

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 8Ordinance/Resolution# 16-007For Meeting of _____
(Ordinance First Reading Date)For Meeting of July 20, 2015
(Adoption Date)

Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING A WAIVER FROM 100% OF THE REQUIRED ROAD IMPROVEMENTS TO 352.12± LINEAR FEET OF N. 17TH STREET ASSOCIATED WITH A PROPOSED SUBDIVISION PLAT KNOWN AS RUMAH INDAH SUBDIVISION ON A 4.33± ACRE PARCEL LOCATED AT 2160 W. PICACHO AVENUE. SUBMITTED BY THE BORDERLAND ENGINEERS AND SURVEYORS ON BEHALF OF BARANG INDAH, LLC, PROPERTY OWNER (S-15-010W).

PURPOSE(S) OF ACTION:

Subdivision road improvement waiver approval.

COUNCIL DISTRICT: 6		
<u>Drafter/Staff Contact:</u> Katherine Harrison-Rogers	<u>Department/Section:</u> Community Development/Building & Development Services	<u>Phone:</u> 528-3049
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The applicants are proposing a 100% waiver from road improvements associated with the subdivision of one (1) existing 4.33± acre commercial property into two (2) commercial lots, known as Rumah Indah Subdivision. The subdivision would place the existing hotel and restaurant/ meeting facility on individual lots, improving marketability. Although the subdivision meets minimum access standards and the property is developed, it is a requirement of the City of Las Cruces Subdivision Code and Design Standards to require a full street section for a local roadway be constructed when improvements are required on streets adjacent to a subdivision or to pay for the cost of these improvements to the City.

The proposed subdivision utilizes W. Picacho Avenue for access and has two rarely used service gates and a wall along N. 17th Street. N. 17th Street, which is classified as a local roadway, currently has a 24 foot paved driving surface, approximately 11-13 foot gravel shoulders, and is accepted and maintained by the City but does not comply with City standards. Improvements would require the construction of a full 50 foot cross-section with parking, two (2) driving lanes, curb, gutter, and sidewalks.

Based on a review of existing and future traffic patterns for the property, the applicant's engineer, using the Institute of Traffic Engineers Trip Generation Manual, determined that almost all of the traffic along N. 17th Street is generated by the Sonrisa Subdivision to the north, adjacent multi-dwelling units to the north, and the private lodge to the east. Of the estimated 211 average daily trips (ADT), only one to four were estimated to come from the service gates. If the restaurant is redeveloped as an office/ meeting space alone, those trips are estimated to further reduce or even eliminate the trips.

The waiver request was recommended for approval by the Planning and Zoning Commission on June 23, 2015 by a vote of 6-0 (one Commissioner absent). The Planning and Zoning Commission determined that: 1) N. 17th Street is an accepted, maintained, nonconforming city roadway; 2) The subdivision meets minimum access standards as required by Design Standards Article 2, Section 32-36(b) (1&2); 3) The proposed subdivision has no direct public access to 17th Street; 4) The two service access gates generate one to four ADT, 0.47-1.89% of the total 211 ADT along N. 17th Street. This amount of traffic provides no rational nexus to warrant full improvements along this segment of N. 17th Street; and 5) Improvements to this segment of N. 17th Street could cause drainage issues associated with increased storm water runoff which is inconsistent with the purpose and intent statements of Section 38-2 of the 2001 Zoning Code. One member of the public did speak during the hearing; however, their comments were unrelated to the waiver request. No other comments were received from the public. Please see Attachment "C" for a more detailed summary of the discussion that took place at the Planning and Zoning Commission meeting.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Vicinity Map.
3. Attachment "A", Waiver Request.
4. Attachment "B", Staff Report to the Planning and Zoning Commission for Case S-15-010W.
5. Attachment "C", Draft minutes from the June 23, 2015 Planning and Zoning Commission meeting.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes <input type="checkbox"/>		See fund summary below
	No <input type="checkbox"/>		If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.

Does this action create any revenue? N/A	Yes <input type="checkbox"/>		Funds will be deposited into this fund: _____ in the amount of \$_____ for FY_____.
	No <input type="checkbox"/>		There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

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

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will affirm the Planning and Zoning Commission recommendation for approval for the proposed waiver request. No road improvements shall be required for N. 17th Street abutting the subdivision.
2. Vote "No"; this will reverse the recommendation made by the Planning and Zoning Commission. Road improvements to N. 17th Street abutting the proposed subdivision shall be required.
3. Vote to "Amend"; this could allow City Council to modify the Resolution by adding conditions as determined appropriate.
4. Vote to "Table"; this could allow City Council to table/postpone the Resolution and direct staff accordingly.

REFERENCE INFORMATION:

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

1. N/A

RESOLUTION NO. 16-007

A RESOLUTION APPROVING A WAIVER FROM 100% OF THE REQUIRED ROAD IMPROVEMENTS TO 352.12± LINEAR FEET OF N. 17TH STREET ASSOCIATED WITH A PROPOSED SUBDIVISION PLAT KNOWN AS RUMAH INDAH SUBDIVISION ON A 4.33± ACRE PARCEL LOCATED AT 2160 W. PICACHO AVENUE. SUBMITTED BY THE BORDERLAND ENGINEERS AND SURVEYORS ON BEHALF OF BARANG INDAH, LLC, PROPERTY OWNER (S-15-010W).

The City Council is informed that:

WHEREAS, Borderland Engineers and Surveyors on behalf of Barang Indah, LLC, property owner, has submitted a request to waive 100% of the required road improvements for N. 17th Street associated with the Rumah Indah Subdivision, Case Number S-15-010; and

WHEREAS, N. 17th Street is classified as a local roadway and currently has a 24 foot paved driving surface, approximately 11-13 foot gravel shoulders, and does not comply with City standards; 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 proposed subdivision; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on June 23, 2015, recommended that said waiver request be approved by a vote of 6 to 0 (one Commissioner absent) based on the findings outlined in the staff report.

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

(I)

THAT the request to waive 100% of the required road improvements to N. 17th

Street for 352.12± linear feet associated with the proposed subdivision and as shown in Exhibit "A", and attached hereto, 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 _____ 20__.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

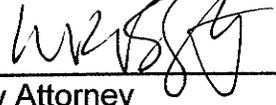
VOTE:

- Mayor Miyagishima: _____
- Councillor Silva: _____
- Councillor Smith: _____
- Councillor Pedroza: _____
- Councillor Small: _____
- Councillor Sorg: _____
- Councillor Levatino: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

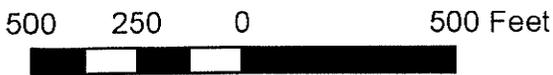
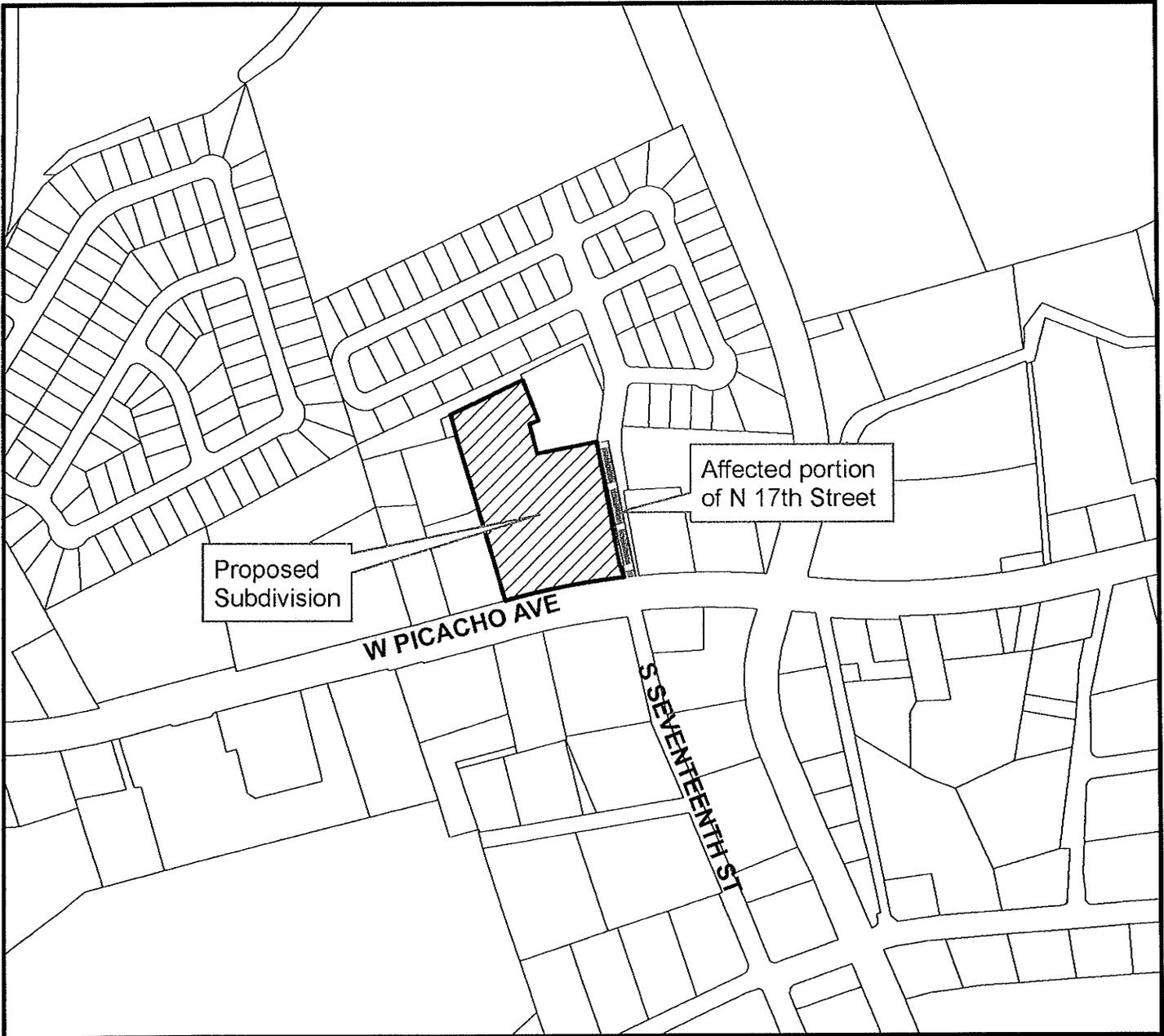


City Attorney

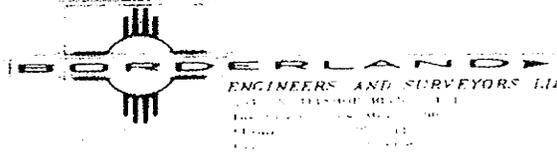
VICINITY MAP

CASE: S-15-010W
PARCEL: 02-00427
DATE: 6-16-2015

APPLICANT: Barang Indah LLC
PROPOSAL: A Waiver to 100% required road improvements along N 17th St.



This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City at (575) 528-3043.



FILE COPY



PO Box 20000
Las Cruces, NM 88004

April 3, 2015

Atten: City of Las Cruces
Planning Department

Re: North 17th Street CLC Standards Street Improvements Waiver Request
Case #S-15-010
Rumah Indah Subdivision

To Whom it May Concern:

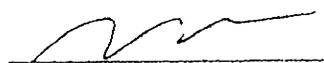
On behalf of our Client, David Girle, please accept this request for a waiver to the City of Las Cruces Subdivision Requirements for City of Las Cruces Standards Upgraded Roadway Improvements and any Pro-Rata share cost associated with any road improvements along the frontage of this property along N. 17th Street.

The subject property (parcel #02-00427) is located at 2160 W. Picacho Avenue, on the North side of Picacho Avenue (a.k.a. US Hwy. 70). Currently there is a Motel and a vacated Restraunt located on the property. N. 17th Street is East of and adjacent to the subject property. The area is along the Highway 70 corridor and is primarily motels, restraunts, offices and other commercial land uses and is zoned C-3, Commercial high-intensity. The area of N. 17th Street that road improvements are required on is 352+- linear feet and is currently paved and in good condition. The City of Las Cruces code requires that the frontage area along N. 17th Street be brought up to current City standards. This would include new curb & gutter, sidewalk and possibly new pavement. The proposed lot split will be only for splitting out the vacated restraunt from the Motel and making improvements/upgrades to the buildings. no development will be taking place as a result of this proposal. only renewal upgrades bringing badly needed aesthetic and public benefits to the area. There is a limited amount of funding for this project and we feel that the spending of it should include the renovation of the buildings bringing new jobs and activities to the area rather than being spent on upgrades to City Streets. that in this particular area of N. 17th street, see little use, the public benefits to the private land outweigh that of the City Streets. The fact that no new Development is taking place, added Public Benefits are factors that should be considered for the approval of this waiver request. In addition, there is an existing City of Las Cruces Sewer line running across the subject property that seems to have no easement granted for it. The property owner is willing to cooperate with the City for an easement for this sewer line, but needs to know this waiver will be favorably considered.

In accordance with the City of Las Cruces Subdivision Code, we request a waiver to forego any payments or any and all road improvements as listed above to N. 17th Street for this simple Lot Split. The property owner is a private entity and is not in the subdivision or development business, so as representatives of our client, we feel that a financial hardship exists in this case and should be considered, essentially, if the waiver is not granted, the property owner would not be able to afford to do the public benefits and job creation this proposal will create, therefore, we respectfully request a waiver to forego any payments or road improvements on N. 17th Street.

Thank you for your consideration and as always, if you should have any questions, please don't hesitate to call.

Sincerely,



Steve Peale
Borderland Engineers and Surveyors, LLC.



**Planning & Zoning
Commission
Staff Report**

Meeting Date: June 23, 2015

Drafted by: Katherine Harrison-Rogers

CASE #	S-15-010W	PROJECT NAME:	Rumah Indah Waiver Request
APPLICANT/ REPRESENTATIVE:	Borderland Engineers	PROPERTY OWNER:	Barang Indah, LLC
LOCATION:	2160 W. Picacho	COUNCIL DISTRICT:	4 (Councillor Small)
SIZE:	± 4.33 acres	EXISTING ZONING/ OVERLAY:	C-3 (High Intensity Commercial)
REQUEST/ APPLICATION TYPE:	Request for approval for a waiver from the corresponding road improvements along N 17 th Street for a proposed subdivision known as the Rumah Indah Subdivision		
EXISTING USE(S):	Hotel and Restaurant		
PROPOSED USE(S):	Same with the potential to convert the restaurant to office or meeting space.		
DRC RECOMMENDATION:	Approval of the waiver based on findings for case S-15-010W		

TABLE 1: CASE CHRONOLOGY

Date	Action
March 3, 2015	Subdivision application submitted to Development Services
April 30, 2015	Waiver request submitted to Development Services
May 1, 2015	Waiver sent out for review to all reviewing departments
May 8, 2015	All waiver related comments returned by all reviewing departments
May 27, 2015	DRC reviews and recommends conditional approval for the proposed waiver
June 7, 2015	Newspaper advertisement
June 8, 2015	Public notice letter mailed to neighboring property owners
June 8, 2015	Sign posted on property
June 23, 2015	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The applicant is seeking to subdivide an existing 4.33 ± acre tract into two parcels known as Rumah Indah Alternate Summary Subdivision. The proposed subdivision requires the applicant to provide the required road improvements to N. 17th Street and the applicant is requesting a 100% waiver. N 17th Street is a local roadway with a 24 foot wide paved surface and gravel shoulders. Required improvements would consist of a 50 foot cross-section with curb, sidewalk, gutter, and driving lanes. The affected segment of 17th street begins at the intersection of Picacho Avenue and runs north for 352.12± feet.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing	Proposed	Zoning Code Req.
Lot Area	4.33 ± acres	3.78 + acres 0.54 + acres	0.5 acres minimum / no maximum
ROW Dedication	N/A	25' radius return at Picacho and N 17th	25' radius return at Picacho and N 17th
ROW Improvements	24' wide paved road surface with ~12' gravel shoulders	No improvements proposed	50' cross section with sidewalk, curb, gutter, 2 driving lanes, and parking lanes

TABLE 3: SPECIAL CHARACTERISTICS

Characteristic	Applies to Project?	Explanation
EBID facilities	No	
Medians/ parkways landscaping	No	
Other	N/A	

TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

Location	Existing Use	Overlay District	Zoning Designation
Subject Property	Hotel and Restaurant	N/A	C-3 (Commercial High Intensity)
North	Multi-dwelling Residences	N/A	R-2 (Multi-dwelling Low Density)
South	Motels	N/A	C-3 (Commercial High Intensity)
East	Private Club and Motel	N/A	C-2 (Commercial Medium Intensity)
West	Motel, Restaurant, and Multi-dwelling residences.	N/A	C-3 (Commercial High Intensity) & R-2 (Multi-dwelling Low Density)

TABLE 5: PARCEL LAND USE HISTORY

Number	Status
Permit	N/A
Ordinance	Ordinance 2034 zoned the property from C-2 to C-3 on August 18, 2003 as part of a City initiated zoning effort.
Resolution	N/A

SECTION 2: REVIEWING DEPARTMENT/AGENCY RECOMMENDATIONS

Department Name	Approval (Yes/ No)	Conditions (Yes/No)
CLC Development Services	*No	
Metropolitan Planning Organization (MPO)	*No	
CLC CD Engineering Services	*No	
CLC Land Management	*Declined response	
CLC Fire & Emergency Services	*No	
CLC Utilities	*Yes with conditions	Will support other city departments

*Although most departments recommended denial during the plan review based upon strict interpretation of the code, the discussion at DRC (see DRC recommendation) resulted in a recommendation of conditional approval.

