their own little identification sign, you know Kyle construction, Kyle homes, whatever on that particular lot they own, but they can't come out here and do it currently. This proposal kind of addresses that and what we were seeing in the past is you'd have you know, and we'll just use this as the example because it's here, Metro Verde development, you know straight ahead and then out here you'd see three or four, well you know here you've got nine builders shown here. You might have nine little signs out there none of which were permitted and, and allowed under the ordinance but this is kind of a trade off, give,

give them the opportunity to get some, some advertisement but do it in a, in a much more cohesive and clean manner.

Ferrary: I understand. Thank you.

Crane: I have a couple of questions. The maximum height of the consolidated development/builder identification signage is nine feet. Looking at the one you have up here which may not be done under, to those limits, how big is the sign itself and how far is it from the ground up to the top of the sign?

Kyle: I'll let Mr. Moscato answer that since it's, it's his sign. It appears to be again eight by eight in terms of height and it's probably a good three feet off the ground.

Crane: Okay I'll ask him later. Secondly when you were canvasing on the internet the other cities and nobody came up with any data on how big the signs were?

Kyle: I, some of them indicated, you know I just didn't think about including that in that particular matrix. As you see there's, it's already *(inaudible)* to, to the information that's provided on that. Sixty-four square feet if memory serves would not be out of character with, with what other, some of the other jurisdiction that I saw were allowing. In fact if memory serves a couple ...

Crane: Thank you.

Kyle: Even allowed bigger signs.

Crane: Thank you. Any other Commissioner have questions for Mr. Kyle? Could you come up again Mr. Moscato, you're still under oath. I actually have two, two questions, you've heard the one about this one. Your smaller sign, the one that's directional, 12 square feet would be three and a half by three and a half roughly if it was square. But your illustrations didn't seem to show anything that big. Plus I think it's to a maximum height of three feet from the ground. Yeah. If you could go back to your illustrations I'd like to see how close your examples get to that limit.

Moscato: There's an example of a directional sign.

Crane: Okay can you give us an idea of what dimensions that would be? Cause I mean, it's strictly, I know that you've Photoshopped it in there and we don't have any sense of scale, but could that be a three and a half by three and a half?

Moscato: Yes, my direction to the sign company that created the designs that were dropped into the photos was to stay within the, the 12 square foot limit for the directional signs and the 64 square foot limit for the development/ builder identification signs.

Crane: Well if that's a regular sized highway, a two-laner say, then I don't see that as being a three and a half foot square sign, your 12 square feet. It looks kind of tiny. Maybe a foot and a half square including the, measuring from the ground up. How do you take that?

Moscato: That, that maybe the case. I think regardless of what this looks like, what we're proposing are specific limitations on the two sizes of signs, so that will be the maximum.

Crane: Okay, so, and you're ... when we speak about maximum height it's from the ground to the top of the sign correct?

Moscato: Yes, that's correct.

Crane: So an, an eight foot square sign would have one foot of clearance from the ground to be legal? It couldn't be any higher, eight-foot square?

Moscato: Correct.

Crane: Okay. Thank you. And the point, the other point that we were, remind me what my other point was will you? You're the secretary. Okay, do you recall what it was I was going to ask you?

Moscato: I don't but if I could take one second to respond to a comment that Commissioner Gordon made.

Crane: Go ahead.

Moscato: Regarding the, that Metro Verde sign that Mr. Kyle showed and the question was asked well couldn't you have a proliferation of these signs right there at the corner? Actually I think the answer to that is no for a couple of reasons; number one the proposed language restricts one sign per block. So you couldn't have more than one sign per block. It also restricts usage to private property, so I think if you just think through the process you, you're, you're restricted to private property, you're restricted to half a mile of the entrance to the development. So I, I think I'd be hard pressed to come up with any area where there are multiple developments that close enough together than someone would even want to have multiple signs. But on top of that you have the restriction of one sign per block and you have the restriction that in each and every case regardless of what gets approved in terms of final language, every request for an

individual sign is subject to City approval. So if the City sees anything close to a proliferation of signs they can just say stop.

Crane: Okay. That answer your question Mr. Gordon?

Gordon: Excuse me just tell me what you mean by a block. What, what is a definition of a block? You say one sign per block. What, what do you mean by that?

Moscato: The space between two intersections.

