



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 14Ordinance/Resolution# 2772For Meeting of January 19, 2016
(Ordinance First Reading Date)For Meeting of February 1, 2016
(Adoption Date)

Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2C (COMMERCIAL MEDIUM INTENSITY/CONDITIONAL) TO C-2C (COMMERCIAL MEDIUM INTENSITY/CONDITIONAL) FOR THE PURPOSE OF MODIFYING THE CONDITIONS OF ZONING ON A 0.91+ ACRE PARCEL LOCATED AT 3520 FOOTHILLS ROAD. SUBMITTED BY RAYMOND CARLSON, PROJECT MANAGER ON BEHALF OF GRECO-RENTALS UNIVERSITY, LLC. (Z2891).

PURPOSE(S) OF ACTION:

Zone change.

COUNCIL DISTRICT: 6		
<u>Drafter/Staff Contact:</u> Sara Gonzales	<u>Department/Section:</u> Community Development/Building & Development Services	<u>Phone:</u> 528-3085
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

City Council is required to review and take final action on zone changes per Section 38-10(B) of the 2001 Zoning Code. A zoning district is a specifically delineated area within which regulations uniformly govern the use, placement, spacing, density, bulk, height, and size of buildings and/or land.

The proposed zone change is for a property located on the south side of Foothills Road, 867 ± feet east of its intersection with Telshor Boulevard. The subject property is currently zoned C-2C (Commercial Medium Intensity/ Conditional). The existing C-2C zoning designation does not allow for a stand-alone liquor store and/or a drive-thru restaurant. The proposed zone change to C-2C (Commercial Medium Intensity/ Conditional) would amend the conditions which prohibit stand-alone liquor stores and drive-thru restaurants, which are allowed uses in the C-2 zoning district as outlined by the 2001 Zoning Code, as amended.

The subject property is located along Foothills Road in an area that is largely zoned C-3 (Commercial High Intensity) and R-4 (Multi-Dwelling High Density and Limited Retail and Office) and is made up of a number of uses that are food and liquor service related in nature, similar to what is proposed for the property in question. Foothills Road is also a minor arterial roadway, as designated by the Mesilla Valley Metropolitan Planning Organization (MPO), where medium and high intensity commercial uses and zoning are encouraged.

On November 24, 2015 the Planning and Zoning Commission (P&Z) unanimously recommended approval of the proposed zone change request by a vote of 7-0-0 based upon the findings reflected in Exhibit "B". The proposed zone change received no public input during the meeting. No other public input was received prior to the P&Z hearing for the proposed zone change.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Location Map.
3. Exhibit "B", Findings.
4. Attachment "A", Staff Report to the Planning and Zoning Commission for Case Z2891.
5. Attachment "B", Minutes from the November 24, 2015 Planning & Zoning Commission Meeting.
6. Attachment "C", Vicinity and Zoning Map.

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 P&Z recommendation for approval. The subject property encompassing 0.91 ± acres and located 3520 Foothills Road will be rezoned from C-2C (Commercial Medium Intensity/ Conditional) to C-2C (Commercial Medium Intensity/ Conditional) adding stand-alone liquor stores and drive-thru restaurants as a permitted use.
2. Vote "No"; this will reject the recommendation made by P&Z. The current zoning designation of C-2C (Commercial Medium Intensity Conditional) will remain on the subject property and is subject to current conditions. Denial of the zone change will require new information or facts not identified or presented during staff review or the P&Z meeting.
3. Vote to "Amend"; this could allow City Council to modify the Ordinance by adding 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 1620.
2. Ordinance 1948.

COUNCIL BILL NO. 16-013
ORDINANCE NO. 2772

AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2C (COMMERCIAL MEDIUM INTENSITY/ CONDITIONAL) TO C-2C (COMMERCIAL MEDIUM INTENSITY/ CONDITIONAL) FOR THE PURPOSE OF MODIFYING THE CONDITIONS OF ZONING ON A 0.91± ACRE PARCEL LOCATED AT 3520 FOOTHILLS ROAD. SUBMITTED BY RAYMOND CARLSON, PROJECT MANAGER ON BEHALF OF GRECO-RENTALS UNIVERSITY, LLC. (Z2891).

The City Council is informed that:

WHEREAS, Raymond Carlson has submitted a request for a zone change from C-2C (Commercial Medium Intensity/Conditional) to C-2C (Commercial Medium Intensity/ Conditional) for a 0.91± acre parcel located at 3520 Foothills Road; and

WHEREAS, the Planning and Zoning Commission would amend conditions on the property to allow certain uses; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on November 24, 2015, unanimously recommended that said zone change request be approved by a vote of 7-0-0.

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 C-2C (Commercial Medium Intensity/Conditional) with the following conditions:

- Land uses that are prohibited: bowling alleys; night clubs or other businesses whose primary product is liquor sales for on-site consumption; adult book and video stores.

(II)

THAT the zoning is based on the findings contained in Exhibit "B" (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:

[Handwritten Signature]

Deputy City Attorney

VOTE:

Mayor Miyagishima: _____
Councillor Gandara: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Eakman: _____
Councillor Sorg: _____
Councillor Levatino: _____

