



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 11 Ordinance/Resolution# 2767

For Meeting of October 19, 2015
(Ordinance First Reading Date)

For Meeting of November 2, 2015
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: AN ORDINANCE APPROVING A ZONE CHANGE FROM R-3 (MULTI-DWELLING MEDIUM DENSITY) TO R-3/C-3C (MULTI-DWELLING MEDIUM DENSITY/ COMMERCIAL HIGH INTENSITY-CONDITIONAL) FOR A 4.2 ± ACRE PROPERTY LOCATED AT 801 E. FARNEY LANE, PARCEL 02-11764. SUBMITTED BY GARY KRIVOKAPICH, PROPERTY OWNER (Z2888).

PURPOSE(S) OF ACTION:

Zone Change.

COUNCIL DISTRICT: 2		
<u>Drafter/Staff Contact:</u> Adam Ochoa	<u>Department/Section:</u> Community Development/ Building & Development Services	<u>Phone:</u> 528-3204
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The proposed zone change is for a primarily undeveloped property located on the northeast corner of El Paseo Road and Farney Lane directly south of the First Christian Church. The applicant is seeking a zone change from R-3 (Multi-Dwelling Medium Density) to R-3/C-3C (Multi-Dwelling Medium Density/Commercial High Intensity-Conditional) to allow for flexibility in the development of the property including the potential for mixed-uses. The applicant has provided a list of prohibited uses and other restrictions on the subject property as a condition for the proposed zone change to help mitigate any conflicts among the surrounding area and its residents.

The proposal for a zone change is supported by the Comprehensive Plan and supports several Purpose and Intent statements listed in Section 38.2 of the 2001 Zoning Code, as amended. The proposed zone change will help encourage the development of a mostly vacant and underutilized property within an established area of the City of Las Cruces and within the Infill Development Overlay (IDO) area of the city. The subject property is also located along El Paseo Road, a minor arterial roadway as designated by the Mesilla Valley Metropolitan Planning Organization (MPO), where high intensity uses and zoning, such as the proposed, are encouraged. Furthermore, the

subject property is located within the El Paseo Corridor Community Blueprint area where the development of existing underutilized properties, such as this one, are encouraged.

On September 22, 2015 the Planning and Zoning Commission (P&Z) recommended approval with conditions of the proposed zone change request by a vote of 4-0-0, (three Commissioners absent) based upon the findings reflected in Exhibit "C". The conditions for the development of the property can be found in Exhibit "B" including an additional condition placed upon the proposed zone change by the P&Z. The additional condition states that no development of the subject property shall occur until a development site plan is submitted to and approved by the P&Z. This condition was added after public discussion occurred at the meeting. Surrounding property owners wanted to make sure that the property is developed with minimal negative effects to the surrounding area and; therefore, wanted to be able to review the proposed development plans and provide comments on the actual development of the property. Another concern discussed at the meeting was the potential increase of traffic in the area. Staff did make the P&Z and the public aware that a Traffic Impact Analysis (TIA) will be required at the time of the property's development and any access and/or roadway improvements stipulated by the TIA will be required of the developer at that time. Please see Attachment "B" for more details about the discussion that took place at the P&Z meeting.

The proposed additional condition requiring the development site plan approval by the P&Z for the subject property is not a typical requirement for zone changes and would be unique to this property. Development site plans are something required with a Planned Unit Development (PUD); therefore, there is no established procedure by which to process a site plan to the P&Z for a property not distinguished as a PUD. As this request is for a zone change for the subject property and not a PUD, the proposed additional condition may delay and/or inhibit the development of this long underutilized Infill property.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Site Plan.
3. Exhibit "B", Conditions.
4. Exhibit "C", Findings.
5. Attachment "A", Staff Report to the P & Z for Case Z2888.
6. Attachment "B", Minutes from the September 22, 2015 P & Z Meeting.

SOURCE OF FUNDING:

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

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

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

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will affirm the Planning and Zoning Commission recommendation for approval with conditions. The subject property encompassing 4.2 ± acres will be rezoned from R-3 (Multi-Dwelling Medium Density) to R-3/C-3C (Multi-Dwelling Medium Density/ Commercial High Intensity-Conditional).
2. Vote "No"; this will reject the recommendation made by the Planning and Zoning Commission. The current zoning designation of R-3 (Multi-Dwelling Medium Density) will remain on the subject property. Denial of the zone change will require new information or facts not identified or presented during staff review or the Planning and Zoning Commission meeting.
3. Vote to "Amend"; this could allow City Council to modify the Ordinance by adding or removing conditions as determined appropriate.
4. Vote to "Table"; this could allow City Council to table/postpone the Ordinance and direct staff accordingly.

REFERENCE INFORMATION:

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

1. Ordinance 2090.

COUNCIL BILL NO. 16-008
ORDINANCE NO. 2767

AN ORDINANCE APPROVING A ZONE CHANGE FROM R-3 (MULTI-DWELLING MEDIUM DENSITY) TO R-3/C-3C (MULTI-DWELLING MEDIUM DENSITY/COMMERCIAL HIGH INTENSITY-CONDITIONAL) FOR A 4.2 ± ACRE PROPERTY LOCATED AT 801 E. FARNEY LANE, PARCEL 02-11764. SUBMITTED BY GARY KRIVOKAPICH, PROPERTY OWNER (Z2888).

The City Council is informed that:

WHEREAS, Gary Krivokapich, property owner, has submitted a request for a zone change from R-3 (Multi-Dwelling Medium Density) to R-3/C-3C (Multi-Dwelling Medium Density/Commercial High Intensity-Conditional) for 4.2 ± acres for a property located at 801 E. Farney Lane on the northeast corner of El Paseo Road and Farney Lane; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on September 22, 2015, recommended that said zone change request be conditionally approved by a vote of 4-0-0, (three Commissioners absent).

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

(I)

THAT the land as reflected in Exhibit "A", attached hereto and made part of this Ordinance, is hereby zoned R-3/C-3C (Multi-Dwelling Medium Density/Commercial High Intensity-Conditional) with the conditions as stipulated in Exhibit "B".

(II)

THAT the zoning is based on the findings contained in Exhibit "C" (Findings), attached hereto and made part of this Ordinance.

(III)

THAT the zoning of said property be shown accordingly on the City Zoning Atlas.

(IV)

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

DONE AND APPROVED this _____ day of _____ 20____.

APPROVED:

Mayor

ATTEST:

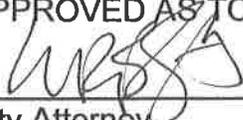
City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:

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

Conditions

Prohibited Uses:

Adult Entertainment (such as strip clubs)	Game Room (card room)
Adult Bookstore	Auto/Truck Gas Station
Animal Hospital and Clinic	Golf Course
Auto and Camper Sales and Service	Heavy Equipment Sales
Auto body shop	Hospital or Overnight Clinic
Automobile Parking Lot	Hotel and Motel
Billboards and all off-premise signs	Microwave Radio Relay Structure
Boat Sales and Service	Miniature Golf Course
Bowling Alley	Motion Picture Theater
Bus Terminal	Motorcycle Sales and Service
Cigarette and Cigar Stand	Private Club or Lodge
Dance Hall or Music Academy	Radio Towers/Cell Towers
Dry-cleaning and Steam cleaning establishment	Skating Rink
Electric Shop	Taxicab Stand
Funeral Home, Mortuary (including/ or excluding crematoriums)	Tire Sales and Service
Fraternity / Sorority	Upholstery Shop
Frozen Food Locker	Bar, Pub, Tavern

- No development of the property shall occur until such time that a development site plan is submitted and approved by the Planning & Zoning Commission.

Limited Uses:

- No more than 60 dwelling units shall be permitted for the entire 4.2 ± acre property.
- No more than 50% of a restaurant's sales shall be from alcohol sales.
- No more than 20% of a business's gross floor area shall be utilized for package alcohol sales.
- No business operations shall occur between the hours of 12:00 a.m. and 6:00 a.m.

Findings

1. The subject parcel currently encompasses a total of 4.2 ± acres, is zoned R-3 (Multi-Dwelling Medium Density) and is a primarily undeveloped property with a single-family residence on a small portion of the property.
2. The proposed zone change will encourage the development of an underutilized/mostly vacant property within an established area of the City of Las Cruces. (2001 Zoning Code Article 1, Section 38-2K)
3. The conditions placed on the proposed zone change will help mitigate any conflicts among the surrounding neighbors. (2001 Zoning Code, Article 1, Section 38-2Q)
4. The proposed zone change can potentially encourage a balance of land uses in the area and provide convenience and functionality to those who may live and work in this area of the City. (Comprehensive Plan 2040, Chapter 4, Goal 1, Policy 1.4)
5. Based upon staff's analysis of the proposal, the proposed zone change meets the intent of Comprehensive Plan 2040; meets the goals of the El Paseo Corridor Community Blueprint; meets the purpose and intent outlined in Section 38-2 of the 2001 Zoning Code, as amended; and fulfills the purpose of the Las Cruces Municipal Code Section 2-382.



**Planning & Zoning
Commission
Staff Report**

Meeting Date: September 22, 2015
Drafted by: Adam Ochoa, Planner *AO*

CASE # Z2888 **PROJECT NAME:** 801 E. Farney Lane (Zone Change)

APPLICANT/ REPRESENTATIVE: Gary Krivokapich **PROPERTY OWNERS:** Bosko & Annie Jo Krivokapich Revocable Trust

LOCATION: The northeast corner of Farney Lane & El Paseo Road **COUNCIL DISTRICT:** District 2 (Councillor Smith)

SIZE: 4.2 ± acres **EXISTING ZONING/ OVERLAY:** R-3 (Multi-Dwelling Medium Density)

REQUEST/ APPLICATION TYPE: Zone change from R-3 (Multi-Dwelling Medium Density) to R-3/C-3C (Multi-Dwelling Medium Density/Commercial High Intensity-Conditional)

EXISTING USE: A single-family residence

PROPOSED USE: A potential new development made up of limited commercial and office uses as well as possible residential uses

STAFF RECOMMENDATION: Approval with conditions based on findings

TABLE 1: CASE CHRONOLOGY

Date	Action
August 6, 2015	Application submitted to Development Services
August 7, 2015	Case sent out for review to all reviewing departments
August 14, 2015	Final comments returned by all reviewing departments
August 20, 2015	Staff reviews & recommends approval with conditions of the zone change
September 4, 2015	Public notice letter mailed to neighboring property owners
September 4, 2015	Sign posted on property
September 6, 2015	Newspaper advertisement
September 22, 2015	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The subject property located at 801 E. Farney Lane is currently zoned R-3 (Multi-Dwelling Medium Density), encompasses 4.2 ± acres and consists of a single-family home on a small portion of the subject property with the vast majority of the property undeveloped. The applicant is seeking a zone change to R-3/C-3C (Multi-Dwelling Medium Density/Commercial High Intensity-Conditional) to allow for flexibility in the development of the entire property with the potential for mixed-uses. The applicant has provided a list of prohibited uses and other restrictions on the subject property as a condition for the proposed zone change. Please see Attachment 4 for the proposed list of prohibited uses and restrictions.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing	Proposed	Code Req. for R-3/C-3
Max # of DU/parcel	1	Unknown	N/A
Max Density (DU/ac.)	0.24 DU/ac.	Unknown	20 DU/ac.
Lot Area	4.2 ± acres (182,952 sq. ft.)	Unknown	0.115 acres min. (5,000 sq. ft.) for R-3/ 0.5 acres min. (21,780 sq. ft.), no max. for C-3
Lot Width	385 ± ft.	Unknown	50 ft. min. for R-3/ 60 ft. min. for C-3
Lot Depth	475 ± ft.	Unknown	50 ft. min. for R-3/ 70 ft. min. for C-3
Structure Height	12 ± ft.	Unknown	35 ft. max. for R-3/ 60 ft. max. for C-3
Setbacks			
Front	21 ± ft.	Unknown	20 ft. min. for R-3/ 15 ft. min. for C-3
Secondary Front	52 ± ft.	Unknown	15 ft. min. for R-3/ 15 ft. min. for C-3
Third Front	421 ± ft.	Unknown	15 ft. min. for R-3/ 15 ft. min. for C-3
Rear	262 ± ft.	Unknown	20 ft. min. for R-3/ 15 ft. min. for C-3