Gordon: Well in the case of, in the case of something like Las Cruces that could be a mile. Could be 350 feet, I don't, it varies. It depends upon the amount of construction. There are a lot of, there are a lot of places where there has been construction and they build these, like Sonoma Ranch Boulevard is the perfect example. You can go north and all of a sudden you'll have a little turn off and it goes in for 25 feet and it stops because eventually in the future there's going to be a road there into some development of some sort. So I would assume between each one of the cuts you would have defined that to be a block?

Moscato: Right, I, I believe there are City design standards covering how close intersections can be to one another. So I think there, there is a, a limit to how close those could be, but even on top of that I get back to the idea that you know they're restricted to half a mile from the entrance to a development and I just and, and we're talking about 10 acre minimum development, so I, I just think it's, it's hard to conceive of a situation where you would have multiple signs even within several blocks. It just doesn't make sense when you think through the process of, of what these restrictions are and how development works and how streets are laid out.

Gordon: Okay I'm satisfied with your explanation. Thank you.

Moscato: Thank you.

Crane: Anyone else have questions for Mr. Moscato? Thank you sir.

Moscato: Thank you.

Crane: Any member of the public wish to address this issue? Please put a hand up. No one so indicates so ... yes one person. Come up. Please identify yourself sir.

Lears: Mr. Chairman and the Commissioners. My name is Quint Lears.

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

Lears: Yes sir.

Crane: Carry on please.

Leers: Yeah, I'm the gentleman that sits in the model home watching the tumbleweeds go by day after day. This is actually, I'm, I'm really glad this one's up right now because imagine that that sign is not there. How would you find this community? If you were to try to find Metro Verde could anybody here find it? Do you know that Metro Verde's the number one selling community in Las Cruces right now? And this, this is despite you know having all these obstacles, I mean I'm calling people in. If you get on Google maps it tells you to make a left on Thurman. Thurman doesn't even exist. It's, its road closed. You can't find it on Zillow, Trulia, Realtor.com, it's just not there, so we're having to through very creative ways get people to the community. They did very well addressing the what, I'm going to explain the why. And a couple of things about, in Las Cruces we're in a depression when it comes to new home sales. In 2006 we had 1,500 permits. Last year we had 290. That's the bad news. The good news is, well the good news is for every home that I sell 278 related goods and services are positively affected; from title companies to tile people to carpet people. You can write me a thank you card later on that it's okay.

But what I want to say is that the, the bad news is people cannot find these communities. So even though we're in a depression the quality of the homes have gone way up simply because of competition. In, in the past in one community you might have one builder, maybe two builders in the example of Parkhill. In Metro Verde right now we have 14 builders. That, that's unprecedented and the bad news is literally people can't find our community. I have fire fighters that came up one time, hopped out of the truck and they're like "Whoa, what is all this stuff. We didn't know about this stuff." I just told them look my job's not to educate the fire department, I'm trying to find buyers you know.

Let me find, real quick, if I'm missing anything. It, it's just a challenging market. El Paso, you have no difficulty finding any community at all. I, I mean they have a glut of signs and I don't want that. I'm very interested in the directional signs. Right now the City of Las Cruces will take our signs of we put them up, you know like on the medians where we put directional signs up, so we're, don't tell the City people but we have to do it on the weekends so they don't get taken. And, probably the wrong venue to do that. But actually there was a realtor in Las, in El Paso that got hit trying to put signs up. And so it's a safety thing. The buyers are frankly very frustrated. I had a buyer who in his words, he goes "Quint I almost cried when I came up here because I had no idea these homes

were here. I went and bought a used house, you know a half mile from this community, never had the opportunity to see these homes. He's like now I have to go sell my home and" yada, yada, yada. So I would very much appreciate getting the directional signs. I appreciate what everybody does here and thank you Mr. Moscato. I'm done. Thank you.

Crane: Question, Commissioner Beard.

Beard: What, this is a significant improvement though isn't don't, don't you believe?

Lears: What is a significant?

Beard: What we're proposing tonight.

Lears: I, I would very much like this yes.

Beard: Okay. Great. And you're not, you're not implying that we need to go further?