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS

The applicants are proposing a 100% waiver from road improvements associated with the subdivision of one (1) existing 4.33 ± acre commercial property into two (2) commercial lots. Although the subdivision meets minimum access standards, it is the policy of the City of Las Cruces Subdivision Code and Design Standards to require a full street section for a local roadway be constructed when improvements are required on streets adjacent to a subdivision or to pay for the cost of these improvements to the city.

The proposed subdivision is adjacent to N 17th Street which is classified as a local roadway and currently has a 24 foot paved driving surface, approximately 11-13 foot gravel shoulders, and does not comply with City standards. Improvements would require the construction of a full 50 foot cross-section with parking, two (2) driving lanes, curb, gutter, and sidewalks. It should be note that N 17th Street was improved to its current status in 1998 and accepted by the city shortly thereafter with the development of the Sonrisa Subdivision to the north.

Conclusion

The property is developed and the subdivision would place the existing hotel and restaurant on individual lots, improving marketability. Primary access to the property is from Picacho; however there is access to two (2) maintenance gates front N 17th Street. Based on a review of existing and future traffic patterns for the property, the applicant's engineer, using the Institute of Traffic Engineers Trip Generation Manual, determined that almost 99%-100% of the traffic along N 17th street is generated by the Sonrisa Subdivision, adjacent multi-dwelling units, and the private lodge to the east. Of the estimated 211 average daily trips (ADT), only 1 to 4 were estimated to come from the service gates. If the restaurant is redeveloped as an office, those trips are estimated to reduce to a total of 0 to 2 trips.

Article 6, Section 37-332 of the City of Las Cruces Subdivision Code specifies that waivers must be "due to exceptional topographic, soil, or other surface or sub-surface conditions or that such conditions would result in inhibiting the objectives of the code." Although these hardships do not exist for the property, staff determined that there appears to be no rational nexus between the required improvements and actual use of the roadway. Furthermore, any significant reconstruction of this portion of N 17th Street has the potential to create significant drainage concerns. As currently designed, water runoff is directed to the gravel areas adjacent to the roadway keeping the driving surface clear and allowing the runoff to dissipate. City Design Standards typically require the installation of gutters, however this area of the City is not designed to transport storm water through gutters. Although an alternate cross-section without gutters can be accepted by the city, existing and additional runoff caused by increased impermeability could exacerbate drainage problems associated with storm run-off in this area.

Article I, Section 38-2 of the 2001 Zoning Code, as amended, specifically states the intent of the Code is "to promote the health, safety, and general welfare of the community," to "secure safety..." and is to "facilitate adequate provision for transportation..." Based on the intent of the code, the waiver request is justified do to the lack of use of the roadway by the development and the potential for drainage issues associated with increased impermeability associated with improvements. It should also be noted that if the property is ever significantly redeveloped in the future, a traffic impact analysis at that time would determine whether improvements would be warranted as part of redevelopment.

DRC RECOMMENDATION

On May 27, 2015 the Development Review Committee (DRC) reviewed the proposed waiver request. The discussion focused on the actual use and ADT of N 17th Street by the proposed subdivision and the nexus for required improvements associated with their use of the road. The DRC recommended conditional approval of the waiver request, the condition being documentation regarding the estimated average daily trips by the applicant to determine if there was a substantial nexus warranting improvements. Please refer to the attached DRC minutes for more details about the discussions that took place at the DRC meeting.

STAFF RECOMMENDATION

Staff recommends **APPROVAL** for the proposed waiver to road improvements based on the following findings

FINDINGS FOR APPROVAL

1. Construction of all subdivisions (public and private improvements) within the corporate limits of the city shall conform to all applicable sections of the City Design Standards. (Subdivision Code Article 12, Section 37-360)
2. N 17th Street is an accepted, maintained, nonconforming city roadway.
3. The subdivision meets minimum access standards as required by Design Standards Article 2, Section 32-36(b) (1&2).
4. The proposed subdivision has no direct public access to 17th Street.
5. The two service access gates generate 1-4 ADT, 0.47-1.89% of the total 211 ADT along N 17th Street. This amount of traffic provides not rational nexus to warrant full improvements along this segment of N 17th Street.
6. Improvements to this segment of N 17th Street could cause drainage issues associated with increased storm water runoff which is inconsistent with the purpose and intent statements of Section 38-2 of the 2001 Zoning Code.

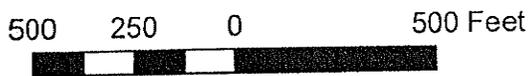
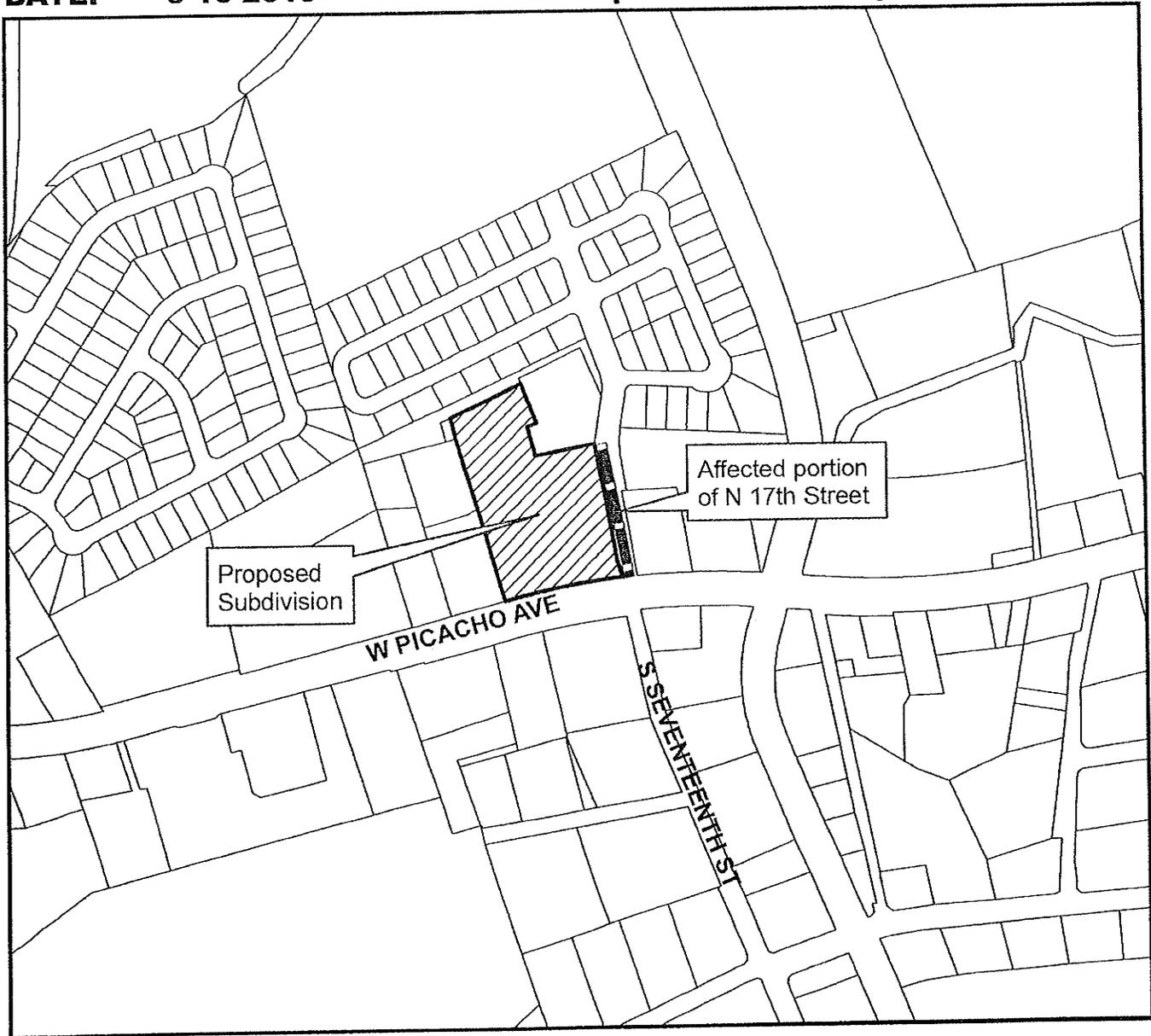
ATTACHMENTS

1. Vicinity Map
2. Aerial Map
3. Development Statement
4. Applicant's Waiver Request
5. Proposed Subdivision
6. Traffic Exhibit
7. DRC draft minutes dated May 27, 2015

VICINITY MAP

CASE: S-15-010W
PARCEL: 02-00427
DATE: 6-16-2015

APPLICANT: Barang Indah LLC
PROPOSAL: A Waiver to 100% required road improvements along N 17th St.

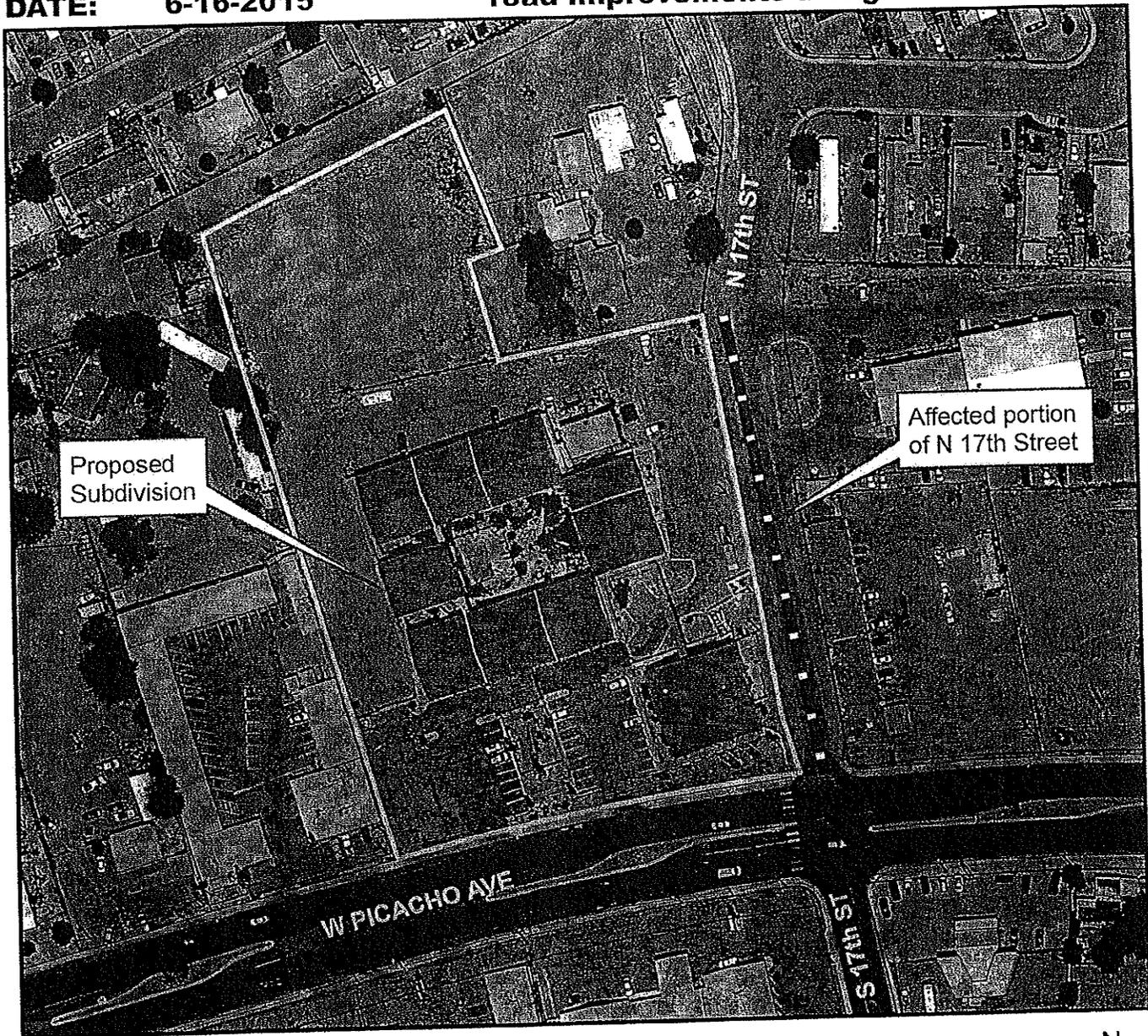


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AERIAL MAP

CASE: S-15-010W
PARCEL: 02-00427
DATE: 6-16-2015

APPLICANT: Barang Indah LLC
PROPOSAL: A Waiver to 100% required
road improvements along N 17th St.



140 70 0 140 Feet



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DEVELOPMENT STATEMENT for City Subdivision/Zoning Applications

Please note: The following information is provided by the applicant for information purposes only. The applicant is not bound to the details contained in the development statement, nor is the City responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission may condition approval of the proposal at a public hearing where the public will be provided an opportunity to comment.

Applicant Information

Name of Applicant: Burong Indah LLC
 Contact Person: Chris Jemlo
 Contact Phone Number: 522-1443
 Contact e-mail Address: _____
 Web site address (if applicable): _____

Proposal Information

Name of Proposal: Rumah Indah Subdivision
 Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)
Commercial (existing)
 Location of Subject Property 2160 W. Pinarcho
 (In addition to description, attach map. Map must be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area)
 Acreage of Subject Property: 4.333
 Detailed description of **current** use of property. Include type and number of buildings:
Motel - vacant Restaurant - 2 buildings
 Detailed description of **intended** use of property. (Use separate sheet if necessary):
Home
 Zoning of Subject Property: C-3
 Proposed Zoning (If applicable): _____
 Proposed number of lots 2, to be developed in 1 phase (s).
 Proposed square footage range of homes to be built from TBD to TBD
N/A N/A

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

N/A

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

Normal

Anticipated traffic generation existing trips per day.

Anticipated development schedule: work will commence on or about AJAP and will take AJAP to complete.

How will stormwater runoff be addressed (on-lot ponding, detention facility, etc.)?

On-lot Ponding (existing)

Will any special landscaping, architectural or site design features be implemented into the proposal (for example, rock walls, landscaped medians or entryways, entrance signage, architectural themes, decorative lighting)? If so, please describe and attach rendering (rendering optional). _____

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

Is there existing landscaping on the property? some

Are there existing buffers on the property? _____

Is there existing parking on the property? Yes No

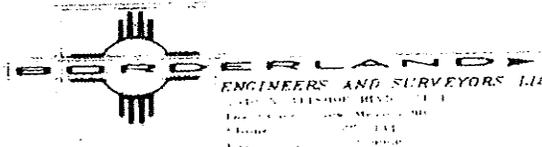
If yes, is it paved? Yes No

How many spaces? _____ How many accessible? _____

Attachments

Please attach the following: (* indicates optional item)

- Location map
- Subdivision Plat (If applicable)
- Proposed building elevations
- *renderings of architectural or site design features
- *other pertinent information



FILE COPY



City of Las Cruces

PO Box 20000
Las Cruces, NM 88004

April 3, 2015

Atten: City of Las Cruces
Planning Department

Re: North 17th Street CLC Standards Street Improvements Waiver Request
Case #S-15-010
Rumah Indah Subdivision

To Whom it May Concern:

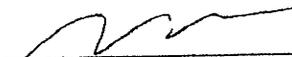
On behalf of our Client, David Girtle, please accept this request for a waiver to the City of Las Cruces Subdivision Requirements for City of Las Cruces Standards Upgraded Roadway Improvements and any Pro-Rata share cost associated with any road improvements along the frontage of this property along N. 17th Street.

