# City of Las Cruces®

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## Council Action and Executive Summary

Item # 8 Ordinance/Resolution# 2765

For Meeting of October 5, 2015 (Ordinance First Reading Date)

For Meeting of October 19, 2015 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☒ LEGISLATIVE ☐ ADMINISTRATIVE

**TITLE:** AN ORDINANCE REPEALING ARTICLE V, SECTION 38-49.2, SOUTH MESQUITE NEIGHBORHOOD OVERLAY ZONE DISTRICT, OF THE LAS CRUCES MUNICIPAL CODE AND REPLACING IT IN ITS ENTIRETY IN ORDER TO UPDATE THE SOUTH MESQUITE NEIGHBORHOOD OVERLAY ZONE DISTRICT (SMO) AND EXPAND THE AUTHORITY OF THE SOUTH MESQUITE DESIGN REVIEW BOARD (SMDRB). SUBMITTED BY THE CITY OF LAS CRUCES. (CASE ZCA-15-02)

**PURPOSE(S) OF ACTION:**

To amend the Las Cruces Municipal Code.

| COUNCIL DISTRICT: 1, 4 | | |
|---|---|---|
| **Drafter/Staff Contact:** Katherine Harrison-Rogers | **Department/Section:** Community Development/ Building and Development Services | **Phone:** 528-3049 |
| **City Manager Signature:** | Daniel Ortega | |

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

The SMDRB has worked with City staff and reached out to the South Mesquite Neighborhood to initiate changes to the text of the South Mesquite Neighborhood Overlay Zone. In 2013 administrative amendments to reorganize and "clean-up" this section of the Las Cruces Municipal Code were approved by the SMDRB, the Planning and Zoning Commission (P&Z), and, ultimately City Council. After adoption in May of 2013, the SMDRB undertook the task of making substantial changes to this section.

Specifically the changes are:

- Merge Areas 1 and 2 so that they follow the same rules and design guidelines.
- Limit all buildings to 14 feet in the Original Townsite and 25 feet elsewhere and grant the SMDRB the ability to flex this standard.
- Utilize land uses and similar matrix referenced in Section 38-33 (Land Use Matrix) of 2001 Zoning Code, as amended, and eliminate the references to the 1981 Zoning Code.

- Add new sign regulations.
- SMDRB shall have the authority to modify or waive landscaping requirements; off-street parking requirements; wire fence restrictions; and/or height exceptions—see below:
    - SMDRB shall have the authority to modify or waive landscaping requirements of Sec. 32-66 of the Las Cruces Municipal Code (Design Standards) if it is determined that such action would result in a project that better advances the purposes of the SMO and positively addresses its design standards.
    - Parking areas may use pervious materials; if gravel is used for residential (single-family and duplex) compacted crusher fine or pea gravel may be used but MF or non-residential parking areas shall be limited to min. 1-inch diameter size, compacted gravel.
    - The SMDRB shall have the authority to modify or waive off-street parking requirements, with the concurrence of the City's Traffic Engineer, if the SMDRB determined that such modification would result in a project that better advances the purposes of the SMO and positively addresses its design standards.
- SMDRB's duties were expanded to review and have final authority on the following permit applications for properties lying within the SMO:
    - Any new primary structure(s);
    - Manufactured homes for compliance to SMO design standards, with limitations pursuant to State statute;
    - Any new accessory structure in excess of 120 square feet;
    - The conversion of an accessory structure to a primary structure such as a garage or shed to a casita;
    - Additions to an existing primary structure that was constructed 50 years prior to the current building permit application, whether or not it is listed as Contributing on the State or National Mesquite Street—Original Townsite Historic District Inventory;
    - Additions to accessory structures in excess of 120 square feet (one time or cumulative);
    - Any alterations to the street façade of the primary structure or any alterations to an accessory structure over 120 square feet in size;
    - Window or door replacement on street-facing facades; and
    - Any alterations, replacement or changes to the roof resulting in an alteration of the style of roof of a primary structure or accessory structure over 120 square feet in size.
- The SMDRB's recommendations were expanded to include the following:
    - Infill Development District Projects. The Infill Development Overlay District provisions of Section 38-48 of the 2001 Zoning Code, as amended, shall not apply to development projects within the SMO. The SMO lies entirely within the Infill Development Overlay District and development proposals within the SMO shall be reviewed by the SMDRB for recommendation to the legislative body, Community Development Director, Subdivision

Administrator, Building Official or other applicable person or body, as appropriate.
  - Flexible Development Standards. The SMDRB shall be the recommending body to the Community Development Director for Tier 1 and Tier 2 Flexible Development Standards requests.
- Require fences/walls to be of a material that is compatible with the structure or compatible with other fences/walls in the neighborhood.
  - Chain link or square wire fencing is prohibited except if used in a small area within the interior of a lot, such as for a dog run or surrounding a private swimming pool, and cannot be viewed from a public street.
  - Existing chain link or square wire fencing may be temporarily removed if necessary, but the same fencing must be replaced exactly as it was.
  - An old chain link or square wire fence may not be replaced with new chain link or square wire fencing; if replaced, the new fence must come into compliance with this Section.
  - If a chain link or square wire fence is damaged through no fault of the property owner, the fence may be replaced exactly as it was.
  - The SMDRB has the authority to modify or waive the above wire fence restrictions on a case-by-case basis with a Certificate of Appropriateness.
- Add Solar Panel or Alternative Energy Equipment requirements meeting State standards for historic buildings.

The SMDRB voted unanimously to recommend approval of these changes during a public hearing on February 19, 2015 with some minor changes to rectify text and formatting errors. On April 28, 2015 the P&Z, voted 5-0-0 (two commissioners absent) to approve the changes. No input from the public was received during the meeting.

It should be noted that the broadening of authority and duties of the SMDRB will create additional time delays for applicants and has the potential to add additional tasks to limited staff resources. If adopted, the expanded duties will also need to be addressed in the Las Cruces Municipal Code, Section 2-926 to 932, in order to eliminate any inconsistencies regarding the Powers and Duties of the SMDRB.

**SUPPORT INFORMATION:**

1. Ordinance.
2. Exhibit "A", Proposed Article V, Section 38-49.2.
3. Attachment "A", Proposed Article V, Section 38-49.2 in legislative format.
4. Attachment "B", SMDRB Minutes, dated February 19, 2015.
5. Attachment "C", P&Z Minutes, dated April 28, 2015.

**SOURCE OF FUNDING:**

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

**BUDGET NARRATIVE:**

| |
|---|
| N/A |

**FUND EXPENDITURE SUMMARY:**

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

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will repeal the current code section and will replace it with the updated code language.
2. Vote "No"; this will retain the current code language: no modifications will occur.
3. Vote to "Amend"; this could repeal the current code language, modify the code language as presented, and replace the code section with the modifications.
4. Vote to "Table"; this could allow City Council to direct staff to provide additional information to bring forward at a later City Council meeting.

**REFERENCE INFORMATION:**

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

1. Resolution No. 08-032.

**COUNCIL BILL NO. 16-006**
**ORDINANCE NO. 2765**

**AN ORDINANCE REPEALING ARTICLE V, SECTION 38-49.2, SOUTH MESQUITE NEIGHBORHOOD OVERLAY ZONE DISTRICT, OF THE CITY OF LAS CRUCES MUNICIPAL CODE AND REPLACING IT IN ITS ENTIRETY IN ORDER TO UPDATE THE SOUTH MESQUITE NEIGHBORHOOD OVERLAY ZONE DISTRICT (SMO) AND EXPAND THE AUTHORITY OF THE SOUTH MESQUITE DESIGN REVIEW BOARD (SMDRB). SUBMITTED BY THE CITY OF LAS CRUCES. (CASE ZCA-15-02)**

**WHEREAS,** the City of Las Cruces Comprehensive Plan 2040 encourages neighborhood districts/overlay zone districts to address such issues as architectural styles and design elements which are compatible with the surrounding neighborhood especially as a means of preserving an identifiable neighborhood image; and

**WHEREAS,** Ordinance 2200 was adopted on May 24, 2005, which enacted Chapter 38, Article V, Section 38-49.2, South Mesquite Overlay Zone District, of the Las Cruces Municipal Code and included development standards, permitted land uses and design standards specific to this historic neighborhood; and

**WHEREAS,** Ordinance 2681 was adopted on May 6, 2013, which amended Chapter 38, Article V, Section 38-49.2, South Mesquite Overlay Zone District, of the Las Cruces Municipal Code to rectify clerical errors and clarify text; and

**WHEREAS,** the South Mesquite Overlay Design Review Board identified problematic or outdated portions of Chapter 38, Article V, Section 38-49.2, South Mesquite Overlay Zone District, and drafted several changes to satisfy their goals; and

**WHEREAS,** the Planning and Zoning Commission voted 5-0-0 (two Commissioners absent) in favor of the amendments during a public hearing on April 28, 2015.

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

**(I)**

**THAT** Chapter 38, Article V, Section 38-49.2, South Mesquite Overlay Zone District, of the Las Cruces Municipal Code, is hereby amended as shown in Exhibit "A", attached hereto and made part of this Ordinance.

**(II)**

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

**DONE AND APPROVED** this_____ day of _____ 20____.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

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

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

**Sec. 38-49.2 SMO - South Mesquite Overlay District**

A. PURPOSE. The South Mesquite Overlay District is designed to positively address issues unique to Las Cruces' Original Townsite and surrounding area. This area is addressed in the 2005 adopted Mesquite Neighborhood Plan and the 2007 adopted Mesquite Historic District Neighborhood Design Plan. Specific provisions in this Ordinance deal with issues such as compatible design, parking, setbacks, and land use/zoning designations that are better suited to this older part of the city characterized by smaller lots with multiple dwellings and scarce off-street parking resources. Additionally, neighborhood design guidelines and standards have been created that will help enhance and preserve the unique character of Las Cruces' first neighborhood.

B. DELINEATION OF OVERLAY DISTRICT BOUNDARIES. The South Mesquite Overlay (SMO) District shall include all properties located within the boundaries shown on Figure 1.

C. DEFINITIONS. Definitions shall rely on those noted in Section 38-20 of the 2001 Zoning Code, as amended unless otherwise noted here:

Accessory Structure: See Section 38-51 of the 2001 Zoning Code, as amended.

Accessory Dwelling Unit (ADU): See Section 38-53 of the 2001 Zoning Code, as amended.

Compatible: Capable of existing together in harmony. Parts of a whole that work well together when pieced together. Compatibility with existing elements does not mean uniformity.

Consistent: That which is similar to, or nearly the same.

Contributing: A resource that is listed as "contributing" on the National Register of Historic Places, the State Register of Cultural Properties, or the 1994-1995 State or National Mesquite Street—Original Townsite Historic District of Las Cruces, New Mexico Inventory. In the law regulating historic districts in the United States, a contributing resource is any building, structure, site, or object which adds to the historical integrity or architectural qualities that make the historic district important. In this document, "contributing" and "significant" may be used interchangeably [see *Significant* definition below].

District Boundary: The boundaries of the South Mesquite Overlay District are shown in Figure 1. The properties that are included within the Overlay District include all those within the boundary shown on Figure 1.

Demolition: An act that destroys or removes in whole or in part the exterior of a building or structure of a historic property.

Design Standards: Regulations intended to preserve the historic and architectural character within the South Mesquite Overlay District.

Exterior Appearance: The visual character of all outside surfaces of a structure, including facades, fenestration pattern, signage, light fixtures, steps, or character-defining features, such as corbelled posts, exposed vigas, tiles, canales, etc. Fencing or walls surrounding the structure also contribute to the exterior appearance of a property.

Exterior remodeling, exterior renovation, and exterior alteration: Any change or rearrangement in the supporting members of an existing building, such as exterior bearing walls, columns, beams, girders, as well as any substantial change in rooflines, number of doors and/or windows added, removed, replaced, or resized, or any enlargement to or diminution of a building or structure, whether horizontally or vertically or any installation or replacement of fencing viewed from the street. Maintenance or repair shall not be construed as exterior remodeling, renovation, and/or alteration.

Facade: Typically the front of a building; however, any elevation on view is considered a facade.

Historic: In this document, structures that are listed as contributing or significant by the National Register of Historic Places, the New Mexico Register of Cultural Properties, the State or National Mesquite Street—Original Townsite Historic District of Las Cruces, New Mexico.

Historic Districts: The boundaries of the State "Mesquite Street—Original Townsite Historic District of Las Cruces New Mexico" and the National "Mesquite Street—Original Townsite National Historic District of Las Cruces New Mexico" are found in Figure 2.

Historic Integrity: The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's period of significance.

Historic Register: In this document, the National Register of Historic Places or the New Mexico Register of Cultural Properties.

LCMC: Most current edition of the Las Cruces Municipal Code.

New Construction: The erection of a new primary structure or accessory structure on a lot or property.

Ordinary Maintenance or Repair: Any change that is not new construction, removal, or alteration. Repair may include patching, piecing-in, splicing, consolidating, or otherwise reinforcing or upgrading historic materials such as masonry, wood and architectural metals according to recognized preservation methods. Repairing also includes the limited replacement in kind, or with compatible substitute material, of extensively deteriorated or missing parts or features when there are surviving examples, such as adobe bricks, brackets, dentils, or portions of slate or tile roofing.

Primary Façade(s): Any and all sides of a building which face a public right-of-way. A building may have more than one primary facade.

Primary Structure(s): In this document, the structure(s) for which the use is the main use of the parcel (not an Accessory Use as defined in Section 38-51 of the 2001 Zoning Code, as amended). Note: It is possible to have more than one primary structure on a parcel, for example two residences, or a retail shop and a residence.

Rehabilitation: Making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. Most projects in the South Mesquite Overlay are expected to be rehabilitation projects.

Relocation: Any relocation of a structure from its originally installed site to another site.

Secondary Residence: A dwelling unit that is subordinate in size and location to the main dwelling on a single property, and may be rented or leased as an independent dwelling unit. A secondary residence is different from a guest dwelling or accessory structure in that it is distinct dwelling unit containing a kitchen. Examples include a traditional guest house, apartment, cottage or converted garage.

Significant: A resource that is listed as "significant" on the National Register of Historic Places, the State Register of Cultural Properties, or the 1994-1995 State or National "Mesquite Street—Original Townsite Historic District Inventory." In the law regulating historic districts in the United States, a significant resource is any building, structure, site or object which adds to the historical integrity or architectural qualities that make the historic district worthy of registration. In older nominations, the terms "significant" and "contributing" were used to "rank" buildings, but in newer nominations, the status of a resource is either contributing or non-contributing. "Significant" is no longer used as a separate term. In this document, "significant" and "contributing" may be used interchangeably.

SMO: South Mesquite Overlay District.

SMDRB: South Mesquite Design Review Board.

Structure: That which is built or constructed, an edifice or building of any kind, or any place of work artificially built up or composed of parts joined together in some definite manner. Note: Although "structure" and "building" have different meanings for many preservationists, in this document the two words are used interchangeably.

Figure 1 South Mesquite Overlay Boundaries

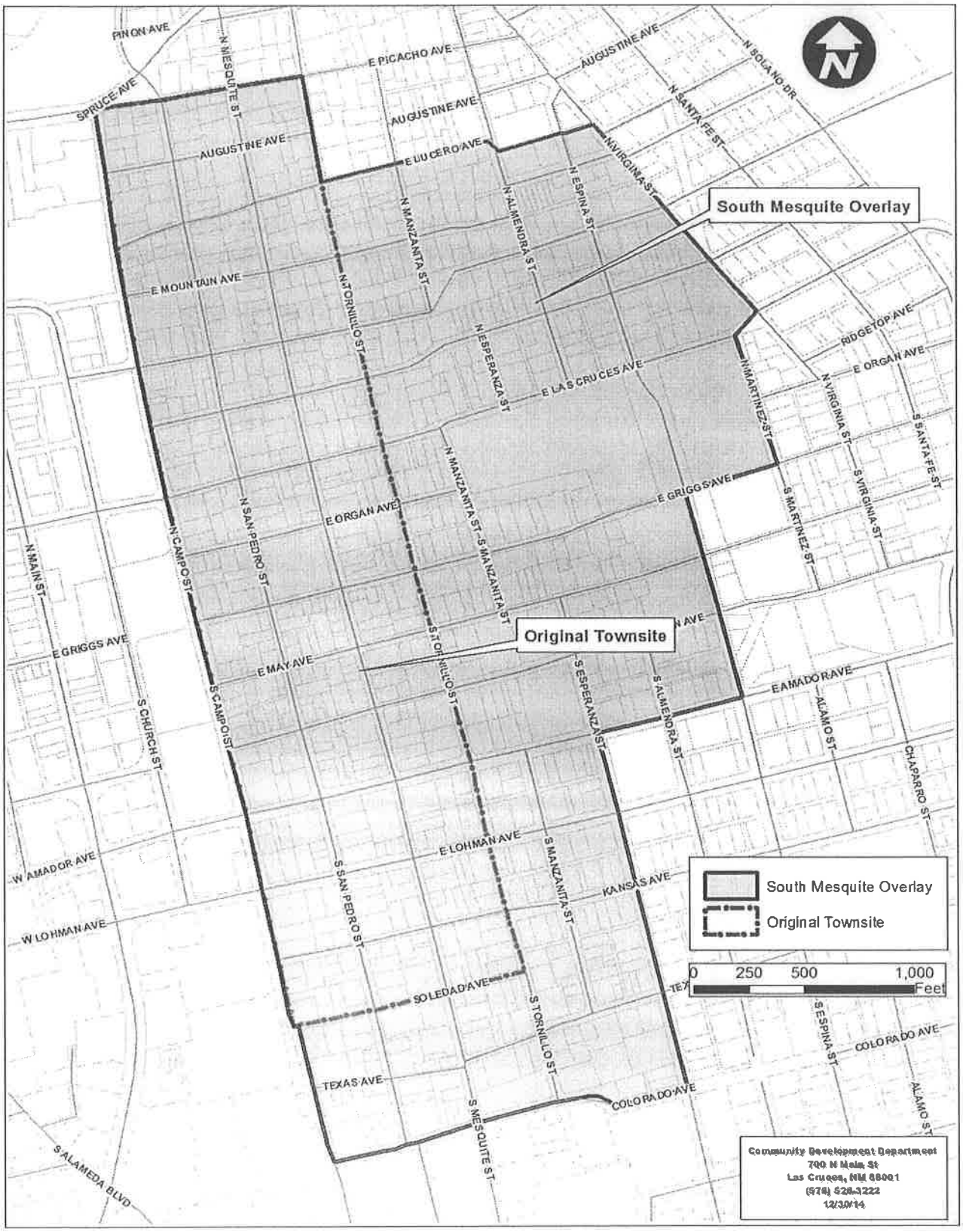
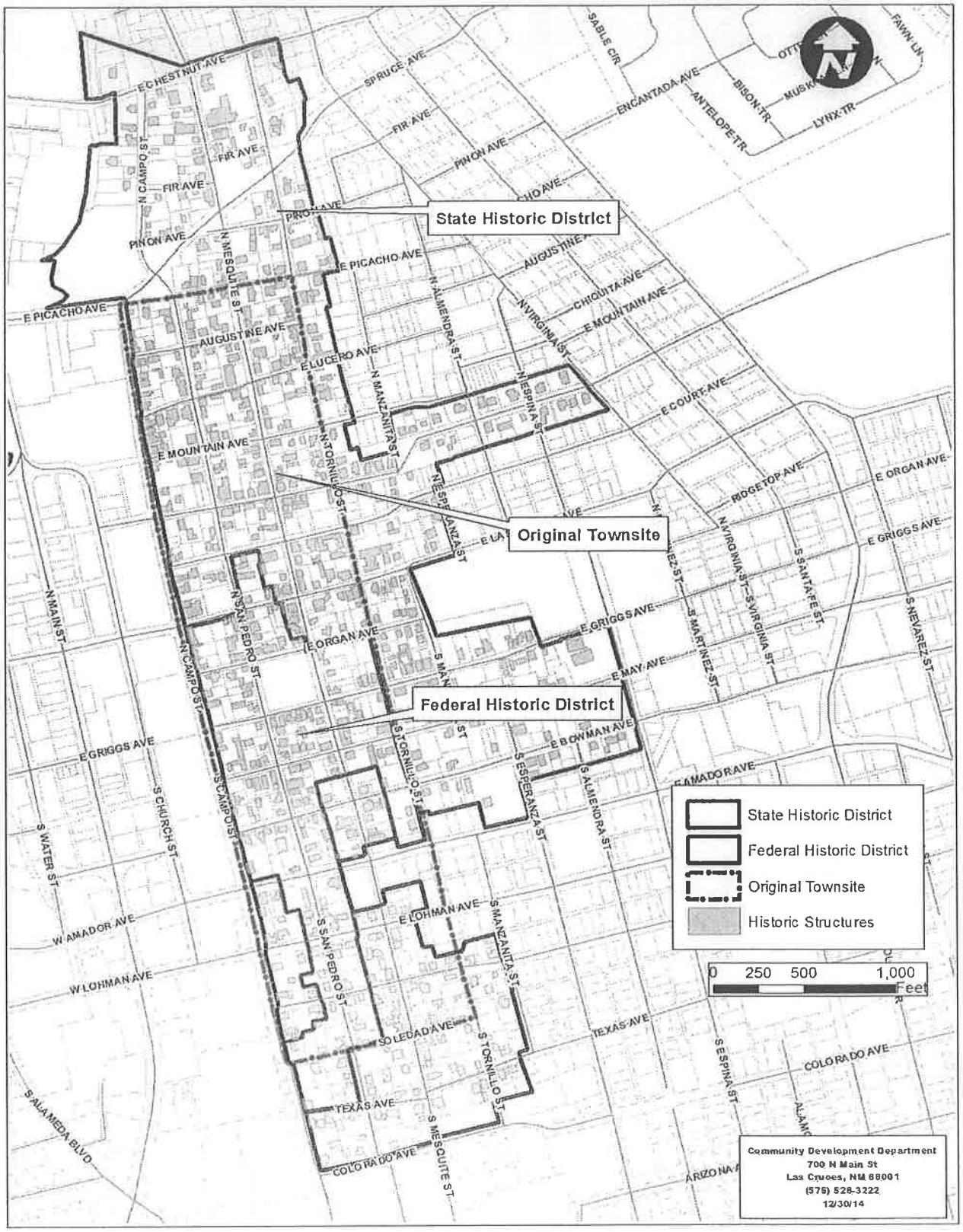


Figure 2: Boundary of the Mesquite Street—Original Townsite State & Federal Historic Districts



D. DEVELOPMENT STANDARDS There shall be no development or alteration of the lands, uses, or structures within the SMO except as provided for by this Section of the 2001 City Zoning Code, as amended, other sections of the City Zoning Code, and other City Codes and Ordinances where applicable. Development requirements are established for the entire SMO, as follows (unless indicated in other sections of this Overlay):

Table 1: Development Standards

| | | |
|---|---|---|
| D.1 | Lot Area/Size | 3500 square feet minimum |
| D.2 | Lot Width/Frontage | 50' minimum |
| D.3 | Lot Depth | 50' minimum |
| D.4 | Front Setback | Within the range of existing setbacks and compatible with the surrounding area* |
| D.5 | Side Setback | 5' minimum ** |
| D.6 | Rear Setback | 5' minimum** |
| D.7 | Garage Setback | 20' minimum |
| D.8 | Building Height | 14' in the Original Townsite and 25' elsewhere.*** |
| D.9 | Townhouses | Zero lot lines are permitted for townhouse development provided the structure meets the attachment requirements of Chapter 38-62 of the LCMC. |
| D.10 | Accessory Structures | There shall be no limit to the number or square footage of accessory structures per Sec. 38-51.D |
| D.11 | Residential Density | Lot size, setbacks, parking requirements and building heights shall determine residential density per property. |

* Surrounding area generally mean all primary structures on the same side of the block. If there aren't at least two primary structures on the same side of the block, both sides of the block shall be used. The Applicant shall work with Community Development Department staff to determine a front setback distance with staff having the final determination.

** Overhangs are not permitted within required setbacks. Canales and viga ends are not deemed overhangs for the purpose of this limitation.

***Any requests for building heights greater than those stated above require an application for a height exception be reviewed and approved by the SMDRB; applications shall meet the design criteria noted in Section 38-49.2. K, Design Guidelines.

The regulations of this Overlay District shall supersede any regulations of the citywide 2001 Zoning Code, as amended. However, when the regulations of this SMO do not address a particular design or development standard or regulation, the applicable City, State, or Federal regulation shall apply. The provisions of Section 38-58 which allow for Flexible Development Standard waivers shall apply within the SMO; however, such requests shall be approved by the SMDRB for recommendation to the Community Development Director.

Diagram 1 Setbacks

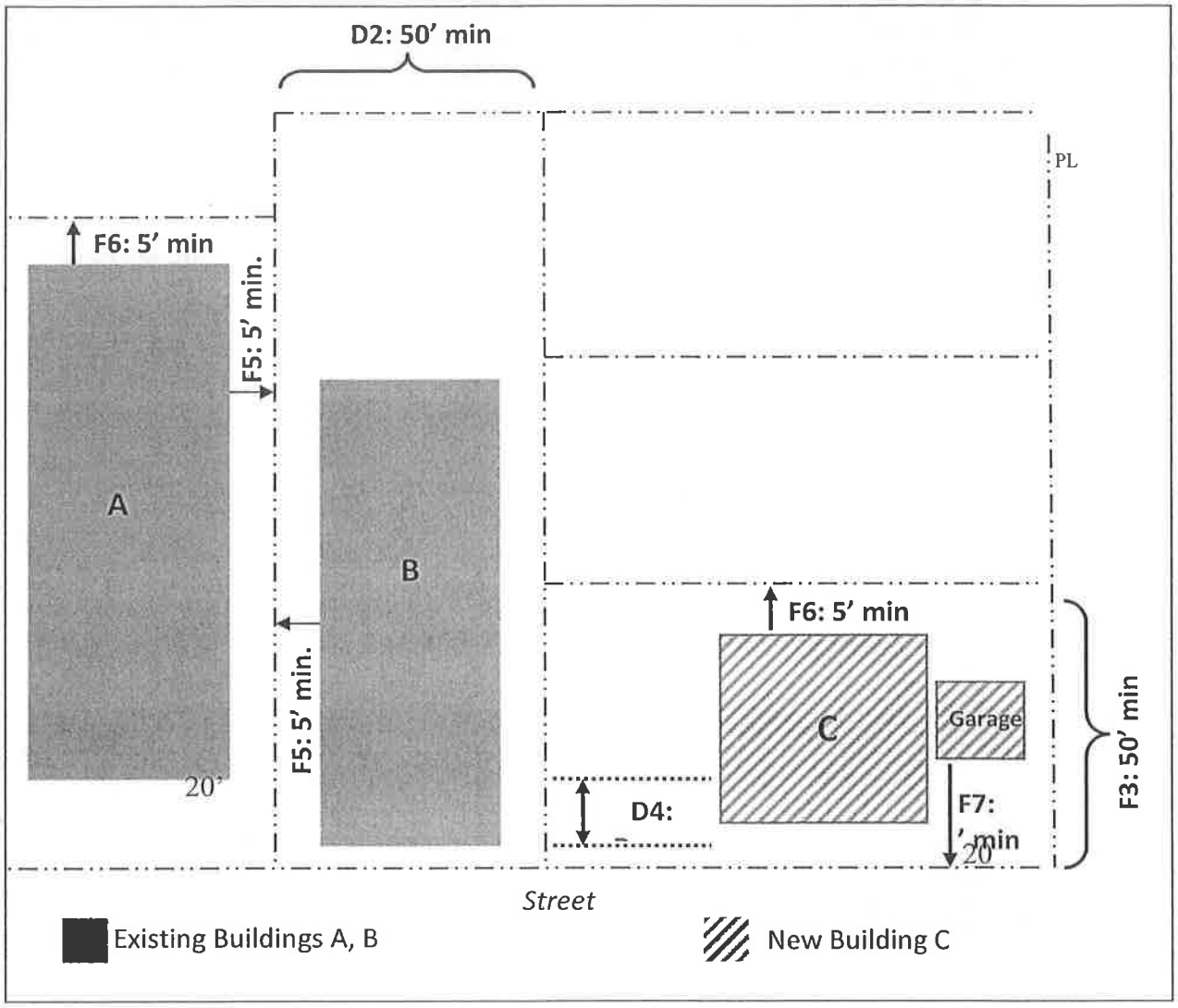
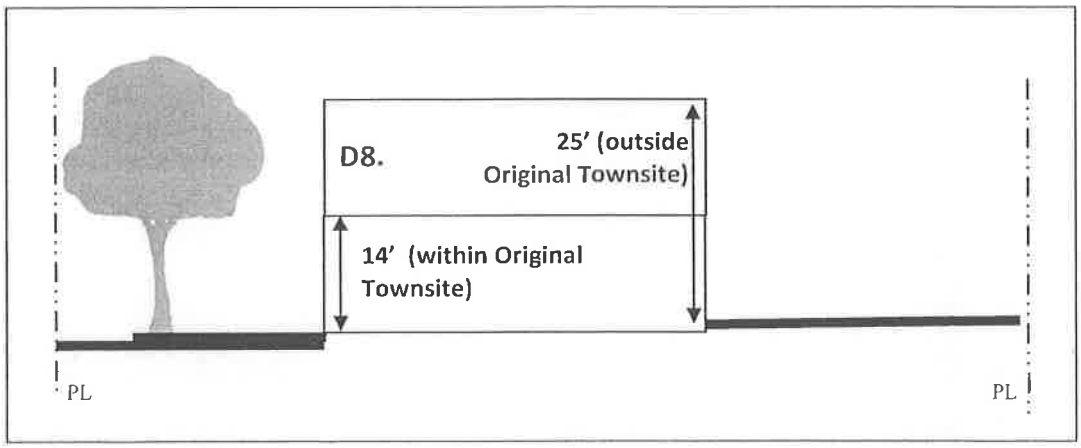



Diagram 2 Maximum Height



E. LANDSCAPE REQUIREMENTS: Landscaping shall follow standards set forth in Chapter 32 of the LCMC with the following modifications:

1. Applicability: Landscaping standards apply to all new development in the SMO with the exception of single family dwellings and duplexes, unless noted elsewhere in this section.

