

37
City of Las Cruces
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 3 Ordinance/Resolution# 10-102 Council District:

For Meeting of September 28, 2009

(Adoption Date)

TITLE: A RESOLUTION APPROVING A WAIVER REQUEST FOR NO ROAD IMPROVEMENTS TO 2300 ± LINEAR FEET ALONG TUCSON AVENUE. THE SUBJECT PROPERTY IS LOCATED AT 1690 TUCSON AVENUE. SUBMITTED BY SOUTHWEST ENGINEERING FOR LINDA ANN GARZA. (S-09-032W)

PURPOSE(S) OF ACTION: Approval of a waiver request for no road improvements to 2300 linear feet along Tucson Avenue.

Name of Drafter: Jennifer Robertson <i>JR</i>		Department: Community Development		Phone: 528-3226	
Department	Signature	Phone	Department	Signature	Phone
Community Development	<i>DW</i>	528-3066	Budget	<i>[Signature]</i>	541-2107
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

This waiver request involves a subdivision application (EBL&T Subdivision C, Replat No. 35) located at 1690 Tucson Avenue. The subject property is located along Tucson Avenue, east of Del Rey Boulevard. Currently, there is 60 feet of existing right of way; therefore, no additional right of way dedication was required of the subdivision proposal. The property is zoned EE (Single-Family Equestrian Estate and Agricultural) per Ordinance 2524 on May 26, 2009 (Case Z2784). The property was also granted a variance to increase the maximum permissible density from one single-family residence to two single-family residences by the Planning and Zoning Commission (P&Z Commission) on March 24, 2009 (Case A1692). The subdivision was instigated by the financing requirements to construct the second home.

Pursuant to the City's Subdivision Code, Design Standards and Comprehensive Plan, the subdivision application requires road improvements to Tucson Avenue from the property boundary to the nearest paved, public roadway, Del Rey Boulevard. Presently, Tucson Avenue has an existing 60 feet of dedicated right-of-way and is unimproved and is classified as a minor local roadway. The Design Standards state that when improvements are required on minor local roadways the subdivider is responsible for improving the full street section. For Tucson Avenue as a minor local roadway, the subdivider is responsible for improving a full minor local street section, including 33 feet of pavement, sidewalk, curb, and gutter.

During the subdivision review process (Case S-09-032 EBL&T Subdivision C, Replat No. 35) City staff informed the applicant that they were required to build the pro-rata share of

improvements to approximately 2,300 ± linear feet on Tucson Avenue. The applicant has requested a 100 percent waiver (see Exhibit "A") to the City's Subdivision Code, specifically Article XII "Construction Standards." The regulations, policies, and provisions governing the construction of required improvements to subdivisions include, but are not limited to, the City's Design Standards and Comprehensive Plan.

Waivers to the Las Cruces Municipal Code (LCMC – Subdivision and Design Standard Ordinances) of this nature (greater than 15 percent variance from the required standard) require review and action by the Las Cruces City Council. The specific sections of the LCMC affected by this waiver include Chapter 32 – Design Standards, Article II: Standards for Public Rights-of-Way; Chapter 37 – Subdivisions, Article XI: Waiver of Regulations; and Chapter 37 – Subdivisions, Article XII: Construction Standards.

The Transportation element of the Comprehensive Plan states that developers and subdividers are responsible for their pro-rata share of improvements as determined by a traffic impact study for such improvements necessitated by the development of their property or a payment in lieu may be accepted. Specifically, Article II of the CLC Design Standards states when improvements are required on streets adjacent to a subdivision or property boundaries as indicated by street classification, as determined by the MPO Transportation Plan, transportation element of the Comprehensive Plan, and/or the development review committee, the subdivider shall provide the necessary street improvements or pay for the cost of these improvements to the City.

Prior to review by the Planning and Zoning (P&Z) Commission, the waiver request was reviewed by the Development Review Committee (DRC). The DRC recommended **denial** of the waiver request. The DRC recommendation was based on the criteria for granting waivers as provided in the LCMC Chapter 37 – Subdivisions, Article XI Waiver of Regulations (Attachment "C"). This article states that waivers may be granted for **substantial hardship** and defines a substantial hardship as "a result of exceptional topographic, soil or other surface or sub-surface conditions or that such conditions would result in inhibiting the objectives of this code." The article does not specify a financial hardship as criterion for granting a waiver to a requirement of the Subdivision Ordinance. The DRC minutes that record their recommendation was provided as part of staff's report to the P&Z Commission, Attachment "G".

In the staff report to the P&Z Commission, staff recommended denial of the waiver request based on current City policy (Comprehensive Plan - Transportation Element, Goal 1, Objective 3, Policy 3.17; Attachmnet "E"), ordinances (LCMC Chapter 32 - Design Standards, Attachmnet "B"; Chapter 37 - Subdivisions, Attachments "C" and "D") and the DRC recommendation. As already noted, the Development Policy and Ordinances require developers and subdividers to either construct the pro-rata share of public improvements or to make an appropriate payment for future construction of public improvements.

The P&Z Commission reviewed the request to waive road improvement requirements to Tucson Avenue at their August 25, 2009 meeting. The applicant stated that the cost to construct the required 2300 ± linear feet of Tucson Avenue would cost approximately \$640,000, including \$125,000 for drainage improvements to a water path that crosses the road. The applicant stated

these improvement costs constituted a financial hardship when considering that the intent of the subdivision was only to create a second lot for a family member. The P&Z Commission recommended **denial** by a vote of 0 - 4 (two Commissioners absent and one seat is vacant) of the waiver request based on findings (see Attachment "G") and discussion (see Attachment "H"). No public comment was made at the meeting regarding the waiver request.

SUPPORT INFORMATION:

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

1. Resolution
2. Exhibit "A" - Waiver Request
3. Attachment "A" - Minor Local Road Design Standard Requirement
4. Attachment "B" - LCMC Chapter 32 – Design Standards, Article II: Standards for Public Rights-of-Way
5. Attachment "C" - LCMC Chapter 37 – Subdivisions, Article XI: Waiver of Regulations
6. Attachment "D" - LCMC Chapter 37 – Subdivisions, Article XII: Construction Standards
7. Attachment "E" - 1999 Comprehensive Plan, Transportation Element – Goal 1, Objective 3, Policy 3.17
8. Attachment "F" - Copy of Subdivision Replat, S-09-032 - for reference only
9. Attachment "G" - Staff Report to Planning and Zoning Commission for cases S-09-032W, includes July 22, 2009 DRC minutes
10. Attachment "H" - August 25, 2009 Planning and Zoning Commission Minutes
11. Vicinity Map

OPTIONS / ALTERNATIVES:

1. Vote **YES** to approve the proposed Resolution. This option will not require the applicant to provide any road improvements to Tucson Avenue as required by the Subdivision Code for the associated subdivision replat, Case S-09-032. The City of Las Cruces will need to explore alternative methods to fund future improvements to Tucson Avenue.
2. Vote **NO** to deny the proposed Resolution. This action upholds the recommendation made by the Planning and Zoning Commission. The applicant will be required to provide the required pro-rata share of road improvements to 2300 ± linear feet of Tucson Avenue in accordance with LCMC Chapter 37 – Subdivisions, Article XII: Construction Standards, Chapter 32 – Design Standards, Article II: Standards for Public Rights-of-Way and 1999 Comprehensive Plan, Transportation Element – Goal 1, Objective 3, Policy 3.17.
3. Modify the proposal to vote **YES** to approve the modified Resolution. The Council may modify the Resolution to require that for any future zone change request or subdivision proposal, the developer is required to make the required public improvements to Tucson Avenue.
4. Table/Postpone the Resolution and direct staff accordingly.

RESOLUTION NO. 10-102

A RESOLUTION APPROVING A WAIVER REQUEST FOR NO ROAD IMPROVEMENTS TO 2300 ± LINEAR FEET ALONG TUCSON AVENUE. THE SUBJECT PROPERTY IS LOCATED AT 1690 TUCSON AVENUE. SUBMITTED BY SOUTHWEST ENGINEERING FOR LINDA ANN GARZA. (S-09-032W)

The City Council is informed that:

WHEREAS, Linda Ann Garza, the property owner, has submitted a waiver request for no road improvements to 2300 ± linear feet along Tucson Avenue adjacent to a proposed two lot residential subdivision, and

WHEREAS, pursuant to Chapter 37 (Subdivisions), Article XII (Construction Standards) and Chapter 32 (Design Standards), Article II (Standards for Public Rights-of-Way) of the Las Cruces Municipal Code, road improvements are required on streets adjacent to a subdivision or property boundary to the nearest paved public roadway, and

WHEREAS, pursuant to the Transportation Element of the 1999 Comprehensive Plan, Goal 1, Objective 3, Policy 3.17, developers/subdividers are responsible for their pro-rata share of off-site improvements, and

WHEREAS, the Development Review Committee unanimously recommended denial of the waiver request based on current policy identified within the aforementioned sections of the Las Cruces Municipal Code, and

WHEREAS, the Planning and Zoning Commission in a vote of 0-4 (two Commissioners absent and one seat vacant) recommended denial of the waiver request at its regular public hearing held on August 25, 2009.

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

(I)

THAT the waiver request for no road improvements to 2300 ± linear feet along Tucson Avenue, adjacent to a proposed two lot residential subdivision, be approved.

(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 _____ 2009.

APPROVED:

Mayor

(SEAL)

ATTEST:

City Clerk

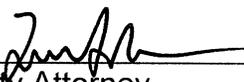
VOTE:

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

Moved by: _____

Seconded by: _____

Approved as to Form:



City Attorney



Exhibit "A"

42

475 Archuleta Road
Las Cruces, New Mexico
88005

Phone 505-526-3381
Fax 505-526-1762

SOUTHWEST ENGINEERING, INC.

June 2, 2009

Ms. Jennifer Robertson
City of Las Cruces Community Development Department
575 South Alameda
Las Cruces, New Mexico 88005

Re: Elephant Butte Land & Trust Co. Amendment 2 Subdivision "C" Replat No. 35
Lot 7, Block 15
Waiver Request for Improvements to Tucson Avenue

Dear Ms. Robertson;

On behalf of our client, Ms. Linda Ann Garza, SEI requests the following waiver to the requirements of the City of Las Cruces Design Standards for the improvements to Tucson Avenue, a Major Local as designated on the City of Las Cruces MPO Thoroughfare Plan. As Ms. Garza is creating a two lot subdivision directly adjacent to this roadway, he is obligated to construct a full Major Local roadway cross section. Ms. Garza finds this requirement to be overly burdensome for the following reasons.

- The impact of the creation of one additional residential lot does not raise the traffic loading on Tucson Avenue to a level requiring this magnitude of improvement.
- The second lot to be created by this land split is purely for the conveyance to a family member and not for a business or profit making endeavor.
- Improvement would be required from Del Rey Boulevard to the eastern side of the property, a distance of approximately 2,310'.
- A preliminary cost estimate for the roadway alone is \$515,000.
- Drainage improvements on Tucson Avenue to protect the southern edge of the roadway are estimated at \$125,000.
- \$640,000 worth of roadway improvements to develop one additional lot is overly excessive and burdensome.
- The City of Las Cruces Design Standards, as currently written, do not contain a provision to have individual lot owners in this situation build their "fair share".

- A multi-jurisdictional issue also exists at this location. The northern half of Tucson Road right-of-way is in Dona Ana County, out of the City Limits. An issue of which design standard would be applied in this area is not known.

Therefore, for the reasons listed above, a waiver to these roadway improvements is requested.

Should you have any questions or require any further information, please do not hesitate to contact our office.

Sincerely;

SOUTHWEST ENGINEERING, INC.


Paul J. Pompeo, P.E.
President

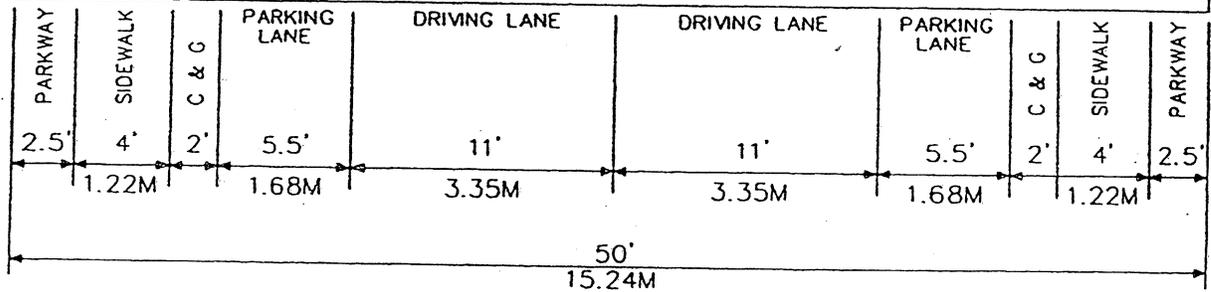
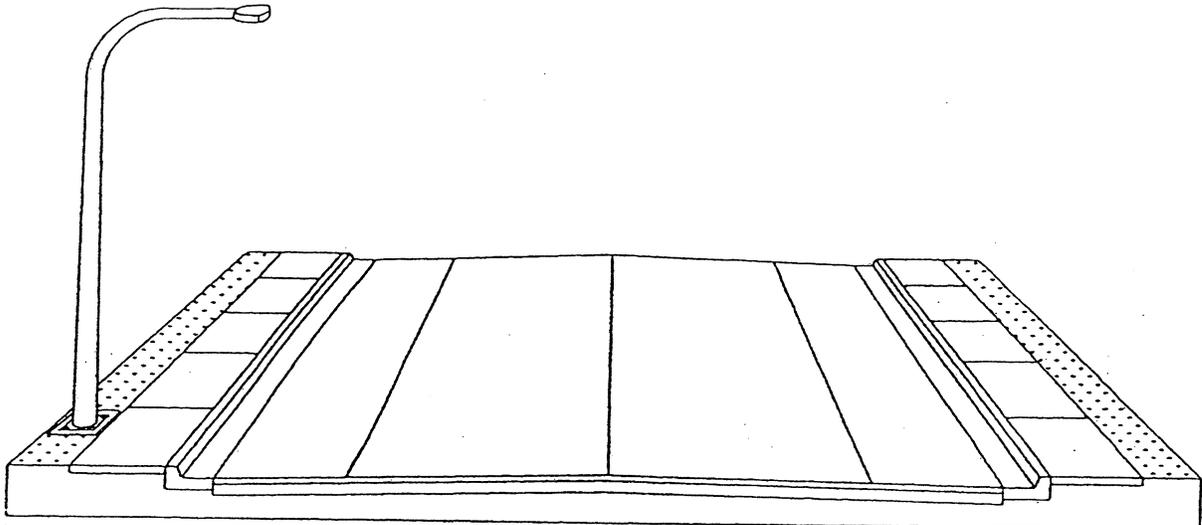
City of Las Cruces

DESIGN STANDARDS

MINOR LOCAL - 2

ON-STREET PARKING WITH CURB & GUTTER

R.O.W. WIDTH: 50 FT. (15.24M)
 DESIGN SPEED: 25mph (40kph)



- NOTES:
1. ALL CURB RETURNS SHALL BE STAND UP CURB & GUTTER (TYPE A, B, C, or D).
 2. SIDEWALKS SHALL BE CONSTRUCTED ACCORDING TO SECTION 2.2 SIDEWALK REQUIREMENTS.
 3. SIGNAGE AND PAVEMENT MARKINGS SHALL BE REQUIRED IN ACCORDANCE WITH THE MUTCD.

(e) *Conflict within this chapter.* When two or more provisions of this chapter are conflicting, the most restrictive provision shall apply.
(Ord. No. 949, § 1.5, 9-8-87; Ord. No. 1224, § 1, 3-18-91)

Sec. 32-6. Violations; penalties.

(a) *Violations.* The definition of "violation of this Code" set out in subsection 1-10(a) is hereby adopted to apply to acts or failures to act in accordance with the requirements of this Code and such definition is incorporated in this section by reference as if set out in full at this place.

(b) *Penalties.* The municipal court may impose a fine for each offense, not to exceed \$300.00, for each day the violation is found to have occurred. In addition to any fines thus imposed, the municipal court is authorized to issue orders of the court to remove structures or take other actions to abate, remove or bring into compliance any violation of this chapter. Failure to comply with any such orders for removal or other judgments of the municipal court, including failure to pay fines previously imposed, shall constitute a contempt of court and may be separately punished at the discretion of the municipal court.

(c) *Other remedies.* Nothing in this section shall limit the city from seeking other remedies at law or equity to enforce this chapter.
(Ord. No. 1158, § 1.6.A--C, 7-2-90)

Secs. 32-7--32-35. Reserved.



ARTICLE II.

STANDARDS FOR PUBLIC RIGHTS-OF-WAY

Sec. 32-36. City streets.

(a) *Purpose of this article.* The purpose of article II is to provide information for the establishment of public rights-of-way. This involves right-of-way requirements and general design specifications for city streets, design criteria for sidewalks, and specifications for the installation of street lights. General information regarding utility improvements is also provided. These shall be considered the minimum standards and nothing shall prevent the engineering review committee or the development review committee from imposing greater standards to achieve the purposes outlined in section 32-3 of these design standards.

(b) *Right-of-way and roadway requirements for city streets.* It shall be the policy of the city that major thoroughfares, collectors and arterials with medians, be built from the outside edge of the right-of-way in towards the center. This prevents the dismantling of previously constructed infrastructure in order to accommodate future street improvements such as widening. The location of collector and arterial streets shall

be generally guided by the MPO transportation plan and specifically located as development occurs. Coordination between the city staff, development review committee and the developer will occur to provide the appropriate classification and alignment of all major and minor roadways within and abutting developments to encourage appropriate and efficient transportation circulation patterns.

A subdivider shall be responsible for 100% of the street improvements within the boundaries of the subdivision. When improvements are required on streets adjacent to a subdivision or property boundaries as indicated by street classification, as determined by the MPO transportation plan, transportation element of the comprehensive plan and/or the development review committee, the subdivider shall provide the following street improvements or pay for the cost of these improvements to the city:

Adjacent Street Classification	Street Improvement Requirements
Low Density Local	full street section
Minor Local	full street section
Major Local	1/2 street section, including sidewalk, curb and gutter
Collector	1/2 street section, including sidewalk, curb and gutter
Minor Arterial	1/2 street section, including sidewalk, curb and gutter
Major Arterial	1/2 street section, including sidewalk, curb and gutter

Access requirements for subdivisions shall consist of the following:

- (1) Minimum access to the subdivision shall be from a dedicated and accepted public right-of-way. In instances where the access to a subdivision is unimproved it shall be the responsibility of the subdivider to construct a minor local roadway from the subdivision boundary to the nearest paved public roadway. If the roadway to the proposed development is classified as a major thoroughfare by the MPO transportation plan (e.g., a collector or arterial), the developer shall provide the equivalent of a minor local roadway, designed and constructed to a cross section approved by the city from the boundary of the subdivision to the nearest paved public roadway.
- (2) Access to lots within a commercial or industrial subdivision shall be from either a dedicated and accepted improved public right-of-way or an improved access established by a 50 foot (15.24m) wide permanent private road and/or access easement. Exceptions to allow a narrower lot access may be considered by the DRC.

- (3) Access to lots within a residential subdivision shall be from a dedicated and accepted improved public right-of-way.

All developing parcels of real property shall include a minimum of 50 percent of the necessary additional right-of-way to conform to the MPO transportation plan for all roads classified major local and above. 100 percent of the required right-of-way shall be required for low density and minor local streets. A permanent right-of-way easement may be granted in lieu of dedicated right-of-way. The decision to accept a permanent easement in lieu of dedicated right-of-way rests with the development review committee. The development review committee may waive all additional right-of-way requirements in instances where expansion of a specific roadway is neither feasible nor planned.

The following cross-section (14 pages) provide the requirements for right-of-way, paving width, parkways, and general use criteria for all acceptable city street classifications. Deviations or modifications to design may be acquired through the engineering review committee.

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ARTICLE XI.

WAIVER OF REGULATIONS

Sec. 37-332. Waivers.

In the case of a particular proposed subdivision, whenever it can be shown that strict compliance with the requirements of this chapter would result in a substantial hardship to the subdivider because of exceptional topographic, soil or other surface or sub-surface conditions, or that such conditions would result in inhibiting the objectives of this code, the planning and zoning commission may vary, modify, or waive nonengineering-related requirements up to 15 percent of the required standard. Furthermore, any proposal containing three or more planning-related waivers shall be processed via the planned unit development process. The subdivision administrator may waive submittal requirements of this chapter. A waiver of engineering submittal requirements shall require the concurrence of the public works director. The public works director and the utilities director may vary, modify or waive engineering-related requirements as applicable and appropriate. No variance or waiver shall be allowed when such waiver is requested because the goals and objectives of the drainage section of the city's design standards are not being met. For example: A waiver shall not be granted if the developer is designing a drainage system that transfers problems from one location to another, that does not provide protection against regularly-occurring damage, or that creates major property damage or loss of life from runoff expected in a major storm event. Also, no waiver shall grant any variation or modification contrary to the mandatory requirements of state law.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-333. Waiver procedure.

- (a) Whenever the subdivider desires to request a waiver or variance from any nonengineering-related requirements of this chapter, the subdivider shall submit, in writing, the request for waiver at the time of master plan submittal or preliminary plat submittal, or at the time that a replat or an alternate summary processed subdivision is submitted. The request for waiver shall include, in detail, the reasons for supporting such a request.
- (b) The subdivision administrator shall schedule the requested waiver to be reviewed by the development review committee. The development review committee shall review the waiver request and recommend to the planning and zoning commission to approve, disapprove, or modify the waiver request.
- (c) The planning and zoning commission shall review the recommendations of the development review committee and approve, disapprove, or modify the waiver request. Any waiver requests greater than 15 percent of the required standard shall be forwarded to the city council with a recommendation by the planning and zoning commission that the waiver be either approved or denied. Any proposal requesting three or more planning-related waivers shall be processed via the planned unit development procedures and shall require city council approval.
- (d) When a proposal with waiver(s) requiring city council approval is submitted, the

planning and zoning commission will review the proposal and provide a recommendation for approval or denial to the city council. The case will be forwarded to the city council for action.

- (e) The city council shall review the proposal and recommendations from the planning and zoning commission. Action by the city council shall be in the form of approval, denial, or modification. Action by the city council shall be recorded in the minutes of the meeting. An affirmative vote by four members of the city council is required for approval of a proposal. A copy of the city council notice of decision that includes any changes or conditions, as done at the public hearing, shall be furnished to all of the parties stated above in accordance with section 37-11(b).
- (f) Specifications or supplementary data required by this chapter for a master plan, a preliminary plat or a final plat may be waived whenever such specifications or data are determined by the planning and zoning commission to be unnecessary for the consideration of the plat.

Whenever the subdivider desires to request a waiver or variance from any engineering/utility requirements of this chapter, the subdivider may submit, in writing, to the subdivision administrator, the request for waiver at any time during the subdivision process. It is recommended that engineering-related waivers be submitted as early in the process as possible to avoid unnecessary delays. The request for waiver shall include, in detail, the reasons for supporting such a request.

The subdivision administrator shall submit the requested waiver to either the public works director or the utilities director, as applicable. Upon receipt of the request, the public works director or the utilities director shall meet with the development review committee at the next scheduled meeting to discuss the waiver request(s). The public works director or the utilities director, after consultation with the DRC, shall render a decision on the waiver or variance request within three business days.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-334--37-359. Reserved.

Attachment⁵⁰ "D"

ARTICLE XII.

CONSTRUCTION STANDARDS

Sec. 37-360. General provisions.

- (a) Construction of all subdivisions (public and private improvements) within the corporate limits of the city shall conform to all applicable sections of the documents listed below. The regulations, policies and provisions governing the construction of required improvements include, but are not limited to, the following documents, as amended:
- (1) City comprehensive plan;
 - (2) City zoning code (chapter 38, LCMC);
 - (3) City design standards (chapter 32, LCMC);
 - (4) MPO transportation plan;
 - (5) Stormwater management policy plan;
 - (6) Bicycle facilities and systems master plan;
 - (7) City standard specifications for road construction;
 - (8) Building code (chapter 30, LCMC);
 - (9) City standard specifications for water, sewer, and gas utilities;
 - (10) Any and all other rules, regulation, and policies adopted by the city governing construction standards.

(Ord. No. 1798, § I, 6-19-00)

through the development/redevelopment process as identified on final plats.

- Local streets may be used for alternate and emergency access to residential subdivisions.
- Cul-de-sacs in residential areas may not exceed more than 1500 feet in length and provide access to more than 50 dwelling units.

g. Private Streets:

- Not publicly maintained.
- Access shall be permitted for each individual property, provided traffic safety is maintained.
- Intersections should maintain a minimum spacing of 125 feet and meet at no less than a seventy degree angle.
- The allowance of on-street parking shall be subject to and determined through the subdivision process as identified on final plats.
- Private streets may be used for alternate and emergency access to residential subdivisions.
- Cul-de-sacs in residential areas may not exceed more than 1500 feet in length and provide access to more than 50 dwelling units.

→ Objective 3: Provide a guide for consistent construction and right-of-way specifications and practices on all roadways regardless of classification.

Policies:

- 3.1 All streets should have an asphaltic concrete pavement designed according to 20 year forecasted traffic volume of both cars and heavy vehicles. However, where high turning volumes are expected, portland cement concrete may be used in those areas.
- 3.2 All new streets should be constructed from the outside travel lanes toward the inside median so that sidewalks, curbs, and lighting may be put in place at time of initial construction.

- 3.3 Curb and gutter should be used to channelize traffic and storm water run-off. Roll-over type curbing may be used in low density residential areas.
- 3.4 A concrete header curb should be installed at locations susceptible to erosion and/or asphalt degradation if an area is to remain undeveloped for a period of two years.
- 3.5 Upon approval by the Development Review Committee, temporary asphalt curbs may be used where planned and programmed street expansion would necessitate the curb's relocation within a specified time frame.
- 3.6 A 10-year storm event may be accommodated at the curb not extending into the street beyond the outer lane of travel. If a bike lane is present, alternate means of storm water conveyance or street design free of storm water conveyance may be necessary to accommodate bicyclists. A 100-year storm event may be accommodated in the outside travel lane.
- 3.7 Every effort shall be made to strategically locate manholes and drainage grates to minimize inconveniences to motorists and bicyclists. Utilities will be placed within the right-of-way but not necessarily under the travel lanes.
- 3.8 Sidewalks should be placed on each side of a street built to the Americans with Disabilities Act (ADA) standard with wheelchair ramps at each intersection.
- 3.9 Street lighting should consist of high pressure sodium vapor street lighting with shielded, fully enclosed, non-polluting light fixtures. Light standards may be of those approved by a specific plan adopted by the City.
- 3.10 Standardized signalization shall be used by the City or of a design specifically approved by the City Traffic Engineer for a specific area.
- 3.11 All signage and traffic control devices must conform to the Manual on Uniform Traffic Control Devices and/or City standards.
- 3.12 Traffic control boxes, meters, drainage grates, light standards, pedestrian shelters, etc. should be placed to avoid conflict with sidewalks, bike facilities, and clear sight triangles.
- 3.13 Fences and/or walls should be placed to avoid conflict with sidewalks and bike facilities and screened with vegetation, paint, etc., as called for in the Urban Design Element of the Comprehensive Plan.

- 3.14 At intersections of differently classified streets, the design standards of the higher classified street shall supersede those of the lower for the intersection's design.
- 3.15 All street layouts must be appropriately designed for topography, design speed, classification, projected traffic volume, traffic composition and surrounding land uses.
- 3.16 Developers/subdividers are responsible for construction on-site and adjacent improvements as required by these policies. Builders are responsible for constructing sidewalks, and if not yet installed, curbs and gutters at the time of building construction.
- 3.17 Developers/subdividers are responsible for their pro-rata share of off-site improvements as determined by a traffic impact study for such improvements necessitated by the development of their property. Such off-site improvements shall include structures or facilities required along existing roadways or other transportation facilities. If such roadways or other facilities are planned but not built, a payment in lieu of physical improvements may be given and applied toward its future construction.

Objective 4: Build attractive and functional roadways;

Policies:

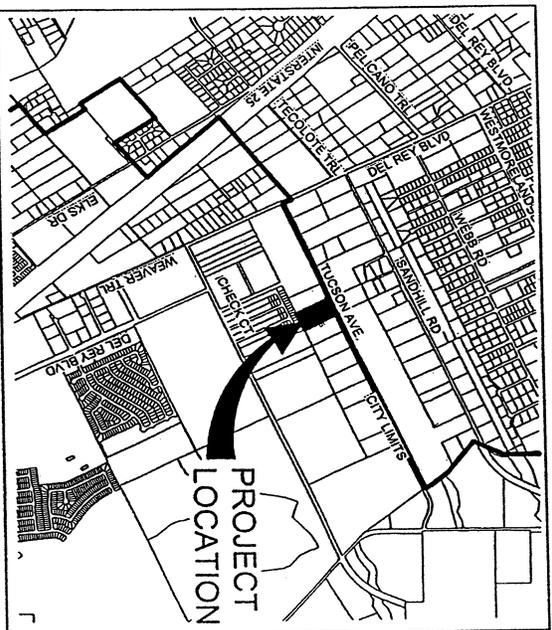
4.1 Landscaping should:

- maximize the visibility within a clear site triangle
- be compatible with and not damage other facilities (i.e.; root damage on sidewalks)
- maintain a consistent theme within a sector of the city to be determined by the Urban Design Element of the Comprehensive Plan
- be allowed within drainage facilities
- be provided if parking lot driving aisle reductions and parking spaces are designated for compact vehicles provided the changes do not create additional congestion at the site's access point(s) to adjacent streets
- encourage the use of "drought tolerant" vegetation to support the City's water conservation ordinance
- be watered through automatic irrigation unless native (low intensity water use) plants are used as approved by the City Landscape Architect

- 4.2 "Adoption" of medians is encouraged for civic groups, clubs, religious organizations, and businesses. This may include taking over maintenance of existing medians or their initial preparation and planting.