The subject property (parcel #02-00427) is located at 2160 W. Picacho Avenue, on the North side of Picacho Avenue (a.k.a. US Hwy. 70). Currently there is a Motel and a vacated Restraunt located on the property. N. 17th Street is East of and adjacent to the subject property. The area is along the Highway 70 corridor and is primarily motels, restraunts, offices and other commercial land uses and is zoned C-3, Commercial high-intensity. The area of N. 17th Street that road improvements are required on is 352+- linear feet and is currently paved and in good condition. The City of Las Cruces code requires that the frontage area along N. 17th Street be brought up to current City standards. This would include new curb & gutter, sidewalk and possibly new pavement. The proposed lot split will be only for splitting out the vacated restraunt from the Motel and making improvements/upgrades to the buildings, no development will be taking place as a result of this proposal, only renewal upgrades bringing badly needed aesthetic and public benefits to the area. There is a limited amount of funding for this project and we feel that the spending of it should include the renovation of the buildings bringing new jobs and activities to the area rather than being spent on upgrades to City Streets, that in this particular area of N. 17th street, see little use, the public benefits to the private land outweigh that of the City Streets. The fact that no new Development is taking place, added Public Benefits are factors that should be considered for the approval of this waiver request. In addition, there is an existing City of Las Cruces Sewer line running across the subject property that seems to have no easement granted for it. The property owner is willing to cooperate with the City for an easement for this sewer line, but needs to know this waiver will be favorably considered.

In accordance with the City of Las Cruces Subdivision Code, we request a waiver to forego any payments or any and all road improvements as listed above to N. 17th Street for this simple Lot Split. The property owner is a private entity and is not in the subdivision or development business, so as representatives of our client, we feel that a financial hardship exists in this case and should be considered, essentially, if the waiver is not granted, the property owner would not be able to afford to do the public benefits and job creation this proposal will create, therefore, we respectfully request a waiver to forego any payments or road improvements on N. 17th Street.

Thank you for your consideration and as always, if you should have any questions, please don't hesitate to call.

Sincerely,



Steve Peale
Borderland Engineers and Surveyors, LLC.

TRAFFIC⁹¹ EXHIBIT

SHOWING EXISTING IMPACT AND POTENTIAL PROPOSED IMPACT ON NORTH 17TH STREET
 NORTH OF PICACHO AVENUE
 PROPOSED SUBDIVISION LOT SPLIT "RUMAH INDAH SUBDIVISION"
 CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO

NARRATIVE:

THE "RUMAH INDAH SUBDIVISION" PROPOSAL CONSISTS OF 2 PROPOSED LOTS. LOT 1 BEING AN EXISTING HOTEL AND WILL REMAIN THE SAME LAND-USE AND NO DEVELOPMENT SHALL BE TAKING PLACE OTHER THAN REFURBISHING AND FIXING-UP THE EXISTING ESTABLISHMENT.

LOT 2 BEING AN EXISTING RESTAURANT THAT HAS BEEN VACANT. THE DEVELOPER INTENDS TO REMODEL THE EXISTING BUILDING INTO TWO POTENTIAL MIXED-USE CATEGORIES, ONE BEING POTENTIAL LEASED OFFICE SPACE AND POTENTIAL MEETING/EDUCATIONAL CENTER.

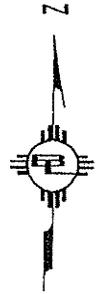
THE SUBJECT PROPERTY HAS NO EXISTING ACCESS TO N. 17TH STREET OTHER THAN TWO EXISTING GATED SERVICE ENTRY POINTS WHICH HISTORICALLY HAVE BEEN RARELY USED. THE PRIMARY ACCESS FOR BOTH THE EXISTING AND PROPOSED LOTS HAS BEEN AND WILL BE PICACHO AVENUE.

THE IMPACT ON N. 17TH STREET DUE TO THE "RUMAH INDAH SUBDIVISION" PROPOSAL WILL LIKELY BE LESS THAN THE EXISTING LAND-USES.

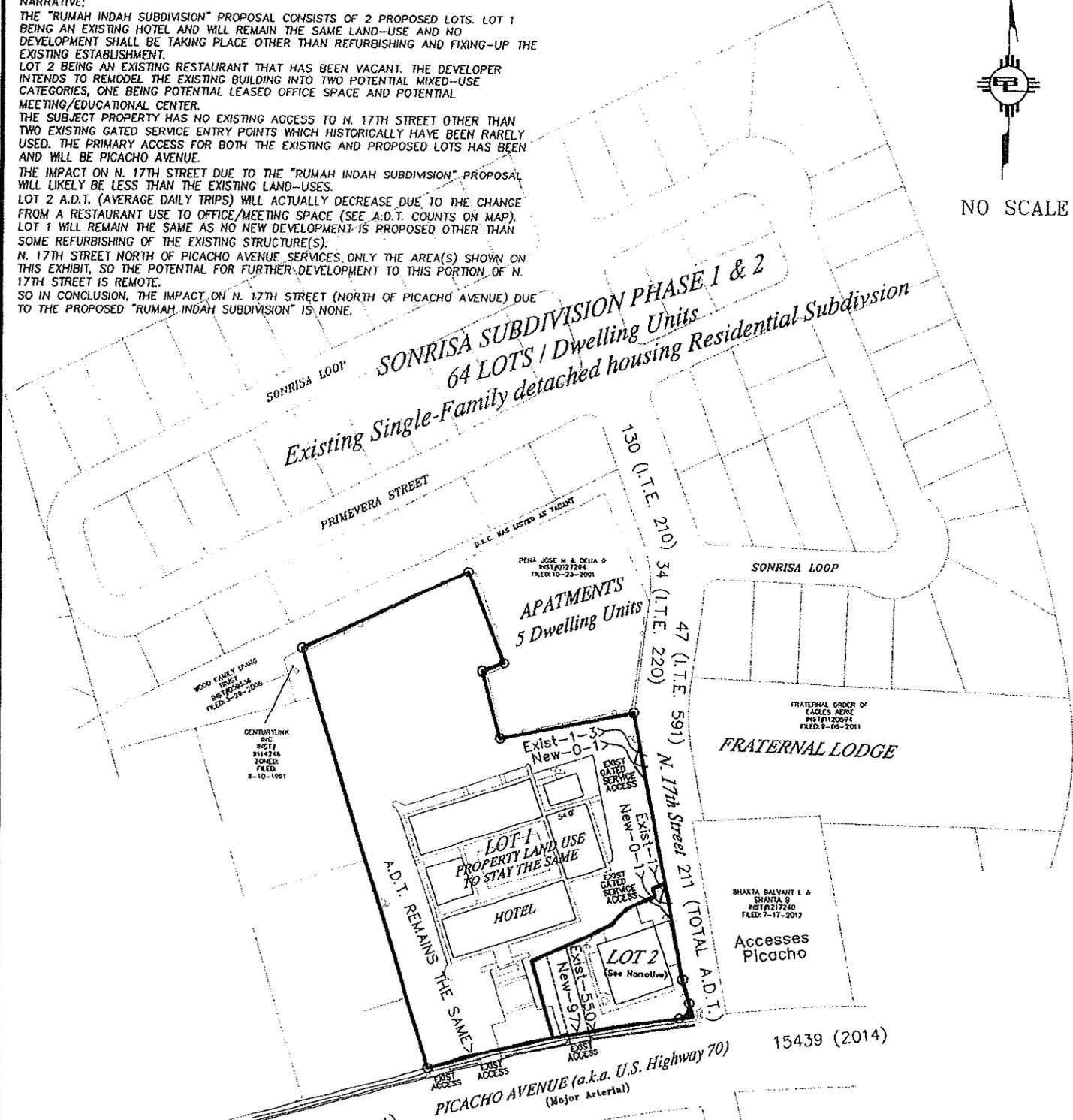
LOT 2 A.D.T. (AVERAGE DAILY TRIPS) WILL ACTUALLY DECREASE DUE TO THE CHANGE FROM A RESTAURANT USE TO OFFICE/MEETING SPACE (SEE A.D.T. COUNTS ON MAP). LOT 1 WILL REMAIN THE SAME AS NO NEW DEVELOPMENT IS PROPOSED OTHER THAN SOME REFURBISHING OF THE EXISTING STRUCTURE(S).

N. 17TH STREET NORTH OF PICACHO AVENUE, SERVICES ONLY THE AREA(S) SHOWN ON THIS EXHIBIT, SO THE POTENTIAL FOR FURTHER DEVELOPMENT TO THIS PORTION OF N. 17TH STREET IS REMOTE.

SO IN CONCLUSION, THE IMPACT ON N. 17TH STREET (NORTH OF PICACHO AVENUE) DUE TO THE PROPOSED "RUMAH INDAH SUBDIVISION" IS NONE.

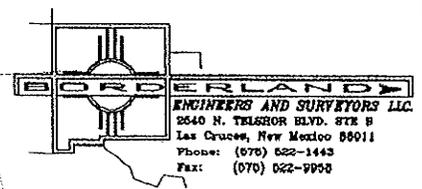


NO SCALE



NOTES:

- 1.) A.D.T. (Weekday) Traffic counts for Picacho Ave. & 17th St. (South of Picacho) were obtained from the City of Los Cruces 2014 Traffic Flow Map. The count year is listed next to the A.D.T. number on the Exhibit Map.
- 2.) A.D.T. (Weekday) Traffic counts for 17th St. (North of Picacho) were obtained from the I.T.E. (Institute of Transportation Engineers) Trip Generation Manual using specific Land Use Categories specified within the Manual. The category Code is listed next to the A.D.T. number on the Exhibit Map.
- 3.) Proposed or potential Land-uses mentioned herein are subject to change.



DEVELOPMENT REVIEW COMMITTEE (DRC)

Following are the verbatim minutes from the City of Las Cruces Development Review Committee meeting held Wednesday, May 26, 2015 at 9:00 a.m. at City Hall, Room 1158, 700 North Main Street, Las Cruces, New Mexico.

DRC PRESENT: Robert Kyle, Community Development
 Mark Dubin, Fire Department
 Chris Mount, Fire Department
 Meei Montoya, Utilities
 Rocio Dominguez, Engineering Services
 Mark Johnston, Parks & Recreation

STAFF PRESENT: Katherine Harrison-Rogers, Community Development
 Becky Baum, Recording Secretary, RC Creations, LLC

OTHER PRESENT: Steve Peale, Borderland Engineers

I. CALL TO ORDER

Kyle: All right I'm going to go ahead and call this meeting of the DRC to order. It's 9:00 on May 27th.

II. APPROVAL OF MINUTES - March 25, 2015

Kyle: First item of business is approval of the minutes. We have minutes of the March 25, 2015 DRC meeting. Are there any corrections to note for the record? All right I did have a minor correction, already gave it to the recording secretary for correction, it was just a, a typo on a word. Seeing that I'd accept a motion to approve the minutes of March 25th.

Dominguez: So moved.

Montoya: Second.

Kyle: It's been moved and seconded. All those in favor please signify by saying "aye."

MOTION PASSED UNANIMOUSLY.

Kyle: Any opposed? Very well the minutes are approved.

III. OLD BUSINESS - NONE

Kyle: We have no old business.

1 IV. NEW BUSINESS

2
3 1. Case S-15-010W: Rumah Indah Alternate Summary Subdivision Waiver

- 4 • A request for approval of a waiver to the required road improvements for
5 a proposed alternate summary subdivision known as Rumah Indah
6 Subdivision.
7 • The proposed subdivision requires the applicant to provide the required
8 road improvements to N. 17th Street.
9 • The applicant is proposing a 100% waiver to the required road
10 improvements and is not offering alternatives to the full improvements.
11 • The subject property encompasses 4.33 +/- acres, is zoned C-3 (High
12 Intensity Commercial) and is located on the northwest corner of E.
13 Picacho Avenue and N. 17th Street at 2160 E. Picacho
14 • Currently the property houses a hotel and restaurant
15 • Submitted by Borderland Engineers on behalf of Barang Indah, LLC,
16 property owner.

17
18 Kyle: Next item is new business. It's Case S-15-010W. It's a waiver request for
19 Rumah Indah Alternate Summary Subdivision. Staff.

20
21 H-Rogers: This is a request to approve a one, 100% waiver to road improvements for
22 17th Street. These improvements are associated with an alternate
23 summary subdivision known as Rumah Indah subdivision. The property is
24 currently developed as a hotel and a building which isn't being used right
25 now but has been used historically as a restaurant, and basically they're
26 splitting off the restaurant building from the rest of the property. The
27 applicant feels as though the improvements aren't necessary basically
28 because the, the property's built out and 17th Street is primarily used to
29 access Sonrisa Subdivision which is to the north. The property's
30 approximately 4.33 acres. It's currently zoned C-3 which is a high
31 intensity commercial and it's located on the corner of W. Picacho, that was
32 a typo, it's said E. Picacho, and N. 17th Street at 2160 W. Picacho. This
33 has been submitted by Borderland Engineers on behalf of Barang Indah,
34 LLC who is the property owner. At this time no alternatives are being
35 proposed for those improvements such as a fee in lieu or development
36 agreement. And with that I'd be happy to answer any questions. It should
37 be noted that 17th is a local and needs to be fully developed to a local
38 standard.

39
40 Kyle: Very well. Applicant.

41
42 Peale: Nothing to add. I just wanted to clarify that it's N. 17th Street which is
43 north of Highway 70, Picacho, and it's kind of a, just a, oh it's a, kind of
44 dead-end segment of 17th Street that, and we're not, there's no access to
45 the property off of 17th, to the best of my knowledge. That's all.

46

1 H-Rogers: Again for clarification there are a couple, there's a, there's a large rock
2 wall that runs the perimeter, the eastern perimeter of the property along
3 17th Street, however there are two gates that are used for you know
4 maintenance purposes, they are not primary access points for that
5 particular property. And currently 17th, 17th Street does not have curb,
6 gutter, or sidewalk, it's approximately 22, 22, 23 feet of pavement with
7 gravel shoulders.
8
9 Kyle: Right. It looks like all the right-of-way is in place, correct? I mean that,
10 that was *(inaudible)* it appears that there's a piece of it could be a right-of-
11 way.
12
13 H-Rogers: It, it appears that way.
14
15 Kyle: Dedicated. It is a dedicated accepted City street at this particular corner is
16 of course substandard in terms of being a, a minor local for that segment
17 until you get to Sonrisa Subdivision. Fire, any comments?
18
19 Sweetser: None at this time.
20
21 Kyle: Parks.
22
23 Johnston: No, no issues.
24
25 Kyle: Utilities.
26
27 Montoya: We don't have issue with this waiver, therefore that we conditionally
28 approve this waiver, however we will support the decision of other City
29 department.
30
31 Kyle: Engineering.
32
33 Dominguez: We cannot support the waiver because it needs to be brought up to City
34 standards which will be as Katherine said, with sidewalk, curb, and gutter.
35
36 Kyle: Okay. Planning.
37
38 H-Rogers: Ultimately staff isn't supportive of waivers such as these just due to the
39 proliferation of unimproved streets or, or subpar streets. However staff did
40 recommend perhaps an alternative, a development agreement maybe
41 regarding some pro rata share improvements along this segment with the
42 understanding that again this access is primarily for Sonrisa, it isn't really
43 used by this property. It is an alternative that would have to go to City
44 Council, but it is something we did bring up. But for 100% waiver we're,
45 we're not supportive.
46

- 1 Kyle: Okay. Well generally speaking I don't support waivers also, however in
2 certain instances I think they're, they're certainly, I don't know, warrant is
3 the right word, but should be taken under consideration. In this particular
4 case the impacts already exist on the proposed site. They, they are
5 splitting the, the property in two but they're not proposing you know
6 improvements, the building's already there, no access is being proposed
7 to 17th Street other than the, the existing two gates which are not primary
8 access points. So really the subdivision has no impact on this particular
9 street segment. The road is partially improved. It certainly meets
10 minimum access requirements of being at least 24 feet wide, paved. So I
11 don't, I don't, I don't know that I personally have as much problem with a
12 waiver in this particular case.
- 13
14 Johnston: Mr. Chairman for point of clarification if, if this was approved, that
15 commercial corner's going to be split off. If in fact that commercial corner
16 where the restaurant is, someone came in and was going to redevelop this
17 restaurant, would we require that at that time the road improvements?
18
- 19 Kyle: Not ... no, not the improvements. Dedication of right-of-way, yes. But the,
20 that segment appears at least on our (*inaudible*) view maps appears to
21 meet those right-of-way requirements. Really the only thing that triggers
22 the improvements would be in fact subdivision of the property. Now if that
23 was not paved at all and they were seeking to do something, they would
24 have to provide the, the necessary improvements but that could be for
25 commercial purposes could be 24-foot wide you know paved access. So
26 with ...
27
- 28 H-Rogers: If they were going to do significant building improvements to that location
29 would we require sidewalk at time of the building permit?
30
- 31 Kyle: We would require sidewalk of that segment.
32
- 33 Sweetser: Would you allow parking on the side of that road? That is a restaurant
34 and cause the parking in the front isn't that big so is there ...
35
- 36 Kyle: It's a dedicated right-of-way. Parking's not excluded unless it's signed as
37 such.
38
- 39 Dominguez: And it, and I believe it has the minimum which is 50-foot right-of-way so
40 there's no right-of-way restriction.
41
- 42 Sweetser: Okay.
43
- 44 Peale: I, I, again N. 17th other than the you know service gates that Katherine
45 and everybody was talking about I think, I mean service access type of
46 things, there's, I mean people parking there would have to walk, I don't