2. A variety of landscaping materials shall be employed to create visual interest and to complement other plantings in the neighborhood. Care should be taken when planting too close to adobe structures which can be damaged by plant watering. Plant materials, including shade trees, shall be native and/or draught tolerant, as these are best suited to the Chihuahua Desert. This is not to say that the landscape plan needs to adhere to Xeriscaping. On the contrary, plants should be chosen that will survive and thrive in the local climate. Appropriate species include, but are not limited to, the following:

| TREES | SHRUBS | GROUNDCOVER |
|---|---|---|
| Arizona Ash | Euonymus | Bermuda |
| Arizona Cypress | Pyracantha | TIFF, various |
| Arizona Mesquite | Sages (Texas, Desert | Vinca |
| Canyon Hackberry | Chihuahuan, Cherry, | Trailing Rosemary |
| Chinese Pistache | Russian, etc.) | Iceplant |
| Desert Willow | Silverberry | Creeping Thyme |
| Italian Cypress | Spanish Broom | Powis Castle Artemesia |
| Lacebark Elm | | Dalea capitata |
| Palo Verde | | Clover Fern |
| Pecan | | |
| Pines | | |
| Southern Live Oak | | |
| Texas Honey Mesquite | | |
| Texas Red Oak | | |
| Sycamore | | |
| Western Hackberry | | |

3. All new development, except single-family dwellings and duplexes, and adaptive reuse of properties (such as a change of use) shall be required to plant trees within parking lots for shade and visual relief (see subsection 5 below).

4. Landscaping gravel, decorative stone or other organic landscaping materials may be used for landscaping, provided such materials blend visually with other landscaping material and planting style standards and meet the City's wind erosion control ordinance).

5. Landscaping for Parking Lots: All new construction, except single family dwellings and duplexes and adaptive reuse of properties, shall require landscaped parking

areas. Landscaping in parking areas shall follow Chapter 32 of the LCMC, "Development Standards for Landscaping," with the following modifications:

a. Trees in parking lots shall be located in an island or planter in which the tree trunks shall be protected from motor vehicles. Islands shall be a minimum of six feet wide, have a minimum area of thirty-six (36) square feet and a raised border of at least four (4) inches in height.
b. One tree shall be planted for every five (5) parking spaces within parking lots as they pertain to the uses listed for each area.

6. The SMDRB shall have the authority to modify or waive landscaping requirements of Chapter 32 of the LCMC or of this Section if the Board determines that such modification would result in a project that better advances the purposes of the SMO and positively addresses its design standards.

7. Community Development Department staff shall review landscape plans.

F. PERMITTED USES. There shall be no land uses within this Overlay District except as identified in this land use matrix. Zoning districts are as follows:

1. R-1a: Single-family Low Density Residential District
2. R-2: Medium Density Residential District
3. R-3: High Density Residential District
4. R-4: High Density Residential and Limited Office District
5. O-1: Neighborhood Office District
6. O-2: Professional Office with Limited Retail Service
7. C-1: Neighborhood Commercial District
8. C-2: General Commercial District
9. C-3: High Density Commercial. C-3 zoning and land uses are not permitted in the Overlay District with the exception of those uses which existed at the time of SMO adoption, Ordinance 2200, May 24, 2005. Uses that were pre-existing at the time of adoption and are no longer permitted by right shall be considered non-conforming and shall follow the provisions of NON-CONFORMING USES, STRUCTURES, AND PROPERTY below and Sec. 38.70-76.
10. PUD: Planned Unit Developments are allowed as part of a specific rezoning.

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| Accessory dwelling units | A | A | A | A | A | A | A | A | |
| Apartments | | A | A | A | A | A | A | A | |
| Assisted Living, Retirement home | | A | A | A | A | A | A | A | |
| Detached single-family dwelling | A | A | A | C | C | C | C | C | C: residential densities in R-4 and commercial zones limited to a maximum of 40 DU/acre. |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| Guest dwelling unit | C | C | C | C | C | C | C | C | C: see Sec. 38-51 and 38-53 |
| Duplex | | A | A | A | C | C | C | C | C: residential densities in R-4 and commercial zones limited to a maximum of 40 DU/acre. |
| Triplex | | A | A | A | A | A | A | A | |
| Quadplex | | A | A | A | A | A | A | A | |
| Home for the Elderly | A | A | A | A | A | A | A | A | |
| Home for the Disabled | C | C | C | A | A | A | A | A | C: 10 or fewer persons allowed |
| Hostel | | | | C | C | C | C | C | C: limited to 10 persons per establishment and a maximum stay of 14 continuous days per guest. |
| Nursing Home | C | C | C | A | A | A | A | A | C: 10 or fewer persons allowed |
| Halfway house | S | S | S | S | S | S | S | S | See Sec 38-21 |
| Fraternity/sorority house | | | C | C | C | C | C | C | C: Limited to 10 persons per establishment; |
| Temporary/homeless shelter | S | S | S | S | S | S | S | S | |
| Manufactured home | A | A | A | C | C | C | C | C | All manufactured homes shall meet the design standards of the SMO and skirting and exterior wall materials shall be consistent with the architecture of adjacent structures. Residential densities in R-4 and commercial zones are limited to a maximum of 40 DU/acre. |
| Townhouse [one room attached to the neighboring single family dwelling] | | A | A | A | A | A | A | A | |
| Patio home [100% built to side property line] | C | C | C | C | C | C | C | C | C: see Sec 38-62, setback exceptions. |
| Accessory uses and structures | A | A | A | A | A | A | A | A | |
| Bed & Breakfast Establishment | C | C | C | C | C | C | C | C | C: Number of guest rooms is limited to 8. |
| Greenhouse, private (non-commercial) | A | A | A | A | A | A | A | A | |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| Community Gardens (neighborhood based) | A | A | A | A | A | A | A | A | |
| Home occupations | C | C | C | C | C | C | C | C | C: See Sec. 38-52 |
| Kennel/cattery, private residential | C | C | C | C | C | C | C | C | C: Permitted in accordance with Chapter 7 of the LCMC; noise from barking dogs and odors from this activity shall not be discerned off the premises. |
| Recreational court, tennis, etc., private | S | S | S | S | S | S | S | S | Must mitigate off-site noise and light glare. |
| Storage of RVs and motor vehicle appurtenances | C | C | C | C | C | C | C | C | C: Maximum 1 per parcel located within any open area between the front setback and the rear setback and shall otherwise meet the standards of Sec. 38-58.D.7. |
| Swimming pool, private | C | C | C | C | C | C | C | C | C: A swimming pool shall be at least 5 feet from property lines; also see Sec. 38-60 Walls and Fences. |
| Temporary uses | C | C | C | C | C | C | C | C | C: See Sec. 38-50.. |
| Produce stands | C | C | C | C | C | C | C | C | C: Allowed per State law; may be accessory to community gardens. |
| Veterinary facility | | | | | | | | C | C: Noise from barking dogs shall not be discerned off the premises. |
| Cemetery/columbarium | S | C | C | C | C | C | C | C | C: See Sec. 38-53; S: See Sec. 38-54. |
| Family child care home (up to 6 children) | A | A | A | A | A | A | A | A | See Sec. 38-52.D and 38-53. |
| Group child care home (7 to 12 children) | S | A | A | A | A | A | A | A | S: See Sec. 38-52.D and 38-53. |
| Child care center or preschool | | S | S | S | S | S | S | S | S: See Sec. 38-52.D and 38-53. |
| Community buildings/uses | C | C | C | C | A | A | A | A | C: Shall be located on a major local or higher classification road. |
| Convention center/exhibition hall | | | | | C | C | C | C | C: Must be accessed from an arterial road (Lohman, |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| | | | | | | | | | Amador); size is limited to 5,000 GFA. |
| Library/museum | | A | A | A | A | A | A | A | |
| Religious institutions | C | C | C | C | C | C | C | C | C: Shall be located on a major local or higher classification road; all sites shall have a minimum 1 acre; structures or parking located within 25 feet of a residential use shall provide an opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of a residential use. |
| School, college, trade school, private or public | S | S | S | S | S | S | S | S | S: On a case-by-case basis, application shall address safe access, off-street parking demand, screening and landscaping, noise and other relevant impacts of the development on adjacent residential uses. Structures or parking located within 25 feet of a dwelling unit shall provide a Type A opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of property used for residential purposes. |
| Arcade, game room | | | | | | | A | A | |
| Batting cage, indoor | | | | | | | A | A | |
| Billiard, Pool Hall | | | | | | | A | A | |
| Bowling alley | | | | | | | A | A | |
| Miniature golf course | | | | | | | | A | |

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|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| Health/exercise club/ gymnasium/sports instruction | | | | C | C | C | C | C | C: Noise from this activity shall not be discerned off-premises. |
| Park | C | C | C | C | C | C | C | C | C: Limited to neighborhood park or private park. See Sec. 38-53. Public parks shall also comply with Chapter 20 of the LCMC. |
| Mini-race tracks e.g. go carts | | | | | | | | C | C: Hours of operation limited to between 10 AM and 10 PM. |
| Recreation courts, public | | | S | S | S | S | S | S | S: Must mitigate off-site noise and light glare. |
| Skating rink, Indoor | | | | A | A | A | A | A | |
| Swimming pool, commercial or public; indoor only | | | | | S | S | S | S | S: See Sec. 38-54. |
| Botanical garden | | | | A | A | A | A | A | |
| Personal or business service office uses | | C | C | C | A | A | A | A | C: In R districts, non-residential uses are permitted only on the ground floor; no more than 35% of the GFA of the buildings on the parcel, combined, is permitted to be non-residential uses. |
| Art studio | | C | C | C | C | C | C | C | C: Noise from activities shall not be discerned off the premises. |
| Barber/beauty/hair salon and related personal care services | | A | A | A | A | A | A | A | |
| Medical/dental office; counselor/therapy services | | A | A | A | A | A | A | A | |
| Bank, bonding and financial institution/facility; no drive-through | | | | | | C | C | C | C: Each business establishment is limited to a sole practitioner and only one such business establishment per parcel. |
| Business office: consulting; credit reporting & collection; desktop publishing, graphic design; institutional office, public or private; educational office; | | | | | A | A | A | A | |

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|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| religious office; philanthropic office; mailing & stenographic services; motion picture production; noncommercial research organization | | | | | | | | | |
| Adult day care services/facility | | | | | A | A | A | A | |
| Funeral home; laboratory | | | | | A | A | A | A | |
| Pharmacy; no drive-through | | | | | | C | C | C | C: Permitted only as accessory to a medical, dental or similar office use and strictly for the purpose of serving the patients of the medical office use. |
| Auto/truck parts store | | | | | | | | A | |
| Auto/truck repair & service | | | | | | | | C | C: No salvage yard or related activities shall be permitted. No outside storage of parts, materials, or equipment is permitted. All outdoor storage of non-operable vehicles must be screened with opaque fencing. |
| Auto/truck self-service/automated or full service wash/wax/detailing | | | | | | | | C | C: Limited to a collector or higher classification road. |
| Bar/pub/tavern (no dancing) | | | | | | | | A | |
| Sale of building material | | | | | | | | A | |
| Café, cafeteria, coffee shop, restaurant, etc.<br>No drive-thru | | | | A | A | A | A | A | |
| Sale of carpet/window treatments | | | | | | | | A | |
| Cleaning & maid services | | | | | | | A | A | |
| Clothing store | | | | | | | A | A | |
| Convenience store (no gas sales) | | | | | | | C | C | C: No drive-through facility. |
| Delicatessen, produce/meat market; No eating facilities | | | | | | | A | A | |
| Delicatessen, produce/meat market with eating facilities | | | | | | | C | C | C: No drive-through facility. |
| Firewood sales | | | | | | | | C | C: If displayed outside a building, a semi-opaque |

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|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| | | | | | | | | | screen around the perimeter of the use shall be provided; 20 cord maximum stored on site; see Sec. 38-50. |
| Furniture store | | | | | | | | A | |
| Sale of garden supplies | | | | | | | | A | |
| Grocery store | | | | | | | A | A | |
| Hardware store | | | | | | | C | A | C: No outside storage of supplies or materials. |
| Home furnishings | | | | | | | A | A | |
| Kennel/cattery, commercial or non-profit | | | | | | | | C | C: Use allowed in accordance with Chapter 7 of the LCMC; noise from barking dogs shall not be discerned at the nearest dwelling unit. |
| Laundry/dry cleaning services | | | | | | | A | A | |
| Newspaper distribution | | | | | | | | A | |
| Pawn shop | | | | | | | | A | |
| Petroleum/propane sales | | | | | | | | C | C: Sale of portable propane tanks and similar gas only is allowed as an accessory use to a retail establishment; use of such equipment is allowed as an accessory use when meeting current Fire Code standards. Gas stations are not permitted. |
| Plant nursery | | | | | | | | A | |
| Private club or lodge | C | C | C | C | C | C | C | C | C: See Sec. 38-53. A private club or lodge shall be located on a major local or higher designated street. Structures or parking located within 25 feet of a dwelling unit shall provide a Type A opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities |

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|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| | | | | | | | | | shall not be located within 25 feet of property used for residential purposes. |
| Radio/TV station | | | | | | | | A | |
| Seasonal sales of fireworks, agricultural products (non-temporary), snowcone stand, etc. | | | | | | | C | C | C: All structure locations shall meet setback requirements; if sited on property with other uses, there shall be no obstruction of the driving aisles or parking stalls unless it can be proven that there is an excess of parking areas. If the use does not follow temporary use provisions, the property shall be subject to all applicable development requirements. |
| Small item repair shop | | | | | | | A | A | |
| Specialty foods store (bakeries, candies, etc.) | | | | | | | A | A | |
| Specialty store (books, music, toys, sports equip, stationary, etc.) | | | | | | | A | A | |
| Telephone communication business (call center) | | | | | | | | A | |
| Temporary Use (non-seasonal) | | | | C | C | C | C | C | C: See Section 38-50. |
| Theater (non- drive in) | | | | | | | | A | |
| Tire sales/repair | | | | | | | | A | |
| Upholstery shop | | | | | | | A | A | |
| Variety store | | | | | | | A | A | |
| Video/DVD rental/sales (non-adult oriented) | | | | | | | A | A | |
| Cab stand | | | | | | | | A | |
| Distribution centers | | | | | | | | A | |
| Parking facilities, commercial (garages & parking lots) | S | S | S | S | S | S | S | S | |
| Storage outside of buildings of materials, equipment and supplies not for sale | | | | | | | | C | C: All outside storage shall be enclosed with an opaque, Type A screen. |

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|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| Storage, warehousing accessory to office, retail trade, service or industry businesses | | | | | | | | C | C: Maximum of 95% of the total square footage may be used for this storage. |
| Storage/display of merchandise for sale (except manufactured buildings, manufactured homes, mobile homes & operable cars, trucks, motorcycles and RVs) | | | | | C | C | C | C | C: Outdoor display of goods sold on the premises is limited to 25% of the gross floor area devoted to the business use. |
| Wholesale trade, any product | | | | | | | | C | C: No outdoor storage allowed. |
| Construction yard or buildings, temporary | C | C | C | C | C | C | C | C | C: See Section 38-53: Such yard or building(s), including a mobile home or recreational vehicle for a temporary residence or construction office, or any other facilities or arrangement approved by the Community Development Director or designee shall be removed upon completion of construction and in compliance with the Chapter 30 of the Municipal Code. Construction yards and buildings or any other facilities shall be maintained in a neat and orderly fashion. Open yards shall be enclosed by a fence at least five (5) feet in height. |
| Contractor's Yard | | | | | | | | C | C: All outdoor storage shall be enclosed with an opaque Type A screen |
| Cottage Industry with retail sales or service (manufacture or processing of goods such as beer | | | | | | | C | C | C: Allowed only when such use occurs within a totally enclosed building where the primary use |

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|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| or food products for sale on the premises) | | | | | | | | | (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on site only, and shall not pose any significant adverse impact to adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet, may be used in the conduct of the cottage industry manufacturing or processing. |
| Crematorium | | | | | | | | C | C: See Sections 38-53 and 38-54. |
| Antennas, towers, communication structures and other utility vertical structures | | | | | | | S | S | See Section 38-59 and Section 38-54. |
| Facial mounted antennae (attached to the primary use) | | | | | | | C | C | C: Facial mounts must be placed or erected to the primary use/structure in a manner which conceals, to the extent possible, the antenna or face mount. No more than ten (10) additional feet in height to the maximum building height shall be allowed as a result of application or erection of the antenna or face mount. See also Section 38-59. |
| Private/public utility (e.g. substations, water wells, transformers, regulators, lift | S | S | S | S | S | S | S | S | See Section 38-53. A solid wall or fence shall surround the installation. Landscaping as per |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| stations, telecommunications site) | | | | | | | | | Subsection E above shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution. |
| Recycling collection centers (neighborhood scale only) | | | | S | S | S | S | S | Hours of operation may be limited to mitigate noise to adjacent residences; equipment rooms and outdoor storage of materials shall be screened with opaque fencing; trash shall be contained and properly disposed of; the DRB and Planning and Zoning Commission may impose conditions to insure that noise, fumes, odors and congestion is avoided. |
| Private "Ham" radio telecommunication antennae | C | C | C | C | C | C | C | C | C: Antennae shall not exceed the building height limit. |

G. NON-CONFORMING USES, STRUCTURES, AND PROPERTY. Many people refer to non-conforming uses as the "Grandfather Clause." If a use, structure, etc., was established legally under the previous code, it is considered a legal non-conforming use or non-conforming or non-complying structure. Except for the following, requirements stated in Sections 38.70-76 of the 2001 Zoning Code, as amended, shall apply.

1. If a legal non-conforming use becomes and remains vacant, a two (2) year time limit shall be placed on reestablishing the non-conforming use at that location.

H. PARKING REQUIREMENTS. The following exceptions to the parking requirements found in Sections 38-33 (land use matrix) and 38-58 of the 2001 Zoning Code, as amended, shall be used in the SMO:

1. Buildings within the SMO constructed prior to 1955 shall not be required to provide off-street parking.

2. Buildings within the SMO constructed after 1955 shall be required to provide off-street parking pursuant to the requirements of Sections 38-33 (land use matrix) and Section 38-58 of the Zoning Code, as amended. These buildings and properties shall be eligible to use:

   a. The historic district parking exceptions found in Section 38-58.G.2. of the 2001 Zoning Code, as amended, whether the development is commercial or residential; and/or

   b. The on-street parking allowance found in Chapter 38-58.G.3, for new development, subject to any restrictions placed by Traffic Engineering for applicable roadways; and

   c. Surface materials for parking areas for residential or non-residential developments may be pervious materials such as stone or brick pavers or compacted crushed stone (gravel). If gravel is used, single-family and duplex parking areas may use compacted crusher fine or "pea" gravel, but multi-family and non-residential development parking areas shall be limited to using a minimum one-inch diameter size, compacted gravel. Concrete parking pads are not permitted to be installed abutting adobe walls to avoid damage due to "wicking" (transfer of moisture trapped beneath the concrete to the adobe wall).

3. Parking areas for new development of non-residential and multi-family uses, including garages and carports, are not permitted in the required front setback of the subject property.

4. The SMDRB shall have the authority to, modify or waive requirements of the off-street parking Section 38-58 of the Zoning Code or of this Section, with the concurrence of the City's Traffic Engineer, if the Board determines that such modification would result in a project that better advances the purposes of the SMO and positively addresses its design standards

I. SIGNAGE. All signage shall be of materials and design that are compatible with the architecture of the structure and the residential character of the neighborhood. Electronic moving/digital signs are not permitted in the SMO. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with Chapter 36 of the LCMC with the following modifications:

1. Off-Premise Signs: No off-premise signs shall be allowed in the SMO except for the following:

   a. Political signs, which shall follow regulations stated in Chapter 36 of the LCMC
   b. Yard/Garage sales, etc., and displays regarding community events or holidays, which shall follow regulations stated in Chapter 36 of the LCMC

c. Existing legally permitted off-premise signs such as billboards shall be considered legally non-conforming and shall be regulated in accordance with Chapter 38-70 through 76 of the LCMC.

2. On-Premise Freestanding Signs
   a. Ground signs shall be the only freestanding sign allowed within the SMO, except on Lohman and Amador Avenues, and shall be no greater than 5 feet in height. Only one ground sign per commercial property shall be permitted. Ground signs must be set back at least five (5) feet from any property line and must be at least five (5) feet away from the wall of the building.
   b. Ground signs shall be no greater than 2 square feet in overall size.
   c. Ground signs may be illuminated and shall follow regulations stated in Chapter 39 of the LCMC (Outdoor Lighting).
   d. Properties developed as business centers shall conform to the following:
      i. One ground sign identifying the name of the center and individual businesses is permitted if desired.
      ii. A property containing a business center sign may not have additional freestanding signs, except for Temporary signage, which shall follow Chapter 36 of the LCMC.
   e. All ground signs shall comply with Clear Sight Triangle requirements.
   f. On-premise pole signs on Lohman and Amador Avenues are allowed and shall follow the standards of Chapter 36 of the LCMC.

3. On-Premise Attached Signs. Attached signs shall follow size and placement regulations for attached signage in Chapter 36 of the LCMC.

4. Portable A-frame signs. An A-frame sign means a self-supporting, portable sign with one or two faces that are adjoined at the top and displayed at an angle, which is designed to be placed where pedestrians walk or gather and ADA accessibility is assured. The sign shall not be permanently anchored or secured and shall be removed at the end of the establishment's business hours. Sign language is limited to advertising the business name, location, and goods or services provided.

   a. All agents, employees or representatives displaying an A-frame sign on public property in the CBD shall comply with the following provisions:
      i. One A-frame sign per business may be displayed during regular business hours;
      ii. A-frame signs shall be no greater than 6 square feet on one side, no more than 12 square feet total, and shall be no greater than 3 ½ feet in height;
      iii. An A-frame sign shall be installed and removed by the business or property owner;

iv. No A-frame sign shall be erected in such a manner so as to obstruct ADA access or vehicular traffic;

v. A-frame signs shall only be displayed immediately in front of the business;

vi. No A-frame sign may be located on public property such as sidewalks or parkways;

vii. No business or property owner shall display any sign advertising another business or a business no longer open to the public;

viii. The business or property owner shall be responsible for any damage caused to public property by the sign;

ix. The business or property owner assumes all risks with setting up an A-frame sign and shall not hold the City responsible for any accidents or loss in the installation, removal, or operation of the sign.

5. Inflatable Signs or Pennants. Temporary inflatable pennants, streamers and other fluttering devices shall be permitted for a special event lasting up to 14 days per event and only four such events shall be allowed per parcel per calendar year.

6. Prohibited Signs. The following signs are prohibited:

a. Variable electronic message display boards, whether temporary or permanent.

b. Permanent banners.

c. Pennants, streamers, and other fluttering devices exceeding the time limits of temporary uses noted above.

d. Real estate, construction, contractor and "coming soon" signs over twelve (12) square feet in area or over five feet (5') tall.

e. All other signs as prohibited in Chapter 36 of the LCMC.

7. Existing legally permitted signs shall be considered legally non-conforming and shall be regulated in accordance with Chapter 38-70 through 76 of the LCMC.

J. ESTABLISHMENT AND DUTIES OF THE SOUTH MESQUITE DESIGN REVIEW BOARD (SMDRB). To ensure quality property development and renovation and to protect the historic character of the neighborhood, a Design Review Board shall evaluate and determine the exterior design appropriateness of proposals for new construction, additions, exterior alterations, and rehabilitation of properties within the South Mesquite Overlay.

1. Establishment of the South Mesquite Design Review Board (SMDRB). A design review board shall consist of four professionals in historic preservation, history, architecture, interior design, construction or similar associated professions and three additional resident members who own or rent property within the District. Other membership requirements shall follow those found for Non-standard Boards and Committees in Chapter 2 of the LCMC.

2. Duties of the South Mesquite Design Review Board.

a. The SMDRB shall review the following permit applications for properties lying within the SMO and shall have final authority on these permits relative to exterior design criteria for:
   i. Any new primary structure (s);
   ii. Manufactured homes for compliance to SMO design standards, with limitations pursuant to State statute;
   iii. Any new accessory structure in excess of 120 square feet;
   iv. The conversion of an accessory structure to a primary structure such as a garage or shed to a casita;
   v. Additions to an existing primary structure that was constructed 50 years prior to the current building permit application, whether or not it is listed as Contributing on the State or National Mesquite Street—Original Townsite Historic District Inventory. The Applicant shall provide evidence of the year built;
   vi. Additions to accessory structures in excess of 120 square feet (one time or cumulative);
   vii. Window or door replacement on street-facing facades;
   viii. Any alterations to the street facade of the primary structure or any alterations to an accessory structure over 120 square feet in size; and
   ix. Any alterations, replacement or changes to the roof resulting in an alteration of the style of roof of a primary structure or accessory structure over 120 square feet in size.

b. The SMDRB shall establish criteria for issuance of Certificates of Appropriateness (C of A) which shall reflect the purposes and the design guidelines, standards and criteria of this Section. These criteria shall be attached to the permit application for Applicants to review prior to submittal.

c. The SMDRB shall review and make recommendations to the Community Development Director for the following
   i. Flexible Development Standard Waivers. The SMDRB shall be the recommending body to the Community Development Director for Tier 1 and Tier 2 FLEX waivers

d. The SMDRB shall review and make recommendations to the Planning and Zoning Commission for the following:
   i. Planned Unit Development (PUD).
   ii. Variances. Except when this Section authorizes the SMDRB to make the final decision on waivers, exceptions or variances, the SMDRB shall be the recommending body to Planning and Zoning Commission.
   iii. Special Use Permits

iv. Land Use/Zone Changes. It is possible to request an additional land use for a specific parcel that is not already noted within the permitted use list within the SMOs. Each request will be considered on a case-by-case basis and shall be deemed compatible with neighboring land uses and shall satisfy the purposes of the SMO. These requests will be processed per the rezoning process noted in Section 38-10 of the 2001 Zoning Code, as amended and this section. The SMDRB shall be a recommending body to the Planning and Zoning Commission. Final action on this additional land use request shall be made by the Planning and Zoning Commission unless appealed to the City Council.

e. Cases not listed above shall go before the SMDRB if design issues related to the historic integrity of the neighborhood are involved or at the discretion of the Department Director or designee.

f. Infill Development District Projects. The Infill Development Overlay District provisions of Section 38-48 of the 2001 Zoning Code, as amended, shall not apply to development projects within the SMO. The SMO lies entirely within the Infill Development Overlay District and development proposals subject to the SMO regulations shall be reviewed by the SMDRB for recommendation to the legislative body, Community Development Director, Subdivision Administrator, Building Official or other applicable person or body, as appropriate.

g. State- or Nationally-funded projects requiring review by the State Historic Preservation Officer (SHPO) are exempt from review by the SMDRB. In New Mexico, "State-funded" includes funding by municipalities.