ELEPHANT BUTTE LAND AND TRUST CO. AMENDMENT #2 OF SUBDIVISION "C" REPLAT NO. 35

AS FILED IN PLAT RECORD 10, PAGE 10-12 ON JULY 17TH, 1967
LOCATED WITHIN THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO
SECTION 19, TOWNSHIP 22 SOUTH, RANGE 2 EAST, N.M.P.M
JULY, 2009
4.85 AC. +/-



VICINITY MAP
NOT TO SCALE

UTILITY APPROVALS
MONOGATE WATER COMPANY
THIS SUBDIVISION HAS BEEN APPROVED FOR THE INSTALLATION AND MAINTENANCE OF WATER UTILITIES WITHIN THE DEDICATED RIGHT OF WAY, JORNADA WATER COMPANY.
BY: _____ DATE: _____

CITY OF LAS CRUCES APPROVALS
THIS PLAT HAS BEEN APPROVED BY THE CITY OF LAS CRUCES AND ALL THE NECESSARY PERMITS AND CONDITIONS REQUIRED FOR THE INSTALLATION AND MAINTENANCE OF WATER UTILITIES WITHIN THE DEDICATED RIGHT OF WAY, JORNADA WATER COMPANY.
BY: _____ DATE: _____

EL PASO ELECTRIC COMPANY
EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO THE EL PASO ELECTRIC COMPANY, AND/OR OVERHEAD ELECTRIC UTILITIES, FOR THE INSTALLATION OF UNDERGROUND AND/OR OVERHEAD ELECTRIC UTILITIES.
BY: _____ DATE: _____

COMCAST CABLE COMM. INC.
EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO COMCAST CABLE, AND THE SATISFACTION TO MEET THE NEEDS FOR THE INSTALLATION OF UNDERGROUND AND/OR OVERHEAD TV CABLE UTILITIES.
BY: _____ DATE: _____

WEST COMMUNICATIONS
EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO WEST COMMUNICATIONS, AND/OR OVERHEAD TELEPHONE UTILITIES, FOR THE INSTALLATION OF UNDERGROUND AND/OR OVERHEAD TELEPHONE UTILITIES. THIS PLAT HAS BEEN APPROVED FOR EASEMENT PURPOSES ONLY. THE RECORD OF THIS PLAT DOES NOT IN ANY WAY GUARANTEE TELEPHONE SERVICE TO THE SUBDIVISION.
BY: _____ DATE: _____

CITY OF LAS CRUCES PLANNING AND ZONING COMMISSION APPROVAL
THIS PLAT HAS BEEN SUBMITTED TO AND CHECKED BY THE LAS CRUCES PLANNING AND ZONING COMMISSION. IT CONCURS WITH THE EXPANSION OF EXISTING UTILITIES AND THROUGHWAYS AND IS IN ACCORDANCE WITH GENERAL CITY PLANNING.
CHAIRMAN: _____ DATE: _____
SECRETARY: _____ DATE: _____

REGISTRATION
THE TRACT OF LAND SHOWN HEREON IS TO BE KNOWN AS "ELEPHANT BUTTE LAND AND TRUST COMPANY AMENDMENT #2 OF SUBDIVISION 'C' REPLAT NO. 35."
ALL RIGHTS OF WAY AS SHOWN HEREON ARE DEDICATED TO THE CITY OF LAS CRUCES. ALL RIGHTS OF WAY AS SHOWN HEREON ARE DEDICATED TO THE CITY OF LAS CRUCES. ALL RULES AND REGULATIONS OF THE CITY OF LAS CRUCES AND UTILITY COMPANIES WILL APPLY TO THESE EASEMENTS. ALL OTHER EASEMENTS SHOWN HEREON ARE GRANTED BY THE CITY OF LAS CRUCES AND WILL INTERFERE WITH THE USE OF EASEMENTS AS SHOWN ON THIS PLAT IS ALTERED.
THIS SUBDIVISION HAS BEEN DEDICATED IN ACCORDANCE WITH THE WISHES OF THE UNDERGROUND OWNERS OF THE LAND SHOWN HEREON.
INSTRUMENT OF OWNERSHIP: INSTRUMENT # 0802141, FILED ON JANUARY 21, 2008.
THE UNDERGROUND OWNERS SET OUR HANDS THIS _____ DAY OF _____ 2009.
LINDA ANN GARZA
P.O. BOX 336
MESQUITE, NM 88048
STATE OF NEW MEXICO
COUNTY OF DONA ANA
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 2009.
BY: _____
NOTARY PUBLIC

SEI SOUTHWEST ENGINEERING, INC.
475 ANCHULETA ROAD, LAS CRUCES, NEW MEXICO 88005

ELEPHANT BUTTE LAND AND TRUST CO.
AMDMT #2 OF SUBDIVISION "C" REPLAT NO. 35

SUBMITTED BY: LINDA ANN GARZA
P.O. BOX 336
MESQUITE, NM 88048

PROJECT NUMBER	DATE
29107	19AUG09
DATE OF SURVEY	DATE OF SURVEY
DATA FILE	DATA FILE
DRAWING NUMBER	DRAWING NUMBER
	1 OF 2

ELEPHANT BUTTE LAND AND TRUST CO. AMENDMENT #2 OF SUBDIVISION "C" REPLAT NO. 35

AS FILED IN PLAT RECORD 10, PAGE 10-12 ON JULY 17TH, 1967
LOCATED WITHIN THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO
SECTION 19, TOWNSHIP 22 SOUTH, RANGE 2 EAST, N.M.P.M

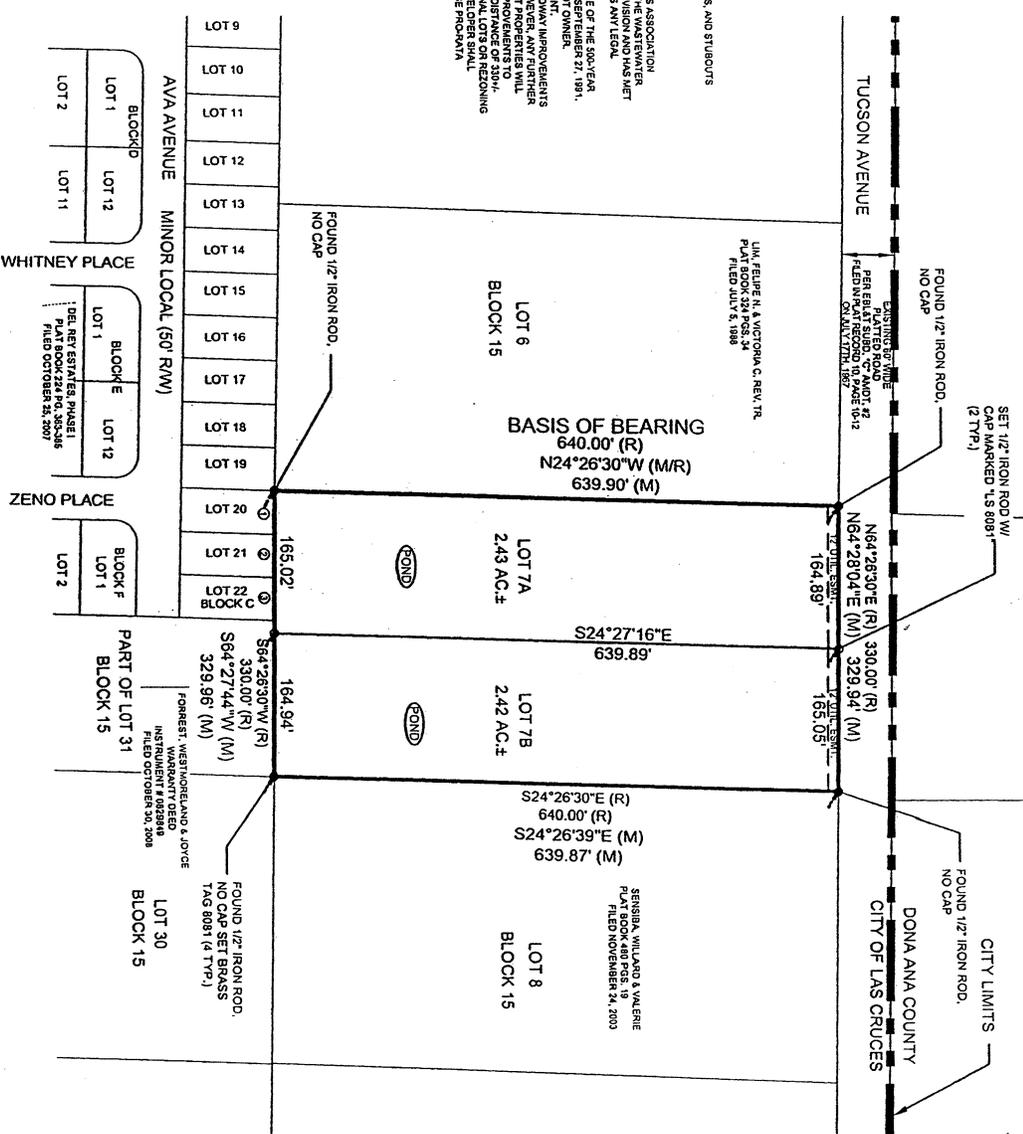
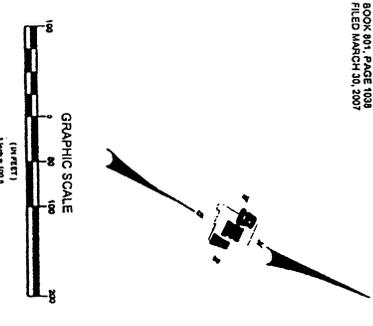
JULY, 2009
4.85 AC. +/-

- LEGEND**
- ⊙ EXISTING UTILITY POWER POLES
 - CONCRETE MONUMENT FOUND (AS NOTED)
 - FOUND MONUMENT (AS NOTED)
 - SET 1/2" IRON ROD W/ CAP MARKED "S 8081"
 - FOUND AREA TO BE MAINTAINED BY INDIVIDUAL PROPERTY OWNERS. SEE NOTE 4.
 - (R) REC. RECORD
 - (M) MEAS. MEASURED

- LEGEND NOTES**
1. SET TOWNSHIP 22 SOUTH AT FOUND MONUMENTS EXCEPT STATE OR FEDERAL MONUMENT UNLESS NOTED OTHERWISE.
 2. SET MONUMENTS ARE 1/2 INCH REBAR WITH PLASTIC CAP MARKED "S 8081" UNLESS OTHERWISE NOTED.
 3. ALL SYMBOLS IN LEGEND MAY NOT APPLY TO THIS PLAT.

- NOTES:**
1. THE DEVELOPER IS RESPONSIBLE FOR ALL EASEMENTS, MANLINE EXTENSIONS, AND STUBOUTS NECESSARY TO PROVIDE SEPARATE GAS AND SEWER SERVICES TO EACH LOT.
 2. GAS BY THE CITY OF LAS CRUCES.
 3. THIS SUBDIVISION IS IN THE DONA ANA NATURAL SCIENTIFIC WATER CONSERVATORS ASSOCIATION PROVIDENT UNIT DAMOVICH IS ABLE TO SERVE CUSTOMERS WITHIN THE SUBDIVISION AND HAS MET ALL OF THE CITY'S ENGINEERING AND CONSTRUCTION STANDARDS AS WELL AS ANY LEGAL REQUIREMENTS IN OTHER AREAS FLOOD ZONE "X" DETERMINED TO BE OUTSIDE OF THE 300-YEAR FLOOD PLAIN IN FLOOD INSURANCE RATE MAP 301030318 F EFFECTIVE DATE SEPTEMBER 27, 1991.
 4. EXCESS STORM WATER RUNOFF POND AREA TO BE MAINTAINED BY LOT OWNER.
 5. DRIVEWAY EASEMENT WILL BE REQUIRED ON OTHER LOTS IN THIS SUBDIVISION UNLESS OTHERWISE NOTED.
 6. TO TUCSON AVENUE ARE REQUIRED FOR THE APPROVAL OF THIS REPLAT. HOWEVER, ANY FURTHER REPLAT, THAT CREATES ADDITIONAL LOTS, OR ANY REZONING OF THE SUBJECT PROPERTY WILL REQUIRE THE DEVELOPER TO CONSTRUCT THE CITY DESIGN STANDARDS, FOR A DISTANCE OF 200- FEET TO TUCSON AVENUE AT THE TIME OF A REPLAT APPLICATION THAT CREATES ADDITIONAL LOTS OR REZONING APPLICATION, IF TUCSON AVENUE HAS BEEN PREVIOUSLY IMPROVED, THE DEVELOPER SHALL REMEDURE THE CITY OF LAS CRUCES THE AMOUNT REQUIRED TO MAKE THOSE PROVISIONS APPLICABLE TO THE BASIS OF REZONING.

RECORD OF OWNERSHIP FOR BLOCK C, LOT 20 THRU LOT 22
BOOK 401 PAGE 108
FILED MARCH 20, 2007





TO: Planning and Zoning Commission
FROM: Development Review Committee (DRC)
PREPARED BY: Jennifer Robertson, Planner *JR*
DATE: August 25, 2009
SUBJECT: EBL&T Subdivision C, Replat No. 35
Final Plat and Waiver Request
RECOMMENDATION: Approval of Final Plat
Denial of Waiver Request

Case S-09-032: A request for final plat approval for a replat of an existing single lot to create an additional lot on a total of 4.85 ± acres. The property is zoned EE (Single-Family Equestrian Estate and Agricultural). The subject property is located at 1690 Tucson Avenue. Submitted by Southwest Engineering for Linda Ann Garza.

Case S-09-032W: A request to waive 100% of the requirements for road improvements to Tucson Avenue as a Minor Local roadway for approximately 2300 feet of roadway, beginning from the intersection of Del Rey Boulevard (nearest paved, public roadway) to the easternmost property boundary. The total dedicated right-of-way currently existing for Tucson Avenue is 60 feet. The applicant is proposing to replat the property to create a second lot. The subject property is zoned EE (Single-Family Equestrian Estate and Agricultural) and is located at 1690 Tucson Avenue. Submitted by Southwest Engineering for Linda Ann Garza.

BACKGROUND

EBL&T Subdivision C, Replat No. 35 is a proposed final plat that will replat one lot to create 2 lots on 4.85 ± acres of land. The subject property is located at 1690 Tucson Avenue, east of Del Rey Boulevard. Currently, there is 60 feet of existing right of way, and no additional right of way dedication is required of this proposal. The property is zoned EE (Single-Family Equestrian Estate and Agricultural) per Ordinance 2524 on May 26, 2009 (Case Z2784). The property was also granted a variance to increase the maximum permissible density from one single-family residence to two single family residences by Planning and Zoning Commission on March 24, 2009 (Case A1692).

The developer is proposing to provide utilities in the following manner:

Sewer: City of Las Cruces
Water: Moongate Water Company
Gas: Rio Grande Natural Gas Association

The proposed replat is not in conformance with the right of way improvements required by the City's Subdivision Code, Design Standards and the Comprehensive Plan. Applicable excerpts of these policies are attached to this report. The developer is proposing a waiver to road improvements for this subdivision, Case S-09-032W.

For Tucson Avenue as a minor local roadway, the subdivider is responsible for a full minor local street section, including 50 feet of pavement, sidewalk, curb, and gutter. Included in this packet is the cross-section for a minor local road. The cross-section provides the requirements for right-of-way, paving width, and general use criteria for the acceptable city street classifications.

The subject property is part of a previously-approved subdivision. Pursuant to the City's Subdivision Code, Design Standards and Comprehensive Plan, the subdivision application requires road improvements to Tucson Avenue from the property boundary to the nearest paved, public roadway, Del Rey Boulevard. The Design Standards state that when improvements are required on minor local roadways the subdivider is responsible for improving the full street section (see Attachment 4 for a representation of a minor local street section). Presently, Tucson Avenue has an existing 60 feet of dedicated right-of-way and is unimproved.

During the subdivision review process, City staff informed the applicant that, via the subdivision application, Case S-09-032 EBL&T Subdivision C, Replat No. 35, the applicant will be required to build the pro-rata share of improvements to approximately 2300 ± linear feet on Tucson Avenue. The applicant has requested a 100 percent waiver to the City's Subdivision Code, specifically Article XII "Construction Standards." The waiver and construction standards sections of the subdivision code are attached to this report. The regulations, policies, and provisions governing the construction of required improvements to subdivisions include, but are not limited to, the City's Design Standards and Comprehensive Plan, relative excerpts for which are attached to this report.

Waivers to the Las Cruces Municipal Code (LCMC – Subdivision and Design Standard Ordinances) of this nature (greater than 15 percent variance from the required standard) require review and action by the Las Cruces City Council. The specific sections of the LCMC affected by this waiver include Chapter 32 – Design Standards, Article II: Standards for Public Rights-of-Way; Chapter 37 – Subdivisions, Article XI: Waiver of Regulations; and Chapter 37 – Subdivisions, Article XII: Construction Standards.

Specifically, Article II of the CLC Design Standards states when improvements are required on streets adjacent to a subdivision or property boundaries as indicated by street classification, as determined by the MPO transportation plan, transportation element of the comprehensive plan, and/or the development review committee, the subdivider shall provide the following street improvements or pay for the cost of these improvements to the city. The Transportation element of the comprehensive plan states that developers and subdividers are responsible for their pro-rata share of improvements as determined by a traffic impact study for such improvements necessitated by the development of their property or a payment in lieu may be accepted.

The applicant has requested that the replat be granted approval from the Planning and Zoning Commission without the requirement for road improvements, approximately 2300 ± linear feet of Tucson Avenue. The applicant has stated that the cost to construct the required 2300 ± feet of Tucson Avenue would cost approximately \$640,000, including \$125,000 for drainage improvements to a water path that crosses the road. The applicant stated these improvement costs constituted a financial hardship when considering that the intent of the subdivision was only to create a second lot for a family member.

FINDINGS

1. The City Subdivision Code states that a replat of a previously filed subdivision that increases the number of lots shall require a public hearing with final action by the Planning and Zoning Commission.
2. The City Subdivision Code also states that and waiver request greater than 15 percent of the required standard shall be forwarded to the City Council with a recommendation from Planning and Zoning Commission that the waiver be either approved or denied.
3. The subject property is EE (Single-Family Equestrian Estate and Agricultural). The proposal meets the development standards set forth in the City's Zoning Code.
4. Presently, Tucson Avenue is a Minor Local roadway, has an existing 60 feet of dedicated right-of-way and is unimproved.
5. The proposed replat is not in conformance with the City's Subdivision Code, Design Standards and Comprehensive Plan if the waiver is denied by City Council. If the waiver is denied, road improvements are required for the subdivision or payment for in lieu. The subject proposed replat is required by CLC Design Standards to improve approximately 2300 ± feet to the standards for a minor local road, Tucson Avenue.
6. Staff has reviewed the proposed final plat and the only outstanding issue which exists is whether or not the waiver request will be granted by City Council. If the waiver is granted the subdivision application is complete, if not the application will require construction drawings and subsequent constructed improvement or payment in lieu.

RECOMMENDATION FOR CASE S-09-032

On July 22, 2009, the Development Review Committee (DRC) reviewed the proposed replat. The draft minutes for the July 22, 2009, DRC meeting are attached. The DRC reviews replats from an infrastructure, utilities and improvement standpoint. If the waiver request is not granted, the applicant must build the minor local roadway or provide payment in lieu of road improvements. The DRC recommends **approval of the replat**.

Please note that the Planning and Zoning Commission is rendering a final decision for the final plat and retains the final authority on subdivision proposals. The decision of Planning and Zoning Commission may be appealed to City Council for further hearing.

RECOMMENDATION FOR CASE S-09-032W

The Development Review Committee (DRC) reviewed the waiver request on July 22, 2009. The DRC reviews development applications from an infrastructure, utilities, and improvement standpoint. Staff recommended denial of the waiver request based upon current city policy (Subdivision Code, Design Standards and Comprehensive Plan). As already noted, the development policies and ordinances require developers and subdividers to either construct the pro-rata share of public improvements adjacent to their property or to make an appropriate payment for future construction of public improvements adjacent to their property. The DRC recommends **denial of the waiver request**.

Please note that the Planning and Zoning Commission is rendering a recommendation to the City Council who retains the final authority on waiver requests.

OPTIONS

1. Approve the replat and waiver request.
2. Approve the replat and waiver request with conditions.
 - a. Approve the waiver and approve the replat with the condition of waiver request approval from City Council.
 - b. Approve the waiver with conditions and/or approve the replat with conditions.
3. Deny the waiver request, as recommended by the DRC, and table the final plat.

Please note: A denial would need to be based on findings other than those identified by staff or the Development Review Committee.

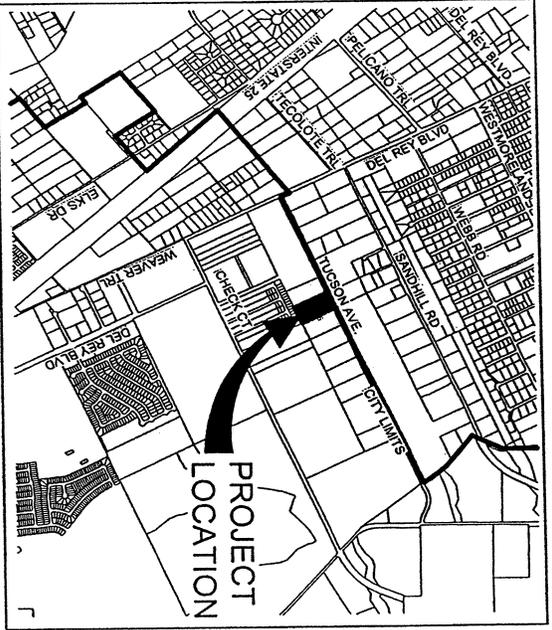
ATTACHMENTS

1. Final Plat
2. Waiver Request
3. Draft DRC minutes – July 22, 2009
4. Minor Local Road Design Standard Requirement
5. LCMC Chapter 32 – Design Standards, Article II: Standards for Public Rights-of-Way
6. LCMC Chapter 37 – Subdivisions, Article XI: Waiver of Regulations
7. LCMC Chapter 37 – Subdivisions, Article XII: Construction Standards
8. 1999 Comprehensive Plan, Transportation Element – Goal 1, Objective 3, Policy 3.17
9. Vicinity Map

Attachment 1

ELEPHANT BUTTE LAND AND TRUST CO. AMENDMENT #2 OF SUBDIVISION "C" REPLAT NO. 35

AS FILED IN PLAT RECORD 10, PAGE 10-12 ON JULY 17TH, 1967
LOCATED WITHIN THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO
SECTION 19, TOWNSHIP 22 SOUTH, RANGE 2 EAST, N.M.P.M
JULY, 2009
4.85 AC. +/-



DEDICATION
BEING 4.85 ACRES, MORE OR LESS, BEING LOT 7, BLOCK 16 OF REPLAT BUTTE LAND AND TRUST CO. AMENDMENT #2 OF SUBDIVISION "C" IN DONA ANA COUNTY, NEW MEXICO, WITHIN THE INCORPORATED LIMITS OF THE CITY OF LAS CRUCES, IN SECTION 19, TOWNSHIP 22 SOUTH, RANGE 2 EAST, N.M.P.M. OF THE U.S.G.L.O. SURVEYS.
THE TRACT OF LAND SHOWN HEREON IS TO BE KNOWN AS "ELEPHANT BUTTE LAND AND TRUST CO. AMENDMENT #2 OF SUBDIVISION 'C' REPLAT NO. 35."

ALL RIGHTS OF WAY AS SHOWN HEREON ARE DEDICATED TO THE CITY OF LAS CRUCES. ALL UTILITIES SHOWN HEREON ARE TO BE CONSIDERED AS PUBLIC UTILITIES. ALL RULES AND REGULATIONS OF THE CITY OF LAS CRUCES AND SAID UTILITY COMPANIES WILL APPLY TO THESE EASEMENTS. ALL OTHER EASEMENTS SHOWN HEREON ARE GRANTED AS EASEMENTS AS SHOWN ON THIS EMBODIMENTMENT WILL INTERFERE WITH THE USE OF EASEMENTS AS SHOWN ON THIS PLAN IS ALLOWED.

THE DIVISION HAS BEEN DEDICATED IN ACCORDANCE WITH THE WISHES OF THE UNDERSIGNED OWNER OF THE LAND SHOWN HEREON.

INSTRUMENT OF OWNERSHIP: INSTRUMENT # 8902114, FILED ON JANUARY 28, 2009.

THE UNDERSIGNED OWNERS SET OUR HANDS THIS _____ DAY OF _____ 2009.

LINDA ANN GARZA
P.O. BOX 336
MESQUITE, NM 88048

STATE OF NEW MEXICO, SS
COUNTY OF DONA ANA

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 2009.
BY _____
NOTARY PUBLIC

I, WALTER C. BLACK, NEW MEXICO LICENSED PROFESSIONAL SURVEYOR, HEREBY CERTIFY THAT THIS INSTRUMENT WAS PREPARED FROM AN ACTUAL GROUND SURVEY PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION, THAT I AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I HAVE ADHERED TO THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO, AND THAT THIS SURVEY IS A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT.

WALTER C. BLACK, LS 80281 _____ DATE _____

VICINITY MAP
NOT TO SCALE



DONA ANA COUNTY CLERK
STATE OF NEW MEXICO SS
COUNTY OF DONA ANA
PLAT NO. _____ RECEPTION NO. _____
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR
RECORD ON THIS _____ DAY OF _____ 2009.
AT _____ O'CLOCK AND DULY RECORDED IN PLAT BOOK _____
PAGE _____ AND FILED IN THE RECORDS OF THE COUNTY CLERK
DONA ANA COUNTY, NEW MEXICO

UTILITY APPROVALS
MORGATE WATER COMPANY
THIS SUBDIVISION HAS BEEN APPROVED FOR THE INSTALLATION AND MAINTENANCE OF WATER UTILITIES WITHIN THE DEDICATED RIGHT OF WAY.
JORNADA WATER COMPANY.
BY: _____ DATE: _____

CITY OF LAS CRUCES APPROVALS
THIS PLAN HAS BEEN APPROVED BY THE CITY OF LAS CRUCES AND ALL THE REQUIREMENTS PRESCRIBED BY THE CITY OF LAS CRUCES, SUBJECT TO ANY AND ALL CONDITIONS REQUIRED BY THE PLANNING AUTHORITY FOR APPROVAL OF THE PLAN.
BY: _____ DATE: _____

EL PASO ELECTRIC COMPANY
EASEMENT'S SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO THE EL PASO ELECTRIC COMPANY, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF UNDERGROUND AND/OR OVERHEAD ELECTRIC UTILITIES.
BY: _____ DATE: _____

COMCAST CABLE DONA INC.
EASEMENT'S SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO COMCAST CABLE, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF UNDERGROUND AND/OR OVERHEAD TV CABLE UTILITIES.
BY: _____ DATE: _____

QUEST COMMUNICATIONS
EASEMENT'S SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO QUEST COMMUNICATIONS, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF UNDERGROUND AND/OR OVERHEAD TELEPHONE UTILITIES. THIS PLAN HAS BEEN APPROVED FOR EASEMENT PURPOSES ONLY. THE SIGNING OF THIS PLAN DOES NOT IN ANY MANNER GUARANTEE TELEPHONE SERVICE TO THE SUBDIVISION.
BY: _____ DATE: _____

CITY OF LAS CRUCES PLANNING AND ZONING COMMISSION APPROVAL
THIS PLAN HAS BEEN SUBMITTED TO AND CHECKED BY THE LAS CRUCES PLANNING AND ZONING COMMISSION. IT CONFORMS WITH THE EXPANSION OF EXISTING UTILITIES AND THROUGHFARES AND IS IN ACCORDANCE WITH GENERAL CITY PLANNING.
CHAIRMAN: _____ DATE: _____
SECRETARY: _____ DATE: _____

SEI SOUTHWEST ENGINEERING, INC.
475 ARCHULETA ROAD, LAS CRUCES, NEW MEXICO 88005

ELEPHANT BUTTE LAND AND TRUST CO.
AMDMT #2 OF SUBDIVISION "C" REPLAT NO. 35

SUBMITTED BY: LINDA ANN GARZA
P.O. BOX 336
MESQUITE, NM 88048

PROJECT NUMBER: 29107 DATE: 19AUG09
DATE OF SURVEY: 02/20/09
DRAWING NUMBER: 29107 REPLAT 2009 1 OF 2

ELEPHANT BUTTE LAND AND TRUST CO. AMENDMENT #2 OF SUBDIVISION "C" REPLAT NO. 35

AS FILED IN PLAT RECORD 10, PAGE 10-12 ON JULY 17TH, 1967
LOCATED WITHIN THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO
SECTION 19, TOWNSHIP 22 SOUTH, RANGE 2 EAST, N.M.P.M

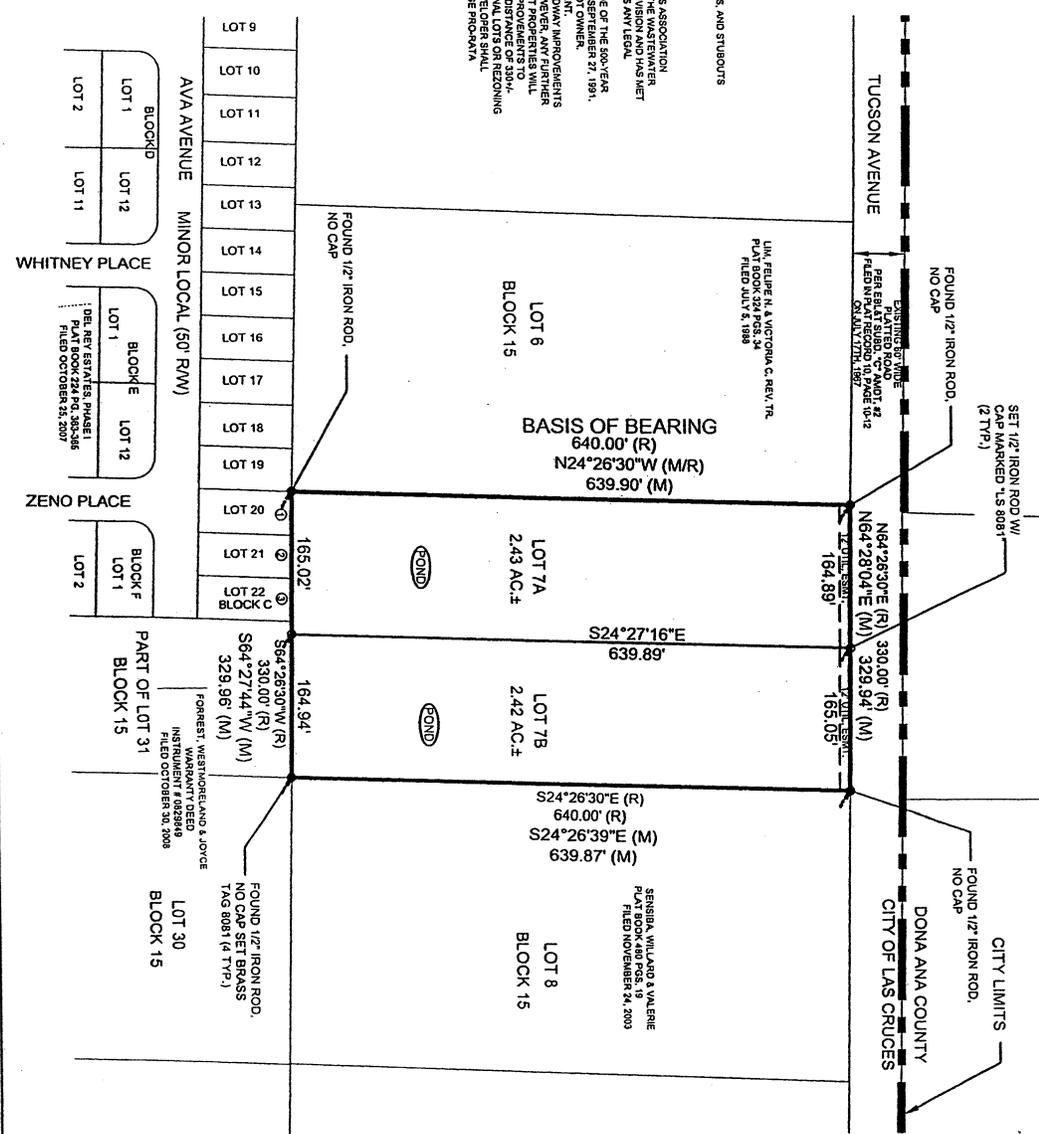
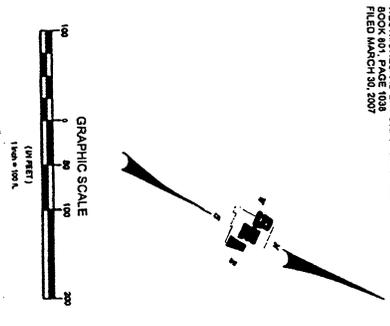
JULY, 2009
4.85 AC. +/-

- LEGEND**
- <XXX>> EASEMENT LINEAR DATA
 - ⊕ WELL
 - ⊖ EXISTING UTILITY POWER POLES
 - CONCRETE MONUMENT FOUND (AS NOTED)
 - FOUND MONUMENT (AS NOTED)
 - SET 1/2" IRON ROD W/ CAP MARKED "LS 8081"
 - FOUND 1/2" IRON ROD W/ CAP MARKED "LS 8081"
 - FOUND AREA TO BE MAINTAINED BY INDIVIDUAL PROPERTY OWNERS. SEE NOTE 4.
 - (R) REC. RECORD
 - (M) MEAS. MEASURED

- LEGEND NOTES**
1. SET 1/2" CAP MARKED "PS 8081" TO BE FOUND AT THE END OF THE PLAT RECORD MONUMENT UNLESS NOTED OTHERWISE.
 2. SET MONUMENTS ARE 121/8" REBAR WITH PLASTIC CAP MARKED "PS 8081" UNLESS OTHERWISE NOTED.
 3. ALL SYMBOLS IN LEGEND MAY NOT APPLY TO THIS PLAT

- NOTES:**
1. THE DEVELOPER IS RESPONSIBLE FOR ALL EASEMENTS, MANLINE EXTENSIONS, AND STRUCTURES NECESSARY TO PROVIDE SEPARATE GAS AND SEWER SERVICES TO EACH LOT.
 2. WATER BY MOUNDGATE WATER COMPANY.
 3. THE CITY OF LAS CRUCES.
 4. THIS SUBDIVISION IS IN THE DONA ANA MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION (DOWA) WATER SERVICE AREA TO SERVE CUSTOMERS WITHIN THE SUBDIVISION AND HAS MET ALL OF THE CITY'S ENGINEERING AND CONSTRUCTION STANDARDS AS WELL AS ANY LEGAL REQUIREMENTS.
 5. SUBDIVISION IS IN OTHER AREAS FLOOD ZONE "X" DETERMINED TO BE OUTSIDE OF THE 100-YEAR FLOOD ZONE.
 6. EXCESS STORM WATER RUNOFF POND AREA TO BE MAINTAINED BY LOT OWNER.
 7. DRIVEWAY PERMIT WILL BE REQUIRED BY OWNER AT TIME OF LOT DEVELOPMENT.
 8. PER CITY COUNCIL, A REPLAY PERMIT IS REQUIRED FOR THE REPLAY. HOWEVER, ANY FURTHER REPLAY THAT CREATES ADDITIONAL LOTS, OR ANY REZONING OF THE SUBJECT PROPERTIES WILL REQUIRE THE DEVELOPER TO CONSTRUCT THE PROGRAM STATE OF ROAD IMPROVEMENTS TO THE LOT LINE AT THE TIME OF A REPLAY APPLICATION THAT CREATES ADDITIONAL LOTS OR REZONING APPLICATION. IF TUCSON AVENUE HAS BEEN PREVIOUSLY IMPROVED, THE DEVELOPER SHALL REIMBURSE THE CITY OF LAS CRUCES THE AMOUNT REQUIRED TO MAKE THOSE PROGRAM IMPROVEMENTS AT THE DATE OF APPLICATION.