1 see that happening. If, if they wanted to get there they could park in the
2 back there with a shared agreement or something, I'm not sure on that. I
3 don't know how to answer that so.
4
5 Kyle: This is a waiver request. The DRC is just a recommending body. It does
6 get forward to Planning and Zoning Commission for recommendation and
7 ultimately City Council for final disposition, just, you know just to remind
8 the Committee. So again, this is just a recommendation for action so keep
9 that in mind I guess as you make your decisions. Any other points to bring
10 up? Utilities.
11
12 Montoya: Can we recommend for approval with some condition that Katherine has
13 brought up such as you know as an improvement agreement, things like
14 that? Instead of voting just straight yes or no.
15
16 Kyle: The, the Committee certainly can make a motion of any conditions that
17 they see fit. Anyone can make a motion can add whatever condition they
18 want, it's seconded then, then, then we can vote on that. Do we have any
19 traffic ...?
20
21 H-Rogers: Information.
22
23 Kyle: Numbers.
24
25 H-Rogers: I'm sure we can pull some but I don't have them.
26
27 Peale: I haven't looked at the AADT, I don't even know if there is one for that
28 segment of N. 17th. I know it's not used very much, I mean as Katherine
29 said it's only used for access to the subdivision to the north.
30
31 Kyle: Well ...
32
33 Peale: Did you have any luck in tracking that down Katherine?
34
35 H-Rogers: Oh the Sonrisa, it, they were ordered. That file was ordered to figure out
36 ...
37
38 Peale: Okay.
39
40 H-Rogers: Why improvements weren't required at that segment when Sonrisa was
41 built. Based upon Robert's recollection it may have been prior to when the
42 current Design Standards were in place.
43
44 Peale: Right.
45

1 H-Rogers: In which case since it was paved and it was accepted and maintained by
2 the, the City it wouldn't have been required at that time.
3
4 Peale: I ...
5
6 H-Rogers: Now of course it is required.
7
8 Peale: Right.
9
10 Kyle: Well actually it's, it's a dedicated accepted right-of-way now.
11
12 H-Rogers: Yeah.
13
14 Kyle: I mean it doesn't meet standards but the, the, I'm not sure you know the
15 current Design Standards (*inaudible*) improvements to it since it is
16 improved, it is paved and, and dedicated, accepted, and maintained by the
17 City so I think it probably met the Design Standards when it was done.
18 That's why you see full improvements within the subdivision but access to
19 the subdivision is approved.
20
21 Peale: By a 24-foot paved.
22
23 Kyle: It does, it does, it doesn't just serve Sonrisa Estates though, it does also
24 serve the Fraternal Order of Eagles Lodge which is on there which is, you
25 know that's a private club situation, I don't know what type of, of traffic that
26 generates. It's certainly not daily. I'll leave it up to the Committee then in
27 terms of what type of motion they want to make. With that if there's
28 nothing else I'll entertain a motion.
29
30 Dominguez: I'm going to need some assistance on how to word it after what Katherine
31 said. I entertain a motion to approve the waiver with the condition that
32 they, or, I don't know how to word it but I'll ...
33
34 H-Rogers: Development agreement.
35
36 Dominguez: To pursue development agreement.
37
38 Kyle: To do what?
39
40 Dominguez: To, for them to come back and either pay in lieu of to do the sidewalk and
41 curb and gutter, cause that's what that road is missing.
42
43 Kyle: All right so the motion is to recommend approval conditioned upon the
44 applicant pursuing a development agreement or pavement in lieu of for
45 sidewalk, curb, and gutter only, or ...
46

- 1 Dominguez: Yes cause I mean I don't know how good of a pavement that is.
2
- 3 H-Rogers: Cause the development agreement is the modified, it, it would be modified
4 requirements. So the only reason you would pursue development
5 agreement is to do the, a pro rata share where you know they, they
6 determine how much is actually being used by this particular property and
7 then come up with a sum about what their portion would be due. So it
8 may not be ...
9
- 10 Peale: Some percentage.
- 11
- 12 H-Rogers: It's just going to be a percentage of the (*inaudible*).
- 13
- 14 Dominguez: Cause they're only using it for the, for the gated.
- 15
- 16 Kyle: Virtually.
- 17
- 18 H-Rogers: Correct. It's going to be virtually zero ultimately. But it, it's proof showing
19 how much it's actually used in association with this particular
20 development.
- 21
- 22 Dominguez: Yeah I won't have an issue with something like that.
- 23
- 24 Kyle: All right.
- 25
- 26 Dominguez: Cause that way we will have record that we considered it, we looked at it,
27 it was not just ignored.
- 28
- 29 Kyle: All right so to restate the motion, it's a recommendation for approval
30 conditioned on the applicant pursuing a, not necessarily a development
31 agreement but providing a, a ...
- 32
- 33 H-Rogers: Documentation of pro rata share of improvements required for ...
- 34
- 35 Kyle: For ...
- 36
- 37 H-Rogers: Would you like a moment to think?
- 38
- 39 Kyle: I'm not the one making the motion. I'm just trying to think of what that
40 really means.
- 41
- 42 Dominguez: The agreement that you had in mind Katherine, will that be my stating it
43 correctly or am I completely off?
- 44
- 45 H-Rogers: You have to tell, you have to state what the development, I mean just
46 pursuing a development agreement, so they could pursue a development

1 agreement for lighting, so it, it has to be specific to, to, to whatever you're
2 thinking. I don't ...
3
4 Dominguez: Okay.
5
6 H-Rogers: So it has to be specific to that. What is the development agreement for?
7 And do you even want to pursue a development agreement or do we just
8 want to recommend approval of the waiver based upon supportive
9 documentation of the use of that roadway.
10
11 Kyle: It has no impact or ...
12
13 H-Rogers: Correct.
14
15 Kyle: Their pro rata share.
16
17 H-Rogers: Because if we have that documentation will we be willing to support the
18 waiver, probably. Showing the impact on that roadway from the
19 subdivision ...
20
21 Dominguez: From the subdivision.
22
23 H-Rogers: From that development and what they actually use.
24
25 Dominguez: Cause they're, they're not actually using it.
26
27 H-Rogers: Right.
28
29 Dominguez: Okay. Let me start all over again. All right?
30
31 Kyle: Let's, just so we sort of maintain some semblance of, of proper procedure,
32 we do have a motion ...
33
34 Dominguez: Okay.
35
36 Kyle: If that motion is not seconded it dies and we can start over, so with that is
37 there a second? Calling again, a second? Seeing none the motion is
38 dead. Chair would entertain a new motion.
39
40 Dominguez: Thank you for keeping proper order here. I would like to entertain a
41 motion to approve the waiver with the condition that the applicant will
42 provide proof of how much this development will impact N. 17th Street.
43 And with that we will determine whether they're going to pay the pro rata
44 share or improve it.
45
46 Kyle: We have a motion. Is there a second?

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Johnston: Second.

Kyle: It's been moved and seconded. All those in favor please signify by saying "aye."

MOTION PASSED.

Kyle: Any opposed? None. Chair votes no. Motion carries. Recommendation will be to recommend approval of the waiver conditioned upon basically impact study showing the pro rata share of impact to 17th Street from the subject property.

Peale: And you're talking about AADT direct traffic mainly ...

Kyle: Basically. Yeah what your, what's your proportional share of impact to that roadway is.

Peale: Understood.

Kyle: Very well. Any other business before the Committee today?

V. ADJOURNMENT (9:18 a.m.)

Kyle: Seeing none I would entertain a motion to adjourn.

Montoya: So moved.

Kyle: It's been moved by Meei Montoya from Utilities. Is there a second?

Johnston: Second.

Kyle: Seconded by Mark Johnston. We are adjourned.

Chairperson

**PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
June 23, 2015 at 6:00 p.m.**

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

Joanne Ferrary, Member

STAFF PRESENT:

David Weir, Director Community Development Department, CLC
Vincent Banegas, Deputy Director Community Development Department, CLC
Katherine Harrison- Rogers, Senior Planner, CLC
Mark Dubbin, CLC Fire Department
Chris Mount, CLC Fire Department
Pete Connelly, CLC Deputy City Attorney
Becky Baum, Recording Secretary, RC Creations, LLC

I. CALL TO ORDER (6:00)

Crane: Good evening ladies and gentlemen. Welcome to the Planning and Zoning Commission meeting for the 23rd of June. Let me start by introducing the Commissioners present tonight. Starting on my far right, Commissioner Clifton who represents District 6. Then Commissioner Gordon for District, he's the Mayor's Appointee. Commissioner Stowe who is also our Vice Chairman, represents District 1. Commissioner Ferrary can, is not going to be able to be with us tonight. Commissioner Alvarado is representing District 3. Commissioner Beard, District 2, and he's also our secretary. I'm Godfrey Crane, District 4, and I'm the Chairman.

II. CONFLICT OF INTEREST

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

1 Crane: At this point we ask if any member of the Commission or any person with
 2 Community Development has any conflict of interest of any item on
 3 tonight's agenda? No one so indicating.
 4

5 **III. APPROVAL OF MINUTES**

6 1. May 26, 2015 - Regular Meeting

7
 8 Crane: We will continue to the approval of minutes for our 26th of May meeting.
 9 Commissioners, does anybody have a point to make about the minutes? I
 10 have a couple myself, more than two actually; page 21, line 9, correction
 11 page 9, line 21, "on the mic please because our." Okay. Page 27, line 41,
 12 I'd like to see keyword as two words here because that changes the
 13 meaning very slightly. And the same correction on the following page, line
 14 4, and right after that line 5 "if it isn't random it is all garbage." That's all I
 15 have. Any other Commissioner? In that case I'll entertain a motion that
 16 the meeting, the minutes for May 26th be accepted as amended.
 17

18 Gordon: Make a motion.

19
 20 Crane: Mr. Gordon moves. Mr. Beard ...

21
 22 Stowe: Second.

23
 24 Crane: Seconds. Mr. Stowe seconds. All in favor aye.
 25

26 **MOTION PASSED.**

27
 28 Crane: Opposed?

29
 30 Alvarado: I abstain.

31
 32 Crane: And Mr. Alvarado, none opposed, Mr. Alvarado Abstains. That passes
 33 five to one; five votes for, zero against, one abstention.
 34

35 **IV. CONSENT AGENDA - NONE**

36
 37 Crane: We have no consent agenda.
 38

39 **V. OLD BUSINESS - NONE**

40
 41 Crane: And no old business.
 42

43 **VI. NEW BUSINESS**

44
 45 1. **CPB-15-01:** A request to approve the Jornada South Community Blueprint
 46 submitted by members of the Jornada South neighborhood. The Jornada

1 South Community Blueprint area is roughly bounded by Bataan Memorial
2 East (north and west), Mesa Grande Estates Subdivision (east), and the
3 Pueblos at Alameda Ranch with White Sage Subdivisions (south) and more
4 specifically pertains to property within the Jornada South development. The
5 intent of the blueprint is to serve as a policy guide for future planning and
6 development efforts in this area. The planning area falls in Council District 6
7 (Councilor Levatino).
8

9 Crane: So we come to the first item of new business. I see we have quite a
10 number of members of the public here. The way we handle new business
11 items is that first a presentation is made, we Commissioners, we may then
12 ask questions of the presenter. Then the applicant may wish to make a,
13 presentation, again we may ask questions of the applicant. And finally we
14 open the discussion to the public and you may make a brief presentation,
15 I'll get more to that in a moment. And we will perhaps ask you some
16 questions. When the public has had its say, we close the matter to public
17 discussion, to further discussion and we debate it a little and vote. There's
18 quite a number of people here, may I see a show of hands on how many
19 members of the public would like to come up and address the
20 Commission? One, two, three, four. That's not very many but on the
21 principle that the number may enlarge as we go on, I'll ask you to limit
22 your presentation to three minutes because I think we have quite a long
23 presentation from the City and others and we'd all like to get home I
24 suppose. So, please introduce yourself sir and I will swear you in.
25

26 Weir: Mr. Chairman. David Weir, Community Development Director.
27

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

31 Weir: I do.
32

33 Crane: Go ahead please.
34

35 Weir: Mr. Chairman and Commission Members. The case, the first case you
36 have is a community blueprint. If you are aware it's a policy plan at the
37 neighborhood level. It is a part of the comprehensive planning framework
38 for the City and it's a, a instrument that we've used to do, address small
39 areas within the City. The proposal before you tonight as I've said is a
40 request for the recommendation of approval of a community blueprint for
41 the South Jornada Subdivision. And also like I said it's basically a
42 statement of policy for neighborhood vibrancy. The initial draft of this has
43 been reviewed by the Planning and Zoning Commission at your work
44 session on April 26th. At that time you gave staff the consensus to go
45 ahead and bring this forward at a, a later public meeting. If you recall, I'm
46 going to read in the vision statement that has been prepared, the plan

1 itself was initiated by representatives of the neighborhood and then staff
2 has worked with them to meet the context of the community blueprint
3 process. The vision that they're putting forward tonight in the plan is "The
4 South Jornada Community will maintain a rural quality characterized by
5 peacefulness, dark skies, and large lot sizes amid the beauty of mountain
6 and desert vistas. New development will contribute to this vision and will
7 support the natural beauty of the area by sustaining and strengthening the
8 natural resources, rural character, privacy, and healthy livability of the
9 community."

10 In their proposal they basically have four land use policies that
11 they've proposed and they all go to maintaining the character of the
12 neighborhood and keeping the sense of community. Again I'll just run
13 through these real quickly, I know you're not supposed to read
14 PowerPoints but I, i think this is short enough. Promote and preserve a
15 minimum lot size of one acre for all tracts and home sites. Encourage and
16 advocate the preservation of the natural topography, minimize both soil
17 disturbance and creation of impervious surfaces, consider alternative
18 ways to protect the rural character of the neighborhood that would
19 preserve the rural large-lot nature of the area.

20 What, what I'm going to do now is go through a series of maps,
21 kind of give some background on where the location of this neighborhood
22 is and some context of, of what's taking place. North is towards the top of
23 these maps. This is US 70, Bataan Memorial is on either sides of the
24 roads. This is Jornada, Jornada Road. The area in pink is the area that
25 the plan is being proposed for. To the east is the Mesa Grande Estates
26 subdivision. To the south is the Pueblos and White Sage subdivisions.
27 And then across US 70 is the Jornada North, and then there are some
28 commercial and multifamily tracts of property that are in various states of
29 development just to the north of the, the area.

30 This provides you a zoning map of the properties so you can see
31 that the area itself is zoned R-1b. That is a single-family residential
32 district. Though all the lots are greater than one-acre in the subdivision,
33 the R-1b does allow lots as small as 5,000 square feet. You can see the
34 Mesa Grande Estates subdivision to the east has a, a band of lots that are
35 roughly one-acre in size and it transitions into smaller lots. The
36 subdivision, the Pueblos to the south, the actual lots are roughly one-third
37 acre in size but there are these landscape areas between the, the various
38 pods of development. And then White Sage I believe is about four-tenths
39 of an acre in size. And as you can see the property along the US highway
40 is various commercial, office, and multi-family residential zoning
41 categories.

42 This is an aerial photograph. The neighborhood itself has 41 lots
43 within it. I believe all but one is developed and as I stated earlier all are at
44 least one-acre in size, some are even larger. This is a, a map for your use
45 that shows the acreage of all the lots within the subdivision and adjacent
46 properties and developments.

1 This slide gives you the framework of the City's Comprehensive
2 Plan, as you can see the Comp Plan itself has a vision statement, it's
3 currently thematic type of plan, it has five themes through it and policies in
4 that. At the next level is more of your policy and technical plans, as you
5 can see within this category is your community blueprint. We consider
6 that a, a level two policy plan. And level three is your actual
7 implementation tools, your zoning code, your subdivision ordinance, the
8 City's budget, strategic plan, etc. Those are the ordinances and what
9 people have to follow to actually, when they go to use their property, what,
10 what the standards are. The level two is just a policy document, what the
11 City would like to see in that area or as a policy.