TABLE 3: SPECIAL CHARACTERISTICS

Characteristic	Applies to Project?	Explanation
EBID Facilities	No	
Medians/ Parkways Landscaping	No	
Other	N/A	

TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

Location	Existing Use	Overlay District	Zoning Designation
Subject Property	Single-family residence	N/A	R-3 (Multi-Dwelling Medium Density)
North	Church	N/A	R-3 (Multi-Dwelling Medium Density)
South	Single-family residences	N/A	PUD (Planned Unit Development)
East	Park	N/A	R-3 (Multi-Dwelling Medium Density)

West	Single-family residences	N/A	R-1a (Single-Family Medium Density)
------	--------------------------	-----	-------------------------------------

TABLE 5: PARCEL HISTORY

Number	Status
Permit	N/A
Ordinance 2090	A zone change from R-3 to PUD approved in April of 2004. The PUD was never vested and the zoning has reverted back to R-3.
Resolution	N/A

SECTION 2: REVIEWING DEPARTMENT/AGENCY RECOMMENDATIONS

Department Name	Approval (Yes/ No)	Conditions (Yes/No)
CLC Development Services	Yes	No
CLC Long-Range Planning	Yes	No
Metropolitan Planning Organization (MPO)	Yes	No
CLC CD Engineering Services	Yes	No
CLC Traffic Engineering	Yes	Yes – A Traffic Impact Analysis (TIA) will be required at the time of development.
CLC Land Management	Yes	No
CLC Parks	Yes	No
CLC Fire & Emergency Services	Yes	No
CLC Utilities	Yes	Yes – Water rights are a prerequisite upon future development of land or request for water service. Please contact the LC Utilities Department for future development or water service.
CLC Flood Plain Administration	Yes	Yes – This property is located in the Special Flood Hazard Area (S.F.H.A.; a.k.a. Flood Zone). FEMA and City rules and regulations shall be followed for development.

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS**Decision Criteria**

The Planning and Zoning Commission shall review each request in relation to the goals, objectives and policies of the comprehensive plan, plan elements, other applicable plans, and the purpose and intent of this Code, Section 38-2 and 36-1 of the Sign Code, when appropriate, and determine whether the request is consistent or inconsistent with stated criteria. The Las Cruces Municipal Code Section 2-382 specifies the Planning and Zoning Commission shall determine whether a proposal will:

1. Impair an adequate supply of light and air to adjacent property or otherwise adversely adjoining properties.
2. Unreasonably increase the traffic in public streets.
3. Increase the danger of fire or endanger the public safety.
4. Deter the orderly and phased growth and development of the community.
5. Unreasonably impair established property values within the surrounding area.
6. In any other respect impair the public health, safety or general welfare of the city.
7. Constitute a spot zone and, therefore, adversely affect adjacent property values. The term "spot zoning" means the singling out of a lot or small area for a zoning change which is out of harmony

with the comprehensive plan and surrounding land uses to secure special benefits for a particular property owner without regard for the rights of adjacent landowners.

8. Be in harmony with the purpose and intent of the zoning code, sign code, design standards and other companion codes.

As mentioned above, Section 38.2 of the City of Las Cruces 2001 Zoning Code, as amended, identifies the Purposes and Intent of the Zoning regulations and should also be utilized as part of the decision criteria. The relevant purpose and intent statements to the proposed rezoning are:

- A. Ensure that all development is in accordance with this Code and the Las Cruces Comprehensive Plan and its elements;
- C. Give reasonable consideration to the character of each zoning district and its peculiar suitability to particular uses;
- K. Encourage development of vacant properties within established areas
- N. Conserve the value of buildings and land; and
- Q. Mitigate conflicts among neighbors.

In addition to those decision criteria required by the City of Las Cruces Municipal and Zoning Codes, there are also measures based on case law to consider when evaluating rezoning requests which include the following:

1. There was an error when the existing zoning map pattern was created; or
2. Changed neighborhood or community conditions justify the change; or
3. A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other applicable City master plan(s), even though criterion (1) or (2) above do not apply because
 - a. there is a public need for a change of the kind in question, and
 - b. that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

Applicable Comprehensive Plan Elements & Policies

As specified by the decision criteria listed above, the proposal should be in concert with Comprehensive Plan 2040. The following polices from Comprehensive Plan 2040 are relevant to the current proposal:

Chapter 4, Healthy Communities (Balanced Development)

1. Goal 1, Policy 1.1
2. Goal 1, Policy 1.4

Chapter 5, Community Character (Flexible Design & Positive Image)

1. Goal 19, Policy 19.14
2. Goal 19, Policy 19.27

Chapter 6, Economic Prosperity (Economic Diversity)

1. Goal 24, Policy 24.2

Chapter 7 Sustainable Growth (Managed Growth)

1. Goal 37, Policy 37.1
2. Goal 38, Policy 38.5

Please refer to Attachment 6 for a detailed description of the Comprehensive Plan Policies listed above.

Background

In April 2004 the subject property was approved for a zoned change from R-3 (Multi-Dwelling Medium Density) to PUD (Planned Unit Development) and for a PUD Concept Plan known as the Crescent Center Development Plan. The 2001 Zoning Code states that a Concept Plan shall be effective for a period of five (5) years and if a PUD Final Site Plan is not approved for all or part of the property by the expiration

of the five (5) year period, the Concept Plan approval shall expire. The PUD expired for the subject property on April 2009 and the zoning reverted back to the original R-3 zoning designation.

On August 7, 2015 the property owner submitted a new zone change application for the subject property to R-3/C-3C (Multi-Dwelling Medium Density/Commercial High Intensity-Conditional) to allow for the flexibility to develop the subject property for either limited commercial, office or residential uses. Accompanying the application was a list of prohibited uses that the property owner requested in order to limit uses deemed undesirable by either the applicant or the neighborhood. These prohibitions are a condition for the proposed zone change and reflect those prohibitions implemented as part of the previously approved, but expired, PUD.

The applicant was required to provide early notification to the surrounding property owners about the proposed zone change. A number of those notified requested a meeting with the applicant to discuss the proposal in more detail prior to the public process with the City of Las Cruces. At the meeting many concerns were discussed, of which the topics of most concern were traffic and access to Farney Lane and the permitted density for a multi-family development. Please see Attachment 7 for more details of the discussion that took place at the meeting. As a result of the concerns discussed at the meeting, the applicant proposed a number of additional conditions for the proposed zone change. Please see Attachment 4 for a list of the conditions for the proposed zone change.

Analysis

The proposed zone change from R-3 (Multi-Dwelling Medium Density) to R-3/C-3C (Multi-Dwelling Medium Density/Commercial High Intensity-Conditional) will help encourage the development of a mostly vacant and underutilized property within an established area of the City of Las Cruces and within the Infill Development Overlay (IDO) of the City. The subject property was eligible for the Infill Development Process (IDP), but the proposed zone change process better met the applicant's needs as it allows for more flexibility in the future development of the property. Staff also believes that the conditions placed on the proposed zone change by the applicant with the collaboration of surrounding neighbors will help mitigate any conflicts among the surrounding area. The proposed zone change may also encourage a balance of land uses in the area and provide convenience and functionality to those who may live and work in this area of the City. The subject property is located along El Paseo Road, a minor arterial roadway as designated by the Mesilla Valley Metropolitan Planning Organization (MPO), and in close proximity to New Mexico State University where high intensity uses and zoning are encouraged.

The subject property is also located in the El Paseo Corridor Community Blueprint area. The El Paseo Corridor Blueprint is a policy document developed to help address the City's and the public's concerns and desires of the El Paseo Corridor area. The El Paseo Corridor Community Blueprint area is where the development of existing underutilized properties, such as this one, are encouraged. The proposed zone change may also allow diverse land uses and housing types in proximity to each other, which is encouraged in the El Paseo Corridor Community Blueprint area in order to potentially achieve a walkable, inclusive and economically viable area.

Conclusion

The proposed zone change is supported by the Development Services Staff and all other reviewing departments in the City of Las Cruces. Based upon review of the proposal by staff and other relevant agencies, the proposed zone change is justified based upon the following:

- The proposal is consistent with the goals and objectives of the Comprehensive Plan, the Transportation Plan, the El Paseo Corridor Community Blueprint and the intent of the 2001 Zoning Code; and
- The proposed zone change will encourage the development of an underutilized property in the core of the City of Las Cruces.

DRC RECOMMENDATION

The proposal did not require review and recommendation by the Development Review Committee.

STAFF RECOMMENDATION

Staff recommends **APPROVAL WITH CONDITIONS** of the proposed zone change based on the findings listed below.

CONDITIONS FOR APPROVAL

1. See Attachment 4 for all conditions.

FINDINGS FOR APPROVAL

1. The subject parcel currently encompasses a total of 4.2 ± acres, is zoned R-3 (Multi-Dwelling Medium Density) and is a primarily undeveloped property with a single-family residence on a small portion of the property.
2. The proposed zone change will encourage the development of an underutilized/mostly vacant property within an established area of the City of Las Cruces. (2001 Zoning Code Article 1, Section 38-2K)
3. The conditions placed on the proposed zone change will help mitigate any conflicts among the surrounding neighbors. (2001 Zoning Code, Article 1, Section 38-2Q)
4. The proposed zone change can potentially encourage a balance of land uses in the area and provide convenience and functionality to those who may live and work in this area of the City. (Comprehensive Plan 2040, Chapter 4, Goal 1, Policy 1.4)
5. Based upon staff's analysis of the proposal, the proposed zone change meets the intent of Comprehensive Plan 2040; meets the goals of the El Paseo Corridor Community Blueprint; meets the purpose and intent outlined in Section 38-2 of the 2001 Zoning Code, as amended; and fulfills the purpose of the Las Cruces Municipal Code Section 2-382.

