City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 4 **Ordinance/Resolution#** 2546 **Council District:** 1

For Meeting of October 26, 2009
(Adoption Date)

TITLE: AN ORDINANCE APPROVING A ZONE CHANGE FROM R-3 (MULTI-DWELLING MEDIUM DENSITY) TO O-1 (OFFICE, NEIGHBORHOOD-LIMITED RETAIL SERVICE) & R-3 (MULTI-DWELLING MEDIUM DENSITY) FOR 0.31 +/- ACRES LOCATED AT 428 W. GRIGGS AVENUE. THE ZONE CHANGE WILL BRING THE PROPERTY INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED. SUBMITTED BY KATHRYN BONANSINGA, PROPERTY OWNER (Z2797).

PURPOSE(S) OF ACTION: Approval of a zone change for compliance with the 2001 Zoning Code, as amended, and to correct a previous zoning error that occurred in 2003 through the City's zoning conversion process.

Name of Drafter: Adam Ochoa		**Department:** Community Development		**Phone:** 528-3204	
Department	**Signature**	**Phone**	**Department**	**Signature**	**Phone**
Community Development		528-3066	Budget		541-2107
			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The property owner, Kathryn Bonansinga, is requesting a zone change from R-3 (Multi-Dwelling Medium Density) to O-1 (Office, Neighborhood-Limited Retail Service) and R-3 (Multi-Dwelling Medium Density) for 0.31 +/- acres located at 428 W. Griggs Avenue. The property is located within the Alameda Depot Neighborhood. To date, the neighborhood association has not provided any commentary regarding the zone change request.

The subject property contains two existing residential dwelling units and one private art studio. The principal dwelling fronting Griggs Avenue has a gross floor area of 1,788 square feet. The second dwelling fronting Organ Avenue has a gross floor area of 599 square feet. The applicant has also requested through this zone change the flexibility to use the smaller dwelling as a professional office or apartment unit. Currently it is being used as an apartment unit. The private art studio has a gross floor area of 1,664 square feet.

In 2003 as part of the City's adoption of the 2001 Zoning Code, as amended, the City initiated zoning conversions for certain properties in the City in order to bring them into compliance with the new Zoning Code. At that time a field check of the subject property was made and it was identified as containing three dwelling units and therefore recommended for a zone change from C-1 (Commercial Low Intensity) to the current zoning of R-3 (Multi-Dwelling Medium Density).

An error was made during the field check as it was not known by Staff that in 2002 one of the buildings had a building permit finalized to allow the dwelling to be converted into an art studio under the provisions of the C-1 (Commercial Low Intensity) zoning district. The appropriate zoning for the property should have been O-1 (Office, Neighborhood-Limited Retail Service) and R-3 (Multi-Dwelling Medium Density) overlapping to bring the art studio and two-dwelling units into full compliance. The structures are all in compliance with all other development standards.

The 2001 Zoning Code, as amended, allows for certain exceptions to parking requirements for small businesses within the R-4 (Multi-Dwelling High Density & Limited Retail and Office), O-1 (Office, Neighborhood-Limited Retail Service), O-2 (Office, Professional-Limited Retail Service), C-1 (Commercial Low Intensity) and C-2 (Commercial Medium Intensity) zoning districts that are located within the Alameda Depot in exchange for improvements or maintenance of the subject property in terms of building improvements and/or landscaping. The property went through an extensive renovation in 2002 including the building of the art studio that provided a significant improvement to the property. Parking flexibility for the property requires no more than eight parking stalls. The subject property contains two driveways, one from Griggs Avenue and another from Organ Street, which can accommodate parking for approximately four vehicles. The remainder of the required parking can be accomplished with on-street parking along Griggs Avenue and Organ Street. The subject property can also utilize the historic district required parking exception of the Zoning Code to meet its parking requirements.

The closest bicycle lane is approximately 735 feet to the east on N. Main Street (Downtown Mall area). The closest bus stop (signage only) is located approximately 750 feet to the south on Alameda Boulevard. A trail system is located approximately 250 feet east of the subject property.

On August 25, 2009, the Planning and Zoning Commission recommended approval without conditions for the zone change by a vote of 4-0-0 (three Commissioners absent). At the P&Z meeting, no public comment was received during the hearing regarding this case.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
N/A	N/A	N/A

1. Ordinance
2. Exhibit "A"- Site Plan
3. Exhibit "B"- Findings and Comprehensive Plan Analysis
4. Attachment "A"- Staff Report to the Planning and Zoning Commission for Case Z2797
5. Attachment "B"- Minutes from the August 25, 2009 Planning and Zoning Commission
6. Attachment "C"- Vicinity Map

OPTIONS / ALTERNATIVES:

1. Vote **YES** to approve the Ordinance. This action affirms the Planning and Zoning Commission recommendation for approval without conditions. The property located at 428 W. Griggs Avenue will be rezoned from R-3 (Multi-Dwelling Medium Density) to O-1 (Office, Neighborhood-Limited Retail Service) & R-3 (Multi-Dwelling Medium Density).

2. Vote **NO** to deny the Ordinance. This action reverses the recommendation made by the Planning and Zoning Commission. The current zoning designation of R-3 (Multi-Dwelling Medium Density) will remain on the property located at 428 W. Griggs Avenue. The art studio on the property will continue to be an existing non-conforming use and the use of the smaller dwelling unit as a possible office will not be permitted.

3. Modify the Ordinance and vote **YES** to approve the modified Ordinance. The Council may modify the Ordinance by adding conditions as deemed appropriate.