12 Just to again give you the process for this evening; the Planning
13 and Zoning Commission makes a recommendation on all land use plans.
14 You review that and make a recommendation to City Council. The City
15 Council has the final authority whether to adopt a land use plan or not and
16 then staff makes a recommendation to you and then of course you make
17 your recommendation to the City Council. What staff is proposing this
18 night is a, a conditional approval of the blueprint plan. And what we, we
19 have two conditions that we would propose; the first would be that a map
20 or boundary map of the, excuse me, of the blue print be included. What
21 we'd anticipate happening is that the maps that are in your packet would
22 be incorporated into that so you'd have a sense of where this area is and
23 where the, what the plan entails. Then we also have suggested that, and
24 asked, recommended condition that there be a, a implementation of
25 strategies and action section added to the plan. And under that there'd be
26 three that would basically give a roadmap what could be used to
27 implement the policies of the plan. The first is considered the rezoning of
28 the South Jornada Blueprint plan area to a zoning district that establishes
29 a minimum lot size of one-acre. That would require application to the City
30 to designate that a, a zoning for single-family homes and with the
31 minimum lot size of, of one-acre. The second condition, this
32 implementation or strategies section would be utilize construction
33 practices that adhere to best practices and City of Las Cruces Erosion
34 Control Standards for new development and re-development. The City's
35 Design Standards does have an erosion control standards to deal with
36 dust and minimizing impacts to areas and so that would have to be
37 followed for any development in the City. And then the, the third
38 implementation strategy would be investigate the re-adoption of the
39 subdivision covenants or use of easements, easements throughout the
40 subdivision or any other method that could be used to preserve the large
41 lot nature of this particular subdivision.

42 Your options this evening; one is to approve as has been submitted
43 to you, that would not include the implementation strategy section, it would
44 just have the background information, the vision, and the policies. The
45 second one would be to vote "yes" with conditions and recommend
46 approval of the policy plan. You could choose to adopt the conditions as

1 suggested by staff, you could develop some of your own, or the
2 neighborhood itself could propose conditions that you might want to
3 consider. Your third option is to vote "no," this basically would be
4 recommending denial of the blue print and you, you don't support the way
5 it's currently put forward. And your fourth option is to table the action
6 tonight and direct staff or the neighborhood in how you would, what you
7 would like to see addressed. And with that I will stand for questions.

8
9 Crane: Thank you Mr. Weir. Commissioners any questions of Mr. Weir? Mr.
10 Clifton.

11
12 Clifton: Thank you Mr. Chair. Quick question Mr. Weir. How many, did all of the
13 property owners sign off on this proposal? I mean if not how many did
14 not?

15
16 Weir: Mr. Chairman and Commissioner Clifton. I failed to tell you, the
17 neighborhood provided a list of folks that have provided their support, I
18 believe there were 33 properties identified that was handed to you at the
19 beginning. There are 41 lots, so there were eight they were unable to get,
20 sign off on that. My understanding is that some they were unable to
21 contact cause they were not in the community and then I'm assuming
22 some may not have chosen to have, have signed, but 33 out of 41, so a
23 little above 80% I believe have agreed that they support this document.

24
25 Clifton: Thank you.

26
27 Crane: Anyone else? Thank you Mr. Weir. This blueprint was carried forward by
28 a member or members of the community who I would regard perhaps as
29 applicants, would that, would both of those people like to address the
30 Commission as applicant and then we'll do the public later, or shall we just
31 segue right to the public? Are the, is Ms. Kraimer here? Would you like to
32 speak or would you have some formal presentation or should we just
33 count you as the first member of the public?

34
35 Kraimer: I don't have a formal presentation. I really think Mr. Weir gave a wonderful
36 presentation and I'm here to simply answer questions if you have any. I'm
37 so thrilled that so many of our neighbors showed up. We, if you can see
38 the list of supporters, there are more that do support but they are
39 unavailable. We have people with automatically closed gates to their
40 driveway and so they're very difficult to contact and maybe some others
41 don't use e-mail. So it's, it's not always as simple as it would appear.

42
43 Crane: Hold on one minute please before you go any further.

44
45 Kraimer: Okay.
46

1 Crane: Should've sworn you in.
2
3 Kraimer: Oh yes.
4
5 Crane: Do you swear or affirm Ms. Kraimer that the testimony you are about to
6 give is the truth and nothing but the truth under penalty of law?
7
8 Kraimer: I certainly do.
9
10 Crane: Okay. We'll count what you already said as in there.
11
12 Kraimer: That's fine.
13
14 Crane: Go ahead please.
15
16 Kraimer: I don't have anything else to add, just if you have any questions.
17
18 Crane: Commissioners, any questions for Ms. Kraimer? Apparently not.
19
20 Kraimer: No.
21
22 Crane: Well thank you.
23
24 Kraimer: Thank you.
25
26 Crane: Now let's segue to members of the public unless you, I see this gentleman
27 in the blue shirt, sir, are you planning to come up? No, okay. Let's,
28 anybody, members of the public, this gentleman. Please identify yourself
29 for the record and get on the mic.
30
31 Reidel: SPEAKING, NOT INTO THE MICROPHONE.
32
33 Crane: Okay. Do you swear or affirm Mr. Reidel that the testimony you are about
34 to give is the truth and nothing but the truth under penalty of law?
35
36 Reidel: I do.
37
38 Crane: Go ahead please.
39
40 Reidel: *(inaudible)* Closer to the, okay. As a 34-year resident of Jornada South, I
41 just like to say that the main reason I moved there in the first place was
42 because of the covenant and because it was one of the few places that
43 gave you a rural setting while still in the City limits. And I would sure hate
44 to see that change, so obviously I'm fully in favor of the blueprint. Thank
45 you.
46

1 Crane: Thank you sir. Anyone else? Well looks as if it's going quite fast. Let me
2 give you another three, four seconds to think about it. Yes sir. And you
3 are?
4

5 Fishback: My name is Robert Fishback. I'm a landowner in Jornada South.
6

7 Crane: Okay, so Mr. Fishback do you swear or affirm that the testimony you are
8 about to give is the truth and nothing but the truth under penalty of law?
9

10 Fishback: Yes sir I do.
11

12 Crane: Go ahead please.
13

14 Fishback: I am one of the owners and developers of Mesa Grande Estates. I
15 actually live in Mesa Grande Estates that backs up to Jornada South. I've
16 been a builder here in Las Cruces for nearly 40 years. And I don't come
17 down to these meetings very often. I'm not a political at all. I would prefer
18 not to be here right now. But as the only person who has not developed
19 their land I have every right to be able to develop that land under the
20 current codes that it's under which is multiple homes in that property and
21 have been denied that over a year ago. I only wanted to take and divide
22 my property into three lots. I still would like to be able to divide it into
23 another different shape but we're not sure, we're just finishing looking at it
24 and we'll come in front of the committee. Now I'm the first one to admit
25 large lots are nice and I, I'll be more than happy to build as many on it as I
26 can. Jornada South is a unique property. I've hunted rabbits there before,
27 before it was a subdivision so I know it quite well. I think the thing that has
28 me the most is they want to do something that makes it very difficult for
29 me to even be able to recover my money I invested in there. That piece of
30 property was going to have a church on it. But I don't have anything
31 against any church but instead of coming down to City Council and
32 coming in front of everybody and complaining about it, I just bought it,
33 knowing what the existing codes were on that piece of property. I could, I
34 mean I don't know exactly but at, at, at 5,000 square foot a lot I was
35 wanting to build two lots that were just under 40,000 square feet and was
36 denied that opportunity to do it a year ago or so. Now to me be able to
37 recover my money I'm going to have to do something cause there's no
38 way I can sell that big piece of property. And to give you a reason that
39 you might understand that I have some kind of experience in this type of
40 stuff; to date Mesa Grande Estates has some 19, 14 larger lots left, half
41 acres, we have one left out of about 15. One acres that butt into Jornada
42 South, we sold one in nine years. So for me to be even be able to sell 8.8
43 or a one acre lot is not going to be easy, but to me to sell 2.89 is just not
44 going to happen in today's climate with the, what we have in the
45 construction business in Las Cruces right now. So I'm asking that the
46 Council, or that the Commission to put this off until we can finish our

1 reports with the, the engineer lady that I have doing it and then I can have
2 a look at presenting that to the City Council at the same time so I could
3 possibly get an exemption from this. I'm not against, no body else has to
4 divide it. Many of these people have benefited from the, from the selling
5 off of portions of property in Jornada South over the last 30 years. That's
6 how it was done. A lot of them were three-acre tracts, they sold an acre
7 and a half off or they sold an acre off and they kept two and it's, it's been
8 done that the entire way. But I would like an opportunity to, yes sir I will,
9 to bring my plan in front of the Commission at this time, it's being worked
10 on, should be ready within the next week or so and submitted along with
11 us to get the approval or, or denial of the ability to develop my property.
12

13 Crane: Okay Mr. Fishback, I have a question for you.

14 Fishback: Sure.

15 Crane: And perhaps some of the other Commissioners do. Do you live in the
16 Jornada South?

17 Fishback: No, I live in Mesa Grande Estates on Mesa Rico, but my property butts
18 into my home in Jornada South. I bought the adjoining 2.89 that adjoined
19 my property. So I have a, a big, a big investment on what goes on that
20 property.
21

22 Crane: Do you, did you, when did you buy your 2.89?
23

24 Fishback: Maybe eight years ago.
25

26 Crane: And were the covenants in place at that time?
27

28 Fishback: The, the covenants, no, there's no covenants but the zoning was in place
29 that we were, that we are going to. But the covenants have been expired
30 for over 20 years.
31

32 Crane: Yeah. Okay.
33

34 Fishback: So they, when I bought it there was no covenants on it.
35

36 Crane: Thank you. And Commissioners? Mr. Clifton, and then Mr. Gordon.
37

38 Clifton: Thank you Mr. Chair. Mr. Fishback were you approached by the
39 neighborhood to sign off on this plan at any time?
40

41 Fishback: Absolutely not.
42
43
44
45

- 1 Clifton: So there's been no communication whatsoever in terms of organizing this
2 blueprint.
3
- 4 Fishback: I had, I had no input whatsoever.
5
- 6 Clifton: Okay. Thank you.
7
- 8 Crane: Mr. Gordon.
9
- 10 Gordon: I have a question I'd like to address Mr. Weir please. Mr. Weir according
11 to zoning R-1a in my book it says "The maximum density of this district is
12 eight (8) dwelling units per acre." If this blueprint is approved by a majority
13 of the members of the Commission and it goes before the City Council,
14 and the City Council approves this blueprint, are they basically in effect
15 superseding the zoning?
16
- 17 Weir: Mr. Chairman and, and Commissioner Gordon. They would not. The
18 actual development standards would be the R-1a standard. I, I apologize
19 in the presentation I said R-1b, but it is actually R-1a. The R-1a is the
20 zoning standard for that and it would be until such time as a zone change
21 for that property was approved by the City Council.
22
- 23 Gordon: So then, then what is the purpose of this exercise?
24
- 25 Weir: The purpose of the blueprint is basically to provide information and
26 justification if someone did want to approve or wanted to propose the
27 rezoning of the property, it provides information that the, the character of
28 this neighborhood is such, there is a desire by many in the neighborhood
29 to maintain that. What staff has learned through the discussions on this
30 blueprint is that many of the people bought the parcels when there were
31 covenants on it, the one-acre, and so they kind of have that expectation
32 for the property and now granted the covenants are no longer in effect for
33 the area. But basically the way staff has treated this is information for
34 people to make informed decisions as, as one of the tools for this. In Mr.
35 Fishback's particular case he has already submitted a proposal for a
36 subdivision. One of the lots, lot size was less than an acre and upon
37 appeal the subdivision was denied and he was, was not allowed to go
38 forward with that. I'm sorry, it was approved and then denied. Approved
39 by the City, by the Planning and Zoning Commission and then City
40 Council overturned that approval, that subdivision.
41
- 42 Fishback: That's not correct. With all due respect.
43
- 44 Crane: Mr. Fishback did you have something to add to that?
45
- 46 Fishback: Yes I'd like to ...

- 1
2 Weir: Well just to get back to your question, until such time as the zoning is
3 changed on that property a subdivision could be proposed to allow a
4 division that met the R-1 zoning standards, so in theory a lot less than, or
5 lots of 5,000 square feet could be provided granted that water, drainage,
6 access, sewer systems, could be provided to those parcels.
7
- 8 Gordon: So, so basically what we have here is a situation that if it goes before the
9 City Council and the City Council approves this blueprint this is just
10 basically a, a preemptive start to perhaps request for a zoning change.
11 And if that's the case it would have to come back before us again I would
12 assume to do that. But in the meantime even if the City Council, if we do
13 approve this it goes before the City Council and they do approve it,
14 someone can still come in two months from now, whatever it is and, and
15 put in a request that they meet all the requirements of, of putting in under
16 R-1a, we would have no basis to deny it even though this blueprint was
17 approved, is that correct?
18
- 19 Weir: The only reason that, that you would have a, you would have to have
20 some type of finding or reason that there was some public health or safety
21 issue. Staff would recommend approval if, if a subdivision were bought in
22 and it met all the City's design standards and, and zoning requirements.
23
- 24 Gordon: Well let's assume that that was the case and they did make all the
25 requirements, not a question, we would have no choice but to approve it.
26
- 27 Weir: That would be staff's recommendation.
28
- 29 Gordon: Thank you.
30
- 31 Crane: Mr. Fishback did you want to say anything directly answering what Mr.
32 Weir said?
33
- 34 Fishback: It's not that what he said is, I want to make sure it's clear to this council
35 that the City Council approved my subdivision, but two people left and
36 may not, like I say I don't, I don't attend these. I take care of my own
37 business and do stuff. In my stupidity I didn't realize that, and the
38 engineer that I had there did realize we had to have four votes and the
39 votes were three to two cause two had left or I would've called for the
40 meeting to stop and we'd of gone back on the agenda again. As this
41 gentleman just said, Mr. Gordon, we met all the requirements of the City to
42 meet this, in addition to putting sewer over there from Mesa Grande which
43 I arranged to do. And so I can bring sewer in there and put as many as I
44 want. I just want three and with those three I can have a chance of
45 recovering my money.
46

1 Crane: Okay.
2
3 Fishback: And the other part of it is I, I don't know why the, the Planning and Zoning
4 Board turned my, mine down. We met all the law and we had staff
5 recommendation to do it. Thank you.
6
7 Weir: Mr. Chairman, Commission Members. I just want to reaffirm what Mr.
8 Fishback said. The subdivision was denied, recommended denial by the
9 Planning and Zoning Commission. It went to City Council and they were
10 unable to get the fourth vote to overturn it, so it, it wasn't denied by the
11 City Council, it just technically it, they were unable to get enough votes to
12 approve it, overturn the Planning and Zoning Commission decision.
13
14 Crane: Thank you. Ms. Kraimer you had an answer to Mr. Fishback's comment
15 that he wasn't approached I believe?
16
17 Kraimer: There were, at the time we had a meeting, a preplanning meeting at the
18 Sage Cafe on I believe it was January 25th of this year and I was told that
19 every lot owner was notified. So he has been invited. He has been asked
20 to be included. Every notification that has gone out has included Mr.
21 Fishback as far as my knowledge. Is, is that true? Have you received
22 notifications?
23
24 Crane: Go ahead Mr. Fishback.
25
26 Fishback: Yes, I, I was notified of that. I didn't go for one simple reason. In the prior,
27 in the last 15 years of land development I've never been harassed or
28 insulted more than we were with our predevelopment meeting by Jornada
29 South people and quite frankly didn't care to go to another one of those.
30 So I did, I chose not to go to that.
31
32 Kraimer: Well I ...
33
34 Crane: Do you ...
35
36 Kraimer: It's your choice.
37
38 Crane: Yeah, I'm not going to get into whether, what degree of harassment Mr.
39 Fishback suffered.
40
41 Kraimer: I don't ...
42
43 Crane: We will go over that. Do you have something to add?
44
45 Kraimer: Also he didn't, he said something about he didn't know why your
46 Commission denied his three-way split that he requested, he tried to get

- 1 approval for. And I have quotes "The Planning and Zoning Commission
2 'Found essentially that the approval of the subdivision wasn't in keeping
3 with the character of the neighborhood.' " That's Katherine Harrison-
4 Rogers who stated that during the City Council meeting on June 2nd,
5 2014. So that is the reason that she gave why it was not approved by
6 your Commission at that time. If you changed, if you now think it does
7 somehow meet the character of our neighborhood I'd like to know what,
8 what has changed about our neighborhood?
9
- 10 Crane: We would have to confront that when it's brought formally before us.
11
- 12 Kraimer: Okay. Thank you.
13
- 14 Crane: Mr. Fishback did you attend the Planning and Zoning meeting of which we
15 voted against your subdivision?
16
- 17 Fishback: Yes sir.
18
- 19 Crane: Okay, so you heard what we said.
20
- 21 Fishback: Well I, I understand that but your requirements to do it have got to conform
22 under the rules and regulations of the City of Las Cruces. I'm not a lawyer
23 but these are the standards of which I met all of them and because
24 somebody thinks it doesn't meet the standard, you can't tell me the
25 difference between an eight/tenth and a one-acre lot by looking at it. I
26 don't care how good you are and I'm been in this business a long time.
27
- 28 Crane: Okay sir.
29
- 30 Fishback: All right.
31
- 32 Crane: Thank you. Any other member of the public wish to address this?
33
- 34 Alvarado: I have a question for Mr. Weir.
35
- 36 Crane: This is Mr. Alvarado. Okay you have priority Mr. Alvarado, and I'll get to
37 you in a minute sir.
38
- 39 Alvarado: How likely or unlikely is it that the zoning would, would be changed?
40 Cause I think that's the key to the solution or non-solution of, of changing
41 the character of the, of the, the properties?
42
- 43 Weir: Mr. Chairman and Commissioner Alvarado. The City's policy is, is never,
44 or is very rarely to propose a rezoning of a property without the owner's
45 consent, so the applications that we most likely would receive would be
46 the property owners that wanted to voluntarily place that zoning restriction

1 on it. And as long as there wasn't in, in this particular case if the plan
2 were approved and the people that brought in the properties that they felt
3 they wanted the one-acre, staff would support that based on the plan,
4 based on the existing conditions of the neighborhood and the property
5 owners desire to, to zone that. In this particular case I'll, the other 41 lots
6 could come in and, and make that petition and request an R, a zoning that
7 had a minimum lot size of one-acre. There's, there's several different
8 ways that they could choose to do that and Mr. Fishback's property could
9 be left out. Staff would probably encourage the application to include that
10 just so that the whole neighborhood stays, has that same theme
11 throughout it.

