City of Las Cruces®

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Council Action and Executive Summary

Item #16 Ordinance/Resolution# 2783

For Meeting of May 16, 2016 (Ordinance First Reading Date)

For Meeting of June 6, 2016 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☒ LEGISLATIVE ☐ ADMINISTRATIVE

TITLE: AN ORDINANCE TO REPEAL AND REPLACE IN ITS ENTIRETY SECTION 38.43 "CBD - CENTRAL BUSINESS DISTRICT AND MAIN STREET PLAZA OVERLAY ZONE" OF THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997, AS AMENDED TO ADOPT A NEW SECTION 38.43 "DOWNTOWN DEVELOPMENT CODE".

PURPOSE(S) OF ACTION:

Amend the LCMC.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Andy Hume	**Department/Section:** Community Development / Planning & Neighborhood Services	**Phone:** 528-3048
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

City Council adopted the current Downtown Revitalization Plan in January 2004. Two key strategies in the plan provide direction to: 1) Create and adopt a mixed-use zoning district for the Central Business District and Main Street Plaza, and 2) Adopt a goals-based or performance-based regulatory approach to allow flexibility and function with planning and zoning to the Downtown core. In October 2013, a charrette was held to focus on specific downtown design features. Among the proposed catalyst projects, the final report reiterated the importance of adopting a form-based code to promote downtown development.

The City proposes adopting the attached form-based code in the downtown area by repealing and replacing the existing Central Business District and Main Street Overlay Zone provisions of the City Zoning Code as codified in Section 38.43 of the LCMC. The replacement Section 38.43, "Downtown Development Code" (DDC), will increase focus on urban design and human interaction with the built environment while maintaining oversight of appropriate downtown land uses. The DDC encourages a variety of residential, commercial, and employment options through mixed use development and overall integration of compatible land uses. Adoption would complete critical strategies of the current Downtown Revitalization Plan and the Downtown Charrette Report.

Some benefits of the proposed DDC for downtown are:

- Balance development flexibility with predictability for adjoining property owners.
- Encourage a mix of uses within a compact, walkable urban setting.
- Blend a more urban downtown environment with adjoining historic neighborhoods.
- Enhance and preserve historic elements of downtown.

The Planning & Zoning Commission (P&Z) reviewed and commented on the proposed DDC at their work session held on January 19, 2016 and their regular meeting held on February 23, 2016. At their regular meeting to be held on April 26, 2016, staff will request the P&Z provide a final recommendation.

City Council final approval is required to amend the LCMC, including the Zoning Code. If approved, this action will repeal Chapter 38, Article V, Section 38-43, CBD - Central Business District and Main Street Plaza Overlay Zone and replace it with DDC.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Downtown Development Code.
3. Attachment "A", January 19, 2016 P&Z Work Session Agenda.
4. Attachment "B", February 23, 2016 P&Z Minutes, pages 28-45.
5. Attachment "C", April 26, 2016 P&Z Staff Report.

SOURCE OF FUNDING:

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

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

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

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this action will repeal and replace Chapter 38, Article V, Section 38-43, CBD - Central Business District and Main Street Plaza Overlay Zone of the LCMC with a new DDC.
2. Vote "No"; this action will not repeal and replace Chapter 38, Article V, Section 38-43, CBD - Central Business District and Main Street Plaza Overlay Zone of the LCMC with a new DDC. This action would not allow implementation of the proposed form-based code.
3. Vote to "Amend"; this action could modify the Ordinance and may delay implementation.
4. Vote to "Table"; this action will delay supporting the Ordinance and may delay implementation.

REFERENCE INFORMATION:

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

1. N/A

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(14)

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of May 16, 2016 (Ordinance First Reading Date)

For Meeting of June 6, 2016 (Adoption Date)

TITLE: **AN ORDINANCE TO REPEAL AND REPLACE IN ITS ENTIRETY SECTION 38.43 "CBD - CENTRAL BUSINESS DISTRICT AND MAIN STREET PLAZA OVERLAY ZONE" OF THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997, AS AMENDED TO ADOPT A NEW SECTION 38.43 "DOWNTOWN DEVELOPMENT CODE".**

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Community Development Staff Contact		528-3048	4/26/16
Department Director		528-3067	4-26-16
Other			
Assistant City Manager /CAO Management & Budget Manager		541-2078 541-2107	4-28-2016 4-28-2016
Assistant City Manager/COO			4-28-16
City Attorney		EXT 2128	29 April 2016
City Clerk		X2115	5-6-16

Rev. 8/2011

COUNCIL BILL NO. 16-024
ORDINANCE NO. 2783

AN ORDINANCE TO REPEAL AND REPLACE IN ITS ENTIRETY SECTION 38.43 "CBD - CENTRAL BUSINESS DISTRICT AND MAIN STREET PLAZA OVERLAY ZONE" OF THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997, AS AMENDED TO ADOPT A NEW SECTION 38.43 "DOWNTOWN DEVELOPMENT CODE".

The City Council is informed that:

WHEREAS, the City adopted the Downtown Revitalization Plan (Plan) in 2004; and

WHEREAS, the Plan called for adopting a mixed-use zoning district for downtown; and

WHEREAS, the proposed Downtown Development Code (DDC) is a form-based code that will achieve key strategies detailed in the Plan; and

WHEREAS, the DDC will increase focus on urban design and human interaction with the built environment while maintaining oversight of appropriate downtown land uses; and

WHEREAS, the DDC will balance development flexibility with predictability for adjoining property owners; and

WHEREAS, the DDC will blend a more urban downtown environment with adjoining historic neighborhoods.

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

(I)

THAT Section 38-43, "CBD - Central Business District and Main Street Plaza Overlay Zone" is repealed and replaced in its entirety with DDC, as shown in Exhibit "A",

attached hereto and made part of this Ordinance.

(II)

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

DONE AND APPROVED this _____ day of _____20___.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

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

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

Sec. 38-43. Downtown Development Code.

A. Purpose. The purpose of this section and the zoning districts defined herein is to accommodate government facilities, retail, office, residential, and other similar uses in the downtown area of the city with appropriate height, yard, and intensity standards to allow for a higher density and intensity of development. Further, the properties described within the Main Street (MS) zoning district are identified as a special area within the Downtown to encourage revitalization through incentives and clearly defined development standards. See Table 1. Downtown Regulating Plan for the district boundaries. See Sec. N. MS Architectural Standards for development standards that apply to the MS district only.

1. The Downtown Development Code is designed to foster infill redevelopment in a mixed-use pattern as part of a vibrant, diverse, downtown.

2. This Section is intended to promote traditional urban form and a lively mix of uses, allowing for shopfronts, sidewalk cafes, and other commercial uses at the street level, with wide sidewalks and shade trees, overlooked by upper story residences and offices. It also provides a setting for major activities that benefit the community such as markets, festivals, and entertainment.

3. A range of open spaces should be distributed within adjacent neighborhoods and throughout downtown.

4. Buildings and landscaping should contribute to the physical definition of thoroughfares as civic places.

5. The transect designations in Sec. B. Zoning Districts shall describe the general character of downtown.

B. Zoning Districts. Zoning districts are limited to the following transect designations:

1. Downtown (DT): This district consists of higher intensity mixed-use buildings that accommodate retail, offices, institutional, and residences. The thoroughfares have wide sidewalks with street trees and buildings are set close to the sidewalks.

2. Main Street (MS): This district is similar in use and character to DT, but the massing and proportions are in harmony with an urban core.

3. General Urban (GU): This district includes a mix of uses, but is primarily in the form of medium-intensity mixed use structures. It may have a wide range of building types: residences, live-work units, commercial buildings, theaters, and mixed-use buildings. The thoroughfares have wide sidewalks and buildings are set close to the sidewalks.

C. Downtown Regulating Plan

1. The regulating plan is the zoning map and principal tool for implementing the Downtown Master Plan, as amended. It identifies the transect district for the building site (See Table 1. Downtown Regulating Plan) which regulates standards for each lot.

2. New development in Downtown shall provide sidewalk improvements, civic spaces as needed, and contribute to a shared parking and access strategy to create a complementary pattern for growth and development. The rules below will enhance a compact, economically sustainable, mixed-use downtown that complements the adjacent neighborhoods and provides flexible opportunities for residential, employment, government, institutional, and commercial uses.

3. Where present, alleys shall provide access to the rear of all lots. Alley dedication and construction within the rear setback is required as part of a redevelopment project if they do not exist. Alleys shall be constructed pursuant to Table 16. Access and Sec. T. Streetscape.

D. Instructions

1. Find the transect zone for your parcel in Table 1. Downtown Regulation Plan.

2. Site and building plans submitted under this Section shall include the following, in compliance with the standards described in this Section:

   a. Site Plan / Building Placement

   b. Building Specifications including floor plans (See § H through § K.)

   c. MS Architectural Standards, if applicable (See § L on page 20.)

   d. Fencing (See § M on page 21.)

   e. Signs (See § N on page 22.)

   f. Use (See § O on page 29.)

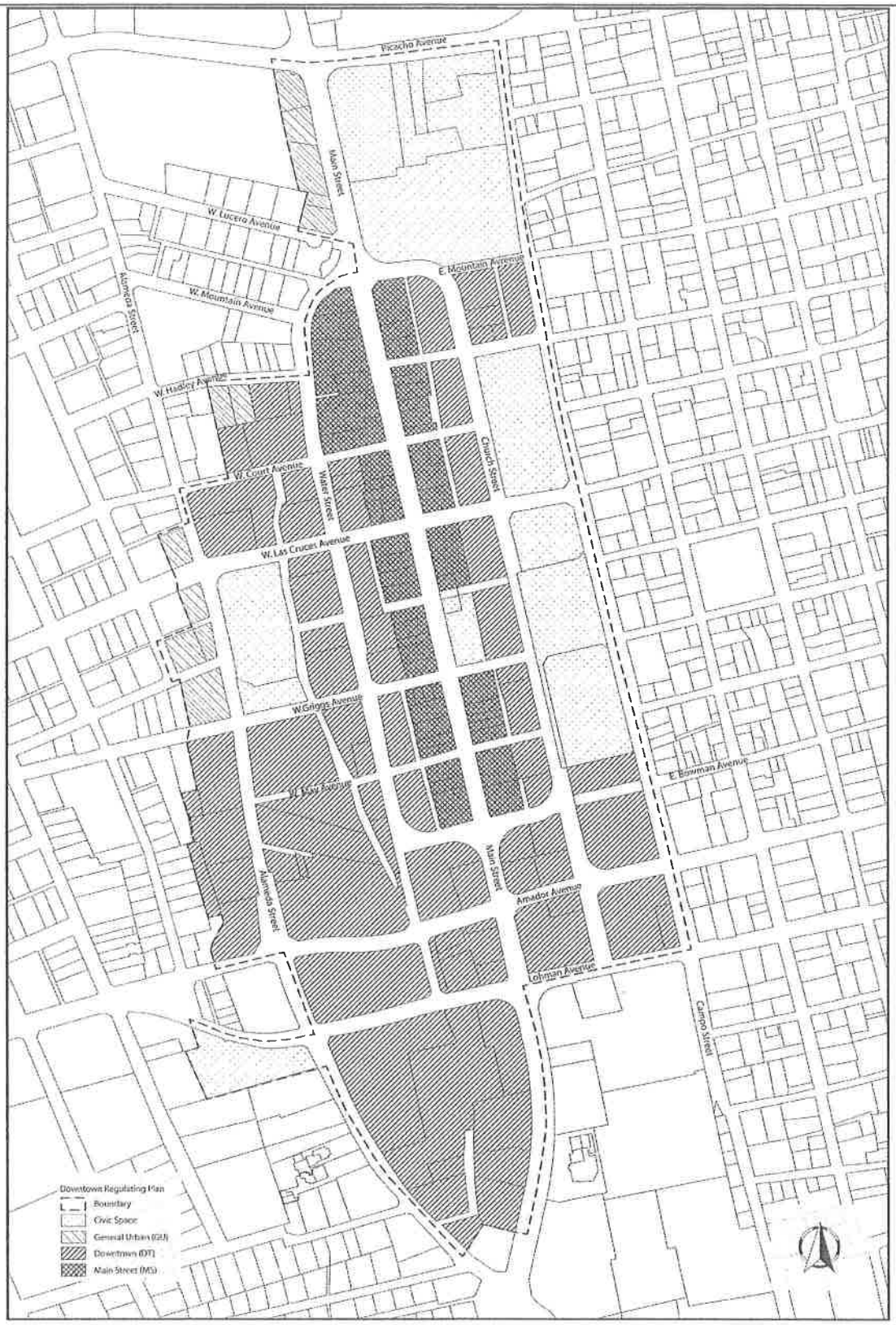
   g. Parking (See § P on page 32.)

   h. Landscaping (See § Q on page 34.)

   i. Streetscape, if applicable (See § R on page 35.)

3. Site and building plans submitted under this Section require review by respective City departments for appropriate compliance with other applicable City codes and ordinances and final approval by the Community Development Department.

TABLE 1. DOWNTOWN REGULATING PLAN



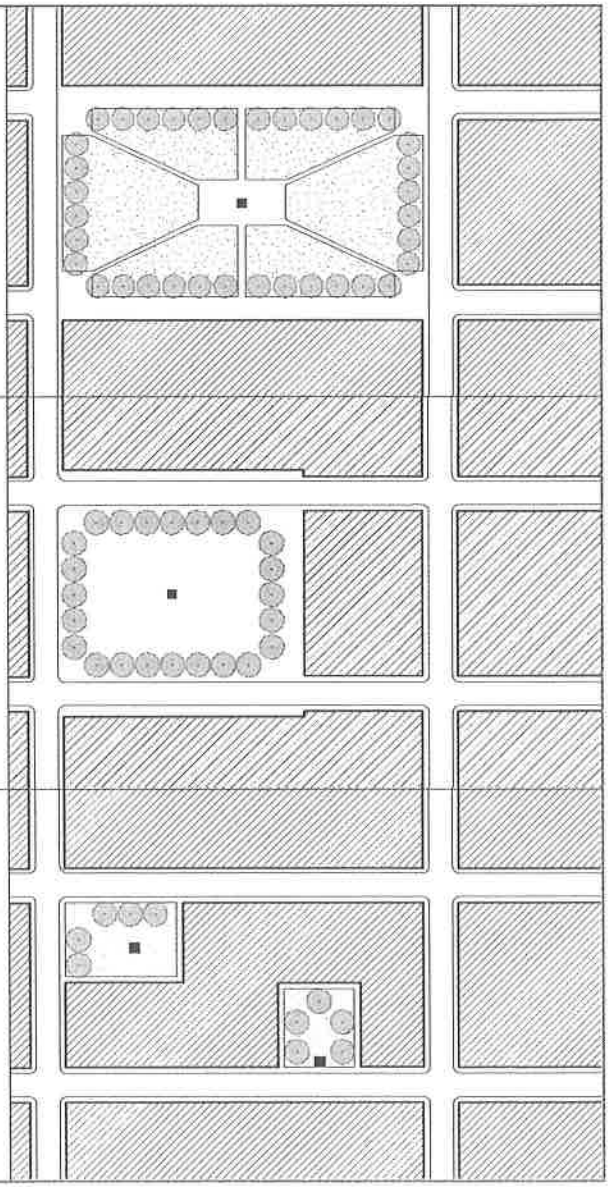
E. Definitions

This Sub-section provides definitions for terms in this Section that are technical in nature or that otherwise may not reflect a common usage of the term. Additional definitions are in Article III of Chapter 38, Zoning Code and Sec. 36-3 of Chapter 36, Signs.

Alley: a vehicular way located to the rear of lots providing access to service areas, parking and accessory structures.

Civic Space: an outdoor informal or formal area permanently dedicated for public use. See Table 2. Civic Space.

TABLE 2. CIVIC SPACE

a. Square: Size: The minimum size shall be 1/4 acre and the maximum shall be 3 acres. Edge Condition: A square is spatially defined by building frontages. Landscape: A square's landscape shall consist of paths, lawns and trees, formally arranged.	
b. Plaza: Size: The minimum size shall be 1/4 acre and the maximum shall be 2 acres. Edge Condition: A plaza shall be spatially defined by building frontages. Landscape: Its landscape may consist primarily of pavement. Trees and grass are optional, but perimeter shade is required.	
c. Playground: Size: There shall be no minimum or maximum size. Edge Condition: Playgrounds shall be interspersed within urban areas and may be placed within a block. Landscape: A playground may be fenced and include an open shelter. Playgrounds may be included within plazas and squares.	