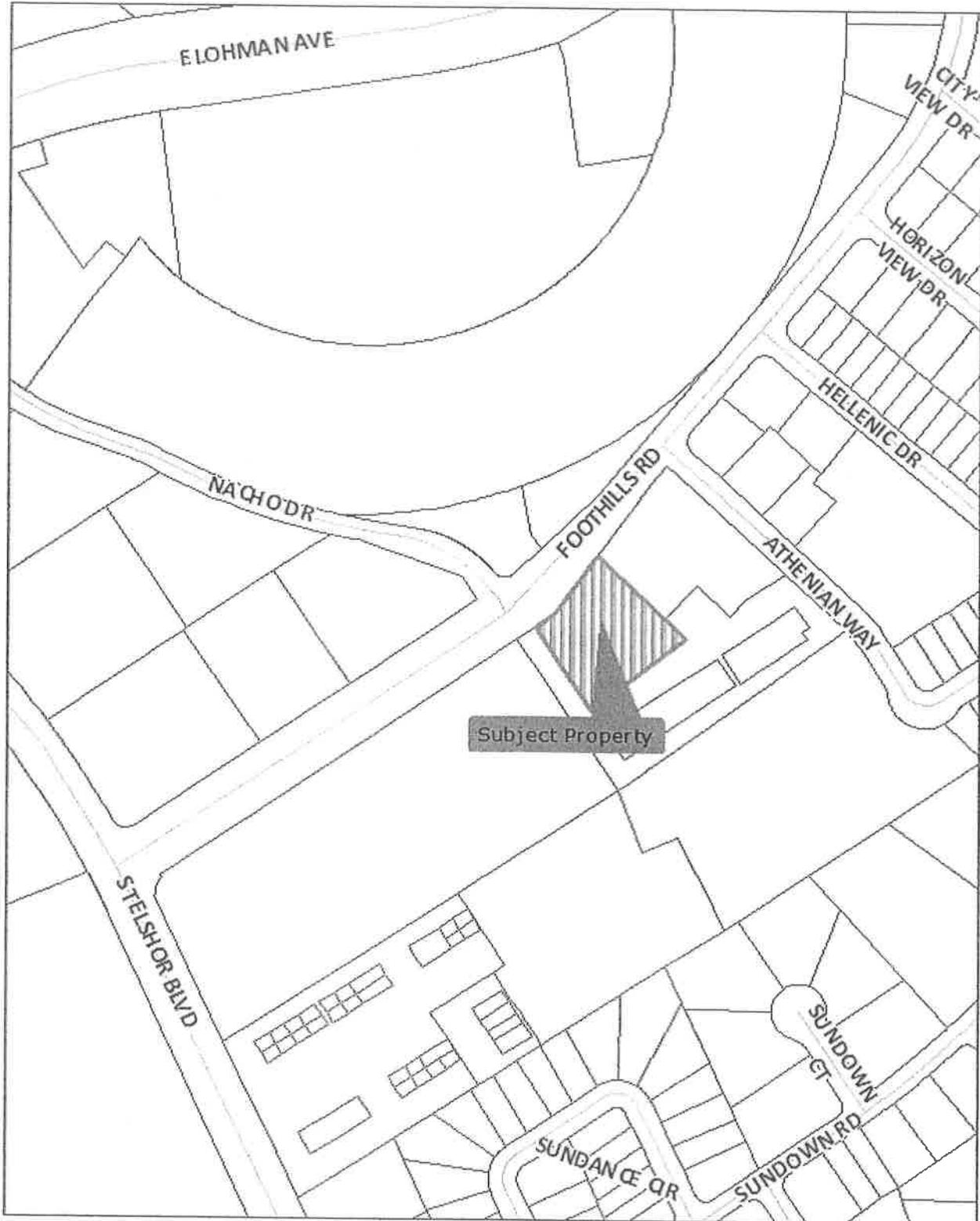
Location Map

ZONING: C-2C

OWNER: Greco Rentals- University LLC

PARCEL: 02-26732

DATE: 12/14/15



3520 Foothills Road
Zone Change from C-2C to C-2C removing
the current prohibiting conditions of a
stand-alone liquor store and drive-thru restaurant.



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



Findings

1. The subject property is currently zoned C-2C. The proposed zone change to C-2C would amend the current prohibition of a stand-alone liquor stores and drive-thru restaurants which are allowed uses in the 2001 Zoning Code, as amended. (2001 Zoning Code, Article 4, Section 38-33G)
2. The subject property is located along a minor arterial roadway where medium intensity commercial uses and zoning such as the proposed C-2C zoning designation are encouraged. (Comprehensive Plan 2040 Chapter 7 Sustainable Growth, Goal 32, Policy 32.2)
3. Based upon staff's analysis of the proposal, the proposed zone change meets the intent of the Comprehensive Plan 2040; is compatible with adjacent uses and zoning districts along Foothills Road; 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.



City of Las Cruces®

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Planning & Zoning Commission Staff Report

Meeting Date: November 24, 2015

Drafted by: Sara Gonzales, Acting Planner

CASE #	Z2891	PROJECT NAME:	3520 Foothills Road (Zone Change)
APPLICANT/ REPRESENTATIVE:	Raymond Carson, Project Manager	PROPERTY OWNERS:	Greco-Rentals University, LLC
LOCATION:	South of Foothills Road, 867 ± feet east of its intersection with Telshor Blvd.	COUNCIL DISTRICT:	District 6 (Councillor Levatino)
SIZE:	0.91 ± acres	EXISTING ZONING/ OVERLAY:	C-2C (Commercial Medium Intensity- Conditional)
REQUEST/ APPLICATION TYPE:	Zone change from C-2C (Commercial Medium Intensity- Conditional) to C-2C (Commercial Medium Intensity- Conditional) for the purpose of removing conditions		
EXISTING USE:	Partially vacant building and active dry cleaning business		
PROPOSED USE:	Liquor store and/or drive-thru restaurant		
STAFF RECOMMENDATION:	Approval without conditions based on findings		

TABLE 1: CASE CHRONOLOGY

Date	Action
October 2, 2015	Application submitted to Development Services
October 5, 2015	Case sent out for review to all reviewing departments
October 8, 2015	Staff reviews and recommends approval of the zone change
October 13, 2015	Final comments returned by all reviewing departments
November 8, 2015	Newspaper advertisement
November 9, 2015	Public notice letter mailed to neighboring property owners
November 9, 2015	Sign posted on property
November 24, 2015	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The applicant is seeking a proposed zone change from C-2C (Commercial Medium Intensity-Conditional) to C-2Cto remove the current conditions prohibiting stand-alone liquor stores and drive-thru restaurants for a 0.91 ± acre property located at 3520 Foothills Road. The current conditions placed on the subject property were established in 1997 under Ordinance #1948 and, if approved, the zone change will then permit drive through restaurants.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing	Proposed	Code Req.
Max # of DU/parcel	N/A	N/A	N/A
Max Density (DU/ac.)	N/A	N/A	40 DU/ac.
Lot Area	0.91 ± acres	Unchanged	10,000 sq. ft. (0.23 acres) minimum / 43,560 sq. ft. (1 acre) maximum
Lot Width	184 ± feet	Unchanged	60 feet minimum
Lot Depth	215 ± feet	Unchanged	70 feet minimum
Structure Height	Unknown	Unknown	60 feet maximum
Setbacks			
Front	Unknown	Unknown	15 feet minimum
Secondary Front	Unknown	Unknown	15 feet minimum
Side	Unknown	Unknown	5 feet minimum
Rear	Unknown	Unknown	15 feet minimum
Accessory Structure	N/A	N/A	N/A
ROW Dedication	N/A	N/A	N/A
Parking			
Auto	Unknown	N/A	Less than 15,000 sq. ft. gross floor area; 1 parking stall per 200-300 sq. ft. of GFA
Landscaping			
% of property (less building pad & screened storage)	Unknown	N/A	15%