4. Table/Postpone the Ordinance and direct staff accordingly.

COUNCIL BILL NO. 10-017
ORDINANCE NO. 2546

AN ORDINANCE APPROVING A ZONE CHANGE FROM R-3 (MULTI-DWELLING MEDIUM DENSITY) TO O-1 (OFFICE, NEIGHBORHOOD-LIMITED RETAIL SERVICE) & R-3 (MULTI-DWELLING MEDIUM DENSITY) FOR 0.31 +/- ACRES LOCATED AT 428 W. GRIGGS AVENUE. THE ZONE CHANGE WILL BRING THE PROPERTY INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED. SUBMITTED BY KATHRYN BONANSINGA, PROPERTY OWNER (Z2797).

The City Council is informed that:

WHEREAS, Kathryn Bonansinga, the property owner, has submitted a request for a zone change from R-3 (Multi-Dwelling Medium Density) to O-1 (Office, Neighborhood-Limited Retail Service) & R-3 (Multi-Dwelling Medium Density) for 0.31 +/- acres located at 428 W. Griggs Avenue; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on August 25, 2009, recommended that said zone change request be approved by a vote of 4-0-0 (three Commissioners absent).

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

(I)

THAT the land more particularly described in Exhibit "A," attached hereto and made part of this Ordinance, is hereby zoned O-1 (Office, Neighborhood-Limited Retail Service) & R-3 (Multi-Dwelling Medium Density) for the property located at 428 W. Griggs Avenue.

(II)

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

(III)

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

(IV)

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

DONE AND APPROVED this_____ day of _____ 2009.

APPROVED:

(SEAL)

_____
Mayor

ATTEST:

_____
City Clerk

VOTE:
Mayor Miyagishima: ____
Councillor Silva: ____
Councillor Connor: ____
Councillor Archuleta: ____
Councillor Small: ____
Councillor Jones: ____
Councillor Thomas: ____

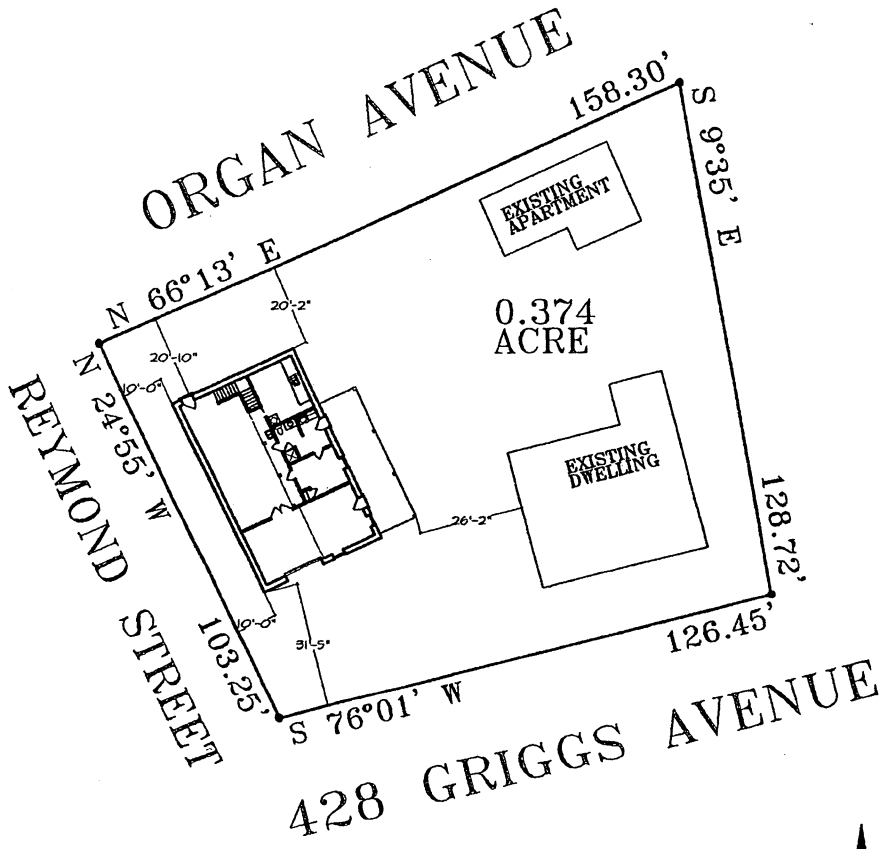
Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

Exhibit "A"



SITE PLAN

SHOWING THE LOCATION OF IMPROVEMENTS ON A 0.374 ACRE TRACT IN SECTION 18, T.23S., R.2E., N.M.P.M., U.S.R.S. SURVEYS BEING PART OF U.S.R.S. TRACT 9A-65 LAS CRUCES, DONA ANA COUNTY, NEW MEXICO

N

NORTH

SCALE: 1" = 30'

DRAWN BY: SAU	FOR: KATE BONANSINGA/ DAVID TAYLOR
CHK'D BY: SAU	
FILE: BOTA-SIT	
SCALE: SHOWN	
	SHEET TITLE: SITE PLAN
	CadWorks HOME DESIGNS
DATE: 6/25/00	SHEET NO: 3 OF 3

Exhibit "B"

FINDINGS

1. The subject property encompasses 0.374 +/- acres located at 428 W. Griggs Avenue.

2. The subject property was rezoned in 2003 from C-1 (Commercial Low Intensity) to R-3 (Multi-Dwelling Medium Density).

3. The subject property contains two (2) single-family dwellings and a private art studio.

4. The zone change request from R-3 (Multi-Dwelling Medium Density) to O-1 (Office Neighborhood-Limited Retail Service) and R-3 (Multi-Dwelling Medium Density) will bring all current uses on the property into compliance with the 2001 Zoning Code, as amended.

5. The subject property is located within an established neighborhood known as Alameda Depot.

6. The subject property has triple frontage along Griggs Avenue, Reymond Street and Organ Avenue.

7. Adjacent land use and zoning include:

	Zoning	Land Use
North	R-2	Residential
South	C-1	Commercial
East	C-1	Commercial
West	C-1	Commercial

8. The request is consistent with the following sections of the City of Las Cruces Comprehensive Plan:

Land Use Element, Goal 1 (Land Uses)

1.3. 1. An urban residential use shall be so designated where these uses occur at a density of greater than two dwelling units per acre. A rural residential use shall be so designated where these uses occur at a density of less than or equal to two dwelling units per acre.