3. Decisions of the SMDRB

a. Members of the Board shall state the factual basis and the findings of their vote. Findings shall be based on Design Standards found herein, information from staff reports and staff presentations, public comment, and one or more of the following:

i. References to the Zoning Code or other applicable codes;
ii. Design Guidelines for the South Mesquite District;
iii. The Secretary of Interior Standards for Rehabilitation;
iv. The New Mexico Historic Cultural Properties Inventory Manual; and
v. Projects other than those requiring approval by the SMDRB shall be reviewed for compliance to design standards by Community Development staff and are required to meet all other applicable City Codes.

b. Decision of Approval. If the SMDRB approves an application, it shall articulate the conditions (if any) to the approval and instruct staff to issue a Certificate of Appropriateness (i.e. action form). A copy of the Certificate shall be placed in

the case file and a copy shall be provided to the Applicant and to the permitting and inspections sections.

c. Decision of Denial. If the SMDRB denies an application, the Notice of Decision shall identify the design standards or other requirements of this Section 38-49.2 that the proposed work conflicts with and shall also explain the Applicant's right to appeal the denial to City Council (as per Subsection P of this Section 38-49.2). A copy of the Notice of Decision shall be placed in the case file and a copy shall be provided to the Applicant.

4. Issuance of Certificates of Occupancy or Completion. Staff having prepared the Certificate of Appropriateness (C of A) shall review the final completion of the project for consistency with the C of A prior to the issuance of the Certificate of Occupancy or Completion for the project.

K. DESIGN GUIDELINES. Specific design guidelines, standards and criteria shall be used by staff and the SMDRB to determine the appropriateness of construction and rehabilitation projects, and to determine whether the request is consistent or inconsistent with existing development.

1. Applicable development must ultimately utilize architectural styles, methods, and materials that are visually compatible with the original structure, surrounding structures (especially where new construction is proposed), and the overall character of the historic district. This should not be interpreted as a requirement to mimic existing styles or construction materials, but as a means for these types of projects to result in a visually compatible transition between old and new structures within the general neighborhood and/or on a single parcel of land.

2. When evaluating proposals for new development, additions, or rehabilitation in the SMO, the structure's contribution to the neighborhood comes in to play. Most of the SMO historic structures are located within the Original Townsite. These historic structures deserve the most protection and, therefore, the design standards for these are stricter than for newer buildings. There are also many structures listed as contributing on the historic register outside of the Original Townsite; these, too, follow the same design standards as those in the Original Townsite.

3. In addition to the standards stated herein, staff and the SMDRB shall review projects based upon *The Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring and Reconstructing Historic Buildings*, and *The New Mexico Historic Building Inventory Manual, 1980.* These resources are available for public review in the Community Development Department or on the City's website.

4. Ordinary maintenance and repair of any exterior architectural feature in or on a contributing building may be undertaken without a Certificate of Appropriateness

provided this work is in keeping with the architecture or character of the building and does not cause a loss of its historic integrity. If such work requires a permit, Community Development staff shall evaluate these permits for consistency with the Design Standards of this Section.

5. Criteria for Requesting and Granting Building Height Exceptions. Pursuant to Section D.8 of the SMO, the building heights within the SMO are limited to 14 feet and one story. Through a variance procedure to the SMDRB, a property owner may request a variance from this maximum building height or number of stories limitation provided that the SMDRB finds that the proposed building satisfies the following criteria:
   a. For new construction: (a) The building is similar in height to another building or buildings within the same block; (b) the second story is set back from the first story by a minimum of 15 feet; (c) second story windows facing the street shall be small or clerestory; (d) second story windows facing adjacent residential properties shall be frosted to insure neighbors' privacy; and (e) the design of the building shall satisfy the design standards and guidelines of the SMO.
   b. For additions: (a) the addition is limited to 20 percent of the total footprint of the primary building; (b) the addition must be setback or stepped back from the street-facing facade; (c) for additions to buildings deemed Contributory to the Historic District, materials and colors of the addition shall distinguish the addition from the original structure; (d) second story windows facing the street shall be small or clerestory; (e) second story windows facing adjacent residential properties shall be frosted to insure neighbors' privacy; and (f) the design of the building shall satisfy the design standards and guidelines of the SMO.
   c. The maximum building height allowed with a variance procedure shall be 25 feet. The maximum number of building stories allowed with a variance shall be two stories

L. DESIGN STANDARDS. Additional components that must be given specific attention include the following criteria:

1. Design Standards for All Properties in the SMO:

   a. New construction shall reflect a style consistent with those found in *The New Mexico Historic Building Inventory Manual, 1980* and shall be consistent with the styles of Design Guidelines or Manual established by the SMDRB for the SMO and with other historic structures found on the same street segment.

   b. New construction shall maintain a visual balance and rhythm of the walls, doors and windows along any given street segment.

   c. Manufactured homes shall meet design criteria for new construction to the greatest extent possible without altering the structural integrity of the home.

This shall include the style and type of materials forming the exterior facade as well as the type and material of skirting that shall be is compatible in type and materials with adjacent and nearby historic structures.

d. Additions and remodeling projects shall utilize materials that are consistent with the character and architecture of the existing structure. The same materials must be used on all sides of a structure.

e. Changes in materials on a single structure, such as stucco to wood siding or visa-verse, may be made if the different material is also in keeping with the architecture or character of the structure and does not diminish the historic integrity of the structure to any great extent. Changes in materials must also be consistent with other materials used in the neighborhood.

f. Fences/walls shall be of a material that is compatible with the structure or compatible with other fences/walls in the neighborhood.

   i. Chain link or square wire fencing is prohibited except if used in a small area within the interior of a lot, such as for a dog run or surrounding a private swimming pool, and cannot be viewed from a public street.
   ii. Existing chain link or square wire fencing may be temporarily removed if necessary, but the same fencing must be replaced exactly as it was.
   iii. An old chain link or square wire fence may not be replaced with new chain link or square wire fencing; if replaced, the new fence must come into compliance with this Section.
   iv. If a chain link or square wire fence is damaged through no fault of the property owner, the fence may be replaced exactly as it was.
   v. The SMDRB has the authority to modify or waive the above wire fence restrictions on a case-by-case basis with a Certificate of Appropriateness.

g. Construction fencing must be removed from site within three (3) days of issuance of a Certificate of Occupancy or a Certificate of Completion.

h. Dumpsters for commercial or multi-family developments are required to be screened from any streetside facade.

i. Second story elements and single-story structures built to the side or rear property lines shall incorporate window types (e.g. clerestory, frosted) and placement in such a way as to protect the privacy of adjacent neighbors.

j. Outdoor lighting shall meet the City's Outdoor Lighting Ordinance (Chapter 39 of the LCMC) and light fixtures shall be consistent with the architectural character of the structure and neighborhood. Fluorescent tube lighting fixtures are prohibited.

2. Design Standards for Structures Listed as Contributing on the State or National Mesquite Street—Original Townsite Historic District Inventory.

a. Additions are not permitted to primary façades, it must be set back from the front facade.

b. Additions and remodeling projects shall have architectural treatments and styles, features, and details as the existing structure, but shall not duplicate those of the existing structure in a manner that will make the addition indistinguishable from the existing structure. Distinguishing characteristics could include, but are not limited to:

   i. Setting back the addition from the original structure a distance to be determined by the proposed addition's relation to the scale and form of the original structure;

   ii. Varying trim, finish texture, facade height, color, etc. to some slight degree;

   iii. Separating the addition from the original structure by a connector;

   iv. Varying the window or brick pattern from the original.

c. If applicable, to the extent architecturally practicable, new additions should be attached to any existing noncontributing portion of the structure instead of attaching them to the contributing portion.

d. The owner shall make every attempt to repair or restore historic windows. Historic windows that cannot be repaired or restored shall be duplicated in size, style, and material of the original to the greatest extent possible. No opening shall be widened or narrowed except as required to comply with building code standards, unless historic documentation supports its prior existence. Vinyl-clad or aluminum windows may be used if they resemble the original windows in size and style. Thermal double pane glass may be used.

e. Original doors shall be retained, and repaired or restored to the greatest extent possible. If existing doors are beyond repair, new ones shall match the original material and should also be similar in design. Flat surfaced and contemporary doors with small decorative windows shall be avoided. No door opening shall be widened or narrowed except as required to comply with Building Code standards, unless historic documentation supports its prior existence.

f. Existing porches or portals shall not be enclosed, unless historic documentation supports its prior existence.

g. No new opening shall be made where one presently does not exist unless historic documentation supports its prior existence. An exception may be made to comply with Building Code standards for egress.

h. No existing opening shall be enclosed unless historic documentation shows that the existing opening is not original to the structure.

i. Existing roof styles and materials shall be maintained or replaced in kind. The addition of parapets, canales, or other roof features should only be considered if they are in keeping with the architectural style of the structure.

j. Specific colors of structure and trim shall not be criteria in evaluating the proposal.

M. INSTALLATION OF SOLAR PANELS OR OTHER ALTERNATIVE ENERGY EQUIPMENT. Enhancing the energy efficiency of a historic building is important. To that end, it is often possible to install features such as solar panels and photovoltaic cells provided they are installed in a sensitive manner. However, for some historic buildings, it may not be possible to incorporate solar panels and meet the Secretary of the Interior's Standards for Rehabilitation. The following standards for installation of these systems shall apply:

1. Installation of panels must be reversible and not damage the historic integrity of the building and district.

2. Solar panels should be installed on rear slopes or other locations not highly visible from the public right of way whenever possible. Panels should be installed flat and not alter the slope of the roof.

3. Flat roof structures should have solar panels set back from the roof edge to minimize visibility. Pitch and elevation should be adjusted to reduce visibility from the public right-of-way.

4. Use solar panels and mounting systems that are compatible in color to established roof materials. Mechanical equipment associated with the solar panel system should be treated to be as unobtrusive as possible.

5. Use of solar systems in windows or on walls, siding, awnings or shutters should be installed with limited visibility from the public right-of-way.

6. In circumstances where solar collectors are not placed on rooftops, they should only be positioned in limited or no-visibility locations in secondary areas of the property. Use vegetation or a compatible screen if necessary to further reduce the visual impact of these features on a historic property.

N. SUBMITTAL AND REVIEW PROCESS. The following submittal and review procedures are established to protect persons and property in the South Mesquite Overlay District. Applications shall be obtained from the Community Development Department, Building Permit Section.

1. Buildings/Structures. Prior to the filing of an application for development and/or signs, a pre-application conference to meet with Community Development Department Staff to review the proposal is required.

2. Following the pre-application meeting, the Applicant shall submit one copy of all application materials for the development to the Community Development Department for review. Upon submittal, staff shall review the submittal for completeness. If all the required items have been submitted, the Community Development Department shall deem the application complete and shall begin its review process.

3. The minimum submittal requirements for development proposals shall include the following information that is relevant to the proposal:

   a. A Development Application, with appropriate materials required for the SMO, as determined by Community Development staff at the pre-application meeting. The submittal shall include a scaled site plan that includes the following, as applicable:
      i. Property boundaries
      ii. Location of all structures
      iii. Age of structures
      iv. Setbacks of all structures, existing and proposed
      v. Parking layout, if applicable
      vi. Ingress/egress access points
      vii. Areas proposed for landscaping
      viii. Surfacing material for impervious surfaces, if applicable
      ix. Storm water ponding areas
      x. Dumpster location(s)
      xi. Location of service and loading area(s)
      xii. Freestanding and attached sign locations where applicable
      xiii. North arrow
      xiv. Any other information which conveys how the proposal will meet development requirements.

   b. A statement of objectives to be achieved by the development, inclusive of a description of the character and anticipated use of the proposed development.

   c. If the structure is listed as contributing on the State or National Mesquite Street—Original Townsite Historic District inventory, a description of the known history of the structure shall be included. Photos are encouraged to support the purpose of the application.

   d. Scaled elevations or renderings which are detailed enough so that a realistic picture is given of the proposed project to a close approximation of the finished project. It should be apparent from the submission that the

design criteria herein have been met to the greatest extent possible. Color architectural/artistic renderings shall:

i. Reflect all aspects/views of the exterior of the structure
ii. Demonstrate the use of building materials through the drawings or with a legend or an attached list.
iii. Detail the fenestrations, other building openings, rooflines, ornamentation, woodwork, and other features of the structure.

e. If required, the Applicants shall present their proposal to the South Mesquite Design Review Board at a public hearing. At that time, a formal decision by the Board regarding the proposed project will be made and a Certificate of Appropriateness or Letter of Denial will be issued by staff within five (5) days. This record of the Board decision shall be entered into the Case File for reference by building inspectors, plan examiners and other relevant City staff. Public hearing procedures and notice requirements will follow that of the Planning and Zoning Commission found in Section 38-10.D.3.

f. Those projects not required to be reviewed by the SMDRB shall be reviewed by Community Development staff using the same criteria and procedures found herein.

g. A scaled landscaping plan shall include:

i. Location, size, and common name of all landscaping
ii. A complete irrigation plan shall be included, clearly identifying how the landscape will be sustained.

h. Community Development staff shall insure that the Applicant satisfies any conditions of approval stated in the Certificate of Appropriateness (C of A); if the Applicant proposes any changes to the project involving architectural or structural elements, location or materials that alters the C of A approval conditions, the Applicant shall submit revised plans for review by the Board. If the Community Development staff, upon inspection prior to issuance of a Certificate of Occupancy or Completion, notices that the Applicant changed a design element that is inconsistent with the C of A, the Applicant shall submit a revised plan showing the changed element and the Board shall review the change to see if it meets the SMO design guidelines, standards and criteria. The Board shall have the authority to recommend to the City's Building Official that the substituted element be removed and replaced with one that is approved by the Board.

4. Variances. A variance shall be defined as a variation in the numerical requirements of the 2001 Zoning Code, as amended, or the Sign Code. Numerical variances to the clear-sight-triangle requirements shall be considered, reviewed, denied, or approved by the Public Works Director or designee. Height exceptions may be

granted by the SMDRB pursuant to the provisions and design guidelines of subsections D and K.5. The Flexible Development Standard provisions of Section 38-56 of the 2001 Zoning Code, as amended, are applicable to the SMO provided that the Applicant for the waiver or exception submit the request to the SMDRB for a recommendation to the Director of the Community Development Department.

O. DEMOLITION. To preserve the character of the State and National Mesquite Street—Original Townsite Historic Districts and surroundings, this ordinance creates a sixty (60) day demolition permit application review process that will allow time for interested parties to explore alternatives to the demolition of historic structures.

1. Property owners intending to demolish any structure located within the SMO must adhere to the following 60-calendar day process. The Applicant may withdraw the permit application at any time with a written notice to the Director of the Community Development Department.

2. Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. During the 60-day review, Community Development Department staff will review the application for compliance with the Las Cruces Building Code (Chapter 30 of the LCMC).

3. A proposal for redevelopment of the property, with elevations, must accompany the permit application; this proposal shall describe a potential or proposed development proposal for the property, and whether it is proposed for the near or distant future.

4. Prior to the demolition of a structure designated as Contributing within the State or National Historic District, the Applicant shall be responsible for fully documenting the structure, both interior and exterior, to provide a permanent record, in accordance with documentation procedures as follows. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff:

   a. Completion of the New Mexico Historic Cultural Properties Inventory (HCPI)-Form, available in the Community Development office and online.

   b. Photographing the property: Take several photos (front, rear, sides, close-up views, details, setting, etc.) of the historic structure proposed for demolition (primary structure and/or each historic accessory structure, such as a garage, sheds, etc.) Buildings that are not listed on the historic register need not be included. For more information on documentation, please refer to the National Register Photo Policy Fact Sheet available in the Community Development Department and on-line.

   c. If known, a short history of the property should be included, in order to document how that property fits within the historic district or community.

5. Posting: At the beginning of the 60-day review process, the Community Development Department will prepare a public notice sign that is to be posted by the Applicant in a conspicuous place on the property. The Applicant is responsible for ensuring that it is in place for the entire 60-day period. The Department will publish a legal notice describing the proposed demolition and contact information for the Applicant. A fee shall be charged to the Applicant for the cost of the public notice.

6. At the beginning of the 60-day review process, the Community Development Department will inform the SMDRB, neighborhood associations, the New Mexico State Historic Preservation Office (SHPO), and other pertinent organizations or interested parties that a demolition permit has been applied for.

7. A demolition permit shall be issued upon the completion of the following items:

   a. The completion of the 60-day period;

   b. Documentation of the structure as described above; and

   c. The application meets all City Code requirements and has been approved by the Community Development Department Staff. (Code compliance comments regarding the proposed demolition may be resolved within the 60-day time period).

8. Compliance with the procedure set out in this Section may be waived by the City Manager or designee if it is determined that immediate demolition of a historic structure is necessary to remove a hazard to the health, safety, and welfare of the public. In such a case, the Community Development Department shall immediately notify the SMDRB, neighborhood associations, SHPO, and other pertinent organizations and interested parties that demolition of the structure is imminent.

P. APPEALS. In the South Mesquite Overlay District, any applications for development must be approved by the City in order for a use permit, building permit or sign permit to be issued. If required by this Section, review and approval by the SMDRB must precede issuance of a permit.

1. A decision made by staff may be appealed by any aggrieved person to the SMDRB. Such appeal must be made in writing within fifteen (15) calendar days of the staff decision. The appeal will be presented to the SMDRB at their next regularly scheduled meeting.

2. A decision made by the SMDRB may be appealed by any aggrieved person to the Planning and Zoning Commission_after all other procedures established by this Code have been exhausted. Such appeal must be made in writing within fifteen (15) calendar days of the Board's decision in accordance with Chapter 38-13 of the LCMC.

3. A decision made by the Planning and Zoning Commission may be appealed by any aggrieved person to the City Council after all other procedures established by this Code have been exhausted. Such appeal must be made in writing within fifteen (15) calendar days of the Commission's decision in accordance with Chapter 38-13 of the LCMC.

4. Any person aggrieved by a determination of the City Council may appeal to the District Court within 30 days after the determination made by City Council, in accordance with Section 38-14 of the LCMC.

5. A request that is denied by the Board and/or City Council shall not be resubmitted or reconsidered for a period of one (1) year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six (6) months after such denial decision.

Q. ENFORCEMENT OF OVERLAY ZONE DISTRICT. Provisions to enforce this Section shall be consistent with the Enforcement Provisions of Section 38-16 of the 2001 Zoning Code, as amended.

**PAGES V-XXX THROUGH V-XXX DELIBERATELY LEFT BLANK**

**Sec. 38-49.2 SMO - South Mesquite ~~Neighborhood~~ Overlay ~~Zone~~ District**

A. PURPOSE. The South Mesquite ~~Neighborhood~~Overlay District is designed to ~~deal with~~positively address issues unique to Las Cruces' Original Townsite and surrounding area. This area is addressed in the 2005 adopted Mesquite Neighborhood Plan and the 2007 adopted Mesquite Historic District Neighborhood Design Plan. Specific provisions in this Ordinance deal with issues such as compatible design, parking, setbacks, and land use/zoning designations that are better suited to this older part of the city~~.~~ characterized by smaller lots with multiple dwellings and scarce off-street parking resources. Additionally, neighborhood design guidelines and standards have been created that will help enhance and preserve the unique character of Las Cruces' first neighborhood.

B. DELINEATION OF OVERLAY DISTRICT BOUNDARIES. The South Mesquite Overlay (SMO) District shall include all properties ~~noted~~located within the boundaries shown on ~~the associated map. (See~~ Figure 1~~.)~~.

C. ~~C.~~ DEFINITIONS. Definitions shall rely on those noted in Section 38-20 of the 2001 Zoning Code, as amended unless otherwise noted here:

Accessory Structure: See Section 38-51 of the 2001 Zoning Code, as amended.

Accessory Dwelling Unit (ADU): See Section 38-53 of the 2001 Zoning Code, as amended.

~~Area 1: The boundaries of the South Mesquite Neighborhood Overlay District, excluding Area 2, as show in Figure 1.~~

~~Area 2: The boundaries of the Original Townsite, located within the South Mesquite Overlay, as shown in Figure 1.~~

Compatible: Capable of existing together in harmony. Parts of a whole that work well together when pieced together. Compatibility with existing elements does not mean uniformity.

Consistent: That which is similar to, or nearly the same.

Contributing: A resource that is listed as "contributing" on the National Register of Historic Places ~~or~~, the State Register of Cultural Properties, or the 1994-1995 State or National Mesquite Street—Original Townsite Historic District of Las Cruces, New Mexico Inventory. In the law regulating historic districts in the United States, a contributing resource is any building, structure, site, or object which adds to the historical integrity or architectural qualities that make the historic district important. In this document, "contributing" and "significant" may be used interchangeably~~.~~ [see *Significant* definition below].

District Boundary: The boundaries of the South Mesquite Overlay District are shown in Figure 1. The properties that are included within the Overlay District include all those within the boundary shown on Figure 1.

Demolition: An act that destroys or removes in whole or in part the exterior of a building or structure of a historic property.

Design Standards: Regulations intended to preserve the historic and architectural character within the South Mesquite Overlay ~~Zone~~ District.

Exterior Appearance: The visual character of all outside surfaces of a structure, including facades, fenestration pattern, signage, light fixtures, steps, or character-defining features, such as corbelled posts, exposed vigas, tiles, canales, etc. Fencing or walls surrounding the structure also contribute to the exterior appearance of a property.

Exterior remodeling, exterior renovation, and exterior alteration: Any change or rearrangement in the supporting members of an existing building, such as exterior bearing walls, columns, beams, girders, as well as any substantial change in rooflines, number of doors and/or windows added, removed, replaced, or resized, or any enlargement to or diminution of a building or structure, whether horizontally or vertically~~.~~ or any installation or replacement of fencing viewed from the street. Maintenance or repair shall not be construed as exterior remodeling, renovation, and/or alteration.

~~Façade~~Facade: Typically the front of a building; however, any elevation on view is considered a facade.

Historic: In this document, structures that are listed as contributing or significant by the National Register of Historic Places ~~or~~, the ~~State~~New Mexico Register of Cultural Properties, the State or National Mesquite Street—Original Townsite Historic District of Las Cruces, New Mexico.

Historic Districts: The boundaries of the State "Mesquite Street—Original Townsite Historic District of Las Cruces New Mexico" and the National "Mesquite Street—Original Townsite National Historic District of Las Cruces New Mexico" are found in Figure 2.

Historic Integrity: The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's period of significance.

Historic Register: In this document, the National Register of Historic Places or the ~~State~~New Mexico Register of Cultural Properties.

LCMC: Most current edition of the Las Cruces Municipal Code.

New Construction: The erection of a new primary structure or accessory structure on a lot or property.

Ordinary Maintenance or Repair: Any change that is not new construction, removal, or alteration. Repair may include patching, piecing-in, splicing, consolidating, or otherwise reinforcing or upgrading historic materials such as masonry, wood and architectural metals according to recognized preservation methods. Repairing also includes the limited replacement in kind, or with compatible substitute material, of extensively deteriorated or missing parts or features when there are surviving examples, such as adobe bricks, brackets, dentils, or portions of slate or tile roofing.

Primary Façade(s): Any and all sides of a building which face a public right-of-way. A building may have more than one primary facade.

Primary Structure(s): In this document, the structure(s) for which the use is the main use of the parcel (not an Accessory Use as defined in Section 38-51 of the 2001 Zoning Code, as amended). Note: It is possible to have more than one primary structure on a parcel, for example two residences, or a retail shop and a residence.

Rehabilitation: Making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. Most projects in the South Mesquite Overlay ~~will~~are expected to be rehabilitation projects.

Relocation: Any relocation of a structure from its originally installed site to another site.

Secondary Residence: A dwelling unit that is subordinate in size and location to the main dwelling on a single property, and may be rented or leased as an independent dwelling unit. A secondary residence is different from a guest dwelling or accessory structure in that it is distinct dwelling unit containing a kitchen. Examples include a traditional guest house, apartment, cottage or converted garage.

Significant: A resource that is listed as "significant" on the National Register of Historic Places ~~or~~, the State Register of Cultural Properties~~.~~, or the 1994-1995 State or National "Mesquite Street—Original Townsite Historic District Inventory." In the law regulating historic districts in the United States, a significant resource is any building, structure, site or object which adds to the historical integrity or architectural qualities that make the historic district worthy of registration. In older nominations, the terms "significant" and "contributing" were used to "rank" buildings, but in newer nominations, the status of a resource is either contributing or non-contributing. "Significant" is no longer used as a separate term. In this document, "significant" and "contributing" may be used interchangeably.

SMO: South Mesquite Overlay District.

~~DRB~~SMDRB: South Mesquite Design Review Board.

Structure: That which is built or constructed, an edifice or building of any kind, or any place of work artificially built up or composed of parts joined together in some definite

manner. Note: Although "structure" and "building" have different meanings for many preservationists, in this document the two words are used interchangeably.