RECORD OF OWNERSHIP FOR BLOCK G, LOT 20 THRU LOT 22
WESTERN LAND AND TRUST CO.
FILED MARCH 30, 2007



SEI SOUTHWEST ENGINEERING, INC.
475 ARCHULETA ROAD, LAS CRUCES, NEW MEXICO 88005

ELEPHANT BUTTE LAND AND TRUST CO.
AMDMT #2 OF SUBDIVISION "C" REPLAT NO. 35

SUBMITTED BY: LINDA ANN GARZA
P.O. BOX 336
MESQUITE, NM 88048

PROJECT NUMBER: 29107 DATE: 19AUG09
DATE OF SURVEY: 04/20/09 DRAWING NUMBER: 29107 REPLAT 2 OF 2



Attachment 2

62

475 Archuleta Road
Las Cruces, New Mexico
88005

Phone 505-526-3381
Fax 505-526-1762

SOUTHWEST ENGINEERING, INC.

June 2, 2009

Ms. Jennifer Robertson
City of Las Cruces Community Development Department
575 South Alameda
Las Cruces, New Mexico 88005

Re: Elephant Butte Land & Trust Co. Amendment 2 Subdivision "C" Replat No. 35
Lot 7, Block 15
Waiver Request for Improvements to Tucson Avenue

Dear Ms. Robertson;

On behalf of our client, Ms. Linda Ann Garza, SEI requests the following waiver to the requirements of the City of Las Cruces Design Standards for the improvements to Tucson Avenue, a Major Local as designated on the City of Las Cruces MPO Thoroughfare Plan. As Ms. Garza is creating a two lot subdivision directly adjacent to this roadway, he is obligated to construct a full Major Local roadway cross section. Ms. Garza finds this requirement to be overly burdensome for the following reasons.

- The impact of the creation of one additional residential lot does not raise the traffic loading on Tucson Avenue to a level requiring this magnitude of improvement.
- The second lot to be created by this land split is purely for the conveyance to a family member and not for a business or profit making endeavor.
- Improvement would be required from Del Rey Boulevard to the eastern side of the property, a distance of approximately 2,310'.
- A preliminary cost estimate for the roadway alone is \$515,000.
- Drainage improvements on Tucson Avenue to protect the southern edge of the roadway are estimated at \$125,000.
- \$640,000 worth of roadway improvements to develop one additional lot is overly excessive and burdensome.
- The City of Las Cruces Design Standards, as currently written, do not contain a provision to have individual lot owners in this situation build their "fair share".

- A multi-jurisdictional issue also exists at this location. The northern half of Tucson Road right-of-way is in Dona Ana County, out of the City Limits. An issue of which design standard would be applied in this area is not known.

Therefore, for the reasons listed above, a waiver to these roadway improvements is requested.

Should you have any questions or require any further information, please do not hesitate to contact our office.

Sincerely;

SOUTHWEST ENGINEERING, INC.

A handwritten signature in black ink, appearing to read "Paul J. Pompeo", is written over a solid horizontal line.

Paul J. Pompeo, P.E.

President

DEVELOPMENT REVIEW COMMITTEE

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Following are the verbatim minutes of the City of Las Cruces Development Review Committee meeting held on Wednesday, July 22, 2009 at 9:00 a.m. in the Las Cruces City Council Chambers, 200 North Church Street, Las Cruces, New Mexico.

DRC PRESENT: Cheryl Rodriguez, Community Development
Andy Hume for Tom Murphy, MPO
Meei Montoya, Utilities
Mark Johnston, Facilities
Mark Dubbin for Travis Brown, Fire Dept.
Loretta Reyes, Public Works

STAFF PRESENT: Gary Hembree, Community Development
Jennifer Robertson, Community Development
Carol McCall, Community Development
Catherine Duarte, Public Works
Bonnie Ennis, Recording Secretary
Lora Dunlap, Transcriber

OTHERS PRESENT: Paul Pompeo, Southwest Engineering Inc.

I. CALL TO ORDER (9:10 am)

Rodriguez: I'll go ahead and call the meeting to order for Wednesday, July 22nd; it's approximately 9:10 in the morning.

II. APPROVAL OF MINUTES – NONE

Rodriguez: There are no approval of minutes.

III. OLD BUSINESS – NONE

IV. NEW BUSINESS

1. Case S-09-032W: EBL&T Subdivision C, Replat No. 35 Waiver Request

- A request to waive the requirements for road improvements to Tucson Avenue for approximately 2300 feet from the intersection of Del Rey Boulevard (nearest paved, public roadway) to the easternmost property boundary for Case-09-032 EBL&T Subdivision C, Replat No. 35 (see below).
- The MPO designation for Tucson Avenue is Major Local requiring 60' right of way and currently exists as such.
- Subject property is zoned EE (Single-Family Equestrian Estate and Agricultural)

1
2 **2. Case S-09-032: EBL&T Subdivision C, Replat No. 35**

- 3 • The applicant proposed to replat the existing lot and create an additional lot
4 on 4.85 ± acres.
5 • This property is currently zoned EE (Single-Family Equestrian Estate and
6 Agricultural) as of per case Z2784, zone change from A-2 approved by City
7 Council on May 26, 2009.
8 • Subject property is located at 1690 Tucson Avenue.
9 • Submitted by Southwest Engineering for Linda Ann Garza.

10
11 Rodriguez: We have two cases... two items under New Business and I'd ask for a
12 motion to suspend the rules to hear each case together.

13
14 Johnston: So moved, Mark Johnston.

15
16 Hume: Second, Andy Hume.

17
18 Rodriguez: All those in favor.

19
20 Members: Aye.

21
22 Rodriguez: And Jennifer I'd ask if you can please present the waiver request and the
23 subdivision replat and then I'll ask Paul to as the applicant, to state his case
24 for the record.

25
26 Robertson: The first case is a waiver request for Case S-09-032, EBL&T Subdivision
27 C, Replat No. 35. The waiver request is to waive the road improvement
28 requirement to Tucson Avenue for approximately 2300 feet from the
29 intersection of Del Rey Blvd. which is the nearest paved public roadway to
30 the eastern most property boundary.

31 The MPO designation for Tucson is Major Local which means it's 60
32 feet right-of-way and currently... it's not 60 feet right-of-way? (*Jennifer*
33 *speaking to someone away from microphone*) Andy's nodding his head.

34
35 Hume: Is it Major Local or Minor Local?

36
37 Robertson: Due to the Desert Isles master plan that's coming in they're proposing it as
38 a Major Local due to commercial, commercial zoning proposal.

39
40 Hume: Okay, I just want to verify that because that's something that they're
41 requesting then. It's not something that we've designated. We don't
42 designate local roads as a major or minor.

43
44 Robertson: Okay, alright. Thank you for that clarification, I appreciate it.

45
46 Hume: Not a problem.

1
2 Robertson: The subject property is currently zoned EE which is Single Family
3 Equestrian Estate and Agricultural. The concurrent case being heard is the
4 subdivision plat, is a replat. The applicant is proposing to replat the
5 existing lot to create an additional lot on 4.85 acres and the subject
6 property is currently located at 1690 Tucson Avenue. And the applicant's
7 representative is here, is Paul Pompeo for Southwest Engineering; would
8 also like to comment on the case.
9

10 Pompeo: Paul Pompeo with Southwest Engineering. As staff has noted we're asking
11 for a waiver request to do no roadway improvements to Tucson Avenue.
12 And then further to asking for approval of a two lot subdivision for an
13 existing approximately five acre lot. This case has been through zone
14 change and a waiver to the zoning code to allow two properties to exist on
15 one lot and at that time, Planning and Zoning Commission did grant a
16 waiver to no roadway improvements due to the excessive cost of improving
17 Tucson Avenue strictly for a two lot split. With that we're... they ran into
18 some issues with the finance company that's financing the second house.
19 If the staff has been out there, there's two lot... two homes currently on the
20 property. That situation has now caused the need for an actual subdivision
21 of the property. With that, we are asking for a waiver request for the
22 roadway improvement and then further asking for approval from the DRC
23 for the two lot split. With that I'd be happy to answer any questions you
24 might have.
25

26 Rodriguez: I need to clarify the record. It's my recollection that the zone change
27 request for the subject property allowed for two dwelling units to be placed
28 on the subject property. The action by City Council did not grant a waiver
29 request for no road improvements, it was just to allow EE zoning district
30 only permits one dwelling unit per platted parcel. So this allowed for the
31 additional dwelling unit but there was not a waiver for no road
32 improvements.
33

34 Pompeo: That's correct.
35

36 Rodriguez: The next question I have is, the MPO Thoroughfare Plan Andy, does not
37 currently classify Tucson Avenue as a Major Local, correct? Tucson Ave...
38 I know the MPO Thoroughfare Plan identifies Major Local in instances
39 when they have been down graded from a Collector status roadway and in
40 this case Tucson Avenue has not been down graded from a Collector to a
41 Major, correct?
42

43 Hume: That's correct. The... I believe the only roadways in this area that are
44 anything above a Local road would... either current or future would be
45 Sandhill and the one that's north of Westmoreland.
46

- 1 Rodriguez: So the official designation of Tucson Avenue is a Minor Local roadway on
2 the books today.
3
- 4 Hume: As far as we're concerned, it's a Local roadway.
5
- 6 Rodriguez: So the plat itself of existing 50 feet of right-of-way ideally for a Minor Local,
7 the subdivision plat is identifying to dedicate how much for right-of-way,
8 Paul?
9
- 10 Pompeo: Paul Pompeo with Southwest Engineering. What this plat is indicating that
11 there is an existing 60 foot wide platted road that was platted with the
12 original subdivision in 1967.
13
- 14 Rodriguez: Okay, so there's not additional dedication of right-of-way needed.
15
- 16 Pompeo: That's correct.
17
- 18 Rodriguez: Okay. Go around the table. Fire.
19
- 20 Dubbin: Mark Dubbin, Fire Department. We have no issues.
21
- 22 Rodriguez: MPO.
23
- 24 Hume: No comments from MPO.
25
- 26 Johnston: Mark Johnston, Facilities. No issues.
27
- 28 Rodriguez: Utilities.
29
- 30 Montoya: Meel Montoya. I believe we already resolved our comments with the
31 Engineering except we have not seen the revision of note number one so I
32 just wanted to make sure that the engineer before he plat it to Mylar, note
33 number one will be explained at what John Reid has to you on email.
34 Would you want to read that to the DRC members?
35
- 36 Pompeo: Yes, and Meel Montoya is correct. I did receive an email from John Reid
37 who is reviewing for the Utility Department. We have changed note
38 number one to read the developer is responsible for all easements, main
39 line extensions and stub-outs necessary to provide separate gas and sewer
40 service to each lot.
41
- 42 Montoya: Okay, thank you.
43
- 44 Rodriguez: Public Works.
45

- 1 Reyes: Loretta Reyes, Public Works. I believe that we've resolved our issues
 2 however with regard to the waiver; we did make comments that the
 3 property owner when subdividing the property can improve the roadway as
 4 required in the design standards or pay the City for the improvements in
 5 lieu of the... and the payment being made to the City. And thus we are
 6 now discussing the waiver. I checked the subdivision code section, chapter
 7 37, section 37-332 with regard to waiver regulations and it does stipulate
 8 that in the case of a particular proposed subdivision whenever it can be
 9 shown that straight compliance with the requirements with this chapter
 10 would result in a substantial hardship to the subdivider because of
 11 exceptional topographic soil or other surface or subsurface conditions or
 12 that such conditions would result in inhibiting the objectives of code and of
 13 course I mentioned what the design standards state; the Public Works
 14 Department cannot, will not support this waiver in this respect. Thank you.
 15
- 16 Rodriguez: In regards to the language that Loretta just read into the record regarding
 17 the waiver, financial hardship is not a criteria to support a waiver request.
 18 My question to the applicant, are there any topographic constraints from
 19 the edge... from the property boundary out to the nearest paved right-of-
 20 way which would be Del Rey Blvd. that would inhibit the applicant from
 21 making the road improvements?
 22
- 23 Pompeo: Well there is an arroyo that runs through an adjacent to this property that
 24 does cross Tucson Avenue and if... so from the drainage perspective there
 25 would be a drainage structure located off this property that would be
 26 required to be built by the developer so I mean that could I guess that could
 27 be construed under the hardship for topographic. Other than that, just the
 28 only basis for this waiver request is just the excessively long amount of
 29 roadway that has to be improved by this developer for the two lot split.
 30
- 31 Rodriguez: Okay, because the... for the record the City of Las Cruces design
 32 standards required that the minimum access to the subdivision must be an
 33 improved right-of-way and if it's unimproved they need to make the right-of-
 34 way improvements to a Minor Local status from the subject property out to
 35 the nearest paved right-of-way, in this case would be Del Rey Blvd. So my
 36 next question is part of the review process, were there any... was a
 37 drainage report done that would look at the hardship requirement regarding
 38 the adjacent arroyo?
 39
- 40 Pompeo: No.
 41
- 42 Rodriguez: Would the applicant be willing to look, reexamine a drainage report to
 43 support a hardship requirement regarding the topographic restraints
 44 because of an arroyo if it's determined and reviewed by Public Works staff
 45 that that arroyo crossing is going to be of such a structure that would and a

1 strict application of the code would cause difficulty in getting the road
2 improvements?
3

4 Pompeo: We could... we could look at that however I think that the, and I do not
5 have the exact numbers and I'll resubmit that to the Public Works
6 Department. During the zoning case where this issue came up we had
7 done a preliminary cost estimate using City of Las Cruces unit costs for the
8 roadway and the drainage structure. The drainage structure was
9 approximately twenty percent of the overall cost so the main cost for this is
10 just of the you know approximately 2100 foot of roadway that has to be built
11 and so taking that in mind it's just a pure application of those dollars and
12 those unit costs that are... that have the roadway improvements
13 somewhere in the neighborhood of four to five hundred thousand dollars
14 and so... I will submit as a part of an addendum to our waiver request, the
15 costs associated with that prior to the P&Z meeting so that I can get that
16 approval or my desire is to get that approval from Public Works so that
17 we're not arguing over what the cost of the road may or may not be at the
18 time that we go the public hearing. And so based on that... based on that
19 amount of cost that is the basis of our waiver. Although not supported by
20 the design standards per say that is the basis of our waiver.
21

22 Rodriguez: Public Works.
23

24 Reyes: Well Madam Chair would then, would it then be necessary for them to do
25 that because I think in either case, Public Works is not going to support the
26 waiver.
27

28 Rodriguez: Okay.
29

30 Pompeo: And that's... and Madam Chair that's understood by the applicant that it
31 doesn't matter how we package it up there's... that we can't meet the
32 requirements of the design standards for an outright waiver to get staff's
33 approval.
34

35 Rodriguez: Okay. I just wanted to explore that option because I know it will be an
36 anticipated question before the Planning and Zoning Commission and most
37 likely before City Council if it's appealed to Council. The next question I
38 have, is the zone change request allowed for the additional structure to be
39 placed on the subject property?
40

41 Pompeo: That is correct:
42

43 Rodriguez: Okay. So now you're subdividing the property and that condition still...
44 you're allowed the additional unit. So my question is now, is the
45 subdivision of this property to allow for three dwelling units or is there going
46 to be two dwelling units?

- 1
2 Pompeo: No, the... no the zoning code... the zoned variance allowed to have the
3 second unit in place and so if you go out there today you'll see that house,
4 that second house is actually under construction or almost finished right.
5 The problem came up with their permanent financing and their new lender
6 not... they're not going to accept... they want their own piece of property for
7 the home to sit on. So, and I would be willing to make any notes to the plat
8 to make it clear that we're only looking at one dwelling unit on one lot
9 should the subdivision be approved.
- 10
11 Rodriguez: Okay. I would make that recommendation that the additional language be
12 placed on the final plat.
- 13
14 Pompeo: Madam Chair, would that language be similar to the note that was added
15 for the Peachtree Hills Subdivision? Mesa Village Replat No. 2. That note
16 pursuant to the City Council limited us to the number of units that could be
17 on the property and it also spelled out that if the waiver was approved it
18 would spell out of the property owner's further obligation for roadway
19 improvements and put a limitation on the splitting of the property.
- 20
21 Rodriguez: Public Works would you in agreement with that... that language? They can
22 based on the zoning designation of EE, the minimum lot size is an acre so
23 based off of the current replat of creating the 2.4 acres, they could
24 technically subdivide this parcel at a future date.
- 25
26 Reyes: Well Madam Chair it's my understanding that the notes that were placed on
27 the Mesa, what is it?
- 28
29 Pompeo: Mesa Village Replat Number 2.
- 30
31 Reyes: Mesa Village Replat Number 2 were as a result of the City Council meeting
32 and the City Councillors making those comments and formulating or
33 suggesting I guess wording for those notes or something be placed to the
34 you know to the affect of what Paul just read. So I think to put them on the
35 plat at this point would be premature because I think it needs to go through
36 the process and to determine what's going to happen if its... if we say no
37 here at DRC and it go... as a recommendation and it goes through to City
38 Council, I think it should be you know whatever notes or whatever
39 requirements are placed on this plat at that time then should be placed on
40 the plat but not at this point.
- 41
42 Rodriguez: Are there any additional comments about that from the body?
- 43
44 Johnson: Mark Johnston, Facilities. In light of that explanation from Loretta, I support
45 that also.
- 46

- 1 Rodriguez: With that, are there any additional comments regarding the waiver request
2 or the subdivision replat itself?
3
- 4 Hume: Madam Chair this is Andy from the MPO. Since we suspended the rules to
5 discuss the two... both of them together, are we going to vote on them
6 together or will we vote on them separately?
7
- 8 Rodriguez: We're going to unsuspend the rules now and vote them... on each of them
9 separately. Do I have a motion to unsuspend the rules?
10
- 11 Johnston: So moved.
12
- 13 Reyes: Second, Loretta Reyes.
14
- 15 Rodriguez: Okay, the first case that we're going to consider is the waiver request to the
16 subdivision replat. Do I have a motion to approve the waiver request for no
17 road improvements to Tucson Avenue for as a Minor Local roadway for
18 approximately 2300 feet from the subdivision boundary to the intersection
19 of Del Rey Blvd.?
20
- 21 Hume: So moved, Andy Hume.
22
- 23 Montoya: Second, Meei Montoya.
24
- 25 Rodriguez: Go around the table. Fire?
26
- 27 Dubbin: Approved.
28
- 29 Rodriguez: MPO.
30
- 31 Hume: No.
32
- 33 Rodriguez: Facilities.
34
- 35 Johnston: Mark Johnston, Facilities. No.
36
- 37 Rodriguez: Utilities.
38
- 39 Montoya: No.
40
- 41 Rodriguez: Public Works.
42
- 43 Reyes: No.
44

- 1 Rodriguez: Community Development votes no. The next item for consideration would
2 be the final plat, itself. Do I have a motion to approve the Case S-09-032,
3 EBL&T Subdivision C, Replat No. 35?
4
- 5 Dubbin: So moved.
6
- 7 Johnston: Second.
8
- 9 Rodriguez: Any further discussion on this item? With the waiver request
10 recommending denial, the waiver request per the regulation set forth in City
11 design standards, a 100% waiver request has to be forwarded up to City
12 Council so the next stop will be P&Z and then City Council for the waiver
13 request. P&Z retains final authority for the final plat, itself. Is there any
14 discussion or conditions that need to be attached since you're
15 recommending no on the waiver request but this is also recommending for
16 a final plat approval.
17
- 18 Johnston: Madam Chair, point of clarification. In the EE zoning that has a minimum
19 lot size of one acre?
20
- 21 Rodriguez: One acre.
22
- 23 Johnston: Okay, so thank you.
24
- 25 Rodriguez: Any further discussion?
26
- 27 Reyes: Madam Chair, as far as the wording, I mean if this... if DRC approves...
28 recommends approval of this case, how is it affected then by the denial of
29 the waiver? I mean do we have to add some type... Are you asking for
30 some type of wording with regard to that as a condition?
31
- 32 Rodriguez: Ideally what will happen is the waiver request is being recommended for
33 no. If the final plat is consistent with the City design standards and all other
34 policies then if the waiver request gets turned down, the applicant will be
35 responsible for building the road. So a question would be, we could add
36 the condition, this body could recommend the condition be placed that if the
37 waiver request was denied that the approval of the subject, of the final plat
38 is contingent upon approval of the waiver request at City Council or... that's
39 the concern about putting the waiver and the final plat together. The
40 applicant doesn't want to separate the two? They want to go forth to public
41 hearing and do both?
42
- 43 Pompeo: Well they... Paul Pompeo with Southwest Engineering. I think you can
44 already see that there's a house built there. So what we're willing to do is
45 to say we'd like to go forward with approval of the plat. If the waiver gets
46 denied then I think that puts... doesn't that then Madam Chair go back and

1 say then in order to file the final plat you have to meet all the other
 2 requirements which is construction drawings and all the other things that
 3 will go along with the road.
 4

5 Rodriguez: I just thought of this. Would the applicant be opposed to adding the
 6 condition that the... that the final plat be considered in tangent with the
 7 waiver request by the City Council; they hear them together. That'd be the
 8 cleanest way for your applicant, for the applicant.
 9

10 Pompeo: Well, let me... Clarification Madam Chair. If we go to the Planning and
 11 Zoning Commission in August and the subdivision gets approved and
 12 regardless of what happens to the waiver, the next step is at that body, the
 13 next step is the City Council. So we would just be sitting with an approved
 14 final plat waiting on the outcome of the waiver request then, correct?
 15

16 Rodriguez: Outcome of the waiver request to build or not build the road.
 17

18 Pompeo: Right. So we have P&Z approval of the plat but we can't really do anything
 19 with it until we get out of the City Council meeting. Is that what you're
 20 suggesting? When you say take both to City Council, you're not talking
 21 about taking the plat because the plat's not going to City Council.
 22

23 Rodriguez: DRC can make that recommendation that the plat be considered before the
 24 City Council because of the waiver request.
 25

26 Montoya: I have a comment. You know I'm just thinking that what are we trying to
 27 accomplish here? Are we trying to attach a condition to their plat so that if
 28 for some reason the P&Z vote down on the waiver then this final plat
 29 cannot go forward until construction drawing is received? So, I think that
 30 why would the final plat be approved and the waiver you know we still have
 31 to wait on the waiver, what is, I mean it seems like on the timing wise it
 32 won't happen, would it? It's just a question I just don't know what we are
 33 trying to accomplish in here.
 34

35 Pompeo: Paul Pompeo with Southwest Engineering. What I was trying to
 36 accomplish was not having to take... go to Planning and Zoning, discuss
 37 the waiver at that body, wait to get scheduled for City Council. If City
 38 Council approves the waiver, then you have to get scheduled back for
 39 another Planning and Zoning meeting so basically this two lot split with a...
 40 and I mean I know that to me it's a simple waiver because it's just an
 41 outright waiver so we're not debating about percentages or things like that.
 42 That to do a two lot split, I have to wait six months of delays and public
 43 hearings. So my thought was to expedite it on behalf of my client. We go
 44 to Planning and Zoning regardless of what Planning and Zoning votes on
 45 the waiver, up or down, it still has to go to the City Council. So we would
 46 get an approval of the final plat, is what I'm assuming is going to happen at

1 Planning and Zoning and then approval waits for the condition just like any
 2 other plat of either build it, waiver it or put the money up for it. So, that
 3 means by September hopefully that this case is resolved rather than
 4 waiting to go into October or November for final approval.
 5
 6 Rodriguez: Andy.
 7
 8 Hume: Madam Chair, I think that since the sorta the checks and balances are
 9 already in place as outlined by the applicant. I think it's appropriate for us
 10 to recommend approval or denial of this replat and let it go through to P&Z
 11 and not worry about whether we have to re-hear it again at City Council if
 12 the applicant's willing to wait on City Council for the outcome of the waiver
 13 if that's necessary.
 14
 15 Rodriguez: Okay.
 16
 17 Pompeo: And we are.
 18
 19 Rodriguez: Okay, then on that we have a motion to approve on the table. So we'll go
 20 around the table, Fire?
 21
 22 Dubbin: Approved.
 23
 24 Rodriguez: MPO?
 25
 26 Hume: Yes.
 27
 28 Rodriguez: Facilities.
 29
 30 Johnston: Facilities, yes.
 31
 32 Rodriguez: Utilities?
 33
 34 Montoya: Yes.
 35
 36 Rodriguez: Public Works?
 37
 38 Reyes: No.
 39
 40 Rodriguez: Community Development will vote no. So...
 41
 42 Pompeo: Three two?
 43
 44 Rodriguez: You have a recommendation for approval for the final plat to the Planning
 45 and Zoning Commission tentatively scheduled for the August hearing with
 46 the waiver. Okay?

1
2 Pompeo: Can I ask a question Madam Chair? It seems to me that on this note, the
3 one that we discussed with Peachtree that... I mean that I'd like to have,
4 rather than going to the Council meeting which we did and there was a lot
5 of discussion about how the wording should be. Can I add that note with
6 the condition that if the City Council and make it clear, if the City Council
7 were to approve the waiver, that the applicant is willing to attach the
8 following condition to the plat and then reword the note making it applicable
9 to this subdivision so that staff has a chance to review the wording rather
10 than it being... rather than trying to sort it out at the Council hearing itself.
11

12 Rodriguez: Go ahead and submit that request in writing and what we'll do is you can
13 make that request to the Planning and Zoning Commission at that time,
14 officially on record.
15

16 Pompeo: Okay.

17
18 Rodriguez: Okay?
19

20 **V. ADJOURNMENT (9:35 am)**
21

22 Rodriguez: And on that note do I have a motion to adjourn?
23

24 Hume: So moved, Andy.
25

26 Reyes: Second, Loretta Reyes.
27

28 Rodriguez: We are adjourned.
29
30
31
32
33
34

35 _____
Chairperson

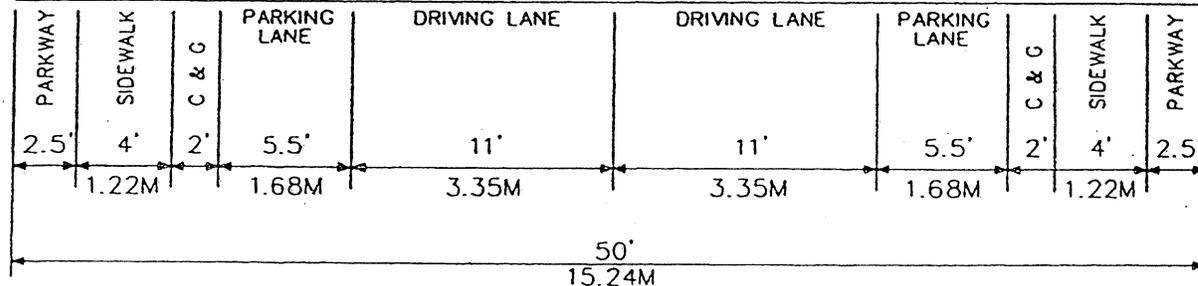
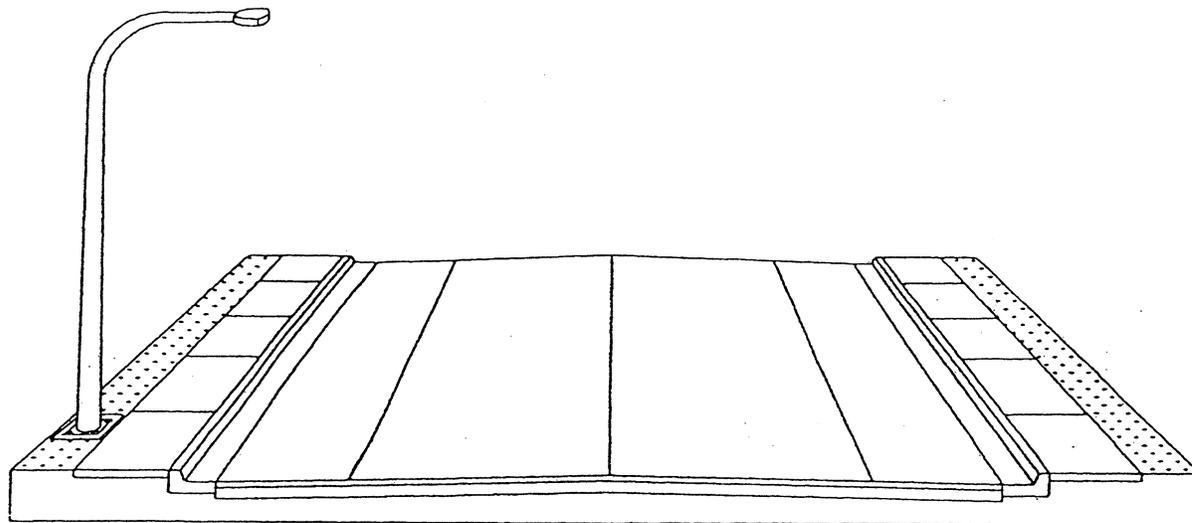
City of Las Cruces

DESIGN STANDARDS

MINOR LOCAL - 2

ON-STREET PARKING WITH CURB & GUTTER

R.O.W. WIDTH: 50 FT. (15.24M)
 DESIGN SPEED: 25mph (40kph)



- NOTES:
1. ALL CURB RETURNS SHALL BE STAND UP CURB & GUTTER (TYPE A, B, C, or D).
 2. SIDEWALKS SHALL BE CONSTRUCTED ACCORDING TO SECTION 2.2 SIDEWALK REQUIREMENTS.
 3. SIGNAGE AND PAVEMENT MARKINGS SHALL BE REQUIRED IN ACCORDANCE WITH THE MUTCD.