1.3.4. High density uses shall be encouraged to concentrate in and around transportation and communication corridors, thereby supporting a mixed distribution of uses. Lower and rural density residential uses shall be located away from such corridors.

1.3.5. All residential development shall address the following urban design criteria: compatibility to the adjacent neighborhood in terms of architectural design, height/density, and the provision of landscaping. Architectural and landscaping design standards for residential uses shall be established in the Comprehensive Plan Urban Design Element.

1.3.6 Residential neighborhoods shall not be divided and/or redeveloped for non residential uses unless it can be shown that demand for housing in a neighborhood is diminishing or that a need for a more compatible land use relationship can be demonstrated.

1.3.10. High density residential uses shall be located and designed to minimize traffic flow through adjacent neighborhoods and should locate on or near existing or future planned transit routes.

1.6.1 Neighborhood office uses shall be defined as those office uses which generate small scale professional service activities between uses. There shall be no goods or merchandise prepared or sold on the premises of these uses. Neighborhood office uses and centers shall be established according to the following criteria:

a. Generally 1,500 gross square feet shall be permitted for a neighborhood office use or center.

b. The location of neighborhood office uses and centers shall be considered on a case by case basis: criteria shall include location on collector or minor arterial streets as identified in the transportation element, distance from an intersection where appropriate (a coordinated mixture of uses rather than office/commercial uses as a predominant use), accessibility and shared vehicular access and parking when two offices are adjacent to one another, and consideration of the level of traffic and environmental impacts.

c. There shall be no limit to the number of uses in one development, but no more than two (2) neighborhood office developments may locate adjacent to each other. A neighborhood office use and center shall be considered as one development.

d. The City shall pursue multi modal access standards (auto, bicycle, pedestrian, transit) for neighborhood office uses and centers.

e. Neighborhood office development shall address the following urban design criteria: compatibility to adjacent development in terms of architectural design, height/density, and the provision of landscaping for site screening, parking and loading areas. Architectural and landscaping design standards for neighborhood office uses shall be established in the Comprehensive Plan Urban Design Element.

f. Adequate space for functional circulation shall be provided for loading areas.

g. The City shall encourage the development of neighborhood office centers to allow for maximum service convenience with minimal traffic and encroachment-related conflicts to adjacent uses.

h. Neighborhood office uses are also permitted in medium intensity, high intensity, and regional commercial areas as well as professional office areas.

Attachment "A"

City of Las Cruces®

TO: Planning and Zoning Commission

PREPARED BY: Adam Ochoa, Associate Planner AO

DATE: August 25, 2009

SUBJECT: 428 W. Griggs Avenue (Zone Change)

RECOMMENDATION: Approval – without conditions for zone change (Case Z2797)

Case Z2797: A request for a zone change from R-3 (Multi-Dwelling Medium Density) to O-1 (Office Neighborhood-Limited Retail Service) and R-3 (Multi-Dwelling Medium Density) overlapping for 0.31 +/- acres located at 428 W. Griggs Avenue. The zone change will bring the property into compliance with the 2001 Zoning Code, as amended. Submitted by Kathryn Bonansinga, property owner.

BACKGROUND

The applicant, Kathryn Bonansinga, is requesting a zone change from R-3 (Multi-Dwelling Medium Density) to O-1 (Office Neighborhood-Limited Retail Service) and R-3 (Multi-Dwelling Medium Density) overlapping for a property 0.31 +/- acres in size and located at 428 W. Griggs Avenue. The zone change will correct a previous zoning error that occurred in 2003 through the City's zoning conversion process.

In 2003 as part of the City's adoption of the 2001 Zoning Code, as amended, the City initiated zoning conversions for certain properties in the City in order to bring them into compliance. Staff in 2003 made a field check of the subject property and saw it as containing three dwelling units and therefore recommended a zone change from C-1 (Commercial Low Intensity) to R-3 (Multi-Dwelling medium Density) The error committed with the field check was that it was unknown that in 2002 one of the buildings had a building permit finalized to allow it to be converted into an art studio under the provisions of the C-1 (Commercial Low Intensity) zoning district. The appropriate zoning for the property should have been O-1 (Office, Neighborhood-Limited Retail Service) and R-3 (Multi-Dwelling Medium Density) overlapping to bring the art studio and two-dwelling units into full compliance. The structures are all in compliance with all other zoning requirements.

The subject property contains two (2) residential dwelling units. The principal dwelling fronting Griggs Avenue has a gross floor area of 1,788 square feet. The second dwelling fronting Organ Avenue has a gross floor area of 599 square feet. The applicant has also requested through this zone change the flexibility to possibly use the smaller dwelling as a professional office or apartment unit. The property also contains a private art studio that was constructed in 2002 that has a gross floor area of 1,664 square feet. The art studio is private and no commercial retail sales will occur on the property. Therefore, the zone change to O-1 (Office, Neighborhood-Limited Retail Service) will have no affect on the subject property regarding that retail sales being limited to 25% of the total gross floor area.

The 2001 Zoning Code, as amended, allows exceptions to certain parking requirements for small businesses within the R-4 (Multi-Dwelling High Density & Limited Retail and Office), O-1 (Office, Neighborhood-Limited Retail Service), O-2 (Office, Professional-Limited Retail Service), C-1 (Commercial Low Intensity) and C-2 (Commercial Medium Intensity) zones that are located within the Alameda Depot or the Original Town Site in exchange for improvements or maintenance of the subject property in terms of building improvements and/or landscaping as it is located within the Alameda Depot. The property went through an extensive renovation in 2002 including the building of the art studio that provided a significant improvement to the property. Parking flexibility for the property requires no more than eight (8) parking stalls. The subject property contains two driveways, one from Griggs Avenue and another from Organ Street, which can accommodate approximately four (4) vehicles. The remainder of the required parking can be accomplished on-street along Griggs Avenue and/or Organ Street. The exception from required parking (historical district) is applicable to the subject property.