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	Zoning Designation
Subject Property	Dry Cleaners / vacant building	C-2C (Commercial Medium Intensity-Conditional)
North	Real estate office	O-2C (Office Professional- Limited Retail Service)
South	Alexis Apartments / investment service office	C-3C (Commercial High Intensity-Conditional)
East	Restaurant/bar, health care services, and investment service office	C-3C (Commercial High Intensity-Conditional)
West	Hotel	C-3 (Commercial High Intensity)

TABLE 5: PARCEL HISTORY

Number	Status
Ordinance # 1620	Zone change application that changed the zoning on the subject property from R-2 (Medium Density Residential from the 1981 Zoning Code) to C-2C (General Commercial Conditional).
Ordinance # 1948	Zone change to amend the prohibited condition of package liquor sales (as part of another business such as a convenience store).

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 Parks	Yes	No
CLC Land Management	Yes	No
CLC Fire & Emergency Services	Yes	No
CLC Utilities	Yes	No

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS**Background**

The subject property went through a zone change from R-2 (Medium Density Residential) to C-2C (General Commercial Conditional) in 1997 under Ordinance #1620 and Ordinance #1948 further amended the zoning to modify the conditions. The current conditions still placed on the subject property are as follows:

Land uses that are prohibited: Stand-alone liquor store; bars; taverns; bowling alleys; nightclubs or any other business whose primary product is liquor sales; fast food restaurants with a drive-up window.

The applicants are requesting that the prohibition of stand-alone liquor stores and fast food restaurants with a drive-up window be changed. Current characteristics of the neighboring properties suggest that the proposed amendment of allowing a stand-alone liquor store and/or a drive-up restaurant would not impair those properties impacted directly and would be consistent with the commercial development in the area.

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;
- B. Encourage innovations in land development and redevelopment;
- C. Give reasonable consideration to the character of each zoning district and its peculiar suitability for particular uses;
- L. Ensure the development proposals are sensitive to the character of existing neighborhoods.

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
 - Goal 1: Encourage Mixed Use Development
 - Policy 1.1 Encourage development using the mixed use concept of this Comprehensive Plan, such as developing compatible non-residential uses within walking distance of existing residential areas.

Chapter 7, Sustainable Growth

- Vibrant Planning Areas, Neighborhoods, and Districts
 - Goal 32: Establish land use policy for commercial and public/quasi-public uses.
 - Policy 32.2 Community commercial uses shall be defined as those medium intensity commercial uses which provide an array of goods and services geared toward the daily and occasional needs of the community and associated neighborhoods.

Analysis

The 0.91 ± acre subject property is currently zoned C-2C (Commercial Medium Intensity- Conditional). The subject property is located along Foothills Road in an area that is largely zoned C-3 (Commercial High Intensity) and R-4 (Multi-Dwelling High Density and Limited Retail and Office) and made up of a number of uses that are food and liquor service related in nature such as what is proposed for the property in question. Foothills Road is also a minor arterial roadway, as designated by the Mesilla Valley Metropolitan Planning Organization (MPO), where medium and high intensity commercial uses and zoning are encouraged.

Conclusion

The proposed zone change is supported by the Development Services Staff and all 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:

- No known adverse offsite impacts or potential risks to the public's safety, health, and welfare are known;
- The proposal is consistent with the policies of the Comprehensive Plan, the Transportation Plan, and the intent of the 2001 Zoning Code; and
- The proposed C-2C (amending the current uses to allow for liquor store and drive-thru restaurant) in this zoning district is harmonious with and not out of character with the uses and existing zoning districts of the surrounding area.

DRC RECOMMENDATION

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

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed zone change based on the findings listed below:

FINDINGS FOR APPROVAL

1. The subject property is currently zoned C-2C. The proposed zone change to C-2C would amend the current prohibition of a stand-alone liquor stores and drive-thru restaurants which are allowed uses in the 2001 Zoning Code, as amended. (2001 Zoning Code, Article 4, Section 38-33G)
2. The subject property is located along a minor arterial roadway where medium intensity commercial uses and zoning such as the proposed C-2C zoning designation are encouraged. (Comprehensive Plan 2040 Chapter 7 Sustainable Growth, Goal 32, Policy 32.2)

3. Based upon staff's analysis of the proposal, the proposed zone change meets the intent of the Comprehensive Plan 2040; is compatible with adjacent uses and zoning districts along Foothills Road; 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. Site Plan
4. Development Statement