Director: City of Las Cruces Community Development Department Director.

Elevation: an exterior wall of a building not along a frontage line. See: facade. See Table 3. Terminology Illustrated.

Encroach: to break the plane of a vertical or horizontal regulatory limit with a structural element extending into a setback, into the public frontage, or above a height limit.

Encroachment: any structural element that breaks the plane of a vertical or horizontal regulatory limit extending into the public frontage setback, or above a height limit.

Facade: the exterior wall or elevation of a building that is set along a frontage line. See Table 3. Terminology Illustrated.

Frontage: the area between a building facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into private and public frontages. See Table 3. Terminology Illustrated.

Primary Frontage: on corner lots, the private frontage designated to bear the address and principal entrance to the building, and the measure of minimum lot width. Prescriptions for the parking locations pertain only to the principal frontage. Prescriptions for the front setback pertain to both frontages of a corner lot. See frontage.

Secondary Frontage: on corner lots, the private frontage not on the primary thoroughfare.

Private Frontage: the privately owned setback between the frontage line and principal building facade.

Common Entry: a private frontage configuration for office and residential use, wherein the facade is aligned close to the frontage line with the primary building entrance at sidewalk grade. The common entry may be buffered by a planter at the sidewalk.

Forecourt: a private frontage yard wherein a portion of the facade is close to the frontage and the central portion is set back.

Gallery: a private frontage configuration for retail use wherein the facade is aligned close to the frontage line with an attached cantilevered shed or lightweight colonnade overlapping the sidewalk.

No Yard: a private frontage yard type with zero setback at the frontage line.

Porch: a private frontage configuration wherein the facade has a covered patio or elevated area at the primary entrance.

Shopfront: a private frontage configuration for retail use, with substantial glazing, wherein the facade is aligned close to the frontage line with the building entrance at sidewalk grade.

Stoop: a private frontage configuration wherein the facade is aligned close to the frontage line with the first story elevated from the sidewalk for privacy, with an exterior stair and landing at the entrance.

Terrace: a private frontage yard type with a shallow setback and front elevated patio, usually with a low wall at the frontage line. This type buffers residential uses from urban sidewalks. Terraces are also suitable for outdoor cafes.

Walled Yard: a private frontage yard type with a wall at the frontage line.

Frontage buildout: the percentage of the lot width that is occupied by the building facade at the front setback.

Frontage Line: a lot line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other lot lines.

Landscaped Area: the area of a lot or parcel exclusive of building footprints, driveway and walkway pavements, and other impervious hardscape areas, and exclusive of ponds, pools and other water features.

Liner building: a building specifically designed to mask a parking lot or a parking structure from a public frontage.

Live-Work: a mixed-use unit consisting of a commercial and residential use. The commercial use may be anywhere in the unit.

Lot Coverage: the percentage of a lot that is covered by buildings and other roofed structures.

Mixed-Use: multiple uses within the same building or in multiple buildings.

Pedestrian Passage: a pedestrian access between or through buildings. The passage may connect mid-block parking to the street.

Principal Entrance: the main point of access for pedestrians into a building.

Signs: Signs shall be defined pursuant to Chapter 36, Signs. Additional definitions are as follows:

Changeable Copy: A sign which allows characters, letters, or illustrations to be changed without altering the sign.

Display Case: A display case located on the facade of a building which displays menus, handbills or posters advertising a scheduled event, performance or film, and merchandise associated with the event, performance or film.

Projecting Sign: A small sign, which is suspended from an overhang, canopy, marquee, or awning, or is suspended from a mounting attached directly to the building wall, and hangs perpendicular to the building wall. An 8-foot clearance is required between a projecting sign and finished grade.

Story: a habitable level within a building, excluding an attic or raised basement.

Streetscreen: a freestanding wall built along the frontage line with the facade. It may mask a parking lot from the public frontage, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm. (Syn: streetwall).

Transect: categorization system that organizes all elements of the built environment.

Use, Civic (See § O on page 29.): community uses open to the public including: meeting halls; libraries; schools; police and fire stations; post offices (retail operations only, no primary distribution facilities); places of worship; museums; cultural, visual and performing art centers; transit centers; and government functions open to the public.

Use, Commerce (See § O on page 29.): commerce uses shall be considered to encompass all of the following:

1. Executive, Administrative, and Professional Offices
2. Medical and Dental Offices, and Clinics
3. Day Care Centers
4. On-premise Alcohol Sales
5. Sidewalk Cafes
6. Outdoor Food and Beverage Service
7. All of the Civic Use Categories
8. All of the Retail Use Categories
9. Parking Facilities and Structures

Use, Cottage Industry (See § O on page 29.): cottage industry uses shall refer to an industry whose labor force consists of individuals working at home with their own equipment.

Use, Lodging (See § O on page 29.): lodging uses are defined as premises available for daily and weekly renting of bedrooms and shall be considered to encompass all of the following:

1. Bed and Breakfast
2. Inn
3. Motel
4. Hotel

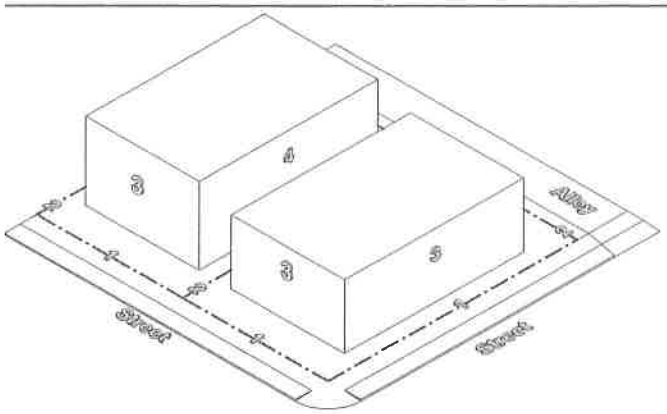
Use, Residential (See § O on page 29.): residential uses shall be considered to encompass all of the following:

1. Dwelling Units
2. Adult Foster Care Family Home
3. Family Day Care Homes
4. Foster Family Homes
5. Homes for the Disabled

Use, Retail (See § O on page 29.): retail uses shall be considered to encompass all of the following:

1. Retail service: establishments providing services, as opposed to products, to the general public, including restaurants, finance, real estate and insurance, travel agencies, health and educational services, galleries, and temporary storage, provided that the temporary storage is ancillary to the primary retail service.
2. Retail specialty: Include, but are not limited to the sale of gifts, antiques, flowers, books, jewelry, wearing apparel or craft shops making articles exclusively for sale at retail on the premises.
3. Retail trade: Establishments engaged in selling new goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

TABLE 3. TERMINOLOGY ILLUSTRATED



1 – Frontage Line
2 – Lot Line
3 – Facade
4 – Elevation

F. Existing building and property alteration, remodel, or renovation

1. For the purpose of this section, alteration, remodel, or renovation shall be defined as: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, as well as any change in rooflines, or any enlargement to or diminution of a building or structure, whether horizontally or vertically.

2. Minor modifications. For the purpose of this section, a minor modification shall be one that does not result in an alteration, remodel, or renovation as described in Section F.1. The minor modification of an existing building or property is permitted by-right if such changes result in greater conformance with the purposes and specifications of this Section. The minor modification must comply with the design standards and codes unless, through the determination of the Director or designee, said compliance would substantially create an undue burden to the property owner or create a condition whereby the expansion and compliance measure, partially applied, would be substantially out of character with the existing development.

3. Existing buildings and properties that do not conform to the provision of this Section may continue in use as they are. However, they shall be brought into compliance with current codes and standards when:

    i. The property remains vacant for a period of one continuous year or greater; or

    ii. Alteration, remodel, or renovation causes one-time or cumulative amendments to 30 percent or greater of the gross square footage of building area; or

    iii. A change in use occurs on the property which results in the alteration of the use orientation (e.g. service to retail), or density (e.g. eight dwelling units to 15 dwelling units) or change in occupancy type from the building code perspective.

4. Once permission to proceed has been granted by the Director or designee, the applicant may apply for the permit. Work shall not commence until permit approval is granted.

5. The restoration or rehabilitation of an existing building shall not require the provision of parking in addition to that existing, nor on-site stormwater retention/detention in addition to that existing, unless otherwise required by County or State code.

6. Normal maintenance activities as verified by the city's building official or designee are exempt from this provision.

7. Should an applicant not agree with the interpretation by the Director or designee, the interpretation may be appealed to the Planning and Zoning Commission.

G. Building Placement

1. Lot coverage by building shall not exceed that recorded in Table 4 – Table 6.

2. Facades shall be built parallel to the principal frontage line, and along a minimum percentage of the frontage width at the setback, as specified as frontage buildout on Table 4 – Table 6.

3. Setbacks for principal buildings and accessory buildings shall be as shown in Table 4 – Table 6. Setbacks may be adjusted by up to 10 percent by administrative waiver to accommodate specific site conditions. The Director or designee shall make the following written findings:

   a. The waiver is consistent with the provisions of Sec. B. Zoning Districts.

   b. The waiver is consistent with the Downtown Master Plan.

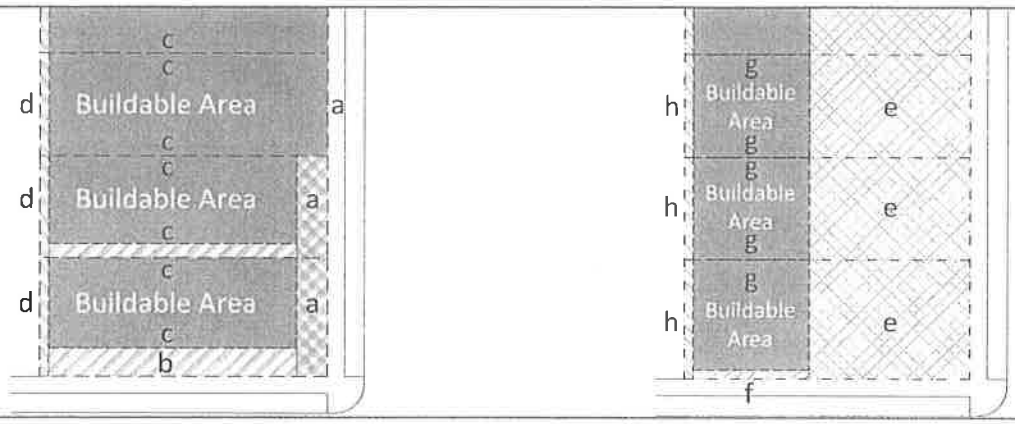
   c. The building placement will not materially endanger the public health or safety.

   d. The location and character of the building placement, if developed according to the plans and information approved, will be in harmony with proximate land uses, and consistent with the purposes of the district.

   e. The building placement will not adversely affect Downtown by altering its character.

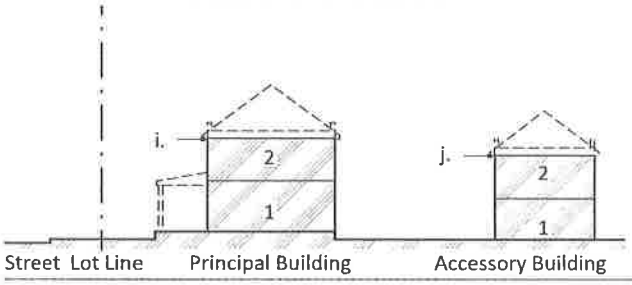
TABLE 4. BUILDING FORM STANDARDS - GU

BUILDING SETBACKS

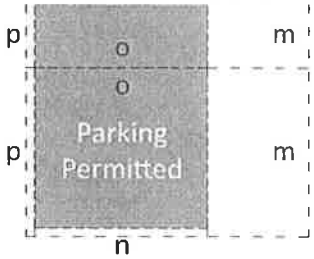


PRINCIPAL BUILDINGS			ACCESSORY BUILDING		
a	Primary Frontage	15 ft. max.	e	From Rear Lot Line	40 ft. max.
b	Secondary Frontage	10 ft. max.	f	Secondary Frontage	5 ft. min.
c	Side Lot Line	0 ft. or 5 ft. min.	g	Side Lot Line	0 ft. min.
d	Rear Lot Line	3 ft. min.	h	Rear Lot Line	3 ft. min.

BUILDING ENVELOPE



PARKING AND STORAGE SETBACKS



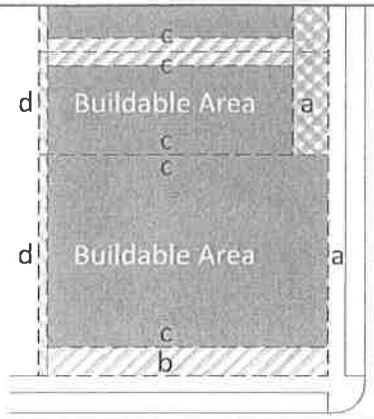
i	Building Height	2.5 stories max.	m	Primary Frontage	20 ft. + Principal Building Setback
j	Outbuilding Height	2 stories max.	n	Secondary Frontage	5 ft. min.
k	Parking Height	n/a	o	Side Lot Line	0 ft. min.
l	Lot Coverage	70% max.	p	Rear Lot Line	3 ft. min.

BUILDING FRONTAGE

	Permitted Frontages, see Table 7 and Table 8	Yard Walled Yard Terrace No Yard	Yard Porch Stoop Shopfront
	Frontage Buildout	60% min.	

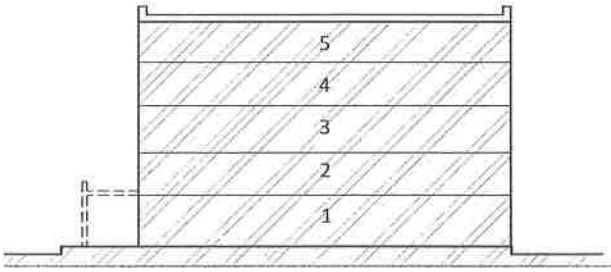
TABLE 5. BUILDING FORM STANDARDS - DT

BUILDING SETBACKS

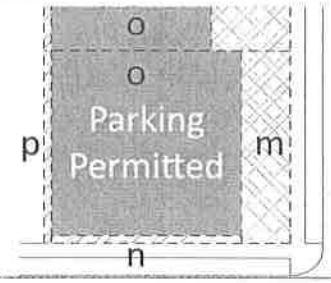


PRINCIPAL BUILDINGS			ACCESSORY BUILDING		
a	Primary Frontage	12 ft. max.	e	From Rear Lot Line	n/a
b	Secondary Frontage	8 ft. max.	f	Secondary Frontage	n/a
c	Side Lot Line	0 ft. or 5 ft. min.	g	Side Lot Line	n/a
d	Rear Lot Line	3 ft. min.	h	Rear Lot Line	n/a

BUILDING ENVELOPE



PARKING AND STORAGE SETBACKS



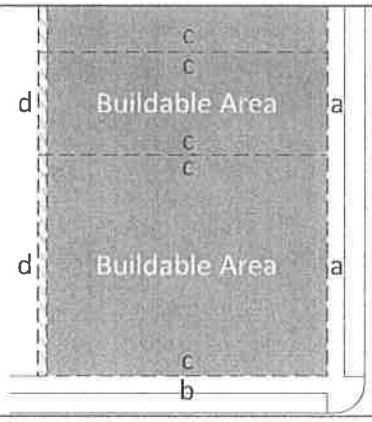
i	Building Height	5 stories max.	m	Primary Frontage	20 ft. + Principal Building Setback
j	Outbuilding Height	n/a	n	Secondary Frontage	5 ft. min.
k	Parking Height	5 stories max.	o	Side Lot Line	0 ft. min.
l	Lot Coverage	100% max.	p	Rear Lot Line	3 ft. min.

BUILDING FRONTAGE

Permitted Frontages, see Table 7 and Table 8	Yard No Yard Terrace Forecourt	Configuration Stoop Common Entry Shopfront Gallery
Frontage Buildout	70% min.	