The closest bicycle lane is approximately 735 feet to the east on N. Main Street (Downtown Mall area). The closest bus stop (signage only) is located approximately 750 feet to the south on Alameda Boulevard. A trail system is located approximately 250 feet east of the subject property.

The Alameda Depot Neighborhood Association was contacted by staff on this matter and no comment has been submitted to staff.

FINDINGS

1. The subject property encompasses 0.374 +/- acres located at 428 W. Griggs Avenue.

2. The subject property was rezoned in 2003 from C-1 (Commercial Low Intensity) to R-3 (Multi-Dwelling Medium Density).

3. The subject property contains two (2) single-family dwellings and a private art studio.

4. The zone change request from R-3 (Multi-Dwelling Medium Density) to O-1 (Office Neighborhood-Limited Retail Service) and R-3 (Multi-Dwelling Medium Density) will bring all current uses on the property into compliance with the 2001 Zoning Code, as amended.

5. The subject property is located within an established neighborhood known as Alameda Depot.

6. The subject property has triple frontage along Griggs Avenue, Reymond Street and Organ Avenue.

7. Adjacent land use and zoning include:

	Zoning	Land Use
North	R-2	Residential
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East	C-1	Commercial
West	C-1	Commercial

8. The request is consistent with the following sections of the City of Las Cruces Comprehensive Plan:

Land Use Element, Goal 1 (Land Uses)

1.3. 1. An urban residential use shall be so designated where these uses occur at a density of greater than two dwelling units per acre. A rural residential use shall be so designated where these uses occur at a density of less than or equal to two dwelling units per acre.

1.3.4. High density uses shall be encouraged to concentrate in and around transportation and communication corridors, thereby supporting a mixed distribution of uses. Lower and rural density residential uses shall be located away from such corridors.

1.3.5. All residential development shall address the following urban design criteria: compatibility to the adjacent neighborhood in terms of architectural design, height/density, and the provision of landscaping. Architectural and landscaping design standards for residential uses shall be established in the Comprehensive Plan Urban Design Element.

1.3.6 Residential neighborhoods shall not be divided and/or redeveloped for non residential uses unless it can be shown that demand for housing in a neighborhood is diminishing or that a need for a more compatible land use relationship can be demonstrated.

1.3.10. High density residential uses shall be located and designed to minimize traffic flow through adjacent neighborhoods and should locate on or near existing or future planned transit routes.

1.6.1 Neighborhood office uses shall be defined as those office uses which generate small scale professional service activities between uses. There shall be no goods or merchandise prepared or sold on the premises of these uses. Neighborhood office uses and centers shall be established according to the following criteria:

a. Generally 1,500 gross square feet shall be permitted for a neighborhood office use or center.

b. The location of neighborhood office uses and centers shall be considered on a case by case basis: criteria shall include location on collector or minor arterial streets as identified in the transportation element, distance from an intersection where appropriate (a coordinated mixture of uses rather than office/commercial uses as a predominant use), accessibility and shared vehicular access and parking when two offices are adjacent to one another, and consideration of the level of traffic and environmental impacts.

c. There shall be no limit to the number of uses in one development, but no more than two (2) neighborhood office developments may locate adjacent to each other. A neighborhood office use and center shall be considered as one development.

d. The City shall pursue multi modal access standards (auto, bicycle, pedestrian, transit) for neighborhood office uses and centers.

e. Neighborhood office development shall address the following urban design criteria: compatibility to adjacent development in terms of architectural design, height/density, and the provision of landscaping for site screening, parking and loading areas. Architectural and landscaping design standards for neighborhood office uses shall be established in the Comprehensive Plan Urban Design Element.

f. Adequate space for functional circulation shall be provided for loading areas.

g. The City shall encourage the development of neighborhood office centers to allow for maximum service convenience with minimal traffic and encroachment-related conflicts to adjacent uses.

h. Neighborhood office uses are also permitted in medium intensity, high intensity, and regional commercial areas as well as professional office areas.

RECOMMENDATION

Staff has reviewed this zone change and recommends approval without conditions, based on the preceding findings.

The recommendation of the Planning and Zoning Commission will be forwarded to City Council for final consideration.

OPTIONS

1. Approve the request as recommended by staff for case Z2797.
2. Approve the request with additional conditions.
3. Deny the request.

ATTACHMENTS

1. Development Statement
2. Narrative from property owner
3. Site plan
4. Vicinity Map

Attachment #1

DEVELOPMENT STATEMENT **for Zoning Applications**
(Use for Zone Changes, SUP's and PUD's)
Please type or print legibly

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

Applicant Information

Name of Applicant: Kathryn Bonansinga

Contact Person: David Taylor

Contact Phone Number: 575-541-6413

Contact e-mail Address: djtaylor@nmsu.edu

Web site address (if applicable): N/A

Proposal Information

Location of Subject Property 428 west Griggs Avenue, Las Cruces, NM 88005

(In addition to description, attach map. Map must be at least 8 ½" x 11" in size and clearly show the relation of the subject property to the surrounding area)

Current Zoning of Property: R-3

Proposed Zoning: R-3 with O-1 overlap

Acreage of Subject Property: .374 Acres

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

see attached

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

N/A - all structures are pre-existing

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

Regular business hours 8:00am to 5:00pm when applicable.

Anticipated traffic generation very light traffic when applicable trips per day (if known).

Anticipated development schedule: Work will commence on or about N/A

and will take approximately N/A to complete.