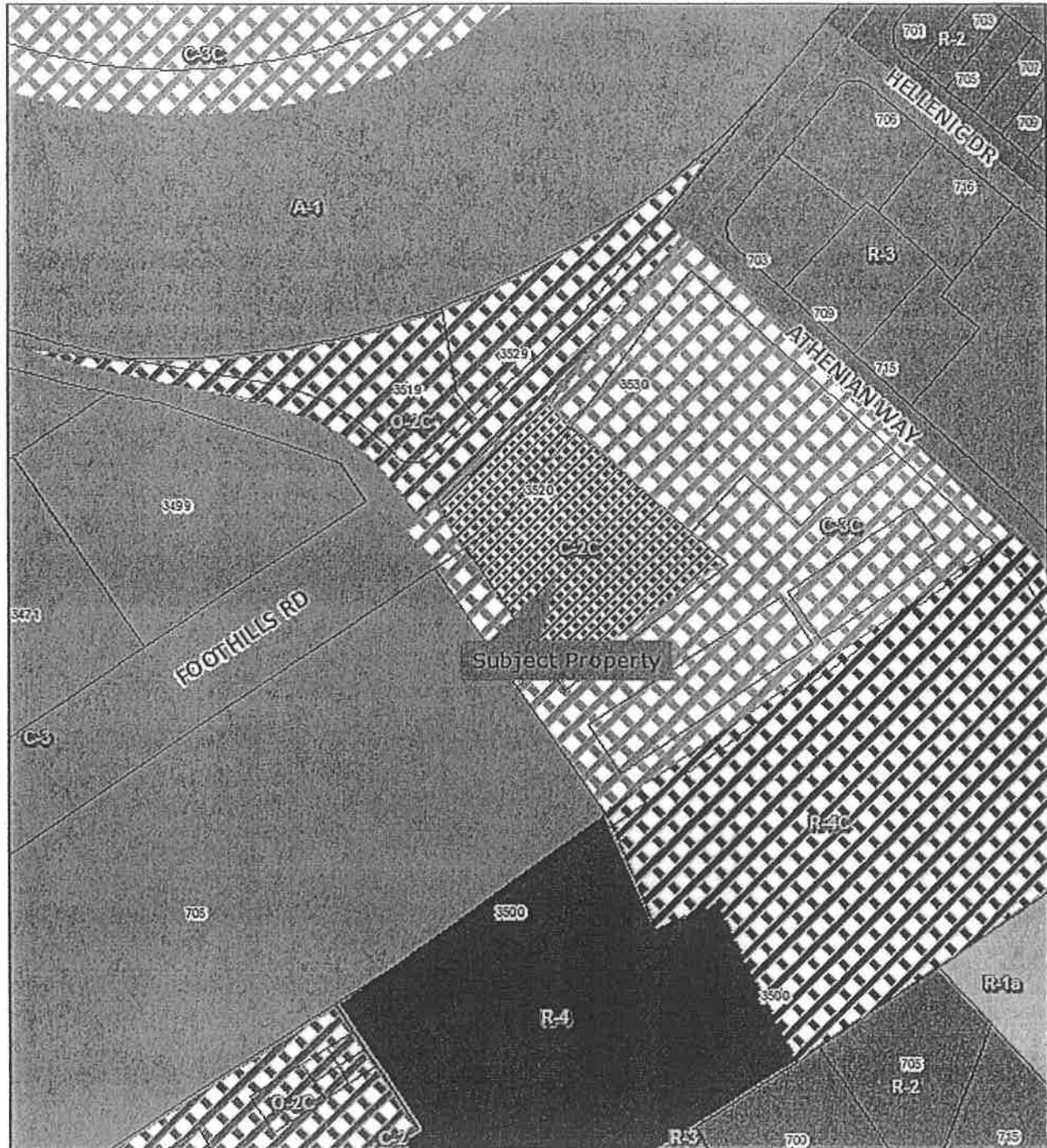
Vicinity and Zoning Map

ZONING: C-2C

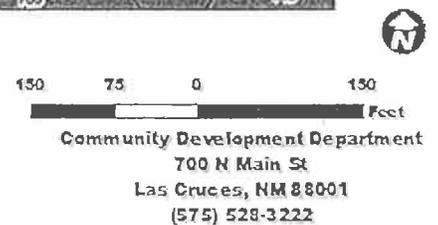
OWNER: Greco Rentals-University LLC

PARCEL: 02-26732

DATE: 10/19/15



PROPOSAL: Case Z2891, 3520 Foothills Road
 A proposal for a Zone Change
 from C-2C to C-2C amending the allowed use
 of a liquor store and drive-thru restaurant.