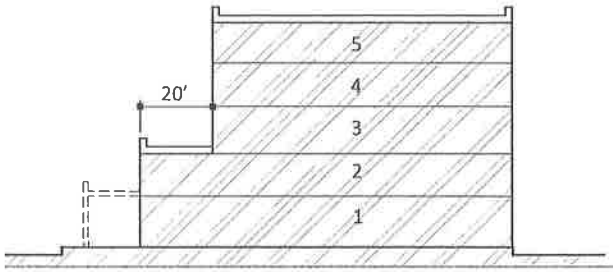
TABLE 6. BUILDING FORM STANDARDS - MS

BUILDING SETBACKS

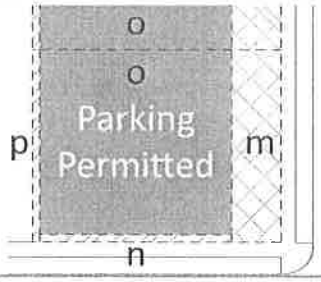


PRINCIPAL BUILDINGS			ACCESSORY BUILDING		
a	Primary Frontage	0 ft. max.	e	From Rear Lot Line	n/a
b	Secondary Frontage	0 ft. max.	f	Secondary Frontage	n/a
c	Side Lot Line	6 ft. max.	g	Side Lot Line	n/a
d	Rear Lot Line	0 ft. min.	h	Rear Lot Line	n/a

BUILDING ENVELOPE



PARKING AND STORAGE SETBACKS



i	Building Height	5 stories max.	m	Primary Frontage	20 ft. + Principal Building Setback
	Main Street Stepback	20' after 2nd story			
j	Outbuilding Height	n/a	n	Secondary Frontage	5 ft. min.
k	Parking Height	5 stories max.	o	Side Lot Line	0 ft. max.
l	Lot Coverage	100% max.	p	Rear Lot Line	0 ft. min.

BUILDING FRONTAGE

Permitted Frontages, see Table 7 and Table 8	Yard No Yard Terrace	Configuration Common Entry Shopfront Gallery
Frontage Buildout	100% min.	

H. Building Specifications: Height

1. Building height is regulated by Table 4 – Table 6, measured as follows:

   a. Building height is measured in above ground stories.

   b. Stories are measured from finished floor to finished ceiling.

   c. Stories above the ground floor are limited to 14 feet after which height they are counted as two stories.

   d. For residential uses, a ground floor story of 16 feet or less is counted as one story. Ground floors exceeding 16 feet in height are counted as two stories.

   e. For non-residential and mixed-uses a ground floor story shall be no less than 10 feet in height. A ground floor story of 25 feet or less is counted as one story. Ground floors exceeding 25 feet in height are counted as two stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional floor.

   f. Height limits do not apply to unfinished attics, masts, belfries, clock towers, chimney flues, water tanks, or elevator bulkheads.

   g. Building stepbacks shall be required in MS pursuant to Table 6.i.

I. Building Specifications: Frontage Requirements

1. Lot lines abutting a right-of-way are designated as a primary frontage or secondary frontage as follows:

   a. For lots abutting a right-of-way along a single lot line, the lot line abutting the right-of-way is designated the primary frontage.

   b. For lots abutting a right-of-way along multiple lot lines, the lot line relating to the address of the principal building is designated the primary frontage. All remaining lot lines are designed secondary frontages.

   c. Main Street is considered the primary frontage for all lots abutting the right-of-way.

2. Regulations pertaining to primary frontages and secondary frontages, collectively frontage requirements, apply to the area of the lot within the front setback and secondary front setback including the following:

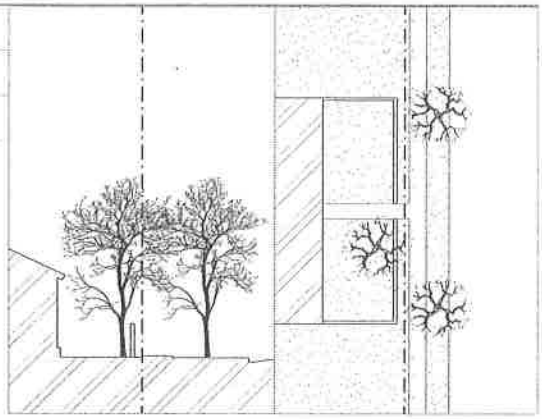
   a. Building facades;

   b. Structures that project from the facade such as porches, terraces, stoops, awnings, canopies, and galleries;

   c. Landscape elements and ground surfaces between the building facade and the lot line.

3. Where building facades do not occupy the entire frontage length, a streetscreen is required as follows:
   a. Streetscreens must be between 4 and 8 feet in height.
   b. Openings in the streetscreen for vehicular access may be no wider than 26 feet.
   c. Streetscreens shall provide no less than 70 percent opacity.
4. Frontages are regulated by frontage type according to Table 7, Table 8, and as follows:
   a. Landscaping, fencing, and general surface treatment are regulated according to frontage yard type pursuant to Table 7.
   b. Encroachments and configurations are regulated according to frontage configuration type pursuant to Table 8.
   c. Frontage types are a combination of frontage yard type and frontage configuration type.
   d. Where frontage yard types permit multiple frontage configuration types, one or more frontage configuration type may be selected for each facade.
5. Frontage types must be designated at all building frontages and must comply with the standards for that type.
6. A shopfront frontage is required for all ground floor retail uses.
7. Building entries must be provided along frontages as follows:
   a. The principal entrance must be located at the primary frontage.
   b. All habitable spaces within a building must be accessible from frontages.
   c. Building entries must be provided at primary frontages at a minimum of one entry for every 50 feet of frontage.
   d. Building entries must be provided at secondary frontages at a minimum of one entry for every 150 feet of frontage.
8. Loading docks and service areas up to a combined width of 30 feet may be incorporated into secondary frontages no more than 50 feet from the rear lot line.

TABLE 7. FRONTAGE TYPES – YARD

FRONTAGE TYPE REQUIREMENTS		SECTION PRIVATE ¦ PUBLIC	PLAN PRIVATE ¦ PUBLIC
YARD A - WALLED			
District	GU		
Setback Depth	0 ft. min., 1.5 ft. max.		
Combinations	Porch, Stoop		
Landscape and Fencing Requirements	(a) The front setback must be landscaped. (b) Walls are required within 18 in. of frontage lines. (c) 1 understory tree, or 10 shrubs are required for every 500 sf of landscaped area, or fraction thereof.		
Additional Requirements	(a) Retaining walls are permitted for landscape level changes. (b) Paving is limited to permitted walkways and driveways. (c) 1 walkway per frontage providing access to the primary entrance is permitted up to 48 in. in width. (d) This yard type must be combined with either a porch or stoop frontage.		

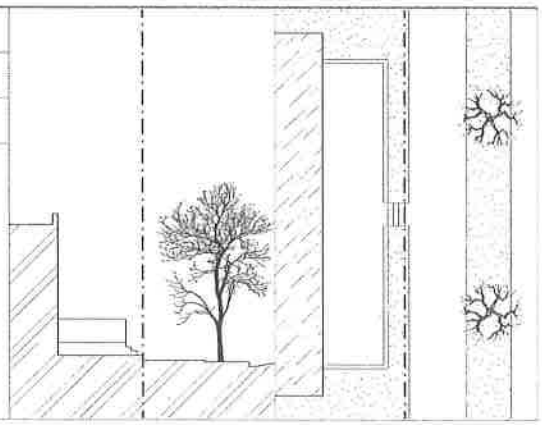
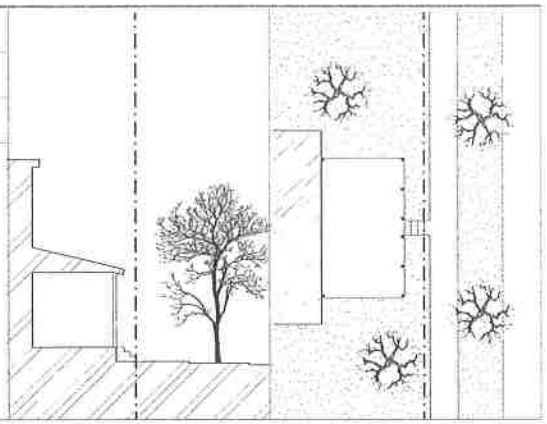
FRONTAGE TYPE REQUIREMENTS		SECTION PRIVATE ¦ PUBLIC	PLAN PRIVATE ¦ PUBLIC
YARD B - TERRACE			
District	GU, DT, MS		
Setback Depth	12 ft. max.		
Combinations	Common Entry, Shopfront, Gallery		
Landscape and Fencing Requirements	(a) The front setback must be landscaped and may be paved in DT and MS. (b) Fencing is permitted at or behind the building setback line. (c) In GU, fencing is permitted at frontage lines.		
Additional Requirements	(a) The frontage setback must be raised between 12 in. and 36 in. (b) Terraces may be no less than 8 feet in depth. (c) Retaining walls are permitted for level changes. (d) If in MS the terrace must be embedded with the building to maintain the zero setback requirement, but shall remain open facing the street. (e) This yard type must be combined with a shopfront or common entry frontage or a combination of both.		

TABLE 7. FRONTAGE TYPES – YARD

FRONTAGE TYPE REQUIREMENTS		SECTION PRIVATE	SECTION PUBLIC	PLAN PRIVATE	PLAN PUBLIC
YARD C - NO-YARD					
District	GU, DT, MS				
Setback Depth	8 ft. max.				
Combinations	Common Entry, Shopfront, Gallery				
Landscape and Fencing Requirements	(a) The frontage setback must be paved and integrated with the public sidewalk. (b) Raised planters and portable and non-permanent planters are permitted.				
Additional Requirements	(c) The frontage setback must match sidewalk grade. (d) The frontage setback may be used for outdoor seating and mechandise sales and display. The frontage setback may not be used for storage.				

FRONTAGE TYPE REQUIREMENTS		SECTION PRIVATE	SECTION PUBLIC	PLAN PRIVATE	PLAN PUBLIC
YARD D - FORECOURT					
District	DT				
Setback Depth	8 ft. max., excluding forecourt				
Combinations	Shopfront, Common Entry, Gallery				
Landscape and Fencing Requirements	(a) The frontage setback must be paved and integrated with the public sidewalk. (b) Raised planters and portable and non-permanent planters are permitted. (c) Forecourts may be paved or landscaped.				
Additional Requirements	(a) A forecourt shall be located at the primary entrance, and shall be no greater than 600 sf. in area. (b) The forecourt must be bound by facades on a minimum of 2 sides. (c) Facades at the forecourt may exceed maximum frontage setback. (d) The frontage setback must be configured according to Yard E - No-Yard.				

TABLE 8. FRONTAGE TYPES – CONFIGURATION

FRONTAGE CONFIGURATION REQUIREMENTS		SECTION		PLAN	
		PRIVATE	PUBLIC	PRIVATE	PUBLIC
CONFIGURATION A - PORCH					
District	GU				
Entry Grade	36 in. max.				
Combinations	n/a				
Setback and Encroachment	(a) Porches and related structures may encroach into frontage setbacks up to 100% of their depth in GU.				
Additional Requirements	(a) A porch may only occur at the primary entrance. (b) Porches may be no less than 6 feet in depth.				

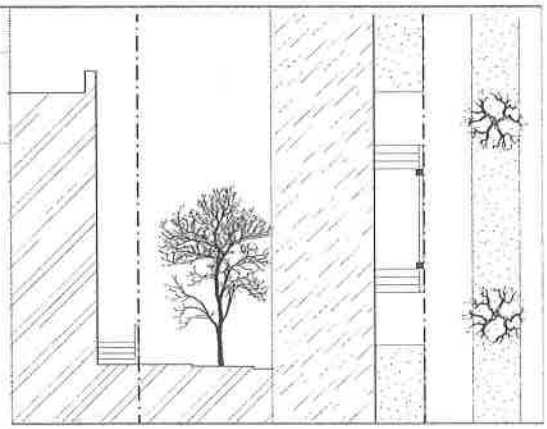
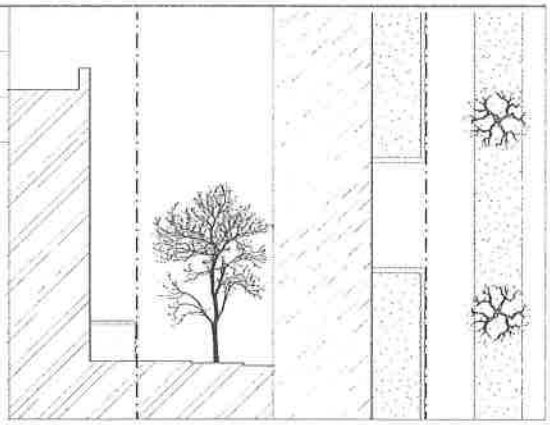
FRONTAGE CONFIGURATION REQUIREMENTS		SECTION		PLAN	
		PRIVATE	PUBLIC	PRIVATE	PUBLIC
CONFIGURATION B - STOOP					
District	GU, DT				
Entry Grade	36 in. max.				
Combinations	Common Entry				
Setback and Encroachment	(a) Stoops and related structures may encroach into frontage setbacks up to 100%. (b) Stoops may be recessed into building facades.				
Additional Requirements	(a) A stoop is required at the primary entrance. (b) Stoops may be masonry, stone, stucco, or concrete. (c) Wood is prohibited for stoop railings. (d) Stoop landings may be covered.				

TABLE 8. FRONTAGE TYPES – CONFIGURATION

FRONTAGE CONFIGURATION REQUIREMENTS		SECTION		PLAN	
		PRIVATE	PUBLIC	PRIVATE	PUBLIC
CONFIGURATION C - COMMON ENTRY					
District	DT, MS				
Entry Grade	20 in max.				
Combinations	Shopfront, Stoop				
Setback and Encroachment	(a) Canopies and awnings may encroach into frontage setbacks up to 100% of their depth. (b) Canopies and awnings may encroach into the public pedestrian way up to 10 feet.				
Additional Requirements	(a) A stoop combination is permitted in DT. (b) Canopies are permitted at the primary entrance. (c) Awnings are permitted along facades.				

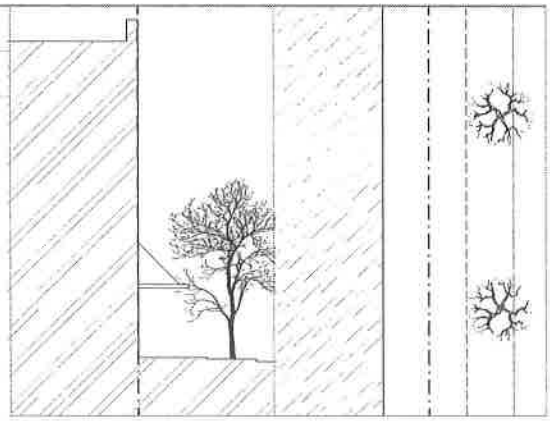
FRONTAGE CONFIGURATION REQUIREMENTS		SECTION		PLAN	
		PRIVATE	PUBLIC	PRIVATE	PUBLIC
CONFIGURATION E - SHOPFRONT					
District	DT, MS				
Entry Grade	sidewalk grade				
Combinations	Common Entry, Shopfront				
Setback and Encroachment	(a) Display windows may encroach into frontage setbacks up to 5 feet in depth. (b) Awnings may encroach into frontage setbacks up to 100% of their depth. (c) Awnings may encroach into the public pedestrian way up to 10 feet.				
Additional Requirements	(a) Entries may be recessed from the facade up to 5 feet in depth. (b) Tenant spaces must provide shopfronts along no less than 70% of tenant space frontage. (c) Tenant spaces with frontage on both primary and secondary frontages must provide shopfronts along no less than 30% of the secondary frontage.				

TABLE 8. FRONTAGE TYPES – CONFIGURATION

FRONTAGE CONFIGURATION REQUIREMENTS		SECTION		PLAN	
		PRIVATE	PUBLIC	PRIVATE	PUBLIC
CONFIGURATION	D- GALLERY				
District	DT, MS				
Entry Grade	sidewalk grade				
Combinations	Shopfront, Common Entry				
Setback and Encroachment	(a) Galleries may encroach into frontage set-backs up to 100% of their depth. (b) Galleries may encroach into the public pedestrian way up to 10 feet. (c) Awnings are not permitted in combination with galleries.				
Additional Requirements	(d) Galleries may be no less than 8 feet in depth. (e) Galleries must have a minimum clearance of 10 feet. (f) Galleries must be supported by columns. (g) Galleries must covered by roofing, green roofing, upper terraces, trellises, solar collectors, or fabric.				