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

N/A

Will any special landscaping, architectural or site design features be implemented in the proposal (for example, rock walls, landscaped medians or entryways, or architectural themes)? If so, please describe and attach rendering if available:

N/A

Attachments

Please attach the following: (* *indicates optional item*)

Location map

Detailed site plan

Proposed building elevations*

Renderings or architectural or site design features*

Other pertinent information*

Attachment #2

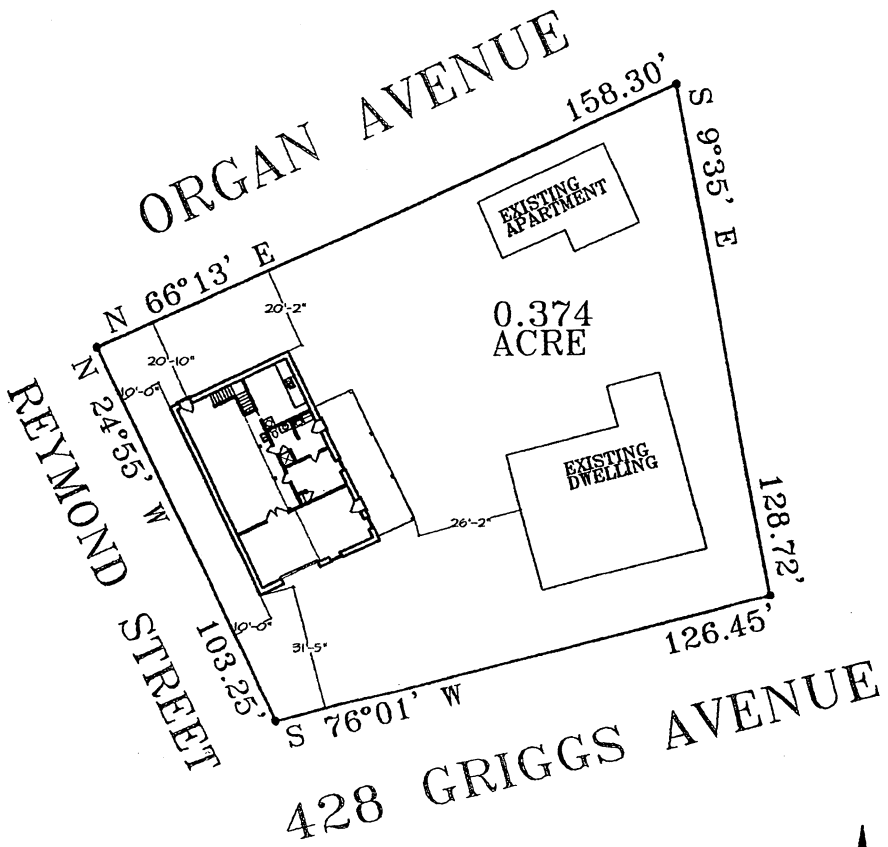
Bonansinga/Taylor Zone Change Request

In 2003 the city of Las Cruces Planning Department requested that the subject property located at 428 West Griggs Ave. be converted from C-1 to residential zoning. We, the applicants, had purchased the property in 1999 with the intention of using it primarily as a residence. As of 2003 the structure located at 428A West Griggs was being used as a residence/work shop/art studio. During meetings with city planners both current and possible future uses were discussed. It was determined, with the consultation of the city, that residential zoning would be most appropriate.

At this point our recollection of the discussion deviates from what was actually done via ordinance 2044. We were happy to comply with the request from planning that our property be zoned in a manner that better conformed to its use. However, that use was to include the activities that take place in our studio/office. In addition, we did not want to foreclose on our or a future owners capacity for limited commercial use in keeping with the nature of the property. Based on staff input it was determined that R-4 was the minimum classification that would allow us to engage in such activities (office and limited retail). Since we were minimally involved in the conversion process I can see how the R-3 designation might have slipped by us. However, that designation runs contrary to the use of the property beginning with our occupancy in 1999. Since the new designation of R-3 again puts us in a non-conforming situation we re-created the problem of non-conforming use. My sense is that a mistake was made or that there was a misunderstanding in our communication with planning. At that time we were heavily involved in construction and renovation work as well as working with the state to preserve the historic Sam Bean Jr. house located on the subject property.

Given the situation we request a second zone change to bring the property in to compliance with current and future use. The planning dept has advised that R-3 zoning with an O-1 overlap.