ATTACHMENTS

1. Zoning/Vicinity Map
2. Aerial Map
3. Development Statement
4. Conditions
5. Applicant's Narrative/Prohibited Uses
6. Comprehensive Plan Goals and Policies/ El Paseo Community Blueprint Goals
7. Early Notification Meeting Notes

Vicinity Map

ZONING: R-3 TO R-3/C-3C

OWNER: BOSKO & ANNIE JO KRIVOKAPICH REVOCABLE TRUST

PARCEL: 02-11764

DATE: 08/06/2015

ATTACHMENT #1



Community Development Department
 700 N Main St
 Las Cruces, NM 88001
 (575) 528-3222

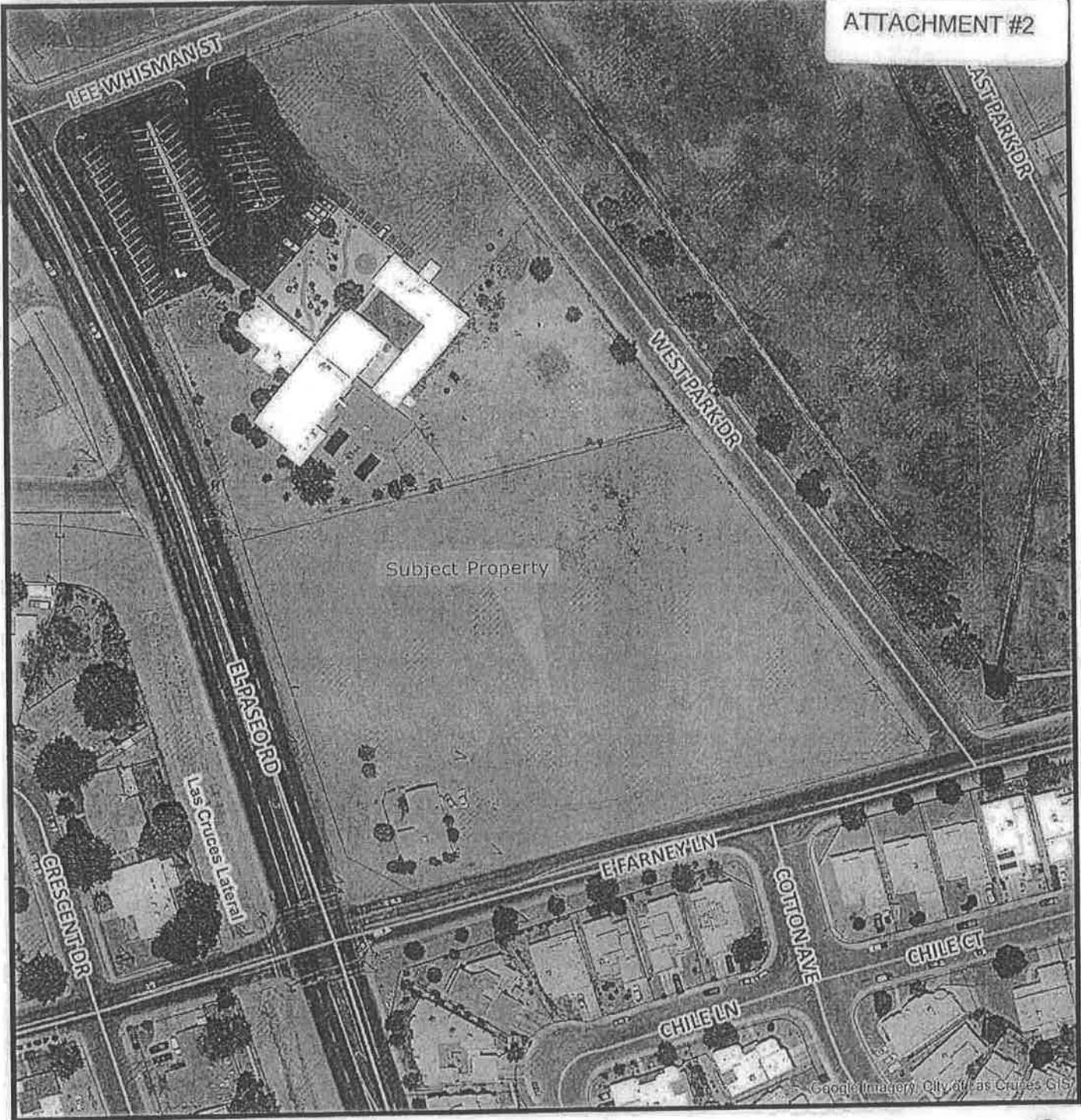
This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged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

Aerial Map

PARCEL: 02-11764
DATE: 08/06/2015

ZONING: R-3 TO R-3/C-3C
OWNER: BOSKO & ANNIE JO KRIVOKAPICH REVOCABLE TRUST

ATTACHMENT #2



Google Imagery, City of Las Cruces GIS



100 50 0 100
Feet

Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

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

DEVELOPMENT STATEMENT for City Subdivision/Zoning Applications

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

Applicant Information

Name of Applicant: Bosko and Annie Jo Revocable Trust
Contact Person: Gary Krivokapich
Contact Phone Number: 6612-332-3046
Contact e-mail Address: Gary Krivokapich
Web site address (if applicable): _____

Proposal Information

Name of Proposal: Butterfield Plaza

Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)
Commercial / Residential

Location of Subject Property 801 E Farney Ln, Las Cruces NM

(In addition to description, attach map. Map must be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area)

Acreage of Subject Property: 4.2 =-

Detailed description of **current** use of property. Include type and number of buildings:
There is on house on the property, this house will be demolished for development.

Detailed description of **intended** use of property. (Use separate sheet if necessary):
Mixed use commercial and/or residential

Zoning of Subject Property: R-3

Proposed Zoning (if applicable): R-3 / C-3

Proposed number of lots N/A, to be developed in N/A phase (s).

Proposed square footage range of homes to be built from 500 to 3,000

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

35'

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

0600 to 2300

Anticipated traffic generation 2625 trips per day.

Anticipated development schedule: work will commence on or about 2017

and will take 14 months to complete.

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

on-lot ponding

Will any special landscaping, architectural or site design features be implemented into the proposal (for example, rock walls, landscaped medians or entryways, entrance signage, architectural themes, decorative lighting)? If so, please describe and attach rendering (rendering optional). landscaping, architectural and sign design features will meet the requirement for the respective R-3 and C-3 city of Las Cruces requirements.

Is the developer/owner proposing the construction of any new bus stops or bus shelters? Yes ___ No ___ Explain: As required by City of Las Cruces

Is there existing landscaping on the property? no

Are there existing buffers on the property? no

Is there existing parking on the property? Yes x No ___

If yes, is it paved? Yes ___ No x

How many spaces? 3-5 How many accessible? N/A

Attachments

Please attach the following: (* indicates optional item)

Location map

Subdivision Plat (if applicable)

Proposed building elevations

*renderings of architectural or site design features

*other pertinent information

Conditions

Prohibited Uses:

Adult Entertainment (such as strip clubs)	Game Room (card room)
Adult Bookstore	Auto/Truck Gas Station
Animal Hospital and Clinic	Golf Course
Auto and Camper Sales and Service	Heavy Equipment Sales
Auto body shop	Hospital or Overnight Clinic
Automobile Parking Lot	Hotel and Motel
Billboards and all off-premise signs	Microwave Radio Relay Structure
Boat Sales and Service	Miniature Golf Course
Bowling Alley	Motion Picture Theater
Bus Terminal	Motorcycle Sales and Service
Cigarette and Cigar Stand	Private Club or Lodge
Dance Hall or Music Academy	Radio Towers/Cell Towers
Dry-cleaning and Steam cleaning establishment	Skating Rink
Electric Shop	Taxicab Stand
Funeral Home, Mortuary (including/ or excluding crematoriums)	Tire Sales and Service
Fraternity / Sorority	Upholstery Shop
Frozen Food Locker	Bar, Pub, Tavern

Limited Uses:

- No more than 60 dwelling units shall be permitted for the entire 4.2 ± acre property.
- No more than 50% of a restaurant's sales shall be from alcohol sales.
- No more than 20% of a business's gross floor area shall be utilized for package alcohol sales.
- No business operations shall occur between the hours of 12:00 a.m. and 6:00 a.m.

Justification for Zoning Change

The developer can combine C3 and R3 zoning to design the most economical development for the El Paseo Corridor. The zoning change will enhance potential development because it will "allow flexibility in land and buildings such that development can respond to economic and ownership changes."¹ This dual zoning will allow commercial mixed with residential will "allow diverse land uses and housing types to locate in proximity to each other to achieve a walkable, inclusive and economically viable area"². The zoning change will encourage infill in this area which is a goal of the City of Las Cruces.

Potential developers have deemed the R3-PUD zoning was too restrictive.

This a unique parcel that is walkable to NMSU and easily accessible from nearby neighborhoods. Commercial uses have already been approved for this parcel by the City of Las Cruces with the PUD approved in 2004. The prohibited uses will help protect the residential neighborhoods from an adverse impact while providing potential walkable business's such as coffee shops, offices and restaurants.

The applicants have already help to make El Paseo a safer and more user-friendly corridor³ by recently donating land to the City of Las Cruces for improved traffic flow and walkability along Farney Ln.

The zoning change will increase the potential for development in accordance with the El Paseo Corridor Community Blueprint and increase the year taxes from \$3,3k to up to over \$100k after development.

Prohibited Uses:

Adult Entertainment (such as strip clubs)	Game Room (card room)
Adult Bookstore	Auto/Truck Gas Station
Animal Hospital and Clinic	Golf Course
Auto and Camper Sales and Service	Heavy Equipment Sales
Auto body shop	Hospital or Overnight Clinic
Automobile Parking Lot	Hotel and Motel
Billboards and all off-premise signs	Microwave Radio Relay Structure
Boat Sales and Service	Miniature Golf Course
Bowling Alley	Motion Picture Theater
Bus Terminal	Motorcycle Sales and Service
Cigarette and Cigar Stand	Private Club or Lodge
Dance Hall or Music Academy	Radio Towers/Cell Towers
Dry-cleaning and Steam cleaning (on-site)	Skating Rink
Electric Shop	Steam cleaning establishment
Funeral Home, Mortuary (excluding crematoriums)	Taxicab Stand
Funeral Home, Mortuary (including crematoriums)	Tire and Sales and Service
Fraternity / Sorority	Upholstery Shop
Frozen Food Locker	

1. El Paseo Corridor Community Blueprint, page 4, Goals 3
2. El Paseo Corridor Community Blueprint, page 4, Goals 2
3. El Paseo Corridor Community Blueprint, page 4, Goals 1

Comprehensive Plan 2040

Chapter 4, Healthy Communities

- **Balanced Development**
 - **Goal 1: Encourage Mixed Use Development**
 - **Policy 1.1 Encourage development using mixed use concept of this Comprehensive Plan, such as developing compatible non-residential uses within walking distance of existing residential areas.**
 - **Policy 1.4 Encourage a balance of land uses as a means of providing convenience and functionality to those who may live and work in one area of the community, particularly in designated Infill areas or where city services exist or are planned to support mixed use development.**

Chapter 5, Community Character

- **Flexible Design and Positive Image**
 - **Goal 19: Encourage development that is context-sensitive and compatible to the surrounding area.**
 - **Policy 19.14 Encourage high-density and/or mixed use development that is compatible with the neighborhood at locations throughout the city where such development furthers livability and mobility options to build a strong sense of community.**
 - **Policy 19.27 Support a policy of mixed land uses which are not traditionally considered compatible that may be located next to one another depending upon design features and compatibility with the adjacent area as a result of the mixed land use policy of this Comprehensive Plan. Those uses with lower intensities must be protected from any negative impacts from adjacent uses with higher intensities in order to protect a desirable quality of life within the city.**

Chapter 6, Economic Prosperity

- **Economic Diversity**
 - **Goal 24: Create incentives, opportunities, partnerships, and policies that build a diversified business community.**
 - **Policy 24.2 Support and implement mixed-use policies, flexibility of placing new uses, and office, commercial, and industrial zoning districts as outlined within this Comprehensive Plan.**

Chapter 7, Sustainable Growth

- **Managed Growth**
 - **Goal 37: Establish an urban form which reflects coordinated and efficient city growth, circulation, development, redevelopment, and preservation practices.**
 - **Policy 37.1 Create additional incentives to encourage infill development.**
 - **Goal 38: Encourage sustainable practices that move toward a compact mixed-use urban form that supports infill and discourages "leap frog" growth.**
 - **Policy 38.5 Encourage infill development as defined by City Code, as amended, as a way to support the utilization of property within the urbanized areas of the city and enhancement of the existing infrastructure network.**

El Paseo Corridor Community Blueprint

- Goal 1. Redevelop El Paseo Road as a safer and more user-friendly corridor; prioritize equitable design to ensure pedestrians, bicyclists, transit-users, automobile users and people with varying abilities have equal opportunity in accessing uses along the corridor.**
- Goal 2. Allow diverse land uses and housing types to locate in proximity to each other in order to achieve a walkable, inclusive and economically viable area.**
- Goal 3. Allow flexibility in land and building uses such that development can respond to economic and ownership changes.**
- Goal 4. Improve the aesthetic appeal of the corridor; foster a "sense of place" or community identity along the corridor.**

Neighborhood Meeting for El Paseo and Farney North East corner
Zoning Change. Meeting 9/4/2015 6:00 to 7:40

There was a great turnout at the meeting. Not including me, 23 people signed in.