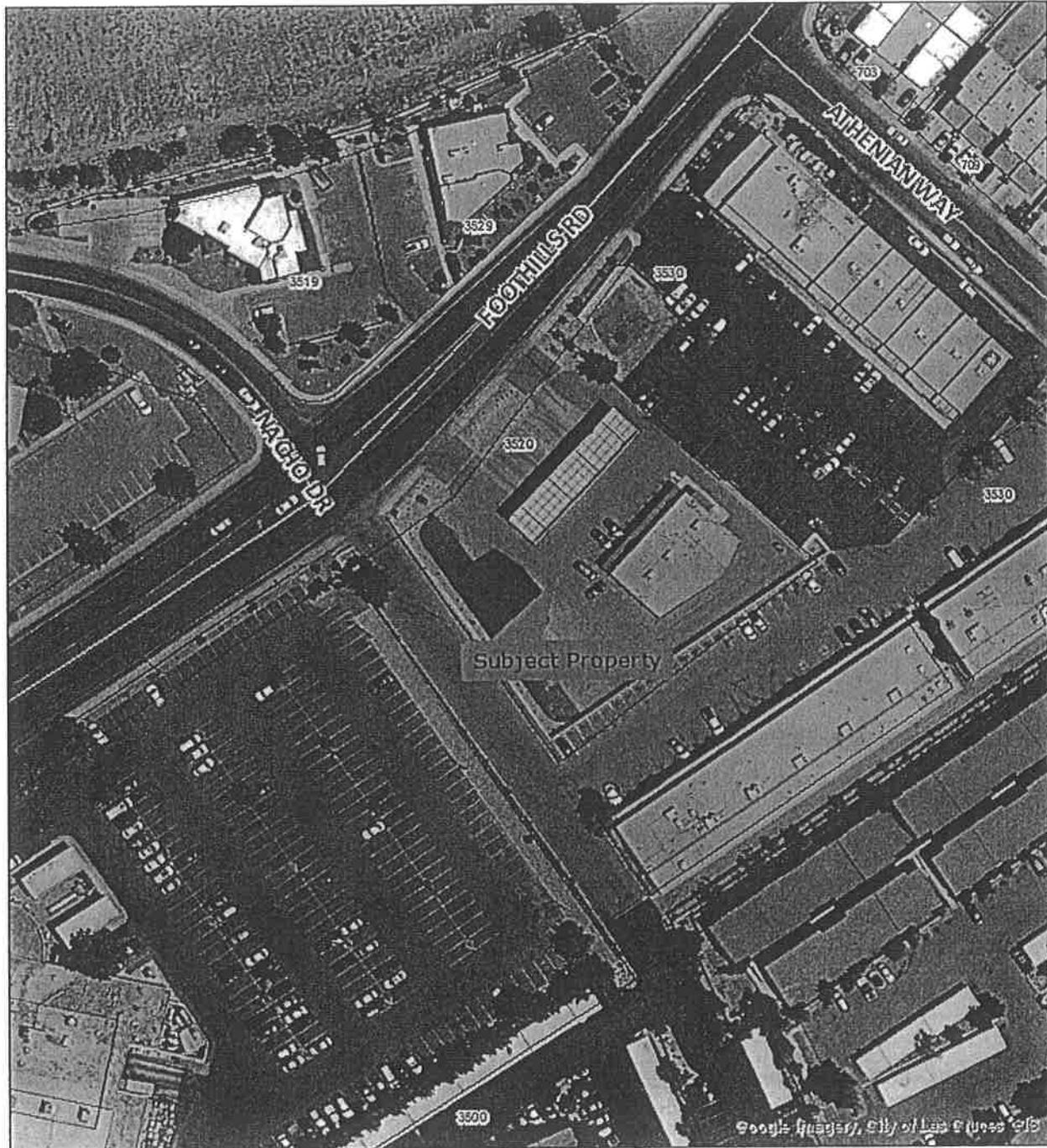
Aerial Map

ZONING: C-2C

OWNER: Greco Rentals-University LLC

PARCEL: 02-26732

DATE: 10/19/15



PROPOSAL: Case Z2891, 3520 Foothills Road
 A proposal for a Zone Change
 from C-2C to C-2C amending the allowed use
 of a liquor store and drive-thru restaurant.

100 75 50 Feet
 Community Development Department
 700 N Main St
 Las Cruces, NM 88001
 (575) 528-3222

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: Iansmo Philippou
Contact Person: Ray Carlon
Contact Phone Number: 575-639-1040
Contact e-mail Address: RAYCARL007@YAHOO.COM
Web site address (if applicable): _____

Proposal Information

Name of Proposal: Remove Condition- Liquor STORE Restaurant with drive thru
Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)

Location of Subject Property 3520 Foothill 02-210732 (parcel)

(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: .91

Detailed description of **current** use of property. Include type and number of buildings:
Vacant 2588 square foot
Dry clean drop off 1200 sq feet

Detailed description of **intended** use of property. (Use separate sheet if necessary):
Commercial use

Zoning of Subject Property: C-2C

Proposed Zoning (If applicable): C-2C

Proposed number of lots _____, to be developed in _____ phase (s).

Proposed square footage range of homes to be built from _____ to _____

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

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

6 AM to midnight

Anticipated traffic generation _____ trips per day.

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

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

to existing pond

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

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

Is there existing landscaping on the property? _____

YES

Are there existing buffers on the property? _____

NO

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

If yes, is it paved? Yes X No ___

How many spaces? 24 How many accessible? 3

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

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

BOARD MEMBERS PRESENT:

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

STAFF PRESENT:

Adam Ochoa, Planner, CLC
 Sara Gonzales, Planner, CLC
 Pete Connelly, CLC Deputy City Attorney
 Becky Baum, Recording Secretary, RC Creations, LLC

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

Crane: Good evening ladies and gentlemen. Welcome to the Planning and Zoning Commission meeting for the 24th of November 2015. I'll start as we usually do by introducing the seven Commissioners, full house we have present tonight. On my far right is Commissioner Clifton, he represents Council District 6; then Commissioner Gordon is the Mayor's Appointee; next Commissioner Stowe who's our Vice Chairman and also represents District 1; Commissioner Ferrary represents District 5; Commissioner Alvarado, District 3; and Commissioner Beard, on my immediate right is our Secretary and represents District 2. I'm Godfrey Crane, Chair, and I represent Council 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: At this point we ask if any one present on the Commission or any body representing the City has any conflict of interest regarding any item on tonight's agenda. Seeing no indication we'll proceed.

1 **III. APPROVAL OF MINUTES**

2
3 1. October 27, 2015 - Regular Meeting

4
5 Crane: And no Consent Agenda or Old Business tonight. We have one item of
6 new business and let me as usual just outline how we handle this, any
7 New Business item. Yes Mr. Ochoa.

8
9 Ochoa: Mr. Chairman. Point of order, we missed number three, Approval of
10 Minutes from the October 27th, 2015.

11
12 Crane: You're quite right, yes, you're quite right. I missed the minutes. Does any
13 Commissioner have any corrections to make to the minutes of the October
14 27th meeting? I see no one. I have two myself, both towards the end;
15 page 22, line 6 "session in a causal format" and I think that should be
16 "casual format." And page 23, line 18, the "timings" needs an apostrophe
17 between the "g" and the "s." Otherwise I have nothing else. So no
18 Commissioner has anything to add. I will ask for a motion that the minutes
19 of the October 27th meeting be approved as amended.

20
21 Beard: I move that the amend, the minutes be approved as amended.

22
23 Crane: Moved by Commissioner Beard. Is there a second?

24
25 Gordon: Second.

26
27 Crane: Seconded by Commissioner Gordon. All in favor "aye."

28
29 **MOTION PASSED UNANIMOUSLY.**

30
31 Crane: All opposed? Any abstentions? Passes seven/nothing. Thank you.
32 Thank you again Mr. Ochoa.

33
34 Ochoa: No problem sir

35
36 **IV. CONSENT AGENDA - NONE**

37
38 Crane: And no Consent Agenda.

39
40 **V. OLD BUSINESS - NONE**

41
42 Crane: Or Old Business tonight.