(e) *Conflict within this chapter.* When two or more provisions of this chapter are conflicting, the most restrictive provision shall apply.
(Ord. No. 949, § 1.5, 9-8-87; Ord. No. 1224, § 1, 3-18-91)

Sec. 32-6. Violations; penalties.

(a) *Violations.* The definition of "violation of this Code" set out in subsection 1-10(a) is hereby adopted to apply to acts or failures to act in accordance with the requirements of this Code and such definition is incorporated in this section by reference as if set out in full at this place.

(b) *Penalties.* The municipal court may impose a fine for each offense, not to exceed \$300.00, for each day the violation is found to have occurred. In addition to any fines thus imposed, the municipal court is authorized to issue orders of the court to remove structures or take other actions to abate, remove or bring into compliance any violation of this chapter. Failure to comply with any such orders for removal or other judgments of the municipal court, including failure to pay fines previously imposed, shall constitute a contempt of court and may be separately punished at the discretion of the municipal court.

(c) *Other remedies.* Nothing in this section shall limit the city from seeking other remedies at law or equity to enforce this chapter.
(Ord. No. 1158, § 1.6.A--C, 7-2-90)

Secs. 32-7--32-35. Reserved.



ARTICLE II.

STANDARDS FOR PUBLIC RIGHTS-OF-WAY

Sec. 32-36. City streets.

(a) *Purpose of this article.* The purpose of article II is to provide information for the establishment of public rights-of-way. This involves right-of-way requirements and general design specifications for city streets, design criteria for sidewalks, and specifications for the installation of street lights. General information regarding utility improvements is also provided. These shall be considered the minimum standards and nothing shall prevent the engineering review committee or the development review committee from imposing greater standards to achieve the purposes outlined in section 32-3 of these design standards.

(b) *Right-of-way and roadway requirements for city streets.* It shall be the policy of the city that major thoroughfares, collectors and arterials with medians, be built from the outside edge of the right-of-way in towards the center. This prevents the dismantling of previously constructed infrastructure in order to accommodate future street improvements such as widening. The location of collector and arterial streets shall

be generally guided by the MPO transportation plan and specifically located as development occurs. Coordination between the city staff, development review committee and the developer will occur to provide the appropriate classification and alignment of all major and minor roadways within and abutting developments to encourage appropriate and efficient transportation circulation patterns.

A subdivider shall be responsible for 100% of the street improvements within the boundaries of the subdivision. When improvements are required on streets adjacent to a subdivision or property boundaries as indicated by street classification, as determined by the MPO transportation plan, transportation element of the comprehensive plan and/or the development review committee, the subdivider shall provide the following street improvements or pay for the cost of these improvements to the city:

Adjacent Street Classification	Street Improvement Requirements
Low Density Local	full street section
Minor Local	full street section
Major Local	1/2 street section, including sidewalk, curb and gutter
Collector	1/2 street section, including sidewalk, curb and gutter
Minor Arterial	1/2 street section, including sidewalk, curb and gutter
Major Arterial	1/2 street section, including sidewalk, curb and gutter

Access requirements for subdivisions shall consist of the following:

- (1) Minimum access to the subdivision shall be from a dedicated and accepted public right-of-way. In instances where the access to a subdivision is unimproved it shall be the responsibility of the subdivider to construct a minor local roadway from the subdivision boundary to the nearest paved public roadway. If the roadway to the proposed development is classified as a major thoroughfare by the MPO transportation plan (e.g., a collector or arterial), the developer shall provide the equivalent of a minor local roadway, designed and constructed to a cross section approved by the city from the boundary of the subdivision to the nearest paved public roadway.
- (2) Access to lots within a commercial or industrial subdivision shall be from either a dedicated and accepted improved public right-of-way or an improved access established by a 50 foot (15.24m) wide permanent private road and/or access easement. Exceptions to allow a narrower lot access may be considered by the DRC.

- (3) Access to lots within a residential subdivision shall be from a dedicated and accepted improved public right-of-way.

All developing parcels of real property shall include a minimum of 50 percent of the necessary additional right-of-way to conform to the MPO transportation plan for all roads classified major local and above. 100 percent of the required right-of-way shall be required for low density and minor local streets. A permanent right-of-way easement may be granted in lieu of dedicated right-of-way. The decision to accept a permanent easement in lieu of dedicated right-of-way rests with the development review committee. The development review committee may waive all additional right-of-way requirements in instances where expansion of a specific roadway is neither feasible nor planned.

The following cross-section (14 pages) provide the requirements for right-of-way, paving width, parkways, and general use criteria for all acceptable city street classifications. Deviations or modifications to design may be acquired through the engineering review committee.

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ARTICLE XI.

WAIVER OF REGULATIONS

Sec. 37-332. Waivers.

In the case of a particular proposed subdivision, whenever it can be shown that strict compliance with the requirements of this chapter would result in a substantial hardship to the subdivider because of exceptional topographic, soil or other surface or sub-surface conditions, or that such conditions would result in inhibiting the objectives of this code, the planning and zoning commission may vary, modify, or waive nonengineering-related requirements up to 15 percent of the required standard. Furthermore, any proposal containing three or more planning-related waivers shall be processed via the planned unit development process. The subdivision administrator may waive submittal requirements of this chapter. A waiver of engineering submittal requirements shall require the concurrence of the public works director. The public works director and the utilities director may vary, modify or waive engineering-related requirements as applicable and appropriate. No variance or waiver shall be allowed when such waiver is requested because the goals and objectives of the drainage section of the city's design standards are not being met. For example: A waiver shall not be granted if the developer is designing a drainage system that transfers problems from one location to another, that does not provide protection against regularly-occurring damage, or that creates major property damage or loss of life from runoff expected in a major storm event. Also, no waiver shall grant any variation or modification contrary to the mandatory requirements of state law.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-333. Waiver procedure.

- (a) Whenever the subdivider desires to request a waiver or variance from any nonengineering-related requirements of this chapter, the subdivider shall submit, in writing, the request for waiver at the time of master plan submittal or preliminary plat submittal, or at the time that a replat or an alternate summary processed subdivision is submitted. The request for waiver shall include, in detail, the reasons for supporting such a request.
- (b) The subdivision administrator shall schedule the requested waiver to be reviewed by the development review committee. The development review committee shall review the waiver request and recommend to the planning and zoning commission to approve, disapprove, or modify the waiver request.
- (c) The planning and zoning commission shall review the recommendations of the development review committee and approve, disapprove, or modify the waiver request. Any waiver requests greater than 15 percent of the required standard shall be forwarded to the city council with a recommendation by the planning and zoning commission that the waiver be either approved or denied. Any proposal requesting three or more planning-related waivers shall be processed via the planned unit development procedures and shall require city council approval.
- (d) When a proposal with waiver(s) requiring city council approval is submitted, the

planning and zoning commission will review the proposal and provide a recommendation for approval or denial to the city council. The case will be forwarded to the city council for action.

- (e) The city council shall review the proposal and recommendations from the planning and zoning commission. Action by the city council shall be in the form of approval, denial, or modification. Action by the city council shall be recorded in the minutes of the meeting. An affirmative vote by four members of the city council is required for approval of a proposal. A copy of the city council notice of decision that includes any changes or conditions, as done at the public hearing, shall be furnished to all of the parties stated above in accordance with section 37-11(b).
- (f) Specifications or supplementary data required by this chapter for a master plan, a preliminary plat or a final plat may be waived whenever such specifications or data are determined by the planning and zoning commission to be unnecessary for the consideration of the plat.

Whenever the subdivider desires to request a waiver or variance from any engineering/utility requirements of this chapter, the subdivider may submit, in writing, to the subdivision administrator, the request for waiver at any time during the subdivision process. It is recommended that engineering-related waivers be submitted as early in the process as possible to avoid unnecessary delays. The request for waiver shall include, in detail, the reasons for supporting such a request.

The subdivision administrator shall submit the requested waiver to either the public works director or the utilities director, as applicable. Upon receipt of the request, the public works director or the utilities director shall meet with the development review committee at the next scheduled meeting to discuss the waiver request(s). The public works director or the utilities director, after consultation with the DRC, shall render a decision on the waiver or variance request within three business days.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-334--37-359. Reserved.

ARTICLE XII.

CONSTRUCTION STANDARDS

Sec. 37-360. General provisions.

(a) Construction of all subdivisions (public and private improvements) within the corporate limits of the city shall conform to all applicable sections of the documents listed below.

The regulations, policies and provisions governing the construction of required improvements include, but are not limited to, the following documents, as amended:

- (1) City comprehensive plan;
- (2) City zoning code (chapter 38, LCMC);
- (3) City design standards (chapter 32, LCMC);
- (4) MPO transportation plan;
- (5) Stormwater management policy plan;
- (6) Bicycle facilities and systems master plan;
- (7) City standard specifications for road construction;
- (8) Building code (chapter 30, LCMC);
- (9) City standard specifications for water, sewer, and gas utilities;
- (10) Any and all other rules, regulation, and policies adopted by the city governing construction standards.

(Ord. No. 1798, § I, 6-19-00)

through the development/redevelopment process as identified on final plats.

- Local streets may be used for alternate and emergency access to residential subdivisions.
- Cul-de-sacs in residential areas may not exceed more than 1500 feet in length and provide access to more than 50 dwelling units.

g. Private Streets:

- Not publicly maintained.
- Access shall be permitted for each individual property, provided traffic safety is maintained.
- Intersections should maintain a minimum spacing of 125 feet and meet at no less than a seventy degree angle.
- The allowance of on-street parking shall be subject to and determined through the subdivision process as identified on final plats.
- Private streets may be used for alternate and emergency access to residential subdivisions.
- Cul-de-sacs in residential areas may not exceed more than 1500 feet in length and provide access to more than 50 dwelling units.

→ Objective 3: Provide a guide for consistent construction and right-of-way specifications and practices on all roadways regardless of classification.

Policies:

- 3.1 All streets should have an asphaltic concrete pavement designed according to 20 year forecasted traffic volume of both cars and heavy vehicles. However, where high turning volumes are expected, portland cement concrete may be used in those areas.
- 3.2 All new streets should be constructed from the outside travel lanes toward the inside median so that sidewalks, curbs, and lighting may be put in place at time of initial construction.

- 3.3 Curb and gutter should be used to channelize traffic and storm water run-off. Roll-over type curbing may be used in low density residential areas.
- 3.4 A concrete header curb should be installed at locations susceptible to erosion and/or asphalt degradation if an area is to remain undeveloped for a period of two years.
- 3.5 Upon approval by the Development Review Committee, temporary asphalt curbs may be used where planned and programmed street expansion would necessitate the curb's relocation within a specified time frame.
- 3.6 A 10-year storm event may be accommodated at the curb not extending into the street beyond the outer lane of travel. If a bike lane is present, alternate means of storm water conveyance or street design free of storm water conveyance may be necessary to accommodate bicyclists. A 100-year storm event may be accommodated in the outside travel lane.
- 3.7 Every effort shall be made to strategically locate manholes and drainage grates to minimize inconveniences to motorists and bicyclists. Utilities will be placed within the right-of-way but not necessarily under the travel lanes.
- 3.8 Sidewalks should be placed on each side of a street built to the Americans with Disabilities Act (ADA) standard with wheelchair ramps at each intersection.
- 3.9 Street lighting should consist of high pressure sodium vapor street lighting with shielded, fully enclosed, non-polluting light fixtures. Light standards may be of those approved by a specific plan adopted by the City.
- 3.10 Standardized signalization shall be used by the City or of a design specifically approved by the City Traffic Engineer for a specific area.
- 3.11 All signage and traffic control devices must conform to the Manual on Uniform Traffic Control Devices and/or City standards.
- 3.12 Traffic control boxes, meters, drainage grates, light standards, pedestrian shelters, etc. should be placed to avoid conflict with sidewalks, bike facilities, and clear sight triangles.
- 3.13 Fences and/or walls should be placed to avoid conflict with sidewalks and bike facilities and screened with vegetation, paint, etc., as called for in the Urban Design Element of the Comprehensive Plan.

- 3.14 At intersections of differently classified streets, the design standards of the higher classified street shall supersede those of the lower for the intersection's design.
- 3.15 All street layouts must be appropriately designed for topography, design speed, classification, projected traffic volume, traffic composition and surrounding land uses.
- 3.16 Developers/subdividers are responsible for construction on-site and adjacent improvements as required by these policies. Builders are responsible for constructing sidewalks, and if not yet installed, curbs and gutters at the time of building construction.
- 3.17 Developers/subdividers are responsible for their pro-rata share of off-site improvements as determined by a traffic impact study for such improvements necessitated by the development of their property. Such off-site improvements shall include structures or facilities required along existing roadways or other transportation facilities. If such roadways or other facilities are planned but not built, a payment in lieu of physical improvements may be given and applied toward its future construction.

Objective 4: Build attractive and functional roadways;

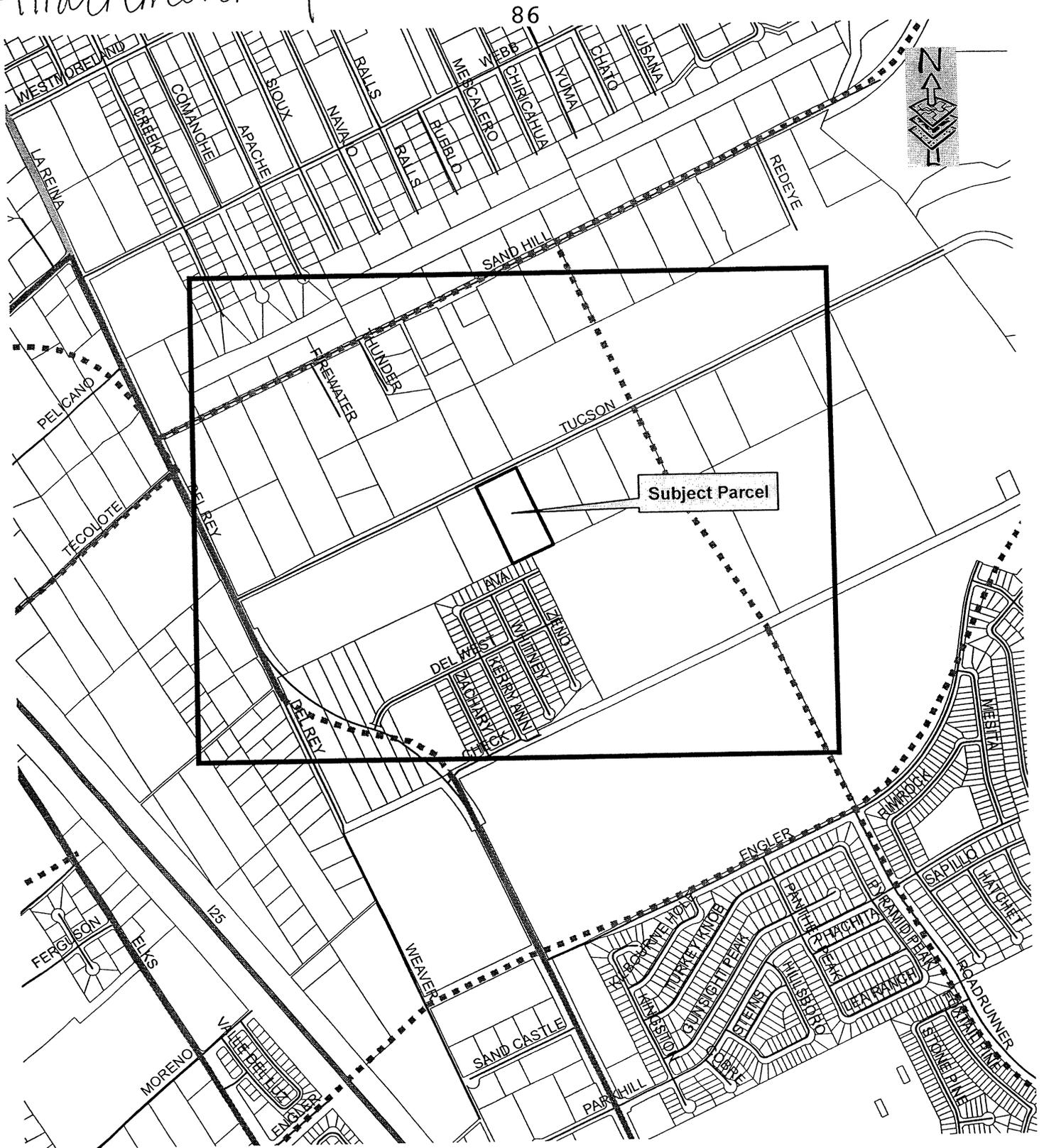
Policies:

4.1 Landscaping should:

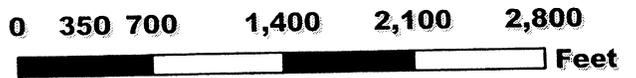
- maximize the visibility within a clear site triangle
- be compatible with and not damage other facilities (i.e.; root damage on sidewalks)
- maintain a consistent theme within a sector of the city to be determined by the Urban Design Element of the Comprehensive Plan
- be allowed within drainage facilities
- be provided if parking lot driving aisle reductions and parking spaces are designated for compact vehicles provided the changes do not create additional congestion at the site's access point(s) to adjacent streets
- encourage the use of "drought tolerant" vegetation to support the City's water conservation ordinance
- be watered through automatic irrigation unless native (low intensity water use) plants are used as approved by the City Landscape Architect

- 4.2 "Adoption" of medians is encouraged for civic groups, clubs, religious organizations, and businesses. This may include taking over maintenance of existing medians or their initial preparation and planting.

Attachment 9



CASE NO. S-09-032 and S-09-032W
PARCEL: 02-20749
OWNER: LINDA ANN GARZA
ZONING: EE



This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the Community Development Department at (505) 528-3043.

Community Development Department
575 S Alameda Blvd.
Las Cruces, NM 88001
(505) 528-3222

MEETING OF PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
August 25, 2009 at 6:00 p.m.

BOARD MEMBERS PRESENT:

Charles Scholz, Chairman
Shawn Evans, Member
Charles Beard, Member
Ray Shipley, Member

BOARD MEMBERS ABSENT:

Godfrey Crane, Vice Chair
Donald Bustos, Secretary

STAFF PRESENT:

Cheryl Rodriguez, Development Services Administrator
Gary Hembree, Senior Planner
Adam Ochoa, Associate Planner
Helen Revels, Associate Planner
Jennifer Roberston, Planner
Robert Gonzales, Las Cruces Fire
Jared Abrams, CLC Legal Staff
Becky Eich, Recording Secretary

I. CALL TO ORDER 6:00

Scholz: Good evening, and welcome to the Planning and Zoning Commission meeting for August 25, 2009. I'm Charlie Scholz, I'm the Chair. I want to introduce the other members of the Commission who are here with us today. On my far right, Ray Shipley, Commissioner, he is the Mayor's appointee. Next to him is Commissioner Shawn Evans. He represents council district 5. Sitting next to me is Commissioner Charles Beard, who represents council district 2. And I represent council district 6.

Before we begin our regular meeting, we have a special tribute that we'd like to do. I'd like to take a minute to honor a colleague of ours, Clayton Iserman. Mr. Iserman passed away last month. He was a Commissioner representing council district 1. From the time he joined the Commission in 2008, Clayton participated by asking good questions and giving thoughtful comments on the cases he reviewed. I especially appreciated his knowledge and interest in his neighborhood. It was a perspective that was very helpful in our deliberations. And he was a really nice guy. A memorial service for Clayton Iserman will be held Sunday, August 30th, that's this coming Sunday, at 11:00 a.m. at the La Paz Graham Funeral Home, 555 W. Amador. Clayton you will be missed.

1 Would you please join me in a moment of silence to honor his memory?
2 Thank you.

3
4 Scholz: Now too often we overlook the people who help make these meetings
5 possible. These are the folks who keep our minutes, monitor the sound
6 system and televise the proceedings. So today I'm going to mention them,
7 after all we shouldn't just wait until they pass away. I think we should
8 mention them while they're with us, right? So, let me introduce you to
9 Becky Eich who is our recording secretary. In the back, Ed Garcia runs
10 the sound system. There he is, nice shot. And Dominic Aragon and
11 Adrian Guzman handle the television duties. I want to note especially that
12 Dominic and Adrian are tele-award winners. They got these awards for
13 their public service announcements that they produced. So I think you
14 want to give them all a round of applause. And finally, you see many of
15 the members of the Community Development staff. They come up and do
16 presentations and they talk with you individually about variances and the
17 things that you're working on. One of those members is no longer going to
18 be appearing before us. Tom Schuster, Senior Planner with Community
19 Development has been chosen to be the Sustainability Officer for the City
20 of Las Cruces. You may have seen that announcement in the paper or on
21 the news. I saw Tom at the market on Saturday and congratulated him on
22 his promotion and I told him I was conflicted about it. I knew he was the
23 best candidate for the job, but I was sorry that he was leaving Community
24 Development. So I'd like to give him, even though he's not here, give him
25 a round of applause and thank him for the many contributions (*inaudible*).
26 Thank you very much.

27 28 II. APPROVAL OF THE P&Z MINUTES - July 28, 2009

29
30 Scholz: Okay, back to our regular business which is the approval of the minutes. I
31 must confess gentlemen I skimmed through these. I wasn't present at the
32 last meeting. We got, was it 88 pages? Okay, are there any additions or
33 corrections? Commissioner Beard, you're warming up? Okay. Any
34 additions or corrections? None. All right. Can I have a motion to accept
35 the minutes?

36
37 Beard: So moved.

38
39 Shipley: Second.

40
41 Scholz: It's been moved and seconded. All those in favor say aye.

42
43 ALL COMMISSIONERS - AYE.

44
45 Scholz: And those opposed same sign. And I will abstain. So it passes three to
46 one.

47

1 **III. POSTPONEMENTS**

- 2
- 3 1. **Case PUD-09-01:** A request for a major amendment to the Los Contentos
 4 Planned Unit Development (PUD) concept plan encompassing 13.20 +/-
 5 acres located west of Del Rey Boulevard and north of Mars Avenue. The
 6 subject properties are zoned R-4 (Multi-Dwelling High Density & Limited
 7 Retail and Office) and C-2 (Commercial Medium Intensity). The applicants
 8 are requesting for a reduction of rear yard setbacks from fifteen (15) to ten
 9 (10) feet and a reduction of minimum lot size to 1,800 square feet for the
 10 northern portion of phase III and the entire undeveloped phase IV. The
 11 applicants are also requesting for the conversion of phase IV from single-
 12 family residential to multi-dwelling development in compliance with the density
 13 requirements for the R-4 (Multi-Dwelling High Density & Limited Retail and
 14 Office) zoning district. Submitted by Thomas Test and Dan Dolan.
 15 **POSTPONED TO SEPTEMBER 22, 2009.**

16
 17 Scholz: Our first item of business is postponements. Mr. Hembree.

18
 19 Hembree: Chairman, Commissioners. Yes, postponement Case PUD-09-01 will be
 20 postponed to date certain September 22, and we will re-notice that
 21 particular case.
 22

23 Scholz: Okay. And we have to vote on that, don't we? Is that right? Yes. Okay.
 24 I'll entertain a motion to postpone Case PUD-09-01.
 25

26 Shipley: I move that we postpone subject case.
 27

28 Scholz: Second.
 29

30 Beard: Second.
 31

32 Scholz: All those in favor say aye.
 33

34 **ALL COMMISSIONERS - AYE.**
 35

36 Scholz: Those opposed same sign. It passes. Thank you. It's postponed; Case
 37 PUD 09-01 postponed to September 22, 2009. And Mr. Hembree you
 38 said it will be resubmitted ... it will be noticed again, right? Yes, okay.
 39 Good.
 40

41 **IV. WITHDRAWALS**

- 42
- 43 1. **Case No. SNC-09-01:** A City of Las Cruces initiated street name change
 44 from Del Rey Boulevard to Check Court for a 910 +/- foot section of roadway
 45 that runs east-west and from Del Rey Boulevard to Weaver Trail for 1,575 +/-
 46 foot section of roadway that runs north-south between Check Court and
 47 Tucson Avenue. The realignment of Del Rey Boulevard has initiated the

street name changes. Submitted by the City of Las Cruces.

2.
3. **Case A1696:** A request for a variance from the required minimum public
4. right-of-way for a property located at 1304 W. McFie. A religious institution
5. must be located on a major local or higher designated roadway with a
6. minimum of sixty (60) feet of public right-of-way. The applicant is seeking a
7. variance to allow the continued use of the subject property as a religious
8. institution on an existing local roadway with only thirty (30) +/- feet of public
9. right-of-way. The subject property's right-of-way is twenty (20) +/- feet
10. smaller than the required minimum width for the public right-of-way. The
11. subject property is zoned C-2 (Commercial Medium Intensity) and
12. encompasses +/- 0.15 acres. Submitted by property owners Martha Mahle
13. and Saul Estupinan.

15. Scholz: Now any withdrawals? I see one here, that's Case number SNC-09-01, a
16. name change. Mr. Ochoa.

18. Ochoa: Good evening gentlemen. Correct, there are two withdrawals on the
19. agenda tonight.

21. Scholz: In addition to the one that's already listed?

23. Ochoa: Currently there are two withdrawals and in addition there is one more on
24. top of that.

26. Scholz: Okay.

28. Ochoa: First withdrawal of course is Case number SNC-09-01, and Case A1696.

30. Scholz: Okay.

32. Ochoa: The third withdrawal would be under old business, Case Z2786, will be
33. withdrawn as well.

35. Scholz: Okay. Case Z2786 is a request for a zone change from R-1a to R-3 on
36. five +/- acres located west of Holman Road and north of Village Drive. If
37. you are interested or had an interest in that case, that has been
38. withdrawn. And I assume that the developer will reapply. We don't know.

40. V. CONSENT AGENDA

42. Scholz: All right, there are no items on the consent agenda.

44. Ochoa: Excuse me, but you have to amend the agenda for that sir.

46. Scholz: You're right. Okay, do we just withdraw it then?

1 Shipley: Yes.

2

3 Scholz: So you go away for a month and you get confused.

4

5 Rodriguez: Mr. Chairman, Cheryl Rodriguez. What you do is go ahead, have a
6 motion to amend the agenda as noted with the withdrawal of Case Z2786
7 and then we'll have a motion and a vote. Thank you.

8

9 Scholz: Thank you. So I'll entertain a motion.

10
11 Shipley: I move to amend the agenda to have Case Z2786 placed under the
12 withdrawal category.

13

14 Scholz: Okay. Is there a second?

15

16 Evans: I second.

17

18 Scholz: Okay, it's been moved and seconded. All in favor say aye.

19

20 ALL COMMISSIONERS - AYE.

21

22 Scholz: Those opposed same sign. All right the agenda is amended.

23

24 VI. OLD BUSINESS

25

26 1. **Case Z2786:** A request for a zone change from R-1a (Single-Family Medium
27 Density) to R-3 (Multi-Dwelling Medium Density) for 5 +/- acres located west
28 of Holman Road and north of Village Drive. The zone change will facilitate
29 the construction of a sixty (60) unit apartment complex and a child care center
30 having a gross floor area of 10,000 +/- square feet. Submitted by Summit
31 Engineering for Johnny D. Tapia & Mary Helen B. Tapia, property owners.

32

WITHDRAWN.

33

34 VII. NEW BUSINESS

35

36 1. **Case A1699:** A request for a variance to allow four on-premise development
37 identification signs, to allow for the use of directional signs, and to allow for
38 the use of information signs on the wall situated on North Campo Street for
39 properties identified as the Thomas Branigan Memorial Library, the Albert C.
40 Johnson Park, and the new City Hall located at 700 North Main Street and
41 200 East Picacho. The subject properties are situated along four street
42 frontages identified as North Main Street, East Picacho Avenue, North Church
43 Street, and North Campo Street. The subject properties encompass 11.55 +/-
44 acres and are zoned CBD (Central Business District). A portion of the subject
45 properties along North Main Street are situated within the Main Street Overlay
46 Zone. The type of signage permitted within the CBD is on-premise attached
47 signage. The intent is to create a campus facility and the proposed types of

1 signs will identify the facilities on the campus and direct the public
2 accordingly. Submitted by the City of Las Cruces.

3
4 Scholz: All right, our first case of new business is Case A1699, a request for
5 variance to allow four on premises development identification signs. And
6 who's up here? Mr. Ochoa, you're the sign man, aren't you?

7
8 Ochoa: Yes, sir.

9
10 Scholz: Go ahead.

11
12 Ochoa: For the record, Adam Ochoa for Community Development. First case
13 tonight gentlemen is Case A1699, it's a request for a variance to allow four
14 on premise development identification signs as well as to allow the use of
15 directional signs and to allow for the use of information signs on a wall
16 situated on N. Campo Street for properties identified as Thomas Branigan
17 Memorial Library, the Albert C. Johnson Park, and the new City Hall
18 located at 700 N. Main Street and 200 E. Picacho. Submitted by the City
19 of Las Cruces.

20 Under code Article V, section 38-43G of the Zoning Code as
21 amended basically states the type of signs permitted in the CBD which is
22 what these properties are zoned under basically all it states is the only
23 type of signage allowed in the Central Business District are attached
24 signs. Freestanding signs are not a permitted type of sign in the Central
25 Business District. The properties like I said are zoned CBD which is
26 Central Business District and Main Street Plaza Overlay Zone. The
27 subject properties encompass about 11.55 acres and are the current
28 location of the Thomas Branigan Memorial Library, the Albert C. Johnson
29 Park, and the new City Hall. The applicant is requesting a variance to
30 allow the installation of four freestanding development identification signs,
31 allow the use of freestanding directional signs, and to allow the use of
32 information signs on the wall situation on N. Campo Street.

33 The applicant has stated that the signage will be utilized to identify
34 the different areas in the newly redone campus, if you will, and to help
35 direct visitors of the campus find their way throughout the campus. The
36 applicant has also stated that there is a considerable distance that the
37 buildings on the campus are set back from the street and their entrances
38 create a kind of condition where attached signage does not allow
39 adequate identification at street level. The applicant goes on to state that
40 the four development identification signs would serve the purpose of
41 directing people on the streets accordingly to locations around the campus
42 that they desire. The applicant also stated that directional signs would be
43 used internally in the parking areas of the campus to help direct visitors to
44 different buildings, different parking areas, entrances and exits, inside the
45 campus. The applicant continues by stating that the wall mounted
46 information signs will be used to help people and employees identify the

1 correct parking area designated for them when accessing the campus
2 from Campo Street entrances and exits of course.