Figure 1 – South Mesquite Overlay Boundaries

~~D.~~

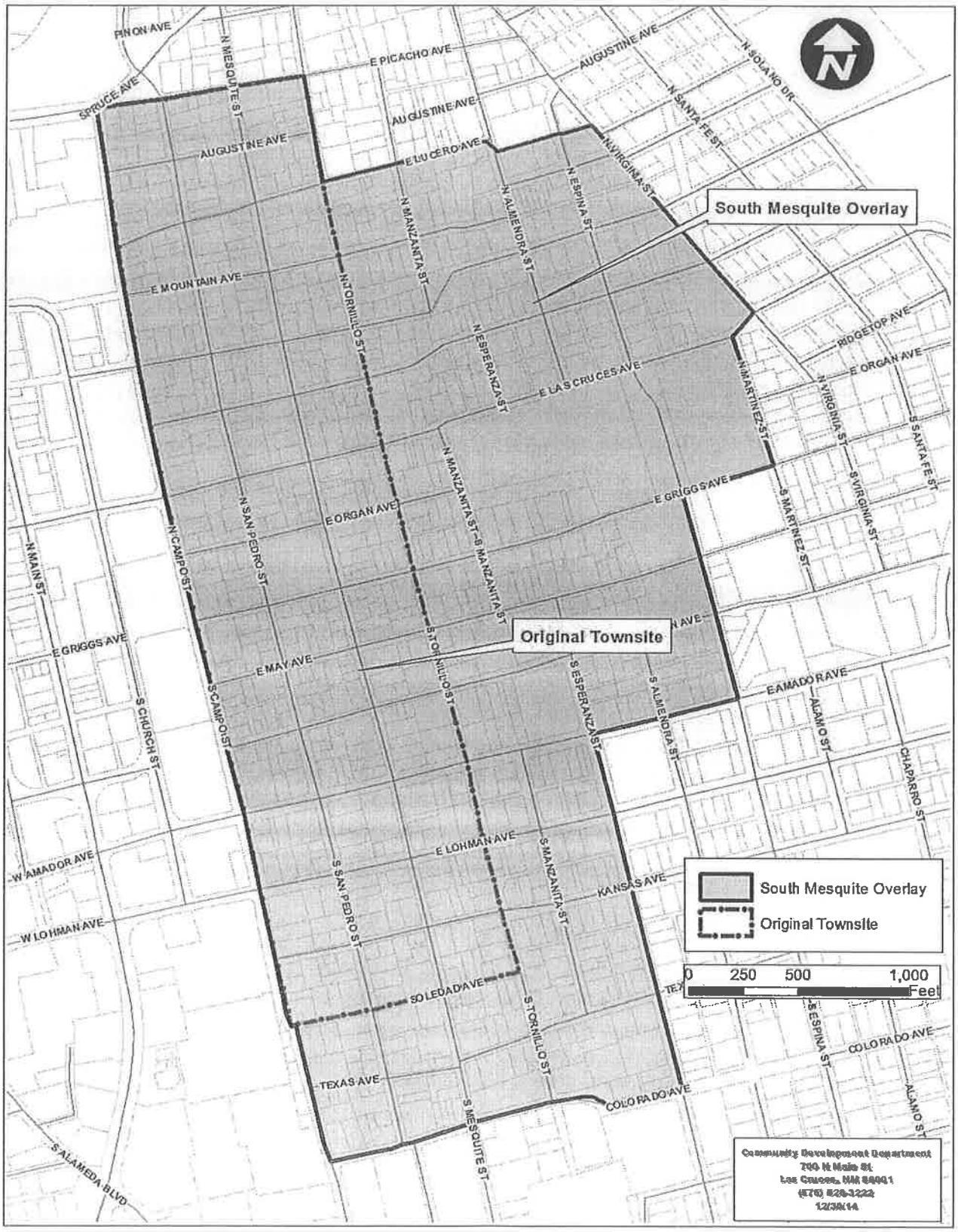
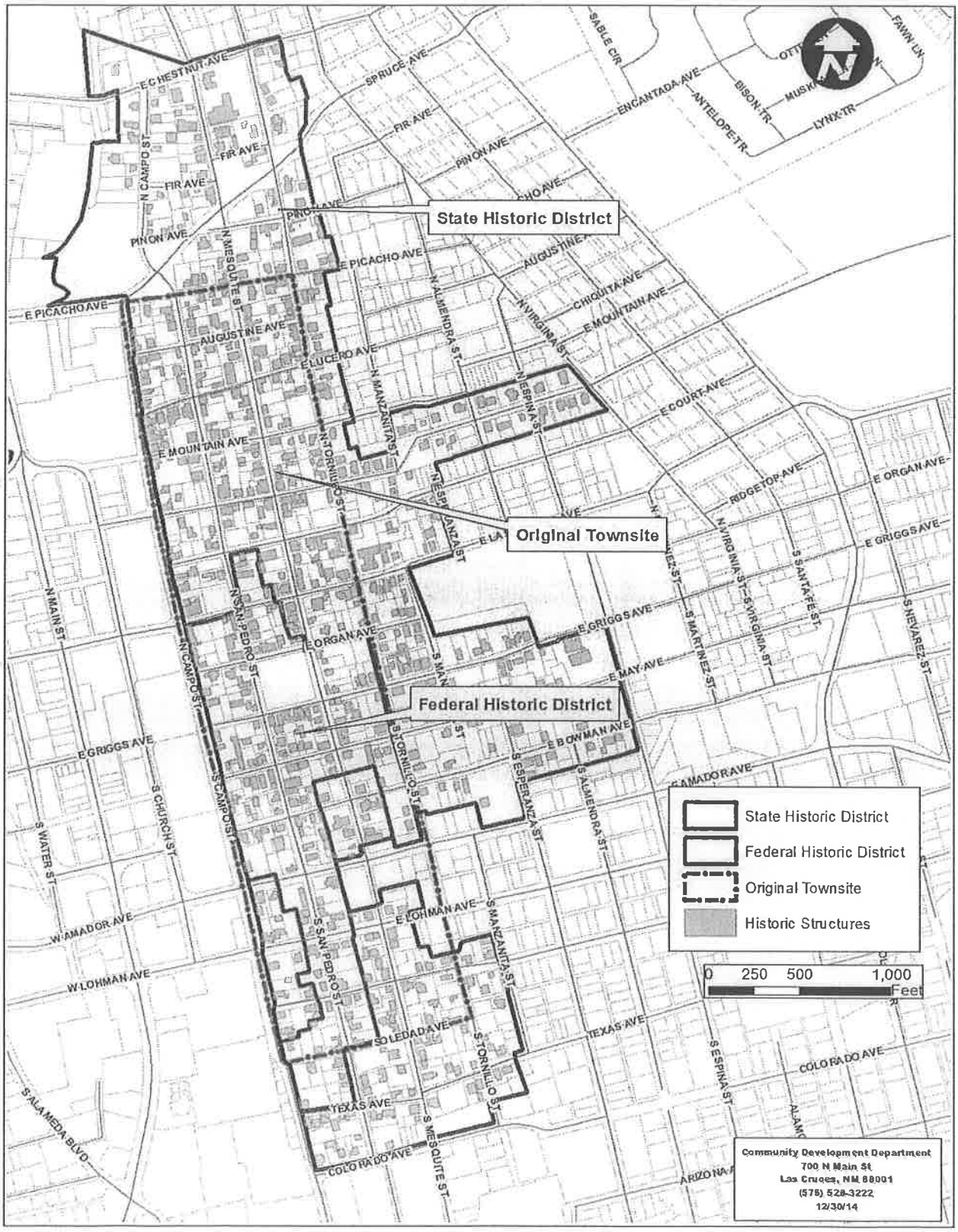

South Mesquite Overlay
Original Townsite
PIÑON AVE
SPRUCE AVE
N MESQUITE ST
E PICACHO AVE
AUGUSTINE AVE
N SOLANO DR
N SANTA FE ST
E LUCERO AVE
N VIRGINIA ST
N MANZANITA ST
N ALMENDRA ST
N ESPINA ST
E MOUNTAIN AVE
N TORNILLO ST
N ESPERANZA ST
E LAS CRUCES AVE
RIDGETOP AVE
E ORGAN AVE
N MARTINEZ ST
S VIRGINIA ST
S SANTA FE ST
E GRIGGS AVE
N SAN PEDRO ST
N CAMPO ST
N MAIN ST
S MANZANITA ST
S MARTINEZ ST
E MAY AVE
S TORNILLO ST
S ESPERANZA ST
S ALMENDRA ST
E AMADO AVE
ALAMO ST
CHAPARRO ST
S CHURCH ST
S CAMPO ST
E LOHMAN AVE
W AMADOR AVE
W LOHMAN AVE
S SAN PEDRO ST
S MANZANITA ST
KANSAS AVE
SO LEDAD AVE
S TORNILLO ST
S ESPINA ST
COLORADO AVE
TEXAS AVE
S MESQUITE ST
S ALAMEDA BLVD
0 250 500 1,000 Feet
Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222
12/30/14

Figure 2: Boundary of the Mesquite Street—Original Townsite State & Federal Historic Districts



D. DEVELOPMENT STANDARDS. There shall be no development or alteration of the lands, uses, or structures within the Overlay Zone District SMO except as provided for by this sectionSection of the 2001 City Zoning Code, as amended from the date of its enactment and, other sections of the City Zoning Code, and other City Codes and Ordinances where applicable. Development requirements shall beare established for the entire Overlay Zone District (Area 1 and Area 2),SMO, as follows (unless indicated in other sections of this Overlay):

Table 1. DEVELOPMENT STANDARDS.

| | |
|---|---|
| Minimum Lot Area/Size | 3500 square feet |
| Minimum Lot Width/Frontage | 50 feet |
| Minimum Lot Depth | 50 feet |
| Minimum Side Setback | 5 feet* |
| Minimum Rear Setback | 5 feet* |

Minimum Front Setback(s) Front setbacks shall be compatible with the surrounding area. (The surrounding area shall generally mean all structures, with the exception of fences, on the same side of the block.) The applicant shall work with Community: Development Department staff to determine a front setback distance with staff having the final determination. Any appeals to this decision shall be made to the DRB. Standards

At the minimum, all setbacks shall meet Clear Site Triangle requirements**.

Maximum Building Height: *** 25 feet to contain no more than two stories in Area 1.
14 feet to contain no more than one story in Area 2.

* Overhangs are **not** permitted within the required setbacks.

** Clear Site Triangle requirements must be met or applicable encroachment agreements must be entered into when applicable. Variances to Clear Site Triangle may be granted by Public Works Department or designee as needed.

***Any requests for greater building height and number of stories than those stated require an application for a variance, reviewed by the Design Review Board for recommendation to the Planning and Zoning Commission.

| | | |
|---|---|---|
| 2. D.1 | Lot Area/Size | 3500 square feet minimum |
| D.2 | Lot Width/Frontage | 50' minimum |
| D.3 | Lot Depth | 50' minimum |

| | | |
|---|---|---|
| D.4 | Front Setback | Within the range of existing setbacks and compatible with the surrounding area* |
| D.5 | Side Setback | 5' minimum ** |
| D.6 | Rear Setback | 5' minimum** |
| D.7 | Garage Setback | 20' minimum |
| D.8 | Building Height | 14' in the Original Townsite and 25' elsewhere.*** |
| D.9 | Townhouses | Zero lot lines are permitted for townhouse development provided the structure meets the attachment requirements of Chapter 38-62 of the LCMC. |
| D.10 | Accessory Structures | There shall be no limit to the number or square footage of accessory structures per Sec. 38-51.D |
| D.11 | Residential Density | Lot size, setbacks, parking requirements and building heights shall determine residential density per property. |

* Surrounding area generally mean all primary structures on the same side of the block. If there aren't at least two primary structures on the same side of the block, both sides of the block shall be used. The Applicant shall work with Community Development Department staff to determine a front setback distance with staff having the final determination.

** Overhangs are not permitted within required setbacks. Canales and viga ends are not deemed overhangs for the purpose of this limitation.

***Any requests for building heights greater than those stated above require an application for a height exception be reviewed and approved by the SMDRB; applications shall meet the design criteria noted in Section 38-49.2. K, Design Guidelines.

The regulations of this Overlay District shall supersede any regulations of the citywide 2001 Zoning Code, as amended. However, when the regulations of this SMO do not address a particular design or development standard or regulation, the applicable City, State, or Federal regulation shall apply. The provisions of Section 38-58 which allow for Flexible Development Standard waivers shall apply within the SMO; however, such requests shall be approved by the SMDRB for recommendation to the Community Development Director.

Diagram 1 Setbacks

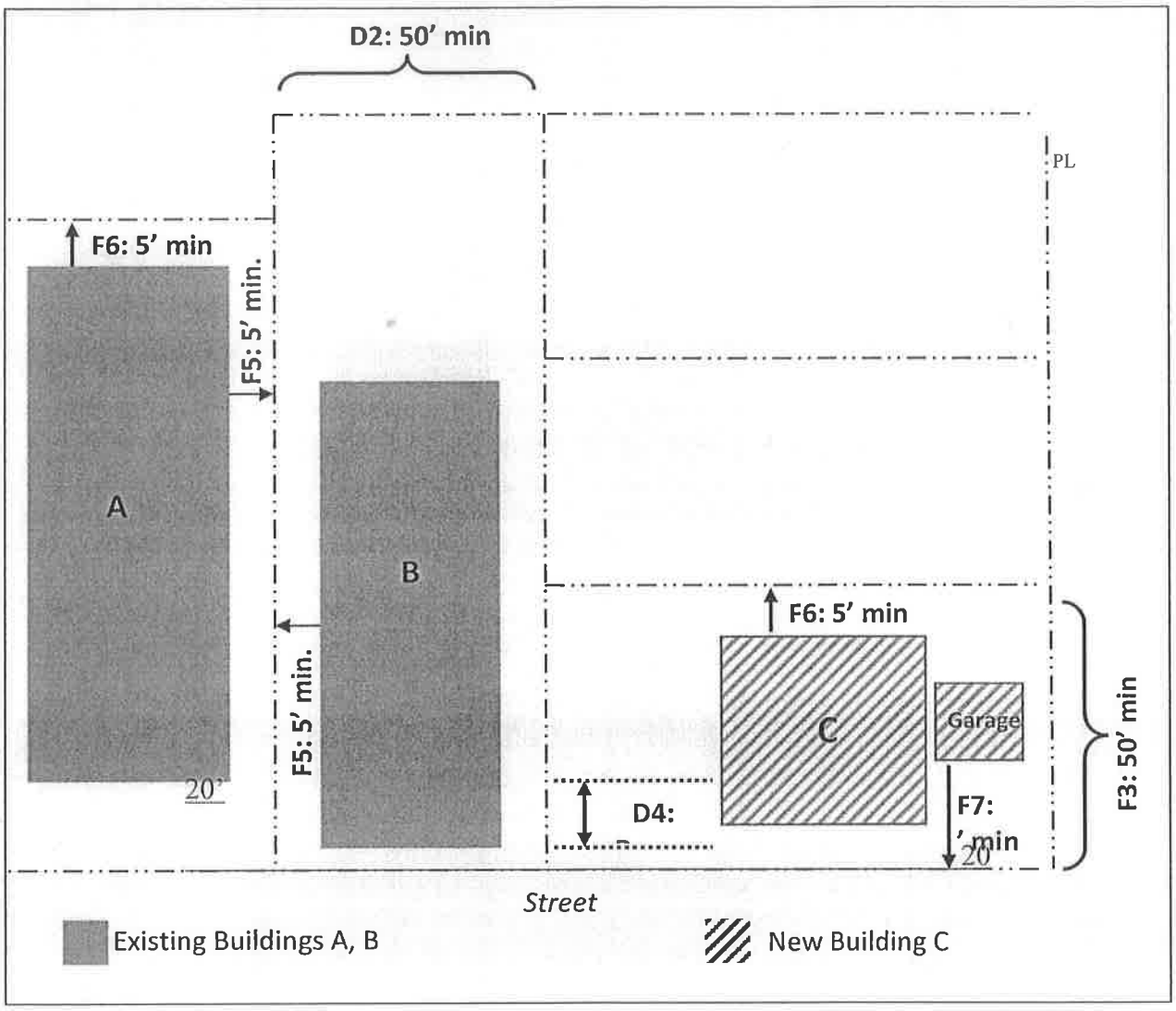
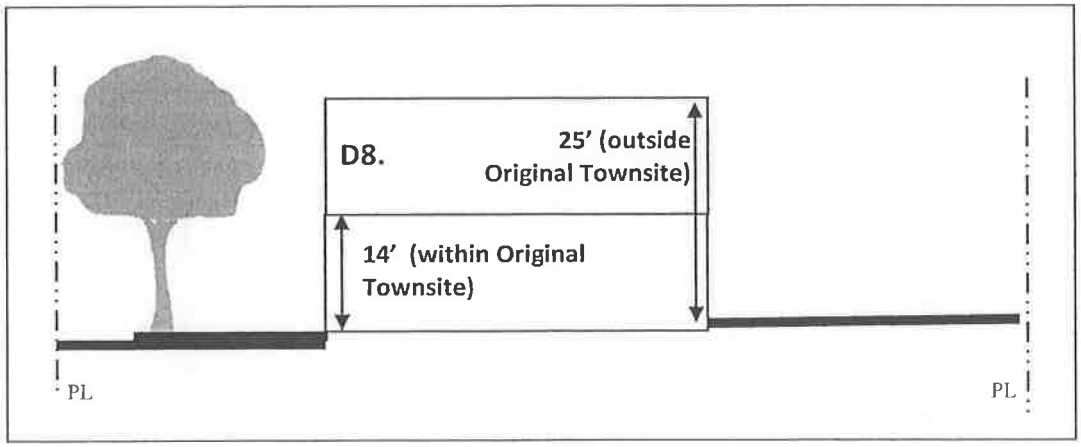



Diagram 2 Maximum Height



E. LANDSCAPE REQUIREMENTS: Landscaping shall follow standards set forth in ~~the Design Standards (~~Chapter 32 of the LCMC~~)~~ with the following modifications:

1. Applicability: Landscaping standards apply to all new development in the SMO with the exception of single family dwellings and duplexes, unless ~~stated below~~noted elsewhere in this section.

~~a. A landscaping buffer, a minimum of five (5) feet, excluding sidewalks, shall be provided and maintained along all street frontages. This landscaping shall be accomplished by the use of a combination of greenery, trees, lawn grass, shrubs, crushed stones, cactus, lava rock, or similar materials.~~

~~i b. In addition, all areas not devoted to buildings, structures, paved drives, walks and off-street parking facilities shall be covered with one of the above materials. In the event a buffer is not possible, Flexible Development Standards may be considered for further options per Section 38-56 of the 2001 Zoning Code, as amended.~~

~~c. Landscaping shall not interfere with visibility for safe ingress and egress.~~

2. ~~d.~~ A variety of landscaping materials shall be employed to create visual interest and to complement other plantings in the neighborhood. Care should be taken when planting too close to adobe structures which can be damaged by plant watering. Plant materials, including shade trees, shall be native and/or draught tolerant, as these are best suited to the Chihuahua Desert. This is not to say that the landscape plan needs to adhere to Xeriscaping. On the contrary, plants should be chosen that will survive and thrive in the local climate. Appropriate species include, but are not limited to, the following:

| TREES | SHRUBS | GROUNDCOVER |
|---|---|---|
| Arizona Ash | Euonymus | Bermuda |
| Arizona Cypress | Pyracantha | TIFF, various |
| Arizona Mesquite | Sages (Texas, Desert | Vinca |
| Canyon Hackberry | Chihuahuan, Cherry, | Trailing Rosemary |
| Chinese Pistache | Russian, etc.) | Iceplant |
| Desert Willow | Silverberry | Creeping Thyme |
| Italian Cypress | Spanish Broom | Powis Castle Artemesia |
| Lacebark Elm | | Dalea capitata |
| Palo Verde | | Clover Fern |
| Pecan | | |
| Pines | | |
| Southern Live Oak | | |
| Texas Honey Mesquite | | |
| Texas Red Oak | | |
| Sycamore | | |
| Western Hackberry | | |

3. All new development, except single-family dwellings and duplexes, and adaptive reuse of properties (such as a change of use) shall be required to plant trees within parking lots for shade and visual relief (see subsection 5 below).

4. Landscaping gravel, decorative stone or other organic landscaping materials may be used for landscaping, provided such materials blend visually with other landscaping material and planting style standards and meet the City's wind erosion control ordinance).

5. Landscaping for Parking Lots: All new construction, except single family dwellings and duplexes and adaptive reuse of properties, shall require landscaped parking areas. Landscaping in parking areas shall follow Chapter 32 of the LCMC, "Development Standards for Landscaping," with the following modifications:
   a. Trees in parking lots shall be located in an island or planter in which the tree trunks shall be protected from motor vehicles. Islands shall be a minimum of six feet wide, have a minimum area of thirty-six (36) square feet and a raised border of at least four (4) inches in height.
   b. One tree shall be planted for every five (5) parking spaces within parking lots as they pertain to the uses listed for each area.

6. The SMDRB shall have the authority to modify or waive landscaping requirements of Chapter 32 of the LCMC or of this Section if the Board determines that such modification would result in a project that better advances the purposes of the SMO and positively addresses its design standards.

~~2.~~7. Community Development Department staff shall review landscape plans~~ for adherence to Landscape Requirements~~.

F. ~~E.~~ PERMITTED USES. There shall be no land uses within this Overlay ~~Zone~~ District except as ~~listed below or as noted elsewhere~~identified in this ~~chapter. C-3~~land use matrix. Zoning districts are ~~not allowed in the SMO unless pre-existing~~as follows:

1. R-1a: Single-family Low Density Residential District
2. R-2: Medium Density Residential District
3. R-3: High Density Residential District
4. R-4: High Density Residential and Limited Office District
5. O-1: Neighborhood Office District
6. O-2: Professional Office with Limited Retail Service
7. C-1: Neighborhood Commercial District
8. C-2: General Commercial District

~~1.~~9.C-3: High Density Commercial. C-3 zoning and land uses are not permitted in the Overlay District with the exception of those uses which existed at the time of SMO adoption~~ of this~~, Ordinance ~~(Ordinance~~ 2200, May 24, 2005~~)~~.. Uses that ~~are~~were pre-existing at the time of adoption ~~of this Amendment~~ and are no longer permitted by right shall be considered ~~legally~~ non-conforming and shall follow the provisions of ~~Sections~~NON-CONFORMING USES, STRUCTURES, AND PROPERTY below and Sec. 38.70-76~~ of the 2001 Zoning Code, as amended.~~.

~~(1) SOUTH MESQUITE R-1 SINGLE-FAMILY LOW-DENSITY RESIDENTIAL DISTRICT (Maximum of Eight (8) Dwelling Units per Acre).~~

~~PURPOSE. The South Mesquite R-1 District is intended to accommodate detached single-family dwelling units and to maintain and protect a low density residential character of development.~~

~~a. SOUTH MESQUITE R-1 PERMITTED USES. The following uses~~PUD: Planned Unit Developments are ~~permitted with their noted conditions in the South Mesquite R-1 Districts.~~

~~Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.~~

~~Accessory Uses and Structures. Refer to Section 38-51 of the 2001 Zoning Code, as amended.~~

~~Accessory Dwelling Unit. Shall follow requirements found in Section 38-33A of the 2001 Zoning Code, as amended.~~

~~Bed and Breakfast. This use shall have direct access to at least a major local-designated roadway where the number of guest rooms is limited to four (4).~~

~~Construction Yard or Building (Temporary). Such yard or building shall be removed upon completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence five (5) feet in height. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department. All walls/fences must follow clear-site triangle provisions found within Section 32-405 of the Design Standards.~~

~~Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.~~

~~Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.~~

~~Home Occupation. Subject to the provisions of Section 38-52 of the 2001 Zoning Code, as amended.~~

~~Kennel (Private, Residential). See Chapter 7 (Animals) of the LCMC~~

~~Manufactured Home. See Section 38-57 of the 2001 Zoning Code, as amended.~~

~~Public Park, Playground, or Ballfields. See Section 38-33E of the 2001 Zoning Code, as amended.~~

~~Real Estate Office (Temporary). Permitted only when used in conjunction with a residential subdivision, provided such use shall be discontinued upon the completion of the development or within three (3) years from date permit issued, whichever is sooner.~~

~~Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.~~

~~Single Family Detached Dwelling Unit. One dwelling per parcel~~

~~Storage of recreational vehicles and motor vehicle appurtenances. Storage of personal recreational vehicles, boats, trailers, or similar uses shall be limited to a maximum of one (1) per dwelling unit in the front or side yard, with no limit in the rear yard, separated at least five (5) feet from any property line.~~

~~Swimming Pool (Private). Permitted only when a protective fence, four (4) feet in height, is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.~~

~~Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.~~

~~b. SOUTH MESQUITE R-1 SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10. D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.~~

~~Community Building.~~
~~School (Private, Public, and Parochial)~~

~~(2) SOUTH MESQUITE R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT.~~

~~PURPOSE. The South Mesquite R-2 District is intended to accommodate an overall maximum density of fifteen (15) dwelling units per acre. This district is intended for single-family, duplex or apartment units in which a medium density residential character is protected and maintained.~~

~~a. SOUTH MESQUITE R-2 PERMITTED USES WITH THEIR NOTED CONDITIONS:~~

~~Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.~~

~~Accessory Uses and Structures. Refer to Section 38-51 of the 2001 Zoning Code, as amended.~~

~~Bed and Breakfast. This use shall have direct access to at least a major local designated roadway where the number of guest rooms is limited to four (4).~~

~~Apartments. Two or more units in any configuration, not to exceed a maximum density of fifteen (15) dwelling units per acre.~~

~~Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the 2001 Zoning Code, as amended, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for. Care of thirteen (13) or more children at one time is prohibited in residential zoning districts.~~

~~Condominiums. Maximum of four (4) attached units.~~

~~Construction Yard or Building (Temporary). Such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the Design Standards. Above-ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.~~

~~Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.~~

~~Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.~~

~~Home Occupation. Subject to the provisions of Section 38-52 of the 2001 Zoning Code, as amended.~~

~~Manufactured Home. One dwelling unit per parcel.~~

~~Public Park, Playground, or Ballfield.~~

~~Kennel (Private, Residential). See Chapter 7 of the LCMC.~~

~~Real Estate Office (Temporary). Permitted only when used in conjunction with a residential subdivision, provided such use shall be discontinued upon the completion of the development or within three (3) years from date permit issued, whichever is sooner.~~

~~Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.~~

~~Single Family Dwelling. One dwelling unit per parcel.~~

~~Storage: Recreational Vehicles. Storage of personal recreational vehicles, boats, trailers, or similar uses shall be limited to a maximum of one (1) per~~

~~dwelling unit in the front yard, with no limit in the rear yard, separated at least five (5) feet from any property line.~~

~~Swimming Pools: Private. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.~~

~~Townhouses. Maximum of four (4) attached units.~~

~~Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.~~

~~b. SOUTH MESQUITE R-2 SPECIAL USES. The following uses require review by the Design Review Board for recommendation to the Planning and Zoning Commission in accord with Section 38-10. D.3. of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.~~

~~Community Building.~~
~~School (Public, Private, Parochial).~~

~~(3) SOUTH MESQUITE R-3 HIGH DENSITY RESIDENTIAL DISTRICT (Maximum of Thirty (30) Dwelling Units per Acre).~~

~~PURPOSE. The South Mesquite R-3 District is intended to accommodate multiple family dwelling units and accessory structures and uses. The zone is intended to maintain and protect high density residential development that is characteristic of apartments, townhouses, condominiums, and other similar dwelling complexes. Single family dwellings are also permitted. The South Mesquite R-3 Zone is intended to be located in areas that have access to main thoroughfares.~~

~~a. SOUTH MESQUITE R-3 PERMITTED USES WITH THEIR NOTED CONDITIONS:~~

~~Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements~~

~~as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.~~

~~Accessory Uses and Structures. Refer to Section 38-51 of the 2001 Zoning Code, as amended.~~

~~Bed and Breakfast. This use shall have direct access to at least a major local designated roadway where the number of guest rooms is limited to four (4).~~

~~Apartments. Two or more units in any configuration with a maximum density of thirty (30) dwelling units per acre.~~

~~Boarding House.~~

~~Condominiums.~~

~~Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Care of thirteen (13) or more children at one time is prohibited in the residential zoning districts listed. Refer to Section 38-52 of the 2001 Zoning Code, as amended, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for.~~

~~Construction Yard or Building (Temporary Use). Such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the Design Standards. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.~~

~~Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.~~

~~Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.~~

~~Home Occupation. Subject to the provisions of Section 38-52 of the 2001 Zoning Code, as amended.~~

~~Nursing Home/Assisted Living Facility.~~

~~Kennel (Private, Residential). See Chapter 7 of the LCMC.~~

~~Public Park, Playground, and Ballfield.~~

~~Real Estate Office: Temporary. Permitted only when used in conjunction with a residential subdivision provided such use shall be discontinued upon the completion of the development or within three (3) years from date of permit, whichever is sooner.~~

~~Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.~~

~~Single Family Dwellings. One dwelling unit per parcel.~~

~~Swimming Pool: Private. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.~~

~~Townhouses. Maximum of eight (8) attached units.~~

~~Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.~~

~~b. SOUTH MESQUITE R-3 SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.~~

~~Community Building.~~

~~School (Public, Private, Parochial.~~

~~(4) SOUTH MESQUITE R-4 HIGH DENSITY RESIDENTIAL AND LIMITED OFFICE DISTRICT (Maximum of Forty (40) Dwelling Units per Acre).~~

~~PURPOSE. The South Mesquite R-4 District is intended to accommodate a mixture of high density multiple family dwelling units and limited offices in which no merchandise or goods are sold as the primary business. The South Mesquite R-4 Zone is intended to be located in areas that have access to main thoroughfares and are large enough in area to accommodate large-scale apartment complexes or limited office developments.~~

~~a. SOUTH MESQUITE R-4 PERMITTED USES WITH THEIR NOTED CONDITIONS:~~

~~Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting Uniform Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.~~

~~Accessory Uses and Structures. Refer to Section 38-51 of the 2001 Zoning Code, as amended.~~

~~Apartments. Two or more units in any configuration, with a maximum density of forty (40) dwelling units per acre.~~

~~Bed and Breakfast. This use shall have direct access to at least a major local-designated roadway where the number of guest rooms is limited to four (4).~~

~~Boarding House.~~

~~Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the LCMC, Home Occupation-Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for. Care of thirteen (13) or more children at one time is prohibited in the residential zoning districts listed.~~

~~Condominiums.~~

~~Construction Yard or Building (Temporary Use). Such yard or building shall be removed upon the completion of construction or within three (3)~~

~~years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear site triangle provisions found within Section 32-405 of the Design Standards. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.~~

~~Garage or Yard Sale or Similar Use. Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.~~

~~Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.~~

~~Home Occupation. Subject to the provisions of Section 38-52 of the 2001 Zoning Code, as amended.~~

~~Nursing Homes/Assisted Living Facility.~~

~~Kennel (Private, Residential). See Chapter 7 of the LCMC.~~

~~Offices (limited). Offices that have a very low traffic volume such as attorneys, accountants, and architects are permitted, provided such uses maintain the residential character of the neighborhood and zoning district in which they are located. There shall be no goods or merchandise prepared or sold on the premises. Uses such as medical offices, barbershops, hairdressers, banks, and similar commercial and business offices which generate moderate or high volumes of traffic are prohibited in the South Mesquite R-4 District.~~

~~Public Park, Playground, and Ballfield.~~

~~Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.~~

~~Single Family Dwellings. One dwelling unit per parcel.~~

~~Swimming Pool: Private. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall~~

~~be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.~~

~~Townhouses. Maximum of ten (10) attached units.~~

~~Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.~~

~~b. SOUTH MESQUITE R-4 SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.~~

~~Community Building.~~
~~Institution: Public, Educational, Religious, or Philanthropic.~~
~~School (Public, Private, Parochial).~~
~~Swimming Pool (Public or Private).~~

~~(5) SOUTH MESQUITE O-1 OFFICE DISTRICT:~~

~~PURPOSE. The South Mesquite O-1 District is intended to accommodate office, service and institutional uses in which merchandise or goods are not prepared or sold as the primary business. This zone is designed to be a transition between commercial and residential uses and serve specified business, personal and professional services that can function efficiently without generating large volumes of vehicular traffic. Drive-up/drive thru windows are not~~ allowed ~~in this district. The South Mesquite O-1 District should maintain a predominantly residential character.~~

~~a. SOUTH MESQUITE O-1 PERMITTED USES.~~

~~Art Studio~~
~~Barber Shop~~
~~Beauty Shop~~
~~Community or Public Office Building~~
~~Cosmetologist Shop~~
~~Funeral Home, Mortuary, excluding Crematoriums~~
~~Insurance Office~~

~~Law Office~~
~~Lessons (art, dance, music, and the like)~~
~~Photographic Studio~~
~~Professional and Business Offices (excluding medical offices)~~
~~Real Estate Office~~
~~Residential Uses~~

~~2.~~10. ~~b. PERMITTED USES--WITH CONDITIONS: The following uses are permitted in accord with stated conditions: Residential uses are not permitted in the South Mesquite O-1 Zone, except in cases where a proprietor uses a~~ as part of ~~an office building as a dwelling. Limited landscaping is also required in the South Mesquite O-1 Zone:~~a specific rezoning.