Here are the major topics from the conversation

- Traffic /access on Farney
- Reduce the number of apartments
- Don't see anyone wanting to develop the property
- How much will be C3; 0-100%
- Be Green
- Want site plans with conditions so they can approve
- Prefer commercial/no apartments
- Close drive through by 10 or 12 pm
- Build residential for senior citizens
- Want PUD back-They expressed problem with PUD expiring
- Do not understand the difference between conditions and prohibitions
- Want 2 more weeks – explained this is not a good idea because of the notifications have gone out.

I had them sign and turn in their comments, see attachment one.

I received 10 responses plus one email supporting the project before the meeting. The concerns total as shown in Table One.

Table One - Scoring Concerns																
Concern	Total	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Traffic concerns on Farney/West Park/	8	1			1	1		1	1	1	1		1			
Traffic concern on West Park	3						1		1	1						
Limit access on Farney/traffic Farney	5	1			1	1			1		1					
No low Income/section 8	1	1														
Lower the Density of Apts	7	1		1	1			1	1	1	1					
Sound barrier for drive through	1	1														
No 24 hour drive through	1									1						
develop dust coming in	1		1													
want nice restaurants/business	1		1													
develop good for area/support	0															
C3	2	1	1													
C2 only	2								1		1					
Like to be able to review plans	1				1											
Build Green/Pedestrian friendly	1				1											
multi-use	1				1											
No alcohol service	4						1		1	1	1					
No bars	5				1		1		1	1	1					
No liquor stores	4						1		1	1	1					
NO restaurant serving liquor	2				1		1									
Restrict the liquor stores	4				1	1				1	1					
No fast food	1				1											
no dollar store	1				1											
no payday	1				1											
restrict to 1 story	1													1		
In favor of developing	2		1									1				

The major concerns were as follows:

Concern	How the Property Owner is addressing the neighborhood concerns – Add to prohibited uses
Lower the density of Apartments (7 concerns)	Prohibit more than 60 residential units for the 4+- acres in the development
No alcohol service (4 concerns)	Prohibits alcohol without 50% restaurant sales
No bars (5 concerns)	See above
No liquor stores (4 concerns)	Prohibit the sale of package liquor in Grocery stores with

	20% or more of the floor space dedicated to package liquor sales
Restrict the business hours (4 concerns)	Prohibit customer business hours from 1200 midnight to 600 am in the morning

Understand, we are still very much in favor of the C3-R3 zoning, but there is a need to address the staff ruling that the PUD is expired and the zoning has returned to R3. We need to get a written opinion from the City of Las Cruces's attorney. **This is an issued brought up by the neighbor's leader and we feel it could be a big stumbling block for moving forward.** We need an opinion from the City Attorney take to the P&Z meeting or the meeting will be delayed until one is issued. The question stems from the minutes from the meeting when the PUD was approved. On page 9, in describing the PUD, Mr Kyle stated "...have the ability to development for the commercial purposes in which they were originally seeking, without having that conditional time clock start on it. Because it's a PUD we're establishing the conditions within the PUD and it doesn't act the same as a conditional zone change". I feel we could end up getting delayed until a written opinion is issued from the City Attorney in conjunction with the planning staff. My past experience, if there is not a legal answer from the City Attorney – the process will be delayed until one is rendered. Plus, please make sure our prohibited uses are not considered conditions that would make our zoning expire.

If you have any questions, let me know.

Gary Krivokapich

661-332-3046

Attachment One – Comments from Neighbors/Sign In

①

Date: 9/4/2015

Home Owner Name: Please Print
 Sigrid Gustafson

Address 2063 Cotton Lane

City Las Cruces NM 88001

State

Email address: coachsigrid@earthlink.net

Comments on the rezoning:

Traffic concerns on Fanny

New lot home visitors - TRP 2

Low density R2

Sound barrier - we can make

that you can make

Expects to be been balanced to my mind

Please Sign

By: Sigrid Gustafson

2

Date: 9/4/2015

Home Owner Name: Please Print

Bessie M. Hobson

Address 2051 Cotton Ave

City Las Cruces

State New Mexico

Email address: bessie.hobson@gmail.com

Comments on the rezoning

I am in favor of rezoning as the property could be developed better the land below the desert bloom and very so if this were developed this should not happen happily as developers will bring businesses to us business that will add to the area that is possible

I feel the development turned in a good thing for our area

I am in favor of the rezoning

Please Sign

Here Bessie M. Hobson

3

Date: 9/4/2015

Home Owner Name: Please Print

David Diaz

Address: 7005 Crescent Dr

City: LAS VEGAS

State: NV

Email address: david@22 @ gov.com

Comments on the rezoning:

would not want as many apartments in this area
because there is already ^{enough} in this area

Please Sign

Here:



4

Date: 9/4/2015

Home Owner Name: Please Print

Katherine Katona Staley

Address 710 S. San Pedro St

City Las Cruces

State NM

Email address: kkatona@staley.com

Comments on the rezoning: Community Planner @

First Christian Church. Would like to be able to know the home property owners work check at what the zoning plan in case more owners would be willing to give, multi-use, mixed general development. I don't want to see coffee shops or social/hobby shops located in the neighborhood. On the other hand, I would like to see more of these types of businesses in the area. I would like to see more of these types of businesses in the area. I would like to see more of these types of businesses in the area.

Please Sign

Here

5

Date: 9/4/2015

Home Owner Name: Please Print

Chadler R. Lauer

Address: 2015 Cottage Ave

City: Leno, Illinois

State: NM

Email address: chadler@comcast.com

Comments on the rezoning:

I am very concerned about traffic on
Cottage and what the impact will be
if rezoned to be for residential use
This concern should be on the meeting
agenda for 9/15/15

Please Sign

Here: 

6

Date: 9/4/2015

Home Owner Name: Please Print

First Christian Church

Address 1509 El Paseo

City Las Cruces, NM

State NM 88001

Email address:

Comments on the rezoning:

① I will wait a year or so
in order to bring up on the property
② with the suggested plan to request
the transfer until

Please Sign

Here: Peter Smith

7

Date: 9/4/2015

Home Owner Name: Please Print

Raymond A. Ortiz

Address *2245 Cotton Ave*

City *Las Cruces*

State *NEW MEXICO*

Email address:

Comments on the rezoning:

Re-CZ Required

Request Rezoning

Request rezoning on El Paso County - West Park

Please Sign

Here: *[Signature]*

8

Date: 9/4/2015

Home Owner Name: Please Print

Jared C. Ho

Address 2048 Cotton Ave

City Los Cruces

State N M

Email address:

Comments on the rezoning:

- Please restrict development to R2 @ 2 only

- With a church & school neighboring, not appropriate for a bar or liquor store.

Please Sign

Here:

J.C. Ho

Date: 9/4/2015

Home Owner Name: Please Print

Ann M. Tagness

Address 565 Chile

City Los Cruces

State NM

Email address: jdyx3a@gmail.com

Comments on the rezoning:

We would prefer R2/C2 to
 lower density. No 24 hr drive
 thru. Live outdoor music/entertainment
 closed by midnight. No bar
 or liquor license. What the
 city has converted to people use the park
 for soccer, baseball, football, picnic
 area, etc. etc. etc. etc. etc.

Please Sign

Here: Ann M. Tagness

Date: 9/4/2015

Home Owner Name: Please Print

Joel Jacques

Address 868 Chile Ct

City Las Cruces

State NM

Email address: jxj2@gmail.com

Comments on the rezoning:

I am concerned about the congestion on Fabrey. I am also concerned about late night activity.

I believe that a zoning of C202 will allow impact from the current residents to restrict such activities. My preference would be no bars & no customer activity after 12:00.

Please Sign

Here:

Joel Jacques

11



Danica Coyle <dcaylor@gmail.com>
to me 

Hello,
We will not be in attendance at the meeting. However, we do support the zone change! Thank you,
David and Danica Coyle
Owners of 2025 Corn Dr.

Danica Coyle

Licensed Assistant to David Coyle, Laurel Coyle, & Quint Lears
RE/MAX Classic Realty
575-650-5560 Cell
575-524-8788 Office
dcaylor@gmail.com
Each Office Independently Owned & Operated

12

Neighborhood Feed

**BARBARA AND DAVID BARON**

0:00 PM (0 minutes ago) ☆

to jnr (2)

Gary, here is a comment from a property owner in Heritage. He is traveling so am sending it on to you. I was concerned last night about the 35' height and think his one story limit makes a lot of sense given the relatively small size of the property. Your PUD Butlerfield Plaza had only one storied buildings as I recall.

David Baron

Thanks David,

Unfortunately Darlene and I will be out of town. I would prefer a very low density zoning with no two story buildings. Also, it is important that there be only one (preferably none) entrance on Farney. Traffic is already heavier on Farney since the new stop light on El Paseo for the high school. There are now 3 stop lights within 200 yards, so people driving north on El Paseo are avoiding the lights by turning right onto Farney and then left on Espina. It would be nice if the only entrance to the development was on W. Park Dr.

Multiple access entrances on Farney would be a disaster and a safety hazard.

It would be great if Sigrid Gustafson could attend. Her father, Henry, was a great city councilman and he wanted to preserve the character of our neighborhood. Sigrid would be a great advocate.

Let me know what happens.