3 Here are some I guess sketches of what the proposed signage
4 would look like, they are following the Sign Code regulations for
5 development ID signs. Currently under the Sign Code it states the
6 development identification signs are limited to seven-feet tall and 32
7 square feet of signage. As you can see the City Hall sign itself will be
8 seven-feet tall and 29 square feet. There will be two Thomas Branigan
9 Memorial Library signs which are both four-feet tall and 32 square feet in
10 signage, and one Albert Johnson Park sign, that is also four-feet tall and
11 32 square feet in signage. The identification signs on the wall are each
12 about four square feet and the proposed directional signs will also meet
13 Sign Code Standards limiting them to four-feet tall and six square feet in
14 size as well.

15 Here's a vicinity map of the subject properties if you will. As you
16 can see it's a rather large campus if you will, group of properties with four
17 street frontages; on Church Street, Main Street, Picacho, and Campo
18 Street. Here's an aerial photo of the properties with the library to the
19 northeast, the park to the northwest, and to the south would be the City
20 Hall and the parking deck area. Here's a site plan of the proposed
21 signage. Well I guess that looks black now, the black triangle on Main
22 Street would be where the City Hall sign would be situated, at that
23 entrance right there. And right across from it on the other side of the
24 entrance would be one of the library signs. The other library sign would
25 be at the entrance on Picacho as well. The park sign would be right near
26 the intersection of Picacho and Main Street where one currently exists.
27 And the information signs would be on a wall that runs along Campo
28 Street on the southeast of the properties.

29 Findings was that construction of the new City Hall along with the
30 creation of a campus with Albert Johnson Park and Thomas Branigan
31 Memorial Library contributed to the downtown revitalization effort, this in
32 turn brings potential for economic development and success to downtown
33 Las Cruces. With that, staff reviewed this variance request and
34 recommends approval based on the proceeding findings. Your options
35 tonight gentlemen are 1) to approve the variance request; 2) approve the
36 variance request with conditions determined appropriate by the Planning
37 and Zoning Commission, and 3) to deny the variance request. That
38 concludes my presentation. I stand for questions. The applicant is also
39 here if you wish to ask any questions of them.

40
41 Scholz: Wait a minute, aren't you the applicant? I mean well the City is the
42 applicant.

43
44 Ochoa: Different departments.

45
46 Scholz: Different departments, you're right. Okay. Questions for this gentleman?
47 Yes, Commissioner Shipley.

- 1
2 Shipley: Mr. Ochoa, very nice to see this. I just have two questions. The sign for
3 the City Hall that you showed just says City of Las Cruces, is it not going
4 to say City Hall so that somebody that's a new person coming to our area
5 may not be as you know familiar?
6
7 Ochoa: The applicant is here, representative for the applicant is here to go ahead
8 and comment on that. I'll leave that to him sir.
9
10 Shipley: Okay, and the second question would probably be addressed to him as
11 well is on the Library, Branigan Library sign, it looks like it's on the drawing
12 that I have, looks like it's on one side of the street, is it visible from both
13 directions? I know it's a four by eight sign, it's a pretty good size sign, but.
14
15 Ochoa: Correct. From what I believe, I'm sorry, Commissioner Shipley, from what
16 I believe the sign does run perpendicular to the street so you can see it
17 from driving on both sides, from what I've seen from the designs. I'm
18 going to let the applicant address the rest of that for you sir.
19
20 Scholz: Okay, we'll hear from the applicant. I forgot to mention this at the
21 beginning; our procedure is that the City presents the case, the applicant
22 then speaks to the case, then we open it to the public for their input, we
23 close the public discussion and the Commissioners discuss and vote. All
24 right, let's hear from the applicant.
25
26 Heltne: Good evening Commissioners. My name is Kyle Heltne, project
27 management section with the Facilities Department of the City. To answer
28 your question Mr. Shipley, we are looking to add City Hall to the main City
29 Hall sign. That has been changed with ... we have been given direction
30 from the City Council to do that after we submitted our application. I do
31 have a revised plan of that showing in the top left corner of this plan.
32
33 Scholz: Okay, does that answer your question Commissioner Shipley?
34
35 Shipley: Yes it does. Thank you very much. But the other question is the location
36 of the sign, the City Hall sign, on your map there shows it kind of at an
37 angle which is not either perpendicular or parallel to Main Street. Is that
38 correct?
39
40 Heltne: Are you looking at this sign right here?
41
42 Shipley: Yes, sir, right there.
43
44 Heltne: Yes, this ... let me get to another slide here. Mr. Chairman,
45 Commissioner Shipley, this picture shows the retaining wall that is located
46 on this corner that we are looking at of the property. This is where we will
47 be locating our letters to this retaining wall to create our sign here sir.

- 1
2 Shipley: Is that going to give you enough ... a person coming northerly on Main
3 Street, is that going give them enough time to see it, to turn in there or are
4 they going to zip right by it before they see it?
5
- 6 Heltne: That question I would have to refer to the City Architect, Tomas Mendez,
7 to answer that question.
8
- 9 Mendez: Good afternoon Commissioners. Mr. Shipley, there's a possibility that we
10 may have actually to come back and add a sign, but that would be a
11 separate application and we wanted to pursue this one. Let me scroll
12 back to the site plan. We originally had envisioned having another sign in
13 this location, but that got a little complicated because of the ongoing
14 design and construction work related to the roundabout to the traffic circle,
15 so we suspended that. We're not real sure exactly how we're going to
16 address traffic from the south until we actually get that roundabout built
17 there. Then we will see what the sight lines are. So we suspended that
18 effort, but we do envision there ... there's sidewalk here and sidewalk
19 here, and we're not real sure how all that's going to play into ... basically
20 the roundabout you can see it cuts off into here, but we at the present time
21 will not be developing ... if you draw a line, follow the cursor, we're going
22 to suspend work in this area until that roundabout is built. They obviously
23 need work to construct that ... or excuse me need work area to construct
24 that. So we're not real sure exactly how it's going to pan out. That's a
25 long answer to a short question.
26
- 27 Shipley: Well, I guess the problem I have is trying to visualize you know coming
28 from the south going north there, being able to see the sign and having a
29 sight triangle so that people pulling out can see back to the left so they
30 don't get ... we don't have an accident there on that corner. Because
31 that's the turn in to the parking lot there for the City Hall.
32
- 33 Mendez: This entrance?
34
- 35 Shipley: Yes, right there.
36
- 37 Mendez: Yes, sir, well our sign ...
38
- 39 Shipley: The way the sign is located now, it's not going to be visible from anybody
40 coming northerly on the right hand side, until they get right up beside it.
41
- 42 Mendez: North bound, that's correct. And that's why we actually would rather have
43 the sign in this area, but we want to wait until the traffic circle is
44 constructed to develop ... to find out exactly where it will work best.
45 Originally we had it planned approximately in here, but we're not sure
46 whether that will work because the traffic circle may not allow for that ...
47 for you to be maneuvering the traffic circle and looking over your right

1 shoulder to get the proper sight line. So we're still working on what the
2 best location for a sign for northbound traffic.

3
4 Scholz: All right, any other questions for these gentlemen? Okay. Thank you. Is
5 there anyone from the public who wants to comment on this issue? Okay,
6 I'm going to close it to public discussion then. Gentlemen what's your
7 pleasure? Mr. Shipley.

8
9 Shipley: I guess what my problem would be is that just looking at this plan the way
10 it's laid out, I didn't have problems with the three signs, the one sign here I
11 did have a problem with. Basically if they put a similar sign on the
12 opposite side of the entry way that would be visible and that would be
13 visible far enough out that somebody would slow down to make a right
14 turn into the parking lot. You know the way I look at this is that people that
15 go there every day are going to know that entry way is there, but you put a
16 sign farther back down near the traffic circle, that's not going to help a
17 stranger that is trying to find his way into the City Hall if they're coming
18 there. So I just thought the way this is laid out is probably not ...

19
20 Scholz: Not ideal.

21
22 Shipley: Not ideal and it's not really a workable solution for what I think we should
23 be looking at.

24
25 Scholz: Okay. Commissioner Evans, comments?

26
27 Evans: No, I think it's reasonable to you know go ahead and get the roundabout in
28 and then come back and reassess it. They plan to do something else. I
29 think it'll become obvious what the correct course will be once that stuff is
30 constructed and then like he said, he's going to come back and reassess
31 it. I think we're fine for now.

32
33 Scholz: Commissioner Beard.

34
35 Beard: No.

36
37 Scholz: No comments. Okay. We did something like this for the new museum if
38 you recall. It was again a variance of the sign location and we were very
39 concerned there about what did you call, the triangle ...

40
41 Shipley: Sight triangle.

42
43 Scholz: Sight triangle. Right, the visibility. That seemed to work out pretty well.
44 But as I recall that was a modification of a modification ultimately. So I'm
45 hoping that we'll be able to see the same thing here. So, is there a motion
46 to accept ... to approve this variance.

47

- 1 Evans: Mr. Chairman, I move that we approve Case A1699.
 2
 3 Scholz: All right, is there a second to that?
 4
 5 Beard: Second.
 6
 7 Scholz: Okay, it's been moved and seconded, I'll call the roll. Commissioner
 8 Shipley.
 9
 10 Shipley: Aye findings and discussion and site visit.
 11
 12 Scholz: Commissioner Evans.
 13
 14 Evans: Aye findings and discussion.
 15
 16 Scholz: Commissioner Beard.
 17
 18 Beard: Aye findings, discussions, and site visit.
 19
 20 Scholz: And the Chair votes aye for findings, discussion, and site visit. So that
 21 variance is approved.
 22
 23 2. **Case A1700:** A request for a variance from the maximum allowed height of a
 24 front yard wall of a property located at 1530 Country Club Circle. The subject
 25 property encompasses +/- 0.18 acres and is zoned R-1a (Single-Family
 26 Medium Density.) Currently the maximum allowed height of a front yard wall
 27 for a residential property is four (4) feet. The applicants would like to add an
 28 additional two (2) feet to the height of an existing front yard wall that currently
 29 measures four (4) feet in height. The proposed addition would make the wall
 30 six (6) feet in height. Submitted by property owners Tony H. Ortega & Merna
 31 D. Kauble.
 32
 33 Scholz: All right, our next case is Case A1700, a request for a variance from the
 34 maximum allowed height of a front yard wall of a property located at 1530
 35 Country Club Circle. Let me get my packet. Mr. Ochoa, you're up for this
 36 too I guess. Okay, go ahead.
 37
 38 Ochoa: Yes, sir, I'll be up here for a little bit. Case A1700 is a request for a
 39 variance from the maximum allowed height of a front yard wall for a
 40 property located at 1530 Country Club Circle. It was submitted by
 41 property owners Tony H. Ortega and Merna D. Kauble. Forgive me if I
 42 mispronounce that. Code requirements under Article VI Section 38-60C is
 43 basically what outlines the height allowances for walls and fences.
 44 Basically for residential land uses, regardless of zoning districts in which
 45 the land use is located, within the required front yard the maximum height
 46 of a front yard wall can be four-feet tall.
 47 Some case specifics, the property is zoned R-1a, single-family

1 medium density. Subject property encompasses about 0.18 acres and is
2 the current location of a single-family dwelling. The applicants are
3 requesting a variance to allow an increase in the height of an existing four-
4 foot front yard wall, excuse me, to six-feet in height. The applicants have
5 stated that their property has an odd grade change in the front yard area
6 that makes the existing wall four feet tall on the outside, sidewalk side of
7 the wall, the wall that's facing the street in other words. But only about two
8 to three-feet along the interior side of the wall that faces the home. The
9 applicants believe that the shorter side of the wall is a safety issue for the
10 subject property and property owners. The applicants have also stated
11 that random unwanted people come into their front yard at all hours of the
12 day knocking on their windows and doors, and a taller wall will help keep
13 these people from reaching their home. The applicants continue by
14 stating that they would like the additional height to their wall also to allow
15 their dogs to roam free in their front yard without the risk of them possibly
16 jumping over the shorter side of the wall, over into the sidewalk or possibly
17 even into the street. The applicants conclude by stating that the proposed
18 extra two-feet of fence will be constructed of rod iron that can easily be
19 seen through for traffic and safety purposes.

20 Here's a vicinity map of the subject property. As I said it's on
21 Country Club Road, zoned R-1a. Basically right near the county club.
22 Here is a site plan of the subject property. The wall runs along the front
23 property line right along the sidewalk. Here are some site photos for you
24 gentleman, the top left picture as you can see ... these are all pictures
25 taken by the applicant. This is before the wall was built. As you can see
26 there's somewhat of a grade change from the sidewalk to their property.
27 The far right top picture is kind of an example of what the rod iron would
28 look like on the top of their wall. Of course I believe this is taller than two
29 feet that they're requesting. The bottom two left pictures are an example
30 of what six-feet would look like on the existing wall. The wall has been
31 constructed. Basically the left picture shows the six-feet on one side, on
32 the outside part of the wall along the sidewalk and the picture next to that
33 is along the inside part of the wall. On the right lower hand corner is a
34 picture of their front yard which basically shows a lot of plumbing and so
35 forth which is why the applicants have stated that they cannot level off
36 their property to kind of make their side of the wall a little taller if you will
37 along the interior part of the wall.

38 Findings, staff has reviewed this variance request and has
39 concluded that no valid hardship exists for the subject property. Staff
40 recommendations tonight is for denial based on the proceeding findings.
41 The options tonight gentlemen is 1) to approve the variance request, 2)
42 approve the variance request with conditions determined appropriate by
43 the Planning and Zoning Commission, and 3) to deny the variance
44 request. That concludes my presentation. I stand for questions. And the
45 applicant is here to answer questions and they have some kind of slide
46 show to present to you all as well.
47

1 Scholz: Okay. Questions for Mr. Ochoa? All right, may we hear from the
2 applicant please?
3

4 Kauble: Good evening gentlemen.
5

6 Scholz: You're going to have to speak into the microphone and you're going to
7 have to state your name first please.
8

9 Kauble: Okay. My name is Merna D. Kauble.
10

11 Scholz: Thank you.
12

13 Kauble: Good evening gentlemen, these are the pictures prior to where we had
14 railroad ties there first that were two-feet. There are the railroad ties that
15 we had there prior. These are houses in the neighborhood that we have
16 taken that are within the two-mile radius of our house that have six-foot
17 fences. This is a tree that we have in the front yard that is 150-feet tall.
18 We have asked somebody to come in to remove the tree and to degrade
19 the land. Just to remove the tree, not a stump would be \$1,500 and then it
20 would take out the existing sprinkler systems and if they went down two-
21 feet to level it to the sidewalk we would run into the City's piping and they
22 said that we couldn't do that because prior to us buying this house they
23 had redone the sewage and they did not bury the pipes down far enough
24 and that's what we've run into. This is the house across the street, all the
25 houses are built on a slant so they were built up on top. This is our next
26 door neighbors. We have put also letters out to all our neighbors and they
27 have signed them that they did not have any problems. This is a house
28 that is less than a mile from our house and they have over six-foot fence.
29 This is where their sliding gate is. Again, within a mile of our house. And
30 this one is around the corner from our house. This one is down on Desert
31 Street, again it's showing the different variants of the street that they're at
32 six-foot fences. This is down the street from us, four houses away from
33 us. This is the house catty-corner from us. And we have done the
34 neighborhood and talked to all our neighbors and they have signed that
35 they did not have any problems with us getting this fence put up. We have
36 looked at putting rod iron in the front by the doors and due to his disability
37 there is no way he would be able to get out. On New Year's day we did
38 have somebody pounding on the door and windows trying to get in, and
39 since then we have had a lot of people coming up at night trying to knock
40 on windows and the dogs are set, are you know the ones that tell us
41 what's going on.
42 This is the sewage problem that we have that we did ask if we
43 could ... is there a way that we can rebury it and they said no, there wasn't
44 a way that they could rebury it. They could just add more dirt to it which
45 would cause more of a problem trying to let the dogs out. And this is what
46 the fence actually looks like right now. And this is the site, the rod iron
47 would only go up to that area, to the brick of your right.

1
2 Scholz: Okay, questions for these applicants? Yes, Commissioner Beard.
3
4 Beard: Are you going to gate the driveway?
5
6 Kauble: Yes, rod iron.
7
8 Beard: And how high will that be?
9
10 Kauble: It will be six-foot. It will match the rock and then the two feet of rod iron
11 that's there. There's no other gate except the driveway and it'll have the
12 sliding ... a slide where we can slide it in and out.
13
14 Scholz: Commissioner Shipley, did you have a question?
15
16 Shipley: When did you put in the four-foot wall?
17
18 Kauble: Five weeks ago.
19
20 Shipley: Five weeks ago. So you haven't really given it time to see if that has
21 deterred people from coming over to go up to your house. I mean that's
22 your main reason is because they're knocking on the windows?
23
24 Kauble: Right, but the main also is that we want to let the dogs ... we have two
25 blue heelers that we would like to release into the front yard. We have yet
26 to put the gate in yet.
27
28 Shipley: Do you have adequate room in the back yard for the dogs?
29
30 Kauble: Yes.
31
32 Ortega: Yes, we do.
33
34 Shipley: So I mean ...
35
36 Ortega: It's just protection ... a protection at night time because we have kind of
37 like riff raff coming at night, knocking on the windows, and they have no
38 business there. I can't get up real fast and shoo them away. We just want
39 the dogs out in front and then in the day time put them back in the back.
40
41 Shipley: Right.
42
43 Ortega: I'm there all day long and I cannot you know we have some stuff out there
44 that's kind of valuable and everything, earned, and we cannot ... I cannot
45 get up quick enough to see who it is or what it is that's wanting to take
46 what I got. We just let the dogs out at nighttime, gives me a little leeway
47 to get up and see what's going on outside, pull the dogs back out in the

1 morning, just to have them in the back gate.
2
3 Scholz: Okay, I have two questions. Are you through Commissioner Shipley?
4 Thank you. One is you've had this wall for five weeks?
5
6 Kauble: Yes.
7
8 Scholz: Okay, well, did you plan on putting a gate up at the same time? Sliding
9 gate or whatever.
10
11 Ortega: Yes, we did. We haven't done it yet but we ...
12
13 Scholz: Okay. Well I'm assuming that if there's a gate there and a wall then it's not
14 likely that people are going to wander into your yard, is it?
15
16 Ortega: Given half a chance, they will.
17
18 Scholz: Well it's four-foot. Excuse me sir. Its four-feet off the sidewalk, isn't it?
19
20 Ortega: Yes.
21
22 Scholz: Yes, so I don't know many people who are going to vault over a four-foot
23 wall to get into your house, you know, at least I don't think that's very
24 likely. Is that what they're going or are they walking in on the driveway,
25 which is open.
26
27 Ortega: Well when the wall wasn't there they walked right through.
28
29 Scholz: Of course, yes, I understand that. So now the wall is there, you put a gate
30 on it, and I assume that'll stop the majority of traffic wouldn't it?
31
32 Ortega: Hopefully, yes.
33
34 Scholz: Yeah, well, I would advise that you try that first instead of asking for a
35 variance. You know put a gate on the driveway and see if that stops the
36 traffic. It seems to me that it would. I understand your concern about the
37 slope and I can see that from the drawings that that's a problem. But it
38 doesn't seem like your property is very secure at the moment without a
39 gate across the driveway.
40
41 Ortega: Right.
42
43 Scholz: My second concern is though you may have gone around the
44 neighborhood and looked for houses with similar conditions, I drove that
45 street the other day and stopped by your house and looked at it and so on,
46 and the only house I saw that had a fence on it was the one you showed
47 in the last picture I believe, and it's like three or four doors down from you.

1
2 Kauble: Correct.
3
4 Scholz: And that fence is about four-feet high. Right, it's a decorative fence.
5 There's a brick coping I think and then a rod iron fence that's about four-
6 feet, so that's still within the City code.
7
8 Kauble: Okay.
9
10 Ortega: We're just trying to make it pretty too.
11
12 Scholz: No, I understand.
13
14 Ortega: On top of the rock wall, in order to make it a little pretty on the area and
15 just try to keep the dogs from going out instead of coming in. That
16 variance on the other side, inside of the property it is a little bit high. They
17 asked us to see if we could excavate it, but we would be hitting the roots
18 of that tree and it will come down if we start excavating it to get it lower.
19 But as low as we get we see more roots on that one tree and I don't know
20 where that tree's going to go, either forward or backwards. I really hate
21 going that route you know, to excavate it. We could excavate it, put more
22 dirt on that tree, we can go that route, you know. There are a lot of
23 options you know, we just thought maybe we come see what this option is
24 going to take us to.
25
26 Scholz: Okay. Thank you. Is there anyone from the public who'd like to speak to
27 this? Okay, I'm going to close it to public discussion then. Thank you
28 folks.
29
30 Kauble: Thank you.
31
32 Scholz: Commissioners, what is your pleasure? No thoughts. Commissioner
33 Evans.
34
35 Evans: You know I have a dog that runs all the way around my house too and I
36 actually like it and I do worry about him jumping over the fence. But what
37 I've done is put like an electric wire you know to prohibit that. So I
38 sympathize with you in trying to get that higher.
39
40 Ortega: SPEAKING - NOT AT MICROPHONE
41
42 Scholz: You'll have to speak to the microphone sir.
43
44 Ortega: Okay, we have thought about electric wire.
45
46 Evans: Right.
47

- 1 Ortega: But we have kids running around there too. And curiosity will sure enough
 2 kill that cat and we don't want nobody coming up and tell us hey your wire
 3 just electrified our kids. It says don't touch you know.
 4
- 5 Evans: Right.
 6
- 7 Ortega: Kids will be kids, you know. And we thought about that option you know
 8 and we didn't want to go that route. Zapping the kids, not very fun. Thank
 9 you.
 10
- 11 Scholz: Thank you. Okay, I'll entertain a motion to approve A1700.
 12
- 13 Evans: Mr. Chair I move that we approve Case A1700.
 14
- 15 Scholz: Is there a second?
 16
- 17 Beard: I second it.
 18
- 19 Scholz: I'll call the roll. Commissioner Shipley.
 20
- 21 Shipley: Nay findings, discussion, and site visit.
 22
- 23 Scholz: Commissioner Evans.
 24
- 25 Evans: No findings and discussion.
 26
- 27 Scholz: Commissioner Beard.
 28
- 29 Beard: No findings, discussions, and site visit.
 30
- 31 Scholz: And the Chair votes no for findings, discussion, and site visit. So you're
 32 variance is denied.
 33
- 34 3. **Case Z2797:** A request for a zone change from R-3 (Multi-Dwelling Medium
 35 Density) to O-1 (Office Neighborhood-Limited Retail Service) and R-3 (Multi-
 36 Dwelling Medium Density) overlapping for 0.374 +/- acres located at 428 W.
 37 Griggs Avenue. The zone change request will bring the property into zoning
 38 compliance with the 2001 Zoning Code, as amended. Submitted by Kathryn
 39 Bonansinga, property owner.
 40
- 41 Scholz: All right. Our next case is Case Z2797, a request for a zone change from
 42 R-3 to O-1. And Mr. Ochoa you're doing all the heavy lifting today I see.
 43
- 44 Ochoa: Actually, I consider myself the lucky one tonight. Adam Ochoa from
 45 Community Development one more time for the record. Z2797 is a
 46 request for a zone change from R-3 multi-dwelling medium density to O-1
 47 office neighborhood-limited retail service and R-3 multi-dwelling medium

1 density for 0.31 acres of property located at 428 W. Griggs Avenue.

2 Here's a vicinity map of the subject property highlighted in the I
3 guess bright green there. As you can see it has frontage along three
4 streets, Organ, Reymond, and Griggs. It is zoned R-3 like I said. To the
5 east, west, and south everything is C-1 which is commercial low intensity,
6 and to the north would be R-2 which is multi-dwelling low density.

7 The subject property like I said encompasses 0.31 acres and is the
8 current location of two residential dwellings and a private art studio.
9 Currently it is zoned R-3, multi-dwelling medium density. The zone
10 change request would bring it into O-1 office neighborhood-limited retail
11 service and R-3 multi-dwelling medium density. It would be overlapping
12 zoning basically for the subject property. The zone change will bring the
13 property into compliance with the 2001 Zoning Code, as amended. And
14 the zone change will correct a previous zoning error that occurred in 2003
15 due to the City's zoning conversion process.

16 A little more background on that; in 2003 as part of the City's
17 adoption of the 2001 Zoning Code as amended, the City initiated zoning
18 conversions for certain properties in the City in order to bring them into
19 compliance. In 2003 a field check was made of the subject property and it
20 was interpreted at the time to contain three dwelling units and therefore it
21 was recommended for a zone change from what it was currently at that
22 time C-1 commercial low intensity to its current state which is R-3 multi-
23 dwelling medium density. It was unknown by staff at the time that in 2002
24 one of the buildings had a building permit finalized to allow it to be
25 converted into an art studio under the provisions of the C-1 commercial
26 low intensity zoning district. The appropriate zoning for the property
27 should have been O-1 office neighborhood-limited retail service and R-3
28 multi-dwelling medium density which is what we're trying to do this
29 evening. Overlapping will bring the art studio and two dwelling units into
30 full compliance. The structures as they exist are in compliance with all
31 other zoning requirements and the subject property is within the
32 established neighborhood known as Alameda Depot.

33 Here's a site plan of the subject property. Like I said it has frontage
34 along Organ, Reymond, and Griggs. The main dwelling is along Griggs
35 here with a small apartment in the back along Organ. While the art studio
36 is running along Reymond. Here's an aerial photo of the subject property.
37 Staff reviewed this property and it seems that it would come into
38 compliance with parking as well. It does have ample ... it has enough
39 parking on site and on street for the subject property.

40 Tonight staff has reviewed the zone change and recommends
41 approval without any conditions based on the proceeding findings. The
42 recommendation of the Planning and Zoning Commission will be
43 forwarded to the City Council for final consideration. Tonight your options
44 gentlemen are to vote yes to approve the request as recommended by
45 staff for Case Z2797, vote yes to approve the request with additional
46 conditions for the case, or vote no to deny the request for a zone change,
47 or table and postpone. I stand for questions.

- 1
2 Scholz: Questions gentlemen? All right. Thank you Mr. Ochoa. May we hear
3 from the applicant please?
4
- 5 Taylor: Hi, my name is David Taylor. I'm the applicant. And this was a situation in
6 which we worked fairly closely with the City to both build the building that
7 is the art studio on the property. And we were requested to change the
8 zoning to better conform with the use that it's currently under. And we ... I
9 think basically nobody read the zoning code closely enough and then the
10 field check yielded a result that was different than what we expected.
11 Because basically we read the zoning as being ... or we had intended
12 what Lonny Ruth, who is on the Planning board at the time, well not the
13 Planning board, but in the Community Development Department at the
14 time had advised us to go with R-4 which would've allowed for light
15 commercial as well as multi-dwelling residential and that seemed to cover
16 the use that we have the property currently working under. Unfortunately,
17 it doesn't allow for an art studio. So, then on top of that it looks like the
18 field check, whoever did that, they looked at it as being three dwellings, R-
19 3 and honestly I think we didn't pay close enough attention when we ... I
20 mean my wife signed off on the zone change and thinking that it should
21 have been R-4, it wasn't. And then on top of that the R-4 wouldn't even
22 have allowed for what the property is currently being used ... the way the
23 property is currently being used. Mind you, the property was built ... the
24 new building was built while the property was zoned commercial and was
25 built for the purpose of an art studio. So there were a lot of mistakes.
26 Needless to say, this hopefully will correct the situation.
27
- 28 Scholz: Okay. Questions for this gentleman?
29
- 30 Taylor: Thank you.
31
- 32 Scholz: Thank you. Anyone from the public wants to speak to this? All right,
33 hearing none. We'll close it to public discussion. Gentlemen I don't know
34 if you're familiar with this. I remember actually touring the art studio during
35 an arts hop a couple of years ago. And didn't you do some adobe work on
36 that dwelling too.
37
- 38 Taylor: SPEAKING, NOT AT MICROPHONE.
39
- 40 Scholz: Right. Yeah, I remember that. Very impressive. Okay. Gentlemen, I'll
41 entertain a motion to accept ... to approve this zone change without
42 conditions.
43
- 44 Evans: Mr. Chairman I move that we approve Case Z2797.
45
- 46 Scholz: Is there a second?
47

- 1 Shipley: I second.
- 2
- 3 Scholz: It's been moved and seconded. I'll call the roll. Commissioner Shipley.
- 4
- 5 Shipley: Aye findings, discussion, and site visit.
- 6
- 7 Scholz: Commissioner Evans.
- 8
- 9 Evans: Aye findings and discussion.
- 10
- 11 Scholz: Commissioner Beard.
- 12
- 13 Beard: Aye findings and discussions.
- 14
- 15 Scholz: And the Chair votes aye findings, discussions, and site visit. So it passed
- 16 4-0.
- 17
- 18 4. **SiCA-09-01:** A request to amend the City of Las Cruces Municipal Code,
- 19 Chapter 36 – Sign Code. The amendment includes (1) the addition of
- 20 regulations for on-premise and off-premise electronic variable message
- 21 displays; (2) the addition of regulations for the PUD and R-4 zoning district;
- 22 (3) incorporates new definitions; (4) the addition of regulations for
- 23 neighborhood signs; (5) clarifies the enforcement authority for the removal of
- 24 illegal signs; and (6) changes the maximum allowed height for freestanding
- 25 signs in both the C-3 and M-3 zoning district. Submitted by the City of Las
- 26 Cruces.
- 27
- 28 Scholz: All right. Our next case is ... oh this fascinating, this is SiCA-09-01, a
- 29 request to amend the City of Las Cruces Municipal Code Chapter 36 -
- 30 Sign Code. That's the heavy weight one, right? And Mr. Ochoa, you're up
- 31 for this too, certainly.
- 32
- 33 Ochoa: Yes, sir, one more time.
- 34
- 35 Scholz: Lay it on us.
- 36
- 37 Ochoa: Like you stated, proposed amendment to the City of Las Cruces Sign
- 38 Code, which is basically Municipal Code Chapter 36. For the amendment
- 39 basically what we're going to be doing is adding the sections for electronic
- 40 variable message displays. For on premise electronic variable message
- 41 displays, basically what we're going to do, we're going to be trying to limit
- 42 the areas where they can be located; limit the number of signs allowed on
- 43 a property; limit the types of signs allowed on a property. In other words,
- 44 no animated signs will be allowed. Sets a minimum length of time for the
- 45 display of a message with no transition time allowed between messages.
- 46 And it sets illumination level standards that will follow the Outdoor Lighting
- 47 Ordinance. As for off premise electronic variable message display

1 billboards, it sets a minimum distance of separation between these types
 2 of billboards. It will limit the area where the billboards may be located.
 3 And it will limit the type of message, basically it'll be limited to static
 4 messages with no animation, scrolling, traveling, or moving, blinking parts
 5 of the sign will be allowed. It will limit the number of messages displayed
 6 on a billboard. It'll be one message at a time. Sets a minimum length of
 7 eight seconds for the display of a message and that is a national standard,
 8 with no transition time allowed between messages. It'll set illumination
 9 level standards as well as on premise signs that'll follow the Outdoor
 10 Lighting Ordinance. And electronic variable message displays will not be
 11 allowed as temporary signs.

12 On top of this section under the nonconforming billboards section,
 13 basically state a nonconforming billboard that'll be converted into an
 14 electronic variable message display billboard shall come into full
 15 compliance with all off premise electronic variable message billboard
 16 provisions.