J. Building Specifications: Encroachments

1. Encroachments into frontages are permitted as follows:

   a. Encroachments in frontage setback are prohibited except where specifically permitted in this Section, Table 7, and Table 8.

   b. Roof overhangs, cornices, window and door surrounds and other facade decorations may encroach into the front setback up to 2 feet but not beyond the lot line, and may not obscure views from windows to the street or from the street into windows.

   c. Shading devices may encroach into frontage setbacks as follows:

   d. In GU, shading devices attached to facades may encroach up to 6 feet, but not beyond the lot line.

   e. In DT and MS, shading devices may encroach into the front setback up to the lot line, and into the right-of-way up to 10 feet or within 2 feet of the curb.

   f. Balconies may encroach into the frontage setback a maximum of 3 feet, but not beyond the lot line.

g. Bay and bow windows may encroach into the frontage setbacks up to 3 feet, but not beyond the lot line.

2. Encroachments into pedestrian passages are permitted as follows:

a. A minimum of 14 feet in height must be maintained along the entire length of pedestrian passage.

b. Buildings and structures may encroach over pedestrian passages.

c. An unobstructed pedestrian path must be maintained a minimum of 5 feet in width and 8 feet in height. The pedestrian path is required to be continuous however it is not required to follow a straight line.

d. Signage, bay and bow windows, balconies, lighting fixtures, and display windows may encroach into pedestrian passages.

e. Outdoor seating, outdoor dining, and other non-permanent fixtures may encroach into pedestrian passages.

K. Building Specifications: Glazing

1. Facade glazing at building frontages must meet the minimum area requirements, calculated by glass area for each facade separately, as specified in Table 9. Minimum Facade Glazing.

TABLE 9. MINIMUM FACADE GLAZING

MEASUREMENT	GU	DT
Ground Floor	15%	30%
Second Floor	10%	20%
Upper Floors	n/a	20%

2. Mirrored and reflective glass is prohibited.

3. Shopfront frontages must meet the following glazing requirements:

a. Shopfronts must provide clear glazed areas for visibility into tenant spaces for no less than 60 percent of the shopfront area.

i. Facade area is calculated as the height from finished floor to finished ceiling times the width of the tenant space.

b. Shopfront glazing requirements are calculated separately for each tenant space.

4. Signs and posters shall cover no more than 30 percent of the total glazing area.

L. MS Architectural Standards. This sub-section supersedes the zoning district standards for any subject addressed in the MS zoning district.

1. Building Width:

   a. New buildings facing Main Street shall not exceed the average building width on their block except as follows:

      i. Buildings may be a maximum of 150 feet wide if the facade is designed to simulate the average width of buildings on the block.

2. Facade Standards:

   a. Glazing at the second story shall not exceed 30% of the second story building facade wall area.

   b. Mechanical equipment shall be screened from the street view.

3. Sidewalk coverings

   a. When awnings, canopies or galleries are used, they shall be designed and installed in compliance with building codes.

   b. Sidewalk coverings shall not obscure architectural details of designated historic building facades.

4. Signs

   a. Signs shall not obscure other building elements such as windows, cornices or architectural details.

   b. Individual business signs in a single storefront shall relate to each other in design, size and placement on the building and lettering style.

   c. Externally illuminated signs shall contain light within the sign frame and shall not spill light over to other portions of the building.

M. Fencing.

1. Hedges in frontage fences shall be evergreen.

2. Wood frontage fences shall be painted or stained.

3. Lot line fences shall be between 60 and 72 inches in height.

4. Frontage fences shall not exceed 48 inches in height nor violate the clear sight triangle.

5. Frontage fences may occur at the lot line, or up to 18 inches behind the lot line to permit landscaping.

6. When erected on a lot line, all of the fence and any of its supporting structures shall be contained within the lot.

7. The supporting members and posts shall be on the inside, and the smooth or flat faces on the outside. If two faces are used, each face shall be of the same type and finish. Board on board fences is considered equal treatment.

8. Chain link, barbed wire, razor wire, and electrically charged fences are not permitted.

N. Signs.

The general intent of regulating signs that are visible from the public frontage is to ensure proper dimensioning and placement with respect to existing or planned architectural features, to maintain or improve public safety, to maintain or improve the aesthetic character of the context in which they are located (See Table 10). Signage provides legible information for pedestrians as well as drivers.

Except with respect to the additional provisions in this section, Chapter 36, Signs shall be applicable and govern pursuant to the administration, processes and provisions for all signage within the City Limits of the City of Las Cruces. However, only the signage types permitted in this subsection and Table 10. General Sign Restrictions hereof shall be permitted in the Downtown. Unless specifically defined in Sec. E. Definitions, all definitions used in this Section shall be as defined in Sec. 36-3 of Chapter 36, Signs.

1. Prohibited Signs

   a. Moving, flashing, or animated signs including but not limited to searchlights, streamers and spinners;

   b. Inflatable signs, such as but not limited to balloons, gas inflated signs or similar inflated signs;

   c. Portable signs, except for sidewalk signs as allowed in Table 10;

   d. Flags, other than those specifically allowed in Chapter 36, Signs;

   e. Outdoor image projections (signs projected from an external light source onto a building or structure) or any other similar devices.

2. Permitted Signs and Sign Restrictions

   a. Permitted sign types are limited by Transect district and the following restrictions according to Table 10. General Sign Restrictions:

      i. The number of signs per sign type;

      ii. The area of signs;

      iii. Height of sign copy.

   b. Additional sign restrictions apply per sign type according to Table 11. Specific Sign Regulations.

c. A permit is required for the installation or modification of all signs as specified in Table 11 as Permit.

   i. Signs projecting into rights-of-way require a revocable permit.

   ii. Signs not requiring a permit must meet all of the requirements of this section.

   iii. Signs requiring building inspector approval must be designed by a structural engineer.

d. Signs may be installed and maintained for the period of time specified according to Table 10 as Period.

   i. All signs must be removed within 14 days of the termination of the permitted period. Signs permitted for a permanent period are not regulated by this subsection.

   ii. Where the period of a sign is limited to during business hours, the sign must be removed during all hours the establishment is not in operation.

   iii. Any moveable signs must be removed from outdoor spaces during high winds or other weather conditions that might pose a hazard to public safety.

e. All signs must provide the following clearance except where specified otherwise:

   i. 8 feet at pedestrian ways;

   ii. 13.5 feet at vehicular ways.

f. Illuminated signs are permitted as follows:

   i. Signs may be illuminated by a light source external to the sign;

   ii. Internally illuminated signs are permitted at shopfront frontages.

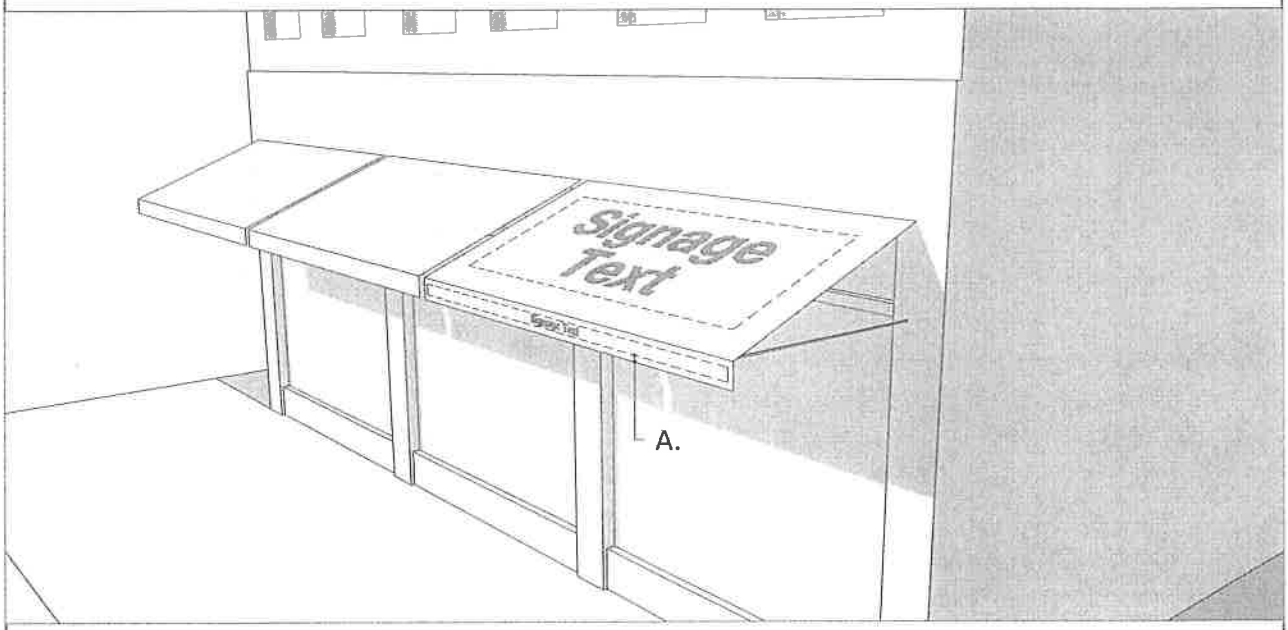
g. Changeable copy is permitted for display cases, suspended, kiosk, ground, and sidewalk signs, and at community and regional parks. Change of copy does not require a permit.

TABLE 10. GENERAL SIGN RESTRICTIONS

SIGN TYPE	MS	DT	PERMIT	PERIOD	NUMBER	MAX. SIZE	MAX. COPY HEIGHT
Awning	•	•	S	O	1 sloping plane, plus 1 valence per awning	75% of sloping plane; 75% area of awning valence	16 in. on sloping plane; 8 in. on valence
Banner		•	n/a	O	1 per frontage	48 sf.	n/a
Canopy		•	S	P	1 per canopy	2 sf per linear foot of shop-front	36 in. max.
Corner		•	S	P	1 per building	24 in. wide	n/a
Display Case		•	S	P	1 per business	6 sf.	n/a
Ground			S	P	1 per frontage	36 sf.	n/a
Kiosk		•	S	P	n/a	24 sf.	18 in.
Marquee		•	S	P	1 per entry	n/a	n/a
Projecting	•	•	S	P	1 per tenant	6 sf.	8 in.
Sidewalk	•	•	n/a	B	1 per tenant	8 sf.	n/a
Suspended	•	•	S	P	1 per entry	6 sf.	n/a
Wall Sign		•	S	O	1 per frontage	3 sf. per 1 linear ft. up to 90% of the width of tenant space	18 in.
Wall Mural Sign		•	S	P	1 per frontage	3 sf. per 1 linear ft. up to 90% of the width of tenant space	n/a
Window	•	•	S	O	1 per window	25% of glazed area	12 in.
Window: Neon		•	n/a	O	n/a	25% of glazed area	n/a
Permit	n/a	not required		Period	n/a	not required	
	S	standard			P	permanent	
					O	period of occupation	
					B	during business hours	

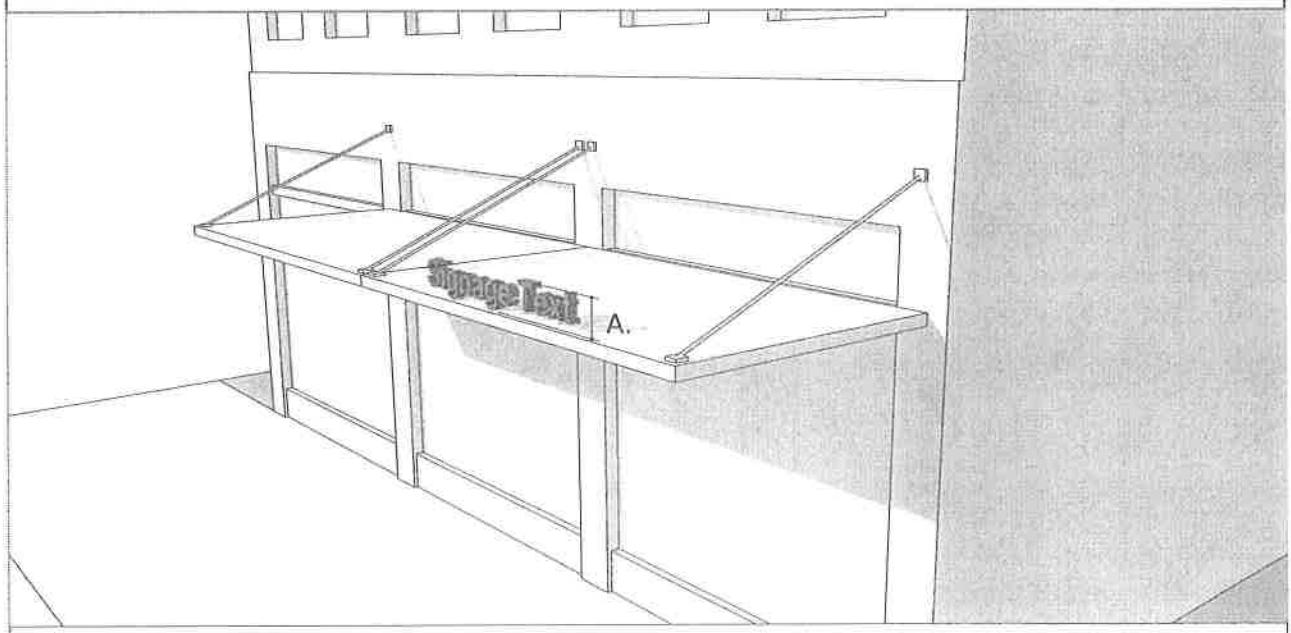
TABLE 11. SPECIFIC SIGN REGULATIONS

AWNING SIGN



(a) Valence signage area must have 1 in. border.
(b) Valence signage area and panel signage area may not exceed 75% of total valence or panel area. They shall be calculated individually.

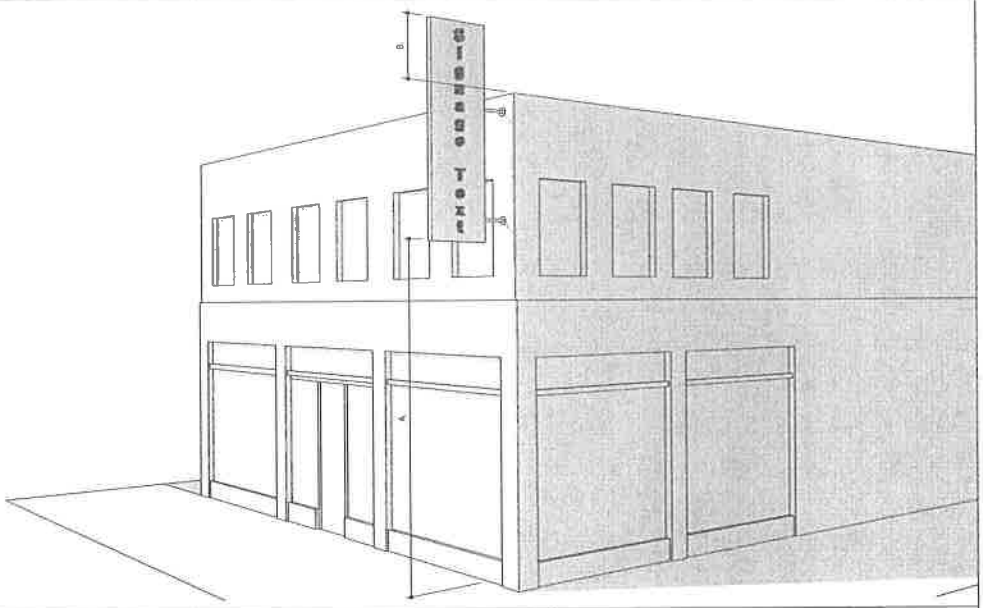
CANOPY SIGN



(a) Lettering height may not exceed 24 in.
(b) Canopy signs may be externally illuminated or neon. Fixtures must be shielded to prevent glare. Conduit, raceways, and wiring may not be exposed to view from the sidewalk.

TABLE 11. SPECIFIC SIGN REGULATIONS

CORNER SIGN



(a) Corner signs must provide 10 feet of clearance.
(b) Corner signs may extend up to 6 feet above parapets.
(c) Corner signs may be located only at the corner of a building with both primary and secondary frontages.