Jim

Jim Nelson
New Mexico State University

9/4/2015

Re Linda Merwin

Fellow Reasoning

	Name	Address
1.	Chris Woods	2051 Cotton
2.	Bess Robson	2051 Cotton
3.	Ray Ott	2051 Cotton
4.	Luett Ott	2051 Cotton
5.	Barbara French	2051 Cotton
6.	David Brown	2051 Cotton
7.	Janet Brown	2051 Cotton
8.	Clara Linder	2051 Cotton
9.	Sigrid Gustafson	2063 Cotton
10.	George P. ...	503 ...
11.	Patricia ...	12 ...
12.	William ...	2005 Crescent Dr
13.	Sandra ...	27555 ...
14.	Maria ...	27555 ...
15.	Ken ...	FCC 1909 El Paso Rd
16.	... Hayes	2036 Cotton Ave
17.	David Diaz	2005 Crescent Dr
18.	Noona Staley	100 San Pedro St
19.	Ann M. Jacques	268 Chile Ct
20.	John Jacques	268 Chile Ct
21.	... TRIVIZ	2051 Cotton Ave
22.	... EMITA	(CITY COOKING)
23.	DICKIE E. MARLIS	2051 Cotton Ave
24.		
25.		

PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
September 22, 2015 at 6:00 p.m.

BOARD MEMBERS PRESENT:

- Godfrey Crane, Chairman
- William Stowe, Vice-Chair
- Joanne Ferrary, Member
- Harvey Gordon, Member

BOARD MEMBERS ABSENT:

- Charles Beard, Secretary
- Ruben Alvarado, Member
- Kirk Clifton, Member

STAFF PRESENT:

- Katherine Harrison- Rogers, Senior Planner, CLC
- Adam Ochoa, Planner, CLC
- Sara Gonzales, Planner, CLC
- Mark Dubbin, CLC Fire Department
- Chris Mount, CLC Fire Department
- Robert Cabello, CLC Legal Staff
- Becky Baum, Recording Secretary, RC Creations, LLC

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

Crane: Good evening ladies and gentlemen. The Planning and Zoning Commission meeting for the 22nd of September is called to order. Let me start as we usually do by introducing the Commissioners present; on my far right Commissioner Gordon is the Mayor's Appointee; on his left Commissioner Stowe is, represents District 1 and is also our Vice Chairman; then Commissioner Ferrary represents District 5. I'm Godfrey Crane the Chair, and I represent District 4.

II. CONFLICT OF INTEREST

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

Crane: Let me ask at this point if any Members of the Commission or any Community Development people have any conflict of interest with any item on tonight's agenda? No one so indicates. It's appropriate for me to say at this point that for those of you who were present when we discussed the case now on Old Business SUP-15-01 at our last meeting I

- 1
2 Stowe: Just that we had a short discussion a few minutes ago and it seems to be
3 perfect, perfectly logical that ...
4
5 Crane: I agree.
6
7 Stowe: Let's go forward with it.
8
9 Crane: It seems that Domino's here is a victim of topography and in a good way
10 they're up on a hill and in a bad way yes you can't see the place from
11 several directions and it seems to me this is an appropriate variance. It
12 doesn't create a nasty precedent and my inclination is to approve and if
13 that's the inclination of any of you, again because the City recommends
14 denial we'll have to come up with our own reasons for approval. We
15 cannot cite the City's views.
16
17 Stowe: The, one of the, one of the, one of the reasons for voting yes is that it is a
18 very unique property.
19
20 Crane: Yeah. Yeah. Okay. We'll start the voting with Ms. Ferrary this time.
21
22 Ferrary: I vote yes regarding discussion and site visit.
23
24 Crane: Mr. Stowe.
25
26 Stowe: I vote yes based on discussions this, this evening.
27
28 Crane: Mr. Gordon.
29
30 Gordon: Based on site visit and our discussion I also vote yes.
31
32 Crane: Yes.
33
34 Gordon: Yes.
35
36 Crane: And the Chair votes yes based on discussion and site visit. The motion
37 passes four/nothing. Thank you.
38
39 MOTION PASSES UNANIMOUSLY.
40
41 4. **Case Z2888:** An application of Gary Krivokapich requesting a zone change
42 from R-3 (Multi-Dwelling Medium Density) to R-3/C-3C (Multi-Dwelling
43 Medium Density/Commercial High Intensity-Conditional) for a 4.2 +/- acre
44 property located on the northeast corner of Farney Lane and El Paseo Road:
45 a.k.a. 801 E. Farney Lane; Parcel ID# 02-11764. Proposed use: A mixed
46 use commercial and/or residential development. Council District 2 (Councilor

1 Smith).

2
3 Crane: Next item up is Case Z2888: Application to a, for a zone change on a plot
4 of land at Farney and El Paseo, 801 East Farney. Mr. Ochoa.

5
6 Ochoa: Yes sir. Next case is as you stated zone change Case Z2888. It is a
7 proposed zone change from R-3 to R-3/C-3C at 801 East Farney Lane.
8 Subject property is located here in the hash marked area with El Paseo
9 running along on this side here, Farney to the south, and West Park Drive
10 to the east. Las Cruces High School is here to give you a little bit bearing
11 of where this property is located at. It is located on the northeast corner of
12 Farney Lane and El Paseo Road and currently encompasses roughly 4.2
13 acres. It, it is currently zoned R-3, multi-dwelling medium density and is
14 located in Council District 2 in the City of Las Cruces. There is currently a
15 single-family residence on the subject property, on the small portion of
16 subject property actually located near that intersection of Farney Lane and
17 El Paseo Road. Just to give you a little bit of background on this property,
18 this property was actually approved for a Planned Unit Development back
19 in 2004, the concept plan essentially stating it would follow all
20 development standards of the, what was called then the Crescent Center
21 Development Plan. But since that PUD was not vested a final site plan
22 was not submitted and no type of work was done to vest that PUD. The
23 PUD actually expired in 2009 which is what brings us now, brings the
24 applicant now before you for a proposed zone change. Shown here the
25 aerial, as you can see a vastly vacant piece of property here, that small
26 residential property located on the southwest corner of it, Las Cruces
27 lateral is located to the west, there is a church to the north, single-family
28 residential surrounding the, the west and the south, and a park to the east.

29 The applicant is proposing a zone change to R-3/C-3C which is
30 multi-dwelling medium density as it exists now/commercial high intensity
31 conditional. The proposed zone change is, is being proposed by the
32 applicant to allow for the flexibility to develop the subject property and
33 potentially even develop the property with mixed uses: Commercial,
34 residential, and office uses on the property. With the proposed zone
35 change the applicant did submit a, a list of prohibited uses and other
36 restrictions that would be placed on the property as a condition. The
37 reason for this is the applicant was hoping to help mediate any conflicts
38 with the neighbors in the surrounding area and he just felt that these were
39 uses that, that he deemed and he, possibly the neighborhood deemed
40 undesirable and inappropriate for the area.

41 Because of the magnitude of the zone change though, staff did
42 require the applicant to provide early notification to the surrounding area.
43 That early notification letter did go out and a meeting was requested by
44 some surrounding property owners and it was provided by the applicant.
45 During the meeting several issues and concerns were discussed and as a
46 result of that the applicant actually came back to staff with a number of

1 other conditions or prohibitions for the proposed zone change, again to
2 help mediate any conflict with the surrounding neighbors.

3 When staff took a look at this proposed zone change we, we, when
4 we were analyzing it we, we saw this property is actually located in the
5 Infill Development area. It is a vacant piece of property and underlie,
6 underutilized piece of property in the center of the city and this, we feel
7 that this proposed zone change will help encourage a development of this
8 mostly vacant infill property. Subject property is also adjacent to El Paseo
9 Road which is a minor, minor arterial roadway as designated by the
10 Mesilla Valley Metropolitan Planning Organization and is in close proximity
11 to NMSU where this proposed zoning and uses are encouraged. The
12 proposed zone change is also supported by the Comprehensive Plan, the
13 purpose and intent of Section 38-2 of the 2001 Zoning Code and it also
14 does, does meet some of the goals and intents of the lot, the El Paseo
15 Corridor Community Blueprint which is a, a policy that is actually located in
16 this area as well.

17 Just to let you know, notice was sent out to all the relevant
18 agencies and departments. Nobody saw any major issues with the
19 proposed zone change. Traffic Engineering did state that they will require
20 a traffic impact analysis at the time of development to see what type of
21 road improvements or access improvements would be required of the
22 development and notice was sent out to the surrounding properties
23 following all City and State statute requirements. When I did this, pardon
24 me when I did this slide show I didn't have no public input at the time but
25 before you, you do have an e-mail from the surrounding property owners,
26 or a property owner in the surrounding area that has some concerns with
27 the proposed zone change.

28 With that though staff does recommend approval with conditions for
29 the proposed zone change based on the findings found in your staff
30 report. The Planning and Zoning Commission is simply a recommending
31 body to City Council where this will actually go before them for final action.
32 Here are the recommended findings for approval found in your staff report
33 that staff has stated for supporting that proposed zone change and here
34 are the conditions for approval which are found in your, in Attachment
35 Number Four in your staff report. As you can see here the property owner
36 does have a large number of prohibited uses that he had plus some
37 additional ones that he put on there after his public notice meeting. There
38 are also some other limitations or prohibitions of limiting the number of, of
39 multifamily dwelling units on the property if that gets developed, limiting
40 restaurants' liquor/alcohol sales, limiting package alcohol sales for, for, for
41 different businesses that sell package liquors, alcohol sales, and also a
42 prohibition on business operations happening between the hours of 12
43 a.m. and 6 p.m. The applicant has also let me know before we actually,
44 the meeting started, he would like to add some additional conditions if you
45 would like to vote to approve this with additional conditions other than that
46 what's stated in Attachment Number Four essentially limiting the maximum

1 height permitted for any type of development on the property to 35 feet so
 2 that'd be the maximum height permitted for building in that property as well
 3 as limiting or prohibiting the use of manufactured homes and, and, and
 4 mobile homes on the property. By doing this the applicant feels now his
 5 permitted uses on the property are mirrored or the same as a commercial
 6 medium intensity zoning district now instead of a high intensity zoning
 7 district on the property.

8 With that ladies and gentlemen is your options: 1) to vote "yes"
 9 vote to recommend approval for the proposed zone change as
 10 recommended by staff with conditions; 2) to vote "no" and recommend
 11 denial for the, for the proposed zone change to City Council; 3) vote to
 12 amend where you can again modify and add additional conditions to the
 13 proposed zone change as deemed necessary by the P&Z; and 4) vote to
 14 table and postpone the proposed zone change and direct staff and the
 15 applicant accordingly. That is the conclusion of my presentation. The
 16 applicant is also available for any questions.

17
 18 Crane: Thank you Mr. Ochoa. Mr. Gordon do you have a question for Mr.
 19 Ochoa?

20
 21 Gordon: No.

22
 23 Crane: No. Anyone else? Appears not. Thank you. The applicant present?
 24 You're Mr., I knew I was going to have trouble with this ... Krivokapich.

25
 26 Krivokapich: Krivokapich or Krivokapich if you want.

27
 28 Crane: Okay. Mr. Krivokapich do you swear or affirm that the testimony you are
 29 about to give is the truth and nothing but the truth under penalty of law?

30
 31 Krivokapich: Yes I do.

32
 33 Crane: Go ahead please.