17 Something else we'll be doing with this amendment is adding sign
 18 regulations for PUDs. It'll be basically now that PUD is its own zoning
 19 designation it needs its own sign ordinance or sign regulations if you will.
 20 What we're going to be doing here is any newly submitted Planned Unit
 21 Development or PUD will provide a plan for signage that is desired by the
 22 new development during the PUD review process. Any change to the sign
 23 plan of a PUD shall provide a minor PUD amendment. And any previously
 24 approved and existing PUD or any newly submitted PUDs that do not
 25 present a plan for signage shall use existing sign regulations of the Sign
 26 Code. Basically what it states is a PUD with residential land uses shall
 27 follow residential regulations, industrial will follow industrial regulations,
 28 commercial, commercial regulations; and mixed use PUD shall follow sign
 29 regulations of the appropriate zone that fits the subject property.

30 What the amendment will be also tweaking the R-4 zoning district
 31 regulations, the multi-dwelling high density and limited retail and office
 32 zoning district will be allowed the same signage opportunities as the O-1,
 33 O-2, and C-1 zoning districts. Basically what that entails is that they will
 34 now be allowed to have attached signage and freestanding signage. Free
 35 standing signage, the height for freestanding signage on R-4 zoning
 36 districts will have the same regulations as O-1 zoning districts and that'll
 37 be covered a little later in the presentation so you can see what those
 38 heights are.

39
 40 Scholz: Okay.

41
 42 Ochoa: With this amendment will also be adding some new definitions. Definition
 43 for animation. Definition for electronic variable message display, and for
 44 street segment. This is done for the newly entered electronic variable
 45 message display sections in the sign code. We've also revised a couple
 46 of definitions, accessory use signs has been revised, clear sight triangle
 47 definition has been revised, and wall sign has been revised as well.

1 Another thing we've done is we've kind of redone neighborhood
2 signs. Basically what we have done is a sign now may only be placed on
3 private property provided that prior approval has been granted by the
4 property owner. The maximum sign area shall not exceed four square
5 feet and the maximum height shall not exceed three feet in height. There
6 will be a maximum of one sign per property allowed. Signs shall not
7 conflict with any traffic control nor any clear sight triangle. Signs may not
8 be placed any further than one-half mile from the neighborhood to which
9 they pertain to. There will be a maximum of four signs permitted per
10 neighborhood. Basically north, east, south, west, four signs. A valid sign
11 permit shall be obtained or renewed annually for each sign. The signs will
12 be maintained by the party responsible for erecting the signs, basically
13 leaving out of it for that.

14 Another thing we're amending is the enforcement authority.
15 Currently it is unclear as to what can be done with legally placed signs on
16 public right-of-way. So basically what we did is, we added that the sign
17 code administrator or designee shall have the authority to remove any sign
18 that is in public right-of-way and in violation of code. The sign owner will
19 be contacted about the situation and will be given 30 calendar days to
20 collect and remove sign or signs and after a set time any remaining sign or
21 signs shall be recycled or disposed of properly.

22 Another thing we'll be doing is we're going to be limiting I guess
23 better yet change in the C-3 and M-3 maximum free standing sign heights.
24 Currently for C-3 and M-3 zoned properties a freestanding sign is allowed
25 to be the same height as a building. Under C-3 and M-3 buildings can be
26 as tall I believe as 60-feet which basically calls for a 60-foot sign would be
27 permitted. What we're doing is limiting the signs to the height of 30-feet all
28 around along any street for C-3 and M-3 zoning districts. And as I said
29 earlier the R-4 zoning district would be limited to the same heights as O-1
30 zoning districts as you can see down here.

31 One last thing we'll be doing is just changing out what we have as a
32 illustration or an appendix of what the clear sight triangle is for the Sign
33 Code. Currently this is what exists in the Sign Code. It'll be replaced with
34 what is in the Design Standards of the City of Las Cruces.

35 Last amendment to the Sign Code was in May 2006 through
36 Ordinance 23-04. A work session was held on June 16 with you all on the
37 proposed amendment. A public meeting was held on July 9, 2009 where
38 public comments were made about the proposed amendment. And public
39 input was taken for the proposed amendment until August 7, 2009.
40 Comments were received from the public on this issue and were attached
41 for your review to your packets.

42 Recommendation is, given the findings and issues identified, staff
43 requests the Commission recommend approval of the proposed
44 amendment to the City Council. City Council will have final authority on
45 this matter. Your options tonight gentlemen for this case is vote yes and
46 recommend approval of the amendment. This action will seek to
47 incorporate the proposed changes into the Sign Code. Vote no and

1 recommend denial of the amendment. This action proposes to Council to
 2 not incorporate any of the proposed changes to the Sign Code. Vote yes
 3 and amend the proposal, basically seeks to establish additional
 4 modifications as determined appropriate by the Planning and Zoning
 5 Commission; or vote to postpone and table the proposed amendments.
 6 That is the conclusion of my presentation. I stand for questions.

7
 8 Scholz: Okay. Questions about this ordinance.

9
 10 Shipley: Mr. Ochoa that's a great deal of work there and it's well received. One of
 11 the things that I noticed in here was that there is requirement to have a
 12 brightness switch on the signs, especially the electronic signs. And one of
 13 the things I would ask is could we not specify that there be an automatic
 14 sensor or something placed on a sign so that during the day it could be
 15 brighter and at night it would be reduced in brightness. It doesn't say
 16 anything about that, it just says it has a control, it doesn't say what it.

17
 18 Ochoa: That issue basically, I'm sorry Commissioner Shipley, that issue will be
 19 covered by the Outdoor Lightening Ordinance. Basically what we're doing
 20 here is just sticking to overall sign regulations of it, but the brightness of it,
 21 the actual functioning of the electrical part of the sign itself will be left to
 22 the Outdoor Lightening Ordinance basically.

23
 24 Shipley: It doesn't say that in this ... should it say that in here? In other words
 25 that's ... it doesn't have a number on the page, but it says on the
 26 electronic variable message display billboards paragraph eight says an off
 27 premise electronic variable message display billboard shall have an
 28 automatic dimmer control to produce distinct illumination change from a
 29 highest allowed illumination level to the lowest, and that's all it says.

30
 31 Ochoa: In the back page continues, level meeting the illumination standards of the
 32 City of Las Cruces Outdoor Lighting Ordinance.

33
 34 Shipley: Do the standards now require them to dim at night?

35
 36 Ochoa: Currently I believe they are amending the Outdoor Lighting Ordinance as
 37 well, sir, and it'll be covered by that.

38
 39 Shipley: So will that come to us as well?

40
 41 Rodriguez: Mr. Chairman, Commissioner Shipley, the Outdoor Lighting Ordinance
 42 isn't something that the Planning and Zoning Commission governs. It will
 43 go directly to City Council. And right now they're going through a series of
 44 public input meetings. The next public input meeting will be I believe held
 45 September 21st. And I will confirm that for you and forward that
 46 information.
 47

- 1 Shipley: Could we make that a condition of this? In other words what I'm getting at
2 is that a bright sign ... you need a bright sign during the day, but you don't
3 need the same amount of light at night. And if it's really bright then it
4 distracts you and it's more of a distraction. It's more of a safety factor. So
5 that was ... there are automatic dimmers that just like you have on your
6 automobile that your lights get dimmer at night, well it's not so bright in the
7 cockpit more or less.
8
- 9 Rodriguez: Mr. Chairman, Commissioner Shipley, what this body could do is go under
10 option number three, to modify the proposal and make some additional
11 recommendations to Council for final authority.
12
- 13 Scholz: All right. Commissioner Shipley did that answer your question?
14
- 15 Shipley: Yes.
16
- 17 Scholz: Okay. I had one question Mr. Ochoa, well two actually. The signs on
18 private property, as these like identification signs, like the sign by you
19 know High Range, that says High Range, is that what we're talking about?
20
- 21 Ochoa: Chairman Scholz basically neighborhood signs, that's basically what they
22 are if you will. I don't know if any of you all driven down Country Club
23 Road along the median there, there are some examples of what a
24 neighborhood sign would look like. Basically what the amendment of the
25 sign code, what we're trying to do is get them off of those medians and put
26 onto private property, requiring whoever's trying to put those signs up to
27 get approval from that property owner instead of leaving signs on public
28 right-of-way and well possibly leaving the I guess if you will the
29 maintenance of the sign to City since City takes care of those medians.
30
- 31 Scholz: I see. Okay. Yeah I was wondering what the purpose was. Right. Why
32 would they have to renew this every year?
33
- 34 Ochoa: Chairman Scholz basically what it is, is in the past neighborhood signs
35 have been allowed to go in public right-of-way and on private property and
36 they basically just fall apart and left there for dead if you will. This
37 basically forces who ever puts the sign up to keep maintenance up on
38 their signs, if not remove them and give us kind of a guideline to if you will.
39
- 40 Scholz: Gives you a measure of control.
41
- 42 Ochoa: Yes, thank you very much. That's what it is sir.
43
- 44 Scholz: Okay. My second question was you said the signs which are in the public
45 right-of-way I assure we're talking about temporary signs, right? Like
46 political signs, or sales signs, or realtor's signs, or something like that?
47

- 1 Ochoa: Chairman Scholz that's every type of sign that might come up on a public
2 right-of-way from anything from new house for sale this way, to vote for
3 this guy, to puppies for sale. Basically every sign that's on public right-of-
4 way sir, will give us the right to remove that sign without I guess without
5 cause if you will. Giving the right to remove the sign as the Sign Code
6 administrator or official designee.
7
- 8 Scholz: Well you're saying you're allowing 30 days for the person to respond to
9 this. That's probably half the run of most local elections. Okay, I'm just
10 asking. Any other questions for this gentlemen? I assume you are the
11 applicant in this case?
12
- 13 Ochoa: That is correct.
14
- 15 Scholz: Yes. Okay. So you don't have some hidden person in the audience there.
16
- 17 Ochoa: I could slip on a hat if you like.
18
- 19 Scholz: No questions for this gentleman. Okay, any public input on this. Yes, sir.
20
- 21 Gunaji: Mr. Gunaji. Citizen of Las Cruces. I just want to find out or at least make
22 you aware that political (*inaudible*) comes around for two months, you
23 have signs, all kinds of signs all over the place. There is no reference
24 being made into City ordinances. Separate along the line though the
25 enforcement of political signs may not be within the City of Las Cruces.
26 And some reference should be made as to who is going to take care of it
27 when the election gets over. Basically the election code allows sign to go
28 into effect 60 days before the election and they should be removed 15
29 days after the election. But no candidate follows that. And some other
30 thing that you have in your code are the direct in conflict. So you can only
31 say it is not our job, but at least you should (*inaudible*) that political signs
32 should be done some way and have a reference in City code.
33
- 34 Scholz: Okay are you talking sir about signs that are on the public right-of-way or
35 are you talking about ...
36
- 37 Gunaji: Private property.
38
- 39 Scholz: Signs that are on private property.
40
- 41 Gunaji: Yeah, because there is a code here that you have a four-foot sign on the
42 private property. One sign per property. I as a voter would have five
43 signs of my favorite election on my property. That directly conflict with
44 your regulations. So all I'm saying is that some reference should be made
45 you know, some place along, some reference should be made about
46 political signs because they do play an important role and do occupy three
47 or four months of time in the City and county and federal elections.

- 1
2 Scholz: Thank you. Okay, Mr. Ochoa you care to reply to that?
3
4 Ochoa: Chairman Scholz, political signs are covered under Section 38-46 of the
5 Sign Code.
6
7 Shipley: 86. 38-86.
8
9 Ochoa: Thank you.
10
11 Shipley: 36-86.
12
13 Ochoa: Thank you very much, 36-86. Basically stating signs can go up starting at
14 a certain time and they must come down at a certain time after that
15 allowed period of time. It's basically a code enforcement issue now.
16
17 Shipley: Its 90 days before and 10 days following.
18
19 Ochoa: That is correct.
20
21 Shipley: Okay.
22
23 Scholz: All right, any other questions? Okay, I'm going to close this to public input.
24 Gentlemen, I'll entertain a motion to approve.
25
26 Rodriguez: Mr. Chairman, if I may please. In light of Commissioner Shipley's
27 comment regarding the Outdoor Lighting Ordinance. That meeting will be
28 held September 22nd at 9:00 a.m. in City Council Chambers.
29
30 Shipley: Twenty-second, 9:00 a.m.
31
32 Scholz: Do you want to add a condition to this ordinance Commissioner Shipley?
33
34 Shipley: I would move that we approve SiCA-09-01 with ... as written with one
35 additional condition and that condition would be to add a requirement that
36 any electronic signs would have an automatic dimmer or I guess it's a
37 sensor and switch that would reduce the amount of light that's produced at
38 night versus ... a lower brightness. And I think that the City should
39 determine what that brightness is. I don't have that. But it should be
40 looked at from ... there are studies out there that show what it should be.
41 And it should be brighter during the day because it's more difficult to see
42 them, but it should be lower at night. And it ought to be able to go on a
43 photo sensor.
44
45 Scholz: Can you say that in one short sentence? Commissioner Evans.
46
47 Evans: Mr. Chairman, Commissioner Shipley, I like the intent, but I think that the

- 1 lighting guidelines that are given by the City should govern that and
2 whether or not they have a sensor regulating it up and down, it's the
3 maximum admitted light which would govern that.
4
- 5 Shipley: It's a new technology which we're using which can be done. I mean it's
6 not.
7
- 8 Evans: Sure, it can be done, but you know I don't know if the ... the requirement is
9 for them to have ... well to fall within the guidelines of the City lighting
10 ordinance.
11
- 12 Shipley: That's not covered under there at the current time.
13
- 14 Evans: Right, but it will be, and to mandate that they put a light sensor on it I think
15 is you know I don't know, I think that's just a little bit above and beyond
16 what you know ... as long as they comply with the City ordinance lighting
17 code, that shouldn't matter whether or not they have a dimmer switch on
18 that or not.
19
- 20 Scholz: Commissioner Evans you're suggesting that we not dictate technology.
21
- 22 Evans: Yeah. We have a requirement out there. Let's follow the requirement or
23 change the requirement.
24
- 25 Ochoa: Commissioner Shipley, Mr. Chairman, that is inside the Outdoor Lighting
26 Ordinance, the proposed one, stating everything about dimmers and so
27 forth for outdoor lighting. It will be covered sir.
28
- 29 Shipley: Okay. So should we just say that they will comply, it should comply with
30 that?
31
- 32 Evans: Sure.
33
- 34 Shipley: As a condition. And what I'm really trying to say is so that can say well we
35 didn't have that in the requirement before so we ... it's grandfathered
36 under the old way. That's what I'm trying to avoid.
37
- 38 Evans: Sure.
39
- 40 Shipley: So let me see if I can rephrase this.
41
- 42 Ochoa: Mr. Chairman, Commissioner Shipley, you might want to possibly add a
43 condition to encourage that to City Council for them to look at that a little
44 more deeper if you wish. Encouragement would probably be something
45 you might want to think about.
46
- 47 Evans: Right, I think this is going to City Council for final approval.

1
2 Shipley: Correct.
3
4 Evans: And so if we make a recommendation from the Planning and Zoning
5 Commission to consider that in their final discussions, I think meets your
6 intentions.
7
8 Shipley: Yes.
9
10 Scholz: So are you going to make that a condition, a recommendation?
11
12 Shipley: A recommendation to the City Council to address using dimmer, an
13 automatic photo sensor dimmer on all electronic signs.
14
15 Scholz: Well, we're introducing technology again.
16
17 Shipley: Well I'm just stating what it is.
18
19 Scholz: Right.
20
21 Shipley: It's clear as mud.
22
23 Ochoa: Mr. Chairman I believe that that should work.
24
25 Scholz: All right. Can you repeat that for me while I write that down?
26 Recommendation to City Council that ...Commissioner Shipley?
27
28 Shipley: Okay I'm trying to rephrase it now. A recommendation to City Council to
29 review or it's not to review but to ...
30
31 Evans: Review and perhaps comply with City lighting codes and regulations.
32
33 Shipley: With regards to automatic dimmers for electronic signs.
34
35 Evans: Sure.
36
37 Scholz: Okay.
38
39 Beard: Have we defined what an electronic sign is?
40
41 Scholz: It's defined in the ordinance.
42
43 Beard: Okay.
44
45 Scholz: It's under 36-8 I think. All right. So with that condition, do I hear a motion
46 to approve?
47

- 1 Shipley: That is the motion.
 2
 3 Scholz: That is the motion to approve. Approve with that condition.
 4
 5 Evans: I second.
 6
 7 Scholz: Okay it's been moved and seconded. I'll call the roll. Commissioner
 8 Shipley.
 9
 10 Shipley: Aye findings, discussions and ...
 11
 12 Scholz: And you were going to say site visit. Okay. Commissioner Evans.
 13
 14 Evans: Aye findings and discussion.
 15
 16 Scholz: Commissioner Beard.
 17
 18 Beard: Aye findings and discussions.
 19
 20 Scholz: And the Chair votes aye for findings and discussions. So it's approved 4-0
 21 with that condition.
 22

23 5. **Case S-08-106:** A request for an amendment to the master planned area
 24 known as Sonoma Ranch East II. The master plan amendment shows a
 25 range of 538 to 2520 dwelling units on 320.98 +/- acres of land. The master
 26 planned area is located east of Sonoma Ranch Boulevard and west of the
 27 future extension of Mesa Grande Drive. The amendment establishes new
 28 boundaries for planning parcels due to the roadway re-alignment of Mesa
 29 Grande Drive. Some planning parcels have been combined into one planning
 30 parcel and a new planning parcel was created for a dual use facility
 31 (park/pond) that is proposed to be dedicated to the City of Las Cruces upon
 32 future development. Submitted by Gunaji-Klement & Associates for Sonoma
 33 Ranch Subdivision Ltd. Co.
 34

35 6. **Case Z2792:** A request for multiple zone changes for 12.71 +/- acres within
 36 the Sonoma Ranch East II master planned area. The subject area is
 37 generally located east of Sonoma Ranch Boulevard and west of the future
 38 extension of Mesa Grande Drive. Submitted by Gunaji-Klement & Associates
 39 for Sonoma Ranch Subdivision Ltd. Co.
 40

41 This request is due to the re-alignment of Mesa Grande Drive and the
 42 proposed master plan amendment for Case S-08-106. Planning parcel
 43 boundaries must change in order for the master plan to reflect the re-
 44 alignment of Mesa Grande Drive; in addition the zoning of these planning
 45 parcels must adhere to planning parcel boundaries. The zone changes are
 46 identified as follows:
 47

- 1 • Tract H to Tract I, 0.25 +/- acres, from R-1b (Single-Family High Density)
- 2 to R-3 (Multi-Dwelling Medium Density)/C-3 (Commercial High Intensity)
- 3 • Tract I to Tract H, 0.25 +/- acres, from R-3 (Multi-Dwelling Medium
- 4 Density)/C-3 (Commercial High Intensity) to R-1b (Single-Family High
- 5 Density)
- 6 • Tract L to Tract K, 0.24 +/- acres, from R-3 (Multi-Dwelling Medium
- 7 Density)/C-3 (Commercial High Intensity) to R-1b (Single-Family High
- 8 Density)
- 9 • Tract M to Tract K, 1.79 +/- acres, from R-4 (Multi-Dwelling High
- 10 Density)/C-3 (Commercial High Intensity) to R-1b (Single-Family High
- 11 Density)
- 12 • Road right-of-way to Track K, 0.66 +/- acres to R-1b (Single-Family High
- 13 Density)
- 14 • Tract K to Tract L, 0.37 +/- acres, from R-1b (Single-Family High Density)
- 15 to R-3 (Multi-Dwelling Medium Density)/C-3 (Commercial High Intensity)
- 16 • Tract M to Tract L, 0.03 +/- acres, from R-4 (Multi-Dwelling High
- 17 Density)/C-3 (Commercial High Intensity) to R-3 (Multi-Dwelling Medium
- 18 Density)/C-3 (Commercial High Intensity)
- 19 • Tract K to Tract M, 0.65 +/- acres, from R-1b (Single-Family High Density)
- 20 to R-4 (Multi-Dwelling High Density)/C-3 (Commercial High Intensity)
- 21 • Tract L to Tract M, 0.33 +/- acres, from R-3 (Multi-Dwelling Medium
- 22 Density)/C-3 (Commercial High Intensity) to R-4 (Multi-Dwelling High
- 23 Density)/C-3 (Commercial High Intensity)
- 24 • Road right-of-way to Track M, 1.33 +/- acres to R-4 (Multi-Dwelling High
- 25 Density)/C-3 (Commercial High Intensity)
- 26 • Tract O, 5.69 +/- acres, from R-1b (Single-Family High Density) to OSR
- 27 (Open Space Recreation)/FC (Flood Control)
- 28 • Tract P, 1.12 +/- acres, from R-1b (Single-Family High Density) to FC
- 29 (Flood Control)

30
31 Scholz: All right, it's 7:15. We're moving right along here. Let's try Case number
32 S-08-106.

33
34 Robertson: If I could ask you to move to suspend the rules to hear cases S-08-106
35 and Z2792 together.

36
37 Shipley: So moved.

38
39 Scholz: Okay. And do I hear a second?

40
41 Evans: Second.

42
43 Scholz: Okay moved and seconded. All those in favor say aye.

44
45 ALL COMMISSIONERS - AYE.

46

- 1 Scholz: Those opposed same sign. Okay, rules are suspended so we can hear
2 these two together.
3
- 4 Robertson: Before this ...
5
- 6 Scholz: Excuse me Ms. Robertson, you don't look at all like Helen Revels.
7
- 8 Robertson: We worked together on this case.
9
- 10 Scholz: I was going to say, Helen is here.
11
- 12 Robertson: She started the authoring and I finished so we went ahead and left her
13 name on the author page, but I am here.
14
- 15 Scholz: Okay.
16
- 17 Robertson: I went ahead and gave you an amended table for the master plan
18 amendment. I just want to go ahead and let you know this is for this case.
19 I will also be referring to it in my presentation as well. This is Case S-08-
20 106 and Z2792, Sonoma Ranch East II, master plan major amendment
21 and zone change proposal. This is the corrected or amended table. The
22 main change is from the old density which was 1,148 units to 2,621 units.
23 The corrected density range, corrected to the table that you have in your
24 master plan amendment that was prepared for you in your packet. The
25 correction is 539 to 2,539 units. That's the minimum and maximum range
26 for that. Those are the things that had changed. This correction will be
27 put in place of the master plan proposal table provided to you in your
28 packet. Maximum and minimum density for the proposal are lower than
29 the original master plan's, but again I will go over that later on in my
30 presentation.
31
- 32 Scholz: Okay.
33
- 34 Robertson: Case specifics for the master plan amendment, include the Sonoma
35 Ranch East II master plan area, encompasses approximately 320 +/-
36 acres and its partial vacant right now. The proposed master plan area
37 contains 27 planning parcels identified with specific land use, acreage,
38 proposed minimum and maximum density, and proposed minimum and
39 maximum number of dwelling units as applicable. The master plan
40 amendment establishes new boundaries for planning parcels due to the
41 roadway realignment of Mesa Grande Drive. Some planning parcels have
42 been combined into one planning parcel and a new planning parcel was
43 created for a dual use facility, a park/pond facility. In addition, a relative to
44 a survey error on the original master plan, a corrected adjustment is also
45 proposed which will reallocate approximately one acre in the northwestern
46 section of this master plan area to another tract or planning parcel in the
47 master plan. And I'll delineate these areas in the master plan proposal in

1 just a moment. The original master plan (*inaudible*) minimum to maximum
2 is 1,248 to 2,621. As I just stated in the amendment to the tabular data
3 provided to you in your major amendment for the master plan, in your
4 packet. There is a density range currently proposed of 539 to 2,539 per
5 this amended tabular data. There is an overall decrease in the minimum
6 density proposed in this amendment, and there is also a decrease in the
7 maximum density proposed in this amendment. The utilities will all be
8 provided by the City of Las Cruces.

9 Here is the master plan amendment as shown. The one acre
10 change that I was talking about, these planning parcels will have acreage
11 reallocated to H 1, totalling in about one acre. The major amount of
12 change going on which is approximately 13 acres is in this area right here.
13 And it all has to do with the realignment of this roadway right here, Mesa
14 Grande. The total acreage change of course is approximately 13 plus one
15 acre, 14 acres total. The total acreage change for open space because
16 there are some parks shown out here, not necessarily designated as open
17 space, designated as park space, but I wanted to go ahead and just briefly
18 let you know that that change is in addition of 0.21 acres from the original
19 master plan to the proposed amendment, so they're adding 0.21 acres or
20 a little over 9,000 square feet.

21 Case specifics for the zoning request. The realignment of Mesa
22 Grande has impacted planning parcels in the master plan area and also
23 affects that zoning as that zoning is associated with those planning
24 parcels. The zone changes are proposed to tracts H, I, K, L, M, and P,
25 and a new tract O is being created for the open space and flood control
26 area. These changes incorporate approximately 12.71 acres of the
27 subject area. In area, the survey area that I mentioned earlier will be
28 changing for tracts A, B, C, D, and E, will be reallocating one acre from the
29 lower parcels to that most northwesterly parcel. In total this request is
30 rezoning 13.71 +/- acres out of the total 320.98 +/- acres within the entire
31 Sonoma Ranch East II master planned area. Leaving the remaining
32 acreage as currently zoned and planned.

33 The adjacent land use and zoning include on the north and south
34 ends are holding zones, its vacant land. On the east is also vacant land,
35 but has been zoned for residential high density and commercial as well.
36 The west there is some residential existing. There is also some
37 commercial and PUD development as well. That area is vacant. This is
38 the area discussed. Again we have this one acre reallocation to tract A
39 from these lower tracts. And then we also have the reallocation of zoning
40 for the realignment of Mesa Grande. Mesa Grande used to only touch just
41 kind of right in here in the middle. And so they had to kind of realign
42 things and straighten some lines as it is proposed here for that
43 realignment.

44 This is a vicinity map of the subject area. As you can see here this
45 is Sonoma Ranch Boulevard. Here's an aerial photo of the property.
46 These are Sonoma Ranch II East subdivision phases one through seven,
47 right here. These subdivisions up here have been platted and the

1 surveyor that I have been referring to is in regards to some of the platted
 2 subdivisions are currently in ... are not zoned properly. The overlapping
 3 of the zoning doesn't conform to what the subdivisions have been platted
 4 as. Subdivisions are looked at as more direct and more recent, more
 5 current survey. So that surveyor is being corrected as proposed in this
 6 amendment. This is a picture of the MPO thoroughfare map. As you can
 7 see here, this is Mesa Grande, it didn't come up on my map, but it is a
 8 principal arterial.

9 For staff DRC recommendation, the recommendation for Case S-
 10 08-106 which is the master plan amendment, on August 5, 2009 the DRC
 11 reviewed the master plan amendment and approved it. The
 12 recommendation for Case Z2792, the zone change request, staff has
 13 reviewed the zone change and recommends approval with the following
 14 condition, that all new utilities be placed underground. And then we have
 15 the Commission's options tonight; 1) to approve the master plan
 16 amendment and zone change request as recommended by DRC and
 17 staff; to approve the master plan amendment and zone change request as
 18 recommended by DRC and staff with additional conditions as determined
 19 appropriate by this body; or deny the master plan amendment and zone
 20 change request. I will stand for questions. In addition the applicant is also
 21 here to present their proposal as well.

22
 23 Scholz: Okay. Questions for this lady? No? I just have one, what caused the
 24 realignment of Mesa Grande?

25
 26 Robertson: I've got some chuckling over here. I'm going to go ahead and let the
 27 applicant answer that for me. If that's all right?

28
 29 Scholz: Okay. And did that ... I know that obviously changed the boundaries of
 30 the tracts, did it make them smaller or larger?

31
 32 Robertson: What it did was we shifted from one side to the other. Some things were
 33 existing below. There's a flood control area existing below. I believe its
 34 Sonora Springs. That was reallocated. Things were moved further to the
 35 east because that roadway came in. So they reallocated and pretty much
 36 straightened up the lines to go along with what that alignment is.

37
 38 Scholz: Okay. All right, let's hear from the application.

39
 40 Gunaji: Mr. Gunaji, Gunaji-Klement, consulting engineer for Sonoma Ranch
 41 (*inaudible*). First of all we want to thank City staff, Jennifer and Helen.
 42 We worked with them on this project for a long period of time and finally
 43 we got our act together, theirs and ours together. You asked a very
 44 important question why Mesa Grade realignment. Mesa Grande
 45 realignment has been an issue in the City's master planning because of
 46 different ownership and finally the final approved alignment is presently
 47 with the state land office which owns the land. And we had to change all

1 our alignment. If you look at the ... Mesa Grande in the earlier subdivision
2 moved from here and went this way, like this. And this road was coming
3 up around here and going out this way, so when we moved the entire
4 alignment to what is recommended by the land office and by the adjacent
5 developer, we have to re-change all of our boundaries into this area. The
6 same thing happened also in the north side where there is (*inaudible*) right
7 down here going around, dodging this thing because they wanted to have
8 the roadway down here coming down from (*inaudible*) to Mesa Grande.
9 These changes changed all our parcel lines and it was one of the major
10 reasons that this particular amendment was required, to bring the entire
11 parcels into conformance with our zoning code and the master plan.

12
13 Scholz: Okay.

14
15 Gunaji: I only have a few things to say because Jennifer did a good job.
16 (*Inaudible*) that actually occurs in only about 12 acres and that normally
17 occurs just around these parcels which were realigned right around here.
18 But other parts remain the same. And she did tell you about the reduce in
19 density that occurred because of this particular realignment. The one acre
20 movement that took place in the northern parcels because when the land
21 was, the arroyo was (*inaudible*) error in the line that kind of change the
22 areas and we wanted to make sure that the areas of the parcels are
23 correct so when do the resurvey we found that that needed to be
24 corrected in the master plan.

25
26 Scholz: Okay.

27
28 Gunaji: So that's it. The only other thing that I would like to mention is that in the
29 discussion, the City has a water tank here, right here, and presently there
30 is a shallow pond here that when (*inaudible*) discharges and cleans up the
31 tank, that water just comes into that area and just ponds down there. In
32 our discussion with the utilities division, we have agreed that in our
33 development or when we do our streets and all that, we will provide a
34 storm sewer so that we can carry the wastage that comes from this pond
35 into the storm sewer and then carried down to the arroyo down here.

36
37 Scholz: And that water I assume is from flushing the tanks?

38
39 Gunaji: Flushing the tanks. And we met with the direction of the utilities and
40 discussed with him and they have given us when they will discharge and
41 what happens. They only wanted ... that facility should be within 200 feet
42 of the tank.

43
44 Scholz: Okay.