Attachment #3



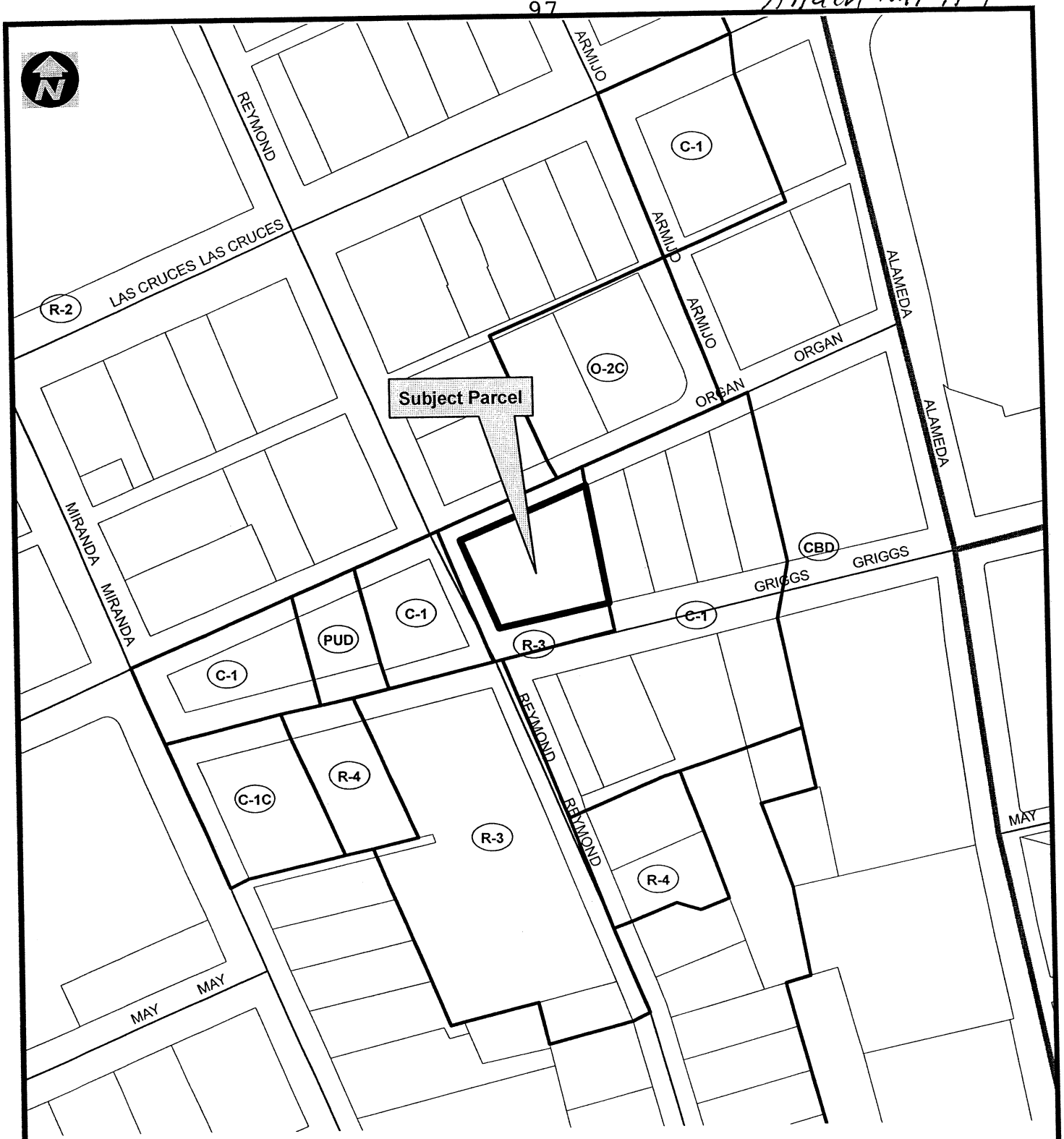
SITE PLAN

SHOWING THE LOCATION OF IMPROVEMENTS ON A 0.374 ACRE TRACT IN SECTION 18, T.23S., R.2E., N.M.P.M., U.S.R.S. SURVEYS BEING PART OF U.S.R.S. TRACT 9A-65 LAS CRUCES, DONA ANA COUNTY, NEW MEXICO

NORTH
SCALE: 1" = 30'

DRAWN BY: SAU	FOR: KATE BONANSINGA/ DAVID TAYLOR
CHK'D BY: SAU	
FILE: BOTA-SIT	
SCALE: SHOWN	
	SHEET TITLE: SITE PLAN
	CadWorks HOME DESIGNS
	DATE: 8/25/00 SHEET NO: 3 OF 3

Attachment #4



CASE NO. Z2787
PARCEL: 02-05722
OWNER: KATHRYN BONANSINGA
ADDRESS: 428 WEST GRIGGS AVE.
ZONING: R-3 TO R-3/0-1

0 37.575 150 225 300
Feet

This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the Community Development Department at (505) 528-3043.

Community Development Department
575 S Alameda Blvd.
Las Cruces, NM 88001
(505) 528-3222

Attachment "B"

MEETING OF PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
August 25, 2009 at 6:00 p.m.

BOARD MEMBERS PRESENT:
Charles Scholz, Chairman
Shawn Evans, Member
Charles Beard, Member
Ray Shipley, Member

BOARD MEMBERS ABSENT:
Godfrey Crane, Vice Chair
Donald Bustos, Secretary

STAFF PRESENT:
Cheryl Rodriguez, Development Services Administrator
Gary Hembree, Senior Planner
Adam Ochoa, Associate Planner
Helen Revels, Associate Planner
Jennifer Roberston, Planner
Robert Gonzales, Las Cruces Fire
Jared Abrams, CLC Legal Staff
Becky Eich, Recording Secretary

I. CALL TO ORDER 6:00

Scholz: Good evening, and welcome to the Planning and Zoning Commission meeting for August 25, 2009. I'm Charlie Scholz, I'm the Chair. I want to introduce the other members of the Commission who are here with us today. On my far right, Ray Shipley, Commissioner, he is the Mayor's appointee. Next to him is Commissioner Shawn Evans. He represents council district 5. Sitting next to me is Commissioner Charles Beard, who represents council district 2. And I represent council district 6.

Before we begin our regular meeting, we have a special tribute that we'd like to do. I'd like to take a minute to honor a colleague of ours, Clayton Iserman. Mr. Iserman passed away last month. He was a Commissioner representing council district 1. From the time he joined the Commission in 2008, Clayton participated by asking good questions and giving thoughtful comments on the cases he reviewed. I especially appreciated his knowledge and interest in his neighborhood. It was a perspective that was very helpful in our deliberations. And he was a really nice guy. A memorial service for Clayton Iserman will be held Sunday, August 30th, that's this coming Sunday, at 11:00 a.m. at the La Paz Graham Funeral Home, 555 W. Amador. Clayton you will be missed.

Ortega: But we have kids running around there too. And curiosity will sure enough kill that cat and we don't want nobody coming up and tell us hey your wire just electrified our kids. It says don't touch you know.

Evans: Right.

Ortega: Kids will be kids, you know. And we thought about that option you know and we didn't want to go that route. Zapping the kids, not very fun. Thank you.

Scholz: Thank you. Okay, I'll entertain a motion to approve A1700.

Evans: Mr. Chair I move that we approve Case A1700.

Scholz: Is there a second?

Beard: I second it.