43
44
45
46

1 VI. NEW BUSINESS
2

- 3 1. **Case Z2891:** An application of Raymond Carlson on behalf of Greco
4 Rentals-University LLC, property owner, requesting a zone change from C-
5 2C (Commercial Medium Intensity-Conditional) to C-2C (Commercial Medium
6 Intensity-Conditional) in order to modify the conditions of zoning. The
7 property is 0.91 +/- acres and located on the south side of Foothills Road,
8 867 +/- feet east of its intersection with Telshor Blvd.; a.k.a. 3520 Foothills
9 Road; Parcel ID # 02-26732. Proposed use: Shopping center with the ability
10 to have liquor sales and a drive-thru restaurant. Council District 6 (Councilor
11 Levatino)
12

13 Crane: So how we handle New Business is that the City, in this case I suspect Mr.
14 Ochoa makes a presentation on the, each case, oh Ms. Gonzales is it?
15 Yeah. And then we Commissioners may have some questions to ask of
16 her. When that's over we ask the applicant if he or she wants to make an
17 address to the Commission. Again we may have some questions. Finally
18 we throw it open to the public, of which there are not very many present
19 and we let them come up and speak for three minutes. When they've all
20 had their say, we close the matter to further input from the floor and we
21 discuss it and then come to a vote. So, Mr. Ochoa you are going to say
22 something shortly or you wouldn't be there. Just there to correct me.
23

24 Ochoa: No sir just standing here to get everything ready for our presentation here.
25

26 Crane: Oh, okay. Please introduce yourself for the record.
27

28 Gonzales: Sara Gonzales, Acting Planner for the City of Las Cruces.
29

30 Crane: Thank you.
31

32 Gonzales: Okay, so this is for Case Z2891 for a zone change from C-2C to C-2C at
33 3520 Foothills Road. This is a vicinity map of the area. You do see that it
34 is in the center. Around it to the east as well as to the west and to the
35 north are basically commercial properties. To the rear of the south part of
36 the property is a residential multiplex which is the apartment complex.
37

38 The current conditions, it is south of Foothills Road. It's about 867
39 feet east of the intersection with Telshor Boulevard. The property does
40 encompass about 0.91 acres. It is zoned C-2C which is commercial
41 medium intensity conditional. There are prohibited land uses on the
42 property which are; a stand along liquor store, bars, taverns, bowling
43 alleys, nightclubs, and any other businesses whose primary product is
44 basically liquor sales, and of course fast foot restaurants with a drive-thru
45 window. There is currently an active dry cleaners which is to the east of
46 the property, and the other part of the building is now vacant which is
about 2,500 square feet.

1 This is an aerial of the view. The front portion does show a canopy
 2 that has been demoed. So the only thing on the property now is just the
 3 building itself. This piece has been demoed. To the east of it this is a
 4 shopping center as well as Hooters. You will see the, in the north of it that
 5 is where they are doing counseling centers, Farley's is towards the west,
 6 northwest, and then on the other side to the west side is Hotel Encanto.

7 The applicants are proposing a zone change from C-2C to C-2C to
 8 eliminate some of the land uses that are there which are prohibited. They
 9 would like to be using the property for either a drive-thru restaurant or
 10 possibly the stand-alone liquor store, so both of these conditions would
 11 like to be removed as far as the property.

12 Based on staff's analysis the property is located in an area that is
 13 zoned primarily commercial and has several uses which are the same as
 14 the proposed uses. Foothills Road is a minor arterial road where medium
 15 and high intensity commercial uses and zoning are encouraged. Our staff
 16 report also shows that it is supported by the Comprehensive Plan as well
 17 as the Purposes and Intents statements and the Zoning Code for 2001, as
 18 well as the Planning and Zoning Commission decision criteria for 2001
 19 Zoning Code.

20 We did send out, staff did send out the reviews to all of the relevant
 21 agencies and everyone did support the proposed zone change. There
 22 was also notification sent out to the surrounding properties and I did not,
 23 or staff did not receive any public input at all. So staff is recommending
 24 approval based on the findings, findings within your staff report. Planning
 25 and Zoning Commission is a recommending body to City Council. The
 26 recommend, or recommended findings for approval were in your staff
 27 report. And so at this point you can vote "yes" to recommend approval for
 28 the zone change to City Council recommended by staff; or vote "no," that
 29 would recommend denial of the zone change to City Council; vote "yes"
 30 with conditions, which means we could modify the zone change by adding
 31 or removing any conditions deemed appropriate by P&Z; or vote to table
 32 which will allow P&Z to direct staff and to, more information and develop
 33 alternate solutions to present to a future P&Z. This is the aerial map
 34 again, or the zoning map. And then I stand for questions. The applicant is
 35 here as well.

36
 37 Crane: Thank you Ms. Gonzales. Commissioners any questions for our
 38 presenter? Commissioner Ferrary.

39
 40 Ferrary: I was wondering if the conditions were before the 2001 and you mentioned
 41 several, the Planning Comprehensive Plan, these conditions were before
 42 that was adopted, is that right?

43
 44 Gonzales: Mr. Chairman, Commissioner Ferrary. Correct. This was, the conditions
 45 were placed on the property in 1997 with the original ordinance of 1620.
 46 That was when the property was a different demographic and it hadn't

- 1 been developed yet. Now that the property is developed the uses are, it
2 seems more available for those uses because they're also already being
3 used for those properties around them. They weren't developed at the
4 time so it was mainly residential. So they had the concerns if these two
5 uses were there what might take place. Now that the develop is done, it's
6 a little bit easier to use those uses.
7
- 8 Ferrary: So even though they're still residential close by, they're seeing it as
9 something more commercial after 2001?
- 10
- 11 Gonzales: Correct, because they're no longer adjacent to that property. Now they're
12 seeing that it is mainly commercial rather than a residential area.
13
- 14 Ferrary: Okay. And my other concern was, you have a drive-up on one side of the
15 building and if there is a drive-up on the other side how will traffic you
16 know coordinate between the two behind the building?
17
- 18 Gonzales: Based on the development, we won't know the development, how they're
19 going to actually propose it. There will be the dry cleaners on the one
20 side. There is a possibility that they could be using the extra vacant area
21 on the other side to do maybe a wrap-around drive-thru. So they would
22 not be going around the building, but going towards more of the east side
23 of the property. We would have to see when it actually becomes
24 developed.
25
- 26 Ferrary: And that would have to be before you for approval.
27
- 28 Gonzales: Correct.
29
- 30 Ferrary: Okay. Thank you.
31
- 32 Crane: Any other Commissioner? Thank you Ms. Gonzales. Does the applicant
33 wish to make a statement?
34
- 35 Carlson: Good evening Commissioners. At this time we don't have a ...
36
- 37 Crane: Excuse me sir would you introduce yourself and I have to swear you in.
38
- 39 Carlson: Oh yeah. Yes. My name's Raymond Carlson. I'm here on behalf of the,
40 the owner, Greco Rental-University LLC.
41
- 42 Crane: Mr. Carlson was it?
43
- 44 Carlson: Carlson, yes sir.
45