Lears: No, I, I need directional signs to, so when people come and they're lost and they go straight, imagine just, see that car right there, that's one of my buyers who just went straight and they go Quint we're in the middle of nowhere. Back up, back up you know. That's what I'm trying to say like, and so it's illegal for me now to go put a, you know directional signs down there. They get taken, they get you know, and if any of you have it or know where I can find them I'd like to get them back. But I'm just saying if I could get ...

Crane: Your competition has them Mr. Lears.

Lears: Oh what. No I appreciate but if we could have a directional sign like this it would prevent what you see back there as one of my buyers just way off in the future, lost, irritated, upset. And it helps the City, it's a safety thing. I mean it'll be excellent. I would very much appreciate directional signs

Beard: Thank you. You answered my question.

Crane: Anybody else have a question for Mr. Lears? Thank you sir.

Lears: My pleasure. Thank you.

Crane: Any other member of the public wish to address this issue? All right, then we will close it to further public input. Commissioners. Nobody wants to say anything? Commissioner Ferrary.

Ferrary: I was worried about some of the safeguards and making sure that we would not have the huge signs in the right-of-way and also the smaller signs if we can be sure that they're not you know blocking where sidewalk or people would be running or exercising. I think that would be, you know appropriate. And I think the safeguards with the City approving that and also watching for too many signs collecting in one area would also be a safeguard. So I think this is working fine for what they're trying to do.

Crane: Thank you. Anyone else? In that case I'll entertain a motion that the, let me see, Mr. Kyle do you have a, could you frame a motion for me that I can palm off on one of the members of the committee because we don't have a really clean cut one here?

Kyle: Mr. Chairman. Sure I would simply, you could move to recommend approval of Case SCA-14-01 as proposed.

Crane: All right, do I have a ...

Beard: So moved.

Crane: Motion to that effect. Is there a second?

Gordon Second.

Crane: Seconded by Mr. Gordon. Any further discussion? Then let's start with Mr. Gordon, we'll do a roll call vote and remember to cite your findings, discussion, site visit, whatever is applicable. Mr. Gordon.

Gordon: On Case SCA-14-01 I vote yes based on staff recommendations and discussion.

Crane: Thank you. Mr. Stowe.

Stowe: I vote aye based on discussions, site visits, and findings.

Crane: Commissioner Ferrary.

Ferrary: I vote aye, staff recommendations and discussion.

Crane: Commissioner Alvarado.

Alvarado: I vote aye based on discussion and I'm comfortable with the controls that we have in place over signage so I vote aye.

Crane: Commissioner Beard.

Beard: I vote aye based on staff recommendations and discussions.

Crane: And the Chair votes aye based on staff recommendations, discussion, and site visit. Thank you.

2. **Case S-14-031:** Request for approval of an application of Ken Thurston Development for a master plan known as the Rincon Hills Subdivision Master Plan on 40 +/- acres zoned R-1b (Single-Family High Density) and located on the west side of Settlers Pass, 0.20 +/- miles north of its intersection with Rinconada Boulevard; Parcel ID# 02-39924, 0239925, 02-39926 and 02-39927. Proposed Use: A 201 lot single-family residential subdivision; Council District 5 (Sorg).

3. **Case S-14-032:** Request for approval of an application of Ken Thurston Development for a preliminary plat known as the Rincon Hills Subdivision, Phase 1 Preliminary Plat on 8.62 +/- acres zoned R-1b (Single-Family High Density) and located on the west side of Settlers Pass, 0.20 +/- miles north of its intersection with Rinconada Boulevard; Parcel ID# 02-39925, 02-39926. Proposed Use: A 36 lot single-family residential subdivision being Phase 1 of the Rincon Hills Subdivision Mast Plan; Council District 5 (Sorg).

Crane: Let's pass onto the next item and before we get into it, these are two associated items; S-14-031, S-14-032. Normally we can only discuss one at a time but by suspension of the rules which I'm going to ask somebody to move for in a movement we can discuss them together because they're related and then before we come to a vote we will restore the rules so that we can vote on them separately. Commission may I have a motion that we, what is the correct term ...

Ochoa: Suspend.

Beard: Suspend

Crane: Suspend the rules.

Beard: Suspend, yeah.

Crane: Yes.

Beard: I move to suspend the rules for S-14-031 and S-14-032 and hear both of them conjointly.

Crane: All right. Do I have a second for that?

Ferrary: I second.