GROUND SIGN

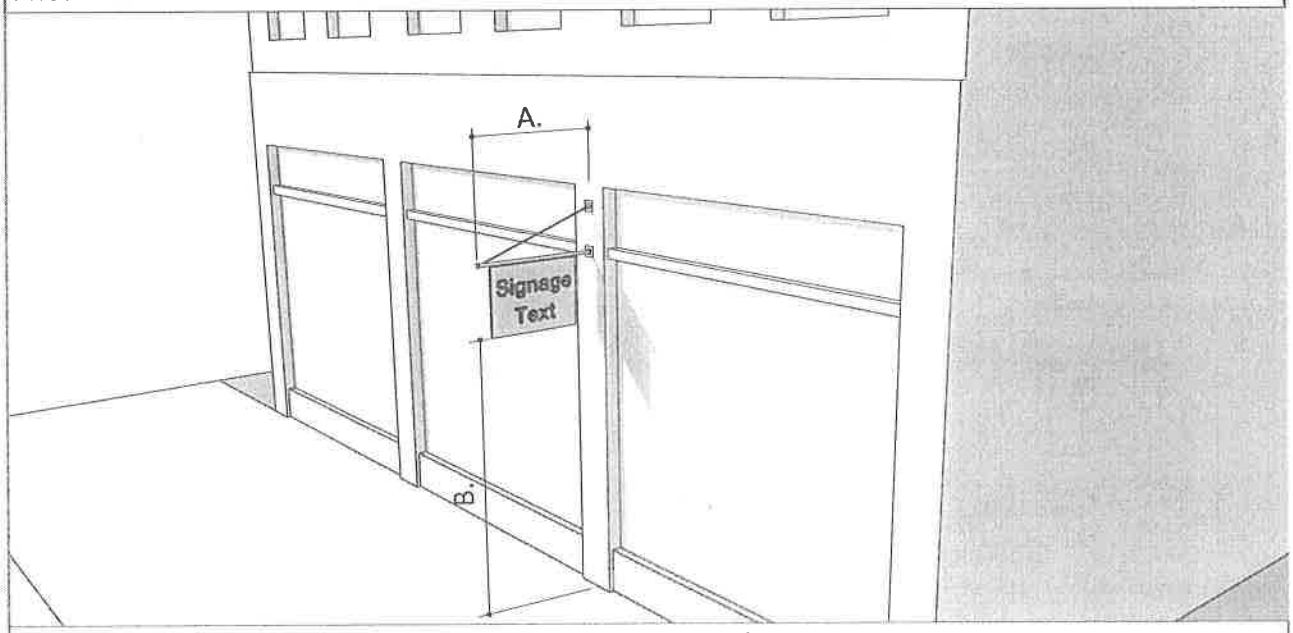
(a) Ground signs must not exceed 6 feet in height or width with a signable area of 12 sf max.
(b) One ground sign per frontage is permitted and may be double-sided.
(c) Ground signs must be constructed of durable materials.

TABLE 11. SPECIFIC SIGN REGULATIONS

MARQUEE SIGN

(a) Marquee signs must provide 8 feet of clearance.
(b) Marquee signs may project to within 2 feet of the curb.
(c) Marquee signs may be combined with a canopy sign or a projecting sign.

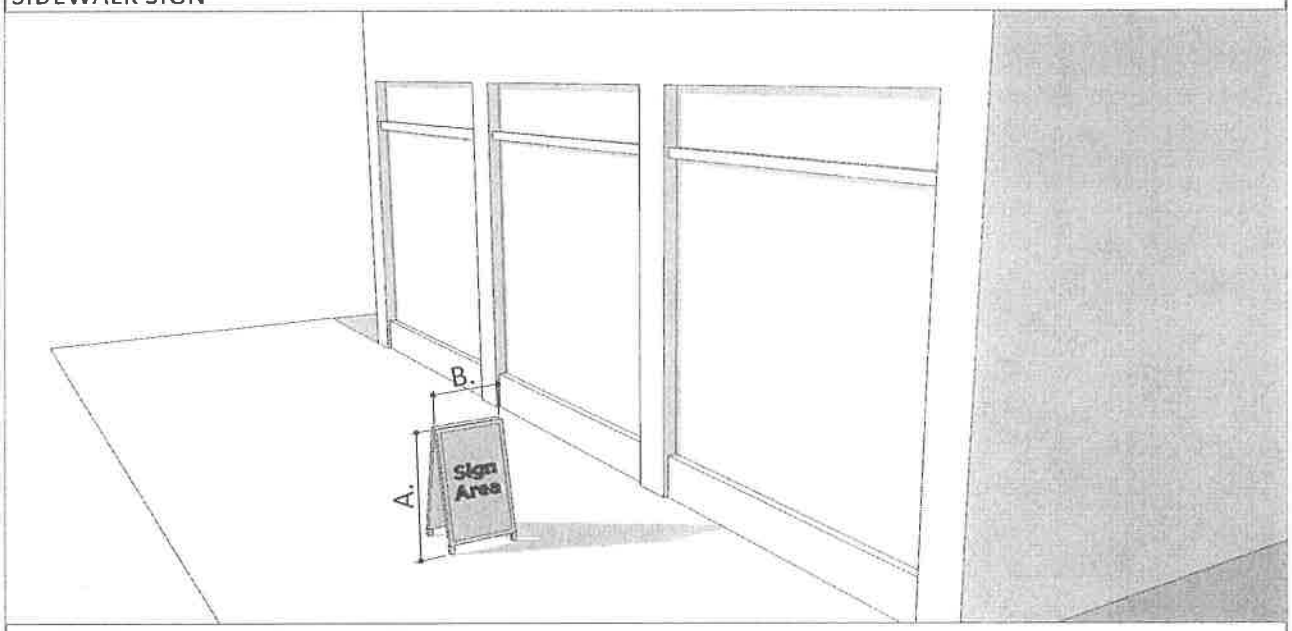
PROJECTING SIGN



(a) Projecting signs may encroach into the right-of-way up to 3 feet.
(b) Projecting signs must provide 8 feet of clearance.
(c) Projecting signs may be double-sided.

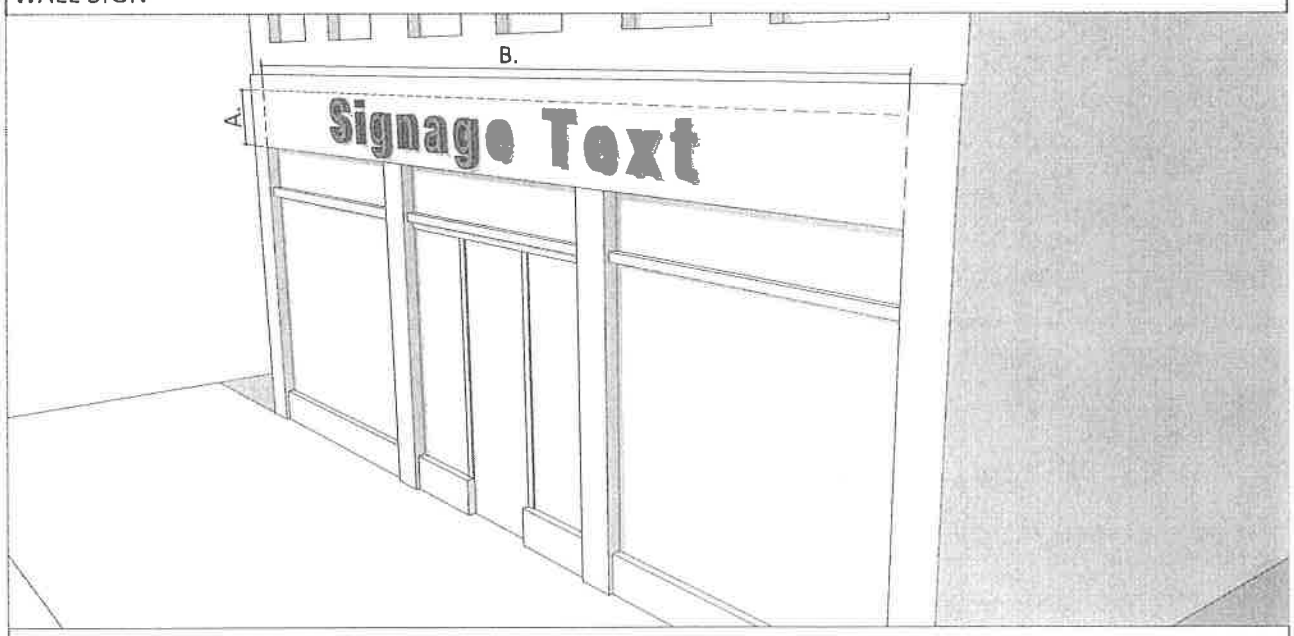
TABLE 11. SPECIFIC SIGN REGULATIONS

SIDEWALK SIGN



(a) Sign height may not exceed 42 inches
(b) Sign width may not exceed 26 inches.

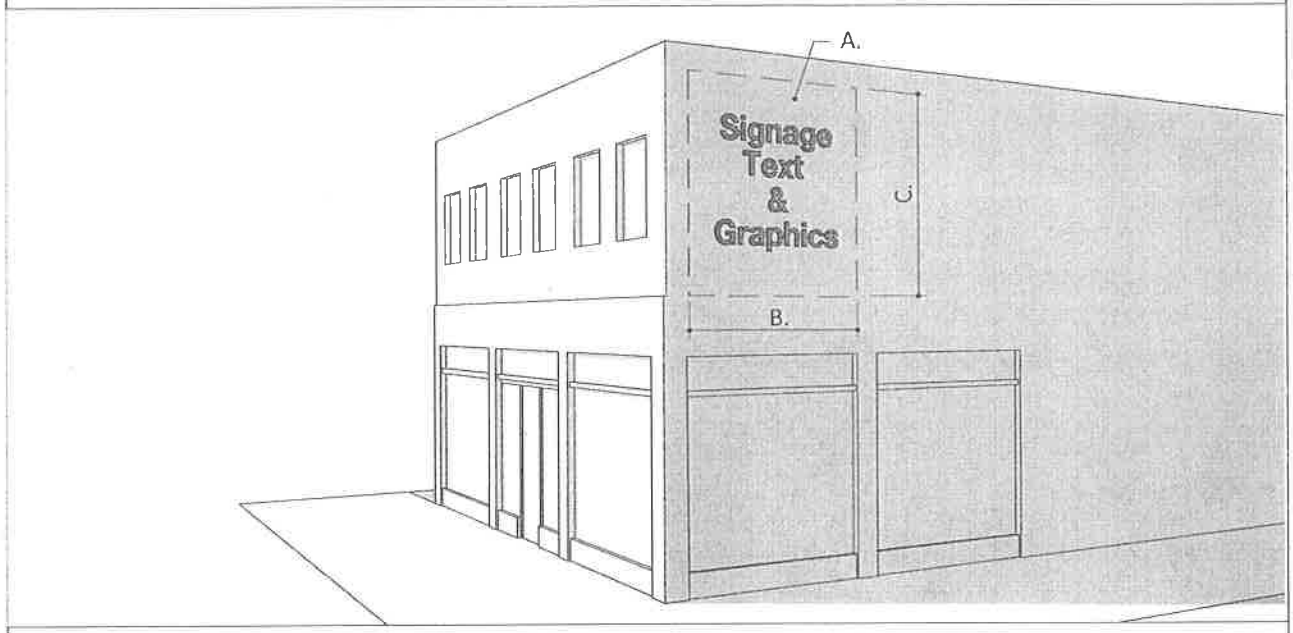
WALL SIGN



(a) Sign height may not exceed 36 in.
(b) Sign width may be 90% of storefront width.
(c) Wall signs may be externally illuminated or neon. Fixtures must be shielded to prevent glare.

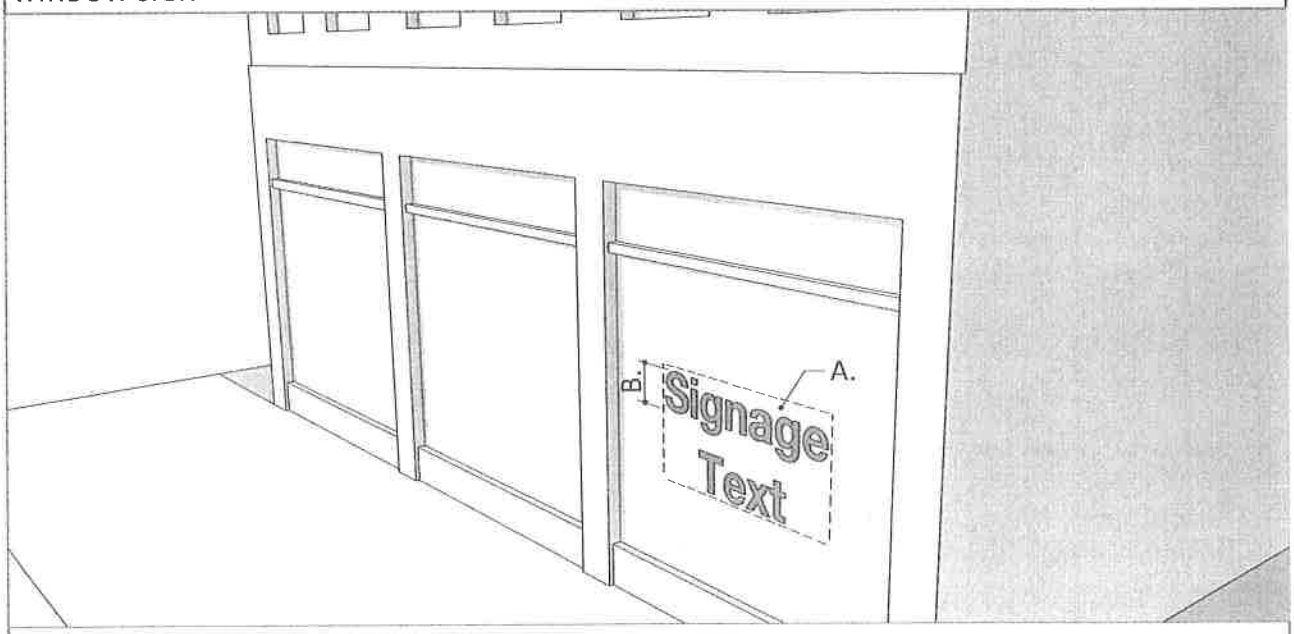
TABLE 11. SPECIFIC SIGN REGULATIONS

WALL MURAL SIGN



(a) Signable area is 1,000 sf max.
(b) Sign width is 50 ft. max.
(c) Sign height is 60 ft. max.
(d) Only text or graphics painted directly on the wall or a graphic mural are permitted.

WINDOW SIGN



(a) Signable area is 25% max. of shopfront window
(b) Copy height is 12 in. max.

O. Uses.

1. Lot and building use is allowed according to Table 12. Allowed Uses by use category and sub-category.
2. Multiple uses within a single lot or building are permitted in all districts.
3. Accessory uses are permitted as follows:
   a. Accessory dwellings in GU are limited to housing related to the principal dwelling, rental housing and home office uses, not exceeding 600 square feet per story.
   b. Home occupations are permitted subject to obtaining a use permit in accordance with the provisions of Sec. 38-52.
4. Manufacturing uses, other than cottage industries, are not permitted Downtown.
5. Conditional Uses are permitted pursuant to Sec. 38-53.

TABLE 12. ALLOWED USES

USE CATEGORY	GU	DT	MS	CONDITIONS
RESIDENTIAL				
Single or Two-family Dwelling	A	NP	NP	
Family Child Care Home (1-5 occupants)	C	C	C	See Section 38-52D; Section 38-53; and Section 38-54
Accessory Dwelling Unit	A	A	A	
Multi-family Dwelling	A	A	A	
Group Home (up to 16 occupants)	C	C	C	See Section 38-52D; Section 38-53; and Section 38-54
LODGING				
Lodging in Accessory Dwelling Unit	A	A	A	
Bed and Breakfast (up to 6 rooms)	A	NP	NP	
Inn (up to 12 rooms)	A	A	A	
Hotel	NP	A	A	
OFFICE				
Accessory Office	A	A	A	
Live-work Unit	A	A	A	
Office	C	A	A	Building area available for office use is limited to the first story.
Outpatient Clinic	NP	A	A	

(A) Approved by Right (C) Conditional (NP) Not Permitted

TABLE 12. ALLOWED USES

USE CATEGORY	GU	DT	MS	CONDITIONS
Laboratory	NP	C	C	Medical, dental, or similar uses. Permitted only when entirely contained within an office building and used strictly for the purpose of serving the occupants of the office complex. There shall be no advertising signs or other visible displays indicating the use from the exterior of the building.
RETAIL				
Open Market Space	A	A	A	
Retail	C	A	A	Building area available for retail use is limited to the first story.
Push Cart	A	A	A	
Kiosk	NP	A	A	
Gasoline Sales	C	C	NP	Permitted only when vehicle repair activities are not associate with the use.
Restaurant or Other Dining Establishment	C	A	A	Seating shall not exceed 40.
Outdoor Cooking	A	A	A	
Outdoor Dining	A	A	A	
Tavern or Bar	C	A	A	Seating shall not exceed 40.
Nightclub	NP	A	A	
INSTITUTIONAL				
Live Theater or Movie Theater	NP	A	A	
Broadcasting Studios	NP	A	NP	
Gallery	C	A	A	Building area available for gallery use is limited to the first story.
Museum	C	A	A	Building area available for museum use is limited to the first story.
Libraries	A	A	A	
Legislative and Court Chambers	NP	A	A	
Conference Center	NP	A	A	
Terminal Waiting Areas	NP	A	A	
Funeral Homes	NP	A	NP	
Participatory Assembly	A	A	A	
Nursing Home with Medical Care	C	C	C	Must be located on a collector or higher designated roadway.