12 Staff also wanted to disclose that, that currently we have received a
13 subdivision for Mr. Fishback's property, it is a currently a split of just into
14 two tracts of land. It's gone through one review, there's not been a
15 resubmittal so just to disclose that there is a, another subdivision under
16 review for that particular property. Now that does not preclude that from
17 being changed and then a variance requested for the lot sizes etc., but
18 those are both; the subdivision and the variance process is something that
19 would come before you and you would be the deciding body.
20

21 Crane: Thank you.

22 Alvarado: Thank you.

23 Crane: Did you want to talk sir? Tell us who you are.

24 Pennington: Dr. Robert Pennington.

25 Crane: Dr. Pennington do you swear or affirm that the testimony you are about to
26 give is the truth and nothing but the truth under penalty of law?
27

28 Pennington: Yes I do.

29 Crane: Go ahead sir and three minutes, please.

30 Pennington: I wonder if I could look at a previous screen that had your
31 recommendations for strategies, because of what I would like to tell you
32 on the, on the staff's recommended conditions is I fully support these. I
33 would like to see this for our neighborhood and that's what this is about,
34 our entire neighborhood. I regret that Mr. Fishback feels that he's been
35 left out. At our January neighborhood meeting we discussed his situation,
36 we wish you would've attended, and we look forward to working with him
37 to reach something that will be satisfying to what he wants to do and what
38 we want to see for our neighborhood. And we're confident that we can do
39 that. So we're available to talk with him at any time. But what the staff
40 recommendation says here in their conditions, considering rezoning is
41
42
43
44
45
46

1 really just putting something stronger into place to preserve our character.
2 Really what we want to see is what this Commission said last year I think
3 in, in May at the May meeting when you decided not to approve Mr.
4 Fishback's application at that time. I think that your rationale was very,
5 very good and it conformed, even though you did not say so explicitly, it
6 conformed very well to the Comprehensive Plan which it must, your
7 decisions must take into account the Comprehensive Plan. Whatever
8 standards we may have here, the City code says that your decisions must
9 consider the Comprehensive Plan. And I was very impressed that you did
10 that last year.

11 Now again going to Mr. Fishback's situation, we are confident that
12 we can find something that's going to satisfy his needs and our vision for
13 the neighborhood and we look forward to discussing the situation with him.

14
15 Crane: Thank you sir. Any questions for Dr. Pennington? Commission.
16 Apparently not. Thank you sir. Any other members of the public?

17
18 Tucker: Sorry I'm not wearing trousers but, my name's Charles Tucker. I live in
19 the South Jornada neighborhood.

20
21 Crane: Mr. Tucker do you swear or affirm that the testimony you are about to give
22 is the truth and nothing but the truth under penalty of law?

23
24 Tucker: I do sir.

25
26 Crane: May the record show that Mr. Tucker is fully dressed by current standards.

27
28 Tucker: Okay.

29
30 Crane: Yeah.

31
32 Tucker: What I wanted to say I'm, you've heard from a gentleman that lived here
33 for 34 years in this neighborhood. I'm relatively new to the neighborhood.
34 We moved here and we purchased the house after looking around Las
35 Cruces and trying to find a neighborhood that we were comfortable in and
36 South Jornada has done that. There's one way in, one way out of that
37 place. When you start driving through the neighborhood you notice the
38 large lot sizes, we don't have streetlights, we don't have a lot of the things
39 that the other neighborhoods have. You can't reach out your window and
40 touch the house next door where we live and we like that, at least me and
41 my family do. What I would like to say, I heard about trying to protect that
42 man's investment and I'm not, you know I'm not against anybody making
43 money off their investment but I would like to say that an investment on a
44 house on a property is a significantly larger investment than just a lot. So
45 I'd like to say you know just as a homeowner within this neighborhood and
46 you can see there's 33 out of the 41 people within this neighborhood,

1 families within this neighborhood agree with me that we would like to keep
2 it along the same line. Now I don't know what the blueprint does as far as
3 zoning any of that kind of stuff, I'm not a lawyer, I'm not a legal person or
4 anything. I just know I like the way the neighborhood is and I prefer it stay
5 that way.
6
7 Crane: Thank you Mr. Tucker. Any questions? Thank you again.
8
9 Tucker: Okay. Thank you. Mr. Fishback you're standing, you want to make a
10 rebuttal of some kind?
11
12 Fishback: Yes I'd like to talk about that.
13
14 Beard: I have a question of him also.
15
16 Crane: Okay. Which, Fishback?
17
18 Beard: Fishback.
19
20 Fishback: Jornada South is a unique piece of property. Roy Moore did an excellent
21 job doing what he did when he bought it all. I have nothing but admiration
22 for all the Moore family and stand by if they said "Hey let it go," I would.
23 But number, number one on this, on this line, this subdivision is illegal as
24 having one exit. Mesa Grande Estates came in, offered two exits into our
25 property to alleviate that problem, both rejected by the, the neighbors over
26 there cause they want it. So it's an older neighborhood and we, we ended
27 up with just, with just one walk area. I had a walk area on my property. I
28 built my house, I went to the City and I said I'm ready to deed you over
29 your easement for pedestrian crossing. City didn't want the land. My
30 insurance company on my home's not going to take the pedestrian
31 crossing with us carrying the liability insurance and the City wants
32 property, so we didn't build it. But there should've been roads done there.
33 There should've been Jornada South tied into the property to the south.
34 Why, well if you ever have a big fire and everybody's trying to get out that
35 way, that's not going to be good and we considered that when we
36 developed our subdivision. We try and consider what is the best, not, not
37 only just the aesthetics of it but what's the best for the human beings that
38 live in it. And they didn't want it, there's nothing I can say other than that.
39 And, and I'm not saying it's not a nice place. I'm just saying I don't want to
40 see people get killed, or people run over somebody. And we offer them a,
41 a way to solve that problem and they weren't interested. Thank you.
42
43 Crane: Sir, Mr. Beard, Commissioner Beard has a question for you.
44
45 Beard: I'm not certain that I know which piece of property is yours. Could you
46 identify that?

1
2 Fishback: Yeah. Show him. Yeah. You see, what's that street there Mr. Weir?
3
4 Crane: Real Del Sur, the one, east/west.
5
6 Fishback: As you see the street going down from east to west at the very south end
7 of the property, I can't remember the name of that property, I mean of that
8 road, but it goes right into the back of my home. I live in lot I think 17 of
9 Mesa Grande, right where that road dead-ends to the back of my house.
10 The property that I own is right behind my property there. Okay. Yeah,
11 this is my, this is my house right here. This is my 2.89 right here. So you,
12 you have an idea of where we are and what we want to do is divide this
13 into three lots, figure out the cul-de-sac to turn that around. I was going to
14 pay for that. We've worked out a deal to run sewer from Mesa Grande
15 into this lot so that they wouldn't have to have septic tanks. And ...
16
17 Crane: I remember that sir, we, we, we heard your case here right?
18
19 Fishback: Yes sir.
20
21 Crane: Does that answer your question Mr. Beard?
22
23 Beard: Yeah. And you, and you want to retain the capability to subdivide?
24
25 Fishback: Yes sir.
26
27 Beard: How many times? How many, how many pieces of property?
28
29 Fishback: Three lots.
30
31 Beard: Three lots which would take all of them down below one acre.
32
33 Fishback: Well we could have one one-acre and then two that are in a neighborhood
34 of 0.9, it's maybe they're 0.88 but they're just under an acre. In our
35 original one the smallest piece of property we had was like 0.93.
36
37 Beard: Okay. Thank you.
38
39 Fishback: Thank you sir.
40
41 Crane: Mr. Fishback. Ms. Kraimer. Three minute max, okay.
42
43 Kraimer: I'm sorry. Okay. First of all I would like to address the one, I don't know
44 where the arrow is. The road that Mr. Fishback pointed to, it's a walking
45 pedestrian easement.
46

1 Fishback: Yeah it's right here.
2
3 Kraimer: That's right there, this is actually a wide enough lane for emergency
4 vehicles to traverse. It's, it has columns that can be unbolted in
5 emergencies. This is not a permanent barrier to Mesa Grande Estates.
6 It's a walking, it's, it's used as a pedestrian lane now but it's the full width
7 of a traffic lane and it can be made usable to emergency purposes. So
8 there's no access problem in that case. So people won't be dying
9 because ambulances can't get to them or something.
10 The other thing I would like to ask Mr. Fishback, have I ever been
11 anything but cordial and nice and pleasant to you?
12
13 Fishback: No ma'am.
14
15 Kraimer: When we've met. Thank you. I have not harassed you.
16
17 Fishback: No ma'am.
18
19 Kraimer: Thank you.
20
21 Crane: Any other questions? Mr. Gordon.
22
23 Gordon: The, the list that has 33 names on it, of the remaining eight lot owners, did
24 any of them say "no" or these were just people you couldn't get a hold of?
25
26 Crane: Is that for Ms. Kraimer? Is that question for Ms. Kraimer Mr. Gordon? Is
27 that question for Ms. Kraimer?
28
29 Gordon: Yeah I think she's the one who could answer it.
30
31 Crane: Yes.
32
33 Kraimer: The only objector is Mr. Fishback and, and I'm sorry to say that but
34 honestly if you submitted a plan for a two-way split with each split greater
35 than one acre I don't what our conflict is here. I don't know why there's a
36 conflict.
37
38 Crane: Um, ma'am that's, that's historical I think if you check back in the minutes
39 you'll find what went through our minds and it may go through our minds
40 again, I don't know, but not tonight perhaps.
41
42 Kraimer: No, I, I mean if, if I think Mr. Weir said that there's been a plan submitted
43 to do a two-way split and if each of those splits is greater than an acre
44 then I don't know what the problem is.
45

- 1 Crane: Well I would like to leave that to discuss when it's formally before us.
2 Thank you. Any other questions for any participant? Commissioners?
3 Then thank you all in the audience. This is ... yes. Sorry Mr. Clifton, who
4 do you want to speak to?
5
- 6 Clifton: Just a quick question for Mr. Weir. Sorry Mr. Weir. It, it looks like this
7 subdivision has been replatted at least 12 times cause there are 12
8 smaller lots within the Jornada now subdivision, Jornada South
9 subdivision. I don't know how many of those were done legally outside of
10 the subdivision process, I'm not going to even try to guess but it, it would,
11 and, and the point I bring up, and I brought this up the last time at, with Mr.
12 Fishback's subdivision is you know; one, this certainly feels more like a
13 private homeownership situation than a regulatory issue that's before us
14 tonight and it is just that, it's regulatory because it will become regulation
15 at one point. But it's, it almost feels like you know we've got ours, we
16 don't want anything else and I'm not real comfortable with that personally
17 but has, has staff done the research and indicated that yeah this has been
18 subdivided X amount of times?
19
- 20 Weir: Mr. Chairman and, and Commissioner Clifton. Staff did look into that to
21 see how some of the lot size, there have been replats that have been
22 done over the years in the property. Also the subdivision itself was started
23 in the '70s and the City's, I'm aware of has had two or three different
24 subdivision codes so there are different standards that were in place at, at
25 different times. As far as I know all the lots are, did go through a legal
26 subdivision process, whatever was in place at that time, so you know that,
27 that still takes place. The way staff has, in our conditions to address that
28 is the third implementation strategy, investigate re-adoption of subdivision
29 covenants, use of easements, or other methods. That could even cover
30 the property owners in the subdivision forming their neighborhood
31 association and then having a means to go through and adopt their own
32 covenants again, go through that, or even if it's just a, a, where all the
33 members of that group could discuss what they would like to see in the
34 neighborhood. So we've tried to cover every avenue that we could to give
35 enough flexibility to the neighborhood that they meet the needs of the type
36 of community they'd like to live in and then also provide some type of
37 assurance to folk's property rights within that subdivision.
38
- 39 Crane: Thank you. Does that answer your question Mr. Clifton?
40
- 41 Clifton: Yes it does. Thank you.
42
- 43 Crane: Sir. Come up, identify yourself please.
44
- 45 Kraimer: My name is Bob Kraimer and I live in Jornada South.
46

- 1 Crane: Mr. Kraimer do you swear or affirm that the testimony you are about to
2 give is the truth and nothing but the truth under penalty of law?
3
- 4 Kraimer: I do.
5
- 6 Crane: Go ahead please, three minutes, right.
7
- 8 Kraimer: So I moved to Jornada South in Las Cruces from the east coast and we
9 picked Jornada South because of the neighborhood. We, let's see, in, in,
10 that's one of the reasons that we moved there and probably the only
11 reason that we moved there, because of the, the quietness of the
12 neighborhood, the darkness of the neighborhood, the low traffic in the
13 neighborhood. I'm listening to what's going on here and people are saying
14 well why doesn't somebody just do another plat and, and chop this, the
15 last lot in our neighborhood. You're saying that well we don't want to see
16 what, what we have go away, but it is the last lot in our neighborhood.
17 The last buildable lot. And so if you're saying, I'm, I'm hearing you people
18 talk about maybe we just do another subdivision. My question is where
19 you gonna run the traffic in that subdivision. You gonna run it through the
20 roads that come into Jornada South or you gonna put it out somewhere
21 else? We don't want to see a lot of traffic coming through the
22 neighborhood. That's one of the reasons that we bought there. We would
23 probably, you know so, I'm a little bit concerned on listening to all of your
24 discussion on the last buildable lot in our neighborhood and you're trying
25 to decide maybe we should split it up, put sewers in and put a whole
26 bunch of houses on this last buildable lot. What you're doing is you're
27 taking everybody else's investment and saying we don't care. And that,
28 that's very discouraging to me to see that's what you're talking about.
29
- 30 Crane: Okay Mr. Kraimer we hear you. We're not quite to that point yet you
31 know.
32
- 33 Kraimer: Okay, well I'm, I'm just saying that's what I'm hearing. It sounds like, and
34 then I, I see some of these recommendations. I'm quite sure that you all
35 understand that if we wanted to re-associate or, or, or write something that
36 says all of the neighborhood wants to have a one-acre minimum, we have
37 to get, if we want to rezone it's 100% buy-in and I can guarantee you that
38 there's one person in this room that's not gonna buy into that, so we can't
39 rezone. We can't do anything but tell you this is our neighborhood, this is
40 what we appreciate about Las Cruces and why we moved here and we're
41 hoping that we can put that over to you in this blueprint and say, this is
42 what we would like to see. Just take that as our input. And that, that's
43 why we started this blueprint.
44
- 45 Crane: Thank you sir. We hear you.
46