45
46 Gunaji: So that they don't have to put a long line to going down there. And the
47 developer has agreed to do that. That's in the record already into the

1 DRC records.
2
3 Scholz: Okay. Good.
4
5 Gunaji: That's about, brings the conclusion of my presentation.
6
7 Scholz: Okay. Let me see if there are some questions from the Commissioners.
8 Questions from this gentleman? No, okay. Thank you very much.
9
10 Gunaji: Thank you sir.
11
12 Scholz: Anyone from the public want to speak to this?
13
14 Martino: Good evening. My name is Fred Martino and I'm a resident of Sonoma
15 Ranch East. I strongly urge you to reject one portion of the rezoning
16 request of the development, and that involves the proposal to rezone
17 certain properties from single-family residential to allow multi-family
18 structures. The City has a severe shortage of communities with single-
19 family homes not adjacent to other types of properties. To maintain
20 property values and ensure a safe, quiet environment, many people prefer
21 communities that have zoning that only allows single-family homes. It's an
22 economic development issue that's crucial for the City. In addition to this,
23 tonight we've discovered this new sign ordinance which affects R-4 which
24 is included in these zoning proposals, which means that people who now
25 have a view of the Organ Mountains that is pristine will have a view that
26 includes signs apparently up to 12-feet in height according to what was
27 just presented tonight.
28 I sympathize with the developers desire to pursue multi-family
29 zoning because of this tough economy. However, zoning is a long-term
30 decision for the entire community and not a short-term decision for land
31 owners. The City has many, many communities with multi-family
32 structures and commercial structures, which is included in this proposal.
33 In fact there are condominiums and rentals at the Golf Club Road
34 entrance to Sonoma Ranch on Sedona Hills and on Sonoma Ranch
35 Boulevard at Morning Star. In addition, a brand new 410 unit apartment
36 complex is opening on Roadrunner right at the end of Sonora Springs as
37 you exit Sonoma Ranch and Diamond Springs.
38 As a community we have many areas that are zoned for multi-
39 family and commercial use and there is a lot of room for expansion in
40 areas where it is appropriate to build new multi-family and commercial
41 units. I strongly urge you to reject any rezoning in Sonoma Ranch East
42 from single-family to multi-family commercial.
43
44 Scholz: All right, anyone else in the public want to speak to this?
45
46 Rawson: SPEAKING, NOT AT MICROPHONE.
47

- 1 Scholz: Well let me see if there's anybody else from the public who wants to speak
2 to this. Okay, no one else? Yes, sir, you can respond.
3
- 4 Rawson: Good evening Mr. Chairman. George Rawson from Sonoma Ranch.
5 What I'd like to do is if you'd look at Case number 6, there is some
6 information here. This is the handout you handout to the public and all of
7 us tonight. And just to clarify what we've done because I think that
8 sometimes things get a little out of context. We've changed the zoning on
9 about 12 acres. If we'll start here on the first one, it says tract H to tract I,
10 0.25 acres. We're talking about 8,000 square feet that we changed from
11 R-1b to R-3, to C-3. All we did was straighten up these lot lines. And so
12 this whole list, tract I is 0.25 acres from R-3 to R-1b, so it goes back.
13 Tract L 0.24 acres to R-3, that went to R-3. Tract M 1.79 acres from R-4
14 to R-1b. Right-of-way out of tract K to 0.66. You have to understand in
15 the center of these roads and right-of-ways we're zoning to the center of
16 the streets, so as we design the streets and we move Mesa Grande, we
17 have to change Mesa Grande's zoning to exactly the same as to the
18 center line of the street. If you'll look, tract K is 0.37 acres. It's all clean
19 up. And the biggest thing if you look down here to tract O of the 12 acres
20 5.69 acres are just going to open space, increasing the open space.
21 We've reduced our density by putting that into open space. So I think if
22 you'll look through the list all we're really trying to do is clean up. One of
23 these, tract M to tract L is 0.03 acres. So as we discussed, all we're doing
24 is clean up. We're not changing any of the master plan, original plan for
25 zoning at all, we're just cleaning it up based on the roads and most of it ...
26 almost all of it is to the open space change and Mesa Grande.
27
- 28 Scholz: Okay. Thank you. Any other public input? Okay, I'm going to close it to
29 public input. Commissioners what say you? When we vote on this
30 obviously we'll have to divide it again. Yes, thank you very much.
31 Commissioner Shipley? No. Commissioner Evans.
32
- 33 Evans: I concur with Mr. Rawson that this is just cleanup and doesn't substantially
34 change for the intent of the master plan from its inception.
35
- 36 Scholz: Okay. Commissioner Shipley.
37
- 38 Shipley: I would also thank Jennifer for putting in the large map so that we can look
39 at these because without that it's very difficult. For the gentleman that had
40 a question about the commercial, along Mesa Grande there is R-3. There
41 are zones that were there before. That hasn't changed. That has been in
42 the master plans you know since we started looking at it. They might have
43 modified something by adding a little piece, but it still is the same area
44 along Mesa Grande. And those are existing O-2 and C-2 and R-3 that
45 were there before, so there were no changes in the tract per se, other than
46 just administratively changing the surveyed areas so that it is accurate
47 now.

1 The other thing though is it also should be noted that tract O is
2 open space, but it's also flood control. So that's got kind of a dual usage
3 there. I kind of like to look at these things when we've got an idea of what
4 the product is going to be there and I know that R-1a and R-1b is going to
5 look like ... it's nice to see about the things that I'm really interested in
6 seeing that we've got adequate parks that people don't have to drive to
7 and those kinds of things and that's doesn't happen with this today. So
8 what we're here to do today is ... seems to be everything's been answered
9 here.

10
11 Scholz: Okay. Commissioner Beard, comments?

12
13 Beard: No.

14
15 Scholz: All right. What we have to do now is ...

16
17 Shipley: I have to move to institute the rules.

18
19 Scholz: Unsuspend, yes.

20
21 Shipley: Unsuspend the rules.

22
23 Evans: I second.

24
25 Scholz: It's been moved and seconded. All those in favor say aye.

26
27 ALL COMMISSIONERS - AYE.

28
29 Scholz: Those opposed same sign. Okay, we've unsuspended the rules. Now we
30 will vote first on Case S-08-106, a request for an amendment to the
31 master planned area known as Sonoma Ranch East II.

32
33 Evans: Mr. Chairman I move that we approve Case S-09-03, excuse me, that we
34 approve Case S-09-106.

35
36 Shipley: 08.

37
38 Scholz: Okay.

39
40 Shipley: I think its 08-106.

41
42 Scholz: I'm sorry, it's S-08-106.

43
44 Evans: S-08-106.

45
46 Scholz: Okay, is there a second.

47

1 Shipley: Second.
2
3 Scholz: Okay, it's been moved and seconded. I'll call the roll. Commissioner
4 Shipley.
5
6 Shipley: Aye findings and discussion.
7
8 Scholz: Commissioner Evans.
9
10 Evans: Aye findings and discussion.
11
12 Scholz: Commissioner Beard.
13
14 Beard: Aye findings and discussions.
15
16 Scholz: And the Chair votes aye for findings, discussion, and site visit. Okay so
17 that's 4-0, passed. Okay, now on the second one, this is a request for
18 multiple zone changes for approximately 13.71 acres within the Sonoma
19 Ranch East II master planned area, Case Z2792.
20
21 Shipley: That was 13 point what?
22
23 Scholz: 13.71 aces plus or minus.
24
25 Evans: Mr. Chairman I move that we approve Case Z2792 with the following
26 condition, all new utilities shall be underground.
27
28 Scholz: Okay, is there a second.
29
30 Shipley: Second.
31
32 Scholz: It's been moved and seconded. I'll call the roll. Commissioner Shipley.
33
34 Shipley: Aye findings and discussion.
35
36 Scholz: Commissioner Evans.
37
38 Evans: Aye findings and discussion.
39
40 Scholz: Commissioner Beard.
41
42 Beard: Aye findings and discussions.
43
44 Scholz: And the Chair votes aye findings and discussions. So both S-08-106 and
45 Case Z2792 are approved. Thank you very much Ms. Robertson, you did
46 a nice job. And thank you Ms. Revels for the prep you obviously did on
47 this.

1
2 7. **Case S-09-032:** A request for final plat approval for a replat of an existing
3 single lot to create an additional lot on a total of 4.85 +/- acres. The property
4 is zoned EE (Single-Family Equestrian Estate and Agricultural). The subject
5 property is located at 1690 Tucson Avenue. Submitted by Southwest
6 Engineering for Linda Ann Garza.
7

8 8. **Case S-09-032W:** A request to waive 100% of the requirements for road
9 improvements to Tucson Avenue as a Minor Local roadway for approximately
10 2300 feet of roadway, beginning from the intersection of Del Rey Boulevard
11 (nearest paved, public roadway) to the easternmost property boundary. The
12 total dedicated right-of-way currently existing for Tucson Avenue is 60 feet.
13 The subject property is zoned EE (Single-Family Equestrian Estate and
14 Agricultural) and is located at 1690 Tucson Avenue. Submitted by Southwest
15 Engineering for Linda Ann Garza.
16

17 Scholz: All right. We have Case S-09-032 and Case S-09-032W. And I assume
18 are going to be heard together, right?
19

20 Robertson: Please, if you wouldn't mind moving to suspend the rules to hear the
21 cases together.
22

23 Scholz: Okay.
24

25 Shipley: Mr. Chairman I move to suspend the rules for Case S-09-032 and S-09-
26 032W.
27

28 Scholz: Okay. It's moved. Is there a second.
29

30 Evans: Second.
31

32 Scholz: All those in favor say aye.
33

34 ALL COMMISSIONERS - AYE.
35

36 Scholz: Those opposed same sign. Motion carried. We have suspended the rules
37 to discuss these two at the same time.
38

39 Robertson: Thank you. Commission, this is Case S-09-032, replat for EBL&T
40 Subdivision C. That replat number is 35. And S-09-032W is the waiver
41 request for that replat.
42

43 The case specifics for this replat and waiver request are, the
44 applicant is proposing to replat one lot to create two lots on 4.85 acres.
45 The subject property is located at 1690 Tucson Avenue just east of Del
46 Rey Boulevard. The subject property is zoned EE which is single-family
47 equestrian estate and agricultural. The property was also granted a
variance in March 24, 2009 to increase the maximum permissible density

1 from one single-family residence to two single-family residences. The
2 developer is proposing to provide the following utilities; sewer will be done
3 by the City, water Moongate Water Company, gas Rio Grande Natural
4 Gas Association. Currently there are 60-feet of existing right-of-way
5 existing from the original subdivision, EBL&T Subdivision C. Tucson
6 Avenue is considered a minor local roadway, only requiring 50-feet, so no
7 additional dedication of right-of-way will be required by the subdivision.
8 The proposed replat, however, is not as it stands alone in conformance
9 with our City Subdivision Code Design Standards for the comprehensive
10 plan. The developer is proposing however a waiver to road improvements
11 for the subdivision, which is also known as Case 09-032W.

12 Case specifics for the waiver. The applicant has requested 100%
13 waiver to the City Subdivision Code, specifically Article XII construction
14 standards. Again presently Tucson Avenue has an existing right-of-way of
15 60-feet. Only 50-feet is needed for minor local roadway. No dedication
16 will be required. Pursuant to the City Subdivision Code Design Standards
17 and comprehensive plan, this subdivision application requires road
18 improvements to Tucson Avenue from the property boundary to the
19 nearest paved public roadway which is Del Rey Boulevard. The Design
20 Standards state that when improvements are required on a minor local
21 roadway, the subdivider is responsible for providing the full street section.
22 I'll show you that street section on a slide in a moment. For Tucson
23 Avenue the subdivider is responsible for that full street section including
24 50-feet of pavement, sidewalk, curb and gutter, and again we'll see that
25 cross section in just a moment. During the subdivision review process the
26 applicant was informed that they will be required to build a pro-rata share
27 of improvements to approximately 2,300 linear feet of Tucson Avenue
28 because Tucson Avenue is currently unimproved, hence the waiver
29 request.

30 Here's a picture of the subdivision plat. You've got 4.85 acres
31 divided up into two. You can see those two lots. Right here as well you
32 can see the 60-feet of dedicated right-of-way per EBL&T Subdivision C,
33 Tucson Avenue is at 60-feet here. Here's a cross section for the minor
34 local roadway, in total requiring 50-feet to include possibly street lights,
35 sidewalk, curb and gutter, and then the pavement section as well. The
36 arrow is pointing to the subject property on this vicinity map. This is an
37 aerial photo, this is Google 2009 and they're not quick enough to catch it
38 but the property owners who I believe have already started construction
39 on this particular parcel. So unfortunately there is not anything there right
40 now, maybe in 2010 there will be, so I apologize. Again this is an MPO
41 thoroughfare map and vicinity map of the parcel. As you can see Del Rey
42 is a principal arterial. It is the closest paved public roadway to Tucson.

43 Staff and DRC recommendation, for S-09-032, on July 22, 2009 the
44 DRC reviewed this proposed replat and they approved this replat. For the
45 recommendation for the waiver, staff recommended denial of the waiver
46 request based on current City policy, i.e. the Subdivision Code, the Design
47 Standards, and the comprehensive plan. As already noted, the

1 development policies and ordinances require developers and subdividers
2 to either construct their pro-rata share of public improvements or pay for
3 them in lieu of. The DRC had reviewed the waiver request on July 22 as
4 well and denied it.

5 Commission options for decision of these two cases; one is to
6 approve the waiver request and replat; the second one would be to
7 approve the waiver request and replat with conditions, for example one
8 you could approve the waiver and approve the replat with the condition
9 that the waiver request receives approval from City Council. The other
10 option would be to approve the waiver request with some conditions
11 and/or approve the replat with some sort of conditions. The third option
12 would be to deny the waiver request as recommended by the DRC and
13 then table the final plat so that the subdivider has the option of providing
14 those road improvements or payment in lieu without that subdivision plat
15 being denied. I will stand for questions regarding this proposal. The
16 applicant also has a presentation they would like to give you as well.

17
18 Scholz: Okay, questions for this lady. Yes, Commissioner Shipley.

19
20 Shipley: In the packet that we got we also got a statement from Southwest
21 Engineering Inc. that says what the cost of the road improvements are.

22
23 Robertson: Yes.

24
25 Shipley: What are the City's estimate of the cost of the road improvements? And
26 secondly, normally if you're going to do ... you know if they're going to do
27 an improvement or the City's going to do an improvement, they would just
28 be required to pay their pro-rata share, is that correct?, not the full amount
29 of the road improvements.

30
31 Robertson: Exactly, pro-rata share.

32
33 Shipley: Okay, so what would their pro-rata share for this cost be.

34
35 Robertson: Pro-rata is from the eastern most boundary of the subdivision or the
36 boundary of the subdivision furthest away from the nearest paved public
37 roadway, and that road has to be built to the nearest paved public
38 roadway.

39
40 Shipley: But they wouldn't be required to pay for curb and gutter on both sides of
41 the street or whatever would they?

42
43 Rodriguez: Mr. Chairman, Commissioner Shipley, actually the applicant would be
44 required to built their full share. So they'd be required for 100% of the
45 road improvements; curb, gutter, sidewalk, street lighting, basically what's
46 in concert with the City Design Standards. The cost estimate that was
47 provided by the applicant was reviewed by Public Works staff and is

- 1 consistent with the dollar amounts that Public Works staff would use if
2 they had to build that road, if City staff had to build that road.
3
- 4 Shipley: Okay. But what I'm getting at is that there are other owners of parcels
5 adjacent to that road that are going to use that road. So if you're going to
6 do that why don't we just put the road in and then bill all of the owners
7 along there for the improvements, which is what should happen so that
8 they would pay you know their pro-rata share based upon their acreage.
9
- 10 Rodriguez: Mr. Chairman, Commissioner Shipley, comment is well received, however
11 that's not how the current City Code and Policy is written today. And so,
12 the comment is well received by staff.
13
- 14 Scholz: In other words, so we can't do it that way. Okay. I do have a question and
15 my question is ... excuse me am I interrupting you?
16
- 17 Beard: No.
18
- 19 Scholz: My question is, when this was ... these people were allowed to have two
20 houses on the same property, wouldn't that imply replatting? And if this
21 was passed in March, I don't recall the particular case, but if this was
22 passed in March of this year, why weren't the people told about you know
23 it's going to be a replat therefore they're going to be responsible for the
24 street?
25
- 26 Robertson: When the variance was granted, there was no condition of replat put on
27 that variance. The variance I believe is privately provoked and the
28 developer or applicant's representative would be happy to elaborate on
29 that.
30
- 31 Beard: This was discussed in the last ... before though, wasn't it?
32
- 33 Robertson: Yes.
34
- 35 Beard: So everybody should know, be up to speed as to what's required.
36
- 37 Robertson: Yes.
38
- 39 Scholz: Yeah, and I also ... excuse me Commissioner Evans.
40
- 41 Evans: I'm sorry Mr. Chair. So I guess I'm a little unclear as to why we're hearing
42 this again.
43
- 44 Robertson: I'd like to go ahead and refer to the applicant's representative. Like I was
45 stating earlier, it was privately provoked. So it's not something that the
46 City provoked, nor was it something that the City made a condition on for
47 the variance. Yes, we did know that you know you could put a lot line

1 there. What they did was they went and asked for a variance to the
2 number of dwelling units normally allowed on a parcel. Normally it's one
3 lot, one dwelling unit. They had come and asked for two dwelling units on
4 one lot for this variance. If the Subdivision Code had been pursued, I do
5 remember reading in the staff report for the variance, that it was given as
6 an option to the applicants. They did not choose to do that. They chose
7 to pursue the variance. And yes, we are here today in regards to your
8 question as to what the reason is why, I would have to defer to the
9 applicant.

10
11 Evans: Okay. Which they probably have a presentation?

12
13 Robertson: Do you have any more questions for me?

14
15 Scholz: Well I just want to make a comment. We had a similar situation along
16 Peachtree as I recall a couple of months ago.

17
18 Shipley: This one.

19
20 Scholz: Pardon me?

21
22 Shipley: We had this one. They came in and requested a variance to put two
23 houses on one parcel.

24
25 Robertson: In March of 2009 you heard that case.

26
27 Shipley: In March.

28
29 Scholz: Yes, but no, I thought this was ... wasn't there a case on Peachtree?

30
31 Robertson: Mesa Village Tracts, yes.

32
33 Scholz: Okay.

34
35 Robertson: There was one there as well for a waiver.

36
37 Scholz: Right. And what we said was because they were relatively close to ... and
38 I'm trying to think of the street,

39
40 Robertson: Holman.

41
42 Scholz: Pardon me.

43
44 Robertson: Holman Road.

45
46 Scholz: Was it was Holman Road.

47

1 Robertson: Yes.

2
3 Scholz: Okay. And we assumed or at least we voted to allow them not to pave the
4 entire street all the way to Homan Road because all they were doing was
5 essentially dividing a lot that they owned. Do you recall that gentlemen?
6

7 Shipley: It was a variance to have two homes on that, yes.

8
9 Scholz: Yes. Okay.

10
11 Shipley: But there was ... that was why we didn't do anything. That was the same
12 thing here.

13
14 Scholz: Yeah. Okay, well let's hear from the applicant.

15
16 Pompeo: Good evening Commissioners. Paul Pompeo with Southwest
17 Engineering. I'm here to present this case. I also spoke to you back in
18 March about this same issue. I've listened to your questions and let me
19 get through my presentation, I'll elaborate, and I think it'll answer some of
20 your questions and then we can go from there.

21 Once again, the subject property is located on Tucson Avenue.
22 Once again, it's just short of 5 acre lot. We're proposing to divide it into
23 two lots. Here's a site aerial of the subject property. The subject property
24 is here where it's labeled 1690. Commission what I want you to note here
25 is this existing arroyo that runs through this area and also the distance of
26 unpaved road that we're dealing with in this location here. As the
27 subdivision proposed, the City of Las Cruces Design Standards require
28 37-foot roadway, a cross section with curb and gutter. This improvement
29 will be required from Del Rey Boulevard to the eastern side of the
30 property, distance of approximately 2,310 feet. Preliminary cost estimate
31 for the roadway alone is \$515,000. That's derived from City of Las Cruces
32 current unit costs for roadway construction. Drainage improvements on
33 Tucson Avenue to protect the southern edge of the roadway from the
34 existing arroyo are estimated at \$125,000. So we're at \$640,000 worth of
35 roadway improvements to be burdened on one property owner to create
36 one additional lot is excessive, and that's basically the stance of our
37 waiver request.

38 The City of Las Cruces Design Standards as currently written do
39 not contain a provision to have individual lot owners in this situation build
40 only their fair share. That goes to ... that Design Standards requires the
41 full 2,310 to be constructed for this subdivision to go through. As noted,
42 from the plat, we also have multi-jurisdictional issue here because we sit
43 on the boundary line of the City of Las Cruces and Doña Ana County. The
44 City of Las Cruces Planning and Zoning Commission heard the zone
45 change request and waiver request for this property on March 24, 2009.
46 The waiver request submitted at this time was for the construction of two
47 single-family residences on one lot, each member is the same family. The

1 issue of roadway improvements for the property was discussed at that
 2 hearing. The City of Las Cruces Planning and Zoning Commission voted
 3 to allow the two homes without roadway improvements. Changes in the
 4 banking requirement for permanent financing for the second home have
 5 lead to the need for the subdivision of this property. Originally the second
 6 home did receive construction financing. The home is built, but now going
 7 into permanent financing and issue has arisen with the lending institution
 8 and therefore the requirement for the actual free and clear lot has become
 9 ... that's what the need is for the subdivision and therefore the need for
 10 the variance.

11 The City of Las Cruces City Council heard a similar waiver request
 12 on Mesa Village Subdivision II, replat number one, resolution 09-317 on
 13 June 22, 2009. The subdivision was also for family members and
 14 contained two lots just over one acre in size. The waiver was approved
 15 with limiting language added to the plat. This language could also be
 16 incorporated into this subdivision plat and would read as follows: this is
 17 similar language directed by City Council that was added to that plat. Per
 18 the City Council the City of Las Cruces resolution 09 and obviously we
 19 don't have a resolution number yet, no roadway improvements to Tucson
 20 Avenue are required for the approval of this replat. However, any further
 21 replat that creates additional lots or any rezoning that increases the
 22 allowable density and/or intensity above the current land use of the
 23 subject properties will require the developer to construct the required
 24 amount of roadway improvements to Tucson Avenue as required by the
 25 City of Las Cruces Design Standards. At the time of a replat application
 26 that creates additional lots, or a rezoning application that increases the
 27 allowable density and/or intensity above the current land uses, if Tucson
 28 Avenue has been previously improved, such as another developer or the
 29 City, the developer shall reimburse the City of Las Cruces, the monetary
 30 amount necessary to make those required improvements based on the
 31 current construction unit cost and the data application.

32 So with that Commission we're asking for approval of the plat.
 33 We're also asking for your consideration and approval of the waiver
 34 request so that that property owners can move forward in their permanent
 35 financing and close on the two homes that are built there. Thank you.
 36 And I will be happy to answer any questions you might have.

37
 38 Scholz: Okay, Commissioner Shipley, questions for this gentlemen?

39
 40 Shipley: I'll wait.

41
 42 Scholz: Okay. You said you have to divide the property now for financial reasons,
 43 or to secure permanent funding you said?

44
 45 Pompeo: Originally the second house to be built on the property, when they went in
 46 to get their financing, their construction financing, having two single-family
 47 residential homes on that one tract of land was not an issue, not a

- 1 problem at that time. The home went to construction. The home's built.
2 Now that they're going into permanent financing and getting ready to close
3 on the house, the banking institution has said now, we will not accept that
4 any more, we want two individual tracts of land, each containing one of the
5 two houses. So that's the change of circumstance that has led us today
6 from the March meeting to where we're at today.
7
- 8 Scholz: Okay. What's the multi-jurisdictional problem you mentioned? I don't see
9 any multi-jurisdictional problem.
- 10
11 Pompeo: Well I was just merely pointing out to the Commission that Doña Ana
12 County exists to the north side of this roadway.
- 13
14 Scholz: Yeah, well right, you'd only have to build the south side of the roadway,
15 you wouldn't have to build the north side of the roadway.
- 16
17 Pompeo: No, I just pointed out for the ...
- 18
19 Scholz: I don't consider that a problem. You know this has been done in other
20 areas on the boundary of the City.
- 21
22 Shipley: They have to build both lanes.
- 23
24 Scholz: No, they only have to build half of it.
- 25
26 Pompeo: Well, no Commission, actually as this is a minor local roadway, we have to
27 build the full street section, and we have to build it to the nearest paved
28 and maintained roadway which is Del Rey.
- 29
30 Scholz: I understand that. Certainly.
- 31
32 Pompeo: However, as you have pointed out, there is 60-foot of existing right-of-way
33 there and the roadway can wholly be built within the City of Las Cruces.
- 34
35 Scholz: Right. The second home is already built you said?
- 36
37 Pompeo: Yes. Sorry, the first home is built.
- 38
39 Scholz: The first home is built. That's what I thought. When I visited the site I only
40 saw one house there.
- 41
42 Pompeo: I'm sorry Commission. The second home is ... and I'll have the people
43 that actually, you know the financing and all that give you an explanation
44 as to the second house.
- 45
46 Scholz: Okay.
- 47

1 Lucero: Last time we were here ...
2
3 Scholz: Identify yourself please.
4
5 Lucero: I'm sorry, Vicky Lucero. I'm representative for Ms. Linda Garza, property
6 owner.
7
8 Scholz: Okay.
9
10 Lucero: Last time we were here I think I'm going to have to chalk it up to our
11 naiveness and our first subdivision of a property. I believe that it was
12 presented as a possibility to go ahead and waive those road
13 improvements at that point in time.
14
15 Scholz: Right, because you weren't subdividing, yes.
16
17 Lucero: Correct. And I don't believe that we understood all the implications that
18 would come with it. We were quite pleased with just the variance for two
19 single-family units. However, due to lending regulations, they would no
20 longer allow a lot one, parcel A, B, C, lot two, parcel A, B, C. We have to
21 have two separate parcel numbers. So we have already ... the most
22 westerly lot already has a house built on it. So this section right here has
23 a dwelling. It's already been ... two legal descriptions have been derived
24 at this point. There is a dwelling that is built and ready to move into,
25 however, permanent financing cannot be obtained due to the fact that
26 there is now not two separate legal descriptions with two separate parcel
27 numbers, although we have two separate legal descriptions that
28 Southwest Engineering has prepared for us. We do not have two
29 separate parcel numbers and due to the timing of lending regulations we
30 do need two separate parcel numbers to proceed. We also, if you recall at
31 our last meeting, we did have the owners of the properties that border
32 Tucson Avenue and none of them were opposed to it, I just don't think at
33 the time we understood that it would quite be necessary. I believe this
34 option was offered to us at that time and now of course that there has
35 been something done right up the road, we're asking for the complete
36 subdivision and the waiver of the improvements. Did that answer your
37 questions, or no?
38
39 Scholz: Okay. Well I think so, yeah.
40
41 Evans: Yean.
42
43 Scholz: Okay. Commissioner Evans.
44
45 Evans: I think you know we should go forward with the intent of our previous
46 discussion.
47

- 1 Scholz: Okay. Anyone else from the public want to speak to this? Okay, we'll
2 close it for public discussion. Gentlemen what's your pleasure?
3 Commissioner Shipley you look like you're going to burst into speech. I'm
4 sorry, Commissioner Beard.
5
- 6 Beard: I need a little clarification. You want to subdivide so that you can get
7 financing on this piece of property.
8
- 9 Shipley: First and second.
10
- 11 Beard: That's the bottom line.
12
- 13 Pompeo: The bottom line is there are two family members that want to occupy each
14 side of that lot and in order to go to permanent financing on two homes
15 they'd have to have two separate legally existing lots. At the time that we
16 came before you in March, we were of the understanding via the bank that
17 we could ... that having the second dwelling unit on the one lot was okay.
18 That they could get into permanent financing then. That has changed.
19 There are two family members, they want two single-family residential
20 dwellings and the banking industry is saying we have to have two legal
21 descriptions, two legal lots. So that's the reason why.
22
- 23 Beard: Okay. The other thing that I'm not certain that it is material, but if you do
24 improve the road, you have to improve both sides of it, the county side?
25
- 26 Pompeo: No. We are required ... there is 60-foot of existing right-of-way there that
27 exists within the city limits. We would have to develop a 37-foot wide
28 street section there which could all fit in that 60-feet obviously. And it's a
29 minor local roadway. The Design Standards say that minor local
30 roadways for subdivisions you have to build the full section and it has to
31 be extended to the nearest paved road. So we would have to build a full
32 37-foot wide, back of curb to back of curb street section and extend it all
33 the way west to Del Rey Boulevard.
34
- 35 Beard: So the county property would not be affected then?
36
- 37 Pompeo: No, it's just that anybody accessing the road in the future from the north is
38 going to be living in the ETZ or the Doña Ana County rather.
39
- 40 Beard: Okay.
41
- 42 Scholz: Commissioner Shipley you're shaking your head. Are you trying to clear it,
43 is that the idea?
44
- 45 Shipley: I understand exactly what they want to do, but what I'm trying to get at is
46 you know at some time this road's going to be developed and that
47 everybody that lives on that road should pay a fair part and to say ... to

1 give this parcel you know no responsibility I mean they're going to be
2 using that road. And whoever develops it, whatever next parcel is, they're
3 going to say the same thing that these folks are saying. And you know it's
4 just the same thing over and over again. You know I don't know how to do
5 this equitably and that's why I asked ... that what I was asking Ms.
6 Rodriguez is that why isn't there some provision that says that you know
7 we'll build the road and everybody along that road that lives there and will
8 use it, is responsible to pay their fair share. I mean that's part of the City
9 services and that's the way it ought to work. And we're piecemealing this
10 together and ...

11
12 Evans: Right.

13
14 Shipley: You know the next guy that decides to do this is going to do the same
15 thing that we're doing right here today.

16
17 Evans: Right.

18
19 Shipley: And I don't see that that's fair to you know ... it's not the way thing should
20 be done.

21
22 Scholz: Commissioner Evans.

23
24 Evans: Mr. Chairman, I agree with Commissioner Shipley and as far as I think we
25 need to have a uniformed approach to addressing these situations. That
26 being said, at this present time we don't and I would like to support the
27 individual homeowners and property owners to develop that piece of
28 property in the meantime until the City comes up with a formal process for
29 allowing the property owners to utilize their property to the extent that they
30 want to and bring the City regulations or needs into compliance with the
31 development of their property rights. So, I would actually ... and I think if
32 you go back and you look at what the City Council's conditions were on a
33 similar piece of property I think it tried to address some of my concerns in
34 as much as a developer coming in would not be granted the same waivers
35 and that they were trying to allow people the latitude to do the things that
36 they wanted to do. And so I guess I would be in support of granting a
37 waiver ... well granting the ... what was it?

38
39 Scholz: Well it would be granting the variance ...

40
41 Evans: Right, granting the variance ...

42
43 Scholz: Excuse me, approving the final plat and allowing the waiver.

44
45 Evans: Right. So I would be in support of approving the final plat and granting a
46 waiver with the conditions similar to what City Council has done not to
47 exclude additional developers.

- 1
2 Shipley: Well I think what he put up there ... if you pull it back up again, what your
3 stating. I think that's very appropriate except for the part that says they
4 only have to pay their portion if they subdivide again or change the usage
5 again. In other words if they put a business on there, so ...
6
7 Evans: Can we go this line by line, because he kind of went through it real fast
8 and I'm not ... and I don't know if we should even use this as an example.
9 I'm advocating this because this is what City Council has done in the past,
10 so we should try and be ...
11
12 Pompeo: Mr. Chairman if I might ...
13
14 Scholz: Yes.
15
16 Pompeo: This language was tweaked to for this specific subdivision, but this was
17 the language that was added to the Mesa Village replat at the direction of
18 City Council. To take into consideration that we could allow the waiver
19 now to allow the land use now, however recognizing that these areas are
20 going to develop and as they develop and as roads are built, people are
21 going to come in and want to re-subdivide and change the zoning of their
22 property, and you know you may have got your freebee one, but you're not
23 going to get any more after that. Just for the Commissions information, at
24 the City Council meeting, you know this discussion because on the Design
25 Standards it's all or nothing. Either build \$640,000 or you get to do
26 nothing. And that lead into a discussion like on the previous case it was
27 discussed that lead right into the discussion on impact fees and that's how
28 the City's going to deal with situations like this.
29
30 Evans: Right. And I believe it's too burdensome on individual property owners.
31
32 Shipley: Well obviously.
33
34 Evans: So in not having a well defined City position on this, you know we should
35 go ahead and grant a waiver and come up with some type of constraints
36 ...
37
38 Scholz: Or a recommendation to City Council as we've done in the past. I think
39 there is a clear policy on this, but it appears to be you know a punitive
40 policy.
41
42 Pompeo: In certain situations I believe it is.
43
44 Evans: Well I think it's defined for developers and not for individual property
45 owners.
46
47 Scholz: Well that's perhaps the reason. It seems to me though a couple of years

1 ago we did one on Mesa. A gentleman wanted to put three mobile units
 2 on his property and we said he'd have to subdivide in order to do that and
 3 if he did subdivide then he would have to do his share of road
 4 improvement. Now his share of road improvement was limited to the
 5 width of his property, you know the width of the property that faced Mesa.
 6 And I'd think it'd be reasonable to put that condition into this situation. In
 7 other words, asking the people who are getting the replat to pave or at
 8 least pay for the paving of the width of their property all right, that faces
 9 Tucson.