~~Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.~~

~~Accessory Building. See Accessory Building/Structure of Section 38-51 of the 2001 Zoning Code, as amended.~~

~~Construction Yard of Building (temporary use). Permitted only during construction, provided such yard or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence of a minimum of five (5) feet in height. All walls/fences must follow clear-site triangle provisions found within Section 32-405 of the Design Standards. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department~~

~~Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.~~

~~Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.~~

~~Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.~~

~~c. SOUTH MESQUITE O-1 SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.~~

~~Institution: Public, Educational, Religious, or Philanthropic.~~
~~Public Building (Other than Offices).~~
~~Schools (Public, Private, Parochial).~~

~~(6) SOUTH MESQUITE C-1 NEIGHBORHOOD COMMERCIAL DISTRICT~~

~~PURPOSE. The South Mesquite C-1 District is intended to accommodate limited retail and service establishments as a convenience to nearby residential neighborhoods. This zone is designed to be compatible and consistent with the needs and character of a residential neighborhood. Uses such as the sale, service and repair of motor vehicles, engines, and mobile homes; gasoline service stations and body shops; dancing establishments; the wholesaling and warehousing of merchandise; pet shops; and similar uses, are not permitted in the South Mesquite C-1 zone. Drive-up/drive-thru windows are also not allowed in this district Landscaping shall be required, as per Landscape Requirements in the development standards section.~~

~~a. SOUTH MESQUITE C-1 PERMITTED USES. The following uses are permitted by right in the South Mesquite C-1 District provided the gross floor area of each business does not exceed three thousand (3,000) square feet. Uses exceeding three thousand (3,000) square feet may be considered as a Special Use Permit, reviewed by the DRB for recommendation to the Planning and Zoning Commission in accordance with Section 38-10 of the 2001 Zoning Code, as amended in order to insure that the size of the business does not create undue traffic congestion, noise or other problems that would be detrimental to the residential character of the neighborhood.. Businesses shall not exceed six thousand (6,000) square feet of gross floor area.~~

~~Arts and Crafts Studio~~

~~Bakery~~
~~Barber Shop~~
~~Beauty Parlor~~
~~Bicycle Sales and Service~~
~~Bookstores and Stationery Shops~~
~~Cigarette and Cigar Shops~~
~~Coffee Shop and Snack Bar~~
~~Community Building (publicly or privately owned)~~
~~Cosmetologist Shop~~
~~Delicatessen~~
~~Dressmaking Shop~~
~~Dry-cleaning and Steam cleaning (receiving shop)~~
~~Florist Shop~~
~~Gift Shop~~
~~Grocery Store~~
~~Hobby Shop and Toy Store~~
~~Household Appliance and Repair Shop~~
~~Knit and Yarn Shops~~
~~Laundry (self service)~~
~~Lessons (art, dance, music, and the like)~~
~~Library~~
~~Meat and Seafood Markets~~
~~Messenger Service~~
~~Newspaper Distribution Office~~
~~Offices: Professional and Business~~
~~Photographic Studio~~
~~Post Office~~
~~Prescription Shop~~
~~Private Club or Lodge~~
~~Public Park, Playground, Recreational Use~~
~~Real Estate Office~~
~~Residences (Residences in South Mesquite C-1 shall comply with South Mesquite R-4 development standards)~~
~~Restaurant~~
~~Shoe Repair Shop~~
~~Tailor Shop~~
~~Variety Store~~

~~b. PERMITTED USES--WITH CONDITIONS: The following uses are permitted in accord with stated conditions.~~

~~Above Ground Storage Tanks for Flammable and Combustible Liquids. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements~~

~~as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.~~

~~Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tanks shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.~~

~~Accessory Building. See Accessory Building/Structure in Section 38-51 of the 2001 Zoning Code, as amended.~~

~~Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the 2001 Zoning Code, as amended, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for.~~

~~Construction Yard or Building (Temporary Use). Permitted only during construction, provided use or building shall be removed upon the completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a solid fence of a minimum of five (5) feet in height. All walls/fences must follow clear-site triangle provisions found within Section 32-405 of the Design Standards. Above-ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.~~

~~Christmas Tree Sales. Temporary, not prior to November 15 and provided lots are removed by December 31.~~

~~Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.~~

~~Home Occupation. Subject to the provisions of Section 38-52 of the 2001 Zoning Code, as amended.~~

~~Retail Sales: Specialized Merchandise. Retail sales, except as otherwise noted, shall be limited to stores that specialize in a particular type of merchandise such as clothing, records, shoes, home appliances, or other similar convenience goods to serve nearby residential neighborhoods.~~

~~Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major~~

~~local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.~~

~~Storage: Incidental to Primary Use. Storage shall be permitted only for merchandise incidental to the primary use of the business. Such storage shall be totally enclosed within the building of primary use, and at least ten percent (10%) of the gross floor area shall be used for retail sales or service. Exterior or open storage is prohibited.~~

~~Swimming Pools. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.~~

~~Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.~~

~~e. C-1 SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.~~

~~Golf Course and Country Club.~~
~~Structures with a Gross Floor Area exceeding 3,000 Square Feet.~~
~~Institutions: Public, Educational, Religious, or Philanthropic.~~
~~School (Public, Private, and Parochial).~~

~~(7) SOUTH MESQUITE C-2 GENERAL COMMERCIAL DISTRICT~~

~~PURPOSE. The intent of the South Mesquite C-2 Zoning District is to provide for certain commercial/retail uses which generate large volumes of automobile traffic. The district is intended for areas surrounding major arterial intersections where a wide range of automobile-related service facilities, convenience goods and personal services are desirable and appropriate as a land use. Landscaping shall be required as per Landscape Regulations in the development standards section. Drive-up/drive-thru windows are not allowed in this district~~

~~a. SOUTH MESQUITE C-2 PERMITTED USES. The following uses are permitted by right in the C-2 South Mesquite District:~~

~~Animal Hospital and Clinic~~
~~Arts and Crafts Studio~~
~~Bakery~~
~~Barber Shop and Beauty Parlor~~
~~Bicycle Sales and Service~~
~~Business Service Establishment~~
~~Catering~~
~~Cigarette and Cigar Stand~~
~~Clothing Store and Apparel Shop~~
~~Community and Public Building~~
~~Convention or Exhibition Hall~~
~~Dressmaking Shop~~
~~Drugstore~~
~~Dry-cleaning and Steam cleaning~~
~~Electrical Shop~~
~~Florist~~
~~Food Store~~
~~Glass Cutting and Finishing~~
~~Gymnasium~~
~~Hardware Store~~
~~Household Appliance Sales, Service and Repair~~
~~Institutions, Public and Quasi-Public~~
~~Laundry~~
~~Lessons (art, music, dance, and the like)~~
~~Newsstand~~
~~Nursing or Convalescent Home~~
~~Office (business and professional)~~
~~Paint Sales~~
~~Pet Shop~~
~~Photographic Studio and Supply Store~~
~~Plant Nursery~~
~~Printing and Engraving Shop~~
~~Private Club or Lodge~~

~~Public Park, Playground, Recreational Use~~
~~Radio, Television, Music Store~~
~~Residence (Residences in the South Mesquite C-2 zoning district shall comply with South Mesquite R-4 zoning district development standards).~~
~~Restaurant~~
~~Retail Sales~~
~~Shoe Repair~~
~~Show and Sales Room for Business Products~~
~~Skating Rink~~
~~Sporting Goods Store~~
~~Tailoring~~
~~Telegraph and Messenger Service~~
~~Variety Store~~

~~b. PERMITTED USES WITH CONDITIONS: The following South Mesquite C-2 uses are permitted in accord with stated provisions.~~

~~Above Ground Storage Tanks for Flammable and Combustible Liquids. Tank location will be considered on a case-by-case basis. Tanks shall, at minimum, be located in areas not readily visible from public rights-of-way and shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.~~

~~Above Ground Storage Tanks for Liquid Petroleum (LP) Gas. Tanks shall be permitted only when meeting current Fire Code requirements as adopted by the City of Las Cruces and when receiving approval from the State of New Mexico LP Gas Bureau.~~

~~Assembly of Arts and Crafts. Only when such assembly is for display and sale on the premises or when such assembly occupies less than one thousand, five hundred (1,500) square feet of a building.~~

~~Bed and Breakfast. This land use shall have direct access to at least a major local designated roadway. The number of rooms is limited to 10 rooms per quarter (1/4) acre.~~

~~Child Care Center, Nursery, or Similar Use. Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten, and similar uses shall be in accord with State licensing requirements. Refer to Section 38-52 of the 2001 Zoning Code, as amended, Home Occupation Business Registration, for babysitting service/child care when twelve (12) or fewer children are cared for.~~

~~Christmas Tree Sales. Temporary, not prior to November 15, provided lots are cleaned and removed by December 31.~~

~~Construction Yard or Building (Temporary). Such yard or building shall be removed upon completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in a neat and orderly fashion, and open yards shall be enclosed by a fence five (5) feet in height. All walls/fences must follow clear-site-triangle provisions found within Section 32-405 of the Design Standards. Above ground storage tanks for flammable and combustible liquids within construction yards shall meet the current Fire Code as adopted by the City of Las Cruces and be approved by the Las Cruces Fire Department.~~

~~Contractor-type yards (e.g. associated with Cooling, Heating, Plumbing, and Sheet metal shops). Yards shall be maintained in a neat and orderly fashion and enclosed by a solid wall or fence a minimum of six (6) feet in height (clear-site-triangle requirements must be met).~~

~~Cottage Industry. A cottage industry is defined as any manufacturing, compounding, and/or assembly process, including food preparation, which is subordinate to a primary use of retail sales or service. This use is not to be confused with or treated as a home occupation. Cottage industry may only occur within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on site only, and shall not pose any significant adverse impact to adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet may be used in the conduct of the cottage industry.~~

~~Firewood Sales. No more than twenty (20) cords stored on site.~~

~~Furniture Assembly (Accessory Use). Permitted only as an incidental or accessory use to retail sales. Maximum floor area for assembly shall not exceed three thousand (3,000) square feet, not to exceed thirty percent (30%) of the total business floor area, and shall be within the same building.~~

~~Home for the Disabled. See Section 38-21 of the 2001 Zoning Code, as amended.~~

~~Home Occupation. Subject to the provisions of this Section and Section 38-52 of the 2001 Zoning Code, as amended.~~

~~School. Elementary, Middle or High Schools shall be located on a collector or higher designated roadway. Commercial, Trade or Technical Schools, College or University shall be located on a minor arterial or higher designated roadway. All sites shall have a minimum of one (1) acre.~~

~~Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.~~

~~Storage as an Accessory Use. Storage shall be permitted only when incidental or accessory to sales of merchandise. Such storage shall be within a totally enclosed area and at least five percent (5%) of the gross floor area shall be used for retail sales or service.~~

~~Temporary Uses. Temporary uses, such as fireworks stands, shall be allowed in the South Mesquite C-2 District and shall follow the timelines and other such requirements established in Sec. 38-50 of the 2001 Zoning Code, as amended~~

~~Religious Institution (Over 10 persons)/Columbarium. Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.~~

~~Swimming Pools. Permitted only when a protective fence four (4) feet in height is provided around the yard, lot, or pool area. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is required to insure overhead safety.~~

~~Utility Installation. The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high. A solid wall or fence shall surround the installation. Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.~~

~~e. SOUTH MESQUITE C-2 DISTRICT SPECIAL USES. The following uses require review by the DRB for recommendation to the Planning and Zoning Commission in accord with Section 38-10.D.3 of the 2001 Zoning Code, as amended. Specific conditions and provisions for each use may be referred to in Part E of this Section.~~

~~Antenna, Towers, Communication Structures, and Other Vertical Structures~~

(8) C-3 COMMERCIAL HIGH INTENSITY: C-3 districts are not allowed in the SMO unless pre-existing at the time of adoption of this Ordinance (Ordinance 2200, May 24, 2005). Uses that are pre-existing at the time of adoption of this Amendment and are no longer permitted by right shall be considered legally non-conforming and shall follow the provisions of Sections 38.70-76 of the 2001 Zoning Code, as amended.

F. SPECIAL USES (All Zoning Districts). A Special Use is a use that is not permitted by right in a zoning district. A Special Use requires review for recommendation by the DRB to the Planning and Zoning Commission to determine impacts on the surrounding area. The procedures for approval may be found in Section 38-54A of the 2001 Zoning Code, as amended.

Antenna, Towers, Communication Structures, and Other Vertical Structures (South Mesquite zone: C-2): Any antenna, towers, communication structures, and other vertical structures must be unobtrusive and screened from view with respect and deference to the unique character of this district. Collocation is encouraged and must be done so that the structure, antenna, etc., is incorporated as a part of the design to the structure to which it is attached/placed.

Cemetery or Similar Uses (South Mesquite zones: R-1, R-2, R-3, R-4). Any cemetery site shall contain at least five (5) acres and shall be located on a major local or higher designated roadway. A columbarium shall be located on a major local or higher designated roadway with the lot size meeting the zoning district minimum lot size.

Community Buildings (South Mesquite zones: R-1, R-2, R-3, R-4).

Gross Floor Area: Exceeding Three Thousand (3,000) Square Feet (South Mesquite Zone: C-1): The maximum gross area per business may exceed three thousand (3,000) square feet in a South Mesquite C-1 District provided it can be shown that the increase in size will not be inconsistent with the purpose of the South Mesquite C-1 District and will not create traffic congestion. Businesses shall not exceed six thousand (6,000) square feet of gross floor area.

Halfway House (South Mesquite zones: R-1, R-2, R-3, R-4, O-1, C-1, C-2).

Hospital and Overnight Clinic (South Mesquite zones: R-4, C-1).

Institution: Public, Educational, Religious, and Philanthropic (South Mesquite zones: R-4, O-1, C-1).

Nursing Home/Assisted Living Facility (South Mesquite zones: R-1, R-2). Must be located on a collector or higher designated roadway.

~~School – Public, Private, Parochial (South Mesquite Zones: R-1, R-2, R-3, R-4, O-2): Elementary, Middle or High Schools shall be located on a collector or higher designated roadway. Commercial, Trade or Technical Schools, College or University shall be located on a minor arterial or higher designated roadway. All sites shall have a minimum of one (1) acre. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.~~

~~Swimming Pool – Public or Commercial (All South Mesquite Residential "R" Districts and South Mesquite O-1): A protective fence or wall no less than six (6) feet in height shall be provided which completely encloses the pool area, and the pool shall be no closer than twenty-five (25) feet from any property line. Approval from the electric utility is required to ensure safety (see Section 38-60 of the 2001 Zoning Code, as amended).~~

~~G. PARKING REQUIREMENTS. The following exceptions to the parking requirements found in Sections 38-33 and 38-58 of the 2001 Zoning Code, as amended shall be used in the SMO:~~

~~1. Buildings within the SMO constructed prior to 1955 shall not be required to provide off-street parking.~~

~~2. Buildings within the SMO constructed after 1955 shall be eligible to use the historic district parking requirements found in Section 38-58 of the 2001 Zoning Code, as amended.~~

~~3. The City Traffic Engineer or a designee shall determine which streets will be prohibited from use for on-street parking.~~

~~H.~~

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| Accessory dwelling units | A | A | A | A | A | A | A | A | |
| Apartments | | A | A | A | A | A | A | A | |
| Assisted Living, Retirement home | | A | A | A | A | A | A | A | |
| Detached single-family dwelling | A | A | A | C | C | C | C | C | C: residential densities in R-4 and commercial zones limited to a maximum of 40 DU/acre. |
| Guest dwelling unit | C | C | C | C | C | C | C | C | C: see Sec. 38-51 and 38-53 |
| Duplex | | A | A | A | C | C | C | C | C: residential densities in R-4 and commercial zones limited to a maximum of 40 DU/acre. |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| Triplex | | A | A | A | A | A | A | A | |
| Quadplex | | A | A | A | A | A | A | A | |
| Home for the Elderly | A | A | A | A | A | A | A | A | |
| Home for the Disabled | C | C | C | A | A | A | A | A | C: 10 or fewer persons allowed |
| Hostel | | | | C | C | C | C | C | C: limited to 10 persons per establishment and a maximum stay of 14 continuous days per guest. |
| Nursing Home | C | C | C | A | A | A | A | A | C: 10 or fewer persons allowed |
| Halfway house | S | S | S | S | S | S | S | S | See Sec 38-21 |
| Fraternity/sorority house | | | C | C | C | C | C | C | C: Limited to 10 persons per establishment; |
| Temporary/homeless shelter | S | S | S | S | S | S | S | S | |
| Manufactured home | A | A | A | C | C | C | C | C | All manufactured homes shall meet the design standards of the SMO and skirting and exterior wall materials shall be consistent with the architecture of adjacent structures. Residential densities in R-4 and commercial zones are limited to a maximum of 40 DU/acre. |
| Townhouse [one room attached to the neighboring single family dwelling] | | A | A | A | A | A | A | A | |
| Patio home [100% built to side property line] | C | C | C | C | C | C | C | C | C: see Sec 38-62, setback exceptions. |
| Accessory uses and structures | A | A | A | A | A | A | A | A | |
| Bed & Breakfast Establishment | C | C | C | C | C | C | C | C | C: Number of guest rooms is limited to 8. |
| Greenhouse, private (non-commercial) | A | A | A | A | A | A | A | A | |
| Community Gardens (neighborhood based) | A | A | A | A | A | A | A | A | |
| Home occupations | C | C | C | C | C | C | C | C | C: See Sec. 38-52 |
| Kennel/cattery, private residential | C | C | C | C | C | C | C | C | C: Permitted in accordance with Chapter 7 of the |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| | | | | | | | | | LCMC; noise from barking dogs and odors from this activity shall not be discerned off the premises. |
| Recreational court, tennis, etc., private | S | S | S | S | S | S | S | S | Must mitigate off-site noise and light glare. |
| Storage of RVs and motor vehicle appurtenances | C | C | C | C | C | C | C | C | C: Maximum 1 per parcel located within any open area between the front setback and the rear setback and shall otherwise meet the standards of Sec. 38-58.D.7. |
| Swimming pool, private | C | C | C | C | C | C | C | C | C: A swimming pool shall be at least 5 feet from property lines; also see Sec. 38-60 Walls and Fences. |
| Temporary uses | C | C | C | C | C | C | C | C | C: See Sec. 38-50.. |
| Produce stands | C | C | C | C | C | C | C | C | C: Allowed per State law; may be accessory to community gardens. |
| Veterinary facility | | | | | | | | C | C: Noise from barking dogs shall not be discerned off the premises. |
| Cemetery/columbarium | S | C | C | C | C | C | C | C | C: See Sec. 38-53; S: See Sec. 38-54. |
| Family child care home (up to 6 children) | A | A | A | A | A | A | A | A | See Sec. 38-52.D and 38-53. |
| Group child care home (7 to 12 children) | S | A | A | A | A | A | A | A | S: See Sec. 38-52.D and 38-53. |
| Child care center or preschool | | S | S | S | S | S | S | S | S: See Sec. 38-52.D and 38-53. |
| Community buildings/uses | C | C | C | C | A | A | A | A | C: Shall be located on a major local or higher classification road. |
| Convention center/exhibition hall | | | | | C | C | C | C | C: Must be accessed from an arterial road (Lohman, Amador); size is limited to 5,000 GFA. |
| Library/museum | | A | A | A | A | A | A | A | |
| Religious institutions | C | C | C | C | C | C | C | C | C: Shall be located on a major local or higher |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| | | | | | | | | | classification road; all sites shall have a minimum 1 acre; structures or parking located within 25 feet of a residential use shall provide an opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of a residential use. |
| School, college, trade school, private or public | S | S | S | S | S | S | S | S | S: On a case-by-case basis, application shall address safe access, off-street parking demand, screening and landscaping, noise and other relevant impacts of the development on adjacent residential uses. Structures or parking located within 25 feet of a dwelling unit shall provide a Type A opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of property used for residential purposes. |
| Arcade, game room | | | | | | | A | A | |
| Batting cage, indoor | | | | | | | A | A | |
| Billiard, Pool Hall | | | | | | | A | A | |
| Bowling alley | | | | | | | A | A | |
| Miniature golf course | | | | | | | | A | |
| Health/exercise club/ gymnasium/sports instruction | | | | C | C | C | C | C | C: Noise from this activity shall not be discerned off-premises. |
| Park | C | C | C | C | C | C | C | C | C: Limited to neighborhood park or private park. See Sec. 38-53. Public parks |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| | | | | | | | | | shall also comply with Chapter 20 of the LCMC. |
| Mini-race tracks e.g. go carts | | | | | | | | C | C: Hours of operation limited to between 10 AM and 10 PM. |
| Recreation courts, public | | | S | S | S | S | S | S | S: Must mitigate off-site noise and light glare. |
| Skating rink, Indoor | | | | A | A | A | A | A | |
| Swimming pool, commercial or public; indoor only | | | | | S | S | S | S | S: See Sec. 38-54. |
| Botanical garden | | | | A | A | A | A | A | |
| Personal or business service office uses | | C | C | C | A | A | A | A | C: In R districts, non-residential uses are permitted only on the ground floor; no more than 35% of the GFA of the buildings on the parcel, combined, is permitted to be non-residential uses. |
| Art studio | | C | C | C | C | C | C | C | C: Noise from activities shall not be discerned off the premises. |
| Barber/beauty/hair salon and related personal care services | | A | A | A | A | A | A | A | |
| Medical/dental office; counselor/therapy services | | A | A | A | A | A | A | A | |
| Bank, bonding and financial institution/facility; no drive-through | | | | | | C | C | C | C: Each business establishment is limited to a sole practitioner and only one such business establishment per parcel. |
| Business office: consulting; credit reporting & collection; desktop publishing, graphic design; institutional office, public or private; educational office; religious office; philanthropic office; mailing & stenographic services; motion picture production; noncommercial research organization | | | | | A | A | A | A | |
| Adult day care services/facility | | | | | A | A | A | A | |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| Funeral home; laboratory | | | | | A | A | A | A | |
| Pharmacy; no drive-through | | | | | | C | C | C | C: Permitted only as accessory to a medical, dental or similar office use and strictly for the purpose of serving the patients of the medical office use. |
| Auto/truck parts store | | | | | | | | A | |
| Auto/truck repair & service | | | | | | | | C | C: No salvage yard or related activities shall be permitted. No outside storage of parts, materials, or equipment is permitted. All outdoor storage of non-operable vehicles must be screened with opaque fencing. |
| Auto/truck self-service/automated or full service wash/wax/detailing | | | | | | | | C | C: Limited to a collector or higher classification road. |
| Bar/pub/tavern (no dancing) | | | | | | | | A | |
| Sale of building material | | | | | | | | A | |
| Café, cafeteria, coffee shop, restaurant, etc.<br>No drive-thru | | | | A | A | A | A | A | |
| Sale of carpet/window treatments | | | | | | | | A | |
| Cleaning & maid services | | | | | | | A | A | |
| Clothing store | | | | | | | A | A | |
| Convenience store (no gas sales) | | | | | | | C | C | C: No drive-through facility. |
| Delicatessen, produce/meat market; No eating facilities | | | | | | | A | A | |
| Delicatessen, produce/meat market with eating facilities | | | | | | | C | C | C: No drive-through facility. |
| Firewood sales | | | | | | | | C | C: If displayed outside a building, a semi-opaque screen around the perimeter of the use shall be provided; 20 cord maximum stored on site; see Sec. 38-50. |
| Furniture store | | | | | | | | A | |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| Sale of garden supplies | | | | | | | | A | |
| Grocery store | | | | | | | A | A | |
| Hardware store | | | | | | | C | A | C: No outside storage of supplies or materials. |
| Home furnishings | | | | | | | A | A | |
| Kennel/cattery, commercial or non-profit | | | | | | | | C | C: Use allowed in accordance with Chapter 7 of the LCMC; noise from barking dogs shall not be discerned at the nearest dwelling unit. |
| Laundry/dry cleaning services | | | | | | | A | A | |
| Newspaper distribution | | | | | | | | A | |
| Pawn shop | | | | | | | | A | |
| Petroleum/propane sales | | | | | | | | C | C: Sale of portable propane tanks and similar gas only is allowed as an accessory use to a retail establishment; use of such equipment is allowed as an accessory use when meeting current Fire Code standards. Gas stations are not permitted. |
| Plant nursery | | | | | | | | A | |
| Private club or lodge | C | C | C | C | C | C | C | C | C: See Sec. 38-53. A private club or lodge shall be located on a major local or higher designated street. Structures or parking located within 25 feet of a dwelling unit shall provide a Type A opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of property used for residential purposes. |
| Radio/TV station | | | | | | | | A | |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| Seasonal sales of fireworks, agricultural products (non-temporary), snowcone stand, etc. | | | | | | | C | C | C: All structure locations shall meet setback requirements; if sited on property with other uses, there shall be no obstruction of the driving aisles or parking stalls unless it can be proven that there is an excess of parking areas. If the use does not follow temporary use provisions, the property shall be subject to all applicable development requirements. |
| Small item repair shop | | | | | | | A | A | |
| Specialty foods store (bakeries, candies, etc.) | | | | | | | A | A | |
| Specialty store (books, music, toys, sports equip, stationary, etc.) | | | | | | | A | A | |
| Telephone communication business (call center) | | | | | | | | A | |
| Temporary Use (non-seasonal) | | | | C | C | C | C | C | C: See Section 38-50. |
| Theater (non- drive in) | | | | | | | | A | |
| Tire sales/repair | | | | | | | | A | |
| Upholstery shop | | | | | | | A | A | |
| Variety store | | | | | | | A | A | |
| Video/DVD rental/sales (non-adult oriented) | | | | | | | A | A | |
| Cab stand | | | | | | | | A | |
| Distribution centers | | | | | | | | A | |
| Parking facilities, commercial (garages & parking lots) | S | S | S | S | S | S | S | S | |
| Storage outside of buildings of materials, equipment and supplies not for sale | | | | | | | | C | C: All outside storage shall be enclosed with an opaque, Type A screen. |
| Storage, warehousing accessory to office, retail trade, service or industry businesses | | | | | | | | C | C: Maximum of 95% of the total square footage may be used for this storage. |
| Storage/display of merchandise for sale (except manufactured | | | | | C | C | C | C | C: Outdoor display of goods sold on the premises is |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| buildings, manufactured homes, mobile homes & operable cars, trucks, motorcycles and RVs) | | | | | | | | | limited to 25% of the gross floor area devoted to the business use. |
| Wholesale trade, any product | | | | | | | | C | C: No outdoor storage allowed. |
| Construction yard or buildings, temporary | C | C | C | C | C | C | C | C | C: See Section 38-53: Such yard or building(s), including a mobile home or recreational vehicle for a temporary residence or construction office, or any other facilities or arrangement approved by the Community Development Director or designee shall be removed upon completion of construction and in compliance with the Chapter 30 of the Municipal Code. Construction yards and buildings or any other facilities shall be maintained in a neat and orderly fashion. Open yards shall be enclosed by a fence at least five (5) feet in height. |
| Contractor's Yard | | | | | | | | C | C: All outdoor storage shall be enclosed with an opaque Type A screen |
| Cottage Industry with retail sales or service (manufacture or processing of goods such as beer or food products for sale on the premises) | | | | | | | C | C | C: Allowed only when such use occurs within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on site |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| | | | | | | | | | only, and shall not pose any significant adverse impact to adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet, may be used in the conduct of the cottage industry manufacturing or processing. |
| Crematorium | | | | | | | | C | C: See Sections 38-53 and 38-54. |
| Antennas, towers, communication structures and other utility vertical structures | | | | | | | S | S | See Section 38-59 and Section 38-54. |
| Facial mounted antennae (attached to the primary use) | | | | | | | C | C | C: Facial mounts must be placed or erected to the primary use/structure in a manner which conceals, to the extent possible, the antenna or face mount. No more than ten (10) additional feet in height to the maximum building height shall be allowed as a result of application or erection of the antenna or face mount. See also Section 38-59. |
| Private/public utility (e.g. substations, water wells, transformers, regulators, lift stations, telecommunications site) | S | S | S | S | S | S | S | S | See Section 38-53. A solid wall or fence shall surround the installation. Landscaping as per Subsection E above shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the |

| Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District<br>A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Land Use | R-1a | R-2 | R-3 | R-4 | O-1 | O-2 | C-1 | C-2 | Comments |
| | | | | | | | | | surrounding properties and minimize noise and visual pollution. |
| Recycling collection centers (neighborhood scale only) | | | | S | S | S | S | S | Hours of operation may be limited to mitigate noise to adjacent residences; equipment rooms and outdoor storage of materials shall be screened with opaque fencing; trash shall be contained and properly disposed of; the DRB and Planning and Zoning Commission may impose conditions to insure that noise, fumes, odors and congestion is avoided. |
| Private "Ham" radio telecommunication antennae | C | C | C | C | C | C | C | C | C: Antennae shall not exceed the building height limit. |

~~A.~~G. NON-CONFORMING USES, STRUCTURES, AND PROPERTY. Many people refer to non-conforming uses as the "Grandfather Clause." If a use, structure, etc., was established legally under the previous code, it is considered a legal non-conforming use~~.~~ or non-conforming or non-complying structure. Except for the following, requirements stated in Sections 38.70-76 of the 2001 Zoning Code, as amended, shall apply.