34
 35 Krivokapich: Thank you for your time and your service to the City of Las Cruces. I'm a
 36 native New Mexican and graduated from New Mexico State University.
 37 My parents purchased the property in 1965 while they were going to
 38 graduate school at NMSU. As it was stated and I'll try to cut some of this
 39 out, we, we obtained a PUD in 2004 with only commercial uses. We tried
 40 marketing that. It was just way too restrictive so we came back in July to
 41 basically add residential uses back in to give a mixed use into, and, and to
 42 bring it into synch with the Corridor Plan because the Corridor Plan is
 43 calling for a mixed use, usage in the area. We're, then again we're
 44 proposing C-2, I mean C-3/R-3 zoning with the prohibited uses that we've
 45 brought forward from our PUD and also we've met with a group and we
 46 came up with uses, and the group is also able to hand us sheets of paper

1 to say, "Hey this is what is bothering," we've had about 11 of those. We
2 tallied those back up to see what we could do to meet their needs. And
3 really it ended up where the property owner said, their spokesman was
4 that "If you take it, take it to C-2/R-2 we'll be happy." Well there's one
5 problem with that. C-2 does not accept, our, our property's too big for C-2.
6 So what I did, one thing I did is I went through all the zoning on C-2 and C-
7 3 and the only really difference was manufactured homes and flea
8 markets. So those we can prohibit, that's not a problem. So basically
9 then we went back in and said, "Well we can live with 15, with 16
10 residential units instead of the, the 20." So it's essentially C-2/R-2 in uses.
11 Okay and I, I really basically what, has, how we see the zoning is a really
12 win for everybody. It increases the probability that this property will be
13 developed. It will help provide a dynamic corridor into NMSU and into the
14 City of Las Cruces. It will provide a walkable, bike-able businesses and
15 residential. It would definitely increase the revenue to the City and will
16 provide a development that protects the neighborhood but, and also
17 enhances the neighborhood. Again I'd like to thank you for your time and
18 your consideration. Thank you very much. And you have any questions
19 just ...

20
21 Crane: Thank you Mr. Krivokapich. Commissioners, questions for the applicant?

22
23 Ferrary: This is more of a ...

24
25 Crane: Commissioner Ferrary.

26
27 Ferrary: Comment. It sounds like you all worked really well together with the
28 community and you know you as a, an, property owner and that
29 everything that a neighborhood would not like to have you're fine with and
30 but they would like to have of, is a walking community and businesses that
31 they can go to and you know be a part of where they're already existing,
32 the church and the development. Sounds like a very nice way to
33 compromise.

34
35 Krivokapich: Thank you.

36
37 Crane: Anyone else? Apparently not. Thank you sir. Any members of the public
38 wish to address this? Okay. I saw the lady in white first. Tell, tell us who
39 you are please.

40
41 Ames: Judith Ames.

42
43 Crane: Ms. Ames do you swear or affirm that the testimony you are about to give
44 is the truth and nothing but the truth under penalty of law?

45
46 Ames: I do.

1
2 Crane: Carry on please.
3
4 Ames: My husband and I are residents of Farney Lane, apparently too far away
5 to have been notified of this public meeting, the neighborhood meeting so
6 we were unaware of it. We are extremely concerned about traffic. The
7 traffic is very, very frequently 50 miles an hour on our 25 mile per hour
8 street and we don't have enforcement to alleviate this very often. I know
9 the police have other things to do but the increased traffic is a little
10 frightening actually so I wonder about what, what about traffic impact.
11 No?
12
13 Crane: Thank you.
14
15 Ames: The property does need to be developed. It's, it looks awful and it would
16 be great to have it used but we're, as I said we're concerned about the
17 traffic and I would like to know if the gentleman who spoke to us about the,
18 the property plans to develop it himself or sell it because I wonder if all
19 these conditions would apply to a purchaser or only to him if he develops it
20 himself.
21
22 Crane: Thank you. We'll get some answers for you. Mr. Ochoa. Regarding the
23 conditions being applicable to somebody else who develops the property.
24
25 Ochoa: Mr. Chairman. To answer that question, the conditions run with the
26 property. They are prohibitions so they will stay with the property and the
27 zoning will stay with the property. Doesn't matter whether the property
28 owner develops or he sells it and somebody else develops it. Those
29 conditions stay on the property.
30
31 Crane: And regarding traffic that will be dealt with at some point when detailed
32 plans are developed?
33
34 Ochoa: Mr. Chairman. That is correct. Like I stated before Traffic Engineering did
35 state they will require a traffic impact analysis before the development of
36 this property. With that traffic impact analysis they will look at you know if
37 there are any road improvements required to Farney Lane to
38 accommodate for any additional traffic or whether even access will be
39 allowed to Farney Lane and just strictly allowed only like on El Paseo or
40 West Park as a secondary access point. Unfortunately we don't have that
41 traffic impact analysis because we don't know exactly what's going in
42 there yet but when the development does happen, that will have to
43 happen sir.
44
45 Crane: Thank you. Any other member of the public? Gentleman in the blue shirt.
46

1 Haynes: Good evening. Scooter Haynes.
2
3 Crane: Tell us who you are please.
4
5 Haynes: Scooter Haynes. Scooter Haynes.
6
7 Crane: Haynes?
8
9 Haynes: Yes.
10
11 Crane: Okay. Do you swear or affirm that the testimony you are about to give is
12 the truth and nothing but the truth under penalty of law?
13
14 Haynes: I do.
15
16 Crane: Go ahead.
17
18 Haynes: Good evening Commissioners, Mr. Chairman. I'm an adjacent property
19 owner to the subject property in the Heritage Farm subdivision across
20 Farney Avenue highlighted on your subject map there in blue. I would like
21 to start with the fact that Mr. Gary has been very easy to work with. I
22 appreciate all of his concessions but his testimony did, and, and his
23 accommodations have been slightly in his favor and so I would like to also
24 mention that I am in favor of development of the property and in favor of
25 the zone change in general. With that said I, I need to draw your attention
26 to the proposed use in your packet and also in his testimony this evening.
27 He mentions that the proposed use is a potential new development made
28 up of limited commercial and office uses as well as possible residential
29 uses. The applicant is not able to say that as he is not the potential
30 developer. He is simply a property owner that is trying to sell that piece of
31 property. Without being the developer he cannot represent the potential
32 future uses. To that note it would be very helpful through this whole
33 process to have had a site development plan that neighbors could review,
34 discuss, and approve. I've been told by staff that there is not a process
35 within the City that would allow a, a site, a site development plan to be
36 brought back before this body for public comment and consideration. If
37 there was that would be a condition that I would like to place on this zone
38 change. Furthermore if that is not available I think we can make this
39 better with a, a, a, a few additional conditions, primarily being no drive-
40 thrus which go to previous testimony, increase traffic and do harm
41 potential neighbors and also height. As you can see and I, I, Adam if we
42 could go back to the aerial the majority of the surrounding area is in
43 single-family residences. As single-family residences a three-story
44 apartment complex or commercial development in this property would not
45 be conducive to, to the neighborhood and therefore I would suggest that a,
46 that the 35-foot condition that the applicant is suggesting is not reasonable

1 and a more reasonable height would be in the 20 or 22-foot condition.
2 Tonight you, this body must make a, a decision based on a number of
3 criteria: 1) Does it impair an adequate supply of light, air, and air to
4 adjacent property or otherwise adversely adjoining properties? I would
5 suggest that yes it does without additional conditions. Number two: Does
6 it unreasonably increase the traffic in public streets? Yes it does without
7 additional conditions. Number seven: It, would it constitute a spot zone
8 and therefore adversely affects property values? Yes it would. Adam,
9 one more time how do I get to the surrounding property picture? As you
10 will notice there is no other commercial zoning. A number of, of
11 residential, single-family residential, it would constitute a spot zoning.
12 Again while I am in favor of that it is something this body must consider.
13 Lastly, for the record I believe that it has been brought to my, well I, I don't
14 believe it has brought to my, been brought to my attention that the posting
15 does say, have an incorrect date on it and so I just would like that on the
16 record for, for, for the, the Commission this evening. I stand for any
17 questions.
18

19 Crane: Thank you. Mr. Ochoa. I, I think your answer to a, a question before
20 applies here, that the, the zoning change should we vote for it with these
21 conditions will obligate the, whoever develops the property, whoever
22 actually makes decisions as to what goes in there, correct?
23

24 Ochoa: Mr., Mr. Chairman. That is correct. All conditions will stay with the
25 property as I stated before so all conditions that would state, that we place
26 on it tonight and then if City Council goes ahead and approves it as, as
27 stipulated, those conditions will stay with the property sir.
28

29 Crane: Thank you.
30

31 Haynes: If I could address the Commission for a moment more. Chairman, Mr.
32 Commissioners. It, my point to that is I understand that the, the conditions
33 run with the property. My, my issue with that is that the applicant is
34 representing that a walkable you know a, a, a, community-enhancing
35 development is proposed and, and I, I can't accept that for truth in this
36 matter unless he is the developer. And to date he has not represented
37 that he is the developer and so that, that leads me to the desire to have a
38 developer present this body and the public with a site development plan
39 that, that the neighbors can review to actually determine if it is a walkable,
40 community-enhancing development. The applicant is not in a position to
41 make those representations at this time.
42

43 Crane: Can you help us Mr. Ochoa?
44

45 Ochoa: Mr. Chairman. He is correct that, that a site plan wouldn't have to come
46 back before you. That is something that is taken care of administratively,

- 1 reviewed and finally potentially approved administratively but I'd like to
2 remind the Planning and Zoning Commission tonight also that this
3 property is located in the El Paseo Community Corridor Blueprint which
4 actually is a policy that staff can reference to that requires those types of
5 uses of walkability, providing pedestrian access and so forth like that when
6 the development does come in for review.
7
- 8 Crane: That can be required, it's not simply a recommendation?
9
- 10 Ochoa: Mr. Chairman. That is something that the, that staff and the potential
11 future developer would have to basically negotiate with us to see if, what
12 they can do to meet those requirements sir or those goals. Excuse me.
13
- 14 Crane: Thank you. Any other member of the public wish to address, gentleman in
15 the red shirt. Oh, Mr. Ochoa's coming back.
16
- 17 Gordon: Mr. Chair wait.
18
- 19 Ochoa: Mr. Chairman. Also just to address the issue about the height
20 requirement, the applicant is proposing as I said to add a, an additional
21 condition of limiting the maximum height of any development on the
22 property to 35 feet. Thirty-five feet is actually the maximum height
23 permitted for all that residential zoning district around them including the,
24 the neighborhood to the south and to the west, sir. Houses are allowed to
25 go two stories in height which is about 35 feet in height and that's what he
26 would be, is proposing for his property as well sir.
27
- 28 Crane: Thank you.
29
- 30 Gordon: Mr. Chair. Mr. Chair.
31
- 32 Crane: Yes Mr. Gordon.
33
- 34 Gordon: But aren't we trying to put the cart before the horse? I mean how can you
35 expect a developer, unless he has someone who is interested at the
36 moment in buying the property come in here and telling us basically what
37 they're planning to do with it, I mean he's just asking for a, a zoning
38 change with these conditions and telling us what he will allow or not allow
39 based on the, on the conditions that are in this schedule. I don't
40 understand how the gentleman can expect to, to answer your question.
41 Could you please come back to the microphone? How can, how can you
42 answer that question about what is going to be there if, if we don't have
43 someone who's at the moment is, is interested in buying the property?
44 You have to get the zoning approval first.
45
- 46 Haynes: Absolutely correct and I am in agreement with that but without a developer

- 1 asking for this zone change and, and able to tell us what is going to be
2 there, there are representations made that I, I cannot agree to being
3 accurate and that is to my point that we would like to see a site
4 development plan in the future if, if this body would, would make that a
5 condition that the, that the neighborhood could review and have public
6 input on. Without that, additional conditions are needed to make it
7 conducive to the community and, and fit in.
8
- 9 Gordon: So, so what you're saying that if in the future, if, let's say we grant this and
10 then with the condition that you would like to see in the future if it, if, if, if
11 the property owner has a developer who's willing to buy it and develop the
12 property must present a site plan.
13
- 14 Haynes: Correct.
15
- 16 Gordon: Which would come back to us, all right at which point you would have your
17 time to come and comment.
18
- 19 Haynes: Correct.
20
- 21 Gordon: But that does not prohibit that site plan from happening even if you don't
22 agree.
23
- 24 Haynes: That is correct. It would be at the discretion of this body.
25
- 26 Gordon: Okay. I understand what you want. I don't know how we can do that.
27
- 28 Crane: Well you could add conditions ...
29
- 30 Gordon: Yeah, we would have to, we'd have to, to, excuse me. We would have to
31 approve the development down the line at which time you would have the
32 opportunity then even to come before this Board.
33
- 34 Haynes: Commissioners, Mr. Chairman. It is my understanding that you would not
35 have to approve the development down the line should the, should the
36 development conform with the R-2, R-3/C-3C zoning and all other
37 applicable codes, this body would have no further action on that
38 development. It would, it would be administrative.
39
- 40 Crane: You agree with that Community Development? Ms. Harrison-Rogers.
41
- 42 H-Rogers: Mr. Chair, Members of the Commission. As currently proposed yes.
43 There would be no more action by this body in terms of how the property
44 is developed once the zone change occurs unless of course there's a
45 variance request or, or a Special Use Permit request or some sort of item
46 that would require it come back to you.