- 1 Crane: Carlton. Do you swear or affirm that the testimony you are about to give is
2 the truth and nothing but the truth under penalty of law?
3
- 4 Carlson: I do.
5
- 6 Crane: Go ahead please.
7
- 8 Carlson: Okay. At, at this time we don't have a restaurant wanting to go in there.
9 About four or five months ago we had a potential tenant that wanted to do
10 nothing but iced teas and soft drinks and they were going to also sell
11 prepackaged muffins of the sort, there was not going to be any food prep
12 done there. We got official response from the City of Las Cruces and that
13 was that, that, that still fell under in their, in their minds a fast food
14 restaurant even though the food was not going prepared, going to be
15 prepared there, so we are wanting to get rid of that condition so if down
16 the road we were to have a, a similar tenant come forward that we could
17 then start negotiating without having to wait for the zone change.
18
- 19 Crane: Thank you. Any questions for Mr. Carlton? Commissioner Beard.
20
- 21 Beard: Do you have any other properties that are similar to what you're
22 proposing?
23
- 24 Carlson: Commissioner Beard I'm not sure of the, the question. We, we don't own
25 any other commercial properties in that area that we could have drive-
26 thrus on, no.
27
- 28 Beard: I was thinking about throughout the City. Have you already done this,
29 something like this before?
30
- 31 Carlson: No sir.
32
- 33 Beard: Thank you.
34
- 35 Carlson: Yes.
36
- 37 Crane: Any other Commissioner? Then thank you Mr. Carlton.
38
- 39 Carlson: You're welcome.
40
- 41 Crane: Any members of the public present? I take it not. In that case unless
42 somebody has a change of mind very shortly we will close this to input
43 from the floor and we have a fairly simple presentation here. We have a
44 motion before us to approve or vote against this zoning change. Does
45 anybody want to make an address to us, fellow members before we take a
46 vote? Mr. Carlton, Mr. Clifton.

1
2 Clifton: I'd like to go ahead and make a motion to vote on the case.
3
4 Crane: Go ahead sir.
5
6 Clifton: I make a motion to approve Case Z2891, an application of Mr. Raymond
7 Carlson on behalf of Greco Rentals for a zone change from C-2C to C-2C.
8
9 Crane: Thank you. Do I have a second?
10
11 Stowe: Second.
12
13 Crane: Second by Mr. Stowe. Any discussion? In that case let's take a roll call
14 vote, we'll start with Mr. Clifton.
15
16 Clifton: Aye based on site visit, findings, and presentation by staff and the
17 applicant.
18
19 Crane: Commissioner Gordon.
20
21 Gordon: Based on site visit, findings, and staff recommendations I vote yes.
22
23 Crane: Commissioner Stowe.
24
25 Stowe: Yes based on site visit, findings, and discussion.
26
27 Crane: Commissioner Ferrary.
28
29 Ferrary: Aye based, I vote aye based on site visit, findings, and staff
30 recommendations.
31
32 Crane: Commissioner Alvarado.
33
34 Alvarado: I vote, vote aye based on site visit, discussion, and staff presentation. I
35 think it's much better to have the property used for a business than just lay
36 dormant and have nothing there.
37
38 Crane: Commissioner Beard.
39
40 Beard: Aye based on presentation and findings.
41
42 Crane: And the Chair votes aye based on findings, discussion, and site visit. The
43 measure passes seven/nothing. Thank you.
44
45
46

1 **VII. OTHER BUSINESS - NONE**

2
3 Crane: And we have no Other Business, do we?

4
5 Ochoa: No sir none tonight.

6
7 **VIII. PUBLIC PARTICIPATION**

8
9 Crane: No public participation because there's no public.

10
11 **IX. STAFF ANNOUNCEMENTS**

12
13 Crane: Staff announcements.

14
15 Ochoa: Thank you Mr. Chairman. Yes I would just like to recommend, I mean to,
16 to remind, excuse me, the Planning and Zoning Commission that we
17 actually will have an actual P&Z meeting next month on December 22nd I
18 believe is the fourth Tuesday of the month. It is that holiday week. We
19 know it too. But we have anywhere between two to four cases coming
20 before you all so if you could let us know what time in advance either me
21 or Katherine Harrison-Rogers and your planner, let us know if you'll be
22 able to attend or not that meeting, the sooner the better if we can know if
23 we have quorum to have that meeting or not.

24
25 Crane: Thank you Mr. Ochoa. Any body in a position right now to say yeah or
26 nay? I am pretty sure I can be there. We have no plans to travel that
27 week.

28
29 Gordon: Yeah I'll be there.

30
31 Beard: I won't be I don't think.

32
33 Crane: Mr. Beard will not. And Mr. Gordon, somebody has his light on.

34
35 Gordon: Yeah. I would be there.

36
37 Crane: Okay. And the others are not, don't know yet, right?

38
39 Stowe: Me too.

40
41 Crane: Okay. So that's three yeah and one is not. Mr. Alvarado may not. Ms.
42 Ferrary? Probably will? Okay. Mr. Clifton.

43
44 Clifton: I'll be there. I can't imagine any other place I would rather be on that
45 night. Thank you.