1. If a legal non-conforming use becomes and remains vacant, a two (2) year time limit shall be placed on reestablishing the non-conforming use at that location.

H. PARKING REQUIREMENTS. The following exceptions to the parking requirements found in Sections 38-33 (land use matrix) and 38-58 of the 2001 Zoning Code, as amended, shall be used in the SMO:

1. Buildings within the SMO constructed prior to 1955 shall not be required to provide off-street parking.~~I. DESIGN REVIEW. PURPOSE:~~

2. Buildings within the SMO constructed after 1955 shall be required to provide off-street parking pursuant to the requirements of Sections 38-33 (land use matrix) and

Section 38-58 of the Zoning Code, as amended. These buildings and properties shall be eligible to use:

a. The historic district parking exceptions found in Section 38-58.G.2. of the 2001 Zoning Code, as amended, whether the development is commercial or residential; and/or

b. The on-street parking allowance found in Chapter 38-58.G.3, for new development, subject to any restrictions placed by Traffic Engineering for applicable roadways; and

c. Surface materials for parking areas for residential or non-residential developments may be pervious materials such as stone or brick pavers or compacted crushed stone (gravel). If gravel is used, single-family and duplex parking areas may use compacted crusher fine or "pea" gravel, but multi-family and non-residential development parking areas shall be limited to using a minimum one-inch diameter size, compacted gravel. Concrete parking pads are not permitted to be installed abutting adobe walls to avoid damage due to "wicking" (transfer of moisture trapped beneath the concrete to the adobe wall).

3. Parking areas for new development of non-residential and multi-family uses, including garages and carports, are not permitted in the required front setback of the subject property.

4. The SMDRB shall have the authority to, modify or waive requirements of the off-street parking Section 38-58 of the Zoning Code or of this Section, with the concurrence of the City's Traffic Engineer, if the Board determines that such modification would result in a project that better advances the purposes of the SMO and positively addresses its design standards

I. SIGNAGE. All signage shall be of materials and design that are compatible with the architecture of the structure and the residential character of the neighborhood. Electronic moving/digital signs are not permitted in the SMO. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with Chapter 36 of the LCMC with the following modifications:

1. Off-Premise Signs: No off-premise signs shall be allowed in the SMO except for the following:

a. Political signs, which shall follow regulations stated in Chapter 36 of the LCMC

b. Yard/Garage sales, etc., and displays regarding community events or holidays, which shall follow regulations stated in Chapter 36 of the LCMC

c. Existing legally permitted off-premise signs such as billboards shall be considered legally non-conforming and shall be regulated in accordance with Chapter 38-70 through 76 of the LCMC.

2. On-Premise Freestanding Signs
   a. Ground signs shall be the only freestanding sign allowed within the SMO, except on Lohman and Amador Avenues, and shall be no greater than 5 feet in height. Only one ground sign per commercial property shall be permitted. Ground signs must be set back at least five (5) feet from any property line and must be at least five (5) feet away from the wall of the building.
   b. Ground signs shall be no greater than 2 square feet in overall size.
   c. Ground signs may be illuminated and shall follow regulations stated in Chapter 39 of the LCMC (Outdoor Lighting).
   d. Properties developed as business centers shall conform to the following:
      i. One ground sign identifying the name of the center and individual businesses is permitted if desired.
      ii. A property containing a business center sign may not have additional freestanding signs, except for Temporary signage, which shall follow Chapter 36 of the LCMC.
   e. All ground signs shall comply with Clear Sight Triangle requirements.
   f. On-premise pole signs on Lohman and Amador Avenues are allowed and shall follow the standards of Chapter 36 of the LCMC.

3. On-Premise Attached Signs. Attached signs shall follow size and placement regulations for attached signage in Chapter 36 of the LCMC.

4. Portable A-frame signs. An A-frame sign means a self-supporting, portable sign with one or two faces that are adjoined at the top and displayed at an angle, which is designed to be placed where pedestrians walk or gather and ADA accessibility is assured. The sign shall not be permanently anchored or secured and shall be removed at the end of the establishment's business hours. Sign language is limited to advertising the business name, location, and goods or services provided.

   a. All agents, employees or representatives displaying an A-frame sign on public property in the CBD shall comply with the following provisions:
      i. One A-frame sign per business may be displayed during regular business hours;
      ii. A-frame signs shall be no greater than 6 square feet on one side, no more than 12 square feet total, and shall be no greater than 3 ½ feet in height;
      iii. An A-frame sign shall be installed and removed by the business or property owner;
      iv. No A-frame sign shall be erected in such a manner so as to obstruct ADA access or vehicular traffic;
      v. A-frame signs shall only be displayed immediately in front of the business;

vi. No A-frame sign may be located on public property such as sidewalks or parkways;

vii. No business or property owner shall display any sign advertising another business or a business no longer open to the public;

viii. The business or property owner shall be responsible for any damage caused to public property by the sign;

ix. The business or property owner assumes all risks with setting up an A-frame sign and shall not hold the City responsible for any accidents or loss in the installation, removal, or operation of the sign.

5. Inflatable Signs or Pennants. Temporary inflatable pennants, streamers and other fluttering devices shall be permitted for a special event lasting up to 14 days per event and only four such events shall be allowed per parcel per calendar year.

6. Prohibited Signs. The following signs are prohibited:

a. Variable electronic message display boards, whether temporary or permanent.

b. Permanent banners.

c. Pennants, streamers, and other fluttering devices exceeding the time limits of temporary uses noted above.

d. Real estate, construction, contractor and "coming soon" signs over twelve (12) square feet in area or over five feet (5') tall.

e. All other signs as prohibited in Chapter 36 of the LCMC.

7. Existing legally permitted signs shall be considered legally non-conforming and shall be regulated in accordance with Chapter 38-70 through 76 of the LCMC.

J. ESTABLISHMENT AND DUTIES OF THE SOUTH MESQUITE DESIGN REVIEW BOARD (SMDRB). To ensure quality property development and renovation and to protect the historic character of the neighborhood, ~~the following requirements regulating urban design are established in this Overlay Zone District.~~ a Design Review Board shall evaluate and determine the exterior design appropriateness of proposals for new construction, additions, exterior alterations, and rehabilitation of properties within the South Mesquite Overlay.

1. Establishment of the South Mesquite Design Review Board ~~(DRB).~~ SMDRB). A design review board shall consist of four professionals in historic preservation, history, architecture, interior design, ~~banking, finance,~~ construction or similar associated professions~~. Three~~ and three additional resident members ~~shall~~who own or rent property ~~and/or live~~ within the ~~South Mesquite Street Overlay Zone~~ District ~~boundaries. Procedures~~. Other membership requirements shall follow those found for Non-standard Boards and Committees in Chapter 2 of the LCMC.

~~1.~~2. ~~2.~~ Duties of the South Mesquite Design Review Board. ~~Members of the Board shall state the factual basis and the findings of their vote.~~

a. ~~Applicability of Design Standards.~~ The ~~DRB~~SMDRB shall review ~~and~~ the following permit applications for properties lying within the SMO and shall have final authority on~~:~~ these permits relative to exterior design criteria for:

i. ~~the design of the exterior of a~~ Any new primary structure (s~~)~~);

ii. Manufactured homes for compliance to SMO design standards, with limitations pursuant to State statute;

~~i.~~iii. Any new accessory structure in ~~Area 2~~excess of 120 square feet;

iv. ~~the design of the exterior of any~~ The conversion of an accessory structure to a primary structure such as a garage or shed to a casita;

v. Additions to an existing primary structure that was constructed 50 years prior to the current building permit application, whether or not it is listed as Contributing on the State or National Mesquite Street—Original Townsite Historic District Inventory. The Applicant shall provide evidence of the year built;

vi. Additions to accessory structures in excess of 120 square feet (one time or cumulative ~~addition~~);

vii. Window or door replacement on street-facing facades;

viii. Any alterations to the street facade of the primary structure or any alterations to an accessory structure over 120 square feet in size; and

~~ii.~~ix. Any alterations, replacement or changes to the ~~existing structure(s) in Area 2;~~roof resulting in an alteration of the style of roof of a primary structure or accessory structure over 120 square feet in size.

~~ii. the design of the exterior of an addition to a significant or contributing structure in Area 1; and/or~~

~~iii. the alteration of the exterior appearance of any significant or contributing structure in Area 1.~~

~~a. Infill. Infill projects requiring review by the DRB pursuant to the SMO will require longer processing than the Infill process noted in Section 38-40 of the 2001 Zoning Code, as amended.~~

b. The SMDRB shall establish criteria for issuance of Certificates of Appropriateness (C of A) which shall reflect the purposes and the design guidelines, standards and criteria of this Section. These criteria shall be attached to the permit application for Applicants to review prior to submittal.

c. The SMDRB shall review and make recommendations to the Community Development Director for the following

i. Flexible Development Standard Waivers. The SMDRB shall be the recommending body to the Community Development Director for Tier 1 and Tier 2 FLEX waivers

d. The SMDRB shall review and make recommendations to the Planning and Zoning Commission for the following:

i. Planned Unit Development (PUD). ~~The DRB shall be a recommending body to the Planning and Zoning Commission.~~

ii. Variances. ~~For Area 2, the DRB shall be a~~Except when this Section authorizes the SMDRB to make the final decision on waivers, exceptions or variances, the SMDRB shall be the recommending body to ~~the~~ Planning and Zoning Commission.

iii. Special Use Permits ~~. For Area 2, the DRB shall be a recommending body to the Planning and Zoning Commission.~~

~~b.~~ Land Use/Zone Changes. ~~For Area 1 and Area 2, the DRB shall be a recommending body to the Planning and Zoning Commission.~~

iv. ~~Land Use.~~ It is possible to request an additional land use for a specific parcel that is not already noted within the permitted use ~~lists on a specific parcel~~list within the ~~SMO~~SMOs. Each request will be considered on a case-by-case basis and shall be deemed compatible with neighboring land uses and shall satisfy the purposes of the SMO. These requests will be processed per the rezoning process noted in Section 38-10 of the 2001 Zoning Code, as amended and this section. The SMDRB shall be a recommending body to the Planning and Zoning Commission. Final action on this additional land use request shall be made by the Planning and Zoning Commission unless appealed to the City Council.

e. Cases not listed above shall go before the ~~DRB~~SMDRB if design issues related to the historic integrity of the neighborhood are involved or at the discretion of the Department Director or designee.

f. Infill Development District Projects. The Infill Development Overlay District provisions of Section 38-48 of the 2001 Zoning Code, as amended, shall not apply to development projects within the SMO. The SMO lies entirely within the Infill Development Overlay District and development proposals subject to the SMO regulations shall be reviewed by the SMDRB for recommendation to the legislative body, Community Development Director, Subdivision Administrator, Building Official or other applicable person or body, as appropriate.

~~f.~~g. State- or ~~Federally~~Nationally-funded projects requiring review by the State Historic Preservation Officer (SHPO) are exempt from review by the ~~DRB~~SMDRB. In New Mexico, ~~state~~"State-funded" includes funding by municipalities.

3. Decisions of the SMDRB

Members of the Board shall state the factual basis and the findings of their vote.

a. ~~3.~~ Findings shall be based on Design Standards found herein, information from staff reports and staff presentations, public comment, and one or more of the following:

i. References to the Zoning Code or other applicable codes;

ii. Design Guidelines for the South Mesquite District;

iii. The Secretary of Interior Standards for Rehabilitation;

iv. The New Mexico Historic Cultural Properties Inventory Manual; and

~~i.~~v. Projects other than those requiring approval by the ~~DRB~~SMDRB shall be reviewed for compliance to design standards by Community Development staff and are required to meet all other applicable City Codes.

~~4. Design Guidelines.~~

b. Decision of Approval. If the SMDRB approves an application, it shall articulate the conditions (if any) to the approval and instruct staff to issue a Certificate of Appropriateness (i.e. action form). A copy of the Certificate shall be placed in the case file and a copy shall be provided to the Applicant and to the permitting and inspections sections.

c. Decision of Denial. If the SMDRB denies an application, the Notice of Decision shall identify the design standards or other requirements of this Section 38-49.2 that the proposed work conflicts with and shall also explain the Applicant's right to appeal the denial to City Council (as per Subsection P of this Section 38-49.2). A copy of the Notice of Decision shall be placed in the case file and a copy shall be provided to the Applicant.

4. Issuance of Certificates of Occupancy or Completion. Staff having prepared the Certificate of Appropriateness (C of A) shall review the final completion of the project for consistency with the C of A prior to the issuance of the Certificate of Occupancy or Completion for the project.

K. DESIGN GUIDELINES. Specific design guidelines, standards and criteria shall be used by staff and the ~~DRB~~SMDRB to determine the appropriateness of construction and rehabilitation projects, and to determine whether the request is consistent or inconsistent with existing development.

1. Applicable development must ultimately utilize architectural styles, methods, and materials that are visually compatible with the original structure, surrounding structures (especially where new construction is proposed), and the overall character of the historic district. This should not be interpreted as a requirement to mimic existing styles or construction materials, but as a means for these types of projects to result in a visually compatible transition between old and new structures within the general neighborhood and/or on a single parcel of land.

2. When evaluating proposals for new development, additions, or rehabilitation in the SMO, the structure's contribution to the neighborhood comes in to play. Most of

the SMO historic structures are located within the Original Townsite. These historic structures deserve the most protection and, therefore, the design standards for these are stricter than for newer buildings. There are also many structures listed as contributing on the historic register outside of the Original Townsite; these, too, follow the same design standards as those in the Original Townsite.

3. In addition to the standards stated herein, staff and the ~~DRB~~SMDRB shall review projects based upon *The Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring and Reconstructing Historic Buildings*, and *The New Mexico Historic Building Inventory Manual, 1980.* These resources are available for public review in the Community Development Department or on the City's website.

~~5.~~ 4. Ordinary maintenance and repair of any exterior architectural feature in or on a contributing building may be undertaken without a Certificate of Appropriateness provided this work is in keeping with the architecture or character of the building and does not cause a loss of its historic integrity. If such work requires a permit, Community Development staff shall evaluate these permits for consistency with the Design Standards~~.~~ of this Section.

5. Criteria for Requesting and Granting Building Height Exceptions. Pursuant to Section D.8 of the SMO, the building heights within the SMO are limited to 14 feet and one story. Through a variance procedure to the SMDRB, a property owner may request a variance from this maximum building height or number of stories limitation provided that the SMDRB finds that the proposed building satisfies the following criteria:

   a. For new construction: (a) The building is similar in height to another building or buildings within the same block; (b) the second story is set back from the first story by a minimum of 15 feet; (c) second story windows facing the street shall be small or clerestory; (d) second story windows facing adjacent residential properties shall be frosted to insure neighbors' privacy; and (e) the design of the building shall satisfy the design standards and guidelines of the SMO.

   b. For additions: (a) the addition is limited to 20 percent of the total footprint of the primary building; (b) the addition must be setback or stepped back from the street-facing facade; (c) for additions to buildings deemed Contributory to the Historic District, materials and colors of the addition shall distinguish the addition from the original structure; (d) second story windows facing the street shall be small or clerestory; (e) second story windows facing adjacent residential properties shall be frosted to insure neighbors' privacy; and (f) the design of the building shall satisfy the design standards and guidelines of the SMO.

   c. The maximum building height allowed with a variance procedure shall be 25 feet. The maximum number of building stories allowed with a variance shall be two stories

L. DESIGN STANDARDS. Additional components that must be given specific attention include the following criteria:

1. ~~a. Maintain a~~ Design Standards for All Properties in the SMO:

a. New construction shall reflect a style consistent with those found in *The New Mexico Historic Building Inventory Manual, 1980* and shall be consistent with the styles of Design Guidelines or Manual established by the SMDRB for the SMO and with other historic structures found on the same street segment.

~~a.~~b. New construction shall maintain a visual balance and rhythm ~~between~~of the walls, doors~~,~~ and windows along any given street segment ~~to uphold the District's unique look and character.~~.

~~i. Doors/entryways must be located on the primary streetside façade.~~
~~ii. Windows must be compatible with neighboring buildings in terms of placement, size, and shape.~~
~~iii. Roof materials and style must promote compatibility throughout the subject property's street segment.~~

~~b. To assure that primary structure(s) maintain the principal focus, attached and detached garages or carports shall be set back a minimum of ten (10) feet back from the primary structure(s) and primary streetside façade.~~

c. ~~c. New development~~Manufactured homes shall meet design criteria for new construction to the greatest extent possible without altering the structural integrity of the home. This shall include the style and type of materials forming the exterior facade as well as the type and material of skirting that shall be is compatible in type and materials with adjacent and nearby historic structures.

d. Additions and remodeling projects shall utilize ~~adobe, brick, stone, lime plaster,~~materials that are consistent with the character and architecture of the existing structure. The same materials must be used on all sides of a structure.

~~b.~~e. Changes in materials on a single structure, such as stucco~~,~~ to wood ~~or other natural materials on all exterior facades.~~ siding or visa-verse, may be made if the different material is also in keeping with the architecture or character of the structure and does not diminish the historic integrity of the structure to any great extent. Changes in materials must also be consistent with other materials used in the neighborhood.

f. ~~d.~~ Fences ~~and~~ /walls shall be of a material that is compatible with the structure ~~and/~~or compatible with other fences/walls in the neighborhood~~;~~ ~~chain~~.

i. Chain link or square wire fencing is prohibited~~.e.. New development should reflect a style consistent with those noted in *The New Mexico Historic Building Inventory Manual, 2001*.~~. except if used in a small area within the interior of a lot, such as for a dog run or surrounding a private swimming pool, and cannot be viewed from a public street.

ii. ~~f. New development and remodeling projects shall create a landscape design, whether~~Existing chain link or square wire fencing may be temporarily removed if necessary, but the same fencing must be replaced exactly as it was.

iii. An old chain link or square wire fence may not be replaced with new chain link or square wire fencing; if replaced, the new fence must come into compliance with this Section.

iv. If a chain link or square wire fence is damaged through no fault of the property owner, the fence may be replaced exactly as it was.

v. The SMDRB has the authority to modify or waive the above wire fence restrictions on a case-by-case basis with a Certificate of Appropriateness.

g. Construction fencing must be removed from site within three (3) days of issuance of a Certificate of Occupancy or a Certificate of Completion.

Dumpsters for commercial or ~~residential projects, that is compatible with the subject property's street segment.~~

~~e.~~h. ~~g. Commercial dumpsters~~multi-family developments are required to be screened from any streetside ~~façade. (Applies to all projects except single family residential.)~~facade.

i. ~~J~~Second story elements and single-story structures built to the side or rear property lines shall incorporate window types (e.g. clerestory, frosted) and placement in such a way as to protect the privacy of adjacent neighbors.

j. Outdoor lighting shall meet the City's Outdoor Lighting Ordinance (Chapter 39 of the LCMC) and light fixtures shall be consistent with the architectural character of the structure and neighborhood. Fluorescent tube lighting fixtures are prohibited.

2. Design Standards for Structures Listed as Contributing on the State or National Mesquite Street—Original Townsite Historic District Inventory.

a. Additions are not permitted to primary façades, it must be set back from the front facade.

b. Additions and remodeling projects shall have architectural treatments and styles, features, and details as the existing structure, but shall not duplicate those of the existing structure in a manner that will make the addition indistinguishable from the existing structure. Distinguishing characteristics could include, but are not limited to:

   i. Setting back the addition from the original structure a distance to be determined by the proposed addition's relation to the scale and form of the original structure;

   ii. Varying trim, finish texture, facade height, color, etc. to some slight degree;

   iii. Separating the addition from the original structure by a connector;

   iv. Varying the window or brick pattern from the original.

c. If applicable, to the extent architecturally practicable, new additions should be attached to any existing noncontributing portion of the structure instead of attaching them to the contributing portion.

d. The owner shall make every attempt to repair or restore historic windows. Historic windows that cannot be repaired or restored shall be duplicated in size, style, and material of the original to the greatest extent possible. No opening shall be widened or narrowed except as required to comply with building code standards, unless historic documentation supports its prior existence. Vinyl-clad or aluminum windows may be used if they resemble the original windows in size and style. Thermal double pane glass may be used.

e. Original doors shall be retained, and repaired or restored to the greatest extent possible. If existing doors are beyond repair, new ones shall match the original material and should also be similar in design. Flat surfaced and contemporary doors with small decorative windows shall be avoided. No door opening shall be widened or narrowed except as required to comply with Building Code standards, unless historic documentation supports its prior existence.

f. Existing porches or portals shall not be enclosed, unless historic documentation supports its prior existence.

g. No new opening shall be made where one presently does not exist unless historic documentation supports its prior existence. An exception may be made to comply with Building Code standards for egress.

h. No existing opening shall be enclosed unless historic documentation shows that the existing opening is not original to the structure.

i. Existing roof styles and materials shall be maintained or replaced in kind. The addition of parapets, canales, or other roof features should only be considered if they are in keeping with the architectural style of the structure.

j. Specific colors of structure and trim shall not be criteria in evaluating the proposal.

M. INSTALLATION OF SOLAR PANELS OR OTHER ALTERNATIVE ENERGY EQUIPMENT. Enhancing the energy efficiency of a historic building is important. To that end, it is often possible to install features such as solar panels and photovoltaic cells provided they are installed in a sensitive manner. However, for some historic buildings, it may not be possible to incorporate solar panels and meet the Secretary of the Interior's Standards for Rehabilitation. The following standards for installation of these systems shall apply:

1. Installation of panels must be reversible and not damage the historic integrity of the building and district.

2. Solar panels should be installed on rear slopes or other locations not highly visible from the public right of way whenever possible. Panels should be installed flat and not alter the slope of the roof.

3. Flat roof structures should have solar panels set back from the roof edge to minimize visibility. Pitch and elevation should be adjusted to reduce visibility from the public right-of-way.

4. Use solar panels and mounting systems that are compatible in color to established roof materials. Mechanical equipment associated with the solar panel system should be treated to be as unobtrusive as possible.

5. Use of solar systems in windows or on walls, siding, awnings or shutters should be installed with limited visibility from the public right-of-way.

6. In circumstances where solar collectors are not placed on rooftops, they should only be positioned in limited or no-visibility locations in secondary areas of the property. Use vegetation or a compatible screen if necessary to further reduce the visual impact of these features on a historic property.

N. SUBMITTAL AND REVIEW PROCESS. The following submittal and review procedures are established to protect persons and property in the South Mesquite Overlay ~~Zone~~ District. Applications shall be obtained from the Community Development Department, Building Permit Section.

1. Buildings/Structures. Prior to the filing of an application for development and/or signs, a pre-application conference to meet with Community Development Department Staff to review the proposal is ~~strongly encouraged~~required.

~~1.~~2. ~~2. The applicant~~Following the pre-application meeting, the Applicant shall submit ~~at minimum,~~ one copy of all application materials for ~~new~~the development ~~and additions~~ to the Community Development Department for review. Upon submittal, staff shall review the submittal for completeness. If all the required items have been submitted, the Community Development Department shall ~~issue a receipt for submittal~~deem the application complete and shall begin its review process.

~~3. If the submittal is for a new structure(s) and/or any one time or cumulative addition to the existing structure(s) in Area 2 or for any significant or contributing structures listed on the historic register, (state or national) in Area 1, the applicants shall meet with the DRB at a public hearing for a formal decision by the Board regarding the proposed project. Public hearing procedures and notice requirements will follow that of the Planning and Zoning Commission found in Section 38-10.D.3 of the 2001 Zoning Code, as amended..~~

~~2.~~3. ~~4.~~ The minimum submittal requirements for development proposals shall include the following information that is relevant to the proposal:

~~a. A statement of objectives to be achieved by the development, inclusive of a description of the character and anticipated use of the proposed development.~~

a. ~~A~~A Development Application, with appropriate materials required for the SMO, as determined by Community Development staff at the pre-application meeting. The submittal shall include a scaled site plan that includes the following, as applicable:
   i. Property boundaries
   ii. Location of all structures
   iii. Age of structures
   iv. Setbacks of all structures, existing and proposed
   v. Parking layout, if applicable
   vi. Ingress/egress access points
   vii. Areas proposed for landscaping
   viii. Surfacing material for impervious surfaces, if applicable
   ix. Storm water ponding areas
   x. Dumpster location(s)
   xi. Location of service and loading area(s)
   xii. Freestanding and attached sign locations where applicable
   xiii. North arrow
   xiv. Any other information which conveys how the proposal will meet development requirements.

b. ~~Scaled landscaping plan shall include:~~A statement of objectives to be achieved by the development, inclusive of a description of the character and anticipated use of the proposed development.

c. If the structure is listed as contributing on the State or National Mesquite Street—Original Townsite Historic District inventory, a description of the known history of the structure shall be included. Photos are encouraged to support the purpose of the application.

d. Scaled elevations or renderings which are detailed enough so that a realistic picture is given of the proposed project to a close approximation of the finished project. It should be apparent from the submission that the design criteria herein have been met to the greatest extent possible. Color architectural/artistic renderings shall:

i. Reflect all aspects/views of the exterior of the structure
ii. Demonstrate the use of building materials through the drawings or with a legend or an attached list.
iii. Detail the fenestrations, other building openings, rooflines, ornamentation, woodwork, and other features of the structure.

e. If required, the Applicants shall present their proposal to the South Mesquite Design Review Board at a public hearing. At that time, a formal decision by the Board regarding the proposed project will be made and a Certificate of Appropriateness or Letter of Denial will be issued by staff within five (5) days. This record of the Board decision shall be entered into the Case File for reference by building inspectors, plan examiners and other relevant City staff. Public hearing procedures and notice requirements will follow that of the Planning and Zoning Commission found in Section 38-10.D.3.

f. Those projects not required to be reviewed by the SMDRB shall be reviewed by Community Development staff using the same criteria and procedures found herein.

g. A scaled landscaping plan shall include:

i. Location, size, and common name of all landscaping
ii. A complete irrigation plan shall be included, clearly identifying how the landscape will be sustained.

~~d. Scaled elevations shall include:~~
~~i. Each directional view of all structures clearly identifying exterior building materials and treatments, i.e. label each view.~~
~~ii. Location and treatment of all fenestrations and other building openings.~~
~~iii. Building ornamentation.~~
~~iv. Roof design and roof surfacing material.~~
~~v. Difference between existing and new construction, if applicable.~~

h. Community Development staff shall insure that the Applicant satisfies any conditions of approval stated in the Certificate of Appropriateness (C of A); if the Applicant proposes any changes to the project involving architectural or structural elements, location or materials that alters the C of A approval conditions, the Applicant shall submit revised plans for review by the Board. If the Community Development staff, upon inspection prior to issuance of a Certificate of Occupancy or Completion, notices that the Applicant changed a design element that is inconsistent with the C of A, the Applicant shall submit a revised plan showing the changed element and the Board shall review the change to see if it meets the SMO design guidelines, standards and criteria. The Board shall have the authority to recommend to the City's Building Official that the substituted element be removed and replaced with one that is approved by the Board.