(A) Approved by Right (C) Conditional (NP) Not Permitted

TABLE 12. ALLOWED USES

USE CATEGORY	GU	DT	MS	CONDITIONS
Classroom for Participatory Assembly Uses	A	A	A	
Child Classrooms & Daycare	A	A	A	
Accessory Daycare (fewer than 6 children)	A	A	A	
School, K-12	A	A	A	
School, college or university	A	A	A	
School, commercial, trade or technical	C	A	A	Located on a minor arterial or higher designated roadway.
AGRICULTURAL				
Animal (Pet) Care Facility	NP	A	A	
Animal (Pet) Day Care Facility	NP	A	A	
Chickens	C	NP	NP	Roosters are not permitted.
Garden Supply or Greenhouse	A	NP	NP	

(A) Approved by Right (C) Conditional (NP) Not Permitted

P. Parking.

1. Off-street Parking Location and Access

   a. Off-street parking shall be provided in accordance with achieving the downtown master plan goals and policies and supporting the development proposal.

   b. Additional off-street parking is not required in the downtown transects. Unless otherwise specified, off-street parking design shall comply with Sec. 38-58 of Chapter 38, Zoning as well as any state and federal regulations.

   c. When provided, parking may not be located within 30 feet of the primary frontage line and 20 feet of secondary frontage lines.

   d. Parking areas shall have well-delineated pedestrian access routes to the most direct entrance of the building they serve.

   e. Parking may be fulfilled in the following locations:

      i. Parking spaces provided within the lot

      ii. Parking spaces provided along a parking lane (on-street) corresponding to lot frontages.

      iii. Parking spaces leased from a private or public parking facility within 500 feet of the lot.

      iv. Parking spaces managed by an established parking district.

2. Parking lots and structures visible from frontages require one of the following screening

methods or a combination of methods:

a. Liner buildings, optional at parking lots and required at parking structures. The ground floor frontages of parking structures shall be screened with liner buildings with the exception of ingress and egress points.

b. A masonry wall no less than 4 feet in height.

c. An evergreen hedge, or other landscape element to screen the view of parking, no less than 4 feet in height.

3. Driveways providing access to off-street parking are limited to 24 feet (2-way) in width in DT or MS and 10 feet (1-way) in width in GU.

4. Vehicular access to off-street parking is restricted as follows:

a. Lots with rear alley access must provide vehicular access from a rear alley.

b. One curb-cut is permitted for each secondary frontage. Curb cuts shall comply with Chapter 32, Design Standards.

c. Where secondary frontages are not available, one curb-cut is permitted at the primary frontage for lots with a minimum width of 80 feet.

5. Pedestrian access to off-street parking must be provided from frontages, according to the following:

a. A minimum of one ADA-compliant walkway must be provided between each lot frontage and off-street parking areas.

b. Pedestrian access walkways must be a minimum of 6 feet in width in DT.

6. Shared Vehicular Parking Options

a. The number of spaces provided may be reduced according to Table 13, completed as follows:

i. For each use, enter the minimum required spaces as specified in Table 13, into the first column.

ii. For each time of day, multiply the required spaces per use by the occupancy rate, and enter the sum of the resulting column in the bottom row.

iii. The resulting reduced minimum required parking spaces is the highest value entered in the bottom row.

TABLE 13. SHARED PARKING

USES	REQ #	M – F 8AM - 6PM	M – F 6PM - 12AM	M – F 12AM - 8AM	SAT & SUN 8AM - 6PM	SAT & SUN 6PM - 12AM	SAT & SUN 12AM - 8AM
Residential		60%	100%	100%	80%	100%	100%
Office		70%	100%	100%	70%	100%	100%
Lodging		100%	20%	5%	5%	5%	5%
Retail		90%	80%	5%	100%	70%	5%
Restaurant		70%	100%	100%	70%	100%	100%
Theater		40%	80%	10%	80%	100%	10%
Entertainment		40%	100%	10%	80%	100%	50%
Conference		100%	100%	5%	100%	100%	5%
Civic		100%	20%	5%	10%	10%	5%
Civic Religious		20%	20%	5%	100%	50%	5%
Total Required							

Q. Landscaping.

1. The spacing and placement of plants shall be adequate and appropriate for the typical size, shape and habit of the plant species at maturity.

2. Landscape quantities shall be determined by Article IV, Development Standards for Landscaping of Chapter 32, Design Standards.

3. Proposed trees and understory trees shall be centered horizontally and minimally:

   a. Three (3) feet from walkways, curbing and other impervious pavements;

   b. Five (5) feet from street lights, underground utilities, utility meters and service lines, fences, walls and other ground level obstructions;

   c. Six (6) feet from porch eaves, and awnings and similar overhead obstructions associated with the ground level of buildings;

   d. Eight (8) feet from balconies, verandas, building eaves and cornices, and similar overhead obstructions associated with the upper stories of buildings.

4. Ground vegetation with spines, thorns or needles that may present hazards to pedestrians, bicyclists or vehicles are prohibited within two (2) feet of the sidewalk or street.

5. Bare and exposed ground shall be covered with live plant materials and/or mulch, including

gravel mulch.

6. Artificial plants or artificial turf are prohibited.

7. Specific to DT and MS

   a. Landscape islands in interior parking lots shall only occur at the end of drive aisles. Islands should be the minimum size for healthy growth for the specific species of tree.

   b. Porous paving materials and other green infrastructure methods may be used in order to increase storm water infiltration on site.

8. Any tree species and cultivar applicable for planting in the Downtown Las Cruces microclimate may be considered for planting within Downtown public squares, plazas, and private parcels, with the exception of those identified in Table 14. Prohibited Plants.

TABLE 14. PROHIBITED PLANTS

BOTANICAL NAME	COMMON NAME
Pennisetum setaceum	Crimson fountaingrass
Tamarix spp.	Saltcedar
x Chitalpa	Chitalpa
Elaeagnus angustifolia	Russian olive
Brassica tournefortii	Sahara mustard
Peganum harmala	African rue
Arundo donax	Giant cane
Saccharum ravennae	Ravennagrass
Ulmus pumila	Siberian elm
Ailanthus altissima	Tree of heaven

R. Streetscape.

The primary use of thoroughfares is to provide access to private lots and public civic spaces. In accordance with the intent of this Section, streetscape improvements shall be designed to support several modes of transportation: public transportation, motor vehicles, and non-motorized vehicles such as bicycles and pedestrians.

1. Alley easements include one (1) bi-directional vehicular lane, within a total width alley of not less than 20 feet. The entire right-of-way should be paved and remain with clear access.

2. At the time of, and within, new or infill development trees shall be planted at an average spacing of no less than 40 feet on center within the front setback of the parcel being devel-

oped unless the front setback is less than 8 feet pursuant to Table 15. Public Frontage Type.

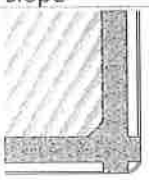
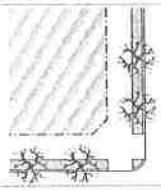
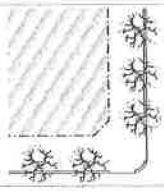
3. Streetscape improvements may be made pursuant to Table 15.

   a. At commercial frontages the spacing of trees may be irregular to avoid visually obscuring shopfronts.

   b. At gallery frontages, public planting is not required and public lighting may be provided within the gallery.

   c. Tree spacing may be adjusted up to 20 percent by administrative waiver to accommodate specific site conditions.

TABLE 15. PUBLIC FRONTAGE TYPE

PUBLIC FRONTAGE TYPE	A	B
i. Assembly: The principal variables are the type and dimension of curbs, walkways, planters and landscape.		
Total Width	10-20 feet	16-20 feet
ii. Curbing: The detailing of the edge of the vehicular way, incorporating drainage.		
Type Cuts	Raised Curb Ramp at 1:12 slope	Raised Curb Ramp at 1:12 slope
iii. Walkway: The portion of the thoroughfare dedicated exclusively to pedestrian activity		
Type Width	Sidewalk 10 - 15 feet	Sidewalk 12 - 16 feet
iv. Planter: The portion of the thoroughfare accommodating street trees and other landscape.		
Arrangement Planter Type Planter Width	Opportunistic Continuous 5 feet	Opportunistic Tree Well 4 feet x 9 feet

City of Las Cruces

PLANNING AND ZONING COMMISSION

WORK SESSION AGENDA

The following item will be discussed by the Planning and Zoning Commission of the City of Las Cruces, New Mexico, at a work session to be held on **Tuesday, January 19, 2016 at 6:00 p.m. in Community Development Department Conference Room 1158 located in City Hall, 700 N. Main Street, Las Cruces, New Mexico.**

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I. CALL TO ORDER

II. DISCUSSION ITEM

1. **Planning Commissioner Training, Part II:** Form-based codes and transect planning.
2. **Downtown Development Code:** Review and discussion of proposed form-based code for Downtown.

III. ADJOURNMENT

ATTACHMENT "A"

City of Las Cruces

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Ferrary: That's great. Thank you.

Gordon: Are there any further questions?

Alvarado: I, I don't have a question, just wanted to make a comment. Having grown tomatoes in my backyard, even if you go buy them at whole foods you can't match the taste so I think once, once people start tasting what they grow that they'll, they'll really go for this. Thank you.

Aguilar: I completely agree. It's not, can't compare it.

Gordon: Anyone else? No. Thank you very much. It was very informative.

Aguilar: Thank you.

2. **ZCA-16-02:** Discussion of the proposed Downtown Development Code. The City of Las Cruces has proposed enacting a form-based in the downtown area. The Downtown Development Code (DDC) would increase focus on urban design and human interaction with the built environment while maintaining oversight of appropriate downtown land uses. The Code encourages a variety of residential options through mixed use development and overall integration of compatible land uses. If approved by the City Council, this proposed Code would replace the existing Central Business District and Main Street Overlay. Council Districts 1 (Councilor Gandara) & 4 (Councilor Eakman).

Gordon: I guess the next item up will be ZCA-16-02. Andy.

Hume: Good afternoon Mr. Chair, Members of the Commission. My presentation is not anywhere near as colorful so you'll have to bear with me on that. Here we go. Before you this evening is a discussion item regarding the Downtown Development Code. This is an item that we brought before the Planning and Zoning Commission at a work session last month and we had a very spirited discussion on that at that time. We've made some, some adjustments as we had talked about last month and so I want to go over some of those and I want to go into some very specific features of the Code and talk about how staff feels the development community, the downtown community will overall benefit from adoption of this code. We'll talk about next steps, we'll talk about where we're at in our, in our steps of progress up to today and I will provide, provide some details but I'm, I'm not going to go into a tremendous number of details at this point and hopefully we'll have some questions and comments and discussion afterward as well. So as I mentioned we're going to talk about some of the, specifically some of the features. We touched on it a little bit at our work session last month but I'll go into a little bit more detail on those.

So first of all where are we at today? Today this is the third draft that you're reviewing. I'm not going to read through all the bullets there but I just wanted to sort of bring you up to speed as to where we are at at this moment this evening. A quick reminder, we had a really detailed discussion at our work session, a training session about what a form-based code is and how one works and a, a good comparison is this idea of form and function. Typical codes that you work with today elevate function over form. That's a typical code that you're used to dealing with. In fact even in the, in the prior presentation we talked about making sure that certain parcels are zoned for agriculture and making sure that we make sure that that function is part of the use. We didn't really talk about form, how it would look, how it would integrate with the neighborhood. A form-based code as you recall flips the discussion, understanding that most functions actually work well side by side, most do. But it's how you design them and how you build them and how you create the form as to whether they work together or how well they work together.

To orient ourselves I wanted to show this map early on. The map on the left is the current Central Business District. That is the current code that is on the books. In the middle the hashed area is called the Main Street Overlay. It is a, it is a section within the Central Business District that has some very specific, very specific guidelines as far as sign placement, design standards, some of those types of things. On the left-hand side, or that's on the left-hand side. On the right-hand side is the proposed Downtown Code. As we talked about at our work session last month, it is designed in what are called transects so when you're looking at how form flows from one area to another, there's some type of organization to how that, that form flows. Also when you're looking at its relationship to the adjoining neighborhoods which is a very important relationship, we have built into the code how this more urban form of the downtown is going to relate to these adjoining historic districts.

So let's cover just a few of the features of the code and I'm going to highlight ones, I, I'm not going to get into details about you know where uses are located in one place versus another, those types of things. You may have questions on those later on. What I want to talk about are really things that are significant differences from this code compared to the current code.

The first is that this code has a very distinct purpose which the Central Business District really lacks. In, I'm not going to read again through all the bullets but things like flexibility with predictability, that's very important. As we talked about in, at the work session our current code allows owners to do pretty much whatever they want. That's not beneficial to their adjoining property owners or to adjoining business owners. So creating a level of predictability is very important, but also trying to retain a level of the flexibility that currently exists is also important. The idea of creating this urban environment that's compact, it's walk-able, it's vibrant, it's diverse, understanding that office use does not need to be segregated

from commercial use which also does not need to be segregated from residential use, these things in looking at form they can all work together; when we talk about urban form we don't have to segregate the different uses like we're used to doing in current codes. We talked about the adjoining aspects of, the aspects of the adjoining neighborhoods and really when we look at the direction that the current Downtown Master Plan as well I hope some, I hope some of you were able to attend at least portions of the charrette last week. We had a, a wonderful turnout, a lot of people from, from all over the city, the adjoining neighborhoods and so on came and, and told us how they want to see downtown continue to redevelop and how, the, the vision that they have for it. This code continues to support that and implementation of a master plan as you all know is so vitally important.

One of the things that is great about this, actually you know what before I go on to this I want to pull up the Code itself because this is, this, this is really, in fact it, it at the, at the work session one of my colleagues showed a form-based code from Cincinnati and it had this really great diagram that said, "Here are the steps you need to follow through in this document so that when you present a set of plans you've covered all your bases," very simple instructions. And I said, "Wow. My code doesn't have that, our code doesn't have that." So Section D that you see on your screen is just that. It's a list of instructions. If you do, if you go through these steps when you get to step number three, you will have addressed, you should have addressed all of the steps that you need to have a really great submittal and cut your review times and keep the process moving. As we all have heard many times at this Commission and other venues, time is money. So if we clearly outline the steps or the instructions on how to put your plans together we're hopefully giving you that time and you're saving that money and you're reinvesting that in our downtown area. And we can, we can come back to this as well in a, in a little bit.

Let's see here, get back to my slide show. The other thing that we have here is there are a lot of tables and graphs. If you're familiar with current codes, I know you are, it's words, words, words, and more words, and more words. What we tried to do is to take a lot of that information and put it into pictures, into tables, into bulleted lists, and really simplify down to the essence what it is that we're asking an applicant to do, what are the clear regulations, and try to make it very obvious using these tools. Staff is really excited about this because one of the biggest issues that we have in a redevelopment area is that of what's called "adaptive reuse." It's when you have an existing building, it's been serving one function or many functions throughout its life, and now it's time for it to serve a new function. Adaptive reuse is very difficult especially in some older buildings. We have some buildings downtown that are 70, 80 years old. So what we did was we wanted to simplify how we go about the processes of altering, remodeling, or even providing minor modifications to buildings. First of all we define alteration not in dollar amount but we define it in scope. And so

when you see in the code where it talks about a, an alteration or a remodel being something where you're moving load-bearing walls, for instance that's an alteration. That's not a minor modification. That's, that is going to involve significant cost, it's going to in, involve the structural integrity of the building. That's what we're saying. We're not, we're not putting a dollar amount and, and in the past dollar amounts have been very difficult for staff to track. Sometimes and I'm, I'm, I'm not, I'm not going to point any fingers but sometimes the cost is surprisingly low to the penny of what the limit is for triggering that next level, okay. I think you all know what I'm talking about. You've probably seen these situations come across your desk. We're getting rid of all that. We're simply defining this, "If you do this to your building or something like this, that's what an alteration is. Everything else, minor modification. You're allowed to do it by right." Again we don't care how much it costs. If you're moving an interior wall because you're going to enhance your seating area for your restaurant, do it. We don't want to hold you up on that. Just do it. What we feel as staff is that we have a building code and you need to follow the building code and you still need to follow a permitting process and an inspection process and those things. If it's, it, if, if, if moving your wall or doing your minor modification costs $10,000 fantastic. If it costs $50,000 that's fine too. Just go do it. We want to as much as possible streamline that process so that you can get your business open as soon as possible.