1 Kraimer: Okay.
2
3 Crane: Mr. Fishback I saw your hand go up. Okay. Sir, Mr., Dr. Pennington and
4 then the gentleman over there. Now since you've had three minutes can
5 do maybe a minute and a half?
6
7 Pennington: Mr. Chairman I just want to address the, the road situation and that is
8 something that was, was approved by the City. The, the roads are the
9 way they are. Jornada South does not go through because the City
10 Council abandoned the right-of-way to the private property owner there,
11 what was it 10 years, 11 years ago when Mesa Grande Estates was
12 proposed, the developers talked about putting roads through Jornada
13 South and said that they had to do that because the City would never go
14 for a plan that did not have that. I talked to Lonnie McCarson the staff
15 planner on, on that case, she said "Yeah the City would go for that." She
16 made an appointment for me with Dan Soriano, we worked it out. He
17 talked with New Mexico Department of Transportation. This has all been
18 approved by Planning and Zoning and the City Council so there is nothing
19 here that would be illegal about what has been done out there.
20
21 Crane: Thank you sir. Identify yourself please.
22
23 Carroll: My name is Steve Carroll.
24
25 Crane: Mr. Carroll do you swear or affirm that the testimony you are about to give
26 is the truth and nothing but the truth under penalty of law?
27
28 Carroll: I do.
29
30 Crane: Go ahead please.
31
32 Carroll: Last, last time I heard that I was joining the Marine Corps. This is kind of
33 scary.
34
35 Crane: Yeah I had an experience like that but it's a long time ago.
36
37 Carroll: Back in the mid '70s I was assistant planner for the County of Los Alamos
38 and I did that for a while and it was most enlightening and I just wanted to
39 say that, well I live in Jornada South also and everything that the other
40 homeowners out there have said I agree to, with the exception of one. I
41 remember that the constant loggerheads of developers versus property
42 owners. I had hoped over the decades that I've been out of that that
43 things would have improved, but obviously have not. So I'm having
44 flashbacks and I may have to seek counseling or something. But I'd just
45 like to thank everybody that's been involved with this. All of you I know
46 what you folks go through in missing dinners and things and also what the

- 1 homeowners go through, I wish things could be different but obviously this
2 is, again if I came back a hundred years from now these, these conflicts
3 would still be going on. But anyway thanks to every one.
4
- 5 Crane: Sure. They'd probably have problems zoning the Garden of Eden.
6 Personally I'm, I'm heavily medicated, it helps a great deal. Any
7 questions? Any further people? Mr. Beard, who do you want to talk to?
8
- 9 Beard: Mr. Weir, I want to make sure that I fully understand this. If we approve
10 this plan Mr. Fishback can still divide his property into two pieces?
11
- 12 Weir: Mr. Chairman and, and Commissioner Beard. Yes. The, the plan is just
13 recommendation or it's a, it's a policy statement of, of the desired
14 character of this neighborhood. It does not change the zoning. As stated
15 earlier the City policy has always been to process a zone change with the
16 property owner's consent. We have rarely initiated a zone change on our
17 own, and in those cases we have, it's usually been what we call an up-
18 zone where it gives the homeowner greater use of his property. So
19 downzoning we, we, we stay away from. So until such a time as that
20 property was ever rezoned to some other category that had a larger
21 minimum lot size, he still could propose a subdivision of the property.
22
- 23 Beard: Thank you.
24
- 25 Crane: I believe everybody's had their say so I will close ... Mr. Gordon. To
26 whom do you wish to speak?
27
- 28 Gordon: Mr. Weir, again I want to be absolutely clear on this also. If we say "yes"
29 or "no," this is going to go to the City Council?
30
- 31 Weir: Mr. Chairman and Commissioner Gordon. That is correct.
32
- 33 Gordon: Oka, now if, if we say "no" and they say "yes," that does not change the
34 zoning in any way, he can still go ahead and put his request in for, to put
35 in two lots or whatever he wants to do?
36
- 37 Weir: Commissioner Gordon. That is correct. What would happen is the plan
38 was adopted, the policies in it would be referenced in the staff report that
39 you received for the subdivision. It would be something else for you to
40 consider when you have that opportunity to approve or act on the
41 subdivision.
42
- 43 Gordon: All right, but it, it does not legally prohibit us from allowing his petition if he
44 decides to do so?
45
- 46 Weir: That, that is correct. It has no standing.

- 1
2 Crane: Mr. Clifton.
3
- 4 Clifton: Thank you Mr. Chair. All right Mr. Weir this is the last time I promise.
5 And, and I touched on this again the last time and just to walk through, the
6 Commission through the process, this blueprint in essence as you stated
7 works as a, could be one of the many findings to justify the
8 recommendation by staff for the subdivision and more often than not we
9 see these policy documents that are utilized for these recommendations to
10 formulate a positive or a negative recommendation. So in, in, in theory,
11 I'm not saying that it would happen, but in theory Mr. Fishback's
12 subdivision could get hung up in the process, this get approved tonight,
13 goes to Council, gets approved. Mr. Fishback's subdivision comes in
14 before us, recommendation of denial based on findings of fact which
15 would include the blueprint policy precluding one-acre lots from being
16 further divided in the, in the area, I mean is that roughly based on your
17 three step approach that you had on the, on the graphic?
18
- 19 Weir: Mr. Chairman and, and Commissioner Clifton. I think it, it's more
20 information for you to make a decision on how you see that. I don't think
21 the blueprint with it being part of the Comprehensive Plan is no difference
22 than the policies that you, you get in your staff reports for zone change
23 requests, variances, or, or subdivisions. Today the staff report that you
24 received had numerous policies and that's information that you can use to
25 support whether you feel that's an appropriate development or not. In the
26 staff reports there are policies that support maintaining the neighborhood
27 the way it's been developed and built out. There are policies that are
28 neutral. And there are some policies that are I guess you could say, I
29 think we termed them con in the staff report. So staff may, weighs all
30 those policies, feel which ones are the most appropriate, and then makes
31 a recommendation, and then you have that information at your disposal
32 also to consider which policies of the City most appropriately apply to the
33 development proposal in front of you.
34
- 35 Clifton: But typically when it goes through the review process at a staff level once
36 it hits the, the comp planner's desk and they review the subdivision, they
37 in essence could say well there is a blueprint that's been approved by the
38 Las Cruces City Council and it states that one-acre lots are permissible
39 but anything less is not recommended, I don't want to say not permitted
40 cause that's not what the policy document does, but that could be one of
41 their negative comments to help formulate the recommendation that would
42 come before the Council. Not saying that that's what would be in the
43 findings of fact but it could go either way in essence.
44
- 45 Weir: Mr. Chairman and Councilor Clifton. You've had a, a subdivision in this
46 area already and so you've, you had replats in the past, not you maybe

1 individually but there have been subdivisions that have come before the,
2 the Planning and Zoning Commission. Staff looks at the zoning code
3 standards, the minimum standards. When we review it are all the lots
4 greater than 5,000 acres, or 5,000 square feet, excuse me, not 5,000
5 acres. If that's check, that meets the zoning. Is the lot frontage such that
6 it has access from it, check. We recommend that. Again they provide
7 some type of septic system or sewer system, yes, check. Are they going
8 to increase drainage or the, the potential for drainage to go onto some
9 other property, check. Where we would make, as at staff level make a
10 recommendation for denial if there was some obvious public safety feature
11 that the proposal is in such a nature that it would cause damage to an
12 adjacent property owner or there was no way that the lot could be
13 accessed by a public safety feature. I mean for staff to recommend denial
14 there would have to be some tangible evidence that this is not a good idea
15 and, and does not meet some code requirement.

16
17 Clifton: Okay. Thank you.

18
19 Crane: Thank you Mr. Weir. I'm going to close this to further public input and the
20 Commission will discuss its votes. Commissioners anything to say to
21 each other? Yeah, Mr. Gordon.

22
23 Gordon: Perhaps I can, I can offer a condition.

24
25 Crane: By all means.

26
27 Gordon: Pardon?

28
29 Crane: By all means. Go ahead. Are, are you saying in addition to the three that
30 the City has suggested?

31
32 Gordon: Well I don't, I don't think that this was one of them but if it is, if it isn't then
33 this is what I propose, that if, if we do approve this to be forwarded to the
34 City Council that it is forwarded with a caveat that the zoning designation
35 shall remain R-1a until it is changed so that any building lots shall be a
36 minimum of one-acre. This way I think it protects Mr. Fishback and it also
37 protects the, the people who live in ...

38
39 Crane: Mr. Weir do you hear, do you see any technical difficulty with that
40 suggestion?

41
42 Weir: Mr. Chairman and Commissioner Gordon. I don't think it will create a
43 problem because that's the way it's set up. The resolution that approved
44 the blueprint framework and, and participation said that the blueprint will
45 not be used to infringe on anybody's property rights and the zoning stays

1 in place as R-1a until such time as it's, the property owner recommends a
2 or requests a zone change.
3
4 Crane: It's already in place in the blueprint.
5
6 Weir: Correct.
7
8 Crane: So Mr. Gordon's suggestion would be unnecessary.
9
10 Weir: It would be unnecessary or it would just reinforce what's already on the
11 books.
12
13 Gordon: I, I don't wish it to be redundant except the only thing I just want to protect
14 the residents and Mr. Fishback from the whims of the City Council in just
15 doing whatever they want to do. And it's in very specific in writing as what
16 they are limited to.
17
18 Weir: I believe that we can put that into the implementation strategies and
19 actions. We can ...
20
21 Crane: Thank you Mr. Weir. Any comment on Mr. Gordon's suggestion? I think
22 we should have to vote to incorporate it as a condition. Mr. Gordon why
23 don't you move that we add the condition that you just, maybe you better
24 reformulate it, condense it a little if you can.
25
26 Weir: Mr. Chairman if, if I might I can ...
27
28 Crane: Mr. Weir.
29
30 Weir: I can ...
31
32 Crane: Mr. Gordon while he's looking can you sum up something?
33
34 Weir: I, I would propose that you try to mirror language, the intent of the
35 community blueprint is not to negatively impact an existing property right
36 and then in parentheses we have (for example prohibit a permitted use of
37 ...
38
39 Gordon: Can you tell me what page you're on?
40
41 Crane: Where is that please?
42
43 Weir: That is on page six of your staff report.
44
45 Gordon: What page?
46

- 1 Weir: Page six. Under of your, down to just below half way through the page,
2 there's a, a con section. I think if you look at bullet one and bullet four that
3 would give you some ideas to, to formulate your condition. And, and for
4 the audience the first bullet is "The intent of a community planning
5 blueprint is not to negatively impact an existing property right, e.g. prohibit
6 a permitted use of a lot or the subdivision of land." And then the other
7 bullet is "Preclude the requirements of the City zoning subdivision or other
8 development code, plans, regulations, especially as it relates to the, to the
9 processes for the change in a zoning (*inaudible*), subdividing of or
10 construction of allowed use or building on the property."
11
- 12 Crane: Now this wording Mr. Weir is not actually in the blueprint is it?
- 13
- 14 Weir: It is not in the blueprint but it is in the resolution that established the ability
15 to propose and prepare a blueprint.
16
- 17 Crane: Okay.
18
- 19 Gordon: If, if we can take that verbatim and enter that as a motion, those bullet one
20 and four, I would be in favor of that.
21
- 22 Crane: Okay. So you would like to see bullets one and four on the con, on page
23 six of the staff report for CPB-15-01 included as an additional condition,
24 correct?
25
- 26 Gordon: Yes.
27
- 28 Crane: Okay. Mr. Gordon is moving. Do I have a second? Apparently the
29 motion dies without a second. Okay, any other comments gentlemen?
30 Well I don't have a comment so we will take a vote. We'll do roll call
31 starting with Mr. Clifton and we are voting on the acceptance of the South
32 Jornada Community Blueprint Plan, with the three recommendations
33 which Mr. Weir read and Mr. Weir could I ask you to put them up again so
34 we can all see them.
35
- 36 Weir: Yes Mr. Chairman. There actually are four conditions. The, the first one
37 is also to include a boundary map within the plan itself.
38
- 39 Crane: Oh yeah. Right.
40
- 41 Weir: And then there's the, the three implementation strategies.
42
- 43 Crane: Okay Ms. Harrison-Rogers do I have to read these four? Would it be
44 advisable at least?
45

- 1 H-Rogers: You could if you just wanted to make the verbal statement, otherwise you
 2 could just simply refer to, to what's on the slide, that's entirely up to you. I
 3 think it's clear either way.
 4
- 5 Crane: Thank you. I think I'll forgo reading them. So we have our four conditions
 6 in front of us. Mr. Clifton, your vote.
 7
- 8 Clifton: I vote no based on staff presentation, report, and discussion.
 9
- 10 Crane: Mr. Gordon.
 11
- 12 Gordon: I vote yes based on findings, discussion, and staff recommendation.
 13
- 14 Crane: Mr. Stowe.
 15
- 16 Stowe: I vote yes based on site visit, findings, and discussion.
 17
- 18 Crane: Mr. Alvarado.
 19
- 20 Stowe: This evening.
 21
- 22 Crane: Sorry I trod on your line. Say it again. Based on ...
 23
- 24 Stowe: Based, based on site visit, discussions this evening.
 25
- 26 Crane: Okay. Thank you. I interrupted you. Mr. Alvarado.
 27
- 28 Alvarado: I vote yes based on discussion and staff recommendations.
 29
- 30 Crane: Mr. Beard.
 31
- 32 Beard: I vote yes based on presentation and recommendations.
 33
- 34 Crane: And the Chair votes yes based on findings and discussion. Thank you the
 35 motion passes five/one. Thank you all for your participation.
 36
- 37 2. **Case S-15-010W:** An application of Borderland Engineers on behalf of
 38 Borang Indah, LLC, property owner, for a 100% waiver to required road
 39 improvements to N. 17th Street associated with an Alternate Summary
 40 Subdivision known as Rumah Indah Subdivision. N. 17th Street is local
 41 roadway with a 24-foot wide paved surface and gravel shoulders. Required
 42 improvements would consist of a 50-foot cross-section with curb, sidewalk,
 43 gutter, and driving lanes. The affected segment of 17th Street begins at the
 44 intersection of Picacho Avenue and runs north for 352.12 +/- feet. Parcel
 45 ID#: 02-00427; Address: 216 W. Picacho Avenue; Proposed use: Hotel and
 46 Restaurant; Council District 4 (Small).

1
2 Crane: And we will proceed to the next and final item on our agenda which is, on
3 the agenda, which is Case S-15-010W, an application of Borderland
4 Engineers on behalf of Borang Indah LLC for a waiver of required road
5 improvements on N. 17th Street.
6
7 H-Rogers: Good evening.
8
9 Crane: Ms. Harrison-Rogers.
10
11 H-Rogers: Let me go ahead and get this started. Here we go. Mr. Chair, Members
12 of the Commission. This is S-15-010W located at 2160 W. Picacho
13 Avenue. This is a waiver to 100% of the road improvements from N. 17th
14 Street. Again an application of Borderland Engineers. Currently on site
15 there is a hotel and restaurant which is going to remain. Ultimately what's
16 occurring is the applicant desires to subdivide to have those two buildings
17 on separate lots. Of course as part of that we require improvements to
18 adjacent roadways that aren't up to City standard.
19 Here's a location of the property. You can see the segment of N.
20 17th Street that is under discussion this evening. The parcel itself is 4.33
21 acres give or take a couple of points. Primary access to the property is
22 from Picacho Avenue. There are a couple of maintenance gates along N.
23 17th Street but primarily there's just a, a large wall that runs the length of
24 the property along N. 17th Street. My understanding from the applicant
25 and the applicant's engineer is those maintenance gates are rarely used.
26 Here's an aerial map, just a nice close up of that area. Of course
27 here's the hotel and here's the restaurant building. And again that
28 segment of N. 17th Street that the waiver's being requested on. Here's
29 just a photo to give you an idea of what the current roadway looks like.
30 Large gravel shoulders, and then of course a paved surface. Here you
31 can see of course that, that rock wall that runs the length of 17th.
32 N. 17th is classified as a local road. Currently 24-foot paved
33 surface with around 11 to 13 foot gravel shoulders. Again the subdivision
34 triggers the requirements for improvements to those roadways. In this
35 particular case because this is a local road it would require a full 50-foot
36 cross section which consists of curb, gutter, sidewalk, driving lanes, and
37 parking lanes for a little over 350 feet along that segment of N. 17th.
38 Here's just a, from our design standards a visual of what that might look
39 like. There are approximately 211 ADT along that portion of roadway.
40 About 99 to 100% of that traffic is actually coming from Sonrisa
41 Subdivision to the north, as well as some of the multi-dwelling units on the
42 private lodge to the east along 17th Street. The engineer looked at the
43 ITE trip generation manual and determined based on the ITE manual that
44 only one to four are actually coming from the service gates. In reality
45 we've been told it's actually fewer than those numbers. When staff was
46 looking at this it was hard to find a rational nexus between the required

1 improvements and the actual use that goes along that roadway from the
2 business, again it's fully built out and a wall that, that prevents traffic from
3 accessing it from N. 17th.

4 Additionally our engineer, although she's not here tonight, did
5 recognize that those improvements could actually inadvertently cause
6 some drainage concerns along N. 17th. Because Picacho is a state
7 highway they have a separate system for drainage and the City doesn't
8 have the ability to drain waters from our street system onto Picacho, so
9 there would be challenges there in terms of design and how that would be
10 dealt with. Also if the property's ever significantly redeveloped in the
11 future, a traffic impact analysis would be required at that time and could
12 determine whether improvements would be warranted at any sort of re-
13 development of the property if, if that was to happen. Notice was sent out
14 to all the relevant agencies and departments and was sent to 93
15 properties, that does include the property owner as well. We received no
16 input from the public regarding this matter. Here's a map just showing
17 who was actually sent notice and as you can see almost everyone in the
18 Sonrisa Subdivision that accesses through there was notified.