~~b.a. Color architectural/artistic renderings shall:~~

~~ii Reflect all aspects/views of exterior buildings.~~

~~iii Demonstrate the use of building materials through the drawings and list them in legend.~~

~~5. Signs. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with the Sign Code (Chapter 36 of the LCMC).~~

~~3.~~4. ~~6.~~ Variances. A variance shall be defined as a variation in the numerical requirements of the 2001 Zoning Code, as amended, or the Sign Code. Numerical variances to the clear-sight-triangle requirements shall be considered, reviewed, denied, or approved by the Public Works Director or designee~~, as per the Sign Code.~~. Height exceptions may be granted by the SMDRB pursuant to the provisions and design guidelines of subsections D and K.5. The Flexible Development Standard provisions of Section 38-56 of the 2001 Zoning Code, as amended, are applicable to the SMO provided that the Applicant for the waiver or exception submit the request to the SMDRB for a recommendation to the Director of the Community Development Department.

~~K~~O. DEMOLITION. ~~PURPOSE:~~ To preserve the character of the ~~South~~State and National Mesquite Street—Original Townsite Historic ~~District~~Districts and surroundings, this ordinance creates a sixty (60) day demolition permit application review process that will allow time for interested parties to explore alternatives to the demolition of historic structures.

~~1.~~ Property owners intending to demolish any structure located within ~~Area 2 or any significant or contributing structure listed on the historic register in Area 1~~the SMO must adhere to the following 60-calendar day process.

1. ~~Demolition~~The Applicant may withdraw the permit ~~–~~application at any time with a written notice to the Director of the Community Development Department.

~~1.~~2. Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. During the 60-day ~~demolition permit process~~review, Community Development Department staff will review the application for compliance with the Las Cruces Building Code (Chapter 30 of the LCMC).

3. A proposal for redevelopment of the property, with elevations, must accompany the permit application; this proposal shall describe a potential or proposed development proposal for the property, and whether it is proposed for the near or distant future.

4. Prior to the demolition of a structure designated as Contributing within the State or National Historic District, the Applicant shall be responsible for fully documenting the structure, both interior and exterior, to provide a permanent record, in accordance with documentation procedures as follows. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff:

   a. Completion of the New Mexico Historic Cultural Properties Inventory (HCPI)-Form, available in the Community Development office and online.

   b. Photographing the property: Take several photos (front, rear, sides, close-up views, details, setting, etc.) of the historic structure proposed for demolition (primary structure and/or each historic accessory structure, such as a garage, sheds, etc.) Buildings that are not listed on the historic register need not be included. For more information on documentation, please refer to the National Register Photo Policy Fact Sheet available in the Community Development Department ~~will issue the~~and on-line.

   c. If known, a short history of the property should be included, in order to document how that property fits within the historic district or community.

~~2.~~5. Posting: At the beginning of the 60-day review process, the Community Development Department will prepare a public notice sign that is to be posted~~.~~ by the Applicant in a conspicuous place on the property. The ~~applicant~~Applicant is responsible for ~~posting the sign in a visible location on the property and~~ ensuring that it is in place for the entire 60-day period. The Department will publish a legal notice describing the proposed demolition and contact information for the Applicant. A fee shall be charged to the Applicant for the cost of the public notice.

6. At the beginning of the 60-day review process, the Community Development Department will inform the SMDRB, neighborhood associations, the New Mexico State Historic Preservation Office (SHPO), and other pertinent organizations or interested parties that a demolition permit has been applied for.

~~3.~~7. A demolition permit shall be issued upon the completion of the following items:

a. ~~1)~~ The completion of the 60-day period; ~~and 2)~~

b. Documentation of the structure as described above; and

~~a.~~c. The application meets all City Code requirements and has been approved by the Community Development Department Staff. (Code compliance comments regarding the proposed demolition may be resolved within the 60-day time period~~.)~~).

8. Compliance with the procedure set out in this Section may be waived by the City Manager or designee if it is determined that immediate demolition of a historic structure is necessary to remove a hazard to the health, safety, and welfare of the public. In such a case, the Community Development Department shall immediately notify the SMDRB, neighborhood associations, SHPO, and other pertinent organizations and interested parties that demolition of the structure is imminent.

~~4. The applicant may withdraw the permit application at any time.~~

~~2. Demolition in Area 1 for structures not noted above shall follow the Building Code.~~

~~L~~P. APPEALS. In the South Mesquite Overlay ~~Zone~~ District, any applications for development must be approved by the City in order for a use permit, building permit or sign permit to be issued. If required by this Section, review and approval by the ~~DRB~~SMDRB must precede issuance of a permit.

1. ~~If an application is denied~~A decision made by ~~the City~~ staff ~~or South Mesquite Design Review Board based on an interpretation~~may be appealed by any aggrieved person to the SMDRB. Such appeal must be made in writing within fifteen (15) calendar days of the ~~South Mesquite Neighborhood Plan~~staff decision. The appeal will be presented to the SMDRB at their next regularly scheduled meeting.

~~1.~~2. A decision made by the SMDRB may be appealed by any aggrieved person to the Planning and ~~this Section, and an agreement of interpretation cannot be reached and~~Zoning Commission after all other procedures established by this ~~Section~~Code have been exhausted~~, the applicant may file for an appeal~~. Such appeal must be made in writing within fifteen (15) calendar days of the Board's decision in accordance with Chapter 38-13 of the LCMC.

~~2.~~3. ~~The appeal will~~A decision made by the Planning and Zoning Commission may be ~~processed~~appealed by any aggrieved person to the City Council after all other procedures established by this Code have been exhausted. Such appeal must be made in writing within fifteen (15) calendar days of the Commission's decision in accordance with ~~Section~~Chapter 38-13 of the ~~2001 Zoning Code, as amended~~LCMC.

~~3.~~4. Any person aggrieved by a determination of the City Council may appeal to the ~~district court~~District Court within 30 days after the determination made by City Council, in accordance with Section 38-14 of the ~~2001 Zoning Code, as amended~~LCMC.

~~4.~~5. A request that is denied by the Board and/or City Council shall not be resubmitted or reconsidered for a period of one (1) year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six (6) months after such denial decision. ~~Special use permits or planned unit developments processed through the Infill Development Process that are denied by the Board and/or the Planning and Zoning Commission may be modified and resubmitted at any time following action by the Board or the Planning and Zoning Commission.~~

~~M~~

Q. ENFORCEMENT OF OVERLAY ZONE DISTRICT. Provisions to enforce this Section shall be consistent with the Enforcement Provisions of Section 38-16 of the 2001 Zoning Code, as amended.

**PAGES V-~~230~~XXX THROUGH V-~~244~~XXX DELIBERATELY LEFT BLANK**

**ATTACHMENT "B"**

**SOUTH MESQUITE DESIGN REVIEW BOARD**
**February 19, 2015 at 6:00 p.m.**

Following are minutes of the South Mesquite Design Review Board meeting held February 19, 2015 in 2007-A, City Hall, 700 N. Main Street, Las Cruces, NM 88001.

**MEMBERS PRESENT:** Robert Williams
David Chavez
Faith Hutson
Barbara Kuhns
Paul Mach

**STAFF PRESENT:** Ezekiel Guza, CLC Planner
Katherine Harrison-Rogers, CLC Planner
Becky Baum, RC Creations, LLC, Recording Sec.

## I. CALL TO ORDER

Williams: We're going to call the meeting to order. It's 6:04 p.m. and everybody is here.

## II. APPROVAL OF MINUTES - December 18, 2014

Williams: Okay, so first on the agenda is the approval of the minutes from the December 18th meeting.

Hutson: I have a couple of typos. Page 2, line 16, it says "Therefore next month's meeting that was planned on 01/14/15 was moved to 10/15/15 *(should be 01/15/15)*.

Baum: What did you think it should say?

Hutson: Well I think it should say 02/19/15.

Baum: Thank you.

Hutson: Right, is that correct?

H-Rogers: Or 01/15/15 I think is probably …

Hutson: For P&Z. Right 01/15/15. Okay.

Baum: Okay.

Hutson: And then there was one more very small thing I saw. Page 13, line 34 I think that should say Augustine Street, not St. Augustine.

Baum: Oh, okay. I looked it up that's why I got that, on-line.

Hutson: Pretty sure that that is just Augustine Street, not St. Augustine.

Baum: Okay. Thank you.

Hutson: That's all I saw.

Williams: Anyone else? A motion to approve the minutes as amended.

Hutson: I will make a motion to approve it as amended.

Chavez: And I second.

Williams: All those in favor.

ALL: Aye.

Baum: And then Paul would abstain because he wasn't here.

## III. NEW BUSINESS

**1.** A vote of recommendation to the Planning and Zoning Commission of proposed amendments to the Municipal Code, Article V, Section 38-49.2 South Mesquite Neighborhood Overlay Zone District to enact text changes which represent substantive changes to the overlay district zoning regulations.

Williams: And on to new business.

H-Rogers: All right. I will go ahead and take it away. Essentially you all have seen this several times before. Today we're here to actually vote on a recommendation to Planning and Zoning Commission for the proposed amendments to the Municipal Code, Article V, Section 38-49.2 of the South Mesquite Overlay Zone District to enact those text changes which represent more substantive changes than those administrative changes you approved a while back. Of course on the screen you can see that this is what we're talking about. And ultimately just a very brief overview of what the amendments are going to do, they're going to join the areas one and two, provided no distinction. They're going to be height limits in terms of how high structures can be. Of course we're going to use the Zoning Code Land Use Matrix format so it's more consistent with the way we do things. It's easier for people to see what's allowed and what's not allowed, that sort of thing. Of course giving the *(inaudible)* authority the ability to modify or waive landscaping requirements, parking and paving, the wire

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fence restriction, height limits, things of that nature. Adding some sign regulations. Also allowing the DRC to review the new buildings, addition to buildings over 50 years, alterations to roof lines, etc., etc., accessory buildings over 120 square feet, windows and doors facing the street.

Again infill projects to be recommended by the DRC, and of course ultimately that goes to P&Z, and then the flex waivers to also be recommended by this Board. You all have been working on this for a long time. We were hoping, hoping we could do the work session in February, these dates have changed a little, it's just shifting by about a month. But I think ultimately we can make the same sort of City Council meeting that we were trying to prioritize before which ultimately will be in June. I know I've got question marks here for the City Council work session will be and ultimate City Council and it says May, but May/June, it depends on where it lands. We have more options with City Council in terms of when we can land as opposed to P&Z where you're just stuck with that one date in the month. And ultimately these are variable because P&Z can make some significant modifications and it will just set everything back because those modifications will have to be changed and we'll have to go back to P&Z. But as you know we're trying to move forward and we can try to squeeze this as much as possible cause I know this has been delayed several months and I know you all are ready to move forward with it. With that you all want to discuss any additional changes, staff will be willing to incorporate those to the version that goes to P&Z, otherwise if you'd like to make a vote or ask questions I'd be happy to entertain them.

Chavez: I do have a question.

H-Rogers: Yes.

Chavez: If P&Z changes some or modifies some of the document does it come back to us for discussion? Or is basically whatever they say is set?

H-Rogers: That's a good, that's a good question. Ultimately what P&Z can do is they could remand it back to you to look at those changes in which case you would see it again and you would have some opportunity to, to manipulate what they want. If they don't remand back to you, we might be able to bring it back to you just as, "Hey this is what they're recommending." But you would not have an opportunity at that point in time to make those modifications, unless they hand it back to you.

Chavez: Do ... second question, I'm sorry.

H-Rogers: Sure.

Chavez: Does P&Z meet before this Board meets? I mean depending, depending on the period of the month do they meet in the middle of the month or first

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week so that way we'd have enough time to actually discuss it at our Board meeting?

H-Rogers: Sure. It gets kind of squeezed. Their work session, so if we take this to a work session and they look at this at a work session and, and we can see that they, they've got some issues with somethings. That work session I believe falls on the Tuesday before you're Thursday meeting. So it would, it would be kind of thrown together cause ultimately we could advertise this meeting but you all are not going to get a packet. It'll just be a discussion of hey this is what occurred verbally you know during Tuesday's meeting case there's not enough time to get minutes or, or do a packet for you. But we could advertise it and have a formal get together. We could do that.

Chavez: Here's my third question, I apologize. Are we allowed to go to the P&Z meeting to sit in and, obviously we can't talk but can we sit and see what the discussion will be like?

H-Rogers: Yeah you can sit in the audience and see what the discussion would be. I think you do have to refrain from, from getting involved from you know the, *(inaudible)*.

Chavez: Is it held here at City Hall?

H-Rogers: Yes it is.

Chavez: Same time like our Board?

H-Rogers: It's 6:00 p.m. on Tuesdays. So it's the fourth.

Baum: Third. Third Tuesday or fourth Tuesday? Next Tuesday. So, one, two, three, fourth.

H-Rogers: That's the fourth yeah.

Chavez: So they won't ...

H-Rogers: So it's not this but it's going to be the next month.

Chavez: Oh next month.

H-Rogers: Yeah.

Chavez: Would you be able to get a notification that, that meeting is going to *(inaudible)* for us if we want to go?

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H-Rogers: Absolutely.

Hutson: So that would be March 17th, is that correct.

H-Rogers: The work session, the work session would be March 17th, and then.

Baum: The regular meeting would be the 24th if they bring it right through.

H-Rogers: Yeah, I mean it's one of those things that you, that you, we have done it to where we, we put it on the work session and the meeting of the same month and, it's the risk that that we take. We can do that if we're comfortable with this moving forward and they being okay with what's occurring. Otherwise what they do is they would, they would set it for a date specific.

Chavez: Okay.

H-Rogers: So we would just, it would be on their agenda, they would go but we know it's not moving forward and they say well we're going to see it next month because we want these changes to occur.

Chavez: Okay. Thank you.

Williams: And the regular meeting's also at 6:00 p.m.?

H-Rogers: Yes.

Chavez: What room?

H-Rogers: What room? They're in City Council Chambers.

Chavez: Oh they're in the Chambers.

H-Rogers: Yeah, they're in the Chambers.

Chavez: Okay.

H-Rogers: And so the work session would be the, the third Tuesday, the regular meeting is the fourth Tuesday. It is, we do have the possibility and I have to touch base with the Chairman about putting those in the same month. We can do that.

Williams: Any other?

Mach: Yeah I have some questions, since I wasn't here for the previous meetings. I've seen this document before and I don't have any major

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issues with it but I do have some questions maybe I could just ask them. The first one, the version of this that I'm using is one that you sent to me so I'm not sure if it's the same one that was in the packet …

H-Rogers: It, it should be.

Mach: So I'm looking on page 18 …

H-Rogers: Of the redlined or non-redlined version.

Mach: The 18 of pages 76, so that would be, it's the, it's the crossed out section. And it would be V211. And it has to do with the Board Member, the makeup of the Board, the Design Review Board.

Hutson: It's the crossed out version. It's this version?

Mach: Yeah.

Kuhns: I think it's this one Faith.

Chavez: It's this one right here.

Mach: It came in like three sections didn't it?

Kuhns: Yeah.

Mach: The first section was all crossed off and then the second section was the plain …

Hutson: There's a redline …

Williams: I'm *(inaudible)* page 18 though.

Kuhns: It says, well page V211.

Williams: Oh.

Kuhns: He's reading the PDF.

Mach: Yes, so it's V211 and it could be, I mean it can be any of them, any of the resections, but it's V211.

Hutson: What line?

Mach: It's the first number one, establishment of the South Mesquite Review Board.

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Williams: Okay.

Mach: And the Board is made up of three members of the community and then four members of profession, four professionals in the historic preservation, history, and architecture. My only question is do we really need to have all those distinctions; the three and the four professionals and, cause quite frankly I'm the fourth member of this Board and I was hired under the professional.

Kuhns: He's the professional.

Mach: Oh when I was given my certificate it said that I was, I was listed as one of the professional members of the Board and I don't really fit into those so if …

H-Rogers: I think you're a resident ultimately.

Chavez: You're in as a resident.

Mach: Yeah cause that's not what it said on my little.

H-Rogers: We'll talk to Esther.

Mach: My little thing. I mean okay. So that was my question if we, do we really need that distinction of …

Chavez: We're going to keep you. I've got the ball and chain in the trunk

Mach: I'm a warm body.

Kuhns: In the past it's been really advantageous to have a professional bring their view to it in a variety of ways and one way I can think of is when citizens come and they present their plans, I can think of two or three times were a professional has given them really good suggestions that they hadn't thought of because it was like you know the homeowner and their son or whatever. So I think with time you'll see that these distinctions balance themselves out and they bring a lot to the Board.

Mach: Yeah I don't have any problem if we stick to it, but you're on the Board as a professional and, are you on as a professional? Okay so that's two.

Hutson: I'm on the Board as a, as a resident.

Mach: And I, I, I mean that …

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Hutson: And also *(inaudible)*.

Mach: The, the paperwork that I got said I was put on here as one of the professional members of the Board and I don't really qualify for that so if I was like the fourth, I guess there are three residents maybe my thing was just wrong there.

Williams: I might've been when Josh was here. I might've been the resident, Josh was the professional. Cause I live in the district, he didn't, but then he left and since we were both architects.

Mach: Okay. Yeah. I don't have any ...

Williams: *(inaudible)*

H-Rogers: You have the ability to fill both slots depending upon perhaps the need of Board.

Williams: Yeah.

H-Rogers: So that's advantageous.

Mach: Okay. My next one is on page V210 so it's the previous page. I'm going to be going forward but somehow I was out of order here. And on the section on signage which is Section number four, V. A-frame signs shall only be displayed immediately in front of the business. Do we have some examples of some of those signs that, the A-frame signs?

Williams: The, the sandwich board type?

Mach: Yeah.

Williams: That are just, that just fold over, out. I haven't seen any lately but ...

Kuhns: Main Street downtown.

Mach: On Main.

Chavez: Nopalito's restaurant on Mesquite Street has that sign, he pulls it out every day. And also I believe the Nopalito's Gallery has that also in front of their ...

Williams: And I think Mel Stone has one that he uses periodically if he has something going on, but ...

Mach: Okay.

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Chavez: Some of those they've changed to a flag. So Mel Stone, Katherine Brenner, and the other gallery that's on the other side of Sunshine Grocery Store. They now have flags that say's they're open and stuff so instead of putting those signs up. But those other two …

Mach: Okay.

Chavez: Places they do have those signs.

Mach: Okay. Thank you. Okay you know what I'm still going backwards. I apologize, it's going to be on page V209, 209 and it still has to do with signage. And it is number 2-A, on premise freestanding signs, ground signs shall be the only freestanding sign allowed within the SMO, except in Lohman and Amador Avenues. Again I've never, are there examples of signs in like our area that meet this criteria? Five feet in height, is there, I'm, I'm trying to picture a place. The sandwich signs I can picture and …

Kuhns: I think across the street from Mel's gallery it's the A-1 Machine Shop.

Williams: Yeah.

Chavez: Yeah.

Williams: But it's up against a fence.

Chavez: Up against a fence, yeah.

Kuhns: Is it?

H-Rogers: There are also several attorneys that have similar signs that are those ground signs. I think there are a couple of law firms in the South Mesquite with …

Chavez: Law firm on the corner of Cruces Avenue and San Pedro that has a sign like that.

Mach: Is that freestanding or is that attached to their building?

Williams: There's also the one, the old, at the, the old engine shop right there on Las Cruces and, and Mesquite.

Chavez: Oh the old electric shop?

Williams: Yeah.

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Chavez: That's on the corner, yes. It's for sale.

Williams: That's a freestanding sign. There's no sign on it right now, it's just ...

Mach: But that was really high.

Williams: Yeah it's a tall one but it's a freestanding one although the signs blew off, but ...

Chavez: But, so may I ask what your question is?

Mach: I just wanted some examples cause I'm trying to picture where I see them any place and that's all. I'm just, most of this stuff I have is you know not disagreements with the policy or anything, but I'm just trying to ...

Chavez: There's another one that, a restaurant that just moved into ...

Mach: Oh right.

Chavez: On the corner of Tornillo and Amador has a sign but it's on the Tornillo side. Habaneros has a sign like that.

Mach: Thank you. Okay.

Chavez: They have a really tall one.

Mach: Oh that big one up on top ...

Chavez: Yeah but they have a smaller one as you pull into the parking lot there's ...

Mach: Okay. Okay. Thanks.

Chavez: And so does the tannery across the street.

Mach: Okay. I'll check on that. Okay. Thank you. I'm on page V222, under demolition. And it's four A.

Chavez: Picked a really good one didn't he?

Mach: Oh I'm, these are not disputes, it's just, as I was reading this if this going to be our official one then if I saw any spellings or anything like that I also ...

Chavez: Which number are you on sir?

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Mach: It's four A. Has the hyperlink thing, completion of New Mexico ... and there's just no hyperlink so is there going to be one put in there? It was just to point out that it was missing.

H-Rogers: Right. One of things that you'll notice about this document is there were lots of hyperlinks that were, were in this document. Ultimately those are actually *(inaudible)* to put in that, in a code document because they, they do change over time and if you want to change them you have to go through a code revision to change then and it becomes very problematic. So most of them were removed with the exception of this but I'm happy to modify that so that it reads a little bit more cleanly and, and the hyperlink taken out.

Mach: Okay. I'd rather see it taken out.

H-Rogers: Okay.

Mach: Cause, they disappear, they, I did check one of them in here as a matter of fact the one below it in part B where it said www.nps.gov history, something about the photo policy and I actually did go try it and it is actually still a valid link. Okay. Thank you.

I'm on page 221, the one previous. And we're still talking about demolition and it is O, well it's just section O, the demolition section where it was changed from 90 to 60 days and that's still in the words it still says 90 days instead of 60.

H-Rogers: Oh thank you. Good catch.

Chavez: Yeah cause we would've had a discussion on that one for a long time. We've been pushing for 90, but City attorney says that that's not feasible.

Mach: Okay, again minor, these are, there are minor things.

Chavez: Thank goodness you're reading through this.

Mach: Thank you.

Chavez: We've been working on this for four to five years.

Mach: Yeah, I'm sure. I've seen it a number of times. I've, I'm V197 so man I'm way ... oh you know what because as I was reading through the document I read the first section, that was like a complete section all the crossed off stuff and then I'm reading to the next one, so this is on page V197. I'm, I'm in the, the, see if it's lettered, if everybody's there cause I know I'm skipping around all over the place. I'm sorry. Under historic, oh these are definitions. So under historic districts the definition says "The boundaries

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of the state Mesquite Street Original Town Site District, Mesquite Street Original Town Site National District are figures, are found on figures two and three, but I'm not sure that those are the correct figure numbers? Cause it seemed to me that it was just figure two when I got to the figure section which is …

H-Rogers: I'll check all that.

Mach: That again was just …

H-Rogers: Okay.

Mach: Cause, because figure two is the overlay with figure one is the South Mesquite Overlay Boundary so that was the first figure one and figure two had the boundary of the Mesquite Districts with you know the historic and the state so that was figure one and two and then figure three was something I think kind of related, I'm, so it was just to check those numbers to see if those were the correct figures.

H-Rogers: We, we will fix that.

Williams: Both figures one and figures two show the original townsite so.

Hutson: So that should probably be one and two.

Williams: Yeah it should be one and two.

Mach: Okay, I'm on page, I'm on page V198, so the next page under definitions. And it just says "SMO is the South Mesquite Overlay District". So since the other ones have figures I just, could we add a figure one to that?

H-Rogers: I understand what you're saying. We could add a figure to that but ultimately the South Mesquite Overlay District is a zoning district and so it's describing what the zoning district is.

Mach: Okay so it …

H-Rogers: Not the boundaries but just what the zoning district is.

Mach: Oh.

H-Rogers: If you would like to attach a figure to that, I'd be happy to. It's similar to for example I'll use a section from another one of our codes, for example we have FC means Flood Control District. Essentially it's consistent with the rest of the code.

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Mach: Okay. So then I guess it's, agree to just leave it the way that it is.

Williams: I'm going to interrupt real quick. I just noticed on here on, you may want to go back and look at the figure numbers cause we have figure one, figure two, and V199 is figure one and V200 is figure two and then on V205 there's figure two again.

H-Rogers: We will, yes, and I've got my note, check all figures and make sure that they're consistent.

Mach: Okay on page V203, all those, the different setback maps and all of that, again it was another one for matching up the figures. This says figure three maximum height. So again that was just.

H-Rogers: Okay.

Mach: Whatever the numbers, however they ...

Kuhns: It's V205.

Mach: What did I say?

Kuhns: 203.

Mach: I'm sorry.

H-Rogers: We will get our naming standards spaced and have somebody look at that to make sure all these figure numbers. I think maybe map one, map two may be more applicable and then maybe these are ...

Mach: See because I'm

Kuhns: This is 12207.

Mach: Whatever it is, it might be your V20, depending on again these were, a lot of this was duplicated again so, okay, so that was that. That was the only one on that page.

Williams: Speaking of that figure, the, did, I know we had some discussion about the 14-foot and 25-foot heights. Did we determine to leave 14-foot for the original townsite and then allow 25-feet outside of the original townsite?

H-Rogers: I will have to look. Again I don't know that off the top of my head. I've reviewed this document several times but I wasn't part of the detailed discussions and I'll look at that and, and see. I'm actually not certain.

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Mach: I think that's how it read when I was re-reading this. I think it's still reading that way, that 14-feet in the …

Williams: Original townsite.

Mach: That's how I remember reading it.

Williams: And that's, I think that's what we had determined we prefer is, is the, I know that there was some discussion about whether or not that would be allowed because of the descriptions or something like that. There was someway of, of I can't remember exactly what the, the discussion was but. But if that isn't the case I was just going to say on figure three it's showing the 25-foot outside original townsite so if it is not the case that figure would need to be …

H-Rogers: Modified.

Williams: Modified.

Hutson: On page two of our minutes from December we, we state that, that we agree the 14-foot height limit should be in the original townsite only and the 25-feet would be allowed in the rest of the overlay.

H-Rogers: So that, so this is good.

Williams: Yeah.

Mach: Okay and I am on, you can help me out here too Barb. I'm on page V204.

Kuhns: Six.

Mach: 204, 206 depending on …

Williams: The version.

Mach: Yeah. And it has to do with the landscaping plants and trees and shrubs and says about, it mentions in about because we're in the Chihuahua Desert and it doesn't have to be xeriscape but drought tolerant plants and, pecan trees are one of those and, and I'm not a farmer and I'm not a tree person but I didn't seem to me that a pecan tree was a real drought tolerant.

Williams: Tolerant.

Mach: Plant but I know they're very important to this area. But it was just something I wanted to point out. I wanted to point it out because …

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Kuhns: They're iconic.

Chavez: They're iconic. Without the pecan industry in the valley basically ...

Mach: I understand.

Chavez: We're dead in the water.

Mach: Right and I understand that, and I understand that.

Williams: I, I just want to mention on, on, under the landscapes number two, D number two, there, it says zeroscaping, it's not zero Z-E-R-O, yeah it's X.

Hutson: Xeri.

Williams: Xeriscaping.

H-Rogers: Would you like me to correct that?

Williams: Yes.

Guza: Yeah X-E-R-I.

Mach: I thought that was just put in there for emphasis. I am on page V205, or 207 maybe, has to do with the parking lots and trees in the parking lot. And that would be number five B, it's near the top of the page, my page.

Kuhns: 207 David, at the top of the page.

Williams: Oh yeah.

Hutson: Five A.

Williams: Yeah.

Mach: Five A, trees in the parking lot shall be located in an island or planter that's 36 by whatever. One tree shall be planted for every five parking spaces. It just seemed to me is that a lot of trees? How many places have that much space to be able to have five, one tree for every five parking spaces? It's just a comment. It's just a question that's, I don't need to have anything changed in it, it just seemed to me like a lot of ...

Chavez: I think that part of it we took it from actually City code and what the requirements in the City as a whole. And then, it should be because the parking lot, I think we have eliminated parking lots in the district. They

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won't, I think we recommended no pavement. If they want to do something it'll be crush-fine or brick.

Williams: Right.

Chavez: Something that actually lets the water saturate porous, but we have basically eliminated any concrete pouring in the district because of the fact that the water runs off into the street and then you have more problems so. Parking spaces and trees, I think that was, we took it from the City because it pretty much told us that we needed to do that.

Hutson: One correction, we did not eliminate parking lots.

Chavez: No.

Hutson: We just eliminated.

Chavez: Concrete.

Hutson: Concrete.

Chavez: Beg your pardon.

H-Rogers: Just for clarification I believe the five parking spaces coming from the Lohman Overlay, no excuse me, from the University District is where those numbers came from cause ultimately *(inaudible)* general parking the number of trees is based on square footage and there are only certain areas in certain sized parking lots than other overlays where you get more specific like this. This one is from the University District, same language.

Mach: Okay so it's, really, so it, I mean this may or may not really affect us.

Williams: It does seem like, it seems like a lot of trees personally but.

Kuhns: Well if you've ever parked your car in June it doesn't ...

Williams: Well ...