Scholz: I'll call the roll. Commissioner Shipley.

Shipley: Nay findings, discussion, and site visit.

Scholz: Commissioner Evans.

Evans: No findings and discussion.

Scholz: Commissioner Beard.

Beard: No findings, discussions, and site visit.

Scholz: And the Chair votes no for findings, discussion, and site visit. So you're variance is denied.

✶ 3. **Case Z2797**: A request for a zone change from R-3 (Multi-Dwelling Medium Density) to O-1 (Office Neighborhood-Limited Retail Service) and R-3 (Multi-Dwelling Medium Density) overlapping for 0.374 +/- acres located at 428 W. Griggs Avenue. The zone change request will bring the property into zoning compliance with the 2001 Zoning Code, as amended. Submitted by Kathryn Bonansinga, property owner.

Scholz: All right. Our next case is Case Z2797, a request for a zone change from R-3 to O-1. And Mr. Ochoa you're doing all the heavy lifting today I see.

Ochoa: Actually, I consider myself the lucky one tonight. Adam Ochoa from Community Development one more time for the record. Z2797 is a request for a zone change from R-3 multi-dwelling medium density to O-1 office neighborhood-limited retail service and R-3 multi-dwelling medium

density for 0.31 acres of property located at 428 W. Griggs Avenue.

Here's a vicinity map of the subject property highlighted in the I guess bright green there. As you can see it has frontage along three streets, Organ, Reymond, and Griggs. It is zoned R-3 like I said. To the east, west, and south everything is C-1 which is commercial low intensity, and to the north would be R-2 which is multi-dwelling low density.

The subject property like I said encompasses 0.31 acres and is the current location of two residential dwellings and a private art studio. Currently it is zoned R-3, multi-dwelling medium density. The zone change request would bring it into O-1 office neighborhood-limited retail service and R-3 multi-dwelling medium density. It would be overlapping zoning basically for the subject property. The zone change will bring the property into compliance with the 2001 Zoning Code, as amended. And the zone change will correct a previous zoning error that occurred in 2003 due to the City's zoning conversion process.

A little more background on that; in 2003 as part of the City's adoption of the 2001 Zoning Code as amended, the City initiated zoning conversions for certain properties in the City in order to bring them into compliance. In 2003 a field check was made of the ubject property and it was interpreted at the time to contain three dwelling units and therefore it was recommended for a zone change from what it was currently at that time C-1 commercial low intensity to its current state which is R-3 multi-dwelling medium density. It was unknown by staff at the time that in 2002 one of the buildings had a building permit finalized to allow it to be converted into an art studio under the provisions of the C-1 commercial low intensity zoning district. The appropriate zoning for the property should have been O-1 office neighborhood-limited retail service and R-3 multi-dwelling medium density which is what we're trying to do this evening. Overlapping will bring the art studio and two dwelling units into full compliance. The structures as they exist are in compliance with all other zoning requirements and the subject property is within the established neighborhood known as Alameda Depot.

Here's a site plan of the subject property. Like I said it has frontage along Organ, Reymond, and Griggs. The main dwelling is along Griggs here with a small apartment in the back along Organ. While the art studio is running along Reymond. Here's an aerial photo of the subject property. Staff reviewed this property and it seems that it would come into compliance with parking as well. It does have ample ... it has enough parking on site and on street for the subject property.

Tonight staff has reviewed the zone change and recommends approval without any conditions based on the proceeding findings. The recommendation of the Planning and Zoning Commission will be forwarded to the City Council for final consideration. Tonight your options gentlemen are to vote yes to approve the request as recommended by staff for Case Z2797, vote yes to approve the request with additional conditions for the case, or vote no to deny the request for a zone change, or table and postpone. I stand for questions.

Scholz: Questions gentlemen? All right. Thank you Mr. Ochoa. May we hear from the applicant please?

Taylor: Hi, my name is David Taylor. I'm the applicant. And this was a situation in which we worked fairly closely with the City to both build the building that is the art studio on the property. And we were requested to change the zoning to better conform with the use that it's currently under. And we ... I think basically nobody read the zoning code closely enough and then the field check yielded a result that was different than what we expected. Because basically we read the zoning as being ... or we had intended what Lonny Ruth, who is on the Planning board at the time, well not the Planning board, but in the Community Development Department at the time had advised us to go with R-4 which would've allowed for light commercial as well as multi-dwelling residential and that seemed to cover the use that we have the property currently working under. Unfortunately, it doesn't allow for an art studio. So, then on top of that it looks like the field check, whoever did that, they looked at it as being three dwellings, R-3 and honestly I think we didn't pay close enough attention when we ... I mean my wife signed off on the zone change and thinking that it should have been R-4, it wasn't. And then on top of that the R-4 wouldn't even have allowed for what the property is currently being used ... the way the property is currently being used. Mind you, the property was built ... the new building was built while the property was zoned commercial and was built for the purpose of an art studio. So there were a lot of mistakes. Needless to say, this hopefully will correct the situation.

Scholz: Okay. Questions for this gentleman?

Taylor: Thank you.

Scholz: Thank you. Anyone from the public wants to speak to this? All right, hearing none. We'll close it to public discussion. Gentlemen I don't know if you're familiar with this. I remember actually touring the art studio during an arts hop a couple of years ago. And didn't you do some adobe work on that dwelling too.

Taylor: SPEAKING, NOT AT MICROPHONE.

Scholz: Right. Yeah, I remember that. Very impressive. Okay. Gentlemen, I'll entertain a motion to accept ... to approve this zone change without conditions.

Evans: Mr. Chairman I move that we approve Case Z2797.

Scholz: Is there a second?

Shipley: I second.

Scholz: It's been moved and seconded. I'll call the roll. Commissioner Shipley.

Shipley: Aye findings, discussion, and site visit.

Scholz: Commissioner Evans.

Evans: Aye findings and discussion.