19 The DRC did discuss this during a May 27th meeting. Again the
20 discussion was focused on the actual average daily trips associated with
21 the property and the use currently there, and the nexus that, that, that
22 would be there for required improvements along this roadway. The DRC
23 recommended conditional approval, and that condition was documentation
24 regarding the estimated ADT by the applicant to determine if there was a
25 substantial nexus warranting improvements. And they did provide that.
26 That was included in your packet that was showing all of those average
27 daily trips and the actual use of any of those access points for that
28 property.

29 You are a recommending body to City Council on this matter. With
30 that staff is recommending approval based on the DRC's
31 recommendation, based on the findings that you have of course in your
32 staff report and of course on your screen. You're options this evening are
33 to vote "yes" which would recommend this to City Council; vote "no" of
34 course this would deny the waiver to City Council; vote to amend, you
35 could add conditions or request other alternatives; or vote to table which
36 would allow you to direct staff or the applicant to provide additional
37 information for further consideration at a future date. With that I'd be glad
38 to answer any questions, and of course the applicant's engineer is here to
39 also answer any questions.

40
41 Crane: Thank you Ms. Harrison-Rogers. Mr. Beard.

42
43 Beard: If, if you were to put in a 50-foot sidewalk and roadway to me it doesn't
44 look like it's gonna fit in there. Even if I add up the numbers it doesn't fit in
45 there.
46

1 H-Rogers: Members of the Commission, Commissioner Beard. There is almost 50-
2 feet along the entire length of that segment. There is a small portion that
3 is not. Ultimately any additional rights-of-way would have to come from
4 any sort of future subdivisions of the adjacent property. You can tell by,
5 let me go back. There we go. The distance, this is primarily the only area
6 where there is problematic issues regarding the distancing for the 50-feet
7 and I will have to refer to the engineer, defer to the engineer to give exact
8 measurements, but I believe it's around 48-ish feet. It's not too far off.
9 They are also dedicating this particular radius right here, so that will
10 improve the situation at, at that, but our engineer does have the ability to
11 allow for a modified cross section to deal with situations like this. It would
12 be out of the scope of the waiver but it's something that our engineer
13 could actually approve.

14
15 Beard: Would you, is there any chance that you would have to have him remove
16 that fence?

17
18 H-Rogers: I'm not entirely sure. I'd like to defer to the engineer and the surveyor on
19 the project. He might have a better idea of the exact location of that. I'm
20 not certain of that sir.

21
22 Beard: In order to get the 50-feet would you have to acquire property on the other
23 side?

24
25 H-Rogers: I think in this instance as I mentioned before, our engineer would have the
26 ability to grant a waiver to slightly neck that down before moving forward.
27 They do, we do have the ability to grant that outside of this forum.

28
29 Beard: Okay. Thank you.

30
31 H-Rogers: You're welcome.

32
33 Crane: Anyone else? Would you repeat in outline what you said about future
34 development that would require this road to be built according to moderate
35 specs?

36
37 H-Rogers: Members of the Commission, Chairman Crane. Absolutely. If at some
38 time the, the owner of this property decided to do some redevelopment
39 and modify the uses, add uses for example in this back corner, at that time
40 a, a TIA, a traffic impact analysis would most likely be requested by our
41 traffic engineer. Based upon that analysis it would determine whether or
42 not additional improvements would be warranted to either 17th Street or
43 Picacho Avenue, and possibly this intersection here.

44
45 Crane: So um ...

46

- 1 H-Rogers: Yes.
2
- 3 Crane: The key thing would be if he's going to, if the development is going to
4 increase the traffic down N. 17th Street, right?
5
- 6 H-Rogers: Correct.
7
- 8 Crane: So if he develops the back of the lot, the north end, that would put traffic
9 on there. Okay, so this, also if he were to knock down the wall and decide
10 he wants to access through N. 17th. Okay. Thank you.
11
- 12 H-Rogers: You're welcome.
13
- 14 Crane: Commissioners? Commissioner Clifton.
15
- 16 Clifton: Thank you Mr. Chair. Katherine it seems like probably about 1998, '99,
17 that subdivision I think it's called Sonrisa Subdivision, had received a road
18 waiver when they brought the subdivision in to the north because it
19 would've, at the time required improvements to W. Picacho and I vaguely
20 remember that because I handled that when I was a City staff person so
21 this, you know the larger development to the north actually necessitated
22 road improvements more than, than this thing so I think we've already
23 been through this exercise although a number of years ago for a much
24 higher intensity use.
25
- 26 H-Rogers: Members of the Commission, Commissioner Clifton. Indeed. Sonrisa
27 Subdivision was required to, to do several, build several roadways and
28 actually did do improvements to N. 17th Street but to a lesser degree and
29 there was documentation in Sonrisa Subdivision file with the agreements
30 between our Public Works Department and the developer that lesser
31 standards would be applied to that, that lower portion. You can see where
32 the sidewalk starts, so essentially from here south they were required to
33 do a lesser cross section than was normally required.
34
- 35 Clifton: Thank you.
36
- 37 Crane: Any other questions for Ms. Harrison-Rogers? Thank you ma'am. The
38 applicant's representative would like to speak to us.
39
- 40 Scanlon: Thank you Mr. Chairman, Members of the Commission. I'm Ted Scanlon.
41
- 42 Crane: Do you swear or affirm Mr. Scanlon that the testimony you are about to
43 give is the truth and nothing but the truth under penalty of law?
44
- 45 Scanlon: I do.
46

1 Crane: Carry on please.
2
3 Scanlon: Thank you. Just several reasons why, I want to reiterate several reasons
4 why I believe that this waiver request should be approved. Number one,
5 we're not building anything new or developing anything new, just
6 everything that's out there is going to stay. The only thing that we want to
7 create is a line on a piece of paper and a plat in the Courthouse that
8 comes around this property so that it can be a separate property, separate
9 from the hotel. Now I do want to clarify one thing, the use, the proposed
10 use for that property right now is simply meeting space and not, not
11 actually a restaurant. It's just going to be meeting space, going to be used
12 intermittently. So keeping that in mind, also the fact that, oh shucks, this
13 property doesn't use 17th Street. It just, they're a couple of maintenance
14 gates that are very, very rarely used in here but the, the people that use
15 the roadway are the people that live in the subdivision north of here. The,
16 those, the developers of that subdivision received a waiver when that
17 subdivision was approved for the road section that exists out there now.
18 The, the other thing is that road section is dead flat and the way it works
19 drainage-wise is the asphalt section that's out there has a crown to it and
20 the shoulders are pervious surfaces that allow the water to percolate into
21 the soil or, or sit there and evaporate but that, that's the way it was
22 designed to, to drain. So taking all those things into account, if you put
23 curb and gutter there it's going to become a six-inch deep bathtub you
24 know that's basically. The, taking those things into account I believe you
25 know I, I respectfully request that you approve the waiver. Thanks.
26
27 Crane: Thank you Mr. Scanlon. Any questions for Mr. Scanlon? Thank you sir. I
28 saw a member of the public with his hand up. You sir. In, in fairness to
29 your predecessors could you make this three minutes also?
30
31 Pena: Yes.
32
33 Crane: Tell us who you are please? Pull, pull the mic up a little.
34
35 Pena: My name is Jose Pena. And I'm ...
36
37 Crane: Mr., Mr. Pena do you swear or affirm that the testimony you are about to
38 give is the truth and nothing but the truth under penalty of law?
39
40 Pena: Yes your honor.
41
42 Crane: Go ahead sir.
43
44 Pena: The reason for, I got this notice by a neighbor but I never got a notice on
45 the mail or any other way but I have a property right next to this property
46 and I was never notified that there was going to be a split or make a, any,

1 a subdivision. But the property that it's right next to it's just north of the
 2 hotel and the back property that they have, it's the back of my property.
 3 So there is a, one apartment, one house, one mobile home, and there's
 4 also a large canopy there and the very, very old house that I got pictures
 5 that this property was a C-2 when I purchased that property and that
 6 house was already there from 1935. Apparently was a farm house for the
 7 rest of 20 some acres, I have no, no idea how many acres there was but
 8 there was a farm house that I'm using that it's just a warehouse. So, but
 9 for drainage the back property or what it's behind my property, the owners
 10 of the hotel they made a big drainage ditch and they were right against my
 11 chain link fence and with their bobcat they've even (*inaudible*) and so
 12 when I was told that this was happening I went up there and they just, the
 13 owner I don't know if he's the same owner or not, I don't see the lady here
 14 that used to own it, but they (*inaudible*) so they started renting this hotel
 15 rooms to truck drivers and they were putting truck drivers, big trucks, big
 16 semi trucks on the back of my property. I don't know how often they do
 17 that but it happened four, so I would like to know that if more neighbors
 18 would get notified and like I said I got this from another neighbor cause I
 19 also have property on Quesenberry Street.

20
 21 Crane: Ms. Harrison-Rogers do you have, Mr. Pena has a property on the
 22 northeast corner I guess, right? The five buildings? Do you have any
 23 comment on his notification?

24
 25 H-Rogers: I, I have him listed here. I know Mr. Pena and recognized his name. His
 26 name is on my list. We're still receiving send back. We do receive lots of
 27 these back but before we leave here this evening I would like him to verify
 28 his mailing address because that comes from the assessor's office. So if
 29 his tax bills, mailing address hasn't been changed, it needs to be changed,
 30 that might be something that we need to know or if there's a better mailing
 31 address we can add that to our list for City Council.

32
 33 Crane: I'll let you two get together privately on that okay.

34
 35 Pena: Thank you.

36
 37 Crane: As to what you're saying about the other points you brought up, I don't
 38 think they're relevant to tonight's business. We just have to pass on this
 39 street improvement. Okay. But we hear what you said. That's something
 40 you could maybe discuss with Ms. Harrison-Rogers too.

41
 42 Pena: Thank you.

43
 44 Crane: (*inaudible*). Commissioners. No other members of the public wish to
 45 speak then I'll close this to further input from the floor. We have a motion
 46 before us to approve Case S-15-010W and I don't think we need ... yes I

1 guess we, (*inaudible*) a second before have we on this?
2
3 Beard: Do we have a motion?
4
5 Crane: I don't know that we do. We simply have to vote. We don't need a
6 second it. Never had this thought before. I've got so many new thoughts.
7 Is there any discussion on this issue? My personal feeling is that much
8 more persuaded by the, what is clearly a drainage problem. I did go have
9 a look at it and, not knowing at that point that we couldn't put the water
10 onto Picacho but I'm not even sure it would flow that way. I find that very
11 persuasive and the fact that the additional traffic from this split is going to
12 be a trickle compared to what comes down from the development. I see
13 no reason to reject it. Mr. Stowe your lights on.
14
15 Stowe: Yes I'd like to make a comment.
16
17 Crane: Go ahead please.
18
19 Stowe: I think it would be in, worthwhile to consider a condition which actually
20 appears on page four of four, towards the top, it should be noted that if the
21 property is ever significantly redeveloped in the future a traffic impact
22 analysis at that time would determine, will be used to determine whether
23 improvements should be warranted. Speaking of improvements to 17th
24 Street.
25
26 Crane: Yeah you're looking at the end of the first paragraph right?
27
28 Stowe: Yes in the ...
29
30 Crane: Okay. Did you want to make that a condition or just point out that it's
31 there?
32
33 Stowe: I think if, if we approve among ourselves that would be a worthy condition.
34
35 Crane: It would, it would include that as a condition?
36
37 Stowe: Yes.
38
39 Crane: Without it being explicitly stated or do you think should we state it?
40
41 Stowe: Say again.
42
43 Crane: Without it being explicitly stated, we just, you're think it's implied if we
44 approve.
45
46 Stowe: Yes.

1
2 Crane: Okay. Good. Yeah, Mr. Clifton.
3
4 Clifton: I, Mr. Chair I would respectfully disagree. I think if we're gonna add
5 conditions it has to be specifically identified in the motion that we vote on.
6
7 Crane: Well it does no harm I guess to be explicit. Okay Mr. Stowe you're moving
8 that that last, let's see, the condition starting with word "if the property is
9 ever significantly redeveloped in the future, a traffic impact analysis at that
10 time would determine whether improvements would be warranted as part
11 of redevelopment."
12
13 Stowe: Correct.
14
15 Crane: Okay. Is there a second for that? I'll second it. We'll vote on accepting or
16 declining Mr. Stowe's addition of that condition. Mr. Clifton your vote.
17
18 Clifton: Mr. Chair just to clarify for the Commission, this is simply a vote on the
19 amendment.
20
21 Crane: Yes.
22
23 Clifton: Prior to the main motion?
24
25 Crane: Adding, adding that ...
26
27 Clifton: Okay.
28
29 Crane: Condition. If it fails we will not add that condition.
30
31 Clifton: I vote no on the condition.
32
33 Crane: Okay. Mr. Gordon.
34
35 Gordon: I vote no on the condition.
36
37 Crane: Mr. Stowe.
38
39 Stowe: I vote yes.
40
41 Crane: Mr. Alvarado.
42
43 Alvarado: I vote yes.
44
45 Crane: Mr. Beard.
46

1 Beard: I vote no.
2
3 Crane: And the Chair votes yes, tied. What does that mean? Down says Mr.
4 Clifton. Anybody argue with that? Okay. Thank you. Oh your (*inaudible*)
5 parliamentarian, I didn't mean to turn my back. Down, no good?
6
7 H-Rogers: I, I believe it's down, yes.
8
9 Crane: Okay. So we will now vote on the acceptance of the ...
10
11 Beard: You want, you want me to make a motion? She says yes.
12
13 Crane: Very well she's the boss too I mean, so little power here. This traffic
14 director. Okay Mr. Beard.
15
16 Beard: I, I move to accept S-15-010W.
17
18 Crane: Is there a second?
19
20 Alvarado: Second.
21
22 Crane: Seconded by Mr. Alvarado. I don't think we have any further discussion.
23 Let's start with Mr. Beard in the roll call vote. Mr. Beard.
24
25 Beard: If we vote yes that means he doesn't have to take care of any
26 improvements on the road, so I vote ...
27
28 Crane: Approval for a waiver, yes you're approving, you're approving a waiver,
29 therefore he doesn't have to make improvements.
30
31 Beard: I vote yes based on discussions and site visit.
32
33 Crane: Mr. Alvarado.
34
35 Alvarado: Vote yes on discussion and site visit.
36
37 Crane: Mr. Stowe.
38
39 Stowe: I vote yes based on site visit, discussions, and finding.
40
41 Crane: Mr. Gordon.
42
43 Gordon: I vote yes based on site visit and discussions.
44
45 Crane: Mr. Clifton.
46

1 Clifton: I vote yes based on presentation and the fact that N. 17th Street is an
2 accepted maintained, non-conforming City public right-of-way and it
3 otherwise conforms to the required City Municipal Code. Thank you.
4

5 Crane: And the Chair votes aye based on findings, discussion, and site visit. The
6 measure passes six/nothing. Thank you.
7

8 **VII. OTHER BUSINESS - NONE**
9

10 Crane: Ms. Harrison-Rogers any further business.

11
12 H-Rogers: None this evening.
13

14 Crane: Thank you.
15

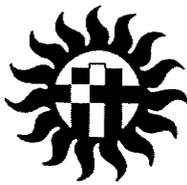
16 **VIII. PUBLIC PARTICIPATION**
17

18 **IX. STAFF ANNOUNCEMENTS**
19

20 **X. ADJOURNMENT (7:36)**
21

22 Crane: In that case we are adjourned 7:36.
23
24
25
26
27
28

29 Chairperson
30
31



COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of July 20, 2015
 (Adoption Date)

TITLE: A RESOLUTION APPROVING A WAIVER FROM 100% OF THE REQUIRED ROAD IMPROVEMENTS TO 352.12± LINEAR FEET OF N. 17TH STREET ASSOCIATED WITH A PROPOSED SUBDIVISION PLAT KNOWN AS RUMAH INDAH SUBDIVISION ON A 4.33± ACRE PARCEL LOCATED AT 2160 W. PICACHO AVENUE. SUBMITTED BY THE BORDERLAND ENGINEERS AND SURVEYORS ON BEHALF OF BARANG INDAH, LLC, PROPERTY OWNER (S-15-010W).

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Kathy Long</i>	528-3049	7-1-15
Department Director	<i>J. Wein</i>	528-3067	7-1-15
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>M. [Signature]</i> <i>[Signature]</i>	541-2074 541-2106	7/2/15
Assistant City Manager/COO	<i>Daniel Oula</i>		7/8/15
City Attorney	<i>[Signature]</i>	EXT 2128	9 July 2015
City Clerk			