Chavez: I grew up in the neighborhood. Believe it or not this was a forest. The Mesquite district was a forest. You walked and you didn't even see, have the sun touch you. It was lined, the streets were all lined with Dutch Elm. When the Dutch Elm disease came through it killed all the trees. Klein Park was filled with huge elm trees and the disease just devastated the neighborhood and it took years for everybody to chop their trees down. Some of those folks never replanted. But this was a forest of trees. I could walk from my house on Griggs all the way to Main Street and there

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was very little sun hitting me. But the disease came and killed them. So yeah, this was a forest. It was just like Alameda Depot area.

Mach: Okay. I don't have anything against trees it just seemed in a business parking lot, it's not like we have space like at the university or up on Telshor or wherever.

Chavez: Yeah.

Mach: Like space is really limited here to be putting that kind of a requirement on somebody who's got a little electric shop that's got enough room for four cars let alone you know 10 cars maybe. Okay. I'll go on. My, oh this is a minor point but on page V207 or it maybe V209 on your thing and it has to do with portable A-frame signs, so that's number four. Item number four.

Kuhns: V209.

Mach: V209. I'd be happy to change over to this but it's, I've got this on my computer. Okay the only thing, under four A this is just a typo thing, A-frame is spelled with an upper case A and a dash and frame and on that first line after A it just says an a frame sign and it's just a lower case A and then frame. It's just a very minor.

Kuhns: You need to insert the article "an." "An" A-frame sign means.

Chavez: Yes.

H-Rogers: Oh.

Kuhns: Right here the article is missing, "an A-frame sign means."

Hutson: V, its V209 number four where it says portable A-frame sign, then next to that should say an A-N, and then the word A-frame.

Mach: A lot of these are just picky but if this is going to be official I just wanted to mention it.

Chavez: Thank you. We've been working on this for years.

Mach: Yeah I know.

Chavez: It needs to be presented to City Council like we have dotted all the T's and all the dots.

Williams: And include all the ans.

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Chavez: And all the ans, yes.

Mach: Okay so that's just, line four, the top line and then four A where it says "An A-frame sign" should just be upper case A. See these aren't a real lot. They're just picky.

Hutson: Well since we're on to picky and I do 100% agree with you but IX, it has a-frame and small letters there again.

Mach: So maybe it doesn't have …

Hutson: For A-IX.

H-Rogers: No, it should be consistent. I agree with you.

Mach: That was my next one see. Thank you. I'm, I'm on page V209 so your 211 probably. I'm on the size of accessory structures. And I'm on two A, like the two A V, six, seven, eight. Additions to accessory structures in excess of 120 square feet one time or cumulative. So my question is once the structure, if you have an accessory structure are we saying that if you have like say a little shed on your lot and then you make it over 120 square feet then we can get involved.

H-Rogers: Yes, that is correct because building code dictates when people have to get building permits and so we have, we don't have a lot of authority in terms of just those little teeny weeny portable things but when they hit 120 square feet or they're used for a particular type of use, then we have the ability to say, oh you need a building permit in which case then we get that information and then this Board can review it.

Mach: Okay. So the addition doesn't have to be bigger than 120 square feet, it's just once the structure gets over 120 square feet.

H-Rogers: Right.

Mach: Then we get *(inaudible)*. Thank you. On that same page just another silly point when I was reading the word facade, on the, on number, on seven VII, facade there is like a regular C and then everywhere else it's a C with the little comma thing, the French C or whatever that. Oh yeah again picky, just little thing.

Okay, I am on page V210 so maybe V212 and I'm talking, this one has to do with the planned unit, PUD, Planned Unit Development. My only question is where would we have room for one of these in our South Mesquite District? If, I mean that's like a whole, like a development isn't that what we're talking what a Planned Unit Development is?

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H-Rogers: Planned Unit Development is actually a zoning designation within our code. Sunshine Grocery falls under a PUD interestingly enough. Often times PUDs don't have to be on huge developments, it's usually where you see them but if you have a situation where you have something that's unique and it doesn't really fit within the confines of the code but we all see that perhaps it's an excellent idea, it's an opportunity and it's a way to be able to achieve those goals. Especially if it doesn't fit into the infill category.

Mach: Okay, thank you.

H-Rogers: Welcome.

Mach: My next …

Williams: I was just going to say is it, speaking of Sunshine Market is it a PUD or a DUD? Dud.

Chavez: I'd have to agree with the second.

Hutson: No, not the building just the owner.

Chavez: Just the owner.

Hutson: Strike that.

Williams: I'm still waiting for my coffee house there.

Mach: Okay, I'm on page, my page 213, maybe 215. I am on letter, it has to do with the screened dumpsters, so it's my letter H.

Kuhns: Page 216.

Mach: Page 216, sorry I thought I was doing well with doing this on this thing and being able to get the notes but I guess I should've done it on paper. Okay, I'm on letter H, dumpsters for commercial or multifamily developments are required to be screened from any street side facade.

Hutson: Oh the goofy facade.

Mach: I think I've seen dumpsters around here that don't fit that, don't fit that requirement so.

Chavez: By the time this gets authorized or voted on all those other dumpsters are grandfathered in. So really to be honest with you this is just for future

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development. You know if somebody gets, opens a business and they, they have to have it screened.

Mach: Okay.

Chavez: They'll have to, but all the other ones sadly are grandfathered in and really we can't force them to change.

H-Rogers: And it's actually true all over the City. We actually have screening requirements for dumpsters anywhere in the City, that's only applicable again to the new development or the re-development. If it's grandfathered in, it's grandfathered in.

Mach: Okay.

Hutson: While you're at it let's fix the C with the little squiggle on the bottom on that same.

H-Rogers: I circled that.

Hutson: On that same line H.

Mach: Okay, thank you.

Guza: Are we going away from the squiggly on the C or are we adding them to places that they aren't?

H-Rogers: I will be taking away. It's, it's, I don't think *(inaudible)*.

Hutson: It's not consistent with *(inaudible)*. It's not English.

Mach: I didn't mean to open up a can of worms here.

Kuhns: I think it does have that *(inaudible)* and I don't know the name of it.

Chavez: I'm, I'm trying to ...

Kuhns: The correct spelling has that and I can't remember.

Hutson: If it's French. If it's French. English version it's not on.

Kuhns: No, I think it is in English.

Williams: Yeah.

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Kuhns: For example when you write the word resume it has two accent marks on it in English, in English.

Hutson: Right, well.

Kuhns: But that's something that Katherine can do a spell check on.

Williams: Yeah. Whenever I type facade on, on Word it comes up with it, so.

Hutson: When I type with Word it doesn't come up on it.

Chavez: You have an old version.

Hutson: I have Windows 8 unfortunately.

H-Rogers: What I will do is before this goes forward I'll have the secretary look at the document to make that it's formatted appropriately which has not been, not been done yet. It's not going to change what's in here, but she'll make sure those typos aren't there, we'll make sure that the strange things are consistent, things of that nature.

Mach: Thank you.

Chavez: When we had the original overlay there was so much misspelling and run-on words and grammar was, no wonder the City would interpret the document in their own fashion because if you thought about it, it was spelled wrong, it set the wrong, the wrong message, that's why we've worked so many years to get that cleaned up.

Kuhns: Okay.

Mach: Okay so I'm on page two …

Kuhns: Two twenty-one.

Mach: Two twenty-one, V221. I had a question about variances, number four. The only question I had about this was you mentioned the clear sight triangle and most of these things I did try to go out and look up when I had a question about a definition, but I'm not even sure if I still quite understand what a clear sight triangle is.

H-Rogers: Clear sight triangle's actually found in our Design Standards and it's actually, it's based on engineering that something that, that we have elsewhere in the code and essentially it's that way so if you're pulling out of your driveway or you're pulling through an intersection can you see when you're looking left or can you see right. There's this area that they

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call the clear sight triangle which is we have to ensure there's no obstructions there to block your view so that you can safely get out of whatever driveway or intersection you're in. It's based on the design speeds. It's based on the curvature of the road. It's based on a number of things and there's a lovely little table/chart you know that we have in our, our code that describes what that has to be.

Mach: Okay. So that, so for any new construction. I mean there's plenty of places here in the old part where there's no such a thing, but, and, and I understand that. But for anything new would, would need to conform to this.

H-Rogers: That's correct.

Mach: Now is this something we can make a variance for? I mean a lot of the things we can make variance for; heights, things like that. But is this something that if somebody came and they wanted to put in a new, a new construction.

H-Rogers: Sure. That's actually an engineering decision, it would be outside of the powers of this Board, but we do have a method by which we can apply for variances from these sorts of things.

Mach: Okay, thank you. My last one is you know where in the section where all the land use tables are.

Kuhns: I think that's this one.

Mach: Yes and since they're in alphabetical order when everybody finds that. Okay. I'm under ...

Williams: *(inaudible)* page numbers.

Mach: You know what, mine has to do with kennels and private kennels. That is it. So page two. And I love animals but everybody in this district has a dog outside and they bark anytime day or night. And, whatever, I try not to live with it, but whatever, so my item on this is that it says for kennels, catteries, private residential, they're conditional in all of the zoning, under each of the Rs, Os, and Cs. They're permitted in accordance with Chapter 7 of the municipal code. Noise from barking dogs and odors from this activity shall not be discerned off premises. And I'm sure that this is right from the code but I just think this is unenforceable. Not to be able to hear barking, as much as I would love this to be true.

Kuhns: I have had really good luck with codes in this area and one time I called, there was a dog in the house next door to my house and nobody was

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there and I thought the dog might be starving or something and it was just a basset hound that missed its owner. But they came and they, they investigated it very thoroughly. And I've also called about nuisance barking where the dog can't, is under high anxiety and it just barks, barks, barks, barks, barks, and they've investigated it. So I do think it is enforceable based on my experience. And I'm glad it's in there because when I call I cite this.

Mach: Right and thank you. And I also appreciate Frank over there. I mean he, he calls, has called the codes several times and it's gotten much better around me because of his calls. It's, I mean, but ...

Kuhns: James Chavez is the, the head, the lead law enforcement officer for codes and you can always call him personally and e-mail him and they always respond. And I actually think you do better with e-mail. I've been really impressed with them but James Chavez is very good. He's been very responsive.

H-Rogers: You're concern was regarding the private, correct kennels?

Mach: No, my concern is the question, the point of saying that noise from barking dogs and odors from this activity shall not be discerned off the premises because I also appreciate codes and we do call. We haven't called them in a long time, but I can definitely hear my dogs next door so I can hear them off the premises and especially during the rainy season I can definitely smell the odors from the dogs also. And we do call and then we're told well it's the 15-minute rule and all of that stuff so my only question on this is I wish that it was enforceable but if, when we've called codes has been very helpful and, and listened very, very well to us and they've tried but their hands can be tied also. But putting in a noise from barking dogs and odors from that activity shall not be discerned off the premises, if that could be enforced and that was true then I would love to see this in here because if we quoted this when we call the City and said I should not be able to hear my dog, my neighbor's dogs next door. There's nothing anybody would ever be able to do. That's every single, probably more than 50% of the houses in this, this neighborhood.

Kuhns: So are you, are you suggesting that we take it out? Because it hasn't been enforceable for you.

Mach: I don't, I don't see how this is enforceable for anybody. If you, you don't hear your dogs barking any more, next door neighbor's dogs, not ever.

Kuhns: Well ...

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Mach: If you're walking down the street do you hear a dog barking at you? That's off the premises.

Kuhns: That's not, I think what they mean is nuisance barking. I think it's okay that your dog barks but I do want to focus on if you have an issue in your neighborhood then we need to keep it on your personal level and this Board needs to work on this document. So I'm going to ask you point blank, do you want us to take that out, is that what you're suggesting? Because you feel it's not enforceable.

Mach: I'd like to leave it in.

Kuhns: Okay.

Mach: I would like to leave it in and I will use this in the future for ...

Kuhns: Excellent.

Mach: If I have a question about neighbors' animals.

Kuhns: Excellent. Great.

Mach: Thank you. Okay, that's the only ones I have.

Kuhns: Great. And they were very good. Thank you.

Mach: Thank you.

Chavez: Thank you very much.

Kuhns: It was very worthwhile.

Williams: Okay, any other discussions? So do we have a, well we've got a motion.

Kuhns: Do we have a motion?

Williams: Oh, we have a, we have a recommendation for a motion to approve.

H-Rogers: Before the motion is made that motion needs to include that those modifications that were discussed of course be applied and, and do that.

Williams: So do we have a motion to approve the amendment, amendments as corrected?

Chavez: So moved.

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Williams: A second.

Kuhns: I second it.

Williams: All those in favor.

ALL: Aye.

Williams: Any, any abstains?

H-Rogers: Even the computer agreed.

**IV. OLD BUSINESS - NONE**

Williams: We have no old business.

**V. DISCUSSION OF OTHER ITEMS**

Williams: No other discussions.

Kuhns: Well I'm not sure. How, I just have one question. How long, once your, your design is approved how long does that approve, and then the homeowner doesn't take any action, how long is that approval valid for?

Chavez: Do you mean to pull the permit to do work on your home?

Kuhns: No. The, a family came and they wanted to add an addition and I think it was a year a go.

Williams: The house on ...

Kuhns: San Pedro.

Williams: San Pedro.

Kuhns: And they haven't done anything. How long is that approval good for?

H-Rogers: There is not a sunset clause or a clause of when things expire thus far. It's something that could be added if the Board was interested in, in doing that. We, the only place in our code that actually has expiration dates we have them of course in the subdivision code. We have them, infill does not have them interestingly enough. PUDs do. There are some areas of the code that do but if you'd like to add one, we could do that. Generally if somebody submits something to staff we do have a policy that if there's been, if it hasn't been approved, if it's just a project that's in limbo, then

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those are good for about two years and then they would need to reapply. But you're talking about something that's already been approved.

Williams: I guess that, that would be the question, I guess sort of point of clarification is, when something comes to us or they go to the City for a permit to do the addition and then that's when it would come to us correct typically?

H-Rogers: Typically. We have seen it out of order in some cases but if you want to talk about building permit, it's only good for I think six months and then it's gone. And then they would have to reapply.

Williams: So in, if, if they, when they reapply for the building permit is our approval, would approval be on record somewhere?

H-Rogers: It would.

Williams: And then, and then they would just attach it to the new permit.

H-Rogers: It would.

Kuhns: Thank you. That's really what I wanted to ask but I didn't know how to.

H-Rogers: Now if they did present something that was significantly different it would have to come back to you.

Williams: Okay. And that was my question is that they made changes or modifications that they, then they would need to bring it back to us. Okay. Any other questions or discussions?

## VI. STAFF ANNOUNCEMENTS

## VII. ADJOURNMENT

Williams: Make a motion to adjourn.

Chavez: Have a vote.

Williams: A vote.

Chavez: We did. Okay.

Kuhns: We did.

Chavez: She took advantage.

Kuhns: Oh blame it on me David.

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Chavez: This getting old is horrible.

Kuhns: I love it. Especially when you hit retirement.

H-Rogers: Do we have a motion to …

Williams: Do we have a motion to adjourn?

Chavez: Yes.

Williams: Second.

Hutson: I'll second that.

Williams: All those in favor.

ALL: Aye.

Williams: So we are adjourned at 7:02 p.m.

_____

Chairperson

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ATTACHMENT "C"

**PLANNING AND ZONING COMMISSION**
**FOR THE**
**CITY OF LAS CRUCES**
**City Council Chambers**
**April 28, 2015 at 6:00 p.m.**

**BOARD MEMBERS PRESENT:**
William Stowe, Vice-Chair
Charles Beard, Secretary
Joanne Ferrary, Member
Ruben Alvarado, Member
Harvey Gordon, Member

**BOARD MEMBERS ABSENT:**
Godfrey Crane, Chairman
Kirk Clifton, Member

**STAFF PRESENT:**
Katherine Harrison-Rogers, Senior Planner, CLC
Ezekiel Guza, Associate Planner, CLC
Mark Dubbin, CLC Fire Department
Pete Connelly, CLC Deputy City Attorney
Becky Baum, Recording Secretary, RC Creations, LLC

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

Stowe: Good evening. Welcome to the April 28 meeting of the Planning and Zoning Commission. The first order of business is to introduce my fellow Commissioners; to my far right is Commissioner Harvey Gordon; to his left is Commissioner Ruben Alvarado; to my immediate right is mister, Commissioner Charles Beard, who is also secretary for the Commission. And I'm William Stowe, Vice Chair and Commissioner for District 1.

Beard: Mr. Chairman I believe …

Stowe: Did I miss somebody?

Beard: Joanne Ferrary I believe is here.

Gordon: Yes.

Stowe: All right, so Joanne Ferrary is here but not seated just yet.

## 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.*

Stowe: Next item on the agenda, at the, 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, so I'm looking for any member of staff or the Commissioners to indicate if you have a conflict of interest. Joanne Ferrary, Commissioner Ferrary, do you have any conflict of interest with the items on the agenda tonight, this evening?

Ferrary: No sir I don't.

Stowe: Very well. Thank you.

H-Rogers: Mr. Chair, Members of the Commission. I was approached by one of the Commissioners about one of the projects and I might refer to Commissioner Alvarado if you wanted to disclose that information right now?

Alvarado: Okay, in regards to Case number S-15-002W, Case number A1731, I own property up in that area and I don't think I could be unbiased in my voting, so I think what I, I'll do is I'll just abstain from voting.

Stowe: Very well.

Alvarado: Thank you.

## III. APPROVAL OF MINUTES

1. March 24, 2015 - Regular Meeting

Stowe: The next item on the agenda is the approval of the amendments and approval, approval to the minutes of the meeting of March 24, 2015. Do I see any Commissioners, have you taken any notes or found any omissions or mistakes on the minutes of that meeting?

Gordon: I make a motion we accept the minutes.

Ferrary: I second.

Stowe: Motion by Mr. Gordon and Ferrary seconds to accept the minutes. All in favor say "aye."

MOTION PASSED BY FOUR, WITH ONE ABSTENTION.

Stowe: Opposed "nay."

Alvarado: Abstain. I was not present for that meeting.

Stowe: Very well. Thank you. So the, the, it passes four, four to zero.

## IV. CONSENT AGENDA - NONE

Stowe: There are no postponements. No consent agenda this evening.

## V. OLD BUSINESS - NONE

Stowe: Old business is none.

## VI. NEW BUSINESS

1. **Case ZCA15-001:** A discussion and recommendation of proposed amendments to the Municipal Code, Article V, Section 38-49.2 South Mesquite Neighborhood Overlay Zone District. Council Districts 1 and 4 (Silva and Small).

Stowe: And we have four items, four applications in the new business section. The first one is, is actually the article, amendments to the Overlay Zone District of South Mesquite Neighborhood. And Katherine Harrison will lead the presentation for that. That is Case ZCA15-001.

H-Rogers: Good evening Members of the Commission, Mr. Chair. I'll go ahead and get this started. ZCA15-001, these are amendments to South Mesquite District Overlay. Basically we're looking for a recommendation to City Council regarding amendments to Municipal Code Article V, Section 38-49.2, South Mesquite Neighborhood Overlay Zone District. These affect Council Districts 1 and 4, that would be Councilor Silva and Councilor Small.

As you can see here these are the boundaries of this particular overlay. When the original plan was done it actually included both the North and the South Mesquite Districts but as the codes were developed they were, they were defined differently and ultimately these are the boundaries of that South Mesquite area. You can see the original townsite in the red little hatching right here and then of course the rest of the area outlined in black.

These are just simply showing you the registered historic district boundaries; you can see the original townsite again with the red outline and the State Historic District is in that dark purple, it's the larger area, and then of course the Federal Historic District which is in the blue. And we've

also shown on here the historic structures that are shown in kind of that light blue color in the background.

The process has been lengthy. There was an administrative clean up that ultimately had been recommended by this Commission in 2003, I believe that was, that was, it was in May 2003. For almost two years the Design Review Board has been meeting monthly to discuss modifications to this Overlay Zone. They've been advertised and open to the public. Several neighborhood meetings were also held and advertised and distributed widely to people who live in the neighborhood. The DRB recommended approval of the amendments on January 15th, 2015. Of course we were here last month as a discussion item just to present this to you so that you could familiarize yourself with it or direct staff as to any modifications you might want to see. And then this evening we're hoping that you will recommend one way or another either approval, approval with modifications, denial, what have you, to City Council.

The primary modifications, we're merging what we called Areas 1 and 2. They were different in terms of the type of process people had to go through to modify structures in that area and ultimately they've been merged so it just simplifies the process and you follow one set of rules and one set of design guidelines. All the buildings are limited to 14 feet, and the DRB has the ability to flex this, this standard if they see that it fits the intent well or the design guidelines well. A land use table matrix, similar to that that we have in Section 38-33 of the Zoning Code was incorporated so that it eliminates all the references to the 1981 Zoning Code which had been incorporated previously in this Overlay Zone. There's a typo right there that "new sign regulations" not "sig regulations," new sign regulations for this overlay specific to meet their needs. The DB, DRB was also granted the authority to modify or waive landscaping requirements, off-street parking requirements, wire fence restrictions, and height exceptions of course of buildings. Their review powers and recommendation powers were also expanded. Additionally fences and walls were also required to be of a material that's compatible with the structure or with other fences and walls in the neighborhood. And then solar panel requirements were also added to the section.

Staff's generally supportive of most of the modifications. There were a couple of lingering concerns regarding the broadening of power, specifically time delays that might be associated with the flex requests which are now an administrative function of staff. Infill projects generally are supposed to be fast track projects and with these modifications infill projects have been added as a recommending, the, the DRB is a recommending body to the P&Z for that, makes sense, but again it just sort of lengthens the time. Currently window and door replacements for the front facade of buildings has also been included as part of their powers. Although staff understands the design requirements for this, there are some concerns regarding emergency replacements of those and this also is in keeping with the roof replacement, specifically the

emergency replacement of, of the roof, the doors, the windows, things of that nature. Some other concerns are just the additional duties that, that maybe placed upon staff, just the limited staff resources that we have now. And then ultimately the City's Municipal Code Section 2-926 and 932 would require some modification because that section actually outlies the, outlines the authority and the duties of the South Mesquite Design Review Board and we would want those of course to be consistent with one another. Also staff's, staff did find one conflict, it's just a little bit confusing regarding the replacement of the chain link fencing in section L 1 f ii and iii, basically it's somewhat, it, it conflicts and I'm not quite sure what the intent was. I may need to get some clarification from the Design Review Board in, in regard to what exactly they were going for on that. Specifically the language is that "existing chain link fence or square wire fence may be temporarily removed if necessary but the same fencing must be replaced exactly as it was." And then following that it says "an old chain link or square wire fence may not be replaced with new chain link or square wire fencing. If replaced the new fence must come into compliance with this section." We felt as though that was somewhat conflicting and we wanted to clarify that langue.

With that your options this evening are to vote "yes," vote "yes" with conditions or modifications to the language that you have tonight, vote "no," or vote to table and direct staff to either redraft some of the language or remit it to the DRB accordingly. So with that I'm, I'm happy to take any questions you have. I do want to, I think I mentioned this last time, I do want to apologize for the fact that you don't have a, a full redline copy of this document. The previous staff who had been working on it had several versions but there was not a consistent red line copy from the beginning to the end and it created a lot of confusion and this the simplest way to present it to you this evening. So again with that if you have questions I'd be happy to answer those.

Stowe: Thank you Katherine. I have a question, general question, in, in reorganizing and cleaning up the code was there a certain frame of reference or a document that was like a master document which, which could serve as a guide to your changes?

H-Rogers: Of course we have the original South Mesquite Overlay language, all of you should have a copy of that. If you're missing a copy of that I would be glad to provide you, but it should be in your code. And again if you don't have a copy of that or haven't had the latest version of that, staff would be happy at any point in time to provide that to you or go over exactly what that says and then, and then we could look at those differences.

Stowe: That's, that's what I was thinking of. Thank you

H-Rogers: You're welcome.

Stowe: Any other questions, comments? Commissioner Ferrary.

Ferrary: On the chain link fencing I was you know under the understanding that if it were damaged then it could be replaced and, is that true? I mean ...

H-Rogers: We just felt as though those two sections were somewhat confusing and I think you can probably see why. I ultimately think that the intent behind that was to deal with, I have to remove chain link fencing because I have to do repairs to the home or have to get something into my yard and I can put it back exactly the way it was. Whereas if I'm taking it all out I can't replace it with a new chain link fence, I have to replace it with something that is consistent with, with the neighborhood. Does that answer your question somewhat?

Ferrary: Yes. So it can stay the way it is, we don't need to add conditions or changes to this?

H-Rogers: I don't, I don't think so. Just from a staff perspective just we felt as though the language was just somewhat confusing. I think ultimately we can clarify and then make those changes just to, just to give those nuances that it needs.

Ferrary: Do we have to send it back to the DRB to do that or can you do that before it's gone to the City Council?

H-Rogers: You don't need to send it back to the DRB if you think it's, if you understand, if you feel as though you understand the intent of it and just want to maybe make some, some quick changes to, that to make it a little bit more clear, we can, we can incorporate those into the document moving forward. It'd be basically a modification or condition of approval moving forward to City Council. I don't think it is so extensive or critical that it would need to go back to the DRB unless this Commission feels as though that would be in the best interest of the Design Review Board.

Ferrary: Okay. Thank you.

H-Rogers: You're welcome.

Stowe: Anyone else? Commissioner Beard.

Beard: If there's no more questions then I move to, oh maybe we should have public comment.

Stowe: Is there anyone here tonight from the public that wishes to make a comment on this? No one indicating so. It's back to us.

Beard: I move to accept Case ZCA15-001.

Stowe: Do we have a second?

Ferrary: I'll second.

Stowe: Commissioner Ferrary seconds. Well in this, in this case we can ask for Commissioners to vote. Commissioner Gordon.

Gordon: Yes.

Stowe: Commissioner Ferrary.

Ferrary: Yes according, based on site visit and discussion and staff presentation.

Stowe: Very well. Commissioner Alvarado.

Alvarado: Yes.

Stowe: Commissioner Beard.

Beard: I vote yes.

Stowe: And the Chair votes yes also. It passes five to zero. Thank you.

2. **Case S-15-002W:** An application of Moy Surveying Inc. And Isaac Gutierrez on behalf of Josie Gutierrez, property owner, to waive 100% of the road dedication and improvement requirements for Mesa Drive, a proposed collector roadway. The proposed waiver is associated with improvements and required for a proposed alternate summary subdivision known as Gutierrez Tracts Subdivision on a 0.848 +/- acre tract located on the southwest corner of Mesa Drive and Genesis Lane; 5482 Mesa Drive; Parcel ID# 02-19717. Proposed Use: Two (2) 0.424-acre single-family residential lots. Council District 5 (Sorg).

3. **Case A1731:** An application of Moy Surveying Inc. And Isaac Gutierrez on behalf of Josie Gutierrez, property owner, for a variance to the 0.5-acre minimum lot size allowed in RE-M zone. The applicant is proposing to subdivide a parcel (known as Gutierrez Tracts Subdivision) located on the southwest corner of Mesa Drive and Genesis Lane at 5482 Mesa Drive into two (2) lots each totaling 0.424 acres. Parcel ID#: 02-19717; Proposed use: two (2) 0.424-acre single-family residential lots. Council District 5 (Sorg).

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# COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of October 5, 2015 (Ordinance First Reading Date)

For Meeting of October 19, 2015 (Adoption Date)

**TITLE:** AN ORDINANCE REPEALING ARTICLE V, SECTION 38-49.2, SOUTH MESQUITE NEIGHBORHOOD OVERLAY ZONE DISTRICT, OF THE LAS CRUCES MUNICIPAL CODE AND REPLACING IT IN ITS ENTIRETY IN ORDER TO UPDATE THE SOUTH MESQUITE NEIGHBORHOOD OVERLAY ZONE DISTRICT (SMO) AND EXPAND THE AUTHORITY OF THE SOUTH MESQUITE DESIGN REVIEW BOARD (SMDRB). SUBMITTED BY THE CITY OF LAS CRUCES. (CASE ZCA-15-02)

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

| DEPARTMENT | SIGNATURE | PHONE NO. | DATE |
|---|---|---|---|
| Drafter/Staff Contact | | 528-3049 | 9-14-15 |
| Department Director | | 528-3067 | 9-14-15 |
| Other | | | |
| Assistant City Manager /CAO | | 2078 | 9/17/15 |
| Management & Budget Manager | for R. Lundien | 2106 | 9/15/15 |
| Assistant City Manager/COO | | | 9/22/15 |
| City Attorney | | EXT 2128 | 25 Sept 2015 |
| City Clerk - interim | | x2116 | 9/25/15 |

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