1
2 Gordon: But would, but wouldn't that be very restrictive to, to the owner of the
3 property in his attempt to, to sell it to a developer where he's putting this
4 restriction upon the developer if for some reason the, the, if it has to come
5 back to us with the, with that condition that we would add tonight to then
6 have their, have that come up to have our comment on it at that time?
7 Cause wouldn't it then have to come back to us?
8
9 H-Rogers: Mr. Chair, Members of the Commission, Commissioner Gordon. If, if you
10 all decided to add that condition I would recommend that it be stated as,
11 "A final site plan shall come to this, this Board for approval." It would be
12 similar to how a PUD is dealt with. Of course this is not a PUD at this
13 point in time. It was but it is not currently. But it would be similar to that
14 process so it, it could be added.
15
16 Gordon: Okay. So we, we could add that as a condition which you have the other
17 conditions in Attachment Four.
18
19 H-Rogers: You could.
20
21 Crane: Any other members of the public wish to address us? Yeah, gentleman in
22 the red, yeah. Tell us who you are please.
23
24 Nelson: James Nelson. James Nelson.
25
26 Crane: Mr. Nelson, okay.
27
28 Nelson: Nelson. Yes.
29
30 Crane: Do you swear or affirm that the testimony you are about to give is the truth
31 and nothing but the truth under penalty of law?
32
33 Nelson: Yes I do.
34
35 Crane: Go ahead please.
36
37 Nelson: Thank you. I am a, a resident, here we go in this property right here. I
38 was not notified of this meeting. There's only one entrance to this
39 subdivision and it's right here and so everyone in this division is, is
40 affected by the change here and yet I must be far enough away that I don't
41 count. The signs located here and here state that the meeting is on
42 September 20th which was last Sunday evening so we're not notified. We
43 don't know what's happened here. This is Heritage Farm. It was
44 developed by Mr. Henry Gustafson who is a member of the City Council
45 for many, many years and in doing so he was a business man and also a,
46 a very firm advocate for good communities, attractive communities and he

1 built a wonderful development here with mixed use including a nursing
2 home right here. And he donated to the City this large park right here
3 which is used on a daily basis by many, many people and then this is also
4 a park here. And so there's a lot of people here and there's a lot of
5 parking on the street, both sides of the street here in the afternoons when,
6 when people come out to participate in sports teams and other events at
7 that park so there's a tremendous amount of traffic here. Since the high
8 school changed their, their location we have seen a tremendous increase
9 in traffic here on Farney as people try to avoid the three traffic lights
10 between here and Boutz Road and they're turning right here and the high
11 school students are also, have an exit from their parking lot here and
12 they're coming down this way so I think we definitely need a, a, a traffic
13 analysis. I know that's not this Commission's job to do that but we
14 definitely need some kind of a traffic analysis. There are, it would be, the
15 traffic is very, very heavy along here and, and right now it's even hard to
16 turn. There are frequent ambulance and fire truck emergency/rescue calls
17 to the nursing home that come down Farney and down through the
18 neighborhood down to the nursing home right here so we need to, to look
19 carefully at traffic patterns and what's happening. We are not opposed to
20 development. We just want to know what's going to be there and we want
21 to be involved in the process of where the entrances to that development
22 will be. Are they going to be on El Paseo, are, we don't want it on Farney.
23 Do you want it where those kids are playing sports here on, on West
24 Park? It needs to be carefully planned and we want to be a part of that
25 planning process. We appreciate what's, what's happened to date and
26 look forward to further cooperation from the developer and the
27 Commission. I thank you.

28
29 Crane: Thank you sir. Any other input from the public? Tell us who you are sir.

30
31 Gonzales: My name is Pat Gonzales, 852 Chile Court.

32
33 Crane: Okay. And you got, I, no I didn't start the clock, it's my fault. You have
34 three minutes.

35
36 Gonzales: Mr. Chair, Mr. Chairman, Members of the Commission. Thank you for
37 allowing us to appear before you this evening and I guess I agree with,
38 with the gentlemen's that previously spoken and the young woman. My
39 concern is exactly what they asked about in regards to the development,
40 in regards to 60 units and of course I, I take it that's apartments and my
41 concern with the apartments is if you drive along University Drive, Espina,
42 even El Paseo there's plenty of vacancy signs in regards to the availability
43 of apartments. So that's one huge concern. Of course the traffic
44 infrastructure is another one and I guess it seems to me that if, if you guys
45 were to, if the Commission was to approve this request does it kind of give
46 the developer a green light to develop anything within the R-3/C-3C code

1 that allows other than the uses that he has said that he would prohibit, and
2 I understand him wanting to get a, a rezoning for it. It seems like the
3 person buying it would be doing his due diligence to make sure that he
4 could come and develop and meet with the neighbors and get a good
5 community plan that would be in agreement with the neighbors and so I
6 just bring these questions to you and would ask if you'd consider the
7 property owner also putting a, prohibiting apartments in, in, on this
8 property just because of the fact that there are so many just in that one
9 area, so many apartments that are vacant. And I want to thank all of you
10 for your time and we appreciate it.
11
12 Crane: Thank you sir.
13
14 Gonzales: God, God bless you guys. Thanks.
15
16 Crane: Anyone else? Then we'll close the meeting to public input and
17 Commissioners. Mr. Gordon did you have in mind to put in additional
18 conditions other than what's in that attachment?
19
20 Gordon: I, I'm thinking about that suggestion.
21
22 Crane: Okay.
23
24 Gordon: About the site plan.
25
26 Crane: Because if so we'll need it to be in the motion. While Mr. Gordon's
27 thinking about that does any other Commissioner want to make utterance?
28 I'll say that I think there are enough safeguards built into the process as
29 it's been, been outlined to us that neighborhood considerations, concerns
30 will be attended to. The major problem seems to be traffic and I think the
31 City has shown in other things that we've dealt with that Traffic
32 Engineering does take a very serious look at impacts and makes sure that
33 traffic is adequately taken care of, guided in and out of the area by in this
34 case three possible streets. My inclination is to vote for this. Mr. Gordon
35 did you have a, a motion to make?
36
37 Gordon: Is, is, is, what happened to the gentleman? Oh. All right. Is, is it your, do
38 you have, do, do you have someone now who is interested in developing
39 the property?
40
41 Crane: This is Mr. Krivokapich.
42
43 Krivokapich: Well ...
44
45 Gordon: I, I don't mind, I'm not ...
46

- 1 Krivokapich: We, we're, we're actually not supposed to say anything about that right
2 now.
3
- 4 Gordon: Right. Okay.
5
- 6 Krivokapich: I do say the process as I see it when somebody turns in an application,
7 we're not going to see a dime until they can pull the building permit so if
8 we don't meet all the conditions in, that we've set down they are not going
9 to let them pull a building permit or a use, or a, let a use in the building so
10 it's already fairly well protected. We are not planning on developing the,
11 the project ourselves because it's probably a \$4-6 million project but at this
12 time I can't comment on whether we have one or not. We've been told not
13 to.
14
- 15 Gordon: Do, do you think that, that adding a condition of a site plan is onerous to
16 your, to your intent here to change the zoning?
17
- 18 Krivokapich: Well right now if you get an offer in it's going to take about six months to
19 close so you're probably pushing that into like a nine-month period. By the
20 time you do a notification, you do another neighborhood meeting, you got
21 two or three months additional into it so I think it, we could, we could deal
22 with it. It's just going to make it harder to market that particular property if
23 somebody already has the zoning that you have to go back in and say,
24 "Okay do you like this?" And I guess my question is: Does that plan have
25 to be approved by, by this Commission or does it, has to just be presented
26 and people get a, put their input?
27
- 28 Gordon: Well I think if, if that ...
29
- 30 Krivokapich: It adds another layer. I guess I'm to say it adds a whole complete layer of
31 probably two or three months to development if you have to do it that way.
32
- 33 Gordon: But, but that is, that is the point in question here as to whether or not to do
34 this would require it come back to us again?
35
- 36 Crane: Ms. Harrison-Rogers.
37
- 38 H-Rogers: Mr. Chair, Members of the Commission. That, that would be the pleasure
39 of this Commission ultimately. You, you could dictate what occurs.
40
- 41 Gordon: In, in other words by adding that condition of a site plan that would
42 automatically bring this back to us again to have another hearing for
43 people to come in and question what the proposed developer wants with
44 his site plan.
45
- 46 H-Rogers: Mr. Chair, Members of the Commission. It, it would depend on how you

- 1 word the condition and, oh look, we lost our lights. It, it, it would depend
 2 on, upon how you, you word it. You could for example state that it would
 3 come back to this Commission just for discussion, just as a discussion
 4 item. You could state that it would be processed as a final site plan similar
 5 to a PUD in which case you would be a decision-making body on that.
 6
- 7 Gordon: All right. But it, but eventually when some, if, if the property is rezoned
 8 and then sold and somebody came in it would have to come to us for
 9 approval for what they're going to do on it, it, in, that not true?
 10
- 11 H-Rogers: If you add that condition. Currently if that condition is not added, no it
 12 would not have to come back to this, this Commission.
 13
- 14 Crane: So do you want to add that, add, add that condition?
 15
- 16 Ferrary: I have a question.
 17
- 18 Crane: Commissioner Ferrary in the meantime.
 19
- 20 Ferrary: Yes. Ms. Rogers would it add the two or three months as was suggested
 21 to the approval process?
 22
- 23 H-Rogers: It, it could add even longer than that depending upon how it's processed
 24 and how it's, how it's received and the, the negotiations that occur but
 25 shortest time frame would be about two months.
 26
- 27 Gordon: Is, is the gentleman in the blue shirt there, I for, I'm sorry I forgot your
 28 name. All the, did, did you see the conditions that were listed on
 29 Attachment Four as to what prohibited uses were and limited uses and
 30 everything of, of, of the sort?
 31
- 32 Haynes: Commissioner Gordon, Mr. Chairman. Yes I have.
 33
- 34 Gordon: Okay. And if all those prohibitive uses are okay with you, what there
 35 possibly could be that you would be offended by?
 36
- 37 Haynes: No, I am asking if, if we, if, if the body is unable or, or unwilling to add the,
 38 the condition of approving a site plan that additional uses of no drive-thrus
 39 and a maximum height of 22 foot be placed on, as additional conditions on
 40 the, the zone change.
 41
- 42 Gordon: Well that's, that's for us to look in a crystal ball. I mean I don't know what
 43 they're going to do with this property. It's very difficult for me to make a
 44 decision to tell someone that they can't build a building that's three stories
 45 high, you can, it can only be two stories high but it shouldn't be a Wendy's
 46 there with a drive-thru.