10
 11 Evans: Well actually that's not a bad direction in which perhaps staff should
 12 pursue this and have a fund out there where they continually put money
 13 into a bank. But if you look at the practical application of what you're
 14 advocating, you're going to have you know 20-feet of paved road out in
 15 the middle of a desert with no ... a bridge to nowhere.

16
 17 Scholz: As a matter of fact Commissioner Evans this has already been done.
 18 There are scattered pieces of pavement all over the East Mesa. I've
 19 driven on them and I've driven off of them. And you know they exist
 20 because we have asked the property owners to follow the law, you know
 21 to follow the code. That's what we're doing. Ms. Rodriguez you have a
 22 comment for us.

23
 24 Rodriguez: Mr. Chairman, Commissioners, I'm just listening to the general discussion.
 25 The discussion that you guys are having is a similar discussion that
 26 council had when the previous case regarding Mesa Village tracts had.
 27 Commissioner Shipley's comments are well received. Staff right now is
 28 looking at different means that they can implement ... impact fees are one
 29 option to where that as people get building permits to build their houses
 30 you would pay an impact fee and therefore would go to road
 31 improvements in general, maintenance, etc. That's one option. But that's
 32 going through the City process right now and Council hasn't formally
 33 adopted a position on that. The latter case on Mesa Village was an
 34 example that raised a discussion about impact fees. I believe that this
 35 case would be a similar discussion that would lend towards impact fees.
 36 With that being said, and staff's position on this exactly what is defined in
 37 today's City Codes and Policies. And yes, it says developers are
 38 responsible. I mean as development occurs you are responsible for your
 39 road improvements. It doesn't come out and say whether or not a
 40 developer is a big or small one, is the fact is, is that you are developing
 41 your property today, therefore you must follow the codes that are set forth.
 42 And in this case, since it is an unimproved roadway, they have to build
 43 their share of road improvements all the way out Del Rey. If you were to
 44 look at the option of just doing road improvements on an unimproved
 45 roadway and limiting that to just the frontage in front of their property,
 46 you're looking at approximately 350 linear feet. Well when you look at that
 47 ... staff hasn't reviewed that but there are engineering concerns regarding

1 that and traffic impact concerns because then you're going to have
 2 basically a piecemeal road and you're not going to have transitional lanes,
 3 etc. So that would be a grave concern that staff would have if we would
 4 just limit it to road improvements in front of their property, because you
 5 won't transition correctly with the other ... the non-existing improvements
 6 that are out there.

7 In terms for the approval of the final plat, DRC recommended
 8 approval of the final plat knowing that if the waiver was granted then the
 9 waiver is granted. They can file the plat. But if the waiver is not granted,
 10 then the applicant has two options, you provide the payment or you build
 11 the road. Those are your two options. And then staff has means to
 12 basically ... you know the plat doesn't mean it's going to be filed tomorrow
 13 necessarily. We can hold that plat until the waiver request is gone to City
 14 Council. But in terms of the language, the applicant has provided here,
 15 this is similar language that council used for the Mesa Village tracts. It's
 16 consistent with what they put forward because they had a very similar
 17 discussion regarding impact fees. But at that time legal staff said well you
 18 can't require the other additional property owners to pay because we don't
 19 have any policy in place to do that. So Council came up with language
 20 that was very similar here to what the applicant proposed and if the
 21 Commission chooses to make a recommendation to Council to use similar
 22 language as this, that is this body's purview and then that would be the
 23 recommendation for the waiver request to go forward to City Council. But
 24 staff's position on this is we can only operate what's defined on the codes
 25 of the books today and hence the reason it's either pay it or build it. And if
 26 Council on the Mesa Village case which is a separate case said,
 27 understanding the circumstances we offer this language in terms of
 28 approving the waiver request, then the Commission can use similar logic
 29 for this case as well.

30
 31 Scholz: Well, gentlemen? Commissioner Beard.

32
 33 Beard: If the lots are subdivided will both of them be zoned EE?

34
 35 Rodriguez: Mr. Chairman, Commissioner Beard, that is correct. The zoning stays in
 36 place. The proposed replat in terms of the lots that are going to be
 37 created will confirm to the development standards of the EE zoning
 38 district.

39
 40 Scholz: Okay gentlemen, we're going to rise from our suspended rules. Do I hear
 41 a motion to unsuspend the rules?

42
 43 Evans: Mr. Chairman I move that we unsuspend the rules.

44
 45 Scholz: Is there a second?

46
 47 Beard: I second it.

1
2 Scholz: Okay it's been moved and seconded. All those in favor say aye.
3
4 ALL COMMISSIONERS - AYE.
5
6 Scholz: Those opposed same sign. Motion carries. All right. I'll entertain an
7 approval of the final plat. That's Case S-09-032.
8
9 Evans: So moved.
10
11 Scholz: Is there a second?
12
13 Beard: Second.
14
15 Scholz: Okay it's been moved and seconded. I'll call the roll. Commissioner
16 Shipley.
17
18 Shipley: Aye findings, discussion, and site visit.
19
20 Scholz: Commissioner Evans.
21
22 Evans: Aye findings and discussion.
23
24 Scholz: Commissioner Beard.
25
26 Beard: Aye findings and discussions.
27
28 Scholz: And the Chair votes aye for findings, discussions, and site visit. Okay so
29 we have approved the final plat. Now, on the waiver request, I'll entertain
30 a motion to approve the waiver request.
31
32 Evans: Mr. Chair I move that we approve Case S-09-032W.
33
34 Scholz: Is there a second?
35
36 Beard: Second.
37
38 Scholz: It's been moved and seconded. I'll call the role. Commissioner Shipley.
39
40 Shipley: Nay findings, discussion, and site visit.
41
42 Scholz: Commissioner Evans.
43
44 Evans: Aye findings and discussion.
45
46 Scholz: Commissioner Beard.
47

1 Beard: No findings and discussions.

2
3 Scholz: And the Chair votes no findings and discussions. So the waiver request is
4 denied.

5
6 9. **Case S-09-035:** A request for an Annexation Plat approval of 167.734 +/-
7 acres of land into the Corporate Limits of the City of Las Cruces, otherwise
8 known as the Peachtree Hills Annexation, generally located within Section 10,
9 Township 22 South, Range 2 East, of the U.S.G.L.O Surveys, north of Las
10 Cruces, Dona Ana County, New Mexico. The subject property is located
11 north of Peachtree Hills Road (Minor Arterial) and west of Jornada Road
12 (Collector). The property is currently within the Extra-Territorial Zone of Dona
13 Ana County. Submitted by Summit Engineering for Las Cruces Public
14 Schools.

15
16 10. **Case S-09-036:** A request for Master Plan approval (as part of an annexation
17 request) for Peachtree Hills containing 167.734 +/- acres generally located
18 within Section 10, Township 22 South, Range 2 East, of the U.S.G.L.O
19 Surveys, north of Las Cruces, Dona Ana County, New Mexico. The subject
20 property is located north of Peachtree Hills Road (Minor Arterial) and west of
21 Jornada Road (Collector). The master planned area proposes an institutional
22 land use for a public school (K-12), single family residential land uses and
23 multifamily residential land uses. The subject property includes land that is
24 not developed and is controlled by the federal government. The Subject
25 property also includes land for the future public elementary and middle
26 school. The property is currently within the Extra-Territorial Zone of Doña
27 Ana County and is zoned ER-3 (Residential, one-acre minimum, site-built
28 homes) and lands controlled by the federal government (Bureau of Land
29 Management) that are currently unzoned. Submitted by Summit Engineering
30 for Las Cruces Public Schools.

31
32 11. **Case Z2798:** A request for Initial Zoning, as part of an annexation request,
33 for Peachtree Hills, containing 167.732 +/- acres generally located within
34 Section 10, Township 22 South, Range 2 East, of the U.S.G.L.O Surveys,
35 north of Las Cruces, Dona Ana County, New Mexico. The subject property is
36 located north of Peachtree Hills Road (Minor Arterial) and west of Jornada
37 Road (Collector). The initial zoning request includes:

- 38
39
- 40 • 80.24 +/- acres (**Parcels 2 and 3**) of R-1aC (Single Family Medium
Density Conditional);
 - 41 • 57.808 +/- acres (**Parcels 1, 4, and 7**) of H (Holding Zone District);
 - 42 • 18 +/- acres (**Parcels 5 and 6**) of R-3 (Multi-Dwelling Medium Density);

43
44 The property is currently within the Extra-territorial Zone of Doña Ana County.
45 Parcels 1, 2, and 3 are federal lands controlled by the Bureau of Land
46 Management and have no current zoning. Parcels 4, 5, 6, and 7 are in
47 private ownership and are zoned ER3 (Residential, 1-acre minimum, site-built

1 homes). Submitted by Summit Engineering for Las Cruces Public Schools.

2
3 Scholz: Mr. Hembree.

4
5 Hembree: Yes, good evening Commissioners. This is Peachtree Hills annexation,
6 Case S-09-035 for the annexation plat. Case S-09-036 for the master
7 plan, and then the initial zoning. In this case I would like for you once
8 again if you would consider to suspend the rules so we can discuss all of
9 these together.

10
11 Scholz: Certainly.

12
13 Shipley: I move to suspend the rules for Case S-09-035, and Case S-09-036 ...

14
15 Scholz: And Case Z2798.

16
17 Shipley: And Case Z2798.

18
19 Scholz: Is there a second?

20
21 Beard: I second.

22
23 Scholz: It's been moved and seconded. All those in favor say aye.

24
25 ALL COMMISSIONERS - AYE.

26
27 Scholz: Those opposed same sign. All right. We are suspending the rules so we
28 can discuss these three all at once.

29
30 Hembree: Thank you Commission. I'll be giving the staff presentation this evening to
31 introduce the Las Cruces Public School team here to talk more about their
32 detailed proposal for their construction of a middle school and an
33 elementary school on the East Mesa, as well as improvements to support
34 that utilities, roadways, and I believe that their engineer is here to discuss
35 briefly the traffic impact analysis that was done for this.

36 Again, as I stated this is a request for annexation which includes an
37 annexation plat, a master plan, and initial zoning request; the 167.734 +/-
38 acres of land into the corporate City limits of the City of Las Cruces and it
39 is submitted by Summit Engineering on behalf of Las Cruces Public
40 Schools. This is the vicinity map. Again, Peachtree Hills here marks the
41 southern boundary of the annexation area, Jornada north marks the
42 eastern boundary, extension of McGuffy essentially the western boundary,
43 and I believe this is a section line to the north there that marks the north
44 boundary at the annexation area. Again an aerial showing this area. This
45 is a thoroughfare plan more on a regional basis. You see how the actual
46 thoroughfares link throughout the region. Peachtree Hills being a minor
47 arterial, Jornada being a collector. We're at the very fringe of the City of

1 Las Cruces here and you can see that MPO thoroughfare has designated
2 access and circulation and thoroughfares throughout the area to support
3 our growth in this region. Again a more detailed version indicating
4 Jornada being a collector, Peachtree Hills to the southern end of the
5 annexation area being a minor arterial.

6 Case specifics, as I've stated 167 plus acres north of Peachtree
7 Hills, west of Jornada. The annexation is primarily to facilitate the
8 construction of a new elementary school and middle school by Las Cruces
9 Public Schools. Three parcels are to be controlled or are controlled
10 currently by Las Cruces Public Schools and then four privately owned
11 parcels are also participating in the annexation. Pro-rata share of
12 improvements to Peachtree Hills Road, again a minor arterial, and to
13 Jornada road, a collector, will be performed by the Las Cruces Public
14 Schools. As I mentioned all utilities will also be extended in support of this
15 annexation by Las Cruces Public Schools as well.

16 This is the annexation plat showing the three parcels that my cursor
17 is indicating here controlled by Las Cruces Public Schools, and then the
18 four parcels here privately held. The annexation plat as stipulated by state
19 statute does include all of the right-of-way of Jornada and all of the right-
20 of-way of Peachtree Hills as well into the annexation.

21 This is the master plan. Again, parcels one, two, and three are
22 controlled by Las Cruces Public Schools. One is indicated to basically be
23 for an expansion and we can talk a little bit about that later, but actually
24 under long-term lease. The four parcels here; four, five, six, and seven
25 also part of the annexation. And again, parcel one, I'm going to flip back
26 and forth, is reserved for future expansion of Las Cruces Public Schools.
27 Parcel two is where the middle school will be located, parcel three is
28 where the elementary school will be located. Parcels five and six, are
29 multi-family, multi-dwelling medium density which is R-3. Parcels four and
30 seven we'll talk a little bit more about those. We're putting those currently
31 into a holding district. The owner petitioned after our public notice was
32 actually circulated. So staff a subsequent time after the annexation will
33 initiate a zone change for those two parcels and the zone change
34 recommended by staff will be R-3 which is essentially what five and six
35 are, for four and then a C-3 commercial designation for seven, which puts
36 it at two primary MPO thoroughfare intersection, it makes sense to have a
37 commercial designation t that particular juncture.

38 Relative to the zoning, a little over 80 acres of R-1aC which is
39 single-family medium density will be the zoning for the school site. It'll be
40 conditioned exclusively for school use. A little over 57 acres of H, holding
41 zone district for the two private parcels as I indicated earlier which will
42 subsequently be rezoned by the City initiating the zone change I did
43 mention. And of the one parcel reserved for future school use expansion
44 which is parcel one. And then R-3 multi-dwelling medium density for
45 parcels five and six, roughly eighteen acres in size. Again initial zoning,
46 just to reiterate, H will be the initial zoning for this parcel, R-1aC
47 conditioned for public school use for this parcel, the same for this parcel.

1 The two parcels controlled by the individual who came late to the petition
 2 will be an H for holding, and then the two interior parcels here are R-3. I
 3 provided the existing context of the zoning here. These ER designations
 4 are an extra territorial zoning. ER-3 Essentially is one acre minimum site
 5 built home. ER-3/4 is three quarter acre residential which includes, allows
 6 for mobiles. We've got commercial, higher density residential at the
 7 corner here. Just to give you some context of the zoning area relative to
 8 the proposed zoning for the initial zoning for the annexation.

9 The DRC reviewed this and the recommendation is that the
 10 annexation plat be approved with no conditions, Case S-09-035. That the
 11 master plan S-09-036 be approved with no conditions. The initial zoning
 12 Case Z2798 approval with the one standard condition that's typically
 13 placed on by City Council, utilities to be placed underground. And that
 14 concludes my presentation, but I believe the Las Cruces Public Schools
 15 team does have a presentation that they'd like to go through and will detail
 16 in terms of their proposal.

17
 18 Scholz: Okay. Questions for Mr. Hembree? All right. I want to thank the Las
 19 Cruces Public Schools system for their endurance tonight and take it away
 20 gentlemen.

21
 22 Meyers: My name is Greg Meyers. I'm with Summit Engineering here presenting
 23 the Las Cruces Public Schools for this annexation.

24
 25 Scholz: You're going to have to be a little closer to the mike please.

26
 27 Meyers: Sorry about that.

28
 29 Scholz: There you go.

30
 31 Meyers: Gary did a good overview of what's being recommended here and what's
 32 being pursued for the annexation. I'll just kind of go through real quick my
 33 overview and then we'll get into some details as far as what's being
 34 planned currently for the public school parcels that are being implemented
 35 into this annexation.

36 Again, the current zoning is ER-3. It's currently in the county or in
 37 the ETZ. There are portions of it that are also not zoned that we are
 38 implementing into the annexation. The proposed zoning is as was stated
 39 R-1aC, R-3, or as a hold for the different properties. Proposed land use
 40 would be for an elementary school, for the middle school, for future school
 41 lands to be developed at a later date, and for private development.
 42 Subject annexation is 162.734 acres total. That includes all of the lands
 43 as well as the right-of-way for Jornada Road. The annexation area
 44 includes like I said all of the right-of-way for Jornada and the portions of
 45 Peachtree Hills Road that are currently within the county.

46 This is just an overview, shows the area that we're talking about.
 47 What's in blue in here now is currently within the City limits. What we're

1 doing is we're trying to square up this portion of the City limits with this
2 annexation. That was one of the reasons for incorporating the four private
3 parcels into the annexation was to make that a nice clean line for the City
4 limits. And again this is just an overview of the different zoning that we've
5 got as well as the master plan. As you can see we've got the three larger
6 school parcels as Gary went through with his presentation and the four
7 privately owned parcels. On this master plan we also have all of the traffic
8 information that we are currently projecting for the schools as well as for
9 full development of the private parcels. I'll get into that in a little more
10 depth here in just a minute. And again this is the initial zoning which
11 we've pretty well gone through on everything.

12 One of the other items of zoning is we've got a major power line
13 that transects a portion of the elementary school site and that was zoned
14 for a potential future pathway for some connectivity for all of the future
15 subdivisions that are going out that way, and we're continuing with that
16 zoning that was implemented in the Sierra Norte annexation. As far as the
17 development goes, utilities available to service the area of the proposed
18 annexation, water will be provided by Moongate Water Company, sewer
19 will be by the City of Las Cruces, natural gas by Rio Grande Natural Gas
20 Association, and electrical by El Paso Electric. All of these utilities are
21 being extended out to facilitate the construction of both the elementary
22 school and the middle school. The extension of the utilities service would
23 be performed through a City managed infrastructure project funded by the
24 City of Las Cruces. In what we're currently working on as far as the
25 infrastructure going out there, there is going to be a tie for Peachtree ... let
26 me go through another slide here to kind of give you an idea of what we're
27 talking about. What we're looking at doing, we've got Sonoma Ranch
28 Boulevard that is going to be extended up to the north, eventually going up
29 towards the currently constructed golf course. This will be the bus safety
30 route for both the elementary school and for the middle school. Peachtree
31 Hills Road will be extended from Sonoma Ranch all the way through to
32 Jornada Road and Jornada Road will be extended from the intersection of
33 Peachtree all the way to the north boundary of the middle school property.
34 Both of these projects will be pursued as City managed projects that are
35 funded by the Las Cruces Public Schools. Those construction drawings
36 for those projects are currently being completed and being submitted to
37 the City for final reviews for that. Included in that is not only the roadways
38 but also the extension of the gas line going out there as well as ... in order
39 to facilitate the sewer, there will be a lift station constructed with a force
40 main that comes down to the intersection of Jornada Road and Peachtree,
41 and a sewer line will be extended up from Ortega Road at Jornada up to
42 Peachtree to accept the flows from that lift station. Of course Moongate
43 Water already has water lines servicing down Peachtree, that water line
44 will also be extended up Jornada to facilitate the middle school, and will
45 extend through the extension of Jornada Roadway.

46 Access for the area of annexation again would be through
47 Peachtree Hills Road and Jornada Road with the development of the

1 roadways. The schools are currently under contract for, both the middle
 2 school and the elementary school, the elementary school has already
 3 broken ground and is currently under construction. The middle school is
 4 getting close to breaking ground. That's being done under a construction
 5 manager for risk contract for the schools. So both of those are currently
 6 ongoing. The plan that the school system currently has is that both of
 7 those schools would be occupied in the fall of 2010. So we're pushing the
 8 deadline all the way as far as we can get it to try and get all the
 9 infrastructure in as well as the schools built to meet their deadlines.

10 And again this is just an aerial view. Right now all of the lands out
 11 there are vacant that are currently in the proposed annexation. There are
 12 no structures out there with the exception of what's currently being built for
 13 the elementary school and what's being proposed for the middle school.
 14 The school site, as far as the elementary school goes, the school site itself
 15 is 40 acres and the estimated school attendance would be 600 students
 16 for the elementary school. For the middle school that also sits on a 40
 17 acre parcel with attendance being rated at 900 students for that school.
 18 Privately owned land is again under four separate parcels, two of those
 19 parcels owned by the same owner. All of the owners have signed onto the
 20 petition for the annexation. This is just a view of the elementary school
 21 and we've got an elevation. Basically, the elementary school has several
 22 wings to it, but it's all basically a single structure. This kind of gives you an
 23 idea of what's being built out there. This is another view, kind of an aerial
 24 view that shows the elementary school and another elevation. There is
 25 plenty of parking. The access comes again off of Peachtree for this.
 26 There are a total of three different access points to get into this school off
 27 of Peachtree.

28 This is the middle school, just an elevation of the middle school.
 29 And this is an overall view of the middle school. The middle school is
 30 more of a campus type facility, instead of it being a single structure that's
 31 being proposed for that. That's the end of my presentation. And I will
 32 stand for questions.

33
 34 Scholz: Any questions for this gentleman? All right. Mr. Hembree.

35
 36 Hembree: I just have one correction to bring to your attention. This portion of tract
 37 three is actually going to be zoned OSR. It actually is a transmission line,
 38 100-foot wide transmission line. That was not placed in the public notice,
 39 but we would just like to acknowledge that in the record that it is actually
 40 part of the annexation and will be reflected in subsequent actions.

41
 42 Scholz: Okay. Yes, Commissioner Beard.

43
 44 Beard: I have a question on the students and the trips. They are just visa versa
 45 as to what I thought they would be. You have 600 students and 5,000
 46 trips, 900 students and only 3,000 trips. Can you explain that for me?
 47

- 1 Meyers: Commissioner Beard and Chairman, those numbers come directly out of
2 the ITE trip manual. And the best way I can tell you is that an elementary
3 school you have a whole lot more traffic coming into those elementary
4 schools, mostly because there are more parents dropping off individual
5 students. As you get into middle school, those trips kind of diminish. So
6 you're either teaming up, the parents are teaming up bring more kids in
7 than a single student, or so forth. But that's exactly how the ITE criteria
8 calls out for middle schools and for elementary schools based on per
9 student evaluations for traffic.
- 10
11 Beard: Okay. Thank you.
- 12
13 Scholz: That's very interesting. I didn't think of that. All right. Any other questions
14 for this gentleman? Yes, Commissioner Shipley.
- 15
16 Shipley: It says on the chart though, it says trips per dwelling unit. You have that
17 for elementary but not for the middle school? In your chart under
18 anticipated traffic.
- 19
20 Meyers: Let's see if I can find ... is that on the master plan that you're talking
21 about?
- 22
23 Shipley: Yes, right there, on that sheet, at the bottom of the sheet. In that chart
24 right there. The bottom it has trips per dwelling unit 42.94.
- 25
26 Meyers: Yeah, I believe that's for the individual private parcels, not for the school
27 itself.
- 28
29 Shipley: Okay. Well it says though it got it under middle school if you go to the
30 right.
- 31
32 Scholz: No I see that as residential single-family.
- 33
34 Shipley: It says commercial C-3, N/A, dwelling units N/A, but then it says trips per
35 dwelling unit 42.94. So trips 3,005. And it says the code is middle school
36 students.
- 37
38 Scholz: I see. Yes.
- 39
40 Meyers: Those are different columns. If you read through it. It's on the same table
41 but there are separate columns. If you go by the IT ... where it says ITE
42 code 520 and you go down to elementary school, it's by the number of
43 students, trips per student and that's how it's evaluated. The single-family
44 is under the IT code 210, if you follow through. Don't follow that line all the
45 way across. It's per column.
- 46
47 Shipley: Okay.

1
2 Scholz: All right. Any other questions? Okay, is there any one from the public
3 who wishes to speak to this issue? Okay, hearing none we will close it for
4 public discussion. Commissioners? We have to rise from our ...
5
6 Shipley: Have to reinstate the rules.
7
8 Scholz: Yes.
9
10 Shipley: I move to reinstate the rules.
11
12 Scholz: Is there a second?
13
14 Evans: So moved.
15
16 Scholz: It's been moved and seconded. All those in favor say aye.
17
18 ALL COMMISSIONERS - AYE.
19
20 Scholz: Okay those opposed same sign. All right we have unsuspended the rules.
21 Let us consider then Case S-09-035.
22
23 Evans: Mr. Chairman I move that we approve S-09-035 with no conditions.
24
25 Scholz: Is there a second?
26
27 Shipley: Second.
28
29 Scholz: All right I'll call the roll. Commissioner Shipley.
30
31 Shipley: Aye findings and discussion.
32
33 Scholz: Commissioner Evans.
34
35 Evans: Aye findings and discussion.
36
37 Scholz: Commissioner Beard.
38
39 Beard: Aye findings and discussions.
40
41 Scholz: And the Chair votes aye findings and discussions. Okay.
42
43 Shipley: Move to approve Case S-09-036 with no conditions.
44
45 Scholz: Is there a second?
46
47 Evans: Second.

- 1
2 Scholz: All right, I'll call the roll. Commissioner Shipley.
3
4 Shipley: Aye findings and discussion.
5
6 Scholz: Commissioner Evans.
7
8 Evans: Aye findings and discussion.
9
10 Scholz: Commissioner Beard.
11
12 Beard: Aye findings and discussions.
13
14 Scholz: And the Chair votes aye for findings and discussions. So we have passed
15 that one.
16
17 Shipley: Move to approve Case Z2798 with the condition that all utilities will be
18 underground.
19
20 Scholz: All right, is there a second?
21
22 Evans: I second.
23
24 Scholz: I'll call the roll. Commissioner Shipley.
25
26 Shipley: Aye findings and discussion.
27
28 Scholz: Commissioner Evans.
29
30 Evans: Aye findings and discussion.
31
32 Scholz: Commissioner Beard.
33
34 Beard: Aye findings and discussions.
35
36 Scholz: And the Chair votes aye for findings and discussions. Thank you very
37 much gentlemen for your endurance and your presentation.
38
39 **VIII. OTHER BUSINESS**
40
41 Scholz: That brings us to other business.
42
43 Shipley: I guess I have a couple of things.
44
45 Scholz: Commissioner Shipley has a couple of things of other business he wants
46 to run by us.
47

- 1 Shipley: One thing I'd like to ask is a couple of meetings ago I asked about when
2 were our, the City code books going to be updated and ... in other words
3 we've made changes to the code and yet we've never given our books
4 back to be ... so our books are out of date. So what I'd like to propose is
5 to get I believe the City clerk is responsible for updating those kinds of
6 things or you are, okay. So can we put that on your agenda so we could
7 do that? And if you'll give us a date when we should turn our books in you
8 know after a meeting or something like that then we can get them back
9 before the next ...
- 10
11 Scholz: So we can find our books before we ...
- 12
13 Shipley: Yeah.
- 14
15 Scholz: I know mine's in the closet somewhere.
- 16
17 Shipley: Okay, so that was one. The second thing is you know the case we had
18 tonight with regards to impact fees I guess is the way to address that, but
19 we really ought to sit down and say, you know as a planning Commission
20 that's our responsibility to say this isn't working guys. And we have got to
21 place this on somebody's agenda which it should be ours. Because we're
22 going to be confronted with this ... you know we've added more acreage
23 tonight that's got roads that are unimproved and somebody comes in and
24 wants to split a parcel, we're going to be right back where we started and
25 it's ... you know we're not solving a problem by ignoring it. You know it's
26 time that we stopped ignoring it and come up with some language. And I
27 think we can get legal language that says that or we can look at impact
28 fees. And the other thing is we're not helping the citizens prepare for that
29 because they think that because they've got a piece of land out there with
30 a dirt road, that they're home free. They don't have to worry about
31 anything. And with ownership comes responsibility. And that
32 responsibility is that eventually there's going to be a road there. This is a
33 city, they're not living out in the country any more, they're living in the city.
34 And the city's going to have a road and they're going to have to pay their
35 fair share.
- 36
37 Scholz: Commissioner Evans.
- 38
39 Evans: I agree, but I think the ... I don't know, I voted for the waiving of the fee, so
40 ... but I think I obviously understand where you're coming from. But I think
41 the intent and I would have liked to have seen this be a little more clearer
42 if we actually supported their position, but we wanted to raise up to City
43 Council to have them weigh in on it and obviously I think they'll weigh in, in
44 the appropriate direction, you know like they've done historically.
45

- 1 Scholz: Yeah, I think you're correct. Two incidents that have happened in the
2 past, one was the ... we finally got to the place where we're revising the
3 Sign Ordinance.
4
- 5 Evans: Right.
6
- 7 Scholz: You know we've had problems with that a number of times, including
8 height variations, and placement and that sort of thing, and obviously the
9 rules were much too rigid. I think we've managed to get some flexibility
10 there. And I think the same thing is true on infill development. I think
11 we've made some progress there. But it takes a long time. And the
12 reason it takes a long time is because the City Council grinds you know
13 exceedingly slow, exceedingly fine in most cases, but rather slow. So, this
14 remark was off the record at the time, but what Commissioner Evans said
15 was, well let's kick it up to City Council. Yes, I think we should. I think we
16 should put the onus on City Council to make these changes.
17
- 18 Shipley: This will go to the City Council because they're going to go in and appeal
19 our decision.
20
- 21 Scholz: Yes.
22
- 23 Shipley: But I think the point is that it's time for us to say, you know we can't just
24 keep doing this, we've got to take some action to create policy because
25 that's what we're here for.
26
- 27 Scholz: Like the covered porches in yards.
28
- 29 Shipley: Correct.
30
- 31 Scholz: You know and there has been some policy changes I think and some
32 progress on that.
33
- 34 Rodriguez: Mr. Chairman, Commissioners, what I could offer is this, the Public Works
35 Department right now is looking into the feasibility of impact fees and
36 they're working through the capital improvement advisory committee. I will
37 confirm the next time that there is a meeting with the capital improvement
38 advisory committee and that the impact fee discussion is going to be on
39 that agenda and I will advise the Commission in its entirety when that
40 meeting will be and invite you all to come and advertise the appropriate
41 notice, we have potential quorum so you can weigh in to CIAC so they can
42 hear these valid comments that you raised tonight. Staff can offer that
43 much. Public Works is spear heading this and I will relay your comments
44 to Public Works staff and see if possibly this can be done also address at
45 a future Planning and Zoning work session as sell.
46
- 47 Shipley: Okay.

1
2 Scholz: Good. Thank you very much. Is there a future Planning and Zoning work
3 session scheduled?
4

5 Rodriguez: Mr. Chairman, not in the month of September. I haven't really thought that
6 far ahead.
7

8 Scholz: Okay.
9

10 Rodriguez: But at this moment the answer is probably no, but let me talk with the
11 Public Works director and see if we can't put something together for you
12 for the month of September.
13

14 Scholz: All right. Great.
15

16 **IX. PUBLIC PARTICIPATION**

17 **X. STAFF COMMENT**

18 **XI. ADJOURNMENT 8:45**

19
20
21
22 Scholz: Well if there are no other announcements or public business, we are
23 adjourned at quarter to 9:00. Thank you very much folks.
24
25
26
27
28
29

30 _____
31 Chairperson