There are building and design standards in here. Specifically a lot of the building and design standards relate to the Main Street area which is that core area again. But even within these we have created a great deal of flexibility. You'll notice in looking at the diagrams and reading the tables and charts and everything else, oftentimes there are ranges that are indicated, not a hard number. It's not, "You need this," it's, "Ah, anywhere between these two numbers here," whatever those numbers happen to be you'll see maximum and minimums. And so as long as you're not exceeding the maximum or the minimum then, or I guess exceeding the maximum and less than minimum then submit it and let's review it based on its merit. Those are the types of things that we want to get to. Even with the flexible standards we still have options for some administrative variance processes. So we're trying to make this again as flexible as possible but trying to retain the predictability so that if you're an adjoining property owner you have a fairly good idea of what your neighbor can and cannot do within, within reason with their own property.

The other thing that was very interesting is a, a couple of times it came out in discussion at the charrette last week and that is the term "raise the bar." With our current downtown code we have certain design standards that are, they're good. They've served us up to this point. But if we want downtown to be "the destination" or "a major destination" for Las Cruces, the direction that was given to us is, "You gotta raise the bar." You really have to take these building and design standards and say, "This is good. This is better and here's why we need to be better."

Because downtown functions very differently than Telshor and Lohman or the, the Lohman corridor. We have to make downtown a destination the, as, in and, in and of its own self. And so that was a very interesting comment that I thought came out through the charrette process.

We talked at great length about parking issues and I, I want to delve into this just a little bit. First of all what we're saying is, in the code is there is no City requirement like there are in other parts of the City for parking. This currently exists in the Main Street Overlay. There is no requirement for parking within the Main Street Overlay under the current code. What we would be doing is expanding that through the rest of the code. Now, some of the questions that came up, I wanted to use these points to sort of address some of the questions that came up. First, even though the City is not requiring parking if you take a development to try and secure funding and you don't provide parking you're not going to get your funding. That's just the bottom line. So we're, it, so it is a market-based parking requirement. It's not a City-based parking requirement. And I want to make sure that's very, very clear. In addition to that I, I want to, these other points here are very crucial because they speak to the overall functionality of downtown. For instance there is plenty of on-street parking even in the downtown, the immediate downtown area, not even at, we're, we're not going to even propose use of on-street parking in the adjoining neighborhoods. Just in downtown there is a lot of on-street parking. Additionally there are at least three parking garages that are being proposed through the Downtown Master Plan. So as we move through in the redevelopment process a lot of the surface parking will be redeveloped into other uses. So these parking garages are being proposed to offset some of that parking loss. And finally there are other off-peak parking lots and I'll explain that. Typically your, your, your peak parking is going to be during the day especially with all the office uses that we have here. So when you come and try to find a spot at City Hall for instance during the day, it's not going to happen probably especially not in the parking garage behind City, City Hall. But off-peak, outside of eight to five that is public parking and so there, and the, and there, that's just one example of other off-street parking areas that would be available and actually in the code it specifically talks about how you can, it gives you a table on how you can figure out what opportunities for shared parking there are in your immediate vicinity.

So I just went through some of the very, very broad brush-stroke ideas. I want to again specifically focus on ways that this code differs significantly from the current code that we have. As I mentioned this is the third draft and that is, that is here for your review and we'll take comments here in just a moment. This is just sort of briefly outlining the next steps. We are on the schedule for March 15th City Council work session. I, I look forward to giving a presentation very similar to this and engaging the City Council in a discussion of the Downtown Development Code. What staff hopes to do is bring back for action to this Committee at your March

meeting this document in what would be probably draft four we'll call it and have discussion and hopefully receive a recommendation from this body in March. Staff would like to proceed with a late spring/very early summer adoption of this code so that we can continue with our Downtown Master Plan implementation. So with that Mr. Chair, thank you all very much for your attention and I stand for questions and comments.

Gordon: First of all I must apologize, Dr. Crane.

Crane: You're so kind Mr. Chairman. I'm concerned about what you said about parking. If the parking provided is, is not mandated by the City with no consideration for the impact on the profitability of the business but instead is decided by the lender to the developer with a view to helping the loan along and helping the individual to have enough parking probably but not excessive parking, I rather distrust the element of profit motive there. Furthermore I wonder what you're going to do about handicapped parking which very frequently I notice is not utilized in many places and there's a tendency there to say, "The heck with it. We'll drop three spaces down to one," or something. Be interested to have your comment on that.

Hume: Yes. Mr. Chair, Commissioner Crane. Let me address ADA first. ADA's actually a federal requirement, not a local requirement. So whatever the federal requirement is they would still be required to provide that parking. That, that is a federal requirement. We can't waive that. Your, your first question though is very interesting because of the, I'll, I'll, let me focus if I may on the phraseology that you used. You used the word "profitability" from the standpoint of the City requiring parking. Actually from the City requiring parking that is, that tends to be over-burdensome on many and far more parking is required from the City perspective than is actually needed. Actually that's a net loss for the developer. From the standpoint of profitability when you are going forward to a, to a lending institution they are keenly interested in your profitability. And so they really are only interested in the absolute maximum that you need to be profitable with taking that in consideration that there's also a great deal of shared parking, no matter where you go in downtown there will be shared parking within the block around your area. So I, I, say that because I think the phraseology you used is correct but from the, but actually it, it, it, seems counterintuitive since we've gone on with a suburban model of redevelopment for so many years and this is not a suburban area. This is an urban area and so for things that we tend to see work or, or we, we feel that work in a suburban area it's actually the other way around when you're talking about a more urban area.

Crane: I, if I follow on very briefly Mr. Chairman. Yeah I see what you mean but we should consider that the City's stipulations about the amount of parking you have to have was, were rationally based and not, were, were not just

grabbed out of the air, perhaps were based on some kind of national standards, maybe that's the "suburban" you are referring to. It's not a deal-breaker to my mind but I'm, often think that for people who don't like an intrusive government to think about how much maintenance would get done on an aircraft if it were up to strictly people who were counting beans rather than people who are trying to save lives. I suspect the bean-counters would win at first but after a while they wouldn't fly anymore. Thank you.

Gordon: Ms. Ferrary.

Ferrary: Speaking of parking, are the garages that are being proposed, any of them from the City or, or will be City-owned or are they private?

Hume: Mr. Chair and Commissioner Ferrary. A, a mix. One of the garages that is being proposed would be on private property but the other two at this point in time are being proposed on City property and would probably be, have some sort of involvement from the tax increment development district or the TIDD.

Ferrary: Okay. And also as we're expanding our transportation program to you know reach you know most recently all the way down to Sunland Park and up to T or C and Alamogordo, and for events that are planned to be taking place in the downtown redevelopment, would they also consider supporting having more transportation later at night so that more people could come and then they wouldn't have to use so much parking if they were using public transportation?

Hume: Mr. Chair, Commissioner Ferrary. That's a fair question. This code doesn't specifically address that. However when you look at the type of development, particularly from a standpoint of residential development that was being proposed through the Downtown Master Plan and we'd be supported by this, actually that type of a development would very much lend itself to expansion of transit service at least in the downtown area as, as that development occurs.

Ferrary: Thank you.

Gordon: Andy I just have, I have two questions I'd like to ask. You talked earlier about streamlining the process where if somebody wants to do something and, and it's within reason do they still have to come and ask for permission even though it, perhaps cause they might've done something wrong?

Hume: Mr. Chair. And, and that's an excellent question. The short answer is yes, we would still want them to go through the permitting process. However I

think there's a couple things in play. Number one is by removing any worry about I'll, I'll pick on minor modifications cause that's the one that, that I think is, is probably most germane in, in the question that you're asking. When we're worried about, "Well we only consider up to $25,000 being minor modification," you know and then you know the, we, sort of hedging those, those types of things then if it's beyond that then maybe we have to do a variance or whatever, if we just cut that out and say, "Look. This is how we define a significant modification. This is how we define a minor modification." That right there streamlines the process because you know going in, "Look. I'm not moving a load-bearing wall. It's an interior wall." But if that interior wall happens have electricity ...

Gordon: Right.

Hume: Then an inspection is, is needed.

Gordon: Exactly.

Hume: And that's where the building code comes in and you would need to go through the, the, the inspection process. So, plus even if it isn't a load-bearing wall you still want to make sure it's constructed properly. So that's why we're saying we're doing away with any of those limitations as far as, as far as cost and all that sort of stuff. All we're saying is if this, this is, this is a major modification, this is a minor but go through the, go through the permitting process and the inspection process because it, we still have to maintain a level of health, safety, welfare from the government perspective.

Gordon: Okay. And the second one that I, I'm looking at this table, Downtown Regulation Plan, it's I, I don't have a, a number on it. It's in page three of this presentation. You brought it up before. You, you show what the new configuration would be based on so much in the middle is this, so much on the outside that and it goes around, whatever. What happens if there's somebody already in, in the existent, in the existing central portion of that diagram that really is not compliant if it was something that wanted to move in there? Is he grandfathered in?

Hume: Let me make sure that I understand your question because one is you, you were saying "if they're already there" and then you used the word "move there."

Gordon: I'm, I'm trying to make two, two things.

Hume: Two, two points, okay.

Gordon: Right.

Hume: So on page eight, I just wanted to make sure that that was the case. On page eight, item F3 it says "existing buildings and properties that do not conform to the provision of this section," which is the, the code we're talking about, "may continue in use as they are," period. Nonconforming, they can continue as use, not a problem. But if they meet any, either one of these three items, one, two, or three underneath then they have to be brought into compliance. So if they remain vacant for a continuous, a period of continuous one year or more. If they have a, a major, a remodel or alteration that causes a change of 30% of the gross floor area which is a significant change, I mean that's a really big change, 30% is a really big change; 10% we're not worried about, 15% we're not worried about. You start getting to 30 and that's a, that's a significant change. The other one is when you have changes that change the, the use orientation, for example if you go from an office to a retail very different requirements are needed by the building code. If you go from retail to residential very different requirements are, are required by the, by the building code, also if you look at a change in density. So bottom line is if you have something in the downtown area and you want to continue to use that building, continue to use it, and as long as you use it, let's say you're using it for a small retail shop and another small retail shop is there, continue to use it. We don't want to hold you up on that. But there are certain points where staff has to say, "Look. You've created a big enough change to this building that now you have to bring it into compliance." But the changes that we're asking for are really significant, they're, the, the threshold is very high that you have to reach.

Gordon: But it, but it says here in, in, in item three the second sentence says, "However they shall be brought into compliance with current standards when," etc, etc, etc.

Hume: Correct.

Gordon: What happens if they can't afford it?

Hume: Then they'll either have to reduce what they're asking for or they're going to have to find, seek another, seek another solution.

Gordon: The, I mean suppose, suppose they're not asking you for anything. They just say, "Well just leave me alone. I just want to do what I have here. Don't bother me."

Hume: Then that's fine.

Gordon: That is fine.

Hume: If ...

Gordon: So it, so they don't have to come into compliance.

Hume: They don't have to come into compliance until they hit those triggers, those triggers.

Gordon: So if they don't do anything there's ...

Hume: Then they're fine.

Gordon: They're fine. I understand.

Hume: So for instance I'll just pick on a, a shop downtown. There's a, a friend of mine, he owns the running, the running store. That would be considered small retail. If he moves on, maybe finds a bigger space hopefully, something like that and another small retail store goes in there, they want to paint it, they want to replace the carpet, done. Not a problem. We're not going to require any, if, if they happen to be out of compliance of something they'll remain out of compliance or out of conformance, that's fine. But if a restaurant tries to move in there or if that space remains vacant for a year or more and then somebody else comes ...

Gordon: Yeah.

Hume: In, those are really high thresholds that staff has to say, "Look. At this point in time, now you have to come into compliance." Otherwise the shops can come and go and, and do what they please within a pretty wide latitude.

Gordon: Okay. And when you speak of compliance are you, are you talking in terms of Code Enforcement?

Hume: I'm talking about compliance of this code, yes.

Gordon: So would it be Code Enforcement? Would be, who, who would, who would issue the violation?

Hume: Well what they would do is if they would need to come into compliance they would need to submit a plan, set of plans and go through the whole plan permitting process.

Gordon: But my point is if they don't what happens?

Hume: Well yeah, I mean at some point somebody will probably go in there and even if it's to buy something or whatever and they'll see something out of

compliance and you know. It's kind of like what happens elsewhere in the city. I guarantee you people do a lot of things to their homes and never take out a permit that they're supposed to.

Gordon: Yeah.

Hume: And what happens is their neighbor squeals on them or there happens to be a Code Enforcement officer maybe that drives by and says, "Oh hey, that's an addition. That wasn't there you know three weeks ago." So I mean the, some of those things happen, you know some of them never get caught. But I mean we have to set some threshold at which staff would say, "Okay. You've gotten to this point. Now you need to come into compliance." But up to that point again staff is trying to provide a great deal of latitude to just keep businesses in business, keep the doors open, if you want to make a new business you know get, get in as, as easily as possible.

Gordon: All right. Thank you. Dr. Crane.

Crane: I just want to make the point that looking at your paragraph three, item II, that looks like a record-keeping nightmare for somebody because it's, it's some compliance can be triggered if a cumulative increase of 30% of gross square footage has happened during a ten-year period. So incrementally increases it 10% over, let's say every three or four years and then sooner or later somebody how is going to come along and say, "I notice that you're gone over 30% in ten years. You got to come into compliance." Now we know practically what's going to happen is what you just mentioned, that it's going to sneak by. But you know I don't really like laws which you can sneak around without anybody noticing. It's a little complex. I'm sure we can all live with it.

Hume: So Mr. Chair and Commissioner Crane. Actually staff has grappled a little bit with that because we don't like the idea of tracking stuff like that. I mean you're right, it is, we, we have you know how many thousands of parcels and buildings and so on and so forth in the entire city. How are we going to focus on one parcel and track it for ten years? Couple things. The first is that as you've probably have already heard the City is moving to a, a digital tracking system with when we submit permits and go through inspections and so on. Some of that tracking will be made easier. The second thing is generally speaking in a very vibrant, robust area if you're going to, if you're going to ... okay, let me, let me, here, here's the example that we were thinking of. I'm a property owner, I own a building and am I going to nickel and dime and make just enough changes to 10% over the course of four years so I don't trigger the ten-year thing or is probably what is more likely is I'm going to either do some minor modifications which are allowed by right or I'm going to overhaul this

building. Generally speaking one of those two things happens, not worrying about 30% over ten years. So what staff is fine with doing is striking the whole "over ten years" and just saying, "If you're creating a one-time change of 30% we'd be fine with that," cause frankly, a) you're right, we don't want to track it and b) what we want is we want people coming in and making you know intelligent, well-planned, well-designed improvements to the downtown area and getting it vibrant again, not worrying about nitpicking over 29% versus 30%.

Crane: Thank you.

Gordon: Mr. Beard.

Beard: These are good plans. I'm just wondering how you're going to get the people to go to the downtown area and take up residence down there as opposed to going to the mall or going onto North Telshor. I mean what, what are the incentives that the City is putting into this project in order to draw them downtown?

Hume: So first, first of all what I'll say with all due respect Mr. Chair and to the Committee Members, that's really not what we're discussing here in discussing the, the development code. But let me take a stab at it cause let me see if I can maybe find an answer there. I think there's two classes of people when you're talking about, when you're talking about bringing people down. One is the people who want to invest in downtown, open a business, open an office, those types of things. Having a code like this that is hopefully simpler, easier to use, streamlining the process, removing potential impediments and obstacles to the process are, is going to make this a, a much more favorable place to be. In addition staff is also reviewing the infill policy, so that coupled with opportunities for incentives through the infill policy could be very, very beneficial. The other thing too from a standpoint of somebody wants to make an investment and again we talked about this at the charrette last week is finding the x-factor, being in a place in, in which you want to shop and live and so on. The mall doesn't have that. The mall does not have x. the mall has one store after another, cookie-cutter, all those things going on. You know it has the Dillard's, it has the other big box and so on and so forth. There is not a floral shop in the mall like we have downtown. There is not a running store in the mall like we have downtown. There isn't a home-furnishing store, and I can go on and on because actually we've seen some of those businesses open up recently.