Scholz: Commissioner Beard.

Beard: Aye findings and discussions.

Scholz: And the Chair votes aye findings, discussions, and site visit. So it passed 4-0.

4. **SiCA-09-01:** A request to amend the City of Las Cruces Municipal Code, Chapter 36 – Sign Code. The amendment includes (1) the addition of regulations for on-premise and off-premise electronic variable message displays; (2) the addition of regulations for the PUD and R-4 zoning district; (3) incorporates new definitions; (4) the addition of regulations for neighborhood signs; (5) clarifies the enforcement authority for the removal of illegal signs; and (6) changes the maximum allowed height for freestanding signs in both the C-3 and M-3 zoning district. Submitted by the City of Las Cruces.

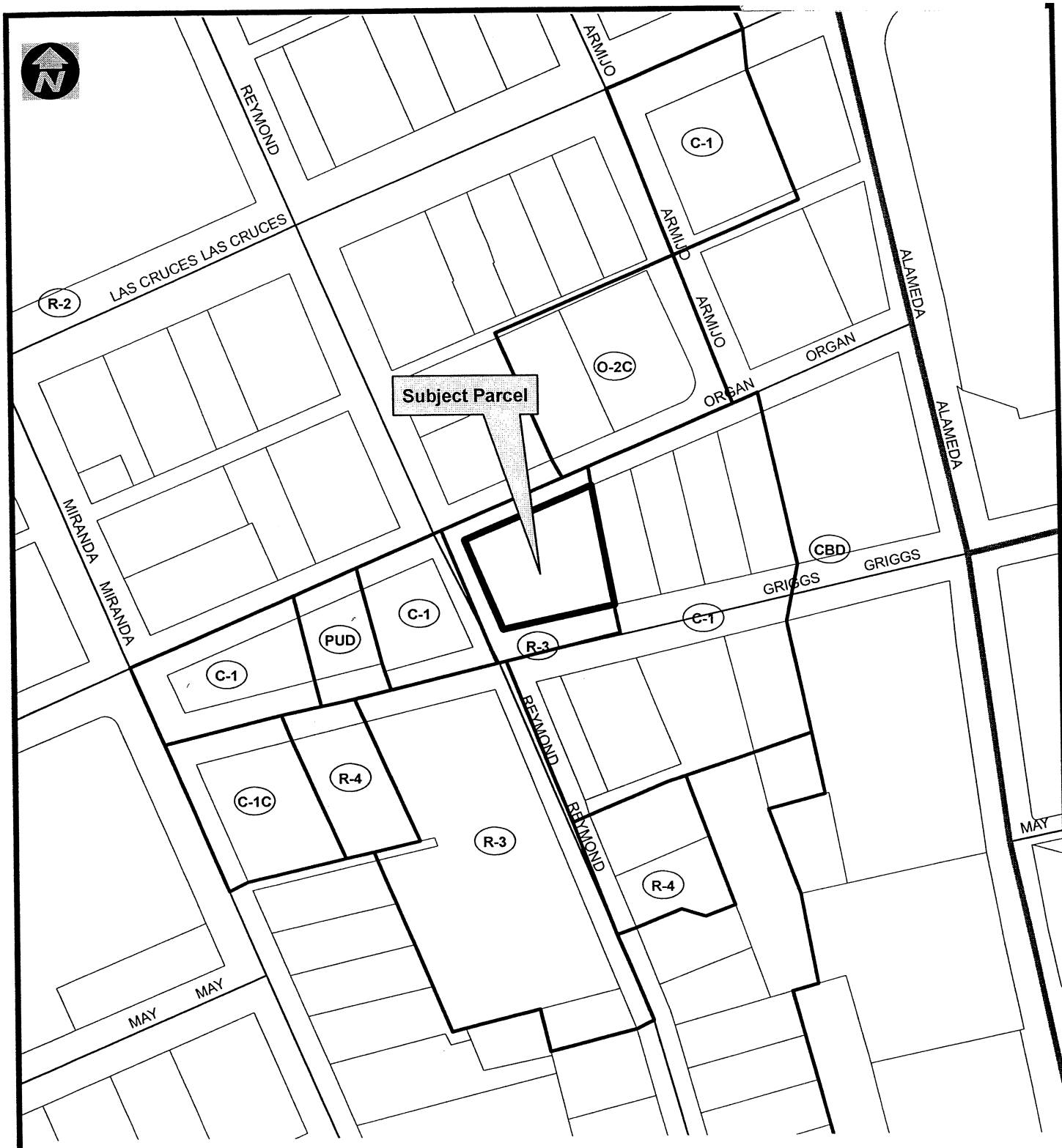
Scholz: All right. Our next case is ... oh this fascinating, this is SiCA-09-01, a request to amend the City of Las Cruces Municipal Code Chapter 36 - Sign Code. That's the heavy weight one, right? And Mr. Ochoa, you're up for this too, certainly.

Ochoa: Yes, sir, one more time.

Scholz: Lay it on us.

Ochoa: Like you stated, proposed amendment to the City of Las Cruces Sign Code, which is basically Municipal Code Chapter 36. For the amendment basically what we're going to be doing is adding the sections for electronic variable message displays. For on premise electronic variable message displays, basically what we're going to do, we're going to be trying to limit the areas where they can be located; limit the number of signs allowed on a property; limit the types of signs allowed on a property. In other words, no animated signs will be allowed. Sets a minimum length of time for the display of a message with no transition time allowed between messages. And it sets illumination level standards that will follow the Outdoor Lighting Ordinance. As for off premise electronic variable message display

Attachment "C"



CASE NO. Z2787
PARCEL: 02-05722
OWNER: KATHRYN BONANSINGA
ADDRESS: 428 WEST GRIGGS AVE.
ZONING: R-3 TO R-3/0-1

0 37.575 150 225 300
Feet

This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the Community Development Department at (505) 528-3043.

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