1 Crane: Wow.
2
3 Clifton: Thank you Adam.
4
5 Crane: I think you're looking at your next Chairman. You didn't hear me say that.
6 All right well that's some help to you I suppose and ...
7
8 Ochoa: Yes, that's great.
9
10 Crane: Looks like we'll have a quorum but ...
11
12 Ochoa: I believe there is a work session as well as, next month as well just an FYI
13 on that.
14
15 Ferrary: Okay.
16
17 Crane: Is there any other staff announcement?
18
19 Ochoa: No sir. Nothing else.
20
21 **X. ADJOURNMENT (6:17 p.m.)**
22
23 Crane: In that case we are adjourned at 6:17. Thank you.
24
25 Ochoa: Thank you ladies and gentlemen.
26
27
28
29
30
31
32

Chairperson
33
34

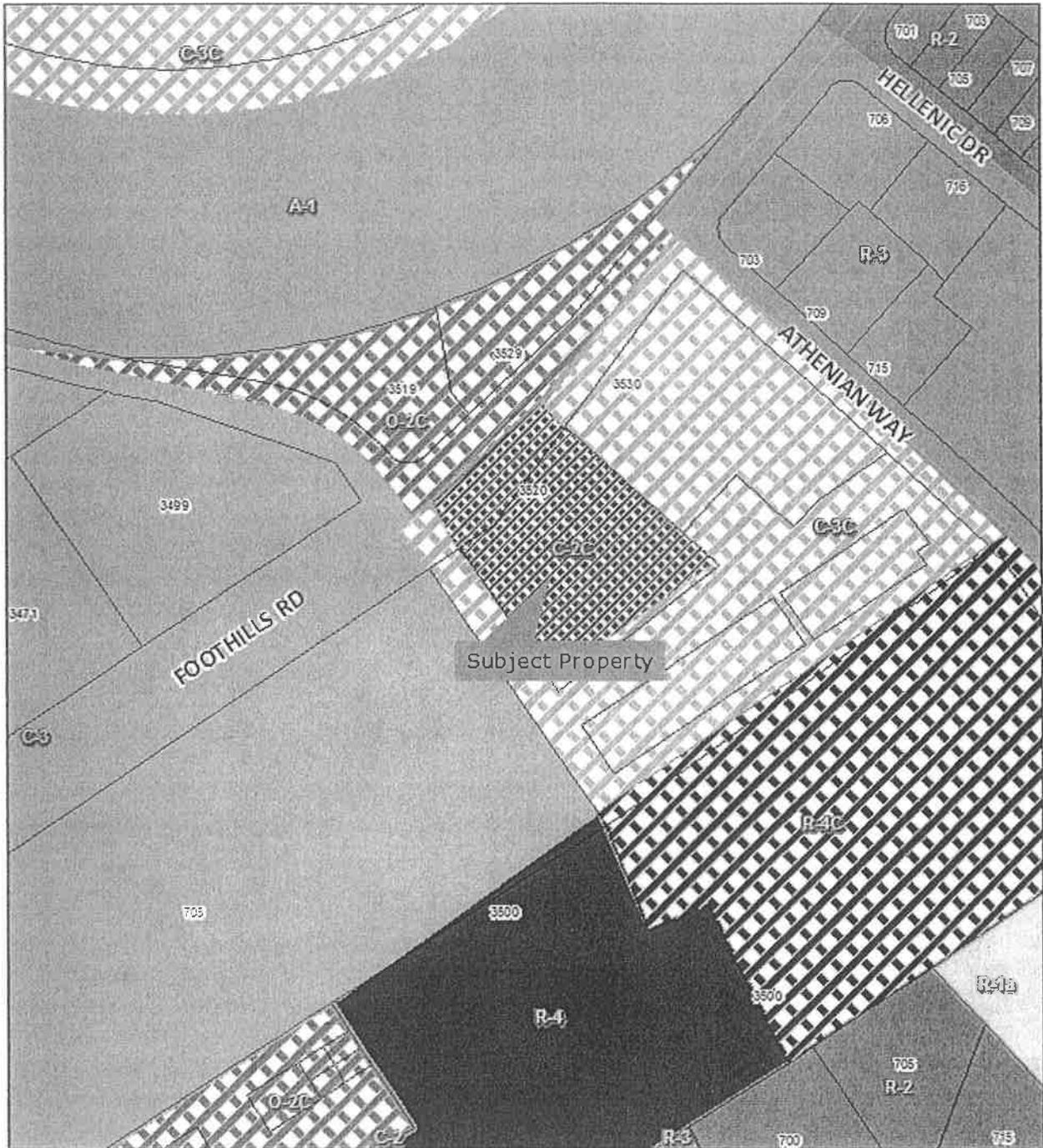
Vicinity and Zoning Map

ZONING: C-2C

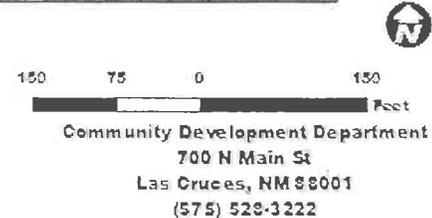
OWNER: Greco Rentals-University LLC

PARCEL: 02-26732

DATE: 10/19/15



PROPOSAL: Case Z2891, 3520 Foothills Road
 A proposal for a Zone Change
 from C-2C to C-2C amending the allowed use
 of a liquor store and drive-thru restaurant.





City of Las Cruces®

PEOPLE HELPING PEOPLE

12

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of January 19, 2016
(Ordinance First Reading Date)

For Meeting of February 1, 2016
(Adoption Date)

TITLE:

AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2C (COMMERCIAL MEDIUM INTENSITY /CONDITIONAL) TO C-2C (COMMERCIAL MEDIUM INTENSITY /CONDITIONAL) FOR THE PURPOSE OF MODIFYING THE CONDITIONS OF ZONING ON A 0.91+ ACRE PARCEL LOCATED AT 3520 FOOTHILLS ROAD. SUBMITTED BY RAYMOND CARLSON, PROJECT MANAGER ON BEHALF OF GRECO-RENTALS UNIVERSITY, LLC. (Z2891).

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Sonzales</i>	528-3085	12.17.15
Department Director	<i>Rif + David Weir</i>	528-3067	12.17.15
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i>	541-2078 541-2106	12/19/15 12/18/15
Assistant City Manager/COO	<i>Daniel Onda</i>		12/20/15
City Attorney	<i>Hy (Kate) Lemmelly, Deputy City Atty</i>	541-2128	12/22/15
City Clerk - Interim	<i>[Signature]</i>	x2115	12/22/15