From the standpoint of the people who want to be downtown to live, to shop, that's the second set of people, creating that x-factor, creating that environment, having a place where I can step out and I'm done shopping and I want to sit out and enjoy the plaza and people-watch and watch the fountain go off and, and listen to a band play or something like

that, those are the things that malls don't have, that Telshor and Lohman doesn't have, that the Lohman corridor and so on don't have. That's why people are going to want to be here.

Beard: Thank you.

Gordon: Andy I just had one other thought. Does, does this system eliminate or, or create a need for a variance?

Hume: Excellent question Mr. Chair. In many cases staff feels no it does not. Because again we've built in flexibility so that if you want to say have, if you want to build right up to your property line, in many cases in the code you're allowed to. If you want to have a little bit more space, again you're allowed to. In addition to that there are, there is an administrative variance process that is built into many sections of the code.

Gordon: All right. Thank you. Ms. Ferrary, I'm sorry.

Ferrary: Thank you. I just think this is wonderful that you've been able to streamline, make it simpler for people to understand you know when they are interested in you know the development of the downtown and especially you know involving you know with the charrettes, the input from the public. We're criticized government, government is often criticized for not, for making things more difficult and having more barriers so I think this is a, a really great step and I think people should recognize what a good job you all are doing. Thanks.

Hume: Thank you.

Gordon: Anything else? Thank you Andy.

Hume: Sure. I, I don't know Mr. Chair. There may be individuals in the audience who may want to speak or comment here ...

Gordon: Ah yes, I'm sorry. Is there anyone from the audience who'd care to speak? Please come forward. No. You're not keeping, are you keeping, so I have to swear them in? Okay.

Parsons: Good evening. Good evening Commissioners. My name is Ariana Parsons. I'm the Executive Director of the Downtown Las Cruces Partnership. We're the organization tasked with ...

Gordon: Excuse me for interrupting you but I, I ...

Parsons: Sure.

Gordon: Apparently I've been told I have to swear you in. I don't know why but ...

Parsons: Oh. Okay.

Gordon: This is simple. Do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Parsons: Yes I do. All right. So my name is Ariana Parsons. I'm the Executive Director of the Downtown Las Cruces Partnership. We're the organization that's tasked with attracting private investment to downtown and I'm really just here this evening to express my full support and the support of my organization for a form-based code. We get a lot of calls in my office for people looking for space downtown and one of the biggest issues is the adaptive reuse. It is very difficult for us to field a wide range of calls with many, many different potential uses and try to make that specific use work in an existing building with the current zoning. And it's hard to make it fit into the, the urban feel that we're trying to go for to integrate the neighborhoods and to give that verticality and very much create that form and that feel that we're looking for. So in our conversations with urban planning and development professionals, market analysts, architects, developers, all the different stakeholders across the board, the more we talk about this the more excited people get because what we're trying to create is a really vibrant city center and with this form-based code we're going to be able to take all of these different ideas and businesses that people want to open and we're going to be able to bring them downtown and make it work for them and we're going to be decreasing those barriers. So just wanted to say that we are fully in support and we're really excited. This is one of the great next steps in the evolution of downtown Las Cruces. Thank you.

Gordon: Okay. Thank you. We, if you'd please state your name and then I'll swear you in also.

Newby: Steve Newby, Steve Newby Architects and a partner in Las Cruces Community Partners.

Gordon: Okay. Do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Newby: Absolutely.

Gordon: Thank you.

Newby: Mr. Chair, Commissioners. I've been involved in downtown revitalization here in Las Cruces for about 30 years. It's, it's been an ebb and a flow. There's good days and bad days. But I have perspective. People like

Chuck Beard has known me for years, Mr. Stowe. I can stand before you and say I have not seen a more opportune moment in the last 30 or 40 years for a new code to be developed for downtown Las Cruces and I'll tell you why. A smart code is much different than the adjudication that you wonderful gentlemen and ladies go through at every meeting in telling people what they can't do. A smart code tells you what you can do. It's a major difference. Architects are the prime consumers of zoning codes and in this case the smart code. There's two other architects here in the room, my posse, David and Armando. We have been Andy's kitchen cabinet and I can tell you that most of the meetings have been very productive. How, however I can also tell you there was one meeting where I actually saw Andy get mad, at me. It was great. We didn't know he had that emotion. He is very passionate about this but so are we because this is what we live and, live and breathe. We actually have to read this stuff. We actually have to understand it. It's no different than a building code. The major difference though in a smart code that you're looking at today is it talks about form. The code essentially doesn't care what lives next to what. How many meetings have you had including one tonight about what should and shouldn't be next door?

Smart codes encourage multiple use; perhaps not a transmission tower but certainly business, businesses directly adjacent to housing, directly adjacent to a restaurant. None of this you have to go through R-1 to get to R-2, to R-3, to R-4, you know oh my gosh then you have to go to O-1 and then to C-1, C-2, and C-3 but you can't have C-3 next to R-1. A smart code turns that completely upside-down and says, "We don't really care if C-1 lives next to R-1 or R-3 multifamily lives directly adjacent to C-3." Why? Because that's how all cities were developed for decades if not for centuries. When you look at the ancient cities, they had the smart code in mind. They developed it because everything was organized around the center of the city where you had housing, you had restaurants, you had businesses, you had hospitals. And what I've just described is what the downtown just a few blocks from here was for about 150 years. You had a movie theater directly adjacent to the Chevy dealership, directly across the street from First National Bank, which was next door to a restaurant, which was next door to housing. Most of that got torn down in the '70s. As the leader of the design charrette I, that was on Friday night, Andy? Yes. On Friday night said that many cities were wounded by urban renewal in '60s and '70s, however she said with distinction she believed that Las Cruces was wounded the most.

So Andy stands before you tonight to talk about a revolutionary idea that has only been adopted by 366 cities with another 200 or so; cities like Albuquerque and El Paso, Tucson, Phoenix, Denver, Dallas, Houston from very small, small smart codes that affect no more than 100 parcels to ones that infected, infect, excuse me, Freudian slip, inject the energy of a smart code into huge cities like Phoenix or Dallas or Los Angeles. So we're not alone in looking at this. We're also not late. Over

85% of all smart codes have come into being just in the last 12 years. That's an incredible trend and the trend line when you look at it is only going up. And why is that? Because cities like Las Cruces have found in the centers of their city and in special pockets like in El Paso they have three smart codes now, one kind of east of the airport, one up from UTEP called the Monticello Development, and then another one downtown, they have found that you have to incentivize development, or else we're going to continue to grow until we hit the Organ Mountains, then we'll probably go up the Organ Mountains because that's what zoning codes do. They give you a tremendous push, and our current zoning code is a great example of that, to separate where people live from where they work, from where they eat, from where they party, from where they shop. And then what do we do to get between those places? We create five- and six-lane roads to get you from one use across town to another use or up Telshor and down Lohman and then back up Amador so we can all travel. Americans spend more time in their cars than any other society in the world, so think about that. What do smart codes do about that? They say, "Hey, why don't we just put everything together? Why don't we do it like most cities have for thousands of years, and in our case for about 100 years?" Put everything together, what does that do? It makes the downtown more walk-able cause you don't have to get in your car and drive from downtown up to Albertson's, or I guess used to be down to El Paseo. You don't have to get in your car to go shopping or to go to the restaurant. You come out of your apartment that's now a block away and you walk to those facilities. You have to though have courage and vision here. This is not an easy thing to do because all of y'all have trained yourselves, in some cases over many, many years and my hats are off to you folks who've been on this Board for a decade or more into how to adjudicate what I call a punitive zoning code that tells you, "No, no, no. You can't do that. No, you can't put this here. Oh no, we have to have a four-lane arterial. You have to have traffic engineers." Saying have courage instead to adopt the City's first smart code which I hope will be one of many in Las Cruces, to have the courage to turn all of that upside-down and everything you've ever known about zoning codes and it's going to be a new day but you've got a great leader in Andy cause he's going to help you through it.

These current codes like I said you, you have to understand how we got to where we got and, and there's no bad actors in this. It was order. We came to a point in the '50s and '60s that the cities were growing in odd ways. A lot of planners got together, no offense to Andy's profession and said, "We need to regulate that. We need to separate out these uses. We, we don't like to have this next to that anymore. There's too many people arguing." There was a great need for that because up until the '50s, you know '40s and '50s there just weren't too many robust zoning codes. City of Las Cruces' first zoning code was what, '64 or something. Yeah. So think. We had 100 years without any zoning code,

you know. When you look at the pictures of old downtown, tell you what. They did a pretty darn good job cause back in the '50s downtown looked a lot better than what it does today.

So I'm here with my compatriots back behind me, three architects here who have had how many meetings with you Andy, only four or five, seems like 12, that we as a profession in the architecture profession believe in this type of code. We believe this is the best step for Las Cruces. And some of your questions are great. How does this code help to get people downtown? Why are they going to come downtown? Hey, you're going to pass this hopefully in a couple of months. Do you think hordes of people are then going to rush downtown the next day? Nope. No more than they rushed downtown after we spent 17 million bucks, got rid of the pedestrian mall over eight years, put a street through it, and now you can drive through a somewhat dead downtown. It's a combination of a lot of things and one of the primary things to do is to avoid the continuance of the codes that have governed cities for decades and give Las Cruces' downtown a chance.

Last thing, the question on parking. I hate to say it, I'm somewhat of a student of the parking issues downtown, attended every meeting, talked to every consultant. The last parking study by the Walker Company, a national consultant, found that we had 990 excess parking spaces that were never used downtown. So when I hear, "Gee, we're going to run out of parking," I've said for 30 years the day we have a parking problem downtown is going to be a great day, cause you know what it means? You might have to park a block away from InstaCopy. You might have to take two-block walk to get to the bistro. When you have to do that come find me. I'll shake your hand because that means, like all other great downtowns that we have achieved the density that we need. There will be parking structures. There's no question about it. Do we need any now? At 900 spaces, there is not anyone that would finance that, much less it would be a waste of public money to spend about $25,000 a space, multiply that times 300 spaces. You start understanding you will build parking garages only when you need them. Those are baked into the cookies, they're already in the plan. Parking will happen when it needs to. And with that again Mr. Chairman, Commissioners I would strongly recommend that you adopt this. It's going to be a fun ride. I'm sure there will be times we go like this on, "Why did we not see that in that section?" But that's true with all new ordinances. Thank you very much.

Gordon: Thank you. That was very done, well, done very well. Thank you. Anyone else?

Hume: Mr. Chair. I almost wish I'd brought this for action tonight. No, as I mentioned we'll bring this back before this body in March for a recommendation. Again I want to make sure that you all have as much

time as you need to give it a look-over. We had talked about this at the, at the work session. Whatever level of detail you're comfortable with in reviewing it, please use that level of detail. I really appreciate the comments that we've received over the last couple of meetings and we'll see you again next month.

Gordon: All right. Thank you. Very nice. Is there any other business to the Commission?

IX. PUBLIC PARTICIPATION

Gordon: Is there any public, anybody from the public have anything to say?

X. STAFF ANNOUNCEMENTS

Gordon: Staff?

Ochoa: No sir. Nothing further tonight.

XI. ADJOURNMENT (8:15 p.m.)

Gordon: Then I guess we can entertain a motion to adjourn.

Stowe: So moved.

Gordon: Second?

Beard: Second.

Gordon: All in favor.

MOTION PASSES UNANIMOUSLY.

Gordon: It is now 8:15 and we are adjourned.

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Chairperson

ATTACHMENT "C"

TO: Planning & Zoning Commission

FROM: Andy Hume, Downtown Coordinator

DATE: April 26, 2016

SUBJECT: Downtown Development Code

RECOMMENDATION: Approval

ZCA-16-02: A request to recommend approval of the proposed Downtown Development Code. If approved, this proposed Code would replace the existing Central Business District and Main Street Overlay. The code area consists of parts of Council Districts 1 (Councillor Gandara) and 4 (Councillor Eakman).

BACKGROUND

Las Cruces City Council adopted the current Downtown Revitalization Plan in January 2004. Two key strategies in the plan provide direction to: 1) Create and adopt a mixed-use zoning district for the Central Business District and Main Street Plaza, and 2) Adopt a goals-based or performance-based regulatory approach to allow flexibility and function with planning and zoning to Downtown core.

In October 2013, a charrette was held to focus on specific downtown design features. Among the proposed catalyst projects, the final report stated the importance of adopting a form-based code to promote downtown development.

The City proposes adopting the attached form-based code in the downtown area. The Downtown Development Code (DDC) would increase focus on urban design and human interaction with the built environment while maintaining oversight of appropriate downtown land uses. The Code encourages a variety of residential options through mixed use development and overall integration of compatible land uses. Adoption would complete critical strategies of the current Downtown Revitalization Plan and the 2014 Downtown Charrette Report.

Some benefits for downtown of the proposed DDC are:

- Balance development flexibility with predictability for adjoining property owners
- Encourage a mix of uses within a compact, walkable urban setting
- Blend a more urban downtown environment with adjoining historic neighborhoods
- Enhance and preserve historic elements of downtown

If approved by City Council, this proposed Code would replace the existing Central Business District and Main Street Overlay.

FINDINGS

1. The Downtown Development Code (DDC) is in conformance with several City of Las Cruces Comprehensive Plan 2040 Goals and associated policies:
   - Goal 1. *Encourage mixed use development.*
     - Policies 1.1, 1.2, 1.4
   - Goal 2. *Create a variety of development choices for individuals and families of all socioeconomic levels.*
     - Policy 2.4
   - Goal 16. *Foster public appreciation for Las Cruces' cultural heritage preservation and/or rehabilitation of historical buildings as a means of reinforcing a "sense of place" and history.*
     - Policies 16.2, 16.6, 16.9
   - Goal 18. *Develop a walkable and bicycle-friendly environment for safe and convenient access throughout the city.*
     - Policies 18.1, 18.7
   - Goal 19. *Encourage development that is context-sensitive and compatible to the surrounding area.*
     - Policies 19.6, 19.7, 19.8, 19.9, 19.11, 19.12, 19.14, 19.22, 19.23, 19.24, 19.27
   - Goal 20. *Enhance Las Cruces' natural environment, physical environment, and character through inspiring quality design.*
     - Policies 20.1, 20.2, 20.3
   - Goal 21. *Create a character and image of Las Cruces that is pleasant, unique, and attractive.*
     - Policy 21.1
   - Goal 24. *Create incentives, opportunities, partnerships, and policies that build a diversified business community.*
     - Policies 24.2, 24.5
   - Goal 32. *Establish land use policy for commercial and public/quasi-public uses.*
     - Policy 32.4
   - Goal 33. *Establish land use policy for office uses.*
     - Policy 33.2.g
   - Goal 37. *Establish an urban form which reflects coordinated and efficient city growth, circulation, development, redevelopment, and preservation practices.*
     - Policies 37.1, 37.14
   - Goal 38. *Encourage sustainable practices that move toward a compact mixed-use urban form that supports infill and discourages "leap frog" growth.*
     - Policies 38.5, 38.10

2. The DDC is supported by the City of Las Cruces Strategic Plan
   - Goal 23: *Support neighborhood vitality and downtown revitalization.*

RECOMMENDATION

Vote to recommend to the City Council the adoption of the Downtown Development Code.

OPTIONS

1. Recommend adoption of the proposed Downtown Development Code.
2. Recommend adoption of the proposed Downtown Development Code with modifications.
3. Recommend denial of the proposed Downtown Development Code.
4. Postpone action and direct staff accordingly.

NOTE: Decisions must be based on "findings". The findings presented in this report can be used to support **APPROVAL** decisions only. Other findings may be based on the Comprehensive Plan or other City plans and policies. Findings may also be based on information presented at public hearings, information obtained through site inspections, etc.

The Planning and Zoning Commission is a recommending body to the City Council regarding plan adoption. The City Council has final authority over code adoption.

ATTACHMENTS

1. Downtown Development Code
2. Planning and Zoning Commission Work Session Agenda (Jan. 19, 2016)
3. Planning and Zoning Commission Minutes, pages 28-45 (Feb. 23, 2016)