1
2 Haynes: I, I am in agreement with you Commissioner Gordon and Mr. Chairman.
3 It, that is why it is my suggestion that this body recommend and, and
4 require a developer bring back a site, a site plan for final site plan approval
5 by the Planning and Zoning Commission. Because we do not have a
6 crystal ball.
7
8 Crane: That seems reasonable.
9
10 Gordon: Yeah. I don't have a problem with it either.
11
12 Crane: Yeah. Ms. Ferrary.
13
14 Ferrary: Shouldn't we rely on the El Paseo Blueprint and the efforts that have been
15 put into that, that would be guiding this decision?
16
17 Crane: Is that restrictive enough Ms. Harrison-Rogers, Mr. Ochoa?
18
19 H-Rogers: Mr. Chair, Members of the Commission. It's a policy document. It, it
20 probably would not be restrictive enough unless you condition it to be.
21
22 Crane: But we can't specify what this, we can't change the impact of this policy
23 document, can we?
24
25 H-Rogers: Mr. Chair, Members of the Commission. I don't see that there would be an
26 issue in terms of requiring that any future development meet the
27 recommendations of the Blueprint Plan. That would be in your purview.
28
29 Crane: Thank you. Mr. Gordon you seem to be in the driver's seat on several
30 issues here. Let me suggest perhaps that you frame the motion that it be
31 approved with the conditions in the, the attachment, Number One I think it
32 is, and further ... Ms. Ferrary do you have a suggestion as well?
33
34 Ferrary: It was Attachment Four.
35
36 Crane: I can't hear.
37
38 Ferrary: I'm sorry. I think it was Attachment Four.
39
40 Crane: Four. That'd be correct. Thank you. Attachment Four plus a, a
41 requirement in some terms or other that this body see this plan again
42 when it's better developed or some such wording. It does seem that we
43 are, it does not seem to my mind appropriate that this be the last time that
44 this Commission is going to look at this, I can't say even proposed
45 development, but this issue.
46

- 1 Gordon: But a, a condition where we're asking for a developer to come back with a
2 blueprint does not prohibit a developer from going to 35 feet if that was
3 originally ...
4
- 5 Crane: Well we might care to add that, that no buildings over two stories or some
6 ...
7
- 8 Gordon: Well I wouldn't want to do that now. I, you, you're asking me to look at a
9 site plan, then I would like to make a decision based on what a
10 developer's planning to do with the property. I mean how do I know now
11 whether he's going to put ten units that are going to be 35 feet high or
12 they're going to put 60 units that are going to be 22 feet high? I don't
13 know what he's going to do and I don't know what the people in the area
14 would approve or not approve. You follow me? And right now he's just
15 asking for a zoning change and in the zoning requirements he's allowed to
16 do buildings of certain heights and put certain things ...
17
- 18 Crane: So you think that can be taken care of later, the, the idea of no drive-thrus
19 and ...
20
- 21 Gordon: That would be taken care of later.
22
- 23 Crane: Yeah. Okay. So you want ...
24
- 25 Gordon: You know when ...
26
- 27 Crane: Us to stop at ...
28
- 29 Gordon: When he comes, when, when he comes in with a blueprint if he has a
30 Wendy's with a drive-thru and people are going to complain and we feel,
31 "Well that's not really appropriate for this particular piece of property, we
32 say no."
33
- 34 Crane: So what, you want to back up to just what we have here, the zoning
35 change with the Attachment 4 conditions?
36
- 37 Gordon: No, but then you would, it, if you do that then you're not going to allow
38 these people to have the opportunity to see a blueprint.
39
- 40 Crane: All right then add one, add a condition that the Commission be, let me see
41 the, the developer be required to submit a site plan to the Planning and
42 Zoning Commission. Would you go for that?
43
- 44 Gordon: Yes.
45
- 46 Crane: Okay. Let's consider that moved by Mr. Gordon. Is there a second?

1
2 H-Rogers: A point of clarification. Would that be for approval or just discussion? I
3 think it's important that the, that distinction is made.
4
5 Gordon: Well that would be in, that would just be an, an, aside from Schedule Four,
6 Attachment Four rather, I'm sorry that would just be an additional
7 condition.
8
9 H-Rogers: Correct. But the question that I'm asking is: Will that site plan just be
10 brought to this, this Commission for discussion or would that site plan be
11 brought to this Commission similar to a final site plan where you all make
12 the decision about whether or not it's approved?
13
14 Crane: I think the latter.
15
16 Gordon: The latter.
17
18 Crane: Yeah. We don't want to just sit here and ...
19
20 Gordon: I mean if you're going to ...
21
22 Crane: Chat about it.
23
24 Gordon: It, right. If you're going to go that, that, that path you might as well, if to go
25 to the trouble of bringing this back you might as well be in a position to ...
26
27 Crane: Absolutely.
28
29 Gordon: Make a decision.
30
31 Crane: Yeah.
32
33 H-Rogers: Might I recommend that it be worded in such a way that a final site plan be
34 brought to this Commission for review and decision?
35
36 Crane: Sounds good to me. Do you agree with that Mr., Mr. Gordon?
37
38 Gordon: Yes, great. Yeah.
39
40 Ochoa: If, and if I may interject as well, the applicant is trying to get this approved
41 with conditions that are prohibitive which would not put a time limit on the
42 zoning on the property so potentially wording it some word, somewhere
43 the developer of the proposed subject property will not, will not be allowed
44 to develop until the time that a final site plan be brought forward to the
45 Planning and Zoning Commission for review and, and a final approval.
46

- 1 Gordon: So Adam are you saying that if we add this condition we are not granting a
2 change in the zoning?
3
- 4 Ochoa: Mr. Chairman, Commissioner Gordon. No. What we're doing is
5 essentially if we state, if we state the condition as we first stated at, that
6 they will be required to bring the site plan beforehand that is a requirement
7 under code that actually would put a timeline on the zoning on the
8 property. It is a condition that puts a timeline and that zoning could
9 essentially ...
10
- 11 Gordon: Expire?
12
- 13 Ochoa: Expire just like the PUD before it and we'll be back in the same boat as
14 before.
15
- 16 Gordon: For how long?
17
- 18 Ochoa: It's the, two years is all I have sir.
19
- 20 Gordon: Well I think two years is not unreasonable.
21
- 22 Ochoa: Yes sir but like I said before, as staff has worked with the applicant to
23 state all his, all his conditions as prohibitions, if we could state it as a, no
24 development of the, development of the property is prohibited until such
25 time that a developer brings forward a final site plan for final review and
26 approval by the Planning and Zoning Commission.
27
- 28 Gordon: Well that's fine also. That's, that's, that ...
29
- 30 Gordon: That agrees with what this gentleman here wants to do. So in other words
31 we would, we could grant the zoning change and also put a condition that
32 no development will take place until the site plan is presented back to this
33 Commission for, for review and approval.
34
- 35 Ochoa: Mr. Chairman. Yes sir this would be a motion. Mr. Chairman,
36 Commissioner Gordon, excuse me. So your motion would be recommend
37 approval with the conditions as, as stipulated in Attachment Number Four
38 and that additional condition of prohibiting development of the property
39 until such time that a developer brings a final site plan forward for final
40 approval by the P&Z.
41
- 42 Gordon: Okay. That's fine.
43
- 44 Crane: Is there a second for that?
45
- 46 Ferrary: I'll second.

- 1
2 Crane: Ms. Ferrary. Okay. Let's start with you Mr. Gordon. Your vote and you
3 can use the City's points as a, a reason for your vote if you're approving.
4
5 Gordon: Okay. Based on findings, discussion, and the additional condition as
6 proposed by Mr. Ochoa I vote yes.
7
8 Crane: Mr. Stowe.
9
10 Stowe: I vote, I vote yes based on the discussions this evening.
11
12 Crane: Ms. Ferrary.
13
14 Ferrary: I vote yes based on site visit, findings, discussion, and additional
15 condition.
16
17 Crane: And the Chair votes yes based on findings, discussion, and site visit.
18 Thank you. Passes four/nothing.
19
20 MOTION PASSES UNANIMOUSLY.
21
22 5. **Case ZCA-15-03:** An application by the City of Las Cruces to amend Article
23 IV, Section 38-33 and Article Visual inspection reveals, Section 38-58 E 3 & 6
24 of the 2001 Zoning Code, as amended, to eliminate the maximum automobile
25 parking space requirement and to amend Article V, Section 38-44 G 2 and
26 Section 38-49.3 J 1 of the 2001 Zoning Code, as amended, to change the
27 word "ranges" to "requirements."
28
29 Crane: And finally we have Case ZCA-15-03: Application by the City to amend
30 the Zoning Code to change word "ranges" to "requirements" in Article IV,
31 Section 38-44 G 2 and 38-49.3 J 1.
32
33 H-Rogers: Good evening Members of the Commission, Mr. Chair. Staff is bringing
34 before you, shall we wait until everyone exits the room?
35
36 Crane: I'm sorry.
37
38 H-Rogers: Shall we wait till everyone exits the room as it is somewhat noisy. I, I can
39 keep going but I just ...
40
41 Crane: Yes. Go ahead.
42
43 H-Rogers: Okay. Basically what staff is bringing before you is the elimination of the
44 maximum parking requirements as outlined in the Zoning Code. What's
45 occurred is we, we've had these for a good part of the, a decade where we
46 have a, a minimum requirement for parking and a maximum requirement



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

8

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of October 19, 2015
(Ordinance First Reading Date)

For Meeting of November 2, 2015
(Adoption Date)

TITLE:

AN ORDINANCE APPROVING A ZONE CHANGE FROM R-3 (MULTI-DWELLING MEDIUM DENSITY) TO R-3/C-3C (MULTI-DWELLING MEDIUM DENSITY/COMMERCIAL HIGH INTENSITY-CONDITIONAL) FOR A 4.2 ± ACRE PROPERTY LOCATED AT 801 E. FARNEY LANE, PARCEL 02-11764. SUBMITTED BY GARY KRIVOKAPICH, PROPERTY OWNER (Z2888).

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact		528-3049	10/27/15
Department Director		528-3067	10-1-15
Other			
Assistant City Manager /CAO Management & Budget Manager		541-2018 541-2106	10/6/15 10/6/15
Assistant City Manager/COO			10/9/15
City Attorney		EXT 2128	9 OCT 2015
City Clerk - Interim		82115	10-9-15